

JOINT BUDGET COMMITTEE



SUPPLEMENTAL BUDGET REQUESTS FY 2021-22

DEPARTMENT OF PUBLIC SAFETY (Division of Criminal Justice)

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

PREPARED BY:
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DEPARTMENT OF PUBLIC SAFETY (DIVISION OF CRIMINAL JUSTICE)

DIVISION OVERVIEW

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

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

SUMMARY: FY 2021-22 APPROPRIATION AND RECOMMENDATION

DEPARTMENT OF PUBLIC SAFETY: RECOMMENDED CHANGES FOR FY 2021-22						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2021-22 APPROPRIATION						
SB 21-205 (Long Bill)	\$531,711,038	\$168,742,644	\$241,553,361	\$53,042,492	\$68,372,541	1,948.9
Other legislation	13,746,590	5,142,646	7,103,944	1,500,000	0	22.6
CURRENT FY 2021-22 APPROPRIATION:	\$545,457,628	\$173,885,290	\$248,657,305	\$54,542,492	\$68,372,541	1,971.5
RECOMMENDED CHANGES						
Current FY 2021-22 Appropriation	\$545,457,628	173,885,290	\$248,657,305	\$54,542,492	\$68,372,541	1,971.5
S1 Capitol Complex security overtime	392,778	392,778	0	0	0	0.0
S2 Increased salary base for communications officers	306,155	12,950	293,205	0	0	0.0
S3 Firefighter safety and disease prevention grant	5,000,000	5,000,000	0	0	0	0.0
S4 Extend SB 21-292 ARPA funding	0	0	0	0	0	0.0
S5 Community corrections caseload	(8,564,357)	(8,564,357)	0	0	0	0.0
S6 Global energy park funding	135,943	135,943	0	0	0	11.5
Online tool for sex offender provider management system	200,000	0	200,000	0	0	0.0
SNP Annual fleet adjustment	7,453	117,991	(154,413)	(29,982)	73,857	0.0
RECOMMENDED FY 2021-22 APPROPRIATION:	\$542,935,600	\$170,980,595	\$248,996,097	\$54,512,510	\$68,446,398	1,983.0
RECOMMENDED INCREASE/(DECREASE)	(\$2,522,028)	(\$2,904,695)	\$338,792	(\$29,982)	\$73,857	11.5
Percentage Change	(0.5%)	(1.7%)	0.1%	(0.1%)	0.1%	0.6%
FY 2021-22 EXECUTIVE REQUEST	\$542,760,990	\$170,981,672	\$248,820,410	\$54,512,510	\$68,446,398	1,983.0
Request Above/(Below) Recommendation	(\$174,610)	\$1,077	(\$175,687)	\$0	\$0	0.0

Note: This document only covers the decision item highlighted above. All other requests for the Department of Public Safety are covered in a separate staff supplemental document.

REQUEST/RECOMMENDATION DESCRIPTIONS

S4 ROLL-FORWARD S.B. 21-292 APPROPRIATIONS: The Department requests a supplemental add-on to provide roll-forward spending authority through FY 2023-24 for three separate appropriations totaling \$6.0 million in S.B. 21-292 (Federal COVID Funding for Victim's Services). Staff recommends denial of the request.

S5 COMMUNITY CORRECTIONS CASELOAD ADJUSTMENT: The Department requests a decrease of \$8,564,357 General Fund in FY 2021-22 to capture savings related to lower-than-expected caseload from July through December 2021. Staff recommends approval of the request.

ONLINE TOOL FOR SEX OFFENDER PROVIDER MANAGEMENT SYSTEM: The Sex Offender Management Board requests an increase of \$200,000 cash funds from the Sex Offender Surcharge Fund FY 2021-22. These funds would allow the Board and the Office of Information Technology to develop an online provider application and complaint tool. Staff recommends approval of the request.

PRIORITIZED SUPPLEMENTAL REQUESTS

S4 ROLL-FORWARD S.B. 21-292 APPROPRIATIONS

	REQUEST	RECOMMENDATION	
TOTAL	\$0	\$0	\$0
FTE	0.0		0.0
General Fund	0		0
Cash Funds	0		0
Reappropriated Funds	0		0
Federal Funds	0		0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? **YES**

[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.]

Explanation: JBC staff and the Department agree that this request is the result of data that was not available when the original appropriation was made.

DEPARTMENT REQUEST: The Department requests a supplemental add-on to amend the 2021 session laws to provide roll-forward spending authority through FY 2023-24 for three separate appropriations in S.B. 21-292 (Federal COVID Funding for Victim's Services) totaling \$6.0 million. The table below shows those appropriations *according to the enacted bill*.

S.B. 21-292 APPROPRIATIONS TO DCJ					
PURPOSE	FUND SOURCE	FY 21-22	FY 22-23	FY 23-24	NOTES
Forensic Nurse Examiners Telehealth Program	Economic Recovery and Relief Cash Fund (via federal ARPA funds)	\$3,000,000	\$0	\$0	New program
State Victim Compensation Program	Economic Recovery and Relief Cash Fund (via federal ARPA funds)	1,500,000	0	0	N/A
State Victims Assistance and Law Enforcement (VALE) Fund	Reappropriated from State VALE cash fund via a \$1.5 million appropriation from the Economic Recovery and Relief Cash Fund	1,500,000	0	0	Annually appropriated cash fund

STAFF RECOMMENDATION: Staff recommends denial of the request on the grounds that the request is not appropriate for the supplemental process. The Department is asking for spending authority in a future fiscal year because they currently lack this authority. In staff's view, the supplemental process is for current year spending, not future year spending. Consequently, this request would be more appropriate as a budget amendment tied to the FY 2022-23 budget.

That said, staff agrees that the Department probably needs more time to spend S.B. 21-292 appropriations. There are couple ways to accomplish this. First, the Committee could approve the request for roll-forward authority. This is probably the simplest and easiest way to provide the Department with the budgetary flexibility it wants.

Another option is to adjust the FY 2022-23 budget to provide the Department with additional spending authority. During figure setting for next year's budget, the Committee could reduce FY 2021-22 funding through a Long Bill add-on by an amount equal to what has already been spent at that time. The Committee could then provide the remainder of the appropriation in the FY 2022-23 Long Bill. This method keeps the out-year impact of legislation within the Long Bill.

STAFF ANALYSIS:

STATE VALE PROGRAM

The State VALE program is a cash-funded program supported by the annually appropriated State VALE cash fund.¹ Statute requires that the State VALE Fund receive 13.0 percent of the aggregate balance of local VALE funds administered by each judicial district.² Surcharges levied on criminal actions and traffic offenses provide the main source of revenue for these local VALE funds.³

DCJ allocates State VALE funds for three different purposes: (1) grant awards to agencies that provide victim rights and services, (2) funding for state agencies to provide mandated rights to victims, and (3) administrative costs for the DCJ's Office for Victims Programs. Grant awards are competitive, but not for the seven state agencies that are statutorily mandated to implement the Victim Rights Act statewide. The table below shows awards for 2018. Unlike this example, sometimes state agencies apply for and receive competitive grant awards.

STATE VALE FUNDING 2018	
NONCOMPETITIVE (TO STATE AGENCIES)	AMOUNT
Law/Attorney General	\$84,996
Judicial/Probation	54,393
Corrections	142,766
Human Services/Youth Corrections	31,443
Human Services/Juvenile Parole	80,999
Public Safety/State Patrol	185,534
Public Safety/Bureau of Investigation	18,000
Subtotal	\$598,131
COMPETITIVE (STATE AND NON-STATE ENTITIES)	
Colorado Coalition Against Domestic Violence	117,541
Colorado Nonprofit Development Center	107,787
Colorado Organization for Victim Assistance	286,716
Rocky Mountain Victim Law Center	258,365
Subtotal	\$770,409
Total	\$1,368,540

The Long Bill appropriation for the State VALE Program has historically been set at \$1,500,000 cash funds; the Division typically awards and expends between \$1.2 and \$1.5 million every year. The Department's request notes that revenue for the Fund has declined in recent years, leading to a significant cut in grant funding: \$642,578 in the 2021 calendar year. The following table shows revenue and expenditures to local VALE funds, from which the State VALE Fund draws its revenue.

LOCAL VALE REVENUE AND EXPENDITURES					
	FY 16-17	FY 17-18	FY 18-19	FY 19-20	FY 20-21
Revenue	\$16,050,705	\$15,939,531	\$15,693,564	\$14,156,725	\$12,859,385
Expenditures	15,495,051	16,050,184	15,839,885	15,386,388	12,801,523
Fund Balance	\$11,116,937	\$11,006,283	\$10,859,962	\$9,776,620	\$9,834,482

¹ Section 24-33.5-506 (1), C.R.S.

² Section 24-4.2-105 (1), C.R.S. The 13.0 percent is applied after certain statutorily authorized expenses.

³ Section 24-4.2-104, C.R.S.

Per the Department, S.B. 21-292 was enacted, at least in part, to temporarily counteract declining revenue. Staff does not know whether the bill sponsors intended for the Department to spend all \$1.5 million in FY 2021-22, or whether the \$1.5 million was supposed to supplement declining revenues over multiple years.

STATE VICTIM COMPENSATION PROGRAM

This program requires DCJ to distribute \$3.0 million from the Economic Recovery and Relief Cash Fund “based on need.”⁴ These funds are distributed as reimbursements on a monthly basis. Per the Department, “grant agreements have been executed for all of the funds with the goal of spending the money by the current June 30, 2022 deadline.” The requested roll-over spending authority would simply provide additional spending flexibility if reimbursements are lower than expected and “programs need a little more time to spend down the grants.”⁵

FORENSIC NURSE EXAMINERS TELEHEALTH PROGRAM

This is a new program established by S.B. 21-292 to increase access to “competent forensic examinations and care for victims of crime.” The bill provided \$3.0 million cash funds from the Economic Recovery and Relief Cash Fund. Per the Department, the program consists of a single grant to University of Colorado Health distributed on a reimbursement basis. The Department believes it will not be able to spend all \$3.0 million by the end of FY 2021-22, citing contract reviews that can take several months, followed by several more months to order and receive the necessary equipment.

S5 COMMUNITY CORRECTIONS CASELOAD ADJUSTMENT

	REQUEST	RECOMMENDATION
TOTAL	(\$8,564,357)	(\$8,564,357)
FTE	0.0	0.0
General Fund	0	0
Cash Funds	0	0
Reappropriated Funds	0	0
Federal Funds	0	0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? YES

[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.]

Explanation: JBC staff and the Department agree that this request is the result of data that was not available when the original appropriation was made.

DEPARTMENT REQUEST: The Department requests a decrease of \$8,564,357 General Fund in FY 2021-22 to capture savings from lower-than-expected caseload between July and December 2021. The request retains funding for potential caseload increases and an additional facility payment.

STAFF RECOMMENDATION: Staff recommends approval of the request and requests permission to adjust the related footnote accordingly. However, staff’s analysis includes a few

⁴ Section 24-4.1-117.7, C.R.S.

⁵ Section 18-3-407.9 (1), C.R.S.

alternative options for the Committee to consider: (1) Reallocate the requested reduction to boost hiring and retention via increased per-diems or an additional flat-rate facility payment, (2) Reallocate funding to cover offender subsistence fees for the remainder of the fiscal year, and (3) Wait until figure setting and set aside current year savings for future year performance-based contracting payments. These options relate to previous discussions between the JBC, the DCJ, and JBC staff.

STAFF ANALYSIS:

The term “community corrections” refers to a network of service providers—public, private, and nonprofit—that help the State by: (1) Providing a sanction for criminal behavior short of prison, (2) Providing an intermediate level of supervision less than prison but more than probation or parole, and (3) Providing rehabilitative services to offenders to reduce the risk of reoffending. The State pays providers based the number of offenders placed in their programs (called “caseload” during the annual budget process), the per-diem rate set by the General Assembly, and the services they provide.

Referrals to community corrections come from the courts, the Department of Corrections, and the Parole Board.⁶ These referrals are commonly referred to as diversion, transition, and parole placements.

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

REDUCED CASELOAD

The Department’s request points to reduced caseload stemming from “needed responses to the pandemic across the criminal justice system,” including altered policing and court practices. Additionally, between spring 2020 and January 2021, the Department of Corrections reduced referrals and releases to community corrections. Transition referrals to community corrections were down by about 33.2 percent in FY 2020-21 compared to FY 2019-20; diversion referrals were down by about 14.0 percent.⁷

The Department’s request also points to altered practices in community corrections. Though not mentioned explicitly in the request, DCJ’s recent survey of providers indicates that 8 of 27 facilities were applying COVID-19 distancing protocols, thus reducing capacity in those facilities. For example, one provider mentioned that they were using 20.0 percent of their beds for COVID-19 isolation and quarantining. Another provider—with a waitlist—said that COVID-19 was the only thing preventing full utilization of their facility.

Closures and staffing issues have also affected total capacity. Six facilities that were open in December 2019 have since closed, with five of the six closures occurring in Denver’s 2nd Judicial District. Per the DCJ’s most recent hearing with the Committee, four of these closures stemmed from the Denver’s

⁶ There are also some condition-of-probation placements supported by the Correctional Treatment Cash Fund. Statute prohibits General Fund appropriations for non-felony probation placements. These placements account for less than 5.0 percent of placements throughout the system.

⁷ See JBC Staff Briefing, December 2, 2021, pg. 6 ([Link](#) to document)

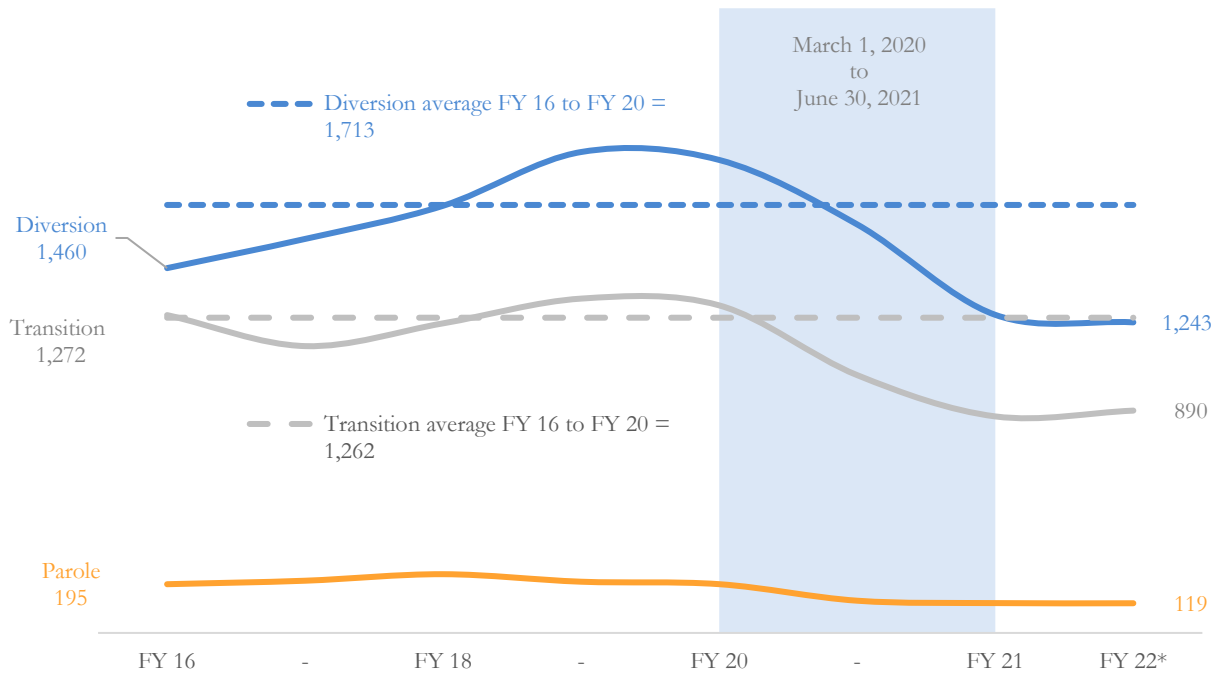
decision to stop contracting with two of its major providers. Regarding staffing, 11 of 27 facilities surveyed by DCJ reported that hiring and retention problems were affecting capacity, with the entire system showing job openings for 111 security staff and 20 case managers.

The table below should be interpreted as a snapshot at two different points in time; it is designed to give the Committee a sense of what has happened in the system over the past couple of years. **Max capacity** shows the total number of actual physical beds in community corrections facilities; **staffed beds** refers to the total number of beds that could be filled given current staffing levels; and **open staffed beds** refers to the total number of beds that could be filled given current staffing levels if the facility had a sufficient number of approved referrals. The **waitlist** column shows the estimated number of transition and diversion offenders that have been approved for placement but are waiting for an opening at a facility.

COMMUNITY CORRECTIONS SYSTEM CAPACITY COMPARISON DEC. 2019 VS DEC. 2021				
	MAX CAPACITY	STAFFED BEDS	OPEN STAFFED BEDS	WAITLIST
December-19	4,228	3,838	195	n/a
December-21	3,840	3,087	360	496
Difference	(388)	(751)	165	

As a result of these factors, and perhaps other that are unknown, both diversion and transition residential placements are well below their pre-pandemic averages.

Average daily number of residential placements in community corrections
FY 2015-16 through November 2021



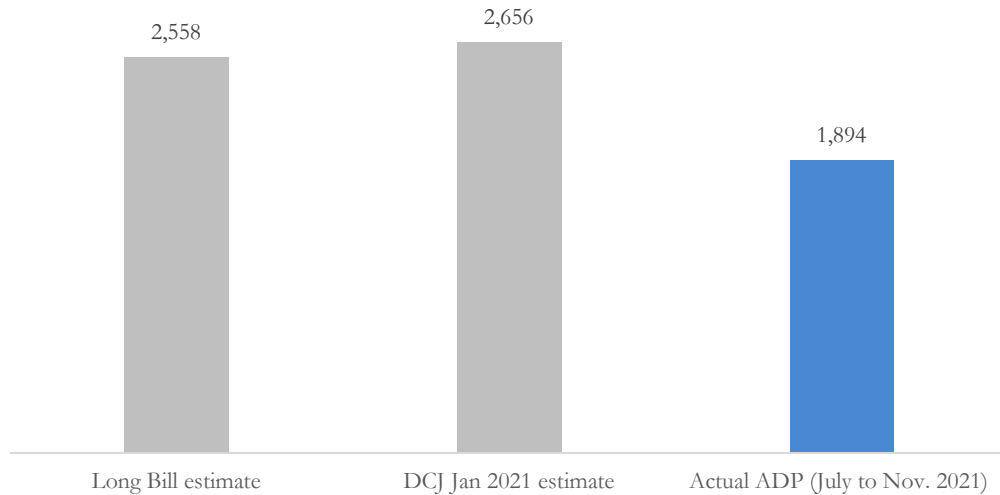
*FY 2021-22 figure represents figures through November 30, 2021

CASELOAD ASSUMPTIONS FOR FY 2021-22 APPROPRIATION

During figure setting last year, the JBC approved JBC staff’s recommendation to keep appropriations for community corrections placements flat from FY 2020-21 to FY 2021-22 (about \$66.0 million General Fund). Staff took a cautious approach to the recommendation to avoid the possibility of a supplemental *increase* in appropriations if caseload exceeded expectations. At the time, it was not clear—and still is not—how fast the judicial system would work through a large backlog of cases, nor was it clear how many transition placements to expect from the DOC given a substantial reduction in the prison population.

Staff’s recommendation was largely in line with DCJ’s informal caseload estimates for FY 2021-22.⁸ The following graph shows the number of standard residential placements estimated in the FY 2021-22 Long Bill, placements estimated by DCJ, and the actual average daily placements (ADP) in the system between July and November 2021.

The **actual standard residential ADP** in community corrections has been well below the assumptions used for the FY 2021-22 budget



REDUCED SPENDING

From July to October 2021, actual spending for community corrections placements (\$17.0 million) was well below the budgeted amount (\$22.7 million). Based on that trend, the Department estimates an additional \$2.9 million in savings in November and December, leading to a total requested reduction of \$8.6 million General Fund.

If the trend over the first six months of fiscal year held constant through the rest of the year, there would be a total under-expenditure of about \$17.0-18.0 million General Fund. The requested reduction leaves some funding in place accommodate potential caseload growth and an extra facility payment to providers totalling \$3,896,651 (about \$137,367 per facility).⁹ DCJ is allocating the extra facility payment to “aid with the financial impacts of the ongoing pandemic and the staffing issues.”

⁸ Neither DCJ nor Legislative Council Staff provide a formal forecast for the community corrections population.

⁹ The extra payment would be made possible by a transfer from the Community Corrections placements line item (affected by the supplemental request) to the Community Corrections Facility Payments line item. The Division the statutory authority to transfer up to 10.0 percent of total annual appropriations for community corrections between line items.

Approval of the requested \$8.6 million General Fund reduction and the reallocation of \$3.9 million General Fund for the extra facility payments leaves about \$4.5-5.5 million to accommodate potential caseload growth. In terms of beds, \$4.5 million would pay for about 508 additional standard residential beds at current rates for 180 days.

ALTERNATIVES TO THE REQUESTED REDUCTION

During the briefing and hearing process in December 2021, the Committee discussed various community corrections issues with JBC staff and DCJ. These issues included:

- Staffing and hiring issues in the system
- \$17.00 per day subsistence fees paid by offenders to residential facilities
- Performance-based contracting

These discussions suggested possible alternative uses of current year savings. Each subsection below highlights these uses and their estimated costs.

HIRING, STAFFING, INVESTMENT IN RESOURCES

Some facilities have reported that hiring and retention issues are limiting capacity at their facilities. Provider reports also indicate that system-wide staffed capacity has decreased by about 750 beds relative to December 2019. Hiring and retention problems do not account for all of this decrease, but it appears to account for some.

The Committee could use current year savings to temporarily boost per-diem rates or to provide a third facility payment aimed at hiring and retention. For example, each 1.0 percent rate increase at current caseload assumptions for 180 days would cost \$317,672 General Fund; an increase of 5.0 percent would cost about \$1.6 million. On the other hand, an extra facility payment would cost about \$3.9 million, or \$137,367 per facility.

A one-time boost in funding could: (1) help some providers recover from a rapid and sustained decline in the number of placements in their facilities, and (2) help providers make investments in resources (including staff) to improve performance and earn performance-based contracting incentive payments in future years.

SUBSISTENCE

The Long Bill appropriation for community corrections assumes that some amount of funding will come directly from community corrections clients through a “subsistence fee.” For FY 2021-22, the daily fee for residential placements is \$17.00 and the daily fee for nonresidential placements is \$3.00.¹⁰ These fees have not changed much over time. For example, the \$17.00 residential fee has not changed since FY 2002-03, when it was increased from \$13.00 per day. Prior to that, the fee was \$10.00 in the mid- to late-1990s.

The easiest way to temporarily cover subsistence would be to increase certain per-diem rates by \$17.00 and adjust or eliminate the Long Bill footnote assumption for subsistence payments. This would apply only to standard residential, intensive therapeutic communities, residential dual diagnosis, and sex offender programs. Staff calculates that the total cost based would be about \$6.5 million General Fund

¹⁰ Per the Long Bill footnote, these fees may be waived for specialized residential and nonresidential programs.

if caseload remains flat; the cost would be higher if the average daily caseload increases. DCJ's calculations are a bit higher, suggesting in their recent hearing that the cost would be about \$7.7 million if the Committee used this method. Either way, the total cost would probably fall within the \$8.6 million requested reduction.

DCJ noted in its recent hearing with the JBC that previous funding for subsistence did not yield evidence of an effect on recidivism. DCJ further noted that national research paints a mixed picture on the issue. However, it could be argued that prior funding did not provide a large enough sample size over a long enough period of time to draw a conclusion. In FY 2013-14, the General Assembly provided \$591,200 General Fund to cover the first 28 days of an offender's stay in community corrections over seven months. This was the basis for a DCJ study that informed their conclusions.¹¹ In FY 2018-19, the General Assembly provided \$250,000 General Fund.

PERFORMANCE-BASED CONTRACTING

On January 5, DCJ submitted its response to a JBC Request for Information about performance-based contracting (PBC) in community corrections. Staff will present DCJ's proposal during figure setting as part of a decision item (likely staff-initiated) to set expectations and funding for PBC. To provide a sense of scale, DCJ's proposal calls for up to a 2.0 increase in the base per-diem for qualifying providers in FY 2022-23. Based on current rates and caseload assumptions, a 2.0 percent per-diem increase would require about \$1.3 million additional General Fund if all providers qualify.

During last year's budget cycle, JBC staff recommended legislation to create a temporary, reversion-based, annually appropriated cash fund to support PBC during its first five years. Staff did not make this recommendation lightly; in most cases, it would be ideal for the General Assembly to simply increase or decrease General Fund appropriations to line items as needed, according to its priorities.

However, staff concluded that incentive payments would not lead to improved performance if providers are not confident that the General Assembly will provide appropriations to cover earned payments. Staff's recommendation was primarily a practical one; set aside savings now to pay for future costs. Community corrections was set to revert large amounts of General Fund in FY 2020-21, even after a supplemental reduction of \$10.4 million General Fund. The reversion ended up being \$8.7 million General Fund, for total savings of \$19.1 million General Fund in FY 2020-21. As indicated by the Department's current supplemental request, community corrections will likely revert large sums of General Fund in FY 2021-22.

During the upcoming figure setting process, JBC staff will present a revised version of the cash fund option for the Committee's consideration during the larger discussion about PBC. This will ensure that the Committee has adequate information about the specific details of PBC, which is something the Committee lacked during last year's discussion. The Department supports the cash fund concept.

CONCLUSION

Staff recommends approval of the request, but notes that there are other potential one-time uses for \$8.6 million within the community corrections system, especially considering system-wide reductions in caseload and capacity over the past two years. Staff has presented at least a few options for the Committee to consider, but it is up to the Committee to decide how to prioritize the reallocation of those funds.

¹¹ https://cdpsdocs.state.co.us/ors/docs/reports/2015_ComCor_Subistence_Pilot_Project.pdf

ONLINE TOOL FOR SEX OFFENDER PROVIDER MANAGEMENT SYSTEM

	REQUEST	RECOMMENDATION
TOTAL	\$200,000	\$200,000
FTE	0.0	0.0
General Fund	0	0
Cash Funds	200,000	200,000
Federal Funds	0	0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? YES

[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.]

Explanation: JBC staff agrees that the request is based on information that was not available when the original appropriation was made.

DEPARTMENT REQUEST: The Sex Offender Management Board, housed within the Department of Public Safety, submitted this request outside of the normal budget channels (See Appendix B for all documentation related to the request). The request is for an increase of \$200,000 cash funds from the Sex Offender Surcharge Fund. This increase would allow the Sex Offender Management Board (SOMB) to develop an online application and complaint system.

STAFF RECOMMENDATION: Staff recommends approval of the request, but notes that future requests for supplemental funding should go through the normal budget channels as official budget requests.

STAFF ANALYSIS:

The FY 2018-19 Long Bill included \$444,686 total funds—\$244,686 General Fund and \$200,000 from the Sex Offender Surcharge Fund—to build a data collection and provider management system. This system did not include an online application and complaint component. Consequently, application and complaint forms are currently printed out, completed, and sent back to the SOMB via regular mail or e-mail. The SOMB’s request says that an online application and complaint system will be much more efficient.

The SOMB submitted a work request to the Office of Information Technology (OIT) and was notified in the second quarter of FY 2021-22 that OIT was ready to start the project, contingent on available funding. That notification led to this request for supplemental funding.

FUND BALANCE SUFFICIENT TO COVER THE COST

The Sex Offender Surcharge Fund receives revenue from fees paid by convicted sex offenders. The following table shows that the estimated fund balance for FY 2021-22 can provide an extra \$200,000.

SEX OFFENDER SURCHARGE FUND BALANCE							
	FY 16-17	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22*	FY 22-23*
Revenue	\$589,976	\$589,046	\$672,752	\$604,875	\$675,484	\$610,000	\$610,000
Expenditures	514,797	532,332	494,540	341,398	533,215	524,218	535,327
Fund Balance	244,875	301,589	479,801	743,278	885,547	971,329	1,046,002

*JBC Staff Supplemental Recommendations - FY 2021-22
Staff Working Document - Does Not Represent Committee Decision*

Appendix A: Numbers Pages

	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2021-22 Requested Change	FY 2021-22 Rec'd Change	FY 2021-22 Total w/Rec'd Change
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**DEPARTMENT OF PUBLIC SAFETY
Stan Hilkey, Executive Director**

S4 Extend SB 21-292 ARPA funding

(4) DIVISION OF CRIMINAL JUSTICE

(B) Victims Assistance

State Victims Assistance and Law Enforcement

Program	<u>1,034,240</u>	<u>3,000,000</u>	<u>0</u>	<u>3,000,000</u>
General Fund	0	0	0	0
Cash Funds	1,034,240	1,500,000	0	1,500,000
Reappropriated Funds	0	1,500,000	0	1,500,000
Federal Funds	0	0	0	0

Forensic Nurse Examiners Telehealth Program	<u>0</u>	<u>3,000,000</u>	<u>0</u>	<u>3,000,000</u>
General Fund	0	0	0	0
Cash Funds	0	3,000,000	0	3,000,000
Reappropriated Funds	0	0	0	0
Federal Funds	0	0	0	0

State Victim Compensation Program	<u>0</u>	<u>1,500,000</u>	<u>0</u>	<u>1,500,000</u>
Cash Funds	0	1,500,000	0	1,500,000

Total for S4 Extend SB 21-292 ARPA funding	1,034,240	7,500,000	0	7,500,000
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
General Fund	0	0	0	0
Cash Funds	1,034,240	6,000,000	0	6,000,000
Reappropriated Funds	0	1,500,000	0	1,500,000
Federal Funds	0	0	0	0

JBC Staff Supplemental Recommendations - FY 2021-22
Staff Working Document - Does Not Represent Committee Decision

	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2021-22 Requested Change	FY 2021-22 Rec'd Change	FY 2021-22 Total w/Rec'd Change
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S5 Community corrections caseload

(4) DIVISION OF CRIMINAL JUSTICE

(D) Community Corrections

Community Corrections Placements	<u>46,963,685</u>	<u>66,063,973</u>	<u>(8,564,357)</u>	<u>57,499,616</u>
General Fund	46,963,685	66,063,973	(8,564,357)	57,499,616
Cash Funds	0	0	0	0
Reappropriated Funds	0	0	0	0
Federal Funds	0	0	0	0

Total for S5 Community corrections caseload	46,963,685	66,063,973	(8,564,357)	57,499,616
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
General Fund	46,963,685	66,063,973	(8,564,357)	57,499,616
Cash Funds	0	0	0	0
Reappropriated Funds	0	0	0	0
Federal Funds	0	0	0	0

JBC Staff Supplemental Recommendations - FY 2021-22
Staff Working Document - Does Not Represent Committee Decision

	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2021-22 Requested Change	FY 2021-22 Rec'd Change	FY 2021-22 Total w/Rec'd Change
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Online tool for sex offender provider management system

(1) EXECUTIVE DIRECTOR'S OFFICE

(A) Administration

Payments to OIT	<u>12,405,162</u>	<u>12,384,466</u>	<u>200,000</u>	<u>12,584,466</u>
General Fund	3,342,997	2,993,167	0	2,993,167
Cash Funds	3,813,534	908,177	200,000	1,108,177
Reappropriated Funds	5,248,631	8,452,370	0	8,452,370
Federal Funds	0	30,752	0	30,752

Total for Online tool for sex offender provider management system	12,405,162	12,384,466	200,000	12,584,466
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
General Fund	3,342,997	2,993,167	0	2,993,167
Cash Funds	3,813,534	908,177	200,000	1,108,177
Reappropriated Funds	5,248,631	8,452,370	0	8,452,370
Federal Funds	0	30,752	0	30,752

Totals Excluding Pending Items				
PUBLIC SAFETY				
TOTALS for ALL Departmental line items	1,239,882,586	545,457,628	(8,364,357)	537,093,271
<i>FTE</i>	<u>1,818.3</u>	<u>1,971.5</u>	<u>0.0</u>	<u>1,971.5</u>
General Fund	134,543,284	173,885,290	(8,564,357)	165,320,933
Cash Funds	351,201,410	248,657,305	200,000	248,857,305
Reappropriated Funds	41,746,949	54,542,492	0	54,542,492
Federal Funds	712,390,943	68,372,541	0	68,372,541

APPENDIX B: SOMB SUPPLEMENTAL REQUEST

This appendix contains the original memo from the Sex Offender Management Board (SOMB), a follow-up addendum, and the SOMB's responses to JBC staff's questions.



700 Kipling Street, Suite 1000
Lakewood, CO 80215

November 19, 2021

COLORADO SEX OFFENDER MANAGEMENT BOARD
Recommendations for Expenditures
from the Sex Offender Surcharge Fund

Pursuant to Section 16-11.7-103(4)(c) C.R.S., the Sex Offender Management Board "shall develop a plan for the allocation of moneys deposited in the sex offender surcharge fund created pursuant to Section 18-21-103(3) C.R.S. among the Judicial Department, the Department of Corrections, the Division of Criminal Justice of the Department of Public Safety, and the Department of Human Services."

On November 19, 2021, the Sex Offender Management Board met and endorsed the following plan for additional expenditures from the limited dollars in the cash fund for Fiscal Year 2021-2022:

1. \$200,000 to the Colorado Department of Public Safety Office of Information Technology for the development of an online provider application and complaint system in conjunction with the previously developed Provider Management System.

The total additional expenditures from the fund will be \$200,000.

When the above needs have been satisfied, additional dollars for direct services for additional sex offender treatment, polygraphs or related services should be considered. At that time this plan will be updated.



Chair, Sex Offender Management Board

11/22/2021

Date





COLORADO
Department of Public Safety
Executive Director's Office

December 1, 2021

Senator Dominick Moreno, JBC Chair
Joint Budget Committee
200 E. 14th Ave., #300
Denver, CO 80203

SUPPLEMENTAL EXPENDITURE REQUEST

Dear Senator Moreno,

Senate Bill 03-258, Footnote #4, requires state agencies involved in multi-agency programs requiring separate appropriations to designate a lead agency to be responsible for submitting a comprehensive annual budget request for such programs to the Joint Budget Committee.

Pursuant to Section 16-11.7-103 (4)(c) CRS., the Sex Offender Management Board "shall develop a plan for the allocation of moneys deposited in the sex offender surcharge fund created pursuant to section 18-21-103(3) C.R.S., among the Judicial Department, the Department of Corrections, the Division of Criminal Justice of the Department of Public Safety, and the Department of Human Services."

The Sex Offender Management Board previously submitted recommendations for expenditures in Fiscal Year 2021-2022 from the Sex Offender Surcharge Fund specific to each agency. Based on an additional agency need for the Department of Public Safety, the Sex Offender Management Board is submitting this supplemental expenditure recommendation to be used to support development of an online application submission process for approved treatment providers, evaluators, and polygraph examiners.

Further questions regarding the information outlined in the attachment should be directed to Mr. Chris Lobanov-Rostovsky, Division of Criminal Justice, Colorado Department of Public Safety at (303) 239-4447 or chris.lobanovrostovsky@cdps.state.co.us.

Sincerely

Stan Hilkey
Executive Director, Colorado Department of Public Safety

Cc:

Christina Ortiz-Marquez, DOC
Glenn Tapia, State Judicial Department
Jana Locke, Deputy Executive Director CDPS
Joe Thome, Director DCJ
Joel Malecka, CDPS
Susan Wilson-Madsen CDPS
Teresa Anderle, CDPS
Lisa Mayer, DHS

Senator Bob Rankin, JBC
Senator Chris Hansen, JBC
Representative Leslie Herod, JBC
Representative Kim Ransom, JBC
Representative Julie McCluskie, JBC Vice-Chair
Shelly Jones, Analyst OSPB
Justin Brakke, Analyst JBC





COLORADO
Division of Criminal Justice
Department of Public Safety
Division of Criminal Justice
700 Kipling Street, Suite 1000
Lakewood, CO 80215

December 14, 2021

To: Joint Budget Committee
From: Chris Lobanov-Rostovsky, Program Manager, Division of Criminal Justice
Re: Supplemental FY 2022 Allocation for the Sex Offender Surcharge Fund

The Colorado Sex Offender Management Board (SOMB) is responsible, per statute (16-11.7-103 (4) (C) C.R.S.), for developing an annual plan for the allocation of moneys deposited in the Sex Offender Surcharge Fund. The SOMB has previously submitted a spending plan for Fiscal Year 2021-2022, but is submitting this additional request for spending.

This supplemental request is to the Department of Public Safety and the Office of Information Technology to develop an online provider application and complaint system. The Joint Budget Committee previously provided funding from the Sex Offender Surcharge Fund to develop a provider data management system that included the ability to enter service level data into the system. This supplemental request is to further expand this system to allow for approved providers to submit an online application for initial approval or renewal using the provider data management system. In addition, the new upgraded system will allow all stakeholders to file complaints with the SOMB electronically, and providers to respond within the system as well. The need for an online application and complaint system has become even more critically important based on the COVID pandemic and the need to transition to virtual options for provider management. The newly enhanced provider data management system will provide the ability for applications and complaints to be completed online rather than having to print out applications or complaint forms, fill them out, scan them, and email them in. This efficiency should greatly benefit the approved providers working under the SOMB system as well as all stakeholders including the clients of the services themselves.

The request for funding is to add to the existing provider data management system to build out an online application and complaint system. Utilizing the existing system, the Office of Information Technology can complete the enhancement for the additionally requested \$200,000.

The SOMB requests the Joint Budget Committee fund the Office of Information Technology to develop the online application and complaint system in FY 2022. Thank you for your consideration.





January 6, 2022

To: Joint Budget Committee
From: Chris Lobanov-Rostovsky, Program Manager, Division of Criminal Justice
Re: Questions Regarding Supplemental FY 2022 Allocation for the Sex Offender Surcharge Fund

In response to questions regarding the Supplemental FY 2200 Allocation for the Sex Offender Surcharge Fund, the following information is being provided:

1. How does this meet supplemental criteria? Does the request stem from 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?

Response: The SOMB had an OSA finding and recommendation to make spending allocation decisions directly to the JBC as the need arose. As a result, the SOMB began looking at the spending allocation needs based on this feedback over the past year. Currently, the spending allocation recommendations are made two years out (the 2021 recommendation was for FY 2022-2023) based on budget processes. This has made nimble responding to needs problematic.

As a result, and in conjunction with the recognition of available funds, the SOMB began looking at potential projects for which to recommend expenditures. The SOMB identified the need to build on to the existing provider data management system that was funded by the JBC in 2018. Currently, the system allows providers to collect data and manage provider status, but does not include an online application and complaint system. The developers recognized the need for this to be part of the system, and determined that it could be added to the system, but there was not sufficient time or funds to add this to the original project.

Per Departmental procedure, the request from the SOMB for the online application and complaint development was submitted to OIT to be added to the list of requested and pending projects. The project was ranked and then we awaited implementation to the project. Given the fluid nature of the ranking (priority and emergency items can move a project down the list), it was not possible to predict exactly when the project would begin and request funding in advance.

We were notified during the second quarter of FY 2022 that the project had risen to the top of the list and was now available to implementation contingent on funding availability. Based on the audit recommendation, the SOMB followed the process identified to request funding for FY 2022 as a supplement to the previously identified funding request (see question 4). The Department has allocated \$25,000 of its budget to begin the project, but the remaining funds from the Sex Offender Surcharge Fund are needed to complete the project.



2. Why does this need to happen in FY 2021-22, as opposed to FY 2022-23?

Response: The project has begun and will be completed during FY 2021-22. Therefore, the funding is being requested based on the need for funding in this Fiscal Year. If we did not begin the project when requested, it was possible the project could have been moved down the list and there may not have been availability to complete the project in the near future. As a result, the Department committed its own funding to begin the project in the hope that the JBC will fund the remaining amount when it meets during the 2022 legislative session to set the FY 2022 budget.

3. What's the current process for applications and complaints?

Response: Forms are available online but must be printed out, filled out on paper, and then either mailed, or scanned and emailed. All correspondence with the provider or complainant subsequent to submission, including confirmation of receipt, must be done by email or postal mail. This certainly slows down the submission and response time periods, and this initiative will enhance customer service to both providers and complainants.

In terms of maintaining official records of the applications and complaints, those submitted by mail must then be scanned in by the staff and saved into the network drive. Having an online system will allow these to be saved automatically, which will also enhance efficiency.

4. What was the previously-funded request mentioned in the letter?

Response: On August 21, 2020, the Sex Offender Management Board met and endorsed the following plan for expenditures from the limited dollars in the cash fund for Fiscal Year 2021-2022:

- 1. \$ 163,591 to the Division of Criminal Justice (DCJ) for administration and implementation of the Standards (personnel, contract, operating and POTS dollars for FTE appropriated positions amended to reflect actual base and POTS dollars). \$3,500 of these funds will be used to provide cross-system training. These dollars may be matched by grants as available.*
- 2. \$302,029 to the Judicial Department for direct services, beginning with the funding of sex offender evaluations, assessments and polygraphs required by statute during the pre-sentence investigation.*
- 3. \$30,041 to the Department of Corrections to be used to manage sex offender data collection, including entry of ViCAP, psychological and risk assessment test results and demographics for use in treatment planning and research (personnel, operating and POTS dollars for FTE appropriated positions).*
- 4. \$38,250 to the Department of Human Services to be used for training and technical assistance to county departments, the Division of Youth Services, and the Division of Child Welfare.*

The total expenditures from the fund will be \$533,911.

