

JOINT BUDGET COMMITTEE



STAFF BUDGET BRIEFING FY 2023-24

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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ADDITIONAL RESOURCES

Brief summaries of all bills that passed during the 2020 and 2021 legislative sessions that had a fiscal impact on this department are available in Appendix A of the annual Appropriations Report:

<https://leg.colorado.gov/publications/appropriations-report-fiscal-year-2021-22>

The online version of the briefing document, which includes the Numbers Pages, may be found by searching the budget documents on the General Assembly's website by visiting leg.colorado.gov/content/budget/budget-documents. Once on the budget documents page, select the name of this department's *Department/Topic*, "Briefing" under *Type*, and ensure that *Start date* and *End date* encompass the date a document was presented to the JBC.

DIVISION OF CRIMINAL JUSTICE

DIVISION OVERVIEW

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

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

DEPARTMENT BUDGET: RECENT APPROPRIATIONS

FUNDING SOURCE	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24 *
General Fund	\$153,179,304	\$170,044,788	\$241,687,656	\$305,213,526
Cash Funds	239,790,945	249,150,510	256,506,539	267,209,485
Reappropriated Funds	47,103,491	54,542,492	54,687,326	87,244,593
Federal Funds	69,917,976	68,372,541	68,998,636	69,615,313
TOTAL FUNDS	\$509,991,716	\$542,110,331	\$621,880,157	\$729,282,917
Full Time Equiv. Staff	1,922.3	1,983.0	2,130.1	2,356.7

*Requested appropriation.

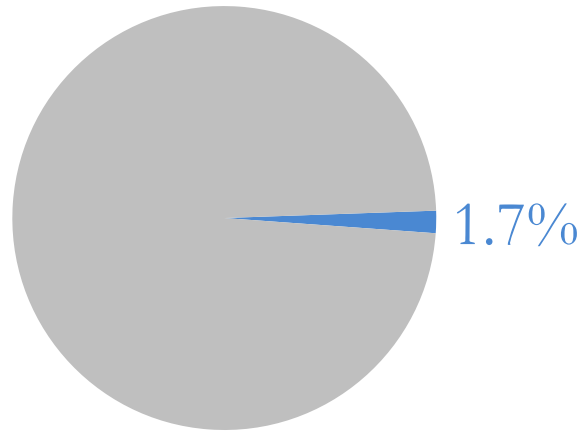
DIVISION BUDGET: RECENT APPROPRIATIONS

FUNDING SOURCE	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24 *
General Fund	\$72,419,704	\$84,273,712	\$126,760,593	\$122,177,335
Cash Funds	4,462,773	10,478,858	6,230,932	4,523,076
Reappropriated Funds	5,790,030	7,354,766	6,016,434	15,200,345
Federal Funds	34,706,986	34,429,079	34,736,542	35,457,280
TOTAL FUNDS	\$117,379,493	\$136,536,415	\$173,744,501	\$177,358,036
Full Time Equiv. Staff	85.2	78.0	89.5	94.0

*Requested appropriation.

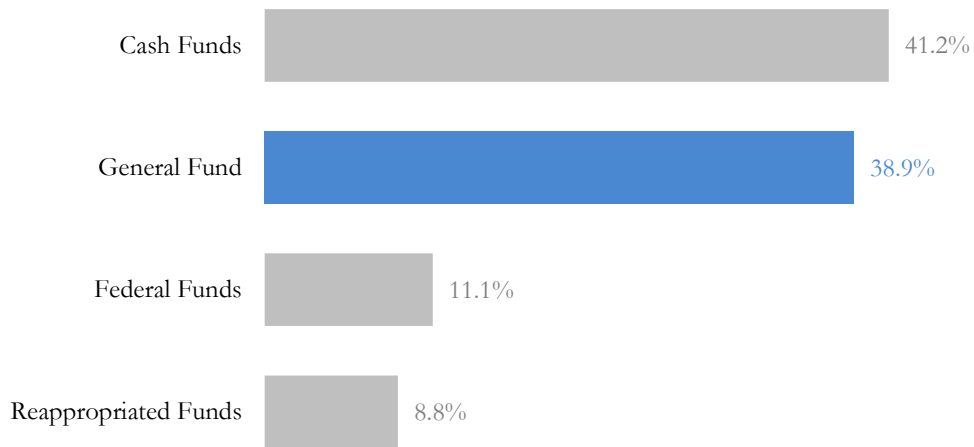
DEPARTMENT BUDGET: GRAPHIC OVERVIEW

Department's Share of Statewide General Fund



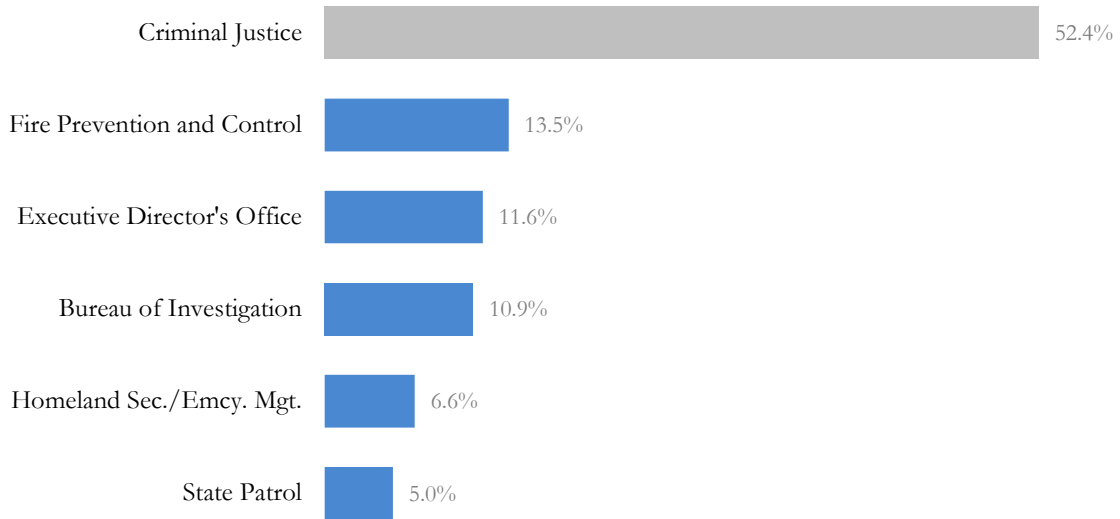
Based on the FY 2022-23 appropriation.

Department Funding Sources



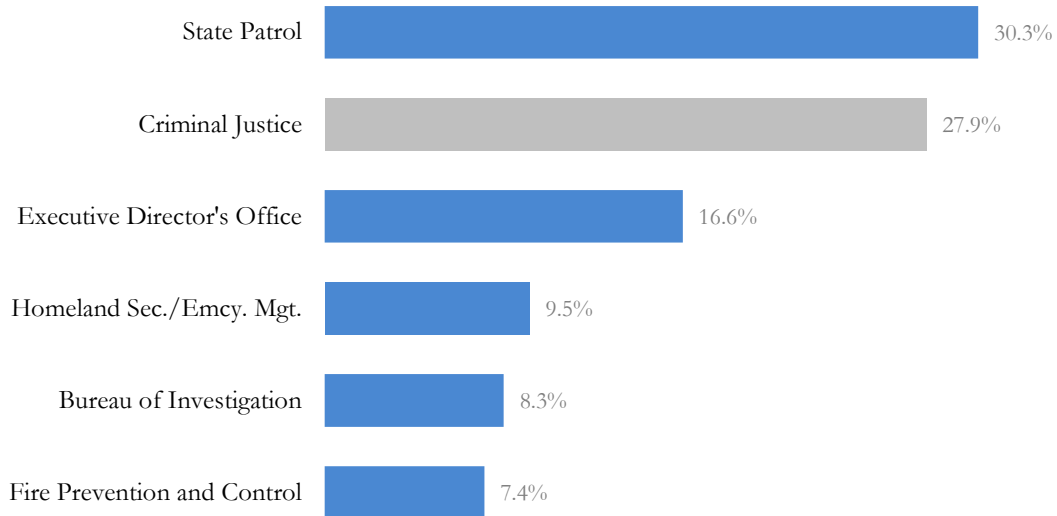
Based on the FY 2022-23 appropriation.

Distribution of General Fund by Division



Based on the FY 2022-23 appropriation.

Distribution of Total Funds by Division

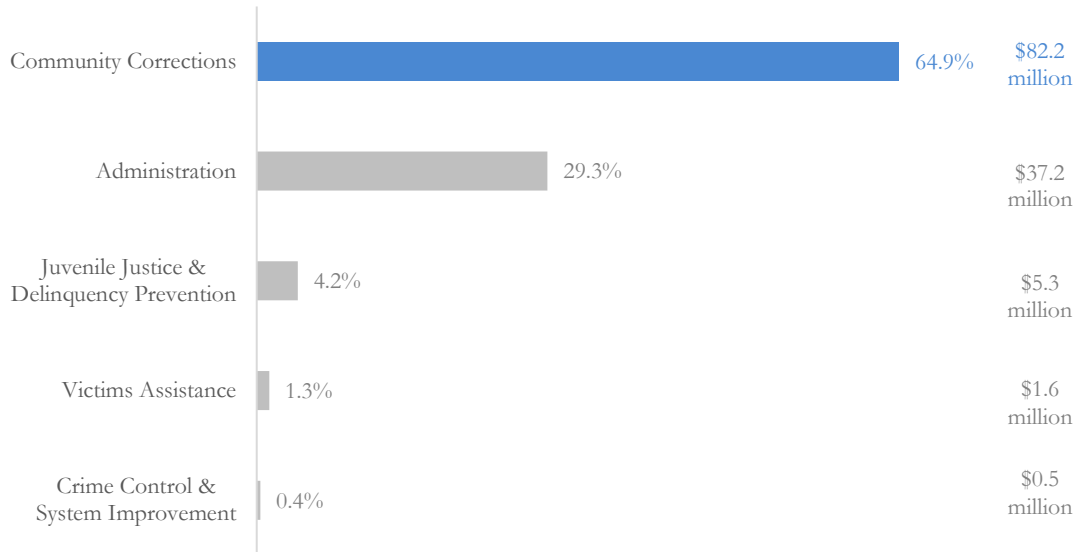


Based on the FY 2022-23 appropriation.

GENERAL FACTORS DRIVING THE BUDGET

The Long Bill budget for the Division of Criminal Justice contains five subdivisions. The Community Corrections subdivision receives the largest share of General Fund appropriations to the Division and is the focus of this section.

Distribution of General Fund by Subdivision for the Division of Criminal Justice
Total General Fund Appropriation FY 2022-23 = \$126,760,593



SUMMARY

- When accounting for inflation, total FY 2022-23 General Fund appropriations for community corrections are about where they were in the mid-2010s.
- DCJ primarily allocates funds through contracts with local community corrections boards, who then subcontract with providers for services in their communities.
- Community corrections is less expensive than prison but more expensive than probation and parole (daily cost per offender).
- Caseload has decreased significantly since the onset of the COVID-19 pandemic. Diversion placements from the courts continue to significantly outnumber transition placements from the Department of Corrections.
- Colorado’s unique model emphasizing local control affects caseload by providing local community corrections boards and providers with the statutory authority to reject referrals.

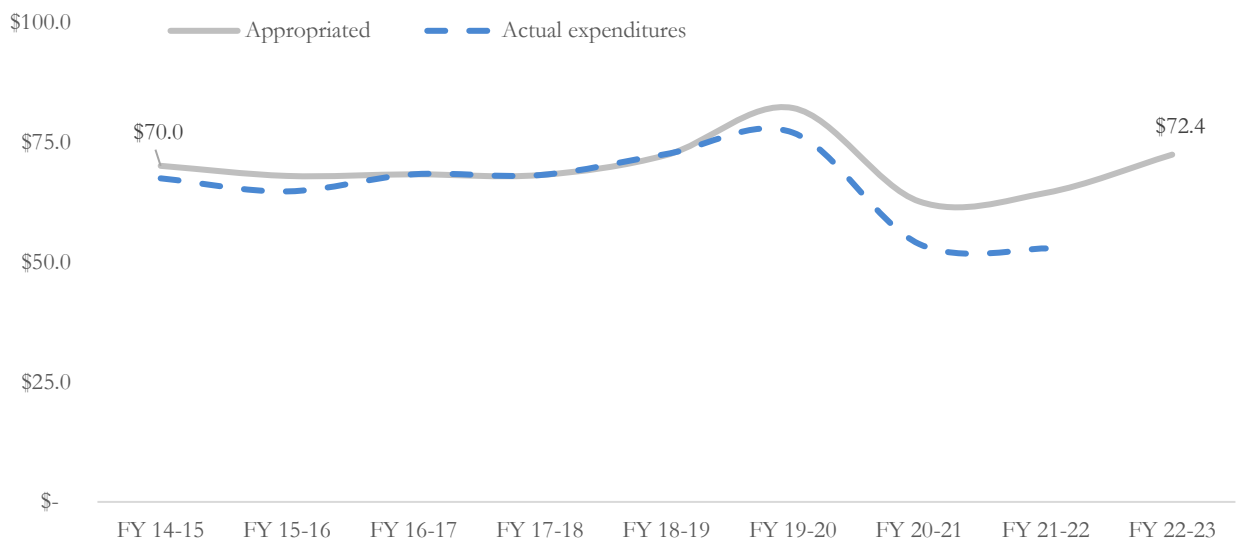
BACKGROUND

DCJ's Office of Community Corrections manages the State's community corrections system. The term "community corrections" refers to a network of public, private, and nonprofit service providers. These providers serve the State by: (1) Providing a sentencing option for criminal behavior short of prison, (2) Providing an intermediate level of supervision less than prison but more than probation or parole, and (3) Providing rehabilitative services to offenders to reduce the risk of reoffending.

CURRENT AND HISTORICAL COMMUNITY CORRECTIONS APPROPRIATIONS

The Department's single largest General Fund line item appropriation reimburses providers for services rendered: \$74.9 million in FY 2022-23, or 31.0 percent of the Department's total General Fund appropriation (\$241.7 million).¹ Total General Fund appropriations for the Community Corrections Subdivision amount to \$82.2 million in FY 2022-23. The following graph shows appropriations and actual expenditures in recent years.

Community Corrections Long Bill Subdivision Appropriations vs. Actual Expenditures
(\$ millions, inflation-adjusted, FY 2020-21 dollars)



ALLOCATION OF FUNDS

DCJ allocates funds through contracts with local community corrections boards, who then subcontract with providers for services in their communities. In some cases, DCJ contracts directly with certain providers for specialized supervision and treatment services.

Section 17-27-102 (2), C.R.S., defines community corrections boards as a unit of local government. It is JBC staff's understanding that funding allocated by the State to these local boards is subject to local TABOR revenue limits. This could lead local boards to opt-out of increased funding for community corrections if they decide to prioritize other revenues for other purposes.

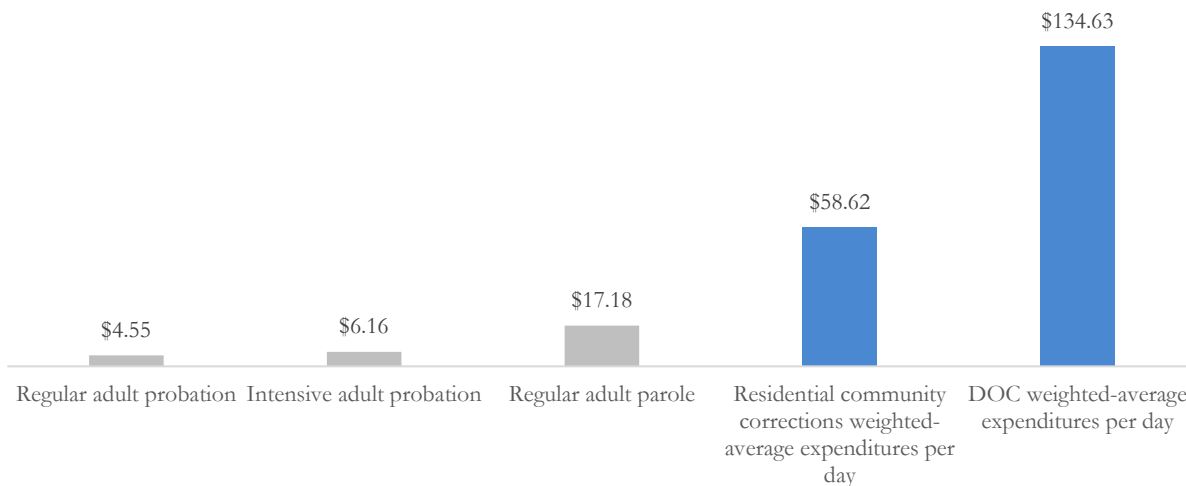
¹ The line item is *Community Corrections Placements*.

COST OF COMMUNITY CORRECTIONS RELATIVE TO OTHER LEVELS OF SUPERVISION

Community corrections is less expensive than prison but more expensive than probation and parole. Because it is less expensive than prison, community corrections has historically been utilized as a cost-savings mechanism for DOC inmates. There has even been some past discussion about “utilization targets,” where the JBC budgets for a certain percentage of the prison population that *should* be sent to community corrections.²

Members of the JBC have often inquired about the cost of community corrections relative to prison. JBC staff attempted to answer this question by calculating the weighted-average of daily expenditures for residential community corrections facilities and Department of Corrections (DOC) facilities. Staff used the weighted average to account for different costs for different community corrections services and for different DOC facilities. For community corrections, staff used the average daily number of placements (ADP) per service type and the per-diem reimbursement rate for those service types in the calculations. For the DOC, staff used the Department’s Cost per Day report, which shows the total cost per day for each facility housing state prisoners (including private prisons).³

Estimated criminal justice supervision costs per offender per day



Costs for probation and parole via Legislative Council Staff fiscal notes as of February 2022 ([link to memorandum](#)). Costs for community corrections and DOC stem from expenditures during the FY 2019-20 state fiscal year.

These costs are point-in-time estimates to provide a sense of scale. They should **not** be taken as figures that are 100.0 percent accurate because these figures change over time in accordance with changes in the relevant population and changes in appropriations to supervise those populations.

The Committee should also be aware of two additional things. First, community corrections costs per day are much higher now due to a significant increase in per-diem rates to account for state coverage of daily fees paid by offenders to providers. Staff details this change later in the document. Second,

² JBC Staff Briefing December 20, 2017: https://leg.colorado.gov/sites/default/files/fy2018-19_pubsafbrf2.pdf (page 13)

³ [Link](#) to the DOC’s FY 2019-20 cost per day report

prison caseload changes for the Department of Corrections usually only affects appropriations for in-state private prisons. The per-diem rate for private prisons is now comparable to the per-diem rate for community corrections. Thus caseload changes for both will likely appear to have a similar fiscal impact, even though the actual costs of incarceration are much higher than community corrections supervision.

Lastly, staff is unaware of any studies that speak to the effectiveness of these levels of supervision in relation to recidivism in Colorado. The various state agencies dealing with offender supervision have defined recidivism differently, making it difficult to use publicly available data to make appropriate comparisons. For example, the DOC defines recidivism as a return to prison, whether that be due to a technical parole violation or a new conviction. Until recently, DCJ defined recidivism as a new county or district court filing; they now define it as a felony reconviction within two years of starting a community corrections program. Probation has different definitions for “pre-release recidivism” and “post-release recidivism.” The former refers to new criminal acts or technical violations while on probation, while the latter refers to a new case filing one-year from the successful termination of probation.⁴

GENERAL FACTORS DRIVING THE COMMUNITY CORRECTIONS BUDGET: CASELOAD AND PER-DIEM RATES

DCJ reimburses providers based the number of offenders placed in their programs (or “caseload”), the services they provide, and the per-diem rate set by the General Assembly. This General Factors section **only** discusses the caseload piece. Briefing Issue #2 on page 17 discusses per-diem rates in greater detail.

CASELOAD

The number of placements depends on the raw number of referrals from the different parts of the criminal justice system, the willingness of community corrections boards and providers to accept referred offenders into their community and facilities, and in some cases the willingness of an offender to participate in community corrections.

Referrals to community corrections come from the courts, the Department of Corrections, and the Parole Board. These referrals are commonly referred to as diversion, transition, and parole placements.

- 1 **Diversion:** an offender is sentenced directly to community corrections by the courts in lieu of a prison sentence;
- 2 **Transition:** a Department of Corrections inmate has served time in prison and is released to a residential community corrections facility in preparation for parole; and
- 3 **Parole:** offenders are required to spend part of their time on parole in community corrections.

⁴ <https://ors.colorado.gov/ors-recidivism>

Most community corrections placements stem from felony convictions. Section 18-1.3-301 (4)(a), C.R.S. prohibits the use of General Fund for pretrial supervision placements or misdemeanor placements. Staff notes that a task force within the Colorado Commission on Criminal and Juvenile Justice is currently studying the appropriateness of improving access to community corrections for persons convicted of misdemeanors.⁵

Individuals will not be placed in community corrections unless community corrections boards and providers both accept the referral.⁶ This model of local control is unique, especially as it pertains to transition placements from the DOC. The DCJ's hearing responses for the FY 2021-22 budget cycle explain:

“Over the years, the Department has researched community corrections in other states, including cost and funding. Colorado’s community corrections system is unique in that it emphasizes local control over placements and outcomes. The Department is not aware of another state with the same state and local control partnership that exists in Colorado for community corrections, and more specifically residential community corrections...Many states that operate state funded residential programs that are comparable do so for the sole use of the DOC and its clients. As a result, they are operated without any aspect of local control.”⁷

In recent years, diversion referrals have been accepted at a much higher rate ($\approx 70\%$) than transition referrals ($\approx 40\%$), even though the General Assembly passed a bill in 2018 to improve the efficiency of transition placements from the DOC. Among other things, the bill required local community corrections boards to use “a structured, research-based decision-making process that combines professional judgment and actuarial risk and needs assessment tools.”⁸

Every board now has some version of this structured-decision making (SDM) tool, but the design varies because each board had freedom to design their own tool. Some tools simply guide the board's discussion, while others make specific recommendations. However, even in cases where the SDM tool makes a specific recommendation, the board is not obligated to follow that recommendation. Boards can (and do) use their “professional judgement” as allowed by statute to reject a referral despite recommended approval by the SDM tool.

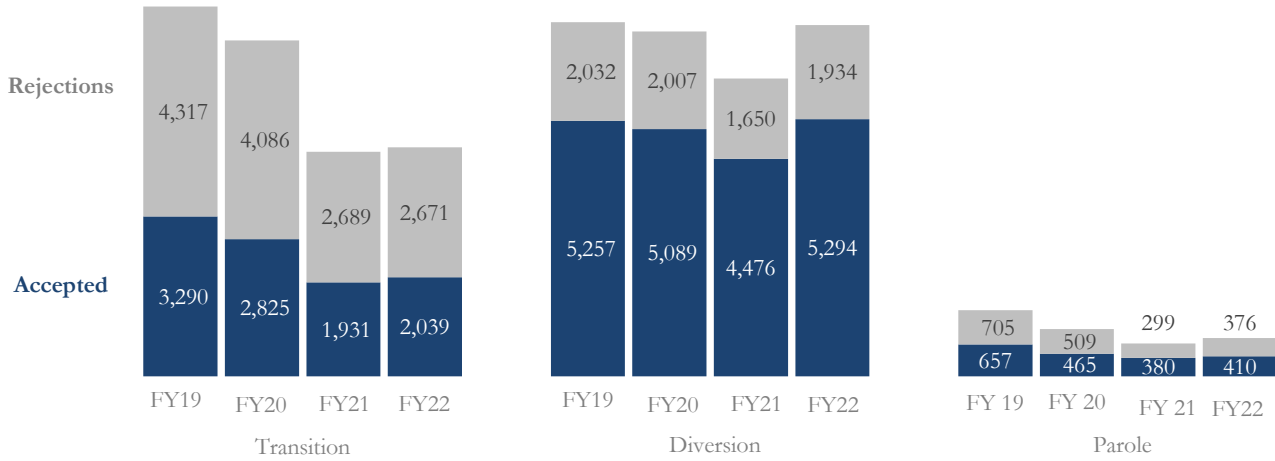
⁵ The task force must submit its findings and recommendations to the CCJJ by July 1, 2023. CCJJ will then present this report to the General Assembly during the 2024 legislative session.

⁶ Section 17-27-103 (5)(a), C.R.S. provides the boards with rejection authority. For programs, it is Section 17-27-104 (3), C.R.S.

⁷ FY 2021-22 Public Safety Hearing, December 15, 2020: https://leg.colorado.gov/sites/default/files/fy2021-22_pubsafhrg.pdf (page 7)

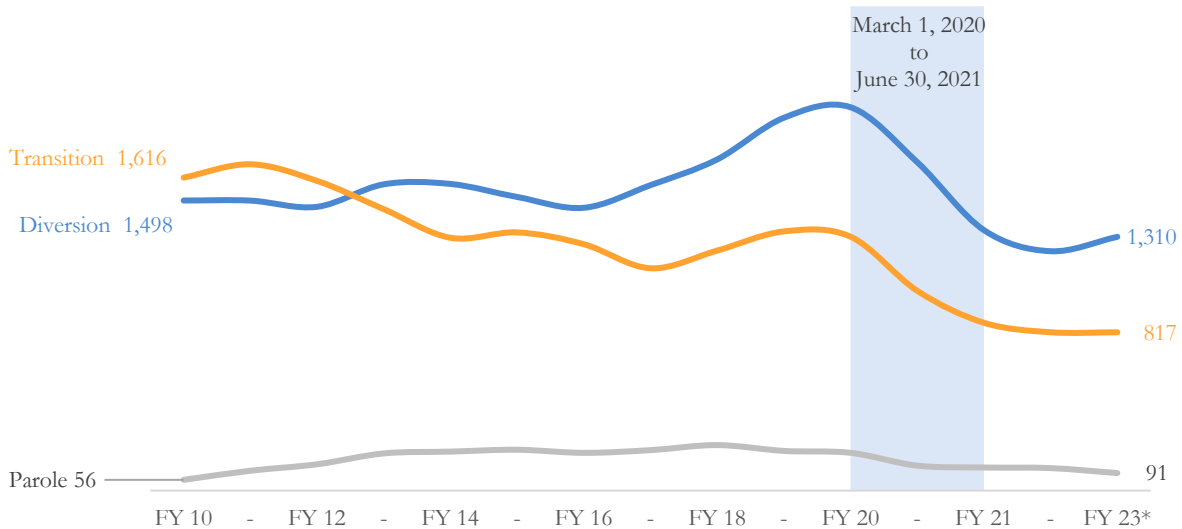
⁸ Section 17-27-103 (5)(b), C.R.S.

Community corrections referrals **accepted** vs. rejected (FY 2018-19 through FY 2021-22)



As indicated by the acceptance rates, diversion placements are the most common and have increased in recent years. From FY 2009-10 to present, the share of residential diversion placements grew from 45.5 to 59.0 percent. The following graph shows the average daily number of residential placements (ADP) over the past decade.

Total residential ADP has declined by about 36.0 percent since FY 2019-20



*ADP through October 2022

Apart from court referrals and acceptance by local boards and providers, the number of diversion placements depends on general criminal justice system variables like the State's adult population, laws, crime rates, and law enforcement and prosecution intensity.

The number of DOC inmates transitioning to community corrections has a different set of factors. DCJ laid out 21 such factors in a hearing with the JBC in 2018.⁹ For example, DOC inmates can and do reject referrals to community corrections.

SPECIALIZED PROGRAMS

Part of the caseload equation is the number of offenders receiving “standard” services versus those receiving specialized services. All residential community re-entry facilities provide programs for their offenders, such as drug and alcohol education, anger management classes, parenting, and money management. However, some residential programs provide more extensive specialized therapy and receive higher reimbursement payments as a result. Specialized programs include:

- *Intensive Residential Treatment* (IRT), a 90-day residential substance-abuse program;
- *Therapeutic Communities* (TC), which focuses on substance abuse, sometimes in combination with mental illness;
- *Residential Dual Diagnosis Treatment* (RDDT) programs, which address co-occurring mental health and substance abuse problems.

⁹ FY 2018-19 DCJ Hearing, January 8, 2018: https://leg.colorado.gov/sites/default/files/fy2018-19_pubsafhrg2.pdf (pages 1-5)

SUMMARY: FY 2022-23 APPROPRIATION & FY 2023-24 REQUEST

DEPARTMENT OF PUBLIC SAFETY (DIVISION OF CRIMINAL JUSTICE)						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2022-23 APPROPRIATION:						
HB 22-1329 (Long Bill)	137,065,060	91,820,443	4,491,641	6,016,434	34,736,542	78.2
Other Legislation	36,679,441	34,940,150	1,739,291	0	0	11.3
TOTAL	\$173,744,501	\$126,760,593	\$6,230,932	\$6,016,434	\$34,736,542	89.5
FY 2023-24 REQUESTED APPROPRIATION:						
FY 2022-23 Appropriation	\$173,744,501	126,760,593	\$6,230,932	\$6,016,434	\$34,736,542	89.5
R2 Create the Office of School Safety	(100,000)	(100,000)	0	0	0	(0.3)
R5 Invest in local crime prevention	18,000,000	9,000,000	0	9,000,000	0	0.0
R11 Technical assistance for safer communities	503,675	503,675	0	0	0	2.8
R16 Office of Research and Statistics expansion	199,150	199,150	0	0	0	1.8
R19 VINE Program upgrade	283,709	283,709	0	0	0	0.0
R21 Community corrections support staff	62,805	62,805	0	0	0	0.9
R25 Provider rate common policy	2,631,429	2,466,401	0	165,028	0	0.0
Technical adjustments	232,320	224,488	0	7,832	0	0.0
Annualize prior year budget actions	49,407	(52,244)	29,910	11,051	60,690	0.0
Annualize prior year legislation	(18,910,533)	(17,171,242)	(1,739,291)	0	0	(0.7)
Indirect cost assessment	(25,844)	0	1,525	0	(27,369)	0.0
TOTAL	\$176,670,619	\$122,177,335	\$4,523,076	\$15,200,345	\$34,769,863	94.0
INCREASE/(DECREASE)	\$2,926,118	(\$4,583,258)	(\$1,707,856)	\$9,183,911	\$33,321	4.5
Percentage Change	1.7%	(3.6%)	(27.4%)	152.6%	0.1%	5.0%

R2 CREATE THE OFFICE OF SCHOOL SAFETY: *This decision item was addressed in a separate staff briefing on November 18, 2022.*

R5 INVEST IN LOCAL CRIME PREVENTION: The Department requests a one-time, \$9.0 million General Fund appropriation in FY 2023-24. The \$9.0 million would be appropriated to two different cash funds:

- \$4.5 million to the Law Enforcement Workforce Recruitment, Retention and Tuition Grant Fund
- \$4.5 million to the Multidisciplinary Crime Prevention & Intervention Grant Fund

Issue #3, starting on page 30, provides additional details about this request.

R11 TECHNICAL ASSISTANCE FOR SAFER COMMUNITIES: The Department requests an increase of \$503,675 General Fund and 2.8 FTE starting in FY 2023-24. These funds would support a crime-related Technical Assistance Hub within the Division's Office of Research and Statistics. Issue #3, starting on page 30, provides additional details about this request.

R16 OFFICE OF RESEARCH AND STATISTICS EXPANSION: The Department requests an increase of \$199,150 General Fund and 1.8 FTE starting in FY 2023-24. Issue #3, starting on page 30, provides additional details about this request.

R19 VINE PROGRAM UPGRADE: The Department requests an increase of \$283,709 General Fund in FY 2023-24. This annualizes to \$58,080 in FY 2024-25 and would increase by 4.0 percent each year thereafter. These funds aim to support “the final phases of implementation costs for the Victim Notification Everyday (VINE) system,” which provides automated notices to victims of crime regarding changes in an offender’s status. The County Sheriffs of Colorado (CSOC) administers the VINE system using General Fund dollars allocated through the Division.

R21 COMMUNITY CORRECTIONS SUPPORT STAFF: The Department requests an increase of \$62,805 General Fund and 0.9 FTE starting in FY 2023-24. These funds would support the addition of a program assistant within the Division’s Office of Community Corrections (OCC). Per the request, OCC is the largest unit in DCJ but the only unit without administrative support. Administrative duties are currently performed by some of OCC’s 17.7 FTE. These duties include: travel arrangements, purchasing requisitions, board meeting minutes, stakeholder communications, etc.

R25 PROVIDER RATE COMMON POLICY: The Department requests an increase of \$2.6 million total funds, including \$2.47 million General Fund, for the requested 3.0 percent provider rate common policy increase.

TECHNICAL ADJUSTMENTS: The request includes an increase of \$232,320 total funds for the 2024 leap year adjustment for community corrections.

ANNUALIZE PRIOR YEAR BUDGET ACTIONS: The request includes a net increase of \$49,407 total funds for prior year budget actions.

ANNUALIZE PRIOR YEAR BUDGET ACTION						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
Annualize prior year salary survey	\$188,727	\$87,076	\$29,910	\$11,051	\$60,690	0.0
FY23 R12 CCIB system maintenance	(139,320)	(139,320)	0	0	0	0.0
TOTAL	\$49,407	(\$52,244)	\$29,910	\$11,051	\$60,690	0.0

ANNUALIZE PRIOR YEAR LEGISLATION: The request includes a net decrease of \$18.9 million total funds for the annualization of bills passed in previous sessions.

ANNUALIZE PRIOR YEAR LEGISLATION						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
HB22-1274 Sunset school safety group	\$125,032	\$125,032	\$0	\$0	\$0	0.2
HB22-1210 Sunset domestic violence board	14,919	14,919	0	0	0	0.3
HB22-1208 Jail data clean-up	14,755	14,755	0	0	0	0.2
SB 22-150 Missing murdered indigenous relatives	3,482	3,482	0	0	0	0.2

ANNUALIZE PRIOR YEAR LEGISLATION						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
SB22-001 Crime prevention safer streets	(10,300,000)	(10,300,000)	0	0	0	(2.0)
HB22-1326 Fentanyl accountability	(6,864,498)	(6,864,498)	0	0	0	0.2
SB22-196 Health needs criminal justice	(1,739,291)	0	(1,739,291)	0	0	0.0
SB22-145 Resources community safety	(99,932)	(99,932)	0	0	0	0.2
SB22-057 Violent crime brain injury	(65,000)	(65,000)	0	0	0	0.0
TOTAL	(\$18,910,533)	(\$17,171,242)	(\$1,739,291)	\$0	\$0	(0.7)

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

ISSUE 1: ONE-TIME FUNDING AUTHORIZED IN RECENT LEGISLATIVE SESSIONS

During the 2021 and 2022 legislative sessions, the General Assembly allocated significant one-time funding to the Division of Criminal Justice that included \$40.7 million originating as state General Fund and \$41.5 million originating as federal Coronavirus State Fiscal Recovery funds (ARPA funds).

RECOMMENDATION

Staff recommends that the Committee seek updates from all departments during their budget hearings on the use of significant one-time allocations of federal and state funding.

DISCUSSION

During the 2021 and 2022 legislative sessions, the General Assembly allocated \$82.2 million in one-time funding to the Division of Criminal Justice through appropriations and transfers. To assist the Committee in tracking the use of these funds, the tables below show the sum of allocations provided for FY 2020-21, FY 2021-22, and FY 2022-23 and expenditures through FY 2021-22 by the original source of the funds (General Fund, federal Coronavirus State Fiscal Recovery Funds, and other funds).

ALLOCATION AND EXPENDITURE OF ONE-TIME GENERAL FUND

DEPARTMENT OF PUBLIC SAFETY, DIVISION OF CRIMINAL JUSTICE ONE-TIME GENERAL FUND			
BILL NUMBER AND SHORT TITLE	APPROPRIATION/ TRANSFER OF FUNDS	ACTUAL EXPENDITURES THROUGH FY 2022	BRIEF DESCRIPTION OF PROGRAM AND ANTICIPATED USE OF THE FUNDS
S.B. 22-001 Crime Prevention Safer Streets	\$10,300,000	\$0	Creates the Crime Prevention Through Safer Streets Grant Program
S.B. 22-145 Resources to Increase Community Safety	15,300,000	\$0	Creates three new grant programs: Multidisciplinary Crime Prevention & Intervention (\$7.5 million); Law Enforcement Workforce Recruitment, Retention, and Tuition (\$3.75 million); and State's Mission for Assistance in Recruiting and Training (\$3.75 million)
S.B. 22-183 Crime Victim Service Funding	6,000,000		Transfers \$6.0 million GF to newly created Crime Victim Service Fund, in addition to an ARPA funds transfer.
H.B. 22-1003 Youth Delinquency Grants	2,100,000	\$0	
H.B. 22-1326 Fentanyl	7,000,000	\$0	Appropriates \$7.0 million for the Synthetic Opiate Poisoning Investigation and Distribution Interdiction Grant Program.
TOTAL	\$40,700,000	\$0	

ALLOCATION AND EXPENDITURE OF ONE-TIME FEDERAL CORONAVIRUS STATE FISCAL RECOVERY FUNDS (ARPA FUNDS)

DEPARTMENT OF PUBLIC SAFETY ONE-TIME FEDERAL ARPA FUNDS			
BILL NUMBER AND SHORT TITLE	APPROPRIATION/ TRANSFER OF FUNDS	ACTUAL EXPENDITURE OF FUNDS THROUGH FY 2022	BRIEF DESCRIPTION OF PROGRAM AND ANTICIPATED USE OF THE FUNDS
S.B. 21-292 Federal COVID Funding for Victim's Services	\$6,000,000	\$5,841,488	Appropriates \$3.0 million for the Forensic Nurse Examiners Telehealth Program; \$1.5 million for the State Victim Compensation Program; and \$1.5 million to the Victims Assistance and Law Enforcement Fund.
S.B. 22-183 Crime Victims Services	32,000,000	0	Transfers \$32.0 million to the Colorado Crime Victim Services Fund, which is continuously appropriated.
S.B. 22-196 Criminal Justice Direct Investments	3,500,000	0	Appropriates \$3.5 million for behavioral health information grants, IT services, and related expenses.
TOTAL	\$41,500,000	\$5,841,488	

IMPLEMENTATION UPDATES

Per the DCJ website, most of these grant programs recently closed the application window and will start awarding grants in December 2022 or January 2023.¹⁰

FY 2023-24 APPROPRIATIONS/TRANSFERS REQUIRED BY STATUTE

S.B. 22-145 RESOURCES TO INCREASE COMMUNITY SAFETY: Statute requires \$15,000,000 in General Fund transfers in FY 2023-24 to the continuously-appropriated cash funds created by the bill:

- \$7.5 million to the Multidisciplinary Crime Prevention and Crisis Intervention Grant Fund (Section 24-33.5-527 (4)(c)(I), C.R.S.)
- \$3.75 million to the Law Enforcement Workforce Recruitment, Retention, and Tuition Grant Fund (Section 24-33.5-528 (4)(c), C.R.S.).
- \$3.75 million to the SMART Policing Grant Fund (Section 24-33.5-529 (4)(c), C.R.S.)

Statute also requires a \$200,000 General Fund appropriation to the Division in FY 2023-24 for the project management team managing these grant programs.

H.B. 22-1003 YOUTH DELINQUENCY GRANTS: Statute requires a \$2,100,000 General Fund appropriation for this program in FY 2023-24 (Section 24-33.5-526 (8), C.R.S.)

¹⁰ <https://dcj.colorado.gov/grants/crime-prevention-grant-programs>

ISSUE 2: COMMUNITY CORRECTIONS PER-DIEM RATES

This brief provides a history of per-diem rates for community corrections, including how and why they have changed. It also aims to inform the Committee of recent changes to these rates. Lastly, JBC staff argues that the JBC and General Assembly need a better or different way making targeted rate changes.

SUMMARY

- Per-diem rate increases have exceeded the Denver metro area consumer price index over the last ten years, but a longer view diminishes the value of these gains.
- JBC staff has driven per-diem rate increases over the last decade by initiating decision items for the JBC’s consideration. These analyses relied heavily on self-reported cost surveys of providers by JBC staff.
- For FY 2014-15, JBC staff initiated and the JBC approved a new line *Facility Payments* line item. This line item aimed to “level the playing field” between small and large facilities with a flat per-diem payment independent of the number of offenders served.
- Offenders in community corrections are no longer paying daily “subsistence fees” to providers because that assumption was eliminated in the Long Bill footnote that relates to the line item appropriation. The General Assembly appropriated funds to fully compensate providers for the revenue they were no longer expected to collect from offenders.
- The General Assembly provided funding in FY 2022-23 to provide incentive payments for providers meeting recidivism and program completion targets. This means that some providers are earning an additional 2.0 percent on top of the base residential per-diem rate.
- Current JBC staff thinks there needs to be a different process for determining per-diem rates. Possible solutions include a third-party financial audit, assigning rate analysis duties to existing groups that study criminal justice issues, or moving to a competitive grant model that removes the need for per-diem rates in the Long Bill.

DISCUSSION

The daily reimbursement rate paid to providers is the second major factor driving appropriations, with caseload being the first. This rate is set by the General Assembly through a Long Bill footnote table that accompanies the *Community Corrections Placements* line item, which is the main line item supporting community corrections. Different services have different rates, as shown in the table on the next page. Staff provides a more detailed explanation of the footnote—and recent changes to the footnote—in a different section of this issue.

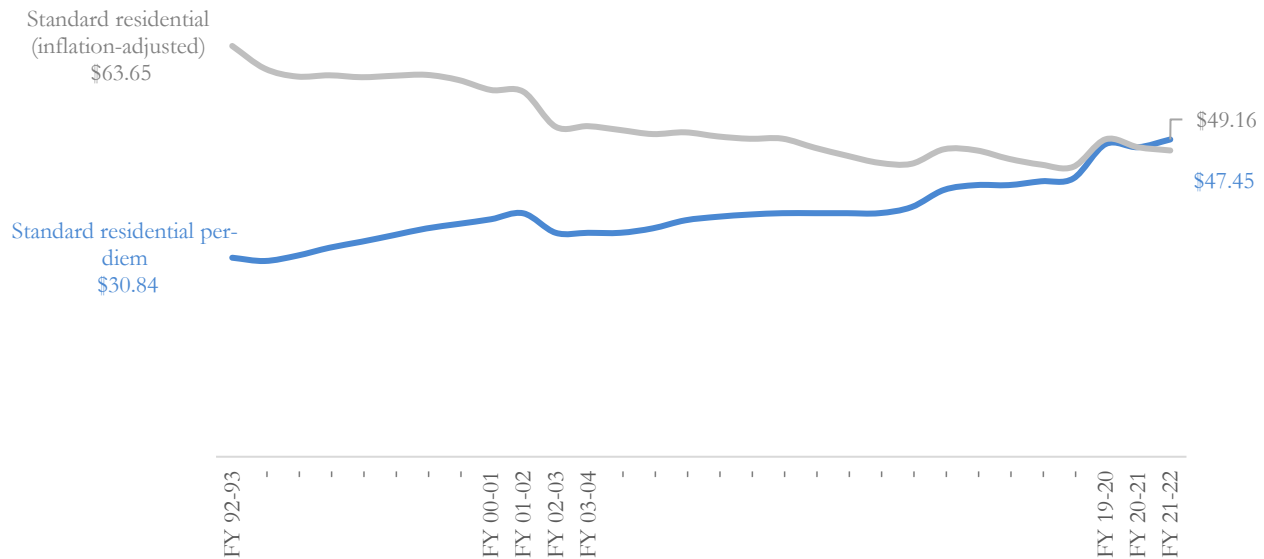
Rate type	Rate	Average Daily Placements	Appropriation
Residential base rate	\$67.00	526	\$12,863,330
Base rate plus 1.0% incentive	\$67.67	786	\$19,413,846
Base rate plus 2.0% incentive	\$68.34	1,337	\$33,350,262
Specialized Differentials			
Intensive Residential Treatment	\$33.00	146	\$1,758,570
Inpatient Therapeutic Community	\$33.00	108	\$1,300,860
Residential Dual Diagnosis Treatment	\$33.00	120	\$1,445,400
Sex Offender	\$33.00	116	\$1,397,220
Standard Non-residential	\$9.65	792	\$2,789,622
Outpatient Therapeutic Community	\$26.86	62	\$607,842
Total		3,503	\$74,926,952

Per-diem rates usually go up or down in accordance with the JBC’s provider rate common policy decisions. However, the last decade saw at least four targeted increases initiated by JBC staff and approved by the JBC (highlighted in table below). These increases helped the standard residential per-diem rate—the most common type of placement—keep pace with the Denver-Aurora-Lakewood consumer price index. Some specialized services saw larger or smaller increases, driven by differences in FY 2012-13 base.

COMMUNITY CORRECTIONS PER-DIEM RATE CHANGES (FY 2012-13 TO FY 2021-22)											
	FY13	FY14	FY15	FY16	FY17	FY18	FY19	FY20	FY21	FY22	% Change
Outpatient Therapeutic Community	\$13.32	\$13.65	\$14.43	\$22.00	\$22.00	\$22.31	\$22.53	\$23.52	\$23.28	\$23.86	79.2%
Intensive Residential Treatment	\$55.52	\$84.61	\$87.27	\$88.80	\$88.80	\$90.04	\$90.94	\$93.47	\$92.54	\$94.85	70.8%
Inpatient Therapeutic Community	\$52.08	\$61.50	\$68.61	\$69.82	\$69.82	\$70.80	\$71.51	\$75.76	\$80.14	\$82.14	57.7%
Standard residential	\$37.74	\$38.68	\$41.34	\$42.09	\$42.09	\$42.68	\$43.11	\$48.45	\$47.96	\$49.16	30.3%
Standard Non-residential	\$5.12	\$5.25	\$6.03	\$6.13	\$6.13	\$6.22	\$6.28	\$6.56	\$6.49	\$6.65	29.8%
Consumer Price Index	227.7	234.1	238.4	243.5	250.4	259.0	263.6	270.6	274.7	293.7	29.0%
Residential Dual Diagnosis Treatment	\$70.76	\$72.53	\$76.04	\$77.38	\$77.38	\$78.46	\$79.25	\$82.64	\$81.81	\$83.86	18.5%
Sex Offender	\$70.76	\$72.53	\$76.04	\$77.38	\$77.38	\$78.46	\$79.25	\$82.64	\$81.81	\$83.86	18.5%
Common Policy Increases	0.0%	2.0%	2.5%	2.0%	0.5%	1.4%	1.0%	1.0%	-1.0%	2.5%	11.9%

However, the situation looks different over a longer historical time period. The General Assembly first established the standard residential rate in the early 1990s. When adjusting for inflation since that time, the rate has declined by about 25.5 percent. The decline stems primarily from rate cuts in the early 2000s (FY 2002-03) and a four year-hiatus in rate changes from FY 2009-10 to FY 2012-13. The graph on the following page shows this long-term trend.

When adjusting for inflation, the standard residential rate decreased by 25.5% from FY 1992-93 to FY 2021-22 (FY 2020-21 dollars)



FLAT-RATE “FACILITY PAYMENTS” TO SUPPLEMENT PER-DIEM RATES

- This appropriation aims to “level the playing field” between small and large facilities with a flat-rate daily payment independent of the number of offenders served.
- There does not appear to be a correlation between the size of a facility and the rate of successful program completions at those facilities.
- This flat daily rate increased by 41.5 percent from FY 2014-15 to FY 2021-22. The increase stems from a JBC staff-initiated recommendation to offset training costs and from program closures.

In March 2014, JBC staff recommended adding a new line item to the FY 2014-15 Long Bill. This new line item established a \$3.2 million General Fund appropriation designed to allocate a \$260.45 daily payment to facilities independent of the number of offenders served. Staff’s recommendation assumed that 34 facilities would receive payment. Thus, $34 * \$260.45 * 365 = \$3,232,185$.¹¹

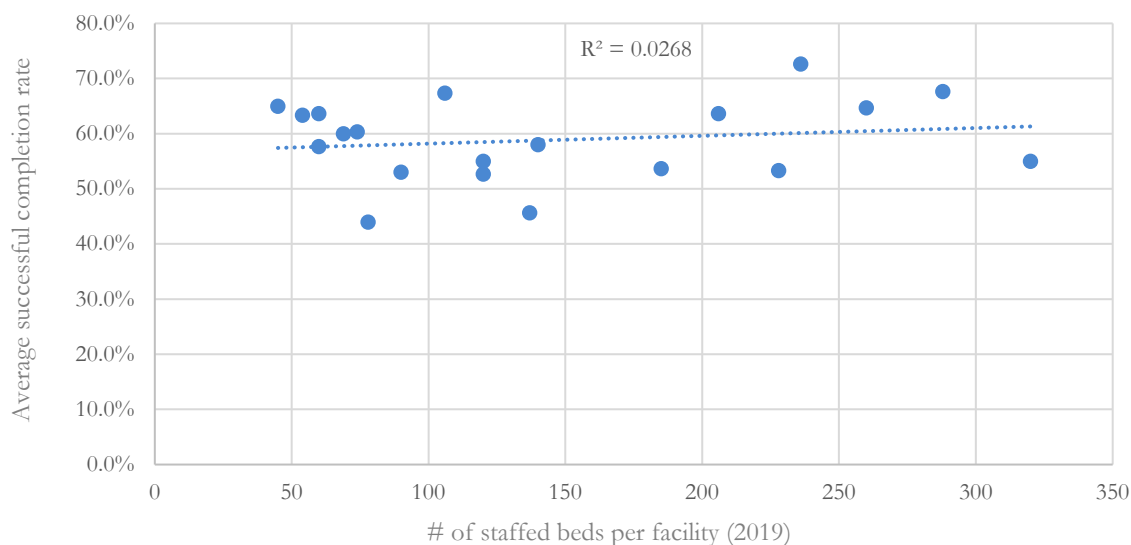
Staff’s recommendation was based on an analysis of staffing challenges in the community corrections system at that time. Staff concluded that larger facilities have a better chance of operating at a profit because they could use fewer staff to manage larger populations (“economies of scale”). Staff further concluded that “...it is probably impossible to operate a small community corrections facility that provides standard beds and relies exclusively on revenue provided by the Division of Criminal Justice

¹¹ FY 2014-15 JBC Staff Figure Setting, March 12, 2014: https://leg.colorado.gov/sites/default/files/pubsaffig2_2.pdf (pages 29-35, 41)

and on subsistence fees from offenders.”¹² JBC staff documents in later years asserted that the *Community Corrections Facility Payments* line item “makes the playing field more level for small community corrections facilities, which cannot take advantage of economies of scale.”¹³

It does not appear that JBC staff based their recommendation on the performance of small facilities relative to larger ones. Staff noted that juvenile corrections research literature suggested that smaller facilities are more effective, but did not find similar research for adult corrections.¹⁴ Current JBC staff performed a retroactive analysis of successful program completion rates by facility from FY 2016-17 to FY 2018-19 and compared those rates to the facility’s size. There does not appear to be a statistical correlation between the average successful program completion rate over that three-year period and the size of the facility.

Successful program completion FY 2016-17 to FY 2018-19 vs. # of staffed beds in facility



There are two caveats to this data. First, program completion is not the only thing to consider when evaluating smaller programs. For example, the 60-bed Garfield County Community Corrections Facility is the only facility located in the 9th Judicial District (Garfield, Rio Blanco, Pitkin Counties). Also, as JBC staff noted back in 2014, smaller facilities are “better suited to placement in a residential or mixed use community.”¹⁵

Second, current JBC staff lacks the ability to conduct advanced statistical analyses that consider multiple variables simultaneously. Successful completion rates are also influenced by technical violation rates and escapes/unauthorized absences. Technical violations are discharges from a

¹² FY 2014-15 JBC Staff Briefing, December 23, 2013: https://leg.colorado.gov/sites/default/files/pubsafrf2_2.pdf (page 17)

¹³ FY 2017-18 JBC Staff Figure Setting, March 13, 2017: https://leg.colorado.gov/sites/default/files/fy2017-18_pubsaffig2.pdf (page 24)

¹⁴ FY 2014-15 JBC Staff Briefing, December 23, 2013, page 24

¹⁵ FY 2014-15 JBC Staff Briefing, December 23, 2013, page 24

program due to particular behaviors, which DCJ separates into two categories: non-substance use related and substance use related. For example, Garfield County Community Corrections (GCCC) typically has a successful completion rate between 70.0 and 80.0 percent. But between FY 2016-17 and FY 2018-19, the average completion rate was 63.7 percent. A cursory look at DCJ data suggests this decline stemmed from an increase in technical violations during that same period, but the data does not speak to why this occurred.

Escapes are now considered “unauthorized absences” pursuant to statute. An unauthorized absence is when an offender violates the terms of their place in community corrections by knowingly failing to return to the facility without the facility’s permission.¹⁶ Prior to 2020, the definition for escape was similar. From FY 2012-13 to FY 2019-20, the average escape rate for residential programs was 16.1 percent. In FY 2020-21 and FY 2021-22, the escape rate increased to 24.0 and 27.0 percent, respectively. This occurred even as technical violation rates appeared to decrease during the same time period. The upshot is that changes in unauthorized absence rates may confound analyses of the relationship between program success and program size.

Despite these caveats, claims about the effectiveness of smaller facilities should be viewed with skepticism if those claims are not accompanied by supporting evidence. The preceding analysis suggests, but does not prove, that facility size does not influence the rate at which offenders successfully complete their programming.

INCREASE IN THE FACILITY PAYMENT RATE

Staff estimates that the facility payments per-diem rate rose to \$368.49 per day in FY 2021-22, up from the original calculation of \$260.45 for FY 2014-15. This is an increase of 41.5 percent. During this same period, the Denver metro area consumer price index rose by 23.2 percent. This translates to a revenue increase of about \$39,000.

There are two reasons for this increase. First, the appropriation increased by about 33.0 percent from FY 2014-15 (\$3.23 million) to FY 2021-22 (\$4.3 million). The bulk of this increase—\$821,345—stemmed from a JBC-staff initiated recommendation to increase the appropriation to “help programs pay for the expensive evidence-based practices that DCJ is requiring them to implement.”¹⁷

Another factor is program closures, mainly in Denver. The original appropriation assumed that 34 facilities would receive a payment. At the time of the writing of this document, there are 26 facilities operating in the state. However, the appropriation has not been adjusted to account for program closures. This means that remaining facilities have received a larger share of the existing appropriation.

¹⁶ Section 18-8-208.2 (1)(a), C.R.S.

¹⁷ FY 2017-18 JBC Staff Figure Setting, March 13, 2017: https://leg.colorado.gov/sites/default/files/fy2017-18_pubsaffig2.pdf (page 21)

RECENT PER-DIEM CHANGES: STATE COVERAGE OF DAILY FEES CHARGED TO OFFENDERS

Prior to the 2022-23 state fiscal year, the Long Bill appropriation footnote for community corrections assumed that community corrections providers would collect a daily “subsistence fee” directly from offenders. Dating back to the early 2000s, the daily fee for residential placements was \$17.00 and the daily fee for nonresidential placements was \$3.00. Over the last decade, subsistence fees accounted for about \$12.0-\$15.0 million in annual revenue for providers. This figure does not include *owed* subsistence fees; some providers did not achieve a 100.0 percent collection rate.

This changed in the FY 2022-23 budget when the JBC approved a motion to replace the subsistence fee assumption with an assumption that subsistence fees would not be collected. The sections below highlight changes between the FY 2021-22 and the FY 2022-23 Long Bill.

FY 2021-22 LONG BILL, PUBLIC SAFETY FOOTNOTES (S.B. 21-205)

98 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...

FY 2022-23 LONG BILL, PUBLIC SAFETY FOOTNOTES (H.B. 22-1329)

107 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. The appropriation assumes that offenders will not be charged a daily subsistence fee...

This motion included an increase of \$16,443,397 General Fund to offset the revenue that providers were no longer expected to collect from offenders. This was implemented through an increase in per-diem rates. Consequently, the standard residential rate went up by \$17.84 between FY 2021-22 and FY 2022-23, a 36.3 percent increase. The tables on the following page show how the Long Bill footnote table reflected this change.

FY 2021-22
Long Bill Footnote 98

Placement Type	Rate	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	161	28	35	\$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

FY 2022-23
Long Bill Footnote 107

Rate type	Rate	Average Daily Placements	Appropriation
Residential base rate	\$67.00	526	\$12,863,330
Base rate plus 1.0% incentive	\$67.67	786	\$19,413,846
Base rate plus 2.0% incentive	\$68.34	1,337	\$33,350,262
Specialized Differentials			
Intensive Residential Treatment	\$33.00	146	\$1,758,570
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Total		3,503	\$74,926,952

Different providers were impacted differently. Providers who were collecting 100.0 percent of owed fees probably did not benefit much from the change. Providers who were collecting less than 100.0 percent benefitted from the State’s guarantee to cover 100.0 percent of subsistence (\$17.00+).

It is JBC staff’s understanding that providers were, on average, collecting about 80.0 percent of total subsistence fees (\$13.60 of \$17.00). Staff learned this from the Colorado Community Corrections Coalition (CCCC), the interest group representing nearly every provider in the state. The group’s budget talking points for the 2022 legislative session included the following request:

→ Use state funds to backfill uncollected subsistence payments to improve provider solvency

- ◆ Collection of client subsistence is a crucial component of the Community Correction funding model. The current flat rate of \$17 per day charged to clients was put in place decades ago to save the state money on these services. This amount has not been increased in nearly twenty years despite significant inflationary costs. Unfortunately, providers are only able to collect approximately 80% of total subsistence costs, leaving programs to make up the rest out of pocket. High escape rates (which seem to be increasing as a result of a legislative reclassification from a felony to a misdemeanor) and COVID-19 isolation/quarantine protocols are recent contributors to lower collections. To improve program sustainability, we propose adding appropriate funding and flexibility to the Community Corrections allocated to backfill providers for uncollected client subsistence payments. Not only would this increase program solvency, it is also likely to improve client outcomes. Many programs have found that clients who have more savings in their bank accounts are less likely to abscond and are more likely to achieve programmatic success.

There is no official data available to corroborate the claim of an 80.0 percent average collection rate. The DCJ’s Office of Community Corrections did not collect data on subsistence paid versus owed, nor did they ask providers to tell them when they did not charge subsistence, as some did not. DCJ attempted to answer this question in their FY 2018-19 JBC hearing responses, but noted that the figures they presented were estimates only. These estimates were much lower than the 80.0 percent collection rate put forth by the Coalition: DCJ estimated that offenders were paying between \$6.63 and \$9.02 per day in FYs 2015-16 and 2016-17.¹⁸

Using the 80.0 percent figure put forth by the CCCC, JBC staff calculates that the total standard residential per-diem rate increased by 6.8 percent from FY 2021-22 to FY 2022-23. The table below show’s staff’s calculations

JBC STAFF CALCULATIONS: ESTIMATED PER-DIEM RATE CHANGE AFTER STATE COVERAGE OF \$17.00 SUBSISTENCE FEED	
FY 21-22 Standard residential per-diem	\$49.16
Average subsistence payment (80.0% of \$17.00)	13.60
Estimated actual per-diem	62.76
FY 22-23 Standard residential per-diem	67.00
% change from FY 21-22	6.8%
ESTIMATED REVENUE CHANGE FY 2021-22 TO FY 2022-23 (FLAT CASELOAD)	
Small (\$67.00 rate*50 beds*365 days) - (\$62.76*50 *365)	\$77,380
Medium (90 beds)	139,284
Large (150 beds)	232,140

RECENT PER-DIEM CHANGES: PERFORMANCE-BASED CONTRACTING

For FY 2022-23, the State appropriated an additional \$846,143 General Fund to reimburse providers at higher per-diem rate for meeting certain performance objectives.¹⁹ Specifically, these funds provided an additional 1.0 percent for meeting objectives related to recidivism and another 1.0 percent for objectives related to program completion.²⁰ The Committee and the General Assembly may adjust incentive payment measures and funding during the annual budget process. Appendix D provides a breakdown of program performance by judicial district.

¹⁸ FY 2018-19 DCJ Hearing, January 8, 2018: https://leg.colorado.gov/sites/default/files/fy2018-19_pubsafhrg2.pdf (page 46)

¹⁹ This appropriation was based on a DCJ estimate of the number of providers that would qualify for these incentive payments and the estimated number of placements at those facilities.

²⁰ Recidivism is defined as a new felony conviction within two years of starting a community corrections program. Program completion refers to the percentage of offenders that successfully complete the program in a fiscal year.

→ TARGETED PER-DIEM RATE ADJUSTMENT CHALLENGES AND POSSIBLE SOLUTIONS

Current JBC staff concludes that the JBC and the General Assembly need better or different processes for determining per-diem rates for community corrections. By “better,” staff means that future processes should be more accurate, scalable, and sustainable. Accurate means that the Committee has verifiable data about the cost of operating a community corrections program. Scalable means that the process can be repeated, with fidelity, regardless of the number of facilities operating in the state. Sustainable means that the process can be repeated, with fidelity, over time, regardless of who the JBC staff analyst is or who is on the JBC. By “different,” staff means that future processes could look very different from existing processes, perhaps by doing away with per-diem rates in the Long Bill altogether.

Since the Great Recession, JBC staff have driven increases in the per-diem rate by initiating decision items for the JBC’s consideration. In other words, staff generated a recommendation to increase per-diem rates and corresponding appropriations without the impetus of a budget request from the Executive Branch. Current JBC staff *estimates* that these recommendations accounted for about \$15.8 million General Fund (not adjusted for inflation) beyond what was requested by the Executive Branch.

Prior analyses relied heavily on time-consuming surveys and interviews conducted by JBC staff. DCJ has also attempted several cost surveys in the past. These surveys and interviews primarily aimed to figure out the cost of running a community corrections program, including personnel costs.

The reason for using surveys and interviews is because neither JBC staff nor DCJ have access to provider financial data. During briefing, hearing, and figure setting process for FY 2019-20, JBC staff, DCJ, and the JBC discussed this issue. JBC staff at that time asked DCJ the following question: If all Community Corrections programs and treatments were completely funded, what would the total cost and the daily per-diem cost per program be? This was the DCJ’s response, with emphasis in bold added by current JBC staff:

“Over the years, DCJ has attempted several cost surveys with providers. **The surveys were deficient in that they could not include a process to verify the information provided in the survey.** Additionally, while contracts and the Colorado Community Corrections Standards provide a level of expectations for all providers, their individual costs still vary greatly depending on a variety of factors. These factors may include, but are not limited to, whether the program is county run, privately owned, or a nonprofit; whether they own or lease the building; the general geographic region in which the program operates; the size of the facility and/or the corporate structure.

For this current fiscal year, RFI DPS02 required a cost survey to determine the continuing financial impact related to any issued or revised community corrections Standards. In the cost survey, individual responses on fiscal impact ranged from the tens-of thousands to millions of

dollars for initial and ongoing costs of implementing all Standards. The wide range of answers made it impossible to determine the true cost of Standards implementation. DCJ has also found it impractical to do a national comparison in rates as very few states have state funded residential community corrections systems. Due to the above factors, DCJ has not been able to determine the total cost for services or a daily-per-diem cost per program.”

JBC staff at that time tried to singlehandedly capture cost data. They did this by sending a survey to community corrections providers, who then self-reported their costs. The resulting analysis led to a recommendation to substantially increase per-diem rates, though staff noted that their recommendation did not constitute the full cost to run the program.²¹

Current JBC staff is not comfortable basing a recommendation to change per-diem rates on self-reported cost data because staff cannot verify the accuracy of that data. Furthermore, the survey methodology has not been consistent between different JBC staffers, nor has the resulting analysis. For example, JBC staff’s recommendation for FY 2014-15 aimed to achieve very specific goals: (1) a 16.0 percent salary increase for security and case managers, a 12.0 percent increase for administrative personnel, a 2.5 percent inflation increase for food service workers, and (2) a 20:1 case manager to offender ratio. The FY 2019-20 analysis did not have specific goals. Rather, the goal was to bring rates a little bit closer to actual costs and lay the groundwork for future implementation of performance-based contracting.

Current JBC staff does not question the quality of these analyses, nor does staff question their reasons for initiating these decision items. In the years following the Great Recession, it was evident that per-diem rates had been languishing for over a decade. During the FY 2019-20 cycle, the DOC was dealing with a capacity crisis and JBC staff was, in part, looking at community corrections as one option for dealing with that crisis.

However, these analyses do demonstrate what current staff feels is a need for more accuracy, scalability, and sustainability. With regards to accuracy, staff believes the JBC needs verifiable, accurate data regarding the costs of operating a community corrections facility. With regards to scalability, JBC staff-initiated surveys are time-consuming and difficult enough to conduct with about 30 providers in the state. Is this method viable if the number were to increase to 40, 50, or 60? Staff thinks not. Lastly, differences in past analyses demonstrate what staff feels is a need for a process that is repeatable over time, regardless of who the JBC analyst is, who is on the JBC, or who is working at DCJ—all of whom may have philosophical differences in their approach to these kinds of issues.

²¹ FY 2019-20 JBC Staff Figure Setting, March 11, 2019: https://leg.colorado.gov/sites/default/files/fy2019-20_pubsaffig2.pdf (pages 17-20)

POSSIBLE SOLUTIONS

The possible solutions here are not listed any particular order and they do not capture all possible options. Their aim is to stimulate discussion between JBC staff, the JBC, the DCJ, and other stakeholders.

- 1 **Periodic system-wide financial audit conducted by an independent third party:** The key problem with past surveys is that the results are self-reported and unverifiable. The purpose of an audit would be to accurately determine the cost of running a community corrections facility, including personnel costs, operating costs, capital costs, and sources of revenue. To encourage compliance with the audit, non-participants could be exempted from future rate increases.

The Committee may consider appropriating funds to DCJ on a periodic basis so they can contract with a third-party entity to examine provider financial records. The frequency of such an audit would be up to the JBC. The contractor would report back to DCJ and they would collaborate to produce a report for the JBC's consideration. With the JBC's guidance, JBC staff could work with DCJ and other stakeholders to determine the contents of this report.

For example, for facilities that receive most or all of their revenue from DCJ allocations, actual spending for personnel may be closely tied to the State per-diem rate. Thus actual spending for personnel would reflect what the state is willing to pay, not what the market may dictate for certain job classes. Should the report include prevailing market rates for certain job classes and the per-diem rate that would be necessary to bring wages to market rates?

If the JBC is interested in learning more about this solution, staff recommends placing a question for discussion on the DCJ's hearing agenda. The question would include language regarding feasibility, statutory authority, frequency, and DCJ's thoughts on the benefits and/drawbacks of the concept.

- 2 **Task an existing commission, advisory council, committee, or task force with making recommendations on per-diem rates:** The General Assembly could ask the Colorado Commission on Criminal and Juvenile Justice (CCJJ) or the Governor's Community Corrections Advisory Council (GCCAC) to study per-diem rates in community corrections and make recommendations for the JBC's consideration.

Staff believes per-diem rate analysis would fall within the CCJJ's broad statutory mandate. Section 16-11.3-103 (1), C.R.S., says the CCJJ's mission is to "enhance public safety, to ensure justice, and to ensure protection of the rights of victims through the cost-effective use of public resources. The work of the commission will focus on evidence-based recidivism reduction initiatives and the cost-effective expenditure of limited criminal justice funds." Still, JBC staff would probably recommend legislation to add per-diem rate analysis to the CCJJ's list of duties and specify the information the JBC wants or needs to inform their decisions.

The GCCAC exists via Executive Order B 2013 010, though the council has been around for decades.²² The Order charges the Council with, among other things: (1) analyzing problems and needs of the community corrections system, (2) evaluating and recommending strategies to maximize use of funding and to promote efficient and effective allocation methods to local jurisdictions, and (3) addressing issues identified by the Governor and the Colorado General Assembly in the areas of community corrections. The JBC or other members of the General Assembly could sponsor legislation to formalize a Community Corrections Advisory Council in statute and include per-diem rate analysis as one of its duties.

- 3 Eliminate per-diem rates in the Long Bill and allow providers to bid on contracts at rates they think are sufficient:** During the FY 2021-22 budget cycle, the Governor’s budget request included a redesign of the community corrections funding model amid a \$22.0 million budget reduction (DPS R02 Community Corrections Grants).²³ This request proposed a change from per-diem allocations to competitive grants.

At the time, JBC staff acknowledged that the proposed model could have both positive and negative impacts. On the positive side, competitive bidding would allow providers to bid for contracts at the “true-cost” of providing services. On the negative side, if every provider’s bid exceeded current per-diem rate and total appropriations stayed constant, the system’s capacity would be reduced. At the time, it was assumed that this scenario—on top of a \$22.0 million budget cut—would lead to increased costs at the Department of Corrections: 765 beds costing an estimated \$13.8 million General Fund. For these reasons, and others, staff eventually recommended that the JBC deny the request.

However, that assumption about increased DOC costs now looks overstated given how transition referrals remain subdued relative to pre-COVID years. Additionally, fewer placements funded at better rates could produce better outcomes. If that were to happen, the State would have a stronger justification to increase funding for community corrections and perhaps reduce DOC costs over the long run by providing more effective alternatives to incarceration, but with more supervision than probation or parole.

In JBC staff’s view, it would take at least a couple years to implement a competitive grant model. For example, work would need to be done to make sure all local jurisdictions have the tools they need to be competitive in the application process. Staff also thinks there would need to be some discussion about whether to dedicate a certain amount of funding on a geographic basis, with competitive bidding occurring within each judicial district or regional collection of judicial districts. However, this model would remove the need to set per-diem rates in the Long Bill and perhaps facilitate more effective service delivery.

²² [Link](#) to Executive Order B 2013 010

²³ [Link](#) FY 2021-22 R02 Community Corrections Grants

SUMMARY: ISSUE 2 COMMUNITY CORRECTIONS PER-DIEM RATES

- Per-diem rate increases have exceeded the Denver metro area consumer price index over the last ten years, but a longer view diminishes the value of these gains.
- JBC staff has driven per-diem rate increases over the last decade by initiating decision items for the JBC's consideration. These analyses relied heavily on self-reported cost surveys of providers by JBC staff.
- For FY 2014-15, JBC staff initiated and the JBC approved a new line *Facility Payments* line item. This line item aimed to “level the playing field” between small and large facilities with a flat per-diem payment independent of the number of offenders served.
- Offenders in community corrections are no longer paying daily “subsistence fees” to providers because that assumption was eliminated in the Long Bill footnote that relates to the line item appropriation. The General Assembly appropriated funds to fully compensate providers for the revenue they were no longer expected to collect from offenders.
- The General Assembly provided funding in FY 2022-23 to provide incentive payments for providers meeting recidivism and program completion targets. This means that some providers are earning an additional 2.0 percent on top of the base residential per-diem rate.
- Current JBC staff thinks there needs to be a different process for determining per-diem rates. Possible solutions include a third-party financial audit, assigning rate analysis duties to existing groups that study criminal justice issues, or by moving to a competitive grant model that removes the need for per-diem rates in the Long Bill.

ISSUE 3: CRIME-RELATED REQUESTS (R5, R11, R16)

This brief details the following crime-related budget requests:

- **R5 INVEST IN LOCAL CRIME PREVENTION**
 - \$9.0 million General Fund (one-time) appropriation to two different cash funds:
 - \$4.5 million to the Law Enforcement Workforce Recruitment, Retention and Tuition Grant Fund
 - \$4.5 million to the Multidisciplinary Crime Prevention & Intervention Grant Fund

- **R11 TECHNICAL ASSISTANCE FOR SAFER COMMUNITIES**
 - \$555,358 General Fund and 2.8 FTE starting in FY 2023-24

- **R16 OFFICE OF RESEARCH AND STATISTICS EXPANSION**
 - \$233,443 General Fund and 1.8 FTE starting in FY 2023-24

RECOMMENDATION

In JBC staff's view, these requests lack adequate information and justification. Based on currently available information, staff will likely recommend denial of R5 Invest in Local Crime Prevention (\$9.0 million General Fund) and R11 Technical Assistance for Safer Communities during figure setting. Staff will likely recommend approval of R16 Office of Research and Statistics Expansion, but not for the reasons put forth by the request.

DISCUSSION

R5 INVEST IN LOCAL CRIME PREVENTION

Senate Bill 22-145 (Resources to Increase Community Safety) created the grant programs and related cash funds discussed here. For context, the following table shows the amount appropriated for each program in FY 2022-23 and the amount *already required* by the bill for FY 2023-24.

EXISTING GENERAL FUND APPROPRIATIONS FOR S.B. 22-145 PROGRAMS			
PROGRAM	FY 22-23	FY 23-24*	TOTAL
Multidisciplinary Crime Prevention and Crisis Intervention Grant Program	\$7,500,000	\$7,500,000	\$15,000,000
Law Enforcement Workforce Recruitment, Retention, and Tuition Grant Program	3,750,000	3,750,000	\$7,500,000
State's Mission For Assistance In Recruiting & Training (SMART) Grant Program	3,750,000	3,750,000	\$7,500,000
Total	\$15,000,000	\$15,000,000	\$30,000,000

*Statute requires these appropriations in FY 2023-24

Staff notes that R5 **does not** request additional funding for the SMART Grant Program, which aims to increase the number of P.O.S.T.-certified and non-certified law enforcement officers who are representative of the communities they serve and to provide training for those additional law enforcement officers.²⁴

²⁴ Section 24-33.5-529 (1)(a), C.R.S.

LAW ENFORCEMENT WORKFORCE RECRUITMENT, RETENTION, AND TUITION GRANTS

This program aims to: (1) assist law enforcement agencies in addressing workforce shortages, (2) improve the training given to P.O.S.T.-certified peace officers, and (3) improve relationships between law enforcement and impacted communities.²⁵

Eligible Applicants and Uses of Funds

Eligible applicants are Colorado law enforcement agencies, tribal law enforcement agencies serving fewer than 50,000 residents, third-party law enforcement-related membership organizations, and higher education institutions that operate a law enforcement academy. Statute requires that at least 20.0 percent of total funding is distributed to agencies with a population less than 50,000. These agencies must be wholly located either east of Interstate 25 or west of the continental divide.²⁶

Grantees may use funds for the following purposes:

- Recruit, pay the tuition for, and train individuals to work in POST certified law enforcement careers;
- Increase the number of persons receiving training as POST certified and non-certified law enforcement personnel and improve the training provided to such persons;
- Improve the training provided by entities approved for providing training by the peace officer standards and training board, referred to in this section as "approved POST Board trainers", by enhancing their curriculum to expand mental health, implicit bias, cultural competency, critical incident, de-escalation, and trauma recovery training and increasing the availability of workforce mobility; and
- Provide continuing education opportunities for POST certified and non-certified peace officers, and increase activities intended to foster a more positive relationship between law enforcement and impacted communities.

Grant money must supplement the costs of recruitment and training; it cannot be used to supplant these costs. It also cannot be used to cover the costs of law enforcement officer salaries and benefits if said officer would have been hired regardless of awarded grant money. Lastly, law enforcement agencies that receive funds may be subject to an audit by the state auditor to ensure proper use of those funds.²⁷

²⁵ Section 24-33.5-528 (1)(a), C.R.S.

²⁶ Section 25-33.5-528 (2)(a)(II), C.R.S. If applications do not meet or exceed this requirement, funding may be allocated to other agencies.

²⁷ Section 24-33.5-528 (1)(d), C.R.S.

Accountability

Statute requires each grant recipient to provide a financial and narrative report to DCJ. This report must describe how funds were utilized, including information related to performance metrics. The Department is responsible for determining which metrics that grant recipients will provide. These metrics are not described in the request, nor are they described on the DCJ grant website (as of November 26, 2022). Staff assumes they are under development and suggests that the Committee add a question to the hearing agenda that would allow the Department to elaborate.

Current Funding Levels

Senate Bill 22-145 appropriated \$3,750,000 General Fund to the continuously appropriated Law Enforcement Workforce Recruitment, Retention, and Tuition Grant Fund in FY 2022-23. Because the Fund is continuously appropriated, the Department may spend funds until the program is repealed on January 1, 2025.

Statute requires a \$3,750,000 General Fund appropriation to the Fund in FY 2023-24.²⁸ Thus, the current request is *in addition to* this amount. If the request is approved, total funding for program would come to \$12.0 million General Fund: \$3.75 million FY 2022-23 and \$8.25 million in FY 2023-24.

Request Justification

The only justification in the request is that demand for grant dollars has exceeded the supply of available funds. The request does not provide any additional information.

JBC Staff Analysis

The demand for grant dollars is not, and will not be, a factor in JBC staff's recommendation. That is because "demand" in this case is divorced from a description of the underlying problem and/or the impact of state spending. Additionally, the grant process appears to be competitive. Unless statute states otherwise, staff does not assume that a competitive grant program would necessarily fund every grant request. Thus staff does not see excess demand for a competitive grant program as adequate justification for additional funding.

The request does not provide justification based on the merits of the unfunded requests as they pertain to the bill – or the urgency of funding. Staff is also hesitant to comment on the merits of programs stemming from legislation that passed in the previous session. Still, staff has identified a few things for the Committee's consideration.

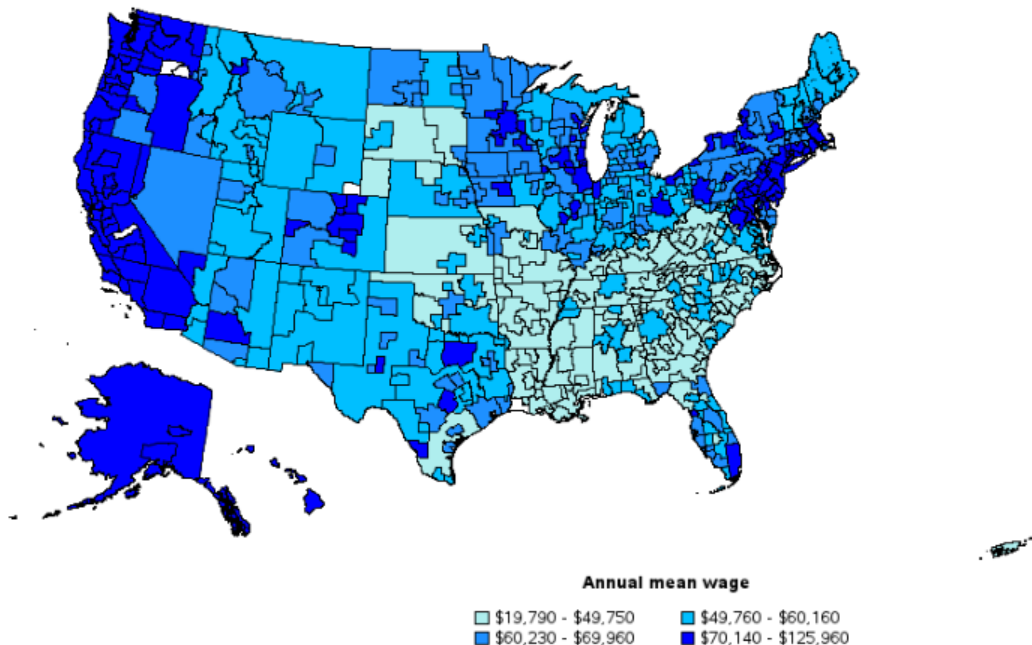
For the sake of this discussion, staff assumes that there is a law enforcement workforce problem, even though staff is not aware of a data source that speaks to the extent of the problem (e.g. vacancy rates for each law enforcement agency in the state). With that assumption in mind, staff is skeptical that more DCJ grant funding will solve or improve the problem. Staff is skeptical because peace officers appear to be leaving their jobs for reasons unrelated to state funding levels.

²⁸ Section 24-33.5-528 (4)(c), C.R.S.

A survey of 232 members of Colorado law enforcement organizations suggests that officers are leaving their jobs due to concerns about recent legislation, anti-police sentiment in the media, anti-police rhetoric from Colorado’s elected officials, and concerns about the future of policing.²⁹ Those surveyed also indicated they have become more concerned about their personal safety. Staff notes that the survey results show perceptions and subjective concerns; they are not objective. But perceptions matter because they influence behavior. Staff cannot say whether the survey results are representative of peace officer perceptions more generally. However, they do suggest that funding levels for DCJ grant programs are not the source of law enforcement workforce shortages in the State of Colorado. And the request does not attempt to explain the relationship between state funding levels, improved training, the effect that better training might have on employee retention.

Other data further suggests that money is not at the heart of the issue. The U.S. Bureau of Labor Statistics shows that Colorado ranks seventh in mean annual wages for police and sheriff’s patrol officers among the 50 U.S. states, the District of Columbia, and Puerto Rico. When looking at the median annual wage, Colorado ranks tenth. There is some variability when looking at different regions within the State, but Colorado’s regions are generally competitive or better paying than regions in neighboring states (see map below).³⁰

Annual mean wage of police and sheriff’s patrol officers, by area, May 2021



Source: U.S. Bureau of Labor Statistics, screenshot of map located at following URL: [https://www.bls.gov/oes/current/oes333051.htm#\(1\)](https://www.bls.gov/oes/current/oes333051.htm#(1))

²⁹ [Link](#) to report produced by the County Sheriffs of Colorado, the Colorado Association of Chiefs of Police, and the Colorado Fraternal Order of Police.

³⁰ [https://www.bls.gov/oes/current/oes333051.htm#\(1\)](https://www.bls.gov/oes/current/oes333051.htm#(1))

JBC Staff Recommendation: R5 Part I

Staff recommends that the Committee discuss the justifications for this request with the Department at the upcoming hearing. Based on currently available information, staff will likely recommend denying the request to provide an additional \$4.5 million General Fund for this program. With \$7.5 million slated for the program already, staff would not recommend additional funding without some sense of what those funds have accomplished and the need for additional funding (beyond so-called “demand”). To that end, statute requires that DCJ submit a written report to the Judiciary Committee of both chambers on or before November 15, 2024 concerning the effectiveness of programs funded through S.B. 22-145 and recommendations for continued funding of those programs.³¹

Furthermore, it is not clear that additional funding for this type of program will improve law enforcement workforce problems in the State if people are leaving or avoiding the profession for reasons not related to the costs or quality of training.

MULTIDISCIPLINARY CRIME PREVENTION AND CRISIS INTERVENTION GRANT PROGRAM

This program aims to support community-based, multidisciplinary approaches to crime prevention and crisis intervention strategies, specifically in areas where crime is disproportionately high.

Eligible Applicants and Uses of Funds

Community-based organizations and non-profit agencies, local law enforcement agencies, federally recognized tribes within Colorado, local health and human services agencies, and third-party membership organizations may apply for grants.

Grantees may use funds for the following purposes:

- Violence interruption programs;
- Early intervention teams;
- Primary and secondary violence prevention programs;
- Restorative justice services;
- Co-responder programs;
- Other research-informed crime, crisis, and recidivism reduction programs; and
- Support-team-assisted response programs.

Accountability

Statute requires each grant recipient to provide a financial and narrative report to DCJ. This report must describe how funds were utilized, including information related to performance metrics.³² The Department is responsible for determining which metrics grant recipients must provide. These metrics are not described in the request, nor are they described on the DCJ grant website (as of November 26, 2022). Staff assumes they are under development and suggests that the Committee add a question to the hearing agenda that would allow the Department to elaborate.

³¹ Section 24-33.5-503 (1)(dd)(II), C.R.S.

³² Section 24-33.5-527 (5), C.R.S.

Current Funding Levels

Senate Bill 22-145 appropriated \$7,500,000 General Fund to the continuously appropriated Multidisciplinary Crime Prevention and Crisis Intervention Grant Fund in FY 2022-23. Because the Fund is continuously appropriated, the Department may spend funds until the program is repealed on January 1, 2025.

Statute requires another \$7,500,000 General Fund appropriation to the Fund in FY 2023-24.³³ Thus, the current request is *in addition to* this amount. If the request is approved, total funding for program would come to \$19.5 million General Fund: \$7.5 million FY 2022-23 and \$12.0 million in FY 2023-24.

Statute further requires that at least \$2.5 million shall go to law enforcement agencies in each year of the program. Statute also requires that \$2.5 million go to community-based organizations in each year.³⁴

Request Justification

The only justification in the request is that demand for grant dollars has exceeded the supply of available funds. The request does not provide any additional information.

JBC Staff Recommendation: R5 Part II

As with the previous program, staff recommends that the Committee discuss the justification for this request with the Department at the upcoming hearing. Again, staff does not see excess demand for a competitive grant program as clear justification for additional funding. Based on the currently available information, staff would likely recommend denying the request to provide an additional \$4.5 million General Fund for this program. Staff's reasoning is similar to recommendation regarding the other grant program in this request. The demand for the program is not a factor in staff's recommendation. And with \$15.0 million slated for the program already, staff would not recommend additional funding without some sense of what those funds have accomplished and a clear justification for additional funding.

R11 TECHNICAL ASSISTANCE FOR SAFER COMMUNITIES

The request includes an increase of \$555,358 General Fund and 2.8 FTE starting in FY 2023-24. These funds would support a crime-related Technical Assistance Hub (the Hub) within DCJ's Office of Research and Statistics.

What would the Hub do?

Per the request, the Hub would "provide communities much need help with developing appropriate strategies to reduce crime." They would do this by providing:

³³ Section 24-33.5-528 (4)(c), C.R.S.

³⁴ Section 24-33.5-527 (4)(c)(II), C.R.S.

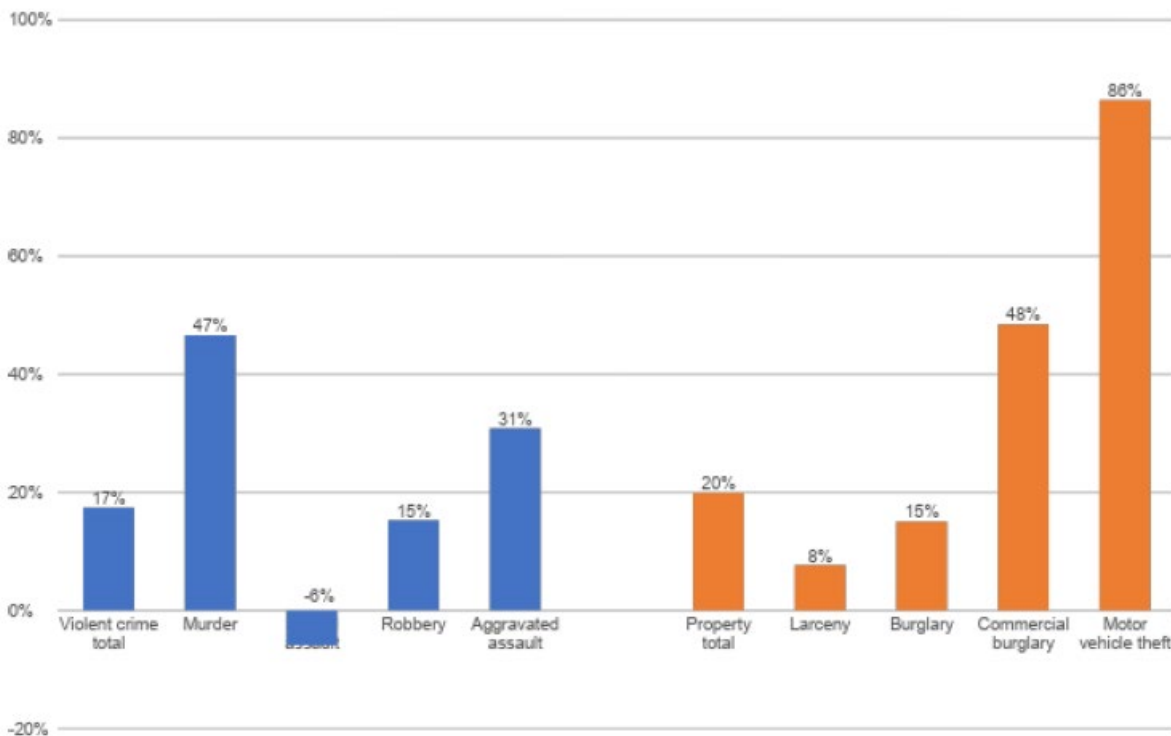
- Assistance implementing evidence-based programs
- Data analysis
- Training
- Peer-to-peer visits
- Strategic planning assistance
- Crime analysis on-demand

The request says the ultimate goal of the Hub “will be to improve the Colorado criminal justice system and make it a safer state for Colorado residents in all communities across the state.”

Request Justification

There are two things driving the request: (1) increasing crime rates, and (2) alleged demand for assistance among Colorado’s communities. To the first point, the Department’s request includes the graph below.

Colorado Crime Rates

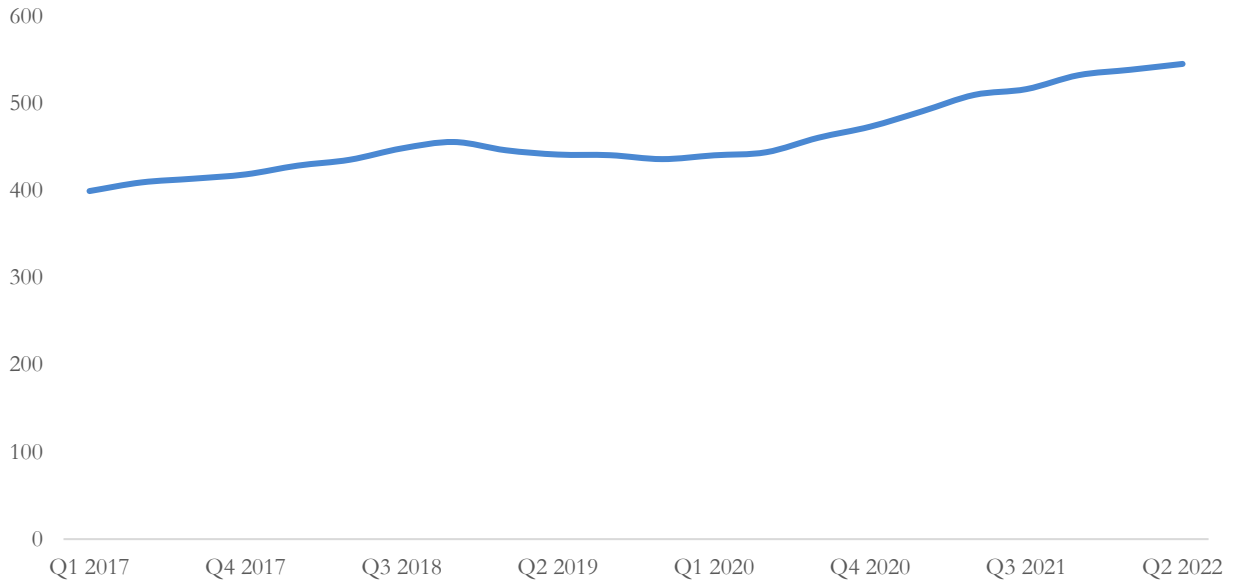


Source: DPS FY 2023-24 R11 Technical Assistance for Safer Communities, page 3

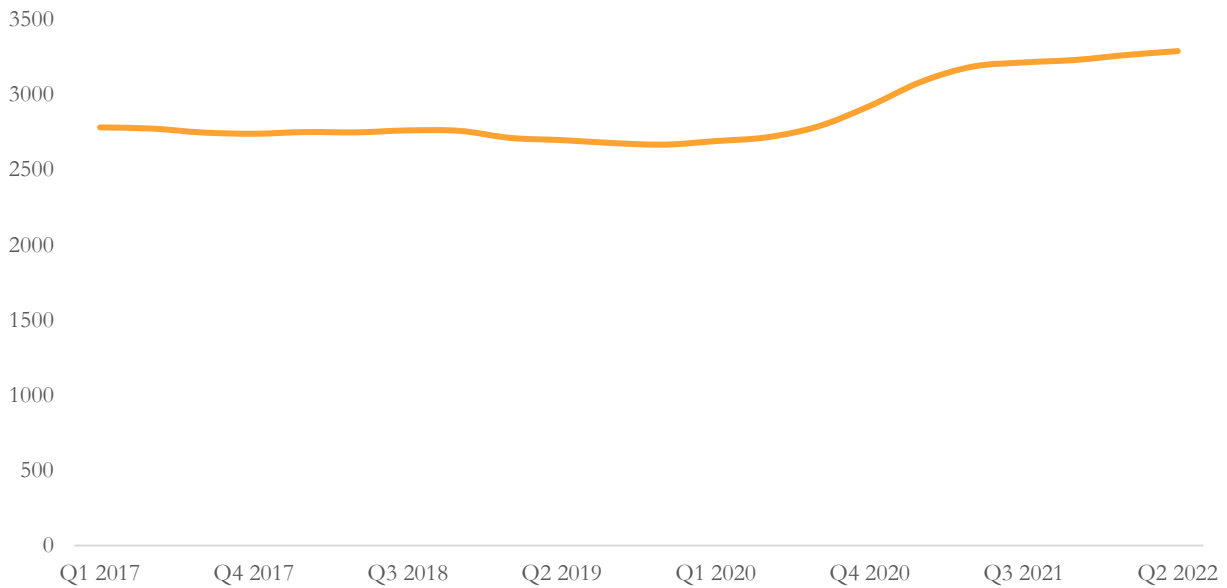
It is not clear what the graph is trying to say because there is no context for the percentages shown. The request narrative does not say whether these are percentages over a specific time period. The Department clarified that this graph shows the percent change in Colorado’s annual crime rate from 2019 to 2021.

DCJ's Office of Research and Statistics (ORS) supplied additional information at JBC Staff's request. The graphs below—slightly modified by JBC staff—show violent and property crime rates on a quarterly basis from 2017 to the second quarter of 2022. Per ORS, the data shown here is a rolling four-quarter average. This means that the rate for Q2 2022 is the average rate for Q3 2021, Q4 2021, Q1 2022, and Q 2022. The upshot is the crime rate rose by 37.0 percent and the property crime rate rose by 18.0 percent over this time period.

Colorado's **violent** crime rate from Q1 2017 to Q2 2022



Colorado's **property** crime rate from Q1 2017 to Q2 2022



With regards to demand for a Hub's services, the request says "Communities are searching for assistance with developing evidence-based solutions." It also says, "There has always been a need for technical assistance services," suggesting the need has grown due to increasing crime rates, growing populations (particularly in rural communities), the need for evidence-based programming, and the need for criminal justice reform. The request does not provide any details to support these assertions.

Accountability

The request says initial metrics for the Hub would consist of the number of communities served, the size of the community, and the nature the requested services. It also mentions the possibility of follow-up surveys with the entities served. In JBC staff's view, such metrics would not be useful because they do not speak to whether the Hub is having a measureable impact on crime.

JBC Staff Recommendation: R11

As with request R5, based on the available information staff will likely recommend denial of the request during figure setting. Staff is particularly skeptical that a Technical Assistance Hub consisting of 3.0 FTE will impact crime trends in the State of Colorado.

These three FTE would be asked to provide an extremely wide range of services to an extremely large population of potential customers. In staff's view, broad mandates of this sort are ineffective. Staff has previously encountered the idea of a statewide technical assistance hub within the Division of Criminal Justice. From FY 2013-14 to FY 2020-21, the State spent about \$1.0 million General Fund annually on the Evidence-based Practices and Implementation Capacity (EPIC) program housed within DCJ. This 9.0 FTE team was tasked with building capacity for the implementation of evidence-based policies in Colorado's criminal justice system.

During the 2021 legislative session, the JBC approved JBC staff's recommendation to defund the EPIC program. Staff's reasoning was based, in part, on a conclusion that EPIC's scope was too broad. Staff's analysis argued, "...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 [evidence-based policy] implementation principles."³⁵ Staff also argued that there was little evidence to suggest EPIC was achieving the goals laid out in statute.

The current request for a Technical Assistance Hub is not a revamped version of EPIC, which staff confirmed in a conversation with the Department. However, that conversation indicated that the vision for this new Hub is more akin to a customer assistance group that would take requests, provide some of information (short-term projects measured in days, not weeks), and then refer the requester to other resources. The Hub would not follow the request through implementation. Despite this clarification, staff remains skeptical that this is an effective use of state resources, especially given how the request fails to describe other potential alternatives and why those alternatives may be insufficient.

³⁵ JBC Staff Figure Setting FY 2021-22: https://leg.colorado.gov/sites/default/files/fy2021-22_pubsaffig2.pdf (page 7)

R16 OFFICE OF RESEARCH AND STATISTICS (ORS) EXPANSION

The request is for an increase of \$233,443 General Fund and 1.8 FTE starting in FY 2023-24. This annualizes to \$241,163 General Fund and 2.0 FTE in FY 2024-25.

Request Justification

The request includes the following explanation:

“With the increased attention on criminal justice and public safety in Colorado, the scrutiny on crime trends has increased significantly. Legislators, media, offender and victims advocates, the Governor’s Office, politically-motivated organizations, and others are scrutinizing crime data and disseminating their interpretation of trends and potential impact with increasing vigor. Many of the narratives being published are poor examples of research, purposefully misrepresented, and otherwise used to craft politically motivated narratives.

The state currently does not have the staffing resources to conduct routine, proactive analyses of crime trends. As such, the executive branch is often responding to reports or media events by others after the information has been published. This puts the executive branch in a difficult position of defending policies that are either inaccurate or outside the State’s control. Special interest groups in Colorado have published reports in 2022 based on state data that misinterprets the information in a manner that does not serve public interest nor provides an accurate explanation of the trends in the information.

Current practice is to re-assign an ORS researcher to review published reports after they have been shared to assess for accuracy and help the Governor’s Office prepare public responses.”

What would the requested FTE do?

The requested FTE would “provide proactive reports on crime and public safety trends to assist in policy and legislative development.” The request also says they would provide:

- Real-time crime, corrections, and jail data;
- Contemporary data on arrest trends;
- Summaries of trends and context for information shared on DCJ dashboards;
- Assistance with prioritization of areas “that could best be improved by increased attention to observed trends;”
- Stronger evidence for criminal justice legislative requests from the Governor’s Office;
- Modernization of data sharing agreements to provide easier access to data collected by other agencies; and
- Reports to the Governor’s Office and other State leaders on specific public safety issues.

The request also says that deliverables would include “examination of the impact of the criminal justice system on persons of color, women, and other minority communities for development of appropriate laws and protections for those classes of offender[s] and victims.”

JBC Staff Recommendation: R16

Staff will likely recommend approval of the request, though not for the reasons laid out in the request. Political problems experienced by the Office of the Governor do not factor into staff's recommendation. But if current ORS staffed are being pulled from existing duties to deal with those political problems, staff sees that as a problem for ORS, DCJ, and the General Assembly, for two reasons.

The first is statutory. The request cites Section 24-33.5-501, C.R.S. as the authority for the request. This statute says that DCJ's purpose is to "improve all areas of the administration of criminal justice in Colorado, both immediately and in the long term, regardless of whether the direct responsibility for action lies at the state level or with the many units of local government." Statute also lays out more than two dozen duties for the Division of Criminal Justice, which includes a provision to administer a statistical analysis center for the purpose of collecting and analyzing statewide criminal justice statistics.³⁶ Thus, it appears that statute already charges DCJ with doing this work. Statute does not describe a duty to help the Office of the Governor deal with political problems.

The second relates to the integrity of ORS' work. Involving DCJ and ORS in political problems calls the impartiality and therefore the legitimacy of the resulting research into question. Not because staff questions the integrity of ORS researchers, but because involving the researchers directly in these political issues may add pressure to make the analyses fit a preferred solution. In addition, getting drawn into such political questions may create an appearance of partiality, regardless of whether any bias or pressure actually exists. It is staff's view that all policymakers and their constituents benefit from an independent, nonpartisan ORS, without an appearance (real or perceived) of political pressure to produce certain results.

Staff expects a recommendation to approve the request because the State would probably benefit from expanding ORS' ability to conduct research. There are currently six researchers working for ORS, one of whom is the office director. These researchers have plenty of work on their plate. The existing staff:

- Produce multiple major reports on an annual basis, as well as impact analyses related to legislation or requests from the Governor's Office.³⁷
- Provide research support to the Colorado Commission of Criminal and Juvenile Justice (CCJJ) and its various subcommittees.
- Produce the CCJJ's annual report.
- Collect and publish data related to crime statistics, driving under the influence, marijuana impacts, minority over-representation in juvenile criminal justice matters, criminal justice contacts with students, jail populations, prison length of stay, prison population projections, community corrections, and recidivism across multiple state agencies (corrections, probation, youth services, and community corrections).

³⁶ Section 24-33.5-503, C.R.S. Part (1)(f) of that section references the statistical analysis center.

³⁷ <https://ors.colorado.gov/ors-reports>, <https://ors.colorado.gov/ors-impact>

Staff will probably recommend pairing approval of this request with measures to protect ORS from becoming embroiled in political issues at the behest of the Governor's Office. One such measure might be to appropriate funding directly to the Governor's Office so it can hire its own criminal justice data analysts, thereby allowing ORS to focus on other work.

APPENDIX A
NUMBERS PAGES
(DIGITAL ONLY)

Appendix A details actual expenditures for the last two fiscal years, the appropriation for the current fiscal year, and the requested appropriation for next fiscal year. This information is listed by line item and fund source. *Appendix A is only available in the online version of this document.*

Appendix A: Numbers Pages

	FY 2020-21 Actual	FY 2021-22 Actual	FY 2022-23 Appropriation	FY 2023-24 Request	Request vs. Appropriation
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DEPARTMENT OF PUBLIC SAFETY
Stan Hilkey, Executive Director

(4) DIVISION OF CRIMINAL JUSTICE
(A) Administration

DCJ Administrative Services	<u>4,744,625</u>	<u>4,344,548</u>	<u>24,794,860</u>	<u>8,068,932</u> *
FTE	42.0	47.5	57.2	61.7
General Fund	3,502,523	3,774,489	22,202,334	5,632,537
Cash Funds	866,391	85,143	1,942,349	1,775,167
Reappropriated Funds	375,711	484,916	515,515	526,566
Federal Funds	0	0	134,662	134,662
SB22-145 Appropriations to cash funds	<u>0</u>	<u>0</u>	<u>15,000,000</u>	<u>33,000,000</u> *
General Fund	0	0	15,000,000	24,000,000
Cash Funds	0	0	0	0
Reappropriated Funds	0	0	0	9,000,000
Federal Funds	0	0	0	0
SB22-196 Health needs crim. just.	<u>0</u>	<u>0</u>	<u>1,547,728</u>	<u>687,417</u>
General Fund	0	0	0	0
Cash Funds	0	0	1,547,728	0
Reappropriated Funds	0	0	0	0
Federal Funds	0	0	0	687,417

*Line item includes a decision item

Appendix A: Numbers Pages

	FY 2020-21 Actual	FY 2021-22 Actual	FY 2022-23 Appropriation	FY 2023-24 Request	Request vs. Appropriation
Indirect Cost Assessment	<u>855,375</u>	<u>825,592</u>	<u>738,789</u>	<u>712,945</u>	
General Fund	0	0	0	0	
Cash Funds	77,454	112,734	94,610	96,135	
Reappropriated Funds	0	0	0	0	
Federal Funds	777,921	712,858	644,179	616,810	
Appropriation to the Body-worn Cameras for Law Enforcement	<u>0</u>	<u>5,128,345</u>	<u>0</u>	<u>0</u>	
General Fund	0	5,128,345	0	0	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
SUBTOTAL - (A) Administration	5,600,000	10,298,485	42,081,377	42,469,294	0.9%
<i>FTE</i>	<u>42.0</u>	<u>47.5</u>	<u>57.2</u>	<u>61.7</u>	<u>7.9%</u>
General Fund	3,502,523	8,902,834	37,202,334	29,632,537	(20.3%)
Cash Funds	943,845	197,877	3,584,687	1,871,302	(47.8%)
Reappropriated Funds	375,711	484,916	515,515	9,526,566	1748.0%
Federal Funds	777,921	712,858	778,841	1,438,889	84.7%

(B) Victims Assistance

Federal Victims Assistance and Compensation Grants	<u>44,556,466</u>	<u>51,202,703</u>	<u>25,148,792</u>	<u>25,209,482</u>	
FTE	13.6	8.6	8.6	8.6	
General Fund	0	0	0	0	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	44,556,466	51,202,703	25,148,792	25,209,482	

Appendix A: Numbers Pages

	FY 2020-21 Actual	FY 2021-22 Actual	FY 2022-23 Appropriation	FY 2023-24 Request	Request vs. Appropriation
State Victims Assistance and Law Enforcement Program	<u>1,034,240</u>	<u>829,102</u>	<u>1,500,000</u>	<u>1,500,000</u>	
General Fund	0	0	0	0	
Cash Funds	1,034,240	829,102	1,500,000	1,500,000	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
Child Abuse Investigation	<u>1,296,529</u>	<u>1,295,566</u>	<u>1,297,693</u>	<u>1,297,693</u>	
FTE	0.0	0.3	0.3	0.3	
General Fund	1,000,000	1,000,000	1,000,000	1,000,000	
Cash Funds	296,529	295,566	297,693	297,693	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
Sexual Assault Victim Emergency Payment Program	<u>167,892</u>	<u>174,977</u>	<u>167,933</u>	<u>167,933</u>	
FTE	0.1	0.2	0.2	0.2	
General Fund	167,892	174,977	167,933	167,933	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
Statewide Victim Information and Notification System (VINE)	<u>424,720</u>	<u>424,720</u>	<u>434,720</u>	<u>718,429</u> *	
General Fund	424,720	424,720	434,720	718,429	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	

*Line item includes a decision item

Appendix A: Numbers Pages

	FY 2020-21 Actual	FY 2021-22 Actual	FY 2022-23 Appropriation	FY 2023-24 Request	Request vs. Appropriation
SUBTOTAL - (B) Victims Assistance	47,479,847	53,927,068	28,549,138	28,893,537	1.2%
<i>FTE</i>	<u>13.7</u>	<u>9.1</u>	<u>9.1</u>	<u>9.1</u>	<u>(0.0%)</u>
General Fund	1,592,612	1,599,697	1,602,653	1,886,362	17.7%
Cash Funds	1,330,769	1,124,668	1,797,693	1,797,693	0.0%
Reappropriated Funds	0	0	0	0	0.0%
Federal Funds	44,556,466	51,202,703	25,148,792	25,209,482	0.2%

Appendix A: Numbers Pages

	FY 2020-21 Actual	FY 2021-22 Actual	FY 2022-23 Appropriation	FY 2023-24 Request	Request vs. Appropriation
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(C) Juvenile Justice and Delinquency Prevention

Juvenile Justice Disbursements	<u>468,618</u>	<u>488,740</u>	<u>800,000</u>	<u>800,000</u>	
FTE	4.8	1.2	1.2	1.2	
General Fund	0	0	0	0	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	468,618	488,740	800,000	800,000	
Juvenile Diversion Programs	<u>3,394,272</u>	<u>3,376,213</u>	<u>3,561,677</u>	<u>3,561,677</u>	
FTE	2.4	3.0	3.0	3.0	
General Fund	3,041,371	2,989,461	3,161,677	3,161,677	
Cash Funds	352,901	386,752	400,000	400,000	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
HB22-1003 Youth Delinquency Prevention & Intervention					
Grants	<u>0</u>	<u>0</u>	<u>2,100,000</u> 1.8	<u>2,100,000</u> 1.8	
General Fund	0	0	2,100,000	2,100,000	

SUBTOTAL - (C) Juvenile Justice and Delinquency Prevention	3,862,890	3,864,953	6,461,677	6,461,677	0.0%
FTE	<u>7.2</u>	<u>4.2</u>	<u>6.0</u>	<u>6.0</u>	<u>0.0%</u>
General Fund	3,041,371	2,989,461	5,261,677	5,261,677	0.0%
Cash Funds	352,901	386,752	400,000	400,000	0.0%
Reappropriated Funds	0	0	0	0	0.0%
Federal Funds	468,618	488,740	800,000	800,000	0.0%

Appendix A: Numbers Pages

	FY 2020-21 Actual	FY 2021-22 Actual	FY 2022-23 Appropriation	FY 2023-24 Request	Request vs. Appropriation
(D) Community Corrections					
Community Corrections Placements	<u>46,963,685</u>	<u>47,000,611</u>	<u>74,926,952</u>	<u>77,380,041</u>	*
General Fund	46,963,685	47,000,611	74,926,952	77,380,041	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
Correctional Treatment Cash Fund Residential Placements	<u>2,254,188</u>	<u>2,622,806</u>	<u>2,858,394</u>	<u>2,951,978</u>	*
General Fund	0	0	0	0	
Cash Funds	0	0	0	0	
Reappropriated Funds	2,254,188	2,622,806	2,858,394	2,951,978	
Federal Funds	0	0	0	0	
Community Corrections Facility Payments	<u>4,067,764</u>	<u>6,810,772</u>	<u>4,382,173</u>	<u>4,525,644</u>	*
General Fund	4,067,764	6,810,772	4,382,173	4,525,644	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
Community Corrections Boards Administration	<u>2,507,862</u>	<u>2,447,271</u>	<u>2,628,708</u>	<u>2,714,771</u>	*
General Fund	2,507,862	2,447,271	2,628,708	2,714,771	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	

*Line item includes a decision item

Appendix A: Numbers Pages

	FY 2020-21 Actual	FY 2021-22 Actual	FY 2022-23 Appropriation	FY 2023-24 Request	Request vs. Appropriation
Services for Substance Abuse and Co-occurring Disorders	<u>1,875,912</u>	<u>1,738,740</u>	<u>2,642,525</u>	<u>2,721,801</u> *	
General Fund	0	0	0	0	
Cash Funds	0	0	0	0	
Reappropriated Funds	1,875,912	1,738,740	2,642,525	2,721,801	
Federal Funds	0	0	0	0	
Specialized Offender Services	<u>181,929</u>	<u>204,965</u>	<u>275,541</u>	<u>283,807</u> *	
General Fund	181,929	204,965	275,541	283,807	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
Offender Assessment Training	<u>9,838</u>	<u>2,090</u>	<u>10,507</u>	<u>10,507</u>	
General Fund	9,838	2,090	10,507	10,507	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
SUBTOTAL - (D) Community Corrections	57,861,178	60,827,255	87,724,800	90,588,549	3.3%
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	0.0%
General Fund	53,731,078	56,465,709	82,223,881	84,914,770	3.3%
Cash Funds	0	0	0	0	0.0%
Reappropriated Funds	4,130,100	4,361,546	5,500,919	5,673,779	3.1%
Federal Funds	0	0	0	0	0.0%

*Line item includes a decision item

Appendix A: Numbers Pages

	FY 2020-21 Actual	FY 2021-22 Actual	FY 2022-23 Appropriation	FY 2023-24 Request	Request vs. Appropriation
(E) Crime Control and System Improvement					
State and Local Crime Control and System Improvement					
Grants	<u>6,283,174</u>	<u>6,270,201</u>	<u>3,000,000</u>	<u>3,000,000</u>	
General Fund	0	0	0	0	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	6,283,174	6,270,201	3,000,000	3,000,000	
Sex Offender Surcharge Fund Program	<u>229,939</u>	<u>176,216</u>	<u>239,417</u>	<u>247,096</u>	
FTE	2.5	2.4	2.4	2.4	
General Fund	82,712	81,504	83,471	85,621	
Cash Funds	147,227	94,712	155,946	161,475	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
Sex Offender Supervision	<u>343,161</u>	<u>375,364</u>	<u>386,577</u>	<u>396,368</u>	
FTE	3.8	3.2	3.2	3.2	
General Fund	343,161	375,364	386,577	396,368	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	

Appendix A: Numbers Pages

	FY 2020-21 Actual	FY 2021-22 Actual	FY 2022-23 Appropriation	FY 2023-24 Request	Request vs. Appropriation
Treatment Provider Criminal Background Checks	<u>40,748</u>	<u>20,910</u>	<u>49,606</u>	<u>49,606</u>	
FTE	0.3	0.0	0.6	0.6	
General Fund	0	0	0	0	
Cash Funds	40,748	20,910	49,606	49,606	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
Federal Grants	<u>3,630,593</u>	<u>3,702,880</u>	<u>5,008,909</u>	<u>5,008,909</u>	
FTE	3.2	10.5	10.5	10.5	
General Fund	0	0	0	0	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	3,630,593	3,702,880	5,008,909	5,008,909	
Criminal Justice Training Fund	<u>215</u>	<u>24,167</u>	<u>240,000</u>	<u>240,000</u>	
FTE	0.0	0.5	0.5	0.5	
General Fund	0	0	0	0	
Cash Funds	215	24,167	240,000	240,000	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
Methamphetamine Abuse Task Force Fund	<u>113</u>	<u>113</u>	<u>3,000</u>	<u>3,000</u>	
General Fund	0	0	0	0	
Cash Funds	113	113	3,000	3,000	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
EPIC Resource Center	<u>925,061</u>	<u>0</u>	<u>0</u>	<u>0</u>	
FTE	8.5	0.0	0.0	0.0	
General Fund	925,061	0	0	0	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	

Appendix A: Numbers Pages

	FY 2020-21 Actual	FY 2021-22 Actual	FY 2022-23 Appropriation	FY 2023-24 Request	Request vs. Appropriation
SUBTOTAL - (E) Crime Control and System					
Improvement	11,453,004	10,569,851	8,927,509	8,944,979	0.2%
<i>FTE</i>	<u>18.3</u>	<u>16.6</u>	<u>17.2</u>	<u>17.2</u>	<u>0.0%</u>
General Fund	1,350,934	456,868	470,048	481,989	2.5%
Cash Funds	188,303	139,902	448,552	454,081	1.2%
Reappropriated Funds	0	0	0	0	0.0%
Federal Funds	9,913,767	9,973,081	8,008,909	8,008,909	0.0%
TOTAL - (4) Division of Criminal Justice	126,256,919	139,487,612	173,744,501	177,358,036	2.1%
<i>FTE</i>	<u>81.2</u>	<u>77.4</u>	<u>89.5</u>	<u>94.0</u>	<u>5.0%</u>
General Fund	63,218,518	70,414,569	126,760,593	122,177,335	(3.6%)
Cash Funds	2,815,818	1,849,199	6,230,932	4,523,076	(27.4%)
Reappropriated Funds	4,505,811	4,846,462	6,016,434	15,200,345	152.6%
Federal Funds	55,716,772	62,377,382	34,736,542	35,457,280	2.1%
TOTAL - Department of Public Safety	126,256,919	139,487,612	173,744,501	177,358,036	2.1%
<i>FTE</i>	<u>81.2</u>	<u>77.4</u>	<u>89.5</u>	<u>94.0</u>	<u>5.0%</u>
General Fund	63,218,518	70,414,569	126,760,593	122,177,335	(3.6%)
Cash Funds	2,815,818	1,849,199	6,230,932	4,523,076	(27.4%)
Reappropriated Funds	4,505,811	4,846,462	6,016,434	15,200,345	152.6%
Federal Funds	55,716,772	62,377,382	34,736,542	35,457,280	2.1%

APPENDIX B FOOTNOTES AND INFORMATION REQUESTS

UPDATE ON LONG BILL FOOTNOTES

The General Assembly includes footnotes in the annual Long Bill to: (a) set forth purposes, conditions, or limitations on an item of appropriation; (b) explain assumptions used in determining a specific amount of an appropriation; or (c) express legislative intent relating to any appropriation. Footnotes to the 2022 Long Bill (H.B. 22-1329) can be found at the end of each departmental section of the bill at <http://leg.colorado.gov/bills/hb22-1329>. The Long Bill footnotes relevant to this document are listed below.

- 107 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. The appropriation assumes that offenders will not be charged a daily subsistence fee. The base rate for standard nonresidential services assumes a weighted average of the rates for four different levels of service. This appropriation also assumes that the residential base per-diem rate in the table included in this footnote will be increased by 1.0 percent for programs meeting recidivism performance targets and 1.0 percent for programs meeting program completion performance targets.

Rate type	Rate	Average Daily Placements	Appropriation
Residential base rate	\$67.00	526	\$12,863,330
Base rate plus 1.0% incentive	\$67.67	786	\$19,413,846
Base rate plus 2.0% incentive	\$68.34	1,337	\$33,350,262
Specialized Differentials			
Intensive Residential Treatment	\$33.00	146	\$1,758,570
Inpatient Therapeutic Community	\$33.00	108	\$1,300,860
Residential Dual Diagnosis Treatment	\$33.00	120	\$1,445,400
Sex Offender	\$33.00	116	\$1,397,220
Standard Non-residential	\$9.65	792	\$2,789,622
Outpatient Therapeutic Community	\$26.86	62	\$607,842
Total		3,503	\$74,926,952

COMMENT: This footnote is part of the community corrections placements appropriations.

- 108 Department of Public Safety, Division of Criminal Justice, Community Corrections, Correctional Treatment Cash Fund Residential Placements -- This appropriation includes funding for condition-of-probation placements at rates corresponding to those in footnote 107.

COMMENT: This footnote makes it clear that all Intensive Residential Treatment (IRT) Beds receive the same reimbursement from the Division of Criminal Justice.

- 109 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 2022-23, these appropriations further assume that salary and staffing levels deemed adequate for FY 2021-22 will be deemed adequate for FY 2022-23 and that community corrections facilities with an average of 32 or more security FTE will receive a second facility payment.

COMMENT: The footnote explains the intent of the General Assembly when setting the appropriations for the Community Corrections Facility Payment line item.

UPDATE ON LONG BILL REQUESTS FOR INFORMATION

The Joint Budget Committee annually submits requests for information to executive departments and the judicial branch via letters to the Governor, the Chief Justice, and other elected officials. Each request is associated with one or more specific Long Bill line item(s), and the requests have been prioritized by the Joint Budget Committee as required by Section 2-3-203 (3), C.R.S. Copies of these letters are included as Appendix H of the annual Appropriations Report. The requests for information relevant to this document are listed below.

REQUESTS AFFECTING MULTIPLE DEPARTMENTS

- 1 Department of Corrections; Department of Human Services; Judicial Department; Department of Public Safety; and Department of Transportation -- State agencies involved in multi-agency programs requiring separate appropriations to each agency are requested to designate one lead agency to be responsible for submitting a comprehensive annual budget request for such programs to the Joint Budget Committee, including prior year, request year, and three year forecasts for revenues into the fund and expenditures from the fund by agency. The requests should be sustainable for the length of the forecast based on anticipated revenues. Each agency is still requested to submit its portion of such request with its own budget document. This applies to requests for appropriation from: the Alcohol and Drug Driving Safety Program Fund, the Law Enforcement Assistance Fund, the Offender Identification Fund, the Persistent Drunk Driver Cash Fund, and the Sex Offender Surcharge Fund, among other programs.

COMMENT: The Department submitted its response in September 2022. Copies can be provided upon request.

DEPARTMENT OF PUBLIC SAFETY

- 1 Department of Public Safety, Division of Criminal Justice, Community Corrections, Community Corrections Placements, Correctional Treatment Cash Fund Residential Placements, and Community Corrections Facility Payments -- The Department is requested to provide a report with year-to-date community corrections placements shortly after January 1, 2023. The January report should also include an estimated placements table for FY 2023-24. If the Department

estimates that the actual number of Community Corrections facility payments in either FY 2022-23 or FY 2023-24 will differ from the number on which the FY 2022-23 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. The Department is also requested to report performance measures and performance-related incentive payments for all community corrections boards and programs. The Department is also requested to ask providers if they are still charging offender subsistence fees and, if so, to identify those providers in the report.

COMMENT: The Department is not required to submit a response until January 2023.

APPENDIX C

DEPARTMENT ANNUAL PERFORMANCE REPORT

Pursuant to Section 2-7-205 (1)(b), C.R.S., the Department of Natural Resources is required to publish an **Annual Performance Report** for the *previous fiscal year* by November 1 of each year. This report is to include a summary of the Department's performance plan and most recent performance evaluation for the designated fiscal year. In addition, pursuant to Section 2-7-204 (3)(a)(I), C.R.S., the Department is required to develop a **Performance Plan** and submit the plan for the *current fiscal year* to the Joint Budget Committee and appropriate Joint Committee of Reference by July 1 of each year.

For consideration by the Joint Budget Committee in prioritizing the Department's FY 2022-23 budget request, the FY 2021-22 Annual Performance Report and the FY 2022-23 Performance Plan can be found at the following link:

<https://www.colorado.gov/pacific/performancemanagement/department-performance-plans>

APPENDIX D: COMMUNITY CORRECTIONS
PERFORMANCE BASED CONTRACTING -
PERFORMANCE BY FACILITY



Office of Community Corrections
700 Kipling Street, Suite 1000
Lakewood, CO 80215

RE: PBC Risk Informed Outcomes FY2022-23

The State of Colorado has been working in partnership with the community corrections systems to develop and implement performance-based contracting (PBC). A great deal of consideration, planning, and preparation have led to the first fiscal year of funded PBC performance measures. Funding for PBC is dependent upon the base per diem for a residential bed and is provided as a percentage of the base per diem. For Fiscal Year 2022-23 the base residential per diem rate was set by the General Assembly at \$67.00. In this fiscal year, two risk-informed outcomes as performance measures are funded for PBC at 1% each with a total possible per diem of 2% above the base rate.

- Base Per Diem: \$67.00
- Per Diem + 1% (One Measure Met): \$67.67
- Per Diem + 2% (2 Measures Met): \$68.34

The risk-informed outcomes selected for the start of PBC were based on stakeholder feedback, data availability and quality, and alignment with the mission of our system. The outcome measures are adjusted for risk to ensure the system is not incentivizing the acceptance of only low risk individuals. The outcomes, risk adjustment, and specifics are discussed in the following sections.

In an effort to allow for new programs to become established, as well as allowing time for data collection, programs do not become eligible for PBC until after three full fiscal years of operation. If there is a new program/vendor in a jurisdiction, they will be listed below along with the fiscal year in which they enter PBC. Until that time, they will receive the full base per diem.

Risk Adjustment

Risk adjustment for programs is meant to ensure that programs with different client risk levels are treated fairly. Programs with the clients of the same risk level are compared to each other, rather than to all other programs. This is accomplished by grouping programs into two groups based on what the majority of their clients' risk level is. The two risk adjusted categories are low/medium risk and high/very high risk, and these categories are determined by a clients initial LSI score when they first enter a program.

Successful Completion

Successful completion refers to the percentage of clients that successfully complete the program in a fiscal year. For the purposes of this data set and analysis, all transfers between programs and other neutral reason discharges are excluded from the data set. An analysis of four fiscal years of data was conducted to determine the statewide baseline for successful program completion. To determine the PBC funding, the data utilized was from Fiscal Year 2021, adjusted for program risk level, and compared to the statewide baseline. The targets for PBC funding for successful completion were set at 62% for Low/Medium Programs and at 61% for High/Very High Programs.





Recidivism

For the purposes for PBC performance measurement, recidivism is defined as a new felony conviction within two years from start date in the program. This definition was selected as it takes into account the mission of our system to divert felony offenders from prison and aligns with other commonly used recidivism definitions for a community based population. Individuals with a new conviction with an offense date that precedes their start date in the program are excluded from the analysis. An analysis of three fiscal years of data was conducted to determine a statewide recidivism baseline. To determine the PBC funding, data was utilized from July 1st 2019 thru June 30th 2020, adjusted for program risk level, and compared to the statewide baseline. The targets for PBC funding for recidivism were set at 5% for Low/Medium programs and at 5% for High/Very High programs.

Performance Across the State

1st Jurisdiction

ICCS Jefferson, Low/Medium Adjusted Risk

- Successful Completion: 63% - Meets Target
- Recidivism: 2% - Meets Target
- Program Per Diem: **\$68.34**

2nd Jurisdiction

CoreCivic Dahlia, Low/Medium Adjusted Risk

- Successful Completion: 55%, Does Not Meet Target
- Recidivism: 5%, Meets Target
- Program Per Diem: **\$67.67**

Independence House Pecos, Low/Medium Adjusted Risk

- Successful Completion: 58%, Does Not Meet Target
- Recidivism: 5%, Meets Target
- Program Per Diem: **\$67.67**

ARTS Peer 1, High/Very High Adjusted Risk

- Successful Completion: 67%, Meets Target
- Recidivism: 3%, Meets Target
- Program Per Diem: **\$68.34**

ARTS Haven, High/Very High Adjusted Risk

- Successful Completion: 58%, Does Not Meet Target
- Recidivism: 11%, Does Not Meet Target
- Program Per Diem: **\$67.00**

Building 19

- Becomes eligible for PBC Fiscal Year 2025-26
- Program Per Diem: **\$67.00**

Project Elevate

- Becomes eligible for PBC Fiscal Year 2025-26
- Program Per Diem: **\$67.00**





4th Jurisdiction

GEO CAE, Low/Medium Adjusted Risk

- Successful Completion: 49% - Does Not Meet Target
- Recidivism: 6% - Does Not Meet Target
- Program Per Diem: **\$67.00**

ComCor Inc, Low/Medium Adjusted Risk

- Successful Completion: 51% - Does Not Meet Target
- Recidivism: 3% - Meets Target
- Program Per Diem: **\$67.67**

6th Jurisdiction

Hilltop House, Low/Medium Adjusted Risk

- Successful Completion: 69% - Meets Target
- Recidivism: 3% - Meets Target
- Program Per Diem: **\$68.34**

7th Jurisdiction

ATC Montrose, High/Very High Adjusted Risk

- Successful Completion: 78% - Meets Target
- Recidivism: 3% - Meets Target
- Program Per Diem: **\$68.34**

8th Jurisdiction

Larimer County Community Corrections, High/Very High Adjusted Risk

- Successful Completion: 70% - Meets Target
- Recidivism: 4% - Meets Target
- Program Per Diem: **\$68.34**

9th Jurisdiction

Garfield County Community Corrections, High/Very High Adjusted Risk

- Successful Completion: 76% - Meets Target
- Recidivism: 10% - Does Not Meet Target
- Program Per Diem: **\$67.67**

10th Jurisdiction

ICCS Pueblo, High/Very High Adjusted Risk

- Successful Completion: 51% - Does Not Meet Target
- Recidivism: 7% - Does Not Meet Target
- Program Per Diem: **\$67.00**

12th Jurisdiction

ATC Alamosa, High/Very High Adjusted Risk

- Successful Completion: 62% - Meets Target
- Recidivism: 1% - Meets Target
- Program Per Diem: **\$68.34**





13th Jurisdiction

ATC Sterling, High/Very High Adjusted Risk

- Successful Completion: 82% - Meets Target
- Recidivism: 3% - Meets Target
- Program Per Diem: **\$68.34**

15th Jurisdiction

ATC Lamar, High/Very High Adjusted Risk

- Successful Completion: 71% - Meets Target
- Recidivism: 3% - Meets Target
- Program Per Diem: **\$68.34**

17th Jurisdiction

CoreCivic Adams, Low/Medium Adjusted Risk

- Successful Completion: 69% - Meets Target
- Recidivism: 7% - Does Not Meet Target
- Program Per Diem: **\$67.67**

CoreCivic Commerce, Low/Medium Adjusted Risk

- Successful Completion: 62% - Meets Target
- Recidivism: 8% - Does Not Meet Target
- Program Per Diem: **\$67.67**

ICCS Henderson

- Becomes eligible for PBC Fiscal Year 2024-25
- Program Per Diem: **\$67.00**

18th Jurisdiction

CoreCivic ACTC, Low/Medium Adjusted Risk

- Successful Completion: 73% - Meets Target
- Recidivism: 5% - Meets Target
- Program Per Diem: **\$68.34**

CoreCivic CCTC, Low/Medium Adjusted Risk

- Successful Completion: 63% - Meets Target
- Recidivism: 5% - Meets Target
- Program Per Diem: **\$68.34**

GEO ACRC, High/Very High Adjusted Risk

- Successful Completion: 72% - Meets Target
- Recidivism: 6% - Does Not Meet Target
- Program Per Diem: **\$67.67**

19th Jurisdiction

ICCS Weld, High/Very High Adjusted Risk

- Successful Completion: 64% - Meets Target
- Recidivism: 2% - Meets Target





- Program Per Diem: **\$68.34**

20th Jurisdiction

CoreCivic LCTC, High/Very High Adjusted Risk

- Successful Completion: 65% - Meets Target
- Recidivism: 6% - Does Not Meet Target
- Program Per Diem: **\$67.67**

ICCS Boulder

- Program will become PBC eligible in Fiscal Year 2023-24
- Program Per Diem: **\$67.00**

21st Jurisdiction

Mesa County Community Corrections, High/Very High Adjusted Risk

- Successful Completion: 74% - Meets Target
- Recidivism: 7% - Does Not Meet Target
- Program Per Diem: **\$67.67**

