

# Corrections

## Departmentwide

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### **LFB Summary Items for Which an Issue Paper Has Been Prepared**

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### **LFB Summary Item Addressed in Standard Budget Adjustments (Paper #101)**

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1	Standard Budget Adjustments

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4	Debt Service Reestimate





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June, 2021

Joint Committee on Finance

Paper #235

### **Overtime Funding (Corrections -- Departmentwide)**

[LFB 2021-23 Budget Summary: Page 119, #1; and Page 120, #2]

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#### **CURRENT LAW**

Under the Department of Administration's 2021-23 budget instructions to state agencies, standard budget adjustments are defined as a "category of cost changes common across all agencies that are considered "housekeeping" in nature and are required to continue a base level of services into the next biennium." Standard budget adjustments include items such as full funding of salary and fringe benefits, overtime, removal of non-continuing elements, and turnover reductions.

#### **DISCUSSION POINTS**

1. Under standard budget adjustments, funding associated with overtime is entirely removed in the calculations of full funding of salaries and fringe benefits. The budget instructions specify that only the same amounts currently budgeted for overtime may be included under standard budget adjustments, modified for the new fringe benefit rates for the upcoming biennium. Any additional overtime amounts determined necessary must be separately requested and are provided as supplemental funding.

2. In 2019-21, the Department was budgeted \$48,203,800 GPR and \$1,808,500 PR annually for overtime and \$14,037,600 GPR and \$629,800 PR in 2019-20 and \$7,018,800 GPR and \$314,900 PR in 2020-21 as an overtime supplement. In total, the Department was provided \$62,241,400 GPR and \$2,438,300 PR in 2019-20 and \$55,222,600 GPR and \$2,123,400 PR in 2020-21 for overtime funding.

3. The 2021-23 budget provides \$56,336,600 GPR and \$2,106,100 PR annually for standard budget adjustment overtime. In addition, the bill would provide \$26,663,500 GPR and \$690,100 PR annually as an overtime supplement. [In total, the standard budget adjustments and overtime supplement would include \$83,000,100 GPR and \$2,796,200 PR annually to fund costs

associated with overtime.] Standard budget adjustments for all agencies were addressed by the Committee in Paper #101. This paper, therefore, only addresses the request for supplemental overtime funding.

4. In prior budgets, Corrections' overtime funding was calculated based on the prior year's average hours of overtime, adjusted for the new variable fringe benefit rate for the upcoming biennium. However, for the 2019-21 budget, 2017-18 average weekly overtime hours were used for the Division of Juvenile Corrections and 2016-17 average weekly overtime hours were used for the Division of Adult Institutions to calculate the projected overtime funding needed in the 2019-21 biennium.

5. Under the 2021-23 budget bill, a combination of prior years was again used to calculate overtime, but instead of differentiating by Division as in the 2019-21 budget, the 2021-23 budget bill differentiates by fund source (with projected GPR costs calculated using 2019-20 overtime hours for GPR positions and projected PR costs calculated using 2018-19 overtime hours for PR positions). According to the Department, this combination of years and fund sources was used to reflect slightly lowered overtime costs for each fund source. Based on average weekly overtime hours in 2019-20 (for GPR positions) and 2018-19 (for PR positions), the Department would require a total of \$83,000,100 GPR and \$2,796,200 PR in overtime funding each year. Subtracting the amounts provided under standard budget adjustments, supplemental funding would be \$26,663,500 GPR and \$690,100 PR annually.

6. While the use of overtime is necessary in the operation and management of twenty-four hour, seven-day-a-week correctional institutions, high overtime costs have been an ongoing issue for the Department. Under the 2007-09 biennial budget, statutory language was created requiring the Department to report to the Finance Committee every two years on the amount and costs of overtime at each of its correctional institutions. In reviewing the most recent report submitted on December 29, 2020, the Department paid \$59,931,735 (just for salaries, not including fringe benefit costs) for 1,949,591 hours of correctional officer and sergeant overtime at adult institutions in fiscal year 2019-20. The most common reasons for overtime in 2019-20 were position vacancies and sick leave coverage. [Note that other positions in the Department also incur overtime costs and are not included in the reporting requirement.]

7. Position vacancies resulted in the largest use of overtime in 2019-20, accounting for 1,025,133 overtime hours (at a cost of approximately \$31,344,900). This is 52.6% of all overtime on the report (a slight reduction in the use of overtime to cover position vacancies when compared to fiscal year 2018-19 (1,028,777 overtime hours)).

8. A majority of the vacancies are in security positions at adult institutions. In May, 2021, 730.70 of 4,673.53 correctional officer and correctional sergeant positions were vacant. This amounts to an approximate 15.6% vacancy rate across all institutions. Of the vacant correctional officer and correctional sergeant positions, 312.0 positions (6.7%) had been vacant for approximately six months or more. While this overall vacancy rate is slightly lower than the vacancy rate one year ago in May, 2020, (16.6% for officers and sergeants) the vacancy rate differs significantly by institution.

9. For example, as of May, 2021, only 10.0 of Jackson Correctional Institution's 184.0

officer and sergeant positions were vacant (5.4%) (and all were recent vacancies (March, 2021 or later)). However, during the same period, Waupun Correctional Institution had 122.0 of its 291.0 officer and sergeant positions vacant (41.9%). Facility age, geographic location with several other nearby correctional facilities, forced overtime (which is a cyclical problem at institutions with high vacancy rates), and institution security level are all possible contributing factors to the higher overtime rate at Waupun. Overall however, departmentwide security position vacancy rates have steadily declined in 2019-20, and into 2020-21.

10. The declining vacancy rates departmentwide corresponds with the decreases in departures from Correction's security positions over the past three calendar years. In 2018, there were 973 departures from security positions (including officers, sergeants, and the juvenile justice equivalent positions (youth counselors and youth-counselors advanced)). This figure was reduced to 727 in calendar year 2019, and to 666 in calendar year 2020.

11. While vacancy rates have declined slightly, however, it still accounted for the majority of overtime costs in both 2018-19 and 2019-20 (approximately 50% in each year). In addition, despite decreased vacancy rates, overall overtime costs have increased during the COVID-19 pandemic. According to the Department, in the first few months of the pandemic, overtime usage was similar to the previous year. However, beginning in September, 2020, overtime began to "significantly" outpace 2019-20, following a trending line similar to positive COVID-19 outbreaks in Wisconsin (including among correctional staff and inmates, which peaked in November and December of 2020).

12. The overtime hours recorded thus far in fiscal year 2020-21 are noticeably higher than prior fiscal years. Specifically, in 2020-21, 1,616,887 hours of overtime have been generated at adult facilities through mid-March, 2021, (including 1,481,450 hours in security positions and 135,437 hours for other institutional coverage). While the 2020-21 data does include an extra pay period (a 27<sup>th</sup> pay period in December, 2020), the Department is nonetheless on pace to reach approximately 2,212,600 overtime hours for the current fiscal year (an approximate 13.5% increase from 2019-20).

13. While it is unknown to what extent the COVID-19 pandemic impacted these overtime costs, it likely had a negative impact as: (a) potential employees may have had concerns about the current health risks of the prison work environment, given the nature in which COVID-19 is spread, and may have been hesitant to apply for vacant positions; and (b) increased sick leave, trips to medical facilities (which require security staff), and turnover may have occurred as a direct result of COVID-19 infections. As of May 19, 2021, 2,561 Corrections staff members and 10,976 inmates have tested positive for COVID-19 at some point during the public health emergency (including 32 inmate COVID-19-related deaths).

14. While COVID-19 likely impacted overtime costs in 2019-20 and 2020-21, the lasting impacts into 2021-22 and 2022-23 would likely be reduced or eliminated. As of May 19, 2021, the Department had only 12 active-positive inmate cases and 13 active-positive staff cases. In addition, as of the same date, 11,610 inmates were partially or fully vaccinated for COVID-19 and all Department staff are currently eligible to receive a COVID-19 vaccination. Ultimately, however, high overtime costs, driven by position vacancies, have been an on-going problem for the Department, even prior to the public health emergency.

15. To address the vacancy issues over the past several years, particularly in security positions, the Department of Administration, Division of Personnel Management, included several pay adjustment programs that largely targeted correctional security positions in the 2017-19 Compensation Plan including a \$1,000 sign-on bonus, a \$5.00 add-on at certain institutions (expired in June, 2020), pay range progressions, and pay equity placement. In addition, the 2019-21 Compensation Plan provided a 2% general wage adjustment and security position market adjustment in January, 2020, a security pay progression beginning in December, 2020, and a 2% general wage adjustment in January, 2021. The Department indicates that "with the pandemic impacting so many [Corrections] operations, it is difficult to determine the overall impact of the various compensation items that were authorized as part of the 2019-21 biennial budget and compensation plan." Under the bill, no separate and distinct proposals concerning correctional staff pay were identified in compensation reserves for the 2021-23 biennium.

16. While overtime hours remained consistent between 2018-19 and 2019-20, overtime costs have risen, in large part due to the higher salaries (both temporary and long-term) included as part of the 2019-21 compensation plan. In addition, the overtime hours in the first half of 2020-21 are on pace to exceed the hours needed in previous years.

17. While no compensation items are identified in the budget bill, the Department continues to administratively implement various recruitment and retention initiatives. On April 30, 2019, in response to a 2019 Legislative Audit Bureau report on adult corrections expenditures, Corrections noted that "DOC leaders are already actively developing a three-year strategic recruitment and retention plan that is anticipated to begin operationalization in the near future." Specifically, Corrections expanded the use of radio advertising campaigns throughout the state, and has recently begun development of several commercial advertisements through Bally Sports (formerly Fox Sports Wisconsin), which will air later this year. Corrections has also expanded use of social media websites. In addition to the recruitment plan, an equity and inclusion plan is being implemented for the next two calendar years (January, 2021, through December, 2023) to encourage applicants from diverse backgrounds. Further, the Department is: (a) evaluating vendor bids for the production and distribution of updated recruitment videos; (b) running advertisements on the side of Bureau of Correctional Enterprises trucks that deliver products throughout the state; and (c) continuing to advocate for statutory changes that would allow advertising on billboards. Corrections is utilizing its current budget to fund these initiatives.

18. Beyond these administrative policy changes, within the Division of Adult Institutions, a Recruitment and Retention Workgroup was formed to focus on improving recruitment and retention efforts at adult institutions (other divisions have similar groups). The group meets regularly to discuss new ideas for recruitment and retention, and came up with several of the proposals, described above.

19. Due to a number of variable factors that impact recruitment and retention such as labor market competition, unemployment rates, geography, workplace conditions, and public health emergency impacts, it is unknown if the pay incentives or recruitment and retention efforts have (or will) directly affected vacancy rates and overall overtime costs. As noted previously, 2020-21 overtime hours are on pace to exceed overtime hours in 2019-20.

20. The Department of Administration used a combination of 2018-19 and 2019-20

overtime data to project 2021-23 overtime costs, in an effort to yield lower funding amounts for each fund source. According to the Department of Corrections, "factors that may influence overtime costs in the upcoming biennium include: the Governor's recommendations [such as the adult sentencing items under Corrections], institutional populations, and the pandemic." In addition, given the December, 2020, security pay progression, Corrections new recruitment and retention initiatives, and slightly declining vacancy rates, it is possible that overtime may be reduced in the 2021-23 biennium. Ultimately, using 2018-19 PR overtime data and 2019-20 GPR overtime data, overtime would total \$83,000,100 GPR and \$2,796,200 PR annually in the 2021-23 biennium, including \$26,663,500 GPR and \$690,100 PR annually in supplemental overtime funding. [Alternative 1]

21. However, the use of data from the pandemic may not be an ideal indicator of future costs. Instead, the Department's agency budget request submitted in September, 2020, used 2018-19 data to project future overtime costs for the 2021-23 biennium. The 2018-19 fiscal year was prior to the public health emergency, and may be more reflective of costs in the 2021-23 biennium, as Wisconsin begins to return to "normal" (for example, the prison admissions rates are approaching pre-public health emergency levels, courts are resuming in-person hearings, and COVID-19 cases are declining, particularly in correctional institutions). In addition, the Department's request was based on a significant increase in total overtime hours from 2016-17 (used in the 2019-21 biennium calculations) when compared to 2018-19 (used in the Department's 2021-23 biennium calculations). Using 2018-19 data for all fund sources, overtime would total \$85,487,200 GPR and \$2,796,400 PR annually in the 2021-23 biennium, including \$29,150,600 GPR and \$690,300 PR annually in supplemental overtime funding. [Alternative 2] Given that 2020-21 overtime hours are on pace to surpass 2019-20, the Committee could provide the higher funding level.

22. For Alternatives 1 and 2, the following table identifies: (a) the funding divisions between standard budget adjustments and supplemental overtime; and (b) total funding.

**Department of Corrections Annual Overtime**

	<u>Alternative 1</u>		<u>Alternative 2</u>	
	<u>GPR</u>	<u>PR</u>	<u>GPR</u>	<u>PR</u>
Standard Budget Adjustments	\$56,336,600	\$2,106,100	\$56,336,600	\$2,106,100
Supplemental Funding	<u>26,663,500</u>	<u>690,100</u>	<u>29,150,600</u>	<u>690,300</u>
Total	\$83,000,100	\$2,796,200	\$85,487,200	\$2,796,400

23. Ultimately, given that the 2018-19 overtime data and the 2019-20 overtime data were relatively similar (2.0 million overtime hours in 2018-19 and 1.9 million overtime hours in 2020-21), different combinations of these years by fund source, Division, or other variables would yield similar outcomes. Beyond this, it is difficult to predict which slight variation would best apply to 2021-23, given the COVID-19 pandemic. Under either of the above alternatives, the Committee could, however, specify that the supplemental amounts provided be placed in the Committee's supplemental appropriation for the Department to request at a later date, if needed. Release of funding would occur under the provisions of s. 13.10 of the statutes. If all funding was not necessary, the unused amounts

provided would lapse to the general fund from the Committee's appropriation. While it is possible that the overtime and vacancy issues may begin to resolve over the 2021-23 biennium as new administrative recruitment and retention efforts are implemented, and as the public health emergency impacts continue to subside, it is likely that Corrections will still contend with higher vacancy rates and overtime costs, especially at certain institutions. Given the uncertainty of the pandemic and the administrative initiatives, reserving funding in the Committee's appropriation may be appropriate. [Alternative 3a. or 3b.]

## ALTERNATIVES

1. Provide \$26,663,500 GPR and \$690,100 PR annually as an overtime supplement based on 2018-19 PR overtime data and 2019-20 GPR overtime data. [Total overtime funding, including standard budget adjustments, would be \$83,000,100 GPR and \$2,796,200 PR annually.]

ALT 1	Change to Base
GPR	\$53,327,000
PR	<u>1,380,200</u>
Total	\$54,707,200

2. Provide \$29,150,600 GPR and \$690,300 PR annually as a result of calculating overtime funding based on the fiscal year 2018-19 average overtime data. [Total overtime funding, including standard budget adjustments, would be \$85,487,200 GPR and \$2,796,400 PR annually.]

ALT 2	Change to Base
GPR	\$58,301,200
PR	<u>1,380,600</u>
Total	\$59,681,800

3. In addition to either of the above alternatives, place overtime supplemental funding into the Committee's supplemental appropriations under s. 20.865(4). Under this alternative, the Department could request release of additional overtime funding from the Joint Committee on Finance under s. 13.10. Funding amounts placed in the Committee's appropriations would be as follows:

- a. With Alternative 1, \$26,663,500 GPR and \$690,100 PR annually.
- b. With Alternative 2, \$29,150,600 GPR and \$690,300 PR annually.

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## Corrections -- Departmentwide

### LFB Summary Items for Which No Issue Papers Have Been Prepared

<u>Item #</u>	<u>Title</u>
3	Night and Weekend Differential Pay Supplement
5	Risk Management Premium Estimate
6	Rent
7	Realignment of Funding and Positions
8	Program Revenue Reestimates

