

**DEPARTMENT OF PUBLIC SAFETY
DIVISION OF CRIMINAL JUSTICE ONLY
FY 2016-17 JOINT BUDGET COMMITTEE HEARING AGENDA**

**Friday, January 8, 2016
9:00 – 9:55 am**

9:00-9:15 INTRODUCTIONS AND OPENING COMMENTS

9:15-9:35 DEPARTMENT OVERVIEW

1. Why did DCJ's federal funding rise in FY 2009-10 and FY 2010-11 and subsequently decline? Appropriations of federal funds are higher for FY 2015-16 than for FY 2014-15. Are increased federal funds expected for FY 2015-16? For FY 2016-17?

***Response:** In February, 2009, the American Recovery and Reinvestment Act (ARRA) was passed resulting in states receiving millions of dollars for a variety of purposes. DCJ received approximately \$18 million from ARRA through the Edward Byrne/Justice Assistance Grant program that was subsequently distributed in the form of grants to state and local entities for authorized criminal justice related activities. Once these funds were expended, the grant amounts reverted to previous levels.*

The DCJ received an increase this year in Victims of Crime Act (VOCA) funds resulting from Congress' action in December, 2014 to lift the spending cap on federal VOCA dollars. Colorado's allocation of VOCA funds increased approximately \$25 million which will be distributed to state and local entities supporting services to crime victims. The 2015 federal budget carves out some funds from VOCA for other purposes, but DCJ still expects to receive in excess of \$20 million above previous allocations. It is unknown how long into the future these allocations will continue to be made by Congress.

Community Corrections

2. How many Community Corrections facilities have closed in the past 5 years? What types of beds did they have? Why did they close? How has this affected system capacity? What conclusions can be drawn from the closures?

***Response:** Since 2010, five (5) community corrections facilities have closed:*

- *In May 2013, Pueblo Community Corrections Services (CCSI) in the 10th Judicial District (Pueblo) closed. In the fiscal year prior to its closure, CCSI served an average daily residential population of 87.8 clients. CCSI served male clients in standard residential beds including diversion, transition, condition of parole and condition of probation. CCSI's closure was the result of a mutual agreement between program ownership and the DCJ due to long standing performance issues and imminent public safety concerns.*

Capacity has already been restored in the 10th Judicial District. Shortly after the closure of CCSI, the County established a contract with a new provider through a competitive bid process.

- *In December 2013, Minnequa Community Corrections in the 10th Judicial District (Pueblo) closed. In the fiscal year prior to its closure Minnequa served an average daily residential population of 65.5 clients; of this total 14.8 were female and 50.7 were male. Minnequa served clients in standard residential beds including diversion, transition, condition of parole and condition of probation. Minnequa Community Corrections closed because they did not successfully attain a renewed contract with the 10th Judicial District Community Corrections Board, through a competitive RFP process, after their previous contract had expired. During the competitive RFP process, the 10th Judicial District was unable to secure a second provider to fill this lost capacity. However, the Board remains committed to identifying a qualified provider to deliver these services.*
- *In December, 2013, Phase I in the City and County of Denver closed. This program was a short term, jail-based program which was designed to serve as short-term stabilization for offenders, provided in a highly structured and secure environment. In the fiscal year prior to the closure, Phase I served an average daily population of 53.5 clients; of this total, 6 were female and 47.5 were mail. Phase I served both diversion and transition clients. The Phase I program was operated by the Denver Sheriff's Department out of the Denver County Jail. The Denver Sheriff's Department decided to suspend Phase I services indefinitely as space within the county jail was needed for other populations and services. While capacity for short-term beds has not been restored, the City and County of Denver has been able to re-allocate the beds to other programs within the jurisdiction to ensure that overall capacity is maintained.*
- *In July 2014, the Therapeutic Community of Southern Colorado (TCSC), operated by Crossroads Turning Points, in the 10th Judicial District closed. This program was a substance abuse Therapeutic Community program designed to serve as an intensive treatment for the most chronically addicted offender population. In the fiscal year prior to the closure, TCSC served an average daily population of 55.7 clients. The clients served were male and included the diversion, transition and condition of parole populations. In 2014 the contract between TCSC and the 10th Judicial District Community Corrections Board expired and was not renewed due to long-standing performance issues related to inadequate delivery of treatment services. The Board wishes to restore capacity for treatment beds within the jurisdiction. However, the Board feels that at this time, IRT and/or Residential Dual Diagnosis Treatment (RDDT) beds would best fit the needs of the community and provide more benefit than would therapeutic community beds.*

- *In August 2015, Phoenix Center in the 17th Judicial District closed. In the fiscal year prior to the closure, Phoenix Center served an average daily residential population of 154.8 clients; of this total 45.8 were female and 109 were male. Phoenix Center served clients in standard residential beds including diversion, transition and condition of parole. In 2015 the contract between Phoenix Center and the 17th Judicial District Community Corrections Board expired and was not renewed due to long-standing performance and public safety issues. At this time, the County is actively working to restore this capacity. The County is currently under a purchase agreement to acquire a physical facility, and recently issued a request for proposal (RFP) to identify a new provider for community corrections services to be operated out of the newly acquired building.*

Overall, the program closures have caused some jurisdictions to lose capacity. This is mostly true in Adams and Pueblo Counties. However, statewide there are vacancies in other jurisdictions which may compensate for the losses due to closures. Additionally, while capacity within the system is important, when weighing all relevant interests related to these closures, the preservation of public safety, a central mission of the Department, must take precedence.

3. The Long Bill contains the following footnote:

73 Department of Public Safety, Division of Criminal Justice, Community Corrections, Community Corrections Facility Payments -- These payments may be withheld in whole or in part from facilities that: (1) fail to maintain an average ratio of at least one case manager for every 20 residents; (2) fail to raise average pay and benefits of security staff members by at least 1 percent; or (3) fail to raise the average pay and benefits of case managers by 1 percent. A facility is exempt from requirement (2) if the sum of average pay and benefits for security staff members exceeds \$33,000 annually. A facility is exempt from requirement (3) if the sum of average salary and benefits for case managers exceeds \$38,500 annually. For purposes of this footnote, payroll taxes are not benefits. Community corrections programs are encouraged to exceed these goals. It is the intent of the General Assembly that community corrections facilities with an average of 32 or more security FTE receive a second facility payment.

Have community corrections programs been compliant with this and related footnotes? Have any programs lost facility payments as a result? Is there an expectation that employee pay should continue to increase when the Department is recommending provider rates be reduced? Is that appropriate?

Are payments to community corrections providers being based upon program performance? Explain.

Response: *The Department has done substantial work in collaboration with community corrections boards to enforce Footnote 73 included the FY 2015-16 Long Bill as well as the related footnotes included in the FY 2014-15 Long Bill. The Department has established written policy to enforce the expectations of the General Assembly communicated in the*

footnotes from both fiscal years. Through this policy, DCJ and community corrections boards at the local level disburse funding from the Facility Payments appropriations only to providers that have demonstrated both a clear intent and an actual practice to raise salaries and keep caseloads at the levels established in the footnote. The DCJ and the local community corrections boards have collaborated to verify salaries and caseload levels through random auditing of payroll records and staff interviews. The DCJ also collects and reports aggregate data related to current salaries, staff retention, and caseload levels to the General Assembly. From the work of the DCJ and that of the community corrections boards, the Department is reasonably confident that the providers have raised salaries and kept caseload maximums at the required levels for those that are not exempt through the footnote provisions. The aggregate data, although self-reported, show that non-exempt providers have raised salaries in the current fiscal year by at least 1 percent.

One provider in Adams County only received partial funding (50 percent) of the Facility Payments appropriations in FY 2014-15. In that fiscal year, the provider did not elect to keep caseloads at the required levels and was exempt from salary increases included in the footnote provisions. In that case, the DCJ and the community corrections board agreed that partial funding was appropriate and agreed on a 50 percent payment structure. In FY 2015-16, that provider has agreed to the caseload maximums and will be disbursed full payment.

The Department has requested a 1 percent provider rate decrease to be consistent with the larger budget balancing request throughout the State of Colorado. In FY 2015-16, the providers were given a 1.8 percent provider rate increase and subsequently required, through Footnote 73, to raise staff salaries by 1 percent. In the event the Committee elects to approve the 1 percent provider rate decrease, the rate for FY 2016-17 would be approximately 0.8 percent higher than FY 2014-15. Therefore it is plausible that providers would need to absorb the 1 percent decrease in either salaries or other areas of the program. However, it would be understandable if some providers maintain staff salaries at original levels. From that perspective, the Department would not expect that staff salaries continue to increase in the absence of additional funding from the State. The Department does not place additional requirements upon providers for the Facility Payments appropriations that are beyond those intended in the Long Bill footnotes from the General Assembly.

Payments to providers are not made based on performance in terms of short-term or long-term outcomes such as risk reduction, recidivism reduction, or adherence to evidence based principles or practices. Rather, payments are made based on the execution of the specific services for supervision and treatment.

The DCJ establishes contracts with community corrections boards for the regular community corrections programs; and establishes contracts with providers for the enhanced services of the specialized programs such as Intensive Residential Treatment (IRT), RDDT, and Specialized Sex Offender Treatment. Those contracts require that community corrections facilities provide the supervision and treatment services in the Scope of Work for the contract. The DCJ audits programs to ensure that they are providing the required supervision and treatment in the contracts and the Colorado Community Corrections Standards.

With respect to performance based contracts, in order for the Department and DCJ to establish such contracts and make payments in accordance with performance, it would need statutory authority, contractual infrastructure, and FTE to support performance based contracting efforts. The Governor's Community Corrections Advisory Council has developed a written plan for the main elements needed for implementing performance based contracting in Colorado.

4. What impact will the lowering of the provider rate have on community correction facilities? Will it be more stressful for smaller providers?

Response: *The Department believes the request for a 1 percent provider rate decrease is a modest effort to help balance the state budget. In FY 2015-16, providers were given a 1.8 percent rate increase from FY 2014-15 which, in turn, was a 6.9 percent increase from the previous year (FY 2013-14). The last two fiscal years have also included a facility payment structure which provided an additional \$95,000 to each facility to help support increases to staff salaries and reduce caseloads. In FY 2015-16, two facilities (COMCOR Inc. and Larimer County Community Corrections) qualified for two (2) Facility Payments allocations due to provisions set forth in the Long Bill footnotes. Figure 4 below illustrates a 16-year history of the base per diem rate. The 1 percent rate reduction is slightly higher than in FY 2014-15 rate.*

**Figure 4 – Community Corrections Per Diem History
FY 2000-01 to FY 2015-16**



Of the 31 residential community corrections programs, there are 13 smaller facilities that have fewer than 60 offenders placed on an average day. Of these 13 facilities, eight (8) are operated by parent companies or corporations that operate several additional facilities. Four (4) of these 13 smaller programs are more independently owned by a company that operates one or two smaller facilities. The remaining facility is a specialized Therapeutic Community which has an enhanced per diem rate in addition to the base per diem rate.

Compared to facilities that are owned by larger corporate entities, rate changes have a more adverse impact on the 4 smaller programs that are independently owned and operated. Due to the per-diem (per offender, per day) rate structure for community corrections, providers must rely on ‘economies of scale’ to increase revenues. The ‘economies of scale’ funding structure results in a proportionate saving in costs gained by an increased level of capacity. From this perspective, smaller programs that are part of a larger corporate entity benefit from the ‘economies of scale’ situation since their parent company has beds in other facilities in other jurisdictions. By contrast, the 4 smaller independent facilities do not have the capacity where they can benefit from economies of scale. Accordingly, per diem reductions

have more of an adverse impact on smaller independent facilities such as Garfield County Community Corrections (Rifle, CO), Advantage Treatment Center (Sterling, CO), Hilltop House (Durango, CO) and Independence House (Denver).

Overall, since FY 2012-13, providers have seen an increase of 11.5 percent in the base per diem plus additional funding through the Facility Payments structure in the Long Bill. This does not include the requested 1 percent decrease.

5. What are vacancy rates in community correction facilities? Are there judicial districts in which clients are being turned away from facilities due to a lack of beds?

Response: *The table below (Table 5) provides the requested data regarding regional and facility capacity and excess capacity. The data illustrate physical capacity, by region and by facility, the average daily residential population during fiscal year 2014/2015, and the facility vacancy.*

Table 5 - Program and Regional Capacity, Average Daily Population (Residential) and Excess Capacity

Judicial District	Primary County	Program Name	Physical Beds	FY15 Residential ADP	Facility Excess Capacity	Regional Excess Capacity
1 st	Jefferson	ICCS-Jeffco	280	177.4	102.6	190.8
		ICCS West	140	51.8	88.2	
2 nd	Denver	CMI-Columbine	60	57.1	2.9	103.1
		CMI-Ulster	84	77.6	6.4	
		CMI-Fox	90	69.6	20.4	
		CMI-Dahlia	120	114.8	5.2	
		Peer 1	125	118.1	6.8	
		Haven	65	35.7	29.3	
		Tooley Hall	74	62.8	11.2	
		William Street Center	84	65.0	19.0	
		I.H. Pecos	75	75	0	
		I.H. Fillmore	42	40	2.0	
4 th	El Paso	CAE	225	111	114	204.3
		Com Cor, Inc	340	249.7	90.3	
6 th	La Plata	Hilltop House	54	51.3	2.7	2.7
7 th	Montrose	ICCS Montrose	67	24.2	42.8	42.8
8 th	Larimer	Larimer	326	260.6	65.4	65.4
9 th	Garfield	Garfield	60	47.7	12.3	12.3
10 th	Pueblo	ICCS Pueblo	120	96.3	23.7	23.7
12 th	Alamosa	SLVCC	174	109.6	64.4	64.4
13 th	Logan	Advantage Tx Center	72	61.3	10.7	10.7
14 th	Moffat	CAPS	45	31.4	13.6	13.6
17 th	Adams	TTC Adams	85	84.2	0.8	73.1
		TTC – Comm City	136	132.9	3.0	
		Phoenix Center	224	154.8	69.2	
18 th	Arapahoe	CMI-CCTC	106	96.1	9.8	158.5
		ACTC	130	116.4	13.6	
		ACRC	206	71.0	135.0	
19 th	Weld	ICCS-Weld	228	157.6	70.4	70.4
20 th	Boulder	CMI-LCTC	68	44.7	23.3	37.2
		CMI-BCTC	64	50.2	13.8	
21 st	Mesa	Mesa	202	170.0	32.0	32.1
TOTAL			4171	3066.1	1104.9	1104.9

It is important to note that the excess capacity figures in Table 5 might be misleading. In addition to contracting with local boards and the Department for community corrections, facilities also contract directly with the Department of Corrections (DOC) and the Federal Bureau of Prisons (BOP) for other offender populations. Accordingly, some vacant beds may be filled by other contracts such as DOC's Community Return to Custody Program (CRCF) and Federal BOP clients.

There are a total of eight (8) facilities that also supervise CRCF placements under separate contracts with the Department of Corrections (DOC). The DOC reported in 2014 that the average daily population (ADP) for CRCF is about 243 offenders which consume some of the vacancy illustrated in Table 5. The Department has no data on the number of federal clients placed in community corrections facilities through their contracts with the Bureau of Prisons, but we believe those numbers to be relatively small. The following facilities have existing contracts with the DOC for CRCF placements:

- 1) ACRC (Arapahoe County)*
- 2) ATC (Logan County)*
- 3) COMCOR (El Paso County)*
- 4) CAE (El Paso County)*
- 5) ICCS JeffCo (Jefferson County)*
- 6) ICCS West (Jefferson County)*
- 7) ICCS Montrose (Montrose)*
- 8) Larimer County Community Corrections*

It is also important to consider that some vacancy numbers, in order to be filled, may require physical construction and purchasing of physical beds. Local zoning restrictions may also allow fewer placements in community corrections than there are physical beds.

The Department does not track referral acceptance rates or reasons for referral rejections. Accordingly, the Department is unable to effectively respond to the Committee's question regarding whether clients are turned away due to lack of beds and in what jurisdictions. However, with the aforementioned limitations aside, across all types of regular, specialized, and non-residential programs, the community corrections population has had an average daily population as high as 4,324 offenders in FY 2010-11, with the current FY 2015-16 average daily population at 3,632 offenders including non-residential placements. Even considering the populations not funded by the Department, and local zoning restrictions, there is still considerable capacity in community corrections for additional placements.

6. A redevelopment effort is underway in north Colorado Springs that may affect ComCor, Inc., a Colorado Springs community corrections provider. Provide an update concerning this effort.

Response: *The efforts of the Colorado Springs Urban Renewal Authority (CSURA) has potential to impact COMCOR Inc.; a community corrections provider in Colorado Springs. COMCOR Inc. has facilities located on North Nevada Avenue in the City of Colorado Springs which is a future designated area targeted by the CSURA initiative. Currently, there are no explicit plans for the CSURA efforts to reach the current COMCOR Inc. facilities in the near future. The provider has received no formal notice; nor has the provider had any discussion with the CSURA representatives to plan for urban renewal at their location in the foreseeable future. In the event that the CSURA efforts impact existing COMCOR Inc. facilities, the provider would work with the developer to sell its existing properties and concurrently work with the City of Colorado Springs to find another location for the community corrections programs. Due to funding issues at the local level, it is plausible that it may take several years for the CSURA initiatives to reach current properties of COMCOR Inc. Therefore, the Department has no immediate concerns that redevelopment efforts in Colorado Springs will adversely impact community corrections capacity or services in the near future.*

7. Have DHS and DCJ coordinated their substance abuse efforts and funding?

Response: *The Department understands this question to originate from an inquiry about a DHS initiative related to housing for substance-involved individuals. The Department understands this initiative to be for individuals in the community who need sober living arrangements to assist with the individual's recovery. Few of these individuals would be under any form of criminal justice supervision, but would rather be voluntarily seeking sober living arrangements for their own recovery. Sober living programs are not correctional facilities. They are homes in neighborhoods that are dedicated for this purpose. They are not staffed by paid employees, but are operated by the residents themselves as a form of peer support. Because of this, they are not zoned for criminal justice purposes by local government zoning authorities.*

Community corrections facilities would not be appropriate for these individuals for several reasons. Primarily, there is well-researched and a nationally-established body of evidence that placing low risk individuals in the same types of programs as higher risk individuals can actually create additional risks for the low risk populations. Offenders in community corrections facilities are, as a group, higher risk individuals. It would be harmful to these low risk individuals to be placed among offender populations in community-based correctional facilities. Also, because most individuals targeted for sober living arrangements are not criminal justice involved, it would be inappropriate to placed them in professionally staffed community corrections facilities as opposed to peer run residential properties.

Should the DHS initiative be funded and implemented, however, the Department would like to collaborate with DHS to address sober living opportunities for community corrections

offenders that have successfully completed supervision and would benefit from sober housing support and community-based peer support. This would be very beneficial for some offenders who complete community corrections residential programs that are much lower risk.

On a larger scale, the Department does collaborate with the DHS Office of Behavioral Health (OBH) regularly through the Correctional Treatment Board which meets monthly. This board has a long history dating back to the early 1990s of coordinating substance abuse funding and programs. The OBH licenses all specialized community corrections programs for substance abuse and dual diagnosis. The DCJ establishes contracts, funding, and oversight of those same programs. Accordingly, it is necessary that both the DCJ and the OBH collaborate on those programs that overlap between the two agencies.

FY 2016-17 Requested Appropriation

8. In Request 3, Jail Survey Impacts, DCJ asks for \$75,000 Cash Funds from the Marijuana Tax Cash Fund in FY 2016-17 to survey jail inmates to determine whether legal marijuana use is linked to incarceration, homelessness, and criminal behavior. Is this an accurate description of the proposed study? What will be done with the information once the survey is completed?

Response: *The study is intended to clarify: (1) if there is an increase in the homeless population in the jails involved in the study, (2) if those homeless jail inmates are long-time citizens or came to Colorado because of the legalization of marijuana, (3) the reason for homelessness, (4) the underlying charges associated with the homeless population (not whether legal marijuana is linked to criminal behavior), and (5) if the increase in a homeless, marijuana-involved jail inmates suggests that there is an increased need for substance abuse treatment programming in these jails. The information will be included in the Division's reporting pursuant to S.B. 13-283, and briefings will be held with the Governor's Marijuana Advisory Group and the police chiefs' and sheriffs' associations.*

9:35-9:55 ISSUES

Subsistence Forgiveness

9. What did the \$591,000 buy? Would the Department recommend continuing the subsistence forgiveness program in a way that is not flawed?

Response: *The appropriations for the Subsistence Grace Project (SGP) paid for 28 days of subsistence for offenders who started community corrections supervision. The experiment was designed to evaluate the extent to which a short period of state-paid (rather than offender self-paid) subsistence assisted with improving community corrections success rates. The funds did not pay for any additional services or treatment as part of the SGP experiment.*

Rather, the Department was requested to evaluate the degree to which subsistence assistance alone impacted outcomes.

The Department would not recommend continuing the subsistence forgiveness program. There is a considerable body of evidence that shows that focusing on financial needs of offenders alone has little, if any, impact on criminal justice outcomes. This is especially true for higher risk offenders such as those placed in community corrections program. Offenders in community corrections have much more complex behavioral needs that should be prioritized over financial assistance.

The Department believes it would be more beneficial to implement a pilot program that focuses on early and intensive cognitive behavioral treatment for offenders that is concentrated on the criminogenic (crime-producing) risk factors of criminal attitudes, criminal personality, and anti-social thinking problems. Rather than focusing on subsistence assistance alone, the pilot program would center around well-researched principles and practices that demonstrate a proper dosage of cognitive-behavioral treatment for higher risk offenders.

The concept of a focused cognitive behavioral treatment (CBT) pilot project was derived in the last year from the Community Corrections Task Force of the Colorado Commission on Criminal and Juvenile Justice (CCJJ). The concept was derived from a thorough review of criminological literature on best practices for high risk and high needs offenders. The CCJJ established a formal recommendation in 2014 for a CBT Pilot program in community corrections. The recommendation was as follows:

The General Assembly should provide funding for a specialized program in the community corrections budget for very high risk offenders. This program requires a differential per diem, appropriate standards of practice, and services to address what criminologists term the “top four criminogenic needs.”

The Department believes that a small-scale pilot program in this regard has strong potential to improve outcomes for higher risk offenders. Staff from DCJ have also consulted national-level criminologists about a CBT pilot program. These consultations have produced confidence that a concentrated and intensive cognitive-behavioral treatment model for community corrections is a better use of public funds than a replication of the subsistence grace period experiment.

10. Was this pilot project destined to fail from the beginning?

Response: *The Department believes that the Subsistence Grace Period (SGP) experiment was a well-intentioned effort to attempt on a small scale. The idea was generated in 2008 before it was well documented that community corrections offenders are higher risk as opposed to lower risk offenders. On face value, it was based on a very practical theory that assisting offenders with financial obligations might produce higher success rates and lower failure rates in an environment where they have many complex financial pressures from the courts.*

The SGP experiment was proposed during the FY 2013-14 JBC staff budget briefing in response to considerable anecdotal information that offenders were escaping or failing early in their sentencing period due to mounting debt and an inability to pay their share of the per diem. When this experiment was proposed at the briefing, the Division agreed that it was a worthwhile experiment. Both the results of the experiment and subsequent research have confirmed that, despite the anecdotes, financial pressures are not the key issues to rehabilitation. The experiment provided an answer to a question and should not be considered a failure merely because the answer was negative.

Crime and Punishment Trends

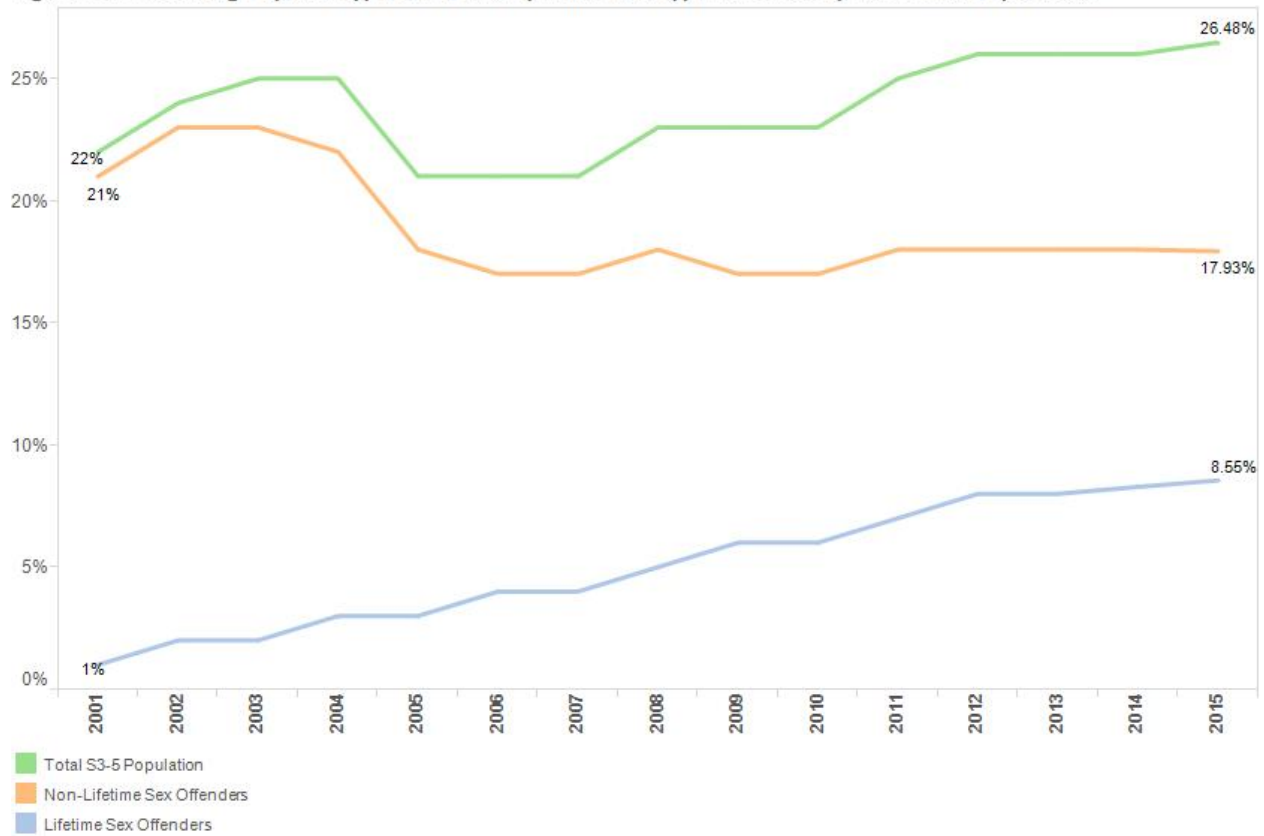
(Several of these questions pertain to the chart on page 24 of the JBC Staff briefing document.)

11. To what extent were changes in the number of sex offender convictions and the length of sex offender sentences responsible for rising incarceration rate in Colorado? A substantial number of sex offenders are now in Colorado prisons waiting for treatment to become available or waiting for parole following treatment. To what extent are these offenders increasing incarceration rates?

Response: *The Lifetime Supervision of Sex Offenders Annual Report prepared by the Department of Corrections, the Department of Public Safety, and the Judicial Department contains detailed information about the impacts of lifetime supervision for sex offenders on prison, parole, and probation populations. The chart below, prepared by DOC and contained in the FY 2015 report, reflects the impacts over time on the prison population for sex offenders sentenced for a sex crime or general criminal offenders with a history of a sex crime (the latter group would only be included in the determinate sentence percentage, as criminal offenders with a sex offense history are not eligible for an indeterminate sentence). It shows that the overall percentage for both lifetime and direct sentence sex offenders has increased approximately 4.48 percent from 2001 to 2015, going from 22 percent to 26.48 percent of total population.*

It has been expected that lifetime supervision sentences would increase the length of stay for some number of sex offenders, and this has resulted in more sex offenders in prison over time. The Annual Reports over the past 5 years show minimal variation in the numbers of persons admitted to prison with a sex offense under a lifetime supervision sentence. In FY 2011, there were 121 new commitments, 170 in FY 2012, 144 in FY 2013, 122 in FY 2014, and 149 in FY 2015. Historically, a major increase occurred between 2003 and 2007 when the new commitments jumped from 167 to 194. The numbers subsequently decreased to the levels reflected currently.

Figure 2. Percentage of Sex Offenders and Lifetime Sex Offenders Out of the Prison Population



12. What were the underlying crimes behind the incarceration rate increase? To what extent were mandatory drug sentencing laws responsible for the incarceration rate increase?

Response: *The incarceration rate has been declining in recent years, in part because of the growth of the size of the state population.*

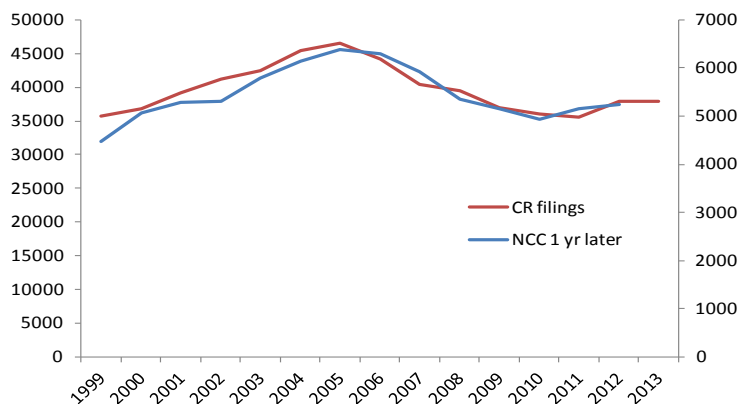
The earlier increase in incarceration rates occurred across all crime types because House Bill 85-1320 (often referred to as the Mielke Bill) doubled the maximum sentencing range for

all classes of felony offenses and, in addition, implemented discretionary parole. The inmate population more than doubled between 1985 and 1990.

Drug sentencing laws have been minimally responsible for the increase in the prison population over the past 25+ years. Approximately 25 percent of the prison population in 1998 was serving a sentence for a drug conviction (according to the last historical DOC annual statistical report available on its website) compared to approximately 14 percent in 2013 (according to the most recent DOC annual statistical report). Drug offenses constitute the largest category of prison admissions, at least since 1997. However, the proportion of individuals serving life sentences in DOC facilities increased from 7 percent of the population in 2004 to 13 percent in 2013, according to DOC's most recent annual statistical report. Life sentences are a driver of the prison population growth.

- The number of admissions of those with a sentence for life without parole remains very low, at approximately 30 per year. However, even fewer (less than 10) are released per year, such that the number of such individuals in prison with this sentence has increased from 360 in 2005 to 648 in 2015, an 80% increase. This population will continue to increase, continually driving the population upwards in the future.*

Criminal filings per fiscal year, with new court prison commitments one year later

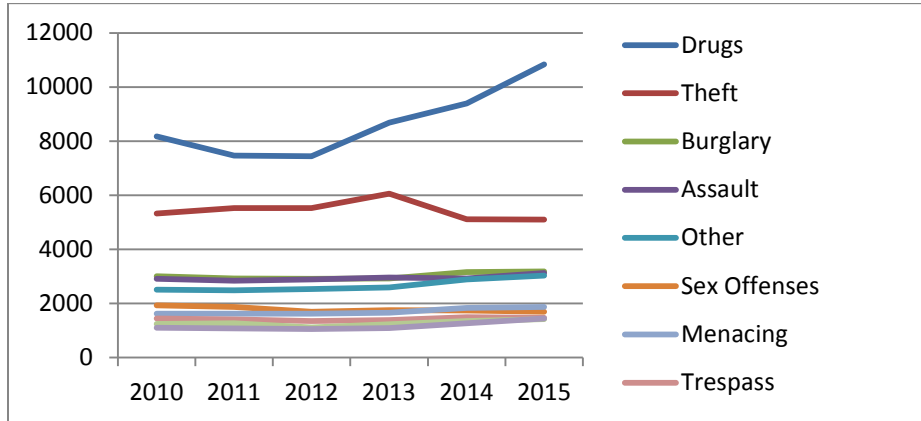


Source: Division of Criminal Justice analysis of Judicial Branch filing data and Department of Corrections admissions data.

Criminal filings have been increasing since 2013 after several years of decline, as shown in the graph above. There is a significant correspondence in criminal court filings and numbers of new court commitments (NCC) to prison one or two years later, as depicted in the graph below. The figure below shows criminal filings for drug offenses have increased substantially in the past few years, despite the reform of Colorado's controlled substances laws. The

majority of these offenses are for possession of controlled substances or possession of drug paraphernalia (data not presented).

Top 10 Adult District Court Filing Case Types FY 2010 to 2015



Source: Division of Criminal Justice analysis of Judicial Branch filing data.

Additionally, increases in adult probation revocations over the past four years have contributed to upward pressure on the number of new court commitments, given up to 38 percent of DOC sentences are due to probation revocation.

Law professor John Pfaff (2012) analyzed data from 34 states, including Colorado, and found that between 1994 and 2008 criminal filings increased 37% and prison admissions increased 40 percent.¹ Pfaff found that the rate of filings per serious criminal event increased annually throughout the study period:

The rate of filings per serious arrest rises almost every single year, from 0.375 in 1994 to 0.573 in 2008, an increase of about 1.6 percentage points (or about 3.2 percent) per year. Conversely, admissions per filing barely grow at all, from 0.258 in 1994 to 0.264 in 2008, peaking at 0.271 in 1999. In short, once a felony charge is filed, the risk that a defendant ends up in prison has remained roughly constant; but the risk of that filing occurring in the first place has trended upward strongly (page 10).

Pfaff attributes this phenomenon to the churning nature of individuals processed through the justice system such that more individuals with a prior criminal record are coming to the

¹ This working paper is available at http://web.law.columbia.edu/sites/default/files/microsites/criminal-law-roundtable-2012/files/Pfaff_New_Admissions_to_Prison.pdf.

attention to prosecutors. If prosecutors are generally more likely to file charges the longer a defendant's record, then filings could rise during a time of declining arrests if the average record length per arrestee is growing.

Finally, this discussion of incarceration rates can be informed by recent work completed by the Urban Institute, an independent research organization in Washington, D.C. The Urban Institute has developed a web application that uses data from 15 states to forecast the prison population and to model the impacts of reductions in admissions and lengths of stay (available at <http://webapp.urban.org/reducing-mass-incarceration/>). The Urban Institute model shows that cutting total admissions in half for the 15 states in the forecast model would reduce their collective prison population by 37 percent through 2021. Halving lengths of stay would cut the population by 39 percent. Reducing revocations to prison by 50 percent would reduce the prison population by 14 percent by 2021. Cutting admissions for drug offenses by 15 percent would result in a 2 percent decline in the prison population by 2021. According to Urban Institute analysts:

These numbers underscore the message that tackling mass incarceration will require reforms that reduce admissions or lengths of stay for other offenses (in addition to drug crimes). About 1 in 6 people in state prison is incarcerated for a drug conviction, and far fewer are incarcerated for low-level drug offenses, such as possession. Even if every person in state prison for a drug offense were released today, mass incarceration would persist.

13. To what extent were increases in time served responsible for the incarceration rate increase?

Response: *Two factors drive the prison population: the number of people admitted to prison, and the length of stay. In 1981, the average length of stay in prison was 22 months. In FY 2015, that increased to 40 months. Time served is a result of the sentence length which is the result of sentencing legislation, the sentence imposed by the court, and the parole decision. Compared to FY 13, during FY 14 the Parole Board Release Guidelines Instrument (PBRGI) recommended 14.4 percent fewer offenders for release (57.5 percent in FY 13 versus 49.2 percent in FY 14) and the Parole Board designated 29.4 percent fewer offenders for discretionary release (35.4 percent in FY 13 versus 25.0 percent in FY 14).²*

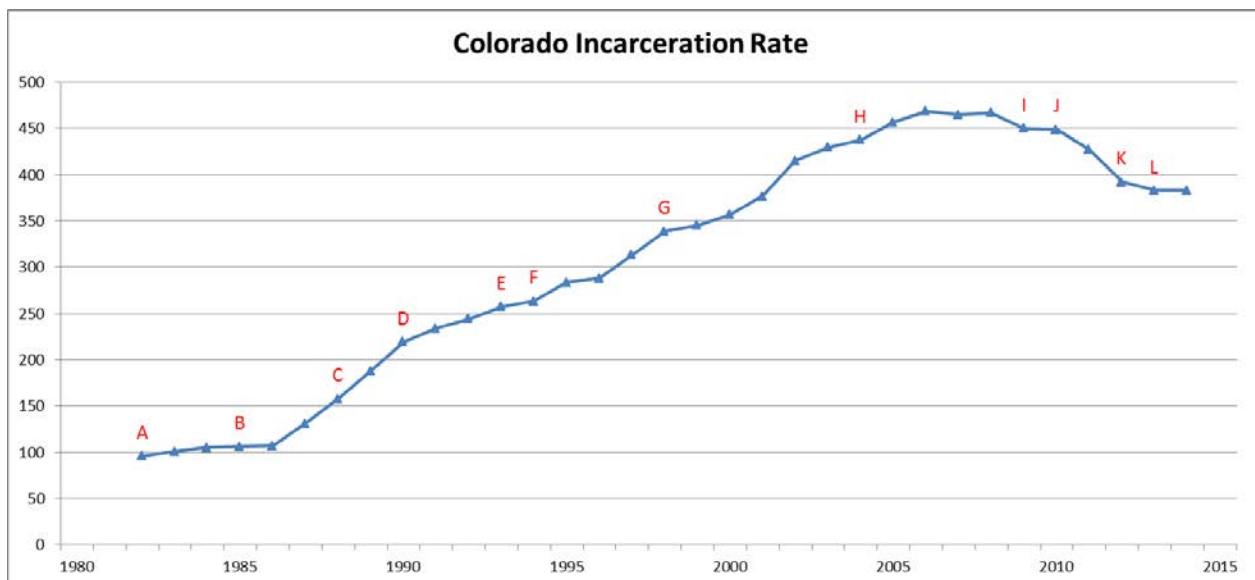
14. Please reproduce the incarceration rate graph and indicate when major changes in sentencing laws, such as the Milkey bill, took place. Are sentencing laws the biggest drivers of incarceration?

Response: In 1985, the Colorado General Assembly passed H.B. 1320, the “Mielke-Arnold” bill. This bill increased the minimum sentences for crimes of violence and doubled the maximum penalties for all levels of felony crimes. Colorado Legislative Council has periodically prepared thorough histories of sentencing laws in Colorado, the 2007 version of which can be found here:

<https://cdpsdocs.state.co.us/ccjj/Resources/Ref/OverviewAdultCriminalJusticeSystem.pdf>

Sentencing laws are clearly tied to the incarceration rate. Sentencing laws provide the foundation for the incarceration rate increase over the past few decades. As can be seen from the graph and list below, the majority of noteworthy historical legislation increased penalties and time served in prison. After the significant and rapid increase in the prison population following the enactment of H.B. 85-1302 (the Mielke Bill), the General Assembly made efforts to slow the growth by increasing prison earned time and revisiting sentencing enhancements for certain non-violent crimes.

However, an analysis by DCJ in the early 1990s found that judges began to impose sentences at the top of the (now expanded) sentencing range whereas prior to 1985 judges tended to issue sentences at the midpoint of the range. The Colorado Commission on Criminal and Juvenile Justice, which is staffed by the Division, has focused on sentencing reform and has successfully initiated legislation to overhaul the drug sentencing grid and to reclassify property crimes to better reflect modern valuation levels.



Source: 2015 JBC analysis briefing paper.

A. **1981:** HB-1156 enhanced sentences for offenses defined as “crimes of violence” and for

crimes with aggravating circumstances.

B. 1985: HB-1320 (“Mielke Bill”) doubled the maximum penalties for all felony classes, and parole became discretionary.

C. 1988: SB 148 reduced sentences enhanced by HB 81-1156.

D. 1990: HB-1327 increased earned time.

E. 1993: HB-1302 lowered the presumptive sentencing ranges for certain nonviolent crimes; expanded habitual sentencing provisions.

F. 1994: SB-196 added habitual sentencing provision.

G. 1998: HB-1156 created the Colorado Sex Offender Lifetime Supervision Act of 1998.

H. 2004: HB-1189 increased to 75% time served for certain violent offenses.

I. 2009: HB-1351 increased earned time for certain offenders.

J. 2010: HB-1338 expanded probation eligibility.

HB-1352 lowered penalties for possession of controlled substance.

HB-1373 lowered penalties for escape.

K. 2012: HB-1223 allowed earned time for those re-incarcerated after a technical violation of parole.

L. 2013: SB-250 decreased penalties for most drug offenses.

HB-1160 modified theft conviction penalties.

15. What does the Department conclude from this issue? What recommendations would it make?

Response: *The two major drivers of incarceration rates are new admissions and length of stay. While research indicates that incarceration has a negative effect on the offender, that is not the sole consideration for determining whether a sentence to incarceration is appropriate, or for what length of time. The Department has participated fully in the work of the Commission on Criminal and Juvenile Justice that has carefully studied and proposed changes to sentencing laws, bail policies, the treatment of technical violations, and alternatives to incarceration, among other issues. All of these components have an effect on new admissions and length of stay. The Department believes that there are more opportunities for improving the justice system and hopes to continue the collaborative efforts among all system stakeholders to implement meaningful change.*

Results First Preliminary Findings with an Emphasis on Intensive Residential Treatment

16. Has the Department's opinion of Intensive Residential Treatment (IRT) programs been changed by the Results First analysis? What does the department think about the JBC Staff analysis of Intensive Residential Treatment and results first? Where should we go from here? What does the Department recommend?

Response: *The Department believes that the community corrections system overall, to include Intensive Residential Treatment (IRT) and other specialized programs, could be more effective. DCJ publishes new recidivism analyses every few years for the community corrections system. In the most recent analysis (2013) it was reported that the current IRT program has no statistically significantly better outcomes than in previous years. The report showed that there could also be improvements in both short-term and long-term outcomes for offenders placed in community corrections and the related programs. In 2011, the Office of Community Corrections (OCC) in the DCJ began tracking longitudinal short-term and long-term outcome trends in community corrections. This longitudinal data tracking has illustrated that offender risk and need levels have increased steadily over the last 15 years. During the same time frame, both short-term and long-term outcomes have not changed in a positive direction.*

In 2012, the OCC began a long-term strategy to work with providers and community corrections boards to improve supervision and treatment practices. The strategy has been to align current practices with the body of published research related to effective risk reduction and recidivism reduction. This is a long-term endeavor with very limited resources in a small team among the OCC staff.

The Department believes that the Results First report is a good baseline from which to compare future growth and development for the community corrections system. Alongside the Department's periodic practice to measure short-term and long-term outcomes, the Results First method provides an additional perspective of the system benefits.

It is universally understood and widely reported that any quantitative or statistical analysis of any criminal justice program comes with limitations. Even globally used outcome measures such as recidivism reduction or successful program completion have limitations and discernment should be used to interpret the results of any single analysis. The Department agrees with the limitations that are reported in the Results First reports: <https://sites.google.com/a/state.co.us/results-first/home/reports>

There are always limitations in applying an analytical method to one system that was based on another. The Washington State Institute for Public Policy (WSIPP) has a nationally recognized and well-respected analytical model which is the underlying basis for the Results First initiative. Many states have used the WSIPP/Results First model to analyze cost/benefit ratios for their publically funded systems. Each state's systems are unique in many respects, so the Washington models are not perfectly aligned with the characteristics of Colorado's systems. For example, costs may be computed differently or paid from different sources.

Despite these natural limitations, the Department believes it is an important practice to continually measure short-term outcomes, long-term outcomes, and cost-benefit ratios for publically funded correctional programs. It is our belief that state government should have a role to not only fund human service programs, but also to continually measure desired outcomes and benefits. The Department also believes that doing so with a single analytical tool is highly challenging and leaves room for error in interpretation. Because of this, it is important that measurement of program effectiveness be both qualitative and quantitative and also incorporate multiple analytical methods to make decisions about program efficacy.

Considering the larger picture of the outcomes and cost-benefits of community corrections, the Department believes that it should employ a specific strategy to improve outcomes and cost-benefits for high risk offenders. The high risk population in community corrections, including those that are placed in IRT and related programs, has the poorest outcomes and the lowest cost-benefit ratios.

In 2014, the Colorado Commission on Criminal and Juvenile Justice (CCJJ) established a series of formal recommendations to improve outcomes in community corrections. One of those recommendations focused on an evidence-based program for high risk/high needs offenders in community corrections. The recommendation was as follows:

The General Assembly should provide funding for a specialized program in the community corrections budget for very high risk offenders. This program requires a differential per diem, appropriate standards of practice, and services to address what criminologists term the “top four criminogenic needs.”

Recent criminological literature compels the community corrections system to prioritize criminal attitudes, criminal thinking, criminal personality, and impulse control deficits among high risk offenders before addressing other risk factors such as substance abuse, employment, and education. Further, the Results First Study demonstrates that specialized programs in community corrections are not showing a desirable return on investment for existing programs around substance use, mental illness, and sex offenders.

While current specialized programs are designed for offenders that have risk factors and needs around substance abuse, mental illness, and sex offenses, these programs are not well-suited for offenders whose placement in the criminal justice system is driven by criminal thinking and impulse control. Currently, 51 percent of offenders are in the high risk/high need category according to actuarial and validated risk/need assessment data. Of this population, a portion (approximately 30 percent) of the offenders in the high risk category would be better served by a cognitive-behavioral treatment (CBT) program rather than existing specialized programs for substance abuse and/or mental illness. This notion is well-supported in the Washington State Institute for Public Policy (WSIPP) and Results First endeavors and the meta-analyses upon which they are based. Early estimations of the cost-

benefit of a CBT pilot program illustrate a considerably better cost-benefit ratio than that gleaned by the IRT program in community corrections. It would be advantageous to pilot the CBT program for high risk criminally-oriented offenders while IRT continues to address substance dependence as the primary target for change.

The Results First team reported the following:

Fidelity to program design is an important consideration because programs can only produce expected outcomes if they are being delivered the way they were designed and/or researched. In order for the state to fully understand how programs are being implemented and whether or not they are achieving their intended outcomes, evaluation studies, fidelity monitoring and technical assistance needs to be provided on a more consistent basis.

In alignment with this finding, a recommendation to develop and implement a Program Evaluation Tool originated in the Community Corrections Task Force (CCTF) of the Colorado Commission on Criminal and Juvenile Justice (CCJJ) after nearly two years of collaboration with a multi-disciplinary group of community corrections and criminal justice stakeholders. In 2014, the CCJJ established a series of formal recommendations to improve outcomes in community corrections. The relevant recommendation is as follows:

The Division of Criminal Justice (DCJ) shall develop a program evaluation tool that will assess each program's adherence to evidence-based principles and practices and identify each program's capacity for providing appropriate programming to very high risk offenders. The DCJ should receive funding from the General Assembly to obtain expert consultation on the development of the instrument and to complete a statewide assessment of community corrections programs using the new tool. The current Risk Factor Analysis requirement of DCJ shall be removed from statute.³

The current DCJ Risk Factor Analysis for community corrections programs does not measure the quality of programming nor does it measure adherence to the Principles of Effective Correctional Intervention. The new instrument should be rooted in best practice principles. With project-specific funding, DCJ's Office of Community Corrections should hire a consultant to review the new instrument and hire staff to immediately assess all community corrections programs.

The Program Evaluation Tool concept also evolved throughout 2014 and 2015 amidst discussions within the Governor's Community Corrections Advisory Council (GAC) related to Performance Based Contracting. The recommendation was based on the earlier mentioned 15-year series of longitudinal data that showed increases in offender risk levels, increases in offender need levels, reductions in offender success rates, increases in offender failure rates, and no meaningful reductions in recidivism. DCJ audits and the RFA, while well intentioned, are not an effective proxy for a comprehensive Program Evaluation Tool that is aligned with

³ C.R.S. § 17-27-108

science.

17. Page 27 of the JBC Staff briefing document contains the following summary of the costs and benefits of IRT programs.

Cost Benefits Analysis of Intensive Residential Treatment Beds [Inpatient/intensive outpatient drug treatment (community)]	
a. Benefits to Taxpayers	\$224
b. + <u>Non-taxpayer benefits</u>	<u>\$228</u>
c. = Total Benefits	\$452
d. Cost	<u>\$4,134</u>
e. Benefits - Costs	(\$3,682)
f. Taxpayer Benefits to Cost Ratio (a/d)	\$0.05
g. Total Benefits to Cost Ratio (c/d)	\$0.11

How were the numbers in this table developed? How do they work?

Response: *The Results First model compared the total expected benefits of the Intensive Residential Treatment program to the program's total expected cost. Benefits are based on the program's expected effect on Colorado's baseline rates of recidivism. Results First defines recidivism as any offense committed after release to the community, or after initial placement in the community, that results in a conviction. The model estimated the total expected benefits associated with an offender's participation in the Intensive Residential Treatment program to be \$452 (letter "c" above).*

The total expected benefits are comprised of taxpayer benefits and non-taxpayer benefits. Taxpayer benefits are the state and local costs avoided as a result of the program's expected effect on future recidivism. Non-taxpayer benefits are benefits other than state and local resources associated with avoided victimization, including tangible (e.g. medical expenses, cash or property theft, or lost earnings due to injury) and intangible costs (e.g. pain and suffering resulting from being a crime victim). The Results First model estimated taxpayer benefits to be \$224 (letter "a" above) and non-taxpayer benefits to be \$228 (letter "b" above).

The total expected cost for the Intensive Residential Treatment program was estimated using the program's daily per participant cost for treatment (i.e. the state's contractor daily rate for providing inpatient treatment to one offender) and the program's expected duration (90 days). The estimated total cost of providing treatment to one participant was estimated to be \$4,134 (letter "d" above).

The total expected benefits of the Intensive Residential Treatment program are not expected to outweigh the total expected cost of the program, as the offset of the total expected benefits to the total expected cost of the program is estimated to be (\$3,682) (letter “e” above).

The total benefits to cost ratio, \$0.11 (letter “g” above), was calculated by dividing the total expected benefits of the program, \$452, by the total expected cost of the program, \$4,134. The taxpayer benefit to cost ratio, \$0.05 (letter “f” above), was calculated by dividing the expected taxpayer benefits of the program, \$224, by the total expected cost of the program, \$4,134.

Program Benefits in Detail

The Results First model monetizes improvements in crime taking into account the variability of program outcomes. The parameters for these outcomes are obtained by a meta-analytic review of relevant research literature. The meta-analytic process provides both an expected value effect given the weight of the evidence and an estimate of the error of the estimated effect. These parameters are entered into the benefit-cost model and used when performing Monte Carlo simulations.⁴ Accordingly, benefits of the Intensive Residential Treatment program may be estimated slightly differently each time the program is analyzed in the model (i.e. benefit outputs may report within a range of a few cents). The extensive mathematical calculations on how benefits are calculated are included in the Washington State Institute for Public Policy’s Technical Documentation guide, which can be found here: <http://www.wsipp.wa.gov/TechnicalDocumentation/WsippBenefitCostTechnicalDocumentation.pdf>. The following provides a high-level overview of how the Intensive Residential Treatment program’s benefits were calculated.

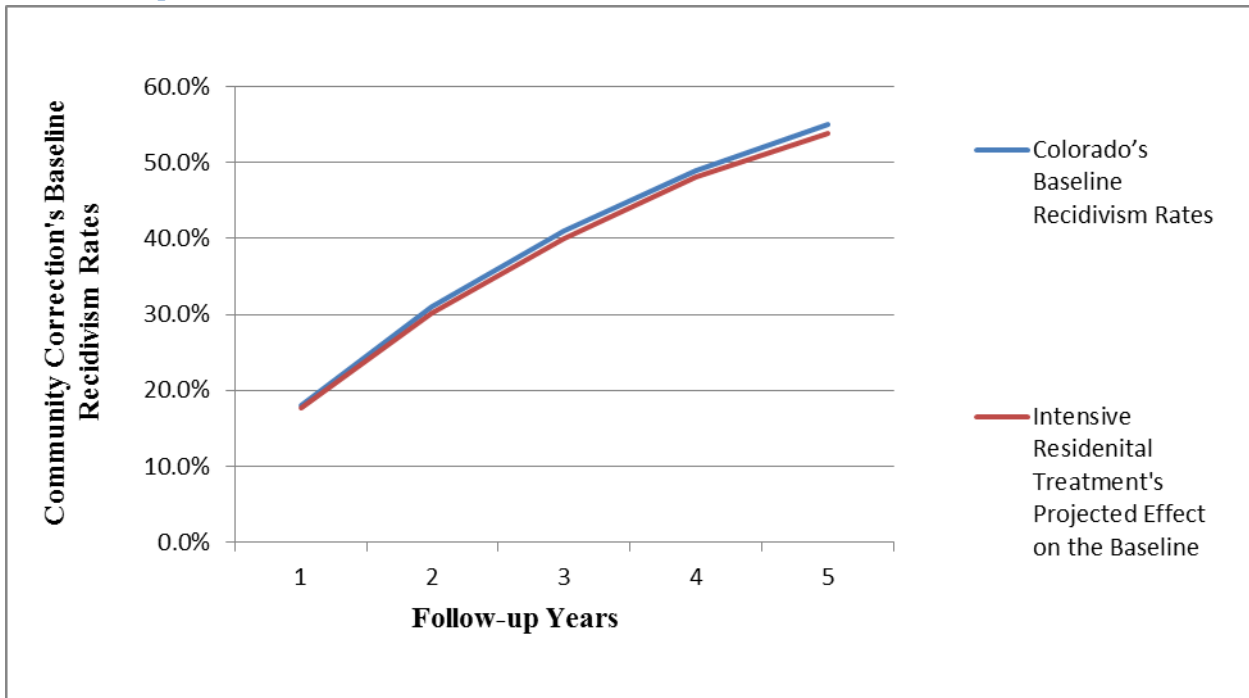
Benefits are calculated using the expected effect of the Intensive Residential Treatment program on Community Correction’s baseline recidivism rates. The effect on recidivism is calculated as the percent change between the recidivism of the baseline cohort and the projected recidivism of the cohort when applying the program. Colorado Results First used a Community Correction’s baseline cohort from 2009 and tracked measures of recidivism for five years (FY 2009 – FY 2014).⁵ Exhibit 1, shown on the next page, depicts Community Correction’s baseline cumulative recidivism rates (blue line), and Intensive Residential Treatment’s projected effect on this baseline (red line). Using the program’s projected effect

⁴ A Monte Carlo simulation estimates the approximate probability of certain outcomes for variables by running multiple simulations.

⁵ For additional information about the recidivism data used by the benefit-cost model, please reference Colorado Results First’s “High-level Model Documentation.”

and Colorado-specific criminal justice system costs and information, the model estimates potential savings associated with reduced recidivism.⁶

Exhibit 1: Impact of Intensive Residential Treatment on Colorado's Baseline Recidivism Rates



As depicted above, it is projected that Intensive Residential Treatment programs in Colorado may be capable of reducing recidivism in the state by 2.1 percent. Without the program, adults in Community Corrections have a 55 percent chance of being reconvicted for a new felony or misdemeanor after 5 years. With Intensive Residential Treatment, the likelihood drops to approximately 52.9 percent. The model estimated the monetary value of this recidivism reduction (\$452) using Colorado-specific criminal justice system costs, length of stay, and probability data –estimating the cost of recidivism based on how often criminal justice system costs are utilized when an individual goes through Colorado's criminal justice system as a result of a new conviction.⁷

It should be noted that the estimated benefits of reduced recidivism account for how offenders become involved with Community Corrections. Community Corrections serves four types of clients: Diversion, Transition, Condition of Parole, and Condition of Probation. Diversion clients are directly sentenced to Community Corrections, in lieu of prison, as part or all of their sentencing requirements. Condition of Probation clients are placed by local probation

⁶ See page 23 in response to question #17 for a list of Colorado-specific criminal justice system costs.

⁷ Please reference the Colorado Results First's "High-level Model Documentation" for a list of the cost, length of stay, and probability data used by the benefit-cost model to monetize benefits.

departments or judges as a condition of their probation term. Transition clients are placed in Community Corrections as an intermediate supervision placement during a prison sentence prior to parole placement. Condition of Parole clients are placed by local parole officers and the Parole Board as a condition of their parole supervision. Colorado Results First worked with the Office of Community Corrections to combine the criminal justice system costs accrued by all placement types to account for the ways in which offenders become involved with Community Corrections.

Program Cost in Detail

The benefit-cost model uses the marginal cost of providing Intensive Residential Treatment to an offender as the cost of the program. The marginal cost is the cost associated with a small change in the number of people being served by the program (in this instance, the cost associated with serving one offender). The cost does not represent the total cost of an offender’s placement in Community Corrections, but rather the cost associated with the delivery of the specialized program content. The marginal cost for the Intensive Residential Treatment program (\$4,134) was calculated by Colorado Results First using the state’s FY 2014 daily differential rate for Intensive Residential Treatment (\$45.93)⁸ and the program’s duration (90 days). Table 1, shown below, shows the equation.

Table 1: Cost of Providing Intensive Residential Treatment to One Offender

Daily Differential Rate		Average # of Days an Offender Receives the Program		
\$45.93	x	90	=	\$4,133.7*

The \$4,134 cost is the amount that the state expends for the specialized program content delivered to offenders’ during their involvement in Intensive Residential Treatment. In terms of return on investment, which the benefit-cost model produces as the relationship between the cost of the program and the expected reduction of future criminal justice system expenditures, this cost reflects the investment that Colorado makes into the offender with the goal of reducing future crime and associated costs (return).

- 18. What does the Results First team at OSPB think about its analysis of IRT programs at DCJ and other DCJ community corrections programs?

Response: Colorado Results First is confident of its findings on the cost-effectiveness of programs in the Office of Community Corrections’. The Results First team worked closely with the Office of Community Corrections and technical consultants from the Pew-MacArthur Results First Initiative to match Colorado’s evidence-based programs to the Results First program categories and to calculate program costs. Colorado’s Intensive Residential

⁸ See Senate Bill 13-230 (Department of Public Safety).

Treatment program matches the core components for the Results First program category “Inpatient/Intensive Outpatient Treatment in the Community.” Intensive drug treatment programs, including residential programs, are included in this program category.

Core components of Inpatient/Intensive Outpatient Treatment in the Community include:

- *Residential or intensive outpatient treatment modalities in community settings*
- *Mandatory participation (if the treatment program was offered in lieu of incarceration) or voluntary participation*
- *Alcohol and drug free housing*
- *Treatments provided by:*
 - *Residential facilities*
 - *Community treatment centers*
 - *Public vendors contracted by jurisdictions*
 - *Private vendors contracted by jurisdictions*
- *Programs that serve offenders from various referral agencies (i.e. parole and probation).*

While the studies reviewed in the Washington State Institute for Public Policy meta-analysis for the Results First model include programs with varying treatment durations (as note by the Joint Budget Committee analyst for the Office of Community Corrections), the core components of these programs are similarly defined. The Results First team, along with the Office of Community Corrections and the Pew technical consultants determined that Community Corrections’ programs were appropriate for inclusion in the model.

While Intensive Residential Treatment programs are evidence-based and expected to be effective, the best available research on offender drug treatment programs have found that the effect that these programs have on recidivism reduction is relatively weak. Therefore, drug treatment programs are not likely to be cost-effective if program costs are high. If the Results First team categorized Intensive Residential Treatment into another community drug treatment categorization included in the model, the Intensive Residential Treatment program would still be projected to have a negative return on investment based on the high costs that the state expends on these offenders. Additionally, these programs must be implemented with fidelity to program design to ensure replicable, positive, outcomes.

As seen in response #16, the Office of Community Corrections reviewed the Results First reports alongside internal program data and has concluded that the Intensive Residential Treatment program has both high costs along with minimal positive impacts on outcomes for participants. The Office of Community Corrections has also raised concerns about adherence to fidelity to evidence-based practices for these programs as well. The Results First project, while a cost-benefit analysis tool, served as a catalyst for dialogue with the Governor’s Office about the need to improve Community Corrections programming. The Governor’s Office

plans to work collaboratively with the Office of Community Corrections and service providers to support these efforts.

ADDENDUM: OTHER QUESTIONS FOR WHICH SOLELY WRITTEN RESPONSES ARE REQUESTED

***Response:** These questions were answered as part of the Department's hearing responses presented on December 15, 2015 to the Committee.*

1. Provide a list of any legislation that the Department has: (a) not implemented or (b) partially implemented. Explain why the Department has not implemented or has only partially implemented the legislation on this list.
2. Please provide a detailed description of all program hotlines administered by the Department, including:
 - a. The purpose of the hotline;
 - b. Number of FTE allocated to the hotline;
 - c. The line item through which the hotline is funded; and
 - d. All outcome data used to determine the effectiveness of the hotline.
3. Describe the Department's experience with the implementation of the new CORE accounting system.
 - a. How has the implementation improved business processes in the Department?
 - b. What challenges has the Department experienced since implementation and how have they been resolved (i.e. training, processes, reports, payroll)?
 - c. What impact have these challenges had on the Department's access to funding streams?
 - d. How has the implementation of CORE affected staff workload?
 - e. Do you anticipate that CORE implementation will result in the need for a permanent increase in staff? If so, indicate whether the Department is requesting additional funding for FY 2016-17 to address it.
4. If the Department receives federal funds of any type, please provide a detailed description of any federal sanctions for state activities of which the Department is already aware. In addition, please provide a detailed description of any sanctions that MAY be issued against the Department by the federal government during FFY 2015-16.
5. Does the Department have any outstanding high priority recommendations as identified in the "Annual Report of Audit Recommendations Not Fully Implemented" that was published by the State Auditor's Office and dated October 2015 (link below)? What is the department doing to resolve the outstanding high priority recommendations?

[http://www.leg.state.co.us/OSA/coauditor1.nsf/All/4735187E6B48EDF087257ED0007FE8CA/\\$FILE/1542S%20Annual%20Report.%20Status%20of%20Outstanding%20Audit%20Reco](http://www.leg.state.co.us/OSA/coauditor1.nsf/All/4735187E6B48EDF087257ED0007FE8CA/$FILE/1542S%20Annual%20Report.%20Status%20of%20Outstanding%20Audit%20Reco)

mmendations,%20As%20of%20June%2030,%202015.%20Informational%20Report.%20October%202015.pdf

6. Is the department spending money on public awareness campaigns related to marijuana? How is the department working with other state departments to coordinate the campaigns?
7. Based on the Department's most recent available record, what is the FTE vacancy rate by department and by division? What is the date of the report?
8. For FY 2014-15, do any line items in your Department have reversions? If so, which line items, which programs within each line item, and for what amounts (by fund source)? What are the reasons for each reversion? Do you anticipate any reversions in FY 2015-16? If yes, in which programs and line items do you anticipate this reversions occurring? How much and in which fund sources do you anticipate the reversion being?
9. Are you expecting an increase in federal funding with the passage of the FFY 2015-16 federal budget? If yes, in which programs and what is the match requirement for each of the programs?
10. For FY 2014-15, did your department exercise a transfer between lines that is allowable under state statute? If yes, between which line items and programs did this transfer occur? What is the amount of each transfer by fund source between programs and/or line items? Do you anticipate transfers between line items and programs for FY 2015-16? If yes, between which line items/programs and for how much (by fund source)?

**DEPARTMENT OF PUBLIC SAFETY
DIVISION OF CRIMINAL JUSTICE ONLY
FY 2016-17 JOINT BUDGET COMMITTEE HEARING AGENDA**

**Friday, January 8, 2016
9:00 – 9:55 am**

9:00-9:15 INTRODUCTIONS AND OPENING COMMENTS

9:15-9:35 DEPARTMENT OVERVIEW

1. Why did DCJ's federal funding rise in FY 2009-10 and FY 2010-11 and subsequently decline? Appropriations of federal funds are higher for FY 2015-16 than for FY 2014-15. Are increased federal funds expected for FY 2015-16? For FY 2016-17?

Community Corrections

2. How many Community Corrections facilities have closed in the past 5 years? What types of beds did they have? Why did they close? How has this affected system capacity? What conclusions can be drawn from the closures?
3. [Sen. Steadman] The Long Bill contains the following footnote:

73 Department of Public Safety, Division of Criminal Justice, Community Corrections, Community Corrections Facility Payments -- These payments may be withheld in whole or in part from facilities that: (1) fail to maintain an average ratio of at least one case manager for every 20 residents; (2) fail to raise average pay and benefits of security staff members by at least 1 percent; or (3) fail to raise the average pay and benefits of case managers by 1 percent. A facility is exempt from requirement (2) if the sum of average pay and benefits for security staff members exceeds \$33,000 annually. A facility is exempt from requirement (3) if the sum of average salary and benefits for case managers exceeds \$38,500 annually. For purposes of this footnote, payroll taxes are not benefits. Community corrections programs are encouraged to exceed these goals. It is the intent of the General Assembly that community corrections facilities with an average of 32 or more security FTE receive a second facility payment.

Have community corrections programs been compliant with this and related footnotes? Have any programs lost facility payments as a result? Is there an expectation that employee pay should continue to increase when the Department is recommending provider rates be reduced? Is that appropriate?

Are payments to community corrections providers being based upon program performance? Explain.

4. What impact will the lowering of the provider rate have on community correction facilities? Will it be more stressful for smaller providers?

5. What are vacancy rates in community correction facilities? Are there judicial districts in which clients are being turned away from facilities due to a lack of beds?
6. A redevelopment effort is underway in north Colorado Springs that may affect ComCor, Inc., a Colorado Springs community corrections provider. Provide an update concerning this effort.
7. Have DHS and DCJ coordinated their substance abuse efforts and funding?

FY 2016-17 Requested Appropriation

8. In Request 3, Jail Survey Impacts, DCJ asks for \$75,000 Cash Funds from the Marijuana Tax Cash Fund in FY 2016-17 to survey jail inmates to determine whether legal marijuana use is linked to incarceration, homelessness, and criminal behavior. Is this an accurate description of the proposed study? What will be done with the information once the survey is completed?

9:35-9:55 ISSUES

Subsistence Forgiveness

9. What did the \$591,000 buy? Would the Department recommend continuing the subsistence forgiveness program in a way that is not flawed?
10. Was this pilot project destined to fail from the beginning?

Crime and Punishment Trends

(Several of these questions pertain to the chart on page 24 of the JBC Staff briefing document.)

11. To what extent were changes in the number of sex offender convictions and the length of sex offender sentences responsible for rising incarceration rate in Colorado? A substantial number of sex offenders are now in Colorado prisons waiting for treatment to become available or waiting for parole following treatment. To what extent are these offenders increasing incarceration rates?
12. What were the underlying crimes behind the incarceration rate increase? To what extent were mandatory drug sentencing laws responsible for the incarceration rate increase?

13. To what extent were increases in time served responsible for the incarceration rate increase?
14. Please reproduce the incarceration rate graph and indicate when major changes in sentencing laws, such as the Milkey bill, took place. Are sentencing laws the biggest drivers of incarceration?
15. What does the Department conclude from this issue? What recommendations would it make?

Results First Preliminary Findings with an Emphasis on Intensive Residential Treatment

16. Has the Department's opinion of Intensive Residential Treatment (IRT) programs been changed by the Results First analysis? What does the department think about the JBC Staff analysis of Intensive Residential Treatment and results first? Where should we go from here? What does the Department recommend?
17. Page 27 of the JBC Staff briefing document contains the following summary of the costs and benefits of IRT programs.

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 4. If the Department receives federal funds of any type, please provide a detailed description of any federal sanctions for state activities of which the Department is already aware. In addition, please provide a detailed description of any sanctions that MAY be issued against the Department by the federal government during FFY 2015-16.
 5. Does the Department have any outstanding high priority recommendations as identified in the "Annual Report of Audit Recommendations Not Fully Implemented" that was published by the State Auditor's Office and dated October 2015 (link below)? What is the department doing to resolve the outstanding high priority recommendations?

[http://www.leg.state.co.us/OSA/coauditor1.nsf/All/4735187E6B48EDF087257ED0007FE8CA/\\$FILE/1542S%20Annual%20Report.%20Status%20of%20Outstanding%20Audit%20Recommendations,%20As%20of%20June%2030,%202015.%20Informational%20Report.%20October%202015.pdf](http://www.leg.state.co.us/OSA/coauditor1.nsf/All/4735187E6B48EDF087257ED0007FE8CA/$FILE/1542S%20Annual%20Report.%20Status%20of%20Outstanding%20Audit%20Recommendations,%20As%20of%20June%2030,%202015.%20Informational%20Report.%20October%202015.pdf)

6. Is the department spending money on public awareness campaigns related to marijuana? How is the department working with other state departments to coordinate the campaigns?
7. Based on the Department's most recent available record, what is the FTE vacancy rate by department and by division? What is the date of the report?
8. For FY 2014-15, do any line items in your Department have reversions? If so, which line items, which programs within each line item, and for what amounts (by fund source)? What are the reasons for each reversion? Do you anticipate any reversions in FY 2015-16? If yes, in which programs and line items do you anticipate this reversions occurring? How much and in which fund sources do you anticipate the reversion being?
9. Are you expecting an increase in federal funding with the passage of the FFY 2015-16 federal budget? If yes, in which programs and what is the match requirement for each of the

programs?

10. For FY 2014-15, did your department exercise a transfer between lines that is allowable under state statute? If yes, between which line items and programs did this transfer occur? What is the amount of each transfer by fund source between programs and/or line items? Do you anticipate transfers between line items and programs for FY 2015-16? If yes, between which line items/programs and for how much (by fund source)?