



Colorado
Commission on
Criminal &
Juvenile
Justice

2021

2021 Annual Report

CCJJ Annual Report | 2021

Report to the Governor, the Speaker of the House of Representatives, the President of the Senate, and the Chief Justice of the Colorado Supreme Court, pursuant to C.R.S. 16-11.3-103(5)

2021

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Acknowledgments

Under the leadership of Chair Stan Hilkey and Vice Chair Abigail Tucker, the Commission continued its efforts to study and make recommendations to improve the state's justice system.

The Commission is grateful for its dedicated task force chairs and working group leaders: Michael Dougherty, Rick Kornfeld, Co-chairs of the Sentencing Reform Task Force; Glenn Tapia, Leader of the Sentencing Alternatives/Decisions & Probation Working Group; Michael Dougherty, Leader of the Sentence Structure Working Group; Kristen Hilkey, Leader of the Parole Working Group; and Dean Williams, Kristen Hilkey and Greg Mauro, Co-leaders of the Sentence Progression Working Group.

The Commission could not complete its work without the dedication of task force and working group members who volunteer their time to work on topics the Commission has prioritized. The task force members attend at least monthly meetings (working groups convening sometimes on a weekly basis) and undertake assignments between meetings, reflecting a strong dedication to improving the administration of justice in Colorado. These professionals invest considerable time to study and discuss improvements in current processes, and the Commission is grateful for their expertise and commitment to this work.

In particular, the Commission is appreciative for the work of Maureen Cain from the Office of Public Defender, Christie Donner from the Colorado Criminal Justice Reform Coalition, Michael Dougherty from the 20th JD District Attorney's Office, Tom Raynes from the Colorado District Attorney's Council, and Dan Rubinstein from the 21st JD District Attorney's Office. These members of the Sentence Structure Working Group formed a study group and met frequently to review data and information to produce work for the Working Group's review. Additionally, several members of this study group actively participated and testified in the 2021 legislative session in support of Senate Bill 2021-271 (*Concerning the adoption of the 2021 recommendations for the Colorado Criminal and Juvenile Justice Commission regarding sentencing for offenses*), derived from the Commission's recommendation. The Commission is greatly appreciative of their time and dedication to these significant efforts.

The Commission thanks the leadership of the organizations of those who work on behalf of Commission initiatives for supporting these important activities.

Finally, the Commission is particularly grateful to its consultant, Richard Stroker. Mr. Stroker assists with planning and facilitating the meetings of the Commission and its study groups. He provided guidance, perspective, encouragement, and clarity to the Commission during Fiscal Year 2021.

Commission Members

Stan Hilkey

Chair

Executive Director
Department of Public Safety

Abigail Tucker

Vice Chair

Representing Mental Health Treatment Providers

Chris Bachmeyer (resigned November 2020)

District Court Judge, 1st Judicial District
Representing the CO State Judicial Branch

Terri Carver

State Representative, House District 20
Representing the State Legislature (R)

Minna Castillo Cohen

Director, Children, Youth & Families (CDHS)
Designee for the Executive Director of the
Department of Human Services

Shawn Day

Aurora Municipal Judge
Representing Municipalities

Janet Drake

Deputy, Criminal Justice Section,
Attorney General's Office
Designee for the Attorney General

Valarie Finks

Victims Representative, 18th Judicial District
Representing Victim Rights Organizations

Bob Gardner

State Senator, Senate District 12
Representing the State Legislature (R)

Priscilla Gardner

Supervising State Public Defender
Representing Juvenile Justice

Julie Gonzales

State Senator, Senate District 34
Representing the State Legislature (D)

Serena Gonzales-Gutierrez

State Representative, House District 4
Representing the State Legislature (D)

Kristen Hilkey

Chair, Colorado State Board of Parole
Colorado State Board of Parole

Nancy Jackson

Arapahoe County Commissioner
Representing Counties/County Commissioners

Jessica Jones

Private Defense Attorney
At-large

William Kilpatrick

Chief, Golden Police Department
Representing Chiefs of Police

Richard Kornfeld

Private Defense Attorney
Representing Criminal Defense

Matt Lewis

Sheriff, Mesa County
Representing Colorado Sheriffs

Andrew Matson

Colorado CURE
Representing Offenders

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Director, Denver Division of Community Corrections
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Patrick Murphy (partial term appointment 12/2020)

Chief Judge, 11th Judicial District
Representing the Colorado Judicial Branch

Angie Paccione

Executive Director
Department of Higher Education

Tom Raynes

CDAC Executive Director
Representing the Colorado District Attorneys'
Council

Megan Ring

State Public Defender
Office of the Colorado State Public Defender

Michael Rourke (designated 01/2021)

District Attorney, 19th Judicial District
Representing District Attorneys

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Designee for the Chair of the Juvenile Parole Board

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Executive Director, WINGS Foundation
Representing Victims/Survivors of Crime

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Director, Division of Probation Services
Representing the Colorado State Judicial Branch

Ann Tapp

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Dean Williams

Executive Director, Department of Corrections

Joe Thome

Director, Division of Criminal Justice,
Department of Public Safety
Ex officio Member

Task Force and Committee Members

July 2020–June 2021

Sentencing Reform Task Force

Name	Affiliation
Rick Kornfeld, <i>Co-chair</i>	Defense/Private defense
Michael Dougherty, <i>Co-chair</i>	Prosecution/District Attorney's Office, 20th J.D.
Taj Ashaheed	Lived Experience/Second Chance Center
Chris Bachmeyer	District Court Judge/1st Judicial District
Maureen Cain	Defense/State Public Defender's Office
Terri Carver	Legislature/State House District 20
Jeff Chostner	Prosecution/District Attorney's Office, 10th J.D.
Christie Donner	Advocate/CO Criminal Justice Reform Coalition
Valarie Finks	Victim Representative/District Attorney's Office, 1st J.D.
Bob Gardner	Legislature/State Senate District 12
Julie Gonzales	Legislature/State Senate District 34
Serena Gonzales-Gutierrez	Legislature/State House District 4
Kristen Hilkey	Parole Board/Chair
Kazi Houston	Victim Representative/Rocky Mountain Victim Law Center
Henry Jackson	Sentencing Disparity Expert/Metro State University
Jessica Jones	Defense/Private defense
Sarah Keck	Judicial Branch/Court Services
Matt Lewis	Law Enforcement/Mesa County Sheriff
Andrew Matson	Lived Experience/Colorado CURE
Greg Mauro	Director/Denver Division of Community Corrections
Heather McClure	Lived Experience/Adams County Criminal Justice Council
Tom Raynes	Prosecution/CO District Attorneys' Council
Michael Rourke	Prosecution/District Attorney's Office, 19th J.D.
Dan Rubinstein	Prosecution/District Attorney's Office, 21st J.D.
Glenn Tapia	Judicial Branch/Director, Division of Probation Services
Lisa Wayne	Defense/Private defense
Dean Williams	Department of Corrections/Executive Director

Parole Working Group

Name	Affiliation
Kristen Hilkey, <i>Leader</i>	Colorado State Board of Parole
Taj Ashaheed	Second Chance Center
Michelle Aswad	Victim representative
Jeff Chostner	District Attorney's Office, 10th J.D.
Kazi Houston	Rocky Mountain Victim Law Center
Mollie Schultz	District Attorney's Office, 2nd J.D.
Susan White	Parole Division, Department of Corrections

Sentence Progression Working Group

Name	Affiliation
Dean Williams, <i>Leader</i>	Department of Corrections (Resigned as Leader 03/2021)
Kristen Hilkey, Co-Leader	Colorado State Board of Parole
Greg Mauro, Co-Leader	Denver Division of Community Corrections
Joseph Archambault	Office of the State Public Defender
Taj Ashaheed	Lived Experience/Second Chance Center
Valarie Finks	Crime Victim Compensation/DA Office, 1st J.D.
Bob Gardner	State Senate/District 12
Rick Kornfeld	Defense/Private defense
Andrew Matson	Lived Experience/Colorado CURE
Merideth McGrath	Division of Parole/Colorado Department of Corrections
Steve O'Dorisio	Adams Co. Board of Commissioners
Amber Pedersen	Colorado Department of Corrections
Michael Rourke	District Attorney's Office, 19th J.D.
Catrina Weigel	District Attorney's Office, 20th J.D.

Sentence Structure Working Group

Name	Affiliation
Michael Dougherty, <i>Leader</i>	District Attorney's Office, 20th J.D.
Maureen Cain	Office of the State Public Defender
Christie Donner	Colorado Criminal Justice Reform Coalition
Valarie Finks	Victim Compensation, DA Office, 1st J.D.
Jessica Jones	Defense/Private defense
Tom Raynes	Colorado District Attorney's Council
Dan Rubinstein	District Attorney's Office, 21st J.D.
Lisa Wayne	Defense/Private defense

Sentencing Alternatives/Decisions & Probation Working Group

Name	Affiliation
Glenn Tapia, <i>Leader</i>	Probation Division/Judicial Branch
Chris Gallo	District Attorney's Office, 18th J.D.
Kristin Heath	Jefferson County Justice Services
Kathryn Herold	Defense/Boulder Public Defender Office
Kazi Houston	Victim Representative/Rocky Mountain Victim Law Center
Matthew James	District Attorney's Office, 2nd J.D.
Heather McClure	Lived Experience/Adams County CJ Council
Clay McKisson	District Court Judge, 3rd J.D./Judicial Branch
Jenifer Morgen	Probation/17th J.D.
Greg Otte	Probation/8th J.D.
Elaina Shively	District Attorney's Office, 20th J.D.
Abigail Tucker	Behavioral Health Treatment Provider

Legislative Subcommittee

Name	Affiliation
Stan Hilkey, <i>Chair</i>	Department of Public Safety
Abigail Tucker, <i>Vice Chair</i>	Representing Mental Health Treatment Providers
Shawn Day	Aurora Municipal Judge (representing Municipalities)
Janet Drake	Criminal Justice Division, Attorney General's Office
Tom Raynes	Colorado District Attorneys' Council (Ad Hoc, Representative of CCJJ)
Megan Ring	State Public Defender's Office
Joe Thome, CCJJ Staff	Division of Criminal Justice
Joel Malecka, Staff	CDPS Legislative Liaison

Pretrial Release Task Force

This task force was placed on hiatus in June 2020 and did not meet during fiscal year 2021. For membership information, consult the Commission website at ccjj.colorado.gov/ccjj-prtf

Commission Staff

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Research Director, Office of Research and Statistics
Division of Criminal Justice

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1 Introduction

This report documents the Commission's fourteenth year of activities and accomplishments, specifically describing the Commission's activities between July 1, 2020 and June 30, 2021. During this period, all Commission meetings continued to occur on a virtual platform due to the worldwide COVID-19 pandemic. In Fiscal Year 2021, the Commission's work focused on issues related to sentencing reform and received in-depth presentations on the Community Law Enforcement Action Reporting (CLEAR) Act, public health and safety regarding drug trends, and the newly enacted Behavioral Health Administration (BHA). More detailed information can be found in the "Activities of the Commission" section.

The Drug Offense Task Force and the Opioid Investigations Subcommittee seated by the Commission in September 2019 pursuant to Senate Bill 2019-008 concluded their work. A final report describing the activities of these committees was completed in September 2020 (see Appendix F).

The Age of Delinquency Task Force seated by the Commission in February 2019 with assigned mandates pursuant to House Bill 2019-

1149 concluded its work. A report describing recommendations for improving services to young adults ages 18-24 was completed and submitted to the Judiciary committees of the Colorado House of Representatives and the Senate on August 2020 (See Appendix E).

The Sentencing Reform Task Force was seated by the Commission with a start date on September 9, 2020 to address the sentencing topics delineated in the 2020 biennial letter from Governor Jared Polis pursuant to House Bill 2018-1287 (See Appendix A). Subsequently, the Task Force created working groups to focus on the areas of sentence progression, probation, conditions of parole, and sentence structure.

During Fiscal Year 2021, the Commission approved a total of eight recommendations in the areas of delinquency, drug offenses, opioid investigations, and sentencing reform. During the 2021 legislative session, one recommendation from the Sentencing Reform Task Force was drafted into legislation and was signed into law by Governor Polis. Elements of recommendations from previous years (Fiscal Year 2020 and Fiscal Year 2008) were also included in

three additional pieces of legislation, bringing the total number of Commission-influenced pieces of signed legislation to four (see Table 1.1.) Legislative reforms are one type of systemic change the Commission pursues. It also recommends changes to operational policy, business practice, and agency philosophy.

This 2021 report is organized as follows: Section 2 provides a summary of the Commission’s mission as reflected in its enabling legislation, along with its membership; Section 3 discusses Commission and committee activities from July 2020 through June 2021; Section 4 details the Commission’s recommendations and outcomes; and Section 5 describes the Commission’s next steps.

Table 1.1 Bills Related to Commission Recommendations

Bill Number	Bill Title	Status
House Bill 21-1214	Concerning increased eligibility for procedures to reduce collateral sanctions experienced by defendants, and, in connection therewith, making an appropriation. <i>(Recommendations included in this bill—FY20-DR01)</i>	Signed
Senate Bill 21-146	Concerning measures to improve prison release outcomes, and, in connection therewith, making and reducing an appropriation. (Note: This bill was not initiated by CCJJ, but included elements of a previous CCJJ recommendation.) <i>(Recommendations included in this bill—FY20-AD02)</i>	Signed
Senate Bill 21-153	Concerning a program to assist offenders with acquiring state-issued identification. (Note: This bill was not initiated by CCJJ, but included elements of a previous CCJJ recommendation.) <i>(Recommendations included in this bill—FY08-BP50)</i> <i>(See also Senate Bill 09-006)</i>	Signed
Senate Bill 21-271	Concerning the adoption of the 2021 recommendations of the Colorado Commission on Criminal and Juvenile Justice regarding sentencing for offenses, and, in connection therewith, making an appropriation. <i>(Recommendations included in this bill—FY21-SR01)</i>	Signed



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Legislative Intent and Membership

The Colorado Commission on Criminal and Juvenile Justice (“Commission”) was created by House Bill 2007-1358 with specific mandates. These initial mandates may be found in §16-11.3-101 through §16-11.3-105, C.R.S. and §24-1-128.6, C.R.S. The Commission was re-authorized during the 2018 legislative session by House Bill 2018-1287. More information on the Commission enabling legislation and statutory duties can be found on its website at ccjj.colorado.gov/ccjj-creation.

The Commission comprises 29 voting members and one ex-officio, non-voting member. Twenty members are appointed representatives of specific stakeholder groups, and ten are designated to serve based on their official position. Terms of the appointed members are for no more than two consecutive three-year terms, in addition to any

partial term. The Commission includes state agency representatives, legislators, the department of law, and multiple private and public stakeholders. As such, approved recommendations represent the views of the entire Commission and not that of any single agency or Commission partner.

During Fiscal Year 2021, the Commission welcomed two new members: Chief Judge Patrick Murphy who replaced Judge Chris Bachmeyer representing the Colorado Judicial Branch and Michael Rourke who replaced Cliff Riedel representing District Attorneys.

Upon the conclusion of Fiscal Year 2021, the first terms of ten Commissioners were to expire on June 30, 2021 and the reappointments or new appointments had yet to be announced.



3

Activities of the Commission

This section summarizes the activities and accomplishments of the Commission in Fiscal Year 2021. The topics covered in this section include the following:

- A summary of the educational presentations made to the Commission regarding local and national criminal justice initiatives and efforts;
- A description of a statutorily mandated training required by 2018 legislation for all of Colorado's Boards and Commissions;
- A description of the directives to the Commission primarily addressing sentencing reform contained in the biennial letter from Governor Polis, pursuant §16-11.3-103(7), C.R.S. and the Commission's work strategy for Fiscal Year 2021;
- A report of the work of the Task Force and Working Groups of the Commission.

Educational Presentations

The monthly Commission meetings provide a platform for ongoing education and information sharing regarding local and national criminal justice issues and trends. During Fiscal Year 2021, experts provided three topical presentations summarized below.

Community Law Enforcement Action Reporting (CLEAR) Act

Kim English, Research Director for the Division of Criminal Justice presented the 2019 analysis of data pursuant to the CLEAR Act (Community Law Enforcement Action Reporting Act; Senate Bill 15-185).

The following is a summary of the presentation:

- In 2015, the General Assembly passed Senate Bill 15-185, the Community Law Enforcement Action Reporting Act (CLEAR Act) mandating that the Division of Criminal Justice (DCJ) analyze and report data annually from law

enforcement agencies, the Judicial Department, and the adult Parole Board to reflect decisions made at multiple points in the justice system process.

- The CLEAR Act calls for the analysis of race/ethnicity and gender at the major decision points in the justice system, including arrests, court filings, case outcome, initial sentencing, and parole.
- In 2019, statewide: Blacks represented 4% of the adult state population but accounted for 12% of arrests and 11% of adult district court filings. Hispanic adults represented 19% of the adult state population but accounted for 28% of arrests and 30% of adult district court filings.
- A notable 2019 statewide finding is that Blacks are arrested at a rate disproportionate to the population. Additionally, Blacks and Hispanics are less likely to receive deferred judgments and more likely to receive a sentence to prison.
- Regarding sentencing, many factors can influence a sentencing decision such as prior cases, prior convictions for specific crimes, other concurrent cases, felony conviction level, offense type (i.e. violent, property, drug, other), and whether the offense was a specific violent crime. A statistical analysis that controlled for these factors was conducted to determine if race/ethnicity was related to sentencing decisions. The analysis revealed that adult Blacks and Hispanics were still more likely than Whites to receive a sentence to the Department of Corrections and, for juveniles, to the Division of Youth Services. Black and Hispanic defendants were also less likely to receive a deferred judgment

Ms. English provided multiple resources that offer recommendations to improve minority over representation in the justice system, including reports from the Sentencing Project (2016), the National Research Council (2013), the Brennan Center for Justice (2015), and the Task Force on 21st Century Policing (2015). Links to the complete CLEAR Act report, the resources described, and the link to an associated data dashboard can be found on the Commission's website under the October 9,

2020 meeting tab at ccjj.colorado.gov/ccjjmtg2020. This information is also available on the Division of Criminal Justice Office of Research and Statistics website at ors.colorado.gov/ors-sb185.

Public Health and Safety regarding Drug Trends

In October 2020, Commissioners heard presentations on public health and safety regarding drug trends from Elyse Contreras from the Colorado Department of Public Health and Environment (CDPHE), Heather Tolle from the Office of Behavioral Health (OBH) and Jack Reed from the Division of Criminal Justice (DCJ). The highlights of the presentations follow:

Marijuana Use Trends and THC Concentration in Colorado (Elyse Contreras, CDPHE)

- Youth Marijuana Use and Trends. Every two years, a self-report survey entitled, the Healthy Kids Colorado Survey (HKCS) is distributed in Colorado schools to determine the prevalence of substance use.
 - In 2019, 20.6% of Colorado high school students and 5.2% of Colorado middle school students used marijuana in the past 30 days.
 - In 2019, 29.6% of high school students used alcohol, 25.9% used electronic cigarettes, and 20.6% used marijuana in the past 30 days.
 - The most frequent method of use among high school students currently using marijuana is smoking (77.9%) followed by dabbing (52.0%).
 - About 11.2% of high school students drove in the past 30 days after marijuana use and 5.9% drove after alcohol use.
- Adult Marijuana Use and Trends. The Behavioral Risk Factor Surveillance System (BRFSS) is an annual telephone survey of Colorado adults 18 and older.
 - In 2018, 17.5% of adults used marijuana in the past 30-days.

- Young adults, 18-25 years-old, had the highest marijuana usage rate at 30.0%.
- Adult users are most likely to smoke marijuana (more than 80%).
- In 2018, 22.3% of adult users in Colorado reported driving within two to three hours of consuming marijuana

Summary: Past 30-day use is stable among Colorado populations; more adults are using marijuana daily; methods of consumption have changed for youth to more potent forms of marijuana; and driving after use is increasing among both adults and youth.

- **THC Concentration in Colorado: Key Findings**
 - In Strong to moderate evidence exists that the level of THC concentration can have negative mental health effects on adolescents, young adults, and adults.
 - Insufficient evidence exists regarding the impact of dependence on concentrate products and acute health effects.
 - The effect on THC blood levels varies by product type.

Summary: Almost all retail marijuana products in Colorado contain THC in high concentrations (>10%); more research is needed on products with higher THC concentrations and potential associations with both physical and mental health effects; and improvement in data collection is needed, including type of product and the amount of THC.

*Substance Use Disorder Treatment:
Colorado Drug Trends* (Heather Tolle, OBH)

- **Key Takeaways**
 - Treatment admissions remained relatively stable across CY2018 and CY2019 with an increase of only 276 treatment admissions (N = 43,731).
 - Alcohol has consistently had the highest number of treatment admissions between 2010 and 2019.

- 42% of treatment admissions in 2019 were for heroin or methamphetamine.

- **Key Findings**

- Alcohol continues to be the most common reason for treatment admissions, and these continue to rise.
- Treatment admissions for methamphetamine and heroin have been increasing greatly over the past decade.
- Individuals admitted to treatment were most often between ages 26 and 39; those using marijuana tended to be a little younger, while those using cocaine or crack tended to be a little older.
- Men were over-represented in treatment admissions, as were Native Americans, Hispanics and, to a lesser degree, African Americans.

Public Safety and Substance Use Trends
(Jack Reed, DCJ)

- **Drug Crime Trends**

- Drug arrests and district court filings for drug possession charges increased in Colorado from 2013–2018.
- In 2019, stimulants (n=10,662), narcotics (n=6,676), and marijuana (n=4,364) were the top three drugs seized in Colorado.
- In 2019, amphetamine represented the highest number of drug-related offenses (n=7,479) in Colorado followed by marijuana (n=4,571) and heroin (n=2,665).
- Black drug arrest rates were 2.8 times higher than Whites and Hispanic drug arrest rates were 1.5 times higher than Whites.
- The drug offense rates were higher in the 18-20 age group; an increase in the rates for older age groups was primarily driven by methamphetamine possession arrests.

- **Traffic Safety**
 - In 2019, the roadway fatality rate in Colorado was about 13.9 per 100,000 residents.
 - About 23% of drivers tested positive for any Delta-9 THC in fatal crashes in 2019.
 - In 2018, about 84% of toxicology tests resulted in a level of 0.08 BAC or more.
 - About 49% of cannabinoid positive drivers had a THC level of 5ng/mL or more, which is the level at which a “permissible inference” of impairment can be made.
- **School Discipline and Law Enforcement Contacts**
 - In the 2018–19 school year, 3,493 marijuana violations resulted in suspensions compared to 1,698 for other drugs.
 - Marijuana possession was the most frequent substance-related offense for high school students, followed by possession of other dangerous drugs, tobacco and liquor/ alcohol.

Summary: Marijuana violations are the primary reason for school suspensions, expulsions, and referrals to law enforcement. It is important to intervene early with substance use prevention efforts and promote alternative disciplinary methods to reduce the school-to-prison pipeline.

**Behavioral Health Administration (BHA)—
Change Management**

Staff from the Colorado Department of Human Services (CDHS) and consultants from Health Management Associates (HMA) introduced Commissioners to the new Behavioral Health Administration (BHA; see, cdhs.colorado.gov/behavioral-health-reform) during an extra Commission meeting in April 2021. This is an effort currently housed in the Department of Human Services to streamline and consolidate behavioral health funding and initiatives.

Below are highlights from the presentation.

- On April 8, 2019, Gov. Jared Polis directed the Colorado Department of Human Services to spearhead the Colorado Behavioral Health Task Force. The mission of the Task Force was to evaluate and develop a road map to improve the statewide behavioral health system. In September 2020, the Task Force released its *Blueprint for Reform*, as well as several other documents, that outline the plan for reform.
- According to HMA findings, Colorado’s behavioral health (BH) system is fragmented and siloed. Upon study, the following issues emerged:
 - It is difficult for consumers and families to access services and navigate the system
 - No comprehensive planning is undertaken
 - There is a diffusion of responsibility by those in charge resulting in minimal accountability
 - Once individuals get access to services, they often experience “the run-around” and continue to experience difficulty
 - Service delivery is not timely
- One of the Behavioral Health Task Force recommendations was to create a new Behavioral Health Administration (BHA). The BHA will align, coordinate, and/or integrate state mental health and substance use programs and funding under one government entity, streamlining access to services for Coloradans, and reducing bureaucracy for providers.
- The goals for the BHA:
 - Create a vision for behavioral health
 - Prioritize services, programs, and innovation
 - Maximize funding
 - Streamline data and accountability
 - Address workforce needs
 - Reduce the administrative burden

- Health Management Associates (HMA) is a Colorado-based consulting and research firm that is providing the technical assistance work required to understand the behavioral health services and programs in Colorado and will create potential models for the structure of the BHA. These alternative models will be informed by stakeholders and then presented to the Governor’s Office for decisions regarding the structure and functions of the BHA. Once a decision is made, HMA will work on a detailed implementation plan in partnership with state agencies and key stakeholders. HMA will engage stakeholders throughout the process with a specific focus on state departments, county/local governments, providers, grantees and contractors of behavioral health activities, and individuals and families impacted by behavioral health.
- Timeline
 - January 2021. HMA Project launch: Project definition, change management, and communication development
 - February 2021. Department engagement: Meeting with executive branch department staff
 - March 2021. Technical research: Targeted stakeholder and department engagement, research, and technical review
 - April 2021. Solution development: Stakeholder engagement on potential solutions, presentations to the Executive Committee of the Behavioral Health Reform Task Force and the Governor’s Office
 - Summer 2021. Implementation Plan: Develop formal implementation plan
- Functions of BHA
 - Owns behavioral health problems and solutions
 - Plans, strategizes, assesses, and monitors needs
 - Resource allocation
 - Quality assurance, data collection, analysis, and transparent reporting
- Licensure
 - Promulgate behavioral health policy
 - Interagency coordination and collaboration
 - Stakeholder engagement with consumers and communities
 - Technical assistance
- Effective Accountability
 - The BHA needs to be accountable for the totality of the behavioral health continuum (prevention, treatment, recovery in both the health and human services systems) provided to the public and commercial payors.
 - Some elements of the system will remain outside of the BHA’s direct control but will be within its sphere of collaborative relationships (e.g., Medicaid, commercial insurance).
 - The BHA must be able to impact services that are being purchased by other parts of Colorado’s government.
 - As such, the BHA will need authority that does not come from directly controlling dollars or operations.
 - The authority of the BHA must be balanced with other parts of government (i.e. Governor’s authority, legislative authority, and state department authority).
- Potential Decision Points—BHA Location—
 - Option 1: In CDHS with community based behavioral health treatment and intervention services program portfolio
 - Pros: Maintains the status quo with programs
 - Cons: Maintains the status quo and may create confusion about the authority of the BHA within the executive branch, or result in long-term diminishment of the role of the BHA

Option 2: In the Colorado Department of Health Care Policy & Financing with community based behavioral health treatment and intervention services program

- Pros: Integration of BH healthcare and BH human services
- Cons: Fundamentally different roles filled by one agency may create culture and operations problems

Option 3: Outside of state agencies

- Pros: Independence, accountability, and no territory to protect that might distract it from its core mission; requires delegated authority
- Cons: Too much focus on policy could lead to solutions being disconnected from operational realities and may risk BHA removal
- Role of BHA with criminal justice partners
 - Support and build on existing collaboration to improve relationships and connections between criminal justice entities and behavioral health entities
 - Incorporate priorities of criminal justice partners in improving BH assessment, treatment, and services for justice involved individuals
 - Expand BH provider understanding of Risk-Need-Responsivity (RNR), criminogenic needs, and treatment of individuals involved in the justice system
 - Data interoperability to support data sharing across the justice-involved continuum of care; ensure data follow the person to support improved care and reduce the burden on individuals

Statutorily mandated training for all Colorado’s Boards and Commissions (House Bill 2018-1198)

Ms. Ingrid Barrier from the Attorney General’s Office explained to the Commission that legislation was passed in 2018 calling for an annual training for all of Colorado’s boards and commissions (H.B. 2018-1198). Ms. Barrier provided a training on topics ranging from statutory mandates and staff duties to decision-making processes, the open meetings requirement under the Sunshine Law, and the Colorado Open Records Act.

Biennial letter from Governor Jared Polis on CCJJ study topics, pursuant to § 16-11.3-103(7) and Commission’s work strategy for Fiscal Year 2021

In June 2020, the Commission received the biennial letter from the Governor directing the Commission to develop recommendations on the following topics:

- 1) Analyzing prison population trends, and continually reviewing the implications of any changes in sentencing on the length of those incarcerated in the Department of Corrections (DOC). The Commission should recognize the finite resource of available beds in DOC, as well as the administration’s effort to eliminate private prison capacity.
- 2) Developing a guideline approach to structuring dispositions.
- 3) Defining the purpose of probation, so that the terms and consequences of violations support best practices.
- 4) Ensuring statewide consistency in the application of sentencing guidelines that mitigate the effects of individual discretion by system actors.

- 5) Determining the appropriate degree of determinacy and where to strike a balance between “truth in sentencing” and ensuring that there are incentives for success throughout an offender’s sentence. This includes reviewing:
 - a. The necessity of the extraordinary risk section in C.R.S. 18-1.3-401(10), to simplify the sentencing code while at the same time providing the prosecution with more discretion in charging and negotiations.
 - b. Habitual criminal provisions of C.R.S. 18-1.3-801 so that we are enhancing sentences for only those individuals who are truly public safety risks.
- 6) Optimizing how community resources are allocated to better align interventions that are more likely to reduce recidivism and provide meaningful sentencing choices.
- 7) Improving the interactions between those with behavioral health conditions (including individuals with intellectual and developmental disabilities, traumatic brain injuries, and dementia) and first responders, law enforcement, and healthcare workers, so that those with behavioral health conditions are not unnecessarily involved in the justice system due to unmet health needs.

In the summer of 2020, Mr. Hilkey, Chair of the Commission announced the creation of the Sentencing Reform Task Force and appointed Mr. Rick Kornfeld (CCJJ) and Michael Dougherty (20th JD District Attorney) as Co-chairs of the task force. Mr. Kornfeld offered a general overview of the plans for the task force and highlights of the presentation are as follows:

PLAN

- First meeting: Wednesday September 9, 2020 @ 1:30 pm
- Membership: 22 members representing diverse perspectives and expertise, including prosecution, defense, victim concerns, lived experience, and disparity in justice.

- Structure: The Task Force may seat two to four Working Groups to study and draft recommendations on the assigned topics.
- Topics: Address specific, assigned topics. Members will more fully delineate the assigned topics and task strategy during the first meetings of the task force

ASSIGNED TOPICS

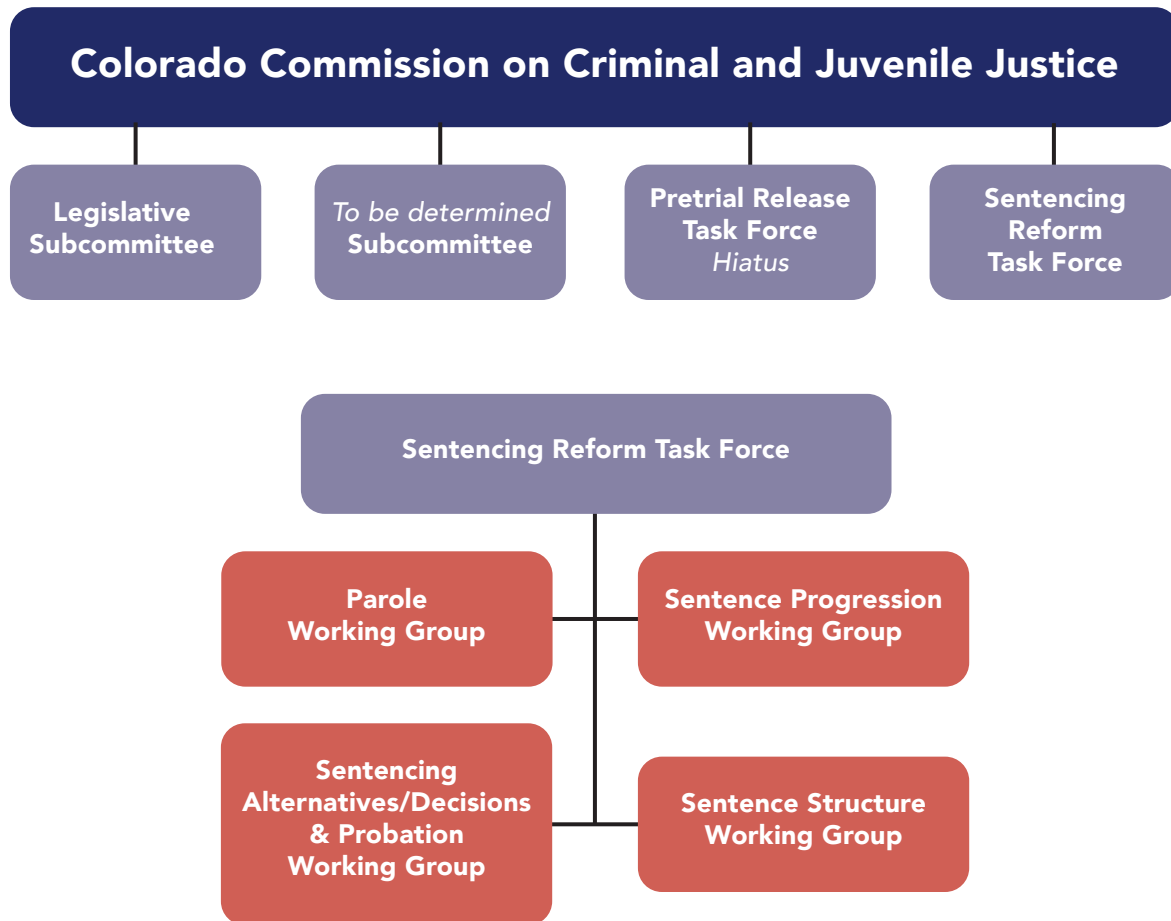
- Analyze prison population trends and population implications for any sentence length changes (including limited CDOC bed resources & private prison elimination).
- Develop guidelines to structure dispositions.
- Ensure statewide consistency to mitigate effects of discretion in the application of sentencing guidelines.
- Determine balance between sentence determinacy and opportunities for incentives. Also, review necessity, simplification and/or specificity of Extraordinary Risk and Habitual Criminal provisions.

Work of the Commission’s Task Force and Subcommittee

The Commission’s work during Fiscal Year 2021 was undertaken by the following three committees and four working groups (see Figure 3.1 on the following page)

- Legislative Subcommittee, Chair Stan Hilkey
- Pretrial Release Task Force (On hiatus), Chair Stan Hilkey
- Sentencing Reform Task Force, Co-chairs Rick Kornfeld & Michael Dougherty
 - Parole Working Group
 - Sentence Progression Working Group
 - Sentencing Alternative/Decisions & Probation Working Group
 - Sentence Structure Working Group

Figure 3.1 Commission and Subcommittees/Task Forces



Legislative Subcommittee

This ongoing Subcommittee meets primarily during the legislative session to ensure that bills based on Commission recommendations continue to reflect the intent of the Commission when amendments and modifications occurs. Members review legislation and legislative changes as bills progress through the General Assembly.

During this fiscal year the Chair of the Commission, Stan Hilkey, convened the Legislative Subcommittee on October 14, 2020. He explained that, at the request of the Governor’s Office, the Colorado Department of Public Safety submitted a decision item to fund pretrial reform efforts, based on the Pretrial Release Task Force’s recommendations that were approved by the Commission on January

10, 2020. Aspects of the recommendations were included in Senate Bill 2020-161 and, during the delayed and abbreviated FY20 legislative session due to COVID-19, the bill was postponed indefinitely by the Senate Appropriations Committee on June 10, 2020.

Mr. Hilkey asked the Legislative Subcommittee to consider whether the Commission should continue to pursue the pretrial reform recommendations approved by the Commission and move the decision item forward. The Legislative Subcommittee members acknowledged the significant amount of work undertaken to produce the pretrial recommendations. However, recent events, including the budget challenges related to COVID-19 and the significant reduction in the size of the pretrial jail population due to the

pandemic, shifted the Commission’s priorities. As Mr. Hilkey later reported to the Governor’s Office, the Legislative Subcommittee members agreed that current Commission priorities have shifted away from the previously approved pretrial reform recommendations, in part because upcoming pretrial bills will address many important issues included in the Commission recommendations. The Legislative Subcommittee also requested that the funding available for the decision item be held for other Commission-related justice priorities.

On May 17, 2021, Mr. Hilkey convened the Legislative Subcommittee to review and approve a “Legislative Fact Sheet” drafted for use by legislators, and to discuss the few amendments made during the drafting of Senate Bill 2021-271 to determine whether the bill continues to reflect the intent of CCJJ Recommendation FY21-SR #01 (Revise Misdemeanor Sentencing and Offenses). A motion was offered and seconded to approve the Legislative Fact Sheet and to concur that the amendments of Senate Bill 21-271 reflected the intent of the recommendation. The motion was approved.

Pretrial Release Task Force

Following the approval of recommendations by the Commission (see Fiscal Year 2020 CCJJ annual report), the Pretrial Release Task Force was placed on hiatus.

Sentencing Reform Task Force

The Sentencing Reform Task Force held its first meeting on September 9, 2020. The Commission directed this task force to address the sentencing topics delineated in the 2020 biennial letter from Governor Jared Polis. During the first meetings, the task force reviewed the Governor’s letter, reviewed sentencing reform discussions from an existing team working in the area of sentence reform, began discussion of guiding principles regarding sentencing-related work, and established four working groups. The goals and progress of the working groups follow:

- *Sentence Structure Working Group*
 - Assignment: Study felony and misdemeanor sentencing grids, sentence ranges, sentence enhancements (habitual, extraordinary risk), work to promote consistency and certainty in sentencing, and to simplify various aspects of the sentencing code.
 - Areas of focus: Promote consistency and certainty in sentences; simplify crimes and sentencing; eliminate redundant offenses; develop misdemeanor sentencing grid; undertake a thorough review of all offenses and sentences; initiate review with misdemeanors in order to develop the baseline and foundation for all the work ahead; reclassify misdemeanors and felonies, as appropriate.
 - Work-to-date: Completed the revision of misdemeanor offenses and developed *Recommendation FY 21-SR #01 Revise Misdemeanor Sentencing and Offenses*. Following a preliminary presentation to the Commission, Working Group members offered a series of Question & Answer sessions to respond to queries from Commissioners regarding the recommendation. The Commission approved the recommendation on March 12 with a subsequent approval of revisions on April 9, 2021. The Working Group was placed on hiatus during the legislative session and several members of the Sentence Structure Working Group participated in legislative hearings in support of *Senate Bill 2021-271. Misdemeanor Reform* derived from Commission Recommendation FY21-SR #01.
 - Next areas of work: The next area of focus will be a review of the felony sentencing grids and felony offenses. The Working Group initiated this next phase of work with a series of public “listening sessions” with stakeholders in June 2021.

- *Sentence Progression Working Group*

- Assignment: Examine the use of options and incentives to promote positive progress during incarceration, preparing individuals throughout incarceration for release and successful reentry, and review opportunities to expand alternatives.
- Areas of focus: Examine community-based opportunities for people in prison who are in the last phase of their sentence and review the statutes related to the Intensive Supervision Program-Inmate (ISP-I) program.
- Work-to-date: The Working Group studied existing community based-opportunities and discussed developing a proposal to implement a “Transitional Confinement Pilot Program” that would create another opportunity for supported transition into the community. However, while there was consensus on the problem, Working Group members engaged in lengthy and robust discussions about whether to refrain from creating another reentry program when more work was warranted to identify current gaps in reentry programming in the community by undertaking a more comprehensive study of the existing release options. At the February 10, 2021 Sentencing Reform Task Force meeting, Mr. Williams, Working Group Leader informed the Task Force of the Working Group’s interest to complete a review of existing reentry processes rather than to create a new reentry process. In March 2021, Ms. Hilkey and Mr. Mauro were appointed as Co-leaders of the Working Group. [Although Mr. Williams relinquished his leadership role, he continued as a Working Group member]. The Working Group heard presentations about the existing paths/systems of reentry (Community Corrections, Parole and the CDOC Intensive Supervision Program-Inmate) and continued to examine transition eligibility criteria, referral processes, and community program acceptance patterns. At the June 2021 meeting, the Sentencing

Reform Task Force asked the Working Group to develop an outline with brief descriptions of these potential and prioritized areas of work on the prison-to-community referral and transition processes (in Community Corrections, Parole and ISP-I) for presentation to the Task Force.

- Next areas of work: Future areas of work are under consideration by the Sentencing Reform Task Force.

- *Sentencing Alternatives/Decisions & Probation Working Group*

- Assignment: Focus on the purposes of probation; examine the operation of probation regarding the use of conditions, the length of supervision, and responses to violations; alternatives that can be used at the time of sentencing; and the impact of probation practices on the prison population.
- Areas of focus: The Working Group identified the following priorities:
 - 1) Define the statutory purpose of probation;
 - 2) Examine probation practices regarding the use of conditions, length of supervision, responses to violations, and revocations.
 - 3) Evaluate level of supervision in the interest of proper dosage and approaches (i.e. avoiding over-supervision).

The categories of study topics under areas two and three will include:

- a. Sex Offender Intensive Supervision Program (SOISP)
- b. Early Termination
- c. Terms and Conditions
- d. Outlier Offense Types on Probation

- e. Costs of Supervision and Treatment
 - f. Stability Factors and Other Barriers
 - g. Revocation Petitions
 - h. Sentence Length
 - i. Specialized/Intensive Programs
 - j. Individualized Supervision (vs. a One Size Fits All approach)
 - k. Electronic Monitoring
 - l. Useful Public Service
 - m. Low Risk/Private Probation Supervision
 - n. (Others TBD as needed)
- 4) Examine ethnic and gender disparities in probation outcomes/practices and recommend strategies to abate disparate treatment and/or outcomes.
 - 5) Examine the impact of revocations on the prison population.
 - 6) Examine impact of Traumatic Brain Injury (TBI) on revocations and other outcomes, and recommend strategies to better accommodate persons with TBI.
 - 7) Consider alternatives that can be used at the time of sentencing.
- Work-to-date: The Working Group completed the first area of study related to the purpose of probation and drafted a related recommendation. Next, the Working Group discussed the issue of probation eligibility for petty offenses due to the recategorization of petty offenses and the elimination of the “Class 2 Petty Offense” category resulting from *Recommendation FY 21-SR #01. Revise Misdemeanor Sentencing and Offenses* [see page 13]. The Working Group agreed that those committing petty offenses should not be eligible for probation and discussed alternative solutions for these defendants to comply with court requirements without probation supervision. A recommendation addressing sentencing options for those convicted of petty offenses has been drafted. The Working Group expects to present these two draft recommendations (on the purposes of probation and on petty offenses) to the Sentencing Reform Task Force in the fall of 2021. Stakeholders have been contacted for input regarding over-supervision and probation practices.
 - Next areas of work: The group will examine the barriers to success for individuals on probation (e.g., transportation, treatment and fees) and the mandates related to supervision of those sentenced to probation for a sex offense.
 - *Parole Working Group*
 - Assignment: Examine current parole operations related to supervision length, conditions, risk and protective factor information as they relate to parole supervision options, and parole eligibility options.
 - Areas of focus: The Working Group focused on standard parole conditions and individualized conditions of parole, risk and protective factor information as these relate to conditions, and parole supervision.
 - Work-to-date: The group initially examined current Colorado and national practices regarding the following:
 - Standard conditions of parole;
 - Special conditions of parole;
 - Length of parole supervision;
 - Disparate treatment based on race/ethnicity.

The Working Group completed the revisions of the Conditions of Parole and developed *Recommendation FY21-SR #02. Update the Standard Conditions of Parole and Revise the Additional Conditions of Parole [Statutory; Policy]*. Following a preliminary presentation to the Commission, members of the Parole Working Group offered a Question & Answer session to answer questions from Commissioners. The Commission approved the recommendation on May 14, 2021.

- Next areas of work: The working group concluded its work and was placed on hiatus until potential areas of work related to parole are identified and assigned by the Task Force.

Summary

This section provided a summary of the work of the Commission and its committees from July 2020 through June 2021. The Pretrial Release Task Force was placed on hiatus before the start of Fiscal Year 2021. During that time, the Commission established a new Sentencing Reform Task Force in response to the sentencing topics delineated in the 2020 biennial letter from Governor Jared Polis. All Commission meetings continued to use a virtual platform in an effort to limit the spread of COVID-19. The Sentencing Reform Task Force established four working groups focusing on sentence structure, sentence progression, sentencing alternatives/decisions and probation, and parole. The sentence structure and parole working groups produced two recommendations approved by the Commission during the time frame for this report. The Commission benefited from various educational presentations and approved a total of eight recommendations in the areas of delinquency, drug offenses, opioid investigations, and sentencing reform.



4

Recommendations and Outcomes

This section presents the eight recommendations approved by the Commission in Fiscal Year 2021. Not all of the Commission’s recommendations are legislative in nature, and not all recommendations that are drafted into bills survive the legislative process. Recommendations from the three Task Forces and the one Subcommittee are described in the following order: Age of Delinquency Task Force, Drug Offenses Task Force, Opioid Investigations Subcommittee, and Sentencing Reform Task Force. As mentioned previously, the Age of Delinquency, the Drug Offenses, and Opioid Investigations recommendations were originally generated in Fiscal Year 2020, but are included in this report as they were approved by Commissioners during Fiscal Year 2021. The recommendations reported below include the original text approved by the Commission. Please note the following formatting guides:

- Numbering of recommendations in this report is standardized. The notation will include the fiscal year of the recommendation (for example, “FY21”), letters indicating the task force from which the recommendation originated (e.g., Age of Delinquency by a “AD” or Sentencing Reform by a “SR”), and a sequence number.
- If a recommendation was numbered and presented to the Commission, but not approved, it is not included in this report. This may result in the impression that numbers have been skipped, but this is not the case.
- Recommendations may include additions to existing statutory or rule language as indicated by CAPITAL letters or deletions that are represented as ~~strikethroughs~~.

AGE OF DELINQUENCY TASK FORCE

FY20-AD#01. Incorporate Standards to Formally Recognize and Address the Needs of Young Adults in Probation Supervision [Policy]

Adult probation supervision standards promulgated by the Judicial Department should be modified and expanded by July 1, 2021 to create specific standards associated with probation supervision of young adults (18–24 year olds). These supervision standards should reflect current research and knowledge about age and brain development, especially regarding matters such as impulsivity, risk taking, and appreciating consequences of actions taken. Further, these standards should be guided by evidence-based or emerging best practices regarding the supervision of young adults, including case management approaches, involvement of the family in supervision efforts, responses to violations, the use of appropriate assessment tools, the use of restorative justice principles and practices, and partnerships with providers and the community to meet the needs of this population. The implementation of this policy update should include the following:

- Training regarding brain development,
- Targeted interventions based on brain science,
- The need for development of partnerships with service providers and other community stakeholders to meet the needs of this population,
- Restorative justice,
- Assessment and case planning; case planning that incorporates educational/vocational training and life skills.
- Technical assistance should be provided to probation departments to facilitate the implementation of best practices.

Discussion

Chief Justice Directive 16-01 requires the State Court Administrator to submit annually to the Supreme Court for approval the Standards for Probation in Colorado. The Division of Probation Services and the Chief Probation Officers Counsel review and update the standards annually. It is recommended that standards regarding young adults be addressed in the revisions that are developed by July 2021.

Recent neuroscience research helps explain why young adults require specialized, age-appropriate interventions. The brain—and, in particular, the prefrontal cortex—continues to develop well into an individual’s twenties.^{1,2} The prefrontal cortex is the area most responsible for reasoning, self-control, and executive functioning. As a result, young adults struggle with issues around decision-making, impulse control,

1 Johnson S. B., Blum, R. W., & Giedd, J. N. (2009). Adolescent maturity and the brain: The promise and pitfalls of neuroscience research in health policy. *Journal of Adolescent Health, 45* (3), 216-221. Available at, ncbi.nlm.nih.gov/pmc/articles/PMC2892678/

2 Arain, M., et al. (2013). Maturation of the adolescent brain. *Neuropsychiatric Disease and Treatment, 9*, 449-461. Available at, ncbi.nlm.nih.gov/pmc/articles/PMC3621648/

and organized planning compared to older adults. Simultaneously, they are more susceptible to peer pressure than any other age group. In combination, these factors can lead to increased intersection with the criminal justice system.³

This recommendation will impact thousands of young adults because probation supervision is the most common sentence for this age group. In fact, in 2019, 63% of defendants who were 18-24 years old at the case filing date and were sentenced in district, county and juvenile delinquency courts received probation supervision (n=10,651).⁴

Outcome

This recommendation, approved by the Commission on July 10, 2020, is dependent on action by the Division of Probation Services. This recommendation was derived from the work on the CCJJ mandates included in House Bill 2019-1149. The report in response to this mandate can be found in Appendix E.

³ National Research Council. (2013). *Reforming juvenile justice: A developmental approach*. Committee on Assessing Juvenile Justice Reform (R. J. Bonnie, R. L. Johnson, B. M. Chemers, & J. A. Schuck, Eds.). Committee on Law and Justice, Division of Behavioral and Social Sciences and Education. Washington, DC: The National Academies Press.

⁴ Analysis conducted by Division of Criminal Justice, Office of Research and Statistics, for the Age of Delinquency Task Force. Data extracted from the Colorado Judicial Branch's information management system (ICON) via the Colorado Justice Analytics Support System (CJASS). Note: These figures represent cases, not individuals. Excludes Denver County Court cases.

FY20-AD #02. Revise Youthful Offender System Statutes [Statutory]

Expand the operational flexibility of the Youthful Offender System (YOS) program in the Department of Corrections; clarify the time credits that are awarded in YOS cases when a revocation occurs; address issues regarding payment of certain fees in YOS cases; and modify training requirements for DOC staff who work with inmates that are placed in YOS facilities.

Specifically, modify the following provisions in statute:

- 1) Delete in 18-1.3-407 (2)(a)(IV)(a.5) the prescriptive programming language;
- 2) Amend “may” to “shall” in 18-1.3-407 (2)(a)(IV)(b) regarding time credit;
- 3) Amend 18-1.3-407 (3.3)(c)(I) regarding placement in YOS Phase II;
- 4) Add “OR DESIGNEE” in 18-1.3-407 (3.5) regarding staff transfers to reflect current practice;
- 5) Amend 18-1.3-407 (3.5) to allow flexibility regarding staff training requirements;
- 6) Delete 18-1.3-407 (11) regarding district attorney data collection; and
- 7) Amend 18-1.3-407 (11.5)(a)(I) and (11.5)(c) to clarify court cost payments.

Discussion

The Department of Correction’s Youthful Offender System (YOS) was designed during a special session of the General Assembly in 1994. YOS became a sentencing option for juveniles who were prosecuted, convicted, and sentenced as adults on or after June 3, 1994 for offenses committed on or after September 13, 1993. In 1998, YOS moved from Denver to Pueblo, and in 2006 it moved to its current location on the grounds of the Colorado Mental Health Institute. YOS operates in a separate facility in Pueblo and houses approximately 180 -200 inmates who have agreed to participate in intense programming while their (typically lengthy) DOC sentence is suspended.

The statute describing YOS specifies that the state must provide a sentencing option for “certain youthful offenders” who would serve up to seven years day-for-day (meaning no good/earned time would apply) while a lengthier sentence to DOC would be suspended for the duration of the YOS sentence. According to statute, YOS offenders are to serve time in 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.”¹ The statute directs DOC to develop a program that provides “separate housing for female and male offenders who are sentenced to [YOS] without compromising the equitable treatment of either.”² The statute mandates that program participants “be housed separate from and not brought into daily physical contact with inmates older than

¹ C.R.S. 18-1.3-407(1)(a).

² C.R.S. 18-1.3-407(1)(b).

twenty-four years sentenced to the department of corrections who have not been sentenced to the youthful offender system,...” and that these offenders “be subject to all laws and department of corrections rules, regulations, and standards pertaining to adult inmates...”³ The statutorily-defined eligibility criteria have changed many times, but the original statutes that define the program have remained mostly consistent over the years. Given the significant increase in knowledge regarding this young offender population, many aspects of the prescriptive nature of the YOS enabling statutes require updating and modification. Further, some mandates are confusing and have been interpreted differently by judges and district attorneys. Finally, there is considerable confusion regarding time credits for pretrial confinement and in cases of revocation. For these reasons, this recommendation seeks to clarify and amend certain components of the YOS statute.

Outcome

This recommendation, approved by the Commission on July 10, 2020. This recommendation was derived from the work on the CCJJ mandates included in House Bill 2019-1149. The report in response to this mandate is available in Appendix E of this report. Senate Bill 2021-146, introduced on March 1, 2021, includes elements related to FY20-AD #02) was passed by the General Assembly 6/18/2021 and was signed by the Governor 7/6/2021. Although not initiated by CCJJ, the bill addresses the elements of FY20-AD #02.

³ C.R.S. 18-1.3-407(1) (c) and (d). For additional information on the Youthful Offender System see, cdpsdocs.state.co.us/ors/Docs/Reports/2018_YOSRpt.pdf

FY20-DR #01. Create and Implement a Process for Automatically Sealing Criminal Conviction Records for Drug Offenses [Budgetary]

Create, implement, and fund a process that will permit the automatic sealing of criminal conviction records for drug offenses. The State Court Administrator's Office (SCAO), the Colorado Bureau of Investigation (CBI), and each district attorney's office will implement procedures to evaluate cases that qualify for automatic sealing and will automatically seal eligible cases without associated fees, a Motion or a Petition to Seal being filed by the defendant.

The following describes the recommended process:

- The State Court Administrator's Office (SCAO) will prepare a list of drug convictions that are eligible to be sealed pursuant to Sections 24-72-703 and 24-72-706, C.R.S. from the current state database. Cases that qualify for automatic sealing will be based on the drug charge(s) of which the defendant was convicted, the lack of any subsequent criminal convictions during the requisite waiting period, the lack of any pending criminal cases, and the payment in full of all fines, fees, costs, and restitution. The current state database and the database used by entities not on the state system (for example, the City and County of Denver) will be reviewed for subsequent convictions and pending criminal cases. This review is name-based and a sufficient number of points of reference for identification validation will be determined by SCAO. If a sufficient number of points of validation are not present, the conviction is not eligible for automatic sealing. Convicted charges must be drug charges only and all charges must qualify to be sealed. Petty offense/misdemeanor drug convictions will qualify for automatic sealing seven years after the disposition of the case, and felony drug convictions will qualify for automatic sealing 10 years after the disposition of the case. The list will be categorized by judicial district.
- The SCAO will forward the list of eligible cases to the Colorado Bureau of Investigation (CBI). CBI will compare the list to criminal histories on file. This review is fingerprint-based, and a sufficient number of points of reference for identification validation will be determined by CBI. If a sufficient number of points of validation are not present, the conviction is not eligible for automatic sealing. CBI will disqualify any cases in which the defendant was convicted of criminal charges during the requisite waiting period.
- CBI will forward the amended list to the district attorney's office in each judicial district. The district attorney's office will disqualify cases in which a condition of the plea bargain agreement was not to seal the case and cases where the defendant has pending criminal charges.
 - 1) Each district attorney's office will forward the amended list to the SCAO. The SCAO may be given the authority by the presiding Chief Judge of each judicial district to sign off on a sealing order. If the SCAO is given this authority by the Chief Judge, then the SCAO will have a sealing order issued in each case, pursuant to this authority. SCAO will seal the court record. SCAO will transmit a copy of the sealing order to CBI, the law enforcement agency that investigated and filed the case, and the district attorney's office to seal their records.

OR, if the Chief Judge does not give this authority to SCAO,

- 2) The district attorney's office will forward the amended list to the district court(s) in their respective district(s) who will enter an order to seal each case. The list of sealed cases will be transmitted to the SCAO. The SCAO will seal the court records. A copy of the sealing order will be transmitted by SCAO to CBI, the law enforcement agency that investigated and filed the case, and the district attorney's office to seal their records.
- Reasonable efforts will be made to create and implement the programs and procedures necessary for automatic sealing. Development, creation, and testing of the process should be completed within two years.
 - The generation of the list by SCAO of the backlog of eligible cases and the entry of the sealing order for the backlog cases should be completed within one year after the development, creation, and testing of the process is completed, subject to available resources.
 - Once the backlog of cases is completed, SCAO will generate a list of eligible cases for sealing every 35 days. CBI and each district attorney's office will be allowed 35 days to complete their functions in reviewing the list of eligible cases under the statutory mandate. Each district court or SCAO under the authority of the district court will enter the order as soon as practical but no later than 14 days. Once the sealing order is received, CBI, law enforcement and the district attorney's office shall seal their records as soon as practical but no later than 14 days.
 - Funding should be provided for initial development and continued maintenance for each agency involved in the process.
 - A procedure should be enacted whereby defendants can confidentially view a website to determine whether their case has been sealed. Additionally, with proper safeguards in place, the defendant should be permitted to contact the district court where their case has been sealed to obtain a copy of the sealing order. [Note: No statute placement or language has been prepared for this recommendation.]

Discussion

Colorado currently permits the sealing of a number of petty offenses, misdemeanor, and felony drug convictions, pursuant to Sections 24-72-703 and 24-72-706, C.R.S. The current procedure requires the defendant to file a Motion to Seal with the Court in the jurisdiction in which the conviction occurred. The defendant is required to pay a \$65 filing fee or apply to have the fee waived if indigent. Once the case is sealed, the defendant is required to pay a \$20 fee to the Colorado Bureau of Investigation to seal the arrest record.

For many people, involvement in the criminal justice system leads to perpetual unemployment, housing insecurity, and the loss of income for themselves and their families. Colorado's system requires that an individual must affirmatively pursue relief by filing a motion or a petition with the court. This process, while beneficial to some, can be cumbersome for others. Additionally, there is a lack of awareness regarding who is eligible for sealing, and many people who have an eligible record may be unaware of the opportunities for relief. Moreover, the required fees associated with sealing can also be a barrier. Record sealing opportunities provide avenues for economic self-sufficiency. By removing barriers to employment and housing, expanded record sealing would provide a chance to move on and become more productive citizens.

Research indicates that policies that reduce economic obstacles for those with criminal histories are effective at lowering recidivism and strengthening public safety, given the association between limiting access to an individual's record of conviction and a lower recidivism rate. A process for automatic sealing of drug convictions would eliminate the need to file a Motion to Seal with the Court and eliminate the payment of the fees as noted on page 23.¹

The initial obstacle to automatic sealing of drug convictions is that not all Colorado courts are on a unified database system. None of the 215 municipal courts in Colorado are on the state court database. Therefore, this excludes municipal convictions as a reason for disqualification of automatic sealing. In larger municipalities throughout the state, such as Aurora, Denver, Colorado Springs, and Lakewood, many misdemeanor offenses are filed as municipal criminal offenses. Excluding these criminal convictions as disqualifiers for the sealing of convictions is inconsistent with the current language in Sections 24-72-703 and 24-72-706, C.R.S.

Additionally, the City and County of Denver is not on the state court database; therefore, those misdemeanor criminal cases are not accessible directly by the SCAO to review for potential automatic sealing. A unified, centralized database, including all courts in Colorado, would be required to permit all cases that qualify to be automatically sealed, and those that do not qualify due to subsequent criminal convictions to be removed from consideration. Due to this constraint, any legislation requiring automatic sealing of drug convictions would either need to require and fund the creation of a unified database throughout the state, or amend the language regarding subsequent convictions to be limited to only misdemeanors and felonies.

Utah and Pennsylvania are currently preparing systems for the automatic sealing of a limited number of criminal convictions. Both jurisdictions have provided information and suggestions in creating and implementing a process for automatic sealing. In Utah, the Administrative Office of the Courts (AOC) and the Bureau of Criminal Investigation (BCI) will require 3-4 years to fully implement the procedures required by their legislation. AOC requested \$1 million, but received \$400,00 the first year, then \$200,000 each subsequent year to implement the bill. BCI received \$500,000 for the development of the program. It is unknown whether they received funding for subsequent years. The Utah Division of Wildlife Resources received \$100,000 in funding in the bill. All courts throughout the State of Utah are on a unified database.

In Pennsylvania, the Administrative Office of the Pennsylvania Courts (AOPC) and the Pennsylvania State Police (PSP) were given one year to build and test an automated system. Many problems arose during this short implementation period, and they recommended a minimum of two years is necessary to create and test an automated system. APOC received \$3 million to implement an automated system, and PSP

¹ Pursuant to the current mandate, this recommendation only addresses automated sealing of eligible drug-related offenses. These same processes may serve as a model for other criminal records that become eligible for sealing.

was given \$200,000 to upgrade the existing system to accommodate an automated process. PSP has requested funds for yearly maintenance of their systems, and that request is pending. All of the courts throughout the State of Pennsylvania are on a unified database.

The Colorado Bureau of Investigation estimates that two years will be required to upgrade its system to include an automatic sealing capability. The initial cost would be approximately \$2 million. No additional costs for ongoing maintenance would be requested by CBI for this specific function.

The Office of the State Court Administrator would request two years to complete an upgrade to their computer system to permit automatic sealing. The initial cost would be approximately \$224,640 for a software engineer to complete the upgrade and approximately \$950,000 to develop the programming, architecture, and software to communicate with the City and County of Denver database. The ongoing maintenance cost would be \$175,000 per year.

CBI maintains a contract with a sole source vendor for yearly maintenance and upgrades to their computer system. SCAO maintains its own database, and initiates external contracts with software engineers for specific projects. Code for America is a non-profit organization that is available to assist in an initial assessment review and implementation procedure for automatic record sealing. The cost of implementing this recommendation may be lower to the extent Code for America or similar organizations may be available to provide free technical assistance.

An automatic process of sealing drug convictions does not contemplate notice to each defendant that their case has been sealed. Once automatic sealing of drug convictions begins, a public service information campaign should be created and funded to alert defendants how to determine whether their prior drug conviction has been sealed. A procedure should be enacted whereby defendants can confidentially view a website to determine whether their case has been sealed. Additionally, with proper safeguards in place, the defendant should be permitted to contact the district court where their case has been sealed to obtain a copy of the sealing order.

An automatic process of sealing drug convictions will not preclude a defendant from filing a Motion to Seal Criminal Conviction Records pursuant to the current statutory authority, if the records are eligible to be sealed and automatic sealing has not occurred.

Outcome

This recommendation, approved by the Commission on July 10, 2020. This recommendation was derived from the work on the CCJJ mandates included in Senate Bill 2019-008. The final report in response to this mandate is available in Appendix F of this report. House Bill 2021-1214 (Concerning increased eligibility for procedures to reduce collateral sanctions experienced by defendants) was passed by the General Assembly 6/21/2021 and was signed by the Governor 7/6/2021. Although not initiated by CCJJ, the bill addresses concepts suggested by FY20-DR #01. With the passage and signing of this bill, this recommendation is considered complete.

FY20-DR #02. Support a Public Health Model of Deflection [Policy]

Fund public health interventions that strengthen community resources and expand alternatives to filing criminal charges against adults and youth with substance use issues who are at risk of justice involvement. By aspiring to a public health approach—which redirects adults and youth with substance abuse issues engaging in behaviors that can lead to incurring criminal charges from the justice system entirely—this recommendation shifts priorities in funding upstream, supporting the still inadequate system for care coordination and treatment. Recognizing that funding diversion programs that are post arrest continues to inadvertently reinforce the justice system as the point of intervention for many adults and youth with substance use disorder treatment needs, notwithstanding potential for cooccurring mental health needs, true alternatives are still needed to avoid the justice system operating as a healthcare system of intervention and care.

To facilitate this approach, implement the following:

- Priority #1: Provide funding and improve access to coordinated treatment provider and care coordination systems so that adults, youth and families can access services, interventions, supports, and treatment modalities within their community, leading to a decrease in call volume for first responders and reliance on the justice system as a point of intervention and to improved community wellness.
- Priority #2: Continue to improve training and to enhance service provider collaboration with law enforcement including but not limited to expanding co-responder and law enforcement diversion programs and deflection models that also include the critical component of care coordination, treatment when and where necessary and community engagement. Without community supported and appropriately funded alternative case management and treatment options, first responders will continue to be left without options that match the complexity of needed care.
- Priority #3: Continue to increase post-arrest diversion opportunities to create multiple “off-ramps” from criminal and juvenile justice system entanglement and prioritize programs using a harm-reduction approach to address the underlying needs of individuals, the community, and victims.

Discussion

In response to worldwide shifts in our collective experience and perspective regarding racial and ethnic equity, as well as considering the dramatic changes implemented in response to the COVID19 pandemic, this public health model recommendation seeks to shift the primary response to individuals with substance and mental health needs to the behavioral and public health systems instead of relying on the criminal and juvenile justice systems to handle these health needs. This approach allows individuals to avoid justice system entanglement, and improves health and safety outcomes for individuals and communities.

To ensure integrity to the legislative mandate to the Commission specified in Senate Bill 2019-008, please see the abandoned recommendation in Appendix E of this report. However, the recommendation above reflects the current perspective of the Drug Offense Task Force in response to the mandate and outlines a larger system shift in resources.

Outcome

This policy recommendation, approved by the Commission on September 11, 2020, recommends a multi-system, public health approach to respond to substance abuse (and co-occurring mental health) treatment needs in the community to prevent the involvement of individuals in the criminal justice system. This recommendation was derived from the work on the CCJJ mandates included in Senate Bill 2019-008. The final report in response to this mandate can be found in Appendix F of this report.

FY20-OP #01. Establish a Statewide Entity to Coordinate Strategy Regarding Dangerous Drugs [Statutory; Budgetary]

Establish a narcotics enforcement entity, the Dangerous Drugs Coordination Council (“the Council”), that facilitates and coordinates the sharing of information among law enforcement agencies across the state. The Council, to be housed in the Colorado Department of Public Safety, will provide a structure for collaboration, information sharing, and efforts to support local law enforcement agencies.

The Council:

- will coordinate strategic responses to emerging illicit drug trends, regardless of the drug type involved
- will orchestrate the implementation of an emergency medical service tracking and reporting system, the Overdose Detection Mapping Application Program (ODMAP)
- requires one full time employee (FTE) to coordinate the meetings and meet the analytical needs of the entity. The position will be housed in the Colorado Department of Public Safety where it can benefit from the work of the Colorado Information Analysis Center (CIAC)
- shall include at a minimum, representatives from the following:
 - 1 Police Chief, rural district
 - 1 Police Chief, urban district
 - 1 Sheriff, rural district
 - 1 Sheriff, urban district
 - CO. District Attorneys’ Council
 - CO. Attorney General’s Office
 - CO. Coroners Association
 - CO. Drug Investigators Association
 - CO. Dept. of Health Care Policy & Financing
 - CO. Dept. of Public Health & Environment
 - CO. Dept. of Public Safety
 - CO. Bureau of Investigation
 - CO. Information Analysis Center
- to facilitate coordination and collaboration, shall invite important Federal partners and stakeholders that include, but are not limited to, the following:
 - U.S. Attorney’s Office
 - U.S. Homeland Security Investigations
 - U.S. Postal Inspection Service
 - U.S. Drug Enforcement Administration
 - Rocky Mountain High Intensity Drug Trafficking Area
 - Federal Bureau of Investigation
 - Bureau of Alcohol, Tobacco, Firearms and Explosives

Discussion

The Council is necessary to coordinate statewide strategic responses to emerging illicit drug trends, regardless of the drug type involved. Drug cartels are typically poly-drug organizations; the focus on a single drug type (for example, only opioids) impedes the necessary flexibility required by law enforcement agencies to combat drug problems in Colorado. Drug trends change quickly, vary by region, and are highly likely to involve multiple drug types in combination.¹ A survey of law enforcement agencies, conducted by the Subcommittee on behalf of the Commission, found that agencies perceive a significant need for additional resources; 63% of respondents reported insufficient resources to address the drug problems in their jurisdictions. The need to focus on poly-drug operations is highlighted by the fact that, in Colorado between 2013 and 2018, the simple count of overdose deaths increased across a variety of drugs: 230% increase due to methamphetamine, 94% increase due to heroin, and 133% increase due to cocaine.² Additionally, methamphetamine seizures by law enforcement increased 156% between 2013 and 2018.³ In order to expand assistance to law enforcement agencies, the Dangerous Drugs Coordination Council (“Council”) will meet quarterly to share data and case intelligence that promotes proactive and collaborative responses to dangerous drug issues. Enhanced information sharing and collaboration is necessary as it increases the capacity of law enforcement agencies for strategic planning, situational awareness, and safety. An invaluable tool to assist with this collaborative effort is the Overdose Detection Mapping Application Program (ODMAP; odmap.org). ODMAP is managed by the Washington/Baltimore High Intensity Drug Trafficking Area (HIDTA) organization and is free to government agencies. ODMAP has been developed to provide real time information about fatal and non-fatal drug overdoses with the purpose of assisting drug investigations. ODMAP serves to bridge a data gap in overdose reporting that hampers timely responses by law enforcement and public health professionals. While ODMAP is free, its implementation will need the organization and guidance that the Council can provide.

Outcome

This recommendation, approved by the Commission on July 10, 2020 was derived from the work on the CCJJ mandates included in Senate Bill 2019–008. The final report in response to this mandate can be found in Appendix F of this report. Senate Bill 2021-137 (Behavioral Health Recovery Act) was passed by the General Assembly on 6/23/2021 and was signed by the Governor 6/28/2021. Although not initiated by CCJJ, the bill includes elements related to FY20-OP #01.

FY20-OP #03. Implement Unified Drug Overdose Reporting and Tracking [Statutory]

Implement and require participation by public safety and public health personnel in the Overdose Detection Mapping Application Program (ODMAP) in Colorado. The Washington/Baltimore High Intensity Drug Trafficking Area's ODMAP is an emergency medical service tracking and reporting system. To facilitate expeditious public health and law enforcement responses to save lives in Colorado, the following entities should be required to implement and participate in this program:

- The statewide ODMAP implementation will require coordination and leadership. The Dangerous Drugs Coordination Council (created in Recommendation FY20-OP #01) will be responsible for directing the implementation of ODMAP, including outreach to rural agencies, and facilitating statewide participation.
- Emergency Medical Services (EMS), Coroners, Law Enforcement & Emergency Departments (ERs)

Discussion

Currently, studying or tracking overdose trends in Colorado requires the aggregation of data from multiple sources across public health, medical, and law enforcement agencies. These sources report overdose data at differing degrees of timeliness, in differing formats, in differing amounts of detail, and at differing levels of accessibility. The disjointed nature of Colorado's current overdose reporting makes producing actionable data difficult, given that many reports are published with significant lag times. A unified system with mandated reporting requirements would enable Colorado's public health and public safety entities to track overdoses in real time and to deploy timely responses.

ODMAP (Overdose Detection Mapping Application Program) is a free web-based product created and maintained by the Washington/Baltimore HIDTA with federal support from the Office of National Drug Control Policy.¹ The ODMAP platform offers APIs (application programming interface) that support integration with a variety of existing data platforms. The ODMAP system is recommended because of its ease of use, affordability, compatibility, as well as data integrity and security. The system was designed to minimize data entry effort and time especially by first responders. The ODMAP system, and the data it contains, is available for use only by vetted government (tribal, local, state, and federal) entities serving the interests of public safety and/or public health. Once the ODMAP system is fully implemented, public health and public safety entities will have access to real-time local and national information on overdose rates, mortality, geographic data, opioid antagonist use (e.g. Narcan, Naloxone), and the illicit drugs connected to overdoses.

Outcome

This recommendation, approved by the Commission on July 10, 2020 was derived from the work on the CCJJ mandates included in Senate Bill 2019-008. The final report in response to this mandate can be found in Appendix E of this report. Senate Bill 2021-137 (Behavioral Health Recovery Act) was passed by the General Assembly on 6/23/2021 and was signed by the Governor 6/28/2021. Although not initiated by CCJJ, the bill includes elements related to FY20-OP #03.

¹ For information about ODMAP, see odmap.org, and the information page provided by the Washington/Baltimore HIDTA at, hidta.org/ODMap/.

FY21-SR #01. Revise Misdemeanor Sentencing and Offenses [Statutory]

Amends, appends, deletes and replaces several provisions of statute related to misdemeanor sentencing and offenses. This recommendation comprises three elements with an extensive array of associated statutory revisions and supporting documents:

- Change the misdemeanor sentencing scheme [ELEMENT 1.1]
- Align current misdemeanor crimes [ELEMENT 1.2]
- Reclassify felony offenses [ELEMENT 1.3]

Each “ELEMENT” (1.1 through 1.3) is briefly described below, followed by a short discussion. Due to the length of the recommendation the supporting materials that accompany each ELEMENT can be found on the Commission’s website at https://cdpsdocs.state.co.us/ccjj/Meetings/2021/2021-04-09_RecFY21-SR01-b.pdf

ELEMENT 1.1 Change the misdemeanor sentencing scheme

The current structure ranges are disproportionately large compared with other states and the sentencing structure requires updates and simplification in order to create more truth, certainty and consistency in sentencing.

- **1.1.a. New sentencing grid.** In the new misdemeanor grid, the drug, traffic and criminal misdemeanors are consistent. The recommended sentencing range of up to 364 days is the most common range in all 50 states.¹ The grid is based on extensive analysis and discussion of misdemeanor charges filed across the spectrum of misdemeanor crime-types by Colorado criminal law prosecution and defense attorneys.
- **1.1.b. Jail time credits.** In an effort to address disparities in jail sentences across the state, these statutory changes would require every jail in the state to follow a similar protocol in determining an individual’s release. Specifically, based on the direction from the Governor, a jail sentence in “County X” would be generally consistent with a sentence in “County Z.”
- **1.1.c. Fine ranges.** Fines are infrequently used in criminal cases, as opposed to victim restitution and other fees and surcharges. Revised fine ranges are proposed for each level of offense, consistent with the above direction from the Governor’s Office. The proposed fine ranges address misdemeanor, traffic, and civil infractions.
- **1.1.d. Clarification of alternative sentencing language for misdemeanors.** The goal is to update the alternative sentencing options allowed under law and, where necessary, to recommend additional options to counties that afford defendants more opportunities for alternative sentences, specifically with regard to treatment options. Additionally, some cleanup language is included in this component.

¹ Seven (7) states have less (Arizona, California, Idaho, North Carolina, Ohio, Wisconsin and Wyoming) and five (5) states have higher than 364 days. (Iowa, New Jersey, Pennsylvania, South Carolina and Vermont.)

- **1.1.e. Effective date: March 1, 2022.** This effective date is necessary to allow the modifications necessary to charge codes, case management systems, and court documents. Additionally, the time is required to allow for training of law enforcement, prosecutors, and defense attorneys. This time period will also provide an opportunity for additional analysis and possible corrections.

ELEMENT 1.2

Align current misdemeanor crimes

Misdemeanor crimes (criminal and traffic) require alignment with the new sentencing structure (introduced above) and elimination/revision of certain statutory language to reflect better crime definition, practices and proper classification. More than 1,000 criminal offenses were reviewed using the criteria listed above.

- **1.2.a. Title 18 and Additional Title 18.** A careful and thorough crime severity analysis of all the misdemeanor offenses listed in Title 18 was conducted. Generally, the proposal groups crimes against persons into the M1 category and crimes against property into the M2 category. For those offenses involving financial loss to a victim, it is recommended that those offenses mirror the value thresholds outlined in the Theft statute. The associated Appendix Title 18 table of offenses includes the statutory citation, offense title, current crime classification and recommended crime classification. Additionally, certain crimes were re-written to better clarify, define, and classify the seriousness of offense and these may be found below in the Additional Title 18 table.
- **1.2.b. Title 42 and Additional Title 42.** Title 42 is often referred to as traffic offenses, but a significant number of the offenses listed in Title 42 do not involve the operation of a motor vehicle. For driving offenses, it is recommended that the offenses be categorized as Traffic Misdemeanor 1, 2, or Infractions. For non-driving offenses, the goal is to mirror the revisions made to any similar offenses from Title 18. Subsequent to the initial review of Title 42 offenses, a subsequent review yielded additional offenses in this title that were compiled into another table, Additional Title 42 offenses.
- **1.2.b(i). DUI.** Based on input from local jurisdictions, it is recommended that the sentencing structure remain unchanged for Driving Under the Influence, except for a revision of certain provisions related to work release and alternative sentences when extraordinary circumstances are determined by the Court. This specific change is limited in scope because the DUI statutes were not amended.
- **1.2.c. Misdemeanor offenses contained in other titles - Title 1 through Title 44.** Using the grid contained in 1.1.a., it is recommended that the included offenses be classified based on the level of harm caused. Also, misdemeanor offenses in Titles 1 through 44 were eliminated if they were redundant with offenses that are also included in Title 18.
- **1.2.d. Misdemeanor and petty offenses - Miscellaneous.** Using the grid contained in 1.1.a., it is recommended that the included offenses be classified based on the level of harm caused. This section includes two tables: (a) Miscellaneous Class 1 and 2 Misdemeanors and (b) Miscellaneous Class 3 Misdemeanors and Petty Offenses.

- **1.2.e. Unclassified misdemeanors with fine only.** Fine-only offenses are recommended to remain as unclassified misdemeanors. Unclassified misdemeanors with jail time as a possible sentence have been adjusted based on the analysis outlined above.

ELEMENT 1.3 **Reclassify felony offenses**

A limited group of offenses were identified that were either over- or under-classified based upon the experience of the practitioners and review by the Task Force. After robust discussion and analysis, it was recommended that certain felony offenses be reclassified to misdemeanors based on value, harm, the practical use of these offenses, and duplication. The associated sentence ranges were adjusted for greater consistency and reasonableness.²

- **1.3.a. False Information offenses.** A focused review and analysis was conducted on the offense(s) that should be charged when an individual provides false information to a member of law enforcement. Currently, this behavior is charged in a few different ways, which has been addressed, and these revised offenses have been classified based on their severity.
- **1.3.b. Felony offenses to be reclassified.** Felony offenses identified across several statutory Titles were identified for reclassification to misdemeanor offenses.
- **1.3.c. Introduction of contraband.** Under current law, the highest charge for “Introduction of Contraband” is a Class 4 felony. This applies equally to such contraband as alcohol, explosives, marijuana, and guns. In an effort construct a more sensible structure, “dangerous instruments” (for example, weapons or “weaponizable” items) are in Class 4 felony, items that might facilitate escape or controlled substances in Class 6 felony, and all other items in Class 1 Misdemeanor.

Discussion

This recommendation is in response to the request by the Governor in the 2020 Biennial Letter to the Commission.³ The Governor directed the Commission, in part, to recognize the finite resource of available beds in DOC prisons, as well as the administration’s effort to eliminate private prison capacity, to develop a guideline approach to structuring dispositions, to ensure statewide consistency in the application of sentencing guidelines that mitigate the effects of individual discretion by system actors, and to determine the appropriate degree of sentence determinacy and where to strike a balance between “truth in sentencing” and ensuring that there are incentives for success throughout an offender’s sentence. The Governor emphasized that some of the work be completed to allow consideration by the General Assembly during the 2021 legislative session.

² Some misdemeanor offenses should be reclassified as felony offenses due to the severity of the conduct and these offenses will be reviewed in the next phase of work on the felony sentencing structure during Summer/Fall 2021.

³ The “Biennial Letter” is pursuant to House Bill 2018 - 1287; see also, §16-11.3-103(7), C.R.S. Statute requires that in even-numbered years the Commission request a letter from the Governor regarding topics of study. The Governor is encouraged to consult with the Chief Justice of the Colorado Supreme Court and the Majority and Minority Leaders of the Colorado House of Representatives and the Senate. The first of these letters was received June 24, 2020 and encouraged the Commission to study, discuss, and return recommendations to the Governor on a variety of sentencing-related topics.

With the above in mind, the Commission seated the Sentencing Reform Task Force, which subsequently formed several working groups, including the Sentence Structure Working Group. This “Structure Working Group” prioritized the analysis of all misdemeanor and petty level offenses in Colorado with a plan to submit a recommendation for those crimes to the Commission in early 2021. The misdemeanor sentencing ranges must be established in order to determine whether a criminal offense is a felony or a misdemeanor. Therefore, the Structure Working Group began its investigation and analysis with misdemeanor offenses in order to develop a foundation for the subsequent work on felony offenses, which will be addressed subsequently during the summer and fall of 2021. In addition to the goals summarized above, in its review of crimes, the Structure Working Group sought to balance rehabilitation and punishment, simplify crimes and sentencing ranges, adjust sentence ranges to more consistent and reasonable ranges, eliminate repetitive and unnecessary crimes and reclassify crimes as needed.

Outcome

This recommendation was amended and re-approved by the Commission with two sets of additional misdemeanor offenses (Title 39: Taxation & “Miscellaneous Offenses” identified by Legislative Council) on April 9, 2021. During the FY 2021 Legislative Session, this recommendation was the source for Senate Bill 2021-271 (Concerning the adoption of the 2021 recommendations of the Colorado Criminal and Juvenile Justice Commission regarding sentencing for offenses). The bill was passed by the General Assembly on June 25, 2021 and was signed by the Governor on July 6, 2021.

FY21-SR #02. Update the Standard Conditions of Parole and Revise the Additional Conditions of Parole [Statutory; Policy]

Amend §17-2-201, C.R.S., to update and clarify the Standard Conditions of supervision for individuals on parole. The Standard Conditions of Parole apply to all individuals released under parole supervision. The existing Additional Conditions of Parole also have been revised for the Colorado State Board of Parole [“the Board”]. Both sets of conditions have been updated to clarify expectations, simplify language, increase comprehension, and remove duplication. Because Additional Conditions are not specified in statute, no statutory language regarding Additional Conditions is required in the recommendation. In this recommendation, the following substantive changes are made to the Standard Conditions:

- The mandatory urinalysis-testing requirement is moved to the Additional (Individual) Conditions.
- The expectation that an individual on parole not associate with people with a criminal record is eliminated.
- A requirement is added that mandates that the individual comply with all terms of any civil protection orders. The recommended Standard and the Additional Conditions may be found on the Commission’s website at https://cdpsdocs.state.co.us/ccjj/Meetings/2021/2021-05-14_RecFY21-SR02-b.pdf

Discussion

Two sets of parole conditions are issued by the Colorado State Board of Parole [“the Board”]. The Standard Conditions apply to every person placed on parole supervision, and these are derived from statute. The Additional Conditions consist of additional requirements that are specifically selected by the Board based on the individual risks and needs of each parolee. All of the Standard Conditions apply to each person on parole; the Additional Conditions establish additional requirements that may be imposed by the Board upon a specific parolee.

The current statutory language related to the Standard Conditions of Parole is antiquated, difficult to understand, and lengthy. To accomplish this update, parole conditions from other states were reviewed, evidence-based practices were considered, and each condition was analyzed for clarity, enforceability and specificity to address criminogenic needs. Conditions that are more easily understood are likely to improve compliance and outcomes.¹

Outcome

This recommendation, approved by the Commission on May 14, 2021, includes statutory revisions and is first applicable for action during the Fiscal Year 2022 Legislative Session. The recommendation also includes a policy component that suggests action by the Colorado State Board of Adult Parole.

¹ Solomon et al. (2005) emphasize that individuals on parole need to know the ground rules and expect them to be enforced if conditions are to help deter reoffending (Solomon, A.L., Kachnowski, V., & Bhati, A. (2005). Does parole work? analyzing the impact of postprison supervision on rearrest outcomes. The Urban Institute, Washington, D.C. available at urban.org/research/publication/does-parole-work. See also Kennedy, D. (1998). Pulling levers: Getting deterrence right. National Institute of Justice Journal, 236, 2-8; Kleiman, M. A. R. (1999). Controlling drug use and crime among drug-involved offenders: Testing, sanctions, and treatment. In P. H. Heymann & W. N. Brownsberger, Eds., Drug Addiction and Drug Policy. Cambridge: Harvard University Press; Harrell, A. V., Cavanagh, S., & Roman J. (1999). Final report: Findings from the evaluation of the DC Superior Court Drug Intervention Program. Washington DC: The Urban Institute; Taxman, F., Soule, D., & Gelb, A. (1999). Graduated sanctions: Stepping into accountable systems and offenders. Prison Journal, 79(2), 182-205; and Taxman, F. (2002). Supervision - Exploring the dimensions of effectiveness. Federal Probation, 66(2), 14-27.



5 Next Steps

Task Forces and Committees

At the close of Fiscal Year 2021, the Commission continued to support the ongoing work of the Sentencing Reform Task Force in response to the sentencing topics delineated in the 2020 Biennial letter from Governor Jared Polis pursuant to House Bill 2018-1287.

As this report is concluded, the Sentence Structure Working Group prepares to work on a revision of the felony sentencing grid and a review of felony offenses; the Sentencing Alternatives/Decisions & Probation Working Group is developing multiple recommendations for preliminary presentation to the Commission in the fall of 2021. The Parole Working Group concluded its work and the Sentence Progression Working Group was placed on hiatus pending direction from the Sentencing Reform Task Force. Details of the outcomes of these endeavors will be included in the FY 2022 CCJJ annual report.

Summary

The Commission will continue to meet on the second Friday of the month, and information about the meetings, documents from those meetings, and information about the work of all of the Commission committees can be found on the Commission web site at ccjj.colorado.gov. The Commission expects to present its next annual report in the fall of 2022.



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Appendices

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Appendix A

2020 Biennial Letter from Governor Jared Polis

JARED POLIS
GOVERNOR



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DENVER, COLORADO 80203

TEL 303-866-2471
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June 24, 2020

Stan Hilkey, Chair
Colorado Commission on Criminal and Juvenile Justice
700 Kipling Street, Suite 1000
Lakewood, CO 80215

Dear Chair Hilkey,

Thank you and the entire Colorado Commission on Criminal and Juvenile Justice (CCJJ or Commission) for your service and commitment to promoting better outcomes in our justice system. After consulting key stakeholders, community members, and legislative leadership, including the Chief Justice of the Colorado Supreme Court and the majority and minority leaders of the House of Representatives and the Senate, we are transmitting this letter to you with suggested topics for the Commission to study in response to your request, per C.R.S. § 16-11.3-103(7).

The last several months have only further underscored the existing inequities and disparities that exist in our country and our state. Many are protesting right now, seeking justice and changes to our law enforcement, criminal, and juvenile justice systems. As Governor, I am focused on building a better Colorado for all. That means promoting public safety, reducing crime, and treating every individual with fairness and equity. Together, the Commission, community, and General Assembly have made great strides to promote these goals. However, it is time we tackle one of the most difficult issues affecting both adults and juveniles in the justice system, especially for people of color: sentencing recalibration.

Our sentencing scheme should be rational, just, and consistent so that the punishment fits the conduct. Sentences should be grounded in anti-bias principles and equity, regardless of race, ethnicity, gender, geography, socio-economic status, disability, or any of the other intersecting identities that may affect sentencing. Laws regarding supervision, detention, and incarceration should reflect our values of rehabilitation and public safety, rather than reflecting the inherent systemic biases in our justice system toward behavioral health conditions, poverty, inequity, or racial-bias. Lastly, incarceration and detention should be reserved for the most serious cases, and rehabilitation should be our goal in every case.

Many values should factor into sentencing decisions, including:

1. Maximizing community safety without excessive supervision or incarceration;
2. Providing restoration and healing for victims;
3. Ensuring fair and consistent treatment;
4. Eliminating unjustified disparity in sentences;
5. Providing effective deterrents to committing crimes;
6. Promoting rehabilitation, especially in community settings;
7. Addressing individual characteristics in an unbiased manner and reducing recidivism; and

8. Promoting acceptance of responsibility and accountability.

To achieve more effective sentencing across our justice system, the Commission should revisit its work creating sentencing grids, and apply this methodology to the entire criminal codes. We recognize that recalibrating sentencing is no easy task -- if it were, it would have already been completed. However, we are confident that the Commission possesses the expertise needed from the justice system, including district attorneys, defense attorneys, the judiciary, law enforcement, victim advocacy, and reform communities, as well as the academic rigor and thoughtful consideration needed for such a task. The Commission should ensure that victims are heard and respected and that offenders' sentences are not excessively punitive. The Commission should also build upon the work of the General Assembly to ensure that, wherever feasible, evidence-based strategies such as restorative justice are utilized.

We encourage the Commission to study, discuss, and return recommendations to the Governor on the following topics, deploying evidence-based practices when possible:

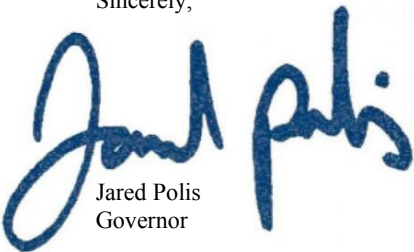
1. Analyzing prison population trends, and continually reviewing the implications of any changes in sentencing on the length of those incarcerated in the Department of Corrections (DOC). The Commission should recognize the finite resource of available beds in DOC, as well as the administration's effort to eliminate private prison capacity.
2. Developing a guideline approach to structuring dispositions.
3. Defining the purpose of probation, so that the terms and consequences of violations support best practices.
4. Ensuring statewide consistency in the application of sentencing guidelines that mitigate the effects of individual discretion by system actors.
5. Determining the appropriate degree of determinacy and where to strike a balance between "truth in sentencing" and ensuring that there are incentives for success throughout an offender's sentence. This includes reviewing:
 - a. The necessity of the extraordinary risk section in C.R.S. 18-1.3-401(10), to simplify the sentencing code while at the same time providing the prosecution with more discretion in charging and negotiations.
 - b. Habitual criminal provisions of C.R.S. 18-1.3-801 so that we are enhancing sentences for only those individuals who are truly public safety risks.
6. Optimizing how community resources are allocated to better align interventions that are more likely to reduce recidivism and provide meaningful sentencing choices.
7. Improving the interactions between those with behavioral health conditions (including individuals with intellectual and developmental disabilities, traumatic brain injuries, and dementia) and first responders, law enforcement, and healthcare workers, so that those with behavioral health conditions are not unnecessarily involved in the justice system due to unmet health needs.

The Commission should ensure that the workgroups it creates represent the people of Colorado and the communities the justice systems serve. It should leverage the membership of the Commission, as well as other justice system decision-makers that bring practical experience from their work adjudicating criminal cases. I encourage the Commission to be aggressive and flexible with their meetings and process so that we quickly, but thoughtfully, move recommendations. We

request that the Commission provide an update on their progress at the Department's SMART Act hearing during the winter, and encourage the recommendations to be completed so they may be enacted into law by the General Assembly during its 2021 legislative session. Finally, we hope that the Commission after completing this work for adults can then apply these same values and principles to the creation of sentencing guidelines for juveniles.

We hope that you will take up these suggestions this summer and fall, and complete this very important task. Together, we can continue to advance efficient and effective policies that improve outcomes, change lives, and make our communities across Colorado safer for all.


Sincerely,

A handwritten signature in blue ink that reads "Jared Polis". The signature is fluid and cursive, with the first name "Jared" and the last name "Polis" clearly distinguishable.

Jared Polis
Governor

Appendix B

Clear Act




CY 2019 C.L.E.A.R. Act Report

Community Law Enforcement Action Reporting Act
Pursuant to Senate Bill 2015-185

Kim English, Research Director
Division of Criminal Justice

Presented to the Colorado Commission on Criminal and Juvenile Justice
October 9, 2020



Colorado Commission on Criminal & Juvenile Justice

Background

In 2015, the General Assembly passed Senate Bill 185, the **Community Law Enforcement Action Reporting Act** (C.L.E.A.R. Act) mandating that the Division of Criminal Justice (DCJ) analyze and report data annually from:

- law enforcement agencies
- the Judicial Department
- the adult parole board

to reflect decisions made at multiple points in the justice system process.

The CLEAR Act requires that the data be analyzed by race/ethnicity and gender.

CCJJ 10/9/2020 Summary: C.L.E.A.R. Act Report, CY 2019 2 of 31




Colorado Commission on Criminal & Juvenile Justice

Criminal Justice Decision Points

- **Arrest**
 - on view/probable cause
 - custody/warrant
 - summons
- Court filing
- Case outcome
- **Initial sentence**
- Revocation

CCJJ 10/9/2020 Summary: C.L.E.A.R. Act Report, CY 2019 3 of 31



Colorado Commission on Criminal & Juvenile Justice

2019 ARREST DATA

The arrest data were reduced to 17 categories of offenses (from more than 40) that can be viewed on the interactive data dashboard and, for the summary report, further collapsed into four categories:

- Drugs**
- Other**
- Property**
- Violent**

Arrests can contain multiple charges. The arrest charge presented here represents the most serious charge on the arrest as selected by the law enforcement officer.

CCJJ 10/9/2020 Summary: C.L.E.A.R. Act Report, CY 2019 4 of 31



Colorado Commission on Criminal & Juvenile Justice

2019 COURT DATA

The most serious filing or conviction charge was collapsed into 24 offense categories from more than 1500 criminal statutes.

These were further collapsed into four categories for the summary report.

- Drug
- Other
- Property
- Violent

Note that all offense categories include attempts, solicitations, and conspiracies.

CCJJ 10/9/2020

Summary: C.L.E.A.R. Act Report, CY 2019

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Colorado Commission on Criminal & Juvenile Justice

Court Data: Ethnicity

The Judicial Department systematically collects information on race but not ethnicity.

This means that many Hispanic defendants are classified as White, and the Hispanic classification underrepresents the number of Hispanics involved in court cases.

Consequently, DCJ developed and validated a statistical model that predicts Hispanic ethnicity with 94% accuracy.

CCJJ 10/9/2020

Summary: C.L.E.A.R. Act Report, CY 2019

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Colorado Commission on Criminal & Juvenile Justice

Race/ethnicity of Colorado population ages 10+, 2019

Race/ethnicity	Adult %	Juvenile %
Black	4	5
Hispanic	19	31
Other	5	5
White	72	59
Total	100	100

Data Source: Colorado Department of Local Affairs, Office of the State Demographer.

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Summary: C.L.E.A.R. Act Report, CY 2019

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Colorado Commission on Criminal & Juvenile Justice

Arrests/summons by race/ethnicity, 2019

Race/ethnicity	%
Black	12
Hispanic	28
Other	2
White	58
Total	100%

Data source: Colorado Bureau of Investigation, National Incident Based Reporting System (NIBRS) data. Extracted 06/10/2019.

Race/ethnicity	Adult %	Juv %
Black	4	5
Hispanic	19	31
Other	5	5
White	72	59

Data Source: Colorado Department of Local Affairs, Office of the State Demographer.

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Summary: C.L.E.A.R. Act Report, CY 2019

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Colorado Commission on Criminal & Juvenile Justice

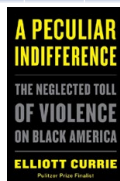
Arrests/summons by race/ethnicity, 2019: Specific offenses

Race/ethnicity	Colorado Adult Pop	Arrest/Summons Overall	Violent Crime Overall (13%)	Robbery	Agg Assault	Drugs	DUI	MVT	Weapons
Black	4%	12%	17%	28%*	20%	11%	6%	11%	20%
Hispanic	19	28	28	35**	28	29%	29	34***	27
Other	5	2	2	2	2	1	2	2	1
White	72	58	53	35	50	59	63	53	52
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%

Data source: Colorado Bureau of Investigation, National Incident Based Reporting System (NIBRS) data. Extracted 06/10/2019.

- * 54% will be sentenced to DOC
- ** 45% will be sentenced to DOC
- ***22% will be sentenced to DOC

A PECULIAR INDIFFERENCE:
The Neglected Toll of Violence on Black America
By Elliott Currie



CCJJ 10/9/2020

Summary: C.L.E.A.R. Act Report, CY 2019

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Colorado Commission on Criminal & Juvenile Justice


Court of case filing, by race/ethnicity

Court	Race/ethnicity	Percent	Total
Adult District		46%	52,792
	Black	11%	5,954
	Hispanic*	30%	15,996
	Other	3%	1,415
	White	56%	29,427
County		48%	55,696
	Black	8%	4,528
	Hispanic*	29%	16,056
	Other	3%	1,712
	White	60%	33,400
Juvenile		6%	7,476
	Black	17%	1,246
	Hispanic*	36%	2,688
	Other	4%	285
	White	44%	3,257
Total		100%	115,964

Data Source: Data extracted from the Colorado Judicial Branch's information management system (ICJN) via the Colorado Justice Analytics Support System (CASS) and analyzed by the Division of Criminal Justice. Note these figures represent cases, not individuals. Excludes Denver County Court cases. *Hispanic ethnicity was estimated using a DCJ-developed and validated statistical model.

Summary: C.L.E.A.R. Act Report, CY 2019


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Colorado Commission on Criminal & Juvenile Justice
Preview of upcoming slides
Initial Sentence by race/ethnicity

	Black	Hispanic	Other	White
Initial Sentence	%	%	%	%
Community Corrections				
Community Service				
Credit for Time Served				
Deferred Judgment				
Dept of Corrections				
Division of Youth Corrections				
Fines				
Jail				
Probation/Intensive Supervision				
Unsupervised Probation				
Youthful Offender System				
Total				

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Colorado Commission on Criminal & Juvenile Justice
Initial Sentence in COUNTY Court, by race/ethnicity

Sentence	Black	Hispanic*	Other	White
(N)	2,299	9,375	861	18,959
Community Corrections	0%	0%	<1%	0%
Community Service	4%	5%	3%	4%
Deferred	20%	18%	32%	24%
Fines/fees	14%	14%	12%	14%
Jail	29%	27%	20%	24%
Juvenile Detention	<1%	0%	0%	0%
Probation/Intensive Supervision	28%	30%	26%	28%
Unsupervised Probation	6%	6%	7%	6%
Total	100%	100%	100%	100%

Data Source: Data extracted from the Colorado Judicial Branch's information management system (ICDN) via the Colorado Justice Analytics Support System (CJASS) and analyzed by the Division of Criminal Justice. Note these figures represent cases, not individuals. Excludes Denver County Court cases. *Hispanic ethnicity was estimated using a DCJ-developed and validated statistical model.

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Colorado Commission on Criminal & Juvenile Justice
Initial Sentence in DISTRICT Court, by race/ethnicity

Sentence	Black	Hispanic*	Other	White
(N)	4,767	12,815	1,037	23,299
Community Corrections	5%	6%	4%	6%
Community Service	<1%	<1%	1%	<1%
Deferred	8%	7%	11%	9%
Dept of Corrections	22%	20%	18%	17%
Division of Youth Services	<1%	0%	0%	0%
Fines/fees	1%	1%	2%	1%
Jail	12%	12%	11%	12%
Probation/Intensive Supervision	51%	53%	53%	54%
Youthful Offender System	<1%	<1%	<1%	<1%
Total	100%	100%	100%	100%

Data Source: Data extracted from the Colorado Judicial Branch's information management system (ICDN) via the Colorado Justice Analytics Support System (CJASS) and analyzed by the Division of Criminal Justice. Note these figures represent cases, not individuals. Excludes Denver County Court cases. *Hispanic ethnicity was estimated using a DCJ-developed and validated statistical model.

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Colorado Commission on Criminal & Juvenile Justice
Initial Sentence in JUVENILE Court, by race/ethnicity

Sentence	Black	Hispanic*	Other	White
(N)	712	1,710	169	2,112
Community Corrections	0%	<1%	0%	<1%
Community Service	<1%	<1%	0%	<1%
Deferred	22%	32%	43%	39%
Dept of Corrections	0%	<1%	0%	0%
Division of Youth Services	15%	10%	4%	8%
Fines/fees	3%	2%	1%	3%
Jail	3%	2%	2%	1%
Juvenile Detention	1%	1%	0%	1%
No Sentence	<1%	0%	0%	0%
Probation/Intensive Supervision	55%	53%	50%	48%
Youthful Offender System	<1%	<1%	0%	0%
Total	100%	100%	100%	100%

Data Source: Data extracted from the Colorado Judicial Branch's information management system (ICDN) via the Colorado Justice Analytics Support System (CJASS) and analyzed by the Division of Criminal Justice. Note these figures represent cases, not individuals. Excludes Denver County Court cases. *Hispanic ethnicity was estimated using a DCJ-developed and validated statistical model.

CCJJ 10/9/2020 Summary: C.L.E.A.R. Act Report, CY 2019 14 of 31




Colorado Commission on Criminal & Juvenile Justice
Initial Sentence in JUVENILE Court, VIOLENT offenses, by race/ethnicity

Sentence	Black	Hispanic*	Other	White
(N)	298	607	65	730
Community Corrections	0%	<1%	0%	0%
Community Service	<1%	0%	0%	0%
Deferred	22%	34%	43%	39%
Division of Youth Services	18%	11%	6%	8%
Fines/fees	3%	2%	3%	2%
Jail	1%	2%	0%	1%
Juvenile Detention	1%	1%	0%	1%
Probation/Intensive Supervision	54%	50%	48%	49%
Youthful Offender System	<1%	<1%	0%	0%
Total	100%	100%	100%	100%

Data Source: Data extracted from the Colorado Judicial Branch's information management system (ICDN) via the Colorado Justice Analytics Support System (CJASS) and analyzed by the Division of Criminal Justice. Note these figures represent cases, not individuals. Excludes Denver County Court cases. *Hispanic ethnicity was estimated using a DCJ-developed and validated statistical model.

CCJJ 10/9/2020 Summary: C.L.E.A.R. Act Report, CY 2019 15 of 31



Colorado Commission on Criminal & Juvenile Justice
Statewide summary, decision points: 2019

Race/ethnicity	Colorado Population 2019	Arrest/Summon	Prosecuted	Sentenced	Prison	DYS
Black	4%	12%	10%	11%	22%	15%
Hispanic	19	29	30	31	20	10
Other	5	2	3	3	18	4
White	71	57	57	56	17	8

Data Source: Colorado Bureau of Investigation, National Incident Based Reporting System (NIBRS) data, extracted 06/12/2019; Colorado Judicial Branch's information management system (ICDN) extracted via the Colorado Justice Analytics Support System (CJASS) and analyzed by the Division of Criminal Justice. Note these figures represent cases, not individuals. Excludes Denver County Court cases. *Hispanic ethnicity was estimated using a DCJ-developed and validated statistical model.

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Colorado Commission on Criminal & Juvenile Justice

2019 Statewide Summary

- Blacks more likely to be arrested (more likely arrested for violent offenses)
- Blacks and Hispanics less likely to get deferred judgments
- Blacks and Hispanics more likely to receive a sentence to prison

But many factors can influence a sentencing decision

CCJJ 10/9/2020

Summary: C.L.E.A.R. Act Report, CY 2019

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Colorado Commission on Criminal & Juvenile Justice

Statistically controlled for:

- Prior cases
- Prior convictions for a specific violent crime (see footnote),
- Other concurrent cases (in 2019, 20% of county court cases, 35% of district court cases, and 38% of juvenile court cases had other, concurrent cases mentioned in minute orders or sentencing notes.)
- Felony conviction level
- Instant offense type (drug, property, other, violent)
- Whether the instant offense was a specific violent crime

The violent crimes included in this analysis are as follows: C.R.S. 18-3-102, 1st degree homicide; 18-3-103, 2nd degree homicide; 18-3-202, 1st degree assault; 18-3-203, 2nd degree assault; 18-3-301, 1st degree kidnapping; 18-3-302, 2nd degree kidnapping; 18-3-402, sex assault (felony); 18-3-404, unlawful sexual contact (felony); 18-3-405, sex assault on a child; 18-3-405.3, sex assault on a child position of trust; 18-4-302, aggravated robbery; 18-4-102, 1st degree arson; 18-3-5-103, 1st degree unlawful termination of pregnancy; 18-3-5-104, 2nd degree unlawful termination of a pregnancy.

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Summary: C.L.E.A.R. Act Report, CY 2019

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Colorado Commission on Criminal & Juvenile Justice

After controlling for the factors just described....

Compared to Whites, are Black (or Hispanic) **adults** more or less likely to

1. receive a sentence to the Department of Corrections for felony convictions in district court?
2. receive a deferred judgment for convictions in district court?

Compared to Whites, are Black/African American (or Hispanic) **juveniles** more or less likely to

1. receive a deferred judgment for convictions in juvenile court?
2. to receive a sentence to DYS?

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Summary: C.L.E.A.R. Act Report, CY 2019

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Colorado Commission on Criminal & Juvenile Justice

2019 Summary

Jurisdiction	Hispanic Adults DOC	Black Adults DOC	Hispanic Adults NO Def J	Black Adults NO Def J	Hispanic Juveniles NO Def J	Black Juveniles NO Def J	Hispanic Juveniles DYS	Black Juveniles DYS
Statewide	X+	X+	X-	X-	X-	X-	X+	X+
1 st JD				X-	X-			
2 nd JD			X-					
4 th JD								
18 th JD	X+		X-	X-	X-	X-	X+	

"X" means that, compared to Whites, the group had a greater/lesser likelihood of receiving that sentence.

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Summary: C.L.E.A.R. Act Report, CY 2019

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Colorado Commission on Criminal & Juvenile Justice

2019 Summary

Jurisdiction	Hispanic Adults DOC	Black Adults DOC	Hispanic Adults NO Def J	Black Adults NO Def J	Hispanic Juveniles NO Def J	Black Juveniles NO Def J	Hispanic Juveniles DYS	Black Juveniles DYS
Statewide	X+x+	X+x+	X-x-	X-x-	X-x-	X-x-	X+	X+
1 st JD	x+		X-x-		X-x-			
2 nd JD		x+	X-		X-	X-		
4 th JD			X-		X-	X-		
18 th JD	X+x+	x+	X-x-	X-x-	X-x-	X-x-	X+	

"X" means that, compared to Whites, the group had a greater/lesser likelihood of receiving that sentence.

x = 2016 findings (Note: DYS analysis not conducted in 2016)

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Summary: C.L.E.A.R. Act Report, CY 2019

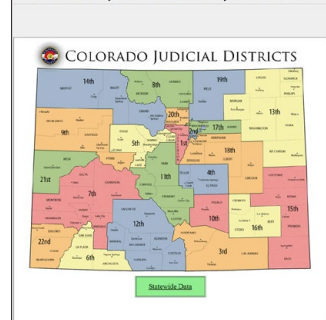
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Colorado Commission on Criminal & Juvenile Justice

<https://ors.colorado.gov/ors-sb185>


Race and Ethnicity at Decision Points by Judicial Districts



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Summary: C.L.E.A.R. Act Report, CY 2019


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Colorado Commission on Criminal & Juvenile Justice

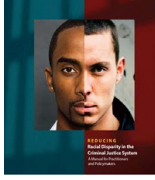
Next steps

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Colorado Commission on Criminal & Juvenile Justice

The Sentencing Project (2016)



Four key aspects to addressing racial disparity in the justice system


1. Acknowledge the cumulative nature of racial disparities
2. Encourage communication across players at all decision points
3. Know that what works at one decision point may not work at others
4. Work toward systemic change using agency resources at every stage of justice system

- Require cultural competency training
- Require defense counsel at arraignment
- Ensure a range of community based alternatives to detention are available
- Collect data on specific reasons for revocations
- Review school disciplinary, child welfare and mental health policies since these are drivers of justice system involvement

This publication has recommendations for each component of the justice system

<https://www.sentencingproject.org/wp-content/uploads/2016/01/Reducing-Racial-Disparity-in-the-Criminal-Justice-System-A-Manual-for-Practitioners-and-Policymakers.pdf>

CCJJ 10/9/2020 Summary: C.L.E.A.R. Act Report, CY 2019 24 of 31

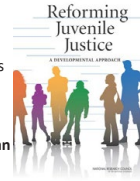


Colorado Commission on Criminal & Juvenile Justice

National Research Council (2013)


As referenced by Lauritsen (2005), there are more similarities than differences among youth across races with respect to offending patterns in self-reported data, with the exception of participation in serious violence. As noted, **minority youth (especially black youth) tend to offend more with respect to serious person crimes, and they have also been found to persist in crime into early adulthood at a higher rate than whites** (Elliott, 1994; Haynie, Weiss, and Piquero, 2008).

We know that racial/ethnic disparities are not reducible to either differential offending or differential selection. Many other factors affect disproportionality of minority youth in the juvenile justice system, including the **troubling entrenched patterns of poverty, segregation, gaps in educational achievement, and residential instability**. DMC exists in the broader context of a “racialized society” in which many public policies, institutional practices, and cultural representations operate to produce and maintain racial inequities.



<https://www.nap.edu/catalog/14685/reforming-juvenile-justice-a-developmental-approach>

CCJJ 10/9/2020 Summary: C.L.E.A.R. Act Report, CY 2019 25 of 31




Colorado Commission on Criminal & Juvenile Justice

From the Brennan Center for Justice
Reducing racial/ethnic disparities in jails (2015)

Officials in local jurisdictions can create a cross-agency Task Force to reduce racial disparities

1. Identify drivers; pinpoint where disparities are most pervasive
2. Specify goals and measures of success for the jurisdiction
3. Require training for all system actors to overcome implicit racial bias; for anyone who exercises discretion
4. Encourage prosecutors to prioritize serious and violent offenses; don’t conflate “success” with number of prosecutions or convictions
5. Increase indigent representation in misdemeanor cases when jail time is an available punishment
6. Provide “bench cards” to judges to combat implicit bias and unnecessary use of jail

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Colorado Commission on Criminal & Juvenile Justice

From the Brennan Center for Justice
Reducing racial/ethnic disparities in jails (2015)

1. Focus on low level offenses
 - Once stopped, Blacks are more likely to be arrested
 - **Expand pre-arrest diversion programs**
 - **Expand pre-charge and pretrial diversion programs**

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Colorado Commission on Criminal & Juvenile Justice

From the Brennan Center for Justice
Reducing racial/ethnic disparities in jails (2015)

2. Focus on unnecessary use of pretrial detention
 - Research shows length of pretrial detention is linked to longer post-sentence confinement in jail and prison
 - Blacks more likely to be confined pre-trial
 - Leads to loss of job, housing, healthcare
 - **Use risk assessment tools**
 - **Expand pretrial services programs**
 - **Divert low-level offenders**
 - **Eliminate money-based pretrial systems**

CCJJ 10/9/2020 Summary: C.L.E.A.R. Act Report, CY 2019 28 of 31




Colorado Commission on Criminal & Juvenile Justice
From the Brennan Center for Justice
Reducing racial/ethnic disparities in jails (2015)

3. Consider the aggressive collection of criminal justice debt


- Racial disparities are reinforced by socioeconomic inequality
- **Assess individuals' abilities to pay**

4. Everyone who exercises discretion: Undergo training to identify and confront implicit racial/ethnic bias

CCJJ 10/9/2020 Summary: C.L.E.A.R. Act Report, CY 2019 29 of 31



Colorado Commission on Criminal & Juvenile Justice



THE PRESIDENT'S TASK FORCE ON 21ST CENTURY POLICING FINAL REPORT

- Embrace a guardian mindset, promoting the dignity of all individuals and protecting everyone's Constitutional rights (Procedural Justice)
- Consider the collateral damage of any given safety strategy on public trust
- Strive to create a diverse workforce
- Infuse community policing and problem solving principles throughout the organizational structure
- Work with schools to develop alternatives to suspension/expulsion
- Ensure training occurs throughout an officer's career with procedural justice at the center/lessons to improve social interactions/lessons on addiction/lessons on recognizing and confronting implicit bias

<https://www.phillypolice.com/assets/directives/TaskForce-FinalReport.pdf>
<https://cops.usdoj.gov/RIC/Publications/cops-p341-pub.pdf>

CCJJ 10/9/2020 Summary: C.L.E.A.R. Act Report, CY 2019 30 of 31

Appendix C


Public Health and Safety Trends

C1: Marijuana Use Trends & THC Concentration

Marijuana Use Trends & THC Concentration in Colorado

Colorado Commission on Criminal and Juvenile Justice
October 9, 2020

Elyse Contreras
Manager of Marijuana Health Monitoring & Research, Epidemiologist
Colorado Department of Public Health and Environment



Marijuana use in Colorado


Populations

1. Children and adolescents (ages 0-17)
2. Adults 18 years and older
3. Pregnant women

Outcomes/Impact

1. Discharges from Hospital and Emergency Dept.
2. Exposures reported to poison center
3. **THC Concentration**

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1 Youth Marijuana Use & Trends

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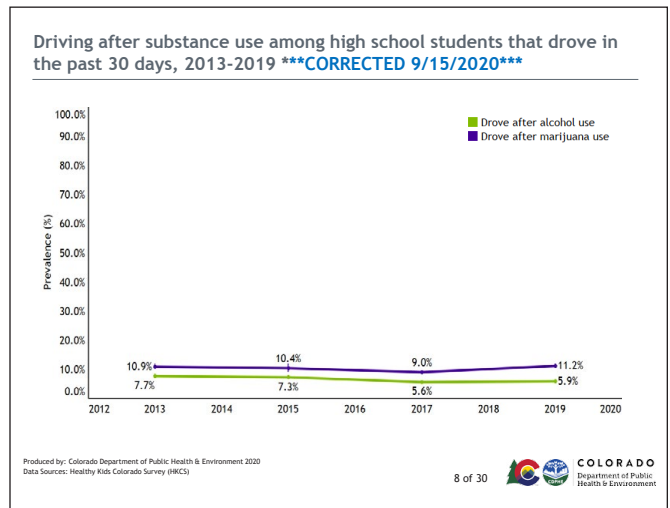
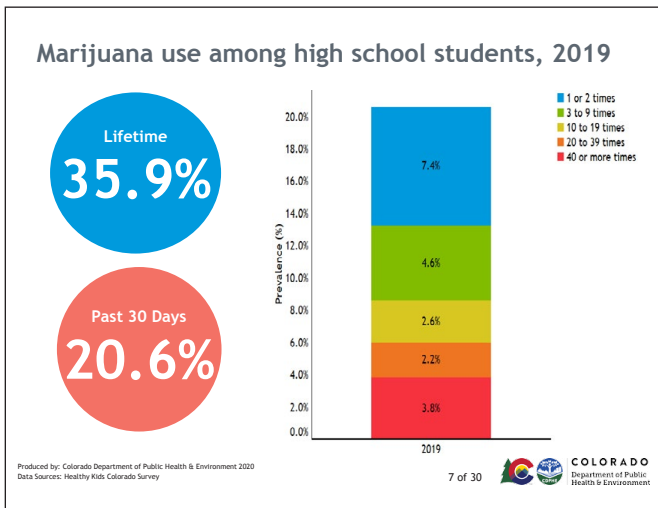
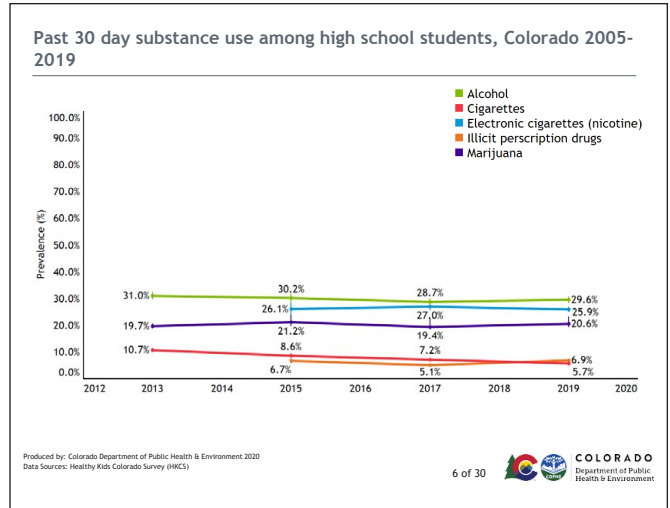
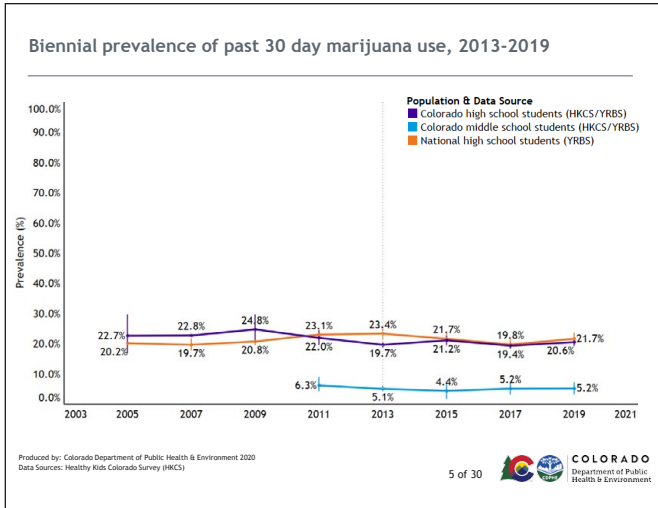
Methods

Healthy Kids Colorado Survey (HKCS)

- Every 2 years, self-reported, school-based Colorado survey
- Determine prevalence of substance use with weighted analyses and statistical significance by non-overlapping confidence intervals

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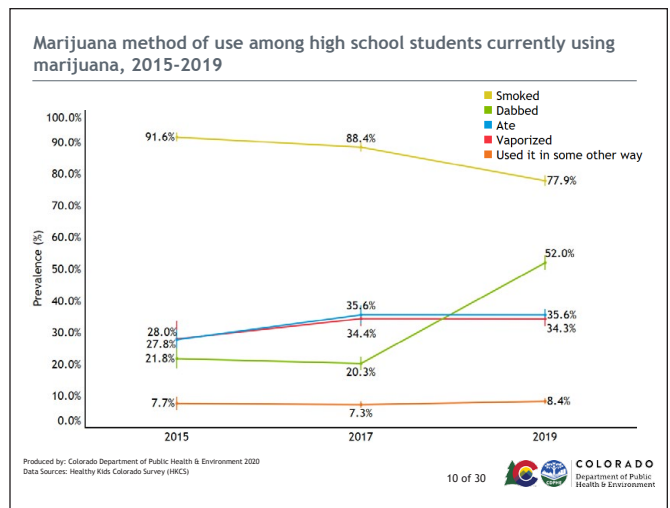


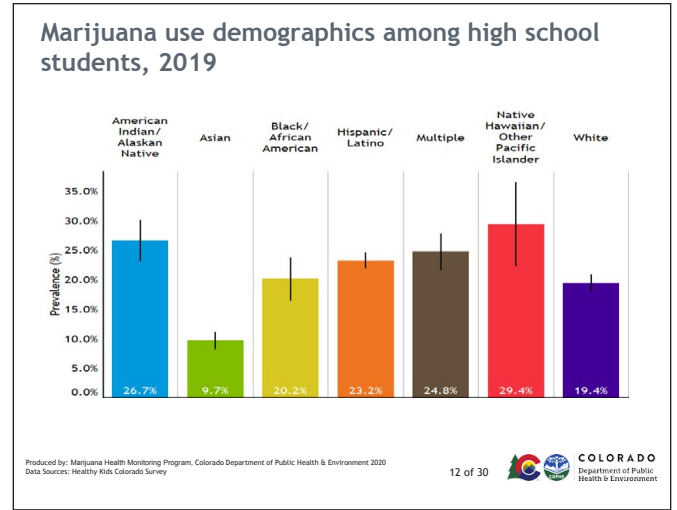
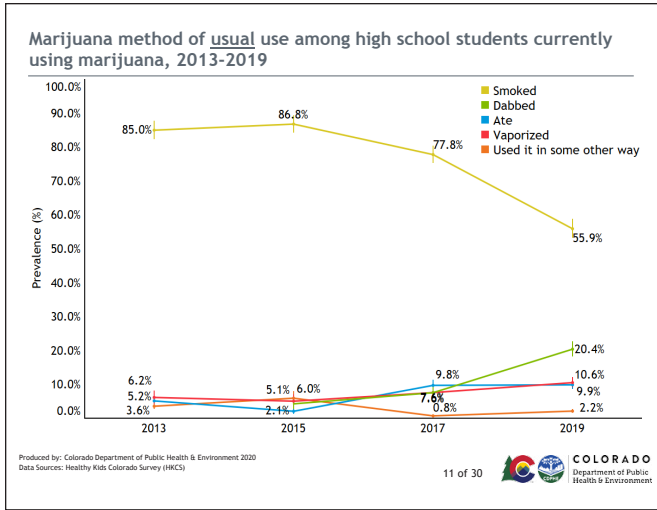
Methods of Marijuana Consumption

Methods of use
Any use of any method in the past 30 days
Can select multiple methods used

Method of usual use
Method used the most in the past 30 days, can still be a multiple-methods user
Can select only one method used

Produced by: Colorado Department of Public Health & Environment 2020
Data Sources: Healthy Kids Colorado Survey





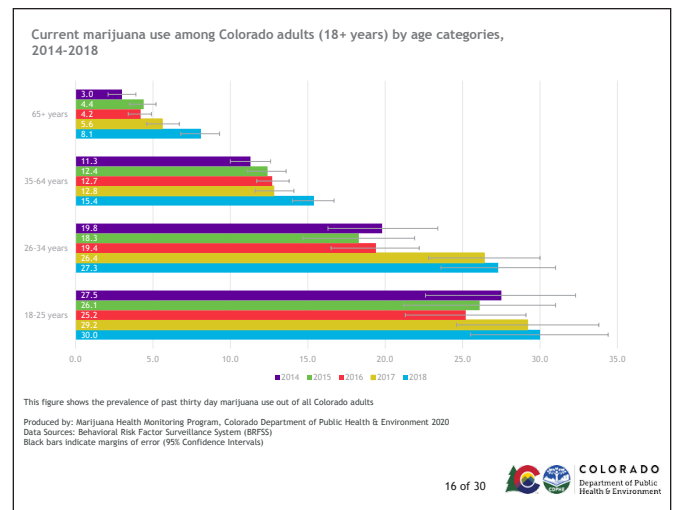
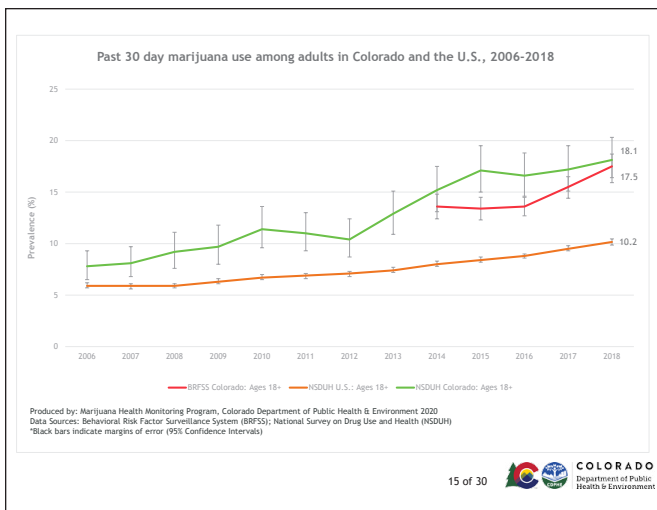
2 Adult Marijuana Use & Trends

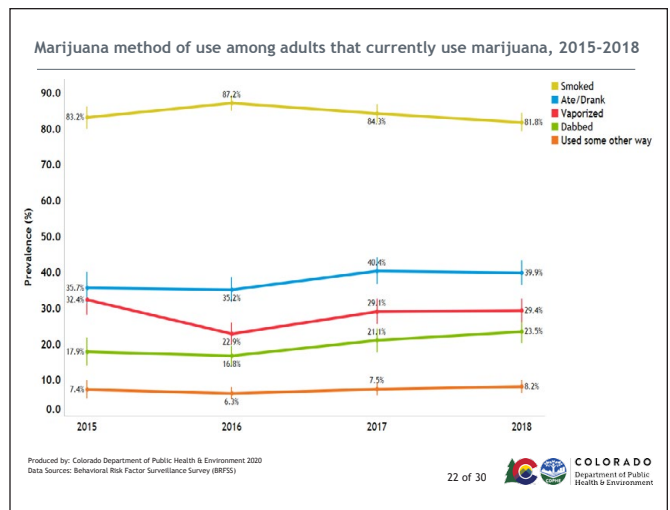
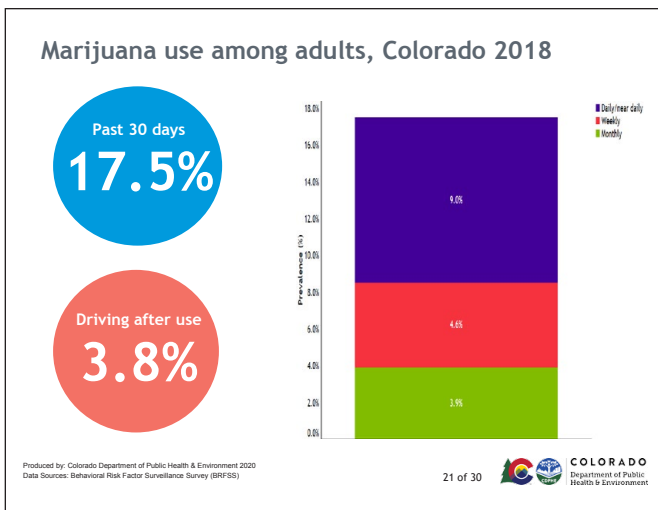
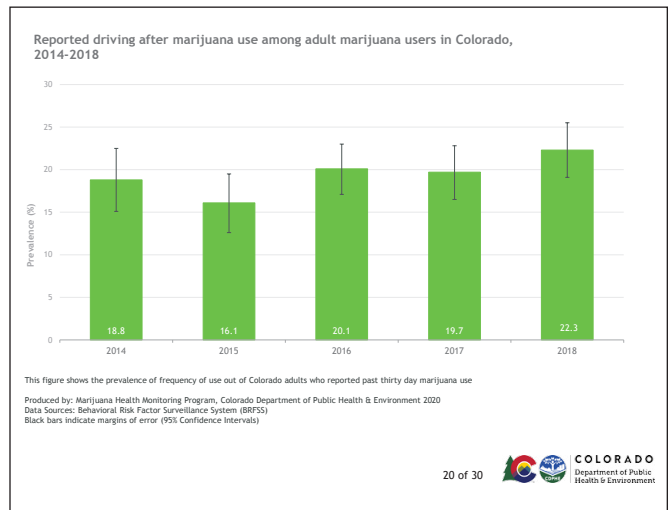
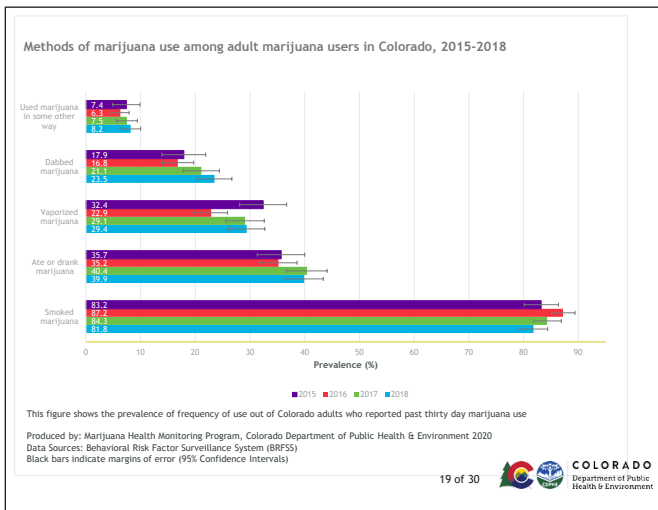
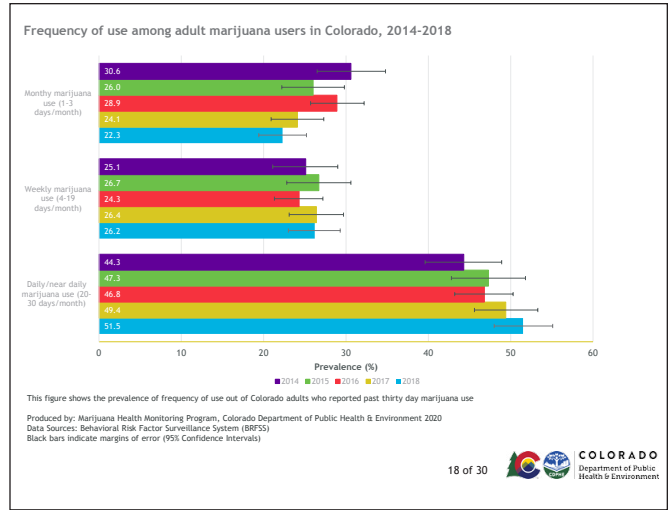
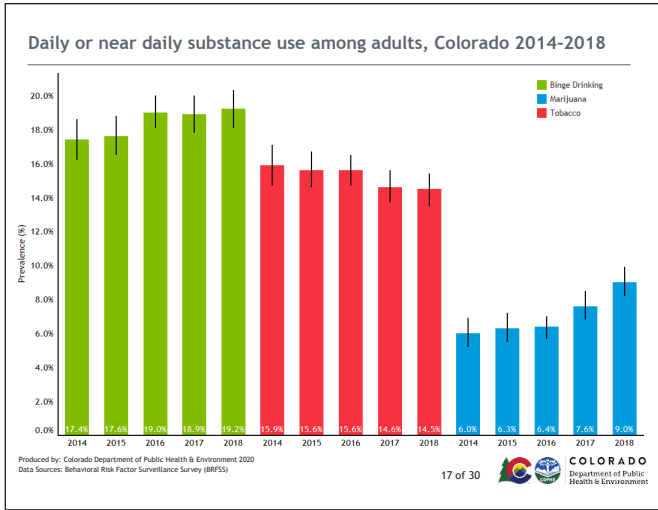
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Methods

- Behavioral Risk Factor Surveillance System (BRFSS)
 - Annual self-reported, telephone-based survey (Adults 18+)
 - Largest survey asking about adult substance use in Colorado


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SUMMARY: MARIJUANA USE IN COLORADO

- Past 30 day use is stable among Colorado populations, daily use increasing for adults
- Methods of consumption changing for youth
- Driving after use is increasing in adults and youth

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THC Concentration Report

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Background


Footnote 88a, 2019 Long Bill (CDPHE)
“...Review and study data...peer-reviewed studies on THC potency of marijuana and any related health effects.”

Statement of Concern
“Products containing a high THC concentration raise public health concern because increased dose may lead to higher potential for adverse health effects in consumers of these products.”

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Approach to research

- Systematic review of literature
- Analyze use trend and health effects data
- Approval by Retail Marijuana Public Health Advisory Committee

THC Concentration in Colorado Marijuana
 Health Effects and Public Health Concerns
 July 31, 2020


www.marijuanahealthinfo.colorado.gov/reports-and-summaries


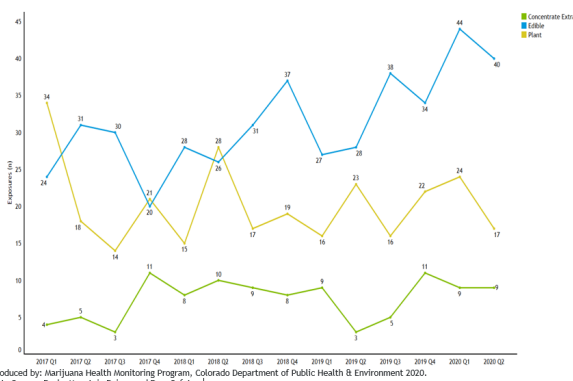

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Figure 2: Quarterly count of top three marijuana exposures reported to RMPDS, Colorado January 2017 - June 2020




Quarter	Concentrate Extracts	Edible	Pot
2017 Q1	4	24	34
2017 Q2	5	31	18
2017 Q3	3	30	14
2017 Q4	11	21	21
2018 Q1	8	28	15
2018 Q2	10	26	26
2018 Q3	9	31	17
2018 Q4	8	37	19
2019 Q1	9	27	16
2019 Q2	3	28	23
2019 Q3	5	38	16
2019 Q4	11	34	21
2020 Q1	9	44	24
2020 Q2	9	40	17


Produced by: Marijuana Health Monitoring Program, Colorado Department of Public Health & Environment 2020.
 Data Source: Rocky Mountain Poison and Drug Safety. |

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Key Findings

- Strong to moderate evidence THC concentration ~mental health effects adolescents, young adults and adults
- Insufficient evidence concentrate products ~ dependence
- concentrate products ~ acute health effects
- Effect on blood levels varies by product type

28 of 30  COLORADO Department of Public Health & Environment

<p>SUMMARY: THC CONCENTRATION</p>	<p>Almost all retail MJ products in CO contain THC in concentration >10%</p> <p>More research needed</p> <ul style="list-style-type: none">• products with higher THC concentration• higher THC concentration and association with health effects <p>Improvement needed in data collection, include type of product and % THC</p>
<p>29 of 30  COLORADO Department of Public Health & Environment</p>	

C2: Substance Use Disorder Treatment: Colorado Drug Trends

Substance Use Disorder Treatment: Colorado Drug Trends

Presented to the Colorado Commission on Criminal and Juvenile Justice
October 9, 2020



Heather Tolle, PhD
Substance Use Disorder Evaluator
Office of Behavioral Health




Prepared by the OBH Evaluation Team

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Drug and Alcohol Coordinated Data System (DACODS)

- Data Source: Drug and Alcohol Coordinated Data System (DACODS), the primary client-level data collection instrument used by OBH.
 - Treatment admissions at OBH licensed facilities (594 locations), does not include clients who received services through private pay or third party insurance providers.
 - Counts are number of admissions, not a count of unique clients, one client may have more than one admission during the time period.
 - Analysis is based on primary drug only
 - Alcohol, marijuana, cocaine, methamphetamine, heroin, and prescription opioids
- Data spans the 2010 and 2019 calendar years (January 1, 2010 through December 31, 2019) and was pulled on June 25, 2020.




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Key Takeaways

- Treatment admissions remained relatively stable across CY2018 and CY2019 with only an increase of 276 treatment admissions (N = 43,731)
- Alcohol has consistently had the highest number of treatment admissions from CY 2010-2019
- 42% of treatment admissions in CY2019 were for heroin or methamphetamine
- The table below summarizes the percent change in treatment admissions by primary drug:

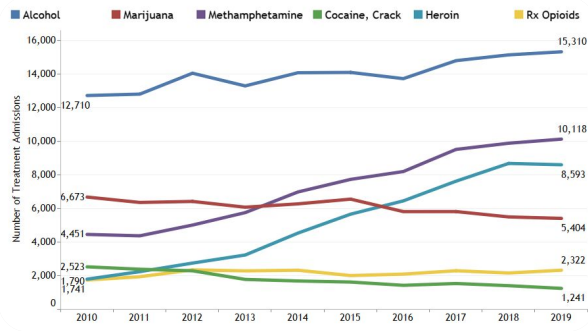
	Alcohol	Marijuana	Cocaine	Meth	Heroin	Rx Opioids
2015	14,084	6,549	1,619	7,724	5,655	2,004
2019	15,310	5,404	1,241	10,118	8,593	2,322
% Change	+8.7%	-17.5%	-23.4%	+31.0%	+52.0%	+15.9%




SOURCE: Drug/Alcohol Coordinated Data System (DACODS), Office of Behavioral Health (OBH) Colorado Department of Human Services (CDHS)

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Treatment Admissions by Year



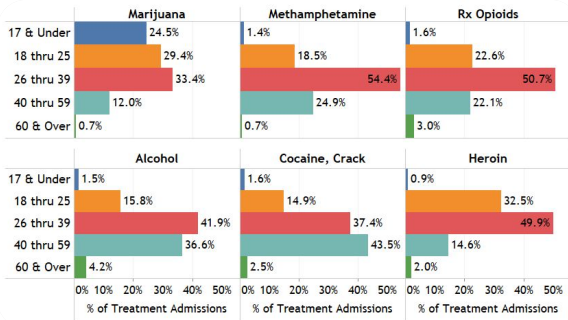
Year	Alcohol	Marijuana	Methamphetamine	Cocaine, Crack	Heroin	Rx Opioids
2010	12,710	6,673	4,451	2,523	1,790	1,741
2019	15,310	5,404	10,118	1,241	8,593	2,322



SOURCE: Drug/Alcohol Coordinated Data System (DACODS), Office of Behavioral Health (OBH) Colorado Department of Human Services (CDHS)

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Treatment Admissions by Age Group and Primary Substance (CY 2010-2019)

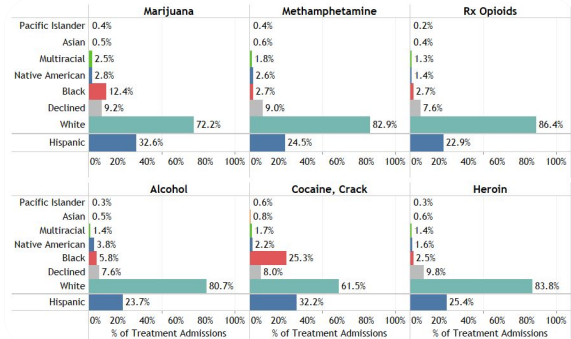


NOTE: Numbers may not add to 100% due to rounding.

SOURCE: Drug/Alcohol Coordinated Data System (DACODS), Office of Behavioral Health (OBH) Colorado Department of Human Services (CDHS)

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Race and Ethnicity by Primary Substance (CY 2010-2019)



NOTE: Race and ethnicity are collected separately and may add to greater than 100%.

SOURCE: Drug/Alcohol Coordinated Data System (DACODS), Office of Behavioral Health (OBH) Colorado Department of Human Services (CDHS)

6 of 12

How does the racial distribution of treatment admissions compare to the racial distribution of Colorado?

SUD Treatment Admissions Show More Diversity Compared to the Overall Colorado Population

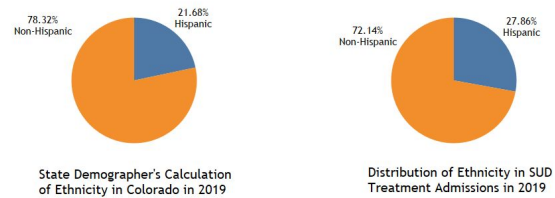


SOURCE: (Left) Population estimates from the Colorado State Demography Office based on 2000 and 2010 Census data (Right) Drug/Alcohol Coordinated Data System (DACODS), Office of Behavioral Health (OBH) Colorado Department of Human Services (CDHS), those declining to answer were removed from the dataset.

7 of 12

How does the ethnic distribution of treatment admissions compare to the ethnic distribution of Colorado?

Individuals of Hispanic Origin are Over-Represented in SUD Treatment Admissions in 2019

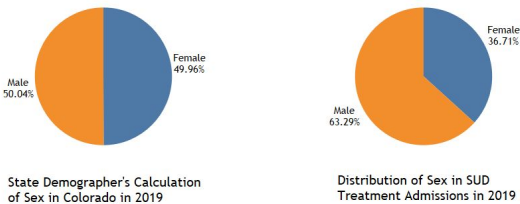


SOURCE: (Left) Population estimates from the Colorado State Demography Office based on 2000 and 2010 Census data (Right) Drug/Alcohol Coordinated Data System (DACODS), Office of Behavioral Health (OBH) Colorado Department of Human Services (CDHS), those declining to answer were removed from the dataset.

8 of 12

How does the sex distribution of treatment admissions compare to the sex distribution of Colorado?

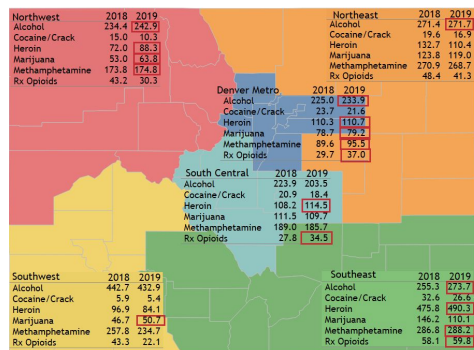
Males are Over-Represented in SUD Treatment Admissions in 2019



SOURCE: (Left) Population estimates from the Colorado State Demography Office based on 2000 and 2010 Census data (Right) Drug/Alcohol Coordinated Data System (DACODS), Office of Behavioral Health (OBH) Colorado Department of Human Services (CDHS)

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Regional Comparison of Treatment Admissions Rate Per 100,000 Population (CY 2018-2019)



Note: Red boxes indicate an increase from the previous year's rate.

SOURCE: Drug/Alcohol Coordinated Data System (DACODS), Office of Behavioral Health (OBH) Colorado Department of Human Services (CDHS)

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Conclusions

- Alcohol continues to constitute the majority of treatment admissions, and continues to rise.
- Treatment admissions for methamphetamine and heroin have been greatly increasing over the past decade.
- Individuals admitted to treatment are most often between ages 26 and 39
 - Those using marijuana tend to be a little younger, while those using cocaine or crack tend to be a little older.
- Men are over-represented in treatment admissions, as well as Native Americans, Hispanics, and African Americans to a lesser degree.
- As treatment admissions continue to rise, our response needs to continue to rise and adapt.



C3: Public Safety and Substance Use Trends

COLORADO

Public Safety and Substance Use Trends

Jack Reed
October 9, 2020

Presentation to the Colorado Commission on Criminal and Juvenile Justice

COLORADO
Division of Criminal Justice
Department of Public Safety

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Overview

- Drug Crime Trends
 - Arrest Rates & District Court Filings
 - Demographics
 - Regional Trends
- Traffic Safety
 - Traffic Fatalities
 - Trends with DUI toxicology
- School Discipline

COLORADO

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SECTION 1

Drug Crimes Trends

COLORADO

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Drug Arrests and District Court Filings for Drug Possession Charges on the Rise in Colorado from 2013 - 2018

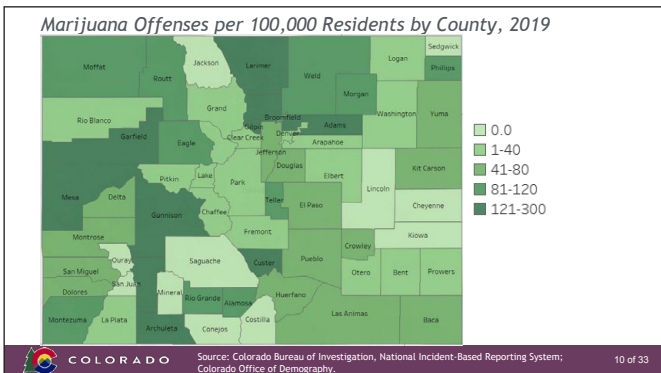
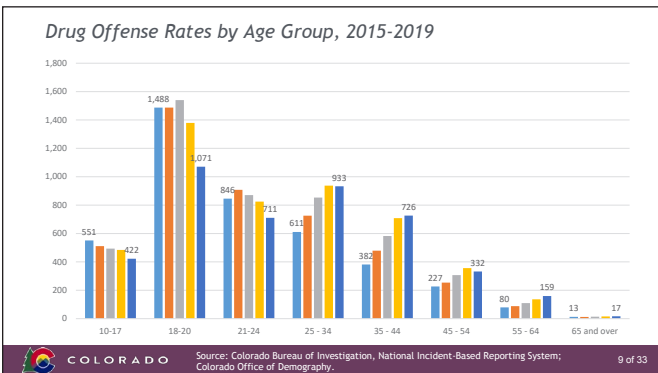
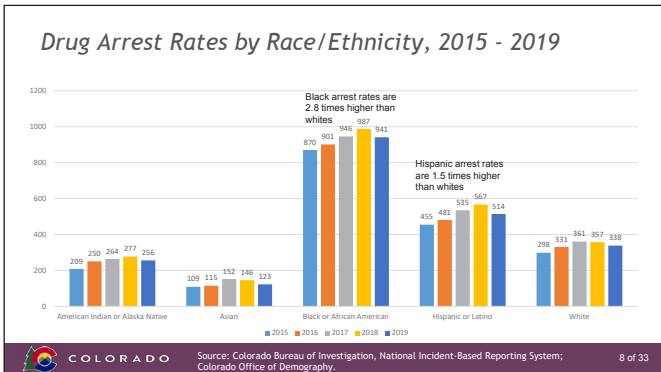
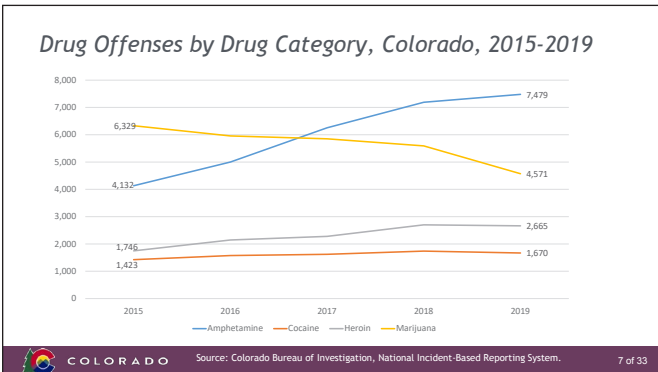
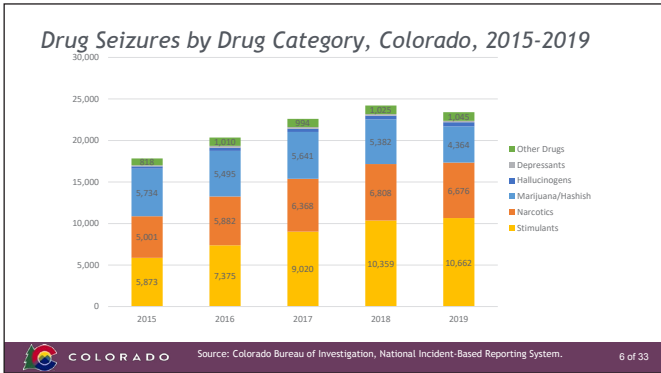
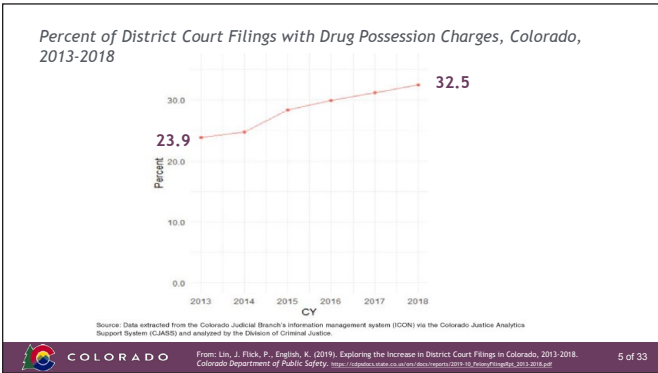
Drug Possession- and Distribution-Related Arrests and Court Case Filings, Colorado, 2013-2018

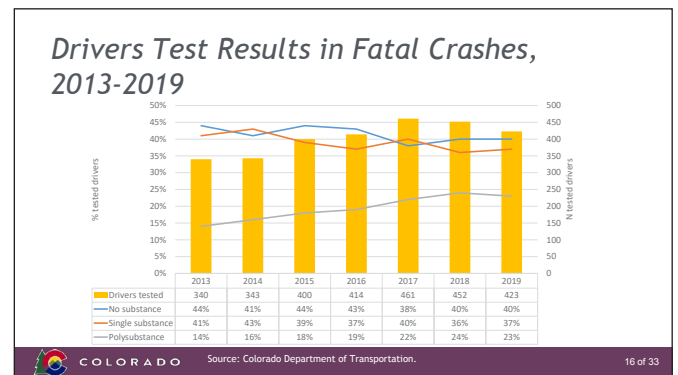
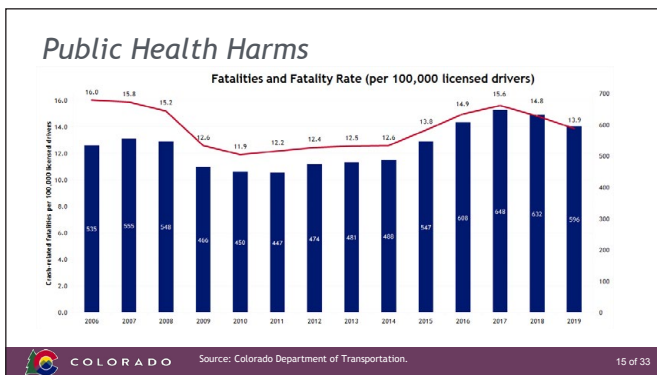
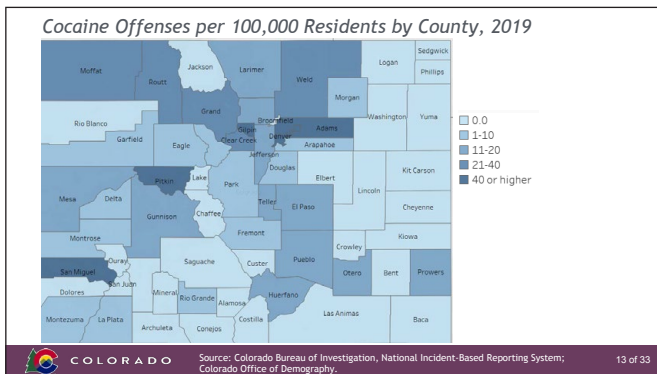
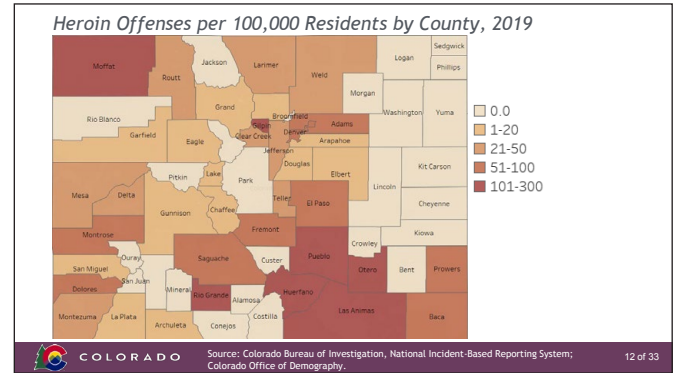
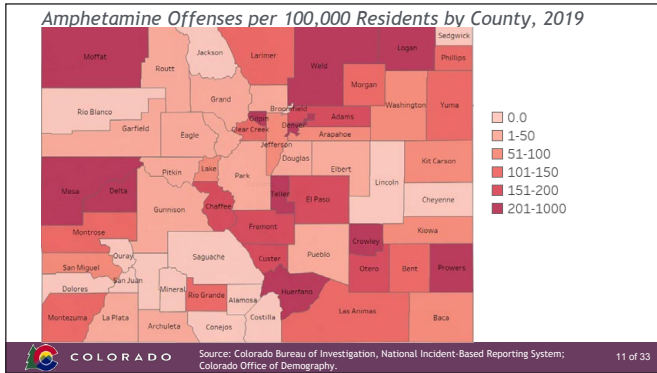
Year	Possession Arrests	Possession Filings	Distribution Filings	Distribution Arrests
2013	13,052	8,728	~1,000	~1,000
2014	~15,000	~10,000	~1,000	~1,000
2015	~17,000	~12,000	~1,000	~1,000
2016	~19,000	~14,000	~1,000	~1,000
2017	20,637	~16,000	~1,000	~1,000
2018	~22,000	17,195	~1,000	~1,000

COLORADO

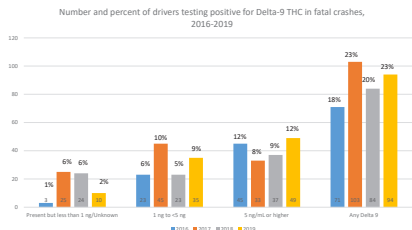
From: Liu, J., Flick, P., English, K. (2019). Exploring the Increase in District Court Filings in Colorado, 2013-2018. Colorado Department of Public Safety. <https://cdps.colorado.gov/en/program/criminal-justice/2019-03-20-exploring-increase-district-court-filings-2013-2018.pdf>

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Drivers Testing Positive for Delta-9 THC in fatal crashes, 2016-2019

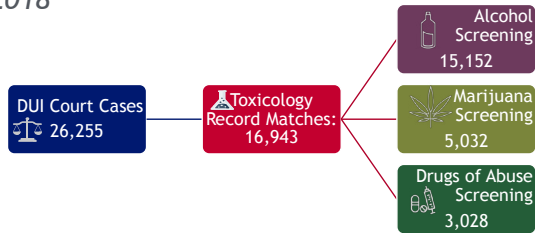


COLORADO Source: Colorado Department of Transportation. 17 of 33

Driving Under the Influence

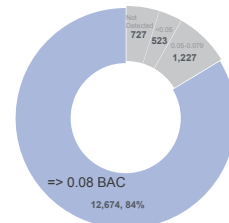
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Colorado's Linked DUI Court Case Dataset 2018



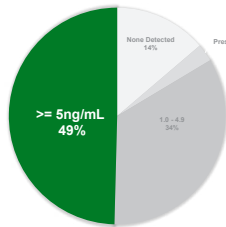
COLORADO Data source: State Judicial Department, Denver County Court, CBI, and ChemaTox. Analyzed by: Office of Research and Statistics, Division of Criminal Justice, Colorado Department of Public Safety. 19 of 33

BAC Toxicology Results Among Screened Drivers (n=15,152), 2018



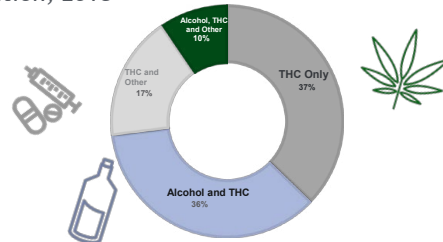
COLORADO Data source: State Judicial Department, Denver County Court, CBI, and ChemaTox. Analyzed by: Office of Research and Statistics, Division of Criminal Justice, Colorado Department of Public Safety. 20 of 33

Delta 9-THC Toxicology Among Cannabinoid Positive Drivers (n= 3,335), 2018



COLORADO Data source: State Judicial Department, Denver County Court, CBI, and ChemaTox. Analyzed by: Office of Research and Statistics, Division of Criminal Justice, Colorado Department of Public Safety. 21 of 33

Delta 9-THC Positive Drivers and Polydrug Detection, 2018

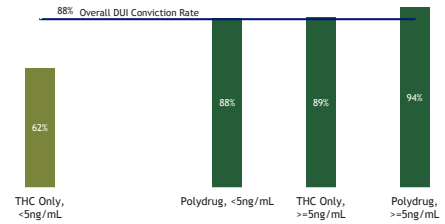


COLORADO Data source: State Judicial Department, Denver County Court, CBI, and ChemaTox. Analyzed by: Office of Research and Statistics, Division of Criminal Justice, Colorado Department of Public Safety. 22 of 33

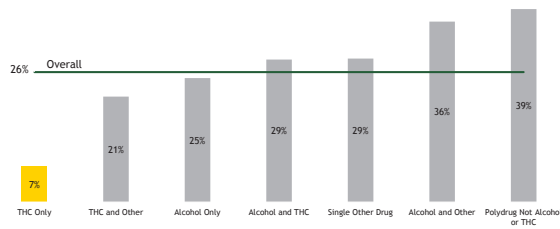
Top 15 Other Drugs Found in DUI Charged Drivers, 2018

Drug	No. of Case Filings
Methamphetamine	747
Cocaine	449
Amphetamine	82
Stimulants Total	1,278
Alprazolam	273
Diazepam or Chlordiazepoxide	188
Clonazepam	150
Zolpidem	106
Lorazepam	100
Midazolam	17
Benzodiazepines Total	834
Oxycodone	67
Morphine	63
Tramadol	42
Codeine	35
Heroin	33
Hydrocodone	30
Opioid Total	270

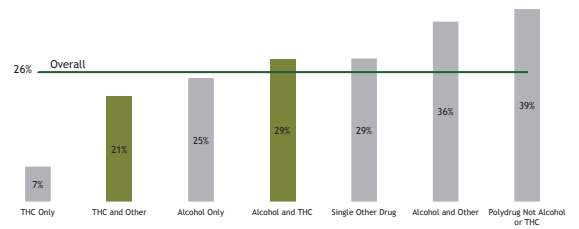
DUI Conviction Rates by Single vs. Polydrug & THC Level, Colorado, 2018



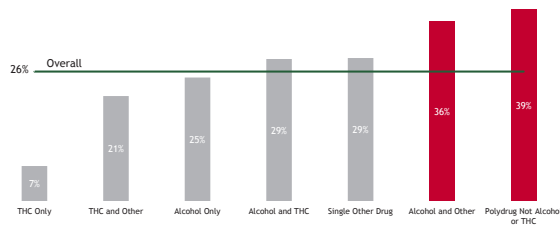
Crash Involvement Among DUI Convicted Drivers, 2018



Crash Involvement Among DUI Convicted Drivers, 2018



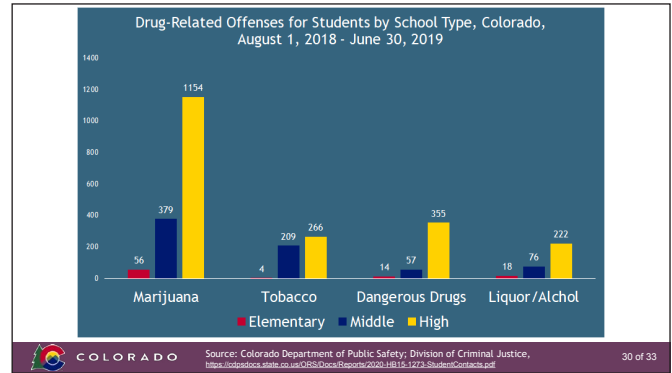
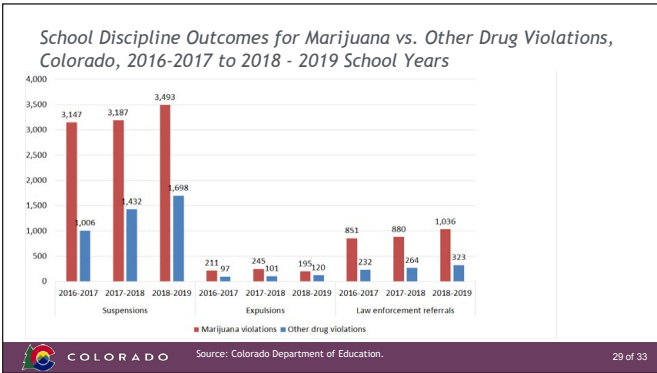
Crash Involvement Among DUI Convicted Drivers, 2018



SECTION 3

School Discipline and Law Enforcement Contacts

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Criminal Justice System Feeling the Strain of the Public Health Drug Crisis

- Increase in drug arrests and felony filings; rise in methamphetamine seizures and arrests
 - Increasing availability of treatment services and diversion programs to this high risk population
- Alcohol and polysubstance impaired driving still a public health issue

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Monitoring school disciplinary Actions is important

- Marijuana violations are the primary reason for school suspensions, expulsions, and referrals to law enforcement
 - Importance of intervening earlier with substance use prevention efforts and promoting alternative disciplinary methods to reduce school-to-prison pipeline

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Appendix D

Behavioral Health Administration (BHA)



Behavioral Health Administration (BHA)
Change Management

Welcome Communication Ambassadors!
Kickoff Discussion on Role and Process




Behavioral Health Administration (BHA)
Change Management

Agenda

- Introductions
- Background for the BHA
- Purpose of Communication Ambassadors
- Role of Communication Ambassadors
- Process and Communication Tools

Ask Questions Throughout



The Vision of the Behavioral Health Task Force



Comprehensive



Equitable



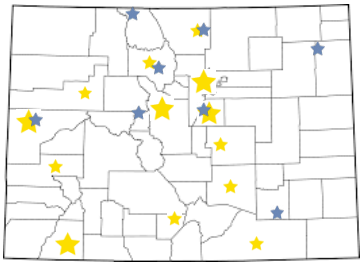

Effective

Continuum of behavioral health services that meets the needs of all Coloradans in the right place at the right time to achieve whole-person health and well-being.

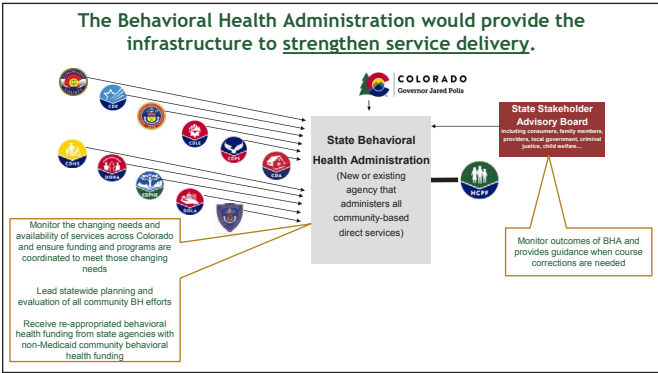
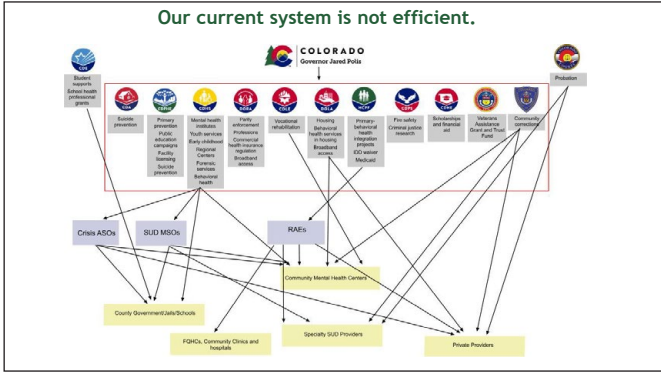
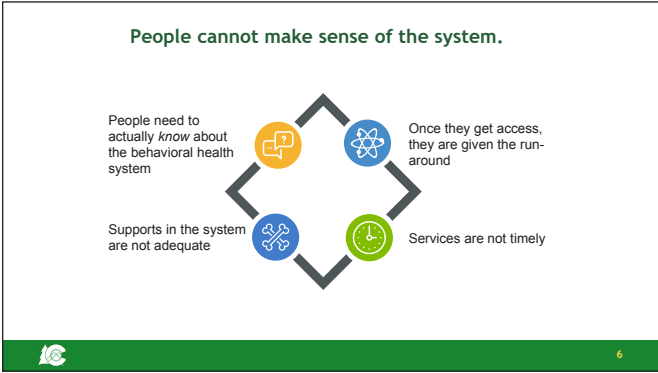


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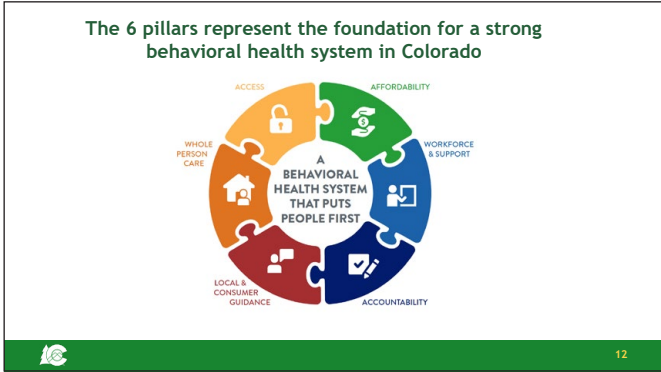
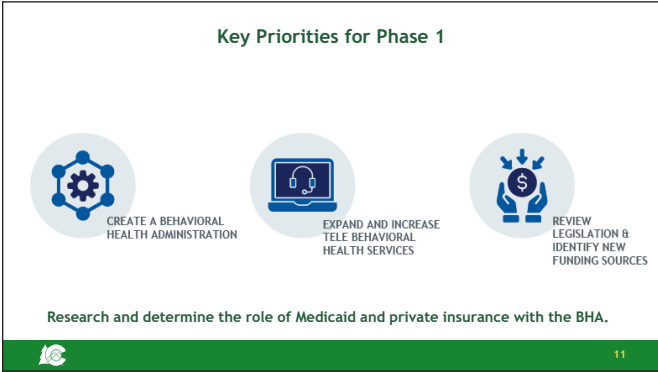
**We have heard hundreds of public testimonies.
We have facilitated community conversations.**


5



- ### The "BHA Bill" has three key target dates.
- On or before November 1st, 2021: CDHS shall develop a plan for the creation of the Behavioral Health Administration, including the integration or alignment of HCPF and DOI
 - On or before July 1st, 2022: The BHA is established in CDHS
 - On or before November 1st, 2024: CDHS shall provide a report concerning recommendations on whether the BHA should remain in CDHS or be transferred to a different state department.



Health Management Associates work on BHA



- HMA is supporting the technical work to **understand** the behavioral health programs in the State and all the details associated with those programs to help inform the formation of the BHA.
- HMA is working to create a more granular level of understanding of the functions or the "what" the BHA needs to deliver to reach the long-term goals of the BHTF six pillars
- HMA will create solutions for how the BHA comes together. These solutions will be informed by stakeholders and then presented to the Executive Committee and Governor's Office for decision.
- Once a decision is made, HMA will work on a detailed implementation plan in partnership with State Departments and key stakeholders.
- HMA will engage **stakeholders** throughout the process with specific focus on state departments, counties/local government, providers, grantees and contractors of behavioral health activities and individuals and families impacted by behavioral health.
- HMA will provide transparent communication about our approach and our progress as we go. Materials and centralized information will be shared with routine updates. To stay informed, go to <https://cdhs.colorado.gov/about-cdhs/featured-initiatives/behavioral-health-reform/change-management> (page launching this week).

Behavioral Health Administration (BHA)
Change Management

State Department Interviews

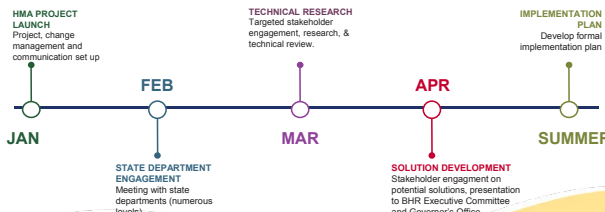
February to March

HMA is using a tiered discovery process with state departments:

- First, interviews with the leadership of each of the departments.
- Second, interviews with program, service, initiative leads to provide detail on the specifics of each state funded behavioral health program, service or initiative.
 - Understand nuance of the program, populations, services, funding, regulation, legislation, data and infrastructure, etc.
- Depending on the department, HMA may also interview additional staff who support behavioral health programs such as information technology, contracting, accounting, or other administrative/operational supports.
- HMA will also utilize a number of data tools for some quantitative data—supplementing and verifying accuracy with department staff as needed.
- HMA plans to have a number of touch points for communication specific to state personnel such as frequently asked questions, anonymous question submission, and regular updates.

Behavioral Health Administration (BHA)
Change Management

Timeline for HMA



- HMA PROJECT LAUNCH** (JAN): Project, change management and communication set up
- STATE DEPARTMENT ENGAGEMENT** (FEB): Meeting with state departments (numerous levels)
- TECHNICAL RESEARCH** (MAR): Targeted stakeholder engagement, research, & technical review.
- SOLUTION DEVELOPMENT** (APR): Stakeholder engagement on potential solutions, presentation to BHR Executive Committee and Governor's Office
- IMPLEMENTATION PLAN** (SUMMER): Develop formal implementation plan

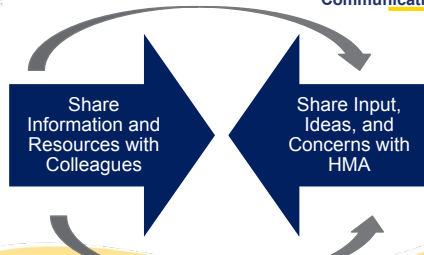
Behavioral Health Administration (BHA)
Change Management

Purpose of the Communication Ambassador

- Connection and Communication**
Build a process for ensuring connection with state departments. Engage state personnel in the process and build in processes to improve information flow.
- Ambassador Name**
Importance of sharing information and being a bidirectional communicator to support state personnel input and voice and to support clarity (reduce myth and rumor).
- Connection to Communication Tools**
Connect people to resources.
- Communication and Transparency**
Any change can create anxiety and information and transparency is a way to reduce unnecessary anxiety. We want to hear concerns while reducing confusion.

Behavioral Health Administration (BHA)
Change Management

Role of Communication Ambassador



Behavioral Health Administration (BHA)
Change Management

Guidelines for Engagement

- Step up, Step Back in Group
- Prioritize time for the role
- Patience with different needs across departments
- Respect different assessments of the BHA in opportunity or concern
- Respect privacy and sensitivity of information shared
- Remain open
- Listen for underlying themes

Behavioral Health Administration (BHA)
Change Management

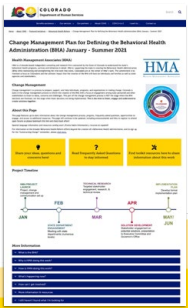
HMA
Behavioral Health Administration

Change Management Webpage

COMMUNICATION & COLLABORATION

- Up-to-date information about the change management process, progress, frequently asked questions, opportunities to engage, and access to additional resources.
- The webpage will continue to be updated throughout the project so check back often!

bit.ly/BHA-Colorado



Behavioral Health Administration (BHA)
Change Management

COLORADO

HMA
Behavioral Health Administration

As of Feb 24, 2021

Ways to Engage

WAYS TO ENGAGE

- Available now
 - Google feedback form for you to share ideas, questions, and concerns
 - Toolkit (talking points, social media content & graphics, email newsletter content and more!)
 - TA support to help with communication planning about the project and resource navigation
- Upcoming
 - Targeted focus groups in March
 - Open forums in March
 - Town hall webinars to share findings and hear feedback on proposed solutions and implementation plans

Behavioral Health Administration (BHA)
Change Management

COLORADO

Appendix E

House Bill 2019-1149 Report



COLORADO Commission on Criminal & Juvenile Justice

Department of Public Safety
Colorado.gov/CCJJ

August 17, 2020

Stan Hilkey
Chair
(303) 239-4398
Stan.Hilkey@state.co.us

Abigail Tucker
Vice-Chair
(303) 853-3703
A.Tucker@communityreachcenter.org

- Chris Bachmeyer
- Terri Carver
- Minna Castillo Cohen
- Shawn Day
- Janet Drake
- Valarie Finks
- Bob Gardner
- Priscilla Gartner
- Julie Gonzales
- Serena Gonzales-Gutierrez
- Kristen Hilkey
- Nancy Jackson
- Jessica Jones
- Bill Kilpatrick
- Richard Kornfeld
- Matt Lewis
- Andrew Matson
- Greg Mauro
- Angie Paccione
- Tom Raynes
- Cliff Riedel
- Megan Ring
- Gretchen Russo
- Jennifer Stith
- Glenn Tapia
- Anne Tapp
- Dean Williams

TO: The Judiciary Committees of the Colorado House of Representatives and the Senate
FROM: The Commission on Criminal and Juvenile Justice/Stan Hilkey, Chair
RE: House Bill 2019-1149, CCJJ's Age of Delinquency Task Force, Final Report

Background. House Bill 2019-1149, *Concerning Directing the Age of Delinquency Task Force of the Colorado Commission on Criminal and Juvenile Justice to Study Serving Emerging Adults in the Juvenile Justice System*, mandated that the Commission compile specific data on those ages 18-24 and to make recommendations for improving services to this age group. This information was to be presented to the Judiciary Committees of the House and Senate on June 30, 2020. Due to pandemic, on April 10, 2020, the Commission voted to suspend its work until June. A consequence of this suspension was a delay in providing the mandated information to the Judiciary Committees by June 30, 2020, as required in House Bill 2019-1149. We apologize for the delay; please find attached the Commission's final product per the requirements of the bill.

Specifically, House Bill 2019-1149 required the Commission's Age of Delinquency Task Force to study the established brain research, the potential impacts on the Division of Youth Services and the Youthful Offender System in the Department of Corrections if these served this young adult population, and to compile data regarding all criminal filings from the last three years in which a defendant was 18 to 24 years old. These data include age, race/ethnicity, judicial district, crimes charged, disposition and sentence; additional information was requested in the bill, such as prior services received and the overall outcome of the person, however, these data were unavailable.

The Task Force undertook the study of this age group, reviewing a significant amount of data, published reports and peer-reviewed papers, along with hearing from expert speakers, adding task force members from the Division of Youth Services and the DOC's Youthful Offender System (YOS), and touring YOS. For complete information on the work of the Age of Delinquency Task Force, please see, colorado.gov/ccjj/ccjj-cADTF.

Task Force Findings. The Commission approved two recommendations on July 10, 2020 that focus on processes within adult probation and the Youthful Offender System; these are considered to be the most appropriate agencies at this time to address the needs of young





COLORADO
Commission on Criminal & Juvenile Justice
Department of Public Safety

adults, with specific modifications as outlined in the recommendations. Regarding probation, the vast majority of 18-24-year-olds who are under the jurisdiction of the criminal justice system are serving adult probation sentences so the recommendation will have a significant impact. Likewise, the Youth Offender System is specifically designed to offer appropriate programming, services, and management to individuals in this age group who are incarcerated.

Therefore, the first recommendation (attached) is directed to the Division of Probation Services in the Judicial Department. The recommendation asks the Judicial Department to promulgate probation supervision standards that formally recognize and address the needs of young adults. The second recommendation (attached) concerns important modifications to the Youthful Offender System statutes to allow greater flexibility in programming given the significant research that has accumulated on evidence-based approaches since YOS was placed in statute in 1994, and to update and clarify specific statutory language.

In addition, following the two recommendations, please find attached the compilation of data elements requested in House Bill 2019-1149. This information begins with the statewide analysis, followed by the information disaggregated by judicial district. Appendix A at the end of this data compilation provides the crime classification categories.

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Jared S. Polis, Governor | Stan Hilkey, Executive Director



Appendix F

Senate Bill 2019-008 Report



COLORADO Commission on Criminal & Juvenile Justice

Department of Public Safety
Colorado.gov/CCJJ

September 23, 2020

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- Cliff Riedel
- Megan Ring
- Gretchen Russo
- Jennifer Stith
- Glenn Tapia
- Anne Tapp
- Dean Williams

TO: The Judiciary Committees of the Colorado House of Representatives and the Senate, the Public Health Care Committee of the House of Representatives, and the Health and Human Services Committee of the Senate

FROM: The Commission on Criminal and Juvenile Justice
Stan Hilkey, Chair

RE: Senate Bill 2019-008, Final Report

Background. Senate Bill 2019-008, *Concerning Treatment of Individuals with Substance Use Disorders Who Come into Contact with the Criminal Justice System*, mandated that the Commission study and make recommendations on the following issues:

- (A) Alternatives to filing criminal charges against individuals with substance use disorders who have been arrested for drug-related offenses;
- (B) Best practices for investigating unlawful opioid distribution in Colorado, including the potential creation of black market opioid investigatory entities at the state and local levels; and
- (C) A process for automatically sealing criminal records of convictions for drug offenses.

This information was to be presented to the above committees of the House and Senate on July 1, 2020. As described in our July 1, 2020 update to the General Assembly, due to the pandemic, on April 10, 2020, the Commission voted to suspend its work until June. A consequence of this suspension was a delay in providing the information by July 1, as mandated in Senate Bill 2019-008. We apologize for the delay; please find attached the Commission’s final products per the requirements of the bill.

Process. The Commission seated an Opioid Investigations Subcommittee and a Drug Offense Task Force to address the mandates of Senate Bill 2019-008. In the spring of 2020, three recommendations were developed and unanimously approved by the Subcommittee, and one recommendation was developed and unanimously approved by the Task Force while work continued on a second Task Force recommendation. The second Task Force recommendation pertained to diversion (issue (A), above) and, following the significant impact of COVID-19 on justice system practices and the state budget, the original recommendation was abandoned in favor of a public health response to drug involved





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individuals. The revised recommendation was unanimously passed by the Task Force and forwarded to the full Commission for consideration, as were the other recommendations developed pursuant to Senate Bill 2019-008. Details about this work by the respective committees can be found on the Commission web site, ccjj.colorado.gov/ccjj-opinvsbc and ccjj.colorado.gov/ccjj-dotf.

Conclusion. The Commission approved the following recommendations:

- Recommendation FY20-DR #01, *Create and Implement a Process for Automatically Sealing Criminal Conviction Records for Drug Offenses [Budgetary]*
- Recommendation FY20-DR #02, *Support a Public Health Model of Deflection [Policy]*
- Recommendation FY20-OP #01, *Establish a Statewide Entity to Coordinate Strategy Regarding Dangerous Drugs [Statutory, Budgetary]*
- Recommendation FY20-OP #03, *Implement Unified Drug Overdose Reporting and Tracking [Statutory]*

Note that one recommendation from the Opioid Subcommittee was not approved by the Commission. This recommendation specifically addressed issue (B), above, regarding developing a statewide entity for opioid investigations. However, given the impact of COVID-19 on the state budget and in light of social justice protests in Colorado and nationwide, this recommendation was not supported by the Commission.

Please find attached the four recommendations approved by the Colorado Commission on Criminal and Juvenile Justice in response to Senate Bill 2019-008.



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