

**DEPARTMENT OF PUBLIC SAFETY  
(Division of Criminal Justice)  
FY 2010-11 JOINT BUDGET COMMITTEE HEARING AGENDA**

**Tuesday, January 6, 2010  
11:00 am – 12:00 pm**

**11:00-11:10 INTRODUCTIONS AND OPENING COMMENTS**

**11:10-11:20 OVERVIEW QUESTIONS**

*1. How many beds are actually available in the community corrections system? How many beds are available that provide specific services to people, such as alcohol treatment or mental health therapeutic beds? Are inmates trained to transition from prison to the community in the community corrections system? What percentage of programs provide high school diplomas to the offenders?*

*1a. How many beds are available that provide specific services to people, such as alcohol treatment or mental health therapeutic beds?*

**RESPONSE:** The current funded capacity for community corrections is about 3,140 residential beds. That number is smaller than the potential capacity of the system.

A survey of boards and programs in mid-December demonstrated that about 3,100 residential beds were in use,<sup>1</sup> but several judicial districts still had some remaining potential capacity.

<b>Judicial District, identified by County Name</b>	<b>Approx. Number of Unoccupied Residential Beds Available</b>	<b>Comment</b>
<b>Arapahoe County</b>	<b>64</b>	<b>More female than male capacity available</b>
<b>Denver County</b>	<b>60</b>	<b>Both male and female capacity available</b>
<b>El Paso County</b>	<b>16</b>	<b>Both male and female capacity available</b>
<b>Larimer County</b>	<b>40</b>	<b>Both male and female capacity available</b>
<b>Moffat-Routt Counties</b>	<b>16</b>	<b>Male capacity only</b>
<b>Pueblo County</b>	<b>20</b>	<b>Male capacity only</b>

In addition to this potential capacity, community corrections bed space is expected to grow

<sup>1</sup> This number excludes Community Return to Custody (Senate Bill 03-252) beds administered and paid for by the Department of Corrections. As many as 300 such beds are currently in use.

somewhat in FY 2010-11. Weld County's new government-owned facility will increase that jurisdiction's capacity by more than 40 beds in the next fiscal year; Mesa County will also add about 40 beds, though the primary purpose of this expansion is to deal with its backlog of Diversion clients.

The Department cautions that potential capacity does not precisely equal beds available to fill. As indicated in the answers to other questions below, current state law and other important considerations suggest that not every offender in the state should be eligible for every bed in the state.

For example, current law requires that parolees be referred to community corrections programs associated with the geographic locations of their parole plans. It is unwise to place Diversion or Transition offenders in a community corrections program too distant from the jurisdiction where they will be living upon discharge, in part because the offenders will lose their jobs when they move.

In the greater Denver area, community corrections boards can work together to resolve significant imbalances in demand and capacity in that region. The Transition waitlist in Adams County and the available beds in Arapahoe County have led to an agreement by which Arapahoe County has been accepting Adams County offenders for placement. These two counties successfully transferred a substantial number of female offenders on the Adams County wait-list to Arapahoe County during the last fiscal year.

While much of the focus seems to be on Transition bed space, nearly half of all residential beds are devoted to Diversion clients. The Department has carefully studied this population and has determined that almost every Diversion client currently lodged in residential community corrections would be in prison if community corrections placement was unavailable. The Department estimates the savings to the state from Diversion placements to be at least \$10 million annually.<sup>2</sup>

*1a. How many beds are available that provide specific services to people, such as alcohol treatment or mental health therapeutic beds?*

**RESPONSE:** Substance abuse treatment is available in every community corrections program, though offenders are often expected to underwrite all or part of the cost.

In FY 2009-10, specific substance abuse programs with differential funding provided by the General Assembly include the substance abuse therapeutic communities operated by the University of Colorado (about 195 male and female beds), the substance abuse therapeutic community operated by Crossroads Turning Points (60 male beds), the 90-day model Intensive Residential Treatment (IRT) program authorized by the Legislature at San Luis Valley Community Corrections (40 male beds), and an IRT program with gender-specific

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<sup>2</sup> This estimate is based upon the current utilization of about 1550 Diversion placements at \$13,775 annually, compared to DOC private prison costs of about \$20,000 annually.

treatment for women at Larimer County Community Corrections (12 beds).

Mental health beds with differential funding provided by the General Assembly are available at five programs statewide. These providers have a total of 105 residential beds at locations in Denver, El Paso, Jefferson, Larimer and Mesa Counties.

*1b. Are inmates trained to transition from prison to the community in the community corrections system?*

**RESPONSE:** The specific goal of residential community corrections for Transition offenders is preparation for community reentry. Many offenders find that the structure, monitoring, and treatment available through community corrections are essential to this reentry.

*1c. What percentage of programs provide high school diplomas to the offenders?*

**RESPONSE:** An assessment of educational needs is a required part of the evaluation of every offender entering community corrections. While high school diplomas are typically not available, GED completion is available as needed in every community corrections program, though some settings require the offender to pay for any necessary classes.

*2. What are the recidivism rates for transition placements as compared to those inmates who are released directly to parole?*

**RESPONSE:** The rates of recidivism have been measured, but care should be taken in “comparing” one set of data to another for several reasons. First, the populations differ: offenders in community corrections must be approved by the local board and the community corrections program director. High-risk individuals are typically not accepted into community corrections, whereas nearly all inmates are released on mandatory parole supervision, regardless of risk. Additionally, recidivism rates in community corrections require first that individuals successfully complete the program, whereas recidivism for parolees includes all offenders, both successful and unsuccessful completions. Only those who successfully complete the community corrections program can be studied to determine if later they received a new court filing. Also, the word “recidivism” is used very differently in different settings. The Department of Corrections (DOC) uses “return to prison” within a 3 year period as its measure of recidivism, combining those with a technical violation and those who commit a new crime. Other criminal justice agencies (Probation, Division of Youth Corrections and Division of Criminal Justice) use new district court criminal filings within 12 and 24 months of, in the case of community corrections offenders, successful release from the halfway house.

Given the above noted limitations in comparing Community Corrections Transition clients with DOC parolees, the following recidivism information is provided.

Of those released on parole in 2005, 53.2% returned to prison within 3 years, according to DOC's 2008 annual report. On the other hand, the 2-year Transition recidivism rate (new felony court filing) is 25%. It should be noted that in 2007, 67% of Transition clients successfully completed community corrections.

Finally, the Division of Criminal Justice (DCJ) conducted an additional analysis in 2004 (see table below) showing that Transition clients released from community corrections to DOC's Intensive Supervision Parole program, compared to those released to regular parole, were less likely to return to court on a new crime (21.8% compared to 29.7%).

**Recidivism Rates for 2004 Transition Offenders, by Release Type**

<b>Released to the following:</b>	<b>% with new district court filing within 24 months</b>
<b>DOC ISP</b>	<b>21.8</b>
<b>DOC Parole</b>	<b>29.7</b>
<b>Non-Residential Status</b>	<b>22.4</b>
<b>Total</b>	<b>25.2</b>

**Source: The Office of Research and Statistics analyzed data from DCJ's Office of Community Corrections. Data were obtained from offender termination forms.**

3. *What happens to a transition community corrections client with regard to treatment of alcohol or mental health issues? Does community corrections work in conjunction with BHOs or cities and counties?*

**RESPONSE:** Community corrections programs work closely with local mental health agencies to provide ongoing care for offenders with particular mental health needs. For example, there are strong partnerships between local mental health agencies and Intervention Community Corrections Services in Jefferson County, ComCor, Inc., in El Paso County, Larimer County Community Corrections and Mesa County Community Corrections.

The most difficult ongoing issue is one of funding for medication, both during and after community corrections placement. Although almost all community corrections programs and behavioral health providers tap resources for less expensive or compassionately-supplied psychotropic medicines, some offenders experienced significant financial difficulty in remaining on these drugs after discharge from community corrections.

4. *Please explain the growth in General Fund appropriations for the Division given that the provider rate for community corrections has remained relatively flat.*

**RESPONSE:** General Fund appropriations for the Division have increased as a result of additional bed capacity appropriated by the General Assembly.

5. *What is status of community corrections charging offenders subsistence rates? How has that changed over the last several years? How much revenue does that generate for community corrections providers?*

**RESPONSE:** In most jurisdictions, the rates of subsistence collection have declined over the past two years as offender employment rates have suffered in the economic downturn. In FY 2007-08, programs collected an average of more than \$13 per day from residential offenders; in FY 08-09, collections dropped to an average of \$11.28 per day.

An analysis of nearly 5,900 records from FY 2008-09 reflected that Diversion offenders paid a total of \$5,253,687, for an average of \$10.53 per day; Transition offenders paid \$5,284,011, for an average of \$12.15 per day; and parolees paid \$152,707, for an average of \$11.00 per day.

Some offenders appropriately do not pay subsistence. For example, offenders in the early stages of therapeutic community placement, 90 day IRT offenders, and the seriously mentally ill are not charged subsistence. Instead, programs are compensated to some degree by the payment of a legislatively-authorized differential in addition to the base bed per diem.

## **11:20-11:30 QUESTIONS SPECIFIC TO DECISION ITEMS**

### Decision Item #8: Additional Fleet Vehicles

6. *How does the Department justify buying vehicles versus reimbursing employees for mileage expenses?*

**RESPONSE:** DCJ staff members were collectively reimbursed more than \$20,000 per year in FY 2007-08 and FY 2008-09 for mileage using personal vehicles. DCJ estimates that similar usage of State-owned vehicles would cost a total of \$19,720, including lease and per-mile payments. This will result in a minimum savings of \$280 per year. This savings is reflected in the Department's November 6, 2009 budget request as a net reduction. In addition to the cost-effectiveness of using state vehicles, sometimes an employee's personal vehicle is not equipped for the travel needed. For example, an employee may need to perform an audit in Durango during winter months, but his/her personal vehicle is not equipped with four-wheel drive. If a four-wheel drive vehicle is not available through the State's Fleet Management office, the employee is forced to cancel the audit or take unnecessary risks with

his/her personal vehicle. The availability of leased vehicles will allow DCJ staff to schedule training courses, audits, technical assistance visits, and other required travel throughout the state on a year-round basis.

7. *Will this request be audited in the future to confirm that it was better to lease than to reimburse employees?*

**RESPONSE:** DCJ will review travel expenses to ensure the cost-effectiveness of leasing vehicles rather than reimbursing employees for mileage.

8. *Will any of these vehicles be used for commuting? Why does the Department have 357 vehicles used for commuting?*

**RESPONSE:** None of the vehicles requested in this decision item will be used for commuting.

The Department of Public Safety, as a whole, has authorized several hundred employees to commute in State-owned vehicles, as necessary. The vast majority of those authorized employees are law enforcement officers within the Colorado State Patrol and Colorado Bureau of Investigation. It is estimated that, at any given time, Department management has directed between 350 and 360 individuals to commute to and from work in a State-owned vehicle.

Of those individuals directed to commute, only one is employed within the Division of Criminal Justice.

9. *If the Department were to reduce the number of commuter vehicles, could these new vehicles be absorbed?*

**RESPONSE:** This decision item, as requested, would result in a net decrease to the Department's appropriations. However, the Department requires a decision item in order to change the line items in which appropriations currently reside. (Through this request, Operating Expenses appropriations will be reduced, and Vehicle Lease appropriations will be increased.)

Because only one DCJ employee is required to commute in a State-owned vehicle, such a marginal change will have little or no impact on this decision item request.

*10. Why were the vehicles in the decision item funded with federal funds?*

The Department designed this decision item to mirror the sources of funding for actual per-mile reimbursements paid to DCJ employees in recent years. Because many of these employees are paid through federal grant funds, it is appropriate to also pay associated “travel” costs with federal funds.

Base Reduction Item #2: FTE for Recidivism Reduction Package Research and Evaluation

*11. Will this function be absorbed somewhere else so the General Assembly has research to indicate the success or failure of these programs?*

**RESPONSE:** DCJ will complete a recidivism reduction report in July 2010 for the package passed in FY 2007-08. As part of the budget reductions in FY 2009-10 and FY 2010-11, the Division will see reduced appropriations for the purpose of research and evaluation of subsequent recidivism reduction packages. Therefore, resources will be unavailable to continue this function into the future, and this research cannot be continued with other appropriations.

*12. How often are recidivism numbers updated? Will the loss of research FTE impact the division’s ability to track recidivism?*

**RESPONSE:** As mentioned in #11 above, a recidivism reduction report will be completed in July 2010. The loss of FTE and contractual dollars will affect the division’s ability to track recidivism related to subsequent years’ recidivism reduction packages. As a result of reductions taken in response to recent General Fund shortfalls, the frequency of DCJ’s recidivism studies will be limited.

**11:30-11:35 QUESTIONS SPECIFIC TO OVERVIEW OF NUMBERS PAGES**

*13. Are the increasing federal funds due to ARRA dollars or just normal federal dollars? If normal, what are they? If ARRA, what will they be used for and when will they go away?*

**RESPONSE:** The requested increase in federal spending authority is the net change for *regular* DCJ federal grant programs. While a net increase in expenses in some grants is expected (Victim Assistance, Victim Compensation, Justice Assistance Grant, Anti-Gang, and others), other grants are anticipated to have fewer expenses (such as Human Trafficking). There were no adjustments as a result of ARRA dollars; ARRA expenditures will be reported as they occur on an annual basis.

For reference, it is noteworthy that DCJ has received the following ARRA funds for distribution throughout Colorado's criminal justice system:

<i>Justice Assistance Grant ARRA</i>	<i>\$18,323,383</i>	<i>expires 02/28/2013</i>
<i>Victim Assistance ARRA</i>	<i>\$ 827,000</i>	<i>expires 09/30/2012</i>
<i>Victim Compensation ARRA</i>	<i>\$ 929,310</i>	<i>expires 09/30/2012</i>
<i>Violence Against Women ARRA</i>	<i>\$ 2,306,619</i>	<i>expires 04/30/2011</i>

**11:35-11:40 COMMUNITY CORRECTIONS FUNDING LEVEL**

*14. What does department think of current funding level? Should mix be changed? Why or why not?*

**RESPONSE:** The Department understands this question to ask whether the level of funding between Diversion, Transition, and Parole should be adjusted. The actual allocation of Transition, Diversion, and Parole offenders is impossible to predict with great precision. For this reason, the Department was granted statutory authority by the General Assembly to transfer up to 10% of its General Fund community corrections resources between these line items, in order to ensure that actual expenditures can take place within appropriate line item. The Department therefore does not believe that it is necessary to adjust the specific line items for the described services.

*15. If the General Assembly were to increase the assumed percentage of inmates in community corrections could part of the savings be used to increase the provider rates?*

**RESPONSE:** In recent years, one goal of the General Assembly has been to preserve State resources by increasing the number of funded community corrections beds without increasing the provider rate. At this point, it is not clear that adding funding for additional community corrections beds will actually result in increased community corrections placements. For that reason, the Department cannot advocate in favor of a shift in appropriations that may limit DOC's ability to pay for inmates sentenced to prison.

Nevertheless, it is clear that current provider rate is perilously close to insufficient to support the safe and effective management of offenders in community corrections settings. As General Fund shortfalls ease in the future, the Department is hopeful that these provider rates can be increased.

*16. What would be an appropriate weighted average cost when comparing the cost of a community corrections bed to a prison bed?*

**RESPONSE:** The Department of Public Safety has insufficient information to answer the question, and believes that a meaningful answer would require substantial research by the Department of Corrections.

An average weighted cost determination would require the Department of Corrections to compute how many individuals who are subsequently assigned community corrections have been in public versus private prison settings, and for what periods of time.

#### **11:40-11:50 OPEN ALLOCATION FOR COMMUNITY CORRECTIONS**

*17. What is the average backlog time for an inmate who has been approved for a community corrections placement but was in prison awaiting a placement in the community? What are the reasons an inmate remains on the inmate backlog? Do those reasons impact the length of the wait? If so, in what way?*

**RESPONSE:** The Department does not know the actual "backlog time" for an inmate who has been accepted by community corrections, in part because the backlog list may not accurately reflect who is available to be placed immediately in community corrections.

For example, many DOC inmates are accepted by community corrections before their statutory "community dates" have been reached. Although such offenders have been accepted, they cannot be transferred to community corrections until that time. Similarly, offenders may have Code of Penal Discipline holds that must be resolved before a transfer to community corrections is permissible. Some offenders have holds for medication purposes that may require them to remain in the institution after they have been accepted by community corrections.

These factors can impact the length of the wait substantially. In a survey done during the second full week of December 2009, the DOC wait list for community corrections programs in El Paso County totaled about 45, but there were 16 beds available and unfilled. In Weld County, the reported DOC wait list reflected eight offenders, while there were 15 available beds. In Arapahoe County, the wait list contained 18 persons, but there were 21 male beds and 43 female beds available. Many other jurisdictions reported either zero or one available DOC client awaiting placement.

By far, the longest wait-list was in Adams County, where no residential beds were available, but nearly 100 individuals were shown as approved and waiting for placement. The most recent information from Adams County indicates that as many as 90 Transition offenders could be taken immediately.

As previously indicated, Arapahoe County is placing individual offenders from the Adams County wait-list in Arapahoe County facilities. Understandably, the Department of Corrections has insisted that offenders agree to such placements. However, in the last fiscal year, the wait list for female offenders in Adams County was reduced to near-zero by its cooperative arrangement with Arapahoe County.

*18. How do other states administer their community corrections programs? Do they have local board control or are clients placed into programs at the state level?*

**RESPONSE:** The Pew Center on the States reports that at least 36 states have a "Community Corrections Act" that creates state-local partnerships to administer some form of local community corrections. Most of these state statutes allow individual counties or judicial districts to determine much of the format for local community corrections, and participation is generally voluntary.

According to the National Institute of Corrections (NIC), Colorado's system is somewhat unique in that it makes greater use of residential community corrections beds than many other states. However, where state-local partnerships are found, local boards and/or local community corrections residential facilities generally have the authority to reject clients whom they believe to be unsafe or inappropriate for halfway house placement.

Iowa, Kansas, Wyoming, South Dakota, Montana and other nearby states all authorize local officials to reject referred halfway house offenders. Even much larger correctional systems, including Ohio with its more than 50,000 prison inmates, allow local community corrections officials to accept or reject referred residential offenders.

The observations of local community corrections officials in these other states echo what is frequently heard in Colorado: Without local support, community corrections is much less unlikely to be successful.

According to the NIC, local support in Colorado and elsewhere has largely been created through the participation of local elected officials and prominent citizens in the offender screening process. As these citizens become more connected to community corrections, they are more inclined to encourage or permit favorable zoning and physical expansion, and they are more willing to support the placement of difficult offenders.

The NIC has also pointed out that, although relatively few clients in community corrections reoffend during placement, it is much more likely that the decision to accept such offenders into community placement will be supported by local elected officials and citizens when they had a role in that decision. The NIC believes that the withdrawal of decision-making authority from local boards would prompt much more vocal criticism of the state at those times when community corrections clients commit new crimes.

In many jurisdictions, local officials and citizens actually direct local resources toward the support of local felon reentry, a stance they would be much less likely to take if they were not so invested in community corrections. In some cases, these local resources have provided dramatically enriched treatment opportunities for offenders, with a corresponding further reduction in recidivism rates.

*19. What number of inmates are rejected because the community in which they will be placed does not have enough beds versus number rejected because of crime they committed? What percentage of clients are rejected by the community corrections boards for jurisdictional reasons? How difficult is it to acquire new beds in community corrections? Are different decisions made by community corrections boards for placement based on whether it is diversion or transition beds? If so, in what way?*

*19a. What number of inmates are rejected because the community in which they will be placed does not have enough beds versus number rejected because of crime they committed?*

**RESPONSE:** A few jurisdictions report that some rejections may be based in part upon available bed space. For example, Jefferson County has reported that it may accept fewer offenders because it has some limitations on its bed space.<sup>3</sup> Conversely, Adams County officials report that they do not consider their wait-list when they decide whether or not to accept individual offenders.

The Department has been told by most local boards that offenders are rarely rejected for a lack of beds, particularly under the Open Allocation system currently in place. It is much more common that offenders are rejected as the result of the crimes they committed or on the basis of their criminal histories.

By policy, the Department of Corrections refers every offender whose "community date" is approaching, without regard to whether the offender can be safely placed in community corrections. In general, the Department of Public Safety agrees with this approach because it gives offenders an opportunity to be considered as individuals.

However, many jurisdictions are uncomfortable with those inmates whose violent criminal behaviors have resulted in repeated convictions or imprisonment for a particularly violent offense. Local boards take their core mission of "public safety first" very seriously. The Department has observed a number of local proceedings in which such offenders have been screened and, in the opinion of the Department, properly rejected as unsafe for community placement. The Denver Community Corrections Board administrative staff has offered to describe some of these cases to the Joint Budget Committee, upon request.

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<sup>3</sup> Jefferson County reports that it expects these rejections to diminish as new construction makes additional bed space available late in the next fiscal year.

*19b. What percentage of clients are rejected by the community corrections boards for jurisdictional reasons?*

**RESPONSE:** While local community corrections boards generally prefer some ties to the community, under the present Open Allocation system it is rare that offenders are rejected solely for jurisdictional reasons. In essence, local community corrections boards have found ways to informally "regionalize" without statutory intervention.

A recent study of 210 consecutively-admitted Transition and Parole clients at the community corrections program in Jefferson County demonstrated that about one-third of those clients were convicted in 20 different counties other than Jefferson.

A similar study of 174 consecutively-admitted Transition and Parole clients at Arapahoe County Treatment Center reflected that about half the clients had cases that originated in the 18th Judicial District; more than one-third of the clients were convicted in Denver or Jefferson counties.

Similar numbers are being posted outside the Denver metropolitan area. At Pueblo County Community Corrections, about 61% of the last 112 Transition offenders were placed as the result of convictions in Pueblo County, while the remaining 39% had convictions in one of 16 other judicial districts.

*19c. How difficult is it to acquire new beds in community corrections? Are different decisions made by community corrections boards for placement based on whether it is diversion or transition beds? If so, in what way?*

**RESPONSE:** The creation of beds in community corrections is challenging, in part as the result of zoning issues and in part due to capital costs.

For example, additional community corrections capacity would be desirable in Adams County. The last provider to add new beds in Adams County required three years to complete the project, most of which was devoted to zoning hearings and a lawsuit that unsuccessfully sought to prevent construction of the facility.

Some jurisdictions have lessened the impact of zoning issues by creating new capacity on public property adjacent to correctional facilities. Weld County will soon open a new, county-owned facility that was more acceptable to local residents because it is part of the government complex, across the street from a sheriff's training facility and near the county jail. The Department has encouraged the development of this facility, and has recommended that other jurisdictions adopt the same model, which has proven to be especially effective in the Larimer and Mesa Counties.

Construction costs remain a barrier in some jurisdictions. All six counties that comprise the

Seventh Judicial District have agreed to collaborate on a publicly-owned community corrections facility to be built on the campus of the Montrose County Sheriff. The inability to raise the additional \$2.6 million in construction funding has prevented this effort from moving forward, even though the new facility would by all estimates immediately accept about 80 clients who would otherwise be in prison.

The Department has also been told by some private providers that the current per diem rate and the State's much-publicized fiscal difficulties have combined to deter additional construction. These providers have expressed concern that the state will not provide a sufficient per diem or guarantee of future funding to assure that construction debt can be serviced.

*20. Please discuss whether there would be state savings if the minimum criteria for accepting clients was standardized across all community corrections boards.*

**RESPONSE:** Virtually all community corrections boards presently use essentially the same minimum criteria for acceptance. Every board will accept almost any offender with no past or current history of significant violence. Therefore, the Department believes that the state would not obtain any benefit from statutorily-created, standardized acceptance criteria.

In fact, a statutorily-mandated acceptance criteria could lead to a lower acceptance rate. If one presumes that resources would be directed away from local community corrections boards, fewer local board representatives would be available to screen individuals who do not meet minimum criteria. The Department has often observed that local boards consider individual offenders carefully, and that some inmates who would not meet the usual standardized acceptance criteria are in fact admitted to community corrections after individualized screening by local boards.

*21. What is the percentage of rejections per community corrections board? Is there inconsistency in the decisions each board makes? If so, what types of inconsistencies?*

**RESPONSE:** The Department has begun the inquiry necessary to meaningfully establish the current percentage of rejections by judicial district. However, some context will be required to interpret that data.

The Department of Corrections must refer to community corrections every offender who will eventually be released from prison, regardless of criminal background or safety profile. Because some jurisdictions will receive more referrals of these violent offenders, their rejection rates may seem higher when in fact they have properly served the public safety interests of the community by rejecting those offenders.

Similarly, local zoning restrictions may reduce the number of offenders that some

jurisdictions can lawfully accept, even though local boards might otherwise agree to supervise them. For example, Denver zoning requirements have recently been amended favorably for community corrections, but there are still important limitations on the numbers of offenders who can be placed in most facilities. The zoning regulations of many jurisdictions do not allow their community corrections facilities to supervise sex offenders at all.

A few jurisdictions argue that their rejection rates are comparatively irrelevant. For example, Jefferson County has pointed out that its residential beds remain virtually full year-round. Until Jefferson County expands its capacity late in the next fiscal year, at least some of its rejections will be premised upon the lack of bed space.

The Department believes that, when they are fully researched, the acceptance and rejection rates of many community corrections boards may be similar to the known rates in Denver and Larimer County.

In a study of offenders approved by Denver between July 1 and December 15, 2009, 66% of prospective directly-sentenced Diversion clients were accepted, 27% were rejected, while the remaining 7% were either deferred or withdrawn. About half of the accepted clients met minimal criteria, and were automatically accepted. The principal reasons that prospective Diversion clients were rejected included the use of a deadly weapon, the use of violence, or intimidation or other perceived threat to the community.

From the mandatory referrals sent to Denver County by DOC, 53% of Transition offenders were accepted, 38% were rejected and the remaining 8% were deferred or withdrawn. More than half of those rejected were found to have a history of violence and intimidation or the use of a deadly weapon; nearly all of the remaining rejected inmates had either a history of prior walkaways from community corrections or were sex offenders.

In Larimer County, about 78% of offenders submitted for directly-sentenced Diversion placements were admitted, while around 21% were rejected by the board. Though specific percentages are not available, the jurisdiction reports that most of the rejections were for the same reasons that prospective Diversion clients were declined admission in Denver.

From the mandatory referrals submitted to Larimer County by DOC, 46% were accepted for Transition placement, while 54% were rejected. Again, most rejections were anticipated by the board's criteria, which limit the placement of offenders who have engaged in violence and intimidation.

Jurisdictions without community corrections facilities also accept offenders who are then placed in other judicial districts that do have providers. However, due to current state law, Transition clients are not referred to the jurisdictions by DOC because there is no local residential facility. These clients are often referred to other judicial districts by DOC.

22. *Does the type of treatment available to a community corrections board impact the decision on whether an inmate is placed in that community?*

**RESPONSE:** To some degree, the type of treatment available may determine whether a Diversion or Transition client can be accepted.

For example, there are no state-approved sex offense specific therapists located closer than 40 miles to the community corrections facility in the 14th Judicial District. For that reason, the board is understandably reluctant to house sex offenders in its facility. Similarly, local providers may occasionally determine that an offender with significant mental health needs would be better served in a different community corrections program that has special treatment available for such clients.

23. *Under the open allocation method, are community corrections boards still allocated funding on a quarterly basis? Could this be changed to improve the utilization of funding?*

**RESPONSE:** The Department no longer uses quarterly funding for community corrections services. At the beginning of the current fiscal year, the Department distributed at least the first six months of funding to all boards to encourage placements under the Open Allocation program. The Department has readily replaced expended funds upon request. In all but one judicial district that has requested a different approach, the balance of the required funding will be distributed to local boards in late December 2009.

24. *Do community corrections offenders have to go back into state facility before they are released, or can they be released from community correction facilities directly?*

**RESPONSE:** Unlike private prison inmates, community corrections offenders can be released directly to parole without returning to a state facility.

25. *Do all community corrections boards have waiting lists for their programs? Which boards have waiting lists and which do not?*

**RESPONSE:** As previously described in other answers, most jurisdictions have either a minimal real Transition client wait list or none at all. Though the numbers change frequently, a survey in mid-December reflected that the metropolitan jurisdictions other than Adams County had an empty capacity greater than the number of available offenders on the wait-list: Denver had fewer than 20 available inmates awaiting placement with more than 60 empty beds; Jefferson County reported one available Transition client on the list and seven open beds; Boulder County reported 20 available beds and no Transition clients waiting; Arapahoe County reported fewer than 20 clients on the Transition wait list and a total of 64 empty beds,

about 20 of which were available for males.

As described earlier, Adams County had no open beds and a wait list of nearly 100 Transition offenders, about 90 of whom are available for immediate placement if bed space was available. The first several offenders on Adams County's wait-list have already been accepted by Arapahoe County for placement in its facilities.

Elsewhere on the Front Range, Larimer County reported no persons on the Transition wait list; El Paso County reported a total of 45 offenders on the wait list, though none of these offenders had yet been placed in its 16 open beds. Weld County reported eight offenders on the wait list, with 15 empty beds.

In Pueblo County's two general community corrections programs, four female inmates were awaiting placement, while there were no available male inmates on the wait list. One program could manage an additional 22 male offenders immediately. Both general community corrections programs in Pueblo indicated that they would like to see increased referrals from DOC.

Mesa County reported as many as 10 Transition inmates waiting, though it appeared that most of those offenders were not available for immediate placement; Mesa County reportedly decided to "backfill" its empty beds with waiting Diversion clients. In the northwest corner of the state, the community corrections program in Craig reported 16 open beds with no Transition inmates immediately available.

In southern Colorado, the program in Alamosa reported three females on the DOC wait list, with no males available but 15 male inmates "on hold for various reasons." Durango's program reported seven empty beds with no immediately available DOC inmates.

Some of the jurisdictions with empty beds have expressed an interest in screening parolees, including those who might be more attractive to the Parole Board if they could be stabilized in a residential community corrections program. The Department believes that further discussion of this possibility would be fruitful.

Finally, the Department believes that the initiatives already underway could substantially reduce the number of offenders sent to prison as the result of some types of technical violations. For example, it may be possible to keep offenders who have walked away but not committed new crimes and offenders whose technical violations involve substance abuse out of prison using intermediate sanctions available locally.

**11:50-12:00 GENERAL QUESTIONS**

*26. Has the Department received any gifts, grants, or donations for the recidivism grant program established by H.B. 09-1022? If so, how much?*

**RESPONSE:** No monies of any kind have been received to support the grant program under H.B. 09-1022.

*27. Are community corrections providers for profit or non-profit organizations? How many of each? Any other financial structures? Does the State contract directly with them or are they contracting with community corrections boards?*

**RESPONSE:** Of the state's 35 residential community corrections facilities, five are owned and operated by units of local government. Another seven programs are not-for-profit entities organized under §501(c)(3) of the Internal Revenue Code.

The remaining programs are for-profit entities; all but one of them have local ownership in the state of Colorado.

By statute, the State principally contracts for regular Diversion and Transition services with local community corrections boards, which in turn subcontract with the providers. The State has additional contracts with specific providers to pay for specialized treatment, including substance abuse, mental health and sex offender treatment.

*28. Are there community corrections facilities that specialize in certain types of programs, i.e. drug offenders or mentally ill? Could offenders from all judicial districts be placed in these facilities?*

**RESPONSE:** As previously indicated, specialized treatment programs are available for offenders with severe addictions and documented serious mental illness. Special mental health treatment is provided at programs in Denver, El Paso, Jefferson, Larimer and Mesa counties. Intensive substance abuse treatment is available in Alamosa, Denver, Larimer, and Pueblo counties.

Offenders from all judicial districts are routinely placed in these specialized treatment programs.

29. *Do the prison population projections include the level of unemployment or general economic conditions in projecting the prison population growth? Why in a bad economy is the inmate population going down rather than up?*

**RESPONSE:** DCJ's prison population projection statistical model does not include economic indicators. Rather, the model focuses on the number of prison admissions and sentence length, and separates the data into broad crime categories such as gender, technical violations, filing rates, and other case-processing and sentencing policy variables. Rarely is there a single reason for prison population growth or decline. Colorado's crime rate has been dropping, as has the nation's, since 1994. Crime has continued to fall despite the economic conditions. The relationship between economic conditions and crime is unclear. Fewer than half of all crimes result in arrest, and only a small fraction of individuals arrested actually end up in prison.

Policing practices have an impact on the arrest numbers. If there are less law enforcement resources, or if policies change, case numbers are impacted.

The most dramatic impact on prison numbers are policies relating to sentencing and to probation and parole. For instance, there has been a concerted effort with the Division of Probation Services in Colorado to address probation violations differently. Prison sentences resulting from technical probation violations have been significantly reduced. Similar efforts are progressing in DOC relating to parole violators. Over the years these offenders account for one-quarter to one-third of the annual prison admissions, so even modest changes can have a significant effect on prison numbers. These changes impact the two factors used to predict prison population, which are the number of people going into prison and the length of time they stay.

30. *Is the reduction in the inmate population related to a drop in crime rate or a change in sentencing practices? Are the projections differentiating between the types of crimes that are contributing to the drop in population?*

**RESPONSE:** See response to Question #29 above.

31. *How do community corrections boards spend their funding? Please provide a general breakout of each board's costs in relation to their funded level.*

**RESPONSE:** The Department is in the process of auditing the most recent quarterly expenditures summary obtained from local community corrections boards. Some general information can be reported now.

Collectively, the boards report that they have spent over \$140,000 more than they have been paid in administrative fees during just the first quarter of the current fiscal year. For all of FY

2008-09, the boards reportedly spent about \$630,000 more than the State paid them in administrative fees. Although its figures have not yet been audited, Jefferson County has just reported that it is spending nearly twice as much as it receives from the State for its local community corrections administration.

In every jurisdiction, this money is principally spent on personnel and programming. For example, Arapahoe County has retained a part-time hourly employee to complete unannounced facility checks at night and has provided administrative support for the creation of a dual diagnosis treatment program at one of its facilities in partnership with the Arapahoe-Douglas Mental Health Center. Smaller jurisdictions often report that referral caseloads and placements do not justify full-time staff members; part-time personnel must be retained to screen offenders, approve billing and inspect facilities. These jurisdictions have told DCJ that they are not paid enough in administrative fees to support such functions, and that the difference is paid from local governmental funds.

Virtually all judicial districts report that a decrease in administrative funding would result in a reduction in both Diversion and Transition placements. There are too many variables for the Department to reliably quantify the cost to the State if larger jurisdictions reduced the number of offenders they screened and smaller jurisdictions stopped or nearly stopped making community corrections placements.

However, a decrease from 4% to 3% would seem to "save" the state \$470,656 in administrative payments. At the private prison rate, those "savings" would be consumed if only 75 fewer beds were occupied for the year. The Department believes that, despite its best efforts to encourage placements, a decrease in administrative fees would concomitantly decrease placements by more than just 75 beds.

**ADDENDUM: OTHER QUESTIONS FOR WHICH SOLELY WRITTEN RESPONSES ARE REQUESTED**

*32. What entities pay for community corrections placements in Colorado? What state agencies pay for these placements? Do any non-state entities pay for these placements?*

**RESPONSE:** The vast majority of regular Diversion and Transition community corrections residential beds are funded by the General Assembly through appropriations to the Department of Public Safety. Additionally, DOC maintains about 300 Community Return to Custody ("Senate Bill 252") beds in selected facilities. DOC pays those facilities directly.

On rare occasions, community corrections bed space is purchased directly by the probation departments in individual judicial districts, using offender treatment or tobacco settlement monies.

Most substance abuse treatment program expenses are paid by the Department of Public Safety, though DOC directly funds some aspects of offender treatment at the two therapeutic community programs operated by the University of Colorado. The Division of Behavioral

Health (DBH) also transfers money to the University's programs, though the bulk of that funding is provided to DBH by the Department of Public Safety.

The mental health treatment programs in community corrections are entirely funded by the Department of Public Safety through its appropriations from the General Assembly. The Department is unaware of any placements in community corrections that are funded by entities other than those described.

*33. Does the Department have information about total state expenditures for substance abuse treatment? If not, what action could the General Assembly take to assist in gathering such information and to help coordinate treatment resources statewide?*

**RESPONSE:** No, the Division has no means of tracking the total state expenditures for substance abuse treatment. These funds come through a variety of budgets and budget lines within the Department of Human Services (DHS), DOC, State Judicial, the Department of Public Health and Environment (DPHE) and, to a small extent, DCJ. The Division of Behavioral Health (DBH) within DHS may have the most information, as they track the treatment providers. There may also be additional funding that is used at the local level to support substance abuse treatment, which may originate with state dollars.

*34. Are existing substance abuse treatment services provided through the Judicial Department, the Department of Human Services, the Department of Corrections, and the Department of Public Safety adequate to meet the need for services? Are available treatment services effective?*

**RESPONSE:** There is a greater need for services than there are treatment dollars available. There is also a need for treatment to be available in geographic areas convenient for those in treatment. The effectiveness of the treatment depends on many factors including such things as fidelity to the treatment model, length of time in treatment, and outside supports for the person in treatment.

*35. Organizational charts for your department, showing divisions and subdivisions (with geographic locations).*

*36. Definitions of the roles and missions of your department, its divisions and subdivisions.*

*37. The number of current personnel and the number of assigned FTE by division and subdivision (with geographic locations), including all government employees and on-site contractors.*

*38. A specific list of names, salaries, and positions by division and subdivision of any salaried officer or employee making over \$95,000 per year in FY 2009-10.*

39. *A specific list of names, bonuses, and positions by division and subdivision of any salaried officer or employee making over \$95,000 per year who received any bonuses in FY 2008-09.*
40. *Numbers and locations of any buildings owned or rented by any division or subdivision (by location) and the annual energy costs of all buildings.*
41. *Any real property or land owned, managed, or rented by any division or subdivision (by geographic location).*
42. *List essential computer systems and databases used by the department, its divisions and subdivisions, with their actual FY 2008-09 expenditures.*
43. *Any actual FY 2008-09 expenditures over \$100,000 total from the department or from its divisions and subdivisions to any private contractor, identifying the contract, the project, and whether the contracts were sole-source or competitive bid.*
44. *The amount of actual FY 2008-09 expenditures for any lobbying, public relations, gifts, public advertising, or publications including:*
  - a. *expenditures for lobbying by public employees, contract lobbyists, or "think tanks;"*
  - b. *expenditures for lobbying purposes at other levels of government;*
  - c. *expenditures for lobbying purposes from grants, gifts, scholarships, or tuition;*
  - d. *expenditures for publications or media used for lobbying purposes;*
  - e. *expenditures for gratuities, tickets, entertainment, receptions or travel for purposes of lobbying elected officials; or*
  - f. *expenditures for any public advertising. Include all advertising campaigns, including those that are not for public relations.*
45. *List of all boards, commissions, and study groups, including actual FY 2008-09 expenditures, travel, per diem budgets and assigned FTEs.*
46. *Suggest budget and staff reductions, including reductions in FTE and hours, by division and subdivision, that will reduce your department's total FY 2010-11 General Fund expenditures by 12.5% relative to FY 2009-10 appropriations before any adjustments that have been announced since the end of the 2009 session.*
47. *Suggest budget and staff reductions, including reductions in FTE and hours, by division and subdivision, that will reduce your department's total FY 2010-11 General Fund expenditures by 25.0% relative to FY 2009-10 appropriations before any adjustments that have been announced since the end of the 2009 session.*

Responses to questions 35 through 47 were provided as part of the Department's November 30 Joint Budget Committee hearing. For purposes of conservation, the responses are not reprinted here.