

Section 3: Adults in the criminal justice system



This section describes the complex entity referred to as the criminal justice system.

The idea that there is a “system” involving law enforcement, courts, jails, and corrections evolved in the late 1960s. This “system” was defined for the first time in the final report of the President’s Commission on Law Enforcement and the Administration of Justice in 1967. The Commission defined an entity with independent and interdependent agencies – organizations that often had overlapping jurisdictions and conflicting objectives.

The Commission studied criminal justice in the states for over two years and in its multiple-volume report made hundreds of recommendations for integrating the various elements of the criminal justice system. The Commission’s recommendations included enhancing training and education to increase professionalism, and the development of transparent policies that described the methods used to make case processing decisions.

Most of the Commission’s recommendations were incorporated into the federal 1968 Safe Streets Act. With the passage of the Safe Streets Act, federal funding to implement improvements in local criminal justice practices began flowing to each state.

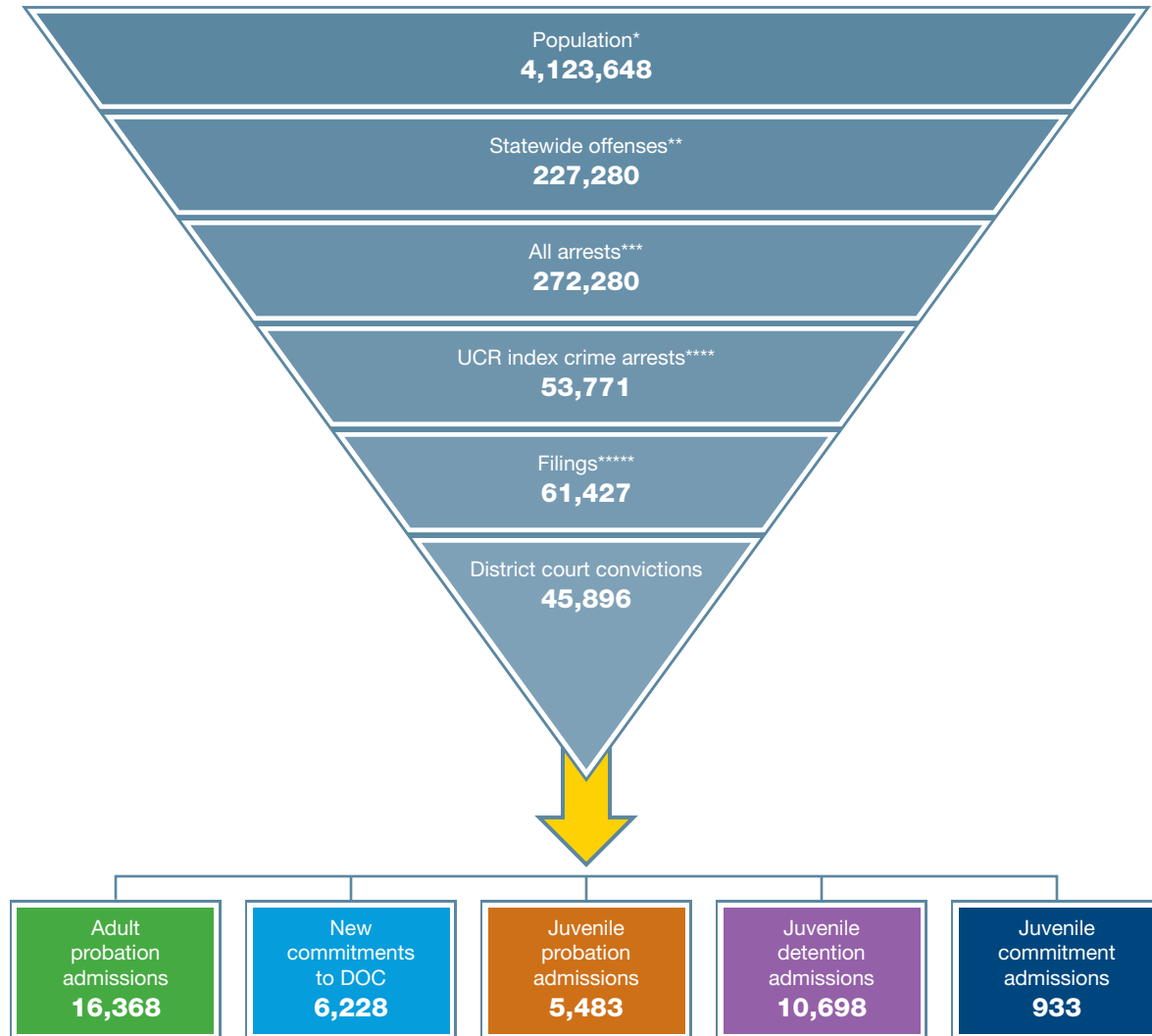
The President’s Commission recommended – and the 1998 Safe Streets Act mandated – the creation of state planning agencies that would set priorities for criminal justice improvement. The Commission emphasized the need for research to guide criminal justice planning at the state and local levels.

The Division of Criminal Justice is the state-level criminal justice planning agency in Colorado. The Office of Research and Statistics (ORS) represents the research effort described in that original 1968 Crime Act. Central questions that the ORS targets in its research include the following:

- How are cases processed through the criminal justice system? Where are the decision points? What factors affect decisions regarding court case filings, prosecutions, convictions and sentencing?
- Do jurors understand complex DNA evidence?
- How can this information best be communicated to decision makers?

Crime funnel

Figure 3.1. The crime funnel in 2005



Notes:

* Population includes anyone over the age of 10 years old. Population data are reported for calendar years. Population estimates are based upon the 2000 census.

** The statewide offense totals are from 2005.

*** The arrests are from 2005.

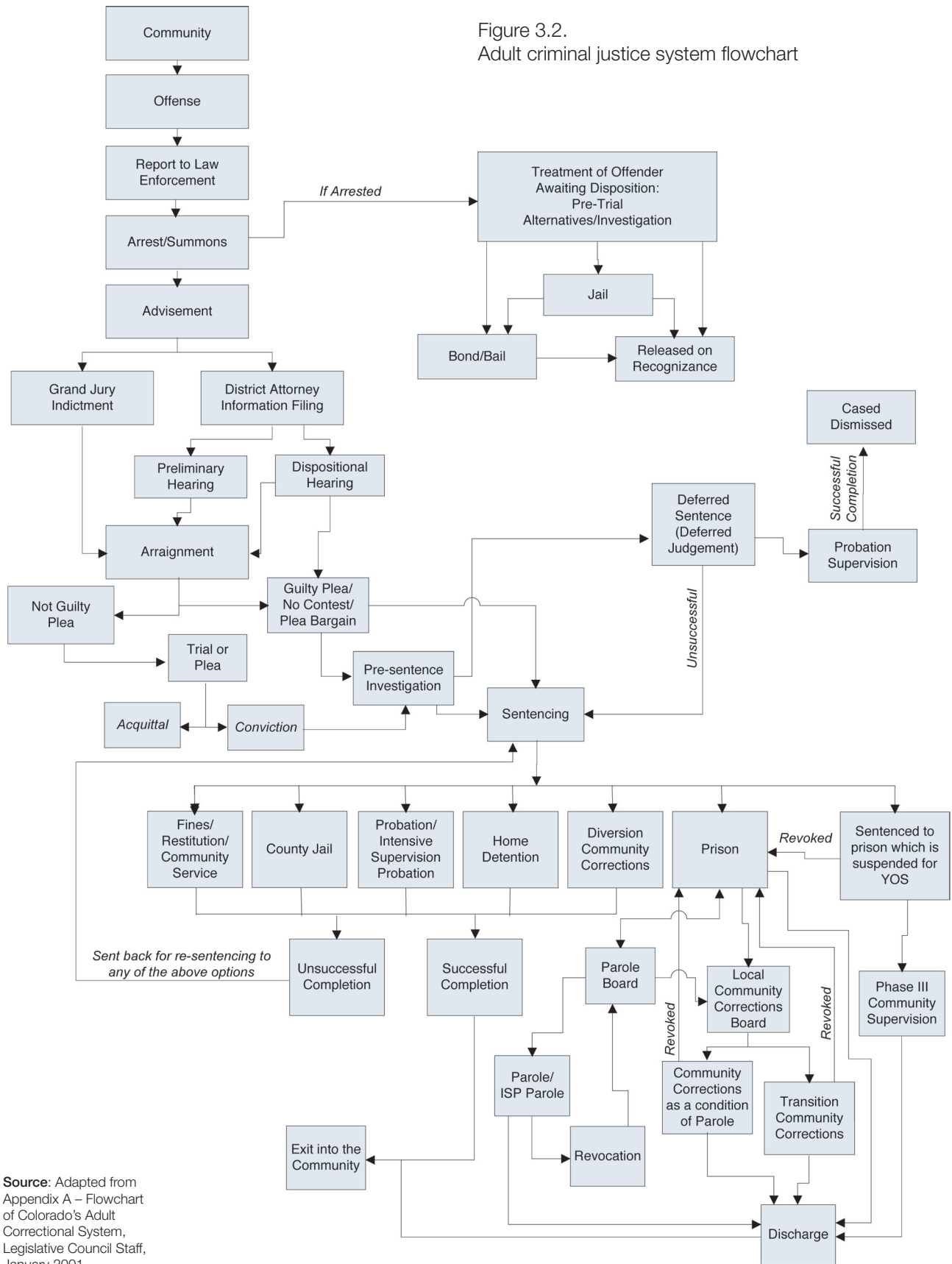
**** The UCR index crimes include murder, forcible rape, other sex offenses, robbery, aggravated assault, other assaults, burglary, larceny, auto theft, and arson. The index crime arrests are from calendar year 2005.

***** Filings include district criminal (CR) and juvenile delinquency (JD).

***** These numbers are for district court only (CR and JD cases). Estimate based on data from CJASS. The estimate is based on date of sentencing.

Sources: *Population* – Colorado State Department of Local Affairs available at <http://dola.colorado.gov/dlg/demog/index.html>. *Offense* – Colorado Bureau of Investigations, Crime in Colorado 2005. *Arrest* – Colorado Bureau of Investigations, Crime in Colorado 2005. *Filings* – Colorado Judicial Branch Annual Statistical Report Fiscal Year 2006 available at <http://www.courts.state.co.us/panda/statrep/pandaannualsindex.htm>. *Convictions* – Data extracted from CICJIS/CJASS and analyzed by DCJ's Office of Research and Statistics. *Probation* – Colorado Judicial Branch Annual Statistical Report Fiscal Year 2006 available at <http://www.courts.state.co.us/panda/statrep/pandaannualsindex.htm>. *Department of Corrections* – Colorado Department of Corrections Statistical Bulletin, Admission and Release Trends, Bulletin OPA 07-07, October 25, 2006 available at <http://www.doc.state.co.us/Statistics/pdfs/OPABulletins/Obul0707.pdf>. *Juvenile Detention* – Colorado Department of Human Services, Division of Youth Corrections. Management Reference Manual, Fiscal Year 2005-2006. *Juvenile Commitment* – Colorado Department of Human Services, Division of Youth Corrections. Management Reference Manual, Fiscal Year 2005-2006.

Adult cases processed through Colorado's criminal justice system



Source: Adapted from Appendix A – Flowchart of Colorado's Adult Correctional System, Legislative Council Staff, January 2001.

The criminal justice system is a complex process that involves multiple agencies with different purposes, policies, decision makers and jurisdictions. Much of the system is defined in statute. Figure 3.2, combined with the information on the following five pages, provides a general description of how criminal cases move through the system in Colorado.

Community

Offense

Report to Law Enforcement

Arrest /Summons

16-3-101 C.R.S. through 16-3-102 C.R.S.

A peace officer may arrest a person when: there is a warrant commanding that the person be arrested; any crime has been or is being committed by such person in the peace officer's presence; or the peace officer has probable cause to believe that the offense was committed by the person to be arrested.

Pre-trial Alternatives/Pre-trial Investigation

16-4-105 (3) C.R.S.

Pre-trial service programs in the District Attorney's office establish procedures for screening arrested persons. The programs provide information to the judge to assist in making an appropriate bond decision. The programs may also include different methods and levels of community based supervision as a condition of pretrial release. It is at this stage that the judge decides what, if any, pretrial release is appropriate.

Jail

17-26-101 C.R.S.

Lawfully committed persons and prisoners are housed in a county jail for detention, safekeeping, and confinement. Each county in the state is required to maintain a jail except counties with populations of less than 2,000.

Bond/Bail

16-4-101 C.R.S., et seq

All persons are eligible for bond except:

- (a) for capital offenses when proof is evident or presumption is great; or
- (b) when, after a hearing held within 96 hours of arrest, the court finds reasonable proof that a crime was committed and

finds that the public would be placed in significant peril if the accused were released on bail and such person is accused in any of the following cases:

(I) a crime of violence while on probation or parole resulting from the conviction of a crime of violence;

(II) a crime of violence while on bail pending the disposition of a previous crime of violence charge for which probable cause has been found;

(III) a crime of violence after two previous felony convictions, or one previous felony conviction if the conviction was for a crime of violence in Colorado or any other state when the crime would have been a felony if committed in Colorado which, if committed in this state, would be a felony;

(IV) a crime of possession of a weapon by a previous offender;

(c) when a person has been convicted of a crime of violence at the trial court level and such person is appealing the conviction or awaiting sentencing for the conviction and the court finds that the public would be placed in significant peril if the convicted person were released on bail.

Released on Recognizance

16-4-104 (1)(a) C.R.S.

A defendant may be released from custody upon execution of a personal recognizance bond which is secured only by the personal obligation of the defendant.

Advisement (or First Appearance)

16-7-207 C.R.S.

At the first appearance of the defendant in court, the court informs the defendant of the following:

(a) that they need make no statement, and any statement made can and may be used against the defendant;

(b) the right to counsel;

(c) the right to the appointment of counsel or to consult with the public defender;

(d) that any plea must be voluntary and not the result of influence or coercion;

(e) the right to bail; whether the law allows bail, and the amount of bail that has been set by the court.

(f) the right to a jury trial; and

(g) the nature of the charges.

Grand Jury Indictment

13-72-101 C.R.S., et seq 13-73-101 C.R.S., et seq 16-5-201 C.R.S., et seq

The court or a district attorney may convene a grand jury to investigate a crime and to return an indictment. Colorado statutes allow county grand juries, judicial district grand juries, and statewide grand juries to be impaneled.

District Attorney (DA) Information Filing

16-5-208 C.R.S.

In all cases where an accused is in county court concerning the commission of a felony and is bound over and committed to jail or is granted bail, the district attorney is responsible for filing an information in the district court alleging the accused committed the criminal offense described in the information. If the district attorney decides not to file charges, he is to file in district court a written statement containing the reasons for not doing so.

Preliminary Hearing

16-5-301 C.R.S. and 18-1-404 C.R.S.

Every person charged with a class 1, 2, or 3 felony and every person accused of a class 4, 5, or 6 felony which requires mandatory sentencing or is a crime of violence or is a sexual offense has the right to demand and receive a preliminary hearing in order to determine whether probable cause exists to believe that the defendant committed the charged offense.

Dispositional Hearing

16-5-301 C.R.S. and 18-1-404 C.R.S.

Persons charged with a class 4, 5, or 6 felony, except those requiring mandatory sentencing or which are crimes of violence or sexual offenses, must participate in a dispositional hearing for the purposes of case evaluation and potential resolution.

Arraignment

16-7-201 C.R.S. through 16-7-208 C.R.S.

At the time of arraignment the defendant may enter one of the following pleas: a) guilty; b) not guilty; c) nolo contendere (no contest) with the consent of the court; or d) not guilty by reason of insanity, in which event a not guilty plea may also be entered.

Not Guilty Plea >>> Proceed to Trial

16-7-205 C.R.S.

Guilty Plea >>> Proceed to Sentencing

16-7-205 C.R.S.

Deferred Sentencing or Deferred Judgment

18-1.3-102 C.R.S.

After a defendant has pled guilty and the court and DA have agreed, the court may defer sentencing or judgment by continuing the case for up to four years from the date the felony plea was entered (two years from the date the misdemeanor plea was entered). The period may be extended for up to 180 days if failure to pay restitution is the sole condition of supervision which has not been fulfilled and the defendant has shown a future ability to pay. During the period of deferred sentencing, the court may place the defendant under the supervision of the probation department. Upon full compliance with conditions of probation and stipulations agreed to by the defendant and the DA, the plea of guilty previously entered into is withdrawn and the charges dismissed with prejudice. Upon a violation of a condition of probation or a breach of the stipulation, the court must enter judgment and impose a sentence on the guilty plea.

Trial or Plea Bargain

Trial: 16-10-101 C.R.S. through 16-10-401 C.R.S. , 18-1-405 C.R.S. through 18-1-406 C.R.S.

The right of a person who is accused of an offense other than a non-criminal traffic infraction or a municipal ordinance violation to have a trial by jury is inviolate and a matter of substantive due process of law. If the defendant is not brought to trial within six months from the date of the not guilty plea, he or she is to be discharged from custody if he/she has not been admitted to bail, and the pending charges are to be dismissed. The defendant may not be indicted again, informed against, or committed for the same offense. If a continuance has been granted for the defense, the period is extended for an additional six months. If the prosecuting attorney is granted a continuance, the trial can be delayed up to six months only if certain circumstances are met which are noted in Section 18-1-405 (6), C.R.S. Every person accused of a felony has the right to be tried by a jury of 12 whose verdict must be unanimous. A person may waive the right to a jury trial except in the case of class 1 felonies.

Plea Bargain: 16-7-301 C.R.S., et seq

The district attorney may engage in plea discussions to reach a plea agreement in those instances where it appears that the effective administration of criminal justice will be served. The DA should only engage in plea discussions in the presence of the defense attorney. When a plea has been

reached, the prosecutor informs the court of the terms of the plea agreement and the recommended penalty. The court then advises the defendant that the court exercises independent judgment in deciding whether to grant charge and sentence concessions made in the plea agreement and that the court may sentence the defendant in a manner that is different than that discussed in the plea discussions. The court may then concur or not concur with the proposed plea agreement.

Pre-Sentence Investigation

16-11-102 C.R.S.

Following each felony (other than a class 1) conviction, or upon court order in a misdemeanor conviction, the probation officer conducts an investigation and makes a written report to the court before sentencing. Presentence reports include a substance abuse assessment or evaluation. The report also includes, but is not limited to, the following information: family background, educational history, employment record, past criminal record including any past juvenile delinquency record involving unlawful sexual behavior, an evaluation of alternative dispositions available, a victim impact statement, and such other information that the court may require. Copies of the report, including any recommendations, are given to the prosecutor and the defense attorney no less than 72 hours prior to the sentencing hearing.

Sentencing

18-1.3-104 C.R.S.

The trial court has the following alternatives in imposing a sentence: grant probation; imprisonment for a definite period of time or even death (which is a separate finding of appropriateness by the jury); the payment of a fine or to a term of imprisonment or to both a term of imprisonment and the payment of a fine; any other court order authorized by law; or payment of costs. Non-violent offenders may be sentenced to probation, community corrections, home detention, or a specialized restitution and community service program.

Community Service, Restitution, and Fines

Community service: 18-1.3-507 C.R.S.

Offenders may be court ordered to perform community or useful public service which will be monitored.

Restitution: 18-1.3-601 C.R.S., et seq

Every order of conviction of a felony, misdemeanor, petty, or traffic misdemeanor offense shall include consideration of restitution.

Fines: 18-1.3-701 C.R.S., et seq

Fees and fines are given out when there has been a conviction or adjudication to cover the costs of prosecution, the amount of the cost of care, and any fine imposed.

County Jail

18-1.3-501 C.R.S., et seq

Offenders convicted of a misdemeanor offense are punishable by fine or imprisonment. A term of imprisonment for a misdemeanor is not served in a state correctional facility unless the sentence is served concurrently with a term of conviction for a felony. The court may also sentence an offender to a term of jail and probation (Section 18-1.3-202, C.R.S.), to a term of jail and work release (Section 18-1.3-207, C.R.S.), or to a term of jail and a fine (Section 18-1.3-505, C.R.S.).

Probation

18-1.3-201 C.R.S., et seq

Offenders are eligible for probation with the following exceptions: (1) those convicted of a class 1 felony or class 2 petty offense; (2) those who have been convicted of two prior felonies in Colorado or any other state; and (3) those convicted of a class 1, 2 or 3 felony within the last ten years in Colorado or any other state. Eligibility restrictions may be waived by the sentencing court upon the recommendation of the DA. In considering whether to grant probation, the court may determine that prison is a more appropriate placement for the following reasons: (1) there is an undue risk that the defendant will commit another crime while on probation; (2) the defendant is in need of correctional treatment; (3) a sentence to probation will unduly depreciate the seriousness of the defendant's crime or undermine respect for law; (4) past criminal record indicates that probation would fail to accomplish its intended purpose; or (5) the crime and the surrounding factors do not justify probation.

Intensive Supervision Probation (ISP)

18-1.3-208 C.R.S.

The court may sentence an offender who is otherwise eligible for probation and who would otherwise be sentenced to the DOC to ISP if the court determines that the offender is not a threat to society. Offenders on ISP receive the highest level of supervision provided to probationers including highly restricted activities, daily contact between the offender and the probation officer, monitored curfew, home visitation, employment visitation and monitoring, and drug and alcohol screening.

Home Detention

18-1.3-105 C.R.S.

Home detention is an alternative correctional sentence in which a defendant convicted of a felony (except a class 1 felony) is allowed to serve the sentence or term of probation at home or another approved residence. Home detention programs require the offender to stay at the residence at all times except for approved employment, court-ordered activities, and medical appointments. A sentencing judge may sentence an offender to a home detention program after considering several factors such as the safety of the victims and witnesses and the public at large, the seriousness of the offense, the offender's prior criminal record, and the ability of the offender to pay for the costs of home detention and provide restitution to the victims.

Community Corrections

18-1.3-301 C.R.S.

Any district court judge may refer an offender convicted of a felony to a community corrections program unless the offender is required to be sentenced as a violent offender. The court may also refer an offender to community corrections as a condition of probation. Any offender sentenced by the court to community corrections must be approved by the local community corrections board for acceptance into the program.

Prison

18-1.3-401 C.R.S., *et seq*

Persons convicted of felony offenses are subject to a penalty of imprisonment for a length of time that is specified in statute corresponding to the felony class for which the offender was convicted.

Sentence to Prison which is Suspended for the Youthful Offender System (YOS)

18-1.3-407 C.R.S.

Certain juveniles tried and sentenced as adults may be sentenced to the YOS as an alternative to a sentence to prison. In order to sentence a juvenile to the YOS, the court must first impose a sentence to the DOC which is then suspended on the condition that the youthful offender completes a sentence to the YOS, including a period of community supervision. A sentence to the YOS is a determinate sentence of not less than two years nor more than six years; except that a juvenile convicted of a class 2 felony may be sentenced for a determinate period of up to seven years. The DOC will also place the youth under community supervision for a period of not less than six months and up to

12 months any time after the date on which the youth has 12 months remaining to complete the determinate sentence.

Unsuccessful Completion

Back to sentencing.

Successful Completion

Back to the community.

Parole Board

17-2-201 C.R.S., *et seq*

The Parole Board consists of seven members appointed by the Governor and confirmed by the Senate. The board considers all applications for parole and conducts parole revocation hearings. If the board refuses parole, the board must reconsider parole every year thereafter until parole is granted or the offender is discharged. For class 1 or 2 crimes of violence, class 3 sexual assault, habitual offenders, and sex offenders, the board has to review parole once every three years.

Local Community Corrections Board

17-27-103 C.R.S.

Local community corrections boards are the governing bodies of community corrections programs. Locally elected officials appoint community corrections boards. These boards' authority includes the following: to approve or disapprove the establishment and operation of a community corrections program; to enter into contracts to provide services and supervision for offenders; to accept or reject any offender referred for placement in a community corrections facility; the authority to reject an offender after placement in a community corrections program; to establish and enforce standards for the operation of a community corrections program; and to establish conditions for the conduct of offenders placed in community corrections programs.

Parole/Intensive Supervision Programs

17-22.5-403 C.R.S. and 17-27.5-101 C.R.S.

Offenders sentenced for class 2, 3, 4, 5, or 6 felonies are eligible for parole after serving 50 percent of their sentence, less earned time. Offenders convicted for more serious crimes, as defined by statute, are required to serve 75 percent of their sentence less earned time before being eligible for parole. DOC inmates who have no more than 180 days until their PED are eligible for placement in ISP. In addition, offenders in a community corrections facility who have met residential program requirements and who have no more than 180 days until their PED are eligible for ISP.

Revocation

17-2-103 C.R.S.

A parolee who violates the conditions of parole may have their parole revoked. Such violations include a warrant for the parolee's arrest, commission of a new offense, belief that the parolee has left the state, refusal to appear before the board to answer charges of violations, or testing positive for an illegal or unauthorized substance. After the arrest or summons of the parolee, a complaint will be filed by the parole office. A parole hearing relating to the revocation will be held. If the board determines that a violation of a condition or conditions of parole has been committed the board will either revoke parole, continue it in effect, or modify the conditions of parole.

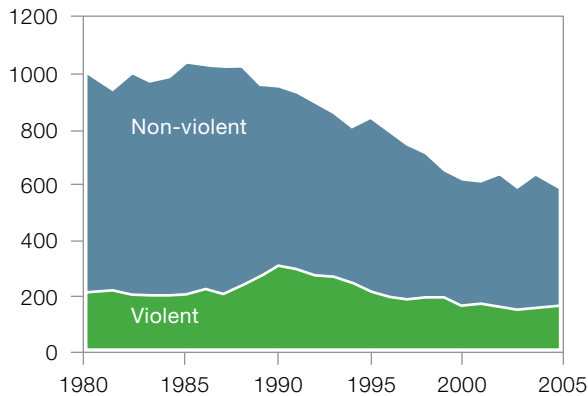
Successful Discharge

The offender successfully completes the conditions of parole or community corrections and is free to reintegrate into the community.

Source: Adapted from Appendix A – Flowchart of Colorado's Adult Correctional System, Legislative Council Staff, January 2001 p. 181-190.

Adult violent vs. property arrests

Figure 3.3. Colorado adult violent and property arrest rates, 1980-2005

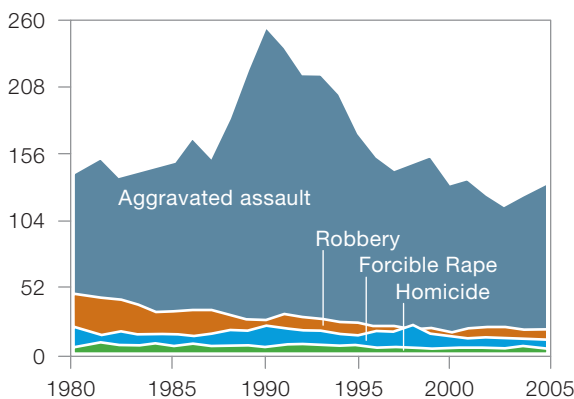


Notes: Rates are per 100,000 adults. Violent arrests include homicide, forcible rape, robbery, and aggravated assault. Property arrests include larceny-theft, burglary, motor vehicle theft, and arson.

Sources: Arrest Data: Colorado Bureau of Investigations Annual Reports, 1980-2005. Population Data: Colorado State Demographer Office, Department of Local Affairs.

- In Colorado, violent arrests on average make up 25% of all the arrests.
- Over the last 25 years, violent and property arrests in Colorado have decreased. Violent arrests have dropped almost 24 percent, while property arrests have decreased 39 percent.

Figure 3.4. Colorado adult violent arrest rates, 1980-2005

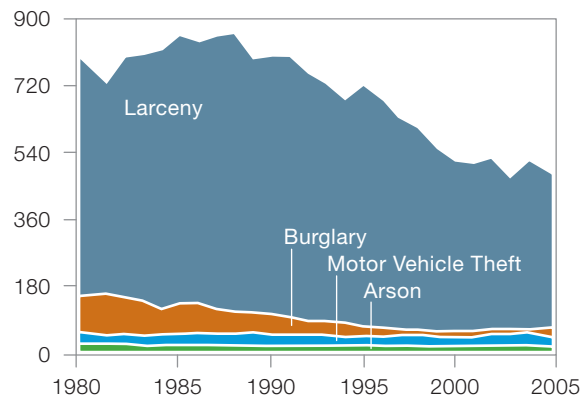


Note: Rates are per 100,000 adults.

Sources: Arrest Data: Colorado Bureau of Investigations Annual Reports, 1980-2005. Population Data: Colorado State Demographer Office, Department of Local Affairs.

- According to the FBI's *Crime in the United States, 2005* report, the nationwide violent arrest rate was 204.8 per 100,000 inhabitants. Colorado had a lower rate of 163.3 violent arrests per 100,000 people.
- The nationwide arrest rate for property crimes was 549.1 per 100,000 inhabitants in 2005. Colorado had a higher rate of property arrests (601.6 per 100,000 people) than the national rate.
- Aggravated assaults make up the vast majority of violent crime arrests.
- Except for aggravated assault, arrests for violent crimes are relatively rare in Colorado.
- All major violent crime arrest rates in Colorado have declined since 1990.

Figure 3.5. Colorado adult property arrest rates, 1980-2005



Note: Rates are per 100,000 adults.

Sources: Arrest Data: Colorado Bureau of Investigations *Crime in Colorado, 1980-2005*. Population Data: Colorado State Demographer Office, Department of Local Affairs.

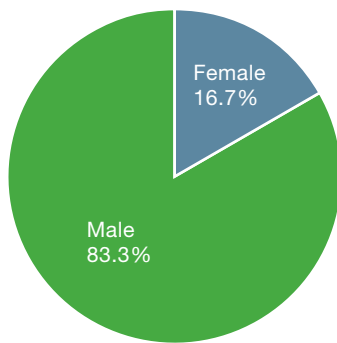
- Larcenies and thefts make up the vast majority of property crimes.
- Larceny/theft arrest rates in Colorado have declined significantly since the late 1980s.

Note the differences in scale used in the figures on this page.

Who gets arrested?

The following figures display demographic information on adults arrested in Colorado during calendar year 2006. The data were extracted from the Colorado Bureau of Investigation's Colorado Criminal History database via the Colorado Justice Analytics Support System (CJASS) and analyzed by DCJ's Office of Research and Statistics. This data source differs from that used to compile the annual *Crime in Colorado* statistics, and the data presented here generally represent arrests involving more serious crimes.

Figure 3.6. Colorado arrestee gender, 2006 (N=29,254)



Source: Arrest data were extracted from the Colorado Bureau of Investigation's Colorado Criminal History (CCH) data via the CICJIS/CJASS and analyzed by DCJ's Office of Research and Statistics.

- Most arrestees were male (83.3 percent) and were white (82.7 percent) in 2006.

Table 3.1. Colorado arrestee race, 2006 (N=29,254)

Race	Percent
Asian	1.0%
Black	15.2%
American Indian	1.1%
White	82.7%
Total	100.0%

Source: Arrest data were extracted from the Colorado Bureau of Investigation's Colorado Criminal History (CCH) data via the CICJIS/CJASS and analyzed by DCJ's Office of Research and Statistics.

- Hispanic individuals are not broken out in the arrest data available, and are included in the 'white' category.

Table 3.2. Colorado arrestee age, 2006 (N=29,254)

Adult arrestee age	Percent
18-24	30.7%
25-29	18.3%
30-34	13.9%
35-39	11.8%
40-44	10.5%
45-49	7.8%
50+	7.0%
Total	100.0%

Adult arrestee gender	Average age
Women	31.6
Men	32.2
Total	32.1

Source: Arrest data were extracted from the Colorado Bureau of Investigation's Colorado Criminal History (CCH) data via the CICJIS/CJASS and analyzed by DCJ's Office of Research and Statistics.

- The average age of arrested adults in 2006 was 32.1. Just under half (49.0 percent) of all adult arrestees were under the age of 30. Female arrestees tended to be slightly younger than male, with an average age of 31.6 years for women compared to 32.2 years for men.

The district attorney's job is to prosecute criminals

Table 3.3. Who exercises discretion?

These criminal justice officials...	Must often decide whether or not or how to...
Police	<ul style="list-style-type: none"> • Enforce specific laws • Investigate specific crimes • Search people, vicinities, buildings • Arrest or detain people
Prosecutors	<ul style="list-style-type: none"> • File charges or petitions for adjudications • Seek indictments • Drop cases • Reduce charges
Judges or magistrates	<ul style="list-style-type: none"> • Set bail or conditions for release • Accept pleas • Determine delinquency • Dismiss charges • Impose sentence • Revoke probation
Correctional officials	<ul style="list-style-type: none"> • Assign to type of correctional facility • Award privileges • Punish for disciplinary infractions
Paroling authorities	<ul style="list-style-type: none"> • Determine date and conditions of parole • Revoke parole

Source: The Justice System, Bureau of Justice Statistics, U.S. Department of Justice available at <http://www.ojp.usdoj.gov/bjs/justsys>.

The American prosecutor is unique in the world¹

The American prosecutor is a public prosecutor representing the people in matters of criminal law. Traditionally, European societies viewed crimes as wrongs against an individual whose claims could be pressed through private prosecution. The prosecutor in the United States is usually a local official, reflecting the development of autonomous local governments in the colonies. As an elected official, the local prosecutor is responsible only to the voters.

Prosecution is the function of representing the government in criminal cases

After the police arrest a person suspected to have committed a crime, the prosecutor coordinates the government's response to crime—from the initial screening, when the prosecutor decides whether or not to press charges, through trial and, in some instances, at the time of sentencing, by the presentation of sentencing recommendations.

Prosecutors have been accorded much discretion in carrying out their responsibilities. They make many of the decisions

that determine whether or not a case will proceed through the criminal justice process.

Most felony cases in Colorado are prosecuted by district attorneys

The primary duty of the district attorney in Colorado is to appear on behalf of the state, the people, or any county in the district in all indictments, actions and proceedings filed in district court. The district attorney will also prosecute cases that are transferred to the district from another by a change of venue.

A district attorney is elected in each of Colorado's 22 judicial districts to prosecute criminal cases on behalf of the state (the people). The district attorney is a part of the executive branch of government. Deputy district attorneys may be appointed by the district attorney to assist with the duties of the office.

The state attorney general and the U.S. attorneys also prosecute cases in the state

The attorney general prosecutes and defends all suits relating to matters of state government except those that involve the legislative branch. The attorney general is elected by the people and is a member of the governor's cabinet. Federal prosecution is the responsibility of 94 U.S. attorneys who are appointed by the president.

¹ *The Justice System*, Bureau of Justice Statistics, U.S. Department of Justice available at <http://www.ojp.usdoj.gov/bjs/justsys>.

Discretion is exercised throughout the criminal justice system

The responsibility to respond to most crime rests with state and local governments. Police protection is primarily a function of cities and towns. Corrections are primarily a function of state governments. Most justice personnel are employed at the local level.

Discretion is “an authority conferred by law to act in certain conditions or situations in accordance with an official’s or an official agency’s own considered judgment and conscience.”¹ Discretion is exercised throughout the government. It is a part of decision making in all government systems from mental health to education, as well as criminal justice. The limits of discretion vary from jurisdiction to jurisdiction.

Concerning crime and justice, legislative bodies have recognized that they cannot anticipate the range of circumstances surrounding each crime, anticipate local mores, and enact laws that clearly encompass all conduct that is criminal and all that is not.² Therefore, persons charged with the day-to-day response to crime are expected to exercise their own judgment within limits set by law. Basically, they must decide – whether to take action where the situation

fits in the scheme of law, rules, and precedent which official response is appropriate.³

To ensure that discretion is exercised responsibly, government authority is often delegated to professionals. Professionalism requires a minimum level of training and orientation, which guide officials in making decisions. The professionalism of policing is due largely to the desire to ensure the proper exercise of police discretion.

The limits of discretion vary from state to state and locality to locality. For example, some state judges have wide discretion in the type of sentence they may impose. In recent years other states have sought to limit the judges’ discretion in sentencing by passing mandatory sentencing laws that require prison sentences for certain offenses.

Source: Bureau of Justice Statistics, U.S. Department of Justice available at <http://www.ojp.usdoj.gov/bjs/justsys>.

¹ Pound, Roscoe (1960). Discretion, dispensation and mitigation: The problem of the individual special case, *New York University Law Review*, Vol. 35, pages 925-926.

² LaFave, Wayne R. (1965). *Arrest: The decision to take a suspect into custody*. Little, Brown & Co., Boston, pp. 63-184.

³ Memorandum of June 21, 1977, from Mark Moore to James Vorenberg, “Some abstract notes on the issue of discretion.” As cited in *The Justice System*, Bureau of Justice Statistics, U.S. Department of Justice available at <http://www.ojp.usdoj.gov/bjs/justsys>.

A criminal action may be commenced in several ways

A criminal action for violation of any statute may be commenced in one of the following ways:

- Return of an indictment by a grand jury
- Filing of information in district court
- Filing of a felony complaint in county court

Whatever the method of accusation, the state must demonstrate at this stage that there is probable cause to support the charge

Colorado law provides a simple and expeditious method for the prosecution of misdemeanor and petty offenses in county court.

A summons and complaint can be issued by a police officer for a misdemeanor or petty offense. The summons and

complaint directs the defendant to appear in county court at a stated date and time. Or a summons can be issued after a complaint is filed in county court. A trial may be held upon appearance of the defendant before the judge or the case is set for trial as soon as possible. Judgments of the county court in a criminal action under the simplified procedure may be appealed to district court.

When a person is arrested for a class two petty offense (a minor offense) the arresting officer may issue a penalty assessment notice. If the defendant wishes to acknowledge his guilt, he may pay the specified fine in person or by mail if he chooses not to acknowledge guilt; he shall appear in court as required by the notice.

Small claims courts are divisions of county court. Individuals are allowed to argue their own cases and to have speedy decisions on civil matters involving no more than \$7,500. Court sessions are held during the day or evening to accommodate the public. There are no jury trials in small claims courts, and

magistrates sometimes hear these cases rather than a judge. No plaintiff may file more than two claims per month or eighteen claims per year in small claims court.

The decision to charge is solely at the prosecutor's discretion

Once an arrest is made and the case is referred to the district attorney, most district attorneys screen cases to determine whether the case merits prosecution. The district attorney may refuse to prosecute, for example, because of insufficient evidence. The district attorney has the power to dismiss cases or to decide which of several possible charges to press in a prosecution. The decision to charge is not reviewable by any other branch of government. Some prosecutors accept almost all cases for prosecution; others screen out many cases.

Once charges are filed, a case may be terminated only by official action

The prosecutor can drop a case after making efforts to prosecute, or the court can dismiss the case on motion of the defense on grounds that the government has failed to establish that the defendant committed the crime charged. The prosecution may also recommend dismissal, or the judge may take the initiative in dismissing a case. A dismissal is an official action of the court.

What are the most common reasons for rejection or dismissal?

Many criminal cases are rejected or dismissed because of:

- Evidence problems that result from a failure to find sufficient physical evidence that links the defendant to the offense.
- Witness problems that arise, for example, when a witness fails to appear, gives unclear or inconsistent statements, is reluctant to testify, or is unsure of the identity of the offender.
- Prosecutive merit wherein the prosecutor decides not to prosecute certain cases based on the merit of the case. For example, some cases referred to the district attorney are more appropriately handled as civil, petty or misdemeanor matters.
- Due process problems that involve violations of the Constitutional requirements for seizing evidence and for questioning the accused. Due process problems also result from excessive delays in filing the case.
- Combination with other cases, for example, when the accused is charged in several cases and the prosecutor

prosecutes all of the charges in a single case. Cases are often dismissed if the defendant pleads guilty in another case.

- Fugitives from another jurisdiction may have their case dismissed if the other jurisdiction prosecutes.
- Pretrial diversion that occurs when the prosecutor and the court agree to drop charges when the accused successfully meets the conditions for diversion, such as completion of a treatment program.

There are many reasons a case is dismissed by the prosecutor, including lack of evidence to pursue the case, dropping charges when a defendant is found guilty in another case, and when a jury finds a defendant not guilty.

The Fourth Amendment prohibits unreasonable searches and seizures in the collection of evidence

Under the exclusionary rule, evidence obtained in violation of the Fourth Amendment may not be used in criminal proceedings against the accused. Both the police and prosecutors drop cases based on what they find is improperly obtained evidence.

Most of the cases with due process problems are rejected prior to filing. Nationally, these types of cases account for approximately 2 percent of the cases that are rejected.

Fewer than 1 percent of the cases filed in Colorado are rejected or dismissed because of due process or constitutional problems.

Do jurors understand a DNA expert's intricate analysis and testimony of complex DNA evidence?

Researchers suggest five ways to facilitate juror understanding of DNA evidence:

- Distribute juror notebooks that contain copies of the expert's slides, overheads, and charts; a glossary of technical terms; a list of the issues presented by the DNA evidence; and blank paper for note taking.
- Distribute a checklist or inference chart listing the issues presented by the DNA evidence and provide a step-by-step pathway for the jurors' resolution of those issues.

- Provide a brief, straightforward explanation of forensic DNA without burdening jurors with nonessential technical details about the analysis. Some deliberating jurors complained about “technical overload” of essentially uncontested matters.
- Allay fears of contamination—even in cases where there is no evidence it has occurred. A significant number of jurors believed sample contamination was a problem despite the total lack of evidence or argument by defense counsel to suggest it occurred.
- Encourage jurors to weigh the probative value of the DNA evidence linking the defendant to the crime with the value of other nonscientific evidence. Jurors attempt to combine both types of information to arrive at an opinion regarding guilt, but are unsure how to do so. Attorneys and experts should present simple, understandable approaches to considering the value of different types of evidence.

Sources: Dann, B.M., Hans, V.P. Kaye, D. H. (2006). Can Jury Trial Innovations Improve Juror Understanding of DNA Evidence? *National Institute of Justice Journal*, Issue No. 255. Available at <http://www.ncjrs.gov/pdffiles1/nij/jr000255.pdf>; Dann, B.M., Hans, V.P. Kaye, D.H., *Testing the Effects of Selected Jury Trial Innovations on Juror Comprehension of Contested mtDNA Evidence*, final report submitted to the National Institute of Justice, Washington, DC: August 2005 (NCJ 211000), available at www.ncjrs.gov/pdffiles1/nij/grants/211000.pdf.

- ***In 2005, a quarter of the prosecutor's offices participated in or served on a state or local homeland security task force, with a third having staff that attended homeland security training.***
- ***60 percent of prosecutors in 2005 litigated a variety of crimes related to computer and electronic commerce fraud (felony or misdemeanor), a 20 percent increase compared to 2001.***
- ***In 2005, 70 percent of prosecutors had at least one case involving the transmission of child pornography, an increase of 40 percent compared to 2001.***
- ***Approximately 70 percent of the prosecutors' nationwide litigated an identity theft case in 2005, an increase of 50 percent since 2001.***

Source: Bureau of Justice Statistics, 2006. *2005 National Survey of Prosecutors Questionnaire*. Available at <http://www.ojp.usdoj.gov/bjs/pros.htm>.

Right to counsel and methods for providing indigent criminal defense

The Sixth Amendment to the U.S. Constitution establishes the right to counsel in federal criminal prosecution. Through a series of landmark decisions by the U.S. Supreme Court, the right to counsel was extended to all criminal prosecutions, state or federal, felony or misdemeanor, that carry a sentence of imprisonment.

States and localities use several methods for delivering indigent criminal defense services:

- Public defender programs
- Assigned counsel programs
- Contract attorneys

The federal system also has several types of programs to deliver indigent criminal defense:

- Public defender organizations
- Community defender organizations
- Panel attorneys

“The right of one charged with crime to counsel may not be deemed fundamental and essential to fair trials in some countries, but it is in ours.”

Gideon v. Wainwright, 372 U.S. 335 (1963).

In a report prepared by the Bureau of Justice Statistics from a variety of data sources,² researchers found that, in both federal and large state courts, conviction rates were the same for defendants represented by publicly financed and private attorneys. Approximately 9 in 10 federal defendants and 3 in 4 state defendants in the 75 largest counties were found guilty, regardless of type of attorney. However, of those found guilty, higher percentages of defendants with publicly financed counsel were sentenced to incarceration. Of defendants found guilty in federal district courts, 88 percent with publicly financed counsel and 77 percent with private

counsel received jail or prison sentences; in large state courts 71 percent with public counsel and 54 percent with private attorneys were sentenced to incarceration.

Indigent criminal defense programs in the largest 100 counties received an estimated 4.2 million cases in 1999. About 80 percent were criminal cases, 8 percent juvenile related, 2 percent civil, and 9 percent other types of cases dealing with issues such as juvenile dependency, abuse and neglect, and contempt. Public defenders handled 82 percent of the 4.2 million cases in these counties, court appointed private attorneys 15 percent and contract attorneys 3 percent.

The public defender system in Colorado

This system is comprised of 21 trial offices located throughout the state that handle felony and misdemeanor cases in Colorado’s state and county courts. The system also has a centralized appellate office that handles felony appeals from every jurisdiction in the state, as well as a state-wide administrative office. According to the State Public Defender’s Office website, the office employs approximately 203 trial attorneys, 25 appellate attorneys, 56 secretaries and 70 investigators.

The Colorado State Public Defender’s Office was recognized for its program structure in 1998 by *The Economist* magazine as one of only two public defense systems in the United States that has successfully implemented a structure allowing for zealous client advocacy in a cost-effective manner. Criminal defense organizations and court administration officials from many countries, including Russia, Japan, Egypt, and New Zealand, have traveled to meet with Colorado officials to learn more about the organization.³

² Harlow, C.W. (2000). *Defense Counsel in Criminal Cases*. Bureau of Justice Statistics, U.S. Department of Justice. NCJ 179023. Data are from the Administrative Office of the U.S. Courts Federal Defender Services (1994-1998), 1998 Administrative Office of the U.S. Courts Criminal Master File, BJS State Court Processing Statistics (1992, 1994, and 1996), BJS National Survey of State Court Prosecutors (1990, 1992, and 1994), 1996 Survey of Inmates in Local Jails, and 1997 Surveys of Inmates in State and Federal Correctional Facilities.

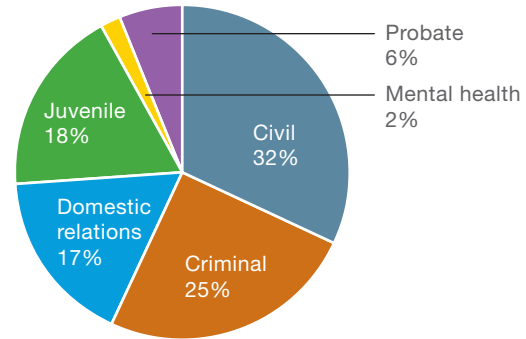
³ For more information go to http://www.state.co.us/gov_dir/pdef_dir/pd.htm.

Colorado case filings

Figure 3.7. Colorado filings: District court, FY 2006

District courts

- Criminal cases make up a quarter (25 percent) of the district court filings.
- There were 189,415 case filings at the district court level (excluding water cases) during FY 2006. This is 24.7 percent increase over the last ten years. The greatest area of increase has been with civil cases.
- Colorado's district courts terminated 186,392 cases during FY 2006.



Source: Colorado Judicial Branch Annual Statistical Report Fiscal Year 2006 Chart 2 available at <http://www.courts.state.co.us/panda/statrep/ar2006/arfiles/chart1-2.pdf>.

Table 3.4. Colorado district court caseloads FY 1997 to FY 2006

Case class	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05	FY 06
Civil										
New cases filed	33,434	40,389	38,848	39,161	37,235	41,349	43,976	51,846	55,465	60,546
Cases terminated*	33,825	43,442	37,969	38,783	36,817	41,277	4,300	50,777	54,912	59,146
Criminal										
New cases filed	33,867	38,815	37,538	35,770	36,860	39,147	41,257	42,427	45,405	46,501
Cases terminated*	41,680	36,455	38,880	36,037	35,071	37,621	39,725	40,588	42,569	46,127
Domestic relations										
New cases filed	31,819	32,179	31,855	32,318	31,068	32,166	31,771	30,826	31,063	32,481
Cases terminated*	39,426	35,030	38,934	33,146	31,468	33,719	32,282	31,510	31,197	32,316
Juvenile										
New cases filed	37,540	38,905	37,214	36,601	34,481	35,691	36,362	36,078	34,851	33,709
Cases terminated*	59,908	37,062	35,616	40,434	35,910	35,409	35,902	35,561	33,546	32,960
Mental health										
New cases filed	3,840	4,139	4,142	4,141	4,216	4,229	4,330	4,528	5,021	4,653
Cases terminated*	3,803	3,804	4,149	4,544	4,290	4,194	4,405	4,308	4,782	4,679
Probate										
New cases filed	11,432	11,412	11,714	11,605	11,360	11,655	11,762	11,653	11,706	11,525
Cases terminated*	11,768	9,742	9,888	18,618	11,577	13,675	11,946	13,562	12,989	11,164
Total										
New cases filed	151,932	165,839	161,341	159,596	155,220	164,237	169,458	177,358	183,511	189,415
Cases terminated*	190,410	165,535	165,436	171,562	155,133	165,895	167,260	176,306	179,995	186,392

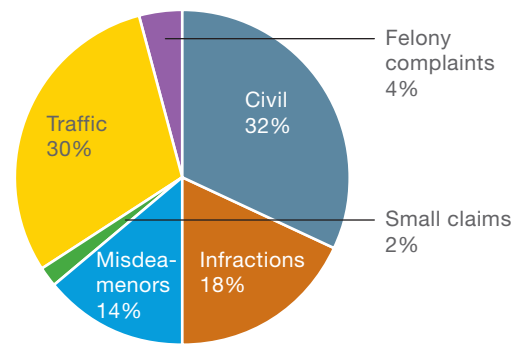
Note: *Termination levels have fluctuated over the past several years as districts have continued to address issues created by computer conversion. In some instances, conversion caused previously terminated cases to reopen, resulting in a temporary inflated termination count at the time districts reclosed them.

Source: Colorado Judicial Branch Annual Statistical Reports Fiscal Years 2005 and 2006 Table 11.

County courts

- Almost a third (32 percent) of the county court filings were for civil cases.
- In FY 2006, Colorado county courts had 556,136 cases filed. During the past ten years, county court filings have increased 17.7 percent with the greatest area of increase occurring in civil filings.
- Colorado's county court terminated 536,244 cases during FY 2006.

Figure 3.8. Colorado filings: County court, FY 2006



Source: Colorado Judicial Branch Annual Statistical Report Fiscal Year 2006 Chart 4 available at <http://www.courts.state.co.us/panda/statrep/ar2006/arfiles/chart3-4.pdf>.

Table 3.5. County court caseloads FY 1997 to FY 2006 (Does not include Denver county court)

Case class	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05	FY 06
Civil										
New cases filed	119,076	120,846	121,897	127,017	139,919	151,905	165,210	165,324	175,847	176,244
Cases terminated*	116,697	118,561	124,746	137,436	138,581	151,773	162,492	165,761	174,773	176,714
Infractions										
New cases filed	82,963	68,184	64,018	70,094	70,090	69,800	74,947	82,732	107,780	101,386
Cases terminated*	85,288	71,789	66,127	70,776	73,560	72,824	73,597	82,382	103,978	105,440
Misdemeanors										
New cases filed	69,125	70,271	69,932	73,853	72,354	72,973	74,367	74,779	72,607	75,703
Cases terminated*	75,431	70,347	73,182	76,011	71,727	75,212	72,932	74,168	71,386	74,938
Small claims										
New cases filed	17,349	16,650	1,588	15,568	14,961	15,591	15,438	14,292	13,588	13,380
Cases terminated*	16,907	1,646	16,747	17,174	14,587	15,624	15,036	15,113	14,005	13,329
Traffic										
New cases filed	169,593	170,614	159,861	140,183	133,860	138,439	149,720	159,413	167,488	168,155
Cases terminated*	180,755	171,321	170,316	168,898	139,866	139,995	144,555	156,139	161,433	165,823
Felony complaints**										
New cases filed	14,345	21,097	20,301	2,010	13,445	21,285	18,833	17,554	18,137	21,268
Cases terminated*	14,345	21,097	20,301	2,010	13,445	21,285	18,833	17,206	18,126	21,268
Total										
New cases filed with felony complaints	472,451	467,662	451,897	446,725	444,629	469,993	498,515	514,094	555,447	556,136
Cases terminated with felony complaints*	489,423	469,761	471,419	490,305	451,766	476,713	487,445	510,769	543,701	557,512
Cases terminated w/out felony complaints*	475,078	448,664	451,118	470,295	438,321	455,428	468,612	493,563	525,575	536,244

Notes: *Termination levels have fluctuated over the past several years as districts have continued to address issues created by computer conversion. In some instances, conversion caused previously terminated cases to reopen, resulting in a temporary inflated termination count at the time districts reclosed them.

**Felony complaints represent the number of criminal cases, docketed as (CR), that begin in county court. The processing of felony cases varies between locations. The counties processing criminal cases hear advisements. Some counties do preliminary hearings in county court before moving the case to district court for completion of the felony process. The case can also be reduced to a misdemeanor and remain in county court. The cases retain the same docket number in either county or district court.

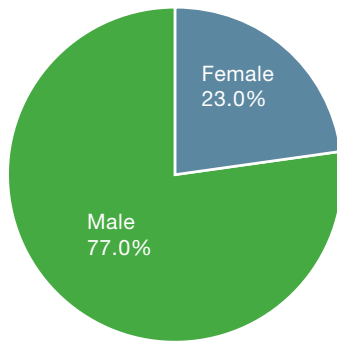
Source: Colorado Judicial Branch Annual Statistical Reports Fiscal Years 2005 and 2006 Table 23 available at <http://www.courts.state.co.us/panda/statrep/pandaannualsindex.htm>.

Who gets prosecuted?

Either by information with an arrest warrant, information subsequent to an arrest or a summons in lieu of an arrest, the district attorney makes a determination regarding whether the case merits prosecution in district court. If so, a case filing is initiated. The information below represents 58,223 Colorado district court criminal cases closed in 2006. Because it takes an average of 6-8 months between arrest and case closing, many of these individuals will have been arrested and filed on prior to 2006.

Filing data were extracted from the Judicial Department's Integrated Colorado Online Network (ICON) information management system via the Colorado Integrated Criminal Justice Information System (CICJIS) Criminal Justice Analytics Support System (CJASS) and analyzed by DCJ's Office of Research and Statistics.

Figure 3.9. Gender, Colorado criminal cases closed in 2006 (N=57,643)



Source: Filing data extracted from the Judicial Department's information management system (ICON) via CICJIS/CJASS and analyzed by DCJ's Office of Research and Statistics.

- The majority of adults filed on in 2006 were male (77 percent) and white (76 percent).
- The majority of adults with cases closed in district court in 2006 were white (76 percent). African Americans comprised the second largest ethnic group at 12 percent, while Hispanic individuals made up 11 percent. Note that data concerning Hispanics are available in the filing data extracted from the Judicial Department's data but are not available from CBI. CBI includes individuals of Hispanic ethnicity in with the 'white' race category, as directed by the FBI.

Table 3.6. Race, Colorado criminal cases closed in 2006 (N=57,633)

Race	Percent
Asian	0.8%
Black	11.7%
Hispanic	10.5%
American Indian	0.7%
Other	0.5%
White	75.8%
Total	100.0%

Source: Filing data extracted from the Judicial Department's information management system (ICON) via CICJIS/CJASS and analyzed by DCJ's Office of Research and Statistics.

Table 3.7. Age group, Colorado criminal cases closed in 2006 (N=58,076)

Age group	Percent
<18	0.3%
18-24	31.5%
25-29	18.0%
30-34	13.3%
35-39	11.6%
40-44	10.1%
45-49	6.6%
50+	5.6%
Total	100.0%

Source: Filing data extracted from the Judicial Department's information management system (ICON) via CICJIS/CJASS and analyzed by DCJ's Office of Research and Statistics.

Table 3.8. Average age by gender, Colorado criminal cases closed in 2006 (N=58,076)

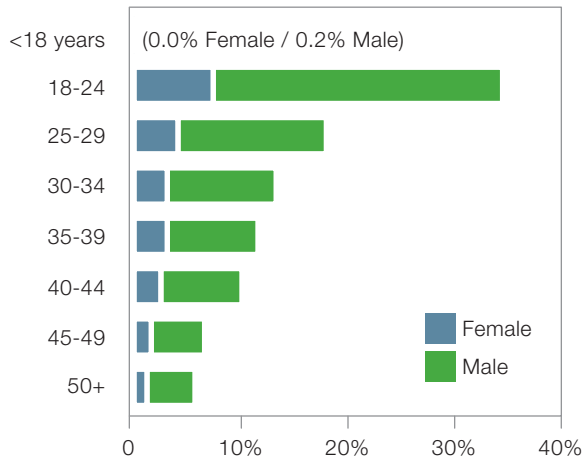
Gender	Average age	Median
Females	31.4%	29.0%
Males	30.9%	28.0%
Total	31.0%	29.0%

Source: Filing data extracted from the Judicial Department's information management system (ICON) via CICJIS/CJASS and analyzed by DCJ's Office of Research and Statistics.

- In 2006, over half of these adults with criminal court cases were between the ages of 18 and 29.
- The average age of adults charged with a crime in district court in 2006 was 31, with a median age of 29.

- A very small number of individuals under the age of 18 were prosecuted in the criminal (adult) court in Colorado.
- Female offenders tended to be slightly older than male offenders.

Figure 3.10. Age group by gender, Colorado criminal cases closed in 2006 (N=57,611)



Source: Filing data extracted from the Judicial Department's information management system (ICON) via CICJIS/CJASS and analyzed by DCJ's Office of Research and Statistics.

Table 3.9 displays reasons for dismissal on a sample of dismissed cases. In one-third of the cases, no reason for dismissal was identified. In 38 percent of the dismissals, the defendant had either plead guilty or was yet to be prosecuted in another court or state. In 8 percent of the cases, a witness either failed to appear or could not be located. A jury found the defendant not guilty in 5 percent of the cases reviewed.

Table 3.9. Reasons for criminal case dismissals

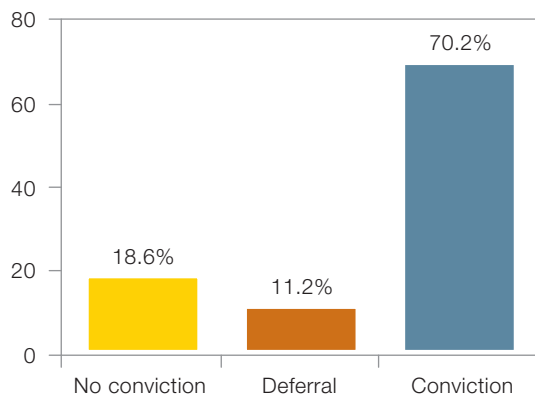
Gender	Count	Percent
DA dismissed, no reason given	55	31.4%
Dismissed due to plea agreement in another case	51	29.1%
DA dismissed Nolle Prosequi (insufficient evidence, couldn't prove case or DA found defendant to be innocent)	21	12.0%
DA dismissed because couldn't locate witness or witness failed to appear	14	8.0%
Jury found not guilty	9	5.1%
Dismissed and charges filed under another case or in another court	9	5.1%
Defendant found incompetent to proceed, placed in state mental health facility	3	1.7%
Extradited to another state	2	1.1%
Set for future hearings	2	1.1%
Dismissed in the "interest of justice"	2	1.1%
Victim didn't want to press charges	1	0.6%
Suicide	1	0.6%
Deferred prosecution	1	0.6%
Jury mistrial and new trial set for future	1	0.6%
Dismissed and will be amended	1	0.6%
Dismissed DA gave 30 days to file alias or dismissed	1	0.6%
DA requested more time	1	0.6%
Total	175	100.0%

Source: Based on review of a random sample of 175 criminal cases that were dismissed in 2003. This represents 2.5% of criminal cases dismissed that year.

How are criminal cases disposed?

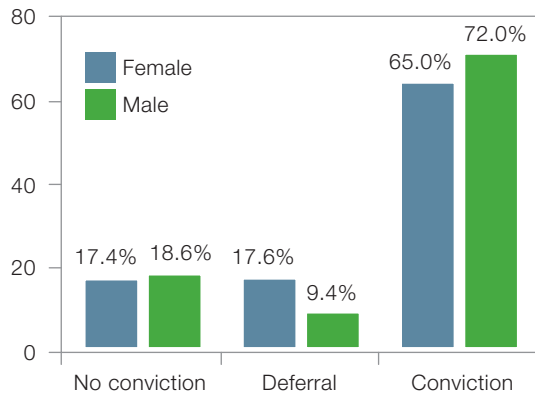
The prosecution of a case may result in several outcomes. A finding of guilty results in a conviction. If charges are dropped or a finding of not guilty is reached, the case results in no conviction. Alternatively, a deferred judgment may be given. This is an arrangement in which a defendant pleads guilty and is supervised by probation or by diversion in the district attorney's office. If the terms of the deferral are successfully completed, the guilty plea is withdrawn and the case is dismissed.

Figure 3.11. Dispositions of Colorado criminal cases closed in 2006 (N=58,223)



Source: Filing data extracted from the Judicial Department's information management system (ICON) via CICJIS/CJASS and analyzed by DCJ's Office of Research and Statistics.

Figure 3.12. Dispositions of Colorado criminal cases closed in 2006 by gender (N=47,104)



Source: Filing data extracted from the Judicial Department's information management system (ICON) via CICJIS/CJASS and analyzed by DCJ's Office of Research and Statistics.

- Once filed, most cases result in a conviction (70.2 percent). Only 18.6 percent result in no conviction.

- In 2006, men were convicted more often than women (72.0 percent versus 65.0 percent). Women were also afforded the opportunity of a deferred judgment more often than male defendants (17.6 percent versus 9.4 percent).

Table 3.10. Dispositions of Colorado criminal cases closed in 2006, by ethnicity (N=47,078)

Ethnicity	No conviction	Deferral	Conviction	Total
Asian	16.6%	15.0%	68.4%	100.0%
Black	19.2%	8.2%	72.7%	100.0%
Hispanic	14.0%	10.1%	75.9%	100.0%
American Indian	17.0%	6.9%	76.0%	100.0%
Other	37.9%	10.4%	51.7%	100.0%
White	18.7%	11.9%	69.4%	100.0%

Source: Filing data extracted from the Judicial Department's information management system (ICON) via CICJIS/CJASS and analyzed by DCJ's Office of Research and Statistics.

- In 2006, the prosecution of black, Hispanic and American Indian defendants resulted in a conviction more often than for white or Asian defendants. Asian and white defendants were given a deferred judgment more often than were defendants of other ethnicities.

Table 3.11. Dispositions of Colorado criminal cases closed in 2006 by age category (N=47,372)

Age	No conviction	Deferral	Conviction	Total
<18	50.8%	6.6%	42.6%	100.0%
18-24	16.2%	14.1%	69.7%	100.0%
25-29	18.8%	9.3%	71.9%	100.0%
30-34	19.3%	9.3%	71.4%	100.0%
35-39	19.2%	9.8%	71.0%	100.0%
40-44	20.7%	8.7%	70.6%	100.0%
45-49	19.3%	11.2%	69.5%	100.0%
50+	21.6%	12.6%	65.8%	100.0%

Source: Filing data extracted from the Judicial Department's information management system (ICON) via CICJIS/CJASS and analyzed by DCJ's Office of Research and Statistics.

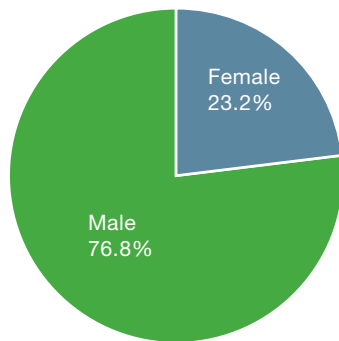
- In 2006, defendants between the ages of 18 and 24 and those 50 and over were given deferred judgments more often than those in other age categories. However, prosecutions of those between 18 and 24 result in no conviction the *least* often of any age category.

Who is found guilty?

Once a prosecution has been initiated in court, it will be disposed of by a dismissal, a conviction, or a deferred judgment. A conviction or a deferred judgment result from a guilty or no contest plea, or a guilty finding by the judge or a jury. Even though a deferred judgment that is successfully completed eventually results in a dismissal, these cases are included here because the defendant has acknowledged responsibility for the crime, and is still expected to complete sentencing requirements.

The information presented below represents adults who were either convicted or received a deferred judgment in a Colorado district court during 2006.

Figure 3.13. Gender, Colorado criminal case convictions in 2006 (N=47,104)



Source: Filing data extracted from the Judicial Department's information management system (ICON) via CICJIS/CJASS and analyzed by DCJ's Office of Research and Statistics.

- The majority of adults convicted in 2006 in Colorado were men (77 percent), though only half of the adult population is male.
- The majority of adults convicted were white (75 percent).
- African Americans comprised the second largest ethnic group of adults convicted (12 percent), although they make up only 4 percent of the population.

Table 3.12. Race, Colorado criminal case convictions in 2006 (N=47,078)

Race	Percent
Asian	0.9%
Black	11.5%
Hispanic	11.1%
American Indian	0.7%
Other	0.4%
White	75.4%
Total	100.0%

Source: Filing data extracted from the Judicial Department's information management system (ICON) via CICJIS/CJASS and analyzed by DCJ's Office of Research and Statistics.

- Hispanic individuals made up 11 percent of adults convicted.
- These proportions very closely match those of prosecutions.
- The average age of adults convicted in 2006 was 30.8.
- Just over half of adults convicted were between the ages of 18 and 29.
- The largest age category of criminal convictions is the 18 to 24 age group.

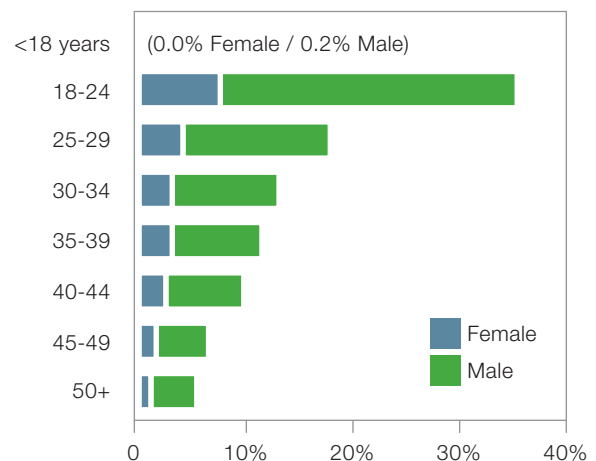
Table 3.13. Age, Colorado criminal case convictions in 2006 (N=47,372)

Age group	Percent
<18	0.2%
18-24	35.5%
25-29	17.9%
30-34	13.1%
35-39	11.5%
40-44	9.8%
45-49	6.5%
50+	5.4%
Total	100.0%

Table 3.14. Average age, Colorado criminal case convictions in 2006 (N=47,372)

Gender	Average age	Median
Females	31.3%	29.0%
Males	30.7%	28.0%
Total	30.8%	28.0%

Figure 3.14. Age group by gender, Colorado criminal case convictions, 2006 (N=47,084)



Source: Table 3.13, Table 3.14, Figure 3.14: Filing data extracted from the Judicial Department's information management system (ICON) via CICJIS/CJASS and analyzed by DCJ's Office of Research and Statistics.

Were they convicted as charged?

The tables below depict the final outcomes of cases closed with a conviction in 2006. Table 3.15 displays the most serious crime category that a person was originally charged with, and whether or not they were convicted of that charge. Table 3.16 displays the proportions of those convicted of a different charge, and whether they were convicted of another violent offense or a non-violent offense. For example, if a person was charged with murder, but convicted of aggravated assault, the case would appear in the chart under the original charge of homicide, but under the “other violent crime conviction” category. If a person was charged with homicide and convicted of homicide the case would appear in the table under “convicted as charged.” In this analysis, the violent charges examined include homicide, sexual assault, aggravated assault and robbery. Non-violent charges

include burglary, theft, motor vehicle theft, arson, and drug offenses. In addition, all violent charges and all non-violent charges were placed in separate categories and include additional crime types. Convictions of men and women were examined separately.

- Women are substantially less likely to be convicted of homicide charges than men.
- Of the violent crimes, sexual assault charges are most likely to result in a sexual assault conviction (as shown in Table 3.15).
- Those who were charged with a drug crime were most likely to be convicted as charged (79.1 percent overall).
- Of the non-violent offenders, those charged with burglary were least likely to be convicted as charged.

Table 3.15. Colorado adult criminal cases disposed in 2006: Conviction charges same as filing charges

Original charge	Total N convictions	Convicted as charged: Percent of total convictions		
		Women	Men	Total
Violent charges				
Homicide	545	43.8%	54.5%	53.4%
Sexual assault	1,279	61.3%	63.4%	63.4%
Robbery	962	46.9%	50.8%	50.3%
Assault	6,330	51.5%	55.2%	54.6%
All violent crimes*	10,800	55.0%	63.3%	62.3%
Non-violent charges				
Burglary	3,489	37.8%	42.6%	42.0%
Theft	8,221	58.8%	52.8%	54.9%
Motor vehicle theft	1,337	61.9%	64.1%	63.6%
Arson	51	71.4%	45.9%	52.9%
Drug	12,708	78.7%	79.2%	79.1%
All non-violent**	25,815	67.3%	64.8%	65.5%

Notes: *In addition to the violent crimes listed, other violent crimes include sex crimes other than sexual assault, weapons charges, kidnap, cruelty to animals, and rioting.

**In addition to the non-violent crimes listed, other non-violent crimes include extortion, trespass, forgery, fraud, escape, bribery, vehicular eluding, contributing to the delinquency of a minor, destruction of wildlife, false reporting, impersonating an officer, perjury, organized crime, tampering, eavesdropping, misdemeanors, unspecified inchoate crimes.

Source: Filing data extracted from the Judicial Department's information management system (ICON) via CICJIS/CJASS and analyzed by DCJ's Office of Research and Statistics.

Table 3.16. Colorado adult criminal cases disposed in 2006: Conviction charges differ from filing charges

Original charge	Other violent crime conviction: Percent of total convictions			Non-violent crime conviction: Percent of total convictions		
	Women	Men	Total	Women	Men	Total
Violent charges						
Homicide	40.4%	39.8%	39.8%	15.8%	5.7%	6.8%
Sexual assault	9.7%	12.1%	12.0%	29.0%	24.5%	24.6%
Robbery	16.8%	24.7%	23.8%	36.3%	24.5%	25.9%
Assault	7.8%	7.6%	7.6%	40.7%	37.2%	37.8%
All violent crimes*	9.3%	10.1%	10.0%	35.7%	26.6%	27.7%
Non-violent charges						
Burglary	0.4%	0.1%	0.1%	61.8%	57.3%	57.9%
Theft	0.0%	0.0%	0.0%	41.2%	47.2%	45.1%
Motor vehicle theft	0.0%	0.0%	0.0%	38.1%	35.9%	36.4%
Arson	0.0%	0.0%	0.0%	28.6%	54.1%	47.1%
Drug	0.0%	0.0%	0.0%	21.3%	20.8%	20.9%
All non-violent**	0.1%	0.0%	0.0%	32.6%	35.2%	34.5%

Notes: *In addition to the violent crimes listed, other violent crimes include sex crimes other than sexual assault, weapons charges, kidnap, cruelty to animals, and rioting.

** In addition to the non-violent crimes listed, other non-violent crimes include extortion, trespass, forgery, fraud, escape, bribery, vehicular eluding, contributing to the delinquency of a minor, destruction of wildlife, false reporting, impersonating an officer, perjury, organized crime, tampering, eavesdropping, misdemeanors, unspecified inchoate crimes.

Source: Filing data extracted from the Judicial Department's information management system (ICON) via CICJIS/CJASS and analyzed by DCJ's Office of Research and Statistics.

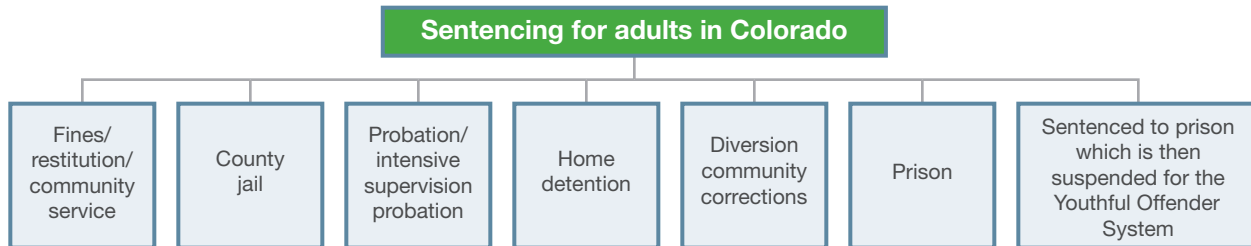
- As shown in Table 3.16, 40.4 percent of women charged with homicide were convicted of another violent crime; 15.8 percent were convicted of a non-violent crime.
- It is common for offenders to be convicted of a different crime category other than the one they were originally charged with. This occurs slightly more often with female offenders than with males (as shown in Table 3.16).
- In almost one-quarter (24.6 percent) of sexual assault cases, the conviction charge is a non-sex, non-violent crime, as shown above.
- Of the violent offenders, those who were charged with robbery were least likely to be convicted as charged. Those charged with assault were the most likely to be convicted of a non-violent offense. Those with homicide charges were most likely to be convicted of another violent offense.

Adult placements

Once an offender is convicted, the courts will impose a sentence. Sentences vary from payment of a fine to granting

probation to imprisonment. Below you will find these and several additional placements. For a description of these placements refer back to the adult criminal justice system flowchart which can be found on page 29.

Figure 3.15. Adult placements



Source: Adapted from Appendix A, *Flowchart of Colorado's Adult Correctional System*, Legislative Council Staff, January 2001.

Placement decisions

Criminogenic Need

There are two basic types of criminal risk factors: (1) static, which cannot be changed (e.g., criminal history, age), and (2) dynamic, which are malleable. Dynamic risk factors are frequently conceptualized as criminogenic needs because they are amenable to change and are appropriate targets for intervention and case management. These risk/needs factors include criminal attitudes, thinking and values, antisocial peer associations, problems with substance abuse and lack of self-control. Change in these areas of an offender's life can reduce criminal behavior. There are also

non-criminogenic needs, that is, factors that research has not linked with criminal conduct. These include anxiety and low self-esteem.

Reinforcement

Reinforcement increases prosocial behavior so that it will be repeated in the future. Behavioral treatment programs emphasize the use of three general types of reinforcers: (1) Tangible (money, material goods), (2) Activities (sports, music, TV, socialization), and (3) Social (attention, approval, praise). Research has found positive reinforcement to be many times more effective than punishment.

Colorado criminal code penalties

The Colorado District Attorneys' Council prepared the following table that applies to all sentences which were committed

on or after July 1, 1993. Sentencing laws have been changed many times by the General Assembly, but the overall structure of the sentencing ranges has remained constant since the early 1980s.

Table 3.17. Colorado criminal code penalties for felonies committed on or after July 1, 1993

Class	Presumptive range		Exceptional circumstances		
	Minimum	Maximum	Minimum	Maximum	Mandatory parole
1	Life imprisonment	Death	Life imprisonment	Death	
2	8 Years \$5000 fine	24 Years \$1,000,000	4 Years	48 Years	5 Years
3 Extraordinary risk crime	4 Years \$3000 fine	12 Years \$750,000	2 Years	24 Years	5 Years
	4 Years \$3000 fine	16 Years \$750,000	2 Years	32 Years	5 Years
4 Extraordinary risk crime	2 Year \$2000 fine	6 Years \$500,000	1 Year	12 Years	3 Years
	2 Years \$2000 fine	8 Years \$500,000	1 Year	16 Years	3 Years
5 Extraordinary risk crime	1 Year \$1000 fine	3 Years \$100,000	6 Months	6 Years	2 Years
	1 Year \$1000 fine	4 Years \$100,000	6 Months	8 Years	2 Years
6 Extraordinary risk crime	1 Year \$1000 fine	18 Months \$100,000	6 Months	3 Years	1 Year
	1 Year \$1000 fine	2 Years \$100,000	6 Months	4 Years	1 Year

Crimes that present an extraordinary risk of harm to society shall include the following:

1. Aggravated robbery, section 18-4-302
2. Child abuse, section 18-6-401
3. Unlawful distribution, manufacturing, dispensing, sale, or possession of a controlled substance with the intent to sell, distribute, manufacture, or dispense, section 18-18-405 (Note – not simple possession)
4. Any crime of violence as defined in section 18-1.3-406
5. Stalking, section 18-9-111 (4)
6. Sale of materials to manufacture controlled substances, section 18-18-412.7 (effective July 1, 2004)

* Section 18-1.3-401 requires a court sentencing a person convicted of a felony on or after July 1, 1979, to impose a definite term of incarceration with the range established for the class of felony of which the person was convicted. If the court finds the extraordinary mitigating or aggravating circumstances are present to support a longer or shorter sentences that that permitted by the presumptive range, it may impose a definite term of incarceration within a range of the minimum presumptive sentence to twice the maximum presumptive sentence. In addition to the definite term of incarceration, a period of parole supervision is mandatory for persons convicted of class 2, 3, 4, and 5 felonies committed on or after July 1, 1979. The mandatory period of parole supervision for persons convicted of felonies committed between July 1, 1979 and July 1, 1984, is one year, for persons convicted of felonies committed on and after July 1, 1984 and before July 1, 1985, is three years, and for person convicted of felonies committed on and after July 1, 1985, and is a period not to exceed five years. (Section 17-22.5-303(4) and (7) and Section 17-22.5-103 as it existed prior to 1984 repeal and reenactment of Article 22.5 of Title 17. For the text and the former section, see Session Laws of 1979, page 668, or the 1983 Supplement to the 1978 Repl. Volume 8, Colorado Revised Statute). Release on parole of person serving terms of life imprisonment for class 1 felonies committed on or after July 1, 1979 will remain within the discretion of the parole board. (Section 178-2-201(5)(a)). (Section 16-11-103(1)(b)). Those convicted and serving terms of life imprisonment for class 1 felonies committed on or after July 1, 1990, are not parole eligible.

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Table 3.17. Colorado criminal code penalties, felonies committed on or after July 1, 1993 (cont.)

Crimes subject to the indeterminate sentencing provisions of section 18-1.3-1004 (offenses committed on or after November 1, 1998)

1. Sexual assault, section 18-3-402
2. Sexual assault in the first degree, section 18-3-402 as it existed prior to July 1, 2000
3. Sexual assault in the second degree, section 18-3-403 as it existed prior to July 1, 2000
4. Felony unlawful sexual contact, section 18-3-404(2)
5. Felony sexual assault in the third degree, section 18-3-404(2) as it existed prior to July 1, 2000
6. Sexual assault on a child, section 18-3-405
7. Sexual assault on a child by a person in a position of trust, section 18-3-405.3
8. Aggravated sexual assault on a client by a psychotherapist, section 18-3-405.5 (1)
9. Enticement of a child, section 18-3-305
10. Incest, section 18-6-301
11. Aggravated incest, section 18-6-302
12. Patronizing a prostituted child, section 18-7-406
13. Attempt, conspiracy, or solicitation to commit any of these offenses if such attempt, conspiracy, or solicitation would constitute a class 2,3, or 4 felony.

Unlawful sexual behavior requiring sex offender registration

1. Sexual assault, 18-3-402
2. Sexual assault in the first degree as it existed prior to July 1, 2000, 18-3-402
3. Sexual assault in the second degree as it existed prior to July 1, 2000, 18-3-403
4. Unlawful sexual contact, 18-3-404
5. Sexual assault in the third degree as it existed prior to July 1, 2000, 18-3-404
6. Sexual assault on a child, 18-3-405
7. Sexual assault on a child by a person in a position of trust, 18-3-405.3
8. Aggravated sexual assault on a client by a psychotherapist, 18-3-405.5
9. Enticement of a child, 18-3-305
10. Incest, 18-6-301
11. Aggravated incest, 18-6-302
12. Trafficking in children, 18-6-402
13. Sexual exploitation of children, 18-6-403
14. Procurement of a child for sexual exploitation, 18-6-404
15. Keeping a place of child prostitution, 18-7-404
16. Pimping of a child, 18-7-405
17. Inducement of child prostitution, 18-7-405.5
18. Patronizing a prostituted child, 18-7-406
19. Engaging in sexual conduct in a penal institution, 18-7-701
20. Promotion of obscenity to a minor and wholesale promotion of obscenity to a minor, 18-7-102
21. Any offense for which the underlying factual bases involves any of these offenses
22. Attempt, conspiracy, or solicitation to commit any of these offenses

Where do they go once convicted?

Table 3.18 displays sentences received according to conviction crime for adult convictions in 2006. The “other” category includes sentencing options not listed, such as community service, fines and restitution payments. The YOS category refers to the Youthful Offender System, a sentencing option for juveniles tried and convicted as adults. YOS is a prison program that emphasizes education

and programming (see sidebar). Note that work release is included under the “jail” category.

- The majority of homicide cases closed in 2006 received a DOC sentence (84 percent). Just over half of sexual assault cases (55 percent) went to DOC.
- Most non-violent and drug convictions in 2006 received a probation sentence, which may or may not have included some jail time.

Table 3.18. Adult placements by index crime for Colorado criminal cases closed in 2006*

Crime	Prob	ISP*	Jail**	Prob & jail	Comm corr	YOS	DOC	Other	Total
Homicide	3.7%	0.0%	0.7%	6.4%	1.5%	3.7%	83.9%	0.0%	99.9%
Sexual assault	7.9 %	17.5 %	2.7 %	14.3 %	1.6 %	0.1 %	55.3 %	0.4 %	99.8%
Aggravated assault	36.7 %	2.4 %	2.7 %	18.0 %	3.6 %	0.9 %	34.1 %	1.6 %	100.0%
Robbery	15.2 %	2.2 %	0.5 %	8.2 %	5.2 %	5.0 %	62.9 %	0.7 %	99.9%
Burglary	36.3 %	2.9 %	2.3 %	14.9 %	9.5 %	0.3 %	31.6 %	2.2 %	100.0%
Theft	53.6 %	2.1 %	2.2 %	12.7 %	7.7 %	0.0 %	17.6 %	4.0 %	99.9%
Motor vehicle theft	36.7 %	2.9 %	2.8 %	15.0 %	10.7 %	0.0 %	31.4 %	0.6 %	100.0%
Arson	51.0 %	9.8 %	3.9 %	15.7 %	0.0 %	0.0 %	17.6 %	2.0 %	100.0%
Drugs	50.1 %	2.8 %	2.4 %	12.4 %	8.1 %	0.0 %	21.8 %	2.3 %	99.9%
Total N	19,082	1,009	3,834	5,872	2,193	71	9,121	1,372	42,554

Note: Rows do not total 100 percent as sentencing was not complete on all cases closed in 2006.

*Intensive supervision probation.

**Jail sentences represented here include only those resulting from a direct sentence and do not include those given as a condition of probation.

Source: Filing data extracted from the Judicial Department’s information management system (ICON) via CICJIS/CJASS and analyzed by DCJ’s Office of Research and Statistics.

Youthful Offender System

A special session of the Colorado state General Assembly held in the fall of 1993 charged the Colorado Department of Corrections with developing and implementing a specialized program for violent juvenile offenders who were charged and convicted as adult felons. This program is called the Youthful Offender System (YOS).

Prior analysis¹ of a sample of all youth sentenced on either a delinquency adjudication or a conviction in criminal court found that those sentenced to YOS had the largest proportion (98 percent) of persons with convictions of crimes defined as crimes of violence (murder, kidnap, robbery, assault and burglary per C.R.S. 18-1.3-407). Less than one in four juvenile offenders (23.5 percent) who were sentenced to a DYC commitment was convicted of these types of crimes.

Education contributes to public safety

Residents who discharged from YOS after completing secondary education were significantly more likely to remain crime free following release.² Those who did not obtain a GED or diploma were found to be:

- 3.8 times more likely to be revoked from YOS to prison.
- 1.6 times more likely to have a felony filing within 2 years of discharge.
- 2.7 times more likely to return to prison with a new conviction following discharge.

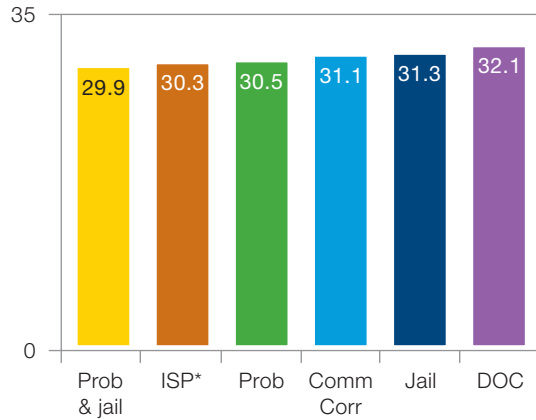
¹ Di Trollo, E., Madden Rodriguez, J., English, K., and Patrick, D. (2002). *Evaluation of the Youthful Offender System (YOS) in Colorado: A Report of Findings per C.R.S. 18-1.3-407*. Colorado Division of Criminal Justice, Office of Research and Statistics available at: <http://www.dcj.state.co.us/ors/pdf/docs/YOSfinalreport2.pdf>.

² Rosky, J., Pasini-Hill, D., Lowden, K., Harrison, L., English, K. (2004). *Evaluation of the Youthful Offender System (YOS) in Colorado: A Report of Findings per C.R.S. 18-1.3-407*. Colorado Division of Criminal Justice, Office of Research and Statistics. Available at: http://www.dcj.state.co.us/ors/pdf/docs/YOS_REPORT_2004.pdf.

Characteristics of who goes where

Figures 3.16 and 3.17 and Table 3.20 (following page) display demographic information on the sentences resulting from Colorado criminal cases closed in 2006.

Figure 3.16. Age of offender by placement for Colorado criminal cases closed in 2006 (N=47,372)

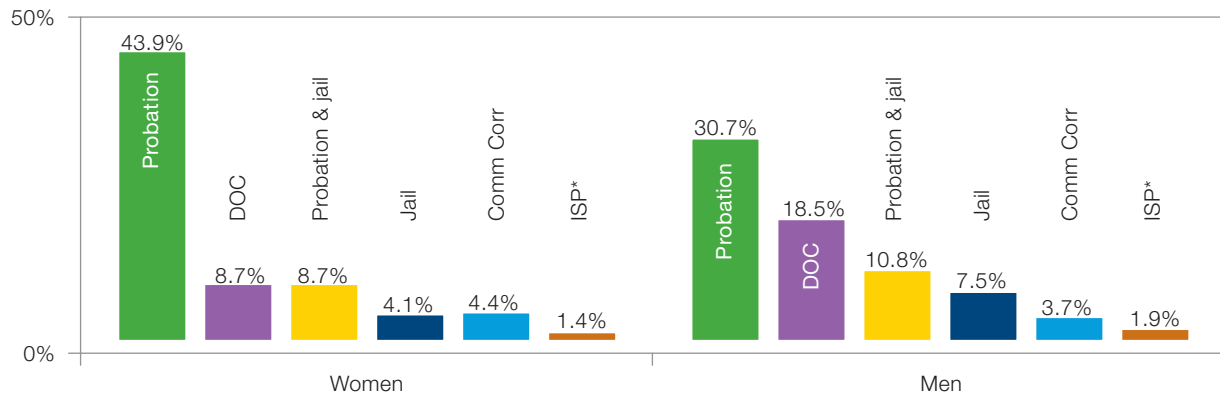


Note: *Intensive supervision probation.

Source: Filing data extracted from the Judicial Department's information management system (ICON) via CICJIS/CJASS and analyzed by DCJ's Office of Research and Statistics.

- The largest proportion of offenders is sentenced to regular probation (43.9 percent for women, and 30.7 percent for men).
- Women are far less likely than men to be sentenced to any type of incarceration, including prison, jail, or probation with jail. However, a larger percentage of women are sent to community corrections than of men.
- Corrections placement decisions are usually driven by two factors: the crime of conviction and the offender's criminal history.
- Asian individuals are more likely to be sentenced to regular probation than any other ethnic group, as can be seen in Table 3.19.
- Black offenders are most likely to receive a prison sentence, at 23.3 percent, followed by American Indians at 20.2 percent.
- Only 16.2 percent of all offenders are sent to prison (Table 3.19).
- Jail sentences, including probation sentences with jail, are given to Hispanic and American Indian offenders more often than any other group at 20.0 and 19.3 percent respectively.

Figure 3.17. Placement by gender of offenders convicted in Colorado criminal cases closed in 2006 (N=47,104)



Note: *Intensive supervision probation.

Source: Filing data extracted from the Judicial Department's information management system (ICON) via CICJIS/CJASS and analyzed by DCJ's Office of Research and Statistics.

- Depending on the placement, the average age of offenders sentenced in 2006 ranged from 29.9 and 32.1.
- Younger offenders were typically sentenced to probation, while older offenders were more likely to receive a prison sentence. This likely reflects the offender's criminal history: younger offenders have had less time compared to older offenders to accumulate this history.

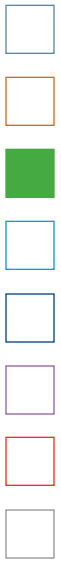


Table 3.19. Race of offenders by placement for Colorado criminal cases closed in 2006 (N=47,078)

Race	Prob	ISP*	Jail**	Prob & jail	Comm cor	DOC	Other	Total
Asian	40.2%	0.6%	4.3%	7.8%	3.7%	14.8%	28.5%	100.0%
Black	32.5%	2.2%	6.0%	6.8%	4.3%	23.3%	24.9%	100.0%
Hispanic	36.0%	1.7%	7.7%	12.3%	2.7%	17.7%	21.9%	100.0%
American Indian	31.6%	1.7%	6.7%	12.6%	2.5%	20.2%	24.7%	100.0%
Other	26.8%	2.7%	5.7%	5.4%	1.3%	9.7%	48.3%	100.0%
White	33.5%	1.7%	6.7%	10.6%	4.0%	15.0%	28.5%	100.0%
Total	33.7%	1.8%	6.7%	10.3%	3.9%	16.2%	27.5%	100.0%

Note: *Intensive supervision probation.

**Jail sentences represented here include only those resulting from a direct sentence and do not include those given as a condition of probation.

Source: Filing data extracted from the Judicial Department's information management system (ICON) via CICJIS/CJASS and analyzed by DCJ's Office of Research and Statistics.

How many people are under correctional supervision?

National figures⁴

- In 2005, over 7 million people in the United States were on probation, in jail or prison, or on parole at year-end, according to the Bureau of Justice Statistics. That amounts to 3.2 percent of all U.S. adult residents or 1 in every 32 adults.
- State and federal prison authorities had 1,446,269 under jurisdiction (1,259,905 in state custody and 179,220 in federal custody) inmates at year-end 2005.
- Local jails held or supervised 747,529 people awaiting trial or serving a sentence at midyear 2005. An additional 71,905 people under jail supervision were serving their sentence in the community.

Colorado figures⁵

- In Colorado, over 86,100 people were on probation, in community corrections, or under the jurisdiction of the Colorado Department of Corrections on December 31, 2006.
- Over 32,000 people were under the jurisdiction of the Colorado Department of Corrections at year-end 2006.
- At the end of 2006, almost 30 percent of the DOC population was on parole. The parole population has increased almost 17 percent from 2005.
- Over 50,000 offenders were serving time on probation in Colorado at year-end 2006.
- Approximately 4,000 offenders from probation and DOC were serving time in 35 residential, community-based halfway houses on December 31, 2006.

Table 3.20. Colorado year-end correctional populations, 1998-2006

	Probation	Community corrections	YOS	DOC	Parole
12/31/06	50,081	3,965	213	22,350	9,551
12/31/05	Not available	3,708	218	21,336	8,196
12/31/04	Not available	3,594	Not available	20,144	Not available
12/31/03	42,877	3,557	242	19,454	6,559
12/31/02	Not available	3,194	255	18,551	6,215
12/31/01	41,927	3,118	273	17,150	5,733
12/31/00	39,355	3,760	281	16,539	5,500
12/31/99	Not available	3,625	279	15,372	5,263
12/31/98	41,142	3,486	307	13,966	5,254

Source: Colorado Judicial Branch, Division of Probation Services. Colorado Department of Public Safety, Division of Criminal Justice, Office of Community Corrections. Colorado Department of Corrections.

⁴ Bureau of Justice Statistics (2006). *Prisoners in 2005*. U.S. Department of Justice. Available at: <http://www.ojp.usdoj.gov/bjs>.

⁵ Colorado Judicial Branch, Division of Probation Services. Colorado Department of Public Safety, Division of Criminal Justice, Office of Community Corrections. Colorado Department of Corrections.

District court probation in Colorado⁶

The Colorado Judicial Branch is responsible for administering adult and juvenile probation for the state's 22 judicial districts. In FY 2006 there were 23 district court probation departments with 53 separate probation offices throughout the state.

District court probation officers work within a range of regular and intensive supervision programs that refer probationers to educational, treatment and skill-building programs. Regular (non-specialized) probation programs supervise offenders with less serious criminal records, while the more intense specialized programs have been designed to address the risk and needs of more serious offenders. Specialized programs include adult intensive supervision (AISP), juvenile intensive supervision (JISP), the female offender program

(FOP), and sex offender intensive supervision for adults (SOISP). These programs offer targeted assessments and case evaluations, offense-specific treatment, electronic monitoring, cognitive skills training, educational assessment, and literacy and employment programs. Without these specific probation programs, many higher risk offenders likely would be prison bound.

In FY 1996 the Colorado Division of Probation Services initiated the use of private probation for the supervision of adult offenders. Private probation agencies currently supervise low-risk adult offenders, allowing state probation officers to focus their supervision efforts on the more time-consuming higher-risk offenders. As of June 30, 2006 there were 9,434 offenders being supervised by private probation in Colorado.

High Risk Offender Programs

Adult Intensive Supervision Probation (AISP)

Implemented in 1982, the Adult Intensive Supervision Probation program is a community sentencing alternative to incarceration for high-risk adult offenders. The program is designed to deliver intensive case management, including daily contact between the offender and the supervising officer, increased levels of drug testing, curfews, electronic monitoring, home visits by the officer, employment or educational/vocational efforts and required attendance in treatment, as deemed necessary. Each AISP officer's caseload is capped at 25 offenders.

Juvenile Intensive Supervision Probation (JISP)

This program was implemented in 1991 as a community sentencing option for high-risk juvenile offenders. This is an intensive case management approach that includes monitoring of school progress, referral for remedial educational assistance, frequent home visits by the supervising officer, electronic monitoring, drug testing, skill building and treatment services, as required. A maximum of 18 offenders are assigned to each JISP officer.

Female Offender Program (FOP)

The Female Offender Program began as a pilot project funded by a federal grant in 1991. It is designed to intervene in the lives of high risk, substance abusing female offenders. Based on the positive results from the pilot program, the General Assembly provided state funding in 1995. The program is designed to deliver intensive, female-specific programming and case

management. It includes frequent contacts with the supervising officer, skill building, regular employment or vocational/educational efforts, drug testing, home visits by the officer, electronic monitoring and participation in treatment, as necessary. The program was terminated in FY 2004 as a result of required budget reductions following severe state revenue shortfalls, but it was re-funded by the General Assembly in FY 2005. FOP probation officers are located in 10 judicial districts, and each are assigned a caseload of no more than 30 female offenders.

Sex Offender Intensive Supervision Probation

This program is designed to provide the highest level of supervision to adult sex offenders who are placed on probation. In FY 1998, this program was initially created in statute for lifetime supervision cases. But a statutory change made in FY 2001 mandated SOISP for all felony sex offenders convicted on or after July 1, 2001.

Colorado adopted a model of containment in the supervision and management of sex offenders.⁷ Depending on the offender, elements of containment may include severely restricted activities, daily contact with a probation officer, curfew checks, home visitation, employment visitation and monitoring, drug and alcohol screening, and/or sex offense specific treatment to include the use of polygraph testing to ensure supervision compliance. SOISP consists of three phases, each with specific criteria that must be met prior to a reduction in the level of supervision. The program design includes a capped caseload of 25 offenders per SOISP officer.

Source: Adapted from information provided in the Judicial Branch Fiscal Year 2006 Annual Statistical Report available at <http://www.courts.state.co.us/panda/statrep/pandaannualsindex.htm>.

⁶ Adapted from information provided in the Judicial Branch Fiscal Year 2006 Annual Statistical Report available at <http://www.courts.state.co.us/panda/statrep/pandaannualsindex.htm>.

⁷ For more information about this model, see English, K., Pullen, S., and Jones, L. (1996). *Management of Adult Sex Offenders: A Containment Approach*. American Probation and Parole Association, Lexington, KY. Other articles and publications on this model are available from DCJ's Office of Research and Statistics.

Community corrections⁸

Colorado's community corrections is an organization of specific halfway house facilities that provide residential and non-residential services to convicted offenders. Colorado has 35 residential and 24 non-residential operations. These programs provide an intermediate sanction at the front end of the system between probation and prison, and reintegration services at the end of the system between prison and parole. Community corrections placements allow offenders access to community resources, including treatment and employment opportunities, while living in a staff secure correctional setting.⁹ These facilities, often referred to as programs, receive state funds but are based and operated in local communities.

Offenders can be referred to community corrections by the sentencing judge or by officials at the Department of Corrections (DOC). The judicial placement is considered a diversion from prison, and these cases are called "diversion clients." The DOC placement of offenders in halfway houses serves as a method of transitioning prisoners back into the community and these cases are referred to as "transition clients." Diversion clients are responsible to the probation department while transition clients are under the jurisdiction of the DOC's Division of Adult Parole and Community Corrections. Both diversion and transition clients are housed together and participate in programming together. While the two types of clients are subject to a few differences in policies from their "host agency," they are required to abide by the same sets of house rules and are subject to similar consequences when rules are broken.

Per statute, each jurisdiction has a community corrections board, appointed by the county commissioners, to screen offender referrals and to oversee the operation of the facilities. Board members typically consist of both criminal justice professionals and citizens. In some locales, county governments operate their own community corrections facilities; in others, the local boards contract with private corporations that own and operate the programs. Regardless of the source of the referral, each case is individually reviewed and approved for placement in the local halfway house. Cases not approved by the board are returned to the

⁸ Adapted from Hetz-Burrell, N. and English, K. (2006). *Community Corrections in Colorado: A Study of Program Outcomes and Recidivism, FY00-FY04*. Colorado Division of Criminal Justice, Office of Research and Statistics, Denver, CO.

⁹ The facilities are non-secure, however, each provides 24-hour staffing. Each offender must sign out and in as they leave and return to the facility, and staff monitor the location of off-site offenders by field visits and telephone calls. Several facilities use electronic monitoring and a few programs use geographic satellite surveillance to track offenders when they are away from the halfway house.

judge or DOC for alternative placement. Programs also have the authority to refuse placement.

Offenders in community corrections are expected to pay for much of their treatment in the community. In addition, offenders are expected to pay \$17 per day for room and board, plus make other efforts to pay court costs, restitution, child support and other fines and fees.

Community based programs help offenders—especially those released from prison—return successfully to the community by providing the positive structure of a controlled living environment while the offender learns or re-learns the transportation system, acquires current identification, and becomes employed.

Table 3.21. Top 10 convictions for diversion and transition offenders serving community corrections sentences, FY 2005

Rank	Top 10 crimes: DIVERSION MEN	N	% of total population
1	Drug related	815	37.2%
2	Theft	361	16.5%
3	Burglary	354	16.1%
4	Assault	144	6.6%
5	Forgery	128	5.8%
6	Driving related	122	5.6%
7	Fraud	47	2.1%
8	Sex assault	36	1.6%
9	Robbery	34	1.6%
10	Crimes against children	18	0.8%

Rank	Top 10 crimes: TRANSITION MEN	N	% of total population
1	Drug related	752	34.6%
2	Theft	370	17.0%
3	Burglary	291	13.4%
4	Assault	194	8.9%
5	Escape	118	5.4%
6	Robbery	113	5.2%
7	Driving related	102	4.7%
8	Forgery	78	3.6%
9	Homicide	46	2.1%
10	Fraud	26	1.2%

Table continued next page.

Table 3.21. Top 10 convictions for diversion and transition offenders serving community corrections sentences, FY 2005 (Continued from previous page)

Rank	Top 10 crimes: ALL WOMEN	N	% of total population*
1	Drug related	458	45.5%
2	Theft	232	23.0%
3	Assault	43	4.3%
4	Escape	32	3.2%
5	Burglary	29	2.9%
6	Fraud	23	2.3%
7	Crimes against children	14	1.3%
8	Driving related	13	1.3%
9	Robbery	11	1.1%
10	Homicide	11	1.1%

Note: Percentages do not total 100%, as not all offenders are included in these crime categories.

Source: Colorado Community Corrections Annual Statistical Report Fiscal Year 2004-2005, Figure F. Available at <http://dcj.state.co.us/occ/pdf/Annual%20Report%2004-05%20FINAL.pdf>.

- More than one-third of community corrections offenders were convicted of a drug-related crime in FY 2005.
- Theft, burglary, assault, and forgery account for another 45 percent of the conviction crimes of offenders in community corrections.
- Two-thirds of women in community corrections were convicted of a drug or theft crime.

Colorado's prison system¹⁰

The mission of the Colorado Department of Corrections (DOC) is to manage offenders in controlled environments of prisons, community-based facilities and parole programs and provide work and self-improvement opportunities to assist offenders in community reintegration, according to its web site.

In FY 2006, 29,839 offenders (21,438 inmates; 213 in the Youthful Offender System; and 8,816 under parole supervision) were under the jurisdiction of the DOC. This was a 7.2 percent increase from the prior year. Since 1985 the prison population has increased 498 percent.

When an adult offender is sentenced to the Department of Corrections, the first stop is the Denver Reception and Diagnostic Center (DRDC). Here the offender will undergo a complete evaluation of medical, dental, mental health, and personal needs, along with academic and vocational testing, and custody level recommendation. This occurs prior to placement at one of the Department's permanent prison facilities.

In 2006 there were 30 correctional facilities throughout the state. Twenty-four of these facilities are operated by the state, while an additional six are privately owned and under contract with the state. These facilities represent 5 different security levels and house offenders with a designated custody classification. There are five custody levels: minimum, minimum-restricted, medium, close, and administrative segregation. Custody levels are determined through the use of rating instruments. Table 3.23 displays the prison population as of June 30, 2006 in the different custody classifications.

Table 3.22. Prisoner custody classifications, June 30, 2006

Security level	Percent
Ad. seg/max/close	21.8%
Medium	24.8%
Restricted-minimum	24.4%
Minimum	29.0%
Total	100.0%

Source: Rosten, K. (2007). *Statistical Report Fiscal Year 2006*. Colorado Department of Corrections, Colorado Springs, CO, available at: <http://www.doc.state.co.us/Statistics/pdfs/OPARports/STATReports/2006Complete.pdf>.

Level 1 Designated boundaries, but not necessarily perimeter fencing. Inmates classified as minimum may be incarcerated in level 1 facilities.

Level II Designated boundaries include a single or double perimeter fence, and the perimeter is patrolled periodically. Inmates classified as minimum restrictive and minimum may be incarcerated in level II facilities.

Level III Include towers, a wall or double perimeter fencing with razor wire, and detention devices. The perimeter of the facility is continuously patrolled. Inmates classified at medium or lower classifications may be incarcerated at level III facilities.

Level IV Include towers, a wall or double perimeter fencing with razor wire, and detention devices. The perimeter is continuously patrolled and inmates classified as close and lower classification levels may be incarcerated at level IV facilities. Inmates of higher classification can be housed at level IV facilities but not on a long-term basis.

Level V Include towers or stun-lethal fencing and controlled sally ports, double perimeter fencing with razor wire and detection devices or equivalent security architecture. These facilities represent the highest security level and are capable of accommodating all classification levels.

Adapted from Rosten, K. (2007). *Statistical Report Fiscal Year 2006*. Colorado Department of Corrections, Colorado Springs, CO, available at: <http://www.doc.state.co.us/Statistics/pdfs/OPARports/STATReports/2006Complete.pdf>.

Offenders serving sentences for a current nonviolent offense make up 57.9 percent of the prison population. Drug offenses are the most prevalent offense, and these crimes account for 27.6 percent of female and 18.2 percent of male inmates. Drug offenses, theft, and escape are the most frequent offenses for which women are serving sentences whereas drugs, escape and assault are the most frequent crimes for the men in prison.

¹⁰ Adapted from Rosten, K. (2007). *Statistical Report Fiscal Year 2006*. Colorado Department of Corrections, Colorado Springs, CO, available at: <http://www.doc.state.co.us/Statistics/pdfs/OPARports/STATReports/2006Complete.pdf>.

Parole¹¹

Parole is a type of release from prison. The terms probation and parole are often used interchangeably, but in Colorado probation is administered by the court system and parole is administered by corrections and follows a prison sentence. Colorado statutes provide for both discretionary and mandatory parole periods. Mandatory parole, established in 1993, required a parole period for all offenders on their *first* release from prison. This initiative also eliminated earn time awards while on parole for offenders sentenced for crimes committed on or after July 1, 1993. Discretionary

parole occurs when an independent seven-member board appointed by the Governor and confirmed by the Colorado Senate makes the decision to parole an offender.

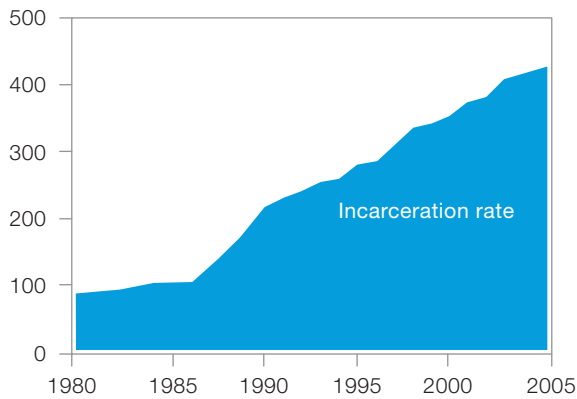
In the event that a parolee violates the conditions of parole, the parolee is arrested and required to appear at an evidentiary hearing before the parole board or an administrative law judge (when the offender is on Interstate Parole). The board or administrative law judge determines guilt or innocence regarding the alleged parole violation. If the offender is found guilty, the board will impose sanctions (i.e. revoke parole, continue it in effect, or modify the conditions of parole).



¹¹ Information in part from the Colorado Department of Corrections website, the parole and community page, available at <https://exdoc.state.co.us/secure/combo/frontend/index.php/contents/view/701>.

Incarceration rates

Figure 3.18. Colorado incarceration rates, FY 1980-2005



Note: Rate is per 100,000 adults.

Source: Colorado Department of Corrections Statistical Reports.

In 2005, Colorado's incarceration rate was approximately 5 percent higher than the national average: the Colorado rate was 457 per 100,000 residents versus a national state

average of 435. The state's incarceration rate grew an average of 2.6 percent across the other states between 1995 and 2005, and in Colorado it increased 6.8 percent. The female incarceration rate was 11.5 in Colorado in 2005 compared to 4.5 percent across all states.¹²

For 2005, the Colorado DOC reports an incarceration rate of 428.3 per 100,000 population and BJS reports an incarceration rate of 457 for Colorado. This discrepancy is most likely due to variation between the size of the DOC population at the time of each calculation along with differences between the U.S. Census Bureau's population numbers and the annual updates of those figures by the Colorado Division of Local Affairs. The BJS numbers are presented here to allow for state by state comparisons.

Table 3.23. Incarceration rates for prisoners under the jurisdiction of state or federal correctional authorities, by gender, year-end 1995, 2004, and 2005

Incarceration rate*	12/31/95	12/31/04	12/31/05	% change 1995-2005	% change 2004-2005
Males	781	920	929	19.0%	1.0%
Females	47	64	65	38.3%	1.6%
Total	828	984	994	20.0%	1.0%

Note: *The number of prisoners with a sentence of more than 1 year, per 100,000 residents on December 31, 2005.

Source: Beck, A. and Harrison, P. (2006). *Prisoners in 2005*. Bureau of Justice Statistics, U.S. Department of Justice, Washington, D.C. NCJ 21509. Table 5 available at <http://www.ojp.usdoj.gov/bjs/abstract/p05.htm>.

Table 3.24. Women under the jurisdiction of state or federal correctional authorities, year-end 1995, 2004, and 2005

Region and jurisdiction	Number of female inmates			% change 2004-2005	Average annual % increase 1995-2005	Incarceration rate, 2005*
	2005	2004	1995			
U.S. total	107,518	104,822	68,468	2.6%	4.6%	65
Federal	12,422	12,164	7,398	2.1%	5.3%	7
State	95,096	92,658	61,070	2.6%	4.5%	58

Table continued on next page.

¹² Beck, A. and Harrison, P. (2006). *Prisoners in 2005*. Bureau of Justice Statistics, U.S. Department of Justice, Washington, D.C. NCJ 21509.

Table 3.24. Women under the jurisdiction of state or federal correctional authorities, by state, year-end 1995, 2004, and 2005 (Continued from previous page)

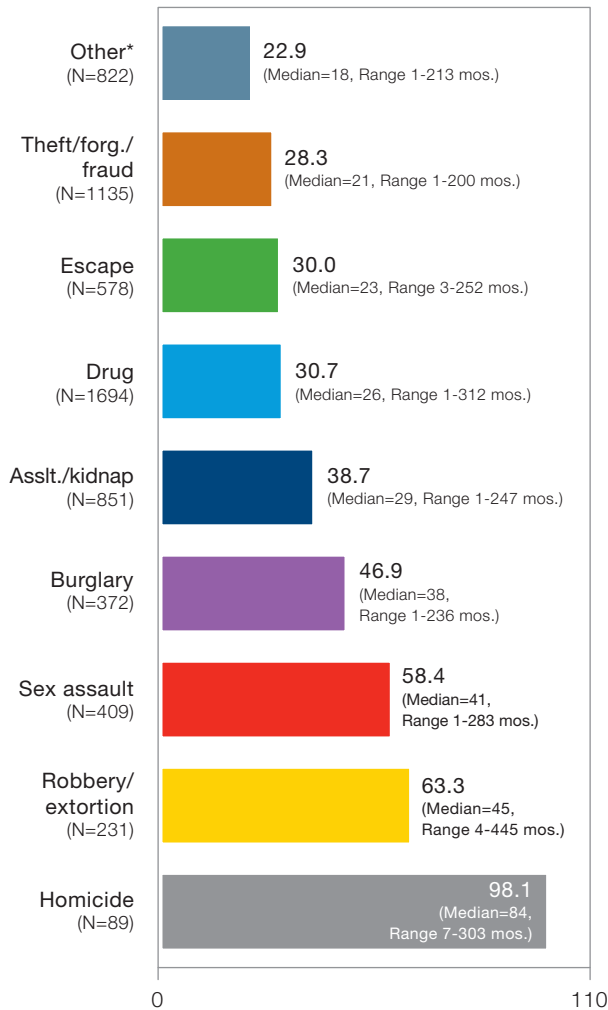
Region and jurisdiction	Number of female inmates			% change 2004-2005	Average annual % increase 1995-2005	Incarceration rate, 2005*
	2005	2004	1995			
Northeast	9,202	8,910	8,401	3.3%	0.9%	28
Connecticut	1,489	1,488	975	0.1%	4.3%	43
Maine	129	125	36	3.2%	13.6%	17
Massachusetts	788	741	656	6.3%	1.9%	12
New Hampshire	133	119	109	11.8%	2.0%	20
New Jersey	1,449	1,470	1,307	-1.4%	1.0%	32
New York	2,802	2,789	3,615	0.5%	-2.5%	28
Pennsylvania	2,029	1,827	1,502	11.1%	3.1%	32
Rhode Island	231	208	157	11.1%	3.9%	10
Vermont	152	143	44	6.3%	13.2%	30
Midwest	16,855	16,545	10,864	1.9%	4.5%	50
Illinois	2,725	2,750	2,196	-0.9%	2.2%	42
Indiana	1,884	1,892	892	-0.4%	7.8%	59
Iowa	800	757	425	5.7%	6.5%	53
Kansas	674	620	449	8.7%	4.1%	49
Michigan	2,111	2,113	1,842	-0.1%	1.4%	41
Minnesota	604	544	217	11.0%	10.8%	23
Missouri	2,511	2,507	1,174	0.2%	7.9%	84
Nebraska	423	369	211	14.6%	7.2%	44
North Dakota	155	129	29	20.2%	18.2%	49
Ohio	3,260	3,185	2,793	2.4%	1.6%	55
South Dakota	356	292	134	21.9%	10.3%	90
Wisconsin	1,352	1,387	502	-2.5%	10.4%	45
South	45,140	44,789	27,366	0.8%	5.1%	75
Alabama	1,965	1,748	1,295	12.4%	4.3%	79
Arkansas	1,144	962	523	18.9%	8.1%	78
Delaware	555	557	358	-0.4%	4.5%	44
Florida	6,153	5,660	3,660	8.7%	5.3%	67
Georgia	2,893	3,436	2,036	-15.8%	3.6%	63
Kentucky	2,004	1,560	734	28.5%	10.6%	90
Louisiana	2,309	2,386	1,424	-3.2%	5.0%	99
Maryland	1,097	1,180	1,079	-7.0%	0.2%	35
Mississippi	1,786	1,796	791	-0.6%	8.5%	107
North Carolina	2,589	2,430	1,752	6.5%	4.0%	42
Oklahoma	2,455	2,484	1,815	-1.2%	3.1%	129
South Carolina	1,514	1,562	1,045	-3.1%	3.8%	64
Tennessee	2,022	1,905	637	6.1%	12.2%	66
Texas	13,506	13,958	7,935	-3.2%	5.5%	97
Virginia	2,668	2,706	1,659	-1.4%	4.9%	69
West Virginia	480	459	129	4.6%	14.0%	52
West	23,899	22,414	14,439	6.6%	5.2%	66
Alaska	465	397	243	17.1%	6.7%	57
Arizona	2,896	2,765	1,432	4.7%	7.3%	85
California	11,667	11,188	9,082	4.3%	2.5%	62
Colorado	2,120	1,900	713	11.6%	11.5%	91
Hawaii	732	699	312	4.7%	8.9%	70
Idaho	791	647	212	22.3%	14.1%	110
Montana	354	323	112	9.6%	12.2%	75
Nevada	944	878	530	7.5%	5.9%	78
New Mexico	666	581	278	14.6%	9.1%	63
Oregon	1,015	985	465	3.0%	8.1%	55
Utah	572	511	161	11.9%	13.5%	45
Washington	1,455	1,330	793	9.4%	6.3%	45
Wyoming**	222	210	106	5.7%	7.7%	88

Notes: *The number of female prisoners with sentences of more than 1 year per 100,000 women U.S. residents. **Growth from 1995 to 2005 may be slightly overestimated due to a change in reporting from custody to jurisdiction counts.

Source: Beck, A. and Harrison, P. (2006). *Prisoners in 2005*. Bureau of Justice Statistics, U.S. Department of Justice, Washington, D.C. NCJ 21509. Table 6 available at <http://www.ojp.usdoj.gov/bjs/abstract/p05.htm>.

Average length of time in prison

Figure 3.19. Estimated average months spent in Colorado prisons by crime category: Offenders released in FY 2006 (N=6181)



Note: *See footnote 16.

All figures are based on preliminary data and are considered estimates. Actual FY 2006 releases totaled 8954. Six individuals had missing required data elements and are excluded. Releases of 2767 individuals who had been previously returned to prison on a technical parole violation are excluded. Lengths of stay are rounded to the nearest whole month.

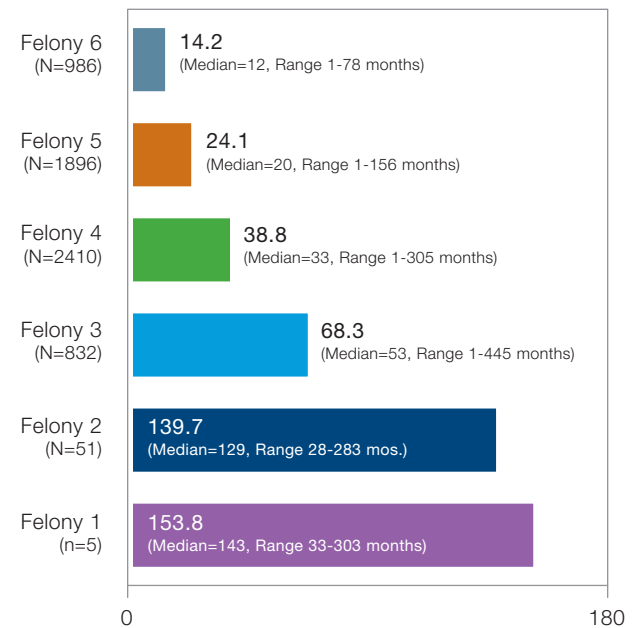
Source: Data provided by the Office of Planning and Analysis, Colorado Department of Corrections, October 27, 2006, analysis by Colorado Division of Criminal Justice, Office of Research and Statistics.

- There were 19,792 men and 2,220 women, totaling 22,012 people incarcerated at the end of FY 2006. This number excludes 219 youth in DOC's Youthful Offender System.¹³

¹³ Colorado Department of Corrections Monthly Population and Capacity Report June 2006. Available at: <http://www.doc.state.co.us/Statistics/MonthlyReport/MonthlyPages/June06.htm>.

- Only offenders who were actually released are included in this analysis so that actual time spent in prison can be calculated. It is important to note that this approach will always underestimate actual length of stay (LOS) because the group of those releasing is overrepresented by those who have been convicted of less serious crimes. Those with the longest lengths of stay are underrepresented in the analysis because fewer of them are released.
- At the end of FY 2006, there were 826 offenders serving life sentences. Almost half (398) of these were without the possibility of parole. An additional two offenders were under a death sentence.¹⁴

Figure 3.20. Estimated average months spent in Colorado prisons by felony class: Offenders released in FY 2006 (N=6180)



Note: All figures are based on preliminary data and are considered estimates. Actual FY 2006 releases totaled 8954. Seven individuals were missing required data and are excluded. Releases of 2767 individuals who had been previously returned to prison on a technical parole violation are excluded. Lengths of stay are rounded to the nearest whole month.

Source: Data provided by the Office of Planning and Analysis, Colorado Department of Corrections, October 27, 2006, analysis by Colorado Division of Criminal Justice, Office of Research and Statistics.

¹⁴ Colorado Department of Corrections Office of Planning and Analysis Statistical Bulletins. Available at: <http://www.doc.state.co.us/Statistics/pdfs/OPABulletins/Obul0702.pdf>.

- At the end of FY 2006, approximately 975 sex offenders were incarcerated with indeterminate sentences, which could be as long as a life sentence. By March 31, 2007, this number increased to 1,127.¹⁵
- Eighty percent (7,183) of the prison releases described in these tables were releases to parole.
- Average length of stay increases with the severity of the conviction felony class.
- Following homicide, those in the robbery/extortion categories have the longest sentences, averaging approximately 63 months. Those with sex assault charges follow closely, at 58 months.

- Those with “other”¹⁶ offenses have the shortest incarceration periods, averaging 23 months.
- The range of time served in all categories is extremely broad, reflecting the very wide sentencing ranges defined in statute.
- In FY 2006, 56 inmates died while in prison.¹⁷

For greater detail and a breakout of crimes included in each of these categories along with associated felony classes see Page 261 in Section 8.

¹⁵ Colorado Department of Corrections Office of Planning and Analysis Statistical Bulletins. Available at: <http://www.doc.state.co.us/Statistics/pdfs/OPABulletins/Obul0702.pdf> and <http://www.doc.state.co.us/Statistics/pdfs/OPABulletins/Obul0715.pdf>.

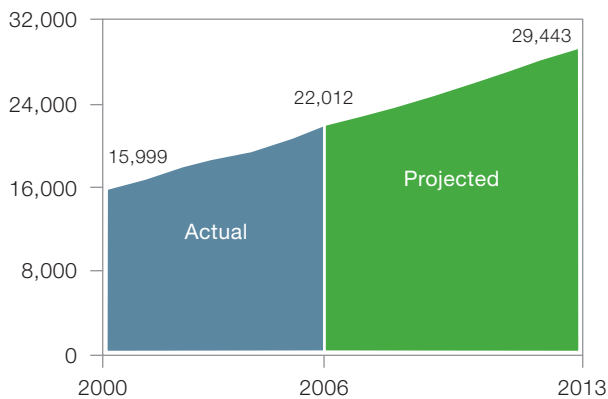
¹⁶ “Other” offenses include: arson, bribery, criminal mischief, contributing to the delinquency of a minor, motor-vehicle related crimes (DOJ, leaving scene of an accident, eluding), stalking, weapons-related crimes, contraband, and intimidation, retaliation, or tampering of a witness or evidence.

¹⁷ Colorado Department of Corrections Monthly Population and Capacity Report as of June 2006. Available at: <http://www.doc.state.co.us/Statistics/MonthlyReport/MonthlyPages/June06.htm>.

Prison and parole populations in the years to come

The Colorado Division of Criminal Justice is mandated by the General Assembly to prepare population projections annually for purposes of state budget planning.¹⁸ These projections provide a perspective of how the prison population is growing, and how many inmates will need to be accommodated in the future. The DCJ projection model incorporates census data with other information concerning the age, gender, offense profile of new prison commitments, length of stay in prison, and the profile of prisoners carried over from the previous year. In addition, other factors that may influence prison population growth such as arrest and conviction rates, new legislation, policy changes and court decisions are incorporated into the projection model.

Figure 3.21. Actual and projected Colorado inmate populations



Source: Harrison, L. and English, K. (2006). *Colorado Division of Criminal Justice Adult Prison and Parole Population Projections, Community Corrections Projections, and Juvenile Commitment and Parole Population Projections*. Colorado Division of Criminal Justice, Office of Research and Statistics, Denver, CO. Report available at <http://dcj.state.co.us/ors/ppp.htm>.

- The Colorado adult prison population is expected to grow 31.8 percent between November 2006 and June 2013, from an actual population of 22,332 to a projected population of 29,443 offenders.
- The number of men in prison is expected to increase 26.2 percent between November 2006 and June 2013, from 20,018 to 25,267.
- The number of women in prison is expected to increase an extraordinary 80.5 percent between November 2006 and June 2013, from 2,314 to 4,176. While the overall prison population *growth rate* is expected to decline, the proportion of the total prison population represented by females is expected to continue to grow.

The Colorado adult prison population is expected to grow 31.8 percent between November 2006 and June 2013, from an actual population of 22,332 to a projected population of 29,443 offenders.

- DCJ's projection model has been quite accurate: at the end of FY 2006, the 2005 DCJ projections erred by 0.5 percent.¹⁹ In the last ten years, the error averaged 1.4 percent (see Table 3.27).

Table 3.25. Fall 2006 adult inmate actual and projected Colorado prison population

	Prison total	Male population	Female population
1993*	9,242	8,712	530
1994*	10,005	9,382	623
1995*	10,669	10,000	669
1996*	11,577	10,808	769
1997*	12,590	11,681	909
1998*	13,663	12,647	1,016
1999*	14,726	13,547	1,179
2000*	15,999	14,733	1,266
2001*	16,833	15,493	1,340
2002*	18,045	16,539	1,506
2003*	18,846	17,226	1,620
2004*	19,569	17,814	1,755
2005*	20,221	18,255	1,966
2006*	22,012	19,792	2,220
2007	22,889	20,497	2,391
2008	23,880	21,309	2,571
2009	24,865	22,059	2,806
2010	25,937	22,813	3,124
2011	27,072	23,629	3,443
2012	28,309	24,484	3,825
2013	29,443	25,267	4,176

Note: *Represents actual data.

Source: Harrison, L. and English, K. (2006). *Colorado Division of Criminal Justice Adult Prison and Parole Population Projections, Community Corrections Projections, and Juvenile Commitment and Parole Population Projections*. Colorado Division of Criminal Justice, Office of Research and Statistics, Denver, CO. Report available at <http://dcj.state.co.us/ors/ppp.htm>.

¹⁸ Pursuant to 24-33.5-503(m) C.R.S.

¹⁹ This error rate was misreported in the 2006 DCJ prison population report as 1.05%. The actual error was 0.51%.

The number of women in prison is expected to increase an extraordinary 80.5 percent between November 2006 and June 2013, from 2,314 to 4,176.

Table 3.26. DCJ 10-year prison population projection first-year error rate

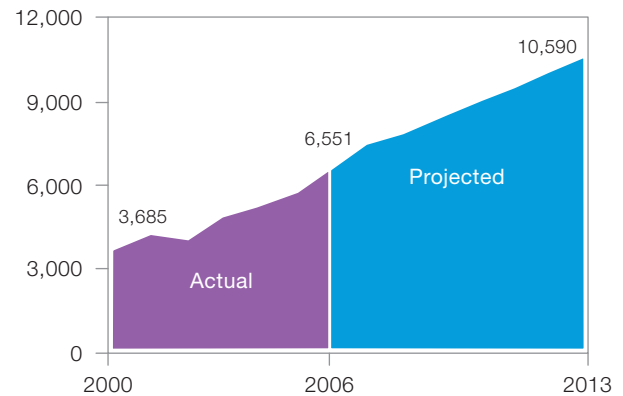
Fiscal year end (FYE)	Projected population	Actual population	Percent difference
1997	12,610	12,590	0.2%
1998	13,803	13,663	1.0%
1999	14,746	14,726	0.1%
2000	15,875	15,999	-0.8%
2001	16,833	17,222	2.3%
2002	17,569	18,045	-2.6%
2003	19,295	18,846	2.4%
2004	19,961	19,569	2.0%
2005	20,221	20,704	-2.3%
2006	21,901	22,012	0.5%

Source: Harrison, L. and English, K. (2006). *Colorado Division of Criminal Justice Adult Prison and Parole Population Projections, Community Corrections Projections, and Juvenile Commitment and Parole Population Projections*. Colorado Division of Criminal Justice, Office of Research and Statistics, Denver, CO. Report available at <http://dcj.state.co.us/ors/ppp.htm>.

- The parole population is also expected to grow significantly. The total number of offenders on parole is expected to increase 61.7 percent, from 6,551 in July 2006 to 10,590 in July 2013.
- Between 1991 and 2003, the average length of stay (ALOS) on parole steadily increased from 13.4 months in FY 1999 to 15.8 months in FY 2003.²⁰ However, the parole ALOS began to decline over the following three

years, to 15.2 months in FY 2004, 15.1 months in FY 2005 and 14.4 in FY 2006.²¹ Many legislative changes enacted in the past 20 years contributed to the increase in the average parole length of stay, but in 2003 Senate Bill 252 repealed the requirement of an additional year of parole when a parolee was revoked to prison. It is possible that this decrease reflects the early impact of this legislation, which is expected to continue to contribute to a decline in length of stay on parole.

Figure 3.22. Colorado domestic parole, actual and projected caseload



Source: Harrison, L. and English, K. (2006). *Colorado Division of Criminal Justice Adult Prison and Parole Population Projections, Community Corrections Projections, and Juvenile Commitment and Parole Population Projections*. Colorado Division of Criminal Justice, Office of Research and Statistics, Denver, CO. Report available at <http://dcj.state.co.us/ors/ppp.htm>.

DCJ's projection model has been quite accurate: at the end of FY 2006, the 2005 DCJ projections erred by 0.5 percent.

²⁰ Data provided by Office of Planning and Analysis, October 29, 2003, Colorado Department of Corrections.

²¹ Data provided by Office of Planning and Analysis, October 27, 2006, Colorado Department of Corrections.

Daily cost of adult placements

Probation costs

Table 3.27. Daily cost of adult probation in Colorado, FY 2006

Type of supervision	Cost*	FY 2006 year-end caseload
Regular probation	\$2.14	34,534
Intensive supervision probation (ISP)	\$7.35	1,656
Sex offender intensive supervision probation (SOISP)	\$15.10	916
Female offender program (FOP)	\$6.84	302

Note: *The cost figures were based on the standing caseload for each probation program as of March 30, 2006.

Source: Colorado Judicial Branch, Division of Probation Services. Colorado Judicial Branch *Annual Statistical Report FY 2006* Tables 34 and 92.

- There were 37,408 adult offenders on probation in Colorado as of June 30, 2006.
- Regular probation, Intensive Supervision Probation, and the Female Offender Program include all costs for administrative and supervisory personnel, treatment, dollars and electronic home monitoring (EHM).
- The Sex Offender Intensive Supervision Program costs include sex offender treatment, polygraphs, GPS, assessments, and some administrative and supervisory personnel.
- While on probation, offenders pay millions of dollars in court fees, restitution, fines, supervision fees and related expenses, not to mention state and federal taxes when they are employed.

Community corrections costs

- The regular community corrections per diem of \$35.39, the cost that the state pays halfway houses per offender per day, covers room and board, some hygiene products and other basic daily needs. It also pays for staff and costs associated with maintaining the facility.
- Enhanced per diem rates are provided for the seriously mentally ill, and this funding allows some treatment, clothing, medications and bus tokens (things that they would not normally think of for themselves).
- Enhanced per diem is also provided to the Women's Remediation Program. These are women on parole for domestic violence or substance abuse who are

experiencing problems or are in an inappropriate living arrangement and are at risk for being regressed to DOC.

- Offenders pay the facility as much as \$17.00 per day as their portion of the costs.
- Many community corrections offenders also pay restitution, court costs and supervision fees, child support, fees for services, and state and federal taxes when they are employed.

Table 3.28. Daily cost of community corrections in Colorado, FY 2006

Type of program	Cost	Enhanced cost*	Average daily population
Residential bed (Transition)	\$35.39		1,267
Residential bed (Diversion)	\$35.39		1,402
Non-residential (Diversion)	\$4.80		1,106
Residential parole	\$35.39		43
Residential ISP	\$35.39		8
Day reporting	\$7.93		**
Special populations			
Sex offender	\$35.39		***
Residential IRT Diversion	\$35.39	\$16.68	38
Residential IRT Transition	\$35.39	\$16.68	88
Women's remediation	\$35.39	\$16.02	10
Mental health	\$35.39	\$30.97	40
TC enhanced	\$35.39	\$13.52	****
TC day treatment	\$31.36		8

Notes: *The enhanced costs are in addition to the per diem costs of \$35.39.

**Day reporting is the number of slots available. The Division of Criminal Justice, Office of Community Corrections funds 175 slots.

***Sex offenders are not tracked separately on any census or reporting system.

****TC enhanced ADP is not categorized separately. It is reported with the residential transition and diversion numbers.

Source: Division of Criminal Justice, Office of Community Corrections. Division of Criminal Justice, Office of Research and Statistics, *Detail Report of Correctional Populations* for the period ending June 30, 2006 available at http://dcj.state.co.us/ors/correction_pop.htm.

Prison costs²²

- According to DOC staff, there are different factors that go into the annual costs of inmates. These are:

²² Rosten, K. (2007). *Statistical Report Fiscal Year 2006*. Colorado Department of Corrections, Colorado Springs, CO, available at: <http://www.doc.state.co.us/Statistics/pdfs/OPAREports/STATReports/2006Complete.pdf>.

- Institution costs (maintenance, housing, medical, utilities, food service, laundry, superintendent sub-program, mental health, inmate pay, and case management costs);
- A portion of the management costs (executive director and inspector general's sub-programs);
- A portion of the support services sub-programs (business operations, personnel, offender services, transportation, communication, training, information technology, and facility services);
- Inmate programs (education, recreation, labor, drug & alcohol programs, sex offender treatment programs, and volunteers).
- Parole costs include supervision plus a portion of management and support services.
- In FY 2006, the average daily population under DOC's jurisdiction increased 7.2% to 29,837.
- DOC reports that the annual cost for a YOS placement (\$75,803) is more than double the annual cost of an adult inmate (\$27,588).

- According to DOC, the supervision of four offenders on intensive supervision parole is less expensive than incarcerating one inmate for one year.

Table 3.29. Daily cost of the Colorado Department of Corrections offender population, FY 2006

Type of supervision	Daily cost	FY 2006 year-end population/caseload
Male inmate	74.96	19,792
Female inmate	81.41	2,220
YOS inmate	207.68	219
Parole	9.08	5,365
Parole ISP	17.38	921

Source: Colorado Department of Corrections, Monthly Population and Capacity Report as of June 30, 2006. Available at: <http://www.doc.state.co.us/Statistics/MonthlyReport/MonthlyPages/June06.htm>.

Colorado justice system expenditures

Since 1980, the Bureau of Justice Statistics has collected historical data extracted from the Census Bureau's *Annual Government Finance Survey* and *Annual Survey of Public Employment*. This study series includes national and state-by-state estimates of government expenditures and employment for the following justice categories: police protection, all judicial (including prosecution, courts, and public defense), and corrections.²³

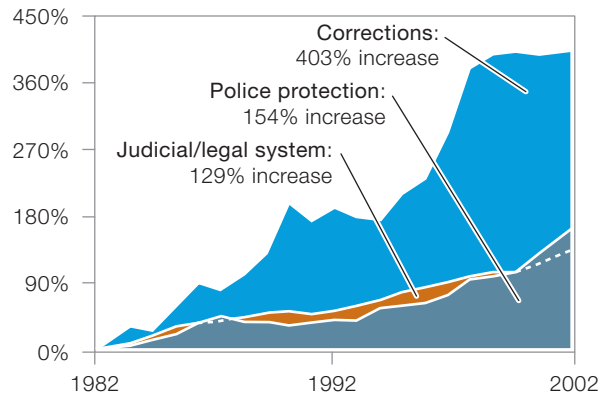
- In FY 2004, federal, state, and local governments spent an estimated \$193 billion for police protection, corrections, and judicial and legal activities, a 4 percent increase over the previous year. Per capita expenditure across the three government types and criminal justice functions was approximately \$660.
- Federal government spent more than \$34 billion on direct expenditures for criminal and civil justice in FY 2004. State governments spent over \$61 billion and local governments spent over \$97 billion.

Expenditures for each of the major criminal justice functions (police, corrections, judicial) have steadily increased each year. Figure 3.23 displays the percentage of increase in justice system expenditures by function for Colorado from 1982 through 2003. These figures have been adjusted for inflation.²⁴

- Between 1982 and 2003 the judicial/legal system realized the lowest rate of increase: 129 percent increase since 1982, after adjusting for inflation.
- The increase in police protection expenditures has exceeded that of the judicial system only since 2001. Since 1982, the increase in this area has been 154 percent, after adjusting for inflation.
- The corrections system has realized the highest rate of increase in criminal justice expenditures: 403 percent increase in expenditures since 1982, after adjusting for inflation.

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Figure 3.23. Colorado justice system expenditures by type, adjusted for inflation: Percent change 1982-2002



Note: 2001 figures used were estimated using average of 2000 and 2002 due to aberrant results. Justice expenditure data are not available for 2003 as the Census Bureau's Finance Survey did not support state by type estimates. For 2004 and beyond, these data will return. However, these data were not yet available at the time of this report.

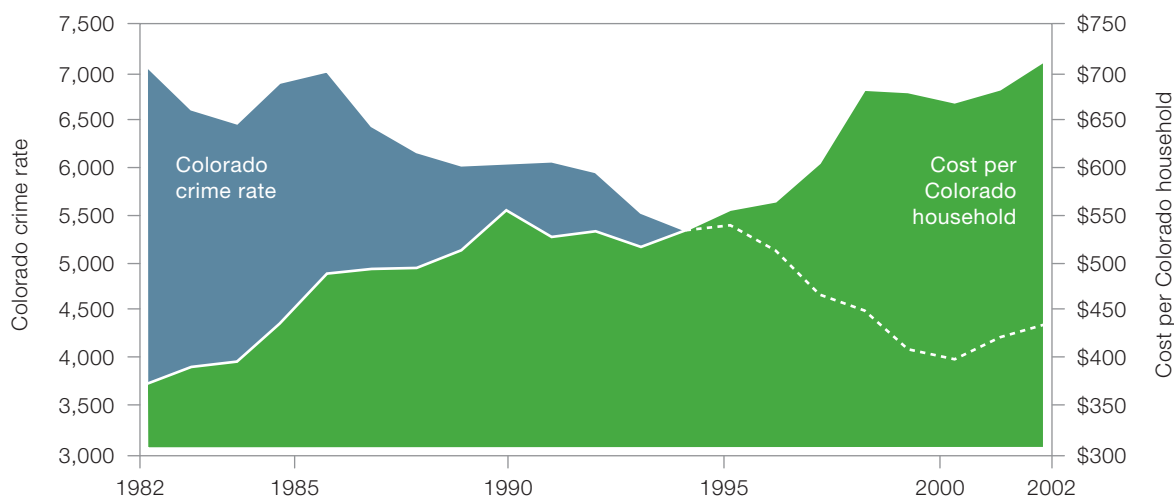
Source: U.S. Dept. of Justice, Bureau of Justice Statistics. *Expenditure and Employment Data for the Criminal Justice System* (see Footnote 23).

- Overall justice system expenditures in Colorado have grown in opposition to the decrease in the crime rate, as shown in Figure 3.24. As shown, the crime rate in Colorado fell from 7,080 per 1,000 residents in 1982 to 4,353 per 1,000 residents in 2002, a decrease of 38.5 percent. Conversely, the estimated cost of justice expenditures has almost doubled, from \$371 to \$713 per Colorado household, after adjusting for inflation.

²³ Expenditure Data for 1982-1991, 1995, 1998, 2001: U.S. Dept. of Justice, Bureau of Justice Statistics. *Expenditure And Employment Data For The Criminal Justice System [United States]: CJEE EXTRACTS FILES* [Computer files]. Survey conducted by U.S. Dept. of Commerce, Bureau of the Census. ICPSR ed. Ann Arbor, MI: Inter-University Consortium for Political and Social Research [producer and distributor]. Expenditure Data 1992-1994, 1996, 1997, 1999, 2000, 2002, 2003: *Sourcebook of Criminal Justice Statistics Online*. Available at: <http://www.albany.edu/sourcebook/> [Accessed February 13, 2007].

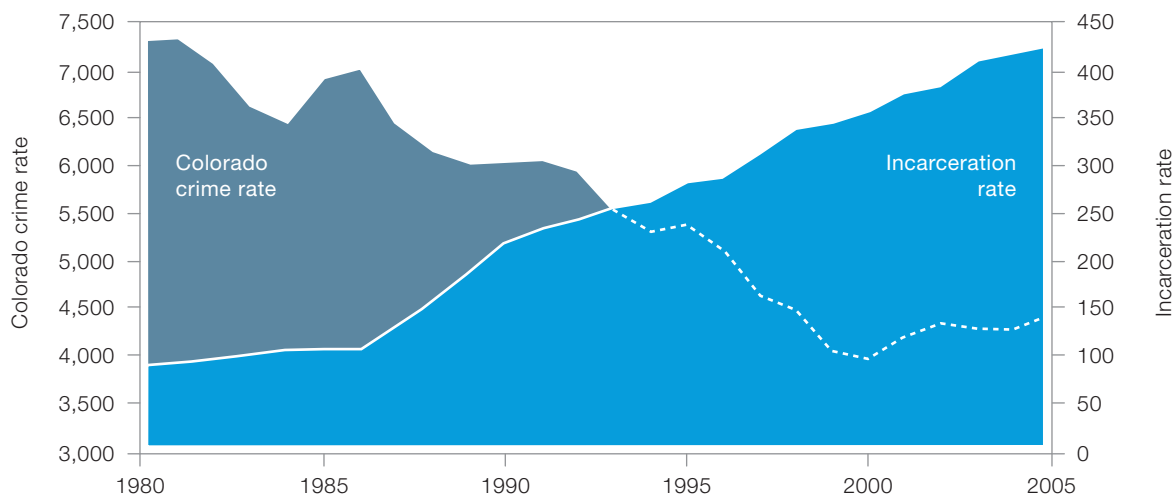
²⁴ Value Deflation: Calculated using $(\text{base year CPI}/\text{current year CPI}) \times \text{current year expenditures}$. Consumer Price Index (CPI) data obtained from the Colorado Legislative Council at: http://www.state.co.us/gov_dir/leg_dir/lcsstaff/lcs/focus/2006/06consumerpriceindex.pdf (2/14/2007).

Figure 3.24. Crime rate per 1000 Coloradans and justice system expenditures cost per Colorado household 1982-2002, adjusted for inflation



Note: 2001 figures used were estimated using average of 2000 and 2002 due to aberrant results. Justice expenditure data are not available for 2003 as the Census Bureau's Finance Survey did not support state by type estimates. For 2004 and beyond, these data will return. However, these data were not yet available at the time of this report. Household data (1985-2003 only). Colorado Department of Local Affairs, Colorado Economic and Demographic Information System. Available: <http://dola.colorado.gov/cedis/cedishom.htm> [Accessed 2/15/2007]; 1982-1984 estimated using 3-yr average (1985-1987) population/household; state offense totals are based on data from all reporting agencies and estimates for unreported areas. Rates are per 100,000 population. **Sources:** U.S. Dept. of Justice, Bureau of Justice Statistics. *Expenditure and Employment Data for the Criminal Justice System* (see footnote 23) and FBI, Uniform Crime Reports, prepared by the National Archive of Criminal Justice Data available at the Bureau of Justice Statistics Data Online <http://www.ojp.usdoj.gov/bjs>.

Figure 3.25. Colorado crime rate and incarceration rate per 100,000 population



Notes: State offense totals are based on data from all reporting agencies and estimates for unreported areas. Rates are the number of reported offenses per 100,000 population. **Sources:** FBI, Uniform Crime Reports, prepared by the National Archive of Criminal Justice. Data available at the Bureau of Justice Statistics Data Online at <http://www.ojp.usdoj.gov/bjs>. Colorado Department of Corrections Statistical Reports.

While many argue that the crime rate fell BECAUSE of the incarceration rate, this statement was most accurate in the 1990s. During that period, research suggests that for approximately every 10 percent increase in the incarceration rate, crime rates fell by 2-3 percent. This finding, however, is contradicted by some neighborhood-based studies that found crime significantly increased in areas where incarcerations rates were highest. Further, after many years of increased incarceration this impact on crime diminishes. This can be seen today as crime rates climb somewhat despite continued increases in the incarceration rate, in Colorado and nationwide (see figure above).

