

DEPARTMENT OF PUBLIC SAFETY  
DIVISION OF CRIMINAL JUSTICE  
FY 2023-24 JOINT BUDGET COMMITTEE HEARING AGENDA

**Wednesday, December 14, 2022**

**1:30 pm – 2:30 pm**

**1:30-1:45      INTRODUCTIONS AND OPENING COMMENTS**

Presenter: Stan Hilkey, Executive Director

**1:45-1:55      COMMON QUESTIONS**

Main Presenters:

- Stan Hilkey, Executive Director
- Joe Thome, Division Director

Topics:

- Question 1: Pages 1-2, Question 1 in the packet
- Question 2: Page 2, Question 2 in the packet

**1:55-2:30      COMMUNITY CORRECTIONS**

Main Presenters:

- Stan Hilkey, Executive Director
- Joe Thome, Division Director

Supporting Presenters:

- Katie Ruske, Director for the Office of Community Corrections

Topics:

- Per-diem rates – Process changes: Pages 3-5, Questions 1-2 in the packet

- Per-diem rates – Performance based contracting: Pages 5-8, Questions 3-5 in the packet
- Per-diem rates – Facility payments and subsistence: Pages 9-11, Questions 6-7 in the packet
- Per-diem rates – General discussion: Pages 12-14, Questions 8-11 in the packet

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COMMON QUESTIONS FOR DISCUSSION AT DEPARTMENT HEARINGS

- 1 Please describe the implementation plan for new programs added to the Department from one-time stimulus funds (such as the CARES Act, ARPA, and one-time General Fund), as well as any challenges or delays to program implementation.

***Response: S.B. 22-196 provides \$1,739,291 in ARPA funding for the expansion of the jail information sharing system. The jail information sharing system is currently under development. Once the legal framework is in place then the technology that allows for sharing will be built. The “hub-and-spoke” design is similar to current criminal justice data sharing structures. The “hub” is located in the Colorado Integrated Criminal Justice Information System (CICJIS), which already acts in this capacity for other types of state-level agency data sharing. This grant will facilitate building the “spokes” so jails can extract the data from their jail management systems (JMS) as well as accept data from other jails. The type of technology to be used, which are APIs connected to the Mulesoft platform, has been decided upon and the general design and data types that will be shared have been identified. The initial implementation is the most time-consuming because all of the first group of APIs will need to be built from scratch. While there are 53 jails there are only around 20 JMS’ in use, which will allow for a quicker development timeline as the same JMS’ are linked from different jails.***

***The legal framework has been challenging to implement because this type of data sharing has not taken place at this county-to-county level. Additionally, sharing medical and behavioral health data requires legal protections from both HIPAA and 42 CFR Part 2. Building these protections into the legal framework has been complicated and required the work of attorneys with specific data privacy expertise.***

***S.B. 22-183 provided \$38,000,000 in ARPA and General Fund dollars to support the current grant program administered by the Office for Victims Programs (OVP) through the Crime Victim Services Advisory Board. The grant program was anticipating significant cuts to the grant program for the calendar year 23-24 grant cycle due to decreased federal awards. There was not a specific implementation plan created for the funds received through S.B. 22-183 other than reducing the anticipated cuts. All of the funds were awarded through grants to agencies providing direct services to victims of crime and it is anticipated that all of the funds will be spent by December 31, 2024.***

***S.B. 21-292 provided ARPA dollars to support the current state Victim Assistance and Law Enforcement (VALE) grant program administered by the Office for Victims Programs***

*(OVP) through the Crime Victim Services Advisory Board. There was \$1.5 million allocated to the state VALE program that was awarded to a single direct service agency that already had a grant to provide assistance to victims who needed help with rent/mortgage and relocation assistance after their victimization. This need increased during the pandemic and the agency will spend all of the funds by December 31, 2022.*

*This legislation also allocated \$1.5 million for the victim compensation program. There was not an additional spending plan needed to allocate this money. The local victim compensation programs needed additional federal dollars to support their current programs because there was a decrease in state funding as a result of the court closures during the pandemic. Victim compensation programs are funded through surcharges assessed when an offender is convicted. The \$1.5 million was spent in its entirety by June 30, 2022.*

*The remaining portion of the funds allocated to DCJ was \$3 million for forensic telemedicine services to victims of sexual assault in rural areas. The grant was awarded to the SANE/SAFE project at UHealth - Memorial in Colorado Springs to provide the telemedicine services and training. The hospital repurposed a current area in the hospital to create telemedicine rooms and additional training space. There was a spending plan submitted for this project. Because of the pandemic, permits to start the construction on this space took almost five months to obtain. The project is on track to spend all of the funding by June 30, 2023.*

- 2 Please identify how many rules you have promulgated in the past year (FY 2021-22). With respect to these rules, have you done any cost-benefit analyses pursuant to Section 24-4-103 (2.5), C.R.S., regulatory analyses pursuant to Section 24-4-103 (4.5), C.R.S., or any other similar analysis? Have you conducted a cost-benefit analysis of the Department's rules as a whole? If so, please provide an overview of each analysis.

***Response: No rules have been promulgated in the past year for the Division of Criminal Justice (DCJ).***

## COMMUNITY CORRECTIONS

### *PER-DIEM RATES – PROCESS CHANGES*

1. Please comment on the three different options presented by JBC staff on December 5, 2022 for making per-diem rate adjustments in community corrections. The response should include:
  - DCJ's preference (if applicable)
  - Potential benefits and drawbacks
  - Feasibility (e.g. statutory authorities, resource constraints, etc.)
  - Cost considerations

Please include other options not discussed by JBC staff, if applicable.

#### ***Response:***

***Option 1 - Of the options, this option would be the preference of the DCJ given the utilization of subject matter expertise, the sustainability of the options, and the ability to continue with current system plans, including performance-based contracting. This option would allow the system to operate in its current capacity without disrupting the current local/state partnership. The DCJ does not have the subject matter expertise or resources to do the type of analysis required to make an informed recommendation on the per diem and this option addresses this current limitation. For option 1 to be successful, programs will need to be required to participate and share needed financial information. It may be advisable to place this requirement in statute. The DCJ can also explore contractual options for holding providers accountable to participation in this process. One option could be to require participation as a condition of being eligible for performance-based contracting funds. As the DCJ does not have the needed subject matter expertise, we are unsure of the most appropriate timeline for such an analysis. If the JBC wanted the analysis and recommendation to align with contracting, the InterGovernment Agency (IGA) contracts for community corrections are executed for 5 years.***

***Option 2 - While both the Colorado Commission of Criminal & Juvenile Justice (CCJJ) and the Governor's Community Corrections Advisory Council are composed of valued subject matter experts, especially in the field of criminal justice, neither include expertise in the areas of finance, accounting, and market analysis. In addition, it is unlikely these bodies would have more success at gathering verifiable financial data from the programs than JBC staff has had. While there is some benefit to having already established advisory bodies make a recommendation on per diem, either body would need the correct resources to make an informed recommendation to the JBC on per diem. Those resources would include the correct members representing various areas of subject matter expertise, data and information on the current finances and costs of the programs, market analysis, and staffing resources to be able to do the necessary and needed research.***

*Option 3 - In 2020, the DCJ evaluated potential benefits and challenges of moving to a grant-based funding model within which providers would bid for their true cost in community corrections. In addition to the internal evaluation, stakeholders were given the opportunity to provide feedback. Benefits to this type of model include a competitive bid process, the ability to account for local issues impacting cost, and more local control over programming to meet the needs of the community. One additional identified potential benefit was an assumption that allowing true cost to be bid would translate to higher quality services. However, there is no way to ensure that increased amounts would result in positive investments back into the programs. While there were many benefits identified, there were also significant concerns and barriers also identified. For instance, it is likely that the same amount of funding would result in less capacity. Programs consistently report that the current per diem rates are not sufficient to operate community corrections programs. If this is the case, then higher rates will be bid and capacity will be lost. County run programs report supplementing the per diem, in some cases significantly, to cover the costs of running community corrections. While a grant based funding model allows for more local control and innovation in programming to meet local interests, the reverse leads to less standardization of community corrections programming across the state. This could lead to a decrease in quality of services. Additionally, local governments would need the additional resources to manage the grant, bid process, and more oversight over programming to ensure accountability. This concern was raised by counties in the stakeholder sessions and even included the sentiment that some counties would choose to no longer have community corrections. Some other themes related to concerns from the stakeholders included:*

- *Create instability for providers and the workforce making it difficult to retain both.*
- *Counties do not have the ability to get additional funding if their capacity needs exceed their awards grant, and do not have the flexibility within their own budgets to cover cost. If funding is exhausted, the option to sentence to community corrections is no longer viable for the courts.*
- *While a goal is increased competition, local zoning and other regulations limit if not prohibit this. For example, if a jurisdiction only has one building zoned for community corrections and it is owned by a private provider, the jurisdiction will have to accept whatever rate is bid or have no community corrections program.*

*There are many other barriers that would have to be addressed as well for the grant model to be a viable option, including how to distribute the funding with equity with specific attention to how to manage a bid process for county run programs. Given all of the factors that impact the potential long-term viability of the community corrections system, and the potential for either significant loss of capacity or, alternately, a significant increase in budget, the DCJ cannot recommend this option. Resources would need to be dedicated to thoroughly analyze the feasibility of a grant-based funding model.*

2. Why does the Department not request targeted rate changes?

**Response:** *As mentioned in the briefing, over the years the Department has attempted to use a variety of methods to determine appropriate per diem rates for community corrections. Those methods have included, but were not limited to, analysis of similar programming/systems and cost surveys of providers. Analysis of the rates in similar programming and/or systems has been unviable to determine an informed rate for Colorado Community Corrections. Limitations have included finding a comparable residential community corrections program with similar requirements and other entities using a competitive bid process that does not suggest a valid mean rate. For example, the Federal Bureau of Prisons uses a competitive bid process for the operations of re-entry centers across the country, but the per diem rate for operation of those programs varies dramatically across the country. When looking just at Colorado, there is only one re-entry program with which to compare. In regards to provider cost surveys, the most recent attempt was completed in 2018. The survey asked about the specific costs associated with various Colorado Community Corrections Standards changes and their full implementation. The intent was to determine if new costs may be associated with the changes to try to determine if a change to the per diem was indicated, and therefore the survey questions asked about additional cost. Responses to the questions ranged drastically, making it impossible to determine what the increased cost may be. For example, one question asked providers to identify the additional ongoing staffing cost, above the current per diem, that would be needed to comply with Standards changes and the answers varied from \$0.00 to \$136,155. Providers consider much information about their finances proprietary and outreach over the years has not produced the information required to make a thoughtful analysis or defensible proposal.*

#### **PER-DIEM RATES – PERFORMANCE BASED CONTRACTING**

3. Please provide a brief explanation of the mechanics of performance based contracting payments (e.g. timing, how DCJ calculates who qualifies).

**Response:** *The Request for Information completed and turned in last year details the [full plan](#) for performance-based contracting (PBC) in community corrections, including the details on the payment model. The payment model includes several key factors:*

- *Slow progression into increased incentives and decrease of base per diem to allow for the system to become accustomed to the new contracting and reimbursement method.*
- *A model that allows for future flexibility in metrics, weights, and payments that can evolve with the system over time.*
- *Increased accountability and financial impacts for poor performance.*

*To ensure all of the above goals were reached, incentives are tied directly to the per diem, and represent a percentage of the per diem set forth in the long bill each year. Currently programs are eligible to receive up to 2% increase in the base per diem rate for their performance on the risk-informed outcomes of successful completion (1%) and recidivism (1%). More details on the analysis of the risk-informed outcomes are available in Appendix*

*D of the Staff Budget Briefing for the Department of Public Safety. For the current fiscal year, the base per diem was set at \$67.00, resulting in the following per diem rates based on program performance on the risk-informed outcomes as demonstrated in the below table.*

<i>Program Performance</i>	<i>Set Per Diem Based on Performance</i>
<i>Met No Risk- Informed Metrics (0%)</i>	<i>\$67.00</i>
<i>Met 1 Risk-Informed Target (1%)</i>	<i>\$67.67</i>
<i>Met 2 Risk-Informed Targets (2%)</i>	<i>\$68.34</i>

*Provider rates are set accordingly in the Community Corrections Information and Billing System for the fiscal year. Each year the risk informed outcomes are reevaluated ahead of the next fiscal year. Basing the incentive payments as a percentage of the per diem allows the PBC model to be flexible and able to accommodate state budgetary changes. In addition, it further creates flexibility so that performance and outcome measures are also flexible and adaptable to change as the system grows and changes. As the implementation of PBC continues, the payment model adds additional areas of performance, more opportunities for incentives, and also a reduction in the eligible base per diem for underperforming programs.*

<b>Initial Payment Model</b>	<b>Fiscal Year 22 - 23</b>	<b>FY 23 - 24</b>	<b>FY - 24 - 25</b>	<b>FY 25 - 26</b>	<b>FY 26 - 27</b>
Base per diem	100%	100%	99%	99%	99%
Risk Informed Outcomes:					
Successful Completion	1%	1%	1%	1%	1%
Recidivism	1%	1%	1%	1%	1%
CORE/PACE/KPIs	Evaluating	Evaluating	2%	2%	2%
Max Payment	102%	102%	103%	103%	103%



Ongoing Payment Model					
	Fiscal Year 27 - 28	FY 28 - 29	FY - 29 - 30	FY 30 - 31	FY 31 - 32
Base per diem	97%	97%	97%	97%	97%
Risk Informed Outcomes:					
Successful Completion	1%	1%	1%	1%	1%
Recidivism	1%	1%	1%	1%	1%
Evaluations:					
Core Security	2%	2%	2%	2%	2%
PACE	3%	3%	3%	3%	3%
KPIs	1%	1%	1%	1%	1%
Max Payment	105%	105%	105%	105%	105%

4. How long will it take to know whether performance based contracting is impacting performance? And how will we know?

***Response: The performance cycle for performance-based contracting is three years. What this means is that it will take the Department three years to complete a PACE evaluation, Core Security audit, and Key Performance Indicator measurement for each of the 28 programs statewide. Throughout that time, the Department will be analyzing Risk Informed Outcomes (successful completion and recidivism rates) for each program annually. True measurement of the efficacy of Performance-Based Contracting will occur in years 4-6 when the second round of performance evaluations are completed.***

***The Department’s model of performance-based contracting is inclusive of two types of performance targets: those that are within the direct control of the community corrections provider (program quality and compliance), and those that are indirectly controlled by the provider (risk informed outcomes). The metrics the department is able to evaluate on an annual basis are those that are only indirectly controlled by the provider. Accordingly, it will be necessary to have multiple measurements of those performance targets directly controlled by the provider to determine whether any changes in risk-informed outcomes are the result of improvements made in programming.***

***Ultimately, what we hope to see over time is a decrease in negative risk-informed outcomes (recidivism), an increase in positive risk-informed outcomes (success rates), and corresponding improvements in scores on the PACE (a robust evaluation of the implementation of evidence-based practices in programs), the Core Security Audit (an audit of compliance with critical Colorado Community Corrections Standards related to safety and security), and key performance indicators chosen by local boards and programs. However, we will need to wait for at least the second set of these measurements to determine whether improvements have been made.***

5. How do monetary incentives for programs translate or relate to individual behavior and/or performance? Do we know how providers will actually use these incentive payments?

***Response: The PBC plan defines performance of a community corrections program across several measures which include risk-informed outcomes, program quality, program compliance, and key performance indicators related to staff training and retention. At this time risk-informed outcomes are the only measure with which programs are currently earning incentive funding, with plans for the other measures to be funded in Fiscal Year 2024-25. The targets for these performance measures are set and based upon baseline data to ensure that incentives received represent system progress. Based on the recommendations of the Urban Institute in their October 2020 Report Performance - Based Contracting for Community Corrections, the incentive percentages were set at a magnitude believed to be sufficient to create program change and engagement in PBC. In addition to the informed setting of incentive magnitude, the PBC model itself includes inherent consequences for poor performance. As demonstrated in the payment modeling, a program will be eligible for less per diem if the program does not meet the metrics for incentive payments. In addition to this, the three-year performance cycle means a program that does not meet the target for incentive will have to wait until their next evaluation on the three-year cycle to try for the incentive again. This acts as a natural warning system and consequence for poor performance. For example, in FY 2027-28 a program earns incentives in the areas of program completion (1%) and KPI (1%) only. That program will receive just 99% of the per diem and will have to wait for their re-valuation of PACE and Core to become eligible. At the local level, PBC disincentivizes local units of government for awarding contracts to lower performing programs given that board administrative funds are a percentage of the total allocation. The higher performing the program or programs are in the jurisdiction, the larger the overall allocation amount for the jurisdiction, which directly translates to more board administrative funds. At the state level, lower performing programs will be less competitive in the procurement process for specialized community corrections contracts. Given the proprietary nature of the information and there being no statutory requirement for programs to release detailed financial and accounting information to the Department, it is unknown how the additional incentive funding will be utilized.***

*PER-DIEM RATES – FACILITY PAYMENTS AND SUBSISTENCE*

6. Is it possible that the facility payment to “level the playing field” could be subsidizing less efficient providers?

*Response: As mentioned in the briefing, the main intended purpose of the facility payment upon its conception and in subsequent years was to promote increased staffing ratios and better compensation for community corrections staff. While one of the arguments for the facility payments was to “level the playing field”, the footnote focused on staffing ratios and salaries for the requirements. To earn the facility payment providers had to demonstrate the required staffing ratios and increased compensation. In future years the footnote was adjusted with language designed for the maintenance of the staffing ratios and compensation required by the initial footnote. Given this, community corrections providers self-report a dependence and reliance on the facility payment as part of their total compensation for the operations of community corrections. Given that provider efficiency was not an intended purpose of the facility payment and the facility payment is not a part of the PBC model, the facility payment is allocated regardless of efficiency. However, the facility payment can be withheld or reduced if staffing and salary are not deemed adequate given the current footnote.*

*“Because per diem rates are unchanged for FY 2021-22, these appropriations further assume that salary and staffing levels deemed adequate for FY 2020-21 will be deemed adequate for FY 2021-22 and that community corrections facilities with an average of 32 or more security FTE will receive a second facility payment.”*

*Local units of government/community corrections boards are asked to monitor staffing ratios and salaries. The Department includes the total number of projected programs for the budgeting of the facility payments in the Request for Information required, usually RFI #1. However, the facility payment line has not been updated accordingly leading to an increase in the overall facility payment as indicated in the briefing.*

7. How has the elimination of subsistence fees impacted collections related to restitution, child support, etc.?

*Response: Effectively gauging the impacts of the elimination of subsistence fees will take some time. Subsistence fees were eliminated in July. Accordingly, we have five months of data that can be reviewed in this regard. For clients who terminated their residential community corrections placement, regardless of termination reason, between July 1, 2022 and November 30, 2022 the average length of stay was approximately 160 days. For those who successfully completed their placement during that time, the average length of stay was even longer at 235 days. The OCC only collects financial data for clients upon their termination and as a total amount owed/paid through the duration of their stay. So, while other clients have been affected by the elimination of subsistence fees, we will not know the impacts on their financial status until they terminate their placement. What this means is that, within the data set on which we can currently report, most clients entered community*

*corrections prior to the elimination of subsistence fees and therefore the data should be viewed with this limitation in mind.*

*In order to best compare client financial contributions before and after the elimination of subsistence fees, we chose to compare the first five months of this fiscal year (July 1, 2022 - November 30, 2022) to the same time frame last fiscal year (July 1, 2021 - November 30, 2021). Overall, fewer clients terminated their community corrections stay during the 2022 time period (N=1746) than did during the 2021 time period (N=1858). Therefore, it is necessary to compare mean (average) dollars contributed to child support and restitution/fines/fees rather than total dollars contributed. Additionally, the OCC collects restitution, fines and fees as a combined figure and does not have the ability to separate victim compensation from other court ordered fines and fees.*

*Table 1 below compares the average child support paid in the two time periods reviewed. The table reports the average for all clients regardless of their termination reason (e.g. successful, technical violation, transfer) as well as specifically for those who successfully terminated.*

**Table 1**

<i>Court Ordered Child Support Paid</i>				
	<i>07/01/21-11/30/21</i>		<i>07/01/22-11/30/22</i>	
	<i>N</i>	<i>Mean</i>	<i>N</i>	<i>Mean</i>
<i>Overall</i>	<i>1,745</i>	<i>\$86.98</i>	<i>1,217</i>	<i>\$95.88</i>
<i>Successful Completion</i>	<i>858</i>	<i>\$150.97</i>	<i>611</i>	<i>\$109.63</i>

*Table 2 below compares the average restitution/fines/fees owed at entry during the two time periods. Table 3 below compares the average restitution/fines/fees paid at termination during the two time periods. Both tables also report the average for all clients regardless of their termination reason (e.g. successful, technical violation, transfer) as well as specifically for those who successfully terminated.*

**Table 2**

<i>Restitution/Fines/Fees Owed at Entry</i>				
	<i>07/01/21-11/30/21</i>		<i>07/01/22-11/30/22</i>	
	<i>N</i>	<i>Mean</i>	<i>N</i>	<i>Mean</i>
<i>Overall</i>	<i>1,814</i>	<i>\$12,136.21</i>	<i>1,244</i>	<i>\$9,340.60</i>
<i>Successful Completion</i>	<i>886</i>	<i>\$15,449.94</i>	<i>627</i>	<i>\$10,910.13</i>

**Table 3**

<i>Restitution/Fines/Fees Paid at Termination</i>				
	<i>07/01/21-11/30/21</i>		<i>07/01/22-11/30/22</i>	
	<i>N</i>	<i>Mean</i>	<i>N</i>	<i>Mean</i>
<i>Overall</i>	<i>1,745</i>	<i>\$673.12</i>	<i>1,215</i>	<i>\$675.43</i>
<i>Successful Completion</i>	<i>858</i>	<i>\$1,190.25</i>	<i>609</i>	<i>\$1,031.57</i>

*In summary, overall average payment towards court ordered child support did increase slightly in the time period since subsistence fees were eliminated. The average payment toward restitution, fines and fees did not increase significantly on its face; however, the average amount of restitution owed decreased in the current fiscal year (M = \$9,340.60) as compared to last year (M = \$12,136.21). Reflected as a percentage of restitution, fines and fees owed, payments increased from 5.5% in 2021 to 7.2% in 2022 for all terminations and from 7.7% in 2021 to 9.5% in 2022 for those who successfully completed their programming.*

## GENERAL DISCUSSION

8. Please update the Committee on changes to how the DCJ measures recidivism in relation to community corrections. Also, please update the Committee on any recent efforts to align definitions for recidivism across multiple departments (Judicial, Corrections, Public Safety).

***Response: The definition of a new misdemeanor or felony filing within two years of release or program completion (i.e. at risk in the community) was agreed upon by both Judicial and Public Safety 15-20 years ago, with the Department of Corrections (DOC) continuing to use the definition of return to prison, which is in line with national standards for prisons. This definition reaches a middle-ground, where it requires at least the DA to believe they have the ability to prove the person guilty beyond a reasonable doubt, which is more than the probable cause required of an arrest. In 2020, there was a goal put forward from the Governor's office to harmonize the recidivism definitions for Community Corrections and DOC. There were many caveats with these data, in particular regarding determining when a person would be considered "at risk of recidivism" in the community, that made this difficult and it would have had a narrow application. This effort was subsequently abandoned. Recently, the Division of Probation Services has adopted a revised definition of recidivism as a new misdemeanor or felony conviction within one or two years. The Office of Research and Statistics (ORS) within DCJ continues to use the previously agreed-upon definition of new misdemeanor or felony filing within one or two years as its recidivism definition. Consequently, recent work has resulted in less alignment of definitions of recidivism.***

***Recidivism is a valuable and important measure of success in the criminal justice system. At the same time, it is an imperfect measure with many different definitions. The DCJ has two different definitions for recidivism that are currently evaluated for community corrections. As discussed above, The DCJ Office of Research and Statistics on the Community Corrections Profile dashboard will continue to track and monitor the recidivism for community corrections as defined as new county or district filing within one and 2 years of successful program completion. For the purposes of performance-based contracting a definition of new felony conviction within 2 years of start date into community corrections is utilized. Nationally it is common for recidivism definitions for community -based populations to have a start of entry into the community. Clients in Colorado community corrections begin to have access to the community from their first day. Focus was placed on felony conviction since the current intended purpose of community corrections is an alternative to prison for felony offenders. The average length of stay in Colorado community corrections was just over 5 months in Fiscal Year 2022. Analyzing recidivism from intake through 2 years allows the definition to include a portion of the stay in the program, as well as time living in the community. A definition of conviction helps to reduce discrepancies and potential biases seen in arrest and charging practices by different jurisdictions. In their report Performance-Based Contracting for Colorado Community Corrections, the Urban Institute made this point by stating, "using felony reconviction rather than any arrests or***

*new charges likely reduces variation across counties”. In addition, using this definition allows incentive pay to be received closer to the actual performance and intervention of the provider. The Office of Community Corrections is aware that the definition of recidivism for the purposes of performance-based contracting has limitations. In addition, in the last year the OCC has added a statistical analyst to staff and plan to utilize that position to do more analysis of outcomes in community corrections.*

9. Is it possible to task local community corrections boards with gathering granular data used to evaluate risk, consistent with the statutory evidence-based decision-making framework?

*Response: Tasking a community corrections board with collecting and analyzing data to evaluate risk would be challenging for most, if not all, boards. Community corrections boards are directly contracted by the Office of Community Corrections and are categorized by a type: 1, 2 or 3, with type 1 having the least requirements (which include boards with no program within its jurisdiction), and type 3 having the most requirements. Of the 16 judicial districts with at least one community corrections program, 3 boards are a type 1, 2 boards are a type 2, and 11 boards are a type 3. The board type correlates to administrative fund dollars that are a percentage of the jurisdiction’s bed allocation funds; by contract, type 1 receives up to 3%, type 2 up to 4%, and type 3 up to 5%. Board administrative funds do not fund at the maximum percentage; for Fiscal Year 2023, the funding levels are 2.02%, 2.70% and 3.54% respectively. These board administrative funds cover board costs, including staffing. Type 1 and 2 boards typically fund a single part time staff person to meet their contract requirements, and type 3 boards fund one or more full time staff to meet their contract requirements – some counties supplement their type 3 boards’ administrative funds to cover all of their costs. At this time, tasking boards to gather and evaluate data they are not currently collecting would be beyond many, if not all, boards’ current resources and funding to obtain additional necessary resources.*

10. Please provide a brief summary of the contracting process. Furthermore, what does the State ask of community corrections providers in exchange for however they contract with the State or local communities?

*Response: Per statute the Department contracts with local units of government and their local community corrections boards. Typically, one county represents a judicial district and contracting further follows the resolutions as executed by county commissioners. The executed contracts are Inter-Governmental Agency (IGA) contracts with a length of 5 years. Each fiscal year an allocation letter is distributed for each contract in line with the long bill. The local units of government have the statutory and contractual authority to subcontract for community corrections programs and services. The exhibits of the IGA contracts outline the expectations for any community corrections program/provider. These expectations include but are not limited to compliance with all applicable state and federal laws, the Colorado Community Corrections Standards, and basic operational requirements. In addition to the IGA contracts, the Department directly contracts for specialized services for Intensive Residential Treatment, Residential Dual Diagnosis Treatment and Sex Offender Supervision and Treatment in Community Corrections. For these contracts, the local unit*

*of government is paying for the base rate of the bed and the Department is covering the additional funding for the additional services required in these contracts, or what is referred to as the differential rate.*

11. Please provide an update on El Paso County's community corrections TABOR issue.

***Response: The following is the update provided by El Paso County: "Last session the state increased its allocation to community corrections to offset their directive to vendors to no longer charge subsistence fees to clients, which resulted in TABOR impact to the County. We are currently working on a solution to this issue and would like to update you more once it is settled. It's important to note that our solution will also be subject to TABOR." When El Paso County has more of an update, a written response will be provided.***