

JOINT BUDGET COMMITTEE



SUPPLEMENTAL BUDGET REQUESTS FY 2020-21

DEPARTMENT OF PUBLIC SAFETY (Division of Criminal Justice)

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

PREPARED BY:
JUSTIN BRAKKE, JBC STAFF
JANUARY 22, 2021

JOINT BUDGET COMMITTEE STAFF
200 E. 14TH AVENUE, 3RD FLOOR • DENVER • COLORADO • 80203
TELEPHONE: (303) 866-2061 • TDD: (303) 866-3472
<https://leg.colorado.gov/agencies/joint-budget-committee>

CONTENTS

Division Overview	1
Summary: FY 2020-21 Appropriation and Recommendation	2
Prioritized Supplemental Requests.....	3
S07 Community Corrections caseload adjustment.....	3

DEPARTMENT OF PUBLIC SAFETY (DIVISION OF CRIMINAL JUSTICE)

DIVISION OVERVIEW

The Division of Criminal Justice (DCJ) contains the following offices.

- **Office of Administration:** provides oversight and support for the entire division.
- **Office for Victims Programs:** administers federally funded grant programs for crime victims and the State VALE (Victim Assistance and Law Enforcement) grant program. These grant programs help state and local agencies assist and support victims of crimes, including sexual assault victims and child abuse victims.
- **Office of Adult and Juvenile Justice Assistance:** administers (1) federally funded criminal and juvenile justice grant programs and (2) the state's juvenile diversion grant program.
- **Office of Community Corrections:** provides most of the funding for the state's community corrections programs and for the community corrections boards that provide local oversight and control of these programs. The Office also sets standards for facilities, audits for compliance, and provides technical assistance and training for boards and programs.
- **Office of Domestic Violence and Office of Sex Offender Management:** assists the Domestic Violence Offender Management Board and the Sex Offender Management Board in developing and implementing standards and policies for the evaluation, treatment, monitoring, and management of convicted adult domestic violence offenders and convicted adult and adjudicated juvenile sex offenders. Both boards maintain lists of approved treatment providers and help train providers.
- **Office of Research and Statistics:** collects and disseminates criminal justice information, analyzes justice policies and problems, evaluates criminal justice programs, and provides support to the Colorado Commission on Criminal and Juvenile Justice. The Office's reports include forecasts of adult and juvenile correctional and parole populations used by the Joint Budget Committee (Committee).
- **Office of Evidence Based Practices for Capacity (EPIC):** works with agencies around the state to implement and maintain evidence-based practices.

SUMMARY: FY 2020-21 APPROPRIATION AND RECOMMENDATION

DEPARTMENT OF PUBLIC SAFETY: RECOMMENDED CHANGES FOR FY 2020-21						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2020-21 APPROPRIATION						
HB 20-1360	\$505,823,820	\$153,040,145	\$235,729,989	\$47,135,710	\$69,917,976	1,904.5
Other Legislation	(1,587,952)	(1,021,162)	(251,236)	(315,554)	0	1.3
CURRENT FY 2020-21 APPROPRIATION:	\$504,235,868	\$152,018,983	\$235,478,753	\$46,820,156	\$69,917,976	1,905.8
RECOMMENDED CHANGES						
Current FY 2020-21 Appropriation	\$504,235,868	152,018,983	\$235,478,753	\$46,820,156	\$69,917,976	1,905.8
S01 Wildfire stimulus package	20,037,260	13,811,260	1,500,000	4,726,000	0	0.0
S02 State PPE stockpile	266,784	266,784	0	0	0	0.0
S03 Increase funding for protection at the capitol	520,380	520,380	0	0	0	0.0
S04 Refinance troopers with VIN inspection funds	0	0	0	0	0	0.0
S05 Departmental indirect cost recovery adjustment	0	0	1,500,921	(1,500,921)	0	0.0
S06 Technical spending authority adjustment	0	0	0	0	0	0.0
S07 Community corrections caseload adjustment	(10,439,478)	(10,439,478)	0	0	0	0.0
ES01 Increase funding for processing firearms transfers	1,035,509	0	1,035,509	0	0	0.0
NPS01 Annual vehicle lease adjustment	196,483	29,819	2,576	148,329	15,759	0.0
RECOMMENDED FY 2020-21 APPROPRIATION:	\$515,852,807	\$156,207,748	\$239,517,759	\$50,193,564	\$69,933,735	1,905.8
RECOMMENDED INCREASE/(DECREASE)	\$11,616,938	\$4,188,765	\$4,039,006	\$3,373,408	\$15,759	0.0
Percentage Change	2.3%	2.8%	1.7%	7.2%	0.0%	0.0%
FY 2020-21 EXECUTIVE REQUEST						
Request Above/(Below) Recommendation	\$55,702,206	\$23,839,987	\$32,562,219	(\$700,000)	\$0	0.0

Note: This document only covers the decision item highlighted above. All other requests for the Department of Public Safety are covered in a separate staff supplemental document.

REQUEST/RECOMMENDATION DESCRIPTIONS

S07 COMMUNITY CORRECTIONS CASELOAD ADJUSTMENT: The Department requests a decrease of \$10.4 million General Fund to account for caseload savings during the first half of the fiscal year. The request leaves some room for growth in caseload through the remainder of the fiscal year. It also leaves some funds available to cover \$17 per day subsistence payments for individuals who may have to isolate or quarantine themselves if they contract or are exposed to COVID-19. Staff recommends approval of the request.

PRIORITIZED SUPPLEMENTAL REQUESTS

S07 COMMUNITY CORRECTIONS CASELOAD ADJUSTMENT

	REQUEST	RECOMMENDATION
TOTAL	(\$10,439,478)	(\$10,439,478)
FTE	0.0	0.0
General Fund	(\$10,439,478)	(\$10,439,478)
Cash Funds	0	0
Reappropriated Funds	0	0
Federal Funds	0	0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? **YES**

[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.]

Explanation: JBC staff and the Department agree that this request is the result of data that was not available when the original appropriation was made.

DEPARTMENT REQUEST: The Department requests a decrease of \$10,439,478 General Fund to account for caseload savings during the first half of the fiscal year. The request leaves some room for growth in caseload through the remainder of the fiscal year. It also leaves some funds available to cover \$17 per day subsistence payments for individuals who may have to isolate or quarantine themselves if they contract or are exposed to COVID-19.

STAFF RECOMMENDATION: **Staff recommends approval of the request.** Staff requests permission to adjust the Long Bill footnote accordingly.

STAFF ANALYSIS: There are two components to the requested \$10.4 million reduction. The first is a \$2.5 million reduction to correct an error that JBC staff made when calculating the original appropriation. Staff incorrectly allocated General Fund for placements that are supported by reappropriated funds. The second is \$7.9 million in funds that were not allocated during the first half of the fiscal year due to reduced caseload.

If the reduction matched average daily placements for the year through November 30, 2020, the reduction would be almost \$18.0 million. The Department calculated its requested reduction allow for: (A) Up to \$4.4 million for increased caseload during the second half of the fiscal year, and (B) Up to \$3.5 million for subsistence payment coverage for individuals who may have to isolate themselves as a way to mitigate the spread of the coronavirus. Staff agrees with the Department's methodology and therefore recommends approval of the request. The remainder of this analysis briefly shows the calculations used to arrive at this reduction.

Over-allocation of General Fund for Intensive Residential Treatment (\$2,538,687)

During figure setting, JBC staff incorrectly allocated General Fund for Intensive Residential Treatment (IRT) beds that are supported by reappropriated funds from the Correctional Treatment Cash Fund.¹

¹ Section 18-19-103 (4)(a), C.R.S. Revenue sources include General Fund, Marijuana Tax Cash Fund, and surcharges paid by convicted drug offenders. General Fund and Marijuana Tax Cash Fund money is appropriated to this fund pursuant to 18-9-103 (3.5)(b), (3.5)(c) and 4(a), and 39-28.8-501(2)(b)(IV)(D), C.R.S.

Due to staff’s error, current Long Bill appropriations support up to 304 IRT beds, but there are only 229 IRT beds in the state. The Department requests a reduction of \$2,538,687 General Fund (or 75 IRT beds) to match appropriations with capacity and utilize reappropriated funds for their intended purpose. The table below shows the Department’s calculations.

Table 2: Intensive Residential Treatment Caseload

	General Fund Caseload Appropriation	Reappropriated Fund Caseload Appropriation	Total IRT Long Bill Appropriations	Total IRT Capacity	Difference
IRT Beds	224	80.16	304.16	229	75.16
IRT Dollars (#beds x \$92.54 x 365)	\$7,565,952	\$2,707,740	\$10,273,692	\$7,734,956	\$2,538,687

Unallocated Funds from July through December 2020 (\$7,900,792)

From July to November 2020, actual spending for community corrections placements (\$21.2 million) was well below the original target (\$27.7 million). Based on the average monthly savings in those months, the Department estimates an additional \$1.3 million in savings in December, leading to a reduction of \$7.9 million General Fund. The table below shows the Department’s calculations for its total requested reduction, including the correction for IRT beds discussed above.

Table 3: Calculation for Total Return

Community Placement Appropriation (GF + RF)	Original Target July 2020 to Nov 2020	Actuals July 2020 to Nov 2020	Savings (Target - Actuals)	IRT Caseload Savings (see Table 2)	December Est. Savings (Average Monthly Savings)	Total Reduction
			[A]	[B]	[C]	[A + B + C]
\$68,771,713	\$27,739,031	\$21,155,038	\$6,583,993	\$2,538,687	\$1,316,799	10,439,478

Remaining Funds for Caseload Growth and Subsistence Coverage

The following table shows appropriations needed to match the average daily placements from July through November 2020. After factoring out 75 IRT beds supported by reappropriated funds, General Fund appropriations could be reduced by almost \$18.0 million.

FY 2020-21 COMMUNITY CORRECTIONS GENERAL FUND APPROPRIATION (IF MATCHED TO NOV. 30 YTD AVERAGE DAILY PLACEMENTS)					
Placement Type	Rates	Diversion	Transition	Parole	Appropriation
Standard residential	\$47.96	1,118	759	76	\$34,188,046
Cognitive behavioral treatment pilot	94.07	4	14	0	618,040
Intensive Residential Treatment	92.54	54	31	24	3,681,704
Inpatient Therapeutic Community	80.14	44	26	3	2,135,330
Residential Dual Diagnosis Treatment	81.81	70	19	7	2,866,622
Sex Offender	81.81	43	21	9	2,179,827
Standard Non-residential	6.49	856	6	6	2,056,162
Outpatient Therapeutic Community	23.28	25	18	0	365,380
Total		2,214	894	125	\$48,091,112
				Original Appropriation	\$66,063,973
				Increase/(Decrease)	(\$17,972,861)

There is about a \$7.6 million difference between the above decrease and the Department’s requested decrease. One reason for the difference is expected caseload growth in transition placements from the Department of Corrections (DOC). As of December 2020, there were 508 individuals waiting to be transferred from DOC to community corrections. Until the week December 11, 2020, the DOC was not allowing individuals housed in “Phase III” prisons to move to a community corrections facility.² This supplemental request retains enough funding to allow all 508 individuals to move to community corrections in the current fiscal year.

The Department’s request also retains some funds to cover subsistence payments for individuals in community corrections who may have to isolate or quarantine themselves to mitigate the spread of the coronavirus. The purpose of retaining funds for this purpose is to encourage individuals in community corrections to get tested and be honest about their health status; individuals may be reluctant to get tested if they have to isolate for two weeks and miss work as a result, thereby accruing debt with their provider because they cannot pay the subsistence fee. The Department’s request presents multiple scenarios to provide this coverage, shown in the table below.

Table 5: Cost of Subsistence

Number of Individuals	Number of Days in a Month	Number of Months Needed	Subsistence Rate	Totals
1,500	14	2	\$17	\$714, 000
2,101	14	3	\$17	\$1,500,114
2,101	14	7	\$17	\$3,500,266

The Department’s request, and staff’s recommendation, errs toward the higher end of the range seen in the table. Per the Department, it is very difficult to track and forecast the actual need for this funding within community corrections. One reason is that there are no onsite medical staff as there are in the DOC or other long-term congregate care facilities. Most individuals in community corrections have at least some access to the community, including health care, and have a right to the privacy of their health information. There is also significant variation in local level concerns and access to resources, including testing. This variation inhibits the amount and quality of information that is provided

² Phase III is the highest and most restrictive of the COVID-19 response phases designated by DOC. For more, see DOC’s [COVID-19 dashboard](#).

(voluntarily) to DCJ. DCJ supplied data that shows 345 confirmed cases for offenders in residential community corrections from March 20 to December 15, 2020. However, given limitations in the data, it is difficult to project the likely number of cases for the rest of the year.

Staff's recommendation takes a conservative approach to this issue, as well as caseload. Any funds not used for subsistence coverage may be used for caseload if it increases faster than expected. However, the Committee may choose to increase the size of the reduction and retain less (or no funding) for subsistence coverage.

FOOTNOTE ADJUSTMENT

If the Committee accepts staff's recommendation, staff also recommends making the following changes to the corresponding Long Bill footnote. If the Committee does not accept staff's recommendation and makes a different decision, staff requests permission to adjust the footnote accordingly.

¹¹⁰ Department of Public Safety, Division of Criminal Justice, Community Corrections, Community Corrections Placements -- This appropriation assumes the daily rates and average daily caseloads listed in the following table and is based on the following assumptions: the base rate for standard nonresidential services is a weighted average of the rates for four different levels of service; community corrections providers will collect client fees of up to \$17 per day for residential placements and up to \$3 per day for nonresidential placements; client fees may be partially or fully waived in specialized residential and non-residential programs with the approval of the Division of Criminal Justice; pursuant to its authority to administer and execute contracts under Section 17-27-108, C.R.S., the Division of Criminal Justice will ensure that every reasonable effort is made to achieve such collections; and outpatient therapeutic community programs: (1) will receive the standard non-residential base rate for all offenders in their programs, including Department of Corrections clients; (2) will receive the outpatient therapeutic community base rate for all clients in program phases other than the post graduate phase, including Department of Corrections clients; (3) will not receive the outpatient therapeutic community base rate or the non-residential base rate for probation clients; (4) will collect client fees of up to \$3 per day; and (5) will not receive payment from the Department of Corrections for services covered by the standard non-residential base rate or the outpatient therapeutic community base rate. Of this appropriation, \$1,545,409 is from the savings produced by H.B. 10-1360 pursuant to Section 17-2-103 (11.5), C.R.S., for parolee Intensive Residential Treatment beds and for parolee sex offender beds and 48 Intensive Residential Treatment beds are from savings produced by S.B. 15-124.

Placement Type	Rates	Diversion	Transition	Parole	Appropriation
Standard residential	\$47.96	1,470 1,000	1,110 1,000	94 76	\$44,253,271 \$36,346,955
Cognitive behavioral treatment pilot program	\$94.07	24 161	24	0	\$1,648,103 \$7,565,952
Intensive Residential Treatment	\$92.54	86	28	35	\$5,032,788
Inpatient Therapeutic Community	\$80.14	68	37	3	\$3,159,139
Residential Dual Diagnosis Treatment	\$81.81	82	25	13	\$3,583,470
Sex Offender	\$81.81	75	28	13	\$3,464,021
Standard Non-residential	\$6.49	774	6	6	\$1,863,137
Outpatient Therapeutic Community	\$23.28	39	23	0	\$526,881
Total		2,547 2,148	1,281 1,171	164 146	\$66,063,973 \$55,624,495

*JBC Staff Supplemental Recommendations - FY 2020-21
Staff Working Document - Does Not Represent Committee Decision*

Appendix A: Numbers Pages

	FY 2019-20 Actual	FY 2020-21 Appropriation	FY 2020-21 Requested Change	FY 2020-21 Rec'd Change	FY 2020-21 Total w/Rec'd Change
--	----------------------	-----------------------------	--------------------------------	----------------------------	------------------------------------

DEPARTMENT OF PUBLIC SAFETY
Stan Hilkey, Executive Director

S07 Community corrections caseload adjustment

(4) DIVISION OF CRIMINAL JUSTICE

(D) Community Corrections

Community Corrections Placements	<u>68,820,643</u>	<u>66,063,973</u>	<u>(10,439,478)</u>	<u>(10,439,478)</u>	<u>55,624,495</u>
General Fund	68,820,643	66,063,973	(10,439,478)	(10,439,478)	55,624,495
Cash Funds	0	0	0	0	0
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0

Total for S07 Community corrections caseload adjustment	68,820,643	66,063,973	(10,439,478)	(10,439,478)	55,624,495
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
General Fund	68,820,643	66,063,973	(10,439,478)	(10,439,478)	55,624,495
Cash Funds	0	0	0	0	0
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0

Totals Excluding Pending Items					
PUBLIC SAFETY					
TOTALS for ALL Departmental line items	665,571,577	504,235,868	(10,439,478)	(10,439,478)	493,796,390
<i>FTE</i>	<u>1,904.4</u>	<u>1,905.8</u>	<u>0.0</u>	<u>0.0</u>	<u>1,905.8</u>
General Fund	163,849,468	152,018,983	(10,439,478)	(10,439,478)	141,579,505
Cash Funds	324,734,283	235,478,753	0	0	235,478,753
Reappropriated Funds	47,554,751	46,820,156	0	0	46,820,156
Federal Funds	129,433,076	69,917,976	0	0	69,917,976