

COLORADO DEPARTMENT OF CORRECTIONS

Trend Analysis of Felony Drug Convictions Resulting in Prison Sentences and Prison Impact Analysis of S. B. 03-318



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This report represents the combined efforts of the staff in the General Statistics, Reporting, and Evaluation Unit within the Office of Planning and Analysis. This office analyzes data, evaluates programs and conducts research for internal management and external criminal justice use by gathering, compiling, and analyzing data from a multitude of agencies and information systems. This office provides key integral data quality and validation functions to the Department of Corrections ensuring electronic and manual data is accurate and maintained in a way that is functional and efficient for the operations of the Department. The following staff members provided extensive research efforts and were major contributors to this report.

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EXECUTIVE SUMMARY AND FINDINGS

The adult prison population in the State of Colorado continues to grow by more than 1,000 offenders each year. Drug convictions remain the single largest category of crimes for the incarcerated population, representing 29.5% of the female population and 18.3% of the male population, for a total of 19.4% of the total population incarcerated on December 31, 2005.

Previous research shows this population incarcerated for drug convictions as the most serious offense has had extensive experience in the criminal justice system prior to placement in prison. Research conducted in 2000 and 2004 found offenders incarcerated for possession or use of a controlled substance had prior placements in prison; previous probation or diversion placement; multiple felony convictions; additional law enforcement contacts such as arrests or deportations; or a combination of these categories. No incarcerated individuals were found to be “first-time” offenders sentenced to prison for possession or use of a controlled substance.

Legislation affecting the criminal statutes for drug offenses including controlled substances has been enacted nearly every year since 1996. While most of this legislation has had increasing effects on the incarcerated population, Senate Bill 03-318 has reduced the felony classes of certain drug offenses. This legislation reduced unlawful use of a controlled substance from a class 5 to a class 6 felony and lowered possession of 1 gram or less of a controlled substance to a class 6 felony or a class 4 felony for a second or subsequent violation. This legislation affected offenses committed on or after July 1, 2003.

Measuring the impact of this new legislation, Senate Bill 03-318, is extremely difficult and complicated by the following factors:

- ◆ The proportion of the population incarcerated for a drug conviction as the most serious offense peaked on June 30 2002, one year before the implementation of S.B. 03-318.
- ◆ Annual growth in the population serving a drug conviction was highest in the years prior to 1999. This population has grown at the same or lower annual rate than the overall population since 2000.
- ◆ Court commitments increased 1.1% in 2004, the first year of S.B. 03-318, and 15.1% in 2005. Commitments serving a drug conviction as the most serious offense increased more than the overall rate (3.9%) in 2004 and contributed to the large increase in 2005 as well (8.1%).
- ◆ Although S.B. 03-318 reduced felony classes, large increases in felony class 2 and 3 drug convictions sentenced to prison have occurred.
- ◆ Shifts from the possession categories into distribution, manufacturing, and sale are evident in recent data along with the corresponding shift to more serious felony classes.

Estimated savings of just under \$223,000 in fiscal year 2005 were attributed to the impact of Senate Bill 03-318. A projected impact for the current fiscal year 2006 may be as high as \$1,076,000; however other factors such as increased admissions for non-drug convictions may be significantly reducing these potential savings. By 2008 the potential cost savings associated with Senate Bill 03-318 are lost due to recent shifts in more serious convictions for the extraordinary risk crimes of distribution, manufacturing and sale of controlled substances.

INTRODUCTION AND BACKGROUND

The adult incarcerated population in the State of Colorado continues to grow in spite of efforts to reduce the number of offenders sentenced to prison and shorten the lengths of stay in prison. Offenders convicted of drug offenses continue to comprise a large proportion of the incarcerated population, representing 29.5% of the female population and 18.3 % of the male population for a total of 19.4% of the population on December 31, 2005. Drug convictions continue to represent the single largest category for the male and female incarcerated population.

Several pieces of legislation have passed in recent years affecting the sentencing provisions for drug offenses, with the most significant legislation passed during the 2003 legislative session. Senate Bill 03-318 reduced the penalties for controlled substance violations involving 1 gram or less and unlawful use of a controlled substance. Senate Bill 03-252, enacted in 2003 as well, affected the revocation options and length of revocation for certain nonviolent offenders. These two pieces of legislation had similar objectives of reducing the incarceration time and ultimately the population of nonviolent offenders in prison. Although Senate Bill 252 is significant legislation, only Senate Bill 318 is analyzed in this report.

More information is needed to adequately analyze the impact of this recent legislation. Measuring the actual impact of any legislation is difficult due to many criminal justice influences affecting the overall sentencing patterns and trends. Discretion is present throughout the criminal justice system and every step of the process is able to adapt to changes in the sentencing laws. For example newly created felony classes provide another plea option for not only offenders in that criminal category but other criminal activities as well. Convictions for drug offenses often result from various drug and non-drug charges stemming from the initial arrest incident, as found through previous research on initial recorded charge data. Therefore analysis of all criminal justice information for offenders sentenced to prison is necessary to understand and attempt to quantify the effects of these reductions in drug crime penalties.

This report summarizes findings from previous research conducted for offenders convicted of drug crimes, as well as recent sentencing patterns since the passage of S.B. 03-318 and S.B. 03-252. Detailed examination of all felony convictions resulting in a prison sentence and a thorough review of multiple sentences influencing offenders' governing sentences are reflected in the analyses contained herein.

These findings to date are used to project the longer term effects of the reduced drug penalties with an estimate of the projected bed impact over the next three years. This impact is only an estimate of anticipated savings as numerous factors such as other sentencing and criminal justice systemic changes will most likely affect the overall impact. The criminal justice system is an evolving process with various opportunities for discretion that are too complicated to measure.

For purposes of this report, drug offenses include felony convictions involving illegal chemicals or substances, imitation substances, or legal substances with intent to manufacture

illegal substances per the Colorado Revised Statutes and are detailed in Appendix A. The following drug offenses are included in all analyses contained in this report unless otherwise specified: unlawful use of a controlled substance; possession of a controlled substance; manufacturing, dispensing, sale, distribution, or possession with intent to manufacture, sell or distribute a controlled substance; transferring, dispensing, cultivation, growing, producing, processing or manufacturing marihuana; possession or use of marihuana in a detention facility; possession of ephedrine or isomers with intent to manufacture a controlled substance; selling or distributing chemicals or supplies for illegal manufacturing of any controlled substance; obtaining a controlled substance by fraud, deceit, or misrepresentation; manufacturing, distributing or possessing with intent to distribute an imitation substance; unlawful possession of materials to make methamphetamine and amphetamine; unlawful administration of GHB or ketamine; money laundering; counterfeiting; and pharmaceutical violations.

Drug offender is defined as an incarcerated offender serving one or more convictions for a drug offense as listed above. In most cases, unless otherwise indicated, the drug conviction is the most serious conviction (offense). Most serious conviction is determined by felony class, category of offense, and sentence length.

Data sources for this report include the Colorado Department of Corrections offender tracking system (DCIS), physical and scanned documents from the offender files maintained by the Department, electronic data received through the Colorado Integrated Criminal Justice System (CICJIS), the Colorado Courts online system (formerly CoCourts now LexisNexis CourtLinks), Colorado Bureau of Investigations (CCIC/NCIC), and the Colorado District Attorneys' Council database (formerly Blackstone).

A new time computation module in the Department's information system DCIS, including the electronic storage of crime and sentencing information, was implemented in March 2005. This new system required the conversion of the Department's existing data and vastly increased the data collection and analysis functions. The limited resources of this office have been dedicated to implementation of this new system precluding extensive data validation and quality assurance functions that have been done in the past. Staff reductions in 2002 contribute to the lack of data validation and quality; therefore disparities found throughout this report in quantities and sentence lengths may be explained and attributed in part to the lack of validation rather than actual trend changes, particularly in more recent years.

Inconsistencies may also be partially attributed to more complete data capture as the new system provides the ability to track and report historical sentence data. This is a significant system improvement for extracting and reporting historical data but will not have a major impact for several years as historical data tracking became effective shortly after implementation in March 2005.

It should be noted that possession of a controlled substance without intent to distribute or sell is not a separately enumerated offense in the statutes; therefore these cases have been more specifically categorized according to the best information available to the Department and may not be entirely accurate.

Data from fiscal years 1997 through 2004 is obtained from the Department of Corrections Annual Statistical Reports. Fiscal year 2005 figures are preliminary and subject to change and fiscal year 2006 data is projected, based on 6 months of actual data (July through December 2005).

Previous Research Findings

Previous research conducted by this office in 2001 (*Colorado Department of Corrections Inmate Population as of June 30, 2000, August 14, 2001*) indicated 20.2% of the total inmate population was incarcerated for a drug offense as the most serious conviction. A drug conviction for possession or use only comprised 10.7% (N= 1,714) of the total population (included in the 20.2%). Further breakdown of the “possession or use only” population showed:

- 53.9% had one or more prior admissions to DOC
- 34.9% had multiple drug convictions
- 44.3% had additional non-drug convictions
- 77.8% had previous probation
- 56.6% had prior community (non-DOC transition) placement

Additional research was conducted in 2004 to respond to questions surrounding “first-time” offenders sentenced to prison for possession or unlawful use of a controlled substance. First-time offender was determined to mean an offender with no previous identifiable criminal activities including but not limited to previous adult or juvenile arrests, out of state criminal activities, or ICE (formerly INS) deportation, and no previous non-prison placement such as jail, probation, or community corrections diversion programs. First-time offenders have not been previously incarcerated in CDOC or YOS are not serving additional non-drug felony convictions. Two research groups from the June 30, 2004 incarcerated population were used: group 1 consisted of all 99 offenders (100% sample) with the most serious conviction of unlawful use of a controlled substance or possession of methamphetamine/GHB; group 2 was comprised of 247 offenders (12% sample) with the most serious conviction of possession of a controlled substance. Findings from this research are shown below.

Group 1 (unlawful use or possession of methamphetamine/GHB)

- ◆ 58.6% had a previous incarceration
- ◆ 29.3% had additional non-drug convictions (with no previous incarceration)
- ◆ Remaining 12.1% had previous non-CDOC placement (jail, probation, diversion)
 - Therefore 0% of this population were “first-time” offenders

Group 2 (Possession of a Controlled Substance)

- ◆ 47.0% had a previous incarceration
- ◆ 33.2% had additional non-drug convictions (with no previous incarceration)
- ◆ 18.6% had previous non-CDOC placement (jail, probation, diversion)
- ◆ Remaining 1.2% had prior law enforcement contact (arrests, deportation)
 - Therefore 0% of this population were “first-time” offenders

**SUMMARY OF S.B. 03-318 “Concerning Reduction of Sentences for Particular Drug Crimes,
And, In Connection Therewith, Creating a Drug Offender Treatment Fund”
AND OTHER LEGISLATION**

This legislation reduced the felony class of offenses involving possession not including possession with intent to distribute involving one gram or less of a schedule I, II, III, or IV controlled substance. These offenses were reduced to a class 6 felony or a class 4 felony for a second or subsequent conviction. Possession offenses were previously categorized as class 2, 3, 4, 5 or 6 felonies. Unlawful use of a controlled substance was also reduced from a class 5 to a class 6 felony for schedule I or II controlled substances. The drug offender treatment fund and interagency task force on treatment are created through this legislation to collect and allocate the funds to the judicial district drug offender treatment boards, also created through this legislation.

Table 1 provides a summary of these felony changes and a more detailed chart is contained in Appendix B.

Table 1

S.B. 03-318 Reduction in Felony Class of Certain Drug Crimes

Crime	Felony Class ⁽¹⁾		Presumptive Sentencing Range ⁽²⁾	
	Prior to SB 318	After SB 318	Prior to SB 318	After SB 318
Unlawful Use of Controlled Substance				
Schedule I or II	5	6	1 - 3 years	1 - 1.5 years
Possession of 1 Gram or Less:				
Schedule I or II	3	6	4 - 12 years	1 - 1.5 years
Schedule II (possession)	4	6	2 - 6 years	1 - 1.5 years
Schedule III	4	6	2 - 6 years	1 - 1.5 years
Schedule IV*	5	6	1 - 3 years	1 - 1.5 years
Schedule V	--	--	--	--
Prior Conviction-Poss. of 1 Gram or Less				
Schedule I or II	2	4	8 - 24 years	2 - 6 years
Schedule II (possession)	2	4	8 - 24 years	2 - 6 years
Schedule III	3	4	4 - 12 years	2 - 6 years
Schedule IV*	4	No Change	2 - 6 years	No Change
Schedule V	5	No Change	1 - 3 years	No Change
Possession of 1 Gram or More or DMDS (3) of Controlled Substance				
Schedule I or II	3	No Change	4 - 12 years	No Change
Schedule II (possession)	4	No Change	2 - 6 years	No Change
Schedule III	4	No Change	2 - 6 years	No Change
Schedule IV	5	No Change	1 - 3 years	No Change
Schedule V	--	No Change		No Change
Prior Conviction -Poss. of 1 Gram or More or Prior Conviction-DMDS ⁽³⁾				
Schedule I or II	2	No Change	8 - 24 years	No Change
Schedule II	2	No Change	8 - 24 years	No Change
Schedule III	3	No Change	4 - 12 years	No Change
Schedule IV	4	No Change	2 - 6 years	No Change
Schedule V	5	No Change	1 - 3 years	No Change

*Except flunitrazepam which remains a class 3 felony, or class 2 felony if subsequent to prior conviction.

⁽¹⁾The felony class for an attempt, conspiracy or solicitation to commit the crime is reduced one level for all felonies except an attempt, conspiracy or solicitation of a class 6 felony is a class 6.⁽²⁾Presumptive ranges reported for non-extraordinary risk crimes. Upper limit is increased to 2 years (class 6), 4 years (class 5), 8 years (class 4), and 16 years (class 3) for extraordinary risk crimes.⁽³⁾Unlawful Distribution, Manufacturing, Dispensing or Sale of Controlled Substance

Other Recent Legislative Changes

Several legislative changes implemented in recent years, in addition to Senate Bill 03-318, have specifically influenced the drug offenses defined in the Colorado Revised Statutes. Those changes implemented since 1996 are outlined below.

H.B. 97-1077 Significantly reduced the sentencing range for certain special [drug] offenders from a term greater than the presumptive range to at least the minimum term within the presumptive range; created new sentencing ranges for specified quantities of drugs (25 grams to less than 450 grams, 450 grams to less than 1,000 grams, and 1,000 grams or more) and specified mandatory sentencing to the Department of Corrections for offenses in these categories.

H.B. 98-1160 Added butorphanol to the schedule IV controlled substances.

H.B. 99-1168 Created new class 2 and 3 felonies for the controlled substance flunitrazepam and new class 5 and 6 felonies for unlawful use of marijuana in a detention facility.

H.B. 00-1107 Clarified the mandatory sentence of imprisonment is required for special [drug] offenders; redefined the controlled substance ketamine as a schedule III, reducing the felony class from 3 to 4.

H.B. 01-1242 Redefined gammahydroxybutyrate (GHB) as a schedule I controlled substance increasing possession from a misdemeanor to a class 3 felony, distribution, manufacturing of GHB remains a class 3 felony; clarified that possession or distribution of ketamine is a class 3 felony (previous year's legislation reduced the felony class to 4); added language to schedule I definition to include any material or mixture specifically designed to produce effects similar or great than other schedule I substances.

H.B. 02-1038 Expands the definition of distribution to include possession of chemicals, supplies or equipment with the intent to manufacture a controlled substance.

H.B. 02-1237 Expanded definition of prior conviction for all drug offenses including marijuana offenses to include offenses from other states that would be a conviction in this state.

S.B. 02-050 Created a new class 3 felony for unlawful possession of materials with the intent to manufacture methamphetamine and amphetamine.

H.B. 03-1004 Added a new felony class 3 offense within child abuse to include the manufacture or attempted manufacture of a controlled substance in the presence of a child or where a child resides.

H.B. 03-1236 Added language to the special offender provisions to allow for sentencing under another statute when greater sentencing provisions exist under that statute; added mandatory sentencing to the Department of Corrections for a marijuana conviction if the

violation is committed subsequent to a prior conviction, a class 3 felony; added mandatory Department of Corrections sentences to the crime of violence and several violent crime statutes.

H.B. 03-1317 Created a new class 3 felony for sale or distribution of materials to manufacture controlled substances; adds this new crime to the extra-ordinary risk crimes increasing the maximum of the presumptive sentencing range to 16 years instead of 12 years.

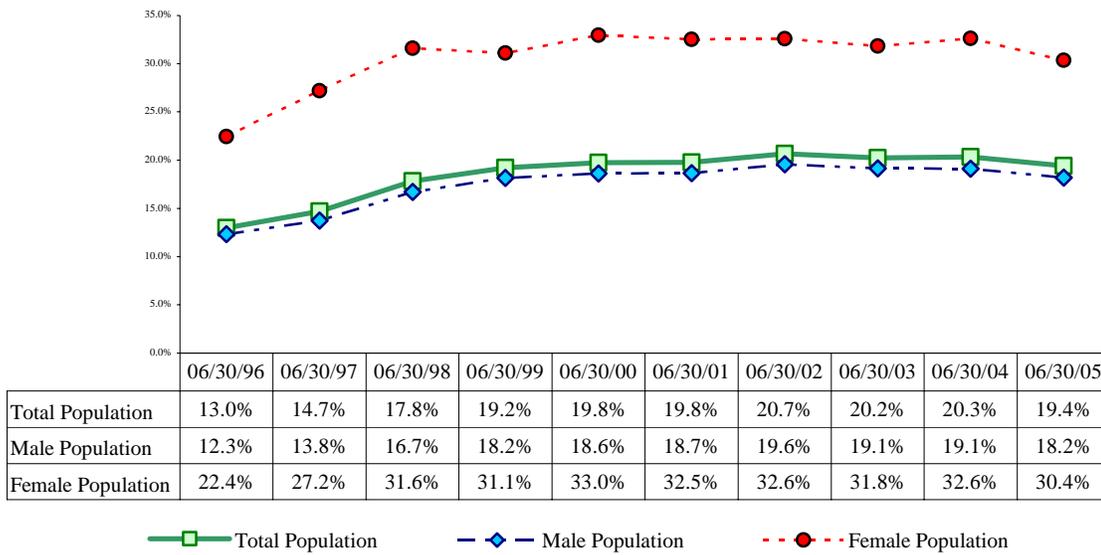
S.B. 03-076 Extends the period of time the court may order treatment from one year to four years for unlawful use of a controlled substance.

H.B. 05-1014 Added 5-methoxy-N, N-diisopropyltryptamine and alpha-methyltryptamine to the schedule I controlled substances.

POPULATION TRENDS

The Colorado Department of Corrections has experienced a dramatic increase in the last ten years in the number of offenders sentenced to prison. The proportion of offenders sentenced as the result a felony drug conviction has continued to increase until the most recent year. Table 2 below contains the proportion of the incarcerated population incarcerated for a drug offense as the most serious felony conviction for the population as of June 30 for 1996 through 2005.

Table 2
Percentage of Population with Drug Conviction (Most Serious Conviction)
Incarcerated Population as of June 30



Summary

- The incarcerated population serving a drug conviction as most serious offense peaked in June 30, 2002 (1 year prior to effective date of S.B. 03-318) at 20.7% of the total population
- The drug conviction incarcerated population did not decline significantly as a percent of the total population until June 30, 2005 (19.4%).
- The male population serving a drug conviction also peaked in June 2002 (1 year prior to effective date of S.B. 03-318) at 19.6% of the total.
- The female population serving a drug conviction peaked in June 2000 at 33.3% of the total female incarcerated population (3 years prior to effective date of S.B. 03-318).
- The female drug conviction population increased to 32.6% in June 2004 (1 year after effective date of S.B. 03-318).

Although the number of offenders serving a drug conviction appears to have leveled off and started a possible decline, Tables 2 through 4 show that the overall incarcerated populations (total, male and female) have not leveled off at the same rate, and actually increased in 2005. These tables provide the annual percentage growth in the total incarcerated population compared to the annual percentage growth in the incarcerated population serving a drug conviction as the most serious offense.

Table 3
Total (Male and Female) Population
Annual Percentage Growth

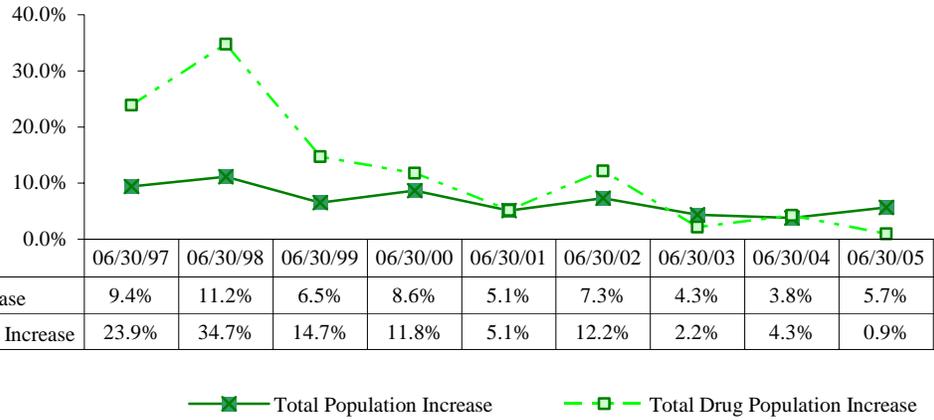


Table 4
Male Population Only
Annual Percentage Growth

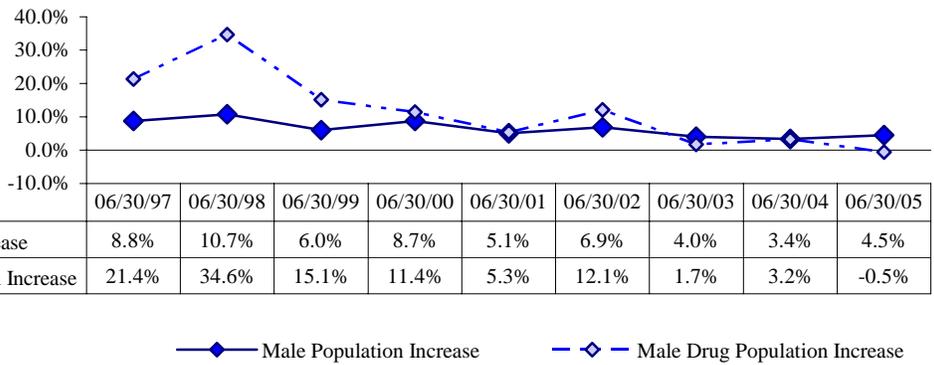
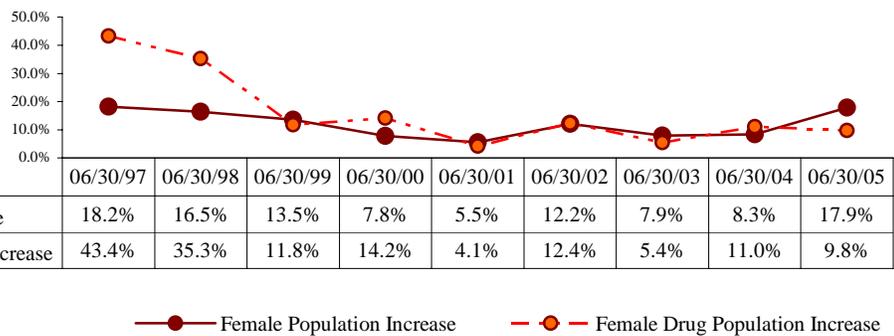


Table 5
Female Population Only
Annual Percentage Growth



Summary

Total Incarcerated Population (Male and Female)

- Annual percentage growth has averaged 4.6% (2004-2005) compared to the average of 7.0% for the previous years (2000-2002) for the total incarcerated population.
- Annual percentage growth has averaged 2.5% (2003-2005) compared to the average of 9.7% for the 3 previous years (2000-2002) for the total population serving a drug conviction.

Male Incarcerated Population

- Annual percentage growth has averaged 3.9% (2003-2005) compared to the average of 6.9% for the 3 previous years (2000-2002) for the incarcerated population
- Annual percentage growth has averaged 1.5% (2003-2005) compared to the average of 9.6% for the 3 previous years (2000-2002) for the population serving a drug conviction.

Female Incarcerated Population

- Annual percentage growth has averaged 11.4% (2003-2005) compared to the average of 8.5% for the 3 previous years (2000-2002) for the incarcerated population
- Annual percentage growth has averaged 8.7% (2003-2005) compared to the average of 11.2% for the 3 previous years (2000-2002) for the population serving a drug conviction.

Overall

The annual growth has slowed significantly in the last 3 years for both the male and total incarcerated populations; however the female population continues to escalate with the largest annual increase in 2005 since 1997.

The population serving a drug conviction as the most serious offense has declined steadily since 1998 with the most drastic decline occurring in 1999. The most recent declining pattern began between 2002 and 2003, one year prior to implementation of S.B. 03-318.

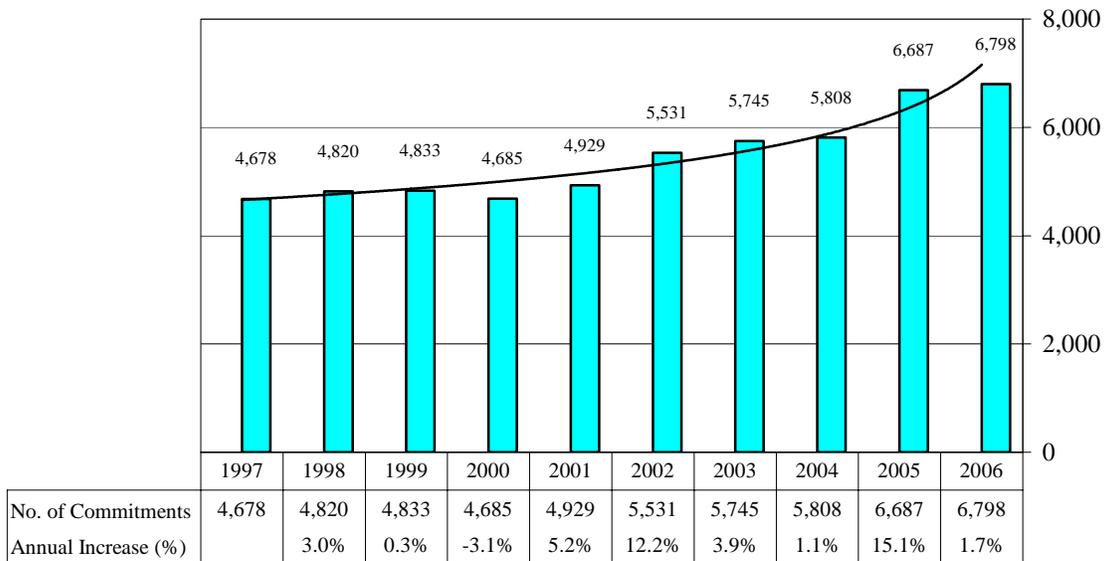
Appendix C contains the actual data and calculations used for tables 2 through 5.

PRISON ADMISSION TRENDS

Prison admissions have continued an upward climb in spite of legislation in recent years to reduce the number of admissions and length of stay. Court commitments represent those offenders entering or returning to prison for a new felony conviction from the courts. This category differs from total prison admissions as returns to prison for technical violations of parole and offenders returned to prison following a judicial reconsideration (release to probation or court ordered discharge) for the same felony conviction are excluded. Court commitments include new court commitments, parole returns with a new felony conviction, returns from a previous release to probation or court ordered discharge with a new felony conviction, and YOS terminations that have been resentenced to adult prison.

Table 6 provides the 10-year trends in total prison admissions for fiscal years 1997 through 2006. Fiscal year 2005 figures are preliminary and fiscal year 2006 figures are estimated, based on the first six months (July through December 2005) of actual data. Court commitments have fluctuated over this 10-year period most likely as a result of other contributing factors such as budgetary constraints, legislative changes, programs and alternative sentencing availability, federal funding programs, economic issues, prison availability and many other elements.

Table 6
Court Commitments



Summary

- ◆ 2002 court commitments (2 years previous to S.B. 318) were 12.2% higher than the previous year.
- ◆ 2005 court commitments (2 years after implementation of S.B. 318) showed the highest annual increase (15.1%) in this 10-year period.

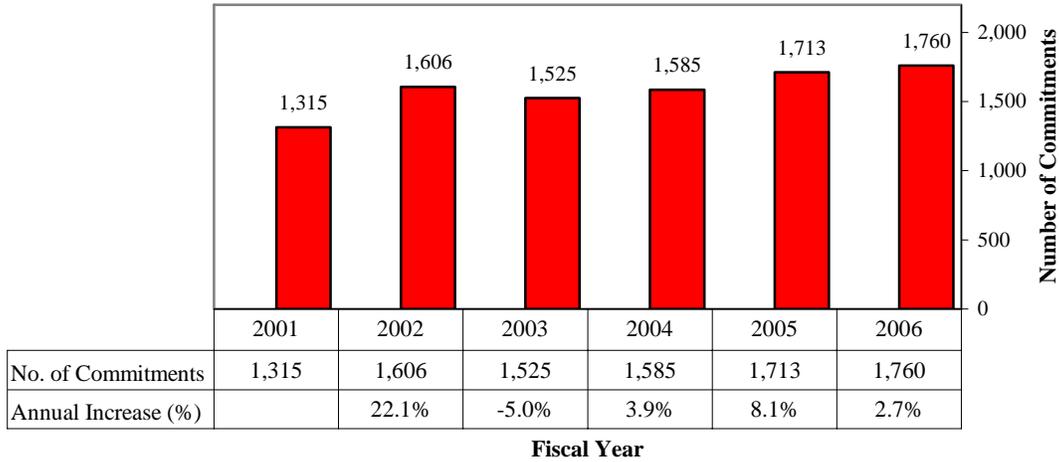
- ◆ 2006 court commitments are expected to be 18.3% higher than 2003 court commitments (base year before implementation of S.B. 318)

The changes in felony class distribution over this 10-year period can be found in Appendix D. The annual percentage changes are also shown, indicating wide fluctuation in nearly every felony class, with the exception of class 6 felonies where large annual increases have occurred nearly every year since 2001.

COURT COMMITMENTS WITH DRUG CONVICTION AS MOST SERIOUS OFFENSE

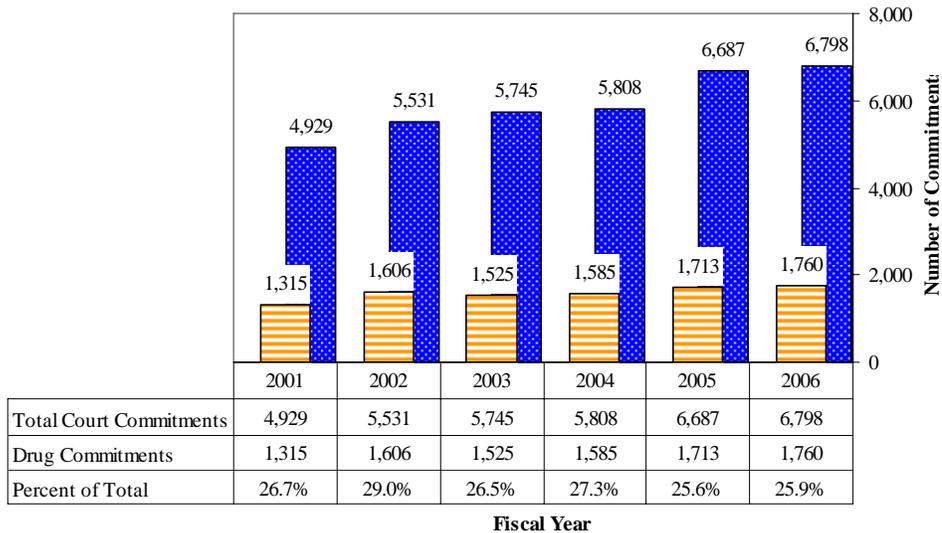
The most serious conviction was extracted for these court commitments to measure changes in the rate of convictions for drug offenses since 2000. The continued growth pattern in court commitments with a drug conviction as the most serious offense is indicated in table 7.

Table 7
Court Commitments-Drug Conviction as Most Serious Offense



Appendices E and F provide the distributions by felony class and further analysis of the drug offense categories by felony class. Table 8 provides a comparison of the court commitments with a drug conviction as the most serious offense to the total court commitments as previously reported in table 6.

Table 8
Comparison of Drug Conviction Commitments to Total Court Commitments



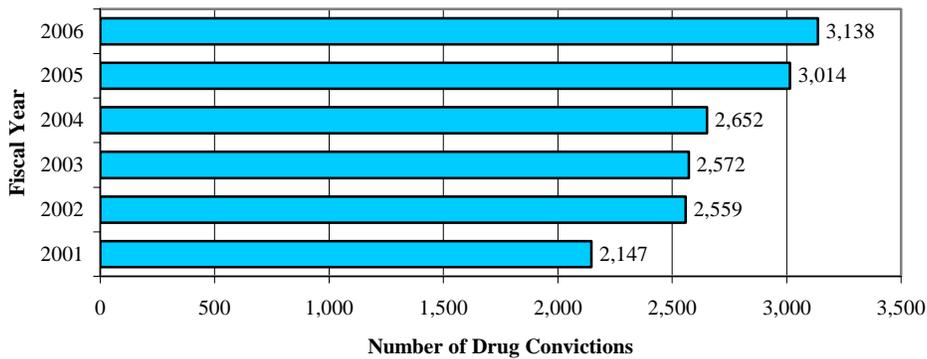
Summary

- ◆ Court commitments with a drug conviction basically follow the trends of overall court commitments reported in table 6 with minor exceptions: 2003 drug convictions actually decreased in 2003 (year previous to effective date of S.B. 318) even though total court commitments increased 3.9% whereas 2005 commitments for drug convictions showed a lower increase (8.1%) than the total commitments for that year (15.1%)
- ◆ 2003 court commitments with a drug conviction declined 5.0%, prior to the implementation of S.B. 318
- ◆ 2002 drug conviction commitments were 22.1% higher than 2001, the highest annual increase over this 5-year period

ANALYSIS OF ALL FELONY DRUG CONVICTIONS RESULTING IN PRISON SENTENCES

All felony drug convictions with a prison sentence for those offenders sentenced and admitted to prison since 2000 were reviewed. This research examined all convictions with a prison sentence whereas other analyses used only the most serious conviction per offender. Offenders are likely to have more than one conviction; therefore this analysis does not equate to offenders or quantifiable population counts. Table 8 shows the drug convictions sentenced to prison for fiscal years 2001 through 2006.

Table 9
Drug Convictions Sentenced to Prison



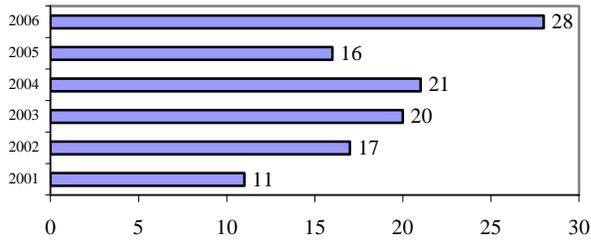
Summary

- ◆ Felony drug convictions sentenced to prison stabilized in 2003 (0.5% increase), prior to S.B. 318, and in 2004 (3.1% increase), the first year under S.B. 318.
- ◆ Drug convictions sentenced to prison in 2005 were 13.7% higher than 2004 and 2006 drug convictions are projected to grow an additional 4.1%.
- ◆ 2006 drug convictions sentenced to prison are projected to be 22% higher than fiscal year 2003 figures.

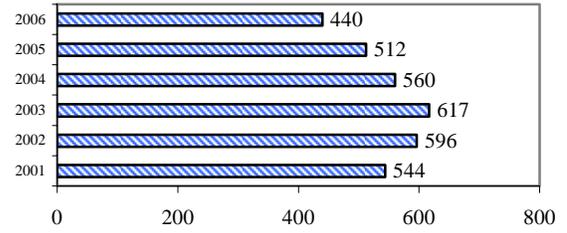
The felony class distribution for these drug convictions by fiscal year are presented in table 10 below. Unclassified felonies, containing convictions under the special offender and habitual sentencing provisions, are separated for all analyses to eliminate the distortion created by these enhanced sentences. Changes in recent years make these convictions less identifiable as the enhanced provisions are not always noted on the mittimii or other sentencing documents.

Table 10
Felony Drug Convictions Sentenced to Prison

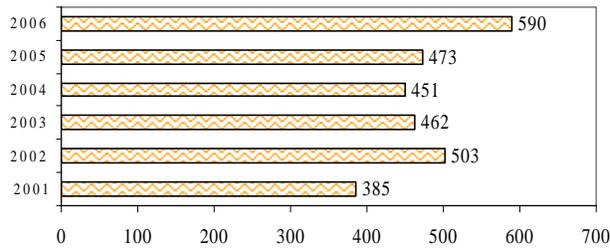
Felony Class 2 Convictions



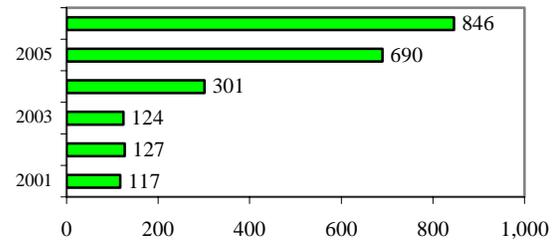
Felony Class 5 Convictions



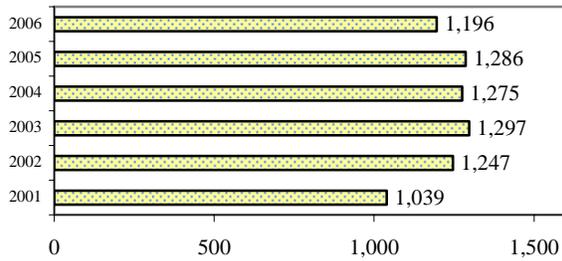
Felony Class 3 Convictions



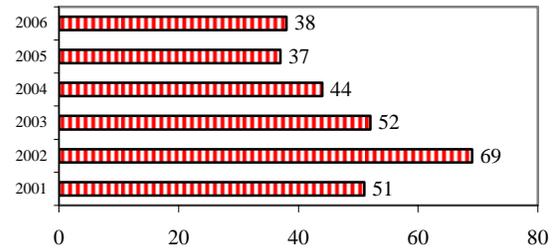
Felony Class 6 Convictions



Felony Class 4 Convictions



Unclassified Convictions

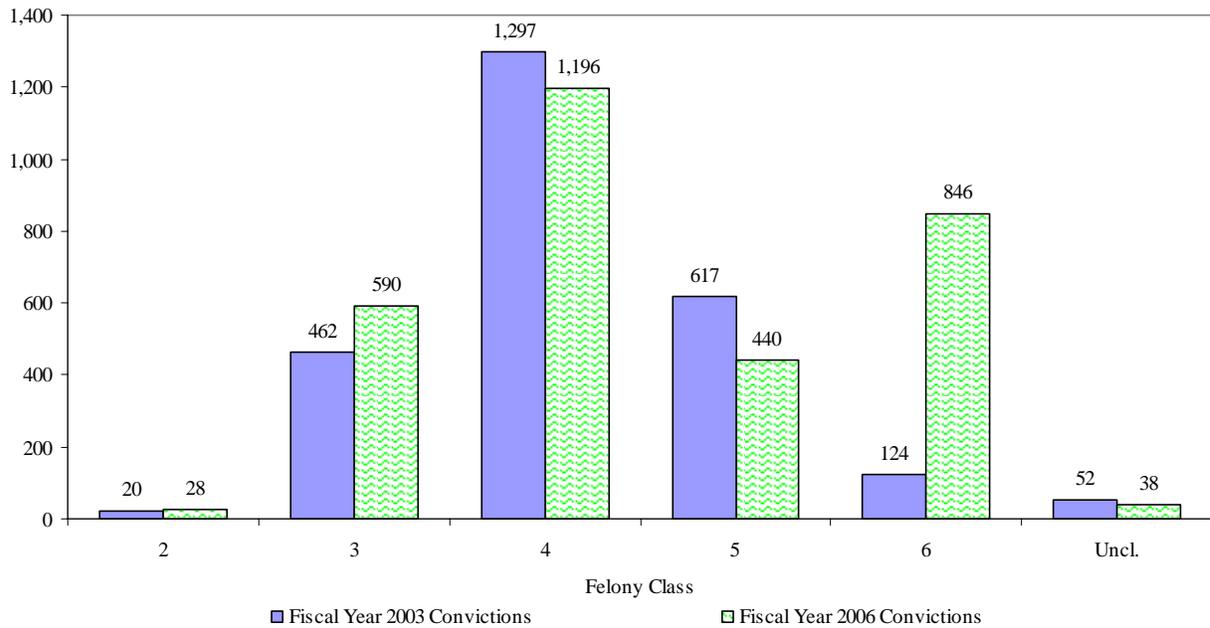


Summary

- ◆ Class 2 and 3 convictions are significantly higher (28% and 27.7% respectively) since implementation of S.B. 318
- ◆ Class 4 convictions have decreased slightly (7.8%) since 2003, the effective date of S.B. 318
- ◆ Class 5 convictions have shown the largest decrease since 2003 of 28.7%.
- ◆ Class 6 convictions have increased nearly six-fold (582%) since 2003, as a result of the reduced felonies created in S.B. 318.
- ◆ Distribution of the convictions has shifted from the class 4 and 5 felonies to more severe class 2 and 3 felonies and to class 6 felonies.

Table 11 compares the felony class distributions for fiscal year 2003 felony drug convictions sentenced to prison to the projected fiscal year 2006 figures, emphasizing the large increase in class 6 felonies only partially offset by slight decreases in class 4 and 5 convictions.

Table 11
Felony Class Distribution of Drug Convictions
Fiscal Year 2003 Compared to Fiscal Year 2006



Appendix G provides the supporting data used for the felony class distribution and percentage increases by fiscal year of all felony drug convictions sentenced to prison. Appendix H is a detailed analysis of the felony drug convictions sentenced to prison. This table breaks out the convictions by the type of drug offense by fiscal year.

EFFECTS OF SENATE BILL 03-318 ON COMMITMENTS TO PRISON

Senate Bill 03-318 reduced the class of felony for controlled substance offenses involving one gram or less of the substance and unlawful use of a controlled substance. The specific felony class reductions are reported in table 1. Generally, class 3 through 5 felonies are reduced to class 6 felonies, if the quantity is one gram or less, and some class 2 and 3 felonies are reduced to class 4, if the quantity is one gram or less and one or more previous convictions exist. Unlawful use of a controlled substance is reduced from a class 5 to a class 6 felony.

The effects on prison commitments are difficult to measure as no criminal justice database provides accurate drug quantity and type. Previous research conducted by this office indicated the final conviction often had little relationship with the original circumstances and evidence found in the arrest report, self-reported information and pre-sentence investigation report. This research also found in those cases with available information that convictions resulting in a prison sentence typically involved special offender provisions (school zones, housing developments); distribution, manufacturing, or selling; and/or large quantities of controlled substances. Prison commitments for drug offenses also had extensive experiences in the criminal justice system with repeated placements in probation and diversion programs including drug treatment in many cases and included cases where initial charges under the habitual enhancement provisions were later dismissed.

The court commitments with a drug conviction as the most serious offense, as reported in table 7 were used as the basis for further research. Drug conviction commitments for fiscal years 2005 and 2006 were reviewed for multiple convictions and, more specifically, other non-drug convictions for their relationship to the controlling and governing sentence. Offenders having other non-drug convictions with a sentence equal to or greater than the drug conviction were removed from the analysis.

Unlawful Use of Controlled Substance

Table 12 provides the number of court commitments and sentence averages by fiscal year for class 5 and 6 unlawful use of a controlled substance.

Table 12
Court Commitments-Controlling Sentence ⁽¹⁾
Unlawful Use of a Controlled Substance

Fiscal Year	Number of Commitments			Sentence Ave. (mos)
	Felony Class		Total	
	5	6		
2006	14	28	42	17.8
2005	38	15	53	19.9
2004	44	11	55	22.0
2003	34	7	41	24.8
2002	56	7	63	24.4

⁽¹⁾ Court commitments after elimination of offenders with other non-drug controlling sentences

The number of commitments in 2006 for unlawful use has decreased by 10% with 66.7% of these commitments sentenced for crimes committed after June 30, 2003. The 2005 unlawful use commitments were unchanged from 2004 with only 30.2% sentenced for offenses after this date. Offenders sentenced in 2005 and 2006 with offenses committed after June 30, 2003 have an overall sentence average of 16.8 months compared to those with offenses before this date have an average sentence of 21.0 months.

Summary

- ◆ 2/3 of the unlawful use commitments are currently sentenced under the new felony class 6 crime created under S.B. 03-318.
- ◆ Unlawful use commitments have declined by an estimated 10%.
- ◆ Sentence lengths for these commitments have decreased 27.6% to 17.8 months

Controlled Substance - Possession of 1 Gram or Less

Offenders sentenced for possession of a controlled substance under the pre-S.B. 03-318 crimes are anticipated to be the population most likely to be sentenced under the newly created class 4, 5 (attempt) and 6 felonies for possession of 1 gram or less. The number of court commitments remaining, after eliminating of the offenders with multiple non-drug sentences, is shown in table 13 below. The number of commitments with multiple non-drug sentences has increased to 12.0% in 2006, compared to an average of 8.6% of 2002 and 2003 commitments. Table 14 displays the average sentence lengths by fiscal year for controlled substance possession commitments.

Table 13
Commitments-Possession of Controlled Substance

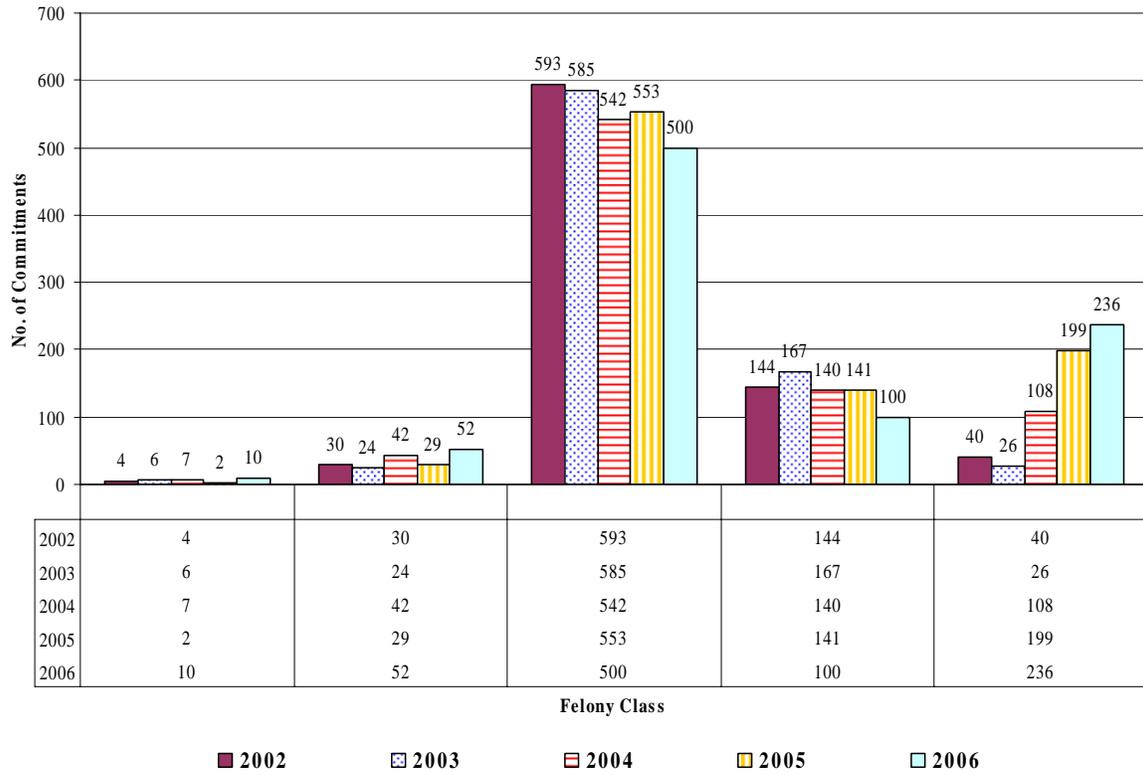
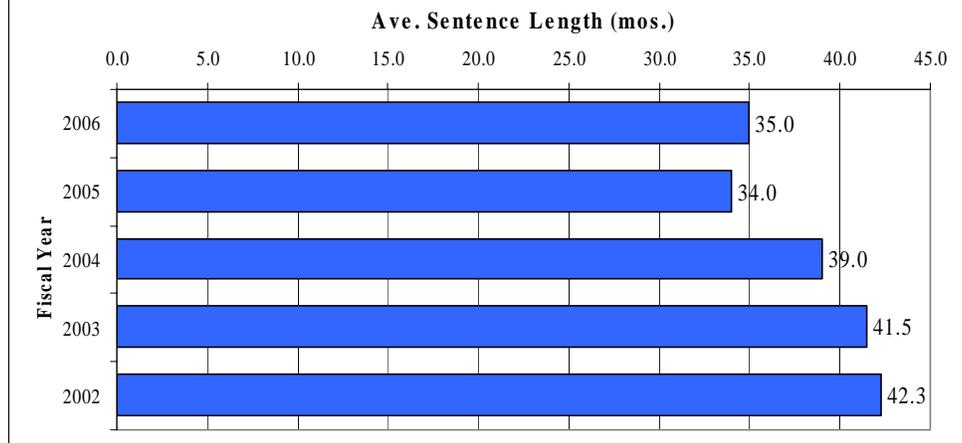


Table 14
Commitments - Possession of Controlled Substance



Appendix I provides further breakdown of these commitments for possession of a controlled substance as the controlling sentence. Offense categories have been created for possession of one gram or less and repeat of this offense; however there is some overlap with the existing categories, depending on the statutes used by the sentencing courts.

Summary

- ◆ 59% of the 2005 commitments and 70% of the 2006 commitments were sentenced for offenses committed after June 30, 2003 when Senate Bill 318 became effective
- ◆ 2006 commitments for class 2 and class 3 possession of controlled substance have increased 100% and 92.6% respectively, from the average of the 2002 and 2003 figures though these felony classes are small, totaling 10 (class 2) and 52 (class 3) in 2006
- ◆ 2006 commitments for class 4 possession of controlled substance were 15.1% lower than the average of the 2002 and 2003 figures
- ◆ Class 5 possession of controlled substance commitments were 35.7% lower than 2002 and 2003 commitments
- ◆ 2006 commitments for class 6 possession of controlled substance increased to 236 from an average of 33 per year prior to S.B. 318, a 615% increase
- ◆ Sentence length for 2006 possession commitments was 35.0 months, a 16.5% decrease from the average sentence length of 41.9 months for the 2002 and 2003 commitments

PROJECTED IMPACT OF SENATE BILL 03-318 ON PRISON COMMITMENTS

While this information indicates there has been no decrease in overall commitments for drug offenses, as shown in table 8, there may be some indication that the felony classes have shifted. Not only are new class 6 felonies being used and resulting in sentences to prison but this is the most serious conviction sentenced to prison. Further there is a corresponding decrease in class 4 felonies for possession of controlled substances. The shift from class 5 felonies to class 6 felonies is attributable to the change in the felony class for unlawful use of a controlled substance. The data also indicates an increase in class 2 and 3 felony convictions for controlled substances has occurred. No information is available to determine the exact causes for these increases; however data indicates that the increases are resulting from more convictions for distribution, manufacturing, and sale of controlled substances. Specifically, class 3 commitments for these distribution crimes increased 11.9% in 2005 and an increase of 25.9% is projected for 2006, as found in Appendix F.

Tables 15 and 16 provide estimates of these changes and the anticipated trends over the next two years for unlawful use of a controlled substance and possession of 1 gram or less of a controlled substance. These figures are intended to provide a rough estimate as ongoing changes and adjustments throughout the criminal justice system cannot be controlled or measured with any degree of certainty. Changes in court commitments, felony class distributions, sentence lengths, and lengths of stay are forecast in this model. Table 16 includes the effects of increased convictions in class 3 and 4 felonies for distribution, manufacturing and sale of controlled substances.

Table 15
 Projected Impact of S.B. 03-318
 Unlawful Use of Controlled Substance

Fiscal Year		Felony Class	No. of Commitments	Sentence	ADA before SB 318	Projected ADA (with SB 318)	Net ADA Impact ⁽¹⁾
				Length (months)			
2004	Actual	5	44.0	23.4			
		6	11.0	16.5			
	Subtotal		55.0		70.02	72.01	2.00
2005	Projected	5	38.0	21.9			
		6	15.0	14.7			
	Subtotal		53.0		72.90	69.39	-3.51
2006	Projected	5	14.0	20.0			
		6	28.0	16.7			
	Subtotal		42.0		76.54	55.29	-21.25
2007	Projected	5	12.0	19.5			
		6	33.0	17.0			
	Subtotal		45.0		80.37	48.59	-31.78
2008	Projected	5	12.6	19.5			
		6	34.7	17.1			
	Subtotal		47.3		84.39	49.96	-34.43
2009	Projected	5	13.2	19.5			
		6	36.4	17.1			
	Subtotal		49.6		88.61	52.46	-36.15

⁽¹⁾ (-) indicates a decrease in the population is projected.

Table 16
 Projected Impact of S.B. 03-318
 Possession of Controlled Substance - 1 Gram or Less

Fiscal Year	Felony Class	No. of Commitments (projected) (1)	ADA before SB 318	Projected ADA (with SB 318)	Net ADA Impact ⁽²⁾
2004	2	7.0			
	3	42.0			
	4	542.0			
	5	140.0			
	6	108.0			
	Subtotal		839.0	1,537.67	1,542.73
2005	2	2.0			
	3	29.0			
	4	553.0			
	5	141.0			
	6	199.0			
	Subtotal		924.0	1,864.95	1,856.14
2006 ⁽¹⁾	2	10.0			
	3	125.0			
	4	535.0			
	5	100.0			
	6	236.0			
	Subtotal		1,006.0	1,993.55	1,956.18
2007 ⁽¹⁾	2	10.5			
	3	133.4			
	4	563.5			
	5	105.0			
	6	265.0			
	Subtotal		1,077.4	2,114.56	2,095.02
2008 ⁽¹⁾	2	11.0			
	3	140.1			
	4	591.7			
	5	110.3			
	6	278.3			
	Subtotal		1,131.3	2,240.99	2,278.92
2009 ⁽¹⁾	2	11.6			
	3	147.1			
	4	621.3			
	5	115.8			
	6	292.2			
	Subtotal		1,187.9	2,372.32	2,496.35

⁽¹⁾ No. of commitments includes the projected increase in class 3 and 4-distribution, manufacturing and sale.

⁽²⁾ (-) indicates a decrease in the population is projected.

Table 17 combines the impacts from tables 15 and 16. Annual costs are computed using the actual private prison bed contract costs for fiscal years 2004 through 2006. The 2006 costs are used for the projected years of 2007 through 2009. The projected impact has not been offset by the effects of increased recidivism from shorter sentences. An increase in the number of parole returns is likely as more offenders will be paroling earlier and returning to prison sooner for technical violations and new crimes. Changes in convictions under the special [drug] offender or habitual enhancement provisions, including possible increases, were not taken into account in this impact analysis.

Table 17
Projected Financial Impact of S.B. 03-318

Fiscal Year	Category	No. of Commitments (projected)	ADA before SB 318	Projected ADA (with SB 318)	Net ADA Impact ⁽¹⁾	Annual Cost ⁽²⁾
2004	Unlawful Use	55.0	70.02	72.01	2.00	
	Possession 1 gm or less	839.0	1,537.67	1,542.73	5.06	
	Total	894.0	1,607.68	1,614.74	7.05	\$ 129,677
2005	Unlawful Use	53.0	72.90	69.39	-3.51	
	Possession 1 gm or less	924.0	1,864.95	1,856.14	-8.80	
	Total	977.0	1,937.84	1,925.53	-12.31	\$ (222,720)
2006	Unlawful Use	42.0	76.54	55.29	-21.25	
	Possession 1 gm or less	1,006.0	1,993.55	1,956.18	-37.37	
	Total	1,048.0	2,070.09	2,011.47	-58.62	\$ (1,075,780)
2007	Unlawful Use	45.0	80.37	48.59	-31.78	
	Possession 1 gm or less	1,077.4	2,114.56	2,095.02	-19.54	
	Total	1,122.4	2,194.93	2,143.61	-51.32	\$ (941,758)
2008	Unlawful Use	47.3	84.39	49.96	-34.43	
	Possession 1 gm or less	1,131.3	2,240.99	2,278.92	37.93	
	Total	1,178.6	2,325.38	2,328.88	3.50	\$ 64,275
2009	Unlawful Use	49.6	88.61	52.46	-36.15	
	Possession 1 gm or less	1,187.9	2,372.32	2,496.35	124.03	
	Total	1,237.5	2,460.93	2,548.81	87.88	\$ 1,612,825

⁽¹⁾ (-) denotes a decrease in the population

⁽²⁾ Projected costs computed using private prison costs of \$18,385 for 2004 (actual), \$18,089 for 2005 (actual) and \$18,352 for 2006 through 2009.

REPORT SUMMARY

It is important to note that these projections do not take into account any adjustments for changes in the overall distribution of court commitments. As indicated in the sections on population trends and admission trends the number of commitments sentenced to the Department of Corrections continues to grow. Therefore further analysis is needed to measure changes and increases in commitments for other types of crime that may be occurring as a result of changes in the charging and plea processes. Commitments entering prison for convictions of other types of crime such as theft, burglary, motor vehicle theft, robbery and assault may also have additional convictions for drug offenses. The most serious crime may now fall into one of these non-drug categories due to the felony class reduction of the drug offense since passage of S. B. 03-318.

Annual fluctuations in the court commitments and drug conviction commitments further complicated this analysis, particularly the large increases of 22.1% in court commitments and 22.1% increase in drug conviction commitments in 2002. Drug conviction commitments decreased 5.0% in 2003 while overall court commitments continued to increase (3.9%), previous to implementation of Senate Bill 03-318. This anomaly distorted the year that would've been the base year for modeling purposes; therefore data from 2002 and 2003 was combined and averaged for this analysis.

Continued monitoring of the incarcerated population and court commitments is necessary to fully measure changes in types of convictions and felony class distributions. Significant adjustments in the type of drug conviction, in addition to the felony class distributions, began appearing in the 2005 data and continued into the first six months in 2006. These changes are too recent to determine if there is a relationship to the passage of Senate Bill 03-318 and to what extent the adjustments will continue to alter the composition of the overall court commitment profile. Long-term continuation of these recent sentencing patterns will eliminate the projected savings of Senate Bill 03-318 by 2008 as shown in table 17.

APPENDIX A
Drug Offenses as Defined in Colorado Revised Statutes

The following criminal activities involving illegal chemicals or substances, imitation substances, or legal substances with intent to manufacture illegal substances are defined by the Colorado Department of Corrections as drug offenses as defined in the Colorado Revised Statutes below:

“An unlawful use of a controlled substance, which is the use of any controlled substance that is not prescribed or administer by a licensed professional” (C.R.S. 18-18-404 (1)(a));

“when a person knowingly manufactures, dispenses, sells, distributes, possesses with intent to manufacture, dispense, sell or distribute a controlled substance including inducing, attempting to induce or conspiring with one or more other persons to do so” (C.R.S. 18-18-405 (1)(a));

” any person who possesses more than one ounce of marihuana but less than eight ounces of marihuana and the violation is committed subsequent to a prior conviction in this or any other state” (C.R.S. 18-18-406 (4)(a)(II));

“any person eighteen years of age or older who transfers or dispenses more than one ounce of marihuana for consideration to any person under eighteen years of age but at least fifteen years of age or any amount of marihuana concentrate, with or without consideration, to another person under eighteen years of age” (C.R.S. 18-18-406 (7)(a));

“no person knowingly shall cultivate, grow, produce, process, or manufacture any marihuana or marihuana concentrate or knowingly allow to be cultivated, grown, produced, processed, or manufacture on land owned, occupied, or controlled unless authorized.” (C.R.S. 18-18-406 (8)(a)(I));

“any person confined in any detention facility in this state who possesses or uses up to eight ounces of marihuana or commits a second or subsequent violation.” (C.R.S. 18-18-406.5);

“no person shall possess ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, with the intent to use such product as an immediate precursor in the manufacture of any controlled substance” (C.R.S. 18-18-412.5 (2));

“a person who sells or distributes chemicals, supplies, or equipment, and who knows or reasonably should know or believes that a person intends to use the chemicals, supplies or equipment to illegally manufacture a controlled substance” (C.R.S. 18-18-412.7);

“no person shall obtain a controlled substance or procure the administration of a controlled substance by fraud, deceit, misrepresentation, or subterfuge – or by the forgery or alteration of an order; or by the concealment of a material fact; or by the use of a false name or the giving of a false address” (C.R.S. 18-18-415 (1)(a));

“any person who surreptitiously or by means of fraud, misrepresentation, suppression of truth, deception, or subterfuge, to cause any other person to unknowingly consume or receive the direct administration of any controlled substance” (C.R.S. 18-18-416);

“it is unlawful for any person to manufacture, distribute, or possess with intent to distribute an imitation controlled substance” (C.R.S. 18-18-422 (1)(a));

“any person knowingly or intentionally manufacturing, delivering, or possessing with intent to manufacture or deliver, a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifier of a manufacturer, distributor, or dispenser, other than the person who in fact manufactured, distributed or dispensed the substance”. (C.R.S. 18-18-425)

Appendix B
S.B. 03-318 "Concerning Reduction of Sentences for Particular Drug Crimes, And,
In Connection Therewith, Creating A Drug Offender Treatment Fund"
Summary of Changes to Felony Classes of Certain Drug Crimes

C.R.S.	Description		Felony Class	
			Prior to S.B.03-318	After S.B. 03-318
18-18-404(1)(a)	Unlawful Use-Sched. I or II	--	5	6
		Att/Cnsp/Sol	6	No change
Possession offenses NOT including possession with the intent to distribute involving ONE GRAM OR LESS of any material, compound, mixture, or preparation that contains any quantity of a schedule I through V controlled substance as listed below:				
18-18-405				
(2.3)(a)(I)	Poss. 1 gm. or less -Sched. I or II	--	3	6
		Att/Cnsp/Sol	4	6
	Poss. 1 gm. or less -Sched. II	--	4	6
		Att/Cnsp/Sol	5	6
(2.3)(a)(II)	Poss. 1 gm. or less -Sched. I or II	Prior conv. --	2	4
		Prior conv. Att/Cnsp/Sol	3	5
(2.3)(a)(I)	Poss. 1 gm. or less -Sched. III	--	4	6
		Att/Cnsp/Sol	5	6
(2.3)(a)(II)	Poss. 1 gm. or less -Sched. III	Prior conv. --	3	4
		Prior conv. Att/Cnsp/Sol	4	5
(2.3)(a)(I)	Poss. 1 gm. or less -Sched. IV*	--	5	6
		Att/Cnsp/Sol	6	No change
(2.3)(a)(II)	Poss. 1 gm. or less -Sched. IV*	Prior conv. --	4	No change
		Prior conv. Att/Cnsp/Sol	5	No change
(2.3)(a)(II)	Poss. 1 gm. or less -Sched. V	Prior conv. --	5	No change
		Prior conv. Att/Cnsp/Sol	6	No change
*Except Flunitrazepam which remains a class 3 felony, or class 2 felony if subsequent to prior conviction.				
Possession offenses involving MORE THAN ONE GRAM; possession with intent to distribute; or unlawful distribution, manufacturing, dispensing, or sale of any Schedule I through V controlled substances are the same felony class as prior to S.B. 03-318 as listed below:				
18-18-405				
(2)(a)(I)	Poss. more than 1 gm. -Sched. I or II	--	3	No change
		Att/Cnsp/Sol	4	No change
	Poss. more than 1 gm. -Sched. II	--	4	No change
		Att/Cnsp/Sol	5	No change
(2)(a)(II)	Poss. more than 1 gm. -Sched. I or II	Prior conv. --	2	No change
		Prior conv. Att/Cnsp/Sol	3	No change
(2)(b)(I)	Poss. more than 1 gm. -Sched. III	--	4	No change
		Att/Cnsp/Sol	5	No change
(2)(b)(II)	Poss. more than 1 gm. -Sched. III	Prior conv. --	3	No change
		Prior conv. Att/Cnsp/Sol	4	No change
(2)(c)(I)	Poss. more than 1 gm. -Sched. IV*	--	5	No change
		Att/Cnsp/Sol	6	No change
(2)(c)(II)	Poss. more than 1 gm. -Sched. IV*	Prior conv. --	4	No change
		Prior conv. Att/Cnsp/Sol	5	No change
(2)(d)(II)	Poss. more than 1 gm. -Sched. V	Prior conv. --	5	No change
		Prior conv. Att/Cnsp/Sol	6	No change

Appendix C

Adult Inmate Population as of June 30, 1996 through June 30, 2005 ⁽¹⁾ Most Serious Offense Distribution - Drug Conviction

TOTAL POPULATION				
Date	Total		Drug Conviction	
	Number	Annual	Number	Annual Increase
6/30/2005	20,445	5.7%	3,969	0.9%
6/30/2004	19,347	3.8%	3,932	4.3%
6/30/2003	18,641	4.3%	3,771	2.2%
6/30/2002	17,867	7.3%	3,691	12.2%
6/30/2001	16,654	5.1%	3,291	5.1%
6/30/2000	15,846	8.6%	3,130	11.8%
6/30/1999	14,585	6.5%	2,800	14.7%
6/30/1998	13,691	11.2%	2,441	34.7%
6/30/1997	12,317	9.4%	1,812	23.9%
6/30/1996	11,260		1,463	

MALE POPULATION				
Date	Total		Drug Conviction	
	Number	Annual	Number	Annual Increase
6/30/2005	18,410	4.5%	3,351	-0.5%
6/30/2004	17,621	3.4%	3,369	3.2%
6/30/2003	17,048	4.0%	3,264	1.7%
6/30/2002	16,391	6.9%	3,210	12.1%
6/30/2001	15,338	5.1%	2,863	5.3%
6/30/2000	14,599	8.7%	2,719	11.4%
6/30/1999	13,428	6.0%	2,440	15.1%
6/30/1998	12,672	10.7%	2,119	34.6%
6/30/1997	11,442	8.8%	1,574	21.4%
6/30/1996	10,520		1,297	

FEMALE POPULATION				
Date	Total		Drug Conviction	
	Number	Annual	Number	Annual Increase
6/30/2005	2,035	17.9%	618	9.8%
6/30/2004	1,726	8.3%	563	11.0%
6/30/2003	1,593	7.9%	507	5.4%
6/30/2002	1,476	12.2%	481	12.4%
6/30/2001	1,316	5.5%	428	4.1%
6/30/2000	1,247	7.8%	411	14.2%
6/30/1999	1,157	13.5%	360	11.8%
6/30/1998	1,019	16.5%	322	35.3%
6/30/1997	875	18.2%	238	43.4%
6/30/1996	740		166	

⁽¹⁾ The adult population counts exclude fugitives and external placements.

Source: Fiscal years 1996 through 2004 Colorado Department of Corrections Statistical Reports.

Appendix D
Court Commitments ⁽¹⁾

Fiscal Year	Felony Class							Total
	1	2	3	4	5	6	Other ⁽²⁾	
2006 Prj.	30	116	950	2,556	1,970	992	184	6,798
2005 Prj.	30	87	867	2,617	1,984	879	223	6,687
2004	21	94	774	2,270	1,673	748	228	5,808
2003	34	84	845	2,357	1,594	619	212	5,745
2002	34	93	872	2,134	1,579	602	217	5,531
2001	25	78	732	1,883	1,504	536	171	4,929
2000	28	78	818	1,811	1,337	532	81	4,685
1999	34	103	869	1,937	1,266	571	53	4,833
1998	26	104	891	1,918	1,289	548	44	4,820
1997	27	109	870	1,904	1,233	497	38	4,678

Fiscal Year	Annual Percentage Increase Felony Class							Total
	1	2	3	4	5	6	Other ⁽²⁾	
2006 Prj.	0.0%	33.3%	9.6%	-2.3%	-0.7%	12.9%	-17.5%	1.7%
2005 Prj.	42.9%	-7.4%	12.0%	15.3%	18.6%	17.5%	-2.2%	15.1%
2004	-38.2%	11.9%	-8.4%	-3.7%	5.0%	20.8%	7.5%	1.1%
2003	0.0%	-9.7%	-3.1%	10.4%	0.9%	2.8%	-2.3%	3.9%
2002	36.0%	19.2%	19.1%	13.3%	5.0%	12.3%	26.9%	12.2%
2001	-10.7%	0.0%	-10.5%	4.0%	12.5%	0.8%	111.1%	5.2%
2000	-17.6%	-24.3%	-5.9%	-6.5%	5.6%	-6.8%	52.8%	-3.1%
1999	30.8%	-1.0%	-2.5%	1.0%	-1.8%	4.2%	20.5%	0.3%
1998	-3.7%	-4.6%	2.4%	0.7%	4.5%	10.3%	15.8%	3.0%
1997	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

(1) Court commitments include new court commitments; returns from parole, release to probation, court order discharge with new felony conviction; and YOS failures.

(2) Other includes habitual and lifetime enhancements.

Appendix E

Drug Offense as Most Serious Conviction⁽¹⁾

Court Commitments for FY2001-FY2006 (2005 and 2006 Projected)

		Number of Court Commitments						
		Felony Class						
Fiscal Year		2	3	4	5	6	Unclassified⁽²⁾	Total
2006	Prj.	20	472	770	210	270	18	1,760
2005	Prj.	10	376	816	262	229	20	1,713
2004		18	377	769	254	142	25	1,585
2003		12	379	788	272	50	24	1,525
2002 ⁽³⁾		11	411	817	264	64	39	1,606
2001 ⁽³⁾		10	318	634	267	56	30	1,315

		Annual Percentage Increase (-Decrease)						
		Felony Class						
Fiscal Year		2	3	4	5	6	Unclassified⁽²⁾	Total
2006	Prj.	100.0%	25.5%	-5.6%	-19.8%	17.9%	-10.0%	2.7%
2005	Prj.	-44.4%	-0.3%	6.1%	3.1%	61.3%	-20.0%	8.1%
2004		50.0%	-0.5%	-2.4%	-6.6%	184.0%	4.2%	3.9%
2003		9.1%	-7.8%	-3.5%	3.0%	-21.9%	-38.5%	-5.0%
2002 ⁽³⁾		10.0%	29.2%	28.9%	-1.1%	14.3%	30.0%	22.1%
2001 ⁽³⁾		n/a	n/a	n/a	n/a	n/a	n/a	n/a

⁽¹⁾ Only drug conviction as the most serious conviction reported (one conviction per offender).

⁽²⁾ Unclassified felonies include convictions under special offender and habitual provisions.

⁽³⁾ The number and sentence lengths for class 2 and class 3 offenders may be lower than subsequent years as offenders sentenced under habitual and special offender provisions were more easily identified and removed, resulting in more offenders counted in

Appendix F
Drug Offense as Most Serious Conviction ⁽¹⁾
Court Commitments for FY2001-FY2006 (2005 and 2006 Projected)

Crime	Fiscal Year	Felony Class					Total ⁽²⁾
		2	3	4	5	6	
Special Offender/Habitual	2006 Prj.	n/a	n/a	n/a	n/a	n/a	18
	2005 Prj.	n/a	n/a	n/a	n/a	n/a	20
	2004	n/a	n/a	n/a	n/a	n/a	25
	2003	n/a	n/a	n/a	n/a	n/a	24
	2002	n/a	n/a	n/a	n/a	n/a	39
	2001	n/a	n/a	n/a	n/a	n/a	30
Repeat							
Distr., Manuf., Sale	2006 Prj.	10	10	0	0	0	20
	2005 Prj.	6	25	0	0	0	31
	2004	11	33	2	0	0	46
	2003	5	19	5	3	0	32
	2002	7	28	9	1	0	45
	2001	4	15	10	0	0	28
Distr., Manuf., Sale	2006 Prj.	0	394	102	18	2	516
	2005 Prj.	0	313	66	14	2	395
	2004	0	280	72	14	4	370
	2003	0	330	72	15	5	422
	2002	0	343	70	12	4	429
	2001	0	257	53	18	7	335
Repeat							
Possession	2006 Prj.	10	4	0	0	0	14
	2005 Prj.	3	4	1	0	1	9
	2004	7	7	0	2	0	16
	2003	7	1	1	5	1	15
	2002	4	3	1	0	0	8
	2001	5	0	1	2	1	6
Possession	2006 Prj.	0	56	598	110	8	772
	2005 Prj.	0	29	665	143	12	849
	2004	0	42	633	140	23	838
	2003	0	25	653	168	25	871
	2002	0	34	667	150	40	891
	2001	0	42	509	149	23	723
Repeat							
Possession 1 gm. or Less	2006 Prj.	0	0	12	2	0	14
	2005 Prj.	0	0	12	2	0	14
	2004	0	0	8	3	0	11
	2003	0	0	0	0	0	0
	2002	0	0	0	1	0	1
	2001	0	0	0	0	0	0

Appendix F (Page 2 of 2)
Drug Offense as Most Serious Conviction⁽¹⁾
Court Commitments for FY2001-FY2006 (2005 and 2006 Projected)

Crime	Fiscal Year	Felony Class					Total ⁽²⁾
		2	3	4	5	6	
Possession 1 gm. or Less	2006 Prj.	0	0	0	0	230	230
	2005 Prj.	0	0	0	0	188	188
	2004	0	0	0	0	87	87
	2003	0	0	0	0	0	0
	2002	0	0	0	0	0	0
	2001	0	0	0	0	0	0
Unlawful Use	2006 Prj.	0	0	0	14	28	42
	2005 Prj.	0	0	0	41	16	57
	2004	0	0	0	47	11	58
	2003	0	0	0	35	7	42
	2002	0	0	0	56	7	63
	2001	0	0	0	55	11	66
Other Drug Offenses:							
Poss. Meth. Mat'ls.	2006 Prj.	0	6	2	0	0	8
	2005 Prj.	0	4	4	0	0	8
	2004	0	10	1	0	0	11
	2003	0	1	3	0	0	4
	2002	0	0	1	0	0	1
	2001	0	0	0	0	0	0
Ketamine/GHB	2006 Prj.	0	0	0	0	0	0
	2005 Prj.	0	0	0	0	0	0
	2004	0	0	1	0	0	1
	2003	0	0	0	0	0	0
	2002	0	0	0	0	0	0
	2001	0	0	0	0	0	0
Marijuana	2006 Prj.	0	2	54	44	2	102
	2005 Prj.	0	1	64	35	5	105
	2004	0	2	52	23	9	86
	2003	0	1	50	18	2	71
	2002	0	2	65	24	6	97
	2001	0	2	58	29	8	97
Fraud/Deceit/Imit./Unidentified	2006 Prj.	0	0	2	22	0	24
	2005 Prj.	1	0	4	27	5	37
	2004	0	3	0	25	8	36
	2003	0	2	4	28	10	44
	2002	0	1	4	20	7	32
	2001	1	2	3	14	6	26
Total Drug Offenses	2006 Prj.	20	472	770	210	270	1,760 ⁽²⁾
	2005 Prj.	10	376	816	262	229	1,713 ⁽²⁾
	2004	18	377	769	254	142	1,585 ⁽²⁾
	2003	12	379	788	272	50	1,525 ⁽²⁾
	2002	11	411	817	264	64	1,606 ⁽²⁾
	2001	10	318	634	267	56	1,311 ⁽²⁾

⁽¹⁾ Only drug conviction as the most serious conviction reported (one conviction per offender).

⁽²⁾ Total includes unclassified felonies-not equal to sum of class 2-6.

Appendix G

Prison Sentences for All Felony Convictions ⁽¹⁾

FY2001-FY2006 (2005 and 2006 Projected)

Number of Convictions

Fiscal Year	Felony Class						Unclassified ⁽²⁾	Total
	1	2	3	4	5	6		
2006 Prj.	64	172	1,386	3,898	4,172	2,624	456	12,772
2005 Prj.	53	155	1,320	3,996	4,381	2,368	477	12,750
2004	36	157	1,112	3,587	3,799	1,734	434	10,859
2003	42	133	1,267	3,705	3,615	1,421	444	10,627
2002	40	166	1,332	3,286	3,529	1,308	492	10,153
2001	37	123	1,198	2,961	3,110	1,231	376	9,036

Annual Percentage Increase (-Decrease)

Fiscal Year	Felony Class						Unclassified ⁽²⁾	Total
	1	2	3	4	5	6		
2006 Prj.	20.8%	11.0%	5.0%	-2.5%	-4.8%	10.8%	-4.4%	0.2%
2005 Prj.	47.2%	-1.3%	18.7%	11.4%	15.3%	36.6%	9.9%	17.4%
2004	-14.3%	18.0%	-12.2%	-3.2%	5.1%	22.0%	-2.3%	2.2%
2003	5.0%	-19.9%	-4.9%	12.8%	2.4%	8.6%	-9.8%	4.7%
2002	8.1%	35.0%	11.2%	11.0%	13.5%	6.3%	30.9%	12.4%
2001	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

⁽¹⁾ Includes all felony convictions sentenced to prison (for actual offenders received)

⁽²⁾ Unclassified felonies include convictions under special offender, habitual and lifetime provisions.

Appendix H

Prison Sentences for Felony Drug Convictions ⁽¹⁾

FY2001-FY2006 (2005 and 2006 Projected)

Crime	Fiscal Year	Felony Class					Total⁽²⁾
		2	3	4	5	6	
Special Offender/Habitual	2006 Prj.	n/a	n/a	n/a	n/a	n/a	38
	2005 Prj.	n/a	n/a	n/a	n/a	n/a	37
	2004	n/a	n/a	n/a	n/a	n/a	44
	2003	n/a	n/a	n/a	n/a	n/a	52
	2002	n/a	n/a	n/a	n/a	n/a	69
	2001	n/a	n/a	n/a	n/a	n/a	51
Repeat							
Distr., Manuf., Sale	2006 Prj.	14	14	0	0	0	28
	2005 Prj.	12	24	1	2	0	39
	2004	14	33	3	0	0	50
	2003	13	20	12	9	0	54
	2002	10	32	15	5	0	62
	2001	5	17	14	0	1	37
Distr., Manuf., Sale	2006 Prj.	0	500	136	34	4	674
	2005 Prj.	0	391	116	25	5	537
	2004	0	339	98	21	9	467
	2003	0	402	120	28	12	562
	2002	0	420	86	24	7	537
	2001	0	316	90	38	15	459
Repeat							
Possession	2006 Prj.	14	4	4	6	0	28
	2005 Prj.	3	8	2	2	1	16
	2004	7	8	1	9	0	25
	2003	7	4	0	8	1	20
	2002	7	6	0	2	0	15
	2001	5	0	1	4	1	11
Possession	2006 Prj.	0	62	944	224	18	1,248
	2005 Prj.	0	41	1,017	264	24	1,346
	2004	0	56	1,058	281	48	1,443
	2003	0	32	1,078	335	59	1,504
	2002	0	42	1,046	314	76	1,478
	2001	0	47	846	298	49	1,240
Repeat							
Possession 1 gm. or Less	2006 Prj.	0	0	26	4	0	30
	2005 Prj.	0	0	36	11	0	47
	2004	0	0	26	4	0	30
	2003	0	0	0	0	0	0
	2002	0	0	0	0	0	0
	2001	0	0	0	0	0	0
Possession 1 gm. or Less	2006 Prj.	0	0	0	0	702	702
	2005 Prj.	0	0	0	0	570	570
	2004	0	0	0	0	187	187
	2003	0	0	0	0	0	0
	2002	0	0	0	0	0	0
	2001	0	0	0	0	0	0
Unlawful Use	2006 Prj.	0	0	0	42	94	136
	2005 Prj.	0	0	0	91	63	154
	2004	0	0	0	120	17	137
	2003	0	0	0	123	11	134
	2002	0	0	0	139	9	148
	2001	0	0	0	116	16	132

Appendix H (Page 2 of 2)

Prison Sentences for Felony Drug Convictions ⁽¹⁾

FY2001-FY2006 (2005 and 2006 Projected)

Crime	Fiscal Year	Felony Class					Total⁽²⁾
		2	3	4	5	6	
Other Drug Offenses:							
Poss. Meth. Mat'ls.	2006 Prj.	0	8	4	0	0	12
	2005 Prj.	0	7	5	0	0	12
	2004	0	10	1	0	0	11
	2003	0	1	2	0	0	3
	2002	0	0	1	0	0	1
	2001	0	0	0	0	0	0
Ketamine/GHB	2006 Prj.	0	0	0	0	0	0
	2005 Prj.	0	0	0	0	0	0
	2004	0	0	0	0	0	0
	2003	0	0	0	0	0	0
	2002	0	0	0	0	0	0
	2001	0	0	0	0	0	0
Marijuana	2006 Prj.	0	2	74	78	16	170
	2005 Prj.	0	1	102	62	13	178
	2004	0	2	85	58	19	164
	2003	0	1	79	44	16	140
	2002	0	2	93	55	14	164
	2001	0	2	80	46	21	149
Fraud & Deceit/Imit./Uniden	2006 Prj.	0	0	8	52	12	72
	2005 Prj.	1	1	7	55	14	78
	2004	0	3	3	67	21	94
	2003	0	2	6	70	25	103
	2002	0	1	6	57	21	85
	2001	1	3	8	42	14	68
Total Drug Offenses	2006 Prj.	28	590	1,196	440	846	3,138 ⁽²⁾
	2005 Prj.	16	473	1,286	512	690	3,014 ⁽²⁾
	2004	21	451	1,275	560	301	2,652 ⁽²⁾
	2003	20	462	1,297	617	124	2,572 ⁽²⁾
	2002	17	503	1,247	596	127	2,559 ⁽²⁾
	2001	11	385	1,039	544	117	2,147 ⁽²⁾

⁽¹⁾ Includes all felony drug convictions sentenced to prison (for actual offenders received)

⁽²⁾ Total includes unclassified felonies-not equal to sum of class 2-6.

Appendix I
Court Commitments-Controlling Sentence ⁽¹⁾
Possession and Possession of 1 Gram or Less

Fiscal Year	Crime	Felony Class					Total	Sentence	
		2	3	4	5	6		Ave. (mos)	
2006	Prj.	Possession-Repeat	10	2				12	120.0
		Possession		50	490	98	8	646	40.2
		Poss. 1g or less-Repeat			10	2		12	39.0
		Poss. 1g or less					228	228	15.8
		Total	10	52	500	100	236	898	35.0
2005	Prj.	Possession-Repeat	2	3			1	6	110.0
		Possession		26	542	139	12	719	38.0
		Poss. 1g or less-Repeat			11	2		13	40.2
		Poss. 1g or less					186	186	15.6
		Total	2	29	553	141	199	924	34.0
2004		Possession-Repeat	7	6			2	15	92.0
		Possession		36	534	135	23	728	40.7
		Poss. 1g or less-Repeat			8	3		11	35.5
		Poss. 1g or less					85	85	15.7
		Total	7	42	542	140	108	839	39.0
2003		Possession-Repeat	6	1	1	4	1	13	94.6
		Possession		23	584	163	25	795	40.6
		Poss. 1g or less-Repeat						0	0.0
		Poss. 1g or less						0	0.0
		Total	6	24	585	167	26	808	41.5
2002		Possession-Repeat	4	2	1			7	89.1
		Possession		28	592	144	40	804	41.0
		Poss. 1g or less-Repeat						0	0.0
		Poss. 1g or less						0	0.0
		Total	4	30	593	144	40	811	42.3

⁽¹⁾ Court commitments after elimination of offenders with other non-drug controlling sentences.

Court Commitments-Controlling Sentence ⁽¹⁾
Possession and Possession of 1 Gram or Less

Fiscal Year	Crime	Felony Class					Total	Sentence	
		2	3	4	5	6		Ave. (mos)	
2006	Prj.	10	52	500	100	236	898	35.0	
2005	Prj.	2	29	553	141	199	924	34.0	
2004		7	42	542	140	108	839	39.0	
2003		6	24	585	167	26	808	41.5	
2002		4	30	593	144	40	811	42.3	