



# COLORADO

## Commission on Criminal & Juvenile Justice

Department of Public Safety  
Colorado.gov/CCJJ

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Senator Ellen Roberts, Chair  
Senate Judiciary Committee

Representative Daniel Kagan, Chair  
House Judiciary Committee

Re: HB 14-1214 Report  
C.R.S.16-11.3-103.5

Dear Senator Roberts and Senate Judiciary Committee Members, and  
Representative Kagan and House Judiciary Committee Members,

The provisions of HB 14-1214 require the Colorado Commission on Criminal and Juvenile Justice (CCJJ) to “review section 18-1.3-401(1)(b)(IV), C.R.S., and the efficacy of implementing enhanced sentencing for first-degree assault, second-degree assault, and first-degree murder of an emergency medical service provider, as defined in section 25-3.5-103(8), C.R.S. to determine whether:

- (a) Colorado’s sentencing laws, including Article 1.3 of Title 18, C.R.S. provide equity and parity of sentencing with respect to enhanced sentencing based on the victim’s occupation; and
- (b) There is evidence-based support for enhanced sentencing based on the victim’s occupation.”

Lacking availability of evidence-based studies about enhanced sentencing based on victim’s occupation, the CCJJ Legislative Subcommittee considered two issues in creating this response: 1) the purposes and policy goals of sentencing, and 2) the prevalence of enhanced sentencing laws in other states and the rate of charging of these offenses in Colorado.

### ***Purposes and Policy Goals of Sentencing***

The efficacy of any sentencing law refers to whether that sentence achieves the desired result or effect. There are multiple goals expected from the justice system response to the commission of a crime, and C.R.S. 18-1-102 and 102.5 set forth a number of purposes including punishment, deterrence, rehabilitation, public protection, proportionality, consistency, accountability, restoration to victims and the community, and recidivism reduction. These criteria can be generally grouped into those goals that focus on the offense itself, those that are most concerned with the risks and needs of the offender, and those that are concerned with public safety and the effect of the crime on the victim and the community. While there is research and evidence relating to how sentencing alternatives rehabilitate offenders or reduce recidivism and the impacts of incarceration, there is little evidence that can answer questions relating to policies regarding community expectations or the relative seriousness of crime levels, as well as the impact on victims and public safety overall.





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For a thorough review and examples of this type of research, see Przybylski, R. (2008), *What works: Effective Recidivism Reduction and Risk Focused Prevention Programs*, Colorado Department of Public Safety, Division of Criminal Justice, Denver, CO, available at [https://cdpsdocs.state.co.us/ors/docs/reports/2008\\_WhatWorks.pdf](https://cdpsdocs.state.co.us/ors/docs/reports/2008_WhatWorks.pdf).

Identifying a special class of victims and providing enhanced sentencing for harming those victims may not have been motivated by rehabilitation or recidivism reduction. It may, however, address some of the other purposes of sentencing. Those are the purposes that relate to the perceived level of seriousness of a crime, the desire to protect the public, the impact on the victim, and community ideals and expectations. Categories of victims are selected for special protections to recognize a particular harm that is unique to that class of victim, e.g., children, elderly, or at-risk persons, or to provide a special protection consistent with public interest and community expectations, e.g., judges, police, firefighters, or first-responders. By singling out certain victims by occupation, the Legislature sought to confirm that those occupations are recognized as important and necessary for the public good. Further, the increase in crime classifications and requirements of mandatory sentences recognizes that persons in those professions have accepted a level of danger to themselves in order to protect the public good. These policies reflect varying societal values and are difficult to research for “effectiveness” through any measurable outcome.

Sentencing laws serve as statements about the seriousness of the offense and also give direction to the judiciary to support consistency in sentencing. Mandatory sentencing laws are frequently the result of perceived disparities in sentencing from one judge to the next, or one jurisdiction to the next. It is fairly straightforward to study the impact of mandatory sentences after their enactment. The enactment of mandatory sentencing moves away from the goals of sentencing relating to the benefits of individualized sentences with the intent of moving toward the goals of consistency and recognition of the public perception of the seriousness of an offense.

The various purposes of sentencing laws are valued differently by type of crime. For instance, with crimes that involve serious injury or death the purposes of public safety and victim impact are valued relatively higher than addressing offender needs. For property crimes, we tend to place a greater focus on restitution, rehabilitation and recidivism reduction. The laws relating to increased sentencing for persons in certain public service occupations all involve personal injury or death. It can be assumed that the assessment of effectiveness should thus focus more on the victim impact, community expectations, and public safety purposes with less attention to the purposes served by individualized sentencing. There is little research or evidence to rely upon in such an analysis. Certainly, public opinion as expressed through legislative action can be seen as one measure of the importance of additional protections for certain occupations. The message the laws send concerning the seriousness of the offense and the protection of persons in harm’s way for the public good indicates a value placed on those occupations by the public.

***Prevalence in Other States and Rates of Charging in Colorado***

Most, if not all, states have some form of enhanced sentencing for crimes against certain types of victims. To gauge the frequency at which these offenses are charged in Colorado, the Division of Criminal Justice ran data from calendar years 2010 through 2014 for offenses in Article 1.3 of Title 18, as shown in the following table.

**Number of cases containing the filing charge where the victim was a Peace Officer, Firefighter, or Emergency Medical Service Provider**

Filed Charge	CY				
	2010	2011	2012	2013	2014
1 <sup>st</sup> Degree Murder, premeditated	7	2	2	6	7





Filed Charge	CY				
	2010	2011	2012	2013	2014
1 <sup>st</sup> Degree Murder, universal malice	2		4	8	2
1 <sup>st</sup> Degree Assault, threat with deadly weapon	70	45	55	60	69
1 <sup>st</sup> Degree Assault, threat with deadly weapon, heat of passion	1				
2 <sup>nd</sup> Degree Assault, intentional bodily injury	433	492	528	569	558
2 <sup>nd</sup> Degree Assault, heat of passion	6	1	2	2	1
2 <sup>nd</sup> Degree Assault, lacks intent but SBI occurs during commission of other felony	4	1	1	2	1
	<b>523</b>	<b>541</b>	<b>592</b>	<b>647</b>	<b>638</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.

Researchers at the University of Northern Colorado conducted a survey of emergency medical service providers in Colorado to determine the prevalence of violence against those professionals. Over 90% of the respondents had been struck, kicked, or been the victim of an attempted assault. Many times the EMS personnel work directly alongside police and firefighters to treat or stabilize an individual. Treating all those professionals similarly under the law may support consistency. Gathering additional data more specific to charges relating to each victim occupation would require a hand search of individual files.

In summary, the CCJJ submits to the General Assembly three responses to the inquiries posed in HB 14-1214: 1) Enhanced sentences for certain classes of victims or occupations are not specifically addressed in the literature as evidence-based practices but may serve other purposes of sentencing; 2) Enhanced sentences and mandatory sentences are policy and legislative expressions that may reflect public perceptions about frequency or severity of offenses; and 3) More in-depth study is necessary to define and determine equity and parity of sentencing based on victim occupation.

Please let us know if you have any questions.

Respectfully submitted,

Stan Hilkey, Chair, CCJJ  
 Executive Director  
 Colorado Department of Public Safety

Douglas K. Wilson, Vice-Chair, CCJJ  
 Colorado State Public Defender

