Chapter 4 — Sentencing Placement of Convicted Felons

This chapter presents an analysis of the trends in sentencing placement for convicted felons, with a focus on the factors likely to lead to a prison conviction versus other sentencing alternatives.

The findings include the following:

- among offenders convicted of felony offenses in FY 1998-99, 48.3 percent received probation sentences, 33.2 percent received prison sentences, 5.3 percent received county jail sentences, and 2.8 percent received community corrections sentences;

- the likelihood of a convicted felon receiving a prison sentence (versus an alternative placement) rises with the felon's number of prior felony convictions, the seriousness of the current crime of conviction, and whether the felon has a history of other supervision placements;

- felons convicted of crimes against persons were most likely to receive a sentence to prison, while those convicted of property crimes were most likely to receive a sentence to probation; and

- the proportion of convicted felons sent to prison has declined steadily over the last ten years, due in part to the availability and capacity of other placements.

AVAILABLE DATA FOR TRENDS IN SENTENCE PLACEMENT

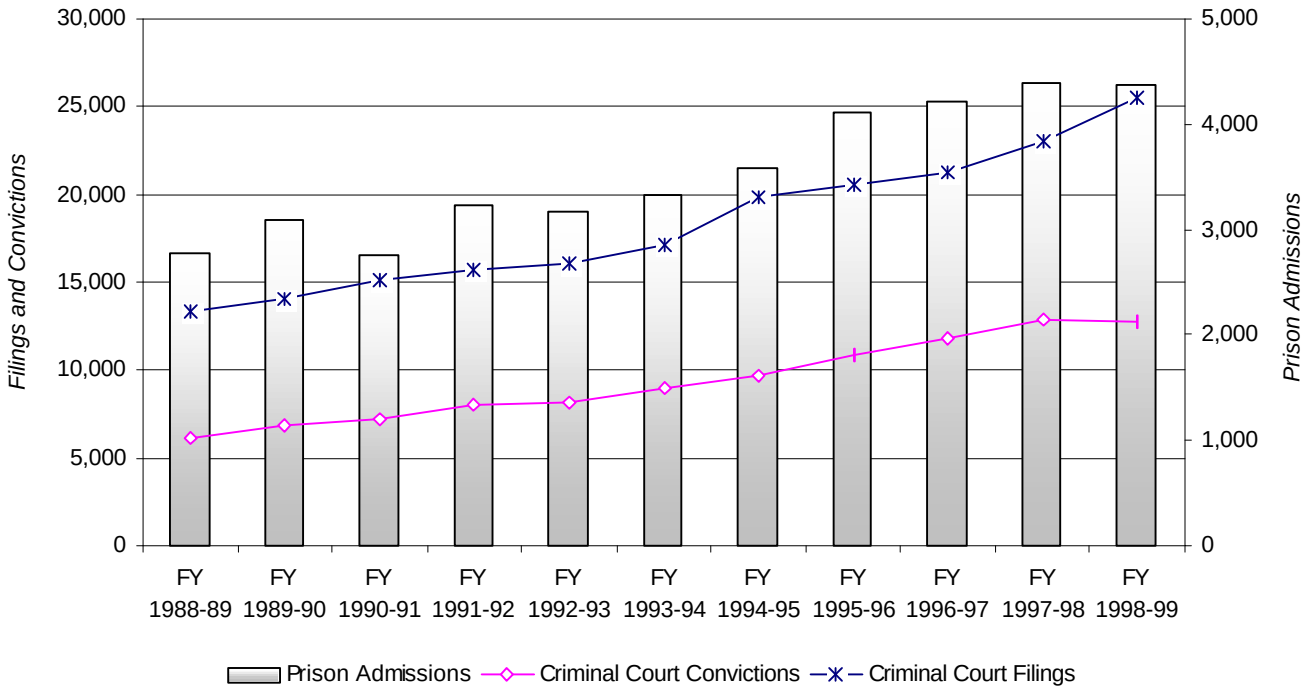
The information presented in this chapter is based on felony data from the Colorado District Attorneys Council. It has only been in recent years that all counties have provided the Colorado District Attorneys Council with felony case information. Most notably, Boulder County began providing data to the database beginning in 1998. Filings in the recently-participating counties accounted for an estimated 6.2 percent of FY 1998-99 statewide felony filings. Therefore, any historical comparison should be qualified by the fact that 6.2 percent growth can be attributed to counties contributing to the database. The data used for this analysis were drawn from the Colorado District Attorneys Council database in June 2000. The most recent data reported in this section are for FY 1998-99, suggesting that counties have been given a year to update the information they input into the database. However, it may take more than a year for the reported case history in the database to reflect actual case history. Thus, the FY 1998-99 data from the Colorado District Attorneys Council database may be incomplete.

Throughout this chapter, we limited the analysis to felony convictions that were a result of a guilty plea, a guilty verdict by a trial jury, or a plea of no contest. Therefore, convictions, as used in this chapter, exclude offenders who received deferred judgements, deferred sentences, or deferred prosecutions. Most of these judgements represent a sentence placement that is cleared or purged upon successful completion of a sentence condition, for example a fine, public service, probation period, or restitution order. The result of excluding deferrals is to focus on convictions that reflect crimes committed as opposed to placement conditions that may reflect less severe, short-term penalties.

FELONY FILINGS AND CONVICTIONS

The prison population is largely driven by the number of felony filings and convictions in the state. Graph 4.1 shows the estimates of state felony filings, felony convictions, and prison admissions between FY 1988-89 and FY 1998-99. The number of felony *filings* in Colorado increased 91.6 percent in the last ten years, from 13,317 in FY 1988-89 to 25,518 in FY 1998-99. (Although the Colorado District Attorneys Council database does not reveal a decrease in criminal filings in recent years, the number of criminal filings according to the Judicial Branch decreased 3.3 percent from FY 1997-98 to FY 1998-99.) The number of felony *convictions* in Colorado more than doubled between FY 1988-89 and FY 1998-99, from 6,144 to 12,743. While convictions have increased at a faster rate than filings over the last ten years, convictions have increased at a slower rate in the last five years. While felony filings increased an average of 8.3 percent annually from FY 1993-94 to FY 1998-99, felony convictions increased an average of 7.3 percent per year in the same period.

Graph 4.1: Felony Filings, Convictions, and Prison Admissions in Colorado



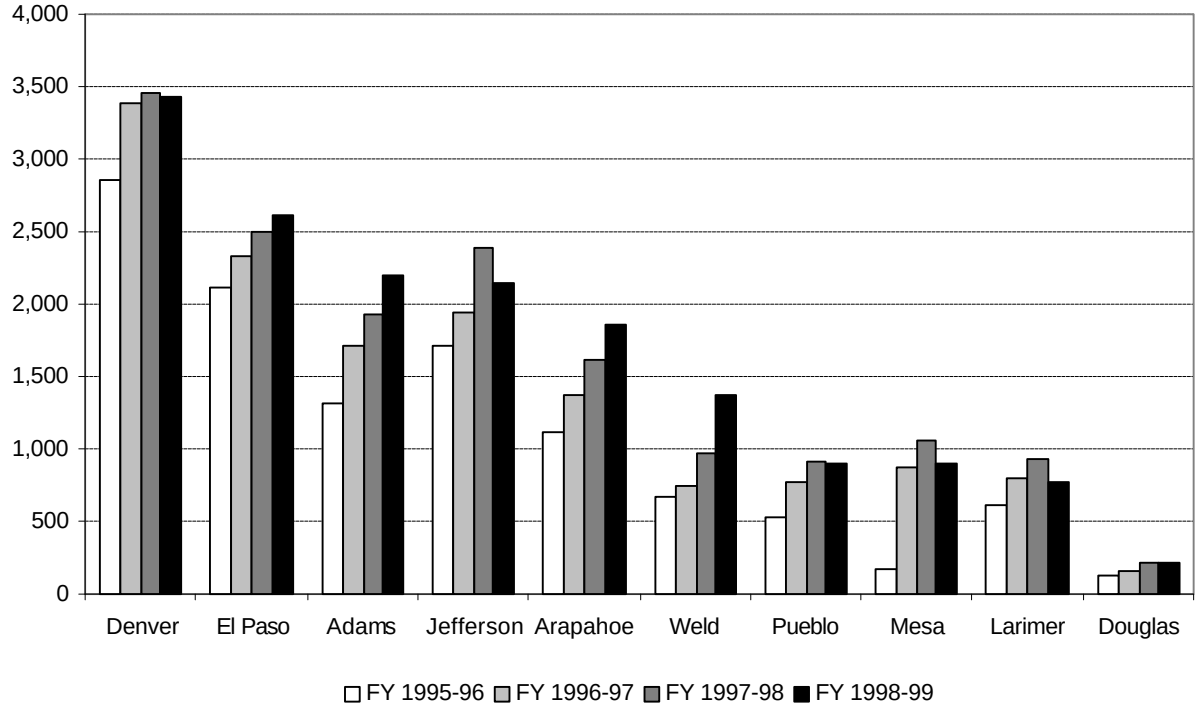
Source: Colorado District Attorneys Council Database and Department of Corrections.

FELONY CONVICTIONS BY COUNTY

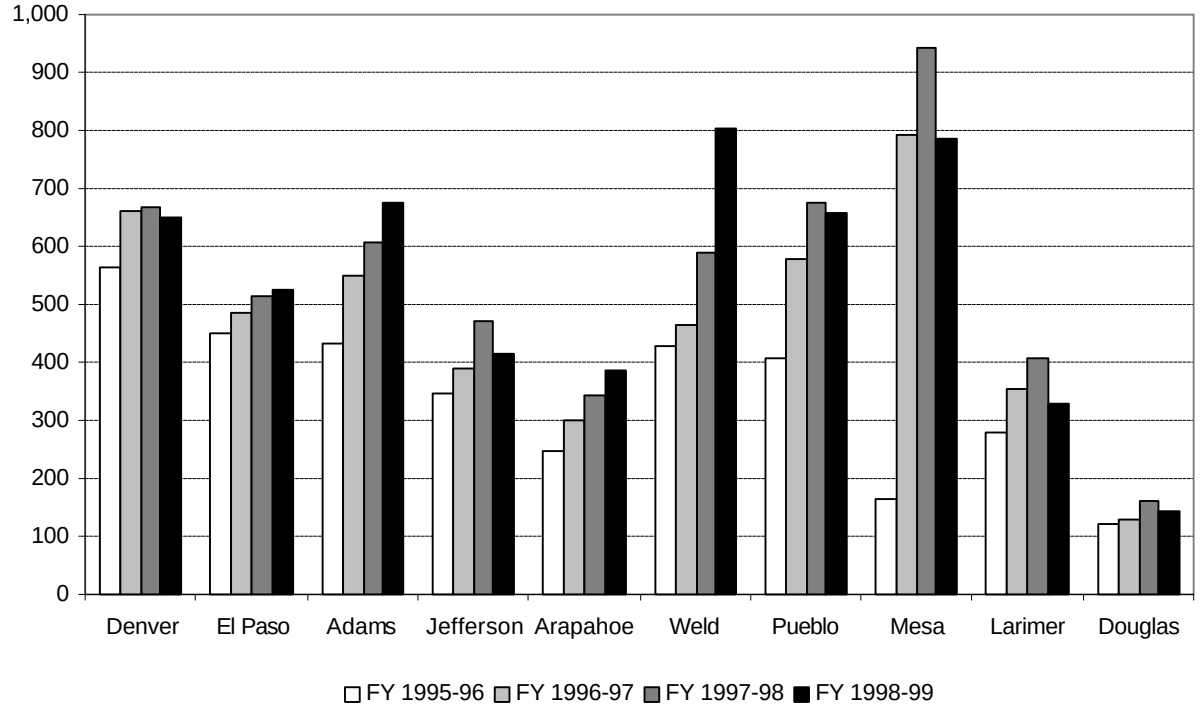
The following graphs illustrate the ten counties with the highest number of felony convictions in Colorado. Graph 4.2 shows the ten counties with the largest number of convictions in the state. This graph also shows the trend of convictions from FY 1995-96 to FY 1998-99. County level convictions were consistent with county level population, as the state's most heavily populated counties also had the largest number of convictions.

Graph 4.3 illustrates the ten counties with the highest number of felony convictions per capita (per 100,000 residents), revealing convictions relative to county population estimates. While Mesa, Pueblo, and Weld counties all had fewer convictions than the metro-Denver area, these counties had more convictions than the metro-Denver area when controlling for population differences. Graph 4.3 also illustrates the growth in convictions over time. Several counties saw a decrease in the number of convictions in FY 1998-99. This could be due to a number of reasons including the fact that some dispositions are still pending and a data entry lag time to record all FY 1998-99 conviction data into the Colorado District Attorneys Council database.

Graph 4.2: Colorado Felony Court Convictions, Top Ten Counties



Graph 4.3: Colorado Felony Court Convictions, per 100,000 residents



PLACEMENT OF FELONS BY FELONY CLASS AND CRIMINAL HISTORY

Table 4.1 displays the number of felony convictions by felony class in Colorado in FY 1998-99 and the percentage of those convictions resulting in a sentence to prison, county jail, community corrections, probation, and other placements. Other placements include but are not limited to: useful public service, work release, available treatment programs, or a jail sentence credited for time served while awaiting trial.

Table 4.1 reveals that the majority of felony convictions are for crimes in the less serious felony classes. For example, class 1 and 2 felony convictions together comprised only 1.2 percent of total convictions in FY 1998-99, while 35.5 percent of convictions were for felony class 4 crimes and 35.0 percent were for class 5 felonies. This is due, in part, to the fact that there are more crimes identified as class 3 through 6 felonies than class 1 and 2 felonies. Class 1 and 2 felony crimes accounted for 1.6 percent of all felony filings in FY 1997-98.

Table 4.1 also reveals that those convicted of class 1 and 2 felonies were more likely to receive a prison sentence and those committing less serious crimes were more likely to receive a sentence to probation, county jail, community corrections, or other placements. In FY 1998-99, 25.6 percent of class 6 felonies went to prison while 90.8 percent of class 2 felonies went to prison. Likewise, as the felony class changed from more serious to less serious, the proportion of convicted felons that received probation sentences rose from 3.1 percent for class 2 felonies to 52.6 percent for class 5 felonies and 53.0 percent for class 6 felonies. Overall, convicted felons were more often placed in probation (48.3 percent) than in prison (33.2 percent). However, as the felony class changed from less serious to more serious, the proportions of convicted felons that received prison sentences increased.

Table 4.1: Placement of Convicted Felons by Felony Class – FY 1998-99

Felony Class	Number of Felony Convictions	Percent of All Felony Convictions	Sentence Placement				
			Prison	Jail	Probation	Community Corrections*	Other **
Class 1	34	0.3%	85.3%	2.9%	0.0%	0.0%	11.8%
Class 2	130	0.9%	90.8%	1.5%	3.1%	0.8%	3.8%
Class 3	1,489	11.1%	48.4%	4.2%	35.7%	2.5%	9.3%
Class 4	4,778	35.5%	32.9%	4.4%	47.4%	2.9%	12.3%
Class 5	4,706	35.0%	30.5%	4.7%	52.6%	2.3%	9.9%
Class 6	2,307	17.2%	25.6%	9.4%	53.0%	3.8%	8.2%
Total ***	13,444	100.0%	33.2%	5.3%	48.3%	2.8%	10.4%

* Community Corrections only includes diversion beds, and excludes transition beds used by the Department of Corrections.
** Other includes public service, work release, and unknown sentences. For class 1 felonies, this may also represent death penalties.
*** Total does not correspond to FY 1998-99 convictions in Graph 4.1 because this table excludes 61 unclassified felonies.
Source: Colorado District Attorneys Council Database.

Table 4.2 reports the percentage of felony convictions resulting in a prison placement by felony class and by the number of prior felony convictions. For the most part, the probability of being

committed to prison rises with both the number of prior felony convictions and the seriousness of the current crime conviction. Only 24.2 percent of those who were convicted of a felony and had no prior adult felony convictions were sent to prison in FY 1998-99, while 82.2 percent of those with four or more separate prior adult felony convictions received prison sentences. Moreover, the likelihood of receiving a prison sentence decreased as the felony class changes from more serious to less serious. For example, a felon convicted of a class 2 felony with no prior conviction had a 95.5 percent chance of going to prison, while a class 6 felon with no prior conviction had a 17.3 percent chance of receiving a prison sentence.

While Colorado has "habitual offender" statutes (see Chapter 3) mandating that 2 or more prior felony convictions require a prison sentence, Table 4.2 shows that less than 100 percent of these defendants receive prison placements. It may be the case that prior felony convictions are more than ten years old, exempting them from consideration for habitual offender statutory mandates. It is also important to note that district attorneys have discretion as to whether they want to prosecute the defendant using the habitual offender statute.

Table 4.2: Percentage of Felony Convictions Resulting in a Prison Placement by Felony Class and Number of Prior Felony Convictions – FY 1998-99

Felony Class	Prison Placements	Percentage of All Placements	Number of Prior Felony Convictions				
			0	*1*	*2*	*3*	*4 or more*
Class 1*	29	85.3%	81.0%	85.7%	100.0%	NA	NA
Class 2	118	90.8%	95.5%	80.8%	83.3%	NA	NA
Class 3	720	48.4%	41.0%	53.9%	66.9%	85.1%	83.7%
Class 4	1,573	32.9%	24.4%	38.4%	52.5%	68.9%	82.4%
Class 5	1,434	30.5%	19.3%	38.5%	59.0%	74.3%	79.8%
Class 6	590	25.6%	17.3%	28.8%	39.2%	64.5%	83.9%
Total	4,464	33.2%	24.2%	38.6%	54.4%	71.8%	82.2%

* While 85.3 percent of class 1 felonies were sent to prison, it is likely that the remaining placements referred to death sentences.
NA: Not applicable. There were no placements to DOC with 3 or more prior convictions.
Source: Colorado District Attorneys Council Database.

Table 4.3 illustrates the likelihood of receiving a prison sentence for felons with prior correctional supervision (probation, community corrections, county jail, or prison). Generally, the likelihood of a convicted felon receiving a prison placement rises if the felon has previous experience with correctional supervision. For example, while only 17.6 percent of all convicted felons *without prior placements* were sentenced to prison in FY 1998-99, 40.4 percent of those *with prior placements* were committed to prison. The likelihood of a probation placement falls if the felon has previous supervision in another placement. It should be noted that the definition of an offender with no prior correctional supervision or felony convictions does not necessarily constitute a first-time offender since the tables do not take into account prior misdemeanor convictions, juvenile adjudications, or deferred prosecutions and sentences.

Table 4.3: Percentage of Prison or Probation Placements by Prior Level of Supervision – FY 1998-99

Felony Class	Prior Supervision		No Prior Supervision	
	Prison Sentence	*Probation Sentence*	*Prison Sentence*	*Probation Sentence*
Class 1	89.5%	0.0%	78.6%	0.0%
Class 2	84.8%	0.0%	87.1%	7.5%
Class 3	58.4%	23.6%	33.0%	38.4%
Class 4	39.8%	35.5%	14.8%	45.4%
Class 5	42.5%	38.1%	14.5%	55.0%
Class 6	28.1%	45.3%	14.4%	50.9%
Total	**40.4%**	**36.9%**	**17.6%**	**47.9%**

PLACEMENT OF CONVICTED FELONS BY CRIME

Table 4.4 presents the highest correctional placement of convicted felons by the most serious crime of conviction for FY 1998-99. The table is organized by broad crime categories. Convictions for attempt and conspiracy are included in each crime category. A more detailed table that includes the placement of all convicted offenders by statutory crime is presented in Table 4.5. In order to obtain a sample more representative of the offender population, this table uses sentence data from FY 1997-98 and FY 1998-99. It is important to note that community corrections placements refer to diversion beds (program beds authorized by community corrections boards), not transition beds (placements used by the Department of Corrections as a transition from prison to the community). For more information on community corrections, refer to Chapter 11 in this report.

As shown in other tables, Table 4.4 reveals that the percentage of offenders who receive prison sentences drops as the crime becomes less serious. Table 4.4 also illustrates an estimated conviction rate for each of the crime types provided. The conviction rate was estimated as the ratio of convictions to filings. The time from case filing to disposition varies with the seriousness of the crime, from six months to over two years. In order to capture all filings associated with convictions, the conviction rate was estimated by analyzing convictions over a two-year period and filings over a three-year period. As expected, the conviction rate of crime types that involve serious crimes are lower than those involving less serious crimes. There are two reasons for this. First, more serious and violent crimes often require more conclusive evidence that the crime occurred, such as premeditation and intent to commit the crime. In less serious crimes, either these elements can be inferred or are not important in order to prove the defendant committed the crime. Second, in order to obtain a conviction, the prosecution may offer a plea agreement for a lesser charge. This often results in more convictions for less serious crimes.

Table 4.5 provides sentence placement rates for each crime available. Among class 3 and 4 felonies, the percentage of violent and sex offenders receiving prison placements was generally higher

than that for property crimes, such as motor vehicle theft or burglary, within the same felony class. Controlled substance abuse offenses were somewhat less likely to result in prison sentences than were violent or property crime offenses. Substance abuse offenses were among the crimes most likely to result in an "other" placement, which may include work release, public service, or a program alternative.

It should be noted that in many cases offenders are given two or more sentences. For example, someone convicted of a drug offense may be given concurrent sentences of one year in a community corrections program and two years of probation. To the degree that the available data allow, these tables show the highest level of correctional placement received by the offender. Thus, the offender in this example would appear as a community corrections placement rather than a probation placement.

Table 4.4: Placement of Convicted Felons by Type of Crime – FY 1998-99

Crime Type	Estimated FY 1998-99 Conviction Rate*	Number of FY 1998-99 Sentences	Sentence Placement				
			Prison	Jail	Community Corrections	Probation	Other **
Murder	36.5%	112	87.5%	4.5%	0.0%	0.9%	7.1%
Manslaughter	68.6%	45	68.9%	11.1%	0.0%	17.8%	2.2%
Aggravated assault	35.1%	389	55.0%	5.9%	1.0%	30.1%	8.0%
Assault	70.5%	701	24.4%	7.6%	1.9%	60.8%	5.4%
Kidnapping	38.9%	55	63.6%	5.5%	0.0%	20.0%	10.9%
Sex offenses	51.0%	480	39.6%	6.5%	1.9%	45.4%	6.7%
Arson	43.8%	33	33.3%	6.1%	0.0%	45.5%	15.2%
Burglary	49.8%	668	39.7%	5.8%	3.6%	44.6%	6.3%
Robbery	61.4%	307	63.5%	3.6%	3.6%	21.2%	8.1%
Theft	54.0%	1,865	29.9%	4.5%	3.3%	52.7%	9.7%
Trespassing/ crim. mischief	60.0%	874	24.8%	8.4%	1.7%	56.3%	8.8%
Forgery-fraud	52.4%	1,072	24.1%	4.6%	4.1%	57.6%	9.7%
Family-morals offenses	50.0%	148	35.8%	10.8%	0.0%	43.2%	10.1%
Crimes against at-risk	32.9%	37	43.2%	5.4%	0.0%	37.8%	13.5%
Custody offenses	67.5%	724	83.6%	2.6%	0.4%	9.8%	3.6%
Public peace and order	63.6%	271	36.2%	9.6%	1.8%	43.9%	8.5%
Drug crimes	66.1%	4,107	26.4%	2.4%	2.7%	53.0%	15.5%
Traffic offenses	56.3%	1,074	21.9%	15.2%	5.6%	49.2%	8.2%
Miscellaneous crimes	48.7%	271	19.9%	4.8%	3.3%	62.0%	10.0%
Total ***	**58.3%**	**13,233**	**33.2%**	**5.4%**	**2.8%**	**48.3%**	**10.3%**

* Estimated Conviction rate is the weighted average number of convictions in a two-year period divided by the weighted average number of filings in a three-year period.
** Other includes county jail, deferred sentences, useful public service, and unknown sentences.
*** The total is less than the total in Table 4.1 because some sentences had unknown crime information.
Source: Colorado District Attorneys Council Database.

Table 4.5: Placement of Convicted Felons by Crime of Conviction, FY 1997-98 to FY 1998-99

Statutory Citation	Felony Class	Crime	Sentence Placement					
			Convictions	Prison	Jail	Community Corrections	Probation	Other
8-43-402	F5	False statement on work. comp. claim	1	0.0%	0.0%	0.0%	100.0%	0.0%
11-51-501	F3	Security Fraud	9	33.3%	0.0%	0.0%	66.7%	0.0%
12-22-315	F4	Obtain Controlled Substance by fraud/deceit (repeat)	1	0.0%	0.0%	0.0%	100.0%	0.0%
12-22-315	F5	Obtain Controlled Substance by fraud/deceit	15	0.0%	0.0%	0.0%	86.7%	13.3%
12-44-102	F6	Defrauding an innkeeper	3	33.3%	0.0%	0.0%	66.7%	0.0%
12-56-104	F5	False information to a pawnbroker	357	24.4%	5.9%	3.6%	57.4%	8.7%
18-3-102	F1	Murder, 1st degree	51	86.3%	2.0%	0.0%	0.0%	11.8%
18-3-103	F2	Murder, 2nd degree	69	98.6%	1.4%	0.0%	0.0%	0.0%
18-3-103	F3	Murder, 2nd degree - heat of passion	6	83.3%	0.0%	0.0%	0.0%	16.7%
18-3-104	F4	Manslaughter	19	78.9%	0.0%	0.0%	10.5%	10.5%
18-3-105	F5	Criminally negligent homicide	12	83.3%	8.3%	0.0%	8.3%	0.0%
18-3-106	F3	Vehicular homicide - DUI	31	74.2%	9.7%	3.2%	6.5%	6.5%
18-3-106	F4	Vehicular homicide	19	52.6%	15.8%	0.0%	21.1%	10.5%
18-3-202	F3	Assault, 1st degree	96	70.8%	1.0%	0.0%	8.3%	19.8%
18-3-202	F5	Assault, 1st degree - heat of passion	43	37.2%	2.3%	0.0%	58.1%	2.3%
18-3-203	F3	Assault, 2nd degree - serious bodily injury inflicted during commission of another felony	1	100.0%	0.0%	0.0%	0.0%	0.0%
18-3-203	F4	Assault, 2nd degree	315	64.4%	4.4%	0.6%	21.6%	8.9%
18-3-203	F6	Assault, 2nd degree - heat of passion	104	27.9%	5.8%	3.8%	57.7%	4.8%
18-3-205	F4	Vehicular assault - DUI	101	28.7%	13.9%	7.9%	46.5%	3.0%
18-3-205	F5	Vehicular assault	66	25.8%	10.6%	1.5%	57.6%	4.5%
18-3-205	F5	Vehicular assault - DUI (attempt)	6	33.3%	33.3%	0.0%	33.3%	0.0%
18-3-206	F5	Menacing, felony - use of a deadly weapon	951	25.6%	6.2%	1.3%	60.4%	6.6%
18-3-207	F4	Criminal extortion	4	25.0%	0.0%	0.0%	75.0%	0.0%
18-3-301	F1	Kidnapping, 1st degree - serious bodily injury	2	100.0%	0.0%	0.0%	0.0%	0.0%
18-3-301	F2	Kidnapping, 1st degree	4	100.0%	0.0%	0.0%	0.0%	0.0%
18-3-302	F2	Kidnapping, 2nd degree - with sexual assault or robbery	26	92.3%	0.0%	0.0%	0.0%	7.7%
18-3-302	F3	Kidnapping, 2nd degree - use of deadly weapon	8	62.5%	12.5%	0.0%	12.5%	12.5%
18-3-302	F4	Kidnapping, 2nd degree	25	52.0%	20.0%	0.0%	24.0%	4.0%
18-3-304	F5	Violation of custody order	12	33.3%	8.3%	0.0%	25.0%	33.3%
18-3-305	F4	Enticement of a child	2	50.0%	0.0%	0.0%	50.0%	0.0%
18-3-402	F2	Sexual assault, 1st degree - causing serious bodily injury or use of a deadly weapon	13	100.0%	0.0%	0.0%	0.0%	0.0%
18-3-402	F3	Sexual assault, 1st degree	51	76.5%	2.0%	2.0%	15.7%	3.9%
18-3-403	F4	Sexual assault, 2nd degree	71	50.7%	8.5%	1.4%	36.6%	2.8%
18-3-404	F4	Sexual assault, 3rd degree	7	28.6%	14.3%	14.3%	28.6%	14.3%
18-3-405	F3	Sexual assault on a child - uses force, threats, inflicts injury	33	78.8%	0.0%	3.0%	9.1%	9.1%
18-3-405	F3	Sexual assault on a child	288	36.8%	5.6%	3.1%	48.3%	6.3%
18-3-405.3	F3	Sexual assault on a child by one in a position of trust	171	48.0%	5.8%	2.3%	39.8%	4.1%

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Table 4.5 (Continued)

Statutory Citation	Felony Class	Crime	Sentence Placement					
			Convictions	Prison	Jail	Community Corrections	Probation	Other
18-3-405.5	F4	Sex assault on a client by a psychotherapist, aggravated	4	50.0%	0.0%	0.0%	50.0%	0.0%
18-4-102	F3	Arson, 1st degree	15	60.0%	13.3%	0.0%	13.3%	13.3%
18-4-103	F4	Arson, 2nd degree - over $100 in damage	9	44.4%	11.1%	0.0%	44.4%	0.0%
18-4-105	F4	Arson, 4th degree - person in danger	12	33.3%	8.3%	0.0%	33.3%	25.0%
18-4-202	F3	Burglary, 1st degree	67	58.2%	9.0%	1.5%	23.9%	7.5%
18-4-203	F3	Burglary, 2nd degree - dwelling	324	50.9%	8.0%	4.3%	32.1%	4.6%
18-4-203	F4	Burglary, 2nd degree	436	44.5%	6.0%	3.7%	39.2%	6.7%
18-4-203	F4	Burglary, 2nd degree - dwelling (attempt)	1	100.0%	0.0%	0.0%	0.0%	0.0%
18-4-204	F4	Burglary, 3rd degree - of drugs	1	0.0%	0.0%	0.0%	100.0%	0.0%
18-4-204	F5	Burglary, 3rd degree	41	41.5%	0.0%	2.4%	46.3%	9.8%
18-4-205	F5	Possession of burglary tools	25	40.0%	4.0%	8.0%	36.0%	12.0%
18-4-205	F6	Possession of burglary tools (attempt)	3	33.3%	0.0%	0.0%	66.7%	0.0%
18-4-301	F4	Robbery	232	51.3%	3.4%	4.7%	32.8%	7.8%
18-4-302	F3	Aggravated robbery	225	77.8%	1.8%	1.3%	3.6%	15.6%
18-4-401	F3	Theft, greater than $15,000	87	33.3%	6.9%	2.3%	48.3%	9.2%
18-4-401	F4	Theft, $500 to $15000	1,501	30.2%	4.3%	4.6%	50.4%	10.5%
18-4-401	F5	Theft, $500 to $15,000 (attempt)	4	0.0%	0.0%	25.0%	75.0%	0.0%
18-4-401	F5	Theft, from person without force	88	30.7%	2.3%	2.3%	54.5%	10.2%
18-4-402	F3	Theft, rental property - greater than $15,000	1	100.0%	0.0%	0.0%	0.0%	0.0%
18-4-402	F5	Theft, rental property - $500 to $15,000	26	42.3%	3.8%	0.0%	50.0%	3.8%
18-4-409	F3	Aggravated motor vehicle theft, 1st degree - greater than $15,000	45	46.7%	11.1%	0.0%	28.9%	13.3%
18-4-409	F4	Aggravated motor vehicle theft, 1st degree - greater than $15,000 (attempt)	28	46.4%	3.6%	7.1%	35.7%	7.1%
18-4-409	F4	Aggravated motor vehicle theft, 1st degree - less than $15,000	274	49.3%	9.1%	4.0%	27.0%	10.6%
18-4-409	F5	Aggravated motor vehicle theft, 2nd degree - third conviction	3	66.7%	0.0%	0.0%	0.0%	33.3%
18-4-410	F3	Theft by receiving, greater that $15,000	18	50.0%	11.1%	5.6%	22.2%	11.1%
18-4-410	F3	Theft by receiving, receiving/selling stolen goods	5	80.0%	0.0%	0.0%	0.0%	20.0%
18-4-410	F4	Theft by receiving, $500 to $15,000	145	41.4%	8.3%	3.4%	38.6%	8.3%
18-4-412	F6	Theft of medical records	2	0.0%	0.0%	0.0%	100.0%	0.0%
18-4-501	F3	Criminal mischief, greater than $15,000	7	14.3%	14.3%	14.3%	57.1%	0.0%
18-4-501	F4	Criminal mischief, $500 to $15,000	174	19.5%	9.8%	1.1%	49.4%	20.1%
18-4-502	F5	Trespassing, 1st degree	1,045	25.8%	7.9%	2.3%	56.6%	7.4%
18-4-502	F6	Trespassing, 1st degree (attempt)	1	0.0%	0.0%	0.0%	100.0%	0.0%
18-4-503	F4	Trespassing, 2nd degree - intent to commit felony on farm land	1	0.0%	0.0%	0.0%	100.0%	0.0%
18-4-503	F5	Trespassing, 2nd degree - intent to commit felony on farm land (attempt)	1	0.0%	0.0%	0.0%	100.0%	0.0%
18-4-504	F5	Trespassing, 3rd degree - intent to commit felony on farm land	1	0.0%	0.0%	0.0%	100.0%	0.0%
18-4-602	F6	Unlawful transfer for sale, sound recordings	1	0.0%	0.0%	0.0%	100.0%	0.0%
18-5-102	F5	Forgery, 1st degree	717	33.6%	4.2%	6.3%	48.7%	7.3%
18-5-102	F6	Forgery, 1st degree (attempt)	1	0.0%	0.0%	0.0%	0.0%	100.0%

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Table 4.5 (Continued)

Statutory Citation	Felony Class	Crime	Sentence Placement					
			Convictions	Prison	Jail	Community Corrections	Probation	Other
18-5-103	F5	Forgery, 2nd degree	56	26.8%	7.1%	5.4%	57.1%	3.6%
18-5-105	F6	Criminal possession of a forged instrument	72	23.6%	1.4%	5.6%	56.9%	12.5%
18-5-109	F6	Criminal possession of forgery devices	3	33.3%	0.0%	33.3%	33.3%	0.0%
18-5-113	F6	Criminal impersonation	542	30.6%	5.9%	3.7%	50.7%	9.0%
18-5-114	F5	Offering a false instrument for recording, 1st degree	18	5.6%	0.0%	0.0%	94.4%	0.0%
18-5-205	F6	Fraud by check	166	18.7%	4.8%	0.6%	65.7%	10.2%
18-5-206	F5	Defrauding a secured creditor or debtor, $500 to $15,000	3	0.0%	0.0%	0.0%	100.0%	0.0%
18-5-401	F6	Commercial bribery	1	0.0%	0.0%	0.0%	0.0%	100.0%
18-5-502	F5	Failure to pay over assigned accounts, greater than $500	1	0.0%	0.0%	0.0%	100.0%	0.0%
18-5-702	F3	Unauthorized use of a financial transaction device, greater than $15,000	1	100.0%	0.0%	0.0%	0.0%	0.0%
18-5-702	F5	Unauthorized use of a financial transaction device, $500 to $15,000	45	31.1%	0.0%	2.2%	51.1%	15.6%
18-5-703	F5	Criminal possession of a financial transaction device, 4 or more devices	13	92.3%	0.0%	0.0%	7.7%	0.0%
18-5-703	F6	Criminal possession of a financial transaction device, 2 or more devices	27	29.6%	3.7%	7.4%	51.9%	7.4%
18-5.5-102	F5	Computer crime, $500 to $15,000	5	0.0%	0.0%	0.0%	60.0%	40.0%
18-6-301	F4	Incest	5	20.0%	0.0%	0.0%	60.0%	20.0%
18-6-302	F3	Aggravated incest	11	36.4%	18.2%	0.0%	36.4%	9.1%
18-6-401	F2	Child abuse resulting in death, knowingly	9	100.0%	0.0%	0.0%	0.0%	0.0%
18-6-401	F3	Child abuse resulting in death, negligent, or serious bodily injury, knowingly	14	78.6%	0.0%	0.0%	21.4%	0.0%
18-6-401	F4	Child abuse resulting in serious bodily injury, negligent	58	43.1%	3.4%	3.4%	43.1%	6.9%
18-6-403	F3	Sexual exploitation of children	8	75.0%	12.5%	0.0%	12.5%	0.0%
18-6-403	F4	Sexual exploitation of children, possession of sexual material (repeat)	1	0.0%	100.0%	0.0%	0.0%	0.0%
18-6-701	F4	Contributing to the delinquency of a minor	69	17.4%	14.5%	1.4%	53.6%	13.0%
18-6.5-103(2)	F5	Criminal negligence on an at-risk person, serious bodily injury	1	0.0%	0.0%	0.0%	100.0%	0.0%
18-6.5-103(3)	F3	Assault on an at-risk person, 2nd degree	1	100.0%	0.0%	0.0%	0.0%	0.0%
18-6.5-103(3)	F4	Assault on an at-risk person, 1st degree - heat of passion	1	100.0%	0.0%	0.0%	0.0%	0.0%
18-6.5-103(3)	F5	Assault on an at-risk person, 2nd degree - heat of passion	2	100.0%	0.0%	0.0%	0.0%	0.0%
18-6.5-103(3)	F6	Assault on an at-risk person, 3rd degree	24	20.8%	16.7%	0.0%	54.2%	8.3%
18-6.5-103(4)	F3	Robbery from an at-risk person	7	71.4%	0.0%	0.0%	14.3%	14.3%
18-6.5-103(5)	F3	Theft from an at-risk person, greater than $500	13	30.8%	0.0%	7.7%	53.8%	7.7%
18-6.5-103(5)	F4	Theft from an at-risk person, greater than $500	3	0.0%	0.0%	0.0%	66.7%	33.3%
18-6.5-103(5)	F5	Theft from an at-risk person, less than $500	13	46.2%	7.7%	0.0%	23.1%	23.1%
18-6.5-103(7)	F6	Sex assault on an at-risk person, 3rd degree	3	66.7%	0.0%	0.0%	0.0%	33.3%
18-7-102	F6	Promotion of obscenity to a minor	2	0.0%	50.0%	0.0%	50.0%	0.0%
18-7-201.7	F5	Prostitution with the knowledge of AIDS	2	100.0%	0.0%	0.0%	0.0%	0.0%
18-7-206	F3	Pimping	2	50.0%	0.0%	0.0%	50.0%	0.0%
18-7-402	F3	Soliciting for child prostitution	3	33.3%	33.3%	0.0%	33.3%	0.0%

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Table 4.5 (Continued)

Statutory Citation	Felony Class	Crime	Sentence Placement					
			Convictions	Prison	Jail	Community Corrections	Probation	Other
18-8-105	F4	Accessory to a class 1 or 2 felony crime	7	28.6%	0.0%	0.0%	57.1%	14.3%
18-8-105	F5	Accessory to a suspected class 1 or 2 felony crime	11	36.4%	0.0%	0.0%	54.5%	9.1%
18-8-105	F5	Accessory to a class 3, 4, or 5 felony crime	33	27.3%	3.0%	3.0%	57.6%	9.1%
18-8-105	F6	Accessory to a class 6 felony crime	2	0.0%	0.0%	0.0%	100.0%	0.0%
18-8-110	F6	False report of explosives	4	0.0%	25.0%	0.0%	75.0%	0.0%
18-8-116	F5	Disarming a peace officer	2	0.0%	0.0%	0.0%	50.0%	50.0%
18-8-201	F3	Aiding escape	1	0.0%	0.0%	0.0%	100.0%	0.0%
18-8-201.1	F5	Aiding escape from mental institution	2	50.0%	0.0%	0.0%	50.0%	0.0%
18-8-203	F4	Introduction of contraband, 1st degree	17	52.9%	0.0%	5.9%	29.4%	11.8%
18-8-204	F6	Introduction of contraband, 2nd degree	7	85.7%	0.0%	0.0%	14.3%	0.0%
18-8-204.1	F4	Possession of contraband, dangerous instrument	2	100.0%	0.0%	0.0%	0.0%	0.0%
18-8-204.1	F6	Possession of contraband	41	65.9%	2.4%	0.0%	24.4%	7.3%
18-8-206	F3	Assault during escape	1	100.0%	0.0%	0.0%	0.0%	0.0%
18-8-208	F2	Escape, committing class 1 or 2 felony	1	100.0%	0.0%	0.0%	0.0%	0.0%
18-8-208	F3	Escape, committing class 3, 4, 5, or 6 felony	73	91.8%	4.1%	1.4%	2.7%	0.0%
18-8-208	F4	Escape, pending felony disposition	63	98.4%	0.0%	0.0%	1.6%	0.0%
18-8-208	F5	Escape from confinement for insanity commitment	25	92.0%	4.0%	0.0%	0.0%	4.0%
18-8-208	F5	Escape from fugitive charges	127	96.9%	0.8%	0.0%	1.6%	0.8%
18-8-208.1	F4	Escape, attempt - following felony conviction	71	98.6%	0.0%	1.4%	0.0%	0.0%
18-8-208.1	F5	Escape, attempt - pending felony conviction	299	94.3%	3.7%	0.0%	1.0%	1.0%
18-8-212	F6	Violation of bail bond conditions	26	80.8%	7.7%	0.0%	0.0%	11.5%
18-8-302	F3	Bribery	1	0.0%	0.0%	0.0%	100.0%	0.0%
18-8-306	F4	Attempt to influence a public servant	2	0.0%	0.0%	0.0%	100.0%	0.0%
18-8-406	F6	Issuing a false certificate	1	0.0%	0.0%	0.0%	0.0%	100.0%
18-8-407	F5	Embezzlement of public property	4	0.0%	25.0%	0.0%	75.0%	0.0%
18-8-502	F4	Perjury, 1st degree	4	25.0%	0.0%	0.0%	75.0%	0.0%
18-8-610	F6	Tampering with physical evidence	17	47.1%	5.9%	0.0%	41.2%	5.9%
18-8-704	F4	Intimidating a witness or victim	23	43.5%	0.0%	8.7%	39.1%	8.7%
18-8-705	F3	Aggravated intimidation of a witness or victim	2	100.0%	0.0%	0.0%	0.0%	0.0%
18-8-706	F3	Retaliation against a witness or victim	4	50.0%	25.0%	25.0%	0.0%	0.0%
18-8-707	F4	Tampering with a witness or victim	9	33.3%	0.0%	0.0%	55.6%	11.1%
18-9-104	F4	Engaging in a riot, use of a deadly weapon	5	60.0%	20.0%	0.0%	20.0%	0.0%
18-9-111	F5	Harassment, stalking (repeat)	1	0.0%	0.0%	0.0%	100.0%	0.0%
18-9-111	F6	Harassment, stalking	43	41.9%	9.3%	0.0%	41.9%	7.0%
18-9-115	F3	Endangering public transportation	3	66.7%	0.0%	0.0%	33.3%	0.0%
18-9-116.5	F4	Vehicular eluding, results in bodily injury	18	55.6%	5.6%	11.1%	27.8%	0.0%
18-9-116.5	F5	Vehicular eluding	167	34.7%	12.6%	2.4%	37.7%	12.6%
18-9-118	F6	Firearms or explosives in public transportation facilities	1	100.0%	0.0%	0.0%	0.0%	0.0%
18-9-119	F4	Refusal to leave premises-holds hostages using a deadly weapon	1	0.0%	100.0%	0.0%	0.0%	0.0%
18-9-121	F5	Ethnic intimidation - results in bodily injury	3	33.3%	0.0%	0.0%	66.7%	0.0%

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Table 4.5 (Continued)

Statutory Citation	Felony Class	Crime	Sentence Placement					
			Convictions	Prison	Jail	Community Corrections	Probation	Other
18-9-303	F6	Wiretapping	6	33.3%	0.0%	0.0%	66.7%	0.0%
18-9-304	F6	Eavesdropping	1	100.0%	0.0%	0.0%	0.0%	0.0%
18-10-103	F5	Professional gambling (repeat)	2	0.0%	0.0%	0.0%	100.0%	0.0%
18-10-106	F6	Transmission of gambling information (repeat)	1	0.0%	0.0%	0.0%	100.0%	0.0%
18-12-102	F4	Possessing a dangerous weapon (repeat)	1	0.0%	0.0%	0.0%	100.0%	0.0%
18-12-102	F5	Possessing a dangerous weapon	27	22.2%	11.1%	0.0%	59.3%	7.4%
18-12-106.5	F5	Use of a stun gun	1	100.0%	0.0%	0.0%	0.0%	0.0%
18-12-107.5	F5	Illegal discharge of a firearm	33	48.5%	3.0%	6.1%	30.3%	12.1%
18-12-108	F4	Possession of a weapon by a previous offender (repeat)	1	100.0%	0.0%	0.0%	0.0%	0.0%
18-12-108	F5	Possession of a weapon by a previous offender	52	53.8%	3.8%	0.0%	42.3%	0.0%
18-12-108.5	F5	Possession of a handgun by a juvenile (repeat)	1	0.0%	0.0%	0.0%	100.0%	0.0%
18-12-108.7	F4	Providing/permitting a juvenile to possess a handgun	1	100.0%	0.0%	0.0%	0.0%	0.0%
18-12-109	F4	Possession of explosives	12	16.7%	33.3%	8.3%	25.0%	16.7%
18-12-109	F5	Possession of explosives	1	0.0%	0.0%	0.0%	100.0%	0.0%
18-13-104	F4	Dueling	1	0.0%	0.0%	0.0%	100.0%	0.0%
18-15-107	F4	Collect extensions of credit by extortion	1	0.0%	0.0%	0.0%	100.0%	0.0%
18-16-108	F6	Failure to identify seller or false information upon sale	7	28.6%	0.0%	0.0%	71.4%	0.0%
18-17-104	F2	Colorado organized crime control act	8	75.0%	0.0%	12.5%	12.5%	0.0%
18-18-404	F4	Unlawful use of a controlled substance, schedule I or II	1	0.0%	0.0%	0.0%	0.0%	100.0%
18-18-404	F5	Unlawful use of a controlled substance, schedule I or II	702	15.1%	2.8%	1.9%	47.3%	32.9%
18-18-405	F2	Unlawful distribution, manufacturing, dispensing, sale or possession of a controlled substance, schedule I or II (repeat)	22	63.6%	0.0%	0.0%	13.6%	22.7%
18-18-405	F3	Unlawful distribution, manufacturing, dispensing, sale (or possession with intent) of a controlled substance, schedule I or II	1,286	38.5%	2.1%	2.3%	46.8%	10.3%
18-18-405	F3	Unlawful possession of a controlled substance, schedule III (repeat)	1	0.0%	0.0%	0.0%	100.0%	0.0%
18-18-405	F4	Unlawful possession of a controlled substance, schedule I or II	2,849	24.4%	2.2%	3.9%	53.9%	15.5%
18-18-405	F4	Unlawful distribution, manufacturing, dispensing, sale (or possession with intent) of a controlled substance, schedule III	125	34.4%	1.6%	3.2%	52.8%	8.0%
18-18-405	F4	Unlawful distribution, manufacturing, or possession of a controlled substance, schedule IV (repeat)	12	16.7%	0.0%	0.0%	58.3%	25.0%
18-18-405	F5	Unlawful distribution, manufacturing, or possession of a controlled substance, schedule IV	552	32.2%	2.5%	4.2%	48.0%	13.0%
18-18-405	F5	Unlawful possession/use of a controlled substance, schedule I or II (attempt)	4	25.0%	0.0%	0.0%	50.0%	25.0%
18-18-405	F5	Unlawful possession/use of a controlled substance, schedule I or II (attempt)	2	50.0%	0.0%	0.0%	50.0%	0.0%
18-18-405	F5	Unlawful distribution, manufacturing, or possession of a controlled substance, schedule V (repeat)	31	19.4%	0.0%	3.2%	67.7%	9.7%
18-18-406	F4	Unlawful distribution, manufacturing, dispense, sale (or possession with intent) of marihuana	279	26.5%	1.8%	3.9%	59.5%	8.2%
18-18-406	F5	Unlawful distribution, manufacturing, dispense, sale (or possession with intent) of marihuana	195	11.8%	1.0%	2.1%	72.3%	12.8%
18-18-407	F2	Special drug offender - importing drugs or using a dangerous weapon	33	93.9%	3.0%	0.0%	3.0%	0.0%

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Table 4.5 (Continued)

Statutory Citation	Felony Class	Crime	Sentence Placement					
			Convictions	Prison	Jail	Community Corrections	Probation	Other
18-18-408	F3	Money laundering	1	0.0%	0.0%	0.0%	100.0%	0.0%
18-18-415	F4	Fraud and deceit regarding a controlled substance (repeat)	22	4.5%	0.0%	0.0%	68.2%	27.3%
18-18-415	F5	Fraud and deceit regarding a controlled substance	147	14.3%	1.4%	2.0%	67.3%	15.0%
18-18-422	F4	Distributing an imitation controlled substance to a minor	1	0.0%	0.0%	0.0%	100.0%	0.0%
18-18-422	F5	Distributing an imitation controlled substance	39	25.6%	5.1%	2.6%	51.3%	15.4%
26-1-127	F4	Public assistance theft, $500-$15,000	10	0.0%	0.0%	0.0%	20.0%	80.0%
26-2-306	F4	Trafficking in food stamps	1	0.0%	0.0%	0.0%	0.0%	100.0%
33-6-117	F5	Willful destruction of big game	1	0.0%	0.0%	0.0%	0.0%	100.0%
42-2-102	F5	Stolen auto parts	2	50.0%	0.0%	0.0%	50.0%	0.0%
42-2-206	F6	Driving after revocation	1,923	24.5%	14.6%	5.5%	49.0%	6.4%
42-4-1301	F4	Driving while ability impaired	1	0.0%	100.0%	0.0%	0.0%	0.0%
42-4-1401	F4	Leaving scene of an accident resulting in death	1	0.0%	0.0%	0.0%	100.0%	0.0%
42-4-1601	F4	Hit and run, resulting in death	5	40.0%	40.0%	0.0%	20.0%	0.0%
42-4-1601	F5	Hit and run, resulting in serious bodily injury	1	0.0%	0.0%	0.0%	100.0%	0.0%
42-5-104	F5	Theft of auto parts, $500-$15,000	3	66.7%	0.0%	0.0%	33.3%	0.0%

* Other includes county jail, useful public service, deferred sentences, and unknown sentences.
** These totals do not equal the numbers in Table 4.1 because individual crimes were not reported for all felony convictions.
Source: Colorado District Attorney's Council Database.

TREND IN SENTENCING PLACEMENTS FY 1988-89 TO FY 1998-99

Graph 4.4 presents the percent of felony convictions resulting in prison, probation, community corrections, county jail, and other placements from FY 1988-89 to FY 1998-99. It is important to note that community corrections placements refer to diversion beds (program beds authorized by community corrections boards), not transition beds (placements referred by the Department of Corrections as a transition from prison to the community). For more information on community corrections, refer to Chapter 11 in this report.

As shown in Graph 4.4, the percentage of convicted felons given prison sentences has been between 30 and 45 percent of all sentence placements. In the last ten years, the proportion of felons sent to prison has steadily declined, relative to other placements. This suggests that, while prison sentences are more likely to occur with prior criminal history and prior supervision in other placements, the availability of other placements has, to some extent, diverted felons from prison.

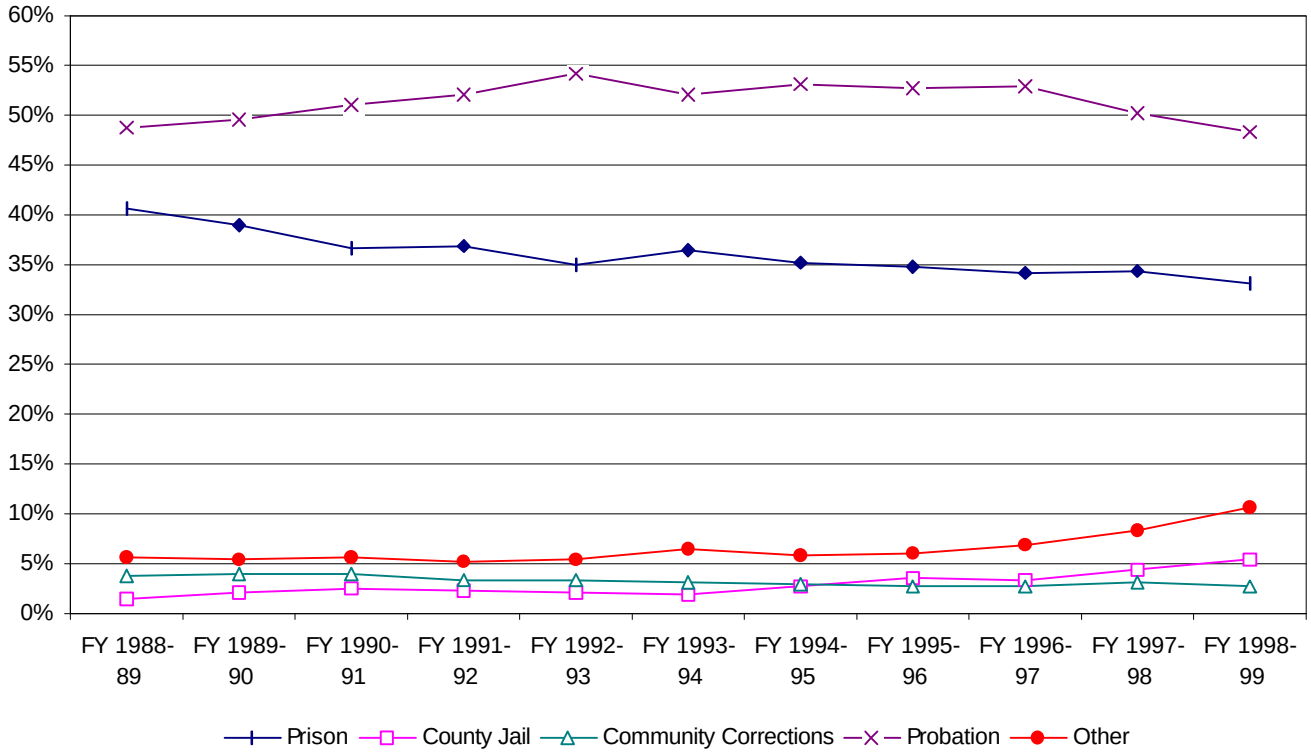
There are several possible explanations for the decrease in the share of felons sentenced to prison, two of which, discussed below, are related to available capacity in other placements. Between FY 1988-89 and FY 1994-95, probation and prison placements were inversely related, suggesting that as probation placements increased, prison placements decreased, and vice versa. Between FY 1988-

1989 and FY 1992-93, there was an increase in sentencing to intensive supervision probation (ISP). However, as ISP reached full capacity and the number of slots did not increase at the same rate as the supervised population, more offenders were sentenced to prison in FY 1993-94.

In the last few years, the decrease in prison placements has been related to the increased capacity in prison alternatives, specifically county jail and "other" placements. Between FY 1995-96 and FY 1998-99, the percentage of felons placed in county jails increased from 3.5 percent to 5.3 percent. In that same period, the percentage of felons placed in other placements rose from 6.1 percent to 10.6 percent of all placements. Other placements may include, but are not limited to, work release, public service, or a sentence already served (or credited) for time spent in county jail while awaiting court appearances. This increase in other placements also indicates an expansion of alternative programs. For example, the Denver Drug Court began accepting felons charged with drug crimes in January 1996. In 1996, this program accepted 1,368 admissions. Some admissions to drug courts are deferred sentences (in which the sentence is deferred if the defendant meets certain conditions) and some are sentences to probation, community corrections, or prison.

Graph 4.4: Trends in Felony Convictions Resulting in Prison, Jail, Community Corrections, and Probation Placements

FY 1988-89 to FY 1998-99



Source: Colorado District Attorneys Council Database.