

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



FY 2014-15 STAFF BUDGET BRIEFING

JUDICIAL BRANCH

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

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JUDICIAL BRANCH

Branch Overview

The Colorado Constitution vests the judicial power of the State in the Judicial Branch, which consists of the Colorado Supreme Court, the Court of Appeals, district courts, the Denver probate and juvenile courts, county courts, and municipal courts. With two exceptions, the State provides funding for staff, operating expenses, and furnishings for these courts. For municipal courts and Denver's county court, these operational costs 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.

In addition to funding for court operations, the State provides funding for probation services. These services, which are administered by state employees in each judicial district, include supervising juvenile and adult offenders who are sentenced to probation, preparing presentence investigation reports for the courts, and providing victim notification and assistance.

The justices of the Supreme Court select a Chief Justice to serve as the executive head of the Branch, and appoint a State Court Administrator to oversee administrative functions and provide technical and administrative support to judicial districts.

The Judicial Branch also includes four independent agencies. The Office of the State Public Defender (OSPD) and the Office of Alternate Defense Counsel (OADC) provide legal representation for indigent criminal defendants. These cases are first assigned to the OSPD, and then referred to the OADC if the OSPD has an ethical conflict of interest. The Office of the Child's Representative provides legal services to children entitled to legal representation at state expense. Finally, the Independent Ethics Commission hears complaints and issues findings and advisory opinions on ethics-related matters that arise concerning public officers, members of the General Assembly, local government officials, or government employees.

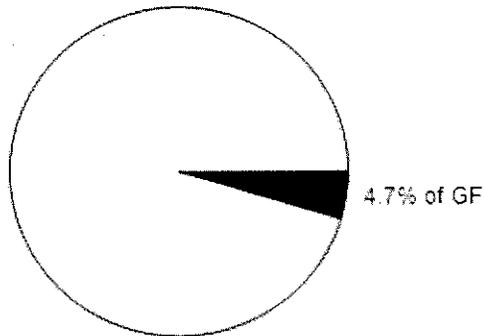
Branch Budget: Recent Appropriations

Funding Source	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15 *
General Fund	\$338,455,642	\$353,411,788	\$383,079,450	\$430,593,321
Cash Funds	114,437,763	134,221,003	139,134,949	137,006,691
Reappropriated Funds	15,599,598	19,319,022	25,814,561	29,445,472
Federal Funds	<u>5,210,298</u>	<u>4,425,000</u>	<u>4,425,000</u>	<u>4,425,000</u>
Total Funds	\$473,703,301	\$511,376,813	\$552,453,960	\$601,470,484
Full Time Equiv. Staff	4,174.7	4,269.6	4,358.7	4,499.0

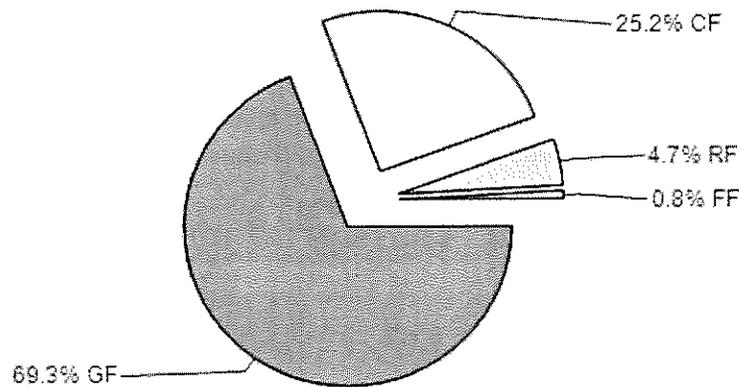
*Requested appropriation.

Branch Budget: Graphic Overview

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

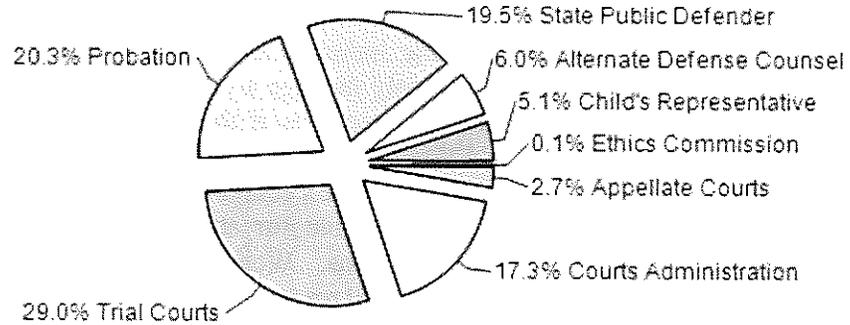


Department Funding Sources

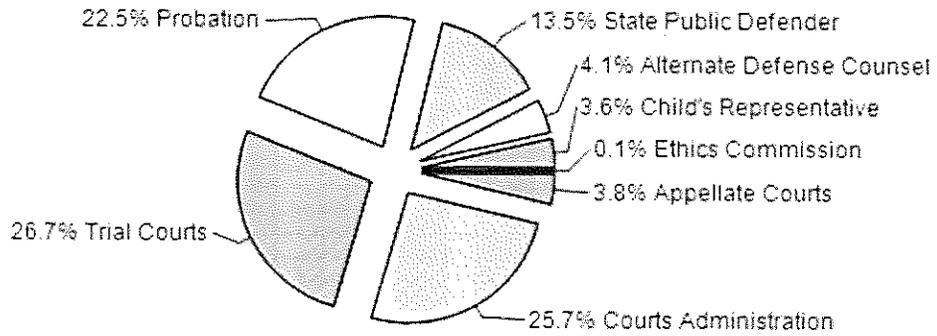


All charts are based on the FY 2013-14 appropriation

Distribution of General Fund by Division



Distribution of Total Funds by Division



All charts are based on the FY 2013-14 appropriation

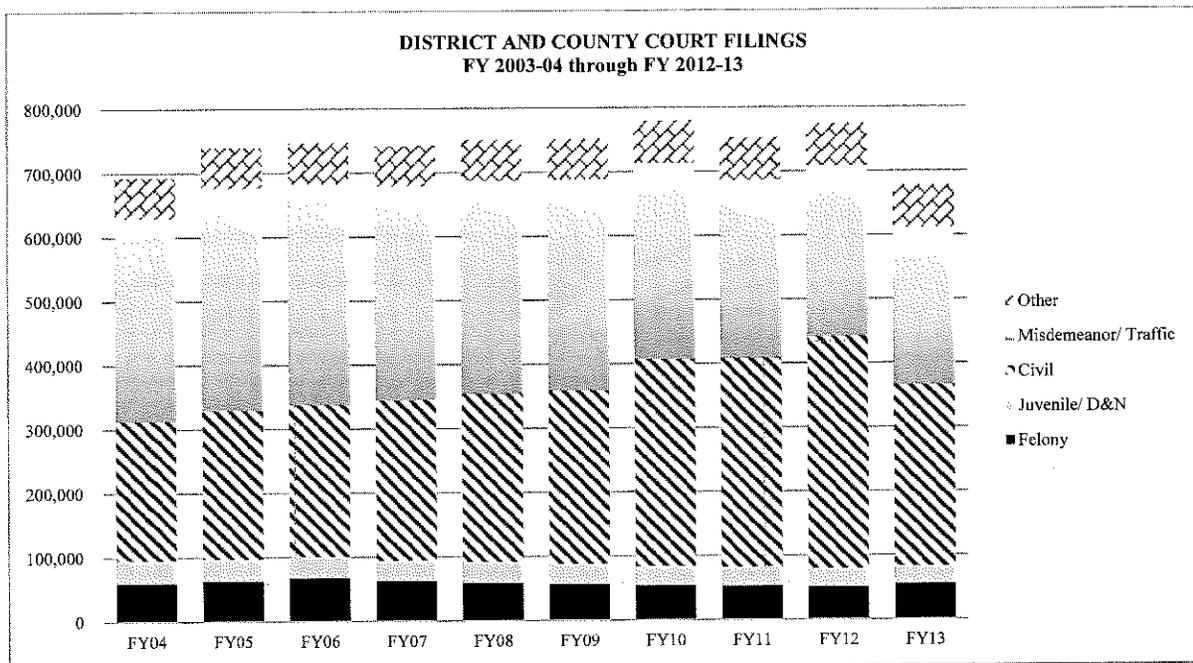
General Factors Driving the Budget

The FY 2014-15 request for the Branch consists of 71.6 percent General Fund, 22.8 percent cash funds, 4.9 percent reappropriated funds, and 0.7 percent federal funds. Cash funds primarily include: various docket fees and surcharges that support court operations; fees paid by individuals sentenced to probation; and attorney licensing fees that are used by the Supreme Court to regulate the practice of law in Colorado.

The main factor driving the budget for the Judicial Department is caseload. Judges, probation officers, attorneys, and support staff can only manage a certain number of cases each year. As the caseload grows, so does the need for resources if the Branch is to continue fulfilling its constitutional and statutory duties in a timely and professional manner. Caseloads are generally driven by population changes, changes in the state's economic climate (which can affect both the crime rate and the proportion of clients eligible for state-funded legal representation), and changes in state laws and sentencing provisions. Workload is also impacted by the types of cases filed, as some cases require more time and resources than others.

Case Filings and the Need for Court Staff

In FY 2012-13, approximately 681,000 cases were filed in the state court system, including 446,255 (65 percent) in county courts, 231,188 (34 percent) in district and water courts, 2,539 in the Court of Appeals, and 1,457 in the Supreme Court. The graph below depicts the number of cases filed annually in county and district courts (called "trial courts") since FY 2003-04, by case type. Appendix H details state court case filing data from FY 1998-99 through FY 2012-13.



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From FY 2003-04 through FY 2011-12, the total number of trial court case filings increased by 11.8 percent, with a compound annual growth rate of 1.4 percent. The most significant increase occurred in civil cases, and in particular cases concerning tax liens and foreclosures. This trend reversed in FY 2012-13, when trial court case filings declined overall by 12.5 percent (more than 96,000 cases). This decline primarily included: a 21.9 percent decrease in civil cases (including a decrease of 57,496 tax lien and foreclosure cases); and a 7.8 percent decrease in misdemeanor and traffic cases (a decline of 20,858 cases).

In addition, felony criminal cases increased by 6.1 percent (2,186 cases) in FY 2012-13 – the first increase in seven years. Generally, tax lien, foreclosure, misdemeanor, and traffic cases do not require a significant amount of judge and court staff time, so the impact of increases or decreases in the numbers of these case types is less significant than depicted in the chart on the previous page. In contrast, changes in the number felony criminal cases have a significant impact on judge and court staff workload.

In response to caseload increases, the General Assembly periodically passes legislation to increase the number of judges within the state court system. Most recently, H.B. 13-1035 added two district court judges and 6.0 FTE associated court support staff.

Caseload Impacts Unique to Independent Agencies

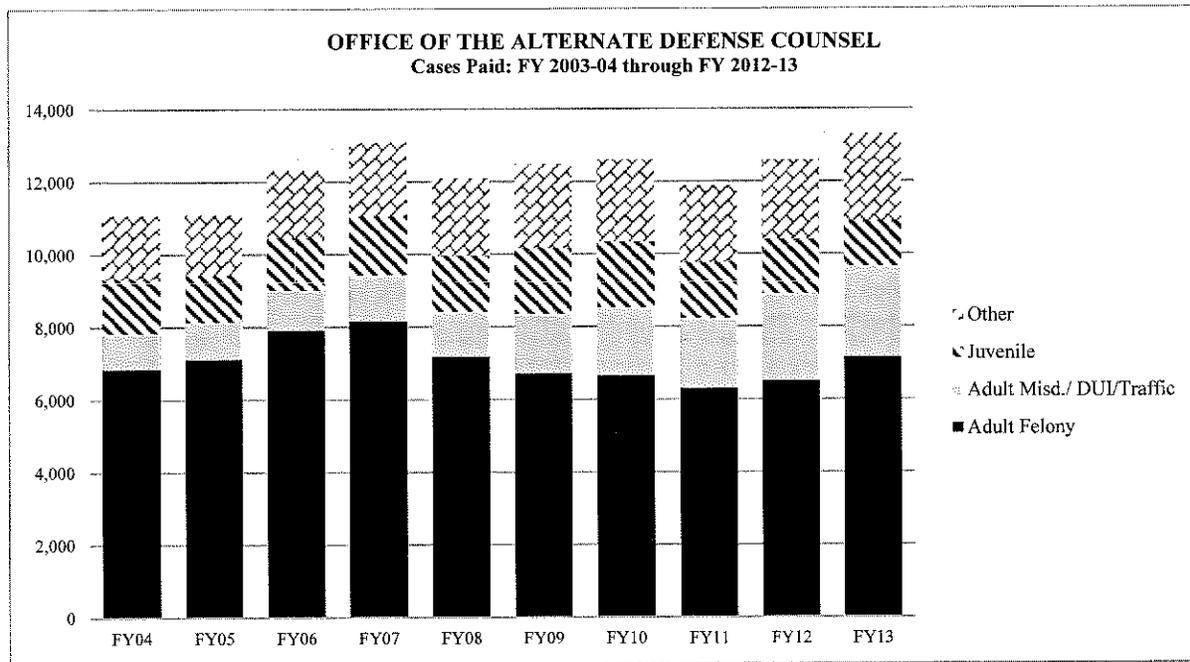
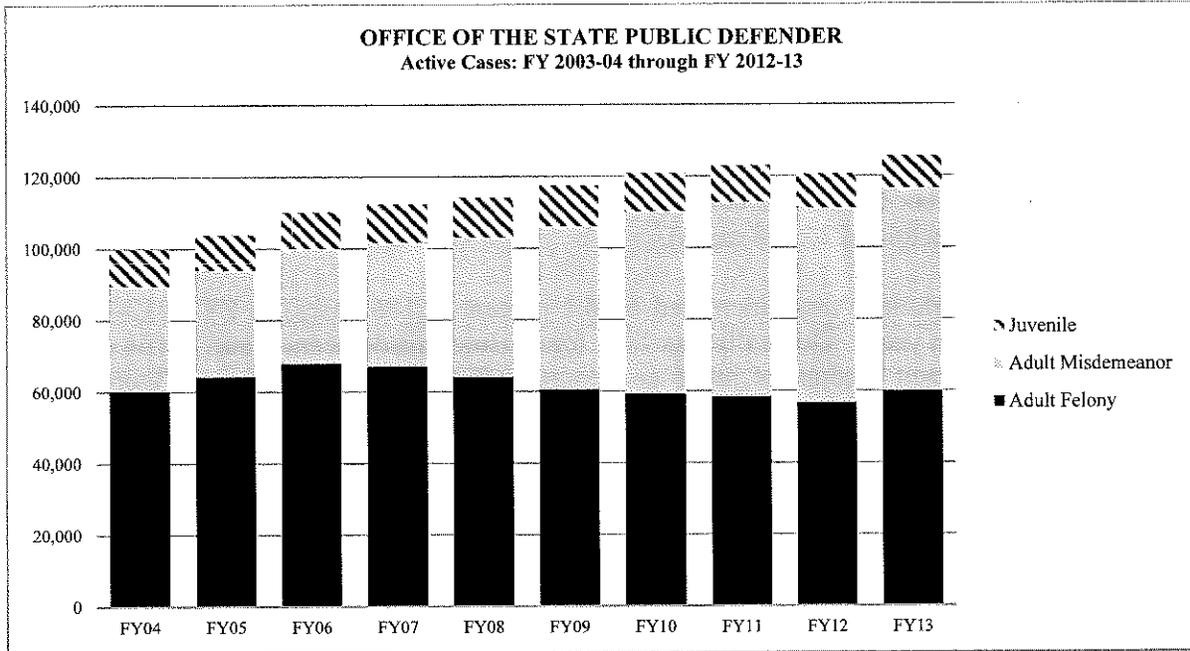
The three independent agencies that provide legal representation are affected in different ways by changes in the number of cases filed, based on the clients they are charged with representing.

The *Office of the State Public Defender (OSPD)* represents criminal defendants who have inadequate resources to pay for their own defense. The OSPD's caseload 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. Thus, the number of felony cases is the primary factor driving OSPD staffing needs.

As illustrated in the graph at the top of the next page, the total number of cases requiring public defender involvement has increased since FY 2003-04, reaching 125,606 active cases in FY 2012-13. In FY 2012-13, both the number of adult felony cases and the number of adult misdemeanor cases increased (by 3,260 and 2,232 cases, respectively).

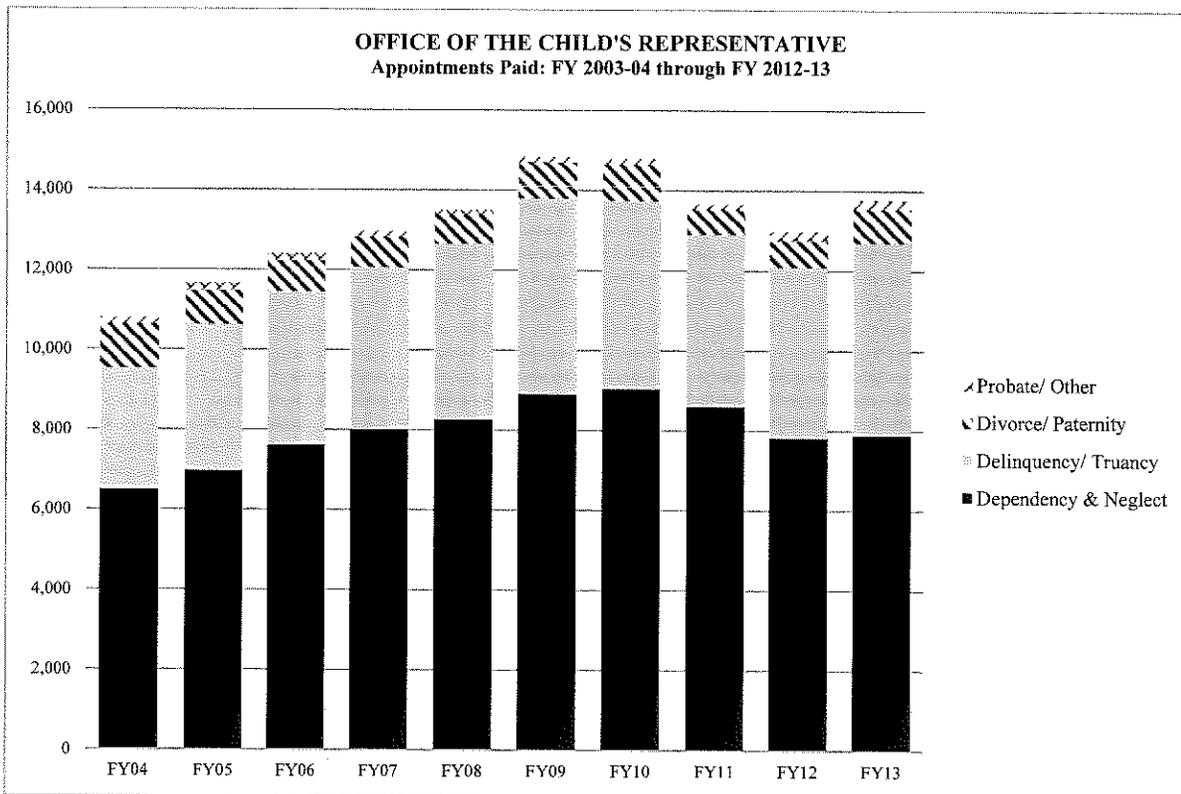
The *Office of the Alternate Defense Counsel (OADC)* contracts with private attorneys to represent indigent defendants in cases where the OSPD has an ethical conflict of interest in providing legal representation. Similar to the OSPD, certain types of cases (*e.g.*, death penalty cases) are more expensive than others; these cases require more hours of attorney time and a higher hourly rate. As illustrated in the graph at the bottom of the next page, the OADC's overall caseload is more variable than that of the OSPD. The OADC paid for legal representation in 13,290 cases in FY 2012-13. Similar to the OSPD, the number of adult felony and misdemeanor/traffic cases increased in FY 2012-13 (by 651 and 106 cases, respectively).

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The *Office of the Child's Representative (OCR)* is responsible for providing legal representation for children involved in the court system due to abuse or neglect, delinquency, truancy, high conflict divorce, alcohol or drug abuse, mental health issues, and probate matters. The OCR paid for legal representation in 13,778 court appointments in FY 2012-13. The OCR's expenditures are primarily driven by the number of cases involving abuse or neglect, as these account for the most court appointments and require the most attorney time (other than probate cases). As illustrated in the graph below, the overall number of appointments paid increased in FY 2012-13 – the first increase in four years.



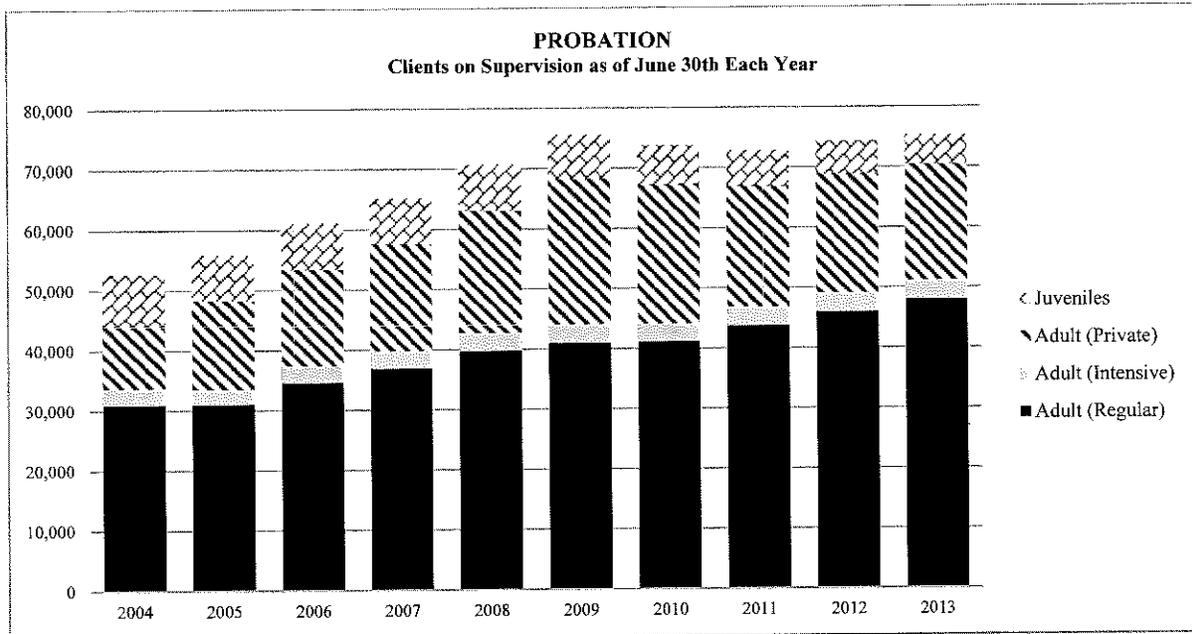
Probation and Related Services Caseload

Individuals sentenced to probation, as an alternative to incarceration, remain under the supervision of the court. Failure to meet the terms of probation set forth in the court's sentencing order may result in incarceration. Managed by the chief probation officer in each judicial district, approximately 1,200 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 the length of required supervision. The total number of offenders sentenced to probation increased significantly from 2004 to 2009, and has since stabilized. However, the number of adult offenders who are supervised by state staff (rather than private probation providers) has increased steadily since 2005. The graph

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below depicts changes in the numbers of adults and juveniles on supervision since 2004. Overall, the number of juvenile and adult offenders who are supervised by state staff increased from 42,118 in June 2004 to 55,944 in June 2013 (nearly 33 percent). As this number grows, so does the need for probation officers and support staff to adequately supervise offenders.



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Summary: FY 2013-14 Appropriation & FY 2014-15 Request

Judicial Department						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2013-14 Appropriation						
SB 13-230 (Long Bill)	\$546,480,115	\$378,170,241	\$138,070,313	\$25,814,561	\$4,425,000	\$4,302
Other legislation	<u>5,973,845</u>	<u>4,909,209</u>	<u>1,064,636</u>	<u>0</u>	<u>0</u>	<u>56.6</u>
TOTAL	\$552,453,960	\$383,079,450	\$139,134,949	\$25,814,561	\$4,425,000	4,358.7
FY 2014-15 Requested Appropriation						
FY 2013-14 Appropriation	\$552,453,960	383,079,450	\$139,134,949	\$25,814,561	\$4,425,000	4,358.7
Employee benefits/ common changes	23,384,478	23,225,955	27,612	130,911	0	0.0
Annualize prior year legislation	10,801,803	7,509,152	(207,349)	3,500,000	0	56.0
OADC R2 and OCR R3 Contractor rate increases	5,406,488	5,406,488	0	0	0	0.0
OADC R1 and OCR R1 Caseload/workload increases	3,886,185	3,886,185	0	0	0	0.0
JUD R14 Courthouse capital and infrastructure maintenance	2,462,500	2,462,500	0	0	0	0.0
JUD R11 Restitution enforcement	1,289,885	0	1,289,885	0	0	21.0
JUD R3 Network bandwidth	1,048,510	0	1,048,510	0	0	0.0
OSPD R1 Appellate staffing	995,045	995,045	0	0	0	14.7
JUD R8 IT staff	991,284	991,284	0	0	0	13.0
JUD R7 Family court facilitators	730,250	730,250	0	0	0	9.0
JUD R6 Self-represented litigant coordinators	674,132	674,132	0	0	0	11.0
JUD R1 Regional technicians for IT support	306,875	306,875	0	0	0	4.0
JUD R10 Leadership education	249,000	0	249,000	0	0	0.0
JUD R4 Language access	221,822	221,822	0	0	0	7.0
OCR R2 Salary alignment	190,392	190,392	0	0	0	0.0
DA mandated costs	152,436	152,436	0	0	0	0.0
JUD R5 Judicial performance	0	350,000	(350,000)	0	0	0.0
Annualize prior year budget actions	(3,926,764)	279,152	(4,205,916)	0	0	3.1
Other changes	<u>152,203</u>	<u>132,203</u>	<u>20,000</u>	<u>0</u>	<u>0</u>	<u>1.5</u>
SUBTOTAL	\$601,470,484	\$430,593,321	\$137,006,691	\$29,445,472	\$4,425,000	4,499.0
Increase/(Decrease)	\$49,016,524	\$47,513,871	(\$2,128,258)	\$3,630,911	\$0	140.3
Percentage Change	8.9%	12.4%	(1.5%)	14.1%	0.0%	3.2%

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Judicial Department						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
<i>Informational items:</i>						
JUD R2 District judges	747,134	747,134	0	0	0	8.0
JUD R9 Underfunded facilities	<u>1,500,000</u>	<u>1,500,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$603,717,618	\$432,840,455	\$137,006,691	\$29,445,472	\$4,425,000	4,507.0
Increase/(Decrease)	\$51,263,658	\$49,761,005	(\$2,128,258)	\$3,630,911	\$0	148.3
Percentage Change	9.3%	13.0%	(1.5%)	14.1%	0.0%	3.4%

NOTE: The descriptions of prioritized requested changes in the above table indicate the source of the request: "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; and "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, and "IEC" indicates a request submitted by the Independent Ethics Commission.

Description of Requested Changes

Employee benefits/ common changes: The request includes an increase of \$23,384,478 total funds (including \$23,225,955 General Fund) related to employee benefits and other centrally appropriated line items. This total is comprised of the following elements:

- \$16,595,251 total funds (including \$15,703,902 General Fund) for salary increases to be awarded in FY 2014-15 [for information about proposed salary increases for justices, judges, the State Public Defender, the Alternate Defense Counsel, and the Executive Director of the Office of the Child's Representative, see Appendix C, Long Bill footnote #37];
- \$5,454,636 total funds (including \$6,854,247 General Fund) for supplemental PERA payments;
- \$1,018,047 total funds (including \$622,126 General Fund) for various types of insurance (health, life and dental; short-term disability; workers' compensation; and risk management/property funds); and
- \$316,544 total funds (including \$45,680 General Fund) for IT-related common policies, leased space adjustments, vehicle lease payments, and indirect cost assessment changes.

Annualize prior year legislation: The request includes an increase of \$10,801,803 total funds (including \$7,509,152 General Fund) to reflect the FY 2014-15 impact of legislation that was passed in previous legislative sessions, including the following acts:

- S.B. 13-250 (Drug sentencing changes): increase of \$7,158,073, including \$3,658,073 General Fund, and 2.8 FTE [for more information, see the issue brief titled "Treatment Funding for Offenders"];
- H.B. 13-1210 (Right to legal counsel in plea negotiations): increase of \$3,937,539 General Fund and 53.2 FTE;
- H.B. 13-1254 (Restorative justice): increase of \$3,661, including \$1,246 General Fund;
- H.B. 13-1156 (Adult pretrial diversion program): increase of \$1,776 General Fund

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- H.B. 13-1035 (Add 2 judges): decrease of \$141,498 cash funds
- S.B. 13-123 (Collateral consequences): decrease of \$55,980 General Fund
- H.B. 13-1259 (Allocating parental rights in D&N): decrease of \$38,266 cash funds
- H.B. 13-1160 (Criminal theft): decrease of \$32,418 General Fund
- S.B. 08-054 (Judicial performance evaluations): decrease of \$30,000 cash funds
- S.B. 13-197 (Firearms for domestic violence offenders): decrease of \$1,084 General Fund

OADC R2 and OCR R3 Contractor rate increases: The request includes a total of \$5,406,488 General Fund to increase hourly rates paid to contract attorneys (from \$65 to \$75), investigators (from \$36 to \$41), and paralegals (from \$25 to \$30). These requests include \$3,559,986 for the Office of the Alternate Defense Counsel (OADC) and \$1,846,502 for the Office of the Child's Representative (OCR). *[For more information, see the issue brief titled "Hourly Rates for Court Appointed Counsel".]*

OADC R1 and OCR R1 Caseload/workload increases: The request includes a total of \$3,886,185 General Fund to cover projected caseload and workload increases for state-paid court appointed counsel. These requests include \$2,876,140 for the OADC and \$1,010,045 for the OCR. Please note that both agencies also plan to submit supplemental requests to cover caseload/workload increases they are experiencing in FY 2013-14.

JUD R14 Courthouse capital and infrastructure maintenance: The request includes \$2,462,500 General Fund to fulfill the State's responsibility to furnish court facilities. The request addresses required infrastructure and courthouse furnishing and phone system needs in nearly every judicial district in the state.

JUD R11 Restitution enforcement: The request includes \$1,289,885 cash funds from the Judicial Collection Enhancement Fund and 21.0 FTE to strengthen the monitoring and enforcement of criminal restitution.

JUD R3 Network bandwidth: The request includes \$1,048,510 cash funds from the Judicial Department Information Technology Cash Fund to upgrade and increase network bandwidth capacity to improve service levels for those individuals and agencies that rely on the Department's network applications.

OSPD R1 Appellate staffing: The request includes \$995,045 General Fund and 14.7 FTE for FY 2014-15 for the OSPD to add 11 attorneys and five paralegal and administrative support staff to its Appellate Division to reduce the rapidly growing backlog of appellate cases. *[For more information, see the issue brief titled "Backlog of Criminal Appeal Cases".]*

JUD R8 IT staff: The request includes \$991,284 General Fund and 13.0 FTE to develop new programs that will support the business needs of the Judicial Branch, and decrease the large number of projects currently on the Department's IT backlog.

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JUD R7 Family court facilitators: The request includes \$730,250 General Fund and 9.0 FTE to expand the number of Family Court Facilitators available to assist with the processing of domestic relations cases and to provide early, active, and ongoing case management of such cases.

JUD R6 Self-represented litigant coordinators: The request includes \$674,132 General Fund to expand a statewide network of services to assist self-represented parties in court cases. The requested funding would expand the staff in judicial districts who coordinate and provide these services from 22.0 FTE to 31.0 FTE, add 1.0 FTE to assist self-represented parties in the appellate courts, and add 1.0 FTE to serve as a statewide coordinator.

JUD R1 Regional technicians for IT support: The request includes \$306,875 General Fund and 4.0 FTE to expand the Department's capacity to provide hardware and software technical assistance and improve IT service to both internal and public users.

JUD R10: Leadership education: The request includes \$249,000 cash funds from the Judicial Stabilization Fund in FY 2014-15 to continue to provide annual leadership education to three cohorts of court and probation managers around the state.

JUD R4 Language access: The request includes \$221,822 General Fund to add 7.0 FTE Court Interpreters and Court Translators to meet the growing need for language interpreter and translation services statewide. This request is partially offset by an anticipated reduction in the need for contract language interpreter services.

OCR R2 Salary alignment: The request includes \$190,392 General Fund to better align OCR staff salaries with comparable salaries paid in the Executive and Judicial Department personnel systems.

DA mandated costs: The request includes an increase of \$152,436 General Fund to reimburse district attorneys for costs incurred for prosecution of state matters. *[For more information, see Appendix C, Judicial request for information #1 concerning DA Mandated Costs.]*

JUD R5 Judicial performance: The request includes \$350,000 General Fund to replace an equal amount of cash funding from the State Commission on Judicial Performance Cash Fund. Due to declining cash revenues, General Fund is required to maintain the system of reviewing the performance of all judges and justices standing for retention, providing voters written recommendations by the State Commission and the 22 judicial district commissions concerning the retention of judges and justices, and conducting interim evaluations for each judge and justice.

Annualize prior year budget actions: The request includes a decrease of \$3,926,764 total funds and an increase of 3.1 FTE to reflect the FY 2014-15 impact of the following prior year budget decisions:

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FY 2013-14 budget actions

- JUD R3 Legal FTE (increase of \$12,278 General Fund)
- JUD R7 Implementation of evidence-based practices (increase of \$7,553 General Fund)
- JUD R5 Court appointed professionals coordinator (increase of \$1,937 General Fund)
- OADC R1 Legal resource and technology coordinator (increase of 0.1 FTE)
- JUD R8 Courthouse capital and infrastructure maintenance (decrease of \$3,848,500 cash funds)
- JUD R2 Procedural fairness and leadership education (decrease of \$269,000 cash funds)
- JUD R4 Self-represented litigant coordinators (decrease of \$47,030 cash funds)
- JUD R6 Problem-solving court coordinators (decrease of \$41,386 cash funds)

FY 2010-11 budget action

- JUD R1 Implement public access system and develop e-filing system (increase of \$257,384 General Fund and 3.0 FTE)

Other changes: The request includes the following relatively small increases totaling \$152,203 and 1.5 FTE:

- JUD R12 Probation background checks: \$55,567 General Fund and 1.0 FTE;
- OCR R4 Operating increase: \$32,000 General Fund;
- OSPD R2 Attorney registration fees: \$28,242 General Fund *[for more information, see the issue brief titled "State Funding for Attorney Registration Fees"]*;
- OADC R3 Training cash fund spending authority: \$20,000 cash funds;
- IEC R1 Legal services: \$16,394 General Fund; and
- OCR R5 FTE increase: 0.5 FTE.

Informational item: JUD R2 District judges: The Judicial Department is seeking legislation to authorize two additional district court judgeships and appropriate \$747,134 General Fund to support the two judgeships and the associated support staff. The two judgeships would be added to the 18th judicial district (Arapahoe, Douglas, Elbert, and Lincoln counties). This district is currently operating at 77 percent of full staffing, the lowest staffing level among district courts in Colorado. The Branch included this request as part of its FY 2014-15 budget request for informational purposes. Pursuant to the deadline schedule for the 2014 General Assembly, any bill that increases the number of judges must be adopted by both houses by Friday, March 7, 2014. Further, pursuant to Article VI, Section 10 of the Colorado Constitution, such a bill would require two-thirds majority to pass in each house.

Informational item: JUD R9 Underfunded facilities: The Judicial Department is seeking legislation to provide supplemental state funding for courthouse facility projects in counties with the most limited financial resources. The Department is seeking an appropriation of \$1.5 million General Fund for this purpose for FY 2014-15, and ongoing funding of \$3.0 million General Fund per year in subsequent fiscal years.

Issue: Hourly Rates for Court Appointed Counsel

Two Judicial Branch agencies submitted decision items to increase the hourly rates paid to independent contractors providing legal representation.

SUMMARY:

- The State is constitutionally obligated to provide legal representation for individuals under certain circumstances. While the Office of the State Public Defender provides legal representation to indigent criminal defendants through employees located around the state, three other judicial agencies pay independent contractors to serve as court appointed counsel in certain circumstances.
- The adults represented by court appointed counsel face potential incarceration or death, institutionalization, the loss of parental rights, or the loss of other freedoms and rights. The work performed by court appointed counsel for children impacts a child's safety, family connections, and ability to be placed in a loving and permanent home.
- The Office of the Alternate Defense Counsel (OADC) and the Office of the Child's Representative (OCR) have requested funding for FY 2014-15 to increase the hourly rates paid to attorneys, investigators, and paralegals that provide legal representation.
- While the proposed hourly rates for FY 2014-15 are still below comparable market rates, they would represent completion of a plan that was adopted in 2006 to increase rates to a more competitive level by FY 2008-09.

RECOMMENDATION:

In order to ensure that judicial agencies are able to provide competent legal representation for children and adults involved in certain judicial proceedings, staff recommends that the Committee approve the requests that were submitted by the OADC and the OCR. Staff also recommends that the Committee appropriate funding for the Office of the State Court Administrator to implement the same court appointed counsel rates proposed by the OADC and OCR.

DISCUSSION:

State Funding for Legal Representation

Under both the United States and Colorado Constitutions, as well as state law, defendants and respondents in various court proceedings are to be afforded due process in the courts. Due process includes the right to competent legal representation, regardless of one's ability to pay for such representation.

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The Office of the State Public Defender (OSPD) provides legal representation to indigent criminal defendants through employees located around the state. Three other judicial agencies pay independent contractors to serve as court appointed counsel in certain circumstances:

1. The Office of the Alternate Defense Counsel (OADC) pays for private attorneys, investigators, and paralegals to provide legal representation for indigent defendants in criminal and juvenile delinquency cases in which the OSPD is precluded from doing so because of an ethical conflict of interest.
2. The Office of the Child's Representative (OCR) provides or pays for private attorneys and paralegals to provide 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.
3. The State Court Administrator's Office (SCAO) pays for court appointed counsel in all other circumstances, including providing representation for indigent parties who:
 - Are respondent parents in dependency and neglect actions;
 - Require mental health, probate, or truancy counsel;
 - Are adults requiring a *guardian ad litem* in mental health, probate, or dependency and neglect actions; or
 - Require contempt of court counsel.

The SCAO also pays for counsel in juvenile delinquency matters when the party is not indigent, but a family member is a victim or the parents refuse to hire counsel. In the latter case, reimbursement to the State is ordered against the parents.

The adults represented by court appointed counsel face potential incarceration or death, institutionalization, the loss of parental rights, or the loss of other freedoms and rights. The work performed by court appointed counsel for children impacts a child's safety, family connections, and ability to be placed in a loving and permanent home.

Requested Funding Increases

The OADC and the OCR have submitted decision items for FY 2014-15 to increase the hourly rates paid to independent contractors who serve as court appointed counsel. Specifically, the OADC¹ and OCR requests are based on increases in the hourly rates paid to contractors as follows:

- Attorneys: increase from \$65 to \$75
- Investigators: increase from \$36 to \$41
- Paralegals: increase from \$25 to \$30

¹ The OADC currently pays higher rates for attorneys and investigators who work on death penalty cases (hourly rates of \$85 and \$39, respectively). The OADC request is based on increasing these rates by \$10 and \$5, respectively.

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While the SCAO did not include a decision item related to court appointed counsel, its budget request includes an estimate of the cost of varying rate increases for informational purposes. The following table details actual expenditures incurred by each agency in FY 2012-13 for court appointed counsel, the cost of implementing the rate increases proposed by OADC and OCR, and the total amount of funding requested for court appointed counsel for FY 2014-15.

General Fund Support for Court Appointed Counsel (Excluding OSPD)				
Agency	Line Item	FY 2012-13 Expenditures	Cost of Proposed Rate Increases for FY 2014-15 1/	Total Funding Requested for FY 2014-15 2/
OADC	Conflict of Interest Contracts	\$19,882,661	\$3,559,986	\$26,238,149
OCR	Court Appointed Counsel	16,015,965	1,846,502	18,867,675
JUD	Court Costs, Jury Costs, and Court-appointed Counsel	12,460,898	1,829,010	12,833,416
Totals		\$48,359,524	\$7,235,498	\$57,939,240

1/ The amounts requested by the OADC and OCR are based on higher projected caseload levels than those experienced in FY 2012-13.

2/ Neither the appropriation to the SCAO nor the annual budget request specifies what portion of the appropriation will be spent on court appointed counsel. The SCAO is requesting a continuation level of funding for this line item for FY 2014-15 (a total of \$15,985,692). The amount in the above table represents an estimate of that portion of the appropriation that would be spent on court appointed counsel based on the allocation of expenditures in FY 2012-13.

Recent History of Rates Paid for Court Appointed Counsel

The OADC is statutorily required to enter into contracts that "provide for reasonable compensation and reimbursement for expenses necessarily incurred" [see Section 21-2-105 (2), C.R.S.]. Similarly, the OCR is statutorily required to establish "fair and realistic state rates by which to compensate state-appointed guardians ad litem, which will take into consideration the caseload limitations placed on guardians ad litem and which will be sufficient to attract and retain high quality, experienced attorneys to serve as guardians ad litem [see Section 13-91-105 (1) (a) (VI), C.R.S.].

From 1990 through FY 2005-06, the hourly rate for court appointed counsel was increased once (by \$5 in January 2001). In 2003, the Judicial Department performed a study of rates paid for comparable work in the government sector. It analyzed national and regional data and studies; consulted the Colorado Bar Association, various attorneys, judges, and court administrators; and considered the compensation levels for attorneys in the OSPD, the OADC, and the Department of Law, and for county and district attorneys. Factoring in the cost of overhead expenses, the study indicated that the following hourly rates would be comparable for similar government sector work:

- \$68 per hour for attorneys;
- \$43 per hour for investigators; and
- \$30 per hour for paralegals.

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For FY 2005-06, the Department, OADC, and OCR submitted various decision items to increase hourly rates for court appointed attorneys, investigators, and paralegals. Although the rate of inflation increased from 2003 to 2005, the requests were modest in light of the State's financial situation. The hourly rates at that time differed among agencies, as did their requests. However, none of the requests sought funding sufficient to implement the hourly rates suggested by the 2003 study. The Joint Budget Committee did not approve the requests for additional funding for FY 2005-06, but asked the three agencies to create a plan to achieve competitive rates for court appointed counsel.

In FY 2005-06, these agencies generally paid attorneys \$55 per hour for work performed in court, and \$45 per hour for work performed out of court. The agencies proposed phasing in hourly rate increases for attorneys to reach \$75 by FY 2008-09. As detailed in the following table, the General Assembly approved annual funding increases totaling \$10.8 million General Fund from FY 2006-07 through FY 2008-09 to increase the hourly rate for attorneys to \$65.

Recent Funding Increases Approved to Increase Court Appointed Counsel Rates				
	FY 2006-07	FY 2007-08	FY 2008-09	Totals
Trial Courts	\$ 1,802,119	\$ 520,000	\$ 849,065	\$3,171,184
OADC	1,754,141	862,533	1,452,059	4,068,733
OCR	<u>1,944,231</u>	<u>640,401</u>	<u>961,938</u>	<u>3,546,570</u>
Totals	\$5,500,491	\$2,022,934	\$3,263,062	\$10,786,487

None of the agencies have requested funding for rate increases for the last five fiscal years. The hourly rates paid to attorneys, investigators, and paralegals all remain below the market rates that were identified in 2003.

Updated Data Concerning Comparable Hourly Rates

The OADC provided the following data recently published by the Colorado Bar Association detailing the rates paid in private practice to associate attorneys and paralegals with varying levels of experience. All of the rates significantly exceed current rates paid by OADC (\$65 for attorneys and \$25 for paralegals).

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	Mean (Avg)	25th %	Median	75th %	95th %
<u>Associates</u>					
Associates w/o exp	\$ 166	\$ 140	\$ 165	\$ 200	\$ 248
Associates w/ 1-3 yrs exp	\$ 181	\$ 155	\$ 175	\$ 200	\$ 275
Associates w/ 4-5 yrs exp	\$ 202	\$ 175	\$ 200	\$ 229	\$ 281
Associates w/ 6-9 yrs exp	\$ 218	\$ 180	\$ 210	\$ 250	\$ 300
Associates w/ 10+ yrs exp	\$ 235	\$ 185	\$ 240	\$ 275	\$ 338

<u>Paralegals</u>					
Paralegals w/o exp	\$ 79	\$ 64	\$ 76	\$ 100	\$ 116
Paralegals w/ 1-3 yrs exp	\$ 85	\$ 65	\$ 80	\$ 100	\$ 132
Paralegals w/ 4-5 yrs exp	\$ 95	\$ 75	\$ 90	\$ 100	\$ 152
Paralegals w/ 6-9 yrs exp	\$ 99	\$ 80	\$ 100	\$ 115	\$ 152
Paralegals w/ 10+ yrs exp	\$ 117	\$ 89	\$ 110	\$ 140	\$ 197

The OCR provided similar data, and also pointed out that the federal government's hourly rate for representing indigent defendants in federal cases is established at \$125; this rate has been temporarily reduced to \$110 due to sequestration.

In addition, the OADC and OCR surveyed their independent contractors about the rates they charge in private practice cases. This survey indicated that their attorney contractors charge from \$150 to \$350 per hour for their private practice cases, and hourly rates ranging from \$50 to \$100 for paralegals and investigators.

Finally, staff notes that in the current fiscal year the Department of Law is charging state agencies a blended rate of \$91.08 per hour for legal services, based on hourly rates of \$94.95 for attorneys and \$70.86 per hour for paralegals (called "legal assistants").

The hourly rates proposed by the OADC and OCR are significantly lower than comparable private sector rates, and they are also lower than comparable federal and state rates for similar services. However, the proposed rates would represent completion of the plan that was adopted in 2006 to increase rates to a more competitive level by FY 2008-09. In order to ensure that judicial agencies are able to provide competent legal representation for children and adults involved in certain judicial proceedings, staff recommends that the Committee approve the OADC and OCR requests. Staff also recommends that the Committee appropriate funding for the State Court Administrator's Office to implement the same court appointed counsel rates proposed by the OADC and OCR.

**RELEVANCE OF BRIEFING ISSUE TO THE DEPARTMENT'S
PERFORMANCE PLAN:**

This briefing issue concerns decision items submitted by the OADC and the OCR to increase hourly rates paid for court appointed counsel. These requests are related to objectives that are included in both agencies' strategic plans concerning the provision of competent, effective, legal representation.

Issue: Backlog of Criminal Appeal Cases

In response to a legislative request for information, the Office of the State Public Defender has requested \$995,045 General Fund for FY 2014-15 to add sixteen attorneys, paralegals, and administrative support staff to address its growing backlog of criminal appeal cases.

SUMMARY:

- The Office of the State Public Defender (OSPD) represents indigent criminal defendants in both the trial and appellate courts. With respect to appeals, the OSPD's central Appellate Division represents all defendants in appeals of felony convictions and the OSPD's regional trial offices handle county court and juvenile appeals in their respective jurisdictions.
- In response to a legislative request for information, the OSPD reports that its backlog of appellate cases awaiting the filing of an opening brief has increased from 369 in June 2000 to 671 in June 2013. With existing resources, this backlog is projected to continue growing by 26 cases per year.
- 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. For FY 2013-14, the General Assembly provided additional resources for the Department to reduce its backlog of cases awaiting the filing of an answer brief. As the Department of Law reduces its backlog, the OSPD will be required to respond more quickly by filing a reply brief, thus exacerbating the OSPD's backlog of cases awaiting the filing of an opening brief.
- The OSPD has requested \$995,045 General Fund for FY 2014-15 to add 11 attorneys and five paralegals and administrative support staff to reduce its backlog.

RECOMMENDATION:

Those state agencies that are involved in criminal appeals cases agree that delays in processing appeals are detrimental to all parties involved. Staff recommends that the Committee approve the OSPD's request to add staff to the Appellate Division in FY 2014-15 and monitor its success in reducing the backlog of cases awaiting opening briefs. These resources are critical for the OSPD to comply with Court of Appeals timeline requirements and avoid the potential for the Court to dismiss a defendant's appeal solely due to delays caused by inadequate staffing.

DISCUSSION:

Appellate Process and OSPD Appellate Responsibilities

The OSPD represents indigent criminal defendants in both the trial and appellate courts. With respect to appeals, the OSPD's central Appellate Division represents all defendants in appeals of felony convictions and the OSPD's regional trial offices handle county court and juvenile appeals in their respective jurisdictions.

The appellate process for criminal cases involves several different steps, described below.

- For the OSPD, an appeal is initiated by entry in the district court docket of a "final order" or "judgment" subject to appeal, and an order finding the defendant indigent and appointing the OSPD for purposes of appeal.
- Following the final order or judgment, an appellate packet is prepared by the OSPD trial office and forwarded to the OSPD Appellate Division.
- The Appellate Division files the "notice of appeal" and "designation of record". Once the record on appeal is complete and forwarded by the district court to the Court of Appeals, the Court sets a due date for the "opening brief".
- The OSPD ensures that the court record is complete, reviews the record to identify any issues to raise on appeal, and writes and files the *opening brief*.
- The Department of Law reviews the opening brief and relevant portions of the appellate record, researches the defendant's claims, and writes and files an *answer brief*.
- The Division reviews the answer brief, reviews the record and conducts additional research as necessary, and writes and files a *reply brief* if warranted.
- If the criminal case is affirmed on appeal (which occurs approximately 90 percent of the time), the Division must determine whether to file a *petition for rehearing* with the Court of Appeals and/or a *petition for writ of certiorari* with the Colorado Supreme Court. If one of these petitions is filed, the OSPD and the Department of Law engage in further substantive briefings and oral arguments in the case.
- Pursuant to Colorado Rules of Criminal Procedure 35, the Division may file additional postconviction motions.

Throughout the appellate process, the Division attorney is required to adequately communicate with his or her client. This can require a substantial amount of time, particularly if the client is incarcerated outside the Denver metro area.

Workload Related to Filing Opening Brief

The preparation of an opening brief is generally the most time-intensive aspect of the appellate process for the Division attorney handling the appeal. The attorney must first ensure that the district court record filed with the Court of Appeals is complete. If it is not, the attorney must take action to get additional materials from the district court made part of the record and, in some instances, litigate issues related to the appellate record in district court. When the appellate record is complete, the attorney must: review the entire case record in order to identify, research, and evaluate all potential appellate issues; identify the issues to be raised in the appeal; and then write the opening brief.

The time required for this process has increased significantly over time, and is directly related to the length and complexity of the court record. In FY 1999-00, the average court record was approximately 650 to 700 pages per case. In CY 2012, the Division experienced court records with an average of 1,200 pages per case; to date in 2013 this average has increased to 1,300 pages. The OSPD identified three factors contributing to this increase:

- *Length of Trials.* From 2000 to 2012, the average length of trials has increased 22.4 percent. Longer trials result in more pages of transcripts to review, and generally give rise to more potential appellate issues for the attorney to research and evaluate even if those issues are not ultimately raised in the opening brief.
- *Colorado Sex Offender Lifetime Supervision Act of 1998.* This act, which provides for indeterminate lifetime sentences for sexual assaults, has contributed to more and longer trials due to the legal complexities involved. Further, because of the severe consequences of the lifetime sentencing scheme, probation revocations in felony sexual assault cases are also often litigated, again leading to longer records on appeal.
- *Number of Counts.* District attorney offices are filing more counts per case. In FY 1999-00, based on all closed cases that year, prosecutors filed an average of 2.8 counts per case; in FY 2011-12, an average of 3.0 counts were filed per case. More counts per case often results in a longer and more complex trial court record.

Impact of Resources Provided to Department of Law

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. For FY 2013-14, the General Assembly provided additional resources for the Department to reduce its backlog of cases awaiting the filing of an answer brief. As the Department of Law reduces its backlog, the OSPD will be 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 included the following request for information in its letter to the Chief Justice last Spring:

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Judicial Department, Office of the State Public Defender – The State Public Defender is requested to provide by November 1, 2013, a report concerning the Office's appellate case backlog for the last five fiscal years including the fiscal year ending June 30, 2013, and the potential resources that would be required to reduce the backlog to a reasonable level within the next five fiscal years.

Appellate Division Workload

In response to the above request for information, the OSPD reported that its backlog of appellate cases awaiting the filing of an opening brief has increased from 369 in June 2000 to 671 in June 2013; with existing resources this backlog is 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. On average, Division attorneys carry a total of 40 cases annually.

The OSPD's caseload statistics are detailed in the following table, including a comparison of the projected caseload with and without additional resources.

Fiscal Year	OSPD Appellate Division Case Statistics					Cases Awaiting Opening Brief ("backlog")
	Total Attorney FTE	New Cases	Opening Briefs Filed by OSPD	Cases Resolved Other Ways	Total Cases Closed	
1999-00	25.0	487			387	369
2007-08	29.0	606	465	121	586	611
2008-09	31.8	627	450	205	655	583
2009-10	31.8	602	427	124	551	634
2010-11	34.8	575	415	142	557	652
2011-12	34.8	589	460	133	593	648
2012-13	34.8	585	427	135	562	671
2013-14 Estim.	35.8	597	440	131	571	697
Projections based on current resources						
2014-15 Proj.	35.8	597	440	131	571	723
2015-16 Proj.	35.8	597	440	131	571	749
2016-17 Proj.	35.8	597	440	131	571	775
2017-18 Proj.	35.8	597	440	131	571	801
2018-19 Proj.	35.8	597	440	131	571	827
Projections based on requested resources						
2014-15 Proj.	43.8	597	538	131	669	624
2015-16 Proj.	43.8	597	538	131	669	552
2016-17 Proj.	43.8	597	538	131	669	480
2017-18 Proj.	43.8	597	538	131	669	407
2018-19 Proj.	43.8	597	538	131	669	335

The performance standards established by the National Legal Aid and Defender Association (NLADA) indicate that each full-time appellate attorney should be able to file 22 opening briefs

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per year, based on an average case record of 500 pages or less. Given the average case record of 1,250 pages in FY 2012-13 and the Division's current number of attorneys (35.8 FTE), the Division would be expected to file 315 opening briefs per year. The Division filed 427 opening briefs in FY 2012-13, well in excess of this standard.

Consequences of Growing Backlog

The Appellate Division backlog measures the number of cases awaiting the filing of an opening brief. 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 has been granting significant extensions for both opening briefs and answer briefs.

However, in November 2012, the Court announced that the Chief Judge was unwilling to grant extensions of time that exceed 540 days for opening and answer briefs, and would instead issue orders in such cases granting extensions of up to 28 days to complete the briefs. In addition, reply briefs would only be granted extensions of up to 49 days. Any requests to reconsider such orders would be referred to a three-judge motions panel. At the time of the adoption of the new policy, the OSPD had approximately 60 cases in which the opening brief due date had been extended 600 or more days.

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 to date 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, arguing that it had established good cause for the extension requests. The OSPD informed the Court that both it and the Department of Law had numerous discussions with Joint Budget Committee staff about the need to reduce appellate backlogs in both offices, and that the Appellate Division would be a priority for the OSPD in the 2014 legislative session. 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, 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 Request

The OSPD has requested \$995,045 General Fund for FY 2014-15 to expand its Appellate Division staff from 45.8 FTE to 60.5 FTE to reduce the rapidly growing backlog of appellate cases. Specifically, the OSPD proposes adding 11.0 FTE attorneys, 2.5 FTE paralegals, and 2.5 FTE administrative support staff. The OSPD plans to use the additional staff as follows:

- The OSPD would 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 the next five years.

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- Currently, OSPD regional offices handle all county court and juvenile appeals. Generally, attorneys in the regional offices focus their efforts on trial court cases, working on appeals as time permits. This can lead to an inefficient and ineffective process, and unmet client needs. The OSPD proposes to consolidate county, juvenile, and felony appeals in the OSPD's Appellate Division to make the appellate process more efficient and effective. This would also provide an opportunity for attorneys who are new to the Division to gain experience by working on county court appeals prior to working on felony appeals. In addition, this would allow the Division to have one attorney with experience with juvenile cases to be fully dedicated to juvenile appeals cases. Over the last couple of years, the trial office closed an average of 150 county and juvenile appeals per year. The OSPD estimates that it would require 2.0 FTE attorneys in the Appellate Division to handle these cases.
- The OSPD would 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.

The OSPD indicates that while this decision item may not necessarily fully staff the Appellate Division, it should allow the Division to reduce the backlog of cases awaiting an opening brief to a more reasonable level. The OSPD is collecting additional workload data related to the various stages of the appellate process in order to more accurately measure total staffing needs of the Division. Once sufficient data is available, the OSPD will be able to provide further information and analyses related to an appropriate staffing level for the Division.

Given the impact of the Court of Appeal's new policy regarding extensions of time for filing opening, answer, and reply briefs, and the impact of the additional resources provided to the Department of Law to address its backlog of cases awaiting an answer brief, the OSPD requires additional resources. These resources are critical for the OSPD to comply with Court of Appeals timeline requirements and avoid the potential for the Court to dismiss a defendant's appeal solely due to delays caused by inadequate staffing.

RELEVANCE OF BRIEFING ISSUE TO THE DEPARTMENT'S PERFORMANCE PLAN:

This briefing issue provides background and context for the OSPD's first priority request to add staff to its Appellate Division. This request is consistent with the OSPD's goals of providing reasonable and effective legal representation, and ensuring compliance with applicable constitutional and statutory mandates, the American Bar Association standards, the Colorado Rules of Professional Conduct, and applicable court rules and case law.

Issue: Discovery Task Force

This issue brief discusses the preliminary report submitted by the Discovery Task Force.

SUMMARY:

- Colorado Supreme Court Rule 16 requires the prosecuting attorney to make available to the defense certain material and information and to provide duplicates upon request. The State pays the costs of duplicating the discoverable material when legal representation is provided for an indigent defendant. In FY 2012-13, judicial agencies spent a total of \$2.5 million General Fund to obtain discoverable materials, including \$2.2 million for reimbursements to district attorneys and the Department of Law pursuant to Rule 16.
- There is a long history of disagreement between the defense and the prosecution concerning reimbursements to the prosecution for duplicating discoverable materials, and some of these disputes have required court action to resolve. Since March 2009 the Joint Budget Committee has taken several actions to facilitate resolution of this issue.
- Senate Bill 13-246, sponsored by the Joint Budget Committee, created a Discovery Task Force to meet to address the issue of discovery costs in criminal cases. The act requires the Task Force to study several topics and report back to the Joint Budget Committee and the Judiciary Committees by January 31, 2014. The Task Force submitted a preliminary report on November 1, 2013, as required by the act.
- The Discovery Task Force is developing proposals for an eDiscovery system that would allow materials to be transmitted from law enforcement agencies to prosecutors and from prosecutors to the defense in an electronic or digital format. An eDiscovery process would eliminate the need for state judicial agencies to reimburse the prosecution for duplication costs. Once an eDiscovery system is fully implemented, funds that are appropriated for such reimbursements could instead be appropriated to support operations of the system.

RECOMMENDATION:

Staff recommends that the Committee schedule a meeting early in the 2014 legislative session to meet with members of the Discovery Task Force to discuss their final report. This meeting would be intended to allow the Committee to understand the following:

- The recommendations of the Task Force and the strength of the support for such recommendations from each stakeholder group represented by Task Force members.
- How the Task Force recommendations may relate to other information technology initiatives, such as the Judicial Department's planned expansion of e-filing to criminal cases.
- What next steps should be taken to move forward with implementing any Task Force recommendations, and the role that each stakeholder group will take in moving forward. This should include clear direction about any budget actions or statutory changes that the Committee should consider taking in the 2014 legislative session.

DISCUSSION:

Background Information - Rule 16 Concerning Discovery

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

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

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

State Expenditures Related to Discovery

Several agencies within the Judicial Branch incur expenditures related to discoverable materials. As detailed in Table 1, total state discovery-related expenditures have nearly doubled since FY 2006-07. The vast majority of these expenses are incurred by the Office of the State Public Defender (OSPD) and the Office of the Alternate Defense Counsel (OADC).

Fiscal Year	Courts/ Probation	Office of the State Public Defender	Office of the Alternate Defense Counsel	Office of the Child's Representative	Total	Annual % Change
FY 2006-07	\$38,514	\$761,495	\$435,361	\$13,235	\$1,248,605	
FY 2007-08	49,728	886,112	470,098	11,274	1,417,211	13.5%
FY 2008-09	39,615	969,306	567,917	0	1,576,838	11.3%
FY 2009-10	36,737	1,125,966	635,061	0	1,797,764	14.0%
FY 2010-11	25,549	1,514,957	599,872	9,107	2,149,485	19.6%
FY 2011-12	35,458	1,623,452	626,180	13,418	2,298,508	6.9%
FY 2012-13	35,515	1,751,829	648,392	21,219	2,456,955	6.9%
<i>% of Total</i>	<i>1.4%</i>	<i>71.3%</i>	<i>26.4%</i>	<i>0.9%</i>	<i>100.0%</i>	

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Please note that while most discovery-related expenditures are reimbursements paid to the prosecution as required by Rule 16, expenses are incurred for other reasons. For example, the OADC pays a contractor to scan paper files provided by the prosecution in certain jurisdictions so that they can be electronically formatted and distributed to multiple attorneys representing different defendants in a single case. Judicial agencies also make payments to the courts, other state agencies (such as the Department of Corrections), law enforcement agencies, schools, etc., to obtain certain records. Table 2 splits out the discovery-related expenses incurred in FY 2012-13 that reimbursed the prosecution as required by Rule 16 from other discovery-related expenses that were incurred.

TABLE 2: FY 2012-13 Expenditures Related to Discovery

Description	Courts/ Probation	Office of the State Public Defender	Office of the Alternate Defense Counsel	Office of the Child's Representative	Total
Payments to District Attorneys and the Attorney General's Office	\$4,804	\$1,660,185	\$512,229	\$1,601	\$2,178,819
Other expenses	<u>30,711</u>	<u>91,644</u>	<u>136,163</u>	<u>19,618</u>	<u>278,136</u>
Total expenses	35,515	1,751,829	648,392	21,219	2,456,955

Private defense counsel also pays reimbursements to the prosecution for discovery.

JBC Actions Since 2009 to Address Disputes Related to Rule 16

In early 2009, as part of budget balancing discussions, the State Public Defender proposed a statutory change that would exempt legal counsel for indigent defendants and self-represented defendants from reimbursing the prosecution for duplicating discoverable materials. The Joint Budget Committee did not agree to carry legislation to implement this proposal. However, given the magnitude of state expenditures made pursuant to Rule 16 and the rate of growth in such expenditures, the Committee acknowledged that this issue warranted further analysis and attention.

The Joint Budget Committee has taken several actions since 2009 to attempt to address disputes between the defense and the prosecution related to the reimbursements required by Rule 16, including:

- Requesting that the Chief Justice review and analyze the impact of Rule 16 on state expenditures, and determine whether amendments to Rule 16 and/or statutory changes are warranted.
- Hosting two meetings with district attorneys (in December 2009 and February 2013) to discuss Rule 16, and whether any statutory or rule changes should be considered to clarify the rule.
- Sending a letter to the Colorado District Attorneys' Council (CDAC) in 2010 requesting that the CDAC take actions to address procedural issues related to Rule 16 that involve district attorneys (DAs), including: developing a standardized statement for DAs to use in recovering

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costs from public agencies; developing a standardized letter for DAs to use when notifying state agencies about rate changes; and adopting a standard practice with respect to the timing of rate changes.

Generally, both the defense and the prosecution agree that clarifications to Rule 16 would be helpful. To date however, the defense and the prosecution have not been able to agree on specific amendments to clarify Rule 16.

In February 2011, the State Court Administrator’s Office made a recommendation to the Supreme Court Advisory Committee on Rules of Criminal Procedure to amend Rule 16 to clarify what the “cost of duplicating” and “actual cost of copying” discoverable materials mean, and to update the rule to reflect technological and procedural changes that have occurred since the inception of Rule 16. The proposed amendment was based on input from the OSPD, the OADC, and the CDAC. Advisory Committee discussions indicated that despite the efforts of the State Court Administrator's Office to reach a consensus on amendments to Rule 16, the district attorneys did not support the proposed rule changes. The Advisory Committee ultimately voted not to act on the proposed rule change, and opined that the issue was more appropriately one for the legislature to resolve.

S.B. 13-246: Discovery Task Force

Most recently, the Joint Budget Committee sponsored S.B. 13-246, which creates a Discovery Task Force to meet to address the issue of discovery costs in criminal cases. The 12-member Task Force includes representation from the Department of Law and DAs, the defense (including the State Public Defender, the Alternate Defense Counsel, and the criminal defense bar), law enforcement (including county sheriffs and chiefs of police), and the courts. The Task Force also includes a non-voting technology advisor from the Office of Information Technology. The Task Force membership is detailed in the table below.

Discovery Task Force Membership			
Category	Role	Name	Office/ Judicial District/ County
(1) Attorney General (designee)	Chair	Matthew Durkin	Deputy Attorney General, Criminal Justice section
(2) State Court Administrator	Vice Chair	Jerry Marroney	
(3) State Public Defender		Doug Wilson	
(4) Representative of the criminal defense bar		Phil Cherner	
(5) Three district attorneys (DAs) who represent differently sized judicial districts		George Brauchler	18th JD (Arapahoe, Elbert, Douglas, Lincoln)
		Pete Hautzinger	21st (Mesa)
		Thom LeDoux	11th (Chaffee, Fremont, Custer, Park)
(6) County sheriff		Fred Wegener	Park County Sheriff
(7) Alternate Defense Counsel		Lindy Frolich	
(8) Chief of police		John Jackson	Chief of Police for Greenwood Village
(9) District court judge		Steven Patrick	Chief Judge for 7th (Delta, Ouray, San Miguel, Gunnison, Hinsdale, Montrose)
OIT Technology advisor	non-voting member	Steve Fowler	OIT - Director of Business Architecture

The act requires the Task Force to study several topics and report back to the Joint Budget Committee and the Judiciary Committees by January 31, 2014. The Task Force submitted a

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preliminary report on November 1, 2013, as required. The topics to be studied are listed below and organized into two general categories: Electronic Discovery; and Reimbursements to DAs. Staff has included applicable findings or recommendations made by the Task Force to date.

1. Electronic Discovery: The ability of DAs to obtain law enforcement discoverable evidence in an electronic format, and options for addressing the short-term needs of law enforcement and DAs to facilitate greater use of electronic discovery.

Background: Colorado has over 350 law enforcement agencies (LEAs) that employ approximately 17,000 sworn law enforcement officials. These agencies vary significantly in size and resources, and they currently use nearly 24 different record management systems. These LEAs file cases in 22 District Attorney's Offices (DAs) and with the Attorney General's Office. The DAs vary in terms of their resources, their constituencies, and the number of LEAs they work with. Currently, all DAs except Denver are part of the Colorado District Attorneys' Council (CDAC).

- Determine which DA's offices obtain all law enforcement discoverable evidence in an electronic format, which DA's offices will soon be able to obtain all law enforcement discoverable evidence in an electronic format, and which DA's offices will not have that ability at any point in the future without assistance.

All DAs are capable of receiving discovery in an electronic format. The challenge is equipping and encouraging LEAs to provide their reports to the DAs in an electronic format to be processed and made available to the defense electronically.

Mesa County DA (21st judicial district), which works with five LEAs that all use the same record management system, has been able to move to an exclusively electronic discovery process that makes materials available to the defense for a nominal fee. Some DAs produce discovery through discs and charge a flat fee, while others continue to provide paper copies and charge a per page rate; these per page rates range from \$0.10/page to \$0.50/page. All DAs that are members of CDAC support the transition to an eDiscovery system.

- Determine the barriers for those DA's offices that will never be able to obtain law enforcement discoverable evidence in an electronic format without assistance.

The number of LEAs in a jurisdiction and the resources available to those LEAs affect the ability of a DA to obtain discoverable evidence in an electronic format. Each DA must be properly equipped in each of their offices to receive and make available eDiscovery. This may incorporate additional computers and scanning equipment for LEA and individual DA offices. In addition, a significant cultural shift will be required and will require some degree of training.

- Recommend or address short-term needs for law enforcement and DAs to facilitate greater use of electronic discovery.

The Discovery Task Force surveyed chiefs of police to determine their ability and willingness to use an electronic or digital discovery system. About three-quarters of respondents indicated "yes", 13 percent indicated "maybe", and 13 percent indicated "no". Both chiefs of police and sheriffs identified cost and lack of technology as the barriers to implementing an electronic discovery system. LEAs must have the ability, regardless of their record management systems, to transmit reports to their DAs. Funding to adequately equip every LEA and DA is the first short-term need to encourage the use of electronic discovery. Once the ability to use electronic discovery is established, it is simply a training issue and cultural shift from the current discovery model.

- Study the feasibility of a single statewide criminal case management system or other technology inserts to facilitate electronic discovery or electronic redaction.

The CDAC services ACTION, a *case management system* that is currently used by 17 DAs.

The Discovery Task Force members only identified one state (South Dakota) that has moved to a statewide *records management system* for LEAs. This system has cost \$700,000 to date, and is currently used by approximately 80 percent of LEAs. However, this system is limited to the LEAs and is not used to deliver materials to the prosecution or to the defense. Colorado already has a statewide online information database (Coplink) that allows LEAs to share information; this system does not assist in the discovery process.

The Task Force members identified one state (North Carolina) that has implemented a *statewide digital discovery process*. In 2004, North Carolina implemented an "open file" discovery process. Each prosecutor provides LEAs with access to an online folder, allowing each LEA to upload or send reports to a "mainframe", regardless of the LEA's records management system. The defense is able to access these electronic folders by district or by case, and then download the bates stamp numbered reports free of charge. The mainframe system is not mandatory for LEAs or prosecutors. The state legislature appropriated \$3.0 million to purchase scanning equipment for LEAs to allow them to send reports digitally. Currently, 60 percent of prosecutors fully participate in the system, and the remaining prosecutors use the system on a more limited basis.

The Task Force has been studying the feasibility of a statewide eDiscovery system to resolve the issues set forth in S.B. 13-246. This system would allow LEAs, regardless of their records management system, to transmit materials to the prosecution. This system would then allow the prosecution to process and manage these electronic materials (*e.g.*, redaction), and make discoverable materials available to the defense electronically. The system would track and document what and when discoverable materials were made available to defense counsel. Defense counsel would have the option of reviewing the documents online and downloading any or all documents (they would cover their own printing costs).

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The Task Force considered two proposals: one from the CDAC staff; another from a private vendor (Perceptive Software) that has been approved by the Statewide Internet Portal Authority and OIT for other statewide projects. The development and implementation of either system would be funded by the State. Until the system is implemented statewide, the State would continue to provide funding for Judicial agencies to obtain discoverable materials. State funding and/or grant funding would be used to ensure that LEAs are capable of transmitting materials electronically (primarily scanners). In addition, every courthouse would need to have wireless internet available to allow the prosecution and defense to access discovery while in court. Ongoing system operations would likely be funded, at least in part, by redirecting existing funding that is used for discovery expenses.

CDAC presented a proposal to build and maintain an eDiscovery system that is integrated with the ACTION case management system. The eDiscovery system would be available to all DAs, regardless of whether they use ACTION. CDAC indicates that it may create, maintain, and service an eDiscovery system and ACTION internally, or it may partner with a private vendor (like Perceptive) to provide cloud storage. The CDAC maintains that its management of the system and process would allow for greater accountability and oversight. The CDAC estimates that it may take as long as three years to build, pilot, and implement a statewide eDiscovery system.

Upon request, Perceptive Software provided information about its ability to provide a cloud-based eDiscovery system.

- Study the appropriateness of a statewide standardized law enforcement reporting form that is easily redactable.

Due to the autonomy of each LEA, and the cost to change record management systems, it is impossible to ask over 350 LEAs to abandon nearly 24 different record management systems in favor of a single system. Requiring a single record management system would require an unprecedented mandate. However, after an initial State investment, an eDiscovery system would allow LEAs to provide discoverable materials in an electronic format regardless of their record management systems. This would also allow the LEAs to reduce printing and delivery costs associated with providing physical copies to the prosecutors.

Redaction of information continues to be an issue that increases the personnel costs of processing discovery. This issue can only be remedied by a cultural shift, and training for LEAs to not provide information that would ultimately be redacted. Other solutions could include a statutory clarification of the responsibility to redact and consequences for failing to meet those responsibilities.

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2. *Reimbursements to DAs:* The reimbursements paid to reimburse DAs' offices for the expenses for which the DA is responsible related to the discovery process.

- Suggest a definition of the term "actual costs" for purposes of reimbursement in such a way as to adequately and fairly reimburse the state's DAs for the expenses for which the DA is responsible related to the discovery process.

An eDiscovery system would eliminate the need to define "actual costs" for all cases involving the OSPD, the OADC, and private defense counsel. This incorporates nearly all the discovery that is generated by the system. This may necessitate a change to Rule 16. The Task Force will continue to explore the definition as it relates to those cases that are not included in the eDiscovery system (*e.g.*, self-represented defendants).

- Suggest an alternative funding process to reimburse the DAs for appropriate discovery costs without requiring the State Public Defender, Alternate Defense Counsel, or any indigent self-represented defendant to pay for discovery. Determine which executive or judicial branch agency is best situated to serve as the conduit for state reimbursement to the DAs and the Attorney General for the actual costs of discovery.

An eDiscovery process would eliminate the need for OSPD or OADC to reimburse the prosecution for "actual costs". Once an eDiscovery system is fully implemented, funds that are appropriated to the OSPD and OADC could instead be appropriated to an entity to support operations of the system. Based on a brief discussion, the Task Force consensus was that the conduit should be within the Executive Branch rather than the Judicial Branch. However, the Task Force also expressed concerns about the Department of Law serving as the conduit based on its prosecutorial function and limited resources. Similar concerns apply to the Department of Public Safety's Division of Criminal Justice. Both agencies could be placed in an awkward and adverse position with prosecutors and law enforcement throughout the state.

The CDAC proposal would require funds to be appropriated directly to the CDAC through existing statutory mechanisms, or if necessary, through a specific statutory change. Another possibility would be allocating the funds through some other department in the Executive Branch that would then disburse the funds to the CDAC.

- Study whether there should be a separate rate that is charged to nonindigent defendants compared to indigent defendants.

The Task Force indicates that the State could consider eliminating any charges to private defense counsel or self-represented defendants related to discovery. This would likely require the State to provide additional funding to ensure that private counsel and self-represented defendants have access to discoverable materials. In case this is not a priority

of the State, the Task Force is continuing to study and discuss potential costs to the private defense bar and self-represented defendants.

**RELEVANCE OF BRIEFING ISSUE TO THE DEPARTMENT'S
PERFORMANCE PLAN:**

This briefing issue concerns the work of the Discovery Task Force, which was created through S.B. 13-246 (sponsored by the Joint Budget Committee) to address the issue of discovery costs in criminal cases.

Issue: Treatment Funding for Offenders

The Correctional Treatment Board has submitted its second annual offender substance abuse treatment funding plan as required by H.B. 12-1310. The plan includes the minimum statutorily required level of General Fund support for such services for FY 2014-15 (\$15.2 million), and proposes an allocation of the required \$3.5 million increase in General Fund support for FY 2014-15 among four state agencies.

SUMMARY:

- House Bill 12-1310 consolidated the major sources of state funding for offender substance abuse treatment, and consolidated the associated oversight boards into a single Correctional Treatment Board. The Board is charged with assessing the availability and effectiveness of adult and juvenile offender substance abuse services statewide.
- The Correctional Treatment Board has submitted its funding plan for FY 2014-15 as part of the Judicial Branch budget request. The Board proposes adding funding to: expand residential and outpatient treatment of offenders in community corrections facilities; provide services for offenders transitioning from the Jail-Based Behavioral Services program to the community; provide additional case management, drug testing, and co-pay incentives for offenders on parole; and provide treatment funding for local diversion programs within district attorney offices.
- The Joint Budget Committee, as part of its proposed FY 2014-15 Long Bill, will make recommendations to the General Assembly concerning: (a) the level of General Fund support for offender substance abuse services; and (b) the allocation of such funding among four state agencies.

RECOMMENDATION:

In order to gather information to inform its decisions concerning the level and allocation of state funding for substance abuse treatment for offenders, staff recommends that the Committee ask each of the four departments that currently receive allocations from the Correctional Treatment Cash Fund (CTCF) to respond to several questions at their respective hearings with the Committee. The questions, listed at the end of this issue brief, concern:

- each department's current use of CTCF moneys and the types of offenders who benefit;
- the CTCF funding increases that have been proposed by the Board for FY 2014-15; and
- how each department evaluates the effectiveness of treatment and services that are supported by the CTCF and the reasonableness of rates charged by treatment and service providers.

DISCUSSION:

State Funding for Substance Abuse Treatment for Offenders

Over the past decade, the General Assembly has made changes to offenses related to the use and possession of controlled substances. To the extent that these changes reduce the number of offenders who are incarcerated, or the length of time that offenders are incarcerated, these statutory changes have reduced state expenditures. The General Assembly has reinvested the estimated General Fund savings to increase the availability of substance abuse treatment for offenders.

Through H.B. 12-1310, the General Assembly consolidated the major sources of state funding for offender substance abuse treatment, and consolidated the associated oversight boards into a single Correctional Treatment Board. Specifically, H.B. 12-1310 continued to require the General Assembly to annually appropriate a minimum amount of General Fund related to the estimated savings that resulted from the enactment of S.B. 03-318 (\$2.2 million) and H.B. 10-1352 (\$9.5 million). These amounts are to be credited to the newly created Correctional Treatment Cash Fund (CTCF). For FY 2013-14, the General Assembly was required to appropriate at least \$11.7 million General Fund to the CTCF. Pursuant to S.B. 13-250, the General Assembly is required to appropriate an additional \$3.5 million General Fund related to the estimated savings from S.B. 13-250. Thus, the General Assembly is required to appropriate at least \$15.2 million General Fund annually to the CTCF, beginning in FY 2014-15².

The Judicial Branch budget request for FY 2014-15 includes \$15,200,000 General Fund for this purpose, along with a corresponding amount of spending authority from the CTCF to allow the Department to use these moneys to provide treatment services to offenders on probation, and to transfer a portion of the moneys to other state agencies for the provision of services to offenders in other settings. Moneys transferred to other state agencies are reflected a third time in the other three agencies' budgets (as reappropriated funds). While this structure is transparent and allows one to easily identify the total amount of funding devoted to offender substance abuse treatment, it does tend to overstate annual funding increases within the Judicial Branch and the state as a whole if one does not exclude reappropriated amounts.

The CTCF consists of annual General Fund appropriations to the CTCF, drug offender surcharge revenues, and interest income. Moneys from the CTCF may be used for the following purposes:

- Alcohol and drug screening, assessment, and evaluation;
- Alcohol and drug testing;
- Substance abuse education and training;
- An annual statewide conference regarding substance abuse treatment;
- Treatment for assessed substance abuse and co-occurring disorders;
- Recovery support services; and
- Administrative support to the Correctional Treatment Board.

² See Sections 19-19-103 (3.5) (b) and (c) and (4) (a), C.R.S.

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Moneys from the CTCF may be used to serve adults and juveniles who are:

- serving a diversion sentence;
- serving a probation sentence (including Denver county);
- on parole;
- sentenced or transitioned to a community corrections program; or
- serving a sentence in a county jail, on a work-release program supervised by the county jail, or receiving after-care treatment following release from jail if the offender participated in a jail treatment program.

The Correctional Treatment Board is charged with assessing the availability and effectiveness of adult and juvenile offender substance abuse services statewide. The Board is required to prepare an annual treatment funding plan that the Judicial Department will include in its annual presentation to the Joint Budget Committee.

Correctional Treatment Board Funding Plan for FY 2014-15

The Correctional Treatment Board consists of the seven members representing: the Department of Corrections, the Division of Probation and the Office of the State Public Defender within the Judicial Branch, the Department of Public Safety, the Department of Human Services, district attorneys, and county sheriffs³:

The Board's responsibilities include:

- Working with local drug treatment boards to identify judicial district-specific treatment and programmatic needs;
- Reviewing existing treatment services and their effectiveness;
- Identifying funding and programmatic barriers to effective treatment; and
- Developing a comprehensive annual funding plan that meets the identified statewide needs and effectively treats substance abuse offenders in Colorado.

Currently, CTCF moneys are allocated among four state agencies. The *Judicial Branch* uses funds to provide substance use testing, mental health, and substance use treatment for offenders on probation and those participating in problem-solving courts. The *Department of Public Safety (DPS)* allocates funds to local community corrections boards for intensive residential treatment (IRT), therapeutic community programs, and outpatient treatment vouchers. The DPS also uses funds to support research and training related to substance abuse and risk/need assessments. The *Department of Human Services* uses funds for: community-based treatment and services for adult offenders with co-occurring disorders; community-based outpatient substance abuse treatment; and the Short-term Intensive Residential Remediation Treatment (STIRRT) program, which serves adult offenders who have been unsuccessful in community treatment for drug and alcohol abuse and continue to commit offenses. Finally, the *Department of Corrections* uses funds to support case management, substance use testing, and outpatient treatment for parole clients.

³ See Section 18-19-103 (5) (b), C.R.S.

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The Correctional Treatment Board recommends the following funding increases for FY 2014-15:

- Add \$2,185,000 for the Department of Public Safety for intensive residential treatment (\$1,625,000) and outpatient treatment vouchers (\$560,000) for offenders on probation and parole who are in community corrections facilities.
- Add \$560,000 for the Department of Human Services to provide transition services for offenders leaving the Jail-Based Behavior Services program (\$310,000) and for behavioral health out-patient treatment as necessary due to a loss of federal funding (\$250,000).
- Add \$355,000 for the Department of Corrections to provide co-pay incentives for parolees with clean urinalyses (\$200,000), for parole case management in rural mountain communities (\$100,000), and for synthetic drug testing for parolees (\$55,000).
- Add \$150,000 for the Judicial Branch to provide treatment resources for offenders in local diversion programs (\$77,000) and for offenders on probation (\$73,000).

The remaining \$250,000 has been set aside (within the Judicial budget) for Board-authorized research and evaluation projects, as well as changes in the indirect cost assessment associated with drug offender surcharge revenues and the costs of staffing for the Board.

Please note that while the Judicial Branch budget request for FY 2014-15 includes the \$3.5 million General Fund increase required for FY 2014-15 and the corresponding amount of spending authority from the CTCF to spend and distribute moneys from the fund, the budget requests for the other departments do not reflect the above proposed increases.

The following table, prepared by the Correctional Treatment Board, details the allocation of funds for FY 2012-13, FY 2013-14, and the proposed allocation for FY 2014-15.

Summary of Annual Appropriations

	<u>FY2013</u>	<u>FY2014</u>	<u>FY2015</u>
Corrections	3,002,227	3,002,227	3,357,227
Public Safety	2,666,766	2,916,766	5,101,766
Human Services	3,090,516	4,290,156	4,850,156
Judicial	6,281,709	6,310,125	6,460,125
Non-Agency Specific	222,859	222,859	472,859
Total	15,264,077	16,742,133	20,242,133
Change over prior year		1,478,056	3,500,000

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The full report submitted by the Correctional Treatment Board for FY 2014-15 is included in Appendix J.

In order to gather information to inform its decisions concerning the level and allocation of state funding for substance abuse treatment for offenders, staff recommends that the Committee ask each of the four departments that currently receive allocations from the CTCF to respond to the following questions at their respective hearings with the Committee:

1. Discuss the Department's use of moneys from the Correctional Treatment Cash Fund (CTCF), including the following:
 - a. Detail the allocation of CTCF moneys by line item appropriation for FY 2013-14.
 - b. Describe the nature of the expenditures supported by the CTCF within each line item appropriation, including the types of services or treatment that are provided.
 - c. Describe the types and numbers of offenders who benefit from such expenditures, including: (1) whether they are juveniles or adults; and (2) whether they are serving a diversion sentence, serving a probation sentence, on parole, sentenced or transitioned to a community corrections program, or serving a sentence in a county jail or are receiving after-care treatment following release from jail.
2. Discuss how the Department would utilize the funding increases proposed by the Correctional Treatment Board for FY 2014-15.
3. Does the statutory provision governing the use of CTCF moneys preclude services or treatment expenditures that would be appropriate and justifiable? If so, please explain.
4. Describe how the Department evaluates (or plans to evaluate) the effectiveness of treatment and services that are supported by the CTCF.
5. Describe whether and how the Department monitors or evaluates the reasonableness of rates charged by treatment and service providers.
6. Does the Department make any effort to require offenders to pay a portion of the cost of services provided, if they are able to do so?

RELEVANCE OF BRIEFING ISSUE TO THE DEPARTMENT'S PERFORMANCE PLAN:

This briefing issue concerns the implementation of 2012 and 2013 legislation and related funding decisions that the Joint Budget Committee will consider during the 2014 legislative session.

Issue: State Funding for Attorney Registration Fees

This briefing issue concerns the appropriation of state funds to pay the annual registration fee for certain attorneys employed by the State.

SUMMARY:

- The Colorado Supreme Court has the constitutional authority to regulate and control the practice of law. The programs that have been established to carry out this function are supported by attorney registration fees established by the Colorado Supreme Court. These programs function independently from the Judicial Department and operate under their own personnel system and fiscal rules. The annual Long Bill includes three informational appropriations to reflect the anticipated expenditures of these programs.
- Expenditures related to attorney regulation increased from \$4.1 million in FY 2004-05 to \$8.9 million⁴ in FY 2012-13. Expenditures in fiscal years 2011-12 and 2012-13 included the transfer of \$750,000 each year to Colorado Legal Services for the provision of legal representation to low-income persons.
- The Supreme Court recently approved increases in annual attorney registration fees which will go into effect January 1, 2014. The new fee schedule includes an increase of \$10 (5.6 percent) for attorneys practicing less than three years and an increase of \$100 (44.4 percent) for attorneys practicing more than three years.
- State funds appropriated to three state agencies are used to cover the annual registration fee for their employees who are attorneys. At least two of these agencies are seeking funding increases to cover the increase in attorney registration fees.

RECOMMENDATION:

Particularly in light of the fact that state funds are currently used to pay attorney registration fees for some state employees, staff recommends that the Committee consider discussing the following issues with the Chief Justice:

- Is there a legal or policy reason for the judicial programs that regulate the practice of law to operate under their own fiscal rules, use their own accounting system, and deposit attorney registration fee revenue in bank accounts outside of the State Treasury?
- How does the transfer of \$1.5 million in attorney registration fee revenue to Colorado Legal Services relate to or fall under the Supreme Court's regulation of the practice of law or the Colorado Supreme Court rules concerning the establishment of attorney registration fees and the application of such fees [C.R.C.P. 227 (1) (a) and (c)]?

⁴ This amount excludes indirect costs assessments.

- What is driving the significant attorney registration fee increases recently approved by the Supreme Court? To what extent do such fee increases relate to the recent transfers to Colorado Legal Services?

DISCUSSION:

Regulation of the Practice of Law

Section 1 of Article VI of the Colorado Constitution grants the Colorado Supreme Court jurisdiction to regulate and control the practice of law in Colorado. Pursuant to case law⁵, this includes:

"...questions as to issuing and revoking licenses to practice law and the terms and conditions thereof, determining what acts do or do not constitute the practice of law, punishments for unlicensed practices, methods to prevent the unlawful practices of law and all other matters pertaining thereto..."

The Colorado Supreme Court has adopted: rules concerning admission to the practice of law or "the bar" (see Chapter 18, Colorado Court Rules, Colorado Revised Statutes); rules concerning the unauthorized practice of law (see Chapter 19); rules of procedure regarding attorney discipline and disability proceedings, the Colorado Attorneys' Fund for Client Protection, and mandatory continuing legal education and judicial education (see Chapter 20); and rules concerning judicial discipline (see Chapter 24).

The annual Long Bill includes three informational line items to reflect moneys anticipated to be expended related to the Colorado Supreme Court's role of regulating the practice of law:

- *Attorney Regulation* (\$7,000,000 and 56.0 FTE for FY 2013-14): Allegations of attorney misconduct are investigated by the Attorney Regulation Committee, the Attorney Regulation Counsel, the Presiding Disciplinary Judge, the Appellate Discipline Commission, the Advisory Committee, and/or the Colorado Supreme Court. A Client Protection Fund compensates persons who suffer certain monetary losses because of an attorney's dishonest conduct. This system emphasizes attorney education and rehabilitation, and resolution of problems for members of the public. These activities are supported by attorney registration fees established by the Colorado Supreme Court.
- *Continuing Legal Education* (\$410,000 and 4.0 FTE for FY 2013-14): The Board of Continuing Legal and Judicial Education administers mandatory continuing legal education for attorneys and judges, including the certification of courses and educational conferences. The program is supported by annual attorney registration fees established by the Colorado Supreme Court.

⁵ See *Conway-Bogue Realty Inv. Co. v. Denver Bar Ass'n*, 135 Colo. 398, 312 P.2d 998 (1957).

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- *State Board of Law Examiners* (\$1,050,000 and 7.0 FTE for FY 2013-14): The State Board of Law Examiners administers the Colorado bar exam. The program is supported by law examination application fees established by the Colorado Supreme Court.

These line items are shown for informational purposes only, as these funds are continuously appropriated under the Judicial Branch’s constitutional authority to regulate and control the practice of law.

It is staff’s understanding that these programs that regulate the practice of law function separately from the Judicial Department. They have their own personnel system, they have their own fiscal rules, they deposit their revenues in outside bank accounts rather than the State Treasury, and they use their own accounting system. The Controller for the Office of the Attorney Regulation Counsel periodically enters the summary data into the State’s accounting system (COFRS), and is responsible for responding to any audit questions about these line items (rather than the Controller within the State Court Administrator’s Office.)

Expenditures of Attorney Registration Fee Revenues

Upon staff’s request, the Office of the Attorney Regulation Counsel provided the following expenditure history for Attorney Regulation⁶:

Attorney Regulation Expenditure History

	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014 YTD
Personal Services	\$3,076,547	\$3,322,932	\$3,452,574	\$3,726,794	\$3,918,552	\$4,162,367	\$4,817,389	\$5,439,030	\$5,890,062	\$2,149,633
Operating	\$902,711	\$1,026,102	\$2,802,444	\$2,284,613	\$1,541,885	\$1,813,033	\$1,971,263	\$2,818,630	\$2,911,681	\$121,613
Rental of Buildings	\$121,499	\$79,837	\$71,601	\$72,484	\$67,139	\$102,082	\$162,229	\$133,555	\$127,529	\$0
Indirect Cost Assessments	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$205,429	\$215,718	\$0
TOTAL Expenditures	\$4,100,756	\$4,424,872	\$6,326,619	\$6,083,891	\$5,527,576	\$6,077,482	\$6,950,882	\$8,596,643	\$9,144,991	\$2,271,246
FTE - Actual	35.5	35.5	35.5	40.5	43.0	47.0	55.0	57.0	62.0	64.0
FTE - Long Bill	35.5	35.5	35.5	40.5	40.5	40.5	40.5	40.5	56.0	56.0

The amounts reflected in the FY 2013-14 Long Bill for Attorney Regulation -- \$7,000,000 and 56.0 – clearly understate likely expenditures and staffing patterns.

Please note that the expenditures listed above in the "Operating" category for FY 2011-12 and FY 2012-13 include \$750,000 that was transferred in each year to Colorado Legal Services for the provision of legal representation to low-income persons. The Supreme Court order that authorized these transfers is included as Appendix I.

In addition, please note that in FY 2011-12, the Department began assessing an indirect cost assessment on the cash funds that support these programs.

Excluding the \$1.5 million in transfers and the indirect cost assessments that began in FY 2011-12, expenditures related to attorney regulation doubled from FY 2004-05 to FY 2012-13. With the recently approved fee increases that will go into effect January 1, 2014 (described below), it is anticipated that annual revenues will increase by \$1,135,702 (13.8 percent) beginning in FY

⁶ Please note that the actual expenditures for Attorney Regulation reported by the Department in its annual budget (and reflected in Appendix A of this document) exclude expenditures related to indirect cost assessments.

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2014-15. Based on the information provided by the Office of the Attorney Regulation Counsel, the additional \$5.7 million revenues generated over the next five years will cover anticipated increases in expenditures that are expected to occur in that time period.

Attorney Registration Fees

On or before February 28 of each year, every attorney admitted to practice law in Colorado is required to annually file a registration statement and pay a fee as set by the Colorado Supreme Court. The annual fee is based on one's status (active or inactive), as well as the date of one's first admission to practice (*i.e.*, the date of one's first admission to the bar of any state). Inactive attorneys over the age of 65 are exempt from paying registration fees. The following table, provided by the Office of the Attorney Regulation Counsel, details the attorney registration fee schedule that will be effective January 1, 2014, as well as the current and most recent fee schedules.

Fees for Attorney Regulation

Attorneys, including judges, provisional & temporary, and judge advocates:	1/1/1999 - 12/31/2005	1/1/2006 - 12/31/2013	Effective 1/1/2014
Active Attorneys	\$195	\$225	\$325
Attorneys 1st admission to practice within 3 yrs	\$155	\$180	\$190
Attorneys on inactive status, under age 65	\$50	\$95	\$130
Late fees for payments 3/1-3/31	\$50	\$50	\$50
Late fees for payments after 3/31	\$150	\$150	\$150
Reinstatement Fee	\$100	\$100	\$100

The Office of the Attorney Regulation Counsel indicates that the goal in setting attorney registration fees is to defray for at least five years the costs of the Office of the Attorney Regulation Counsel, the Office of the Presiding Disciplinary Judge, the Commission on Judicial Discipline, the Colorado Lawyers Assistance Program, the Colorado Attorney Mentoring Program, the Advisory Committee and the other seven permanent Supreme Court regulatory committees, and any other practice of law function deemed appropriate by the Supreme Court. This practice apparently results in an initial surplus of funds that is then depleted during the last two to three years of the five-year period.

The Office of Attorney Regulation lists the following reasons for the most recently approved fee increases:

"New functions that had an impact on the size of the most recent increase included the transfer of responsibility for the Commission on Judicial Discipline (CJD) budget into our budget in 2010; as well as from the creation of the new Colorado Lawyers Assistance Program (COLAP) in January 2012 and the new Colorado Attorney Mentoring Program (CAMP) in February 2013.

In addition, over the past five years, the regulatory offices adhered to state judicial policy regarding no pay increases. Thus office salaries remained flat. When the

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legislature authorized an increase in state judicial employee salaries this year, we made a similar modest increase in the regulatory offices' salaries and benefits.

Finally, the regulatory offices are preparing for the impact caused by aging lawyer needs and increased technology needs. There is a significant increase in the number of inventory counsel matters involving aging lawyers. That trend will continue. Specifically, when an attorney dies, becomes disabled or otherwise leaves the profession without returning client files or destroying them to protect confidentiality, and without returning client funds, this office then seeks an order appointing inventory counsel, secures what can sometimes be thousands of client files for that one lawyer and begins the process of notifying clients that they can pick up the files or have them destroyed, and audits the trust account to return client funds. In addition, the amounts needed for professional services such as independent medical examinations to determine if an aging attorney who gets client complaints may have cognitive difficulties, continues to increase.

Finally, the office has to keep up with changing technology, which requires expenditures for data management systems, software and hardware."

State Funding for Attorney Registration Fees

The FY 2013-14 Long Bill includes two appropriations for payment of annual attorney registration fees:

- An appropriation of \$99,263 (including \$22,144 General Fund) to the Department of Law covers the annual registration fee for each attorney and provides some funding for required continuing legal education expenses (\$150 per attorney). This line item was established in FY 2008-09 in response to a request from the Department, and it is designed to make the salary and benefit package offered by the Department more competitive with other public sector law firms. This appropriation is primarily funded through legal services payments from other state agencies.
- An appropriation of \$99,045 General Fund to the Office of the State Public Defender (OSPD) covers the annual registration fee for each attorney. This appropriation was first included in the FY 2012-13 Long Bill.

In addition, it is staff's understanding that the Office of Legislative Legal Services uses a portion of its annual appropriation to cover the annual registration fee for each attorney.

Both the Department of Law and the OSPD submitted requests for additional funding to cover a recent increase in attorney registration fees. Specifically, the Department of Law requests an increase of \$27,088 (including \$8,755 General Fund) for FY 2014-15; the OSPD requests an increase of \$28,242 General Fund for FY 2014-15.

**RELEVANCE OF BRIEFING ISSUE TO THE DEPARTMENT'S
PERFORMANCE PLAN:**

This briefing issue concerns the appropriation of state funds to pay the annual registration fee for certain attorneys employed by the State. It includes a discussion of the Supreme Court's responsibility to regulate the practice of law (and set associated fees), and the role of the Office of Attorney Regulation Counsel. Staff believes that these issues relate to Principle #5 in the strategic plan for the courts and probation: "Cultivate public trust and confidence through the thoughtful stewardship of public resources".

Issue: Juvenile Defense Attorney Interim Committee

This informational issue brief summarizes the recommendations of the Juvenile Defense Attorney Interim Committee.

SUMMARY:

- House Joint Resolution 13-1019 established the Juvenile Defense Attorney Interim Committee to study and make recommendations on a variety of topics related to juveniles' access to effective defense counsel.
- The Interim Committee ultimately recommended two bills and one resolution for consideration in the 2014 legislative session. The Legislative Council Committee recently approved both bills and the resolution.
- Bill A, as introduced, would require state-paid defense counsel in additional cases and under additional circumstances, and would likely require additional state funds for implementation.

DISCUSSION:

Creation of Interim Committee and Charge

House Joint Resolution 13-1019 established the Juvenile Defense Attorney Interim Committee. The Committee consisted of ten legislators and ten non-voting members who have experience in juvenile proceedings and who represent: the Office of the State Public Defender (OSPD), juvenile defense attorneys, the State Court Administrator's Office, juvenile court judges and magistrates, youth and parents of youth previously involved in the juvenile court system, district attorneys, the Office of Child's Representative, community victim rights organizations, and other community organizations. The Committee was charged with studying issues concerning juvenile justice, including the following:

- current laws, procedures, and practices for the appointment of counsel, advisement of rights, and waivers of counsel for children in juvenile delinquency court;
- the role of defense counsel as distinct from the role of a *guardian ad litem* and the scope of the right to counsel;
- current laws, procedures, and guidelines for the determination of whether a child is indigent for the purposes of providing court-appointed counsel;
- methods for improving professionalism in the practice of juvenile defense;
- the impact of inadequate access to counsel on minority, immigrant, and disabled children and children with mental health needs;
- funding attorneys to represent indigent children and the most efficient way to provide counsel to juveniles in delinquency proceedings; and
- the scope of public access to juvenile delinquency records, the laws and procedures for expunging juvenile adjudications, and the laws and procedures for petitioning for removal from the juvenile sex offender registry.

Committee Work and Recommendations

The Committee heard presentations from a number of groups and individuals concerning the juvenile justice system and the juvenile adjudication process, access to and quality of juvenile representation, expungement of records, and truancy. The Committee ultimately recommended two bills and one resolution for consideration in the 2014 legislative session (described below). The Legislative Council Committee recently approved both bills and the resolution for introduction in the 2014 Session.

Bill A — Defense Counsel for Juvenile Offenders. Bill A makes a number of changes to the provision of defense counsel for juveniles. Specifically, the bill:

- requires certain information about defense counsel to be included in a promise to appear or court summons for a juvenile;
- requires the screening team at a detention facility, temporary holding facility, or shelter facility to promptly notify the court, the district attorney, and the local office of the state public defender upon a juvenile's placement at the facility;
- requires the law enforcement agency that arrested the juvenile and the screening team to provide certain information to the court and to defense counsel;
- specifies that the court may not deem a *guardian ad litem* to be a substitute for defense counsel for the juvenile; and
- includes several provisions addressing detention hearings, the appointment of counsel, and waivers of counsel, which are explained in more detail below.

Bill A also requires a juvenile who is detained to be represented at the detention hearing by counsel. If the juvenile does not retain private counsel, he or she will be appointed an attorney from the OSPD or the Office of the Alternate Defense Counsel. Specifically, at a juvenile's first appearance before the court, the court must advise the juvenile of his or her constitutional and legal rights, including the right to counsel. The court must appoint counsel for the juvenile unless the juvenile has retained private counsel or makes a knowing, intelligent, and voluntary waiver of the right to counsel.

Under current law, the assets and income of the juvenile's parents or guardian are taken into account when determining whether a juvenile meets the indigency level to qualify for court-appointed counsel. Under Bill A, for purposes of applying for court appointed counsel, only the assets and income of the juvenile are considered.

This appointment continues until the court's jurisdiction is terminated, the juvenile retains counsel, or the juvenile makes a knowing, intelligent, and voluntary waiver of the right to counsel. Currently, state law is silent on the procedure for waiving counsel in juvenile cases, although case law does provide some guidance. Bill A specifies that the court may accept a waiver of counsel by a juvenile only if the juvenile:

- is of a sufficient maturity level to make a voluntary, knowing, and intelligent waiver;
- has consulted with counsel and understands the sentencing options available to the court;
- has not been forced by any other party into making the waiver;

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- understands that the court will provide counsel for the juvenile; and
- understands the possible consequences that may result from an adjudication or conviction.

The bill states that only a juvenile may waive the right to counsel, after consulting with his or her attorney. If the juvenile is in the custody of the Colorado Department of Human Services or a county department of social services, a waiver will not be permitted. In addition, waivers are not allowed in any proceeding related to:

- a sexual offense;
- a crime of violence;
- an offense for which the juvenile will receive a mandatory sentence;
- an offense for which the juvenile is being charged as a repeat juvenile offender, aggravated juvenile offender, or mandatory sentence offender;
- a case in which the prosecutor has announced that he or she is seeking to file charges in adult court; or
- a case in which the prosecutor has announced that he or she is seeking to transfer the case to adult court.

Bill B — Social Workers for Juveniles. Bill B specifies that the OSPD may hire social workers to assist in defending juvenile defendants. Any report prepared by the social worker and submitted to the court by the juvenile's attorney must be considered as evidence in the proper disposition of the juvenile's case.

Resolution A — Request Judicial Action on Juvenile Defense. Resolution A requests that the Chief Justice of the Colorado Supreme Court take certain actions concerning the adjudication of juvenile delinquency cases. Specifically, the resolution requests that the Chief Justice:

- issue a directive to state judges to assign juvenile delinquency cases, to the extent practicable, to a single courtroom within each judicial district and to allow judges with juvenile dockets to remain in that rotation so that they may develop expertise in the handling of juvenile cases;
- convene a task force within the Judicial Branch to manage juvenile delinquency cases in a manner that includes best practices in: the education of judicial officers; docket rotation and assignment; management of juvenile delinquency cases; and regular educational opportunities for judicial officers relating to the science of juvenile and adolescent maturity and brain development; and
- establish a committee to review the Colorado Rules of Juvenile Procedure, juvenile court forms, and Chief Justice Directive 04-04 and make recommendations concerning any amendments that may be necessary to improve the juvenile justice system.

**RELEVANCE OF BRIEFING ISSUE TO THE DEPARTMENT'S
PERFORMANCE PLAN:**

This briefing issue concerns the recommendations of the Juvenile Defense Interim Committee, which would likely require additional state resources to implement.

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Appendix A: Number Pages

	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
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JUDICIAL DEPARTMENT
Michael Bender, Chief Justice

(1) SUPREME COURT/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 judgments; 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 funds transferred from the Department of Law.

Appellate Court Programs	11,242,794	11,575,350	11,581,239	12,456,588 *	
FTE	138.4	139.8	140.0	141.0	
General Fund	9,930,498	10,238,791	10,248,849	10,910,079	
Cash Funds	1,312,296	1,336,559	1,332,390	1,546,509	
Attorney Regulation	8,391,213	8,929,272	7,000,000	7,000,000	
FTE	56.0	56.0	56.0	56.0	
Cash Funds	8,391,213	8,929,272	7,000,000	7,000,000	
Continuing Legal Education	295,988	239,906	410,000	410,000	
FTE	4.0	4.0	4.0	4.0	
Cash Funds	295,988	239,906	410,000	410,000	
State Board of Law Examiners	1,046,155	1,269,392	1,050,000	1,050,000	
FTE	7.0	7.0	7.0	7.0	
Cash Funds	1,046,155	1,269,392	1,050,000	1,050,000	

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	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
Law Library	439,526	934,190	563,121	563,121	
FTE	1.5	3.5	3.5	3.5	
Cash Funds	392,562	771,227	500,000	500,000	
Reappropriated Funds	46,964	162,963	63,121	63,121	
Indirect Cost Assessment	0	0	149,983	175,391	
Cash Funds	0	0	149,983	175,391	
Federal Funds	0	0	0	0	
TOTAL - (1) Supreme Court/Court of Appeals	21,415,676	22,948,110	20,754,343	21,655,100	4.3%
FTE	206.9	210.3	210.5	211.5	0.5%
General Fund	9,930,498	10,238,791	10,248,849	10,910,079	6.5%
Cash Funds	11,438,214	12,546,356	10,442,373	10,681,900	2.3%
Reappropriated Funds	46,964	162,963	63,121	63,121	0.0%
Federal Funds	0	0	0	0	0.0%

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	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 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 administered 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	15,463,633	17,304,716	20,096,461	22,337,388	*
FTE	174.7	181.2	208.5	230.0	
General Fund	11,751,693	11,338,692	12,274,637	14,319,651	
Cash Funds	1,364,502	3,843,414	5,905,565	5,966,046	
Reappropriated Funds	2,347,438	2,122,610	1,916,259	2,051,691	
Information Technology Infrastructure	4,870,341	4,587,531	4,637,841	5,686,351	*
General Fund	853,094	403,092	403,094	403,094	
Cash Funds	4,017,247	4,184,439	4,234,747	5,283,257	
Indirect Cost Assessment	0	0	593,237	640,865	
Cash Funds	0	0	581,957	634,106	
Reappropriated Funds	0	0	11,280	6,759	
Federal Funds	0	0	0	0	

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Statewide Indirect Cost Assessment	140,112	98,175	0	0	
Cash Funds	140,112	98,175	0	0	
Federal Funds	0	0	0	0	
Departmental Indirect Cost Assessment	1,907,327	1,666,717	0	0	
Cash Funds	1,907,327	1,666,717	0	0	
SUBTOTAL - (A) Administration and Technology	22,381,413	23,657,139	25,327,539	28,664,604	13.2%
<i>FTE</i>	174.7	181.2	208.5	230.0	10.3%
General Fund	12,604,787	11,741,784	12,677,731	14,722,745	16.1%
Cash Funds	7,429,188	9,792,745	10,722,269	11,883,409	10.8%
Reappropriated Funds	2,347,438	2,122,610	1,927,539	2,058,450	6.8%
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, several exclude funding associated with the four independent agencies, including: salary-related line items; appropriations for health, life, and dental, and short-term disability insurance; and the vehicle lease payments line item. 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	17,280,323	21,548,359	24,919,320	25,681,799	
General Fund	17,002,669	21,290,385	22,860,367	23,193,747	
Cash Funds	277,654	257,974	2,058,953	2,488,052	
Short-term Disability	291,983	290,613	324,428	509,024	
General Fund	287,955	288,404	247,005	464,779	
Cash Funds	4,028	2,209	77,423	44,245	

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	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
S.B. 04-257 Amortization Equalization Disbursement					
General Fund	4,465,219	4,494,237	6,963,558	9,254,970	*
Cash Funds	4,410,863	4,454,618	5,397,337	8,450,518	
	54,356	39,619	1,566,221	804,452	
S.B. 06-235 Supplemental Amortization Equalization					
Disbursement	3,541,237	3,714,492	6,081,988	8,676,535	*
General Fund	3,497,156	3,680,446	4,689,972	7,922,361	
Cash Funds	44,081	34,046	1,392,016	754,174	
Salary Survey	0	309,680	5,698,482	11,040,093	
General Fund	0	309,680	4,676,224	10,495,519	
Cash Funds	0	0	1,022,258	544,574	
Merit Pay	0	0	3,370,314	3,187,170	
General Fund	0	0	2,788,409	2,840,394	
Cash Funds	0	0	581,905	346,776	
Workers' Compensation	1,672,725	1,712,924	1,337,492	1,241,647	
General Fund	1,672,725	1,712,924	1,337,492	1,241,647	
Legal Services	122,183	113,754	200,740	200,740	
General Fund	122,183	113,754	200,740	200,740	
Purchase of Services from Computer Center	510,540	753,476	699,378	0	
General Fund	510,540	753,476	699,378	0	
Colorado State Network	412,501	575,849	1,666,209	0	*
General Fund	412,501	575,849	1,666,209	0	

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	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
Payment to Risk Management and Property Funds General Fund	<u>232,018</u> 232,018	<u>374,144</u> 374,144	<u>607,112</u> 607,112	<u>676,966</u> 676,966	
Vehicle Lease Payments General Fund	<u>56,364</u> 56,364	<u>58,674</u> 58,674	<u>88,182</u> 88,182	<u>122,812</u> 122,812	* *
Ralph L. Carr Colorado Judicial Center Leased Space General Fund	<u>1,241,841</u> 1,110,576	<u>1,312,476</u> 1,251,571	<u>2,063,194</u> 2,063,194	<u>2,384,393</u> 2,384,393	* *
Cash Funds	131,265	60,905	0	0	
Communication Services Payments General Fund	<u>12,161</u> 12,161	<u>24,725</u> 24,725	<u>18,297</u> 18,297	<u>0</u> 0	* 0
COFRS Modernization General Fund	<u>0</u> 0	<u>1,056,857</u> 1,056,857	<u>1,056,857</u> 1,056,857	<u>696,991</u> 696,991	
Information Technology Security General Fund	<u>0</u> 0	<u>0</u> 0	<u>24,047</u> 24,047	<u>0</u> 0	* 0
Payments to OIT General Fund	<u>0</u> 0	<u>0</u> 0	<u>0</u> 0	<u>2,457,811</u> 2,457,811	* *
Lease Purchase General Fund	<u>119,878</u> 119,878	<u>119,878</u> 119,878	<u>119,878</u> 119,878	<u>119,878</u> 119,878	
SUBTOTAL - (B) Central Appropriations	<u>29,958,973</u>	<u>36,460,138</u>	<u>55,239,476</u>	<u>66,250,829</u>	19.9%
FTE	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	0.0%
General Fund	29,447,589	36,065,385	48,540,700	61,268,556	26.2%
Cash Funds	511,384	394,753	6,698,776	4,982,273	(25.6%)

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	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
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(C) Centrally Administered Programs

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

Victim Assistance Cash Funds	<u>16,718,575</u> 16,718,575	<u>16,113,865</u> 16,113,865	<u>16,375,000</u> 16,375,000	<u>16,375,000</u> 16,375,000	
Victim Compensation Cash Funds	<u>12,346,894</u> 12,346,894	<u>13,375,492</u> 13,375,492	<u>12,175,000</u> 12,175,000	<u>12,175,000</u> 12,175,000	
Collections Investigators FTE	<u>4,923,061</u> 72.4	<u>5,002,446</u> 72.5	<u>5,157,739</u> 83.2	<u>6,485,122</u> 104.2	*
Cash Funds Reappropriated Funds	4,174,147 748,914	5,002,446 0	4,260,198 897,541	5,587,581 897,541	
Problem-solving Courts FTE	<u>2,296,638</u> 29.3	<u>2,335,869</u> 31.5	<u>3,045,535</u> 41.5	<u>3,126,614</u> 41.5	
General Fund Cash Funds Federal Funds	0 1,527,389 769,249	0 2,335,869 0	0 3,045,535 0	0 3,126,614 0	
Language Interpreters FTE	<u>3,611,448</u> 24.1	<u>3,635,100</u> 24.9	<u>3,662,739</u> 25.0	<u>3,908,563</u> 32.0	*
General Fund Cash Funds	3,347,318 264,130	3,376,235 258,865	3,376,239 286,500	3,622,063 286,500	

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	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
Courthouse Security	3,016,168	2,949,570	3,214,989	3,218,151	
FTE	1.0	1.0	1.0	1.0	
Cash Funds	3,016,168	2,949,570	3,214,989	3,218,151	
Courthouse Capital/ Infrastructure Maintenance	616,932	1,621,173	4,308,421	2,741,416	*
General Fund	143,406	0	172,550	2,642,653	
Cash Funds	473,526	1,621,173	4,135,871	98,763	
Reappropriated Funds	0	0	0	0	
Senior Judge Program	1,348,530	1,255,217	1,400,000	1,400,000	
General Fund	1,348,530	0	0	0	
Cash Funds	0	1,255,217	1,400,000	1,400,000	
Judicial Education and Training	0	1,069,536	1,462,036	1,448,334	*
FTE	0.0	1.5	2.0	2.0	
Cash Funds	0	1,069,536	1,462,036	1,448,334	
Office of Judicial Performance Evaluation	646,674	695,016	920,955	898,248	*
FTE	2.0	2.0	2.0	2.0	
General Fund	0	0	0	350,000	
Cash Funds	646,674	695,016	920,955	548,248	
Family Violence Justice Grants	675,000	599,991	1,170,000	1,170,000	
General Fund	458,430	429,991	1,000,000	1,000,000	
Cash Funds	216,570	170,000	170,000	170,000	
District Attorney Adult Pretrial Diversion Programs	0	0	390,223	390,223	
General Fund	0	0	390,223	390,223	

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Family-friendly Court Program	<u>244,139</u>	<u>178,676</u>	<u>375,000</u>	<u>375,864</u>	
FTE	0.5	0.5	0.5	0.5	
Cash Funds	244,139	178,676	375,000	375,864	
Compensation for Exonerated Persons	<u>0</u>	<u>0</u>	<u>100,000</u>	<u>100,000</u>	
General Fund	0	0	100,000	100,000	
Child Support Enforcement	<u>80,282</u>	<u>81,413</u>	<u>90,900</u>	<u>90,900</u>	
FTE	1.0	1.0	1.0	1.0	
General Fund	27,287	27,642	30,904	30,904	
Reappropriated Funds	52,995	53,771	59,996	59,996	
SUBTOTAL - (C) Centrally Administered Programs	46,524,341	48,913,364	53,848,537	53,903,435	0.1%
FTE	130.3	134.9	156.2	184.2	17.9%
General Fund	5,324,971	3,833,868	5,069,916	8,135,843	60.5%
Cash Funds	39,628,212	45,025,725	47,821,084	44,810,055	(6.3%)
Reappropriated Funds	801,909	53,771	957,537	957,537	0.0%
Federal Funds	769,249	0	0	0	0.0%

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	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
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(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; and an annual appropriation for future 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	0	831,276	1,442,049	1,449,723	
FTE	0.0	1.8	2.0	2.0	
Cash Funds	0	831,276	581,582	589,256	
Reappropriated Funds	0	0	860,467	860,467	
Federal Funds	0	0	0	0	
Operating Expenses	0	1,867,262	4,026,234	4,026,234	
Cash Funds	0	1,867,262	1,278,829	1,278,829	
Reappropriated Funds	0	0	2,747,405	2,747,405	
Controlled Maintenance	0	0	2,025,000	2,025,000	
Cash Funds	0	0	643,191	643,191	
Reappropriated Funds	0	0	1,381,809	1,381,809	
Leased Space	0	0	0	0	
General Fund	0	0	0	0	

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	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
SUBTOTAL - (D) Ralph L. Carr Colorado Judicial					
Center	0	2,698,538	7,493,283	7,500,957	0.1%
FTE	<u>0.0</u>	<u>1.8</u>	<u>2.0</u>	<u>2.0</u>	<u>0.0%</u>
General Fund	0	0	0	0	0.0%
Cash Funds	0	2,698,538	2,503,602	2,511,276	0.3%
Reappropriated Funds	0	0	4,989,681	4,989,681	0.0%
Federal Funds	0	0	0	0	0.0%
TOTAL - (2) Courts Administration					
	98,864,727	111,729,179	141,908,835	156,319,825	10.2%
FTE	<u>305.0</u>	<u>317.9</u>	<u>366.7</u>	<u>416.2</u>	<u>13.5%</u>
General Fund	47,377,347	51,641,037	66,288,347	84,127,144	26.9%
Cash Funds	47,568,784	57,911,761	67,745,731	64,187,013	(5.3%)
Reappropriated Funds	3,149,347	2,176,381	7,874,757	8,005,668	1.7%
Federal Funds	769,249	0	0	0	0.0%

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	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 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>117,944,999</u>	<u>122,511,665</u>	<u>126,161,273</u>	<u>132,030,865</u>	*
FTE	1,663.1	1,696.0	1,820.5	1,839.7	
General Fund	89,919,517	92,758,392	93,149,958	98,506,993	
Cash Funds	26,988,570	28,750,217	31,911,315	32,423,872	
Reappropriated Funds	1,036,912	1,003,056	1,100,000	1,100,000	
Court Costs, Jury Costs, and Court-appointed Counsel	<u>15,181,493</u>	<u>15,521,673</u>	<u>15,985,692</u>	<u>15,985,692</u>	
General Fund	<u>14,696,493</u>	<u>15,036,673</u>	<u>15,500,692</u>	<u>15,500,692</u>	
Cash Funds	485,000	485,000	485,000	485,000	
District Attorney Mandated Costs	<u>2,186,883</u>	<u>2,304,497</u>	<u>2,651,916</u>	<u>2,804,352</u>	*
General Fund	<u>2,061,883</u>	<u>2,179,497</u>	<u>2,491,916</u>	<u>2,644,352</u>	
Cash Funds	125,000	125,000	160,000	160,000	
Federal Funds and Other Grants	<u>1,628,307</u>	<u>1,414,599</u>	<u>2,900,000</u>	<u>2,900,000</u>	
FTE	14.0	10.8	14.0	14.0	
Cash Funds	230,321	119,762	975,000	975,000	
Reappropriated Funds	110,819	95,775	300,000	300,000	
Federal Funds	1,287,167	1,199,062	1,625,000	1,625,000	

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TOTAL - (3) Trial Courts	136,941,682	141,752,434	147,698,881	153,720,909	4.1%
<i>FTE</i>	<u>1,677.1</u>	<u>1,706.8</u>	<u>1,834.5</u>	<u>1,853.7</u>	<u>1.0%</u>
General Fund	106,677,893	109,974,562	111,142,566	116,652,037	5.0%
Cash Funds	27,828,891	29,479,979	33,531,315	34,043,872	1.5%
Reappropriated Funds	1,147,731	1,098,831	1,400,000	1,400,000	0.0%
Federal Funds	1,287,167	1,199,062	1,625,000	1,625,000	0.0%

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	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
(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 are from fees paid by offenders for supervision, treatment, and restitution, as well as 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>72,859,600</u>	<u>74,924,839</u>	<u>76,135,472</u>	<u>79,135,251</u>	
FTE	1,082.2	1,108.8	1,152.7	1,156.0	
General Fund	62,580,677	64,373,160	65,583,793	67,987,592	
Cash Funds	10,278,923	10,551,679	10,551,679	11,147,659	
Offender Treatment and Services	<u>13,372,184</u>	<u>21,316,138</u>	<u>26,672,355</u>	<u>30,172,355</u>	
General Fund	0	212,286	667,197	667,197	
Cash Funds	6,637,774	10,814,379	13,525,312	13,525,312	
Reappropriated Funds	6,734,410	10,289,473	12,479,846	15,979,846	
Services and Activities Authorized by Section 18-19-103 (5) (c) and (d), C.R.S.	0	0	0	0	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Day Reporting Services	289,291	0	0	0	
General Fund	289,291	0	0	0	
Appropriation to the Correctional Treatment Cash Fund	0	9,856,200	11,700,000	15,200,000	
General Fund	0	9,856,200	11,700,000	15,200,000	

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	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
H.B. 10-1352 Appropriation to Drug Offender Surcharge Fund	6,656,118	0	0	0	
General Fund	6,656,118	0	0	0	
S.B. 03-318 Community Treatment Funding General Fund	2,200,000	0	0	0	
	2,200,000	0	0	0	
S.B. 91-94 Juvenile Services FTE	<u>1,502,621</u>	<u>1,917,335</u>	<u>2,496,837</u>	<u>2,496,837</u>	
	13.0	25.0	25.0	25.0	
Reappropriated Funds	1,502,621	1,917,335	2,496,837	2,496,837	
Reimbursements to Law Enforcement Agencies for the Costs of Returning a Probationer Cash Funds	0	0	<u>187,500</u>	<u>187,500</u>	
	0	0	187,500	187,500	
Victims Grants FTE	<u>407,381</u>	<u>392,934</u>	<u>650,000</u>	<u>650,000</u>	
	6.0	6.0	6.0	6.0	
Reappropriated Funds	407,381	392,934	650,000	650,000	
Federal Funds and Other Grants FTE	<u>5,551,863</u>	<u>4,952,148</u>	<u>5,600,000</u>	<u>5,600,000</u>	
	33.0	33.0	33.0	33.0	
Cash Funds	1,098,754	948,027	1,950,000	1,950,000	
Reappropriated Funds	3,167,111	160,276	850,000	850,000	
Federal Funds	1,285,998	3,843,845	2,800,000	2,800,000	
Indirect Cost Assessment Cash Funds	0	0	<u>1,031,039</u>	<u>1,093,435</u>	
	0	0	1,031,039	1,093,435	

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TOTAL - (4) Probation and Related Services	102,839,058	113,359,594	124,473,203	134,535,378	8.1%
<i>FTE</i>	<u>1,134.2</u>	<u>1,172.8</u>	<u>1,216.7</u>	<u>1,220.0</u>	<u>0.3%</u>
General Fund	71,726,086	74,441,646	77,950,990	83,854,789	7.6%
Cash Funds	18,015,451	22,314,085	27,245,530	27,903,906	2.4%
Reappropriated Funds	11,811,523	12,760,018	16,476,683	19,976,683	21.2%
Federal Funds	1,285,998	3,843,845	2,800,000	2,800,000	0.0%

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(5) OFFICE OF THE STATE PUBLIC DEFENDER

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

Personal Services	<u>41,604,756</u>	<u>43,511,185</u>	<u>45,952,234</u>	<u>56,265,942</u>	*
FTE	612.7	624.4	691.0	757.7	
General Fund	41,604,756	43,511,185	45,952,234	56,265,942	
Health, Life, and Dental	<u>4,555,942</u>	<u>4,323,337</u>	<u>4,978,927</u>	<u>5,424,553</u>	*
General Fund	4,555,942	4,323,337	4,978,927	5,424,553	
Short-term Disability	68,330	68,710	89,283	114,151	*
General Fund	68,330	68,710	89,283	114,151	
S.B. 04-257 Amortization Equalization Disbursement	<u>1,067,990</u>	<u>1,239,073</u>	<u>1,679,974</u>	<u>2,075,326</u>	*
General Fund	1,067,990	1,239,073	1,679,974	2,075,326	
S.B. 06-235 Supplemental Amortization Equalization	<u>852,431</u>	<u>1,059,806</u>	<u>1,513,219</u>	<u>1,945,581</u>	*
Disbursement	852,431	1,059,806	1,513,219	1,945,581	
General Fund	0	0	5,640,158	1,345,073	
Salary Survey	0	0	5,640,158	1,345,073	
General Fund	0	0	651,614	909,216	
Merit Pay	0	0	651,614	909,216	
General Fund	55,789	82,649	44,407	178,178	
Vehicle Lease Payments	55,789	82,649	44,407	178,178	
General Fund			44,407	178,178	

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	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
Capital Outlay General Fund	141,090 141,090	51,733 51,733	419,037 419,037	75,248 75,248	* *
Operating Expenses General Fund Cash Funds	1,422,866 1,404,206 18,660	1,463,618 1,445,228 18,390	1,589,354 1,559,354 30,000	1,697,072 1,667,072 30,000	* * *
Leased Space/Utilities General Fund	5,431,080 5,431,080	6,122,344 6,122,344	6,120,407 6,120,407	6,509,426 6,509,426	
Automation Plan General Fund	1,336,920 1,336,920	841,282 841,282	1,416,920 1,416,920	1,416,920 1,416,920	
Attorney Registration General Fund	0 0	84,605 84,605	108,423 108,423	138,755 138,755	* *
Contract Services General Fund	18,000 18,000	49,395 49,395	49,395 49,395	49,395 49,395	
Mandated Costs General Fund	3,758,632 3,758,632	4,126,488 4,126,488	4,327,888 4,327,888	4,327,888 4,327,888	
Grants FTE Cash Funds	230,011 3.5 230,011	146,524 3.5 146,524	120,000 2.0 120,000	120,000 2.0 120,000	
TOTAL - (S) Office of the State Public Defender	60,543,837	63,170,749	74,701,240	82,592,724	10.6%
<i>FTE</i>	616.2	627.9	693.0	759.7	9.6%
General Fund	60,295,166	63,005,835	74,551,240	82,442,724	10.6%
Cash Funds	248,671	164,914	150,000	150,000	0.0%

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	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
(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>694,474</u>	<u>750,382</u>	<u>805,230</u>	<u>821,379</u>	
FTE	7.5	7.5	8.4	8.5	
General Fund	694,474	750,382	805,230	821,379	
Health, Life, and Dental	<u>80,225</u>	<u>92,555</u>	<u>99,113</u>	<u>112,699</u>	
General Fund	80,225	92,555	99,113	112,699	
Short-term Disability	<u>1,103</u>	<u>1,103</u>	<u>1,230</u>	<u>1,427</u>	
General Fund	1,103	1,103	1,230	1,427	
S.B. 04-257 Amortization Equalization Disbursement	<u>16,364</u>	<u>20,051</u>	<u>23,089</u>	<u>29,230</u>	
General Fund	16,364	20,051	23,089	29,230	
S.B. 06-235 Supplemental Amortization Equalization Disbursement	<u>13,062</u>	<u>17,154</u>	<u>20,771</u>	<u>27,329</u>	
General Fund	13,062	17,154	20,771	27,329	
Salary Survey	<u>0</u>	<u>0</u>	<u>12,817</u>	<u>10,518</u>	
General Fund	0	0	12,817	10,518	
Merit Pay	<u>0</u>	<u>0</u>	<u>10,408</u>	<u>11,369</u>	
General Fund	0	0	10,408	11,369	
Operating Expenses	<u>71,316</u>	<u>66,201</u>	<u>69,210</u>	<u>69,210</u>	
General Fund	71,316	66,201	69,210	69,210	

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	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
Leased Space General Fund	32,345 32,345	25,186 25,186	0 0	0 0	
Training and Conferences General Fund Cash Funds	40,367 20,367 20,000	40,549 20,549 20,000	40,000 20,000 20,000	60,000 * 20,000 40,000	
Conflict of Interest Contracts General Fund	19,767,979 19,767,979	19,882,661 19,882,661	20,234,616 20,234,616	26,238,149 * 26,238,149	
Mandated Costs General Fund	1,469,944 1,469,944	1,764,604 1,764,604	1,580,114 1,580,114	2,012,707 * 2,012,707	
TOTAL - (6) Office of the Alternate Defense Counsel	22,187,179	22,660,446	22,896,598	29,394,017	28.4%
<i>FTE</i>	7.5	7.5	8.4	8.5	1.2%
General Fund	22,167,179	22,640,446	22,876,598	29,354,017	28.3%
Cash Funds	20,000	20,000	20,000	40,000	100.0%

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	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
(7) OFFICE OF THE CHILD'S REPRESENTATIVE					
This independent agency provides legal representation for children involved in the court system due to abuse or neglect, delinquency, truancy, high conflict divorce, alcohol or drug abuse, mental health issues, and probate matters.					
Personal Services	<u>1,910,877</u>	<u>1,903,131</u>	<u>1,902,541</u>	<u>2,173,263</u> *	
FTE	26.1	26.1	26.9	27.4	
General Fund	1,910,877	1,903,131	1,902,541	2,173,263	
Health, Life, and Dental	<u>140,661</u>	<u>174,855</u>	<u>248,490</u>	<u>268,696</u>	
General Fund	140,661	174,855	248,490	268,696	
Short-term Disability	<u>2,804</u>	<u>2,747</u>	<u>3,347</u>	<u>3,761</u> *	
General Fund	2,804	2,747	3,347	3,761	
S.B. 04-257 Amortization Equalization Disbursement	<u>45,221</u>	<u>50,484</u>	<u>62,833</u>	<u>77,184</u> *	
General Fund	45,221	50,484	62,833	77,184	
S.B. 06-235 Supplemental Amortization Equalization	<u>36,095</u>	<u>43,165</u>	<u>56,523</u>	<u>72,129</u> *	
Disbursement	36,095	43,165	56,523	72,129	
General Fund					
Salary Survey	<u>0</u>	<u>0</u>	<u>34,879</u>	<u>31,574</u> *	
General Fund	0	0	34,879	31,574	
Merit Pay	<u>0</u>	<u>0</u>	<u>28,323</u>	<u>31,574</u> *	
General Fund	0	0	28,323	31,574	
Operating Expenses	<u>180,235</u>	<u>190,722</u>	<u>159,929</u>	<u>191,929</u> *	
General Fund	180,235	190,722	159,929	191,929	

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Leased Space General Fund	150,380 150,380	146,970 146,970	102,120 102,120	103,618 103,618	
CASA Contracts General Fund	475,000 475,000	520,000 520,000	1,020,000 1,020,000	1,020,000 1,020,000	
Training General Fund	47,760 47,760	41,026 41,026	38,000 38,000	38,000 38,000	
Court Appointed Counsel General Fund	14,783,068 14,783,068	16,015,965 16,015,965	16,011,128 16,011,128	18,867,675 18,867,675	*
Mandated Costs General Fund	40,405 40,405	43,607 43,607	37,000 37,000	37,000 37,000	
TOTAL - (7) Office of the Child's Representative	17,812,506	19,132,672	19,705,113	22,916,403	16.3%
FTE	26.1	26.1	26.9	27.4	1.9%
General Fund	17,812,506	19,132,672	19,705,113	22,916,403	16.3%

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	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
(8) 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.					
Personal Services	114,414	120,099	189,180	<u>192,739</u>	
FTE	1.0	1.0	2.0	2.0	
General Fund	114,414	120,099	189,180	192,739	
Health, Life, and Dental					
General Fund	6,090	5,216	12,249	<u>10,047</u>	
	6,090	5,216	12,249	10,047	
Short-term Disability					
General Fund	167	166	328	320	
	167	166	328	320	
S.B. 04-257 Amortization Equalization Disbursement					
General Fund	3,070	3,094	6,160	6,695	
	3,070	3,094	6,160	6,695	
S.B. 06-235 Supplemental Amortization Equalization Disbursement					
General Fund	2,431	2,648	5,542	6,257	
	2,431	2,648	5,542	6,257	
Salary Survey					
General Fund	0	0	1,964	2,455	
	0	0	1,964	2,455	
Merit Pay					
General Fund	0	0	1,595	2,492	
	0	0	1,595	2,492	
Operating Expenses					
General Fund	9,932	15,033	16,757	16,757	
	9,932	15,033	16,757	16,757	

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	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
Legal Services	54,315	75,945	81,972	98,366 *	
General Fund	54,315	75,945	81,972	98,366	
TOTAL - (8) Independent Ethics Commission	190,419	222,201	315,747	336,128	6.5%
FTE	1.0	1.0	2.0	2.0	0.0%
General Fund	190,419	222,201	315,747	336,128	6.5%
TOTAL - Judicial Department	460,795,084	494,975,385	552,453,960	601,470,484	8.9%
FTE	3,974.0	4,070.3	4,358.7	4,499.0	3.2%
General Fund	336,177,094	351,297,190	383,079,450	430,593,321	12.4%
Cash Funds	105,120,011	122,437,095	139,134,949	137,006,691	(1.5%)
Reappropriated Funds	16,155,565	16,198,193	25,814,561	29,445,472	14.1%
Federal Funds	3,342,414	5,042,907	4,425,000	4,425,000	0.0%

NOTE: An asterisk (*) indicates that the FY 2014-15 request for a line item is affected by one or more decision items.

Appendix B: Recent Legislation Affecting Department Budget

2012 Session Bills

H.B. 12-1073 (Reallocate Judgeship): Modifies the allocation of judgeships that were added through H.B. 07-1054, reducing the total number of district court judgeships allocated to the First Judicial District (Gilpin, Jefferson) from 14 to 13, and increasing the total number of district court judgeships allocated to the Sixth Judicial District (La Plata, San Juan, and Archuleta counties) from three to four.

H.B. 12-1246 (Reverse Paydate Shift for Biweekly Employees): Reverses the annual pay date shift as it applies to state employees paid on a biweekly basis. Appropriates \$16,115 General Fund to the Judicial Department for FY 2012-13.

H.B. 12-1271 (Juvenile Direct File Limitations): Under current law, a juvenile charged with a specific serious crime can be prosecuted in district court under the district attorney's authority to direct file certain juveniles. This act amends the direct file statute to limit the offenses for which a juvenile may be subject to direct file to class 1 felonies, class 2 felonies, crime of violence felonies, or certain sex offenses. The act limits direct file to juveniles age 16 or 17.

After a juvenile is charged in district court, the juvenile may petition the adult court for a "reverse-transfer" hearing to transfer the case to juvenile court. If, after a reverse-transfer hearing, the court finds that the juvenile and community would be better served by juvenile proceedings, the court shall order the case to juvenile court. If, after a preliminary hearing, the district court does not find probable cause for a direct file eligible offense, the court shall remand the case to the juvenile court. Under the act, a juvenile's non-felony conviction must be remanded to juvenile court and, when a juvenile sentence is selected, the conviction converts to a juvenile adjudication. A juvenile sentenced under a direct file shall be treated as a juvenile adjudication.

H.B. 12-1310 (Criminal Proceedings Omnibus Changes): Makes a number of changes to state criminal law, as summarized below.

- *Drug Treatment Fund Consolidation.* Consolidates the major state funding sources for substance abuse treatment (including the Drug Offender Surcharge Fund and the Drug Offender Treatment Fund) into a newly created Correctional Treatment Cash Fund. Replaces the State Drug Offender Treatment Board and the Interagency Task Force on Treatment with the newly created Correctional Treatment Board, and expands the membership requirements for each judicial district's drug offender treatment board. Requires the Correctional Treatment Board to prepare an annual treatment plan that the Judicial Department will include in its annual presentation to the Joint Budget Committee.

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- *Aggravated Juvenile Offenders.* When a juvenile is adjudicated a delinquent for either murder in the first or second degree and adjudicated an aggravated juvenile offender or convicted of a crime of violence, allows the court to sentence the juvenile consecutively or concurrently for all adjudicated offenses arising from the petition. Establishes a 10 year period of mandatory parole for an aggravated juvenile offender who was adjudicated a delinquent for first degree murder. Requires the court to order a psychological evaluation and risk assessment before the hearing on the offender's further placement at age 21 to determine if the juvenile is a danger to himself or herself or others. As part of the hearing, requires the court to reconsider the length of the remaining sentence. Adds placement options, including a correctional facility, the youthful offender system, a community corrections program, or adult parole.
- *Bath Salts as Controlled Substances.* Establishes criminal penalties for possession of cathinones and for distributing, manufacturing, dispensing, or selling cathinones. Establishes that any person or entity that sells a product that is labeled as a "bath salt" or any other trademark and contains any amount of a cathinone commits a deceptive trade practice and is subject to a civil penalty.
- *Criminal Proceedings.* Addresses several areas of statute governing criminal proceedings, including changes and clarifications concerning: sentencing; court proceedings; the collection of court fines, fees, costs, restitution, and surcharges; the preparation of presentence reports; eligibility for probation; and the types of parole hearings that a release hearing officer may conduct. Expands the information that the Judicial Department is to include in its annual report regarding the state's pretrial services programs. Clarifies that the court cannot charge a probationer for the costs of returning the probationer to Colorado, but requires a probationer who wishes to transfer his or her probation to another state to pay a \$100 filing fee that is deposited into the newly created Interstate Compact Probation Transfer Cash Fund to cover the costs associated with returning probationers to Colorado. Allows the interest earned on moneys in the Sex Offender Surcharge Fund to remain in the Fund rather than being credited to the General Fund.
- *Penalties for Drug Offenses.* Directs the Colorado Commission on Criminal and Juvenile Justice (Commission), using empirical analysis and evidence-based data and research, to consider the development of a comprehensive drug sentencing scheme for all drug crimes. Specifies items that the sentencing scheme is to consider. Requires the Commission to provide a written report of its recommendations for a comprehensive drug sentencing scheme to the Judiciary Committees by December 15, 2012.

Includes several appropriation clauses affecting multiple departments, as detailed in the table that begins on the next page. Sections 40 and 41 of the act adjust appropriations in the FY 2012-13 Long Bill (H.B. 12-1335) to reflect the consolidation of drug treatment funding originally made available pursuant to S.B. 03-318 and H.B. 10-1352. Section 42 of the act appropriates moneys to the Department of Corrections and the Governor's Office to implement provisions concerning juvenile offenders. Section 43 of the act appropriates moneys to the Judicial Department from

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the Interstate Compact Probation Transfer Cash Fund to cover the costs associated with returning probationers to Colorado.

House Bill 12-1310: FY 2012-13 Appropriations and Long Bill Adjustments		
Department/ Line Item/ Purpose		
Sections 40 and 41: Drug Treatment Fund Consolidation		
Department of Corrections		
<i>Inmate Programs, Drug and Alcohol Treatment Subprogram</i>		
Drug Offender Surcharge Program	(\$995,127)	Cash Funds (CF) - Drug Offender Surcharge Fund (DOSF)
Contract Services	(250,000)	CF - DOSF
<i>Community Services, Parole Subprogram</i>		
Contract Services	(1,757,100)	Reappropriated Funds (RF) - Transfer from Judicial (from DOSF per H.B. 10-1352)
Services and activities authorized by Sections 18-19-103 (5) (c) and (d), C.R.S. [S.B. 12-104]	<u>3,002,227</u>	RF - Transfer from Judicial (from Correctional Treatment Cash Fund or CTCF)
Subtotal – Corrections	0	
Department of Human Services		
<i>Mental Health and Alcohol and Drug Abuse Services, Alcohol and Drug Abuse Division, Treatment Services</i>		
Treatment and Detoxification Contracts	(887,300)	CF - DOSF
Short-term Intensive Residential Remediation and Treatment (STIRRT)	(383,316)	CF - DOSF
<i>Mental Health and Alcohol and Drug Abuse Services, Co-occurring Behavioral Health Services</i>		
Substance Use Disorder Offender Services (H.B. 10-1352)	(1,819,900)	RF - Transfer from Judicial (from DOSF per H.B. 10-1352)
Services and activities authorized by Sections 18-19-103 (5) (c) and (d), C.R.S.	<u>3,090,516</u>	RF - Transfer from Judicial (from CTCF)
Subtotal - Human Services	0	
Judicial Department		
<i>Courts Administration, Administration and Technology</i>		
General Courts Administration	91,078	RF - CTCF (GF credited to Fund)
	1.0 FTE	
<i>Courts Administration, Central Appropriations</i>		
Various centrally appropriated line items	(81,998)	CF - DOSF
<i>Courts Administration, Centrally Administered Programs</i>		
Courthouse Capital/Infrastructure Maintenance	4,703	RF - CTCF (GF credited to Fund)

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House Bill 12-1310: FY 2012-13 Appropriations and Long Bill Adjustments		
Department/ Line Item/ Purpose		
<i>Probation and Related Services</i>		
Probation Programs	(702,114)	CF - DOSF
Offender Treatment and Services	(1,010,006)	CF - DOSF
Offender Treatment and Services	(7,656,200)	RF - DOSF (GF credited to fund)
S.B. 03-318 Community Treatment Funding	(2,200,000)	General Fund (GF)
H.B. 10-1352 Appropriation to Drug Offender Surcharge Fund	(7,656,200)	GF
Appropriation to Correctional Treatment Cash Fund	9,856,200	GF
Services and activities authorized by Sections 18-19-103 (5) (c) and (d), C.R.S.	5,407,877	CF - CTCF (fee revenue)
Services and activities authorized by Sections 18-19-103 (5) (c) and (d), C.R.S.	<u>9,760,419</u>	RF - CTCF (GF credited to Fund)
Subtotal – Judicial	5,813,759 1.0 FTE	
Department of Public Safety		
<i>Executive Director's Office, Administration</i>		
Various centrally appropriated line items	(10,793)	CF - DOSF
<i>Division of Criminal Justice, Administration</i>		
DCJ Administrative Services	(84,803)	CF - DOSF
DCJ Administrative Services	(37,964)	GF
	(0.5 FTE)	
Indirect Cost Assessment	(8,401)	CF - DOSF
<i>Division of Criminal Justice, Community Corrections</i>		
Community Corrections Placement	(994,019)	CF - DOSF
Treatment for Substance Abuse and Co-occurring Disorders	(1,568,750)	RF - Transfer from Judicial (from DOSF per H.B. 10-1352)
Services and activities authorized by Sections 18-19-103 (5) (c) and (d), C.R.S.	<u>2,666,766</u>	RF - Transfer from Judicial (from CTCF)
Subtotal - Public Safety	(37,964) (0.5 FTE)	GF
Section 42: Juvenile Offenders		
Department of Corrections		
Purchase of computer center services	11,840	GF
Governor - Lieutenant Governor - State Planning and Budgeting		
<i>Office of Information Technology</i>	11,840	RF - Transfer from Corrections

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House Bill 12-1310: FY 2012-13 Appropriations and Long Bill Adjustments		
Department/ Line Item/ Purpose		
<i>Section 43: Criminal Proceedings</i>		
Judicial Department <i>Probation and Related Services</i>	93,750	CF - Interstate Compact Probation Transfer Cash Fund
Totals	<u>5,893,225</u> (26,124) 93,750 5,825,599 0.5 FTE	Total Funds General Fund Cash Funds Reappropriated Funds

H.B. 12-1335 (Long Bill): General appropriations act for FY 2012-13. Also includes supplemental adjustments to modify appropriations to the Judicial Department included in the FY 2011-12 Long Bill (S.B. 11-209).

2013 Session Bills

S.B. 13-092: (Supplemental Bill) Supplemental appropriation to the Judicial Department to modify FY 2012-13 appropriations included in the FY 2012-13 Long Bill (H.B. 12-1335).

S.B. 13-123: (Collateral Consequences) Allows defendants who enter into an alternative to sentencing or receive probation or a sentence to community corrections to apply for an order of collateral relief for the conviction. Establishes procedures for the application and standards for granting collateral relief. Provides that a pardon or commutation of sentence issued by the Governor waives all collateral consequences associated with each conviction for which the person received a pardon unless otherwise specified in the pardon. Requires the Governor to provide a copy of any pardon or a commutation of sentence to the Colorado Bureau of Investigation (CBI), and requires the CBI to include a note in the individual's record in the Colorado Crime Information Center that a pardon was issued or clemency was granted.

Specifies certain information to be contained in the notice that is provided by a probation or parole officer to a person before he or she is released from probation or parole. Expands the types of convictions and violations that are subject to record sealing, establishes procedures for petitions and hearings, and specifies that a person may only file a petition to seal criminal records once during a 12-month period. Adds to the factors to be reviewed by the Department of Regulatory Agencies (DORA) in a sunset or sunrise review whether the agency imposes or should impose a disqualification based upon a person's criminal history.

Appropriates \$533,199 General Fund and 6.9 FTE to the Judicial Department for FY 2013-14. Appropriates a total of \$184,902 and 3.0 FTE to the Department of Public Safety's CBI for FY 2013-14, including \$169,902 cash funds from the Colorado Bureau of Investigation Identification Unit Fund and 3.0 FTE and \$15,000 General Fund.

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S.B. 13-197: (Firearms for Domestic Violence Offenders) Requires the court to require a person to relinquish any firearm or ammunition in the person's immediate possession or control or subject to the person's immediate possession or control under certain circumstances. Appropriates \$45,742 General Fund and 0.8 FTE to the Judicial Department for FY 2013-14.

S.B. 13-227: (Protect Rape Victim From Contact With Father) Establishes a process for victims who conceive a child as a result of a sexual assault to file a petition with the court to: (1) prevent future contact with the parent who committed the sexual assault; and (2) terminate the legal parent-child relationship of the parent who committed the sexual assault. Allows the court to appoint a *guardian ad litem* to represent the child's best interests in the proceeding after a petition has been filed. Creates a Task Force on Children Conceived by Rape to study the new process for termination created in the act and to study and make recommendations to the General Assembly for protecting rape victims and for addressing parental rights in cases in which there are allegations that a sexual assault has occurred, a conviction of or prosecution for sexual assault has not occurred, and a child has been conceived as a result of the alleged sexual assault. Appropriates \$9,000 General Fund to the Department of Human Services to assist the Task Force.

S.B. 13-230: (Long Bill) General appropriations act for FY 2013-14.

S.B. 13-246: (Criminal Discovery Task Force) Creates a Discovery Task Force to meet to address the issue of discovery costs in criminal cases. In addition to a non-voting technology advisor from the Office of Information Technology, the Task Force consists of the following 11 members: (1) the Attorney General (or his designee), who shall serve as the Chair of the Task Force; (2) the State Court Administrator (or his designee), who shall serve as the Vice-Chair of the Task Force; (3) the State Public Defender (or his designee); (4) a representative of the criminal defense bar; (5) three district attorneys (DAs) who represent differently sized judicial districts; (6) a county sheriff; (7) the Alternate Defense Counsel (or her designee); (8) a chief of police; and (9) a district court judge. The Task Force is required to study several topics and report back to the Joint Budget Committee and the Judiciary Committees by January 31, 2014. Topics the Task Force will study include the following:

- The ability of DAs' offices to obtain law enforcement discoverable evidence in an electronic format, and options for addressing the short-term needs of law enforcement and DAs to facilitate greater use of electronic discovery;
- The reimbursements paid to reimburse DAs' offices for the expenses for which the DA is responsible related to the discovery process; and
- An alternative funding process to reimburse the DAs for appropriate discovery costs without requiring the State Public Defender, Alternate Defense Counsel, or any indigent *pro se* defendant to pay for discovery.

S.B. 13-250: (Drug Sentencing Changes) Creates new felony and misdemeanor drug sentencing grids, and assigns each of the drug crimes a new drug penalty based on the new felony and misdemeanor drug sentencing grids. Creates a sentencing option for offenders convicted of certain drug felonies that allows the court to vacate the felony conviction and enter

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a misdemeanor conviction in its place if the offender successfully completes a community-based sentence. Allows the court to impose residential drug treatment as a condition of probation when a defendant is sentenced to probation for a drug offense. Amends the intensive supervision probation program to allow defendants convicted of a misdemeanor to participate if they are assessed as higher risk.

Authorizes the statewide organization representing district attorneys (DAs) the ability to receive, manage, and expend state funds in the manner prescribed by the General Assembly on behalf of the DAs who are members of the organization. Directs the General Assembly to appropriate at least \$3,500,000 in FY 2014-15 to the Correctional Treatment Cash Fund from the estimated savings from S.B. 13-250. Requires the Division of Criminal Justice in the Department of Public Safety to collect data on drug cases and issue a report by December 31, 2016. For FY 2013-14, appropriates \$339,764 General Fund and 4.8 FTE to the Judicial Department, and appropriates \$521,850 General Fund to the Department of Corrections and reappropriates this amount to the Governor's Office of Information Technology.

H.B. 13-1035: (Add Two Judges) Modifies the number of judges allocated to the 5th judicial district (Clear Creek, Eagle, Lake, and Summit counties) and the 9th judicial district (Garfield, Pitkin, and Rio Blanco counties), increasing the allocation for each judicial district by one district court judge. Appropriates \$776,974 cash funds from the Judicial Stabilization Fund and 8.0 FTE to the Judicial Department for FY 2013-14.

H.B. 13-1156: (Adult Pretrial Diversion Program) Repeals the adult deferred prosecution sentencing option and replaces it with an adult diversion program. Creates a Diversion Funding Committee to review applications and allocate funding for diversion programs. Requires a district attorney that receives funding pursuant to the act to collect data and provide a status report to the Judicial Department based on its adult diversion program. Requires the Judicial Department to provide an annual status report to the Joint Budget Committee beginning in January 2015. Appropriates \$425,000 General Fund and 0.5 FTE to the Judicial Department for FY 2013-14.

H.B. 13-1160: (Criminal Theft) Amends the penalties for criminal theft and amends criminal theft to include the existing statutory offenses of theft of rental property and theft by receiving. Repeals the existing statutory offenses of theft of rental property, theft by receiving, fuel piracy, and newspaper theft. Reduces General Fund appropriations for FY 2013-14 by a total of \$882,925 and 6.0 FTE, including \$520,400 for the Department of Corrections and \$362,525 and 6.0 FTE for the Judicial Department.

H.B. 13-1210: (Right to Legal Counsel in Plea Negotiations) Repeals a statute that requires an indigent person charged with a misdemeanor, petty offense, or motor vehicle or traffic offense to meet with the prosecuting attorney for plea negotiations before legal counsel is appointed. Clarifies that appointment of the State Public Defender to represent indigent persons applies when the charged offense includes a possible sentence of incarceration. Specifies that these changes are effective January 1, 2014, and apply to misdemeanors, petty offenses, class 2 and class 3 misdemeanor traffic offenses, and municipal or county ordinance violations committed on or after that date. Appropriates a total of \$3,795,400 General Fund and 37.9 FTE to the

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Judicial Department for FY 2013-14, including \$3,710,909 and 37.1 FTE to the Office of the State Public Defender, and \$84,491 and 0.8 FTE for the trial courts.

H.B. 13-1230: (Compensation for Persons Wrongly Incarcerated) Creates a state compensation program for persons who are found actually innocent of felony crimes after serving time in jail, prison, or juvenile placement. To become eligible for state funds, the exonerated person (or his or her immediate family members) must submit a petition and supporting documentation to the district court in the county that heard the original case. The Attorney General and district attorney for that judicial district may concur or contest the petition. If contested, the district court may order for evidence to be retested and is authorized to consider new evidence, whether or not it was part of the original trial. If a petition is contested, the burden to prove actual innocence is upon the petitioner. Either the Attorney General or the district attorney may contest a finding of actual innocence, but payments are to be made while the appeal is pending. If the outcome of the appeal is favorable to the State, the court is authorized to take the necessary steps to recover any moneys disbursed. If found actually innocent, the exonerated person is eligible to receive the following benefits:

- monetary compensation in the amount of \$70,000 for each year incarcerated, plus an additional \$25,000 for each year he or she served on parole and \$50,000 for each year he or she was incarcerated and awaited execution;
- tuition waivers at state institutions of higher education, if the exonerated person was incarcerated for at least three years;
- compensation for child support payments and associated interest owed by the exonerated person that were incurred during his or her incarceration;
- reasonable attorney fees; and
- the amount of any fine, penalty, court costs, or restitution imposed as a result of the exonerated person's wrongful conviction.

Specifies circumstances under which no payments are allowed. Appropriates \$100,000 General Fund to the Judicial Department for FY 2013-14 for the State Court Administrator to compensate eligible persons. Also appropriates \$128,662 General Fund and 1.4 FTE to the Department of Law for FY 2013-14 to respond to petitions, and if appropriate, contest the petition in district court. Appropriates \$1,920 General Fund to the Department of Higher Education for FY 2013-14 for stipends for students attending state institutions, and reappropriates that amount to the State Board for Community Colleges and Occupational Education State System Community Colleges.

H.B. 13-1254: (Restorative Justice) Modifies the existing requirement that restorative justice victim-offender conferences must be initiated by the victim, permitting in some instances a suitable defendant to request to participate. Expands the membership of the Restorative Justice Coordinating Council (Council) in the State Court Administrator's Office. Requires the Council to develop a uniform restorative justice satisfaction evaluation and to collect information regarding all existing restorative justice programs and practices and report that data to the Judiciary Committees by January 31, 2014. Creates a pilot project for restorative justice programs in four judicial districts. Creates a \$10 surcharge on all crimes to be credited to a

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newly created Restorative Justice Surcharge Fund, to support restorative justice programs and the Council. Appropriates a total of \$32,892 and 0.5 FTE to the Judicial Department for FY 2013-14, including \$20,639 General Fund and \$12,263 cash funds from the Restorative Justice Surcharge Fund.

H.B. 13-1259 (Allocating Parental Rights in D&N): Makes amendments to various provisions of law relating to civil actions and orders, and changes procedures concerning the allocation of parental rights and responsibilities in cases involving child abuse and neglect and domestic violence. Appropriates \$275,399 cash funds from the Judicial Stabilization Cash Fund and 3.2 FTE to the Judicial Department for FY 2013-14.

H.B. 13-1325 (Inferences for Marijuana and Driving Offenses): States that in any DUI prosecution, and in any prosecution for vehicular homicide or vehicular assault, if at the time of driving (or within a reasonable time thereafter) the driver's blood contains five nanograms or more of delta 9-tetrahydrocannabinol per milliliter in whole blood such fact gives rise to a permissible inference that the defendant was under the influence of one or more drugs. Removes instances of the term "habitual user" from the traffic code. Appropriates \$12,000 General Fund to the Office of the State Public Defender for FY 2013-14. Makes statutory appropriations totaling \$26,367 General Fund to the Department of Corrections, including \$20,816 for FY 2014-15 and \$5,551 for FY 2015-16.

H.J.R. 13-1019 (Juvenile Defense Attorney Interim Committee): Creates a 2013 legislative interim committee, consisting of ten legislative members and ten nonvoting members who have experience in juvenile proceedings, to study the role of legal defense counsel in the juvenile justice system. Requires the Committee to make a report to the Legislative Council, including any recommendations for legislation. The Committee is charged with studying issues concerning juvenile justice, including the following:

- current laws, procedures, and practices related to appointment of counsel for children in juvenile delinquency court;
- comparing the role of defense counsel with the role of a *guardian ad litem*;
- methods for improving professionalism in the practice of juvenile defense;
- the impact of inadequate access to counsel on minority, immigrant, disabled and mentally-ill children;
- funding attorneys to represent indigent children and the most efficient way to provide counsel to juveniles in delinquency proceedings; and
- issues related to public access to juvenile delinquency records.

Appendix C: **Update on Long Bill Footnotes & Requests for Information**

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

Applicable to Multiple Agencies Within Judicial Branch

LBF #37 – Compensation for justices, judges, the State Public Defender, the Alternate Defense Counsel, and the Executive Director of the Office of the Child's Representative

Probation

LBF #39 – State funding for veterans treatment courts

Statewide RFI #2 – Cash funds that are utilized by multiple state agencies

Judicial RFI #3 – Recidivism rates

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

Office of the State Public Defender

LBF #40 – Authority to transfer funds between line item appropriations

Judicial RFI #2 – Appellate case backlog

Office of the Alternate Defense Counsel

LBF #41 – Authority to transfer funds between line item appropriations

Office of the Child's Representative

LBF #42 – Authority to transfer funds between line item appropriations

LBF #43 – Authority to utilize \$25,000 to fund pilot program for domestic relations cases

Independent Ethics Commission

LBF #44 – Authority to transfer funds between line item appropriations

District Attorneys

LBF #38 – Portion of state funding for District Attorney mandated costs provided for two cases

Judicial RFI #1 – State funding for District Attorney mandated costs

Long Bill Footnotes

- 37** **Judicial Department, Supreme Court/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** -- In accordance with Section 13-30-104 (3), C.R.S., funding is provided for judicial compensation, as follows:

	<u>FY 2012-13 Salary</u>	<u>Increase</u>	<u>FY 2013-14 Salary</u>
Chief Justice, Supreme Court	\$142,708	\$5,137	\$147,845
Associate Justice, Supreme Court	139,660	5,028	144,688
Chief Judge, Court of Appeals	137,201	4,939	142,140
Associate Judge, Court of Appeals	134,128	4,829	138,957
District Court Judge, Denver Juvenile Court Judge, and Denver Probate Court Judge	128,598	4,630	133,228
County Court Judge	123,067	4,430	127,497

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 and the Executive Director of the Office of the Child's Representative at the level of a district court judge.

Comment: This footnote first appeared in the FY 1999-2000 Long Bill. Sections 13-30-103 and 104, C.R.S., established judicial salaries for various fiscal years during the 1990s [through H.B. 98-1238]. These provisions state that any salary increases above those set forth in statute "shall be determined by the general assembly as set forth in the annual general appropriations bill." The General Assembly annually establishes judicial salaries through this footnote in the Long Bill. The footnote also establishes the salaries for the individuals who head three of the four independent agencies by tying them to specific judicial salaries.

As detailed in the above footnote, the FY 2013-14 budget includes funding to increase all of the salaries affected by this footnote by 3.6 percent. The budget request submitted by the Chief Justice of the Supreme Court for FY 2014-15 includes funding to increase all judge and justice salaries by 8.5 percent, including: a 3.0 percent salary survey increase; and a 5.5 percent systems study increase. The salary survey increase is intended to correspond to the Executive Branch requests for a 1.5 percent salary survey increase and a 1.5 percent merit pay increase.

- 39** **Judicial Department, Probation and Related Services, Offender Treatment and Services** -- It is the intent of the General Assembly that \$367,197 of the General Fund appropriation for Offender Treatment and Services be used to provide treatment and services for offenders participating in veterans treatment courts.

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Comment:

Background Information. Through the course of the General Assembly's consideration of the FY 2012-13 Long Bill, both the House and the Senate adopted amendments to the Long Bill to provide funding for veterans. Ultimately, the General Assembly approved: (1) an appropriation of \$1,000,000 General Fund to the Department of Military and Veterans Affairs for mental health, employment, housing, and other veterans services; and (2) an appropriation of \$367,197 General Fund to the Judicial Branch for purposes of funding treatment and services for offenders participating in veterans treatment courts. This footnote accompanied the appropriation to the Judicial Branch to state the intended use of such moneys. This funding was continued for FY 2013-14.

Allocation and Use of Funds. The funding provided through the Offender Treatment and Services line item is appropriated for the provision of treatment and services to offenders participating in veterans treatment courts. The Problem-solving Courts line item (in the Administration and Technology, Centrally Administered Programs subsection of the budget) provides additional funding for the staffing of problem-solving courts, including veterans treatment courts.

There are currently three veterans treatment courts in operation, one is scheduled to begin operating next January, and one is in the planning stages. For FY 2013-14, the Department has allocated the available funding among the four courts that will be operational this fiscal year based on the capacity of each court (*i.e.*, the number of individual participants) and the number of months that the court will be operational. The remaining funds will again be used to provide training for veterans treatment court staff.

Veterans Treatment Courts: State Funding for Treatment and Services						
Judicial District	Location	County	Start Date	FY 2013-14 Capacity	Allocation of State Funds	
					FY 2012-13	FY 2013-14
1	Golden	Jefferson	in planning	n/a	\$0	\$0
2	Denver	Denver	Fall 2011	30	56,000	56,000
4	Colorado Springs	El Paso	Fall 2009	150	269,500	245,000
17	Brighton	Adams	January 2014	20		24,500
18	Castle Rock	Douglas	March 2013	30	24,500	24,500
Training/ IT system changes (FY 2012-13 only)					17,000	17,000
Totals	5	5		230	\$367,000	\$367,000

Available funding is used to fill service gaps that cannot be met through existing veterans programs and services. Funded services may include: mental health and substance abuse services; drug testing services and supplies; psychotropic and antabuse medication; housing; training and educational materials; and program evaluation expenses.

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- 40 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 four footnotes that authorize the independent agencies to transfer a limited amount of funding among 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. Please note that while Section 24-75-108, C.R.S., is effective through August 31, 2020, Section 24-75-110 is only effective through August 31, 2014. **The Committee should consider introducing legislation in the 2014 session to extend the repeal date associated with Section 24-75-110, C.R.S., to August 31, 2020.**

The Office of the State Public Defender (OSPD) is in compliance with this footnote. This footnote provides the OSPD with the authority to transfer up to 2.5 percent of its total FY 2013-14 appropriation (\$1,867,531) between line items. In FY 2012-13, the OSPD transferred \$0 between line items. However, the OSPD transferred \$100,000 to the Office of the Alternate Defense Counsel (OADC) as allowed pursuant to Section 24-75-110, C.R.S., to cover OADC Mandated Costs.

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

Comment: The Office of the Alternate Defense Counsel (OADC) is in compliance with this footnote. This footnote provides the OADC with the authority to transfer up to 2.5 percent of its total FY 2013-14 appropriation (\$572,415) between line items. In FY 2012-13, the OADC transferred a total of \$130,310 (0.6 percent) between line items. The following table details the line items affected by such transfers. In addition, the Office of the State Public Defender transferred \$100,000 to the OADC as allowed pursuant to Section 24-75-110, C.R.S., to cover OADC Mandated Costs.

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Long Bill Line Item	Transfers In/ (Out)
Personal Services	\$45,271
Operating Expenses	(829)
Leased Space	(10,694)
Training and Conferences	549
Conflict of Interest Contracts	(118,787)
Mandated Costs	84,490
Net Transfers	0

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

Comment: The Office of Child's Representative is in compliance with this footnote. This footnote provides the OCR with the authority to transfer up to 2.5 percent of its total FY 2013-14 appropriation (\$492,628) between line items. In FY 2012-13, the OCR transferred a total of \$51,198 (0.3 percent) between line items. The following table details the line items affected by such transfers. In addition, \$9,329 was transferred from the Trial Courts appropriation for Court Costs, Jury Costs, and Court-appointed Counsel to the OCR as allowed pursuant to Section 24-75-110, C.R.S., to cover Court Appointed Counsel expenditures.

Long Bill Line Item	Transfers In/ (Out)
Personal Services	(\$20,814)
Operating Expenses	30,793
Leased Space	(15,120)
Training	3,026
Court Appointed Counsel	(15,264)
Mandated Costs	17,379
Net Transfers	0

- 43 Judicial Department, Office of the Child's Representative, Court Appointed Counsel --** It is the intent of the General Assembly that the Office of the Child's Representative be authorized to utilize up to \$25,000 of this appropriation to fund a pilot program as authorized pursuant to Section 13-91-105 (1) (e), C.R.S., for the purpose of evaluating alternatives to the appointment of child and family investigators and child's legal representatives in domestic relations cases.

Comment:
Background Information. Under current law, the court may make two types of appointments in a domestic relations case that involves allocation of parental responsibilities:

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- The court may appoint an attorney, a mental health professional, or any other individual with appropriate training and qualifications to serve as a child and family investigator (CFI). The CFI is required to investigate, report, and make recommendations in the form of a written report filed with the court; the CFI may be called to testify as a witness regarding his/her recommendations.
- The court may appoint an attorney to serve as a child's legal representative (CLR).

When the parties to the case are determined to be indigent, the Office of the Child's Representative (OCR) pays for attorney appointments. Expenditures by the OCR on appointments in domestic relations cases increased steadily from FY 2004-05 to FY 2008-09, from \$426,186 to \$801,945. However, from FY2009-10 through FY 2012-13 expenditures have ranged between \$402,210 and \$478,766.

Long Bill Footnote. This footnote, initially included in the FY 2009-10 Long Bill, authorizes the OCR to utilize up to \$25,000 of the appropriation for Court Appointed Counsel to fund a pilot program for the purpose of evaluating alternatives to the appointment of CFIs and CLR's in domestic relations cases. The evaluation would determine whether the use of alternatives results in equal or better outcomes, and whether it reduces state expenditures.

The OCR is continuing to support a pilot program in the 17th judicial district (Adams/Broomfield) to offer Early Neutral Assessment (ENA) to parties in domestic relations cases (the OCR pilot began in FY 2009-10). For FY 2011-12, the OCR paid for 10 appointments in Adams county at a cost of \$5,200. During FY 2012-13, the 2nd judicial district (Denver) was added to the pilot project. For FY 2012-13, the OCR spent a total of \$22,515 on 49 ENA appointments, including 16 in Adams county and 33 in Denver.

ENA offers trained two-person teams to help parties understand the strengths and weaknesses of their positions, assisting them to come to an early resolution. Each team consists of one attorney and one mental health expert, one of whom is male and the other female. When parties attend their initial status conference they often request a CFI or request a hearing to determine parenting time. When this occurs, the Family Court Facilitator identifies cases that may be appropriate for a referral to the ENA pilot. ENA is a voluntary, free, confidential process. If the parties agree that they want to attend ENA, the session is scheduled within a month of the initial status conference.

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

The primary benefits of ENA are that it's voluntary, timely, and client-driven. The process allows each parent to feel heard and talk about what is important. ENA works well for cases where there is disagreement with parenting time schedules and decision

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making between parties. The approach the evaluators take is that it's not if decisions will be made about parenting time, it's how. In general, it's better for children for parents to make these decisions. Even when full agreement is not reached, the number of disagreements often narrowed and communication between the parties improved.

- 38 Judicial Department, Trial Courts, District Attorney Mandated Costs** -- It is the intent of the General Assembly that \$353,500 of the amount appropriated for District Attorney Mandated Costs be used only to reimburse mandated costs associated with two cases: The People of the State of Colorado v. James Holmes (12CR1522); and The People v. Austin Reed Sigg (2012CR2899). Should reimbursable mandated costs incurred in FY 2013-14 for these two cases total less than \$353,500, it is the intent of the General Assembly that the unexpended funds revert to the General Fund.

Comment: This footnote was first included in S.B 13-092, the supplemental bill for FY 2012-13. The footnote expresses the intent of the General Assembly that a portion of the amount appropriated for this line item be used only to reimburse mandated costs associated with two specific cases. In FY 2012-13, \$265,100 General Fund was provide for this purpose; a total of \$111,993 was used to reimburse mandated costs for these cases, and the remaining \$153,107 reverted to the General Fund.

As indicated in the above footnote, \$353,500 General Fund has been provided for this purpose for FY 2013-14. For FY 2014-15, the CDAC is requesting that \$400,000 General Fund be provided for the Holmes case.

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

Comment: The Independent Ethics Commission is in compliance with this footnote. This footnote provides the Commission with the authority to transfer up to 10.0 percent of its total FY 2013-14 appropriation (\$31,575) between line items. In FY 2012-13, the Commission transferred a total of \$6,420 (2.9 percent) between line items. The following table details the line items affected by such transfers.

Long Bill Line Item	Transfers In/ (Out)
Personal Services	(\$6,420)
Legal Services	6,420
Net Transfers	0

Requests for Information

Requests Applicable to Multiple Departments, Including Judicial Branch

- 2 Department of Corrections, Management, Executive Director's Office Subprogram;
Department of Human Services, Behavioral Health Services, Alcohol and Drug**

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

Comment: Prior to FY 2013-14, this RFI was included as a Long Bill footnote with the intent of ensuring that Departments coordinate requests that draw on the same cash fund.

The 2012 budget instructions issued by the Office of State Planning and Budgeting (OSPB) state that, "In cases where departments share a common cash fund/source, OSPB will be responsible for ensuring that the total request does not exceed the capacity of the fund." Each Department is required to include, as part of its budget request, a Cash Fund Report (schedule 9) for each cash fund it administers to comply with the statutory limit on cash fund reserves, and to allow both OSPB 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.

Offender Identification Fund [Section 24-33.5-415.6 (1), C.R.S.] - This fund consists of payments for genetic testing received from adult and juvenile offenders, including: certain convicted adult offenders [as required by Section 16-11-102.4, C.R.S.]; certain juveniles who are sentenced to the youthful offender system [as required by Section 18-1.3-407 (11.5, C.R.S.); and certain adjudicated offenders [as required by Section 19-2-925.6, C.R.S.]. The testing fee is currently \$128.

Pursuant to S.B. 09-241, beginning October 1, 2010, 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. The act imposes 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. These surcharges became effective July 1, 2009, and are credited to the Offender Identification Fund.

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The Judicial Department is responsible for collecting biological substance samples from offenders who are sentenced to probation. The Department of Corrections, the Department of Human Services (Division of Youth Corrections), county sheriffs, and community corrections programs are responsible for collecting biological substance samples from offenders in their custody. The CBI (within the Department of Public Safety) 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.

Pursuant to S.B. 09-241, the CBI is to provide test kits to local law enforcement agencies throughout the state to collect DNA samples from arrestees. Over time, this should decrease the number of individuals for whom Judicial and Corrections will need to collect a sample.

Moneys in the Fund are subject to annual appropriation to the Judicial Department and the Department of Public Safety to pay for genetic testing of offenders. Both the Judicial Department and the Department of Public Safety receive direct appropriations from the Fund (\$58,725 and \$1,895,264 for FY 2013-14, respectively). However, fund revenues are not currently sufficient to support these appropriations, so a program restriction of \$700,000 has been put in place for FY 2013-14.

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 \$75 to \$3,000 for each conviction or adjudication. Moneys in the Fund are subject to annual appropriation to the Judicial Department, the Department of Corrections, the Department of Public Safety's Division of Criminal Justice, and the Department of Human Services to cover the direct and indirect costs associated with the evaluation, identification, and treatment and the continued monitoring of sex offenders. Pursuant to Section 16-11.7-103 (4) (c), C.R.S., the Sex Offender Management Board (SOMB) is required to develop a plan for the allocation of moneys deposited in the Fund, and to submit the plan to the General Assembly.

Budget instructions issued by the OSPB identify the Department of Corrections as the lead agency for reporting purposes. The Judicial Department receives a direct appropriation from the Fund to support offender treatment and services (\$302,029 for FY 2013-14). However, fund revenues are not currently sufficient to support these appropriations, so a program restriction of \$12,081 has been put in place for the Judicial Department for FY 2013-14.

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

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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. Moneys in the Fund are 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 (\$4,795,414 for FY 2013-14), and a portion of this funding is transferred to the Department of Human Services for the administration of alcohol and drug abuse services (\$431,536 for FY 2013-14). However, fund revenues are not currently sufficient to support these appropriations, so a program restriction of \$2,000,000 has been put in place for the Judicial Department for FY 2013-14. Budget instructions issued by the OSPB identify the Judicial Department as the lead agency for reporting purposes.

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. Moneys in the Fund are 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.

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The Judicial Department does not administer this fund, but it receives moneys from the Fund transferred from the Department of Human Services (\$779,846 for FY 2013-14). While fees are collected by the courts, budget instructions issued by the OSPB identify the Department of Human Services as the lead agency for reporting purposes.

Requests Applicable to Judicial Branch Only

1. **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 information provided by the Colorado District Attorneys' Council (CDAC)⁷, as requested.

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 provided by boards of county commissioners within each respective judicial district, the State provides direct funding for DAs in the following four areas:

- The Department of Law's budget includes an appropriation for "District Attorneys' Salaries" (\$2,676,960 General Fund for FY 2013-14). This appropriation covers 80 percent of the statutory minimum salary for the elected DA (currently \$130,000), plus the associated PERA and Medicare costs.
- The Judicial Department's budget includes an appropriation for "District Attorney Mandated Costs" (\$2,651,916 total funds, including \$2,491,916 General Fund for FY 2013-14). This line item is described below.
- The Department of Corrections' budget includes an appropriation for "Payments to District Attorneys" for costs associated with prosecuting a crime alleged to have been committed by a person in the custody of the Department (\$366,880 General Fund for FY 2013-14).
- The Department of Public Safety's budget includes an appropriation for "Witness Protection Fund Expenditures" to pay DAs for qualifying expenses related to security

⁷ The CDAC is a quasi-government agency, supported by assessments charged to each district attorney member's office (through an intergovernmental agreement).

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personnel, travel expenses, lodging, and other immediate needs (\$83,000 General Fund was appropriated for this purpose for FY 2013-14).

In addition, the General Assembly appropriates funds to the State Court Administrator's Office, the OSPD, the OADC, and the OCR to cover the costs of obtaining discoverable materials⁸. In FY 2012-13, these offices spent a total of \$2,456,955 for discovery; 98 percent of these costs were incurred by the OSPD and the OADC. These costs have increased by 97 percent in the last six fiscal years. The majority of these expenditures (\$2,178,819 in FY 2012-13) were paid to reimburse DAs or the Attorney General's Office.

District Attorney Mandated Costs. This line item provides state funding to reimburse 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.⁹, when the defendant is acquitted or when the defendant is convicted and the court determines he is unable to pay them." Pursuant to Section 18-1.3-701 (2), C.R.S., when a person is convicted of an offense or a juvenile is adjudicated, the Court shall give judgment in favor of the State, the prosecuting attorney, or the law enforcement agency and against the offender or juvenile for the amount of the costs of prosecution. Section 16-18-101, C.R.S., specifies the types of expenditures that may be included under this provision.

Based on FY 2012-13 expenditure data provided by the CDAC, DAs' mandated costs consist of the following:

- Witness fees and travel expenses (\$636,648 or 29.2 percent)
- Expert witness fees and travel expenses (\$534,183 or 24.5 percent)
- Mailing subpoenas (\$474,947 or 21.8 percent)
- Service of process (\$360,513 or 16.5 percent)
- Court reporter fees for transcripts (\$174,986 or 8.0 percent)

The following table provides a history of appropriations and actual expenditures for this line item.

⁸ Under Colorado Supreme Court Rule 16, the prosecuting attorney is required to make available to the defense certain material and information that is within his or her control and to provide duplicates upon request. The State pays the costs of duplicating discoverable material when legal representation is provided for an indigent defendant.

⁹ 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".

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District Attorneys' Mandated Costs								
Fiscal Year	Appropriation			Actual Expenditures				Over/ (Under) Budget
	General Fund	Cash Funds	Total	General Fund	Cash Funds	Total	Annual % Change	
2000-01	\$1,938,724	\$0	\$1,938,724	\$1,889,687	\$0	\$1,889,687		(\$49,037)
2001-02	1,938,724	0	1,938,724	1,978,963	0	1,978,963	4.7%	40,239
2002-03	2,025,199	125,000	2,150,199	1,833,410	71,117	1,904,527	-3.8%	(245,672)
2003-04	2,025,199	125,000	2,150,199	1,847,369	59,334	1,906,703	0.1%	(243,496)
2004-05	1,911,899	0	1,911,899	1,911,970	0	1,911,970	0.3%	71
2005-06	1,911,899	0	1,911,899	1,772,849	106,325	1,879,174	-1.7%	(32,725)
2006-07	1,841,899	125,000	1,966,899	1,928,795	99,090	2,027,885	7.9%	60,986
2007-08	1,837,733	125,000	1,962,733	2,092,974	130,674	2,223,648	9.7%	260,915
2008-09	2,101,052	125,000	2,226,052	2,063,785	125,000	2,188,785	-1.6%	(37,267)
2009-10	2,101,052	125,000	2,226,052	2,101,050	125,000	2,226,050	1.7%	(2)
2010-11 a/	2,005,324	125,000	2,130,324	2,005,507	125,000	2,130,507	-4.3%	183
2011-12	2,073,494	125,000	2,198,494	2,061,883	125,000	2,186,883	2.6%	(11,611)
2012-13	2,389,549	140,000	2,529,549	2,179,497	125,000	2,304,497	5.4%	(225,052)
2013-14 b/	2,491,916	160,000	2,651,916					
2014-15								
Request c/	2,644,352	160,000	2,804,352					

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

b/ Appropriation includes mid-year increase of \$265,100 General Fund specifically for the *Holmes* and *Sigg* cases.

c/ Request includes \$400,000 General Fund specifically for the *Holmes* and *Sigg* cases.

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

The CDAC allocates funds among the 22 judicial districts (including those districts that are not members of the CDAC) based on historical spending. However, the CDAC holds back a portion of the appropriation (typically \$300,000). District Attorneys submit information quarterly concerning costs incurred, as well as projections of annual expenditures. The CDAC has a special process for requesting additional funds above the allocated amount. In order to limit state expenditures, the CDAC has previously required DAs to continue to follow the old Chief Justice Directive 87-01, which limited expert witness fees. The CDAC has changed this policy to allow \$1,500 per expert (rather than \$1,000). Fees paid in excess of the limits established in this Directive are only reimbursed if funds remain available at the end of the fiscal year. In FY 2012-13, DAs' did not incur expenditures above such limits.

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For FY 2014-15, the CDAC requests an appropriation of \$2,804,352, which represents a \$152,436 increase compared to FY 2013-14. The requested increase includes \$105,936 (4.6 percent) for all DAs' mandated costs, and an increase of \$46,500 in the funding that is available to reimburse mandated costs for the *People of the State of Colorado v. James Holmes* case.

2. **Judicial Department, Office of the State Public Defender** – The State Public Defender is requested to provide by November 1, 2013, a report concerning the Office's appellate case backlog for the last five fiscal years including the fiscal year ending June 30, 2013, and the potential resources that would be required to reduce the backlog to a reasonable level within the next five fiscal years.

Comment: The issue brief titled "Backlog of Criminal Appeal Cases" provides background information about this request and discusses the response submitted by the OSPD.

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

Comment: The Department submitted the information, as requested. This report concerns recidivism among probationers terminated during FY 2011-12. On June 30, 2012, there were 74,330 offenders on probation in Colorado, including 68,859 adults and 5,471 juveniles, including those under intensive supervision¹⁰. Key findings included in the report are summarized below.

Pre-release Recidivism

- Pre-release recidivism rates (including revocations due to both technical violations and new crimes) increased for both juveniles and adults.
- As expected based on their risk assessment, both juveniles and adults supervised at the most intensive level and those supervised by other agencies (e.g., county jail work release programs, detention centers, or residential placements) were most likely to fail while under supervision.
- Probation is more likely to be revoked due to offenders committing technical violations rather than a new crime. However, the proportion of offenders who are

¹⁰ The total of 74,330 includes individuals under state and private probation supervision (DUI and non-DUI). An additional 5,790 offenders were monitored by state probation but were not part of this study.

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terminated from probation due to technical violations has generally declined over the last several years. The division has focused on this area in recent years, providing officers with training and tools to respond to technical violations with intermediate sanctions and avoiding revocation when appropriate.

Post-release Recidivism

- Of the 2,855 juveniles who successfully completed regular probation supervision, 417 (14.6 percent) received a new filing within one year. Of the 199 juveniles who successfully completed intensive probation supervision, nine (4.5 percent) received a new filing.
- Of the 24,470 adults who successfully completed regular probation supervision, 1,469 (6.0 percent) received a new filing within one year. Post-release recidivism rates for those who successfully completed the Adult Intensive Supervision Program (AISP) and the Female Offender Program (FOP) were 1.0 percent and 1.9 percent, respectively.

Overall Success Rate

- The overall success rate, defined as individuals who successfully completed probation and did not commit a new crime within one year of leaving probation supervision, decreased (at least slightly) for all offender categories except for juveniles on intensive supervision.
- Overall, the FY 2011-12 cohorts of juveniles and adults on regular probation experienced the second highest overall success rates in the past ten years.
- For juveniles under regular supervision, 63.7 percent were successful one year after release; for those under intensive supervision, 48.0 percent were successful.
- For adults under regular supervision, 70.0 percent were successful one year after release; for those under intensive supervision, overall success rates were 63.3 percent for AISP and 65.4 percent for FOP.

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

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Probation Recidivism Rates
Termination Cohorts for Fiscal Years 2004-05 Through 2011-12 a/

Supervision Level at Time of Termination	Fiscal Year	Pre-release Recidivism b/		Post-Release Recidivism c/	Overall Success d/
		Technical Violation	New Crime		
Juvenile - Regular	2004-05	25.7%	6.2%		58.2%
	2005-06	23.8%	6.6%		58.9%
	2006-07	21.5%	6.8%		60.1%
	2007-08	20.9%	6.6%		61.4%
	2008-09	19.3%	7.0%		62.4%
	2009-10	19.9%	7.1%		62.7%
	2010-11	15.6%	6.2%		69.4%
	2011-12	17.8%	7.6%	14.6%	63.7%
3,826	Individuals	680	291	417	2,438
Adult - Regular	2004-05	32.6%	6.1%		56.4%
	2005-06	33.0%	6.3%		55.7%
	2006-07	31.8%	7.1%		55.9%
	2007-08	29.3%	6.3%		59.7%
	2008-09	25.0%	6.1%		64.3%
	2009-10	21.2%	5.5%		68.9%
	2010-11	20.0%	5.0%		70.6%
	2011-12	20.5%	5.1%	6.0%	70.0%
32,860	Individuals	6,722	1,668	1,469	23,001

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

b/ "Pre-release Recidivism" includes an adjudication or conviction for a felony or a misdemeanor, or a technical violation relating to a criminal offense, while under supervision in a criminal justice program.

c/ "Post-release Recidivism" reflects the percent of successfully terminated offenders for whom there was a filing for a felony or misdemeanor (whether or not it resulted in a conviction) within one year of termination from program placement for a criminal offense.

d/ "Overall success" reflects those offenders who did not recidivate either prior to or for one year following release.

Intensive Supervision Programs

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

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- The overall success rate for JISP is significantly lower than for regular juvenile supervision – 48.0 percent compared to 63.7 percent. For juveniles who terminated probation for technical violations, 59.8 percent on JISP were sentenced to the Division of Youth Corrections (DYC) or the Department of Corrections (DOC), compared to 27.2 percent on regular probation. For juveniles who terminated probation for committing a new crime, 78.8 percent on JISP were sentenced to DYC or DOC, compared to 36.8 percent on regular probation.
- The overall success rate for AISP is slightly lower than for regular adult supervision – 63.3 percent compared to 70.0 percent. For adults who terminated probation for technical violations, 50.4 percent on AISP were sentenced to DOC, compared to 7.8 percent on regular probation. For adults who terminated probation for committing a new crime, 84.6 percent on AISP were sentenced to DOC, compared to 19.5 percent on regular probation.
- The overall success rate for FOP, 65.4 percent, is also slightly lower than for regular adult supervision. For adults who terminated probation for technical violations, 37.5 percent on FOP were sentenced to DOC, compared to 7.8 percent on regular probation. For adults who terminated probation for committing a new crime, 83.3 percent on FOP were sentenced to DOC, compared to 19.5 percent on regular probation.

To the extent that these intensive programs divert high risk offenders who would otherwise be incarcerated, they are cost effective. Specifically, for FY 2011-12:

- JISP redirected as many as 190 juveniles from DYC, including 51 who left probation and did not recidivate within one year and 139 who succeeded and were transferred to regular probation. The annual cost to serve a juvenile in DYC in FY 2011-12 was \$72,836, compared to \$7,851 for JISP.
- AISP redirected as many as 724 offenders from DOC, including 45 who left probation and did not recidivate within one year and 679 who succeeded and were transferred to regular probation. FOP redirected as many as 102 women from DOC, including 16 who left probation and did not recidivate within one year and 86 who succeeded and were transferred to regular probation. The annual cost to serve an offender in DOC in FY 2011-12 was \$32,344, compared to \$3,826 for AISP and \$3,387 for FOP.

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

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Probation Recidivism Rates
Termination Cohorts for Fiscal Years 2004-05 Through 2011-12

Supervision Level at Time of Termination	Fiscal Year	Pre-release Recidivism a/		Post-Release Recidivism b/	Overall Success c/
		Technical Violation	New Crime		
Juvenile Intensive Supervision Program (JISP) d/	2004-05	39.1%	12.2%		46.8%
	2005-06	43.8%	11.6%		40.0%
	2006-07	40.7%	11.5%		43.2%
	2007-08	40.8%	18.1%		37.3%
	2008-09	37.7%	17.3%		43.5%
	2009-10	34.8%	19.4%		44.1%
	2010-11	32.1%	18.1%		47.3%
	2011-12	34.6%	15.2%	4.5%	48.0%
<i>396 Individuals</i>		<i>137</i>	<i>60</i>	<i>9</i>	<i>190</i>
Adult Intensive Supervision Program (AISP) d/, e/	2004-05	34.4%	13.6%		51.9%
	2005-06	31.4%	14.7%		52.9%
	2006-07	33.1%	10.9%		55.9%
	2007-08	31.5%	14.0%		54.1%
	2008-09	22.7%	10.8%		66.0%
	2009-10	23.9%	10.5%		65.2%
	2010-11	22.3%	10.6%		66.5%
	2011-12	25.0%	11.0%	1.0%	63.3%
<i>1,143 Individuals</i>		<i>286</i>	<i>126</i>	<i>7</i>	<i>724</i>
Adult - Female Offender Program (FOP) d/	2004-05	31.6%	10.5%		57.9%
	2005-06	37.2%	6.2%		54.9%
	2006-07	28.0%	9.3%		61.6%
	2007-08	26.2%	8.7%		63.9%
	2008-09	19.9%	7.0%		71.6%
	2009-10	21.7%	9.1%		68.5%
	2010-11	18.8%	11.3%		68.8%
	2011-12	25.6%	7.7%	1.9%	65.4%
<i>156 Individuals</i>		<i>40</i>	<i>12</i>	<i>2</i>	<i>102</i>

a/ "Pre-release Recidivism" includes an adjudication or conviction for a felony or a misdemeanor, or a technical violation relating to a criminal offense, while under supervision in a criminal justice program.

b/ "Post-release Recidivism" reflects the percent of successfully terminated offenders for whom there was a filing for a felony or misdemeanor (whether or not it resulted in a conviction) within one year of termination from program placement for a criminal offense.

c/ "Overall success" reflects those offenders who did not recidivate either prior to or for one year following release.

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

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

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

Comment: The Department provided the information requested.

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 2012-13 Expenditures

The table on the following page details actual expenditures for FY 2011-12 and FY 2012-13. Total probation-related expenditures in FY 2012-13 were \$3.5 million higher than in FY 2011-12. Primarily, the increased expenditures were used for substance abuse services. Other significant increases occurred in the areas of electronic home monitoring and special needs treatment.

As in past years, more than two-thirds of moneys expended by the Judicial Branch were used for substance abuse testing and treatment (49.2 percent) and sex offender assessment, polygraphs, and treatment (21.0 percent). The remaining funds were spent for a variety of services, such as: domestic violence treatment; mental health services; electronic home monitoring and GPS tracking; interpreter services; and housing, transportation, and vocational assistance.

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Treatment or Service	FY 2011-12		FY 2012-13	
	Expenditures	% of Total	Expenditures	% of Total
Substance Abuse Treatment	\$1,696,999	18.0%	\$2,058,100	15.9%
Community-based Substance Abuse Treatment Services a/ Drug Testing	1,533,456	16.3%	1,910,935 1,675,376	14.8% 13.0%
Transfer of Persistent Drunk Driver Cash Fund moneys from DHS	551,041	5.9%	711,845	5.5%
Subtotal: Substance Abuse Services	3,781,496	40.2%	6,356,256	49.2%
Adult Sex Offender Assessment	1,102,613	11.7%	1,051,898	8.1%
Adult Sex Offender Treatment	931,861	9.9%	994,869	7.7%
Adult Sex Offender Polygraphs	349,052	3.7%	387,364	3.0%
Juvenile Sex Offender Assessment and Treatment	189,734	2.0%	215,277	1.7%
Juvenile Sex Offender Polygraphs	69,550	0.7%	66,629	0.5%
Subtotal: Sex Offender Services	2,642,810	28.1%	2,716,037	21.0%
Domestic Violence Treatment	705,327	7.5%	742,040	5.7%
Mental Health Services	578,357	6.1%	584,296	4.5%
Emergency Housing	370,757	3.9%	430,661	3.3%
Electronic Home Monitoring	218,105	2.3%	430,163	3.3%
Special Needs Treatment	128,291	1.4%	371,279	2.9%
Transportation Assistance	302,786	3.2%	318,066	2.5%
Veterans Trauma Courts			197,961	1.5%
Incentives	87,853	0.9%	137,007	1.1%
Educational/Vocational Assistance	199,323	2.1%	129,341	1.0%
Transfer to Denver County			125,414	1.0%
Restorative Justice	82,195	0.9%	114,410	0.9%
Interpreter Services	95,092	1.0%	95,000	0.7%
Global Positioning Satellite Tracking (GPS)	131,215	1.4%	80,737	0.6%
General Medical Assistance	47,928	0.5%	45,575	0.4%
Subtotal: Funds Allocated to/Expended by Districts	9,371,535	99.6%	12,874,243	99.6%
Evidence-based Practices Research	11,756	0.1%	30,550	0.2%
Initiative to Build Capacity in Rural/Under served Areas	27,974	0.3%	17,942	0.1%
Total Probation Expenditures	\$9,411,265	100.0%	\$12,922,735	100.0%
Transfer to Department of Corrections for Day Treatment	0		14,325	
Other Transfers to Other State Agencies	3,960,919		8,379,078	
Total Expenditures	\$13,372,184		\$21,316,138	

a/ This funding was initially established through S.B. 03-318 and was appropriated through a separate line item. Pursuant to H.B. 12-1310, this amount is now credited to the Correctional Treatment Cash Fund and allocated as part of the Offender Treatment and Services line item.

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 for FY 2013-14.

Appendix D: Indirect Cost Assessment Methodology

Description of Indirect Cost Assessment Methodology

Description of Indirect Cost Assessment Methodology

The Judicial Branch's indirect cost assessment methodology is based on an "*Indirect Cost Pool*", which is allocated among fund sources based on estimates of the relative benefit that each program area receives from each component of the Indirect Cost Pool.

The Branch's Indirect Cost Pool is comprised of the General Fund share of several line item appropriations that appear in three sections of the Long Bill, listed below.

Courts Administration

- *General Courts Administration
- Information Technology Infrastructure
- Workers' Compensation
- Legal Services
- Purchase of Services from Computer Center
- Multiuse Network Payments
- Payment to Risk Management and Property Funds
- Leased Space - State Court Administrator's Office
- Communication Services
- COFRS Modernization
- Lease Purchase

Trial Courts

- *Trial Court Programs

Probation and Related Services

- *Probation Programs

Three of the line item appropriations that are included in the Department's Indirect Cost Pool (noted with an asterisk above) support personal services and operating expenses in the State Court Administrator's Office and judicial districts. The Department only includes that portion of each appropriation that relates to administrative positions. The Department also includes the associated costs of administrative employees' benefits. The Department's Indirect Cost Pool is based on appropriated amounts for the previous fiscal year (*e.g.*, the Indirect Cost Pool for FY 2013-14 is based on FY 2012-13 Long Bill appropriations). **Table 1** outlines which line items are included in the Department's Indirect Cost Pool for FY 2013-14.

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Table 1				
Division	Judicial Department: Indirect Cost Pool Line Item	FY 2012-13 General Fund Appropriation	Percent of Costs Included in Indirect Cost Pool	FY 2013-14 Indirect Cost Pool Components
Courts Administration	General Courts Administration - Personal Services and Operating Expenses	\$11,438,402	69.4%	\$7,933,549
	Health, Life, and Dental - Administration	1,328,797	69.4%	921,639
	Short-term Disability - Administration	19,138	69.4%	13,274
	S.B. 04-257 AED - Administration	295,604	69.4%	205,028
	S.B. 06-235 SAED - Administration	244,231	69.4%	169,396
	Salary Survey - Administration	150,000	69.4%	104,038
	Information Technology Infrastructure	403,094	100.0%	403,094
	Workers' Compensation	1,712,924	100.0%	1,712,924
	Legal Services	170,259	100.0%	170,259
	Purchase of Services from Computer Center	753,476	100.0%	753,476
	Multiuse Network Payments	575,849	100.0%	575,849
	Payment to Risk Management and Property Funds	347,144	100.0%	347,144
	Leased Space - State Court Administrator's Office	1,151,863	100.0%	1,151,863
	Communication Services	24,725	100.0%	24,725
COFRS Modernization	1,056,857	100.0%	1,056,857	
Lease Purchase	119,878	100.0%	119,878	
Trial Courts	Trial Court Programs - Personal Services and Operating Expenses	92,758,394	5.1%	4,697,417
	Health, Life, and Dental - Trial Courts	11,196,518	5.1%	567,008
	Short-term Disability - Trial Courts	152,958	5.1%	7,746
	S.B. 04-257 AED - Trial Courts	2,362,538	5.1%	119,642
	S.B. 06-235 SAED - Trial Courts	1,951,950	5.1%	98,850
	Salary Survey - Trial Courts	159,680	5.1%	8,086
Probation and Related Services	Probation Programs - Personal Services and Operating Expenses	65,082,409	6.8%	4,442,870
	Health, Life, and Dental - Probation	7,614,849	6.8%	519,830
	Short-term Disability - Probation	96,137	6.8%	6,563
	S.B. 04-257 AED - Probation	1,484,913	6.8%	101,368
	S.B. 06-235 SAED - Probation	330,848	6.8%	22,585
	Salary Survey - Probation	0	6.8%	0
Departmental Indirect Cost Pool				\$26,254,958

As detailed in **Table 2**, the Department calculates an *Indirect Cost Rate* for each general program area. The Department first allocates each component of the Indirect Cost Pool among general program areas. While most components are categorized as “general overhead” because they benefit all program areas in a similar manner, some components only benefit one program area (e.g., communication services only benefit probation programs). The Department then calculates an Indirect Cost Rate for each program area by comparing the program area’s allocation from the Indirect Cost Pool to total Long Bill appropriations for the Department (including all state fund sources, but excluding appropriations for each of the independent agencies). For example, the “general overhead” portion of the Indirect Cost Pool represents 1.96 percent of total Department appropriations, and the “trial court” portion of the Indirect Cost Pool represents 2.59 percent of total Department appropriations. Thus, the Department applies an Indirect Cost Rate of 4.55 percent (1.96% + 2.59% = 4.55%) to each fund source that supports a trial court-related program.

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**Table 2
Judicial Department: Calculation of Basis for Allocating Indirect Costs**

Division	Line Items Included in Indirect Cost Pool	Allocation of Cost Pool Components by Program Area									
		Total (from Table 1)	General Overhead Percent	Dollars	Trial Courts Percent	Dollars	Probation Percent	Dollars	Attorney Regulation Percent	Dollars	
Courts Administration	General Courts Administration - Personal Services and Operating Expenses, and Associated Benefits	\$9,346,923	15.0%	\$1,402,038	50.0%	\$4,673,462	33.0%	\$3,084,485	2.0%	\$186,938	
	Information Technology Infrastructure	403,094	100.0%	403,094	0.0%	0	0.0%	0	0.0%	0	
	Workers' Compensation	1,712,924	100.0%	1,712,924	0.0%	0	0.0%	0	0.0%	0	
	Legal Services	170,259	100.0%	170,259	0.0%	0	0.0%	0	0.0%	0	
	Purchase of Services from Computer Center	753,476	100.0%	753,476	0.0%	0	0.0%	0	0.0%	0	
	Multiuse Network Payments	575,849	100.0%	575,849	0.0%	0	0.0%	0	0.0%	0	
	Payment to Risk Management and Property Funds	347,144	100.0%	347,144	0.0%	0	0.0%	0	0.0%	0	
	Leased Space - State Court Administrator's Office	1,151,863	100.0%	1,151,863	0.0%	0	0.0%	0	0.0%	0	
	Communication Services	24,725	0.0%	0	0.0%	0	100.0%	24,725	0.0%	0	
	COFRS Modernization	1,056,857	100.0%	1,056,857	0.0%	0	0.0%	0	0.0%	0	
	Lease Purchase	119,878	100.0%	119,878	0.0%	0	0.0%	0	0.0%	0	
	Trial Courts	Trial Court Programs - Personal Services and Operating Expenses, and Associated Benefits	5,498,749	0.0%	0	100.0%	5,498,749	0.0%	0	0.0%	0
	Probation and Related Services	Probation Programs - Personal Services and Operating Expenses, and Associated Benefits	5,093,216	0.0%	0	0.0%	0	100.0%	5,093,216	0.0%	0
	Total		\$26,254,958		\$7,693,382		\$10,172,211		\$8,202,426		\$186,938
Fund Sources Except Federal Funds		393,197,762									
Allocated Indirect Cost Pool / Total Budget			1.96%		2.59%		2.09%		0.08%		

The *Indirect Cost Base* is comprised of total Long Bill appropriations to the Department (including all state fund sources, but excluding appropriations for each of the independent agencies). Thus, the *Departmental Indirect Cost Assessment* for each fund source is calculated by multiplying the applicable Indirect Cost Rate by the total amount appropriated in the Long Bill from that fund source. Please note that the Department does not recover indirect costs from several non-General Fund sources of funding, which are listed on the following page.

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- *Crime Victim-related funds:* Statutorily, a Victims and Witnesses Assistance and Law Enforcement Fund and a Crime Victim Compensation Fund are established in the office of the court administrator for each judicial district. Moneys anticipated to be expended from these funds are reflected in the Long Bill for informational purposes, but local court administrators and district attorneys may spend these funds without an appropriation. Statute requires that these funds be used for the implementation of the rights afforded to crime victims, services and compensation of crime victims, and certain related administrative costs incurred by local court administrators and district attorneys.
- *Judicial Stabilization Cash Fund:* Moneys in this fund may be appropriated for the “expenses of trial courts in the judicial department”. This fund was created through S.B. 03-186, a Joint Budget Committee sponsored bill that raised multiple docket, filing, and probation fees and used the revenues to reduce General Fund expenditures. As this fund is used in lieu of General Fund for certain trial court expenses, it has never been used to cover indirect costs.
- *Attorney law examination and continuing legal education fees:* The Colorado Supreme Court is authorized to collect fees from attorneys and judges to cover the costs of regulation of the practice of law. The Department currently assesses indirect costs on fees related to attorney regulation activities, but not on fees related to continuing legal education or the bar exam.
- *Fees credited to the Supreme Court Library Fund:* The Supreme Court Library is a public library that is supported by appellate filing and other fees deposited in the Supreme Court Library Fund.
- *Transfers from other state agencies:* The Department receives federal child support enforcement funding from the Department of Human Services, for persistent drunk driver programs, and for S.B. 91-94 juvenile service programs.

In addition, please note that the budget for the Judicial Branch includes funding for four independent agencies. Other than a small amount of revenue from training fees and occasional grants, these independent agencies are entirely supported by the General Fund. Thus, administrative costs incurred by these agencies are not included in the Indirect Cost Pool, and the budgets for these agencies do not reflect indirect cost assessments. These agencies do not currently use fees that are paid by attorneys attending training sessions to cover agency indirect costs. With respect to grants, if one of these agencies were to receive a grant that may be used to cover both direct and indirect costs, the agency would charge an appropriate amount to the grant, and then use that amount to cover an administrative expense that would otherwise be supported by General Fund. Thus, any indirect cost recoveries that may be collected by these agencies would be used to reduce General Fund expenditures.

Table 3, on the following page, details the calculation of the Departmental Indirect Cost Assessment for FY 2013-14 among divisions and specific funding sources. The Department then allocates the Statewide Indirect Cost Assessment proportionally, based on Departmental Indirect Cost Assessments.

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Division	Fund Source	Indirect Cost Rate Applied to Appropriated Amount	Dept. Indirect Cost Assessment	Statewide Indirect Cost Assessment	Total Indirect Cost Assessment
Supreme Court/ Court of Appeals	Annual attorney registration fees for Attorney Regulation	2.03%	\$142,252	\$7,731	\$149,983
	Judicial Stabilization Cash Fund		0	0	0
	Law examination application fees for the State Board of Law Examiners		0	0	0
	Annual attorney registration fees for Continuing Legal Education		0	0	0
	Subtotal		142,252	7,731	149,983
Courts Administration	Judicial Department Information Technology Cash Fund	1.96%	155,047	8,427	163,474
	Victims and Witnesses Assistance and Law Enforcement Fund		0	0	0
	Crime Victim Compensation Fund		0	0	0
	Court Security Cash Fund	4.54%	175,612	9,545	185,157
	Judicial Collection Enhancement Fund	1.96%	65,746	3,573	69,319
	Fines Collection Cash Fund	1.96%	17,610	957	18,567
	Judicial Stabilization Cash Fund		0	0	0
	Justice Center Cash Fund	1.96%	81,036	4,404	85,440
	State Commission on Judicial Performance Cash Fund	4.54%	35,938	1,953	37,891
	Family-friendly Court Program Cash Fund	4.54%	13,245	720	13,965
	Family Violence Justice Fund	4.54%	7,724	420	8,144
	Various Federal Grants			11,280	11,280
	Transfer from DHS from the Child Support Enforcement line item		0	0	0
	Subtotal		551,958	41,279	593,237
Trial Courts	Judicial Stabilization Cash Fund		0	0	0
	Transfer from DHS from the Child Support Enforcement line item		0	0	0
	Water Adjudication Cash Fund		0	0	0
	Subtotal		0	0	0
Probation and Related Services	Offender Services Fund	4.04%	566,491	30,789	597,280
	Correctional Treatment Cash Fund (previously Drug Offender Surcharge Fund and Drug Offender Treatment Fund)	4.04%	211,371	11,488	222,859
	Alcohol and Drug Driving Safety Program Fund	4.04%	193,864	10,537	204,401
	Offender Identification Fund	4.04%	2,374	129	2,503
	Interstate Compact Probation Transfer Cash Fund	4.04%	3,790	206	3,996
	Sex Offender Surcharge Fund		0	0	0
	Transfer from DHS from Persistent Drunk Driver Programs line item		0	0	0
	Transfer from DHS from S.B. 91-94 Programs line item		0	0	0
	Victims and Witnesses Assistance and Law Enforcement Board grants and transfer from DPS from State Victims Assistance and Law Enforcement Programs line item		0	0	0
	Subtotal		977,890	53,149	1,031,039
Total			\$1,672,100	\$102,159	\$1,774,259

FY 2014-15 Indirect Cost Assessment Request

The total of departmental and statewide indirect cost assessments is appropriated in the “General Courts Administration” line item in the Courts Administration section of the Long Bill, thereby reducing General Fund expenditures by the same amount. In addition, this line item includes an amount that is anticipated to be charged to various federal grants received by the Department to cover a portion of departmental and statewide indirect costs. These federal recoveries are treated

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differently than other indirect cost recoveries because they are less predictable, and the indirect cost assessment is calculated using a different methodology (e.g., the calculation uses lag data and the rates are not finalized until September of the fiscal year). If the total amount of indirect cost recoveries from federal grants exceeds the amount reflected in the Long Bill, the Department books the expenditure to the associated grants line item, and then applies such recoveries to the General Courts Administration line item. Thus, all indirect cost recoveries from federal grants reduce General Fund expenditures.

As detailed in *Table 4*, a total of \$1,916,259 is appropriated in the Long Bill for indirect cost assessments and indirect cost recoveries from federal grants. The FY 2013-14 appropriation represents a decrease of \$206,351 compared to FY 2012-13 mainly due to changes in the methodology used to calculate indirect costs. Specifically, the proportion of indirect costs attributed to trial courts and probation program areas has increased relative to that portion classified as general overhead costs. As a result, the indirect cost rate charged to most cash funds declined.

Division	Total	Indirect Cost Assessments		Estimated Indirect Cost Recoveries from Federal Grants
		Cash Funds	Other Funds	
Supreme Court/Court of Appeals	\$149,983	\$149,983	\$0	
Courts Administration	593,237	581,957	11,280	0
Trial Courts	0	0	0	0
Probation and Related Services	1,031,039	1,031,039	0	0
Amounts Reflected Within Grants Line Items	142,000	0	0	142,000
Total Indirect Cost Assessment for FY 2013-14	1,916,259	1,762,979	11,280	142,000
FY 2012-13 Indirect Cost Assessment	2,122,610	1,980,610	0	142,000
Difference (FY 13-14 less FY 12-13)	(206,351)	(217,631)	11,280	0

Appendix E: Change Requests' Relationship to Measures

This appendix will show how the Judicial Branch agencies indicate each change request ranks in relation to the agency's priorities and what measures the agency is using to gauge success of the request.

Change Requests' Relationship to Measures			
R	Change Request Description	Goals / Objectives	Measures
JUD R1	Regional technicians for IT support	Principles #1 and 5 (see descriptions below)	Reduce ratio of computing devices to regional technicians from 215:1 to 185:1 Decrease wait times for IT support
JUD R2	District judges <i>[This item is included in the budget request for informational purposes only as it requires legislation]</i>	Principles #3 and 5 (see descriptions below)	Increase average agreement scores on Access and Fairness surveys for the 18th judicial district Increase case processing timeliness reflected in quarterly district caseload age of pending case reports for the 18th judicial district
JUD R3	Network bandwidth	Principles #1 and 5 (see descriptions below)	Decrease network response time by increasing network bandwidth for 32 sites Provide access to video-conferencing in 18 sites Implement real-time PC/laptop and court reporting backups to dedicated servers
JUD R4	Language access	Principles #1 and 2 (see descriptions below)	
JUD R5	Judicial performance	Principle #5 (see description below)	Review the performance of all justices and judges standing for retention through surveys and other evaluation methods used by local commissions Provide voters with written recommendations by the state and local commissions concerning retention Conduct interim evaluations for each justice and judge at least once during their term of office
JUD R6	Self-represented litigant coordinators	Principle #1 (see description below)	Increase the number of self-represented litigants served by the courts. Increase the satisfaction level of self-represented litigants with court processes. Broaden the types of cases in which self-represented litigants receive procedural assistance.
JUD R7	Family court facilitators	Principles #1 and 3 (see descriptions below)	Increase early, active and ongoing case management in all domestic relations cases by serving more litigants/cases with family court facilitator (FCF) status conferences

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Change Requests' Relationship to Measures			
R	Change Request Description	Goals / Objectives	Measures
			<p>Broaden the types of cases in which FCF serve litigants (e.g., post decree, child support, multiple counties, attorney cases)</p> <p>Increase the satisfaction of litigants participating in FCF status conferences</p>
JUD R8	IT staff	Principles #1 and 5 (see descriptions below)	<p>Increase number of completed projects</p> <p>Measure efficiency of each software development team using velocity, burn-up, and burn-down data</p>
JUD R9	Underfunded facilities [<i>This item is included in the budget request for informational purposes only as it requires legislation</i>]	Principle #1 (see description below)	<p>Fund two to five courthouse facility projects per year in counties with the most limited financial resources</p> <p>All facilities meet building and safety codes</p>
JUD R10	Leadership education	Principles #1, 2 and 3 (see descriptions below)	<p>Court personnel will demonstrate principles of procedural fairness in dealing with all citizens bringing business to the courts. Increased average agreement scores on access and fairness statewide</p> <p>Decrease staff turnover and increase staff satisfaction as measured on bi-annual survey</p> <p>Decrease post decree filings and criminal revocation hearings</p> <p>Court Leaders will demonstrate known leadership skills and competencies in proceedings, meetings, and representing courts in the public</p> <p>Participants in Leadership Education will be given follow-up evaluations to elicit behavioral and procedural changes that can be attributed to competencies learned through leadership education. Other judicial and staff evaluations will acknowledge observation of improved skills and behavior in leadership education participants.</p>
JUD R11	Restitution enforcement	Principle #5 (see description below)	Increase restitution collections by 5.0 percent
JUD R12	Probation background checks	Principle #4 (see description below)	Run criminal history background checks on all probation treatment providers, private probation vendors, and other entities providing services to probation clients
JUD R13	Leased space request – treated as common policy item		
JUD R14	Courthouse capital and infrastructure maintenance	Principles #1, 2 and 5 (see descriptions below)	

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Change Requests' Relationship to Measures			
R	Change Request Description	Goals / Objectives	Measures
OSPD R1	Appellate staffing	Objective #1.1: Provide reasonable and effective legal representation Objective #1.2: Ensure compliance with applicable constitutional and statutory mandates, the American Bar Association standards, the Colorado Rules of Professional Conduct, and applicable court rules and case law	Increase the ratio of actual appellate staff to the number of staff required based on workload model for active appellate caseload Eliminate potential for Court of Appeals to dismiss a case based on unwarranted extensions for OSPD to file an Opening Brief Reduce number of appellate cases awaiting the filing of the Opening Brief to 624 in FY 2014-15, reaching a goal of 335 by FY 2018-19 Reduce the average time required to file an Opening Brief Increase number of appellate cases closed to 669 per fiscal year Reduce the average time it takes to bring an appellate case to full resolution
OSPD R2	Attorney registration fees	Objective #1.3: Maintain a competitive work environment to be able to attract and retain qualified staff	Pay annual attorney registration fee for each OSPD attorney
OSPD R3	Annual fleet vehicle request – treated as common policy item		
OADC R1	Caseload increase	Objective I: Provide competent legal representation statewide for indigent defendants and juveniles Objective II: Provide cost-effective legal representation statewide for indigent defendants and juveniles	Agency will have sufficient funding to pay its contractors for work performed
OADC R2	Attorney/ Investigator/ Paralegal hourly rate increase	Objective I: Provide competent legal representation statewide for indigent defendants and juveniles Objective II: Provide cost-effective legal representation statewide for indigent defendants and juveniles	A: Increase compensation for contractors. Increase hourly rates as follows: Attorneys: \$75/hour Investigators: \$41/hour Paralegals: \$30/hour
OADC R3	Training cash fund spending authority	Objective I: Provide competent legal representation statewide for indigent defendants and juveniles Objective II: Provide cost-effective legal representation statewide for indigent defendants and juveniles	B: Contain the total number of attorney hours per case. This measure declined from 18.91 in FY 2011-12 to 17.94 in FY 2012-13. C: Sponsor 15 trainings annually (up from 12) for attorneys, investigators, paralegals, and court personnel
OCR R1	Caseload/ workload increases	Goal #1: The OCR will provide effective attorney services to children through skilled and qualified attorneys	OCR provides sufficient qualified attorneys to meet children's needs in each judicial district
OCR R2	Salary alignment	Goal #1: The OCR will provide effective attorney services to children through skilled and qualified attorneys Goal #2: The OCR will establish efficiencies in attorney practice and billing.	OCR's compensation rates are fair and realistic

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Change Requests' Relationship to Measures			
R	Change Request Description	Goals / Objectives	Measures
OCR R3	Attorney and paralegal rate adjustment	Goal #1: The OCR will provide effective attorney services to children through skilled and qualified attorneys Goal #2: The OCR will establish efficiencies in attorney practice and billing.	OCR's compensation rates are fair and realistic OCR provides sufficient qualified attorneys to meet children's needs in each judicial district
OCR R4	Operating increase	Goal #1: The OCR will provide effective attorney services to children through skilled and qualified attorneys Goal #2: The OCR will establish efficiencies in attorney practice and billing. Goal #3: The OCR will establish efficiencies in attorney practice and billing	The annual appropriation for Operating Expenses will match annual expenditures
OCR R5	FTE increase	Goal #3: The OCR will establish efficiencies in attorney practice and billing	OCR will convert a part-time case coordinator in the El Paso County GAL Office to a full-time position to reduce the number of cases assigned to independent contractors
IEC R1	Legal services	Objective #2: Respond to requests for opinions in a timely manner Objective #3: Process complaints in a timely manner	The IEC will have sufficient funding to pay the Department of Law for work performed

Strategic Plan for Courts and Probation

Principle #1: Provide equal access to the legal system and give all an opportunity to be heard. The barriers to equal access to the legal system range from difficulties encountered when physically navigating the state's court and probation facilities to a lack of information regarding accommodations available for people with disabilities or limited English proficiency to inadequate resources to assist self-represented parties with their procedural questions. Such barriers may compromise effective and meaningful access to justice.

Principle 2: Treat all individuals with dignity, respect, and concern for their rights and cultural backgrounds, and without bias or appearance of bias. As Colorado's population continues to diversify, so does the population that participates in the court system. It is important that judges and judicial staff be aware of the values of a wide number of cultures, and, when appropriate, to make accommodations. Colorado Courts and Probation Services is working to ensure that the courts are free from both bias and the appearance of bias, meeting the needs of increasing numbers of self-represented parties, remaining receptive to the needs of all constituents, ensuring that court procedures are fair and understandable, and providing culturally responsive programs and services.

Principle 3: Promote quality judicial decision-making and judicial leadership. Court practices and case management procedures should be as uniform as practicable to avoid confusion and uncertainty. Colorado Courts and Probation Services must provide ongoing professional development, education, and training to address many concerns including the increasing

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complexity of court practices and procedures, the incorporation of evidence based practices, and the importance of procedural fairness in all court operations and interactions with the public. Maintaining professional excellence will promote public trust and confidence in the judicial system as a whole.

Principle 4: Implement quality assessments and community supervision of adult and juvenile probationers to demonstrably enhance public safety and respect victim rights. Colorado Courts and Probation Services strives to reduce offender recidivism through the application of the Eight Principles of Effective Intervention to promote accountability and responsiveness in the enforcement of court orders while affecting long-term behavior change in offenders.

Principle 5: Cultivate public trust and confidence through the thoughtful stewardship of public resources. In serving the people of Colorado, Colorado Courts and Probation Services must also exercise its constitutional and statutory authority and responsibility to plan for, direct, monitor, and support the business of the system, and to account to the public for the system's performance. The fulfillment of this role is only possible when the other branches of government and the public have trust and confidence in the system. In order to retain that trust and confidence, the system must be accountable to the people it serves by providing a fair and open process, communicating clear and consistent expectations for all who participate in that process, and being good stewards of the resources appropriated to it for the fulfillment of its mission.

Colorado Counties and Corresponding Judicial Districts

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

Appendix H (revised): 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. 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. *This revised version reflects significant corrections to the number of juvenile and dependency & neglect cases filed in district courts in FY 2012-13 and to county court filing data for FY 2011-12, along with several minor adjustments to district court case filing data for fiscal years 2004-05, 2008-09, and 2011-12.*

TABLE 1: NEW CASE FILINGS

Fiscal Year	Supreme Court	Court of Appeals	District Courts	Water Courts	County Courts	Total Filings
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
<i>% of Total in FY 2012-13</i>	<i>0.2%</i>	<i>0.4%</i>	<i>33.8%</i>	<i>0.1%</i>	<i>65.5%</i>	<i>100.0%</i>

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Fiscal Year	TABLE 2: NEW DISTRICT COURT CASE FILINGS										Total
	Foreclosures and Tax Liens	Civil (excluding foreclosures or tax liens)	Felony Criminal	Domestic Relations	Juvenile	Probate	Mental Health	Dependency & Neglect	Truancy		
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	
<i>% of Total in FY 2012-13</i>	<i>36.2%</i>	<i>11.0%</i>	<i>16.4%</i>	<i>15.0%</i>	<i>9.3%</i>	<i>6.8%</i>	<i>2.8%</i>	<i>1.4%</i>	<i>1.2%</i>	<i>100.0%</i>	

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TABLE 3: NEW COUNTY COURT CASE FILINGS

Fiscal Year	Traffic		Civil		Misdemeanors	Felony		Total
	Traffic	Infractions	Civil	Complaints		Small Claims		
1998-99	159,861	64,018	121,987	20,301	69,932	15,888	451,987	
1999-00	140,183	70,094	127,017	20,010	73,853	15,568	446,725	
2000-01	133,860	70,090	139,919	13,445	72,354	14,961	444,629	
2001-02	138,439	69,800	151,905	21,285	72,973	15,591	469,993	
2002-03	149,720	74,947	165,210	18,833	74,367	15,438	498,515	
2003-04	159,413	82,732	165,324	17,554	74,779	14,292	514,094	
2004-05	167,488	107,780	175,847	18,137	72,607	13,588	555,447	
2005-06	168,155	101,386	176,244	21,268	75,703	13,380	556,136	
2006-07	165,298	95,421	184,994	18,510	74,094	12,880	551,197	
2007-08	162,729	96,483	198,229	18,393	74,136	12,600	562,570	
2008-09	155,235	100,804	202,958	17,235	73,605	12,266	562,103	
2009-10	141,493	95,557	206,954	16,795	69,695	11,097	541,591	
2010-11	126,788	84,610	200,250	16,851	67,137	9,629	505,265	
2011-12	121,112	75,464	193,282	15,328	70,068	9,117	484,371	
2012-13	115,465	67,581	174,466	17,832	62,740	8,171	446,255	
% of Total in FY 2012-13	25.9%	15.1%	39.1%	4.0%	14.1%	1.8%	100.0%	

**SUPREME COURT OF COLORADO
OFFICE OF THE CHIEF JUSTICE**

ORDER TO DISBURSE ATTORNEY REGULATION FUNDS

WHEREAS, Rule 227 of the Colorado Rules of Civil Procedure describes the registration fee paid by attorneys to the Colorado Supreme Court and into the Attorney Regulation Fund, which fee is established by the Court as a function of its authority to regulate the practice of law; and

WHEREAS, Rule 227 describes the division of such fees to various Court committees and funds established to regulate the practice of law and to benefit the public; and

WHEREAS, pursuant Rule 251.3 of the Colorado Rules of Civil Procedure, the Court maintains supervisory and fiduciary control over the expenditure and application of the Attorney Regulation Fund in connection with the Court's plenary power over the Colorado Supreme Court Office of Attorney Regulation Counsel; and

WHEREAS, Rule 6.1 of the Colorado Rules of Professional Conduct describes an attorney's professional responsibility to provide voluntary legal services to those unable to pay; and

WHEREAS, Rule 6.1 also exhorts attorneys to voluntarily contribute financial support to organizations that provide legal services to persons of limited financial means; and

WHEREAS, Colorado Legal Services—a non-profit corporation—is the flagship statewide provider of legal services for indigent persons in civil matters in state courts and has provided those services for over 85 years; and

WHEREAS, despite the longevity of Colorado Legal Services, funding from all sources—including funding from the State of Colorado through grants for helping victims of family violence—has been insufficient to provide adequate services to the growing number of indigent civil litigants in Colorado's state courts; and

WHEREAS, a combination of many factors—including high unemployment, an unprecedented number of home foreclosures, and growing poverty—has caused this exceptional need, requiring the Court to act to protect Colorado's indigent population and to ensure justice within Colorado's legal system; and

WHEREAS, the Colorado Access to Justice Commission and the Colorado Bar Association together requested that the Court consider providing short-term, emergency funding assistance to Colorado Legal Services to prevent further reduction in civil legal services to low-income Coloradans and to give these organizations adequate time to identify long-term funding solutions; and

WHEREAS, the Colorado Access to Justice Commission and the Colorado Bar Association proposed two transfers of \$750,000 from the Attorney Regulation Fund to Colorado Legal Services; and

WHEREAS, the Executive Council and the Board of Governors of the Colorado Bar Association and the Colorado Access to Justice Commission, as well as Colorado Legal Services, the Legal Aid Foundation of Colorado, and the Colorado Supreme Court Office of Attorney Regulation Counsel have all expressed overwhelming support for this short-term funding solution and the mechanism to support such funding; and

WHEREAS, absent a transfer of funds, Colorado Legal Services will be forced to close some of its offices and layoff numerous staff, resulting in a void of legal assistance for individuals who have nowhere else to turn;

NOW THEREFORE, having reviewed the amounts of Colorado's attorney registration fee and the fund balance of the Attorney Regulation Fund, the Court finds that the fee for the license to practice law in Colorado has not been raised in six years, that the registration fee is one of the lowest in the United States, and that the fund balance is able to support the transfer of money for this emergency purpose.

The Court, sitting en banc on May 11, 2012, and acting as a fiduciary of the attorney registration fees it assesses and collects in connection with its plenary authority over the practice of law, unanimously approves the transfer of \$750,000 in 2012 and \$750,000 in 2013 from the Attorney Regulation Fund to Colorado Legal Services.

The first transfer of \$750,000 is authorized immediately. The second transfer of \$750,000 is authorized to occur on or after July 1, 2012, but before July 1, 2013. Each of these transfers is to be executed by the Colorado Supreme Court Office of Attorney Regulation Counsel and the Office of the State Court Administrator in the most expedient way.

Colorado Legal Services shall use the money to continue to provide legal representation to low-income persons in Colorado consistent with its commitment to that mission, and shall provide a letter to both the Colorado Supreme Court and the Colorado Supreme Court Office of Attorney Regulation Counsel indicating that Colorado Legal Services will comply with all federal laws and regulations in the expenditure of such funds.

In addition, Colorado Legal Services shall also provide the Court with an annual report detailing the use of the transferred Attorney Regulation funds, the progress being made on identifying and securing long-term funding solutions, and whether improvements in the economy have reduced the number of indigent civil litigants in need of legal assistance. Such report shall be presented at the annual November meeting of the Board of Governors of the Colorado Bar Association, beginning in November 2012 and every year thereafter until all of the funds have been expended.

Done at Denver, Colorado, this 17th day of May, 2012.



Michael L. Bender, Chief Justice

State of Colorado Correctional Treatment Board



FY2015 Funding Plan

Board Co-Chairman

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

Board Co-Chairman

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

Board Members

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

Brian Connors, Chief Deputy
State Public Defender's Office

Kelly Messamore, Assistant
Director
*Division of Adult Parole,
Community Corrections, YOS
Department of Corrections*

Eric Philp, Director
*Division of Probation Services
Colorado Judicial Branch*

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

The Correctional Treatment Board is pleased to present its FY2015 Correctional Treatment Funding Plan that allocates over \$20.0M in state resources to support the evaluation, assessment and treatment of criminal offenders with substance-abuse and co-occurring disorders. Established in statute effective July 1, 2012, the Correctional Treatment Board is tasked with ensuring a fair and reasonable allocation of cash fund resources for the treatment of criminal offenders. In an effort to work toward this goal, the Correctional Treatment Board spent the past year learning about each agency's current use of correctional resources while trying to get information on service gaps across the state. Outreach to local treatment boards is underway and the Board is looking at ways to achieve a more consistent reporting of program outcomes and expenditures across the criminal justice system. This plan reflects the programmatic priorities of the Board through the various appropriations to the four state agencies as outlined in this report.

Fund Overview

Cash Fund Overview

The Correctional Treatment Cash Fund was established pursuant to HB12-1310 which 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. Prior to HB12-1310, these funding sources were separate appropriations with separate oversight boards and statutory stipulations. HB12-1310 consolidated all of these funds into one cash fund—The Correctional Treatment Cash Fund—with one oversight board—The Correctional Treatment Board—in order to create a coordinated and collaborative effort across all criminal justice agencies with input from county and statewide criminal justice organizations. Funding in the Correctional Treatment Cash Fund is targeted for only those criminal justice clients with substance-abuse and/or co-occurring behavioral health disorders. All funding is appropriated to four state agencies which oversee and manage a variety of programs and services that meet the needs of this target criminal justice population.

Summary of Annual Appropriations

	<u>FY2013</u>	<u>FY2014</u>	<u>FY2015</u>
Corrections	3,002,227	3,002,227	3,357,227
Public Safety	2,666,766	2,916,766	5,101,766
Human Services	3,090,516	4,290,156	4,850,156
Judicial	6,281,709	6,310,125	6,460,125
Non-Agency Specific	222,859	222,859	472,859
Total	15,264,077	16,742,133	20,242,133
Change over prior year		1,478,056	3,500,000

Judicial Branch:

The Judicial Branch uses its correctional treatment resources to support substance use testing and mental health and substance abuse treatment for all probation clients as well as problem-solving court clients. Funding also supports a small portion of probation FTE salary and benefits, 1.0 Board Staff FTE and the annual Collaborative Justice Conference. The Judicial Budget includes the “non-agency specific” appropriation which is money that covers the state indirect cost assessment as well as money used for research projects that benefit the entire criminal justice system.

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

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

Fund Overview

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

OBH uses its funding for three main programs and services. The Jail-Based Behavioral Services (JBBS) program provides substance-abuse and mental health services for clients in county jails. Correctional Resources are also used to support outpatient treatment services and Short-Term Intensive Residential Remediation Treatment (STIRRT) program.

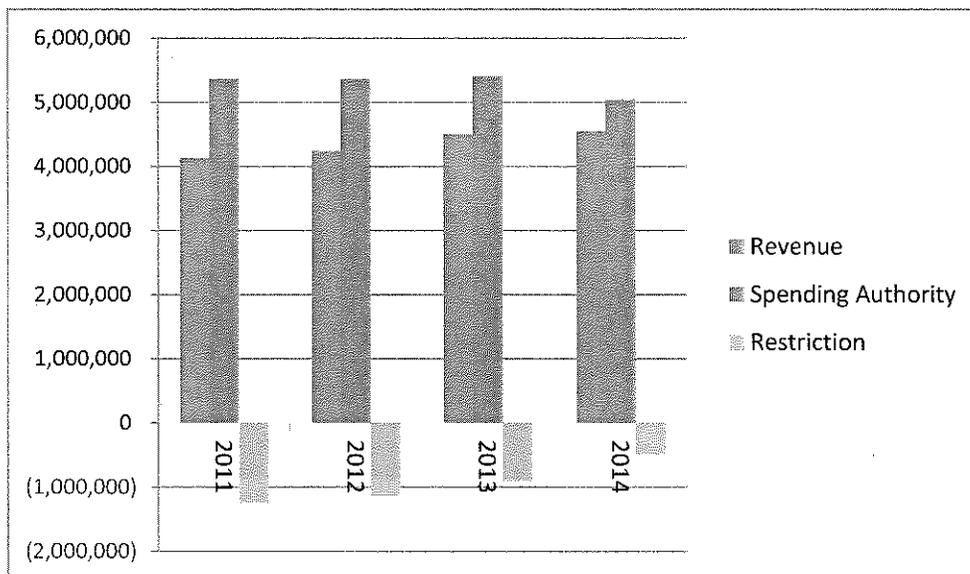
Department of Corrections (DOC):

DOC uses its correctional treatment funds to support case management, substance use testing and outpatient treatment for parole clients. This is done through a contract with Treatment Alternatives for Safer Community (TASC), which is an outside organization that provides these services to parolees with substance-abuse and/or co-occurring disorders.

Correctional Treatment Cash Fund Revenue

The Correctional Treatment Cash Fund (CTCF) receives cash revenue from the drug offender surcharge, which is assessed on offenders convicted of drug crimes, as well as general fund money that is appropriated to the Judicial Branch and passed through to the cash fund for allocation by the Correctional Treatment Board. Since the CTCF was established, and prior to that as the Drug Offender Surcharge Fund, cash revenue has not been sufficient to match appropriated spending authority. Despite a reduction in cash spending authority in FY2014, the Board still has to restrict spending levels because of insufficient revenue from the assessment and collection of the drug offender surcharge. Restrictions are shared by each state agency that receives correctional treatment resources. The Board receives quarterly spending and revenue reports so that it can monitor revenue and expenditures and assess the overall health of the fund. Revenue has been increasing over the past few years and the Board expects that within the next few years, revenue will be sufficient to avoid having to restrict annual spending authority.

Revenue, Spending Authority and Restrictions

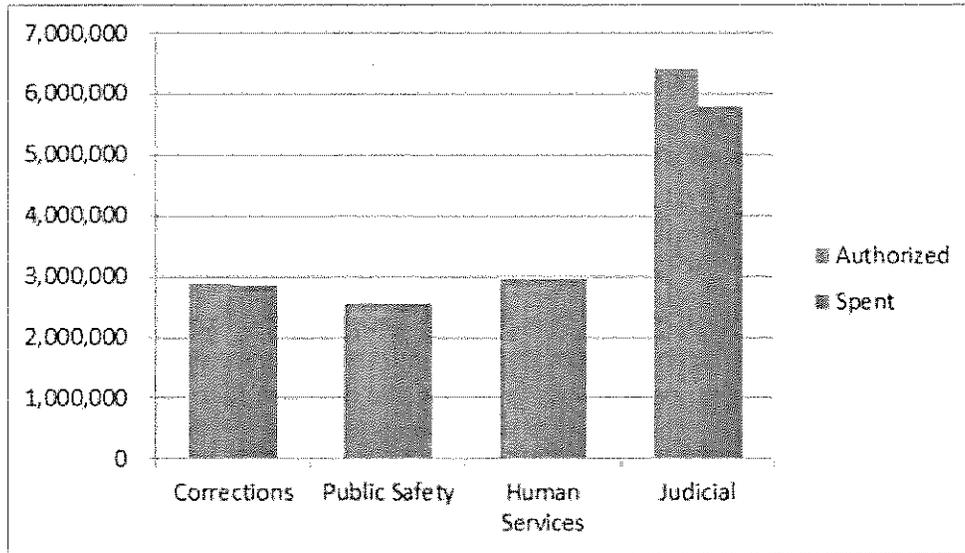


FY2013 Spending

FY2013 Expenditures

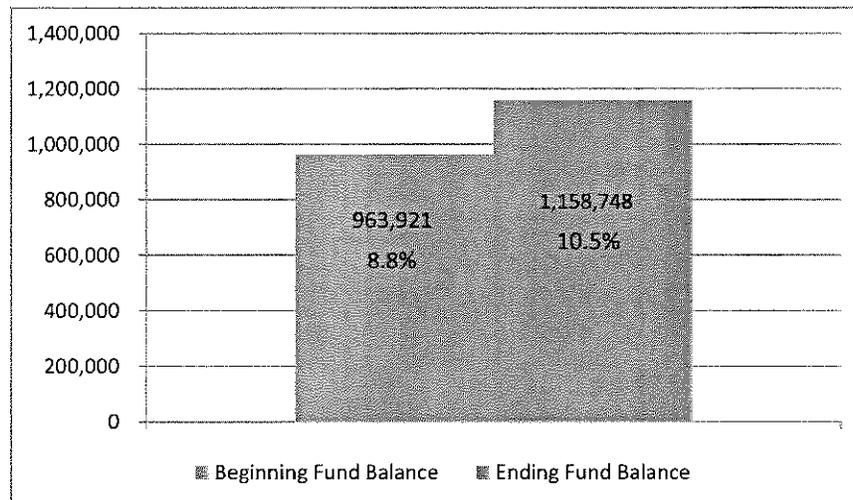
FY2013 was the first year the Board oversaw the allocation and expenditure of fund resources. In FY2013, a total of \$14.1M in correctional treatment resources was spent on a variety of programs and services to treat offenders. Each agency spent almost all of its allocation as outlined below.

FY2013 Spending - Authorized vs. Actual



In an effort to help build the cash fund balance, the Judicial Branch was able to under-spend its Correctional Treatment Allocation for FY2013 while still meeting its obligation to respond to offender needs. The FY2013 ending fund balance was \$1.1M, or 10.5% of prior year expenditures. The Correctional Treatment Board acknowledges this is less than the State's target cash fund reserve rate and is working toward increasing the fund balance to meet the target rate of 16.5%.

Correctional Treatment Cash Fund Balance

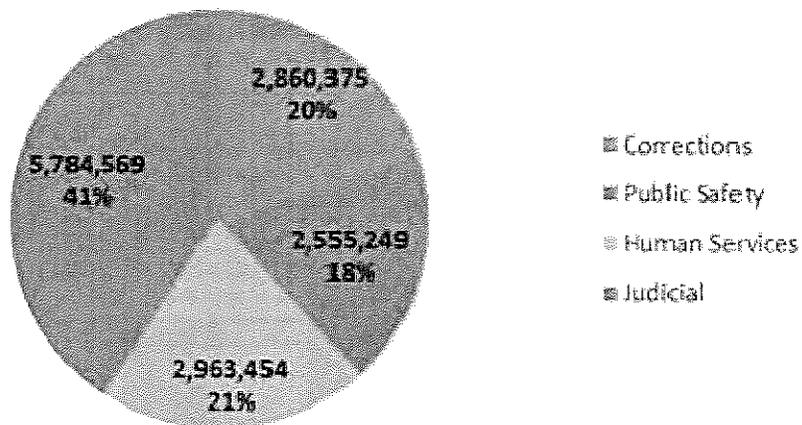


FY2013 Spending

For FY2013, the Board inherited an already-established funding structure that supported various base budget programs and services within each state criminal justice/behavioral health agency. The following charts reflect the spending amounts by each agency and also demonstrate the service categories that are currently being supported by the Correctional Treatment Cash Fund.

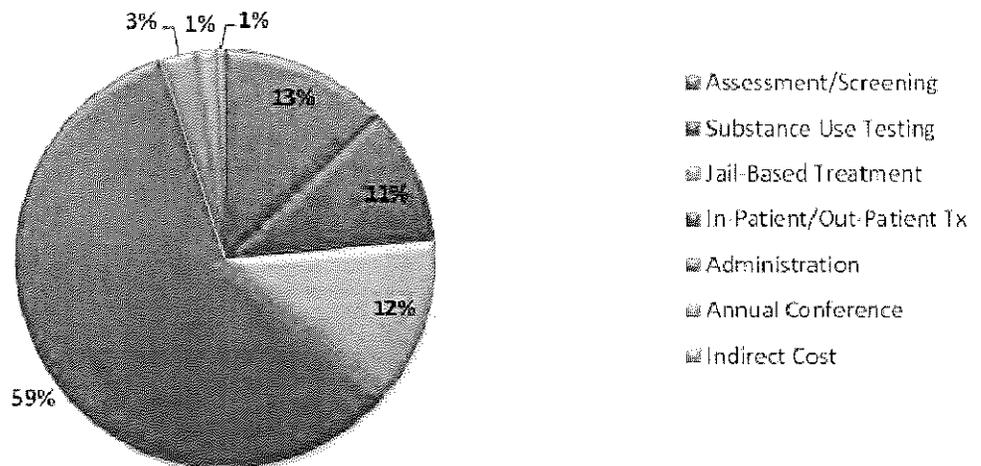
FY2013 Correctional Treatment Spending

By Agency



FY2013 Correctional Treatment Spending

by service type

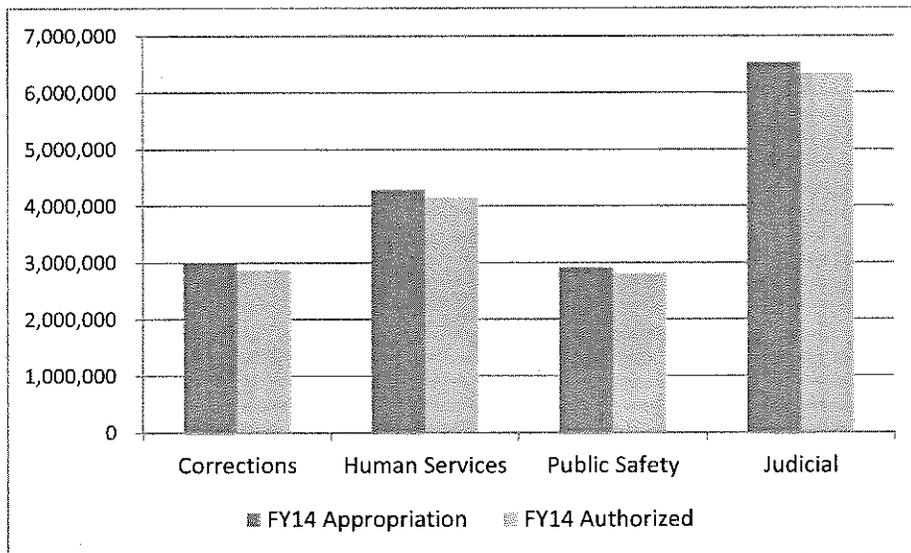


FY2014 Appropriation

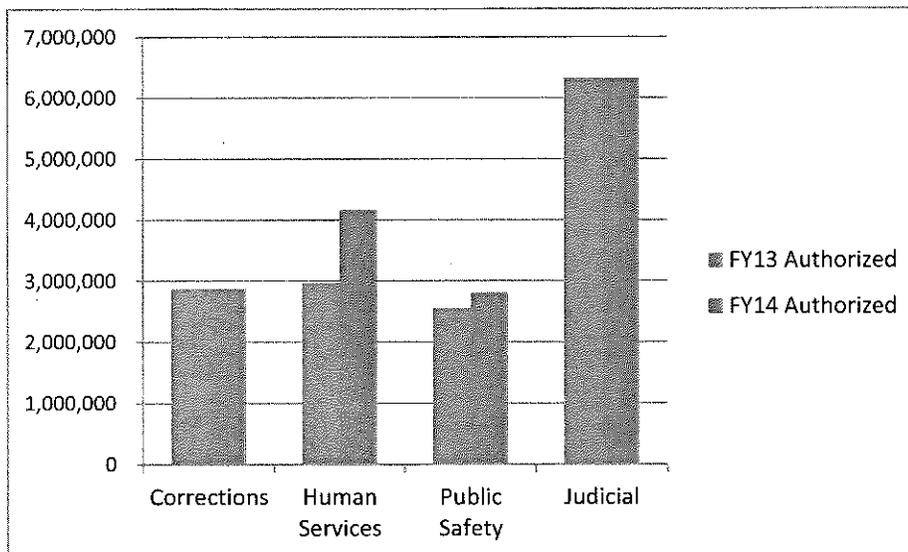
FY2014 Appropriation

For FY2014, the Correctional Treatment Board has authorized a total of \$16.7M in funding, which is an increase of \$1.4M over the FY2013 funded amount. The increase was stipulated in HB12-1310 and the Board determined it should be allocated for the jail-based behavioral services program within the Office of Behavioral Health (OBH) as well as to support the outpatient treatment funding within the Division of Criminal Justice (DCJ). The first chart below outlines the FY2014 appropriated versus authorized amount by agency. The authorized amount is less than the appropriation because of the shortage in drug offender surcharge revenue. The second chart reflects the change in authorized funding from FY2013 to FY2014 by agency.

FY2014 Appropriated vs. Authorized—By Agency



FY2013 and FY2014 Authorized Funding—By Agency



FY2015 Planned Allocations

FY2015 Funding

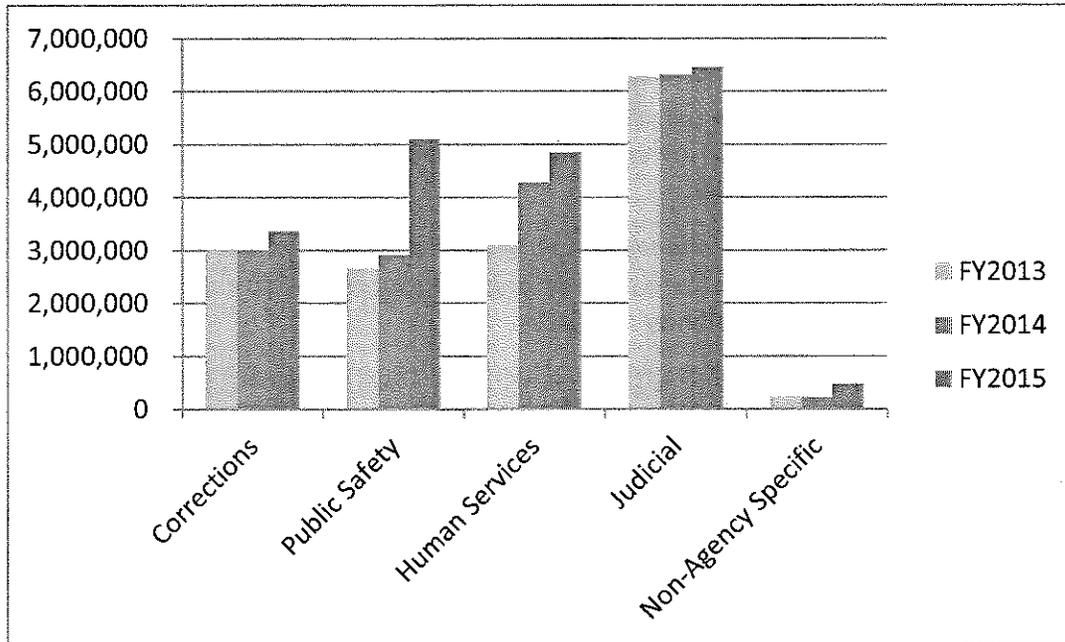
The Correctional Treatment Board has just over \$20.0M in funding to allocate for FY2015. This includes the FY2014 base appropriation of \$16.7M in addition to \$3.5M in new funding that resulted from the passage of SB13-250. This bill adjusted the sentencing of individuals convicted of drug crimes in an effort to keep people out of prison and instead, treat them in the community. The priorities for the FY2015 allocation include continued support for existing appropriations in each agency with new funding to support:

- Transition services for offenders leaving Jail-Based programs and re-entering the community. This will create greater long-term success by strengthening the offender's connection with community resources.
- Community corrections treatment vouchers . Local Treatment Boards have consistently indicated these treatment vouchers are integral to the success of clients in community corrections.
- Expanded residential treatment beds in Community Corrections for probation clients. SB13-250 promotes the use of community corrections as a condition of probation and there was considerable interest within probation and with local treatment boards in expanding probation IRT bed capacity within community corrections facilities.
- Parole increases for case management, expanded drug testing and co-pay incentives for parolees with clean UAs. Parole will expand its capacity in rural mountain communities with this funding, will help cover UA co-pay costs for offenders with clean UA's and will use the funding to help test for synthetic drug use to better help identify offender treatment needs.
- Funding for behavioral health out-patient treatment to back-fill the loss of federal funding.
- Funding for local diversion programs within DA offices around the state.
- Set-aside funding for board-authorized research and evaluation projects

FY2015 Funding Plan Summary	
Total Appropriation	20,242,133
Base Appropriations:	
DOC	(3,002,227)
DHS	(4,290,156)
DPS	(2,916,766)
Judicial	(6,532,984)
Sub-Total	3,500,000
New Program Funding:	
JBBS continuing care (DHS)	(310,000)
DCJ Vouchers (DPS)	(560,000)
IRT for Probation/Parole (DPS)	(1,625,000)
Synthetic Drug Testing (DOC)	(55,000)
Clean UA co-pay Incentives (DOC)	(200,000)
Parole rural case management (DOC)	(100,000)
SSC Treatment Funding (DHS)	(250,000)
Diversion Funding (JUD)	(150,000)
Research/Eval Projects (non-specific)	(250,000)
Unallocated	0

Conclusion

Year over Year Appropriated Amount—By Agency



Conclusion

The FY2015 funding plan is the result of the Board's work over the past year which involved understanding and assessing each agency's current use of correctional treatment resources combined with information received from local treatment boards on unmet needs. Much work still needs to be done to ensure efficiency and fairness in spending. Over the course of the next year, the Board will begin looking at and collecting population and outcome data for existing programs as well as work on consistency in financial reporting and explore the possibilities of improving/expanding data collection and reporting. Policies around Board funding priorities and qualifying programs/services need to be developed and there will be continued work on outreach to local boards.

The long-term goal of the Correctional Treatment Board is to look at possible efficiencies in how the State approaches and works with the treatment community, treatment matching offenders to the best type of treatment and continuing the focus on case management strategies and training. All of these activities will lead to an improved quality of offender management and treatment of criminal offenders with substance-abuse and co-occurring disorders which ultimately will create greater public safety in all communities across the state.