

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



SUPPLEMENTAL REQUESTS FOR FY 2008-09

DEPARTMENT OF PUBLIC SAFETY

(Division of Criminal Justice)

**JBC Working Document - Subject to Change
Staff Recommendation Does Not Represent Committee Decision**

**Prepared By:
Patrick Brodhead, JBC Staff
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For Further Information Contact:

Joint Budget Committee Staff
200 E. 14th Avenue, 3rd Floor
Denver, Colorado 80203
Telephone: (303) 866-2061
TDD: (303) 866-3472

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Prioritized Supplementals

**Supplemental Request, Department Priority #3
Methamphetamine Task Force Fund Spending Authority**

	Request	Recommendation
Total	<u>\$43,739</u>	<u>\$43,739</u>
Reappropriated Funds	43,739	43,739

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>a technical error in calculating the original appropriation.</i>	

Department Request: The Department requests a FY 2008-09 supplemental appropriation of \$43,739 reappropriated funds from the Methamphetamine Abuse Prevention, Intervention, and Treatment Cash Fund. The Department also requests a corresponding FY 2009-10 budget amendment of \$43,739 reappropriated funds from the same source. This spending authority is necessary to allow the Department to expend a grant received from the El Pomar Foundation.

During last year's supplemental period, the Joint Budget Committee approved a FY 2007-08 supplemental appropriation of \$43,739 reappropriated funds to allow the Department to expend the grant from the El Pomar Foundation. The supplemental included a FY 2008-09 budget amendment for the same amount; however, the appropriation was inadvertently left out of the FY 2008-09 Long Bill. This request would add the Methamphetamine Task Force spending authority into the FY 2008-09 Long Bill as originally approved by the JBC.

Staff Analysis: Staff makes the following observations regarding this supplemental request.

1. *Supplemental Criteria Met.* Adjustments are requested based on a technical error that was made when drafting the Long Bill. Because this was a technical error in calculating the original appropriation, these adjustments meet the supplemental criteria.
2. *Useful to Allow the Department to Expend Grant Funds.* JBC staff believes it is useful to authorize the Department to expend private grant funds. The current request seeks to expend

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grant funds from the El Pomar Foundation that were inadvertently left out of the Long Bill. For this reason, staff believes the request is justified.

Staff Recommendation: Staff recommends that the Committee approve the Department's request for \$43,739 reappropriated funds.

**Supplemental Request, Department Priority #4
Spending Authority Transfer for State VALE Administrative Expenses**

	Request	Recommendation
Total	\$0	\$0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of a <i>technical error in calculating the original appropriation</i> .	

Department Request: The Department requests a FY 2008-09 supplemental transfer of \$25,000 cash funds from the State Victims Assistance and Law Enforcement (VALE) Program line item to the Administration Personal Services line item. The Department requests this same transfer in a corresponding FY 2009-10 budget amendment.

During the 2008 session, the Joint Budget Committee and subsequently the General Assembly approved a decision item to increase spending authority from the State VALE fund by \$395,822. Of this amount, \$370,822 was intended to increase State VALE grants for victim rights compliance, and \$25,000 was intended to augment a Victim Rights Act (VRA) Specialist position within the Department. However, the request specified that the entire \$395,822 should be appropriated to the State Victims Assistance and Law Enforcement Program line item rather than requesting that \$25,000 be appropriated to the Administration Personal Services line item. As a result, the Long Bill did not include an appropriation to support the VRA Specialist. This request would fix that technical error.

Staff Analysis: Staff makes the following observations regarding this supplemental request.

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1. *Supplemental Criteria Met.* Adjustments are requested based on a technical error that was made when drafting the Long Bill due to an error in the original request. Because this was a technical error in calculating the original appropriation, these adjustments meet the supplemental criteria.
2. *Useful to Correct Technical Errors in the Long Bill.* JBC staff believes it is useful to correct technical errors made when drafting the Long Bill. The current request seeks to correctly appropriate a cash-funded decision item that was approved during the previous session. For this reason, staff believes the request is justified.

Staff Recommendation: Staff recommends that the Committee approve the transfer of \$25,000 cash funds from the State Victims Assistance and Law Enforcement (VALE) Program line item to the Administration Personal Services line item.

**Supplemental Request, Department Priority #5
Transfer Outpatient Therapeutic Community Slots to DHS**

	Request	Recommendation
Total	(\$195,005)	\$0
General Fund	(195,005)	0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made.</i>	

Department Request: The Department requests a FY 2008-09 supplemental transfer of \$195,005 General Fund from the Outpatient Therapeutic Community Programs line item within the Division of Criminal Justice to the Treatment Services, Short-term Intensive Residential Remediation and Treatment (STIRRT) line item within the Department of Human Services.

In the FY 2008-09 Long Bill, the Department was appropriated \$777,920 General Fund to support 160 outpatient therapeutic community slots. It was anticipated that 80 slots would be funded at The Haven and Peer I in Denver, and 80 slots would be funded at Crossroads Turning Points in Pueblo.

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This funding was intended to support a continuation of services for offenders who had completed therapeutic community programs within a Community Corrections setting. However, because Crossroads Turning Points does not operate a Community Corrections facility, there was not the demand for outpatient therapeutic community services that was expected. Crossroads Turning Points is expected to begin operation of a therapeutic community program for Community Corrections offenders by the end of FY 2008-09; therefore, the Department anticipates that there will be sufficient demand in FY 2009-10 to justify the funding.

The Department's request states that in order to allow the Pueblo and southern Colorado communities to benefit from the existence of these outpatient therapeutic community slots, the appropriation could be transferred to the Department of Human Services. This would allow expenditures to take place in support of individuals who have not been through a Community Corrections program.

Staff Analysis: Staff makes the following observations regarding this supplemental request.

1. *Supplemental Criteria Met.* Adjustments are requested based on a lack of demand for Community Corrections outpatient therapeutic community slots in southern Colorado. Because this lack of demand is data that was not available when the original appropriation was made, these adjustments meet the supplemental criteria.
2. *Department Calculations.* The Department's request states that half of the appropriation for the Outpatient Therapeutic Community Programs line item (\$388,960) was intended to support 80 slots at Crossroads Turning Points at daily per diem of \$13.32. However, the request only seeks to transfer \$195,005 based on the assumption that the Department of Human Services could pay Crossroads Turning Points to operate 80 slots at \$13.32 per day for 183 days, or half the year.
3. *Staff Calculations.* The transfer to the Department of Human Services (\$195,005) assumes that the slots would be operated for half of the year. However, because supplementals are not signed by the Governor until the middle of March, the earliest that funding would be available to the Department of Human Services to begin paying for these slots is likely April 1, 2009. Given this delay, staff has concerns about whether this money can be expended in the current fiscal year. Therefore, staff does not believe these slots should be transferred to the Department of Human Services.

Staff Recommendation: Staff recommends that the Committee deny the Department's request to transfer \$195,005 General Fund to the Department of Human Services.

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**Supplemental Request, Department Priority #11
Reduce Therapeutic Outpatient Slots**

	Request	Recommendation
Total	(<u>\$194,472</u>)	(<u>\$388,960</u>)
General Fund	(194,472)	(388,960)

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made.</i>	

Department Request: The Department requests a FY 2008-09 supplemental reduction of \$194,472 General Fund for outpatient therapeutic community (TC) slots in southern Colorado.

As discussed in the previous supplemental request, the Department received an appropriation of \$388,960 General Fund for 80 outpatient TC slots at Crossroads Turning Points in Pueblo. However, the Department subsequently discovered that there was not enough demand for the 80 slots, particularly given that expenditures could only be made for individuals who were previously in a Community Corrections program. Therefore, the Department seeks to reduce the original appropriation of \$388,960 by \$194,472, representing expenditures that could not be made in the first half of FY 2008-09. In addition, the Department seeks to transfer the remaining portion of the appropriation to the Department of Human Services as discussed above.

Staff Analysis: Staff makes the following observations regarding this supplemental request.

1. *Supplemental Criteria Met.* Adjustments are requested based on a lack of demand for Community Corrections outpatient therapeutic community slots in southern Colorado. Because this lack of demand is data that was not available when the original appropriation was made, these adjustments meet the supplemental criteria.
2. *Department Calculations.* The Department's request states that half of the appropriation for the Outpatient Therapeutic Community Programs line item (\$388,960) was intended to support 80 slots at Crossroads Turning Points at daily per diem of \$13.32. However, because

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of the lack of demand for the slots, the Department requests to reduce the appropriation by \$194,472, representing the amount unspent for the first half of FY 2008-09.

3. *Staff Calculations.* The original appropriation for the Outpatient Therapeutic Community Programs line item assumed that \$388,960 was intended for Crossroads Turning Points. Given that the request seeks to reduce the appropriation by the amount unspent in the first half of FY 2008-09, and staff does not believe that the remaining appropriation should be transferred to DHS for the second half of FY 2008-09, staff believes the Outpatient Therapeutic Community Programs line item should be reduced by \$388,960.

Staff Recommendation: Staff recommends that the Committee reduce the Outpatient Therapeutic Community Programs line item by \$388,960 General Fund.

**Supplemental Request, Department Priority #12
Reduce Day Reporting Slots**

	Request	Recommendation
Total	(\$269,872)	(\$269,872)
General Fund	(269,872)	(269,872)

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made.</i>	

Department Request: The Department requests a FY 2008-09 supplemental reduction of \$269,872 General Fund for day reporting services. This would result in the elimination of all 175 day reporting slots, effective January 1, 2009.

Day reporting is used to provide structured programs to monitor offenders on a daily basis. The day reporting centers serve as a point for delivery of services such as employment assistance and substance abuse monitoring/treatment for offenders who are at risk of violating terms of community placement. Of the money appropriated for day reporting, approximately 90 percent has been used historically for probation clients and 10 percent for parole clients.

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There are currently 175 slots for day reporting clients, and each client receive services for an average of 60 days. However, the request seeks to eliminate these slots under the guidance from the Department of Corrections (DOC) that the supervision for these clients could be absorbed by other intermediate sanctions. For example, DOC indicates that parole supervision or, where necessary, placement in a Community Return to Custody program or at the Cheyenne Mountain Reentry Center (CMRC) are options for other intermediate sanctions. In addition, the request states that the Department is not aware of independent data that describes a reduction in recidivism or a decrease in the prison population directly attributable to day reporting.

Staff Analysis: Staff makes the following observations regarding this supplemental request.

1. *Supplemental Criteria Met.* Adjustments are requested based on funding shortfalls and the ability to absorb these services in other areas. Because this shortfall was the result of data that was not available when the original appropriation was made, these adjustments meet the supplemental criteria.
2. *Department Calculations.* The Department calculated the need for day reporting services as follows: per diem of \$8.45 x 365 days x 175 slots. This results in a total need of \$539,744. Because the request assumes the elimination of all 175 slots on January 1, 2009, the total requested reduction is half of the total need, or \$269,872.
3. *Staff Calculations.* Day reporting is cheaper than residential community programs, and it is cheaper than prison. To the extent that day reporting prevents offenders from being placed in a more secure custody setting (prison or residential community corrections), it is possible that it could save the State money. Given that historically only 10 percent of these day reporting slots have been used by parolees, there may however be less direct savings to the State. It is also possible that appropriations for day reporting merely result in net widening by increasing the number of offenders in the system receiving these types of services. However, even the Department's request states that it is possible that a reduction in monitoring could result in an increased incidence of criminal recidivism for offenders who would otherwise receive day reporting services.

Given the ability to absorb these services in other areas of the budget and the request to eliminate these slots, staff has calculated a reduction of \$268,595 based on the FY 2008-09 Long Bill appropriation (half of the current appropriation). Below is the table from staff's FY 2008-09 figure setting document detailing how the original appropriation was calculated.

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(4) Division of Criminal Justice – (D) Community Corrections Day Reporting Center – Request and Recommendation			
	FY 2007-08	FY 2008-09	
		Request	Recommendation*
Number of Slots	175	175	175
Daily Rate	\$8.33	\$8.41	\$8.41
General Fund	\$533,537	\$537,189	\$537,189

* The total recommendation is based on 365 days in FY 2008-09 while the FY 2007-08 appropriation was based upon 366 days to account for the leap year.

The difference in the daily rate between staff's calculation and the Department's request is the result of how the provider rate was requested and approved in FY 2008-09. The Department had requested a provider rate increase of 0.95 percent (versus the statewide common policy of 1.5 percent) with the difference of 0.55 percent to be used as incentive funds for low-risk providers. The Department has since abandoned that incentive program and rolled those dollars into the provider rate increase. However, staff has calculated the savings based on the methodology used to set the FY 2008-09 Long Bill appropriation. Despite these calculations, staff is recommending the Department's request because otherwise a small amount of unusable money may be left in the line item.

Staff Recommendation: Staff recommends that the Committee approve the Department's request to reduce the Day Reporting Center line item by \$269,872 General Fund.

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**Supplemental Request, Department Priority #13
Reduce IRT General Fund Differential**

	Request	Recommendation
Total	(\$317,995)	(\$317,995)
General Fund	(317,995)	(317,995)

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made.</i>	

Department Request: The Department requests a FY 2008-09 supplemental reduction of \$317,995 General Fund to eliminate the differential payment for 98 intensive residential treatment (IRT) beds for Community Corrections offenders in the second half of FY 2008-09, effective January 1, 2009. The request is an ongoing reduction and therefore includes a FY 2009-10 budget amendment reduction of \$635,991 General Fund.

Intensive residential treatment beds provide 45 days of residential services for Community Corrections offenders in need of substance abuse treatment. For FY 2008-09, 98 slots were appropriated for transition clients through the General Fund. Separate services are provided through the Drug Offender Surcharge Cash Fund for diversion clients.

The Department indicates that the beneficial effects of the 45-day IRT model are only modest and that current literature suggests that a minimum treatment time of 90 days is required to derive the expected benefit. In addition, the request states that only about half of the available IRT beds were filled during the first quarter of FY 2008-09. The Department believes that its proposal in the FY 2009-10 Recidivism Reduction Package to use additional spending authority in combination with currently-allocated beds to create an all 90-day model for IRT provides the opportunity to reduce or eliminate funding for the 45-day model.

Staff Analysis: Staff makes the following observations regarding this supplemental request.

1. *Supplemental Criteria Met.* Adjustments are requested based on funding shortfalls and the desire to move to a longer IRT model. Because this shortfall was the result of data that was

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not available when the original appropriation was made, these adjustments meet the supplemental criteria.

2. *Department Calculations.* The Department calculated the need for IRT differential payments as follows: per diem differential of \$17.78 x 365 days x 98 beds. This results in a total need of \$635,991. Because the request assumes the elimination of all 98 beds on January 1, 2009, the total requested reduction is half of the total need, or \$317,995.
3. *Staff Calculations.* Transition clients are those offenders who are moving from prison to a Community Corrections program. Because this request seeks to eliminate 98 transition Community Corrections beds, staff has concerns that it may increase costs in the Department of Corrections. Even the Department's request states that it is possible that the elimination of the IRT funding may result in an increase in criminal recidivism.

Removing 98 transition Community Corrections beds essentially means that those offenders will have to be housed in prison instead. Assuming that these offenders will be housed in private prison, the cost to the State for the second half of FY 2008-09 would be \$985,115 (98 offenders x \$54.93 per diem x 183 days). This cost is very close to the estimated savings associated with this supplemental plus the savings from Supplemental #15 (\$317,995 + \$674,980 = \$992,975). If some of these offenders are housed in state-operated facilities, the costs outweigh the savings.

Although there may be unintended costs to this request, it is staff's understanding that the utilization rate for Community Corrections beds has declined in the first half of FY 2008-09. The Department has anecdotally indicated that Community Corrections providers are unable to accept as many clients because of the difficulty offenders are having finding employment. Because providers rely upon a subsistence fee from offenders to supplement the state per diem, it may not be cost effective for some providers to accept offenders who are unable to pay the subsistence fee. In addition, it is staff's understanding that the use of diversion Community Corrections beds is down due to a reduced criminal caseload in the Judicial system.

Given the lack of utilization of Community Corrections beds and the request to eliminate some beds, staff has calculated a reduction of \$316,386 based on the FY 2008-09 Long Bill appropriation (half of the current appropriation). Below is the table from staff's FY 2008-09 figure setting document detailing how the original appropriation was calculated.

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(4) Division of Criminal Justice – (D) Community Corrections Transition Programs (Residential Placements)						
Type of Placement	Request			Recommendation		
	Beds/Slots	Daily Rate	Cost	Beds/Slots	Daily Rate	Cost
Continuation Beds	1,597	\$37.18	21,672,408	1,597	\$37.53	21,876,425
Add'l Beds for Caseload	<u>26</u>	<u>\$37.18</u>	<u>352,838</u>	<u>60</u>	<u>\$37.53</u>	<u>821,907</u>
Sub-total Beds	1,623		22,025,246	1,657		22,698,332
Parole Beds	80	\$37.18	1,085,656	80	\$37.53	1,095,876
Sex Offender Beds	10	\$37.18	135,707	10	\$37.53	136,985
CIRT Slots (diff. rate)	98	\$17.52	<u>626,690</u>	98	\$17.69	<u>632,771</u>
JBC Staff Recommendation	1,713		23,873,299	1,747		24,563,964

Note: the annual cost was computed assuming 365 days in FY 2008-09. In FY 2007-08, there was an additional day of costs associated with the leap year adjustment approved for FY 2007-08.

The difference in the daily rate between staff's calculation and the Department's request is the result of how the provider rate was requested and approved in FY 2008-09. The Department has requested a provider rate increase of 0.95 percent (versus the statewide common policy of 1.5 percent) with the difference of 0.55 percent being used as incentive funds for low-risk providers. The Department has since abandoned that incentive program and rolled those dollars into the provider rate increase. However, staff is calculating the savings based on the methodology used to set the FY 2008-09 Long Bill appropriation. Despite these calculations, staff is recommending the Department's request because otherwise a small amount of unusable money may be left in the line item.

Staff Recommendation: Staff recommends that the Committee approve the Department's request to reduce the Transition Programs line item by \$317,995 General Fund.

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**Supplemental Request, Department Priority #14
Suspend Sex Offender Beds**

	Request	Recommendation
Total	(\$68,876)	(\$68,876)
General Fund	(68,876)	(68,876)

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made.</i>	

Department Request: The Department requests a FY 2008-09 supplemental reduction of \$68,876 General Fund to hold open 10 Community Corrections beds specifically identified for use by sex offenders in the second half of FY 2008-09, effective January 1, 2009.

A total of 10 Community Corrections transition beds were appropriated in FY 2008-09 to house sex offenders. The per diem for these beds is the same as it is for regular Community Corrections beds, and there is no funding for additional or offender-specific treatment associated with the sex offender beds.

Currently, the Department indicates that local Community Corrections boards are using regularly-funded transition and diversion beds for the placement of sex offenders. The Department also indicates that there is no data that the beds specifically designed for sex offenders encourage local boards to accept more clients with sex offense histories. Therefore, the Department believes that there would be no impact on recidivism if these beds are not funded for the second half of FY 2008-09.

Staff Analysis: Staff makes the following observations regarding this supplemental request.

1. *Supplemental Criteria Met.* Adjustments are requested based on funding shortfalls and the ability to serve these clients through regularly-funded Community Corrections beds. Because this shortfall was the result of data that was not available when the original appropriation was made, these adjustments meet the supplemental criteria.

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2. *Department Calculations.* The Department calculated the need for sex offender beds as follows: per diem of \$37.74 x 365 days x 10 beds. This results in a total need of \$137,751. Because the request assumes the suspension of all 10 beds on January 1, 2009, the total requested reduction is half of the total need, or \$68,876.
3. *Staff Calculations.* Transition clients are those offenders who are moving from prison to a Community Corrections program. Because this request seeks to eliminate 10 transition Community Corrections beds, staff has concerns that it may increase costs in the Department of Corrections. Even the Department's request states that it is possible that the elimination of these beds could result in an increase in overall prison populations.

Removing 10 transition Community Corrections beds essentially means that those offenders will have to be housed in prison instead. Assuming that these offenders will be housed in private prison, the cost to the State for the second half of FY 2008-09 would be \$100,522 (10 offenders x \$54.93 per diem x 183 days). This cost is greater than the savings associated with this supplemental request.

Although there may be unintended costs to this request, again it is staff's understanding that the utilization rate for Community Corrections beds has declined in the first half of FY 2008-09. Given the lack of utilization of Community Corrections beds and the request to eliminate some beds, staff has calculated a reduction of \$316,386 based on the FY 2008-09 Long Bill appropriation (half of the current appropriation). Below is the table from staff's FY 2008-09 figure setting document detailing how the original appropriation was calculated.

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(4) Division of Criminal Justice – (D) Community Corrections Transition Programs (Residential Placements)						
Type of Placement	Request			Recommendation		
	Beds/Slots	Daily Rate	Cost	Beds/Slots	Daily Rate	Cost
Continuation Beds	1,597	\$37.18	21,672,408	1,597	\$37.53	21,876,425
Add'l Beds for Caseload	<u>26</u>	<u>\$37.18</u>	<u>352,838</u>	<u>60</u>	<u>\$37.53</u>	<u>821,907</u>
Sub-total Beds	1,623		22,025,246	1,657		22,698,332
Parole Beds	80	\$37.18	1,085,656	80	\$37.53	1,095,876
Sex Offender Beds	10	\$37.18	135,707	10	\$37.53	136,985
CIRT Slots (diff. rate)	98	\$17.52	<u>626,690</u>	98	\$17.69	<u>632,771</u>
JBC Staff Recommendation	1,713		23,873,299	1,747		24,563,964

Note: the annual cost was computed assuming 365 days in FY 2008-09. In FY 2007-08, there was an additional day of costs associated with the leap year adjustment approved for FY 2007-08.

The difference in the daily rate between staff's calculation and the Department's request is the result of how the provider rate was requested and approved in FY 2008-09. The Department has requested a provider rate increase of 0.95 percent (versus the statewide common policy of 1.5 percent) with the difference of 0.55 percent being used as incentive funds for low-risk providers. The Department has since abandoned that incentive program and rolled those dollars into the provider rate increase. However, staff is calculating the savings based on the methodology used to set the FY 2008-09 Long Bill appropriation. Despite these calculations, staff is recommending the Department's request because otherwise a small amount of unusable money may be left in the line item.

Staff Recommendation: Staff recommends that the Committee approve the Department's request to reduce the Transition Programs line item by 68,876 General Fund.

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**Supplemental Request, Department Priority #15
Suspend IRT General Fund Beds**

	Request	Recommendation
Total	(\$674,980)	(\$674,980)
General Fund	(674,980)	(674,980)

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made.</i>	

Department Request: The Department requests a FY 2008-09 supplemental reduction of \$674,980 General Fund for transition Community Corrections beds. The request seeks to hold open the 98 base beds specifically identified for use as IRT beds in the second half of FY 2008-09, effective January 1, 2009.

This request eliminates the base Community Corrections beds associated with Supplemental #13, discussed above. Supplemental #13 eliminated the differential payment for IRT beds, while this supplemental request seeks to reduce the base appropriation for those beds. Therefore, this supplemental request should be analyzed in conjunction with Supplemental #13.

Staff Analysis: Staff makes the following observations regarding this supplemental request.

1. *Supplemental Criteria Met.* Adjustments are requested based on funding shortfalls and the desire to move to a longer IRT model. Because this shortfall was the result of data that was not available when the original appropriation was made, these adjustments meet the supplemental criteria.
2. *Department Calculations.* The Department calculated the need for IRT base beds as follows: per diem of \$37.74 x 365 days x 98 beds. This results in a total need of \$1,349,960. Because the request assumes the holding open of all 98 beds on January 1, 2009, the total requested reduction is half of the total need, or \$674,980.

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3. *Staff Calculations.* Transition clients are those offenders who are moving from prison to a Community Corrections program. Because this request seeks to hold open 98 transition Community Corrections beds for half of FY 2008-09, staff has concerns that it may increase costs in the Department of Corrections. Even the Department's request states that it is possible that the holding open of these IRT beds may result in an increase in overall prison populations.

Holding open 98 transition Community Corrections beds essentially means that those offenders will have to be housed in prison instead. Assuming that those offenders will be housed in private prison, the cost to the State for the second half of FY 2008-09 would be at least \$985,115 (98 offenders x \$54.93 per diem x 183 days). This cost is very close to the estimated savings associated with this supplemental as well as Supplemental #13 (\$317,995 + \$674,980 = \$992,975). If some of these offenders are housed in state-operated facilities, the costs outweigh the savings.

Although there may be unintended costs to this request, again it is staff's understanding that the utilization rate for Community Corrections beds has declined in the first half of FY 2008-09. Given the lack of utilization of Community Corrections beds and the request to eliminate some beds, staff has calculated a reduction of \$673,063 based on the FY 2008-09 Long Bill appropriation (98 offenders x \$37.53 per diem x 183 days). Below is the table from staff's FY 2008-09 figure setting document detailing how the original appropriation was calculated.

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(4) Division of Criminal Justice – (D) Community Corrections Transition Programs (Residential Placements)						
Type of Placement	Request			Recommendation		
	Beds/Slots	Daily Rate	Cost	Beds/Slots	Daily Rate	Cost
Continuation Beds	1,597	\$37.18	21,672,408	1,597	\$37.53	21,876,425
Add'l Beds for Caseload	<u>26</u>	<u>\$37.18</u>	<u>352,838</u>	<u>60</u>	<u>\$37.53</u>	<u>821,907</u>
Sub-total Beds	1,623		22,025,246	1,657		22,698,332
Parole Beds	80	\$37.18	1,085,656	80	\$37.53	1,095,876
Sex Offender Beds	10	\$37.18	135,707	10	\$37.53	136,985
CIRT Slots (diff. rate)	98	\$17.52	<u>626,690</u>	98	\$17.69	<u>632,771</u>
JBC Staff Recommendation	1,713		23,873,299	1,747		24,563,964

Note: the annual cost was computed assuming 365 days in FY 2008-09. In FY 2007-08, there was an additional day of costs associated with the leap year adjustment approved for FY 2007-08.

The difference in the daily rate between staff's calculation and the Department's request is the result of how the provider rate was requested and approved in FY 2008-09. The Department has requested a provider rate increase of 0.95 percent (versus the statewide common policy of 1.5 percent) with the difference of 0.55 percent being used as incentive funds for low-risk providers. The Department has since abandoned that incentive program and rolled those dollars into the provider rate increase. However, staff is calculating the savings based on the methodology used to set the FY 2008-09 Long Bill appropriation. Despite these calculations, staff is recommending the Department's request because otherwise a small amount of unusable money may be left in the line item.

Staff Recommendation: Staff recommends that the Committee approve the Department's request to reduce the Transition Programs line item by \$674,980 General Fund.

Statewide Common Policy Supplemental Requests

Staff Recommendation: Neither the Department nor OSPB has submitted statewide supplemental requests, but these requests may be received in the near future. If requests are submitted, they will be presented to the Committee by the Common Policy analyst. **Staff asks permission to include the corresponding appropriations in the Department's supplemental bill if the Committee**

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approves a common policy supplemental. If staff believes there is reason to deviate from the common policy, staff will appear before the Committee later to present the relevant analysis.

Other Balancing Options

These options are presented without staff recommendation in order to maximize the Committee's choices. The Committee may wish to consider these options now or in the future.

Numbering does not indicate priority.

Options with <i>Appropriation</i> Impacts	GF	CF	RF	FF	Total	FTE
1	(486,206)	0	0	0	(486,206)	0.0
<p>Reduce the Provider Rate to Community Corrections Programs by 1.0 Percent</p> <p>This option would reduce the provider rate paid to Community Corrections programs by 1.0 percent. This rate could be further reduced with the above calculated savings for each 1.0 percent reduction. Staff notes that the Community Corrections provider rate was decreased by 8.0 percent during the last economic downturn. The current department-adjusted rate of \$37.74 is just slightly above the FY 2001-02 rate of \$37.72.</p>						
2	(480,937)	0	0	0	(480,937)	0.0
<p>Reduce the Reimbursement Rate to Community Corrections Boards by 1.0 Percent</p> <p>Pursuant to Section 17-27-108, C.R.S., the Division is authorized to allocate up to 5.0 percent of the appropriations for community corrections programs to the 23 Community Corrections boards to offset their administrative costs. Community Corrections boards currently receive an appropriation equal to 4.0 percent of the appropriations for Community Corrections programs. This option would reduce that percentage to 3.0 percent. This rate could be further reduced with the above calculated savings for each 1.0 percent reduction. During the previous economic downturn, this reimbursement rate was reduced from 5.0 percent to the current rate of 4.0 percent.</p>						

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Options with <i>Appropriation</i> Impacts	GF	CF	RF	FF	Total	FTE
<p>3</p> <p>Reduce Juvenile Diversion Programs</p> <p>This option would reduce the appropriation for juvenile diversion programs. The Juvenile Diversion programs are supported jointly by state and local sources to provide community-based programs that serve as (1) an alternative to filing in juvenile court; (2) a supplement to high risk or high need juveniles on probation; or (3) a treatment/supervision resource for youth placed in communities by the Division of Youth Services. Over 3,500 youth are served annually by the programs. All programs that receive state diversion funds are required to provide at least 25 percent local matching funds. The Juvenile Diversion program line item was vetoed in FY 2002-03 (\$2,483,702 General Fund had been included in the Long Bill). In FY 2003-04, \$500,000 cash funds exempt (Tobacco Settlement Fund) were appropriated on a one-time basis. No appropriation was made for FY 2004-05 or FY 2005-06. In FY 2006-07, the JBC voted to restore \$1,241,851 General Fund to this line item. The current FY 2008-09 appropriation is \$1,241,851 General Fund.</p>					0	
<p>4</p> <p>Reduce or Eliminate the Transition Mental Health Differential and Diversion Mental Health Differential</p> <p>These appropriations provide mental health services for offenders in Community Corrections programs. The current appropriations support a differential payment of \$32.53 for 85 transition clients and 20 diversion clients. This differential payment is in addition to the \$37.53 appropriated as a base per diem for Community Corrections beds. These line items were added during FY 2002-03.</p>					0	

	FY 2007-08	FY 2008-09	Fiscal Year 2008-09 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
DEPARTMENT OF PUBLIC SAFETY					
Executive Director - Peter A. Weir					
Division of Criminal Justice Director - Jeanne Smith					
Supplemental #3 - Methamphetamine Task Force Fund Spending Authority					
<i>(4) Division of Criminal Justice</i>					
<i>(E) Crime Control and System Improvement</i>					
Methamphetamine Abuse Task Force Fund - RF					
	43,739	0	43,739	43,739	43,739
Supplemental #4 - Spending Authority Transfer for State VALE Administrative Expenses					
<i>(4) Division of Criminal Justice</i>					
<i>(A) Administration</i>					
Personal Services	2,156,610	2,432,778	25,000	25,000	2,457,778
FTE	<u>30.3</u>	<u>31.8</u>	<u>0.0</u>	<u>0.0</u>	<u>31.8</u>
General Fund	1,148,233	1,453,751	0	0	1,453,751
Cash Funds	378,950	534,881	25,000	25,000	559,881
Reappropriated Funds	547,099	362,435	0	0	362,435
Federal Funds	82,328	81,711	0	0	81,711
<i>(B) Victims Assistance</i>					
State Victims Assistance and Law Enforcement Program - CF					
	879,178	1,275,000	(25,000)	(25,000)	1,250,000

	FY 2007-08	FY 2008-09	Fiscal Year 2008-09 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Total for Supplemental #4	3,035,788	3,707,778	0	0	3,707,778
FTE	<u>30.3</u>	<u>31.8</u>	<u>0.0</u>	<u>0.0</u>	<u>31.8</u>
General Fund	1,148,233	1,453,751	0	0	1,453,751
Cash Funds	1,258,128	1,809,881	0	0	1,809,881
Reappropriated Funds	547,099	362,435	0	0	362,435
Federal Funds	82,328	81,711	0	0	81,711
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Supplemental #5 - Transfer Outpatient Therapeutic Community Slots to DHS					
<i>(4) Division of Criminal Justice</i>					
<i>(D) Community Corrections</i>					
Outpatient Therapeutic Community Programs - GF					
	N.A.	777,920	(195,005)	0	777,920
<hr/>					
Supplemental #11 - Reduce Outpatient Therapeutic Community Slots					
<i>(4) Division of Criminal Justice</i>					
<i>(D) Community Corrections</i>					
Outpatient Therapeutic Community Programs - GF					
	N.A.	777,920	(194,472)	(388,960)	388,960
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	FY 2007-08	FY 2008-09	Fiscal Year 2008-09 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Supplemental #12 - Reduce Day Reporting Slots					
<i>(4) Division of Criminal Justice</i>					
<i>(D) Community Corrections</i>					
Day Reporting Center - GF	564,713	537,189	(269,872)	(269,872)	267,317
Supplemental #13 - Reduce IRT General Fund Differential					
<i>(4) Division of Criminal Justice</i>					
<i>(D) Community Corrections</i>					
Transition Programs - GF	21,401,750	24,563,964	(317,995)	(317,995)	24,245,969
Supplemental #14 - Suspend Sex Offender Beds					
<i>(4) Division of Criminal Justice</i>					
<i>(D) Community Corrections</i>					
Transition Programs - GF	21,401,750	24,563,964	(68,876)	(68,876)	24,495,088
Supplemental #15 - Suspend IRT General Fund Beds					
<i>(4) Division of Criminal Justice</i>					
<i>(D) Community Corrections</i>					
Transition Programs - GF	21,401,750	24,563,964	(674,980)	(674,980)	23,888,984

	FY 2007-08	FY 2008-09	Fiscal Year 2008-09 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Totals					
Department of Public Safety					
Totals for ALL Departmental line items	219,922,525	248,005,939	(1,677,461)	(1,676,944)	246,328,995
FTE	<u>1,300.0</u>	<u>1,357.2</u>	<u>0.0</u>	<u>0.0</u>	<u>1,357.2</u>
General Fund	72,509,440	82,378,618	(1,721,200)	(1,720,683)	80,657,935
Cash Funds	98,260,953	117,502,488	0	0	117,502,488
Reappropriated Funds	20,988,367	21,637,002	43,739	43,739	21,680,741
Federal Funds	28,163,765	26,487,831	0	0	26,487,831

Key:

N.A. = Not Applicable or Not Available