

# COMPREHENSIVE SENTENCING TASK FORCE

## Classification Working Group

RECOMMENDATION PRESENTED TO THE CCJJ  
July 13, 2012

### FY13-CS #1 Modify and expand CRS 18-4-401, theft offenses.

#### Recommendation FY13-CS#1

Reclassify CRS 18-4-401 to expand the sentencing options available for theft crimes. Specifically, reclassify theft CRS 18-4-401 as specified in the following tables. Any cost savings from this recommendation should be reinvested in diversion and justice system programs.

**Current Theft Offense Levels**

Offense Level	Value
F3	\$20K and up
F4	\$1K - \$20K
F5	\$1K - \$20K (rental property)
F6	
M1	\$500 - \$1K
M2	Less than \$500
M3	
PO1	

**Proposed Theft Offense Levels**

Offense Level	Value
F2	\$1M and up
F3	\$100K - \$1M
F4	\$20K - \$100K
F5	\$5K - \$20K
F6	\$2K - \$5K
M1	\$750 - \$2K
M2	\$300 - \$750
M3	\$100-\$300
PO1	Less than \$100

Figure 1 shows the current and proposed distributions of reclassifying theft offense levels.

**Figure 1. Percent of FY07-11 Theft\* cases under the current and proposed classifications.**

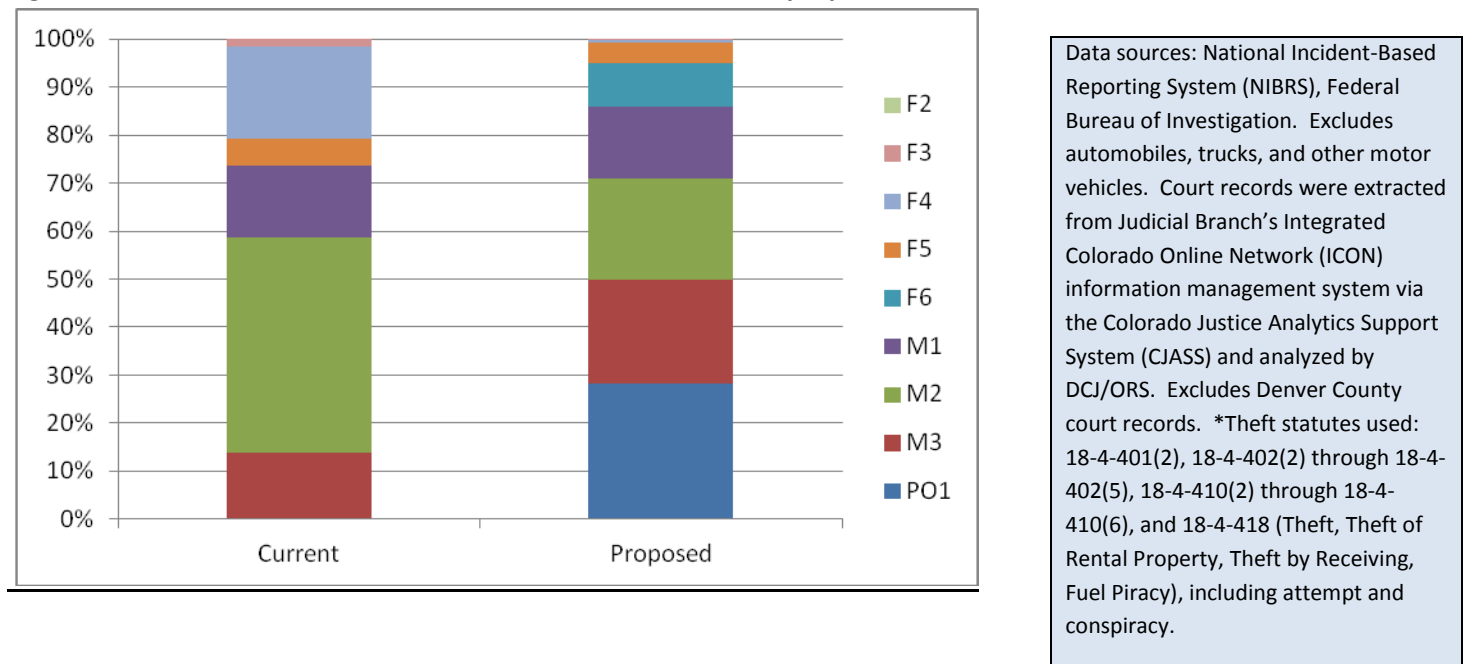


Table 1 shows how Theft offenders would be reallocated under the proposed system. The table shows that 3,959 offenders (green cells) during this time period who were formally prison-eligible would receive a misdemeanor or petty offense classification under the new system. In addition, 8923 offenders which were formerly misdemeanors would be classified at the PO1 level under the new system.

**Table 1. Current vs. proposed law classifications of Theft\* offenders in FY07-FY11**

Current Class	Proposed Class									Total
	F2	F3	F4	F5	F6	M1	M2	M3	PO1	
F3	1	31	249	220						501
F4				1,133	2,805	2,136				6,074
F5						1,794				1,794
F6						29				29
M1						838	3,907			4,745
M2							2,777	6,893	4,530	14,200
M3									4,393	4,393
<b>Total</b>	<b>1</b>	<b>31</b>	<b>249</b>	<b>1,353</b>	<b>2,805</b>	<b>4,797</b>	<b>6,684</b>	<b>6,893</b>	<b>8,923</b>	<b>31,736</b>

Data sources: National Incident-Based Reporting System (NIBRS), Federal Bureau of Investigation. Excludes automobiles, trucks, and other motor vehicles. Court records were extracted from Judicial Branch’s Integrated Colorado Online Network (ICON) information management system via the Colorado Justice Analytics Support System (CJASS) and analyzed by DCJ/ORS. Excludes Denver County court records.

\*Theft statutes used: 18-4-401(2), 18-4-402(2) through 18-4-402(5), 18-4-410(2) through 18-4-410(6), and 18-4-418 (Theft, Theft of Rental Property, Theft by Receiving, Fuel Piracy), including attempt and conspiracy.

A sample of offenders convicted of a theft offense as their most serious crime was collected from the Judicial Branch ICON system from FY07-FY11. Table 2 details these numbers by race

**Table 2. FY07-11 cases with Theft<sup>1</sup> as the most serious conviction charge by Race<sup>2</sup>**

Law Class	N	Asian (N=339)	Black (N=2,847)	Hispanic (N=2,742)	Native Am. (N=147)	Other (N=356)	White (N=25,189)	Blank (N=116)	Total (N=31,736)
F3	501	3%	10%	5%	<1%	1%	80%	0%	100%
F4	6,074	1%	12%	10%	<1%	1%	76%	<1%	100%
F5	1,794	1%	10%	9%	<1%	1%	78%	<1%	100%
F6	29	0%	7%	7%	0%	3%	83%	0%	100%
M1	4,745	1%	10%	9%	1%	1%	78%	<1%	100%
M2	14,200	1%	8%	9%	1%	1%	81%	<1%	100%
M3	4,393	1%	8%	7%	<1%	1%	82%	1%	100%
<b>Total</b>	<b>31,736</b>	<b>1%</b>	<b>9%</b>	<b>9%</b>	<b>&lt;1%</b>	<b>1%</b>	<b>79%</b>	<b>&lt;1%</b>	<b>100%</b>

Data source: Court records were extracted from Judicial Branch’s Integrated Colorado Online Network (ICON) information management system via the Colorado Justice Analytics Support System (CJASS) and analyzed by DCJ/ORS. Excludes Denver County court records.

<sup>1</sup>Theft statutes used: 18-4-401(2), 18-4-402(2) through 18-4-402(5), 18-4-410(2) through 18-4-410(6), and 18-4-418 (Theft, Theft of Rental Property, Theft by Receiving, Fuel Piracy), including attempt and conspiracy.

<sup>2</sup>Judicial race data often does not distinguish between race and ethnicity (particularly “White” and “Hispanic”). As a result, the ability to accurately interpret this data is limited.