

**Sentencing Reform Task Force
MINUTES**

December 7, 2022 / 1:30PM-4:00PM
Virtual Meeting

ATTENDEES

TASK FORCE MEMBERS

Michael Dougherty, *Task Force Co-chair*, District Attorney/20th Judicial District (JD)
Rick Kornfeld, *Task Force Co-chair*, Defense Attorney
Taj Ashaheed, Second Chance Center
Maureen Cain, Office of the State Public Defender
Terri Carver, State Representative/House District 20
Valerie Finks, Victim Compensation Program/DA Office, 1st JD
Justin "JR" Hall, Colorado State Board of Parole
Kazi Houston, Rocky Mountain Victim Law Center
Jes Jones, Defense Attorney
David Kaplan, Defense Attorney
Brian Mason, District Attorney/17th JD
Andrew Matson, Colorado CURE
Jeffrey Nowacki, Colorado State University
Tom Raynes, Colorado District Attorneys' Council
Michael Rourke, District Attorney/19th JD
Glenn Tapia, Director, Div. of Probation Services/Judicial Branch

STAFF

Richard Stroker, CCJJ Consultant
Jack Reed, Research Director, Division of Criminal Justice
Laurence Lucero, CCJJ Staff, Division of Criminal Justice
Kevin Ford, CCJJ Staff, Division of Criminal Justice
Stephané Waisanen, CCJJ Staff, Division of Criminal Justice

ABSENT

Christie Donner, Colorado Criminal Justice Reform Coalition
Bob Gardner, State Senator/Senate District 12
Julie Gonzales, State Senator/Senate District 34
Serena Gonzales-Gutierrez, State Representative/House District 4
David "Dave" Hayes, Police Chief/ Louisville, CO
Sarah Keck, Court Services/Judicial Branch
Greg Mauro, Denver Division of Community Corrections
Heather McClure, Adams County Division of Community Safety & Well-Being
Dan Rubinstein, District Attorney/21st JD
Andre Stancil, Colorado Department of Corrections

<p>Welcome & Agenda Welcome, Approval of Minutes, and Agenda <i>Michael Dougherty & Rick Kornfeld</i> <i>Task Force Co-chairs</i></p>	<p>Discussion Rick Kornfeld, Task Force Co-chair welcomed attendees. Rick reviewed the agenda and solicited any additions or corrections to the November 9 minutes. A motion was offered and seconded to approve the minutes. Task Force members unanimously approved the November 9 minutes. Rick welcomed Jeffrey Nowacki as a new member of the Task Force replacing Henry Jackson.</p>
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<p>Issue/Topic Draft Recommendation FY23-SR #01. Standardize Early Termination Review in Probation [Policy] Sentencing Alternatives/Decisions & Probation WG <i>Glenn Tapia, WG Leader</i></p>	<p>Discussion Glenn Tapia reminded the Task Force members the recommendation presented below was presented at the November SRTF meeting and returned to the Working Group for clarification of some issues raised at the meeting. The Working Group met last Friday, Dec. 2 and revised the recommendation presented today. The revision clarifies that the recommendation proposes a mandatory <u>review</u> by probation to consider whether to petition for early termination. The review at the 50% sentence length was determined based on the current practice by most jurisdictions in the state. The intent of the proposal is to address review disparities and standardize the review for early termination. The excerpt of the draft recommendation presented below was forwarded to the group prior to the meeting. FY23-SR #01. Standardize Early Termination Review in Probation [Policy] In order to reduce potential for over-supervision in probation, there should be a standardized process within Colorado Probation among all judicial districts to ensure a transparent, consistent and timely review of each adult case for early termination. Following these recommendations (Appendix A) is a list of technical considerations and areas that will need to be addressed by a working group for this process to be successful.</p> <ul style="list-style-type: none"> • Process development: The State Court Administrators Office (SCAO) and the Division of Probation Services (DPS), in collaboration with probation staff, stakeholders (e.g.: treatment providers, prosecuting and defense attorneys), and victim representatives, should develop a protocol for the standardization of reviewing adult cases for early termination by June 30, 2024. The protocol should include inclusionary and exclusionary criteria used to inform probation officer decisions to petition the court for early termination based on the individual circumstances of each person under review as well as victim considerations for Victim’s Right Act (VRA) cases. (See APPENDIX A – Technical Process Areas to be Addressed) • Policy and Standards: The protocol should result in a statewide policy that provides direction on the process. The <i>Standards for Probation in Colorado</i>, issued by the Supreme Court, should also incorporate mandatory review of adult cases once a probationer completes 50% of their sentence in order to advance a certain and transparent timeframe at which an initial review will occur. The <i>Standards</i> should be revised by June 30, 2024.
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<p style="text-align: center;">Issue/Topic Draft Rec. FY23-SR #01 Sentencing Alternatives/Decisions & Probation WG <i>Glenn Tapia, WG Leader</i> (continued)</p>	<ul style="list-style-type: none"> ● Structured Tools: The protocol should rely on standardized forms and structured tools to ensure consistency statewide. There should be a form provided to the probationer at the beginning of probation that describes the behavioral response system and the incentive for early termination, as well as a checklist for the probation staff to determine eligibility for early termination. ● Specialized Intensive Programs: Standards should be developed to ensure that probationers placed on intensive supervision serve at least 6 months on regular supervision before being submitted for early termination or that judicial officers at least consider the amount of time served on regular supervision before granting early termination at 50% of the sentence period for those who were assessed as higher risk and higher need at intake on probation. ● Stakeholder Education: Stakeholders should be informed of the early termination protocol. The workgroup that develops the protocol should decide if stakeholder education should happen at the state level (e.g.: presentations to victims’ groups, the chief judges’ council, the public defenders’ office, district attorneys’ council) or at the local level. ● Victim Notification: There should be procedures developed such that victims of eligible crimes are given appropriate education and time to opt in for notification in Victims Right Act (VRA) cases where a petition for early termination is indicated. ● Training: The Division of Probation Services should develop and administer a stand-alone training on the protocol for all current employees. After statewide implementation, this training portion should be incorporated into the Probation Academy, which is mandatory for all new probation officers. ● Quality Assurance: The protocol should result in additional data entry to track the frequency and timeliness of early termination reviews. Staff at DPS/SCAO should annually review district compliance with the protocol and provide feedback to districts on the metrics. ● Implementation: The SCAO/DPS should develop a strategy to consider district-level workload impact, docket impact, victim transparency, and victim impact in implementing the new policies and standards for current cases for those who are newly eligible and those who are pending eligibly for early termination under the new model as of June 30, 2024. <p>DISCUSSION</p> <p>Rick asked for any additional feedback or suggestions and, hearing none, requested a motion and second to move the recommendation to a vote. Andrew Matson moved to approved the recommendation as presented, seconded by Jes Jones.</p> <p>With no further discussion, the vote outcome was as follows:</p> <p>FY23-SR #01. Standardize Early Termination Review in Probation [Policy]</p> <ul style="list-style-type: none"> ● Support: 14 ● Do not support: 0 ● Abstain: 1 (1 Member attending was absent for the vote) <p>Rec. FY23-SR #01 was approved for submission to the Commission.</p>
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Issue/Topic	Discussion
<p>Update: Sentence Structure Working Group <i>Michael Dougherty, WG Leader</i> <i>Maureen Cain, WG Member</i></p>	<p>Michael provided an update on behalf of the Sentence Structure Working Group. The WG is working on proposals related to the statutes for Auto Theft, Extreme Indifference, Mandatory Consecutive/Habitual Offenders, Vehicular Homicide, and the reclassification of certain felony crimes. He expected the WG will present proposals at the January meeting.</p> <p>A PowerPoint was offered with highlights of the presentation provided below. The presentation is available under the “Materials – Task Force” tab (December 7, 2022) at, ccjj.colorado.gov/ccjj-srtf and is appended below.</p> <ul style="list-style-type: none"> • The Sentencing Reform Task Force was created by the CCJJ following the Biennial Governor’s letter of June 24, 2020, directing the CCJJ: <ul style="list-style-type: none"> ○ Develop improved guidelines for the disposition of cases ○ Ensure statewide consistency and more certainty in sentences ○ Ensure incentives for success throughout an offender’s sentence and beyond ○ Recognize finite resources for jails and prisons • There has not been a comprehensive review of sentencing laws in Colorado since 1985. • Over the ensuing decades, many new crimes have been created and other changes have been made to various sentencing laws which have resulted in Colorado’s sentencing statutes becoming outdated, misaligned, and inconsistent in their application. • Also, the lack of certainty that exists regarding the amount of time a person will serve when sentenced to incarceration is unfair to victims, offenders and the community. • Impact of Auto Thefts <ul style="list-style-type: none"> ○ Auto Theft is a serious problem. It is hurting a lot of people. Colorado leads the nation in auto thefts, which is not the type of leader that Colorado strives to be. ○ 86% statewide increase. ○ From 2019 – 2021 auto theft increased by 170% in Broomfield, 250% in Grand County and 60% in Boulder County. ○ From the first quarter of 2022, Denver, Aurora, Westminster, and Pueblo combined accounted for 53.3% of the vehicles stolen statewide. ○ Car thefts vary in purpose, impact, timing, etc. • What drives the number of auto thefts? <ul style="list-style-type: none"> ○ Financial stress, substance abuse, mental health disorders, lack of treatment, homelessness, desire to commit other crimes and profit, crimes of opportunity (unlocked car doors and open garages. ○ Consequences after arrest vary: <ul style="list-style-type: none"> - Summons vs. arrest - PR bond vs. Secure bond - Sentencing

<p style="text-align: center;">Issue/Topic Update: Sentence Structure Working Group <i>Michael Dougherty, WG Leader</i> <i>Maureen Cain, WG Member</i> (continued)</p>	<ul style="list-style-type: none"> • Colorado Must Address Auto Theft <ul style="list-style-type: none"> ○ Address behavioral health needs in our communities and justice system. ○ Decrease the number of auto thefts. ○ Increase the number of cases being solved. ○ Protect the community and hold people responsible through prosecution of cases. ○ Reinforce the rule of law. • Arrest Clearance Rates <ul style="list-style-type: none"> ○ Some jurisdictions, including Denver and Aurora, have arrest clearance rates below 10%. ○ What does that mean in terms of additional car thefts? ○ How will changes to sentencing laws impact those numbers? • Letter from Governor Polis asked the Commission to examine changes to auto theft sentencing and revisit the criminal classification of auto theft as it relates to the monetary value of a stolen vehicle. • Current statute: <ul style="list-style-type: none"> ○ Aggravated Motor Vehicle Theft – 1st Degree <ul style="list-style-type: none"> - Class 5 felony if the value of the motor vehicle or motor vehicles involved is less than twenty thousand dollars; - Class 4 felony if the value of the motor vehicle or motor vehicles involved is twenty thousand dollars or more but less than one hundred thousand dollars; - Class 3 felony if the value of the motor vehicle or motor vehicles involved is more than one hundred thousand dollars or if the defendant has twice previously been convicted or adjudicated of charges separately brought and tried, either in this state or elsewhere, of an offense involving theft of a motor vehicle under the laws of this state, any other state, the United States, or any territory subject to the jurisdiction of the United States. ○ Aggravated Motor Vehicle Theft – 2nd Degree <ul style="list-style-type: none"> - None of the aggravators. - Class 5 felony if the value of the motor vehicle or motor vehicles involved is twenty thousand dollars or more; - Class 6 felony if the value of the motor vehicle or motor vehicles involved is two thousand dollars or more but less than twenty thousand dollars; - Class 1 misdemeanor if the value of the motor vehicle or motor vehicles involved is less than two thousand dollars. • Motor Vehicle Theft – New and Improved? <ul style="list-style-type: none"> ○ Remove Value Threshold ○ If defendant knowingly obtains or exercises control over the motor vehicle of another without authorization or by threat or deception ... ○ If the defendant has been once or twice previously been convicted? ○ Possible Aggravators <ul style="list-style-type: none"> - Attempts to alter or disguise/ alters or disguised VIN or appearance - Uses in the commission of another non-traffic crime
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<p style="text-align: center;">Issue/Topic</p> <p style="text-align: center;">Update: Sentence Structure Working Group <i>Michael Dougherty, WG Leader</i> <i>Maureen Cain, WG Member</i> (continued)</p>	<ul style="list-style-type: none"> - Causes damage in excess of 500 or 2000 dollars - Causes bodily injury to another person while in control of vehicle - Removes the MV from the state to avoid apprehension - Takes a handicapped vehicle with handicapped plates - Retains possession or control more than 24 hours - Uses unauthorized/stolen license plates - Is on bond for pending auto theft - ONE prior conviction for auto theft or TWO prior convictions <ul style="list-style-type: none"> ○ Possible Offense Levels <ul style="list-style-type: none"> - Class 5 felony (1-3 years) - Class 4 felony (2-6 years) - Class 3 felony (4-12 years) - Misdemeanor (0-364 days) - Questions remaining: What should the maximum sentence be for Auto Theft? What about Auto Thefts with no aggravators present? ○ Create a Misdemeanor Offense <ul style="list-style-type: none"> - Obtains, exercises control over, receives or retains vehicle without authorization AND, 1) Does <u>not</u> commit any other offense other than a traffic offense AND, 2) The vehicle is returned to the owner, location of theft, or police within 24 hours with no damage - This gives a crime with that fact pattern a place to land for disposition purposes. ○ Working Group Discussion <ul style="list-style-type: none"> - Class 3 for two prior convictions - Class 4 with Aggravators: <ul style="list-style-type: none"> ▪ Attempts to alter or disguise/ alters or disguised VIN or appearance of vehicle ▪ Uses in the commission of another crime not traffic ▪ Causes damage in excess of 2000 dollars ▪ Causes bodily injury to another person while in control of vehicle ▪ Removes the MV from the state to avoid apprehension ▪ Displays other license plates ▪ Takes a handicapped vehicle with handicapped plates ▪ Class 5 for MV without Aggravators ▪ Create new misdemeanor ○ Discussions from other stakeholders <ul style="list-style-type: none"> - Knowingly obtains, exercises control over, receives or retains vehicle and knows <i>or reasonably should have known</i> the act was without authorization - Class 3 for one or two prior convictions - Class 3 with some aggravators, Class 4 for others - Class 5 for MVT without Aggravators - Create new misdemeanor <p>This presentation will be offered at the Commission meeting on Friday, December 9. A Question and Answer Session is scheduled on December 16, 2022, at 1:30 pm with the members of the Structure WG to address questions</p>
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<p>Issue/Topic Update: Sentence Structure Working Group <i>Michael Dougherty, WG Leader</i> <i>Maureen Cain, WG Member</i> (continued)</p> <p>ACTION The Staff will forward the list of reclassified felony crimes to members for review.</p>	<p>from the members of the SRTF and Commission, stakeholders, and the public on matters related to motor vehicle theft.</p> <p>The Working Group will meet on January 10 at 3:00 pm and expect to complete several proposals, including Motor Vehicle Theft, to present at the January 11, 2023 Task Force meeting. If approved by the Task Force, the recommendations will be presented at the Commission meeting on January 13, 2023.</p> <p>DISCUSSION Brian Mason asked whether misdemeanor cases included municipal court filings. Maureen responded that the numbers only include state court filings. In 2022, only 3% of the state court cases were filed as a misdemeanor (vehicle value under \$2000)</p> <p>The group discussed at length sentencing ranges for motor vehicle thefts. Some members supported an increase in penalties, considering the harm done to victims. Other members expressed concern about the potential impact on the prison population and the life-long consequences of long sentences in prison for those offenders who have committed a property crime. It was suggested that courts should have more sentencing options based on the risks/needs of individuals, rather than the type of crime committed.</p> <p>The CCJJ staff will forward the list of reclassified felony crimes to SRTF members for review and comment.</p> <p>Michael thanked the group for the discussion and engaged members to review the possible aggravators and the felonies levels for future discussion.</p>
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<p>Issue/Topic Update: Sentencing Alternatives/Decisions & Probation Working Group <i>Glenn Tapia, WG Leader</i></p>	<p>Discussion <u>Sentencing Alternatives/Decisions & Probation WG – Glenn Tapia, Leader</u></p> <p>Glenn reported that, in addition to the efforts leading to the recommendation presented above, the WG continues to focus on its next topic regarding gender and race/ethnic disparities in probation. The WG meeting in January was canceled to allow the DCJ staff to compile data to address potential disparities in the Pre-sentence Investigation (PSI) process.</p> <p>Glenn expected the WG to tackle one last topic before concluding its work.</p>
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<p>Issue/Topic Public Comment <i>Michael Dougherty, Rick Kornfeld</i> <i>Task Force Co-chairs</i></p>	<p>Public Comment</p> <p>Rick solicited public comment, and hearing none, moved to the conclusion of the meeting.</p>
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<p>Issue/Topic Next Steps/Adjourn</p>	<p>Conclusion</p>
<p><i>Michael Dougherty & Rick Kornfeld</i> <i>Task Force Co-chairs</i></p>	<p>Richard Stroker recapped the meeting.</p> <p>A Question and Answer Session is scheduled on December 16, 2022, at 1:30 pm with the members of the Sentence Structure WG to address questions from the members of the SRTF and Commission, stakeholders, and the public on matters related to motor vehicle theft.</p> <p>The Structure Working Group continues its work and expects to present at the January meeting related to the statutes for Auto Theft, Extreme Indifference, Mandatory Consecutive/Habitual Offenders, Vehicular Homicide, and the reclassification of certain felony crimes. The PowerPoint presented today will be offered at the Commission meeting on Friday.</p> <p>The Sentencing Alternatives/Decisions & Probation Working Group will provide a preliminary presentation of the recommendation approved today at the Friday meeting of the CCJJ. The WG continues to focus on its next topic regarding gender and race/ethnic disparities in probation but will not meet in January to allow time for the DCJ staff to compile data to address potential disparities in the Pre-sentence Investigation (PSI) process.</p> <p>With no further business, Rick Kornfeld adjourned the meeting. The next Sentencing Reform Task Force meeting is Wednesday, January 11, at 1:30 pm.</p>

Next Meeting

Wednesday, January 11, 2022 / 1:30-4:00 pm

Meeting information will be emailed to members and posted at, colorado.gov/ccjj/ccjj-meetings.

Motor Vehicle Theft Update

Sentencing Reform Task Force

DA Michael Dougherty, 20th Judicial District
Co-Chair, Sentencing Reform Task Force

**Preliminary concepts presented to the
Colorado Commission on Criminal and Juvenile Justice
December 9, 2022**

Purposes of Sentencing

§18-1-102.5, C.R.S.

(a) To punish a convicted offender by assuring the imposition of a sentence he deserves in relation to the seriousness of his offense;

(b) To assure the fair and consistent treatment of all convicted offenders by eliminating unjustified disparity in sentences, providing fair warning of the nature of the sentence to be imposed, and establishing fair procedures for the imposition of sentences;

(c) To prevent crime and promote respect for the law by providing an effective deterrent to others likely to commit similar offenses;

(d) To promote rehabilitation by encouraging correctional programs that elicit the voluntary cooperation and participation of convicted offenders;

(e) To select a sentence, a sentence length, and a level of supervision that addresses the offender's individual characteristics and reduces the potential that the offender will engage in criminal conduct after completing his or her sentence; and

(f) To promote acceptance of responsibility and accountability by offenders and to provide restoration and healing for victims and the community while attempting to reduce recidivism and the costs to society by the use of restorative justice practices

What Started the SRTF?

- Formed per the Governor's letter of June 24, 2020, directing the CCJJ:
 - Develop improved guidelines for the disposition of cases
 - Ensure statewide consistency and more certainty in sentences
 - Ensure incentives for success throughout an offender's sentence and beyond
 - Recognize finite resources for jails and prisons

The Motivation

- There had not been a comprehensive review of sentencing laws in Colorado since 1985.
- Over the ensuing decades, new crimes were created and other **changes were made** to various sentencing laws which have resulted in Colorado's sentencing statutes becoming **outdated, misaligned, and inconsistent** in their application.
- Also, the lack of certainty that exists regarding the amount of time a person will serve when sentenced to incarceration. Unfair to victims, offenders and the community.



Christmas Tree of Sentencing

Impact of Auto Thefts

- Auto Theft is a serious problem. It is hurting a lot of people. Colorado leads the nation in auto thefts. 86% statewide increase.
- From 2019 – 2021, 170% in Broomfield. 250% in Grand County. 60% in Boulder County. Our numbers in Boulder County are now decreasing...
- From the first quarter of 2022 - Denver (2), Aurora (3), Westminster (8), and Pueblo (9). These four cities combined, accounted for 53.3% of the vehicles stolen statewide in the first quarter of 2022.
- Denver and Pueblo are still in the top 5 in the nation.
- Car thefts vary in purpose, impact, timing, etc.

What drives the number of auto thefts?

- Financial stress
- Substance abuse
- Mental health disorders
- Lack of treatment
- Homelessness
- Desire to commit other crimes ... And profit
- Crimes of opportunity – unlocked car doors and open garages
- Consequences
 - Summons v. Arrest?
 - PR bond v. Secured bond
 - **Sentencing**

Arrest Clearance Rates

- Some jurisdictions, including Denver and Aurora, reported arrest clearance rates below 10%.
- What does that mean in terms of additional car thefts?
- How will changes to sentencing laws impact those numbers?

Colorado Must Address Auto Theft

- Address behavioral health needs in our communities and justice system.
- **Decrease** the number of auto **thefts**.
- **Increase** the number of cases being **solved**.
- Protect the community and **hold people responsible** through prosecution of cases.
- Reinforce the rule of law.

Letter from Governor Polis

ccjj.colorado.gov/ccjj-mandates

- “I am particularly interested in having the Commission examine changes to auto theft sentencing, so that the repeat offenders and the most egregious perpetrators cannot easily return to communities to further inflict harm on the people of Colorado. Auto theft is devastating property crime for those affected, who often lose their only way to get to work or get to the store. In addition, it is frequently a precursor crime that is often used in the furtherance of violence and other crimes. Enhancing the penalties associated with auto theft, regardless of the value of the vehicle stolen, has the potential to make us safer and improve the quality of life in Colorado.
- “The Commission should especially revisit the criminal classification of auto theft as it relates to the monetary value of a stolen vehicle. The Commission should also examine updating the language to elevate the severity of the crime based on the number of prior offenses, specifically targeting prolific auto thieves. This is a top priority of mine, and even if the Commission does not come forward with recommendations this year, I will look to work with the legislature to enact reforms in this area in the upcoming session.”

Goals for Today



Overview of current statute.



Work through list of possible changes.



Preview of possible proposals.



12/16 – Stakeholder input.



Next meeting: SRTF adopts recommendation.

Agg Motor Vehicle Theft – 1st Degree

- (2) A person commits aggravated motor vehicle theft in the first degree if he or she **knowingly** obtains or exercises control over the motor vehicle of another without authorization or by threat or deception and:
- (a) Retains possession or control of the motor vehicle for more than twenty-four hours; or
 - (b) Attempts to alter or disguise or alters or disguises the appearance of the motor vehicle; or
 - (c) Attempts to alter or remove or alters or removes the vehicle identification number; or
 - (d) Uses the motor vehicle in the commission of a crime other than a traffic offense; or
 - (e) Causes five hundred dollars or more property damage, including but not limited to property damage to the motor vehicle involved, in the course of obtaining control over or in the exercise of control of the motor vehicle; or
 - (f) Causes bodily injury to another person while he or she is in the exercise of control of the motor vehicle; or
 - (g) Removes the motor vehicle from this state for a period of time in excess of twelve hours; or
 - (h) Unlawfully attaches or otherwise displays in or upon the motor vehicle license plates other than those officially issued for the motor vehicle.
- (3) (a) **Class 5 felony** if the value of the motor vehicle or motor vehicles involved is less than twenty thousand **dollars**;
- (a.5) **Class 4 felony** if the value of the motor vehicle or motor vehicles involved is twenty thousand dollars or more but less than one hundred thousand **dollars**;
 - (b) **Class 3 felony** if the value of the motor vehicle or motor vehicles involved is more than **one hundred thousand dollars** or if the defendant has **twice previously been convicted** or adjudicated of charges separately brought and tried either in this state or elsewhere of an offense involving theft of a motor vehicle under the laws of this state, any other state, the United States, or any territory subject to the jurisdiction of the United States.

Current statute: §18-4-409, C.R.S.

Agg Motor Vehicle Theft – 2nd Degree

- None of the aggravators.
- **Class 5 felony** if the value of the motor vehicle or motor vehicles involved is twenty thousand dollars or more;
- **Class 6 felony** if the value of the motor vehicle or motor vehicles involved is two thousand dollars or more but less than twenty thousand dollars;
- **Class 1 misdemeanor** if the value of the motor vehicle or motor vehicles involved is less than two thousand dollars.

Current statute: §18-4-409, C.R.S.

Motor Vehicle Theft: Filings 2018-June 2022

Law class	% within Case year						Total Cases
	Case year					Total	
	2018	2019	2020	2021	2022*		
Felony 3	2.6%	3.2%	3.9%	4.2%	5.0%	3.8%	989
Felony 4	10.3%	10.3%	10.8%	11.0%	10.8%	10.7%	2803
Felony 5	51.8%	51.0%	47.9%	46.6%	45.3%	48.5%	12753
Felony 6	32.1%	32.2%	34.5%	35.5%	35.4%	34.0%	8944
Felony	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	1
Unclassified	0.1%	0.1%	0.1%	0.0%	0.2%	0.1%	24
Misd 1	2.7%	3.0%	2.6%	2.4%	3.1%	2.7%	718
Misd 2	0.3%	0.2%	0.2%	0.2%	0.2%	0.2%	59
Unknown	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	18
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	26309
Total cases	4991	4946	5864	6708	3800	26309	-

Charges Associated with MVT '18 – '22

- Filings involving motor vehicle theft often include 'other property' crimes. These crimes include burglary, other thefts, fraud, and criminal trespassing.
- Other non-violent crimes accompanied a third of all filings. These crimes include custody violations, weapons, traffic misdemeanors and felonies, vehicular eluding, bribery, and tampering with evidence.
- Violent crimes accompanied almost 20% of these cases, including homicide, robbery, assault, and kidnapping.
- Overall, drug crimes comprised 19.9% of associated crimes.

Case Dispositions from '18 – '22

Disposition	% within Case year						Total Cases
	Case year					Total	
	2018	2019	2020	2021	2022*		
Dismissed/ Not Guilty	16.1%	17.3%	18.2%	17.8%	16.8%	17.3%	3584
Convicted	83.9%	82.7%	81.8%	82.2%	83.2%	82.7%	17132
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	20716
Total cases	4602	4463	4867	4987	1797	20716	-

Most Serious Conviction Level

Law class	% within Case year						Total Cases
	Case year					Total	
	2018	2019	2020	2021	2022*		
Felony 1	0.1%	0.0%	0.1%	0.0%	0.0%	0.0%	7
Felony 2	0.8%	0.7%	0.5%	0.5%	0.1%	0.6%	98
Felony 3	3.7%	4.0%	3.2%	2.4%	2.1%	3.2%	549
Felony 4	9.4%	10.2%	10.2%	8.7%	6.3%	9.3%	1594
Felony 5	25.4%	26.2%	25.2%	23.3%	21.1%	24.6%	4221
Felony 6	26.1%	24.7%	24.7%	28.7%	31.6%	26.6%	4551
Drug Felony	3.9%	3.8%	2.6%	2.3%	2.1%	3.1%	524
Misd 1	25.9%	26.1%	28.5%	29.4%	32.0%	27.9%	4784
Other misd. /PO	4.3%	3.9%	4.6%	4.5%	4.3%	4.3%	739
Traffic	0.4%	0.3%	0.4%	0.2%	0.5%	0.4%	61
Unclassified	0.1%	0.1%	0.0%	0.0%	0.0%	0.0%	4
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	17132
Total cases	3861	3691	3983	4101	1496	17132	-

Most Serious Initial Sentence

Sentencing Penalties	% within Case year						Total Cases
	Case year					Total	
	2018	2019	2020	2021	2022*		
Community Corrections	8.5%	8.7%	10.2%	10.2%	8.3%	9.3%	1017
Community Service	0.0%	0.1%	0.0%	0.0%	0.0%	0.0%	3
Credit for Time Served	0.3%	0.1%	0.3%	0.1%	0.4%	0.2%	22
Division of Youth Services	2.2%	2.2%	1.4%	1.0%	1.3%	1.6%	179
DOC	18.6%	19.8%	21.2%	19.2%	20.7%	19.8%	2156
Else	0.5%	0.9%	0.4%	0.4%	0.8%	0.6%	60
Fines/fees	1.4%	1.5%	1.3%	1.0%	1.4%	1.3%	139
Jail	21.9%	23.3%	23.6%	24.6%	23.5%	23.4%	2545
Juvenile Detention	0.7%	0.4%	0.5%	0.1%	0.1%	0.4%	43
Probation/Deferral	45.8%	42.9%	41.2%	43.3%	43.6%	43.3%	4711
YOS	0.3%	0.0%	0.1%	0.1%	0.0%	0.1%	13
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	10888
Total cases	2400	2223	2556	2668	1041	10888	-

Possible Changes to Consider





Remove Value Thresholds

Motor Vehicle Theft – New and Improved?

- If he or she **knowingly** obtains or exercises control over the motor vehicle of another without authorization or by threat or deception ...
- **Aggravators?**
- **Class 5 felony?**
- **Class 4 felony?**
- **Class 3 felony?**
- *If the defendant has been **once or twice** previously been **convicted**?*

Motor Vehicle Theft – Possible Aggravators

1. Attempts to alter or disguise/ alters or disguised VIN or appearance
2. Uses in the commission of another crime, not traffic
3. Causes damage in excess of 500 or 2000 dollars
4. Cause bodily injury to another person while in control of vehicle
5. Removes the MV from the state to avoid apprehension
6. Takes a handicapped vehicle with handicapped plates
7. Retains possession or control more than 24 hours
8. Uses unauthorized/stolen license plates
9. Is on bond for pending auto theft
10. ONE prior conviction for auto theft or TWO prior convictions

Possible Offense Levels

Class 3 Felony (4 – 12 years)

Class 4 Felony (2 – 6 years)

Class 5 Felony (1 – 3 years)

Misdemeanor (0 - 364 days)

What should the max sentence be for Auto Theft?

What about Auto Thefts with no aggravators present?

Create Misdemeanor Offense?

- Obtains, exercises control over, receives or retains vehicle without authorization AND
 - Does not commit any other offense other than traffic offense AND
 - The vehicle is returned to the owner, location, police ... **within 24 hours with no damage**
- Place to land for disposition purposes.

Working Group Discussion

- Class 3 for two prior convictions
- Class 4 with Aggravators:
 - Attempts to alter or disguise/ alters or disguised VIN or appearance of vehicle
 - Uses in the commission of another crime not traffic
 - Causes damage in excess of 2000 dollars
 - Cause bodily injury to another person while in control of vehicle
 - Removes the MV from the state to avoid apprehension
 - Displays other license plates
 - Takes a handicapped vehicle with handicapped plates
- Class 5 for MV without Aggravators
- Create new misdemeanor

Other Discussions

- Knowingly obtains, exercises control over, receives or retains vehicle and knows ***or reasonably should have known*** the act was without authorization
- Class 3 for one **or** two prior convictions
- Class 3 with some aggravators, Class 4 for other aggravators
- Class 5 for MV without Aggravators
- Create new misdemeanor or no misdemeanors

Path Ahead

