



Sentencing Survey of Colorado District and County Court Judges

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Survey Design

- Brief (25 questions delivered via Survey Monkey)
- Variety of sentencing topics
- Provide general impression of topics

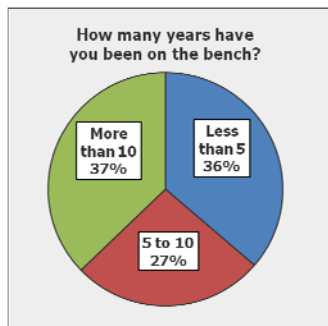
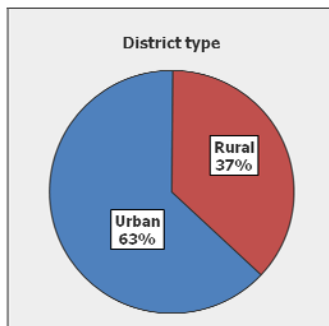
Summary Findings

- Sentencing structure complex/confusing
- Lacking discretion and flexibility
- Limit use of mandatory minimums
- Inadequate sex offender and HTO statutes
- Should differentiate escape types in statute
- Increase sentencing alternatives and resources

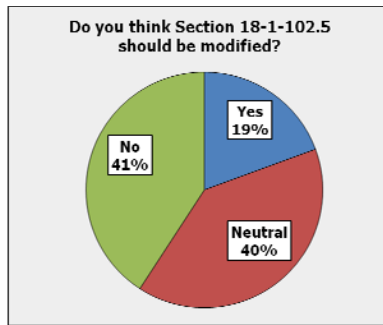
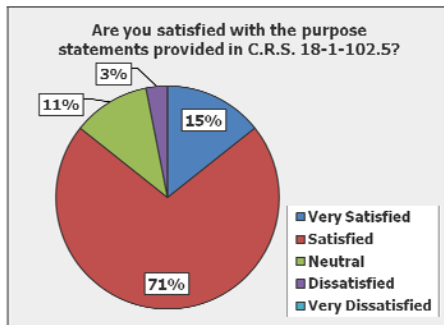
Acknowledgement

CCJJ and DCJ would like to thank the Colorado Judicial Branch, especially Chief Justice Mary Mullarkey and staff of the Office of Research and Planning, Veronica Marceny and Sherry Stwalley, for disseminating the survey and for collecting and compiling the results.

Respondent characteristics

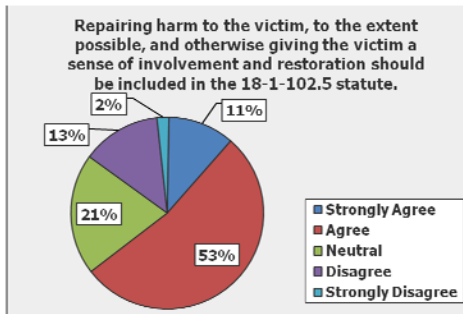


Sample size: 98 district and county court judges
 Response rate ≈ 36%
 Survey conducted between July 16 and July 31, 2009

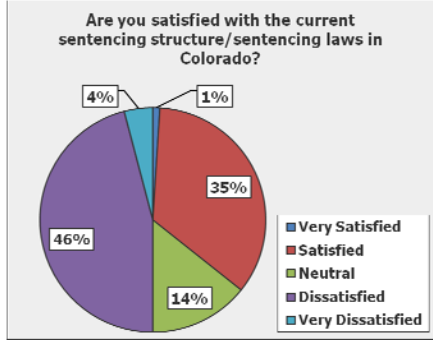


Purposes of sentencing

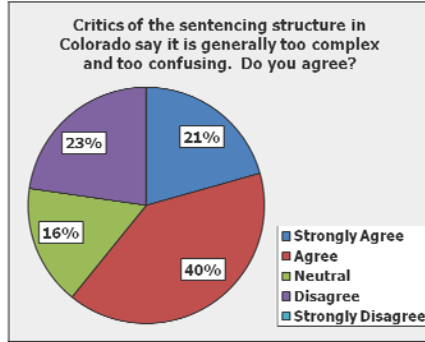
Although judges report general satisfaction with the statute (86%) and that there is no need for modification (41%), when provided an example (namely, victim restoration) judges appear open to statute modification (64%).



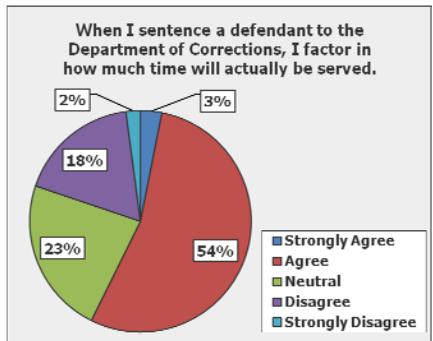
Sentencing structure



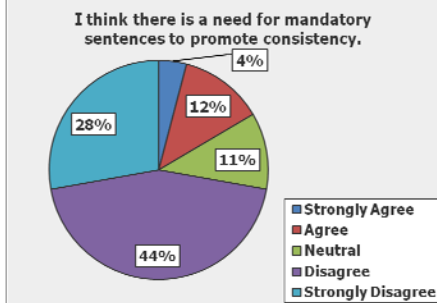
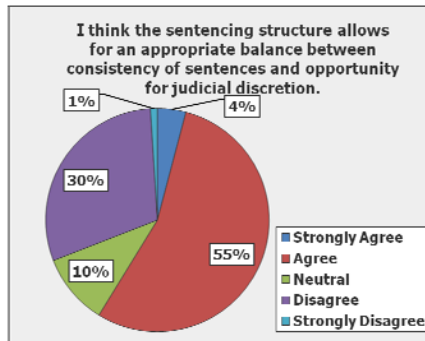
Although opinion is somewhat split, more judges report dissatisfaction (50%) than satisfaction (36%) with sentencing structure/laws and largely agree that sentencing statutes are complex and confusing (61%).



Sentencing discretion

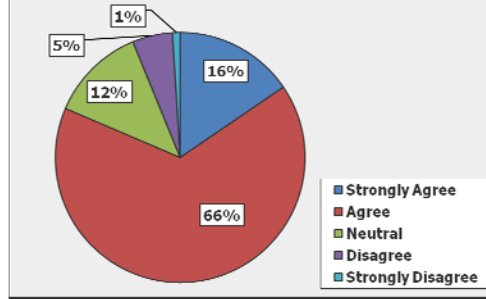


A majority of judges indicate adjusting sentences to account for actual time served (57%). With a healthy minority in opposition (31%), judges largely (59%) report a perceived balance between sentence consistency and discretion, but disagree (72%) with mandatory minimums as an approach to achieve sentencing consistency.



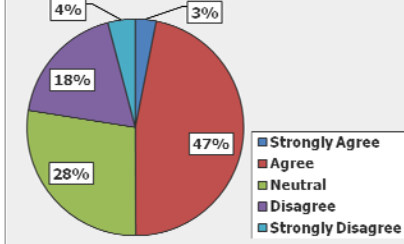
Sentencing discretion

When a judge is mandated to sentence a defendant to incarceration, it would be useful if residential community corrections were a placement option.

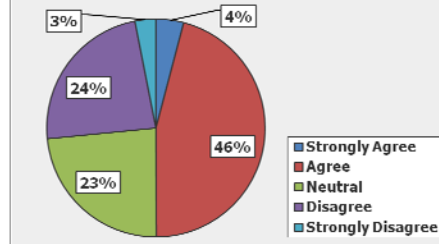


When presented a hypothetical sentencing option [community corrections as a potential placement when a sentencing mandate requires incarceration], judges would overwhelmingly prefer that the statute allow a community corrections placement option (82%). This does not imply that judges would necessarily use the option.

Sentencing statutes concerning aggravators in crimes of violence are appropriate as currently written.



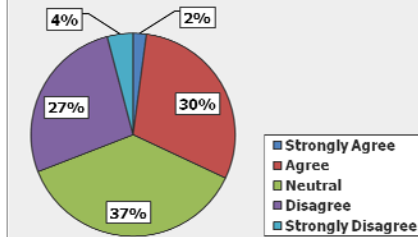
Sentencing statutes concerning aggravators in extraordinary risk crimes are appropriate as currently written.

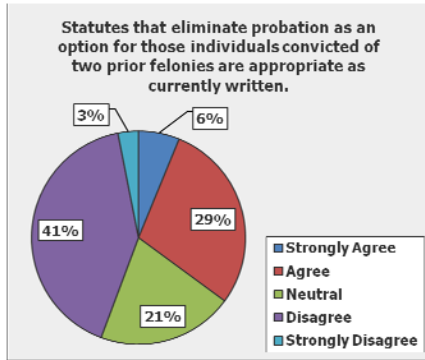


Sentence aggravators

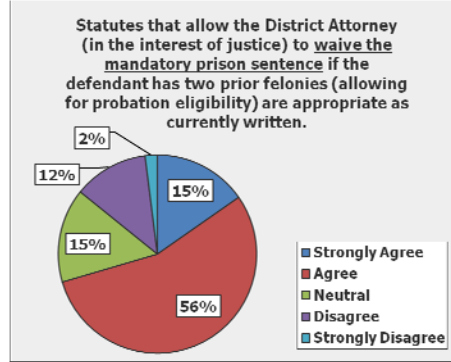
There is greater agreement than disagreement by judges regarding the appropriateness of current statutes concerning crimes of violence (50% vs. 22%) and extraordinary risk (50% vs. 27%). However, opinion is evenly split on statutes addressing habitual traffic offenders.

Colorado statutes pertaining to sentencing of habitual traffic offenders are appropriate as currently written.

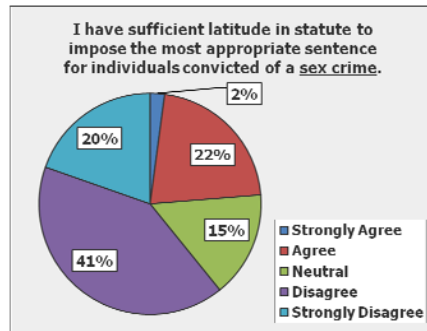
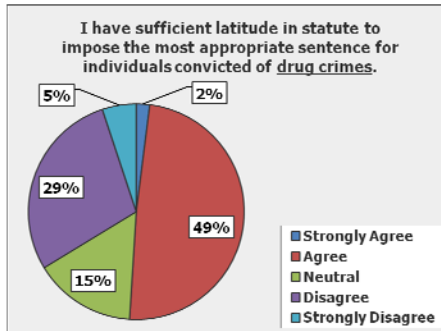




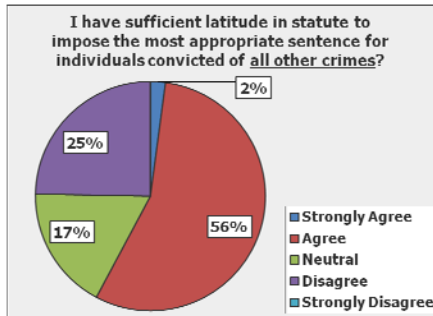
Two-prior felony statutes



More judges disagree (44%) than agree (35%) that, in general, the two-prior felony statutes are appropriately written. However, judges overwhelmingly agree (71%) with the aspect of the current statutes that allows DAs to waive a mandatory prison sentence under the two-prior felony condition.

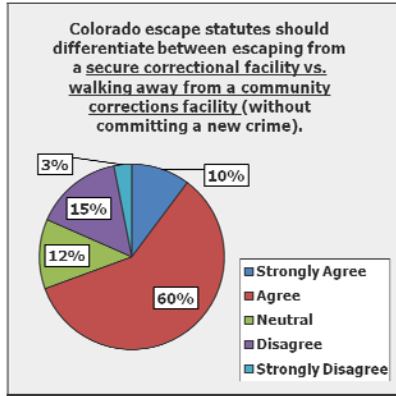


Sentencing latitude (discretion)

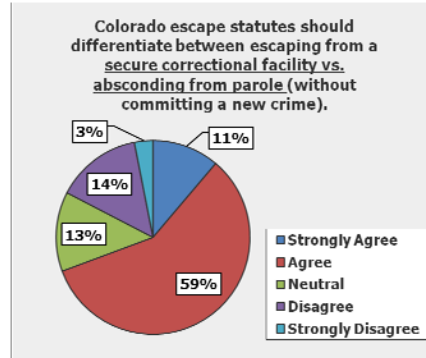


When sentencing drug (51%) and all other crimes (58%), judges tend to agree that there is sufficient sentencing latitude; although there are substantial minorities in disagreement (34% & 27%, respectively). However, judges disagree that sentencing latitude is sufficient for sex crimes (61%).

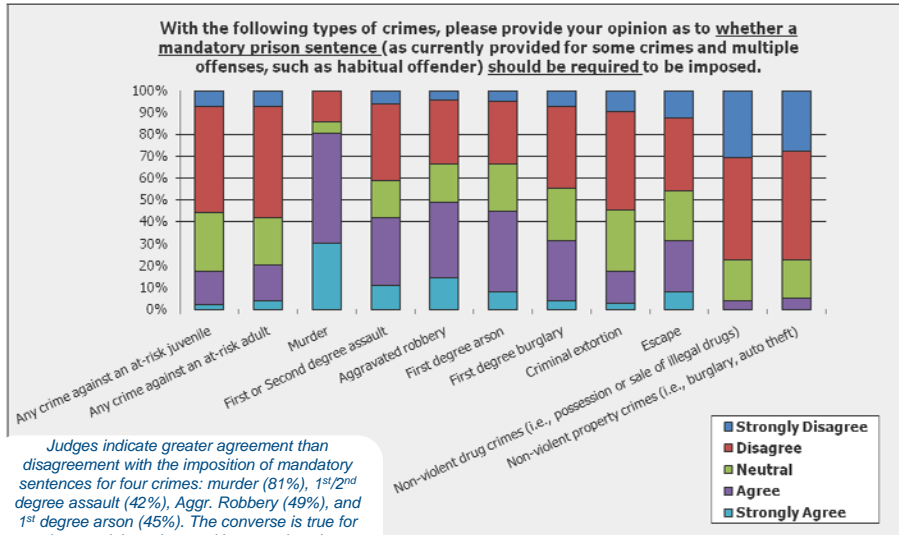
Escape statutes



Large proportions of judges agree that escape statutes should differentiate between escaping from a secure correctional facility and either walking away from community corrections (70%) or absconding from parole (70%).



Mandatory sentencing



Judges indicate greater agreement than disagreement with the imposition of mandatory sentences for four crimes: murder (81%), 1st/2nd degree assault (42%), Aggr. Robbery (49%), and 1st degree arson (45%). The converse is true for the remaining crimes, with proportions in disagreement ranging from 45% (1st degree burglary) to 78% (non-violent drug).

Sentencing priorities

**What issues do you feel the Commission should prioritize regarding sentencing reform?
(Ranking of 8 possible choices)**

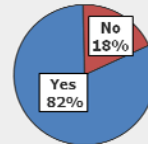
Resultant Rank	Sentencing Priority	Number of #1 Rankings*	Number of #2 Rankings*
1	Additional Judicial Discretion	29	18 48%
2	Consistency in Statutes	26	16 43%
3	Revising Drug Statutes (T.18, A.18)	21	14 36%
4	Probation Eligibility	4	12
5	Mandatory Minimums	9	15
6	Habitual Offender Statutes (non-traffic)	4	9
7	Escape	2	7
8	Increased Focus on Victims	3	7

*of 98 possible

Sentencing resources

**If you could direct additional resources in your district to expand sentencing options, how would you prioritize the following?
(Ranking of 13 possible choices)**

Would you prefer additional resources in your district for sentencing options?



Resultant Rank	Sentencing Option Resources	Number of #1 Rankings*	Number of #2 Rankings*
1	Drug Treatment	38 49%	15 68%
2	Mental Health Treatment	19 24%	27 59%
3	Community Corrections	5	9
4	Intensive Supervision Probation (ISP)	4	10
5	Vocational Training	0	2
6	Educational Training	0	5
7	Probation	4	5
8	Jail Work-Release	3	3
9	Restorative Justice	1	1
10	Prison Sentences (DOC)	2	0
11	Culturally-Specific Sentencing Alternatives	0	0
12	Gender-Specific Sentencing Alternatives	0	0
13	Other**	2	1

* of 78 Possible

** There were 13 "Other" resources mentioned: Juvenile programs, Court review hearings, Cognitive restructuring programs, Specialty courts (drug, veterans, mental health), Alternative sex offender programs, Community Corrections for misdemeanors, Alcohol treatment, More innovative programs, Electronic monitoring, Diversion, Boot camp, Fee relief programs for the indigent.