

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



**SUPPLEMENTAL REQUESTS FOR FY 2008-09
AND FY 2007-08**

JUDICIAL BRANCH

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

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Prioritized Supplementals

**Supplemental Request, Department Priority #1 (for Courts, Administration, and Probation)
 Hiring Freeze**

	Request	Recommendation
Total - GF	(\$4,147,000)	(\$4,147,000)
FTE	0.0	(149.5)

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>an unforeseen contingency</i> (the revenue shortfall).	

Department Request: On September 26, 2008, the Judicial Branch announced that it would join with the Executive Branch and Legislative Branch in "taking steps to protect taxpayers during this time of national economic uncertainty". Specifically, the Branch implemented a statewide hiring freeze, effective October 3, 2008. The Branch indicated that exceptions may be approved on an individual basis for "positions determined to have a direct and immediate effect on public safety, or the effective operation of the courts".

At that time, based on the September 2008 Legislative Council Staff revenue forecast, the Branch set a target of \$3 million General Fund savings based on its share of General Fund operating appropriations. The Branch intentionally created hiring freeze savings in excess of its proportional share in order to offset an estimated \$1.1 million in mid-year funding needs. Unfortunately, its mid-year funding requests are larger than anticipated.

Through this supplemental request, **the Branch is requesting General Fund reductions in several line items to recognize anticipated reversions related to the hiring freeze.** These reductions, totaling \$4.1 million, are the result of nearly 180 positions being held vacant by the end of FY 2008-09 -- the equivalent of five percent of FTE appropriated to the Branch (excluding the three independent agencies). This reduction represents 1.7 percent of General Fund appropriations to the Branch (again, excluding the three independent agencies) or two percent of personal services appropriations.

Staff Analysis and Recommendation: Staff recommends approving the request to reduce various line items by **\$4,147,000 General Fund** in order to recognize the savings associated with the Branch's current hiring freeze. **However,** in order to more clearly reflect the operational impact

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of the hiring freeze, **staff also recommends reducing the FTE appropriated for each of the relevant line items** to reflect the number of full time equivalent positions that will remain vacant as a result of the hiring freeze. The following table details the impacted line items.

Affected Line Items	FY 08-09 Appropriation		Reduction		
	Dollar Amount	FTE	Dollar Amount	% of Approp.	FTE
Trial Courts, Trial Courts Programs	\$118,305,643	1,873.2	(\$1,600,000)	-1.4%	(109.5)
Probation and Related Services, Personal Services	68,868,726	1,129.8	(760,000)	-1.1%	(33.7)
Courts Administration, Personal Services	5,217,789	64.1	(38,000)	-0.7%	(6.3)
Health, Life, and Dental	17,806,295		(1,700,000)	-9.5%	
Short-term Disability	249,386		(49,000)	-19.6%	
Total Estimated Impact of Freeze			(4,147,000)		(149.5)

In addition, please note that a portion of the hiring freeze savings identified by the Department relate to other line items. Specifically, the Department's latest analysis indicates that another 6.0 FTE will remain vacant in the Appellate Court Programs line item and two line items within the Integrated Information Services unit. The Department's request includes large mid-year adjustments to centrally appropriated line items so that it can implement hiring freeze savings through changing allocations of centrally appropriated funds, rather than making several smaller adjustments to individual personal services line item appropriations. Given that some of the specific impacts of the hiring freeze are unknown at this time, staff agrees with this approach.

**Supplemental Request, Department Priority #2 (for Courts, Administration, and Probation)
 Court-appointed Counsel and Jury Costs**

	Request	Recommendation
Total	<u>\$1,360,000</u>	<u>\$1,360,000</u>
General Fund	1,360,000	1,360,000
Cash Funds	0	0

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Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
<i>JBC staff and the Department agree that this request is the result of data that was not available when the original appropriation was made.</i>	

Department Request: The Department requests a **\$1,360,000 General Fund increase** (9.6 percent) for the Court Costs, Jury Costs, and Court-appointed Counsel line item, **to address the rising costs of providing constitutionally and statutorily required legal representation and other mandated services.** The Branch has also submitted an amendment to continue this increase in FY 2009-10. The Department's request includes the following two components:

Court-appointed Counsel	\$1,225,000
Jury System	<u>135,000</u>
Total	<u>1,360,000</u>

Court-appointed Counsel. This line item includes funding to cover expenses for court-appointed counsel and other representatives for children and indigent persons. While the Department's three independent agencies provide legal representation for adults and children in certain matters, this appropriation covers the costs of providing representation for indigent parties who:

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

This appropriation also supports the provision of 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 Department identified four factors that are increasing court-appointed counsel costs:

1. The number of dependency and neglect (D&N) filings are increasing. Specifically, 60 more D&N cases were filed in the first six months of this fiscal year compared to the same period last year -- an increase of 3.4 percent.
2. Given the current economic conditions, the number of individuals who are unable to afford their own private attorneys is increasing. Five years ago, 73 percent of D&N cases filed had

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one or more court-appointed attorneys due to indigence of the party(ies) (including public defenders and alternate defense counsel attorneys). In the first quarter of FY 2008-09, this percentage has increased to 85 percent -- an increase of over ten percent. The percentage of parties in D&N cases requiring state-funded attorneys supported by this line item increased from 44.6 percent in FY 2003-04 to 50.6 percent in FY 2007-08.

3. The Department of Human Services is making stronger attempts to engage more fathers in cases and involve them, as appropriate, in D&N proceedings. Many of these fathers are indigent, and therefore qualify for Judicial-paid respondent parent's counsel. Where previously only the indigent mother needed an appointment, now a second appointment is required for the father, thus increasing costs to the Judicial Branch.
4. Attorneys are spending more time per case, contributing to higher state expenditures. The largest budget impact is in D&N and juvenile delinquency cases. Recent improvements in the representation of respondent parents and new federal requirements concerning the involvement of youth in certain court hearings are requiring more time. Pressures for stronger representation extend to attorney appointments in juvenile delinquency cases as well. An analysis of billings for CYs 2006, 2007, and 2008 indicates that the average number of hours billed has increased by 2.1 hours (14.5 percent) for D&N cases, and by 1.0 hour (13.3 percent) for delinquency cases.

Jury Costs (Petit Jury). This line item includes funding to cover fees and expenses for jurors. A "petit jury" is a jury for the trial of a civil or criminal case. Pursuant to Sections 13-71-125 through 13-71-131, C.R.S., jurors must be compensated \$50 daily, beginning on their fourth day of service. These provisions also allow self-employed jurors to be compensated for their lost wages and unemployed jurors to be reimbursed for their travel, child care, and other necessary out-of-pocket expenses for the first three days of service; such compensation is limited to \$50 per day.

Current data shows that the average length of jury trials is now 3.25 days, up from 2.98 in FY 2006-07. This means that more trials are lasting beyond the initial three day period, thus requiring payment of the daily juror fee and additional expenses as described above. In addition, more summons for jury duty are being issued, with this year's projection at 833,000 statewide, compared to 816,000 last year (an increase of 2.1 percent). This involves costs for the printing and preparation of the summons, as well as postage.

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Staff Analysis: While the appropriation for this line item increased for FY 2008-09, the only increase provided was intended to cover an increase in the hourly court-appointed counsel rate¹; the base appropriation remained flat. Most of the factors cited by the Branch -- an increase in D&N cases, an increase in the percentage of parties who are indigent, an increase in the number of hours required per case for certain case types, and more and longer trials -- are consistent with the cost drivers cited by the Colorado District Attorneys' Council, the Public Defender's Office, and the Office of the Child's Representative.

If this request is not approved, the Branch will have to fund the increased court-appointed counsel and jury costs internally. Generally, the Branch would be able to cover these cost increases by holding vacant positions open and transferring money among line items. For example, in FY 2007-08, the Branch held vacancies in order to transfer \$125,401 to cover over expenditures in this line item. However, as the Branch has already requested funding reductions associated with the hiring freeze, its ability to make such internal transfers is limited. In addition, these cost increases appear to be ongoing, rather than one-time in nature.

Staff Recommendation: Staff recommends that the Committee approve the request for a **\$1,360,000 increase** to ensure that parties are appropriately represented and receive due process as their cases move through the courts, and that jurors are compensated as required. Given the magnitude of the projected over expenditure, and the reductions recommended in other line items, it is unlikely that the Branch could cover this shortfall internally.

**Supplemental Request, Department Priority #3 (for Courts, Administration, and Probation)
 Language Interpreters**

	Request	Recommendation
Total	\$501,042	\$501,042
FTE	<u>0.0</u>	<u>0.0</u>
General Fund	501,042	501,042
Cash Funds	0	0

¹ The net change in the appropriation includes an increase of \$849,065 to raise the hourly rate from \$60 to \$65, and a decrease of \$215,000 to transfer certain postage expenses to the Operating Expenses line item.

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Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
<i>JBC staff and the Department agree that this request is the result of data that was not available when the original appropriation was made.</i>	

Background Information: This line item provides funding for foreign language interpreter services for indigent individuals. Sections 13-90-113 and 114, C.R.S., provide for the payment of language interpreters “when the judge of any court of record in this state has occasion to appoint an interpreter for his court.” Title VI of the Civil Rights Act of 1964 prohibits recipients of federal financial assistance from discriminating based upon national origin by, among other things, failing to provide meaningful access to individuals who are limited English proficient (LEP). Additionally, Executive Order 13166 requires that all recipients of federal funding develop a plan for providing that access, and Colorado’s plan for providing access to LEP persons is Chief Justice Directive (CJR) 06-03. This CJD indicates that the court shall pay for interpreter services in the following circumstances:

- during court proceedings when a defendant, one of the parties, a victim, a witness, or the parent/legal guardian of a minor charged as a juvenile is a non-English speaker;
- to facilitate communication outside the judge's presence in order to allow the court proceeding to continue as scheduled (e.g., pre-trial conferences between defendants and district attorneys);
- to facilitate communication between the client and court-appointed counsel;
- during contempt proceedings when loss of liberty is a possible consequence;
- in the development of payment plans and completion of pre-sentence investigations; and
- during mental health evaluations performed for the purpose of aiding the court in making a determination concerning competency or sanity.

Prosecutors and clients' attorneys pay for or provide language interpretation that is necessary for other purposes, such as case preparation and general communication.

Department Request: The Department requests a \$501,042 General Fund increase (17.3 percent) for language interpreter services. The Branch has also submitted an amendment to continue this increase in FY 2009-10.

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The Court Interpreter Program provides language interpreters for parties in approximately 60 languages. The Branch indicates that since 2004, the overall annual demand has increased by 18,180 hours, and the appropriation has not kept pace with the need. In 2004, the federal Department of Justice launched an investigation of the Colorado Judicial Department's compliance with Title VI and Executive Order 13166 provisions described above. In order to gain compliance and avoid fines and revocation of federal grant funding, CJD 06-03 was issued to outline the case types for which the State would provide coverage -- essentially those in which the client has the potential for loss of liberty. This request is thus based on the increased need for court interpreter services and federal legal requirements.

Through CJD 06-03, the use of interpreters and associated personnel has been standardized across judicial districts. Several key staff positions have been deployed statewide in order to better serve districts and, at the same time, control costs locally as much as possible.

Staff Analysis: The following table details the growing gap between the annual appropriation for language interpreter services and actual expenditures.

Recent History of Funding for Language Interpreter Services				
Fiscal Year	Appropriation	Expenditures	Annual % Change	Approp.- Expend.
1999-00	n/a	\$1,390,769		n/a
2000-01	n/a	1,736,343	24.8%	n/a
2001-02	n/a	2,135,898	23.0%	n/a
2002-03	n/a	2,261,106	5.9%	n/a
2003-04	n/a	2,224,287	-1.6%	n/a
2004-05	n/a	2,545,831	14.5%	n/a
2005-06	n/a	2,879,595	13.1%	n/a
2006-07*	2,883,666	3,181,250	10.5%	(297,584)
2007-08	2,892,427	3,520,983	10.7%	(628,556)
2008-09**	2,892,427	3,601,919	2.3%	(709,492)

* Prior to FY 2006-07, funding was included in "Mandated Costs" line item appropriation.

** FY 2008-09 expenditures reflect Branch projections, including centrally appropriated benefits (consistent with actual expenditures for previous fiscal years).

It appears that although interpreter costs have been increasing steadily since FY 2003-04, following the federal Department of Justice investigation, the appropriation has remained relatively flat. The Branch transferred \$200,768 and \$345,000 to cover interpreter expenditures in the last two fiscal

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years, respectively. The Branch projects that the rate of increase in expenditures will slow this year (to 2.3 percent), but the appropriation will still fall short.

Staff Recommendation: Staff recommends that the Committee approve the request for an increase of \$501,042 General Fund to ensure that individuals with limited English proficiency are provided their constitutional right to due process and to provide meaningful access to the courts. Generally, the Branch would be able to cover these cost increases internally by holding vacant positions open. However, as the Branch has already requested funding reductions associated with the hiring freeze, its ability to make such internal transfers is limited. For example, in FY 2007-08, the Branch held vacancies in order to transfer \$345,000 to cover over expenditures in this line item. However, as the Branch has already requested funding reductions associated with the hiring freeze, its ability to make such internal transfers is limited. In addition, these cost increases appear to be ongoing, rather than one-time in nature.

**Supplemental Request, Department Priority #4 (for Courts, Administration, and Probation)
 Retired Judge Program**

	Request	Recommendation
Total - GF	\$510,000	\$30,000

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	In Part
<i>JBC staff and the Department do not agree that the JBC's supplemental criteria have been met. The Department states that this request is the result of data that was not available when the original appropriation was made; JBC staff disagrees, in part (as explained further in the staff analysis section).</i>	

Background Information: Pursuant to Section 24-51-1105, C.R.S., upon written agreement with the Chief Justice prior to retirement, a justice or judge may perform temporary judicial duties for between 60 and 90 days a year without pay. These agreements may not exceed three years (most are currently one-year contracts), but a retiree may enter into subsequent agreements for a maximum of 12 years. These retired judges cover sitting judges in case of disqualifications, vacations, sick leave, over-scheduled dockets, judicial education, and conflicts of interest. Retired judges provide flexibility in coverage as they can go anywhere in the state to fill a temporary need.

The individual receives reimbursement for travel expenses for out-of-town assignments, and is compensated by receiving a retirement benefit increase equal to 20 to 30 percent of the current monthly salary of individuals serving in the same position as that held by the retiree at the time of

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retirement. The Judicial Branch is required to reimburse the PERA Judicial Division Trust Fund for the payments of retired judges' additional benefits during the previous fiscal year (i.e., costs incurred in FY 2007-08 are reimbursed by the Branch in FY 2008-09). Travel expenditures are reimbursed in the fiscal year in which they are incurred.

Department Request: The Department requests an increase of \$510,000 (36.8 percent) for the Senior Judge Program. This request includes \$480,000 related to Trust Fund reimbursements and \$30,000 for travel expenses. The Branch notes that over the past three fiscal years in particular, this program has experienced large deficits. These deficits are related to increases in the number of hours of judge services, increases in judge salaries, and mileage reimbursement rate increases.

Staff Analysis: As detailed in the following table, while the number of days worked by retired judges increased significantly in FY 2006-07, it decreased in FY 2007-08.

Recent History of Senior Judge Program Utilization		
Fiscal Year	Retired Judge Days of Service	Annual % Change
2002-03	2,979	
2003-04	3,639	22.2%
2004-05	3,564	-2.1%
2005-06	3,825	7.3%
2006-07	5,417	41.6%
2007-08	3,960	-26.9%
2008-09*	4,387	10.8%

* FY 2008-09 days are based on doubling days utilized through December 2008.

The increase in days utilized in FY 2006-07 occurred primarily because of the rise in caseload across the state. Additionally, the number of retired judges available on the program increased, and as more retired judges became available, the districts submitted more coverage requests based on caseload need. The Department reported that it tried to use the retired judges to help improve the disposition of cases, and to reduce some of the longstanding backlogs in some of the larger districts. The Department has indicated that the need for retired judges should diminish to some extent as the new judgeships created in H.B. 07-1054 are filled. The decrease in usage in FY 2007-08 (which impacts FY 2008-09 expenditures) appears to support this assertion. However, usage in the first six months of FY 2008-09 indicate a fairly significant increase (which will impact expenditures in FY 2009-10).

The following table details the appropriation and expenditure history for this program.

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Recent History of Funding for the Senior Judge Program						
Fiscal Year	Appropriation	Expenditures			Annual % Change	Approp.- Expend.
		PERA Payment	Travel	Total		
2002-03	\$882,825	\$788,018	\$94,807	\$882,825		\$0
2003-04*	1,121,775	1,026,968	40,408	1,067,376	20.9%	54,399
2004-05	1,384,006	1,292,979	103,991	1,396,970	30.9%	(12,964)
2005-06	1,384,006	1,433,085	90,383	1,523,468	9.1%	(139,462)
2006-07*	1,523,468	1,432,441	97,940	1,530,381	0.5%	(6,913)
2007-08*	1,665,571	1,574,544	121,411	1,695,955	10.8%	(30,384)
2008-09**	1,384,006	1,775,321	121,411	1,896,732	11.8%	(512,726)

* Appropriation includes a supplemental increase.

** FY 2008-09 expenditures reflect Branch estimate.

Staff Recommendation: Staff recommends that the Committee approve the request for an additional \$30,000 for travel reimbursements, but deny the request for an additional \$480,000 for PERA payments. With respect to travel reimbursements, staff agrees that this portion of the request meets supplemental criteria. Retired judges are paid in the fiscal year in which travel expenses are incurred. Thus, the initial FY 2008-09 appropriation was based on estimated travel expenditures, and the supplemental request is informed by actual FY 2007-08 expenditures and expenditures incurred through December 2008. Staff recommends approving this portion of the request based on recent expenditure data.

With respect to payments to PERA, staff does not agree that this portion of the request meets supplemental criteria. In January 2008, when the Department was required to finalize its FY 2008-09 budget request, it had full knowledge of the contracts that were in place with retired judges, the applicable salaries on which PERA payments were based, and six months of data regarding the use of retired judges. Thus, staff believes that the Department had adequate information at that time to submit a fairly accurate funding request for FY 2008-09. Further, the initial appropriation has fallen short of the need in the last five fiscal years, indicating that this shortfall is not new information. That said, JBC staff has historically agreed that this type of request meets supplemental criteria, and the Committee's practice has been to approve mid-year requests to true-up this appropriation (this occurred in three of the last six fiscal years).

Further, staff understands that the FY 2008-09 appropriation is based on payments that were made to retired judges in FY 2007-08, and the Department is statutorily required to reimburse PERA's Judicial Division Trust Fund for the amount paid out to retired judges in FY 2007-08. However, the Department indicates that this program is managed centrally within the State Court Administrator's

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Office. Each district submits requests for retired judge coverage, and the program manager determines whether the request meets the qualifications and whether a senior judge is available. While the State Court Administrator's Office has no control over many factors that drive the need for senior judge coverage (e.g., sick leave, maternity leave, judge disqualification), **the Office should be able to control the number of judges in the program and prioritize requests for coverage in order to manage the program within existing resources.** In addition, the number of days worked by retired judges *decreased* 26.9 percent in FY 2007-08, so it's difficult to justify why PERA payments in FY 2007-08 (which the Department is required to pay this year) *increased* 12.8 percent.

Staff agrees that this program is a cost-effective way of managing dockets and covering judges' leave time. However, the Department should be held accountable for managing the program within existing resources, and requesting sufficient funding to address coverage needs.

**Supplemental Request, Department Priority #5 (for Courts, Administration, and Probation)
 Public Access System Development**

	Request	Recommendation
Total - CF	\$722,296	\$722,296
FTE	5.0	1.8

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made.</i>	

Background Information: Over the last decade, the Department has partnered with vendors to develop and implement a public access system and an e-filing system. These systems, which are supported entirely by user fees, provide cost-effective services to the general public and attorneys, respectively, and they have positively affected court staff workloads. In response to a General Assembly request, the Department has studied the feasibility of providing its public access and e-filing programs in-house. The Department recommended that it be authorized to develop and deploy both systems in-house, beginning work on the public access system as soon as January 2009. The National Center for the State Courts critiqued the Department's feasibility study, and it supports the Department's recommendations.

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Last November, staff recommended that the Committee authorize the Department to begin, as soon as possible, the development and implementation of in-house versions of both a public access system and an e-filing system. Staff further recommended that the Committee:

- introduce a supplemental bill that includes an appropriation from the Judicial Department Information Technology Cash Fund for FY 2008-09 sufficient to allow the Department to begin development of the public access system;
- authorize the Department to use net revenues generated once the public access system is functional to cover the costs of developing the e-filing system, and to ensure the Department is in a position to maintain its existing IT infrastructure; and
- direct the Department to plan on: (1) eliminating cost recovery fees associated with each system upon implementation; but (2) maintain existing user fees until the costs of developing the associated in-house system are recouped and the Department has some direct experience on which to base its revenue projections.

On December 23, 2008, the Committee voted to authorize the Department to begin development of the public access system as soon as possible.

Department Request: The Department seeks an increase in spending authority from the Information Technology (IT) Cash Fund for FY 2008-09 and FY 2009-10 to proceed with development of an in-house public access and e-filing system. The general plan for this project is to first develop the public access system using revenues from the IT Cash Fund. This fund was established through HB 08-1253 (a JBC-sponsored bill), which allows the Department to retain fees and cost recoveries related to IT services, including providing public access to court records and e-filing services. The Department planned to use moneys in this fund for routine asset maintenance activities, including building up the fund balance to cover costs of significant infrastructure investments (e.g., an estimated \$700,000 to replace a mainframe computer in FY 2010-11). Pursuant to Section 13-32-114 (2), C.R.S., moneys in this fund may be appropriated to the Department "for any expenses related to the department's information technology needs".

The Department requests increases in FY 2008-09 appropriations totaling \$722,296 cash funds and 5.0 FTE to begin developing the public access system. Once that system is complete, it is expected that enough revenue will be generated from its use to fully fund the development of the in-house e-filing portion of the project. The Department has also submitted an associated budget amendment for FY 2009-10. The following table summarizes projected project expenditures for both FY 2008-09 and FY 2009-10.

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Expenditures: Public Access and E-Filing Systems		
Description	FY 08-09	FY 09-10
Staff salaries and benefits	\$216,780	\$1,210,344
FTE	5.0	15.0
Hardware acquisition	349,560	670,798
Software acquisition	55,956	322,854
Data center	0	30,018
Telecommunication services	0	30,000
Consultant services	0	33,333
Furniture/equipment	17,500	35,000
Training and travel	60,000	186,000
Leased space	0	86,250
Operating	7,500	163,736
Supplies	<u>15,000</u>	<u>45,150</u>
Total costs	722,296	2,813,483

Staff Analysis and Recommendation: Consistent with the Committee's action in December 2008, staff recommends approving the Department's request for an appropriation of \$722,296 from the IT Cash Fund for FY 2008-09. However, staff recommends adding only 1.8 FTE to more accurately reflect the full time equivalent of 5.0 FTE hired late in the fiscal year. Based on projected IT Cash Fund revenues, sufficient cash funds will be available in the current fiscal year over and above the amounts currently appropriated for IT needs. Once the public access is system is implemented, revenues are projected to exceed ongoing operating costs. The net revenues from this project can then be used to cover the costs of developing a new electronic filing system and to "pay back" the seed money so that the Department is in a position to maintain its existing IT infrastructure.

**Supplemental Request, Department Priority #6 (for Courts, Administration, and Probation)
 Courthouse Security Cash Fund Spending Authority
 Statutory Change Recommended**

	Request	Recommendation
Total - CF	\$750,000	\$750,000
FTE	0.0	0.0

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Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made.</i>	

Background Information: Senate Bill 07-118 (Sen. Shaffer/Rep. King) created the Courthouse Security Grant Program to provide grant funds to counties for use in improving courthouse security efforts. Such efforts include security staffing, security equipment, training, and court security emergency needs. The program is supported by the Court Security Cash Fund, which consists of a \$5 surcharge on: docket fees and jury fees for certain civil actions; docket fees for criminal convictions, special proceeding filings, and certain traffic infraction penalties; filing fees for certain probate filings; and fees for certain filings on water matters. Moneys in the Fund are to be used for grants and related administrative costs. County-level local security teams may apply to the State Court Administrator's Office for grants. In FY 2007-08, the Department hired a court security specialist and members were appointed to the Court Security Cash Fund Commission. A statewide webcast outlining the program, accompanied by site visits by the Specialist generated a significant level of statewide interest. For CY 2008, 46 counties received grants totaling \$1,000,000.

Department Request: As FY 2007-08 was the first year of the program, Fund revenues exceeded expenditures by almost \$2.4 million (revenues totaled \$2,707,636, compared to expenditures of \$344,307). Thus, **the Department requests a \$750,000 increase in spending authority from the Court Security Cash Fund for FY 2008-09 to provide reimbursement to those counties who were awarded a grant in CY 2008**, leaving a projected fiscal year-end balance of \$2.3 million. The Department also included, as part of its November 2008 budget request, a \$1.0 million increase for FY 2009-10 (decisions item #4b).

Counties that are awarded grants through this program receive the grant amount on a reimbursement basis. The Department intends to continue supporting ongoing personnel grants, while providing one-time grants for equipment and training. By FY 2011-12, the Department anticipates supporting ongoing grants of \$2.5 million and one-time grant awards of \$600,000 (in addition to associated administrative costs). While the appropriate amount of each type of grant award will vary each year, it is expected that by FY 2011-12, the Fund will be able to support ongoing grant awards of \$2.4 million and one-time awards of \$600,000 along with training and administrative costs. This supplemental request supports this long-range plan.

Staff Analysis: Due to the time lag in implementing this program and the practice of reimbursing counties rather than making grant payments up front (a prudent practice), the Department reverted \$1,850,315 of its FY 2007-08 appropriation for this program. The Department requests increases

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in its FY 2008-09 and FY 2009-10 appropriations to spend down the fund balance over the next few years, allowing the Department to support of some ongoing security personnel-related costs in various court locations as well as some one-time security equipment and training needs. If this supplemental request is not approved, less funding will be available for court security improvements and the Fund balance will continue to grow.

However, please note that even if the Department's funding requests for FY 2008-09 and FY 2009-10 are approved, the Fund balance is projected to remain relatively high. The following table details the projected fiscal year-end fund balance if the Department's funding requests are approved. The table also reflects the impact of a potential one-time transfer from the Fund to the General Fund.

	Court Security Cash Fund Staff Recommendation			
	FY 2007-08 Actual	FY 2008-09 Estimate	FY 2009-10 Estimate	FY 2010-11 Estimate
Beginning FY Balance	\$0	\$2,363,329	\$818,707	\$487,054
Revenues	2,707,636	2,900,000	3,000,000	3,100,000
Expenditures (including requests for FY 08-09 and FY 09-10)	<u>(344,307)</u>	<u>(2,944,622)</u>	<u>(3,331,653)</u>	<u>(3,331,653)</u>
Ending FY Balance without transfer	\$2,363,329	\$2,318,707	\$487,054	\$255,401
Recommended Transfer	<u>0</u>	<u>(1,500,000)</u>	<u>0</u>	<u>0</u>
Ending FY Balance after transfer	\$2,363,329	\$818,707	\$487,054	\$255,401
<i>Balance as % of annual expenditures</i>	<i>686.4%</i>	<i>27.8%</i>	<i>14.6%</i>	<i>7.7%</i>

Staff Recommendation: Staff recommends that the Committee approve the Department's request, thereby allowing it to reimburse counties that were awarded grants in CY 2008. In addition, staff recommends that the Committee introduce legislation to transfer \$1,500,000 from the Court Security Cash Fund to the General Fund to help support operational costs of the court system in the current fiscal year. Such a transfer would reduce the Fund balance, but it would still allow the Department to make annual grant awards of at least \$3 million.

**Supplemental Request, Department Priority #7 (for Courts, Administration, and Probation)
 Capital Outlay Technical Correction**

	Request	Recommendation
Total - CF	\$727,677	\$727,677

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Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of a <i>technical error in calculating the original appropriation</i> .	

Department Request: The Department requests \$727,677 from the Judicial Stabilization Cash Fund in order to fix a technical error that was made with the submission of the FY 2008-09 budget request. The amount of cash-funded capital outlay for the second year of implementing H.B. 07-1054 (increasing the number of judges) was understated by \$727,677. Specifically, when capital outlay funding for FY 2007-08 was annualized, it was netted against the need for FY 2008-09. The calculations in the following table illustrate the error.

Capital Outlay: New District and County Court Judges			
Description	Request	Corrected Request	Difference
FY 2007-08 Approp.	\$0	\$727,677	\$727,677
FY 2007-08, Annualized	(727,677)	(727,677)	0
FY 2008-09 Impact	<u>1,269,098</u>	<u>1,269,098</u>	<u>0</u>
FY 2008-09 Request	541,421	1,269,098	727,677

Capital outlay for new judges and staff funds desk set-ups for court staff and judge chambers, as well as: furniture for the courtroom, the jury deliberation rooms, and conference rooms; computers, courtroom technology, and increases to phone systems; and public seating. The FY 2007-08 capital outlay figure of \$727,677 funded capital and technology needs for 45.0 FTE. The \$541,421 appropriation is not sufficient to fund all the capital needs for the additional authorized staff.

Staff Analysis: The fiscal note for H.B. 07-1054, and the underlying work papers, clearly identify the capital outlay needs associated with the addition of 11 district court judges and five county court judges in FY 2008-09. Specifically, the these new judgeships added 75.0 FTE, requiring an associated \$1,269,098 cash funds.

Approval of this request fixes a technical error that was made by the Department and repeated by JBC staff. If this request is not approved, the Branch will have to restrict district spending for the remainder of the fiscal year in order to cover the capital costs that have already been incurred to provide adequate furnishings for the new judges and staff. This will either require dramatic reductions in operating funds or more likely, further degrade the ability of the Branch to adequately

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staff the court. Since all current vacancy savings from the existing hiring freeze are being diverted to help the State meet its expected revenue shortfall, any additional measures to divert more personal services to fund furnishings would require layoffs or furloughs.

Staff Recommendation: Staff recommends that the Committee approve the request for \$727,677 cash funds for FY 2008-09.

**Supplemental Request, Department Priority #8 (for Courts, Administration, and Probation)
 Senate Bill 91-94 True-up**

	Request	Recommendation
Total - RF	(\$233,516)	(\$233,516)
FTE	0.0	0.0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made.</i>	

Department Request: The Department is seeking a reduction of \$233,516 reappropriated funds in its S.B. 91-94 appropriation based on its contract with the Department of Human Services (DHS).

Each fiscal year, each local juvenile services planning committee develops a plan for the allocation of the Judicial Department's S.B. 91-94 funds within the judicial district, and each plan is approved by DHS. Senate Bill 91-94 funds are used to fund service alternatives to placing juveniles in the physical custody of the Division of Youth Corrections. The types of services provided include individual and family therapy, substance abuse treatment, mental health treatment, education, vocational and life skills training, mentoring, electronic monitoring, community service programs, gang intervention, mediation services, and anger management classes.

The DHS receives a General Fund appropriation for this program and then contracts with the Judicial Department to provide the services. The funds are then expended in the judicial districts according to the pre-approved juvenile services plans. The total amount of S.B.91-94 funding that the Judicial Department receives depends on a number of factors including: the number of available treatment providers, the structural organization of the districts' programs, and the level and types of treatment services required per district each year. When the amount of funding need is determined, each

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district submits its request directly to DHS. Once all district requests have been received, Judicial and DHS execute the annual contract. The timing of this process does not tie to the budget submission, so each year the Judicial Department submits a supplemental request to true-up the appropriation with actual contract amount.

Staff Analysis and Recommendation: Staff recommends that the Committee approve the supplemental as requested so that the Long Bill accurately reflects the actual amount of the contract between the Judicial Branch and DHS for FY 2008-09.

**Supplemental Request, Department Priority #9 (for Courts, Administration, and Probation)
 VALE Grants - Collections**

	Request	Recommendation
Total	\$125,000	\$125,000
FTE	<u>0.0</u>	<u>0.0</u>
Cash Funds	0	0
Reappropriated Funds	125,000	125,000

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made.</i>	

Background Information: Collection investigators are located in each judicial district as required by Section 18-1-105 (1) (a) (III) (C), C.R.S. These investigators are a component of efficient case management, and help impose monetary penalties for the commission of crimes. Monetary sanctions serve to punish offenders and provide restitution to victims. Recoveries are credited to the General Fund, victim restitution, victims compensation and support programs, and various law enforcement, trial court, probation and other funds. Investigators are supported from cash funds (the Judicial Collection Enhancement Fund and the Fines Collection Cash Fund), as well as grants from local Victims and Witness Assistance Law Enforcement (VALE) Boards.

Department Request: The Department requests an increase in reappropriated funds from VALE grants to better reflect anticipated receipts. Due to the changing nature of the grant cycles and the fact that many grants cross the state fiscal year, it is difficult to know exactly what grants will

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be requested and received prior to the November 1 budget submission. The most recent data from the judicial districts reflects a larger than anticipated grant award total, thus requiring additional spending authority. These funds are used to help court clerks' offices with increasing the moneys recovered for restitution and victim compensation/ assistance programs.

Staff Analysis and Recommendation: Staff recommends approving the request.

**Supplemental Request, Department Priority #1 (for the Office of the Child's Representative)
 Additional Funding Court Appointed Counsel**

	Request	Recommendation
Total - GF	\$1,014,357	\$1,014,357

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made.</i>	

Background Information: The Office of the Child's Representative (OCR) provides legal representation for children involved in the court system due to abuse or neglect, delinquency, truancy, high conflict divorce, alcohol or drug abuse, mental health issues, and probate matters². The OCR was established as an agency of the Judicial Department by the General Assembly, effective July 1, 2000. Previously, these services were provided by the Judicial Department and supported by appropriations for trial courts and mandated costs.

In most judicial districts, OCR provides legal representation through contract attorneys. The OCR is required to maintain and provide to the courts, on an ongoing basis, a list of qualified attorneys

² Pursuant to Section 19-1-111, C.R.S., the court is required to appoint a GAL for a child in all dependency and neglect cases (including a child who is a victim of abuse or neglect, or who is affected by an adoption proceeding or paternity action), and the court may appoint a GAL for a child involved in: (a) a delinquency proceeding (if no parent appears at hearings, the court finds a conflict of interest exists between the child and the parent, or the court finds it in the best interests of the child); and (b) truancy proceedings. The court may appoint a GAL for a minor involved in certain probate or trust matters, mental health proceedings, or an involuntary commitment due to alcohol or drug abuse, or for a pregnant minor who elects not to allow parental notification concerning an abortion (see CJD 04-06). Finally, the court may appoint an attorney to serve as a child's legal representative or a child and family investigator in a parental responsibility case (Section 14-10-116 (1), C.R.S.).

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to whom appointments may be given. In the 4th Judicial District (El Paso county only), the OCR employs attorneys to provide GAL services through a centralized office rather than through contracted services. This office was established in response to S.B. 99-215, which directed the Judicial Department to pilot alternative methods of providing GAL services.

Department Request: The Court Appointed Counsel line item provides funding for the OCR to pay contract attorneys who are appointed to serve as a GAL, a Child and Family Investigator, or a child's legal representative. **OCR is seeking an increase of \$1,014,357 General Fund (7.7 percent) to address caseload increases and cost per case increases.** The following table details the basis for OCR's supplemental request.

Calculation of FY 2008-09 Supplemental Request			
Case Type	Number of Cases	Cost per Case	Total Costs
Dependency & Neglect	8,517	\$1,183	\$10,078,881
Juvenile Delinquency	4,087	\$759	3,102,304
Domestic Relations	618	\$934	577,409
Truancy	540	\$335	181,024
Paternity	115	\$649	74,592
Probate	80	\$1,237	98,964
All Other Case Types	56	\$1,109	62,123
Total	14,013	\$1,012	14,175,296
Less: Existing Appropriation			(13,160,939)
Supplemental Request			1,014,357

Staff Analysis: The OCR indicates that this request is based on increases in caseload as well as cost per case. Each of these factors is discussed below.

Caseload Projections. To project caseload, the OCR looks at recent caseload growth of each case type. Although all attorneys are paid at the same hourly rate, some case types tend to require more time, thus costing more per case. The following table details caseload history, by type of case, as well as the Office' projections for FY 2008-09.

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OCR Caseload (Annual number of cases paid by OCR)						
Case Type	FY 04-05 (actual)	FY 05-06 (actual)	FY 06-07 (actual)	FY 07-08 (actual)	FY 08-09	
					March 08 estimate	Jan. 08 estimate
Dependency & Neglect <i>annual percent change</i>	6,975	7,619 9.2%	8,012 5.2%	8,269 3.2%	8,521 3.0%	8,517 3.0%
Juvenile Delinquency <i>annual percent change</i>	3,371	3,458 2.6%	3,594 3.9%	3,874 7.8%	4,482 15.7%	4,087 5.5%
Domestic Relations <i>annual percent change</i>	762	673 -11.7%	624 -7.3%	606 -2.9%	613 1.2%	618 2.0%
Truancy <i>annual percent change</i>	280	374 33.6%	458 22.5%	514 12.2%	451 -12.3%	540 5.1%
Paternity <i>annual percent change</i>	86	107 24.4%	126 17.8%	108 -14.3%	129 19.4%	115 6.5%
Probate <i>annual percent change</i>	149	137 -8.1%	105 -23.4%	73 -30.5%	107 46.6%	80 9.6%
All Other Case Types	36	39	44	56	46	56
Total <i>annual percent change</i>	11,659	12,408 6.4%	12,963 4.5%	13,500 4.1%	14,350 6.3%	14,013 3.8%

As detailed in the above table, D&N and delinquency cases account for about 90 percent of OCR's caseload, and these caseloads continue to increase faster than the general population. However, the OCR's revised caseload estimates are actually lower, overall, compared to the estimates that were used as the basis for the FY 2008-09 Long Bill appropriation. Thus, this supplemental request does not appear to be based on unanticipated caseload growth.

Average Cost per Case. As mentioned above, the average cost per case varies by case type. Historically, probate and D&N cases have required the most amount of attorney time, and have thus cost the most; truancy cases have been the least expensive. The following table details the history of average costs-per-case, by type of case, as well as the Office' projections for FY 2008-09. Please note that the cost per case is a function of both the number of hours billed and the hourly rate. Thus, a portion of the increases over time are attributable to increases in hourly rates. For example, hourly rates were increased to \$57 in FY 2006-07, \$60 in FY 2007-08, and \$65 in FY 2008-09.

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OCR Cost per Case						
Case Type	FY 04-05 (actual)	FY 05-06 (actual)	FY 06-07 (actual)	FY 07-08 (actual)	FY 08-09	
					3/08 Est.*	1/09 Est.
Dependency & Neglect <i>annual percent change</i>	\$759	\$707 -6.8%	\$971 37.4%	\$1,083 11.6%	n/a	\$1,183 9.3%
Juvenile Delinquency <i>annual percent change</i>	\$397	\$386 -2.9%	\$557 44.4%	\$656 17.9%	n/a	\$759 15.6%
Domestic Relations <i>annual percent change</i>	\$559	\$648 15.8%	\$842 30.0%	\$901 7.0%	n/a	\$934 3.7%
Truancy <i>annual percent change</i>	\$246	\$175 -29.0%	\$330 88.8%	\$330 0.0%	n/a	\$335 1.5%
Paternity <i>annual percent change</i>	\$315	\$601 90.5%	\$583 -2.9%	\$633 8.5%	n/a	\$649 2.5%
Probate <i>annual percent change</i>	\$590	\$750 27.2%	\$565 -24.7%	\$1,231 118.0%	n/a	\$1,237 0.5%
All Other Case Types	\$550	\$743	\$648	\$998	n/a	\$1,109
Total <i>annual percent change</i>	\$623	\$598 -4.0%	\$819 37.0%	\$921 12.4%	\$917 -0.4%	\$1,012 9.9%

* Staff was unable to determine the average cost-per-case, by case type, that was used to calculate the FY 2008-09 Long Bill appropriation. Staff calculated the overall average cost-per-case by dividing the appropriation by the total estimated number of cases.

Clearly, the primary reason for this supplemental request is the significant increases in the average cost-per-case for both D&N and delinquency cases. The OCR attributes these increase to a number of factors:

- Colorado experienced a significant number of child maltreatment fatalities in 2007. This experience appears to have lead to an increase in the number of cases filed as well as an increased focus on safety considerations, requiring more in-person contact with children and care givers.
- Senate Bill 07-226 brought Colorado into compliance with federal law requiring that youth be given a voice and opportunity to participate in the legal system. This change in practice requires GALs to spend additional time communicating with youth, preparing him/her to participate in court and other meetings, and explaining court proceedings.

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- Chief Justice Directive 04-06, OCR audits and reviews of GALs, and programs that promote best practices in courts and encourage specialization in juvenile law have all heightened expectations of GALs in Colorado.
- Constraints on county departments of social services' budgets often lead to a reduction in services for youth. Guardians ad litem are expected to advocate for the best interests of the child, often requiring more time when county budgets are constrained.

Staff Recommendation: Staff recommends that the Committee approve the request. Courts appoint attorneys to represent the best interest of children, pursuant to statute, and the appointments are beyond the control of OCR. Based on more recent billing data, it appears that the OCR requires additional funding to meet its contractual obligations. Similar to the last two fiscal years, the average number of hours required to represent children in D&N and delinquency matters continues to increase, both due to federal mandates and changes in practice expectations.

Please note that due to the federal requirements concerning children and youth's participation in court, the General Assembly could choose to exempt a portion of this amount from the six percent statutory limitation on General Fund appropriations. However, due to the current General Fund revenue shortfall, staff has not attempted to calculate this amount.

**Supplemental Request, Department Priority #2 (for the Office of the Child's Representative)
 Release Restriction on Court Appointed Counsel Appropriation**

	Request	Recommendation
Total - GF	\$118,686	\$118,686

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made.</i>	

Department Request: In June 2008, the Joint Budget Committee approved a \$686,137 increase in the *FY 2007-08* appropriation for Court Appointed Counsel. Despite this increase in the appropriation, the OCR over expended its *FY 2007-08* appropriation by \$118,687. The State Controller has thus placed a restriction on the *FY 2008-09* appropriation. The OCR is requesting a commensurate increase in the *FY 2008-09* appropriation in order to release this restriction.

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Staff Analysis and Recommendation: Staff recommends that the Committee approve the request. If this request is not approved, current projections indicate that the OCR will again over expend its appropriation. This would simply shift the shortfall into FY 2009-10.

Non-Prioritized Supplementals

Non-Prioritized Supplemental Request (for Courts, Administration, and Probation)
District Attorney Mandated Costs

	Request	Recommendation
Total	<u>\$300,000</u>	<u>\$300,000</u>
General Fund	300,000	300,000
Cash Funds	0	0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
<i>JBC staff and the Department agree that this request is the result of data that was not available when the original appropriation was made.</i>	

Background Information: Colorado's district attorneys' offices (DAs) are responsible for prosecuting all criminal and traffic cases filed in district and county courts. The State provides funding for DAs in three areas. First, the Department of Corrections' budget includes an appropriation for "Payments to District Attorneys" for costs associated with prosecuting a crime alleged to have been committed by a person in the custody of the Department (\$150,000 in FY 2008-09 Long Bill). Second, the Department of Law's budget includes an appropriation for DA salaries (\$1,654,706 in the FY 2008-09 Long Bill). Third, the District Attorney Mandated Costs line item in the Judicial Department's budget provides state funding for DA's "mandated costs" (described below). The remainder of DA budgets are set and provided by boards of county commissioners within each respective judicial district.

This line item provides state funding to reimburse DA's for costs incurred for prosecution of state matters, as required by state statute. Section 16-18-101, C.R.S., states that, "The costs in criminal cases shall be paid by the state pursuant to section 13-3-104, C.R.S.³, when the defendant is acquitted

³ This section states that the State "shall provide funds by annual appropriation for the operations, salaries, and other expenses of all courts of record within the state, except for county courts in the city and county of Denver and

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or when the defendant is convicted and the court determines he is unable to pay them." Pursuant to Section 18-1.3-701 (2), C.R.S., when a person is convicted of an offense or a juvenile is adjudicated, the Court shall give judgement in favor of the State, the prosecuting attorney, or the law enforcement agency and against the offender or juvenile for the amount of the costs of prosecution. The costs assessed pursuant to this provision or Section 16-18-101, C.R.S. (above), may include the following types of expenditures:

- court reporter fees for transcripts (including transcripts of preliminary hearings)
- expert witness fees
- witness fees and mileage
- lodging and transportation expenses for witnesses required to travel more than 50 miles, as well as for parents of witnesses under age 18
- exemplification and copy fees
- deposition fees
- fees for service of process or publications
- fees for interpreters required during depositions or during trials
- costs for obtaining a governor's warrant
- costs for photocopying reports, developing film, and purchasing videotape as necessary for use in the case
- any other cost specifically authorized by statute
- any other reasonable and necessary costs that are directly the result of the prosecution of the defendant upon motion and order of the court

Prior to FY 2000-01, state funding for DA's costs was included within the Mandated Costs line item appropriation to the Judicial Department. In 1999, an ad hoc committee on mandated costs released a report recommending that responsibility for managing court costs be transferred to the entities that incur them. Thus, beginning in FY 2000-01, the General Assembly has provided a separate appropriation for DA Mandated Costs (\$1,938,724 for FY 2000-01). This line item has been accompanied by a footnote (e.g., #4 in the FY 2008-09 Long Bill) indicating that DAs in each judicial district are responsible for allocations made by an oversight committee (currently the Colorado District Attorneys' Council or CDAC). Any increases in the line item are to be requested and justified in writing by CDAC, rather than the Judicial Department.

The CDAC allocates funds among judicial districts based on historical spending (using a three-year average). However, the CDAC holds back \$300,000 of appropriation. District attorneys submit information quarterly concerning costs incurred, as well as projections of annual expenditures. The CDAC has a special process for those requesting additional funds above the allocated amount. In

municipal courts".

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order to limit state expenditures, the CDAC has required DAs to continue to follow the old CJD 87-01, which limits expert witness fees. Fees paid in excess of the limits established in this CJD are only reimbursed if funds remain available at the end of the fiscal year. In FY 2007-08, \$66,799 of DAs' expenditures were not reimbursed due to this policy.

Request: The CDAC is seeking an increase of \$300,000 to address the increased costs of prosecuting criminal cases. This figure was based on expenditures incurred through the middle of November 2008 (\$751,731), and an estimate from districts regarding expenditures for the balance of the fiscal year (\$1,474,321). Costs are anticipated to escalate in the second half of the fiscal year due to a large number of cases involving homicide, murder, sexual assault on a child (with multiple victims), economic crimes, and others involving large numbers of out-of-area witnesses. The requested increase would be base building and carry forward into FY 2009-10.

The CDAC indicates that mandated costs have increased in the last two fiscal years due to increases in the mileage reimbursement rate (increasing from \$0.28 per mile in 2005 to \$0.53 per mile) and the costs of air travel. In addition, mandated costs are directly related to the number and nature of the cases filed. Violent crimes and sex crimes generally take more time to resolve, are more likely to go to trial, and are more likely to involve expert witnesses, and thus require greater expenditures than other types of cases. As indicated in the following table, while overall felony filings have decreased (4.5 percent) since FY 2003-04, violent crime filings are up 7.9 percent and sex offense filings are up 12.5 percent.

Fiscal Year	Total Cases Filed	Violent Crimes	% of Total	Sex Crimes	% of Total
FY 2007-08	40,494	10,104	24.95%	1,822	4.50%
FY 2006-07	44,245	9,848	22.26%	1,910	4.32%
FY 2005-06	46,501	10,666	22.94%	1,809	3.89%
FY 2004-05	45,405	9,767	21.51%	1,657	3.65%
FY 2003-04	42,427	9,366	22.08%	1,619	3.82%

In addition, the CDAC indicates that the number of district court trials increased 22.5 percent from FY 2004-05 to FY 2007-08, and jury trials in particular increased by 41.5 percent. In county courts, trials increased by 15.7 percent, and jury trials increased by 32 percent. This data is detailed in the following table.

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Fiscal Year	Total Trials in District Court	Jury Trials in District Court	Total Trials in County Court	Jury Trials in County Court
FY 2007-08	1,309	982	1,624	1,171
FY 2006-07	1,255	915	1,491	1,063
FY 2005-06	1,201	857	1,522	1,037
FY 2004-05	1,069	694	1,404	887

Staff Analysis: Based on FY 2007-08 expenditure data provided by the CDAC, DA mandated costs consist of the following:

- Witness fees and travel expenses (\$710,389 or 34 percent of costs in FY 2007-08)
- Mailing subpoenas (\$560,813 or 27 percent)
- Service of process (\$357,244 or 17 percent)
- Expert witness fees and travel expenses (\$261,206 or 12 percent)
- Court reporter fees for transcripts (\$222,356 or 10 percent)

The CDAC specifically identifies recent increases in mileage reimbursement rates and air travel costs, increases in the number of cases involving violent crimes and sex crimes, and increases in the number of cases going to trial as the primary factors increasing DA's costs. The following table provides a history of appropriations and actual expenditures for this line item.

District Attorneys' Mandated Costs								
	Appropriation			Actual Expenditures				
Fiscal Year	General Fund	Cash Funds	Total	General Fund	Cash Funds	Total	<i>Annual % Change</i>	Over/ (Under) Budget
2000-01	\$1,938,724	\$0	\$1,938,724	\$1,889,687	\$0	\$1,889,687		(\$49,037)
2001-02	1,938,724	0	1,938,724	1,978,963	0	1,978,963	4.7%	40,239
2002-03	2,025,199	125,000	2,150,199	1,833,410	71,117	1,904,527	-3.8%	(245,672)
2003-04	2,025,199	125,000	2,150,199	1,847,369	59,334	1,906,703	0.1%	(243,496)
2004-05	1,911,899	0	1,911,899	1,911,970	0	1,911,970	0.3%	71
2005-06	1,911,899	0	1,911,899	1,772,849	106,325	1,879,174	-1.7%	(32,725)

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District Attorneys' Mandated Costs								
	Appropriation			Actual Expenditures				Over/ (Under) Budget
Fiscal Year	General Fund	Cash Funds	Total	General Fund	Cash Funds	Total	Annual % Change	
2006-07	1,841,899	125,000	1,966,899	1,928,795	99,090	2,027,885	7.9%	60,986
2007-08	1,837,733	125,000	1,962,733	2,092,974	130,674	2,223,648	9.7%	260,915
2008-09*	1,801,052	125,000	1,926,052			2,226,052	0.1%	300,000

* FY 2008-09 expenditure figures reflect the CDAC's projections.

The CDAC indicates that budgets for DAs do not include funding for mandated costs. If this request is not approved, DAs will have to seek supplemental funding from their county commissioners, essentially shifting responsibility to local jurisdictions. Representatives of Colorado Counties, Inc. have indicated that due to county revenue shortfalls, it is unlikely that additional funds will be available at the local level. If DAs do not have the resources to adequately prosecute appropriate cases, victims, justice and community safety may be adversely affected.

Staff Recommendation: Staff recommends that the Committee approve the request for an increase of \$300,000 General Fund to ensure that DAs have adequate resources to prosecute criminal cases. The CDAC is effectively managing this line item through its allocation process, and the increase in costs associated with energy costs and the violent crimes and sex crimes is largely out of the control of DAs.

Department Plan Submitted January 23, 2009

A: Voluntary Furloughs

	Request	Recommendation
Total - GF	(\$56,000)	(\$56,000)

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
This supplemental is the result of an <i>unforeseen contingency</i> (the revenue shortfall).	

Department Request: On January 23, 2009, the State Court Administrator sent a letter to Senator Keller containing a plan for managing the reductions that have been proposed by the Governor

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related to the Courts and Probation. In addition to the savings associated with the hiring freeze (supplemental priority #1), this plan includes five proposals which reduce General Fund appropriations, and five proposals which increase revenue to the General Fund. This is the first of the proposals affecting General Fund appropriations.

The Branch has allowed employees to take furlough days on a voluntary basis. **The Branch indicates that it anticipates saving \$56,000 General Fund as a result of voluntary furloughs.**

Staff Recommendation: Staff recommends that the Committee approve this proposal, which is anticipated to reduce FY 2008-09 General Fund expenditures by \$56,000. Staff requests permission to work with Department staff to identify the specific line item adjustment(s) to include in the supplemental bill to implement this proposal.

**Department Plan Submitted January 23, 2009
 B: Sex Offender Surcharge**

	Request	Recommendation
Total - GF	(\$23,559)	(\$23,559)

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
This supplemental is the result of <i>an unforeseen contingency</i> (the revenue shortfall).	

Department Request: On January 23, 2009, the State Court Administrator sent a letter to Senator Keller containing a plan for managing the reductions that have been proposed by the Governor related to the Courts and Probation. In addition to the savings associated with the hiring freeze, this plan includes five proposals which reduce General Fund appropriations, and five proposals which increase revenue to the General Fund. This is the second of the proposals affecting General Fund appropriations.

Section 18-21-103 (2) , C.R.S., establishes a surcharge on sex offenders to cover the direct and indirect costs associated with the evaluation, identification, treatment, and continued monitoring of sex offenders. This provision specifies that 95 percent of the surcharge shall be credited to the Sex Offender Surcharge Fund, and five percent shall be retained for administrative costs. The latter amount is to be credited to the General Fund and "such amount shall be subject to appropriation by the general assembly for the costs of such administration". **The Department requests elimination of the \$23,559 General Fund appropriation associated with the sex offender surcharge.**

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Staff Recommendation: Staff recommends that the Committee approve the request.

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 C: Refinance Offender Treatment and Services**

	Request	Recommendation
Total	\$0	\$0
General Fund	(487,193)	(487,193)
Cash Funds	487,193	487,193

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
This supplemental is the result of <i>an unforeseen contingency</i> (the revenue shortfall).	

Department Request: On January 23, 2009, the State Court Administrator sent a letter to Senator Keller containing a plan for managing the reductions that have been proposed by the Governor related to the Courts and Probation. In addition to the savings associated with the hiring freeze, this plan includes five proposals which reduce General Fund appropriations, and five proposals which increase revenue to the General Fund. This is the third of the proposals affecting General Fund appropriations.

The Offender Treatment and Services line item provides block grants to each judicial district based on the number of FTE and probationers under supervision in each district. Each probation department then develops a local budget to provide treatment and services, including the following:

- | | |
|----------------------------|--|
| Substance abuse treatment | Sex offender assessment, treatment, and polygraphs |
| Mental health treatment | Domestic violence treatment |
| Electronic home monitoring | Transportation assistance |
| Emergency housing | Educational/vocational assistance |
| Restorative justice | Global positioning satellite (GPS) tracking |
| Interpreter services | General medical assistance |
| Incentives | |

The Department is also using some of the funding to build capacity in rural/under served parts of the state, and to research evidence-based practices.

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This line item currently includes \$487,293 General Fund and \$8,119,830 from various cash and reappropriated sources (e.g., the Offender Services Cash Fund, the Drug Offender Surcharge Fund, the Sex Offender Surcharge Fund, and funds transferred from the Department of Human Services). **The Department proposes refinancing the General Fund portion of this appropriation with moneys from the Offender Services Fund.** Pursuant to Section 16-11-214, C.R.S., this fund consists of probation supervision fees paid by offenders, and payments related to the cost of care for juveniles. The General Assembly may appropriate moneys in the Fund for: (a) administrative and personnel costs for adult and juvenile probation services; and (b) adjunct services, including treatment services, contract services, drug and alcohol treatment services, and program development, and for associated administrative and personnel costs.

Staff Recommendation: Staff recommends that the Committee approve the refinance request, thereby eliminating General Fund support for this line item.

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D: Legal Services

	Request	Recommendation
Total - GF	(\$100,000)	(\$100,000)

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
This supplemental is the result of <i>an unforeseen contingency</i> (the revenue shortfall).	

Department Request: On January 23, 2009, the State Court Administrator sent a letter to Senator Keller containing a plan for managing the reductions that have been proposed by the Governor related to the Courts and Probation. In addition to the savings associated with the hiring freeze, this plan includes five proposals which reduce General Fund appropriations, and five proposals which increase revenue to the General Fund. This is the fourth of the proposals affecting General Fund appropriations. **The Department requests a \$100,000 reduction in its General Fund appropriation for the purchase of legal services from the Department of Law.**

Staff Recommendation and Analysis: Staff recommends approving the proposal to decrease the FY 2008-09 Legal Services appropriation by \$100,000. The FY 2008-09 appropriation was based on the purchase of 4,227 hours of service at the established hourly rate of \$75.10. The following table details the Branch's usage of legal services in recent fiscal years.

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Purchase of Legal Services	
Fiscal Year	Hours Utilized
2003-04	4,029.6
2004-05	3,444.2
2005-06	3,978.0
2006-07	2,890.8
2007-08	2,715.8
2008-09 approp.	4,227.0
2008-09 proposed	2,895.4

Based on actual utilization in the past two fiscal years, the Department's proposal is reasonable and appropriate.

Department Plan Submitted January 23, 2009

E: Refinance Various Line Items

	Request	Recommendation
Total	<u>\$0</u>	<u>\$0</u>
General Fund	(150,000)	(150,000)
Cash Funds/ Reappropriated Funds	150,000	150,000

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
This supplemental is the result of <i>an unforeseen contingency</i> (the revenue shortfall).	

Department Request: On January 23, 2009, the State Court Administrator sent a letter to Senator Keller containing a plan for managing the reductions that have been proposed by the Governor related to the Courts and Probation. In addition to the savings associated with the hiring freeze, this plan includes five proposals which reduce General Fund appropriations, and five proposals which increase revenue to the General Fund. This is the fifth of the proposals affecting General Fund appropriations.

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The Department proposes refinancing various line items, reducing General Fund appropriations and increasing cash fund and reappropriated funds appropriations. The Department is currently finalizing its indirect cost rate with the federal government. The Department anticipates that this rate will be slightly higher than projected, resulting in slightly higher indirect cost recoveries.

Staff Recommendation: Staff recommends that the Committee approve this proposal, which is anticipated to reduce FY 2008-09 General Fund expenditures by \$150,000. Staff requests permission to work with Department staff to identify the specific line item adjustment(s) to include in the supplemental bill to implement this proposal.

**Public Defender Plan Submitted January 25, 2009
 Reductions Proposed by the Public Defender**

	Request	Recommendation
Total - GF	(\$494,579)	(\$494,579)

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
This supplemental is the result of an <i>unforeseen contingency</i> (the revenue shortfall).	

Background Information: The federal⁴ and state⁵ constitutions provide that an accused person has the right to be represented by counsel in criminal prosecutions. This constitutional right has been interpreted to mean that counsel will be provided at state expense for indigent persons in all cases in which actual incarceration is a likely penalty. The Office of the Public Defender is established by Section 21-1-101, *et seq.*, C.R.S., as an independent agency within the Judicial Branch of government for the purpose of providing legal representation for indigent defendants who are facing incarceration. The Office is comprised of a central administrative office, an appellate office, and 21 regional trial offices.

⁴ U.S. Const. amend. VI (Rights of accused).

⁵ Colorado Const. art. II, § 16 (Criminal prosecutions - rights of defendant).

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Department Request: The Public Defender sent a letter to Senator Keller dated January 25, 2009, describing the actions taken to date to reduce spending in FY 2008-09. This plan includes one-time reductions to three line item appropriations. The letter also details two proposed statutory changes that would reduce the Office' expenditures for discovery and transcripts, as well as several proposed statutory changes that would reduce the Public Defender's caseload and resource deficit. These proposed statutory changes are included at the end of this document in the "Other Balancing Options" section.

The Public Defender is proposing reductions totaling \$494,579 General Fund, affecting the following three line items:

- *Leased Space.* This line item provides funding for the Public Defender's central administrative office, the appellate office, and 21 regional trial offices. The Public Defender proposes a one-time reduction of \$83,696 (1.9 percent), possible due to the delay in negotiations of new lease agreements.
- *Automation Plan.* This line item provides funding for information technology equipment and software, supplies, life cycle replacement (including personal computers, a limited number of laptops, network printers), software maintenance, and telecommunications equipment and networking for all 23 offices. The Public Defender proposes a one-time reduction of \$213,378 (23.8 percent), possible due to the delay of several scheduled equipment replacements and software licensing renewals.
- *Mandated Costs.* This line item provides funding for mandated costs, including expert witness fees and associated travel costs, interpreters, transcripts, and other related expenses. The Public Defender proposes a one-time reduction of \$197,505 (5.5 percent).

Staff Recommendation: Staff recommends that the Committee approve this proposal, which will reduce FY 2008-09 General Fund expenditures by \$494,579.

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**JBC Staff-Initiated Supplemental #1
 Offender Identification Fund**

	Request	Recommendation
Total	<u>\$0</u>	<u>\$0</u>
General Fund	0	(69,745)
Cash Funds	0	69,745

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
This supplemental is the result of <i>data that was not available when the original appropriation was made.</i>	

Department Request: The Department has not officially requested this supplemental. However, the Department has submitted a related decision item for FY 2009-10.

Staff Recommendation and Analysis: The Branch's November 1, 2008, budget submission included a request for \$111,750 additional spending authority for FY 2009-10 from the Offender Identification Fund to cover costs related to DNA testing. This request includes \$69,745 to refinance existing General Fund appropriations. Senate Bill 06-150 required DNA testing for every convicted adult and juvenile felony offender, and H.B. 07-1343 further expended the population requiring DNA testing. Offenders are required to pay a \$128 fee to cover the costs of collecting DNA samples; fee revenue is deposited into the Offender Identification Fund. Senate Bill 06-150 included an appropriation of \$164,065 and 1.9 FTE to the Branch; only \$8,250 of this amount was appropriated from the Offender Identification Fund, with the balance from the General Fund.

Fund revenues have exceeded expenditures in each of the last two fiscal years, and revenues are projected to exceed appropriations in FY 2008-09. **Staff recommends that the Committee adjust the FY 2008-09 appropriation for the Probation unit's Operating Expenses**, reducing the General Fund portion by \$69,745, and increasing the cash funds appropriation from the Offender Identification Fund by the same amount. This will allow the Branch to spend fees paid by offenders to cover their costs related to genetic testing. This recommendation is consistent with the Branch's request for FY 2009-10. As detailed in the following table, even if staff's recommendation is approved, the Fund balance is projected to continue increasing each year. It is staff's understanding that the Department of Public Safety's expenditures related to genetic testing exceed existing appropriations from the Fund, and the Committee is likely to see a recommendation to adjust appropriations to that Department in a similar manner.

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Offender Identification Fund Staff Recommendation				
	FY 2007-08 Actual	FY 2008-09 Estimate	FY 2009-10 Estim./Request	FY 2010-11 Estimate
Beginning FY Balance	\$149,670	\$303,454	\$510,770	\$684,015
Revenues	268,119	392,000	399,840	403,838
<u>Expenditures:</u>				
Judicial - Probation	(8,250)	(8,854)	(120,510)	(120,510)
Corrections	(4,960)	(4,960)	(4,960)	0
Department of Public Safety - CBI	<u>(101,125)</u>	<u>(101,125)</u>	<u>(101,125)</u>	<u>(101,125)</u>
Subtotal	(114,335)	(114,939)	(226,595)	(221,635)
Ending FY Balance	303,454	580,515	684,015	866,218
Effect of Staff Recommendation		<u>(69,745)</u>		
Adjusted Ending FY Balance	\$303,454	\$510,770	\$684,015	\$866,218

**JBC Staff-Initiated Supplemental #2
 ADC Mileage Reimbursement**

	Request	Recommendation
Total - GF	\$0	(\$49,064)

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
This supplemental is the result of <i>data that was not available when the original appropriation was made.</i>	

Department Request: The Department has not officially requested this supplemental. However, Alternate Defense Counsel (ADC) staff brought this potential reduction to staff's attention.

Staff Recommendation and Analysis: Staff recommends that the Committee decrease the Department's FY 2008-09 appropriation for Conflict of Interest Contracts by \$49,064. This line item pays for contract attorneys and investigators who are appointed to represent indigent and partially indigent defendants. Payments cover hourly rates, mileage reimbursement, copies, etc. The FY 2008-09 appropriation includes \$681,134 for mileage reimbursement. Consistent with Section 24-9-104 (2) (d), C.R.S., the ADC reimburses mileage at 90 percent of the prevailing Internal

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Revenue Service (IRS) mileage reimbursement rate. Effective January 1, 2009, the IRS reimbursement rate is \$0.55, so the State reimbursement rate is \$0.50. Based on this lower rate, the ADC estimates that mileage reimbursement will total \$632,070 in FY 2008-09. Staff thus recommends reducing the appropriation for this line item by \$49,064 based on the lower than anticipated IRS reimbursement rate.

**JBC Staff-Initiated Supplemental #3
 Technical Correction for FTE**

	Request	Recommendation
Total	\$0	\$0
FTE	<u>0.0</u>	<u>0.0</u>
General Fund	0	0
FTE	0.0	(13.5)
Cash Funds	0	0
FTE	0.0	13.5

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
This supplemental is the result of a <i>technical error</i> .	

Department Request: The Department has not officially requested this supplemental.

Staff Recommendation and Analysis: Staff recommends that the Committee authorize a technical correction to the FTE associated with the Appellate Courts Program line item, shifting 13.5 FTE from the General Fund column to the Cash Funds column. It is staff's understanding that these 13.5 FTE were added to implement H.B. 07-1054, and are supported by cash funds appropriated from the Judicial Stabilization Fund. The FY 2008-09 Long Bill incorrectly reflects these positions as supported from the General Fund.

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**Previously Approved Interim Supplemental (for the Office of the Child's Representative)
 Court Appointed Counsel Costs Increase (FY 2007-08)**

Previously Approved Adjustment for FY 2007-08	
Total - GF*	\$686,137

*Includes \$268,919 that is exempt from the six percent statutory limit.

Description of Supplemental: On June 23, 2008, the Joint Budget Committee approved a request submitted by the Office of the Child's Representative to increase the FY 2007-08 appropriation for court-appointed counsel expenses based on the following factors were identified:

- a. Dependency and neglect filings have increased significantly in Denver, growing nearly 50 percent from the last fiscal year;
- b. Jurisdictions are implementing S.B. 07-226 more quickly than anticipated (among other things, S.B. 07-226 provides children an opportunity to testify in court on matters pertaining to them in D&N cases); and
- c. More complex and litigious cases are requiring more hours of attorney time.

The rules governing interim supplementals in Section 24-75-109 (5), C.R.S., require the Committee to introduce all interim supplementals that it approves. Staff will include this supplemental in the Department's supplemental bill.

Statewide Common Policy Supplemental Requests

These requests are not prioritized and are not analyzed in this packet. The JBC will act on these items later when it makes decisions regarding common policies.

Department's Portion of Statewide Supplemental Request	Total	General Fund	Cash Funds	Reapprop. Funds	Federal Funds
Worker's Compensation	(\$68,340)	(\$68,340)	\$0	\$0	\$0
Purchase of Services from Computer Center	(14,004)	(14,004)	0	0	0
Multiuse Network Payments	(4,720)	(4,720)	0	0	0
Payment to Risk Management and Property Funds	(220,444)	(220,444)	0	0	0
Vehicle Lease Payments	(5,186)	(5,186)	0	0	0

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Department's Portion of Statewide Supplemental Request	Total	General Fund	Cash Funds	Reapprop. Funds	Federal Funds
Communication Services Payments	1,226	1,226	0	0	0
Department's Total Statewide Supplemental Requests	(311,468)	(311,468)	0	0	0

Staff Recommendation: The staff recommendation for these requests is pending Committee approval of common policy supplementals. **Staff asks permission to include the corresponding appropriations in the Department's supplemental bill when the Committee approves this common policy supplemental.** If staff believes there is reason to deviate from the common policy, staff will appear before the Committee later to present the relevant analysis.

Cash Fund Transfers

**Department Requested Transfer #1
 Transfer from Drug Offender Treatment Fund
 Statutory Change Required**

FY 2008-09	Request	Recommendation
Transfer from Drug Offender Treatment Fund to General Fund	\$350,000	\$350,000

Staff Analysis: Pursuant to Section 18-19-103 (5.5), C.R.S., the Drug Offender Treatment Fund consists of moneys appropriated thereto, as well as gifts, grants, and donations. Moneys in the Fund are subject to annual appropriation by the General Assembly to the Judicial Department for allocation to the Interagency Task Force on Treatment for costs associated with community-based substance abuse treatment. Local Drug Offender Treatment Boards in each judicial district then distribute these moneys to treatment programs within the district⁶. Department staff indicate that the existing balance in this fund essentially represents that portion of the \$2.2 million General Fund appropriation for the S.B. 03-318 Community Treatment Funding line item for FY 2007-08 that reverted at the end of the fiscal year. **The Department proposes transferring this \$350,000 balance back to the General Fund. Staff recommends approving this proposal.**

⁶ The Interagency Task Force on Treatment is established in Section 16-11.5-102 (4), C.R.S., and local Drug Offender Treatment Boards are referenced in Section 18-19-104, C.R.S.

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**Department Requested Transfer #2
 Transfer from Dispute Resolution Fund
 Statutory Change Required**

FY 2008-09	Request	Recommendation
Transfer from Dispute Resolution Fund to General Fund	\$32,500	\$32,500

Staff Analysis: This fund, established in 1983, consists of fees paid by parties using mediation services provided through judicial districts' dispute resolution programs, moneys appropriated by the General Assembly, federal grants, and other contributions, grants, gifts, bequests, and donations [see Section 13-22-310, C.R.S.]. The fee is established by order of the Supreme Court, are set at a level sufficient to cover reasonable and necessary expenses of operating the program.

The Fund currently has a balance of \$32,510. Based on conversations with staff in the State Court Administrator's office, this fund has not been utilized for a number of years, and it currently has a balance of \$32,500. **Staff recommends that the Committee introduce legislation to transfer the balance to the General Fund.**

**Department Requested Transfer #3
 Transfer from Offender Services Fund
 Statutory Change Required**

FY 2008-09	Request	Recommendation
Transfer from Offender Services Fund to General Fund	\$250,000	\$250,000

Staff Analysis: Pursuant to Section 16-11-214, C.R.S., the Offender Services Fund consists of probation supervision fees paid by offenders, and payments related to the cost of care for juveniles. The General Assembly may appropriate moneys in the Fund for: (a) administrative and personnel costs for adult and juvenile probation services; (b) adjunct services, including treatment services, contract services, drug and alcohol treatment services, and program development, and for associated administrative and personnel costs; and (c) to continue the demonstration drug court program. A transfer from this fund to the General Fund can help support existing General Fund appropriations for probation staff and operations.

The Department proposes transferring \$250,000 from this fund to the General Fund. The following table details the impact of such a transfer, in addition to the impact of the refinance of the

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Offender Treatment and Services line item (proposal "C"). While the General Assembly could transfer a higher amount, it would reduce the amount available for probation services in FY 2009-10 and subsequent fiscal years. **Staff recommends approving the request.**

Offender Services Fund Department Request and Staff Recommendation				
	FY 2007-08 Actual	FY 2008-09 Estimate	FY 2009-10 Estimate	FY 2010-11 Estimate
Beginning FY Balance	\$6,227,078	\$8,365,847	\$7,835,290	\$4,250,689
Projected Revenues	10,723,009	11,366,389	12,048,373	12,771,275
Expenditures	<u>(8,584,240)</u>	<u>(11,159,753)</u>	<u>(15,145,781)</u>	<u>(15,145,781)</u>
Ending FY Balance without transfer	\$8,365,847	\$8,572,483	\$4,737,882	\$1,876,183
Increased Expenditures (proposal "C")		(487,193)	(487,193)	(487,193)
Recommended Transfer	<u>0</u>	<u>(250,000)</u>	<u>0</u>	<u>0</u>
Ending FY Balance after transfer	\$8,365,847	\$7,835,290	\$4,250,689	\$1,388,990

**Department Requested Transfer #4
 Transfer from Drug Offender Surcharge Fund
 Statutory Change Required**

FY 2008-09	Request	Recommendation
Transfer from Drug Offender Surcharge Fund to General Fund	\$151,341	\$151,341

Staff Analysis: Pursuant to Section 18-19-103 (4), C.R.S., this fund consists of 90 percent of drug offender surcharge revenues. These surcharges range from \$100 to \$4,500 for each conviction or deferred sentence. Moneys in the Fund are subject to annual appropriation to the Judicial Department, the Department of Corrections, the Department of Public Safety's Division of Criminal Justice, and the Department of Human Services to cover the costs associated with substance abuse assessment, testing, education, and treatment. Pursuant to Section 16-11.5-102 (3), C.R.S., these four departments are required to cooperate and develop a plan for the allocation of moneys deposited in this fund. The Judicial Department is required to submit this plan with its annual budget request. A transfer from this fund to the General Fund can help support existing General Fund appropriations for probation staff and operations.

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The Department proposes transferring \$151,341 from this fund to the General Fund. The following table details the impact of such a transfer. Please note that the General Assembly could transfer a higher amount, but it would reduce the amount available for substance abuse treatment in FY 2009-10 and subsequent fiscal years. **Staff recommends approving the request.**

Drug Offender Surcharge Fund Department Request and Staff Recommendation				
	FY 2007-08 Actual	FY 2008-09 Estimate	FY 2009-10 Estimate	FY 2010-11 Estimate
Beginning FY Balance	\$3,005,884	\$2,851,059	\$3,327,622	\$3,023,568
Projected Revenues	4,862,410	4,965,668	5,064,981	5,216,930
Expenditures	<u>(5,017,235)</u>	<u>(4,337,764)</u>	<u>(5,369,035)</u>	<u>(5,653,335)</u>
Ending FY Balance without transfer	\$2,851,059	\$3,478,963	\$3,023,568	\$2,587,163
Recommended Transfer	<u>0</u>	<u>(151,341)</u>	<u>0</u>	<u>0</u>
Ending FY Balance after transfer	\$2,851,059	\$3,327,622	\$3,023,568	\$2,587,163

**Department Requested Transfer #5
 Transfer from Family-friendly Court Program Cash Fund
 Statutory Change Required**

FY 2008-09	Request	Recommendation
Transfer from Family-friendly Court Program Cash Fund	\$200,000	\$200,000

Staff Analysis: Pursuant to Section 13-3-113, C.R.S., the Family-friendly Court Program provides courts with a source of money to create facilities or services designed to meet the needs of families navigating the court system. The program is funded with a \$1.00 surcharge on traffic violations. The Judicial Department allocates money from the Family-friendly Court Program Cash Fund to judicial districts that apply for funding for the creation, operation, and enhancement of family-friendly court facilities. Such programs primarily provide child care services for families attending court proceedings (either through on-site centers and waiting rooms located in courthouses or through vouchers for private child care services). Programs may also provide supervised parenting time and transfer of the physical custody of a child from one parent to another, as well as information and referral for relevant services (e.g., youth mentoring, crime prevention, and dropout prevention; employment counseling and training; financial management; legal counseling; substance abuse

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programs; etc.). A transfer from this fund to the General Fund can help support existing General Fund appropriations for court operations.

The Department proposes transferring \$200,000 from this fund to the General Fund. The following table details the impact of such a transfer. Staff recommends approving the request.

Family-friendly Court Program Cash Fund Department Request and Staff Recommendation				
	FY 2007-08 Actual	FY 2008-09 Estimate	FY 2009-10 Estimate	FY 2010-11 Estimate
Beginning FY Balance	\$359,120	\$332,571	\$91,148	\$65,597
Projected Revenues	363,961	374,879	384,451	391,936
Expenditures	<u>(390,510)</u>	<u>(416,302)</u>	<u>(410,002)</u>	<u>(410,002)</u>
Ending FY Balance without transfer	\$332,571	\$291,148	\$65,597	\$47,531
Recommended Transfer	<u>0</u>	<u>(200,000)</u>	<u>0</u>	<u>0</u>
Ending FY Balance after transfer	\$332,571	\$91,148	\$65,597	\$47,531

**JBC Staff-Initiated Transfer Recommendation #1
 Transfer from Court Security Cash Fund
 Statutory Change Required**

FY 2008-09	Recommendation
Transfer from Court Security Cash Fund to General Fund	\$1,500,000

Staff Analysis and Recommendation: Please see discussion related to prioritized supplemental request #6, which begins on page 13.

**JBC Staff-Initiated Transfer Recommendation #2
 Transfer from the State Commission on Judicial Performance Cash Fund
 Statutory Change Required**

FY 2008-09	Recommendation
Transfer from State Commission on Judicial Performance Cash Fund to General Fund	\$500,000

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Staff Analysis: Pursuant to Section 13-5.5-107, C.R.S., the State Commission on Judicial Performance Cash Fund consists of any grants of federal or private funds, as well as certain increases in docket fees collected pursuant to Sections 13-32-105 (1) and 42-4-1710 (4) (a), C.R.S. Subject to annual appropriation, moneys in the Fund may be expended by the State Commission for the purposes of Article 5.5 (concerning judicial performance).

Staff recommends transferring \$500,000 from this fund to the General Fund to help support ongoing court operations. As indicated in the following table, this transfer would still leave a fund balance equivalent to more than 50 percent of annual fund expenditures. However, current projections indicate that the State Commission's expenditures will exceed annual Fund revenues in FY 2008-09 and in subsequent fiscal years. Thus, the recommended transfer will cause the Fund balance to decline more rapidly than it would absent the transfer.

State Commission on Judicial Performance Cash Fund Staff Recommendation				
	FY 2007-08 Actual	FY 2008-09 Estimate	FY 2009-10 Estimate	FY 2010-11 Estimate
Beginning FY Balance	\$1,574,507	\$1,578,839	\$512,928	\$440,534
Projected Revenues	871,003	897,133	924,047	951,768
Expenditures	<u>(866,671)</u>	<u>(963,044)</u>	<u>(996,441)</u>	<u>(996,441)</u>
Ending FY Balance without transfer	\$1,578,839	\$1,512,928	\$440,534	\$395,861
Recommended Transfer	<u>0</u>	<u>(500,000)</u>	<u>0</u>	<u>0</u>
Ending FY Balance after transfer	\$1,578,839	\$512,928	\$440,534	\$395,861

**JBC Staff Initiated Transfer Recommendation #3
 Transfer from Guardian Ad Litem (GAL) Fund
 Statutory Change Required**

FY 2008-09	Recommendation
Transfer from Guardian Ad Litem Fund to General Fund	\$8,000

Staff Analysis: This fund was established through H.B. 00-1371, the act that created the Office of the Child's Representative (OCR). Pursuant to Section 13-91-106 (1), C.R.S., the Fund consists of General Fund moneys appropriated thereto, as well as gifts, grants, donations, and other non-

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governmental contributions. Moneys in the Fund are subject to annual appropriation by the General Assembly for the purposes of funding the work of the Office relating to the provision of GAL services and for the provision of GAL services in Colorado.

The Fund currently has a balance of \$8,001.38. Based on conversations with OCR staff, this balance essentially represents unspent start-up funds. When OCR was created, moneys that were previously appropriated to the Branch through other line items were transferred to OCR. The OCR has not received any gifts or donations, so this balance essentially came from the General Fund. **Staff recommends that the Committee introduce legislation to repeal the Fund, and transfer the balance to the General Fund.** This transfer will help support the supplemental appropriations to the OCR for the provision of GAL services.

Other Balancing Options

These options are presented without staff recommendation in order to maximize the Committee's choices. The Committee may wish to consider these options now or in the future. **Numbering does not indicate priority.**

Options with <i>Appropriation</i> Impacts	GF	CF	RF	FF	Total	FTE
<p>1</p> <p>Public Defender Proposal - Discovery from DAs</p> <p>The Public Defender currently pays approximately \$944,000 annually to district attorney offices for discovery. If the Public Defender were exempted from paying these costs, its mandated costs would decrease accordingly. [If the Alternate Defense Counsel (ADC) were also exempted, their mandated costs would decrease by approximately \$379,000 annually.] This proposal would reduce revenues to district attorney offices. This proposal would not likely reduce state expenditures until FY 2009-10.</p>						
<p>2</p> <p>Public Defender Proposal - Transcript Fees</p> <p>The Public Defender currently pays approximately \$1,386,000 annually for costs to obtain transcripts from court reporters employed by the Judicial Branch. The rate, currently set at \$2.35 per page, is established by a Chief Justice Directive. If the Public Defender were exempted from paying these costs, its mandated costs would decrease accordingly. [Please note that in FY 2007-08, the ADC paid \$365,000 for transcripts, the Office of the Child's Representative paid \$4,000, and district attorneys paid \$222,000. Thus, if these entities were also exempted, their mandated costs would decrease by a total of \$591,000 annually.] This proposal would not likely reduce state expenditures until FY 2009-10.</p>						

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Options with Appropriation Impacts	GF	CF	RF	FF	Total	FTE
<p>3</p> <p>Public Defender Proposal - Criminal Code Changes</p> <p>The Public Defender is recommending a series of changes to the Colorado Criminal Code effective July 2009 that would reduce his office's caseload and resource deficit. [These changes may also offset the \$5.7 million and 88.4 FTE estimated to be required by the Public Defender for misdemeanor cases if the General Assembly makes statutory changes consistent with the U.S. Supreme Court decision in <i>Rothgery</i>.] The proposed statutory changes are estimated to reduce the Public Defender's existing resource deficit by a total of \$6.1 million and 95.6 FTE as follows:</p> <p>County court changes: a reduction of \$2.1 million and 33.4 FTE District court changes: a reduction of \$1.1 million and 17.0 FTE Changes concerning the death penalty and "habitual offenders": a reduction of \$2.9 million and 45.1 FTE</p> <p>A list of the specific statutory changes is provided in Appendix A. Please note that the proposed statutory changes would also reduce costs in other areas of the Judicial Branch (Probation, the Alternate Defense Counsel, and the Courts), as well as the Department of Corrections and local counties (jails). With one exception (noted below), these savings have not yet been estimated.</p> <p>The ADC estimates that a repeal of the death penalty would save \$102,000 per case, or approximately \$1.3 million annually.</p> <p>Finally, please note that if these changes were made effective prior to July 2009, some state expenditures could be reduced in FY 2008-09.</p>						

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Options with Appropriation Impacts	GF	CF	RF	FF	Total	FTE
<p>4</p> <p>Office of the Child's Representative (OCR) - Limit or Eliminate Services in Certain Cases</p> <p>The two case types for which services are not federally mandated for indigent parties are domestic relations and truancy. The OCR anticipates spending \$577,000 for attorneys to act as Child and Family Investigators (CFIs) in domestic relations cases in FY 2008-09. The General Assembly could: (a) eliminate this publicly-funded function; (b) limit CFI appointments to mental health professionals (paid through the State Court Administrator's Office at a lower hourly rate); or (c) redirect divorce filing fees to support this function (e.g., away from performance-based collaborative management incentives to counties (DHS - Child Welfare), the Colorado Children's Trust Fund (CDPHE), and/or the Displaced Homemaker's Program (CDLE)).</p> <p>The OCR anticipates spending \$181,000 for attorneys to represent children involved in truancy proceedings. The General Assembly could: (a) eliminate publicly-funded representation in these proceedings; or (b) eliminate court proceedings altogether related to truancy (thereby reducing court costs as well). In conjunction with either of these changes, the General Assembly could consider allocating a portion of the required annual increase in K-12 categorical program funding to the Expelled and At-risk Student Services Grant Program to enhance funding available for community-based programs that address truancy.</p> <p>These proposals would not likely reduce state expenditures until FY 2009-10.</p>						
<p>5</p> <p>Furloughs</p> <p>The above figure provide an estimate of the savings associated with one day of furlough. This figure includes: \$568,989 for court, probation, and administrative staff, excluding all judges and justices; \$149,450 for the Public Defender's Office; \$7,027 for the Office of the Child's Representative (including the El Paso County staff office); and \$2,679 for the Alternate Defense Counsel. Furloughs reduce staffing levels for the courts and probation, impairing court operations and the ability of probation officers to adequately monitor offenders in the community.</p>	728,146				728,146	
<p>6</p> <p>Court Appointed Counsel Rate Rollback</p> <p>The above figure provide an estimate of the savings associated with one month of rate reductions. Specifically, this amount is an estimate of the monthly cost of raising the hourly rate paid to court-appointed counsel from \$60 to \$65. This figure includes: \$71,000 for the State Court Administrator; \$121,000 for the Alternate Defense Counsel; and \$80,000 for the Office of the Child's Representative. The OCR indicates that last time the General Assembly took this action, some attorneys stopped contracting with the State, causing disruptions for some open cases.</p>	272,000				272,000	

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Options with <i>Appropriation</i> Impacts	GF	CF	RF	FF	Total	FTE
7					186,250	
Eliminate Family Violence Grants for last quarter						
<p>The General Assembly increased funding for grants to agencies that provide legal representation to indigent victims of domestic violence from \$500,000 to \$750,000 for FY 2008-09. The above figure represents the amount the Department anticipates distributing in the last quarter of the fiscal year. The Department indicates that these agencies have likely based their current year budgets in anticipation of receiving these grants, so this action would likely affect the clients served by these agencies.</p>						

	FY 2007-08	FY 2008-09	Fiscal Year 2008-09 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
JUDICIAL BRANCH					
Chief Justice Mary Mullarkey					
Supplemental #1 - Hiring Freeze					
<i>(2) Courts Administration</i>					
<i>(A) Administration</i>					
Personal Services	5,634,547	5,217,789	(38,000)	(38,000)	5,179,789
FTE	<u>60.6</u>	<u>64.1</u>	<u>0.0</u>	<u>(6.3)</u>	<u>57.8</u>
General Fund	4,522,531	4,102,540	(38,000)	(38,000)	4,064,540
FTE	60.6	64.1	0.0	(6.3)	57.8
Cash Funds Exempt/ Reappr. Funds	1,112,016	1,115,249	0	0	1,115,249
<i>(A) Administrative Special Purpose</i>					
Health, Life and Dental	<u>12,399,519</u>	<u>17,806,295</u>	<u>(1,700,000)</u>	<u>(1,700,000)</u>	<u>16,106,295</u>
General Fund	11,708,733	15,605,933	(1,700,000)	(1,700,000)	13,905,933
Cash Funds	690,786	2,200,362	0	0	2,200,362
Short-term Disability	<u>209,399</u>	<u>249,386</u>	<u>(49,000)</u>	<u>(49,000)</u>	<u>200,386</u>
General Fund	186,059	215,112	(49,000)	(49,000)	166,112
Cash Funds	23,340	34,274	0	0	34,274

	FY 2007-08	FY 2008-09	Fiscal Year 2008-09 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
<i>(3) Trial Courts</i>					
Trial Courts Programs	108,430,535	118,305,643	(1,600,000)	(1,600,000)	116,705,643
FTE	<u>1,682.5</u>	<u>1,873.2</u>	<u>0.0</u>	<u>(109.5)</u>	<u>1,763.7</u>
General Fund	90,289,872	96,036,905	(1,600,000)	(1,600,000)	94,436,905
FTE	1,550.6	1,628.1	0.0	(109.5)	1,518.6
Cash Funds	16,788,878	22,268,738	0	0	22,268,738
FTE	131.9	245.1	0.0	0.0	245.1
Federal Funds	1,351,785	0	0	0	0
<i>(4) Probation and Related Services</i>					
Personal Services	60,889,029	68,868,726	(760,000)	(760,000)	68,108,726
FTE	<u>1,031.3</u>	<u>1,129.8</u>	<u>0.0</u>	<u>(33.7)</u>	<u>1,096.1</u>
General Fund	51,535,119	59,565,464	(760,000)	(760,000)	58,805,464
FTE	877.4	975.9	0.0	(33.7)	942.2
Cash Funds	9,353,910	9,303,262	0	0	9,303,262
FTE	153.9	153.9	0.0	0.0	153.9
Total for Supplemental #1	187,563,029	209,332,590	(4,147,000)	(4,147,000)	205,185,590
FTE	<u>2,774.4</u>	<u>3,067.1</u>	<u>0.0</u>	<u>(149.5)</u>	<u>2,917.6</u>
General Fund	158,242,314	175,525,954	(4,147,000)	(4,147,000)	171,378,954
FTE	2,488.6	2,668.1	0.0	(149.5)	2,518.6
Cash Funds	26,856,914	33,806,636	0	0	33,806,636
FTE	285.8	399.0	0.0	0.0	399.0
Reappropriated Funds	1,112,016	1,115,249	0	0	1,115,249
Federal Funds	1,351,785	0	0	0	0

	FY 2007-08	FY 2008-09	Fiscal Year 2008-09 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Supplemental #2 - Court-appointed Counsel and Jury Costs					
<i>(3) Trial Courts</i>					
Court Costs, Jury Costs, and Court-appointed Counsel (previously "Mandated Costs")					
	<u>13,426,103</u>	<u>14,234,352</u>	<u>1,360,000</u>	<u>1,360,000</u>	<u>15,594,352</u>
General Fund	13,249,563	13,749,352	1,360,000	1,360,000	15,109,352
Cash Funds	176,540	485,000	0	0	485,000
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Supplemental #3 - Language Interpreters					
<i>(3) Trial Courts</i>					
Language Interpreters					
	3,520,983	2,892,427	501,042	501,042	3,393,469
FTE	<u>25.0</u>	<u>25.0</u>	<u>0.0</u>	<u>0.0</u>	<u>25.0</u>
General Fund	3,511,231	2,842,427	501,042	501,042	3,343,469
Cash Funds	9,752	50,000	0	0	50,000
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Supplemental #4 - Retired Judge Program					
<i>(2) Courts Administration</i>					
<i>(A) Administrative Special Purpose</i>					
Retired Judges - GF					
	1,695,955	1,384,006	510,000	30,000	1,414,006
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	FY 2007-08	FY 2008-09	Fiscal Year 2008-09 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Supplemental #5 - Public Access System Development					
<i>(2) Courts Administration</i>					
<i>(C) Integrated Information Services</i>					
Personal Services	3,044,022	3,404,723	216,780	216,780	3,621,503
FTE	<u>44.9</u>	<u>44.9</u>	<u>5.0</u>	<u>1.8</u>	<u>46.7</u>
General Fund	3,011,093	3,187,013	0	0	3,187,013
FTE	44.9	44.9	0.0	0.0	44.9
Cash Funds	0	0	216,780	216,780	216,780
FTE	0.0	0.0	5.0	1.8	1.8
Cash Funds Exempt/ Reappr. Funds	32,929	217,710	0	0	217,710
Operating Expenses	<u>226,444</u>	<u>227,604</u>	<u>100,000</u>	<u>100,000</u>	<u>327,604</u>
General Fund	176,444	177,604	0	0	177,604
Cash Funds	50,000	50,000	100,000	100,000	150,000
Hardware Replacement - CF	2,250,000	2,250,000	405,516	405,516	2,655,516
Total for Supplemental #5	5,520,466	5,882,327	722,296	722,296	6,604,623
FTE	<u>44.9</u>	<u>44.9</u>	<u>5.0</u>	<u>1.8</u>	<u>46.7</u>
General Fund	3,187,537	3,364,617	0	0	3,364,617
FTE	44.9	44.9	0.0	0.0	44.9
Cash Funds	2,300,000	2,300,000	722,296	722,296	3,022,296
FTE	0.0	0.0	5.0	1.8	1.8
Reappropriated Funds	32,929	217,710	0	0	217,710

	FY 2007-08	FY 2008-09	Fiscal Year 2008-09 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Supplemental #6 - Courthouse Security Cash Fund Spending Authority					
<i>(2) Courts Administration</i>					
<i>(A) Administrative Special Purpose</i>					
Courthouse Security - CF	344,307	2,194,622	750,000	750,000	2,944,622
FTE	1.0	1.0	0.0	0.0	0.0
<hr/>					
Supplemental #7 - Capital Outlay Technical Correction					
<i>(3) Trial Courts</i>					
Capital Outlay	<u>866,829</u>	<u>738,117</u>	<u>727,677</u>	<u>727,677</u>	<u>1,465,794</u>
General Fund	141,023	0	0	0	0
Cash Funds	725,806	738,117	727,677	727,677	1,465,794
<hr/>					
Supplemental #8 - Senate Bill 91-94 True-up					
<i>(4) Probation and Related Services</i>					
S.B. 91-94 - CFE/RF	1,663,595	1,906,837	(233,516)	(233,516)	1,673,321
FTE	25.0	25.0	0.0	0.0	25.0
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	FY 2007-08	FY 2008-09	Fiscal Year 2008-09 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Supplemental #9 - VALE Grants - Collections					
<i>(2) Courts Administration</i>					
<i>(A) Administrative Special Purpose</i>					
Collections Investigators	4,379,225	4,681,009	125,000	125,000	4,806,009
FTE	<u>74.7</u>	<u>83.2</u>	<u>0.0</u>	<u>0.0</u>	<u>83.2</u>
Cash Funds	3,735,388	4,018,468	0	0	4,018,468
FTE	<u>74.7</u>	<u>83.2</u>	<u>0.0</u>	<u>0.0</u>	<u>83.2</u>
Cash Funds Exempt/ Reappr. Funds	643,837	662,541	125,000	125,000	787,541
<hr/>					
OFFICE OF THE CHILD'S REPRESENTATIVE					
Executive Director - Theresa Spahn					
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Supplemental #1 - Additional Funding for Court Appointed Counsel (CAC)					
<i>(7) Office of the Child's Representative</i>					
Court Appointed Counsel - GF	12,428,206	13,160,939	1,014,357	1,014,357	14,175,296
<hr/>					
Supplemental #2 - Release Restriction on CAC Appropriation					
<i>(7) Office of the Child's Representative</i>					
Court Appointed Counsel - GF	12,428,206	13,160,939	118,686	118,686	13,279,625
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Non-Prioritized Supplemental - District Attorney Mandated Costs					
District Attorney Mandated Costs	<u>2,223,648</u>	<u>1,926,052</u>	<u>300,000</u>	<u>300,000</u>	<u>2,226,052</u>
General Fund	2,092,974	1,801,052	300,000	300,000	2,101,052
Cash Funds	130,674	125,000	0	0	125,000

	FY 2007-08	FY 2008-09	Fiscal Year 2008-09 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Non-prioritized "A" - Voluntary Furloughs					
Various line items - GF	n/a	n/a	(56,000)	(56,000)	n/a
Non-prioritized "B" - Sex Offender Surcharge					
Sex Offender Surcharge Fund Program - GF	24,988	23,559	(23,559)	(23,559)	0
Non-prioritized "C" - Refinance Offender Treatment and Services					
<i>(4) Probation and Related Services</i>					
Offender Treatment and Services	<u>5,769,105</u>	<u>8,607,023</u>	<u>0</u>	<u>0</u>	<u>8,607,023</u>
General Fund	487,193	487,193	(487,193)	(487,193)	0
Cash Funds	3,656,855	7,807,097	487,193	487,193	8,294,290
Cash Funds Exempt/ Reappr. Funds	1,625,057	312,733	0	0	312,733
Non-prioritized "D" - Legal Services					
<i>(2) Courts Administration</i>					
<i>(A) Administrative Special Purpose</i>					
Legal Services - GF	195,616	317,448	(100,000)	(100,000)	217,448
Hours	2,715.8	4,227.0	(1,331.6)	(1,331.6)	2,895.4

	FY 2007-08	FY 2008-09	Fiscal Year 2008-09 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Non-prioritized "E" - Refinance Various Line Items					
Various line items	n/a	n/a	0	0	n/a
General Fund			(150,000)	(150,000)	
Cash Funds			n/a	n/a	
Cash Funds Exempt/ Reappr. Funds			n/a	n/a	
Non-prioritized Reductions Proposed by Public Defender					
<i>(5) Public Defender</i>					
Leased Space/Utilities - GF	3,312,971	4,305,439	(83,696)	(83,696)	4,221,743
Automation Plan - GF	1,087,746	894,768	(213,378)	(213,378)	681,390
Mandated Costs - GF	3,143,259	3,567,671	(197,505)	(197,505)	3,370,166
Total for Public Defender - GF	7,543,976	8,767,878	(494,579)	(494,579)	8,273,299
JBC Staff-Initiated #1 - Offender Identification Fund					
<i>(4) Probation and Related Services</i>					
Operating Expenses	<u>2,594,272</u>	<u>2,738,962</u>	0	0	<u>2,738,962</u>
General Fund	2,244,603	2,331,863	0	(69,745)	2,262,118
Cash Funds	349,669	407,099	0	69,745	476,844

	FY 2007-08	FY 2008-09	Fiscal Year 2008-09 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
JBC Staff-Initiated #2 - ADC Mileage Reimbursement					
<i>(6) Alternate Defense Counsel</i>					
Conflict of Interest Contracts - GF	17,925,541	20,826,885	0	(49,064)	20,777,821
JBC Staff-Initiated #3 - Technical Correction for FTE					
<i>(1) Supreme Court/Court of Appeals</i>					
Appellate Court Programs	n/a	11,217,738	0	0	11,217,738
FTE		<u>146.0</u>	<u>0.0</u>	<u>0.0</u>	<u>146.0</u>
General Fund		10,150,431	0	0	10,150,431
FTE		146.0	0.0	(13.5)	132.5
Cash Funds		1,067,307	0	0	1,067,307
FTE		0.0	0.0	13.5	13.5
Totals Excluding Pending Items					
Judicial Branch					
Totals for ALL Departmental line items	382,854,966	431,612,378	924,404	395,340	432,007,718
FTE	<u>3,653.1</u>	<u>4,082.9</u>	<u>5.0</u>	<u>(147.8)</u>	<u>3,935.2</u>
General Fund	297,062,747	327,715,384	(1,654,246)	(2,253,055)	325,462,329
Cash Funds	76,366,595	95,532,107	2,687,166	2,756,911	98,289,018
Cash Funds Exempt/ Reappropriated Funds	6,460,985	6,074,622	(108,516)	(108,516)	5,966,106
Federal Funds	2,964,639	2,290,265	0	0	2,290,265

	FY 2007-08	FY 2008-09	Fiscal Year 2008-09 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Statewide Common Policy Supplementals (see narrative for more detail)	<u>N.A.</u>	<u>N.A.</u>	<u>(311,468)</u>	<u>Pending</u>	<u>N.A.</u>
General Fund			(311,468)		
Cash Funds			0		
Totals Including Pending Items					
Judicial Branch					
Totals for ALL Departmental line items	382,854,966	431,612,378	612,936	395,340	432,007,718
FTE	<u>3,653.1</u>	<u>4,082.9</u>	<u>5.0</u>	<u>(147.8)</u>	<u>3,935.2</u>
General Fund	297,062,747	327,715,384	(1,965,714)	(2,253,055)	325,462,329
Cash Funds	76,366,595	95,532,107	2,687,166	2,756,911	98,289,018
Reappropriated Funds	6,460,985	6,074,622	(108,516)	(108,516)	5,966,106
Federal Funds	2,964,639	2,290,265	0	0	2,290,265

Key:

N.A. = Not Applicable or Not Available



OFFICE OF THE STATE PUBLIC DEFENDER

DOUGLAS K. WILSON
STATE PUBLIC DEFENDER

January 26, 2009

Honorable Moe Keller
Chair, Joint Budget Committee
Legislative Services Building, 3rd Floor
200 East 14th Avenue
Denver, Colorado 80203

Dear Senator Keller,

The Office of the State Public Defender (OSPD) operates as a constitutionally mandated, single-program agency whose unique purpose is to provide competent legal representation to indigent clients accused of a crime that is commensurate with the same level of representation afforded non-indigent clients by a private attorney. Competent legal counsel largely encompasses a working caseload that remains in harmony with established maximum workload standards and minimum staffing requirements.

Entering into Fiscal Year 2008-09, the OSPD is operating at a 40 percent deficit of minimum staffing required to responsibly support its caseload. Fiscally, the OSPD budget is also operating at a deficit. In prior years, that deficit has been carried in operating lines and supplemented primarily by personal services attrition. Conversely in the current year, attrition is at least half of what it has been in prior years and some operating reductions will be required to cover an expected resource shortfall.

The OSPD has taken the following actions to reduce its spending in the current fiscal without compromising quality legal representation to our clients:

- The Office is facing a \$344,118 shortfall between personal services lines and operating expenses. Part of these shortfalls was offset by delaying \$52,446 in operating spending to next year, thereby reducing the shortfalls in these areas to \$291,671.
- In order eliminate the remaining shortfall in personal services and operating expenses, a one-time transfer of \$291,671 will be made from the mandated costs line. Following this transfer, it is estimated that the net savings in this line will be \$197,505.
- The automation plan line was facing an estimated deficit this year of \$80,303. However, several scheduled equipment replacements and some software licensing renewals totaling \$293,681 were delayed until next year resulting in overall savings of \$213,378.
- The OSPD is carrying an unplanned variance between FY 2008-09 estimated leased space costs and actual costs as a result of delays in negotiations of new lease agreements, resulting in a one-time savings of \$83,696.

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- The vehicle lease appropriation was over-funded by \$7,256 this year as a result of estimates calculated by DPA last year. However, this item was sent as a common policy adjustment/reduction to the Joint Budget Committee on December 31, 2008.
- In total, the Public Defender's Office can support additional targeted operating budget reductions totaling \$501,835 in FY 2008-09. This incorporates any savings that resulted from the freeze of positions in October.
- In addition to these reductions, the Public Defender has requested the Chief Justice via the State Court Administrator to relieve the Public Defender of transcript costs for the remainder of the current fiscal year through an administrative directive. OSPD has not received a formal response to this request.

Table A (attached) details Fiscal Year 2008-09 operating estimates, shortfalls, expected transfers and the spending reductions noted above that are being implemented in order to balance the OSPD's Constitutional mandate with the State's budget shortfall.

It should be noted that the OSPD's budget for Fiscal Year 2008-09 consists of 99.3% General Fund. Therefore, the Office does not have cash fund reserves to use in the current budget year. The OSPD Personal Services appropriation accounts for 80 percent of its total budget. Nearly two-thirds of those costs are trial attorneys serving clients in 22 regional district offices and one appellate division.

Forcing reductions upon an existing personal services expenditures deficit of \$218,240 will add to the Office's 40 percent staffing deficit and require it to transfer workload to the other court appointed counsel at an average per-case cost of \$1,863 General Fund (based upon the current average cost for ADC cases in 2010). If due to workload pressures each of OSPD's appropriated attorneys turned away a single case, it would add an estimated \$555,174 to the State's existing General Fund deficit. OPSD indigent defense services are by far the best value to the State in providing these mandated services. Should OSPD attorneys be able to carry the additional caseload left by cuts to staffing, such an increase to an already great deficit will only result in additional delays to cases throughout the broader justice system, including civil cases, which represent the greatest share of revenue brought in support of the State's justice system. Even absent an increase in costs through use of assigned private counsel, the State shall face increased deficits as a result of lost revenues caused by increased case overload.

Fiscal Year 2009-10

For FY 2009-10, the OSPD has already effectively forfeited spending equivalent to 9.2 percent (\$5,444,368) of its presumptive FY 2009-10 budget request of \$59,417,157 (as demonstrated in **Table B** (attached)). While the Judicial Department included H.B. 07-1054 funding in its FY 2009-10 continuation base request, the OSPD withheld that funding as well as Salary Survey funding, which was also included in all statewide funding requests. The balance of the 10 percent reduction or \$426,262 could be eliminated from targeted appropriations in consultation with Joint Budget Committee staff and would be more manageable in balancing our priorities at the beginning of the year rather than mid-year as the current statewide deficit dictates.

Cost Savings Proposals

Mandated costs

The OSPD is proposing two statutory changes that would alleviate it of the high cost of discovery and transcripts, which would result in an annual cost savings of \$2,329,700 effective July 1, 2009. The OSPD is projected to spend \$943,471 for discovery costs to county district attorney offices. DA offices are required to provide these documents under Colorado Supreme Court Rule 16. A change in law to exempt the Public Defender from these costs would equate to a reduction of only 44 percent of the amount the State currently subsidizes county District Attorney offices for their mandated costs through the Judicial Department's budget, equivalent to \$2,127,043 in 2010.

Additionally, the Public Defender is projected to spend \$1,386,229 in 2010 for costs to obtain transcripts at a rate of \$2.35 per page that is paid to Judicial Department salaried court reporter staff. These costs are set by a Chief Justice Directive. They are paid by the Public Defender in lieu of the Judicial Department's need to pay overtime to this staff, since these employees are "exempt" employees under *the Fair Labor Standards Act*. A change in law to exempt the Public Defender from such costs would relieve the Public Defender of near 2.6 percent of its current 2010 operating request, which grows annually with caseload. Doing so would not shift the cost back to the Judicial Department; rather, it would require the Department to reallocate the portion of resources it receives through Public Defender's transcript requests to private attorneys and their non-indigent clients.

Changes to the Criminal code

The OSPD is recommending a series of changes to the Colorado Criminal Code effective July 2009 that would reduce both the current Public Defender case overload and its growing resource deficit. Additionally, the sum of the impact of these changes would offset the impending impact associated with the U.S. Supreme Court's *Rothgery* Opinion, which will result in a 44.4 percent increase in misdemeanor caseload of the Public Defender at a cost of \$5.7 million and 88.4 FTE. The cumulative impact of the proposed changes to the criminal code would reduce the Public Defender's current resource deficit (estimated at \$22,528,739 and 351.7 FTE for FY 2009-10) by 95.6 FTE and \$6,151,206. The impact of the proposed changes in law effectively decreases the future General Fund cost to Colorado taxpayers in achieving OSPD full minimal staffing levels in a shorter period of time than the current 12-15 year projected period outlined in the Public Defender's 2010 budget request.

Finally, it is important to note that the outlined costs reflect only offsets to Public defender Services. There will be much more significant cost savings to local governments in jail costs and to the State in Corrections prison beds, probation costs, Alternate Defense Counsel costs, other court assigned counsel costs, and judicial trial costs. A fast track bill with a safety clause would *immediately* drive savings. The following tables provide a summary of the proposed statutory changes.


Statute	Description	Current Case Class or Equivalent (based upon sentence)	Recommended Change (PETTY OFFENSE=FINE ONLY)	Equivalent New Case Class (PO=Fine Only)
County Court				
42-2-138 (5d-6mos)	Driving Under Suspension, Restraint – non alcoholic	M3	No jail 1 st offense	PO
42-4-1301 (5d/2 nd – 1yr/6mos)	DUI	M2	No jail 1 st offense	PO
	DWAI	M3		PO
18-18-406	Possession of Marijuana 1-8 oz. M-1	M1	Raise to 2-8 oz	M1
		M1	Possession less 2 oz, P.O.2, raise fine to \$200.00	PO
18-3-204 (6 mos-24)	Third Degree Assault M-1	M1	Strike extraordinary risk – 6 mos – 18 mos	M1
18-6-801	Domestic Violence Third Degree Assault – 18-3-204 Harassment M-3 (not M-1)	M1	No jail first offense. Treatment.	PO
		M3		PO
18-5-104	Second Degree Forgery F-5	M1	Reduce to M-1	M2
18-7-302(1)	Indecent Exposure M-1	M1	Reduce to M-2	M2
18-8-204	Introduction of contraband	F6	Reduce to M-2	M2
18-8-204.2	Possession of contraband in second degree	F6	Reduce to M-2	M2
18-18-404	Unlawful use of controlled substance I & II = F-6 III, IV & V = M-1	F6	Make I & II (so all I through V) M-1. No jail first offense. Treatment.	M1
		F6		PO
		M1	Strike driver's license revocation.	PO
18-4-401	Thefts / Criminal Mischief	M3	Less than \$100 - M3 to petty offense	PO
		M2	\$100-500- M2 to M3, no jail first offense	M3
		M2		PO
		M1	\$500-1000, M1 to M2, no jail first off.	M2
		M1		PO
		F4	\$1000-20,000, F4 to F5	F5
18-4-402	Theft of Rental Property	M3	Less than \$100 - M3 to petty offense	PO
		M2	\$100-500- M2 to M3, no jail first offense	M3
		M2		PO
		M1	\$500-1000, M1 to M2, no jail first off.	M2
		M1		PO
		F4	\$1000-20,000, F4 to F5	F5
18-4-410	Theft by Receiving	M3	Less than \$100 - M3 to petty offense	PO
		M2	\$100-500- M2 to M3, no jail first offense	M3
		M2		PO
		M1	\$500-1000, M1 to M2, no jail first off.	M2
		M1		PO
		F4	\$1000-20,000, F4 to F5	F5
18-4-501	Criminal Mischief	M3	Less than \$100 - M3 to petty offense	PO
		M2	\$100-500- M2 to M3, no jail first offense	M3
		M2		PO
		M1	\$500-1000, M1 to M2, no jail first off.	M2
		M1		PO
		F4	\$1000-20,000, F4 to F5	F5
18-5-205	Fraud by Check	M2	Less than \$500, M2 to M3 no jail first offense	M3
		M2		PO
		M1	\$500-1000, M1 to M2, no jail first off.	M2
		M1		PO
		F6	\$1000 or more, F6 to M1	M1
18-8-111	False reporting to authorities	M3	To petty offense	PO
18-8-212	Violation of Bail Bond conditions	F6	Repeal; revoke bond and put in jail	PO
		F6	Or Repeal section 3 and	F6
		F6	M1, section 1	M1
18-9-106(d)	Disorderly conduct	M3	petty offense	PO

District Court				
12-56-104 (5)	False info to pawnbroker F6	F6 F6	Reduce to M-1, no jail first offense	M1 PO
18-5-105	Criminal possession of first degree forgery instrument F6	F6 F6	Reduce to M-1, no jail first offense	M1 PO
18-5-113	Criminal Impersonation F6	F6 F6	Reduce to M-1, no jail first offense	M1 PO
18-4-204(1)	Third degree burglary F5	F5	Reduce to M1	M1
18-4-204(2)	Third degree burglary F4	F4	Reduce to F5	F5
18-4-203(2)	Second degree burglary – F4	F4	Reduce to F5	F5
18-4-205(2)	Possession of burglary tools F6	F6	Reduce to M-1	M1
18-4-401(5)	Theft from a person F5	F5	Reduce to F6	F6
18-4-502	First degree criminal trespass F6	F6 F6	Reduce to M-1, no jail first offense	M1 PO
18-5-102	Forgery	F5 F5	Reduce to M-1, no jail first offense	M1 PO
18-18-405	Unlawful activity relating to controlled substances. F3,F4,F5 and M1	F5 F5 F5	Reduce to M-1, no jail first offense. Take out word possess. Delete words: if a person is convicted of a first offense for such activity in the case of schedule IV controlled substances. Make F5 w/prior: If the offense is committed subsequent to a prior conviction of the same offense . . .	M1 PO F5
18-18-406	Offenses relating to marijuana – Second conviction and more than 8 ozs-F5	F5	Change to F6. Change (4)(a)(II) to possession of more than 2 but less than 8 ounces.	F6
18-18-406.5(1)	Unlawful use of marijuana in a detention facility – F5	F5	Change to F6. Change to possessing more than 2 ounces.	F6
18-18-415(2)(a)	Fraud and deceit. F5	F5	Change to F6.	F6
18-18-422(1)(b)(I)	Imitation controlled substances – F5	F5	Change to F6.	F6
18-18-423(3)	Counterfeit substances – F5	F5	Change to F6.	F6
18-8-208	Escapes	F3 F4 F5	(2) F3 to F4 (3) F4 to F5 (6)(c) & (8) F5 to F6 (9) repeal consecutive language.	F4 F5 F6
18-8-208.1	Attempt to Escape	F4 F5	(1) F4 to F5 (2) change F5 to F6 (2) Repeal the following sentence: If the person is convicted of the felony or other crime for which he was originally in custody or confinement, the sentence imposed pursuant to this subsection (2) shall run consecutively with any sentences being served (3) Repeal the following sentence: The sentence imposed pursuant to this subsection (3) shall run consecutively with any sentences being served by the offender. (4) Repeal the following sentence: If the person is convicted of the misdemeanor or petty offense for which he was originally in custody or confinement, the sentence imposed pursuant to this subsection (4) shall run consecutively with any sentences being and repeal sub-para (5).	F5 F6

The Biggest Cost Savers				
18-3-102	First Degree Murder	DP	Repeal Death Penalty	F1
18-1.3-801	Habitual offenders:			
	1. Little Habitual: 2 priors any type within 10 years & 3 rd is F 1-5 any type. 3x max presumptive. (1.5)	F1	A. Repeal B. Change to 2 prior crimes of violence + 3d 18-1.3-406	F2
	<i>Current Class adjusted to reflect equiva, kent Case Class based upon 3x max presumptive.</i>	F2		F3
		F3		F4
		F4		F5
		F5		F6
	2. Big Habitual: 3 priors any type and 4th of any type. 4x max presumptive. (2)	F1	A. Repeal B. 3 prior crimes of violence + 4th	F2
	<i>Current Class adjusted to reflect equiva, kent Case Class based upon 4x max presumptive.</i>	F2		F3
		F3		F4
		F4		F5
		F5		F6
		F5		DUI

The OSPD welcomes any questions or requests for assistance you might have as they relate to the proposals contained herein, and any other needs you and the committee might have as you resolve the State's current budget crisis. Thank you for your consideration of the Public Defender's funding situation and our proposals to reduce the General Fund burden upon the General Assembly and Colorado taxpayers.

Sincerely,



Douglas K. Wilson
Colorado State Public Defender

Cc: John Ziegler,
Carolyn Kampman

TABLE A

LINE ITEMS	ACTUAL		ESTIMATED EXPENSES	OPERATING SAVINGS/ (DEFICIT)	BUDGET REDUCTIONS	TRANSFERS NEEDED		NEGATIVE SUPPL		FINAL
	LONG BILL									
Personal Services (001)	35,529,848									
Salary Survey (590)	1,342,685									
Anniversary (595)	477,544									
	37,350,077		37,523,745	(173,668)		173,668				37,523,745
FTE	534.1									534
POTS										
Short Term Disability (570)	40,831		41,978	(1,147)		1,147				41,978
Health,Dental,Life (580)	2,642,260		2,653,212	(10,952)		10,952				2,653,212
AED (560)	492,072		513,512	(21,440)		21,440				513,512
SAED (565)	222,483		233,516	(11,033)		11,033				233,516
Total Personal Services	40,747,723		40,965,963	(218,240)	-	218,240				40,965,963
Operating (002)	1,143,882		1,269,760	(125,878)	(52,446)	73,432				1,217,314
Capital (003)	62,760		62,760	-		-				62,760
Leased Space (005)	4,305,439		4,255,973	49,466	(34,230)	-			(83,696)	4,221,743
Contract Services (006)	18,000		18,000	-		-				18,000
Computer Center (008)	19,579		19,579	-		-				19,579
Mandated Costs (130)	3,567,671		3,078,495	489,176	(293,681)	(291,671)			(197,505)	3,078,495
Automation (140)	894,768		975,071	(80,303)		-			(213,378)	681,390
Vehicle Lease (150)	55,465		48,209	7,256		-			(7,256)	48,209
Federal Grants	78,237		78,237	-		-				78,237
	50,893,524		50,772,047	121,477	(380,357)	-			(501,835)	50,391,689
				-0.2% savings	-0.7% reductions				-1.0%	

TABLE B

Entity	Base Request Excludes Salary survey, Judges bill and Decision items.		2010 Salary Survey		2010 HB 1054		All 2010 Decision Items		Total GF/CF 2010 (Actual) Request	NOT Requested 2010 Salary Survey	NOT Requested 2010 H.B. 1054	Total 2010 Budget Requirement
	Base GF/CF Request	2010 Salary Survey	2010 HB 1054	All 2010 Decision Items	Total GF/CF 2010 (Actual) Request	NOT Requested 2010 Salary Survey	NOT Requested 2010 H.B. 1054	Total 2010 Budget Requirement				
Judicial Public Defender	336,880,636	5,491,392	5,299,635	9,664,835	357,336,498	-	-	357,336,498				
Alternate Defense Counsel	51,292,293	-	-	2,680,496	53,972,789	1,028,010	4,416,358	59,417,157				
Child's Representative	19,733,414	38,696	-	474,002	20,246,112	-	-	20,246,112				
	15,588,566	65,726	-	2,413,734	18,068,026	-	-	18,068,026				
Totals	423,494,909	5,595,814	5,299,635	15,233,067	449,623,425	1,028,010	4,416,358	455,067,793				

Total Requirement Includes Salary survey, Judges bill and Decision items, whether requested or not.

Current Reductions in place includes items requested by other Judicial counterparts that have already been eliminated by certain judicial counterparts, such as salary survey and judges bill impact.

Entity	Total 2010 Budget Requirement	Percent Reduction Rqt	Total Reduction Rqt	Current Reductions In Place	Remaining Reductions Required
Judicial Public Defender	357,336,498		(35,306,137)	-	(35,306,137)
Alternate Defense Counsel	59,417,157		(5,870,630)	(5,444,368)	(426,262)
Child's Representative	20,246,112		(2,000,389)	-	(2,000,389)
	18,068,026		(1,785,186)	-	(1,785,186)
Totals	455,067,793	-10.0%	(44,962,343)	(5,444,368)	(39,517,975)

The first table depicts the total 2010 budget request and the actual total 2010 budget requirement to fund common initiatives impacting the whole of the Judicial Department's FY10 budget request, including those already eliminated/delayed.

The second table depicts how certain of these initiatives have already been eliminated by the public defender for the 2010 budget year, saving the state 5.4 million dollars. The tables above do not include any pending FY10 budget amendments.