



# LEGISLATION INSIDE

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## 2026 SMART ACT HEARING REPORT

### INTRODUCTION

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**Legislation Inside** is a statutorily created council in accordance with Colorado Revised Statutes (C.R.S.) Article 2, Title 2, Part 25. It is an innovative program of incarcerated people, members of the State Legislature, and a Non-Profit Community Organization (KWIP - Kory Wise Innocence Project). The idea began in 2021 as a goal to amplify the voices of incarcerated people in both legal and policy spaces. Together, we encompass a diverse group of voices representing a cross section of the incarcerated population to include diverse backgrounds, races, religions, socio-economic levels, political affiliations, and home geographic regions of Colorado and beyond.

In 2023, the precursor to the Council introduced their first piece of legislation as **HB 23-1214 Establishing a Procedure to Apply for a Commutation of a Criminal Sentence**, which was ultimately passed by both bodies of State Legislature only to be vetoed by the Governor. Our group endeavored to streamline the application and to bring transparency to the process, while preserving the Governor's constitutional prerogatives in the granting or denying of such requests. Our team has strived to be a solutions-based body that endeavors to take into account all stakeholder interests in all of our past, present, and future legislative involvement. In 2025, our team in conjunction with the State Legislature proposed and passed **SB 25-155, Establishing the Legislation Inside Advisory Council Act**, which secured the Governor's signature and became law.

Through our lived experience, our diversity, our intelligence, and our determination, along with our Legislative team and Non-Profit sponsor, we are competent and equipped to tackle the variety of issues our prison and criminal legal systems face in our State. Ultimately, we look forward to building collaborative relationships with the State Legislature, the Department of Corrections, the State Board of Parole, the Department of Public Safety, and the greater community organizations and general public to find creative and innovative solutions to the most complex problems experienced across the full criminal justice system.

Our intention is to highlight the areas we feel are the most pressing issues concerning the Department of Corrections, the State Board of Parole, and the Department of Public Safety, specifically the Division of Criminal Justice (Community Corrections/Halfway Houses). These issues form the common themes of Prison Population Management, Big Budget Picture, and Transparency, Accountability, and Efficiency.

## L.I. COUNCIL SUMMARY

Over the past decade, our State's Congress has courageously labored in order to adopt statutes that truly provide for inmate rehabilitation, support, successful reintegration, and that foster human dignity throughout incarceration.

### THEREFORE,...

... it is **Legislation Inside's position** that in accordance with overarching public safety and fiscal policy concerns, the General Assembly has performed above expectations to enact and establish a crucial and transformational policy architecture in order to affect positive change in public safety while also lowering recidivism.

### OUR CHALLENGES...

... lie solely with the lack of implementation by the Department of Corrections, and also includes additional issues such as mis-interpretation, over-burdensome self-inflicted policies, and failure to utilize or employ the solution-driven statutes already provided by the General Assembly.

### OPEN AND HONEST COLLABORATION...

... with all stakeholders is the only vehicle through which we will arrive at innovative solutions to address our most pressing and complex challenges. Legislation Inside is **ready and willing** to engage and work hard alongside all parties in order manifest the vision for a safer, more streamlined corrections system.

**"The General Assembly has performed above expectation to enact and establish a crucial and transformational policy architecture in order to affect positive change in public safety while also lowering recidivism."**

## PRISON POPULATION MANAGEMENT

We will begin this section with a quote from JBC Staff, Justin Brakke:

***“Colorado’s prison population is expected to exceed the State’s available prison capacity in the next fiscal year.”***

**—JBC Staff Budget Briefing, FY 26-27**

This is not surprising to anyone. The increasing prison population and its effects on the budget, recidivism, public safety, and society as a whole has been discussed at length over the past decade. The General Assembly has passed several bills to provide the Department the tools needed to effectively manage the prison population. Unfortunately, many of these remain unimplemented or underutilized by the Department. This is effectively placing a Band-Aid on an arterial hemorrhage.

The many challenges are the significant decrease in discretionary parole releases, increases in returns for technical parole violations, the steady stream of new admissions, the backlog of Department clients housed in county jails, and the lack of meaningful rehabilitation by the Department. The Board of Parole denials are in part due to risk and readiness (rehabilitation). Risk and readiness are based on the CARAS (risk) assessment and the CTAP (readiness) scores. The CARAS score is generally a static score. (This is addressed in detail later in this report.) The CTAP (which includes LSI-R, SRT, RT, and PIT) changes based on programming, addressing specific criminogenic needs, and case management. The Department is in full control of programming and rehabilitation.

**“Why is there a push to eliminate successful programs?”**

## HOWEVER, THE DEPARTMENT STRUGGLES...

...with programming. The primary focus on warehousing leaves programming by the wayside. While the Department requests funding for 553 additional male beds at staffing-challenged facilities, there is no corresponding request for additional programming for those individuals. In fact, the Department wants to return funds allocated for programs that they reported having “positive outcomes” and “high demand” for participation. These programs that the Department wants to eliminate support in-demand job skills, Life Skills Training, Commercial Drivers License Apprenticeship (CDL) program, and other job skills training.

## WHY IS THERE A PUSH TO ELIMINATE SUCCESSFUL PROGRAMS?

Statistics indicate job training is a significant factor in reducing recidivism. We believe it may be time for the Department to significantly adjust the policies regarding the use of technology to help fill the large deficiency in their rehabilitative programming.

The Community Corrections system could also be used for additional programming. Programming in the community is more readily available, provided by experts, and likely more effective for the student. The General Assembly has the ability to expand Community Corrections for qualified incarcerated individuals to better effectuate rehabilitation and provide some relief to the increasing prison population challenges. This can be done by increasing timeframes for eligibility to expand the number of individuals qualified to progress to Community Corrections as well as incentivize counties to expand their already successful programs.

## CUSTODY CLASSIFICATIONS ARE ALSO...

... an integral part of prison population management. We have previously discussed the Department's self-imposed time barriers that inhibit individuals from progressing to lower custody levels. Since the Board of Parole wants to see stepped-down progression, this also inhibits some from being released on discretionary parole. The Department now wants to substantially reduce Level 1 (minimum custody) beds by placing fences around the Delta and Rifle Correctional Facilities. This may just exacerbate the problem. This would leave only 126 minimum custody beds available in DOC rather than 803 - severely limiting "step-down" availability.

On January 9, 2026, the Department submitted additional details for their caseload request via letter to the JBC. In short, the Department only wants two things: funding and increased capacity:

***"Given the forecasted caseload, the State will need to increase bed capacity for the safety of our staff and offenders, through the lease, purchase or construction of additional space. We are also working to identify funding mechanisms that may be used to purchase these facilities...."***

**"Statistics indicate job training is a significant factor in reducing recidivism."**

There is no mention of rehabilitation and programming. Yet, if the Department would have worked on rehabilitation previously, more individuals could be ready for release on parole eliminating the need to continuously have this capacity and funding conversation.

Last year at the JBC Staff Budget Briefing, Mr. Brakke addressed long-term prison population management...

***“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.”***

If we are truly going to heal this hemorrhage, we need the surgical solutions indicated by Mr. Brakke, not band-aids. The solutions may not be easy, yet will provide lasting results. Revising sentencing statutes and bolstering Community Corrections, the Intensive Supervision Program, and Parole are a beginning to the long-term solutions Colorado needs. Legislation Inside is ready to collaborate and assist the General Assembly, the Department of Corrections, the State Board of Parole, and the Department of Public Safety in this effort.

## BIG BUDGET PICTURE

As with prior years and all foreseeable future years, the primary driver of the overall budget request for the Department will be the human capital required to operate a governmental entity such as the Department of Corrections. Staffing is the largest driver and it is also the most difficult to qualify when it comes to needs based assessment, transparency, and efficiency. There is no doubt that the staff is effective when it comes to incarceration as the number of escapes is nearly zero over an extended period of time. Quantifying the staff needed by a facility based on custody and control under the current methodology of prison management is easy to do, however, qualifying the true need for the levels of staff at each facility could be an area of study.

An industry like corrections is operated by force multiplication, overwhelming threats and fear, and hypothetical war game modeling. The reality is that most facilities within the Department do not utilize the extent of their staff on a routine basis and most facility shifts are over-staffed in relation to the number of incidents needing force multiplication. It is understandable that staff need to be safe and protected in the performance of their duties, but the reality of the matter is that most staff are idle and bored waiting and, unfortunately in some cases, hoping for an incident so that they can get involved. There are areas of improvement within the Canon complex alone where staff could be shared amongst the whole compound in areas such as maintenance, food service, and incident response teams. We would encourage the Department to look for ways to streamline their overall staff and make operating facilities more efficient and less human capital intensive.

## IT IS TIME FOR THE OLD MENTALITY...

... of government budgeting where if you do not spend it this year, you will not get it next year to be retired. We have all seen areas in each of our respective facilities where there is unused budget so the various areas make excessive purchases during the "spend down" period of unnecessary items and then put them into storage for a rainy day or replace equipment, furniture, and fixtures that have not reached their usable life. This normalized practice across the Department in all areas of facilities and headquarters should be reviewed by the State Auditor and eliminated to streamline the actual budget requirements instead of the common practice of last year's budget plus cost of living adjustment or inflation adjustment. Unfortunately,

the Paperwork Reduction Act worked to minimize the printing of excessive budget line items for review by the General Assembly, but it also removed the transparency of line item budgeting within the departments allowing vague and bloated budgets that are difficult to really streamline and make departments efficient.

Additionally, from a capital construction standpoint, we would support the more efficient use of capital construction funds to complete all of the outstanding Broadband projects identified in the Department budget request of approximately \$5,500,000 in lieu of the approximately \$13,000,000 requested for the fence project at the Delta Correctional Center. The Department identified the following opportunities that come with the funding of the Broadband projects: Decreased Recidivism, Decreased Staff Vacancy and Safer Prisons, Increased Access to Virtual Programming and Education, Increased Access to Medical and Legal Appointments, Digital Governance (Flexible Workforce), Greener Government, and Promoting Colorado for All. If actualized, this will reduce the prison population since the incarcerated population will have greater access to the educational and vocational programming needed, virtual behavioral treatment required, and flexible staff to include virtual case management to acquire the rehabilitation needed to be released on discretionary parole. Our view is that we should be looking to bring the Department into the digital age to allow for the incarcerated population to access the support and services necessary to rehabilitate and reduce recidivism. As the recidivism rate is reduced and the discretionary parole rate is increased, the overall prison population will be reduced and there will not be a need for higher custody level facilities. The request for a capital construction project at one facility that is more than twice an appropriate request to complete Broadband installation at 7 facilities is short sighted and does not efficiently and effectively use the resources currently at the Department's disposal especially since JBC staff pointed out that studies show the prison population potentially "falling off a cliff" in the long term with current facilities being over-built and under-used.

**"It is time for the old mentality of government budgeting ... to be retired."**

## QUESTION FOR DOC

1. In what ways can DOC increase transparency to increase awareness to the public about what it is doing to complete programming, operational, and legal standards as mandated by the law and AR?

## PAROLE SYSTEM METHODOLOGY CREATING A BOTTLENECK

Today, we find ourselves at a historical crossroads concerning the statutory purpose of parole outlined in C.R.S. §17-22.5-102.5 and the actual application thereof. Public safety wants to feel assured that a potential parolee is no longer a threat to their community and has been sufficiently rehabilitated throughout their time by learning that criminal behavior is not acceptable. The incarcerated person wants to feel that if they manage their time constructively, utilize appropriate education, vocational skills training, and rehabilitative programming, they will receive discretionary parole. When you synergize the two sentiments here, you realize that on both sides of the equation there is a unified expectation that incarcerated people ought to have a meaningful opportunity to earn their way out of prison just as they earned their way into prison. Of course the irony is that sentencing and parole guidelines are similar in that both seek to determine the amount of risk an individual poses in relation to the amount of time they serve and the rehabilitation potential of the individual. When considering release, the Board of Parole's central focus is: the risk to reoffend (C.R.S. §17-22.5-404(1)(a)), based on actuarial risk assessments (C.R.S. §17-22.5-404(1)(b)), and through a structured decision making process (C.R.S. §17-22.5-404(1)(c) and (d)).

**“Colorado’s Parole system is creating a significant bottleneck that limits release opportunities for individuals who appear statutorily eligible .”**

### OUR FOCUS CONCERNS...

... the application and outcome of the Colorado State Board of Parole's decision making process and how it is contributing to a backlog of parole eligible individuals remaining incarcerated at an excessive expense to taxpayers. The question we have regarding Colorado's parole process with all things being equal is: “why more eligible individuals are not being granted discretionary parole since approximately 37% (6,000 individuals) of the incarcerated population are eligible for immediate release on discretionary parole to a taxpayer savings of approximately \$360,000,000 annually?” C.R.S. §17-22.5-107(1)(b) directs that an administrative guideline instrument shall be used to provide the State Board of Parole with consistent and comprehensive information relevant to the factors to be considered for release found in C.R.S. §17-22.5-404(4)(a). Unfortunately, the reality is that the State Board of

Parole routinely deviates from the Parole Board Release Guidance Instrument (PBRGI) recommendation whether it is for or against an individual's release, causing numerous low risk and high readiness individuals to remain incarcerated while at the same time allowing high risk and low readiness individuals to be released.

According to Colorado Revised Statute 17-22.5-404(1)(a), "the risk of re-offense shall be the central consideration by the State Board of Parole in making decisions related to the timing and conditions of release on parole..." The most pressing question amongst us is how to quantify or qualify this well intentioned statement. We are not here to discredit the sanctity of the State Board of Parole, as we can only imagine the breadth and depth of their difficulty in making such weighty decisions on behalf of their fellow citizens, the victims of our crimes, and the lives of the incarcerated populations, our loved ones, and friends. As cliché as it sounds, we are here to help remedy a system that potentially impacts every tax-paying citizen in Colorado.

Colorado's parole system is creating a significant bottleneck that limits release opportunities for individuals who appear statutorily eligible. The problem stems from a fragmented decision-making structure and unclear standards that ultimately undermine transparency and efficiency. While discretionary parole is designed to favor release or deferral unless clear reasons exist to deny it, Colorado's discretionary parole rates are trending lower than historical average.

According to the annual reports from the Department of Corrections and the State Board of Parole, Colorado conducted approximately 11,000 parole application hearings while granting just a little over 4,000 for a paltry 37% discretionary parole approval rate. This disconnect suggests that statutory intent is being overridden by inconsistent practices rather than objective evidence based criteria. C.R.S. §17-2-201 and §17-22.5-409 emphasize public safety, rehabilitation, and evidence-based decision making, while the State Board of Parole retains broad discretion, allowing subjective factors to outweigh rehabilitative factors such as educational and vocational program completion, cognitive and moral treatment programming, and institutional behavior modification. This discretion creates delays, unpredictability, and inconsistent outcomes amongst the members of the State Board of Parole. Furthermore, potential parolees with active victim opposition seem to face a measurable disadvantage compared to similarly situated parolees without active victim participation; creating inequitable outcomes unrelated to the individual's

**"We are here to help remedy a system that potentially impacts every tax-paying citizen in Colorado ."**

rehabilitation or risk assessment.

## WE LOOK FORWARD TO THE OPPORTUNITY...

... to work with the General Assembly and the State Board of Parole to create clearer standards that rely more heavily on an individual's readiness for release and eliminate the perception of arbitrary gatekeeping that undermines transparency, fairness and the statutory rehabilitative goals of incarceration. We endeavor to create an innovative system that supports public safety, victim's rights, rehabilitation, and appropriate reintegration, while at the same time being transparent, efficient, and effective.

### QUESTIONS FOR DOC

1. How does case planning work in relation to parole preparation of inmates?
2. Why is case management not creating case plans that align with results from risk assessment tools.
3. Can the department produce any data supporting the efficiency and efficacy of case management in regards to individualized case planning and parole preparation and where can that data be accessed?
4. Why does the department's statistics show that inmates with a high Level of Service Inventory Revised (LSI-R) risk score are more likely to be denied parole, but the Parole Board Annual Report only mentions the Colorado Transition Action Plan (CTAP)? This raises concern because the Parole Board Release Guideline Instrument requires use of the LSI-R not the CTAP. Also, the department rarely provides current and accurate risk scores.

## QUESTIONS FOR PAROLE

1. Following the implementation of the Prison Population Management Act, why is the parole board failing to consider the law in that respect and continuing to deny parole.
2. What types of policies would the parole board be willing to be more transparent on when it comes to the requirements for parole?
3. How do we guarantee release when we meet parole eligibility date?
4. When making discretionary release decisions, how often is outdated or inaccurate information being used for the release guideline instrument? (LSI-R, CARAS, Case Plan, etc.) Are you able to see if the information provided is outdated or inaccurate?
5. The media is spotlighting inmates getting released on parole and committing new crimes. Do you know why high risk inmates are being released when there are low risk inmates being deferred?
6. How well do you think CDOC prepares incarcerated people to see the parole board? Additionally, is the parole board making release decisions with inadequate information?
7. How important are risk assessment tools used by the parole board to make evidence based decisions?

cont'

## QUESTIONS FOR PAROLE

8. Why have overall releases decreased over the past years and is there a solution to that issue?
9. Why is there limited coordination between community housing and the parole department?
10. How is the release guideline instrument used and what criteria are used within the tool to provide decision referrals?
11. Can you explain the process in which you make discretionary decisions for release of inmates in detail, including those convicted of violent offenses and sex offenses?

## ACCOUNTABILITY, TRANSPARENCY, & EFFICIENCY COMBINED WITH IMPLEMENTATION

Once again, it is Legislation Inside's position that the General Assembly has done a phenomenal job of constructing a critical, innovative, and transformational group of statutes which - if fully implemented - would prove effective toward appropriate rehabilitation and successful reintegration while taking into account public safety, transparency, and efficient use of taxpayer funding. No matter how well intentioned these policies are, failure to utilize or fully implement them significantly impedes the structured transition through the incarceration system that the State Board of Parole has identified as their desire. The General Assembly has created and updated its series of statutes that allow for the Department of Corrections to fully utilize their facilities, the talent of the incarcerated population, and the support of community partners to make meaningful changes to the same old system of prisons, but the Department continues to formulate their own interpretations, implement or fail to modify self inflicted restrictive policies, and flat ignore the possibilities contained in current law. Our intention is to highlight what we feel are the most impactful of these possibilities contained in current law.

**“No matter how well intentioned these policies are, failure to utilize or fully implement them significantly impedes the structured transition through the incarceration system that the State Board of Parole has identified as their desire.”**

### THE MOST RECENT INTENTIONS...

... of the General Assembly are being slow walked by the Department due to their own inefficiency and lack of implementation plans. We are highlighting SB 23-067 and SB 22-050 again this year in hopes that the Department will finally work with the General Assembly and the incarcerated population to strategize on how to implement these pivotal pieces of legislation.

In 2022, numerous sections of Title 17 C.R.S. were amended to allow incarcerated individuals to work and the Department's Correctional Industries (C.I.) division to create programs which allow incarcerated individuals to work both inside and outside of current correctional facilities. This legislation was established in recognition that those who develop vocational skills and work ethic have a better chance of

success when entering the work force upon release, thereby reducing the recidivism rate.

Since passage of this legislation, Correctional Industries has methodically closed numerous programs instead of opening more as intended by the legislation. For example, they closed the dairy and farm on the Canon complex, the factories at Fremont and Sterling, the wild horse program and fish hatchery, etc. Moreover, no outside work programs in accordance with C.R.S. §16-16-103 have been established, despite there being Department policies (Administrative Regulations) to govern these programs.

Our community partner organizations have indicated that there are outside vendors who would be willing to utilize the low cost labor available from the incarcerated population, for which that population would not only receive invaluable training for real world jobs; but also would be able to pay restitution and court ordered costs/child support, while saving funds for their eventual release. It is only common sense that an individual who is released and has initial financial/start-up resources has a better chance at success thereby further reducing recidivism of those committing crimes to provide for basic needs. Implementation of the statutes contained within SB 22-050 would also serve fiscal policy responsibility, as well as honor the interests of victims under the Victims Rights Act.

## SB 23-067 WAS A WELL-INTENTIONED...

... piece of legislation that sought to bring the Department of Corrections and in the incarcerated population together to strategize solutions to important issues such as post-secondary education, addiction recovery, victim awareness, time management, domestic violence prevention, personal finance, leadership, coping, family reunification, and alternatives to violence. While well intentioned, the Department still has not made significant steps to collaborate with the incarcerated population and has chosen instead to offer prior year budget allocations to these endeavors as current year budget reductions and give back unused funds. We ask why the Department is choosing to give the money back in their budget request instead of expanding these recidivism reducing programs? This is a prime example of an area where the Department could choose to collaborate with incarcerated people to strengthen

**“Correctional Industries has methodically closed numerous programs instead of opening more as intended by the legislation.”**

and expand necessary programs rather than self-limiting through the use of over-burdensome policies and excessive review committees within Department Headquarters.

## OUR TEAM IDENTIFIED LAST YEAR...

... the very established language contained in C.R.S. §16-16-103 which allows for a near unlimited expansion of work programs both within and without the current correctional facilities. To date, the Department has not begun to utilize this existing law to re-implement the possibilities contained in this mature statute. We ask that a steering committee be formed that encompasses all stakeholders including but not limited to: Department Management, Incarcerated Representatives, State Legislature, Community Partners, and the Department of Public Safety to study the feasibility of re-establishing and re-implementing these beneficial programs.

Another issue is with the successful JYACAP program. In 2010 and then again in 2012, the United States Supreme Court decided two cases that changed the way the criminal justice system treated juveniles convicted and sentenced as adults. (*Graham v. Florida*, 2010, and *Miller v. Alabama*, 2012.) Many states, including Colorado, took steps after these decisions to create programs granting relief to those affected. In 2016, Colorado passed SB16-180, which created the Juveniles and Young Adults Convicted as Adults Program (JYACAP). Between the inception of the program and 2023, (with an expansion being added in 2021, HB21-1209) 17 individuals have completed the CDOC programming and have been successfully released on parole, none of whom have had any parole revocations. We now have 11 individuals who have completed the three-year JYACAP program and are awaiting a signature from the Governor to be released on Parole. The continued uncertainty due to the Governor's unknown change in attitude toward this program results in not only emotional distress of the participants and their families, but is counterproductive to the state's goal of reducing the prison population to a manageable number. We encourage our elected officials to continue to pressure the Governor to follow the program that you

**“No matter how well intentioned these policies are, failure to utilize or fully implement them significantly impedes the structured transition through the incarceration system that the State Board of Parole has identified as their desire.”**

all created and the expansion that he signed into law.

Additional legislation that we see struggling is HB 1999-1079 that was meant to minimize litigation and provide an avenue of remedy for administrative concerns. In 1998, C.R.S. §13-17.5-102.3 was added, along with a series of additional statutes in this section, that was patterned after 42 U.S.C. section 1997e(a), which requires prisoners to exhaust all administrative remedies prior to being able to seek redress in the State courts for any violation of their constitutional or statutory rights. In turn it was recognized that there would be cost savings by prevention of endless litigation at exorbitant expense to the people of this state by allowing resolution of any valid claim at the administrative level or early stage of any litigation.

## THE CHALLENGE WITH THIS PROVISION...

... is that there is no accountability for the Department to resolve any potentially valid claim prior to litigation of the matter. Instead, regardless of the validity of a claim, the Department (each facility individually) simply digs in and refuses to resolve the issue based on inaccurate claims of their own in an attempt to get to a technical violation that they can use to dismiss a grievance. This is then exacerbated by the Department controlling whether the Colorado Attorney General's Office can resolve the issue through settlement. The Department's staunch refusal to resolve most claims, even when their cost is minimal or nil, ends with immense expense to the taxpayers through years of endless litigation by opposing the incarcerated person's case and filing multiple motions to dismiss or for summary judgment in an attempt to overwhelm self represented incarcerated people. This too overburdens our judicial system which has far better things to do then continually review litigation that could have been resolved at an early stage administratively.

## HB 25-1013 WAS A HOT BUTTON ISSUE...

... for the incarcerated population in last year's legislative session. This piece of legislation is crucial to the mental health and well being of both the incarcerated population and those with whom they stay in contact with. This piece of legislation is critical to the children of incarcerated people and the family connections we can save. The challenge is that the Department has failed to update the Administrative Regulations in a timely manner and some facilities are still using the old policy of communications and visitations being a privilege and not a right. The legislation was clear and stipulated a date of adoption, however, the Department did not update

one of the policies until December of 2025, and the second is still not updated. This creates confusion amongst the facilities staff and the incarcerated population. Since this is law and well written, it should not take months upon months to update Department policy. We ask that any future legislation set an implementation mandate and timeline to require the Department to comply.

## OUR OVERARCHING CONCERN...

... is that all of these examples speak heavily to the perceived lack of desire by the Department to adapt to current law and public desire. Our state has taken a progressive role in a number of key topics including criminal justice reform, however, the old ways of managing prisons is weighing down the true progress to match legislative policy intent.

## CLASSIFICATIONS AND RISK ASSESSMENT

Within the Department of Corrections lives the classifications Administrative Regulation AR 600-01, which determines how an incarcerated individual will be assessed and eventually classified to a custody level ranging from Minimum (Level I) to Maximum (Level V). Risk assessments currently assessed by the Department include the Prison Intake Tool (PIT), the Level of Service Inventory-Revised (LSI-R), the Colorado Actuarial Risk Assessment Score (CARAS), the Supplemental Re-Entry Tool (SRT), and the Re-Entry Tool (RT), among others. These tools originally began as the Ohio Risk Assessment model and were purchased by the Department to be utilized in Colorado as they are in many other states. The assessment tools that are used for parole release decisions according to governing statutes C.R.S. §17-22.5-404 & §17-22.5-107 are the C.A.R.A.S. and LSI-R. These two tools are mandated by legislation to be used as evidence based material when making discretionary parole release decisions. The C.A.R.A.S. is a static unchanging assessment while the LSI-R is meant to be a sliding scale based upon an individual's rehabilitation and treatment progress.

**“Re-assessment is not happening with every individual, which is effecting accurate parole decisions.”**

### USED CORRECTLY...

... risk scores can identify an incarcerated person's criminogenic needs. Once an assessment is made, Risk Needs Responsivity practices are used to address the identified needs so case management can build a case plan for the individual. Based on the case plan, the individual will attend state approved programs and/or treatment to work on areas of need. A re-assessment should take place every 6 months to 1 year according to the creators of the model to show growth or decline and to include institutional behavior. The majority of the items that comprise the LSI-R are dynamic. Thus we would expect that the scores on the LSI-R could change with reassessment.

Re-assessment is not happening with every individual, which is effecting accurate parole decisions. There is also confusion with how a re-assessment should take place and when a person should be re-evaluated. Case managers are not at liberty to explain how these assessments work and behavioral health is responsible for administering the re-assessment. The assessments must be done by behavioral health, however, it is the case manager's job to develop a working case plan for each individual based on the assessments and re-assessments. There needs to be a

strong correlation between the case manager and the behavioral health department, which is where the breakdown is found. The disconnect between case managers and behavioral health results in the incarcerated person remaining stagnant and being underprepared for parole, community corrections, or other forms of release.

## PAROLE USES A RELEASE GUIDELINE...

... instrument per C.R.S. §17- 22.5-107(1) to assist in making evidence based decisions for release of individuals eligible for discretionary parole. The instrument includes risk and readiness variables which include the LSI-R and C.A.R.A.S. Department policy for parole requires case management to provide “current and accurate information” so the parole board can make evidence based decisions regarding release of individuals eligible for discretionary parole. Parole policy requires reassessment of the LSI-R every 6 months to determine the level of service needed over time has increased, decreased, or remained the same. There is a glaring disconnect between how the Department uses the LSI-R and how the State Board of Parole and Community Corrections uses the LSI-R. There is currently no policy for the appropriate use of the assessment tool during incarceration which means that case managers do not use the tool when determining the individual's case plan and specific goals. The Department claims that they only use this tool upon entry at the Denver Reception and Diagnostics Center for initial assessment and to comply with the necessity of parole and community corrections. However the tool is meant to be reassessed no more than a year apart from each prior assessment to show changes in the individual's needs and to continue individualized case planning while also showing progression or regression for use by parole and community corrections. Parole is mandated by statute to use the LSI-R tool in their release guidance instrument, however, without routine reassessment and update, a person eligible for parole or community corrections looks as if they have not made any progress in their rehabilitation.

## OUR PROPOSED SOLUTION...

... is to update legislation and/or Department policy to require appropriate reassessment in accordance with the validated prescribed use of the tool by the creators. Then, the Board of Parole and Community Corrections are given current

and accurate information to make evidence based decisions as required by statute. This small change can add to public safety, reduce the cost of incarceration, and create a more rehabilitative experience for the incarcerated population. This is one more scenario where the legislature offers funding to identify a problem and offer a solution to gain organizational efficiency but the Department disregards the directive because they “do not use it..” It is fiscally irresponsible to allow this to continue, and needs intervention for oversight and accountability to resolve this self-inflicted obstacle for the betterment of the organizations who rely upon the tool's results and for the individuals who hang in the balance of an improper case plan and case goals. The outcome of this update will also assist in correcting the classifications concern since incarcerated individuals will not sit on extremely long waitlists for programming that is not necessary for their individual case plan.

This proposed solution combined with classifications updating their policy to remove the self imposed barriers of Parole Eligibility Date (PED) and Mandatory Release Date (MRD), a larger portion of the population will be eligible for Level I Minimum custody beds which will also eliminate the need for an expensive fence to flex a facilities custody to a higher level. The current forecasted need for Level II and Level III custody beds is based on circular data from the current classifications formula. The Department projects the need for higher custody beds based on current and historical data which is formulated by the current classifications Administrative Regulation. The Division of Criminal Justice (DCJ) and Legislative Research Team (LSR) does not project custody levels in incoming admissions, as they only project an overall admission population number. The Department then plugs in historical ratios of classification levels based on current policy to project future classification levels. When you base your projections on old outdated policy you will get skewed results that say you need the same old tired story. If the Department would update the classifications policy to offer structured transition through the system, the projections would then be in line with the updated policy.

**“It is fiscally irresponsible to allow this to continue, and needs intervention for oversight and accountability to resolve this self-inflicted obstacle.”**

## ISSUES IMPACTING WOMEN AND EQUITABLE OPPORTUNITY

We are all attempting to create a prison system that is successful and provides dignity and respect to all. We may disagree on what constitutes success and how we achieve it but we are all actively pursuing this goal. We feel that a successful prison system is one that houses less people rather than more people and strives for rehabilitation excellence, and that building more prisons and spending money on fencing does not create a safer society nor does it rehabilitate more incarcerated people. A successful prison system does not need more money to lock up more people since it has been shown that more money does not always produce better outcomes.

### AT EVERY JOINT BUDGET COMMITTEE MEETING...

... the JBC staff states over and over again, "The only way to significantly reduce the Department of Corrections' budget in a safe and sustainable way is to reduce the prison population by closing prisons and reducing the number of employees." You have before you a group of knowledgeable individuals who have lived expertise that can assist in producing a more successful institution that benefits both societal needs and the state's obligation to safety and security. Today we offer you statistics and facts rather than emotional tropes that pull on heart strings that provide no concrete change or progress in this flawed institution.

Everyone present: legislators, Department staff and incarcerated people, can play a major role in re-imagining the future of the prison system where safety and security are no longer tethered to mass incarceration. No functioning system can claim success when the recidivism rate is greater than 50%. The social, moral and fiscal cost associated with mass incarceration has not been reasonably justified by any evidence of its effectiveness.

We need to give a voice to the approximately 1,500 women that are incarcerated in Colorado. Though only 9% of the prison population, women are the fastest growing segment in prison. They are lumped in with the men when discussing changes even though their needs are unique and fundamentally different. Women are more likely to commit non-violent crimes and often enter prison as survivors of physical and/or sexual abuse. All of this trauma presents the prison system with specialized issues that

**"We need to give a voice to the approximately 1,500 women that are incarcerated in Colorado."**

need to be addressed in a nuanced way. Presently, 73% of the women at Denver Women's Correctional Facility have identified mental health issues yet each mental health provider has approximately 200 clients which does not allow them to provide in-depth and frequent counseling. Rehabilitative and training programs are limited in women's facilities, and women still do not have a basic parenting class which can be a stipulated requirement for these women to gain parole.

## AN EXAMPLE OF THE DISCONNECT...

... between the State Board of Parole and the Department is that at least one woman went to a parole hearing where the parole staff member did not know what Therapeutic Community (TC), the drug and alcohol intensive treatment program within the Department was, even though this woman was enrolled in this required program according to her case plan. TC is the program that the Department uses to rehabilitate individuals who enter incarceration with a substance abuse score of 4a or higher which is 92% of the incarcerated population according to the Department's annual report. We find it troubling that the one mandatory program offered for drug and alcohol abuse treatment and rehabilitation was unknown to a member of the State Board of Parole who makes decisions on release and conditions of release for these individuals. This also ties back to the lack of reassessment by behavioral health to update the dynamic LSI-R assessment tool.

It has been shown through numerous nation-wide studies that women who commit violent crimes tend not to re-offend when released. By focusing on these studies we are hopeful that a women's specific release matrix can be developed and implemented so that women leave prison in a more timely manner. Implementing different criteria for women's parole will benefit the public, the Department, and the women, their families and children.

Classification is an element that the Department has held numerous meetings on and has conducted studies to help assemble a fair and logical way to classify

**“Rehabilitative and training programs are limited in women’s facilities, and women still do not have a basic parenting class, which can be a stipulated requirement for these women to gain parole.”**

people while in prison. This is an item that does not affect women the same way it impacts men since there are only two facilities for women and neither offer a true Minimum custody option. We request that the Department in conjunction with the State Legislature attempt to provide women with an appropriate minimum custody option similar to the men so that they can work towards a more structured transition that the State Board of Parole is requesting.

## MEDICAL & DENTAL CARE

We believe it to be no less than imperative to highlight the fact that medical and dental concerns are a matter of life and death instead of a cost issue that the Department continues to highlight. Members of our team have identified that, “The true cost of medical and dental mismanagement is measured in lives and suffering.” Lack of appointments due to failures, delays, and lost requests called “kites,” result in serious impacts to the health and safety of the incarcerated population. These delays also result in advanced complications from easily treatable illness or disease with increased costs to taxpayers. We do not dispute the increasing costs of medical and dental services in society which also bleeds over to the incarcerated population. JBC staff have identified the aging population of the Department to be a contributing factor in conjunction with the extended length of prison sentences. While medical and dental costs and services seem to be an easy challenge to tackle, it is actually a complex challenge that encompasses felony sentence reform, special needs parole, community harm reduction practices, and the same nationwide health concerns of obesity, heart diseases, cancer, and access to nutritious foods and supplements.

**“Medical and dental concerns are a matter of life and death instead of a cost issue that the Department continues to highlight.”**

## SPECIALTY SERVICES CONTINUE...

... to be a challenge for the Department and the incarcerated population alike. The burdensome self-inflicted policies of the Department make it difficult for its population to secure timely specialty medical and dental appointments. Preventative care is almost non-existent especially for the female population who have a much larger chance at survival with early detection screenings. We still have up to a 2 year wait to obtain necessary optometry services and glasses that are needed for the most basic daily function of being able to read important paperwork, educational materials, and mental health improving leisure reading. It also takes nearly a year and a half to receive appointments for audiology and obtaining hearing aids that also affect activities of daily living. Colorado Health Partners (CHP) continue to decline access to much needed medical and dental services and appliances due to a “lack of sufficient documentation” or another self-inflicted policy decision. A person with a neurological condition of neuropathy of the feet will be declined medical appropriate footwear due to it not qualifying under the CHP definition of diabetes. It is accurate to say that neuropathy is not diabetes as they

are two different ailments of two different systems of the body. Neuropathy is a neurological condition while diabetes is a blood and endocrine disorder.

Currently set in Department policy AR 700-04 Dental Scope of Service is a very limited service list that allows short x-rays, extractions, fillings and full dentures and fixing of dentures. When it comes to teeth that aren't salvageable an offender in a correctional facility must then choose to extract it with limited options of replacements in the future because the Department does not offer assistance with partials, crowns or bridges. Instead, individuals are asked to apply through AR 700-21 requesting to see an outside Dentist or provider while being asked to pay for the wages of the officers who transport the incarcerated person and the services of the dentist whom they are transported to. This leaves many people on the inside who are indigent or without family assistance unable to obtain proper dental care. Appropriate dental care should include routine cleanings, but currently the wait is about 2 and a half years for cleanings. Routine cleanings will allow for early detection of teeth and gum issues that further develop into medical emergencies. Expanding the use of cleaning and check ups will in the long term save taxpayer dollars for advanced teeth and gum disease and the medical concerns that result from this disease. Proper dental care should be looked at in a way to save taxpayers money by stopping further complications, while ensuring our health is as good as possible.

**“We appreciate the General Assembly working to eliminate the medical and dental co-pays for incarcerated people due to the excessive burden it puts on those who make nominal pay.”**

## WE APPRECIATE THE GENERAL ASSEMBLY...

... working to eliminate the medical and dental co-pays for incarcerated people due to the excessive burden it puts on those who make nominal pay during their incarceration. The fear of co-pays is not quantifiable due to the number of incarcerated people who do not seek treatment due to the cost associated. This is a statistic that is impossible to discover due to not reporting the need of medical or dental services. Our hope is that the General Assembly will work with the Governor to understand his reasons for vetoing the bill last session and work to find an acceptable solution that will result in his signature and enactment as law.

## EDUCATION & VOCATIONAL SKILLS

**H**B 23-1037 (Earned Time for Higher Education) has become one of the most controversial bills passed for those who are incarcerated due to the disparity it creates amongst the population. This bill should not only be controversial for those who are incarcerated but also for taxpayers and legislators as well. The challenge of this bill lies in who is eligible for the achievement time and who is not. An individual who was sentenced to a crime considered “non-violent” according to statute may have their sentence enhanced upon entering the Department who deems it a “per se” crime of violence, thus making them ineligible for the achievement time. An individual who receives their GED or completes a vocational class is granted the same achievement time whether their crime is considered “violent” or “non-violent”, wherein lies the difference when it comes to the achievement time awarded through HB 23-1037. It is also important to note that violent crimes already include longer sentence structure by statute.

The Department will likely not dispute the fact that higher education reduces recidivism which in turn will lead to lower correctional costs. This is where this body can effectuate the change it is seeking. By expanding HB 23-1037 and making it applicable to all who receive a degree, it will create opportunities for more people to become eligible for parole at an earlier time in lieu of the stipulation that those who committed violent crimes are ineligible for achievement earned time equal to that of those who committed non-violent crimes.

**“The challenge of this bill lies in who is eligible for the achievement time and who is not.”**

## THERE ARE ALSO MANY EXAMPLES...

... of individuals who have received multiple degrees, but have been unsuccessful at receiving the achievement time. Until this time, we have yet to find any research that concludes that the recidivism rate changes whether an individual is considered “violent” or “non-violent” as it relates to those who achieve a higher education degree.

We hope this body will see not only the emphasis they have made in regards to higher education, but also in reduction to recidivism and most importantly the amount of taxpayer dollars that will be saved if this body expands this bill. Research has found that an individual who has received an associates degree has a 13% chance of recidivism, 4% chance of recidivism for those who have received bachelor’s degrees, and less than 1% chance of recidivism for individuals who have

received master's degrees while incarcerated. Expanding the statute that allows for achievement earned time upon completion of higher education is a way for the General Assembly to potentially save taxpayer dollars used for incarceration and lower the rate of recidivism.

## UPON REVIEW...

... of the Department's budget request and commentary from JBC staff, our eyes were drawn to the "give backs" within the budget. In this area is a reduction of program and educational spending in order to offer suggestions to balancing the State budget. The Department feels that they are doing their part to reach the budget shortfall by reducing education and vocational skills programming dollars. We see this as a troubling offer and feel that it truly shows how seriously the Department takes its statutory mandate in C.R.S. §17-1-103(1)(a)(2) and (1)(f) Duties of the Executive Director when it comes to rehabilitation and work opportunities. The General Assembly went so far as to enact SB 23-1037 and SB 22-050 to expand the offering of educational and vocational programs while the Department feels this is a great area to cut money and in turn programs.

**"Expanding the statute that allows for achievement earned time upon completion of higher education is a way for the General Assembly to potentially save taxpayer dollars ."**

## TREATMENT & COURT-ORDERED PROGRAMMING

The Colorado Department of Corrections has an obligation and duty to provide safety to the communities of Colorado through effective administration, management, and operations of its facilities. Behavioral Health Programs are those that involve Sex Offender Treatment And Management Programs and Drug And Alcohol Treatment Programs. This type of programming is ordered by the court and required by statute. It must be completed for the individuals so ordered to be released on discretionary parole. Without its completion, people who are required to complete it will be perpetually denied opportunities to realize the liberty they so desire. With each denial of parole (up to five years at a time), taxpayers pay for additional expenses to house people that have realized rehabilitation, while each individual loses another portion of their lives where family and community relationships continue to be affected.

### INDIVIDUALS WHO ARE TRYING...

... to make a difference in their lives have decried the way treatment and this State's statutes have been misused and misconstrued in favor of retributive policies that create questionable results. It is known that prolonged incarceration and mass incarceration environments are detrimental to the well-being of communities and incarcerated people alike. There are no direct correlations between rehabilitation and long term sentences according to the studies of community partners such as the Vera Institute. Treatment is effective and we should embrace the opportunities to expand our treatment options in order to more efficiently and effectively operate our prison system.

While victims are of utmost concern, we should honor them by having access to treatment and fulfilling it. Those we have harmed also want us to follow through with the court's stipulations given to us, to change our lives, and to honestly serve the justice deserved by them and all victims.

**“Treatment is effective and we should embrace the opportunities to expand our treatment options.”**

It would best suit the incarcerated population to be given opportunities to complete treatment, immediately. When completed at the very beginning of a new commitment to the Department of Corrections, the most benefit will arise. It will change the way individuals interact while incarcerated in the Department and will absolutely and fundamentally change the culture of prisons throughout the State. Through such a culture change within, there will be a more successful and lasting cultural change for people without. Our communities and reintegrated populations who return to those communities alike, will benefit.

The status of the current system concerning court ordered and/or LSI-R directed treatment programs is flawed in the following ways. First, transparency is a major concern for those who have been identified as needing or requiring treatment in one of the programs mentioned. Next, the Department is very secretive about their policies regarding treatment and there is a failure to communicate the placement on the Global Referral Lists for vague reasons. From a fiscal policy standpoint, there is no transparency in the spending used in the treatment programs. The Department buries costs in multiple places to include medical costs, program costs, sex offender management costs, housing and facility costs, and substance abuse costs. By hiding the true costs from the State Legislature, the Department can continue to milk the taxpayers for millions of dollars annually with minimal results to show for the spending.

## THE COST TO HOUSE PEOPLE PAST...

... their PEDs in the State of Colorado is growing. The Department has a backlog of individuals who need treatment according to the Department's self inflicted policies. The complaint here is that it takes so long to get into and complete treatment, not that treatment is required. The Department requires individuals who have not been court mandated to enter into treatment in accordance with LSI-R assessments. TC is the most widely known and accepted example of this. This issue causes the Global Referral lists for SOTMP and TC to become inundated with people who are not actually required to complete the program for parole eligibility according to Colorado Revised Statutes, however, they are required to complete treatment in accordance with Department policy to be case plan and program compliant. Non-compliance with program and treatment requirements is a reason for deferral of discretionary parole.

## SEX OFFENDER (SOTMP) & DRUG/ALCOHOL...

... Treatment (TC) programs are only available at a few facilities statewide with limited seats available for each program. Fremont Correctional Facility (148 seats) and Arkansas Valley Correctional Facility (24 seats) are the only two official treatment facilities for SOTMP according to the Monthly Population and Capacity Report from the Department. TC is available at Arrowhead Correctional Center (204 seats), Buena Vista Correctional Facility (34 seats), Fremont Correctional Facility (144 seats), and Sterling Correctional Facility (48 seats). You can see from these totals that 172 SOTMP seats are available throughout the State with more than 1,500 incarcerated people requiring treatment that lasts two years or more to complete. Please also note that 430 TC seats are available with 92% of the incarcerated population having an assessed rating of 4a or higher.

## CHROMEBOOKS AND GOOGLE CLASSROOMS...

... have the technology available now to allow for virtual meetings, classrooms, and homework assignments. They are widely used for GED and Post-Secondary education within the Department, but are not available for statutory programming. Academics continue to function masterfully despite any issues it has encountered (which is subject to its own privacy act FERPA, the equivalent to health care privacy HIPAA). They do virtual meetings every day including our Legislation Inside Meetings weekly. However, SOTMP and the Department Mental Health adamantly deny opportunities for treatment virtually. This does not make any sense in a largely virtual world where millions of people use this method to conduct business every day. The Department so eloquently sold the idea of Broadband access for use in Tele-Health, however, they have decided to not implement virtual behavioral health services for these defined programs. The Department recently used the notion of security and on site staff as the reasoning, however, we do not know what is more safe than a person on a screen in lieu of physical presence that could be subject to a violent reaction from a client. The use of virtual appointments is acceptable as a practice in the ethics of providers in the community, however, the

**“The cost to house people past their PEDs in the State of Colorado is growing. The Department has a backlog of individuals who need treatment according to the Department's self inflicted policies.”**

Department would rather employ the person where they can exert their own desires and influence over the provider-patient relationship. SOMB Appendix U explicitly states guidelines for treatment via virtual networks.

## THE DEPARTMENT HAS ALSO REFUSED...

... to allow offenders to complete treatment that they have coordinated, properly and appropriately requested, followed through on procedures outlined by AR 770-21, and are able to pay for, for reasons they are not willing to disclose. There is an obvious opportunity to clear the backlog and allow offenders the opportunity to take accountability for their actions and also to take on the financial burden of treatment. The Department has shown that it is unable to provide substantial access to court mandated treatment required for discretionary parole, and/or requires treatment by individuals who are not court ordered into treatment.

### QUESTIONS FOR DOC

1. DOC has asked for \$4 million for their SOTMP program, the wait time for entry to SOTMP is currently 7 years from eligibility. What are you doing to reduce this and get those required to take SOTMP into treatment prior to their eligibility for Parole and Community Correction?
2. Have you considered supporting legislation to require low risk offenders to be able to do treatment upon parole rather than requiring treatment to be completed during minimum sentence?
3. Can we (as a state) look at policies that are in place that prevent clients from paying for their own providers for drug and alcohol treatment, sex offender treatment, anger management and any other programs?

## CONCLUSION

All of these complex concerns cannot be solved overnight and will require very thorough research and studies, collaboration of ALL stakeholders, to include the General Assembly, the Department of Corrections, the State Board of Parole, the Department of Public Safety, Community Partners, and most importantly the Incarcerated Population.

Our Legislation Inside committee has shown itself to be a viable partner in crafting innovative solutions to the most pressing issues, and we are open and willing to be good stewards of the responsibilities contained in solving the most complex challenges. Open and Honest collaboration is the only way that the incarcerated population will buy into the vision for a safer, more streamlined corrections system. The report produced through SB 23-067 is a prime example of the ideas that come from including the voices of the incarcerated population when developing innovative solutions to rehabilitation and appropriate reintegration strategies.

Our population is bursting with individuals who are extremely intelligent, talented, and capable of strategizing solutions for our most complex challenges, and we look forward to the Department recognizing the immense unused resource pool residing within the boundaries of correctional facilities. Legislation Inside is ready and willing to engage with ALL levels of staff and management to make the Colorado Department of Corrections a place of innovation that other states look to for best practices.

*REAL FRUITFUL COLLABORATION IS THE KEY!*

# MEET OUR AWESOME TEAM!

## **Jamie Ray**

**L.I. Lead Facilitator**

**Kory Wise Innocence Project**

## **Jeanne Segil**

**Director of Policy**

**Kory Wise Innocence Project**

## **David Carrillo**

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### **Buena Vista Correctional Facility**

Ronald Lee Smith  
Andrew Nardello

### **Centennial Correctional Facility**

Billy Edwards  
Maurice Engelby  
Chuck Martinez

### **San Carlos Correctional Center**

Joshua Baldwin

### **Freemont Correctional Facility**

Daniel Sopiwnik  
Waylon James Rabbittaille  
Gerek Wilderson  
Rhidale Dotson  
William Coney

### **Arkansas Valley Correctional Facility**

Bernard Jones  
Lamar Blackwell

### **La Vista Women's Facility**

Tatianna Manondavis  
Shauntiel Goree

### **Denver Reception & Diagnostics Center**

Steve Allen  
Tony Escobedo  
Samuel Mulikin

### **Denver Women's Correctional Facility**

Lynn Lay  
Lisa Lesyshen  
Tina Black  
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### **Sterling Correctional Facility**

Monir Wood

### **Colorado State Penitentiary**

Derik League  
David Jenner

### **The Beacon @ Skyline**

Terry Gaines  
Vern Moler  
William Schwartz

### **Territorial Correctional Facility**

Greg Bowers  
Clinton Hall  
Jesse Wilkerson

### **Trinidad Correctional Facility**

Troy Brownlow  
Jesse Miller  
Norman Vasquez

## O U R M I S S I O N

Legislation Inside provides a platform for incarcerated people to have their voices heard as they work toward legislative change and policy solutions that transcend the system and bring about positive transformation.

