

The Colorado Division of Criminal Justice
Summer 2020 Interim Prison Population and Parole Caseload Projections
June 2020

Introduction and overview

The DCJ 2019 prison population forecast indicated that the Colorado adult prison population would decline very slightly across FY 2020, with slow growth resuming in FY 2021. However, the COVID-19 pandemic necessitated the implementation of many initiatives throughout the criminal justice beginning in March of 2020. These actions, among others, included:

- On March 25, 2020, Governor Jared Polis issued Executive Order D 2020 016, temporarily suspending certain regulatory statutes concerning criminal justice, for the purpose of reducing the prison population and the parole caseload. This included suspending the Colorado Department of Corrections' duty to receive and take custody of prisoners, providing discretion in the awarding of earned time credits and the identification and referral of those qualifying for special needs parole to the parole board, the suspension of program completion requirements, and the suspension of required subsistence payments from community corrections clients. Portions of this order have been extended through July 20, 2020.
- On March 16, 2020, the chief justice of the Colorado Supreme Court ordered the suspension of certain court operations, and suspended all jury calls in state courts with the exception of jury calls for criminal trials facing imminent speedy trial deadlines. This order was extended, precluding the summoning of people for jury service prior to August 3, 2020.
- The chief justice's order left the bulk of decisions up to local judicial districts which resulted in an assortment of rules and procedures across Colorado's courts, varying courthouse by courthouse and, in some cases, by individual judge.¹ According to information obtained from court and probation officials in the process of developing these projections, examples of modifications to court practice and law enforcement activities include:
 - Probation departments modified operations significantly, but this varied considerably across judicial districts. Summonses for revocations were applied more often than were arrest warrants, with revocation hearings set out until June and July, depending on the reopening of court operations. Drug testing of individuals on probation was largely suspended, and petitions for revocations were limited to cases where there appeared to be an imminent risk of harm to other people or new serious crimes. Hearings for in-custody clients were prioritized, with out-of-custody cases set to later months. Requests

¹ <https://www.denverpost.com/2020/03/21/colorado-courts-coronavirus-judges/>

for early termination of probation for those who were performing well on probation were increased.

- In Denver, the District Court reduced operations and staff, providing only essential court services through July 6, and reduced in-person appearances in criminal, civil and domestic relations matters. The offices of Denver Adult Probation were closed to the public on March 25th, 2020, until further notice, with probation revocations to be filed only in cases in which the client is determined to be a threat to public safety. Summonses for probation revocation appearances were to be set at least eight weeks out to assist with minimizing docket size and decreasing in-person appearances.
- Courts in the 18th Judicial District were open to the public for emergency matters only, with reduced hours. Except for proceedings that involved public safety matters or in-person proceedings specifically approved by the Chief Judge, all in-person proceedings set through July 5, 2020, were vacated.
- The 1st Judicial District implemented limited operations, focusing only on public safety matters. Such matters included probation revocation hearings involving incarcerated individuals.
- The courts of the 17th Judicial Districts implemented the same policies focusing only on matters of immediate concern for public safety. Additionally, all other appearances, court trials and hearings through May 15 were vacated and continued.
- Law enforcement officers in the City and County of Denver that contacted individuals with an active arrest or bench warrant were not required to execute the warrant and arrest that individual unless the arrest or bench warrant included a Victims Rights Amendment.

Not surprisingly, these actions drastically changed the course of growth in the Colorado prison population, resulting in a dramatic decline of 1.2% in the final week of March, followed by 4.9% across April. The inmate population fell by 9.9% in the final quarter of FY 2020 (March 1- June 2020). These are the largest declines observed in over two decades.

Additionally, at the time of DCJ's December 2019 forecast, the domestic parole caseload was expected to increase only slightly by the end of FY 2020. Due to the circumstances of the pandemic and the consequent responses, the parole population ballooned with a 7.6% increase across the final quarter of the fiscal year.

Summary

Due to the circumstances described above, the current forecast is significantly modified from that developed by DCJ in December of 2019. A declining prison population is expected throughout the

majority of FY 2021, followed by somewhat robust growth through the end of FY 2022. Thereafter, a return to slow growth is expected through the end of FY 2026. The parole caseload is expected to begin to decline late in the upcoming fiscal year, falling 3.0% by year-end.

Limitations of the forecast

Given the rapidly moving developments across the criminal justice system stemming from the unpredictable nature of the COVID-19 pandemic, this forecast is produced within an environment of significant uncertainty. A sudden turn toward 'normality' could drive the population up more quickly than expected, while the very possible resurgence in the incidence of COVID-19 infections could further halt prison growth. The next DCJ forecast will be produced in December 2020.

Admissions and Releases

Even prior to the many executive actions and policies enacted due to COVID-19, as discussed above, the prison population had been consistently falling since the middle of the fiscal year (FY) 2019. This decline was expected due to legislation and policy changes in parole decision making. The passage of Senate Bill 19-143 resulted in fewer parole denials, increases in discretionary parole releases, and far fewer parole revocations. Changes in the composition and leadership of the Parole Board led to efforts to address the capacity issues of the DOC and expedite releases.

While overall admissions to prison were expected to fall in FY 2020 and FY 2021, the expected decline has been much accelerated for this interim forecast. The halting of court operations resulted in a 33.6% decline in prison admissions due to new court commitments between the ends of March and May. Such admissions are expected to remain low throughout the summer months. However, if court operations resume and an existing backlog of cases is addressed, large increases in new commitments could be seen. These forecasts assume this backlog will be addressed in mid-FY 2021, accelerating into FY 2022.

However, this expected influx of new court commitments will be moderated due to recent legislation. In 2019, House Bill 19-1263 reclassified most possession-related drug felonies as drug misdemeanors. This legislation was effective March, 1 2020, and will divert a large number of prison admissions late in FY 2021 and in ensuing years. Additionally, House Bill 20-1019 created a new crime of an unauthorized absence for a person on intensive supervision parole, in a community corrections program, or participating in a work release program. The degree of the offense depends on the prior conviction for which the individual was incarcerated. If the crime was violent or was a serious crime against a person, the absence or attempted absence will result in a class 6 felony. Where the crime does not meet these criteria, the absence will be charged as a class 3 misdemeanor. This is likely to divert an unknown but potentially significant number of prison admissions that, prior to this bill, would be entering prison on an escape charge.

Technical violation returns were projected to decline over the upcoming four years due to Senate Bill 19-143. However, this decline was accelerated due to changes in policy and philosophy on the part of the parole board and a virtual suspension of parole revocations for technical violations, which resulted

in a 28.7% decline in FY 2020 over FY 2019. There were 61.5% fewer overall parole returns in the last quarter of FY 2020 than in the prior quarter. While revocations are expected to remain at a lower level than in previous years, the recent increases in parole releases and in the parole caseload will serve to provide upward pressure on the number of technical violation returns to prison in FY 2021 and beyond.

While prison admissions were plummeting, releases were concurrently climbing sharply. The parole board responded to the need to create prison capacity adequate to isolate and distance inmates to reduce the spread of COVID-19 in the prisons. These efforts included:

- Reviewing all inmates approaching their mandatory release date with an approved plan, resulting in 121 discretionary releases;
- Revocation periods were shortened for many recent parole returns due to technical violations;
- All inmates who were at or past their parole eligibility date, were non-violent, and had approved parole plans were reviewed for release;
- Responding to the governor's order to review those qualifying for special needs parole;
- Suspending program completion requirements prior to parole release; and
- A requirement to exhaust all alternative options prior to a parole revocation.

As a result, discretionary parole releases increased by 120.5% in April over March. Mandatory parole releases remained somewhat stable over this time frame, such that overall parole releases increased 69.5% during April. With the pool of inmates eligible for early release shrinking, the number of discretionary releases is expected to normalize in upcoming months. Additionally, with the recent proliferation in discretionary releases, fewer mandatory releases will take place in upcoming months.

Tables 1 and 2, below, display the projected numbers of prison admissions and releases by type between fiscal years 2020 and 2026.

Inmate Population

Due to the patterns in admissions and releases described above, the overall prison population is projected to continue to decline through the majority of FY 2021, dropping 7.4% and reaching 16,154 by year-end. A return to a pattern of growth is expected in late FY 2021, continuing into FY 2022 as the backlog of court cases and trials created by the pandemic is addressed. This is expected to stabilize in the following year, with very slow growth returning in FY 2024 through FY 2026. Overall, the population is expected to reach 16,979 by June 30, 2026.

The quarterly projections for the inmate population through FY 2026 are presented below in Table 3, with men and women broken out separately and with total figures. Table 4 displays the end-of-year figures. Figure 1 displays the actual inmate population at the end of each quarter for fiscal years 2019 and 2020, along with the projected population through FY 2026. Figure 2 displays the same for the female inmate population only.

Female prison population

Women in particular were impacted by the trend in parole releases, with a 169.9% increase in discretionary releases between March and April. While women previously comprised an increasing proportion of the overall prison population, the proportion of the population made up of women fell to below 10% in early FY 2020, and to below 9% in early June.

The impacts of the recent legislation may be more apparent in the numbers of women both admitted to and released from prison than for men. Women will be particularly affected by House Bill 19-1263 which reclassified many drug possession felonies as misdemeanors, and by House Bill 20-1019 which also decriminalized an unauthorized absence, an offense that would have previously been a felony escape crime. The proportions of prison admissions due to drug crimes or escape are historically much higher for women than for men.

In response to the above, the female prison population is projected to decrease at a greater rate than that expected for the male population through FY 2021, with minimal growth expected through FY 2026. The number of women in prison is expected to reach 1,469 by the end of FY 2026, 27.1% lower than the population observed at the end of FY 2019.

Parole Caseload

Due to the number of parole releases in recent months, the parole caseload increased by 4.2% in March, and by 2.8% in April. These are the two largest gains in single months observed in over a decade. The domestic caseload increased by 406 parolees in April, and by another 266 in May. The parole caseload was already on an increasing trend throughout fiscal years 2018, 2019 and to date in 2020, but this trend accelerated rapidly in April and May.

In response to the need to manage the recent growth in the caseload, early releases from parole are being provided. These may be due to medical issues, increasing age, low custody levels, or the completion of all parole requirements with the exception of time.

In combination with these early parole releases, fewer releases to parole can be expected with the diminishing prison population. Thus, as shown in Table 5, the caseload is projected to drop slightly (by 3.0%) in FY 2021, and by an additional 8.3% in FY 2022. The caseload is expected to remain stable with very slow growth in ensuing years. Figure 3 displays the actual end-of-year domestic caseload for fiscal years 2018 and 2019, with the caseload projections through FY 2026.

Table 1. DCJ June 2020 interim prison population projections: prison admissions by type

SFY	New court commitments	Technical violation returns	Parole returns with a new crime	Other	Total admissions
2019*	6,217	2,214	1,245	50	9,726
2020	5,243	1,572	1,054	43	7,911
2021	4,657	1,292	952	39	6,941
2022	5,906	1,307	1,004	46	8,263
2023	5,630	1,292	1,008	37	7,966
2024	5,660	1,362	1,053	52	8,127
2025	5,746	1,377	1,041	48	8,211
2026	5,809	1,406	1,054	38	8,308

* Actual data provided by Colorado Department of Corrections Monthly Population and Capacity Reports.

Table 2. DCJ June 2020 interim prison population projections: prison releases by type

SFY	Parole releases			Sentence Discharge	Other	Total Releases
	Mandatory	Discretionary	Total			
2019*	4,278	4,291	8,569	1,191	132	9,892
2020	3,319	5,721	9,040	1,264	126	10,430
2021	2,915	4,211	7,126	991	118	8,235
2022	2,875	4,026	6,901	958	115	7,975
2023	2,840	4,048	6,888	957	115	7,960
2024	2,903	4,005	6,908	959	115	7,983
2025	2,907	4,035	6,942	976	116	8,033
2026	2,921	4,089	7,009	974	117	8,100

* Actual data provided by Colorado Department of Corrections Monthly Population and Capacity Reports.

Table 3. DCJ June 2020 interim quarterly prison population projections

FY	End of month:	Total population	% change	Male inmates	% change	Female inmates	% change
2019	Jun-19*	19,951	-0.95%	17,935	-1.00%	2,016	-0.44%
2020	Sept-19*	19,748	-1.02%	17,805	-0.72%	1,943	-3.62%
	Dec-19*	19,714	-0.17%	17,773	-0.18%	1,941	-0.10%
	Mar-20*	19,357	-1.81%	17,451	-1.81%	1,906	-1.80%
2021	Jun-20	17,448	-9.86%	15,888	-8.96%	1,560	-18.15%
	Sep-20	16,691	-4.34%	15,205	-4.30%	1,485	-4.78%
	Dec-20	16,248	-2.65%	14,810	-2.60%	1,438	-3.20%
	Mar-21	16,090	-0.98%	14,666	-0.98%	1,424	-0.98%
2022	Jun-21	16,154	0.40%	14,726	0.41%	1,428	0.28%
	Sep-21	16,213	0.37%	14,778	0.36%	1,435	0.48%
	Dec-21	16,281	0.42%	14,838	0.41%	1,442	0.53%
	Mar-22	16,377	0.59%	14,927	0.60%	1,449	0.48%
2023	Jun-22	16,442	0.40%	14,995	0.46%	1,447	-0.17%
	Sep-22	16,429	-0.08%	15,000	0.03%	1,429	-1.22%
	Dec-22	16,429	0.00%	15,000	0.00%	1,429	0.00%
	Mar-23	16,437	0.05%	15,007	0.05%	1,430	0.05%
2024	Jun-23	16,449	0.07%	15,018	0.07%	1,431	0.07%
	Sep-23	16,469	0.12%	15,028	0.07%	1,441	0.70%
	Dec-23	16,515	0.28%	15,070	0.28%	1,445	0.28%
	Mar-24	16,555	0.25%	15,115	0.30%	1,440	-0.33%
2025	Jun-24	16,593	0.23%	15,149	0.23%	1,444	0.23%
	Sep-24	16,644	0.31%	15,204	0.36%	1,440	-0.27%
	Dec-24	16,688	0.27%	15,245	0.27%	1,444	0.27%
	Mar-25	16,727	0.23%	15,271	0.17%	1,455	0.81%
2026	Jun-25	16,771	0.27%	15,329	0.38%	1,442	-0.89%
	Sep-25	16,816	0.27%	15,370	0.27%	1,446	0.27%
	Dec-25	16,853	0.22%	15,404	0.22%	1,449	0.22%
	Mar-26	16,919	0.39%	15,455	0.33%	1,463	0.97%
	Jul-26	16,979	0.36%	15,510	0.36%	1,469	0.36%

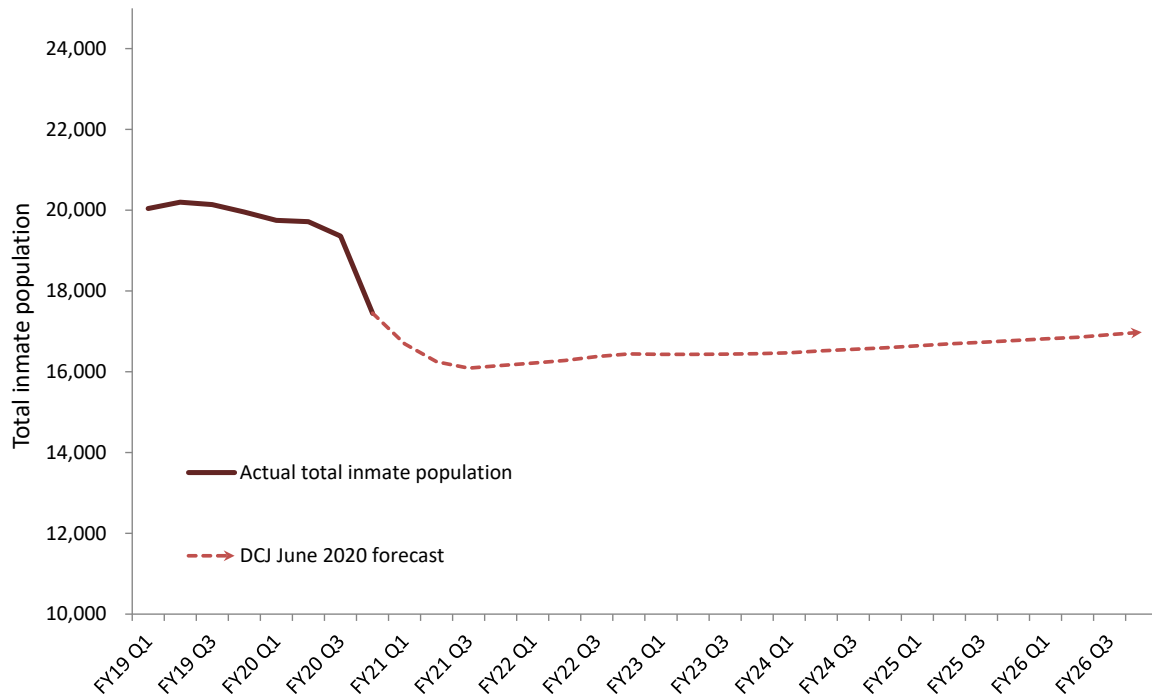
* Actual data provided by Colorado Department of Corrections Monthly Population and Capacity Reports.

Table 4. DCJ June 2020 interim annual prison population projections

FY	Total population	% change	Male inmates	% change	Female inmates	% change
2019*	19,951	-0.92%	17,935	-1.05%	2,016	0.25%
2020	17,448	-12.55%	15,888	-11.41%	1,560	-22.62%
2021	16,154	-7.42%	14,726	-7.32%	1,428	-8.46%
2022	16,442	1.79%	14,995	1.83%	1,447	1.33%
2023	16,449	0.04%	15,018	0.15%	1,431	-1.10%
2024	16,593	0.88%	15,149	0.88%	1,444	0.88%
2025	16,771	1.07%	15,329	1.18%	1,442	-0.09%
2026	16,979	1.24%	15,510	1.18%	1,469	1.83%

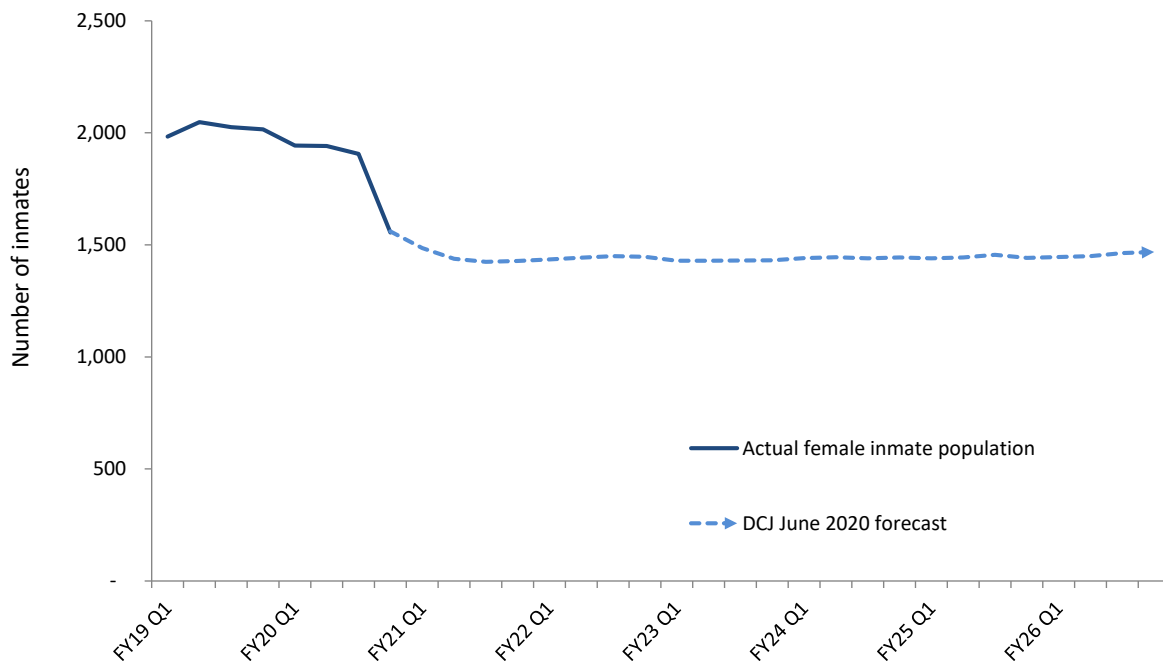
* Actual data provided by Colorado Department of Corrections Monthly Population and Capacity Reports.

Figure 1. End-of-quarter actual total inmate population and DCJ June 2020 interim forecast



Source: Colorado Department of Corrections Monthly Population and Capacity Reports.

Figure 2. End-of-quarter actual female inmate population and DCJ June 2020 interim forecast



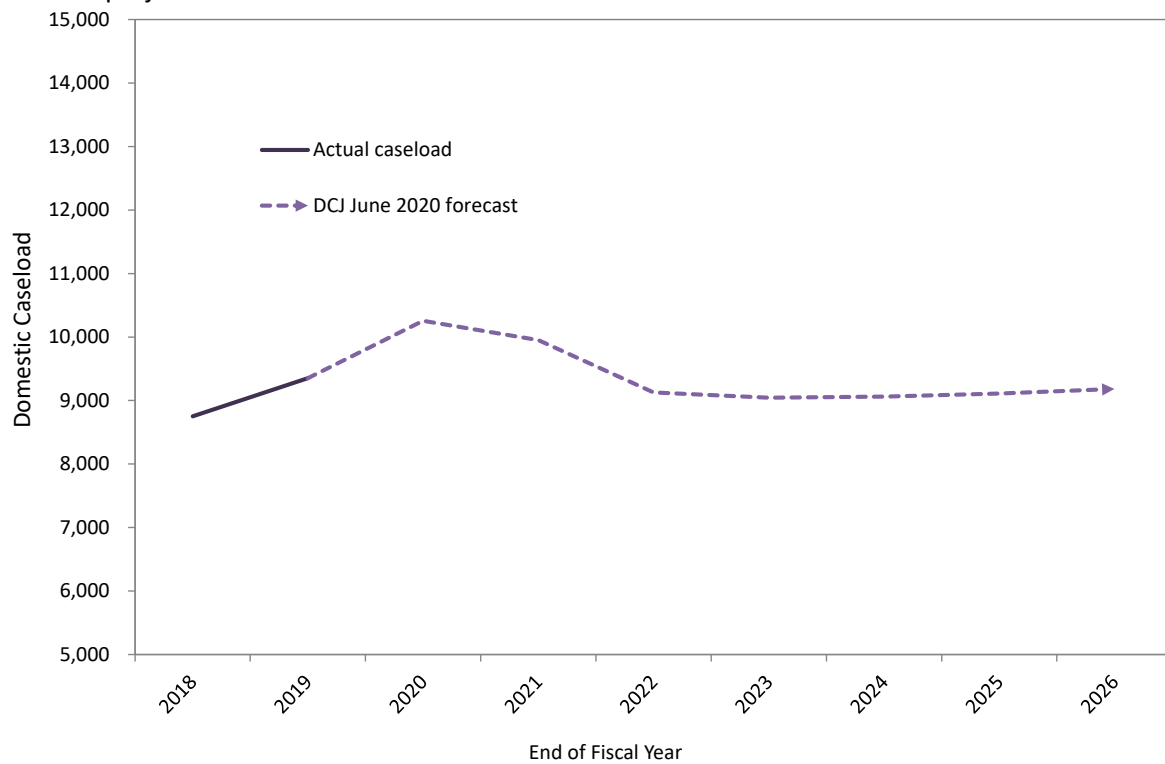
Source: Colorado Department of Corrections Monthly Population and Capacity Reports.

Table 5. DCJ June 2020 interim domestic parole caseload projection

FY	Domestic Caseload	% change
2019*	9,352	6.86%
2020	10,254	9.64%
2021	9,951	-2.95%
2022	9,128	-8.27%
2023	9,045	-0.91%
2024	9,061	0.17%
2025	9,111	0.55%
2026	9,182	0.78%

* Actual data provided by Colorado Department of Corrections Monthly Population and Capacity Reports.

Figure 3: Domestic parole caseload end of fiscal years 2018 and 2019, DCJ June 2020 interim parole caseload projections



Source: Colorado Department of Corrections Monthly Population and Capacity Reports.