

JOINT BUDGET COMMITTEE



STAFF FIGURE SETTING FY 2021-22

DEPARTMENT OF PUBLIC SAFETY

Division of Criminal Justice

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

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HOW TO USE THIS DOCUMENT

The Division Overview contains a table summarizing the staff recommended incremental changes followed by brief explanations of each incremental change. A similar overview table is provided for each division, but the description of incremental changes is not repeated, since it is available under the Division Overview. More details about the incremental changes are provided in the sections following the Division Overview and the division summary tables.

Decision items, both division-requested items and staff-initiated items, are discussed either in the Decision Items Affecting Multiple Divisions or at the beginning of the most relevant division. Within a section, decision items are listed in the requested priority order, if applicable.

DIVISION OVERVIEW

This document covers figure setting for the Division of Criminal Justice ONLY. The Department of Public Safety's Division of Criminal Justice (DCJ):

- Provides funding and oversight for the state's community corrections (OCC) programs and for the local boards that oversee and control those facilities;
- Administers state and federally funded grant programs that help state and local agencies assist crime victims, operates the state's Victim's Rights Act Compliance Program, and assists in implementing Colorado's Victim's Rights Amendment;
- Administers federally funded grant programs that help local and state law enforcement agencies improve the services they deliver and administers state and federally funded grant programs that target juvenile delinquency;
- Assists the Domestic Violence Offender Management Board and the Sex Offender Management Board in developing and implementing standards and policies for the evaluation, treatment, monitoring, and management of convicted adult domestic violence and sex offenders;
- Analyzes criminal justice data, evaluates criminal justice programs, conducts recidivism studies, provides research support to the Colorado Commission on Criminal and Juvenile Justice, and distributes information through publications, training programs, and its web site; and
- Helps strengthen the performance and professionalism of Colorado law enforcement agencies through training, education, and technical assistance programs.

SUMMARY OF STAFF RECOMMENDATIONS

DIVISION OF CRIMINAL JUSTICE						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2020-21 Appropriation						
HB 20-1360	\$127,818,971	\$82,859,182	\$4,462,773	\$5,790,030	\$34,706,986	85.2
SB 21-049 (Supplemental bill)	(10,439,478)	(10,439,478)	0	0	0	0.0
TOTAL	\$117,379,493	\$72,419,704	\$4,462,773	\$5,790,030	\$34,706,986	85.2
FY 2021-22 RECOMMENDED APPROPRIATION						
FY 2020-21 Appropriation	\$117,379,493	\$72,419,704	\$4,462,773	\$5,790,030	\$34,706,986	85.2
Annualize prior year budget action	10,439,478	10,439,478	0	0	0	0.0
R4 Increase body-worn camera grant funding	3,000,000	3,000,000	0	0	0	0.0
Common policy provider rate adjustment	1,890,654	1,825,918	0	64,736	0	0.0
Annualize prior year legislation	581,427	580,902	0	0	525	1.8
Staff-initiated community corrections cash fund	0	0	0	0	0	0.0
R2 Community corrections grants	(1,651,599)	(1,651,599)	0	0	0	0.0
R5 Restructuring EPIC to promote equity	(573,631)	(573,631)	0	0	0	(6.0)
Indirect cost adjustment	(141,283)	0	12,902	0	(154,185)	0.0
R8 Administrative efficiency	(49,404)	(49,404)	0	0	0	0.0
TOTAL	\$130,875,135	\$85,991,368	\$4,475,675	\$5,854,766	\$34,553,326	81.0
INCREASE/(DECREASE)	\$13,495,642	\$13,571,664	\$12,902	\$64,736	(\$153,660)	(4.2)
Percentage Change	11.5%	18.7%	0.3%	1.1%	(0.4%)	(4.9%)
FY 2021-22 EXECUTIVE REQUEST						
Request Above/(Below) Recommendation	(\$18,589,055)	(\$22,174,319)	\$3,650,000	(\$64,736)	\$0	(0.0)

DESCRIPTION OF INCREMENTAL CHANGES

ANNUALIZE PRIOR YEAR BUDGET ACTIONS: The recommendation includes an adjustment to annualize and restore the FY 2020-21 community corrections supplemental caseload adjustment of \$10,439,478 General Fund.

R04 BODY-WORN CAMERA GRANT FUNDING: Staff recommends an increase \$3,650,000 total funds for the Body-worn Camera Grant Program, including \$3,000,000 General Fund and \$650,000 from the Marijuana Tax Cash Fund. These funds would help some local law enforcement agencies comply with the requirements of S.B. 20-217, which mandated the use of body-worn cameras by all law enforcement officers in Colorado by July 1, 2023.

COMMON POLICY PROVIDER RATE ADJUSTMENT: The recommended appropriation of \$1,825,918 General Fund reflects the impact of the Committee's common policy provider rate adjustment of 2.5 percent.

ANNUALIZE PRIOR YEAR LEGISLATION: The recommendation includes an increase of \$581,427 total funds and 1.8 FTE for the out-year impact of prior year legislation. Of this amount, \$579,690 General Fund and 1.8 FTE comes from the annualization of S.B. 20-217.

STAFF INITIATED COMMUNITY CORRECTIONS CASH FUND: Staff recommends legislation to create a Community Corrections Cash Fund that would receive year-end reversions of appropriations to community corrections. The primary purpose of this fund is to use reversions to help ensure that funds are available to implement performance-based contracting in FY 2022-23 and future years. Staff recommends that this fund be term-limited to the first five years that performance-based contracting is in effect.

R02 COMMUNITY CORRECTIONS GRANTS: Staff recommends a reduction of \$1,651,599 General Fund. This recommendation offsets the increase associated with the approved provider rate increase of 2.5 percent, leaving FY 2021-22 appropriations at the same level as FY 2020-21 starting appropriations.

R05 RESTRUCTURING EPIC TO PROMOTE EQUITY: Staff recommends a total reduction of \$703,315 General Fund and 6.0 FTE to the EPIC Resource Center line item and centrally appropriated line items in the Executive Director's Office (EDO). Staff does not recommend reallocating funds and FTE to the EDO due to a lack of legislative guidance.

R08 IMPROVE ADMINISTRATIVE EFFICIENCY: *This decision item touches multiple division in the Department of Public Safety and will be discussed in a separate staff briefing for the Department's other divisions.*

INDIRECT COST ASSESSMENT: The recommendation includes a net decrease in the division's indirect cost assessment.

MAJOR DIFFERENCES FROM THE REQUEST

Staff does not recommend approval of the any of the decision items as requested.

DECISION ITEMS AFFECTING MULTIPLE DIVISIONS

→ R05 RESTRUCTURING EPIC TO PROMOTE EQUITY

REQUEST: The Department requests the reallocation of \$313,958 General Fund and 3.0 FTE from the Evidence-based Practices and Implementation Capacity (EPIC) team in DCJ to the Executive Director's Office (EDO). It also requests that appropriations for EPIC be further reduced by an additional \$323,090 General Fund and 3.0 FTE. This would leave 3.0 FTE on the EPIC team.

The purpose of the request is to address evidence-based policies related to equity, diversity and inclusion (EDI) in the Department of Public Safety. The reassigned FTE would work within the EDO to: (1) Offer trainings on race, equity and diversity to Department employees, and (2) Review and implement internal EDI policies aimed at board recruiting and training, grant design and access to funds by minority communities, and developing metrics for the distribution of grants and subgrants. The remaining 3.0 FTE in EPIC would support “external partners still in need of technical assistance,” which would include “a more focused effort on race and equity issues within the criminal system.”

RECOMMENDATION: Staff recommends a total reduction of \$703,315 General Fund and 6.0 FTE to the EPIC Resource Center line item and centrally appropriated line items in the EDO. The Department's request and hearing responses assert that some agencies are becoming more adept at implementing evidence-based policies and have hired their own implementation specialists. The Department did not provide adequate evidence to support that assertion. The inability to provide this evidence called into question whether EPIC is meeting legislative intent to build capacity in the state for the implementation of evidence-based policies. Based on a review of documentation produced by EPIC, staff has concluded that many of EPIC's activities are not what the legislature intended. Staff believes this is partly due to flaws in EPIC's design. If the General Assembly wants to expand the use of evidence-based policies in Colorado, staff concludes that it is necessary to rethink EPIC's design and location within the Department of Public Safety. Staff's recommendation retains 3.0 FTE in EPIC so it can continue its work with existing clients through FY 2021-22. Staff plans to reevaluate whether these FTE should be retained in FY 2022-23.

Staff does not recommend reallocating any portion of this reduction to the EDO for EDI activities due to a lack of legislative guidance on those activities. The Department cited adherence to Executive Order D 2020 175 as the driving factor behind the reallocation. Policy changes delivered through executive orders do not necessitate changes in appropriations. Staff could not find, nor did the Department provide, a statutory reference to support the EDI work sought by the Department. If the General Assembly wants to support and fund EDI-focused policy changes in executive branch agencies, staff recommends that it pass legislation that provides those agencies with the appropriate statutory authority and legislative guidance. Such legislation would provide longer-term legislative support for the principles articulated in the Executive Order. Staff is not recommending that the JBC sponsor this legislation.

ANALYSIS:

The analysis section has two parts. The first part provides background on legislative actions, EPIC's funding history, and previous JBC discussions. The second part explains the request's justifications and provides analysis to support staff's recommendations.

BACKGROUND

Legislative Actions

The EPIC Resource Center (the Center) began in 2009 as an initiative of the Colorado Commission on Criminal and Juvenile Justice. It was originally funded through federal Justice Assistance Grant Funds. That funding was set to expire in September 2013, so the General Assembly codified EPIC in statute through H.B. 13-1129 and provided General Fund to support it. EPIC is currently 100.0 percent supported by General Fund appropriations, totaling \$928,614 and 9.0 FTE in FY 2020-21.

Pursuant to legislative intent, EPIC’s purpose is to build capacity for the implementation of evidence-based policies in Colorado’s criminal justice system. The legislative declaration of H.B. 13-1129 says,

“...a centralized resource center to promote the use of evidence-based correctional practices and the use of implementation science helps build the long-term capacity of each department to develop strategies, services, and systems to benefit the state.”

The EPIC statute says, “The intent of the center is to assist agencies serving juvenile and adult populations to develop and sustain effective implementation frameworks to support the use of evidence-based practices.”

House Bill 13-1129 also added a provision to statute that EPIC would be a collaborative effort among the Departments of Public Safety, Corrections, Judicial, and Human Services. In 2019, the General Assembly passed a JBC-sponsored bill (H.B. 19-1331) to remove this statutory limitation to allow EPIC to collaborate with all state agencies. However, EPIC remains focused on criminal justice issues.

Funding and Spending History

The General Assembly typically appropriates between \$1.0 and \$1.1 million General Fund to support EPIC (including centrally appropriated costs). From FY 2014-15 to FY 2020-21, appropriations to the EPIC Resource Center line item grew by 10.1 percent, driven mostly by salary survey increases. However, after adjusting for inflation, appropriations have declined by about 5.1 percent. Additionally, EPIC consistently reverts some General Fund, which suggests that appropriations are underutilized. The following table shows actual expenditures and reversions between FY 2014-15 and FY 2019-20. All figures represent General Fund.

EPIC SPENDING AND REVERSIONS FY 2014-15 TO FY 2019-20				
ACTUAL EXPENDITURES	TOTAL APPROPRIATIONS	AVERAGE ANNUAL REVERSION	MEDIAN ANNUAL REVERSION	AVG. FTE REVERSION
\$5,288,524	\$6,001,637	\$118,852	\$66,204	1.2

Previous JBC Discussions

EPIC has been a consistent topic of conversation for the Committee in recent years. During the 2018 session, the Committee considered legislation to defund EPIC and redirect those funds to Legislative Council to facilitate contracting with higher education institutions. These institutions would analyze and evaluate evidence-based state programs. Initially, JBC staff argued that EPIC was not focused on EBP implementation. After consultations with stakeholders, JBC staff withdrew their recommendation and the Committee did not pursue the idea.

In 2019, JBC staff recommended legislation that would expand EPIC’s purview within the state. Specifically, that legislation would designate EPIC as the State’s evidence-based implementation entity,

remove limitations on partnerships with state agencies, and increase EPIC’s scope of work. House Bill 19-1331 (Remove Limitation on EPIC Collaboration) emerged from those deliberations and removed limitations on partnerships with state agencies. The bill did not make any other changes.

In 2020, JBC staff once again recommended legislation to expand EPIC’s scope of work, but this legislation did not move forward. Specifically, staff recommended:

- Statements directing EPIC as the state’s research, implementation, evaluation, and coordination entity for the executive, legislative, and elected official branches.
- Reporting requirements for EPIC on the evidence-based programs under its purview;
- Authority to contract with appropriate entities for needed expertise [lacking in EPIC];
- A definition of evidence-based policy; and
- A definition of the evidence-based continuum.

REQUEST JUSTIFICATIONS AND JBC STAFF ANALYSIS

REDUCTIONS TO THE EPIC RESOURCE CENTER

The Department’s request to reduce resources for EPIC hinges on the claim that “many agencies [in the criminal justice field] have developed internal expertise related to the implementation of EBPs.” The request also claims, “Agencies have come to recognize the importance of this work as evidence by some agencies hiring implementation specialists within their own Department.” JBC staff asked “Which agencies and how many specialists?” Staff also asked “What evidence is there that “many agencies have developed internal expertise related to the implementation of EBPs?” This was the Department’s response:

Response: State Judicial created training positions intended to inform staff on principles of implementation approximately four years ago. Since then, state staff responsible for program implementation have been required to incorporate those strategies in their work. They have also hired some partial FTE specific to sanctions and incentives work.

Elsewhere, state executive branch departments have been hiring Process Improvement specialists whose responsibilities include conducting rapid improvement cycles using lean strategies on targeted agency processes. It is not known how many agencies have hired to date.

JBC staff sees a couple problems with this response. First, it is insufficient as a justification to dismantle the State’s only dedicated EBP implementation resource center. It is not clear that there has been a system-wide response that would negate the need for EBP implementation services from an entity such as EPIC.

Second, process improvement and evidence-based policy implementation are two different things. Process improvement aims to reduce inefficiencies; evidence based policy implementation aims to achieve fidelity with research that shows that a program/practice achieves a particular outcome. The fact that the two things are equated in the response raises potential concerns about the Department’s understanding of the implementation of evidence-based policies

On the other hand, this poses a problem for evaluating whether the EPIC Resource Center is a good investment for the State. It is not clear that EPIC has increased the State’s capacity to implement EBPs, nor is it clear that EPIC’s efforts are focused on building EBP implementation capacity. Staff’s interpretation of legislative intent is that EPIC should be training agencies how to implement EBPs, not providing specific training on specific EBPs. The latter has historically been EPIC’s focus, and remains so despite claims to move in a more implementation-focused direction.

EPIC’s 2020 Legislative Report says that from 2017 to 2020, “EPIC shifted its focus from state-wide staff development, primarily in Motivational Interviewing, to the more focused work of supporting richer implementation in client agencies.” Based on information provided by the Department and information gleaned from EPIC’s own reporting, training for Motivational Interviewing is still EPIC’s primary area of focus and expertise. From 2017 to 2020, EPIC held 44 training sessions on Motivational Interviewing and 15 other workshops *not* focused on implementation, including trainings focused on Equity, Diversity and Inclusion. These trainings include implicit bias, microaggressions, creating inclusive environments, and privilege. In that same time frame, the 2020 Legislative Report shows just eight workshops focused on implementation.¹

EPIC also provides direct implementation assistance that aims to build implementation capacity, but this too raised concerns for JBC staff. For example, it appears that EPIC and its clients move through the implementation process before defining the impact, outcomes, activities, and outputs of the EBP being implemented. In staff’s view, this is problematic. The whole point of choosing and using an EBP is to solve a problem and achieve an outcome. If the outcome and activities needed to achieve that outcome remain undefined, it is unclear how it is possible to move forward with implementation, nor how one would evaluate progress toward the undefined outcomes. Staff reviewed six of EPIC’s semi-annual reports and found that only two had defined outcomes, summarized in the table below.

SELECTED LIST OF EPIC CLIENTS				
CLIENT	START DATE	OUTCOMES DEFINED?	SERVICE PROVIDED	SOURCE
Division of Homeland Security and Emergency Management	Nov-19	Yes	Implementation support for Preventing Targeted Violence campaign	August 2020 report
Volunteers of America	Oct-18	No	Implementation support, motivational interviewing training	August 2020 report
1st Judicial District Colorado Youth Detention Continuum	Apr-18	No	Implementation support, motivational interviewing training	August 2020 report
Department of Human Services’ Colorado Community Response	Aug-18	No	Implementation support	August 2020 report
Colorado ComCor, Inc.	2018	Yes	Implementation support for Fierce Conversations	August 2020 report
2nd Judicial District Colorado Youth Detention Continuum	Aug-17	No	Implementation support, case planning	August 2020 report

In staff’s view, EPIC’s non-implementation activities and lack of defined outcomes may be due to EPIC’s design. First, when the General Assembly established EPIC as the State’s center for building implementation capacity, it was asking EPIC to do something it was not necessarily equipped to do. EPIC originated in 2009 through a federal grant; its focus was professional development and Motivational Interviewing. Thus when EPIC was formally established in statute in 2013, EPIC had built about four years of expertise in those areas. It was not until the 2017-2020 triennium (for legislative reporting requirements) that EPIC “...morphed from trainers to Implementation

¹ [EPIC 2020 Legislative Report](#)

Specialists...”² Programmatic inertia can be difficult to overcome, which is why EPIC’s implementation model includes plans for change management and communication. It is therefore unsurprising that EPIC remains primarily focused on Motivational Interviewing; it is doing what it knows, even if it is not what the General Assembly intended.

Second, EPIC’s design lacks accountability mechanisms, in part because its scope of service is too broad. EPIC is essentially a General Fund-subsidized customer service organization that lacks the authority or influence to guarantee that client agencies build and adhere to EBP implementation principles. EPIC serves at the pleasure of its clients, many of whom are not under the State’s direct control (e.g. local providers and nonprofits). This service can take place over several years. If the client changes its mind, perhaps due to a change in leadership, or does not fully cooperate, there is not much that EPIC can do about it. For example, EPIC began work with the 2nd Judicial District in 2017. In the most recent semi-annual report, EPIC noted that a change in leadership within the 2nd JD led to a pause in EPIC’s services:

Since the current Program Director inherited the direction of this work from the original Director who solicited EPIC, it was agreed that Implementation Team work would be temporarily paused until September 2020. During this time, the Program Director will review the current direction of the work in light of her own vision for Denver CYDC in order to ensure full alignment between the implementation work and Denver CYDC’s current goals.³

If the General Assembly wants the State to have its own EBP implementation team, staff believes it should narrow its scope of service to state agencies (executive, judicial, and independent) and build in accountability mechanisms (positive and negative reinforcement) to ensure that its EBP goals are achieved. Because the General Assembly exercises statutory and funding oversight for state agencies, staff believes an EBP team should reside within the legislative branch. Current JBC staff respectfully disagrees with previous JBC staff recommendations to make EPIC the state’s research, implementation, evaluation, and coordination entity for the executive, legislative, and elected official branches, for two reasons. First, it does not make sense to expand EPIC’s scope beyond criminal justice but still keep the team housed within the Department of Public Safety and the Division of Criminal Justice. Second, keeping EPIC within an executive branch agency still presents an accountability problem. Even if EPIC had authority to hold its clients accountable, it would mean the executive branch is largely holding itself accountable.

Staff recommends reducing EPIC by 6.0 FTE, leaving 3.0 FTE in place. Given the Department’s request, both EPIC and its clients should be aware of this reduction, so JBC staff’s recommendation should not come as a surprise. Given that there is an existing client base, staff did not feel comfortable recommending fully defunding EPIC. Staff feels that 3.0 FTE should be sufficient to serve those clients in FY 2021-22 and will reevaluate the retention of these FTE for FY 2022-23.

REQUESTED APPROPRIATIONS TO THE EDO FOR EDI

The Department cited S.B. 20-217 (Enhance Law Enforcement Integrity) and Executive Order D 2020-175 as the driving forces behind the request. Regarding S.B. 20-217, the request says the bill highlights “the need for training on implicit bias awareness,” workplace equity, and other racial and

² [EPIC 2020 Legislative Report](#)

³ [EPIC 2nd Judicial District Semi-annual Report \(August 2020\)](#)

equity issues. However, the Department says it wants to reassign three EPIC staffers to “operationalize equity in systems, policies, and practices as outline in Executive Order D 2020-175.” In other words, the Department’s request cites S.B. 20-217 to justify a broader focus on EDI within the criminal justice system, and it cites the Executive Order to justify the actual redistribution of funds and FTE to do EDI work within the Department.

JBC staff does not believe these justifications warrant approval of the requested reallocation of funds and FTE. Senate Bill 20-217 does not mandate workplace trainings and practices identified in this request. As for the Executive Order, staff cannot use it to justify this change in policy and shift in funding. The Executive Order was issued pursuant to Section 2 of Article IV of the Colorado Constitution, which says “The supreme executive power of the state shall be vested in the governor, who shall take care that the laws be faithfully executed.” It is not clear which laws are being faithfully executed through this executive order. Staff asked the Department to provide the statutory or constitutional authority for its proposed EDI work. This was the Department’s response:

Pursuant to 24-33.5-514, C.R.S. EPIC is authorized to perform EDI work. The statute states EPIC is “a collaborative effort to increase the efficacy of individuals who work with various offender and victim populations by establishing an educational, skill-building, and consultation resource center to support practitioners in the implementation of evidence-based practices.”

There are a couple problems with this. First, the transferred FTE would no longer be a part of EPIC; they would be housed in different units within the EDO. Second, the response suggests that if Section 24-33.5-514, C.R.S., was removed from statute, the Department could no longer do EDI work.

That is not the case. Another response to JBC staff questions shows that the Executive Order alone provides the authority for the request. When staff asked for specific and measureable performance measures for the Department’s proposed EDI work (a previous response said these would be identified by December 31, 2020), the Department said it is “in the process of establishing measures and metrics to monitor success of EDO efforts in accordance with the State Universal Policy on Equity, Diversity and Inclusion.” Under the section of that Universal Policy dealing with Laws, Statutes, and Executive Orders (Section V), the only listed reference is Executive Order D 2020 175.⁴

Policy changes delivered through executive orders do not necessitate changes in appropriations through the legislature. Staff is not questioning the policy value of the Executive Order or the wisdom of applying EBPs to those activities. Rather, staff is questioning the lack of legislative and statutory guidance on the issue. If the General Assembly agrees with the principles outlined in the Executive Order and wants state agencies like the Department of Public Safety to engage in EDI-based practices, staff recommends that it should pass legislation to provides those agencies with the appropriate legislative authority and guidance and include necessary appropriations in that legislation.

⁴ Found on the Department of Personnel and Administration website at this [link](#).

(A) ADMINISTRATION

This subdivision contains appropriations for employees who staff six of the Division's eight offices as well as the operating expenses that support those employees.

ADMINISTRATION						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2020-21 APPROPRIATION						
HB 20-1360	\$6,786,518	\$3,660,186	\$1,820,466	\$492,848	\$813,018	45.7
TOTAL	\$6,786,518	\$3,660,186	\$1,820,466	\$492,848	\$813,018	45.7
FY 2021-22 RECOMMENDED APPROPRIATION						
FY 2020-21 Appropriation	\$6,786,518	\$3,660,186	\$1,820,466	\$492,848	\$813,018	45.7
R4 Body-worn camera grant funding	3,000,000	3,000,000	0	0	0	0.0
Annualize prior year legislation	581,427	580,902	0	0	525	1.8
Indirect cost adjustment	(141,283)	0	12,902	0	(154,185)	0.0
R8 Administrative efficiency	(49,404)	(49,404)	0	0	0	0.0
TOTAL	\$10,177,258	\$7,191,684	\$1,833,368	\$492,848	\$659,358	47.5
INCREASE/(DECREASE)	\$3,390,740	\$3,531,498	\$12,902	\$0	(\$153,660)	1.8
Percentage Change	50.0%	96.5%	0.7%	0.0%	(18.9%)	3.9%
FY 2021-22 EXECUTIVE REQUEST						
Request Above/(Below) Recommendation	\$3,650,000	\$0	\$3,650,000	\$0	\$0	(0.0)

DECISION ITEMS - ADMINISTRATION**→ R04 BODY-WORN CAMERA GRANT FUNDING [LEGISLATION REQUIRED]**

REQUEST: The Department requests an increase of \$6,650,000 total funds, including \$3,000,000 General Fund and \$3,650,000 cash funds, for the Body-worn Camera Grant Program in FY 2021-22. The General Fund would be appropriated into the Body-worn Camera Fund via the Long Bill. Three million of the requested cash funds are for spending authority to grant out the transferred General Fund, but \$650,000 is a Marijuana Tax Cash Fund (MTCF) appropriation. The MTCF appropriation would be ongoing. The request aims to provide local law enforcement agencies with an opportunity to apply for funds to purchase body-worn cameras to comply with Section 24-31-902 (1)(a)(I), C.R.S. This statute requires all local law enforcement agencies and the State Patrol to provide body cameras for each officer that interacts with the public by July 1, 2023.

RECOMMENDATION: Staff recommends \$3,000,000 General Fund and a reallocation of \$650,000 cash funds from the Marijuana Tax Cash Fund from the DCJ Administrative Services line item to the new line item for Body-worn Cameras. The key difference between the request and the recommendation is the Department does not need \$3,000,000 cash fund spending authority to grant out the General Fund. Statute provides that DCJ can make grant payments from General Fund moneys appropriated to the Division. Thus, the requested General Fund does not need to be appropriated into the Body-worn Camera Fund.

However, statute does not provide the same authority non-General Fund appropriations that are **not** from the Body-worn Camera Fund. Staff recommends legislation to provide that authority.

*ANALYSIS:***Background**

S.B. 20-217 (Enhance Law Enforcement Integrity) added a statutory requirement that all local law enforcement agencies and the State Patrol must provide a body-worn camera to every peace officer that interacts with the public. This statute specifically references the Body-worn Camera Grant Program established by House Bill 15-1285 as a possible source of funding, saying, “Law enforcement agencies may seek funding pursuant to section 24-33.5-519.”⁵

House Bill 15-1285 established the Body-worn Camera Grant Program.⁶ This program was created to award grants to law enforcement agencies to purchase body-worn cameras (BWCs), associated data retention and management costs, and to train law enforcement officers on the use of BWCs. Although the act appropriated \$89,893 to DCJ for administrative purposes, there were no grant program dollars appropriated. The bill also created the Body-worn Camera Fund (the Fund), which consists of any moneys received by the division from gifts, grants, or donations.⁷

Choosing the “right” amount

Multiple stakeholder organizations support the requested amount of funding. These organizations include: Colorado Counties Inc., Colorado Municipal League, Colorado Fraternal Order of Police, Police Protective Association, County Sheriffs of Colorado, Colorado Association of Chiefs of Police and the Colorado District Attorney’s Council.

The Department’s request notes that the requested funds “will not cover statewide need.” If this is true, yet the requested amount still has support from key stakeholders, JBC staff sees no reason to deviate from the request. However, staff notes that the requested amount is not based on mathematical calculations. Rather, the requested amount was set aside by the Governor’s office with the aim of striking a “balance between the immediate need and available resources.” Consequently, the General Assembly may choose a higher or lower amount at its discretion. Staff notes that the Department has said there is another \$1.9 million federal funds available in FY 2021-22 through a separate grant program (Justice Assistance Grant Program).⁸

Ongoing Marijuana Tax Cash Fund (MTCF) appropriations

In addition to the \$3,000,000 General Fund appropriation, the Department requests and staff recommends \$650,000 from the Marijuana Tax Cash Fund in FY 2021-22 and future years on an ongoing basis. These funds are repurposed from the Law Enforcement Assistance Grant Program (LEAGP).⁹ House Bill 18-1020 (Civil Forfeiture Reform) established LEAGP with an annual appropriation of \$1,487,821 from the MTCF. Demand for those grants has been less than anticipated. Although the Department anticipates “growing interest” in LEAGP, it believes the mandates associated with S.B. 20-217 are a “more pressing concern for local law enforcement.”

Criteria for the distribution of funds

⁵ Section 24-31-902 (1)(a)(I), C.R.S.

⁶ Section 24-33.5-519, C.R.S.

⁷ Section 24-33.5-519 (2)(a), C.R.S.

⁸ <https://dcj.colorado.gov/jag-justice-assistance-grant>

⁹ Section 24-33.5-522, C.R.S.

Current statute is vague on the criteria for awarding funds through the Body-worn Camera Grant Program. It only says that grants should be awarded to agencies that have “adopted policies, giving preference to agencies that otherwise lack moneys to pay for body-worn cameras.”¹⁰ However, the Department’s request supplies additional criteria. First, it says that “funds will be targeted to those agencies that currently do not have any BWCs within their agencies.” Second, it says, “Funds will not be used to upgrade any current equipment.”

JBC staff posed the following question to the Department: “What criteria will be used to determine that an agency “otherwise lack[s] moneys?” Here was the Department’s response:

The exact criteria that will be used is not known at this time. If approved, an advisory committee would likely be established that would assist in designing the request for proposal specifically outlining criteria. Examples could include: a jurisdiction’s size, total budget available, the number of body cameras currently in use, other possible funding sources, etc.

Staff believes the examples provided by the Department are reasonable and sufficient as a framework. However, if the Committee would like to more detail guiding the distribution of funds, the Committee may consider making those changes in the bill required to use MTCF for the Body-worn Camera Grant Program.

REQUIRED LEGISLATION

The Division currently lacks the authority distribute appropriated cash funds for the Body-worn Camera Grant Program that are *not* from the Body-worn Camera Fund. Section 24-33.5-519 (1)(a), C.R.S., says, “The division shall make grant payments from general fund moneys appropriated to the division by the general assembly for the program and moneys appropriated from the [body-worn camera] fund.”

The General Assembly similarly lacks the authority to appropriate moneys into the Body-worn Camera Fund. Section 24-33.5-519 (2)(a), C.R.S. currently says,

There is created in the state treasury the body-worn camera fund, referred to in this section as the "fund", consisting of any moneys received by the division from gifts, grants, or donations for the grant program. The moneys in the fund are subject to annual appropriation by the general assembly to the division for the direct and indirect costs associated with implementing the grant program.

Staff recommends adding a provision to Section 24-33.5-519 (1)(a) that provides the Division with the authority to make grant payments from appropriated cash funds. The General Assembly may also consider adding a provision that explicitly grants the General Assembly the authority to appropriate money into the Body-worn Camera Fund. However, only one of the two is necessary and staff recommends the former change, not the latter.

¹⁰ Section 24-33.5-519 (1)(b)(II), C.R.S.

LINE ITEM DETAIL — ADMINISTRATION

DCJ ADMINISTRATIVE SERVICES

This line item was created in the FY 2012-13 Long Bill by combining the subdivision's personal services and operating expenses appropriations in order to increase the Division's flexibility. The line item funds many, but not all of the Division's FTE. The sources of cash funds are The Victims Assistance and Law Enforcement Fund (the State VALE fund) established in Section 24-33.5-506 (1), C.R.S. which supports victim programs; The Marijuana Cash Fund created in Section 12-43.3-501 (1)(a), C.R.S., which is for the study of law enforcement activities related to retail marijuana implementation; and gifts, grants and donations. The source of reappropriated funds is indirect cost recoveries, which help pay for oversight of all programs by the Division Administrative Office.

STATUTORY AUTHORITY: Title 24, Article 33.5, Part 5 (Division of Criminal Justice), Section 17-22.5-107, C.R.S. (Parole release and revocation guidelines.), Section 17-22.5-404 C.R.S. (Parole Guidelines), Section 22-32-146, C.R.S. (School use of on-site peace officers as school resource officers), Section 24-33.5-506, C.R.S. (Victims assistance and law enforcement fund), Title 16, Article 11.8, (Management of Domestic Violence Offenders).

REQUEST: The Division requests an appropriation of \$9,541,657 total funds, comprised of \$4,191,684 General Fund, \$4,722,463 cash funds, \$492,848 reappropriated funds, \$134,662 federal funds, and 47.5 FTE.

RECOMMENDATION: Staff recommends an appropriation of \$5,891,657 total funds, comprised of \$4,191,684 General Fund, \$1,072,463 cash funds, \$492,848 reappropriated funds, \$134,662 federal funds, and 47.5 FTE. The difference between the request and the recommendation is that funds for R04 Body-Worn Camera Grant Funding are in a separate line item. The \$650,000 cash funds from the Marijuana Tax Cash Fund for R04 comes from a reduction in another grant program managed in this line item, so staff recommends a reduction of \$650,000 cash funds in this line item.

DIVISION OF CRIMINAL JUSTICE, ADMINISTRATION, DCJ ADMINISTRATIVE SERVICES						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2020-21 APPROPRIATION						
HB 20-1360	\$6,009,634	\$3,660,186	\$1,722,463	\$492,848	\$134,137	45.7
TOTAL	\$6,009,634	\$3,660,186	\$1,722,463	\$492,848	\$134,137	45.7
FY 2021-22 RECOMMENDED APPROPRIATION						
FY 2020-21 Appropriation	\$6,009,634	\$3,660,186	\$1,722,463	\$492,848	\$134,137	45.7
Annualize prior year legislation	581,427	580,902	0	0	525	1.8
R4 Increase body-worn camera grant funding	(650,000)	0	(650,000)	0	0	0.0
R8 Administrative efficiency	(49,404)	(49,404)	0	0	0	0.0
TOTAL	\$5,891,657	\$4,191,684	\$1,072,463	\$492,848	\$134,662	47.5
INCREASE/(DECREASE)	(\$117,977)	\$531,498	(\$650,000)	\$0	\$525	1.8
Percentage Change	(2.0%)	14.5%	(37.7%)	0.0%	0.4%	3.9%
FY 2021-22 EXECUTIVE REQUEST						
Request Above/(Below) Recommendation	\$3,650,000	\$0	\$3,650,000	\$0	\$0	(0.0)

BODY-WORN CAMERA GRANT PROGRAM [NEW LINE ITEM]

This line item funds the purchase of body-worn cameras and related data and training needs for law enforcement agencies in the State of Colorado.

STATUTORY AUTHORITY: Section 24-33.5-519, C.R.S.

REQUEST: The Division requests an appropriation of \$3,650,000 total funds, including \$3,000,000 General Fund and \$650,000 cash funds from the Marijuana Tax Cash Fund.

RECOMMENDATION: Staff recommends approval of the request.

DIVISION OF CRIMINAL JUSTICE, ADMINISTRATION, BODY-WORN CAMERA GRANT PROGRAM						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2020-21 APPROPRIATION						
HB 20-1360	\$0	\$0	\$0	\$0	\$0	0.0
TOTAL	\$0	\$0	\$0	\$0	\$0	0.0
FY 2021-22 RECOMMENDED APPROPRIATION						
FY 2020-21 Appropriation	\$0	\$0	\$0	\$0	\$0	0.0
R4 Increase body-worn camera grant funding	\$3,650,000	\$3,000,000	\$650,000	\$0	\$0	0.0
TOTAL	\$3,650,000	\$3,000,000	\$650,000	\$0	\$0	0.0
INCREASE/(DECREASE)	\$3,650,000	\$3,000,000	\$650,000	\$0	\$0	0.0
Percentage Change	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
FY 2021-22 EXECUTIVE REQUEST	\$3,650,000	\$3,000,000	\$650,000	\$0	\$0	0.0
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	\$0	0.0

INDIRECT COST ASSESSMENT

This line item funds the indirect cost assessments collected from the Division of Criminal Justice.

STATUTORY AUTHORITY: State of Colorado Fiscal Rules, Rule 8-3 (Cost Allocation Plans).

REQUEST: The Division requests an appropriation of \$635,601 total funds, including \$110,905 cash funds and \$524,696 federal funds.

RECOMMENDATION: Staff recommends approval of the request.

DIVISION OF CRIMINAL JUSTICE, ADMINISTRATION, INDIRECT COST ASSESSMENT						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2020-21 APPROPRIATION						
HB 20-1360	\$776,884	\$0	\$98,003	\$0	\$678,881	0.0
TOTAL	\$776,884	\$0	\$98,003	\$0	\$678,881	0.0
FY 2021-22 RECOMMENDED APPROPRIATION						
FY 2020-21 Appropriation	\$776,884	\$0	\$98,003	\$0	\$678,881	0.0
Indirect cost adjustment	(141,283)	0	12,902	0	(154,185)	0.0

DIVISION OF CRIMINAL JUSTICE, ADMINISTRATION, INDIRECT COST ASSESSMENT						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
TOTAL	\$635,601	\$0	\$110,905	\$0	\$524,696	0.0
INCREASE/(DECREASE)	(\$141,283)	\$0	\$12,902	\$0	(\$154,185)	0.0
Percentage Change	(18.2%)	0.0%	13.2%	0.0%	(22.7%)	0.0%
FY 2021-22 EXECUTIVE REQUEST	\$635,601	\$0	\$110,905	\$0	\$524,696	0.0
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	\$0	0.0

(B) VICTIMS ASSISTANCE

The Office for Victims Programs administers state and federally funded grant programs that provide funding to state and local agencies that assist crime victims. Grant recipients include district attorneys, local law enforcement, and local programs that provide victim-assistance services. The subdivision also contains appropriations for Child Abuse Investigation, the Sexual Assault Victim Emergency Payment Program, and the Statewide Victim Information and Notification System (VINE).

VICTIMS ASSISTANCE						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2020-21 APPROPRIATION						
HB 20-1360	\$28,494,314	\$1,602,653	\$1,797,693	\$0	\$25,093,968	9.1
TOTAL	\$28,494,314	\$1,602,653	\$1,797,693	\$0	\$25,093,968	9.1
FY 2021-22 RECOMMENDED APPROPRIATION						
FY 2020-21 Appropriation	\$28,494,314	\$1,602,653	\$1,797,693	\$0	\$25,093,968	9.1
TOTAL	\$28,494,314	\$1,602,653	\$1,797,693	\$0	\$25,093,968	9.1
Percentage Change	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
FY 2021-22 EXECUTIVE REQUEST	\$28,494,314	\$1,602,653	\$1,797,693	\$0	\$25,093,968	9.1
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	\$0	(0.0)

LINE ITEM DETAIL - VICTIMS ASSISTANCE**FEDERAL VICTIMS ASSISTANCE AND COMPENSATION GRANTS**

The Office for Victim Programs manages three federal grant programs:

VOCA (Victims of Crime Act) grants enhance, expand, and develop programs to serve victims of crime. These services include counseling, providing shelter, assistance in filing compensation applications, crisis intervention services, assistance in court proceedings, and assistance in filing protection orders.

VAWA (Violence Against Women Act) grants develop and strengthen effective law enforcement, prosecution, judicial strategies and victim services throughout Colorado in cases involving violent crimes against women, which are defined as domestic violence, sexual assault, stalking and dating violence.

SASP (Sexual Assault Service Program) grants provide direct services, including intervention, advocacy, accompaniment (e.g., accompanying victims to court, medical facilities, police departments, etc.), support services, and related assistance for victims of sexual assault, family and household members of victims, and those collaterally affected by the sexual assault.

STATUTORY AUTHORITY: Section 24-33.5-503 (1)(e), C.R.S., Section 24-33.5-507 and 510, C.R.S.

REQUEST: The Division requests \$25,093,968 federal funds and 8.6 FTE.

RECOMMENDATION: Staff recommends approval of the request, which represents a continuation level of funding.

STATE VICTIMS ASSISTANCE AND LAW ENFORCEMENT (VALE) PROGRAM

The Office for Victims Programs administers the State VALE fund and helps monitor, coordinate and support the victim rights, compensation, and assistance programs that are operated by Colorado's many state and local criminal justice agencies. The Victims Assistance and Law Enforcement (VALE) program began in 1984 when the General Assembly enacted the Assistance to Victims of and Witnesses to Crimes Aid to Law Enforcement Act. In 1992, voters approved the Victim Rights Amendment, which is found in Article 2, Section 16a of the Colorado Constitution. The amendment states that crime victims have the "right to be heard when relevant, informed, and present at all critical stages of the criminal justice process."

STATUTORY AUTHORITY: Section 24-33.5-506, C.R.S. (Victims assistance and law enforcement fund), Title 24, Article 4.2 (Assistance to Victims of and Witnesses to Crimes and Aid to Law Enforcement Act), Colorado Constitution Article 2, Section 16a (Victim Rights Amendment).

REQUEST: The Division requests appropriation of \$1,500,000 cash funds for this program.

RECOMMENDATION: Staff recommends approval of the request, which represents a continuation level of funding.

CHILD ABUSE INVESTIGATION

Child abuse investigations are frequently conducted by Child Advocacy Centers (CACs), which are located in most of the state's judicial districts. About 80 percent of the children served by these centers are victims of sexual abuse. Appropriations for this line item come from the General Fund and the Child Abuse Investigation Surcharge Fund. The DCJ uses these appropriations to make grants to the Colorado Children's Alliance, which distributes the money to Child Advocacy Centers and provides training and technical guidance to the centers. The CACs use the grants to cover between 2 and 20 percent of their operating expenses, with the remainder coming from other sources, such as Victims of Crime Act grants, United Way, and local fundraising efforts

The cash funding for this appropriation stems from Article 24 of Title 18, C.R.S., which establishes a schedule of "surcharges" that are paid by offenders who are convicted of crimes against children, including sex offenses, incest, child abuse, and contributing to the delinquency of a minor. Five percent of the surcharge revenue is credited to the Judicial Stabilization Fund and the remaining 95 percent is credited to the Child Abuse Investigation Surcharge Fund, which is created in Section 18-24-103 (2)(a), C.R.S.

STATUTORY AUTHORITY: Article 24 of Title 18, C.R.S.

REQUEST: The Division requests an appropriation of \$1,297,693 total funds, consisting of \$1,000,000 General Fund and \$297,693 cash funds from the Child Abuse Investigation Surcharge Fund, and 0.3 FTE.

RECOMMENDATION: Staff recommends approval of the request, which represents a continuation level of funding.

SEXUAL ASSAULT VICTIM EMERGENCY PAYMENT PROGRAM

This line item provides funding for emergency payments for victims of sexual assault who need additional time to determine whether or not they wish to pursue legal action. House Bill 13-1163, created the Sexual Assault Victim Emergency Payment Program for this purpose. In such cases, the evidence collection portion of a medical forensic exam is paid for by the DCJ. The victim can decide at a later date to have the crime investigated and prosecuted.

STATUTORY AUTHORITY: Section 18-3-407.7, C.R.S.

REQUEST: The Division requests an appropriation of \$167,933 General Fund and 0.2 FTE.

RECOMMENDATION: Staff recommends approval of the request, which represents a continuation level of funding.

STATEWIDE VICTIM INFORMATION AND NOTIFICATION SYSTEM (VINE)

This appropriation provides funding for a victim notification system operated by the County Sheriffs of Colorado (CSOC), which was constructed with the help of federal grants. The notification system—Colorado Automated Victim Information Notification Everyday (VINE)—is part of a nationwide VINE system that covers 47 states. Implemented after the passage of H.B. 13-1241, the system allows crime victims and other concerned citizens to access information about criminal cases and the custody status of offenders at any time via telephone, internet, or e-mail. VINE obtains information directly from Colorado county-jail booking systems, but does not provide information about the custody status of Colorado Department of Corrections offenders. Victims can register to be automatically notified by any combination of e-mail, fax, letter, or phone when their offender is released, transferred, or escapes. The nationwide VINE system can be accessed at <https://www.vinelink.com>.

STATUTORY AUTHORITY: Section 24-33.5-515, C.R.S., (Statewide automated victim information and notification system).

REQUEST: The Division requests an appropriation of \$434,720 General Fund.

RECOMMENDATION: Staff recommends approval of the request, which represents a continuation level of funding.

(C) JUVENILE JUSTICE AND DELINQUENCY PREVENTION

The Office of Adult and Juvenile Justice Assistance administers federally funded criminal and juvenile justice grant programs that help local and state law enforcement agencies improve the services they deliver and administers the state juvenile diversion grant program. The appropriation for most of the Office's staff is in subdivision (A) Administration.

JUVENILE JUSTICE AND DELINQUENCY PREVENTION						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2020-21 APPROPRIATION						
HB 20-1360	\$4,361,677	\$3,161,677	\$400,000	\$0	\$800,000	4.2
TOTAL	\$4,361,677	\$3,161,677	\$400,000	\$0	\$800,000	4.2
FY 2021-22 RECOMMENDED APPROPRIATION						
FY 2020-21 Appropriation	\$4,361,677	\$3,161,677	\$400,000	\$0	\$800,000	4.2
TOTAL	\$4,361,677	\$3,161,677	\$400,000	\$0	\$800,000	4.2
Percentage Change	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
FY 2021-22 EXECUTIVE REQUEST	\$4,361,677	\$3,161,677	\$400,000	\$0	\$800,000	4.2
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	\$0	0.0

LINE ITEM DETAIL - JUVENILE JUSTICE AND DELINQUENCY PREVENTION

JUVENILE JUSTICE DISBURSEMENTS

This line item is included in the Long Bill for informational purposes only and provides an estimate of expected federal grants to the Division for Juvenile Justice Programs. The Office of Adult and Juvenile Justice Assistance provides federally funded grants to units of local government (including law enforcement, district attorneys, and judicial districts), state agencies, and non-profit/local private community-based agencies. The grants address such issues as separation of juveniles from adult inmates; over representation of minorities in the justice system; mental health and substance abuse; gender specific services; and juvenile justice system improvement. The monies are used for program development, service delivery, policy design, research and other activities. The funds are from the federal Office of Juvenile Justice and Delinquency Prevention in the U.S. Department of Justice.

STATUTORY AUTHORITY: Section 24-33.5-503 (1)(e), C.R.S.

REQUEST: The Division requests \$800,000 federal funds and 1.2 FTE.

RECOMMENDATION: Staff recommends approval of the request, which represents a continuation level of funding.

JUVENILE DIVERSION PROGRAMS

Juvenile diversion programs serve youth accused of having broken the law. In lieu of going through the normal judicial process, the youth is placed in a diversion program that holds him accountable for his behavior while involving him in programs and activities that reduce the likelihood of future criminal activity. Diversion programs can include diagnostic needs assessment, restitution programs, community service, job training and placement, specialized tutoring, general counseling, crisis counseling, and follow-up activities. These programs are operated by district attorneys, counties, and community-based agencies.

STATUTORY AUTHORITY: Section 19-2-303, C.R.S. (Juvenile diversion program – authorized).

REQUEST: The Division requests an appropriation of \$3,561,677 total funds, which consists of \$3,161,677 General Fund, \$400,000 cash funds from the Marijuana Tax Cash Fund, and 3.0 FTE.

RECOMMENDATION: Staff recommends approval of the request, which represents a continuation level of funding.

(D) COMMUNITY CORRECTIONS

There are approximately thirty community corrections programs (OCC) in the state. Sometimes called halfway houses, they are based in local communities and operated by private providers, nonprofits, and local governments. Several state government agencies interact with community corrections. The Division of Criminal Justice distributes state funds to community corrections boards and programs, sets and enforces standards through regular program audits, provides technical assistance, and collects statistical data. Parole officers from the Department of Corrections supervise offenders transitioning to community corrections after a term of incarceration (transition offenders) or those sent to community corrections as a condition of parole. Probation officers within the Judicial Department supervise offenders sent to community corrections as a condition of parole or sentenced directly to community corrections by a court (diversion offenders). Offenders are also supervised by the staff of each community corrections program. In the Division of Criminal Justice, the Office of Community Corrections oversees and funds community corrections.

COMMUNITY CORRECTIONS						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2020-21 APPROPRIATION						
HB 20-1360	\$78,344,399	\$73,047,217	\$0	\$5,297,182	\$0	0.0
SB 21-049 (Supplemental bill)	(10,439,478)	(10,439,478)	0	0	0	0.0
TOTAL	\$67,904,921	\$62,607,739	\$0	\$5,297,182	\$0	0.0
FY 2021-22 RECOMMENDED APPROPRIATION						
FY 2020-21 Appropriation	\$67,904,921	\$62,607,739	\$0	\$5,297,182	\$0	0.0
Annualize prior year budget action	10,439,478	10,439,478	0	0	0	0.0
Common policy provider rate adjustment	1,890,654	1,825,918	0	64,736	0	0.0
Staff-initiated community corrections cash fund	0	0	0	0	0	0.0
R2 Community corrections grants	(1,651,599)	(1,651,599)	0	0	0	0.0
TOTAL	\$78,583,454	\$73,221,536	\$0	\$5,361,918	\$0	0.0
INCREASE/(DECREASE)	\$10,678,533	\$10,613,797	\$0	\$64,736	\$0	0.0
Percentage Change	15.7%	17.0%	0.0%	1.2%	0.0%	n/a
FY 2021-22 EXECUTIVE REQUEST						
Request Above/(Below) Recommendation	(\$22,239,055)	(\$22,174,319)	\$0	(\$64,736)	\$0	0.0

DECISION ITEMS - COMMUNITY CORRECTIONS**→ R02 COMMUNITY CORRECTIONS GRANTS**

REQUEST: The Department requests a reduction of \$22,000,000 General Fund for FY 2021-22. The Department also requests legislation to allow the Division to allocate funding via a competitive grant system, but is *not* asking the JBC to sponsor that legislation.

RECOMMENDATION: Staff recommends a reduction of \$1,651,599 General Fund. This recommendation offsets the increase associated with the approved common policy rate increase of 2.5 percent. Staff recommends that this reduction be applied solely to the Community Corrections Placements line item. This brings the recommended FY 2021-22 appropriation to FY 2020-21 starting levels, which is \$7,727,242 General Fund lower than FY 2019-20 supplemental levels.

The recommendation provides for about 100 fewer standard residential beds than DCJ’s FY 2021-22 caseload projections (see Appendix B). However, as DCJ notes in its projections, it is very difficult to make projections due to the lack of a historical precedent for the current situation. JBC staff’s recommendation aims to free up \$1.65 million for other purposes while leaving sufficient funds available to accommodate caseload growth as the criminal justice system returns to normal operations during the fiscal year.

The Committee may consider repurposing a portion of the recommended reduction to partially or fully restore funding for an FY 2020-21 decision item that was unanimously approved (with one excused), but was later removed for budget balancing purposes. That item, R01 Performance-based Contracting, would have provided \$182,130 General Fund and 2.0 FTE to DCJ to help implement performance-based contracting (see Appendix C).

ANALYSIS:

The Department’s request has two main components: the \$22.0 million reduction and the shift to a competitive grant program. The requested reduction of \$22.0 million was not based on anything related to caseload, nor was it based on savings provided through the proposed transition to a competitive grant program. Rather, the amount was based on a target for reductions given to the Department by the Office of State Planning and Budgeting (OSPB).

A reduction of this magnitude would likely increase costs for the Department of Corrections (DOC) and Probation Services within the Judicial Department. For example, the DOC calculated that the proposed reduction in community corrections would increase caseload in the DOC by about 765 beds. These are just estimates, but they do provide a sense for what the trade-off could be. Given these possibilities, and given the request’s absence of a relationship to caseload considerations, staff did not think a \$22.0 million reduction was appropriate.

Staff’s recommended reduction aims to keep appropriations flat year-over-year, while retaining sufficient funds to accommodate caseload growth in an uncertain environment. As a reminder to the Committee, the recommended appropriation is still \$7.7 million General Fund lower than FY 2019-20 levels (see table below).

DIFFERENCE BETWEEN FY 2021-22 RECOMMENDED AND FY 2019-20 APPROPRIATIONS	
	AMOUNT
FY 2019-20 appropriations (after supplementals)	\$73,791,215
FY 2021-22 JBC staff recommendation	66,063,973
Difference (\$)	(7,727,242)
Difference (Standard residential beds)	(431)

If FY 2021-22 appropriations exceed caseload funding needs, staff expects that the Department will submit a supplemental caseload reduction request. If the March 2021 revenue forecast requires additional reductions to balance the budget, staff will reevaluate the current recommendation accordingly.

As for the proposal to move to a competitive grant system, JBC staff’s analysis can be found in the Staff Budget Briefing document dated December 3, 2020.¹¹ In sum, the Department proposed to

¹¹ https://www.leg.colorado.gov/sites/default/files/fy2021-22_pubsafbrf2.pdf

allocate funds through a competitive grant system, rather than the current system of per diem rates set in the Long Bill. The Department is not asking the Committee to sponsor legislation to facilitate this change, so staff is not providing a recommendation, nor can staff say whether the idea is good or bad.

CONCLUSION

Staff's recommendation keeps FY 2021-22 appropriations flat from the previous year. The purpose of this recommendation is to provide enough funding to accommodate projected caseload growth, with the caveat that projections are difficult to make given uncertainty in the criminal justice system. The requested \$22.0 million reduction was not caseload-based, nor was it related to savings produced by the proposed competitive grant system. Staff therefore concluded that the requested reduction was unjustified.

→ STAFF-INITIATED COMMUNITY CORRECTIONS CASH FUND [LEGISLATION REQUIRED]

REQUEST: The Department did not request this item, but is aware of staff's recommendation.

RECOMMENDATION: Staff recommends legislation to create a time-limited Community Corrections Cash Fund (the Fund) that will receive reversions from appropriations for the Community Corrections Placements line item. The purpose of the fund is to support the first few years of performance-based contracting (PBC), beginning in FY 2022-23. PBC aims to improve service delivery for community corrections clients/offenders, thereby improving outcomes that enhance public safety and reduce costs related to recidivism. Reversions are not guaranteed, so the cash fund is not intended as a substitute for General Fund appropriations. Supplemental caseload adjustments would still be required to align appropriations with caseload.

ANALYSIS:

BACKGROUND AND NEXT STEPS FOR PBC

PBC aims to improve outcomes in community corrections by tying at least a portion of a contractor's payment to specific and measureable performance standards. In theory, rewarding providers and boards for good performance would improve service delivery for clients/offenders, and increase public safety and reduce costs through reduced recidivism. Staff notes that PBC is not a clear-cut evidence-based policy; few examples of PBC in community corrections exist, so there is no roadmap for guaranteed success. Rather, PBC operates on the premise that service delivery in community corrections can be improved by financial incentives tied to outcome measurements.

The concept of PBC for community corrections emerged as early as 2013, but a framework was officially put forth by the Governor's Community Corrections Advisory Council in the summer of 2015. This framework identified evidence-based practices, safety, and risk-informed outcomes as the key areas of focus for PBC. Since then, the JBC and the General Assembly have consistently expressed interest in PBC and have appropriated funding for its implementation (See Appendix C).

For FY 2019-20, the General Assembly appropriated \$75,000 to the Division to contract with an outside entity to study PBC in Colorado Community Corrections. The Division contracted with the Urban Institute, a nonprofit research organization, to conduct the study. The Urban Institute delivered

its report in October 2020.¹² The report included two models for the State’s consideration. These models are shown below.

TABLE 1
Gradual Transition Model

	FY 22 (7/1/21– 6/30/22)	FY 23 (7/1/22– 6/30/23)	FY 24 (7/1/23– 6/30/24)	FY 25 (7/1/24– 6/30/25)	FY 26 (7/1/25– 6/30/26)
Base per diem	100%	99%	98%	97%	97%
Completion	baselines	1%*	1%*	1%*	1%*
Recidivism	baselines	1%*	1%*	1%*	1%*
PACE or Core	baselines	baselines	2%	3%	3%
Max payment	100%	101%	102%	102%	102%

Note: * payment based on data from previous one to two fiscal years.

TABLE 2
Progressive Risk and Reward Model

	FY 22 (7/1/21– 6/30/22)	FY 23 (7/1/22– 6/30/23)	FY 24 (7/1/23– 6/30/24)	FY 25 (7/1/24– 6/30/25)	FY 26 (7/1/25– 6/30/26)
Base per diem	100%	98%	96%	94%	92%
Completion	baselines	2%*	2%*	3%*	4%*
Recidivism	baselines	2%*	2%*	3%*	4%*
PACE or Core	baselines	baselines	4%	6%	8%
Max Payment	100%	102%	104%	106%	108%

Note: * payment based on data from previous one to two fiscal years.

Source: The Urban Institute, page 6 of report linked in the footnote.

Both models require appropriations in excess of the base. For example, JBC staff’s recommended appropriation for Community Corrections Placements in FY 2021-22 is \$66.0 million General Fund. If one were to use that amount for the base per diem in FY 2025-26, a max payment of 108.0 percent shown in Table 2 would require an additional appropriation of \$5.28 million General Fund.

NEXT STEPS

Performance-based contracting is still in the developmental phase, but could be ready for implementation in FY 2022-23. After consulting with the Department, JBC staff has included a Request for Information (RFI) that would provide the Committee and the General Assembly with a proposal for PBC that can be discussed through the briefing, hearing, and figure setting phases of the FY 2022-23 budget process. These discussion would help guide the General Assembly toward concrete actions for the implementation of PBC in FY 2022-23. To allow sufficient time for the Division to consult stakeholders, the official due date for the RFI will be in January 2022. However, there should be enough information available in November or December for JBC staff discuss the proposal with the Committee during budget briefings.

CASH FUND RECOMMENDATION AND ALTERNATIVES

For PBC to work, money has to be available to reward providers and boards for performance. There are two key assumptions here. The first is that incentives are not effective if there is reasonable doubt

¹² <https://www.urban.org/research/publication/performance-based-contracting-colorado-community-corrections>

that the incentive (money) is not/will not be available. The second is that a PBC model will require appropriations in excess of the base.

Reversions in community corrections are not uncommon, but they can vary substantially from year to year, as shown in the table below. In general, when caseload is down as it was in the middle of the last decade, there tends to be reversions even after supplemental and Long Bill add-on caseload adjustments. As caseload ramps up, as it did before the coronavirus pandemic, reversions dwindle.

COMMUNITY CORRECTIONS PLACEMENTS REVERSIONS AND OVEREXPENDITURES						
	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20
Reversions/(Overexpenditures)	\$2,010,118	\$2,751,220	\$32	\$0	(\$209,191)	\$3,661,380
Mid-year appropriation increases/(decreases)	(2,520,342)	(2,837,559)	0	1,118,808	1,252,696	5,000,000

Staff expects some reversions in the current fiscal year, but it is difficult to estimate the amount given uncertainty in the criminal justice system. To ensure that reversions are minimized, Staff can work with the Division at the Committee’s discretion (via a comeback) to determine if a Long Bill add-on reduction would be appropriate based on updated caseload information for December, January, and February.

As to the design of the Fund, Staff recommends the following provisions:

- *Time-limited:* Staff recommends that the Fund be made effective in the current fiscal year with an automatic repeal date of June 30, 2027. This would be the fifth year of PBC (if beginning in FY 2022-23), which should be enough time to evaluate whether or not PBC is working as intended.
- *Purpose:* Staff recommends that the Fund may be used to improve outcomes in community corrections. Alternatively, the Committee may consider saying explicitly that the funds should be used for performance-based allocations in community corrections.
- *Sources:* Staff recommends that the Fund receive reversions end-of-year reversions from the Community Corrections Placements line item. Staff also recommends a provision allowing the General Assembly to appropriate moneys into the fund.
- *Retention:* Staff recommends that all moneys remaining in the Fund at the end of a fiscal year remain in the fund until it is repealed, at which point remaining moneys would be deposited back into the General Fund.
- *Annual appropriation:* Staff recommends that the Fund be appropriated through the annual budget process.

ALTERNATIVES

The downside of a General Fund reversion-based cash fund is that it reduces the amount of available General Fund in the subsequent fiscal year if reversions do occur. Staff believes a cash fund is the most prudent course of action, but there are other options as well.

Standard procedure

Long Bill structure stays the same, with one additional line item for PBC appropriations. Appropriate General Fund for PBC through the annual budget process based on prior year performance.

Collapse and repurpose line items

The current Long Bill structure includes two line items, Facility Payments and Boards Administration, that total about \$6.7 million General Fund in FY 2020-21. The Facility Payments line provides equal payments to providers, which disproportionately benefit smaller providers that cannot take advantage of economies of scale to reduce operational costs. The Boards line is allocated to local community corrections boards, who are statutorily allowed an allocation of up to 5.0 percent of the total allocation for community corrections. These could be collapsed into a single line for PBC payments.

This is a viable option; it likely provides enough funding to support PBC in the first few years. However, doing away with the Facility Payments all at once could have a disproportionate impact on smaller providers, perhaps hindering their ability to meet performance goals. Rather, JBC staff suggests it may be more appropriate have a transitional period that corresponds with the time limitations of cash fund. For example, the Facility Payments line could be reduced and repurposed for PBC by 20.0 percent annually over five years.

CONCLUSION

Performance-based contracting has been discussed by DCJ, the Committee, the General Assembly, and stakeholders for the better part of a decade. Some details still need to be worked out, such as the outcomes that provide the basis for performance-based payments. JBC staff has worked with the Division to develop a timeline to discuss and take action on these details before figure setting for FY 2022-23. Staff believes the recommend cash fund is a prudent first step that could help ensure that funds will be available during the first few years of implementation.

LINE ITEM DETAIL - COMMUNITY CORRECTIONS

COMMUNITY CORRECTIONS PLACEMENTS

This line item funds the per diem payments for offenders in community corrections programs, including payments for diversion, transition, and parole offenders; residential and nonresidential offenders; and offenders in standard and specialized programs.

STATUTORY AUTHORITY: Title 17, Article 27, C.R.S. (Community Corrections Programs), Section 18-1.3-301, C.R.S.

REQUEST: The Division requests an appropriation of \$44,063,973 General Fund.

RECOMMENDATION: Staff recommends an appropriation of \$66,063,973 General Fund. The difference between the Department’s request and staff recommendation is discussed above R02 Community Corrections Grants.

DIVISION OF CRIMINAL JUSTICE, COMMUNITY CORRECTIONS, COMMUNITY CORRECTIONS PLACEMENTS						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2020-21 APPROPRIATION						
HB 20-1360	\$66,063,973	\$66,063,973	\$0	\$0	\$0	0.0
SB 21-049 (Supplemental bill)	(10,439,478)	(10,439,478)	0	0	0	0.0
TOTAL	\$55,624,495	\$55,624,495	\$0	\$0	\$0	0.0
FY 2021-22 RECOMMENDED APPROPRIATION						

DIVISION OF CRIMINAL JUSTICE, COMMUNITY CORRECTIONS, COMMUNITY CORRECTIONS PLACEMENTS						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2020-21 Appropriation	\$55,624,495	\$55,624,495	\$0	\$0	\$0	0.0
Annualize Prior Year Budget Action	10,439,478	10,439,478	0	0	0	0.0
Common policy provider rate adjustment	1,651,599	1,651,599	0	0	0	0.0
Staff-initiated community corrections cash fund	0	0	0	0	0	0.0
R2 Community corrections grants	(1,651,599)	(1,651,599)	0	0	0	0.0
TOTAL	\$66,063,973	\$66,063,973	\$0	\$0	\$0	0.0
INCREASE/(DECREASE)	\$10,439,478	\$10,439,478	\$0	\$0	\$0	0.0
Percentage Change	18.8%	18.8%	0.0%	0.0%	0.0%	0.0%
FY 2021-22 EXECUTIVE REQUEST	\$44,063,973	\$44,063,973	\$0	\$0	\$0	0.0
Request Above/(Below) Recommendation	(\$22,000,000)	(\$22,000,000)	\$0	\$0	\$0	0.0

CORRECTIONAL TREATMENT CASH FUND RESIDENTIAL PLACEMENTS

Condition of probation beds: Most diversion clients in community corrections are directly sentenced by a judge to community corrections. However judges can also sentence an offender to community corrections for a portion of a probation sentence. For example, a judge might sentence an offender with a substance use problem to two years of probation with the condition that the offender begin probation by serving 90 days in an Intensive Residential Treatment (IRT) program. Or an offender on probation who is in danger of failing due to substance abuse issues and is at risk of being resentenced to DOC could be sent to IRT as a condition of probation. Such placements are encouraged by S.B. 13-250 (Drug Sentencing Changes) and the allocation from the Correctional Treatment Board provides the funding to enable them. This line item appropriates that funding.

STATUTORY AUTHORITY: Section 18-1.3-104.5 (2)(a), C.R.S. (Alternatives in imposition of sentence in drug felony cases - exhaustion of remedies).

REQUEST: The Division requested an appropriation of \$2,707,740 cash funds from the Correctional Treatment Cash fund.

RECOMMENDATION: Staff recommends approval of the request, which represents a continuation level of funding.

COMMUNITY CORRECTIONS FACILITY PAYMENTS

This line item provides each community corrections facility with a fixed payment that is independent of the number of residents. Because a fixed facility fee is proportionately more valuable to a small facility than a large one, the fee makes the playing field more level for small community corrections facilities, which cannot take advantage of economies of scale. An associated footnote indicates that community corrections facilities with an average of 32 or more security FTE will receive a second facility payment, reflecting the increased costs they incur due to having a large physical plant.

STATUTORY AUTHORITY: Title 17, Article 27, C.R.S. (Community Corrections Programs), Section 18-1.3-301, C.R.S.

REQUEST: The Division requests an appropriation of \$4,194,881 General Fund.

RECOMMENDATION: Staff recommends an appropriation of \$4,299,753 General Fund, which includes an adjustment for the Committee’s common policy provider rate adjustment of 2.5 percent.

DIVISION OF CRIMINAL JUSTICE, COMMUNITY CORRECTIONS, COMMUNITY CORRECTIONS FACILITY PAYMENTS						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2020-21 APPROPRIATION						
HB 20-1360	\$4,194,881	\$4,194,881	\$0	\$0	\$0	0.0
TOTAL	\$4,194,881	\$4,194,881	\$0	\$0	\$0	0.0
FY 2021-22 RECOMMENDED APPROPRIATION						
FY 2020-21 Appropriation	\$4,194,881	\$4,194,881	\$0	\$0	\$0	0.0
Common policy provider rate adjustment	104,872	104,872	0	0	0	0.0
TOTAL	\$4,299,753	\$4,299,753	\$0	\$0	\$0	0.0
INCREASE/(DECREASE)	\$104,872	\$104,872	\$0	\$0	\$0	0.0
Percentage Change	2.5%	2.5%	0.0%	0.0%	0.0%	0.0%
FY 2021-22 EXECUTIVE REQUEST	\$4,194,881	\$4,194,881	\$0	\$0	\$0	0.0
Request Above/(Below) Recommendation	(\$104,872)	(\$104,872)	\$0	\$0	\$0	0.0

COMMUNITY CORRECTIONS BOARDS ADMINISTRATION

This line item funds payments to the state's community corrections boards to help pay their administrative costs. Over the years, appropriations to boards have equaled a varying percentage of a varying subset of the appropriations to community corrections programs. The appropriation cannot exceed 5.0 percent of total payments to programs.

STATUTORY AUTHORITY: Section 17-27-103, C.R.S. (Community corrections boards – establishment – duties).

REQUEST: The Division requested an appropriation of \$2,514,307 General Fund.

RECOMMENDATION: Staff recommends an appropriation of \$2,577,165 General Fund, which includes an adjustment for the Committee’s common policy provider rate adjustment of 2.5 percent.

DIVISION OF CRIMINAL JUSTICE, COMMUNITY CORRECTIONS, COMMUNITY CORRECTIONS BOARDS ADMINISTRATION						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2020-21 APPROPRIATION						
HB 20-1360	\$2,514,307	\$2,514,307	\$0	\$0	\$0	0.0
TOTAL	\$2,514,307	\$2,514,307	\$0	\$0	\$0	0.0
FY 2021-22 RECOMMENDED APPROPRIATION						
FY 2020-21 Appropriation	\$2,514,307	\$2,514,307	\$0	\$0	\$0	0.0

DIVISION OF CRIMINAL JUSTICE, COMMUNITY CORRECTIONS, COMMUNITY CORRECTIONS BOARDS ADMINISTRATION						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
Common policy provider rate adjustment	62,858	62,858	0	0	0	0.0
TOTAL	\$2,577,165	\$2,577,165	\$0	\$0	\$0	0.0
INCREASE/(DECREASE)	\$62,858	\$62,858	\$0	\$0	\$0	0.0
Percentage Change	2.5%	2.5%	0.0%	0.0%	0.0%	0.0%
FY 2021-22 EXECUTIVE REQUEST	\$2,514,307	\$2,514,307	\$0	\$0	\$0	0.0
Request Above/(Below) Recommendation	(\$62,858)	(\$62,858)	\$0	\$0	\$0	0.0

SERVICES FOR SUBSTANCE ABUSE AND CO-OCCURRING DISORDERS

This appropriation pays for outpatient treatment for offenders in standard community corrections programs who have problems with substance abuse and co-occurring disorders (typically mental health problems). Funding comes from the Correctional Treatment Cash Fund and can be spent for substance abuse screening, assessment, evaluation, testing, education, training, treatment, and recovery support. The appropriation can also be spent for treatment of co-occurring mental health problems.

STATUTORY AUTHORITY: Section 18-19-103, C.R.S.

REQUEST: The Division requested an appropriation of \$2,589,442 reappropriated funds.

RECOMMENDATION: Staff recommends an appropriation of \$2,654,178 reappropriated funds, which includes an adjustment for the Committee’s common policy provider rate adjustment of 2.5 percent.

DIVISION OF CRIMINAL JUSTICE, COMMUNITY CORRECTIONS, SERVICES FOR SUBSTANCE ABUSE AND CO-OCCURRING DISORDERS						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2020-21 APPROPRIATION						
HB 20-1360	\$2,589,442	\$0	\$0	\$2,589,442	\$0	0.0
TOTAL	\$2,589,442	\$0	\$0	\$2,589,442	\$0	0.0
FY 2021-22 RECOMMENDED APPROPRIATION						
FY 2020-21 Appropriation	\$2,589,442	\$0	\$0	\$2,589,442	\$0	0.0
Common policy provider rate adjustment	64,736	0	0	64,736	0	0.0
TOTAL	\$2,654,178	\$0	\$0	\$2,654,178	\$0	0.0
INCREASE/(DECREASE)	\$64,736	\$0	\$0	\$64,736	\$0	0.0
Percentage Change	2.5%	0.0%	0.0%	2.5%	0.0%	0.0%
FY 2021-22 EXECUTIVE REQUEST	\$2,589,442	\$0	\$0	\$2,589,442	\$0	0.0
Request Above/(Below) Recommendation	(\$64,736)	\$0	\$0	(\$64,736)	\$0	0.0

SPECIALIZED OFFENDER SERVICES

This line item, sometimes referred to as the "SOS" appropriation, supports the purchase of mental health treatment, cognitive training, therapists, counselors, medications, sex offender treatment, and

other specialized outpatient services that are not typically provided by standard community corrections programs. The *Services for Substance Abuse and Co-occurring Disorders* appropriation deals with substance abuse problems; this appropriation focuses on other problems that high risk offenders may have.

STATUTORY AUTHORITY: Section 17-27-101 to 108, C.R.S.

REQUEST: The Division requested an appropriation of \$263,549 General Fund.

RECOMMENDATION: Staff recommends an appropriation of \$270,138 General Fund, which includes an adjustment for the Committee’s common policy provider rate adjustment of 2.5 percent.

DIVISION OF CRIMINAL JUSTICE, COMMUNITY CORRECTIONS, SPECIALIZED OFFENDER SERVICES						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2020-21 APPROPRIATION						
HB 20-1360	\$263,549	\$263,549	\$0	\$0	\$0	0.0
TOTAL	\$263,549	\$263,549	\$0	\$0	\$0	0.0
FY 2021-22 RECOMMENDED APPROPRIATION						
FY 2020-21 Appropriation	\$263,549	\$263,549	\$0	\$0	\$0	0.0
Common policy provider rate adjustment	6,589	6,589	0	0	0	0.0
TOTAL	\$270,138	\$270,138	\$0	\$0	\$0	0.0
INCREASE/(DECREASE)	\$6,589	\$6,589	\$0	\$0	\$0	0.0
Percentage Change	2.5%	2.5%	0.0%	0.0%	0.0%	0.0%
FY 2021-22 EXECUTIVE REQUEST	\$263,549	\$263,549	\$0	\$0	\$0	0.0
Request Above/(Below) Recommendation	(\$6,589)	(\$6,589)	\$0	\$0	\$0	0.0

OFFENDER ASSESSMENT TRAINING

This line item pays for training of community corrections staff members so they can learn how to use a standardized offender assessment instrument. Training is offered at two-day training sessions that are given by multi-agency training teams at various locations around the state.

STATUTORY AUTHORITY: Section 17-27-101 to 108, C.R.S.

REQUEST: The Division requests an appropriation of \$10,507 General Fund.

RECOMMENDATION: Staff recommends an appropriation of \$10,507 General Fund, which represents a continuation level of funding.

(E) CRIME CONTROL AND SYSTEM IMPROVEMENT

This subdivision contains appropriations for a diverse group of programs, including support staff for the Sex Offender Management Board and a Federal Grant's appropriation that contains federally funded FTE who work in a variety of the Department's offices.

CRIME CONTROL AND SYSTEM IMPROVEMENT						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2020-21 APPROPRIATION						
HB 20-1360	\$9,832,063	\$1,387,449	\$444,614	\$0	\$8,000,000	26.2
TOTAL	\$9,832,063	\$1,387,449	\$444,614	\$0	\$8,000,000	26.2
FY 2021-22 RECOMMENDED APPROPRIATION						
FY 2020-21 Appropriation	\$9,832,063	\$1,387,449	\$444,614	\$0	\$8,000,000	26.2
R5 Restructuring EPIC to promote equity	(573,631)	(573,631)	0	0	0	(6.0)
TOTAL	\$9,258,432	\$813,818	\$444,614	\$0	\$8,000,000	20.2
INCREASE/(DECREASE)	(\$573,631)	(\$573,631)	\$0	\$0	\$0	(6.0)
Percentage Change	(5.8%)	(41.3%)	0.0%	0.0%	0.0%	(22.9%)
FY 2021-22 EXECUTIVE REQUEST	\$9,258,432	\$813,818	\$444,614	\$0	\$8,000,000	20.2
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	\$0	0.0

LINE ITEM DETAIL – CRIME CONTROL AND SYSTEM IMPROVEMENT**STATE AND LOCAL CRIME CONTROL AND SYSTEM IMPROVEMENT GRANTS**

This line item is included in the Long Bill for informational purposes only and provides an estimate of expected federal grants to the Division for crime control and system improvement. These funds may be used for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, information systems for criminal justice, as well as research and evaluation activities that will improve or enhance: law enforcement programs; prosecution and court programs; prevention and education programs; corrections and community corrections programs; drug treatment and enforcement programs; planning, evaluation, and technology improvement programs; and crime victim and witness programs (other than compensation).

STATUTORY AUTHORITY: Section-33.5-503 (1)(e), C.R.S.

REQUEST: The Division requests an appropriation of \$3,000,000 federal funds.

RECOMMENDATION: Staff recommends approval of the request, which represents a continuation level of funding.

SEX OFFENDER SURCHARGE FUND PROGRAM

This line item funds staff support and operating expenses for the Sex Offender Management Board (SOMB). The Board has the following duties:

- Develop a standardized procedure for identification of sex offenders;

- Develop standards and guidelines for program intervention, treatment, and monitoring;
- Develop a plan for the allocation of the sex offender surcharge fund;
- Develop a system for the tracking of sex offenders who have been identified, evaluated, and treated;
- Develop procedures to research and evaluate sex offender assessment and treatment;
- Provide training on the implementation of standards; and
- Approve the risk assessment screening instrument.

STATUTORY AUTHORITY: Title 16, Article 11.7, C.R.S. (Standardized Treatment Program for Sex Offenders) and Section 18-21-103 (3), C.R.S. (Sex Offender Surcharge Fund).

REQUEST: The Department requests an appropriation of \$235,479 total funds, including \$83,471 General Fund, and 2.4 FTE.

RECOMMENDATION: Staff recommends approval of the request.

DIVISION OF CRIMINAL JUSTICE, CRIME CONTROL AND SYSTEM IMPROVEMENT, SEX OFFENDER SURCHARGE FUND PROGRAM						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2020-21 APPROPRIATION						
HB 20-1360	\$235,479	\$83,471	\$152,008	\$0	\$0	2.4
TOTAL	\$235,479	\$83,471	\$152,008	\$0	\$0	2.4
FY 2021-22 RECOMMENDED APPROPRIATION						
FY 2020-21 Appropriation	\$235,479	\$83,471	\$152,008	\$0	\$0	2.4
TOTAL	\$235,479	\$83,471	\$152,008	\$0	\$0	2.4
Percentage Change	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
FY 2021-22 EXECUTIVE REQUEST	\$235,479	\$83,471	\$152,008	\$0	\$0	2.4
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	\$0	0.0

SEX OFFENDER SUPERVISION

This line item funds some of the requirements that statute places on the Sex Offender Management Board, including:

- Developing criteria and standards for lifetime supervision of sex offenders;
- Expanding sex-offender-treatment research;
- Providing training on, and assistance with, the criteria, protocols, and procedures regarding community notification concerning sexually violent predators;
- Developing standards for adult sex offenders who have developmental disabilities; and
- Providing training on the implementation of the Developmental Disability Standards.

STATUTORY AUTHORITY: Title 16, Article 11.7, C.R.S. (Standardized Treatment Program for Sex Offenders), Title 18, Article 1.3, Part 10 (Lifetime supervision of sex offenders).

REQUEST: The Department requests an appropriation of \$375,364 General Fund and 3.2 FTE.

RECOMMENDATION: Staff recommends approval of the request, which represents a continuation level of funding.

TREATMENT PROVIDER CRIMINAL BACKGROUND CHECKS

Domestic violence treatment providers and sex offender treatment providers are required to undergo and pay for a background check that goes beyond the scope of a typical criminal history check. Fees are set to cover the costs of conducting the investigation and are deposited in the Domestic Violence Offender Treatment Provider Fund and the Sex Offender Treatment Provider Fund. The appropriations are from those funds.

STATUTORY AUTHORITY: Section 16-11.8-104 (2)(b), C.R.S., and Section 16-11.7-106 (2)(a)(III), C.R.S.

REQUEST: The Department requests an appropriation of \$49,606 cash funds and 0.6 FTE.

RECOMMENDATION: Staff recommends approval of the request, which represents a continuation level of funding.

FEDERAL GRANTS

This eclectic informational appropriation reflects projected federal funding and FTE for a variety of grant programs in a variety of areas. The FTE listed here work in six of the DCJ's offices.

STATUTORY AUTHORITY: Section-33.5-503 (1)(e), C.R.S.

REQUEST: The Division requested \$5,000,000 federal funds and 10.5 FTE.

RECOMMENDATION: Staff recommends approval of the request, which represents a continuation level of funding.

EPIC RESOURCE CENTER

The EPIC (Evidence-based Practices Implementation for Capacity) Resource Center helps agencies serving juvenile and adult offenders develop, implement, and sustain evidence-based practices. Statute directs the Center to be a collaborative effort among the Departments of Public Safety, Corrections, Human Services, and Judicial. The goal is to increase the efficacy of individuals who work with various offender and victim populations by establishing an educational, skill-building, and consultation resource center to support practitioners in the implementation of evidence-based practices.

STATUTORY AUTHORITY: Section 24-33.5-514, C.R.S., (Evidence-based practices implementation for capacity program).

REQUEST: The Division requested an appropriation of \$354,983 General Fund and 3.0 FTE.

RECOMMENDATION: Staff recommends approval of the request.

DIVISION OF CRIMINAL JUSTICE, CRIME CONTROL AND SYSTEM IMPROVEMENT, EPIC RESOURCE CENTER						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2020-21 APPROPRIATION						
HB 20-1360	\$928,614	\$928,614	\$0	\$0	\$0	9.0
TOTAL	\$928,614	\$928,614	\$0	\$0	\$0	9.0
FY 2021-22 RECOMMENDED APPROPRIATION						
FY 2020-21 Appropriation	\$928,614	\$928,614	\$0	\$0	\$0	9.0
R5 Restructuring EPIC to promote equity	(573,631)	(573,631)	0	0	0	(6.0)
TOTAL	\$354,983	\$354,983	\$0	\$0	\$0	3.0
INCREASE/(DECREASE)	(\$573,631)	(\$573,631)	\$0	\$0	\$0	(6.0)
Percentage Change	(61.8%)	(61.8%)	0.0%	0.0%	0.0%	(66.7%)
FY 2021-22 EXECUTIVE REQUEST	\$354,983	\$354,983	\$0	\$0	\$0	3.0
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	\$0	0.0

CRIMINAL JUSTICE TRAINING FUND

With this line item, the DCJ provides an array of training opportunities for law enforcement on such topics as methamphetamine laboratories, crisis intervention with mentally ill offenders, anti-bias policing, sex offender management, and domestic violence management. Section 24-33.5-503.5, C.R.S., allows the Division of Criminal Justice to charge fees when it provides training. The fees are deposited in the Criminal Justice Training Cash Fund. Moneys in the Fund are subject to annual appropriation by the General Assembly to cover costs associated with providing training.

STATUTORY AUTHORITY: Section 24-33.5-503.5, C.R.S. (Training program – assess fees).

REQUEST: The Department requests an appropriation of \$240,000 cash funds and 0.5 FTE.

RECOMMENDATION: Staff recommends approval of the request, which represents a continuation level of funding.

METHAMPHETAMINE ABUSE TASK FORCE

This line item was added during FY 2007-08 to allow the Division to expend private grant funds received from the El Pomar Foundation. The source of cash funds is the Methamphetamine Abuse Prevention, Intervention, and Treatment Cash Fund created in Section 18-18.5-105, C.R.S.

STATUTORY AUTHORITY: Section 18-18.5-101 through 105, C.R.S.

REQUEST: The Division requested an appropriation of 3,000 cash funds.

RECOMMENDATION: Staff recommends approval of the request, which represents a continuation level of funding.

LONG BILL FOOTNOTES AND REQUESTS FOR INFORMATION

LONG BILL FOOTNOTES

Staff recommends **CONTINUING AND MODIFYING** the following footnotes:

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

Placement Type	Rates	Diversion	Transition	Parole	Appropriation
Standard residential	49.16	1,402	1,064	92	\$45,897,331
Cognitive behavioral treatment pilot program	94.07	24	24	0	1,648,106
Intensive Residential Treatment	94.85	51	43	68	5,608,687
Inpatient Therapeutic Community	82.14	68	37	3	3,238,097
Residential Dual Diagnosis Treatment	83.86	82	25	13	3,672,860
Sex Offender	83.86	75	28	13	3,550,431
Standard Non-residential	6.65	774	6	6	1,908,464
Outpatient Therapeutic Community	23.86	39	23	0	539,997
Total		2,515	1,250	195	\$66,063,973

COMMENT: This footnote is an integral part of the placements appropriations as it sets the daily rates.

N Department of Public Safety, Division of Criminal Justice, Community Corrections, Correctional Treatment Cash Fund Residential Placements -- This appropriation includes funding for 48 condition-of-probation placements at rates corresponding to those in footnote XX.

COMMENT: This footnote makes it clear that Intensive Residential Treatment (IRT) Beds supported by reappropriated funds will receive the reimbursement from the DCJ at the same per-diem rate as General Fund beds.

- N Department of Public Safety, Division of Criminal Justice, Community Corrections, Community Corrections Facility Payments -- The amount of the appropriation assumes that the Department will make lower facility payments to programs that have lower costs due to case management staffing shortfalls or security and case management salary shortfalls relative to the staffing and salary model upon which the appropriation is based. Because per diem rates are unchanged for FY ~~2020-21~~ 2021-22, these appropriations further assume that salary and staffing levels deemed adequate for FY ~~2019-20~~ 2020-21, will be deemed adequate for FY ~~2020-21~~ 2021-22 and that community corrections facilities with an average of 32 or more security FTE will receive a second facility payment.

COMMENT: This sets the facility payments and expectations for those payments.

REQUESTS FOR INFORMATION

Staff recommends **CONTINUING AND MODIFYING** the following requests for information:

- N Department of Public Safety, Division of Criminal Justice, Community Corrections, Community Corrections Placements, Correctional Treatment Cash Fund Residential Placements, and Community Corrections Facility Payments -- As part of its FY ~~2021-22~~ 2022-23 budget request, the Department is requested to report actual average daily community corrections placements for recently completed fiscal years with a level of detail compatible with the table in Long Bill footnote XX. This document should also report condition of probation placements. The Department is requested to update the report with year-to-date community corrections placements shortly after January 1, ~~2021~~ 2022. The January report should also include an estimated placements table for FY ~~2021-22~~ 2022-23. If the Department believes that a supplemental adjustment to the FY ~~2020-21~~ 2021-22 Community Corrections Placements appropriation is needed, the Department is requested to also submit an estimated placements table for FY ~~2020-21~~ 2021-22. If the Department estimates that the actual number of Community Corrections facility payments in either FY ~~2020-21~~ 2021-22 or FY ~~2021-22~~ 2022-23 will differ from the number on which the FY ~~2020-21~~ 2021-22 facility payments appropriation is based, the Department is requested to include that information in its January report. These estimates are not intended to be formal statistical forecasts, but informal estimates based upon year-to-date caseload, knowledge of facilities that are opening and closing or expanding and contracting, and upon other factors that influence the community corrections appropriations. The Department is requested to submit a brief narrative with the estimates.

Staff recommends **ADDING** the following request for information:

- N Department of Public Safety, Division of Criminal Justice, Community Corrections --

As part of its FY 2022-23 budget request, the Department is requested to submit a proposal for the implementation of performance based contracting. This proposal should include payment models, outcomes to evaluate the performance of community providers and local community corrections boards, baseline targets for the Program Assessment for Correctional Excellence (PACE) and core security audits, the frequency of PACE and core security audits, and a warning system for underperforming providers. The Department is requested to submit this proposal no later than January 3, 2022.

JBC Staff Figure Setting - FY 2021-22
Staff Working Document - Does Not Represent Committee Decision

Appendix A: Numbers Pages

	FY 2018-19 Actual	FY 2019-20 Actual	FY 2020-21 Appropriation	FY 2021-22 Request	FY 2021-22 Recommendation
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DEPARTMENT OF PUBLIC SAFETY Stan Hilkey, Executive Director
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(4) DIVISION OF CRIMINAL JUSTICE

(A) Administration

DCJ Administrative Services	<u>3,904,755</u>	<u>4,366,598</u>	<u>6,009,634</u>	<u>9,541,657</u>	<u>5,891,657</u> *
FTE	37.3	45.5	45.7	47.5	47.5
General Fund	2,911,758	3,306,219	3,660,186	4,191,684	4,191,684
Cash Funds	615,799	608,353	1,722,463	4,722,463	1,072,463
Reappropriated Funds	377,198	452,026	492,848	492,848	492,848
Federal Funds	0	0	134,137	134,662	134,662
Appropriation to the Body-worn Cameras for Law Enforcement					
General Fund	<u>0</u>	<u>0</u>	<u>0</u>	<u>3,650,000</u>	<u>3,650,000</u> *
Cash Funds	0	0	0	650,000	650,000
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0
Indirect Cost Assessment	<u>715,864</u>	<u>743,318</u>	<u>776,884</u>	<u>635,601</u>	<u>635,601</u>
General Fund	0	0	0	0	0
Cash Funds	74,480	102,171	98,003	110,905	110,905
Reappropriated Funds	0	0	0	0	0
Federal Funds	641,384	641,147	678,881	524,696	524,696

*Line item contains a decision item.

JBC Staff Staff Figure Setting - FY 2021-22
Staff Working Document - Does Not Represent Committee Decision

	FY 2018-19 Actual	FY 2019-20 Actual	FY 2020-21 Appropriation	FY 2021-22 Request	FY 2021-22 Recommendation
SUBTOTAL - (A) Administration	4,620,619	5,109,916	6,786,518	13,827,258	10,177,258
<i>FTE</i>	<u>37.3</u>	<u>45.5</u>	<u>45.7</u>	<u>47.5</u>	<u>47.5</u>
General Fund	2,911,758	3,306,219	3,660,186	7,191,684	7,191,684
Cash Funds	690,279	710,524	1,820,466	5,483,368	1,833,368
Reappropriated Funds	377,198	452,026	492,848	492,848	492,848
Federal Funds	641,384	641,147	813,018	659,358	659,358

(B) Victims Assistance

Federal Victims Assistance and Compensation Grants	<u>27,003,971</u>	<u>34,606,523</u>	<u>25,093,968</u>	<u>25,093,968</u>	<u>25,093,968</u>
FTE	12.6	8.6	8.6	8.6	8.6
General Fund	0	0	0	0	0
Cash Funds	0	0	0	0	0
Reappropriated Funds	0	0	0	0	0
Federal Funds	27,003,971	34,606,523	25,093,968	25,093,968	25,093,968
State Victims Assistance and Law Enforcement Program	<u>1,411,894</u>	<u>1,244,549</u>	<u>1,500,000</u>	<u>1,500,000</u>	<u>1,500,000</u>
General Fund	0	0	0	0	0
Cash Funds	1,411,894	1,244,549	1,500,000	1,500,000	1,500,000
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0
Child Abuse Investigation	<u>1,089,279</u>	<u>1,296,545</u>	<u>1,297,693</u>	<u>1,297,693</u>	<u>1,297,693</u>
FTE	0.3	0.3	0.3	0.3	0.3
General Fund	800,000	1,000,000	1,000,000	1,000,000	1,000,000
Cash Funds	289,279	296,545	297,693	297,693	297,693
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0

JBC Staff Staff Figure Setting - FY 2021-22
Staff Working Document - Does Not Represent Committee Decision

	FY 2018-19 Actual	FY 2019-20 Actual	FY 2020-21 Appropriation	FY 2021-22 Request	FY 2021-22 Recommendation
Sexual Assault Victim Emergency Payment Program	<u>167,897</u>	<u>166,228</u>	<u>167,933</u>	<u>167,933</u>	<u>167,933</u>
FTE	0.1	0.2	0.2	0.2	0.2
General Fund	167,897	166,228	167,933	167,933	167,933
Cash Funds	0	0	0	0	0
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0
Statewide Victim Information and Notification System (VINE)	<u>424,720</u>	<u>424,720</u>	<u>434,720</u>	<u>434,720</u>	<u>434,720</u>
General Fund	424,720	424,720	434,720	434,720	434,720
Cash Funds	0	0	0	0	0
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0
SUBTOTAL - (B) Victims Assistance	30,097,761	37,738,565	28,494,314	28,494,314	28,494,314
FTE	<u>13.0</u>	<u>9.1</u>	<u>9.1</u>	<u>9.1</u>	<u>9.1</u>
General Fund	1,392,617	1,590,948	1,602,653	1,602,653	1,602,653
Cash Funds	1,701,173	1,541,094	1,797,693	1,797,693	1,797,693
Reappropriated Funds	0	0	0	0	0
Federal Funds	27,003,971	34,606,523	25,093,968	25,093,968	25,093,968

(C) Juvenile Justice and Delinquency Prevention

Juvenile Justice Disbursements	<u>859,420</u>	<u>744,011</u>	<u>800,000</u>	<u>800,000</u>	<u>800,000</u>
FTE	2.0	1.2	1.2	1.2	1.2
General Fund	0	0	0	0	0
Cash Funds	0	0	0	0	0
Reappropriated Funds	0	0	0	0	0
Federal Funds	859,420	744,011	800,000	800,000	800,000

JBC Staff Staff Figure Setting - FY 2021-22
Staff Working Document - Does Not Represent Committee Decision

	FY 2018-19 Actual	FY 2019-20 Actual	FY 2020-21 Appropriation	FY 2021-22 Request	FY 2021-22 Recommendation
Juvenile Diversion Programs	<u>1,609,411</u>	<u>2,907,948</u>	<u>3,561,677</u>	<u>3,561,677</u>	<u>3,561,677</u>
FTE	1.2	3.0	3.0	3.0	3.0
General Fund	1,239,743	2,508,067	3,161,677	3,161,677	3,161,677
Cash Funds	369,668	399,881	400,000	400,000	400,000
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0
SUBTOTAL - (C) Juvenile Justice and Delinquency Prevention	2,468,831	3,651,959	4,361,677	4,361,677	4,361,677
FTE	<u>3.2</u>	<u>4.2</u>	<u>4.2</u>	<u>4.2</u>	<u>4.2</u>
General Fund	1,239,743	2,508,067	3,161,677	3,161,677	3,161,677
Cash Funds	369,668	399,881	400,000	400,000	400,000
Reappropriated Funds	0	0	0	0	0
Federal Funds	859,420	744,011	800,000	800,000	800,000

(D) Community Corrections

Community Corrections Placements	<u>62,437,816</u>	<u>68,820,643</u>	<u>55,624,495</u>	<u>44,063,973</u>	<u>66,063,973</u> *
General Fund	62,437,816	68,820,643	55,624,495	44,063,973	66,063,973
Cash Funds	0	0	0	0	0
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0
Correctional Treatment Cash Fund Residential Placements	<u>2,916,011</u>	<u>2,328,955</u>	<u>2,707,740</u>	<u>2,707,740</u>	<u>2,707,740</u>
General Fund	0	0	0	0	0
Cash Funds	0	0	0	0	0
Reappropriated Funds	2,916,011	2,328,955	2,707,740	2,707,740	2,707,740
Federal Funds	0	0	0	0	0

*Line item contains a decision item.

JBC Staff Staff Figure Setting - FY 2021-22
Staff Working Document - Does Not Represent Committee Decision

	FY 2018-19 Actual	FY 2019-20 Actual	FY 2020-21 Appropriation	FY 2021-22 Request	FY 2021-22 Recommendation
Community Corrections Facility Payments	<u>4,134,960</u>	<u>4,237,254</u>	<u>4,194,881</u>	<u>4,194,881</u>	<u>4,299,753</u>
General Fund	4,134,960	4,237,254	4,194,881	4,194,881	4,299,753
Cash Funds	0	0	0	0	0
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0
Community Corrections Boards Administration	<u>2,507,496</u>	<u>2,538,726</u>	<u>2,514,307</u>	<u>2,514,307</u>	<u>2,577,165</u>
General Fund	2,507,496	2,538,726	2,514,307	2,514,307	2,577,165
Cash Funds	0	0	0	0	0
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0
Services for Substance Abuse and Co-occurring Disorders	<u>2,401,250</u>	<u>2,264,500</u>	<u>2,589,442</u>	<u>2,589,442</u>	<u>2,654,178</u>
General Fund	0	0	0	0	0
Cash Funds	0	0	0	0	0
Reappropriated Funds	2,401,250	2,264,500	2,589,442	2,589,442	2,654,178
Federal Funds	0	0	0	0	0
Specialized Offender Services	<u>240,745</u>	<u>191,208</u>	<u>263,549</u>	<u>263,549</u>	<u>270,138</u>
General Fund	240,745	191,208	263,549	263,549	270,138
Cash Funds	0	0	0	0	0
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0

JBC Staff Staff Figure Setting - FY 2021-22
Staff Working Document - Does Not Represent Committee Decision

	FY 2018-19 Actual	FY 2019-20 Actual	FY 2020-21 Appropriation	FY 2021-22 Request	FY 2021-22 Recommendation
Offender Assessment Training	<u>8,304</u>	<u>5,224</u>	<u>10,507</u>	<u>10,507</u>	<u>10,507</u>
General Fund	8,304	5,224	10,507	10,507	10,507
Cash Funds	0	0	0	0	0
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0
Subsistence Payment	<u>254,786</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	254,786	0	0	0	0
Cash Funds	0	0	0	0	0
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0
SUBTOTAL - (D) Community Corrections	74,901,368	80,386,510	67,904,921	56,344,399	78,583,454
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
General Fund	69,584,107	75,793,055	62,607,739	51,047,217	73,221,536
Cash Funds	0	0	0	0	0
Reappropriated Funds	5,317,261	4,593,455	5,297,182	5,297,182	5,361,918
Federal Funds	0	0	0	0	0

JBC Staff Staff Figure Setting - FY 2021-22
Staff Working Document - Does Not Represent Committee Decision

	FY 2018-19 Actual	FY 2019-20 Actual	FY 2020-21 Appropriation	FY 2021-22 Request	FY 2021-22 Recommendation
(E) Crime Control and System Improvement					
State and Local Crime Control and System Improvement Grants	<u>1,251,948</u>	<u>1,877,788</u>	<u>3,000,000</u>	<u>3,000,000</u>	<u>3,000,000</u>
General Fund	0	0	0	0	0
Cash Funds	0	0	0	0	0
Reappropriated Funds	0	0	0	0	0
Federal Funds	1,251,948	1,877,788	3,000,000	3,000,000	3,000,000
Sex Offender Surcharge Fund Program	<u>210,029</u>	<u>228,275</u>	<u>235,479</u>	<u>235,479</u>	<u>235,479</u>
FTE	2.3	2.4	2.4	2.4	2.4
General Fund	82,513	83,356	83,471	83,471	83,471
Cash Funds	127,516	144,919	152,008	152,008	152,008
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0
Sex Offender Supervision	<u>358,535</u>	<u>316,211</u>	<u>375,364</u>	<u>375,364</u>	<u>375,364</u>
FTE	3.8	3.2	3.2	3.2	3.2
General Fund	358,535	316,211	375,364	375,364	375,364
Cash Funds	0	0	0	0	0
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0
Treatment Provider Criminal Background Checks	<u>36,119</u>	<u>34,414</u>	<u>49,606</u>	<u>49,606</u>	<u>49,606</u>
FTE	0.2	0.6	0.6	0.6	0.6
General Fund	0	0	0	0	0
Cash Funds	36,119	34,414	49,606	49,606	49,606
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0

JBC Staff Staff Figure Setting - FY 2021-22
Staff Working Document - Does Not Represent Committee Decision

	FY 2018-19 Actual	FY 2019-20 Actual	FY 2020-21 Appropriation	FY 2021-22 Request	FY 2021-22 Recommendation
Federal Grants	<u>3,652,513</u>	<u>3,962,068</u>	<u>5,000,000</u>	<u>5,000,000</u>	<u>5,000,000</u>
FTE	3.3	10.5	10.5	10.5	10.5
General Fund	0	0	0	0	0
Cash Funds	0	0	0	0	0
Reappropriated Funds	0	0	0	0	0
Federal Funds	3,652,513	3,962,068	5,000,000	5,000,000	5,000,000
EPIC Resource Center	<u>657,557</u>	<u>869,659</u>	<u>928,614</u>	<u>354,983</u>	<u>354,983</u> *
FTE	5.7	9.0	9.0	3.0	3.0
General Fund	657,557	869,659	928,614	354,983	354,983
Cash Funds	0	0	0	0	0
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0
Criminal Justice Training Fund	<u>119,722</u>	<u>81,480</u>	<u>240,000</u>	<u>240,000</u>	<u>240,000</u>
FTE	0.5	0.5	0.5	0.5	0.5
General Fund	0	0	0	0	0
Cash Funds	119,722	81,480	240,000	240,000	240,000
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0
Methamphetamine Abuse Task Force Fund	<u>2,815</u>	<u>2,068</u>	<u>3,000</u>	<u>3,000</u>	<u>3,000</u>
General Fund	0	2,068	0	0	0
Cash Funds	2,815	0	3,000	3,000	3,000
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0

*Line item contains a decision item.

JBC Staff Staff Figure Setting - FY 2021-22
Staff Working Document - Does Not Represent Committee Decision

	FY 2018-19 Actual	FY 2019-20 Actual	FY 2020-21 Appropriation	FY 2021-22 Request	FY 2021-22 Recommendation
Law Enforcement Assistance Grants	1,487,821	0	0	0	0
FTE	0.8	0.0	0.0	0.0	0.0
General Fund	0	0	0	0	0
Cash Funds	1,487,821	0	0	0	0
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0
SUBTOTAL - (E) Crime Control and System					
Improvement	7,777,059	7,371,963	9,832,063	9,258,432	9,258,432
FTE	<u>17.9</u>	<u>26.2</u>	<u>26.2</u>	<u>20.2</u>	<u>20.2</u>
General Fund	1,098,605	1,271,294	1,387,449	813,818	813,818
Cash Funds	1,773,993	260,813	444,614	444,614	444,614
Reappropriated Funds	0	0	0	0	0
Federal Funds	4,904,461	5,839,856	8,000,000	8,000,000	8,000,000
TOTAL - (4) Division of Criminal Justice	119,865,638	134,258,913	117,379,493	112,286,080	130,875,135
FTE	<u>71.4</u>	<u>85.0</u>	<u>85.2</u>	<u>81.0</u>	<u>81.0</u>
General Fund	76,226,830	84,469,583	72,419,704	63,817,049	85,991,368
Cash Funds	4,535,113	2,912,312	4,462,773	8,125,675	4,475,675
Reappropriated Funds	5,694,459	5,045,481	5,790,030	5,790,030	5,854,766
Federal Funds	33,409,236	41,831,537	34,706,986	34,553,326	34,553,326
TOTAL - Department of Public Safety	119,865,638	134,258,913	117,379,493	112,286,080	130,875,135
FTE	<u>71.4</u>	<u>85.0</u>	<u>85.2</u>	<u>81.0</u>	<u>81.0</u>
General Fund	76,226,830	84,469,583	72,419,704	63,817,049	85,991,368
Cash Funds	4,535,113	2,912,312	4,462,773	8,125,675	4,475,675
Reappropriated Funds	5,694,459	5,045,481	5,790,030	5,790,030	5,854,766
Federal Funds	33,409,236	41,831,537	34,706,986	34,553,326	34,553,326

APPENDIX B: DCJ COMMUNITY CORRECTIONS PROJECTIONS (RFI #01)



COLORADO

Department of Public Safety

Division of Criminal Justice
Office of Community Corrections
700 Kipling Street, Suite 1000
Lakewood, CO 80215
[insert city & zip]

Memorandum

To: The Honorable Dominick Moreno, Chair, Joint Budget Committee

CC: Rep. Julie McCluskie, Vice Chair, Joint Budget Committee
Rep. Leslie Herod, Joint Budget Committee
Sen. Bob Rankin, Joint Budget Committee
Sen. Chris Hansen, Joint Budget Committee
Rep. Kim Ransom, Joint Budget Committee
Justin Brakke, Joint Budget Committee, Senior Legislative Analyst
Shelly Jones, Office of State Performance and Budgeting, Budget Analyst
Stan Hilkey, Colorado Department of Public Safety (CDPS) Executive Director
Joe Thome, Division of Criminal Justice (DJC) Division Director
Teresa Anderle, CDPS Budget Director
Joel Malecka, CDPS Legislative Liaison

From: Katie Ruske, Manager
Office of Community Corrections

Re: Response to Request for Information (CDPS RFI #1)

Date: December, 2020

This memorandum is to provide a formal response to the Request for Information #1 (Colorado Department of Public Safety/CDPS) to the Joint Budget Committee (JBC) and its staff. The CDPS RFI #1 reads as follows:

Department of Public Safety, Division of Criminal Justice, Community Corrections, Community Corrections Placements, Correctional Treatment Cash Fund Residential Placements, and Community Corrections Facility Payments -- As part of its FY 2021-22 budget request, the Department is requested to report actual average daily community corrections placements for recently completed fiscal years with a level of detail compatible with the table in Long Bill Footnote 93. This document should also report

conditions of probation placements. The Department is requested to update the report with year-to-date community corrections placements shortly after January 1, 2020. The January report should also include an estimated placements table for FY 2021-22. If the Department believes that a supplemental adjustment to the FY 2020-21 Community Corrections Placements appropriation is needed, the Department is requested to also submit an estimated placements table for FY 2020-21. If the Department estimates that the actual number of Community Corrections facility payments in either FY 2020-21 or FY 2021-22 will differ from the number on which the FY 2020-21 facility payments appropriation is based, the Department is requested to include that information in its January report. These estimates are not intended to be formal statistical forecasts, but informal estimates based upon year-to-date caseload, knowledge of facilities that are opening and closing or expanding and contracting, and upon other factors that influence the community corrections appropriations. The Department is requested to submit a brief narrative with the estimates.

Projected Community Corrections Placements (FY 2021-22)

Caseload projections for the upcoming fiscal year are complicated and challenged by the COVID-19 pandemic. The Department does not have a similar event to use as a historical reference. In previous years’ factors utilized to make caseload projections have included trend caseload data and local and state level issues potentially affecting caseload. The effects of the pandemic on the criminal justice system have been complex and far reaching.

Table 1 – Projected Placements in Community Corrections (FY 2020-21)¹³

Placement Type	Diversion	Transition	Parole	FY 22 Projections	FY 21 Appropriation	Net Changes
Residential						
Standard Residential	1,500	1,064	92	2,656	2,674	(18)
Cognitive Behavioral Treatment Pilot	24	24	0	48	48	0
Intensive Residential Treatment (GF)	51	43	68	162	224	(62)
Inpatient Therapeutic Community	68	37	3	108	108	0
Residential Dual Diagnosis Treatment	82	25	13	120	120	0
Sex Offender Treatment Beds	75	28	13	116	116	0
Non-residential						
Standard Non-residential	774	6	6	786	786	0
Outpatient Therapeutic Community	39	23	0	62	62	0
Total Base Beds (General Fund Only)	1,800	1,221	189	3,210	3,290	(80)

Data and Factors Driving the Projections:

Pursuant to the RFI language, the estimates above are *not intended to be formal statistical forecasts, but informal estimates based upon year-to-date caseload, knowledge of facilities that are opening and closing or expanding and contracting, and upon other factors that influence the community corrections appropriations.* The Department has

¹³ Areas highlighted with blue shaded cells indicate areas of change from the FY 2019-20 appropriations table in Footnote 93.

observed the following major factors that are driving the projected placement needs in community corrections:

Covid-19 Pandemic and Response

- **Modeling Release 12/16/2020¹⁴:** Based on current data and available information, the most recent modeling report released by the Colorado COVID-19 Modeling Group states that transmission control continues to improve but the effects of the upcoming holidays are unknown. The report models the prevalence of active COVID-19 cases to fall to summer lows in early to late spring depending on the effects of behavior changes around the holidays. The report also indicates the rate of infection dropping to .48 in late June of 2020.
- **Vaccination Plan:** The current vaccination plan estimates that vaccination will be available for the general population in summer of 2021. Individuals in community corrections without identified health risks will be eligible for the vaccination at that time.
- **Altered Criminal Justice Practices:** Many processes and practices in criminal justice have been altered for public health reasons in response to the pandemic. Some of these alterations included arrest procedures, court procedures, and probation supervision practices. A significant decline in direct sentences to community corrections have resulted from these alterations. It is not clear which of these practices may remain altered and which may return to pre-pandemic practice. While some of these alterations may result in long term impacts, others may begin to return as the pandemic comes to an end. For example, once it becomes safe to hold jury trials and in-person sentencing hearings, these court procedures will return.
- **Impacts on Department of Correction Population:** As a result of the altered criminal justice practices mentioned above and measures taken to reduce the population in prisons for public health, the inmate population has also declined as a result of the pandemic. Referrals to community corrections have seen a significant decline due to the reduction in population and potential increase in inmates waiving referral to community corrections. The decline may also be a result of a preference of inmates to pursue parole or other transition methods in the time of a pandemic. In addition to the decline in referrals, movements to community corrections were placed on hold for any prison identified as being in Phase III of the pandemic response. At the beginning of December more than 500 offenders were awaiting transfer into community corrections. This policy has since been changed and after a period of quarantine and a negative COVID-19 test, these individuals are beginning to move into community corrections. The extent of effect this policy change is going to have on caseload in community corrections is still unknown.
- **Review of ADP:** As part of the analysis the Department has reviewed the Average Daily Population (ADP) pre-pandemic as well as during the pandemic. An Excel spreadsheet accompanying the memo demonstrates ADP for the current fiscal year and previous fiscal years.

¹⁴ https://coloradosph.cuanschutz.edu/docs/librariesprovider151/default-document-library/co-modeling-report-12_16_2020_final.pdf?sfvrsn=3988fb9_0

- **Intensive Residential Treatment (IRT):** The caseload table in the footnote of the Long Bill for the current fiscal year included more IRT caseload than is currently supported by the system. The caseload table reflects caseload funded by General Fund appropriations and does not include caseload covered by re-appropriated funds.

After an analysis of all of the above factors, the Department made the following assumptions:

- For the start of FY 2021-22 the residential census would be increased by 500 individuals to reflect the policy change in DOC regarding movements and less prevalence of COVID.
- While modeling and the vaccination plans demonstrate that the state could be at or near the end of the pandemic, the Department assumes it will take time for criminal justice procedures and practices to return to normal.
- An increased demand could be seen for substance abuse and mental health focused specialized programming; therefore, no changes other than the IRT correction are recommended to caseload in these areas.

Table 2 – Residential Average Daily Population Assumptions for Fiscal Year 2021-22

1st Quarter Residential ADP	2nd Quarter Residential ADP	3 rd Quarter Residential ADP	4 th Quarter Residential ADP	Average Residential ADP
2452	2588	2724	2860	2656

Local Level Implications Not Taken into Account in the Projected Placements

- **Local Contract Changes in the 2nd Judicial District, Denver:** At this time, it is still uncertain the specific future of contracts for community corrections in Denver. The current contracts with CoreCivic are set to end with the current fiscal year. Denver was able to purchase the Tooley Hall location and are working on needed renovations. Zoning changes and considerations are not yet finalized.

Consideration of Board Administrative Funds

CRS 17-24-108 (4) authorizes the allocation of up to five percent of community corrections appropriations for the local unit of government to be utilized for the administrative duties required to operate and facilitate community corrections. The funds cover essential duties including regulatory and oversight functions, fiscal management, and data collection. To ensure adequate funding for board administrative duties, board administrative funds should be increased proportionate to any caseload increases.

Updated Average Daily Population (ADP) Data with Year-To-Date Figures

The RFI requests the Department to provide updated Average Daily Population (ADP) data to the JBC staff shortly after January 1, 2021. The data is provided in Microsoft Excel format separate from this memorandum.

Facility Payments Appropriations

The Department anticipates a need for three fewer Facility Payments in FY 2020-2021. The current appropriation provides for the allocation of 35 Facility Payments, which is more than sufficient for the facilities expected to operate in FY 2020-2021 plus the additional payments to COMCOR Inc. and Larimer County Community Corrections that are required by Footnote 95 (FY 2020-2021). For a variety of reasons 3 programs have closed in the last 2 years reducing the number of needed Facility Payments by the same amount. For FY 2021-2022, a total of 32 facility payments are required.

APPENDIX C: FY 2020-21 PERFORMANCE BASED CONTRACTING DECISION ITEM

During the original figure setting period for the FY 2020-21 Long Bill, the Committee approved JBC staff's recommendation to increase appropriations to the DCJ Administrative Services line item by \$182,130 General Fund and 2.0 FTE. The information below was selected from JBC staff comebacks on March 10, 2020 and edited for brevity. The full document can be found here: https://leg.colorado.gov/sites/default/files/cb_1-03-11-20.pdf

❶ R1 PERFORMANCE BASED CONTRACTING

REASON FOR COMEBACK

The Committee tabled this decision item pending more information on the total cost of personnel for the implementation of performance based contracting (PBC) in the Division of Criminal Justice.

NEW INFORMATION

The revised analysis for this decision item finds that personnel for the implementation of PBC will cost the State at least \$2.5 million General Fund between FY 2018-19 and FY 2022-23. This number is almost certainly an underestimate. The table below includes costs for the current request, but does not include increases to salaries and benefits. All figures are General Fund appropriations.

APPROXIMATE COST OF PBC PERSONNEL						
PBC PERSONNEL	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23	TOTAL
PACE Evaluations (4.0 FTE)	\$350,180	\$365,320	\$365,320	\$365,320	\$365,320	\$1,811,460
PBC Contractor	-	75,000	-	-	-	75,000
R1 Performance based contracting (2.0 FTE)	-	-	182,133	221,635	221,635	625,403
Total	\$ 350,180	\$ 440,320	\$ 547,453	\$ 586,955	\$ 586,955	\$ 2,511,863

The Department requires 6.0 FTE in future years; the 4.0 FTE related to PACE evaluations and the 2.0 FTE in the current request. The Department expects the PBC contractor to complete their work by the end of FY 2019-20, so JBC staff has reduced the recommended appropriation for the DCJ Administrative Services line item for FY 2020-21 by \$75,000 General Fund. **No additional FTE will be required in future years for the implementation of performance-based contracting.**

REVISED RECOMMENDATION AND ANALYSIS FOR R1 PERFORMANCE BASED CONTRACTING

REQUEST: The request includes \$231,041 General Fund and 2.0 FTE in FY 2020-21 for the Division of Criminal Justice's Administrative Services. The request annualizes to \$221,635 in FY 2021-22.

RECOMMENDATION: **Staff recommends \$182,130 General Fund and 2.0 FTE.** Staff agrees with the Department's assertion that the requested FTE are necessary for the implementation of PBC. Per JBC policy, the recommendation does not include centrally-appropriated costs for the first year. Salary costs are calculated at 11/12ths of annual salary.

ANALYSIS

Purpose of Performance Based Contracting

Performance based contracting (PBC) aims to increase the quality of community corrections by tying at least a portion of a contractor's payment to the achievement of specific and measurable

performance standards. According to the Department's request, PBC will improve quality by reducing recidivism rates and addressing criminogenic behavior. This objective is consistent with the purposes of community corrections in Section 17-27-101.5, C.R.S. One of these purposes is to "Further all purposes of sentencing and improve public safety by reducing the incidence of future crime through design and implementation of research-based policies, practices, programs, and standards." JBC staff interprets "reducing the incidence of future crime" as consistent with PBC's goal of reducing recidivism.

PBC Personnel Background

The Committee appropriated funding for PBC personnel in prior years because DCJ lacked the capacity and expertise to implement the policy. In FY 2018-19, the Committee approved a staff-recommended increase of \$350,180 General Fund and 3.6 FTE to evaluate community corrections providers via the PACE tool. This annualized to 4.0 FTE and \$365,320 in FY 2019-20. The Department says these FTE are permanent because they are necessary for the implementation and ongoing administration of PBC. PACE evaluations are scheduled for completion by the end of FY 2019-20, but these FTE will reevaluate providers on a designated cycle. They will also provide ongoing technical assistance and support to providers.

In FY 2019-20, the Committee approved a staff-recommended increase of \$75,000 General Fund for the DCJ to contract with a third-party to analyze baseline measurements for a tiered system of funding for PBC. The Department expects this work to be finished by the end of FY 2019-20, so the recommended appropriation for the DCJ Administrative Services line item has been reduced by \$75,000 General Fund for FY 2020-21.

The Department says the 2.0 FTE in the current request will be permanent positions because the PBC performance cycle will require regular outcome measurement. The requested FTE will track and measure risk-informed outcomes, develop provider assessments and contracts, and gather evidence on best practices. For example, one of the requested FTE will determine performance tiers for providers and design contracts accordingly. The other FTE will, among other things, validate the predictive relationship between PACE scores and risk-informed outcomes.

Staff Conclusion

Staff agrees with the Department's assertion that the requested FTE are necessary for the implementation of performance-based contracting. The Committee appropriated funds for personnel in prior years because the Department lacked the personnel necessary to implement PBC. Staff recommends approval of the current request for the same reason.