

# SUMMARY: Report on the C.L.E.A.R. Act: Community Law Enforcement Action Reporting Act, Pursuant to Senate Bill 2015-185

*Presented to the House and Senate Judiciary Committees  
of the Colorado General Assembly*

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## ***EXECUTIVE SUMMARY***

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*The complete report and corresponding web-based interactive data dashboard is located here:*

[colorado.gov/dcj-ors/ors-SB185](http://colorado.gov/dcj-ors/ors-SB185)



**COLORADO**  
Department of Public Safety

## Executive Summary

**Background.** In 2015, the General Assembly passed Senate Bill 185, the Community Law Enforcement Action Reporting Act, or the CLEAR Act. The CLEAR Act mandates that the Division of Criminal Justice (DCJ) annually analyze and report data provided by law enforcement agencies,<sup>1</sup> the Judicial Department, and the adult Parole Board, to reflect decisions made at multiple points in the justice system process. The CLEAR Act requires that the data be analyzed by race/ethnicity and gender. This study presents information for calendar year 2015.

Senate Bill 15-185 mandated DCJ to annually analyze and report these data disaggregated by offense type. Because it is difficult to identify patterns in analyses that involve many categories,<sup>2</sup> this report presents a summary of the findings by collapsing the offense categories into four broad groups: **Drugs, Other, Property** and **Violent** crimes (see Appendix A and Appendix B for a list of crimes falling into these categories). The details by offense type are presented in the corresponding web-based interactive dashboard available at: [colorado.gov/dcj-ors/ors-SB185](http://colorado.gov/dcj-ors/ors-SB185)

These two reporting mechanisms—this report and the data dashboard—should be viewed together since only the report contains information regarding the data sets used in the report and in the dashboard, and because the analysis of the four broad categories of crime allows for summary discussion of patterns of events.

Finally, the state Demographer’s Office estimates that in 2015, the Colorado population was 5,443,608 and was comprised as follows: White, 69.1%; Black, 4.2%; Hispanic, 22.2%; and Other, 4.6%. Males made up 50.3% of the state population and females made up 49.7% of the population.

**Law enforcement data.** In 2015 law enforcement made/issued over 200,000 arrests/summonses. In 2015, arrests/summonses for Drug offenses accounted for 8.4% of all arrests/summonses while Violent crimes accounted for 11.3% of arrests/summonses, Property offenses accounted for 15.9% of arrests/summonses, and the remainder of arrests/summonses (64.4%) fell into the Other crime category. Blacks represented 4.2% of the state population in 2015, but accounted for 12.4% of arrests/summonses. Males represent about 50% of the state population and 70-80% of arrests. Females were much more likely to be involved in Property offenses than the other offense categories. Juveniles were more likely to be summonsed than arrested. Violent crimes were less likely than the other crime categories to result in a summons.

**Court filings.** *It is important to clarify that the Judicial Department systematically collects information on race but not ethnicity. This means that many Hispanic defendants are classified as White, and the Hispanic classification underrepresents the number of Hispanics involved in court cases. Consequently, the race/ethnicity designation for all the court decision points must be interpreted with caution.*

*Additionally, all offenses presented in the analysis of court data include attempts, solicitations, and conspiracies.*

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<sup>1</sup> Local law enforcement agencies submit offense and arrest data to the Colorado Bureau of Investigation. The data used for this report was extracted from CBI’s National Incident Based Reporting System (NIBRS).

<sup>2</sup> The arrest information includes 17 offense categories summarized from more than 40, and the court data includes 24 offense categories summarized from more than 1500 statutes.

This study of 105,156 case filings in county, district, and juvenile courts combined found that, while Blacks represented 4.2% of the state population and 12.4% of the arrests/summonses in 2015, they accounted for 10.5% of court filings. In juvenile court, Blacks represented 16% of cases, compared to 5% of Black juveniles in the population. Combining the three types of courts, the race/ethnicity distribution across the four crime categories was relatively consistent. In terms of gender, however, 26% of filings were females and 74% were males. Females were slightly more likely than men to be involved in Property crimes (29% compared to 25%, respectively) and slightly less to be involved in Violent offenses (33% compared to 36%, respectively). Only 1% of cases completed a trial in county and district court; 2% of juvenile court cases completed a trial. Note that these cases are not necessarily the same cases in the **Law enforcement data** section above.

**Court case outcomes.** Caution should be used when interpreting the case outcome since many factors can influence the decision. For example, the existence of prior cases (criminal history) may influence the outcome of a case. Additionally, most cases contain multiple charges, and many cases have concurrent cases. These factors are likely to significantly affect the outcome of a case. In particular, all charges in a case may be dismissed or modified as part of a plea agreement involving that case or multiple cases. In fact, 31.0% of cases in county court were dismissed, as were 13.0% of cases in district court and 25.5% of cases in juvenile court. One-third (34.8%) of county court cases were convicted as charged compared to 25.3% in district court and 40.4% in juvenile court. Another one-third (34.8%) of county court cases were convicted of a different charge, as were half (49.9%) of district court cases, and 25.3% of juvenile court cases. Black youth in juvenile court were somewhat less likely to be convicted as charged (33.8% compared to 40.4% overall), and were twice as likely as the other race/ethnicity groups to have a case falling into the not yet resolved category (16% compared to 8% overall).

**Initial court sentences.** Analyzed here is the most serious initial sentence; these can be later modified, such as when jail is added as part of a probation revocation. Additionally, individuals may have multiple cases for which they are sentenced simultaneously. The sentence given in one case may not truly reflect the seriousness of the case as the more serious sentence may be recorded in another case as part of a plea agreement. In fact, in 2015, this study found that 18% of county court cases, 35% of district court cases, and 36% of juvenile court cases had other, concurrent cases mentioned in minute orders or sentencing notes. Finally, in addition to concurrent cases affecting the sentencing outcome of a case, criminal/juvenile history may also influence the initial sentence.

*County court.* Women were significantly more likely than men to receive a deferred judgment in county court (30.6% compared to 18.8%, respectively). Men were more likely than women to receive a jail sentence (18.3% for men compared to 10.4% for women), and men were more likely to be granted an initial sentence to probation (31.7% compared to 25.5% for women) in county court. There were few differences in the initial sentence across race/ethnicity in county court.

*Adult district court.* In district court, probation was the most frequently occurring initial sentence, happening two-thirds (65.7%) of the time for Drug cases. The second most frequently occurring sentence in district court was a prison sentence: 11.4% of Drug cases, 29.9% of Other cases, 14.3% of Property cases, and 23.2% of Violent cases received a sentence to the Department of Corrections. Nearly 25% of initial sentences for Blacks

were to the Department of Corrections, a higher proportion compared to other race/ethnicity groups. It should be noted that while Blacks represented 10.5% of cases filed in district court, they represented 20.9% of cases sentenced. Deferred judgments were initially imposed in 10.5% of district court cases and were most likely to be imposed in Property cases (14.9%), and least likely to be imposed in Drug cases (6.2%). Overall in district court, Blacks were more likely than the other race/ethnicity categories to receive initial sentences of confinement (community corrections, Department of Corrections and jail) and less likely to receive probation or a deferred judgment for Drug, Other, and Violent offenses.

*Juvenile court.* As with county and district court, initial sentences to probation were the most frequently occurring sentence in juvenile court: approximately half (48.9%) of initial sentences were to probation, while 33.9% of cases were granted a deferred judgment. Drug cases were slightly more likely than other offenses to receive a deferred judgment (39.0%) in juvenile court. Initial sentences to the Division of Youth Corrections were more likely for Violent and Other cases. Across race/ethnicity categories, Blacks in juvenile court were considerably less likely to receive a deferred judgment and more likely to receive an initial sentence to the Division of Youth Corrections. For each of the four crime types, Blacks were much less likely than the other race/ethnicity categories to receive a deferred judgment and much more likely to receive an initial sentence to the Division of Youth Corrections for Drug, Other, and Violent offenses (this finding did not hold for Property offenses). Finally, compared to males, females were more likely to receive a deferred judgment and less likely to receive a sentence to the Division of Youth Corrections.

**Revocations.** Cases sentenced in 2015 with any revocation from probation or a deferred judgment are included in the analyses presented here. Data pertaining to petitions to revoke, mandated in S.B. 15-185, is less reliable than actual revocation sentence data. **Note that these are cases, not individuals** and, as previously mentioned, 8% of county court cases, 35% of district court cases, and 36% of juvenile court cases had other, concurrent cases mentioned in minute orders or sentencing notes. Counting cases and not individuals is likely to inflate the proportion of revocations presented in these analyses, and the results should be interpreted with caution.

*County court.* Overall, 22.0% of county court cases receiving a probation/deferred judgment in 2015 were revoked. Across race/ethnicity categories, those with Violent cases were more likely to be revoked compared to the other offense categories. Females in county court were less likely to get revoked than males (18.5% compared to 23.4%, respectively). The pattern of revocations across offense type varies considerably across gender, however. Compared to other offense types, females with Drug cases were most likely to be revoked (27.4%) whereas males with drug crimes were least likely to be revoked (15.6%). Compared with the other offense types, men with Violent cases were most likely to get revoked (28.2%) in county court.

*Adult district court.* In district court, 33.3% of cases were revoked. Across race/ethnicity groups, Drug cases compared to the other offense categories, were the most likely to be revoked. Blacks with Drug cases were revoked at a rate of 40.3%. Blacks with Violent offenses were more likely to be revoked (28.4%) than those in the other race/ethnicity categories with Violent cases. Women in adult district court were slightly more likely than men to get revoked (34.3% compared to 32.9%). Men and women with Drug cases were most likely, compared to those with other crime types, to get revoked (43.2% compared to 41.0%, respectively).

*Juvenile court.* In juvenile court, 31.5% of cases sentenced to probation/deferred judgment in 2015 were revoked. Blacks were most likely to be revoked for Drug offenses and Other crimes (both 38.2%) and least likely to be revoked for Violent offenses (28.8%). Females were revoked at a rate of 24.7% compared to 33.4% for males. Comparing across crime types, females with Property crimes were most likely to be revoked (29.4%) and males with Drug cases were most likely to be revoked (36.7%).

**Adult parole decisions.** According to data provided by the Department of Corrections, Whites were more likely to be granted discretionary parole release (54.2% compared to 48.3% of overall hearings) along with Asians (1.0% compared to 0.8%), while Blacks, Hispanics and Native Americans were less likely to be granted discretionary parole. In terms of gender, women were more likely to receive discretionary parole (15.6% versus 11.6% of total hearings) compared to men. There was very little difference in the race/ethnicity distribution for those denied parole when compared to the overall distribution of hearings. In terms of gender, women were slightly less likely and men were slightly more likely to be denied parole when compared with the overall distribution of hearings.

**Overall summary.** Senate Bill 15-185 was intended, in part, to examine differences across race/ethnicity at major decision points in the justice system. Law enforcement data provides both race/ethnicity information, but this is not the case with court data. Because the Judicial Department race/ethnicity data places most Hispanics in the White race/ethnicity category, it is difficult to draw conclusions about decisions made in cases with Hispanic and White defendants.

In 2015, Blacks represented 4.2% of the state population but accounted for 12.4% of arrests/summons, 10.5% of adult district court filings, and 20.9% of cases sentenced. In juvenile court, Blacks represented 16% of cases, compared to 5% of Black juveniles in the population.

In county court only, there were few differences in the initial sentence across race/ethnicity.

In adult district court, nearly 25% of initial sentences for Blacks were to the Department of Corrections, a higher proportion compared to other race/ethnicity groups. Overall in district court, Blacks were more likely than the other race/ethnicity categories to receive initial sentences of confinement (community corrections, Department of Corrections and jail) and less likely to receive probation or a deferred judgment for Drug, Other, and Violent offenses.

In juvenile court, for each of the four crime types, Blacks were much less likely than the other race/ethnicity categories to receive a deferred judgment and much more likely to receive an initial sentence to the Division of Youth Corrections for Drug, Other, and Violent offenses (this finding did not hold for Property offenses).

In terms of revocations, 33.3% of adult district court cases were revoked. Note that these are *cases* and not individuals, and one-third of cases in adult district and juvenile court had multiple (concurrent) cases. Across race/ethnicity groups, Drug cases compared to the other offense categories, were the most likely to be revoked. Blacks with Drug cases were revoked at a rate of 40.3%. Blacks with Violent offenses were more likely to be revoked (28.4%) than those in the other race/ethnicity categories with Violent cases. In juvenile court, 31.5% of cases sentenced to probation/deferred judgment in 2015 were revoked. Blacks were most likely to be

revoked for Drug offenses and Other crimes (both 38.2%) and least likely to be revoked for Violent offenses (28.8%).

In terms of decisions made by the Parole Board, according to data provided by the Department of Corrections, Whites were more likely to be granted discretionary parole release (54.2% compared to 48.3% of overall hearings) along with Asians (1.0% compared to 0.8%), while Blacks, Hispanics and Native Americans were less likely to be granted discretionary parole.

Finally, because of the disparities in initial sentences for Black defendants, additional analyses were undertaken to examine the impact of concurrent cases and prior history on initial sentences since these variables are very likely to influence the case decision making process. However, when controlling for concurrent cases or prior history, Blacks— adults and youth—were still more likely not to receive a deferred judgment. A deferred judgment is an opportunity to avoid a criminal record. Likewise, accounting for concurrent cases and prior cases, Blacks were more likely to receive sentences to the Department of Corrections and, for youth, the Division of Youth Corrections. It is possible that other factors besides concurrent cases and prior history explain the race/ethnicity differences initial sentences for Black defendants.

**Appendix A**  
**NIBRS Group A Arrest Crimes**

Category	Subcategory	NIBRS Offense	
<b>Drugs</b>	<b>Drugs</b>	Drug Equipment	
		Drugs	
<b>Other</b>	<b>DUI</b>	DUI	
	<b>Other</b>	All Other	
		Bad Checks	
		Bribery	
		Curfew/Loitering/Vagrancy	
		Destruction of Property	
		Disorderly Conduct	
		Drunkenness	
		Hit and Run	
		Human Trafficking - Labor	
		Liquor Law Violations	
		Non-violent Family Offenses	
		Runaway	
		Trespassing	
		Wagering	
		<b>Other Sex Crime</b>	Fondling
			Human Trafficking - Commercial Sex Acts
			Peeping Tom
			Pornography
	Promoting Prostitution		
	Prostitution		
Purchasing Prostitution			
<b>Weapons</b>	Weapons Laws Violation		
<b>Property</b>	<b>Arson</b>	Arson	
	<b>Burglary</b>	Burglary	



**NIBRS Group A Arrest Crimes (cont'd)**

	<b>Fraud</b>	Counterfeit
		Credit Card/ATM Fraud
		Embezzlement
		Extortion
		False Pretenses
		Impersonation
		Wire Fraud
	<b>Motor Vehicle Theft</b>	
		Motor Vehicle Theft
	<b>Theft</b>	
		Other Larceny
		Pocket Picking
		Purse Snatching
		Shop Lifting
		Stolen Property
		Theft from Building
		Theft from Coin-Operated
		Theft from Motor Vehicle
		Theft of Motor Vehicle Parts
<b>Violent</b>		
	<b>Agg Assault</b>	
		Agg Assault
	<b>Homicide</b>	
		Homicide
	<b>Kidnapping</b>	
		Kidnapping
	<b>Other Homicide</b>	
		Manslaughter
	<b>Robbery</b>	
		Robbery
	<b>Sex Assault</b>	
		Incest
		Rape
		Sexual Assault
		Sodomy
		Statutory Rape
	<b>Simple Assault</b>	
		Intimidation
		Simple Assault
		Intimidation
		Simple Assault





## Appendix B

### Most serious filing/conviction charge categories

<b>Drugs</b>
Drugs(Distribution)
Drugs(Possession)
<b>Other</b>
Escape
Inchoate
Miscellaneous Felony
Miscellaneous Misdemeanor
Other Custody Violations
Other Sex Crime
Sex Offender Failure to Register
Traffic Felony
Traffic Misdemeanor
Weapons
<b>Property</b>
Arson
Burglary
Extortion
Forgery
Fraud
Motor Vehicle Theft
Other Property
Theft
<b>Violent</b>
Felony Assault
Homicide
Kidnapping
Misdemeanor Assault
Other Homicide
Robbery
Sex Assault

**CRIME DESCRIPTIONS**

**Arson** - 1<sup>st</sup> - 4<sup>th</sup> degree arson

**Burglary** - 1<sup>st</sup> to 3<sup>rd</sup> degree burglary, possession of burglary tools

**Drug Poss** - drug possession, paraphernalia possession

**Drugs** - manufacture, process, distribute, cultivate, possession with intent to distribute

**Escape Extortion**

**Felony Assault** - 1<sup>st</sup> and 2<sup>nd</sup> degree assault, vehicular assault, felony menacing, felony stalking, felony child abuse, witness intimidation

**Forgery Fraud**

**Homicide** - 1<sup>st</sup> and 2<sup>nd</sup> degree murder

**Kidnapping** - 1<sup>st</sup> and 2<sup>nd</sup> degree kidnapping, false imprisonment, human trafficking, violation of custody

**Misc Felony** - Giving false information to a pawn broker, bribery, witness tampering, vehicular eluding, wiretapping, cruelty to animals,

**Misc Misd** - prostitution, patronizing a prostitute, resisting arrest, obstructing a peace officer, disorderly conduct, interference with school staff, cruelty to animals

**Misd Assault** - 3<sup>rd</sup> degree assault, child abuse, violation of a protection order, harassment

**Other Custody Violations** - aiding escape, contraband, violation of bail bond conditions

**Other Homicide** - manslaughter, vehicular homicide, criminally negligent homicide, child abuse causing death