

DISTRICT ATTORNEY'S MANDATED COSTS FISCAL YEAR 2008/2009

Colorado's district attorneys' offices are responsible for prosecuting all criminal and traffic cases filed in the district and county courts. Mandated costs are reimbursement payments for costs expended by local district attorneys' offices for prosecution of state matters and are not part of any offices' local budget. They are required to be paid by the state pursuant to CRS 16-18-101. Pursuant to that statute and 18-1.3-701(2), these costs include reimbursement to district attorneys' offices for such things as:

- Costs of preliminary hearings,
- Necessary court reporter fees,
- Actual costs paid to expert witnesses,
- Witness fees and mileage paid,
- Lodging and transportation costs for witnesses traveling more than fifty miles,
- Transportation and lodging expenses for parents of witnesses under age 18,
- Necessary exemplification and copy fees,
- Deposition fees,
- Fees for service of process or publication,
- Interpreter fees,
- Costs incurred in obtaining governor's warrants,
- Costs for photocopying reports, developing film and purchasing videotape as necessary,
- Any other costs authorized by statute, and
- Any other reasonable and necessary costs that are directly the result of the prosecution of the defendant upon motion and order of the court.

Unlike the offices of the public defender and alternate defense counsel, which are fully funded from the state general fund, mandated costs are the only state funds that are allocated for prosecution, except that portion of the elected district attorneys' salaries that is paid by the state. Because district attorneys are elected officials of a judicial district, the boards of county commissioners of their respective judicial districts, and not the general assembly, set the remainder of their budgets. District attorneys have far less flexibility than the offices of the public defender or alternate defense counsel in the expenditure of mandated costs because they do not have any other state line item from which to transfer funds if their costs projections are inaccurate.

Beginning in 1999, at the request of the Chief Justice, the General Assembly required that the Colorado District Attorneys' Council set up and maintain a system of estimating the statewide need for mandated costs funds and for allocating them among the state's judicial districts. Accurately projecting the nature and extent of future criminal activity

throughout the state and the costs associated with prosecuting it is inherently problematic. It is often the nature of the cases, and not just the number, that dictates costs necessary to achieve a just result. Complex and expensive cases can and do occur in every part of the state regardless of the individual resources of the local district attorney and justice demands that results not be dictated by an inability to incur necessary expenses. Over the past five years, the Mandated Costs Committee of the Colorado District Attorneys' Council has refined the management of the mandated costs budget through the use of an allocation system based on historical usage, monthly expenditure reports, additional allocation request forms, and quarterly meetings to fine tune the allocation of cost reimbursements to the 22 judicial districts. Using this system and actual expense averaging has allowed the district attorneys to come within 5% of the projected costs budget over the past four years.

Because we have less than one quarter of expenditure history, we are unable to accurately project the actual expenditures through June, 2008. Due to our history of expenses and the operation of our allocation system we believe that averaging actual expenditures in the past five fiscal years may be the best predictor of future expenses. Actual expenses have been as follows:

FY 02/03 = \$1,904,527
FY 03/04 = \$1,906,703
FY 04/05 = \$1,911,969
FY 05/06 = \$1,879,174
FY 06/07 = \$2,027,887

The average of these five years of expenditures is **\$1,926,052**, a modest increase of approximately 1/2% from our 07/08 request.

Fiscal Year 2008/2009 District Attorney's Mandated Costs funds requested:

\$1,926,052