

# JOINT BUDGET COMMITTEE



## STAFF BUDGET BRIEFING FY 2018-19

### JUDICIAL BRANCH

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

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# JUDICIAL BRANCH

## BRANCH OVERVIEW

One of three branches of Colorado state government, the Judicial Branch is established in Article 6, Section 1 of the Colorado Constitution. It 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 system<sup>1</sup>. 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 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.

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<sup>1</sup> 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 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 760 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.
- 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.

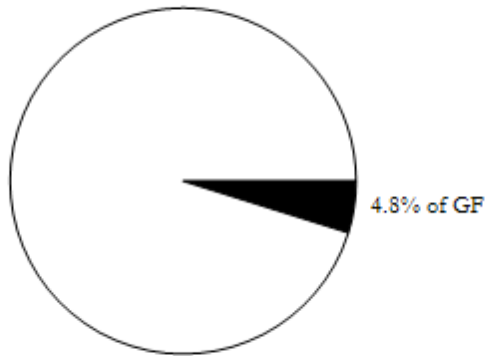
## DEPARTMENT BUDGET: RECENT APPROPRIATIONS

FUNDING SOURCE	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19 *
General Fund	\$478,617,095	\$491,246,425	\$513,002,350	\$550,495,415
Cash Funds	156,643,072	164,554,601	157,894,176	159,006,574
Reappropriated Funds	34,086,127	34,268,970	35,062,455	35,337,985
Federal Funds	4,425,000	4,425,000	4,425,000	4,425,000
<b>TOTAL FUNDS</b>	<b>\$673,771,294</b>	<b>\$694,494,996</b>	<b>\$710,383,981</b>	<b>\$749,264,974</b>
Full Time Equiv. Staff	4,592.3	4,615.1	4,648.3	4,745.4

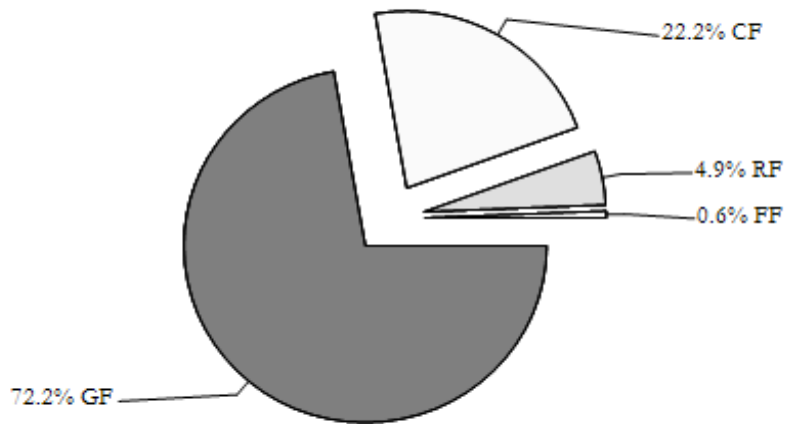
\*Requested appropriation.

# DEPARTMENT BUDGET: GRAPHIC OVERVIEW

**Department's Share of Statewide General Fund**

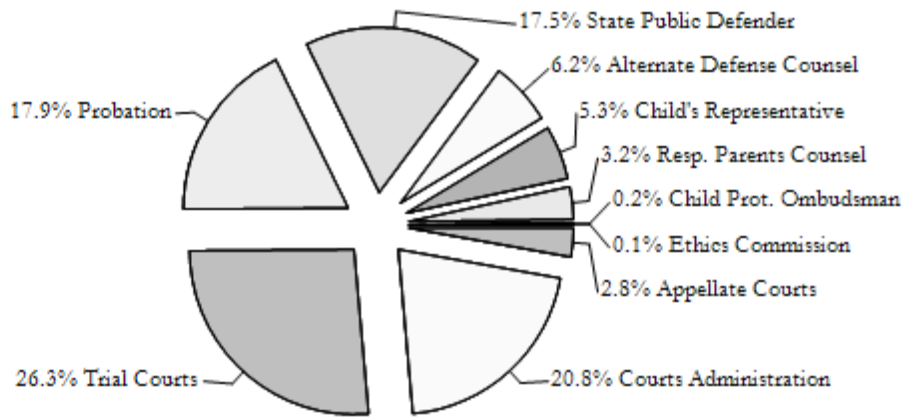


**Department Funding Sources**

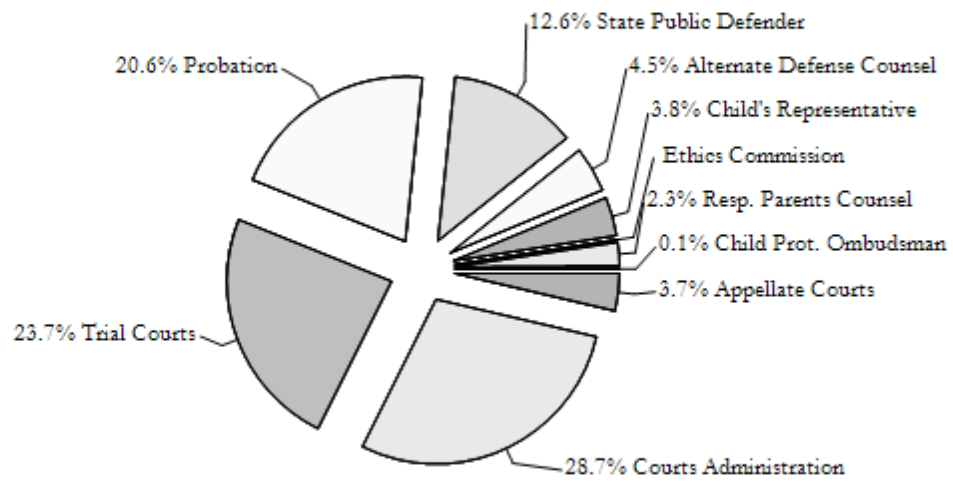


All charts are based on the FY 2017-18 appropriation.

### Distribution of General Fund by Division



### Distribution of Total Funds by Division



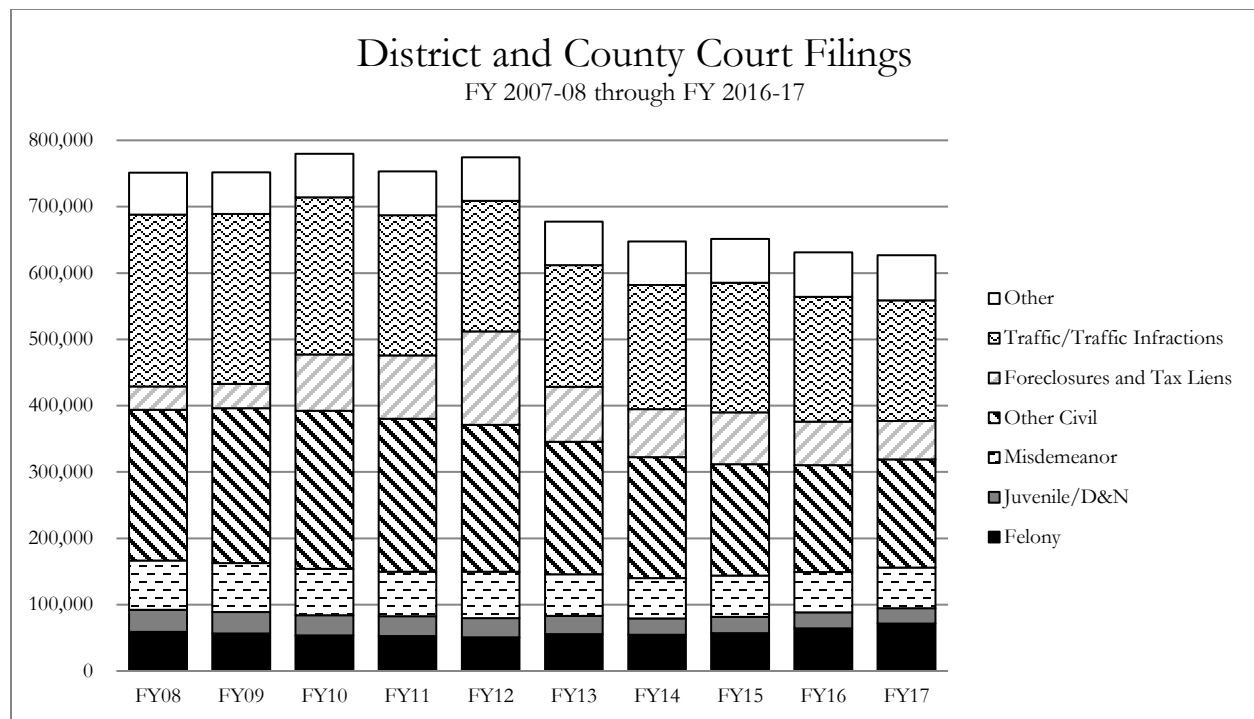
All charts are based on the FY 2017-18 appropriation.

## 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 2016-17, approximately 630,000 new cases were filed in the state court system, including 410,000 (65 percent) in county courts, 216,000 (34 percent) in district and water courts, 2,300 in the Court of Appeals, and 1,300 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 25.6 percent (140,842 cases). County court cases have declined in every category, but decreases in traffic and civil case filings account for 87.6 percent of the overall decline. Over the same time period, *district court* filings increased by 13.8 percent (26,134 cases), primarily due to increases in tax lien, felony, 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 37.2 percent in the last four years (14,038 cases), while juvenile cases have declined by 15.2 percent (3,246 cases). *[See Appendix G for more details about court case filings.]*

The Department routinely monitors its workload and periodically requests funding and FTE 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 18<sup>th</sup> judicial district court (Arapahoe, Douglas, Elbert, and Lincoln counties) and H.B. 15-1034 added one judgeship to the 12<sup>th</sup> judicial district court (Alamosa, Conejos, Costilla, Mineral, Rio Grande, and Saguache counties). The Department indicates that FY 2017-18 funding supports 78.2 percent of the full need for district court judges, 103.6 percent of the full need for county court judges, and 83.3 percent of the full staffing need for non-judge staff for “trial courts” (county and district courts). *[See Appendix G for more details about court staffing levels.]*

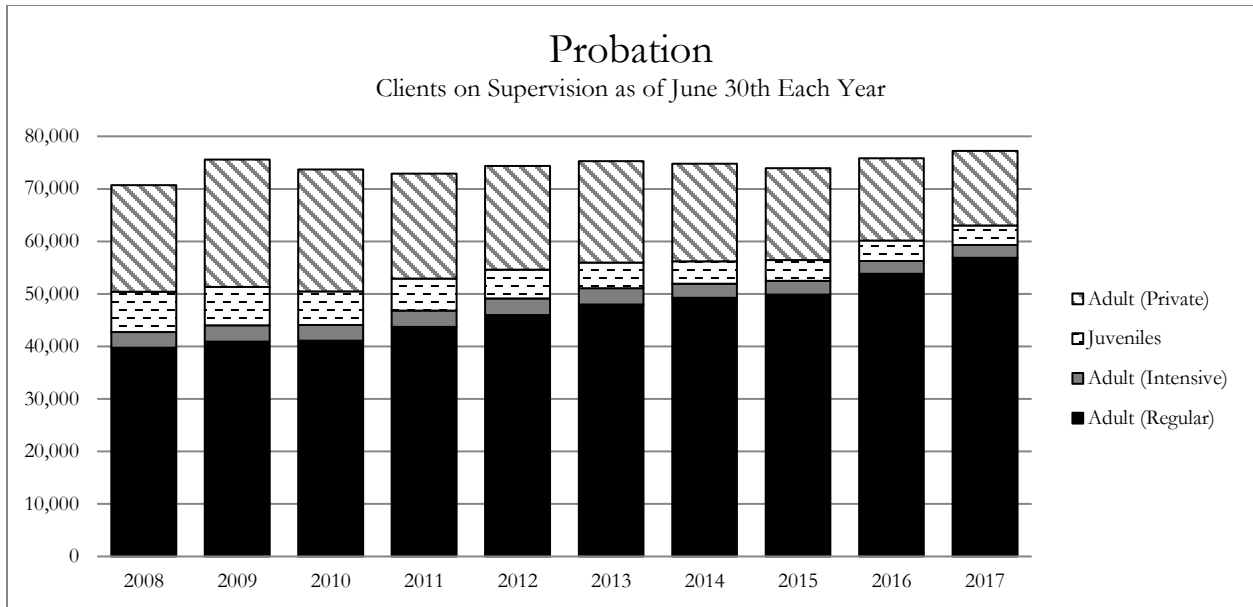
## PROBATION AND RELATED SERVICES CASELOAD

Individuals sentenced to probation, as an alternative to incarceration, remain under the supervision of the court. Failure to comply with the conditions of probation set forth in the court's sentencing order may result in revocation of probation and a new sentence to jail or prison. 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 (FY 17-18) indicates that the average annual cost of probation supervision ranges from \$1,398 for an adult on "regular" probation to \$3,070 for an adult on "intensive" supervision; similarly, the average annual cost of probation supervision ranges from \$2,138 for a juvenile on regular probation to \$3,555 for a juvenile on intensive supervision.

The *total* number of offenders sentenced to probation increased significantly from 1999 to 2009 when it peaked. The population then declined and rose only to decline and rise again, this time to a level that exceeds the 2009 peak. Over the period since 2009, the number of adult offenders who are supervised by private probation providers has decreased steadily as the Department relied increasingly on supervision by state employees. The following chart depicts changes in the numbers of adults and juveniles on supervision since 2008. Overall, the number of juvenile and adult offenders who are supervised by state staff increased from 50,409 in June 2008 to 63,046 in June 2016 (a 25.1 percent increase). 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 2017-18 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. [See Appendix C, RFI #6 for more details about expenditures for treatment and services.]

### CASELOAD IMPACTS UNIQUE TO INDEPENDENT AGENCIES

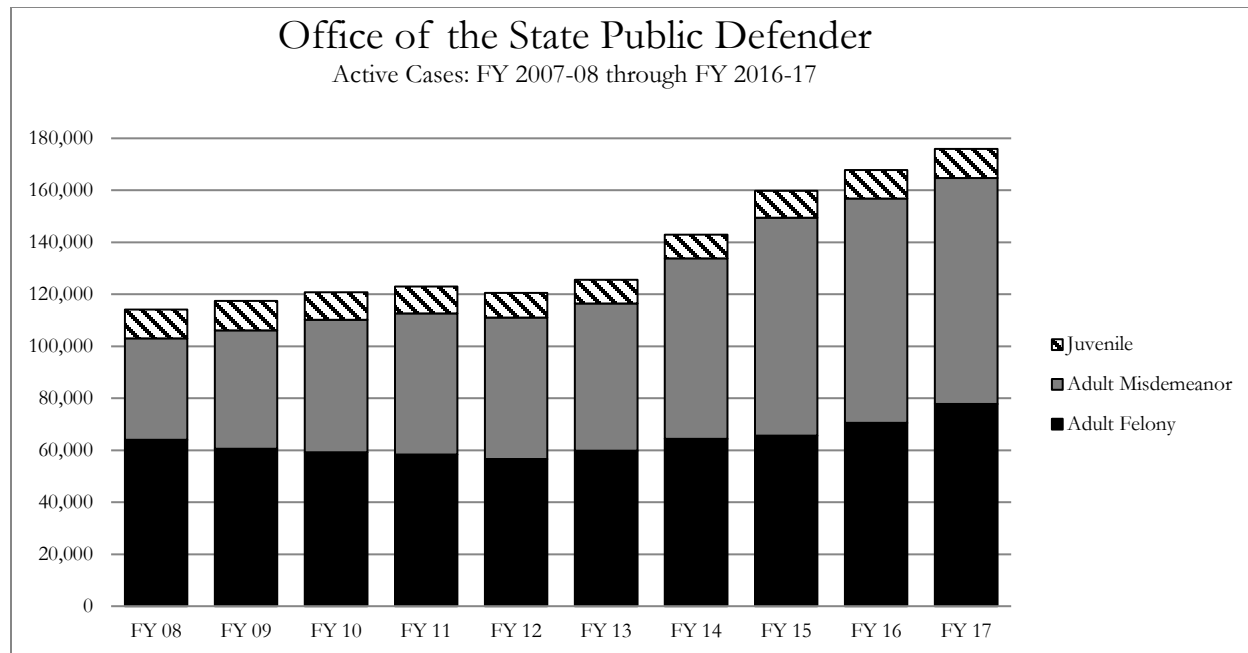
The independent agencies that provide legal representation are affected in different ways by changes in the number of cases filed, based on the clients they represent.

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 \$413 to represent a juvenile defendant, \$336 to represent an adult misdemeanor defendant, and \$833 to represent an adult felony defendant. Further, approximately 90 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 66 percent of adult misdemeanor defendants. Thus, felony and serious misdemeanor cases are the primary factor driving OSPD staffing needs.

The total number of cases requiring public defender involvement has increased every year but one since FY 2007-08, reaching 175,873 in FY 2016-17. In the last three fiscal years alone the total number of cases increased by 32,966 (23.1 percent). The biggest component of this increase was 17,543 (25.3 percent) for adult misdemeanor cases, a change 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 appointed<sup>2</sup>. In addition, the number of adult felony cases has increased by 13,327 (20.7 percent)

<sup>2</sup> 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.

since FY 2013-14. 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 2017-18 funding supports 81 percent of the need for its attorneys, down from 97.6 percent in 2011-12.

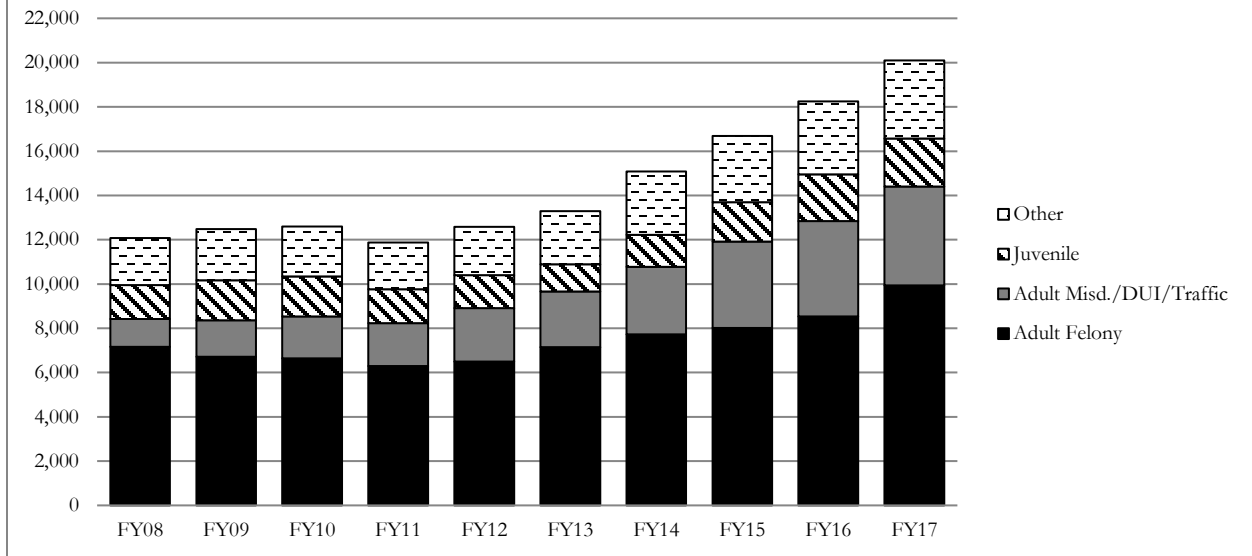


The *Office of the Alternate Defense Counsel (OADC)* contracts with private attorneys to represent indigent defendants in cases where the OSPD has an ethical conflict of interest in providing legal representation. The OADC paid for legal representation in 20,103 cases in FY 2016-17, at an average cost of \$1,523 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 5,018 cases, a 33.3 percent increase). The OADC experienced increases in every case type, but the most significant increases occurred in adult felony cases (2,214 additional cases, a 28.7 percent increase) and adult misdemeanors, DUI, and Traffic cases (1,415 additional cases, a 46.4 percent increase). 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.

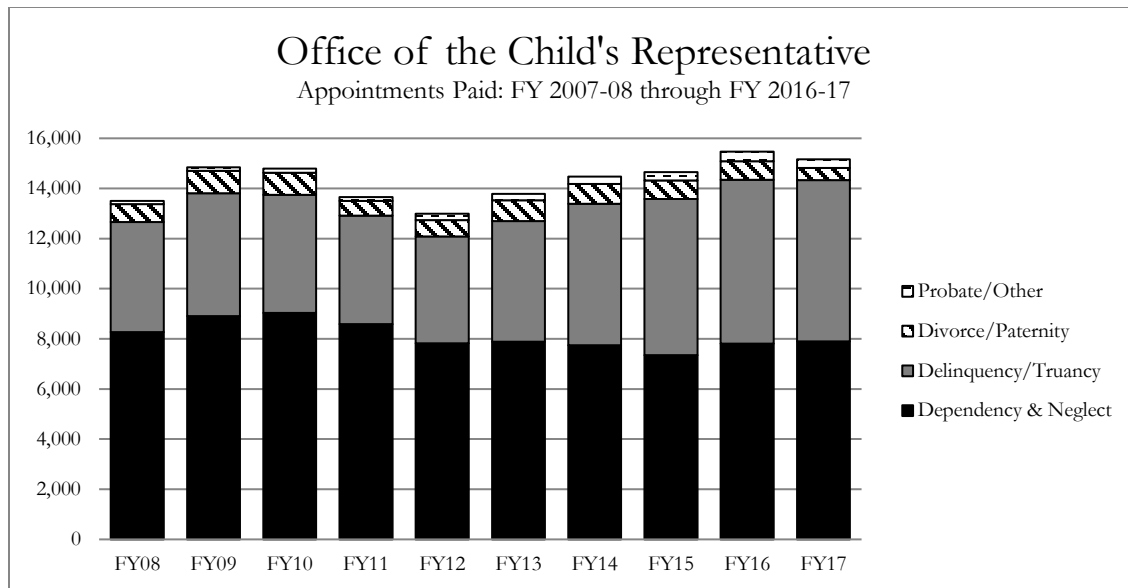
## Office of the Alternate Defense Counsel

Cases Paid: FY 2007-08 through FY 2015-16



The *Office of the Child's Representative (OCR)* provides legal representation for children involved in the court system due to abuse or neglect, delinquency, truancy, high conflict divorce, alcohol or drug abuse, mental health issues, and probate matters. The OCR paid for legal representation in 15,159 court appointments in FY 2016-17 at an average cost of \$1,324 per appointment. Similar to the OSPD and OADC, the average cost per appointment varies significantly for different types of cases. For example, in FY 2016-17 the OCR spent an average of \$269 per appointment in truancy cases, \$569 per appointment in juvenile delinquency cases, \$817 per appointment in domestic relations cases, and \$2,031 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 42.4 percent of the total, compared to 32.5 percent in FY 2007-08. 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.



The *Office of Respondent Parents' Counsel* (ORPC) provides legal representation for indigent parents who are in danger of having their parental rights terminated by the courts in dependency and neglect proceedings. The ORPC paid for legal representation in 9,735 court appointments in FY 2016-17 at an average cost of \$1,295 per appointment. The ORPC began providing parents with contract attorney representation in July 2016 and thus has a short history that makes it impossible to show caseload and cost trends.

## SUMMARY: FY 2017-18 APPROPRIATION & FY 2018-19 REQUEST

JUDICIAL DEPARTMENT						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
<b>FY 2017-18 APPROPRIATION:</b>						
SB 17-254 (Long Bill)	710,314,244	512,932,613	157,894,176	35,062,455	4,425,000	4,647.5
Other Legislation	69,737	69,737	0	0	0	0.8
<b>TOTAL</b>	<b>\$710,383,981</b>	<b>\$513,002,350</b>	<b>\$157,894,176</b>	<b>\$35,062,455</b>	<b>\$4,425,000</b>	<b>4,648.3</b>
<b>FY 2018-19 APPROPRIATION:</b>						
FY 2017-18 Appropriation	\$710,383,981	513,002,350	\$157,894,176	\$35,062,455	\$4,425,000	4,648.3
JUD R1 System Maintenance Study	4,138,738	3,974,756	163,982	0	0	0.0
JUD R2 Court Supervisors	919,501	919,501	0	0	0	15.0
JUD R3 Problem Solving Court Coordinators	500,682	500,682	0	0	0	7.0
JUD R4 Access to Justice	133,876	133,876	0	0	0	1.0
JUD R5 IT Project Management and Information Security Staff	840,015	840,015	0	0	0	7.0
JUD R6 Interstate Compact FTE Transfer	119,409	119,409	0	0	0	2.0
JUD R7 Courthouse Furnishing	3,153,360	3,153,360	0	0	0	0.0
JUD R8 Merchant and Courier Fees	286,033	286,033	0	0	0	0.0
JUD R9 E-filing/postage/ mailing/processing	308,834	0	308,834	0	0	0.0
JUD R10 Restorative Justice Cash Fund Spending Authority	230,000	0	230,000	0	0	0.0
JUD R11 Compensation for Exonerated Persons	(110,124)	(110,124)	0	0	0	0.0
OSPD R1 Workload and Caseload Increases	4,213,138	4,213,138	0	0	0	56.4
OSPD R2 IT Support, Security, and Development	870,620	870,620	0	0	0	4.0
OSPD R3 Interpreters	38,702	38,702	0	0	0	0.0
OADC R1 Caseload Increase	6,558,038	6,558,038	0	0	0	0.0
OADC R2 Administrative Support	79,981	79,981	0	0	0	1.0
OADC R3 Contractor rate increase	2,306,291	2,306,291	0	0	0	0.0
OCR R1 Caseload/Workload adjustment	(612,421)	(612,421)	0	0	0	0.0
OCR R2 Court-appointed counsel rate increases	1,893,531	1,893,531	0	0	0	0.0
OCR R3 Information Systems Manager Reclassification	18,889	18,889	0	0	0	0.0
OCR R4 Social Services Professional Coordinator	107,963	107,963	0	0	0	1.0
OCR R5 Reclassify staff positions	41,859	41,859	0	0	0	0.0
OCR R6 Increase administrative assistant position to full-time	20,896	20,896	0	0	0	0.5
OCR R7 Align common compensation plan positions	5,350	5,350	0	0	0	0.0
ORPC R1 Continuation of Social Worker Pilot Program	302,640	302,640	0	0	0	0.0
ORPC R2 Mandated Costs	191,999	191,999	0	0	0	0.0
ORPC R3 Increase in Contractor Hourly Rates	915,883	915,883	0	0	0	0.0
ORPC R4 Contract Statistician	220,000	220,000	0	0	0	0.0

JUDICIAL DEPARTMENT						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
ORPC R5 Operating Expenses	16,931	16,931	0	0	0	0.0
OCPO R1 Additional FTE and Associated Costs	234,940	234,940	0	0	0	2.0
CDAC R1 District Attorney Mandated Costs	74,543	74,543	0	0	0	0.0
NP1 Cybersecurity Liability Insurance Policy	26,827	26,827	0	0	0	0.0
NP2 Common Policy Provider Rate Increase	339,696	154,131	15,717	169,848	0	0.0
Centrally Appropriated Line Items	14,110,889	13,091,015	1,019,874	0	0	0.0
Annualize Prior Year Legislation	798,746	806,958	(8,212)	0	0	0.2
Adjust payment to PERA for Retired Judges who hear cases	41,019	41,019	0	0	0	0.0
Annualize Prior Year Budget Actions	(4,437,368)	(3,847,112)	(590,256)	0	0	0.0
Fund Source Adjustment	(27,541)	(105,682)	(27,541)	105,682	0	0.0
<b>TOTAL</b>	<b>\$749,256,346</b>	<b>\$550,486,787</b>	<b>\$159,006,574</b>	<b>\$35,337,985</b>	<b>\$4,425,000</b>	<b>4,745.4</b>
<b>INCREASE/(DECREASE)</b>	<b>\$38,872,365</b>	<b>\$37,484,437</b>	<b>\$1,112,398</b>	<b>\$275,530</b>	<b>\$0</b>	<b>97.1</b>
Percentage Change	5.5%	7.3%	0.7%	0.8%	0.0%	2.1%

GENERAL NOTE: The descriptions of prioritized requested changes in the above table and the descriptions below 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 SYSTEM MAINTENANCE STUDY:** The request includes an increase of \$4,138,738 total funds, including \$3,974,756 General Fund, to pay salary survey adjustments that change the salary ranges for 54 job classes in the Judicial Department. The salary survey was performed by Segal Waters, a third-party compensation consulting company, which produced the Department's FY 2017-18 Annual Compensation Report.

**JUD R2 COURT SUPERVISORS:** The request includes an increase of \$919,501 General Fund and 15.0 supervisor FTE to improve the staff-to-supervisor ratio for trial court staff. The Department states that addition of these supervisor positions will ensure trial court staff have the support and training needed to provide quality customer service and assistance to court users while also allowing for leadership development and full engagement with data integrity efforts.

**JUD R3 PROBLEM SOLVING COURT COORDINATORS:** The request includes an increase of \$500,682 total funds (comprised of \$492,072 General Fund and \$8,610 cash funds) to hire 7.0 FTE as Problem Solving Court Coordinators II.

**JUD R4 ACCESS TO JUSTICE:** The request includes an increase of \$133,876 General Fund and 1.0 FTE for an Access to Justice Coordinator to guide and coordinate resources to broaden access to civil justice for all litigants, including self-represented litigants, individuals of modest means, those of limited or no English proficiency, and individuals with mental or physical disabilities.

**JUD R5 IT PROJECT MANAGEMENT AND INFORMATION SECURITY STAFF:** The request includes an increase of \$840,015 General Fund and 7.0 FTE to establish an IT Project Management Office and hire the additional information security staff necessary to provide adequate protection and regulatory compliance for the Branch's networks, systems, applications, and data. The request includes \$605,421 and 5.0 FTE to establish a Project Management Office and \$240,744 and 2.0 FTE for additional information security staff.

**JUD R6 INTERSTATE COMPACT FTE TRANSFER:** The request includes the transfer of 2.0 FTE from the Department of Corrections' (DOC) Parole Subprogram to the Judicial Department's Probation Division. These FTE do administrative work related to the Interstate Compact which controls the placement of probationers and parolees in other states. FY 2018-19 General Fund expenditures of the Department of Corrections will decline by \$92,913. The entire DOC decline is in personal services. The FY 2018-19 General Fund expenditures of the Judicial Department will rise by \$119,409 General Fund, comprised of \$108,103 for personal services, \$1,900 for ongoing operating costs, and \$9,406 for one-time capital outlay. No people will move between departments; Judicial will hire or promote internally; DOC will move employees into other open positions. This request corresponds with request R7 submitted by the Department of Corrections.

**JUD R7 COURTHOUSE FURNISHINGS AND INFRASTRUCTURE:** The request includes an increase of \$3,153,360 General Fund to address required infrastructure and courthouse furnishing needs. Colorado counties provide and maintain courtrooms and other court facilities, while the State provides the furnishings, infrastructure, and court staffing. This request is for infrastructure and courthouse furnishings for expanded, remodeled, or new facilities, as well as to replace or refurbish existing furniture that is no longer useable or will soon become unusable without repair.

**JUD R8 MERCHANT AND COURIER FEES:** The request includes an increase of \$286,033 General Fund to pay for (1) increased merchant fees on credit card transactions and (2) increased courier fees for armored transportation of court fines and fees collected at each court location. Merchant fees have increased substantially due to the growing use of credit cards to pay court fines and fees.

**JUD R9 E-FILING/POSTAGE/MAILING/PROCESSING:** The request includes an increase of \$308,834 cash funds from the Judicial Information Technology Cash Fund to pay for printing and postage costs associated with public access and e-filing. E-filing by one person can generate mailings to others who cannot be notified electronically. During the last two year, e-filing has been expanded to the criminal docket, which has generated additional mailings. The cash funds are from the fee that is assessed when an electronic filing is accepted by the court.

**JUD R10 RESTORATIVE JUSTICE CASH FUND SPENDING AUTHORITY:** The request includes an increase of \$230,000 cash funds from the Restorative Justice Surcharge Cash Fund to support growth in existing funded Restorative Justice programs and to expand funding for new Restorative Justice programs. The Restorative Justice Cash Fund receives revenue from a \$10 surcharge levied on persons convicted of a crime.

**JUD R11 COMPENSATION FOR EXONERATED PERSONS:** The request included elimination of a \$110,124 General Fund appropriation for compensation of exonerated persons. There are currently no individuals who qualify for these payments.

Requests from Office of the State Public Defender (OSPD)

**OSPD R1 WORKLOAD AND CASELOAD INCREASES:** The request includes an increase of \$4,213,138 General Fund and 56.4 FTE for FY 2018-19, annualizing to \$4,607,097 and 56.4 FTE and in FY 2019-20 to respond to the caseload and workload increase that the Office has experienced.

**OSPD R2 IT SUPPORT, SECURITY, AND DEVELOPMENT:** The request includes an increase of \$870,620 General Fund and 4.0 FTE to address the Office's information technology needs. This includes development of a Case Management System, provision of increased (and ongoing) IT support for the Public Defender's 21 regional offices, software licensure, hardware replacement, and security upgrades. In the second year expenditures decline to \$472,407 and 4.0 FTE.

**OSPD R3 INTERPRETERS:** The request includes an increase of \$38,702 General Fund for the increased cost of contract non-Spanish language interpreters. The request is in response to a translator rate increase enacted by the Judicial Department on July 1, 2017 as well as increased demand for non-Spanish language interpreters.

Requests from Office of the Alternate Defense Counsel (OADC)

**OADC R1 CASELOAD INCREASE:** The request includes an increase of \$6,558,038 General Fund for its increased caseload, comprised of \$6,112,242 for Conflict-of-interest Contracts and \$445,796 for Mandated Costs.

**OADC R2 ADMINISTRATIVE SUPPORT:** The request includes an increase of \$79,981 General Fund and 1.0 FTE to add an Administrative Specialist III. This will alleviate the shortage of support staff that has resulted from the Office's caseload increase.

**OADC R3 CONTRACTOR RATE INCREASE:** The request includes an increase of \$2,306,291 General Fund for a 6.7% rate increase for its contractors.

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

**OCR R1 WORKLOAD AND CASELOAD ADJUSTMENT:** The request includes a \$612,421 General Fund reduction to align the Office's Court-Appointed Counsel appropriation with its lower workload and caseload.

**OCR R2 COURT-APPOINTED COUNSEL RATE INCREASES:** The request includes an increase of \$1,893,531 General Fund to increase the hourly rate paid to attorneys to \$80, the hourly rate paid to social service professionals to \$44, and the hourly rate paid to paralegals to \$32. These are approximately 6.7% increases.



**OCR R3 INFORMATION SYSTEMS MANAGER RECLASSIFICATION:** The request includes an increase of \$18,889 General Fund for the reclassification of the Office's Information Systems (IS) Manager, whose salary is currently aligned with that of a Judicial Information Technology Systems Analyst II, as a Judicial Information Technology Systems Analyst III.

**OCR R4 SOCIAL SERVICES PROFESSIONAL COORDINATOR:** The request includes an increase of \$107,963 General Fund to fund a 1.0 FTE Social Service Professional Coordinator. This will expand the use of professional social workers to Guardians ad litem (GALs) across Colorado. Many of the specific investigative tasks assigned to GALs by Chief Justice Directive 04-06 can be performed by qualified social workers working under the direction of the GAL at a lower cost.

**OCR R5 RECLASSIFY STAFF POSITIONS:** The request includes an increase of \$41,859 General Fund for the reclassification of several positions in the OCR's El Paso County Guardian Ad Litem office.

**OCR R6 INCREASE ADMINISTRATIVE ASSISTANT POSITION TO FULL-TIME:** The request includes an increase of \$20,896 to increase the Administrative Assistant position in the Denver Office of the Child's Representative from 0.5 FTE to 1.0 FTE.

**OCR R7 ALIGN COMMON COMPENSATION PLAN POSITIONS:** The request includes an increase of \$5,350 to align salaries for two of the Office's positions with similar positions within the State Court Administrator's Office (i.e. the main Judicial office).

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

**ORPC R1 CONTINUATION OF SOCIAL WORKER PILOT PROGRAM:** The request includes an increase of \$302,640 General Fund for the continuation for a second year of the Social Worker Pilot Program that the Committee approved last year. The program provides attorneys in two judicial districts who serve as respondent parents' counsel with access to contract social workers. The program, which began operation this fiscal year, is based on a multidisciplinary approach to parent representation developed in other states and is expected to improve outcomes for parents and children in Colorado.

**ORPC R2 MANDATED COSTS:** The request includes an increase of \$191,999 in increased Mandated Costs for expert witnesses, transcripts, and other court costs. Statute states that an indigent parent in a dependency and neglect proceeding has the right to have appointed one expert witness of his or her own choosing whose reasonable fees and expenses are paid by the State. Recent changes to Colorado appellate rules have increased the number of court transcripts that must be prepared.

**ORPC R3 INCREASE IN CONTRACTOR HOURLY RATES:** The request includes an increase of \$915,883 General Fund, comprised of \$900,958 for Court-Appointed Counsel and \$14,925 for Mandated Costs to pay for a 6.7% increase in the hourly contractor rates for attorneys, paralegals, investigators, and social workers.

**ORPC R4 CONTRACT STATISTICIAN:** The request includes an increase of \$220,000 General Fund to engage a contract statistician who will evaluate the overall effectiveness of the Office of Respondent Parents' Counsel and the Social Worker Pilot Program.

**ORPC R5 OPERATING EXPENSES.** The request includes an increase of \$16,931 in Operating Expenses to align the appropriation with the needs of of the office and to complete scheduled replacements of computers and acquisition of software.

Requests from Office of the Child Protection Ombudsman (OCPO)

**OCPO R1 ADDITIONAL FTE AND ASSOCIATED COSTS:** The request includes an increase of \$234,940 General Fund and 2.0 FTE. The increase is comprised of (1) \$140,766 for 1.5 FTE who will investigate complaints regarding systemic problems in the child welfare system and investigate the increasingly complex individual cases that are being brought to the Ombudsman, (2) \$30,018 and 0.5 FTE for an Administrative Coordinator, (3) \$56,104 to build out and furnish two offices in the Office’s current space at the Carr Judicial Center to accommodate the added staff, and (4) \$8,052 to increase the Office’s internet bandwidth.

Requests from the Colorado District Attorneys' Council

**CDAC R1 DISTRICT ATTORNEY MANDATED COSTS:** The request includes an increase of \$74,543 General Fund (3.0 percent) to reimburse district attorneys for costs incurred for prosecution of state matters. *[For more information, see Appendix C, Judicial request for information #5.]*

Other Changes Requested by Judicial Agencies

**NP1 CYBERSECURITY LIABILITY INSURANCE POLICY:** The request includes an increase of \$26,827 General Fund for an insurance policy to cover costs associated with cyber security breaches.

**NP2 COMMON POLICY PROVIDER RATE INCREASE:** The request includes an increase of \$339,696 total funds (\$154,131 General Fund) to increase the rates paid to probation providers by one percent.

**CENTRALLY APPROPRIATED LINE ITEMS:** The request includes the following adjustments to central appropriations:

CENTRAL APPROPRIATIONS ADJUSTMENTS						
	TOTAL	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL	FTE
Salary survey	\$10,271,114	\$9,761,543	\$509,571	\$0	\$0	0.0
Health, life, and dental	2,677,933	2,543,860	134,073	0	0	0.0
SAED	930,296	743,447	186,849	0	0	0.0
AED	732,384	546,684	185,700	0	0	0.0
Workers’ compensation	358,275	358,275	0	0	0	0.0
CORE	134,043	134,043	0	0	0	0.0
Legal services	41,738	41,738	0	0	0	0.0
Vehicle lease payments	39,515	39,515	0	0	0	0.0
Leased space	29,448	29,448	0	0	0	0.0
Payments to OIT	(721,603)	(721,603)	0	0	0	0.0
Payment to risk management / property funds	(344,880)	(344,880)	0	0	0	0.0
Short-term disability	(30,020)	(33,701)	3,681	0	0	0.0
Merit pay	(7,354)	(7,354)	0	0	0	0.0
<b>TOTAL</b>	<b>\$14,110,889</b>	<b>\$13,091,015</b>	<b>\$1,019,874</b>	<b>\$0</b>	<b>\$0</b>	<b>0.0</b>

**ANNUALIZE PRIOR YEAR LEGISLATION:** The request includes the following adjustments for annualization of prior year legislation:

ANNUALIZE PRIOR YEAR LEGISLATION						
	TOTAL	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL	FTE
HB 17-1265 PERA Judicial Division Total Employer Contrib.	726,273	704,485	21,788	0	0	0.0
HB 17-1087 Office of Public Guardianship	107,176	107,176	0	0	0	0.0
SB 08-054 (Judicial Performance Evaluations) No public awareness poll this year per that bill	(30,000)	0	(30,000)	0	0	0.0
HB 17-1204 Juvenile delinquency record expungement	(\$4,703)	(\$4,703)	\$0	\$0	\$0	0.2
<b>TOTAL</b>	<b>\$798,746</b>	<b>\$806,958</b>	<b>(\$8,212)</b>	<b>\$0</b>	<b>\$0</b>	<b>0.2</b>

**OTHER:** The request includes an increase of \$41,019 for the payments the Department makes to PERA when a judge hears cases on a part time basis after retiring. PERA makes additional payments to the judge

**ANNUALIZE PRIOR YEAR BUDGET ACTIONS:** The request includes the following adjustments for annualization of prior year budget actions:

ANNUALIZE PRIOR BUDGET ACTIONS						
	TOTAL	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL	FTE
ORPC Lease Payment	\$46,687	\$46,687	\$0	\$0	\$0	0.0
Prior year salary survey	17,159	17,159	0	0	0	0.0
Merit base pay	7,354	7,354	0	0	0	0.0
FY 17-18 JUD R1/BA2 Courthouse capital and infrastructure maintenance	(3,230,056)	(2,639,800)	(590,256)	0	0	0.0
FY 17-18 OCR R2 Case management and billing system	(795,000)	(795,000)	0	0	0	0.0
FY 17-18 ORPC BA2 Social Worker Pilot Program	(301,033)	(301,033)	0	0	0	0.0
FY 17-18 OSPD R2 Mandated and electronic data management expenses	(116,246)	(116,246)	0	0	0	0.0
FY 17-18 OCR R3 El Paso GAL office relocation	(37,864)	(37,864)	0	0	0	0.0
FY 17-18 OSPD R4 Vehicles	(15,667)	(15,667)	0	0	0	0.0
FY 17-18 OSPD R1 Support staff	(10,534)	(10,534)	0	0	0	0.0
FY 17-18 OSPD R3 New criminal judge in the 12th	(2,168)	(2,168)	0	0	0	0.0
<b>TOTAL</b>	<b>(\$4,437,368)</b>	<b>(\$3,847,112)</b>	<b>(\$590,256)</b>	<b>\$0</b>	<b>\$0</b>	<b>0.0</b>

**FUND SOURCE ADJUSTMENT:** The request reflects a \$105,682 increase in the leased space payments paid by tenants within the Ralph L. Carr Colorado Judicial Center (reappropriated funds received from General Funded tenant agencies). This added revenue is used to decrease in the General Fund share of Carr Center debt service payments by the same amount, i.e. by \$105,682. However, the Carr Center's debt service payment is also scheduled to go down by \$27,541. This amount is paid from the Judicial Center Cash Fund, so cash fund payments decline by that amount.

## ISSUE: CONTRACTOR RATE INCREASES

Three Judicial Branch agencies, the Office of the Alternate Defense Council, the Office of the Child’s Representative, and the Office of the Respondent Parents Council, are requesting coordinated rate increases for the contract attorneys who provide legal representation for the clients that these agencies serve. In support of this request, the agencies point to the higher billing rates charged by private-sector attorneys and the higher rates the federal government pays to contract attorneys. The issue examines trends in Colorado attorney billing rates and suggests that a contractor rate increase can wait until a future year.

### SUMMARY

- Three Judicial Branch agencies, the Office of the Alternate Defense Council, the Office of the Child’s Representative, and the Office of the Respondent Parents Council, are requesting coordinated rate increases for the contract attorneys who provide legal representation for the clients that they serve.
- The agencies point to the higher billing rates charged by private-sector attorneys and the higher rates the federal government pays to contract attorneys.
- The issue examines trends in Colorado attorney billing rates and suggests that a contractor rate increase for the agencies can wait until a future year.

### RECOMMENDATION

Recommendations based on this analysis will be made at figure setting.

### DISCUSSION

Three Judicial Branch Agencies, the Office of the Alternate Defense Council, the Office of the Child’s Representative, and the Office of the Respondent Parents Council, are requesting coordinated rate increases for the attorneys who provide legal representation for the clients that these agencies serve. The agencies are also requesting increases for the other professionals who support those attorneys, such as paralegals, social workers, and investigators. These contractors are paid on an hourly basis.

Each of the three agencies has separately submitted at a request, which the following table summarizes:

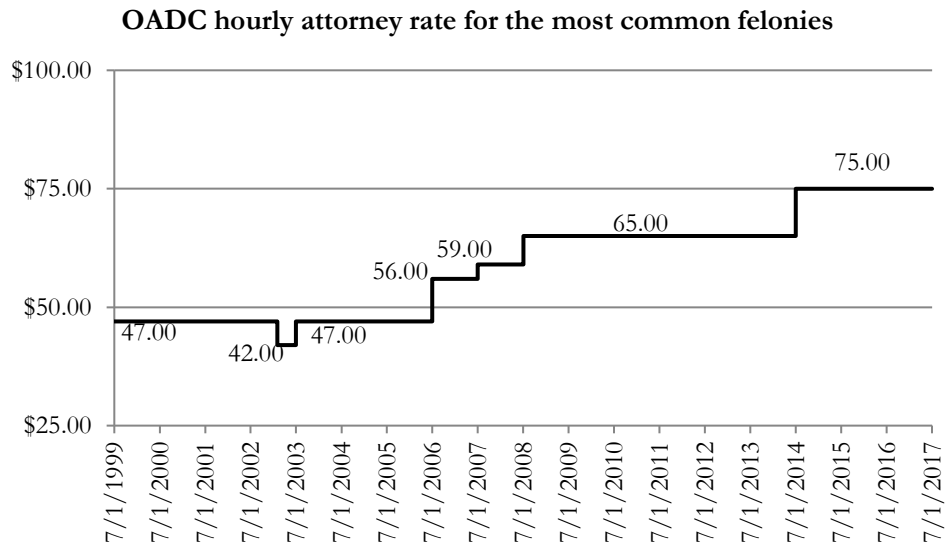
AGENCY	CURRENT APPROPRIATION FOR CONTRACTS	REQUESTED INCREASE TO PAY HIGHER RATES
Office of the Alternate Defense Council	\$27,864,221	\$2,306,291
Office of the Child’s Representative	21,687,004	1,893,531
Office of the Respondent Parents Council	14,677,355	915,883
Total	\$64,228,580	\$5,115,705

The key rate in all of these requests is the hourly rate for attorneys, which currently equals \$75 per hour. Each agency requests that this rate be increased by \$5 to \$80 per hour, which is a 6.7 percent increase. Most of the other rates increases are approximately 6.7 percent because they are rounded

to the nearest dollar. In a few cases the requested increase is substantially larger. For example, the Office of the Child’s Representative requests a larger increase for clinical social workers and licensed social workers because the rate that it pays these workers is substantially below the rates that the other two agencies pay.

The Office of the Alternative Defense Counsel illustrates the manner in which these contracts work. The OADC has a list of attorneys it has approved to handle cases. It also has a list of approved paralegals, investigators, and social workers who can do support work. As a contract attorney works on a case, the attorney may want to search for potential witnesses, a job that can be performed by a professional investigator at a lower cost than by an attorney. The attorney will apply to the OADC for approval of perhaps 8 hours of investigative work. The OADC will review the request and, if approved, set a maximum hours limit. The attorney can then select from the list of approved investigators. Attorneys and support staff are all paid through an online billing system in which they enter the hours they worked and the type of work they performed.

The following chart shows the rate that the OADC has paid for contract attorneys in the most common felony cases going back to 1999. (Paralegals receive \$30 per hour and investigators receive \$41. The OADC pays \$80 per hour for more serious felonies not involving the death penalty and pays \$90 per hour in death penalty cases.) Note that the last hourly rate increase was on July 1, 2014 when attorneys received a \$10 per hour increase. Investigators and paralegals received \$5 increases at the same time. If this increase is approved, it will be the first increase in four years.



The Office of the Child’s Representative, and the Office of the Respondent Parents Council do not have the same long rate history. Both are currently transitioning to hourly rates from fixed fees per case.

To make the case for these rates, the three agencies point to other, higher hourly billing rates for attorneys.

1. The Colorado Department of Law’s hourly billing rate for attorneys for FY 2017-18 is \$106.56. Ten years ago, in FY 2007-08, it equaled \$74.64.

2. Federal Courts pay \$132 per hour to represent defendants in non-capital cases, up from \$100 in 2008. The rate when the death penalty is involved is \$185 now versus \$170 in 2008.<sup>3</sup>
3. The Colorado Bar association recently published a [member survey](#) that reports Colorado attorney billing rates, net income, and other measures for 2016. The three agencies all cite this study and point to a number of Colorado billing rates that they believe to be comparable. For example, the Office of the Child’s Representative provides the following table. The Office points out that two thirds of its attorney contractors have over 10 years of experience, making the row in the table for attorneys with 10 to 19 years of experience relevant.

**Table F: COLORADO RATE COMPARISON**

POSITION/CONTRACT	HOURLY RATE
Attorney Contract Rate for Federal Criminal Justice Act ( <i>representing indigent defendants in federal cases</i> )	\$132
Median hourly rate for solo practitioner	\$250
Median hourly rate for attorney with 10-19 years experience	\$250
Median hourly rate for attorney without experience	\$185
Median hourly rate for paralegal with 10-14 years experience	\$120
Median hourly rate for paralegal without experience	\$95

The Office of the Alternative Defense Council summarizes its data by stating that its contractors make an average of 31% of private sector legal counsel rates and 56% of what their Federal appointed counterparts earn.

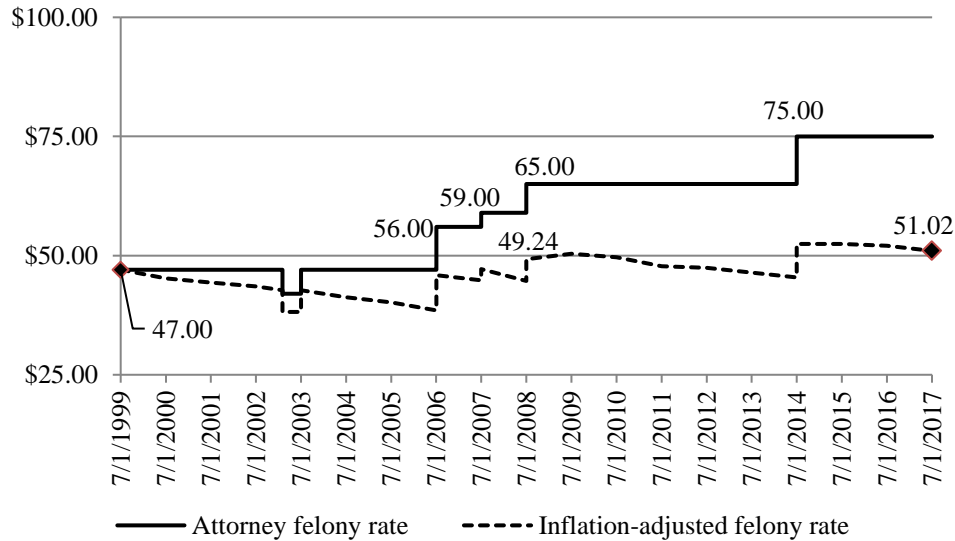
To investigate billing rates further, staff studied the effect of inflation on the purchasing power of the Office of the Alternative Defense Counsel’s attorney rate since 1999. The dashed line in the following chart shows the attorney felony rate adjusted for inflation using the nation-wide consumer price index from the Bureau of Labor Statistics. In 1999, the rate was \$47 per hour. Eighteen years later the rate was \$75 per hour, which is \$31 higher. However, adjusted for inflation, the rate rose much less, increasing from \$47.00 per hour to \$51.02, which was \$4.02 higher than the 1999 rate. Put another way, the attorney rate rose 59.6 percent from 1999 to 2017 but the price level rose 47.0%, leaving the real gain at 8.6%. Looking at a shorter period and using 2008 as the starting

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<sup>3</sup> For rates paid by U.S. courts see [http://www.uscourts.gov/rules-policies/judiciary-policies/cja-guidelines/chapter-2-ss-230-compensation-and-expenses#a230\\_16](http://www.uscourts.gov/rules-policies/judiciary-policies/cja-guidelines/chapter-2-ss-230-compensation-and-expenses#a230_16) and the much higher rates paid for capital cases at [http://www.uscourts.gov/rules-policies/judiciary-policies/cja-guidelines/chapter-6-ss-630-compensation-appointed-counsel#a630\\_10\\_20](http://www.uscourts.gov/rules-policies/judiciary-policies/cja-guidelines/chapter-6-ss-630-compensation-appointed-counsel#a630_10_20).

point, the purchasing power of the hourly rate rose from \$49.24 in 2008 to \$51.02 in 2017, an increase of \$1.78.

**OADC hourly attorney rates for the most common felonies, with and without an inflation adjustment**



Staff also examined billing rates and net income of Colorado attorney’s since 2008, when the Colorado Bar association produced a survey similar to their 2016 survey. The two reports provide the comparison data contained in the following table.

BILLING RATES AND INCOME OF COLORADO ATTORNEYS, 2007 AND 2016			
	2007	2016	% Change
<b>Hourly Billing Rates</b>			
Average rate of solo law practitioners	\$210	\$243	15.7%
Median rate of solo law practitioners	\$200	\$250	25.0%
Average rate of attorneys who primarily practice criminal law	\$242	\$229	-5.4%
Median rate of attorneys who primarily practice criminal law	\$223	\$250	12.1%
Average rate of attorneys who primarily practice family law	\$221	\$260	17.6%
Median rate of attorneys who primarily practice family law	\$225	\$250	11.1%
<b>Net Income</b>			
Average net income of full time solo law practitioners	\$104,368	\$113,600	8.8%
Median net income of full time solo law practitioners	\$83,820	\$96,000	14.5%
Average net income of full time attorneys who primarily practice criminal law	\$95,887	\$93,400	-2.6%
Median net income of full time attorneys who primarily practice criminal law	\$82,000	\$74,500	-9.1%
Average net income of full time attorneys who primarily practice family law	\$115,457	\$113,200	-2.0%
Median net income of full time attorneys who primarily practice family law	\$90,000	\$87,700	-2.6%
<b>Office of the Alternative Defense Council Hourly Rate</b>			
OADC rate for attorney contractors who handle common felonies	\$59	\$75	27.1%
OADC rate for attorney contractors who handle common felonies, starting the study interval in 2008 (just after the rate rose) rather than in 2007 (just before the rate rose)	\$65	\$75	15.4%
<b>Total increase of the price level (i.e. inflation) from 2007 to 2016</b>			<b>15.2%</b>

This table indicates that by most measures, Colorado attorney billing rates have approximately kept pace with the 15.2 percent increase in the general price level that has occurred since 2007. The OADC payment rate over the period 2008 to 2016 (which skips the rate increase that occurred at the start of the period) also rose approximately as much as inflation. This suggests that OADC attorney contractors are currently in approximately the same position relative to other private sector attorneys that they were in 2008.

The net income numbers for private Colorado attorneys show that even without an inflation adjustment, the income of criminal attorneys and family law attorneys has declined. The net income of solo law practitioners has also struggled to keep up with inflation.

This evidence suggests that a contractor rate increase for these agencies can wait until a future year.



## ISSUE: FUNDING CARR CENTER CONTROLLED MAINTENANCE

The State Court Administrator's Office has asked the JBC to sponsor a bill that would create a dedicated controlled maintenance cash fund for the Carr Center. The Department proposes to transfer \$3.0 million into the fund when it is established and subsequently add \$500,000 annually to the new fund from the cash fund revenues it receives from court fees, rent paid by Carr Center tenants, and parking fees. Staff recommends that the Committee carry this bill but believes deposits into the fund should be larger to meet future controlled maintenance needs. Staff recommends an annual contribution to the fund equal to one percent of the Carr Center's insured value.

### SUMMARY

- The State Court Administrator's Office has asked the JBC to sponsor a bill that would create a dedicated controlled maintenance cash fund for the Carr Center.
- The Department proposes to transfer \$3.0 million into the fund when it is established and subsequently add \$500,000 annually to the new fund.
- Staff recommends that the Committee carry this bill but believes deposits into the fund should be larger to meet future controlled maintenance needs.
- Staff recommends an annual contribution to the fund equal to one percent of the Carr Center's insured value.

### RECOMMENDATION

Staff recommends that the JBC to sponsor a bill to create a dedicated controlled maintenance cash fund for the Carr Center.

### DISCUSSION

Judicial Branch Request for Information number 1 directed the following request to the State Court Administrator's Office (the SCAO, which staff sometimes calls "main Judicial").

The State Court Administrator's Office is requested to provide by November 1, 2017, a report concerning its plans for addressing the controlled maintenance needs of the Carr Center, consistent with S.B. 08-206. The report should include any recommended statutory changes or changes to the appropriation structure to ensure that revenues from court fees, lease payments, and parking fees can be used to cover both current and future controlled maintenance expenses.

The State Court Administrator's Office has provided the requested report, which outlines the Department's plan to accumulate \$7 million for controlled maintenance expenditures by 2027 when

the Carr Center will be 15 years old. To help it achieve this objective, the Department asks that the Committee sponsor a bill that would:

- Create a dedicated controlled maintenance cash fund for the Carr Center. The new fund would be established with an initial \$3 million transfer from the Justice Center Cash Fund in 2019 and subsequent \$500,000 annual transfers from the same fund. This new controlled maintenance cash fund would build up a significant balance and thus would need to be exempt from the 16.5% maximum reserve limitation of Section 24-75-402, C.R.S.
- Exempt the Justice Center Cash Fund from the 16.5% maximum reserve limitation in Section 24-75-402, C.R.S. The Justice Center Cash Fund now exceeds this limit each year as it accumulates the money it needs to make the twice-annual payments on the lease purchase agreement that funded the construction of the Carr Center.

Senate Bill 08-206, which authorized the Carr Center, envisioned that all costs associated with the debt service, operating expenses, and controlled maintenance of the Carr Center would be paid from court fees, rent from Carr Center tenants, and parking fees. These revenues are deposited in the Justice Center Cash Fund and, in the FY 2017-18 Long Bill, are used to pay 100 percent of Carr Center operating and management expenses and 51 percent of the building's lease-purchase expenses. Remaining debt service payments come from the General Fund and federal American Recovery and Reinvestment Act (ARRA) funds. The Long Bill for FY 2017-18 also contains a \$2,025,000 appropriation from the Justice Center Cash Fund for "Controlled Maintenance". The Department is not currently using this appropriation for controlled maintenance so the money is simply accumulating unspent in the Justice Center Cash Fund.

Staff believes that the establishment of a dedicated controlled maintenance cash fund enhances the likelihood that sufficient cash funds will be available to pay for the controlled maintenance expenses of the Carr Center when they arise in the future, thus relieving the General Fund of this obligation. If a dedicated funding source is available, then controlled maintenance is likely to occur promptly, when it is needed. When a building requires a General Fund appropriation for controlled maintenance, the work is often delayed as it competes with other controlled maintenance projects for limited General Fund dollars. This can result in higher repair and replacement costs.

The Carr Center needs a mechanisms that will provide sufficient funding for its controlled maintenance needs. Staff considers it unwise to let the Judicial Department accumulate a controlled maintenance reserve within the Judicial Center Cash Fund, as is happening now. When the Justice Center Cash Fund serves this second purpose, it is hard to keep track of the fund's controlled maintenance balance and easy to unintentionally use part of that balance for another purpose. A dedicated cash fund with a balance that can be used solely for controlled maintenance avoids this problem.

Even if a controlled maintenance fund for the Carr Center is established, staff still has concerns about the funding plan proposed by the Department. The Department acknowledges that it has not yet developed a long-range controlled maintenance plan for the Carr Center. For example, it does not know the expected lifespan of the roof, the HVAC system, or the building's generators. Nor does it have estimates of how much the replacement of these items is likely to cost. Under the Department's proposed plan, the balance in the Carr Center's controlled maintenance cash fund will

reach \$7 million by 2027 when the building is 15 years old and \$12 million by the time the building is 25 years old in 2037.

JBC Staff doubts that these balances are sufficient. The State Architect recommends that at a minimum an amount equal to one percent of the current replacement value of a building be set aside annually for a building's controlled maintenance. (For an explanation and analysis, see the Office of the State Auditor's 2012 [Performance Evaluation of State Capital Asset Management and Lease Administration Practices](#), pages 45 and 46).

The Carr Center is currently insured for \$141.1 million; using this sum as a replacement-cost guide, the implied amount to set aside *annually* for controlled maintenance equals \$1,411,000, which is almost three times the amount the Department proposes to set aside. If the Department follows the State Architect's one-percent-per-year guideline, at the end of 25 years, the cumulative amount set aside for Carr Center controlled maintenance will equal about a quarter of the building's value or \$35.2 million. Perhaps less will actually be needed for controlled maintenance, but until the Department develops a long term maintenance plan it is impossible to know.

If the JBC decides to carry a bill to create a dedicated controlled maintenance cash fund, JBC staff recommends that the annual appropriations to the fund equal one percent of the Center's value and remain at that level until the Department completes a detailed controlled maintenance plan that can be used to establish funding goals for the cash fund.

## ISSUE: CONSOLIDATED APPROPRIATION FOR JUDICIAL HEALTH, LIFE, AND DENTAL EXPENDITURES

This issue brief examines the Health, Life, and Dental (HLD) appropriations that are currently in the Long Bill for Judicial Branch agencies. It explains why these seven separate appropriations are difficult for JBC staff to handle and examines the objections that the Judicial Branch agencies have to consolidation, particularly the concern that the largest judicial agency will pay the cost when HLD appropriation shortfalls occur and the fear that consolidated appropriations will create conflicts that undermine independence. It suggests that supplemental Health, Life, and Dental appropriations and overexpenditures approved by the Chief Justice of the Colorado Supreme Court pursuant to statute can mitigate these problems.

### SUMMARY

- There are currently seven separate appropriations in the Long Bill for Health, Life, and Dental for Judicial Branch Agencies. They require time consuming computations by JBC staff.
- JBC staff would like to consolidate the appropriations, but in a response to a Request for Information, the judicial branch agencies have indicated that they are opposed.
- JBC staff believes that supplemental Health, Life, and Dental appropriations and overexpenditures approved by the Chief Justice of the Colorado Supreme Court pursuant to statute can mitigate these objections.

### RECOMMENDATION

Staff recommends that the Committee ask the agencies that make up the Judicial Branch whether the problems that they identified in their response to Request for Information #2 can be sufficiently mitigated by supplemental Health, Life, and Dental appropriations and by overexpenditures approved by the Chief Justice of the Colorado Supreme Court pursuant to statute.

### DISCUSSION

Judicial Branch Request for Information #2 directed the following request to all of the agencies in the Judicial Branch.

The State Court Administrator's Office is requested to provide by November 1, 2017, a report concerning the feasibility of including a single line item appropriation in the FY 2018-19 Long Bill for Judicial Branch employee health, life, and dental insurance benefits. The Office is requested to discuss this proposal with each of the six independent Judicial agencies, and seek input concerning the associated benefits and challenges.

The seven Judicial Branch agencies have provided the requested report. In it they oppose a single combined FY 2018-19 Long Bill appropriation to pay for the employer cost of health, life, and dental (HLD) benefits.

*Terminology:* In statute, the term "Judicial Department" refers collectively to the main judicial agency that houses the courts and probation and to the independent agencies that statute creates within the departments. Statute creates some of the independents as "agencies" or "independent agencies" of the Judicial Department while others are created "within" the judicial department. (See the creation provisions in Sections 13-3.3-102, 13-91-104, 13-92-103, 21-1-101, 21-2-101, and 24-18.5-101 C.R.S.) To avoid ambiguity, JBC staff will use the term "main Judicial" to refer to the portion of the Judicial Department that contains the courts and probation. Staff will use the term "independent agencies" for the other agencies. Staff will collectively refer to main Judicial and the independents as the "seven Judicial Branch agencies". The "State Court Administrator's Office" (SCAO) mentioned in this Request for Information is main Judicial.

*Background:* There are currently five appropriations for Health, Life, and Dental in the Judicial portion of the Long Bill plus two appropriations that are contained within the "Program Costs" line items of the two smallest independent agencies. Combining HLD with other line items doesn't make it easier to work with.

During figure setting last spring for the Judicial Branch, JBC staff argued that consolidating the seven HLD appropriations into a single appropriation would be consistent with (1) the practice of Executive Branch agencies, and (2) the current consolidation within the Judicial Branch of other appropriations for (a) Workers' Compensation, (b) Payment to Risk Management and Property Funds, (c) Ralph L. Carr Colorado Judicial Center, (d) Payments to OIT, and (e) CORE Operations. Note that appropriations for Short-term Disability, the two types of Amortization Equalization Disbursement, Salary Survey, Merit Pay, and HLD are not consolidated.

The HLD appropriation presents unique challenges for JBC staff and the seven Judicial Branch agencies. Each employee selects or declines his or her HLD coverages and those choices cost the state differing amounts. For FY 2017-18 the annual cost to the state for the H portion of HLD ranges from \$0 for an employee who declines coverage to \$22,770.72 for an employee who elects the UHC-Copay option for a family (Employee + Spouse + Children). There are 17 different H costs for the state depending on the choice the employee makes. (United Healthcare High Deductible, United Healthcare Copay, Kaiser High Deductible, or Kaiser Copay crossed with individual employee, employee plus spouse, employee plus children, or employee plus family). For FY 2017-18 the cost to the state for Dental ranges from \$0 to \$1,596.24 with nine different costs that depend on the election. Employees make these elections before the start of the fiscal year or at the time of hire and can occasionally change elections during the year. The HLD appropriation to agencies is based on knowledge of the state cost for each HLD option and a forecast of the number of employees who will select each option. The forecast of the employee's election is often based on the assumption that employees won't change their HLD elections next year and that the elections of new employees will mirror those of departing workers. To determine the resulting appropriation, the current structure of the Judicial Branch Long Bill requires the relevant computations to be performed separately for each of the seven Judicial Branch agencies.

The forecasts on which the appropriations are based are frequently wrong, resulting in HLD appropriation that are either too high or too low but hopefully close to the actual need. Problems

can arise when a substantial number of an agency's employees make unexpectedly expensive HLD choices and the agency's HLD appropriation is substantially below the amount it must pay for coverage. In small agencies the departure of an employee who declined coverage and replacement by an employee who selects the \$22,770.72 family Health option and the \$1,596.24 family Dental option could be difficult. According to unverified rumor, prospective employees have been secretly rejected due to projected high HLD costs. A small agency might have to hold a position open for a long time to generate the vacancy savings to pay such a cost.

Large shortfalls are likely to occur when the employee's cost or the plan benefits change substantially and lots of employees change elections. When this happens, the agency must find a way to pay for the shortfall; it will typically search its divisions for turnover and vacancy savings and use those savings to fill the HLD gap. If it can't find enough, the agency might hold vacant positions open or reduce the use of contractors and temps. In a large agency with multiple divisions there are lots of places to look. However, in four of the seven independent agencies, there are fewer than 12 employees and job turnover is infrequent, which makes it hard to generate vacancy savings. To make it easier to cover HLD and other line-item shortfalls, the Judicial-branch Long Bill contains footnotes that allow the independent agencies (but not main Judicial) to transfer up to 2.5 percent of their respective appropriations among line items. In addition, pursuant to Section 24-75-108 (5), C.R.S., the Chief Justice of the Colorado Supreme Court can authorize transfers between items of appropriation made to the Judicial Branch, subject to certain limitations. Section 24-75-110, C.R.S. limits Judicial Branch transfers (plus Judicial Branch overexpenditures) to \$1.0 million per fiscal year.

During Judicial figure setting last winter, JBC staff argued that a single appropriation for employee health, life, and dental benefits would significantly reduce the time required for the seven judicial branch agencies, the Department of Personnel, and Joint Budget Committee staff to calculate and administer the appropriation.

In their response to this Request for Information, the seven judicial branch agencies oppose a combined HLD appropriation, arguing that it would be "cumbersome, impose an administrative burden and could potentially result in an awkward situation of having to determine how [an HLD appropriation shortfall] should be allocated." [Bracketed text added by JBC staff]. The seven argue that a single HLD appropriation would undermine their independence:

"The consolidation of budget lines runs contrary to [the] concept of creating separate 'independent' agencies within the Judicial Branch. These agencies were created specifically to be independent from the Judicial Department and fiscal independence is essential to fulfilling that role. These independent agencies are no different than separate executive branch agencies and there are no consolidated HLD lines within and between executive branch agencies."

The seven agencies correctly note that when shortfalls arise, main Judicial is the deep pocket that is most likely to absorb the shortfall: "the small agencies could claim that due to their size, they need a full allocation of HLD as they are unable to absorb any shortfall within their budgets. This could potentially result in the assumption of a disproportionate amount of HLD costs falling to the Judicial Department."

If independence is compromised by HLD consolidation, it is an important consideration because most of the creation statutes for the independent agencies state that the agencies are to be just that. If a consolidated HLD appropriation unavoidably undermines independence, the HLD

appropriations should be kept separate. The seven Judicial Branch agencies do not provide examples of how a consolidated HLD appropriation could compromise independence, so JBC staff will supply a couple.

- Could a judge be biased against an attorney from the Office of the Respondent Parent's Counsel if the judge knew of an HLD funding disagreement involving the agency and main Judicial?
- Could a judge be more favorably disposed toward a public defender at the expense of a district attorney during a tight budget year in the hope that the public defender's agency would cooperate with main Judicial to deal with an HLD funding shortfall? Could attorneys from the independent agencies also be affected?

Staff doubts that judges and the attorneys that practice before them would have knowledge of these matters (especially contractor attorneys), but in the unlikely event that they do, staff believes that the related difficulties can be substantially diminished through the supplemental process. If at mid-year it appears likely that a HDL shortfall exists that cannot be satisfactorily resolved by the seven Judicial Branch agencies, then main Judicial, supported by the independents, should request an HLD supplemental to cover the projected shortfall. The supplemental request should explain why the HLD shortfall has compromised independence. Assuming the math is correct, the JBC should approve the request. Note that a mid-year supplemental cannot totally eliminate the possibility of an HLD shortfall because there are still six months left in the year, but it can substantially reduce it.

The over expenditure authority granted to the Judicial Department in Section 24-75-109 (1)(d), C.R.S., could also be used when a potential conflict over HLD arises, though that authority expires in 2020 pursuant to Section 24-75-110 (2), C.R.S. (This provision has been extended by past legislatures, most recently in 2014 by H.B. 14-1308, a JBC bill.)

The RFI response concludes by stating that the Judicial Department is "committed to working with JBC staff on the calculation of the HLD appropriation for Judicial and all Independent agencies during figure setting. Recognizing that the final HLD rates are often not determined until the last minute, the Department, working with the independents, is committed to making the HLD calculation a top priority to ensure" accuracy.

## Appendix A: Number Pages

	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 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>13,375,908</u>	<u>14,240,407</u>	<u>14,490,399</u>	<u>14,978,929</u>
FTE	142.8	143.0	143.0	143.0
General Fund	13,305,395	14,171,683	14,418,399	14,906,929
Cash Funds	70,513	68,724	72,000	72,000
Office of Attorney Regulation Counsel	<u>9,695,639</u>	<u>10,640,535</u>	<u>10,650,000</u>	<u>10,650,000</u>
FTE	69.0	69.0	70.0	70.0
Cash Funds	9,695,639	10,640,535	10,650,000	10,650,000
Law Library	<u>572,272</u>	<u>492,967</u>	<u>572,897</u>	<u>572,897</u>
FTE	3.5	3.5	3.5	3.5
Cash Funds	499,603	420,070	500,000	500,000
Reappropriated Funds	72,669	72,897	72,897	72,897
Indirect Cost Assessment	<u>221,332</u>	<u>221,332</u>	<u>258,887</u>	<u>258,887</u>
Cash Funds	221,332	221,332	258,887	258,887



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	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
<b>TOTAL - (1) Supreme Court and Court of Appeals</b>	23,865,151	25,595,241	25,972,183	26,460,713	1.9%
<i>FTE</i>	<u>215.3</u>	<u>215.5</u>	<u>216.5</u>	<u>216.5</u>	<u>0.0%</u>
General Fund	13,305,395	14,171,683	14,418,399	14,906,929	3.4%
Cash Funds	10,487,087	11,350,661	11,480,887	11,480,887	0.0%
Reappropriated Funds	72,669	72,897	72,897	72,897	0.0%

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	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 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>24,443,176</u>	<u>25,365,754</u>	<u>26,342,258</u>	<u>27,915,259</u> *
FTE	223.1	239.3	243.8	253.8
General Fund	16,387,860	17,596,582	17,907,163	19,477,927
Cash Funds	5,740,889	5,584,763	5,748,414	5,750,651
Reappropriated Funds	2,314,427	2,184,409	2,686,681	2,686,681
Federal Funds	0	0	0	0
Information Technology Infrastructure	<u>8,629,343</u>	<u>10,115,045</u>	<u>9,256,268</u>	<u>10,834,632</u> *
General Fund	403,094	403,094	403,094	1,672,624
Cash Funds	8,226,249	9,711,951	8,853,174	9,162,008
Indirect Cost Assessment	<u>673,399</u>	<u>747,363</u>	<u>855,005</u>	<u>855,005</u>
Cash Funds	673,399	747,363	832,072	832,072
Reappropriated Funds	0	0	22,933	22,933

\* Denotes Decision Items.

## Appendix A: Number Pages

	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
<b>SUBTOTAL - (A) Administration and Technology</b>	33,745,918	36,228,162	36,453,531	39,604,896	8.6%
<i>FTE</i>	<u>223.1</u>	<u>239.3</u>	<u>243.8</u>	<u>253.8</u>	4.1%
General Fund	16,790,954	17,999,676	18,310,257	21,150,551	15.5%
Cash Funds	14,640,537	16,044,077	15,433,660	15,744,731	2.0%
Reappropriated Funds	2,314,427	2,184,409	2,709,614	2,709,614	0.0%
Federal Funds	0	0	0	0	0.0%

### (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>29,574,072</u>	<u>29,390,455</u>	<u>33,150,528</u>	<u>35,261,715</u>
General Fund	26,723,070	27,739,706	30,465,620	32,442,734
Cash Funds	2,851,002	1,650,749	2,684,908	2,818,981
Reappropriated Funds	0	0	0	0
Federal Funds	0	0	0	0
Short-term Disability	<u>384,414</u>	<u>324,759</u>	<u>355,031</u>	<u>331,559</u>
General Fund	347,073	297,389	325,558	298,405
Cash Funds	37,341	27,370	29,473	33,154
S.B. 04-257 Amortization Equalization Disbursement	<u>8,928,410</u>	<u>9,305,614</u>	<u>10,619,357</u>	<u>11,362,799</u> *
General Fund	8,168,699	9,083,579	9,836,206	10,387,006
Cash Funds	759,711	222,035	783,151	975,793

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	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
S.B. 06-235 Supplemental Amortization Equalization					
Disbursement	<u>8,271,723</u>	<u>8,830,965</u>	<u>10,213,101</u>	<u>11,154,455</u>	*
General Fund	7,542,763	8,611,455	9,432,362	10,179,925	
Cash Funds	728,960	219,510	780,739	974,530	
Salary Survey	<u>8,711,251</u>	<u>1,172,311</u>	<u>4,974,368</u>	<u>12,042,388</u>	*
General Fund	8,395,379	897,205	4,670,658	11,382,719	
Cash Funds	315,872	275,106	303,710	659,669	
Merit Pay	<u>2,556,586</u>	<u>0</u>	<u>1,552,341</u>	<u>0</u>	
General Fund	2,360,879	0	1,423,473	0	
Cash Funds	195,707	0	128,868	0	
Workers' Compensation	<u>1,126,921</u>	<u>1,383,287</u>	<u>1,471,444</u>	<u>1,829,719</u>	
General Fund	1,126,921	1,383,287	1,471,444	1,829,719	
Legal Services	<u>302,933</u>	<u>278,392</u>	<u>213,866</u>	<u>250,557</u>	
General Fund	302,933	278,392	213,866	250,557	
Payment to Risk Management and Property Funds	<u>729,019</u>	<u>873,467</u>	<u>1,127,976</u>	<u>809,923</u>	*
General Fund	729,019	873,467	1,127,976	809,923	
Vehicle Lease Payments	<u>82,820</u>	<u>102,388</u>	<u>93,762</u>	<u>102,203</u>	
General Fund	82,820	102,388	93,762	102,203	
Ralph L. Carr Colorado Judicial Center Leased Space	<u>2,491,754</u>	<u>2,536,816</u>	<u>2,579,918</u>	<u>2,626,605</u>	
General Fund	2,491,754	2,536,816	2,579,918	2,626,605	

## Appendix A: Number Pages

	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
Payments to OIT	<u>4,031,075</u>	<u>2,613,057</u>	<u>6,079,311</u>	<u>5,357,708</u>	
General Fund	4,031,075	2,613,057	6,079,311	5,357,708	
CORE Operations	<u>1,619,424</u>	<u>856,852</u>	<u>836,556</u>	<u>970,599</u>	
General Fund	1,619,424	856,852	836,556	970,599	
Lease Purchase	<u>111,427</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	111,427	0	0	0	
<b>SUBTOTAL - (B) Central Appropriations</b>	68,921,829	57,668,363	73,267,559	82,100,230	12.1%
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	0.0%
General Fund	64,033,236	55,273,593	68,556,710	76,638,103	11.8%
Cash Funds	4,888,593	2,394,770	4,710,849	5,462,127	15.9%
Reappropriated Funds	0	0	0	0	0.0%
Federal Funds	0	0	0	0	0.0%

### (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>15,894,722</u>	<u>15,495,051</u>	<u>16,375,000</u>	<u>16,375,000</u>
Cash Funds	15,894,722	15,495,051	16,375,000	16,375,000
Federal Funds	0	0	0	0

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	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
Victim Compensation	<u>10,365,445</u>	<u>17,751,761</u>	<u>13,400,000</u>	<u>13,400,000</u>	
Cash Funds	10,365,445	11,961,540	13,400,000	13,400,000	
Federal Funds	0	5,790,221	0	0	
Collections Investigators	<u>6,429,084</u>	<u>6,435,400</u>	<u>7,023,075</u>	<u>7,162,055</u>	
FTE	104.2	104.2	104.2	104.2	
Cash Funds	5,772,951	5,765,864	6,125,534	6,264,514	
Reappropriated Funds	656,133	669,536	897,541	897,541	
Problem-solving Courts	<u>3,509,361</u>	<u>3,603,032</u>	<u>4,079,624</u>	<u>4,621,027</u> *	
FTE	44.3	44.3	50.6	57.6	
General Fund	375,376	398,446	875,038	1,416,441	
Cash Funds	3,133,985	3,204,586	3,204,586	3,204,586	
Language Interpreters and Translators	<u>4,715,905</u>	<u>5,009,804</u>	<u>5,344,508</u>	<u>5,404,744</u>	
FTE	32.9	33.0	33.0	33.0	
General Fund	4,690,610	4,979,854	5,294,508	5,354,744	
Cash Funds	25,295	29,950	50,000	50,000	
Courthouse Security	<u>2,156,409</u>	<u>2,224,968</u>	<u>2,477,567</u>	<u>2,480,314</u>	
FTE	1.0	1.0	1.0	1.0	
General Fund	500,000	500,000	503,468	506,215	
Cash Funds	1,656,409	1,724,968	1,974,099	1,974,099	
Appropriation to Underfunded Courthouse Facility Cash Fund	<u>2,000,000</u>	<u>2,000,000</u>	<u>2,000,000</u>	<u>2,000,000</u>	
General Fund	2,000,000	2,000,000	2,000,000	2,000,000	

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	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
Underfunded Courthouse Facilities Grant Program	<u>647,422</u>	<u>1,675,632</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	647,422	1,675,632	2,000,000	2,000,000	
Courthouse Furnishings and Infrastructure Maintenance	<u>2,185,709</u>	<u>2,649,829</u>	<u>3,230,056</u>	<u>2,034,326</u> *	
General Fund	1,308,619	1,291,646	2,639,800	2,034,326	
Cash Funds	877,090	1,358,183	590,256	0	
Capital Outlay	<u>0</u>	<u>0</u>	<u>4,703</u>	<u>0</u>	
FTE	0.0	0.0	0.0	0.0	
General Fund	0	0	4,703	0	
Senior Judge Program	<u>1,415,218</u>	<u>1,483,375</u>	<u>1,640,750</u>	<u>1,681,769</u>	
General Fund	115,218	183,375	340,750	381,769	
Cash Funds	1,300,000	1,300,000	1,300,000	1,300,000	
Judicial Education and Training	<u>1,325,708</u>	<u>1,441,487</u>	<u>1,460,283</u>	<u>1,464,342</u>	
FTE	2.0	2.0	2.0	2.0	
General Fund	4,812	4,812	8,289	12,348	
Cash Funds	1,320,896	1,436,675	1,451,994	1,451,994	
Office of Judicial Performance Evaluation	<u>678,956</u>	<u>694,845</u>	<u>828,755</u>	<u>805,379</u>	
FTE	2.0	2.0	2.0	2.0	
General Fund	290,000	290,000	314,500	314,500	
Cash Funds	388,956	404,845	514,255	490,879	

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	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
Family Violence Justice Grants	<u>2,642,026</u>	<u>2,650,136</u>	<u>2,670,000</u>	<u>2,670,000</u>	
General Fund	2,500,000	2,500,000	2,500,000	2,500,000	
Cash Funds	142,026	150,136	170,000	170,000	
Restorative Justice Programs	<u>740,325</u>	<u>997,960</u>	<u>1,000,842</u>	<u>1,232,932</u>	*
FTE	1.0	1.0	1.0	1.0	
Cash Funds	740,325	997,960	1,000,842	1,232,932	
District Attorney Adult Pretrial Diversion Programs	<u>215,515</u>	<u>316,877</u>	<u>477,000</u>	<u>477,000</u>	
General Fund	215,515	311,397	400,000	400,000	
Cash Funds	0	5,480	77,000	77,000	
Family-friendly Court Program	<u>225,943</u>	<u>208,575</u>	<u>225,943</u>	<u>225,943</u>	
FTE	0.5	0.5	0.5	0.5	
Cash Funds	225,943	208,575	225,943	225,943	
Compensation for Exonerated Persons	<u>105,751</u>	<u>107,020</u>	<u>110,124</u>	<u>0</u>	*
General Fund	105,751	107,020	110,124	0	
Child Support Enforcement	<u>95,004</u>	<u>87,172</u>	<u>95,339</u>	<u>95,339</u>	
FTE	1.0	1.0	1.0	1.0	
General Fund	33,202	28,321	32,415	32,415	
Reappropriated Funds	0	0	62,924	62,924	
Federal Funds	61,802	58,851	0	0	



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	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
<b>SUBTOTAL - (C) Centrally Administered Programs</b>	55,348,503	64,832,924	65,043,569	64,730,170	(0.5%)
<i>FTE</i>	<u>189.9</u>	<u>190.0</u>	<u>196.3</u>	<u>203.3</u>	<u>3.6%</u>
General Fund	12,139,103	12,594,871	15,023,595	14,952,758	(0.5%)
Cash Funds	41,844,043	44,043,813	47,059,509	46,816,947	(0.5%)
Reappropriated Funds	1,303,555	2,345,168	2,960,465	2,960,465	0.0%
Federal Funds	61,802	5,849,072	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>1,383,300</u>	<u>1,426,336</u>	<u>1,612,743</u>	<u>1,619,081</u>
FTE	2.0	2.0	2.0	2.0
Cash Funds	1,383,300	1,426,336	1,612,743	1,619,081
Reappropriated Funds	0	0	0	0
Federal Funds	0	0	0	0
Operating Expenses	<u>4,026,234</u>	<u>3,988,027</u>	<u>4,026,234</u>	<u>4,026,234</u>
General Fund	1,146,362	0	0	0
Cash Funds	2,879,872	3,988,027	4,026,234	4,026,234
Reappropriated Funds	0	0	0	0
Controlled Maintenance	<u>0</u>	<u>0</u>	<u>2,025,000</u>	<u>2,025,000</u>
Cash Funds	0	0	2,025,000	2,025,000
Reappropriated Funds	0	0	0	0

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	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
Debt Service Payments	<u>15,661,472</u>	<u>15,677,137</u>	<u>21,593,531</u>	<u>21,565,990</u>	
General Fund	3,853,638	4,806,525	4,704,365	4,598,683	
Cash Funds	6,281,842	5,131,279	11,047,673	11,020,132	
Reappropriated Funds	5,525,992	5,739,333	5,841,493	5,947,175	
<b>SUBTOTAL - (D) Ralph L. Carr Colorado Judicial Center</b>	21,071,006	21,091,500	29,257,508	29,236,305	(0.1%)
<i>FTE</i>	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>	0.0%
General Fund	5,000,000	4,806,525	4,704,365	4,598,683	(2.2%)
Cash Funds	10,545,014	10,545,642	18,711,650	18,690,447	(0.1%)
Reappropriated Funds	5,525,992	5,739,333	5,841,493	5,947,175	1.8%
Federal Funds	0	0	0	0	0.0%
<b>TOTAL - (2) Courts Administration</b>	179,087,256	179,820,949	204,022,167	215,671,601	5.7%
<i>FTE</i>	<u>415.0</u>	<u>431.3</u>	<u>442.1</u>	<u>459.1</u>	3.8%
General Fund	97,963,293	90,674,665	106,594,927	117,340,095	10.1%
Cash Funds	71,918,187	73,028,302	85,915,668	86,714,252	0.9%
Reappropriated Funds	9,143,974	10,268,910	11,511,572	11,617,254	0.9%
Federal Funds	61,802	5,849,072	0	0	0.0%

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	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 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>143,288,147</u>	<u>152,529,982</u>	<u>151,983,489</u>	<u>157,181,588</u> *
FTE	1,786.1	1,863.1	1,859.4	1,874.6
General Fund	113,564,342	121,239,069	121,600,929	126,746,000
Cash Funds	28,523,697	28,785,127	29,132,560	29,185,588
Reappropriated Funds	0	1,250,000	1,250,000	1,250,000
Federal Funds	1,200,108	1,255,786	0	0
Court Costs, Jury Costs, and Court-appointed Counsel	<u>18,880,258</u>	<u>7,219,644</u>	<u>7,888,518</u>	<u>7,995,694</u>
General Fund	18,803,386	7,157,438	7,723,269	7,830,445
Cash Funds	76,872	62,206	165,249	165,249
District Attorney Mandated Costs	<u>2,347,581</u>	<u>2,301,396</u>	<u>2,484,770</u>	<u>2,559,313</u> *
General Fund	2,177,581	2,131,396	2,314,770	2,389,313
Cash Funds	170,000	170,000	170,000	170,000
ACTION and Statewide Discovery Sharing Systems	<u>2,300,000</u>	<u>2,866,108</u>	<u>3,240,000</u>	<u>3,240,000</u>
General Fund	2,300,000	2,796,108	3,170,000	3,170,000
Cash Funds	0	70,000	70,000	70,000

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	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
Federal Funds and Other Grants	<u>2,974,971</u>	<u>2,854,987</u>	<u>2,900,000</u>	<u>2,900,000</u>	
FTE	14.0	14.0	13.0	13.0	
Cash Funds	149,083	174,000	975,000	975,000	
Reappropriated Funds	0	0	300,000	300,000	
Federal Funds	2,825,888	2,680,987	1,625,000	1,625,000	
<b>TOTAL - (3) Trial Courts</b>	169,790,957	167,772,117	168,496,777	173,876,595	3.2%
FTE	<u>1,800.1</u>	<u>1,877.1</u>	<u>1,872.4</u>	<u>1,887.6</u>	0.8%
General Fund	136,845,309	133,324,011	134,808,968	140,135,758	4.0%
Cash Funds	28,919,652	29,261,333	30,512,809	30,565,837	0.2%
Reappropriated Funds	0	1,250,000	1,550,000	1,550,000	0.0%
Federal Funds	4,025,996	3,936,773	1,625,000	1,625,000	0.0%

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	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
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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>84,373,928</u>	<u>84,465,145</u>	<u>84,543,930</u>	<u>86,423,825</u>	
FTE	1,158.0	1,184.7	1,184.7	1,184.7	
General Fund	73,462,016	75,361,046	75,384,289	77,019,115	
Cash Funds	10,911,912	9,104,099	9,159,641	9,404,710	
Offender Treatment and Services	<u>29,311,131</u>	<u>29,813,583</u>	<u>34,717,999</u>	<u>34,887,847</u>	*
General Fund	834,151	787,346	924,877	924,877	
Cash Funds	12,566,248	12,474,884	15,919,977	15,919,977	
Reappropriated Funds	15,910,732	16,551,353	17,873,145	18,042,993	
Appropriation to the Correctional Treatment Cash Fund	<u>16,750,000</u>	<u>16,750,000</u>	<u>16,984,804</u>	<u>17,154,652</u>	*
General Fund	15,200,000	15,200,000	15,413,076	15,567,207	
Cash Funds	1,550,000	1,550,000	1,571,728	1,587,445	
S.B. 91-94 Juvenile Services	<u>1,420,801</u>	<u>1,407,924</u>	<u>2,496,837</u>	<u>2,496,837</u>	
FTE	25.0	25.0	25.0	25.0	
Reappropriated Funds	1,420,801	1,407,924	2,496,837	2,496,837	
Reimbursements to Law Enforcement Agencies for the Costs of Returning a Probationer	<u>91,885</u>	<u>88,905</u>	<u>187,500</u>	<u>187,500</u>	
Cash Funds	91,885	88,905	187,500	187,500	

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	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
Victims Grants	<u>294,052</u>	<u>225,659</u>	<u>650,000</u>	<u>650,000</u>	
FTE	6.0	6.0	6.0	6.0	
Reappropriated Funds	294,052	225,659	650,000	650,000	
Federal Funds and Other Grants	<u>3,438,543</u>	<u>2,536,006</u>	<u>5,600,000</u>	<u>5,600,000</u>	
FTE	33.0	33.0	32.0	32.0	
Cash Funds	652,007	764,120	1,950,000	1,950,000	
Reappropriated Funds	104,780	0	850,000	850,000	
Federal Funds	2,681,756	1,771,886	2,800,000	2,800,000	
Indirect Cost Assessment	<u>1,144,696</u>	<u>940,714</u>	<u>935,966</u>	<u>935,966</u>	
Cash Funds	1,144,696	940,714	935,966	935,966	
<b>TOTAL - (4) Probation and Related Services</b>	136,825,036	136,227,936	146,117,036	148,336,627	1.5%
FTE	<u>1,222.0</u>	<u>1,248.7</u>	<u>1,247.7</u>	<u>1,247.7</u>	0.0%
General Fund	89,496,167	91,348,392	91,722,242	93,511,199	2.0%
Cash Funds	26,916,748	24,922,722	29,724,812	29,985,598	0.9%
Reappropriated Funds	17,730,365	18,184,936	21,869,982	22,039,830	0.8%
Federal Funds	2,681,756	1,771,886	2,800,000	2,800,000	0.0%

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	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
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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>58,161,209</u>	<u>60,567,122</u>	<u>62,188,595</u>	<u>67,258,601</u>	*
FTE	751.5	783.9	809.1	869.5	
General Fund	58,161,209	60,567,122	62,188,595	67,258,601	
Health, Life, and Dental	<u>6,232,846</u>	<u>6,159,824</u>	<u>6,781,728</u>	<u>7,657,623</u>	*
General Fund	6,232,846	6,159,824	6,781,728	7,657,623	
Short-term Disability	<u>114,758</u>	<u>99,261</u>	<u>104,089</u>	<u>102,322</u>	*
General Fund	114,758	99,261	104,089	102,322	
S.B. 04-257 Amortization Equalization Disbursement	<u>2,295,153</u>	<u>2,507,649</u>	<u>2,739,179</u>	<u>3,009,481</u>	*
General Fund	2,295,153	2,507,649	2,739,179	3,009,481	
S.B. 06-235 Supplemental Amortization Equalization Disbursement	<u>2,216,909</u>	<u>2,481,528</u>	<u>2,739,179</u>	<u>3,009,481</u>	*
General Fund	2,216,909	2,481,528	2,739,179	3,009,481	
Salary Survey	<u>583,552</u>	<u>0</u>	<u>1,043,828</u>	<u>1,876,280</u>	
General Fund	583,552	0	1,043,828	1,876,280	
Merit Pay	<u>576,242</u>	<u>0</u>	<u>447,355</u>	<u>0</u>	
General Fund	576,242	0	447,355	0	
Vehicle Lease Payments	<u>99,959</u>	<u>104,182</u>	<u>94,354</u>	<u>125,428</u>	
General Fund	99,959	104,182	94,354	125,428	

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	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
Capital Outlay	<u>17,401</u>	<u>0</u>	<u>118,775</u>	<u>296,289</u>	*
General Fund	17,401	0	118,775	296,289	
Operating Expenses	<u>1,547,749</u>	<u>1,537,556</u>	<u>1,776,295</u>	<u>1,832,513</u>	*
General Fund	1,537,594	1,522,881	1,746,295	1,802,513	
Cash Funds	10,155	14,675	30,000	30,000	
Leased Space/Utilities	<u>5,846,298</u>	<u>6,030,088</u>	<u>6,450,639</u>	<u>6,966,417</u>	*
General Fund	5,846,298	6,030,088	6,450,639	6,966,417	
Automation Plan	<u>1,399,107</u>	<u>1,858,843</u>	<u>1,580,023</u>	<u>1,579,678</u>	*
General Fund	1,399,107	1,858,843	1,580,023	1,579,678	
Attorney Registration	<u>133,615</u>	<u>140,085</u>	<u>140,294</u>	<u>146,944</u>	*
General Fund	133,615	140,085	140,294	146,944	
Contract Services	<u>10,545</u>	<u>34,714</u>	<u>49,395</u>	<u>49,395</u>	
General Fund	10,545	34,714	49,395	49,395	
Mandated Costs	<u>5,360,590</u>	<u>4,486,241</u>	<u>3,325,959</u>	<u>3,364,661</u>	*
General Fund	5,360,590	4,486,241	3,325,959	3,364,661	
Grants	<u>59,129</u>	<u>78,506</u>	<u>120,000</u>	<u>120,000</u>	
FTE	0.3	0.3	2.0	2.0	
Cash Funds	59,129	78,506	120,000	120,000	
<b>TOTAL - (5) Office of the State Public Defender</b>	84,655,062	86,085,599	89,699,687	97,395,113	8.6%
FTE	<u>751.8</u>	<u>784.2</u>	<u>811.1</u>	<u>871.5</u>	<u>7.4%</u>
General Fund	84,585,778	85,992,418	89,549,687	97,245,113	8.6%
Cash Funds	69,284	93,181	150,000	150,000	0.0%



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	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
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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>1,063,023</u>	<u>1,248,393</u>	<u>1,220,657</u>	<u>1,404,459</u>	*
FTE	10.9	12.0	12.0	13.0	
General Fund	1,063,023	1,248,393	1,220,657	1,404,459	
Health, Life, and Dental	<u>134,599</u>	<u>134,268</u>	<u>163,134</u>	<u>185,370</u>	*
General Fund	134,599	134,268	163,134	185,370	
Short-term Disability	<u>2,078</u>	<u>2,052</u>	<u>2,293</u>	<u>2,195</u>	*
General Fund	2,078	2,052	2,293	2,195	
S.B. 04-257 Amortization Equalization Disbursement	<u>41,541</u>	<u>51,836</u>	<u>60,339</u>	<u>64,513</u>	*
General Fund	41,541	51,836	60,339	64,513	
S.B. 06-235 Supplemental Amortization Equalization Disbursement	<u>40,126</u>	<u>51,295</u>	<u>60,339</u>	<u>64,513</u>	*
General Fund	40,126	51,295	60,339	64,513	
Salary Survey	<u>61,947</u>	<u>0</u>	<u>119,297</u>	<u>40,141</u>	
General Fund	61,947	0	119,297	40,141	
Merit Pay	<u>6,761</u>	<u>0</u>	<u>9,137</u>	<u>0</u>	
General Fund	6,761	0	9,137	0	
Operating Expenses	<u>95,796</u>	<u>131,679</u>	<u>106,439</u>	<u>113,197</u>	*
General Fund	95,796	131,679	106,439	113,197	

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	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
Capital Outlay	<u>4,703</u>	<u>4,703</u>	<u>0</u>	<u>3,473</u> *	
General Fund	4,703	4,703	0	3,473	
Training and Conferences	<u>61,132</u>	<u>61,167</u>	<u>100,000</u>	<u>100,000</u>	
General Fund	21,132	40,000	20,000	20,000	
Cash Funds	40,000	21,167	80,000	80,000	
Conflict-of-interest Contracts	<u>27,846,305</u>	<u>29,100,185</u>	<u>27,864,221</u>	<u>36,282,755</u> *	
General Fund	27,846,305	29,100,185	27,864,221	36,282,755	
Mandated Costs	<u>2,198,305</u>	<u>2,141,000</u>	<u>2,032,273</u>	<u>2,478,068</u> *	
General Fund	2,198,305	2,141,000	2,032,273	2,478,068	
<b>TOTAL - (6) Office of the Alternate Defense Counsel</b>	31,556,316	32,926,578	31,738,129	40,738,684	28.4%
<i>FTE</i>	<u>10.9</u>	<u>12.0</u>	<u>12.0</u>	<u>13.0</u>	8.3%
General Fund	31,516,316	32,905,411	31,658,129	40,658,684	28.4%
Cash Funds	40,000	21,167	80,000	80,000	0.0%

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	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
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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>2,277,497</u>	<u>2,367,544</u>	<u>3,275,521</u>	<u>2,709,547</u>	*
FTE	28.9	29.1	29.5	31.0	
General Fund	2,277,497	2,367,544	3,275,521	2,709,547	
Health, Life, and Dental	<u>222,248</u>	<u>218,190</u>	<u>226,640</u>	<u>254,276</u>	*
General Fund	222,248	218,190	226,640	254,276	
Short-term Disability	<u>5,224</u>	<u>4,111</u>	<u>4,254</u>	<u>4,135</u>	*
General Fund	5,224	4,111	4,254	4,135	
S.B. 04-257 Amortization Equalization Disbursement	<u>104,479</u>	<u>103,850</u>	<u>111,957</u>	<u>122,596</u>	*
General Fund	104,479	103,850	111,957	122,596	
S.B. 06-235 Supplemental Amortization Equalization Disbursement	<u>100,917</u>	<u>102,767</u>	<u>111,957</u>	<u>122,596</u>	*
General Fund	100,917	102,767	111,957	122,596	
Salary Survey	<u>93,977</u>	<u>0</u>	<u>45,454</u>	<u>74,854</u>	
General Fund	93,977	0	45,454	74,854	
Merit Pay	<u>23,011</u>	<u>0</u>	<u>17,245</u>	<u>0</u>	
General Fund	23,011	0	17,245	0	
Operating Expenses	<u>243,989</u>	<u>222,731</u>	<u>252,046</u>	<u>223,142</u>	*
General Fund	243,989	222,731	252,046	223,142	

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	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
Leased Space	<u>105,137</u>	<u>106,680</u>	<u>99,504</u>	<u>128,952</u>	
General Fund	105,137	106,680	99,504	128,952	
CASA Contracts	<u>1,020,000</u>	<u>1,020,000</u>	<u>1,050,000</u>	<u>1,050,000</u>	
General Fund	1,020,000	1,020,000	1,050,000	1,050,000	
Training	<u>40,379</u>	<u>40,737</u>	<u>38,000</u>	<u>38,000</u>	
General Fund	40,379	40,737	38,000	38,000	
Court-appointed Counsel	<u>18,878,819</u>	<u>20,252,945</u>	<u>21,687,004</u>	<u>22,968,114</u> *	
General Fund	18,878,819	20,252,945	21,687,004	22,968,114	
Mandated Costs	<u>35,609</u>	<u>30,429</u>	<u>30,000</u>	<u>30,000</u>	
General Fund	35,609	30,429	30,000	30,000	
Grants	<u>26,909</u>	<u>13,874</u>	<u>26,909</u>	<u>26,909</u>	
Reappropriated Funds	26,909	13,874	26,909	26,909	
<b>TOTAL - (7) Office of the Child's Representative</b>	23,178,195	24,483,858	26,976,491	27,753,121	2.9%
<i>FTE</i>	<u>28.9</u>	<u>29.1</u>	<u>29.5</u>	<u>31.0</u>	<u>5.1%</u>
General Fund	23,151,286	24,469,984	26,949,582	27,726,212	2.9%
Reappropriated Funds	26,909	13,874	26,909	26,909	0.0%

## Appendix A: Number Pages

	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 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>320,019</u>	<u>923,110</u>	<u>1,177,365</u>	<u>1,421,878</u> *
FTE	2.8	7.3	10.0	10.0
General Fund	320,019	923,110	1,177,365	1,421,878
Health, Life, and Dental	<u>11,789</u>	<u>90,389</u>	<u>84,338</u>	<u>93,928</u>
General Fund	11,789	90,389	84,338	93,928
Short-term Disability	<u>461</u>	<u>1,739</u>	<u>1,611</u>	<u>1,665</u>
General Fund	461	1,739	1,611	1,665
S.B. 04-257 Amortization Equalization Disbursement	<u>11,236</u>	<u>43,930</u>	<u>42,397</u>	<u>48,978</u>
General Fund	11,236	43,930	42,397	48,978
S.B. 06-235 Supplemental Amortization Equalization Disbursement	<u>10,853</u>	<u>43,472</u>	<u>42,397</u>	<u>48,978</u>
General Fund	10,853	43,472	42,397	48,978
Salary Survey	<u>0</u>	<u>0</u>	<u>17,159</u>	<u>31,841</u>
General Fund	0	0	17,159	31,841
Merit Pay	<u>0</u>	<u>0</u>	<u>7,354</u>	<u>0</u>
General Fund	0	0	7,354	0
Operating Expenses	<u>24,106</u>	<u>117,003</u>	<u>87,221</u>	<u>103,119</u> *
General Fund	24,106	117,003	87,221	103,119

## Appendix A: Number Pages

	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 Request	Request vs. Appropriation
Legal Services	<u>460</u>	<u>4,838</u>	<u>2,131</u>	<u>1,889</u>	
General Fund	460	4,838	2,131	1,889	
Training	<u>7,282</u>	<u>39,613</u>	<u>60,000</u>	<u>60,000</u>	
General Fund	7,282	30,000	30,000	30,000	
Cash Funds	0	9,613	30,000	30,000	
Court-appointed Counsel	<u>0</u>	<u>11,794,424</u>	<u>13,827,934</u>	<u>14,728,892</u>	*
General Fund	0	11,794,424	13,827,934	14,728,892	
Mandated Costs	<u>0</u>	<u>553,773</u>	<u>849,421</u>	<u>1,058,985</u>	*
General Fund	0	553,773	849,421	1,058,985	
Grants	<u>0</u>	<u>19,338</u>	<u>31,095</u>	<u>31,095</u>	
Reappropriated Funds	0	19,338	31,095	31,095	
Case Management System	<u>60,098</u>	<u>245,496</u>	<u>0</u>	<u>0</u>	
General Fund	60,098	245,496	0	0	
Capital Outlay	<u>340,260</u>	<u>84,336</u>	<u>0</u>	<u>0</u>	
General Fund	340,260	84,336	0	0	
<b>TOTAL - (8) Office of the Respondent Parents</b>					
<b>Counsel</b>	786,564	13,961,461	16,230,423	17,631,248	8.6%
<i>FTE</i>	<u>2.8</u>	<u>7.3</u>	<u>10.0</u>	<u>10.0</u>	0.0%
General Fund	786,564	13,932,510	16,169,328	17,570,153	8.7%
Cash Funds	0	9,613	30,000	30,000	0.0%
Reappropriated Funds	0	19,338	31,095	31,095	0.0%

## Appendix A: Number Pages

	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 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>177,516</u>	<u>590,554</u>	<u>773,896</u>	<u>1,036,501</u> *	
FTE	2.0	4.5	6.0	8.0	
General Fund	177,516	590,554	773,896	1,036,501	
Legal Services	<u>0</u>	<u>11,753</u>	<u>8,525</u>	<u>13,816</u>	
General Fund	0	11,753	8,525	13,816	

<b>TOTAL - (9) Office of the Child Protection</b>					
<b>Ombudsman</b>	177,516	602,307	782,421	1,050,317	34.2%
<i>FTE</i>	<u>2.0</u>	<u>4.5</u>	<u>6.0</u>	<u>8.0</u>	<u>33.3%</u>
General Fund	177,516	602,307	782,421	1,050,317	34.2%

## Appendix A: Number Pages

	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Appropriation	FY 2018-19 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>154,302</u>	<u>171,777</u>	<u>193,089</u>	<u>198,696</u>	
FTE	1.0	1.0	1.0	1.0	
General Fund	154,302	171,777	193,089	198,696	
Legal Services	<u>135,725</u>	<u>127,937</u>	<u>155,578</u>	<u>143,631</u>	
General Fund	135,725	127,937	155,578	143,631	
<b>TOTAL - (10) Independent Ethics Commission</b>	290,027	299,714	348,667	342,327	(1.8%)
FTE	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	0.0%
General Fund	290,027	299,714	348,667	342,327	(1.8%)
<b>TOTAL - Judicial Department</b>	650,212,080	667,775,760	710,383,981	749,256,346	5.5%
FTE	<u>4,449.8</u>	<u>4,610.7</u>	<u>4,648.3</u>	<u>4,745.4</u>	2.1%
General Fund	478,117,651	487,721,095	513,002,350	550,486,787	7.3%
Cash Funds	138,350,958	138,686,979	157,894,176	159,006,574	0.7%
Reappropriated Funds	26,973,917	29,809,955	35,062,455	35,337,985	0.8%
Federal Funds	6,769,554	11,557,731	4,425,000	4,425,000	0.0%



## APPENDIX B RECENT LEGISLATION AFFECTING DEPARTMENT BUDGET

### 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.

## 2017 SESSION BILLS

**S.B. 17-125 (LUMP-SUM COMPENSATION FOR EXONERATED PERSONS):** Allows exonerated persons eligible to receive compensation from the State to receive a lump sum payment in lieu of annual payments. Requires the State Court Administrator to pay the exonerated person the balance of the State's duty of monetary compensation within one year of receiving required written documentation from an exonerated person.

**S.B. 17-164 (SUPPLEMENTAL BILL):** Modifies FY 2016-17 appropriations to the Department.

**S.B. 17-254 (LONG BILL):** General appropriations act for FY 2017-18.

**H.B. 17-1071 (REFUND MONETARY AMOUNTS AFTER VACATED CONVICTION):** Creates a process to issue refunds to a defendant who paid court-ordered fines, fees, or other monetary amounts for a criminal conviction in a Colorado district or county court under certain conditions.

**H.B. 17-1077 (USEFUL PUBLIC SERVICE CASH FUND):** Requires that fee revenue collected from individuals who are ordered to perform useful public service remain in the newly created Useful Public Service Cash Fund rather than being credited to the General Fund. Continuously appropriates money in the new fund for the cost of administering useful public service programs.

**H.B. 17-1087 (OFFICE OF PUBLIC GUARDIANSHIP):** Creates the Public Guardianship Commission and the Office of Public Guardianship to serve indigent and incapacitated adults in need of guardianship in the 2<sup>nd</sup>, 7<sup>th</sup>, and 16<sup>th</sup> judicial districts. Creates the Office of Public Guardianship Cash Fund, consisting of any money received from gifts, grants, and donations, and any other money appropriated by the General Assembly. Requires the Commission to appoint a Director to establish the new office not more than one month after receiving at least \$1,700,000 in gifts, grants, and donations to the new cash fund. Requires the Director to submit a report to the Judiciary Committees on or before January 1, 2021, concerning the unmet need for public guardianship services, the costs and benefits of providing such services, and an assessment of funding models and viable funding sources for the Office.

**H.B. 17-1204 (JUVENILE DELINQUENCY RECORD EXPUNGEMENT):** Makes a number of changes relating to access to juvenile delinquency records and the eligibility and process for expunging these records. Appropriates \$45,237 General Fund and 0.8 FTE to the Judicial Department for FY 2017-18. For additional information, see the "Recent Legislation" section at the end of the Department of Human Services.

**H.B. 17-1265 (PERA JUDICIAL DIVISION TOTAL EMPLOYER CONTRIBUTION):** Starting January 1, 2019, increases the employer contribution rates to the Judicial Division of the Colorado Public Employees' Retirement Association (PERA) for amortization equalization disbursement and supplemental amortization equalization disbursement.

**H.B. 17-1266 (SEAL MISDEMEANOR MARIJUANA CONVICTION RECORDS):** Allows defendants convicted of a misdemeanor offense for the use or possession of marijuana to petition to seal their criminal records under certain circumstances. Requires the defendant to pay record sealing fees to

the Department of Public Safety's Colorado Bureau of Investigation, as well as associated civil filing fees associated with sealing criminal records to the Judicial Department.

**H.B. 17-1303 (JUDICIAL PERFORMANCE EVALUATION SYSTEM):** Repeals and reenacts statutes related to state and district commissions on judicial performance. Modifies procedures related to appointing commission members, commission duties and procedures, and judicial performance evaluation and reporting processes. Appropriates \$24,500 General Fund to the Judicial Department for FY 2017-18.

## APPENDIX C

### FOOTNOTES AND INFORMATION REQUESTS

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

#### Applicable to Multiple Agencies Within Judicial Branch

Footnote #53 – 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

#### Judicial

Judicial RFI #1 – Funding controlled maintenance for the Ralph L. Carr Judicial Center

Judicial RFI #2 – Consolidation of Health, Life, and Dental appropriations

#### Probation

Footnote #54 – State funding for veterans treatment courts

Statewide RFI #1 – Cash funds utilized by multiple state agencies

Judicial RFI #4 – Recidivism rates

Judicial RFI #6 – Expenditures for testing, treatment, and assessments for offenders

#### Office of the State Public Defender

Footnote #55 – Authority to transfer funds between line item appropriations

Judicial RFI #3 – Appellate case backlog

#### Office of the Alternate Defense Counsel

Footnote #56 – Authority to transfer funds between line item appropriations

#### Office of the Child's Representative

Footnote #57 – Authority to transfer funds between line item appropriations

Footnote #58 – Funding for CASA criminal history record checks.

#### Office of the Respondent Parents' Counsel

Footnote #58a – Authority to transfer funds between line item appropriations

#### Office of the Child Protection Ombudsman

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

#### Independent Ethics Commission

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

#### District Attorneys

Judicial RFI #5 – State funding for district attorney mandated costs

## UPDATE ON LONG BILL FOOTNOTES

53 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>FY 2017-18</u>
	<u>Salary</u>	<u>Increase</u>	<u>Salary</u>
Chief Justice, Supreme Court	\$176,799	\$4,420	\$181,219
Associate Justice, Supreme Court	173,024	4,326	177,350
Chief Judge, Court of Appeals	169,977	4,249	174,226
Associate Judge, Court of Appeals	166,170	4,154	170,324
District Court Judge, Denver Juvenile Court Judge, and Denver Probate Court Judge	159,320	3,983	163,303
County Court Judge	152,466	3,812	156,278

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 Director of the Office of the Respondent Parents' Counsel at the level of a district court judge.

**COMMENT:** Precursors of 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 Long Bill footnote. The footnote also establishes the salaries for the individuals who head four of the independent judicial agencies by tying them to specific judicial salaries.

For FY 2017-18 the Department awarded salary increases that conform with the increases in the table above, which equal 2.5 percent. Last November, as part of its FY 2017-18 budget request, the Department asked for a 5.73 percent increase for judges and justices, which was comprised of 2.5 percent for the governor's across-the-board salary increase plus an additional 3.15 percent. The 3.15 percent was 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 in addition to any across-the-board increases. The Committee approved the Department's request, but the additional 3.15 percent increase was removed from the bill after introduction. Thus for FY 2017-18, judges and justices received the 2.5 percent increase but not the additional 3.15 percent.

For FY 2018-19 the Department requests the Governor's 3 percent across-the-board increase for judges and justices but is not requesting any additional increase. If the Governor's across-the-board increase is later adjusted up or down, the Department requests

that judges and justices be given the across-the-board increase that other state workers are receiving.

*Implications for Senate Bill 15-288.* Senate Bill 15-288, replaces the existing fixed dollar salaries listed in statute for certain state officials and state legislators with a new method that will, in January 2019, set those salaries equal to percentages of the January 20, 2019 salaries of designated judicial officers. The salaries of these elected officials will be adjusted in the same fashion again in January 2023 and every four years thereafter. The following table shows each affected state official and the projected salary starting in January 2019.

SALARIES OF SELECTED STATE OFFICIALS PER S.B. 15-288, BEGINNING JAN. 2019					
STATE OFFICIAL	CURRENT SALARY (ESTABLISHED JANUARY 1999)	COLORADO JUDICIAL OFFICER	PERCENT OF JUDICIAL OFFICER SALARY	ESTIMATED JAN. 2019 ANNUAL SALARY OF JUDICIAL OFFICER	ESTIMATED JAN. 2019 ANNUAL SALARY OF STATE OFFICIAL
Governor	\$90,000	Chief Justice, Colorado Supreme Court	66%	\$186,656	\$123,193
Lieutenant Governor	68,500	County Court Judges, Class B Counties	58%	160,966	93,360
Attorney General	80,000	Chief Judge, Colorado Court of Appeals	60%	179,453	107,672
State Legislators	30,000	County Court Judges, Class B Counties	25%	160,966	40,242
Secretary of State	68,500	County Court Judges, Class B Counties	58%	160,966	93,360
Treasurer	68,500	County Court Judges, Class B Counties	58%	160,966	93,360

<sup>1</sup> Estimates are based on judicial officer salaries established for FY 2017-18 by footnote 53 of the FY 2017-18 Long Bill (S.B. 17-254), increased 3.0 percent as requested by the Governor for FY 2018-19.

- 54 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:** The Department indicates is complying with this footnote and has requested continuation of the \$624,877 appropriation for FY 2018-19

*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 to fund treatment and services for offenders participating in veterans treatment courts. This footnote accompanied the appropriation and stated the intended use of the 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. (In some jurisdictions they are called veterans trauma courts.)

*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 Judicial 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.

Capacity	Judicial District	Location	County	Peer mentor hours (a)	Peer Mentor Allocation	Peer Mentor mileage reimbursement	VTC Operating allocation	VTC Treatment allocation	Total VTC allocation
40	1	Golden	Jefferson	0.5	32,500	4,563	1,500	30,673	\$69,236
30	2	Denver	Denver	0.5	32,500	4,563	1,500	36,808	75,371
150	4	Co. Springs	El Paso	1.5	97,500	13,688	23,000	253,041	387,229
15	10	Pueblo	Pueblo	0.5	32,500	4,563	1,500	18,404	56,967
25	17	Brighton	Adams	0.5	32,500	4,563	1,500	30,673	69,236
30	18 (b)	Centennial	Arapahoe	0.25	16,250	2,281	1,500	36,808	56,839
290	Total			3.75	243,750	34,221	30,500	406,407	\$714,878

Long Bill Footnote Appropriation (GF) 624,877  
 Correctional Treatment Cash Fund (CF) 90,000

Total VTC Allocation 714,877

**NOTES:**

Peer Mentor hourly assumptions are based on a full time mentor annual salary of \$65,000 with the part-time mentors salaries prorated and the need for 0.5 mentor per 50 participants.

Mileage assumption: 50 miles per day per mentor.

(a) Peer mentors funds support 3rd party contract mentors; they are not judicial employees and should not be paid as such.

(b) District did not need full peer appropriation at time of allocation due available grant funds  
 Operating allocation: estimate of cost to operate VTC .  
 Based on the percentage of capacity of court.

55 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.

For FY 2016-17, the Office of the State Public Defender (OSPD) complied with the identical previous version of this footnote. JBC staff expects continued compliance this year. The footnote provided the OSPD with the authority to transfer up to 2.5 percent of its total appropriation between line items (\$86,573,321 appropriation \* 2.5% = \$2,164,333 maximum transfer). The following table details the transfers.

TRANSFERS MADE BY THE OFFICE OF THE STATE PUBLIC DEFENDER PURSUANT TO LONG BILL FOOTNOTE: FY 2016-17			
LONG BILL LINE ITEM	TRANSFERS IN	TRANSFERS OUT	NET TRANSFERS
Personal Services	\$0	(\$400,000)	(\$400,000)
Operating Expenses	0	(75,000)	(75,000)
Leased Space/ Utilities	0	(300,000)	(300,000)
Vehicle Lease Payments	0	0	0
Automation Plan	300,000	0	300,000
Mandated Costs	475,000	0	475,000
<i>Transfers between OSPD line items</i>	<i>\$775,000</i>	<i>(\$775,000)</i>	<i>\$0</i>
<i>Transfers to/ (from) Other Judicial Agencies</i>	<i>0</i>	<i>0</i>	<i>0</i>

56 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:** For FY 2016-17, the Office of the Alternate Defense Counsel (OADC) complied with the identical previous version of this footnote. JBC staff expects continued compliance this year. The footnote provided the OADC with the authority to transfer up to 2.5 percent of its total appropriation between line items (\$32,023,507 appropriation \* 2.5% = \$800,587 maximum transfer). The following table details the transfers. In addition, the



Office of Child's Representative transferred \$911,747 to the Office of the Alternative Defense Counsel as allowed by Section 24-75-110, C.R.S. The transfer covered the cost of court appointed counsel. This transfer falls within the \$1.0 million statutory limitation on transfers within Judicial Branch agencies.

TRANSFERS MADE BY THE OFFICE OF THE ALTERNATE DEFENSE COUNSEL PURSUANT TO LONG BILL FOOTNOTE: FY 2016-17			
LONG BILL LINE ITEM	TRANSFERS IN	TRANSFERS OUT	NET TRANSFERS
Personal Services	\$0	(\$1,519)	(\$1,519)
Operating Expenses	55,324	0	55,324
Leased Space	0	0	0
Training and Conferences	1,167	0	1,167
Conflict of Interest Contracts	273,784	(56,491)	217,293
Mandated Costs	0	(272,265)	(272,265)
<i>Transfers between OADC line items</i>	<i>\$330,275</i>	<i>(\$330,275)</i>	<i>\$0</i>
<i>Transfers to/ (from) Other Judicial Agencies (From OCR to OADC Conflict of Interest Contracts)</i>	<i>\$911,747</i>	<i>\$0</i>	<i>\$0</i>

- 57 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:** For FY 2016-17, the Office of Child's Representative complied with the identical previous version of this footnote. JBC staff expects continued compliance this year. The footnote provided the OCR with the authority to transfer up to 2.5 percent of its total appropriation between line items (\$25,715,797 appropriation \* 2.5% = \$642,894 maximum transfer). The following table details the transfers. In addition, the Office of Child's Representative transferred \$911,747 to the Office of the Alternative Defense Counsel as allowed by Section 24-75-110, C.R.S. The transfer covered the cost of court appointed counsel. This transfer falls within the \$1.0 million statutory limitation on transfers within Judicial Branch agencies.

TRANSFERS MADE BY THE OFFICE OF THE CHILD'S REPRESENTATIVE PURSUANT TO LONG BILL FOOTNOTE: FY 2016-17			
LONG BILL LINE ITEM	TRANSFERS IN	TRANSFERS OUT	NET TRANSFERS
Personal Services	\$0	(\$35,000)	(\$35,000)
Operating Expenses	45,000	0	45,000
Capital Outlay	0	0	0
Leased Space	0	0	0
Training	5,000	0	5,000
Court Appointed Counsel	0	0	0
Mandated Costs	0	(15,000)	(15,000)
<i>Transfers between OCR line items</i>	<i>\$50,000</i>	<i>(\$50,000)</i>	<i>\$0</i>
<i>Transfers to/ (from) Other Judicial Agencies</i>	<i>\$0</i>	<i>(\$911,747)</i>	<i>(\$911,747)</i>

TRANSFERS MADE BY THE OFFICE OF THE CHILD'S REPRESENTATIVE PURSUANT TO LONG BILL FOOTNOTE: FY 2016-17			
LONG BILL LINE ITEM	TRANSFERS IN	TRANSFERS OUT	NET TRANSFERS
<i>(From OCR to OADC)</i>			

58 Judicial Department, Office of the Child's Representative, CASA Contracts -- It is the General Assembly's intent that \$30,000 of this appropriation be allocated to local CASA programs to cover the costs of conducting criminal history record checks for CASA volunteers. If a local CASA program's share of this amount exceeds the amount incurred for criminal history record checks, it is the General Assembly's intent that the remainder be used to support other local CASA program activities.

**COMMENT:** This footnote appeared in the Judicial Branch Long Bill for the first time in FY 2017-18. The Office of the Child's Representative indicates that it is complying with this footnote.

58a 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:** For FY 2016-17, the Office of the Respondent Parents' Counsel complied with the identical previous version of this footnote. JBC staff expects continued compliance this year. The footnote provided the Office of the Respondent Parents' Counsel (ORPC) with the authority to transfer up to 2.5 percent of its total appropriation between line items (\$16,230,423 appropriation \* 2.5% = \$405,760 maximum transfer). The following table details the transfers.

TRANSFERS MADE BY THE OFFICE OF THE RESPONDENT PARENTS' COUNSEL PURSUANT TO LONG BILL FOOTNOTE: FY 2017-18			
LONG BILL LINE ITEM	TRANSFERS IN	TRANSFERS OUT	NET TRANSFERS
Personal Services	\$0	(\$72,150)	(\$72,150)
Operating Expenses	67,746	0	67,746
Legal Services	4,404	0	4,404
Case Management System	0	0	0
Training	0	0	0
Court-appointed Counsel	0	(100,366)	(100,366)
Mandated Costs	100,366	0	100,366
<i>Transfers between ORPC line items</i>	<i>\$172,516</i>	<i>(\$172,516)</i>	<i>\$0</i>
<i>Transfer to/ (from) Other Judicial Agencies</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>

59 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 and its identical predecessor provide the Office of the Child Protection Ombudsman with the authority to transfer up to 10.0 percent of its total FY 2016-17 appropriation between line items (\$614,458 appropriation \* 10% = \$61,446). During FY 2016-17 the Office did not make any transfers.

- 60 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:** This footnote and its identical predecessor provide the Independent Ethics Commission with the authority to transfer up to 10.0 percent of its total FY 2016-17 appropriation between line items. During FY 2016-17 the Office did not make any transfers.

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 appropriation between line items (\$359,097 appropriation \* 10% = \$35,910).

In FY 2016-17 \$43,024 was transferred from this office to the Judicial Department to pay for the purchase of legal services from the Department of Law, as allowed pursuant to Section 24-75-110, C.R.S. The transfer in combination with the transfer from the Office of the Child's Representative to the Office of the Alternative Defense Counsel falls within the \$1.0 million statutory limitation on transfers between Judicial Branch Agencies.

# UPDATE ON REQUESTS FOR INFORMATION

*Requests Applicable to Multiple Departments, Including Judicial Branch*

- 1 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 2017-18), 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 2017-18). The Judicial Department's FY 2018-19 budget request includes a schedule 9 for this fund.

The revenue from this fund source has been falling and the Judicial Department projects continued decline. The Judicial Department's Schedule 9 indicates that the Department plans to put a \$1,800,000 spending restriction in place for FY 2018, rising to \$2,000,000 in FY 2018-19. Staff may recommend reduced appropriations from this fund source during FY 2018-19 Figure Setting.

*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 2018-19 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 Services, 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 (\$58,725 for FY 2017-18). The Judicial Department's FY 2018-19 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 (DHS) (\$888,341 for FY 2017-18). The appropriation is transferred from the DHS's Office of Behavioral Health, Substance Use Treatment and Prevention Services, Community Prevention and Treatment Programs line item appropriation. The Department of Human Services' FY 2018-19 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, in the case of juveniles, 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 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 2017-18). Under the plan submitted by the Sex Offender Management Board, this appropriation would not change for FY 2018-19. The Judicial Department's FY 2018-19 budget request includes a schedule 9 for this fund.

*Requests Applicable to Judicial Branch Only*

- 1 **Judicial Department, Courts Administration, Ralph L. Carr Colorado Judicial Center, Controlled Maintenance** – The State Court Administrator’s Office is requested to provide by November 1, 2017, a report concerning its plans for addressing the controlled maintenance needs of the Carr Center, consistent with S.B. 08-206. The report should include any recommended statutory changes or changes to the appropriation structure to ensure that revenues from court fees, lease payments, and parking fees can be used to cover both current and future controlled maintenance expenses.

**COMMENT:** The State Court Administrator’s Office has provided the requested report, which outlines the Department's plan to establish and fund a dedicated controlled maintenance cash fund for the Carr Center. This Department’s plan is discussed more thoroughly in the issue titled “Funding Carr Center Controlled Maintenance” which appears earlier in this document.

- 2 **Judicial Department, Courts Administration, Central Appropriations, Health, Life, and Dental; Office of the State Public Defender, Health, Life, and Dental; Office of the Alternate Defense Counsel, Health, Life, and Dental; Office of the Child’s Representative, Health, Life, and Dental; Office of the Respondent Parents’ Counsel, Health, Life, and Dental; Office of the Child Protection Ombudsman, Program Costs; and Independent Ethics Commission, Program Costs** – The State Court Administrator’s Office is requested to provide by November 1, 2017, a report concerning the feasibility of including a single line item appropriation in the FY 2018-19 Long Bill for Judicial Branch employee health, life, and dental insurance benefits. The Office is requested to discuss this proposal with each of the six independent Judicial agencies, and seek input concerning the associated benefits and challenges.

**COMMENT:** The seven Judicial Branch agencies have provided the requested report in which they oppose a single combined FY 2018-19 Long Bill appropriation to pay for the employer cost of health, life, and dental (HLD) benefits.

- 3 **Judicial Department, Office of the State Public Defender** – The State Public Defender is requested to provide by November 1, 2017, a report concerning the Appellate Division's progress in reducing its case backlog, including the following data for FY 2016-17: 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, 2017.

The Department of Law also received the following Request for Information. It supplied information for the next comment.

- 2 **Department of Law, Criminal Justice and Appellate, Appellate Unit** – The Department is requested to provide by November 1, 2017 a report concerning the Appellate Unit’s progress in reducing its case backlog, including the following data for FY 2016-17: the number of opening briefs received; the number of answer briefs filed; and the case backlog as of June 30, 2017. In addition, the Department is requested to summarize the tasks completed by the inter-agency working group that was established to review the procedures, rules, and practices for handling post-conviction appeals, along with any recommended procedural, regulatory, or statutory changes.

**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, 2017 Response.* The OSPD provided the requested data for FY 2016-17, which is included in Table 1, below. The OSPD indicates that the Appellate Division carried a total of 2,001 active felony appeals cases in FY 2016-17, including:

- a backlog of 587 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")
99-00			25.0	25.0	825	487			387	369
07-08			29.0	29.0	1,834	606	465	121	586	611
08-09			31.8	31.8	1,804	627	450	205	655	583
09-10			31.8	31.8	1,784	602	427	124	551	634
10-11			31.8	31.8	1,840	575	415	142	557	652
11-12			34.8	34.8	1,939	589	460	133	593	648
12-13	1.0		33.8	34.8	1,931	585	427	135	562	671
13-14	4.0		31.8	35.8	2,341	573	367	127	495	749
14-15	4.0	2.0	41.3	47.3	2,282	533	422	122	544	738
15-16	3.0	2.0	42.3	47.3	2,234	511	486	141	627	622
16-17	4.0	2.0	41.3	47.3	2,196	525	459	101	560	587
17-18 Proj.	4.0	2.0	41.3	47.3	2,001	535	468	123	591	531



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")	
18-19 Proj.	4.0	2.0	41.3	47.3	1,964	545	468	125	593	483	
19-20 Proj.	4.0	2.0	41.3	47.3	1,926	554	468	127	595	443	
20-21 Proj.	4.0	2.0	41.3	47.3	1,896	565	468	130	598	410	
21-22 Proj.	4.0	2.0	41.3	47.3	1,863	575	468	130	598	377	

The OSPD now projects that it will achieve a sustainable backlog level in FY 2021-22. It notes that the continuing statewide surge in filings of initial criminal charges is likely to result in increased appellate filings, which would further delay the elimination of the backlog.

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 provided by both agencies.

TABLE 2

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

FISCAL YEAR	OSPD			LAW		
	TOTAL ACTIVE FELONY CASES	OPENING BRIEFS FILED	CASE BACKLOG	OPENING BRIEFS RECEIVED	ANSWER BRIEFS FILED	CASE BACKLOG <sup>a</sup>
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 <sup>a</sup>	2,341	367	749	911	1,149	320
2014-15 <sup>a</sup>	2,282	422	738	952	1,017	264
2015-16	2,234	486	622	1,056	913	428
2016-17	2,196	459	587	968	931	466

The Department of Law was initially successful in reducing its backlog of cases (i.e. 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, which has now grown for two years.

*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.

4 **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 requested information. On June 30, 2016, there were 75,801 offenders on probation in Colorado, including 71,890 adult and 3,911 juvenile probationers in both the regular and intensive-supervision probation programs.<sup>4</sup> This report concerns recidivism among the probationers whose probation ended during FY 2015-16. In some cases probation ended because the offender committed a new crime or committed technical violations of his probation conditions and a judge revoked probation. In other cases the offender successfully finished probation during FY 2015-16 and the study examines whether the offender was charged with a new crime within one year of the successful finish.<sup>5</sup> Probationers who abscond from supervision are classified as having been terminated for a technical violation. Note that revocation for technical violations usually involves more than one violation unless the violation is serious.

The information and key findings contained in the report are summarized below.

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<sup>4</sup> The total includes individuals under state and private (DUI and non-DUI) probation supervision. An additional 3,810 DUI offenders were monitored by state probation but were not part of this study. Since October 1, 2013 the adult intensive supervision program is no longer a sentencing option for the courts. Instead, probationers are placed in intensive programs based on risk and criminogenic needs as assessed by their probation office.

<sup>5</sup> For the study, probationers were classified based on termination codes entered in the probation record keeping system. The relevant codes are "Terminated – Technical", "Terminated – New Crime", and "Terminated - End-of-sentence" and "Terminated – Escaped". When a probationer receives a new charge, the probation officer will file for revocation. If the charge is a misdemeanor, many judges will continue (i.e. delay) the revocation proceeding until the charges are resolved, usually through a plea agreement. Probationers often remain free during this period. More serious charges might lead a judge to immediately revoke probation. When probation is revoked because of new charges that have not yet been resolved, the probation department codes this as termination for a new crime. Note that judges can sanction probationers for technical violations without ending probation. For example, following repeated technical violations (hot UAs, failure to come to appointments and treatment, etc.), a judge might revoke and regrant probation with the condition that the offender spend the first 30 days of the new probation term in the county jail. After the trip to jail, the offender is back on probation. Since revoking and regranting probation with new conditions is not coded as a termination, a jail trip like this can occur and the probationer can still complete probation successfully with a code of "Terminated – End-of Sentence" in his or her record.

### *Supervision of Offenders Sentenced to Probation*

Probation officers use validated instruments<sup>6</sup> 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.<sup>7</sup> Probation 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” means probation was terminated with an adjudication or conviction for a felony or a misdemeanor, or was terminated for technical violation that may or may not involve a new crime. Absconding is classified as a technical violation.<sup>8</sup>
- “Post-release Recidivism” includes a filing for a felony or misdemeanor 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.

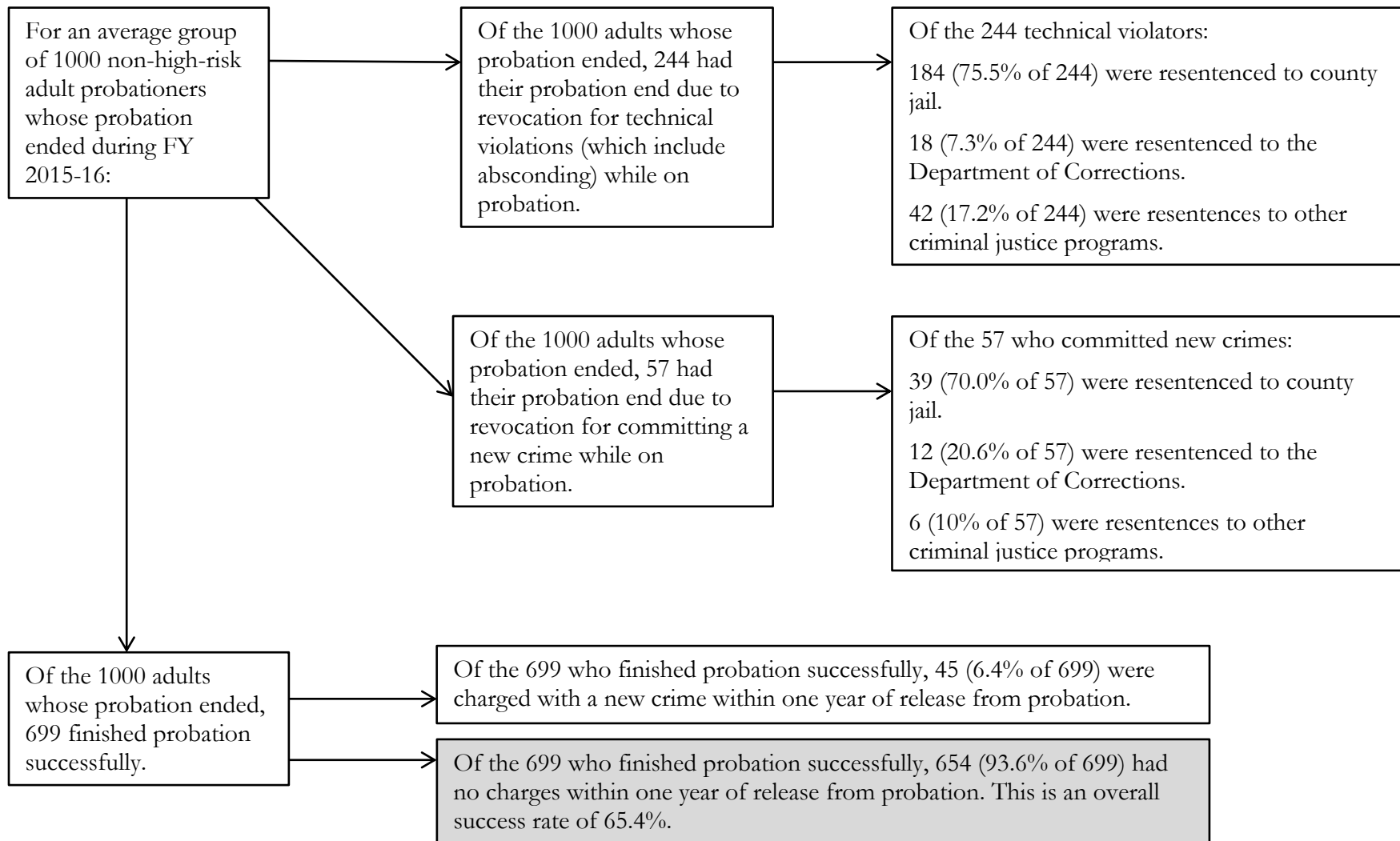
The diagram on the following page summarizes the findings for non-high-risk adult offenders whose probation ended in FY 2016-17.

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<sup>6</sup> 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.

<sup>7</sup> 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.

<sup>8</sup> Absconding from probation supervision is common. In FY 2016-17 almost 40% of unsuccessful terminations were for absconding.



Though this study does not start with a group of new probationers and follow them for several years to see what happens, the study indicates that it is *approximately* correct to say that for 1000 new non-high-risk adult offenders who enter the probation system 65.4 percent (the 654 in the gray box) will finish probation successfully and will be crime free a year after finishing; 3.0 percent (the 18 + 12 = 30 in the top right box and the box beneath it) will fail on probation and be sentenced to the Department of Corrections; and 22.3 percent (184 + 39 = 223) will fail on probation and be sentenced to county jail. It is possible however, that some of the probationers who successfully finished spent some probation time in county jail as part of their sentence. For example, at the beginning of their sentence they might have been sentenced to probation and, as a condition of probation, been sent to jail for 30 days before the on-the-street phase of their probation began.

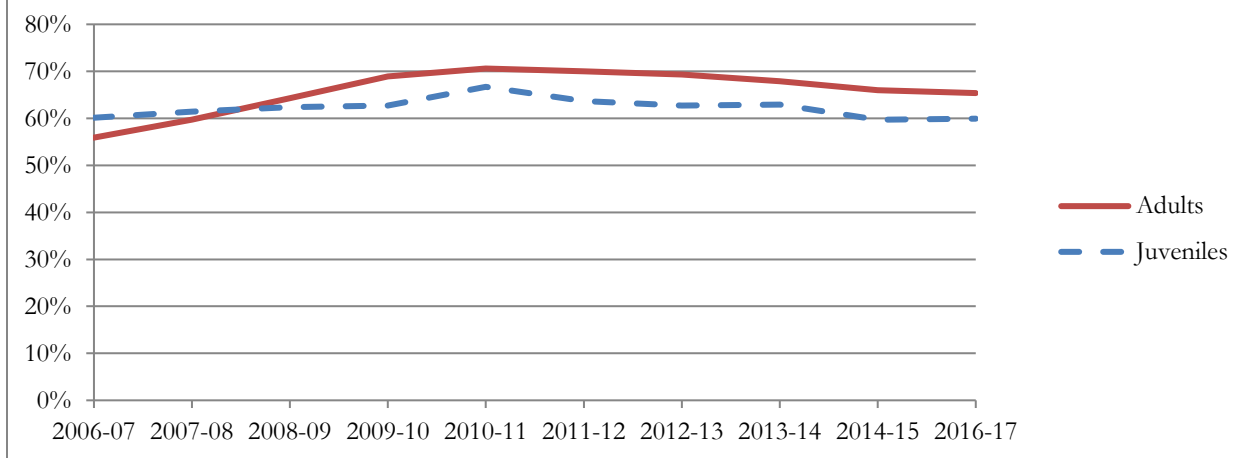
The following table summarizes the data for non-high-risk adults and juveniles for the last 10 fiscal years.

PROBATION RECIDIVISM RATES					
TERMINATION COHORTS FOR FISCAL YEARS 2005-06 THROUGH 2015-16 <sup>a</sup>					
SUPERVISION LEVEL AT TIME OF TERMINATION	FISCAL YEAR	PRE-RELEASE RECIDIVISM		POST-RELEASE RECIDIVISM	OVERALL SUCCESS
		TECHNICAL VIOLATION	NEW CRIME		
<b>Juvenile - Regular</b>	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%
<b>2,548 juveniles in latest year</b>	<b>2016-17</b>	<b>21.3%</b>	<b>8.0%</b>	<b>10.8%</b>	<b>59.9%</b>
<b>Adult - Regular</b>	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%
<b>35,246 adults in latest year</b>	<b>2016-17</b>	<b>24.4%</b>	<b>5.7%</b>	<b>4.5%</b>	<b>65.4%</b>

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 (i.e. Denver misdemeanor filings) 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; in other years, post-release recidivism rates may be understated.

The following chart shows that the overall success rate for non-high-risk adults and juveniles rose from FY 2006-07 to FY 2010-11 and has since declined.

## Overall Success Rate of Non-high-risk Juveniles and Adults on Probation



### *Intensive Supervision Programs*

The probation department's intensive supervision programs are for juveniles (JISP, Juvenile ISP), adults (AISP, Adult ISP), and adult females (FOP, Female Offender Program). These are higher risk individuals who are more likely to fail and more likely to commit new crimes. The following table summarizes recidivism data for both adults and juveniles with an intensive level of supervision, for the most recent ten fiscal years. Overall success occurs when an individual terminates probation directly from intensive supervision without revocation for a new crime or a technical violation and does not recidivate for one year after release or successfully terminates from intensive supervision and transfers to regular supervision. This unusual measure of overall success makes the overall success measure hard to interpret may be the reason post-release recidivism is low for this high-risk group. Also note that these groups are relatively small, percentages can jump from year to year.

PROBATION RECIDIVISM RATES					
TERMINATION COHORTS FOR FISCAL YEARS 2005-06 THROUGH 2015-16					
SUPERVISION LEVEL AT TIME OF TERMINATION	FISCAL YEAR	PRE-RELEASE RECIDIVISM		POST-RELEASE RECIDIVISM	OVERALL SUCCESS
		TECHNICAL VIOLATION	NEW CRIME		
<b>Juvenile Intensive Supervision Program (JISP)</b>	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%
	<b>189 juveniles in latest year</b>	<b>2016-17</b>	<b>42.3%</b>	<b>16.9%</b>	<b>3.7%</b>
<b>Adult Intensive Supervision Program (AISP)<sup>a,b</sup></b>	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%

PROBATION RECIDIVISM RATES					
TERMINATION COHORTS FOR FISCAL YEARS 2005-06 THROUGH 2015-16					
SUPERVISION LEVEL AT TIME OF TERMINATION	FISCAL YEAR	PRE-RELEASE RECIDIVISM		POST-RELEASE RECIDIVISM	OVERALL SUCCESS
		TECHNICAL VIOLATION	NEW CRIME		
<b>520 adults in latest year</b>	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%
	<b>2016-17</b>	<b>30.6%</b>	<b>16.2%</b>	<b>1.5%</b>	<b>51.7%</b>
<b>Adult - Female Offender Program (FOP)<sup>a</sup></b>	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%
<b>156 females in latest year</b>	<b>2016-17</b>	<b>39.7%</b>	<b>5.1%</b>	<b>1.3%</b>	<b>53.9%</b>

a/ 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 placed in a supervision program that can last decades and are not reflected at all in the Judicial 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).

- 5 **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).<sup>9</sup> 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.<sup>10</sup>, 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

<sup>9</sup> The CDAC is a quasi-governmental agency, supported by assessments charged to each district attorney member's office (through an intergovernmental agreement) as well as some State funding.

<sup>10</sup> 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".



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 2016-17 expenditure data provided by the CDAC, DAs' mandated costs consist of the following:

- Witness fees and travel expenses (\$603,748 – 27.2%)
- Expert witness fees and travel expenses (\$557,760 – 25.1%)
- Mailing subpoenas<sup>11</sup> (\$497,055 – 22.4%)
- Service of process<sup>12</sup> (\$372,003 – 16.8%)
- Court reporter fees for transcripts (\$189,839 – 8.5%)

The following table provides a history of appropriations and actual expenditures for this line item, as well as the request for FY 2018-19.

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 <sup>a</sup>	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 <sup>b</sup>	2,389,549	140,000	2,529,549	2,164,497	140,000	2,304,497	5.4%	(225,052)
2013-14 <sup>c</sup>	2,491,916	160,000	2,651,916	2,152,067	160,000	2,312,067	0.3%	(339,849)
2014-15 <sup>d</sup>	2,527,153	170,000	2,697,153	2,374,178	160,865	2,535,043	9.6%	(162,110)
2015-16 <sup>e</sup>	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	2,131,396	170,000	2,301,396	-4.9%	(115,954)
2017-18	2,314,770	170,000	2,484,770					
2018-19								
Request	2,389,313	170,000	2,559,313					

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.

<sup>11</sup> 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.

<sup>12</sup> 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.

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 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 \$115,738 in FY 2017-18); 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 2016-17, DAs' incurred \$91,798 above this limit.

*CDAC Request for FY 2018-19.* For FY 2018-19, the CDAC requests an appropriation of \$2,559,313, which represents a \$74,543 (3.0 percent) increase compared to the FY 2017-18 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 H, staff has provided a table summarizing these state appropriations.

- 6 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 2016-17 Expenditures*

The following table details actual expenditures from this line item for FY 2015-16 and FY 2016-17. *Probation-related* expenditures from this line item totaled \$15.4 million in FY 2016-17. Similar to previous years, the majority of funds were used to provide substance abuse services (43.6 percent) and sex offender services (17.1 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 reductions in commitments to the Department of Corrections and the Department of Human Services' Division of Youth Services.

OFFENDER TREATMENT AND SERVICES LINE ITEM: ACTUAL EXPENDITURES				
TREATMENT OR SERVICE	FY 2015-16		FY 2016-17	
	EXPENDITURES	% OF TOTAL	EXPENDITURES	% OF TOTAL
Substance Abuse Treatment	\$3,015,381	19.5%	\$2,801,535	18.3%
Drug Testing	2,983,020	19.3%	3,091,485	20.1%
Transfer of Persistent Drunk Driver Cash Fund money from DHS	<u>716,833</u>	<u>4.6%</u>	<u>793,207</u>	<u>5.2%</u>
Subtotal: Substance Abuse Services	6,715,234	43.5%	6,686,227	43.6%
Adult Sex Offender Treatment	1,015,412	6.6%	906,011	5.9%
Adult Sex Offender Assessment	992,966	6.4%	974,677	6.3%
Adult Sex Offender Polygraphs	416,343	2.7%	379,801	2.5%
Juvenile Sex Offender Assessment and Treatment	240,217	1.6%	285,699	1.9%
Juvenile Sex Offender Polygraphs	<u>70,791</u>	<u>0.5%</u>	<u>78,695</u>	<u>0.5%</u>
Subtotal: Sex Offender Services	2,735,729	17.7%	2,624,883	17.1%
Domestic Violence Treatment	1,299,247	8.4%	1,220,111	7.9%
Emergency Housing and Food	899,217	5.8%	860,822	5.6%
Mental Health Services	745,991	4.8%	805,838	5.2%
Special Needs Services	768,163	5.0%	686,087	4.5%
Transportation Assistance	429,651	2.8%	443,023	2.9%
Electronic Home Monitoring Services	309,510	2.0%	285,302	1.9%
Transfer to Denver County	173,339	1.1%	177,938	1.2%
Incentives for Offenders	154,800	1.0%	262,932	1.7%
Language Interpreter Services	154,456	1.0%	145,401	0.9%
Restorative Justice	145,920	0.9%	180,746	1.2%
Educational/Vocational Assistance	87,531	0.6%	103,219	0.7%
General Medical Assistance	25,599	0.2%	13,084	0.1%
<b>Subtotal: Funds Allocated to/Expended by Districts</b>	<b>14,644,387</b>	<b>94.8%</b>	<b>14,495,613</b>	<b>94.4%</b>
Offender Treatment and Services Administrative Overhead	733,308	4.7%	791,850	5.2%
Evidence-based Practices Research	66,785	0.4%	57,211	0.4%
Initiative to Build Capacity in Rural/Under-served Areas	<u>1,474</u>	0.0%	<u>5,400</u>	0.0%
<b>Total Probation Expenditures</b>	<b>\$15,445,954</b>	<b>100.0%</b>	<b>\$15,350,074</b>	<b>100.0%</b>
Transfer to Department of Corrections for Day Reporting	24,817		25,000	
Correctional Treatment CF Transfers to other Agencies	13,853,259		14,438,510	
<b>TOTAL LINE ITEM EXPENDITURES</b>	<b>\$29,324,030</b>		<b>\$29,813,584</b>	

OFFENDER TREATMENT AND SERVICES LINE ITEM: ACTUAL EXPENDITURES

TREATMENT OR SERVICE	FY 2015-16		FY 2016-17	
	EXPENDITURES	% OF TOTAL	EXPENDITURES	% OF TOTAL

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,<sup>13</sup> domestic violence treatment, and mental health services increased.

The Department also spent \$791,850 for administrative expenses, including the following:

- Colorado Collaborative Justice Conference (\$218,892 paid from the Correctional Treatment Cash Fund);
- Travel, registration, office supplies, and other miscellaneous expenses (\$150,766);
- Central treatment contracts (\$274,557);
- Training (\$99,135); and
- Payment of licenses for assessment instruments (\$48,500).

The increase in administration expenditure, which is up from \$733,308 in FY 2015-16, is probably due to a shift in CORE coding rather than a true change in expenditure patterns. The Administrative Expenditure code can now be charged if it is deemed the most appropriate place to record an expense.

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<sup>13</sup> “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.

## APPENDIX D

# DEPARTMENT ANNUAL PERFORMANCE REPORT

Pursuant to Section 2-7-205 (1) (b), C.R.S., 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 the designated fiscal year. In addition, pursuant to Section 2-7-204 (3)(a)(I), C.R.S., these agencies are required to develop a **Performance Plan** and submit the plan for the *current fiscal year* to the Joint Budget Committee and appropriate Joint Committee of Reference by July 1 of each year. For consideration by the Joint Budget Committee in prioritizing the FY 2018-19 budget requests of these agencies, their FY 2016-17 Annual Performance Reports, and FY 2017-18 Performance Plans can be found at the following links:

### Judicial Department

- Report:** [https://www.courts.state.co.us/userfiles/file/Administration/Planning\\_and\\_Analysis/SMART%20Act/PerformanceReport-November%201%2C%202017.pdf](https://www.courts.state.co.us/userfiles/file/Administration/Planning_and_Analysis/SMART%20Act/PerformanceReport-November%201%2C%202017.pdf)
- Plan:** [https://www.courts.state.co.us/userfiles/file/Administration/Planning\\_and\\_Analysis/SMART%20Act/Performance%20Plan%20-%20July%201%2C%202017.pdf](https://www.courts.state.co.us/userfiles/file/Administration/Planning_and_Analysis/SMART%20Act/Performance%20Plan%20-%20July%201%2C%202017.pdf)

### Office of the State Public Defender

- Report:** <http://www.coloradodefenders.us/wp-content/uploads/2017/11/FINAL-OSPD-Annual-Performance-Report-due-November-01-2017.pdf>
- Plan:** <http://www.coloradodefenders.us/wp-content/uploads/2017/06/OSPD-SMART-Act-Performance-Plan-070117.pdf>

### Office of the Alternate Defense Counsel

- Report:** <https://www.coloradoadc.org/images/OADCUpload/fy16-17-performance-report.pdf>
- Plan:** <https://www.coloradoadc.org/images/OADCUpload/performance-plan-fy18.pdf>

### Office of the Child's Representative

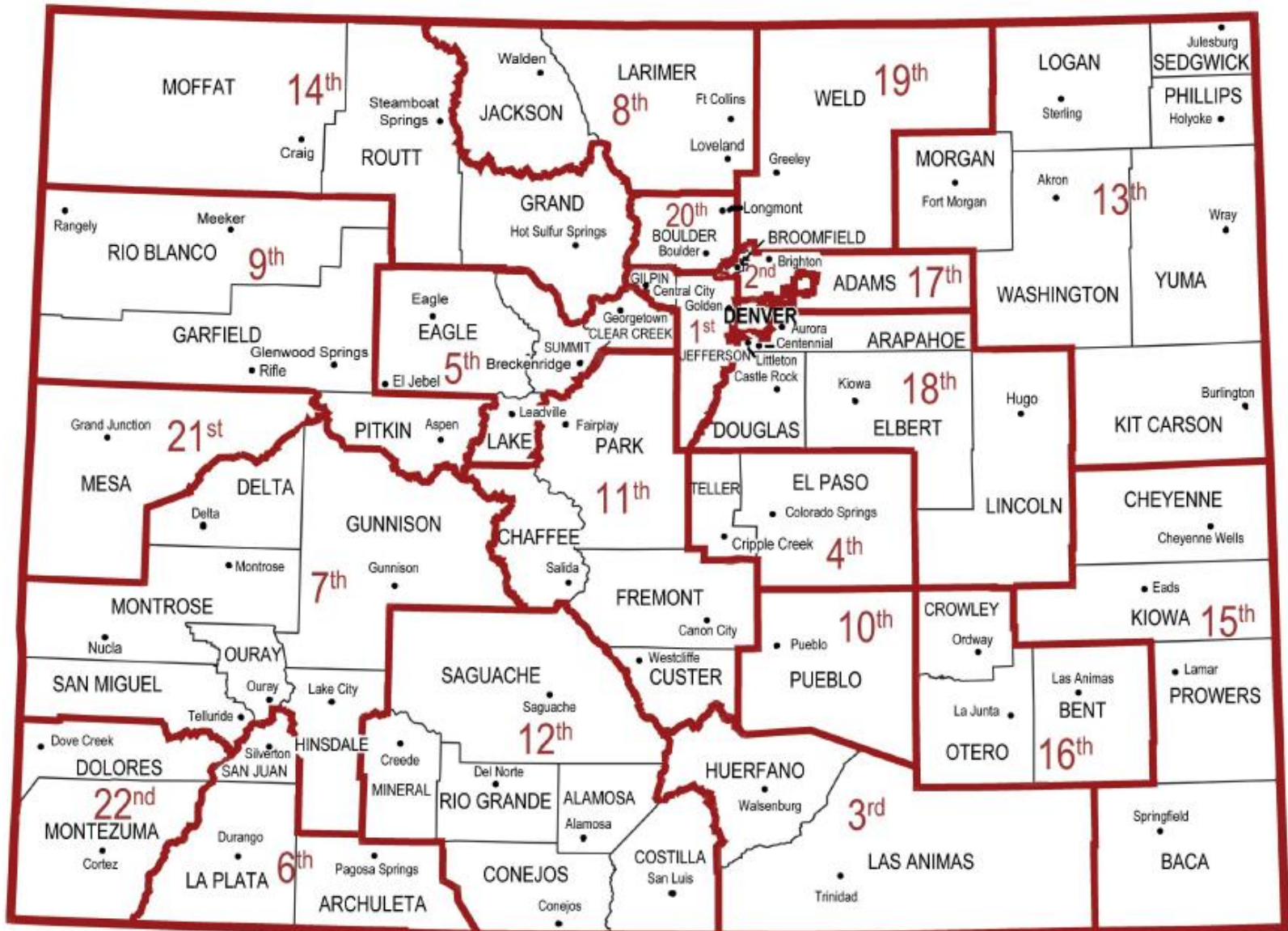
- Report:** <http://www.coloradochildrep.org/wp-content/uploads/2017/11/2017-Annual-Performance-Report.pdf>
- Plan:** <http://www.coloradochildrep.org/wp-content/uploads/2017/07/Final-OCR-Performance-Plan.pdf>

### Office of the Child Protection Ombudsman

- Report:** <http://www.coloradocpo.org/wp-content/uploads/CPO-SMART-Annual-Performance-Report-FY-2017-2018-Website.pdf>
- Plan:** <http://www.coloradocpo.org/wp-content/uploads/CPO-SMART-Performance-Plan-FY-2017-2018.pdf>

# APPENDIX E

## COLORADO JUDICIAL DISTRICTS MAP WITH STATE COURT LOCATIONS



Dots on this map are the cities and towns where state courts are located.

## APPENDIX F

### 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 2016-17. 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
2016-17	1,285	2,355	215,369	1,068	410,355	630,432
<i>% of FY 16-17 total</i>	<i>0.2%</i>	<i>0.4%</i>	<i>34.2%</i>	<i>0.2%</i>	<i>65.1%</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 (EXCLUDING D&N, AND TRUANCY)	PROBATE	MENTAL HEALTH	DEPENDENCY & NEGLECT (D&N)	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
2016-17	57,919	22,713	51,775	35,057	18,146	16,619	7,947	3,355	1,838	215,369
<i>% of FY 16-17 total</i>	<i>26.9%</i>	<i>10.5%</i>	<i>24.0%</i>	<i>16.3%</i>	<i>8.4%</i>	<i>7.7%</i>	<i>3.7%</i>	<i>1.6%</i>	<i>0.9%</i>	<i>100.0%</i>



TABLE 3: NEW COUNTY COURT CASE FILINGS

FISCAL YEAR	TRAFFIC	TRAFFIC INFRACCTIONS	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
2016-17	115,370	66,561	140,462	61,298	19,546	7,118	410,355
<i>% of FY 16-17 total</i>	<i>28.1%</i>	<i>16.2%</i>	<i>34.2%</i>	<i>14.9%</i>	<i>4.8%</i>	<i>1.7%</i>	<i>100.0%</i>

## APPENDIX G, COURT STAFFING LEVELS FOR FY 2017-18

TABLE 1: FY 2017-18 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) 1/	Actual FTE Over/(Under) Need	Staffing Percentage
1	Gilpin, Jefferson	13.0	7.8	0.0	20.8	26.5	(5.7)	78.4%
2	Denver - District Court	23.0	2.8	0.0	25.8	37.0	(11.2)	69.6%
2	Denver - Juvenile Court	3.0	1.5	0.0	4.5	4.6	(0.1)	98.3%
2	Denver - Probate Court	1.0	0.8	0.0	1.8	2.1	(0.4)	81.8%
3	Huerfano, Las Animas	2.0	0.0	0.0	2.0	2.2	(0.2)	91.7%
4	El Paso, Teller	22.0	8.5	0.0	30.5	42.9	(12.4)	71.1%
5	Clear Creek, Eagle, Lake, Summit	6.0	0.0	0.0	6.0	6.0	0.0	100.3%
6	Archuleta, La Plata, San Juan	4.0	0.0	0.4	4.4	5.2	(0.8)	84.5%
7	Delta, Gunnison, Hinsdale, Montrose, Ouray, San Miguel	5.0	0.5	0.8	6.3	7.4	(1.2)	84.5%
8	Jackson, Larimer	8.0	4.5	0.0	12.5	16.0	(3.5)	78.2%
9	Garfield, Pitkin, Rio Blanco	5.0	0.0	0.8	5.8	6.6	(0.8)	87.3%
10	Pueblo	7.0	1.8	0.5	9.3	13.1	(3.8)	70.7%
11	Chaffee, Custer, Fremont, Park	4.0	1.3	0.0	5.3	7.0	(1.8)	74.9%
12	Alamosa, Conejos, Costilla, Mineral, Rio Grande, Saguache	4.0	0.0	0.3	4.3	5.7	(1.5)	74.2%
13	Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Yuma	4.0	0.5	0.0	4.5	6.1	(1.6)	73.3%
14	Grand , Moffat, Routt	3.0	0.0	0.4	3.4	3.5	(0.1)	96.3%
15	Baca, Cheyenne, Kiowa, Prowers	2.0	0.0	0.0	2.0	1.8	0.2	111.1%
16	Bent, Crowley, Otero	2.0	0.5	0.0	2.5	2.9	(0.4)	87.4%
17	Adams, Broomfield	15.0	6.3	0.0	21.3	25.8	(4.5)	82.4%
18	Arapahoe, Douglas, Elbert, Lincoln	23.0	7.7	0.0	30.7	37.2	(6.5)	82.5%
19	Weld	9.0	2.8	1.0	12.8	16.9	(4.2)	75.4%
20	Boulder	9.0	2.3	0.0	11.3	14.2	(2.9)	79.9%
21	Mesa	5.0	3.0	0.0	8.0	10.6	(2.6)	75.3%
22	Dolores, Montezuma	2.0	0.0	0.0	2.0	2.2	(0.2)	91.7%
<b>STATEWIDE: 2017-18</b>		<b>181.0</b>	<b>52.2</b>	<b>4.0</b>	<b>237.2</b>	<b>303.3</b>	<b>(66.1)</b>	<b>78.2%</b>
<i>Historical Statewide Staffing Levels:</i>								
FY 2016-17		181.0	51.3	4.0	236.3	287.1	(50.9)	82%
FY 2015-16		181.0	49.7	4.0	234.7	277.7	(43.0)	85%
FY 2014-15		180.0	44.8	4.2	229.0	256.6	(27.6)	89%
FY 2013-14		178.0	41.6	4.2	223.8	270.2	(46.4)	83%
FY 2012-13		176.0	41.6	4.2	221.8	267.2	(45.4)	83%
FY 2011-12		175.0	41.3	4.2	220.5	262.4	(41.8)	84%

1/ Need is based on actual case filings from 4/1/16 through 3/31/17. The Department's workload model for district court judicial officers was most recently updated in 2010.

*Judicial Branch Briefing*

FY 2017-18 Staffing Levels for County Court Judicial Officers						
County	Actual Judges (FTE)	Actual Magistrates (FTE)	Actual Judicial Officer Total (FTE)	Needed Staffing Level (FTE) 1/	Actual FTE Over/(Under) Need	Staffing Percentage
<b>Class B Counties:</b>						
Adams	8.0	1.0	9.0	10.1	(1.1)	89.4%
Arapahoe	8.0	2.0	10.0	9.9	0.1	101.0%
Boulder 2/	5.0	0.0	5.0	4.0	1.0	125.9%
Broomfield	1.0	0.0	1.0	0.8	0.2	120.5%
Douglas 2/	3.0	0.6	3.6	3.7	(0.1)	98.4%
Eagle 2/	1.0	0.0	1.0	1.0	(0.0)	99.0%
El Paso 2/	10.0	3.5	13.5	12.1	1.4	111.9%
Fremont	1.0	0.0	1.0	0.8	0.2	126.6%
Jefferson 2/	9.0	0.7	9.7	9.4	0.3	103.3%
La Plata	1.0	0.0	1.0	1.2	(0.2)	82.0%
Larimer 2/	5.0	0.5	5.5	5.2	0.3	105.7%
Mesa	3.0	0.0	3.0	3.1	(0.1)	97.7%
Montrose	1.0	0.0	1.0	0.8	0.2	123.5%
Pueblo 2/	3.0	0.5	3.5	3.4	0.2	104.5%
Summit	1.0	0.0	1.0	0.7	0.3	149.3%
Weld	<u>4.0</u>	<u>0.5</u>	<u>4.5</u>	<u>4.8</u>	<u>(0.3)</u>	94.7%
<b>TOTAL for Class B Counties: FY 2017-18</b>	<b>64.0</b>	<b>9.3</b>	<b>73.3</b>	<b>70.8</b>	<b>2.6</b>	<b>103.6%</b>
<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%

1/ Need is based on actual case filings from 4/1/16 through 3/31/17. The Department indicates that the workload model for county court judicial officers was most recently updated in 2011. The Department is currently in the process of updating the model and anticipates completing this update in Spring 2018.

2/ 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. Due to high staffing levels, a 0.25 magistrate position was reallocated from the Eagle County Court effective July 1, 2017 in accordance with the policy regarding magistrate and staff overstaffing. Based on staffing levels, the 0.25 magistrate FTE was allocated to Denver District Court. El Paso county received a notice of overstaffing in June 2017 and has addressed the issue by reassigning magistrate FTE from their county court to their understaffed district court effective August 2018.

*Judicial Branch Briefing*

FY 2017-18 Staffing Levels for District and County Court Staff					
Judicial District	Counties	Actual Staffing Level (FTE) /1	Needed Staffing Level(FTE) 2/	Actual FTE Over/(Under) Need	Staffing Percentage
1	Gilpin, Jefferson	136.3	162.4	(26.1)	83.9%
2	Denver - District Court	123.6	157.7	(34.1)	78.4%
2	Denver - Juvenile Court	23.2	26.5	(3.4)	87.3%
2	Denver - Probate Court	14.8	13.8	1.0	107.1%
3	Huerfano, Las Animas	18.8	19.6	(0.9)	95.6%
4	El Paso, Teller	196.7	247.5	(50.8)	79.5%
5	Clear Creek, Eagle, Lake, Summit	44.0	48.8	(4.8)	90.1%
6	Archuleta, La Plata, San Juan	29.3	37.3	(8.1)	78.4%
7	Delta, Gunnison, Hinsdale, Montrose, Ouray, San Miguel	46.8	54.2	(7.5)	86.2%
8	Jackson, Larimer	76.5	95.9	(19.4)	79.8%
9	Garfield, Pitkin, Rio Blanco	40.3	46.0	(5.7)	87.5%
10	Pueblo	57.8	72.6	(14.8)	79.6%
11	Chaffee, Custer, Fremont, Park	37.4	47.4	(10.0)	78.9%
12	Alamosa, Conejos, Costilla, Mineral, Rio Grande, Saguache	33.8	41.3	(7.5)	81.7%
13	Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Yuma	35.0	43.8	(8.8)	80.0%
14	Grand , Moffat, Routt	26.5	28.1	(1.6)	94.5%
15	Baca, Cheyenne, Kiowa, Prowers	15.5	18.0	(2.5)	86.3%
16	Bent, Crowley, Otero	19.3	21.5	(2.3)	89.4%
17	Adams, Broomfield	142.5	166.0	(23.5)	85.8%
18	Arapahoe, Douglas, Elbert, Lincoln	200.5	237.2	(36.7)	84.5%
19	Weld	78.5	95.9	(17.4)	81.8%
20	Boulder	73.2	83.0	(9.8)	88.2%
21	Mesa	50.3	60.7	(10.5)	82.7%
22	Dolores, Montezuma	17.5	19.9	(2.4)	88.1%
<b>STATEWIDE: FY 2017-18</b>		<b>1,537.5</b>	<b>1,845.0</b>	<b>(307.5)</b>	<b>83.3%</b>

1/ Total staff number for FY 2017-18 includes all district court and county court case processing staff, law clerks, court reporters, administrators, and family court facilitators, self-represented litigant coordinators, protective proceedings monitors and problem solving court coordinators.

2/ Need is based on actual case filings from 4/1/16 through 3/31/17. The workload model was finalized in 2017 and now includes self-represented litigant coordinators, protective proceedings monitors and problem solving court coordinators as well as a supervisor ratio component.

APPENDIX H: 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 \$10.4 million for FY 2016-17):

STATE FUNDING DIRECTLY BENEFITING DISTRICT ATTORNEY (DA) OFFICES			
STATE DEPARTMENT	LINE ITEM	PURPOSE	CURRENT APPROPRIATION <sup>a</sup>
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	\$3,240,000
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	2,749,138
Judicial	District Attorney Mandated Costs	Reimburses DA office expenses incurred in prosecution of state matters (e.g., expert witness fees and travel expenses, mailing subpoenas, transcripts, etc.)	2,484,770
Corrections	Payments to District Attorneys	Payments to DA offices for costs associated with prosecuting crimes alleged to have been committed by persons 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
<b>TOTAL</b>			<b>\$10,443,506</b>



# State of Colorado Correctional Treatment Board

## FY19 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 Branch, Department of Public Safety, Department of Corrections, and Division of Human Services) as well as representatives from the County Sheriff's Association, the Public Defender's Office and the District Attorneys' Council. The purpose of the Correctional Treatment Board is 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, and evaluation;
- Alcohol and drug testing;
- Substance abuse education and training;
- Treatment for assessed substance abuse and co-occurring disorders;
- Recovery support services;
- An annual statewide conference regarding substance abuse treatment; and
- Administrative support for the board.

The Correctional Treatment Board is pleased to present its FY2019 Funding Plan that allocates \$21,745,214.00 (subject to adjustment during figure setting) 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)***

## Correctional Treatment Cash Fund Overview

Money in the Correctional Treatment Cash Fund is targeted only for justice involved individuals 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	FY2019
Corrections	3,002,227	3,002,227	3,457,227	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	6,671,156
Public Safety	2,666,766	2,916,766	5,301,766	5,305,084	5,299,574	5,302,042	5,302,042
Judicial	6,504,568	6,532,984	5,505,078	5,505,078	5,504,659	5,428,078	5,505,078
Non-Agency Specific	0	0	906,906	899,045	853,716	913,119	838,789
<b>Total</b>	15,264,077	16,742,133	20,242,133	21,787,590	21,786,332	21,771,622	21,774,292
Change over prior year		1,478,056	3,500,000	1,545,457	(1,258)	(14,710)	2,670

### 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 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 and substance abuse treatment to the Division’s Approved Treatment Providers.

### **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 and for transitional case management services. Funds are distributed via contracts with Sheriff's departments to subcontract 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 three-week residential program with continuing care for 8+ months once clients complete the in-patient portion of treatment.

### **Judicial Branch:**

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 to the Correctional Treatment Board monthly.

### **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.



### **Non-Agency Specific:**

The Non-Agency Specific resources are utilized for three separate purposes. The Board uses

Administrative Overhead for all operating costs, travel expenses for Board Staff, and for short term projects. Examples of these projects are the Colorado Assessment Match (CAM) evaluation project, the Problem Solving Courts Evaluation (partial funding), and the Jail-Based Behavioral Services (JBBS) Evaluation.

The Board will continue to co-sponsor the annual Colorado 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.

Pots and Personal Services fund the salary and benefits for the Board staff person. Indirects are resources that contribute toward the management of the Correctional Treatment Cash Fund.

### **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. There were no restrictions in place in FY2017. Spending restrictions will continue to be evaluated each year by the Board.

## Cash Fund Expenditures

In FY2017, expenditures were projected to be \$21,138,100 as outlined in the chart below.

<b>Correctional Treatment FY2017 Spending-By Agency and Long Bill Line</b>			
	<b>FY2017 Approp.</b>	<b>Spent *</b>	<b>Difference</b>
<b>DOC</b>			
Drug & Alcohol Tx Subprogram	1,345,127	1,345,127	0
Parole Subprogram	2,112,100	2,112,100	0
	<b>3,457,227</b>	<b>3,457,227</b>	<b>0</b>
<b>DHS</b>			
<u>Substance Use Treatment and Prevention</u>			
Treatment & Detox Contracts	1,064,688	962,024	(102,664)
Short-Term Intensive Residential Remediation & Tx	522,946	465,588	(57,358)
<u>Integrated Behavioral Health Services</u>			
Jail-Based Behavioral Health	5,083,522	5,060,065	(23,457)
	<b>6,671,156</b>	<b>6,487,677</b>	<b>(183,479)</b>
<b>DPS</b>			
<u>Administration</u>			
Personal Services/Operating	89,609	77,206	(12,403)
Pots	12,196	13,022	826
<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	2,229,146	(324,754)
	<b>5,299,574</b>	<b>4,963,243</b>	<b>(336,331)</b>
<b>JUDICIAL</b>			
<u>Probation &amp; Related Services</u>			
Offender Treatment & Services	5,990,268	5,861,846	(128,422)
<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
	<b>6,358,375</b>	<b>6,229,953</b>	<b>(128,422)</b>
<b>GRAND TOTAL</b>	<b>21,786,332</b>	<b>21,138,100</b>	<b>(648,232)</b>

## FY2018 Appropriation

The Correctional Treatment Board allocated \$21,786,332.00 for FY2018. The chart below outlines the funding by agency and long bill line for FY2018.

Correctional Treatment FY2017 and FY2018 Appropriation -- By Agency and Long Bill Line			
	FY17 Approp.	FY18 Request	Difference
<b>DOC</b>			
Drug & Alcohol Tx Subprogram	1,345,127	1,345,127	0
Parole Subprogram	2,112,100	2,112,100	0
	<b>3,457,227</b>	<b>3,457,227</b>	<b>0</b>
<b>DHS</b>			
<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
	<b>6,671,156</b>	<b>6,671,156</b>	<b>0</b>
<b>DPS</b>			
<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
	<b>5,299,574</b>	<b>5,299,574</b>	<b>0</b>
<b>JUDICIAL</b>			
<u>Probation &amp; 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	2,788
Indirects	181,125	181,125	0
	<b>6,358,375</b>	<b>6,358,375</b>	<b>0</b>
<b>GRAND TOTAL</b>	<b>21,786,332</b>	<b>21,786,332</b>	<b>0</b>
Cash Funds	5,036,332	5,036,332	0
Reappropriated Funds	16,750,000	16,750,000	0

## FY2018 and FY2019

The Correctional Treatment Board experienced a high degree of change with four of the seven current Board members starting their service with the Board in last half of FY2017. The Board has re-evaluated overall priorities and projects and has completed or will continue a focus on the following work in FY2019.

- The Colorado Assessment Match (CAM) validation project was completed and the results were presented to the Board. This study found minimal consistency in treatment matching between the CAM decision making tool and the clinical judgement when all seven treatment levels were assessed. Consistency improved when these were collapsed into three broader categories. The results of the study will be utilized to inform policy development amongst those state agencies required by statute to implement the SOA process.
- The Jail-Based Behavioral Health Program evaluation is in progress, and the evaluators presented to the Board in 2017. The presentation explained project goals, research areas, screening protocol, capacity and gaps in service, intended outcomes and overall project timeline.
- The Problem-Solving Court evaluation, which is partially funded by the Board, has completed most of the data gathering phase of the project. The next steps are for the evaluators to work with stakeholders to secure additional data, finalize comparison groups, analyze data, and begin draft reporting. The intent is to complete the analysis by January of 2018 and the final report in April of 2018.
- The work of the Affordable Care Act sub-committee had been paused due to possible legislative changes that had the potential to substantially impact the ACA. It is still a priority to maximize utilization of ACA treatment benefits by eligible people in the Colorado criminal justice system, and language addressing this has been integrated into the requirements of the Funding Application being piloted.
- The Colorado Collaborative Justice Conference (CCJC) is funded by the Correctional Treatment Board in partnership with the Colorado Problem Solving Courts program, and is one of the Correctional Treatment Cash Fund expenditures specifically allowed by statute. This conference is the principal training event for Colorado's criminal justice and treatment staff statewide. The annual conference hosts nationally and internationally renowned speakers and experts in the fields of criminal justice interventions and effective treatment of substance use and co-occurring disorders. All 22 judicial districts are represented, including professionals from the fields of law enforcement, parole, probation, treatment, prosecutors,

defense attorneys, diversion, community corrections, judicial officers and system policy makers.

- In 2017 and 2018, Board members from each agency that receives CTCF funding will be preparing an educational presentation to the other Board members to enhance understanding of the agencies and their use of Correctional Treatment Board Funds.
- The Board is looking forward to enhancing support of the Judicial District Drug Offender Treatment Boards (Local Boards) that each jurisdiction is required to maintain. Members of these local boards are the experts with respect to service needs and gaps within their respective communities, and the Correctional Treatment Board will invest in developing working relationships and effective communication with the local boards to better identify how to most efficiently utilize the Correctional Treatment Cash Funds.
- A new process has been developed to facilitate better communication about funding priorities and service gaps throughout the state, helping the Board to make equitable funding decisions. This will start as a pilot project in the fall of 2017 and will utilize a funding application. This provides a consistent format to request resources and make funding decisions. The Board will solicit feedback on this pilot and intends to implement a permanent process in preparation for FY2020.

## FY2019 Funding Requests

No new program funding requests were submitted for FY2019. The planned FY2019 allocation of resources is outlined in the chart below. The shaded figures were unavailable and will be adjusted during figure-setting in the spring.

<b>Correctional Treatment 2018 Appropriation and 2019 Request -- By Agency and Long Bill Line</b>			
	<b>FY2018 Approp.</b>	<b>FY2019 Request</b>	<b>Difference</b>
<b>DOC</b>			
Drug & Alcohol Tx Subprogram	1,345,127	1,345,127	0
Parole Subprogram	2,112,100	2,112,100	0
	<b>3,457,227</b>	<b>3,457,227</b>	<b>0</b>
<b>DHS</b>			
<u>Substance Use Treatment and Prevention</u>			
Treatment & Detox Contracts	864,688	864,688	0
Short-Term Intensive Residential Remediation & Tx	622,946	622,946	0
<u>Integrated Behavioral Health Services</u>			
Jail-Based Behavioral Health	5,183,522	5,183,522	0
	<b>6,671,156</b>	<b>6,671,156</b>	<b>0</b>
<b>DPS</b>			
<u>Administration</u>			
Personal Services/Operating	89,609	89,609	0
Pots	14,664	14,664	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
	<b>5,302,042</b>	<b>5,302,042</b>	<b>0</b>
<b>JUDICIAL</b>			
<u>Probation &amp; Related Services</u>			
Offender Treatment & Services	5,990,268	5,990,268	0
<u>Central Programs</u>			
Pots	8,940	9,423	483
Adult Pre-Trial Diversion	77,000	77,000	0
<u>Administration</u>			
Personal Services	96,757	98,944	2,187
Indirects	168,232	168,232	0
	<b>6,341,197</b>	<b>6,343,867</b>	<b>2,670</b>
<b>GRAND TOTAL</b>			
Cash Funds	5,021,622	5,024,292	2,670
Reappropriated Funds	16,750,000	16,750,000	0
<i>*Shaded figures are continuation and will be updated at figure-setting.</i>			

## Next Steps

The Correctional Treatment Board has several action items in progress and is excited to spend the next year focusing on testing the funding application process in the pilot project and investing in the re-development of Judicial District Drug Offender Treatment Boards. The Board will review these processes and make adjustments as needed. 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.

## Correctional Treatment Board

### **Board Co-Chairs:**

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

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

### **Board Members:**

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

Jagruti Shah, Director  
*Criminal Justice Services  
Division of Community Behavioral Health  
Department of Human Services*

James O'Connor, Chief Deputy  
*State Public Defender's Office*

Eileen Kinney, Senior Manager  
*Division of Probation Services  
State Court Administrator's Office*

Joe Thome, Director  
*Division of Criminal Justice  
Department of Public Safety*