

# JOINT BUDGET COMMITTEE



## SUPPLEMENTAL BUDGET REQUESTS FY 2023-24

### DEPARTMENT OF HUMAN SERVICES (Office of Civil and Forensic Mental Health, Behavioral Health Administration, and Behavioral Health Ombudsman)

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

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# DEPARTMENT OF HUMAN SERVICES

## DEPARTMENT OVERVIEW

The Department of Human Services is responsible for the administration and supervision of most non-medical public assistance and welfare activities of the State, including financial and nutritional assistance programs, child protection services, behavioral health services, and programs for older Coloradans. These services are provided in collaboration with county governments, not-for-profit community-based providers, and other agencies. This document focuses only on the Behavioral Health Divisions under the Department, including the Behavioral Health Administration and the Office of Civil and Forensic Mental Health.

### BEHAVIORAL HEALTH ADMINISTRATION

The Behavioral Health Administration (BHA) was established July 1, 2022, and is responsible for the oversight of the state's public behavioral health system. Funding in this section supports the administration of the BHA as well as community-based prevention, treatment, and recovery services for people with mental health and substance use disorders. This includes services for people who are not eligible for Medicaid, as well as services for Medicaid-eligible clients that are not covered by the Medicaid program in the Department of Health Care Policy and Financing. Prior to FY 2022-23, these functions were housed within the Office of Behavioral Health (OBH) in the Department of Human Services. House Bill 21-1097 (Establish Behavioral Health Administration) and H.B. 22-1278 (Behavioral Health Administration) transferred these functions to the newly created BHA. The legislation also added new and expanded duties to the BHA beyond existing state functions. The BHA reports that 14 state agencies and the Judicial Branch currently have programs related to behavioral health services.

### OFFICE OF CIVIL AND FORENSIC MENTAL HEALTH

Prior to the implementation of the BHA, behavioral health programs in the Department were housed under the Office of Behavioral Health (OBH). When community-based programs transitioned out of OBH with the creation of the BHA, the Department internally renamed OBH to the Office of Civil and Forensic Mental Health (OCFMH). OCFMH is responsible for the daily operation of two state mental health hospitals in Pueblo and the Fort Logan campus in Denver, as well as behavioral health services for clients involved in the criminal justice system outside the state hospitals.

The state hospitals serve both forensic and civil clients. Forensic clients include patients with pending criminal charges who require inpatient competency evaluations and competency restoration services to stand trial, or individuals who have been found not guilty by reason of insanity and require hospitalization. Civil clients may be referred for admission by community mental health centers, the Division of Youth Services, private hospitals, or may have originated as forensic clients. Behavioral health services outside the state hospitals include competency services through jail-based programs, private hospitals, out-patient services with community mental health centers, and work with the courts to place clients in the most appropriate services as clients move through the process.

# SUMMARY: FY 2023-24 APPROPRIATION AND RECOMMENDATION

| DEPARTMENT OF HUMAN SERVICES: RECOMMENDED CHANGES FOR FY 2023-24 |                        |                        |                      |                      |                      |                |
|--|------------------------|------------------------|----------------------|----------------------|----------------------|----------------|
|  | TOTAL FUNDS            | GENERAL FUND           | CASH FUNDS           | REAPPROPRIATED FUNDS | FEDERAL FUNDS        | FTE            |
| FY 2023-24 APPROPRIATION   |                        |                        |                      |                      |                      |                |
| S.B. 23-214 (Long Bill)  | \$2,349,420,362        | \$998,710,391          | \$557,393,208        | \$219,355,902        | \$573,960,861        | 5,320.3        |
| Other legislation  | 23,870,592             | 15,726,450             | 4,698,436            | 224,702              | 3,221,004            | 25.0           |
| <b>CURRENT FY 2023-24 APPROPRIATION:</b>                         | <b>\$2,373,290,954</b> | <b>\$1,014,436,841</b> | <b>\$562,091,644</b> | <b>\$219,580,604</b> | <b>\$577,181,865</b> | <b>5,345.3</b> |
| RECOMMENDED CHANGES  |                        |                        |                      |                      |                      |                |
| Current FY 2023-24 Appropriation                                 | \$2,373,290,954        | 1,014,436,841          | \$562,091,644        | \$219,580,604        | \$577,181,865        | 5,345.3        |
| S1 Forensic bed increase   | 57,967,379             | 57,967,379             | 0                    | 0                    | 0                    | 0.0            |
| S2 Human resources support                                       | 0                      | 0                      | 0                    | 0                    | 0                    | 0.0            |
| S3 TANF-PEAF spending  | 1,509,417              | 0                      | 0                    | 0                    | 1,509,417            | 0.0            |
| S4 Legal representation cash fund                                | 501,707                | 0                      | 501,707              | 0                    | 0                    | 0.0            |
| S5 Excess Title IV-E cash fund                                   | 288,175                | 0                      | 288,175              | 0                    | 0                    | 0.0            |
| BHOCO S1 Ombudsman staffing                                      | 44,945                 | 44,945                 | 0                    | 0                    | 0                    | 0.5            |
| Staff-initiated CCDHHDB increase                                 | 500,000                | 500,000                | 0                    | 0                    | 0                    | 0.0            |
| Statewide common policies  | 3,171,272              | 2,356,777              | 55,156               | 519,900              | 239,439              | 0.0            |
| Non-prioritized requests   | 362,254                | 0                      | 0                    | 362,254              | 0                    | 0.0            |
| <b>RECOMMENDED FY 2023-24 APPROPRIATION:</b>                     | <b>\$2,437,636,103</b> | <b>\$1,075,305,942</b> | <b>\$562,936,682</b> | <b>\$220,462,758</b> | <b>\$578,930,721</b> | <b>5,345.8</b> |
| <b>RECOMMENDED INCREASE/(DECREASE)</b>                           | <b>\$64,345,149</b>    | <b>\$60,869,101</b>    | <b>\$845,038</b>     | <b>\$882,154</b>     | <b>\$1,748,856</b>   | <b>0.5</b>     |
| Percentage Change  | 2.7%                   | 6.0%                   | 0.2%                 | 0.4%                 | 0.3%                 | 0.0%           |
| <b>FY 2023-24 EXECUTIVE REQUEST</b>                              | <b>\$2,437,781,154</b> | <b>\$1,075,176,593</b> | <b>\$562,936,682</b> | <b>\$220,737,158</b> | <b>\$578,930,721</b> | <b>5,351.8</b> |
| Request Above/(Below) Recommendation                             | \$145,051              | (\$129,349)            | \$0                  | \$274,400            | \$0                  | 6.0            |

The table above provides the totals for the entire Department. Only the highlighted requests are discussed in this document. Amounts in the table may therefore not reflect the final staff recommendation for other requests.

## REQUEST/RECOMMENDATION DESCRIPTIONS

**DHS S1 FORENSIC BED INCREASE:** The request includes an increase of \$58.0 million General Fund in FY 2023-24 for inpatient competency restoration capacity at the state hospitals and private hospital contracts. The Department has submitted a related request for \$75.2 million General Fund and 3.4 FTE in FY 2024-25 that the Committee will consider during figure setting. Staff recommends approval of the request.

**BHOCO S1 OMBUDSMAN STAFFING:** The request includes an increase of \$45,088 General Fund and 0.5 FTE in FY 2023-24 for the Behavioral Health Ombudsman. The Ombudsman has submitted a related request for \$94,418 General Fund and 1.0 FTE in FY 2024-25 that the Committee will consider during figure setting. Staff recommends an increase of \$44,945 General Fund and 0.5 FTE. The recommendation includes all components of the request except for amounts for paid family leave, which were not appropriated in the FY 2023-24 Long Bill.

**STATEWIDE S1 ARPA ROLL-FORWARD:** The staff recommendation for this request is pending Committee action on common policy supplementals. Staff asks permission to include the corresponding appropriations in the Department's supplemental bill when the Committee acts on common policy supplementals. If staff believes there is reason to deviate from the common policy, staff will appear before the Committee at a later date to present the relevant analysis. *ARPA-related supplemental requests will be discussed in more detail at a later date and may be included in separate legislation.*

## PRIORITIZED SUPPLEMENTAL REQUESTS

### DHS S1 FORENSIC BED INCREASE

|                      | REQUEST             | RECOMMENDATION      |
|----------------------|---------------------|---------------------|
| <b>TOTAL</b>         | <b>\$57,967,379</b> | <b>\$57,967,379</b> |
| FTE                  | 0.0                 | 0.0                 |
| General Fund         | <b>57,967,379</b>   | <b>57,967,379</b>   |
| 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 new data that was not available to the Department when the original appropriation was made.

**DEPARTMENT REQUEST:** The Department requests an increase of \$58.0 million General Fund in FY 2023-24 for forensic bed capacity. The Department has requested an increase of \$75.2 million General Fund in FY 2024-25 that the Committee will consider during Figure Setting. Approval of the FY 2023-24 request will not necessitate that the Committee approve the FY 2024-25 request. The request impact by line item is detailed in the table below.

| TABLE 1: REQUEST IMPACT BY LINE ITEM |                     |                     |            |                      |               |            |
|--------------------------------------|---------------------|---------------------|------------|----------------------|---------------|------------|
|                                      | TOTAL FUNDS         | GENERAL FUND        | CASH FUNDS | REAPPROPRIATED FUNDS | FEDERAL FUNDS | FTE        |
| Personal Services, Fort Logan        | \$10,867,940        | \$10,867,940        | \$0        | \$0                  | \$0           | 0.0        |
| Personal Services, Pueblo            | 35,231,279          | 35,231,279          | 0          | 0                    | 0             | 0.0        |
| Purchased Psychiatric Bed Capacity   | 11,868,160          | 11,868,160          | 0          | 0                    | 0             | 0.0        |
|                                      | <b>\$57,967,379</b> | <b>\$57,967,379</b> | <b>\$0</b> | <b>\$0</b>           | <b>\$0</b>    | <b>0.0</b> |

**STAFF RECOMMENDATION:** Staff recommends approval of the request.

### BACKGROUND

The Department operates the Colorado Mental Health Hospitals in Pueblo and Fort Logan (CMHHIP and CMHHIFL). The hospitals serve civil and forensic patients. All patients at Pueblo originate as forensic patients, while Fort Logan primarily serves civil patients.

**Civil** patients are voluntarily or involuntarily committed to the Department's care without a criminal charge. The Department must maintain 94 civil beds at Fort Logan as part of a consent decree described later in this section. It is staff's understanding that a majority of voluntary civil patients originated as involuntary, but became voluntary during their stay. The Department estimates that 90.0 percent of civil patients at Fort Logan in December 2023 were involuntary. Involuntary commitments require a psychiatric evaluation and court certification for short- or long-term treatment (Section 27-65-106 (6)(a), C.R.S. and Section 27-65-109 (1), C.R.S.).

**Forensic** patients include individuals with pending criminal charges who have been court ordered for inpatient competency evaluations or competency restoration services, and patients who have been found not guilty by reason of insanity. A patient may originate as forensic but remain in the Department's care as a civil patient after criminal proceedings resolve.

The Department is responsible for evaluating the competency of individuals charged with a crime and providing competency restoration services when an individual is determined to be incompetent to proceed to trial. The state mental health hospitals provide these services unless the Court authorizes the provision of services in another setting such as in a jail or in the community.

### **COMPETENCY EVALUATION**

In legal proceedings, competency refers to an individual's ability to aid and assist in their own trial. Competency may be called into question at any point by the defense, prosecution, or court in a criminal case, but is most often raised by the defense in pre-trial hearings.<sup>1</sup> *Dusky v. United States* established a defendant's right to competency evaluation prior to a case moving to trial. When competency is raised, the court orders a forensic evaluation and legal proceedings are suspended until the evaluation is complete. The question of competency can therefore interrupt the right to a speedy trial.

Competency evaluations can be court ordered to be completed in an inpatient state hospital, jail, or community-based setting. Evaluations must be completed by a licensed psychiatrist or psychologist trained in forensic competency (Section 16-8.5-101 (3), C.R.S.). Evaluations consist of a review of case discovery, a brief client history, and a competency specific mental exam. The exam pertains specifically to the individual's factual knowledge of legal proceedings, and ability to make reasoned decisions to assist in their own defense rather than a comprehensive mental health exam.

A defendant is determined to be "incompetent to proceed" if they have a mental disability or developmental disability that: (1) prevents them from having sufficient present ability to consult with the defense attorney with a reasonable degree of rational understanding in order to assist in the defense; or (2) prevents them from having a rational and factual understanding of the criminal proceedings (Section 16-8.5-101 (12), C.R.S.). The standard for competency is lower than the standard imposed for a sanity evaluation, in part because it only measures the defendant's "present" ability rather than the defendant's mental status at the time of the crime. Competency can change at any time based on factors such as whether the defendant is taking prescribed medication consistently.

The evaluator must make a report to the court once the evaluation is complete. The judge makes the final decision of whether the defendant is competent to proceed based on the evaluators report. Not all competency evaluation orders result in the completion of a competency report, as the competency examination order may be withdrawn for a variety of reasons (e.g., the charges were dropped or new orders were issued to change the evaluation location from inpatient and outpatient). The court may order additional evaluations, but second evaluations are not performed or paid for by the Department (Section 16-8.5-101 (18), C.R.S.).

### **COMPETENCY RESTORATION SERVICES**

If a defendant is determined competent to proceed, court proceedings may continue. If a defendant is determined to be incompetent to proceed, the court may pursue services to restore competency

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<sup>1</sup> Office of Behavioral Health. [https://leg.colorado.gov/sites/default/files/images/understanding\\_competency\\_one-pager.pdf](https://leg.colorado.gov/sites/default/files/images/understanding_competency_one-pager.pdf)

before proceeding with the trial. Restoration services focus on barriers to competency identified in the evaluation, including education or access to medication. Services may vary based on location, type of crime committed, need of the patient, and the judge. **Restoration services may or may not include mental health treatment, and do not include long-term comprehensive care.**

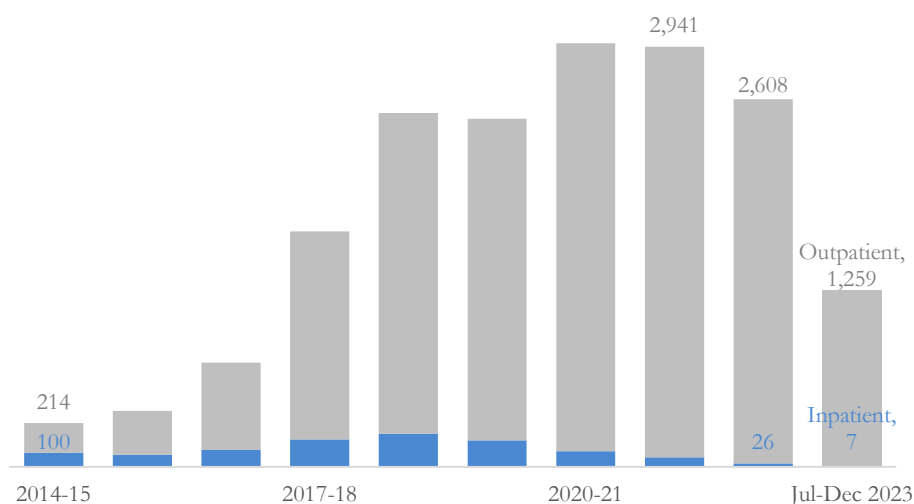
Once the defendant's treatment team determines that competency has been restored, the Department conducts a competency evaluation. If the Department evaluator agrees, the Department prepares a report to the court and the court determines whether the defendant is restored to competency. When the Department recommends to the court that the defendant is restored to competency, the defendant may be returned to custody of the county jail or to previous bond status and the case proceeds.

An individual may not be confined for purposes of receiving competency restoration treatment for a period in excess of the maximum term of confinement that could be imposed for the offenses with which the defendant is charged, less any earned time (Section 16-8.5-116 (1), C.R.S). The court is required to review the case at least every 91 days with regard to the probability that the defendant will eventually be restored to competency and the need for continued confinement. When the duration of restoration services exceeds the maximum term of confinement, the defendant will be released from treatment without competency being restored. The Department estimates that 41.0 percent of inpatient and 50.0 percent of outpatient individuals ordered to receive services are restored to competency.

### CASELOAD

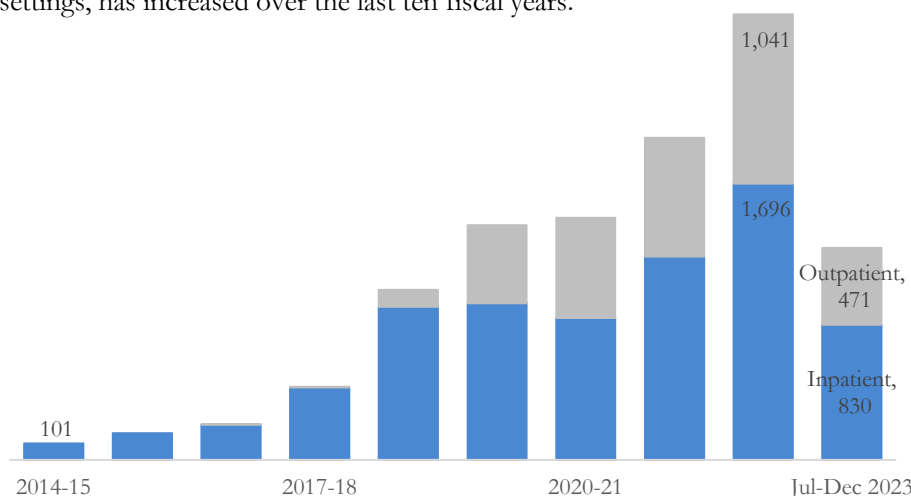
Caseload for competency evaluations and restoration services is driven by court orders that are outside of the Department's control. While caseload has increased dramatically in recent years, the most recent data provided by the Department reflects a slight decreasing trend. Inpatient services refer to evaluations and restoration services provided at the state or private hospitals. Outpatient refers to services conducted at a jail, prison, youth detention center, or in the community. Annual court orders for competency evaluations and restoration services are provided in the charts below. Only six months of data is provided for FY 2023-24, but reported numbers for both evaluations and restoration services are slightly lower than mid-year data from FY 2022-23.

Court ordered competency evaluations peaked in FY 2020-21.



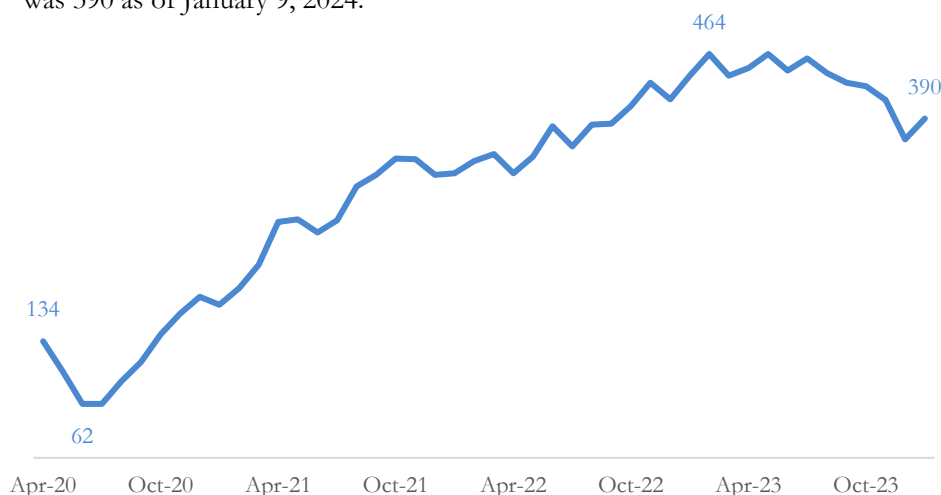


Court ordered restoration services, and the proportion addressed in outpatient settings, has increased over the last ten fiscal years.



The waitlist for competency restoration services varies on a daily basis. The Department reports that 391 individuals are on the waitlist as of January 9, 2024. The average time on the waitlist is 105-115 days, but the range of time spent on the waitlist varied from 50-387 days in November of 2023. The Department provided additional data as part of the Hearing responses, provided in Appendix B.

The waitlist for restoration services peaked at 464 patients in February, 2023, and was 390 as of January 9, 2024.



## CONSENT DECREE

The Department reached an agreement with plaintiffs in a federal lawsuit concerning the length of time that pre-trial detainees wait for court-ordered competency services in March 2019. The parties filed the agreement in federal court in the form of a consent decree. The consent decree is legally binding and judicially enforceable through December 1, 2027. However, the consent decree would be terminated if the Department sustained a two-year period of compliance. Until the consent decree is terminated, compliance is overseen by the Court and a Special Master (Groundswell Services, Inc., and its team of forensic mental health experts).

The consent decree establishes a set timeframe for competency evaluation and restoration services. Admission for inpatient evaluation must occur within 14 days, and evaluations conducted in a county jail are required within 21 days. Inpatient restoration services must be offered within 7 days to patients who have or appear to have a mental health disorder that results in the individual being a harm to themselves or others, or delaying hospitalization would cause harm to themselves or others. These patients are statutorily referred to as “Tier 1” patients, while other patients are “Tier 2” (Section 16-8.5-102 (19), C.R.S.). Restoration services for Tier 2 patients must be offered within 28 days. The average wait time for Tier 1 patients is 115 days, and 105 days for Tier 2 patients.

The Department must pay fines for each day of violation of these timeframes as part of the consent decree, varying from \$100 to \$500 per day depending on the case conditions. However, fines are capped to an annual amount adjusted for inflation each year. Fines were capped to \$12.0 million General Fund in FY 2023-24, but the Department estimates that fines would have totaled \$65.2 million in FY 2022-23 in absence of the cap. The request emphasizes that funding increases could reduce the waitlist and end the consent decree early. However, the Department is also concerned that without significant investment, litigation could be reopened and the Special Master could lift the annual capped fine.

Fines are awarded by the Colorado Fines Committee through a grant process to support behavioral health and competency services. Reporting indicates that a total of \$41.3 million in fines has been received by the Fines Committee. Of that amount, \$31.4 million has been allocated and \$16.2 million expended as of September 30, 2023. Fines have supported a range of programs, including competency dockets, housing, Sheriff's Offices, assisted living programs, community mental health centers, and Denver Health.<sup>2</sup> Awards have ranged from \$17,850 to \$3.5 million.

## HISTORIC APPROPRIATIONS

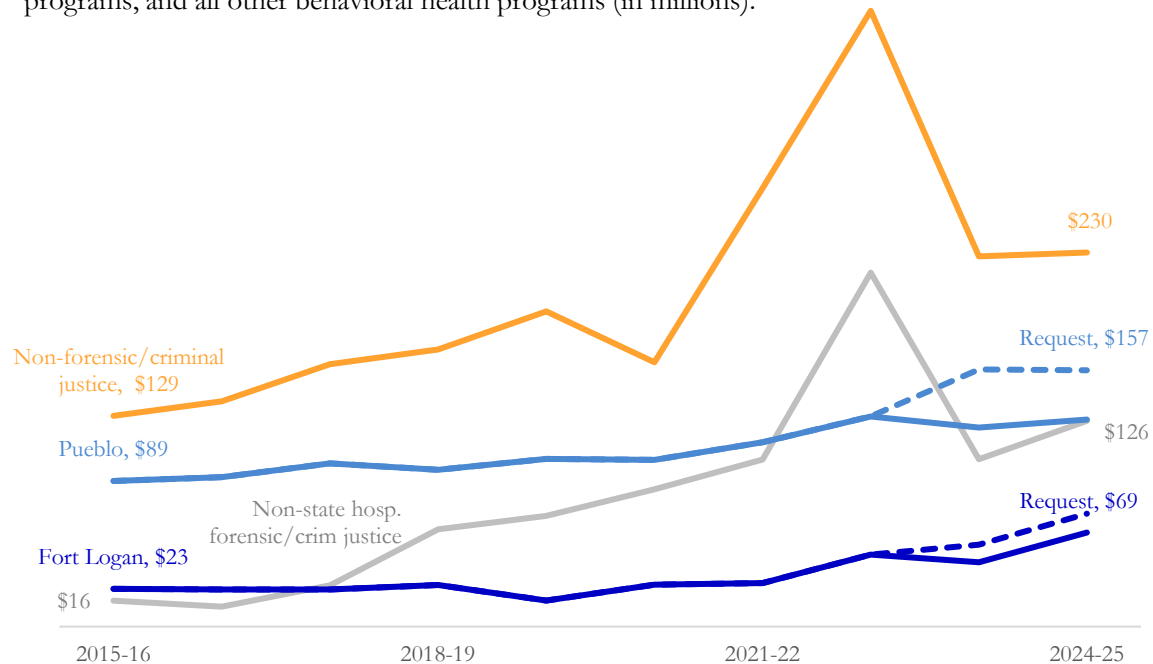
Determining the amount the General Assembly has appropriated for competency services in recent years is complicated by multiple factors. First, the organizational structure of the behavioral health offices and scope of service within the Department has shifted multiple times in recent years. The calculation would also require consideration of community-based services, such as substance use treatment, that are often involved in but not exclusive to competency restoration services. Funding for the state hospitals also supports civil beds that are not distinguished from forensic beds in the Long Bill. There are also line items that support community based services for people involved in the criminal justice system, but not necessarily competency. The following charts and tables aim to capture recent legislative and budget actions related to competency. Amounts between tables and charts may not align due to differing levels of detail.

The chart below provides historic appropriations for behavioral health resources in the Department. For the purposes of this presentation, staff categorized historic appropriations into four categories: the state hospitals and Pueblo and Fort Logan, forensic and criminal justice behavioral health programs outside of the state hospitals, and programs that are not specific to forensic and criminal justice clients. Non-forensic and criminal justice programs include funding for substance use treatment and other community-based programs that often overlap with outpatient competency treatment. Appropriations for the state hospitals includes funding that may support civil clients. Amounts reflect total funds, including ARPA funds, and appropriations made to the Behavioral Health Administration.

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<sup>2</sup> [Fines Committee Awards, 2023.](#)

Recent appropriations for the state hospitals, non-state hospital forensic and criminal justice programs, and all other behavioral health programs (in millions).



The table below provides a summary of recent appropriations to OCFMH. The purpose of the table is to provide high-summary level total appropriations by category. The calculations show that the General Assembly appropriated \$219.6 million total funds to OCFMH as part of the FY 2023-24 Long Bill, which was \$2.4 million less than was requested by the Executive Branch. However, an additional \$2.5 million was appropriated through other legislation. The difference between the request and Committee action is primarily attributed to staff initiated technical adjustments to the community provider rate and FTE requests.

TABLE 2: OFFICE OF CIVIL AND FORENSIC MENTAL HEALTH RECENT TOTAL APPROPRIATIONS

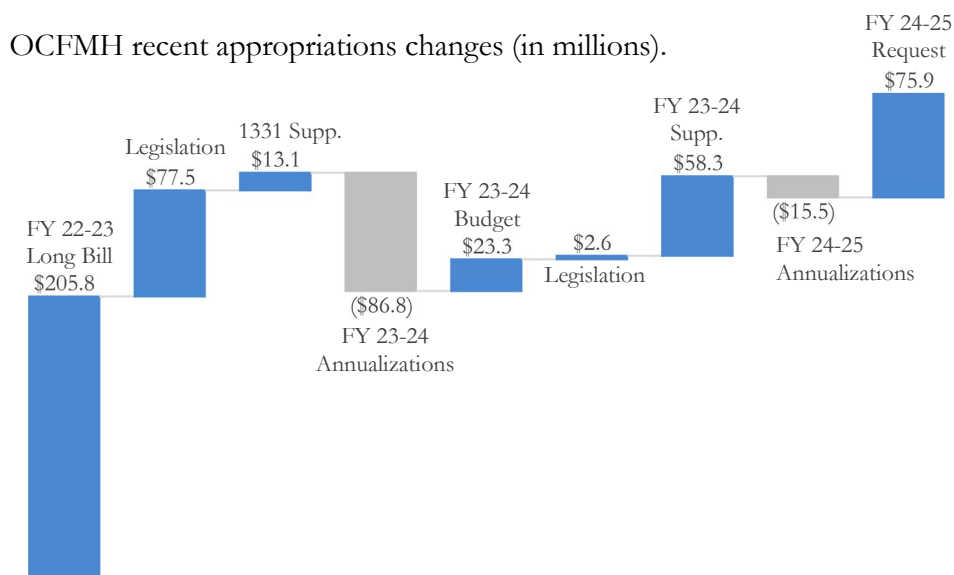
|                                       | TOTAL FUNDS          | GENERAL FUND          | CASH FUNDS             | REAPPROPRIATED FUNDS | FEDERAL FUNDS      | FTE            |
|---------------------------------------|----------------------|-----------------------|------------------------|----------------------|--------------------|----------------|
| FY 2022-23 Appropriation              | \$283,020,176        | \$185,754,402         | \$84,436,018           | \$12,829,756         | \$0                | 1,495.1        |
| FY 2022-23 1331                       | 13,067,628           | 13,067,628            | 0                      | 0                    | 0                  | 0.0            |
| <b>FY 2022-23 Total</b>               | <b>\$296,087,804</b> | <b>198,822,030</b>    | <b>\$84,436,018</b>    | <b>\$12,829,756</b>  | <b>\$0</b>         | <b>1,495.1</b> |
| FY 2023-24 Request                    | \$221,957,340        | \$140,072,467         | \$68,439,374           | \$13,445,499         | \$0                | 1,528.4        |
| FY 2023-24 Long Bill                  | 219,583,924          | 67,658,275            | 138,628,995            | 13,296,654           | 0                  | 1,527.9        |
| <i>Difference</i>                     | <i>(\$2,373,416)</i> | <i>(\$72,414,192)</i> | <i>\$70,189,621</i>    | <i>(\$148,845)</i>   | <i>\$0</i>         | <i>(0.5)</i>   |
| FY 2023-24 Other Legislation          | \$2,550,400          | \$2,410,400           | \$140,000              | \$0                  | \$0                | 0.0            |
| <b>FY 2023-24 Total Appropriation</b> | <b>222,134,324</b>   | <b>70,068,675</b>     | <b>138,768,995</b>     | <b>13,296,654</b>    | <b>0</b>           | <b>1,527.9</b> |
| FY 2023-24 Supplemental Request       | \$280,483,099        | \$128,036,054         | \$138,779,673          | \$13,667,372         | \$0                | 1,527.9        |
| <i>Increase over current total</i>    | <i>\$58,348,775</i>  | <i>\$57,967,379</i>   | <i>\$10,678</i>        | <i>\$370,718</i>     | <i>\$0</i>         | <i>0.0</i>     |
| FY 2024-25 Request                    | \$341,309,808        | \$311,694,626         | \$8,676,577            | \$13,783,027         | \$7,155,578        | 1,614.9        |
| <i>Increase over supplemental</i>     | <i>\$60,826,709</i>  | <i>\$183,658,572</i>  | <i>(\$130,103,096)</i> | <i>\$115,655</i>     | <i>\$7,155,578</i> | <i>87.0</i>    |

The table below provides a more detailed accounting of prioritized decision items, legislative action, and consent decree fines since FY 2020-21. The table may capture targeted salary increases, but does not capture common policy compensation changes decided on outside of the OCFMH budget. The amounts in the table are not additive year to year as annual base adjustments (annualizations) occur each year to account for the ongoing impact of a budget action or legislation rather. The table also reflects consent decree fines for informational purposes even though the amount included in the Long Bill for fines is typically not included as a prioritized request.

| TABLE 3: RECENT COMPETENCY BUDGET ACTIONS AND LEGISLATION |                     |                     |                     |                      |               |
|---|---------------------|---------------------|---------------------|----------------------|---------------|
|   | TOTAL FUNDS         | GENERAL FUND        | CASH FUNDS          | REAPPROPRIATED FUNDS | FTE           |
| <i>FY 2020-21</i>   |                     |                     |                     |                      |               |
| Contract physician salary adjustment                      | \$1,127,667         | \$1,127,667         | \$0                 | \$0                  | 0.0           |
| Meal true-up  | 147,615             | 0                   | 0                   | 147,615              | 0.0           |
| Forensic community-based services                         | 89,191              | 89,191              | 0                   | 0                    | 0.0           |
| Provider rate decrease                                    | (249,701)           | (249,701)           | 0                   | 0                    | 0.0           |
| Consent decree fines                                      | 6,000,000           | 6,000,000           | 0                   | 0                    | 0.0           |
| <i>Budget Action Total</i>                                | <i>\$7,114,772</i>  | <i>\$6,967,157</i>  | <i>\$0</i>          | <i>\$147,615</i>     | <i>0.0</i>    |
| <i>FY 2021-22</i>   |                     |                     |                     |                      |               |
| Community provider rate                                   | \$837,523           | \$837,523           | \$0                 | \$0                  | 0.0           |
| Restore wraparound services                               | 442,449             | 142,449             | 0                   | 300,000              | 0.0           |
| Meal true-up  | 147,615             | 0                   | 0                   | 147,615              | 0.0           |
| Family First Act  | 103,808             | 103,808             | 0                   | 0                    | 0.9           |
| Pueblo restructure  | (1,230,990)         | (1,230,990)         | 0                   | 0                    | (14.0)        |
| Consent decree fines                                      | 6,000,000           | 6,000,000           | 0                   | 0                    | 0.0           |
| <i>Budget Action Total</i>                                | <i>\$6,300,405</i>  | <i>\$5,852,790</i>  | <i>\$0</i>          | <i>\$447,615</i>     | <i>(13.1)</i> |
| HB 21-1021 Peer support                                   | \$29,054            | \$26,654            | \$2,400             | 0                    | 0.3           |
| HB 21-1276 Substance use prevention                       | 82,908              | 0                   | 82,908              | 0                    | 0.8           |
| <i>Legislation Total</i>                                  | <i>111,962</i>      | <i>\$26,654</i>     | <i>\$85,308</i>     | <i>0</i>             | <i>1.1</i>    |
| <i>FY 2022-23</i>   |                     |                     |                     |                      |               |
| Fort Logan operating budget                               | \$9,596,004         | \$9,596,004         | \$0                 | \$0                  | 91.3          |
| Community provider rate                                   | 830,829             | 830,829             | 0                   | 0                    | 0.0           |
| Food and housekeeping compensation                        | 593,760             | 479,852             | 25,402              | 88,506               | 0.0           |
| Consent decree fines                                      | 12,000,000          | 12,000,000          | 0                   | 0                    | 0.0           |
| Pueblo staffing 1331                                      | 13,067,628          | 13,067,628          | 0                   | 0                    | 0.0           |
| <i>Budget Action Total</i>                                | <i>\$36,088,221</i> | <i>\$35,974,313</i> | <i>\$25,402</i>     | <i>\$88,506</i>      | <i>91.3</i>   |
| HB 22-1061 Not guilty by insanity                         | \$868,271           | \$868,271           | \$0                 | \$0                  | 2.0           |
| HB 22-1283 Youth behavioral health                        | 539,926             | 0                   | 539,926             | 0                    | 0.0           |
| HB 22-1303 Increase residential beds                      | 46,432,445          | 0                   | 46,432,445          | 0                    | 7.0           |
| HB 22-1386 Competency to proceed                          | 29,362,828          | 0                   | 29,362,828          | 0                    | 0.0           |
| <i>Legislation Total</i>                                  | <i>\$77,203,470</i> | <i>\$868,271</i>    | <i>\$76,335,199</i> | <i>\$0</i>           | <i>9.0</i>    |
| <i>FY 2023-24</i>   |                     |                     |                     |                      |               |
| Hospital contract increase                                | \$2,519,866         | \$2,519,866         | \$0                 | \$0                  | 0.0           |
| Forensic services capacity                                | 2,405,432           | 2,405,432           | 0                   | 0                    | 22.7          |
| Medical salary increase                                   | 1,808,328           | 1,808,328           | 0                   | 0                    | 0.0           |
| Community provider rate                                   | 1,535,588           | 1,535,588           | 0                   | 0                    | 0.0           |
| Quality assurance   | 637,385             | 389,385             | 248,000             | 0                    | 6.0           |
| Momentum program  | 328,747             | 328,747             | 0                   | 0                    | 0.0           |
| Data reporting  | 206,811             | 206,811             | 0                   | 0                    | 0.0           |
| Consent decree fines                                      | 12,000,000          | 12,000,000          | 0                   | 0                    | 0.0           |
| <i>Budget Action Total</i>                                | <i>\$21,442,157</i> | <i>\$21,194,157</i> | <i>\$248,000</i>    | <i>\$0</i>           | <i>28.7</i>   |
| HB 23-1153 Pathways to behavioral health                  | \$300,000           | \$160,000           | \$140,000           | \$0                  | 0.0           |

| TABLE 3: RECENT COMPETENCY BUDGET ACTIONS AND LEGISLATION |                     |                     |                  |                      |            |
|---|---------------------|---------------------|------------------|----------------------|------------|
|   | TOTAL FUNDS         | GENERAL FUND        | CASH FUNDS       | REAPPROPRIATED FUNDS | FTE        |
| HB 23-1236 BHA updates                                    | 2,250,400           | 2,250,400           | 0                | 0                    | 0.0        |
| <i>Legislation Total</i>                                  | <i>\$2,550,400</i>  | <i>\$2,410,400</i>  | <i>\$140,000</i> | <i>\$0</i>           | <i>0.0</i> |
| <i>FY 2023-24 Supplemental Request</i>                    |                     |                     |                  |                      |            |
| Psychiatric bed increase                                  | \$57,967,379        | \$57,967,379        | \$0              | \$0                  | 0          |
| Common policies   | 381,396             | 0                   | 10,678           | 370,718              | 0          |
| <i>Budget Request Total</i>                               | <i>58,348,775</i>   | <i>\$57,967,379</i> | <i>\$10,678</i>  | <i>\$370,718</i>     | <i>0.0</i> |
| <i>FY 2024-25</i>   |                     |                     |                  |                      |            |
| Psychiatric bed increase                                  | \$75,189,203        | \$75,189,203        | \$0              | \$0                  | 3.4        |
| Community provider rate                                   | 923,111             | 584,570             | 338,541          | 0                    | 0.0        |
| Reducing youth crime                                      | (344,940)           | 0                   | (344,940)        | 0                    | 0.0        |
| Consent decree fines                                      | 12,000,000          | 12,000,000          | 0                | 0                    | 0.0        |
| <i>Budget Request Total</i>                               | <i>\$87,767,374</i> | <i>\$87,773,773</i> | <i>(\$6,399)</i> | <i>\$0</i>           | <i>3.4</i> |

The final chart aims to summarize recent increases and decreases to OCFMH appropriations. Amounts may not match the totals provided in the table above as the table does not account for all common policy and changes that may be built into appropriations outside of prioritized requests.



#### RECENT LEGISLATIVE ACTION

The most significant investments related to competency in recent years has been through ARPA funded legislation, targeted compensation increases, and emergency budget action related to unanticipated contract nursing costs at Pueblo.

#### HOUSE BILL 22-1303 (INCREASE RESIDENTIAL BEHAVIORAL HEALTH BEDS)

The bill includes an appropriation of **\$57.8 million** from the Behavioral and Mental Health Cash Fund, which originates as ARPA funds, for several projects related to increasing residential behavioral health resources. Amounts include \$17.1 million to renovate and open a 16 bed unit at Fort Logan, \$3.8 million for 18 beds at group homes, and \$33.5 million for 107 contracted beds. The bill specifies

that beds at Fort Logan may be used for competency services until the waitlist is eliminated, at which point the beds must serve civil patients.

Executive Branch reports indicate that \$684,350 from the legislation has been expended as of September 30, 2023. A statewide ARPA request submitted in January includes roll-forward authority of \$44.9 million for this legislation through December 31, 2026. The Executive Branch also proposes to recapture and therefore reduce the original appropriation by \$22.3 million, though this amount is not reflected in a request. On January 12, 2024, the CDC approved a request to continue the Fort Logan renovation with a \$11.4 million General Fund increase. The capital request indicates that the project is budget neutral as the contracted beds supported with ARPA funds under the bill came in under cost, and those unspent ARPA funds will make General Fund available through the proposed ARPA refinance.

The final fiscal note for the bill further assumed that the Fort Logan unit would be fully operational and require General Fund appropriations for staffing costs beginning in FY 2024-25. OCFMH has therefore requested a \$17.9 million General Fund annualization for FY 2024-25 even though construction of the unit has not yet begun.

#### **HOUSE BILL 22-1386 (COMPETENCY TO PROCEED AND RESTORATION TO COMPETENCY)**

The bill appropriated **\$29.4 million** from the Economic Recovery and Relief Cash Fund, which originates as ARPA funds, to contract with private hospitals for inpatient beds. Reports from the Executive Branch indicate that \$16.0 million has been expended, and 100.0 percent has been expended or encumbered. The Department reports that 61 private hospital beds were supported with ARPA funds in FY 2023-24, and an additional 8 beds were supported with General Fund. On average, the private hospital beds serve 3 patients per year. Therefore, the Department estimates that inpatient capacity will decrease by 203 patients per year if long-term funding is not established and the contracts end when ARPA funding expires in 2024.

#### **BUDGET ACTIONS**

The General Assembly has approved several targeted salary increases for positions at the state hospitals in recent years in an effort to improve the hiring and retention of state FTE at the hospitals. Targeted compensation increases over the last five fiscal years are detailed below.

- **FY 2017-18**, the General Assembly approved salary increases for nurse positions at CMHHIP to the mid-point of the salary range, totaling **\$2.8 million** General Fund for partial year implementation in FY 2017-18 and \$6.0 million for full year implementation in FY 2018-19.
- **FY 2018-19**, the General Assembly approved salary increases for all “direct care” staff at CMHHIP and CMHHIFL through a Long Bill amendment, totaling **\$9.4 million** General Fund. The specific job classifications intended by direct care staff were not noted in the amendment, but the Department indicates that increases were implemented for client care aides, correctional officers, health care service trainees, health care technicians, mental health clinicians, mid-level providers, nurses, social workers, and therapy assistants.
- **FY 2018-19**, the General Assembly also approved a supplemental increase of **\$918,060** General Fund for contract physicians at CMHHIP and CMHHIFL.
- **FY 2020-21**, the General Assembly approved a **\$540,984** General Fund increase for psychologists at CMHHIP and CMHHIFL.

- **FY 2022-23**, the General Assembly approved targeted salary increases for all food service and housekeeping employees throughout the state. This included **\$593,760** total funds for the state hospitals.
- **FY 2023-24**, the General Assembly approved one-time, non-base building salary increases for direct care staff at 24/7 facilities across the state. This included an 8.0 percent increase for nurses and 3.7 percent for client care aides, totaling **\$1.7 million** General Fund. The Department has also expended \$5.8 million ARPA funds for hiring and retention bonuses at 24/7 facilities.

The General Assembly also approved an increase of **\$4.3 million** General Fund for contracted psychiatrists, physicians, nurse practitioners, and physician assistants as part of the FY 2023-24 Long Bill. In June 2023, the Joint Budget Committee approved an emergency supplemental increase of **\$13.1 million** General Fund for estimated over-expenditures at Pueblo driven by the utilization of contract nurses due to high nursing vacancies.

## OTHER STATES

JBC Staff Research Assistant Alanna Jackson provided a research memo on the competency procedures of Miami-Dade County, Los Angeles County, and New York State provided in Appendix C. Staff found that Miami-Dade has developed a screening process with the intent of diverting people experiencing a mental health crisis from competency proceedings and jail altogether, not dissimilar from detention screenings currently used in the Colorado Division of Youth Services. Los Angeles County and New York State also have dedicated mental health courts, similarly focused on alternatives to incarceration and partnership with community-based services.

Individual Judicial Districts in Colorado have established competency dockets, some of which have been supported with fines from the consent decree. The dockets focus on connecting people with community-based mental health and substance use services, holding people accountable for upholding treatment plans, and diverting people found to be incompetent to proceed from the state hospitals. Fort Collins, Golden, Pueblo, Cañon City, and Centennial currently have competency dockets, and a competency docket is under development in Denver.

## REQUEST ANALYSIS

The Department request includes multiple components outlined in the table below. The following sections discuss each component of the request. The Committee will consider the FY 2024-25 request during Figure Setting, and could consider a different approach from the supplemental FY 2023-24 decision.

|   | FY 2023-24          | FY 2024-25          | FY 2025-26          |
|---|---------------------|---------------------|---------------------|
| Maintain contract staffing                    | \$36,054,685        | \$36,054,685        | \$36,054,685        |
| Maintain private hospital contracts (61 beds) | 10,546,900          | 25,382,100          | 25,382,100          |
| Open Pueblo RNRU unit (39 beds)               | 7,125,994           | 7,125,994           | 7,125,994           |
| Open Pueblo E2 unit (21 beds)                 | 4,818,576           | 7,656,853           | 7,656,853           |
| Open and increase FL F3 unit staff (22 beds)  | 1,532,503           | 3,816,466           | 3,816,466           |
| Add private hospital contracts (19 beds)      | 1,321,260           | 7,905,900           | 7,905,900           |
| Decrease state vacancies                      | (3,432,539)         | (12,696,327)        | (17,798,670)        |
| <b>Total (162 beds)</b>                       | <b>\$57,967,379</b> | <b>\$75,245,671</b> | <b>\$70,143,328</b> |

In FY 2023-24, General Fund personal services line items in OCFMH were refinanced with ARPA funds from the Revenue Loss Restoration Cash Fund. Accounting for those amounts as General Fund, **the request reflects an 28.9 percent increase for OCFMH** from the current appropriation. The request further reflects a 29.0 percent General Fund increase for Fort Logan, and 33.1 percent for Pueblo.

### **CONTRACT STAFFING**

The request includes an increase of \$36.1 million General Fund to continue contract staffing due to high staffing vacancy rates at the state hospitals. This amount is based on continuing current contract staffing levels. Contracts include Certified Nursing Assistants (CNA), Registered Nurses (RNs), Licensed Practical Nurses (LPNs), and Social Workers/Clinical Therapists. The Department anticipates that without sufficient funding for contracted nurses, the hospitals will be forced to close units and reduce capacity, presumably increasing the waitlist if caseload driven by court orders is sustained.

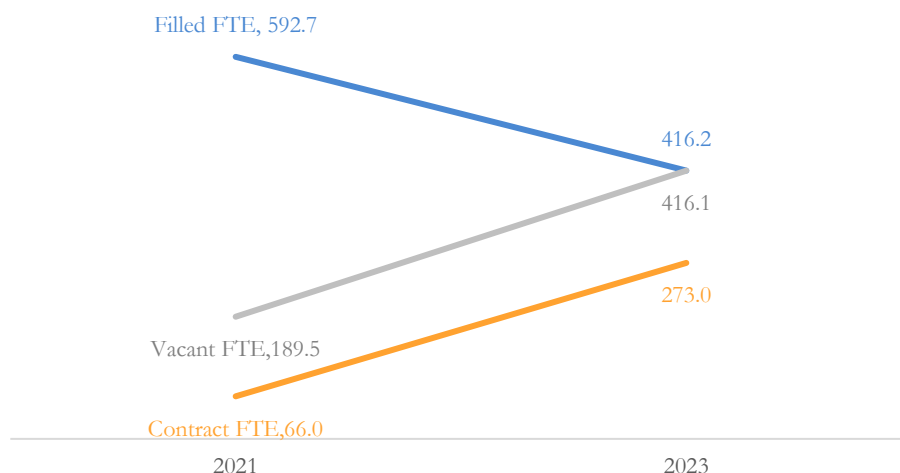
The Department has increasingly relied on contract staffing for direct care staff since the COVID-19 pandemic. Increasing vacancies for state FTE has forced the closure of units that are otherwise funded and operable. The Department states that 35.1 percent of direct care staff left Pueblo between July 2021 and April 2023. Nationwide medical staff shortages, retirements, and compensation competition with private hospitals has only exacerbated hiring and retention challenges that pre-existed the COVID-19 pandemic.

Contract staff are paid at higher rates with more scheduling autonomy than state FTE. Therefore, the reliance on contract staffing comes at a higher General Fund cost and further contributes to lower staff morale and high turnover. The Department reported that the salary for a state Nurse I FTE was \$38.93 per hour in FY 2022-23 (\$50.61 with benefits), compared to \$109 per hour for a contract nurse.

The Department frequently notes that retirement benefits that used to incentivize state employment are no longer competitive with higher base compensation available through private companies for people newly entering the job market. Contract staffing positions have increased from 66.0 positions in 2021 to 273.0 in 2023, while the state hospitals maintain a 50.0 percent vacancy rate for state FTE. Filled, vacant, and contracted FTE provided by the Department are included in the chart on the following page.



The state hospitals currently have a 50.0 percent vacancy rate, and increases in contract staff have increased at a similar rate as vacancies since 2021.



The amount requested is based on current agency contract staffing and vacancy rates. Calculations are detailed in the table below. Total cost is based on an estimate of 2,080 regular hours and 208 overtime hours. Hourly rates account for regular and overtime compensation for current contracts. Actual expenditures will vary based on the Department's ability to reduce vacancies in state FTE and negotiated contract rates.

| TABLE 5: COST TO MAINTAIN CONTRACT STAFFING |        |            |       |             |                     |
|---|--------|------------|-------|-------------|---------------------|
|   | PUEBLO | FORT LOGAN | TOTAL | HOURLY RATE | TOTAL COST          |
| CNAs  | 74     | 13         | 87    | \$65        | \$12,892,043        |
| RNs   | 94     | 34         | 128   | 114         | 33,388,493          |
| LPNs  | 24     | 3          | 27    | 80          | 4,976,197           |
| Social Worker/Clinical Therapist            | 30     | 3          | 33    | 54          | 4,118,400           |
|   | 222    | 53         | 275   |             | <b>\$55,375,133</b> |

Cost calculations indicate the true cost of maintaining existing contract staff is \$55.4 million compared to the requested \$36.1 million. The request assumes \$19.3 million in vacancy savings will be utilized to offset the cost of continued contract staffing. The Department estimates that if the request is not approved, vacancy savings could maintain 74 contract nurses. This would reflect a 73.1 percent reduction to current contract staffing levels, and would require the Department to close units due to a lack of staffing.

| TABLE 6: REQUESTED CONTRACT FUNDING |                     |
|-------------------------------------|---------------------|
| Maintained contract staffing        | \$55,375,133        |
| Vacancy Savings                     | (19,320,448)        |
| <b>Total request</b>                | <b>\$36,054,685</b> |

Actual expenditures provided by the Department for FY 2022-23 show no General Fund reversions from the personal services lines and the overall budgets for the state hospitals. Actual FTE reported at Fort Logan and Pueblo are 68.4 and 71.5 percent lower than authorized FTE respectively. In June 2023, the Committee approved an emergency interim supplemental request from the Department to allow a \$13.1 million General Fund over-expenditure in FY 2022-23 due to unanticipated costs of

contracted FTE at Pueblo. Staff is concerned that if the request is not approved, the Department will be forced to close units or submit a similar emergency supplemental for FY 2023-24.

#### **DECREASE STATE VACANCIES**

The request includes an assumption that the Department will reduce state vacancies, therefore reducing reliance on contract staff and providing service at a lower General Fund cost. The request assumes vacancies will reduce by 12.5 percent in FY 2023-24, and an additional 12.5 percent in each of the following two fiscal years. This equates to the hiring of 8.5 nurses at Fort Logan and 43.5 nurses at Pueblo in FY 2023-24. This assumption is reflected as a decrease each year, including a decrease of \$3.4 million General Fund in FY 2023-24.

This is based on an assumption that recent hiring trends will improve based on compensation increases through the State Pay Plan. The state pay plan includes a common policy increase of 5.0 percent for all state employees in FY 2023-24, and 3.0 percent for FY 2024-25. Additionally, the Partnership Agreement includes an 8.0 percent non-base building stipend for nurses and mid-level providers, and a 3.2 percent non-base building stipend for client care aides and health care technicians in DHS 24/7 facilities. Non-base building stipends are an additional amount provided in an employee's paycheck, but are not built in to percentage-based salary increases for the next year.

The Department has also provided recruitment and retention bonuses through American Rescue Plan Act (ARPA) funds. Incentive payments have varied over time and by job classification, but range up to a total of \$14,000 for nurses. Incentives were distributed at two points, first when an employee reached 180 days of employment, and a second payment after 270 days. The request states that even though other incentives have been utilized, hiring for nurses did not improve until \$14,000 bonuses were implemented.

The Department was allocated \$8.5 million for this purpose through S.B. 21-288 (American Rescue Plan Act of 2021 Cash Fund), which authorized the Governor to allocate up to \$300.0 million ARPA funds. Reporting as of September 30, 2023 shows the Department has expended \$7.0 million for this purpose, and the Department anticipates that ARPA funds will be exhausted by March 2024. A timeline of incentive payments is provided below.

| Sep-22  | Nov-22 | Jan-23                        | Mar-23                           | May-23 | Jul-23 | Sep-23 | Nov-23 | Jan-24 | Mar-24 |
|---|--------|-------------------------------|----------------------------------|--------|--------|--------|--------|--------|--------|
| \$1,000 Referral Bonus for all Direct Care Staff  |        |                               |                                  |        |        |        |        |        |        |
| \$3,250 Client Care Aid, Custodian, Dining Service, and Health Technician Recruitment Bonus               |        |                               |                                  |        |        |        |        |        |        |
| \$2,000 Social Worker, Clinical Therapist, Psychologist, Teacher, and Facility Specialist Retention Bonus |        |                               |                                  |        |        |        |        |        |        |
| \$7,000 Nurse Recruitment Bonus   |        |                               | \$14,000 Nurse Recruitment Bonus |        |        |        |        |        |        |
|   |        | \$5,000 Nurse Retention Bonus |                                  |        |        |        |        |        |        |

The Department states that incentive payments are still in effect, but are expected to end by March 2024 when ARPA funds are exhausted. The request indicates that continuing incentive payments is currently under negotiation. The Governor's January 2 Letter refers to a legislative plan to transfer \$31.5 million from the State Employee Reserve Fund (SERF) for salary adjustments in Higher Education, and incentive payments for employees in the Departments of Human Services and Corrections. The Department of Corrections has also submitted a supplemental request to provide

incentive payments similar to the Department of Human Services, but supported with General Fund in FY 2023-24 and FY 2024-25. JBC Staff are working together to provide a recommendation that aligns incentive payments between the two Departments.

Staff has not provided a recommendation related to an increase for compensation in an effort to make state employment more competitive with contract staffing for multiple reasons.

- 1 The General Assembly can appropriate additional funds to the personal services line items for the state hospitals. The General Assembly does not have authority over how that increase is implemented, or what classifications and employees actually receive increased compensation.
- 2 Funding for contract staff is supported through the personal service line items for the state hospitals. Therefore, any increase to the line for state employee compensation could just support additional contracts or higher cost contracts rather than higher salaries for state employees.
- 3 If compensation is increased for the state hospitals, similar increases will be requested and warranted for other 24/7 facilities, particularly in the Division of Youth Services and Department of Corrections.
- 4 The General Assembly has approved targeted salary increases for the state hospitals in four of the last five fiscal years, and vacancies have only persisted or increased.
- 5 Implementing a compensation change has a long-term, ongoing effect. It is possible that competition with contract staffing will be a short-term trend best addressed through continuing one-time bonuses on a term-limited basis to determine the effect.
- 6 Any increase approved by the General Assembly could quickly be surpassed by private hospitals and contract agencies.

### **PRIVATE HOSPITAL CONTRACTS**

The request includes \$11.9 million in FY 2023-24 for partial year funding to continue and increase private hospital contracts that have been supported with ARPA funds. Funding will support 80 beds as provided below.

- \$10.5 million to continue 61 beds currently supported by ARPA funds.
- \$1.3 million to add 19 new beds beginning May 2024.

House Bill 22-1386 (Competency to Proceed and Restoration to Competency) appropriated \$29.4 million from the Economic Recovery and Relief Cash Fund, which originates as ARPA funds, to contract with private hospitals for inpatient beds. Reports from the Executive Branch indicate that \$16.0 million has been expended, and 100.0 percent has been expended or encumbered. The Department reports that 61 private hospital beds were supported with ARPA funds in FY 2023-24, and an additional 8 beds were supported with General Fund.

Calculations assume that current contracts cost \$1,000 per day, and new contracts will cost \$1,200 per day based on provider rate increases and conversations with providers. The Department only pays for days the beds are used, and assumes a 95.0 percent occupancy rate based on current contracts.

On average, the private hospital beds serve 3 patients per year. Therefore, the Department estimates that inpatient capacity will decrease by 203 patients per year without long-term funding. With the 19 added beds, the Department expects to serve an additional 63 patients per year. The Department

further notes that private hospital contracts have demonstrated similar restoration rates to the state hospitals and jail based services.

The request notes that additional contracts could be supported if additional funding is available, but the Department has received outreach from hospitals to contract for an additional 19 beds. Private hospitals cannot treat all patients sentenced to the Department's care. Felonies 1-3 can only be treated at Pueblo, and not all hospitals are staffed or equipped to handle the highest acuity medical care provided by the state hospitals. However, expanding private hospital contracts also expands service across the state rather than requiring patients to be transported to Pueblo or Fort Logan. Cost calculations for the request, and the cost of funding additional beds, is provided in the table below.

| TABLE 7: COST OF PRIVATE HOSPITAL BED CONTRACTS |              |              |                |
|---|--------------|--------------|----------------|
| BEDS  | FY 2023-24   | FY 2024-25   | CLIENTS SERVED |
| 80 (Request)                                    | \$11,868,160 | \$33,288,000 | 240            |
| 90  | 12,563,560   | 37,449,000   | 270            |
| 100   | 13,258,960   | 41,610,000   | 300            |
| 120   | 14,649,760   | 49,932,000   | 360            |
| 150   | 16,735,960   | 62,415,000   | 450            |

#### **OPEN CLOSED PUEBLO UNITS**

The request includes \$11.9 million in FY 2023-24 to increase funding to staff and open three units at Pueblo. The funding has the potential to support 82 forensic beds if fully staffed.

- \$7.1 million to re-open 39 beds in the Pueblo Restoration and Reintegration Unit (RNRU).
- \$4.8 million to re-open 21 beds in the Pueblo E2 Unit.

These units are technically already funded, but have not been operable due to insufficient staffing. The Department has already opened these units to increase capacity, but will be forced to close the units before the end of the year without additional funding. The amounts are calculated based on partial year funding to support an additional 44 contract staff at the two units in Pueblo. Out-year costs assume that positions will gradually be filled by state FTE and costs will decrease over time.

#### **FORT LOGAN STAFFING COMPLIANCE**

The request includes \$1.5 million in FY 2023-24 to increase staffing at two units at Fort Logan to align with third party staffing recommendations. Chartis is a third-party consultant approved by the Department of Public Health and Environment to evaluate standards of care at the state hospitals as part of a FY 2022-23 budget request. Chartis found that at times Fort Logan has a staffing ratio of 1 RN to 24 patients, compared to a recommended level of 1 RN to 8 patients. Chartis further recommended 3 mental health clinicians per unit.

Implementation of the recommendation includes four months of funding for an additional 24 staff, including 6.8 RNs and 17.2 mental health clinicians. The Department anticipates that these positions will be filled with contracted staff in FY 2023-24, and gradually transition to state employees. If funding is not approved, the Department will have to close two under-staffed units at Fort Logan, or continue to operate with known liability risks to patient and staff safety.

#### **RECOMMENDATION**

Staff recommends approval of the request and agrees that the request meets supplemental criteria as the result of data related to contract rates and staffing recommendations that were not known during

FY 2023-24 Figure Setting. Staff further agrees that significant investments are required at the state hospitals and through private hospital contracts to maintain existing capacity and avoid emergency supplemental requests.

The waitlist will almost certainly increase if the request is not approved as contracts with private hospital beds will end and the Department may close units due to under staffing. However, staff cautions that a measurable impact on the waitlist should not be expected if the request is approved as a majority of the request is necessary exclusively to maintain existing capacity. Staff estimates that 74.5 percent of the FY 2023-24 request is related to maintaining current capacity. However, even the amounts associated with increasing capacity by opening units at the state hospitals is associated with units that are technically funded, but remain closed due to understaffing. The request components categorized by increased and maintained capacity are provided in the table below.

| TABLE 8: REQUESTED MAINTAINED AND INCREASED CAPACITY |                     |                     |                     |
|--|---------------------|---------------------|---------------------|
|  | FY 23-24            | FY 24-25            | FY 25-26            |
| Maintain private hospital contracts (61 beds)        | \$10,546,900        | \$25,382,100        | \$25,382,100        |
| Decrease state vacancies                             | (3,432,539)         | (12,696,327)        | (17,798,670)        |
| Maintain contract staffing                           | 36,054,685          | 36,054,685          | 36,054,685          |
| <i>Maintained Capacity</i>                           | <i>\$43,169,046</i> | <i>\$48,740,458</i> | <i>\$43,638,115</i> |
| Add private hospital contracts (19 beds)             | \$1,321,260         | \$7,905,900         | \$7,905,900         |
| Open Pueblo RNRU unit (39 beds)                      | 7,125,994           | 7,125,994           | 7,125,994           |
| Open Pueblo E2 unit (21 beds)                        | 4,818,576           | 7,656,853           | 7,656,853           |
| Open and increase FL F3 unit staff (22 beds)         | 1,532,503           | 3,816,466           | 3,816,466           |
| <i>Expanded Capacity</i>                             | <i>\$14,798,333</i> | <i>\$26,505,213</i> | <i>\$26,505,213</i> |
| <b>Total (162 beds)</b>                              | <b>\$57,967,379</b> | <b>\$75,245,671</b> | <b>\$70,143,328</b> |

Whether or not the waitlist decreases in the next year will likely be determined by court orders rather than implementation of this request. Data provided by the Department indicates that court ordered competency restoration services may be decreasing, and the investments included in this request could help reduce the waitlist. However, the caseload remains outside of the Department's control. OCFMH moved an average of 80 patients off the waitlist monthly in FY 2021-22 and FY 2022-23, but an average of 110 individuals were court ordered for services at the same time.

Staff does not recommend operating outside of the State Pay Plan to increase compensation for state nurses. Regardless of whether an increase is approved for contracts or compensation, the funding is provided to the same line item. Therefore, the General Assembly has limited authority to distinguish between the two options. The request is based on an assumption that the Department will improve state vacancy rates, and a targeted salary increase would need to be applied for all nurse FTE, and likely other medical classifications, across all Departments. In prior years, the General Assembly has approved targeted salary increases for direct care staff at the state hospitals. While raises were provided, the increase was not implemented for all staff as intended by the General Assembly.

Actual expenditures will depend on contract rates and the Department's ability to improve state vacancies as outlined in the request. Staff intends to recommend an RFI as part of FY 2024-25 Figure Setting to follow up on implementation, caseload, vacancies, and actual expenditures to position the Committee to determine if mid-year adjustments are necessary regardless of Executive Branch requests.

## BHOCO S1 OMBUDSMAN STAFFING

|                      | REQUEST         | RECOMMENDATION  |
|----------------------|-----------------|-----------------|
| <b>TOTAL</b>         | <b>\$45,088</b> | <b>\$44,945</b> |
| FTE                  | 0.5             | 0.5             |
| General Fund         | 45,088          | 44,945          |
| 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 Behavioral Health Ombudsman requests an increase of \$45,088 General Fund and 0.5 FTE in FY 2023-24. The Ombudsman has requested an increase of \$94,418 General Fund and 1.0 FTE in FY 2024-25 that the Committee will consider during Figure Setting.

**STAFF RECOMMENDATION:** Staff recommends an increase of \$44,945 General Fund and 0.5 FTE. The recommendation includes all components of the request except amounts for paid family leave, which was not appropriated in the FY 2023-24 Long Bill.

**STAFF ANALYSIS:** The Behavioral Health Ombudsman is referred to as Office of Ombudsman for Behavioral Health Access to Care in statute (Section 27-80-303, C.R.S.), but is publically known as the Behavioral Health Ombudsman of Colorado (BHOCO). The Ombudsman was established through H.B. 18-1357 (Behavioral Health Care Ombudsperson Parity Reports) and is a Type 1 entity, indicating that the Office operates independently of DHS and the BHA outside of limited administrative support.

The Department of Human Services may, but is not required to provide funding to the Ombudsman (Section 27-80-303 (1)(c), C.R.S.). The FY 2023-24 Long Bill included an appropriation of \$133,196 General Fund and 1.5 FTE for the Ombudsman. The Office also received \$300,000 in ARPA funds through S.B. 21-137 (Behavioral Health Recovery Act) with spending authority for the funds extended through FY 2023-24. The Ombudsman utilized ARPA funds to support additional part-time FTE and develop a case management system, but indicates that ARPA funds have been fully expended.

The statutory role of the Ombudsman includes the following responsibilities (Section 27-80-303 (3), C.R.S.).

- Interact with consumers and providers with concerns or complaints to help resolve behavioral health care access and coverage issues;
- Identify, track, and report concerns, complaints, and potential violations of state or federal rules, regulations, or statues to the appropriate regulatory or oversight agency;

- Receive and assist consumers and providers in reporting concerns and filing complaints relating to inappropriate care, emergency mental health holds, or certifications for short- and long-term treatment;
- Provide information to help consumers obtain behavioral health care;
- Develop points of contact for referrals to other state and federal agencies; and,
- Provide information to help consumers or providers file appeals or complaints with the appropriate entities, including insurers and other state and federal agencies.

The Office states that day-to-day work aims to help consumers and providers navigate behavioral health access and coverage issues, file complaints, gather data, and report findings to the General Assembly, Governor's Office, and the public. The Ombudsman conducts intakes for people receiving insufficient behavioral health care despite immediate risk of harm to themselves or others. The Office notes that they are also receiving an increasing number of requests from government agencies to participate in complex cases.

The Ombudsman is required to provide an annual report to the General Assembly, most recently published in September 2023 for FY 2022-23.<sup>3</sup> The report identifies three systemic barriers to behavioral health care in the state, outlined below.

- 1 Ambiguous single and sustainable points of entry to care.
- 2 Limited resources including funding, case management, and number of providers.
- 3 Gaps between short-term crisis stabilization and long-term care.

The most prominent gaps in long-term care identified by the Ombudsman include adults discharged from short-term crisis residential facilities to homelessness, and cases involving children under the age of 21. The Office notes that for adults there is frequently a gap between the treatment need identified by providers and the funding approved by payors. For children, the Office is frequently involved in cases for youth who have been therapeutically and payor approved for residential treatment, but no appropriate facility exists or waitlists for placement exceed weeks and months. Children are therefore discharged from short-term, temporary care even though they are approved for residential care and discharge is deemed unsafe by the provider and guardians due to threat of harm to themselves or others.

The request indicates that caseload has increased since the Office began. The Office averaged 16 new cases per month in 2020, compared to 27 new cases per month in 2023. This marks a 68.8 percent increase over three years managed by 1-4 part time staff depending on fluctuating funding levels. The Office currently reports 156 open cases, with half being "high intensity." High intensity cases typically require 1-5 hours of communication per day, and often involve ongoing coordination with multiple state and federal agencies, providers, hospitals, RAEs, and family members to maintain patient safety.

While the phone number for the Office is publically available online, the Office indicates that they have never actively marketed their service because they have never been able to meet the caseload demand that has occurred organically since their inception. The Office may also triage what statutory responsibilities they prioritize based on available funding. The Annual Report indicates that the Office is currently prioritizing case management, systems improvements, and continued collaboration with governmental agencies.

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<sup>3</sup> [Behavioral Health Ombudsman Annual Report, 2023.](#)

## **ARPA FUNDS**

The BHOCO was appropriated \$300,000 that originated from the American Rescue Plan Act of 2021 (ARPA) through S.B. 21-137 rolled forward through FY 2023-24. The Office's Annual Report indicates that funds were utilized to support two part-time staff, and implement a new case management system. The Office states that they were able to successfully reduce response times with the increased funding even though caseload increased during the same time period.

ARPA funds combined with the existing General Fund appropriation allowed the Office to support four staff on a mostly part-time basis. Without additional investments, the Office will not be able to continue current operations levels and be reduced to 1.5 FTE to manage statewide behavioral health access complaints. The Office indicates that current practice is to allocate hours to staff on a weekly basis depending on how much funding is available. This practice does not allow for reliable public service, or competitive hiring and compensation.

## **CHILD PROTECTION OMBUDSMAN**

The creation of the Behavioral Health Ombudsman was in part modeled after the Child Protection Ombudsman (CPO) within the Judicial Department. The CPO serves as an independent agency to investigate complaints and grievances about child protection services, make recommendations about system improvements, and serve as a resource for persons involved in the child welfare system.

Senate Bill 10-171 (Creation of the Child Protection Ombudsman) originally created the CPO in the Department of Human Services and included an appropriation of \$175,000 General Fund to contract with a public agency or nonprofit to establish the CPO. Senate Bill 15-204 (Autonomy of Child Protection Ombudsman) moved the CPO to the Judicial Department with 2.2 FTE in the first year, and 4.3 FTE on an ongoing basis. The CPO has increased to a total appropriation of \$2.2 million General Fund and 12.0 FTE in FY 2023-24.

Both the Child Protection Ombudsman and the Behavioral Health Ombudsman were established with the purpose of holding government agencies accountable for service provision. While there is similarity in the purpose of the offices, there are also differences in operations. The CPO has a more investigatory role that focuses on legal recourse for events that happened in the past. In contrast, the BHOCO conducts intakes for people who are currently receiving insufficient behavioral health care. The role of CPO appears to have a larger scope, but the role of the BHOCO appears to be much more time sensitive.

## **RECOMMENDATION**

Staff recommends an increase of \$44,945 General Fund and 0.5 FTE in FY 2023-24. The amount includes all components of the request except paid family leave, as the benefit was not appropriated in the FY 2023-24 Long Bill. Other centrally appropriated amounts are retained in the recommendation due to the small size of the Office, and because the request supports existing FTE. If approved, the total appropriation for the Office would be \$169,401 General Fund and 2.0 FTE in FY 2023-24. Even though the request reflects increased staffing and continuing an appropriation that originated as ARPA funds with General Fund, staff agrees that the request reflects an immediate need for the Office and the statewide behavioral health system.

The Office is tasked with directly assisting consumers across the state with access to behavioral health care, and identifying and reporting violations of state rules. Staff finds that the existing 1.5 FTE is not



sufficient to meet the statutory charge of the Office. To the extent the General Assembly aims to improve access to behavioral health care across the state, minimal investments in this Office could drastically improve their ability to meet this need.

Staff did not recommend an appropriation above the request to adhere to supplemental criteria and deter supplemental requests that are likely to have an ongoing FTE impact. However, additional staffing to align with the original appropriation provided to the CPO is worth consideration for FY 2023-24 or FY 2024-25. The fiscal note that provided the original appropriation for the Office was informed by the state agency that the Office was responsible for overseeing. Funding does not appear to be sufficient to meet the statutory charge or increasing caseload of the Office.

Additional funding levels are provided in the table below for the Committee's consideration. Amounts reflect incremental changes over the Office's existing appropriation, and are based off prior and current staffing for the Child Protection Ombudsman. Costs for FY 2024-25 are an estimate for informational purposes and do not properly account for compensation increases that the Committee has not yet acted on. The Office indicates that an increase of \$184,920 General Fund in FY 2023-24 and \$477,590 in FY 2024-25 would allow the Office to continue the staffing levels facilitated under ARPA funds on a full-time basis.

| BHOCO STAFFING INCREASE CALCULATIONS |            |            |
|--------------------------------------|------------|------------|
|                                      | FY 2023-24 | FY 2024-25 |
| Request (2.0 FTE)                    | \$45,088   | \$94,418   |
| CPO Starting FTE (4.0)               | 184,920    | 477,590    |
| CPO Current FTE (10.0)               | 526,286    | 1,052,572  |

Staff does not recommend increasing staffing for the Office to match the CPO, particularly as a supplemental. However, staff requested that the Office provide a staffing plan based on 10.0 FTE to learn more about the work the Office would envision taking on if funding were less limited. The Office proposed FTE that would increase caseload capacity, public outreach, increased data reporting, and increased ability to identify and recommend improvements for systemic barriers to care. Positions consist of 6.0 analysts, 1.0 health professional, 2.0 deputy ombudsman, and 1.0 ombudsman. Staffing for 4.0 FTE matches this model, but without analysts.

Current staffing includes one Ombudsman and one Deputy Ombudsman, both working a combination of full and part-time based on funding, caseload, and individual circumstances. ARPA funds allowed for part-time and contract staffing for an additional Deputy Ombudsman and health professional.

## STATEWIDE COMMON POLICY SUPPLEMENTAL REQUESTS

### STATEWIDE S1 ARPA ROLL FORWARD

|               | REQUEST    | RECOMMENDATION |
|---------------|------------|----------------|
| <b>TOTAL</b>  | <b>\$0</b> | <b>\$0</b>     |
| FTE           | 0.0        | 0.0            |
| General Fund  | 0          | 0              |
| Cash Funds    | 0          | 0              |
| Federal Funds | 0          | 0              |

**REQUEST:** The Executive Branch requests a total of \$341.7 million ARPA funds for 27 programs with appropriations clauses currently written with spending authority through 2024 to be extended to 2026. Of this amount, \$223.8 million is for behavioral health programs in the Department of Human Services and Behavioral Health Administration.

**STAFF RECOMMENDATION:** The staff recommendation is pending Committee action on common policy supplementals. Staff asks permission to include the corresponding appropriations in the Department's supplemental bill when the Committee acts on common policy supplementals. If staff believes there is reason to deviate from the common policy, staff will appear before the Committee at a later date to present the relevant analysis. *ARPA related supplemental requests will be discussed in more detail at a later date and may be included in separate legislation.*

Staff continues to work with the Office of State Planning and Budgeting to identify the final amounts requested for roll-forward and reductions. Amounts identified by the Executive Branch related to behavioral health programs are provided in the tables below, but are likely to change.

| BEHAVIORAL HEALTH ROLL-FORWARD REQUEST |            |   |             |                      |
|--|------------|---|-------------|----------------------|
|  | BILL       | PROJECT NAME  | ALLOCATION  | ROLL FORWARD         |
| BHA                                    | SB 22-148  | Colorado Land-Based Tribe Behavioral Health Services Grant  | \$5,000,000 | \$5,000,000          |
| BHA                                    | SB 22-177  | Round 2: Care Coordination Infrastructure   | 12,200,000  | 12,200,000           |
| BHA                                    | SB 22-181  | Behavioral Health Care Workforce: Innovative Recruitment Strategies & Retention Grants                  | 4,500,000   | 3,300,000            |
| BHA                                    | SB 22-181  | Behavioral Health Care Workforce: Learning Academy  | 4,860,000   | 4,860,000            |
| BHA                                    | SB 22-181  | Behavioral Health Care Workforce: Behavioral Health Aide  | 3,740,000   | 1,800,000            |
| BHA                                    | SB 22-181  | Behavioral Health Care Workforce: Peer Support Professionals  | 5,930,000   | 5,930,000            |
| BHA                                    | SB 22-181  | Behavioral Health Care Workforce: Workforce Expansion   | 17,790,000  | 16,400,000           |
| BHA                                    | SB 22-196  | Criminal Justice Intervention Detection & Redirection Grant Program                                     | 50,700,000  | 32,000,000           |
| BHA                                    | HB 22-1281 | Behavioral Health Continuum Gap Community Investment Grants   | 35,000,000  | 21,100,000           |
| BHA                                    | HB 22-1281 | Children Youth and Family Behavioral Services Grants  | 40,000,000  | 25,200,000           |
| BHA                                    | HB 22-1281 | Substance Use Workforce Stability Grant Program   | 15,000,000  | 10,500,000           |
| BHA                                    | HB 22-1283 | Residential Substance Use Treatment Beds for Children and Youth   | 5,000,000   | 2,200,000            |
| BHA                                    | HB 22-1283 | Round 2: Crisis System for Colorado Residents   | 2,500,000   | 1,200,000            |
| BHA                                    | HB 22-1326 | Fentanyl Accountability And Prevention, Technical Assistance to Jails For Medication Assisted Treatment | 3,000,000   | 1,400,000            |
| <i>BHA Subtotal</i>                    |            |   |             | <i>\$143,090,000</i> |

| BEHAVIORAL HEALTH ROLL-FORWARD REQUEST |            |  |             |                      |
|--|------------|--|-------------|----------------------|
|  | BILL       | PROJECT NAME   | ALLOCATION  | ROLL FORWARD         |
| CDHS                                   | SB 22-183  | Round 2: Additional Funding to Anti-Domestic Violence  | \$1,489,788 | \$1,489,788          |
| CDHS                                   | SB 22-183  | Crime Victims Services, Round Two Flexible Financial Assistance for Survivors of Domestic Violence | 3,623,098   | 3,623,098            |
| CDHS                                   | SB 22-183  | Accessible, Culturally Responsive, and Trauma-Informed (ARCTI) Training                            | 390,000     | 260,000              |
| CDHS                                   | HB 22-1283 | Youth And Family Neuro-Psych Facility at Fort Logan  | 35,540,000  | 31,400,000           |
| CDHS                                   | HB 22-1303 | Mental Health Transitional Living Homes Operations   | 33,480,000  | 22,700,000           |
| CDHS                                   | HB 22-1303 | Increase Residential Behavioral Health Beds - Fort Logan   | 13,930,000  | 11,800,000           |
| CDHS                                   | HB 22-1303 | Increase Residential Behavioral Health Beds - State Facilities                                     | 10,430,000  | 9,400,000            |
| <i>DHS Subtotal</i>                    |            |  |             | <i>\$80,672,886</i>  |
| <b>TOTAL</b>                           |            |  |             | <b>\$223,762,886</b> |

## APPENDIX A: NUMBERS PAGES

*JBC Staff Supplemental Recommendations - FY 2023-24*  
*Staff Working Document - Does Not Represent Committee Decision*

**Appendix A: Numbers Pages**

|  | <b>FY 2022-23<br/>Actual</b> | <b>FY 2023-24<br/>Appropriation</b> | <b>FY 2023-24<br/>Requested Change</b> | <b>FY 2023-24<br/>Rec'd Change</b> | <b>FY 2023-24 Total<br/>w/Rec'd Change</b> |
|--|------------------------------|-------------------------------------|--|------------------------------------|--|
|--|------------------------------|-------------------------------------|--|------------------------------------|--|

**DEPARTMENT OF HUMAN SERVICES**  
**Michelle Barnes, Executive Director**

**S1 Increase forensic beds**

**(6) OFFICE OF BEHAVIORAL HEALTH**

**(B) Mental Health Institute - Ft. Logan**

|                      |                   |                   |                   |                   |                   |
|----------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| Personal Services    | <u>33,124,142</u> | <u>34,968,701</u> | <u>10,867,940</u> | <u>10,867,940</u> | <u>45,836,641</u> |
| FTE                  | 208.9             | 314.3             | 0.0               | 0.0               | 314.3             |
| General Fund         | 31,531,849        | 1,930,778         | 10,867,940        | 10,867,940        | 12,798,718        |
| Cash Funds           | 1,497,867         | 32,943,497        | 0                 | 0                 | 32,943,497        |
| Reappropriated Funds | 94,426            | 94,426            | 0                 | 0                 | 94,426            |
| Federal Funds        | 0                 | 0                 | 0                 | 0                 | 0                 |

**(6) OFFICE OF BEHAVIORAL HEALTH**

**(C) Mental Health Institute - Pueblo**

|                      |                    |                    |                   |                   |                    |
|----------------------|--------------------|--------------------|-------------------|-------------------|--------------------|
| Personal Services    | <u>117,380,918</u> | <u>105,962,493</u> | <u>35,231,279</u> | <u>35,231,279</u> | <u>141,193,772</u> |
| FTE                  | 756.9              | 1,063.1            | 0.0               | 0.0               | 1,063.1            |
| General Fund         | 106,324,737        | 3,758,619          | 35,231,279        | 35,231,279        | 38,989,898         |
| Cash Funds           | 3,309,068          | 94,332,938         | 0                 | 0                 | 94,332,938         |
| Reappropriated Funds | 7,747,113          | 7,870,936          | 0                 | 0                 | 7,870,936          |
| Federal Funds        | 0                  | 0                  | 0                 | 0                 | 0                  |

**(6) OFFICE OF BEHAVIORAL HEALTH**

*JBC Staff Supplemental Recommendations - FY 2023-24*  
*Staff Working Document - Does Not Represent Committee Decision*

|  | FY 2022-23<br>Actual | FY 2023-24<br>Appropriation | FY 2023-24<br>Requested Change | FY 2023-24<br>Rec'd Change | FY 2023-24 Total<br>w/Rec'd Change |
|--|----------------------|-----------------------------|--------------------------------|----------------------------|------------------------------------|
|--|----------------------|-----------------------------|--------------------------------|----------------------------|------------------------------------|

**(D) Forensic Services**

|                                    |               |                  |                   |                   |                   |
|------------------------------------|---------------|------------------|-------------------|-------------------|-------------------|
| Purchased Psychiatric Bed Capacity | <u>32,206</u> | <u>3,515,710</u> | <u>11,868,160</u> | <u>11,868,160</u> | <u>15,383,870</u> |
| FTE                                | 0.0           | 1.0              | 0.0               | 0.0               | 1.0               |
| General Fund                       | 32,206        | 3,515,710        | 11,868,160        | 11,868,160        | 15,383,870        |
| Cash Funds                         | 0             | 0                | 0                 | 0                 | 0                 |
| Reappropriated Funds               | 0             | 0                | 0                 | 0                 | 0                 |
| Federal Funds                      | 0             | 0                | 0                 | 0                 | 0                 |

|   |             |             |            |            |             |
|---|-------------|-------------|------------|------------|-------------|
| <b>Total for S1 Increase psychiatric beds</b> | 150,537,266 | 144,446,904 | 57,967,379 | 57,967,379 | 202,414,283 |
| FTE   | 965.8       | 1,378.4     | 0.0        | 0.0        | 1,378.4     |
| General Fund                                  | 137,888,792 | 9,205,107   | 57,967,379 | 57,967,379 | 67,172,486  |
| Cash Funds                                    | 4,806,935   | 127,276,435 | 0          | 0          | 127,276,435 |
| Reappropriated Funds                          | 7,841,539   | 7,965,362   | 0          | 0          | 7,965,362   |
| Federal Funds                                 | 0           | 0           | 0          | 0          | 0           |

*JBC Staff Supplemental Recommendations - FY 2023-24*  
*Staff Working Document - Does Not Represent Committee Decision*

|   | FY 2022-23<br>Actual | FY 2023-24<br>Appropriation | FY 2023-24<br>Requested Change | FY 2023-24<br>Rec'd Change | FY 2023-24 Total<br>w/Rec'd Change |
|---|----------------------|-----------------------------|--------------------------------|----------------------------|------------------------------------|
| <b>BHA S1 Ombudsman staffing</b>                                |                      |                             |                                |                            |                                    |
| <b>(1) EXECUTIVE DIRECTOR'S OFFICE</b>                          |                      |                             |                                |                            |                                    |
| <b>(A) General Administration</b>                               |                      |                             |                                |                            |                                    |
| Health, Life, and Dental  | <u>48,850,091</u>    | <u>59,617,696</u>           | <u>5,517</u>                   | <u>5,517</u>               | <u>59,623,213</u>                  |
| General Fund  | 37,653,120           | 39,113,789                  | 5,517                          | 5,517                      | 39,119,306                         |
| Cash Funds  | 2,196,120            | 3,448,791                   | 0                              | 0                          | 3,448,791                          |
| Reappropriated Funds  | 8,680,892            | 8,189,105                   | 0                              | 0                          | 8,189,105                          |
| Federal Funds   | 319,959              | 8,866,011                   | 0                              | 0                          | 8,866,011                          |
| Short-term Disability   | <u>446,773</u>       | <u>463,271</u>              | <u>51</u>                      | <u>51</u>                  | <u>463,322</u>                     |
| General Fund  | 357,116              | 311,892                     | 51                             | 51                         | 311,943                            |
| Cash Funds  | 19,709               | 21,106                      | 0                              | 0                          | 21,106                             |
| Reappropriated Funds  | 66,517               | 55,312                      | 0                              | 0                          | 55,312                             |
| Federal Funds   | 3,431                | 74,961                      | 0                              | 0                          | 74,961                             |
| S.B. 04-257 Amortization Equalization Disbursement              | <u>14,363,158</u>    | <u>15,808,083</u>           | <u>1,586</u>                   | <u>1,586</u>               | <u>15,809,669</u>                  |
| General Fund  | 11,418,994           | 10,638,368                  | 1,586                          | 1,586                      | 10,639,954                         |
| Cash Funds  | 668,991              | 731,715                     | 0                              | 0                          | 731,715                            |
| Reappropriated Funds  | 2,167,647            | 1,909,082                   | 0                              | 0                          | 1,909,082                          |
| Federal Funds   | 107,526              | 2,528,918                   | 0                              | 0                          | 2,528,918                          |
| S.B. 06-235 Supplemental Amortization Equalization Disbursement | <u>14,363,158</u>    | <u>15,808,083</u>           | <u>1,586</u>                   | <u>1,586</u>               | <u>15,809,669</u>                  |
| General Fund  | 11,418,994           | 10,638,368                  | 1,586                          | 1,586                      | 10,639,954                         |
| Cash Funds  | 668,991              | 731,715                     | 0                              | 0                          | 731,715                            |
| Reappropriated Funds  | 2,167,647            | 1,909,082                   | 0                              | 0                          | 1,909,082                          |
| Federal Funds   | 107,526              | 2,528,918                   | 0                              | 0                          | 2,528,918                          |

*JBC Staff Supplemental Recommendations - FY 2023-24*  
*Staff Working Document - Does Not Represent Committee Decision*

|   | FY 2022-23<br>Actual | FY 2023-24<br>Appropriation | FY 2023-24<br>Requested Change | FY 2023-24<br>Rec'd Change | FY 2023-24 Total<br>w/Rec'd Change |
|---|----------------------|-----------------------------|--------------------------------|----------------------------|------------------------------------|
| Paid Family Leave                             | <u>0</u>             | <u>0</u>                    | <u>143</u>                     | <u>0</u>                   | <u>0</u>                           |
| General Fund                                  | 0                    | 0                           | 143                            | 0                          | 0                                  |
| Cash Funds                                    | 0                    | 0                           | 0                              | 0                          | 0                                  |
| Reappropriated Funds                          | 0                    | 0                           | 0                              | 0                          | 0                                  |
| Federal Funds                                 | 0                    | 0                           | 0                              | 0                          | 0                                  |
| Office of the Ombudsman for Behavioral Health |                      |                             |                                |                            |                                    |
| Access to Care                                | <u>129,400</u>       | <u>133,196</u>              | <u>36,205</u>                  | <u>36,205</u>              | <u>169,401</u>                     |
| FTE   | 0.0                  | 1.5                         | 0.5                            | 0.5                        | 2.0                                |
| General Fund                                  | 129,400              | 133,196                     | 36,205                         | 36,205                     | 169,401                            |
| Cash Funds                                    | 0                    | 0                           | 0                              | 0                          | 0                                  |
| Reappropriated Funds                          | 0                    | 0                           | 0                              | 0                          | 0                                  |
| Federal Funds                                 | 0                    | 0                           | 0                              | 0                          | 0                                  |
| <b>Total for BHA S1 Ombudsman staffing</b>    | 78,152,580           | 91,830,329                  | 45,088                         | 44,945                     | 91,875,274                         |
| FTE   | <u>0.0</u>           | <u>1.5</u>                  | <u>0.5</u>                     | <u>0.5</u>                 | <u>2.0</u>                         |
| General Fund                                  | 60,977,624           | 60,835,613                  | 45,088                         | 44,945                     | 60,880,558                         |
| Cash Funds                                    | 3,553,811            | 4,933,327                   | 0                              | 0                          | 4,933,327                          |
| Reappropriated Funds                          | 13,082,703           | 12,062,581                  | 0                              | 0                          | 12,062,581                         |
| Federal Funds                                 | 538,442              | 13,998,808                  | 0                              | 0                          | 13,998,808                         |
| <b>Totals Excluding Pending Items</b>         |                      |                             |                                |                            |                                    |
| <b>HUMAN SERVICES</b>                         |                      |                             |                                |                            |                                    |
| <b>TOTALS for ALL Departmental line items</b> | 2,187,076,645        | 2,373,290,954               | 58,012,467                     | 58,012,324                 | 2,431,303,278                      |
| FTE   | <u>5,567.8</u>       | <u>5,345.3</u>              | <u>0.5</u>                     | <u>0.5</u>                 | <u>5,345.8</u>                     |
| General Fund                                  | 1,070,305,880        | 1,014,436,841               | 58,012,467                     | 58,012,324                 | 1,072,449,165                      |
| Cash Funds                                    | 279,591,256          | 562,091,644                 | 0                              | 0                          | 562,091,644                        |
| Reappropriated Funds                          | 181,430,699          | 219,580,604                 | 0                              | 0                          | 219,580,604                        |
| Federal Funds                                 | 655,748,810          | 577,181,865                 | 0                              | 0                          | 577,181,865                        |



## APPENDIX B

The attached data was provided by the Department in response to a request from the Committee during the staff briefing to provide comprehensive data on the competency restoration waitlist.

## Waitlist Snapshot

The waitlist changes every day. This document is intended to provide a picture of what the waitlist may look like on any given day. It is a snapshot of the waitlist on December 9, 2023. On that date, 408 individuals were waiting. Each is represented by a row on the table below, in descending order of days waited. Waits outside of Consent Decree timelines are highlighted in gray. A summary follows the table.

| Tier | Service     | County    | Days |
|------|-------------|-----------|------|
| 2    | Restoration | Denver    | 418  |
| 2    | Restoration | Larimer   | 373  |
| 1    | Restoration | Arapahoe  | 353  |
| 2    | Restoration | Douglas   | 318  |
| 1    | Restoration | Pueblo    | 309  |
| 2    | Restoration | El Paso   | 309  |
| 2    | Restoration | Larimer   | 303  |
| 2    | Restoration | Pueblo    | 295  |
| 2    | Restoration | Denver    | 295  |
| 2    | Restoration | Denver    | 284  |
| 2    | Restoration | El Paso   | 282  |
| 2    | Restoration | El Paso   | 278  |
| 1    | Restoration | Denver    | 275  |
| 2    | Restoration | El Paso   | 263  |
| 2    | Restoration | Denver    | 262  |
| 2    | Restoration | Boulder   | 260  |
| 2    | Restoration | Boulder   | 250  |
| 2    | Restoration | Larimer   | 250  |
| 2    | Restoration | El Paso   | 247  |
| 2    | Restoration | Denver    | 239  |
| 2    | Restoration | Arapahoe  | 236  |
| 1    | Restoration | El Paso   | 236  |
| 2    | Restoration | Mesa      | 235  |
| 2    | Restoration | El Paso   | 234  |
| 2    | Restoration | Weld      | 233  |
| 2    | Restoration | Denver    | 232  |
| 1    | Restoration | Boulder   | 229  |
| 2    | Restoration | Denver    | 226  |
| 2    | Restoration | Arapahoe  | 226  |
| 2    | Restoration | Jefferson | 222  |
| 2    | Restoration | Larimer   | 220  |
| 2    | Restoration | Douglas   | 220  |
| 2    | Restoration | Denver    | 219  |
| 2    | Restoration | El Paso   | 215  |
| 2    | Restoration | Jefferson | 214  |
| 2    | Restoration | El Paso   | 213  |
| 2    | Restoration | Denver    | 213  |
| 2    | Restoration | Pueblo    | 213  |

| Tier | Service     | County    | Days |
|------|-------------|-----------|------|
| 2    | Restoration | El Paso   | 211  |
| 2    | Restoration | Denver    | 208  |
| 2    | Restoration | El Paso   | 208  |
| 2    | Restoration | El Paso   | 207  |
| 2    | Restoration | Adams     | 207  |
| 2    | Restoration | Douglas   | 207  |
| 2    | Restoration | El Paso   | 206  |
| 2    | Restoration | Denver    | 205  |
| 2    | Restoration | Other     | 202  |
| 2    | Restoration | Jefferson | 201  |
| 2    | Restoration | Arapahoe  | 199  |
| 2    | Restoration | Arapahoe  | 199  |
| 2    | Restoration | Denver    | 197  |
| 2    | Restoration | Other     | 197  |
| 2    | Restoration | El Paso   | 192  |
| 2    | Restoration | Denver    | 191  |
| 2    | Restoration | El Paso   | 186  |
| 2    | Restoration | El Paso   | 185  |
| 2    | Restoration | Denver    | 180  |
| 2    | Restoration | Arapahoe  | 180  |
| 2    | Restoration | Larimer   | 177  |
| 2    | Restoration | Denver    | 176  |
| 2    | Restoration | Jefferson | 171  |
| 2    | Restoration | Larimer   | 170  |
| 2    | Restoration | Larimer   | 170  |
| 2    | Restoration | Denver    | 169  |
| 2    | Restoration | El Paso   | 165  |
| 2    | Restoration | Adams     | 165  |
| 1    | Restoration | Arapahoe  | 165  |
| 2    | Restoration | Denver    | 164  |
| 2    | Restoration | Denver    | 163  |
| 2    | Restoration | Arapahoe  | 162  |
| 2    | Restoration | El Paso   | 157  |
| 2    | Restoration | El Paso   | 155  |
| 2    | Restoration | Boulder   | 152  |
| 2    | Restoration | El Paso   | 152  |
| 1    | Restoration | El Paso   | 152  |
| 2    | Restoration | Pueblo    | 151  |

| Tier | Service     | County    | Days |
|------|-------------|-----------|------|
| 2    | Restoration | Arapahoe  | 151  |
| 1    | Restoration | Jefferson | 150  |
| 2    | Restoration | Jefferson | 149  |
| 1    | Restoration | Jefferson | 149  |
| 2    | Restoration | Boulder   | 149  |
| 2    | Restoration | El Paso   | 149  |
| 2    | Restoration | El Paso   | 149  |
| 2    | Restoration | Arapahoe  | 149  |
| 2    | Restoration | Denver    | 148  |
| 2    | Restoration | Other     | 147  |
| 2    | Restoration | Adams     | 145  |
| 1    | Restoration | Jefferson | 143  |
| 2    | Restoration | Jefferson | 143  |
| 2    | Restoration | Arapahoe  | 142  |
| 2    | Restoration | El Paso   | 142  |
| 2    | Restoration | Jefferson | 142  |
| 2    | Restoration | Arapahoe  | 142  |
| 2    | Restoration | Adams     | 142  |
| 2    | Restoration | El Paso   | 141  |
| 2    | Restoration | Arapahoe  | 141  |
| 2    | Restoration | Arapahoe  | 141  |
| 1    | Restoration | Boulder   | 141  |
| 2    | Restoration | Jefferson | 138  |
| 2    | Restoration | El Paso   | 138  |
| 2    | Restoration | Pueblo    | 137  |
| 2    | Restoration | Denver    | 137  |
| 2    | Restoration | Denver    | 136  |
| 2    | Restoration | Boulder   | 135  |
| 2    | Restoration | Larimer   | 135  |
| 2    | Restoration | Denver    | 134  |
| 2    | Restoration | Douglas   | 134  |
| 2    | Restoration | Denver    | 134  |
| 2    | Restoration | Denver    | 131  |
| 2    | Restoration | Adams     | 131  |
| 2    | Restoration | Jefferson | 129  |
| 2    | Restoration | El Paso   | 128  |
| 2    | Restoration | Denver    | 127  |
| 2    | Restoration | Denver    | 127  |

| Tier | Service     | County    | Days |
|------|-------------|-----------|------|
| 2    | Restoration | Other     | 127  |
| 2    | Restoration | Denver    | 124  |
| 2    | Restoration | Denver    | 122  |
| 2    | Restoration | Arapahoe  | 122  |
| 1    | Restoration | El Paso   | 122  |
| 2    | Restoration | Arapahoe  | 121  |
| 2    | Restoration | Arapahoe  | 121  |
| 2    | Restoration | Denver    | 120  |
| 2    | Restoration | Weld      | 117  |
| 2    | Restoration | Arapahoe  | 116  |
| 2    | Restoration | Jefferson | 116  |
| 2    | Restoration | Adams     | 115  |
| 2    | Restoration | Pueblo    | 115  |
| 2    | Restoration | Denver    | 115  |
| 2    | Restoration | El Paso   | 115  |
| 1    | Restoration | Adams     | 114  |
| 2    | Restoration | Larimer   | 114  |
| 2    | Restoration | Denver    | 114  |
| 2    | Restoration | Boulder   | 110  |
| 2    | Restoration | Larimer   | 110  |
| 1    | Restoration | Adams     | 110  |
| 2    | Restoration | Denver    | 110  |
| 2    | Restoration | Other     | 109  |
| 2    | Restoration | Arapahoe  | 108  |
| 2    | Restoration | Boulder   | 108  |
| 2    | Restoration | Pueblo    | 108  |
| 2    | Restoration | Boulder   | 108  |
| 2    | Restoration | Adams     | 108  |
| 2    | Restoration | Other     | 107  |
| 2    | Restoration | Adams     | 107  |
| 2    | Restoration | Boulder   | 106  |
| 2    | Restoration | Arapahoe  | 106  |
| 2    | Restoration | Arapahoe  | 106  |
| 2    | Restoration | Mesa      | 106  |
| 1    | Restoration | Arapahoe  | 106  |
| 2    | Restoration | Denver    | 106  |
| 2    | Restoration | Denver    | 106  |
| 2    | Restoration | Arapahoe  | 103  |
| 2    | Restoration | Arapahoe  | 102  |
| 2    | Restoration | Other     | 102  |
| 1    | Restoration | Jefferson | 102  |
| 2    | Restoration | Weld      | 101  |
| 2    | Restoration | Weld      | 100  |

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| Tier | Service     | County    | Days |
|------|-------------|-----------|------|
| 1    | Restoration | Arapahoe  | 100  |
| 2    | Restoration | El Paso   | 100  |
| 2    | Restoration | El Paso   | 100  |
| 2    | Restoration | Jefferson | 100  |
| 1    | Restoration | El Paso   | 99   |
| 2    | Restoration | Weld      | 99   |
| 2    | Restoration | Arapahoe  | 99   |
| 2    | Restoration | Arapahoe  | 95   |
| 2    | Restoration | Denver    | 95   |
| 2    | Restoration | Denver    | 94   |
| 2    | Restoration | Denver    | 94   |
| 2    | Restoration | El Paso   | 94   |
| 2    | Restoration | Weld      | 94   |
| 2    | Restoration | Pueblo    | 94   |
| 2    | Restoration | El Paso   | 94   |
| 2    | Restoration | Jefferson | 93   |
| 2    | Restoration | Other     | 93   |
| 2    | Restoration | Arapahoe  | 93   |
| 2    | Restoration | Boulder   | 92   |
| 2    | Restoration | Mesa      | 92   |
| 2    | Restoration | Mesa      | 92   |
| 2    | Restoration | Denver    | 92   |
| 2    | Restoration | Denver    | 92   |
| 2    | Restoration | Denver    | 92   |
| 2    | Restoration | Denver    | 92   |
| 2    | Restoration | Arapahoe  | 90   |
| 2    | Restoration | Arapahoe  | 88   |
| 1    | Restoration | Denver    | 87   |
| 2    | Restoration | Larimer   | 86   |
| 2    | Restoration | Jefferson | 85   |
| 2    | Restoration | Mesa      | 85   |
| 2    | Restoration | Adams     | 81   |
| 2    | Restoration | Boulder   | 81   |
| 1    | Restoration | Other     | 81   |
| 2    | Restoration | Arapahoe  | 81   |
| 2    | Restoration | Denver    | 80   |
| 2    | Restoration | Weld      | 80   |
| 2    | Restoration | Denver    | 79   |
| 2    | Restoration | Denver    | 79   |
| 2    | Restoration | Adams     | 79   |
| 2    | Restoration | Denver    | 78   |
| 2    | Restoration | Arapahoe  | 78   |
| 2    | Restoration | Denver    | 78   |
| 2    | Restoration | Arapahoe  | 78   |

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| Tier | Service     | County    | Days |
|------|-------------|-----------|------|
| 2    | Restoration | Denver    | 75   |
| 2    | Restoration | Other     | 75   |
| 2    | Restoration | El Paso   | 75   |
| 2    | Restoration | Larimer   | 75   |
| 2    | Restoration | Pueblo    | 74   |
| 2    | Restoration | Jefferson | 74   |
| 2    | Restoration | Weld      | 73   |
| 2    | Restoration | Other     | 73   |
| 2    | Restoration | Adams     | 73   |
| 2    | Restoration | El Paso   | 72   |
| 1    | Restoration | El Paso   | 72   |
| 2    | Restoration | Weld      | 71   |
| 2    | Restoration | Douglas   | 67   |
| 2    | Restoration | El Paso   | 67   |
| 1    | Restoration | Arapahoe  | 66   |
| 2    | Restoration | Denver    | 66   |
| 2    | Restoration | Other     | 66   |
| 2    | Restoration | Adams     | 66   |
| 2    | Restoration | El Paso   | 65   |
| 2    | Restoration | Pueblo    | 65   |
| 2    | Restoration | El Paso   | 65   |
| 2    | Restoration | El Paso   | 65   |
| 2    | Restoration | Arapahoe  | 65   |
| 1    | Restoration | El Paso   | 65   |
| 2    | Restoration | El Paso   | 65   |
| 2    | Restoration | El Paso   | 64   |
| 2    | Restoration | Arapahoe  | 64   |
| 2    | Restoration | Arapahoe  | 64   |
| 2    | Restoration | Jefferson | 64   |
| 2    | Restoration | Arapahoe  | 61   |
| 2    | Restoration | Weld      | 61   |
| 2    | Restoration | Other     | 60   |
| 2    | Restoration | Denver    | 60   |
| 2    | Restoration | El Paso   | 59   |
| 2    | Restoration | Jefferson | 59   |
| 2    | Restoration | Denver    | 59   |
| 2    | Restoration | Pueblo    | 58   |
| 2    | Restoration | Adams     | 58   |
| 2    | Restoration | Arapahoe  | 58   |
| 2    | Restoration | Larimer   | 58   |
| 2    | Restoration | Arapahoe  | 58   |
| 2    | Restoration | Adams     | 58   |
| 2    | Restoration | Arapahoe  | 58   |
| 2    | Restoration | Boulder   | 57   |

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| Tier | Service     | County    | Days |
|------|-------------|-----------|------|
| 2    | Restoration | Arapahoe  | 57   |
| 2    | Restoration | Boulder   | 54   |
| 2    | Restoration | Adams     | 54   |
| 2    | Restoration | Other     | 53   |
| 2    | Restoration | Arapahoe  | 53   |
| 2    | Restoration | El Paso   | 53   |
| 2    | Restoration | Mesa      | 52   |
| 2    | Restoration | Denver    | 52   |
| 2    | Restoration | Denver    | 52   |
| 1    | Restoration | Denver    | 52   |
| 2    | Restoration | Denver    | 51   |
| 2    | Restoration | Mesa      | 50   |
| 2    | Restoration | Denver    | 50   |
| 2    | Restoration | El Paso   | 50   |
| 2    | Restoration | Denver    | 50   |
| 2    | Restoration | Arapahoe  | 47   |
| 1    | Restoration | Other     | 47   |
| 2    | Restoration | Jefferson | 46   |
| 2    | Restoration | Weld      | 46   |
| 2    | Restoration | Boulder   | 45   |
| 2    | Restoration | Other     | 45   |
| 1    | Restoration | Boulder   | 45   |
| 2    | Restoration | Larimer   | 44   |
| 2    | Restoration | Other     | 44   |
| 2    | Restoration | El Paso   | 44   |
| 2    | Restoration | Boulder   | 44   |
| 2    | Restoration | Adams     | 44   |
| 2    | Restoration | Adams     | 44   |
| 2    | Restoration | Jefferson | 44   |
| 2    | Restoration | Jefferson | 44   |
| 2    | Restoration | El Paso   | 44   |
| 2    | Restoration | Arapahoe  | 43   |
| 2    | Restoration | Denver    | 43   |
| 2    | Restoration | Arapahoe  | 43   |
| 2    | Restoration | Arapahoe  | 43   |
| 2    | Restoration | Arapahoe  | 40   |
| 2    | Restoration | Adams     | 40   |
| 1    | Restoration | Other     | 40   |
| 2    | Restoration | Other     | 40   |
| 2    | Restoration | Pueblo    | 40   |
| 2    | Restoration | Denver    | 39   |
| 2    | Restoration | Arapahoe  | 39   |
| 2    | Restoration | Weld      | 39   |
| 2    | Restoration | El Paso   | 38   |

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| Tier | Service     | County    | Days |
|------|-------------|-----------|------|
| 2    | Restoration | Denver    | 38   |
| 2    | Restoration | Denver    | 38   |
| 2    | Restoration | El Paso   | 38   |
| 2    | Restoration | Denver    | 37   |
| 2    | Restoration | Denver    | 37   |
| 2    | Restoration | Adams     | 37   |
| 2    | Restoration | Adams     | 37   |
| 1    | Restoration | Adams     | 36   |
| 2    | Restoration | Adams     | 36   |
| 1    | Restoration | El Paso   | 36   |
| 2    | Restoration | Adams     | 36   |
| 2    | Restoration | Denver    | 33   |
| 2    | Restoration | Weld      | 33   |
| 2    | Restoration | Pueblo    | 33   |
|      | Evaluation  | Denver    | 33   |
| 1    | Restoration | Pueblo    | 33   |
| 1    | Restoration | Boulder   | 33   |
| 2    | Restoration | Arapahoe  | 33   |
| 2    | Restoration | Adams     | 33   |
| 2    | Restoration | El Paso   | 33   |
| 2    | Restoration | Denver    | 33   |
| 2    | Restoration | El Paso   | 32   |
| 2    | Restoration | Denver    | 32   |
| 2    | Restoration | Adams     | 32   |
| 2    | Restoration | Denver    | 32   |
| 2    | Restoration | Arapahoe  | 31   |
| 2    | Restoration | Other     | 31   |
| 2    | Restoration | Other     | 30   |
| 2    | Restoration | Larimer   | 30   |
| 1    | Restoration | Other     | 30   |
| 2    | Restoration | Arapahoe  | 30   |
| 2    | Restoration | Denver    | 30   |
| 2    | Restoration | Jefferson | 30   |
| 2    | Restoration | Pueblo    | 26   |
| 2    | Restoration | Boulder   | 26   |
| 2    | Restoration | Douglas   | 26   |
| 2    | Restoration | El Paso   | 26   |
| 2    | Restoration | El Paso   | 25   |
| 2    | Restoration | El Paso   | 25   |
| 2    | Restoration | El Paso   | 25   |
| 1    | Restoration | Denver    | 24   |
| 1    | Restoration | Adams     | 24   |
| 2    | Restoration | Denver    | 24   |
| 2    | Restoration | El Paso   | 24   |

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| Tier | Service     | County    | Days |
|------|-------------|-----------|------|
| 2    | Restoration | Denver    | 24   |
| 2    | Restoration | Denver    | 23   |
| 2    | Restoration | El Paso   | 22   |
| 2    | Restoration | Denver    | 22   |
| 2    | Restoration | El Paso   | 22   |
| 1    | Restoration | Mesa      | 22   |
| 2    | Restoration | Denver    | 22   |
| 1    | Restoration | Other     | 22   |
| 2    | Restoration | Other     | 22   |
| 2    | Restoration | Jefferson | 22   |
| 2    | Restoration | Arapahoe  | 22   |
| 2    | Restoration | Denver    | 22   |
| 2    | Restoration | Denver    | 22   |
| 2    | Restoration | Denver    | 22   |
| 1    | Restoration | Arapahoe  | 19   |
| 2    | Restoration | Douglas   | 19   |
| 2    | Restoration | Jefferson | 18   |
| 2    | Restoration | Jefferson | 18   |
| 2    | Restoration | Weld      | 18   |
| 2    | Restoration | Arapahoe  | 18   |
| 2    | Restoration | Denver    | 12   |
| 2    | Restoration | Boulder   | 12   |
| 1    | Restoration | Arapahoe  | 12   |
| 2    | Restoration | Other     | 12   |
| 2    | Restoration | Pueblo    | 12   |
| 2    | Restoration | Other     | 11   |
| 2    | Restoration | Douglas   | 11   |
| 2    | Restoration | Boulder   | 11   |
| 2    | Restoration | Douglas   | 11   |
| 2    | Restoration | Arapahoe  | 11   |
| 2    | Restoration | Denver    | 11   |
|      | Evaluation  | Denver    | 11   |
| 2    | Restoration | Mesa      | 11   |
| 2    | Restoration | Denver    | 11   |
| 2    | Restoration | Denver    | 11   |
| 2    | Restoration | Other     | 10   |
| 1    | Restoration | Boulder   | 10   |
| 2    | Restoration | Mesa      | 10   |
| 2    | Restoration | Denver    | 10   |
| 2    | Restoration | El Paso   | 10   |
| 2    | Restoration | Denver    | 10   |
| 2    | Restoration | Other     | 10   |
| 2    | Restoration | Mesa      | 10   |
| 2    | Restoration | Other     | 10   |

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| Tier | Service     | County  | Days |
|------|-------------|---------|------|
| 2    | Restoration | Other   | 9    |
| 1    | Restoration | Larimer | 9    |
| 2    | Restoration | Larimer | 9    |
| 2    | Restoration | Denver  | 8    |
| 2    | Restoration | Boulder | 8    |
| 2    | Restoration | Denver  | 8    |
| 2    | Restoration | El Paso | 8    |
| 1    | Restoration | Adams   | 8    |
| 2    | Restoration | Denver  | 5    |
| 2    | Restoration | Denver  | 5    |

| Tier | Service     | County    | Days |
|------|-------------|-----------|------|
| 2    | Restoration | El Paso   | 5    |
| 2    | Restoration | Denver    | 5    |
| 2    | Restoration | Denver    | 5    |
| 2    | Restoration | Douglas   | 4    |
| 2    | Restoration | Arapahoe  | 4    |
| 2    | Restoration | Douglas   | 4    |
| 1    | Restoration | Pueblo    | 4    |
| 1    | Restoration | Pueblo    | 4    |
| 2    | Restoration | El Paso   | 3    |
| 2    | Restoration | Jefferson | 3    |

| Tier | Service     | County   | Days |
|------|-------------|----------|------|
| 2    | Restoration | Denver   | 3    |
| 2    | Restoration | Mesa     | 3    |
| 2    | Restoration | Denver   | 2    |
| 2    | Restoration | Denver   | 2    |
| 2    | Restoration | Denver   | 2    |
| 2    | Restoration | Denver   | 2    |
| 1    | Restoration | Larimer  | 2    |
| 2    | Restoration | Denver   | 2    |
| 2    | Restoration | Arapahoe | 1    |
| 2    | Restoration | Denver   | 1    |

### Summary of waitlist on December 9, 2023

Individuals waiting: 408

Waiting for restoration treatment: 406

Waiting for evaluation: 2

Tier 1: 44

Tier 2: 362

Within consent decree timeframes: 76

Outside consent decree timeframes: 332

Average number of days waiting: 93

Median number of days waiting: 75

Longest wait: 418

Waiting more than 300 days: 7

By County:

|           |    |         |    |
|-----------|----|---------|----|
| Denver    | 99 | Larimer | 18 |
| El Paso   | 65 | Pueblo  | 18 |
| Arapahoe  | 59 | Weld    | 14 |
| Adams     | 29 | Mesa    | 12 |
| Jefferson | 28 | Douglas | 11 |
| Boulder   | 25 | Other   | 30 |

## APPENDIX C

The following research memo was created to discuss competency procedures in other states.

# MEMORANDUM



## JOINT BUDGET COMMITTEE

TO Joint Budget Committee  
FROM Alanna Jackson, JBC Staff Assistant  
DATE December 13, 2023  
SUBJECT Competency Operations in Miami, Los Angeles, and New York

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### OVERVIEW

This memo is an initial exploration of **competency operations in Miami-Dade County**, specifically the Eleventh Judicial Circuit Criminal Mental Health Project (CMHP), and competency and mental health proceedings in **New York and Los Angeles**. This memo is meant to serve as a starting point for considering the structure, programs, and outcomes.

### MIAMI-DADE COUNTY

Miami-Dade County's CMHP, a program meant to divert defendants from jail into community-based treatment and support services, seeks to 1) provide adequate care to the defendants and 2) alleviate strain on state institutions. Other programs to address defendant mental health and diversion from the justice system emerge in Los Angeles, including the Mental Health Linkage Program, and New York, including the Bronx Mental Health Court.

### PROBLEM

The **intersection of experiencing severe mental illness and being incarcerated is prominent** in United States jails and prisons. About 1 in 5 individuals detained in jail experience serious mental illnesses. Nationwide predictions estimate that 1.8 million people with serious illnesses are booked into jails annually. In Miami-Dade County, approximately 70.0 percent of individuals who live with serious mental illness or substance use disorder are currently not receiving treatment. Oftentimes, police officers become the first responders to people in crisis. These encounters often result in arrest or incarceration.

Thus, law enforcement officers often become mental health responders and jails become psychiatric institutions. Not only does this increase costs for the State, but also the livelihood and adequate treatment of the affected individuals.

### RESPONSE

**The CMHP was created to divert nonviolent misdemeanor defendants with serious mental illness, or co-occurring serious mental illness and substance use disorders, from the criminal justice system into community-based treatment and support services.** The program operates two components: pre-booking diversion consisting of Crisis Intervention Team for law enforcement officers and post-booking diversion serving individuals booked into jails and awaiting adjudication.

### *PRE-BOOKING JAIL DIVERSION PROGRAM*

This component uses the **Crisis Intervention Team** training model developed in Memphis, Tennessee in the 1980s. The model intends to set a standard for law enforcement officers as they interact with individuals with mental illnesses, including how to respond to calls involving mental health crisis and 40 hours of training in psychiatric diagnoses, suicide intervention, substance abuse

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issues, behavioral de-escalation techniques, trauma, the role of the family, mental health laws, and local resources.

CMHP has provided CIT training to over 7,000 officers, as of 2020. In 2019, these officers responded to more than 8,000 calls, resulting **in more than 1,600 diversions** to crisis units and 3 arrests. Additionally, in large part to CIT, the county has **closed a jail facility at a cost-savings to taxpayers of \$12.0 million per year**. The reduction in jail admissions resulted in 109,704 fewer inmate jail days annually and a cost avoidance of over \$29.0 million per year.

#### *POST-BOOKING JAIL DIVERSION PROGRAM*

This program expands services for defendants that have been arrested for less serious felonies and other charges. To determine appropriate individualized transition plans, the program uses two screening tools: 1) The Texas Christian University Drug Screen V (TCUDS V) and 2) Ohio Risk Assessment: Community Supervision Tool (ORAS-CST). The program serves 400 individuals annually.

#### **COMPETENCY EVALUATION**

According to the 11<sup>th</sup> Judicial District, the Mental Health Administrator's Office assists judges through coordinating evaluations and treatments and monitoring cases. The Office collaborates with mental health professionals, the Department of Children and Families, and treatment/placement providers.

Usually, the defendant's attorney will petition the court to have a mental health evaluation conducted on their client, which the judge can then order. The Office coordinates the court-ordered evaluation. As far as staff can tell, **competency evaluation is conducted through the Mental Health Administrator's Office**. Miami-Dade County appears to be similar to a few other states in that the **Department of Corrections updates and provides a list of available mental health professionals** who have completed the approved training.

#### **COMPETENCY RESTORATION**

If the defendant is found "incompetent" to stand trial and meets the criteria for involuntary hospitalization, **the court commits the defendant to the Department of Children and Families for competency restoration and stabilization**. The Mental Health Administrator's Office works with the Department of Children and Families and the Department of Corrections to coordinate the defendant's return to court.

#### Los Angeles County<sup>1</sup>

The Mental Health Court Linkage Program is a collaboration between the Los Angeles County Department of Mental Health and the Los Angeles County Superior Court. The program is staffed by **15 mental health clinicians** who are located in 22 courts throughout the county. Like the program in Miami-Dade County, this program serves adults with mental illness or co-occurring mental health and substance abuse disorders who are involved in the criminal justice system. Services include on-site courthouse outreach, individual service needs assessments, information to consumers and the court regarding available treatment options, development of diversion, alternative sentencing, and

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<sup>1</sup> <https://dmh.lacounty.gov/court-programs/clp/>



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post-release plans, linking of consumers to treatment programs, expedition of mental health referrals, and support and assistance to defendants and families in navigating the court system.

The Mental Health Court Linkage Program also houses **the Community Reintegration Program, which offers an alternative to incarceration** for court-involved individuals with mental illness and/or substance use disorder. This program provides admission to two specialized residential mental health programs for qualified individuals who voluntarily accept treatment in lieu of incarceration. Staff from the linkage program refer eligible clients to CRP for consideration.

#### COMPETENCY EVALUATION

Under California Penal Code Section 1368 PC, a judge or attorney can question the defendant's competency to stand trial. If a doubt of competency is declared, the underlying criminal case is put on hold and the court conducts a competency hearing. In Los Angeles, the case is transferred to the **Mental Health Courthouse**, which is responsible for conducting competency hearings. A psychiatrist or psychologist evaluates the defendant. [Here is a list of the Superior Court's approved panel of psychiatrists and psychologists.](#)

#### COMPETENCY RESTORATION

If the mental health provider finds that the individual cannot stand their trial, the court defers the legal proceedings and orders a placement evaluation by the Conditional Release Program (CONREP)<sup>2</sup> Community Program Director to determine if the defendant should be treated in a Department of State Hospitals outpatient or inpatient program.

#### NEW YORK

New York State has **Mental Health Courts**, with the intent to improve safety and promote the well-being of justice-involved individuals living with mental illness. The courts ultimately link folks with court-supervised, community-based treatment.

More specifically, the courts, like the Bronx Mental Health Court,<sup>3</sup> **divert adults who experience mental illness and have committed misdemeanor offenses out of the justice system into treatment.** During the program, individuals receive court monitoring, case management, and treatment services. Referrals for the program come from prosecutors, defense attorneys, judges, family members, community providers, jail mental health staff, probation officers, "730" competency hearings, other case management or diversion programs, or from the defendants themselves.

According to the Bronx Mental Health Court, the program screens all referrals with a seven-question form processed by the supervising case manager. All referrals are assigned a preplacement case manager who screens the individual for clinical eligibility. Whether a defendant can participate in the program is based on recommendations from the Treatment Accountability for Safer Communities team, the prosecuting attorney, and the defense attorney. The defendant must voluntarily agree to participate.

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<sup>2</sup> [https://www.dsh.ca.gov/Treatment/Conditional\\_Release.html](https://www.dsh.ca.gov/Treatment/Conditional_Release.html)

<sup>3</sup> <https://crimesolutions.ojp.gov/ratedprograms/475#7-0>

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### COMPETENCY EVALUATION

In New York City, **psychiatric evaluation court clinics conduct court-ordered psychiatric examinations, including competency evaluations, of charged individuals.** In 2018, Correctional Health Services, a program within NYC Health and Hospitals, voluntarily assumed management of the City's Forensic Psychiatric Evaluation Court Clinics in the Bronx, Manhattan, Brooklyn, and Queens.<sup>4</sup> NYC Health and Hospitals, also known as the New York City Health and Hospitals Corporation, operates the public hospitals and clinics in New York City as a public benefit corporation; NYC Health and Hospitals is similar to a municipal agency but has a board of directors.<sup>5</sup>

### COMPETENCY RESTORATION

In New York, there are four mental health facilities operated by the Office of Mental Health that provide competency restoration treatment for defendants: Kirby Forensic Psychiatric Center (Manhattan), Mid-Hudson Forensic Psychiatric Center (Orange County), Northeast Regional Forensic Unit (Oneida County) and Rochester Regional Forensic Unit (Monroe County). All defendants undergo restoration in one of these facilities. There are also two facilities operated by the Office for People with Developmental Disabilities for defendants with developmental disabilities who are deemed "incompetent" to stand trial: Sunmount DC in Tupper Lake and Valley Ridge Center for Intensive Treatment in Norwich. **Ultimately, the Office of Mental Health provides restoration services.**

### COMPARING STATES

New York's diversion process **allows multiple parties, including the defendants themselves, to refer the defendant into this program**, whereas the Miami-Dade program mainly relies on police officers and jail staff to refer the defendant to the program. However, after this initial referral, both programs use a variety of evaluations to determine whether the defendant can move forward with the program.

**Structurally, the programs differ from the majority of Colorado courts'** current structure. New York, Los Angeles, and Miami-Dade County<sup>6</sup> have a large mental health court infrastructure, which allows for more capacity around connecting resources and assisting defendants through completion of treatment. Currently, **Colorado has mental health courts** in Fort Collins, Golden, Pueblo, Cañon City, and Centennial, **which do not serve the majority of large municipalities** in Colorado.

### FURTHER RESEARCH

Research regarding Crisis Intervention Teams suggests that the model enhances knowledge and attitudes of police officers; both of these enhancements have beneficial effects on stigma. However, one article notes that lower stigma does not have an effect on de-escalation skills and referral decisions, though self-efficacy (officer confidence in interacting with individuals with mental illness) does.<sup>7</sup>

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<sup>4</sup> [https://www.nyc.gov/assets/boc/downloads/pdf/Meetings/2019/March/H+H\\_Mental-Health-Presentation-March-12-2019.pdf](https://www.nyc.gov/assets/boc/downloads/pdf/Meetings/2019/March/H+H_Mental-Health-Presentation-March-12-2019.pdf)

<sup>5</sup> <https://www.nychealthandhospitals.org/about-nyc-health-hospitals/>

<sup>6</sup> <https://miamisao.com/our-work/signature-programs/treatment-courts/mental-health-court/#:~:text=The%20courts%20were%20established%20to,based%20treatment%20and%20support%20services.>

<sup>7</sup> <https://www.sciencedirect.com/science/article/abs/pii/S0160252722000401>

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Another study of CIT noted that after the week long training, **police officers demonstrated statistically significant changes in knowledge, perception, and attitude scores** toward individuals with serious mental illness.<sup>8</sup> The findings suggest that CIT training may align officers' understanding of mental illness more closely to that of mental health professionals, which could help in improving de-escalation and referrals to defer from incarceration. However, the study notes the following possible limitations:

- 1 The Likert scale responses may be influenced by social desirability bias;
- 2 The sample was not representative of the population;
- 3 The study does not account for other factors that may influence officer attitudes and actions: race/ethnicity, language, perceived income/employment, etc.

## CONCLUSION

Ultimately, the programs in the other states emphasize:

- Linking defendants to treatment centered resources.
- Training professionals in contact with individuals who might experience severe mental illness.
- Replacing competency proceedings with a more robust system that doesn't delay court activity but rather reroutes defendants into settings that might be rehabilitative.

## FURTHER QUESTIONS/THOUGHTS

- 1 How are the programs in Florida, New York, and California also accounting for factors that might influence officer/court worker attitudes, actions, and biases?
- 2 What kind of infrastructure (FTE, training, materials, etc.) are necessary for a successful mental health court?
- 3 What has been the impetus for the shift to mental health court infrastructures?
- 4 How have the courts in Florida, New York, and California adjusted their programs based on the needs of the community?

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<sup>8</sup> <https://www.sciencedirect.com/getaccess/pii/S0883941713001210/drawdown>