

JOINT BUDGET COMMITTEE



STAFF BUDGET BRIEFING FY 2017-18

JUDICIAL BRANCH

JBC WORKING DOCUMENT - SUBJECT TO CHANGE
STAFF RECOMMENDATION DOES NOT REPRESENT COMMITTEE DECISION

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NOVEMBER 28, 2016

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JUDICIAL BRANCH

BRANCH OVERVIEW

One of three branches of Colorado state government, the Judicial Branch interprets and administers the law, resolves disputes, and supervises offenders on probation. The Chief Justice of the Colorado Supreme Court, selected by the justices of the Court, is the executive head of the Branch. The justices also appoint a State Court Administrator to oversee the daily administration of the Branch and provide administrative and technical support to the courts and probation. The General Assembly has established 22 judicial districts within the state, and the General Assembly establishes the number of justices and judges at each level of the state court system¹. The state court system consists of four primary courts:

- *County Courts* have limited jurisdiction, handling civil cases under \$15,000, misdemeanors, civil and criminal traffic infractions, felony complaints, protection orders, and small claims.
- *District Courts* have general jurisdiction, handling felony criminal cases, large civil cases, probate and domestic matters, cases for and against the government, as well as juvenile and mental health cases. District Courts also include water courts (one in each of the seven major river basins in Colorado) which have exclusive jurisdiction over cases concerning water matters.
- The *Colorado Court of Appeals* hears cases when either a plaintiff or a defendant believes that the trial court made errors in the conduct of the trial. The Court of Appeals also reviews decisions of several state administrative agencies.
- The *Colorado Supreme Court* also hears appeals, but only when it considers the cases to have great significance. The Supreme Court may also answer legal questions from the General Assembly regarding proposed laws. The Supreme Court is also responsible for overseeing the regulation of attorneys and the practice of law, and for reviewing judges standing for retention during elections.

Municipal courts and Denver's county court are not part of the state court system, and they are funded by their respective local governments. In addition, all counties are required to provide and maintain adequate court facilities for their respective district and county courts.

The Branch is also charged with supervising offenders on probation. Managed by the chief probation officer in each judicial district, approximately 1,250 employees prepare assessments and provide pre-sentence investigation services to the courts, supervise offenders sentenced to community programs, and provide notification and support services to victims. Investigation and supervision services are provided based on priorities established by the Chief Justice and each offender's risk of re-offending.

¹ Legislation changing the boundaries of a judicial district or changing the number of Supreme Court justices or district court judges requires a 2/3 majority in each house [Article VI, Sections 5 and 10 of the State Constitution.]

The Judicial Branch also includes six independent agencies:

- The *Office of the State Public Defender* (OSPD) provides legal representation for indigent defendants in criminal and juvenile delinquency cases where there is a possibility of being jailed or imprisoned. The OSPD is comprised of a central administrative office, an appellate office, and 21 regional trial offices. The OSPD employs about 780 individuals including attorneys, investigators, and support staff.
- The *Office of Alternate Defense Counsel* (OADC) oversees the provision of legal representation to indigent defendants in criminal and juvenile delinquency cases when the OSPD has an ethical conflict of interest. This office provides legal representation by contracting with licensed attorneys across the state.
- The *Office of the Child's Representative* oversees the provision of legal representation to children and youth involved in the court system, primarily due to abuse, neglect, or delinquency. Generally, the Office provides legal representation by contracting with licensed attorneys across the state.
- The *Office of the Child Protection Ombudsman* serves as an independent and neutral organization to investigate complaints and grievances about child protection services, make recommendations about system improvements, and serve as a resource for persons involved in the child welfare system.
- As of July 1, 2016, the *Office of the Respondent Parents' Counsel* oversees the provision of legal representation for indigent parents or guardians who are involved in dependency and neglect proceedings. This office provides legal representation by contracting with licensed attorneys across the state
- The *Independent Ethics Commission* hears complaints, issues findings, assesses penalties, and issues advisory opinions on ethics-related matters concerning public officers, state legislators, local government officials, or government employees.

Each of the independent agencies submits a separate budget request which is not reviewed or approved by either the Chief Justice or the Governor's Office of State Planning and Budgeting. Thus, it is up to the General Assembly to evaluate the relative merits of the budget initiatives contained in the seven budget requests that are submitted by Judicial Branch agencies.

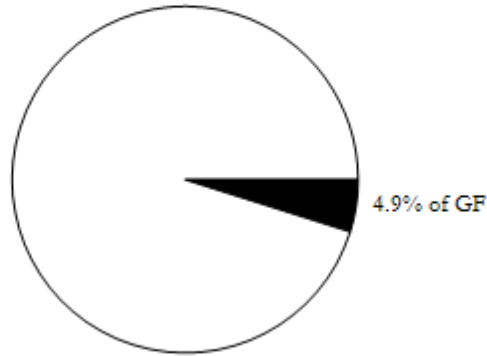
DEPARTMENT BUDGET: RECENT APPROPRIATIONS

FUNDING SOURCE	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18 ^a
General Fund	\$446,285,574	\$478,617,095	\$486,328,896	\$513,562,321
Cash Funds	135,533,939	156,643,072	164,992,153	157,256,275
Reappropriated Funds	30,798,095	34,086,127	34,245,215	34,434,733
Federal Funds	4,425,000	4,425,000	4,425,000	4,425,000
TOTAL FUNDS	\$617,042,608	\$673,771,294	\$689,991,264	\$709,678,329
Full Time Equiv. Staff	4,522.3	4,592.3	4,615.1	4,640.8

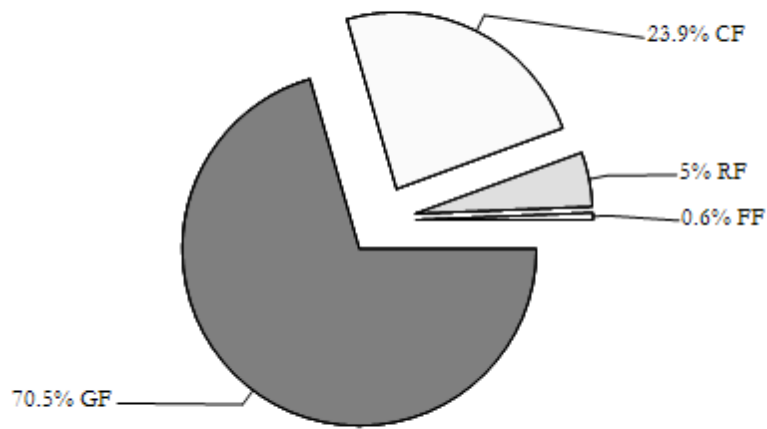
a/ Requested Appropriation

DEPARTMENT BUDGET: GRAPHIC OVERVIEW

Department's Share of Statewide General Fund

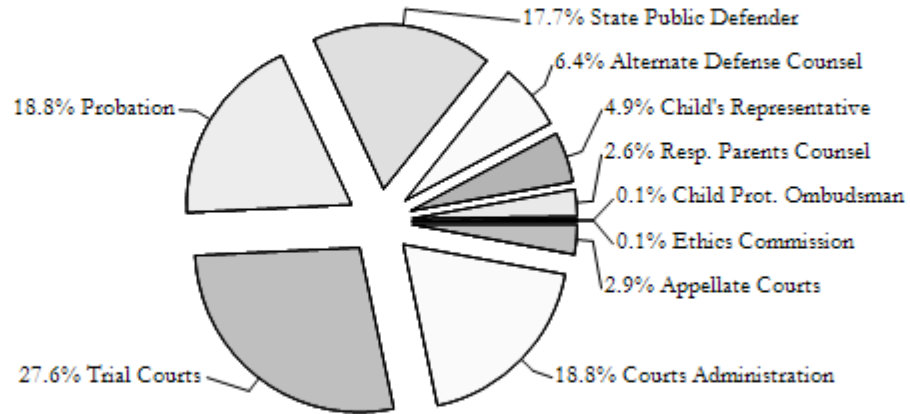


Department Funding Sources

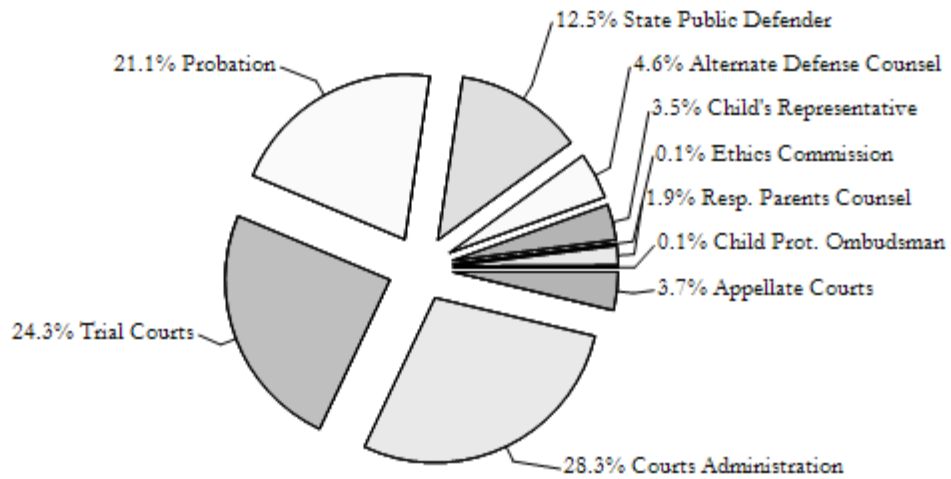


All charts are based on the FY 2016-17 appropriation.

Distribution of General Fund by Division



Distribution of Total Funds by Division



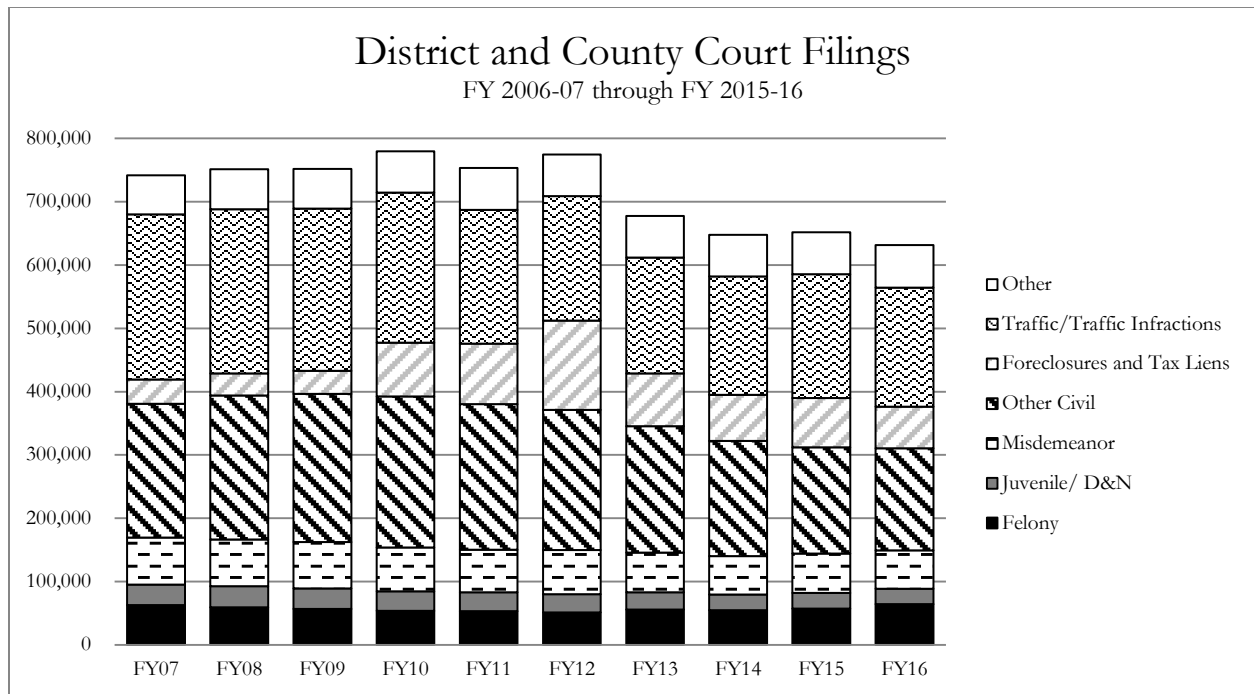
All charts are based on the FY 2016-17 appropriation.

GENERAL FACTORS DRIVING THE BUDGET

The main factor driving the Branch's budget is caseload, which affects the ability of judges, attorneys, probation officers, and support staff to fulfill their constitutional and statutory duties in a timely and professional manner. Caseload changes are generally driven by increases in state population, changes in the state's economic climate (which may affect both the crime rate and the proportion of clients eligible for state-funded representation), and legislative changes. Workload is also impacted by the types of cases filed, as some cases require more time and resources than others. Generally, felony cases, dependency and neglect cases, problem-solving court cases, water cases, and complex civil cases require the most resources.

CASE FILINGS AND THE NEED FOR COURT STAFF

In FY 2015-16, approximately 635,000 cases were filed in the state court system, including 413,000 (65 percent) in county courts, 218,000 (34 percent) in district and water courts, 2,200 in the Court of Appeals, and 1,500 in the Supreme Court. The following chart depicts the number of cases filed in county and district courts in each of the last ten fiscal years, by case type. Cases are depicted using the following categories: felony; juvenile/dependency and neglect ("D&N"); civil – foreclosures and tax liens; civil – other; misdemeanor; traffic/ traffic infractions; and other.



Over the last ten years, *county court* filings decreased by 25.8 percent (143,422 cases). County court cases have declined in every category, but decreases in traffic and civil case filings account for more than 80 percent of the overall decline. Over the same time period, *district court* filings increased by 14.9 percent (28,154 cases), primarily due to increases in tax lien, probate, and mental health cases. As illustrated in the above chart, the number of civil cases involving foreclosures or tax liens increased significantly during the last economic downturn. While some civil cases can require a significant amount of judge and staff time, foreclosure and tax lien cases generally do not. The case filing data for those case types that do have a significant workload impact is mixed. For example,

felony criminal case filings have increased by nearly 30 percent in the last four years (10,453 cases), while juvenile cases have declined by 11.0 percent (3,009 cases). *[See Appendix G for more details about court case filings.]*

The Department routinely monitors its workload and periodically requests funding through the budget process or through legislation. In response to workload increases, the General Assembly periodically passes legislation to increase the number of judges within one or more judicial districts. Most recently, H.B. 14-1050 added two district court judges and the associated court support staff for the 18th judicial district court (Arapahoe, Douglas, Elbert, and Lincoln counties) and H.B. 15-1034 added one judgeship to the 12th judicial district court (Alamosa, Conejos, Costilla, Mineral, Rio Grande, and Saguache counties). The Department indicates that FY 2016-17 funding supports 82.3 percent of the full need for district court judges, 103.7 percent of the full need for county court judges, and 90.0 percent of the full staffing need for non-judge staff for “trial courts” (county and district courts). *[See Appendix H for more details about court staffing levels.]*

CASELOAD IMPACTS UNIQUE TO INDEPENDENT AGENCIES

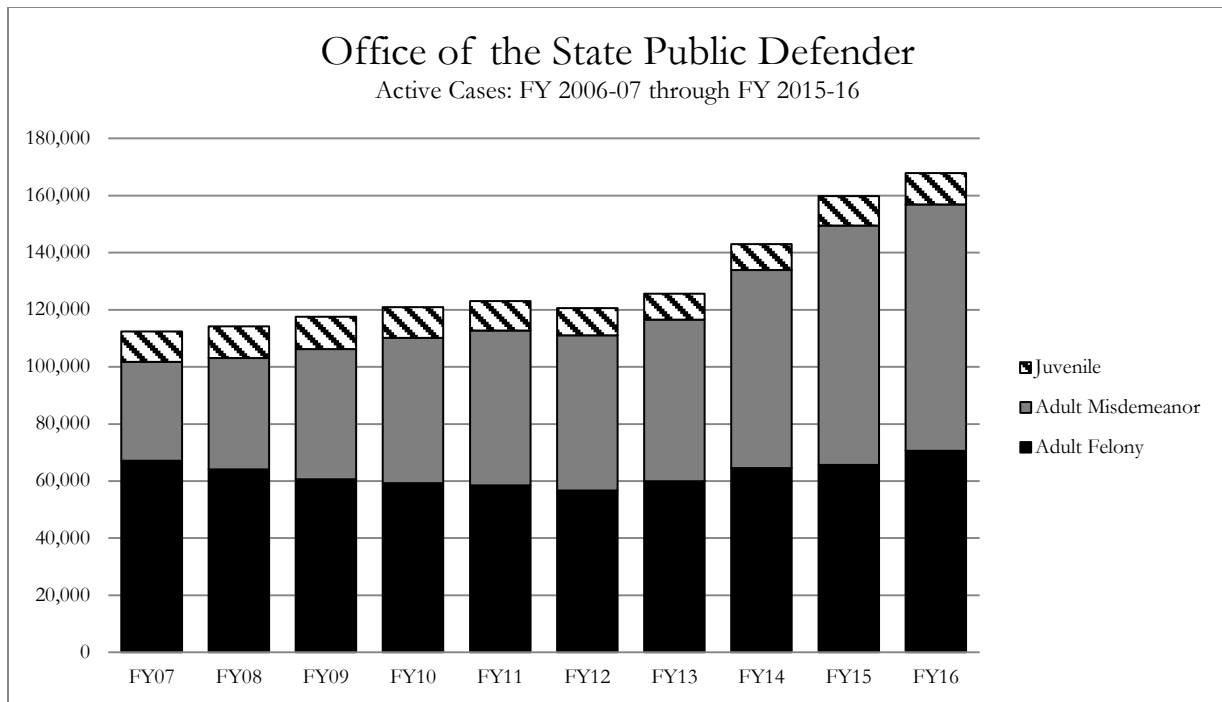
The independent agencies that provide legal representation are affected in different ways by changes in the number of cases filed, based on the clients they represent².

The *Office of the State Public Defender (OSPD)* represents criminal defendants who have inadequate financial resources to pay for their own defense. The OSPD's workload is affected by the number and types of cases filed, as well as the proportion of clients who are eligible for state-funded representation. As in the court system, more complicated cases consume more resources than simpler cases: felonies require more time than misdemeanors, and homicides require more time than assaults or robberies. Recent data indicates that the OSPD spends an average of \$508 to represent a juvenile defendant, \$529 to represent an adult misdemeanor defendant, and \$817 to represent an adult felony defendant. Further, approximately 87 percent of adult felony defendants receive state funded representation (either through the OSPD or the Office of the Alternate Defense Counsel, which is discussed below), compared to 65 percent of adult misdemeanor defendants. Thus, felony and high level misdemeanor cases are the primary factor driving OSPD staffing needs.

The total number of cases requiring public defender involvement has increased in every year but one since FY 2006-07, reaching 167,814 in FY 2015-16. In the last three fiscal years alone the total number of cases increased by 42,208 (33.6 percent). This primarily includes an increase of 29,655 (52.4 percent) adult misdemeanor cases largely due to the passage of H.B. 13-1210, which repealed a statute that required an indigent person charged with a misdemeanor or other minor offense to meet with the prosecuting attorney for plea negotiations before legal counsel is appointed³. In addition, the number of adult felony cases has increased by 10,696 (17.9 percent) since FY 2012-13. The OSPD routinely monitors its workload and periodically requests additional funding to ensure that staffing levels are sufficient to provide legal representation in an ethical and effective manner. The OSPD indicates that FY 2016-17 funding supports 86 percent of the need for attorneys, and 81 percent of the full need for all public defender staff (including attorneys, investigators, and support staff).

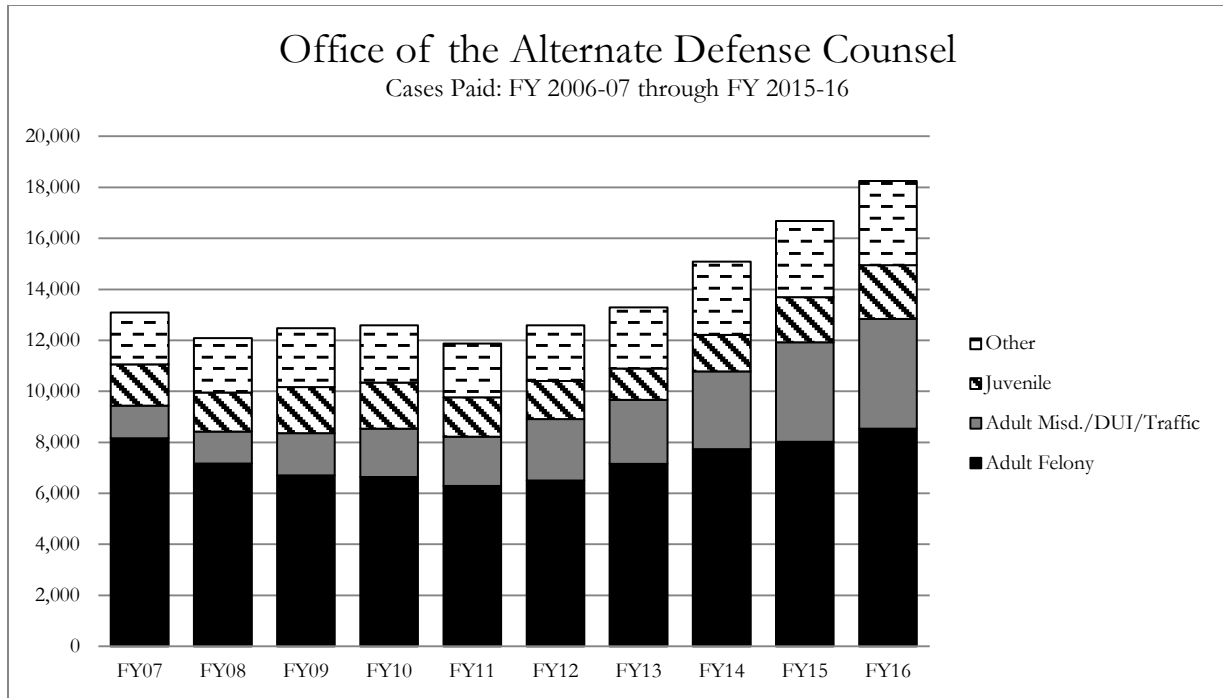
² For purposes of this discussion, staff has excluded the Office of the Respondent Parents' Counsel. This newly created office began overseeing the provision of legal representation for indigent parents as of July 1, 2016.

³ These changes apply to misdemeanors, petty offenses, class 2 and class 3 misdemeanor traffic offenses, and municipal or county ordinance violations committed on or after January 1, 2014.



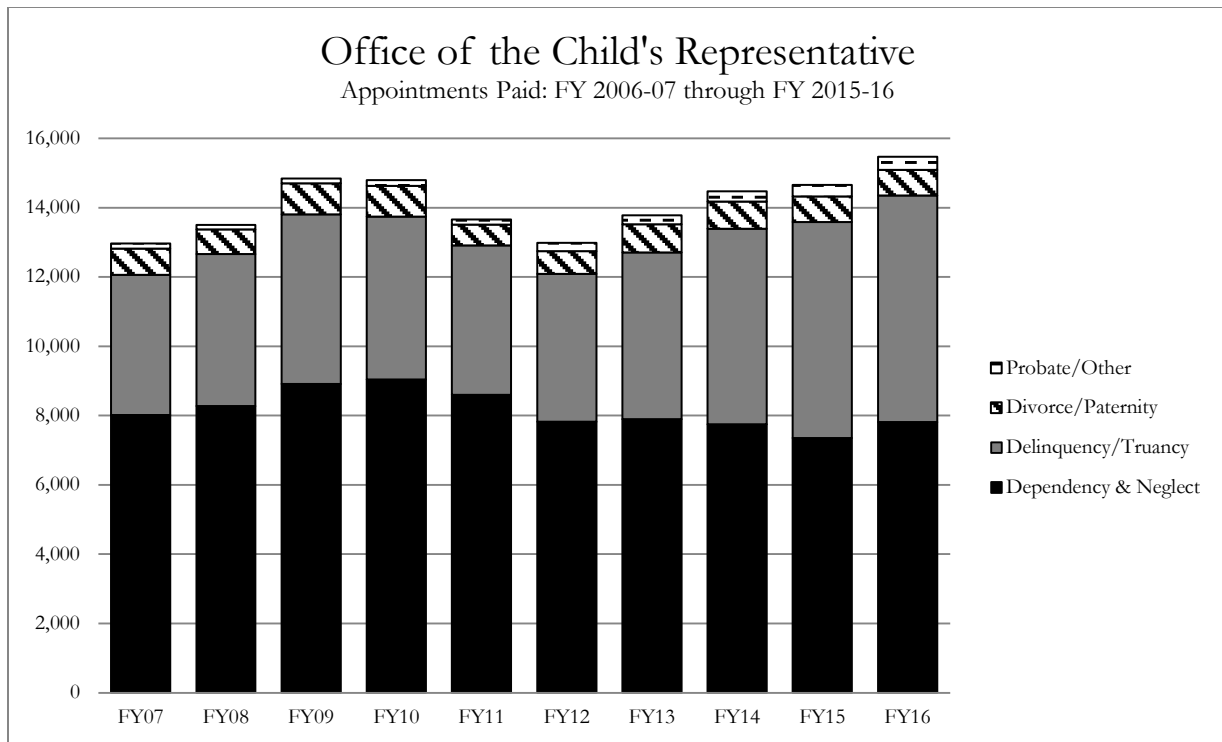
The *Office of the Alternate Defense Counsel (OADC)* contracts with private attorneys to represent indigent defendants in cases where the OSPD has an ethical conflict of interest in providing legal representation. The OADC paid for legal representation in 18,244 cases in FY 2015-16, at an average cost of \$1,581 per case. Similar to the OSPD, certain types of cases (e.g., death penalty cases) are more expensive than others; these cases require more hours of attorney time and a higher hourly rate.

As illustrated in the following chart, the OADC's overall caseload is generally more variable than that of the OSPD. However, similar to the OSPD, the OADC has experienced significant caseload increases in the last three fiscal years (an overall increase of 4,954 cases or 37.3 percent). The OADC experienced increases in every case type, but the most significant increases occurred in adult misdemeanors/DUI/Traffic cases (1,794 cases or 71.4 percent) and adult felony cases (1,389 cases or 19.4 percent). As the OADC contracts with private attorneys, it routinely submits requests for budget adjustments to ensure that it has sufficient funding to cover payments for all assigned cases.



The *Office of the Child's Representative (OCR)* is responsible for providing legal representation for children involved in the court system due to abuse or neglect, delinquency, truancy, high conflict divorce, alcohol or drug abuse, mental health issues, and probate matters. The OCR paid for legal representation in 15,470 court appointments in FY 2015-16 at an average cost of \$1,220 per appointment. Similar to the OSPD and OADC, the average cost per appointment varies significantly for different types of cases. For example, in FY 2015-16 the OCR spent an average of \$277 per appointment in truancy cases, \$558 per appointment in juvenile delinquency cases, \$683 per appointment in domestic relations cases, and \$1,881 per appointment in cases involving abuse and neglect (called dependency and neglect or "D&N" cases). Thus, the OCR's expenditures are primarily driven by the number of D&N cases, as these cases account for the most court appointments and require the most attorney time.

As illustrated in the following chart, the overall number of appointments has increased in each of the last four fiscal years. This overall increase is primarily related to increases in the number of appointments involving juvenile delinquency or truancy; these appointments now account for 42.2 percent of the total, compared to 31.2 percent in FY 2006-07. The OCR routinely submits requests for budget adjustments to ensure that it has sufficient funding and staffing (in its El Paso county office) for all assigned cases.



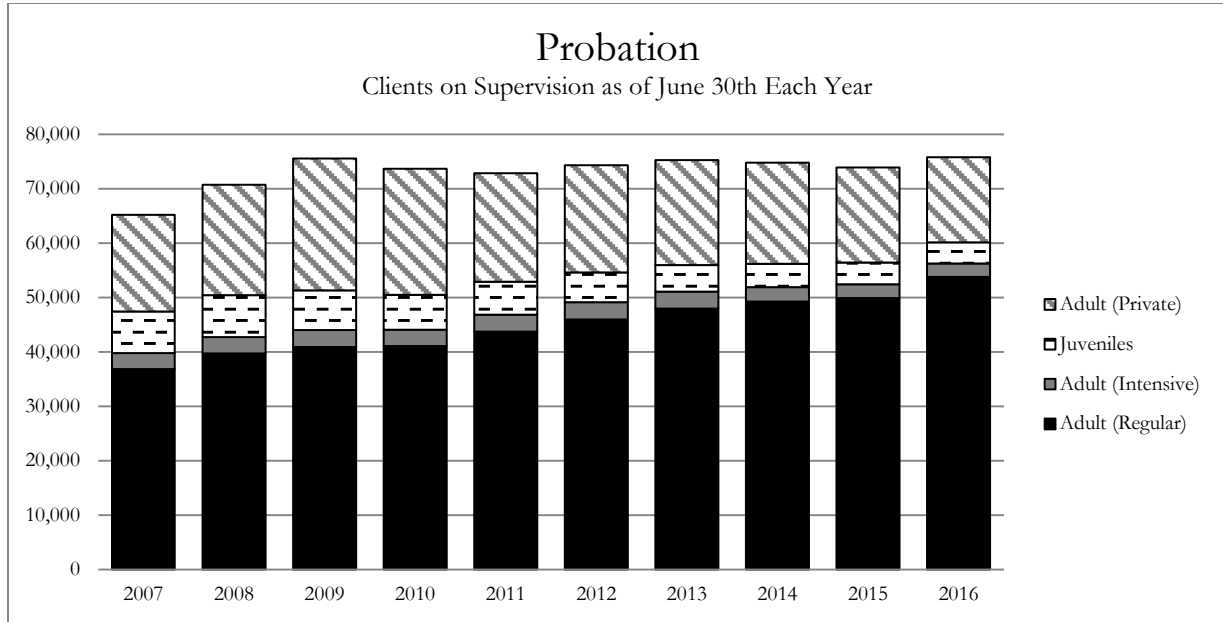
Probation and Related Services Caseload

Individuals sentenced to probation, as an alternative to incarceration, remain under the supervision of the court. Failure to meet the terms of probation set forth in the court's sentencing order may result in incarceration. Managed by the chief probation officer in each judicial district, approximately 1,250 employees prepare assessments, provide pre-sentence investigation services to the courts, and supervise offenders sentenced to probation. Supervision services are provided based on each offender's risk of re-offending.

Funding for probation services is primarily driven by the number and types of offenders sentenced to probation and statutory requirements concerning probation eligibility and supervision time frames. Those offenders that present a higher risk of re-offending require more resources. For example, the most recent data indicates that the average annual cost of probation supervision ranges from \$1,424 for an adult on "regular" probation to \$3,928 for an adult on "intensive" supervision; similarly, the average annual cost of probation supervision ranges from \$2,390 for a juvenile on regular probation to \$5,583 for a juvenile on intensive supervision.

The *total* number of offenders sentenced to probation increased significantly from 2004 to 2009, and has since stabilized. However, the number of adult offenders who are *supervised by state staff* (rather than private probation providers) has increased in every year except one over the last 10 years. The following chart depicts changes in the numbers of adults and juveniles on supervision since 2007. Overall, the number of juvenile and adult offenders who are supervised by state staff increased from 47,424 in June 2007 to 60,157 in June 2016 (26.8 percent). As this number grows, so does the need for probation supervisors, officers, and support staff to adequately supervise offenders. The Department routinely monitors its workload and periodically requests additional funding to adjust probation staffing levels based on the number and types of offenders sentenced to probation. The

Department indicates that FY 2016-17 funding supports 91 percent of the full need for probation staff (probation officers, supervisors, and support staff).



In addition, the General Assembly appropriates state funds to subsidize the cost of required treatment and services for offenders on probation. From FY 2007-08 to FY 2016-17, state funding for treatment and services for probation clients more than doubled, increasing from \$8.5 million to \$19.1 million. In FY 2015-16, 43.5 percent of available state funding was used for substance abuse testing and treatment, and another 17.7 percent was used for sex offender assessment, treatment, and polygraph expenses. *[See Appendix C, RFI #4 for more details about expenditures for treatment and services.]*

SUMMARY: FY 2016-17 APPROPRIATION & FY 2017-18 REQUEST

JUDICIAL DEPARTMENT						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2016-17 APPROPRIATION:						
HB 16-1405 (Long Bill)	\$690,115,303	\$486,631,108	\$164,813,980	\$34,245,215	\$4,425,000	4,610.7
Other legislation	(124,039)	(302,212)	178,173	0	0	4.4
TOTAL	\$689,991,264	\$486,328,896	\$164,992,153	\$34,245,215	\$4,425,000	4,615.1
FY 2017-18 APPROPRIATION:						
FY 2016-17 Appropriation	\$689,991,264	486,328,896	\$164,992,153	\$34,245,215	\$4,425,000	4,615.1
JUD R1 Courthouse capital and infrastructure maintenance	1,919,800	1,919,800	0	0	0	0.0
JUD R2 Language access caseload and contractor rate increase	879,218	879,218	0	0	0	0.0
OSPD R1 Deferred support staff	1,118,718	1,118,718	0	0	0	21.3
OSPD R2 Mandated and electronic data management expenses	585,831	585,831	0	0	0	0.0
OSPD R3 New criminal judge in the 12th judicial district	121,653	121,653	0	0	0	1.6
OSPD R4 Vehicles	(2,282)	(2,282)	0	0	0	0.0
OADC R1 OADC Salary survey	108,122	108,122	0	0	0	0.0
OADC R2 Increase training cash funds spending authority	40,000	0	40,000	0	0	0.0
OCR R1 Caseload/workload adjustment	281,689	281,689	0	0	0	0.0
OCR R2 Case management/billing system replacement	803,000	803,000	0	0	0	0.0
OCR R3 El Paso county office lease/move	16,408	16,408	0	0	0	0.0
OCR R4 Increase staff attorney FTE	41,914	41,914	0	0	0	0.4
OCR R5 Increase operating expenditures	24,780	24,780	0	0	0	0.0
ORPC R1 Conversion to hourly billing	785,902	785,902	0	0	0	0.0
ORPC R2 Increase in case filings	2,671,199	2,671,199	0	0	0	0.0
OCPO R1 OCPO Staff and salaries	147,755	147,755	0	0	0	1.4
CDAC R1 District attorney mandated costs	67,420	67,420	0	0	0	0.0
NP1 Annual fleet vehicle request	(9,721)	(9,721)	0	0	0	0.0
NP2 OIT Secure Colorado	473,354	473,354	0	0	0	0.0
Centrally appropriated line items	21,743,433	20,826,417	917,016	0	0	0.0
Indirect cost assessment	55,998	(55,998)	42,157	69,839	0	0.0
Fund source adjustment	0	(102,160)	0	102,160	0	0.0
Annualize prior year budget actions	(11,291,768)	(2,345,094)	(8,946,674)	0	0	0.5
Annualize SB 14-190 (Statewide discovery sharing system)	(782,638)	(782,638)	0	0	0	0.0
Annualize other prior year legislation	(293,731)	(342,203)	48,472	0	0	0.5
Other	181,011	341	163,151	17,519	0	0.0
TOTAL	\$709,678,329	\$513,562,321	\$157,256,275	\$34,434,733	\$4,425,000	4,640.8
INCREASE/(DECREASE)	\$19,687,065	\$27,233,425	(\$7,735,878)	\$189,518	\$0	25.7
Percentage Change	2.9%	5.6%	(4.7%)	0.6%	0.0%	0.6%

GENERAL NOTE: The descriptions of prioritized requested changes in the above table indicate the source of the request. Specifically:

- "JUD" indicates a request submitted by the Chief Justice concerning courts or probation programs;
- "OSPD" indicates a request submitted by the Office of the State Public Defender;
- "OADC" indicates a request submitted by the Office of the Alternate Defense Counsel;
- "OCR" indicates a request submitted by the Office of the Child's Representative;
- "ORPC" indicates a request submitted by the Office of the Respondent Parents' Counsel;
- "OCPO" indicates a request submitted by the Office of the Child Protection Ombudsman;
- "IEC" indicates a request submitted by the Independent Ethics Commission; and
- "CDAC" indicates a request submitted by the Colorado District Attorneys' Council.

Requests from Judicial Department (Courts/Probation)

JUD R1 COURTHOUSE CAPITAL AND INFRASTRUCTURE MAINTENANCE: The request includes \$1,919,800 General Fund to fulfill the State's responsibility for court facilities, including:

- \$809,000 for courtroom phone systems, court docketing systems, and courtroom information technology infrastructure;
- \$654,000 for courtroom audiovisual equipment; and
- \$456,800 for new furnishings and to replace or refurbish existing furniture that is no longer usable.

JUD R2 LANGUAGE ACCESS CASELOAD AND CONTRACTOR RATE INCREASE: The request includes an increase of \$879,218 General Fund for language interpreter services for individuals who are not proficient in English, including \$602,611 for increases in the number of court proceedings requiring such services; and \$276,607 to increase by \$5.00 the hourly rate for independent contract court interpreters.

Requests from Office of the State Public Defender (OSPD)

OSPD R1 DEFERRED SUPPORT STAFF: The request includes an increase of \$1,118,718 General Fund to add 21.3 FTE investigators, paralegals, and administrative staff to improve the ratio of support staff to attorneys.

OSPD R2 MANDATED AND ELECTRONIC DATA MANAGEMENT EXPENSES: The request includes an increase of \$585,831 General Fund, including:

- \$469,585 to adjust the Mandated Costs appropriation based on recent caseload increases; and
- A one-time appropriation of \$116,246 to acquire the hardware and software necessary to receive and manage the electronic discovery that will be made available through the new Statewide Discovery Sharing System.

OSPD R3 NEW CRIMINAL JUDGE IN THE 12TH JUDICIAL DISTRICT: The request includes an increase of \$121,653 General Fund for 1.6 FTE to address the workload impact of adding a new district court judge in the 12th judicial district (H.B. 15-1034) and the subsequent decisions to reallocate criminal cases and add a new adult criminal drug court in this jurisdiction.

OSPD R4 VEHICLES: The request includes a reduction of \$2,282 General Fund based on a proposal to increase the OSPD fleet of state-owned vehicles by four (from 26 to 30). The request includes an increase of \$5,552 for Vehicle Lease Payments and a decrease of \$7,834 for Operating Expenses (for employee mileage reimbursements).

Requests from Office of the Alternate Defense Counsel (OADC)

OADC R1 SALARY SURVEY: In addition to the funding requested to increase all employee salaries by 2.5 percent, the OADC requests \$108,122 General Fund to adjust the salaries of four employees.

OADC R2 INCREASE TRAINING CASH FUNDS SPENDING AUTHORITY: The OADC requests a \$40,000 increase in its cash funds spending authority for Training and Conferences (from \$40,000 to \$80,000). The OADC indicates that it will use the additional funding to expand and enhance training opportunities for attorneys, investigators, paralegals, and social workers.

Requests from Office of the Child's Representative (OCR)

OCR R1 CASELOAD/WORKLOAD ADJUSTMENT: The request includes an increase of \$281,689 General Fund to align the appropriation with the projected caseload and workload for state-paid court-appointed counsel. Primarily this request is based on a projected increase in the number of dependency and neglect cases and an increase in the workload required in juvenile delinquency cases.

OCR R2 CASE MANAGEMENT/BILLING SYSTEM REPLACEMENT: The request includes \$803,000 General Fund to replace the OCR case management and billing system.

OCR R3 EL PASO COUNTY OFFICE LEASE/MOVE: The request includes \$16,408 General Fund to relocate the El Paso county office to a smaller but more efficient space that is closer to the courthouse.

OCR R4 INCREASE STAFF ATTORNEY FTE: The request includes \$41,914 General Fund to convert a part-time (0.65 FTE) Staff Attorney position to a full time position.

OCR R5 INCREASE OPERATING EXPENDITURES: The request includes \$24,780 General Fund to acquire licenses to a commercial legal research tool for court-appointed counsel.

Requests from Office of the Respondent Parents' Counsel (ORPC)

ORPC R1 CONVERSION TO HOURLY BILLING: The request includes an increase of \$785,902 General Fund to convert to a consistent hourly payment system, eliminating flat fee payments to attorneys in eight jurisdictions.

ORPC R2 INCREASE IN CASE FILINGS: The request includes an increase of \$2,671,199 General Fund to address a projected increase in the number of case filings and related court appointments of counsel. This request includes \$2,631,720 for Court-appointed Counsel and \$39,479 for Mandated Costs.

Requests from Office of the Child Protection Ombudsman (OCPO)

OCPO R1 OCPO STAFF AND SALARIES: The request includes an increase of \$147,755 General Fund for staffing and salary increases, including: \$84,649 to add 1.0 FTE Child Protection System's Analyst, \$48,716 to convert a half-time Communications Director to a full-time position, and \$14,390 to increase the salary of the Child Protection Ombudsman.

Requests from the Colorado District Attorneys' Council

CDAC R1 DISTRICT ATTORNEY MANDATED COSTS: The request includes an increase of \$67,420 General Fund (2.8 percent) to reimburse district attorneys for costs incurred for prosecution of state matters. *[For more information, see Appendix C, Judicial request for information #3.]*

Other Changes Requested by Judicial Agencies

NP1 ANNUAL FLEET VEHICLE REQUEST: The request includes a decrease of \$9,721 General Fund for anticipated changes in annual payments to the Department of Personnel for fleet vehicles used by court, probation, and Office of the State Public Defender staff.

NP2 OIT SECURE COLORADO: The request includes an increase of \$473,354 General Fund for the Judicial Branch share of funding for an initiative related to the State's cybersecurity program known as "Secure Colorado".

CENTRALLY APPROPRIATED LINE ITEMS: The request includes \$21,743,433 total funds (including \$20,826,417 General Fund) related to employee benefits and other centrally appropriated line items. This total amount is comprised of the following elements:

- \$12,760,665 total funds for salary increases to be awarded in FY 2017-18, including:
 - \$8,039,916 for a 2.5 percent across-the-board salary increases for all Branch employees;
 - \$2,348,229 to align salary ranges for several Judicial Department employee classifications with the market;
 - \$2,102,297 to increase the salaries of all judges and justices by an additional 3.15 percent *[for information about proposed salary increases for justices and judges, see the second issue brief and Appendix C, Long Bill footnote #56]*; and
 - \$270,223 to increase by an additional 3.15 percent the salaries of certain Judicial Department staff whose salaries are benchmarked to judicial officer salaries.
- \$4,368,564 total funds for various types of insurance (health, life and dental; short-term disability; workers' compensation; and risk management and property funds);
- \$2,365,211 total funds for supplemental PERA payments;
- \$2,176,210 General Fund for payments to other state agencies for information technology services and for the CORE system;
- \$45,430 General Fund for leased space adjustments; and
- \$27,353 General Fund for the purchase of legal services.

INDIRECT COST ASSESSMENT: The request includes an increase of \$55,998 in the Department's indirect cost assessments (including \$42,157 cash funds and \$13,841 reappropriated funds). This increase in indirect cost assessments is then applied to offset the need for General Fund in the Courts Administration section.

FUND SOURCE ADJUSTMENT: The request reflects a \$102,160 increase in the leased space payments paid by tenants within the Ralph L. Carr Colorado Judicial Center (reappropriated funds), which allows for a \$102,160 decrease in the General Fund share of Carr Center debt service payments.

ANNUALIZE PRIOR YEAR BUDGET ACTIONS: The request includes a decrease of \$11,291,768 (including decreases of \$2,345,094 General Fund and \$8,946,674 cash funds) and an increase of 0.5 FTE to reflect the FY 2017-18 impact of the following FY 2016-17 budget decisions:

ANNUALIZE PRIOR YEAR BUDGET ACTIONS						
	TOTAL	GENERAL FUND	CASH	REAPPROPRIATED FUNDS	FEDERAL	FTE
FY 2016-17 JUD R1 Information security and supervisor staff, server replacement, and disaster recovery	(\$6,593,764)	\$36,559	(\$6,630,323)	\$0	\$0	0.5
FY 2016-17 JUD R2 Courthouse capital and infrastructure maintenance	(4,692,351)	(2,376,000)	(2,316,351)	0	0	0.0
FY 2016-17 OADC R2 Social worker coordinator	(5,653)	(5,653)	0	0	0	0.0
TOTAL	(\$11,291,768)	(\$2,345,094)	(\$8,946,674)	\$0	\$0	0.5

ANNUALIZE SB 14-190 (STATEWIDE DISCOVERY SHARING SYSTEM): The request includes a decrease of \$782,638 General Fund for the first full year of operating the statewide discovery sharing system. This system will enable the sharing and transfer of information electronically between law enforcement agencies, district attorneys' offices, and defense attorneys. As this system is implemented in each judicial district, the defense is no longer required to reimburse district attorneys for duplicating discoverable materials. The request thus reflects the shift of \$1,156,530 General Fund from existing appropriations for state agencies to reimburse district attorneys to support the discovery sharing system. The request also includes an offsetting increase of \$373,892 for the ongoing operations of the statewide discovery sharing system and the associated ACTION case management system. *[For information about this project, see the first issue brief.]*

ANNUALIZE PRIOR YEAR LEGISLATION: The request includes a decrease of \$293,731 total funds (including a decrease of \$342,203 General Fund and an increase of \$48,472 cash funds) and an increase of 0.5 FTE, to reflect the FY 2017-18 impact of legislation that was passed in previous legislative sessions, including the following acts:

Annualize Prior Year Legislation						
	Total	General Fund	Cash	Reappropriated Funds	Federal	FTE
SB 08-054 Judicial performance evaluations	\$30,000	\$0	\$30,000	\$0	\$0	0.0
SB 16-116 Alternate process for sealing criminal records	18,472	0	18,472	0	0	0.5
SB 14-203 and HB 15-1149 Office of Respondent Parents' Counsel	(337,500)	(337,500)	0	0	0	0.0
SB 16-102 Repeal certain mandatory minimum sentences	(4,703)	(4,703)	0	0	0	0.0
TOTAL	(\$293,731)	(\$342,203)	\$48,472	\$0	\$0	0.5

OTHER: The request includes several relatively small changes totaling \$181,011, including:

- An increase in the cost of security services provided by the Colorado State Patrol for the Ralph L. Carr Colorado Judicial Center;
- An increase in the amount of federal Title IV-E funds available to the OCR (an amount that is reflected in the budget as reappropriated funds for informational purposes only);

- A scheduled increase in the annual debt service payment for the Carr Center; and
- An inflationary increase in payments to exonerated persons.

Items Included in the Governor’s FY 2017-18 Budget Request That Are Not Included Above

Please note that the above table that details the FY 2017-18 budget requests from judicial agencies *excludes* \$1.0 million General Fund that is included as part of the Governor’s proposed FY 2017-18 budget. In Appendix A of his letter to Chairman Hamner concerning the FY 2017-18 budget request, dated November 1, 2016, the Governor included the following item as part of a list of law changes required to implement his budget proposal:

“We estimate that the existing provisions of H.B. 16-1309, relating to new requirements for public defenders in municipal court proceedings, will require approximately \$3.0 million in General Fund appropriations. Our budget sets aside \$1.0 million for implementation of this bill, which will require a modification of the bill’s effective date to January 2018.”

The final Legislative Counsel Staff fiscal note for H.B. 16-1309 reflects a local fiscal impact for this act, but not a State fiscal impact:

“There are approximately 175 municipal courts across the state, which meet anywhere from daily to about once per month, depending upon the municipality...The bill increases expenditures in local governments by an indeterminate amount, as municipal courts will be required to provide counsel to any defendant held in custody. The bill may also decrease costs for local governments if appointing legal counsel is able to reduce the amount of time defendants spend in jail. Costs will depend upon several factors that vary across municipalities, including the number of defendants requiring court-appointed counsel, the number of hearings for defendants held in custody, and the hourly rate charged by attorneys to serve as counsel. While the fiscal note has not estimated these costs, reports from various municipalities indicate costs that range from \$12,000 per year in smaller municipalities to between \$20,000 and \$60,000 in larger municipalities.”

It is staff’s understanding that current law allows, but does not require, the State Public Defender to represent indigent persons in municipal court (*emphasis added*):

“The state public defender shall represent indigent persons charged in any court with crimes which constitute misdemeanors and in which the charged offense includes a possible sentence of incarceration; juveniles upon whom a delinquency petition is filed or who are in any way restrained by court order, process, or otherwise; persons held in any institution against their will by process or otherwise for the treatment of any disease or disorder or confined for the protection of the public; *and such persons charged with municipal code violations as the state public defender in his or her discretion may determine*, subject to review by the court if:

- (a) The indigent person or his parent or legal guardian in delinquency or other actions under article 2 of title 19, C.R.S., requests it and complies with subsection (3) of this section; or
- (b) The court, on its own motion or otherwise, so orders or requests and the defendant or his or her parent or legal guardian in delinquency or other actions under article 2 of title

19, C.R.S., does not affirmatively reject, of record, the opportunity to be represented by legal counsel in the proceeding. The court shall not appoint a public defender to represent the defendant, or his or her parent or legal guardian, if such person does not fall within the fiscal standards or guidelines established by the supreme court.” [Section 21-1-103 (2), C.R.S.]

ISSUE: IMPLEMENTATION OF A STATEWIDE DISCOVERY SHARING SYSTEM

This issue brief provides an update on the status of the implementation of a statewide discovery sharing system.

SUMMARY

- Colorado Supreme Court rules require the prosecution to make available to the defense certain material and information and to provide duplicates upon request. The State pays the costs of duplicating the discoverable material when legal representation is provided for an indigent defendant. In FY 2014-15, judicial agencies paid a total of \$2.6 million General Fund to obtain discoverable materials from district attorneys and the Department of Law.
- There is a long history of disagreement between the defense and the prosecution concerning discovery-related reimbursements, and some of these disputes have required court action to resolve. Since March 2009 the Joint Budget Committee has taken several actions to facilitate resolution of this issue, including sponsoring legislation that requires the Colorado District Attorneys' Council (CDAC) to develop and maintain a statewide discovery sharing system integrated with its ACTION case management system. To date, the General Assembly has appropriated \$7.1 million General Fund for this project.
- Current law requires the discovery sharing system is to be completed and operational statewide by July 1, 2017. Once this system is operational, existing General Fund appropriations that are used to reimburse the prosecution for the cost of duplicating discoverable materials will be repurposed to fund the ongoing costs of the discovery sharing system and the ACTION system. In FY 2016-17, \$1.0 million has been redirected to support these systems.
- The CDAC indicates that it is implementing the system reasonably close to the planned dates, and in those jurisdictions where the implementation has been delayed, the district attorneys have discontinued charging for discoverable materials as planned. For FY 2017-18, the CDAC is requesting \$3.2 million General Fund for the first full year of statewide operations. This amount will be offset by the redirection of \$2.6 million that is no longer needed to reimburse the prosecution for providing discoverable materials.
- The Supreme Court needs to modify its rules to eliminate the ability for the prosecution to seek reimbursement for the costs of providing discoverable materials to the defense. The proposed rule, however, states that the prosecution's costs of providing any discoverable material, "electronically or otherwise, shall be paid from funds allocated by the General Assembly".

RECOMMENDATION

Staff recommends that the Committee ask the Department to discuss the intent of the proposed change to Rule 16 and whether it is consistent with the stated objectives of S.B. 14-190.

DISCUSSION

State Expenditures for Discoverable Materials

Colorado Supreme Court Rule 16 requires the prosecuting attorney to make available to the defense certain material and information and to provide duplicates upon request. However, defense counsel is required to pay the costs of duplicating discoverable material, and the State covers these expenses when state-paid legal representation is provided for a defendant. Several agencies within the Judicial Department incur expenditures related to discoverable materials. As detailed in Table 1, total state discovery-related expenditures have increased annually in each of the last nine years, more than doubling over that time period. The vast majority of these expenses are incurred by the Office of the State Public Defender (OSPD) and the Office of the Alternate Defense Counsel (OADC).

FISCAL YEAR	COURTS/ PROBATION	OFFICE OF THE STATE PUBLIC DEFENDER	OFFICE OF THE ALTERNATE DEFENSE COUNSEL	OFFICE OF THE CHILD'S REPRESENTATIVE	TOTAL	ANNUAL % CHANGE
2006-07	\$38,514	\$761,495	\$435,361	\$13,235	\$1,248,605	
2007-08	49,728	886,112	470,098	11,274	1,417,211	13.5%
2008-09	39,615	969,306	567,917	0	1,576,838	11.3%
2009-10	36,737	1,125,966	635,061	0	1,797,764	14.0%
2010-11	25,549	1,514,957	599,872	9,107	2,149,485	19.6%
2011-12	35,458	1,623,452	626,180	13,418	2,298,508	6.9%
2012-13	35,515	1,751,829	648,392	21,219	2,456,955	6.9%
2013-14	36,072	1,932,652	729,605	24,354	2,722,683	10.8%
2014-15	65,638	2,103,438	778,445	23,250	2,970,771	9.1%
2015-16	43,292	2,299,822	720,954	20,346	3,084,414	3.8%
<i>% of Total</i>	<i>1.4%</i>	<i>74.6%</i>	<i>23.4%</i>	<i>0.7%</i>	<i>100.0%</i>	

While most discovery-related expenditures are reimbursements paid to the prosecution as required by Rule 16, expenses are incurred for other reasons. For example, the OADC pays a contractor to scan paper files provided by the prosecution in certain jurisdictions so that they can be electronically formatted and distributed to multiple attorneys representing different defendants in a single case. Judicial agencies also make payments for other types of records such as birth and medical records, background checks, and county department of human services records.

As detailed in Table 2, a total of \$2.6 million (86.3 percent) of discovery-related expenditures were made to district attorney offices or the Department of Law in FY 2014-15. Five of the 22 judicial district attorney offices (1st, 2nd, 4th, 17th and 18th) account for two-thirds of the state expenditures for discovery-related reimbursements.

TABLE 2: FY 2014-15 DISCOVERY-RELATED PAYMENTS TO REIMBURSE THE PROSECUTION

DESCRIPTION	COURTS/ PROBATION	OFFICE OF THE STATE PUBLIC DEFENDER	OFFICE OF THE ALTERNATE DEFENSE COUNSEL	OFFICE OF THE CHILD'S REPRESENTATIVE	TOTAL	PERCENT OF TOTAL
Payments to District Attorneys' Offices, by Judicial District:						
1 (Jefferson, Gilpin)	\$10,871	\$194,918	\$55,262	\$6,377	\$267,428	10.43%
2 (Denver)	3,021	536,661	155,393	1,800	696,875	27.18%
3 (Huerfano, Las Animas)	0	13,643	4,248	200	18,091	0.71%
4 (El Paso, Teller)	0	250,972	42,387	4,189	297,548	11.61%
5 (Clear Creek, Eagle, Lake, Summit)	0	14,697	2,482	10	17,189	0.67%
6 (Archuleta, La Plata, San Juan)	0	32,778	9,196	116	42,090	1.64%
7 (Delta, Gunnison, Hinsdale, Montrose, Ouray, San Miguel)	0	21,020	3,672	0	24,692	0.96%
8 (Jackson, Larimer)	0	126,887	12,711	1,646	141,244	5.51%
9 (Garfield, Pitkin, Rio Blanco)	0	26,983	18,869	0	45,852	1.79%
10 (Pueblo)	0	81,031	33,750	817	115,598	4.51%
11 (Chaffee, Custer, Fremont, Park)	0	64,875	42,539	66	107,480	4.19%
12 (Alamosa, Conejos, Costilla, Mineral, Rio Grande, Saguache)	0	24,378	6,925	0	31,302	1.22%
13 (Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Yuma)	0	27,531	18,096	32	45,658	1.78%
14 (Grand, Moffat, Routt)	0	21,897	825	15	22,737	0.89%
15 (Baca, Cheyenne, Kiowa, Prowers)	0	9,922	1,786	0	11,707	0.46%
16 (Bent, Crowley, Otero)	0	14,312	6,786	83	21,181	0.83%
17 (Adams, Broomfield)	0	137,511	20,995	845	159,351	6.22%
18 (Arapahoe, Douglas, Elbert, Lincoln)	2,802	229,118	65,647	1,348	298,915	11.66%
19 (Weld)	0	0	27,797	0	27,797	1.08%
20 (Boulder)	0	73,135	25,854	23	99,012	3.86%
21 (Mesa)	0	29,783	5,258	21	35,062	1.37%
22 (Dolores, Montezuma)	0	17,762	3,217	0	20,979	0.82%
Subtotal: District Attorneys	16,694	1,949,814	563,692	17,588	2,547,789	99.4%
Department of Law	0	11,678	4,031	0	15,709	0.6%
TOTAL EXPENDITURES	\$16,694	\$1,961,492	\$567,723	\$17,588	\$2,563,498	100.0%
<i>Percent of Total</i>	<i>0.7%</i>	<i>76.5%</i>	<i>22.1%</i>	<i>0.7%</i>	<i>100.0%</i>	<i>0.0%</i>

JBC-Sponsored Legislation

There is a long history of disagreement between the defense and the prosecution concerning reimbursements to the prosecution for duplicating discoverable materials, and some of these disputes have required court action to resolve. Since March 2009, the Joint Budget Committee has taken several actions to facilitate resolution of this issue. Most recently, the Committee has sponsored three bills, described below.

Senate Bill 13-246

This act created a Discovery Task Force to study several topics related to discovery costs in criminal cases and report back to the Joint Budget Committee and the Judiciary Committees in January 2014. Rather than recommending clarifications to Rule 16, the Task Force recommended that the General Assembly fund the creation of a statewide system that will enable the sharing and transfer of information between law enforcement agencies and district attorneys' offices in a format that will then allow the district attorneys to provide discoverable materials in an electronic format to the defense. Once the new system is fully implemented, district attorneys will no longer seek or receive reimbursement for the cost of duplicating discoverable materials, and the existing General Fund

appropriations that are used for that purpose will be redirected to support the ongoing maintenance of the statewide discovery sharing system.

Senate Bill 14-190

This act implemented the recommendations of the Discovery Task Force. Specifically, the act requires the Colorado District Attorneys' Council (CDAC) to develop and maintain a statewide discovery sharing system integrated with its ACTION case management system, a system that is maintained and operated by CDAC for district attorneys. [Staff has provided background information about the ACTION system at the end of this issue brief.] The act requires the General Assembly to appropriate necessary moneys from the General Fund and a newly created cash fund to the Judicial Department to fund the development, continuing enhancement, and maintenance of the new discovery system as well as the maintenance and continuing enhancement of the existing ACTION system. The newly created cash fund consists of revenues from a new criminal surcharge for persons who are represented by private counsel or appear without legal representation.

The act turned the Discovery Task Force into a Steering Committee to assist the CDAC in developing a process to select a vendor. The act required the CDAC to select and enter into a contract with a vendor to complete the discovery system by October 31, 2016. The act required the Steering Committee to develop benchmarks and contractual requirements for the discovery system, and authorized the Committee to meet as necessary to provide practical and technical support for the maintenance and enhancement of the discovery system.

The act appropriated \$5.3 million General Fund to the Judicial Department for FY 2014-15, and allowed any unspent funds to remain available for expenditure in FY 2015-16. This appropriation was based on the higher of two estimates that were included in the Task Force final report. The actual development and implementation costs were to be determined through the request for proposal (RFP) and vendor selection process and the benchmarks and contractual requirements outlined in the act.

The act included a legislative declaration stating that the General Assembly “finds it necessary to provide funding for the development, continuing enhancement, and maintenance of a statewide discovery sharing system in order to create more predictable state costs associated with criminal discovery”. This declaration also states the General Assembly's intent that once the statewide system is operational:

- district attorneys shall not seek or receive reimbursement for copying discovery from anyone [please note that this will require a change to Supreme Court rules]; and
- existing General Fund appropriations to the Judicial Department that are used to reimburse district attorneys for the cost of duplicating discoverable materials shall instead be used to fund the ongoing costs of maintaining the discovery system and the associated ACTION system.

Senate Bill 16-091

The procurement and contract negotiation processes took longer than anticipated, and this act delayed the statewide implementation date (to July 1, 2017) to align with the vendor contract and CDAC's phased implementation plan.

Project Plan and Status

The discovery sharing system project has been divided into three parts:

1. The first part obtains discovery and data electronically from law enforcement agencies and passes this on to the ACTION system.
2. The second part involves enhancements to ACTION that allow the district attorneys to work with electronic discovery in an efficient manner.
3. The third part disseminates the electronic discovery to the defense.

The CDAC contracted with a vendor to build the first part of the project, and CDAC is building the second and third parts.

Senate Bill 14-190 requires CDAC to provide periodic reports to the Steering Committee and the Joint Budget Committee regarding benchmarks and contractual requirements for the statewide discovery sharing system and the progress of the development of the system. The act also requires CDAC to provide the Judicial Department financial reports regarding the system, including:

- actual expenditures of moneys appropriated for the discovery sharing system and the ACTION system so that such data can be included in the Department's annual budget request; and
- the amount of funding requested for the next fiscal year for such purpose, including a breakdown and justification for the amount requested.

Table 3, prepared by the CDAC, summarizes the money received and spent to date based on the most recent financial reports it has submitted to the Judicial Department. As of September 30, 2016, the CDAC had spent all but \$22,618 of the initial \$5.3 million appropriation. The General Assembly appropriated an additional \$2,866,108 for these systems for FY 2016-17.

TABLE 3: EXPENDITURES FOR ACTION AND THE STATEWIDE DISCOVERY SHARING SYSTEM

E-Discovery Financial Report				
SB 14-190	Monies Received	Expenditures Beginning This Quarter	Expenditures This Quarter	Total Expenditures to Date
			07/01/2016 - 09/30/2016	Ending 09/30/2016
ACTION	\$2,300,000.00			
Personnel		\$2,057,046.51	\$308,488.44	\$2,365,534.95
Supplies & Operating		\$194,297.18	\$28,190.27	\$222,487.45
Travel/Meetings		\$14,237.94	\$854.69	\$15,092.63
Equipment		\$246,842.36	\$2,545.76	\$249,388.12
Other Costs		\$0.00	\$0.00	\$0.00
eDiscovery Consultants & Other Professo	\$3,000,000.00	\$2,181,266.83	\$243,611.79	\$2,424,878.62
TOTALS	\$5,300,000.00	\$4,693,690.82	\$583,690.95	\$5,277,381.77

Staff has included as Appendix L the CDAC's most recent report concerning the project status. This report includes an updated implementation schedule, which indicates:

- in the first three months, the system was implemented in four judicial districts (18th, 5th, 17th, and 4th);

- by December 1, 2016, the system is scheduled to be implemented in another five judicial districts (8th, 19th, 10th, 11th, and 12th); and
- the system is scheduled to be implemented in the remaining 13 judicial districts from December through June 2017.

If the project is implemented as scheduled, it will be operational in nine judicial districts by the end of 2016. These nine districts account for approximately 47 percent of discoverable materials that are provided to state agencies (based on reimbursements paid to district attorneys’ offices in FY 2014-15). The judicial districts that will begin using the system in the first half of 2017 include several smaller districts as well as the 1st (Jefferson and Gilpin counties) and 2nd (Denver). The latter two districts are scheduled for implementation by June 1 and July 1, respectively.

The CDAC report identifies three primary challenges it is facing as it implements the statewide discovery sharing system (often referred to as “eDiscovery”):

- Body camera video and the impact on data storage and access requirements;
- Bandwidth at district attorney and OSPD offices; and
- Slow implementation and adoption by law enforcement agencies.

Appropriations for FY 2016-17 and FY 2017-18

Appropriations for ACTION and Statewide Discovery Sharing Systems

Current law requires the General Assembly to appropriate necessary moneys to fund the development, continuing enhancement, and maintenance of the ACTION and eDiscovery systems. Table 4 summarizes project expenditures to date, estimated expenditures for FY 2016-17, and requested funding for FY 2017-18.

	FY 2014-15 ACTUAL	FY 2015-16 ACTUAL	FY 2016-17 ESTIMATE	FY 2017-18 ESTIMATE	CUMULATIVE TOTAL
ACTION Case Management System					
Personnel	\$885,706	\$1,171,341	\$1,780,000	\$1,830,000	\$5,667,047
Supplies & Operating	88,239	106,058	170,000	375,000	739,297
Travel/Meetings	6,619	7,619	20,000	20,000	54,238
Equipment	<u>143,544</u>	<u>103,298</u>	<u>330,000</u>	<u>130,000</u>	<u>706,842</u>
Other Costs	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Subtotal	\$1,124,108	\$1,388,316	\$2,300,000	\$2,355,000	7,167,424
Maintenance and Distribution of CDAC Charge Code Table				135,000	135,000
eDiscovery Consultants & Other Professional Services ^a	0	2,181,267	1,000,000	750,000	3,931,267
Total Expenditures	\$1,124,108	\$3,569,583	\$3,300,000	\$3,240,000	\$11,233,691

a/ FY 2017-18 figure reflects the maximum annual maintenance cost of the Xerox/PARC portion of the system; actual costs may be lower.

As indicated above, the General Assembly appropriated \$2,866,108 for this project for FY 2016-17. This amount was based on projected expenses of \$3,300,000, less the amount that was anticipated to remain available from the initial \$5,300,000 appropriation (\$433,892). The FY 2016-17 appropriation

includes \$2,796,108 General Fund and \$70,000 cash funds from the Statewide Discovery Sharing Surcharge Fund.

For FY 2017-18, the CDAC has requested a total appropriation of \$3,240,000. This amount is \$190,000 higher than anticipated last Spring, reflecting the following changes:

- the request includes an additional \$50,000 to cover a 2.8 percent increase in CDAC staff salaries;
- the request includes \$5,000 to provide and periodically replace external hard drives for the OSPD and the OADC for transferring extraordinarily large files from district attorney offices; and
- the request includes \$135,000 to support the cost of maintaining the “charge code tables” and annually distributing these tables to judicial agencies⁴.

Reductions in Appropriations for Reimbursing District Attorney Offices

The General Fund appropriation for eDiscovery is partially offset by a reduction in appropriations to various judicial agencies for the costs of reimbursing the prosecution for providing discoverable materials. As detailed in Table 2, judicial agencies paid a total of \$2.6 million to reimburse district attorneys’ offices and the Department of Law for providing discoverable materials in FY 2014-15. Based on the planned implementation of eDiscovery in each judicial district, it was anticipated that reimbursements to DAs would decrease by about 40 percent in FY 2016-17. The appropriations to four judicial agencies were thus reduced by a total of \$1,034,194, based on each agency’s proportional share of reimbursements actually paid in FY 2014-15. As a result, the FY 2016-17 appropriation for ACTION and eDiscovery required only \$1.8 million “new” General Fund. Table 5 details the appropriation reductions that occurred in FY 2016-17, and the additional reductions staff anticipates recommending for FY 2017-18.

TABLE 5: REDUCTIONS TO APPROPRIATIONS FOR REIMBURSING THE PROSECUTION						
DESCRIPTION	COURTS/ PROBATION	OFFICE OF THE STATE PUBLIC DEFENDER	OFFICE OF THE ALTERNATE DEFENSE COUNSEL	OFFICE OF THE CHILD’S REPRESENTATIVE	TOTAL	PERCENT OF TOTAL
Actual FY 2014-15 Reimbursements Paid	\$16,694	\$1,961,492	\$567,723	\$17,588	\$2,563,498	
FY 2016-17 – Initial Reduction	(3,474)	(806,506)	(216,815)	(7,399)	(1,034,194)	40.3%
FY 2017-18 - Additional Reduction	(13,220)	(1,154,986)	(350,908)	(10,189)	(1,529,304)	59.7%
Total Amounts Shifted to Support Ongoing ACTION and eDiscovery Operations	(\$16,694)	(\$1,961,492)	(\$567,723)	(\$17,588)	(\$2,563,498)	100.0%

If the Committee approves the CDAC request for \$3,240,000 for FY 2017-18, an appropriation of \$3,170,000 General Fund will be required⁵. Based on the methodology that was used for FY 2016-17, staff intends to recommend additional reductions to judicial agencies’ Mandated Costs

⁴ These tables are used to code various criminal charges based on the statutory sentencing structure. These tables are updated annually to reflect legislative changes. The CDAC plans to share these tables with the State Court Administrator’s Office, the Office of the State Public Defender, the Office of the Alternate Defense Counsel, and various law enforcement agencies. This will allow each agency to utilize the same coding scheme, thereby making it easier to pull consistent data sets for purposes of estimating the impact of sentencing provisions. The requested funding would support 1.0 FTE dedicated to this effort.

⁵ This amount assumes that the cash funds appropriation from the Statewide Discovery Sharing Surcharge Fund can be maintained at \$70,000. In FY 2015-16, the Department collected a total of \$68,456 in surcharge revenues.

appropriations totaling \$1,529,304 to reflect the elimination of funding to reimburse the prosecution. [Please note that the budget requests submitted by judicial agencies did not consistently reflect the elimination of this funding. As a result, staff's recommendation will be \$372,774 lower than the overall request.] Based on the cumulative amount that will be redirected to support the new system (\$2.6 million), only \$606,502 "new" General Fund will be required for the first full year of system operations. Table 6 provides a summary of appropriations and adjustments for FY 2016-17 and FY 2017-18.

TABLE 6: FUNDING FOR THE ACTION AND STATEWIDE DISCOVERY SHARING SYSTEMS, FY 2016-17 AND FY 2017-18

DIVISION: LINE ITEM	FY 2016-17 APPROPRIATION			FY 2017-18 REQUEST AND ESTIMATED ADJUSTMENTS		
	GENERAL FUND	CASH FUNDS	TOTAL	GENERAL FUND	CASH FUNDS	TOTAL
Trial Courts: ACTION and Statewide Discovery Sharing Systems	\$2,796,108	\$70,000	\$2,866,108	\$3,170,000	\$70,000	\$3,240,000
<u>Adjustments to Appropriations to Reimburse the Prosecution for Discovery^a:</u>						
Trial Courts: Court Costs, Jury Costs, and Court-appointed Counsel	(3,474)	0	(3,474)	(16,694)	0	(16,694)
Office of the State Public Defender: Mandated Costs	(806,506)	0	(806,506)	(1,961,492)	0	(1,961,492)
Office of the Alternate Defense Counsel: Mandated Costs	(216,815)	0	(216,815)	(567,723)	0	(567,723)
Office of the Child's Representative: Mandated Costs	<u>(7,399)</u>	<u>0</u>	<u>(7,399)</u>	<u>(17,588)</u>	<u>0</u>	<u>(17,588)</u>
Subtotal	(1,034,194)	0	(1,034,194)	(2,563,498)	0	(2,563,498)
TOTAL "NEW" FUNDING	\$1,761,914	\$70,000	\$1,831,914	\$606,502	\$70,000	\$676,502

a/ General Fund appropriation amounts that are shifted from state agencies to the eDiscovery project are based on actual FY 2014-15 payments to district attorneys and the Department of Law for discoverable materials. The amounts for FY 2016-17 reflect a portion of such payments (\$1,034,194), based on the scheduled system implementation in each judicial district during FY 2016-17. For FY 2017-18, the full amount of payments made in FY 2014-15 (\$2,563,498) is anticipated to be shifted to the eDiscovery project based on statewide implementation being completed by July 1, 2017.

Changes to Supreme Court Rule 16

As noted above, S.B. 14-190 included a legislative declaration stating the General Assembly's intent that once the statewide system is operational, district attorneys shall not seek or receive reimbursement for copying discovery from anyone. As it is a Supreme Court rule that authorizes the prosecution to charge the defense for the costs of providing discoverable materials [Colorado Rules of Criminal Procedure, Rule 16, part V (c)], this will require Supreme Court action to change the rule. Here is the relevant provision in existing rules:

Rule 16 (V) (c) Cost and Location of Discovery.

“The cost of duplicating any material discoverable under this rule shall be borne by the party receiving the material, based on the actual cost of copying the same to the party furnishing the material. Copies of any discovery provided to a defendant by court appointed counsel shall be paid for by the defendant. The place of discovery and furnishing of materials shall be at the office of the party furnishing it, or at a mutually agreeable location.”

Staff recently asked the Judicial Department for an update on the status of this rule change. The Department provided a copy of a letter dated October 26, 2015, from Steven Jacobson (a member of the Criminal Rules Committee) to the Supreme Court Justices concerning proposed changes to this rule. The letter indicates that the Committee unanimously proposed changing Rule 16 to read as follows:

"(1) THE PROSECUTION'S COSTS OF PROVIDING ANY DISCOVERABLE MATERIAL TO THE DEFENSE, ELECTRONICALLY OR OTHERWISE, SHALL BE PAID FROM FUNDS ALLOCATED BY THE GENERAL ASSEMBLY. THE PROSECUTION SHALL NOT OTHERWISE CHARGE FOR DISCOVERY. FOR ANY MATERIALS PROVIDED TO THE PROSECUTION AS PART OF THE DEFENSE DISCOVERY OBLIGATION, THE COST SHALL BE BORNE BY THE PROSECUTION BASED ON THE ACTUAL COST OF DUPLICATION. COPIES OF ANY DISCOVERY PROVIDED TO A DEFENDANT BY COURT APPOINTED COUNSEL SHALL BE PAID FOR BY THE DEFENDANT.

(2) THE PLACE OF DISCOVERY FOR MATERIALS NOT CAPABLE OF BEING PROVIDED ELECTRONICALLY SHALL BE AT THE OFFICE OF THE PARTY FURNISHING IT, OR AT A MUTUALLY AGREEABLE LOCATION."

The Department indicated that the Rules Committee met on November 16, 2016, and agreed to move forward with the rule change. The Department indicated that the next step is to publish the rule change in the Colorado Lawyer and on the Judicial Department website, and then allow eight weeks for public comment. The Rules Committee would then vote on the final rule change.

Staff is concerned about the above language because it appears to continue to allow the prosecution to charge for the costs of providing discoverable materials, and it indicates that such costs "shall be paid from funds allocated by the General Assembly". Senate Bill 14-190 is premised on ending the practice of the prosecution seeking reimbursement for the costs of providing discoverable materials to the defense. To achieve this objective, the General Assembly has appropriated \$7,061,914 General Fund and redirected an additional \$1,034,194 General Fund from four judicial agencies to fund the development and implementation of a statewide discovery sharing system and to support the CDAC's existing ACTION case management system. Since September 2014, the courts have been collecting a surcharge from individuals who are represented by private counsel or appear without representation and who are convicted of a misdemeanor or felony to help support the statewide discovery sharing system. The General Assembly has clearly indicated its intent to fund the ongoing operation of these systems in the future, and, effective July 1, 2017, to discontinue appropriating funds to reimburse the prosecution for costs associated with providing discoverable materials.

Background Information

ACTION Case Management System

The ACTION case management system is maintained and operated by the CDAC for district attorneys. The system can be accessed by its users from any internet connection. In addition to tracking criminal case data, ACTION provides the following functionality for district attorneys:

- Document generation (filing documents, victim notifications/letters, subpoenas)
- Automatically updated court events along with prosecutor docket tracking
- Full content management system (documents and electronic files associated with each case)
- Built-in, flexible work flow
- Paper-on-demand/paperless office system
- Electronic subpoenas to law enforcement agencies
- Electronic citations from the Weld County Sheriff and Greeley Police Department

This system is one of several that are integrated with the Colorado Integrated Criminal Justice Information System (CICJIS) to share data concerning offenders among various agencies including: law enforcement agencies; district attorneys; the courts; the Department of Public Safety's Colorado Bureau of Investigation; the Department of Corrections; and the Department of Human Services' Division of Youth Corrections. This system is also critical for the Judicial Department's development and implementation of electronic case filing for criminal court cases.

It is staff's understanding that not all district attorneys use ACTION. The CDAC plans to convert at least some of these offices (the 1st and 9th judicial districts) to ACTION as part of the implementation of the statewide discovery sharing system.

ISSUE: ESTABLISHING JUDGE AND JUSTICE SALARIES

This issue brief provides an overview of the Department's proposal to increase judge and justice salaries by 6.3 percent over the next two fiscal years.

SUMMARY

- The General Assembly is constitutionally charged with establishing salaries for judges and justices (referred to as “judicial officers”). Since FY 1999-00, the General Assembly has annually established judicial officer salaries through a footnote in the Long Bill. The Judicial Department periodically proposes judicial officer salary increases through its annual budget request. The Joint Budget Committee acts on these requests, and makes a recommendation to the full General Assembly through the Long Bill.
- Consistent with the Governor's budget proposal, the Department's budget request for FY 2017-18 includes a 2.5 percent increase for all Department employees, including judicial officers. The request also includes funding to increase all judicial officer salaries by an additional 3.15 percent. The latter increase is phase one of a two-year proposal to increase judicial officer salaries by 6.3 percent over the next two years based on judge salaries in six peer states.
- Pursuant to S.B. 15-288, the salaries listed in statute for certain state elected officials and legislators will be benchmarked to certain judicial officers' salaries beginning in January 2019. Thus, the judicial officer salaries that are established over the next two years will affect the salaries paid to these elected officials and legislators.

DISCUSSION

Establishing Salaries for Judges and Justices

Judicial Department employees are not part of the State classified system. Specifically, Sections 13 (2) and (3) of Article XII of the State Constitution state that:

- the State Personnel System excludes “members, officers, and employees of the legislative and judicial departments of the state, unless otherwise specifically provided in the constitution”; and
- “Officers and employees within the judicial department, other than judges and justices, may be included within the personnel system of the state upon a determination by the supreme court, sitting en banc, that such would be in the interests of the state.”

Section 18 of Article VI of the State Constitution states that, “Justices and judges of courts of record shall receive such compensation as may be provided by law, which may be increased but may not be decreased during their term of office and shall receive such pension or retirement benefits as may be provided by law”. In carrying out its responsibility to provide for judicial officer salaries, the General Assembly established the “Colorado Judicial Compensation Act”⁶. Sections 13-30-103 and 104, C.R.S., established judicial salaries for various fiscal years during the 1990s. These provisions state that any salary increases above those set forth in statute “shall be determined by the general assembly as set forth in the annual general appropriations bill”. Thus, since FY 1999-00, the General

⁶ See Section 13-30-101, et seq., C.R.S.

Assembly has annually established judicial officer salaries through a footnote in the Long Bill. The footnote also establishes the salaries for the individuals who head four of the independent judicial agencies by tying them to specific judicial salaries. Staff has provided below the footnote (#56) that appears in the FY 2016-17 Long Bill:

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

	<u>FY 2016-17</u>
	<u>Salary</u>
Chief Justice, Supreme Court	\$176,799
Associate Justice, Supreme Court	173,024
Chief Judge, Court of Appeals	169,977
Associate Judge, Court of Appeals	166,170
District Court Judge, Denver Juvenile Court Judge, and Denver Probate Court Judge	159,320
County Court Judge	152,466

Funding is also provided in the Long Bill to maintain the salary of the State Public Defender at the level of an associate judge of the Court of Appeals and to maintain the salaries of the Alternate Defense Counsel, the Executive Director of the Office of the Child's Representative, and the Executive Director of the Office of the Respondent Parents' Counsel at the level of a district court judge.”

Recent Increases in Judicial Officer Salaries

Two years ago, the Department submitted a proposal to increase all judicial officer salaries by a total of 14.71 percent over two fiscal years (9.71 percent in FY 2015-16 and 5.0 percent in FY 2016-17). The overall 14.71 percent increase was based on the gap between the salary for district court judges and the maximum of the pay ranges for attorney classifications in two other state agencies: Deputy Attorney General at the Department of Law and the Office Heads at the Office of the State Public Defender. The General Assembly approved the requested increase for FY 2015-16, but did not approve the proposed increase for FY 2016-17. Thus, the salaries listed in the above footnote for FY 2016-17 remain unchanged from FY 2015-16. The following table provides a history of salary increases that have been approved over the last ten years. A more complete history dating back to FY 1991-92 is provided in Appendix I.

RECENT INCREASES IN JUDICIAL OFFICER SALARIES	
FISCAL YEAR	ANNUAL PERCENT CHANGE
2007-08	5.07%
2008-09	8.09%
2009-10	0.00%
2010-11	0.00%
2011-12	0.00%
2012-13	0.00%
2013-14	3.60%

RECENT INCREASES IN JUDICIAL OFFICER SALARIES	
FISCAL YEAR	ANNUAL PERCENT CHANGE
2014-15	9.00%
2015-16	9.71%
2016-17	0.00%
2017-18 Request	5.73%

Department Proposal for Judicial Officer Salary Increases in FY 2017-18 and FY 2018-19

As detailed in the following table, the budget request submitted by the Chief Justice of the Supreme Court for FY 2017-18 includes funding to increase all judge and justice salaries by 5.73 percent. The request includes a 2.5 percent increase based on the Governor’s proposed across-the-board salary increase, plus a 3.15 percent increase. The latter increase is the first phase of a two-year proposal to increase all judicial officer salaries by a total of 6.3 percent over two fiscal years. The following table details the proposed salary increases for FY 2017-18 for each type of judicial officer.

PROPOSED CHANGE IN JUDICIAL OFFICER SALARIES				
JUDICIAL OFFICERS	FY 2016-17 SALARY	FY 2017-18 REQUEST		
		\$ INCREASE	% INCREASE	SALARY
Chief Justice, Supreme Court	\$176,799	\$10,128	5.73%	\$186,927
Associate Justice, Supreme Court	173,024	9,912	5.73%	182,936
Chief Judge, Court of Appeals	169,977	9,738	5.73%	179,715
Associate Judge, Court of Appeals	166,170	9,519	5.73%	175,689
District Court Judge, Denver Juvenile Court Judge, and Denver Probate Court Judge	159,320	9,127	5.73%	168,447
County Court Judge	152,466	8,734	5.73%	161,200

The Department's FY 2017-18 request for Salary Survey includes a 2.5 percent increase for all Department employees, including judicial officers. In addition, the request includes a total of \$2,372,520 (including \$2,341,250 General Fund and \$31,270 cash funds) for two types of salary increases:

- \$2,102,297 to increase all judicial officer salaries by an additional 3.15 percent in FY 2017-18; and
- \$270,223 to increase by an additional 3.15 percent the salaries of certain Judicial Department staff whose salaries are benchmarked to judicial officer salaries.

The Department proposes increasing judicial officer salaries by 6.3 percent over the next two fiscal years to address the following concerns:

- A recent decline in the number of judicial officer applicants in the metropolitan area⁷;

⁷ The Department indicates that judicial officer positions in the metropolitan area represent 55 percent of state court system positions. This area includes the following judicial districts: 1st (Jefferson and Gilpin), 2nd (Denver district court), 4th (El Paso and Teller), 17th (Adams and Broomfield), 18th (Arapahoe, Douglas, Elbert, and Lincoln), and 20th (Boulder).

- An over-representation of nominees with public sector criminal law experience and a lack of nominees from a private practice background that involves civil cases and business issues⁸;
- A sharp decline in the average age⁹ and level of experience of new judicial appointments; and
- The retirement of nearly half (44 percent) of Colorado judicial officers in the next five to seven years.

The Department uses the district court judge position as its benchmark due to the ease in identifying similarly situated judicial officer positions in other states. All other justice, judge, and magistrate salaries are anchored to the district court judge salary. The Department's compensation philosophy is to target the district court judge salary to the average pay of comparable peer states, and to keep a five to ten percent difference between each type of judge, depending on the jurisdiction and authority given to each type of judge.

In response to some direction provided by the Joint Budget Committee last year, the Department contracted with two independent third party experts to study judicial officer compensation:

- Segal Waters, which was selected based on its extensive background studying government compensation plans, determined that Colorado should increase judge salaries by 6.3 percent to match those of comparable states. Specifically, the study identified suitable peer states based on the number of courts, caseloads, unification of court systems, and state population (Arkansas, Minnesota, Nebraska, Nevada, Tennessee, and Washington). The study then applied geographic adjustments for each peer state based on the cost of labor. This resulted in an average district court judge salary of \$169,984. Based on the current district court judge salary of \$159,320, the study recommends a 6.3 percent increase to \$169,357. The same percent increase would then be applied to other types of judicial officers.
- Fox Lawson, which analyzes attorney compensation for other Colorado agencies (the Department of Law, the Office of the State Public Defender, and the Office of Legislative Legal Services), determined that the Department's previous request for a 5.0 percent increase (for FY 2016-17) was appropriate and conservative given the salaries for comparable public sector positions in Colorado.

Based on the above two studies and taking into consideration the current financial environment facing the State, the Department is proposing a 6.3 percent increase in judicial officer salaries over the next two fiscal years.

Judicial Officer Salaries Are Used as a Benchmark for Salaries of Other Elected Officials

Please note that pursuant to S.B. 15-288, the salaries listed in statute for certain state officials and state legislators will be benchmarked to certain judicial officers' salaries beginning in January 2019. This act replaces the existing fixed dollar salaries listed in statute for certain state officials and state legislators with a new method for determining salaries that aligns them to certain judicial officers' salaries. The new method for determining these salaries will begin January 2019, and salary amounts will be adjusted every four years to maintain the alignment. The following table from the Legislative Council Staff fiscal note for the act details the benchmarks for each class of elected official.

⁸ The Department indicates that civil and business case filings constitute approximately 52 percent of the overall caseload, but only a third of nominees for district court judge vacancies are from the private sector (which is where such experience is primarily gained).

⁹ The Department indicates that since 2013 the average age of incoming judicial officers has declined by 14.4 years.

CHANGE IN SALARIES FOR SELECTED STATE OFFICIALS PER S.B. 15-288

STATE OFFICIAL	CURRENT SALARY (ESTABLISHED JANUARY 1999)	BENCHMARKS FOR SALARIES BEGINNING JANUARY 2019		
		COLORADO JUDICIAL OFFICER	PERCENT OF JUDICIAL OFFICER SALARY	ESTIMATED SALARIES AS OF JANUARY 2019 ¹
Governor	\$90,000	Chief Justice, Colorado Supreme Court	66.0%	\$128,049
Lieutenant Governor	68,500	County Court Judges, Class B Counties	58.0%	97,040
Attorney General	80,000	Chief Judge, Colorado Court of Appeals	60.0%	111,916
State Legislators	30,000	County Court Judges, Class B Counties	25.0%	41,828
Secretary of State	68,500	County Court Judges, Class B Counties	58.0%	97,040
Treasurer	68,500	County Court Judges, Class B Counties	58.0%	97,040

¹ Estimates are based on judicial officer salaries established for FY 2015-16 through footnote 45 of the FY 2015-16 Long Bill (S.B. 15-234), increased by estimated inflation rates of 2.5 percent in FY 2016-17 and 2.3 percent each fiscal year thereafter.

This act also increased statutory salaries for county commissioners, sheriffs, treasurers, assessors, clerks, coroners, and surveyors by 30.0 percent, effective January 2016, and requires the Director of Research of the Legislative Council to periodically adjust the salaries of these elected county officials for inflation, and post the adjusted salary amounts on the General Assembly's web site.

ISSUE: JUDICIAL PERSONNEL SYSTEMS AND THE INDEPENDENT AGENCIES

This issue brief provides an overview of the six independent judicial agencies that have been established by the General Assembly. This issue brief also describes the judicial personnel system and the various processes that are currently used to evaluate and approve salary adjustments for various types of judicial employees.

SUMMARY

- The General Assembly has established six independent agencies within the Judicial Branch. Four of these agencies provide legal representation, and two were transferred from the Executive Branch. These agencies range in size from one employee to 785 employees. The statutory provisions that establish these agencies vary in terms of the agency's independence from and relationship to the Judicial Department, as well as the role of the agency's oversight board or commission.
- The SMART Act requirements for the independent judicial agencies also differ, and some of these agencies are subject to multiple duplicative reporting requirements.
- Judicial Department employees are not part of the State classified system, and the Supreme Court is charged with prescribing by rule a personnel classification plan for all courts that are funded by the State. This judicial personnel system excludes independent agency employees.
- In general, most of the employee compensation-related common policies that are established by the Joint Budget Committee for purposes of proposing an annual budget to the General Assembly are applied to the Judicial Branch in the same way as the Executive Branch. However, there are two aspects of the current processes that are used to evaluate and approve salary adjustments for Judicial Branch employees that are not consistent with the stated goals and policies that have been established for the State personnel system.

RECOMMENDATION

Staff recommends that the Committee ask the various independent agencies for input about how to improve relevant statutory reporting requirements, including those currently imposed by the SMART Act, to ensure that they are useful for both the agency and the receiving entities and they are appropriate for each agency's scope of work and staffing levels. Staff also recommends that the Committee ask the Judicial Department and the various independent agencies for input about how to improve the processes that are used to evaluate and approve salary adjustments for Judicial Branch employees so that they are more consistent with the practices that are used by the State Personnel Director.

DISCUSSION

General Assembly Establishment of Independent Judicial Agencies

The General Assembly has established six agencies, separate from courts and probation, within the Judicial Branch. Four of these agencies provide legal representation for individuals:

- The Office of the State Public Defender (OSPD) was created in 1970 through a bill that established state funding and budgetary control of state courts and personnel (S.B. 69-126). This Office operates 21 regional trial offices and a central administrative and appellate office, and is currently funded to employ 785.9 FTE.
- The Office of Alternate Defense Counsel (OADC) was created through S.B. 96-205. This Office operates a central administrative office and is currently funded to employ 12.0 FTE.
- The Office of the Child's Representative (OCR) was created through H.B. 00-1371. This Office operates a central administrative office and an office that provides guardian ad litem services in El Paso county, and is currently funded to employ 29.1 FTE.
- The Office of the Respondent Parents' Counsel (ORPC) was created through S.B. 14-203 and H.B. 15-1149. This Office operates a central administrative office and is currently funded to employ 10.0 FTE.

The other two agencies were transferred to the Judicial Branch from Executive Branch agencies:

- The Independent Ethics Commission (IEC) was transferred from the Department of Personnel to the Judicial Branch through H.B. 10-1404. This Office operates a central administrative office and is currently funded to employ 1.0 FTE.
- The Office of the Child Protection Ombudsman (OCPO) was transferred from the Department of Human Services to the Judicial Branch through S.B. 15-204. This Office operates a central administrative office and is currently funded to employ 4.5 FTE.

Under current practice, each of the six independent agencies submits a separate budget request which is not reviewed or approved by either the Chief Justice or the Governor's Office of State Planning and Budgeting. Thus, it is up to the General Assembly to evaluate the relative merits of the budget initiatives contained in the seven budget requests that are submitted by Judicial Branch agencies.

Establishment as a Judicial Agency

The statutory provisions establishing each of these agencies all differ. Three provisions establish an “agency of” the Judicial Department (OSPD, OADC, and OCR), one provision creates the ORPC “within” the Judicial Department, and two other provisions establish an office in the Judicial Department as an “independent agency” (IEC and OCPO).

Oversight and Governance

Each agency has a board or commission that provides some form of oversight or governance:

- The five-member Public Defender Commission, whose members are appointed by the Supreme Court, appoints an individual to serve as the State Public Defender. [Section 21-1-101, C.R.S.]
- The nine-member Alternate Defense Counsel Commission, whose members are appointed by the Supreme Court, appoints an individual to serve as the Alternate Defense Counsel and adopts written procedures governing the office (e.g., hiring, evaluation, and termination of the Alternate

Defense Counsel; resolution of contractual disputes involving the OADC; and the processing and resolution of complaints involving the OADC). [Section 21-2-101, C.R.S.]

- The nine-member Child's Representative Board, whose members are appointed by the Supreme Court, appoints an individual to serve as the Director of the Office and works cooperatively with the Director to provide governance to the Office, provide fiscal oversight of the general operating budget of the Office, participate in funding decisions relating to the provision of services, and assist with office duties concerning training. [Section 13-91-104, C.R.S.]
- The nine-member Respondent Parents' Counsel Governing Commission, whose members are appointed by the Supreme Court, appoints an individual to serve as the Director of the Office, and works cooperatively with the Director to provide governance to the Office, provide fiscal oversight of the general operating budget of the Office, participate in funding decisions relating to the provision of services, and assist with office duties concerning training. [Section 13-92-103, C.R.S.]
- The appointment of five individuals to the Independent Ethics Commission, and the powers and duties of the Commission, are specified in Section 5 of Article XXIX of the State Constitution. The Commission is authorized, subject to available appropriations, to employ such staff as it deems necessary to carry out its functions.
- The Chief Justice, the Governor, and legislative leaders appoint individuals (up to 12) to the Child Protection Ombudsman Board. The Board: appoints a person to serve as the Child Protection Ombudsman and Director of the Office; develops a public complaint process related to the Ombudsman's performance; oversees and advises the Ombudsman on the strategic direction of the Office; works cooperatively with the Ombudsman to provide fiscal oversight of the general operating budget of the Office; and promote the mission of the Office. [Section 19-3.3-102, C.R.S.]

Reporting Requirements

With respect to the SMART Act, the State Court Administrator's Office and four of the six agencies (OSPD, OADC, OCR, and OCPO) are included as part of the definition of "department" [Section 2-7-202 (5) (a), C.R.S.], and are listed in the relevant sections requiring certain actions [Sections 2-7-204 (1) (c) and (3) (b), and 2-7-205 (1) (b), C.R.S.]. Many of the statutory provisions establishing these agencies include additional reporting requirements:

- The OSPD and the OADC are required to annually report to the Judiciary Committees information concerning juvenile delinquency cases for which counsel from the office is appointed and attorneys who represent children in juvenile delinquency court;
- The OCR is required to: (a) annually cause a program review and outcome-based evaluation of the performance of the office and submit reports to members of the General Assembly and the State Court Administrator's Office; and (b) report the activities of the office to the members of the General Assembly and the State Court Administrator's Office [Section 13-91-105 (1) (h) and (i), C.R.S.];
- The ORPC is required to annually review and evaluate the office's performance and submit a report to the State Court Administrator and the Joint Budget Committee [Section 13-92-104 (1) (e), C.R.S.]; and
- The OCPO is required to annually submit a report to the Governor, Chief Justice, and the General Assembly concerning recommended actions taken by the office or statutory, regulatory, budgetary, or administrative changes to improve outcomes for children and families receiving child welfare services.

The SMART Act requirements for the independent judicial agencies appear to be disproportionate to those placed on similarly-sized agencies within the Executive Branch. . [See Appendix D for links to each agency's most recent SMART Act reports.] In addition, some of these agencies are subject to multiple duplicative reporting requirements.

- Staff recommends that the Committee ask the various independent agencies for input about how to improve relevant statutory reporting requirements, including those currently imposed by the SMART Act, to ensure that they are useful for both the agency and the receiving entities and they are appropriate for each agency's scope of work and staffing levels.

Personnel Classification Plan for Judicial Department Employees (Other Than Judges)

As indicated in the previous briefing issue, Judicial Department employees are not part of the State classified system. Specifically, Sections 13 (2) and (3) of Article XII of the State Constitution state that:

- the State Personnel System excludes “members, officers, and employees of the legislative and judicial departments of the state, unless otherwise specifically provided in the constitution”; and
- “Officers and employees within the judicial department, other than judges and justices, may be included within the personnel system of the state upon a determination by the supreme court, sitting en banc, that such would be in the interests of the state.”

Pursuant to Section 13-3-101 (1), C.R.S., the justices of the Supreme Court appoint and determine the compensation for the State Court Administrator. With regard to all other employees, Section 13-3-105, C.R.S., requires the Supreme Court to prescribe by rule a personnel classification plan for all courts that are funded by the State. Such plan shall include:

- A basic compensation plan of pay ranges to which classes of positions are assigned and may be reassigned;
- The qualifications for each position or class of positions, including education, experience, special skills, and legal knowledge;
- An outline of the duties to be performed in each position or class of positions;
- The classification of all positions based on the required qualifications and the duties to be performed, taking into account, where applicable, the amount and kinds of judicial business in each court of record subject to the provisions of this section;
- The number of full-time and part-time positions, by position title and classification, in each court of record subject to the provisions of this section;
- The procedures for and the regulations governing the appointment and removal of court personnel; and
- The procedures for and regulations governing the promotion or transfer of court personnel.

The Supreme Court is also required to prescribe by rule the amount, terms, and conditions of sick leave and vacation time for court personnel, and the hours of work and other conditions of employment.

Finally, this provision indicates that in order to treat all state employees in a similar manner, the Supreme Court is to "take into consideration the compensation and classification plans, vacation and

sick leave provisions, and other conditions of employment applicable to employees of the executive and legislative departments".

The Judicial Department's personnel system excludes employees of the following agencies or offices:

- Agencies involved in the regulation of the practice of law, including Attorney Regulation and Judicial Discipline, Continuing Legal and Judicial Education, and the State Board of Law Examiners;
- The Office of Judicial Performance Evaluation;
- The Office of the State Public Defender;
- The Office of the Alternate Defense Counsel;
- The Office of the Child's Representative;
- The Office of the Respondent Parents' Counsel;
- The Office of the Child Protection Ombudsman; and
- The Independent Ethics Commission.

Personnel and Compensation Plans for Independent Judicial Agencies

Compensation for Independent Agency Directors

The compensation for the directors of the four independent judicial agencies that provide legal representation are required to be "fixed by the general assembly" and may not be reduced during the director's term:

- OSPD: Section 21-1-102 (2), C.R.S.
- OADC: Section 21-2-102 (2), C.R.S.
- OCR: Section 13-91-104 (3) (a) (III), C.R.S.
- ORPC: Section 13-92-103 (4) (b), C.R.S.

The salaries for these Directors are established in the same Long Bill footnote that establishes judicial officer salaries. It is staff's understanding that this policy was established because these Directors work with judges all across the state, and they oversee hundreds of attorneys (either employees or contract attorneys) who regularly represent clients in district court.

Pursuant to S.B. 15-204, the General Assembly is also now required to "set" the Child Protection Ombudsman's compensation, and such compensation may not be reduced during the term of the Ombudsman's appointment¹⁰. The role and mission of the Office of the Child Protection Ombudsman differs from that of the four agencies that provide legal representation, and it is unclear to staff what the General Assembly intended with respect to the process of setting the Ombudsman's compensation. The appropriations that were included in S.B. 15-204 and the associated Legislative Counsel Staff fiscal note were based on the assumption that the Office would generally continue current operations at existing salary and budget levels.

Last March, the OCPO submitted a budget amendment to increase the salary of the Ombudsman to that of a district court judge (from \$109,000 to \$159,320), consistent with the Directors of OADC, OCR, and ORPC. Staff recommended denying this request because the rationale for tying the other Director's salaries to that of a judge did not appear to correspond to the duties of the Ombudsman.

¹⁰ See Section 19-3.3-102 (3) (a) (I), C.R.S.

Further, the existing salary of the Ombudsman was within one of the comparable ranges that was identified in a memo prepared by the State Court Administrator's Office at the request of the Ombudsman, and it was equivalent to the salary for a position that appeared to be a comparable based on the individual's role and level of responsibilities (the Manager of the Administrative Review Unit in the Department of Human Services). The Committee approved this recommendation, and the Long Bill appropriation was based on maintaining the Ombudsman salary of \$109,000.

The FY 2017-18 budget request from the OCPO states that, "The Ombudsman's salary has never been set by the Legislature as required by Senate Bill 15-204." The request indicates that the Child Protection Ombudsman Board recommends a salary range of \$120,996 to \$159,320 for the Ombudsman. The request includes \$14,390 based on the minimum salary of the recommended range, but the request clearly anticipates that the Joint Budget Committee will determine an appropriate salary within the range. The request includes an appendix that identifies three bodies of information that the Child Protection Board referenced, including:

- The International Ombudsman Association Survey of Ombudsman Compensation (2010);
- A memo from the human resources unit within the State Court Administrator's Office, dated September 11, 2015, that recommends a salary range of \$120,996 to \$159,320; and
- Another memo from the human resources unit within the State Court Administrator's Office, dated October 12, 2016, that appears to recommend a salary range of \$115,000 to \$166,188.

Compensation for Other Independent Agency Employees

With regard to the compensation for other independent agency employees, the statutory provisions for each agency differ:

- Pursuant to Section 21-1-102, C.R.S., the State Public Defender "shall employ and fix the compensation" for a chief deputy public defender, deputy state public defenders, investigators, and other necessary support staff. This provision also states that "all salaries shall be reviewed and approved by the Colorado Supreme Court". Staff is not aware of any recent Supreme Court action to review OSPD employee salaries.
- Pursuant to Section 21-2-102 (3), C.R.S., the Alternate Defense Counsel "shall employ and fix the compensation of any other employees necessary to discharge the functions of the [Office]".
- Pursuant to Section 24-18.5-101 (7), C.R.S., the Independent Ethics Commission may, subject to available appropriations, "employ such staff as it deems necessary to enable it to carry out its functions in accordance with [the relevant statutory and constitutional requirements]".
- Pursuant to Section 19-3.3-102 (1) (a), C.R.S., the OCPO and the Judicial Department are required to operate pursuant to a memorandum of understanding between the two entities. The memorandum of understanding is required to contain a requirement that the office has its own personnel rules and a requirement that the ombudsman has independent hiring and termination authority over office employees. Further, this provision states that the board and office "have complete autonomy, control, and authority over operations, budget, and personnel decisions related to the office, board, and ombudsman".

The independent agencies periodically submit, as part of their individual budget requests, proposals to adjust employee compensation. These proposals generally include any common policies that are proposed by the Governor, such as the 2.5 percent salary increase for all employees for FY 2017-18 and the Governor's recommended employer contributions for health insurance. These agencies also include requests to adjust the base salaries of specific employee classifications. These are usually

based on some type of comparison to positions within the Judicial Department or the Executive Branch.

Challenges with the Current Practice of Approving Compensation Adjustments

In general, most of the employee compensation-related common policies that are established by the Joint Budget Committee are applied to the Judicial Branch in the same way as the Executive Branch. Thus, staff always works with the various judicial agencies to calculate the appropriate amounts to reflect the employer contributions for pensions and insurance benefits, as well as any across-the-board policies concerning salary survey or merit pay. While this process requires a great deal of time and coordination given the number of judicial agencies that perform these calculations, staff believes that it results in an equitable treatment of Judicial and Executive Branch employees.

The Judicial Department annually reviews the Executive Branch salary survey results and conducts a pay grade realignment study for some or all Judicial Department job classifications. The Department indicates that while this pay grade realignment survey process is completed independently from the Executive Branch salary survey and system studies, it is of the functional equivalent of Executive Branch system studies. This study is annually included in the Judicial Department's budget request. Staff annually reports to the Joint Budget Committee the amounts that are requested for pay grade realignments, the basis for the request, and the affected job classifications.

The current processes used to establish compensation policies for judicial officers and practicing attorneys within the Judicial Branch are unique, but staff believes that these processes are reasonable and appropriate:

- Salaries for judicial officers are necessarily addressed through a separate request based on the constitutional and statutory requirements. The Judicial Department has responded to direction from the Joint Budget Committee to utilize independent third party experts to inform their proposal for benchmarking judicial officer salaries and requesting annual adjustments.
- The OSPD periodically requests funding to adjust salaries for employees who are practicing attorneys. In recent years, this request is based on a study that is conducted by an independent third party expert that benchmarks attorney classifications for the three state agencies that employ the largest numbers of practicing attorneys (the OSPD, the Department of Law, and the Office of Legislative Legal Services) with those of public sector attorneys within Colorado. This allows Joint Budget Committee to establish common policies concerning compensation for attorneys employed by the Department of Law and the OSPD; compensation policies for attorneys employed by the Office of Legislative Legal Services are under the purview of the Committee on Legal Services and the Executive Committee.

Staff is concerned about two aspects of the current processes that are used to evaluate and approve salary adjustments for Judicial Branch employees. First, the Judicial Department has benchmarked the salaries of certain staff positions to judicial officer salaries. The Department provided the following table to identify these positions in relation to the funding requested for salary increases for FY 2017-18.

	Current	Percentage Difference	FY18 Proposed Salary with 3.15% Adjustment	FY18 Salary with 2.5% Wage Survey
Chief Justice of the Supreme Court	\$176,799		\$182,368	\$186,927
Supreme Court Justice	\$173,024	2.18%	\$178,474	\$182,936
Chief Judge of the Court of Appeals	\$169,977	4.01% from Chief Justice 1.79% from Supreme Court Justice	\$175,331	\$182,936
State Court Administrator	\$169,977	4.01% from Chief Justice	\$175,331	\$179,714
Court of Appeals Judge	\$166,170	2.29% from Chief Judge Court of Appeals 4.12% from Supreme Court Justice	\$171,404	\$182,936
Chief of Staff	\$164,652	3.23% from State Court Administrator	\$169,839	\$174,085
District Court Judge	\$159,320	4.30% from Court of Appeals Judge	\$164,339	\$168,447
Judicial Legal Counsel	\$159,320	6.68% from State Court Administrator	\$164,339	\$168,447
Chief Information Officer	\$124,992- \$164,652	3.2% from State Court Administrator from range maximum	\$124,992- \$164,652	\$127,927- \$168,447
Clerk of the Appellate Court	\$120,996- \$159,320	6.68% from Chief Judge Court of Appeals	\$124,807- \$164,339	\$127,927- \$168,447
Director of Court Services	\$120,996- \$159,320	6.68% from State Court Administrator from range maximum	\$124,807- \$164,339	\$127,927- \$168,447
Director of Financial Services	\$120,996- \$159,320	6.68% from State Court Administrator from range maximum	\$124,807- \$164,339	\$127,927- \$168,447
Director of Human Resources	\$120,996- \$159,320	6.68% from State Court Administrator from range maximum	\$124,807- \$164,339	\$127,927- \$168,447
Director of Probation Services	\$120,996- \$159,320	6.68% from State Court Administrator from range maximum	\$124,807- \$164,339	\$127,927- \$168,447
Chief Probation Officer I-III	\$110,000- \$159,320	0-45% from District Court Judge	\$113,465- \$164,339	\$116,302- \$168,447
District Administrator I-III	\$110,000- \$159,320	0-45% from District Court Judge	\$113,465- \$164,339	\$116,302- \$168,447
County Court Judge	\$152,466	4.50% from District Court Judge	\$157,269	\$161,201
Magistrate/Water Referee	\$136,320	11.84% from County Court Judge	\$140,614	\$144,129

Whenever the Department proposes an increase to all judicial officer salaries, it requests the same percentage increase for the above benchmarked positions. One of the challenges with this methodology is that all judicial officers within a classification are paid the same salary, regardless of how long they have served on the bench (which recently ranged from one month to more than 31 years). However, it is staff's understanding that the Department utilizes salary ranges for the benchmarked positions. In addition, these benchmarked positions are often cited as comparables when evaluating salaries for certain positions within the independent agencies, with the range

maximum cited as the appropriate salary. This has resulted in a growing number of Judicial employees' salaries being linked to judicial officer salaries. Given the Judicial Department's interest in significantly increasing judicial officer salaries and the stated policy reasons for doing so, staff is not convinced that this practice should continue¹¹.

Staff's second concern about the current processes that are used to evaluate and approve salary adjustments for Judicial Branch employees is that the processes that the independent agencies use to benchmark their employee positions with those of other state agencies differ significantly. The information that is provided by each agency must then be evaluated by Joint Budget Committee (JBC) staff in order to make the associated funding recommendations to the JBC. Most of the independent agencies simply do not have the staff or expertise to routinely conduct these analyses. It is also clear to staff that JBC analysts do not have the time or expertise to provide the type of analyses that is required to ensure that all agencies are treated equitably in relation to one another and in relation to other Judicial and Executive Branch employees.

The General Assembly has established policies for the State Personnel System that are designed to provide "prevailing total compensation to officers and employees in the state personnel system to ensure the requirement, motivation, and retention of a qualified and competent workforce"¹². This policy requires that State Personnel Director to:

- Establish technically and professionally sound survey methodologies to assess prevailing total compensation practices, levels, and costs;
- Use a systematic approach to objectively determine classes of positions and the uniform alignment of classes of occupational groups for all jobs in the state personnel system;
- Conduct timely, ongoing, and technically sound evaluation and analyses of jobs in order to group similar duties and responsibilities into clearly distinguished classes and occupational groups that relate to the compensation structure through the assignment of appropriate pay grades.

The current process that is used to evaluate and approve salary adjustments for the other independent agency employees is not consistent with the requirements that are listed above.

- Staff thus recommends that the Committee ask the Judicial Department and the various independent agencies for input about how to improve the processes that are used to evaluate and approve salary adjustments for Judicial Branch employees so that they are more consistent with the practices that are used by the State Personnel Director.

¹¹ Staff notes that the General Assembly has established a policy of linking the salaries of elected officials and legislators to judicial officer salaries. In this case, all individuals in each classification are paid the same salary, so it seems like a more consistent comparison.

¹² See Section 24-50-104 (1), C.R.S.

ISSUE: COURT CASE FILINGS AND WORKLOAD

This issue brief discusses recent changes in the number of cases filed in county and district courts and in the associated workload for judicial officers and court staff.

SUMMARY

- Overall, the number of cases filed in district and county courts has declined significantly since FY 2011-12.
 - With respect to district courts, when foreclosure and tax lien cases are excluded, case filings have remained relatively stable. The workload impact associated with the spike in foreclosure and tax lien cases during the last economic downturn was minimal.
 - With respect to county courts, total case filings have decreased by 25.8 percent since FY 2005-06. Case filings have decreased in every category, but the most significant decreases have occurred in traffic, civil, and traffic infraction cases.
- The Department routinely monitors court workload by using a weighted caseload model. Based on the most recent model, the Department indicates that FY 2016-17 funding supports:
 - 82.3 percent of the full need for district court judges;
 - 103.7 percent of the full need for county court judges; and
 - 90.0 percent of the full staffing need for non-judge county and district court staff.
- While the estimated need for judicial officers in district and county courts has not changed significantly in the last few years, the estimated need for court staff has changed significantly compared to last year. Specifically, a year ago the Department reported that the number of funded court staff exceeded the estimated need by 29.7 FTE (a staffing percentage of 102.1 percent); this year the Department reports a funded court staff shortfall of 171.2 FTE (a staffing percentage of 90.0 percent). The Department indicates that this change is due to several updates that are reflected in the most recent weighted caseload model for court staff.

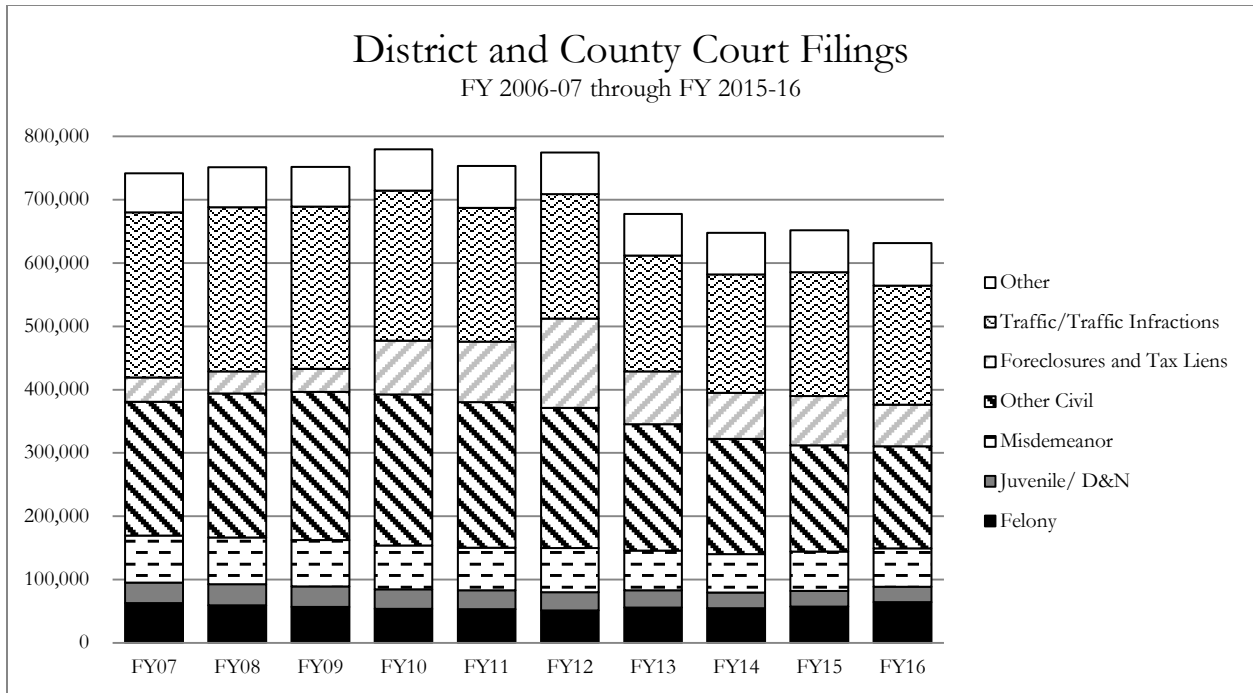
DISCUSSION

County and District Court Case Filings

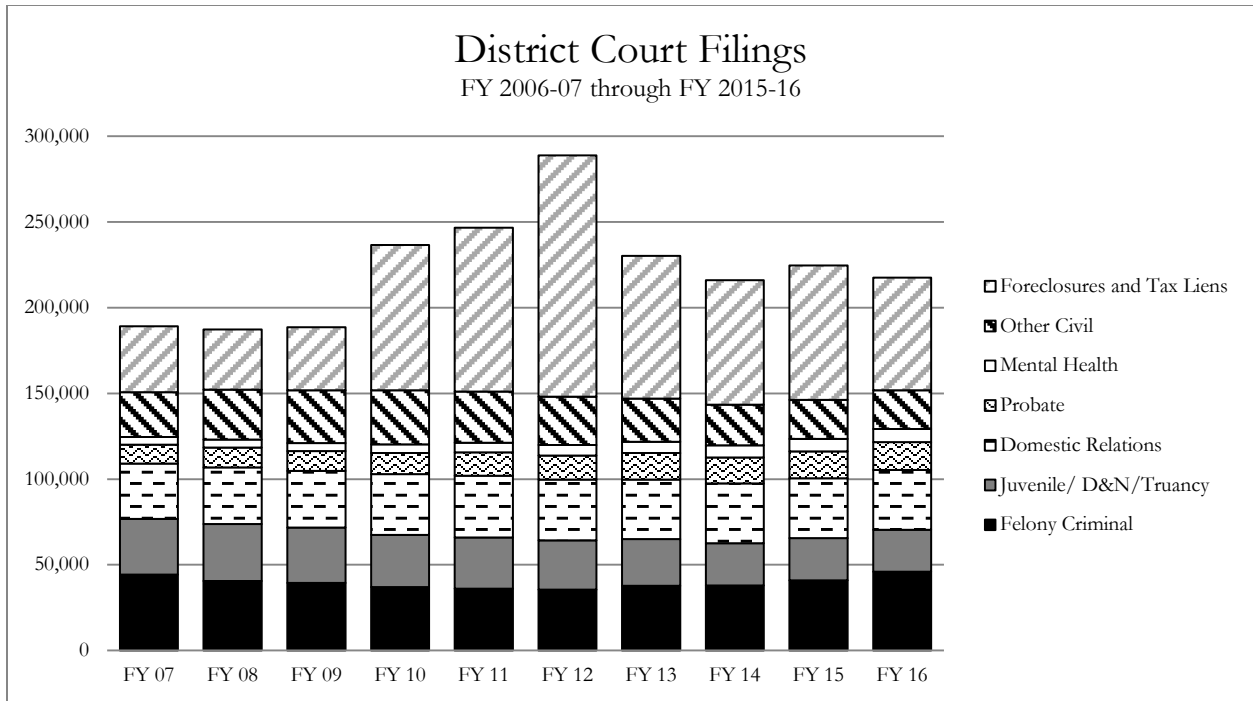
As described in the “Factors Driving the Budget” section of this document, the main factor driving the Judicial Branch budget is caseload, which affects the ability of judges, attorneys, probation officers, and support staff to fulfill their constitutional and statutory duties in a timely and professional manner. Caseload changes are generally driven by increases in state population, changes in the state's economic climate (which may affect both the crime rate and the proportion of clients eligible for state-funded representation), and legislative changes. Workload is also impacted by the types of cases filed, as some cases require more time and resources than others. Generally, felony cases, dependency and neglect cases, problem-solving court cases, water cases, and complex civil cases require the most resources.

Staff included a chart in the “Factors” section that depicts the number of cases filed in county and district courts in each of the last ten fiscal years, by case type. This chart certainly appears to indicate

that the overall number of cases has declined significantly since FY 2011-12, and may lead the reader to wonder whether court staffing can and should be decreased commensurately.



In order to provide the Committee with a better understanding of the nature of the decrease in trial court case filings, staff has provided below some additional charts that separate data for district and county courts and provide a more detailed segmentation of case filings. The first chart below includes only district court filings. The chart also separately identifies domestic relations, probate, and mental health cases.

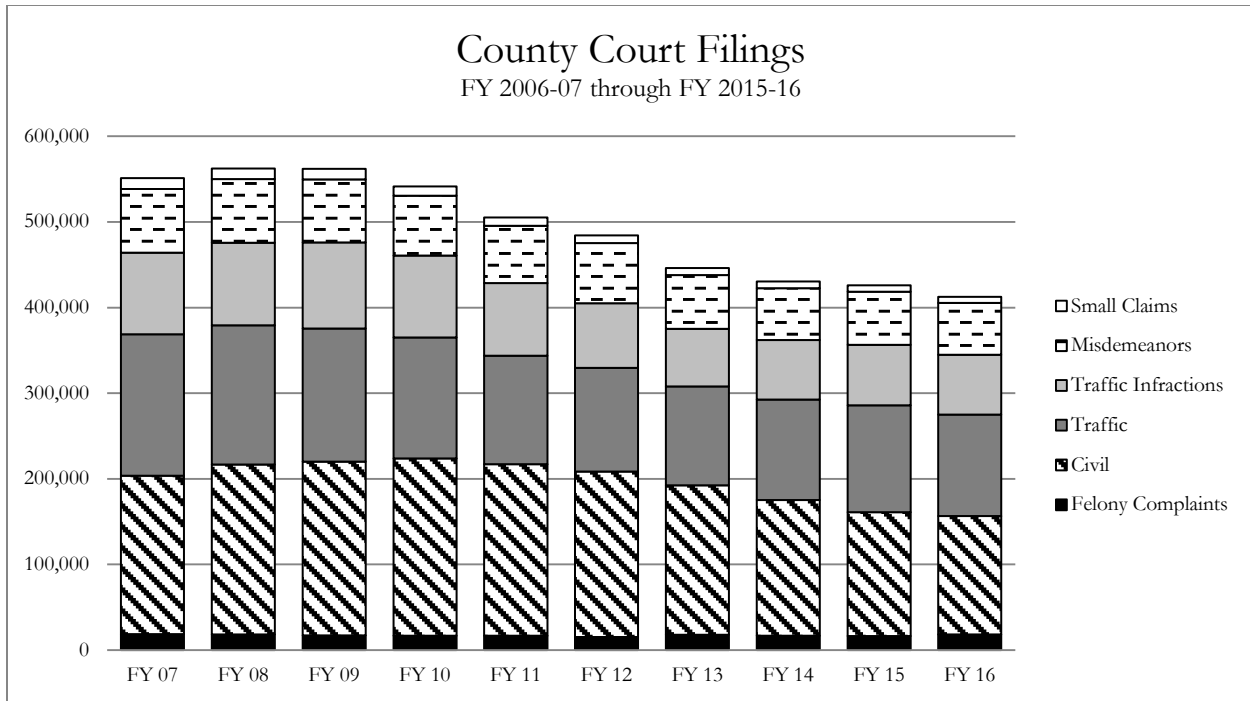


The above chart shows that when cases related to foreclosures and tax liens are excluded, district court case filings have remained relatively stable over the last ten years. Those case types that tend to require a lot of staff and judge time (felony criminal, juvenile, dependency and neglect, and domestic relations cases) have remained relatively stable. The spike in the number of district court case filings that occurred during the last economic downturn was clearly related to foreclosure and tax lien cases:

- Foreclosure case filings peaked at 39,404 in FY 2009-10; only 7,036 foreclosure cases were filed in FY 2015-16.
- Tax lien case filings peaked at 112,544 in FY 2011-12; only 58,627 tax lien cases were filed in FY 2015-16.

The Department indicates that based on the most recent weighted court caseload model, one court staff FTE in an urban district court could process an average of 81,690 tax lien cases each year; in rural district courts, this average drops to 17,955. For all other case types, the average number of cases that can be processed in a year ranges from 16 homicide cases (in an urban district court) to 887 mental health cases (in a rural district court). Thus, the workload impact of the significant spike in tax lien filings was minimal.

The next chart below includes only county court filings. The chart also separately identifies traffic, traffic infractions, and small claims cases.



Since FY 2005-06, county court filings decreased by 25.8 percent (143,422 cases). County court cases have declined in every category, but the most significant decreases have occurred in traffic cases (-49,940), civil cases (-37,613), and traffic infraction cases (-31,604). The Department indicates that based on the most recent weighted court caseload model, one court staff FTE in an urban district court could process an average of 1,297 traffic cases, 1,634 civil cases, and 4,299 traffic infraction cases. Those case types that require the most staff time include domestic violence case (378 per year for one FTE in an urban county court), DUI cases (413 per year), small claims cases (624 per year), and misdemeanor cases (675 per year). Given that the largest caseload decreases occurred in those types of cases that require the least staff time, the workload impact of the caseload reductions depicted in the above charts is probably not quite as significant. However, it is reasonable to expect some reduction in the overall workload for county court staff. *[See Appendix G for more details about recent court case filings.]*

Court Staff Workload

The Department routinely monitors its workload using a weighted court caseload model. As described above, the Department periodically updates the model to estimate the staff and judicial officer time required for various types of cases. The Department then applies those workload standards to its caseload distribution in each jurisdiction to estimate the number of judicial officers and court staff required. The Department periodically requests funding through the budget process or through legislation. In response to workload increases, the General Assembly periodically passes legislation to increase the number of judges within one or more judicial districts.

Based on the most recent weighted court caseload model, the Department indicates that FY 2016-17 funding supports:

- 82.3 percent of the full need for district court judges;
- 103.7 percent of the full need for county court judges; and
- 90.0 percent of the full staffing need for non-judge staff for “trial courts” (i.e., county and district courts).

In Appendix H, staff has provided the data provided by the Department to identify these staffing levels by jurisdiction.

- With respect to *district court judicial officers*, the model indicates the need for an additional 50.9 FTE judicial officers, including 10.0 FTE in the 4th judicial district (El Paso and Teller counties), 5.5 FTE in the 1st judicial district (Jefferson and Gilpin counties), and 5.1 FTE in the 18th judicial district (Arapahoe, Douglas, Elbert, and Lincoln counties).
- With respect to *county court judicial officers*, the model indicates that there is currently an excess of 2.7 FTE judicial officers in county courts. All but four of the larger (“class B”) county courts currently have more judicial officer FTE than the model indicates is needed. As this model includes magistrates, the Department can choose to reallocate these magistrate resources to county courts and district courts for which the model indicates a shortfall.
- With respect to *district and county court staff*, the model indicates the need for an additional 171.2 FTE staff, including 33.2 FTE in the 4th judicial district (El Paso and Teller counties), 18.6 FTE in the 18th judicial district (Arapahoe, Douglas, Elbert, and Lincoln counties), 15.3 FTE in the 1st judicial district (Jefferson and Gilpin counties), 14.3 FTE in the 2nd judicial district (Denver district court), 10.6 FTE in the 17th judicial district (Adams and Broomfield counties), and 10.4 FTE in the 8th judicial district (Larimer and Jackson counties).

Please note that while the estimated need for judicial officers in district and county courts have not changed significantly in the last few years, the estimated need for court staff has changed significantly compared to last year. Specifically, a year ago the Department reported that the number of court staff exceeded the estimated need by 29.7 FTE (a staffing percentage of 102.1 percent); this year the Department reports a court staff shortfall of 171.2 FTE (a staffing percentage of 90.0 percent). In response to a staff inquiry, the Department identifies the following reasons for the significant change in estimated court staffing need:

- The Department recently updated the weighted court caseload model, and included three specialized staff roles that were not included in the last study. Staff has listed below each of the specialized roles that are now included in the study, along with the Department’s estimate of the shortfall for each position:
 - Self-represented litigant coordinators (shortfall of 22.1 FTE)
 - Problem-solving court coordinators (shortfall of 16.6 FTE)
 - Protective proceedings monitors (shortfall of 2.9 FTE)
- The Department updated the workload standards for another specialized staff role, the Family Court Facilitator. The Department indicates that this update resulted in a shortfall of 15.5 FTE.
- The Department indicates that the workload study identified increases in the time required to process several juvenile categories (particularly in dependency and neglect cases) and protective proceedings matters.
- The Department also updated the workload model to separately identify the workload associated with problem-solving court programs.

- The Department identified a need for increased staff training based on qualitative aspects of the study. As a result, the 2015 workload model includes four additional training days (for a total of ten) to address the unmet need for staff training.

Finally, the Department notes that while the workload model is largely updated, one final component related to supervisor need remains outstanding. The Department expects this work to be completed in the coming months.

ISSUE: PROBLEM-SOLVING COURTS

This issue brief provides an overview of Colorado's problem-solving courts and the resources that support these courts.

SUMMARY

- Problem-solving courts target offenders who are in high need of treatment and are at a high risk for recidivating or having other negative outcomes. These courts emphasize accountability and intensive monitoring. If implemented properly, adult drug treatment courts have proven effective in reducing the need for jail and prison beds, reducing crime rates, increasing treatment participation and effectiveness, and increasing employment among offenders.
- In Colorado, each judicial district determines whether to create any problem-solving courts. There are currently 81 problem-solving courts operating in 20 judicial districts, including courts that are designed for offenders with problems related to drug or alcohol use or mental illness, as well as for offenders who are military veterans.
- While most operational costs of problem-solving courts are supported by funding that is allocated to each judicial district for trial courts and probation programs, there is \$7.6 million of state funding that is dedicated to covering some of the extra staffing and treatment costs associated with problem-solving courts.

DISCUSSION

History of Problem-solving Courts in Colorado

Historically, drug treatment courts and other types of "problem-solving courts" in Colorado were created at the local level with little coordination with other judicial districts regarding staffing models, funding models, treatment, case management and program review, and evaluation. In April 2008, the Joint Budget Committee submitted a request for information to the Chief Justice, requesting that the Department develop a general strategy and plan regarding the provision of drug courts statewide, including in rural areas. The Department submitted a report and plan in the Fall of 2008 as requested. Also, in an effort to streamline the drug treatment court movement in Colorado, Chief Justice Mullarkey established the Problem Solving Court Advisory Committee. This committee has worked to encourage districts to implement best practices and to develop a strategic plan that will lead to sustainable courts with adequate financial support.

Generally, problem-solving courts emphasize accountability and intensive monitoring. These courts provide an environment where the offender undergoes treatment and counseling, submits to frequent and random drug testing, makes regular appearances before the judge, and is monitored closely for program compliance. In addition, this court increases the probability of a defendant's success by providing ancillary services such as mental health treatment, trauma and family therapy, and job skills training. Generally, problem-solving courts target offenders who are in high need of treatment and are at high risk for recidivating or having other negative outcomes. The target population may exclude violent offenders, sex offenders, or other offenders who pose too large of

risk to the community, as well as low risk/low need individuals who are better served through standard probation services.

A problem-solving court coordinator serves as the “hub” of the program, allowing judges and probation officers to perform other duties. This person is responsible for day-to-day program operations, including: developing policies and procedures; coordinating training; collecting data for program evaluation; and collaborating with drug court team members, community stakeholders, and state agencies.

If implemented properly, adult drug treatment courts have proven effective in reducing the need for jail and prison beds, reducing crime rates, increasing treatment participation and effectiveness, and increasing employment among offenders.

Problem-solving Courts Currently Operating in Colorado

The following table, prepared by Department staff, summarizes the number of various problem-solving courts currently operating in Colorado, along with a few that are currently in planning or have suspended operations.

Court Types	Number of Courts	Capacity of Court Types
Adult Drug Court	28	1,483
Adult Mental Health Court	9	307
CR/DUI Hybrid Court	2	25
DUI	15	368
Family/D&N Drug Court	14	250
Juvenile Drug Court	5	115
Juvenile Mental Health	2	37
Veterans Trauma Court	6	290
Operational PSC	81	
Courts in planning	2	
Courts suspended	2	
Total PSC Court and Capacity	85	2,875

Funding for Problem-solving Courts

Most operational costs of problem-solving courts are supported by the funding and staff that are allocated for the state trial courts and for probation programs. However, there are two appropriations that are specifically designed to provide extra resources for those districts that choose to implement problem-solving courts:

- The FY 2016-17 Long Bill includes an appropriation of \$3,603,032 (primarily from the Judicial Stabilization Cash Fund) and 44.3 FTE for problem-solving courts. This line item appropriation is intended to encourage districts to implement and operate problem-solving courts in a manner that has been proven effective in reducing the need for jail and prison beds, reducing crime rates, increasing treatment participation and effectiveness, and increasing employment among offenders. As detailed in the following table prepared by the Department, these funds primarily support Problem-solving Court Coordinators and Probation Officers. These funds also support

a Court Programs Analyst in the State Court Administrator’s Office and statewide functions like training and program evaluation.

Job Class	FTE by
Court Judicial Assistant	5.40
Court Programs Analyst	1.00
Magistrate	2.00
Probation Officer	13.00
Problem Solving Court Coordinators	21.85
Support Services	1.00
Total FTE	44.3

- The FY 2016-17 Long Bill also includes funding within the Offender Treatment and Services line item (a total of \$3,979,955) that is allocated to problem-solving courts for the provision of treatment and services for offenders participating in problem-solving courts. *[Please see Appendix C, Long Bill footnote #58, for more information about the allocation of funding specifically for veterans treatment courts.]*

The cost per problem-solving court participant varies from program to program. Metro area programs are able to take advantage of competition and economies of scale more readily than programs outside the Front Range. Program capacity is not indicative of the total number served per fiscal year due to the dynamic nature of people entering and exiting programs at unpredictable rates. Based on the active participants for the first three quarters of FY 2015-16, the average cost per participant for treatment and program operating funds is \$937, ranging from a minimum of \$519 to a maximum of \$2,466. The cost per participant is influenced by local community resources and local practices.

The table on the following page, prepared by Department staff, details the types of problem-solving courts that are currently operating, are being planned, or have been suspended in each judicial district. The table also details the location and capacity of each court, along with the funding and staff that are allocated to each judicial district specifically for problem-solving courts.

District	Authorized FTE	PS/Operating from PSC Long Bill Line	Number of Court/Type of Court	Court Location	Total Capacity	Treatment \$ from CTCF	Treatment \$ from GF for VTC
Probation Officer	1.50		Adult Drug Court	Golden	80		
Problem Solving Coord	1.25		Adult Mental Health Court	Golden	40		
			Family/D&N Drug Court	Golden	40		
			Juvenile Mental Health	Golden	25		
			Veterans Trauma Court	Golden	40		
01 Total	2.75	221,463	5		225	235,875	69,236
Court Judicial Assistant	3.00		Adult Drug Court	Denver	500		
Magistrate	1.00		Adult Mental Health Court	Denver	100		
Probation Officer	1.50		DUI	Denver	45		
Problem Solving Coord	3.00		Juvenile Drug Court	Denver	50		
Support Services	0.50		Veterans Trauma Court	Denver	30		
02 Total	9.00	691,946	5		725	837,982	75,371
Problem Solving Coord	0.50		Adult Drug Court	Walsenburg	12		
			Adult Drug Court	Trinidad	12		
			DUI	Trinidad	10		
			Family/D&N Drug Court	Trinidad	12		
03 Total	0.50	41,665	4		46	71,389	-
Court Judicial Assistant	1.20		Adult Drug Court	Co Springs	125		
Magistrate	0.35		Adult Drug Court	Co Springs	48		
Problem Solving Coord	3.50		Adult Mental Health Court	Co Springs	30		
			DUI	Co Springs	50		
Support Services	0.25		Family/D&N Drug Court	Co. Spring	54		
			Veterans Trauma Court	Co. Spring	150		
04 Total	5.30						

District	Authorized FTE	PS/Operating from PSC Long Bill Line	Number of Court/Type of Court	Court Location	Total Capacity	Treatment \$ from CTCF	Treatment \$ from GF for VTC
		413,086	6		457	466,972	387,228
Problem Solving Coord	1.00		Adult Drug Court	Eagle	15		
			Adult Drug Court	Breckenridge	15		
			DUI	Eagle	25		
			DUI	Leadville	15		
05 Total	1.00	90,990	4		70	72,297	
Court Judicial Assistant	0.20		Adult Drug Court	Durango	40		
			Adult Mental Health				
Magistrate	0.10		Court	Durango	10		
Probation Officer	1.00		DUI	Durango	40		
Problem Solving Coord	0.75						
06 Total	2.05	165,656	3		90	101,681	
Magistrate	0.20		Adult Drug Court	Delta	35		
Probation Officer	1.50		Adult Drug Court	Gunnison	20		
Problem Solving Coord	1.00		Adult Drug Court	Montrose	35		
			CR/DUI Hybrid Court	Telluride	10		
			DUI	Montrose	10		
			Family/D&N Drug Court	Delta	10		
			Juvenile Drug Court	Gunnison	10		
			Juvenile Drug Court	Montrose	10		
			Adult Mental Health				
			Court	Delta/Montrose	<i>In planning</i>		
07 Total	2.70	219,056	9		140	158,630	
Court Judicial Assistant	1.00		Adult Drug Court	Ft. Collins	75		
			Adult Mental Health				
Magistrate	0.25		Court	Ft. Collins	35		
Probation Officer	2.50		DUI	Ft Collins	36		

District	Authorized FTE	PS/Operating from PSC Long Bill Line	Number of Court/Type of Court	Court Location	Total Capacity	Treatment \$ from CTCF	Treatment \$ from GF for VTC
Problem Solving Coord	1.75		Family/D&N Drug Court	Ft. Collins	20		
Support Services	0.25		Juvenile Drug Court	Ft Collins	35		
08 Total	5.75	453,336	5		201	233,451	
Probation Officer	0.50		Adult Drug Court	Glenwood	35		
Problem Solving Coord	0.70		Adult Mental Health Court	Aspen	12		
			CR/DUI Hybrid Court	Aspen	15		
			Juvenile Drug Court	Glenwood	<i>Suspended</i>		
09 Total	1.20	100,529	4		62	111,778	
Problem Solving Coord	0.50		Adult Mental Health Court	Pueblo	50		
			Veterans Trauma Court	Pueblo	15		
10 Total	0.50	44,264	2		65	62,200	56,967
Probation Officer	0.50		Adult Drug Court	Salida	30		
Problem Solving Coord	1.15		Adult Drug Court	Fairplay	10		
			Adult Drug Court	Canon	70		
			Adult Mental Health Court	Fremont/Park	10		
			DUI	Canon City	20		
			DUI	Salida	30		
			DUI	Fairplay	15		
			Family/D&N Drug Court	Canon	15		
			Juvenile Drug Court	Canon	10		
11 Total	1.65	157,686	9		210	169,636	
Problem Solving Coord	0.50		Adult Drug Court	Alamosa	25		
			DUI	Alamosa	12		

District	Authorized FTE	PS/Operating from PSC Long Bill Line	Number of Court/Type of Court	Court Location	Total Capacity	Treatment \$ from CTCF	Treatment \$ from GF for VTC
			Family/D&N Drug Court	Alamosa	12		
12 Total	0.50	43,361	3		49	12,925	
Problem Solving Coord	0.25		Adult Drug Court	Sterling	20		
			Adult Drug Court	Ft. Morgan	20		
			DUI	Ft. Morgan	20		
			Family/D&N Drug Court	Sterling	20		
			Family/D&N Drug Court	Fort Morgan	<i>In planning</i>		
13 Total	0.25	20,046	5		80	35,947	
Probation Officer	0.50		Adult Drug Court	Craig	12		
Problem Solving Coord	0.25		Adult Drug Court	Steamboat	12		
			Family/D&N Drug Court	Steamboat	10		
14 Total	0.75	54,215	3		34	48,771	
Problem Solving Coord	0.25		Adult Drug Court	La Junta	12		
			Family/D&N Drug Court	La Junta	5		
16 Total	0.25	22,118	2		17	56,041	
Problem Solving Coord	0.50		Adult Drug Court	Brighton	30		
			Family/D&N Drug Court	Brighton	12		
			Juvenile Mental Health	Brighton	12		
			Veterans Trauma Court	Brighton	25		
17 Total	0.50	40,486	4		79	73,509	69,236
Probation Officer	1.00		Adult Drug Court	Arapahoe	60		
Problem Solving Coord	2.00		Adult Mental Health Court	Centennial	20		
			Veterans Trauma Court	Arapahoe	30		
18 Total	3.00						

District	Authorized FTE	PS/Operating from PSC Long Bill Line	Number of Court/Type of Court	Court Location	Total Capacity	Treatment \$ from CTCF	Treatment \$ from GF for VTC
		219,994	3		110	137,324	56,839
Probation Officer	1.00		Adult Drug Court	Greeley	40		
Problem Solving Coord	1.00		DUI	Greeley	20		
			Family/D&N Drug Court	Greeley	15		
19 Total	2.00	141,798	3		75	102,993	
Probation Officer	1.50		Adult Drug Court	Boulder	75		
Problem Solving Coord	1.00		Family/D&N Drug Court	Boulder	20		
			DUI	Boulder/Longmont	<i>Suspended</i>		
20 Total	2.50	208,759	3		95	162,366	
Magistrate	0.10		Adult Drug Court	Cortez	20		
Problem Solving Coord	1.00		DUI	Cortez	20		
			Family/D&N Drug Court	Cortez	5		
22 Total	1.10	99,414	3		45	63,311	
Court Programs Analyst	1.00						
SCAO	1.00	102,113				50,000	
Training for statewide program		15,000					
Peer Review/Facilitation		36,000					
Evaluation		60,000					
PSC3D		5,000					
Convening for statewide program		65,000					
Collaborative Justice Conf.		150,000					

District	Authorized FTE	PS/Operating from PSC Long Bill Line	Number of Court/Type of Court	Court Location	Total Capacity	Treatment \$ from CTCF	Treatment \$ from GF for VTC
Grand Total (a) (b)	44.3	3,882,981	85	-	2,875	3,265,078	714,877

(a) the additional \$231K allocation for PS/Operating is from AED/SAED

(b) VTC was allocation-\$624,877 from GF/\$90,000 from CTCF to meet the needs of program growth

Effectiveness and Outcomes Achieved

In 2012, Colorado commissioned a statewide Drug and DUI Court process and outcome evaluation. The study included 33 courts (24 adult drug courts and nine DUI courts). The Department reports the following results of this statewide evaluation:

- Program graduation rates are equivalent to, or better than, the national average (47 percent for Colorado adult drug courts and 61 percent for DUI Courts).
- Participants are graduating within the intended time frame.
- Following 24 months after entry, the program had significantly lower recidivism, including:
 - significantly fewer drug charges and DUI charges;
 - significantly fewer person charges; and
 - significantly fewer misdemeanor and felony charges.

Overall the evaluation concluded these Colorado problem-solving courts were reaching their target population, graduating participants, and reducing recidivism. The Department indicates that it recently began a second evaluation with a third party researcher to further evaluate the effectiveness and the cost benefit of these programs now that an additional five years of data is available. This evaluation will include all criminally based problem-solving courts, including adult drug courts, veteran's trauma courts, mental health courts, and DUI courts. Data from several state agencies will be utilized to specifically evaluate treatment outcomes and recidivism. Due to the size of the data sets, the final report is anticipated to be completed in the Spring of 2018.

Problem-solving Court Advisory Committee

The Problem Solving Court Advisory Committee has worked on three primary projects, described below.

First, based on national standards, best practice, a review by national experts, and feedback from key stakeholders, the Committee finalized minimum standards for adult drug and DUI courts. These types of problem-solving courts are supported by significant research and therefore best practices and minimum standards are clearly identifiable. These standards define the practices that are fundamental to operating one of these problem-solving courts. Additional types of problem-solving courts have generally borrowed heavily from the adult drug court model with key differences that are important to identify through best practices specific to each type of problem solving court. The Committee has a working draft for family drug courts and will begin work on mental health courts, veteran's courts, and juvenile drug courts.

Second, a peer review process (created by NPC Research) was piloted in Colorado in FY 2014-15. This process is a highly structured process review conducted by peers with the intended outcome of providing feedback and recommendations on implementation of best practices. The process includes an online self-assessment, in-person team member interviews, and staffing and court observation, all of which culminate in a written report. A total of nine programs have undergone this process, and two are currently scheduled. The current capacity for this process is approximately 10-12 each year.

Third, the Committee is developing program accreditation to be able to document if and how each program is implementing best practices and ensuring only those that meet specific standards are

considered accredited problem solving courts. This process is still in the very early phases of development but is a priority as programs continue to grow. This process is also seen as essential to long-term efficacy and sustainability of Colorado problem-solving courts.

Adequacy of Current Funding

As described in the previous issue brief, the Department recently completed a weighted caseload study that included problem-solving court coordinators. Based on this new study, the Department has identified the need for an additional 16.7 FTE coordinators statewide beyond the number that are currently funded.

The Department indicates that the existing allocation from the Offender Treatment and Services line item is adequate to meet the needs of the most problem-solving courts. The Department notes, however, that the additional funding that the General Assembly has provided for veterans treatment courts falls short of the need as new veterans courts have become operational. In response, the Department has allocated an additional \$90,000 from the Offender Treatment and Services line item to maintain funding levels for those veterans treatment courts that have been operational the longest.

The Department also notes that the number of problem-solving courts has tripled since 2007, and more are being planned. This increases the need for the Department to provide technical assistance, training, and monitoring. The Department indicates that an additional 2.0 FTE Court Programs Analyst would be needed to fully support the ongoing program support, the peer review, and accreditation program. The peer review and accreditation program are both time intensive and necessary to ensure fidelity of best practices. The existing dedicated Analyst has the capacity to complete between 10 and 12 a year while also providing ongoing technical assistance. This means it would take six to eight years for every program to have the opportunity to go through either the peer review or accreditation process. This also means that subsequent follow-up and reviews would be set out for six to eight years with the current number of programs. This compares to other states that have similar processes, where the standard time between reviews is typically three to five years. The additional two FTE would allow Colorado to meet this standard and more importantly support accountability processes to ensure the ongoing implementation of best practices. If both the peer review and accreditation program were to be implemented in a timely way, decisions regarding the best use of treatment and FTE could be based on their results.

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Appendix A: Number Pages

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
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JUDICIAL DEPARTMENT
Nancy Rice, Chief Justice

(1) SUPREME COURT AND COURT OF APPEALS

This section provides funding for the Colorado Supreme Court and the Colorado Court of Appeals. The primary functions of the Supreme Court include: general supervisory control of lower courts; appellate review of lower court judgements; original jurisdiction for certain constitutional and other cases; rule-making for the state court system; and overseeing the regulation of attorneys and the practice of law. The Court of Appeals is generally the first court to hear appeals of judgments and orders in criminal, juvenile, civil, domestic relations, and probate matters. The Court of Appeals also has initial jurisdiction to review actions and decisions of several state agencies, boards, and commissions. Cash fund sources primarily include annual attorney registration fees, law examination application fees, appellate court filing fees, and various docket fees that are credited to the Judicial Stabilization Cash Fund. Reappropriated funds are transferred from the Department of Law.

Appellate Court Programs	<u>12,529,949</u>	<u>13,375,908</u>	<u>14,243,683</u>	<u>14,490,399</u>
FTE	142.7	142.8	143.0	143.0
General Fund	12,459,286	13,305,395	14,171,683	14,418,399
Cash Funds	70,663	70,513	72,000	72,000
Office of Attorney Regulation Counsel	<u>10,232,231</u>	<u>9,695,639</u>	<u>10,650,000</u>	<u>10,650,000</u>
FTE	67.0	69.0	69.0	69.0
Cash Funds	10,232,231	9,695,639	10,650,000	10,650,000
Law Library	<u>652,254</u>	<u>572,272</u>	<u>572,897</u>	<u>572,897</u>
FTE	3.5	3.5	3.5	3.5
Cash Funds	589,133	499,603	500,000	500,000
Reappropriated Funds	63,121	72,669	72,897	72,897

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	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
Indirect Cost Assessment	<u>177,001</u>	<u>221,332</u>	<u>296,691</u>	<u>258,887</u>	
Cash Funds	177,001	221,332	296,691	258,887	
TOTAL - (1) Supreme Court and Court of Appeals	23,591,435	23,865,151	25,763,271	25,972,183	0.8%
<i>FTE</i>	<u>213.2</u>	<u>215.3</u>	<u>215.5</u>	<u>215.5</u>	<u>0.0%</u>
General Fund	12,459,286	13,305,395	14,171,683	14,418,399	1.7%
Cash Funds	11,069,028	10,487,087	11,518,691	11,480,887	(0.3%)
Reappropriated Funds	63,121	72,669	72,897	72,897	0.0%

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	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
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(2) COURTS ADMINISTRATION

The Justices of the Supreme Court appoint a State Court Administrator to oversee administrative functions of the Branch. The State Court Administrator and his staff provide leadership and technical and administrative support for judicial district staff. This section includes funding for: the State Court Administrator and his staff; information technology staff and infrastructure for courts and probation programs; employee benefits for all court and probation staff; multiple programs that are administrated centrally rather than at the judicial district level; and operations of the Ralph L. Carr Colorado Judicial Center.

(A) Administration and Technology

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

General Courts Administration	<u>22,270,391</u>	<u>24,443,176</u>	<u>25,614,792</u>	<u>25,979,834</u>
FTE	206.8	234.9	239.3	239.8
General Fund	14,616,260	16,387,860	17,598,119	17,907,163
Cash Funds	5,591,151	5,740,889	5,747,813	5,747,813
Reappropriated Funds	2,062,980	2,314,427	2,268,860	2,324,858
Information Technology Infrastructure	<u>5,331,833</u>	<u>8,629,343</u>	<u>15,879,211</u>	<u>9,256,268</u>
General Fund	403,094	403,094	403,094	403,094
Cash Funds	4,928,739	8,226,249	15,476,117	8,853,174
Indirect Cost Assessment	<u>640,139</u>	<u>673,399</u>	<u>756,455</u>	<u>855,005</u>
Cash Funds	640,139	673,399	747,363	832,072
Reappropriated Funds	0	0	9,092	22,933

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	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
SUBTOTAL - (A) Administration and Technology	28,242,363	33,745,918	42,250,458	36,091,107	(14.6%)
<i>FTE</i>	<u>206.8</u>	<u>234.9</u>	<u>239.3</u>	<u>239.8</u>	<u>0.2%</u>
General Fund	15,019,354	16,790,954	18,001,213	18,310,257	1.7%
Cash Funds	11,160,029	14,640,537	21,971,293	15,433,059	(29.8%)
Reappropriated Funds	2,062,980	2,314,427	2,277,952	2,347,791	3.1%

(B) Central Appropriations

This subsection includes centrally appropriated line items. While most of these line items cover expenses for the entire Judicial Branch, the following line items exclude funding associated with the six independent agencies: salary-related line items; appropriations for health, life, and dental, and short-term disability insurance; and vehicle lease payments. Cash fund sources include: the Judicial Stabilization Cash Fund, the State Commission on Judicial Performance Cash Fund, the Offender Services Fund, the Judicial Department Information Technology Cash Fund, the Fines Collection Cash Fund, the Correctional Treatment Cash Fund, and the Alcohol and Drug Driving Safety Program Fund.

#Health, Life, and Dental	<u>24,238,342</u>	<u>29,574,072</u>	<u>30,022,769</u>	<u>33,282,422</u>
General Fund	22,579,160	26,723,070	27,739,706	30,586,544
Cash Funds	1,659,182	2,851,002	2,283,063	2,695,878
#Short-term Disability	<u>383,709</u>	<u>384,414</u>	<u>343,006</u>	<u>359,779</u>
General Fund	369,464	347,073	315,636	330,190
Cash Funds	14,245	37,341	27,370	29,589
#S.B. 04-257 Amortization Equalization Disbursement	<u>7,869,827</u>	<u>8,928,410</u>	<u>9,880,982</u>	<u>10,784,599</u>
General Fund	7,677,392	8,168,699	9,083,579	9,998,150
Cash Funds	192,435	759,711	797,403	786,449
#S.B. 06-235 Supplemental Amortization Equalization Disbursement	<u>7,145,068</u>	<u>8,271,723</u>	<u>9,397,308</u>	<u>10,365,572</u>
General Fund	6,958,118	7,542,763	8,611,455	9,581,610
Cash Funds	186,950	728,960	785,853	783,962

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	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
Salary Survey	<u>12,003,152</u>	<u>8,711,251</u>	<u>1,172,311</u>	<u>11,440,344</u>	
General Fund	11,786,542	8,395,379	897,205	10,925,517	
Cash Funds	216,610	315,872	275,106	514,827	
Reappropriated Funds	0	0	0	0	
Workers' Compensation	<u>1,210,253</u>	<u>1,126,921</u>	<u>1,383,287</u>	<u>1,508,352</u>	
General Fund	1,210,253	1,126,921	1,383,287	1,508,352	
Legal Services	<u>171,825</u>	<u>302,933</u>	<u>190,100</u>	<u>208,870</u>	
General Fund	171,825	302,933	190,100	208,870	
Payment to Risk Management and Property Funds	<u>685,664</u>	<u>729,019</u>	<u>873,467</u>	<u>1,120,965</u>	
General Fund	685,664	729,019	873,467	1,120,965	
Vehicle Lease Payments	<u>75,258</u>	<u>82,820</u>	<u>149,235</u>	<u>166,036</u> *	
General Fund	75,258	82,820	149,235	166,036	
Ralph L. Carr Colorado Judicial Center Leased Space	<u>2,384,393</u>	<u>2,491,754</u>	<u>2,536,816</u>	<u>2,579,918</u>	
General Fund	2,384,393	2,491,754	2,536,816	2,579,918	
Payments to OIT	<u>2,622,667</u>	<u>4,031,075</u>	<u>2,613,057</u>	<u>5,326,910</u> *	
General Fund	2,622,667	4,031,075	2,613,057	5,326,910	
Cash Funds	0	0	0	0	
CORE Operations	<u>2,101,598</u>	<u>1,619,424</u>	<u>856,852</u>	<u>792,563</u>	
General Fund	2,101,598	1,619,424	856,852	792,563	

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	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
#Merit Pay	<u>1,907,291</u>	<u>2,556,586</u>	<u>0</u>	<u>0</u>	
General Fund	1,841,214	2,360,879	0	0	
Cash Funds	66,077	195,707	0	0	
Lease Purchase	<u>119,878</u>	<u>111,427</u>	<u>0</u>	<u>0</u>	
General Fund	119,878	111,427	0	0	
SUBTOTAL - (B) Central Appropriations	62,918,925	68,921,829	59,419,190	77,936,330	31.2%
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0%</u>
General Fund	60,583,426	64,033,236	55,250,395	73,125,625	32.4%
Cash Funds	2,335,499	4,888,593	4,168,795	4,810,705	15.4%
Reappropriated Funds	0	0	0	0	0.0%

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	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
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(C) Centrally Administered Programs

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

Victim Assistance	<u>15,592,516</u>	<u>15,894,722</u>	<u>16,375,000</u>	<u>16,375,000</u>	
Cash Funds	15,592,516	15,894,722	16,375,000	16,375,000	
Victim Compensation	<u>13,252,814</u>	<u>10,365,445</u>	<u>13,400,000</u>	<u>13,400,000</u>	
Cash Funds	13,252,814	10,365,445	13,400,000	13,400,000	
Collections Investigators	<u>6,225,420</u>	<u>6,429,084</u>	<u>6,757,202</u>	<u>7,023,075</u>	
FTE	95.9	104.2	104.2	104.2	
Cash Funds	5,599,143	5,772,951	5,859,661	6,125,534	
Reappropriated Funds	626,277	656,133	897,541	897,541	
Problem-solving Courts	<u>3,112,859</u>	<u>3,509,361</u>	<u>3,603,032</u>	<u>3,605,925</u>	
FTE	32.5	44.3	44.3	44.3	
General Fund	0	375,376	398,446	401,339	
Cash Funds	3,112,859	3,133,985	3,204,586	3,204,586	
Language Interpreters and Translators	<u>3,894,614</u>	<u>4,715,905</u>	<u>4,211,315</u>	<u>5,094,035</u>	*
FTE	25.5	32.9	33.0	33.0	
General Fund	3,863,738	4,690,610	4,161,315	5,044,035	
Cash Funds	30,876	25,295	50,000	50,000	

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Courthouse Security	<u>2,071,661</u>	<u>2,156,409</u>	<u>2,474,099</u>	<u>2,477,567</u>	
FTE	1.0	1.0	1.0	1.0	
General Fund	0	500,000	500,000	503,468	
Cash Funds	2,071,661	1,656,409	1,974,099	1,974,099	
Appropriation to Underfunded Courthouse Facility Cash Fund	<u>700,000</u>	<u>2,000,000</u>	<u>2,000,000</u>	<u>2,000,000</u>	
General Fund	700,000	2,000,000	2,000,000	2,000,000	
Underfunded Courthouse Facilities Grant Program	<u>50,604</u>	<u>647,422</u>	<u>2,600,000</u>	<u>2,600,000</u>	
FTE	1.0	1.0	1.0	1.0	
Cash Funds	0	0	600,000	600,000	
Reappropriated Funds	50,604	647,422	2,000,000	2,000,000	
Courthouse Capital/ Infrastructure Maintenance	<u>2,218,813</u>	<u>2,185,709</u>	<u>4,744,084</u>	<u>1,919,800</u> *	
General Fund	2,194,601	1,308,619	2,401,541	1,919,800	
Cash Funds	24,212	877,090	2,342,543	0	
Senior Judge Program	<u>1,317,418</u>	<u>1,415,218</u>	<u>1,640,750</u>	<u>1,640,750</u>	
General Fund	17,418	115,218	340,750	340,750	
Cash Funds	1,300,000	1,300,000	1,300,000	1,300,000	
Judicial Education and Training	<u>1,435,223</u>	<u>1,325,708</u>	<u>1,456,806</u>	<u>1,460,283</u>	
FTE	2.0	2.0	2.0	2.0	
General Fund	0	4,812	4,812	8,289	
Cash Funds	1,435,223	1,320,896	1,451,994	1,451,994	

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	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
Office of Judicial Performance Evaluation	<u>617,248</u>	<u>678,956</u>	<u>771,641</u>	<u>804,255</u>	
FTE	1.8	2.0	2.0	2.0	
General Fund	290,000	290,000	290,000	290,000	
Cash Funds	327,248	388,956	481,641	514,255	
Family Violence Justice Grants	<u>2,150,063</u>	<u>2,642,026</u>	<u>2,670,000</u>	<u>2,670,000</u>	
General Fund	2,000,000	2,500,000	2,500,000	2,500,000	
Cash Funds	150,063	142,026	170,000	170,000	
Restorative Justice Programs	<u>529,261</u>	<u>740,325</u>	<u>875,633</u>	<u>878,138</u>	
FTE	0.0	1.0	1.0	1.0	
Cash Funds	529,261	740,325	875,633	878,138	
District Attorney Adult Pretrial Diversion Programs	<u>122,906</u>	<u>215,515</u>	<u>477,000</u>	<u>477,000</u>	
General Fund	122,906	215,515	400,000	400,000	
Cash Funds	0	0	77,000	77,000	
Family-friendly Court Program	<u>247,732</u>	<u>225,943</u>	<u>225,943</u>	<u>225,943</u>	
FTE	0.5	0.5	0.5	0.5	
Cash Funds	247,732	225,943	225,943	225,943	
Compensation for Exonerated Persons	<u>102,771</u>	<u>105,751</u>	<u>107,020</u>	<u>110,124</u> *	
General Fund	102,771	105,751	107,020	110,124	
Child Support Enforcement	<u>85,404</u>	<u>95,004</u>	<u>95,339</u>	<u>95,339</u>	
FTE	1.0	1.0	1.0	1.0	
General Fund	28,564	33,202	32,415	32,415	
Reappropriated Funds	0	0	62,924	62,924	
Federal Funds	56,840	61,802	0	0	

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	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
SUBTOTAL - (C) Centrally Administered Programs	53,727,327	55,348,503	64,484,864	62,857,234	(2.5%)
<i>FTE</i>	<u>161.2</u>	<u>189.9</u>	<u>190.0</u>	<u>190.0</u>	0.0%
General Fund	9,319,998	12,139,103	13,136,299	13,550,220	3.2%
Cash Funds	43,673,608	41,844,043	48,388,100	46,346,549	(4.2%)
Reappropriated Funds	676,881	1,303,555	2,960,465	2,960,465	0.0%
Federal Funds	56,840	61,802	0	0	0.0%

(D) Ralph L. Carr Colorado Judicial Center

This subsection includes appropriations related to the operations of the Ralph L. Carr Colorado Judicial Center. Funding supports: various contractual services (including engineering, custodial, and maintenance services; parking garage operations and maintenance; and copy center operations); the purchase of security services from the Colorado State Patrol; utilities; operational and engineering facility staff; debt service payments (previously included in the Capital Construction section of the budget); and an annual appropriation for facility controlled maintenance needs. Cash funds are from the Justice Center Cash Fund. Reappropriated funds are transferred from Leased Space appropriations to the Judicial Branch and the Department of Law.

Personal Services	<u>1,371,181</u>	<u>1,383,300</u>	<u>1,465,519</u>	<u>1,612,743</u>
<i>FTE</i>	2.0	2.0	2.0	2.0
Cash Funds	11,283	1,383,300	1,465,519	1,612,743
Reappropriated Funds	1,359,898	0	0	0
Operating Expenses	<u>3,728,478</u>	<u>4,026,234</u>	<u>4,026,234</u>	<u>4,026,234</u>
General Fund	0	1,146,362	0	0
Cash Funds	0	2,879,872	4,026,234	4,026,234
Reappropriated Funds	3,728,478	0	0	0
Controlled Maintenance	<u>454,681</u>	<u>0</u>	<u>2,025,000</u>	<u>2,025,000</u>
Cash Funds	454,681	0	2,025,000	2,025,000
Reappropriated Funds	0	0	0	0

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	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
Debt Service Payments	0	<u>15,661,472</u>	<u>21,577,604</u>	<u>21,593,531</u> *	
General Fund	0	3,853,638	4,806,525	4,704,365	
Cash Funds	0	6,281,842	11,031,746	11,047,673	
Reappropriated Funds	0	5,525,992	5,739,333	5,841,493	
SUBTOTAL - (D) Ralph L. Carr Colorado Judicial Center	5,554,340	21,071,006	29,094,357	29,257,508	0.6%
<i>FTE</i>	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>	0.0%
General Fund	0	5,000,000	4,806,525	4,704,365	(2.1%)
Cash Funds	465,964	10,545,014	18,548,499	18,711,650	0.9%
Reappropriated Funds	5,088,376	5,525,992	5,739,333	5,841,493	1.8%
TOTAL - (2) Courts Administration	150,442,955	179,087,256	195,248,869	206,142,179	5.6%
<i>FTE</i>	<u>370.0</u>	<u>426.8</u>	<u>431.3</u>	<u>431.8</u>	0.1%
General Fund	84,922,778	97,963,293	91,194,432	109,690,467	20.3%
Cash Funds	57,635,100	71,918,187	93,076,687	85,301,963	(8.4%)
Reappropriated Funds	7,828,237	9,143,974	10,977,750	11,149,749	1.6%
Federal Funds	56,840	61,802	0	0	0.0%

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	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
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(3) TRIAL COURTS

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

Trial Court Programs	<u>133,257,426</u>	<u>143,288,147</u>	<u>151,590,007</u>	<u>151,942,955</u>	
FTE	1,781.3	1,860.2	1,863.1	1,863.6	
General Fund	100,553,453	113,564,342	121,244,731	121,560,395	
Cash Funds	31,728,323	28,523,697	29,095,276	29,132,560	
Reappropriated Funds	975,650	0	1,250,000	1,250,000	
Federal Funds	0	1,200,108	0	0	
 Court Costs, Jury Costs, and Court-appointed Counsel	 <u>18,020,657</u>	 <u>18,880,258</u>	 <u>7,901,738</u>	 <u>7,888,518</u>	
General Fund	17,891,865	18,803,386	7,736,489	7,723,269	
Cash Funds	128,792	76,872	165,249	165,249	
 District Attorney Mandated Costs	 <u>2,535,043</u>	 <u>2,347,581</u>	 <u>2,417,350</u>	 <u>2,484,770</u>	 *
General Fund	2,374,178	2,177,581	2,247,350	2,314,770	
Cash Funds	160,865	170,000	170,000	170,000	
 ACTION and Statewide Discovery Sharing Systems	 <u>3,000,000</u>	 <u>2,300,000</u>	 <u>2,866,108</u>	 <u>3,240,000</u>	 *
General Fund	3,000,000	2,300,000	2,796,108	3,170,000	
Cash Funds	0	0	70,000	70,000	

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	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
Federal Funds and Other Grants	<u>2,414,125</u>	<u>2,974,971</u>	<u>2,900,000</u>	<u>2,900,000</u>	
FTE	10.3	14.0	14.0	14.0	
Cash Funds	162,783	149,083	975,000	975,000	
Reappropriated Funds	0	0	300,000	300,000	
Federal Funds	2,251,342	2,825,888	1,625,000	1,625,000	
TOTAL - (3) Trial Courts	159,227,251	169,790,957	167,675,203	168,456,243	0.5%
FTE	<u>1,791.6</u>	<u>1,874.2</u>	<u>1,877.1</u>	<u>1,877.6</u>	0.0%
General Fund	123,819,496	136,845,309	134,024,678	134,768,434	0.6%
Cash Funds	32,180,763	28,919,652	30,475,525	30,512,809	0.1%
Reappropriated Funds	975,650	0	1,550,000	1,550,000	0.0%
Federal Funds	2,251,342	4,025,996	1,625,000	1,625,000	0.0%

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(4) PROBATION AND RELATED SERVICES

This section provides funding for: the supervision of offenders sentenced to probation; the preparation of presentence investigation reports for the courts; victim notification and assistance; and community outreach programs. This section also provides funding for the purchase of treatment and services for offenders on probation, as well as funding that is transferred to other state agencies to provide treatment for substance use disorder and co-occurring disorders for adult and juvenile offenders. Cash funds include: fees paid by offenders for supervision, treatment, and restitution; the Marijuana Tax Cash Fund; and various cost recoveries. Reappropriated funds include: spending authority for General Fund moneys that are appropriated to the Correctional Treatment Cash Fund; Victims and Witnesses Assistance and Law Enforcement funds transferred from the Trial Courts section; and funds transferred from other Departments.

Probation Programs	<u>78,159,686</u>	<u>84,373,928</u>	<u>84,525,976</u>	<u>84,543,930</u>
FTE	1,111.0	1,181.2	1,184.7	1,184.7
General Fund	68,886,315	73,462,016	75,370,449	75,384,289
Cash Funds	9,273,371	10,911,912	9,155,527	9,159,641
Offender Treatment and Services	<u>29,259,857</u>	<u>29,311,131</u>	<u>34,480,727</u>	<u>34,480,727</u>
General Fund	791,272	834,151	924,877	924,877
Cash Funds	13,667,520	12,566,248	15,917,509	15,917,509
Reappropriated Funds	14,801,065	15,910,732	17,638,341	17,638,341
Appropriation to the Correctional Treatment Cash Fund	<u>15,200,000</u>	<u>16,750,000</u>	<u>16,750,000</u>	<u>16,750,000</u>
General Fund	15,200,000	15,200,000	15,200,000	15,200,000
Cash Funds	0	1,550,000	1,550,000	1,550,000
S.B. 91-94 Juvenile Services	<u>2,002,479</u>	<u>1,420,801</u>	<u>2,496,837</u>	<u>2,496,837</u>
FTE	13.1	25.0	25.0	25.0
Reappropriated Funds	2,002,479	1,420,801	2,496,837	2,496,837
Reimbursements to Law Enforcement Agencies for the Costs of Returning a Probationer	<u>86,399</u>	<u>91,885</u>	<u>187,500</u>	<u>187,500</u>
Cash Funds	86,399	91,885	187,500	187,500

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	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
Victims Grants	<u>351,380</u>	<u>294,052</u>	<u>650,000</u>	<u>650,000</u>	
FTE	3.6	6.0	6.0	6.0	
Reappropriated Funds	351,380	294,052	650,000	650,000	
Federal Funds and Other Grants	<u>4,227,633</u>	<u>3,438,543</u>	<u>5,600,000</u>	<u>5,600,000</u>	
FTE	33.0	33.0	33.0	33.0	
Cash Funds	673,616	652,007	1,950,000	1,950,000	
Reappropriated Funds	216,882	104,780	850,000	850,000	
Federal Funds	3,337,135	2,681,756	2,800,000	2,800,000	
Indirect Cost Assessment	<u>1,103,840</u>	<u>1,144,696</u>	<u>940,714</u>	<u>935,966</u>	
Cash Funds	1,103,840	1,144,696	940,714	935,966	
TOTAL - (4) Probation and Related Services	130,391,274	136,825,036	145,631,754	145,644,960	NaN
FTE	<u>1,160.7</u>	<u>1,245.2</u>	<u>1,248.7</u>	<u>1,248.7</u>	0.0%
General Fund	84,877,587	89,496,167	91,495,326	91,509,166	0.0%
Cash Funds	24,804,746	26,916,748	29,701,250	29,700,616	0.0%
Reappropriated Funds	17,371,806	17,730,365	21,635,178	21,635,178	0.0%
Federal Funds	3,337,135	2,681,756	2,800,000	2,800,000	0.0%

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(5) OFFICE OF THE STATE PUBLIC DEFENDER

This independent agency provides legal counsel for indigent defendants in criminal and juvenile delinquency cases where there is a possibility of being jailed or imprisoned. Cash funds consist of training fees paid by private attorneys and grants.

Personal Services	<u>55,774,090</u>	<u>58,161,209</u>	<u>61,123,385</u>	<u>62,173,038</u> *
FTE	745.0	751.5	783.9	806.8
General Fund	55,774,090	58,161,209	61,123,385	62,173,038
 #Health, Life, and Dental	 <u>5,355,507</u>	 <u>6,232,846</u>	 <u>6,159,824</u>	 <u>6,829,036</u>
General Fund	5,355,507	6,232,846	6,159,824	6,829,036
 #Short-term Disability	 <u>102,281</u>	 <u>114,758</u>	 <u>99,261</u>	 <u>103,581</u>
General Fund	102,281	114,758	99,261	103,581
 #S.B. 04-257 Amortization Equalization Disbursement	 <u>1,915,191</u>	 <u>2,295,153</u>	 <u>2,507,649</u>	 <u>2,725,817</u>
General Fund	1,915,191	2,295,153	2,507,649	2,725,817
 #S.B. 06-235 Supplemental Amortization				
Equalization Disbursement	<u>1,795,395</u>	<u>2,216,909</u>	<u>2,481,528</u>	<u>2,725,817</u>
General Fund	1,795,395	2,216,909	2,481,528	2,725,817
 #Salary Survey	 <u>1,303,106</u>	 <u>583,552</u>	 <u>0</u>	 <u>1,192,946</u>
General Fund	1,303,106	583,552	0	1,192,946
 Vehicle Lease Payments	 <u>99,127</u>	 <u>99,959</u>	 <u>114,910</u>	 <u>93,940</u> *
General Fund	99,127	99,959	114,910	93,940
 Capital Outlay	 <u>183,514</u>	 <u>17,401</u>	 <u>0</u>	 <u>138,787</u> *
General Fund	183,514	17,401	0	138,787

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	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
Operating Expenses	<u>1,705,567</u>	<u>1,547,749</u>	<u>1,745,212</u>	<u>1,789,119</u>	*
General Fund	1,691,012	1,537,594	1,715,212	1,759,119	
Cash Funds	14,555	10,155	30,000	30,000	
Leased Space/Utilities	<u>5,598,781</u>	<u>5,846,298</u>	<u>6,456,972</u>	<u>6,456,972</u>	
General Fund	5,598,781	5,846,298	6,456,972	6,456,972	
Automation Plan	<u>1,515,437</u>	<u>1,399,107</u>	<u>1,416,920</u>	<u>1,533,166</u>	*
General Fund	1,515,437	1,399,107	1,416,920	1,533,166	
Attorney Registration	<u>134,260</u>	<u>133,615</u>	<u>140,085</u>	<u>140,275</u>	*
General Fund	134,260	133,615	140,085	140,275	
Contract Services	<u>45,825</u>	<u>10,545</u>	<u>49,395</u>	<u>49,395</u>	
General Fund	45,825	10,545	49,395	49,395	
Mandated Costs	<u>5,177,715</u>	<u>5,360,590</u>	<u>4,011,360</u>	<u>3,337,635</u>	*
General Fund	5,177,715	5,360,590	4,011,360	3,337,635	
Grants	<u>35,928</u>	<u>59,129</u>	<u>120,000</u>	<u>120,000</u>	
FTE	0.3	0.3	2.0	2.0	
Cash Funds	35,928	59,129	120,000	120,000	
#Merit Pay	<u>528,200</u>	<u>576,242</u>	<u>0</u>	<u>0</u>	
General Fund	528,200	576,242	0	0	
TOTAL - (5) Office of the State Public Defender	81,269,924	84,655,062	86,426,501	89,409,524	3.5%
FTE	<u>745.3</u>	<u>751.8</u>	<u>785.9</u>	<u>808.8</u>	<u>2.9%</u>
General Fund	81,219,441	84,585,778	86,276,501	89,259,524	3.5%
Cash Funds	50,483	69,284	150,000	150,000	0.0%

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(6) OFFICE OF THE ALTERNATE DEFENSE COUNSEL

This independent agency provides legal representation for indigent defendants in cases where the State Public Defender is precluded from doing so because of an ethical conflict of interest. Cash funds are received from private attorneys and investigators for training.

Personal Services	<u>916,445</u>	<u>1,063,023</u>	<u>1,220,657</u>	<u>1,314,847</u>	*
FTE	9.1	10.9	12.0	12.0	
General Fund	916,445	1,063,023	1,220,657	1,314,847	
 #Health, Life, and Dental	 <u>105,484</u>	 <u>134,599</u>	 <u>134,268</u>	 <u>164,476</u>	
General Fund	105,484	134,599	134,268	164,476	
 #Short-term Disability	 <u>1,671</u>	 <u>2,078</u>	 <u>2,052</u>	 <u>2,294</u>	 *
General Fund	1,671	2,078	2,052	2,294	
 #S.B. 04-257 Amortization Equalization Disbursement	 <u>30,879</u>	 <u>41,541</u>	 <u>51,836</u>	 <u>60,370</u>	 *
General Fund	30,879	41,541	51,836	60,370	
 #S.B. 06-235 Supplemental Amortization Equalization Disbursement	 <u>28,892</u>	 <u>40,126</u>	 <u>51,295</u>	 <u>60,370</u>	 *
General Fund	28,892	40,126	51,295	60,370	
 #Salary Survey	 <u>34,797</u>	 <u>61,947</u>	 <u>0</u>	 <u>32,615</u>	 *
General Fund	34,797	61,947	0	32,615	
 Operating Expenses	 <u>71,691</u>	 <u>95,796</u>	 <u>76,355</u>	 <u>75,405</u>	
General Fund	71,691	95,796	76,355	75,405	
 Capital Outlay	 <u>4,703</u>	 <u>4,703</u>	 <u>4,703</u>	 <u>0</u>	
General Fund	4,703	4,703	4,703	0	

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	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
Training and Conferences	<u>60,916</u>	<u>61,132</u>	<u>60,000</u>	<u>100,000</u> *	
General Fund	20,916	21,132	20,000	20,000	
Cash Funds	40,000	40,000	40,000	80,000	
Conflict-of-interest Contracts	<u>26,861,292</u>	<u>27,846,305</u>	<u>27,971,145</u>	<u>27,971,145</u>	
General Fund	26,861,292	27,846,305	27,971,145	27,971,145	
Mandated Costs	<u>2,243,477</u>	<u>2,198,305</u>	<u>1,830,862</u>	<u>1,830,862</u>	
General Fund	2,243,477	2,198,305	1,830,862	1,830,862	
#Merit Pay	<u>835</u>	<u>6,761</u>	<u>0</u>	<u>0</u>	
General Fund	835	6,761	0	0	
TOTAL - (6) Office of the Alternate Defense Counsel	30,361,082	31,556,316	31,403,173	31,612,384	0.7%
FTE	<u>9.1</u>	<u>10.9</u>	<u>12.0</u>	<u>12.0</u>	<u>(0.0%)</u>
General Fund	30,321,082	31,516,316	31,363,173	31,532,384	0.5%
Cash Funds	40,000	40,000	40,000	80,000	100.0%

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(7) OFFICE OF THE CHILD'S REPRESENTATIVE

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

Personal Services	<u>1,925,171</u>	<u>2,277,497</u>	<u>2,442,114</u>	<u>3,275,521</u>	*
FTE	26.8	28.9	29.1	29.5	
General Fund	1,925,171	2,277,497	2,442,114	3,275,521	
 #Health, Life, and Dental	 <u>186,552</u>	 <u>222,248</u>	 <u>218,190</u>	 <u>228,590</u>	
General Fund	186,552	222,248	218,190	228,590	
 #Short-term Disability	 <u>4,198</u>	 <u>5,224</u>	 <u>4,111</u>	 <u>4,204</u>	 *
General Fund	4,198	5,224	4,111	4,204	
 #S.B. 04-257 Amortization Equalization Disbursement	 <u>76,543</u>	 <u>104,479</u>	 <u>103,850</u>	 <u>111,826</u>	 *
General Fund	76,543	104,479	103,850	111,826	
 #S.B. 06-235 Supplemental Amortization Equalization Disbursement	 <u>71,580</u>	 <u>100,917</u>	 <u>102,767</u>	 <u>111,826</u>	 *
General Fund	71,580	100,917	102,767	111,826	
 #Salary Survey	 <u>266,519</u>	 <u>93,977</u>	 <u>0</u>	 <u>59,941</u>	
General Fund	266,519	93,977	0	59,941	
 Operating Expenses	 <u>242,477</u>	 <u>243,989</u>	 <u>193,354</u>	 <u>252,046</u>	 *
General Fund	242,477	243,989	193,354	252,046	
 Leased Space	 <u>103,618</u>	 <u>105,137</u>	 <u>106,680</u>	 <u>99,504</u>	 *
General Fund	103,618	105,137	106,680	99,504	

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	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
CASA Contracts	<u>1,020,000</u>	<u>1,020,000</u>	<u>1,020,000</u>	<u>1,020,000</u>	
General Fund	1,020,000	1,020,000	1,020,000	1,020,000	
Training	<u>49,588</u>	<u>40,379</u>	<u>38,000</u>	<u>38,000</u>	
General Fund	49,588	40,379	38,000	38,000	
Court-appointed Counsel	<u>19,004,216</u>	<u>18,878,819</u>	<u>19,703,764</u>	<u>19,985,453</u> *	
General Fund	19,004,216	18,878,819	19,703,764	19,985,453	
Mandated Costs	<u>35,998</u>	<u>35,609</u>	<u>47,246</u>	<u>47,246</u>	
General Fund	35,998	35,609	47,246	47,246	
Title IV-E Training Grant	<u>19,515</u>	<u>26,909</u>	<u>9,390</u>	<u>26,909</u>	
Reappropriated Funds	19,515	26,909	9,390	26,909	
#Merit Pay	<u>19,415</u>	<u>23,011</u>	<u>0</u>	<u>0</u>	
General Fund	19,415	23,011	0	0	
TOTAL - (7) Office of the Child's Representative	23,025,390	23,178,195	23,989,466	25,261,066	5.3%
<i>FTE</i>	<u>26.8</u>	<u>28.9</u>	<u>29.1</u>	<u>29.5</u>	<u>1.4%</u>
General Fund	23,005,875	23,151,286	23,980,076	25,234,157	5.2%
Reappropriated Funds	19,515	26,909	9,390	26,909	186.6%

JBC Staff Budget Briefing: FY 2017-18
Staff Working Document - Does Not Represent Committee Decision

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
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(8) OFFICE OF THE RESPONDENT PARENTS COUNSEL

This independent agency provides legal representation for indigent parents involved in dependency and neglect proceedings. Cash funds are received from private attorneys for training.

Personal Services	<u>0</u>	<u>320,019</u>	<u>1,177,365</u>	<u>1,177,365</u>	
FTE	0.0	2.7	10.0	10.0	
General Fund	0	320,019	1,177,365	1,177,365	
 #Health, Life, and Dental	<u>0</u>	<u>11,789</u>	<u>90,389</u>	<u>85,931</u>	
General Fund	0	11,789	90,389	85,931	
 #Short-term Disability	<u>0</u>	<u>461</u>	<u>1,739</u>	<u>1,609</u>	
General Fund	0	461	1,739	1,609	
 #S.B. 04-257 Amortization Equalization Disbursement	<u>0</u>	<u>11,236</u>	<u>43,930</u>	<u>42,332</u>	
General Fund	0	11,236	43,930	42,332	
 #S.B. 06-235 Supplemental Amortization Equalization Disbursement	<u>0</u>	<u>10,853</u>	<u>43,472</u>	<u>42,332</u>	
General Fund	0	10,853	43,472	42,332	
 #Salary Survey	<u>0</u>	<u>0</u>	<u>0</u>	<u>23,045</u>	
General Fund	0	0	0	23,045	
 Operating Expenses	<u>0</u>	<u>24,106</u>	<u>60,800</u>	<u>60,800</u>	
General Fund	0	24,106	60,800	60,800	
 Legal Services	<u>0</u>	<u>460</u>	<u>1,901</u>	<u>1,901</u>	
General Fund	0	460	1,901	1,901	

JBC Staff Budget Briefing: FY 2017-18
Staff Working Document - Does Not Represent Committee Decision

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
Case Management System	<u>0</u>	<u>60,098</u>	<u>337,500</u>	<u>0</u>	
General Fund	0	60,098	337,500	0	
Training	<u>0</u>	<u>7,282</u>	<u>60,000</u>	<u>60,000</u>	
General Fund	0	7,282	30,000	30,000	
Cash Funds	0	0	30,000	30,000	
Court-appointed Counsel	<u>0</u>	<u>0</u>	<u>10,768,254</u>	<u>14,185,876</u> *	
General Fund	0	0	10,768,254	14,185,876	
Mandated Costs	<u>0</u>	<u>0</u>	<u>294,122</u>	<u>333,601</u> *	
General Fund	0	0	294,122	333,601	
Capital Outlay	<u>0</u>	<u>340,260</u>	<u>0</u>	<u>0</u>	
General Fund	0	340,260	0	0	
TOTAL - (8) Office of the Respondent Parents					
Counsel	0	786,564	12,879,472	16,014,792	24.3%
<i>FTE</i>	<u>0.0</u>	<u>2.7</u>	<u>10.0</u>	<u>10.0</u>	0.0%
General Fund	0	786,564	12,849,472	15,984,792	24.4%
Cash Funds	0	0	30,000	30,000	0.0%

JBC Staff Budget Briefing: FY 2017-18
Staff Working Document - Does Not Represent Committee Decision

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
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(9) OFFICE OF THE CHILD PROTECTION OMBUDSMAN

This independent agency investigates complaints and reviews issues raised relating to child protection services, policies, and procedures, and makes recommendations to improve services and promote better outcomes for children and families receiving child protection services.

Program Costs	<u>0</u>	<u>177,516</u>	<u>591,646</u>	<u>769,111</u> *	
FTE	0.0	2.0	4.5	5.9	
General Fund	0	177,516	591,646	769,111	
Legal Services	<u>0</u>	<u>0</u>	<u>22,812</u>	<u>23,822</u>	
General Fund	0	0	22,812	23,822	

TOTAL - (9) Office of the Child Protection					
Ombudsman	0	177,516	614,458	792,933	29.0%
<i>FTE</i>	<u>0.0</u>	<u>2.0</u>	<u>4.5</u>	<u>5.9</u>	<u>31.1%</u>
General Fund	0	177,516	614,458	792,933	29.0%

JBC Staff Budget Briefing: FY 2017-18
Staff Working Document - Does Not Represent Committee Decision

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
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(10) INDEPENDENT ETHICS COMMISSION

This independent agency is charged with hearing complaints, issuing findings, assessing penalties, and issuing advisory opinions on ethics issues that arise concerning public officers, members of the General Assembly, local government officials, or government employees.

Program Costs	<u>0</u>	<u>154,302</u>	<u>188,007</u>	<u>193,402</u>	
FTE	0.0	1.0	1.0	1.0	
General Fund	0	154,302	188,007	193,402	
Legal Services	<u>144,182</u>	<u>135,725</u>	<u>171,090</u>	<u>178,663</u>	
General Fund	144,182	135,725	171,090	178,663	
#Salary Survey	<u>4,567</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	4,567	0	0	0	
Personal Services	<u>94,425</u>	<u>0</u>	<u>0</u>	<u>0</u>	
FTE	1.0	0.0	0.0	0.0	
General Fund	94,425	0	0	0	
#Health, Life, and Dental	<u>15,393</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	15,393	0	0	0	
#Short-term Disability	<u>374</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	374	0	0	0	
#S.B. 04-257 Amortization Equalization Disbursement	<u>6,803</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	6,803	0	0	0	

JBC Staff Budget Briefing: FY 2017-18
Staff Working Document - Does Not Represent Committee Decision

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	Request vs. Appropriation
#S.B. 06-235 Supplemental Amortization					
Equalization Disbursement	<u>6,378</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	6,378	0	0	0	
#Merit Pay	<u>1,827</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	1,827	0	0	0	
Operating Expenses	<u>15,893</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	14,676	0	0	0	
Cash Funds	1,217	0	0	0	
TOTAL - (10) Independent Ethics Commission	289,842	290,027	359,097	372,065	3.6%
FTE	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	0.0%
General Fund	288,625	290,027	359,097	372,065	3.6%
Cash Funds	1,217	0	0	0	0.0%
TOTAL - Judicial Department	598,599,153	650,212,080	689,991,264	709,678,329	2.9%
FTE	<u>4,317.7</u>	<u>4,558.8</u>	<u>4,615.1</u>	<u>4,640.8</u>	0.6%
General Fund	440,914,170	478,117,651	486,328,896	513,562,321	5.6%
Cash Funds	125,781,337	138,350,958	164,992,153	157,256,275	(4.7%)
Reappropriated Funds	26,258,329	26,973,917	34,245,215	34,434,733	0.6%
Federal Funds	5,645,317	6,769,554	4,425,000	4,425,000	0.0%

NOTES:

An asterisk (*) indicates that the FY 2017-18 request for a line item is affected by one or more decision items.

For those line items noted with a number sign (#), FY 2014-15 and FY 2015-16 figures represent the final appropriation for the line item, not actual expenditures.

APPENDIX B RECENT LEGISLATION AFFECTING DEPARTMENT BUDGET

2015 SESSION BILLS

S.B. 15-204 (OFFICE OF THE CHILD PROTECTION OMBUDSMAN): Establishes the Office of the Child Protection Ombudsman (the Office) in the Judicial Department as an independent agency. Establishes the Child Protection Ombudsman Board to oversee the Office's personnel decisions, operating policies and procedures, and budget. By November 1, 2015, requires the Office to sign an administrative memorandum of understanding with the Judicial Department with an effective date of no later than January 1, 2016. Requires the Child Protection Ombudsman to make funding recommendations to the Joint Budget Committee for the operation of the Office. Modifies the powers and duties of the existing Child Protection Ombudsman Program in the Department of Human Services, and renames the Program the Office of the Child Protection Ombudsman. Repeals the provision requiring the Executive Director of the Department of Human Services to award a contract for the operation of the Ombudsman Program, and authorizes the Executive Director to extend the existing contract through December 31, 2015. Reduces the General Fund appropriation to the Department of Human Services for FY 2015-16 for the Child Protection Ombudsman by \$270,372 (from \$512,822 to \$242,450). Appropriates \$351,086 General Fund to the Judicial Department for FY 2015-16 for the Office of the Child Protection Ombudsman and the Department's related capital outlay and administrative expenses, and states that the appropriation is based on the assumption that the Department will require an additional 2.2 FTE.

S.B. 15-288 (COMPENSATION PAID TO ELECTED OFFICIALS): Replaces the existing fixed dollar salaries listed in statute for certain state officials and state legislators with a new method for determining salaries that aligns them to certain judicial officers' salaries. The new method for determining these salaries will begin January 2019, and salary amounts will be adjusted every four years to maintain the alignment.

CHANGE IN SALARIES FOR SELECTED STATE OFFICIALS PER S.B. 15-288				
STATE OFFICIAL	CURRENT SALARY (ESTABLISHED JANUARY 1999)	BENCHMARKS FOR SALARIES BEGINNING JANUARY 2019		
		COLORADO JUDICIAL OFFICER	PERCENT OF JUDICIAL OFFICER SALARY	ESTIMATED SALARIES AS OF JANUARY 2019 ¹
Governor	\$90,000	Chief Justice, Colorado Supreme Court	66.0%	\$128,049
Lieutenant Governor	68,500	County Court Judges, Class B Counties	58.0%	97,040
Attorney General	80,000	Chief Judge, Colorado Court of Appeals	60.0%	111,916
State Legislators	30,000	County Court Judges, Class B Counties	25.0%	41,828
Secretary of State	68,500	County Court Judges, Class B Counties	58.0%	97,040
Treasurer	68,500	County Court Judges, Class B Counties	58.0%	97,040

¹ Estimates are based on judicial officer salaries established for FY 2015-16 through footnote 45 of the FY 2015-16 Long Bill (S.B. 15-234), increased by estimated inflation rates of 2.5 percent in FY 2016-17 and 2.3 percent each fiscal year thereafter.

Increases statutory salaries for county commissioners, sheriffs, treasurers, assessors, clerks, coroners, and surveyors by 30.0 percent, effective January 2016. Requires the Director of Research of the Legislative Council to periodically adjust the salaries of these elected county officials for inflation, and post the adjusted salary amounts on the General Assembly's web site.

H.B. 15-1034 (ADD ONE JUDGE): Adds one district court judge to the 12th judicial district (Alamosa, Conejos, Costilla, Mineral, Rio Grande, and Saguache counties). Appropriates a total of \$340,651 (including \$333,631 General Fund and \$7,020 cash funds from the Judicial Department Information Technology Cash Fund) to the Judicial Department for FY 2015-16 for the trial courts, including funding for capital outlay expenses. States that the appropriation is based on the assumption that the Department will require an additional 3.2 FTE.

H.B. 15-1043 (FELONY OFFENSE FOR REPEAT DUI OFFENDERS): Increases the penalty for driving under the influence of alcohol or drugs (DUI), DUI per se, and driving while ability impaired (DWAI) from a misdemeanor to a class 4 felony after three or more prior convictions of a DUI, DUI per se, DWAI, vehicular homicide, vehicular assault, or any combination thereof. If the court sentences the defendant to the Department of Corrections (DOC) for a felony offense, the act requires the court to determine that incarceration is the most suitable option and to consider whether all other reasonable and appropriate sanctions and responses to the violation that are available to the court have been exhausted, do not appear likely to be successful if tried, or present an unacceptable risk to public safety. Reduces the penalty for aggravated driving with a revoked license from a class 6 felony to a class 1 misdemeanor, but requires the court to sentence the offender to a minimum term of 60 days in county jail. If a driver has had his or her driving privileges revoked for certain DUI-related offenses, requires that he or she hold an interlock-restricted license for at least two years and up to a maximum of five years following reinstatement; under current law the requirement is one year.

Appropriates a total of \$27,874,480 General Fund to DOC to cover the costs of housing additional offenders for the first five fiscal years of implementing the act. Appropriates a total of \$1,272,133 General Fund to the Judicial Department for FY 2015-16 to cover additional trial court costs, the costs of supervising additional offenders sentenced to probation, and the costs of providing legal representation to additional offenders. States that the appropriation is based on the assumption that the Department will require an additional 14.2 FTE. All of these amounts are detailed in the following table.

H.B. 15-1043: GENERAL FUND APPROPRIATIONS		
PURPOSE AND FISCAL YEAR	DOLLAR AMOUNT	FTE
Appropriations to Judicial Department for FY 2015-16:		
Trial court programs	\$700,394	8.8
Probation programs	152,261	2.3
Capital outlay for courts and probation	231,126	
Office of the State Public Defender	188,352	3.1
Subtotal: Judicial	\$1,272,133	14.2
Statutory Appropriations to the Department of Corrections:		

H.B. 15-1043: GENERAL FUND APPROPRIATIONS		
PURPOSE AND FISCAL YEAR	DOLLAR AMOUNT	FTE
FY 2016-17	\$2,581,944	
FY 2017-18	6,497,158	
FY 2018-19	9,397,689	
FY 2019-20	9,397,689	
Subtotal: Corrections	\$27,874,480	
TOTAL	\$29,146,613	14.2

H.B. 15-1149 (OFFICE OF THE RESPONDENT PARENTS' COUNSEL): Senate Bill 14-203 established the Office of Respondent Parents' Counsel (ORPC), a new independent agency within the Judicial Branch charged with ensuring the provision and availability of high-quality legal representation for respondent parents involved in dependency and neglect proceedings. The act required that all existing and new state paid court appointments for respondent parents' counsel be transferred from the State Court Administrator's Office (SCAO) to the ORPC by January 1, 2016. The act also directed a pre-existing work group to make recommendations concerning an operational structure for the new office. House Bill 15-1149 implements the work group's recommendations by: (a) establishing a nine-member governing commission to oversee the operations of the ORPC; (b) establishing minimum qualifications for the Director of the ORPC; and (c) delaying by six months the transfer of all existing appointments to the ORPC. House Bill 15-1149 adjusts FY 2015-16 appropriations to reflect the six month delay, reducing total appropriations by \$618,145 (including \$603,145 General Fund and \$15,000 cash funds from training fees) and decreasing by 1.1 the associated FTE.

H.B. 15-1153 (CHILD AND FAMILY INVESTIGATOR OVERSIGHT): The court may appoint an individual to serve as a child and family investigator (CFI) to investigate, report, and make recommendations to the court on issues that affect the best interests of children involved in a domestic relations case. The oversight of court-appointed CFIs is currently shared by two judicial agencies:

- the Office of the Child's Representative (OCR) oversees state-paid CFIs who are attorneys; and
- the State Court Administrator's Office (SCAO) oversees state-paid CFIs who are not attorneys, as well as all privately-paid CFIs (both attorneys and non-attorneys).

House Bill 15-1153 consolidates oversight of all court-appointed CFIs under the SCAO, effective January 1, 2016. Adjusts FY 2015-16 appropriations, shifting \$143,919 General Fund from the Office of the Child's Representative to the SCAO, and appropriating an additional \$27,580 General Fund to the SCAO to cover transition costs.

H.B. 15-1367 (RETAIL MARIJUANA TAXES): Refers a ballot issue to voters in November 2015, asking whether the State may retain and spend revenue collected from the Proposition AA excise and special sales taxes on retail marijuana in FY 2014-15. Independent of whether the voters approve the ballot issue, the act broadens purposes for which funds in the Marijuana Tax Cash Fund (MTCF) may be expended and requires that appropriations from the MTCF for jail-based behavioral health services be made through the Correctional Treatment Cash Fund. The act includes corresponding changes to FY 2015-16 Judicial Department appropriations, adding an appropriation of \$1,550,000 cash funds from the MTCF to the Correctional Treatment Cash Fund, as well as an

appropriation of \$1,550,000 reappropriated funds from the Correctional Treatment Cash Fund to allow the Judicial Department to transfer these funds to the Department of Human Services for jail-based behavioral health services.

2016 SESSION BILLS

S.B. 16-091 (TIMING OF THE STATEWIDE DISCOVERY SHARING SYSTEM): Senate Bill 14-190 established time frames for the eDiscovery project, including a provision requiring the system to be operational statewide by November 1, 2016. The procurement and contract negotiation processes took longer than anticipated. This act extends the statewide implementation date (to July 1, 2017) to align with the vendor contract and Colorado District Attorneys' Council's (CDAC's) phased implementation plan. The act also repeals provisions that concern actions that have already occurred.

S.B. 16-102 (REPEAL CERTAIN MANDATORY MINIMUM SENTENCES): Removes the mandatory term of incarceration requirement for persons convicted of certain types of second degree assault or violations of bail bond conditions. Appropriates \$65,788 General Fund to the Judicial Department for FY 2016-17, and states that the appropriation is based on the assumption that the Department will require an additional 0.9 FTE.

S.B. 16-116 (ALTERNATIVE PROCESS FOR SEALING CRIMINAL RECORDS): Provides a simplified process for sealing criminal justice records. Requires defendants to pay a \$65 fee to seal their records and credits the fee revenue to the Judicial Stabilization Cash Fund. Appropriates \$178,173 cash funds from the Judicial Stabilization Cash Fund to the Judicial Department for FY 2016-17, and states that the appropriation is based on the assumption that the Department will require an additional 3.5 FTE.

H.B. 16-1309 (RIGHT TO COUNSEL IN MUNICIPAL COURTS): Requires municipal courts to appoint legal counsel to any defendant in custody who is charged with an offense that carries a potential sentence of incarceration. Requires counsel to be present for the defendant's initial appearance unless he or she makes a knowing, intelligent, and voluntary waiver of his or her right to counsel. Requires the appointment of counsel to continue while the defendant remains in custody. Allows the defendant to apply for counsel upon release and requires the court to appoint counsel if the defendant is deemed indigent and faces a potential sentence of incarceration. Requires municipal courts to inform each defendant of his or her rights related to self-incrimination, counsel, trial by jury, pleas, bail, and the charges against him or her. The act takes effect May 1, 2017.

H.B. 16-1410 (LOCATION FOR COMPETENCY EVALUATIONS): Limits the court's discretion to order that a competency evaluation be conducted at the Colorado Mental Health Institute at Pueblo (CMHIP). Repeals a provision that requires CMHIP to bill the court for the cost of defendants for whom the court has ordered an inpatient competency evaluation. Reduces by \$368,000 the General Fund appropriation to the Judicial Department for FY 2016-17.

APPENDIX C

FOOTNOTES AND INFORMATION REQUESTS

The following Long Bill Footnotes (LBF) and Requests for Information (RFI) relate to the Judicial Branch and are included in this Appendix:

Applicable to Multiple Agencies Within Judicial Branch

LBF #56 – Compensation for justices, judges, the State Public Defender, the Alternate Defense Counsel, the Executive Director of the Office of the Child's Representative, and the Executive Director of the Office of the Respondent Parents' Counsel

LBF #57 – Transfer authority related to the statewide discovery sharing system implementation

Probation

LBF #58 – State funding for veterans treatment courts

Statewide RFI #4 – Cash funds that are utilized by multiple state agencies

Judicial RFI #2 – Recidivism rates

Judicial RFI #4 – Expenditures for testing, treatment, and assessments for offenders

Office of the State Public Defender

LBF #59 – Authority to transfer funds between line item appropriations

Judicial RFI #1 – Appellate case backlog

Office of the Alternate Defense Counsel

LBF #60 – Authority to transfer funds between line item appropriations

Office of the Child's Representative

LBF #61 – Authority to transfer funds between line item appropriations

Office of the Respondent Parents' Counsel

LBF #62 – Authority to transfer funds between line item appropriations

Office of the Child Protection Ombudsman

LBF #63 – Authority to transfer funds between line item appropriations

Independent Ethics Commission

LBF #64 – Authority to transfer funds between line item appropriations

District Attorneys

Judicial RFI #3 – State funding for district attorney mandated costs

UPDATE ON LONG BILL FOOTNOTES

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

	<u>FY 2016-17</u>
	<u>Salary</u>
Chief Justice, Supreme Court	\$176,799
Associate Justice, Supreme Court	173,024
Chief Judge, Court of Appeals	169,977
Associate Judge, Court of Appeals	166,170
District Court Judge, Denver Juvenile Court Judge, and Denver Probate Court Judge	159,320
County Court Judge	152,466

Funding is also provided in the Long Bill to maintain the salary of the State Public Defender at the level of an associate judge of the Court of Appeals and to maintain the salaries of the Alternate Defense Counsel, the Executive Director of the Office of the Child's Representative, and the Executive Director of the Office of the Respondent Parents' Counsel at the level of a district court judge.

COMMENT: This footnote first appeared in the FY 1999-00 Long Bill. Sections 13-30-103 and 104, C.R.S., established judicial salaries for various fiscal years during the 1990s [through H.B. 98-1238]. These provisions state that any salary increases above those set forth in statute "shall be determined by the general assembly as set forth in the annual general appropriations bill." The General Assembly annually establishes judicial salaries through this footnote in the Long Bill. The footnote also establishes the salaries for the individuals who head four of the independent judicial agencies by tying them to specific judicial salaries.

Please note that pursuant to S.B. 15-288, the salaries listed in statute for certain state officials and state legislators will also be benchmarked to certain judicial officers' salaries beginning in January 2019. Appendix B provides a more detailed description of this bill, including a table detailing each affected state official and the corresponding judicial officer salary.

The salaries listed in the above footnote for FY 2016-17 remain unchanged from FY 2015-16. As detailed in the following table, **the budget request submitted by the Chief Justice of the Supreme Court for FY 2017-18 includes funding to increase all judge and justice salaries by 5.73 percent.** The proposed increase includes a 2.5 percent increase based on the Governor's proposed across-the-board salary increase, plus a 3.15 percent increase. The latter increase is the first phase of a two-year proposal to increase all judge and justice salaries by a total of 6.3 percent over two fiscal years.

PROPOSED CHANGE IN JUDICIAL OFFICER SALARIES				
JUDICIAL OFFICERS	FY 2016-17 SALARY	FY 2017-18 REQUEST		
		\$ INCREASE	% INCREASE	SALARY
Chief Justice, Supreme Court	\$176,799	\$10,128	5.73%	\$186,927
Associate Justice, Supreme Court	173,024	9,912	5.73%	182,936
Chief Judge, Court of Appeals	169,977	9,738	5.73%	179,715
Associate Judge, Court of Appeals	166,170	9,519	5.73%	175,689
District Court Judge, Denver Juvenile Court Judge, and Denver Probate Court Judge	159,320	9,127	5.73%	168,447
County Court Judge	152,466	8,734	5.73%	161,200

57 Judicial Department, Trial Courts, Court Costs, Jury Costs, and Court-appointed Counsel; Trial Courts, ACTION and Statewide Discovery Sharing Systems; Office of the State Public Defender, Mandated Costs; Office of the Alternate Defense Counsel, Mandated Costs; and Office of the Child’s Representative, Mandated Costs -- In addition to the transfer authority provided in Section 24-75-108 (5), C.R.S., up to \$1,000,000 may be transferred among the five line item appropriations specified above if necessary based on changes to the statewide discovery sharing system implementation schedule. It is the General Assembly’s intent that such transfers be made upon mutual agreement between the State Court Administrator’s Office and the impacted independent agencies.

COMMENT: This footnote was first included in the 2016 Long Bill to allow the Judicial Branch some flexibility to shift resources among agencies, if warranted based on changes to the eDiscovery implementation schedule.

58 Judicial Department, Probation and Related Services, Offender Treatment and Services -- It is the intent of the General Assembly that \$624,877 of the General Fund appropriation for Offender Treatment and Services be used to provide treatment and services for offenders participating in veterans treatment courts, including peer mentoring services.

COMMENT:

Purpose of Footnote. The General Assembly initially added \$367,197 General Fund to the Offender Treatment and Services line item in the FY 2012-13 Long Bill for purposes of funding treatment and services for offenders participating in veterans treatment courts. This footnote accompanied the appropriation to state the intended use of such moneys. This funding is used to fill service gaps that cannot be met through existing veterans programs and services. The General Assembly added \$257,680 General Fund to this line item in FY 2014-15 to provide funding for peer mentoring services for veterans treatment court participants. The Department has requested continuation of the full \$624,877 for FY 2017-18.

Allocation and Use of Funds. The funding described above is appropriated for the provision of treatment and services to offenders participating in veterans treatment courts. In addition, the Problem-solving Courts line item (in the Administration and Technology, Centrally

Administered Programs subsection of the budget) provides funding for the staffing of problem-solving courts, including veterans treatment courts.

There are currently six veterans treatment courts in operation. The following table, prepared by the Department, lists the capacity of each court along with the funding that is currently allocated to each court for peer mentors and treatment services. The Department indicates that it has supplemented the funds identified in this footnote with \$90,000 from the Correctional Treatment Cash Fund to provide funding for those courts that started operations after FY 2012-13 (Brighton, Golden, and Pueblo). Thus, the allocations below total \$714,877.

FY17 Veteran's Trauma Court (VTC)

Capacity	District	Location	County	Peer mentor hours (b)	Allocation	mileage reimbursement	Operating allocation	Treatment allocation	Total VTC allocation
40	1	Golden	Jefferson	0.5	\$32,500	\$4,563	\$1,500	\$46,539	\$85,102
30	2	Denver	Denver	0.5	32,500	4,563	1,500	34,904	73,467
150	4	Co. Spring	El Paso	1.5	97,500	13,688	2,000	264,521	377,709
15	10	Pueblo	Pueblo	0.5	32,500	4,563	1,500	17,452	56,015
25	17	Brighton	Adams	0.5	32,500	4,563	1,500	29,087	67,649
30	18 (a)	Centennial	Arapahoe	0.25	16,250	2,281	1,500	34,904	54,936
290	Total			3.8	\$243,750	\$34,219	\$9,500	\$427,408	\$714,877

Total Long Bill Allocation (GF)	\$624,877
Correctional Treatment CF	90,000
Total VTC Allocation	\$714,877

NOTES:

Peer Mentor hourly assumptions are based on a full time mentor annual salary of \$65K with the part-time mentors salaries prorated and the need for .5 mentor per 50 participants

Mileage reimbursement assumption: 50 miles per day per mentor

a/ district did not need full peer appropriation at time of allocation due available grant funds

b/ peer mentors are not judicial employees and should not be paid as such

Operating allocation: Estimate of cost to operate VTC

Treatment allocation: Based on the percentage of capacity of court.

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

COMMENT: This is the first of six footnotes that authorize the independent agencies to transfer a limited amount of funding among their own line item appropriations, over and above transfers that are statutorily authorized. Section 24-75-108 (5), C.R.S., allows the Chief Justice of the Colorado Supreme Court to authorize transfers between items of appropriation made to the Judicial Branch, subject to certain limitations. One of these limitations is expressed in Section 24-75-110, C.R.S., which limits the total amount of over expenditures and moneys transferred within the Judicial Branch to \$1.0 million per fiscal year.

The Office of the State Public Defender (OSPD) is in compliance with this footnote. This footnote provides the OSPD with the authority to transfer up to 2.5 percent of its total FY 2016-17 appropriation (\$2,160,663) between line items. In FY 2015-16, the OSPD transferred \$542,724 (0.6 percent) between line items. The following table details the line items affected by such transfers.

TRANSFERS MADE BY THE OFFICE OF THE STATE PUBLIC DEFENDER PURSUANT TO LONG BILL FOOTNOTE: FY 2015-16			
LONG BILL LINE ITEM	TRANSFERS IN	TRANSFERS OUT	NET TRANSFERS
Personal Services	\$0	(\$542,724)	(\$542,724)
Operating Expenses	0	0	0
Leased Space/ Utilities	0	0	0
Vehicle Lease Payments	0	0	0
Automation Plan	0	0	0
Mandated Costs	542,724	0	542,724
<i>Transfer to/ (from) Other Judicial Agencies</i>	<i>0</i>	<i>0</i>	<i>0</i>
TOTAL	\$542,724	(\$542,724)	\$0

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

COMMENT: The Office of the Alternate Defense Counsel (OADC) is in compliance with this footnote. This footnote provides the OADC with the authority to transfer up to 2.5 percent of its total FY 2016-17 appropriation (\$785,079) between line items. In FY 2015-16, the OADC transferred \$195,627 (0.6 percent) between line items. The following table details the line items affected by such transfers.

TRANSFERS MADE BY THE OFFICE OF THE ALTERNATE DEFENSE COUNSEL PURSUANT TO LONG BILL FOOTNOTE: FY 2015-16			
LONG BILL LINE ITEM	TRANSFERS IN	TRANSFERS OUT	NET TRANSFERS
Personal Services	\$0	(\$30,435)	(\$30,435)
Operating Expenses	20,391	0	20,391
Leased Space	0	0	0
Training and Conferences	1,132	0	1,132
Conflict of Interest Contracts	22,690	(165,192)	(142,502)
Mandated Costs	151,414	0	151,414
<i>Transfer to/ (from) Other Judicial Agencies</i>	<i>0</i>	<i>0</i>	<i>0</i>
TOTAL	\$195,627	(\$195,627)	\$0

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

COMMENT: The Office of Child's Representative is in compliance with this footnote. This footnote provides the OCR with the authority to transfer up to 2.5 percent of its total FY 2016-17 appropriation (\$599,737) between line items. In FY 2015-16, the OCR transferred a total of \$64,000 (0.3 percent) between line items. In addition, a \$501,500 was transferred to the Judicial Department to cover a variety of expenditures¹³ as allowed pursuant to Section 24-75-110, C.R.S. The latter transfer falls within the \$1.0 million statutory limitation on transfers within the Judicial Branch. The following table details the line items affected by such transfers.

TRANSFERS MADE BY THE OFFICE OF THE CHILD'S REPRESENTATIVE PURSUANT TO LONG BILL FOOTNOTE: FY 2015-16			
LONG BILL LINE ITEM	TRANSFERS IN	TRANSFERS OUT	NET TRANSFERS
Personal Services	\$0	\$0	\$0
Operating Expenses	60,000	0	60,000
Capital Outlay	0	0	0
Leased Space	0	0	0
Training	4,000	0	4,000
Court Appointed Counsel	0	(565,500)	(565,500)
Mandated Costs	0	0	0
<i>Transfer to/ (from) Other Judicial Agencies</i>	<i>501,500</i>	<i>0</i>	<i>501,500</i>
TOTAL	\$565,500	(\$565,500)	\$0

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

COMMENT: The Office of the Respondent Parents' Counsel is in compliance with this footnote. This footnote provides the Office of the Respondent Parents' Counsel (ORPC) with the authority to transfer up to 2.5 percent of its total FY 2016-17 appropriation (\$23,950) between line items. In FY 2015-16, the ORPC transferred the maximum amount allowed between line items. The following table details the line items affected by such transfers.

¹³ Primarily, these transfers were used to cover expenditures related to language interpreter services and court-appointed counsel.

TRANSFERS MADE BY THE OFFICE OF THE RESPONDENT PARENTS' COUNSEL PURSUANT TO LONG BILL FOOTNOTE: FY 2015-16			
LONG BILL LINE ITEM	TRANSFERS IN	TRANSFERS OUT	NET TRANSFERS
Personal Services	\$0	(\$23,950)	(\$23,950)
Operating Expenses	1,112	0	1,112
Legal Services	0	0	0
Case Management System	22,838	0	22,838
Training	0	0	0
Court-appointed Counsel			
Mandated Costs	0	0	0
<i>Transfer to/ (from) Other Judicial Agencies</i>	<i>0</i>	<i>0</i>	<i>0</i>
TOTAL	\$23,950	(\$23,950)	\$0

63 Judicial Department, Office of the Child Protection Ombudsman -- In addition to the transfer authority provided in Section 24-75-108 (5), C.R.S., up to 10.0 percent of the total Office of the Child Protection Ombudsman appropriation may be transferred between line items in the Office of the Child Protection Ombudsman.

COMMENT: This footnote provides the Office with the authority to transfer up to 10.0 percent of its total FY 2016-17 appropriation (\$61,446) between line items. This Office was created as an independent agency within the Judicial Branch pursuant to S.B. 15-204, so this footnote was added to the 2016 Long Bill. Please note, however, that in FY 2015-16 \$1,032 was transferred from this office to the Judicial Department to cover a variety of expenditures¹⁴ as allowed pursuant to Section 24-75-110, C.R.S. The transfer falls within the \$1.0 million statutory limitation on transfers within the Judicial Branch.

64 Judicial Department, Independent Ethics Commission -- In addition to the transfer authority provided in Section 24-75-108 (5), C.R.S., up to 10.0 percent of the total Independent Ethics Commission appropriation may be transferred between line items in the Independent Ethics Commission.

COMMENT: The Independent Ethics Commission is in compliance with this footnote. This footnote provides the Commission with the authority to transfer up to 10.0 percent of its total FY 2016-17 appropriation (\$35,910) between line items. In FY 2015-16, the Commission did not utilize this transfer authority. Please note, however, that in FY 2015-16 \$57,622 was transferred from this office to the Judicial Department to cover a variety of expenditures¹⁵ as allowed pursuant to Section 24-75-110, C.R.S. The transfer falls within the \$1.0 million statutory limitation on transfers within the Judicial Branch.

¹⁴ Primarily, these transfers were used to cover expenditures related to language interpreter services and court-appointed counsel.

¹⁵ Primarily, these transfers were used to cover expenditures related to language interpreter services and court-appointed counsel.

UPDATE ON REQUESTS FOR INFORMATION

Requests Applicable to Multiple Departments, Including Judicial Branch

- 4 Department of Corrections; Department of Human Services; Judicial Department; Department of Public Safety; and Department of Transportation** -- State agencies involved in multi-agency programs requiring separate appropriations to each agency are requested to designate one lead agency to be responsible for submitting a comprehensive annual budget request for such programs to the Joint Budget Committee, including prior year, request year, and three year forecasts for revenues into the fund and expenditures from the fund by agency. The requests should be sustainable for the length of the forecast based on anticipated revenues. Each agency is still requested to submit its portion of such request with its own budget document. This applies to requests for appropriation from: the Alcohol and Drug Driving Safety Program Fund, the Law Enforcement Assistance Fund, the Offender Identification Fund, the Persistent Drunk Driver Cash Fund, and the Sex Offender Surcharge Fund, among other programs.

COMMENT: This request for information is intended to ensure that Departments coordinate requests that draw on the same cash fund. Each Department is required to include, as part of its budget request, a Cash Fund Report (a "schedule 9") for each cash fund it administers to comply with the statutory limit on cash fund reserves, and to allow both the Office of State Planning and Budgeting and the Joint Budget Committee to make informed decisions regarding the utilization of cash funds for budgeting purposes. For funds that are shared by multiple departments, the department that administers the fund is responsible for coordinating submission of expenditure and revenue information from all departments to construct a schedule 9 that incorporates all activity in the fund.

Each of the funds referenced in this RFI are listed below, with a brief explanation of fund revenues and authorized expenditures.

Alcohol and Drug Driving Safety Program Fund [Section 42-4-1301.3 (4) (a), C.R.S.] - Section 42-4-1301.3, C.R.S., sets forth sentencing guidelines for persons convicted of driving under the influence (DUI), persons convicted of driving while ability impaired (DWAI), and persons who are habitual users of a controlled substance who are convicted of driving a vehicle. The Judicial Department is required to administer an Alcohol and Drug Driving Safety (ADDS) Program in each judicial district. This program is to provide: (1) pre-sentence and post-sentence alcohol and drug evaluations of all persons convicted of driving violations related to alcohol or drugs; and (2) supervision and monitoring of those persons whose sentences or terms of probation require completion of a program of alcohol and drug driving safety education or treatment.

The ADDS Program Fund consists of assessments designed to ensure that the ADDS Program is self-supporting. Assessments include fees paid by individuals for alcohol and drug evaluations, as well as inspection fees paid by approved alcohol and drug treatment facilities. The evaluation fee was increased from \$181 to \$200 in FY 2007-08. Money in the Fund is subject to annual appropriation to the Judicial Department and the Department of

Human Services' Office of Behavioral Health for the administration of the ADDS Program. These two departments are required to propose changes to these assessments as required to ensure that the ADDS Program is financially self-supporting. Any adjustment in the assessments approved by the General Assembly is to be "noted in the appropriation...as a footnote or line item related to this program in the general appropriations bill".

The Judicial Department receives a direct appropriation from the Fund to support probation programs (\$3,516,016 for FY 2016-17), and a portion of this funding is transferred to the Department of Human Services for the administration of alcohol and drug abuse services (\$479,064 for FY 2016-17). The Judicial Department's FY 2017-18 budget request includes a schedule 9 for this fund.

Please note that for a number of years fund revenues were not sufficient to support annual appropriations, so the Judicial Department put a spending restriction in place each year. Last Spring, JBC staff recommended reducing the appropriation to the Judicial Department by \$2,000,000 starting in FY 2016-17 to better reflect available revenues and likely expenditures. The Judicial Department provided data indicating that total expenditures from the Fund had declined from \$5,224,359 in FY 2008-09 to \$4,179,164 in FY 2014-15. Over this same time period, the number of presentence and post sentence alcohol and drug driving evaluations declined from 26,340 to 18,597 and the number of new probationers requiring DUI/DWAI supervision or monitoring declined from 26,626 to 21,765. Thus, as Fund revenues declined, so had the Judicial Department's workload. The Department indicated that the existing revenues appear to be sufficient to sustain the work associated with the ADDS Program statutory requirements, and thus the Department did not recommend any fee increases to increase fund revenues. The JBC and the General Assembly approved this recommendation.

Law Enforcement Assistance Fund [Section 43-4-401, C.R.S.] – This fund consists of revenues from a \$75 surcharge on drunk and drugged driving convictions to help pay for enforcement, laboratory charges, and prevention programs. Moneys in the fund are appropriated to the Department of Human Services (for a statewide program for the prevention of driving after drinking), the Department of Public Health and Environment (for evidential breath alcohol testing and implied consent specialists), and the Department of Public Safety's Colorado Bureau of Investigation (for toxicology laboratory services). Remaining funds are credited to a Drunken Driving Account and made available to the Department of Transportation's Office of Transportation Safety for allocation to local governments for drunken driving prevention and law enforcement programs. The Judicial Department does not receive any appropriations from this fund. The Department of Transportation's FY 2017-18 budget request includes a schedule 9 for this fund.

Offender Identification Fund [Section 24-33.5-415.6 (1), C.R.S.] - This fund consists of payments for genetic testing received from certain adult and juvenile offenders. The testing fee is currently \$128. Every individual who is arrested or charged for a felony must provide a DNA sample to the local law enforcement agency as part of the booking process, unless the Colorado Bureau of Investigation (CBI) already has a sample. There is also a surcharge of \$2.50 on defendants for each criminal action resulting in a conviction or a deferred judgment and sentence for a felony, misdemeanor, misdemeanor traffic charges, and traffic infractions.

The Judicial Department is responsible for collecting biological substance samples from offenders who are sentenced to probation. The Department of Corrections, the Department of Human Services' Division of Youth Corrections, county sheriffs, and community corrections programs are responsible for collecting biological substance samples from offenders in their custody. The CBI is responsible for conducting the chemical testing of the samples, storing and preserving the samples, filing and maintaining test results, and furnishing test results to law enforcement agencies upon request. The CBI is also required to provide test kits to local law enforcement agencies throughout the state to collect DNA samples from arrestees.

Money in the Fund is subject to annual appropriation to the Judicial Department and the Department of Public Safety to pay for genetic testing of offenders. The Judicial Department receives a direct appropriation from the Fund (\$60,943 for FY 2016-17). The Judicial Department's FY 2017-18 budget request includes a schedule 9 for this fund.

Persistent Drunk Driver Cash Fund [Section 42-3-303 (1), C.R.S.] - This fund consists of penalty surcharge fees paid by persons convicted of DUI, DUI per se, or DWAI, as well as a person who is a habitual user of a controlled substance who is convicted of a misdemeanor for driving a vehicle. Money in the Fund is subject to annual appropriation to:

- pay the costs incurred by the Department of Revenue concerning persistent drunk drivers;
- pay for costs incurred by the Department of Revenue for computer programming changes related to treatment compliance for persistent drunk drivers;
- support programs that are intended to deter persistent drunk driving or intended to educate the public, with particular emphasis on the education of young drivers, regarding the dangers of persistent drunk driving;
- pay a portion of the costs of intervention and treatment services for persistent drunk drivers who are unable to pay for such services;
- assist in providing court-ordered alcohol treatment programs for indigent and incarcerated offenders;
- assist in providing approved ignition interlock devices for indigent offenders; and
- assist in providing continuous monitoring technology or devices for indigent offenders.

The Judicial Department receives money from the Fund transferred from the Department of Human Services (\$888,341 for FY 2016-17). The Department of Human Services' FY 2017-18 budget request includes a schedule 9 for this fund.

Sex Offender Surcharge Fund [Section 18-21-103 (3), C.R.S.] - This fund consists of 95 percent of sex offender surcharge revenues. These surcharges range from \$150 to \$3,000 for each conviction or adjudication. Moneys in the Fund are subject to annual appropriation to the Judicial Department, the Department of Corrections, the Department of Public Safety's Division of Criminal Justice, and the Department of Human Services to cover the direct and indirect costs associated with the evaluation, identification, and treatment and the continued monitoring of sex offenders. Pursuant to Section 16-11.7-103 (4) (c), C.R.S., the Sex Offender Management Board (SOMB) is required to develop a plan for the allocation of moneys deposited in the Fund, and to submit the plan to the General Assembly.

The Judicial Department receives a direct appropriation from the Fund to support treatment and services for offenders on probation (\$302,029 for FY 2016-17). Under the plan submitted by the SOMB, this appropriation would not change for FY 2017-18. The Judicial Department's FY 2017-18 budget request includes a schedule 9 for this fund.

Requests Applicable to Judicial Branch Only

- Judicial Department, Office of the State Public Defender – The State Public Defender is requested to provide by November 1, 2016, a report concerning the Appellate Division's progress in reducing its case backlog, including the following data for FY 2015-16: the number of new cases; the number of opening briefs filed by the Office of the State Public Defender; the number of cases resolved in other ways; the number of cases closed; and the number of cases awaiting an opening brief as of June 30, 2016.

COMMENT: In the Fall of 2013, the Office of the State Public Defender (OSPD) submitted a request to add 16.0 FTE to reduce a growing backlog of appellate cases. This funding request was submitted in response to a request for information from the General Assembly. The General Assembly approved the request and appropriated \$839,684 General Fund for FY 2014-15, and added a request for information (above) to monitor the OSPD's progress in reducing the backlog. The Committee submits a similar request for information to the Department of Law to monitor that agency's progress in reducing the backlog of criminal appellate cases. The OSPD provided the information requested, which is discussed below. Staff has also included background information concerning:

- the OSPD appellate workload;
- the consequences of a growing case backlog; and
- the OSPD's request for additional appellate resources for FY 2014-15.

OSPD's November 1, 2016 Response. The OSPD provided the requested data for FY 2015-16, which is included in Table 1, below. The OSPD indicates that the Appellate Division is expected to carry a total of 2,229 active felony appeals cases in FY 2016-17, including:

- the backlog of 622 cases carried over from previous years for which an opening brief has not yet been filed;
- 558 new cases for which an opening brief has not yet been filed; and
- 1,049 cases at various stages of the process.

TABLE 1

OSPD APPELLATE DIVISION STAFFING AND FELONY APPEAL CASELOAD STATISTICS AS OF NOVEMBER 1, 2016

FISCAL YEAR	FUNDED ATTORNEY FTE IN APPELLATE DIVISION				FELONY APPEALS CASELOAD DATA					
	MANAGEMENT, SUPERVISION, AND COMPLEX CASE MANAGEMENT	COUNTY COURT AND JUVENILE APPEALS	FELONY APPEALS	TOTAL	TOTAL ACTIVE FELONY APPEALS	NEW CASES	OPENING BRIEFS FILED BY OSPD	CASES RESOLVED OTHER WAYS	TOTAL CASES CLOSED	CASES AWAITING OPENING BRIEF ("BACKLOG")
1999-00			25.0	25.0	825	487			387	369
2007-08			29.0	29.0	1,834	606	465	121	586	611
2008-09			31.8	31.8	1,804	627	450	205	655	583
2009-10			31.8	31.8	1,784	602	427	124	551	634
2010-11			31.8	31.8	1,840	575	415	142	557	652

TABLE 1

OSP D APPELLATE DIVISION STAFFING AND FELONY APPEAL CASELOAD STATISTICS AS OF NOVEMBER 1, 2016

FISCAL YEAR	FUNDED ATTORNEY FTE IN APPELLATE DIVISION				FELONY APPEALS CASELOAD DATA					
	MANAGEMENT, SUPERVISION, AND COMPLEX CASE MANAGEMENT	COUNTY COURT AND JUVENILE APPEALS	FELONY APPEALS	TOTAL	TOTAL ACTIVE FELONY APPEALS	NEW CASES	OPENING BRIEFS FILED BY OSP D	CASES RESOLVED OTHER WAYS	TOTAL CASES CLOSED	CASES AWAITING OPENING BRIEF ("BACKLOG")
2011-12			34.8	34.8	1,939	589	460	133	593	648
2012-13	1.0		33.8	34.8	1,931	585	427	135	562	671
2013-14	4.0		31.8	35.8	2,341	573	367	127	495	749
2014-15	4.0	2.0	41.3	47.3	2,282	533	422	122	544	738
2015-16	3.0	2.0	42.3	47.3	2,234	511	486	141	627	622
2016-17 Proj.	3.0	2.0	42.3	47.3	2,229	558	486	132	618	563
2017-18 Proj.	3.0	2.0	42.3	47.3	2,170	558	486	132	618	503
2018-19 Proj.	3.0	2.0	42.3	47.3	2,110	558	486	132	618	444
2019-20 Proj.	3.0	2.0	42.3	47.3	2,051	558	486	132	618	384
2020-21 Proj.	3.0	2.0	42.3	47.3	1,992	558	486	132	618	325

The OSPD is now projecting that it will take seven years (rather than five) to achieve a sustainable level of backlog (about 335).

As noted above, the Department of Law is required to provide similar statistics to allow the General Assembly to monitor its progress in reducing its backlog of criminal appellate cases. Staff has provided Table 2, below, to summarize the data provide by both agencies.

TABLE 2

DEPARTMENT OF LAW (LAW) AND OFFICE OF THE STATE PUBLIC DEFENDER (OSP D) FELONY APPEALS CASE STATISTICS AS OF NOVEMBER 1, 2016

FISCAL YEAR	OSP D			LAW		
	TOTAL ACTIVE FELONY CASES	OPENING BRIEFS FILED	CASE BACKLOG	OPENING BRIEFS RECEIVED	ANSWER BRIEFS FILED	CASE BACKLOG ^a
2009-10	1,784	427	634	1,152	1,054	434
2010-11	1,840	415	652	1,050	1,021	398
2011-12	1,939	460	648	1,171	894	608
2012-13	1,931	427	671	1,018	885	564
2013-14 ^a	2,341	367	749	911	1,149	320
2014-15 ^a	2,282	422	738	952	1,017	264
2015-16	2,234	486	622	1,056	911	428

a/ The Department of Law previously reported case backlogs of 272 for June 2014 and 168 for June 2015. However, in November 2016 the Department indicated that due to an error that was inadvertently introduced into backlog calculations, these backlog figures were inaccurate. The Department's revised figures are reflected above.

The Department of Law was initially successful in reducing its backlog of cases for which an answer brief has not been filed, particularly with the additional resources that were provided in FY 2013-14. Once the OSPD filled the new positions that were authorized in FY 2014-15, it has been successful in increasing the number of opening briefs filed. This, in turn, has affected the Department of Law's case backlog.

Background Information - OSPD Appellate Workload and Backlog. The OSPD represents indigent criminal defendants in both the trial and appellate courts. With respect to felony appeals, the OSPD's central Appellate Division represents appeals from all indigent clients throughout the state, regardless of who may have represented them in prior court proceedings (e.g., court-appointed, Alternate Defense Counsel, and private attorneys). Prior to FY 2014-15, the OSPD's regional trial offices handled county court and juvenile appeals in their respective jurisdictions; now the Appellate Division handles these appeals as well.

The Department of Law also handles criminal appeals, representing the prosecution when a defendant challenges his or her felony conviction before the state appellate court or the federal courts. The General Assembly provided additional resources in FY 2013-14 for the Department of Law to reduce its backlog of cases awaiting the filing of an answer brief. As the Department of Law reduces its backlog, the OSPD is required to respond more quickly by filing a reply brief, thus exacerbating the OSPD's backlog of cases awaiting the filing of opening briefs. Given this dynamic, and with the goal of reducing the overall time required to process criminal appeals cases, the General Assembly requested that the State Public Defender provide information concerning his Office's appellate case backlog, and the potential resources that would be required to reduce the backlog to a reasonable level within five fiscal years.

The OSPD reported that its backlog of appellate cases awaiting the filing of an opening brief had increased from 369 in June 2000 to 671 in June 2013; with existing resources this backlog was projected to continue growing by 26 cases per year. From FY 1999-00 through FY 2009-10, the number of new appellate cases for the OSPD increased at an annual rate of 3.8 percent. On average, the number of new cases outpaced the number of closed cases, resulting in a growing number of active cases.

Background Information - Consequences of Growing Backlog. The timeline established by Colorado Appellate Rules contemplates a total of 252 days between the entry of judgment in district court and the filing of a reply brief. These rules require Opening Briefs to be filed 42 days after the record on appeal is filed, followed by an answer brief 35 days later, and a reply brief 21 days later. Due to the backlogs experienced by both the OSPD and the Department of Law, the Court of Appeals had been granting significant extensions for both opening briefs and answer briefs. However, in November 2012, the Court announced a more restrictive policy regarding extensions of time.

On July 1, 2013, the Court of Appeals dismissed an appeal in *People v. Rodney Eddy* (Case No. 10CA2492), a case handled by the OSPD. The Court's dismissal order cited the significant extensions of time that had been granted and the Court's new policy related to extensions, and indicated that the Court was not persuaded that further extensions were warranted. The OSPD immediately requested that the Court of Appeals reconsider its dismissal order. The Department of Law and the Office of the Alternate Defense Counsel supported the OSPD request to reinstate Mr. Eddy's appeal since dismissals of criminal appeals would result in a claim of ineffective assistance of counsel against the OSPD, thus impacting the workload of those agencies. In light of this, indications that the OSPD planned to request additional resources to address its backlog, as well as the progress the OSPD had made in reducing its backlog of the oldest cases, the Court reinstated Mr. Eddy's appeal in August 2013.

OSPD Funding Request. The OSPD's FY 2014-15 budget request included funding to add 16.0 FTE to its Appellate Division, as described below:

- Add 8.0 FTE attorneys in the Appellate Division to increase the number of opening briefs that are filed each year, reducing the backlog by about 99 each year or nearly 500 over five years.
- Add 2.0 FTE attorneys in the Appellate Division to handle county court and juvenile appellate cases. Previously, OSPD regional offices handled all county court and juvenile appeals. The OSPD proposed consolidating county, juvenile, and felony appeals in the OSPD's Appellate Division to make the appellate process more efficient and effective.
- Add 1.0 FTE attorney to handle the additional reply brief workload anticipated to result from the resources recently provided to the Department of Law.
- Add 5.0 FTE paralegals and administrative staff to support the above 11.0 FTE attorneys.

- 2 Judicial Department, Probation and Related Services – The State Court Administrator's Office is requested to provide by November 1 of each year a report on pre-release rates of recidivism and unsuccessful terminations and post-release recidivism rates among offenders in all segments of the probation population, including the following: adult and juvenile intensive supervision; adult and juvenile minimum, medium, and maximum supervision; and the female offender program. The Office is requested to include information about the disposition of pre-release failures and post-release recidivists, including how many offenders are incarcerated (in different kinds of facilities) and how many offenders return to probation as the result of violations.

COMMENT: The Department submitted the information, as requested. On June 30, 2015, there were 73,919 offenders on probation in Colorado,¹⁶ including 69,941 adults and 3,978 juveniles. This report concerns recidivism among the 38,696 probationers who were terminated during FY 2014-15. The information and key findings contained in the report are summarized below.

Supervision of Offenders Sentenced to Probation

Probation officers use validated instruments¹⁷ to assess an individual's risk of reoffending in order to allocate resources based on risk. This involves an evaluation of an offender's "criminogenic needs" – those risk factors that are predictors of future criminal behavior.¹⁸

¹⁶ The total of 73,919 includes individuals under state and private (DUI and non-DUI) probation supervision. An additional 3,997 offenders were monitored by state probation but were not part of this study.

¹⁷ Colorado probation officers use the Level of Supervision Inventory (LSI) to classify adults according to risk level and the Colorado Juvenile Risk Assessment (CJRA) to classify juveniles. The LSI is a research-based, reliable and valid, actuarial risk instrument that predicts outcome (success on supervision and recidivism). The LSI is commonly used by probation and parole officers and other correctional workers in the United States and abroad. The CJRA is based on similar research used to develop the LSI, but it was developed by Colorado criminal justice professionals and validated on a Colorado sample of juvenile offenders. Both of these classification tools result in one of three supervision levels: minimum, medium, or maximum.

¹⁸ Colorado Probation identifies the following eight criminogenic needs (with the first four being the most important): history of anti-social behavior; anti-social personality pattern; anti-social attitudes/cognition; anti-social associates/peers; family/marital stressors; lack of employment stability or work/educational achievement; lack of pro-social activities; and substance abuse.

Probationer officers supervise offenders within the community according to their assessed risk level and with a focus on positive behavior change. Probationers are referred to appropriate community-based treatment and skill-based programs based upon their assessed needs. Many problem-solving courts (e.g. adult drug court) are utilized throughout the state to address those offenders who are higher risk and have significant treatment needs.

Recidivism Definitions

The annual report is based on the following definitions related to recidivism:

- “Pre-release Recidivism” includes an adjudication or conviction for a felony or a misdemeanor, or a technical violation relating to a criminal offense, while under supervision in a criminal justice program.
- “Post-release Recidivism” includes a filing for a felony or misdemeanor (whether or not it resulted in a conviction) within one year of termination from program placement for a criminal offense.
- “Overall success” reflects those offenders who did not recidivate either prior to or for one year following release.

Pre-release Recidivism

- Pre-release recidivism rates increased for both juveniles and adults compared to the prior year. For FY 2014-15, 29.8 percent of juveniles on regular probation either committed a new crime or a technical violation while under supervision (an increase from 27.0 percent for FY 2013-14). For FY 2014-15, 30.0 percent of adults on regular probation either committed a new crime or a technical violation while under supervision (an increase from 28.5 percent for FY 2013-14).
- As expected based on their risk assessment, both juveniles and adults supervised at the most intensive level and those supervised by other agencies (e.g., county jail work release programs, detention centers, or residential placements) were most likely to fail while under supervision. This is true even among probationers who are categorized as being under "regular" supervision. For example, among adults on regular probation, the overall pre-release failure rate was 30.0 percent for FY 2014-15. However, this failure rate ranged from 4.4 percent for individuals on minimum supervision level to 23.7 percent for those on medium supervision level to 69.5 percent for those on maximum supervision level.
- Probation is more likely to be revoked due to offenders committing technical violations rather than a new crime.

Post-release Recidivism

- Of the 1,953 juveniles who successfully completed regular probation supervision, 289 (14.8 percent) received a new filing within one year. Of the 96 juveniles who successfully completed intensive probation supervision, 12 (12.5 percent) received a new filing.
- Of the 24,434 adults who successfully completed regular probation supervision, 1,393 (5.7 percent) received a new filing within one year. Post-release recidivism rates for those who successfully completed the Adult Intensive Supervision Program (AISP) and the Female Offender Program (FOP) were 2.6 percent and 1.1 percent, respectively.

Overall Success Rate

The overall success rate, defined as individuals who successfully completed probation and did not receive a new filing within one year of leaving probation supervision, decreased for all categories of probationers. For juveniles under regular supervision, 59.7 percent were successful one year after release (compared to 62.9 percent for FY 2013-14). For adults under regular supervision, 66.0 percent were successful one year after release (compared to 67.9 percent for FY 2013-14).

The Department indicates that recent legislation concerning the sentencing of individuals convicted of drug-related offenses (S.B. 13-250) has affected the number, types, and distribution of offenders within probation programs, and is likely impacting recidivism rates for each program. This act requires that offenders be placed under intensive supervision based on the use of a validated risk assessment to determine an offender's risk of reoffending, and the application of specific acceptance criteria. The Department is continuing to identify offender typologies (based on common characteristics that affect risk and need levels) and the associated evidence-based supervision strategies for each typology. In 2014, the Department created the "limit setter intensive probation" (LSIP) program for the higher risk/lower needs population representing a type of offenders who are career criminals. The Department plans to create a second intensive supervision program for the higher risk/higher needs population. Currently, however, these offenders are supervised under regular supervision.

The following table summarizes recidivism data for both adults and juveniles with a "regular" (rather than intensive) supervision level, for the most recent ten fiscal years.

PROBATION RECIDIVISM RATES					
TERMINATION COHORTS FOR FISCAL YEARS 2005-06 THROUGH 2014-15 ^a					
SUPERVISION LEVEL AT TIME OF TERMINATION	FISCAL YEAR	PRE-RELEASE RECIDIVISM		POST-RELEASE RECIDIVISM	OVERALL SUCCESS
		TECHNICAL VIOLATION	NEW CRIME		
Juvenile - Regular	2005-06	23.8%	6.6%	10.7%	58.9%
	2006-07	21.5%	6.8%	11.6%	60.1%
	2007-08	20.9%	6.6%	11.1%	61.4%
	2008-09	19.3%	7.0%	11.3%	62.4%
	2009-10	19.9%	7.1%	10.3%	62.7%
	2010-11	15.0%	5.9%	12.4%	66.7%
	2011-12	17.8%	7.6%	10.9%	63.7%
	2012-13	20.0%	7.5%	9.8%	62.7%
	2013-14	19.5%	7.5%	10.1%	62.9%
	2014-15	22.8%	7.0%	10.4%	59.7%
2,785	Individuals	636	196	289	1,664
Adult - Regular	2005-06	33.0%	6.3%	5.0%	55.7%
	2006-07	31.8%	7.1%	5.2%	55.9%
	2007-08	29.3%	6.3%	4.7%	59.7%
	2008-09	25.0%	6.1%	4.6%	64.3%
	2009-10	21.2%	5.5%	4.4%	68.9%
	2010-11	20.0%	5.0%	4.3%	70.6%
	2011-12	20.4%	5.1%	4.5%	70.0%
	2012-13	21.6%	5.3%	3.8%	69.3%
	2013-14	23.3%	5.2%	3.7%	67.9%
	2014-15	24.4%	5.6%	4.0%	66.0%
34,885	Individuals	8,508	1,943	1,393	23,041

a/ Data for all fiscal years prior to FY 2009-10 excludes DUI offenders. Beginning in FY 2009-10, data includes DUI offenders under state or private probation supervision who are receiving some probation services; DUI offenders who were under private probation supervision, were "monitored" by state probation, but received no additional probation services continue to be excluded in all fiscal years. In addition, Denver County Court filing data was only made available to Judicial's ICON/Eclipse system (the Judicial Branch's management information system) for FY 2005-06 and FY 2006-07. Thus, post-release recidivism rates may be understated for fiscal years 2004-05, 2007-08, and subsequent fiscal years.

Intensive Supervision Programs

The intensive supervision programs for juveniles (JISP), adults (AISP), and adult females (FOP) were designed as alternatives to incarceration. Offenders placed on these programs have higher risks related to the probability of program failure and the commission of a new crime, and they typically have higher levels of identified needs. The outcomes for these intensive programs in relation to regular supervision are summarized below:

- The overall success rate for JISP is significantly lower than for regular juvenile supervision – 37.5 percent compared to 59.7 percent. For juveniles who terminated probation for *technical violations*, 50.5 percent on JISP were sentenced to the Division of Youth Corrections (DYC) or the Department of Corrections (DOC), compared to 25.2

percent on regular probation.¹⁹ For juveniles who terminated probation for committing a *new crime*, 69.0 percent on JISP were sentenced to NYC or DOC, compared to 40.6 percent on regular probation.

- The overall success rate for AISP is lower than for regular adult supervision – 47.4 percent compared to 66.0 percent. For adults who terminated probation for *technical violations*, 51.9 percent on AISP were sentenced to DOC, compared to 7.8 percent on regular probation.²⁰ For adults who terminated probation for committing a *new crime*, 77.1 percent on AISP were sentenced to DOC, compared to 19.5 percent on regular probation.
- The overall success rate for FOP, 56.3 percent, is also lower than for regular adult supervision. For adults who terminated probation for *technical violations*, 56.9 percent on FOP were sentenced to DOC, compared to 7.8 percent on regular probation. For adults who terminated probation for committing a *new crime*, 83.3 percent on FOP were sentenced to DOC, compared to 19.5 percent on regular probation.

To the extent that these intensive programs divert high risk offenders who would otherwise be incarcerated, they are cost effective. Specifically, for FY 2014-15:

- JISP redirected as many as 84 juveniles from NYC, including 30 who left probation and did not recidivate within one year and 54 who succeeded and were transferred to regular probation. The annual cost to serve a juvenile in NYC in FY 2014-15 was \$85,304, compared to \$4,095 for JISP.
- AISP redirected as many as 301 offenders from DOC, including 46 who left probation and did not recidivate within one year and 255 who succeeded and were transferred to regular probation. FOP redirected as many as 94 women from DOC, including 18 who left probation and did not recidivate within one year and 76 who succeeded and were transferred to regular probation. The annual cost to serve an offender in DOC in FY 2014-15 was \$36,892 and the annual cost to serve an offender in county jail was \$19,250. These annual costs per offender compare to \$3,308 for AISP and \$3,067 for FOP.

The following table summarizes recidivism data for both adults and juveniles with an intensive level of supervision, for the most recent ten fiscal years.

¹⁹ The remaining juveniles who terminated probation were: (a) sentenced to detention or county jail; (b) received an alternate sentence such as fines, community service, or classes; or (c) did not receive a subsequent sentence.

²⁰ The remaining adults who terminated probation were: (a) sentenced to county jail; (b) received an alternate sentence such as fines, community service, or classes; or (c) did not receive a subsequent sentence.

PROBATION RECIDIVISM RATES					
TERMINATION COHORTS FOR FISCAL YEARS 2005-06 THROUGH 2014-15					
SUPERVISION LEVEL AT TIME OF TERMINATION	FISCAL YEAR	PRE-RELEASE RECIDIVISM		POST-RELEASE RECIDIVISM	OVERALL SUCCESS
		TECHNICAL VIOLATION	NEW CRIME		
Juvenile Intensive Supervision Program (JISP)^a	2005-06	43.8%	11.6%	4.6%	40.0%
	2006-07	40.7%	11.5%	4.6%	43.2%
	2007-08	40.8%	18.1%	3.8%	37.3%
	2008-09	37.7%	17.3%	1.5%	43.5%
	2009-10	34.8%	19.4%	1.7%	44.1%
	2010-11	32.1%	18.1%	2.5%	47.3%
	2011-12	34.5%	15.2%	2.3%	48.0%
	2012-13	37.3%	18.0%	3.1%	41.6%
	2013-14	37.0%	16.9%	3.8%	42.3%
	2014-15	40.2%	17.0%	5.4%	37.5%
224	Individuals	90	38	12	84
Adult Intensive Supervision Program (AISP)^{a,b}	2005-06	31.4%	14.7%	1.0%	52.9%
	2006-07	33.1%	10.9%	0.1%	55.9%
	2007-08	31.5%	14.0%	0.4%	54.1%
	2008-09	22.7%	10.8%	0.5%	66.0%
	2009-10	23.9%	10.5%	0.4%	65.2%
	2010-11	22.3%	10.6%	0.7%	66.5%
	2011-12	25.0%	11.0%	0.6%	63.4%
	2012-13	27.2%	11.6%	0.5%	60.7%
	2013-14	26.6%	11.9%	0.7%	60.8%
	2014-15	33.7%	17.6%	1.3%	47.4%
635	Individuals	214	112	8	301
Adult - Female Offender Program (FOP)^a	2005-06	37.2%	6.2%	1.7%	54.9%
	2006-07	28.0%	9.3%	1.1%	61.6%
	2007-08	26.2%	8.7%	1.2%	63.9%
	2008-09	19.9%	7.0%	1.5%	71.6%
	2009-10	21.7%	9.1%	0.7%	68.5%
	2010-11	18.7%	11.3%	1.3%	68.8%
	2011-12	25.6%	7.7%	1.3%	65.4%
	2012-13	28.3%	5.3%	0.6%	65.8%
	2013-14	28.6%	6.3%	2.9%	62.3%
	2014-15	32.3%	10.8%	0.6%	56.3%
167	Individuals	54	18	1	94

a/ Please note that the relatively small number of individuals participating in the intensive programs for juveniles, adults, and female adults can cause recidivism rates to differ significantly from year to year - particularly with respect to post-release recidivism.

b/ While some sex offenders on regular supervision are included in the Adult - regular data (previous table), sex offenders on intensive supervision programs are not reflected at all in the Department's recidivism report. Data related to these offenders is instead reported annually by the Department of Public Safety, Division of Criminal Justice (as required by statute).

3. Judicial Department, Trial Courts, District Attorney Mandated Costs – District Attorneys in each judicial district shall be responsible for allocations made by the Colorado District Attorneys' Council's Mandated Cost Committee. Any increases in this line item shall be requested and justified in writing by the Colorado District Attorneys' Council, rather than the Judicial Department, through the regular appropriation and supplemental appropriation processes. The Colorado District Attorneys' Council is requested to submit an annual report by November 1 detailing how the District Attorney Mandated Costs appropriation is spent, how it is distributed, and the steps taken to control these costs.

COMMENT: The Judicial Department's budget request includes the requested information that was prepared by the Colorado District Attorneys' Council (CDAC).²¹ Staff has summarized the information below. Following that summary, staff included background information about state appropriations that directly benefit District Attorney offices.

District Attorney Mandated Costs. This line item provides state funding to reimburse district attorneys (DAs) for costs incurred for prosecution of state matters, as required by state statute. Section 16-18-101, C.R.S., states that, "The costs in criminal cases shall be paid by the state pursuant to section 13-3-104, C.R.S."²², when the defendant is acquitted or when the defendant is convicted and the court determines he is unable to pay them." Pursuant to Section 18-1.3-701 (2), C.R.S., when a person is convicted of an offense or a juvenile is adjudicated, the Court shall give judgment in favor of the State, the prosecuting attorney, or the law enforcement agency and against the offender or juvenile for the amount of the costs of prosecution. Section 18-1.3-701 (2), C.R.S., specifies the types of expenditures that may be included under this provision.

Based on FY 2015-16 expenditure data provided by the CDAC, DAs' mandated costs consist of the following:

- Witness fees and travel expenses (\$594,555 or 26.8 percent)
- Expert witness fees and travel expenses (\$558,615 or 25.2 percent)
- Mailing subpoenas²³ (\$457,672 or 20.6 percent)
- Service of process²⁴ (\$402,888 or 18.2 percent)
- Court reporter fees for transcripts (\$205,854 or 9.3 percent)

The following table provides a history of appropriations and actual expenditures for this line item, as well as the request for FY 2017-18.

²¹ The CDAC is a quasi-government agency, supported by assessments charged to each district attorney member's office (through an intergovernmental agreement) as well as some State funding.

²² This section states that the State "shall provide funds by annual appropriation for the operations, salaries, and other expenses of all courts of record within the state, except for county courts in the city and county of Denver and municipal courts".

²³ A subpoena is a writ by a government agency, most often a court, which has authority to compel testimony by a witness or production of evidence under a penalty for failure.

²⁴ Service of process is the general term for the legal document (usually a summons) by which a lawsuit is started and the court asserts its jurisdiction over the parties and the controversy.

DISTRICT ATTORNEYS' MANDATED COSTS								
FISCAL YEAR	APPROPRIATION			ACTUAL EXPENDITURES				OVER/ (UNDER) BUDGET
	GENERAL FUND	CASH FUNDS	TOTAL	GENERAL FUND	CASH FUNDS	TOTAL	ANNUAL % CHANGE	
2000-01	\$1,938,724	\$0	\$1,938,724	\$1,889,687	\$0	\$1,889,687		(\$49,037)
2001-02	1,938,724	0	1,938,724	1,978,963	0	1,978,963	4.7%	40,239
2002-03	2,025,199	125,000	2,150,199	1,833,410	71,117	1,904,527	-3.8%	(245,672)
2003-04	2,025,199	125,000	2,150,199	1,847,369	59,334	1,906,703	0.1%	(243,496)
2004-05	1,911,899	0	1,911,899	1,911,970	0	1,911,970	0.3%	71
2005-06	1,911,899	0	1,911,899	1,772,849	106,325	1,879,174	-1.7%	(32,725)
2006-07	1,841,899	125,000	1,966,899	1,928,795	99,090	2,027,885	7.9%	60,986
2007-08	1,837,733	125,000	1,962,733	2,092,974	130,674	2,223,648	9.7%	260,915
2008-09	2,101,052	125,000	2,226,052	2,063,785	125,000	2,188,785	-1.6%	(37,267)
2009-10	2,101,052	125,000	2,226,052	2,101,050	125,000	2,226,050	1.7%	(2)
2010-11 ^a	2,005,324	125,000	2,130,324	2,005,507	125,000	2,130,507	-4.3%	183
2011-12	2,073,494	125,000	2,198,494	2,061,883	125,000	2,186,883	2.6%	(11,611)
2012-13 ^b	2,389,549	140,000	2,529,549	2,164,497	140,000	2,304,497	5.4%	(225,052)
2013-14 ^c	2,491,916	160,000	2,651,916	2,152,067	160,000	2,312,067	0.3%	(339,849)
2014-15 ^d	2,527,153	170,000	2,697,153	2,374,178	160,865	2,535,043	9.6%	(162,110)
2015-16 ^e	2,322,350	170,000	2,492,350	2,177,581	170,000	2,347,581	-7.4%	(144,769)
2016-17	2,247,350	170,000	2,417,350					
2017-18 Request	2,314,770	170,000	2,484,770					

a/ Appropriation reflects reduction of \$17,300 pursuant to H.B. 10-1291.

b/ The appropriation included \$265,100 to reimburse costs in the *Holmes* and *Sigg* cases; a total of \$111,993 was spent.

c/ The appropriation included \$353,500 specifically for the *Holmes* and *Sigg* cases; a total of \$146,660 was spent.

d/ The appropriation included \$300,000 specifically for the *Holmes* case; a total of \$303,820 was spent.

e/ The appropriation included \$75,000 specifically for the *Holmes* case; a total of \$78,275 was spent.

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

The CDAC allocates funds among the 22 judicial districts (including those districts that are not members of the CDAC) based on historical spending. However, the CDAC excludes from this initial allocation: a portion of the appropriation to cover its costs of administering the allocation (5.0 percent of the appropriation or \$120,868 in FY 2016-17); and another amount (typically \$300,000) to cover any unanticipated district needs. District attorneys submit information quarterly concerning costs incurred, as well as projections of annual expenditures. The CDAC has a special process for requesting additional funds above the allocated amount. In order to limit state expenditures, the CDAC has limited expert witness fees to \$1,500 per expert. Fees paid in excess of this limit are only reimbursed if funds

remain available at the end of the fiscal year. In FY 2015-16, DAs' incurred \$70,312 above this limit.

CDAC Request for FY 2017-18. For FY 2017-18, the CDAC requests an appropriation of \$2,484,770, which represents a \$67,420 (2.8 percent) increase compared to the FY 2016-17 appropriation.

Background Information – State Funding for DAs. Colorado's district attorneys' offices (DAs) are responsible for prosecuting all criminal and traffic cases filed in district and county courts. While DAs' budgets are primarily set and funded by boards of county commissioners within each respective judicial district, the General Assembly annually appropriates state funds that directly benefit DAs offices. In Appendix J, staff has provided a table summarizing these state appropriations.

- 4 Judicial Department, Probation and Related Services, Offender Treatment and Services – The State Court Administrator's Office is requested to provide by November 1 of each year a detailed report on how this appropriation is used, including the amount spent on testing, treatment, and assessments for offenders.

COMMENT:

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

The portion of the Offender Treatment and Services appropriation that is designated for offenders on probation is divided among the 22 judicial districts as "block grants" based on the number of FTE and the number of probationers under supervision in each district. Each probation department then develops a local budget for each of the approved treatment and service areas. The local allocation of funds depends on the availability of treatment and services and the particular needs of the local offender population.

FY 2015-16 Expenditures

The table on the following page details actual expenditures from this line item for FY 2014-15 and FY 2015-16. *Probation-related* expenditures from this line item totaled \$15.4 million in FY 2015-16. Similar to previous years, the majority of funds were used to provide substance abuse services (43.5 percent) and sex offender services (17.7 percent). The remaining funds were spent for a variety of services, ranging from domestic violence treatment to language interpreter services. The Department indicates that these funds are instrumental in achieving the reductions in commitments to the Department of Corrections and the Department of Human Services' Division of Youth Corrections.

OFFENDER TREATMENT AND SERVICES LINE ITEM: ACTUAL EXPENDITURES				
TREATMENT OR SERVICE	FY 2014-15		FY 2015-16	
	EXPENDITURES	% OF TOTAL	EXPENDITURES	% OF TOTAL
Substance Abuse Treatment	\$4,024,811	24.7%	\$3,015,381	19.5%
Drug Testing	3,030,418	18.6%	2,983,020	19.3%
Transfer of Persistent Drunk Driver Cash Fund money from DHS	<u>876,222</u>	<u>5.4%</u>	<u>716,833</u>	<u>4.6%</u>
Subtotal: Substance Abuse Services	7,931,451	48.7%	6,715,234	43.5%
Adult Sex Offender Treatment	1,099,802	6.8%	1,015,412	6.6%
Adult Sex Offender Assessment	969,823	6.0%	992,966	6.4%
Adult Sex Offender Polygraphs	414,315	2.5%	416,343	2.7%
Juvenile Sex Offender Assessment and Treatment	283,086	1.7%	240,217	1.6%
Juvenile Sex Offender Polygraphs	<u>76,744</u>	<u>0.5%</u>	<u>70,791</u>	<u>0.5%</u>
Subtotal: Sex Offender Services	2,843,770	17.5%	2,735,729	17.7%
Domestic Violence Treatment	1,181,730	7.3%	1,299,247	8.4%
Emergency Housing and Food	898,414	5.5%	899,217	5.8%
Mental Health Services	677,467	4.2%	745,991	4.8%
Special Needs Services	589,783	3.6%	768,163	5.0%
Transportation Assistance	466,051	2.9%	429,651	2.8%
Electronic Home Monitoring Services	328,668	2.0%	309,510	2.0%
Transfer to Denver County	123,896	0.8%	173,339	1.1%
Incentives for Offenders	197,411	1.2%	154,800	1.0%
Language Interpreter Services	154,784	1.0%	154,456	1.0%
Restorative Justice	132,106	0.8%	145,920	0.9%
Educational/Vocational Assistance	116,678	0.7%	87,531	0.6%
General Medical Assistance	24,429	0.2%	25,599	0.2%
Subtotal: Funds Allocated to/Expended by Districts	15,666,638	96.2%	14,644,387	94.8%
Offender Treatment and Services Administrative Overhead	580,405	3.6%	733,308	4.7%
Evidence-based Practices Research	31,343	0.2%	66,785	0.4%
Initiative to Build Capacity in Rural/Under-served Areas	<u>4,964</u>	<u>0.0%</u>	<u>1,474</u>	<u>0.0%</u>
Total Probation Expenditures	\$16,283,350	100.0%	\$15,445,954	100.0%
Transfer to Department of Corrections for Day Reporting	25,000		24,817	
Other Transfers to Other State Agencies	12,951,507		13,853,259	
TOTAL LINE ITEM EXPENDITURES	\$29,259,857		\$29,324,030	

NOTE: Shaded items above were excluded from the Department's response to the Request for Information. These items are included here for purposes of providing all expenditures that are reported for the Offender Treatment and Services line item.

Compared to FY 2014-15, expenditures for substance abuse services and sex offender treatment decreased, while expenditures for special needs services,²⁵ domestic violence

²⁵ "Special needs services" reflect expenditures on stand-alone treatment that is not part of other treatment regimens (such as substance abuse, domestic violence, or sex offender regimens). Examples of special needs treatment include anger management, parenting skills, social support (mentoring), art therapy, and day reporting.

treatment, and mental health services increased. The Department also spent \$733,308 for administrative expenses, including the following:

- Colorado Collaborative Justice Conference (\$252,093 paid from the Correctional Treatment Cash Fund);
- Travel, registration, office supplies, and other miscellaneous expenses (\$166,394);
- Central treatment contracts (\$150,701);
- Training (\$115,620); and
- Payment of licenses for assessment instruments (\$48,500).

APPENDIX D

DEPARTMENT ANNUAL PERFORMANCE REPORT

Pursuant to Section 2-7-205 (1) (b), C.R.S., the following five Judicial Branch agencies are required to publish an Annual Performance Report by November 1 of each year:

- the Judicial Department (i.e., state courts and probation);
- the Office of the State Public Defender;
- the Office of the Alternate Defense Counsel;
- the Office of the Child's Representative; and
- the Office of the Child Protection Ombudsman.

These reports are to include a summary of the agency's performance plan and most recent performance evaluation. For consideration by the Joint Budget Committee in prioritizing the budget requests submitted by each respective Judicial Branch agency, the FY 2015-16 reports for the agencies listed above can be found at the following links:

Judicial Department

https://www.courts.state.co.us/userfiles/file/Administration/Planning_and_Analysis/SMART%20Act/Performance%20Report%20-%20November%201%2C%202016.pdf

Office of the State Public Defender

<http://www.coloradodefenders.us/wp-content/uploads/2016/10/Smart-FINAL-OSPD-Annual-Performance-Report-due-November-01-2016.pdf>

Office of the Alternate Defense Counsel

<http://www.coloradoadc.org/site2/images/OADCUpload/FY17perfreport.pdf>

Office of the Child's Representative

<http://www.coloradochildrep.org/wp-content/uploads/2016/10/Annual-Performance-Report-final.pdf>

Office of the Child Protection Ombudsman

http://www.coloradocpo.org/wp-content/uploads/CPO_Q1_Performance_Evaluation_FY_2106-2017.pdf

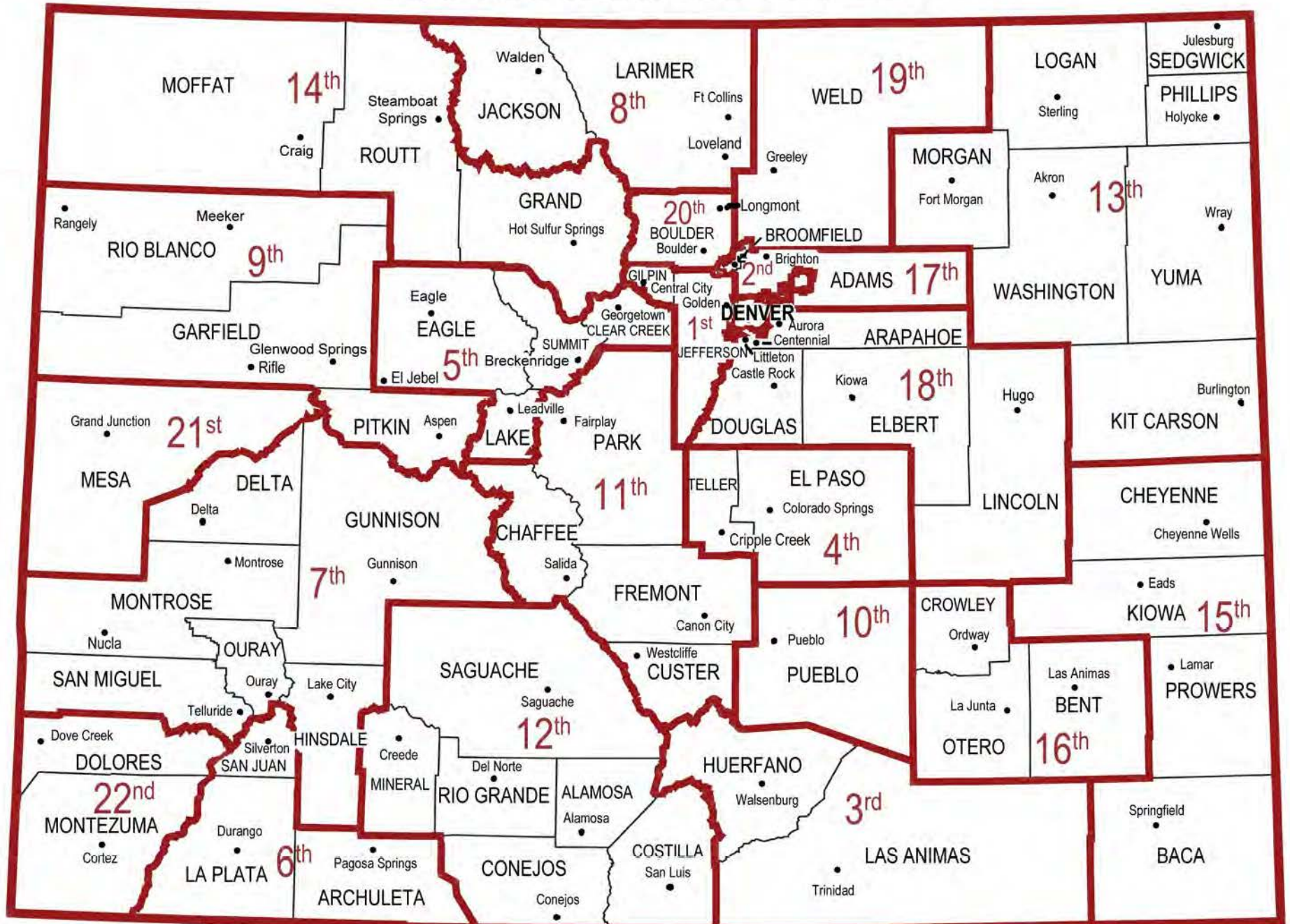
Pursuant to Section 2-7-204 (1) (b) and (c) and (3) (a) (I), C.R.S., the same five Judicial Branch agencies listed above are required to develop a performance plan and submit that plan to the Joint Budget Committee and appropriate Joint Committees of Reference by July 1 of each year. For consideration by the Joint Budget Committee in prioritizing the budget requests submitted by each respective Judicial Branch agency, the FY 2016-17 plans for the agencies listed above can be found at the following links:

Judicial Department, Office of the State Public Defender, Office of the Child's Representative
<https://sites.google.com/a/state.co.us/colorado-performance-management/department-performance-plans/judicial-branch/fy-2016-17-performance-plan-and-evaluation-reports>

Office of the Alternate Defense Counsel
<http://www.coloradoadc.org/site2/images/OADCUpload/fy16-17-performance-plan.pdf>

Office of the Child Protection Ombudsman
http://www.coloradocpo.org/wp-content/uploads/CPO_Performance_Plan_FY_2016_2017.pdf

Judicial Districts of Colorado



Colorado Counties and Corresponding Judicial Districts

Judicial District	County	Judicial District	County
17	Adams	13	Kit Carson
12	Alamosa	6	La Plata
18	Arapahoe	5	Lake
6	Archuleta	8	Larimer
15	Baca	3	Las Animas
16	Bent	18	Lincoln
20	Boulder	13	Logan
17	Broomfield	21	Mesa
11	Chaffee	12	Mineral
15	Cheyenne	14	Moffat
5	Clear Creek	22	Montezuma
12	Conejos	7	Montrose
12	Costilla	13	Morgan
16	Crowley	16	Otero
11	Custer	7	Ouray
7	Delta	11	Park
2	Denver	13	Phillips
22	Dolores	9	Pitkin
18	Douglas	15	Prowers
5	Eagle	10	Pueblo
4	El Paso	9	Rio Blanco
18	Elbert	12	Rio Grande
11	Fremont	14	Routt
9	Garfield	12	Saguache
1	Gilpin	6	San Juan
14	Grand	7	San Miguel
7	Gunnison	13	Sedgwick
7	Hinsdale	5	Summit
3	Huerfano	4	Teller
8	Jackson	13	Washington
1	Jefferson	19	Weld
15	Kiowa	13	Yuma

APPENDIX G

COURT FILINGS BY COURT AND CASE TYPE

This appendix includes three tables that detail the number of new state court case filings for each fiscal year, FY 1998-99 through FY 2015-16. Table 1 details the number of filings for each of the five types of state courts. Table 2 details the number of district court filings by case type, and Table 3 details the number of county court filings by case type.

TABLE 1: NEW CASE FILINGS						
FISCAL YEAR	SUPREME COURT	COURT OF APPEALS	DISTRICT COURTS	WATER COURTS	COUNTY COURTS	TOTAL
1998-99	1,525	2,647	161,341	1,270	451,987	618,770
1999-00	1,617	2,502	159,596	1,224	446,725	611,664
2000-01	1,367	2,335	155,220	1,257	444,629	604,808
2001-02	1,368	2,673	164,237	1,550	469,993	639,821
2002-03	1,401	2,589	169,458	1,672	498,515	673,635
2003-04	1,317	2,558	177,358	1,285	514,094	696,612
2004-05	1,466	2,766	183,512	1,109	555,447	744,300
2005-06	1,393	2,748	189,415	1,303	556,136	750,995
2006-07	1,534	2,548	189,235	1,220	551,197	745,734
2007-08	1,657	2,753	187,352	1,131	562,570	755,463
2008-09	1,643	2,809	188,537	1,268	562,103	756,360
2009-10	1,518	2,890	236,671	1,215	541,591	783,885
2010-11	1,387	2,742	246,728	956	505,265	757,078
2011-12	1,538	2,711	288,867	1,076	484,371	778,563
2012-13	1,457	2,539	230,337	851	446,255	681,439
2013-14	1,465	2,458	216,073	897	430,398	651,291
2014-15	1,549	2,413	224,591	847	425,947	655,347
2015-16	1,494	2,204	217,569	844	412,714	634,825
<i>% of Total in FY 2015-16</i>	<i>0.2%</i>	<i>0.3%</i>	<i>34.3%</i>	<i>0.1%</i>	<i>65.0%</i>	<i>100.0%</i>

TABLE 2: NEW DISTRICT COURT CASE FILINGS

FISCAL YEAR	FORECLOSURES AND TAX LIENS	CIVIL (EXCLUDING FORECLOSURES AND TAX LIENS)	FELONY CRIMINAL	DOMESTIC RELATIONS	JUVENILE	PROBATE	MENTAL HEALTH	DEPENDENCY & NEGLECT	TRUANCY	TOTAL
1998-99	16,387	22,461	37,538	31,885	31,957	11,714	4,142	3,133	2,124	161,341
1999-00	16,319	22,842	35,770	32,318	30,969	11,605	4,141	3,401	2,231	159,596
2000-01	13,470	23,765	36,860	31,068	29,169	11,360	4,216	3,313	1,999	155,220
2001-02	16,865	24,484	39,147	32,166	29,950	11,655	4,229	3,552	2,189	164,237
2002-03	19,058	24,918	41,257	31,771	30,403	11,762	4,330	3,869	2,090	169,458
2003-04	26,223	25,623	42,427	30,826	29,678	11,653	4,528	4,338	2,062	177,358
2004-05	29,841	25,624	45,405	31,064	28,576	11,706	5,021	4,195	2,080	183,512
2005-06	34,552	25,994	46,501	32,481	27,248	11,525	4,653	4,136	2,325	189,415
2006-07	38,492	26,111	44,245	32,230	25,971	11,198	4,459	3,852	2,677	189,235
2007-08	35,212	28,987	40,494	33,025	26,290	11,551	4,713	3,883	3,197	187,352
2008-09	36,657	30,823	39,464	33,190	25,101	11,443	4,795	3,851	3,213	188,537
2009-10	84,932	31,414	36,993	35,624	23,849	12,189	5,159	3,568	2,943	236,671
2010-11	95,646	29,951	35,966	36,009	23,814	13,655	5,543	3,276	2,868	246,728
2011-12	140,815	28,230	35,551	35,434	22,819	14,042	6,064	3,265	2,647	288,867
2012-13	83,319	25,284	37,737	34,629	21,392	15,555	6,480	3,223	2,718	230,337
2013-14	72,568	23,757	37,966	34,907	19,685	15,203	7,072	2,971	1,944	216,073
2014-15	78,312	22,800	40,903	34,841	19,735	15,728	7,326	2,989	1,957	224,591
2015-16	65,663	22,614	46,004	34,966	19,028	16,309	7,689	3,275	2,021	217,569
<i>% of Total in FY 2015-16</i>	<i>30.2%</i>	<i>10.4%</i>	<i>21.1%</i>	<i>16.1%</i>	<i>8.7%</i>	<i>7.5%</i>	<i>3.5%</i>	<i>1.5%</i>	<i>0.9%</i>	<i>100.0%</i>

TABLE 3: NEW COUNTY COURT CASE FILINGS

FISCAL YEAR	TRAFFIC	TRAFFIC INFRACTIONS	CIVIL	MISDEMEANORS	FELONY COMPLAINTS	SMALL CLAIMS	TOTAL
1998-99	159,861	64,018	121,987	69,932	20,301	15,888	451,987
1999-00	140,183	70,094	127,017	73,853	20,010	15,568	446,725
2000-01	133,860	70,090	139,919	72,354	13,445	14,961	444,629
2001-02	138,439	69,800	151,905	72,973	21,285	15,591	469,993
2002-03	149,720	74,947	165,210	74,367	18,833	15,438	498,515
2003-04	159,413	82,732	165,324	74,779	17,554	14,292	514,094
2004-05	167,488	107,780	175,847	72,607	18,137	13,588	555,447
2005-06	168,155	101,386	176,244	75,703	21,268	13,380	556,136
2006-07	165,298	95,421	184,994	74,094	18,510	12,880	551,197
2007-08	162,729	96,483	198,229	74,136	18,393	12,600	562,570
2008-09	155,235	100,804	202,958	73,605	17,235	12,266	562,103
2009-10	141,493	95,557	206,954	69,695	16,795	11,097	541,591
2010-11	126,788	84,610	200,250	67,137	16,851	9,629	505,265
2011-12	121,112	75,464	193,282	70,068	15,328	9,117	484,371
2012-13	115,465	67,581	174,466	62,740	17,832	8,171	446,255
2013-14	117,389	69,515	158,526	60,585	16,794	7,589	430,398
2014-15	124,922	70,375	144,868	62,131	16,247	7,404	425,947
2015-16	118,215	69,782	138,631	60,682	18,095	7,309	412,714
<i>% of Total in FY 2015-16</i>	<i>28.6%</i>	<i>16.9%</i>	<i>33.6%</i>	<i>14.7%</i>	<i>4.4%</i>	<i>1.8%</i>	<i>100.0%</i>

APPENDIX H

COURT STAFFING LEVELS FOR FY 2016-17

TABLE 1: FY 2016-17 STAFFING LEVELS FOR DISTRICT COURT JUDICIAL OFFICERS

JUDICIAL DISTRICT	COUNTIES	ACTUAL JUDGES (FTE)	ACTUAL MAGISTRATES (FTE)	ACTUAL WATER REFEREES (FTE)	ACTUAL JUDICIAL OFFICER TOTAL (FTE)	NEEDED STAFFING LEVEL (FTE) ^a	ACTUAL FTE OVER/(UNDER) NEED	STAFFING PERCENTAGE
1	Gilpin, Jefferson	13.0	7.8	0.0	20.8	26.3	(5.5)	79.0%
2	Denver - District Court	23.0	2.5	0.0	25.5	33.8	(8.3)	75.5%
2	Denver - Juvenile Court	3.0	1.5	0.0	4.5	4.8	(0.3)	93.9%
2	Denver - Probate Court	1.0	0.8	0.0	1.8	2.4	(0.6)	74.2%
3	Huerfano, Las Animas	2.0	0.0	0.0	2.0	2.4	(0.4)	84.7%
4	El Paso, Teller	22.0	8.5	0.0	30.5	40.5	(10.0)	75.4%
5	Clear Creek, Eagle, Lake, Summit	6.0	0.0	0.0	6.0	5.8	0.2	103.1%
6	Archuleta, La Plata, San Juan	4.0	0.0	0.4	4.4	5.1	(0.7)	85.7%
7	Delta, Gunnison, Hinsdale, Montrose, Ouray, San Miguel	5.0	0.5	0.8	6.3	7.1	(0.9)	87.4%
8	Jackson, Larimer	8.0	4.3	0.0	12.3	14.3	(2.0)	85.7%
9	Garfield, Pitkin, Rio Blanco	5.0	0.0	0.8	5.8	6.0	(0.3)	95.1%
10	Pueblo	7.0	1.8	0.5	9.3	12.3	(3.1)	75.1%
11	Chaffee, Custer, Fremont, Park	4.0	1.3	0.0	5.3	6.4	(1.2)	81.8%
12	Alamosa, Conejos, Costilla, Mineral, Rio Grande, Saguache	4.0	0.0	0.3	4.3	4.9	(0.7)	86.1%
13	Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Yuma	4.0	0.5	0.0	4.5	5.4	(0.9)	83.2%
14	Grand , Moffat, Routt	3.0	0.0	0.4	3.4	3.9	(0.5)	88.1%
15	Baca, Cheyenne, Kiowa, Prowers	2.0	0.0	0.0	2.0	1.7	0.3	117.9%
16	Bent, Crowley, Otero	2.0	0.5	0.0	2.5	2.7	(0.2)	91.1%
17	Adams, Broomfield	15.0	6.0	0.0	21.0	24.7	(3.7)	84.9%
18	Arapahoe, Douglas, Elbert, Lincoln	23.0	7.4	0.0	30.4	35.5	(5.1)	85.5%
19	Weld	9.0	2.8	1.0	12.8	15.6	(2.8)	81.8%
20	Boulder	9.0	2.3	0.0	11.3	13.4	(2.1)	84.1%
21	Mesa	5.0	3.0	0.0	8.0	9.7	(1.7)	82.3%
22	Dolores, Montezuma	2.0	0.0	0.0	2.0	2.3	(0.3)	88.7%
STATEWIDE: 2016-17		181.0	51.3	4.0	236.3	287.1	(50.9)	82.3%
<i>Historical Statewide Staffing Levels:</i>								
FY 2015-16		181.0	49.7	4.0	234.7	277.7	(43.0)	84.5%
FY 2014-15		180.0	44.8	4.2	229.0	256.6	(27.6)	89.2%
FY 2013-14		178.0	41.6	4.2	223.8	270.2	(46.4)	82.8%
FY 2012-13		176.0	41.6	4.2	221.8	267.2	(45.4)	83.0%
FY 2011-12		175.0	41.3	4.2	220.5	262.4	(41.8)	84.1%

a/ Need is based on actual case filings from 4/1/15 through 3/31/16. The Department indicates that the workload model for district court judicial officers was most recently updated in 2010.

TABLE 2: FY 2016-17 STAFFING LEVELS FOR COUNTY COURT JUDICIAL OFFICERS

COUNTY	ACTUAL JUDGES (FTE)	ACTUAL MAGISTRATES (FTE)	ACTUAL JUDICIAL OFFICER TOTAL (FTE)	NEEDED STAFFING LEVEL (FTE) ^a	ACTUAL FTE OVER/(UNDER) NEED	STAFFING PERCENTAGE
Class B Counties:						
Adams	8.0	1.3	9.3	10.2	(0.9)	90.8%
Arapahoe	8.0	2.3	10.3	10.4	(0.1)	99.2%
Boulder ^b	5.0	0.0	5.0	3.9	1.1	127.7%
Broomfield	1.0	0.0	1.0	0.8	0.2	126.5%
Douglas ^b	3.0	0.6	3.6	3.3	0.3	108.8%
Eagle ^b	1.0	0.3	1.3	1.0	0.2	122.5%
El Paso ^b	10.0	3.5	13.5	12.5	1.0	108.3%
Fremont	1.0	0.0	1.0	0.8	0.2	123.6%
Jefferson ^b	9.0	0.7	9.7	9.4	0.3	103.2%
La Plata	1.0	0.0	1.0	1.1	(0.1)	92.0%
Larimer ^b	5.0	0.7	5.7	5.3	0.4	107.6%
Mesa	3.0	0.0	3.0	3.2	(0.2)	93.3%
Montrose	1.0	0.0	1.0	0.9	0.1	113.9%
Pueblo ^b	3.0	0.5	3.5	3.4	0.1	102.3%
Summit	1.0	0.0	1.0	0.7	0.3	137.6%
Weld	4.0	0.5	4.5	4.7	(0.2)	95.2%
TOTAL for Class B Counties: FY 2016-17	64.0	10.3	74.3	71.6	2.7	103.7%
<i>Historical Staffing Levels for Class B Counties:</i>						
FY 2015-16	64.0	11.9	75.9	72.8	3.1	104.3%
FY 2014-15	64.0	15.0	79.0	72.9	6.1	108.4%
FY 2013-14	64.0	16.0	80.0	78.2	1.8	102.3%
FY 2012-13	64.0	16.0	80.0	83.5	(3.5)	95.8%
FY 2011-12	63.0	15.7	78.7	86.0	(7.3)	91.6%

a/ Need is based on actual case filings from 4/1/15 through 3/31/16. The Department indicates that the workload model for county court judicial officers was most recently updated in 2011.

b/ The Department indicates it continually monitors staffing levels and manages resources through the Chief Justice's statutory authority to annually determine part-time county judge salaries and the ability to reallocate magistrates and trial court staff among districts. In May 2016, three county court locations faced possible magistrate reallocation due to high staffing levels. As a result, a 0.25 magistrate position will be reallocated from the Eagle County Court effective July 1, 2017. A decision about where to allocate the magistrate will be made by the Chief Justice in spring 2017 based on staffing levels at that time. Two counties (Jefferson and Weld) addressed the overstaffing by reassigning magistrate FTE from their county court to their district court.

TABLE 3: FY 2016-17 STAFFING LEVELS FOR DISTRICT AND COUNTY COURT STAFF

JUDICIAL DISTRICT	COUNTIES	ACTUAL STAFFING LEVEL (FTE) ^a	NEEDED STAFFING LEVEL (FTE) ^b	ACTUAL FTE OVER/(UNDER) NEED	STAFFING PERCENTAGE
1	Gilpin, Jefferson	136.3	151.5	(15.3)	89.9%
2	Denver - District Court	123.6	137.9	(14.3)	89.6%
2	Denver - Juvenile Court	23.2	25.4	(2.2)	91.2%
2	Denver - Probate Court	14.8	14.1	0.7	104.6%
3	Huerfano, Las Animas	18.8	20.2	(1.5)	92.8%
4	El Paso, Teller	196.7	229.9	(33.2)	85.5%
5	Clear Creek, Eagle, Lake, Summit	44.0	47.5	(3.5)	92.5%
6	Archuleta, La Plata, San Juan	29.3	34.3	(5.0)	85.4%
7	Delta, Gunnison, Hinsdale, Montrose, Ouray, San Miguel	46.8	51.6	(4.9)	90.5%
8	Jackson, Larimer	76.5	86.9	(10.4)	88.0%
9	Garfield, Pitkin, Rio Blanco	40.3	43.8	(3.5)	91.9%
10	Pueblo	57.8	66.3	(8.6)	87.1%
11	Chaffee, Custer, Fremont, Park	37.4	45.3	(7.9)	82.5%
12	Alamosa, Conejos, Costilla, Mineral, Rio Grande, Saguache	33.8	37.8	(4.0)	89.3%
13	Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Yuma	35.0	40.6	(5.6)	86.2%
14	Grand , Moffat, Routt	26.5	28.7	(2.2)	92.4%
15	Baca, Cheyenne, Kiowa, Prowers	15.5	17.3	(1.8)	89.4%
16	Bent, Crowley, Otero	19.3	20.9	(1.6)	92.3%
17	Adams, Broomfield	142.5	153.1	(10.6)	93.1%
18	Arapahoe, Douglas, Elbert, Lincoln	200.5	219.1	(18.6)	91.5%
19	Weld	78.5	86.5	(8.0)	90.7%
20	Boulder	73.2	75.2	(2.0)	97.4%
21	Mesa	50.3	55.5	(5.2)	90.6%
22	Dolores, Montezuma	17.5	19.3	(1.8)	90.8%
STATEWIDE: FY 2016-17		1,537.5	1,708.7	(171.2)	90.0%

a/ Total staff number for FY 2016-17 includes all district court and county court case processing staff, law clerks, court reporters, administrators, family court facilitators, self-represented litigant coordinators, protective proceedings monitors, and problem solving court coordinators.

b/ Need is based on actual case filings from 4/1/15 through 3/31/16. The workload model was updated 2016 and now includes three new categories of staff: self-represented litigant coordinators, protective proceedings monitors, and problem solving court coordinators. The supervisor ratio component of the model is pending final approval and is not included in the need calculation.

APPENDIX I

RECENT HISTORY OF JUDICIAL OFFICER SALARIES

Recent History of Judicial Officer Salaries															
	FY 1991-92			FY 1992-93			FY 1993-94			FY 1994-95			FY 1995-96		
Judicial Officers	1991-92 a/	\$ Increase	% Increase	Salary ^a	\$ Increase	% Increase	Salary ^a	\$ Increase	% Increase	Salary	\$ Increase ^b	% Increase	Salary		
Chief Justice, Supreme Court	\$79,000	\$3,000	3.80%	\$82,000	\$0	0.00%	\$82,000	\$4,500	5.49%	\$86,500	\$4,000	4.62%	\$90,500		
Associate Justice, Supreme Court	76,500	3,000	3.92%	79,500	0	0.00%	79,500	4,500	5.66%	84,000	4,000	4.76%	88,000		
Chief Judge, Court of Appeals	74,500	3,000	4.03%	77,500	0	0.00%	77,500	4,500	5.81%	82,000	4,000	4.88%	86,000		
Associate Judge, Court of Appeals	72,000	3,000	4.17%	75,000	0	0.00%	75,000	4,500	6.00%	79,500	4,000	5.03%	83,500		
District Court Judge, Denver Juvenile Court Judge, and Denver Probate Court Judge	67,500	3,000	4.44%	70,500	0	0.00%	70,500	4,500	6.38%	75,000	4,000	5.33%	79,000		
County Court Judge	60,500	3,000	4.96%	63,500	0	0.00%	63,500	4,500	7.09%	68,000	4,000	5.88%	72,000		

Recent History of Judicial Officer Salaries												
	FY 1996-97			FY 1997-98			FY 1998-99			FY 1999-00		
Judicial Officers	\$ Increase ^b	% Increase	Salary	\$ Increase ^b	% Increase	Salary ^c	\$ Increase	% Increase	Salary ^d	\$ Increase	% Increase	Salary ^d
Chief Justice, Supreme Court	\$3,000	3.31%	\$93,500	\$3,000	3.21%	\$96,500	\$0	0.00%	\$96,500	\$1,090	1.13%	\$97,590
Associate Justice, Supreme Court	3,000	3.41%	91,000	3,000	3.30%	94,000	0	0.00%	94,000	1,090	1.16%	95,090
Chief Judge, Court of Appeals	3,000	3.49%	89,000	3,000	3.37%	92,000	0	0.00%	92,000	1,090	1.18%	93,090
Associate Judge, Court of Appeals	3,000	3.59%	86,500	3,000	3.47%	89,500	0	0.00%	89,500	1,090	1.22%	90,590
District Court Judge, Denver Juvenile Court Judge, and Denver Probate Court Judge	3,000	3.80%	82,000	3,000	3.66%	85,000	0	0.00%	85,000	1,090	1.28%	86,090
County Court Judge	3,000	4.17%	75,000	3,000	4.00%	78,000	0	0.00%	78,000	3,590	4.60%	81,590

Recent History of Judicial Officer Salaries												
	FY 2000-01			FY 2001-02			FY 2002-03			FY 2003-04		
Judicial Officers	\$ Increase	% Increase	Salary ^d	\$ Increase	% Increase	Salary ^d	\$ Increase	% Increase	Salary ^d	\$ Increase	% Increase	Salary ^e
Chief Justice, Supreme Court	\$4,896	5.02%	\$102,486	\$7,822	7.63%	\$110,308	\$5,829	5.28%	\$116,137	\$0	0.00%	\$116,137
Associate Justice, Supreme Court	4,896	5.15%	99,986	7,822	7.82%	107,808	5,829	5.41%	113,637	0	0.00%	113,637
Chief Judge, Court of Appeals	4,896	5.26%	97,986	7,822	7.98%	105,808	5,829	5.51%	111,637	0	0.00%	111,637
Associate Judge, Court of Appeals	4,896	5.40%	95,486	7,822	8.19%	103,308	5,829	5.64%	109,137	0	0.00%	109,137
District Court Judge, Denver Juvenile Court Judge, and Denver Probate Court Judge	4,896	5.69%	90,986	7,822	8.60%	98,808	5,829	5.90%	104,637	0	0.00%	104,637
County Court Judge	4,896	6.00%	86,486	7,822	9.04%	94,308	5,829	6.18%	100,137	0	0.00%	100,137

a/ Salaries established in Section 13-30-103, C.R.S.

b/ Increases established in Section 13-30-104, C.R.S.

c/ Salaries for all judicial officers except the Chief Justice and the Chief Judge of the Court of Appeals included in JBC Staff figure setting document. Staff assumes that the two excluded salaries match the FY 1998-99 levels.

d/ Salaries identified for FY 1998-99 and established for all subsequent fiscal years in a Long Bill footnote.

e/ The Long Bill for FY 2003-04 (S.B. 03-258) included a footnote increasing all judicial salaries by 3.2 percent for FY 2003-04. This footnote appears to include a typographical error identifying the FY 2002-03 salary as \$116,117 rather than \$116,137. The Governor vetoed this footnote due to his intent to sign a subsequent bill that eliminated salary survey increases. It appears that the typographical error was repeated in the FY 2004-05 Long Bill footnote, causing the percentage increase in the Chief Justice salary to be slightly lower than that for other judicial officers.

Recent History of Judicial Officer Salaries												
Judicial Officers	FY 2004-05			FY 2005-06			FY 2006-07			FY 2007-08		
	\$ Increase	% Increase	Salary ^{d,e}	\$ Increase	% Increase	Salary ^d	\$ Increase	% Increase	Salary ^d	\$ Increase	% Increase	Salary ^d
Chief Justice, Supreme Court	\$2,651	2.28%	\$118,788	\$3,564	3.00%	\$122,352	\$3,304	2.70%	\$125,656	\$6,371	5.07%	\$132,027
Associate Justice, Supreme Court	2,614	2.30%	116,251	3,488	3.00%	119,739	3,233	2.70%	122,972	6,235	5.07%	129,207
Chief Judge, Court of Appeals	2,568	2.30%	114,205	3,426	3.00%	117,631	3,176	2.70%	120,807	6,125	5.07%	126,932
Associate Judge, Court of Appeals	2,510	2.30%	111,647	3,349	3.00%	114,996	3,105	2.70%	118,101	5,988	5.07%	124,089
District Court Judge, Denver Juvenile Court Judge, and Denver Probate Court Judge	2,407	2.30%	107,044	3,211	3.00%	110,255	2,977	2.70%	113,232	5,741	5.07%	118,973
County Court Judge	2,303	2.30%	102,440	3,073	3.00%	105,513	2,849	2.70%	108,362	5,494	5.07%	113,856

Recent History of Judicial Officer Salaries												
Judicial Officers	FY 2008-09			FY 2009-10			FY 2010-11			FY 2011-12		
	\$ Increase	% Increase	Salary ^d	\$ Increase	% Increase	Salary ^d	\$ Increase	% Increase	Salary ^d	\$ Increase	% Increase	Salary ^d
Chief Justice, Supreme Court	\$10,681	8.09%	\$142,708	\$0	0.00%	\$142,708	\$0	\$0	\$142,708	\$0	0.00%	\$142,708
Associate Justice, Supreme Court	10,453	8.09%	139,660	0	0.00%	139,660	0	0	139,660	0	0.00%	139,660
Chief Judge, Court of Appeals	10,269	8.09%	137,201	0	0.00%	137,201	0	0	137,201	0	0.00%	137,201
Associate Judge, Court of Appeals	10,039	8.09%	134,128	0	0.00%	134,128	0	0	134,128	0	0.00%	134,128
District Court Judge, Denver Juvenile Court Judge, and Denver Probate Court Judge	9,625	8.09%	128,598	0	0.00%	128,598	0	0	128,598	0	0.00%	128,598
County Court Judge	9,211	8.09%	123,067	0	0.00%	123,067	0	0	123,067	0	0.00%	123,067

Recent History of Judicial Officer Salaries												
Judicial Officers	FY 2012-13			FY 2013-14			FY 2014-15			FY 2015-16		
	\$ Increase	% Increase	Salary ^d	\$ Increase	% Increase	Salary ^d	\$ Increase	% Increase	Salary ^d	\$ Increase	% Increase	Salary ^d
Chief Justice, Supreme Court	\$0	0.00%	\$142,708	\$5,137	3.60%	\$147,845	\$13,306	9.00%	\$161,151	\$15,648	9.71%	\$176,799
Associate Justice, Supreme Court	0	0.00%	139,660	5,028	3.60%	144,688	13,022	9.00%	157,710	15,314	9.71%	173,024
Chief Judge, Court of Appeals	0	0.00%	137,201	4,939	3.60%	142,140	12,793	9.00%	154,933	15,044	9.71%	169,977
Associate Judge, Court of Appeals	0	0.00%	134,128	4,829	3.60%	138,957	12,506	9.00%	151,463	14,707	9.71%	166,170
District Court Judge, Denver Juvenile Court Judge, and Denver Probate Court Judge	0	0.00%	128,598	4,630	3.60%	133,228	11,991	9.00%	145,219	14,101	9.71%	159,320
County Court Judge	0	0.00%	123,067	4,430	3.60%	127,497	11,475	9.00%	138,972	13,494	9.71%	152,466

Recent History of Judicial Officer Salaries									
Judicial Officers	FY 2016-17			FY 2017-18 Request			FY 2018-19 Proposal		
	\$ Increase	% Increase	Salary ^d	\$ Increase	% Increase	Salary	\$ Increase	% Increase	Salary
Chief Justice, Supreme Court	\$0	0.00%	\$176,799	\$10,128	5.73%	\$186,927	\$5,888	3.15%	\$192,815
Associate Justice, Supreme Court	0	0.00%	173,024	9,912	5.73%	182,936	5,762	3.15%	188,698
Chief Judge, Court of Appeals	0	0.00%	169,977	9,738	5.73%	179,715	5,661	3.15%	185,376
Associate Judge, Court of Appeals	0	0.00%	166,170	9,519	5.73%	175,689	5,534	3.15%	181,223
District Court Judge, Denver Juvenile Court Judge, and Denver Probate Court Judge	0	0.00%	159,320	9,127	5.73%	168,447	5,306	3.15%	173,753
County Court Judge	0	0.00%	152,466	8,734	5.73%	161,200	5,078	3.15%	166,278

APPENDIX J: STATE FUNDING FOR DISTRICT ATTORNEYS

Colorado's district attorneys' offices (DAs) are responsible for prosecuting all criminal and traffic cases filed in district and county courts. While DAs' budgets are primarily set and provided by boards of county commissioners within each respective judicial district, the State provides direct funding for DAs in the following areas (a total of \$11.5 million for FY 2016-17):

STATE FUNDING DIRECTLY BENEFITING DISTRICT ATTORNEY (DA) OFFICES			
STATE DEPARTMENT	LINE ITEM	PURPOSE	CURRENT APPROPRIATION ^a
Judicial	ACTION and Statewide Discovery Sharing Systems	Payment to CDAC to fully support operations of the ACTION case management system, and to fund the development and implementation of a statewide discovery sharing system	\$2,866,108
Law	District Attorneys' Salaries	Covers 80 percent of the statutory minimum salary for each elected DA (currently \$130,000), plus the associated PERA and Medicare costs	2,738,841
Judicial	District Attorney Mandated Costs	Reimburses DA office expenses incurred in prosecution of state matters (<i>e.g.</i> , expert witness fees and travel expenses, mailing subpoenas, transcripts, etc.)	2,417,350
Judicial	Appropriations to several agencies for "mandated costs"	Payments to reimburse DA offices for providing discoverable materials to publicly funded agencies providing legal representation	1,529,304
Corrections	Payments to District Attorneys	Payments to DA offices for costs associated with prosecuting a crime alleged to have been committed by a person in the custody of the Department of Corrections	681,102
Judicial	District Attorney Adult Pretrial Diversion Programs	Funding to support DA pretrial diversion programs	477,000
Law	Deputy District Attorney Training	Payment to the Colorado District Attorneys' Council (CDAC) for the provision of prosecution training, seminars, continuing education programs, and other prosecution-related services	405,000
Higher Education	Prosecution Fellowship Program	Funding to support an estimated six fellowships for recent Colorado law school graduates, allowing them to pursue careers as prosecutors in rural areas	356,496
Public Safety	Witness Protection Fund	Payments to DA offices for qualifying expenses related to security personnel, travel expenses, lodging, and other immediate witness protection needs	50,000
TOTAL			\$11,521,201

a/ With one exception, these amounts reflect the FY 2016-17 appropriation. The amount reflected for "Appropriations to several agencies for mandated costs" reflects actual discovery-related expenditures in FY 2014-15 that were paid directly to district attorneys and the Department of Law (\$2,563,498), less that portion that was shifted to support the new statewide discovery sharing system in FY 2016-17 (\$1,034,194).

State of Colorado Correctional Treatment Board



Board Co-Chairmen

David Walcher, Sheriff
Arapahoe County Sheriff's Office
County Sheriffs of Colorado

Deborah Duran,
Community Parole Manager
Division of Adult Parole,
Department of Corrections

Board Members

Jim Bullock, District Attorney
16th Judicial District
Colorado District Attorney's Council

Marc Condojani, Director
Community Treatment & Recovery
Office of Behavioral Health
Department of Human Services

Brian Connors, Chief Deputy
State Public Defender's Office

Sherri Hufford,
Manager, Evaluation Unit
Division of Probation Services
Colorado Judicial Branch

Jeanne Smith, Director
Division of Criminal Justice
Department of Public Safety

FY2018 Funding Plan

The Correctional Treatment Cash Fund and its oversight board, the Correctional Treatment Board, was established with the passage of HB12-1310. This legislation consolidated three major sources of state funding for substance abuse/co-occurring assessment and treatment: The Drug Offender Surcharge Fund, SB03-318 Funding (Drug Treatment Fund) and HB12-1352 Funding. HB12-1310 restructured these funds to create and support a coordinated and collaborative effort regarding the assessment and treatment of criminal justice clients with substance use and co-occurring disorders. Board membership includes a representative from each of the four state agencies that have criminal justice programming (Judicial, Public Safety, Corrections and Human Services) as well as representatives from the County Sheriff's Association, the Public Defender's Office and the District Attorneys' Council. It is the job of the Correctional Treatment Board to ensure a fair and reasonable allocation of cash fund resources in accordance with statutory intent. Statutorily authorized uses of the money include:

- Alcohol and Drug Screening, Assessment, Evaluation, Testing, Training;
- Treatment for assessed substance abuse and co-occurring disorders;
- An annual statewide conference regarding substance abuse treatment;
- Recovery support services; and
- Administrative support for the board.

The Correctional Treatment Board is pleased to present its FY2018 Funding Plan that allocates almost \$22.0M in state resources. This plan reflects the continuing work and programmatic priorities of the Board through the various appropriations to four state agencies as outlined in this report.

Statutory Cites: 18-19-103 (3.5)(b) and 18-19-103 (5)

Fund Overview

Correctional Treatment Cash Fund Overview

Money in the Correctional Treatment Cash Fund is targeted for only those criminal justice clients with substance-abuse and/or co-occurring behavioral health disorders. All funding is appropriated into the Judicial Department's budget where it is then re-appropriated to the other three state agencies according to the funding plan as developed by the Correctional Treatment Board. Beginning in FY2015, the Board separated out administrative and overhead funding that is housed in the Judicial Branch budget, but isn't specific to Judicial programming. These costs include cash fund indirect costs, conference and board staff funding and the overhead amount that funds research/data collection and one-time projects. The chart below reflects the historical funding allocation across the four agencies.

Summary of Annual Appropriations						
	FY2013	FY2014	FY2015	FY2016	FY2017	FY2018
Corrections	3,002,227	3,002,227	3,457,227	3,457,227	3,457,227	3,457,227
Human Services	3,090,516	4,290,156	5,071,156	6,621,156	6,671,156	6,671,156
Public Safety	2,666,766	2,916,766	5,301,766	5,305,084	5,299,574	5,299,574
Judicial	6,504,568	6,532,984	5,505,078	5,505,078	5,505,078	5,505,078
Non-Agency Specific	0	0	906,906	899,045	853,297	853,297
Total	15,264,077	16,742,133	20,242,133	21,787,590	21,786,332	21,786,332
Change over prior year		1,478,056	3,500,000	1,545,457	(1,258)	0

Judicial Branch (including Non-Agency Specific):

The Judicial Branch uses its correctional treatment resources for substance use testing and mental health/substance abuse treatment for probation clients as well as outpatient treatment and recovery support for the state's problem-solving court clients. An adult diversion program was created through the passage of HB13-1156 and in FY2015, the Board established a funding stream to help support outpatient treatment for this program. The adult diversion program is managed on a cost-reimbursement basis with counties whose diversion programs meet state guidelines. Outpatient treatment funds for probation and problem-solving courts are allocated to all of the probation and problem-solving courts within the 22 judicial districts and are managed locally. Aggregated expenses are tracked and monitored centrally at the State Court Administrator's Office and reported on quarterly.

Department of Public Safety, Division of Criminal Justice (DCJ):

DCJ receives funding to help cover the cost of specialized intensive residential treatment and therapeutic community beds; to pay for out-patient treatment vouchers for clients in community corrections facilities; and to fund 1.0 research/training FTE within the Division of Criminal Justice. Funds are also used to support classroom training costs for substance abuse and risk/need assessments for probation, parole, TASC, community corrections, and prison staff. Residential and out-patient treatment funds are allocated to local community corrections boards across the state and managed by the boards for treatment of community corrections clients. Each board must report quarterly on spending levels.

Fund Overview

Department of Human Services, Office of Behavioral Health (OBH):

OBH uses its funding for three main programs and services. The Jail-Based Behavioral Services (JBBS) program provides substance-abuse and mental health services for clients in county jails. Funds are “granted” to local Sheriff’s offices, managed locally and dispersed via contract agreements with local treatment providers. For FY2016, HB15-1367 was enacted, which transferred \$1.55M from the marijuana cash fund into the correctional treatment cash fund specifically for use in the JBBS program. Each JBBS program reports quarterly to the statewide program manager at OBH. OBH also uses its Correctional Treatment funds to support outpatient treatment services which are managed through contracts with Managed Service Organizations (MSO), and for the Short-Term Intensive Residential Remediation Treatment (STIRRT) program, which is a two-week residential program with continuing care for 8+ months once clients complete the in-patient portion of treatment.

Department of Corrections (DOC):

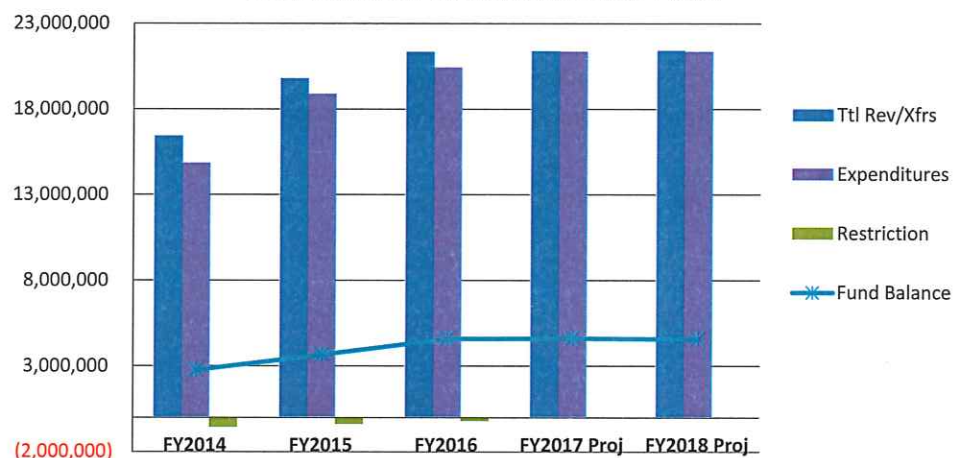
DOC uses correctional treatment funds for the Approved Treatment Provider Program (ATPP), which is a statewide network of treatment providers approved by the Division of Adult Parole. These agencies provide mental health, sex offender, and substance abuse treatment and assessments to DOC offenders being supervised in the community. This includes their administration of VIVITROL injections for alcohol and opioid abuse. The ATPP works in conjunction with the DOC business manager to allocate and track funding for contracted Approved Treatment Providers (ATP). DOC also has a contract with 1st Alliance, who oversees the parole division’s Treatment for Safer Communities (TASC) program. TASC is made up of 1st Alliance case managers who conduct case management services for all offenders statewide. This includes, but is not limited to, assessments and referrals for mental health, sex offender, and substance abuse treatment to the Division’s Approved Treatment Providers.

Correctional Treatment Cash Fund Revenue

The Correctional Treatment Cash Fund (CTCF) receives general fund money, direct cash revenue from the drug offender surcharge, a surcharge assessed on offenders convicted of drug crimes, and as of FY2016, a transfer of funds from the Marijuana Cash Fund.

These funds are annually appropriated to the Judicial Branch, transferred or deposited into the cash fund, and managed by the Correctional Treatment Board. Cash revenue from the Drug Offender surcharge has historically not been sufficient to meet long bill spending authority, so the Board implemented spending restrictions in FY2014-16 to ensure the long-term health of the cash fund. Spending restrictions will be evaluated each year by the Board.

Correctional Treatment Cash Fund



Revenue is continuing to increase and the fund balance is healthy, so the Board determined not to impose any spending restrictions for FY2017 and will discuss FY2018 over the course of the next year.

FY2016 Spending

Cash Fund Expenditures

In FY2016, expenditures were projected to be just over \$20.4M as outlined in the chart below. In addition to the surplus in the Board overhead funds, the Office of Behavioral Health projected surplus funds across programs due in part to the increasing use of Medicaid funds under the Affordable Care Act as well as program expansion in the Jail-Based Behavioral Health Program. RFP's for the JBBS program were re-bid and that program is not expecting such large surplus amounts in future years. The Department is looking at shifting funds from the Treatment and Detox line to help support STIRRT program changes and the JBBS programs based on the new contracts.

Correctional Treatment 2016 Spending - By Agency and Long Bill Line				
	Appropriation	Restriction	Spent*	(Over)/Under Exp
DOC				
Drug & Alcohol Tx Subprogram	1,345,127		1,345,127	0
Parole Subprogram	2,112,100		2,112,100	0
	3,457,227	0	3,457,227	0
DHS				
<u>Substance Use Treatment and Prevention</u>				
Treatment & Detox Contracts	1,064,688	(102,270)	612,418	350,000
Short-Term Intensive Residential Remediation & Tx	427,946		377,946	50,000
<u>Integrated Behavioral Health Services</u>				
Jail-Based Behavioral Health	5,128,522		4,828,522	300,000
	6,621,156	(102,270)	5,818,886	700,000
DPS				
<u>Administration</u>				
Personal Services	87,852		87,852	
Pots	19,463		15,463	4,000
<u>Community Corrections</u>				
Community Corrections Placement	2,643,869		2,643,869	0
Trtmtn. For Subs Abuse and Co-occurring Disorders	2,553,900	(106,988)	2,440,912	6,000
	5,305,084	(106,988)	5,188,096	10,000
JUDICIAL				
<u>Probation & Related Services</u>				
Probation & PSC Treatment	5,428,078		5,331,078	97,000
Conference	220,000		219,000	1,000
Board Overhead	342,190		93,959	248,231
Total Offender Tx & Services	5,990,268	0	5,644,037	346,231
<u>Central Programs</u>				
Pots	16,590		13,272	3,318
Adult Pre-Trial Diversion	77,000		0	77,000
<u>Administration</u>				
Personal Services	96,156		76,925	19,231
Indirects	224,109		224,109	0
	6,404,123	0	5,958,343	445,780
GRAND TOTAL	21,787,590	(209,258)	20,422,552	1,155,780

*As of 8/8/2016 - Figures projected based on agency estimate. Actuals not available

FY2017 Appropriation

FY2017 Appropriation

The Correctional Treatment Board allocated just over \$21.7M for FY2017. The chart below outlines the funding by agency and long bill line for FY2017. The chart reflects the increase from the Marijuana Cash Fund for the Jail-Based Behavioral Health Program as well as board-shifted funds to support program changes within the STIRRT program.

Correctional Treatment 2016 and 2017 Appropriation -- By Agency and Long Bill Line			
	FY2016 Approp.	FY2017 Request	Difference
DOC			
Drug & Alcohol Tx Subprogram	1,345,127	1,345,127	0
Parole Subprogram	2,112,100	2,112,100	0
	3,457,227	3,457,227	0
DHS			
<u>Substance Use Treatment and Prevention</u>			
Treatment & Detox Contracts	1,064,688	1,064,688	0
Short-Term Intensive Residential Remediation & Tx	427,946	522,946	95,000
<u>Integrated Behavioral Health Services</u>			
Jail-Based Behavioral Health	3,578,522	5,083,522	1,505,000
	5,071,156	6,671,156	1,600,000
DPS			
<u>Administration</u>			
Personal Services/Operating	87,852	89,609	1,757
Pots	19,463	12,196	(7,267)
<u>Community Corrections</u>			
Community Corrections Placement	2,643,869	2,643,869	0
Trtmtn. For Subs Abuse and Co-occurring Disorders	2,553,900	2,553,900	0
	5,305,084	5,299,574	(5,510)
JUDICIAL			
<u>Probation & Related Services</u>			
Offender Treatment & Services	5,990,268	5,990,268	0
<u>Central Programs</u>			
Pots	16,590	13,826	(2,764)
Adult Pre-Trial Diversion	77,000	77,000	0
<u>Administration</u>			
Personal Services	96,156	96,156	0
Indirects	224,109	181,125	(42,984)
	6,404,123	6,358,375	(45,748)
GRAND TOTAL	20,237,590	21,786,332	1,548,742
Cash Funds	5,037,590	5,036,332	(1,258)
Reappropriated Funds	15,200,000	16,750,000	1,550,000

FY2017-18 Planning

FY2017-18 Planning

The Correctional Treatment Board met in June for an all-day planning retreat where it was determined that the Board has made progress on the goals it established at its 2015 planning retreat and continuation of that progress is the focus for FY2018.

This work includes:

- Finishing the validation project related to the newly designed Colorado Assessment Match (CAM); an algorithm developed by a Board sub-committee for use across all the criminal justice agencies to consistently and accurately combine assessed criminal risk and treatment needs. Data collection is progressing and the hope is that the Board will hear the validation results by the end of FY2017 and be able to develop next steps for FY2018.
- The Board established a sub-committee to design and develop a Funding Matrix tool that outlines “ideal” processes and practices for assessment, testing, case planning, interaction with treatment providers and more. This tool is currently being used for new program funding requests and is being tested within the community corrections funds in the Division of Criminal Justice. Over the course of FY2017, the Board will continue to gather feedback on the funding matrix and continue to employ and expand its use with its current programs. The use of this tool will help with data collection on program practices as well as help determine existing practices that may require attention with regard to the system’s interaction with the treatment community.
- The work of the Affordable Care Act sub-committee will continue. The sub-committee is currently working on establishing relationships across the various parts of the criminal justice and Medicaid systems and efforts to “map” the existing treatment system under the ACA will continue. The goal is to maximize utilization of ACA treatment benefits by eligible people in the Colorado criminal justice system.
- Two evaluation studies have been funded for the Jail-Based Behavioral Health Program and the Problem-Solving Court Program. These studies will take place over the next two years and once completed, the Board will review the information and discuss study outcomes and recommendations.
- The Board will continue to co-sponsor the annual Collaborative Justice conference that educates case managers, treatment providers, and criminal justice professionals on the latest research and practices that are proven to effectively support clients in the criminal justice system.
- As time permits, the Board will begin discussing the possibility of a data-based project to look at factors that impact client success in Colorado. Data will be gathered and analyzed as to specific trends/services that contribute to individual client success. This information will help the Board determine if funding changes need to be implemented to ensure that all services impacting success are appropriately supported.

FY2018 Funding Allocation

FY2018 Funding Requests

No new program funding requests were submitted for FY2018. Given the ongoing work of both sub-committees and the two evaluation studies, the Board is comfortable with continued funding until evaluation results are reviewed and sub-committee work is complete enough to make recommendations. The Office of Behavioral Health did request to shift funding across its long-bill lines to better use its Correctional Treatment Cash Fund resources for its program support. The planned FY2018 allocation of resources is outlined in the chart below. The shaded figures were unavailable and will be adjusted during figure-setting in the spring.

Correctional Treatment 2017 Appropriation and 2018 Request -- By Agency and Long Bill Line			
	FY2017 Approp.	FY2018 Request	Difference
DOC			
Drug & Alcohol Tx Subprogram	1,345,127	1,345,127	0
Parole Subprogram	2,112,100	2,112,100	0
	3,457,227	3,457,227	0
DHS			
<u>Substance Use Treatment and Prevention</u>			
Treatment & Detox Contracts	1,064,688	864,688	(200,000)
Short-Term Intensive Residential Remediation & Tx	522,946	622,946	100,000
<u>Integrated Behavioral Health Services</u>			
Jail-Based Behavioral Health	5,083,522	5,183,522	100,000
	6,671,156	6,671,156	0
DPS			
<u>Administration</u>			
Personal Services/Operating	89,609	89,609	0
Pots	12,196	12,196	0
<u>Community Corrections</u>			
Community Corrections Placement	2,643,869	2,643,869	0
Trtmtn. For Subs Abuse and Co-occurring Disorders	2,553,900	2,553,900	0
	5,299,574	5,299,574	0
JUDICIAL			
<u>Probation & Related Services</u>			
Offender Treatment & Services	5,990,268	5,990,268	0
<u>Central Programs</u>			
Pots	13,826	13,826	0
Adult Pre-Trial Diversion	77,000	77,000	0
<u>Administration</u>			
Personal Services	96,156	96,156	0
Indirects	181,125	181,125	0
	6,358,375	6,358,375	0
GRAND TOTAL	21,786,332	21,786,332	0
Cash Funds	5,036,332	5,036,332	0
Reappropriated Funds	16,750,000	16,750,000	0
<i>*Shaded figures are continuation and will be updated at figure-setting.</i>			

Conclusion

Next Steps

The Correctional Treatment Board has several action items in progress and is excited to spend the next year focusing on gathering information on the CAM validation, the use of the funding matrix, the possibilities of the Affordable Care Act and to hear the evaluation data from the two program studies (JBBS and Problem Solving Courts). As this information starts to come together, the Board will review all the information and develop goals to address the issues and needs that come to light. The Correctional Treatment Board is proud of the work it has done to-date and is confident that its efforts over the coming years will continue to contribute to successful client outcomes and improved public safety.

eDiscovery Project Status

November 17, 2016

Executive Summary:

The core eDiscovery system has been built and is currently implemented in 4 districts. We continue to add enhancements to the system as well as implement the system in new districts. In the first 3 months of use, the system has transferred the following discovery cases/files from Law Enforcement to the DAs:

- Cases transferred: 7,800
- Files transferred: 92,000
- Size of files transferred: 1.9 Terabytes

The system has also processed the following number of discovery packets from the DA to the Defense. Each packet contains multiple files, and is compressed for optimal upload/download speed. (Note: more DA offices are disseminating discovery via the eDiscovery system than are receiving eDiscovery from Law Enforcement. For this reason there are a greater number of files being sent from DA to Defense.):

- Number of ZIP packets made available: 44,000
- Number of files contained in the ZIP packets: 406,000
- Total size of the files: 3.5 Terabytes
- Number of Defense Attorneys/admins registered to use the eDiscovery website: 1,383

Tasks completed to date:

The eDiscovery project has been divided into 3 parts.

1. The first part obtains discovery and data electronically from Law Enforcement and passes this onto the District Attorney's Case Management System, ACTION.
2. The second part involves enhancements to ACTION that allow the DA to work with electronic discovery in an efficient manner.
3. The third part disseminates the electronic discovery to the Defense.

CDAC contracted with Xerox/PARC to build the first part of the project. CDAC is building the second and third parts. Each part is detailed below.

Part 1: Obtain discovery from Law Enforcement

This portion of the system has been built and is currently being deployed according to the deployment schedule, with a completion date of June 2017.

The following table list the tasks for this portion of the project, along with the status for each.

Task Order	Description	Status
Assessment Phase	Assess each district in the state, visiting as many Law Enforcement agencies as possible to gather details concerning their current RMS system and their ability to work with the system to be developed.	Complete 8/2015
Dev Task Order 1 - Initial RMS Data Extraction Tool	Create an extraction tool that will extract data from a Law Enforcement's RMS system and transmit that data, along with detected files, to the Core system. This tool has been named LEDS (Local eDiscovery System)	Complete 10/2015
Dev Task Order 2 - Initial Core System and Central Repository	Create the Core system, named CEDS (Core eDiscovery System). This system will house the data and files submitted by each LEDS and the web portal. It will also transmit this data/files to the ACTION system.	Complete 1/2016
Dev Task Order 3 - Initial Interface to CDAC ACTION	Create the interface that will transmit data and files to the ACTION system	Complete 4/2016
Dev Task Order 4 - Initial Supplemental Case Selection Screens	Create a web site, named ePortal, which will allow agencies to manually control the LEDS software, attach files to extracted cases, and send these to the ACTION system. The ePortal also allows those Law Enforcement Agencies that do not have an RMS to manually enter case data, attach files, and send this to the ACTION system.	Complete 3/2016
Dev Task Order 5 - Additional and Priority Backlog Features	This task allocated time and funds to add features to the system that were found to be needed while deploying the system.	Complete 11/2016
Deployment	Deploy the system throughout the State. The following districts have been deployed:	Currently in process with a completion date of 7/2017

Part 2: ACTION enhancements that allow the DA to work with electronic discovery

The core functionality of Part 2 has been complete. CDAC continues to modify and enhance the core functionality to gain further efficiencies for the DA community. As each new District Attorney office is implemented, unique processes and situations are revealed that require further enhancements. These additional enhancements are prioritized with the existing enhancements and the development schedule is modified.

Planned enhancements include:

- Research methods to increase upload/download speeds.
- Create additional methods to work with the list of cases submitted by an LEA.
- Several enhancements for the Attorney General's office to allow them to use eDiscovery.
- Convert the 1st Judicial District Attorney's office to ACTION in order to use the eDiscovery system.
- Convert the 9th Judicial District Attorney's office to ACTION in order to use the eDiscovery system.

Part 3: Dissemination of electronic discovery to the Defense

The web site, known as the eDiscovery web site, that is used to disseminate eDiscovery to the Defense Attorneys has been built and is operational. We continue to enhance it with more functionality.

Planned enhancements include:

- Research methods to increase the download speeds.
- When a Defense Attorney is notified that discovery is available, also notify their admin/secretary.
- Add FAQ/Troubleshooting information to the web site.
- Create an Administration screen that will allow defense admins to maintain office user accounts.

Implementation challenges

We've experienced several challenges with this statewide eDiscovery system and have listed the top challenges below. Even though these challenges have placed obstacles in our path, we've been able to develop the system on time, and have also been able to keep our implementation schedule close to the planned dates. For the District Attorney offices that have been delayed in implementation, they have still stopped charging for discovery on the scheduled date.

Top Challenges:

- **Body Cam video**

When the system was conceived, body cam video was not a major concern due to very limited implementation in our state. Since then, body cam video use has begun to escalate which presents an issue with bandwidth to move the video from LEA to DA to Defense, and also with storage requirements.

In some jurisdictions, the LEA have opted to use body cam systems that provide storage and a hyperlink to the video for the DA and Defense. In these cases a small link is provided to the DA and Defense to access the video, which makes the eDiscovery process smooth as we're only moving a small amount of data (the link). However, some of the videos still need to be downloaded by the DA which causes storage issues for the DA. One reason for the need to download is that retention periods differ between LEA and DA, forcing the DA to download and keep a copy.

We have implemented the "link" process to allow LEA to send links to the DA, and also code within the ACTION system to keep the link in the same manner as other files and deliver this link to the Defense. We are working on code to help with the bandwidth issue below. We're also designing a method for the ACTION Filing Cabinet (the file storage component) to utilize multiple storage locations at the DA's office so they can utilize higher cost, fast access storage for current cases, and lower cost, slow access storage for older case retention.

- **Bandwidth at the DA and Public Defender offices**

Moving large video files is a challenge due to slower bandwidth at several DA offices and Public Defender offices. To aid in this issue, we are currently developing code that will allow faster file uploads utilizing the same speed bandwidth from the DA office to the eDiscovery website, and researching methods to increase speed for Defense downloads. We are also researching "download managers" for the Defense to use to schedule discovery downloads for off peak hours.

In addition, we are creating code that runs in the background on workstations at the DA's office that will upload discovery without tying up the computer, which will allow the DA user to continue to work while uploading large files. We are also creating file upload code that will run on servers in a batch process that will also allow DA users to continue working while files upload.

- **Slow LEA implementation/adoption**

We've found that Law Enforcement agencies are taking more time to implement the eDiscovery system because although they've heard about it, the right people within each agency haven't been identified early enough in the process. To correct this, we are now engaging the Law Enforcement agencies much earlier before the implementation date than we had originally planned.

eDiscovery Implementation Schedule

District	Counties	Planned implementation	DA no longer charges for discovery	DA receiving data from LEAs	DA releasing discovery via web site
18	Arapahoe, Douglas, Elbert, Lincoln	8/1/2016	8/1/2016	Yes	Yes
5	Clear Creek, Eagle, Lake, Summit	9/1/2016	9/1/2016	Yes	Yes
17	Adams, Broomfield	9/1/2016	9/1/2016	Yes	Yes
4	El Paso, Teller	10/1/2016	10/1/2016	Yes	Yes
8	Larimer, Jackson	11/1/2016	11/1/2016		
19	Weld	11/1/2016	11/1/2016		Yes
10	Pueblo	12/1/2016	12/1/2016		Yes
11	Chaffee, Custer, Fremont, Park	12/1/2016	12/1/2016		
12	Alamosa, Conejos, Costilla, Mineral, Rio Grande, Saguache	12/1/2016	12/1/2016		
6	Archuleta, La Plata, San Juan	2/1/2017	2/1/2017		
7	Delta, Gunnison, Hinsdale, Montrose, Ouray, San Miguel	2/1/2017	2/1/2017		Yes
21	Mesa	2/1/2017	2/1/2017		Yes
22	Dolores, Montezuma	2/1/2017	2/1/2017		Yes
3	Huerfano, Las Animas	3/1/2017	3/1/2017		
16	Bent, Crowley, Otero	3/1/2017	3/1/2017		

13	Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Yuma	4/1/2017	4/1/2017		
15	Baca, Cheyenne, Kiowa, Prowers	4/1/2017	4/1/2017		
9	Garfield, Pitkin, Rio Blanco	5/1/2017	5/1/2017		
14	Grand, Moffat, Routt	5/1/2017	5/1/2017		
20	Boulder	5/1/2017	5/1/2017		
1	Jefferson, Gilpin	6/1/2017	6/1/2017		
2	Denver	7/1/2017	7/1/2017		