

Chapter 10 — Probation Services / Funding History

This chapter explores probation services which are administered by the Judicial Branch. There are 22 judicial districts in the state and each judicial district operates a probation department. In addition to the supervision of offenders, the probation departments are also responsible for submitting pre-sentence investigation reports to the courts. Probation services are under the direction of the chief judge and chief probation officer in each judicial district.

Certain non-violent offenders may be sentenced to probation by the court. The level of community supervision is determined according to the results of a risk assessment, a treatment assessment, and statutory and court-ordered conditions of probation.

This chapter highlights the following:

- while only certain offenders are eligible for a sentence to probation, the sentencing court may waive these eligibility restrictions upon recommendation of a district attorney; in addition, the court may sentence an offender to probation and jail;
- specialized probation programs assist and supervise those offenders needing a higher level of supervision or specialized services while on probation; and
- the probation population (adult and juvenile caseloads) has grown by 109.4 percent since FY 1988-89, while actual expenditures have grown by 189 percent.

COLORADO'S JUDICIAL DISTRICTS

The 63 counties in Colorado are apportioned into 22 judicial districts. Each judicial district has a probation department which provides probation services. Table 10.1 is a listing of the counties within each judicial district and Graph 10.1 is a map of the 22 judicial districts.

Table 10.1: Judicial Districts and Corresponding Counties

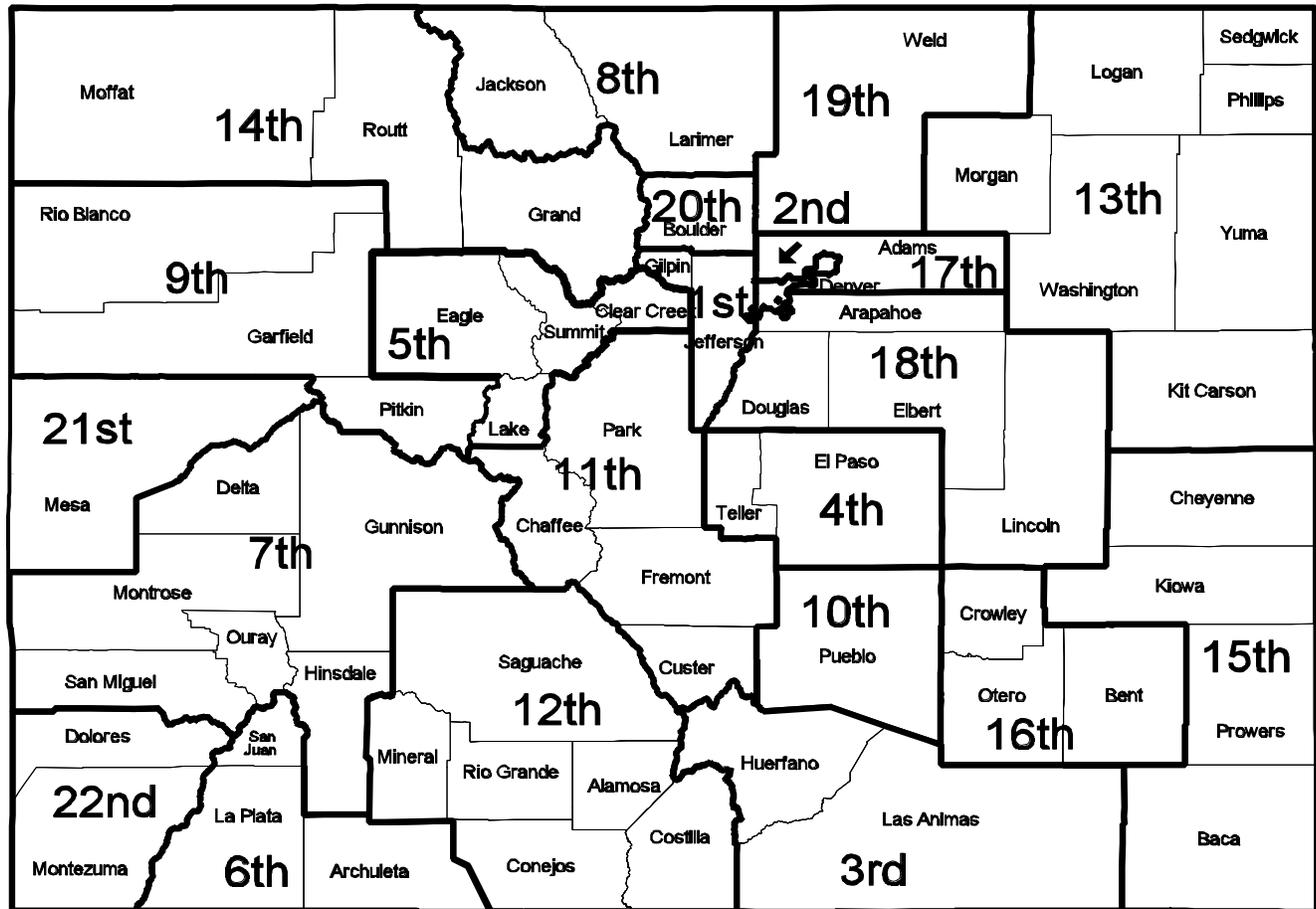
Judicial District	County	Judicial District	County
District 1	Gilpin, Jefferson	District 12	Alamosa, Conejos, Costilla, Mineral, Rio Grande, Saguache
District 2	Denver	District 13	Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Yuma
District 3	Huerfano, Las Animas	District 14	Grand, Moffat, Routt
District 4	El Paso, Teller	District 15	Baca, Cheyenne, Kiowa, Prowers
District 5	Clear Creek, Eagle, Lake, Summit	District 16	Bent, Crowley, Otero
District 6	Archuleta, La Plata, San Juan	District 17	Adams
District 7	Delta, Gunnison, Hinsdale, Montrose, Ouray, San Miguel	District 18	Arapahoe, Douglas, Elbert, Lincoln
District 8	Jackson, Larimer	District 19	Weld
District 9	Garfield, Pitkin, Rio Blanco	District 20	Boulder
District 10	Pueblo	District 21	Mesa
District 11	Chaffee, Custer, Fremont, Park	District 22	Dolores, Montezuma

PROBATION ELIGIBILITY

All offenders are eligible to apply to the court to receive a sentence to probation, with the following exceptions:

- persons convicted of a class 1 felony;
- persons convicted of a class 2 petty offense;
- persons who have been twice previously convicted of a felony under Colorado law or any state or federal law; and
- persons who have been convicted of one or more felonies in this state, any other state, or the United States within ten years of a prior class 1, class 2, or class 3 felony conviction.

Graph 10.1
Judicial Districts of Colorado



The sentencing court may waive the restrictions on probation eligibility upon recommendation of the district attorney. The district attorney must show the court that the defendant is a non-violent offender, as defined in Section 16-11-101 (1) (b.5) (II) (B), C.R.S. A non-violent offender, as described in statute, has not committed:

- crimes of violence, as defined in Section 16-11-309 (2), C.R.S.;
- manslaughter, as defined in Section 18-3-104, C.R.S.;
- second degree burglary, as defined in Section 18-4-203, C.R.S.;
- theft if the object of value is more than \$500, as defined in Section 18-4-401 (2) (c), (2) (d), or (5), C.R.S.;
- a felony offense committed against a child, as defined in Articles 3, 6 and 7 of Title 18; or

- crimes in other states, that if committed in this state would be a crime of violence, manslaughter, second degree burglary, robbery, theft of property worth \$500 or more, theft from a person by means other than the use of force, threat, or intimidation, or a felony offense committed against a child.

In addition to probation, the sentencing court has the power to commit the defendant to any jail operated by a county or city and county where the offense was committed. The length of the jail term may be for a set time, or for intervals, and is at the discretion of the court. The aggregate length of any jail commitment, continuous or at intervals, is not to exceed 90 days for a felony, 60 days for a misdemeanor, or ten days for a petty offense. Offenders sentenced to a work release program are not subject to these time lines.

PROBATION GUIDELINES

Section 16-11-204, C.R.S., states that the conditions of probation shall be as the court, in its discretion, deems reasonably necessary to ensure that the defendant will lead a law-abiding life. Section 16-11-203, C.R.S., stipulates that the court may sentence an offender to probation, unless due to the nature and circumstances of the offense and due to the history and character of the defendant, the court determines that a sentence to the DOC is more appropriate. The statutes outline the factors that favor a prison sentence:

- there is undue risk that during the probation period the defendant will commit another crime;
- the defendant is in need of correctional treatment that is most effectively provided by imprisonment;
- a sentence to probation would unduly depreciate the seriousness of the defendant's crime or undermine respect for the law;
- the defendant's past criminal record indicates that probation would fail to accomplish its intended purposes; or
- the crime, the facts surrounding it, or the defendant's history and character when considered in relation to statewide sentencing practices relating to persons in circumstances substantially similar to those of the defendant, do not justify the granting of probation.

When considering the factors above, the statutes further guide the sentencing court to weigh the following in determining whether to grant probation:

- whether the criminal conduct caused or threatened serious harm to another person or property;

- whether the offender planned or expected that his/her conduct would cause or threaten serious harm to another person or property;
- whether the defendant acted under strong provocation;
- whether the defendant's conduct was justified by substantial grounds, although they were not sufficient for a legal defense;
- whether the victim induced or facilitated the act committed;
- whether the defendant has a prior criminal history or has been law-abiding for a substantial period of time prior to the offense;
- whether the defendant will or has made restitution to the victim;
- whether the defendant's conduct was the result of circumstances unlikely to recur;
- whether the defendant's character, history, and attitudes indicate he/she is unlikely to reoffend;
- whether the defendant is likely to respond favorably to probationary treatment;
- whether imprisonment would entail undue hardship to the defendant or the defendant's dependents;
- whether the defendant is elderly or in poor health;
- whether the defendant abused a position of public trust or responsibility; or
- whether the defendant cooperated with law enforcement authorities in bringing other offenders to justice.

Once placed on probation, the court may, as a condition of probation, require that the defendant:

- work faithfully at suitable employment or pursue a course of study or vocational training to equip the defendant for suitable employment;
- undergo available medical or psychiatric treatment;
- attend or reside in a facility established for the instruction, recreation, or residence of persons on probation;
- support the defendant's dependents and meet other family responsibilities, including a payment plan for child support;
- pay reasonable costs of court proceedings or costs of probation supervision;
- pay any fines or fees imposed by the court (Senate Bill 00-092 increased the fee to \$35);

- repay all or part of any reward paid by a crime stopper organization;
- refrain from possessing a firearm, destructive device, or any other dangerous weapon;
- refrain from excessive use of alcohol or any unlawful use of a controlled substance;
- report to a probation officer at reasonable times, as directed by the court or the probation officer;
- remain within the jurisdiction of the court, unless granted permission to leave;
- answer all reasonable inquiries by the probation officer and justify to the officer any change of address or employment;
- be subject to home detention;
- be restrained from contact with the victim or victim's family members for crimes involving domestic violence; and
- satisfy any other conditions reasonably related to the defendant's rehabilitation.

In addition, offenders convicted of an offense involving unlawful sexual behavior or for which the factual basis involved an offense involving unlawful sexual behavior must, as a condition of probation, submit to and pay for a chemical blood test to determine the genetic markers.

PROBATION POPULATION

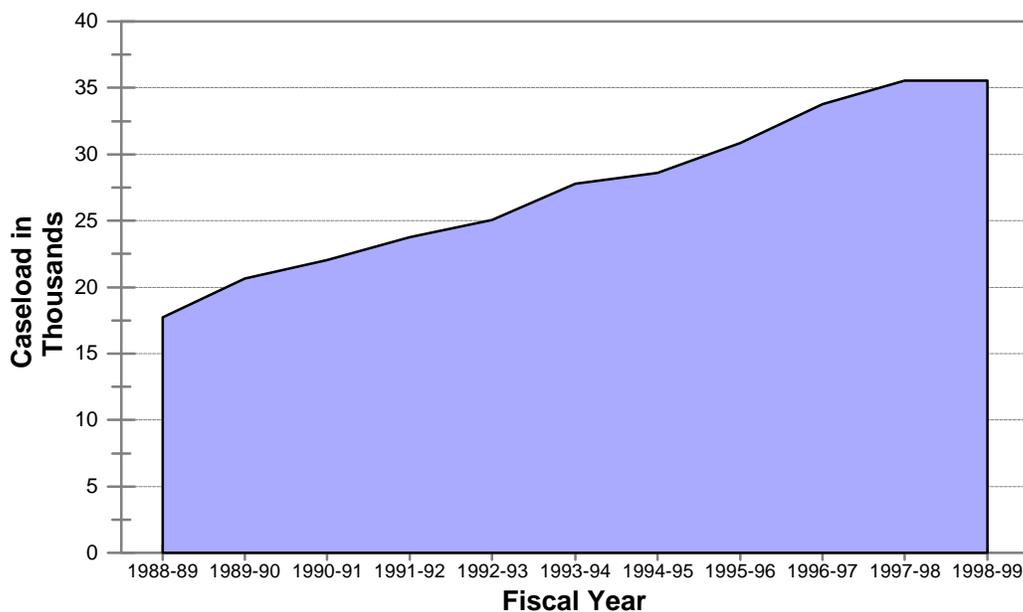
The adult probation population grew 117.5 percent from fiscal year 1988-89 to fiscal year 1998-99 (from 17,728 offenders to 35,568 offenders). Much of the increase may be attributed to population growth and increased criminal filings. Meanwhile, not only has the legislature increased funding for prisons during the past several years, but it has also funded more probation slots, particularly intensive supervision probation (ISP) slots. House Bill 95-1352 funded 750 additional ISP slots, to be phased in over three years, doubling the initial capacity. Table 10.2 and Graphs 10.2 and 10.3 provide a ten-year history of the probation caseload and illustrate the growth during the same time period. From FY 1988-89 to FY 1998-99, the year-end caseload more than doubled (from 17,728 to 35,568 offenders), a 100.6 percent increase.

Table 10.2: Ten-Year History of Probation Caseload

Fiscal Year	Adult Probation Caseload (Year End)	Cumulative Percentage Increase Over FY 1988-89
FY 1988-89	17,728	NA
FY 1989-90	20,645	16.5%
FY 1990-91	22,015	24.2%
FY 1991-92	23,755	34.0%
FY 1992-93	25,077	41.5%
FY 1993-94	27,785	56.7%
FY 1994-95	28,592	61.3%
FY 1995-96	30,856	74.1%
FY 1996-97	33,754	90.4%
FY 1997-98	35,561	100.6%
FY 1998-99	35,568	100.6%

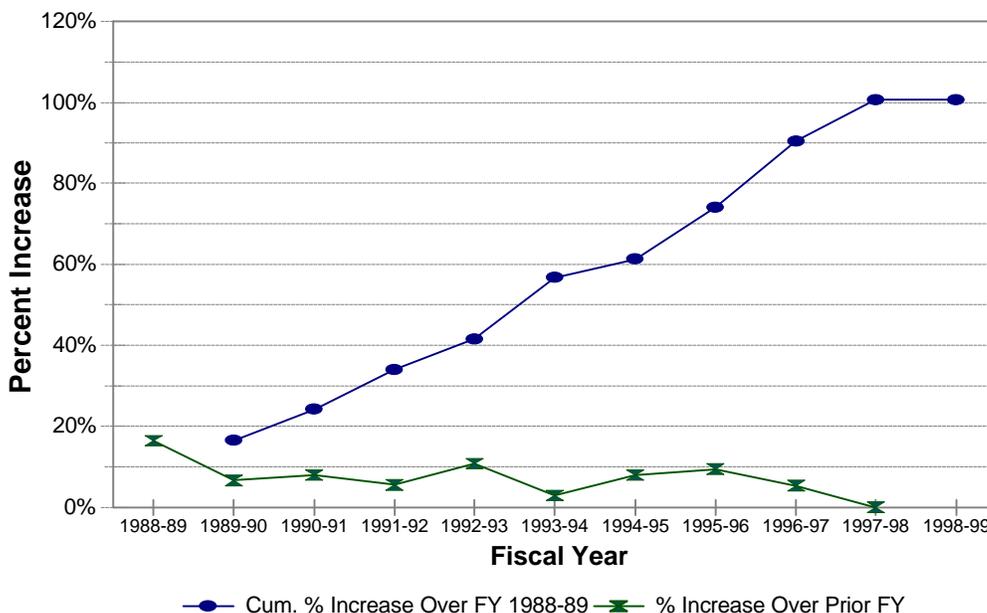
Source: Judicial Department Annual Report.

**Graph 10.2: Probation Caseload History (Year End)
FY 1988-89 through FY 1998-99**



Source: Judicial Department Annual Report.

**Graph 10.3: Probation Caseload Cumulative Percent Increase
FY 1988-89 through FY 1998-99**



Source: Judicial Department Annual Report.

As a result of legislation passed by the Colorado General Assembly in 1998 it is anticipated that the probation population will increase at an even faster rate in the future. House Bill 98-1156 affects offenders sentenced to probation after conviction of a sexual offense that is a class 2, 3, or 4 felony. The new law requires an offender who is convicted of a felony class 2 or 3 sexual offense to be supervised by the Office of Probation Services for a minimum of 20 years to a maximum of the offender's life. An offender who is convicted of a felony class 4 sexual offense must be supervised for ten years minimum to a maximum of the offender's life. The law applies to offenders who commit the sexual offense on or after November 1, 1998. Although the number of offenders sentenced to probation may not increase as rapidly, the length of time that certain offenders are under the supervision of the department will increase, thus, impacting the overall probation population and the average caseload size.

SPECIALIZED PROBATION PROGRAMS

The probation department offers three main specialized probation programs for adult offenders: Adult Intensive Supervision Probation Program (ISP), Specialized Drug Offender Program, and the Female Offender Program. All of the programs have been implemented, at least on a pilot basis, since 1984. The data provided below were obtained from the Office of Probation Services, *FY 1999 Annual Report*. This is the most recent annual report available and pertains to FY 1998-99.

Adult Intensive Supervision Probation. The goal of the ISP program is to protect the community in a cost-effective manner by providing supervision, surveillance, and appropriate services to offenders who, may otherwise have been incarcerated. ISP provides more frequent contact with probation officers than those on regular probation. ISP was implemented on a statewide basis in 1988 and has been expanded to become the largest special probation program. Data from FY 1998-99 indicate that supervision services were provided to 1,396 offenders. The pre-release recidivism rate was 16.5 percent and the post-release recidivism rate within 12 months of the offenders' successful release from intensive supervision was 7 percent.

Specialized Drug Offender Program. The goal of the Specialized Drug Offender Program is to provide an intensive form of probation supervision to high-risk, substance-abusing offenders whose risk of failure on probation is significant. The program was developed in 1991 as a response to an increased number of severe drug and substance abuse offenders who were placed on ISP. The program integrates the use of a standardized assessment to determine the appropriate level of treatment. The program includes a cognitive-behavioral approach intended to teach offenders to stop and think about potential consequences before acting. Offenders are also subject to random urine screening to monitor compliance with the requirement of abstinence. The program provided supervision and treatment intervention to 282 offenders in FY 1998-99. The pre-release recidivism rate was 11.3 percent and the post release recidivism rate within 12 months of the offenders' successful release from the specialized drug offender program was 2.5 percent.

Female Offender Program. The goal of the Female Offender Program is to provide specialized services and training in five urban judicial districts for female offenders who have failed other programs. This program targets women eligible for commitment to the DOC, either directly or through a probation revocation. The program was initiated in 1991 and operates in the 1st, 2nd, 4th, 17th, and 18th judicial districts which include Gilpin, Jefferson, Denver, El Paso, Teller, Adams, Arapahoe, Douglas, Elbert, and Lincoln counties. These judicial districts account for 66.9 percent of all females committed to the DOC. The program provides direct short-term intervention, gender-specific treatment referral, and group activities for women facing revocation within other specialized programs. The Office of Probation Services indicates that the profile of the female offender is different than that of the male offender, thus creating the need for a specialized program. According to the Judicial Branch, female offenders are more likely to have been victims of sex abuse, unemployed at the time of their arrest, and to be the custodial parent of minor children than are male offenders. Data indicate that in FY 1998-99, supervision was provided through the program to 173 adult female offenders. The pre-release recidivism rate was 10.3 percent and the post-release recidivism rate within 12 months of the offenders' successful release from the female offender program was 16.3 percent.

JUDICIAL BRANCH PROBATION FUNDING HISTORY

The Judicial Branch, Office of Probation Services, receives funding in the Long Bill for probation-related activities. In terms of expenditures, the Office of Probation Services combines both adult and juvenile services. While the total probation population between FY 1988-89 and FY 1998-99 increased by 109.4 percent, the actual expenditures grew by 189 percent, from \$15,146,856 to \$43,772,923. The number of FTE employees assigned to probation also grew over the ten-year period. For FY 1988-89, the office was assigned 430.5 FTE employees versus 809.2 for FY 1998-99, an increase of 88.1 percent.

Table 10.3 provides a ten-year history of actual expenditures, adult and juvenile probation caseloads, FTE allocation and average caseload per FTE for probation. The table illustrates that although the number of FTE for probation increased 88 percent over the ten-year period, the average caseload per FTE employee also increased. Table 10.4 compares actual expenditures for probation to the expenditures adjusted for inflation. Finally, the table provides the cumulative percentage increases for the expenditures, probation population, and FTE relative to FY 1988-89.

Table 10.3: Probation Expenditures and Caseload

Fiscal Year	Adult Probation Population (Year End)	Juvenile Probation Population (Year End)	Expenditure	FTE Employees	Average Caseload Per FTE Employee
FY 1988-89	17,728	5,760	\$15,146,856	430.5	54.6
FY 1989-90	20,645	6,342	\$16,329,337	430.5	62.7
FY 1990-91	22,015	6,873	\$17,798,598	465.0	62.1
FY 1991-92	23,755	7,646	\$23,520,223	479.0	65.6
FY 1992-93	25,077	9,074	\$24,498,890	483.0	70.6
FY 1993-94	27,785	8,611	\$24,946,846	514.6	70.7
FY 1994-95	28,592	9,741	\$27,975,795	537.3	71.3
FY 1995-96	30,856	9,666	\$31,840,746	572.7	70.8
FY 1996-97	33,754	9,933	\$36,182,123	709.2	61.6
FY 1997-98	35,561	10,272	\$38,918,249	741.4	61.8
FY 1998-99	38,568	10,610	\$43,772,923	809.2	60.8

Source: Judicial Department Annual Report, Judicial Department Budget Office.

Table 10.4: Probation Expenditures, Adjusted for Inflation, and Caseload *

Fiscal Year	Actual Expenditures	Percent Increase Over FY 1988-89	Inflation-Adjusted Expenditures (FY 1988-89 Dollars)	Percent Increase Over FY 1988-89	Probation Population* (Year End)	Percent Increase Over FY 1988-89	FTE	Percent Increase Over FY 1988-89
FY 1988-89	\$15,146,856	NA	\$15,146,856	NA	23,488	NA	430.5	NA
FY 1989-90	16,329,337	7.8%	15,853,725	4.7%	26,987	14.9%	430.5	0.0%
FY 1990-91	17,798,598	17.5%	16,480,183	8.8%	28,888	23.0%	465.0	8.0%
FY 1991-92	23,520,223	55.3%	21,189,390	39.9%	31,401	33.7%	479.0	11.3%
FY 1992-93	24,498,890	61.7%	21,119,733	39.4%	34,097	45.2%	483.0	12.2%
FY 1993-94	24,946,846	64.7%	20,617,228	36.1%	36,396	55.0%	514.6	19.5%
FY 1994-95	27,975,795	84.7%	22,203,012	46.6%	38,333	63.2%	537.3	24.8%
FY 1995-96	31,840,746	110.2%	24,305,913	60.5%	40,522	72.5%	572.7	33.0%
FY 1996-97**	36,182,123	138.9%	26,604,502	75.6%	43,687	86.0%	709.2	64.7%
FY 1997-98	38,918,249	156.9%	27,998,740	84.8%	45,833	95.1%	741.4	72.2%
FY 1998-99	43,772,923	189.0%	30,610,436	102.1%	49,178	109.4%	809.0	87.9%

* Probation population includes adult and juvenile caseloads.

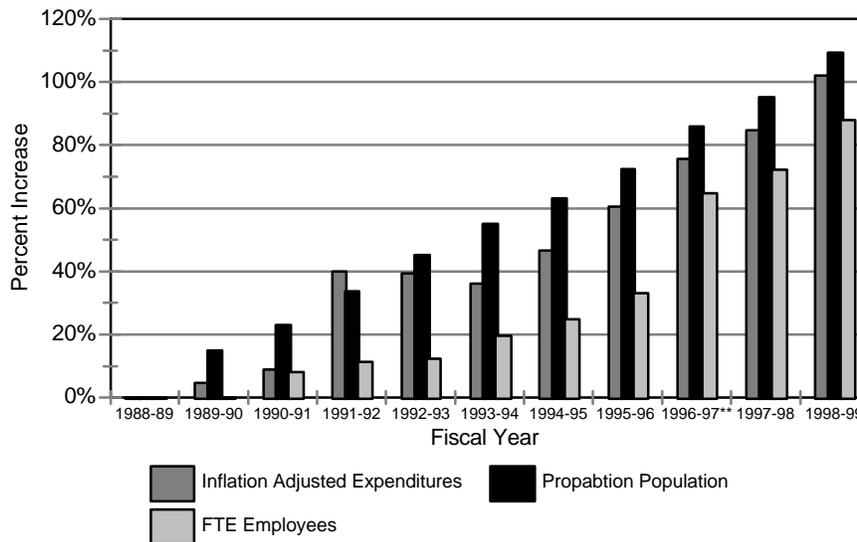
** Actual Appropriation.

Note: The Denver-Boulder consumer price index was used to adjust for inflation.

Source: Judicial Department Annual Report, Judicial Department Budget Office.

Graph 10.4 illustrates and compares the inflation-adjusted expenditures with the probation caseload and FTE employment based on the cumulative percentage increase over FY 1988-89. Graph 10.4 illustrates that, when adjusted for inflation, the growth in the probation population has outpaced the growth in expenditures.

Graph 10.4: Probation Expenditures vs. Caseload Cumulative Percentage Increase Over FY 1988-89



Source: Judicial Department Annual Report.