Follow-up Analyses: CY 2016 C.L.E.A.R. Act Report

Community Law Enforcement Action Reporting Act Pursuant to Senate Bill 2015-185

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Background

In 2015, the General Assembly passed Senate Bill 185, the **Community Law Enforcement Action Reporting** Act (C.L.E.A.R. Act) mandating that the Division of Criminal Justice (DCJ) analyze and report data annually from:

- law enforcement agencies
- the Judicial Department
- 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.

Criminal Justice Decision Points

- **Arrest**
    - **on view/probable cause**
    - **custody/warrant**
    - **summons**
- **Court filing**
- **Case outcome**
- **Initial sentence**
- **Revocation**
- **Parole**

2015 Statewide Summary

- Blacks more likely to be arrested

- Blacks less likely to get deferred judgments
- Blacks more likely to receive sentence to confinement

- The last 2 bullets apply even when holding constant the number of concurrent cases and prior case history

After the March 2017 presentation of the CLEAR Act findings, the Commission requested that the next analysis break out the information by the 22 judicial districts. Reports and dashboard available at: **colorado.gov/dcj-ors/ors-SB185**.

In 2016, statewide:

Blacks represented 4% of the adult state population and accounted for...

- 12% of arrests
- 11% of adult district court filings
- 10% of cases sentenced

Hispanic adults represented 18% of the population and accounted for...

- 23% of arrests
- 28% of adult district court filings
- 29% of cases sentenced

Two important differences between the 2015 and 2016 analyses

#1

Judicial systematically collects information about race but not ethnicity. Most Hispanics are in the White category.

In 2016 Hispanics represented 22% of the Colorado population, but only 6% of cases were classified as Hispanic in Judicial's data.

To improve upon the accuracy of the race/ethnicity designation in court data in this analysis, court cases were matched to the Colorado Bureau of Investigation's National Incident Based Reporting System (NIBRS) arrest data, which contains both race and ethnicity.

If the ethnicity recorded for any arrest was found to be Hispanic, then the race/ethnicity was set to Hispanic. Otherwise, the original race/ethnicity designation from the court record was used.

Two important differences between the 2015 and 2016 analyses

#2

Multivariate analyses were conducted in the statewide analysis and for the larger judicial districts to better control statistically for

- Prior cases
- Prior convictions for a specific violent crime(s)*
- Other concurrent cases
- Felony conviction level
- Instant offense type (drug, property, other, violent)
- Whether the instant offense was a specific violent crime

*1st degree homicide; 2nd degree homicide; 1st degree assault; 2nd degree assault; 1st degree kidnapping; 2nd degree kidnapping; sex assault (felony); unlawful sexual contact (felony); sex assault on a child; sex assault on a child position of trust; aggravated robbery; 1st degree arson; 1st degree unlawful termination of pregnancy; 2nd degree unlawful termination of a pregnancy

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This allowed us to ask these questions:

After controlling for the factors just described….

1. Compared to Whites, are Blacks (or Hispanics) more or less likely to receive a sentence to the Department of Corrections for felony convictions in district court?

2. Compared to Whites, are Blacks (or Hispanics) more or less likely to receive a deferred judgment for convictions in district court?

3. Compared to Whites, are Black juveniles (or Hispanic juveniles) more or less likely to receive a deferred judgment for convictions in juvenile court?

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Jurisdiction	Hispanic Adults DOC	Black Adults DOC	Hispanic Adults NO Def Judg	Black Adults NO Def Judg	Hispanic Juveniles NO Def J	Black Juveniles NO Def J
Statewide	X	X	X	X	X	X
1st JD	X		X		X	
2nd JD		X			X	X
4th JD		X*	X			X
8th JD	X					
17th JD			X		X	
18th JD	X	X	X	X	X	X

An "X" indicates that, compared to Whites, the group was statistically significantly MORE likely to receive that sentence (*see exception). An empty cell indicates that there was no difference OR that the sample was too small to detect a statistically significant difference.

* Black adults were LESS likely than Whites to receive a DOC sentence.

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Race and Ethnicity at Decision Points - 2016

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, 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. Senate Bill 15-185 mandated DCJ to report these data disaggregated by offense type.

DCJ prepared a statewide REPORT, REPORTS BY JUDICIAL DISTRICT and an interactive data DASHBOARD that presents the findings for calendar year 2017. These two reporting mechanisms—the reports and the data dashboard—should be viewed together since only the reports contains information regarding the data sets and the research methods. The reports also contains data from the adult Parole Board and additional analyses regarding the impact of concurrent cases and prior history on court sentences. Only the dashboard includes detailed offense categories, that is, 17 arrest offense categories and 25 court case crime categories.

Because it is difficult to identify patterns in analyses that involve many categories, the report and the dashboard present a summary of the findings by collapsing the offense categories into four broad groups: **Drugs, Other, Property** and **Violent** crimes. Individual crime types are included in the dashboard within the four broad categories. Some crime types include multiple types of offenses. Please see Appendix A and Appendix B of the REPORT for information regarding the crime classification. The crime types include inchoate offenses (attempt, conspiracy, and solicitation).

Finally, the cases represented in the arrests, filings, sentences, and parole board sections are not necessarily the same cases. This is due to the fact that a lag exists between when an arrest results in a filing, when a filing results in a sentence, and when an offender is paroled. This study analyzes events (arrests, filings, sentences, parole decisions) that occurred in a single year.

2016 Interactive Data Dashboard
This link navigates to interactive dashboard for the statewide and judicial district data.

2016 Statewide Report (pdf)
(The 2015 annual report may be found at the link below)
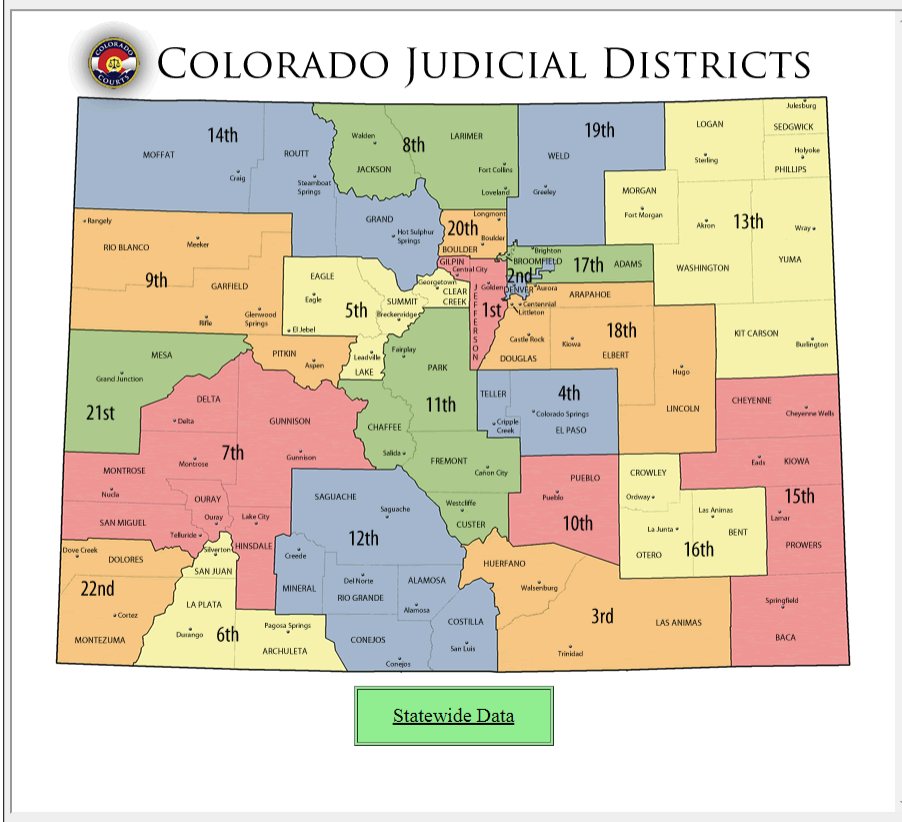
2016 Reports by Judicial District (pdf)

1st Judicial District	2nd Judicial District	3rd Judicial District
4th Judicial District	5th Judicial District	6th Judicial District
7th Judicial District	8th Judicial District	9th Judicial District
10th Judicial District	11th Judicial District	12th Judicial District
13th Judicial District	14th Judicial District	15th Judicial District
16th Judicial District	17th Judicial District	18th Judicial District
19th Judicial District	20th Judicial District	21st Judicial District
22nd Judicial District		

colorado.gov/dcj-ors/ors-SB185

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Senate Bill 15-185 CLEAR Act

2016

Community Law Enforcement Action Reporting Act

18th Judicial District
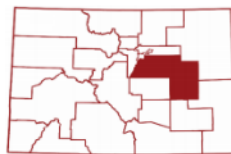
18th Judicial District: Population race/ethnicity estimates, 2016

Age Group	Race/ethnicity	%	N
Adult		**75%**	**749,937**
	Black	7%	50,612
	Hispanic	14%	102,015
	Other	6%	47,549
	White	73%	549,761
Juvenile		**25%**	**247,932**
	Black	8%	20,607
	Hispanic	22%	54,848
	Other	7%	17,936
	White	62%	154,542
All		**100%**	**997,869**

Data source: Office of the State Demographer,
https://demography.dola.colorado.gov/population/data/race-estimate/#county-race-by-age-estimates

October 2017

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Department of Public Safety

colorado.gov/dcj-ors/ors-SB185

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From the Brennan Center for Justice

Reducing racial/ethnic disparities in jails (2015)

Roundtable participants included Commissioner Raemisch

Officials in local jurisdictions can create a cross-agency Task Force to reduce racial disparities

1. Identify drivers; pinpoint where disparities are most pervasive.
2. Specify goals and measures of success for the jurisdiction
3. Require training for all system actors to overcome implicit racial bias; for anyone who exercises discretion
4. Encourage prosecutors to prioritize serious and violent offenses; don't conflate "success" with number of prosecutions or convictions
5. Increase indigent representation in misdemeanor cases when jail time is an available punishment
6. Provide "bench cards" to judges to combat implicit bias and unnecessary use of jail

From the Brennan Center for Justice
Reducing racial/ethnic disparities in jails **(2015)**

1. Focus on low level offenses

- Once stopped, Blacks more likely to be arrested
  - Exploratory analysis by DCJ found Blacks were more likely to receive a court filing following arrest compared to Whites and Hispanics
- 2014 study by National Bureau of Economic Research found charges more likely to be filed following arrest compared to previous decades

- *Expand pre-arrest diversion programs*
- *Expand pre-charge and pretrial diversion programs*

From the Brennan Center for Justice
Reducing racial/ethnic disparities in jails (2015)

2. Focus on unnecessary use of pretrial detention

- Research shows length of pretrial detention is linked to longer post-sentence confinement in jail and prison
- Blacks more likely to be confined pre-trial
- Leads to loss of job, housing, healthcare

- *Use risk assessment tools*
- *Expand pretrial services programs*
- *Divert low-level offenders*
- *Eliminate money-based pretrial systems*

From the Brennan Center for Justice
Reducing racial/ethnic disparities in jails **(2015)**

3. Consider the aggressive collection of criminal justice debt

- Racial disparities are reinforced by socioeconomic inequality

- ***Assess individuals' abilities to pay***

4. Everyone who exercises discretion: Undergo training to identify and confront implicit racial/ethnic bias

From the President's Task Force on 21st Century Policing

Law enforcement agencies should…

- Embrace a guardian mindset, promoting the dignity of all individuals and protecting everyone's Constitutional rights (Procedural Justice)

- Consider the collateral damage of any given safety strategy on public trust

- Strive to create a diverse workforce

- Infuse community policing and problem solving principles throughout the organizational structure

- Work with schools to develop alternatives to suspension/expulsion

- Ensure training occurs throughout an officer's career with procedural justice at the center/lessons to improve social interactions/lessons on addiction/ lessons on recognizing and confronting implicit bias

Thank you for your attention today