

No New Normal: How the Pandemic Showed an Economic Path Toward Colorado Prison Decarceration

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Introduction

Though mass incarceration and prison proliferation in the United States have been ongoing concerns for the nation, the Covid-19 pandemic brought a new urgency to the country's imprisonment problem. Prisons populations are structurally vulnerable to diseases such as the coronavirus, due to limited medical care, poor hygiene conditions, and overcrowding in shared facilities that prevent social distancing (Franco-Paredes et al.; Hawks et al.; Montoya-Barthelemy et al.; Burkhalter et al.). Emergency early releases and heightened attention to equity issues were among the responses from state governments and advocacy groups when it came to addressing the impact of the virus (SARS-CoV-2) on incarcerated populations.

Unfortunately, action was slow and limited, and nationwide, people in prison still suffered infection rates three times higher than outside populations, as well as a higher risk of death (Burkhalter et al.). In Colorado, these inequities were even worse in the state prisons, placing the state among the top 10 for Covid-19 spread in prisons (Burkhalter et al.; Gilbert et al.). And although racial data on Covid-19 in prisons has not been available at any level, we know the burden of higher infection rates in prisons falls more heavily on racial minorities because prisons are filled disproportionately with more people of color nationwide and in Colorado (Burkhalter et al.; Gilbert et al.; "Colorado profile").

Different organizations — such as The Marshall Project, the New York Times, the Prison Policy Initiative and others — have done intensive tracking of Covid-19 cases in prisons, as well as aggregating governments' prison policy responses. The existing research proves invaluable in understanding the public health and humanitarian crises that took place in prisons during the pandemic. However, there remain many ways that the research fits into the ongoing discussion about mass incarceration in the U.S.

This paper offers insight into the significance of Colorado's prison pandemic situation within the context of the economic costs of mass incarceration, and based on those impacts, provides recommendations for what actions legislators should consider moving forward. Part one of the paper overviews the data of mass incarceration and prison proliferation, as well as the unbalanced imprisonment of racial minorities, both at the national and Colorado state level. We also contextualize the expenditures of Colorado's Department of Corrections (DOC). Part two uses the prison economic framework to add in the estimated cost Colorado prisons experienced due to the pandemic. Policymakers and researchers have long used cost-benefit analysis in order to determine the value of prisons and incarceration (Gifford 75). Because the pandemic inflicted indisputable costs on the state prison system, it is important to count those in when measuring the cost-benefit of the status quo. Using theory from law clerk Ben Gifford, we find that the public health risk posed by Colorado's prisons creates a worse net societal loss, thus prompting the need for change. The final part of this paper considers possibilities on how to reduce costs by observing the implications of the state's incarceration policy changes during the pandemic, including a prison closure, prison reduction, and the emergency early release order. After the experiences of the last year, there can be no return to normal operations. Covid-19 upended many

industries, and for Colorado's prisons, it revealed not only the danger of hyperincarceration but also the best opportunities to move away from it.

I. Overview of Prisons and Incarceration

A. Prison patterns across the U.S. and Colorado

i. Mass Incarceration

It is no secret that the U.S. has a mass incarceration problem. With the world's highest incarceration rate of 698 people per 100,000 residents, the U.S. has over 2.3 million people confined in prisons, jails, and various detention centers as of 2020 (Sawyer and Wagner). In fact, the combined state prison population of 1.29 million people exceeds the populations of the nine smallest U.S. states (Sawyer and Wagner). Those numbers are the result of decades of tough on crime sentencing which continued after violent crime rates tumbled (Eason 268). Academics have long traced the "inequities and inefficiencies" of mass imprisonment, and today, advocates across the political spectrum are arguing for an end to the decades-long practice (Eason 261).

At the state level, Colorado has a comparable incarceration rate of 635 per 100,000 residents ("Colorado profile"). Though the state incarceration rate has fallen since 2008 ("Colorado profile"), the inmate population under the Colorado Department of Corrections (CDOC) has hovered around 20,000 during the same time period (Brakke 4). In March of 2020, CDOC projected the number of adult inmates to grow 3.1% between 2019 and 2026 (Harrison 5).

ii. Prison Proliferation

From 1980 through the 1990s, the national increase in prison population fueled a demand for more prisons; thus following mass imprisonment was the phenomenon of prison proliferation (Eason 262). The prison boom grew state prisons from 592 in 1974 to 1,023 by 2000 (Glasmeier and Farrigan 274). Unlike mass incarceration however, prison proliferation peaked in the 1990s and new prison construction has fallen off since the turn of the twenty-first century (Hooks 230). Economic downturns have even resulted in prison closures (Hooks 229).

At the start of 2020, Colorado had 21 state prisons and three private state-level prisons — both of which are funded by CDOC — along with four federal prisons. Though a number of the state prisons were constructed during the prison boom, CDOC turned to private prisons during the 1990s, rather than building more state prisons (Brakke 6). Similar to national patterns, private prisons house only about 18% of those imprisoned while Colorado state prisons house 70% (Brakke 4).

iii. Racial and Class Inequities in Incarceration

While mass incarceration has far-reaching effects, its negative direct impacts disproportionately impact marginalized communities. Colorado's 2019 Community Law Enforcement Action Reporting Act report found that Black and Hispanic individuals were more likely to be arrested, less likely to receive deferred judgments, and more likely to receive a prison sentence than their white counterparts (English). These compounding imbalances at every level of the justice system result in significantly higher incarceration rates for people of color ("Colorado profile"). Black, Hispanic, and Native American individuals made up over half of Colorado's prison and jail population in 2018, despite making up only a quarter of the general

population (“Colorado profile”). Furthermore, there is a class component to the inequities which show that not only is poverty an overall predictor of incarceration (Sawyer and Wagner), but that increased economic inequality specifically expands non-white incarceration rates (Petach and Alves Pena).

Given the glaring social inequities of mass incarceration, Colorado legislators and activists over the last decade have launched increasingly high-profile demands to make changes to the state criminal justice system. The recently proposed Senate Bill 21-062, for example, seeks to reduce jail imprisonment by mandating court summons instead of arrests for certain nonviolent crimes (Colorado, General Assembly, Senate). For the purpose of our analysis, the remainder of our paper focuses solely on CDOC operations which hold 57% of Colorado’s imprisoned population (“Colorado profile”).

B. Fiscal impact of Colorado prisons

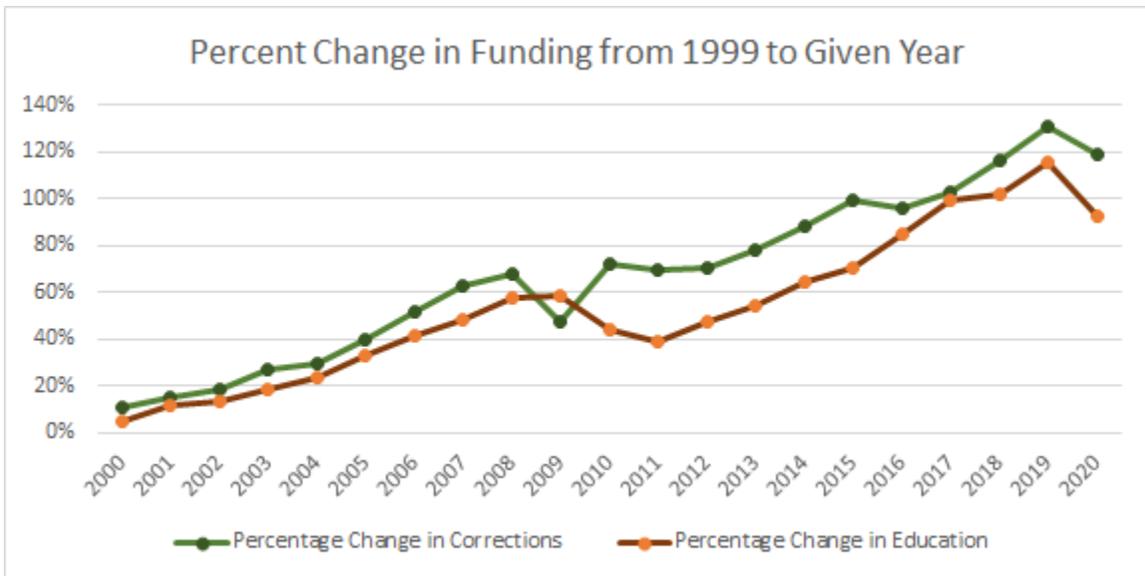
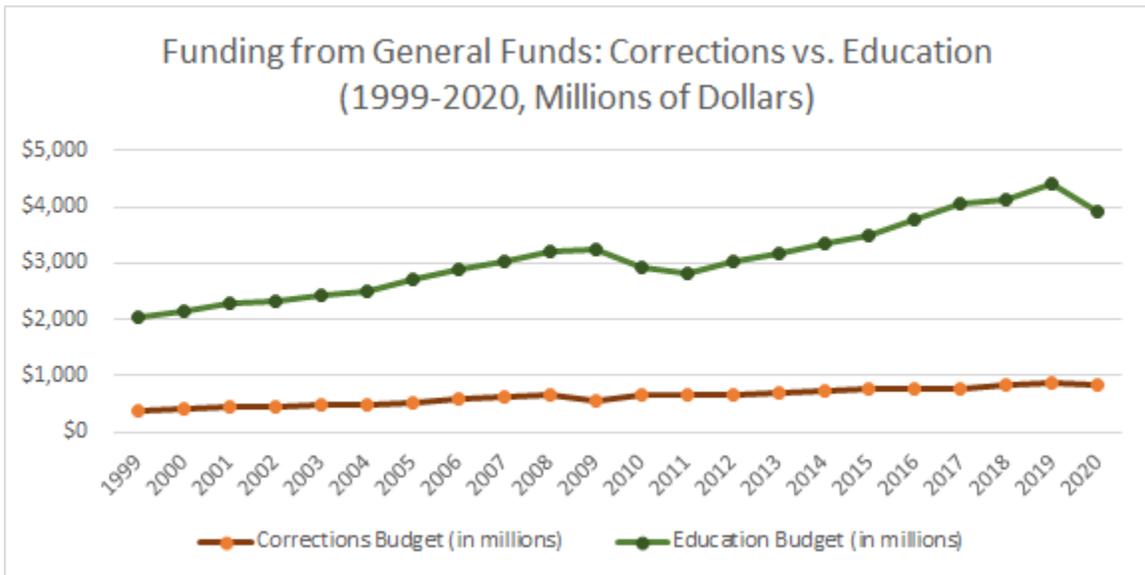
Before delving into the economic impact of Colorado’s prisons and imprisoned population, this overview provides understanding to the fiscal status of CDOC’s operations.

i. Department of Corrections Funding

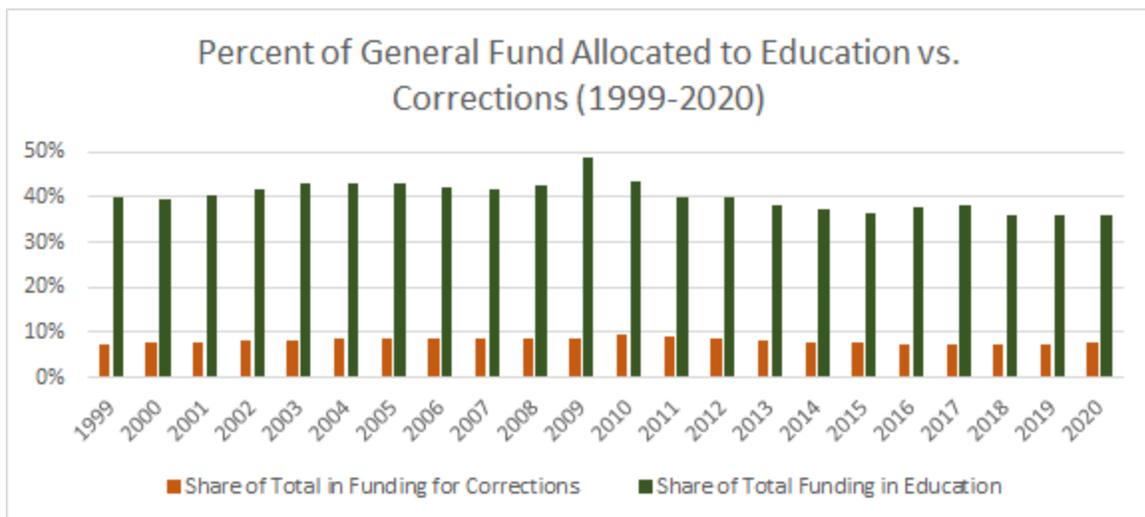
CDOC funds the state and private prisons as well as various detention centers. The department receives nearly 90% of its funding from the General Fund (Brakke 2), which is “the most flexible source of [state] funding” and is supported by income and sales taxes (Colorado General Assembly). The General Fund has allocations for education, agriculture, and healthcare, among other budget items. To explore the funding CDOC receives from the General Budget, we

contrast it with the state education funding from 1999 to 2020 with three graphs (“Explore The Colorado State Budget”):

1. Corrections vs. Education Funding
2. Percentage Change in Corrections vs. Percentage Change in Education in Colorado
3. Percent of Budget Allocated to Education vs. Prisons



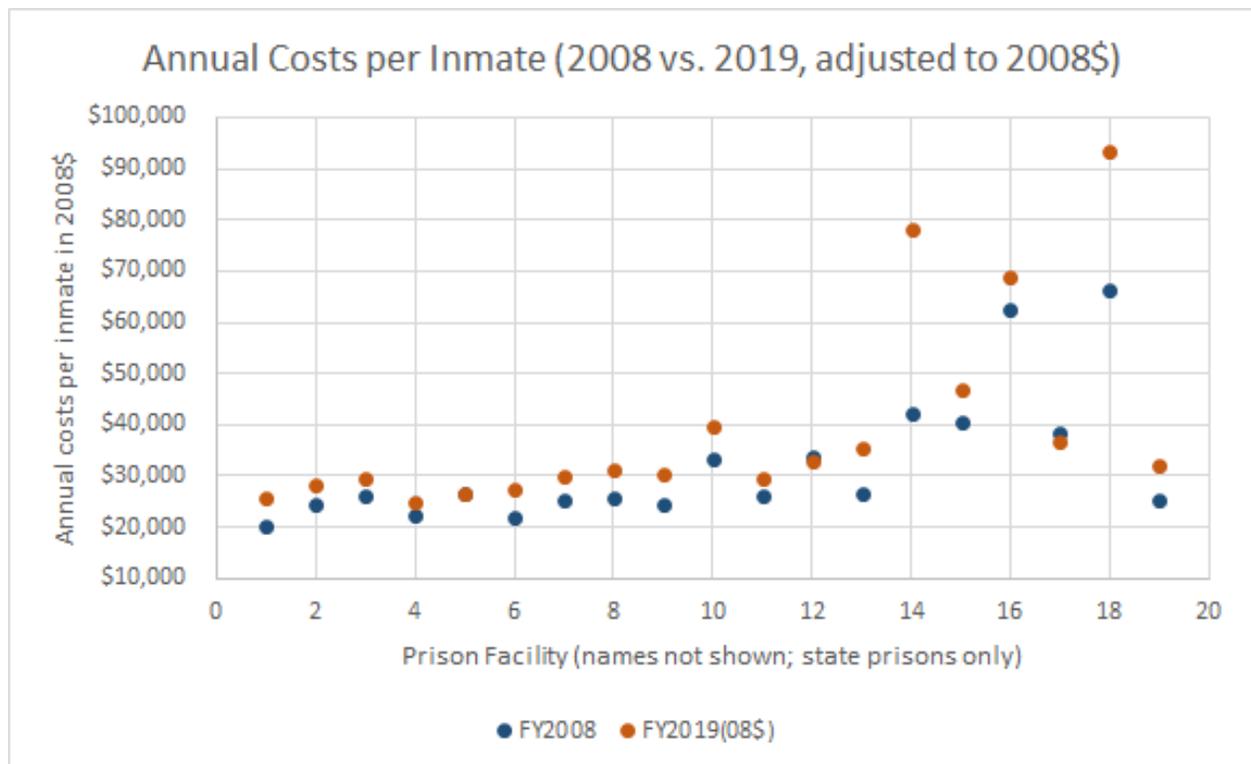
In terms of raw numbers, CDOC funding has more than doubled in the last 20 years while education doubled by 2019 but suffered a more significant drop in 2020 (See Appendix A for tables). Over the decades, both departments have received steady funding growth in proportion to each other. However, during the Great Recession, both departments suffered decreases in their funding. For CDOC, they received a 9% funding decrease in 2009, but quickly recovered in 2010 to be even higher funding than 2008. Though Education didn't see an impact to funding until 2010, it eventually also fell by 9% the first year and then again by 3% in 2011. After 2011, it started seeing an increase again, not completely recovering until 2014. The different recession impacts suggest less flexibility in CDOC's spending compared to public education. Nearly 60% of General Fund appropriations by CDOC are spent on Institutions which is not an easy cost to trim down as long as all the prisons and buildings still need to be paid for (Brakke 3). That can be seen again during 2020 when both budgets experienced an impact due to the social shutdown imposed from the pandemic. Education received a bigger decrease (down 11% from 2019) compared to CDOC which experienced a smaller decrease of less than half a percent. With the pandemic still actively present in 2021, we assume from past experience that Education funding may continue to experience slower recovery (Kappman et al.). Meanwhile, CDOC has requested 2021-2022 General Fund appropriations of over \$876 million, nearing the funding level from 2019, suggesting a more rapid rebound like in 2010 (Brakke 1).



Likewise when looking at the Percent of General Fund Allocated to Education vs. Prisons from 1999-2020, we see they follow a relatively inverse path with the other graphs. In 2009, the education budget took up 48.6% of the budget while corrections only took up 8.5%. After 2009, both budgets have experienced a slow decrease in their overall funding allocation with 2020 education maintaining 36.2% of the budget while corrections made up 7.7% of the budget. Due to Covid-19 recovery efforts, the 2021 percent share of funding allocated for education along with the corrections could decrease again.

ii. Cost of CDOC Prisons

When adjusted for inflation, the long-term average cost per inmate in CDOC state prisons has hovered around \$43,777 since the 1980s (Brakke 5). From 2008 to 2019 though, the average annual cost per inmate has increased by 33% (“Cost per offender”). Increases in costs vary across facilities but over the last three years in particular, costs per inmate have increased almost uniformly for all facilities (See Appendix B for tables).



For private prisons, there was significantly less change in costs over the same time period, only rising from an average of \$21,371 to \$24,471. (That does not include the third private facility, Cheyenne Mountain Reentry Center, which closed in early 2020.) The privately operated facilities in Bent and Crowley County held around 3,500 people or 18% of the state prison population before 2020. CDOC pays for their operations, but “private prisons cost about 42.1 percent less than comparable state-operated prisons,” largely due to significantly lower medical costs (Brakke 6). Only people with low to moderate health needs are assigned to private prisons (Brakke 6).

According to the state Joint Budget Committee, the primary driver of CDOC cost growth is employee compensation which tracks closely with the number of people in prison (Brakke 5). More people in prison naturally incurs more costs, though not always balanced to budget changes. Since costs per inmate are calculated as a ratio of the CDOC budget to the total prison population, cost increases may actually indicate that budget growth is outpacing prison population growth during that time period, rather than a literal increase in the costs of holding someone in prison. For example, CDOC saw a sharp increase in cost per inmate during 2020 when depopulation orders decreased inmate numbers more than budget fell.

Overall, the fiscal impact of Colorado prisons is strongly tied to incarceration policy, particularly the many determinants of the prison population and institutional operations. While the opportunity costs to prisons are high, legislators cannot often easily shift corrections funds to alternative policies due to the rigidity of the current system’s funding needs (Gifford 98). Put another way, there is not much room to make significant long-term cost reductions without taking on large shifts to address mass incarceration.

II. Economic Cost-Benefit Analysis of Colorado Prisons During Covid-19

A. The economic value of prisons

When it comes to evaluating the economic effectiveness of imprisonment, researchers and policymakers have long relied on a favorite of economic frameworks: empirical cost/benefit analysis (Gifford 71, 94). The analyses are typically based on similar sets of narrowly quantifiable factors, according to an article by Ben Gifford.

“**The benefits** ... consist of the amount of crime prevented by locking people up, as well as the value of that prevented crime to society. **The costs** consist of direct state expenditures, lost inmate productivity, and a host of other collateral harms” (71; emphasis added).

Under the common cost-benefit analysis, researchers across the U.S. have been finding that increasing and maintaining current rates of incarceration would fail to provide more benefits than harm (Gifford 97). A 2016 report from the White House Council of Economic Advisors concluded that "increased incarceration... fail[s] a cost-benefit test," and would yield a net benefit to society of only between -\$8 and \$1 billion per year (qtd. Gifford 97). Though there is variation depending on the state and crime segment, incarceration's general population cost-benefit ratio has been deteriorating over time and now pales in comparison to the returns on alternative social programs such as poverty reduction and childcare (98-100; Franco-Paredes et al.; Salib 111). There is little reason to think these analyses would not reflect the situation for Colorado incarceration, given the state's consistency with national incarceration numbers. Such economic analyses provide important information to help policymakers target and apply improved public

safety, and they are largely focused on lowering prison populations and adapting alternative ways to maintain public safety by considering opportunity costs (98).

However, as powerful as the cost-benefit framework can be, it typically excludes important factors such as the costs of racial inequities in the system, consideration of whether or not certain sentences are fair or productive, and in particular, the cost of crime in prison (75). But because prisons are supposed to deter crime, the exclusions of prison crime in cost-benefit analysis is an interesting one (103). In a 2019 analysis, Gifford attempts to account for the cost of crimes which occur inside prisons and jails, of which there is an abundance, and finds “the inclusion of prison crime causes the optimal incarceration rate to drop by tens of thousands or hundreds of thousands of inmates” (132). Prison crime has a very significant impact, and yet costs of prison crime are often discarded offhand on the presumption that “crime” only refers to preventing crime outside of prisons (103). The exclusion is due in large part to the pervasive if unspoken view that “criminals have given up their right to be free from suffering” (106). But that view, Gifford argues, is misguided since people in prison were not sentenced to be victimized and not only that, the crimes committed against them in prison are preventable (113-122). That logic serves as an important ethical and logical basis when considering the added costs of Covid-19 spread through Colorado prisons.

B. Cost/benefit analysis under Covid-19

i. Covid-19 Spread in Colorado Prisons

Before the pandemic hit U.S shores, health officials and practitioners were already sounding the alarms on the risk Covid-19 posed to incarcerated populations (Lauer and Long). Incarcerated people are uniquely vulnerable to disease outbreaks, not only because they are

confined in crowded communal facilities where social distancing and proper quarantining is near impossible, but because the population itself is older and more likely to have underlying chronic health issues like heart conditions and asthma (Franco-Paredes et al.; Hawks et al.; Montoya-Barthelemy et al.; Burkhalter et al.; Lauer and Long; “COVID-19 vaccine FAQs”). Such was true long before Covid-19, most recently in 2009 when a swine flu prison outbreak infected hundreds (Lauer and Long).

In Colorado, advocates called on officials to release at-risk inmates so prisons, then operating at over 99% capacity, could have a chance of complying with social distancing guidelines (Herrick, “Colorado Places a Moratorium”). Colorado Governor Jared Polis issued several executive orders relating to CDOC: most prominently a moratorium on prisons for accepting new inmates from pre-transfer facilities (Colorado, Governor’s Office [Jared Polis], Executive Order D 2020 016) and an early release program that lasted one month from late April through May (Colorado, Governor’s Office [Jared Polis]. Executive Order D 2020 043).

Despite the emergency orders, however, as of March 10, 2021, every single CDOC prison has experienced a Covid-19 outbreak, defined by the Colorado Department of Public Health and Environment (CDPHE) as when two or more individuals have tested positive within 14 days or when there is one positive plus two or more probable cases (COVID-19 Outbreak Data). Using public data posted by the CDPHE on March 13, 2021 and public data from CDOC posted on March 12, 2021, we find that people who were in CDOC’s prisons during the pandemic caught Covid-19 at a rate at least six times higher than the state population on average (See Appendix C for additional tables). And at over 8,500 unique Covid-19 cases, prisons are Colorado’s third largest hotspot by setting, coming in just under all schools and universities combined (Gilbert et al.)

Table 1. Comparing Covid-19 Numbers Inside and Outside CDOC Prisons

	CDOC inmate population*	Colorado total population
Total Covid-19 Cases	8,571	443,968
Case-Population Rate	0.48**	0.08
Total Covid-19 Deaths	29	6,072
Death-Case Rate	0.0033	0.0137
Total People Tested	179,027	2,651,715
Tested-Population Rate	1.04***	0.46

*The prison population rates were calculated using CDOC's total prison capacity level, but most prisons were operating far under normal capacity for the duration of 2020. Thus, population rates are likely higher than given here.

**Estimates from the New York Times place the true prison case rate at around 0.58 as of April 10, 2021 (Burkhalter et al.).

***Some new inmates were still accepted into prisons with justification, creating churn and a higher number of inmates tested than total capacity.

The average CDOC inmate case rate suggests at least one out of every two people held in the state and private prisons caught Covid-19 during the first year of the pandemic. Colorado's state prison rate is among the top 10 in the nation (Burkhalter et al.).

Of course, aggregating the rates of all 20 CDOC-funded prisons hides the significant variations between facilities. Eight prisons had case rates higher than the average, topping out with Arkansas Valley Correctional Facility, a prison which can hold over 1,000 people and which had a case rate of 0.87 meaning 87% of its inmate population tested positive for Covid-19. Five prisons actually had case rates lower than that of the state average. Because each prison has significant population and operation differences, we ran a correlation matrix on the defining

prison variables to see if there were any specific factors that influenced infection rates. The data comes from CDOC's public reports. The relevant results are provided below.

Table 2. Correlation Matrix of Covid-related variables

	Level	TestCapacity Ratio	CaseCapaci tyRatio	OverallCa pacity
Level		0.4	-0.2	0.3
TestCapacityRatio	0.4		-0.5	-0.2
CaseCapacityRatio	-0.2	-0.5		0.4
OverallCapacity	0.3	-0.2	0.4	

- **Level:** The security level of the prison. Ranked 1 through 5, a higher security facility is a higher level number.
- **TestCapacityRatio:** number of total tests issued per total capacity of the state prison facility; will always be between 0 and 1
- **CaseCapacityRatio:** number of total coronavirus cases recorded per total capacity of the state prison facility; will always be between 0 and 1
- **OverallCapacity:** maximum inmate capacity of each facility

Most of the variables we ran regarding prison costs and change in population during 2020 had relatively no correlation to each other or infection rates. The few variables which proved to have a slight correlation are displayed in Table 2.

Our first somewhat correlated variables are Level and TestCapacityRatio with a correlation coefficient of 0.36. This suggests higher security prisons were issuing more Covid-19 tests per total capacity. The relation is not of particular significance or interest. Our second set of variables show the strongest but still weak correlation with each other: TestCapacityRatio and CaseCapacityRatio with a correlation coefficient of -0.47. Since the correlation is negative, as testing increases, we can expect the number of positive cases to decrease. Although this sounds contradictory at first, going against the expectation that more testing may reveal more cases, we posit that more testing helps facilities catch cases before outbreaks can amplify, thus leading to the negative correlation. Our final set of variables show a slight correlation between OverallCapacity and CaseCapacityRatio with a correlation coefficient of 0.4. Though it was expected that larger facilities would have more serious infection rates, the weak correlation actually reveals that simply having more inmates did not necessitate greater infection risk over a smaller facility.

Even though we were only able to find very few sets of variables which showed any minor correlation, the matrix still shows greater Covid-19 testing can result in a lower number of cases relative to the capacity of the prison, and suggests prisons are not necessarily doomed to severe infection rates based on higher populations. However, the overall Covid-19 numbers reveal how the incarcerated bore an excessive burden during the pandemic from illness alone.

ii. Covid-19 Cost to Colorado Prisons

The excess public health risk people in prison were subjected to during the pandemic must be accounted for in order to understand the cost risks associated with mass incarceration. As one civil rights lawyer wrote in an open letter to the governor, “While those being held in our

prisons may have received a sentence for the crimes they have committed, that sentence was not a death sentence” (McNulty). Just as being victimized in a prison crime is not “part of the punishment,” neither is dying from or even catching Covid-19, both of which incarcerated people were more at risk for.

We worked to calculate the cost of incarceration during Covid-19 using similar methods as Gifford in accounting for prison crime. The equation we used is condensed as such:

$$\text{Total Cost} = (\text{Actual CO Prison Cases} - \text{'Normal' CO Prison Cases}) * [(\text{Median Cost of Hospitalized Case} * \text{Chance of Hospitalization}) + (\text{Median Cost of Non-Hospitalized Case} * \text{Chance of Non-Hospitalization})]$$

Actual CO Prison Cases - 'Normal' CO Prison Cases: The pandemic would have hit Colorado with or without mass incarceration, so in this calculation, we assume even if none of the people in prison were incarcerated, about 7.7% of them still would have caught Covid-19 based on state data. To put our cost estimates on the conservative side, we subtract those positive cases from the prison total of 8,571 cases, leaving us with 7,389 unique cases which can be considered an undue excess of infections caused by the conditions of imprisonment in Colorado.

Median Cost of Hospitalized Case and Non-Hospitalized Case: For healthcare costs associated with catching Covid-19, we refer to a Health Affairs journal article. Bruce Y. Lee and his team put the median cost of a hospitalized Covid-19 case at \$14,366 and non-hospitalized case at \$3,045, solely during the course of the infection. The virus can cause additional long-term health complications but we chose not to include those costs in our calculations to focus more on the immediate cost of infection.

Chance of Hospitalization: During the initial months of the pandemic, early studies “demonstrated that 20% of patients who were positive with COVID-19 in a community sample developed severe disease requiring oxygen supplementation” (Montoya-Barthelemy et al.). Hospitalization rates for people in prison may actually be higher due to the population’s underlying health conditions (Montoya-Barthelemy et al.). Whether that resulted in patients being sent outside of the Colorado prison healthcare system, we do not know but that would presumably add more cost burden to hospitals through additional crowding. However, since we do not have the data on that, we are again sticking with the conservative estimate.

The final costs using our equation:

$$\mathbf{\$39.2\ million} = (7,389 \text{ cases}) * [(0.2 * \$14,366) + (0.8 * \$3,045)]$$

CDOC’s entire budget last year was just short of \$950 million (Brakke 1) so the \$39.2 million costs incurred by Covid-19 infections are equivalent to a 4% increase of the department budget. These costs differ from the pandemic-related costs already accounted for in the budget, such as a \$28.8 million allocation in federal CARES Act funding, most of which was used as incentive pay for CDOC staff, but also virus testing and additional medical staff (Brakke 14). While the infection costs are not as massive in comparison to other incarceration economic numbers, it is still another negative impact of the hyperincarceration status quo and calls with urgency for change. Unlike other prison practices, there is no benefit to offset the costs of being a major public health risk.

Furthermore, the costs prisons inflicted during the pandemic extended far beyond the people behind the prison bars. Because prisons involve many staff and guards moving in and out of the facility each day, state prisons became sources of community spread in Colorado, infecting

people in the nearby communities at the rate of an additional 19.5 net cases per 100,000 residents (Hooks and Sawyer). An analysis by the Prison Policy Initiative estimated 1,078.2 cases in Colorado were cases of prison community spread (Hooks and Sawyer). The costs of those cases, assuming all of them were extraneous due to the prisons being such hotspots, comes out to an additional \$5.7 million when using the same cost factor equation. So in total, mass imprisonment in Colorado brought about an additional \$45 million in costs from Covid-19 infections alone. Even more cases can be cost-evaluated from the county prisons (at least 4,315 cases based on CDPHE outbreak data) and cases in federal prisons (at least 1,823 cases based on data from the Federal Bureau of Prisons); but the conclusion is the same.

III. Policy Potential of COVID

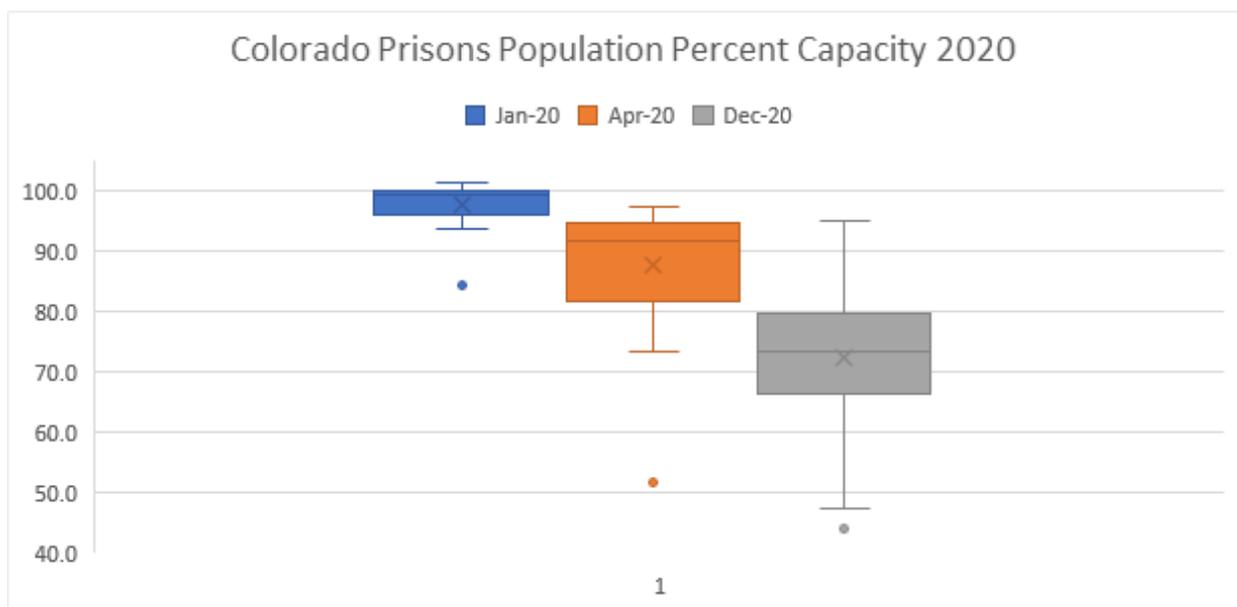
The previous section expounded on yet another reason the status quo of mass incarceration cannot continue in good economic standing after the pandemic. As such, this section recommends two policy goals legislators should be looking at moving forward: depopulating prisons and closing prisons.

To note, there are many reasons as to why hyperincarceration began and has continued despite tumbling crime rates over the decades, and we recognize that a highly complex combination of policies are what keep prisons and jails well-populated to this day (Sawyer and Wagner). Our recommendations have functional limitations and are thus goal-oriented rather than policy-specific and are based on actions already taken by the state during the pandemic.

A. Prison and jail depopulation

i. Prison Depopulation

Keeping prison populations low was seen as a key way to slow the spread of Covid-19 in an otherwise impossible-to-social-distance environment (Sherry). As such, two executive orders from the Colorado governor aimed to reduce the number of people in prison during the pandemic. The first order issued March 23, 2020 placed a moratorium on accepting new prison intakes from jails or transfer facilities unless given proper justification (Executive Order D 2020 016). The next order issued April 23, 2020 set up an expedited release program for inmates who met specific CDOC emergency policies (Colorado, Governor’s Office [Jared Polis]. Executive Order D 2020 043). Combined, the orders likely drove Colorado prison populations to their lowest level since 2004 (Herrick), from 99.1% capacity in January 2020 down to 74.3% in December 2020 (CDOC). An analysis of the monthly inmate population data published by CDOC showed that from April of last year to the end of 2020, some prisons saw over 40% drop in capacity.



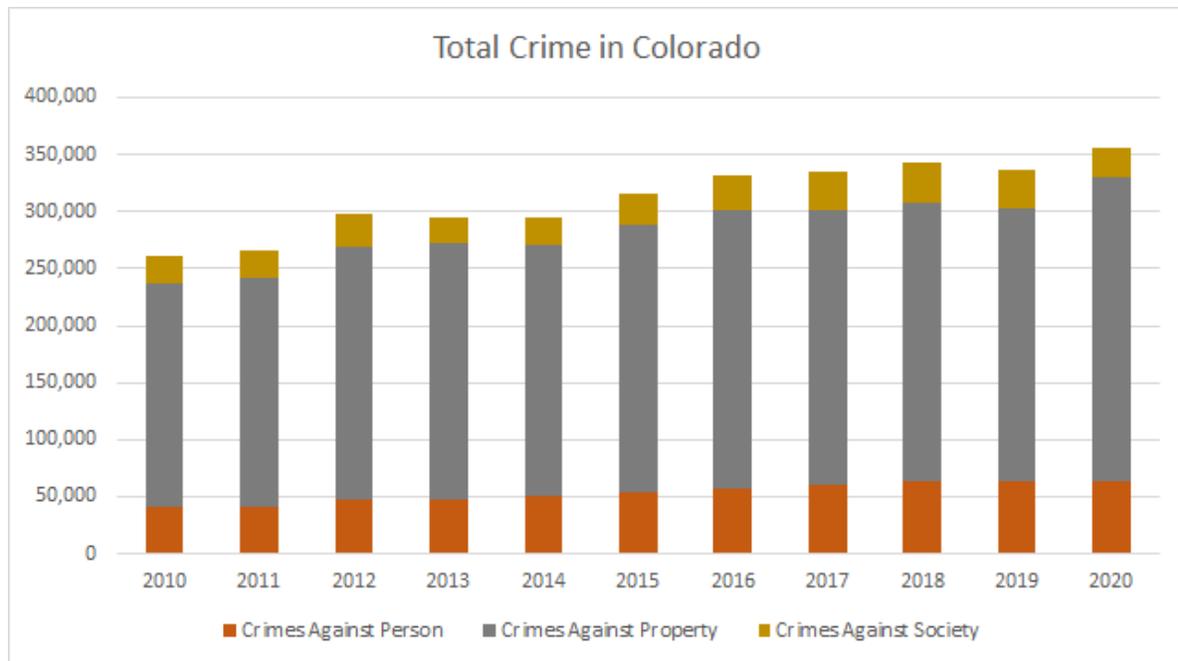
Although the release order only lasted one month, about 1,200 inmates were moved out of prisons during that time period, mostly to parole, although an unknown number were released specifically under the guidance (Herrick, “Colorado Prison Population”). In order to have qualified for the early release, the inmate was required to “committed a victimless crime in addition to posing a low public safety risk and having an underlying health condition” (Herrick, “Colorado Prison Population”). Having an address to return to also helped as CDOC did not want to release anyone who would end up homeless out of prison (Herrick, “Colorado Prison Population”; Sherry). According to CDOC data, private prisons and high security prisons tended to maintain higher populations throughout the pandemic, but even so, all but three prisons clocked below 90% capacity by the end of 2020.

Essentially, what this tells us is that prison populations do not have to be near or threatening to surpass maximum capacity at all times. Actions can be taken in a timely fashion to both depopulate crowded prisons and ensure public safety. In a town hall last year, CDOC Director Dean Williams said some of these measures were reforms that were already on the horizon (Sherry).

“Quite frankly I’ve been on this journey before the pandemic ... I think there are lessons to be learned from crises like this ... I think it’s going to push us to be very creative and to think about how we’re doing prison ... Don’t we want prisons to work and don’t we want punishment to work?” (Williams qtd. Sherry).

While there has not been formal analysis on the prison depopulation’s impact on crime rates, Colorado did not see an increase in violent crime rates in 2020 (Colorado Bureau of Investigation). Crimes such as illegal gambling and drug crimes fell, and property crimes, in

particular car theft, increased. However, it is hard to gauge the exact cause of these changes because, as Boulder County Sheriff Joe Pelle told the Denver Post, “2020 is a whacked year” (qtd. Burness). Nonetheless, an analysis by the American Civil Liberties Union concluded that county crime rates were not impacted by jail depopulation which fell at even sharper rates than prisons (Griffiths).



ii. Policy Thoughts: Depopulation

Although there is not currently any legislation aligning with the goal of *prison* depopulation, a Senate Bill meant to curb *jail* populations in Colorado was proposed during the 2021 session. SB21-62 would have forced police to “ticket people more and arrest them less as means of lowering the state’s jail population” (Burness, “What A Colorado Bill”). Such legislation aligns with our recommended goal of ending mass incarceration, especially since jail populations also absorbed outsized harm from Covid-19. While Colorado Democrats decided to kill and replace the bill due to controversy, we are still supportive of the intent and methods of similar legislation (“Burness, “Colorado Democrats”). Furthermore, we recommend legislators

look more in-depth at the impacts of reducing prison populations and analyze the early release program from the pandemic to see if any elements of the expedited releases can be carried forward.

B. Reduce and close prisons

Following a reduction in prison populations would naturally be a reduction in the number of prison facilities. And we already have two examples of this exact situation playing out. In order for prisons in Colorado to minimize the risk while reducing budget costs, a low-level security prison located in Colorado Springs closed their doors while another prison in Pueblo reduced their capacity.

i. Skyline Correctional Center

May 2020, the Colorado Joint Budget Committee voted to close the Skyline minimum-security men's prison as a "cost-saving measure" (Goodland, "Joint Budget"). Closing of the Skyline facility would "save the state \$1.9 million in the general fund in 2020-21 and almost \$5 million the following year." (Goodland, "Joint Budget"). Even though closing the one prison may not save a large percentage of funds compared to the general fund money Colorado Springs received, saving \$6.9 million dollars for closing a minimum security prison is positively impactful.

ii. La Vista Correctional Facility

La Vista is a level 3 women's state prison located in Pueblo, Colorado. During the same vote which closed Skyline, the JBC voted to reduce the La Vista prison capacity by 20% (140 beds). Reducing the facility's capacity allowed CDOC to save \$1.6 million dollars over the next

two years. Even though it is not as big of savings compared to the Skyline Correctional Center, La Vista was able to efficiently follow COVID guidelines of social distancing while saving taxpayers money.

iii. Policy Thoughts: Prison Closures

Last year, the Colorado General Assembly passed House Bill 20-1019: Prison Population Reduction And Management. The bill includes several elements with the intent to reduce prison populations including setting up a study to analyze the need and economic impact of private prisons and essentially see if they can be closed (Colorado, General Assembly, House). As private prisons are already treated as “external capacity,” our recommended reductions in prison population should theoretically put the private contractors on the budgetary chopping block first. Colorado already cut off the private prison Cheyenne Mountain Re-entry Center in early 2020, to which CDOC was paying \$14.7 million a year (Goodland, “GEO”).

Since institutions make up the majority of CDOC’s operating costs (Brakke 3), prison closures or size reductions are one of the few ways to shrink the fixed costs of imprisonment. Though there are more rigidities and economic concerns to evaluate, it is one cost elimination goal to consider as we hopefully, intentionally move away from mass incarceration practices.

iv. Limitations of our research

The nature of this complex topic naturally limited our ability to cover as many aspects of Covid-19’s impact as we would have liked, but several limitations in particular cut off certain avenues for our analysis.

1. We lacked insight on the details of spending allocation when it came to the CDOC budget, Covid-19 spending by CDOC, as well as 2021 budget data.
2. There was no data available on the people who were being released from prison. We have hypothesized that there are racial imbalances in prison releases but little data was available on the releases at all.
3. The Covid-19 cases in prisons were not broken down at all by age, race, hospitalizations, or anything beyond a positive test. Since Covid-19 disparities in race existed outside of prison, it would have been pertinent to analyze for disparities in prison as well.
4. And most notably, we were unable to make contact with any experts in this field of work. Policymakers, attorneys, prisons managers, advocates: all would have provided important insight into the on-the-ground story which we sought to find in the raw data.

Conclusion

The status quo of incarceration created a serious and costly public health failure in Colorado during the Covid-19 pandemic. Prisons and jails pose a health threat even among normal times, as evidenced by facilities experiencing regular outbreaks of influenza, pre-pandemic (Lauer and Long). The costs calculated in this article account for the cases of medical damage imposed on the incarcerated population and related communities, serving as yet another negative in the cost-benefit ratio for mass incarceration. Yet the risk prisons posed during the pandemic, did not have to exist. It is only the result of decades of harsh incarceration policies that created a population so massive and vulnerable to a global pandemic, and while there are many economic arguments for ending mass incarceration, the fact that “the well-being of correctional workers and prisoners is inexorably linked to the health of the country as a whole”

(Montoya-Barthelemy et al.) is one which must never again be ignored. Emergency actions taken during the pandemic, in particular prison depopulation health orders and budgetary decisions to close/reduce prisons, revealed worthwhile ways Colorado could address mass incarceration and the failed cost-benefit analysis of prisons in the long term. As disastrous as the pandemic was for those in Colorado and especially the residents behind bars, the future circumstances can be improved for a better social good.

Appendix A

Colorado General Fund: Corrections vs. Education.

Source: *Colorado State Budget*, leg.colorado.gov/explorebudget/.

Date: Mar. 10, 2021

Year	Corrections Budget (in millions)	Percentage Change in Corrections	Education Budget (in millions)	Percentage Change in Education	Share of Total in Funding for Corrections	Share of Total Funding in Education
1999	\$383.30	-	\$2,039.20	-	7.50%	40.00%
2000	\$423.80	10.57%	\$2,143.50	5.11%	7.80%	39.70%
2001	\$442.10	15.34%	\$2,269.00	11.27%	7.90%	40.50%
2002	\$455.10	18.73%	\$2,312.80	13.42%	8.20%	41.60%
2003	\$486.90	27.03%	\$2,417.70	18.56%	8.30%	42.90%
2004	\$496.80	29.61%	\$2,514.60	23.31%	8.50%	43.10%
2005	\$535.80	39.79%	\$2,718.80	33.33%	8.50%	43.20%
2006	\$581.30	51.66%	\$2,883.10	41.38%	8.50%	42.30%
2007	\$624.60	62.95%	\$3,023.30	48.26%	8.60%	41.70%
2008	\$642.30	67.57%	\$3,215.40	57.68%	8.50%	42.80%
2009	\$565.60	47.56%	\$3,239.30	58.85%	8.50%	48.60%
2010	\$658.80	71.88%	\$2,936.60	44.01%	9.60%	43.30%
2011	\$649.90	69.55%	\$2,833.70	38.96%	9.20%	40.10%
2012	\$654.70	70.81%	\$3,015.40	47.87%	8.60%	39.80%
2013	\$683.10	78.22%	\$3,153.80	54.66%	8.30%	38.10%
2014	\$720.90	88.08%	\$3,358.00	64.67%	8.00%	37.20%
2015	\$763.80	99.27%	\$3,478.40	70.58%	8.00%	36.60%
2016	\$751.10	95.96%	\$3,764.90	84.63%	7.50%	37.80%
2017	\$778.30	103.05%	\$4,071.40	99.66%	7.30%	38.30%

2018	\$829.10	116.31%	\$4,116.10	101.85%	7.30%	36.00%
2019	\$885.10	130.92%	\$4,405.20	116.03%	7.30%	36.10%
2020	\$841.30	119.49%	\$3,929.00	92.67%	7.70%	36.20%

Appendix B

Annual cost per inmate at CDOC facilities

Source: <https://spl.cde.state.co.us/artemis/crserials/cr110011internet/>, Colorado Department of Corrections

Cost per year per prisoner	FY2016	FY2017	FY2018	FY2019	FY2020
Level I					
Colorado Correctional Center	\$27,189	\$26,360	\$28,101	\$30,452	\$40,669
Delta Correctional Center	\$30,667	\$29,514	\$30,193	\$33,631	\$38,236
Rifle Correctional Center	\$30,405	\$30,372	\$31,332	\$35,087	\$36,853
Skyline Correctional Center	\$25,404	\$24,659	\$25,966	\$29,609	\$34,991
Total Level I	\$28,868	\$28,084	\$29,117	\$32,507	\$37,515
Level II					
Arrowhead Correctional Center	\$32,146	\$30,817	\$29,196	\$31,675	\$34,452
Four Mile Correctional Center	\$28,915	\$28,255	\$29,616	\$32,569	\$36,220
Trinidad Correctional Facility	\$31,321	\$31,277	\$32,668	\$35,515	\$41,226
Total Level II	\$30,779	\$30,096	\$30,463	\$33,221	\$37,247
Level III					
Arkansas Valley	\$35,018	\$35,113	\$34,993	\$37,256	\$40,738

Correctional Facility					
Buena Vista Correctional Facility	\$32,069	\$32,251	\$33,522	\$36,099	\$39,685
Colorado Territorial Correctional Facility	\$43,409	\$44,034	\$46,578	\$47,366	\$52,959
Fremont Correctional Facility	\$30,182	\$30,594	\$32,649	\$35,179	\$38,366
LaVista Correctional Facility	\$41,679	\$38,066	\$37,566	\$39,037	\$44,703
Total Level III	\$34,994	\$34,994	\$36,284	\$38,321	\$42,287
Level IV					
Limon Correctional Facility	\$36,496	\$39,113	\$39,686	\$42,304	\$45,662
Total Level IV	\$36,496	\$39,113	\$39,686	\$42,304	\$45,662
Level V					
Centennial Correctional Facility	\$82,709	\$77,190	\$85,589	\$93,024	\$93,689
Colorado State Penitentiary	\$53,042	\$51,742	\$53,597	\$55,484	\$60,369
Denver Reception and Diagnostic Center	\$65,868	\$64,955	\$72,927	\$82,070	\$88,785
Denver Women's Correctional Facility	\$39,416	\$40,103	\$40,654	\$43,742	\$49,330
San Carlos Correctional Facility	\$94,882	\$96,918	\$105,430	\$111,051	\$117,916
Sterling Correctional Facility	\$32,624	\$32,934	\$34,660	\$38,157	\$42,478
Total Level V	\$45,321	\$45,601	\$48,219	\$52,221	\$56,193

Appendix C

Covid-19 in Colorado prisons

Source: Colorado Department of Corrections,

<https://cdoc.colorado.gov/resources/covid-19-faq-and-updates>

Date: Mar. 12, 2021

Facility	Capacity	Tests	Test/Capacity Ratio	Cases	Case/Capacity Ratio	Deaths	Level
Colorado Corr Ctr (I)	126	2009	15.94	2	0.02	0	1
Rifle Corr Center (I)	192	1029	5.36	4	0.02	0	1
San Carlos Corr Fac (V)	255	2175	8.53	9	0.04	0	5
Delta Corr Ctr (I)	480	2121	4.42	156	0.33	0	1
Trinidad Corr Fac (II)	500	3411	6.82	326	0.65	0	2
Arrowhead Corr Ctr (II)	520	4532	8.72	358	0.69	1	2
Four Mile Corr Ctr (II)	521	2627	5.04	401	0.77	0	2
La Vista Corr Fac (III)	560	3306	5.90	11	0.02	0	3
Denver Rec & Diag Ctr (V)	570	8761	15.37	35	0.06	1	5
Colorado State Penitentiary (V)	725	9960	13.74	156	0.22	0	5
Colorado Territorial Corr Fac (III)	929	7368	7.93	576	0.62	5	3
Limon Corr Fac (IV)	930	4098	4.41	743	0.80	0	4
Centennial Corr Fac (V)	953	14171	14.87	135	0.14	0	5
Denver Women's Corr Fac (V)	984	12068	12.26	68	0.07	0	5
Arkansas Valley Corr Fac (III)	1,089	4367	4.01	943	0.87	4	3
Buena Vista Corr Complex (III)	1,234	21728	17.61	519	0.42	1	3
Bent County Corr Fac (III)	1466	10028	6.84	1087	0.74	2	3

Fremont Corr Fac (III)	1,620	16865	10.41	770	0.48	4	3
Crowley County Corr Fac (III)	1894	24918	13.16	828	0.44	1	3
Sterling Corr Fac (V)	2,488	23485	9.44	1444	0.58	10	5

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