

MEMORANDUM



JOINT BUDGET COMMITTEE

TO JBC Members
FROM JBC Staff
DATE March 15, 2024
SUBJECT Figure Setting Comeback Packet 6

Included in this packet are staff comeback memos for the following items:

Department of Personnel, page 2 (Tom Dermody): R6 CDFC Grant Increase Technical Clarification on Committee Action

Department of Corrections, (Justin Brakke): JBC staff comebacks for the Department of Corrections:

- R12 Victim Services Unit, **page 3**
- Updated shift differential calculation, **page 12**
- Updated information about S8/BA7 Inmate Phone Calls, **page 13**
- Footnote for clinical staff incentives, **page 13**
- Performance audit of DOC budget inputs and outputs, **page 14**

MEMORANDUM



JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee
FROM Tom Dermody, JBC Staff (303-866-4963)
DATE March 14, 2022
SUBJECT Technical Clarification on Committee Action on Dept. of Personnel
R6 CDFC Grant Increase

During figures setting for the Department of Personnel (March 1, 2024), the Committee approved staff's recommendation for the Department's R6 (CDFC grant increase) request. There is an associated non-prioritized element for this request in the Department of Human Services that was part of staff's recommendation, but not specifically noted in staff's analysis. This non-prioritized element eliminates the \$2.0 million General Fund that had been appropriated to the Disability Benefits Application Assistance Program.

The Disability Benefits Application Assistance Program was created by H.B. 19-1223 (Social Security Disability Application Assistance) assist individuals who receive Aid to the Needy Disabled (AND) cash payments. These Disability Navigators were funded through county human services agencies to assist people who are receiving \$248 monthly in General Fund only payments to apply for Supplemental Security Income, as well as Social Security Disability Insurance, which would increase their income to at least \$914 monthly. The Department of Human Services is repaid for all AND payments made to that individual. CDFC can provide the funding for these efforts to the nonprofits doing this work.

This technical comeback is to clarify that staff's recommendation for the R6 request also included approval of the non-prioritized request in the Department of Human Services.

MEMORANDUM



JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee
FROM Justin Brakke, JBC Staff (303-866-4958)
DATE March 14, 2024
SUBJECT JBC staff comebacks for the Department of Corrections

This memo includes the following tabled, follow-up, and new items.

Tabled

- R12 Victim Services Unit

Follow-up

- Updated shift differential calculation
- Updated information about S8/BA7 Inmate Phone Calls
- Footnote for clinical staff incentives

New

- Performance audit of DOC budget inputs and outputs

TABLED ITEMS

The JBC tabled this item pending more information about the DOC's Victim Services Unit and the Victim Information Notification Everyday (VINE) system operated by Colorado's county sheriffs and funded through the Division of Criminal Justice in the Department of Public Safety.

→ R12 VICTIM SERVICES UNIT

DEPARTMENT REQUEST: The Department requests an increase of \$300,196 General Fund and 2.7 FTE in FY 2024-25 to comply with statutory requirements and with the Colorado Attorney General's interpretation of those requirements. This would annualize to \$294,696 General Fund and 3.0 FTE in FY 2025-26.

The request includes \$194,555 for 2.7 FTE, which includes two Liaison IIs and a Technician III. Per the request, the Liaisons are, "...essentially victim advocates" who "...guide victims who participate in critical stage hearings (parole, community) and attend with the victim...In addition, these advocates provide follow-up care and, if necessary, connect victims to longer-term resources after these hearings." Technicians analyze notifications before they are sent and answer daily phone calls and emails from victims.

The request also includes \$105,641 for operating expense, of which \$74,186 is for software licenses to access the Citizen and Law Enforcement Analysis and Reporting (CLEAR) database. Per the request, "CLEAR is a law enforcement database that allows law enforcement/correctional professionals to obtain relevant and updated information for victims. CLEAR utilizes public records

and utilities to receive this information. Currently, this is a tool that some District Attorneys' offices' victim/witness advocates use as well; however, VSU cannot rely on them to process DOC victims."

The following table, taken from the request, shows the outputs and outcomes that the Department would measure to assess the effect of additional funding for the Victim Services Unit.

Program Objective	To successfully identify and enroll victims of VRA crimes to ensure proper notifications are met regarding critical events and stages of processing.
Outputs being measured	Accuracy of victim contact data, accuracy and timeliness of notifications, processing time to register new victims, and average number of victims assigned to a VSU technician.
Outcomes being measured	Efficient and accurate victim enrollments, efficient, accurate, and timely victim notifications, and positive victim feedback.
Type and Result of Evaluation	Collect output data continuously and assess outputs and outcomes monthly.
S.B. 21-284 Evidence Category and Evidence Continuum Level	Step 2 (theory informed)

STAFF RECOMMENDATION: Staff recommends approval of the request. Staff has heard competing claims about the DOC's victim services unit relative to other potential options (e.g. the state Victim Information and Notification Everyday, or "VINE" system). Staff was unable to independently verify competing claims from external sources, nor was staff unable to verify all of the information provided by the Department in the request and in its lengthy hearing responses to the JBC. In sum, staff concluded that the Department's request makes sense but also acknowledges that others with more or different information may arrive at a different conclusion.

NEW INFORMATION

THE DOC'S RESPONSE TO THE JBC'S DISCUSSION OF THIS DECISION ITEM ON MARCH 8, 2024

The Department of Corrections provided the following information on March 11, 2024.

"This Decision Item (DI) does not request *any* money for actual victim notification. The DI requests additional staffing for our Victim Services Unit (VSU) to increase customer service and compassionate support to the now over 30,000 enrolled victims in the State and for licenses to the CLEAR database described in more detail below. With the H.B. 19-1064 requirement that all victims are automatically opted in, the VSU caseload has increased significantly and in order to continue to provide the levels of service necessary and keep up with enrollments, the additional FTE requested in this DI are required. To clarify, CLEAR is *not* the name of our victim notification program. The name is simply "DOC Victim Notification Program." Per JBC's request, the following is a discussion of what our notification program provides and some differences between the DOC Victim Notification Program and VINE.

CDOC has an effective, comprehensive notification program that provides victims notification at every critical stage, whether it be offender movement or participation in parole hearings. This program

has been used since 1993, with in-house modifications completed as needed to accommodate statutory changes. In addition to providing automated notices, our Victim Services Unit is composed of dedicated staff who assist victims personally through the post-conviction process. For CY2018 (before H.B. 19-1064), the Department's Victims Services Unit (VSU) had 7,185 opted-in victims and sent approximately 40,094 notifications. Currently, VSU has 32,799 enrolled victims and has sent (YTD) 193,132 notifications.

The DOC has examined VINE's program previously among other outside options, and found no cost-effective outside opportunities that would provide the same level of service or number and type of notifications that CDOC currently provides. Unlike the VINE system, the DOC system currently allows immediate customization of all notifications. DOC's VSU can create a new notification and deploy it within a matter of minutes. We utilize custom notifications for unique circumstances that may occur - for example, we modified notices when we moved inmates out of Delta during flooding, and we modified notices due to S.B. 23-193 to provide additional information to victims regarding early parole discharges and how to obtain protection orders. In addition, we are currently exploring new notification methods and technologies that we can rapidly build, deploy, and fund in-house.

There is no need for the DOC to adopt the VINE notification system because the VINE system provides victims with notice before sentencing, and the DOC system provides notice post-sentencing. Victims receive notification without interruption when they transition between the two systems. The State of Colorado is one of the only states whose victim notice provisions, by statute, require that all victims be registered to receive notice and may "Opt-Out" of receiving those notices (H.B. 19-1064). This means that victims receiving notices through VINE before sentencing are automatically enrolled in DOC's notification program and it is a seamless transition into the DOC system with NO action required by the victim. Victims are automatically enrolled in DOC's notice system after sentencing and continue receiving all movement and critical stage updates without a need to re-enroll in a new or separate notification system.

The DOC Victim Notification system itself is one module of our internal electronic Offender Management Information System(eOMIS) data system. The total monthly maintenance fee for the entire eOMIS system is currently \$58,324. The cost of the VSU module is one small portion of that entire amount. Since the maintenance and upkeep of the VSU module of eOMIS is included in the annual OIT Common Policy billing, these costs cannot be off-boarded, and the entire cost of that module would remain even without the VSU component, meaning that even if we outsourced to VINE, we would still pay for this module.

The other costs, such as those reflected in this DI, are related to staffing of the Victim Services Unit, necessary postage and supplies (\$39,447 for FY 2022-23), and access to services like the Citizen and Law Enforcement Analysis and Reporting Database (CLEAR). CLEAR is an interactive data dashboard and clearinghouse that DOC VSU utilizes to verify and update victims' addresses, phone numbers, and email addresses, immediately registering them in our system and keeping their information updated without needing to contact DOC. The Department has been able to minimize the amount of returned mail through the current usage of CLEAR. Before CLEAR, if VSU received a return mail with no updated mailing information from the Postal Office, the Department would attempt to make a phone call(s). If mail and phone communications were unsuccessful, VSU would opt the individual out of notifications. Now, by using CLEAR, the VSU team can do more research

on the victims and find more accurate information the first time. As a result, the number of opt-out totals has decreased from 2,289 per year to 956 per year.

Switching to VINE would come at a cost to the State. The off-the-shelf VINE system, which is advertised as free, is, in fact, free to *users*, as is our DOC notification system, but it would not be free to the State. The system would also require customization to fit DOC's unique needs. Customizations are considered enhancements, which cost money, this is evidenced by the DPS Decision Item. Through our research and discussions with other state departments of corrections that use VINE, the average cost per year was approximately \$420,000, subject to a 3% increase every year. This annual cost does not include programming costs that would be required to provide the VINE system access to our eOMIS system to enable appropriate date, inmate, crime, and hearing information. Integration of the VINE notification system into eOMIS would require a team of data analysts to identify target data points in the eOMIS and other DOC legacy systems and a development team to develop integrations between DOC systems and the VINE software. Such integrations are very complicated and prevailing rates for data analysts run near \$250,000 per year. Legacy developer rates run over \$200 per hour. These development costs are all in addition to the cost of integration of the VINE system itself, and any costs associated with modifying the off-the-shelf software to meet DOC needs and legislative requirements.

Further, switching systems is likely to cause significant disruption in victim notification. Again, through discussions with other states that have transitioned, it can take up to 4 months for a single modification to be made. Uprooting and replacing an entire system that provides over 80 different types of notices would likely take a significant amount of time and if each of our 80 notification types is a separate modification to the off-the shelf system, the transition would take years.

In summary, transitioning to VINE would actually be more expensive to the state and more disruptive to victims than simply funding this DI and the normal operating expenses of our VSU unit. We request the Committee's support for R-12."

INFORMATION PROVIDED BY PERSONS REPRESENTING THE VINE SYSTEM

The following information was provided on March 13, 2024.

"On behalf of Appriss Insights, an Equifax company, I am writing to address questions that have been asked about the Victim Information Notification Everyday (VINE) system our company operates in numerous states across the country. VINE is relied upon by millions of citizens throughout the United States every day for information on offender custody status and movements throughout the criminal justice lifecycle. It is an indispensable resource for victims and concerned citizens, providing life-saving information and peace of mind. Recently, the Colorado Department of Corrections (DOC) provided written testimony ("Department of Corrections FY 2024-25 Joint Budget Committee Hearing" document, pp. 27 – 30) that contained inaccuracies, and we believe this has led to confusion.

As such, we write to you to provide key corrections that will help inform you as you do great work for the state of Colorado.

Victim Data: First, let me be abundantly clear, we do not, never have, and never will use victim data for anything other than notifications. DOC's note about us possibly selling victim data is an untrue statement that may be confusing to victims that rely on VINE in their time of need. DOC's

assertion may also deter victims from utilizing the VINE system (the only victim notification system utilized by Colorado's County jails) if they wrongly believe their data is being misused or sold, leaving victims unaware of their offender's custody status.

Data Ownership: Equifax is a data, analytics, and technology company compliant with applicable laws, and is proud of the work we do to help Americans live their best lives. Our contracts clearly spell out who "owns" the data. Should we engage with the DOC or any other state agency, they would continue to own their data and may dictate any restrictions they deem necessary.

Replacement of the system: We do not seek to replace the Department of Corrections existing system. However, we have met with the DOC, legislators, and others to discuss enhancements to DOC's system - such as the ability to provide near real time text messages or app-based notifications (rather than relying on the United States Postal Service).

Cost and customization of notifications: As our contract with the State of Colorado is positioned today, VINE would be of no additional on-going cost to DOC. The only cost would be a one-time investment to pay for technology services to enable VINE to communicate with DOC's existing notification system.

Additionally, VINE can support as many types of custom notifications as the DOC is obligated to provide

For example, in one state alone we provide 80+ types of notifications. We can help to partner and streamline these notifications as well, increasing efficiency and clarity in messaging.

VINE as an open system: VINE is an open system by design. This provides the ability for victims, concerned citizens, family members of those incarcerated, and those with an interest that may not be a "true victim" to register. In one example, a victim of human trafficking who had dozens (if not hundreds) of perpetrators did not see a day in court where she was the "victim" - this person, by accessing VINE, is still able to register and have peace of mind. In the DOC's example of inmate safety, we can hide, and often do hide, offenders of great public interest or offenders that may be in danger.

States who have "left" VINE: You were provided an inaccurate and misleading list of states that do not use or have "left" our system. We would be pleased to talk through the list, and while each state's victim notification system and contract holder is different, Oregon is the only state who had VINE and did not fully renew their agreement. Of the states listed, we do currently hold agreements with Pennsylvania, Texas, Virginia, California, Washington, Mississippi, and Nevada. In some cases, like Colorado, the agreement itself is not with the state's Department of Corrections; however, we have a statewide automated victim notification service established and operating. There has never been a VINE agreement in Maine but we are in discussions in Maine about policy and funding opportunities to create statewide automated victim notifications."

ADDITIONAL INFORMATION FROM ORIGINAL FIGURE SETTING DOCUMENT

Per the request, the DOC's Victim Services Unit (VSU) was required to provide notifications to an estimated 36,552 victims in 2023. This is up substantially from 7,185 prior to the passage of House Bill 19-1064 (Victim Notification Criminal Proceedings). That bill called for every victim of a Victim Rights Act (VRA) designated crime to be automatically enrolled in victim notifications. Prior to the bill, victims had to opt-in for notifications.

After the bill was passed, the Attorney General advised the DOC that the mandatory notification principal was retroactive to the VRA's effective date of January 1, 1993. This added victims that were not accounted for during the fiscal note process for the bill, which appropriated \$784,542 to the DOC and included funding for 9.1 FTE. The request says that the VSU is meeting its duties as best it can, but "rising victim registrations and notifications threaten to exceed the current processing capacity."

The request explains how the additional FTE would be utilized:

"Currently, the VSU utilizes six out of the eight Technician IIIs to analyze and complete statutorily mandated notifications. The remaining two Technician IIIs assist the Liaison IIs in preparation for any parole proceeding (Discretionary, Mandatory, Special Needs, JCAP, Early Parole Discharge, Revocation, and any Full Board Reviews) or Community Corrections hearings. Previously, in 2020 and 2021, VSU had one Technician III assisting the Liaisons for this reason.

- A portion of the duties of the two Technicians assigned to assist the Liaison IIs includes analyzing every community corrections referral and parole proceeding agenda to determine if an inmate is incarcerated on a VRA crime and, if so, to determine if the VSU has every victim enrolled. If a victim is not registered, the Technicians attempt to complete enrollment and make the required notifications.
- Adding two additional Liaison IIs will allow one or both Technician IIIs to assist in critical stage notifications."

The Department addressed multiple questions about this request during its December 2023 hearing with the JBC.

1 Is the Department looking at any external sources for this purpose? Are there other cost-effective opportunities available that they could leverage (outside of DOC staff and resources)?

Response: The department has previously reviewed other options and has found that no cost-effective vendors exist to provide the same level of service. DOC has an effective, comprehensive notification program that provides victims with every critical stage notification, whether it be movement or participation in parole hearings. This program has been in use since 1993 with modification as needed to accommodate statutory changes. We have dedicated staff who assist victims personally through the post-conviction process, rather than an answering service. For CY2018 (prior to HB19-1064) The Department's Victims Services Unit (VSU) had 7,185 opted-in victims and sent approximately 40,094 notifications. Currently, VSU has 32,799 enrolled victims and has sent (YTD) 193,132 notifications. There are no cost-effective outside

opportunities that would provide the same level of service or notifications that CDOC currently provides.

2 **Does the DOC use the state [Victim Information and Notification Everyday] system? If not, why not?**

Response: DOC does not currently utilize the VINE system for many reasons. The off-the-shelf VINE system, which is advertised as free, is neither free nor suitable for DOC Notifications in part because of the sheer volume and type of notices that DOC is required to provide. Colorado has one of the most comprehensive VRA in the nation. Notice is required at every critical stage, not just for movement. This amounts to DOC's Victim Services Unit and our Victim Notification System having to generate over 80 different types of notifications. The VINE system would need to be significantly customized to fit DOC's unique needs. Customizations are considered enhancements, which cost money. The average cost of using customized VINE notifications in other states (per year) was approximately \$420,000, which is subject to a 3% increase every year. In addition to this, there would be a cost to build the data bridging necessary to provide the data from DOC databases into the VINE system in order to provide the necessary information for notices to be sent from the VINE system. In summary, the VINE system would not be free, it would cost significantly more.

Personalized Touch

The system currently in place for DOC allows immediate customization of all notifications. DOC's VSU can create a new notification and deploy it within a matter of minutes. We utilize custom notifications for unique circumstances that may occur - for example, we modified notices when we moved inmates out of Delta during flooding and we modified notices due to SB23-193 to provide additional information to victims regarding early parole discharge and obtaining protection orders.

Open System vs Closed System

VINE is an open system meaning anyone can register to receive notifications on VINE, not just victims. At DOC, the Victim Services Unit only enrolls victims that meet that statutory definition of Victim. DOC does not want to operate in an open system due to security concerns. For example, DOC wouldn't want individuals involved in gang activity to register on an inmate who was in an opposing gang.

Ownership of victim data

Equifax acquired Appriss/VINE in 2022. Equifax is a data-mining company. Equifax's contract specifically states that they do not sell the data contained in their systems, but they sell access to the data. If DOC utilized VINE, DOC wouldn't own the data, or the program - rather it would be leased from Equifax. Our in-house system ensures victim and offender confidentiality. The VRA specifically states that the Department of Corrections has a duty to keep victim information confidential. If DOC transfers our data to VINE, we can no longer ensure the confidentiality of victims. Many states that previously used VINE are now leaving VINE as a result of this issue.

In states that have recently left VINE due to Equifax acquiring VINE, victims have complained that their data was sold, which tied their name directly to the inmate's information. VINE states

that you can search any inmate as an anonymous party. However, in order to ensure that victims are being notified of the correct offender, by verifying their DOC number and Date of Birth - you must create an account, which then now victim data is saved (and possibly sold).

States who have left VINE: Indiana, Pennsylvania, South Dakota, Texas, Virginia, Maine, California, Minnesota, and Oregon

States in the process of leaving VINE: Washington, Mississippi, Nevada. These states have developed their own notification programs.

3 Is the DOC's victim notification system interoperable with the State VINE system? If not, why not?

Response: DOC's victim notification system is not per se "interoperable" with the state VINE system but, the state of Colorado is one of the only states in the nation whose victim notice provisions, by statute, require that all victims be registered to receive notice and may "Opt-Out" of receiving those notices (HB19-1064). This means that victims are automatically enrolled in DOC's notification program after a defendant is sentenced. The VINE system provides victims with notice prior to sentencing and the DOC system provides notice post-sentencing. Due to the statutorily mandated opt-in provisions, this means that victims can be assured that after sentencing, they will be automatically enrolled in DOC's notice system and will continue to receive all movement and critical stage updates without having to re-enroll in a new or separate notification system. While VINE is utilized in other state DOCs, it is typically used just for movement notifications and victims are still required to register for a separate notification system to receive critical stage notification

4 What is the total cost of DOC's system now?

Response: The Victim Notification system itself is part of one module of our internal electronic Offender Management Information System(eOMIS) data system. The total monthly maintenance fee for the entire eOMIS system is currently \$58,324. The VSU module is one small portion of that entire amount. The maintenance and upkeep of the VSU module of eOMIS is included in the annual OIT Common Policy billing. These costs cannot be offboarded because the VSU module is only one small part of a larger module and that module would remain even without the VSU component, meaning that even if we outsourced to VINE, we would still pay for this module. The other costs, such as those reflected in this DI, are related to staffing of the Victim Services Unit, necessary postage and supplies, and for access to services like the Citizen and Law Enforcement Analysis and Reporting Database (CLEAR). CLEAR is an interactive data dashboard and clearinghouse that our victim services unit utilizes to verify and update addresses, phone numbers and email addresses of victims in order to immediately register them in our system and keep their information updated without them needing to contact DOC.

5 What is the overall cost of sending notifications via mail, and the consistency and accuracy of those notifications being sent in a timely manner compared to the cost of it? Lastly, how much time and effort does staff have to go through looking into returned mail? And what does the department do about returned mail?

Response: The majority of our registered victims prefer to receive notices via US mail. Many of the victims have been registered for decades on cases and keep paper records. For them, adding the mailed notice to their file is part of keeping track of the case. We continue to provide the US mail option for their convenience and peace of mind.

The annual VSU postage costs are \$40,574 for FY22, \$39,447 for FY23, and \$11,468 for FY24 (to date), which translates to an average monthly postage cost of \$3,200.

In CY2022, VSU had 6,529 pieces of return mail. To date in CY2023, VSU has had 4,959 pieces of return mail. When VSU receives return mail, our staff attempts to contact registered victims to update their information with our office to continue to receive notifications. We utilize any phone numbers on file, as well as the CLEAR database to update. If we receive two pieces of return mail, we opt that victim out of notifications. VSU physically files all return mail and keeps a record of it in the event there was a discrepancy that a notification was not sent. VSU has one dedicated administrative assistant who sends out all outgoing mail. Notifications that are generated are printed out and mailed the same day. For any safety-sensitive notifications, such as an Escape or Abscond from Parole, registered victims also receive a phone call to advise.

FY 2021-2022

<i>Notification Type</i>	<i>Registered Victim Usage</i>		<i>Quantity</i>	<i>Cost</i>
<i>US Mail</i>	<i>27,594</i>	<i>71.6%</i>	<i>76,554</i>	<i>\$40,574</i>
<i>Email</i>	<i>10,965</i>	<i>28.4%</i>	<i>30,365</i>	<i>N/A</i>
<i>Other*</i>	<i>-</i>	<i>-</i>	<i>29,728</i>	<i>N/A</i>
<i>Total</i>	<i>38,559</i>	<i>100%</i>	<i>136,647</i>	<i>\$40,574</i>

The Department has been able to minimize the amount of returned mail through the current usage of CLEAR. Before CLEAR, if VSU received return mail with no updated mailing information from the Postal Office, the Department would attempt phone call(s). If mail and phone communications were unsuccessful, VSU would opt the individual out of notifications. Now, by using CLEAR, the VSU team can do more research on the victims and find more accurate information the first time. As a result, the number of opt-out totals have decreased from 2,289 per year to 956 per year.

FOLLOW-UP ITEMS

→ UPDATED SHIFT DIFFERENTIAL CALCULATION

JBC staff recommends an appropriation of \$17,982,314 total funds, including \$17,949,518 General Fund and \$32,796 cash funds, for the *Shift Differential*/line item. This recommendation is \$3.0 million less than the Department’s request and \$2.1 million higher than JBC staff’s original figure setting recommendation. JBC staff’s revised recommendation accounts for PERA and Medicare costs, whereas the original recommendation did not.

ANALYSIS:

Shift differential requests are based on actual expenditures from the most recent fiscal year. Thus the FY 2024-25 request should be based on actual expenditures from FY 2022-23. The Executive Branch’s FY 2024-25 total compensation request for the DOC shows \$18,470,328 total funds as the actual expenditure for FY 2022-23. When accounting for PERA and Medicare, the total request is \$20,983,760 total funds.

EXECUTIVE BRANCH REQUEST FOR DOC SHIFT DIFFERENTIAL (VIA TOTAL COMPENSATION TEMPLATES)			
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS
FY 2022-23 actual expenditures for all occupational groups	\$18,470,328	\$18,441,461	\$28,867
Total Actual and Adjustments @ 100%	\$18,470,328	\$18,441,461	\$28,867
PERA (Standard, Trooper, and Judicial Rates) at Current PERA Rates	\$2,245,612	\$2,242,102	\$3,510
Medicare @ 1.45%	267,820	267,401	419
Request total	\$20,983,760	\$20,950,964	\$32,796

JBC staff determined that FY 2022-23 actual expenditure figure of \$18.47 million is not accurate. The Schedule 14B document submitted with the Department’s November 1, 2023 budget request package shows FY 2022-23 actual expenditures totaling \$15,828,394. This is the amount originally recommended by JBC staff for FY 2022-23. Staff used this figure as the basis for their revised recommendation, which now includes PERA and Medicare costs.

JBC STAFF REVISED RECOMMENDATION FOR DOC SHIFT DIFFERENTIAL			
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS
FY 2022-23 actual expenditures for all occupational groups	\$15,828,394	\$15,799,527	28,867
Total Actual and Adjustments @ 100%	\$15,828,394	\$15,799,527	28,867
PERA (Standard, Trooper, and Judicial Rates) at Current PERA Rates	\$1,924,408	\$1,920,898	\$3,510
Medicare @ 1.45%	229,512	229,093	419
Request total	\$17,982,314	\$17,949,518	\$32,796

JBC staff inquired about the discrepancy. The Department responded with, “DOC is investigating the \$2.6M difference between Schedule 14B [that shows actual expenditures] and the total compensation template. DOC has a meeting pending with Performance Budgeting (PB) staff asking how the Schedule 14B \$15.8M was calculated and will update the JBC as soon as possible. PB staff is investigating.” No further information has been provided.

➔ UPDATED INFORMATION ABOUT S8/BA7 INMATE PHONE CALLS [REVISED]

Staff recommends an increase of \$34,922 General Fund in FY 2023-24 and \$65,843 in FY 2024-25. These amounts cover the federal Universal Service Fund fee (USF), which was an unexplained component of revised request S8/BA7 Inmate Phone Calls. Staff consequently excluded these expenses from their original recommendation for this request on March 8, 2024.

Per information provided by the Department on March 11, 2024, “Telecommunications companies are mandated to pay a percentage of their interstate end-user revenues to the USF, called the contribution factor. The contribution factor changes quarterly depending on the needs of the Universal Service programs. The Federal Communications Commission (FCC) and Congress established the USF to help promote nationwide telecommunications services.” The fee is usually about 10.1 percent.

The invoices for inmate phone services have been lacking key details and the Department says they are working to remedy the situation. Staff concludes that it is reasonable to include this relatively small expense as a part of the appropriation for inmate phone calls and will work with the Department going forward to ensure that the General Assembly has better information about inmate phone usage.

➔ FOOTNOTE FOR CLINICAL STAFF INCENTIVES

It is JBC staff’s understanding that the Department of Corrections and the Department of Human Services may be concerned about a requirement to provide \$25,000 incentives for healthcare technicians and/or licensed practical nurses. This is because the annual salary for these job classes is around \$50,000. A \$25,000 incentive could create conflict within and across job classes given the size of the incentive relative to base pay. Reducing the incentive for healthcare technicians and licensed practical nurse would free up some money for incentives for psychologists.

If the JBC wants to provide additional flexibility to both departments, staff recommends adding language to the footnote that allows the departments to provide incentives “up to” \$25,000, with permission to provide incentives for psychologists if necessary. The revised footnote reads as follows:

N Department of Corrections, Management, Executive Director's Office Subprogram, Incentives and Bonuses -- It is the General Assembly's intent that \$6,312,464 of this appropriation be used to provide hiring incentives up to \$25,000 for nurses, licensed practical nurses, mid-level providers, health professionals, and social workers. The Department may also use this appropriation to provide incentives for psychologists if they identify that position as an area of greatest need. It is also the General Assembly’s intent that of the \$25,000 hiring incentive, new hires receive \$15,000 upon completion of the training academy, \$5,000 after six months, and the remaining \$5,000 after 12 months of employment. This portion of the appropriation remains available until the close of the 2025-26 state fiscal year.

NEW ITEM

➔ PERFORMANCE AUDIT OF DOC BUDGET INPUTS AND OUTPUTS

The broad concept for this item was proposed to JBC staff by leadership at the Office of the State Planning and Budgeting (OSPB) and the Department of Corrections. The purpose of this write-up is to solicit thoughts from the JBC about how to proceed. The write-up largely reflects JBC staff's thoughts, but input from the Executive Branch is noted as such. Recommendations are included for the JBC's consideration.

THE PROBLEM

Information provided by the Department for a broad range of budget issues is often insufficient, inaccurate, and/or inconsistent. The prison caseload budget requests submitted by the Department in January 2023 and January 2024 are the most obvious examples of the problem. But the problem also applies to personnel costs (e.g. vacancy savings, total compensation), contract agency staff costs, inmate phone call costs, etc.

THE PROPOSAL

The proposed audit would aim to answer two broad questions: (1) What are the causes of the problem? (2) How might the problem be fixed?

OSPB RECOMMENDATION: OSPB suggests that the audit be funded through a Long Bill footnote in the Executive Director's Office Personal Services line item. The Department would use this funding to contract with a vendor who will evaluate and advise on the DOC's approach to month-by-month spending throughout the fiscal year, including but not limited to (a) personnel-related costs, (b) contract staff spending, (c) operational costs driven by caseload.

OSPB further suggests that the Department submit a written report to the JBC on two dates to provide updates on the progress of this contract. The first would be submitted at the time of the January or February supplemental caseload submission and detail the findings and recommendations of the vendor, and the second would be submitted at the close of the FY 2024-25 fiscal year and summarize actions taken or planned based on the vendor's recommendations.

JBC STAFF RECOMMENDATION: JBC staff agrees with the broad strokes of OSPB's recommendation. However, JBC staff recommends that the audit be routed through the Office of the State Auditor, rather than through the Department. This ensures that the evaluation is conducted by an independent non-partisan agency. JBC staff had a brief conversation with the Office of the State Auditor before submitting this item.

Staff recommends that the JBC sponsor legislation to require the Office of the State Auditor to conduct a performance audit of the DOC's budget practices, which should include any part of the DOC system that feeds into the DOC's budget requests. It should also include OSPB's suggestions to evaluate month-by-month spending for personnel, contract staff, and prison caseload needs. JBC staff would work with both the OSA and the OSPB on the details during the drafting process and would bring back more information about potential costs (likely in the range of \$200,000-\$500,000).