



An Overview of Colorado Adult Correctional and Juvenile Justice Systems and Population Projections

**Report to the
COLORADO
GENERAL ASSEMBLY**

**Colorado Legislative Council
Research Publication No. 399
January 1995**

ACKNOWLEDGEMENTS

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ACRONYM LISTING

- ADP** — Average Daily Population
- C.R.S.** — Colorado Revised Statutes
- DOC** — Department of Corrections
- DRDC** — Denver Reception and Diagnostic Center
- DYS** — Division of Youth Services
- GED** — General Educational Development (tests), general equivalency diploma
- H.B.** — House Bill
- JBC** — Joint Budget Committee
- LCS** — Legislative Council Staff
- N/A** — Not Applicable
- S.B.** — Senate Bill
- YOS** — Youthful Offender System



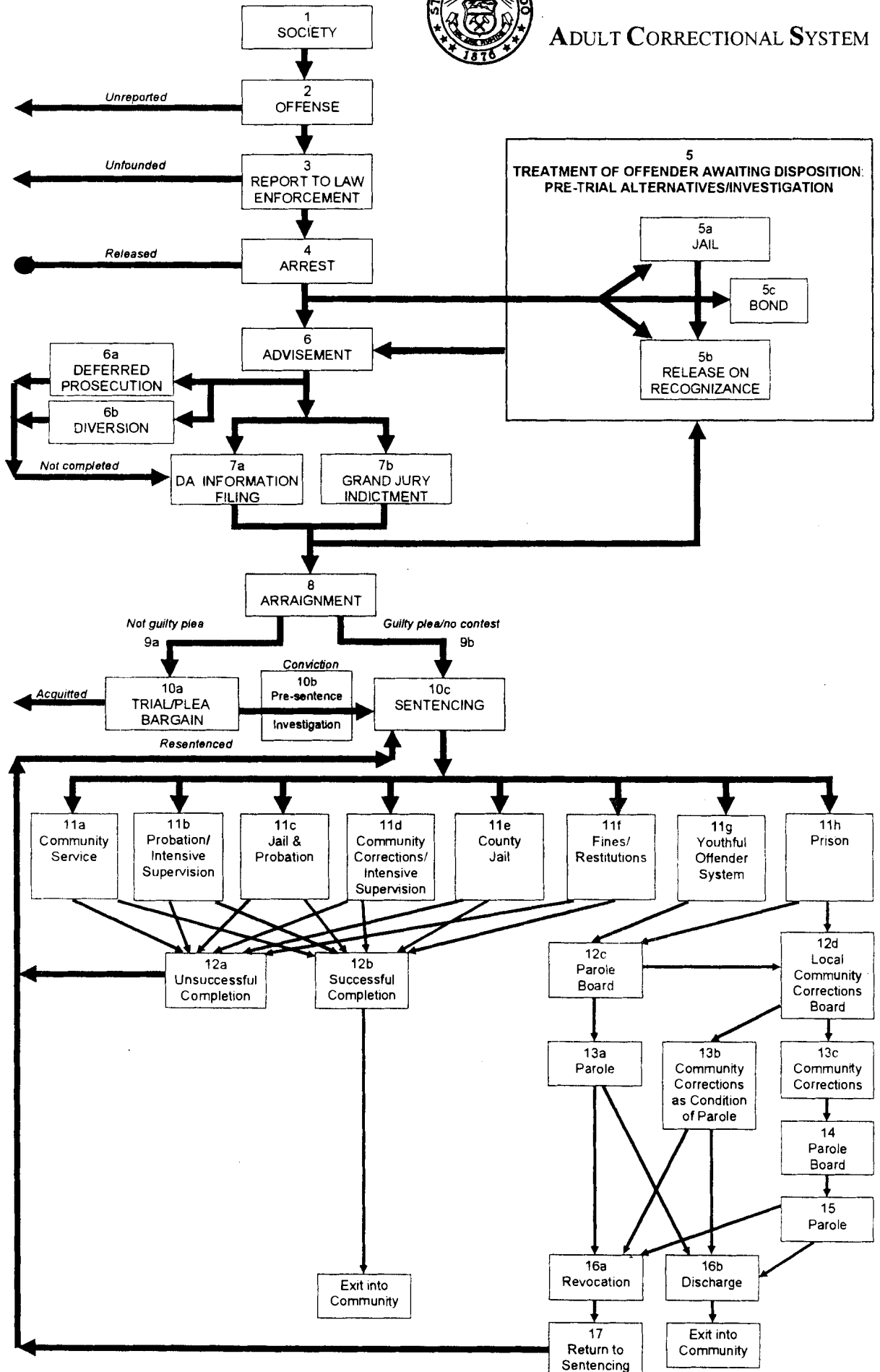
SECTION I:

COLORADO ADULT CORRECTIONAL SYSTEM

SECTION I

Part 1: Flowchart of the Adult Correctional System

The first section of this package of information provides a flowchart of the adult correctional system in Colorado. The chart illustrates the numerous steps required by the courts to sentence adult offenders. This chart also depicts the wide discretion within the system that the courts have to apply sentences to criminal offenders. The chart is then followed by a narrative explanation for each step within the flowchart.



**Explanation for
Adult Correctional System Flowchart**

Chart Level	Item	Colorado Statutory Citation	Description
1	Society		
2	Offense Committed		
3	Report to Law Enforcement		
4	Arrest	16-3-101 and 16-3-102	An arrest may be made anytime and all necessary and reasonable force may be used in making an arrest. 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.
5	Pre-trial Alternatives/ Pre-trial Investigation	16-4-105 (3)	Pre-trial service programs are to establish procedures for screening persons detained due to arrest for the alleged commission of a crime. The programs are to 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 decision is made to release or detain the offender.
5a	Jail	17-26-101	Each county shall maintain a county jail for detention, safekeeping, and confinement of persons and prisoners lawfully committed. Counties with populations of less than 2,000 are not required to operate county jails.
5b	Release on Recognizance	16-4-104	When the amount of bail is fixed by the judge of a court of record, he shall also determine the amount and type of bond (see bond/bail for further explanation) that shall be required to release the defendant prior to trial. The defendant may be released from custody pursuant to a personal recognizance bond.
5c	Bond/Bail	16-4-101 through 16-4-111	All persons are eligible for bond except for: <ul style="list-style-type: none"> (a) 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: <ul style="list-style-type: none"> (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;

**Explanation for
Adult Correctional System Flowchart**

Chart Level	Item	Colorado Statutory Citation	Description
5c (contd.)	Bond/Bail	16-4-101 through 16-4-111	<p>(III) a crime of violence after two previous felony convictions, or one such previous felony conviction if such conviction was for a crime of violence, upon charges separately brought and tried in this state or any other state, the United States, or any territory subject to the jurisdiction of the United States which, if committed in this state, would be a felony; or</p> <p>(c) when a person has been convicted of a crime of violence at the trial court level and such person is appealing such conviction or awaiting sentencing for such conviction and the court finds that the public would be placed in significant peril if the convicted person were released on bail.</p>
6	Advisement	16-8-117	<p>When a determination is to be made as to a defendant's competency to proceed with a trial or eligibility for release, the court shall explain to the defendant the nature and consequences of the proceeding and the rights of the defendant, including the right to a jury trial upon the question of eligibility for release.</p>
6a	Deferred Prosecution	16-7-401	<p>Prior to trial, the court may enter a plea of guilty and with the consent of the defendant and the prosecution, order prosecution of the offense to be deferred for a period not to exceed two years. The period may be extended up to 180 days if the failure to pay any associated costs is the sole condition of supervision that has not been fulfilled and the defendant has shown a future ability to pay.</p> <p>During the time of deferred prosecution, the court may place the defendant under the supervision of the Probation Department and may require the defendant to undergo mental health, drug abuse, or alcohol abuse counseling.</p> <p>Successful completion of the supervision requirements will result in the charges being dismissed with prejudice. If the conditions of supervision are violated, the defendant is to be tried for the offense for which he was charged.</p> <p>The statutes stipulate that persons charged with the following crimes are not eligible for a deferred sentence: class 2 felony of sexual assault in the first degree (Section 18-3-402 (3), C.R.S.); and class 2 or class 3 felony of child abuse (Sections 18-6-401 (7) and 18-6-401.2 (4), C.R.S.).</p>

**Explanation for
Adult Correctional System Flowchart**

Chart Level	Item	Colorado Statutory Citation	Description
6b	Diversion	16-11-213	Often, intensive supervision probation programs are sought as an alternative to sentences to imprisonment or community corrections. Such programs include highly-restricted activities, daily contact between the offender and the probation officer, monitored curfew, home visitation, employment visitation and monitoring, drug and alcohol screening, treatment referrals and monitoring, and restitution and community service.
7a	District Attorney (DA) Information Filing	16-5-205	<p>The DA may file information alleging that a person committed the criminal offense. The court then enters an order fixing the amount of bail, and the amount of bail shall be noted on any warrant issued for the arrest.</p> <p>In addition, upon the return of an indictment by a grand jury, or the filing of information, or the filing of a felony complaint in the county court, the DA shall request the court to order that a warrant be issued for the arrest of the defendant, or that a summons be issued and be served upon the defendant.</p>
7b	Grand Jury Indictment	16-1-104 (11) and 16-5-101	A criminal action may be commenced by a grand jury indictment. An indictment means a written statement, presented by a grand jury to the district court, that charges the commission of a crime by an alleged offender.
8	Arraignment	16-7-201 through 16-7-207	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.
9a	Not Guilty Plea >>> Proceed to Trial	16-7-205	See chart level 8.
9b	Guilty Plea >>> Proceed to Sentencing	16-7-205	See chart level 8.
10a	Trial/Plea Bargain	<p style="text-align: center;">Trial: 16-10-101 through 16-10-601, 18-1-405 and 18-1-406</p> <p style="text-align: center;">Plea Bargain: 16-7-301 through 16-7-304</p>	<p>Trial: 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 is not to again be indicted, 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.</p>

**Explanation for
Adult Correctional System Flowchart**

Chart Level	Item	Colorado Statutory Citation	Description
10a (contd.)	Trial/Plea Bargain	<p>Trial: 16-10-101 through 16-10-601, 18-1-405 and 18-1-406</p> <p>Plea Bargain: 16-7-301 through 16-7-304</p>	<p>Every person accused of a felony has the right to be tried by a jury of 12 whose verdict is to be unanimous. A person may waive his right to a jury trial except in the case of class 1 felonies. The acceptance by the court of a plea of guilty acts as a waiver by the defendant of the right to trial by jury.</p> <p>Plea Bargain: The DA 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. The prosecutor is to inform the court of the terms of the plea agreement and the recommended penalty. If the court determines that the proposed plea agreement is acceptable, the court shall advise the defendant that the court exercises independent judgment in deciding whether to grant charge and sentence concessions made in the plea agreement. Therefore, the court may sentence the defendant in a manner that is different than that discussed in the plea discussions. The trial judge is not to participate in plea discussions.</p>
10b	Pre-sentence Investigation	16-11-102	<p>Following each felony conviction, with the exception of class 1 felonies, the probation officer is to make a written report to the court before sentencing. Pre-sentence reports are to include a substance abuse assessment or evaluation. The report is also to include: family background, educational history, employment record, past criminal record, 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 to be given to the prosecutor and the defense attorney no less than 72 hours prior to the sentencing hearing.</p>
10c	Sentencing	16-11-101, 16-11-103, 16-11.5-104, 16-11.7-105 and 17-27-105	<p>Within the penalty limitations provided by the offense classification for which a person is found guilty, the trial court has the following alternatives in entering judgment imposing a sentence. The defendant may be granted probation; sentenced to imprisonment for a definite period of time; sentenced to death; sentenced to the payment of a fine or to a term of imprisonment or to both a term of imprisonment and the payment of a fine; sentenced to comply with any other court order; sentenced to payment of costs; sentenced to substance abuse treatment or sex offender treatment; or sentenced to community corrections programs.</p>

*Explanation for
Adult Correctional System Flowchart*

Chart Level	Item	Colorado Statutory Citation	Description
	Community Service	16-11-101 and et. seq.	Offenders may be sentenced to community service as an alternative to prison if the defendant is eligible for placement in the program. Offenders are not eligible for community service if they have been convicted of a crime of violence (Section 16-11-309, C.R.S.) or any felony offense against a child.
11b	Probation/Intensive Supervision Probation	16-11-101 (1)(a), 16-11-201, 16-11-202 and 16-11-219	<p>Probation: Persons are eligible for probation with the following exceptions: 1) class 1 felony conviction or class 2 petty offense; 2) any person who has been convicted of two prior felonies in Colorado or any other state; 3) any person 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.</p> <p>Intensive Supervision Probation: Offenders in the program are to receive at least the highest level of supervision that is provided to probationers. Programs are to include highly-restricted activities, daily contact, monitored curfew, home visitation, employment visitation and monitoring, drug and alcohol screening, treatment referrals and monitoring, restitution and community service.</p>
11c	Jail and Probation	16-11-202	In addition to imposing other conditions, the court has the power to commit the defendant to any jail operated by the county or city and county in which the offense was committed. The commitment to jail may be during the time of probation or interval periods.

*Explanation for
Adult Correctional System Flowchart*

Chart Level	Item	Colorado Statutory Citation	Description
11d	Community Corrections/ Intensive Supervision Programs	17-27-101 through 17-27-108 and 17-27.5-101 through 17-27.5-101	<p>Community Corrections: Any unit of local government or authorized state agency may establish and operate community corrections programs to serve the needs of offenders assigned by the Department of Corrections (DOC), placed by the State Board of Parole, or sentenced to the by the court. Community corrections program administrators establish conditions or guidelines for offender conduct accepted in the program. Conditions and guidelines are not to conflict with guidelines established by the local community corrections board.</p> <p>The programs are to: provide residential or non-residential services; monitor activities; provide oversight of victim restitution and community service; provide services to assist in obtaining and holding regular employment; assist with enrolling and completing academic programs and vocational training; assist in accessing community resources; meet the personal and family needs; provide appropriate treatment; and provide other appropriate services or programs.</p> <p>Any district court judge may refer a convicted felony offender to a community corrections program, unless the offender is required to be sentenced under Section 16-11-309, C.R.S., violent offenses. The court may also refer an offender to community corrections as a condition of probation. Offenders sentenced by the court must be approved by the local community corrections boards.</p> <p>The DOC executive director may transfer to a community corrections facility any eligible offender, subject to acceptance by a community corrections board, within 16 months of the parole eligibility date. Eligible offenders are those: who displayed acceptable institutional behavior and are not serving a crime of violence sentence (16-11-309); who do not have an active felony warrant; and do not refuse placement. All offenders may be referred within 180 days of the parole eligibility date. The State Board of Parole may refer any parolee for placement, subject to approval by the Community Corrections Board.</p> <p>Intensive Supervision Programs (ISP): The DOC may establish and operate intensive supervision programs for any offender having 180 days or less remaining until their parole eligibility date (PED). The DOC may also refer an offender to a locally-operated ISP under contract with the Department of Public Safety (DPS). DPS has the authority to contract with community corrections programs for intensive supervision services. As a condition of parole, the offender may be required to participate in an intensive supervision program.</p>

***Explanation for
Adult Correctional System Flowchart***

Chart Level	Item	Colorado Statutory Citation	Description
11e	County Jail	18-1-106	Misdemeanor penalties are punishable by fine or imprisonment. Imprisonments for such offenses are to be served at the county level and are not to be served in any state correctional facility.
11f	Fines/Restitution	16-11-101(1)(b.5)(e)	The defendant may be sentenced to the payment of a fine or to a term of imprisonment or to both.
11g	Youthful Offender System	16-11-101(1)(h) and 16-11-311	The Youthful Offender System (YOS) was established to provide a sentencing option for certain youthful offenders. The controlled and regimented environment is intended to affirm the dignity of self and others, promote the value of work and self discipline, and develop useful skills and abilities through enriched programming. In order to sentence a person to the YOS, the court must first impose a sentence to the DOC. The court shall thereafter suspend such sentence conditioned on completion of a sentence to the YOS, including a period of community supervision. The sentence imposed to YOS shall be for a determinate period of not less than two years nor more than six years. The DOC may 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.
11h	Prison	16-11-101(1)(b), 16-11-103, 16-11-302 and 18-1-105	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.
12a	Unsuccessful Completion	17-22.5-303, 16-11-204, 16-11-502 and 17-27-101, et. seq.	Offenders who fail to meet all of the parole, probation, community corrections, and fine requirements are subject to additional penalties by the courts.
12b	Successful Completion		
12c	Parole Board	17-2-201 through 17-2-216	The Parole Board consists of seven members appointed by the Governor and confirmed by the Senate. The board has the following powers and duties: 1) to meet as often as necessary to consider all applications for parole; 2) to conduct parole revocation hearings pursuant to Section 17-2-103, C.R.S.; and 3) to issue, pursuant to rules and regulations, an order of exigent circumstances (requiring immediate attention) to place an offender under parole supervision when the board is prevented from complying with publication and interview requirements. If the board refuses parole, the board shall reconsider parole for every year thereafter until parole is

***Explanation for
Adult Correctional System Flowchart***

Chart Level	Item	Colorado Statutory Citation	Description
12c (contd.)	Parole Board	17-2-201 through 17-2-216	<p>granted or the offender is discharged. This does not apply to class 1 or class 2 crimes of violence (Section 16-11-309, C.R.S.) or to class 3 sexual assault. In these instances, the board only has to review parole once every three years.</p> <p>As a condition of every parole, the board shall require the offender to make restitution. If restitution is not made, the board may modify the amount, extend the period of parole, or revoke parole. Every offender convicted of class 2 sexual assault in the 1st degree shall be required to participate in mental health counseling as a condition of parole. Also as a condition of parole, each parolee is to sign a written agreement which contains parole conditions pursuant to Section 17-2-201, C.R.S.; this includes chemical testing. Another offense which requires special parole conditions is sexual assault as defined in Section 18-3-401, et seq., C.R.S.</p>
12d	Local Community Corrections Board	17-27-102	This is the governing body of local community corrections programs.
13a	Parole	17-22.5-403	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.
12b	Community Corrections as Condition of Parole	17-27-105(3)(a)	The State Board of Parole may refer any parolee for placement in a community corrections program, subject to acceptance by the local community corrections board.
13c	Community Corrections	17-27-102 (3)	Community corrections programs are community-based or community-oriented programs that provide supervision of offenders. These programs are operated by a unit of local government, the DOC, or any private individual, partnership, corporation, or association. The programs may provide residential or non-residential services for offenders, monitoring of the activities of offenders, and services to aid offenders in obtaining and holding regular employment, programs and services to aid offenders in enrolling in and maintaining academic courses, programs and services to aid offenders in participating in vocational training programs, programs and services to aid offenders in utilizing the resources of the community, meeting the personal and family needs of such offenders, programs and services to aid

*Explanation for
Adult Correctional System Flowchart*

Chart Level	Item	Colorado Statutory Citation	Description
13c (contd.)	Community Corrections	17-27-103 (2)	offenders in obtaining appropriate treatment for such offenders, programs and services to aid offenders in participating in whatever specialized programs exist within the community, and such other services and programs as may be appropriate to aid in offender rehabilitation and public safety.
14	Parole Board		See chart level 12c.
15	Parole		See chart level 13a.
16a	Revocation	17-27-103 and 17-27-9-101	A parolee who violates the conditions of parole, may have that privilege revoked. These conditions include any parolee who is found in possession of a deadly weapon, arrested and charged with a felony, a crime of violence, a misdemeanor assault involving a deadly weapon or resulting in bodily injury to the victim, or sexual assault in the third degree.
16b	Successful Discharge		The offender successfully completes the conditions of parole or community corrections and is free to reintegrate into society.
17	Return to Sentencing		See chart level 12a.

For further information, please contact
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SECTION I

Part 2: Incidence of Crime by Crime Type

This section analyzes the nature and changes in the incidence of crime from FY 1986-87 through FY 1992-93. Graphs in this section separately depict violent and non-violent crimes for both new commitments and the prison population as a whole. New commitments grew at a 6.4 percent annualized pace during the period analyzed, largely because of strong growth in non-violent offenses, specifically, drug offenses. The strongest growth category in violent new commitments was in assaults. Meanwhile, the doubling of sentences in 1985 led to a more dramatic increase in the inmate population than that exhibited by new commitments. The inmate population in the Department of Corrections grew at a 14.8 percent annualized pace between FY 1986-87 and FY 1992-93. Although both categories experienced strong growth, there was a stronger advance in non-violent than in violent inmates. Violent inmates comprise 41 percent of the prison population, with the largest category therein being sexual assault.

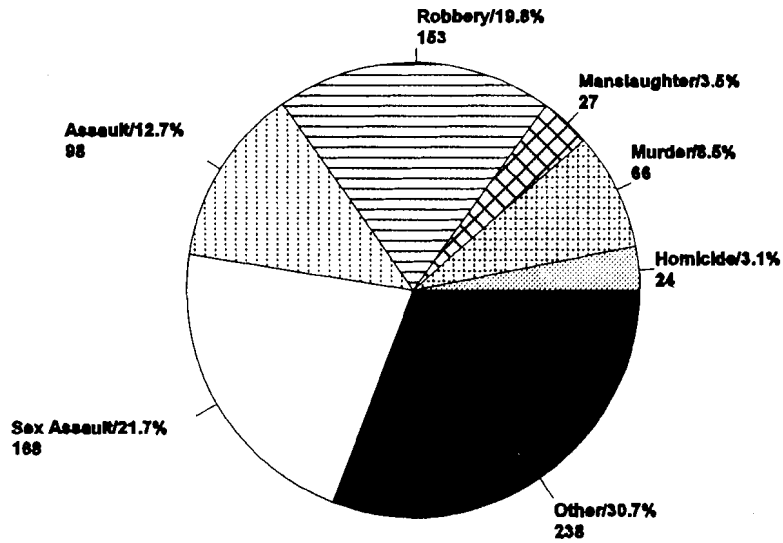
NEW COMMITMENTS

New commitments for violent offenses. Graphs I-2.1 and I-2.2 illustrate the changes in the nature of violent committed offenders that occurred between FY 1986-87 and FY 1992-93. The overall number of new commitments for violent offenses grew 23.3 percent, or at a 3.5 percent compound annual growth rate, during the time period analyzed. Within the violent category, there was significant growth in assaults (up at an 11.5 percent annualized pace), thus the share of new commitments sentenced for assault grew from 12.7 percent of total commitments in FY 1986-87 to 19.3 percent in FY 1992-93. Following assaults, the "other" category, which includes kidnapping, menacing, arson, weapons/explosives offenses, child abuse, and extortion, registered the second-strongest rate of growth (up at a 5.3 percent annualized pace). In FY 1992-93, the "other" category accounted for 34.0 percent of violent commitments, versus 30.7 percent in FY 1986-87. New commitments for robbery, manslaughter, and murder decreased during the seven-year period, while homicide commitments increased at a 2.0 percent annualized pace. Sex assaults, meanwhile, advanced at a 2.3 percent annualized pace. Overall, assault, sexual assault, and "other" crimes accounted for nearly three-fourths of violent offenders sentenced in FY 1992-93.

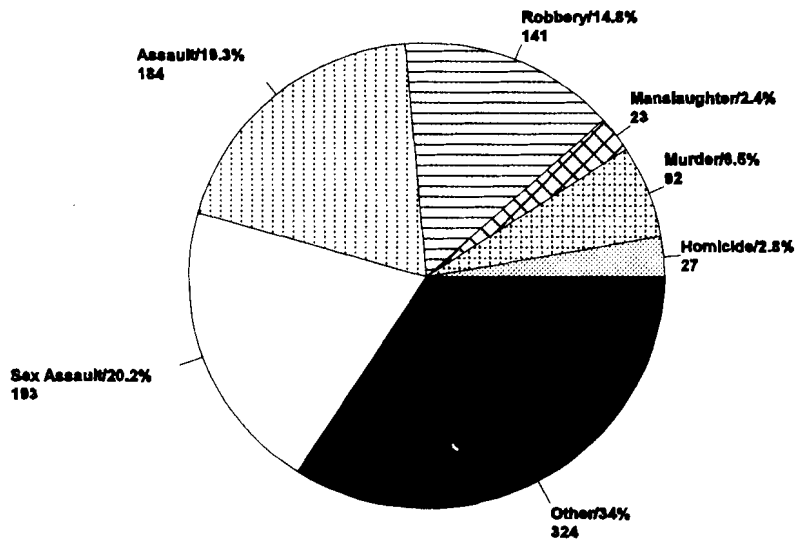
New commitments for non-violent offenses. As noted previously, there has been strong growth in new commitments for non-violent crimes, up 56.7 percent during the seven-year period analyzed. This represents a 7.8 percent compound annual growth rate. Non-violent offenders accounted for 72 percent of new commitments in FY 1992-93, but they comprise a smaller share (59 percent) of the inmate population because of their relatively shorter sentences. Graphs I-2.3 and I-2.4 depict the type of crimes committed by new felons between FY 1986-87 and FY 1992-93. The area which experienced the strongest growth in non-violent commitments between FY 1986-87 and FY 1992-93 was drug offenses, up at a 19.5 percent annualized pace. In relative importance, drug offenses now account for 22.2 percent of non-violent new commitments, compared with only 11.9 percent in FY 1986-87. Following drug offenses, were traffic offenses, with a 17.5 percent annualized growth rate. Traffic offenses accounted for 2.7 percent of new crimes in FY 1986-87, versus 4.5 percent in FY 1992-93. There was also strong growth (up at an 8.6 percent annualized pace) in miscellaneous non-violent crimes. This miscellaneous category includes attempt to commit a felony offense, conspiracy, accessory, mischief, court/corrections offenses, family crimes, escape/contraband, and habitual criminals. Weak growth was exhibited in the theft, vandalism/trespass, and burglary categories. Overall, drug offenses, miscellaneous crimes, and theft accounted for approximately two-thirds of all non-violent new commitments in FY 1992-93.

Graph I-2.1
Number of New Offenders Committed for Violent Offenses

FY 1987 Total = 774



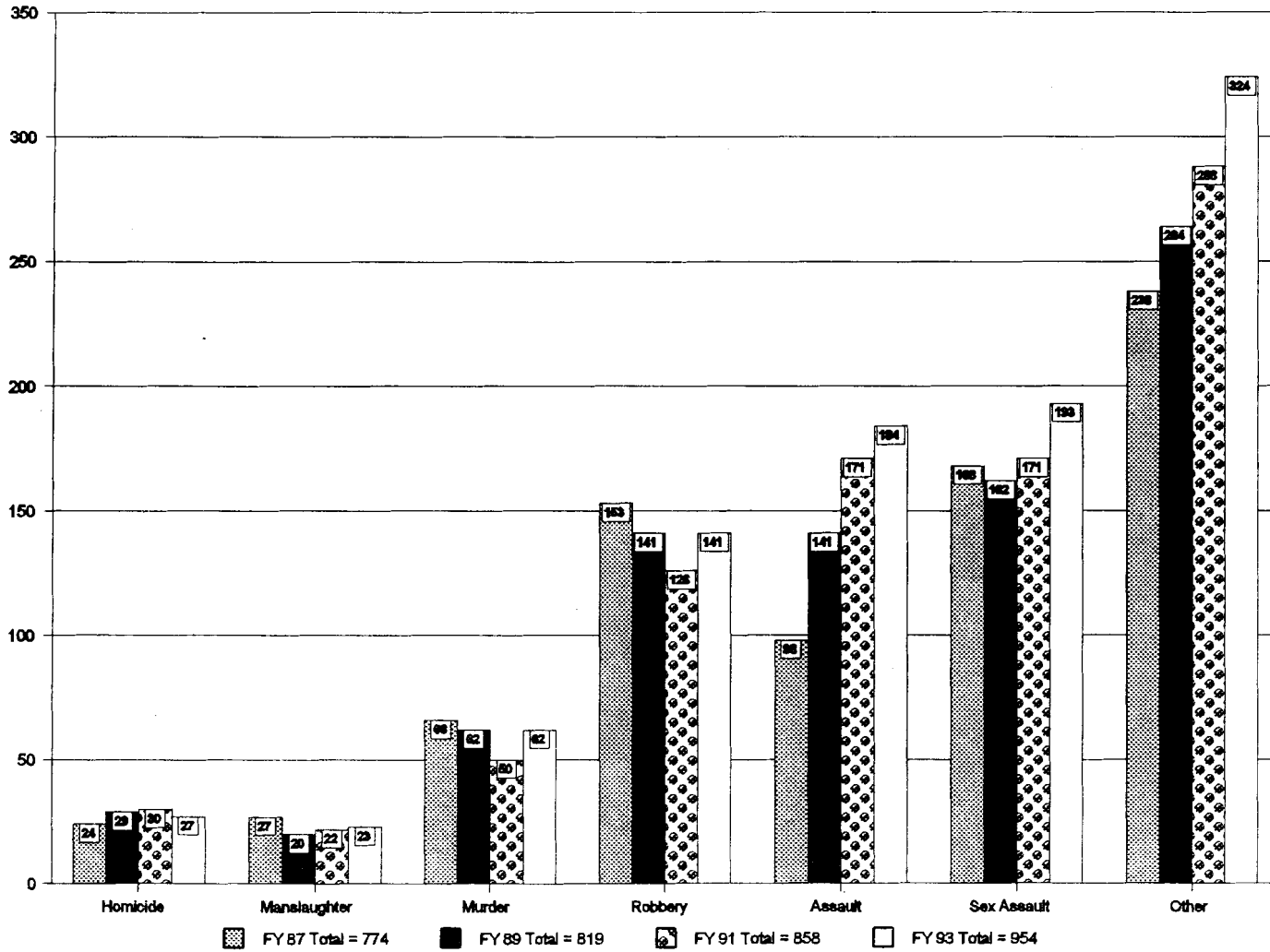
FY 1993 Total = 954



Other = kidnapping, menacing, arson, weapons/explosives offenses, child abuse, and extortion.
 Source: Department of Corrections.
 Prepared by Legislative Council Staff, November 1994.

*Graph I-2.2
Number of New Offenders Committed for Violent Offenses*

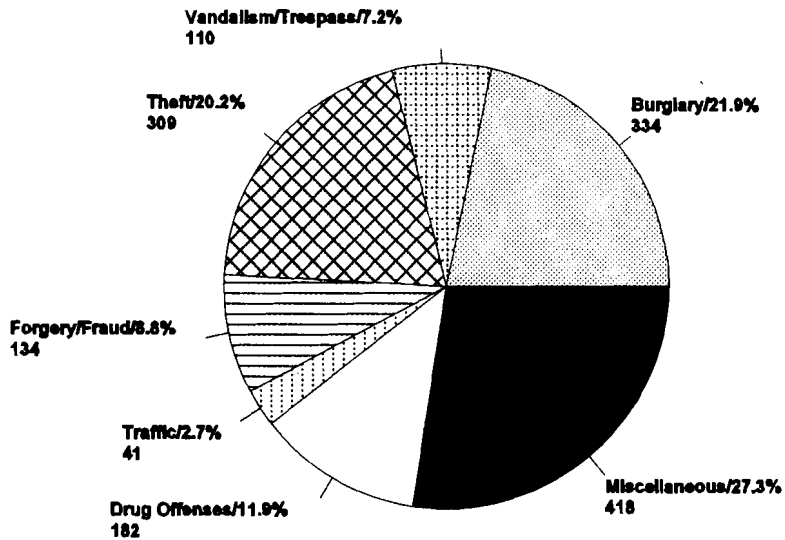
FY 1987-93



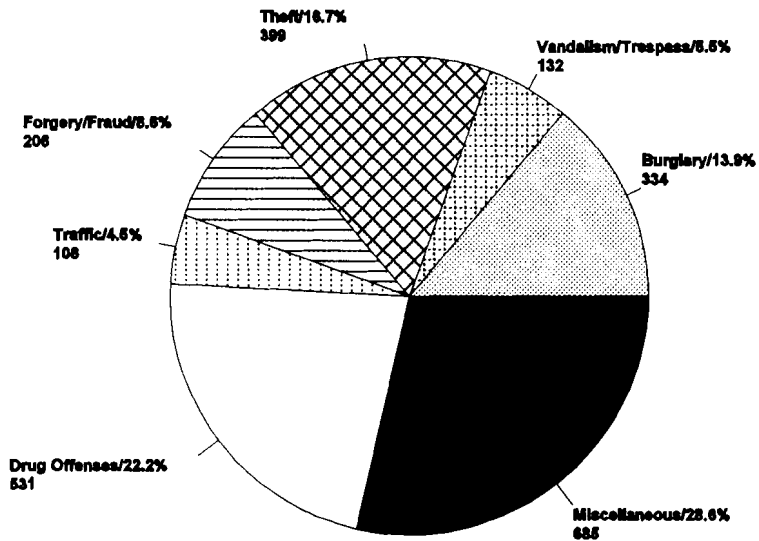
Source: Department of Corrections.
 Other = kidnapping, menacing, arson, weapons/explosives offenses, child abuse, and extortion.
 Prepared by Legislative Council Staff, November 1994.

Graph I-2.3
Number of New Offenders Committed for
Non-Violent Offenses

FY 1987 Total = 1,528



FY 1993 Total = 2,395



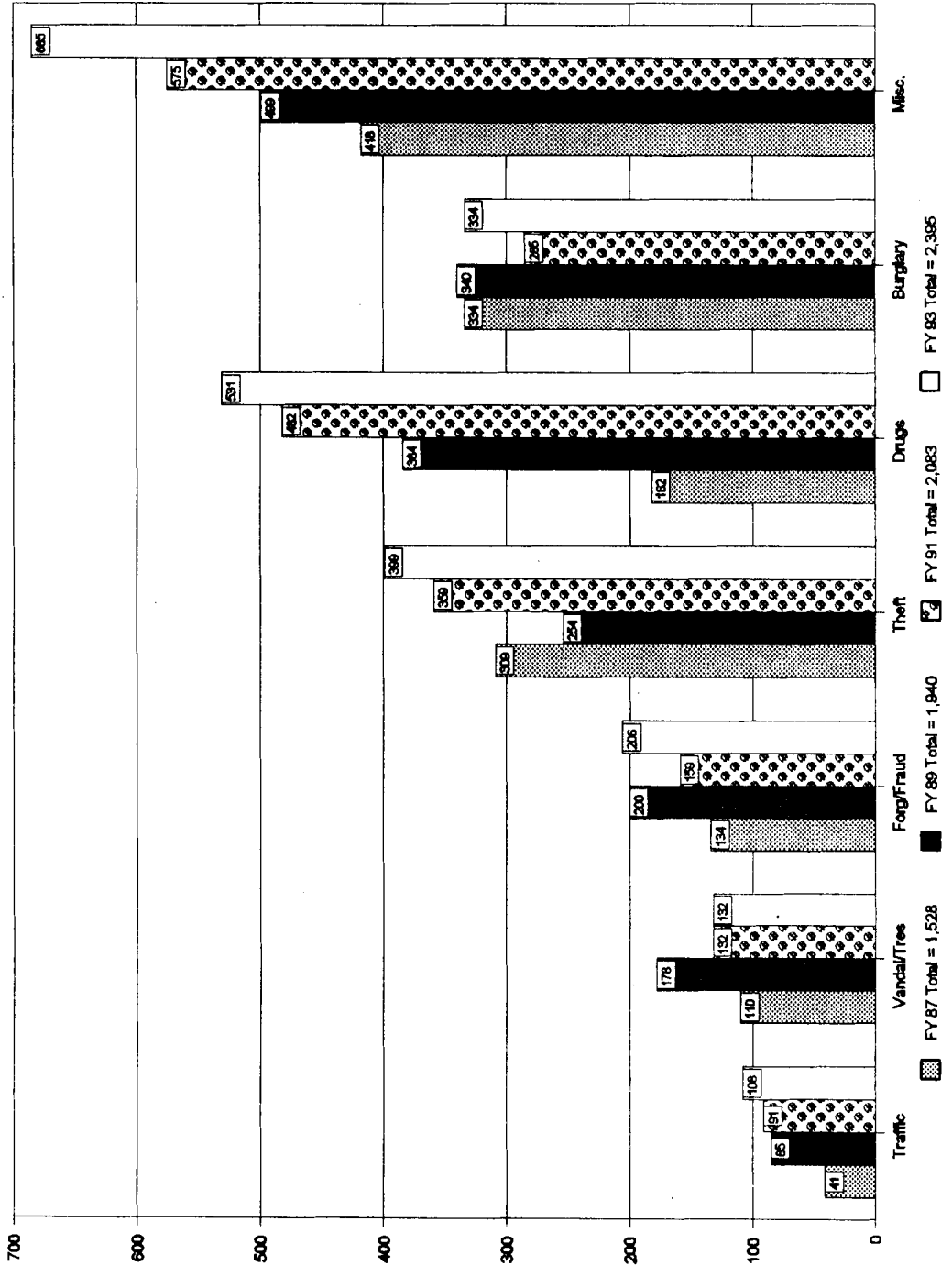
Miscellaneous = attempt, conspiracy, accessory, mischief, court/corrections offenses, family crimes, escape/contraband, habitual, and other miscellaneous offenses.

Source: Department of Corrections.

Prepared by Legislative Council Staff, November 1994.

Graph I-2.4
Number of New Offenders Committed for Non-Violent Offenses

FY 1987-93



Source: Department of Corrections.
 Misc. = attempt, conspiracy, accessory, mischief, court/corrections offenses, family crimes, escape/contraband, habitual, and other miscellaneous offenses.
 Prepared by Legislative Council Staff, November 1994.

INMATE POPULATION

Inmate population for violent crimes. The number of violent offenders in prison has increased at a 13.5 percent annualized pace between FY 1986-87 and FY 1992-93. This represents a much greater gain than the advance in violent new commitments because there have been longer sentences imposed for violent crimes during the period examined. In fact, in FY 1986-87, new commitments for violent offenses accounted for 46 percent of the violent inmate population, whereas in FY 1992-93, that proportion was only 27 percent. Clearly, the longer sentences for violent crimes imposed beginning in 1985 swelled the violent inmate population.

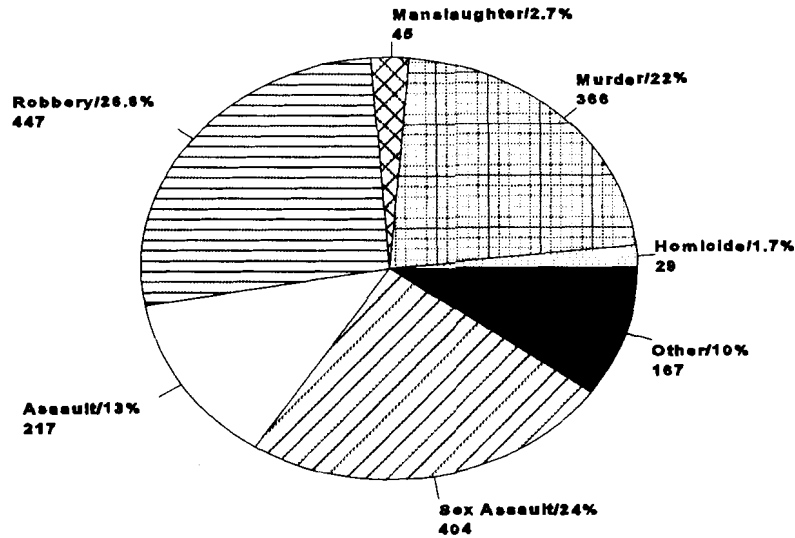
Graphs I-2.5 and I-2.6 depict the violent inmate population by type of crime. In FY 1992-93, prisoners sentenced for sexual assault comprised 28.5 percent of the violent prison population, followed by robbery (20.5 percent), and murder (17.2 percent). In terms of growth, inmates incarcerated for homicide registered the strongest advance during this period, up at a 19.9 percent annualized pace. Nonetheless, such offenders remain a small portion (2.4 percent) of the inmate population. Assaults registered the next-strongest annualized gain, 18.2 percent, followed by "other," 17.5 percent, and sexual assault, 16.7 percent. The "other" category includes kidnapping, menacing, arson, weapons/explosives offenses, child abuse, and extortion.

Inmate population for non-violent crimes. The number of non-violent offenders in prison advanced at a 15.7 percent annualized pace between FY 1986-87 and FY 1992-93 (Graphs I-2.7 and I-2.8). Once again, the relative stronger growth here than that of the new commitments reflects longer sentencing practices. Inmates in prison for traffic and drug offenses registered strong growth during this period. Although inmates in prison for traffic offenses are a relatively small share of the non-violent convicts, this category experienced a 130 percent annualized gain during the seven-year period. Meanwhile, convicted drug offenders comprise 18.8 percent of the prison population, and have registered a 31.1 percent annualized gain since FY 1986-87. Theft inmates ranked third in terms of growth, up at a 16.8 percent annualized pace. The weakest growth category was in fraud, up at an 8.0 percent annualized pace. The miscellaneous categories, drug offenses, and burglary accounted for 71 percent of the non-violent inmates in FY 1992-93. Miscellaneous crimes include: family crimes, escape/ contraband, attempt to commit a felony, accessory, and habitual offenders, as well as other crimes.

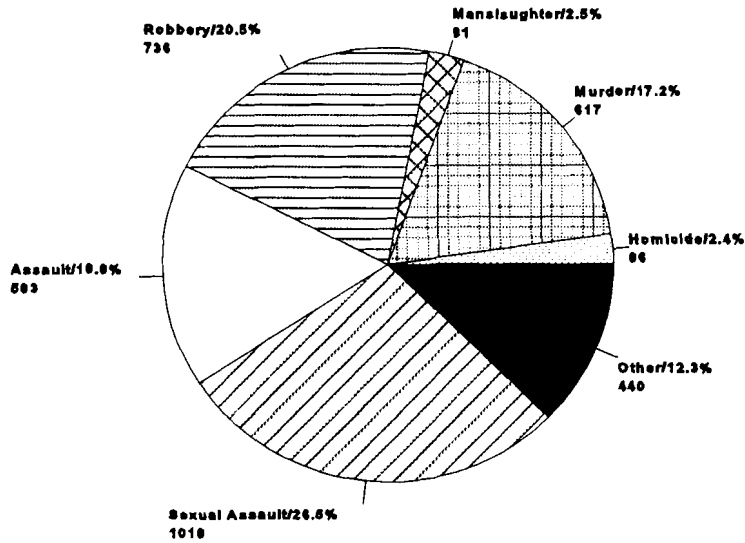
For further information, please contact
Carl Jarrett or Nancy McCallin, Legislative Council Staff, 866-3521.

Graph I-2.5
Number of Inmates in Prison for Violent Offenses

FY 1987 Total = 1,677



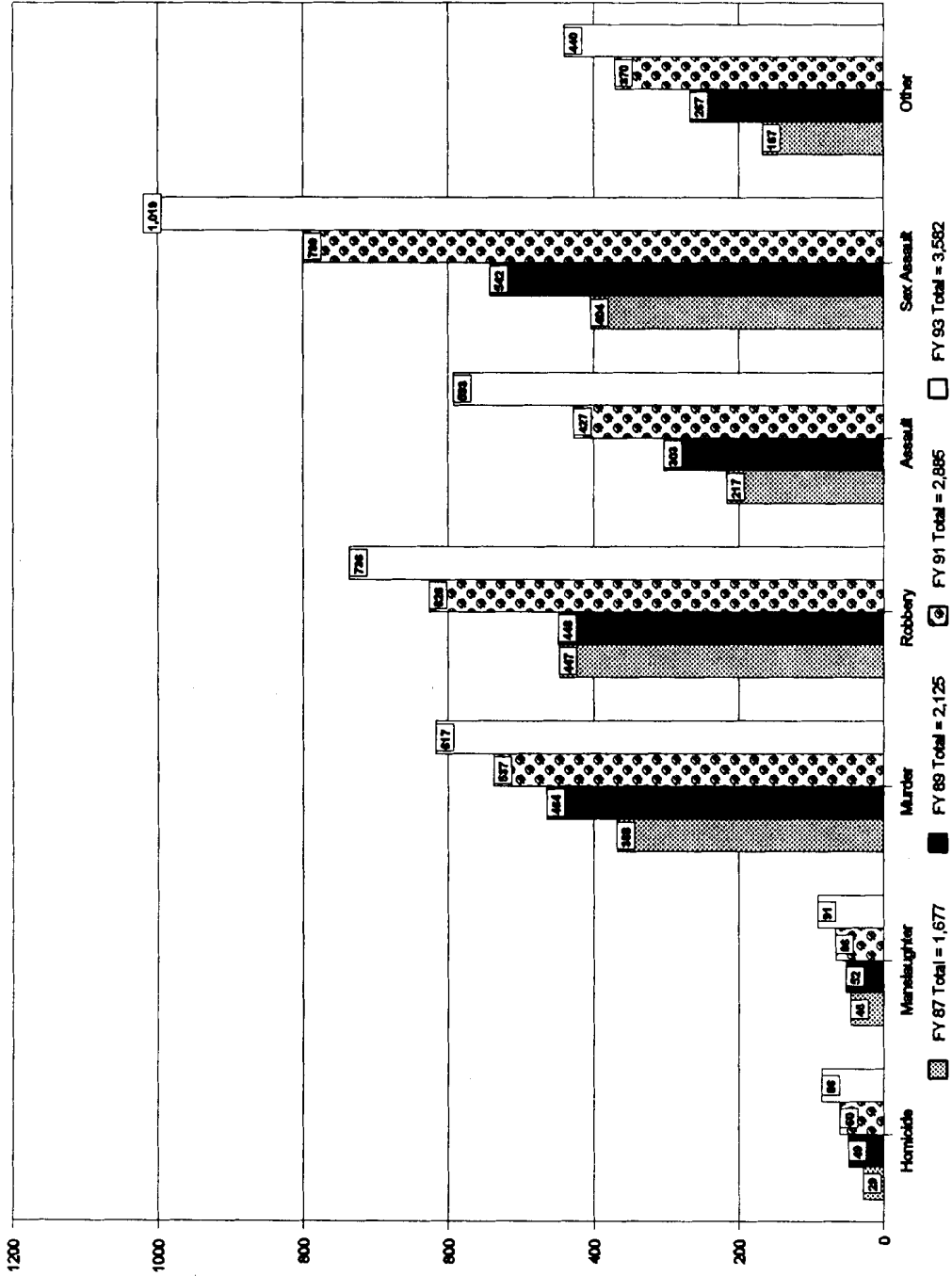
FY 1993 Total = 3,582



Other = kidnapping, menacing, arson, weapons/explosives offenses, child abuse, and extortion.
 Source: Department of Corrections.
 Prepared by Legislative Council Staff, November 1994.

*Graph I-2.6
Number of Inmates in Prison for Violent Offenses*

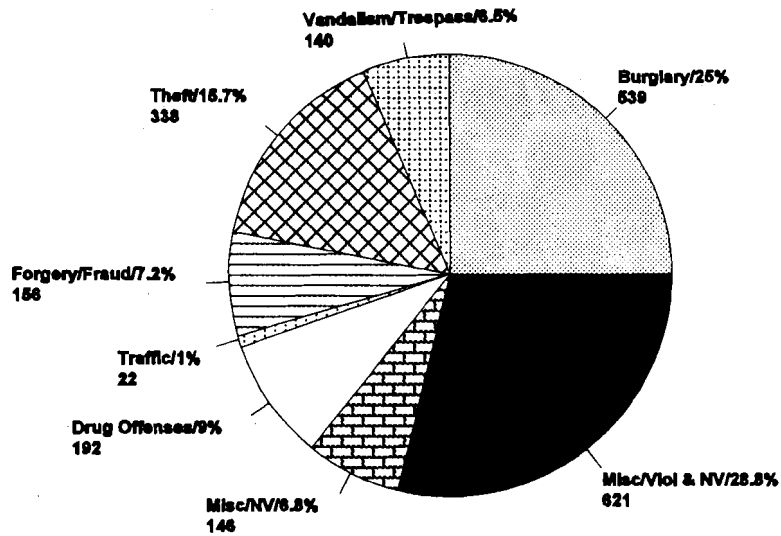
FY 1987-93



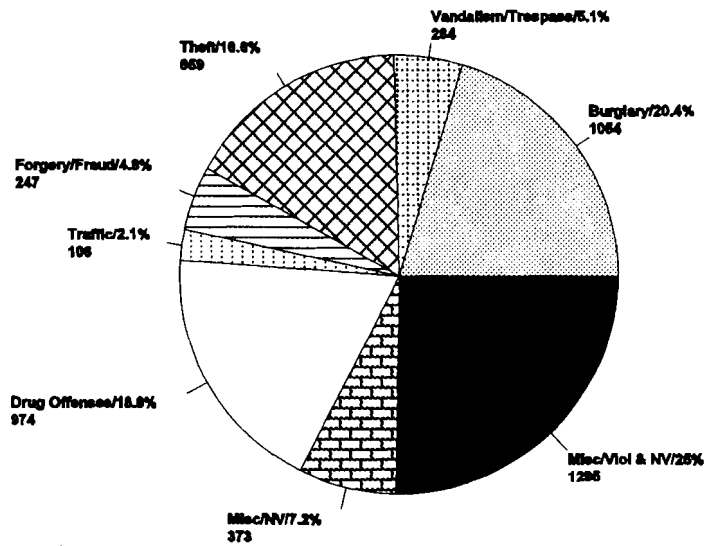
Source: Department of Corrections.
Other = kidnapping, menacing, arson, weapons/explosives, child abuse, and extortion.
Prepared by Legislative Council Staff, November 1994.

Graph I-2.7
Number of Inmates in Prison for Non-Violent Offenses

FY 1987 Total = 2,154



FY 1993 Total = 5,172



Miscellaneous = attempt, conspiracy, accessory, mischief, court/corrections offenses, family crimes, escape/contraband, habitual, and other miscellaneous offenses.

Misc/NV = family crimes and escape/contraband offenses.

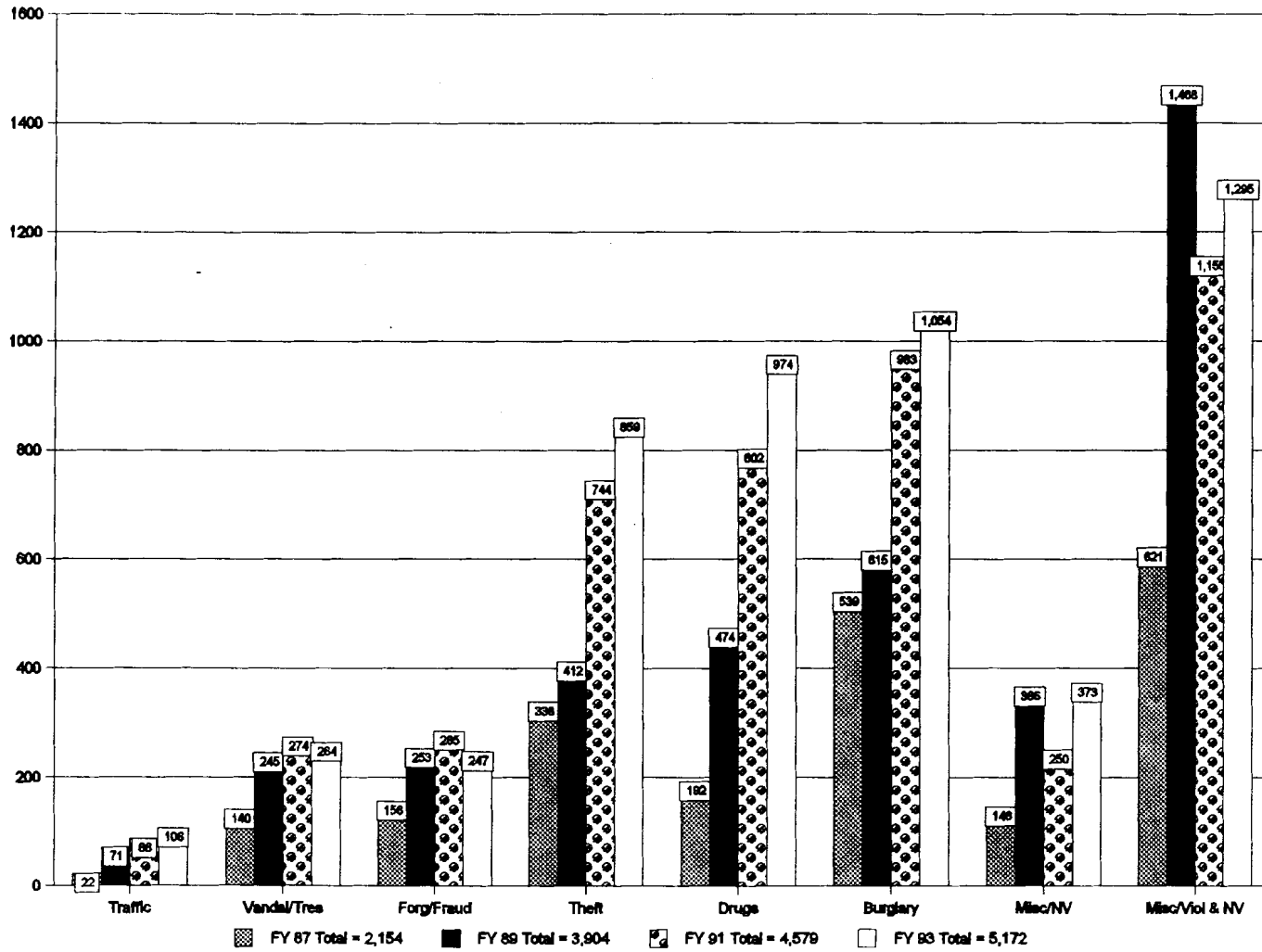
Misc Viol & NV = combined violent & non-violent offenses of attempt, accessory, habitual, other, and unknown.

Source: Department of Corrections.

Prepared by Legislative Council Staff, November 1994.

Graph I-2.8
Number of Inmates in Prison for Violent Offenses

FY 1987-93



Source: Department of Corrections.
 Misc/NV = family crimes and escape.
 Misc/Viol & NV = combined violent and non-violent offenses of attempt, conspiracy, accessory, habitual, other, and unknown.
 Prepared by Legislative Council Staff, November 1994.

SECTION I

Part 3: Demographic Characteristics: New Commitments and Inmates

This section illustrates the demographic characteristics of new commitments and inmates, as well as their patterns of change since FY 1986-87. A number of trends are noticeable.

NEW COMMITMENT DEMOGRAPHICS

- The vast majority of new commitments are male (Table I-3.1). This percentage, 92 percent, has remained relatively constant throughout the early 1990s (data by gender are not available prior to FY 1990-91). In particular, males aged 20 to 24, comprise the largest segment of new commitments, followed by males aged 25-29, then males aged 30-34.
- By age group (Table I-3.2), the 20-24 year-old category comprises the largest share of the inmate population, 23.1 percent. The age group experiencing the greatest increase between FY 1990-91 and FY 1992-93, was males aged 15 to 19, who now comprise 7.7 percent of new commitments, compared with only 4.3 percent in FY 1990-91. In contrast, there has been a relative decline in the proportion of newly-committed males aged 25 to 29. Whereas females experienced a relative decrease in new commitments in the 15 to 20 year-old age category, they had a relative increase in the 20 to 39 year-old age groups. The most significant gain for new female commitments was in the 20 to 24 year-old age category.
- There are notable differences in the age breakout between males and females. There is a disproportionate share of males in the 15 to 24 year-old age group, whereas there is a disproportionately larger share of females in the 25 to 39 year-old category. Males aged 15 to 24 comprise 31 percent of all male new commitments, compared with only 19 percent for females. Meanwhile, females aged 25 to 39 comprise 66 percent of all female commitments, versus 54 percent for males.
- By ethnicity (Table I-3.3), the data show that the percentage of total Anglo commitments relative to all commitments decreased from 54.0 percent in FY 1986-87 to 46.5 percent in FY 1992-93. All other ethnic categories increased in relative importance during this period: Hispanic commitments increased from 23.6 percent to 25.2 percent of new commitments; the share of Black new commitments grew from 20.6 percent to 23.9 percent; and new commitments classified as "other" rose from 1.8 percent of the commitment population to 4.4 percent. (It should be noted that ethnicity data are reported by inmates and are increasingly suspect given the growing multi-racial characteristics of the population.)
- Ethnicity data by gender for new commitments are not available prior to FY 1990-91. Nonetheless, there are some discernible trends that occurred during this time period. For males, the trends were not significantly different than those that occurred during the FY 1986-87 to FY 1992-93 time period. For females, however, there were large differences. Anglos grew from 40.9 percent of the population in FY 1990-91 to 44.0 percent in FY 1992-93, and Blacks grew from 32.3 percent to 34.0 percent of newly-committed females during this period. Hispanics decreased from 20.9 percent to 17.9 percent of new female commitments during this period.

INMATE DEMOGRAPHICS

- As has been the case with the state's population as a whole, the inmate population has aged since FY 1986-87, in spite of the recent increase in 15 to 19 year old new commitments. The average age of the inmate population rose from 31 in FY 1986-87 to 32 in FY 1992-93 (Table I-3.5). Meanwhile, the female inmate population is aging at a faster pace than the male inmate population.
- Similar to the trend occurring in new commitments, the Anglo proportion of the inmate population has decreased: from 50.3 percent of the inmates in FY 1986-87 to 46.5 percent in FY 1992-93 (Table I-3.4). Both males and females have experienced a decrease in the relative size of the Anglo inmate population. In spite of this relative decrease, Anglos remain the largest ethnic segment in the prison system.
- Hispanics comprise the second-largest segment of the inmate population, 25.7 percent. This overall proportion has remained relatively constant throughout the seven-year period, although there has been a relative increase in the female proportion of Hispanic inmates.
- Blacks have increased from 22.5 percent of the prison population in FY 1986-87 to 24.8 percent in FY 1992-93. This increasing trend is the same for both males and females.
- By gender, female inmates comprised roughly five percent of the prison population throughout the seven-year period analyzed.

For further information, please contact
Carl Jarrett or Nancy McCallin, Legislative Council Staff, 866-3521.

Table I - 3.1
New Commitments by Gender, FYs 91 and 93

	FY 91			FY 93		
	MALE	FEMALE	TOTAL	MALE	FEMALE	TOTAL
NUMBER	2,706	235	2,941	3,081	268	3,349
PERCENT	92.01%	7.99%	100.00%	92.00%	8.00%	100.00%

Table I - 3.2
Age of New Commitments by Gender, FYs 91 and 93

AGE GROUP	FY 91			FY 93		
	MALE	FEMALE	TOTAL	MALE	FEMALE	TOTAL
15-19	115	6	121	236	4	240
	4.25%	2.55%	4.11%	7.66%	1.49%	7.17%
20-24	671	28	699	727	48	775
	24.80%	11.91%	23.77%	23.60%	17.91%	23.14%
25-29	654	52	706	660	74	734
	24.17%	22.13%	24.01%	21.42%	27.61%	21.92%
30-34	535	51	586	619	67	686
	19.77%	21.70%	19.93%	20.09%	25.00%	20.48%
35-39	329	44	373	390	37	427
	12.16%	18.72%	12.68%	12.66%	13.81%	12.75%
40-49	297	39	336	356	32	388
	10.98%	16.60%	11.42%	11.55%	11.94%	11.59%
50-59	73	13	86	76	5	81
	2.70%	5.53%	2.92%	2.47%	1.87%	2.42%
60-69	28	2	30	14	1	15
	1.03%	0.85%	1.02%	0.45%	0.37%	0.45%
70+	4	0	4	3	0	3
	0.15%	0.00%	0.14%	0.10%	0.00%	0.09%
TOTAL	2,706	235	2,941	3,081	268	3,349
	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

/1 - The Colorado Population is the population on July 1, the first day of that fiscal year.
Source: Department of Corrections.
Prepared by Legislative Council Staff, November 1994.

Table I - 3.3
Ethnicity of New Commitments by Gender
 (Number and Percent of Total)

	FY 87		FY 89		FY 91				FY 93			
	M/F	TOTAL	M/F	TOTAL	MALE	FEMALE	TOTAL	CO POP/1	MALE	FEMALE	TOTAL	CO POP/1
ANGLO	N/A	1,244	N/A	1,347	1,302	96	1,398	2,676,026	1,439	118	1,557	2,789,587
		54.04%		48.82%	48.12%	40.85%	47.53%	80.82%	46.71%	44.03%	46.49%	80.39%
HISPANIC		543		677	707	49	756	405,092	797	48	845	433,294
		23.59%		24.54%	26.13%	20.85%	25.71%	12.23%	25.87%	17.91%	25.23%	12.49%
BLACK		473		613	554	76	630	136,681	709	91	800	146,716
	20.55%	22.22%	20.47%	32.34%	21.42%	4.13%	23.01%	33.96%	23.89%	4.23%		
OTHER	42	122	143	14	157	93,221	136	11	147	100,654		
	1.82%	4.42%	5.28%	5.96%	5.34%	2.82%	4.41%	4.10%	4.39%	2.90%		
TOTAL	2,302	2,759	2,706	235	2,941	3,311,020	3,081	268	3,349	3,470,251		
	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	

/1 - The Colorado Population is the population on July 1, the first day of that fiscal year.

Source: Department of Corrections.

Prepared by Legislative Council Staff, November 1994.

Table I - 3.4
Ethnicity of Inmate Population by Gender
 (Number and Percent of Total)

	FY 87			FY 89			FY 91			FY 93		
	MALE	FEMALE	TOTAL	MALE	FEMALE	TOTAL	MALE	FEMALE	TOTAL	MALE	FEMALE	TOTAL
ANGLO	1,831 50.48%	97 47.78%	1,928 50.34%	2,694 48.00%	168 46.93%	2,862 47.93%	3,231 45.70%	176 44.67%	3,407 45.65%	3,857 46.60%	211 44.14%	4,068 46.47%
HISPANIC	932 25.70%	35 17.24%	967 25.25%	1,516 27.01%	54 15.08%	1,570 26.29%	1,760 24.89%	78 19.80%	1,838 24.62%	2,152 26.00%	93 19.46%	2,245 25.65%
BLACK	798 22.00%	65 32.02%	863 22.53%	1,291 23.00%	118 32.96%	1,409 23.60%	1,619 22.90%	122 30.96%	1,741 23.33%	2,003 24.20%	164 34.31%	2,167 24.75%
OTHER				112 2.00%	18 5.03%	130 2.18%	460 6.51%	18 4.57%	478 6.40%	264 3.19%	10 2.09%	274 3.13%
TOTAL	3,627 100.00%	203 100.00%	3,830 100.00%	5,613 100.00%	358 100.00%	5,971 100.00%	7,070 100.00%	394 100.00%	7,464 100.00%	8,276 100.00%	478 100.00%	8,754 100.00%

Table I - 3.5
Average Age of Inmate Population by Gender

	FY 87	FY 89	FY 91	FY 93
MALE	31	32	32	32
FEMALE	31	33	33	33
TOTAL	31	32	32	32

Source: Department of Corrections.
 Prepared by Legislative Council Staff, November 1994.

SECTION I

Part 4: History of Colorado's Adult Correctional Sentencing Laws: 1979 to 1994

The purpose of this section is to provide a history of adult correctional sentencing laws in Colorado from 1979 to the present. At the end of this section, there are three extensive tables that detail the sentencing law in Colorado as of July 1, 1979, July 1, 1985, and July 1, 1994. There were significant changes to sentencing laws implemented on these dates, with the exception of 1994, which is provided to reflect current law. The information that follows provides a brief overview of the major sentencing components detailed in each of the attached sentencing tables. A table of sentencing laws for each year is available from Legislative Council Staff. This section is divided into five major categories as follows:

- Sentencing Ranges
- Special Sentencing Categories
- Habitual Offender Statutes
- Good Time and Earned Time
- Parole

SENTENCING RANGES

Table I-4.1 chronicles changes to the presumptive range for each felony class. The presumptive range is the range from the minimum to the maximum sentence to be imposed for each felony class. It does not include the sentencing range for special or extraordinary circumstances.

<i>Table I-4.1: Felony Class Presumptive Ranges</i>					
Felony Class		1979	1985	1989	1993
1	Minimum	Life	Life	Life	Life
	Maximum	Death	Death	Death	Death
2	Minimum	8 years	8 years	8 years	8 years
	Maximum	12 years	24 years	24 years	24 years
3	Minimum	4 years	4 years	4 years	4 years
	Maximum	8 years	16 years	16 years	12 years
4	Minimum	2 years	2 years	2 years	2 years
	Maximum	4 years	8 years	8 years	6 years
5	Minimum	1 year	1 year	1 year	1 year
	Maximum	2 years	4 years	4 years	3 years
6	Minimum	N/A	N/A	1 year	1 year
	Maximum	N/A	N/A	2 years	18 months

N/A: Not applicable. The class 6 felony did not exist until 1989.

Persons sentenced for a crime committed prior to July 1, 1979, were sentenced under an "indeterminate" sentencing scheme, wherein broad ranges existed between the minimum and maximum number of years to which an offender could be sentenced. However, in 1979, the legislature enacted House Bill 1589 which established a presumptive range for each felony class, consisting of a minimum and maximum sentence.

In 1985, the legislature adopted House Bill 1320, which doubled the maximum sentence for all felony classes. Since 1985, the felony presumptive ranges have been reduced by 25 percent for class 3, 4, 5, and 6 non-violent felonies. Doubling the sentences in 1985 basically brought Colorado full circle in its approach to criminal

sentencing, as the broadening increased the discretionary sentencing range of the trial judge. Such wide discretion existed prior to 1979 and again exists today. Although the sentencing ranges for some felonies were reduced in 1993, the reduction only applied to non-violent offenses. The legislature reduced the presumptive range for non-violent crimes, but created an "extraordinary risk of harm to society" special sentencing category consisting of violent offenses. The sentencing range for the enhanced category is the range for each felony class that existed prior to the reduction. Additional information on special sentencing categories is detailed in the next section. Thus, Colorado's existing sentencing ranges allow a wide degree of discretion to trial judges.

SPECIAL SENTENCING CATEGORIES

Since 1979, the statutes have specified a presumptive sentencing range for each felony class. However, the legislature has also established special sentencing circumstances which allow the trial judge to impose a sentence that departs from the presumptive range upon finding special circumstances. These special sentencing circumstances are detailed as follows.

Extraordinary mitigating or aggravating circumstances sentences. This special category has existed since 1979. Pursuant to Section 18-1-105 (6), C.R.S., if the court concludes that extraordinary mitigating or aggravating circumstances are present, it may impose a sentence that is lesser or greater than the presumptive range; except that the term may not be greater than twice the maximum of the presumptive range nor less than one-half the minimum.

Crime of violence. This special sentencing category has also been in existence since 1979. In 1979, for crimes of violence, the sentence imposed was to be at least the minimum of the presumptive range. The definition of a "crime of violence" has changed throughout the time period analyzed. "Crime of violence" in 1979 was defined as a crime in which the defendant used, or possessed and threatened use, of a deadly weapon during the commission of murder, first or second degree assault, kidnapping, sexual assault, robbery, first degree arson, first or second degree burglary, escape, or criminal extortion, or who caused serious bodily injury or death to any other person during the commission of a felony or immediate flight therefrom. In 1981, the definition of "crime of violence" was amended to include any crime committed against an elderly or handicapped person. The sentencing range for this category was also changed to at least the maximum sentence in the presumptive range, but not more than twice the maximum sentence in the presumptive range.

The definition was further amended in 1982, to include any unlawful sexual offense in which the defendant caused bodily injury to the victim or in which the defendant used threat, intimidation, or force against the victim. It was expanded again in 1983 to include **attempted** commission as well as commission of offenses. In 1988, the sentencing range was again changed to a minimum sentence of the midpoint in the presumptive range, but not more than twice the maximum penalty in the presumptive range.

Since 1988, the definition has been amended three times: in 1991, to include any crime committed against an at-risk adult (any person who is 60 years of age or older or any person who is 18 years of age or older and is a person with a disability); in 1993, to change the wording "handicapped person" to "person with a disability;" and in 1994, by reorganizing the provisions so that the specific offenses in the prior definition would be listed in a separate subparagraph.

Currently, a crime of violence is defined as one of the following crimes that a person committed, conspired to commit, or attempted to commit, and during which the person used, or possessed and threatened use of a deadly weapon, or caused serious bodily injury or death to any other person: a crime against an at-risk adult or an at-risk juvenile; murder; first or second degree assault; kidnapping; sexual assault; aggravated robbery; first degree arson; first degree burglary; escape; or criminal extortion. In addition, "crime of violence" includes any unlawful sexual offense in which the defendant caused bodily injury to the victim or in which the defendant used threat, intimidation, or force against the victim.

Extraordinary aggravating circumstances. In 1981, the legislature added the "extraordinary aggravating circumstances" category. The sentencing range for this category in 1981 was at least the maximum of the presumptive range, but not more than twice the maximum of the presumptive range. The minimum of the range was reduced in 1988 to at least the midpoint in the presumptive range. The maximum of this special sentencing category range (twice the maximum of the presumptive range) was unchanged. Since 1981, the sentencing range for "crime of violence" and "extraordinary aggravating circumstances" has been the same.

Pursuant to Section 18-1-105 (9), C.R.S., the presence of any one or more of the following circumstances qualifies as an extraordinary aggravating circumstance. The defendant:

- 1) was convicted of a crime of violence as defined by Section 16-11-309, C.R.S.;
- 2) was on parole for another felony at the time the felony was committed;
- 3) was on probation for another felony at the time the felony was committed;
- 4) was charged with or was on bond for a previous felony, for which previous felony the defendant was subsequently convicted; or
- 5) was under prison confinement in a state correctional institution.

In 1986, the definition for extraordinary aggravating circumstances was expanded to include situations in which the defendant:

- 1) was on appeal bond;
- 2) was under deferred judgement;
- 3) was on parole for having been adjudicated a delinquent child which would constitute a felony if committed by an adult;
- 4) was convicted of class 2 or class 3 child abuse;
- 5) was convicted of class 2 sexual assault in the first degree; or
- 6) other circumstances as the court may decide.

The definition was amended again in 1987 to add the condition that the defendant was on bond for having pled guilty to a lesser offense when the original charge was a felony. Four of the above noted conditions were moved to a new category in 1990, called "sentence-enhancing circumstances," which carries the same maximum sentence, but a lower minimum sentence. The following circumstances were moved. The defendant:

- 1) was charged with or was on bond for a previous felony at the time the felony was committed, for which previous felony the defendant was subsequently convicted;
- 2) was on bond for having pled guilty to a lesser offense when the original offense charged was felony;
- 3) was under a deferred judgement and sentence for another felony; or
- 4) was on parole for having been adjudicated a delinquent child for an offense which would constitute a felony if committed by an adult.

Sentence-enhancing circumstances. This special category was added in 1990. The sentencing range for this category is at least the minimum of the presumptive range, but not more than twice the maximum sentence of the presumptive range. The presence of any one of the following qualifies as a sentence-enhancing circumstance. The defendant:

- 1) was charged with or was on bond for a previous felony at the time the felony was committed, for which previous felony the defendant was subsequently convicted;
- 2) was on bond for having pled guilty to a lesser offense when the original offense charged was felony;
- 3) was under a deferred judgement and sentence for another felony; or
- 4) was on parole for having been adjudicated as a delinquent child for an offense which would constitute a felony if committed by an adult.

As previously discussed, all of the above noted circumstances were considered extraordinary aggravating circumstances prior to 1990. In creating this sentence-enhancing category, the overall sentencing range for these conditions was reduced from a sentence at the midpoint in the presumptive range to the minimum of the presumptive range for each felony class.

Extraordinary risk of harm to society. This category was added in 1993. Pursuant to Section 18-1-105 (9.7), C.R.S., the sentencing range for offenses presenting an extraordinary risk of harm to society is as follows: for class 3 felonies, the maximum sentence of the presumptive range is increased by four years; for class 4 felonies, the maximum of the presumptive range is increased by two years; for class 5 felonies, the maximum of the presumptive range is increased by one year; and for class 6 felonies, the maximum of the presumptive range is increased by six months. Crimes which present an extraordinary risk of harm to society include:

- 1) first, second, and third degree sexual assault;
- 2) sexual assault on a child;
- 3) sexual assault on a child by one in a position of trust;
- 4) sexual assault on a client by a psychotherapist;
- 5) incest;
- 6) aggravated incest;
- 7) aggravated robbery;
- 8) child abuse;
- 9) unlawful distribution, manufacturing, dispensing, sale, or possession of a controlled substance with the intent to sell, distribute, manufacture, or dispense; and
- 10) any crime of violence as defined in Section 16-11-309, C.R.S., violent crimes.

Table I-4.2 compares the sentencing range for each of the special categories at various points in time. It should be noted that, because the special sentencing ranges are based on the presumptive range for each felony class, when the presumptive range is amended it directly affects the sentencing range for each special category. Also, none of the special categories affect class 1 felonies since the sentencing range for class 1 felonies is life to death.

**Table I-4.2:
History of Sentencing Ranges for Special Sentencing Categories**

	Class 2 Felony	Class 3 Felony	Class 4 Felony	Class 5 Felony	Class 6 Felony
1979					
Extraordinary Mitigating or Aggravating Circumstances	4 to 24 years	2 to 16 years	1 to 8 years	6 months to 4 years	N/A
Crime of Violence	8-year minimum sentence for violent crimes	4-year minimum sentence for violent crimes	2-year minimum sentence for violent crimes	1-year minimum sentence for violent crimes	N/A
1981					
Extraordinary Mitigating or Aggravating Circumstances	4 to 24 years	2 to 16 years	1 to 8 years	6 months to 4 years	N/A
Extraordinary Aggravating Circumstances/Crime of Violence	12 to 24 years	8 to 16 years	4 to 8 years	2 to 4 years	N/A
1985					
Extraordinary Mitigating or Aggravating Circumstances	4 to 48 years	2 to 32 years	1 to 16 years	6 months to 8 years	N/A
Extraordinary Aggravating Circumstances/Crime of Violence	24 to 48 years	16 to 32 years	8 to 16 years	4 to 8 years	N/A
1988					
Extraordinary Mitigating or Aggravating Circumstances	4 to 48 years	2 to 32 years	1 to 16 years	6 months to 8 years	N/A
Extraordinary Aggravating Circumstances/Crime of Violence	16 to 48 years	10 to 32 years	5 to 16 years	2.5 to 8 years	N/A
1989					
Extraordinary Mitigating or Aggravating Circumstances	4 to 48 years	2 to 32 years	1 to 16 years	6 months to 8 years	6 months to 4 years
Extraordinary Aggravating Circumstances/Crime of Violence	16 to 48 years	10 to 32 years	5 to 16 years	2.5 to 8 years	18 months to 4 years
1990					
Extraordinary Mitigating or Aggravating Circumstances	4 to 48 years	2 to 32 years	1 to 16 years	6 months to 8 years	6 months to 4 years
Extraordinary Aggravating Circumstances/Crime of Violence	16 to 48 years	10 to 32 years	5 to 16 years	2.5 to 8 years	18 months to 4 years
Sentence-Enhancing Circumstances	8 to 48 years	4 to 32 years	2 to 16 years	1 to 8 years	1 to 4 years

**Table I-4.2:
History of Sentencing Ranges for Special Sentencing Categories**

	Class 2 Felony	Class 3 Felony	Class 4 Felony	Class 5 Felony	Class 6 Felony
1993					
Extraordinary Mitigating or Aggravating Circumstances	4 to 48 years	2 to 24 years	1 to 12 years	6 months to 6 years	6 months to 3 years
Extraordinary Aggravating Circumstances/Crime of Violence	16 to 48 years	8 to 24 years	4 to 12 years	2 to 6 years	15 months to 3 years
Sentence-Enhancing Circumstances	8 to 48 years	4 to 24 years	2 to 12 years	1 to 6 years	1 to 3 years
Extraordinary Risk of Harm to Society	N/A	4 to 16 years	2 to 8 years	1 to 4 years	1 to 2 years

N/A: Not applicable. The class 6 felony classification did not exit until 1989, and the Extraordinary Risk of Harm to Society category does not apply to class 2 felonies.

Habitual Offender Statutes (Section 16-13-101, C.R.S.)

In 1979, the habitual offender statute provided for two levels of punishment for habitual offenders, most commonly referred to as the "little habitual" and the "big habitual."

The "little habitual" offender statute provided that offenders *twice* previously convicted of a felony for which the maximum penalty exceeded five years, and who committed a third felony within ten years of the prior felony convictions, were adjudged habitual offenders and were to be sentenced to a term of 25 to 50 years. (This applied only to class 1, 2, and 3 felonies since the original sentence for these felonies was greater than five years.) Offenders who had been *three* times previously convicted of a felony were adjudged habitual offenders under the "big habitual" provisions that required a sentence of life imprisonment.

In 1981, the habitual offender statute was amended to clarify that, in order for an offender to be considered an habitual offender, the prior felony convictions must have resulted from separate episodes or incidents.

The habitual offender statute was not further amended until 1993 when the "little habitual" statute was changed to provide that it would apply to offenders convicted of a class 1, class 2, class 3, class 4, or class 5 felony. (The "little habitual" category does not apply to class 6 felonies, a new felony class created in 1989.) Previous to 1993, as noted above, the "little habitual" statute applied to offenders convicted of *any* felony for which the maximum sentence exceeded five years. In effect, that provision did not apply to class 4 or 5 felonies prior to 1985 because the maximum sentences for those offenses were not more than five years. When the presumptive sentence ranges were amended in 1985, that provision applied to class 4 but not class 5 felonies. Pursuant to the 1993 amendment, the "five-year" sentence provision no longer applied and the statutes specifically noted which felony classes were affected.

In 1993, the sentence under the "little habitual" statute was amended to a term of three times the maximum of the presumptive range for the class of felony for which the offender was convicted. Also in 1993, the "big habitual" provisions were amended to provide that a person convicted under the provisions would be sentenced to a term of four times the maximum of the presumptive range for the class of felony for which the offender was convicted.

In addition, a third level of habitual offender was created. These "bigger habitual" offender provisions provided that a person previously convicted under the "big habitual" provisions and who was subsequently convicted of a felony which is a crime of violence would be sentenced to a term of life imprisonment. Under this life sentence, the offender is not be eligible for parole until serving at least 40 calendar years.

In 1994, the habitual offender statute was further amended. A new level of habitual offender was created, the "three strikes you're out habitual." The "three strikes you're out habitual" provisions provide that an offender convicted of a class 1 or 2 felony, or a class 3 felony which is a crime of violence, and who has twice previously been convicted of any of the above offenses is adjudged an habitual offender. The sentence for this level of habitual offender is life imprisonment with no parole eligibility for 40 years. The provisions for the "bigger habitual," "big habitual," and "little habitual" were not amended. Table I-4.3 summarizes the sentencing range in existence each year that the statutes were amended.

**Table I-4.3:
Habitual Offender Sentencing Ranges**

		Class 1 Felony	Class 2 Felony	Class 3 Felony	Class 4 Felony	Class 5 Felony	Class 6 Felony
1979							
	Little Habitual (3rd conviction)	25 to 50 years	25 to 50 years	25 to 50 years	N/A	N/A	N/A
	Big Habitual (4th conviction)	Life	Life	Life	Life	Life	N/A
1985							
	Little Habitual (3rd conviction)	25 to 50 years	25 to 50 years	25 to 50 years	25 to 50 years	N/A	N/A
	Big Habitual (4th conviction)	Life	Life	Life	Life	Life	N/A
1993							
	Little Habitual (3rd conviction)	Life	72 years	36 years	18 years	9 years	N/A
	Big Habitual (4th conviction)	Life	96 years	48 years	24 years	12 years	6 years
	Bigger Habitual (5th conviction)	Life	Life	Life	Life	Life	Life
1994							
	Little Habitual (3rd conviction)	Life	72 years	36 years	18 years	9 years	N/A
	Big Habitual (4th conviction)	Life	96 years	48 years	24 years	12 years	6 years
	Bigger Habitual (5th conviction)	Life	Life	Life	Life	Life	Life
	"Three Strikes You're Out" Habitual (3rd conviction)	Life	Life	Life (only class 3 felonies which are crimes of violence)	N/A	N/A	N/A

N/A: Not applicable.

GOOD TIME AND EARNED TIME

The statutes pertaining to good time and earned time have been amended by the legislature a number of times since 1979. Prior to 1990, good time and earned time were deducted from the offender's sentence only for the purpose of determining the parole eligibility date (PED). The time did not apply to the offender's discharge date. After 1990, earned time did apply to the offender's discharge date. The Parole eligibility date is the date upon which the offender is eligible to be released to parole by the parole board.

Good time. In 1979, offenders were eligible for a good time deduction of 15 days per month from their sentence. The good time was granted if the offender's conduct indicated that all of the institution's rules and regulations were observed and any assigned duties were performed. The sentence reduction only pertained to the offender's parole eligibility date to determine when the offender would be eligible for parole. In essence, the offenders were eligible for parole after serving 50 percent of their sentence. The authorized good time vested quarterly and could not be withdrawn once it was vested. Further, no more than 45 days of good time could be withheld by the department in any one quarter.

The good time statutes were amended in 1981 to stipulate that good time be vested semi-annually rather than quarterly. Also, no more than 90 days could be withdrawn in any six-month period. The statutes were amended again in 1985 and specified that good time was not to vest for inmates sentenced after July 1, 1985, and good time could be withheld by the department. The application of good time was eliminated in 1990 when the new part 4 was added to title 17, article 22.5. This, in essence, was replaced in 1990 within parole statutes that provide that offenders are eligible for parole after serving 50 percent of their sentence.

Earned time. In addition to good time, offenders in 1979 were eligible for earned time, not to exceed 15 days for every six-month period (2.5 days per month). The time was to be deducted from the inmate's sentence and applied to the offender's parole eligibility date (PED). The time would be deducted upon a demonstration to the State Board of Parole that the inmate made substantial and consistent progress in each of the following areas:

- a) work and training, including attendance, promptness, performance, cooperation, care of materials, and safety;
- b) group living, including housekeeping, personal hygiene, cooperation, and social adjustment;

- c) participation in counseling session and involvement in self-help groups;
and
- d) progress toward goals and programs established by the Colorado diagnostic program.

The parole board was to annually review the performance record of each inmate and grant an earned-time deduction. The earned time vested and, once granted, could not be withdrawn.

In 1984, the earned time statutes were amended to increase the amount that could be earned from 15 to 30 days for every six-month period (five days per month). For those offenders sentenced prior to July 1, 1985, the parole board was to annually review the performance of the offender and grant the earned time. Such earned time vested and could not be withdrawn. For inmates sentenced after July 1, 1985, the earned time did not vest and could be withdrawn by the department.

For offenders sentenced after July 1, 1987, the statutes were amended to stipulate that the department not credit an inmate with more than one-half of the allowable earned time for any six-month period unless the inmate was employed or was participating in institutional treatment or training programs.

Beginning July 1, 1988, inmates could earn an additional four days of earned time per month. The time could be earned by inmates who made positive progress in the newly-created literacy corrections program. Upon review, the earned time could be withdrawn. The definition was further expanded in 1990 to include awarding four days of earned time monthly for participation in the correctional education program.

In 1990, an entire new part 4 was added to the parole eligibility statutes and the computation of earned time was amended. Beginning July 1, 1990, earned time, not to exceed ten days per month of incarceration or parole, could be deducted from the inmate's sentence. It should be noted that, beginning in 1990, earned time applied to the offender's discharge date. This means it actually reduced the sentence imposed by the court; whereas prior to 1990, it was only used to determine the parole eligibility date. However, the earned time may not reduce the sentence of any offender by more than 25 percent of the sentence.

Earned time statutes were again amended in 1992 to specify that earned time credit for participation in the correctional education program was to be awarded in the same manner as all other earned time amended pursuant to the new part 4. Reference to the literacy corrections program was eliminated. In 1993, the statutes were amended to stipulate that no offender paroled for an offense committed on or after July 1, 1993, is eligible to receive any earned time while the offender is on parole or while the offender is reincarcerated after a revocation of the mandatory period of parole.

PAROLE

The statutes regarding parole were recodified in 1979 in a new part 22.5 of title 17. As recodified, the statute provided that any person sentenced for a class 2, class 3, class 4, or class 5 felony committed on or after July 1, 1979, would be eligible for parole after serving the sentence less any earned time and any good time. A one-year "mandatory" period of parole supervision was also stipulated. Conditions of parole were established by the State Board of Parole, and offenders violating those conditions while on parole were returned to prison for six months. For second and subsequent revocations of parole, offenders were required to be reincarcerated, but were prohibited from serving more than one year under a combination of parole supervision and reincarceration. The statute also provided that good time would apply to periods of reincarceration for parole violations. The statutes did not address parole eligibility for life sentences.

In 1981, the provisions regarding reincarceration of parole violators was amended to provide that such offenders would return to prison for at least six months, but no more than two years, and that the period of reincarceration, combined with time served on parole and the sentence actually served, not exceed the original sentence imposed.

In 1984, article 22.5 of title 17 was repealed and reenacted and some of the parole statutes were amended. The State Board of Parole was directed to adopt risk assessment guidelines to be utilized in determining whether an offender convicted of a class 2, class 3, class 4, or class 5 felony may be suitable for release on parole on his or her parole eligibility date (with no supervision) or be subject to extended parole of up to three years. (The minimum one-year "mandatory" period of parole was eliminated and offenders convicted of a class 1 felony were ineligible for parole until serving 20 years of the sentence.) The maximum three-year period of parole was reserved for offenders whose score showed them to present a high risk to the general population upon parole release. The parole board continued to establish conditions of parole.

For offenders who violated those conditions of parole, the parole board was given authority to continue the parole, modify the conditions of parole, or revoke the parole for a period of not more than five years. The statute continued to provide that the period of reincarceration, combined with time served on parole, and the sentence actually served, not exceed the original sentence imposed. Good time continued to apply to periods of reincarceration.

In 1985, the parole statutes were amended to allow for up to five years of parole supervision. In addition, the parole board was directed to reconsider applications for parole which were refused by the parole board, within one year and again each year thereafter until the person was either granted parole or had discharged the sentence. Also in 1985, the parole guidelines (which the parole board established in response to legislation adopted in 1984) were codified.

In 1987, the parole statutes were amended to provide that certain violent offenders (murder, assault, kidnapping, sexual assault, arson, burglary, or aggravated robbery) who were previously convicted of a crime of violence would not be eligible for parole until 75 percent of the sentence was served less any authorized earned time. Offenders twice previously convicted of any of the above crimes of violence were ineligible for parole until serving the sentence less earned time.

In 1990, the parole statute was amended to provide that offenders convicted of the new category of class 6 felony would be eligible for parole (the class 6 felony was created in 1989, but the legislature neglected to provide for parole for that class offender in 1989). In addition, a new part 4 was added to article 22.5 of title 17 that provided that offenders would be eligible for parole after serving 50 percent of the sentence less earned time (good time was abolished). The length of the period of parole was left to the discretion of the parole board. Offenders convicted of certain violent offenses (second degree murder, assault, kidnapping, sexual assault, arson, burglary, or aggravated robbery) were ineligible for parole until serving 75 percent of the sentence less earned time. The 75 percent provision also applied to offenders who were twice previously convicted of certain violent offenses, but if released on parole, the parole board was authorized to place the person on parole for a period of time equal to the remainder of the original sentence.

If conditions of parole were violated, the parole board could continue the parole, modify the conditions of parole, or revoke the parole and return the offender to prison. The period of reincarceration could be for the period remaining on the original sentence or one year, whichever was longer.

In 1993, the presumptive sentence ranges were amended to include a mandatory period of parole as follows:

CLASS OF FELONY	MANDATORY PAROLE
1	OFFENDERS ARE NOT ELIGIBLE FOR PAROLE
2	FIVE YEARS
3	FIVE YEARS
4	THREE YEARS
5	TWO YEARS
6	ONE YEAR

The parole board was required to set the periods of parole as outlined above. The board was also required to reconsider parole applications of offenders whose parole had been refused within one year of the refusal and each year thereafter until parole was granted or the sentence was discharged. Upon violation of the conditions of parole, the board was authorized to continue the parole, modify the conditions, or return the offender to prison. The period of reincarceration was to be for a period of time up to the period of time remaining on the offender's original sentence. Any offender reincarcerated due to a parole violation was made eligible for parole at any time during such reincarceration.

In 1994, the parole statutes were amended to provide that offenders convicted of a class 1 or class 2 crime of violence, a class 3 sexual offense, a habitual criminal offense, or any offense subject to the indeterminate commitment requirements for sex offenders, would have their applications for parole reviewed once every three years, rather than annually.

For further information, please contact
Amy Zook or Carl Jarrett, Legislative Council Staff, 866-3521.

SENTENCING LAW AS OF JULY 1, 1994

Felony Class	Minimum Sentence (18-1-105)	Maximum Sentence (18-1-105)	Extraordinary Mitigating or Aggravating Circumstances Sentences (18-1-105(6))	Extraordinary Aggravating Circumstances (18-1-105(9))/ Crime of Violence (16-11-309)	Extraordinary Risk of Harm to Society (18-1-105(9.7))	Sentence-Enhancing Circumstances (18-1-105 (9.5))	Mandatory Period of Parole (18-1-105(1)(a))	Parole Eligibility (Title 17, Section 22.5)	Little Habitual Offender (16-13-101) ----- (See narrative for other habitual categories.)	Big Habitual Offender (16-13-101) ----- (See narrative for other habitual categories.)
1	Life	Death	N/A	N/A	N/A	N/A	N/A	Life with no parole.	3 life sentences with no parole until 40 years served.	4 life sentences with no parole until 40 years served.
2	8 years	24 years	4 to 48 years	16 to 48 years	N/A	8 to 48 years	5 years	50% of sentence less earned time. Based on standard presumptive range and receiving all possible time, parole eligibility date (PED) would range from 3.01 years to 9.03 years.	72 years or life (parole eligible)	96 years (parole eligible)
3	4 years	12 years (Amended 1993)	2 to 24 years (Amended 1993)	8 to 24 years	4 to 16 years	4 to 24 years	5 years	50% of sentence less earned time. PED would range from 1.51 years to 4.52 years.	36 years or life (parole eligible)	48 years (parole eligible)
4	2 years	6 years (Amended 1993)	1 to 12 years (Amended 1993)	4 to 12 years	2 to 8 years	2 to 12 years	3 years	50% of sentence less earned time. PED would range from 9.03 months to 2.26 years.	18 years (parole eligible)	24 years (parole eligible)
5	1 year	3 years (Amended 1993)	6 months to 6 years (Amended 1993)	2 years to 6 years	1 to 4 years	1 to 6 years	2 years	50% of sentence less earned time. PED would range from 4.52 months to 1.13 years.	9 years (parole eligible)	12 years (parole eligible)
6 (Added in 1989)	1 year to 18 months (In creating the Class 6 felony, the legislature reduced Class 5 felonies to Class 6 felonies and reduced certain Class 4 felonies to Class 5 felonies. Changes are reflected in the 1989 Session Laws, Chapter 148. Amended 1993.)		6 months to 3 years (Amended 1993)	15 months to 3 years (Amended 1993)	1 to 2 years	1 to 3 years (Amended 1993)	1 year	50% of sentence less earned time. PED would range from 4.52 months to 6.78 months.	N/A	6 years (parole eligible)

N/A: Not Applicable.

SENTENCING LAW AS OF JULY 1, 1994

— NOTES —

Little Habitual	An offender is adjudged an habitual offender if the offender has been convicted <i>twice</i> previously of a felony in Colorado or any other state. The convictions must result from separate episodes and must have occurred within ten years of the commission of the new offense. The sentence for the habitual offender is a term of three times the maximum of the presumptive range.
Big Habitual	An offender convicted of a felony who has been convicted <i>three times</i> previously of a felony (arising from separate incidents) in this state or any other state, shall be adjudged an habitual criminal. Such person shall be punished for a term of four times the maximum of the presumptive range.
Bigger Habitual	An offender previously adjudged an habitual offender under the "big habitual" provisions, and who is subsequently convicted of a felony which is a crime of violence, shall be sentenced to a term of life imprisonment and is not eligible for parole until serving at least 40 years.
3 Strikes You're Out Habitual	An offender convicted of a class 1 or class 2 felony or a class 3 felony which is a crime of violence, and who has twice previously been convicted of a class 1 felony or class 2 felony or a class 3 felony which is a crime of violence, is adjudged an habitual offender. The sentence for this level of habitual offender is life imprisonment with no parole eligibility for 40 years. (Amended 1994)
Special Parole Guidelines	<ol style="list-style-type: none"> 1) If an offender is sentenced consecutively for two or more offenses, the mandatory period of parole for the highest felony offense will be imposed. 2) Any person convicted of offenses under Title 18, Article 3, Part 4 (Unlawful Sexual Behavior) or Title 18, Article 6, Part 3 (Incest) shall be subject to five years of mandatory parole. 3) Persons convicted of sexual assault under Section 18-3-402(3), C.R.S., are required to participate in mental health counseling as a condition of parole.
Extraordinary Aggravating Circumstances	<p>The presence of any one or more of the following qualify as extraordinary aggravating circumstances. The defendant: 1) committed a crime of violence under Section 16-11-309, C.R.S.; 2) was on parole or probation for another felony at the time of the crime; 3) was on appeal bond; 4) was under deferred judgment; 5) committed class 2 or class 3 felony child abuse; 6) committed class 2 felony sexual assault in the first degree; or 7) other circumstances which the court may decide.</p> <p>Offenders sentenced under Section 16-11-309, C.R.S., violent crimes, are to be sentenced for an additional five years if there was the use of a dangerous weapon or semiautomatic assault weapon. Crime of violence means a crime in which the defendant used, or possessed and threatened the use of, a deadly weapon during the commission or attempted commission of any crime committed against an elderly or handicapped person or at-risk adult or a crime of murder, 1st or 2nd degree assault, kidnapping, sexual assault, robbery, 1st degree arson, 1st or 2nd degree burglary, escape or criminal extortion, or during the immediate flight therefrom, or the defendant caused serious bodily injury or death to any person, other than himself or another participant, during the commission or attempted commission of any such felony or during the immediate flight therefrom.</p>
Sentence-Enhancing Circumstances	The presence of any one of the following circumstances qualify as sentence enhancing: 1) defendant was charged with or was on bond for a previous felony at the time the felony was committed, for which previous felony the defendant was subsequently convicted; 2) at the time the felony was committed, the defendant was on bond for having pled guilty to a lesser offense when the original offense charged was a felony; 3) defendant was under a deferred judgment and sentence for another felony at the time the felony was committed; or 4) at the time the felony was committed the defendant was on parole for having been adjudicated a delinquent child for an offense which would constitute a felony if committed by an adult.
Extraordinary Risk of Harm to Society	Crimes which present an extraordinary risk of harm to society include: 1) 1st degree sexual assault; 2) 2nd degree sexual assault; 3) 3rd degree sexual assault; 4) sexual assault on a child; 5) sexual assault on a child by one in a position of trust; 6) sexual assault on a client by a psychotherapist; 7) incest; 8) aggravated incest; 9) aggravated robbery; 10) child abuse; 11) unlawful distribution, manufacturing, dispensing, sale, or possession of a controlled substance with the intent to sell, distribute, manufacture, or dispense; or 12) any crime of violence as defined in Section 16-11-309, C.R.S.

SENTENCING LAW AS OF JULY 1, 1994

— NOTES —

<p>Parole Eligibility (17-22.5-303)</p>	<p>Any person sentenced for a class 2, 3, 4, 5, or 6 felony for the purposes of parole eligibility (class 6 felony was added in 1990), or any unclassified felony is eligible for parole after serving 50 percent of sentence less earned time. The Division of Adult Services shall determine the length of parole supervision. The conditions and length of parole are to be established by the Parole Board. If parole is not granted, reconsideration by the Parole Board is to be conducted within one year and every year thereafter. Except that, if the person applying for parole was convicted of a class 1 or class 2 crime of violence (16-11-309) any class 3 sexual assault in 18-3-401 et. seq., an habitual criminal offense (16-12-101 (2.5)), or any of the offenses subject to the requirements of Section 16-13-203, C.R.S., the Parole Board only has to reconsider granting parole once every three years (Amended 1994). If the conditions of parole have been violated, the offender may be returned to prison for any period of time up to the period remaining on such person's sentence until the discharge date, or one year, whichever is longer. In computing the period of reincarceration, the time between the offender's release on parole and revocation of the parole shall not be considered to be any part of the term of sentence. No inmate imprisoned under a life sentence for a crime committed on or after July 1, 1990, is eligible for parole.</p> <p>Persons sentenced for 2nd degree murder, 1st degree assault, 1st degree kidnapping (except class 1 felony), 1st or 2nd degree sexual assault, 1st degree arson, 1st degree burglary, or aggravated robbery, who have previously been convicted for a crime of violence (16-11-309) are eligible for parole after serving 75 percent of the sentence, less earned time. Any person sentenced for a crime previously noted, who has twice been convicted of a crime of violence, is eligible for parole after serving 75 percent of the sentence. The offender will be referred to the State Board of Parole which may place the offender on parole for a period of time which does not exceed the time remaining on such person's original sentence. Persons sentenced as a big habitual offender for a crime of violence (16-11-309) are not eligible for parole until serving at least 40 calendar years.</p>
<p>Earned Time (Title 17, Section 22.5)</p>	<p>Earned time, not to exceed ten days for each month of incarceration, may be deducted from an inmate's sentence upon a demonstration that the inmate has made substantial progress with regard to: 1) work and training; 2) group living; 3) participation in counseling sessions; 4) progress toward goals; 5) compliance with conditions of parole release; 6) not harassing victims; and 7) progress in the correctional education program.</p> <p>Earned time may not reduce the sentence of any inmate by a period of time which is more than 25 percent of the sentence.</p>
<p>Good Time (Title 17, Section 22.5)</p>	<p>The concept was eliminated for most DOC inmates in 1990.</p>
<p>Mandatory Sentence</p>	<p>In 1993, a provision was added (18-1-105(10)) that specified that the court does not have the power to suspend a sentence to term of incarceration when the defendant is sentenced pursuant to a mandatory sentencing provision.</p>

N/A: Not Applicable.

Bold type indicates amendments to sentencing laws in 1994.

SENTENCING LAWS OF JULY 1, 1985

Felony Class	Minimum Sentence (18-1-105)	Maximum Sentence (18-1-105)	Extraordinary Mitigating or Aggravating Circumstances Sentences (18-1-105(6))	Extraordinary Aggravating Circumstances (18-1-105(9))/ Crime of Violence (16-11-309)	Extraordinary Risk of Harm to Society (Added in 1993)	Sentence-Enhancing Circumstances (Added in 1990)	Mandatory Period of Parole (Effective in 1979-83 and 1993, forward.)	Parole Eligibility (Title 17, Section 22.5)	Little Habitual Offender (16-13-101)	Big Habitual Offender (16-13-101)
1	Life	Death	N/A	N/A	N/A	N/A	N/A	For life sentences: no inmate is eligible for parole until serving 30 40 calendar years. (Amended 1985)	25 to 50 years	Life
2	8 years	24 years (Amended 1985)	4 to 48 years (Amended 1985)	24 to 48 years (Amended 1985)	N/A	N/A	N/A	Inmates are eligible for parole after serving the sentence less any good time or earned time. Based on standard presumptive range and receiving all possible time, the PED (parole eligibility date) would range from 3.4 years to 10.3 years. (Amended 1985)	25 to 50 years	Life
3	4 years	16 years (Amended 1985)	2 to 32 years (Amended 1985)	16 to 32 years (Amended 1985)	N/A	N/A	N/A	Inmates are eligible for parole after serving the sentence less any good time or earned time. Based on standard presumptive range and receiving all possible time, the PED would range from 1.7 years to 6.9 years. (Amended 1985)	25 to 50 years	Life
4	2 years	8 years (Amended 1985)	1 to 16 years (Amended 1985)	8 to 16 years (Amended 1985)	N/A	N/A	N/A	Inmates are eligible for parole after serving their sentence less any good time or earned time. Based on standard presumptive range and receiving all possible time, the PED would range from 10.3 months to 3.4 years. (Amended 1985)	N/A	Life
5	1 year	4 years (Amended 1985)	6 months to 8 years (Amended 1985)	4 to 8 years (Amended 1985)	N/A	N/A	N/A	Inmates are eligible for parole after serving their sentence less any good time or earned time. Based on standard presumptive range and receiving all possible time, the PED would range from 5.2 months to 1.7 years. (Amended 1985)	N/A	Life
6	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

N/A: Not Applicable.

SENTENCING LAW AS OF JULY 1, 1985

--- NOTES ---

Little Habitual	A person is considered an habitual offender if such person has been convicted <i>twice</i> previously of a felony, for which the maximum penalty prescribed by law exceeds five years, in Colorado or any other state. The convictions must result from separate episodes and must have occurred within ten years of commission of the new offense. The sentence for the habitual offender is a term of 25 to 50 years.
Big Habitual	Every person convicted of felony who has been convicted <i>three times</i> previously of a felony (arising from separate incidents) in this state or any other state, shall be adjudged an habitual criminal. Such person shall be punished for a term of his or her natural life.
Special Parole Guidelines	N/A
Extraordinary Aggravating Circumstances	The presence of any one or more of the following circumstances qualify as extraordinary aggravating circumstances: 1) crime of violence, Section 16-11-309, C.R.S.; 2) defendant was on parole for another felony at the time of the commission of the felony; 3) defendant was on probation for another felony at the time of the commission of the felony; 4) defendant was charged with or was on bond for a previous felony, for which previous felony the defendant was subsequently convicted; or 5) the defendant was under confinement in prison or any correctional institution within the state. With regard to crimes of violence, 90 days after being placed with the Department of Corrections, the Department shall submit a report to the court on the evaluation and diagnosis of the violent offender. The sentence may be modified for unusual and extenuating circumstances and the modification may include probation.
Sentence-Enhancing Circumstances	N/A
Extraordinary Risk of Harm to Society	N/A
Parole Eligibility	Any person sentenced for a class 2, 3, 4, or 5 felony is eligible for parole after serving the sentence less good time and earned time. For persons paroled, the Division of Adult Services shall provide up to three five (amended 1985) years of parole supervision, as determined by the Parole Board. The conditions are to be established by the Parole Board. If parole is not granted, reconsideration by the Parole Board is to be conducted within one year and every year thereafter (except if there is less than one year left of the sentence). If the conditions of parole have been violated, the offender may be returned to prison for a period of not more than five years. In no event shall any period of reincarceration, subsequent term of parole, and sentence actually exceed the sentence imposed. Good time applies to periods of reincarceration.
Earned Time	In addition to the good time authorized, earned time, not to exceed 30 days for every six months of incarceration, may be deducted from an inmate's sentence upon a demonstration that the inmate has made substantial progress with regard to: 1) work and training; 2) group living; 3) participation in counseling sessions; and 4) progress toward goals. The State Board of Parole is to review the performance record of each inmate annually. The earned time shall vest semi-annually upon being granted by the Board and may not be withdrawn. No more than 90 days of good time may be withheld by the Department in a six-month period.
Good Time	Offenders who perform the duties assigned to them shall be eligible for good time deductions of 15 days a month from their sentence. The good time shall not (amended 1985) vest and may not (amended 1985) be withdrawn.

N/A: Not Applicable.

Bold type indicates amendments to the law in 1985, whereas strikeout type denotes deletions

SENTENCING LAW AS OF JULY 1, 1979

Felony Class	Minimum Sentence (18-1-105)	Maximum Sentence (18-1-105)	Extraordinary Mitigating or Aggravating Circumstances Sentences (18-1-105(6))	Extraordinary Aggravating Circumstances (18-1-105(9))/ Crimes of Violence (16-11-309)	Extraordinary Risk of Harm to Society (Added in 1993)	Sentence-Enhancing Circumstances (Added in 1990)	Mandatory Period of Parole	Discharge Date/Parole Eligibility (Title 17, Section 22.5)	Little Habitual Offender (16-13-101)	Big Habitual Offender (16-13-101)
1	Life	Death	N/A	N/A	N/A	N/A	N/A	Statutes provided for a life sentence and did not refer to parole eligibility.	25 to 50 years.	Life
2	8 years	12 years	4 to 24 years	8-year minimum sentence for violent crimes	N/A	N/A	1 year	Inmates are eligible for parole after serving the sentence less any good time or earned time. Based on standard presumptive range and receiving all possible time, the PED (parole eligibility date) would range from 3.7 years to 5.54 years.	25 to 50 years	Life
3	4 years	8 years	2 to 16 years	4-year minimum sentence for violent crimes	N/A	N/A	1 year	Inmates are eligible for parole after serving the sentence less any good time or earned time. Based on standard presumptive range and receiving all possible time, the PED would range from 1.85 years to 3.7 years.	25 to 50 years	Life
4	2 years	4 years	1 to 8 years	2-year minimum sentence for violent crimes	N/A	N/A	1 year	Inmates are eligible for parole after serving their sentence less any good time or earned time. Based on standard presumptive range and receiving all possible time, the PED would range from 11.09 months to 1.85 years.	N/A	Life
5	1 year	2 years	6 months to 4 years	1-year minimum sentence for violent crimes	N/A	N/A	1 year	Inmates are eligible for parole after serving their sentence less any good time or earned time. Based on standard presumptive range and receiving all possible time, the PED would range from 5.54 months to 11.09 months.	N/A	Life
6	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

N/A: Not Applicable.

SENTENCING LAW AS OF JULY 1, 1979

— NOTES —

Little Habitual	A person is considered an habitual offender if such person has been convicted <i>twice</i> previously of a felony, for which the maximum penalty prescribed by law exceeds five years, in Colorado or any other state. The convictions must have occurred within ten years of commission of the new offense. The sentence for the habitual offender is a term of 25 to 50 years.
Big Habitual	Every person convicted of felony who has been convicted <i>three times</i> previously of a felony in this state or any other state, shall be adjudged an habitual criminal. Such person shall be punished for a term of his or her natural life.
Special Parole Guidelines	N/A
Extraordinary Aggravating Circumstances	N/A
Sentencing Enhancing Circumstances	N/A
Extraordinary Risk of Harm to Society	N/A
Parole Eligibility	Any person sentenced for a class 2, 3, 4, or 5 felony is eligible for parole after serving the sentence less good time and earned time. For persons paroled, the Division of Adult Services shall provide a one-year period of parole supervision. The conditions are to be established by the Parole Board. If parole is not granted, reconsideration by the Parole Board is to be conducted within one year and every year thereafter. If the conditions of parole have been violated, the offender may be returned to prison for a period of six months. For second and subsequent offenses, that offender is to be reincarcerated, but in no event shall any person spend more than one year under parole supervision and reincarceration. Good time deductions apply to periods of reincarceration.
Earned Time	In addition to the good time authorized, earned time, not to exceed 15 days for every six months of incarceration, may be deducted from an inmate's sentence upon a demonstration that the inmate has made substantial progress with regard to: 1) work and training; 2) group living; 3) participation in counseling sessions; and 4) progress toward goals. The State Board of Parole is to review the performance record of each inmate annually. The earned time shall vest upon being granted by the Board and may not be withdrawn.
Good Time	Offenders who perform the duties assigned to them shall be eligible for good time deductions of 15 days a months from their sentence. The good time shall vest quarterly and may not be withdrawn once it has vested.

N/A: Not Applicable.

SECTION I

Part 5: Legislative Council Staff's Five-Year Department of Corrections Population Projections

The total Department of Corrections (DOC) jurisdictional population will rise 44.3 percent, by the end of the century, from 10,347 on October 1, 1994, to 14,928 by January 1, 2000, as shown in Graph I-5.1. The male jurisdictional population will rise 44.5 percent as shown in Graph I-5.2, from 9,689 to 13,998 and the female population will rise 41.3 percent, from 658 to 930 during that time period as shown in Graph I-5.3. The difference in the rates of increase is due to males and females being committed for somewhat different types of crimes, experiencing different lengths of stay in DOC, and having different frequencies of being reincarcerated for parole violations.

The total parole population will rise 174 percent during this period, from 1,822 on October 1, 1994, to 4,993 by January 1, 2000, as shown in Graph I-5.4. The male parole population will rise 162 percent from 1,662 to 4,360, and the female population will rise 296 percent from 160 to 633 during the forecast period.

The following analysis explains the factors driving these forecasts as they relate to:

- New Commitments
- Length of Stay
- Parole Population and Parole Violators

All projections exclude the Youthful Offender System.

NEW COMMITMENTS

Influences on the Number of New Commitments

Annual new commitments to the Department of Corrections (DOC) have risen rapidly over the last 12 years. Total new commitments have varied significantly from year to year, and the distribution of crimes among these new admissions has varied significantly as well. In order to project the number of future admissions to DOC we looked at past admissions over the last 12 years to determine how they varied and with what factors they varied. New commitments were modelled using linear regression analysis, a technique which allows an examination of the statistical relationship among numerous variables. New admissions were broken into 15 crime types, which were then looked at separately. We analyzed a wide variety of factors that theoretically might have a statistical relationship with admissions to the DOC. Factors that might exhibit such a relationship include, but are not limited to: population, population by age group, population living in poverty, migration, employment, unemployment rate and unemployment claims, average wages and salaries, dropout rates, election-year effects, operational capacity, changes to capacity, jail backlog population, and sentencing alternatives such as funded community corrections diversion placements and probation caseload per full-time-equivalent employee. A statistical relationship among variables should not be interpreted as predicting the likelihood of an individual from a particular economic or social group of being committed to the DOC. Variation in the following factors were found to explain most of the year-to-year variation in new commitments:

Population living in poverty. For almost every one of the crime types modelled, indicators of population living in poverty had a significant relationship with admissions to the DOC. This should not be interpreted to mean that all crimes are committed by poor people or that more than a small minority of people living in poverty engage in criminal activity, however. It merely indicates that economic conditions affect DOC admissions.

Capacity. The change in capacity was found to have a significant relationship with admissions for non-violent crimes such as drug offenses, theft, burglary, forgery, fraud, and non-violent criminal attempts. These are offenses for which many commitments could potentially have received alternative sentences to probation or community corrections. Capacity is a constraint on the prison population. The number of convicts who could potentially be incarcerated is significantly greater than the number actually sentenced to DOC. Increasing capacity alleviates that constraint to some degree. Years in which there was a significant increase in capacity witnessed more admissions for these offenses than might otherwise be predicted.

Unemployment. The unemployment rate and the total number of unemployed people as measured by claims were also found to have a significant statistical relationship with admissions for a number of violent and non-violent crime types such as murder and manslaughter, robbery, burglary, and forgery and fraud. Again, this should not be interpreted to mean that more than a small minority of unemployed individuals engage in criminal activity.

Other. A variety of other factors appeared to have small effects on the number of admissions for some non-violent crimes, including the election year cycle and the number of funded community corrections diversion beds. Admissions also appeared to be somewhat lower than would otherwise be predicted for thefts and robberies between FY 1985-86 and FY 1989-90, the years in which the longest effective sentences were in place, possibly indicating either a small deterrent effect or an increase in plea bargaining resulting from the longer sentences in place at the time. The overall effect of these other influences was quite minor, however, compared with poverty, capacity, and unemployment measures.

PROJECTIONS FOR NEW COMMITMENTS

- Annual new commitments to DOC will rise 25.9 percent, from 3,278 in FY 1993-94 to 4,127 in FY 1999-00. New male commitments will increase 25 percent, from 2,995 to 3,745, as shown in Graph I-5.5, and new female commitments will increase 35 percent during that time period as shown in Graph I-5.6.
- The felony class distribution of new commitments will not change significantly between FY 1993-94 and FY 1999-00.
- The proportion of new commitments sentenced for violent offenses will increase slightly: from 31 percent in FY 1993-94 to 32 percent in FY 1999-00.
- The proportion of new commitments sentenced to the DOC for extraordinary risk offenses will increase slightly: from 55 percent in FY 1993-94 to 56 percent in FY 1999-00.
- Commitments for certain offenses, such as assault and sexual assault, will increase more rapidly than total commitments, while others, such as robbery and burglary, will show much slower growth.

- New commitments for drug offenses will increase by 25 percent during the forecast period, a growth rate comparable to that of the last several years, but lower than during the late 1980s when such offenses experienced the most rapid growth of any crime type.

LENGTH OF STAY

Legislative Council Staff analyzed length of stay over the last four fiscal years and found that it has been getting progressively longer. We found that increasing length of stay has primarily been due to the fact that inmates are serving significantly greater proportions of their sentences, rather than because they are receiving longer sentences. Between FY 1990-91 and FY 1993-94, the average length of stay in the DOC at time of release for inmates sentenced under the provisions of House Bill 85-1320 increased for felony classes 3, 4, and 5, which comprise the vast majority of inmates. This was not due to longer sentences, however. Rather, prisoners are serving larger proportions of their sentences. The proportion of releases that were sentence discharges increased steadily between FY 1990-91 and FY 1993-94, while the proportion released to parole has been decreasing. Average sentences for class 2 felons were found to be progressively longer each year, however.

The effect of House Bill 93-1302. During the next five years, most new commitments to the DOC will enter under the provisions of House Bill 93-1302. House Bill 93-1302 made two important changes to sentencing laws that will have an effect on the prison population between now and FY 1999-00: shorter sentences for non-extraordinary risk class 3, 4, 5, and 6 crimes and mandatory parole. We found that, on average, the provisions of House Bill 93-1302 will result in longer lengths of stay for most new commitments.

House Bill 93-1302 reduced maximum sentences for non-extraordinary risk crimes. Non-extraordinary risk crimes comprise approximately 45 percent of new commitments and a disproportionately large number of these offenders receive relatively short sentences. Many of these non-extraordinary risk commitments also have the aggravating circumstance of being on probation at the time of the new crime, a condition that eliminates the possibility of receiving lower sentences, thus further reducing the proportion of inmates affected by the sentence reductions. Our estimates are that, if House Bill 93-1302's shorter sentence provisions would be fully implemented, the maximum eventual reduction to the DOC population would be five to six percent. There is no evidence to date, though, to indicate that sentence lengths for new non-extraordinary risk inmates sentenced under House Bill 93-1302 are any shorter, however. It appears that judges are not, on average, reducing the lengths of the sentences they are giving to the eligible felons. There was very little difference in

average sentence length between new FY 1993-94 felony class 3, 4, 5, and 6 non-extraordinary risk commitments sentenced under House Bill 93-1302 and those sentenced under prior laws. Felony class 6 average sentences were actually slightly longer for those inmates sentenced under House Bill 93-1302 than other class 6 commitments. We have incorporated into our projections a slow phase-in of shorter sentences as judges *gradually* conform to the intent of the law. In addition, it is likely that House Bill 93-1302's reduced sentence ranges will result in a reduction in plea bargaining to less serious offenses. We do not yet have data to be able to examine this.

Furthermore, in order for a reduction in class 3, 4, 5, and 6 non-extraordinary risk sentence lengths to translate into shorter average lengths of stay, one must assume that the parole board will not change its decisions to parole in response to House Bill 93-1302. House Bill 93-1302's mandatory parole provisions appear to eliminate the incentive for the parole board to release an inmate prior to the end of his sentence so that he may be under a period of supervision on parole in the community, since such a period of supervision became mandatory. We believe the parole board's response to House Bill 93-1302's mandatory parole period will be to further delay releases to parole, thus resulting in longer average lengths of stay.

PAROLE POPULATION AND PAROLE VIOLATORS

Currently, an increasing number of inmates sentenced under laws prior to House Bill 93-1302 have been remaining in DOC until sentence discharge and not receiving parole supervision. This has resulted in a reduction in the parole population. We expect the parole population to remain between 1,800 and 2,000 through FY 1995-96, then to increase dramatically thereafter. The primary reason for the increase is that House Bill 93-1302 imposed a mandatory period of parole for all releases of inmates sentenced under its provisions. We expect the following to result from House Bill 93-1302 as it relates to parole:

- The number and proportion of total releases to parole will increase.
- The parole population will increase to nearly 5,000 by January 1, 2000, from the current level of 1,822.
- The average length of stay on parole will increase. The average parole stay is currently 11 months for those released to parole. Under House Bill 93-1302 this will mandatorily increase to one year for class 6 felons, two years for class 5 felons, three years for class 4 felons and five years for class 2 and 3 felons and class 4 and 5 sex offenders. Given the current felony class

distribution of incoming inmates, we estimate the average length of stay on parole for those sentenced under House Bill 93-1302's provisions to be 34.8 months, less any time spent reincarcerated for parole violations and new crimes.

- The parole population will include more offenders who are at higher risk of recidivism and technical violations due to the mandatory parole period. Under prior sentencing laws, violent offenders were serving most of their sentences incarcerated in the DOC with short periods of parole supervision on average. When those sentenced under House Bill 93-1302's provisions eventually get released they will be receiving longer periods of parole supervision.
- The number of parole violators reincarcerated for technical violations will increase. Not only did House Bill 93-1302 create a mandatory parole period, but the mandatory parole period is also far longer for all felony classes than most releases to parole under previous governing laws would have experienced. Thus, this extends the period of time during which a parolee has the opportunity to become a parole violator.
- The length of stay for reincarceration for a technical parole violation will increase by 30 percent on average. Sentence length imposes a constraint on a technical violator's period of reincarceration. House Bill 93-1302 lifted that constraint, allowing many technical violators to remain incarcerated longer than their original sentence until being re-released to parole or released when their period of mandatory supervision expires.
- The number of parole violators reincarcerated for new crimes will increase as the parole population increases and as the parole population gradually includes more violent and repeat offenders at higher risk of recidivism.
- The average length of stay of parole violators with new crimes will increase since House Bill 93-1302 eliminated earned time while on parole and since sentences for parole violators with new crimes are usually made consecutive to the offender's existing sentence. Longer periods of mandatory parole will, therefore, result in longer periods of incarceration for parole violators with new crimes.

SUMMARY

Legislative Council Staff projects that the Department of Corrections jurisdictional population will increase 44.3 percent, to 14,928, by January 1, 2000. The three main factors driving this increase are the following:

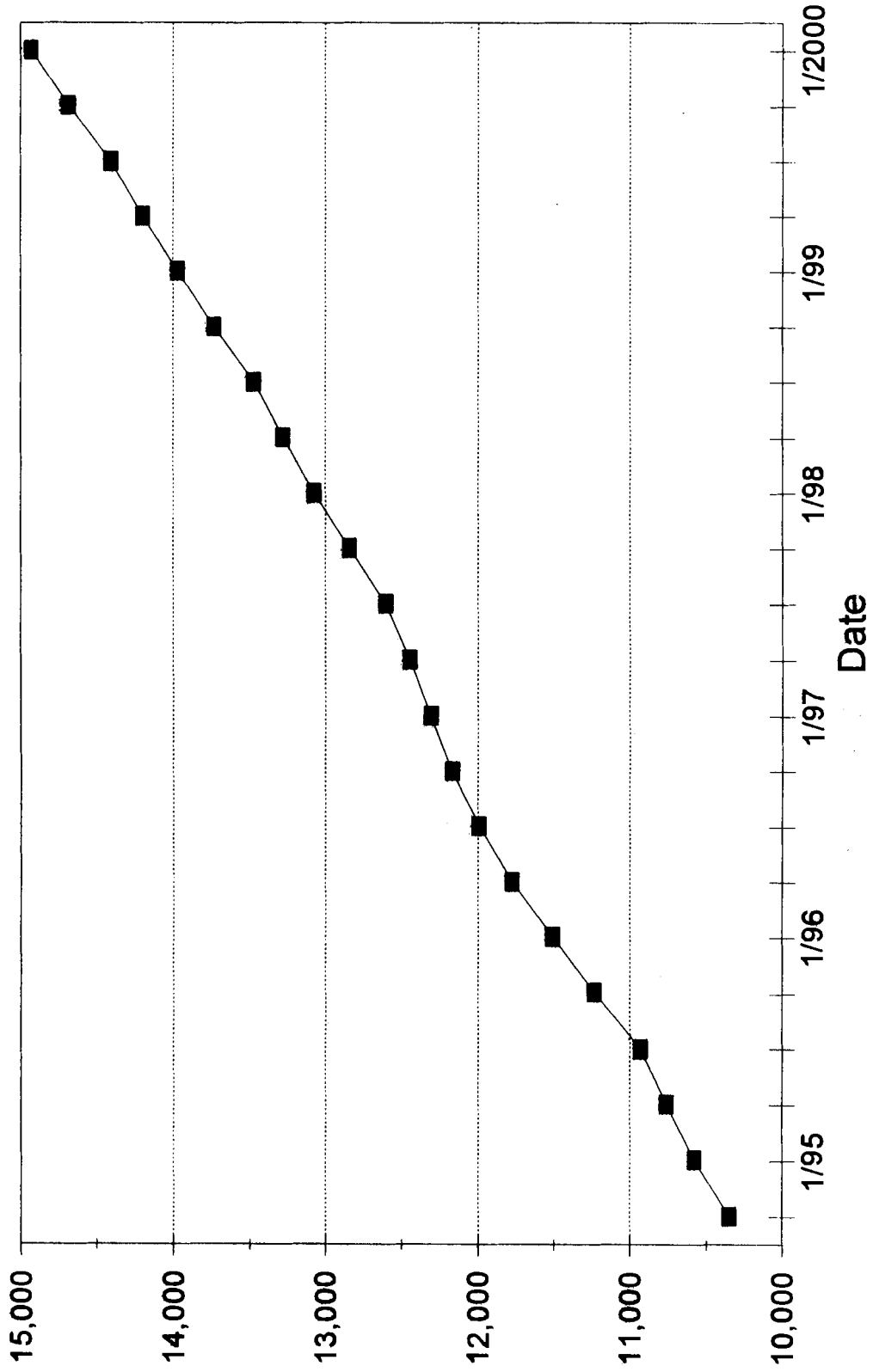
- A 25.9 percent increase in annual new commitments to DOC between FY 1993-94 and FY 1999-00.
- A continuation of a trend towards inmates serving greater proportions of their sentences, enhanced by the disincentive effect mandatory parole has on the parole board to parole inmates before the completion of their sentences.
- A large increase in technical parole violators and parole violators with new crimes due to the 174 percent increase in the parole population brought about by mandatory parole.

For further information, please contact
Warren Olson, Legislative Council Staff, 866-4796.

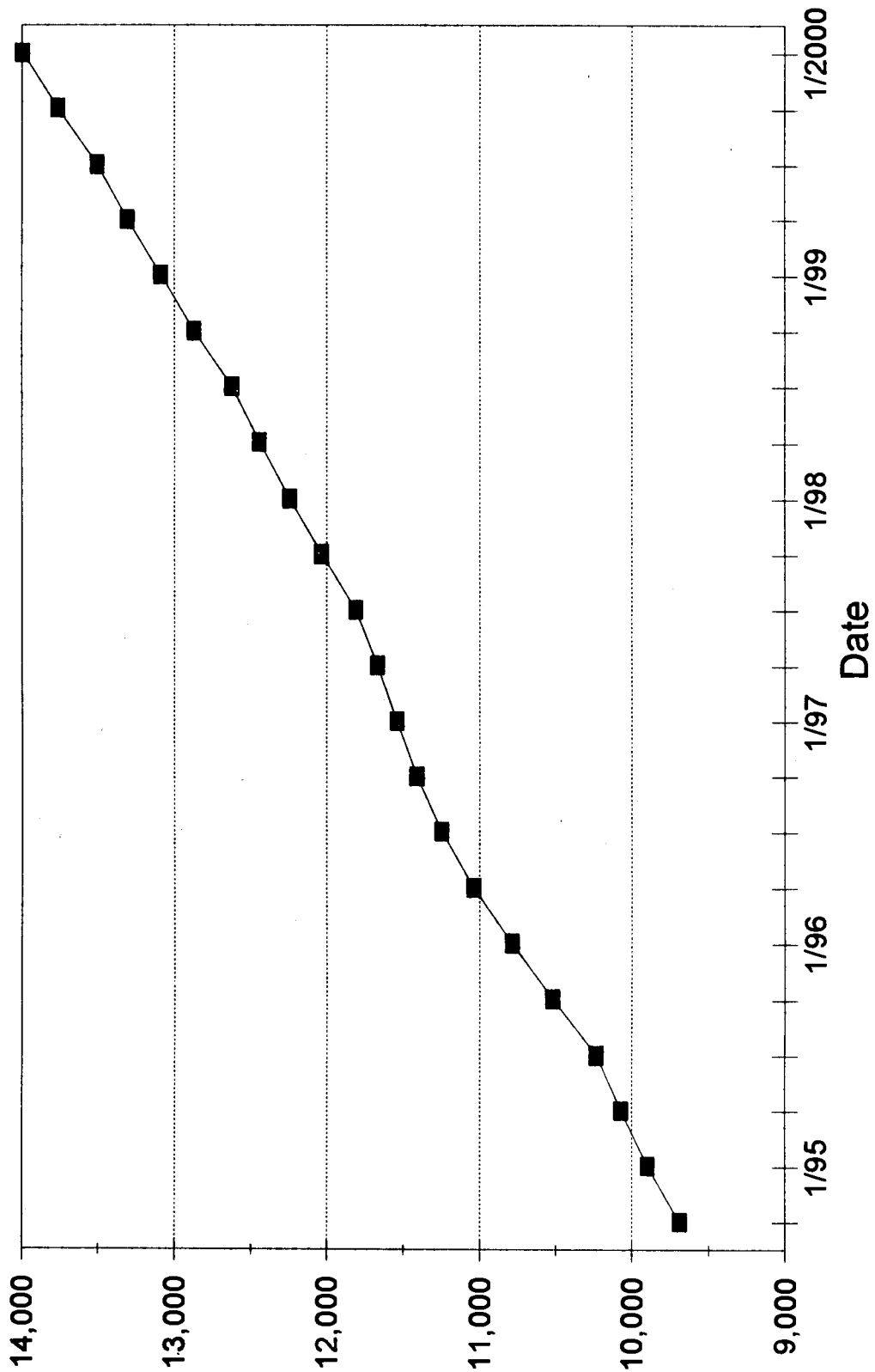
Table I-5.1: Legislative Council Staff's Prison and Parole Population Projections by Commitment Type and Gender

Date	Population of Original Crime Commitments			Population of Parole Violator with New Crimes			Population of Technical Parole Violators			TOTAL DOC POPULATION			Parole Population		
	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total
September 26, 1994	7,928	545	8,473	876	45	921	885	68	953	9,689	658	10,347	1,662	160	1,822
January 1, 1995	8,141	557	8,698	881	48	929	880	70	950	9,902	675	10,577	1,662	197	1,859
April 1, 1995	8,315	575	8,890	881	47	928	875	68	943	10,071	690	10,761	1,635	218	1,853
July 1, 1995	8,476	586	9,062	884	47	931	873	67	940	10,233	700	10,933	1,626	240	1,866
October 1, 1995	8,693	599	9,292	898	49	947	927	67	994	10,518	715	11,233	1,615	227	1,842
January 1, 1996	8,889	605	9,494	911	50	961	985	68	1,053	10,785	723	11,508	1,623	232	1,855
April 1, 1996	9,071	616	9,687	925	51	976	1,041	69	1,110	11,037	736	11,773	1,696	245	1,941
July 1, 1996	9,227	625	9,852	938	52	990	1,081	69	1,150	11,246	746	11,992	1,841	267	2,108
October 1, 1996	9,379	633	10,012	968	55	1,023	1,062	68	1,130	11,409	756	12,165	2,053	300	2,353
January 1, 1997	9,510	641	10,151	996	56	1,052	1,032	70	1,102	11,538	767	12,305	2,280	329	2,609
April 1, 1997	9,640	652	10,292	1,026	59	1,085	1,000	70	1,070	11,666	781	12,447	2,550	361	2,911
July 1, 1997	9,743	662	10,405	1,051	61	1,112	1,015	70	1,085	11,809	793	12,602	2,804	392	3,196
October 1, 1997	9,845	670	10,515	1,101	65	1,166	1,088	75	1,163	12,034	810	12,844	2,974	412	3,386
January 1, 1998	9,939	681	10,620	1,151	69	1,220	1,156	78	1,234	12,246	828	13,074	3,153	442	3,595
April 1, 1998	10,042	683	10,725	1,199	72	1,271	1,202	81	1,283	12,443	836	13,279	3,320	473	3,793
July 1, 1998	10,137	685	10,822	1,247	75	1,322	1,241	84	1,325	12,625	844	13,469	3,476	505	3,981
October 1, 1998	10,260	689	10,949	1,313	81	1,394	1,298	91	1,389	12,871	861	13,732	3,631	531	4,162
January 1, 1999	10,373	697	11,070	1,368	85	1,453	1,348	96	1,444	13,089	878	13,967	3,783	556	4,339
April 1, 1999	10,474	703	11,177	1,426	89	1,515	1,407	100	1,507	13,307	892	14,199	3,928	582	4,510
July 1, 1999	10,567	708	11,275	1,482	92	1,574	1,455	103	1,558	13,504	903	14,407	4,087	606	4,693
October 1, 1999	10,689	716	11,405	1,554	98	1,652	1,522	106	1,628	13,765	920	14,685	4,229	611	4,840
January 1, 2000	10,794	721	11,515	1,622	101	1,723	1,582	108	1,690	13,998	930	14,928	4,360	633	4,993

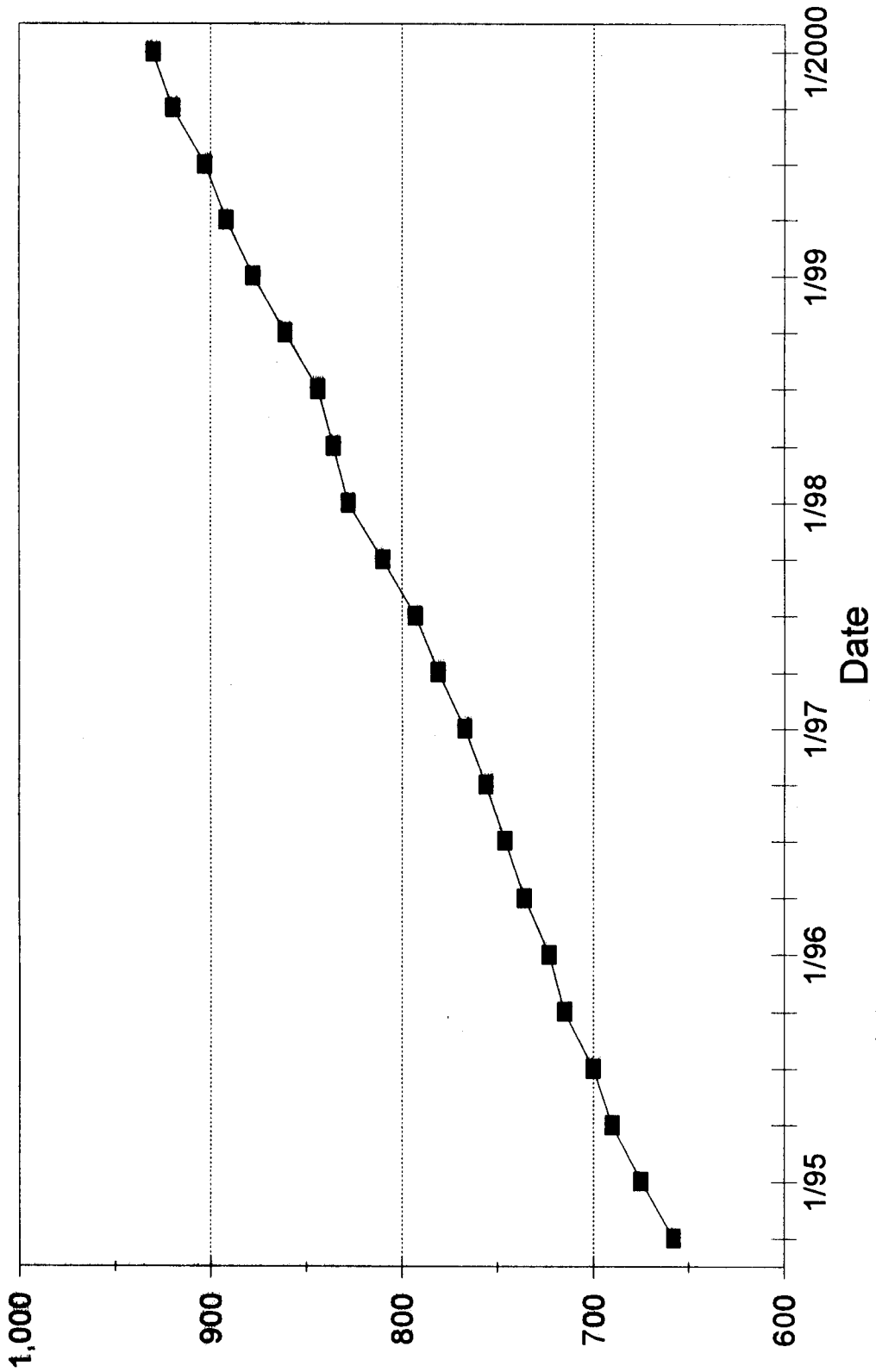
Graph I-5.1: Total DOC Population



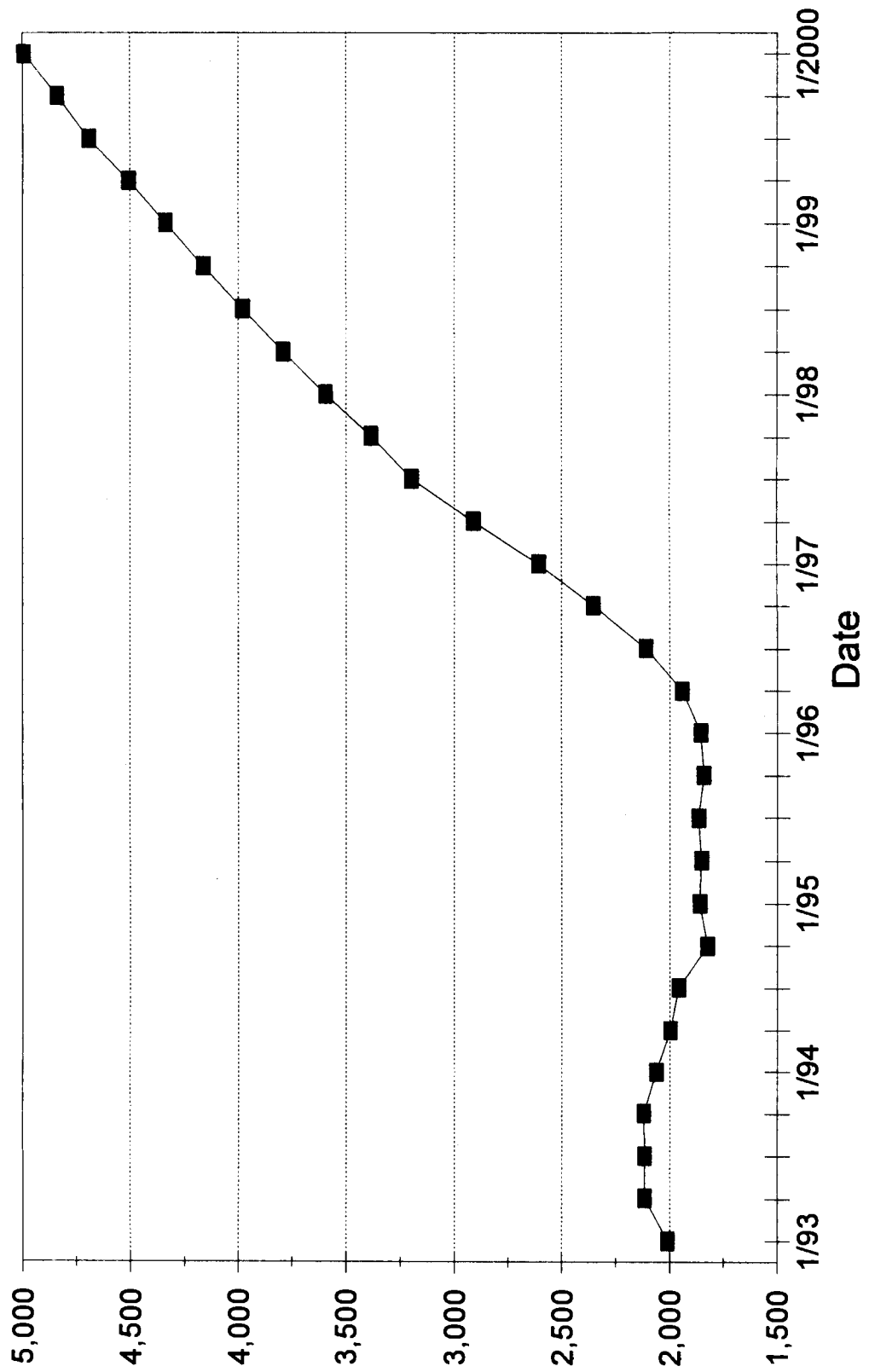
Graph I-5.2: Male DOC Population



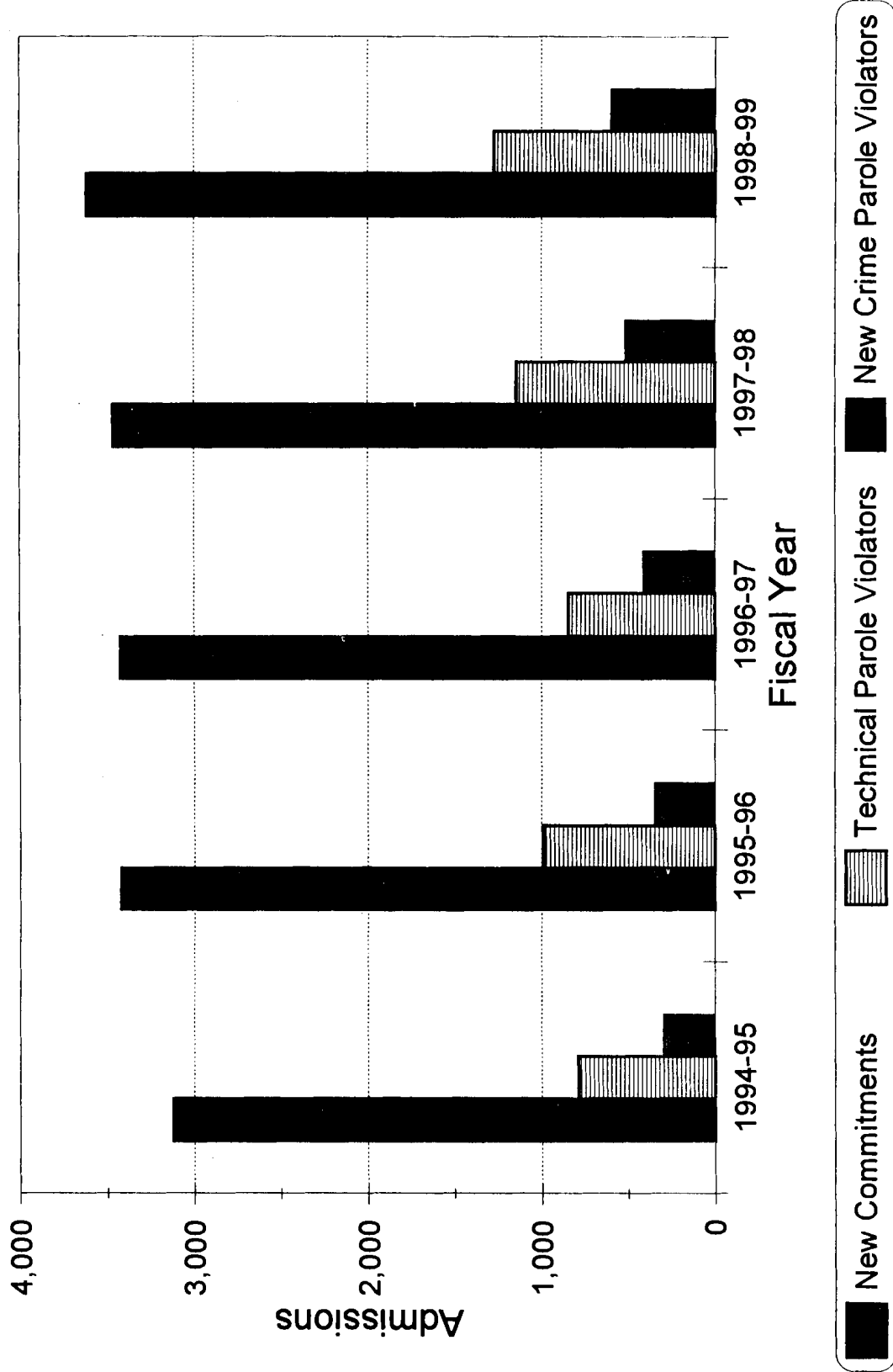
Graph I-5.3: Female DOC Population



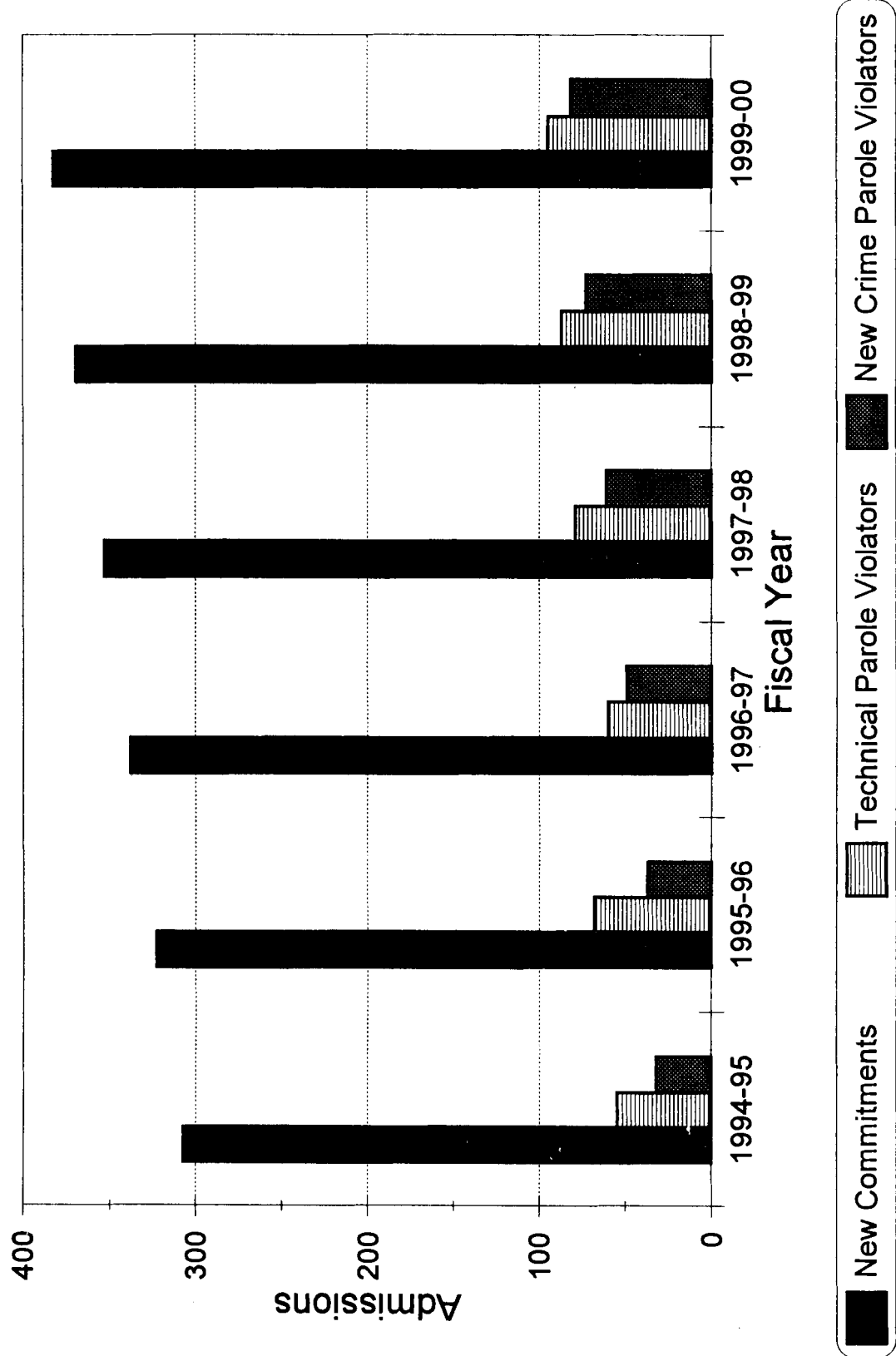
Graph I-5.4: Parole Population



Graph I-5.5: Male DOC Admissions



Graph 1-5.6: Female DOC Admissions



SECTION I

Part 6: History of Growth in Department of Corrections: Populations and Budget

The purpose of this section is to provide an overview of the growth in the Colorado Department of Corrections' (DOC) total populations and budget expenditures from 1981 to the present. This section will also detail the DOC's current operational capacity and compare that to the total inmate populations over the last 15 years, with an analysis of why populations continue to grow beyond the DOC's operational capacity. Also included in this section is a brief overview of the new facilities which were authorized in House Bill 94-1340, enacted in the 1994 Regular Session.

DEPARTMENT OF CORRECTIONS FACILITIES OVERVIEW

The Department of Corrections (DOC) manages the state's adult correctional facilities and the adult parole system. The DOC operates 18 separate facility complexes with the following security levels: minimum, minimum-restricted, medium, close, and administrative segregation. The DOC also manages the Colorado Correctional Alternatives Program (boot camp) and the Youthful Offender System (YOS). Currently, the DOC houses nearly 8,000 inmates in state facilities, nearly 600 state inmates in private prisons in Bent County, Colorado, and in Appleton, Minnesota, and maintains more than 900 inmates in community corrections transitional placements and intensive supervision programs.

Table I-6.1 lists the state's adult correctional facilities, the year the facility opened, custody levels, and current capacities.

Table I-6.1: Department of Corrections Facilities

Facility	Year Opened	Custody Level	Capacity
Territorial	1871	Medium	592
Buena Vista	1892	Medium	965
Fremont	1962	Medium	1,085
Delta	1964	Minimum	304
Skyline	1964	Minimum	200
Women's (Canon City)	1968	Mixed	267
Colorado Correctional Center	1969	Minimum	150
Rifle	1979	Minimum	150
Centennial	1980	Close	336
Four Mile	1981	Minimum-Restricted	300
Pre-Release	1983	Minimum-Restricted	164
Arkansas Valley	1987	Medium	1,007
Women's Facility (Pueblo)	1989	Mixed	50
Arrowhead	1990	Minimum-Restricted	364
Limon	1991	Medium	953
Denver Reception and Diagnostic Center	1991	Mixed	400

Table I-6.1: Department of Corrections Facilities

Facility	Year Opened	Custody Level	Capacity
Correctional Alternative Program (Boot Camp)	1991	Minimum	100
Colorado State Penitentiary	1993	Administrative Segregation	504
Pueblo Minimum Center	1994	Minimum	64
Youth Offender System	1994	N/A	96
Current Total 1994			8,051
<i>Planned Facility Expansion</i>			
<i>San Carlos</i>	<i>1995</i>	<i>Mixed</i>	<i>250</i>
<i>Delta Expansion</i>	<i>1996</i>	<i>Minimum</i>	<i>180</i>
<i>CSP Expansion</i>	<i>1996</i>	<i>Close</i>	<i>250</i>
<i>Sterling</i>	<i>1997</i>	<i>Medium</i>	<i>500</i>
<i>Denver Women's</i>	<i>1997</i>	<i>Mixed</i>	<i>248</i>
<i>Youth Offender System</i>	<i>1997</i>	<i>N/A</i>	<i>300</i>
TOTAL CAPACITY 1997			9,779

N/A: Not Applicable.

NOTE: *Italics denote new facilities which are funded but not yet opened.*

Above totals do not include community transition placements.

In addition to the above state-run facilities, the DOC has contracted with the Bent County Detention Facility for 319 minimum-restricted beds, and also with the Prairie Correctional Facility in Minnesota for up to 400 medium beds. Also, the provisions of House Bill 94-1340 encourage the DOC to seek other private facility options to satisfy the anticipated future bed need in the minimum-restricted and minimum security levels. As a result, the DOC has received proposals from Bent County, Las Animas County, and a private contractor in Weld County that would add 1,250 beds during the next two years.

NEW FACILITIES AUTHORIZED IN HOUSE BILL 94-1340

In the 1994 Regular Session, the General Assembly authorized construction of several new facilities to accommodate anticipated growth in the DOC's jurisdictional population. Based on population projections prepared by the Colorado Division of Criminal Justice (DCJ) in November of 1993, it was estimated that the DOC would require over 2,400 additional beds by the end of FY 1998-99. Thus, the General Assembly authorized construction of the following facilities.

<i>Table I-6.2: New Facilities Authorized in House Bill 94-1340</i>				
State Facilities	# of Beds	Custody Level	Total Construction Cost	Estimated Annual Operating Cost
San Carlos Facility ^{\a}	248	Mixed	\$21,310,000	\$10,019,000
Sterling Facility	500	Medium	\$37,500,000	\$12,650,000
Youth Offender System	300	N/A	\$25,249,500	\$11,214,000
CSP Expansion	250	Close	\$19,546,250	\$6,550,000
Denver Women's	248	Mixed	\$17,599,816	\$3,130,000
Delta Expansion	180	Minimum-R	\$7,482,200	\$2,900,000
TOTAL STATE	1,726		\$128,687,766	\$46,463,000
<i>Nonstate Facilities</i>				
<i>Preparole (Weld County)</i>	<i>386</i>	<i>Minimum-R</i>	<i>N/A</i>	<i>\$7,362,000</i>
<i>Bent County II</i>	<i>325</i>	<i>Minimum-R</i>	<i>N/A</i>	<i>\$5,635,000</i>
<i>Trinidad (Las Animas County)</i>	<i>500</i>	<i>Minimum-R</i>	<i>N/A</i>	<i>\$8,464,000</i>
GRAND TOTAL	2,937		\$128,687,766	\$67,924,000

\a The San Carlos Facility was previously authorized in 1990.

N/A: Not Applicable.

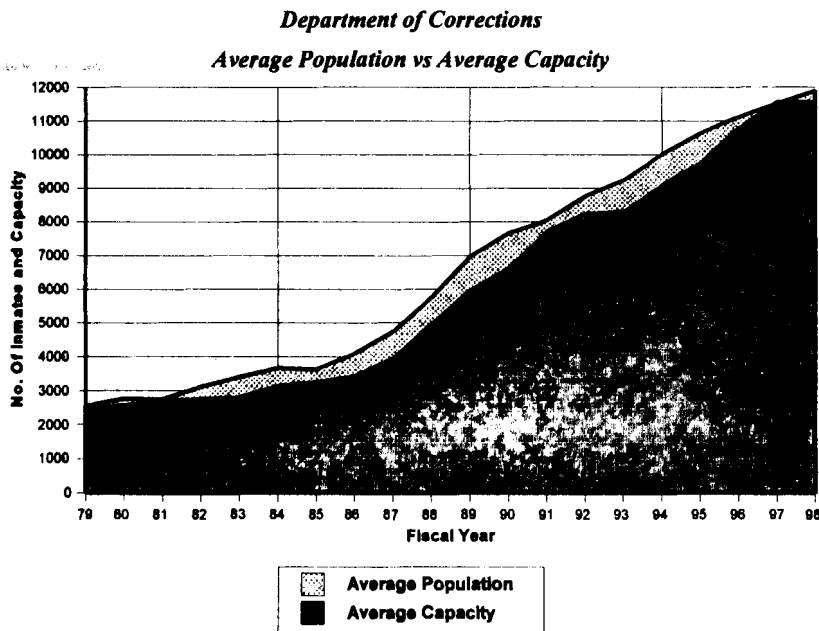
Source: House Bill 94-1340; DOC and JBC Staff cost estimates.

The new state facilities which are shown in Table I-6.2 will add over 1,700 beds to the DOC's total operational capacity, and will increase the DOC's annual General Fund expenditures by more than \$46 million. Also shown in Table I-6.2 (in italics) are the three private prison proposals mentioned earlier that have been submitted to the DOC and subsequently approved in concept by both the Joint Budget Committee and the Capital Development Committee. However, all three private projects have experienced legal challenges by local opposition, and the status of the projects is still uncertain. Assuming all three projects are completed and the state contracts with the operators, the total additional annual operating costs to the DOC will be nearly \$68 million for the privately-operated and new state facilities, combined. When the facilities authorized in House Bill 94-1340 open, it is anticipated that the DOC will no longer use the private prison in Appleton, Minnesota.

OVERVIEW OF GROWTH IN THE DEPARTMENT OF CORRECTIONS

Inmate population. Graph I-6.1 illustrates the growth in inmate populations since FY 1979-80, and compares that to the DOC's average operational capacity at the end of each fiscal year.

Graph I-6.1

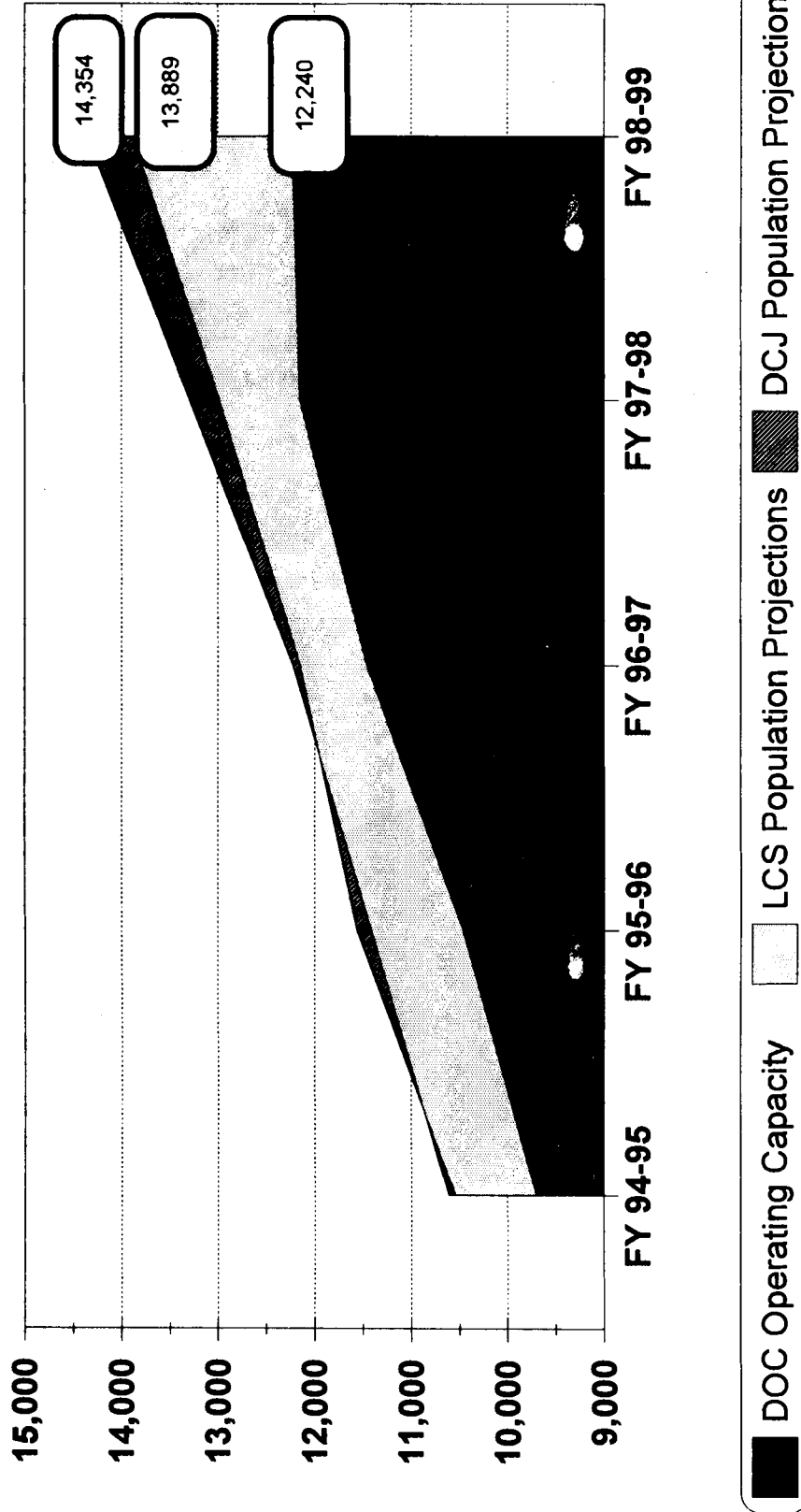


Source: Colorado Department of Corrections.

Based on five-year population projections released by the DCJ in November of 1993, the facilities outlined above would address the DOC's bed needs through FY 1997-98. However, results from the LCS and DCJ's November 1994 projections show a dramatic increase in populations for the same time period as compared to last year's projections.

The November 1994 projections from the LCS indicate that by the end of FY 1998-99, DOC will require 1,649 additional beds over what was authorized in House Bill 94-1340. The DCJ projections are even higher and estimate a need for 2,114 additional beds. Table I-6.2 illustrates the bed shortage. It should be noted that the figures in the graph assume a one percent vacancy rate for the DOC facilities due to the natural movement of offenders. The population projections have also been reduced to 3.5 percent, this represents the average off-grounds population due to escapes, court appearances, and hospital stays.

Graph I-6.2: DOC Capacity vs. Population Projections



Corrections operating budget. Table I-6.3 illustrates that since FY 1981-82, the DOC's total General Fund expenditures have grown by more than 400 percent, while the state's total inmate jurisdictional population has grown by nearly 250 percent. Most of the growth is attributable to the changes in sentencing policies outlined in Section I, Part 4 of this handout. While doubling the presumptive sentencing ranges, as was done in 1985, will not in itself dictate that *more* individuals will be sentenced to prison, it does result in much *longer lengths of stay* in prison, which becomes a crucial contributing factor in the growth of inmates incarcerated at any given time.

Table I-6.3: Budget History — Department of Corrections

	Actual 1981-82	Actual 1985-86	Actual 1993-94	Request 1995-96
GF Budget (\$ millions)	\$ 33.6	\$ 56.9	\$ 179.4	\$ 214.0
Total State Inmates	2,772	3,813	10,005	11,844
Total Capacity \a	2,717	3,681	9,341	10,290
Average Jail Backlog	N/A	N/A	700	1,500
Total Employee FTE	1,165	1,325	3,519	3,864

\a Includes private prisons and community transitional placements.

N/A: Not Applicable.

Source: Colorado Department of Corrections Statistical Report, 1/94; JBC Annual Appropriations Reports.

Average prison sentence. The average sentence lengths imposed upon offenders sentenced to the DOC and the resulting lengths of stay in prison, have changed substantially during the last 15 years. In FY 1979-80, an inmate's average estimated length of stay in prison was 19.9 months, whereas in FY 1993-94, an inmate's average estimated length of stay in prison was 40.7 months. To illustrate the impact, in 1980 one bed could serve two inmates within a 40-month time frame, while in 1993 one bed could only serve one inmate within a 40-month time frame — essentially doubling the DOC's bed needs in order to accommodate the two inmates.

Certain factors external to the sentencing policies outlined in Section I, Part 4 contribute to increases in *admissions* to prison, such as: increases in the state's total population; economic factors; social factors; incidence of crime; and law enforcement activity. Thus, the DOC's bed needs over time would increase due to rises in total annual admissions. However, changes in public policies regarding criminal sentencing may increase average daily populations exponentially through increases in lengths of stay. Table I-6.4 shows the history of estimated average lengths of stay in prison from FY 1979-80 through FY 1993-94. Also shown is the average *sentence* length imposed from FY 1987-88, the first year that reliable data was available. The differences in sentences imposed versus lengths of stay in prison are due to statutory policies regarding earned time credits and parole eligibility dates, as described in Section I, Part 4 of this handout.

**Table I-6.4: Average Length of Stay Estimates
for New Admissions to Prison
FY 1979-80 to FY 1993-94**

Based on Sentence Data From	Average Court Sentence Length (months)	Average Length of Stay Estimate (months)
FY 1979-80	N/A	19.9
FY 1980-81	N/A	22.2
FY 1981-82	N/A	23.4
FY 1982-83	N/A	23.4
FY 1983-84	N/A	25.4
FY 1984-85	N/A	31.7
FY 1985-86	N/A	34.7
FY 1986-87	N/A	43.2
FY 1987-88	90.24	53.3
FY 1988-89	86.73	57
FY 1989-90	78.14	42
FY 1990-91	75.76	39.5
FY 1991-92	75.13	40.7
FY 1992-93	68.29	37.6
FY 1993-94	61.14	40.7

NA: Not Available.

Source: Colorado Division of Criminal Justice.

For further information, please contact
John Gomez, Joint Budget Committee Staff, 866-2061.

Table I-7.1: Department of Corrections Average Annual Offender Operating Costs

Facility — Males	FY 93-94 Bed Capacity	% of Total DOC Capacity	Operational Capacity /1	FY 93-94 Total Operating Cost	FY 93-94 Cost Per Offender Per Facility	% of Total DOC Cost
ADMINISTRATIVE SEGREGATION						
Colorado State Penitentiary	564	6.43%	499	\$12,567,308	\$25,187	7.92%
CLOSE CUSTODY						
Centennial Correctional Facility	336		333	\$ 9,735,591	\$29,268	
Limon Correctional Center	928		919	17,208,656	18,731	
<i>Subtotal</i>	<i>1,264</i>	<i>16.13%</i>	<i>1,251</i>	<i>\$26,944,247</i>	<i>\$21,532</i>	<i>16.97%</i>
MIXED/MEDIUM						
Arkansas Valley Correctional Facility	982		972	\$18,284,676	\$18,808	
Buena Vista Correctional Facility	1,140		1,129	21,117,644	18,711	
Territorial Correctional Facility	592		586	13,551,681	23,123	
Fremont Correctional Center	1,060		1,049	20,129,400	19,182	
<i>Subtotal</i>	<i>3,774</i>	<i>48.17%</i>	<i>3,736</i>	<i>\$73,083,401</i>	<i>\$19,561</i>	<i>46.04%</i>
RESTRICTIVE-MINIMUM						
Arrowhead Correctional Center	364		360	\$6,518,434	\$18,089	
Four Mile Correctional Center	300		297	4,875,520	16,416	
Pre-Release Center	164		162	2,445,470	15,062	
<i>Subtotal</i>	<i>828</i>	<i>10.57%</i>	<i>820</i>	<i>\$13,839,424</i>	<i>\$16,883</i>	<i>8.72%</i>

Table I-7.1: Department of Corrections Average Annual Offender Operating Costs

Facility -- Males	FY 93-94 Bed Capacity	% of Total DOC Capacity	Operational Capacity /1	FY 93-94 Total Operating Cost	FY 93-94 Cost Per Offender Per Facility	% of Total DOC Cost
MINIMUM						
Skyline Correctional Center	200		198	\$3,149,398	\$15,906	
Colorado Correctional Center	150		149	2,459,602	16,563	
Delta Correctional Center	304		301	5,435,243	18,060	
Rifle Correctional Center	150		149	2,649,047	17,839	
<i>Subtotal</i>	804	10.26%	796	\$13,693,290	\$17,203	8.63%
RECEPTION						
Denver Reception and Diagnostic	400	5.05%	396	\$12,325,503	\$31,125	7.76%
WOMEN/MIXED CUSTODY						
Women's Correctional Facility	267	3.37%	264	\$6,285,295	\$23,778	3.96%
TOTALS	7,834	NA	7,756	\$158,738,468	\$19,959	NA

/1 The operational capacity reflects a one percent vacancy due to the natural movement within the system.

NA: Not Applicable

Table I-7.2 summarizes the operating cost per security level and provides the weighted average annual cost per offender for FY 1993-94. The weighted cost was determined using the current DOC classification instrument. The classification instrument applies an objective score to each inmate admitted to the DOC to determine custody level assignments. The scale adopted by the DOC is designed to, on average, proportionately classify inmates within each custody/security level. The applied percentages are noted in Table I-7.2. The weighted average cost per offender was calculated taking the average cost per security level times the classification percentage. For instance, it is assumed that 14.53 percent of the offenders who enter the system will be placed in close custody. Therefore, 14.53 percent of the average offender costs should reflect the cost of housing close inmates.

<i>Table I-7.2: FY 1993-94 — Department of Corrections Weighted Average Annual Offender Cost</i>				
Male	Cost Per Security Level	Average Cost Per Security Level	DOC Current Classification Instrument	Average Offender Cost Based on Classification Instrument
Reception	\$12,325,503	\$31,125	5.62%	\$1,779
Administrative Segregation	12,567,308	25,187	4.72%	1,188
Close	26,944,247	21,532	14.53%	3,128
Medium	73,083,401	19,561	34.59%	6,767
Restrictive-minimum	13,839,424	16,883	18.42%	3,110
Minimum	13,693,290	17,203	18.94%	3,258
Subtotal Males	\$152,453,173			\$19,230
Total Female Costs	\$6,286,295	\$24,048	3.14%	\$755
Total Weighted Operating Cost — Male and Female	\$158,739,468			\$19,985

SECTION I

Part 8: Community Corrections Process in Colorado

The purpose of this section is to provide an overview of the community corrections system in Colorado. This part is divided into six major categories as follows:

- Statutory Authorization
- Offenders Eligible for Community Corrections Placement
- Community Corrections Boards
- Community Corrections Program Operation
- Role of the Division of Criminal Justice
- Community Corrections Population Data

STATUTORY AUTHORIZATION

Article 27 of Title 17, Colorado Revised Statutes, provides the statutory authorization for community corrections in Colorado. The statutes give local governments the authority to designate the programs, boards, and networks to address local criminal justice needs. Section 17-27-102 (3), C.R.S., defines "community corrections program" as a community-based or community-oriented program that provides supervision of offenders. The program may be operated by a local government unit, the Department of Corrections (DOC), or any private individual, partnership, corporation, or association.

Community corrections programs may:

- 1) provide residential or non-residential services for offenders;
- 2) monitor offender activities;
- 3) provide oversight of victim restitution and community service programs;
- 4) aid offenders to obtain and hold regular employment;
- 5) aid offenders to enroll in and maintain academic courses;
- 6) aid offenders to participate in vocational training programs;
- 7) aid offenders to utilize the resources of the community;
- 8) help to meet the personal and family needs of offenders;
- 9) aid offenders to obtain appropriate treatment;
- 10) aid offenders to participate in whatever specialized programs exist within the community; and
- 11) provide other services and programs as may be appropriate to aid in offender rehabilitation and public safety.

Any unit of local government or authorized state agency may establish, maintain, and operate community corrections programs. A nongovernmental agency may contract with the state or a local government to provide services to offenders assigned to the community corrections program.

OFFENDERS ELIGIBLE FOR COMMUNITY CORRECTIONS PLACEMENT

Community corrections clients are categorized as either diversion clients or transition clients. Diversion clients are those offenders sentenced directly by the courts to community corrections programs or sentenced as a condition of probation. These offenders are "diverted" from incarceration under the Department of Corrections (DOC). Transition clients are those offenders referred from the DOC, including those on parole, as a means of allowing an offender to transition back into the community after prison incarceration. Further detail on the guidelines for referring offenders, by referral source, follows.

District court diversion. Any district court judge may refer any offender convicted of a felony to a community corrections program unless the offender is required to be sentenced pursuant to section 16-11-309 (1), C.R.S. This section pertains to crimes of violence and carries mandatory sentences for violent crimes. A crime of violence is defined as a crime committed, conspired to be committed, or attempted to be committed by a person during which, or in the immediate flight therefrom, the person: (a) used, or possessed and threatened the use of, a deadly weapon; or (b) caused serious bodily injury or death to any other person except another participant. This applies to the following crimes:

- (a) any crime against an at-risk adult (anyone 60 years of age or older or 18 years of age or older with a disability) or an at-risk juvenile (anyone under 18 years of age with a disability);
- (b) murder;
- (c) first or second degree assault;
- (d) kidnapping;
- (e) sexual assault;
- (f) aggravated robbery;
- (g) first degree arson;
- (h) first degree burglary;
- (i) escape;
- (j) criminal extortion; or
- (k) any unlawful sexual offense in which the defendant caused bodily injury to the victim or in which the defendant used threat, intimidation, or force against the victim pursuant to section 18-3-411 (1), C.R.S.

In sentencing an offender directly to a community corrections program, the sentencing court specifies the term, length, and conditions of that offender's stay in the community corrections program. The offender may also be referred to the program as a condition of probation. Offenders referred directly from the court, or as a condition

of probation, are subject to approval by the community corrections board. An offender sentenced directly to community corrections by the sentencing court is eligible for earned time credit reductions of ten days per month.

If an offender is rejected by the community corrections board, the court must promptly resentence the offender to DOC, probation, or any other appropriate sentence. An additional hearing is not needed and the court may not resentence the offender to a sentence which exceeds the original sentence imposed.

Department of Corrections transition. The DOC executive director may transfer any offender to a community corrections program provided the offender is accepted by the community corrections board and the program supervisor. Criteria for offender placement are as follows:

- 1) Offenders may be placed within 16 months prior to their parole eligibility date (PED) if they have displayed acceptable institutional behavior. However, this does not apply to offenders serving a sentence imposed pursuant to section 16-11-309, C.R.S., (crimes of violence), offenders with an active felony warrant or detainer, or offenders who refuse community placement.
- 2) Any offender may be referred for community placement within 180 days prior to the offender's PED if such offender has displayed acceptable institutional behavior. An offender may not be placed if he has an active felony warrant or detainer against him, or if he has refused community placement.

State Board of Parole diversion. The State Board of Parole may refer any parolee for community corrections placement as a condition of release on parole, as a modification of the parole conditions after release, or upon temporary revocation of parole.

COMMUNITY CORRECTIONS BOARDS

Placement of an offender in a local community corrections program is contingent upon approval by the local community corrections board. The board has the authority to accept or reject any offender referred for placement in a community corrections program. The board is to provide written acceptance criteria and screening procedures to each agency that makes referrals to community corrections programs. The board

may establish conditions or guidelines for offender conduct in the programs and such guidelines are to be made available to offenders placed in the program.

A community corrections board may be established by resolution or ordinance of a governing body (county, city and county, city, town, or service authority). The board may be advisory to the governing body or function independently. Other functions, powers, and duties of the boards are as follows. They may:

- enter into contracts with the state, receive governmental and private grants, and receive court-authorized expense reimbursement;
- establish community corrections programs to be operated by units of local governments or state agencies;
- establish and enforce standards for the operation of any community corrections program located within its jurisdiction. Standards may exceed, but are not to conflict with, standards established by the Division of Criminal Justice in the Department of Public Safety;
- refuse an offender after acceptance, subject to an administrative review process, and refer him back to the courts for sentencing; and
- approve or disapprove the establishment and operation of all community corrections programs.

COMMUNITY CORRECTIONS PROGRAM OPERATION

Any nongovernmental agency may establish and operate a community corrections program under contract with a state agency or local government unit. Community corrections program administrators have the authority to accept or reject any offender referred for placement. Screening procedures are established in coordination with the community corrections boards. Administrators establish conduct guidelines that are not to conflict with those established by the boards. Further, administrators may reject, after acceptance, and terminate the placement of any offender who violates established conditions or guidelines. Offenders who are rejected are eligible for administrative review. Once placed in a program, the administrator is to document the number of residential days completed by offenders sentenced directly by the courts and the time credits granted to each offender.

When an administrator believes that an offender violation has occurred, the appropriate judicial or executive authority is to be notified. The offender may then be transferred to a county jail pending a hearing to determine future placement.

ROLE OF THE DIVISION OF CRIMINAL JUSTICE

The Division of Criminal Justice (DCJ) is responsible for administering and executing all contracts with local government units, community corrections boards, and nongovernmental agencies. Standards for community corrections programs are established by the DCJ. Such standards prescribe minimum levels of offender supervision and services, facility health and safety conditions, and other quality of services issues. Standards may be revised after consultation with referring agencies, community corrections boards, and community corrections administrators.

Community corrections program audits are conducted by DCJ to determine the level of program compliance. Such audits occur once every three years. The executive director of the Department of Public Safety has the authority to waive the audit. Technical assistance to the boards and programs is provided by DCJ.

Appropriation allocations to the local boards and community corrections programs are determined by the DCJ. The method of allocation considers offender population distributions and support program availability proportionate to such distribution, as well as projected need. Five percent of appropriated costs, as authorized by the DCJ, may be used for administrative costs. The Long Bill contains separate line items for diversion and transition offenders. Of the amount appropriated by the General Assembly for diversion and transition offenders, DCJ may transfer up to 10 percent of the appropriation between programs (line item transfers). The state General Fund does provide a great majority of the funding to community corrections programs. However, in some instances, counties contribute additional costs for programs services. In addition, offenders are required to pay a daily fine amount of \$2.00 toward program services.

COMMUNITY CORRECTIONS POPULATION DATA

The latest community corrections demographic characteristics data from DCJ are available only for FY 1992-93, whereas overall population counts are available from June 1989 through June 1994. Table I-8.1 summarizes the community corrections population from June 1989 through June 1994. For FY 1992-93, 54 percent of the community corrections population were diversion offenders (sentenced directly by the courts) and 46 percent were transition offenders. Tables I-8.2 through I-8.8 summarize the characteristics of the community corrections population for FY 1992-93, as provided by DCJ. Some of the main points reflected in the tables are highlighted below.

- Since June 1989, the community corrections population has increased by 53.4 percent (Table I-8.1). The largest numerical increase has been to the residential *diversion* population which increased by 283 clients (52.7 percent), whereas the largest percentage increase was as a condition of parole.
- Relative to the community corrections population as a whole, the residential *transition* population has declined over the past five years from 31.5 percent of the population to 26.7 percent of the population (Table I-8.1).
- Table I-8.2 notes the community corrections offender ethnicity characteristics for FY 1992-93. The data indicates that Anglos constitute the largest offender group for both the said populations, diversion and transition program, at 53.5 percent and 52.8 percent, respectively. Hispanics are next, at 23.5 percent of the overall populations, and Blacks constitute 20.9 percent. This is consistent with the ethnicity characteristics of offenders incarcerated in prison. However, whereas Anglos are in the majority in prison, they only comprised 46.5 percent of the prison population for FY 1992-93, as compared with 53.1 percent of the community corrections population.
- Table I-8.3 addresses the FY 1992-93 community corrections population for transition and diversion clients by gender. Overall, males account for 86.7 percent of the population and females account for 13.3 percent of the population. Females in community corrections programs comprise a larger proportion of the population as compared with the prison population. Of the total prison population for FY 1992-93, females represented only 5.5 percent of the population.

- Table I-8.4 highlights the age range of offenders placed in diversion and transition community corrections programs. For the diversion population, offenders aged 21 to 25 years old are the largest group, at 27.0 percent of the population, whereas the largest segment of the transition population was the 26- to 30-year olds, at 28.2 percent. Because transition offenders are placed in community corrections after serving time in prison, this helps to explain why, on average, the transition population is older than the diversion population. Offenders aged 20 to 24 years old comprised the largest portion of new commitments to prison for FY 1992-93. This is the same age group that comprised the largest segment of the diversion population.
- Table I-8.5 provides the criminal history of offenders in community corrections for FY 1992-93. For both the diversion and transition populations, offenders with no prior adult felony convictions accounted for the largest segment of the population, at 45.6 percent and 33.1 percent, respectively. Overall, offenders with no prior convictions totalled 39.6 percent of the population. Offenders with one prior adult felony conviction were next, at 27.0 percent of the population.
- Table I-8.6 illustrates that the vast majority of the offenders sentenced to community corrections programs were not convicted of a violent offense. With regard to the diversion and transition populations, 91.34 percent of the total population had no prior adult felony convictions for violent offenses. Those with one prior violent felony offense conviction accounted for 7.33 percent of the population. The remaining 1.33 percent had two or more prior violent offense convictions.
- Table I-8.7 highlights the current felony offense class for offenders sentenced to community corrections. A majority of the offenders, 42.44 percent, were convicted of class 4 felonies. This was followed by class 5 felonies, at 31.44 percent of the population; class 3 felonies, at 19.32 percent; class 6 felonies, at 5.31 percent; class 2 felonies, at 1.25 percent; and class 1 felonies, at 0.24 percent.
- Table I-8.8 lists the reasons for offender terminations from community corrections programs. The greatest percentage of offenders (56.06 percent) are terminated due to successful completion of their sentence/program. Next in line are those terminated due to house technical violations, 20.62 percent. Offender escapes are the third most-frequent reason for termination, at 15.25 percent.

Table I-8.1: Community Corrections Population History

Quarter Ending	Residential		Condition of		Non-Res Diversion	Non-Res Transition	Total	Percent Change (yr to yr)
	Diversion	Transition	Probation	Parole				
June 1989	537	519	1	8	586	N/A	1,651	N/A
% of Total	32.53%	31.44%	0.06%	0.48%	35.49%			
December 1989	565	567	3	30	609	N/A	1,774	7.45%
% of Total	31.85%	31.96%	0.17%	1.69%	34.33%			
June 1990	617	601	6	25	729	N/A	1,978	11.50%
% of Total	31.19%	30.38%	0.30%	1.26%	36.86%			
December 1990	660	613	16	16	684	N/A	1,989	0.56%
% of Total	33.18%	30.82%	0.80%	0.80%	34.39%			
June 1991	614	661	21	19	707	N/A	2,022	1.66%
% of Total	30.37%	32.69%	1.04%	0.94%	34.97%			
December 1991	633	733	37	18	721	N/A	2,142	5.93%
% of Total	29.55%	34.22%	1.73%	0.84%	33.66%			
June 1992	701	685	2	27	748	N/A	2,163	0.98%
% of Total	32.41%	31.67%	0.09%	1.25%	34.58%			
December 1992	702	700	2	23	799	N/A	2,226	2.91%
% of Total	31.54%	31.45%	0.09%	1.03%	35.89%			
June 1993	760	698	2	32	729	N/A	2,221	(0.22)%
% of Total	34.22%	31.43%	0.09%	1.44%	32.82%			
December 1993	745	653	1	71	731	196	2,397	7.92%
% of Total	31.08%	27.24%	0.04%	2.96%	30.50%	8.18%		
June 1994	820	677	4	54	732	246	2,533	5.67%
% of Total	32.37%	26.73%	0.16%	2.13%	28.90%	9.71%		
Total 5-Year Growth	283	158	3	46	146	246	882	
5-Year Percent Increase	52.70%	30.44%	300.00%	575.00%	24.91%	125.51%	53.42%	

NA: Not available.

Source: Division of Criminal Justice.

**Table I-8.2: Community Corrections Offender Characteristics:
Ethnicity, FY 1992-93**

Race	Diversion		Transition		Overall	
	Number	% of Total	Number	% of Total	Number	% of Total
Anglo	768	53.3%	700	52.8%	1,468	53.1%
Black	285	19.8%	293	22.1%	578	20.9%
Hispanic	355	24.6%	296	22.3%	651	23.5%
Other	33	2.3%	37	2.8%	70	2.5%
Total	1,441		1,326		2,767	

Source: Division of Criminal Justice.

**Table I-8.3: Community Corrections Offender Characteristics:
Gender, FY 1992-93**

Gender	Diversion		Transition		Overall	
	Number	% of Total	Number	% of Total	Number	% of Total
Male	1,209	83.8%	1,199	89.9%	2,408	86.7%
Female	233	16.2%	135	10.1%	368	13.3%
Total	1,442		1,334		2,776	

Source: Division of Criminal Justice.

**Table I-8.4: Community Corrections Offender Characteristics:
Age Range, FY 1992-93**

Age at Entry	Diversion		Transition		Overall	
	Number	% of Total	Number	% of Total	Number	% of Total
18-20	131	9.19%	34	2.58%	165	6.01%
21-25	385	27.02%	288	21.83%	673	24.53%
26-30	334	23.44%	372	28.20%	706	25.73%
31-35	278	19.51%	304	23.05%	582	21.21%
36-40	148	10.39%	174	13.19%	322	11.73%
40 +	149	10.46%	147	11.14%	296	10.79%
Total	1,425	100.00%	1,319	100.00%	2,744	100.00%

Source: Division of Criminal Justice.

Table I-8.5: Community Corrections Offender Characteristics: Criminal History, FY 1992-93						
Number of Prior Adult Felony Convictions	Diversion		Transition		Overall	
	Number	% of Total	Number	% of Total	Number	% of Total
0	622	45.57%	419	33.10%	1,041	39.57%
1	372	27.25%	337	26.62%	709	26.95%
2	213	15.60%	226	17.85%	439	16.69%
3	85	6.23%	117	9.24%	202	7.68%
4 +	73	5.35%	167	13.19%	240	9.12%
Total	1,365	100.00%	1,266	100.00%	2,631	100.00%

Source: Division of Criminal Justice.

Table I-8.6: Community Corrections Offender Characteristics: # of Violent Convictions, FY 1992-93						
Number of Prior Adult Violent Felony Convictions	Diversion		Transition		Overall	
	Number	% of Total	Number	%	Number	% of Total
0	1,375	92.41%	1,093	90.03%	2,468	91.34%
1	95	6.38%	103	8.48%	198	7.33%
2	10	0.67%	14	1.15%	24	0.89%
3 +	8	0.54%	4	0.33%	12	0.44%
Total	1,488	100.00%	1,214	100.00%	2,702	100.00%

Source: Division of Criminal Justice.

Table I-8.7: Community Corrections Offender Characteristics: Current Offense Class, FY 1992-93						
Offense Class	Diversion		Transition		Overall	
	Number	% of Total	Number	% of Total	Number	% of Total
Felony 1	4	0.25%	3	0.22%	7	0.24%
Felony 2	14	0.89%	23	1.67%	37	1.25%
Felony 3	279	17.68%	292	21.21%	571	19.32%
Felony 4	619	39.23%	635	46.11%	1,254	42.44%
Felony 5	547	34.66%	382	27.74%	929	31.44%
Felony 6	115	7.29%	42	3.05%	157	5.31%
Total	1,578	100.00%	1,377	100.00%	2,955	100.00%

Source: Division of Criminal Justice.

Table I-8.8: Community Corrections Offender Characteristics: Reason for Termination, FY 1992-93						
Termination Reason	Diversion		Transition		Overall	
	Number	% of Total	Number	% of Total	Number	% of Total
Successful Completion	893	55.16%	801	57.09%	1,694	56.06%
Transfer to another CC Program	19	1.17%	19	1.35%	38	1.26%
Transfer to CIRT	18	1.11%	22	1.57%	40	1.32%
Escape	281	17.36%	180	12.83%	461	15.25%
New Crime	30	1.85%	32	2.28%	62	2.05%
Outstanding Warrant	13	0.80%	18	1.28%	31	1.03%
House Technical Violation	323	19.95%	300	21.38%	623	20.62%
Other	42	2.59%	31	2.21%	73	2.42%
Total	1,619	100.00%	1,403	100.00%	3,022	100.00%

Source: Division of Criminal Justice.

For further information, please contact
Amy Zook, Legislative Council Staff, 866-4750.



SECTION II:

COLORADO JUVENILE JUSTICE SYSTEM

SECTION II

Part 1: Flowchart of the Juvenile Justice System

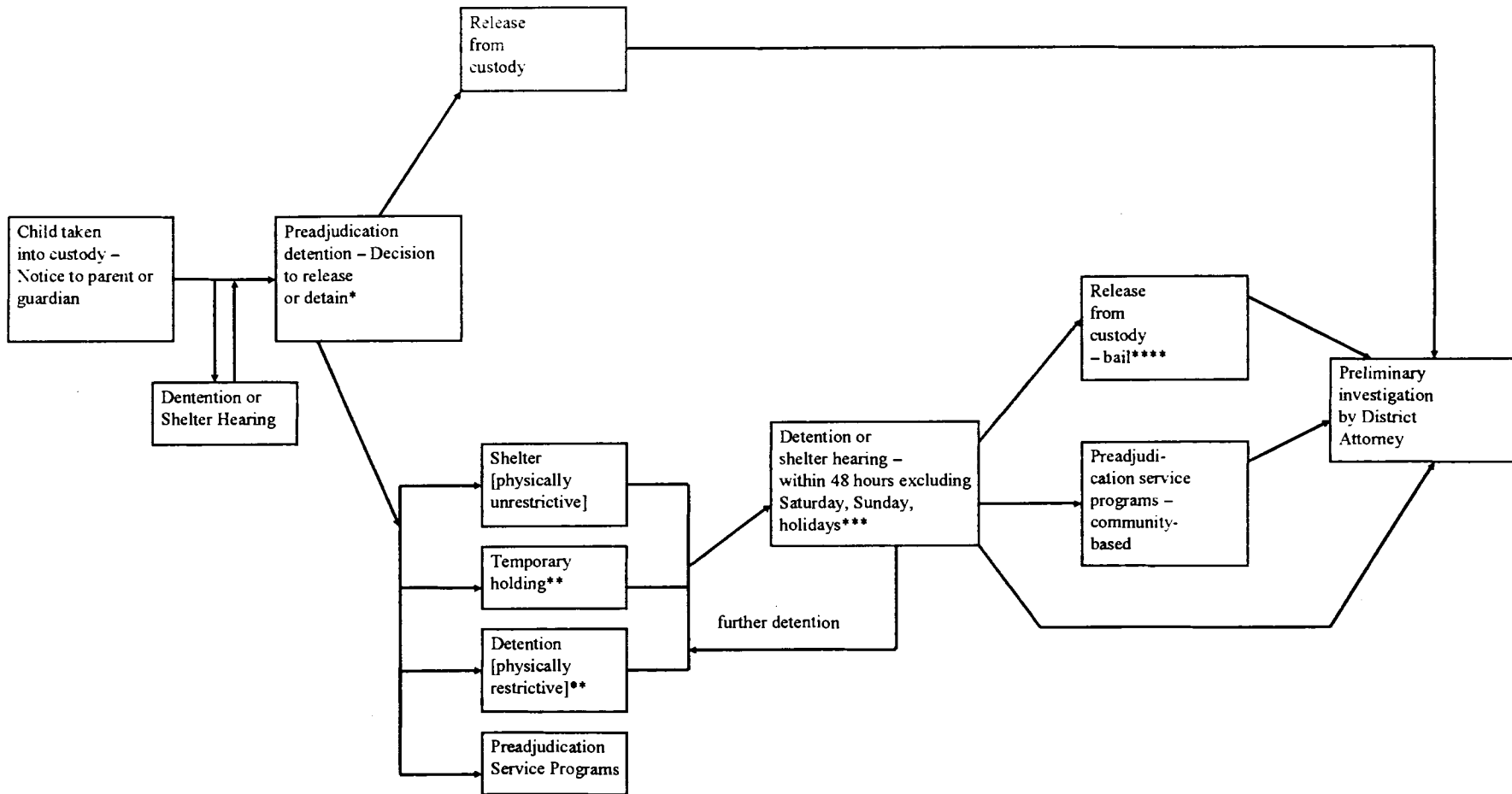
Attached, is a flowchart of the juvenile justice system. The chart is divided into three sections:

- ***Custody/Detention:*** custody or release, preadjudication detention, detention hearing, preadjudication services, and investigation.
- ***Adjudication:*** juvenile diversion programs, charges filed in juvenile court or district court, hearing, and judgement.
- ***Sentencing:*** deferred judgement, probation, alternative community placements, and sentencing to the Division of Youth Services, Department of Corrections, or Youthful Offender System.

The chart includes the options for adjudication and sentencing of a juvenile as an adult in district court.

For further information, please contact
Carl Jarrett, Legislative Council Staff, 866-3521.

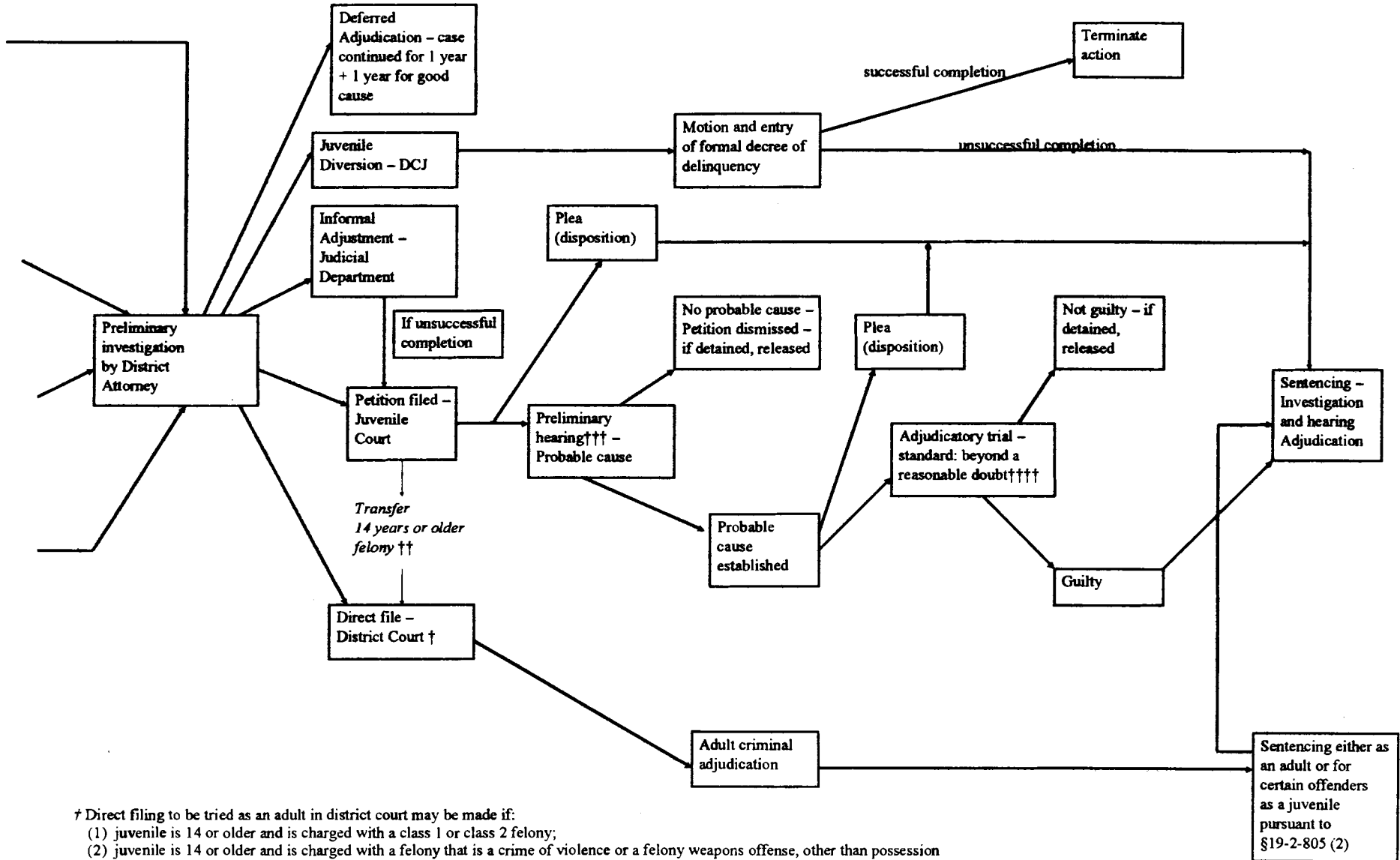
CUSTODY | DETENTION



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- * **Standard:**
Whether juvenile's immediate welfare or protection of the community requires the juvenile be detained, section 19-2-203 (1.5). No release without a hearing if the juvenile is detained for a felony crime of violence, section 19-2-204 (3) (c).
- ** **Sight/sound separation requirements** if confinement is in an adult facility only when a juvenile is detained in such a facility because the juvenile is an escape risk or is a threat to detention center personnel. Juveniles held for criminal charges as adults are to be segregated from the adult population. (See HB 94-1141.) Measures must be taken to prevent contact with gang members.
- *** **Standard:**
Whether the juvenile is a danger to himself or herself or to the community. Court may set cash, surety, or property bond. Rebuttable presumption of danger if crime is a felony crime of violence or weapons violation or if crime is a felony offense against a person and a firearm was used or was threatened to be used, section 19-2-204 (3). No release without a hearing if the juvenile is detained for such crimes, section 19-2-204 (3) (c). Determination made pursuant to requirements of section 19-2-1601, et seq. ("Senate Bill 94 criteria").
- **** **Rebuttable presumption** in section 19-2-204 (3) (a) (III). Continues to apply at hearing for modification of bail (HB 94-1141).

ADJUDICATORY PROCESS



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† Direct filing to be tried as an adult in district court may be made if:

- (1) juvenile is 14 or older and is charged with a class 1 or class 2 felony;
- (2) juvenile is 14 or older and is charged with a felony that is a crime of violence or a felony weapons offense, other than possession of a handgun, or is charged with use of a deadly weapon during the commission of a felony offense against the person;
- (3) juvenile is 16 or older is charged with a class 3 felony except specified sexual assault and has been adjudicated a juvenile delinquent;
- (4) juvenile is 14 or older is charged with a felony and has previously been subject to district court proceeding; or
- (5) juvenile is 14 or older is charged with a felony and is determined to be an habitual juvenile offender (SB 94-155).

†† Transfer to district court may occur any time prior to adjudication.
(See Section 19-2-806 for criteria for transfer)

††† Only if underlying charges would be a felony if committed by an adult.

†††† Juvenile or D.A. may demand a jury trial of < 6 (12 if aggravated juvenile offender). Prosecution can waive jury if not requesting commitment to the DOHS or county jail. (Except Cl. 2, Cl. 3 misdemeanors, petty offenses, municipal or county ordinance violation or violation of court order. (See Section 19-2-501).

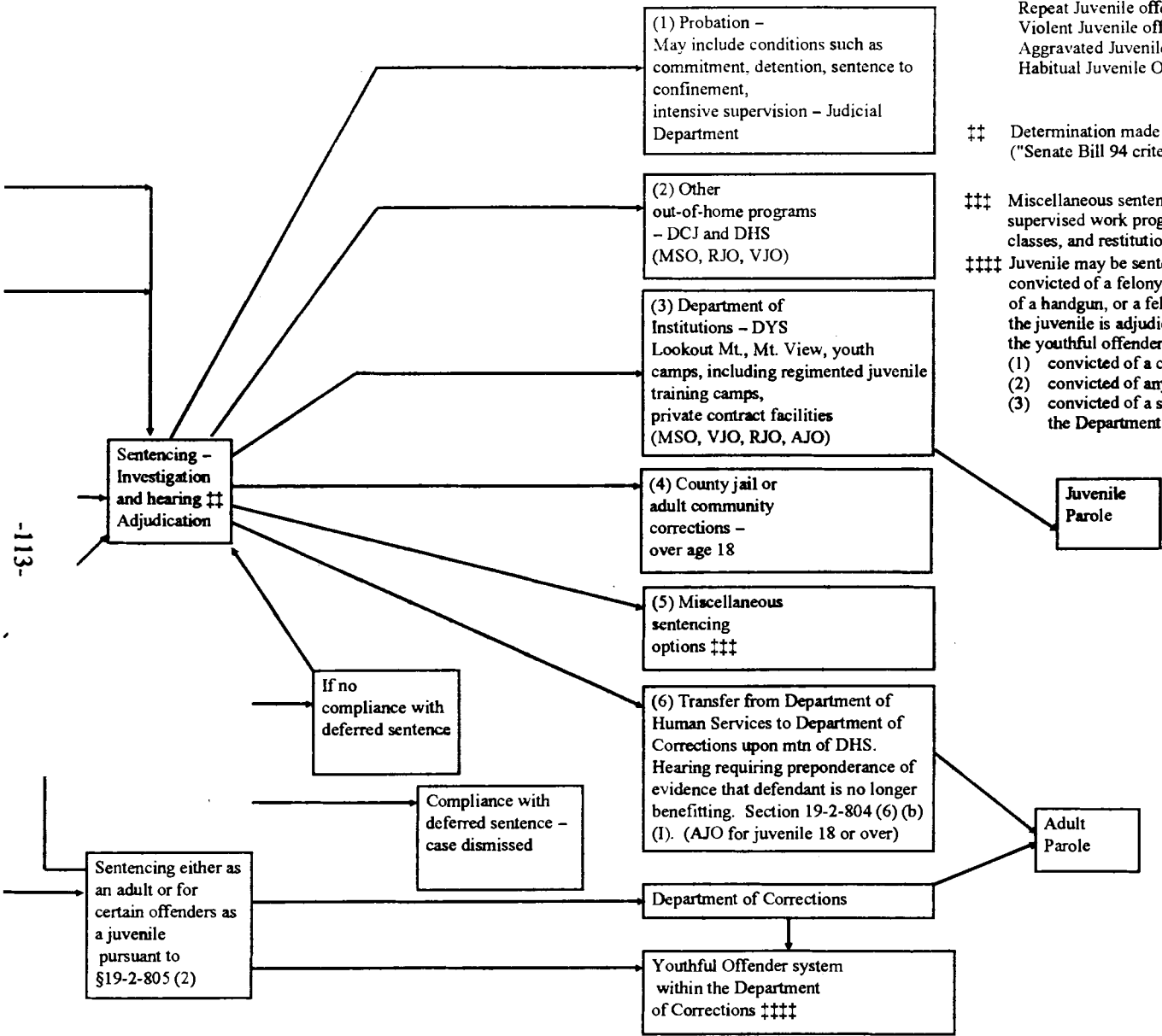
SENTENCING †

† Includes sentence options for the following special offenders:
 Mandatory Sentence offenders (MSO), Section 19-2-801
 Repeat Juvenile offenders (RJO), Section 19-2-802
 Violent Juvenile offenders (VJO), Section 19-2-803
 Aggravated Juvenile offenders (AJO), Section 19-2-804
 Habitual Juvenile Offenders (HJO), Section 19-2-805.

‡‡ Determination made pursuant to requirements of Section 19-2-1601, et seq. ("Senate Bill 94 criteria").

‡‡‡ Miscellaneous sentencing options include: DHS programs, fines, protective supervision, supervised work programs, family care homes, child care centers, parental responsibility classes, and restitution. Section 19-2-703.

‡‡‡‡ Juvenile may be sentenced to the youthful offender system if the juvenile is 14 or older and is convicted of a felony that is a crime of violence, a felony weapons offense, other than possession of a handgun, or a felony during the commission of which the juvenile used a deadly weapon, or the juvenile is adjudicated an habitual juvenile offender. A juvenile cannot be sentenced to the youthful offender system if:
 (1) convicted of a class 1 or class 2 felony;
 (2) convicted of any sexual offense; or
 (3) convicted of a second or subsequent offense for which the juvenile was previously sentenced to the Department of Corrections or the youthful offender system.



SECTION II

Part 2: Comparison of the Division of Youth Services and the Youthful Offender System

This section provides a brief description of the Division of Youth Services in the Department of Human Services and the Youthful Offender System in the Department of Corrections, with a comparison of the two systems. Also included is an outline of the populations served in each system, the facilities in each system, and the various programs offered by each system.

DIVISION OF YOUTH SERVICES

The Division of Youth Services (DYS) provides secure detention services to youths between the ages of 10 and 18 years old who are detained by law enforcement agencies and who are suspected of criminal or delinquent behavior. The DYS also provides long-term commitment services for adjudicated youths between the ages of 12 and 21 years old committed to the Department of Human Services, as well as community supervision of youths in transition back to the community. The DYS operates six state detention facilities, four state commitment facilities, and maintains contracts with more than 20 separate private facilities which provide both secure commitment services and community residential services. The goal of the DYS is to provide a statewide continuum of services and programs to assess, treat, and control youths placed in its care for delinquent behavior.

The DYS provides both educational services to detained and committed youths and treatment/counseling services to committed youths. Some of the programs offered to committed youths include: case management; sex offender treatment; mental health services; anger management; substance abuse treatment; individual and group counseling; and vocational training. A more comprehensive description of the DYS's populations is provided in Section II, Part 3.

YOUTHFUL OFFENDER SYSTEM

The Youthful Offender System (YOS) was created in the Department of Corrections (DOC) in the 1993 Special Session. The goal in establishing the YOS was to provide for certain youthful offenders a sentencing option to a controlled and regimented environment that affirms dignity of self and others, promotes the value of work and self-discipline, and develops useful skills and abilities through enriched programming. Eligible juveniles are those between the ages of 14 and 19 years old who are direct-filed as adults in the district court and are convicted of a class 3, 4, 5, or 6 felony, except those convicted of a sexual offense or a second or subsequent class 3, 4, 5, or 6 felony. Once convicted, the court will sentence the youth into the adult DOC system, which sentence is then suspended pending successful completion of a commitment to the YOS.

The YOS currently operates out of two cellhouses at the Denver Reception and Diagnostic Center, with a maximum capacity of 96 beds. The program involves three phases, beginning with a more secure and confrontational atmosphere and progressing to a less secure community environment. The YOS provides a variety of programs designed to break down an individual's gang affiliations and anti-social behavior, including: gang education; physical regimentation; modified therapeutic community; skills of daily living; AIDS education/prevention; self-help groups; drug education; and individual counseling. Since the YOS was created, 68 youths had been sentenced to the program by November 25, 1994.

COMPARISON OF THE TWO SYSTEMS

The most important distinction between the two systems is that, while the YOS has predetermined eligibility guidelines for entrance to the program, the DYS has no control over the number or type of youths committed to its system. Thus, the DYS must serve youths who often have serious emotional, physical, and behavioral problems, including sex offenders and youths with mental health needs. With no controls on the front-end of the system, the DYS often operates its facilities under severely overcrowded conditions.

Additionally, the YOS was created to serve as an intermediate level of sanction to bridge the gap between the adult correctional system and the juvenile justice system for those youths who have repeatedly failed in the DYS system. It is essentially the last step before youths are committed to the adult system. However, early statistics show that less than 25 percent of the youthful offenders sentenced to the YOS have a prior commitment to the DYS. The majority of youths sentenced to the YOS have prior sentences to probation and prior involvement with the child welfare system.

Both systems offer a wide range of educational and program services; however, since the YOS is housed within the DOC, it is able use the potential of regression to the more secure facilities and programs in the adult system as a behavior management tool. The DYS does not possess the ability to regress unmanageable youths to the adult system since the original commitment is under the jurisdiction of the juvenile court. Table II-2.1 provides a brief outline of the two systems.

**Table II-2.1:
Comparison of DYS and YOS**

	Division of Youth Services	Youthful Offender System
Age Range at Commitment	10-18 years (detention) 12-21 years (commitment) \a	14-19 years
Total Capacity	235 detention beds 467 commitment beds 160 community beds 80 boot camp beds	96 beds at the Denver Reception and Diagnostic Center (DRDC) \b
Court Jurisdiction	Juvenile Court: Committed to Department of Human Services	District Court: Sentenced to Department of Corrections, suspended upon commitment to YOS
Comitment Sentence Ranges	0-2 years, non-aggravating 1-2 years, violent offender 1-5 years, aggravated offender	2-6 years, with 6- to 12-month period of community supervision
Treatment Model	Behavioral and Public Safety	Behavioral and Public Safety
Education Services	Special Education; Vocational Training; GED; and Employment Skills Training	Regular Academics; Adult Basic Education; GED; Vocational Training; and Institutional Employment
Program Services	Case Management; Substance Abuse; Anger Management; Sex Offender Treatment; and Individual & Group Counseling	Gang Education; Substance Abuse Treatment; Living Skills; Physical Regimentation; Relapse Prevention; and Positive Peer Culture
Community Placement/ Release Decision	Community Review Boards/ Juvenile Parole Board	DOC maintains placement control
Consequence for Program Failure	DYS could petition Juvenile Court for two-year extension of commitment.	YOS could petition District Court for revocation to DOC to serve original sentence.
Private Contracts	Funds 235.0 placements through Senate Bill 91-94 Programs; contracts for up to 70 percent of secure commitment placements; maintains over 160 community residential placements.	Contracts for community transitional services after initial secure placement phase.

\a The Court may commit a person between the ages of 18 and 21 years old if such person is adjudicated for an act committed prior to his/her eighteenth birthday.

\b House Bill 94-1340 authorized construction of a 300-bed YOS facility on the campus of the Colorado Mental Health Institute at Pueblo. When the permanent facility is completed, the current 96 beds (two cellhouses) at DRDC will revert to adult male beds.

For further information, please contact
John Gomez or Ken Cole, Joint Budget Committee Staff, 866-2061.

SECTION II

Part 3: An Overview of Colorado's Juvenile Commitment and Detention Population

This section provides an overview of Colorado's juvenile commitment and detention population in the Division of Youth Services from fiscal year 1989-90 through fiscal year 1993-94. The populations of juveniles in commitment and detention facilities are profiled by gender, ethnicity, age, and type of offense.

NEW RESIDENTIAL DYS COMMITMENT DEMOGRAPHICS

- The majority of new commitments are male (Table II-3.1). The percentage of new DYS commitments that are male remained between 91 and 95 percent since FY 89-90. The corresponding average length of stay also remained somewhat constant during this time period for males: between 12 and 13 months. However, the average length of stay for females rose from 7.5 months in FY 89-90 to 9.7 months in FY 91-92, then declined to 9.1 months in FY 93-94.
- By ethnicity (Table II-3.2), the percentage of Anglos in the new commitment population remained relatively constant, at about 46 percent between fiscal years 89-90 and 93-94, although the percentage dipped to 41.7 percent in FY 92-93. New commitments of Hispanics rose from 31.0 percent of new commitments in FY 89-90 to 33.3 percent in FY 93-94. The percentage of new commitments that were Black fluctuated from 17.3 percent in FY 89-90 to 14.3 percent in FY 91-92, then rose to 18.5 percent in FY 92-93, and dropped to 16.3 percent in FY 93-94.
- By age, the majority of new commitments are 17 year olds, who comprised 28.1 percent of new commitments in FY 89-90, 32.5 percent of new commitments in FY 91-92, and 29.2 percent of new commitments in FY 93-94 (Table II-3.3). However, 12 and 13 year olds had longer average lengths of stay. Thirteen year olds had average lengths of stay of 21.6 months in FY 89-90, 19.8 months in FY 91-92, and 18.7 months in FY 93-94. Twelve year olds had average lengths of stay of 19.1 months in FY 91-92 and 28.1 months in FY 93-94. The average length of stay for 17 year olds fluctuated between 9.5 and 11.0 months since FY 89-90.
- By type of new commitment, the majority of new commitments were non-mandatory (no minimum sentence length is imposed by the court; the maximum sentence length is 24 months). New non-mandatory commitments remained fairly constant, between 55 and 58 percent of total new commitments from fiscal years 89-90 through 93-94, although that percentage dipped to 48.7 percent in FY 92-93 (Table II-3.4). Violent new commitments comprised 0.8 percent of new commitments in FY 89-90, rose to 3.1 percent of new commitments in FY 91-92, rose again to 3.9 percent in FY 92-93, but dropped to 2.2 percent in FY 93-94.
- By placement, juveniles were evenly split between placement in community programs (private vendor community-based programs) and in medium care programs (for juveniles in need of supervision, but not in need of intensive secure supervision) between fiscal years 89-90 and 92-93 (Table II-3.5). However, in FY 93-94, only 32.0 percent of new commitments were to community placements and 40.9 percent were to medium care programs. Intensive secure placements (high level of security for the most serious committed youth) were at 18.1 percent of commitments in FY 89-90, and steadily rose to 27.0 percent in FY 93-94.

- By type of felony offense, most commitments were for felonies against property in the early 1990s (theft, motor vehicle theft, trespass/mischief, forgery, and fraud), at 37.3 percent of new commitments for FY 89-90, 42.2 percent for FY 90-91, and 35.6 percent for FY 91-92 (Table II-3.6). Those totals were followed by commitments for felony burglary, at 30.1 percent in FY 89-90, and felonies against persons (murder, vehicular homicide, sex assault, assault, robbery, menacing, kidnapping, and arson), at 27.0 percent in FY 90-91 and 33.3 percent in FY 91-92. However, for fiscal years 92-93 and 93-94, most new commitments were for felonies against persons, at 34.3 percent in FY 92-93 and 36.5 percent in FY 93-94. Within the felonies against persons category, most commitments were for the offenses of robbery, assault, sex assault, and menacing. Murder accounted for 0.8 percent of new commitments in FY 89-90, 2.2 percent of new commitments in FY 91-92, and 1.5 percent in FY 93-94.
- By type of misdemeanor offense, most new commitments were for misdemeanors against property (theft, motor vehicle theft, trespass/mischief, and forgery), at 49.6 percent of new commitments in FY 89-90 and 45.7 percent in FY 93-94 (Table II-3.7). However, in FY 92-93, there were more commitments for misdemeanors against persons (sex assault, assault, menacing, arson, and kidnapping), at 46.6 percent of new misdemeanor commitments, than misdemeanors against property. In FY 91-92, there were almost equal commitments for misdemeanors against persons and misdemeanors against property. Another interesting trend occurred in the category of misdemeanor firearms/weapons offenses, which accounted for 0.8 percent and 3.8 percent of new commitments between FY 89-90 and FY 92-93 then leapt to 7.3 percent of new commitments in FY 93-94.

Table II-3.1: New Commitments and Residential Average Length of Stay by Sex

GENDER	FY 89-90		FY 90-91		FY 91-92		FY 92-93		FY 93-94	
	NCOMM	ALOS	NCOMM	ALOS	NCOMM	ALOS	NCOMM	ALOS	NCOMM	ALOS
Males	476 93.52%	12.7	498 91.71%	13.2	559 92.09%	13.3	513 94.65%	12.4	512 92.75%	13.2
Females	33 6.48%	7.5	45 8.29%	8.5	48 7.91%	9.7	29 5.35%	8.5	40 7.25%	9.1
TOTAL	509 100.00%	12.4	543 100.00%	12.8	607 100.00%	13	542 100.00%	12.1	552 100.00%	12.9

Table II-3.2: New Commitments and Residential Average Length of Stay by Ethnicity

ETHNICITY	FY 89-90		FY 90-91		FY 91-92		FY 92-93		FY 93-94	
	NCOMM	ALOS	NCOMM	ALOS	NCOMM	ALOS	NCOMM	ALOS	NCOMM	ALOS
Anglo	236 46.37%	12.0	250 46.04%	12.5	288 47.45%	13.1	226 41.70%	11.6	255 46.20%	13.0
Hispanic	158 31.04%	12.7	174 32.04%	13.2	201 33.11%	12.9	192 35.42%	12.2	184 33.33%	12.5
Black	88 17.29%	13.0	96 17.68%	13.3	87 14.33%	13.3	100 18.45%	13.0	90 16.30%	13.6
Other	27 5.30%	11.0	23 4.24%	0	31 5.11%	12.7	24 4.43%	13.9	23 4.17%	13.7
TOTAL	509 100.00%	12.4	543 100.00%	12.8	607 100.00%	13.0	542 100.00%	12.1	552 100.00%	12.9

Table II-3.3: New Commitments and Residential Average Length of Stay -- Age at Commitment

AGE	FY 89-90		FY 90-91		FY 91-92		FY 92-93		FY 93-94	
	NCOMM	ALOS	NCOMM	ALOS	NCOMM	ALOS	NCOMM	ALOS	NCOMM	ALOS
12 Yrs.	8 1.57%	12.0	1 0.18%	48.6	3 0.49%	19.1	1 0.18%	21.2	3 0.54%	28.1
13 Yrs.	18 3.54%	21.6	16 2.95%	15.1	25 4.12%	19.8	17 3.14%	20.3	20 3.62%	18.7
14 Yrs.	51 10.02%	20.3	66 12.15%	17.0	54 8.90%	16.2	57 10.52%	15.0	63 11.41%	16.6
15 Yrs.	114 22.40%	15.7	121 22.28%	15.9	115 18.95%	15.0	106 19.56%	13.2	121 21.92%	14.5
16 Yrs.	148 29.08%	13.5	152 27.99%	12.3	185 30.48%	12.7	161 29.70%	11.6	160 28.99%	12.0
17 Yrs.	143 28.09%	10.9	157 28.91%	9.9	197 32.45%	10.3	179 33.03%	9.5	161 29.17%	11.0
18 Yrs.	25 4.91%	9.4	27 4.97%	10.2	25 4.12%	8.5	20 3.69%	12.7	23 4.17%	10.8
19 Yrs.	2 0.39%	8.7	3 0.55%	2.8	3 0.49%	15.3	1 0.18%	14.7	0 0.00%	14.9
20 Yrs.	0 0.00%	0	0 0.00%	0	0 0.00%	0	0 0.00%	0	1 0.18%	0
21 Yrs.	0 0.00%	0	0 0.00%	0	0 0.00%	0	0 0.00%	0	0 0.00%	0
TOTAL	509 100.00%	12.4	543 100.00%	12.8	607 100.00%	13.0	542 100.00%	12.1	552 100.00%	12.9
	Avg. Age at Commitment - 16.3		Avg. Age at Commitment - 15.8		Avg. Age at Commitment - 15.9		Avg. Age at Commitment - 15.9		Avg. Age at Commitment - 16.0	

ALOS = average length of stay reported in months
 NCOM = new commitments
 Source: Division of Youth Services.
 Prepared by Legislative Council Staff, November 1994.

Table II-3.4: Type of New Commitment

COMMITMENT TYPE	FY 89-90	FY 90-91	FY 91-92	FY 92-93	FY 93-94
Non-Mandatory	295 57.96%	298 54.88%	311 51.24%	264 48.71%	301 54.53%
Mandatory	139 27.31%	170 31.31%	195 32.13%	210 38.75%	181 32.79%
Repeat	62 12.18%	55 10.13%	72 11.86%	42 7.75%	53 9.60%
Violent	4 0.79%	12 2.21%	19 3.13%	21 3.87%	12 2.17%
Aggravated Juvenile	6 1.18%	8 1.47%	10 1.65%	4 0.74%	4 0.72%
Adult	3 0.59%	0 0.00%	0 0.00%	1 0.18%	1 0.18%
TOTAL	509 100.00%	543 100.00%	607 100.00%	542 100.00%	552 100.00%

Table II-3.5: New Commitments by Targeted Placement

PLACEMENT	FY 89-90	FY 90-91	FY 91-92	FY 92-93	FY 93-94
Community	209 41.06%	223 41.07%	232 38.22%	197 36.35%	177 32.07%
Medium Care	208 40.86%	219 40.33%	233 38.39%	202 37.27%	226 40.94%
Intensive Secure	92 18.07%	101 18.60%	142 23.39%	143 26.38%	149 26.99%
TOTAL	509 100.00%	543 100.00%	607 100.00%	542 100.00%	552 100.00%

Number of new commitments based on DYS Commitment Classification Instrument.
 Source: Division of Youth Services.
 Prepared by Legislative Council Staff, November 1994.

Table II-3.6: New Commitments by Offense Type -- Felonies

TYPE OF OFFENSE	FY 89-90	FY 90-91	FY 91-92	FY 92-93	FY 93-94
Felonies Against Persons					
Murder	3 0.78%	6 1.62%	10 2.22%	7 1.70%	6 1.45%
Vehicular Homicide	1 0.26%	0 0.00%	2 0.44%	4 0.97%	1 0.24%
Sex Assault	20 5.18%	22 5.95%	26 5.78%	17 4.14%	32 7.73%
Assault	30 7.77%	29 7.84%	44 9.78%	50 12.17%	39 9.42%
Robbery	22 5.70%	22 5.95%	26 5.78%	25 6.08%	32 7.73%
Menacing	18 4.66%	17 4.59%	34 7.56%	35 8.52%	36 8.70%
Kidnapping	0 0.00%	3 0.81%	2 0.44%	0 0.00%	4 0.97%
Arson	7 1.81%	1 0.27%	6 1.33%	3 0.73%	1 0.24%
SUBTOTAL	101 26.17%	100 27.03%	150 33.33%	141 34.31%	151 36.47%
Felony Burglary					
SUBTOTAL	116 29.05%	93 24.47%	115 25.56%	119 29.22%	98 23.67%
Felonies Against Property					
Theft	24 7.25%	38 10.27%	31 6.89%	29 7.06%	24 5.80%
Motor Vehicle Theft	5 13.21%	53 14.32%	47 10.44%	41 9.98%	54 13.04%
Trespass/Mischief	5 14.77%	58 15.68%	67 14.89%	50 12.17%	40 9.66%
Forgery	5 1.81%	5 1.35%	11 2.44%	4 0.97%	7 1.69%
Fraud	2 0.26%	2 0.54%	4 0.89%	2 0.49%	2 0.48%
SUBTOTAL	144 37.31%	156 42.16%	160 35.56%	126 30.66%	127 30.68%
Felony Controlled Substance					
SUBTOTAL	16 4.15%	12 3.24%	11 2.44%	16 3.89%	16 3.86%
Felony Vehicular Eluding					
SUBTOTAL	0 0.00%	0 0.00%	1 0.22%	3 0.73%	6 1.45%
Felony Firearm/Weapon					
SUBTOTAL	3 0.78%	0 0.00%	0 0.00%	1 0.24%	3 0.72%
Felony Escape					
SUBTOTAL	3 0.78%	5 1.35%	7 1.56%	5 1.22%	5 1.21%
Other Felony Offenses					
SUBTOTAL	3 0.78%	4 1.08%	6 1.33%	0 0.00%	8 1.93%
TOTAL FELONY OFFENSE	284 100.00%	270 100.00%	450 100.00%	411 100.00%	414 100.00%

All percentages are of the total number of new felony commitments at the bottom of the table.

Source: Division of Youth Services.

Prepared by Legislative Council Staff, November 1994.

Table II-3.7: New Commitments by Offense Type - Misdemeanors

TYPE OF OFFENSE	FY 89-90	FY 90-91	FY 91-92	FY 92-93	FY 93-94
Misdemeanors Against Persons					
Sex Assault	11 8.94%	5 2.89%	12 7.64%	4 3.05%	7 5.07%
Assault	31 25.20%	50 28.90%	42 26.75%	48 36.64%	40 28.99%
Menacing	0 0.00%	4 2.31%	9 5.73%	8 6.11%	6 4.35%
Arson	1 0.81%	1 0.58%	3 1.91%	1 0.76%	0 0.00%
Kidnapping	0 0.00%	0 0.00%	0 0.00%	0 0.00%	1 0.72%
SUBTOTAL	43 34.96%	60 34.68%	66 42.04%	61 46.56%	54 39.13%
Misdemeanors Against Property					
Theft	27 21.95%	29 16.76%	31 19.75%	17 12.98%	27 19.57%
Motor Vehicle Theft	22 17.89%	40 23.12%	23 14.65%	22 16.79%	22 15.94%
Trespass/Mischief	12 9.76%	19 10.98%	13 8.28%	12 9.16%	14 10.14%
Forgery	0 0.00%	1 0.58%	0 0.00%	1 0.76%	0 0.00%
SUBTOTAL	61 49.60%	89 53.45%	67 43.69%	52 39.69%	63 45.66%
Misdemeanor Controlled Substance	2	2	1	1	0
SUBTOTAL	1.63%	1.16%	0.64%	0.76%	0.00%
Misdemeanor Firearm/Weapon	3	5	6	1	10
SUBTOTAL	2.44%	2.89%	3.82%	0.76%	7.25%
Misdemeanor Escape	1	1	0	1	0
SUBTOTAL	0.81%	0.58%	0.00%	0.76%	0.00%
Misd. Disorderly Conduct/Harass.	7	5	10	9	6
SUBTOTAL	5.69%	2.89%	6.37%	6.87%	4.35%
Other Misdemeanor/Petty Offenses	6	11	7	6	5
SUBTOTAL	4.88%	6.36%	4.46%	4.58%	3.62%
TOTAL MISD./PETTY OFFENSES	123 100.00%	173 100.00%	157 100.00%	131 100.00%	138 100.00%

All percentages are of the total number of new misdemeanor commitments at the bottom of the table.

Source: Division of Youth Services.

Prepared by Legislative Council Staff, November 1994.

DYS DETENTION ADMISSIONS DEMOGRAPHICS

- The majority of admissions to detention facilities since FY 89-90 were males, comprising between 81 and 84 percent of the detention population during this period (Table II-3.8). In FY 89-90, 80.9 percent of new admissions to detention were males. By FY 93-94, 83.5 percent of new detention admittees were males. Conversely, the number of female detention admissions fell from 19.1 percent in FY 89-90 to 16.5 percent in FY 93-94. In terms of average length of stay, males stayed longer than females. However, in FY 92-93, the gap began to close, with the average length of stay for males at 12.4 days versus 10.2 days for females. In FY 93-94, the gap narrowed even more, with the average length of stay at 10.6 days for males and 9.4 days for females.
- Mirroring the trend in commitments by ethnicity, Anglos comprised the majority of new detention admissions, accounting for 43.7 percent of detention admissions in FY 89-90 but falling to 38.9 percent by FY 93-94 (Table II-3.9). Detention admissions for Hispanics rose from 32.6 percent in FY 89-90 to 37.4 percent in FY 93-94. Detention admissions for Blacks rose from 20.0 percent in FY 89-90 to 22.0 percent in FY 92-93, then fell to 21.0 percent in FY 93-94. The average length of stay increased for each ethnic group from FY 89-90 through FY 93-94. When comparing the average length of stay by ethnic group, the range was from 9.2 days for Blacks to 11.1 days for the "other" category in FY 89-90. By FY 93-94, the gap was not quite as wide, but the average length of stay had increased to 10.5 days for Blacks and 11.2 days for Anglos.
- By age, again mirroring the trend in commitments, 17 year olds comprised the majority of detention admissions, at 29.7 percent of detention admissions in FY 89-90, 29.4 percent in FY 90-91, 29.2 percent in FY 91-92, and 28.6 percent in FY 92-93 (Table II-3.10). However, in FY 93-94, 16 year olds and 17 year olds were admitted to detention facilities at nearly the same rate, at 26.8 and 26.7 percent, respectively. There were no clear trends in average length of stay by age, except that the average length of stay for most fiscal years was lower for the younger 12 to 13 year-old age group, increased for the 14 to 18 year-old age group, then decreased again for the 19 to 20 plus year-old age group. However, the average length of stay was 30.7 days for 20 year olds in FY 91-92, 26.1 days in FY 92-93, and 61.9 days in FY 92-93. This age group (19 to 20 plus years old), however, accounts for a very small portion of the detention population and could be skewed by one individual's length of stay.

- By type of charge, the majority of detention admissions were at order of the court, with 36.7 percent detained by court order in FY 89-90 and 36.6 percent detained by court order in FY 93-94 (Table II-3.11). The next highest category was for juveniles charged with delinquent acts, at 30.9 percent in FY 89-90, but fell to 22.9 percent by FY 93-94. The average length of stay was greatest for delinquent act admissions, at 11.9 days in FY 89-90, 13.3 days in FY 90-91, 14.5 days in FY 91-92, 15.5 days in FY 92-93, but fell to 11.9 days in FY 93-94. The next highest average length of stay category was for juveniles detained by order of the court, at 11.5 days in FY 89-90, 13.4 days in FY 91-92, and 11.9 days in FY 93-94.
- By reason held, the majority of detention admissions were those referred by the court, with 45.7 percent admitted in FY 89-90 and 60.0 percent admitted in FY 93-94 (Table II-3.12). The next-highest category of detention admissions was for those referred by police, comprising 24.5 percent of detainees in FY 89-90, then dropping to 19.2 percent by FY 93-94. Juveniles referred to detention facilities by parole authorities spent the most time in detention facilities, with an average length of stay at 14.8 days for FY 89-90, 19.2 days in FY 91-92, 26.3 days in FY 92-93, but dropped to 15.7 days in FY 94. The next-highest category was for juveniles referred by probation authorities, at an average of 12.6 days in FY 89-90, 15.2 days in FY 91-92, and 14.6 days in FY 93-94.

Table II-3.8: Detention Admissions and Average Length of Stay by Sex

GENDER	FY 89-90		FY 90-91		FY 91-92		FY 92-93		FY 93-94	
	ADM	ALOS	ADM	ALOS	ADM	ALOS	ADM	ALOS	ADM	ALOS
Males	8,362 80.93%	10.5	9,410 82.53%	11.2	9,752 81.35%	12.2	10,183 82.20%	12.4	13,530 83.53%	10.6
Females	1,971 19.07%	7.8	1,992 17.47%	8.9	2,236 18.65%	9.0	2,205 17.80%	10.2	2,667 16.47%	9.4
TOTAL	10,333 100.00%	10.0	11,402 100.00%	10.8	11,988 100.00%	11.6	12,388 100.00%	12.0	16,197 100.00%	10.4

Table II-3.9: Detention Admissions and Average Length of Stay by Ethnicity

ETHNICITY	FY 89-90		FY 90-91		FY 91-92		FY 92-93		FY 93-94	
	ADM	ALOS	ADM	ALOS	ADM	ALOS	ADM	ALOS	ADM	ALOS
Anglo	4,510 43.65%	10.3	4,792 42.03%	11.6	4,887 40.77%	12.1	4,806 38.80%	12.5	6,299 38.89%	11.2
Hispanic	3,372 32.63%	9.9	3,934 34.50%	10.3	4,279 35.69%	10.9	4,428 35.74%	11.6	6,062 37.43%	9.7
Black	2,070 20.03%	9.2	2,329 20.43%	10.1	2,478 20.67%	11.2	2,728 22.02%	11.6	3,402 21.00%	10.5
Other	381 3.69%	11.1	347 3.04%	10.4	344 2.87%	15.2	426 3.44%	12.5	434 2.68%	13.2
TOTAL	10,333 100.00%	10.0	11,402 100.00%	10.8	11,988 100.00%	11.6	12,388 100.00%	12.0	16,197 100.00%	10.4

Table II-3.10: Detention Admissions and Average Length of Stay -- Age at Admission

AGE	FY 89-90		FY 90-91		FY 91-92		FY 92-93		FY 93-94	
	ADM	ALOS	ADM	ALOS	ADM	ALOS	ADM	ALOS	ADM	ALOS
< 12 Yrs.	54 0.52%	3.6	66 0.58%	10.9	63 0.53%	6.9	64 0.52%	5.4	62 0.38%	6.2
12 Yrs.	186 1.80%	10.0	221 1.94%	10.7	287 2.39%	9.3	226 1.82%	9.3	275 1.70%	11.4
13 Yrs.	646 6.25%	11.0	571 5.01%	9.2	757 6.31%	10.3	832 6.72%	11.5	926 5.72%	9.4
14 Yrs.	1,372 13.28%	10.8	1,510 13.24%	10.6	1,449 12.09%	11.3	1,693 13.67%	11.7	2,181 13.47%	10.8
15 Yrs.	2,089 20.22%	10.8	2,443 21.43%	11.9	2,459 20.51%	12.2	2,541 20.51%	12.3	3,586 22.14%	10.7
16 Yrs.	2,616 25.32%	10.3	2,878 25.24%	11.2	3,127 26.08%	12.5	3,148 25.41%	12.4	4,337 26.78%	11.0
17 Yrs.	3,066 29.67%	8.8	3,352 29.40%	9.8	3,502 29.21%	10.4	3,540 28.58%	11.4	4,331 26.74%	9.0
18 Yrs.	248 2.40%	9.1	277 2.43%	14.0	272 2.27%	17.7	274 2.21%	17.0	391 2.41%	14.5
19 Yrs.	35 0.34%	7.9	71 0.62%	10.5	64 0.53%	19.5	59 0.48%	22.8	97 0.60%	18.1
20 Yrs.	13 0.13%	6.7	6 0.05%	8.3	4 0.03%	30.7	7 0.06%	26.1	10 0.06%	15.1
> 20 Yrs.	8 0.08%	0.9	7 0.06%	6.8	4 0.03%	0.8	4 0.03%	61.9	1 0.01%	1.1
TOTAL	10,333 100.00%	10.0	11,402 100.00%	10.8	11,988 100.00%	11.6	12,388 100.00%	12.0	16,197 100.00%	10.4
	Avg. Age - 15.7 yrs.		Avg. Age - 15.6 yrs.		Avg. Age - 15.6 yrs.		Avg. Age - 15.6 yrs.		Avg. Age - 15.6 yrs.	

ALOS = average length of stay reported in days
 ADM = admissions
 Source: Division of Youth Services.
 Prepared by Legislative Council Staff, November 1994.

Table II-3.11: Detention Admissions and Average Length of Stay by Type of Charge

CHARGE	FY 89-90		FY 90-91		FY 91-92		FY 92-93		FY 93-94	
	ADM	ALOS	ADM	ALOS	ADM	ALOS	ADM	ALOS	ADM	ALOS
Delinquent	3,190 30.87%	11.9	3,220 28.24%	13.3	3,217 26.84%	14.5	3,334 26.91%	15.5	3,711 22.91%	11.9
Traffic	656 6.35%	2.7	599 5.25%	3.8	561 4.68%	2.9	610 4.92%	3.3	579 3.57%	2.8
Game-Fish	4 0.04%	1.1	3 0.03%	2.9	1 0.01%	0.4	3 0.02%	1.7	1 0.01%	0.7
Park-Mun.	418 4.05%	2.8	1,051 9.22%	2.8	1,281 10.69%	3.0	1,589 12.83%	2.5	2,000 12.35%	2.1
Dep./Neg.	49 0.47%	5.0	62 0.54%	6.2	86 0.72%	5.9	64 0.52%	5.8	64 0.40%	5.5
Runaway	664 6.43%	8.7	459 4.03%	5.8	450 3.75%	4.8	299 2.41%	4.7	296 1.83%	6.6
Court Order	3,791 36.69%	11.5	3,864 33.89%	11.8	4,259 35.53%	13.4	4,410 35.60%	13.1	5,924 36.57%	11.9
Courtesy	888 8.59%	6.4	1,156 10.14%	9.4	1,182 9.86%	9.5	1,099 8.87%	19.2	1,218 7.52%	19
Interrupted	673 6.51%	9.7	988 8.67%	9.4	951 7.93%	9.5	980 7.91%	10.5	2,404 14.84%	9.4
TOTAL	10,333 100.00%	10.0	11,402 100.00%	10.8	11,988 100.00%	11.6	12,388 100.00%	12	16,197 100.00%	10.4

Table II-3.12: Detention Admissions and Average Length of Stay by Reason Held

REASON	FY 89-90		FY 90-91		FY 91-92		FY 92-93		FY 93-94	
	ADM	ALOS	ADM	ALOS	ADM	ALOS	ADM	ALOS	ADM	ALOS
Police	2,536 24.54%	11.5	2,509 22.00%	12.3	2,656 22.16%	12.6	2,764 22.31%	13.4	3,107 19.18%	10.8
Court	4,718 45.66%	9.2	5,696 49.96%	8.6	6,218 51.87%	9.5	6,653 53.71%	9.0	9,711 59.96%	8.1
Probation	1,038 10.05%	12.6	987 8.66%	13.5	986 8.22%	15.2	1,067 8.61%	14.3	1,400 8.64%	14.6
Parole	162 1.57%	14.8	192 1.68%	18.3	188 1.57%	19.2	174 1.40%	26.3	140 0.86%	15.7
Soc. Svcs.	427 4.13%	9.0	297 2.60%	5.5	349 2.91%	4.5	236 1.91%	5.9	242 1.49%	7.1
Situational	242 2.34%	3.0	258 2.26%	3.1	198 1.65%	2.5	128 1.03%	3.0	139 0.86%	2.4
DYS	1,210 11.71%	8.7	1,463 12.83%	16.5	1,393 11.62%	18.5	1,366 11.03%	22.0	1,458 9.00%	21.3
TOTAL	10,333 100.00%	10.0	11,402 100.00%	10.8	11,988 100.00%	11.6	12,388 100.00%	12.0	16,197 100.00%	10.4

ALOS = average length of stay reported in days

ADM = admissions

Source: Division of Youth Services.

Prepared by Legislative Council Staff, November 1994.

SECTION II

Part 4: Legislative Council Staff's Five-Year Division of Youth Services Population Projections

The total Division of Youth Services (DYS) average daily jurisdictional population will increase 45.4 percent between FY 1993-94 and FY 1999-00, from 1,081 to 1,571. The average daily commitment population will increase 19.0 percent, from 682 in FY 1993-94 to 811 in FY 1999-00, and the average daily detention population will increase 90.5 percent, from 399 in FY 1993-94 to 760 in FY 1999-00.

This document explains the factors affecting these forecasts and is broken into the following four sections:

- Background Information
- Influences on the DYS Population
- DYS Commitment Population Projections
- DYS Detention Population Projections

BACKGROUND INFORMATION

The Division of Youth Services (DYS) average daily population (ADP) has increased dramatically during the last decade, from 605 in FY 1983-84 to 1,081 in FY 1993-94. During this time, the average daily commitment population increased 55.4 percent, from 439 to 682, and the average daily detention population increased 140.4 percent, from 166 to 399. DYS divides the state geographically into five management regions: south, west, Denver, central, and northeast. When juveniles are arrested or sentenced to detention, they are placed in a facility in the same region in which the offense occurred, with some specific exceptions.

The commitment population consists of juveniles who have been convicted of a crime and sentenced to DYS. These sentences range from zero to two years for non-aggravating offenders, one to two years for violent offenders, and one to five years for aggravated offenders. The average length of stay of the committed population in DYS facilities has ranged from 12.1 to 13.0 months over the last five years.

The detention population has the following three components based on a youth's legal status: preadjudicated, sentenced, and committed juveniles. The population of preadjudicated youths consists of those who have been arrested and are awaiting a delinquency adjudication or court action. Sentenced youths have received a court-imposed sentence to a detention facility of up to 45 days, or a 60-day sentence to the Lookout Mountain Boot Camp. Committed youths are those who have been adjudicated and committed to the custody of DYS by a court. This includes those currently serving a commitment sentence but awaiting court action on a new offense and those committed to a commitment facility but waiting in detention for a commitment bed to become available. While committed-awaiting-placement youths are housed in detention facilities, they are part of the commitment population and are included as such in these projections.

Length of stay in detention varies significantly by the legal status of the juvenile. Excluding committed youths awaiting placement in a commitment facility, the average length of stay in detention facilities in FY 1993-94 was 13.5 days. Most stays were shorter, with 23.8 percent of admissions having a length of stay of less than one day, 50.0 percent having stays of less than three days, 73.7 percent having stays of less than ten days, and 90.5 percent having stays of less than 30 days.

The Youthful Offender System (YOS) was created during the 1993 special session in conjunction with the expansion of provisions allowing juveniles to be filed on directly as adults in district court and allowing those convicted to receive sentences to the Department of Corrections (DOC). The YOS is part of the Department of Corrections, rather than the DYS. Currently, 96 beds at the Denver Regional Diagnostic Center are set aside for YOS offenders. A 300-bed facility for YOS offenders has been approved and is scheduled to open in January 1997, in Pueblo. As

an alternative sanction for juveniles convicted of class 3, 4, 5, and 6 felonies, YOS has the potential to directly impact the DYS population since many juveniles might otherwise be committed to the DYS.

These projections are based on current law. They do not take into account any possible court orders that may cap the population of detention facilities at a specified level or any future legislation that may be passed. A population cap in detention facilities is a possibility since the American Civil Liberties Union and the San Francisco Youth Law Center have filed a lawsuit against the Colorado Departments of Human Services and Education to, among other things, cap the population of the Gilliam Detention Facility at its design capacity of 78 beds.

INFLUENCES ON THE DYS POPULATION

We looked at a wide variety of factors that theoretically might influence the DYS population. These factors included, but were not limited to: population indicators, economic conditions such as employment, unemployment rates, poverty rates, and average wages and salaries, migration, dropout rates, election-year effects, capacity, changes to capacity, and sentencing alternatives such as the Youthful Offender System and the programs created by Senate Bill 91-94. The factors discussed as follows were found to explain most of the year-to-year variation in the DYS average daily population.

Capacity

Detention population. We found that detention capacity had the largest impact on the detention population. Throughout the 11-year period examined, detention facilities were operating above capacity, and increases in ADP corresponded closely to increases in capacity. Recently, most state detention facilities have been operating at approximately 200 percent of capacity. There are far more juveniles who could potentially be placed in detention facilities than present capacity can accommodate. Hence, capacity is a constraint on the detention population. Even though facilities are able to operate above their design capacity there still exists some limit to this. Increasing capacity alleviates that constraint to some degree, and this increases the overall detention population. Alternative models consistently showed an approximate 0.6 to 0.7 increase in detention ADP for each detention bed added.

The effects of capacity have been particularly acute in, but by no means limited to, the DYS northeast management region of the state. The Arapahoe County Jail began accepting some of the DYS detention population in FY 1993-94, allowing some juveniles from the northeast region to be transferred from the Adams Detention Facility

to the jail. When this occurred, the region's average daily detention population rose 49.3 percent, from 33.7 in the prior year to 50.3. While the northeast management region contained 19.4 percent of the state's population in 1993 and accounted for 22.6 percent of juvenile commitment ADP in FY 1993-94, it accounted for only 12.6 percent of detention ADP in FY 1993-94 and significantly less in earlier years.

The reasons that capacity may play such an important role are somewhat speculative but worth considering. Decision makers within the criminal justice system are likely to be aware of capacity constraints and, to some degree, take them into consideration in deciding whether to arrest someone or to sentence marginal cases to a detention facility. Meanwhile, when a new facility is sited where there was none located previously, detention becomes more accessible for law enforcement officers and may result in more arrests and detentions than when the nearest facility was located farther away. It should be recognized that juvenile detainees include not only those arrested or sentenced for serious new crimes, but also juvenile probation violators, runaways, minor delinquents, truants, and those who are under warrant for failing to appear in court. Additional capacity allows more of these marginal cases to be detained than might otherwise be possible.

Commitment population. Commitment facility capacity did not appear to affect the commitment population to any significant degree. This seems to be the case for several reasons. The state operates five commitment facilities with a total capacity of 210 beds. Additional capacity has been acquired incrementally as needed through contracts with private facilities. Private facilities now account for 65 percent of commitment capacity. Over the last several years, a backlog of committed juveniles formed in detention facilities while they await placement in commitment facilities. This backlog averaged 68 ADP in FY 1993-94 and has been averaging roughly 100 ADP in the first four months of FY 1994-95. This backlog has been due to the increasing difficulty of placing juveniles with certain profiles in private facilities, rather than due to a shortage of capacity, however. In September 1994, the most recent month for which data are available, state-operated facilities were operating at 127 percent of capacity, while the private facilities operated at only 84 percent on average.

Population

Statewide and regional population indicators were found to have a very significant impact on ADP, particularly in commitment. We used total employment data as a proxy for population rather than population estimates, since employment data correlates closely to population. The advantage of using employment instead of population data is that job data are updated annually, whereas we only know what the population is every ten years, with the interim years being only estimates.

Economic Conditions

Several indicators of economic conditions showed a significant relationship with both detention and commitment ADP. These data included measures of poverty, unemployment rates and unemployment claims, and inflation-adjusted average wages and salaries. These all generally indicate that poor economic conditions contribute to juvenile arrests and sentences to DYS facilities. It should be noted that the influence of these economic conditions on the DYS population is rather small relative to population and capacity, and that this influence was on the average daily population, which may be influenced by criminal justice system policies as well as the number of juvenile delinquencies. Therefore, these findings should not be interpreted to mean that unemployment or poverty cause delinquency.

High School Dropout Rates

Although school dropout rates were important in explaining several areas of the detention and commitment population, they were, somewhat surprisingly, not as important as might be implied by the large number of school dropouts within the DYS population. This may be due to the fact that, although there is a disproportionately large number of school dropouts in the DYS caseload, the overall number of dropouts in the state is strongly related to the availability of employment for youths. Therefore, these findings should not be interpreted to mean that dropping out of school causes one to engage in delinquent behavior. Dropout rates were found to be most significant in the DYS management region three which consists of the City of Denver.

Senate Bill 91-94 Programs

Senate Bill 91-94 set up alternative sentencing programs for youths with the intention of diverting them away from incarceration. The programs have been in existence for less than three years, so the historical data are available for a far shorter period of time than for the other factors at which we looked. Our findings regarding these programs are, therefore, also somewhat less certain. In trying to analyze the effect on population we looked at statewide and regional Senate Bill 91-94 program caseloads and admissions to determine whether they were reducing the DYS population. Our best estimate is that Senate Bill 91-94 programs contributed to a reduction of between 40 and 50 ADP in detention and between 20 and 30 ADP in commitment in FY 1993-94 than otherwise would have been the case had the programs not been in place.

COMMITMENT POPULATION PROJECTIONS

Based on the factors previously mentioned that appear to influence commitment ADP, we are projecting the committed population to grow from 682 in FY 1993-94 to 811 in FY 1999-00. This includes an estimate of the effect of the new Youthful Offender System (YOS) on the DYS population. Since YOS has existed for less than a year, these effects are somewhat speculative and present the primary risk to the commitment population forecast.

The Effect of YOS on DYS Commitment Population

Since the first admissions to YOS occurred in FY 1993-94 and the average daily population of the YOS for that year was only 3.2, we were unable to analyze its impact on DYS in the same way as the other variables at which we looked. There is some early evidence based on offense type and the criminal history profile of YOS commitments indicating that many of the youths committed to YOS might otherwise have been committed to DYS. YOS was conceived as an intermediate alternative sanction to Department of Corrections incarceration for youths who have failed in the juvenile system. It would appear, though, that YOS is being used primarily as an alternative to further youth system incarceration, since only 15 of the 68 youths committed as of November 25, 1994, had prior DYS commitments. YOS was unable to provide exact data on prior criminal history at this point, but indicated that many of the YOS offenders had prior adjudications that resulted in probation sentences or Department of Human Services Child Welfare out-of-home placements, profiles for which a DYS commitment might typically be the next step. The crimes for which YOS commitments were convicted resemble those of many DYS commitments as well. Of the 68 youths committed to YOS as of November 25, 1994, 62 had a violent or gun-related offenses as their most serious conviction.

An additional reason to believe that the YOS has affected DYS is the recent reduction in DYS commitment ADP over the last several months for which data are available. Commitment ADP in September 1994, was 689, down by 21 ADP from 710 in June 1994, a period of time when the YOS population was undergoing a significant increase. This provides some further support for the notion that YOS may be impacting DYS.

While this is by no means an in-depth study of the YOS or the impact of its creation on the DYS, it was necessary to take YOS into consideration in order to project the DYS commitment population. Based on the very limited data available, we have assumed that 50 percent of YOS placements might have otherwise been committed to DYS and reduced our commitment projections by 0.5 ADP for every YOS ADP. Because of this effect we are projecting the DYS commitment population to grow very slowly during the next several years as the YOS population increases. We will continue to monitor this relationship closely as more data on YOS commitments become available.

DETENTION POPULATION PROJECTIONS

We are projecting DYS detention ADP to increase from 399 in FY 1993-94 to 760 in FY 1999-00. There have been a significant number of changes taking place in the last several years that have had and will continue to have varying impacts on the detention population. These include the creation of alternative sentencing programs, such as Senate Bill 91-94 programs and the juvenile boot camp, the impact of constructing 298 new detention beds in 1996 and 1997, the use of the Arapahoe County Jail as a detention center in late 1993 and much of 1994, and the juvenile handgun legislation passed in the 1993 special session.

More so than other areas of the criminal justice system, detention ADP is primarily policy driven rather than crime driven. There are many reasons youths are held in detention facilities and these detainees have not, in many cases, committed serious crimes. The detention population includes those detained for failing to appear in court, runaways, probation violators, and truants, as well as those arrested for specific crimes. Policies which change the number of police patrolling communities, create or eliminate a judges' sentencing alternatives for delinquent juveniles, change the capacity of detention facilities, or change the type of juvenile that can be held in a detention facility all have the potential to significantly affect the detention population.

We have assumed that those factors we found to influence the detention population over the last eleven years will continue to do so in the same manner over the next five years. Based on Joint Budget Committee and DYS staff expectations about likely funding levels of Senate Bill 91-94 programs, we have assumed that future Senate Bill 91-94 caseloads will not change significantly from the July through November 1994 average.

Our projections assume that the additional 298 detention beds expected to be built in 1996 and 1997 will be completed as planned. We project that this large increase in capacity will not only reduce the crowding of facilities somewhat, but will also stimulate the use of detention facilities and, therefore, increase total ADP. This will be particularly true in areas such as the northeast region where use of detention has been especially constrained by inadequate capacity. Meanwhile, a new facility will be constructed in Larimer County, a significant population center where the nearest detention facility is in Adams County. Many state detention facilities will, therefore, continue to operate with populations above their design capacities, but significantly less than the 200 percent of capacity at which most of them are currently operating. Based on projected ADP and capacity in FY 1999-00, we estimate that detention facilities will be operating at approximately 120 percent of capacity on average in that year in the absence of a backlog of committed youths awaiting placement. If this backlog remains significant, this figure will be somewhat higher.

Detention ADP in September 1994 was 513.6, excluding the 113.9 ADP of committed youths in detention facilities waiting placement in commitment facilities. This is significantly above the 399 ADP in FY 1993-94 and even somewhat above what would be expected taking into account the likely effects of the juvenile boot camp, Arapahoe County Jail, and the juvenile handgun legislation on population. We have, therefore, built a one-time additional increase of 40 ADP into our FY 1994-95 projections for a total detention ADP of 480. This represents a 20.4 percent increase from the FY 1993-94 detention ADP of 399.

Committed population awaiting placement. It should be recognized that at any given time the population in detention facilities will be greater than the actual detention ADP by the population of committed youths awaiting placement in commitment facilities. This population consists of committed youths that DYS has been unable to place in private facilities because of their mental health, substance abuse needs, or criminal history profiles. Such youths typically remain in detention until they can be admitted to a state commitment facility or until a private facility is found. In FY 1993-94, this backlog averaged 68 ADP, or ten percent of the committed population, and has averaged around 100 in the first four months of FY 1994-95. The size of this population will depend on DYS's ability to find commitment beds for these hard-to-place youths, but in the near future this commitment backlog appears likely to result in 70 to 100 additional ADP in detention facilities.

SUMMARY

Legislative Council staff projects the Division of Youth Services average daily population to increase 45.4 percent, from 1,081 in FY 1993-94 to 1,571 in FY 1999-00. The average daily commitment population will increase 19.0 percent, from 682 in FY 1993-94 to 811 in FY 1999-00, and the average daily detention population will increase 90.5 percent, from 399 in FY 1993-94 to 760 in FY 1999-00. The main factors impacting these population projections include the planned expansion of detention capacity, the projected increase in the state's population, changes in economic conditions, and the availability of new sentencing options such as the Lookout Mountain Boot Camp, Senate Bill 91-94 programs, and the Youthful Offender System.

For further information, please contact
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**Table II-4.1: Legislative Council Staff's Division of Youth Services
Commitment and Detention Population Projections**

COMMITMENT

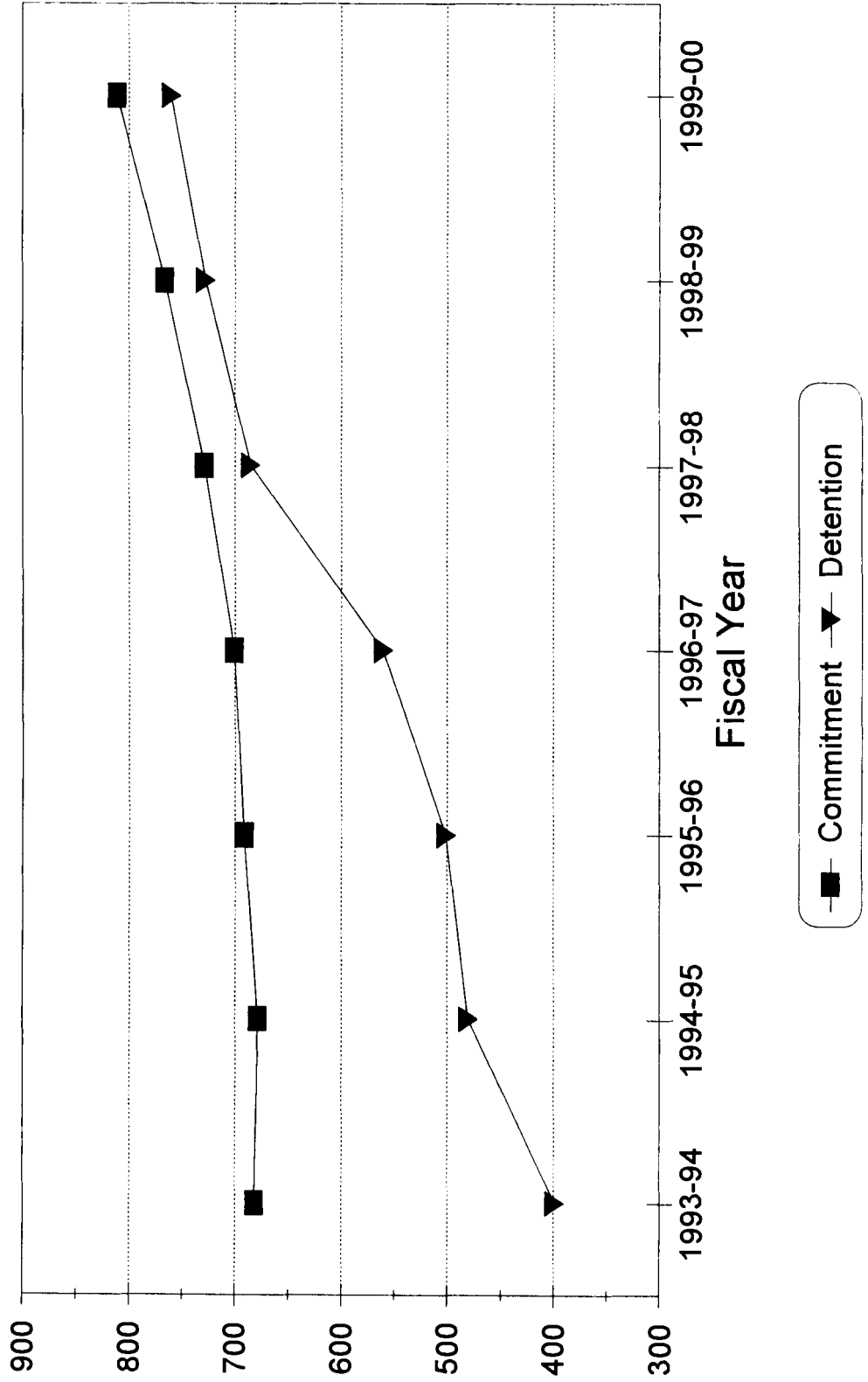
REGION	FY 1993-94	FY 1994-95	FY 1995-96	FY 1996-97	FY 1997-98	FY 1998-99	FY 1999-00
SOUTH	132.3	124.8	120.9	120.9	123.8	128.0	133.6
WEST	61.3	55.7	59.7	61.1	68.1	76.1	84.6
DENVER	183.3	194.2	199.7	201.6	206.3	213.8	223.3
CENTRAL	150.9	150.5	154.3	159.9	167.9	177.4	188.2
NORTHEAST	153.9	153.5	156.5	156.9	162.7	171.0	181.4
TOTAL	681.7	678.7	691.1	700.4	728.7	766.2	811.2

DETENTION

REGION	FY 1993-94	FY 1994-95	FY 1995-96	FY 1996-97	FY 1997-98	FY 1998-99	FY 1999-00
SOUTH	89.2	91.4	102.2	109.8	127.4	135.4	145.7
WEST	22.5	30.1	30.6	37.7	40.4	42.3	44.3
DENVER	127.4	163.2	164.7	186.3	224.1	236.0	243.8
CENTRAL	109.5	131.0	140.3	150.9	191.2	206.3	218.5
NORTHEAST	50.3	64.4	63.4	75.4	102.0	107.9	107.7
TOTAL	398.9	480.1	501.2	560.1	685.0	728.0	760.0

Prepared by Legislative Council Staff, January 1995

*Graph II-4.1: DYS Population
Commitment and Detention*



SECTION II

Part 5: Division of Youth Services Funding and Capacity Issues

The Division of Youth Services (DYS) in the Department of Human Services is responsible for managing both state-operated and contract facilities and programs which treat 10- to 18-year-old youths who have demonstrated delinquent behavior. State-operated DHS detention and commitment facilities continue to operate at levels above the designed capacity of the facilities. In addition, population projections indicate that juvenile detention and commitment populations will continue to increase over the next several years. During the 1994 regular session, the General Assembly authorized the construction of four new detention facilities and the expansion of two existing detention facilities in an effort to address the impact of increases in DHS populations. Background information about DHS and a summary of current DHS juvenile populations are provided as follows. Information is also provided on the cost to construct and operate the new facilities authorized by the legislature.

The passage of Senate Bill 93S-9 created an additional avenue for sentencing juvenile offenders. Prior to the passage of Senate Bill 93S-9, delinquent juveniles could either be sentenced to the DHS, the Department of Institutions, or to Child Welfare, Department of Social Services. (As of July 1, 1994, the Department of Institutions and the portions of the Department of Social Services were merged into the newly-created Department of Human Services.)

BACKGROUND INFORMATION

Funding and population history. Table II-5.1 (below) summarizes the DYS's funding history and the number of youth served by the DYS, beginning with FY 1990-91. As the table indicates, both funding and juvenile populations have increased since FY 1990-91, while the DYS's staffing levels have remained relatively constant.

<i>Table II-5.1: DYS Funding and Population History Fiscal Years 1990-91 through 1994-95</i>						
Fiscal Year	General Fund (\$ in millions)	% Change	FTE Jobs	% Change	Number of Youth Served	% Change
FY 1990-91	29.9	N/A	544.7	N/A	6,670	N/A
FY 1991-92	32.9	10.0	543.6	(0.2)	7,143	7.1
FY 1992-93	34.7	5.5	517.2	(4.9)	7,455	4.3
FY 1993-94	40.1	15.6	543.8	5.1	8,410	12.8
FY 1994-95	45.5	13.5	541.6	(0.4)	N/A	N/A

N/A: Not Available.

Note: General Fund and FTE data for FY 1990-91 through FY 1992-93 is actual, FY 1993-94 is an estimate, and FY 1994-95 is an appropriation.

DYS capacity. Table II-5.2 details DYS capacity by type of program as of October 1, 1994. As the table indicates, the DYS operates 235 detention beds and 210 commitment beds. In addition, DYS contracts for both detention and commitment beds and community residential placements. Under Senate Bill 91-94, the division receives funding for judicial-district based programs designed specifically to divert preadjudicated and adjudicated youth who would otherwise access the DYS system. The Senate Bill 94 appropriation is based on the number of youth (calculated by average daily population (ADP)) targeted to be diverted from the DYS system. One ADP equals one bed occupied by one youth for one year. More information on detention, commitment, and Senate Bill 94 programs is provided as follows.

<i>Table II-5.2: DYS Capacity by Type of Program (As of October 1, 1994)</i>	
Type of Program	Number of Beds
Detention	
State-operated Detention	235
Lookout Mountain Boot Camp	80
Other Contract Detention	31
Sub-total Detention	378
Commitment	
State-operated Commitment	210
Contract Commitment	257
Sub-total Commitment	467
Community Residential	159
Sub-total DYS	1,004
Senate Bill 91-94 Placements	235
TOTAL	1,239

Detention services. The DYS operates six detention centers located in Denver, Pueblo, Colorado Springs, Jefferson County, Adams County, and Grand Junction for a total of 235 beds. In addition, DYS contracts for the operation of an 80-bed boot camp located at the Lookout Mountain Youth Services Center and also contracts for a limited number of detention beds. Youths held in detention may be grouped into three categories: preadjudicated, sentenced, and committed. Each of these categories is described below.

Preadjudicated. A preadjudicated youth refers to the legal status of a youth who is pending a delinquency adjudication decision or court action. Preadjudicated youths represented 52.1 percent of the total DYS detention population in August 1994.

Sentenced. Youths may receive a court-imposed sentence to a detention center for up to 45 days. These youths are usually sentenced to detention for violating the conditions of probation or contempt of court (often for truancy). Youths may also be sentenced to detention for other violations including traffic sentences and municipal sentences. In August 1994, sentenced youths (excluding youths in the Lookout Mountain Boot Camp) accounted for 11.5 percent of the total DYS detention population.

Youths may also be sentenced to the Lookout Mountain Boot Camp which was created by the General Assembly during the 1993 special session. Youth sentenced to the 80-bed boot camp spend 60 days in a regimented military style environment that includes education, life-skills counseling, and drug and alcohol education. Following the boot camp, the youths are required to complete the community reintegration phase of the program that includes job training and educational services.

Committed. A committed youth is a youth who has been adjudicated and committed to the custody of DYS by the court. Two types of committed youth may be in a detention facility. A return commitment is the legal status of a youth who is currently serving a commitment sentence but is awaiting court action on a new offense. A committed awaiting placement youth is a youth who is waiting in a detention facility for a commitment bed. In August 1994, the committed-awaiting-placement population accounted for 71.2 percent of the committed population in detention and for 29.5 percent of the total DYS detention capacity.

Current detention populations. State detention facilities continue to operate in excess of designed capacity. As shown in Table II-5.3, in August 1994, state detention facilities averaged 209 percent of designed capacity. The population figures in Table II-5.3 represent the average daily population (ADP) at each of the facilities. Since the average length of stay in a detention center is approximately ten days, the DYS serves a much larger number of youth in detention than represented by the ADP number. For example, in FY 1992-93, DYS served 6,734 youths in state-operated detention facilities.

Facility	Capacity (ADP)	FY 1993-94 ADP	Percent of Designed Capacity	August 1994 ADP	Percent of Designed Capacity
Adams	24.0	52.4	218	51.1	213
Gilliam	78.0	132.3	170	172.3	221
Grand Mesa	10.0	16.8	168	21.9	219
Mount View	72.0	119.0	165	138.5	192
Pueblo	24.0	43.8	183	52.5	219
Zeb Pike	27.0	52.4	194	54.8	203
TOTAL	235.0	416.7	177	491.1	209

PROGRAMS FOR COMMITTED YOUTH

Assessment. The DYS conducts a 30-day diagnostic evaluation of all committed youth to develop treatment plans and determine the appropriate placement. DYS assessment services are provided at the Denver Metro Assessment Center (located at Mount View School), the Grand Mesa facility in Grand Junction, and the Zeb Pike facility in Colorado Springs.

Intensive secure programs. Programs for the most serious youths committed to DYS are provided at two state-operated facilities: the Lookout Mountain Youth Services Center in Golden and the Grand Mesa facility in Grand Junction. In addition, DYS contracts with four privately-operated facilities for intensive secure programs.

Medium care programs. Youth who are determined at assessment to be less serious than those targeted for intensive secure placement but in greater need of supervision than provided in a community setting are placed in a medium care facility. These services are provided at the Grand Mesa facility and the Lathrop Park facility in Walsenberg. In addition, DYS contracts with five privately-operated facilities for medium care programs.

Community programs. DYS contracts with a number of private vendors to provide community-based programs to low-risk youths and youths transitioning from more secure programs. These programs include both residential care and foster care programs.

CURRENT COMMITMENT POPULATIONS

Table II-5.4 details the population (in ADP) at state commitment facilities for FY 1993-94 and August 1994. As shown in the table, in August 1994, state institutional facilities averaged 120 percent of designed capacity. The average length of stay in a commitment facility is ten months. In FY 1992-93, DYS served 1,088 youth in state-operated intensive secure and medium/minimum secure institutions.

**Table II-5.4: Commitment Populations - State Facilities
Fiscal Year 1993-94 and August 1994**

State Facility	Capacity (ADP)	FY 1993-94 ADP	Percent of Designed Capacity	August 1994 ADP	Percent of Designed Capacity
Lathrop	27.0	29.9	111	29.3	109
Lookout Mtn.	132.0	160.1	121	160.6	122
Grand Mesa	20.0	29.9	150	23.7	119
Mount View	26.0	25.6	98	34.2	132
Zeb Pike	5.0	7.6	152	4.9	98
TOTAL	210	253.1	121	252.7	120

SENATE BILL 91-94 PROGRAMS

In an effort to reduce increases in DYS populations, the General Assembly appropriates funds to judicial district-based programs and local collaborative efforts designed to serve preadjudicated and adjudicated youths who would otherwise access the DYS system. A comparison of total DYS actual and projected ADP for FY 1992-93 indicated that Senate Bill 94 programs may have been successful at diverting 54.0 ADP from the DYS system. Since Senate Bill 94 programs were budgeted for 89.0 ADP in FY 1992-93, this represents a 61 percent success rate. For FY 1994-95, the General Assembly assumed a 70 percent success rate in funding 235.0 Senate Bill 94 placements. Thus, Senate Bill 94 programs account for 164.5 ADP (70 percent of 235.0) when determining the DYS's overall bed needs for FY 1994-95.

FACTORS CONTRIBUTING TO DYS OVERCROWDING

Several factors contribute to the overcrowding DYS is experiencing, including increased juvenile gang activity and increased substance abuse problems among youth. Other structural factors which contribute to overcrowding are outlined below.

Mandatory sentences. Nearly one-half of all juveniles committed to DYS have been given a mandatory sentence stipulating that the juvenile must be placed out of the home, under the jurisdiction of DYS, for a period of not less than one to two years —

depending upon individual circumstances. The ability of a judge to stipulate the **minimum** length of stay is a result of "getting tough on crime" through more strict sentencing laws. Yet mandatory sentences effectively eliminate the potential for early release of a juvenile to a home-based setting (electronic monitoring, etc.) should the child show progress. Thus, these sentences drive longer lengths of stay and contribute to the overcrowded conditions.

Fragmented funding of the juvenile system. County departments of social services currently pay 20 percent of the cost for all out-of-home placements and the state pays the remaining 80 percent. In the DYS system, the state pays nearly 100 percent of the cost of a placement, with the exception of a small amount of federal grant funds used for treatment programs. Thus, an economic incentive exists for county departments of social services to recommend that a delinquent juvenile under their jurisdiction be committed to the DYS since the state will pay 100 percent of the cost.

No emergency release mechanism or facility caps. Senate Bill 94 directed a subcommittee to explore the feasibility of emergency release criteria when overcrowding in DYS facilities reaches "crisis" levels; however, the subcommittee reported to the General Assembly that emergency release was not good public policy and should not be used — even in crisis situations. However, the group did define "crisis overcrowding" as when a facility operates at 120 percent of capacity or above. Based on the division's August 1994 population data (shown in Tables II-5.2 and II-5.2 above), all of the division's detention facilities operated above 120 percent of capacity, with Gilliam Detention Center experiencing the greatest overcrowding at 221 percent of capacity. The subcommittee further recommended that the General Assembly fully fund the bed needs of the division based on population projections.

NEW DETENTION FACILITIES AUTHORIZED BY THE GENERAL ASSEMBLY

House Bill 94-1340 authorized the construction of four new detention centers and the expansion of two existing detention centers for a total addition of 298 beds to the DYS system. Table II-5.5 provides information on the location, size, cost, and opening date of each facility.

Table II 5.5: New DYS Detention Facilities

Location	Size	Estimated Construction Cost	Estimated Operating Cost (annualized)	Estimated Opening Date
Pueblo	12 bed addition	\$1,020,000	\$334,117	January, 1996
Grand Junction	10 bed addition	1,000,000	288,977	June, 1996
Arapahoe County	108 beds	10,476,000	3,361,617	February, 1997
Denver Metro	60 beds	6,743,000	1,996,591	April, 1997
Larimer County	60 beds	6,743,000	1,996,591	May, 1997
El Paso County	48 beds	5,967,984	1,671,890	June, 1997
TOTAL	298 beds	\$31,949,984	\$9,649,783	N/A

N/A: Not Applicable.

For further information, please contact
Ken Cole, Joint Budget Committee, 866-2061.