

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



LATE SUPPLEMENTAL REQUESTS FOR FY 2008-09

DEPARTMENT OF CORRECTIONS

**JBC Working Document - Subject to Change
Staff Recommendation Does Not Represent Committee Decision**

**Prepared By:
Patrick Brodhead, JBC Staff
March 13, 2009**

For Further Information Contact:

Joint Budget Committee Staff
200 E. 14th Avenue, 3rd Floor
Denver, Colorado 80203
Telephone: (303) 866-2061
TDD: (303) 866-3472

**DEPARTMENT OF CORRECTIONS
FY 2008-09 SUPPLEMENTAL RECOMMENDATIONS
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Prioritized Supplementals

**Supplemental Request, Department Priority #6
 External Capacity Caseload**

	Request	Recommendation
Total	(\$5,043,730)	(\$5,140,055)
FTE	<u>0.0</u>	<u>0.0</u>
General Fund	(7,986,202)	(8,082,527)
Cash Funds	2,942,472	2,942,472

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made</i> . The request was based on the December 2008 DCJ prison population forecast, which was not available when the FY 2008-09 budget was established.	

Background – External Capacity Subprogram Adjustments: Each year, the JBC typically adjusts the line items used to pay for inmates in external capacity, based on the most recent inmate population projection figures. As was discussed during the briefing for the Department of Corrections, the majority of state-owned and state-operated prison beds are full. Accordingly, fluctuations in the number of inmates directly affects the number of inmates (and the amount of resources) needed to reimburse local jails, private prisons, and community corrections placements for DOC inmates whose parole has been revoked pursuant to the provisions of S.B. 03-252. For FY 2008-09, the Department's bed plan has included some double bunking options for male offenders housed in DOC facilities.

Department Request: The Department requests a supplemental reduction of \$5,043,730 total funds in FY 2008-09, including a reduction of \$7,986,202 General Fund and an increase of \$2,942,472 cash funds. The Department also requests the removal of the Long Bill footnote authorizing the transfer of up to \$2,000,000 in caseload savings from the External Capacity Subprogram each fiscal year, or requiring the Department to offset up to \$2,000,000 in unfunded caseload need in the External Capacity Subprogram with its personal services appropriation. The request is summarized in the following table.

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Supplemental #6 – External Capacity Caseload			
(1) Management (B) External Capacity Subprogram (2) Payments to House State Prisoners	FY 2008-09 Long Bill (Total Funds)	Sup. Request	Amended Total (w/Supp.)
Payments to local jails at rate of \$50.44 per inmate per day	7,949,041	(365,633)	7,583,408
Payments to private prisons at a rate of \$54.93 per inmate per day*	97,304,409	(3,415,779)	93,888,630
Payments to out-of-state private prisons at a rate of \$54.00 per inmate per day	0	0	0
Payments to pre-release parole revocation facility at a rate of \$54.93 per inmate per day	14,435,604	(504,471)	13,931,133
Community Corrections Programs	<u>4,426,094</u>	<u>(754,847)</u>	<u>3,671,247</u>
Total Funds	124,115,148	(5,040,730)	119,074,418

* The Long Bill appropriation for "Payments to private prisons at a rate of \$54.93 per inmate per day" includes \$94,945,702 General Fund and \$2,358,707 cash funds (federal funds credited to the State Criminal Alien Assistance Cash Fund). All other figures in this table reflect General Fund adjustments.

Staff Analysis: Staff makes the following observations regarding this supplemental request.

1. *Supplemental Criteria Met.* Given the changes in the Department's bed plan for FY 2008-09, and the updated projections from LCS, staff believes that the supplemental criteria has been met. In addition, the Department included actual data through January 2008 for its request, making the request as current as possible. Also, the JBC staff recommendation used the LCS December 2008 inmate population projections.
2. *Useful to Save General Fund.* The Department has identified potential savings in FY 2008-09, based on its revised bed plan. Staff believes that it is appropriate to adjust the appropriation to reflect the anticipated need for resources for the External Capacity Subprogram.
3. *Revised Bed Plan Submitted.* To justify the request for this supplemental, the Department has provided JBC staff with a revised bed plan to warrant changes in the appropriation for the External Capacity Subprogram in FY 2008-09. Although this plan is different from the one used to prepare the original budget for FY 2008-09, JBC staff believes that the revised plan is reasonable. Furthermore, JBC staff utilized this revised plan for purposes of

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calculating the estimated need for medical expenses. These recommendations are discussed elsewhere in this document.

Staff Recommendation: Staff recommends that the Committee approve a supplemental reduction of \$5,140,055 total funds (see the following table). In addition, staff recommends that the Committee approve the request to remove the Long Bill footnote authorizing the transfer of up to \$2,000,000 in caseload savings from the External Capacity Subprogram each fiscal year, or requiring the Department to offset up to \$2,000,000 in unfunded caseload need in the External Capacity Subprogram with its personal services appropriation.

Supplemental #6 – External Capacity Caseload			
(1) Management (B) External Capacity Subprogram (2) Payments to House State Prisoners	Sup. Request	JBC Staff Recommendation	Difference
Payments to local jails at rate of \$50.44 per inmate per day	(365,633)	(365,633)	0
Payments to private prisons at a rate of \$54.93 per inmate per day	(3,415,779)	(3,507,400)	(91,621)
Payments to out-of-state private prisons at a rate of \$54.00 per inmate per day	0	0	0
Payments to pre-release parole revocation facility at a rate of \$54.93 per inmate per day	(507,471)	(512,175)	(4,704)
Community Corrections Programs	(754,847)	(754,847)	0
Total Funds	(5,043,730)	(5,140,055)	(96,325)

Community Corrections Impact in Division of Criminal Justice: The appropriation to the Transition Programs line item within the Division of Criminal Justice (DCJ) is based upon the assumption that a certain percentage of the DOC inmate population will be placed in community corrections. For FY 2008-09, the JBC approved a policy of placing 11.5 percent of the inmate population in community corrections (7.0 percent in residential community placements and 4.5 percent in non-residential community placements).

The appropriation to the Transition Programs line item was based upon the LCS December 2007 prison population forecast. Accordingly, the line item was set for a average daily population (ADP) of 23,825 total inmates. Under the assumption that 7.0 percent of the inmate population will be in community corrections, the appropriation was set for an ADP in residential community corrections of 1,668. However, based upon the LCS December 2008 prison population forecast there will be

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an ADP of only 23,117 total inmates in FY 2008-09. Therefore, under the 7.0 percent assumption, only 1,618 inmates will be in community corrections - a difference of 50 inmates from the appropriated level (see the following table).

Community Corrections Residential ADP			
	Dec. LCS Projection	Comm. Corr. ADP	Percent
June 30, 2008	22,989		
June 30, 2009	23,567		
Avg. Daily Pop. (ADP)	23,278	1,629	7.0%
Minus Recidivism Reduction Package Bed Savings	(161)	(11)	7.0%
Recommended ADP	23,117	1,618	7.0%
Minus Current Allocation	<u>(23,825)</u>	<u>(1,668)</u>	
Net Change	(708)	(50)	

However, during the FY 2008-09 supplemental process, the Division of Criminal Justice requested and the Committee approved reducing the appropriation to the Transition Programs line item by 108 ADP due to underutilization. Therefore, while staff would typically recommend reducing the Transition Programs line item appropriation in accordance with any reduction in prison ADP, staff is not recommending any additional reduction at this time because of the supplemental reductions already taken in the Transition Programs line item.

**Supplemental Request, Department Priority #7
 Medical POPM**

	Request	Recommendation
Total	\$4,046,641	\$3,990,585
FTE	<u>0.0</u>	<u>0.0</u>
General Fund	4,046,641	3,990,585

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Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made</i> . The request was submitted based on revised estimates of costs per offender for the provision of medical services to the inmate population. Changes in the bed plan have also occurred.	

Department Request: The Department requests a supplemental appropriation of \$4,046,641 General Fund in FY 2008-09 for various line items in the Medical Services Subprogram. These adjustments are requested to reflect two sources of new information:

1. Updated per offender per month (POPM) costs for the line items; and
2. Updated information regarding the number of eligible inmates covered by the respective line items.

See the following tables for a summary of the requested adjustments.

Supplemental #7 — Medical POPM			
Line Item	FY 2008-09 Long Bill	Supplemental Request	Amended Request
Purchase of Pharmaceuticals	10,195,764	371,296	10,567,060
Purchase of Medical Services from Other Medical Facilities	19,782,394	2,971,559	22,753,953
Purchase of Medical Services from State Hospital	1,572,650	(603,074)	969,576
Catastrophic Medical Expenses	<u>9,775,729</u>	<u>1,306,860</u>	<u>11,082,589</u>
Total Funds	41,326,537	4,046,641	45,373,178

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Supplemental #7 — Medical POPM Summary of Requested Changes							
Line Item	Long Bill		Supplemental Request		Difference		Change Requested
	Per Offender Per Month	Eligible Inmates	Per Offender Per Month	Eligible Inmates	Per Offender Per Month	Eligible Inmates	
Pharmaceuticals	\$56.50	15,038	\$60.24	14,618	\$3.74	(420)	\$371,296
Other Medical Facilities							
Base Cost	\$67.45		\$82.00		\$14.55		
Administrative Fee*	\$8.05		\$8.05		\$0.00		
Security Fee	<u>\$2.84</u>		<u>\$2.84</u>		<u>\$0.00</u>		
Other Med. Subtotal	\$78.34	20,671	\$92.89	20,099	\$14.55	(572)	\$2,971,559
State Hospital	\$6.34	20,671	\$4.02	20,099	(\$2.32)	(572)	(\$603,074)
Catastrophic Expenses	\$39.41	20,671	\$45.95	20,099	\$6.54	(572)	\$1,306,860
Total General Fund Change Requested							\$4,046,641

* The appropriation includes \$350,000 for a managed care incentive payment.

Staff Analysis: Staff makes the following observations regarding this supplemental base reduction.

1. *Supplemental Criteria Met.* Two factors contribute to the estimated change in funding needs for the provision of medical services to the inmate population - POPM rate changes and population changes. Each of these factors meets the supplemental criteria.
 - a. *POPM Rate Changes.* The Department's requested supplemental appropriation reflects the per offender per month (POPM) costs as of December 2008. These POPM figures were used to calculate the staff recommended adjustments for the respective line items. Staff believes this portion of the request meets supplemental criteria. **Staff recommends that the Committee utilize the adjusted POPM estimates provided by the Department.**
 - b. *Population Changes.* The original appropriation was based on the December 2007 LCS population projections and the Department's March 2008 bed plan. Based on the revised bed plan and the December 2008 LCS population changes, the number of inmates eligible to receive medical care from the Department has changed. As such, staff believes this portion of the request meets supplemental criteria. **Staff**

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recommends that the Committee use the adjusted estimates for the eligible population (see detailed calculations in Bullet Point #2).

2. *Eligible Population.* Based on the Department's revised bed plan and the LCS December 2008 population projections, staff estimates that the caseload of eligible offenders has changed. The change is reflected in the following table.

Summary of Inmate Population Estimates Used for Line Items in the Medical Services Subprogram			
	Long Bill	Revised Estimates	Difference
LCS June 2008 Projections	23,322	22,989	(333)
LCS June 2009 Projection	24,327	23,567	(760)
Avg. Daily Population (w/o YOS)	23,825	23,278	(547)
Plus Y.O.S. Population	<u>157</u>	<u>175</u>	<u>18</u>
DOC Jurisdictional Population	23,982	23,453	(529)
Jail Population	(432)	(455)	(23)
S.B. 03-252 Population	(278)	(245)	33
Minus Projected Cost Avoidance for Governor's Recidivism Reduction Package	0	0	0
Community Corrections Population (11.5%)	<u>(2,740)</u>	<u>(2,677)</u>	<u>63</u>
Medical Services Population	20,532	20,076	(456)
In-State Private Prison Population	(4,913)	(4,783)	130
Out-of-State Private Prison Population	0	0	0
Pre-release Parole Revocation Population	<u>(720)</u>	<u>(698)</u>	<u>22</u>
Pharmaceutical Population	14,899	14,595	(304)

Staff Recommendation: Staff recommends that the Committee approve a supplemental appropriation of \$3,990,585 General Fund (see the following table). The calculations for this recommendation are based on the Department's revised bed plan, the LCS December 2008 population projections, and the Department's revised cost estimates for the provision of medical services to the inmate population.

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Supplemental #7 — Medical POPM Summary of Recommended Changes							
Line Item	Total Recommendation					Long Bill General Fund	Recommended Change
	POPM	Eligible Inmates	Base Need	Managed Care	Total		
Pharmaceuticals	\$60.24	14,595	\$10,550,434	\$0	\$10,550,434	\$10,195,764	\$354,670
Other Medical Facilities							
Base Cost	\$82.00						
Administrative Fee	\$8.05						
Security Fee*	<u>\$2.84</u>						
Other Med. Subtotal	\$92.89	20,076	\$22,378,316	\$350,000	\$22,728,316	\$19,782,394	\$2,945,922
State Hospital	\$4.02	20,076	\$968,466	\$0	\$968,466	\$1,572,650	(\$604,184)
Catastrophic Expenses	\$45.95	20,076	\$11,069,906	\$0	\$11,069,906	\$9,775,729	\$1,294,177
Total General Fund Change Recommended							\$3,990,585

**JBC Staff Initiated Supplemental
 Technical Correction**

	Request	Recommendation
Total	\$0	\$0
FTE	<u>0.0</u>	<u>0.0</u>
General Fund	0	0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
This supplemental is the result of a <i>technical error in calculating the original appropriation</i> . Staff made a technical error during the FY 2008-09 supplemental process failing to show FTE that were approved by the Committee.	

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Department Request: The Department has not requested this supplemental.

Staff Recommendation: Staff recommends that the Committee approve staff correcting the FY 2008-09 appropriation to the Department to include 1.0 FTE that was approved during the supplemental process

Staff Analysis: During the FY 2008-09 supplemental process, staff recommended and the Committee approved 1.0 FTE in the Education Grants line item related to adjustments in grant funding. However, staff made a technical error in drafting the supplemental bill that left out those FTE. This supplemental corrects that error.

	FY 2007-08	FY 2008-09	Fiscal Year 2008-09 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
DEPARTMENT OF CORRECTIONS					
Executive Director - Ari Zavaras					
Supplemental #6 - External Capacity Caseload					
<i>(1) Management</i>					
<i>(B) External Capacity</i>					
<i>(2) Payments to House State Prisoners</i>					
Payments to Local Jails -- GF	8,037,697	7,949,041	(365,633)	(365,633)	7,583,408
Payments to In-State Private Prisons	<u>77,452,558</u>	<u>97,304,409</u>	<u>(3,415,779)</u>	<u>(3,507,400)</u>	<u>93,797,009</u>
General Fund	74,248,014	94,945,702	(6,358,251)	(6,449,872)	88,495,830
Cash Funds	0	2,358,707	2,942,472	2,942,472	5,301,179
Reappropriated Funds	3,204,544	0	0	0	0
Payments to Pre-Release Parole Revocation Facilities -- GF	10,935,963	14,435,604	(507,471)	(512,175)	13,923,429
Community Corrections Programs -- GF	3,282,623	4,426,094	(754,847)	(754,847)	3,671,247
Total for Supplemental #6	<u>96,504,297</u>	<u>124,115,148</u>	<u>(5,043,730)</u>	<u>(5,140,055)</u>	<u>118,975,093</u>
General Fund	96,504,297	121,756,441	(7,986,202)	(8,082,527)	113,673,914
Cash Funds	0	2,358,707	2,942,472	2,942,472	5,301,179
Reappropriated Funds	3,204,544	0	0	0	0

	FY 2007-08	FY 2008-09	Fiscal Year 2008-09 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Supplemental #7 - Medical POPM					
<i>(2) Institutions</i>					
<i>(E) Medical Services</i>					
Purchase of Pharmaceuticals -- GF	9,719,793	10,195,764	371,296	354,670	10,550,434
Purchase of Medical Services from Other Medical Facilities -- GF	19,024,186	19,782,394	2,971,559	2,945,922	22,728,316
Purchase of Medical Services from State Hospital -- GF	1,422,447	1,572,650	(603,074)	(604,184)	968,466
Catastrophic Medical Expenses -- GF	9,500,963	9,775,729	1,306,860	1,294,177	11,069,906
Total for Supplemental #3 - GF	39,667,389	41,326,537	4,046,641	3,990,585	45,317,122
JBC Staff Initiated Supplemental - Technical Correction					
<i>(4) Inmate Programs</i>					
<i>(B) Education</i>					
Education Grants*	733,082	632,620	0	0	632,620
FTE	<u>0.0</u>	<u>2.0</u>	<u>0.0</u>	<u>0.0</u>	<u>2.0</u>
Cash Funds	0	10,000	0	0	10,000
Cash Funds Exempt/Reappropriated Funds	54	261,126	0	0	261,126
Federal Funds	733,028	361,494	0	0	361,494

	FY 2007-08	FY 2008-09	Fiscal Year 2008-09 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Totals					
Department of Corrections					
Totals for ALL Departmental line items	692,923,357	761,566,800	(997,089)	(1,149,470)	760,417,330
FTE	<u>6,010.3</u>	<u>6,575.9</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
General Fund	620,743,050	676,820,771	(3,939,561)	(4,091,942)	672,728,829
Cash Funds	2,976,221	39,120,906	2,942,472	2,942,472	42,063,378
Reappropriated Funds	67,510,110	42,403,526	0	0	42,403,526
Federal Funds	1,693,976	3,221,597	0	0	3,221,597

*Note: the FY 2008-09 appropriation for this line item includes the supplemental adjustments.

Key:

N.A. = Not Applicable or Not Available

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JOINT BUDGET COMMITTEE**



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**Prepared By:
Patrick Brodhead, JBC Staff
February 2, 2009**

For Further Information Contact:

Joint Budget Committee Staff
200 E. 14th Avenue, 3rd Floor
Denver, Colorado 80203
Telephone: (303) 866-2061
TDD: (303) 866-3472

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Totals for All Supplementals	N.A.	30
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Prioritized Supplementals

**Supplemental Request, Department Priority #1
 Flexible Spending/Contract Services Refinancing**

	Request	Recommendation
Total	(\$1,000,000)	(\$1,000,000)
FTE	<u>0.0</u>	<u>0.0</u>
General Fund	(1,000,000)	(1,000,000)

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made.</i>	

Department Request: The Department requests a FY 2008-09 supplemental reduction of \$1,000,000 General Fund related to refinancing a portion of the General Fund appropriation to the Contract Services line item within the Community Intensive Supervision Subprogram with external capacity flexible funds.

Through the supplemental process last year, a footnote was added to the FY 2007-08 Long Bill that allowed the Department of Corrections to transfer and rollforward up to \$2,000,000 of external capacity savings that would have otherwise reverted in FY 2007-08 to line items within the community services section of the Department's budget for expenditure in FY 2008-09. The Department was able to rollforward the full \$2,000,000 for use in FY 2008-09. Half of the rollforward is currently being used to fund a community re-entry pre-release program that attempts to prepare inmates for community reintegration prior to their release from prison. The request seeks to use the remaining \$1,000,000 as a one-time refinancing of a portion of the General Fund appropriation to the Contract Services line item within the Community Intensive Supervision Subprogram.

Staff Analysis: Staff makes the following observations regarding this supplemental request.

1. *Department Calculations.* The Department has determined its FY 2008-09 costs for the community re-entry pre-release program as follows:

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Supplemental #1 — Community Re-entry Pre-release Program Costs	
	Actual and Projected Costs
Personal Services	\$376,668
Start-up Costs	330,000
Operating Costs	117,332
Lease Improvement	<u>176,000</u>
Total Cost	\$1,000,000

The personal services cost was calculated using actual expenses for the first six payroll periods for 8.0 existing FTE carried forward 12 months (\$113,085 x 2 = \$226,170), plus salary and benefits for 5.0 FTE projected to begin January 1, 2009, and 2.0 FTE projected to begin March 1, 2009. The start-up costs include expenses for staff computers, offender computers, associated software licensing, computer hardware, projector screens, library resources, and CD writers. The operating costs include travel to facilities, program supplies, software and computers already purchased, and office supplies. The lease improvement costs include improvements at two parole offices.

2. *Useful to Allow the Department to Re-invest Savings from External Capacity in Re-entry Programs.* JBC staff believes it is useful to authorize the Department to re-invest savings from external capacity in re-entry programs that are aimed at reducing offender recidivism. As such, staff believes that the requested split of the savings dollars is justified. However, the Committee could choose to reduce the amount available for the community re-entry pre-release program, thereby increasing the amount of General Fund reduced from the budget. This reduction to the re-entry program could be achieved by not hiring the remaining staff for the current fiscal year. Although, staff is not recommending a reduction to the re-entry program at this time, staff has included this in the options for balancing section below.

Staff Recommendation: Staff recommends that the Committee approve the Department's request to reduce the Contract Services line item within the Community Intensive Supervision Subprogram by \$1,000,000.

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**Supplemental Request, Department Priority #2
 Parole Wrap-Around Services - Balance**

	Request	Recommendation
Total	(\$999,000)	(\$999,000)
FTE	<u>0.0</u>	<u>0.0</u>
General Fund	(999,000)	(999,000)

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made.</i>	

Department Request: Through Supplemental #2 and Supplemental #6, the Department requests a FY 2008-09 supplemental reduction of \$1,800,000 General Fund to the Wrap-Around Services Program line item within the Parole Subprogram due to a delayed contract start date.

For the current fiscal year, the Department was appropriated \$1,800,000 to provide comprehensive assistance (such as substance abuse treatment and job placement) for 200 parolees transitioning from prison through community-based service providers on a request-for-proposal (RFP) basis. The Department began the RFP process in July and received 24 proposals. Awards were made in September, 2008, to eight entities, and the Department anticipated that contract agreements would be in place by January 1, 2009. As a result, the January 2nd supplemental (Supplemental #6) only reduced the appropriation by the amount unspent for the first half of the year. However, it is staff's understanding that the contract completion has been put on hold due to the current economic conditions. Therefore, the January 15th supplemental (Supplemental #2) reduces the appropriation entirely to account for the contract being placed on hold.

Staff Analysis: Staff makes the following observations regarding this supplemental request.

1. *Department Calculations.* The Department has calculated the requested reduction as follows:

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Supplemental #2 & 6 — Parole Wrap-Around Services Program Reductions	
FY 2008-09 Appropriation	\$1,800,000
Less January 2nd Supplemental - Supplemental #6	(801,000)
Less January 15 Supplemental - Supplemental #2	<u>(999,000)</u>
Balance	\$0

2. *Useful to Reduce Unused Program Appropriations.* JBC staff believes it is useful to reduce the appropriation for wrap-around services based on the contract for such services being placed on hold for the remainder of FY 2008-09. Staff also believes it is appropriate to eliminate a program that has not yet been implemented rather than reduce current programs or services. As such, staff believes that the requested increase is justified.

Staff Recommendation: Staff recommends that the Committee approve the Department's request to reduce the Wrap-Around Services Program line item within the Parole Subprogram by \$1,800,000.

**Supplemental Request, Department Priority #3
 Provider Rate Decrease**

	Request	Recommendation
Total	(\$1,841,616)	Pending
FTE	<u>0.0</u>	
General Fund	(1,841,616)	

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made.</i>	

Department Request: The Department requests a FY 2008-09 supplemental reduction of \$1,841,616 General Fund associated with a provider rate reduction. Effective February 1, 2009, the Department requests to reduce the provider rates appropriated to the Payments to In-State Prisons

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line item and the Payments to Pre-Release Parole Revocation Facilities line item to FY 2007-08 appropriated levels. This would reduce the provider rate from \$54.93 to \$52.69.

Staff Analysis: Staff makes the following observations regarding this supplemental request.

1. *Department Calculations.* The Department has calculated its request based on the December 2008 DCJ population projections. As such, the Department calculated an average daily population of 4,783 inmates in private prisons and 698 inmates in pre-release parole revocation facilities for the remaining five months of FY 2008-09. Staff would utilize the Legislative Council Staff December 2008 population projections to calculate this reduction; however, because provider rates are a common policy determination, those calculations will be included in a separate presentation.

2. *Common Policy Determination.* It is staff's understanding that the Committee will address provider rate increases across all departments as a common policy supplemental issue. As such, staff's recommendation is pending a common policy determination with regard to provider rates.

Staff Recommendation: The staff recommendation for this request is pending Committee approval of common policy supplementals. **Staff asks permission to include the corresponding appropriations in the Department's supplemental bill when the Committee approves this common policy supplemental.** If staff believes there is reason to deviate from the common policy, staff will appear before the Committee later to present the relevant analysis.

**Supplemental Request, Department Priority #4
 Education Refinance**

	Request	Recommendation
Total	\$0	\$0
FTE	<u>0.0</u>	<u>0.0</u>
General Fund	(800,000)	(873,044)
Cash Funds	800,000	873,044

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Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made.</i>	

Department Request: The Department requests a FY 2008-09 supplemental reduction of \$800,000 General Fund and an increase of \$800,000 cash funds associated with refinancing the Personal Services line item within the Education Subprogram. The request seeks to refinance that line item with the FY 2008-09 projected unused cash funds balance in the Canteen Fund.

Inmates can purchase goods and services from the Canteen Operation with inmate pay and other funds that are deposited in their inmate bank accounts. The Canteen Fund contains cash funds associated with offender canteen purchase revenues. Net proceeds from the Canteen Fund are used to offset the need for General Fund in the Volunteers Subprogram, the Education Subprogram, and the Recreation Subprogram.

Staff Analysis: Staff makes the following observations regarding this supplemental request.

1. *Department Calculations.* The Department has calculated the FY 2008-09 unused balance in the Canteen Fund as follows:

Supplemental #4 — Education Refinance	
Projected Canteen Fund Balance as of July 1, 2009	\$9,180,776
Less Projected Mandatory Expenditures	<u>(8,307,732)</u>
FY 2008-09 Canteen Fund Balance	\$873,044

The mandatory expenditures include the Department costs for goods and services provided through the Canteen Operation.

2. *Staff Calculations.* JBC staff believes that the Department's calculation for the FY 2008-09 unused balance in the Canteen Fund is accurate. However, staff believes that if the Department is estimating an unused balance of greater than \$800,000, the Committee should refinance the Personal Services line item within the Education Subprogram with this higher unused balance figure.

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Staff Recommendation: Staff recommends that the Committee approve a supplemental reduction of \$873,044 General Fund and an increase of \$873,044 cash funds associated with refinancing the Personal Services line item within the Education Subprogram.

**Supplemental Request, Department Priority #5
 Correctional Industries Adjustments**

	Request	Recommendation
Total	\$335,720	\$333,867
FTE	<u>2.7</u>	<u>2.7</u>
General Fund	1,853	0
Cash Funds	333,867	333,867

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made.</i>	

Department Request: The Department requests a FY 2008-09 supplemental appropriation of \$335,720, including \$1,853 General Fund and \$333,867 cash funds, and 2.7 FTE . The Department also requests a corresponding FY 2009-10 budget amendment of \$1,007,160, including \$5,560 General Fund and \$1,001,600 cash funds. Finally, the Department requests that the line items pertaining to Correctional Industries show the fund split between cash funds and reappropriated funds. Currently, the Correctional Industries portion of the Long Bill is bottom-line funded because the appropriation was historically cash funds exempt. With the change to reappropriated funds, some of the appropriation became cash funds.

The Department's request seeks additional funding related to the following three Correctional Industries programs:

1. **Canine Program:** The Department has a program for training dogs within prison facilities for the public. This canine training program has had increased demand and was expanded to nine additional facilities this past year due partially to the national exposure the program received from a feature segment on the CBS Evening News in October, 2008; however, even with the expansion of the program, there continues to be a waitlist of at least 90 days for

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canines to enter the program. The request seeks to expand the program into the La Vista Correctional Facility. This portion of the request includes 2.0 Correctional Support Trades Supervisors to supervise the new canine trainer offenders.

2. Wild Horse Program: The Department has a program for processing and housing wild horses. The average herd size in FY 2007-08 was 1,000 horses; however, the Bureau of Land Management (BLM) has requested that the program increase its herd size to 3,000 horses in FY 2008-09. This portion of the request includes 3.0 Correctional Support Trades Supervisors to supervise the offenders responsible for feeding and caring for the horses as well as operating expenses associated with the care and housing of the horses.
3. State Wildland Inmate Fire Team: The federal government (BLM and U.S. Forest Service) have requested an additional service program to assist with the eradication of the pine beetle infestations. In addition, the federal government has requested the creation of additional trails in FY 2008-09, mostly on the Continental Divide Trail System. This portion of the request includes 3.0 Correctional Support Trades Supervisors to supervise the offenders performing these tasks.

Staff Analysis: Staff makes the following observations regarding this supplemental request.

1. *Useful to Allow Correctional Industries Increase for Growth Opportunities.* JBC staff believes it is useful to authorize the Department to increase its spending authority based on higher than expected sales. Correctional Industries programs provide vocational training for inmates and are a useful management tool for the Department. As such, staff believes that the requested increase is justified.
2. *Staff Calculations.* Staff is not recommending that the Committee approve the requested General Fund amounts related to the increased FTE. Given the budgetary shortfall in FY 2008-09, staff believes that the Department can fund these requests within existing resources

Staff Recommendation: Staff recommends that the Committee approve \$333,867 cash funds and 2.7 FTE related to Correctional Industries growth. Staff also recommends that the Committee approve the Department's request to show the fund split between reappropriated funds and cash funds in the Correctional Industries section of the Long Bill.

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**Supplemental Request, Department Priority #6
 Parole Wrap-Around Services**

	Request	Recommendation
Total	(\$801,000)	(\$801,000)
FTE	<u>0.0</u>	<u>0.0</u>
General Fund	(801,000)	(801,000)

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made.</i>	

Department Request: Through Supplemental #2 and Supplemental #6, the Department requests a FY 2008-09 supplemental reduction of \$1,800,000 General Fund to the Wrap-Around Services Program line item within the Parole Subprogram due to a delayed contract start date.

Staff Analysis: Staff makes the following observations regarding this supplemental request.

1. *Department Calculations.* The Department has calculated the requested reduction as follows:

Supplemental #2 & 6 — Parole Wrap-Around Services Program Reductions	
FY 2008-09 Appropriation	\$1,800,000
Less January 2nd Supplemental - Supplemental #6	(801,000)
Less January 15 Supplemental - Supplemental #2	<u>(999,000)</u>
Balance	0

2. *Useful to Reduce Unused Program Appropriations.* JBC staff believes it is useful to reduce the appropriation for wrap-around services based on the contract for such services being placed on hold for the remainder of FY 2008-09. Staff also believes it is appropriate to eliminate a program that has not yet been implemented rather than reduce current programs or services. As such, staff believes that the requested increase is justified.

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Staff Recommendation: Staff recommends that the Committee approve the Department's request to reduce the Wrap-Around Services Program line item within the Parole Subprogram by \$1,800,000.

**Supplemental Request, Department Priority #8
 Fund Split Reconciliation**

	Request	Recommendation
Total	(\$1,831,383)	(\$1,835,067)
FTE	<u>5.3</u>	<u>5.3</u>
General Fund	127,928	124,244
Cash Funds	75,756	75,756
Reappropriated Funds	(109,024)	(109,024)
Federal Funds	(1,926,043)	(1,926,043)

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made.</i>	

Department Request: The Department requests a FY 2008-09 supplemental reduction of \$1,831,383, which includes an increase of \$127,928 General Fund and \$75,756 cash funds and a decrease of \$109,024 reappropriated funds and \$1,926,043 federal funds. The FY 2008-09 supplemental request also includes an increase of 5.3 FTE. The Department also requests a corresponding FY 2009-10 budget amendment of \$3,264,004, which includes an increase of \$127,928 General Fund and a decrease of \$244,244 cash funds, \$521,402 reappropriated funds, and \$2,626,286 federal funds. The Department's FY 2008-09 supplemental request is summarized in the following table:

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Supplemental #8 – Fund Split Reconciliation							
Subprogram	Line Item	General Fund	Cash Funds	Reapprop. Funds	Federal Funds	Total Funds	FTE
Executive Director's Office	Personal Services	\$0	\$0	\$65,049	\$0	\$65,049	2.3
	Operating Expenses	0	0	28,302	9,600	37,902	
Inspector General	Operating Expenses	133	0	0	0	133	
	Inspector General Grants	0	0	(274,557)	(249,199)	(523,756)	1.0
Business Operations	Personal Services	98,592	(124,244)	0	0	(25,652)	
	Operating Expenses	2,140	0	0	0	2,140	
	START-UP COSTS (NEW LINE ITEM)	23,512	0	0	0	23,512	
Communications	Operating Expenses	2,385	0	0	0	2,385	
Training	Operating Expenses	106	0	0	0	106	
Information Systems	Operating Expenses	1,060	0	10,000	0	11,060	
Education	Operating Expenses	0	200,000	100,000	0	300,000	
	Education Grants	0	0	35,318	(1,389,403)	(1,354,085)	1.0
Drug and Alcohol Treatment	Treatment Grants	0	0	(102,778)	(110,574)	(213,352)	
Sex Offender Treatment	Sex Offender Treatment Grants	0	0	0	(127,070)	(127,070)	
Parole	Parole Grants	0	0	42,842	0	42,842	
Community Re-entry	Community Reintegration Grants	0	0	(13,200)	(59,397)	(72,597)	1.0
Total Request		\$127,928	\$75,756	(\$109,024)	(\$1,926,043)	(\$1,831,383)	5.3

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Executive Director's Office Subprogram

The Department requests an increase of \$93,351 reappropriated funds as a result of two grant fund adjustments. In FY 2008-09, the Department was able to obtain a second State Victims Assistance and Law Enforcement (VALE) grant for \$132,147. The value of the original VALE grant in FY 2008-09 is \$128,073, making a total value of the two VALE grant awards \$260,220. The incremental increase for this request is: \$65,049 reappropriated funds and 2.3 FTE in personal services, \$28,302 reappropriated funds in operating expenses, and \$1,599 in General Fund for departmental central services operating expenses associated with the additional 2.3 FTE.

The Department also requests an increase of \$9,600 federal funds. The Department continues to participate in the Incentive Payment Memorandum of Understanding (IPMOU) with the Social Security Administration to identify individuals receiving Social Security benefits that should be suspended while incarcerated. The Department of Corrections' Office of Planning and Analysis prepares and sends a data file of offenders monthly to the Social Security Administration. The Social Security Administration provides an incentive payment to the Department of \$400 per "match" that identifies a Social Security payment recipient with an offender imprisoned under the jurisdiction of the State of Colorado within 30 days of incarceration. A \$200 incentive is received if the information identifies an offender after 30 days but before 90 days of incarceration.

In FY 2007-08, the Department requested \$66,000 FF spending authority to utilize the funds earned for equipment and supplies for the Planning and Analysis staff. The Department earned \$69,200 in Social Security funds, \$3,200 more than estimated. Thus far in FY 2008-09, the Department has already received \$25,200 of Social Security funds, representing four months of IPMOU participation. The Department estimates that the annual receipt of funds to be \$75,600 in FY 2008-09. Therefore, the Department is requesting an increase of \$9,600 federal funds, totaling \$75,600 federal funds spending authority for the Social Security funds earned. A FY 2009-10 budget amendment is also being requested in the amount of \$9,600 federal funds as the Department intends to continue participating in the Incentive Payment Memorandum of Understanding program with the Social Security Administration. The current level of revenue earned is expected to continue.

Inspector General Subprogram

The Department requests \$133 General Fund related to the amount per FTE associated with staff drug testing. Given the request for 5.3 FTE, the calculation for the Operating Expenses line item is \$25 per FTE x 5.3 FTE = \$133.

The Department also requests a supplemental reduction of \$523,756, including \$274,557 reappropriated funds and \$249,199 federal funds, associated with lower than anticipated grant funding. Due to the law enforcement purpose of the Department's Inspector General Subprogram

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(IG), the IG's Office applies and qualifies for a variety of alternate funding sources for specific purposes. The 1.0 FTE is requested in association with a Colorado Information Analysis Center grant through the Department of Homeland Security.

Business Operations Subprogram

The Department has several corrections associated with appropriations related to S.B. 07-228 (State Contract Monitoring). Funding for the FTE authorized in S.B. 07-228 should have been appropriated in the FY 2008-09 Long Bill as General Funds, but instead was mistakenly categorized as cash funds. Therefore, the Personal Services line item within the Business Operations Subprogram should be increased by \$124,244 General Fund and 2.0 FTE and decreased by \$124,244 cash funds and 2.0 FTE.

Additionally, all of the funding associated with S.B. 07-228 was designated as personal services funds. There were no operating or start-up funds associated with the increase in FTE. The FTE have specific duties that require office equipment and mileage for on-site field travel. The Department requests a cost neutral transfer of funds from the corrected General Fund Personal Services line item appropriation to operating expenses and start-up costs lines in the same subprogram. The following summarizes the operating and start-up transfer request for the FTE authorized in SB 07-228:

FY 2008-09 Supplemental Request:

(\$25,652)	Personal Services
\$ 2,140	Operating Expenses
<u>\$ 23,512</u>	Start Up Costs
\$ 0	Net Transfer Amount

Communications Subprogram

The Department requests \$2,385 General Fund for departmental central services associated with the addition of 5.3 FTE. The calculation for these operating expenses is \$450 per FTE x 5.3 FTE = \$2,385.

Training Subprogram

The Department requests \$106 General Fund for departmental central services associated with the addition of 5.3 FTE. The calculation for these operating expenses is \$20 per FTE x 5.3 FTE = \$106.

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Information Systems Subprogram

The Department requests \$1,060 General Fund for departmental central services associated with the addition of 5.3 FTE. The calculation for these operating expenses is \$200 per FTE x 5.3 FTE = \$1,060.

The Department also requests \$10,000 reappropriated funds associated with an Interagency Agreement from the Department of Labor and Employment (CDLE) for a data sharing arrangement that will enable CDLE to determine unemployment insurance benefit eligibility on offenders. This agreement includes funding of \$10,000 to pay for the initial development and programming changes needed by the DOC to provide CDLE access to offender information.

Education Subprogram

The Department requests \$300,000, including \$200,000 cash funds and \$100,000 reappropriated funds to account for additional revenue produced through vocational education programs. These programs are designed to improve the education of inmates by providing them with an opportunity to develop occupational skills. These vocational programs are reimbursed with sales revenues earned, which is reflected in the cash funds appropriation for the Operating Expenses line item.

Spending authority on approximately \$160,000 of cash funds revenue was forfeited in FY 2007-08 because the Department underestimated the revenues generated by the vocational education programs. The requested increase in spending authority would allow for the recoupment of the shortfall that occurred in the previous year and provide for revenue growth from the five new vocational education programs being added in FY 2008-09. A \$300,000 total increase in spending authority will also allow for some modest price increases in some of these programs.

The Department also requests a reduction of \$1,354,085, including an increase of \$35,318 reappropriated funds and 1.0 FTE and a reduction of \$1,389,403 federal funds, associated with changes in grant funding. The Department applies for a variety of grants targeted for unique educational programs for incarcerated individuals and youth. The Department requests an increase of 1.0 FTE associated with a Title I -D, No Child Left Behind grant.

Drug and Alcohol Treatment Subprogram

The Department requests a reduction of \$213,352, including \$102,778 reappropriated funds and \$110,574 federal funds, associated with reductions in grant funding. The Department applies for grants targeted for offender treatment programs when possible.

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Sex Offender Treatment Subprogram

The Department requests a reduction of \$127,070 federal funds associated with a reduction in federal grant funding. The Department's Sex Offender Treatment Subprogram has not obtained any new grant funding in FY 2008-09 and has no carry forward grant funds. The Department will continue to apply for appropriate grant funding as opportunities are discovered.

Parole Subprogram

The Department requests an increase of \$42,842 reappropriated funds related to an anti-gang enforcement grant. The request reflects the remaining balance in FY 2008-09 of this previously obtained grant.

Community Re-entry Subprogram

The Department requests a reduction of \$72,597, including \$13,200 reappropriated funds and \$59,397 federal funds, and an increase of 1.0 FTE associated with adjustments in grant funding. The Community Re-entry Subprogram applies for various grants aimed at treatment of offenders and programs to help them succeed in society. The requested 1.0 FTE increase is associated with a Prisoner Reentry Initiative Grant.

Staff Analysis: Staff makes the following observations regarding this supplemental request.

1. *Useful to Correct Technical Errors and Accurately Reflect Grant Funds in the Long Bill.* JBC staff believes it is useful to correct technical errors made when drafting the Long Bill as well as accurately reflect expected grant funds in the Long Bill. As such, staff believes the request is justified.
2. *Staff Calculations.* The Department included requests for General Fund related to the departmental central services associated with the addition of FTE. Due to the budgetary shortfall in FY 2008-09, staff is not recommending these appropriations. Staff believes the Department can absorb these costs within existing resources. Staff's recommendation is summarized in the following table:

Supplemental #8 – Fund Split Reconciliation							
Subprogram	Line Item	General Fund	Cash Funds	Reapprop. Funds	Federal Funds	Total Funds	FTE
Executive Director's Office	Personal Services	\$0	\$0	\$65,049	\$0	\$65,049	2.3

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Supplemental #8 – Fund Split Reconciliation							
Subprogram	Line Item	General Fund	Cash Funds	Reapprop. Funds	Federal Funds	Total Funds	FTE
Inspector General	Operating Expenses	0	0	28,302	9,600	37,902	
	Operating Expenses	0	0	0	0	0	
Business Operations	Inspector General Grants	0	0	(274,557)	(249,199)	(523,756)	1.0
	Personal Services	98,592	(124,244)	0	0	(25,652)	
	Operating Expenses	2,140	0	0	0	2,140	
Communications	START-UP COSTS (NEW LINE ITEM)	23,512	0	0	0	23,512	
	Operating Expenses	0	0	0	0	0	
Training	Operating Expenses	0	0	0	0	0	
Information Systems	Operating Expenses	0	0	10,000	0	10,000	
Education	Operating Expenses	0	200,000	100,000	0	300,000	
	Education Grants	0	0	35,318	(1,389,403)	(1,354,085)	
Drug and Alcohol Treatment	Treatment Grants	0	0	(102,778)	(110,574)	(213,352)	
Sex Offender Treatment	Sex Offender Treatment Grants	0	0	0	(127,070)	(127,070)	
Parole	Parole Grants	0	0	42,842	0	42,842	
Community Re-entry	Community Reintegration Grants	<u>0</u>	<u>0</u>	<u>(13,200)</u>	<u>(59,397)</u>	<u>(72,597)</u>	<u>1.0</u>
Total Request		\$124,244	\$75,756	(\$109,024)	(\$1,926,043)	(\$1,835,067)	5.3

Staff Recommendation: Staff recommends that the Committee approve a reduction of \$1,835,067, including an increase of \$124,244 General Fund, \$75,756 cash funds, and 5.3 FTE and a decrease of \$109,024 reappropriated funds and \$1,926,043 federal funds associated with changes in grant funding.

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Non-Prioritized Supplementals

**Supplemental Request, Department Priority #NP
 Hiring Freeze Reduction**

	Request	Recommendation
Total	(\$31,736)	(\$31,736)
FTE	<u>0.0</u>	<u>0.8</u>
General Fund	(31,736)	(31,736)

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made.</i>	

Department Request: The Department requests a FY 2008-09 supplemental reduction of \$31,736 General Fund related to hiring freeze savings.

Staff Analysis: Staff makes the following observations regarding this supplemental request.

1. *Department Calculations.* It is staff's understanding that departments engaged in public safety activities were generally exempted from the hiring freeze. As such, the Department of Corrections has calculated savings of 2.0 FTE (Accounting Technician III and Administrative Assistant II) for the remaining five months of FY 2008-09.
2. *Staff Calculations.* JBC staff believes it is useful for the Committee to reduce personal services appropriations based on hiring freeze savings accumulated by the Department. However, staff also believes it is appropriate to reduce the FTE by a commensurate level. Staff has calculated an FTE reduction of 0.8 FTE.

Staff Recommendation: Staff recommends that the Committee approve the Department request to reduce personal services appropriations by \$31,736 related to hiring freeze savings. However, staff also recommends reducing the FTE in the affected line items by 0.8 FTE.

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**JBC Staff Initiated Supplemental
 DNC Reimbursement**

	Request	Recommendation
Total	\$0	(\$417,000)
FTE	<u>0.0</u>	<u>0.0</u>
General Fund	0	(417,000)

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
This supplemental is the result of <i>data that was not available when the original appropriation was made</i> . Staff was not aware that the Department of Corrections would receive reimbursement for staff salaries from the Democratic National Convention when the FY 2008-09 Long Bill was drafted.	

Department Request: The Department has not requested this supplemental.

Staff Recommendation: Staff recommends that the Committee reduce the Department's FY 2008-09 appropriation to the Personal Services line item within the Parole Subprogram by \$417,000.

Staff Analysis: It is staff's understanding that the Department has sought federal reimbursement for salaries, overtime, and operating costs associated with services provided by its employees during the Democratic National Convention (DNC) in Denver. The total amount being requested is approximately \$817,000, which includes \$385,000 for overtime, \$15,000 for operating expenses, and \$417,000 for salaries. The Department indicates that it cannot quantitatively determine the cost of overtime for backfilling staff for covering shifts or case workload; however, it is staff's understanding that employees, particularly parole officers, handled their regular caseload even while working the DNC. Therefore, staff believes that the Department is requesting reimbursement from the federal government for approximately \$417,000 of salaries that have already been funded by the General Assembly.

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**Previously Approved Interim Supplemental
Payments to District Attorneys**

Previously Approved	
Total	\$0

Description of Supplemental: The Committee approved an interim supplemental request by the Department to increase the appropriation to the Payments to District Attorneys line item by \$150,000 General Fund. In order to offset this increase, the Committee also voted to reduce the appropriation to the Personal Services line item within the Executive Director's Office by \$150,000.

The rules governing interim supplementals in Section 24-75-109 (5), C.R.S., require the Committee to introduce all interim supplementals that it approves. Staff will include this supplemental in the Department's supplemental bill.

The Committee had discussed the possibility of amending the statute that discusses payments to district attorneys by the Department of Corrections. Staff believes that it would be beneficial for the General Assembly to clarify Section 16-18-101 (3), C.R.S. Options for clarification would include:

1. Define "costs" within the statute to specifically include or exclude personal services expenditures;
2. Clarify the statement "from annual appropriations made by the General Assembly" to only include the annual appropriation to the Payments to District Attorneys line item, thereby capping the amount that can be reimbursed;
3. Specify that only particular counties or judicial districts within the State are eligible for reimbursement under the statute; or
4. Repeal the statute entirely.

It is staff's understanding that the Department is also looking at clarifying this particular statute through legislation. Therefore, it may not be necessary for the Committee to act at this time.

Statewide Common Policy Supplemental Requests

Staff Recommendation: Neither the Department nor OSPB has submitted statewide supplemental requests, but these requests may be received in the near future. If requests are submitted, they will

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be presented to the Committee by the Common Policy analyst. **Staff asks permission to include the corresponding appropriations in the Department's supplemental bill if the Committee approves a common policy supplemental.** If staff believes there is reason to deviate from the common policy, staff will appear before the Committee later to present the relevant analysis.

Other Balancing Options

These options are presented without staff recommendation in order to maximize the Committee's choices. The Committee may wish to consider these options now or in the future.

Numbering does not indicate priority.

Options with <i>Appropriation</i> Impacts	GF	CF	RF	FF	Total	FTE
1 Reduce Flexible Spending Intended to Fund the Community Re-Entry Pre-Release Program This option would reduce the amount available to fund the community re-entry pre-release program. The Department has plans to use \$1,000,000 of the \$2,000,000 in external capacity flexible spending for a program to prepare inmates for community reintegration prior to their release from prison. The Department indicates that it intends to add some FTE related to this program in the second half of FY 2008-09. These hires could be put on hold and the additional money could be reduced or could be used to refinance other General Fund appropriations within the Department.					0	
2 Reduce the Provider Rate to Private Prisons by 1.0 Percent This option would reduce the provider rate paid to private prisons by 1.0 percent. This rate could be further reduced with the above calculated savings for each 1.0 percent reduction. Staff notes that the private prison provider rate was decreased by 9.6 percent during the last economic downturn. The current department-requested rate of \$52.69 is below the FY 2001-02 rate of \$54.66.	(435,740)	0	0	0	(435,740)	0.0
3 Reduce the Reimbursement Rate to Local Jails by 1.0 Percent Local jails are reimbursed for housing offenders who are awaiting prison beds. This option would reduce the reimbursement rate paid to local jails by 1.0 percent. This rate could be further reduced with the above calculated savings for each 1.0 percent reduction. Staff notes that the local jails reimbursement rate was decreased by 10.0 percent during the last economic downturn. The current department-requested rate of \$50.44 is below the FY 2001-02 rate of \$51.65.	(32,400)	0	0	0	(32,400)	0.0

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Options with <i>Appropriation</i> Impacts	GF	CF	RF	FF	Total	FTE
<p>4</p> <p>Reduce or Eliminate the Labor Subprogram</p> <p>The labor subprogram is responsible for the development and supervision of inmate work assignments involving physical labor to assist the Department with reclamation, landscaping, construction and other related projects. The Department identifies three components of the labor program: (1) intensive labor -- operated on an incentive basis so that the inmate is able to demonstrate that he or she is willing to modify his or her behavior; (2) inter-facility labor -- concentrated in the Canon minimum centers, using inmates for land reclamation and erosion control; and (3) off grounds labor -- usually reserved for minimum security facilities to provide off grounds inmate work crews for a variety of governmental projects. This option would reduce or eliminate this program. The savings would be dependent on the amount already spent year-to-date on the program.</p>					0	
<p>5</p> <p>Reduce the Caseload for DOC by Changing Various Criminal Sentencing Laws or Conditions of Parole</p> <p>Staff has listed a number of options below this table for reducing caseload within the Department of Corrections.</p>					0	

Legislative Options for Reducing Caseload. Potential options for reducing caseload include the following types of changes:

1. Decriminalize certain behavior(s). This will reduce the number of offenders in the system.¹
2. Reduce the felony classifications of certain crimes. Felonies are classified into six categories based on their severity. Legislation to reclassify a crime from a higher class felony to a lower class felony will reduce the presumptive range of a defendant's sentence. Section 18-1.3-401, C.R.S., establishes the following felony classifications including sentencing ranges and the statutory period of mandatory parole (see the following table). Reclassifying a felony to a misdemeanor would also save state General Fund dollars. Misdemeanors are punishable by sentences to county jails, which are not funded with state dollars.

¹ In April 2002, Legislative Council Staff developed a list of statutory crimes in Colorado (Research Publication No. 499). This list can be obtained from the Internet at the following site:
http://www.state.co.us/gov_dir/leg_dir/lcsstaff/2002/research/Crime%20Class/02CrimeTOC.htm

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Felony Classifications and Penalties (for felonies committed on or after July 1, 1993)			
Class	Minimum Sentence	Maximum Sentence	Mandatory Parole
1	Life imprisonment No Fine	Death No Fine	None
2	8 years imprisonment \$5,000 fine	24 years imprisonment \$1,000,000 fine	5 years
3	4 years imprisonment \$5,000 fine	12 years imprisonment \$750,000 fine	5 years
4	2 years imprisonment \$5,000 fine	6 years imprisonment \$500,000 fine	3 years
5	1 year imprisonment \$5,000 fine	3 years imprisonment \$100,000 fine	2 years
6	1 year imprisonment \$5,000 fine	1.5 years imprisonment \$100,000 fine	1 year

* Established in Section 18-1.2-401, C.R.S.

3. Reduce the length of sentences for crime classifications. The presumptive sentencing ranges for felony classes could be changed (see the previous table).
4. Change habitual offender laws. Current law requires offenders with two prior felony convictions to be sentenced to three times the maximum of the presumptive range of the felony conviction. Four times the maximum of the range must be imposed for habitual offenders with three prior convictions. Lifetime sentences are imposed for habitual offenders who are convicted of a crime of violence. These provisions could be modified to reduce the length of stay for these offenders.
5. Change crimes of violence. Current law requires defendants convicted of violent crimes (defined in statute) to be sentenced to a term of incarceration of at least the midpoint of the presumptive range up to twice the maximum of the presumptive range.

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6. Reduce judicial discretion for imposing more severe sentences. For example, sentences which cost less money could be required for some offenses (e.g., community corrections sentences or home detention could be required for certain types of offenses before a prison term could be imposed). Alternatively, judges could be prohibited from imposing sentences that are longer than maximum ranges. Current law allows such sentences to be imposed if specified aggravating circumstances exist. Judges could also be prohibited from allowing sentences to be served consecutively.
 7. Increase judicial discretion for imposing more lenient sentences. More discretion could be granted for judges to impose probation or community corrections sentences. Current law prohibits such sentences if a defendant has 2 or more prior felony convictions.
 8. Increase earned time or change parole eligibility date. The formula for calculating parole eligibility could be modified. In general, inmates are eligible after serving half of their sentence. Repeat violent offenders are eligible after serving 75 percent of the sentence. Alternatively, more credit for time served could be granted to offenders. Currently, inmates may earn up to 40 days credit for each month served – 10 days of "earned time" per month can be accrued.
 9. Reduce post incarceration supervision. The requirements for mandatory parole or lifetime sex offender supervision could be modified or eliminated.
 10. Modify Parole Board discretion. The discretion of the Parole Board could be modified for certain offenders or for certain types of revocations. As an example, the General Assembly enacted S.B. 03-252, which allowed the Parole Board to place certain parolees into a community return to custody facility for up to 6 months. The Parole Board's discretion to revoke or deny parole could be reduced through statutory changes.
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	FY 2007-08	FY 2008-09	Fiscal Year 2008-09 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
DEPARTMENT OF CORRECTIONS					
Executive Director - Ari Zavaras					
Supplemental #1 - Flexible Spending/Contract Services Refinancing					
<i>(5) Community Services</i>					
<i>(C) Community Intensive Supervision Subprogram</i>					
Contract Services - GF	3,552,631	3,777,380	(1,000,000)	(1,000,000)	2,777,380
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Supplemental #2 - Parole Wrap-Around Services - Balance					
<i>(5) Community Services</i>					
<i>(A) Parole Subprogram</i>					
Wrap-Around Services Program - GF	N.A.	1,800,000	(999,000)	(999,000)	801,000
<hr/>					
Supplemental #3 - Provider Rate Decrease					
<i>(1) Management</i>					
<i>(B) External Capacity Subprogram</i>					
Payments to In-State Private Prisons at a					
Rate of \$54.93 Per Inmate Per Day	<u>77,452,558</u>	<u>97,304,409</u>	<u>(1,607,088)</u>	<u>Pending</u>	<u>97,304,409</u>
General Fund	74,248,014	94,945,702	(1,607,088)		94,945,702
Cash Funds	0	2,358,707	0		2,358,707
Reappropriated Funds	3,204,544	0	0		0

	FY 2007-08	FY 2008-09	Fiscal Year 2008-09 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Payments to Pre-Release Parole Revocation Facilities at a Rate of \$54.93 Per Inmate Per Day - GF	10,935,963	14,435,604	(234,528)	Pending	14,435,604
Total for Supplemental #3	<u>88,388,521</u>	<u>111,740,013</u>	<u>(1,841,616)</u>	<u>Pending</u>	<u>111,740,013</u>
General Fund	85,183,977	109,381,306	(1,841,616)		109,381,306
Cash Funds	0	2,358,707	0		2,358,707
Reappropriated Funds	3,204,544	0	0		0
Supplemental #4 - Education Refinance					
<i>(4) Inmate Programs</i>					
<i>(B) Education Subprogram</i>					
Personal Services	<u>9,405,233</u>	<u>14,049,940</u>	<u>0</u>	<u>0</u>	<u>14,049,940</u>
General Fund	9,405,233	13,138,418	(800,000)	(873,044)	12,265,374
Cash Funds	0	911,522	800,000	873,044	1,784,566
Supplemental #5 - Correctional Industries Adjustments					
<i>(1) Management</i>					
<i>(C) Inspector General Subprogram</i>					
Operating Expenses	<u>275,547</u>	<u>304,959</u>	<u>67</u>	<u>0</u>	<u>304,959</u>
General Fund	270,587	299,999	67	0	299,999
Cash Funds	4,960	4,960	0	0	4,960

	FY 2007-08	FY 2008-09	Fiscal Year 2008-09 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
<i>(3) Support Services</i>					
<i>(D) Communications Subprogram</i>					
Operating Expenses - GF	1,446,920	1,501,175	1,200	0	1,501,175
<i>(F) Training Subprogram</i>					
Operating Expenses - GF	276,744	278,976	53	0	278,976
<i>(G) Information Systems Subprogram</i>					
Operating Expenses - GF	1,354,625	1,378,378	533	0	1,378,378
<i>(7) Correctional Industries</i>					
Personal Services	9,570,872	9,579,219	128,814	128,814	9,708,033
FTE	<u>155.0</u>	<u>155.0</u>	<u>2.7</u>	<u>2.7</u>	<u>157.7</u>
Cash Funds	0	2,299,013	128,814	128,814	2,427,827
Reappropriated Funds	9,570,872	7,280,206	0	0	7,280,206
Operating Expenses	<u>4,997,702</u>	<u>5,409,030</u>	<u>173,053</u>	<u>173,053</u>	<u>5,582,083</u>
Cash Funds	0	1,298,167	173,053	173,053	1,471,220
Reappropriated Funds	4,997,702	4,110,863	0	0	4,110,863
Inmate Pay	<u>1,512,408</u>	<u>1,553,702</u>	<u>32,000</u>	<u>32,000</u>	<u>1,585,702</u>
Cash Funds	0	372,453	32,000	32,000	404,453
Reappropriated Funds	1,512,408	1,181,249	0	0	1,181,249

	FY 2007-08	FY 2008-09	Fiscal Year 2008-09 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Total for Supplemental #5	19,434,818	20,005,439	335,720	333,867	20,339,306
FTE	<u>155.0</u>	<u>155.0</u>	<u>2.7</u>	<u>2.7</u>	<u>157.7</u>
General Fund	3,348,876	3,458,528	1,853	0	3,458,528
Cash Funds	4,960	3,974,593	333,867	333,867	4,308,460
Reappropriated Funds	16,080,982	12,572,318	0	0	12,572,318
Supplemental #6 - Parole Wrap-Around Services					
<i>(5) Community Services</i>					
<i>(A) Parole Subprogram</i>					
Wrap-Around Services Program - GF	N.A.	1,800,000	(801,000)	(801,000)	999,000
Supplemental #8 - Fund Split Reconciliation (see narrative for more detail)					
TOTAL - Various Line Items	23,154,346	18,007,690	(1,831,383)	(1,835,067)	16,172,623
FTE	<u>131.0</u>	<u>135.8</u>	<u>5.3</u>	<u>5.3</u>	<u>141.1</u>
General Fund	20,861,276	10,568,039	127,928	124,244	10,692,283
Cash Funds	476,330	2,640,382	75,756	75,756	2,716,138
Reappropriated Funds	122,764	1,658,374	(109,024)	(109,024)	1,549,350
Federal Funds	1,693,976	3,140,895	(1,926,043)	(1,926,043)	1,214,852

	FY 2007-08	FY 2008-09	Fiscal Year 2008-09 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Supplemental #NP - Hiring Freeze Reduction					
<i>(2) Institutions</i>					
<i>(G) Superintendents Subprogram</i>					
Personal Services - GF	11,466,602	10,276,508	(14,537)	(14,537)	10,261,971
FTE	171.2	173.0	0.0	(0.4)	172.6
<i>(3) Support Services</i>					
<i>(A) Business Operations Subprogram</i>					
Personal Services	6,535,755	5,937,088	(17,199)	(17,199)	5,919,889
FTE	<u>108.7</u>	<u>110.7</u>	<u>0.0</u>	<u>(0.4)</u>	<u>110.3</u>
General Fund	6,064,385	5,331,718	(17,199)	(17,199)	5,314,519
Cash Funds	471,370	604,671	0	0	604,671
Reappropriated Funds	0	699	0	0	699
Total for Supplemental #NP	18,002,357	16,213,596	(31,736)	(31,736)	16,181,860
FTE	<u>279.9</u>	<u>283.7</u>	<u>0.0</u>	<u>(0.8)</u>	<u>282.9</u>
General Fund	17,530,987	15,608,226	(31,736)	(31,736)	15,576,490
Cash Funds	471,370	604,671	0	0	604,671
Reappropriated Funds	0	699	0	0	699

	FY 2007-08	FY 2008-09	Fiscal Year 2008-09 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
JBC Staff Initiated Supplemental - DNC					
Reimbursement					
<i>(5) Community Services</i>					
<i>(A) Parole Subprogram</i>					
Personal Services - GF	8,664,962	10,192,309	0	(417,000)	9,775,309
FTE	147.2	179.2	0.0	0.0	179.2
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Previously Approved Interim Supplemental					
- Payments to District Attorneys					
<i>(1) Management</i>					
<i>(A) Executive Director's Office Subprogram</i>					
Personal Services	1,392,215	1,484,568	(150,000)	(150,000)	1,334,568
FTE	<u>15.5</u>	<u>24.1</u>	<u>0.0</u>	<u>0.0</u>	<u>24.1</u>
General Fund	1,284,932	1,336,851	(150,000)	(150,000)	1,186,851
FTE	13.8	22.4	0.0	0.0	22
Reappropriated Funds	107,267	147,693	0	0	147,693
FTE	1.7	1.7	0.0	0.0	2
Payments to District Attorneys - GF	468,551	100,708	150,000	150,000	250,708
Total for Previously Approved Interim Supplemental					
	1,860,750	1,585,252	0	0	1,585,252
FTE	<u>15.5</u>	<u>24.1</u>	<u>0.0</u>	<u>0.0</u>	<u>24.1</u>
General Fund	1,753,483	1,437,559	0	0	1,437,559
Reappropriated Funds	107,267	147,693	0	0	147,693

	FY 2007-08	FY 2008-09	Fiscal Year 2008-09 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation

Totals Excluding Pending Items					
Department of Corrections					
Totals for ALL Departmental line items	692,923,357	761,566,800	(4,327,399)	(4,749,936)	756,816,864
FTE	<u>6,010.3</u>	<u>6,575.9</u>	<u>8.0</u>	<u>7.2</u>	<u>6,583.1</u>
General Fund	620,743,050	676,820,771	(3,501,955)	(3,997,536)	672,823,235
Cash Funds	2,976,221	39,120,906	1,209,623	1,282,667	40,403,573
Reappropriated Funds	67,510,110	42,403,526	(109,024)	(109,024)	42,294,502
Federal Funds	1,693,976	3,221,597	(1,926,043)	(1,926,043)	1,295,554

Totals Including Pending Items					
Department of Corrections					
Totals for ALL Departmental line items	692,923,357	761,566,800	(6,169,015)	(4,749,936)	756,816,864
FTE	<u>6,010.3</u>	<u>6,575.9</u>	<u>8.0</u>	<u>7.2</u>	<u>6,583.1</u>
General Fund	620,743,050	676,820,771	(5,343,571)	(3,997,536)	672,823,235
Cash Funds	2,976,221	39,120,906	1,209,623	1,282,667	40,403,573
Reappropriated Funds	67,510,110	42,403,526	(109,024)	(109,024)	42,294,502
Federal Funds	1,693,976	3,221,597	(1,926,043)	(1,926,043)	1,295,554

Key:

N.A. = Not Applicable or Not Available