



# **CY 2019 C.L.E.A.R. Act Report**

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

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Presented to the Colorado Commission on Criminal and Juvenile Justice  
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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



## 2019 ARREST DATA

The arrest data were reduced to 17 categories of offenses (from more than 40) that can be viewed on the interactive data dashboard and, for the summary report, further collapsed into four categories:

**Drugs**  
**Other**  
**Property**  
**Violent**

Arrests can contain multiple charges. The arrest charge presented here represents the most serious charge on the arrest as selected by the law enforcement officer.



## 2019 COURT DATA

The most serious filing or conviction charge was collapsed into 24 offense categories from more than 1500 criminal statutes.

These were further collapsed into four categories for the summary report.

**Drug**  
**Other**  
**Property**  
**Violent**

*Note that all offense categories include attempts, solicitations, and conspiracies.*



## Court Data: Ethnicity

*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, DCJ developed and validated a statistical model that predicts Hispanic ethnicity with 94% accuracy.***



## Race/ethnicity of Colorado population ages 10+, 2019

Race/ethnicity	Adult %	Juvenile %
Black	4	5
Hispanic	19	31
Other	5	5
White	72	59
Total	100	100

Data Source: Colorado Department of Local Affairs, Office of the State Demographer.



## Arrests/summons by race/ethnicity, 2019

Race/ethnicity	%
Black	12
Hispanic	28
Other	2
White	58
Total	100%

Data source: Colorado Bureau of Investigation, National Incident Based Reporting System (NIBRS) data. Extracted 06/10/2019.

Race/ethnicity	Adult %	Juv %
Black	4	5
Hispanic	19	31
Other	5	5
White	72	59

Data Source: Colorado Department of Local Affairs, Office of the State Demographer.





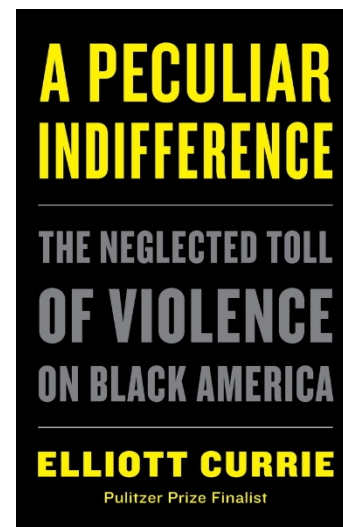
## Arrests/summons by race/ethnicity, 2019: Specific offenses

Race/ethnicity	Colorado Adult Pop	Arrest/Summons Overall	Violent Crime Overall (13%)	Robbery	Agg Assault	Drugs	DUI	MVT	Weapons
Black	4%	12%	17%	28%*	20%	11%	6%	11%	20%
Hispanic	19	28	28	35**	28	29%	29	34***	27
Other	5	2	2	2	2	1	2	2	1
White	72	58	53	35	50	59	63	53	52
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%

Data source: Colorado Bureau of Investigation, National Incident Based Reporting System (NIBRS) data. Extracted 06/10/2019.

- \* 54% will be sentenced to DOC
- \*\* 45% will be sentenced to DOC
- \*\*\*22% will be sentenced to DOC

**A PECULIAR INDIFFERENCE:**  
**The Neglected Toll of Violence on Black America**  
 By Elliott Currie





# Colorado Commission on Criminal & Juvenile Justice

## Court of case filing, by race/ethnicity

Court	Race/ethnicity	Percent	Total
<b>Adult District</b>		46%	52,792
	<b>Black</b>	11%	5,954
	<b>Hispanic*</b>	30%	15,996
	<b>Other</b>	3%	1,415
	<b>White</b>	56%	29,427
<b>County</b>		48%	55,696
	<b>Black</b>	8%	4,528
	<b>Hispanic*</b>	29%	16,056
	<b>Other</b>	3%	1,712
	<b>White</b>	60%	33,400
<b>Juvenile</b>		6%	7,476
	<b>Black</b>	17%	1,246
	<b>Hispanic*</b>	36%	2,688
	<b>Other</b>	4%	285
	<b>White</b>	44%	3,257
<b>Total</b>		<b>100%</b>	<b>115,964</b>

Race/ethnicity	Adult %	Juv %
Black	4	5
Hispanic	19	31
Other	4	5
White	73	59

Data Source: Data extracted from the Colorado Judicial Branch's information management system (ICON) via the Colorado Justice Analytics Support System (CJASS) and analyzed by the Division of Criminal Justice. Note these figures represent cases, not individuals. Excludes Denver County Court cases. \*Hispanic ethnicity was estimated using a DCJ-developed and validated statistical model.



## Preview of upcoming slides

### Initial Sentence by race/ethnicity

	Black	Hispanic	Other	White
<b>Initial Sentence</b>	%	%	%	%
Community Corrections				
Community Service				
Credit for Time Served				
<b>Deferred Judgment</b>				
<b>Dept of Corrections</b>				
Division of Youth Corrections				
Fines				
<b>Jail</b>				
Probation/Intensive Supervision				
Unsupervised Probation				
Youthful Offender System				
Total				



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## Initial Sentence in **COUNTY** Court, by race/ethnicity

Sentence	Black	Hispanic*	Other	White
(N)	2,299	9,375	861	18,959
Community Corrections	0%	0%	<1%	0%
Community Service	4%	5%	3%	4%
<b>Deferred</b>	<b>20%</b>	<b>18%</b>	<b>32%</b>	<b>24%</b>
Fines/fees	14%	14%	12%	14%
<b>Jail</b>	<b>29%</b>	<b>27%</b>	<b>20%</b>	<b>24%</b>
Juvenile Detention	<1%	0%	0%	0%
Probation/Intensive Supervision	28%	30%	26%	28%
Unsupervised Probation	6%	6%	7%	6%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Data Source: Data extracted from the Colorado Judicial Branch's information management system (ICON) via the Colorado Justice Analytics Support System (CJASS) and analyzed by the Division of Criminal Justice. Note these figures represent cases, not individuals. Excludes Denver County Court cases. \*Hispanic ethnicity was estimated using a DCJ-developed and validated statistical model.



# Colorado Commission on Criminal & Juvenile Justice

## Initial Sentence in **DISTRICT** Court, by race/ethnicity

Sentence	Black	Hispanic*	Other	White
(N)	4,767	12,815	1,037	23,299
Community Corrections	5%	6%	4%	6%
Community Service	<1%	<1%	1%	<1%
<b>Deferred</b>	<b>8%</b>	<b>7%</b>	<b>11%</b>	<b>9%</b>
<b>Dept of Corrections</b>	<b>22%</b>	<b>20%</b>	<b>18%</b>	<b>17%</b>
Division of Youth Services	<1%	0%	0%	0%
Fines/fees	1%	1%	2%	1%
Jail	12%	12%	11%	12%
Probation/Intensive Supervision	51%	53%	53%	54%
Youthful Offender System	<1%	<1%	<1%	<1%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Data Source: Data extracted from the Colorado Judicial Branch's information management system (ICON) via the Colorado Justice Analytics Support System (JASS) and analyzed by the Division of Criminal Justice. Note these figures represent cases, not individuals. Excludes Denver County Court cases. \*Hispanic ethnicity was estimated using a DCJ-developed and validated statistical model.



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## Initial Sentence in **JUVENILE** Court, by race/ethnicity

Sentence	Black	Hispanic*	Other	White
(N)	712	1,710	169	2,112
Community Corrections	0%	<1%	0%	<1%
Community Service	<1%	<1%	0%	<1%
<b>Deferred</b>	<b>22%</b>	<b>32%</b>	<b>43%</b>	<b>39%</b>
Dept of Corrections	0%	<1%	0%	0%
<b>Division of Youth Services</b>	<b>15%</b>	<b>10%</b>	<b>4%</b>	<b>8%</b>
Fines/fees	3%	2%	1%	3%
<b>Jail</b>	<b>3%</b>	<b>2%</b>	<b>2%</b>	<b>1%</b>
Juvenile Detention	1%	1%	0%	1%
No Sentence	<1%	0%	0%	0%
Probation/Intensive Supervision	55%	53%	50%	48%
Youthful Offender System	<1%	<1%	0%	0%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Data Source: Data extracted from the Colorado Judicial Branch's information management system (ICON) via the Colorado Justice Analytics Support System (CJASS) and analyzed by the Division of Criminal Justice. Note these figures represent cases, not individuals. Excludes Denver County Court cases. \*Hispanic ethnicity was estimated using a DCJ-developed and validated statistical model.



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## Initial Sentence in **JUVENILE** Court, **VIOLENT** offenses, by race/ethnicity

Sentence	Black	Hispanic*	Other	White
(N)	298	607	65	730
Community Corrections	0%	<1%	0%	0%
Community Service	<1%	0%	0%	0%
<b>Deferred</b>	<b>22%</b>	<b>34%</b>	<b>43%</b>	<b>39%</b>
<b>Division of Youth Services</b>	<b>18%</b>	<b>11%</b>	<b>6%</b>	<b>8%</b>
Fines/fees	3%	2%	3%	2%
Jail	1%	2%	0%	1%
Juvenile Detention	1%	1%	0%	1%
Probation/Intensive Supervision	54%	50%	48%	49%
Youthful Offender System	<1%	<1%	0%	0%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Data Source: Data extracted from the Colorado Judicial Branch's information management system (ICON) via the Colorado Justice Analytics Support System (CJASS) and analyzed by the Division of Criminal Justice. Note these figures represent cases, not individuals. Excludes Denver County Court cases. \*Hispanic ethnicity was estimated using a DCJ-developed and validated statistical model.



## Statewide summary, decision points: 2019

Race/ethnicity	Colorado Population 2019	Arrest/Summon	Prosecuted	Sentenced	Prison	DYS
Black	4%	12%	10%	11%	22%	15%
Hispanic	19	29	30	31	20	10
Other	5	2	3	3	18	4
White	71	57	57	56	17	8

Data sources: Colorado Bureau of Investigation, National Incident Based Reporting System (NIBRS) data, extracted 06/10/2019; Colorado Judicial Branch's information management system (ICON) extracted via the Colorado Justice Analytics Support System (CJASS) and analyzed by the Division of Criminal Justice. Note these figures represent cases, not individuals. Excludes Denver County Court cases. \*Hispanic ethnicity was estimated using a DCJ-developed and validated statistical model.





## 2019 Statewide Summary

- Blacks more likely to be arrested (more likely arrested for violent offenses)
- Blacks and Hispanics less likely to get deferred judgments
- Blacks and Hispanics more likely to receive a sentence to prison

**But many factors can influence a sentencing decision**



## Statistically controlled for:

- Prior cases
- Prior convictions for a specific violent crime (see footnote),
- Other concurrent cases (in 2019, 20% of county court cases, 35% of district court cases, and 38% of juvenile court cases had other, concurrent cases mentioned in minute orders or sentencing notes.)
- Felony conviction level
- Instant offense type (drug, property, other, violent)
- Whether the instant offense was a specific violent crime

The violent crimes included in this analysis are as follows: C.R.S. 18-3-102, 1st degree homicide; 18-3-103, 2nd degree homicide; 18-3-202, 1st degree assault; 18-3-203, 2nd degree assault; 18-3-301, 1st degree kidnapping; 18-3-302, 2nd degree kidnapping; 18-3-402, sex assault (felony); 18-3-404, unlawful sexual contact (felony); 18-3-405, sex assault on a child; 18-3-405.3, sex assault on a child position of trust; 18-4-302, aggravated robbery; 18-4-102, 1st degree arson; 18-3.5-103, 1st degree unlawful termination of pregnancy; 18-3.5-104, 2nd degree unlawful termination of a pregnancy.



*After controlling for the factors just described....*

Compared to Whites, are Black (or Hispanic) **adults** more or less likely to

1. receive a sentence to the Department of Corrections for felony convictions in district court?
2. receive a deferred judgment for convictions in district court?

Compared to Whites, are Black/African American (or Hispanic) **juveniles** more or less likely to

1. receive a deferred judgment for convictions in juvenile court?
2. to receive a sentence to DYS?



## 2019 Summary

Jurisdiction	Hispanic Adults DOC	Black Adults DOC	Hispanic Adults NO Def J	Black Adults NO Def J	Hispanic Juveniles NO Def J	Black Juveniles NO Def J	Hispanic Juveniles DYS	Black Juveniles DYS
Statewide	X+	X+	X-	X-	X-	X-	X+	X+
1 <sup>st</sup> JD			X-		X-			
2 <sup>nd</sup> JD			X-					
4 <sup>th</sup> JD								
18 <sup>th</sup> JD	X+		X-	X-	X-	X-	X+	

“X” means that, compared to Whites, the group had a greater/lesser likelihood of receiving that sentence.



## 2019 Summary

Jurisdiction	Hispanic Adults DOC	Black Adults DOC	Hispanic Adults NO Def J	Black Adults NO Def J	Hispanic Juveniles NO Def J	Black Juveniles NO Def J	Hispanic Juveniles DYS	Black Juveniles DYS
<b>Statewide</b>	X+x+	X+x+	X-x-	X-x-	X-x-	X-x-	X+	X+
1 <sup>st</sup> JD	x+		X-x-		X-x-			
2 <sup>nd</sup> JD		x+	X-		X-	X-		
4 <sup>th</sup> JD			X-		X-	X-		
18 <sup>th</sup> JD	X+x+	x+	X-x-	X-x-	X-x-	X-x-	X+	

“X” means that, compared to Whites, the group had a greater/lesser likelihood of receiving that sentence.

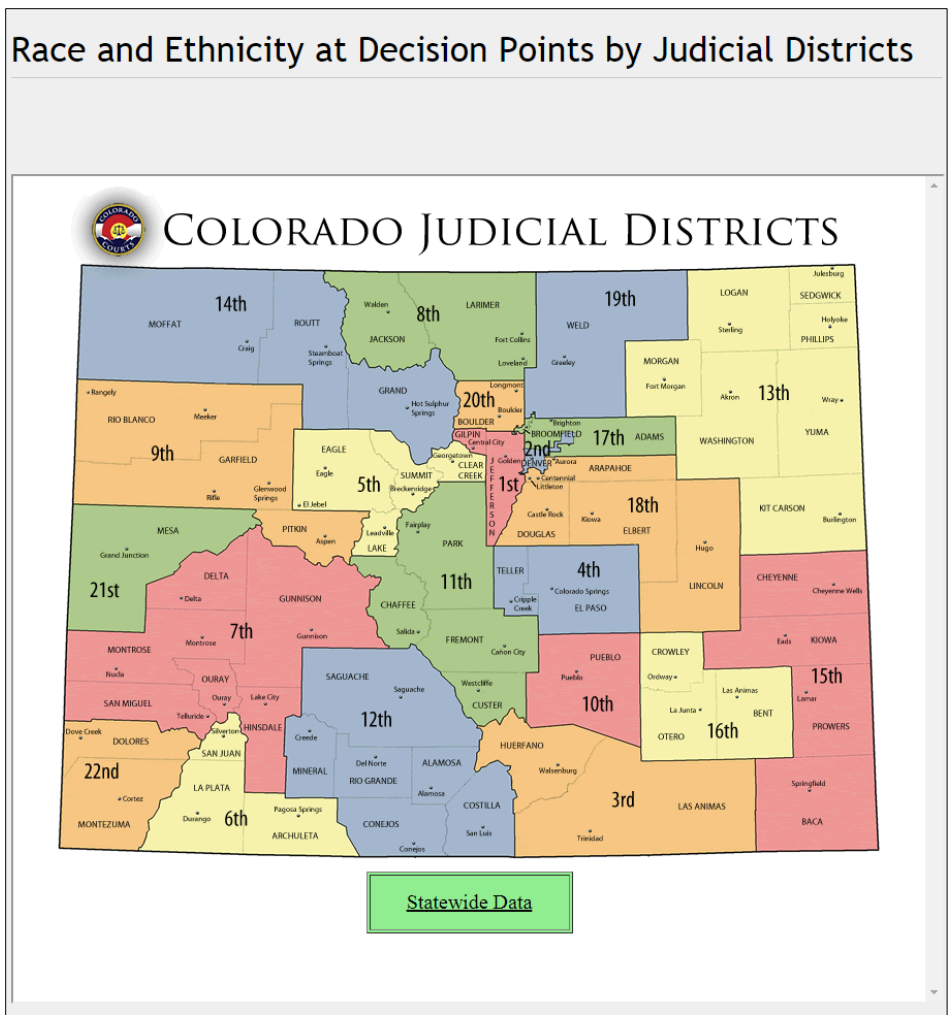
x = 2016 findings (Note: DYS analysis not conducted in 2016)



# Colorado Commission on Criminal & Juvenile Justice

<https://ors.colorado.gov/ors-sb185>

## Race and Ethnicity at Decision Points by Judicial Districts

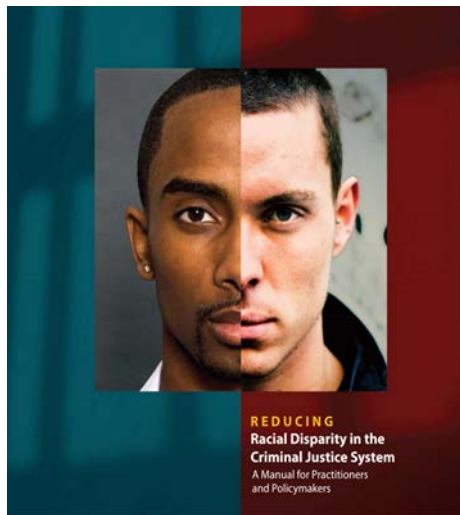




## **Next steps**



## The Sentencing Project (2016)



Four key aspects to addressing racial disparity in the justice system

1. Acknowledge the cumulative nature of racial disparities
2. Encourage communication across players at all decision points
3. Know that what works at one decision point may not work at others
4. Work toward systemic change using agency resources at every stage of justice system

- Require cultural competency training
- Require defense counsel at arraignment
- Ensure a range of community based alternatives to detention are available
- Collect data on specific reasons for revocations
- Review school disciplinary, child welfare and mental health policies since these are drivers of justice system involvement

***This publication has recommendations for each component of the justice system***

<https://www.sentencingproject.org/wp-content/uploads/2016/01/Reducing-Racial-Disparity-in-the-Criminal-Justice-System-A-Manual-for-Practitioners-and-Policymakers.pdf>



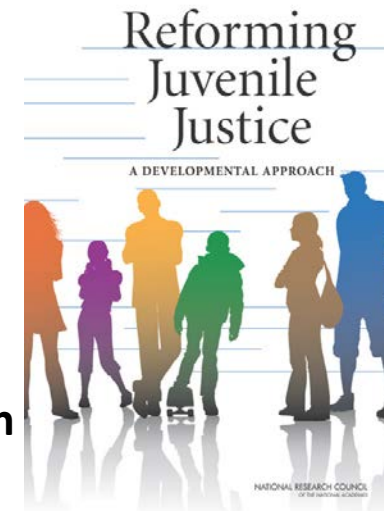


## National Research Council (2013)

As referenced by Lauritsen (2005), there are more similarities than differences among youth across races with respect to offending patterns in self-reported data, with the exception of participation in serious violence. As noted, **minority youth (especially black youth) tend to offend more with respect to serious person crimes, and they have also been found to persist in crime into early adulthood at a higher rate than whites** (Elliott, 1994; Haynie, Weiss, and Piquero, 2008).

.....

We know that racial/ethnic disparities are not reducible to either differential offending or differential selection. Many other factors affect disproportionality of minority youth in the juvenile justice system, including the **troubling entrenched patterns of poverty, segregation, gaps in educational achievement, and residential instability**. DMC exists in the broader context of a “racialized society” in which many public policies, institutional practices, and cultural representations operate to produce and maintain racial inequities.



<https://www.nap.edu/catalog/14685/reforming-juvenile-justice-a-developmental-approach>



### **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 are more likely to be arrested
- ***Expand pre-arrest diversion programs***
- ***Expand pre-charge and pretrial diversion programs***



## 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***



## **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**



# Colorado Commission on Criminal & Juvenile Justice

## THE PRESIDENT'S TASK FORCE ON 21ST CENTURY POLICING FINAL REPORT

- 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

<https://www.phillypolice.com/assets/directives/TaskForce-FinalReport.pdf>  
<https://cops.usdoj.gov/RIC/Publications/cops-p341-pub.pdf>



**Thank you for your attention today**

*<https://ors.colorado.gov/ors-sb185>*