

DEPARTMENT OF LAW
FY 2022-23 JOINT BUDGET COMMITTEE HEARING AGENDA

Wednesday, December 1, 2021
1:30 pm – 2:45 pm

1:30-1:45 INTRODUCTIONS AND OPENING COMMENTS

Presenter: Philip J. Weiser, Colorado Attorney General

1:45-1:55 COMMON DISCUSSION QUESTIONS

Main Presenters:

- Philip J. Weiser, Colorado Attorney General

Topics:

- Flex Workspace, Lease Space and Leased Vehicles: Page 1, Question 1 in the packet.
- CARES Act and ARPA funding: Pages 1-2, Question 2 in the packet.

1:55-2:10 UPDATE ON SETTLEMENTS IMPACTING CUSTODIAL FUNDS

Main Presenters:

- Philip J. Weiser, Colorado Attorney General

Topics:

- Opioids, Page 2-3, Question 3 in the packet.
- Reintegration of Incarcerated Persons: Page 3, Question 3 in the packet.

2:10-2:20 RESPONSES TO MEMBER QUESTIONS ON CURRENT BUDGET REQUESTS

Main Presenters:

- Philip J. Weiser, Colorado Attorney General

Topics:

- Peace Officers Standards and Training Board Job Task Analysis and Curriculum Development: Page 4, Question 4 in the packet.
- Patterns and Practices program: Page 4, Question 5 in the packet.
- Consumer Credit Safe Affordable Credit Report: Page 5, Question 6 in the packet.

2:20-2:45 MAJOR LITIGATION PENDING AGAINST THE STATE

** The Committee may go into Executive Session to discuss any ongoing litigation*

Main Presenters:

- Philip J. Weiser, Colorado Attorney General
- Natalie Hanlon-Leh Chief Deputy Attorney General

Topics:

- Overview of Major Litigation: Executive Session
- Updates to any litigation discussed at briefing: Executive Session
- Discussion of cases requiring Executive Session:

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COMMON QUESTIONS FOR DISCUSSION AT DEPARTMENT HEARINGS

- 1 Please provide an update on how remote work policies implemented in response to the COVID-19 pandemic have changed the Department's long-term planning for vehicle and leased space needs. Please describe any challenges or efficiencies the Department has realized, as well as to what extent the Department expects remote work to continue.

Response: The Department has implemented a new flexible workspace policy. Prior to the pandemic, the Department was at office space capacity. The past two legislative sessions significantly increased the FTE and associated responsibilities, whereby the Department does not have the resources to provide individual office space to each employee.

To address workspace issues, the Department engaged in a Department-wide employee by employee analysis focusing on the work requirements of each employee, if that work is most effectively performed remotely or in Department office space, as well as implications to other team members and client agencies. This analysis resulted in a recast of the Department office space: some employees will work full time in the office, some employees will now share an office with a peer, while some employees will work primarily from home. The Department is currently installing "hoteling" software for those employees that don't have an assigned office but may periodically need to be in the building to conduct their assignments. In these instances, the employee can reserve an office cubicle for the day.

With respect to the Department fleet vehicles, the Department has installed Agile, a state purchased solution to facilitate Department vehicle reservations and track usage. This software will allow the Department to track the use of each vehicle, the number of reservations, the areas of the state travelled, thereby providing the data for the Department to make better decisions about the fleet size and make up. This software was installed a month before the pandemic. Because the use of the fleet has been greatly minimized during the pandemic, the Department does not have sound data to make recommendations on the appropriate size of the fleet, at this time. Anecdotally, the Department is likely positioned to reduce the number of vehicles in the fleet, however, the Department wants to ensure a solid business assessment to ensure the appropriate resources are in place for effective and efficient program delivery.

- 2 Please describe the most significant one-time federal funds from stimulus bills (e.g., CARES Act and ARPA) and other major new federal legislation (e.g., Federal Infrastructure Investment and Jobs Act) that the Department has received or expects to receive. For amounts in new federal

legislation that have not yet been distributed, please discuss how much flexibility the State is expected to have in use of the funds.

Response: For FY2020-21, the Department received \$120,000 of CARES Act funding through HB20-1411, "Concerning the Allocation of Money the State Received from the Federal Coronavirus Relief Fund for Behavioral Health."

With these resources, Safe2Tell conducted one public awareness campaign during the 2020-21 school year to address impact of the COVID-19 pandemic on youth. The campaign involved the creation and distribution of three public service announcements (PSAs), each with a unique message. PSA #1 addressed student and parent stress and challenges surrounding online schooling, with the goal of showing support to students who cannot learn in person and to the students and parents who are struggling with the online learning process. PSA #2 addressed student stress caused by a lack of social interaction with the goal of supporting students with a message that while our world has changed, we have the power to seek help for friends. The goal of PSA #3 was to remind the public that Safe2tell is a resource available 24/7/365, even when schools are closed and during holidays, prolonged breaks, and shutdowns.

Currently, the Department is not expecting to receive any additional CARES Act or ARPA funding.

UPDATE ON SETTLEMENTS IMPACTING CUSTODIAL FUNDS

[Sen. Moreno] Provide an update on high visibility custodial funds including those from the settlement from the opioid epidemic and related to the reintegration programs for people who are transitioning out of incarceration into the community.

- Discuss the structure of the programs;
- The expectations on how those funds will be spent; and
- Related to the opioid settlement, the partnership with Colorado counties to distribute those funds.

Response:

Opioid Settlement Funds

As a result of the settlement agreement from litigation the State joined to hold accountable corporate actors for illegal conduct resulting in the opioid epidemic, Colorado will receive \$400 million over the next two decades if a critical mass of cities and counties enter into an agreement with our office. Without this buy-in, Colorado will receive half the amount over the same time period. In anticipation of receipt of the funds, the Department of Law ("the Department" or "DOL") engaged Colorado local governments in a negotiation on both: (1) how to properly spend any settlement monies; and (2) achieve agreement in which local governments would drop any lawsuits, thereby allowing Colorado to further maximize settlement funds received by the State. Through this process, the Department has conducted an extensive outreach campaign, and Colorado is nearing the threshold of signatures needed to maximize Colorado's settlement dollars. After the settlement agreements are signed, the Department will continue to work with local governments across the state to support them and the regions, both directly and through the Statewide Abatement Council.

The DOL's partnership with Colorado counties is reflected in the MOU that directs how opioid settlement recovery funds will be distributed. The DOL and local partners have already achieved broad sign-on and expect close to 100% local government sign-on to the MOU.

According to the agreement reached with the local governments, the funds will be distributed as directed in the Memorandum of Understanding (MOU) between the State of Colorado and local governments, as follows:

- 20% to municipalities and counties (with the option to direct the funds to the county or region);
- 60% to each opioid response region;
- 10% to Infrastructure Fund; and
- 10% to State priorities.

All opioid settlement funds will be spent on opioid use disorder abatement. [The Colorado Opioid Crisis Response Plan](#) lays out a comprehensive (but not exhaustive) list of approved uses. Municipalities and counties will determine how to spend opioid funds consistent with the MOU. The Department, regions, and local governments will establish a Statewide Abatement Council with oversight of region spending and infrastructure fund spending, subject to the approval of the Opioid Crisis Recovery Funds Advisory Committee, the committee established by the General Assembly in 2019 to work with the Department on spending priorities. The Department is preparing a plan for the expected state share of the remaining settlement funds (10% of total) that will be directed to the opioid custodial fund, which will be guided by the Opioid Crisis Recovery Funds Advisory Committee. The state share will be used for opioid use disorder abatement, with a portion being used for operating expenses for the Department's Opioid Response Unit.

Custodial opioid recovery funds received thus far are limited to the McKinsey and Company Settlement that occurred in February 2021. The first settlement payment of approximately \$8.2 million was received in April 2021; approximately \$1.7 million more will be paid out to Colorado in equal annual installments from 2022-2025.

Reentry Employer Network Initiative

In November 2021, the Department granted \$1,192,072 to the Department of Corrections ("DOC") to support the DOC's Work and Gain Education & Employment Skills program ("WAGEES"). The DOC contracts with the Latino Coalition for Community Leadership ("LCCL") to run the WAGEES program. The Department's grant to the DOC will fund a fair chance hiring pilot program within DOC's existing agreement with LCCL. The purpose of the Program is to reduce recidivism through employment across the State of Colorado in connection with ongoing statewide reentry efforts.

LCCL will develop a Fair Chance Hiring Council, conduct a landscape analysis, recruit and train employers, develop a fair chance employer directory, build employer/community relationships, deploy sub-grants for community partner capacity building, and develop a sustainability plan.

CURRENT BUDGET REQUESTS

[Rep. McCluskie] Provide an update on the work of the Peace Officer Standards and Training (POST) Board job task analysis. Provide an update and timeline on updating the POST Board curriculum(s) including a timeline for when work is expected to be completed.

Response: The DOL is currently utilizing one-time \$150,000 spending authority for FY2021-22 to conduct a Job Task Analysis (JTA). This analysis will identify the key job tasks that entry-level peace officers must be able to perform—along with the competencies necessary to perform those tasks safely and competently. The results of the JTA will then inform the development of an entirely revised curriculum for law enforcement academies that incorporates effective adult learning pedagogies to teach and deliver the competencies necessary for students' success as entry-level peace officers in our state.

The DOL is not anticipating any additional resource needs for the JTA effort. Building on that foundation, the DOL is committed to redesigning the peace academy curriculum through a multi-step process:

- JTA completed by June 30, 2022;
- Curriculum redevelopment assessment completed by June 30, 2023;
- Develop new curriculum, train academy instructors on new curriculum, and pilot the curriculum in a few select academies by June 30, 2024; and
- Conduct statewide implementation during FY 25 based on lessons learned during FY 24.

As this process proceeds, the Department will evaluate our fiscal needs and apprise this committee of relevant investments necessary to improve greatly how we train peace officers.

[Rep. Herod] Discuss the current workload of the new Patterns and Practices program. Describe how the budget request R5 Patterns and Practices Funding will impact the Department ability to respond to the complaints filed to date and whether the Department anticipates having enough funding to timely respond if approved.

Response: While the Department is unable to comment publicly on pending or ongoing investigations, significant requests have been made from the public for the DOL to commence patterns and practices investigations into governmental authorities.

During the FY 2021-22 budget setting process, the Department requested and was approved resources for 2.0 dedicated FTE for patterns and practices investigations. This request was submitted in early 2021 based on estimates of necessary resources—since the first DOL investigation had still not reached completion, this estimate was made prior to having full knowledge of the extent of workload necessary to conduct a full patterns and practices investigation from beginning to end.

Since that time, the Department completed one publicly acknowledged patterns and practices investigation. This investigation consumed the equivalent of 6,200 hours in staff time (both pro bono volunteer attorneys and paid staff), the equivalent of 3.0 FTE. With this data, the Department's budget request asks for 2.0 FTE funded in the prior budget cycle be supplemented with an additional FTE to match the workload anticipated for future patterns and practices investigations.

[Sen. Moreno] Discuss the R7 Consumer Credit Unit Safe Affordable Credit Report request. If the Department is seeking an additional \$215,000 for FY 2022-23, as opposed to extending the spending authority of the FY 2021-22 appropriation for this purpose, discuss the cause for the increased cost since passage of the FY 2021-22 Long Bill.

Response: For the FY 2021-22 budget cycle, the Department received \$215,000 General Fund spending authority to conduct a specific study on credit affordability. This effort requires a formal solicitation and selection to hire a qualified vendor. The DOL initially conducted a Request for Information ("RFI") to identify potential vendors and solutions for this effort. The DOL received no responses. Since the RFI, the Department has identified two potential vendors.

Additionally, the RFI process and assessment of potential vendors has provided the DOL a better understanding of the magnitude and scope of this effort. Completion of the analysis and study is estimated to require more time than available this fiscal year. As such, the Department has determined it is unable to expend this one-time funding in the present fiscal year, and requests the General Assembly extend (not increase) the funding for an additional fiscal year.

MAJOR LITIGATION PENDING AGAINST THE STATE

[Rep. McCluskie] Provide an overview of the major litigation pending against the state and highlight those the Attorney General believes would be of most interest to the Joint Budget Committee.

[JBC Staff] Discuss any notable changes or updates related to any of the items included in the Major Litigation Pending Against the State report to the Controller for 2021.

[JBC Staff] If applicable, discuss any other litigation pending before the state for which an Executive Session with the Committee is required.

Response: This discussion is best handled in Executive Session.