

MEMORANDUM



JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee
FROM Justin Brakke, JBC Staff (303-866-4958)
DATE January 24, 2023
SUBJECT OSPB & Department of Public Safety S4 Community Corrections Caseload

S4 COMMUNITY CORRECTIONS CASELOAD REDUCTION

	REQUEST	RECOMMENDATION
TOTAL	(\$5,109,036)	\$0
FTE	0.0	0.0
General Fund	(5,109,036)	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? **NO**

[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: The request was submitted after the statutory deadline of January 2 (Section 2-3-208 (3)(a), C.R.S.) The Department of Public Safety is not one of the three state agencies authorized by statute to submit caseload-related requests on January 15 (Section 2-3-208 (3)(b)(I), C.R.S.).

Statute allows the Office of State Planning and Budgeting (OSPB) to submit a request to the Joint Budget Committee on behalf of a state agency, but it also says that corresponding statutory deadline for the Department applies to OSPB. (Section 2-3-208 (4), C.R.S.)

Statute provides some leeway in these deadlines, saying “A state agency may submit a request for a supplemental appropriation to the joint budget committee after its applicable deadline if the supplemental appropriation is based upon circumstances unknown to, and not reasonably foreseeable by, the state agency prior to the deadline.” (Section 2-3-208 (3)(b)(II), C.R.S.)

JBC staff concludes that this request does not qualify under any of these statutory criteria. Supplemental caseload adjustments do not depend on prison population forecasts provided by the Division of Criminal Justice (DCJ) and Legislative Council Staff in December of each year. For example, the supplemental caseload adjustment submitted for FY 2021-22 arrived on January 3 and did not reference prison population forecasts. Additionally, DCJ’s Office of Community Corrections has access to caseload data on a regular basis, so estimates for year-to-date savings should not be contingent on the December prison population forecasts. Lastly, the request does not explain any other circumstances that could be classified as “unknown” or “not reasonably foreseen by” the state agency, or by OSPB.

OSPB REQUEST: The Office of State Planning and Budgeting requests a decrease of \$5,109,036 General Fund in FY 2022-23 to capture savings related to year-to-date caseload, which has been lower than expected. The amount requested comes from an OSPB estimate on page 3 of the request, so staff concludes that the request came from that office.

STAFF RECOMMENDATION: Staff recommends denial of the request because it does not meet statutory deadlines for supplemental budget requests and it comes at a time when the prison

population is increasing. Community corrections is an alternative to incarceration and could play a role in mitigating the budgetary effects of a growing prison population. Recent data indicates there is a large waitlist for transition placements from the Department of Corrections (DOC).

STAFF ANALYSIS:

The appropriation for the *Community Corrections Placements* line item is partially based on the Department's response to a JBC request for information (RFI) that is included in the annual Long Bill budget package.¹

The Department's response to that RFI indicates that year-to-date underutilization of the *Community Corrections Placements* appropriation is not due to lack of demand. The response references a waitlist of 301 approved transition inmates from the DOC waiting for placement in community corrections (as of December 16, 2022). The RFI also notes that staffing is an issue at community corrections facilities, which may be a factor in the size of the waitlist.

Given community corrections' role in the criminal justice system as an alternative to incarceration, staff does not think it is a good idea to reduce community corrections appropriations at a time when the prison population is increasing.

¹ See FY 2022-23 Appropriations Report, Appendix H, page H-22: <https://leg.colorado.gov/sites/default/files/fy22-23apprept.pdf>