



LEGISLATION INSIDE

jamie.ray@colorado.edu

JANUARY 2025

2025 SMART ACT HEARING REPORT

Introduction

Legislation Inside is an innovative program of incarcerated people first founded in 2021. Our goal is to amplify the voices of incarcerated individuals in the legal and policy space before, during, and after legislation is created. This program encompasses a diverse group of voices representing different experiences inside DOC. Despite public misconception, incarcerated people are not a monolith. We come from different backgrounds, races, religions, socio-economic levels, political affiliations and more. We currently have 36 peer-elected representatives in 13 different facilities across the state. We meet for two hours every week via Google Meets to discuss current policy, collaborate with different stakeholders and representatives, offer testimony, share our lived experiences and write our own legislation.

In 2023, we drafted our first piece of legislation: **HB 23-1214—Establishing a Procedure to Apply for a Commutation of a Criminal Sentence**. Our group endeavored to stream-line the application process and to make it more transparent, while also preserving the Governor's constitutional prerogatives with such decisions. Our bill successfully passed out of both the House and the Senate with majority votes; however, Governor Polis vetoed the bill, citing alleged constitutional violations. Although we (along with the General Assembly's OLLS) disagree with his analysis, still we are proud of the work we put into the bill and the success it did have.

Over this past year, we have been preparing our second bill to be presented in the upcoming 2025 legislative session, which proposes to bring more Peer Support Professional jobs into DOC. This initiative intends:

1) to help incarcerated residents gain professional/career skills and credentials, and to receive a prevailing wage for their work, 2) to foster a vital resource within our incarcerated community, fostering positive and productive mental health, and 3) to promote successful rehabilitation, reentry, and reintegration back into the community.

Through our lived experience, our diversity, our intelligence, and our determination, we are competent and equipped to tackle the variety of issues our prison and criminal legal systems face in this state. Ultimately, we look forward to building collaborative relationships with the State Legislature, DOC, the State Board of Parole, and the Department of Public Safety to find creative and innovative solutions to complex problems experienced across the criminal justice system.

L.I Team Summary

We begin this report with a quote from one of Legislation Inside's most valued stakeholders, CCJRC:

Our initial review of the DOC budget raises serious concerns, starting with this question: Why are we increasing the billion-dollar DOC budget during a severe state budget crisis? Every state department, including the DOC, should be putting forward thoughtful, creative solutions to reduce the prison population and cut costs – not be allowed to simply plug their projected numbers into the same old algorithm and leave it at that.

It is Legislation Inside's position that the General Assembly has established a crucial and transformational policy architecture in order to affect positive change toward the rehabilitation of incarcerated people, and now we need to work together to implement the change.

Furthermore...

...by statute, the State Board of Parole, Division of Criminal Justice, and the Department of Corrections have been mandated to collaborate "to develop and implement a process to collect and analyze data related to the basis for the outcomes of the parole board's decisions." That crucial data is out there, and is being shared across departments as intended.

However...

... no matter how well intentioned these initiatives have been, a lion's share of potential positive impact for rehabilitation still remains severely frustrated because of what we perceive as deficiency and failure within DOC:

Three areas where we see immediate room for improvement:

- DOC should utilize the collaborative data mentioned above to develop and make widely available programming and treatment opportunities that lower risk and increase readiness for incarcerated people to reenter society via community corrections and parole.
- DOC should modify and utilize policy and resources to manage classification and population.
- DOC should find a solution to overcome staffing challenges in a way that ensures rehabilitation and public safety.

Our Two-Fold Plea

Today, we are here to ask for two (2) things:

First, we ask for oversight and follow-up from the General Assembly and its committees of reference with regard to its own key policy initiatives that were originally meant to ensure successful rehabilitation and reintegration, while also saving taxpayer dollars.

Second, we ask that an obligation be imposed upon DOC to adhere to reasonable timelines for implementation and to produce "measurable outcomes."

Legislation Inside will be deliberate and intentional in the issues that we are bringing to the surface

today, and with the hard realities we are asking all parties here to face. At the same time, however, we hope to work in collaboration to develop timely solutions for these issues.

Please know, that as incarcerated residents, we stand in awe at this opportunity to collaborate at such a forum as this and to have a perspective that you all are willing to hear and seriously consider. We pray that our contributions today will truly add value to the crucial decisions you all make – not only today, but also in the future. THANK YOU!

BIG BUDGET PICTURE

The primary driver of the overall Colorado Department of Corrections (DOC) budget is staffing levels and compensation, which account for 63.3% of the overall DOC budget. DOC contends that prison population and DOC policy, specifically, the custody classification levels of those incarcerated persons, determine staffing. Classification is a significant issue that is frequently overlooked since it is driven by DOC policy in Administrative Regulation (AR) 600-01 with reference to a few statutes. We know from the DOC Cost per Offender by Facility document from FY 22-23 that higher custody facilities are significantly more expensive to operate. Meaning, DOC needs to focus on getting incarcerated people to the lowest custody necessary. We need to consider developing a strategy for DOC to utilize and implement all available statutes that facilitate successful transitions from entry to release and reintegration. The Colorado State Board of Parole (BOP) indicated in their general questions that one of the biggest challenges facing individuals who were up for parole is Treatment and Programming. The BOP also identified the top three areas where the General Assembly could improve incarcerated people's readiness for parole: 1. Programming, 2. Structured Transition Opportunities, and 3. In-reach Services to Support Transition.

Implementation is the KEY

DOC receives new people that have legislative ordered and/or court ordered treatment needs that must be addressed within a person's case plan. Further, when a new person enters the DOC system at Denver Diagnostic and Reception Center (DRDC), they are assessed for criminogenic needs through a number of assessment tools from cognitive testing to a full background discussion that includes housing stability, education, employment history, mental and behavioral health assessments, and medical screenings. This information is then used to complete the Prison Intake Tool (PIT), the Level of Supervision Inventory (LSI), the Supplemental Reentry Tool (SRT), the Colorado Actuarial Risk Assessment Scale (CARAS), and eventually the Colorado Transitional Accountability Plan (CTAP). These assessments and tools are then used throughout a person's time in prison to determine their level of rehabilitation and treatment necessary before they are best equipped to reintegrate with society. When a person has reached a statutory eligibility date to progress to community corrections and/or parole, the BOP and Community Corrections then uses these scores, in combination with a person's behavioral history within DOC and other factors, to make a decision of whether to grant transition to community corrections and/or parole. While DOC does not make the direct decision when it comes to new commitments or releases, they are mandated by statute to rehabilitate a person to get them for reintegration, which happens through a person's care plan. DOC has the greatest

ability to affect these case plans that weigh so heavily on the decision of a person's release.

DOC Case Management is the Critical Driver

Case managers are the DOC staff that meet with incarcerated people, update their assessment scores, and assign programming and treatment requirements to their case plan.¹ Their role is to guide an incarcerated person to gain the tools needed for a successful re-entry as a productive member of society. A primary function of case management is to mentor, teach, and prepare incarcerated people for success, address their criminogenic needs, and utilize all the tools provided by the Department of Corrections to assist the incarcerated person in making positive life changes. A crucial part of this guidance is to help incarcerated people change any anti-social thinking patterns by addressing their criminogenic needs and barriers through CTAP assessments and case planning.

Despite the improvement of employment retention within DOC, has not been able to fully staff case managers. This effect is still being felt by incarcerated people who are trying to connect with their case managers to get enrolled in programming, educational opportunities and updating their assessments.

MALE PRISON CASELOAD & CAPACITY

We would like to offer potential alternative solutions to the prison caseload and capacity limits, including modifications that do not require legislative approval.

- Modify AR 600-01 – Offender Classifications
- Look into opportunities to utilize Colorado Revised Statutes (C.R.S. 16-16-103 and Senate Bill 22-050)
- Utilize additional Community Corrections
- Utilize additional Intensive Supervision Program – Inmate (ISP-I)
- Utilize C.R.S. 18-1.3.302

Modification of AR 600-01 – Classifications

Classifications have been identified by multiple sources as a concern and area of potential opportunity to combat the staffing crisis.

The first potential solution is the modification of Administrative Regulation 600-01 – Offender Classifications, to give DOC the ability to relieve the pressure on maximum and medium level security facilities. The hindrance to progressing in one's rehabilitation journey to a lower custody level is the DOC-imposed time barrier of Parole Eligibility Date (PED) and/or Mandatory Release Date (MRD). These time barriers prevent people with lengthy sentences from progressing to an appropriate custody level within their rehabilitation journey. The access to educational and

¹ Colorado Department of Corrections Case Management: <https://cdoc.colorado.gov/resources/case-management#:~:text=Case%20Managers%20will%20collaborate%20with,process%20of%20a%20negative%20mindset.>

vocational programming is greater at minimum facilities. Irrespective of their institutional behavior, program participation, treatment, or any other mitigating factor that is used in their risk assessment score, the main question is, ***“What data, both quantitative and qualitative, is being used to determine that lengthy sentences should prevent a person from progressing to a work release program, minimum (Level I), or minimum restrictive (Level II) custody facility?”***

Currently, incarcerated people are assigned, by a case manager, a risk assessment, or number of “points,” based on an algorithm that includes factors such as severity of crime, program participation, institutional behavior, group living abilities, vocational participation, etc., to determine the proper custody level. Individuals with lengthy sentence are subject to a mandatory override, restricting them from progressing below a Level III facility. There are currently incarcerated people that have progressed past no points to negative points that are still stuck in higher custody levels such as closed custody (Level IV) and medium custody (Level III) due to their PED and/or MRD not meeting the limitations set forth in AR 600-01. DOC attempts to relieve some of this pressure through a lengthy and cumbersome manual process of additional administrative overrides when bed capacity is needed at higher custody facilities. These overrides require manual processes, administrative staff time and resources, and a final decision from DOC Headquarters to complete. Our solution is to remove the time barrier and allow incarcerated people to be placed appropriately at the custody level that most fits their progressive journey to rehabilitation based on their total body of work and institutional behavior that are evaluated in their annual risk assessment.

Mr. Brakke points out that some minimum custody facilities have high vacancy rates. Our proposed solution would be to utilize that capacity with incarcerated people that otherwise qualify for minimum custody except for the time barrier. This would progress people to facilities that more closely fit their rehabilitation needs and are more cost effective. This change would also better enable people to transition to community corrections and/or parole. A first step to understanding the impact a classification modification would have on the DOC budget would be asking the question:

How many incarcerated people are currently on mandatory override to higher custody that would be eligible for progression to lower custody facilities with the elimination of the DOC imposed time barriers?

These time barriers are not written in statute and therefore can be eliminated or modified without legislative approval. The only statute that needs to be considered is C.R.S. 17-25-103 regarding who is eligible for a minimum custody facility, and that statute is minimal in restriction.

Consider the Utilization of C.R.S. 16-16-103 and Senate Bill 22-050

The second solution we propose is based on Mr. Brakke's key takeaway: *“Increasing the percent of the inmate population in the community can ease prison capacity pressures.”* Parole identified that one of the top three areas where the General Assembly could assist in improving

readiness for parole would be to provide Structured Transition Opportunities. Community corrections and ISP could fill this need. We point the Joint Budget Committee to C.R.S. 16-16-103 in which the statute states, *"The wardens, with the approval of the executive director, shall designate one or more facilities that may be physically separated from the correctional facilities and that may be used for the following purposes:... pre-parole center...work-release residential center..."* This statute is known as the Criminal Sentencing Act of 1967 and has been utilized in the past to get incarcerated people to participate in appropriate vocational and educational programs that are not considered parole. Also, C.R.S. 17-20-115 notes that *"ALL persons convicted of ANY crime and confined in ANY state correctional facilities..., shall participate in a rehabilitation and work program that promotes the person's successful rehabilitation, reentry, and reintegration into the community..."* Further, C.R.S. 17-20-117 states that *"Every inmate shall participate in the work most suitable to the inmate's capacity and that promotes the inmate's successful rehabilitation, reentry, and reintegration into the community."* These current statutes offer an opportunity for exploration in how we can utilize programs like Intensive Supervision Program (ISP-I) and community corrections like placements.

We recommend that the General Assembly and the DOC explore the ways that 16-16-103 could be utilized to combat the budget issues that the department faces. This type of solution gives incarcerated people the ability to contribute to their dependents and establish pro-social behaviors they can continue when released. These facilities should be more cost effective to operate due to the level of staffing needed to operate them.

The secondary effect of this solution is that it would incorporate SB 22-050 in which the General Assembly' intent (C.R.S. 17-24-102) is *"...to create a Division of Correctional Industries to develop rehabilitation and work programs inside and outside of the Department facilities..."*

Creating a pathway to effectively implement this statute will strengthen the relationships of community partners and employers, while at the same time accomplishing another suggestion of the Board of Parole. The BOP reported, *"Supporting reentry through expanded in-reach initiatives is essential. This includes fostering stronger partnerships with community-based organizations and service providers who can engage inmates before release."*

KEY TAKEAWAY: With regard to male prison caseload and capacity limits, there exist alternative solutions that are both feasible and realistic, and that do away with the need of leasing additional prison needs from private prisons or with the need for a new prison facility.

STAFF VACANCIES & SPENDING

The real story lies in the staff vacancy by facility statistics versus the overall staff vacancies provided by DOC. Facility specific vacancy has the greatest impact on educational and vocational programming, offender treatment needs, and prison bed capacity. Facility specific vacancy also heavily affects the custody levels, movement schedules, and overall safety and security of each facility.

Site Specific Staffing: The Real Story

From a budgetary standpoint, site specific vacancy will have the greatest impact on future bed capacity and programming that incarcerated people need to complete to be released from prison. The example that stands out the most is Sterling Correctional Facility which is designated a Level V facility in C.R.S. 17-1-104.3 and has the ability to house any custody of incarcerated person. Sterling currently houses protective custody (Level V), closed custody (Level IV), medium custody (Level III), minimum restricted custody (Level II), and minimum custody (Level I) according to the custody reports.

Additionally, prior to COVID, Sterling had over 40 educational and vocational teachers and now their staffing level is down to less than 20. This has a direct impact on the amount of educational and vocational programming available. Not only are the number of these professionals far less than they were pre-COVID, the staff we do have is still, at times, being used for security. The trickle-down effect of interruptions in educational and vocational programming flow through to case plans and ultimately the decision on whether to release a person to community corrections and/or parole. The State Board of parole has identified treatment and programming as the top area to improve incarcerated persons' readiness for parole. Sterling is also struggling to hire and retain medical staff which has a direct impact on the incarcerated population and their health care.

Site specific staffing is a topic that needs to be addressed due to the trickle-down effect that it causes within those facilities. Case managers and teachers, both educational and vocational, have a direct impact on case plans and in turn on community corrections and parole decisions. These case managers and teachers are still being utilized at least once per week in some facilities for security duties that a correctional officer should be fulfilling. The secondary effect of these case managers and teachers being utilized in security positions is low morale and job dissatisfaction.

There are potential solutions to the challenge of site specific and overall staffing concerns. We would like to propose those solutions to you and DOC for review. We will be discussing the following:

1. Using Technology Where Appropriate
2. Outsourcing Appropriate Services
3. Using Incarcerated Peers where necessary

Utilize Technology Where Appropriate

Technology and the use of Artificial Intelligence (AI) in lieu of warm bodies is the solution that most business enterprises are reviewing today. DOC should not be any different in that they should be finding ways that technology can be used to supplement physical where the greatest vacancies exist.

Incarcerated people should be able to access computers for educational and vocational programming with the appropriate access and control measures. Computers for K thru 12 educations currently employ this controlled access technology in school districts across Colorado. Corporate enterprises use this same controlled access technology to restrict and monitor their

employees' activity while at work. In DOC's request for Broadband construction, they indicated that educational opportunities were a key driver. Therefore, we should strive to make technology available to incarcerated people so that they will have access to education and rehabilitative programming prior to release. DOC could also minimize the number of physical teachers needed by utilizing computer applications, 3rd party training platforms, and greatly expanding peer-led education.

Treatment needs such as a drug and alcohol or sex offender programming could also be outsourced and done via remote means to enable those with required programming to receive it in an appropriate amount of time. When asked by Representative Sirota regarding the factors driving treatment backlog for sex offenders, DOC answered that, "**Factors that drive the backlog within CDOC include the lack of therapists willing to commute and/or live in Cannon City where most of the programming is located.**" Technology could remedy this problem.

Outsource Appropriate Services

CDOC is very good at their main purpose of housing and ensuring the security of their population. However, they could outsource other areas where they struggle education, and vocational training services.

Education, vocation, and programming could be staffed and operated by either incarcerated peer professionals or 3rd party experts. DOC currently collaborates with outside agencies such as Trinidad State College, Red Rocks Community College, NCCER, WAGEES Partners, etc. to provide education, programming, and training. These programs and contracts with community agencies could be expanded to offer a greater selection of rehabilitative programs to the incarcerated population. It is time to find and implement creative solutions that will be more cost effective and still provide the rehabilitation required by statute.

KEY TAKEAWAY: DOC should do what they do best which is safety security and housing, and should look to experts for challenging areas such as educational, vocational and treatment programming services.

BROADBAND

Per the Department, adding broadband "will increase safety and security, improve healthcare, facilitate virtual legal environments, attract and retain staff, make critical educational opportunities widely accessible and decrease long-term costs."

During 2024-25, DOC funded broadband projects totaling \$4.1 million using \$2.3 million in ARPA funds (CO Office of eHealth Innovation) and the remainder from Denver Foundation. The funded facilities included Centennial Correctional Facility (CCF), Colorado State Penitentiary (CSP), La Vista Correctional Facility (LVCF), Limon Correctional Facility (LCF), and Sterling Correctional Facility (SCF). The Joint Budget Committee approved an additional \$4,682,412 for broadband investment.

Legislation Inside is in agreement with the need for an investment in broadband. However, the policy changes should include significant increase in educational opportunities, improve healthcare effectiveness via readily accessible telehealth, and promote technological advances in multiple areas to decrease long-term incarceration costs. The Department should be given an expected time frame for implementation of the potentially many uses of the broadband investment.

In the Parole Board's FY 25-26 JBC Hearing Agenda, the BOP states, "*Engaging in treatment and programming is critical in mitigating risk and promoting successful reintegration into the community.*" The BOP further indicates that programming and treatment is a critical factor in release decisions and lack of programming limits parole releases. DOC's failure in implementing the use of broadband to make critical educational opportunities widely accessible to all incarcerated people is currently a misuse of taxpayer dollars. The General Assembly provided funding, the BOP indicated what is keeping them from releasing incarcerated people to parole, and yet DOC has found ways to effectively increase the use of technology in these desperately needed programming areas.

In addition, below Legislation Inside has questions regarding the prior fiscal years' broadband investments:

BROADBAND RELATED QUESTIONS FOR DOC:

- What has the impact of the completed broadband projects been on incarcerated people?
- How many “critical educational opportunities” are now “widely accessible”?
- How does the Department define widely-accessible?
- Do you have a number of the incarcerated people positively impacted by new broadband?
- Has overall healthcare improved due to broadband?
- With increased broadband, has increased access to alternative educational programs been implemented?
- What DOC policies need to be changed to enable educational opportunities to be widely accessible? For example, DOC policies inhibited the use of the virtual reality program.
- Have those policy changes been identified and what is the timeframe for implementing the changes?
- Has the Office of Information Technology (OIT) changed policies to restrict additional access by incarcerated people?
- Are incarcerated people able to access rehabilitative programs in their living units? If not, why not?
- With the new broadband, what are the Department’s plans to allow incarcerated people to participate in programming that can promote successful rehabilitation, reentry, and reintegration into the community, per Senate Bill 22-050?

Medical Costs

Legislation Inside believes it to be no less than an imperative to highlight the fact that medical concerns are a matter of **LIFE** and **DEATH**, not a cost issue. Our colleges housed at Fremont Correctional Facility have correctly pointed out that,

“The true cost of medical mismanagement is measured in lives and suffering.”

Medical failures and/or delays result in serious and detrimental impacts, and sometimes they result in tragedies such as:

- Immediate and/or ultimate impacts on life expectancy of the incarcerated. Studies have shown that adults age much faster when they are incarcerated.²
- Increased taxpayer liability for care after people are released back into the community without receiving proper while incarcerated.
- Continuing care stemming from medical issues created while incarcerated become community burdens.

KEY TAKEAWAY: Those obligated to serve prison sentences shouldn't also be condemned to substandard health or death due to medical neglect or delay.

VITAL DOC MEDICAL QUESTIONS:

- **How will DOC gauge the performance by ensuring resources are being utilized, not just implemented?**
- **What is the average life expectancy in prison and is this lower average due to medical neglect?**
- **What is the resulting taxpayer burden for people leaving DOC with incarceration-related medical conditions?**
- **What policy changes can be made to better address medical issues and to lessen this ensuing taxpayer burden?**
- **How can DOC mitigate preventable deaths due to medical neglect or delay?**

² Rebecca Silber, Et al. *Aging Out, Using Compassionate Release to Address the Growth of Aging and Infirm Prison Populations*, Vera Institute (2017)

KEY TAKEAWAY: It may be prudent for CDOC to seek possible, and more efficacious alternative options and solutions to operating their own medical services.

Additional Medical Items

DOC's Female Population: Specific Challenges

The women's population faces a number of challenges that are not seen within the male population, and therefore are generally forgotten or overlooked. Examples include specialty services such as prenatal care, routine physicals and imaging services such as mammograms, and modification to over-the-counter medicines rendering them difficult to use. Routine physicals including pap smears and mammograms are critical to the early detection and treatment of female specific health concerns. The lack of quality care in these areas and the delays in care create a dangerous environment for the incarcerated women. Further, the lack of early detection measures for cancers such as cervical and breast cancer cause unnecessary health risk to these women and increased cost to DOC when advanced stage cancer is detected.

HB 19-1224 attempted to mitigate some of the feminine product concerns; however, not all women are built the same, and some women need more than minimal feminine products. Although the hygiene products are made available to women, they are only allowed to receive five at a time and must continue to make request after request during their cycle. An example of the over-the-counter medicine challenge is that Monistat cream is now purchased by the female population from Canteen in lieu of being distributed by clinical services. The applicator is removed from the packaging by DOC staff, which creates a significant challenge to proper administration of the cream. When clinical services handled this same product, the female population had the appropriate applicator for their use.

Another challenge faced by the female population is the amount of toilet paper issued to the incarcerated population. The mere fact that females use twice the amount, or greater, of tissue to men puts them in a position to need twice the amount of tissue compared to men. When women request additional toilet paper outside of their allotted amount, they are being told they must purchase it from commissary. The reasoning, they are told, is that the toilet paper issue is due to a shortage at the DOC warehouse, yet there is always toilet paper available to purchase on Canteen that does not run short.

Finally, while the women account for approximately 10% of the DOC population, there is not a women's infirmary or long-term and end of life care facility. This forces the women to serve their time in a men's facility under very strict security protocols that limit their ability to even leave their room and at an increased cost to DOC.

Specialty Medical Services

Specialty medical services are a large challenge for all incarcerated people to schedule

and obtain appointments due to the complex process of Colorado Health Partners, (CHP) review and approval. We have seen delays with Optometry of up to 24 months, Audiology of up to 18 months, and Dental of up to 8 months in addition to other specialty services such as Oncology, Cardiology, and Respiratory Specialists. When we see Dental, our options are limited to extractions only when fillings could be more appropriate and some facilities do not even offer routine cleanings. A person should not have to wait up to two years to receive glasses that help them read and excel in educational and vocational programming. Nor should a person have to wait up to a year and a half to receive hearing aids so that they can hear. Lastly, a person should not have to wait until their tooth is completely rotten before they see Dental. We also experience times when a person has a documented medical concern upon entrance to the DOC system and the person does not receive the appropriate care because of the time and delays of the medical process within the DOC system, or denials from CHP due to "lack of sufficient documentation."

Pharmaceuticals

Next, pharmaceuticals are a significant challenge since there are so many manual steps to the reordering and refilling processes. An example of this is an individual who has been on a cholesterol medicine for more than 20 years and he has only had his medicine for two (2) of the last seven (7) months, which puts him at unnecessary risk of stroke and heart attack. The reason being the prescription was refilled by the provider (Nurse Practitioner, Physician Assistant, or Physician), but was not reordered by the nursing staff in the appropriate computer software. Once the reorder was requested, the prescription refill window had expired so it could not be refilled without a new prescription being entered. The incarcerated person then had to put in a manual request to see the provider again, which caused a 3-month delay, to cancel the prescription and input a new prescription prior to it being ordered. Typical delay in a request to see a facility provider is anywhere from three (3) to six (6) months within the DOC system unless the incarcerated person wants to "declare a medical emergency." This process leads to incarcerated people being forced to abuse the medical emergency system and complacency settling in amongst the staff.

Over-the-Counter Medication

Over-the-counter medicines and creams are now required to be purchased from the Canteen list in lieu of being issued by medical clinics. This means that the cost burden for these medicines are being shifted to the incarcerated population who already struggle with minimal pay. Additionally, Canteen orders run about one week in most facilities, which means that appropriate medicine is not immediately available for those who need it. Finally, Canteen services does their best to manage inventory of the products, but the fact of the matter is that shortages do happen which again causes the medicine to not be immediately available.

PAROLE

Colorado State Board of Parole (BOP) is prescribed statutory powers, duties, and functions independently of the principal Colorado Department of Corrections in accordance with C.R.S. 24-1-105 and C.R.S. 24-1-128.5(3). This essentially states that while the BOP is within DOC, they operate independently of the department.

When considering release, the Parole Board's central focus is:

- **the risk to reoffend** (C.R.S. 17-22.5-404(1)(a))
- **based on actuarial risk assessments** – *Colorado Actuarial Risk Assessment Scale* or *CARAS* (C.R.S. 17-22.5-404(1)(b))
- **through a structured decision making process** – *Parole Board Administrative Release Guideline Instrument* or *PBRGI* (C.R.S. 17-22.5-404(1)(c)&(d))

DOC “Does” Influence Releases

In the past, DOC has indicated that they have no control over “when” an incarcerated person is released. However, the plain truth is that while they do not make “the decision,” all their actions (or lack of action) during a person's incarceration do directly affect that person's release decision. DOC can increase access to appropriate educational and vocational trainings. DOC can increase the use of incarcerated peer professionals, increase access to community agencies, expand community corrections, and expand intensive supervision program. We are providing concrete areas where DOC does in fact **directly affect** a person's readiness for parole, and can assist in reducing BOP decision fatigue.

Prime Example: Sexual Offender Treatment

A poignant example of DOC having a direct impact on an incarcerated person's preparedness and release is the Sex Offender Treatment Program (SOTMP). Here, DOC is statutorily bound to provide programming, without which, sex offenders cannot and will not be released. Currently, there are approximately 167 incarcerated people past their Parole Eligibility Date (PED), which equates to approximately \$10 million taxpayer dollars annually to keep them incarcerated – not to mention, a pending class action lawsuit! If hiring and staffing counselors is a significant challenge, technology, web calls and classes are the answer. The largest corporations in the world utilize technology to interface meetings across oceans; surely, DOC can utilize the same technology to connect incarcerated people in need of treatment with treatment providers and professionals. This would relieve taxpayers of this undue annual burden, while also freeing them from a potential future legal judgment liability.

Presumptive Parole Based on PBRGI

From a decision-making standpoint, the **Parole Board Administrative Release Guideline Instrument (PBRGI)** was developed as a tool to guide the BOP in making decisions for release or deferral easier and more streamlined. Rehabilitation and personal development while incarcerated directly impacts the outcome of this decision-making tool. The two baseline factors are the Colorado Actuarial Risk Assessment Scale (CARAS) and the Level of Service Inventory (LSI), combined with other enhancing and mitigating factors. The idea behind the PBRGI is an evidence-based system utilized to enhance assessment and to mitigate decision fatigue for the BOP.

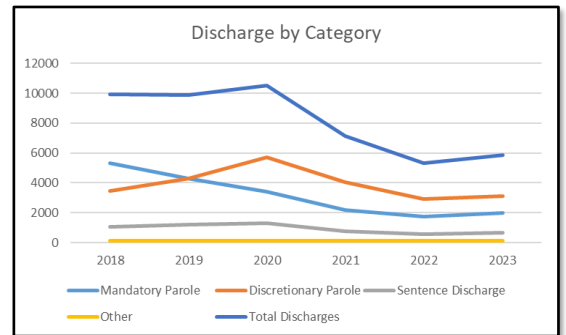
That said, it makes sense to take a look at expanding “presumptive parole” for people who score “Very Low” in the Risk category and “High” in the Readiness category within the matrix

of the PBRGI. This would work to both minimize the number of parole hearings necessary and provide clear incentive to incarcerated people to strive for optimal PBRGI scores. Incarcerated residents, just like all human beings, are highly motivated by rewards, and are not as vulnerable to risk-of-return factors when they have clear, productive goals and objectives to build toward.

Incentivized Living: Honor Houses

The great success of the Honor Houses within the DOC system are the best example of how the use of a reward system builds positive behavior patterns. Honor Houses are guided by their own Administrative Regulation (A.R. 650-10), which still needs to be fully implemented as written and potentially expanded to additional facilities. Currently there are only a couple of operating Honor Houses. The residents of the Honor Houses have shown almost no violence, received minimal COPD write ups, have very low recidivism rates; and are where a majority of peer educators, peer mentors, and peer counselors reside. These are the shining examples of how a reward-based system of rehabilitation and reintegration thrives within the DOC system. It also provides opportunity for positive progression from higher to lower facility custody levels, which positively influences community corrections and parole decisions makers. Lastly, this model could also lead to a pre-parole housing inside DOC, and for Parole’s upcoming “RENEW” (long-termers) programs.

We have seen the levels of parole release significantly decrease over the past two fiscal years. From 2005 to 2021 the average total releases were 9,801 (4,694 Mandatory, 3,563 Discretionary, 1,325 Sentence Discharge, and 218 Other). The past two years average was 5,609 (1,872 Mandatory, 3,022 Discretionary, 615 Sentence Discharge, and 101 Other).



PAROLE RELATED QUESTIONS :

- 1. Why have total discharges decreased so significantly from previous years?**
- 2. How many people were denied parole after seeing the parole board for their second or more time?**
- 3. What is the average number of times a person is deferred?**
- 4. What is the Parole Board doing to assist in reducing prison bed space?**
- 5. Why were incarcerated people deferred even though they met the decision matrix for release in the PBRGI?**
- 6. Would increasing the number of parole board members be an effective solution to the decision fatigue factors they claim?**
- 7. What suggestions or examples do you have where DOC can make more people ready for reintegration with society?**

Oversight & Follow-Up

It is our position that the General Assembly, has performed phenomenally to enact and establish a crucial and transformational policy architecture in order to affect positive change toward incarcerated people's rehabilitation, successful reintegration, and the lowering of recidivism. Even so, no matter how well-intentioned these initiatives have been, all potential positive impact for incarcerated people and public safety as a whole remains severely frustrated because of lack of oversight and failure to follow-up.

Senate Bill 22-050

We will begin this discussion with Senate Bill 22-050, which modified 11 different state statutes concerning incarcerated persons' labor and correctional industries. This was a transformative and even paradigm-shifting piece of legislation, dramatically improving the definition of what it means for incarcerated people to work within Colorado's correctional facilities.

In DOC's press release from March 31, 2022, Interim Public Information Officer, Lisa Wiley stated,

"This legislation will provide for the reorganization and modernization of the Colorado Correctional Industries (CCi) program" and "will serve the incarcerated population in the state of Colorado by ensuring greater work opportunities, post-incarceration job opportunities, and re-entry support and will provide prevailing wages to participants, increasing opportunities for successful reintegration. SB-050 ensures ... DOC greater flexibility to recruit, organize, and create work programs that focus on providing meaningful work opportunities that provide skilled training, accountability, responsibility and ... will also allow DOC to reorganize work programs with the aim of raising inmate wages without the use of tax dollars."

Republican Representative Matt Soper was also quoted in DOC's press release as saying,

"Colorado has one of the highest recidivism rates and SB-050 will help prevent inmates from reoffending ... by allowing inmates to work and be paid and to build savings to help pay for rent, food, and other necessities post-release. A job and stability at home is the most effective means to reduce crime."

Specifically, SB22-050 removed the language that inmates shall "perform labor," and replaced it with **"all inmates shall participate in a rehabilitation and work program that promotes the person's successful rehabilitation, reentry, and reintegration into the community"** (C.R.S. 17-20-115). The bill then went further to state that **"every inmate shall participate in the work most suitable to the inmate's capacity"** (C.R.S. 17-20-117), and incorporated the imperative that **"each inmate work assignment shall take into account the diagnostic services unit recommendation of employment training needs of the inmate, their security classification, and their individual rehabilitation, reentry, and reintegration needs."**

In **C.R.S. 17-29-101**, the General Assembly found and declared that such a program furnished incarcerated people with vital work skills while also instilling a work ethic that will facilitate their successful readjustment to society. Then DOC Executive Director Dean Williams nicely concluded, "This statutory change is one more step in the direction of better serving the reentry needs of men and women returning to our communities."

It is now 2025, however, and as far as we've seen from our perspective on the ground level as

incarcerated residents, these crucial statutory changes have not been implemented by DOC in the slightest way, and both incarcerated residents and the people of Colorado still have yet to see any benefits from such promising legislation.

Senate Bill 23-067

Next is **Senate Bill 23-067**, which created C.R.S. 17-33-103. This statute directed the DOC to contract with a third-party organization to develop and study strategies for implementing a pre-release and reentry program. The program was to be designed in consultation with incarcerated residents, with the goal of benefitting participants, their immediate facility, and DOC as a whole by providing resources to support incarcerated people's rehabilitation and to reduce recidivism upon their release from the facility. At minimum, the program was intended to provide instruction in the following areas: postsecondary education, addiction recovery, victim awareness, time management, domestic violence prevention, personal finances, leadership, coping, family reunification, and alternatives to violence. It also provided for collaboration with outside professionals to implement technological solutions and to build post-incarcerated employment partnerships for program participants.

In August of 2023, Gabe Cohen of Discovery Café was hired to consult with incarcerated residents and to prepare a program report. After the report was completed, the program was to be implemented by DOC no later than September 1, 2024, subject to available appropriations, and to be reported on each year through 2029. To implement this act, \$100,000 was appropriated.

To date, and again from our perspective on the ground level as incarcerated residents, what we saw is this legislative body paying \$100,000.00 for eighty (80) pages of paper and ink, and without any follow-through action.

KEY TAKEAWAYS:

- **Oversight and follow-up from the General Assembly and its committees of reference is needed with regard to these and other crucial and potentially impactful pieces of legislation, to also include the following:**
- **An obligation imposed upon DOC to adhere to reasonable timelines for implementation and execution**
- **A demand imposed upon DOC for measurable outcomes**

WRAP-UP

How to Permanently Reduce DOC Budget Without Compromising Safety

A 3-Step Approach

In the JBC Staff Budget Briefing for DOC, Mr. Justin Brakke wrote: “The only way to significantly reduce the DOC budget in a safe and sustainable way is to reduce the prison population *in order* to close prisons and reduce the number of employees” (pg. 53). This is the foundation for many ideas and solutions to accomplish this budget reduction.

Step One:

Adjust Community Corrections & Parole Eligibility Timelines

One goal should be to get current incarcerated people who qualify to Community Corrections and Parole more quickly. This can be accomplished by awarding additional, monthly-earned time for positive program participation and good behavior, increasing the timeframe for Community Corrections progression, and expanding the ISP-I program. This preserves public safety within the hands of the Community Corrections and Parole Boards ensuring only those ready for reentry are accepted to the next level of rehabilitation.

Also, acceptance rates vary considerably between counties and their community corrections centers. Having more consistency in decisions throughout the state or transparency on the requirements for acceptance would effectively allow more incarcerated people to successfully progress toward reentry.

Modification to DOC A.R. 600-1

Have DOC modify policy regarding Offender Classification (A.R. 600-01) to remove override barriers, specifically time (PED/MRD/SDD) barriers that prevent qualified, lower risk incarcerated people to progress to lower level, and less costly facilities.

The Department has practically full control of custody classification and thus has the **self-imposed problem** of requiring additional funding for medium classification beds while having an abundance of minimum classification beds.

Preparing annual reclassifications based on the individual incarcerated person, their risk scores, behavioral track record, performance, and rehabilitation progress, regardless of time constraints, is prudent. The current “one-size-fits-all” classification system exacerbates the Department’s internally created problem.

Modification of this policy also better aligns with C.R.S. 16-11-308 (Custody of Department of Corrections – Procedure) **which requires the custody classification recommendation to the Executive Director as one which may result in the maximum rehabilitation of the offender.**

Oversight: Parole Board Decisions

The Parole Board may need some additional oversight of their decisions for two reasons.

The first is transparency. Reasons for denial by the Parole Board are often quite generic (e.g. “risk concerns”, “program participation concerns”, “treatment participation or criminogenic needs concerns”, “time served inadequate”). Generic denials do not provide productive, detailed feedback on specifically what an incarcerated person must accomplish to achieve parole. DOC has significant control over program availability and the rehabilitation of incarcerated people. Denials for reasons DOC has any control over should be scrutinized further.

Second, the timeliness of reporting on these decisions significantly lags in real time preventing meaningful changes to policies and programs to more effectively rehabilitate people. For example, the FY 2021 Parole Board decision analysis was released in October 2023.

Having an independent monitor review of the prior year Parole Board decisions, could produce recommendations for changes to effective rehabilitation for incarcerated people. Certainly, they should be reviewing all decisions that are made contrary to the **matrix of advisory-release-decision recommendations for the different risk levels** as outlined in C.R.S. 17-22.5-107 (1)(b) to determine denial reasons.

Streamline & Increase Education Availability

Incarcerated people, via remote learning, achieve entire college degrees, and two very important lessons should be learned from this. First, these classes are taught by non-Department staff (educational professionals), and second, more classes can be taught with less DOC staff. Many DOC educational classes could be taught remotely and should be modified to do so. A teacher in one facility could simultaneously teach classes in multiple facilities via online video conferencing. In-person classes also should be leveraged with **qualified incarcerated instructors**. Education by qualified peer professionals can be more effective (and more widely accessible) than the current staff dependent model. (e.g. there is currently an incarcerated person teaching on behalf of Adams State University.)

Technology and peer talents should be used to the fullest extent to overcome staffing shortages and ever-increasing costs. Outside vendors, specializing in education should also be available to incarcerated people to tailor their rehabilitation to suit their individual needs. **(Note: Legislation Inside is introducing a bill this session that will assist with peer-to-peer programming.)**

Step Two:

In 2022, the legislature passed SB 22-050 (Concerning Work Opportunities for Persons Imprisoned by the Department of Corrections). This Act [specifically the “External Program” section 17-24-103(4)], in conjunction with C.R.S. 16-16-103, has the potential to substantially reduce the Department’s budget and recidivism simultaneously. If an incarcerated person has the ability to learn and work every day in a trade or profession, earn prevailing wages, and *pay their own way*, they can then leave prison with the same job they had when they were incarcerated.

Meaningful work opportunities are practically non-existent in DOC. The number of incarcerated people working jobs that convert to employment after incarceration is dismally low. However, external work opportunities could be abundant. And those opportunities could convert to immediate post-incarceration employment, and thus eliminate one of the largest factors of recidivism. **We believe a meaningful day’s work, being accountable, productive, and paying for your own obligations, is very effective rehabilitation.** All of this can be accomplished with the

General Assembly's intent of external work programs! The General Assembly has already passed most of the needed legislation. Unfortunately, DOC has not implemented the laws that have been passed.

Fully Implement SB22-050 "External Program"

Facilitate a comprehensive outreach and in-reach campaign to identify, qualify, and accept employers outside of department facilities with which to partner.

Screen incarcerated people for potential employment on suitability, capacity, and promotion of rehabilitation. Facilitate interviews with partners and incarcerated people for selection of employees. Facilitate the external program with selected partner employers and incarcerated employees.

This type of program significantly reduces incarceration costs related to the participants. Selecting incarcerated people with positive behavioral histories and lower risk scores, along with the use of monitoring devices will help to ensure public safety.

Fully Implement SB22-050 "Internal Program"

Utilize the comprehensive outreach and in-reach campaign discussed above to accept employer partners that can employ incarcerated employees within correctional facilities. Screen employees, facilitate interviews, and facilitate the program similar to procedures outlined in item one. Internal programs should be developed to a capacity that provides the opportunity for all incarcerated people to participate in internal or external programs. This is the stated intent of the General Assembly.

Utilize Available Technology to Increase Education & Reduce Staffing

The General Assembly has made significant investments in technology for the Department. What have the outcomes been? Programs and education are less available. Staffing shortages continue to negatively affect rehabilitation and safety. Medical staffing remains a problem. Staff compensation comprises 63.3% of the DOC budget. Utilizing technology wherever and whenever possible to reduce staffing costs is not only prudent, but also necessary.

When the JBC indicates a budget cut, DOC responds with a cut in programming. The General Assembly, the Parole Board, and Community Corrections boards say incarcerated people need more programming to be successful, however, DOC continues to restrict programming. For example, teachers and case managers continue to be used in security roles, which limits programming and education. Case managers schedule and then cancel appointments because they are forced to fill a security post. These DOC policies only exacerbate the problems.

Using technology to truly make programming widely accessible, regardless of DOC's continued staffing problem, is the only practical way to provide effective rehabilitation.

Step Three:

In order to address the long-term problem of overincarceration this General Assembly should be prepared to support future policy changes around sentencing structures and post-conviction relief efforts. These could include felony sentence restructuring, presumptive parole measures, second look ability, and expanding Community Corrections for direct sentencing and reentry opportunities.

Felony Sentencing Restructuring

Felony sentence restructuring is required. While the misdemeanor code was recently modified, the felony code was not. This may seem a more daunting task, however, we believe the work to make this happen will enhance the budgeting and public safety goals of the legislature long-term. Prior to a full overhaul, many smaller adjustments could have large impact.

Adjustments to consider are removal of consecutive sentences for first time offenders, reduce or eliminate sentence enhancers, and extend the timeframe for incarcerated people to apply for their 35b reconsideration. Many first-time offenders receive consecutive sentences on multiple charges (a common prosecutorial practice) and ultimately serve much longer sentences, which may not be necessary, costing valuable DOC resources.

Presumptive Parole

Parole is the greatest valve on the outflow of incarcerated people. In fiscal year 2023, the Parole Board reviewed over 10,000 people and only 5,100 were awarded parole. Parole eligibility dates are mostly determined by the length of sentence the courts impose based on statute from the legislature. Many times, the Parole Board ignores these timeframes and retains people in prison for non-transparent reasons.

Presumptive parole statutes would change the mindset of “retain if we are not certain” to “release and provide an opportunity for success.” This statute would allow more people to prove their ability to succeed. Provisions could easily be implemented for retention in severe risk situations for public safety.

The Parole Board decision tool matrix provides guidance on release decisions. However, many times, the risk score inputs are not updated by DOC staff, providing misleading information on which to make a decision. This further incarcerates people who are ready to reenter society. Presumptive parole statutes would help correct this as well.

Second Look Act

Second Look legislation would allow incarcerated people who have served significant time to have their sentences reviewed for adjustment. Second Look legislation in other states has enhanced public safety, positively impacted society, and changed the culture in prisons.

Second Look legislation enhances public safety by reducing the costs of incarceration, which allows funds to be diverted to crime prevention measures. Incarcerating people who are no longer a threat wastes prison resource. A Second Look Act provides an opportunity for incarcerated people who are no longer a threat to public safety and have successfully rehabilitated themselves to no longer be a societal burden.

Second Look legislation is a benefit to society. Individuals returning to families can help “break the

cycle" by sharing their life experience to lead others away from crime. Colorado has an incarceration rate of 614 per 100,000. This means a higher percentage of Colorado's population is locked up than almost every other democracy on earth! Second Look legislation would provide an opportunity to correct decades of excessive sentencing practices in Colorado.

Meaningful purpose and hope are two of the hardest things to find in prison. Second Look Laws will help change the current culture in Colorado prisons by providing hope for many incarcerated people who currently have only despair. This expectation will change individual behaviors, because they know personal change and rehabilitation will be required to be successful. Many of these people have a proven, positive track record and have "aged out" of criminal behavior.

Expand Community Corrections

Lastly, during the FY 2025-26 Parole Board's Joint Budget Committee Hearing, the following exchange took place:

[JBC Question #11, page 8] What are the top three areas where the General Assembly could help improve inmates' readiness for parole?

[Parole Board response #2] Structured Transition Opportunities: Expanding the utilization of community corrections and intensive supervision programs (ISP-I) is essential for high-risk individuals nearing release. Many incarcerated people, whose names are submitted by DOC, are denied placement in these structured step-down programs by the receiving entities, leading to release at their Mandatory Release Date (MRD) without sufficient support. Increasing utilization of these programs provides a critical bridge between incarceration and community reintegration, reducing the risk of recidivism and enhancing public safety.

We at Legislation Inside also agree that expanding Community Corrections programs provides a significant cost savings to DOC. More Community Corrections facilities allow increased opportunities for judges to impose direct sentences where appropriate. The cost savings of a person in Community Corrections compared to DOC conservatively averages \$48,241 per person annually. (DOC Cost per Offender by Facility FY 2022-23)

As a final recommendation, we think it would be wise for the State to consider and evaluate the opportunity to invest in State-owned or public-private partnership operated community corrections centers. These would be a better investment than the estimated \$275 million dollar building of a new correctional facility, as discussed as part of Proposition 128.

CONCLUSION

Implementation is the Future

This report has illustrated the fact that the General Assembly has created much of the framework to solve many of the issues plaguing the Department of Corrections. Legislation inside, the State Legislature, DOC, BOP and DPS working together will solve the apparent budgetary and performance challenges. To achieve this outcome, these groups must continue to collaborate, communicate, and provide viable solutions to the challenges. Implementation of these solutions can no longer be an impediment to success. Implementation is the **Key!**

It is important for the Department to benefit from all of these groups' ideas and focus on implementation as they plan and move forward. An example is the upcoming DOC Strategic Planning event. Representation by the other agencies, State Legislature, and Legislation Inside would provide valuable input to DOC's strategic plan. All organizations have blind spots. Input from sources outside the organization helps to identify and eliminate the blind spots that inhibit an organization from operational excellence, DOC must execute on the ideas and strategies provided by these groups. Implementation is the **Solution!**

Moving forward, these groups will continue to operate autonomously, yet also should operate as a joint venture to accomplish the shared goals and outcomes of a better society. The people of Colorado deserve excellence from their government leaders³. As public servants of all Coloradans, we owe it to the them to implement solutions and create better outcomes. Implementation is the **future!**

³ **Operational Excellence** is holding group members accountable, taking action to overcome the challenges, and delivering measurable outcomes.

MEET OUR AWESOME TEAM!

Jamie Ray

L.I. Lead Facilitator
Korey Wise Innocence
Project

Jeanne Segil

Director of Policy
Korey Wise Innocence
Project

Madison Gallegos

Executive Assistant
Korey Wise Innocence Project

Buena Vista Correctional Facility

Ronald Lee Smith
Andrew Nardello

Centennial Correctional Facility

Billy Edwards
Maurice Engelby
Chuck Martinez

San Carlos Correctional Center

Troy Brownlow
Joshua Baldwin

Freemont Correctional Facility

Daniel Sopiwnik
Waylon James Rabitaille
Gerek Wilderson
Rhidale Dotson
William Coney
Elliot Javay Raibon

Arkansas Valley Correctional Facility

Bernard Jones
Norman Vasquez
Lamar Blackwell

La Vista Women's Facility

Tatianna Manondavis
Shauntiel Goree

**Denver Reception & Diagnostics
Center**

Steve Allen
Tony Escobedo
Ezekiel Garcia

Denver Women's Correctional Facility

Lynn Lay
Lisa Lesyshen
Tina Black
Paulette Joyce

Sterling Correctional Facility

Monir Wood
Vern Moter
William Schwartz

Colorado State Penitentiary

Derik League
Homaidan Al-Turki

The Beacon @ Skyline

George Chavez
Chris Selectman
Patrick Sanchez

Territorial Correctional Facility

Greg Bowers
Clinton Hall
Jesse Wilkerson

Trinidad Correctional Facility

Simon Sue



