

COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE



FY 2008-09 STAFF BUDGET BRIEFING:
JUDICIAL BRANCH

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

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**FY 2008-09 Joint Budget Committee Staff Budget Briefing
JUDICIAL BRANCH**

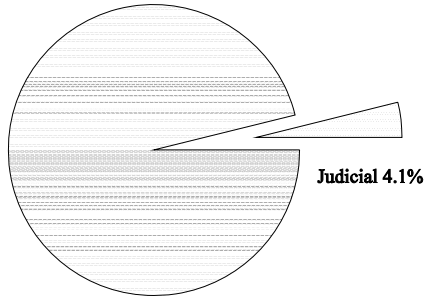
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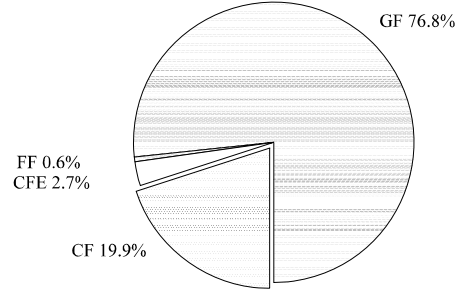
FY 2008-09 Joint Budget Committee Staff Budget Briefing JUDICIAL BRANCH

Graphic Overview

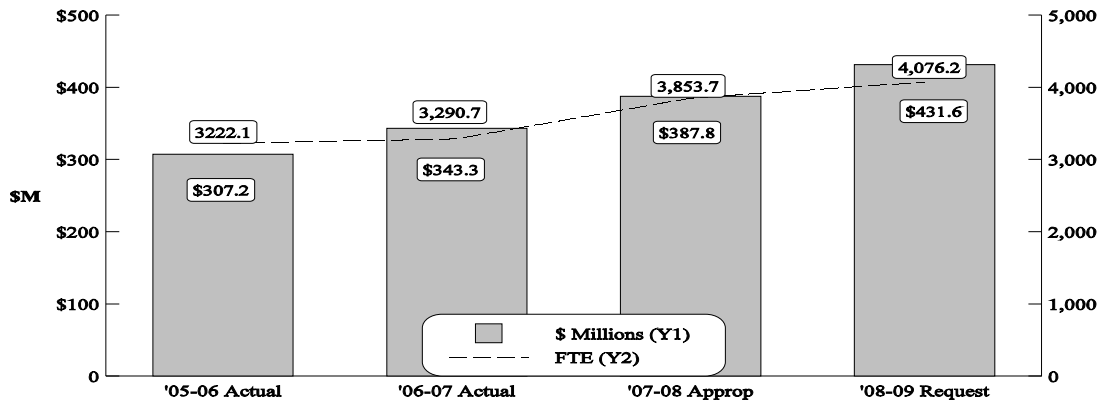
**Share of State General Fund
FY 2007-08**



**Funding Source Split
FY 2007-08**



Budget History



**FY 2008-09 Joint Budget Committee Staff Budget Briefing
JUDICIAL BRANCH**

Judicial Branch Overview

Key Responsibilities

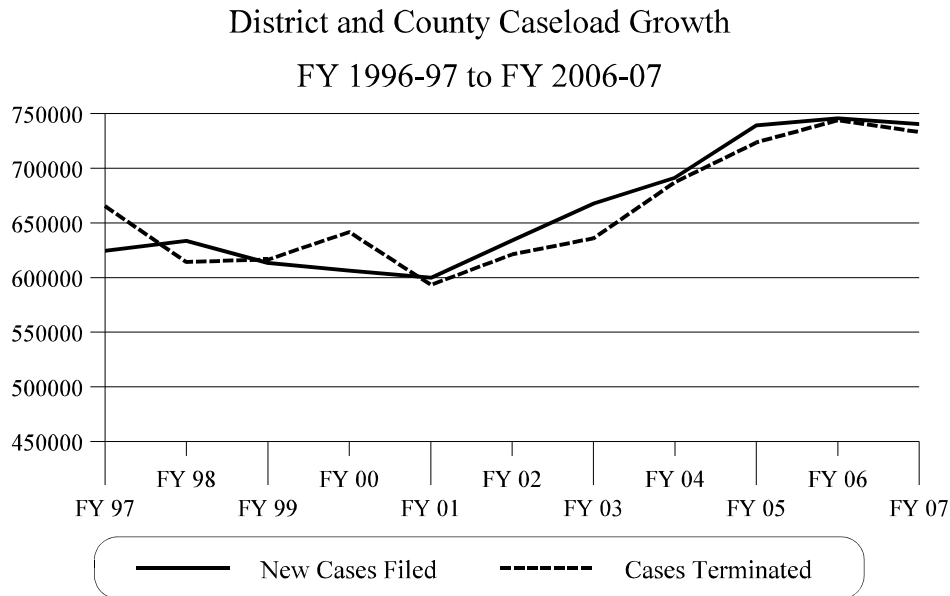
- ▶ The Judicial Branch provides the public with fair and impartial resolution of civil disputes and criminal charges in an efficient and understandable manner.
- ▶ The Branch, through the probation, victims, and collections programs, and through a system of restorative justice, provides a justice system that has public safety as its highest priority.
- ▶ The Supreme Court and Court of Appeals provide appellate review of trial court decisions in a timely and efficient manner. The Supreme Court is also responsible for overseeing the regulation of attorneys, the practice of law, and for reviewing judges standing for retention during elections.
- ▶ The Office of the State Court Administrator provides technical and administrative support to all judicial districts.
- ▶ The Public Defender's Office provides legal representation for indigent criminal defendants. The Office of Alternate Defense Counsel oversees the provision of legal representation for indigent criminal defendants when the Public Defender's Office has a conflict of interest. Both of these offices are independent agencies.
- ▶ The Office of the Child's Representative, also an independent agency, oversees the provision of legal services to children entitled to legal representation at state expense, and is responsible for ensuring quality representation.

Factors Driving the Budget

The main factor driving the budget of the Judicial Branch is caseload. Judges, magistrates, probation officers, public defenders, and staff can only handle so many cases per year. When caseload growth outpaces staffing growth, there is the risk of court case processing slowing down, court services being reduced, and probationers and indigent defendants getting less individual attention. The state is required to pay certain contracted professionals (such as most guardians ad litem and the defense attorneys who contract with the Alternate Defense Counsel) for covering all applicable cases. In recent years, caseload has been driven by increases in state population and changes in law.

The Judicial Department - The Courts

Colorado courts hear civil cases and criminal cases at both the district and county level. Civil cases include contract disputes, collection cases, evictions, foreclosures, and restraining orders. Criminal cases include all felony, misdemeanor, driving under the influence, juvenile delinquency, and domestic violence cases. In FY 1996-97, terminations were exceeding filings, meaning that the court was able to catch up on backlogged cases. As illustrated in the graph below, in FY 1997-98 and then beginning in FY 2000-01, new case filings were greater than case terminations, meaning the case processing backlog grew. However, in the past few years, due to an influx in court staff and judge resources, case terminations have almost caught up to case filings. When filings and terminations remain equal in any given year, the case processing backlog remains the stable (no growth or reduction).

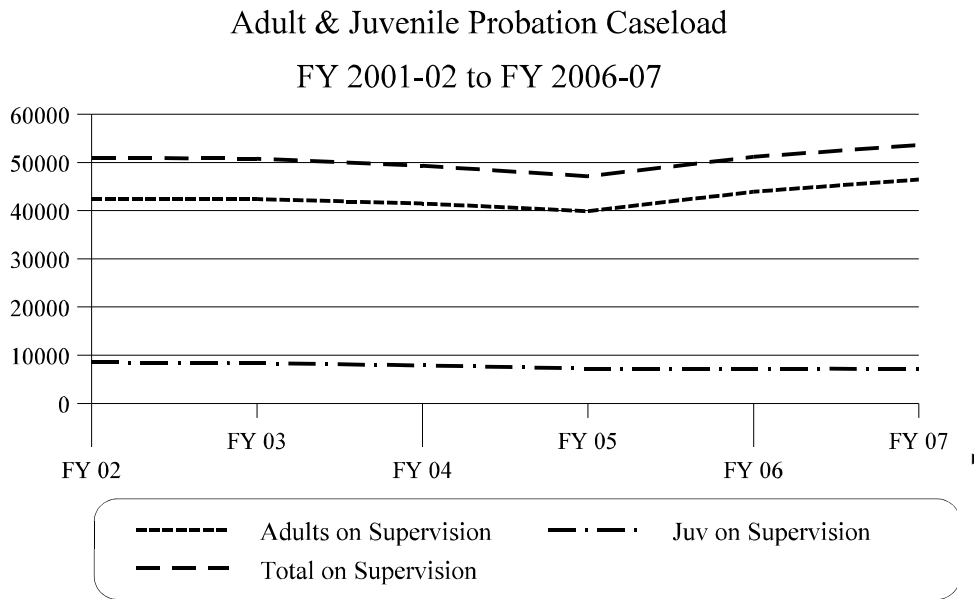


Note: Data for this graph came from Judicial Branch Annual Statistical Report, Fiscal Year 2006-07.

Since FY 2003-04, Supreme Court filings have been increasing at an average annual rate of 5.5 percent (from 1,317 to 1,534), but terminations have also been increasing somewhat (3.3 percent annual growth rate), resulting in slight growth in the Court's backlog. However, the Court of Appeals has seen a large increase in its case backlog, as cases pending July 1 have grown at an average annual rate of 5.2 percent (from 2,553 to 2,950).

The Judicial Department - Probation

Probation is a sentencing option for adult criminal offenders who are not in need of incarceration, and adjudicated youth who are not in need of out-of-home placement. It provides supervision and services to offenders based upon their assessed risk and need levels. Since FY 2001-02, the number of adults on supervision has increased by 9.6 percent - an average annual increase of 1.9 percent (see graph below). On the other hand, the number of juveniles being supervised has declined by 16.3 percent, for an average annual reduction of 3.3 percent. However, since juveniles comprise only 13.3 percent of the supervised population, total caseload has increased overall.

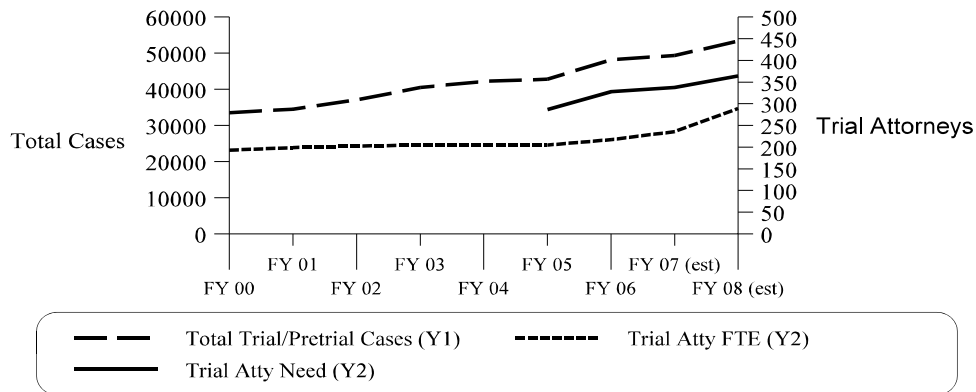


Note: Data for this graph came from Judicial Branch Annual Statistical Report, Fiscal Year 2006-07.

The Public Defender's Office (PDO)

Since FY 1999-00, the PDO's total caseload has increased by 47.5 percent, for an average annual increase of 6.8 percent. During this time period, attorney staffing has only grown by 38.5 percent, for an average annual rate of 5.5 percent. The graph below shows the changes in trial and pretrial caseload (the most labor intensive portion of the PDO's caseload) and trial attorney staffing since FY 1999-00, and trial attorney need since FY 2004-05. For FY 2007-08, the General Assembly approved an increase of 81.1 FTE, including 48.8 attorneys, 16.2 investigators/paralegals, 12.2 trial secretaries, and 3.9 administrative staff. This influx of FTE increased trial attorney staffing to a high of 289.0 FTE; however, estimated trial attorney need is 364.0, indicating a trial attorney staffing deficit of 75.0 FTE.

PDO Caseload: Trial & Pretrial Cases and Attorney Staffing
FY 1999-00 to FY 2007-08



Note: Data for this graph came from the Public Defender's Office Fiscal Year 2008-09 budget request.

PDO caseload has been growing due to increases in population and, in recent years, the downturn of the economy. Additional factors driving increases in PDO workload include:

- ▶ Increases in the severity of cases;
- ▶ More counts being filed per case;
- ▶ Juveniles being treated as adults;
- ▶ Changes in laws (particularly relating to sentencing and parole) creating significant adverse potential consequences for clients; and
- ▶ Cases once being charged as misdemeanors being charged as felonies.

These factors make it more difficult and time consuming for attorneys to provide effective representation on any given case.

Alternate Defense Counsel (ADC)

In the past, the ADC's caseload increased for the same reasons the Public Defender's caseload increased. Additional factors driving the ADC's caseload include increases in: the number of multiple defendant murder cases and grand jury indictments; the number of "cold hit" cases (when DNA samples from a cold case are submitted to a nationwide database of DNA samples and a match is found); identify theft; and accessory to murder and conspiracy to commit a crime cases. Concurrently, the ADC has seen a drop in the number of minor fraud cases. For the first time in the ADC's 10-year history, its caseload appears to have leveled out.

Alternate Defense Counsel Caseloads

	FY 02-03 Actual	FY 03-04 Actual	FY 04-05 Actual	FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Estimate	FY 08-09 Estimate
Felony	6,061	6,840	7,113	7,912	8,162	9,284	8,922
Appeals	468	546	540	595	660	755	755
Rule 35(b) & (c) Motions	450	486	476	469	513	538	549
Juvenile	1,636	1,494	1,274	1,433	1,621	1,609	1,751
Other ^a	1,477	1,733	1,703	1,905	2,133	2,276	2,336
Total	10,092	11,099	11,106	12,314	13,089	14,462	14,313

^a The "Other" category includes misdemeanors, driving under the influence, traffic violations, probation violations, special proceedings, and other miscellaneous case types.

Office of the Child's Representative (OCR)

Since the OCR's inception in FY 2002-03, the largest and most complex portion of its caseload - dependency and neglect filings - has increased at an average annual rate of 8.6 percent. These "D&N" filings account for over 60 percent of the OCR's total cases. The OCR has also seen an increase in the complexity of cases as measured by the time required to provide effective representation. The OCR attributes this change to a lack of preventative services; a new focus on contacting care-givers more frequently due to the high number of recent child fatalities in the system in Colorado; a lack of thorough investigative work by social services because of heavy caseloads; and social services recommendations based on budgetary constraints rather than the best interests of the child. Since the guardians ad litem (GALs) must advocate for the best interests of the child, they are requesting hearings and litigation to meet those needs more frequently than in the past.

Office of the Child's Representative Caseloads

Case Type	FY 02-03	FY 03-04	FY 04-05	FY 05-06	FY 06-07	FY 07-08 (est.)	Average Annual Change
Dependency & Neglect	5,847	6,493	6,972	7,618	8,012	8,413	7.3%
Juvenile Delinquency	3,461	3,042	3,655	3,459	3,594	3,702	1.2%
Domestic Relations & Paternity	860	1,094	848	778	750	757	-2.0%
Probate & All Other Case Types	157	165	185	179	608	615	48.6%
Total	10,325	10,794	11,660	12,034	12,964	13,487	5.1%

NOTE: Data for this table came from correspondence between the Office of the Child's Representative and JBC staff, and the FY 2008-09 OCR budget request.

Summary of Major Legislation

- ▶ **S.B. 07-55 (Boyd/Green): Fund for Crime Victim Services.** Increased the costs levied on certain criminal actions and traffic offenses, and directed the increased revenue to the Crime Victim Compensation Fund in each judicial district. Specified that the portion of the surcharges collected on criminal actions and certain traffic offenses that had been diverted to the General Fund instead shall be credited to the Victims and Witnesses Assistance and Law Enforcement (VALE) Fund. For FY 2007-08, appropriated to the Trial Courts Division \$2,901,319 from the Crime Victim Compensation Fund and \$1,284,752 from the VALE Fund established in the office of the court administrator of each judicial district.
- ▶ **S.B. 07-118 (Shaffer/King): Court Security Cash Fund.** Created a \$5 surcharge on certain criminal and civil court filings and credited the money to the new Court Security Cash Fund. Allowed county-level local security teams to apply to the State Court Administrator's Office for grants from the fund to improve courthouse security. For FY 2007-08, appropriated \$2,194,622 from the fund, and 1.0 FTE, to the Judicial Department for administration of the program.
- ▶ **H.B. 07-1054 (T. Carroll/Shaffer): Increase Number of Court Judges.** In FY 2007-08, created nine new district court judgeships. Subject to available appropriations, also creates three new judgeships on the Colorado Court of Appeals, 22 new district court judgeships, and eight new county court judgeships to be phased in during FY 2008-09 and FY 2009-10. For FY 2007-08, appropriates a total of \$4,107,382 General Fund and cash funds, and 52.0 FTE, to the Judicial Department for Courts Administration, the Trial Courts, and the Public Defender's Office.
- ▶ **S.B. 06-22 (Kester/Penry): Sexually Violent Predators.** Expanded the definition of sexually violent predators (SVPs) and the definition of conviction of specified sex offenses. Required the Probation program to conduct additional risk assessments for sex offenders. Appropriated \$27,000 from the Sex Offender Surcharge Cash Fund to the Judicial Department for FY 2006-07. Requires the Department of Corrections to complete risk assessments on SVPs prior to release on parole or discharge from prison.
- ▶ **S.B. 06-61 (Keller/Larson): Legal Setting Interpreting for the Deaf.** Transferred the authority for overseeing the provision of hearing interpreters from the Department of Human Services, Division of Rehabilitation, to the Department of Human Services, Commission for the Deaf and Hard of Hearing. Reduced the FY 2006-07 Long Bill appropriation for the Judicial Department by \$80,162 General Fund since the Department will no longer be responsible for the payment of all appointments for interpreter services. Provided an FY 2006-07 appropriation for the Judicial Department of \$31,888 General Fund and 0.3 FTE to pay for court-appointed counsel when someone is considering waiving their right to an interpreter and for modifications to the Court-Appointed Counsel Payment and Data System.

- ▶ **H.B. 06-1011 (McCluskey/Sandoval): Internet Crimes Against Children.** Created two new felonies subject to an indeterminate sentence that could reach a maximum of an offender's lifetime: (1) internet luring of a child; and (2) internet sexual exploitation of a child. Provided the Judicial Department an appropriation of \$19,682 General Fund and 0.4 FTE for increased probation costs in FY 2006-07.
- ▶ **H.B. 06-1028 (T. Carroll/Mitchell): Increase the Number of Judges in the Judicial Department.** Created three new Colorado Court of Appeals judgeships and four new county court judgeships (located in Jefferson, Douglas, Mesa, and Weld counties). In FY 2006-07, appropriated a total of \$3,133,968 General Fund and 42.5 FTE to the Judicial Department for the Supreme Court/Court of Appeals, the Trial Courts, and the Public Defender's Office.
- ▶ **S.B. 05-30 (Shaffer/Hefley): Family-friendly Courts Act.** Repealed the repeal date of the Family-friendly Court Program, expanded the criteria used by the State Court Administrator to determine which judicial districts may receive grant moneys under the program, and clarifies the responsibilities of the districts that have been selected to receive grants monies.
- ▶ **S.B. 04-253 (Reeves/Judd): Interception of Funds for Judicial Fees.** Allowed the offset of a state income tax refund owed to a defendant against the defendant's outstanding fines, fees, costs, or surcharges owed to a court or against a defendant's court-ordered restitution obligation. Expanded the existing offset of lottery winnings for the payment of court-ordered restitution to juvenile cases in which restitution is ordered.
- ▶ **H.B. 04-1021 (Briggs/McElhany): DUI Blood Alcohol Content.** Lowered the blood alcohol content (BAC) for the offense of driving under the influence of alcohol from 0.10 grams per 100 ml of blood to 0.08 grams per 100 ml. Allowed for "tastings" of alcohol beverages in retail liquor stores and liquor-licensed drugstores, and allows hotel or restaurant customers to reseal and remove from the premises one partially consumed bottle of wine up to 750 milliliters. Appropriated \$8,377 General Fund and 0.2 FTE for the Trial Courts.
- ▶ **H.B. 04-1028 (Coleman/Anderson): Public Defender Application Fee.** Changed the Public Defender application fee to a processing fee of \$25. Repealed the court's power to reduce the fee from \$25 to \$10 and allowed the court to waive the fee at sentencing, adjudication, or other final disposition. Changed the point at which the fee is assessed and collected from the initial application for representation to the final case disposition.
- ▶ **H.B. 04-1193 (Fairbank/Hillman): Penalties for Driving Without Insurance.** Increased financial and other penalties for driving without insurance, and increased fees to support the requirements in the bill.
- ▶ **H.B. 04-1256 (Hodge/Hillman): Water Supply Agreements.** Repealed certain restrictions on water supply agreements, resulting in an increase in water court caseload. Appropriated \$10,000 from the Water Adjudication Cash Fund to the Judicial Department for Trial Courts.

Major Funding Changes FY 2006-07 to FY 2007-08

Action <i>(Source is S.B. 07-239 unless noted)</i>	General Fund	Other Funds	Total Funds	Total FTE
Annualize salary survey increases awarded in FY 2006-07; partially offset by 0.5 percent personal services reduction	\$10,963,507	\$1,061,699	\$12,025,206	0.0
Fund 111.5 additional probation staff	\$5,867,477	\$0	\$5,867,477	111.5
Adjust centrally-appropriated line items, such as salary survey, short-term disability, PERA AED, and state contributions to health, life, and dental benefits	\$4,110,176	\$905,601	\$5,015,777	0.0
Fund 81.1 additional FTE for the Office of the Public Defender	\$3,557,551	\$0	\$3,557,551	81.1
Fund caseload growth for the Alternate Defense Counsel	\$2,383,314	\$0	\$2,383,314	0.0
Provide community treatment funding associated with S.B. 03-318 estimated cost avoidance	\$2,200,000	\$0	\$2,200,000	0.0
Raise court-appointed counsel rates for Judicial Department, Alternate Defense Counsel, and Office of the Child's Representative contractors	\$2,022,934	\$0	\$2,022,934	0.0
Fund 28.0 additional Trial Courts staff	\$967,772	\$0	\$967,772	28.0
Adjust leased space funding	\$862,406	(\$600)	\$861,806	0.0
Miscellaneous common policy changes	\$495,275	\$14,108	\$509,383	0.0
Annualize FY 2006-07 appropriations	\$417,629	\$131,250	\$548,879	2.0
New judges, court staff, and Public Defender staff appropriated in H.B. 07-1054	\$351,004	\$3,756,378	\$4,107,382	52.0
Fund caseload and case cost growth for the Office of the Child's Representative	\$264,515	\$0	\$264,515	0.0

Action <i>(Source is S.B. 07-239 unless noted)</i>	General Fund	Other Funds	Total Funds	Total FTE
Provide funding for expanded DNA testing associated with S.B. 06-150	\$155,815	\$8,250	\$164,065	1.9
Fund additional 0.25 FTE magistrate and 0.75 support staff	\$107,973	\$0	\$107,973	1.0
Fund 1.3 new Human Resources staff	\$79,397	\$0	\$79,397	1.3
Fund 1.3 new IT staff	\$69,837	\$0	\$69,837	1.3
Fund ADC attorney oversight and training costs	\$68,731	\$0	\$68,731	0.5
Provide operating base increase to ADC	\$47,700	\$0	\$47,700	0.0
Eliminate one-time appropriations from FY 2006-07	(\$1,509,461)	(\$114,920)	(\$1,624,381)	(0.3)
Reduction in estimated costs for retired judges	(\$139,462)	\$0	(\$139,462)	0.0
Create appellate case manager position for ADC; FTE cost offset by estimated savings in billed attorney hours	(\$41,973)	\$0	(\$41,973)	1.0
Crime victim services funding appropriated in S.B. 07-55	\$0	\$4,186,071 CF	\$4,186,071	0.0
Court security grant funding appropriated in S.B. 07-118	\$0	\$2,194,622 CF	\$2,194,622	1.0
Miscellaneous grants adjustments	\$0	\$575,170 CF & CFE	\$575,170	0.0
Increase Drug Offender Surcharge Fund spending authority	\$0	\$332,213 CFE	\$332,213	0.0
Account for changes in continuously appropriated cash funds administered by the Supreme Court	\$0	\$45,000 CF	\$45,000	5.0
Technical adjustment to correctly account for FTE in OCR's El Paso County staff office	\$0	\$0	\$0	21.8

**FY 2008-09 Joint Budget Committee Staff Budget Briefing
JUDICIAL BRANCH**

Change Requests

Judicial Department: Decision Items

Priority	Division: Description <i>[Statutory Authority]</i>	GF	CF	CFE	FF	Total	FTE
JUD 1	Trial Courts: Provide additional staff for trial courts <i>[Sections 13-5-101, et seq. and 13-6-101, et seq, C.R.S.]</i>	\$42,202	\$1,320,282	\$0	\$0	\$1,362,484	28.5
JUD 2	Probation: Provide additional regular probation officers and staff <i>[Sections 13-3-101 and 18-1.3-202, C.R.S.]</i>	\$3,312,555	\$0	\$0	\$0	\$3,312,555	50.4
JUD 3	Admin Special Purpose: Increase judge salaries <i>[Section 13-30-101, et seq, C.R.S.]</i>	\$1,172,896	\$0	\$0	\$0	\$1,172,896	0.0
JUD 4	Trial Courts: Increase court-appointed counsel rate <i>Titles 12, 13, 14, 15, 19, 22, 25, 27, C.R.S.; Colorado and U.S. Constitutions</i>	\$1,358,504	\$0	\$0	\$0	\$1,358,504	0.0

Priority	Division: Description <i>[Statutory Authority]</i>	GF	CF	CFE	FF	Total	FTE
JUD 5	Probation: Increase Offender Treatment and Services cash recovery spending authority <i>[Section 16-11-214 (1) (a), C.R.S.]</i>	\$0	\$2,000,000	\$0	\$0	\$2,000,000	0.0
JUD 6	Trial Courts: Provide resources for judicial officer training <i>[Sections 13-3-102 and 13-6-203, C.R.S.]</i>	\$0	\$176,783	\$0	\$0	\$176,783	2.0
JUD 7	Courts Administration: Provide additional funding for Family Violence Grants <i>[Section 14-4-107, C.R.S.]</i>	\$250,000	\$0	\$0	\$0	\$250,000	0.0
JUD 8	Trial Courts: Provide staffing to implement recommendations based on Probate Audit <i>[Sections 13-5-101, et seq, C.R.S.]</i>	\$188,717	\$0	\$0	\$0	\$188,717	3.0
JUD 9 Statewide	Integrated Information Services: Statewide MNT adjustment	\$39,881	\$0	\$0	\$0	\$39,881	0.0
JUD 10 Statewide	Administrative Special Purpose: Statewide C-SEAP program staffing	\$22,279	\$0	\$0	\$0	\$22,279	0.0
JUD 11 Statewide	Administrative Special Purpose: Statewide vehicle lease replacement	\$4,140	\$0	\$0	\$0	\$4,140	0.0
Total Judicial Decision Items		\$6,391,174	\$3,497,065	\$0	\$0	\$9,888,239	83.9

Public Defender's Office: Decision Items

Priority	Line Item: Description <i>[All statutory authority is from Section 21-1-101(1), C.R.S.]</i>	GF	CF	CFE	FF	Total	FTE
PDO 1	Operating Expenses, Leased Space, Automation Plan, Mandated Costs: Provide base appropriation increase	\$2,590,142	\$2,500	\$0	\$0	\$2,592,642	0.0
PDO 2	Personal Services: Convert contract staff to FTE	\$0	\$0	\$0	\$0	\$0	30.0
PDO 3	Multi-use Network, Automation Plan: Eliminate MNT funding and reallocate in part to Allocation Plan	(\$92,577)	\$0	\$0	\$0	(\$92,577)	0.0
PDO 4	Automation Plan: Provide resources for cyber security initiative	\$313,445	\$0	\$0	\$0	\$313,445	1.0
	Total PDO Decision Items	\$2,811,010	\$2,500	\$0	\$0	\$2,813,510	31.0

Alternate Defense Counsel: Decision Items

Priority	Line Item: Description <i>[All statutory authority is from Section 21-2-101, C.R.S.]</i>	GF	CF	CFE	FF	Total	FTE
ADC 1	Personal Services, Operating Expenses: Increase evaluator and training staff attorney to full-time	\$46,079	\$0	\$0	\$0	\$46,079	0.5
ADC 2	Personal Services, Operating Expenses, Capital Outlay: Provide additional support services staff	\$22,296	\$0	\$0	\$0	\$22,296	0.5
ADC 3	Conflict of Interest Contracts: Increase court-appointed counsel rate	\$2,323,295	\$0	\$0	\$0	\$2,323,295	0.0
	Total ADC Decision Items	\$2,391,670	\$0	\$0	\$0	\$2,391,670	1.0

Office of the Child's Representative: Decision Items

Priority	Line Item: Description <i>[All Statutory Authority is from Sections 13-91-101 and 102, C.R.S.]</i>	GF	CF	CFE	FF	Total	FTE
OCR 1	Court Appointed Counsel: Increase base budget due to caseload growth	\$642,455	\$0	\$0	\$0	\$642,455	0.0
OCR 2	Court Appointed Counsel: Increase hourly rate for GALs and child family investigators	\$1,539,100	\$0	\$0	\$0	\$1,539,100	0.0
OCR 3	Personal Services: Provide an additional staff attorney	\$64,293	\$0	\$0	\$0	\$64,293	1.0
OCR 4	Training: Continue FY 2007-08 one-time increase for training	\$10,000	\$0	\$0	\$0	\$10,000	0.0
OCR 5	Mandated Costs: Increase base appropriation for Mandated Costs	\$15,000	\$0	\$0	\$0	\$15,000	0.0
	Total OCR Decision Items	\$2,270,848	\$0	\$0	\$0	\$2,270,848	1.0

**FY 2008-09 Joint Budget Committee Staff Budget Briefing
JUDICIAL BRANCH**

Summary of Requested Changes from FY 2007-08 to FY 2008-09, by Agency

	Approp. FY 2007-08	Request FY 2008-09	Change	Percent Change
<i>JUDICIAL BRANCH TOTAL</i>				
Total	387,840,279	431,628,783	43,788,504	11.3%
<u>FTE</u>	<u>3,853.7</u>	<u>4,076.2</u>	<u>222.5</u>	<u>5.8%</u>
GF	297,821,518	329,118,510	31,296,992	10.5%
CF/CFE	87,727,297	100,220,008	12,492,711	14.2%
FF	2,291,464	2,290,265	(1,199)	-0.1%
<i>Judicial Department</i>				
Total	307,433,924	339,781,412	32,347,488	10.5%
<u>FTE</u>	<u>3,335.4</u>	<u>3,507.8</u>	<u>172.4</u>	<u>5.2%</u>
GF	217,737,600	237,703,102	19,965,502	9.2%
CF/CFE	87,404,860	99,788,045	12,383,185	14.2%
FF	2,291,464	2,290,265	(1,199)	-0.1%

	Approp. FY 2007-08	Request FY 2008-09	Change	Percent Change
<i>Public Defender's Office</i>				
Total	45,071,101	51,671,700	6,600,599	14.6%
<u>FTE</u>	<u>486.0</u>	<u>534.1</u>	<u>48.1</u>	<u>9.9%</u>
GF	44,756,664	51,247,737	6,491,073	14.5%
CF/CFE	314,437	423,963	109,526	34.8%
<i>Alternate Defense Counsel</i>				
Total	21,640,265	24,088,027	2,447,762	11.3%
<u>FTE</u>	<u>6.5</u>	<u>7.5</u>	<u>1.0</u>	<u>15.4%</u>
GF	21,632,265	24,080,027	2,447,762	11.3%
CF/CFE	8,000	8,000	0	0.0%
<i>Office of the Child's Representative</i>				
Total	13,694,989	16,087,644	2,392,655	17.5%
<u>FTE</u>	<u>25.8</u>	<u>26.8</u>	<u>1.0</u>	<u>3.9%</u>
GF	13,694,989	16,087,644	2,392,655	17.5%
CF/CFE	0	0	0	0.0%

**FY 2008-09 Joint Budget Committee Staff Budget Briefing
JUDICIAL BRANCH**

Numbers Pages Overview

Requested Changes FY 2007-08 to FY 2008-09						
Category	GF	CF	CFE	FF	Total	FTE
FY 2007-08 Appropriation	\$297,821,518	\$77,352,572	\$10,374,725	\$2,291,464	\$387,840,279	3,853.7
JUD Decision Items	\$6,391,174	\$3,497,065	\$0	\$0	\$9,888,239	83.9
PDO Decision Items	\$2,811,010	\$2,500	\$0	\$0	\$2,813,510	31.0
ADC Decision Items	\$2,391,670	\$0	\$0	\$0	\$2,391,670	1.0
OCR Decision Items	\$2,270,848	\$0	\$0	\$0	\$2,270,848	1.0
Annualize FY 07-08 DIs & Special Bills ^a	\$885,769	\$6,138,182	\$0	\$0	\$7,023,951	105.6
Annualize FY 07-08 SS & Anniversary	\$11,913,369	\$990,750	\$0	\$0	\$12,904,119	0.0
Changes in Employee Benefits ^b	\$4,612,279	\$507,352	\$0	\$0	\$5,119,631	0.0
Changes in Other Common Policies ^c	\$314,323	\$0	\$0	\$0	\$314,323	0.0
Personal Services Reduction	(\$363,096)	(\$47,495)	\$0	\$0	(\$410,591)	0.0
Other Miscellaneous Changes ^d	\$69,646	\$1,367,276	\$37,081	(\$1,199)	\$1,472,804	0.0
FY 2008-09 Request	\$329,118,510	\$89,808,202	\$10,411,806	\$2,290,265	\$431,628,783	4,076.2
Total Change	\$31,296,992	\$12,455,630	\$37,081	(\$1,199)	\$43,788,504	222.5
Percent Change	10.5%	16.1%	0.4%	-0.1%	11.3%	5.8%
% Change due to DIs	4.7%	4.5%	0.0%	0.0%	4.5%	3.0%
Remaining % Change	5.9%	11.6%	0.4%	-0.1%	6.8%	2.7%

^a This total includes \$828,586 General Fund, \$6,865,859 cash funds, and 105.6 FTE for the second year impact of H.B. 07-1054, which created new judgeships. These increases are partially offset by reductions from FY 2007-08 one-time costs.

^b Employee benefits changes in the following line-items are included here: Health/Life/Dental, Short-term Disability, Salary Survey, Anniversary, Amortization Equalization Disbursement (AED), Supplemental AED.

^c Other common policy changes in the following line-items are included here: Workers' Compensation, Risk Management, Vehicle Lease, Payments to General Government Computing Center, and Multi-use Network.

^d Other miscellaneous changes included here are changes due to: leased space escalators; communication services payments; indirect cost adjustments; changes in grant funding; changes in Sex Offender Surcharge Fund spending authority; and refinancing in the Judicial/Heritage Program.

- ▶ The \$31.3 million increase in **General Fund** is due to: the annualization of FY 2007-08 salary survey and anniversary totaling \$11.9 million; Judicial Department decision items totaling \$6.4 million; changes in employee benefits totaling \$4.6 million; Public Defender's Office decision items totaling \$2.8 million; Alternate Defense Counsel decision items totaling \$2.4 million; Office of the Child's Representative decision items totaling \$2.3 million; the annualization of FY 2007-08 decision items and special bills totaling \$886,000; changes in common policies totaling \$314,000; and other miscellaneous changes totaling \$70,000. These increases are partially offset by \$363,000 in personal services base reductions.
- ▶ The \$12.5 million increase in **Cash Funds** is primarily due to: the annualization of FY 2007-08 decision items and special bills totaling \$6.1 million; Judicial Department decision items totaling \$3.5 million; miscellaneous changes totaling \$1.4 million; the annualization of FY 2007-08 salary survey and anniversary totaling \$991,000; changes in employee benefits totaling \$507,000; and Public Defender's Office decision items totaling \$2,500. These increases are partially offset by \$47,000 in personal services base reductions.
- ▶ The \$37,000 increase in **Cash Funds Exempt** is due to miscellaneous changes.
- ▶ The \$1,000 decrease in **Federal Funds** is due to miscellaneous changes.
- ▶ The 222.5 increase in **FTE** is due to: the annualization of FY 2007-08 decision items and special bills totaling 105.6 FTE; Judicial Department decision items totaling 83.9 FTE; Public Defender's Office decision items totaling 31.0 FTE; Alternate Defense Counsel decision items totaling 1.0 FTE; and Office of the Child's Representative decision items totaling 1.0 FTE.

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 2008-09 Request	Change Requests
JUDICIAL BRANCH					
Chief Justice Mary Mullarkey					
(1) SUPREME COURT/COURT OF APPEALS					
The primary functions of the Supreme Court are general supervisory control of lower courts; appellate review of lower court judgements; original jurisdiction for certain constitutional and other cases; and rule-making for the state court system. The Court of Appeals is the initial jurisdiction for appeals from district courts and certain state agencies. The cash funds and cash funds exempt are from various fees and cash recoveries.					
Personal Services - GF	8,293,628	9,421,959	9,480,219	11,046,643	
FTE	<u>113.4</u>	<u>126.5</u>	<u>132.5</u>	<u>146.0</u>	
General Fund	8,293,628	9,421,959	9,480,219	10,061,792	HB 07-1054
Cash Funds	0	0	0	984851	HB 07-1054
Operating Expenses	<u>184,194</u>	<u>213,271</u>	<u>221,062</u>	<u>243,412</u>	
General Fund	126,932	152,832	153,062	153,062	HB 07-1054
Cash Funds	57,262	60,439	68,000	90,350	HB 07-1054
Capital Outlay - GF	<u>0</u>	<u>241,937</u>	<u>0</u>	<u>229,662</u>	
General Fund	0	241,937	0	0	
Cash Funds	0	0	0	229,662	HB 07-1054
Attorney Regulation Committees	4,312,053	6,326,619	4,700,000	4,700,000	
FTE	<u>40.5</u>	<u>40.5</u>	<u>40.5</u>	<u>40.5</u>	
Cash Funds	4,312,053	6,326,619	4,600,000	4,600,000	
FTE	40.5	40.5	40.5	40.5	
Cash Funds Exempt	0	0	100,000	100,000	
Continuing Legal Education	332,264	350,689	325,000	325,000	
FTE	<u>4.0</u>	<u>4.0</u>	<u>4.0</u>	<u>4.0</u>	
Cash Funds	332,264	350,689	320,000	320,000	
FTE	4.0	4.0	4.0	4.0	
Cash Funds Exempt	0	0	5,000	5,000	

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 2008-09 Request	Change Requests
Law Examiner Board	754,752	801,207	850,000	850,000	
FTE	<u>8.2</u>	<u>8.2</u>	<u>8.2</u>	<u>8.2</u>	
Cash Funds	754,752	801,207	750,000	750,000	
FTE	8.2	8.2	8.2	8.2	
Cash Funds Exempt	0	0	100,000	100,000	
Law Library	<u>420,578</u>	<u>426,260</u>	<u>500,000</u>	<u>500,000</u>	
General Fund	67,000	0	0	0	
Cash Funds	353,578	426,260	500,000	500,000	
Cash Funds Exempt	0	0	0	0	
					Request v. Approp.
TOTAL - Supreme Court/					
Court of Appeals	14,297,469	17,781,942	16,076,281	17,894,717	11.3%
FTE	<u>166.1</u>	<u>179.2</u>	<u>185.2</u>	<u>198.7</u>	<u>7.3%</u>
General Fund	8,487,560	9,816,728	9,633,281	10,214,854	6.0%
FTE	113.4	126.5	132.5	146.0	10.2%
Cash Funds	5,809,909	7,965,214	6,238,000	7,474,863	19.8%
FTE	52.7	52.7	52.7	52.7	0.0%
Cash Funds Exempt	0	0	205,000	205,000	0.0%

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 2008-09 Request	Change Requests
(2) COURTS ADMINISTRATION					
(A) Administration					
The Office of the State Court Administrator coordinates and controls budgeting, research, data processing and management services for the Judicial Branch; and provides training, technical assistance and other support services. The sources of cash funds are various fees and cost recoveries. The source of cash funds exempt is indirect cost recoveries.					
Personal Services	4,199,418	4,750,924	4,940,822	5,146,958	
FTE	<u>52.0</u>	<u>59.2</u>	<u>62.3</u>	<u>62.3</u>	
General Fund	3,301,369	3,714,028	3,823,254	4,031,709	
FTE	52.0	59.2	62.3	62.3	
Cash Funds Exempt	898,049	1,036,896	1,117,568	1,115,249	
Operating Expenses	<u>363,775</u>	<u>366,799</u>	<u>368,996</u>	<u>368,996</u>	
General Fund	362,775	366,152	367,996	367,996	
Cash Funds	1,000	647	1,000	1,000	
Capital Outlay - GF	29,639	6,010	7,042	0	
Judicial/Heritage Program	779,720	718,812	593,700	600,206	
FTE	<u>3.0</u>	<u>3.0</u>	<u>3.0</u>	<u>3.0</u>	
General Fund	576,527	474,302	317,852	358,340	
FTE	3.0	3.0	3.0	3.0	
Cash Funds	0	0	0	0	
Cash Funds Exempt	203,193	244,510	275,848	241,866	

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

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 2008-09 Request	Change Requests
					Request v. Approp.
SUBTOTAL - Administration	7,938,477	8,782,390	11,666,046	12,132,395	4.0%
FTE	<u>55.5</u>	<u>62.7</u>	<u>67.8</u>	<u>67.8</u>	<u>0.0%</u>
General Fund	5,670,658	6,138,859	6,016,144	6,508,045	8.2%
FTE	55.0	62.2	65.3	65.3	0.0%
Cash Funds	894,334	1,354,680	4,122,726	4,130,982	0.2%
FTE	0.0	0.5	2.5	2.5	0.0%
Cash Funds Exempt	1,373,485	1,288,851	1,521,624	1,489,015	-2.1%
FTE	0.5	0.0	0.0	0.0	n/a
Federal Funds	0	0	5,552	4,353	-21.6%

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

(B) Administrative Special Purpose

This subdivision is for centrally appropriated POTS, and ancillary programs. Cash funds are from fees paid by defendants and others who use the courts.

Health, Life and Dental	<u>7,497,558</u>	<u>10,239,651</u>	<u>13,170,524</u>	<u>16,858,219</u>	
General Fund	7,151,688	9,718,227	11,708,733	14,772,695	JUD DI #1 & #2
Cash Funds	345,870	521,424	1,461,791 a/	2,085,524	JUD DI #1, H.B. 07-1054
Short-term Disability	<u>162,712</u>	<u>141,748</u>	<u>211,444</u>	<u>241,451</u>	
General Fund	154,907	132,516	186,059	217,141	JUD DI #1 & #2
Cash Funds	7,805	9,232	25,385 a/	24,310	JUD DI #1, H.B. 07-1054

	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	Change
	Actual	Actual	Appropriation	Request	Requests
Salary Survey	<u>4,538,489</u>	<u>4,652,652</u>	<u>9,900,227</u>	<u>9,895,628</u>	
General Fund	4,466,340	4,447,399	8,998,492	8,750,295	JUD DI #3
Cash Funds	72,149	205,253	901,735	1,145,333	
Anniversary Increases	<u>0</u>	<u>0</u>	<u>1,958,269</u>	<u>2,054,036</u>	
General Fund	0	0	1,847,001	1,829,640	
Cash Funds	0	0	111,268	224,396	
S.B. 04-257 Amortization Equalization					
Disbursement (AED)	<u>296,837</u>	<u>1,055,252</u>	<u>1,885,200</u>	<u>3,165,008</u>	
General Fund	277,311	993,977	1,669,756	2,841,692	JUD DI #1, 2, 3, 8
Cash Funds	19,526	61,275	215,444	323,316	JUD DI #1, 6
S.B. 06-235 Supplemental Amortization					
Equalization Disbursement (SAED)	n/a	n/a	<u>343,055</u>	<u>1,000,308</u>	
General Fund			298,170	896,740	JUD DI #1, 2, 3, 8
Cash Funds			44,885	103,568	JUD DI #1, 6
Workers' Compensation - GF	1,110,655	1,348,485	1,765,889	2,127,265	statewide DI
Legal Services - GF	260,357	195,912	304,471	304,471	
Hours	4,227	4,227	4,227	4,227	
Payment to Risk Management - GF	164,445	425,823	375,447	348,523	
Vehicle Lease Payments - GF	65,813	32,743	52,324	42,727	statewide DI

	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	Change
	Actual	Actual	Appropriation	Request	Requests
Leased Space	<u>613,690</u>	<u>697,437</u>	<u>729,465</u>	<u>828,975</u>	
General Fund	590,410	663,042	690,225	789,735	
Cash Funds	23,280	34,395	39,240	39,240	H.B. 07-1054
Lease Purchase - GF	112,766	112,766	112,766	112,766	
Administrative Purposes	<u>157,001</u>	<u>154,015</u>	<u>195,554</u>	<u>195,554</u>	
General Fund	123,904	103,440	130,554	130,554	
Cash Funds	33,097	50,575	65,000	65,000	
Retired Judges - GF	1,383,362	1,530,382	1,384,006	1,384,006	
Appellate Reports - GF	37,528	31,988	67,100	67,100	
Child Support Enforcement	65,373	59,086	90,900	90,900	
FTE	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	
General Fund	21,588	20,054	30,904	30,904	
Cash Funds Exempt	43,785	39,032	59,996	59,996	
FTE	1.0	1.0	1.0	1.0	
Collections Investigators	3,315,049	4,207,833	4,075,209	4,602,766	
FTE	<u>57.7</u>	<u>69.0</u>	<u>83.2</u>	<u>83.2</u>	
Cash Funds	2,797,178	3,631,602	3,498,976	4,026,533	
FTE	57.7	69.0	83.2	83.2	
Cash Funds Exempt	517,871	576,231	576,233	576,233	

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 2008-09 Request	Change Requests Request v. Approp.
SUBTOTAL - Special Purpose	19,781,635	24,885,773	36,621,850	43,319,703	18.3%
FTE	58.7	70.0	84.2	84.2	0.0%
General Fund	15,921,074	19,756,754	29,621,897	34,646,254	17.0%
Cash Funds	3,298,905	4,513,756	6,363,724	8,037,220	26.3%
FTE	57.7	69.0	83.2	83.2	0.0%
Cash Funds Exempt	561,656	615,263	636,229	636,229	0.0%
FTE	1.0	1.0	1.0	1.0	0.0%

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

(C) Judicial Performance

This subdivision is responsible for Judicial Performance evaluations.

Personal Services - CF	87,765	89,700	Beginning in FY 2007-08, this appropriation was moved
FTE	1.0	1.0	to the Administration subdivision of the Courts
			Administration Division (see above).
Operating Expenses - CF	176,575	55,460	

SUBTOTAL-Judicial Performance - CF	264,340	145,160	
FTE	1.0	1.0	

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 2008-09 Request	Change Requests
(C) Integrated Information Services					
This subdivision is responsible for developing and maintaining information technology systems used by the courts, including ICON and CICJIS, for training staff on their use, and for assuring data integrity. The sources of cash funds are various fees and cost recovery. The cash funds exempt are federal funds transferred through the Division of Criminal Justice.					
Personal Services	2,966,478	2,989,724	3,230,093	3,363,608	
FTE	<u>39.2</u>	<u>40.8</u>	<u>44.1</u>	<u>44.1</u>	
General Fund	2,837,293	2,942,948	3,011,093	3,144,608	
FTE	39.2	40.8	44.1	44.1	
Cash Funds Exempt	129,185	46,776	219,000	219,000	
Operating Expenses	<u>193,400</u>	<u>224,569</u>	<u>226,444</u>	<u>226,444</u>	
General Fund	174,568	174,569	176,444	176,444	
Cash Funds	18,832	50,000	50,000	50,000	
Capital Outlay - GF	0	15,025	7,042	0	
JAVA Conversion - GF	n/a	258,570	311,054	311,054	
FTE		4.0	5.0	5.0	
Purchase of Services from Computer Center - GF	85,909	130,103	132,244	97,602	
Multi-use Network - GF	314,594	270,689	305,053	344,934	statewide DI

	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	Change
	Actual	Actual	Appropriation	Request	Requests
Telecommunications Expenses	<u>310,000</u>	<u>383,169</u>	<u>383,392</u>	<u>383,392</u>	
General Fund	310,000	309,777	310,000	310,000	
Cash Funds	0	73,392	73,392	73,392	
Communication Services Payments - GF	10,790	11,708	10,625	11,093	
Hardware Replacement	<u>1,724,181</u>	<u>2,217,517</u>	<u>2,100,000</u>	<u>2,100,000</u>	
General Fund	0	2,597	0	0	
Cash Funds	1,649,181	2,214,920	2,100,000	2,100,000	
Cash Funds Exempt	75,000	0	0	0	
Hardware/Software Maintenance	<u>1,069,429</u>	<u>1,063,035</u>	<u>1,078,094</u>	<u>1,078,094</u>	
General Fund	1,043,094	1,028,035	1,043,094	1,043,094	
Cash Funds	26,335	35,000	35,000	35,000	
					Request v. Approp.
SUBTOTAL - Integrated Information					
Services	6,674,781	7,564,109	7,784,041	7,916,221	1.7%
FTE	<u>39.2</u>	<u>44.8</u>	<u>49.1</u>	<u>49.1</u>	<u>0.0%</u>
General Fund	4,776,248	5,144,021	5,306,649	5,438,829	2.5%
FTE	39.2	44.8	49.1	49.1	0.0%
Cash Funds	1,694,348	2,373,312	2,258,392	2,258,392	0.0%
Cash Funds Exempt	204,185	46,776	219,000	219,000	0.0%

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 2008-09 Request	Change Requests Request v. Approp.
TOTAL - Courts Administration	34,659,233	41,377,432	56,071,937	63,368,319	13.0%
FTE	<u>154.4</u>	<u>178.5</u>	<u>201.1</u>	<u>201.1</u>	<u>0.0%</u>
General Fund	26,367,980	31,039,634	40,944,690	46,593,128	13.8%
FTE	94.2	107.0	114.4	114.4	0.0%
Cash Funds	6,151,927	8,386,908	12,744,842	14,426,594	13.2%
FTE	58.7	70.5	85.7	85.7	0.0%
Cash Funds Exempt	2,139,326	1,950,890	2,376,853	2,344,244	-1.4%
FTE	1.5	1.0	1.0	1.0	0.0%
Federal Funds	0	0	5,552	4,353	-21.6%

(3) TRIAL COURTS

Trial courts include district, county, and water courts. District courts have general jurisdiction over domestic, civil, and criminal cases, as well as appellate jurisdiction for decisions of county and municipal courts. County courts have jurisdiction over traffic cases and minor criminal and civil cases, as well as appellate jurisdiction for municipal courts. Cash funds are from various fees, including docket fees and cost recovery.

Personal Services	92,597,864	98,911,759	101,281,808	111,678,556	
FTE	<u>1,528.4</u>	<u>1,608.5</u>	<u>1,760.0</u>	<u>1,868.5</u>	
General Fund	84,504,084	91,852,728	91,735,045	96,520,336	JUD DI #1, 8
FTE	1,441.5	1,521.6	1,628.1	1,631.6	JUD DI #1, 8
Cash Funds	7,373,009	5,860,931	9,546,763 a/	15,158,220	JUD DI #1, 6, H.B. 07-1054
FTE	86.9	86.9	131.9 a/	236.9	JUD DI #1, 6
Federal Funds	720,771	1,198,100	0	0	

	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	Change
	Actual	Actual	Appropriation	Request	Requests
Operating Expenses	<u>6,076,552</u>	<u>7,545,228</u>	<u>6,763,633</u>	<u>6,933,839</u>	
General Fund	168,787	223,951	268,264	279,050	JUD DI #1, 8
Cash Funds	5,907,765	7,321,277	6,495,369 a/	6,654,789	JUD DI #1, 6, H.B. 07-1054
Capital Outlay	<u>481,230</u>	<u>1,029,387</u>	<u>868,700</u>	<u>671,027</u>	
General Fund	481,230	0	141,023	12,963	JUD DI #8
Cash Funds	0	1,029,387	727,677 a/	658,064	JUD DI #1, 6, H.B. 07-1054
Mandated Costs	13,790,049	12,104,758	13,600,287	14,958,791	
FTE	<u>25.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	
General Fund	13,468,688	11,940,646	13,115,287	14,473,791	JUD DI #4
FTE	25.0	0.0	0.0	0.0	
Cash Funds	321,361	164,112	485,000	485,000	
Language Interpreters - GF	n/a	3,181,249	2,883,666	2,881,183	
FTE		<u>25.0</u>	<u>25.0</u>	<u>25.0</u>	
General Fund		3,138,162	2,833,666	2,831,183	
Cash Funds		43,087	50,000	50,000	
District Attorney Mandated Costs	<u>1,879,174</u>	<u>2,027,885</u>	<u>1,915,667</u>	<u>1,926,052</u>	
General Fund	1,772,849	1,928,795	1,790,667	1,801,052	
Cash Funds	106,325	99,090	125,000	125,000	
Sex Offender Surcharge Fund Program					
General Fund	15,535	21,021	24,988	23,559	

	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	Change
	Actual	Actual	Appropriation	Request	Requests
Victim Compensation	<u>9,275,866</u>	<u>9,316,013</u>	<u>12,555,319</u>	<u>12,120,121</u>	
Cash Funds	9,275,866	9,316,013	12,016,319 b/	11,581,121	
Cash Funds Exempt	0	0	539,000	539,000	
Victim Assistance	<u>11,456,949</u>	<u>13,032,626</u>	<u>13,287,752</u>	<u>15,095,039</u>	
Cash Funds	11,456,949	13,032,626	12,935,752 b/	14,743,039	
Cash Funds Exempt	0	0	352,000	352,000	
Federal Funds and Other Grants	1,060,599	1,292,011	2,296,627	2,296,627	
FTE	<u>8.5</u>	<u>8.5</u>	<u>8.5</u>	<u>8.5</u>	
Cash Funds	178,442	797,282	863,000	863,000	
Cash Funds Exempt	61,001	37,379	383,469	383,469	
FTE	6.0	6.0	6.0	6.0	
Federal Funds	821,156	457,350	1,050,158	1,050,158	
FTE	2.5	2.5	2.5	2.5	
					Request v. Approp.
TOTAL - Trial Courts	136,633,818	148,461,937	155,478,447	168,584,794	8.4%
FTE	<u>1,561.9</u>	<u>1,642.0</u>	<u>1,793.5</u>	<u>1,902.0</u>	<u>6.0%</u>
General Fund	100,411,173	109,105,303	109,908,940	115,941,934	5.5%
FTE	1,466.5	1,546.6	1,653.1	1,656.6	0.2%
Cash Funds	34,619,717	37,663,805	43,244,880	50,318,233	16.4%
FTE	86.9	86.9	131.9	236.9	79.6%
Cash Funds Exempt	61,001	37,379	1,274,469	1,274,469	0.0%
FTE	6.0	6.0	6.0	6.0	0.0%
Federal Funds	1,541,927	1,655,450	1,050,158	1,050,158	0.0%
FTE	2.5	2.5	2.5	2.5	0.0%

	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	Change
	Actual	Actual	Appropriation	Request	Requests

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

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

(4) PROBATION AND RELATED SERVICES

This division provides supervision of offenders sentenced to probation, presentence investigations for the courts, victim notification and assistance, and community outreach programs. Cash funds are from fees paid by offenders for supervision and restitution.

Personal Services	46,330,138	51,343,771	60,889,030	69,073,805	
FTE	<u>781.9</u>	<u>835.7</u>	<u>1,081.0</u>	<u>1,131.4</u>	
General Fund	44,094,277	47,515,763	52,000,053	59,761,002	JUD DI #2
FTE	751.9	768.0	927.1	977.5	JUD DI #2
Cash Funds	2,235,861	3,828,008	8,888,977	9,312,803	
FTE	30.0	67.7	153.9	153.9	
Operating Expenses	<u>1,939,680</u>	<u>2,081,402</u>	<u>2,588,978</u>	<u>2,687,258</u>	
General Fund	1,844,115	1,963,799	2,181,879	2,280,159	JUD DI #2
Cash Funds	95,565	117,603	407,099	407,099	
Capital Outlay - GF	304,903	123,872	381,564	224,832	JUD DI #2
Sex Offender Intensive Supervision					
Cash Funds	524,608	0	0	0	

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

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 2008-09 Request	Change Requests
S.B. 03-318 Community Treatment					
Funding - GF			2,200,000	2,200,000	
Sex Offender Assessment	<u>192,597</u>	<u>0</u>	<u>0</u>	<u>0</u>	
Cash Funds	192,597	0	0	0	
Cash Funds Exempt	0	0	0	0	
Genetic Testing - GF	1,480	0	0	0	
Federal Funds and Other Grants	1,993,387	2,248,717	4,663,739	4,663,739	
FTE	<u>32.3</u>	<u>32.3</u>	<u>32.3</u>	<u>32.3</u>	
Cash Funds	731,230	982,088	1,690,000	1,690,000	
FTE	2.0	2.0	2.0	2.0	
Cash Funds Exempt	294,898	471,968	1,737,985	1,737,985	
FTE	17.8	17.8	17.8	17.8	
Federal Funds	967,259	794,661	1,235,754	1,235,754	
FTE	12.5	12.5	12.5	12.5	

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 2008-09 Request	Change Requests
					Request v. Approp.
TOTAL - Probation	62,287,011	67,440,160	79,807,259	89,933,582	12.7%
FTE	<u>972.8</u>	<u>910.3</u>	<u>1,155.6</u>	<u>1,206.0</u>	<u>4.4%</u>
General Fund	46,691,380	50,090,627	57,250,689	64,953,186	13.5%
FTE	751.9	768.0	927.1	977.5	5.4%
Cash Funds	12,751,015	13,416,965	14,810,960	17,234,786	16.4%
FTE	148.3	69.7	155.9	155.9	0.0%
Cash Funds Exempt	1,877,357	3,137,907	6,509,856	6,509,856	0.0%
FTE	60.1	60.1	60.1	60.1	0.0%
Federal Funds	967,259	794,661	1,235,754	1,235,754	0.0%
FTE	12.5	12.5	12.5	12.5	0.0%
					Request v. Approp.
TOTAL - Judicial Department	247,877,531	275,061,471	307,433,924	339,781,412	10.5%
FTE	<u>2,855.2</u>	<u>2,910.0</u>	<u>3,335.4</u>	<u>3,507.8</u>	<u>5.2%</u>
General Fund	181,958,093	200,052,292	217,737,600	237,703,102	9.2%
FTE	2,426.0	2,548.1	2,827.1	2,894.5	2.4%
Cash Funds	59,332,568	67,432,892	77,038,682	89,454,476	16.1%
FTE	346.6	279.8	426.2	531.2	24.6%
Cash Funds Exempt	4,077,684	5,126,176	10,366,178	10,333,569	-0.3%
FTE	67.6	67.1	67.1	67.1	0.0%
Federal Funds	2,509,186	2,450,111	2,291,464	2,290,265	-0.1%
FTE	15.0	15.0	15.0	15.0	0.0%

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 2008-09 Request	Change Requests
(5) PUBLIC DEFENDER					
Douglas Wilson, State Public Defender					
This agency provides legal counsel for indigent defendants who are facing incarceration. Cash funds are received for training provided to private attorneys. The cash funds exempt are for federal grants transferred to the Public Defender's Office from the Department of Public Safety.					
Personal Services	26,024,434	27,424,878	33,648,203	35,980,603	
FTE	<u>357.9</u>	<u>371.7</u>	<u>486.0</u>	<u>534.1</u>	
General Fund	25,961,044	27,361,488	33,359,813 a/	35,692,213	H.B. 07-1054
FTE	356.3	370.1	480.4 a/	528.5	PDO DI #2, 4, H.B. 07-1054
Cash Funds	63,390	63,390	288,390	288,390	
FTE	1.6	1.6	5.6	5.6	
Health, Life, and Dental	<u>1,133,947</u>	<u>1,546,367</u>	<u>1,806,462</u>	<u>2,491,398</u>	
General Fund	1,133,947	1,546,367	1,806,462	2,474,511	
Cash Funds	0	0	0	16,887	
Short-term Disability	<u>32,805</u>	<u>27,805</u>	<u>31,517</u>	<u>42,789</u>	
General Fund	32,805	27,805	31,517	42,441	
Cash Funds	0	0	0	348	
Salary Survey	<u>720,235</u>	<u>843,026</u>	<u>934,562</u>	<u>1,268,638</u>	
General Fund	720,235	843,026	934,562	1,258,318	
Cash Funds	0	0	0	10,320	
Anniversary Increases	<u>0</u>	<u>0</u>	<u>403,490</u>	<u>507,229</u>	
General Fund	0	0	403,490	503,103	
Cash Funds	0	0	0	4,126	
S.B. 04-257 Amortization Equalization					
Disbursement (AED)	<u>48,828</u>	<u>178,868</u>	<u>282,846</u>	<u>536,393</u>	
General Fund	48,828	178,868	282,846	532,109	
Cash Funds	0	0	0	4,284	

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 2008-09 Request	Change Requests
S.B. 06-235 Supplemental Amortization					
Equalization Disbursement (SAED) - GF	<u>0</u>	<u>0</u>	<u>50,508</u>	<u>173,124</u>	
General Fund	0	0	50,508	171,753	H.B. 07-1054
Cash Funds	0	0	0	1,371	
Operating Expenses	<u>1,035,314</u>	<u>1,095,764</u>	<u>880,079</u>	<u>1,151,482</u>	
General Fund	1,019,564	1,080,014	862,579	1,131,482	PDO DI #1, H.B. 07-1054
Cash Funds	15,750	15,750	17,500	20,000	PDO DI #1
Purchase of Services from GGCC - GF	12,449	12,633	18,453	18,453	
Multi-use Network - GF	200,063	209,236	235,797	0	PDO DI #3
Vehicle Lease Payments - GF	43,035	47,121	32,642	52,743	
Capital Outlay - GF	34,198	97,081	243,405	58,735	H.B. 07-1054
Leased Space/Utilities - GF	2,412,730	2,572,318	3,455,226	4,517,992	PDO DI #1
Automation Plan - GF	1,006,768	863,391	489,746	1,208,213	PDO DI #1, 3, 4
Contract Services - GF	18,000	8,000	18,000	18,000	
Mandated Costs - GF	2,178,921	2,541,618	2,531,618	3,567,671	PDO DI #1
Grants - CFE	57,317	84,040	8,547	78,237	
					Request v. Approp.
TOTAL - Public Defender	34,959,044	37,552,146	45,071,101	51,671,700	14.6%
FTE	<u>357.9</u>	<u>371.7</u>	<u>486.0</u>	<u>534.1</u>	<u>9.9%</u>
General Fund	34,822,587	37,388,966	44,756,664	51,247,737	14.5%
FTE	356.3	370.1	480.4	528.5	10.0%
Cash Funds	79,140	79,140	305,890	345,726	13.0%
FTE	1.6	1.6	5.6	5.6	0.0%
Cash Funds Exempt	57,317	84,040	8,547	78,237	815.4%

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 2008-09 Request	Change Requests
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a/ Per H.B. 07-1054, this appropriation includes \$351,004 and 7.0 FTE to fund the increase caseload and courtrooms needing coverage due to the creation of new judges in this bill.

(6) OFFICE OF THE ALTERNATE DEFENSE COUNSEL
Lindy Frolich, State Alternate Defense Counsel

This agency provides legal counsel for indigent defendants in cases where the Public Defender is unable to provide representation due to a conflict of interest. Cash funds are received for training provided to private attorneys.

Personal Services - GF	440,489	452,718	563,488	662,158	ADC DI #1, 2
FTE	5.0	5.0	6.5	7.5	ADC DI #1, 2
Health, Life, and Dental - GF	11,743	20,693	31,496	43,226	
Short-term Disability - GF	568	455	505	705	
Salary Survey - GF	12,604	10,983	18,422	23,597	
Anniversary Increases - GF	0	0	7,300	8,360	
S.B. 04-257 Amortization Equalization Disbursement (AED) - GF	849	2,849	4,536	8,682	
S.B. 06-235 Supplemental Amortization Equalization Disbursement (SAED) - GF	0	0	810	2,785	
Operating Expenses	<u>46,945</u>	<u>96,837</u>	<u>66,080</u>	<u>67,505</u>	
General Fund	45,415	89,080	66,080	67,505	ADC DI #1, 2
Cash Funds	1,530	7,757	0	0	
Capital Outlay	0	0	6,010	3,280	
Purchase of Services from GGCC - GF	0	950	1,537	1,134	

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 2008-09 Request	Change Requests
Leased Space - GF	26,285	40,382	32,772	35,991	
Training and Conferences	0	0	<u>28,000</u>	<u>28,000</u>	
General Fund			20,000	20,000	
Cash Funds			8,000	8,000	
Conflict of Interest Contracts - GF	13,283,794	16,201,867	19,374,826	21,698,121	ADC DI #3
Mandated Costs - GF	1,104,890	1,240,579	1,504,483	1,504,483	
					Request v. Approp.
TOTAL - Alternate Defense Counsel	14,928,167	18,068,313	21,640,265	24,088,027	11.3%
FTE	<u>5.0</u>	<u>5.0</u>	<u>6.5</u>	<u>7.5</u>	15.4%
General Fund	14,926,637	18,060,556	21,632,265	24,080,027	11.3%
FTE	5.0	5.0	6.5	7.5	15.4%
Cash Funds	1,530	7,757	8,000	8,000	0.0%

(7) OFFICE OF THE CHILD'S REPRESENTATIVE

Theresa Spahn, Executive Director

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

Personal Services - GF	1,517,847	1,521,158	1,629,747	1,754,289	OCR DI #3
FTE	4.0	4.0	25.8	26.8	OCR DI #3
Health, Life, and Dental - GF	60,728	74,600	101,789	130,371	OCR DI #3
Short-term Disability - GF	1,969	1,516	1,836	2,158	OCR DI #3
Salary Survey - GF	46,254	40,544	53,159	74,555	
Anniversary Increases - GF	0	0	20,344	23,794	

	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	Change
	Actual	Actual	Appropriation	Request	Requests
S.B. 04-257 Amortization Equalization Disbursement (AED) - GF	2,814	12,321	16,474	26,552	OCR DI #3
S.B. 06-235 Supplemental Amortization Equalization Disbursement (SAED) - GF	0	0	2,942	8,632	OCR DI #3
Operating Expenses - GF	157,694	167,164	147,212	147,212	
Purchase of Services from GGCC - GF	1,025	1,040	1,464	1,464	
Capital Outlay - GF	0	0	0	0	
Leased Space - GF	127,133	130,949	135,840	137,880	
CASA Contracts - GF	20,000	20,000	20,000	20,000	
Training - GF	28,000	27,963	38,000	38,000	OCR DI #4
Court Appointed Counsel - GF	7,415,368	10,617,761	11,514,954	13,696,509	OCR DI #1, 2
Mandated Costs - GF	24,014	26,342	11,228	26,228	OCR DI #5
					Request v. Approp.
TOTAL - Office of the Child's Representative - GF	9,402,846	12,641,358	13,694,989	16,087,644	17.5%
FTE	4.0	4.0	25.8	26.8	3.9%

	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	Change
	Actual	Actual	Appropriation	Request	Requests
					Request v. Approp.
JUDICIAL GRAND TOTAL	307,167,588	343,323,288	387,840,279	431,628,783	11.3%
FTE	<u>3,222.1</u>	<u>3,290.7</u>	<u>3,853.7</u>	<u>4,076.2</u>	5.8%
General Fund	241,110,163	268,143,172	297,821,518	329,118,510	10.5%
FTE	2,791.3	2,927.2	3,339.8	3,457.3	3.5%
Cash Funds	59,413,238	67,519,789	77,352,572	89,808,202	16.1%
FTE	348.2	281.4	431.8	536.8	24.3%
Cash Funds Exempt	4,135,001	5,210,216	10,374,725	10,411,806	0.4%
FTE	67.6	67.1	67.1	67.1	0.0%
Federal Funds	2,509,186	2,450,111	2,291,464	2,290,265	-0.1%
FTE	15.0	15.0	15.0	15.0	0.0%

**FY 2008-09 Joint Budget Committee Staff Budget Briefing
JUDICIAL BRANCH**

Footnote Update - these are from last year

- 4 All Departments, Totals** -- The General Assembly requests that copies of all reports requested in other footnotes contained in this act be delivered to the Joint Budget Committee and the majority and minority leadership in each house of the General Assembly.

Comment: The Department is in compliance with this footnote.

- 5 All Departments, Totals** – Every Department is requested to submit to the Joint Budget Committee information on the number of additional federal and cash funds exempt FTE associated with any federal grants or private donations that are applied for or received during FY 2007-08. The information should include the number of FTE, the associated costs (such as workers' compensation, health and life benefits, need for additional space, etc.) that are related to the additional FTE, the direct and indirect matching requirements associated with the federal grant or donated funds, the duration of the grant, and a brief description of the program and its goals and objectives.

Comment: This footnote was vetoed on the grounds that it violates the separation of powers, in that it is attached to federal funds and private donations which are not subject to legislative appropriation. Additionally, the Governor stated that it could constitute substantive legislation and is an unfunded mandated. The General Assembly subsequently over-rode the veto, and the Department complied with part of the footnote request.

For FY 2007-08, the Department expects to receive almost 60 federal grants totaling approximately \$4.6 million. The amount, if any, of required state match and the number of FTE funded by the grants was not provided. These grants are predominately for the Probation program and Trial Courts. The probation grants will provide assistance to victims of crimes, and funding for offender services and for various projects and programs, such as domestic violence services, drug use prevention, adult literacy, and drug courts. The trial courts grants are primarily for court improvement programs and child support enforcement.

- 6 Department of Corrections, Management, Executive Director's Office Subprogram; Department of Human Services, Mental Health and Alcohol and Drug Abuse Services, Alcohol and Drug Abuse Division; and Division of Youth Corrections; Judicial Department, Probation and Related Services; and Department of Public Safety, Division of Criminal Justice** -- State agencies involved in multi-agency programs requiring separate appropriations to each agency are requested to designate one lead agency to be responsible for submitting a comprehensive annual budget request for such programs to the Joint Budget Committee, including prior year, request year, and three year forecasts for revenues into the fund and expenditures from the fund by agency. The requests should be sustainable for the length of the forecast based on anticipated revenues. Each agency is still

requested to submit its portion of such request with its own budget document. This footnote applies to requests for appropriation from the Drug Offender Surcharge Fund, the Sex Offender Surcharge Fund, the Persistent Drunk Driver Cash Fund, and the Alcohol and Drug Driving Safety Fund, among other programs.

Comment: This footnote was vetoed on the grounds that it violates the separation of powers. Additionally, the Governor stated that it could constitute substantive legislation. However, the Governor instructed departments to comply to the extent feasible. The General Assembly subsequently over-rode the veto and the Department complied with the request.

All four funds are in compliance with this request. It should be noted that the **Drug Offender Surcharge Fund** (for which the Judicial Department is the lead agency) and the **Sex Offender Surcharge Fund** (which is managed by the Sex Offender Board) are carrying very large fund balances. While neither fund is subject to the 16.5 percent target reserve, the fund balances of 49.8 percent and 25.2 percent of expenditures seem excessive. *Staff recommends that the Committee ask the Judicial Department and the Department of Public Safety to discuss the plans they have for reducing the fund balances from these cash funds.*

- 90 Judicial Department, Supreme Court/Court of Appeals, Appellate Court Programs; Trial Courts, Trial Court Programs; Public Defender, Personal Services; Alternate Defense Counsel, Personal Services, Office of the Child's Representative, Personal Services** -- In accordance with Section 13-30-104 (3), C.R.S., funding is provided for a one-year increase in judicial compensation, as follows:

	<u>Current Salary</u>	<u>Increase</u>	<u>FY 2007-08</u>
Chief Justice, Supreme Court	125,656	6,371	132,027
Associate Justice, Supreme Court	122,972	6,235	129,207
Chief Judge, Court of Appeals	120,807	6,125	126,932
Associate Judge, Court of Appeals	118,101	5,988	124,089
District Court Judge	113,232	5,741	118,973
County Court Judge	108,362	5,494	113,856

Increases in judicial compensation are based upon the percentage salary survey and performance-based pay increases received by ALJ III's. Funding is provided to maintain the salary of the Public Defender at the level of an associate judge of the Court

Appeals, and to maintain the salary 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: The Branch is in compliance with this footnote.

- 91 Judicial Department, Trial Courts, District Attorney Mandated Costs** -- District Attorneys in each judicial district shall be responsible for allocations made by the Colorado District Attorney's Council's Mandated Cost Committee. Any increases in this line item shall be requested and justified in writing by the Colorado District Attorney's Council, rather than the Judicial Department, through the regular appropriation and supplemental appropriation processes. As part of its annual budget request, the Judicial Department is requested to include a report by the Colorado District Attorney's Council detailing how the Mandated Costs appropriation is spent, how it is distributed, and the steps taken to control these costs.

Comment: The Colorado District Attorneys' Council submitted the requested report in compliance with this footnote. The District Attorneys' mandated cost request for FY 2008-09 of \$1,926,052 is the average of actual mandated cost expenditures in FYs 2002-03 through 2006-07, and is approximately 0.5 percent greater than the current appropriation. However, detailed information on how the appropriation was spent, distributed, and the steps taken to control these costs was not provided.

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

Comment: The Department is in compliance with this footnote. This is the 12th year it has produced a report on recidivism among probationers. Findings in the report include:

- Successful termination rates have remained relatively stable. For FY 2006-07, more than two thirds (69.6 percent) of juveniles terminated successfully from regular supervision (an increase of 1.5 percent from the FY 2005-06 rate). There was a slight decrease in successful adult terminations from regular probation: 60.7 percent in FY 2006-07 compared to 62.6 percent in FY 2005-06.
- More than one half (58.9 percent) of juveniles and adults (55.7 percent) remained successful one year after release from regular probation. These figures represent a 2.1 percent increase in juvenile success rates and a 4.9 percent increase in adult success rates from FY 2004-05.

- Failures during probation and within one year post-termination from supervision were higher for both adults and juveniles supervised at maximum levels and in the intensive supervision programs; this result is consistent with expectations since one of the reasons offenders are placed in these program is due to being assessed at high risk levels.
- Both juvenile and adult offenders on regular probation who had probation revoked for technical violations were most frequently sentenced to a detention facility or county jail for such violations. Juveniles and adults who were revoked from probation for new crimes while under supervision were incarcerated (detention, jail, DYC, or DOC) approximately 90 percent of the time.

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

Comment: The Department is in compliance with this footnote. 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 provide increased flexibility to local probation departments in how treatment dollars could be spent for treatment and services for indigent offenders or those otherwise unable to pay; reduce year-end reversions of unspent cash funds; and provide more detail regarding the use of such funds without a loss of accountability. Details regarding expenditures from this fund are provided in the briefing issue beginning on page 64.

94 Judicial Department, Public Defender -- In addition to the transfer authority provided in Sections 24-75-108 and 24-75-110, C.R.S., up to 2.5 percent of the total Public Defender appropriation may be transferred between line items in the Public Defender's Office.

Comment: The Public Defender's Office (PDO) is in compliance with this footnote. This footnote provided the PDO with the authority to transfer up to 2.5 percent (\$888,547) of its total FY 2006-07 appropriation (\$35,541,886) between line items. In FY 2006-07, a total of \$626,045 was transferred between line items. These funds were transferred from Personal Services (\$588,545) and Leased Space (\$27,500) to cover unfunded Automation Plan costs (\$358,045), Operating Expenses (\$258,000), and Mandated Costs (\$10,000).

95 Judicial Department, Alternate Defense Counsel -- In addition to the transfer authority provided in Sections 24-75-108 and 24-75-110, C.R.S., up to 2.5 percent of the total Alternate Defense Counsel appropriation may be transferred between line items in the Alternate Defense Counsel's Office.

Comment: The Alternate Defense Counsel is in compliance with this footnote. For FY 2006-07, this footnote provided the Alternate Defense Counsel with the authority to transfer up to 1.5 percent (\$271,025) of its total appropriation (\$18,068,313) between line items (the amount transferrable was increased to 2.5 percent beginning in FY 2007-08). In FY 2006-07, a total of \$176,406 was transferred between line items. These funds were transferred from Mandated Costs (\$163,444), Leased Space (\$7,043), and Operating Expenses (\$5,919) to cover unfunded Court Appointed Counsel (\$102,117), Operating Expenses (\$7,043), and Mandated Costs (\$5,919) costs.

96 Judicial Department, Office of the Child's Representative -- In addition to the transfer authority provided in Sections 24-75-108 and 24-75-110, C.R.S., up to 2.5 percent of the total Office of the Child's Representative's appropriation may be transferred between line items in the Office of Child's Representative.

Comment: The Office of Child's Representative is in compliance with this footnote. This footnote provided the OCR with the authority to transfer up to 2.5 percent (\$316,034) of its total FY 2006-07 appropriation (\$12,641,358) between line items. In FY 2006-07, a total of \$57,106 was transferred between line items. These funds were transferred from Personal Services to cover unfunded Court Appointed Counsel and Mandated Costs expenditures (\$25,000), and the remainder was used to cover extra costs in Operating Expenses and to upgrade computers and equipment. There was one-time funding available in Personal Services because OCR was unable to quickly fill two attorney positions, a secretarial assistant position, and its training coordinator position.

**FY 2008-09 Joint Budget Committee Staff Budget Briefing
JUDICIAL DEPARTMENT**

ISSUE: Requests for Court-appointed Counsel Rate Increases

SUMMARY:

- ❑ The Judicial Department, Alternate Defense Counsel, and Office of the Child's Representative have submitted requests totaling \$5.2 million General Fund to raise court-appointed counsel rates in FY 2008-09.
- ❑ Prior to FY 2006-07, the court-appointed counsel rate paid by these three agencies averaged \$45 per hour for out-of-court work and \$55 per hour for in-court work. The affected agencies determined that \$71 per hour would be a competitive rate in 2005.
- ❑ The state rate was raised to \$57 per hour (for both in- and out-of-court work) beginning in FY 2006-07, and raised again to \$60 per hour in FY 2007-08.

STAFF RECOMMENDATION:

Staff recommends that the Committee ask the **Judicial Department, Alternate Defense Counsel, and Office of the Child's Representative** the following questions during their Hearings:

- a. Is it more difficult to retain court-appointed counsel in some parts of the state than others? Explain.
- b. Have there been instances when no court-appointed counsel was available?
- c. Have complaints of inadequate representation been filed against the agency or the court-appointed counsel with which they have contracted?
- d. What efforts has the agency made to recruit and train court-appointed counsel?

BACKGROUND

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

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

What is court-appointed counsel?

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

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

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

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

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

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

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

Prior to FY 2006-07, the court-appointed counsel rate paid by the three agencies (the Judicial Department, ADC, and OCR) averaged \$45 per hour for out-of-court work and \$55 per hour for in-court work. For FY 2006-07, the three agencies submitted coordinated decision items seeking to

raise the rate to \$71 per hour. The proposal was to phase-in the increase, starting at \$60 per hour in FY 2006-07 and reaching \$75 per hour in FY 2008-09.¹

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

Why is the current rate considered too low?

The agencies believe that the current rate is too to be competitive and ensure that there are qualified professionals who will accept court appointments. To come up with the proposed rate, the Department analyzed national and regional data and studies; consulted the Colorado Bar Association, various attorneys, judges, and court administrators; and considered the compensation levels for attorneys in the State of Colorado's Public Defender's Office, the Alternate Defense Counsel, the Attorney General's Office, and county and district attorneys. In the private sector, attorneys earn \$150 an hour and more. Attorneys contracted for federal cases earn \$92 an hour; for death penalty cases, they earn \$163 per hour. Attorneys working in the public sector in Colorado earn from \$28 to \$74 per hour with no overhead costs; applying a 43.6 percent overhead rate² would raise the level of compensation to the equivalent of \$40 to \$106 per hour.

Prior to FY 2006-07, the state hourly compensation rate had only been increased only once since 1990 (a \$5 increase in January 2001 from \$52 to \$57 per hour). In that same period, the Consumer Price Index for Urban Consumers for the Western Region of the United States increased 51.3 percent (from 131.5 in 1990 to 198.9 in 2005).³ Changes in the last ten years that put greater demands on court-appointed counsel include:

- Increased complexity and duration of cases (significant because more time on court-appointed cases results in less time available for better paying, private sector cases);
- Greater complexity of the law;
- Increased demands for trials in dependency and neglect, and juvenile delinquency proceedings;
- More medical/clinical issues that require increased and expanded expertise; and
- More interaction with other agencies, such as the Department of Human Services, hospitals, and social workers.

¹ The \$75 level was reached by applying a 3 percent annual adjustment to the \$71 per hour rate, based on the most recent three year average cost of living adjustments used by the Social Security Administration.

² Altman Weil's 2000 Survey of Law Firm Economics indicates that an overhead allowance would reasonably be set at 43.6 percent. This publication provides information gleaned from nearly twenty thousand lawyers across the U.S. concerning economic statistics and financial data related to law firm management and the legal profession. The Survey serves as an industry standard for the financial operations of law practices.

³ U.S. Department of Labor, Bureau of Labor Statistics, <http://www.bls.gov/home.htm>.

Additionally, the cost of malpractice insurance, rent, technology, health insurance, wages for support staff, and other overhead costs have also increased.

What are the potential consequences if compensation is inadequate?

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

Staff Recommendation

Staff recommends that the Committee ask the **Judicial Department, Alternate Defense Counsel,** and **Office of the Child's Representative** the following questions during their Hearings:

- a. Is it more difficult to retain court-appointed counsel in some parts of the state than others? Explain.
- b. Have there been instances when no court-appointed counsel was available?
- c. Have complaints of inadequate representation been filed against the agency or the court-appointed counsel with which they have contracted?
- d. What efforts has the agency made to recruit and train court-appointed counsel?

**FY 2008-09 Joint Budget Committee Staff Budget Briefing
JUDICIAL DEPARTMENT**

INFORMATIONAL ISSUE:

Probation: What is it? Who is it for? Why do we have it? Does it work?

SUMMARY:

- ❑ What is it? Probation is a sentencing option for adult criminal offenders who are not in need of incarceration, and adjudicated youth who are not in need of out-of-home placement.
- ❑ Who is it for? Probation serves large numbers of offenders, including youths, those who have committed serious crimes, and high-risk offenders.
- ❑ Why do we have it? Does it work? Probation is a much utilized intermediate sentencing option. It provides victims and the community with reparations tens of millions of dollars each year. Through counseling, treatment, and services, probation assists offenders in becoming productive citizens, and benefits public safety as those under supervision infrequently commit new crimes. Additionally, probation saves the state money relative to sentencing offenders to the Department of Corrections, Division of Youth Corrections, or Community Corrections.

BACKGROUND:

PROBATION: WHAT IS IT?

Probation is a sentencing option for adult criminal offenders who are not in need of incarceration, and adjudicated youth who are not in need of out-of-home placement. Probation is administered in all 22 judicial districts with over 50 separate probation offices throughout the state. In all districts, probation officers not only provide community supervision, they complete pre-sentence reports, provide victim services, and evaluate and monitor DUI cases.

Supervision and services are provided to offenders based upon their assessed risk and need levels. Case management requires an officer to carefully strategize the best course of action for each offender, including which treatment providers will offer the best services and what course of action will be needed to ensure accountability of actions. Officers must also stay in contact with the other professionals involved in each offender's life.

WHO IS PROBATION FOR?

Many offenders. In FY 2006-07, 35,852 new adult and juvenile offenders were sentenced to probation (both state-supervised and private probation for DUI/DWAI offenses). This total is more than the number of offenders in prison, DYC, or community corrections combined.⁴

Juveniles. Probation is not just for adults or older teens. While total juvenile caseload is declining (since FY 2001-02, the number of juveniles being supervised has declined by 16.3 percent), the portion of very young juvenile offenders is significant:

Age Distribution of New Juvenile Probationers, FY 2006-07

Age	Percent of Total
10 - 14 years	23%
15 years	19%
16 years	21%
17 years	24%
18 + years	12%

Note: Percentages may not total 100 percent due to rounding. Data for this table came from the *Colorado Probation State of the State Report*, published by the Office of the State Court Administrator, November 2007.

Those with serious offenses. Probation is no longer just for misdemeanants or first-time low-level offenders: many probationers are convicted of serious offenses, including sex offenses. Since FY 2004-05, felony probationers have increased by almost 16 percent. The table below shows the distribution of offense types of new adult clients:

⁴ Probation data is from the Judicial Department's FY 2006-07 Annual Statistical Report. For FY 2006-07, there were approximately 26,524 offenders in supervised custody (22,519 total offenders supervised by DOC, 2,580 total offenders supervised by community corrections, and an average daily population of 1,425 supervised by DYC). This data was provided by the JBC analyst for DOC and DYC.

Offense Types of New Adult Probationers, FY 2006-07

Offense Type	Number	Percent of Total
Felony	12,805	54.7%
Misdemeanor	9,647	41.2%
Petty Offenses	267	1.1%
Traffic	50	0.2%
Other	632	2.7%
Total	23,401	100.0%

Note: Data for this table came from the *Colorado Probation State of the State Report*, published by the Office of the State Court Administrator, November 2007.

High-risk offenders. Specialized probation programs created either in statute or through a specific appropriation provide community sentencing options for higher-risk offenders. Caseload in these programs is capped so that they can offer more intensive supervision than regular probation. More frequent services are also provided, such as specialized assessments, offense-specific treatment, electronic monitoring, cognitive skills training, education assessment, and literacy and employment programs. Specialized programs include: Adult Intensive Supervision Probation (AISP) and Juvenile Intensive Supervision Probation (JISP) for high risk offenders; the Female Offender Program (FOP) for high risk female offenders with substance abuse issues; and Sex Offender Intensive Supervision Probation (SOISP) for all felony sex offenders sentenced to probation.

WHY DO WE HAVE PROBATION SUPERVISION? DOES IT WORK?

The Colorado Probation Statement of Common Ground was developed to clearly identify the critical functions that all probation departments carry out in their mission. The Statement reads:

Colorado Probation is committed to public safety, victim and community reparation through offender accountability, skill and competency development, and services to the communities of Colorado.

Probation plays many key roles in the state's criminal justice system:

- *It provides an intermediate sentencing option.* When incarceration may be too severe, but complete release too risky for the community, probation allows for supervised release. As mentioned earlier, there are more offenders in probation than in prison, DYC, or community corrections combined, illustrating that it is a frequently used sentencing alternative.

- *It provides victim and community reparation.* Restorative justice and victim reparation are consistent themes throughout supervision. Restitution collections, victim empathy groups, restorative justice programs, victim notification, and dedicated victim services staff are some of the ways the Probation programs works to meet the needs of those who have been harmed by crime. In FY 2006-07, over \$49.2 million dollars was collected from offenders and distributed to victims of crime (\$24.8 million in restitution, \$14.5 million to the Victim Assistance Fund, and \$9.9 million to the Victim Compensation Fund). Victims' collections increased by 4.5 percent, 6.5 percent, and 4.7 percent, respectively, in FY 2006-07.
- *It assists offenders in becoming productive citizens.* Probation officers assess offenders' needs and create supervision, treatment, and services plans to address those needs. For supervision, the offender may be required to check-in daily, have regular appointments with their probation officer, submit to drug testing, and avoid certain people, places, or situations. Meanwhile, the probation officer may be in contact with employers or teachers, and family members. Treatment plans can include drug and alcohol treatment, victim empathy classes, anger management, cognitive/behavioral education, and mental health services and medication. Other services may include education (to attain a GED), vocational training, housing, transportation, food, and basic medical care.

Across the country, probation offices have tried managing offenders with various combinations of probation caseload size and treatment opportunities. Experience has shown that small caseload size, coupled with an emphasis on working with offenders on their various problems (through counseling, treatment, and services), produces the most positive results in terms of reducing criminal activity and technical violations, and increasing pro-social behaviors (such as working, avoiding substance abuse, performing community services, and paying court-ordered obligations).⁵

- *It contributes to public safety.* Data compiled in the Judicial Department's annual recidivism study shows that the rate at which new crimes are committed while on probation supervision is very low:

⁵ Paper issued by the American Probation and Parole Association, authored by Bill Burrell, Associate Professor, Temple University, *Caseload Standards for Probation and Parole*, September 2006.

Probation: Successful Completions and Pre-release Failures

	Fiscal Year	Successful Completions	Pre-release Failures		Overall Success ^a
			Technical Violations	New Crime	
Juvenile Regular	2004-05	68.1%	25.7%	6.2%	56.8%
	2005-06	69.6%	23.8%	6.6%	58.9%
	2006-07	72.0%	21.5%	6.5%	^b
JISP	2004-05	48.7%	39.1%	12.2%	46.8%
	2005-06	44.6%	43.8%	11.6%	40.0%
	2006-07	48.0%	41.0%	11.0%	^b
Adult Regular	2004-05	61.3%	32.6%	6.1%	56.4%
	2005-06	60.7%	33.0%	6.3%	55.7%
	2006-07	61.1%	31.8%	7.1%	^b
AISP	2004-05	52.0%	34.4%	13.6%	51.9%
	2005-06	53.9%	31.1%	14.7%	52.9%
	2006-07	56.0%	33.0%	11.0%	^b
FOP	2004-05	57.9%	31.6%	10.5%	57.9%
	2005-06	56.7%	37.2%	6.2%	54.9%
	2006-07	63.0%	28.0%	9.0%	^b

^a Overall Success is defined as completing probation successfully and having no new crime within in the first year post-release.

^b This data will not be available until October 2008.

The success rates for the most intensive supervision programs (JISP, AISP, and FOP) may seem low, but it must be remembered that these are the most high-risk offenders supervised on probation. If not for these programs, those offenders would be sentenced to the Department of Corrections, the Division of Youth Corrections, or community corrections.

- *It saves the state money.* In 2006, the marginal cost of a private prison bed was \$19,232 per offender per year, the cost of a residential Community Correction bed was \$13,571 per offender per year, the cost of non-residential Community Corrections placement was \$1,840 per offender per year, and the cost of a DYC bed was \$50,644 per youth per year.⁶ In

⁶ These figures were provided by the JBC analyst for DOC and DYC.

FY 2006-07, the Probation program was responsible for 35,852 new offenders,⁷ and General Fund expenditures by the program were \$50,090,627. Therefore, the average General Fund cost including supervision, treatment, and services, was approximately \$1,397 per offender for the year. When cash and federal expenditures are included, the average cost of probation per offender that year rises to \$1,882.⁸ The Probation program is currently understaffed by roughly 20 percent. However, even if its General Fund expenditures were doubled, probation costs per offender would still be significantly less than prison, NYC, and residential community corrections.

⁷ Per the Judicial Department's FY 2006-07 Annual Statistical Report, probation caseload for FY 2006-07 consisted of 23,401 adults sentenced to state-supervised probation, 6,421 adults directly sentenced to private probation, and 6,030 juveniles sentenced to probation.

⁸ The program also expended approximately \$16.6 million in cash and cash funds exempt from offender fee collections, and approximately \$800,000 in federal funds.

**FY 2008-09 Joint Budget Committee Staff Budget Briefing
JUDICIAL DEPARTMENT**

ISSUE: Historic General Fund Resources and FY 2008-09 Decision Item

SUMMARY:

- ❑ As discussed in the previous briefing issue, probation is a key piece in the criminal justice system. Additionally, it is a program of interest when considering recidivism reduction.
- ❑ After severe budget cuts during the state's fiscal crisis, the Probation program has successfully sought and obtained increases in General Fund support and FTE in recent years.
- ❑ Based on large caseloads in regular probation, the Department has submitted another Probation decision item for FY 2008-09: JUD DI #2 is seeking increases of \$3.3 million General Fund and 50.4 FTE for probation staff. The Department hopes that increasing probation staff will allow the Probation program to reduce probation revocations due to technical violations and absconsion.

STAFF RECOMMENDATION:

Staff recommends the Committee ask the **Judicial Department** to discuss the following during its Hearing:

1. For FY 2008-09 through FY 2011-12, discuss projected probation caseload growth and staffing needs, both in regular probation and in specialized programs.
2. Discuss how probation staffing shortages have affected: probation officer recruitment and retention; how probation officers do their job; probation success rates; and recidivism.

BACKGROUND:

As discussed in the previous briefing issue, probation is a key piece in the criminal justice system. Additionally, it is a program of interest when considering recidivism reduction - a concern of the Governor (based on his submission of recidivism reduction packages in FY 2007-08 and FY 2008-09) and the General Assembly. After severe budget cuts during the state's fiscal crisis, the Department has successfully sought and obtained increases in General Fund support and FTE for this program in the last few years. The Department has submitted another such request for FY 2008-09: JUD DI #2 is seeking increases of \$3.3 million General Fund and 50.4 FTE for probation staff. This briefing issue reviews where the Probation program has been in terms of General Fund resources, and provide an overview of the FY 2008-09 General Fund request.

Historic General Fund Appropriations Changes

- **FY 2002-03 and FY 2003-04:** During the state's fiscal crisis, General Fund support of probation was cut by approximately \$1.0 million to help balance the budget (additional General Fund in the Division was refinanced with cash funds). The Probation program laid off 34 employees. Additionally, other employees voluntarily and vacancies were left unfilled under the Department's hiring freeze. The associated FTE were not cut so that in future years the Department could begin to replace these staff as resources became available.
- **FY 2004-05:** Funding was provided to restore or partially restore specialized probation programs.
- **FY 2005-06 through FY 2007-08:** Funding and FTE are provided to address high probation caseloads. The additional staff provided in FY 2007-08 was the greatest single increase in probation officer staffing in the program's history. The influx of staffing resources raised probation officer staffing levels from 69.4 percent full staffing at the beginning of FY 2005-06, to 81.9 percent full staffing at the beginning of FY 2007-08.

The table below outlines the changes in General Fund programmatic appropriations in recent years.

General Fund Programmatic Appropriations Changes

	General Fund Approp. Changes		Notes
	FTE	Funding (millions)	
FY 2002-03	0.0	\$0.0	No changes
FY 2003-04	(2.0)	(\$0.2)	Eliminate 1.0 probation officer training and 1.0 administrative FTE
		(\$0.8)	Personal Services base reduction
FY 2004-05		\$0.9	Restore the Juvenile Intensive Supervision Program
		\$0.7	Partially restore the Adult Intensive Supervision Program
FY 2005-06	56.1	\$2.8	Additional probation officers and staff
	4.8	\$0.2	Expand Female Offender Program
	1.0	\$0.1	Create Interstate Compact Coordinator position
FY 2006-07	20.0	\$1.1	Additional probation officers and staff
FY 2007-08	111.5	\$5.9	Additional probation officers and staff
		\$2.2	S.B. 03-318 Community Treatment Funding

Notes:

1. Data for this table came from JBC Appropriations Reports for FY 2002-03 through FY 2007-08.
2. The table does not include funding associated with special bills, common policies, or grants; General Fund refinancing that occurred during the state's budget crisis; or technical changes to the appropriation.
3. Non-General Fund appropriations changes occurring in this time period include: (a) in FY 2002-03, increases of approximately \$200,000 cash funds exempt and 5.6 FTE for the Alcohol/Drug Driver Safety Program; (b) in FY 2004-05, an increase of approximately \$200,000 cash funds exempt to restore the Female Offender Program; (c) in FY 2006-07, an increase of \$1.5 million in Offender Services Cash Fund spending authority to more fully utilize fee revenue paid by offenders for offender services; and (d) in FY 2007-08, an increase of approximately \$300,000 in Drug Offender Surcharge Fund cash funds exempt spending authority to more fully utilize fee revenue paid by offenders for offender services.

FY 2008-09 Decision Items

There are two components to probation programs: supervision and treatment/services. For FY 2008-09, the Department submitted decision items addressing both of these components: JUD DI #2 seeks \$3.3 million General Fund for additional probation officers to strengthen the supervision portion of the program, and JUD DI #5 seeks \$2.0 million in increased cash funds spending authority to provide additional support services. This briefing issue will focus only on JUD DI #2 since it has a large General Fund impact.

Judicial Decision Item #2: Additional Staff to Reduce Regular Probation Caseloads

For FY 2008-09, the Department is seeking increases of \$3.3 million General Fund and 50.4 FTE to provide additional staff for the Probation program. Of this increase, 35.5 would be probation officer FTE, 7.9 would be clerical staff FTE, 5.4 would be probation supervisor FTE, and 1.6 FTE would be for Human Resources and IT staff based out of the State Court Administrator's Office.

Since PSIs must be completed in a fixed amount of time, and the intensive probation programs are capped in size, the effects of understaffing are felt the most in regular probation. Therefore, this request is being driven by regular probation caseload.

Due to the diversity of size, structure, geographical area covered, organization, and clientele, it is difficult to develop a single standard for probation caseload size. The use of a weighted caseload model is recommended by the American Probation and Parole Association.⁹ The Colorado Probation program uses such a model to determine how many probation staff it needs. The model starts by differentiating between the amount of time necessary to: (1) prepare pre- and post-sentence investigations; and (2) supervise offenders based on risk level in each case type within regular

⁹ Paper issued by the American Probation and Parole Association, authored by Bill Burrell, Associate Professor, Temple University, *Caseload Standards for Probation and Parole*, September 2006.

probation (regular adult and juvenile supervision, domestic violence, juvenile sex offenders, and adult sex offenders not sentenced to Sex Offender Intensive Supervision Probation).¹⁰

To derive FTE need, the model takes: (1) the total time required to complete an investigation and appropriately supervise each type of offender; (2) multiplies these time demands by the projected number of each type of case (projections are based on historic caseload); (3) divides the total staff time needed by the amount of time available per FTE to work on cases (a certain amount of each FTE's time is set aside for annual leave, training, and administrative work).

Historic and projected caseload and staffing are shown in the table below. Based on the staffing model described above, regular probation is currently at 81.2 percent of full staffing, indicating the need for approximately 207 additional probation FTE. For FY 2008-09, the FTE appropriation assumes funding of the decision item would provide 50.0 additional probation staff.¹¹ For FY 2009-10 and beyond, the table assumes FTE increases of 80.0 FTE per year to reach 93.6 percent of full staffing by FY 2011-12 (assuming caseload grows as anticipated).

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

	FY 04-05	FY 05-06	FY 06-07	FY 07-08 (est.)	FY 08-09 (est.)	FY 09-10 (est.)	FY 10-11 (est.)	FY 11-12 (est.)
Staffed Cases ^c	60,163	56,088	60,464	70,406	73,614	76,979	80,509	84,212
PSIs ^c	23,846	25,861	24,896	49,279	49,771	50,267	50,769	51,276
FTE Need	794.5	904.3	923.0	1,100.0	1,138.0	1,178.0	1,220.0	1,264.0
FTE Approp ^a	616.0	678.0	699.0	893.0	943.0	1,023.0	1,103.0	1,183.0
FTE Deficit	<i>178.5</i>	<i>226.3</i>	<i>224.0</i>	<i>207.0</i>	<i>195.0</i>	<i>155.0</i>	<i>117.0</i>	<i>81.0</i>
Percent Full Staffing	<i>77.5%</i>	<i>75.0%</i>	<i>75.7%</i>	<i>81.2%</i>	<i>82.9%</i>	<i>86.8%</i>	<i>90.4%</i>	<i>93.6%</i>

^a The data in this table came from the Judicial Department's FY 2008-09 budget request.

^b For FY 2008-09, the FTE appropriation assumes funding of the decision item with an increase of 50.0 probation staff (this assumption differs slightly from the request). For FY 2009-10 and beyond, the appropriation assumes an additional 80.0 FTE per year as outlined in the Department's five-year plan.

^c The significant increase in staffed cases, PSIs, FTE Need, and FTE Appropriated from FY 2006-07 to FY 2007-08 is due to the integration of the Alcohol/Drug Driving Safety (ADDS) Program into the staffing model.

¹⁰ For the regular probation caseload model, the specialized intensive supervision programs are not included. These programs include Adult Intensive Supervision Probation (AISP), Juvenile Intensive Supervision Probation (JISP), Sex Offender Intensive Supervision Probation (SOISP), and the Female Offender Program (FOP).

¹¹ The Department rounded the request down from 50.4 to 50.0 FTE and forgot to deduct the 1.6 FTE being requested as Human Resources and IT staff.

Areas of Concern

When a probation department is understaffed, officers have less time to devote to each offender than is recommended. As a result, choices must be made about which offenders are most in need of attention and which are lower risk, or which types of services or actions to provide and which must be omitted. By analyzing data from FY 2001-02 through FY 2006-07, the Probation program has identified that its primary areas of concern due to its staffing shortage are its limited ability to: (1) effectively employ intermediate sanctions in response to offender technical violations; and (2) spend time locating and recovering offenders that abscond from supervision. It is believed that greater efforts in these areas would result in fewer technical revocations of probation, and thus fewer commitments to DOC, community corrections, and NYC.

Revocations based on technical violations usually occur after an offender has engaged in a series of rule violations (such as failing to report, not complying with treatment, or testing positive for drug use). This same pattern of non-compliance also often precedes an offender absconding from supervision. These behaviors are often precursors to the commission of new crimes, and thus are viewed as indicators of increased risk. When these behaviors start to occur, the best response from a probation officer is the application of intermediate sanctions.

Intermediate sanctions are used to address a serious transgression that could lead to criminal activity. Examples of such sanctions include: increasing the frequency of drug testing; establishing, or making more restrictive, a curfew; requiring more frequent contact with the probation officer; moving an offender into an intensive supervision program; requiring or increasing community service; establishing, or making more frequent, home visits; increasing the frequency or intensity of treatment; and requiring Electronic Home Monitoring, GPS, or remote real-time alcohol monitoring. Intermediate sanctions are intended to bring the offender back into compliance with court orders and respond to any behavior underlying the cause for the violations.

When probation departments are short-staffed, probation officers do not always have the time necessary to closely monitor offenders, track down absconders, and implement intermediate sanctions. As a result, probation officers are likely to seek probation revocation more quickly when technical violations occur. The table below shows the number of technical violation and absconscion revocations, and associated commitment rates, in recent years.

**Technical Violation and Absconcion Revocations, and Associated Commitment Rates
FY 2001-02 through FY 2006-07**

	FY 01-02	FY 02-03	FY 03-04	FY 04-05	FY 05-06	FY 06-07
Adults						
Tech Violation Revocations	1,356	1,560	1,658	1,576	1,786	1,829
Absconders	2,663	3,205	3,799	3,537	3,238	3,197
Commitment Rate ^a	28.7%	26.2%	26.1%	25.4%	22.4%	19.1%
DOC Beds	1,153	1,248	1,424	1,299	1,125	960
Juveniles						
Tech Violation Revocations	720	863	898	942	823	685
Absconders	343	382	400	411	394	310
Commitment Rate ^a	38.5%	46.0%	45.0%	41.7%	39.8%	39.8%
DYC Placements	409	573	584	564	484	396

^a The commitment rate shown is the total commitment rate for technical revocations, including absconcion.
Note: Data for this table came from the Judicial Department's Annual Statistical Reports and annual recidivism footnote reports for FY 2001-02 through FY 2006-07.

More revocations result in greater costs to the state due to the increase in commitments. However, historic data has shown that a reduction in caseload size in conjunction with treatment intervention reduces both recidivism and technical violation rates,¹² which in turn would lead to fewer revocations. The Department hopes that the additional staff requested through this decision item will allow a greater focus on intermediate sanctions, and thus a reduction in technical revocations and associated commitments.

Staff Recommendation

Staff recommends the Committee ask the **Judicial Department** to discuss the following during its Hearing:

1. For FY 2008-09 through FY 2011-12, discuss projected caseload growth and staffing needs.
2. Discuss how probation staffing shortages have affected: probation officer recruitment and retention; how probation officers do their job; probation success rates; and recidivism.

¹² Paper issued by the American Probation and Parole Association, authored by Bill Burrell, Associate Professor, Temple University, *Caseload Standards for Probation and Parole*, September 2006.

**FY 2008-09 Joint Budget Committee Staff Budget Briefing
JUDICIAL DEPARTMENT**

ISSUE: Probation Innovations

SUMMARY:

- ❑ The Probation program is a large part of the Judicial Department's General Fund appropriation and plays key roles in the state's criminal justice system. This briefing issue discusses some of the innovative ways the Probation program is working to improve fiscal efficiency and to achieve better offender outcomes.

- ❑ Items discussed include: the reorganization of the Probation Division's Long Bill appropriation; newly appropriated community services funding related to S.B. 03-318; the utilization of best practices; and the development of programs addressing specific offender groups, such as high-risk youth, the mentally ill, and perpetrators of economic crimes.

STAFF RECOMMENDATION:

Staff recommends the Committee ask the **Judicial Department** the following questions at its Hearing:

1. How has the Probation Long Bill reorganization benefitted both management of the state's probation program and management of district probation offices?
2. Does the Department anticipate using all of the S.B. 03-318 Community Treatment Services appropriation in FY 2006-07? If proposals are still being evaluated, when will the spending occur? Will the funding be used for one-time expenses or on-going programs?
3. For what types of treatment and services does demand generally exceed supply?
4. What is the Department doing to help rebuild treatment and service opportunities in the community?
5. Where and in what form would additional treatment and services funding be most beneficial in terms of helping to yield better success rates and reducing recidivism?

BACKGROUND:

Probation is the second largest portion of the Judicial Department's budget, both in terms of FTE and General Fund appropriations. As discussed in the decision item on *Historic General Fund Resources and FY 2008-09 Decision Item* (page 58), after severe budget cuts during the state's fiscal crisis, the Department has successfully sought and obtained increases in General Fund support and FTE for this program in the last few years, and has submitted another such request for FY 2008-09. As discussed in the *Probation: What is it?* briefing issue (page 52), probation also plays key parts in our criminal justice system. This briefing issue discusses some of the innovative ways the Probation program is working to improve fiscal efficiency and to achieve better offender outcomes.

USING RESOURCES MORE EFFICIENTLY: THE FY 2006-07 APPROPRIATION REORGANIZATION

Prior to FY 2006-07, the Long Bill appropriation for the Probation Division was poorly organized. Funding for treatment and services was scattered across seven line items, each with appropriations ranging from a few thousand dollars to several hundred thousand dollars, and several including FTE. The appropriations came from the General Fund, Offender Services Cash Fund, Drug Offender Surcharge Fund, and the Sex Offender Surcharge Fund. This structure was the result of various programs and appropriations being added over the years via special bill or the Long Bill, and each being given individual line items. However, such desegregation limited the use of funds allocated for treatment and services due to complicated accounting (often resulting in year-end reversions), and intermingled personal services dollars with treatment dollars.

In FY 2006-07, in response to a request from the Department, the JBC and the General Assembly approved a reorganization to the Probation Division's appropriation. All FTE-associated appropriations were moved to the Probation Personal Services line item, and most of the remaining appropriations were consolidated into a new line item entitled "Offender Treatment and Services" (a small amount of FTE-related operating appropriations were moved to the Operating Expenses line item). This organizational change increased the flexibility probation offices have in how treatment dollars can be spent for treatment and services for indigent offenders or those otherwise unable to pay.

The Offender Treatment and Services appropriation is now 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 16 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. A summary of these expenditures is provided in the table below.

The increased flexibility has been well liked by probation offices, who are finding it easier to use the appropriation for their specific needs - which vary from district to district and offender to offender. The Department explained that only 90.3 percent of the total appropriation was expended in FY 2006-07 because probation departments are adjusting to the new funding structure, and there is a lack of services available in the community. The Department anticipates that it will more fully spend this appropriation in FY 2007-08. Some probation offices have used this increased flexibility to create specialized programs that are described in more detail below.

FY 2006-07 Budget and Expenditures from the Offender Treatment and Services Line Item

Treatment or Service	FY 2006-07 Allocation	FY 2006-07 Expended	Percent Expended
Substance Abuse Treatment	1,831,140	1,781,918	97.3%
Adult Sex Offender Assessment	782,311	658,478	84.2%
Drug Testing	482,370	569,794	118.1%
Adult Sex Offender Treatment	367,804	434,416	118.1%
Mental Health Services	525,015	341,645	65.1%
Domestic Violence Treatment	307,478	243,966	79.3%
Electronic Home Monitoring	232,144	204,323	88.0%
Adult Sex Offender Polygraphs	180,737	191,897	106.2%
Juvenile Sex Offender Treatment & Assessment	167,832	107,252	63.9%
Education/Vocation Assistance	106,601	93,370	87.6%
Global Positioning Satellite Tracking (GPS)	101,657	91,892	90.4%
Transportation Assistance	77,338	81,672	105.6%
Juvenile Sex Offender Polygraphs	132,484	81,206	61.3%
Emergency Housing	93,780	66,479	70.9%
Interpreter Services	103,600	51,402	49.6%
General Medical Assistance	82,786	35,424	42.8%
Total	5,575,077	5,035,134	90.3%

Note: The data for this table came from the Judicial Department's response to footnote number 93 of the 2007 Long Bill, which is included in its FY 2008-09 budget request.

ACHIEVING BETTER OFFENDER OUTCOMES: S.B. 03-318 COMMUNITY TREATMENT FUNDING

The General Assembly enacted S.B. 03-318 (Gordon/Hefley) to reduce the penalty for use and possession of certain controlled substances. The bill was anticipated to save money over time because of a reduction in inmates' length of stay in prison, and also a reduction in the number of offenders sent to prison. Based on the premise of these savings, Senate Bill 03-318 also contained a provision that required an annual appropriation of at least \$2.2 million General Fund to the Drug Offender Treatment Fund each year beginning in FY 2007-08. In any year the General Assembly failed to make this appropriation, all portions of the act were to return to the statutory language that existed prior to the enactment of the bill and the felony class changes are reversed.¹³

After analysis by the interagency task force created by the bill, the Department of Corrections, and JBC staff, the General Assembly approved an appropriation of \$2.2 million General Fund for community treatment funding associated with S.B. 03-318 in FY 2007-08.¹⁴

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

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

¹³ Senate Bill 07-114 (Shaffer/T. Carroll), the Substantive Criminal Omnibus Bill, repealed the statutory language which stipulated that the sentencing changes would be repealed without a yearly community treatment appropriation of at least \$2.2 million.

¹⁴ The analyses of the effects of S.B. 03-318 are discussed in more detail in the Judicial Department's FY 2007-80 briefing document (beginning on page 73) and its FY 2007-08 figure-setting document (beginning on page 45).

ACHIEVING BETTER OFFENDER OUTCOMES: UTILIZING BEST PRACTICES

The Probation program continually offers training to probation officers through the Probation Academy. The academy trains new probation officers and provides continuing education and professional development for experienced officers. The emphasis is on "evidenced-based" or "best" practices. Some topic areas include:

- *Motivational Interviews* - training probation officers on conversational techniques that are designed to encourage the offender to take responsibility for their crime and their treatment;
- *Relapse Prevention* - how probation officers can intervene if they see someone is in danger of, or beginning to, relapse;
- *Group Facilitation Training* - training probation officers to facilitate offender support groups in areas such as relapse prevention and domestic violence;
- *Supervising Specific Types of Offenders* - for example, training is offered on how to best supervise sex offenders, youths, female offenders.

Additional ways the Probation program is working to achieve better offender outcomes include: the dissemination of "Research in Briefs" (where substantive issues are summarized in one page, or several one page, documents that are distributed to all probation offices and posted on-line); the development of quality control tools to help probation supervisors review the cases handled by the probation officers they supervise; and grant-funded projects (including an evaluation of the intensive supervision probation programs, the creation of juvenile sex offender assessment tools, and determining how to apply better mental health practices for juveniles in the criminal justice system).

ACHIEVING BETTER OFFENDER OUTCOMES: INNOVATIONS IN TREATMENT AND SERVICES

Over time, various specialized probation programs have developed across the state. All of these programs developed in response to the needs of certain offender groups; some of these programs only recently developed because the influx of staffing and treatment resources received in the past few years has given departments the opportunity to be innovative. Below are descriptions of three such innovative programs.

- ***The ROC: A Program for High-risk, Substance-abusing Youth***¹⁵

The ROC was created in 2004 in response to a shortage in services for adjudicated youth who were neither working nor in school. This population exceeded the availability of day treatment programs, and often left youth with behavior problems and serious treatment issues (such as substance abuse and mental health issues such as anger management or post traumatic stress disorder) with excessive amounts of free time and piecemeal intervention services.

¹⁵ There are several intensive programs for high-risk youth across the state. Staff was able to visit this program in the 17th judicial district (Adams County) in October 2007.

Some of these youths were in the Juvenile Intensive Supervision Program (JISP), where they were seen twice a week and provided supervision only (their probation officers would set up services in the community, but the youths would have to make it to them on their own). However, these youths had even greater needs. Ideally, many of these kids would be in a residential program with "step down", but that level of service does not exist in this area.

In response to this need, the district developed *The ROC Program: Recognizing Opportunities for Change*. The ROC is an intensive, short-term, outpatient program. Youths are encouraged to question unhealthy behavior patterns and begin positive change. Participants must attend four days a week and all services are provided on-site, including cognitive/behavioral education, victim empathy classes, GED and academic studies, anger management training, drug and alcohol therapy (both groups and individual sessions), community service projects, electronic home monitoring, and urine screens and breathalizers. The program also provides transportation and lunch.

The ROC is staffed with two senior probation officers, a coordinator (also a senior probation officer), an educator from the local school district, and two half-time therapists (for substance abuse and mental health issues). The program is capped at 20, although since these youths have attendance issues, there are usually on the order of 12 youths there each day. Participants are expected to be substance free, and ideally involved in an education program or employed at the time of termination.

In FY 2006-07, 44 of 70 youths who completed the ROC program did so with a successful or neutral discharge.¹⁶ The program is thought to save the state money because it results in fewer youths sent to the Division of Youth Corrections. This program is primarily funded with S.B. 94 monies, but the coordinator acknowledged that it has benefitted from the pooling of probation line items (the FY 2006-07 appropriation reorganization).

- ***Mental Health Collaborations in Denver***¹⁷

Changes in the mental health commitment laws and the de-institutionalization movement of the 1970s resulted in a significant increase in the number of mentally ill individuals involved in the criminal justice system. The challenges in working with mentally ill probationers are numerous, including: a lack of information regarding the offenders mental health history; severe basic life needs (offenders are often homeless, lack income or benefits, are officially undiagnosed so there is no connection to treatment services, and no support system in the community); a lack of outpatient and residential treatment options; and frequent co-occurring disorders (such as substance abuse or alcoholism coupled with mental illness).

¹⁶ Success is defined as completion of 45 days in the program substance free, unless they go back to school or get employed full-time with a treatment plan first, although the average length of stay is approximately 80 days.

¹⁷ There are several mental health collaborations across the state. Staff was able to meet the coordinator of the program in the 2nd judicial district (the City and County of Denver) in October 2007.

In 1996, the Denver District Court Probation Department recognized that most probation officers were (and still are) untrained and uncomfortable working with the mentally ill, so they began by assigning all mental health cases to certain officers. The probation officers assigned to the mental health team (now at 5.5 FTE) all complete crisis intervention team training (provided by the Denver Police Department), as well as training regarding mental health diagnosis and treatment issues. These officers work with liaisons from the Colorado Coalition for the Homeless, the Stout Street Clinic, and the Mental Health Center of Denver who work at the probation department twice a week.

The probation officers take on a role similar to that of a case manager, having to advocate for the offender in order to stabilize them in the community so that probation requirements and court orders can be met. Supervision issues include:

- **High Caseloads** - Mentally ill offenders are classified as maximum risk due to the complex issues involved, and usually require more time than other maximum risk offenders, but caseloads are not capped in this program.
- **Crisis-oriented Caseload** - These offenders have severe needs, such as homelessness, medical issues, lack of transportation, drug and alcohol additions, and the need for regular psychotropic medication. An officer may have numerous cases demanding their attention at any one time, requiring decisions about which offenders are at the highest risk and which may not get the same attention due to time constraints.
- **Frequent Technical Violations** - Technical violations with this population are high - approximately 50 percent. The probation officers try as many intermediate sanctions as they can before revoking probation because once the offender goes to jail, they lose all their benefits and have to start over in the system. Approximately 80 percent of these offenders have a dual diagnosis (a mental health issue and a substance abuse problem), and approximately 90 percent of new crimes are related to substance abuse.
- **Loss of Medication** - Loss of medication can destabilize these offenders. If they are recently released from jail, recently released from the state hospital, or sentenced to jail for technical violations, they are often released homeless and with no medications or benefits.

The probation officers and liaisons work directly with a specialized docket in the Denver Drug Court that handles cases of individuals with an Axis 1 mental health diagnosis (such as bipolar mood disorder, major depressive disorder, paranoid disorders, schizophrenic disorders, and post-traumatic stress disorder). The specialized docket has fewer offenders in a less confrontational environment, so that the offenders feel more comfortable and more willing to talk about their mental health issues that may impact their probation. Probation staff also have working relationships with the service providers, Denver Police, and Denver jail.

- *Economic Crimes Units*

There are several economic crimes units in the state, and the Department is developing statewide standards for the supervision of economic crimes offenders. The recognition of economic crime offenders as a group requiring specialized supervision began developing a few years ago. At the time, based on traditional risk measures, these offenders were typically considered low-risk (they were well educated, employable, and non-violent). Therefore, probation officers saw them infrequently and primarily depended on collections investigators to try to develop payment plans to recover restitution.

However, upon closer inspection, probation officers have come to realize that economic crimes offenders present similarly to sex offenders: devious, smart, greedy, predators, often grooming their victims, working towards more serious offenses over time - all traits resulting in a need for closer supervision.

Supervision is time consuming because probation officers must check tax records, pending civil cases, and other financial data that the offender knows a great deal about, but which the probation officers usually know little about. Some probation departments utilize "forensic accountants" who works on these cases. Probation officers must look at the offender's monthly income and expenses to determine if they are paying to the best of their ability; however, the offenders self-report their income and assets so they can hide things, requiring probation officers to examine what is submitted each month to find discrepancies.

Now probation officers supervising economic offenders work closely with collections investigators and are more aggressive in their efforts to recover restitution (such as putting liens on homes and garnishing wages). Probation officers also refer people to Debtor's Anonymous; Business Debtor's Anonymous; Gambler's Anonymous; Economic Offender Treatment Services; Restitution and Recovery; Individual Therapy; and Victim Empathy classes. Although many of these offenders are well-educated, they often require job training as they are not allowed to continue to work in the fields in which they are trained (such as accounting or money management).

The State Court Administrator's Office created an Economic Crimes Supervision Task Force in February 2007 which is responsible for creating guidelines to make supervision of these cases more uniform across the state. The Task Force has defined economic crimes, created special terms and conditions for economic probationers, and developed supervision guidelines. The Task Force also decided to develop specialized pre-sentence investigation questions, assessment tools, reporting forms, and so forth. They are currently looking at best practices to develop training in supervising economic offenders for the Probation Academy.

STAFF RECOMMENDATIONS

Staff recommends the Committee ask the Department the following questions at its Hearing:

1. How has the Probation Long Bill reorganization benefitted both management of the state's probation program and management of district probation offices?
2. Does the Department anticipate using all of the S.B. 03-318 Community Treatment Services appropriation? When the FY 2006-07 be spent? Will the funding be used for one-time expenses or on-going programs?
3. For what types of treatment and services does demand generally exceed supply?
4. How is the Department working to help rebuild treatment and service opportunities in the community?
5. Where and in what form would additional treatment and services funding be most beneficial in terms of helping to yield better success rates and reducing recidivism?

**FY 2008-09 Joint Budget Committee Staff Budget Briefing
JUDICIAL DEPARTMENT**

ISSUE: Judicial Decision Item #3: Increase Judicial Compensation

SUMMARY:

- ❑ Since FY 2002-03, judge salaries have been indexed to Administrative Law Judge (ALJ) salaries, and ALJ salaries have been indexed to judge salaries. As a result, neither group has received an increase beyond those included in statewide common policy (salary survey and performance-based pay) since that time.
- ❑ Colorado judge salaries now rank 36th in the nation. The Judicial Department is proposing that judge salaries be indexed to the national rankings with Colorado aiming to maintain salaries ranked at 12th to 15th in the nation.
- ❑ The Department proposes raising judge salaries to this ranking over a four year period, beginning in FY 2008-09. Decision Item #3 seeks an increase of \$1,172,896 General Fund towards this goal. Once judge salaries reach the targeted ranking, the Department believes they would largely be maintained at that rank through annual salary survey and performance-based pay increases.

STAFF RECOMMENDATION:

Staff recommends that the Committee ask the **Judicial Department** the following questions during its hearing:

1. Has the Department had difficulty recruiting or retaining judges due to compensation levels? Where have most new judges in the state been employed prior to accepting judgeships? When judges leave the bench for reasons other than retirement, what type of positions do they take?
2. Why hasn't the Department maintained, or re-created, a Judicial Compensation Panel? When did the Department last participate in the Colorado State Officials' Compensation Commission? What is the status of this commission?

BACKGROUND:

How has judicial compensation been set historically?

- **The Colorado State Officials' Compensation Commission** was established in 1975. Statute requires the Commission to be comprised of nine members appointed by the President of the Senate, Speaker of the House, Governor, and Chief Justice of the Supreme

Court. The Commission's duties and responsibilities are as follows (Section 2-3-805 (1), C.R.S.):

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

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

- In 1997 and 1998, the Colorado Chief Justice convened the **Judicial Compensation Panel** to make recommendations on reasonable levels for judicial compensation. The panels reviewed current and historic salaries for Colorado judges and other state officials; the ranking of judge salaries nationally; salaries of executive branch agency directors and other comparable positions; mechanisms used by other states to determine judge salaries; and other information. The panels recommended: (1) that Colorado judge salaries be raised from 35th nationally to 25th; and (2) that the General Assembly create an ongoing commission to review the need for future judicial pay raises.
- In 1998, the Legislature did not authorize a pay raise for judges. However, it did change how such raises would be authorized, by **allowing for judge pay to be set by the General Assembly through the appropriations bill** (Section 13-30-103 (1.5), C.R.S.).
- In FY 2000-01, **judge salaries were indexed against Administrative Law Judge (ALJ) positions in the Executive Branch**. It took three years of increases for judge salaries to catch up to ALJ salaries. The judge salary levels are contained in a Long Bill footnote.

What is the problem with the current system?

- When the Department of Personnel and Administration revised the organizational structure and job classifications for ALJs in FY 2002-03, ALJ salaries were indexed to Colorado's judges salaries. As a result of this circular salary comparison, neither group has received an increase beyond those included in statewide common policy (salary survey and performance-based pay) since that time.

- Currently there are irregularities in judicial compensation levels. For example, county judges earn less than the average municipal judge, despite the more complex caseload handled by county judges.¹⁸ The Department needs to recruit and retain high-quality judges, which is only possible if judicial salaries are maintained at a competitive level, including paying a higher salary for positions with a higher level of job complexity.

How did the Judicial Department develop a new judicial compensation benchmark?

- To develop a judicial compensation benchmark, the Judicial Department obtained compensation data on: municipal judges in the Denver metropolitan area (Arvada, Aurora, Englewood, and Lakewood); judge salaries in other states; Colorado state employee salaries; State of Colorado executive level compensation; and federal judge compensation at varying levels. Salary findings from each group are discussed below.
- **Municipal Judge Salaries.** Based on the municipalities chosen, the average annual salary for a presiding municipal judge in the Denver metropolitan area is \$118,775, approximately 4 percent higher than the FY 07-08 state county judge compensation.
- **Judge Salaries in Other States.** The National Center for State Courts (NCSC) has been collecting judicial salary data since 1976. Its most recent survey (January 2007) indicates that Colorado judges' salaries, when adjusted for cost-of-living, rank 36th in the nation (see Appendix A on page 84). By comparison, Colorado's per capital income (based on 2006 figures) is ranked 8th in the nation (see Appendix B on page 86).
- **Colorado State Employee Salaries.** Based on discussions between the SCAO staff and staff from the Department of Personnel and Administration, Colorado state employee salaries are ranked approximately 12th in the nation. Recent articles and editorials printed in the Denver Post indicate that based on U.S. Census Bureau data, Colorado state employee compensation is 9th best in the nation.
- **State of Colorado Executive Level Compensation.** The Chief Justice of the Colorado Supreme Court's salary is 13 percent lower than the average salary of five Denver metropolitan area Community College Presidents. The Chief's salary is six percent lower than the average salary paid to Agency Executive Directors in Colorado, and is lower than the salary paid to many SES employees.

¹⁸ The county court is a court of limited jurisdiction, handling cases involving serious public safety issues such as misdemeanor cases, felony advisements, setting bonds, and conducting preliminary hearings. County judges also issue search warrants, grant or hear protection orders in cases involving domestic violence, preside over traffic cases and civil actions involving no more than \$15,000, and preside over jury trials.

- **Federal Judge Salaries.** The FY 2007-08 compensation for the Colorado Chief Justice's salary (\$132,027) is 13.1 percent lower than a federal magistrate (\$151,984) and 20.1 percent lower than a federal district court judge (\$165,200).

What is the Department requesting?

- Based on the information provided above, the Department believes that the salaries paid to Colorado's judges have not kept pace with national judicial salaries, nor remained competitive in the state. **The Department proposes that Colorado judge salaries be maintained at between 12th and 15th in the nation.** To attain this level of compensation, the compensation for trial court judges would be between the average presiding municipal judge salary and a federal district court judge salary. The compensation for the Chief Justice would be placed between that of a federal magistrate and a federal district court judge.
- To reach this level of compensation, the Department proposes **judicial salary increases of three percent each year for four years, beginning in FY 2008-09, in addition to Salary Survey and Performance-based pay** (see table below). Under this schedule, by FY 2011-12, Colorado's judicial salaries would reach the targeted level. The Department anticipates that level could largely be maintained with annual Salary Survey and Performance-based Pay awards for some time. In the future, if judicial salaries began to fall in the national rankings, the Department would re-evaluate where salaries should be and what type of increases would be necessary to attain the appropriate level of compensation.

Proposed Four-Year Schedule to Raise Judicial Compensation

Fiscal Year	Cost to Implement 3 Percent Increase Per Year
FY 2008-09	\$1,172,896
FY 2009-10	\$1,334,619
FY 2010-11	\$1,369,461
FY 2011-12	\$1,479,809
Total	\$5,356,788

Note: The schedule shown in this table was provided by the Judicial Department and has not been independently evaluated by staff.

Why doesn't Colorado utilize an independent judicial compensation commission?

In statute, the General Assembly has created Colorado State Officials' Compensation Commission; the Judicial Department has previously convened Judicial Compensation Panels; and the American Bar Association encourages states to determine judicial compensation levels through independent

commissions.¹⁹ The benefits of such a commissions is that they provide a regular, independent assessment of appropriate judicial compensation. However, neither the statutory commission nor the Judicial Compensation Panels are, or have recently been, active. Staff has been unable to uncover the reasons why.

Staff Recommendation

Staff recommends that the Committee ask the **Judicial Department** the following questions during its Hearing:

1. Has the Department had difficulty recruiting or retaining judges due to compensation levels? Where have most new judges in the state been employed prior to accepting judgeships? When judges leave the bench for reasons other than retirement, what type of positions do they take?
2. Why hasn't the Department maintained, or re-created, a Judicial Compensation Panel? When did the Department last participate in the Colorado State Officials' Compensation Commission? What is the status of this commission?

¹⁹ Policy adopted by The American Bar Association House of Delegates, August 11-12, 2003.

**FY 2008-09 Joint Budget Committee Staff Budget Briefing
JUDICIAL DEPARTMENT**

ISSUE: Judicial Decision Item #8: Response to Audit of Probate Case Handling

SUMMARY:

- The Colorado Judicial Department's oversight of probate cases was audited in 2006, and several ways in which oversight could be strengthened were identified.
- The Protective Proceedings Task Force is studying the report's findings, implementing some changes, and recommending additional steps for strengthening oversight.
- For FY 2008-09, the Department is requesting increases of \$188,717 General Fund, and 3.0 FTE to continue implementing recommendations of the Protective Proceedings Task Force.

STAFF RECOMMENDATION:

Staff Recommendations

Staff recommends that the Committee ask the **Judicial Department** the following questions during its Hearing:

1. Prior to the audit, how frequently had the Department received complaints about how probate cases are managed? Who tended to complain and why? How did the Department respond?
2. For what other areas of the law does the State Court Administrator's Office (SCAO) provide statewide programmatic support? How many SCAO FTE are dedicated to each specialty?
3. If the proposed pilot projects identify the need for additional district court staff to better manage probate cases, does the Department anticipate seeking additional FTE to address this particular need? Alternatively, would it work this need into its Trial Courts staffing model, driving increases in general Trial Court staffing needs?
4. Please provide more information on the Uniform Adult Guardianship and Protective Proceedings Act, including how it would benefit probate case management and when it will be available for adoption.

BACKGROUND:

What are probate cases?

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

2006 Probate Audit Report

The 2006 Legislative Audit Committee requested an audit of probate case handling. The audit report focused on protective proceedings, a sub-class of the probate caseload. Protective proceedings are those cases where a petition is filed for the appointment of a conservator or guardian. Conservators are appointed to oversee the financial affairs of a protected person, while guardians are appointed to oversee the health and safety of an incapacitated person. Conservators or guardians are appointed by the Court (after a full due process hearing if the issue is contested) to make various on-going decisions, in many cases over periods of years, on behalf of a ward.²⁰

According to statute, courts are to provide a higher level of supervision for guardian and conservator appointees than for other appointees because they involve protected persons (as opposed to a personal representative or trustee appointment, where there is a legal document such as a will or a trust to establish how the assets or the trust are to be handled). Although guardian and conservator cases make up only 16 percent (approximately) of the total probate caseload, the audit emphasized these cases in its review because of the courts' heightened responsibilities.²¹

The audit findings and recommendations focused on five areas. Below are summaries of the audit findings and recommendations, and the Judicial Department's initial responses, for each of those areas.

I. MONITORING AND SUPERVISION

Findings: Conservators and guardians must file a personal care plan within 60 days of appointment, and report to the court annually on their activities. A review of cases found that the guardian or conservator did not file either an initial report or annual report when required in over 50 percent of cases, and that the reports that were filed

²⁰ Other types of probate appointees are personal representatives (a person appointed by a decedent, via his or her will, to distribute the estate's assets) and trustees (a person appointed by a trust agreement to safeguard, invest, and distribute the trust's valuable assets).

²¹ In FY 2004-05, 11,714 cases filed in Colorado's District Courts (6.4 percent of the more than 183,500 total cases filed), were probate cases. The majority of these cases (approximately 66.7 percent) related to trusts and settling estates.

typically provided limited detail and supporting documentation. Additionally, five of the six courts in the sample did not systematically identify and follow-up on outstanding reports, and some of the courts' current practices for reviewing reports were considered insufficient. The Judicial Department does not have any statewide procedures for guardians and conservators to document their expenses, nor any statewide policies for courts in monitoring guardians and conservators.

Recommendations: Colorado's limited monitoring of guardians and conservators is consistent with practices in many other states. However, some experts in probate law have been concerned, on a national basis, about this lack of oversight and have identified best practices and recommended improvements. The first audit recommendation is to improve the consistency and effectiveness of these plans and reports by: establishing review procedures; requiring guardians and conservators to maintain detailed information on fees and expenditures; and developing a risk-based model for reviewing higher-risk guardian and conservator cases.

Response: The Department agreed with this recommendation. However, the courts indicated that they do not have the resources to conduct reviews of all conservator or guardian reports. Additionally, the staff they do have does not have the specialized expertise to review the appropriateness of certain guardian activities (such as those involving financial transactions or complex medical or personal care issues).

2. APPOINTEE COMPENSATION

Findings: The statute allows all conservators and guardians to charge the estate of the protected person reasonable compensation for the services they provide. Generally, nonprofessional guardians and conservators request minimal or no compensation, while professionals are paid a fee from the estate. Most files had little documentation regarding the fees charged. However, a review of the documentation that existed found that: substantially different fees were charged by different appointees performing the same service; professional fees were charged for nonprofessional services; and excessive fees were charged by some appointees. The Judicial Department does not have any statewide guidance for appointee fees.

Recommendations: The Judicial Department should consider options for ensuring that fees charged by guardians and conservators are reasonable, that policies for determining reasonableness are consistently applied by the courts, and that guardians and conservators be required to provide a detailed accounting of their fees and services.

Response: The Department agrees that it has statutory responsibility to review the reasonableness of these fees and that it could improve the process for reviews.

3. APPOINTEE SCREENING AND SELECTION

Findings: Since courts rely on guardians and conservators to act in the best interests of those they have been appointed to protect, the courts are required in statute to ensure that the appointees are qualified.²² In general, the audit found that courts were complying with the broad statutory requirements. However, it found that additional procedures could improve the courts' ability to review guardian and conservator qualifications and ensure that they receive sufficient training to carry out their duties.

Recommendations: The Judicial Department should improve procedures for ensuring that guardians and conservators are qualified to perform their, including the development of training requirements and minimum qualifications.

Response: The Department agreed with this recommendation, but noted that by elevating the requirements for qualifications and training, family and friends may be less likely to be eligible or less willing to serve in this capacity for loved ones (resulting in a need for a professional appointee and thus causing increased costs to the estate).

4. INTERESTED PARTIES

Findings: While the probate code does not require ongoing court monitoring and supervision of personal representatives and trustees, statute does allow for interested parties in these cases to petition the court for various reasons (i.e., trustee or personal representative appointment or removal; review of activities; or release of a trust). Therefore, courts rely on interested parties to notify them when these appointees are not performing their duties effectively. The audit found that court documents and forms for interested parties do not explain these rights and responsibilities.

Recommendations: The Judicial Department should improve communications used to inform interested parties of their rights and responsibilities.

Response: The Department agreed with this recommendation.

5. SYSTEM IMPROVEMENTS

Findings: The Judicial Department maintains probate and appointee data in ICON, the Integrated Colorado On-line Network. ICON is the database that houses all county and district court records statewide. The audit found that ICON was not able monitor probate caseload, report critical information on the well-being of protected

²² Sections 15-12-301, 15-12-402, 15-14-304, 15-14-403, and 15-16-101, C.R.S. set for general requirements for appointing guardians, conservators, personal representatives, and trustees to probate cases.

persons and the financial solvency of estate assets, nor automatically notify appointees of missing plans and reports.

Recommendations: The Judicial Department should strengthen controls over the management of probate cases by making improvements to ICON.

Response: The Department agreed with this recommendation. ICON is currently undergoing a three-year redevelopment and the Department plans to incorporate the recommendations into the redevelopment process.

The Protective Proceedings Task Force

In response to the audit, the Chief Justice established the Protective Proceedings Task Force to consider the issues raised and begin crafting solutions to those issues. The Task Force is comprised of a diverse membership, including judges, attorneys, other government officials, non-profit groups, and citizens. To date, this Task Force has:

- Standardized probate forms, making statewide court practices for probate cases more uniform;
- Completed a new set of case-handling procedures for clerk's office staff that will become the standard practice statewide;
- Considered various probate rule changes to simplify and streamline the processing and handling of these cases; and
- Developed a manual for new appointees that clearly describes their responsibilities and will help them in performing their duties.

While the Task Force's final report has not yet been released, it is considering the following recommendations:

- The State Court Administrator's Office (SCAO) should develop and implement a training program for conservators and guardians;
- The SCAO should consider developing a certification program or registration program for professional guardians and conservators;
- The SCAO should establish a pilot public guardianship project to address the needs of people who do not have other resources for guardianship assistance (an issue identified by the Task Force but not addressed in the audit); and
- The General Assembly should consider the Uniform Adult Guardianship and Protective Proceedings Act when it is available for adoption as a possible tool to supervise these estates.

Judicial Department Decision Item #8 for Audit Response Resources

The Department is seeking increases of \$188,717 General Fund, and 3.0 FTE, to continue implementing the recommendations of the Protective Proceedings Task Force. Specifically, 1.0 FTE would be located in the SCAO and be responsible for: (1) auditing cases that district staff have identified as problematic, but for which the district does not have relevant expertise; and (2) providing statewide programmatic support in the probate area, as is currently done in other areas of law (these type of functions include administrative and technical support to the courts; providing central policy guidance; developing and implementing standards; and serving as an advocate and central point of contact for all protective proceedings related issues). The other 2.0 FTE would be located at the district level to implement one- to two-year pilot projects to determine the staffing levels and type of staff needed to close the "monitoring gap" and otherwise respond to Task Force recommendations.

The Department believes it needs to be better prepared institutionally for an anticipated influx of probate cases (due to the aging population). Without the requested resources, the Department may not be able to implement the Task Force recommendations completely or in a timely fashion. Specifically, the SCAO does not have the staffing resources to dedicate someone completely to the tasks the audit recommended. Additionally, without funding for the pilot programs, the Department will not be able to study the response necessary to close the monitoring gap at the district level.

Staff Recommendations

Staff recommends that the Committee ask the **Judicial Department** the following questions during its Hearing:

1. Prior to the audit, how frequently had the Department received complaints about how probate cases are managed? Who tended to complain and why? How did the Department respond?
2. For what other areas of the law does the State Court Administrator's Office (SCAO) provide statewide programmatic support? How many SCAO FTE are dedicated to each specialty?
3. If the proposed pilot projects identify the need for additional district court staff to better manage probate cases, does the Department anticipate seeking additional FTE to address this particular need? Alternatively, would it work this need into its Trial Courts staffing model, driving increases in general Trial Court staffing needs?
4. Please provide more information on the Uniform Adult Guardianship and Protective Proceedings Act, including how it would benefit probate case management and when it will be available for adoption.

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

State	Salary	National Rank	Salary Adjusted for Cost-of-Living	National Rank
Alabama	111,973	40	121,863	24
Alaska	152,760	5	121,363	26
Arizona	135,800	15	128,974	16
Arkansas	126,111	21	142,329	6
California	171,648	1	126,099	18
Colorado	113,232	39	111,165	36
Connecticut	146,780	7	115,416	33
Delaware	168,100	2	165,184	1
District of Columbia	165,200	3	116,911	31
Florida	145,080	8	140,328	7
Georgia	116,749	33	125,327	20
Hawaii	125,856	23	77,393	50
Idaho	103,600	48	109,073	37
Illinois	157,824	4	163,239	2
Indiana	115,282	36	121,689	25
Iowa	126,020	22	133,557	10
Kansas	114,813	37	125,713	19
Kentucky	121,744	26	130,346	14
Louisiana	110,964	41	116,351	32
Maine	105,300	44	95,768	47
Maryland	128,352	20	101,167	44
Massachusetts	129,694	19	105,959	42
Michigan	139,919	13	138,248	9
Minnesota	121,712	27	122,867	23
Mississippi	104,170	45	113,668	34
Missouri	108,000	43	118,751	29
Montana	94,093	51	92,953	48

State	Salary	National Rank	Salary Adjusted for Cost-of-Living	National Rank
Nebraska	117,333	32	129,194	15
Nevada	144,300	9	132,805	12
New Jersey	141,000	11	106,968	40
New Mexico	103,824	47	101,132	45
New York	136,700	14	108,976	38
North Carolina	115,289	35	120,959	28
North Dakota	98,080	49	1,058,033	43
Ohio	118,050	30	123,508	22
Oklahoma	118,450	29	132,489	13
Oregon	95,800	50	89,109	49
Pennsylvania	152,115	6	150,139	4
Rhode Island	133,216	16	106,663	41
South Carolina	125,265	24	133,075	11
South Dakota	104,041	46	113,528	35
Tennessee	140,000	12	154,436	3
Texas	132,500	17	148,189	5
Utah	114,400	38	118,075	30
Vermont	117,881	31	98,541	46
Virginia	143,549	10	138,283	8
Washington	131,988	18	126,744	17
West Virginia	116,000	34	121,016	27
Wisconsin	119,605	28	124,672	21
Wyoming	109,800	42	107,333	39
Mean (Average)	125,787			
Median	121,744			
Range	94,093	to	171,648	

^a The information in this table is from the January 2007, *Survey of Judicial Salaries*, prepared by the National Center for State Courts.

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

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

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