



CO L O R A D O

**Commission on Criminal
& Juvenile Justice**

Department of Public Safety

Task Force Update & Draft Recommendation Community Corrections Task Force

Pursuant to House Bill 2022-1368

Glenn Tapia, Task Force Chair

May 12, 2023

Eight (8) Study Areas of the CCTF

House Bill 2022-1368

- (a) An analysis of the population convicted of misdemeanors, including crimes of conviction and assessed risk by gender, age, race, and ethnicity;
- (b) The services provided by community corrections programs that may be beneficial to persons convicted of misdemeanors
- (c) Which persons convicted of misdemeanors, based on their assessed risk, would benefit from services provided by community corrections programs;
- (d) The ability to provide services to persons convicted of misdemeanors that align with their assessed risk using existing community correction programs;
- (e) Parameters for persons convicted of misdemeanors to access services at residential and non-residential community corrections programs;
- (f) What costs persons convicted of misdemeanors are responsible for at community corrections program;
- (g) What funding is necessary for community corrections programs to serve persons convicted of misdemeanors; and
- (h) What changes, including legislation, are necessary for community corrections programs to serve persons convicted of misdemeanors.

General Problem to be Addressed

- Some **High Risk & High Need** misdemeanants on probation **do not perform well on probation**
- When intermediate behavioral responses and other alternatives fail, courts have only **continued probation** and/or **jail** as options
- Recent research by the Crime and Justice Institute (CJI) on probation indicates that **revoking and regranting probation rarely changes the eventual outcome** of those who are failing on probation and only extends the probation term for those persons.

Current Limitations

(funding and law)

- Current law allows for limited **Correctional Treatment Cash Fund** to be used for some offenders to be placed in **inpatient substance use treatment** in community corrections but the Department of Public Safety only requests for and applies such funding to **Intensive Residential Treatment (IRT)**.
- Due to the risk/need profile of those placed in probation, there is a need for services beyond 90-day Intensive Residential Services Treatment **(IRT) which is currently the only option funded** in the CDPS Long Bill for Community Corrections.
- The **needs in probation suggest options for all types of misdemeanants** as well as for regular community corrections supervision, residential dual diagnosis supervision, and therapeutic communities.

General Taskforce Conclusions

- Probation and jail may not be the most appropriate options for high risk/need misdemeanants who struggle with probation supervision.
- Community corrections programs should become more available to the court as an option for some such cases.
- The slides that follow support the reasons for this recommendation.

General Population Trends in Probation

2010-2020

- Population grew in size
- The number of clients assessed as being high risk for recidivism increased **over 100%**
- The number of low-risk clients **remained relatively stable**
- Slight growth in felony population
- Sharper and **disproportionate growth in misdemeanor** population

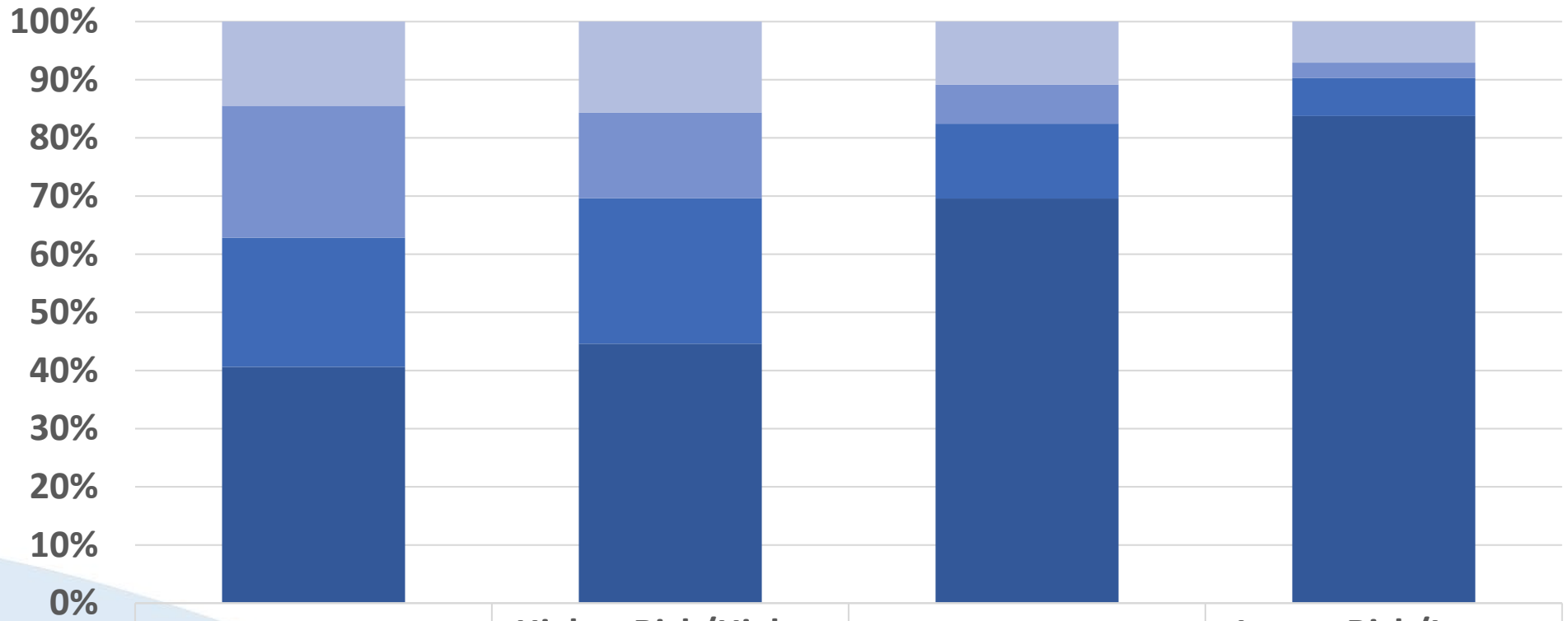
Current Population (new cases to probation)

- 2/3 misdemeanants
- 30% of misdemeanants are classified as high risk or high risk/need

How Outcomes Correspond

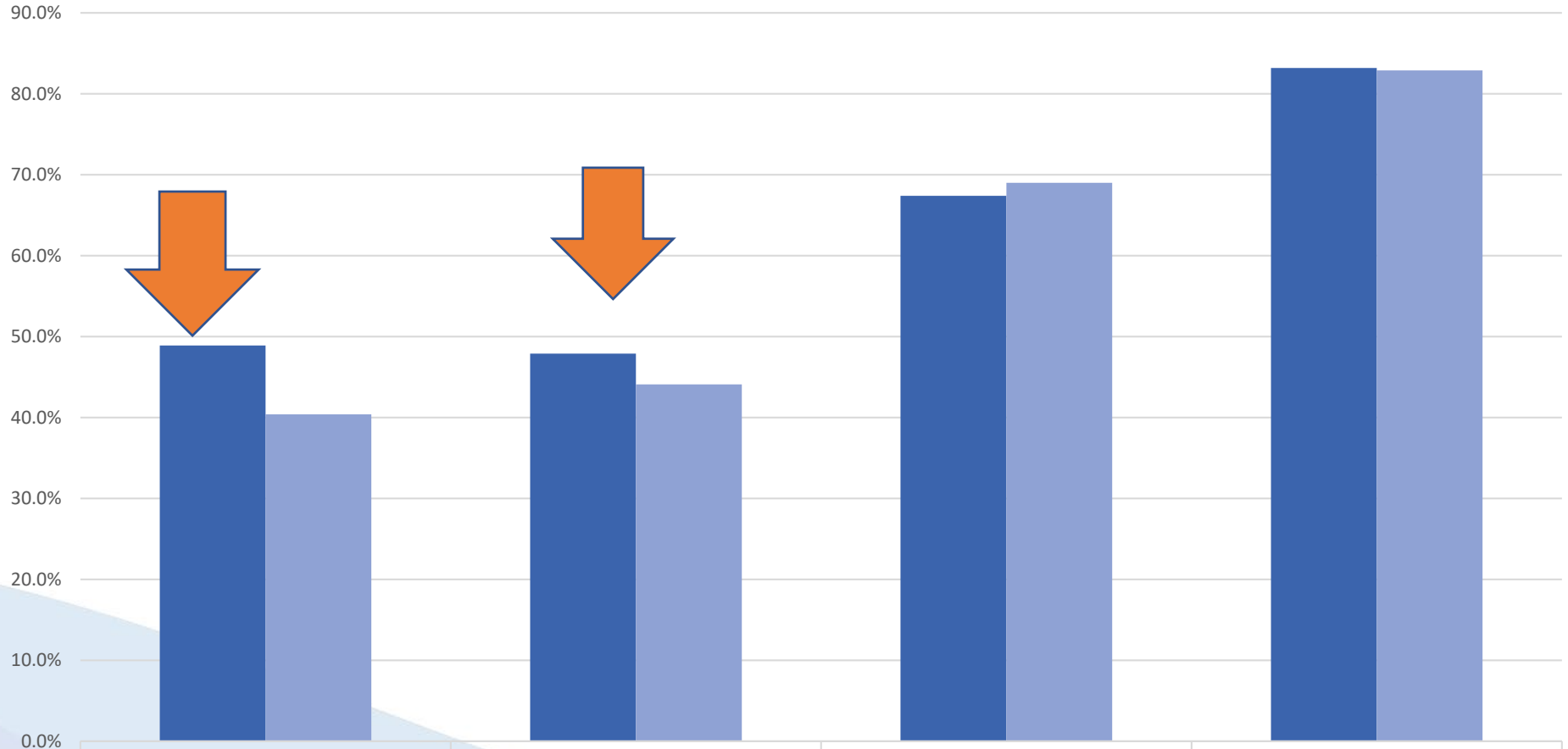
Probation Misdemeanants – Short and Long Term Outcomes

Short Term Outcomes by Assessed Risk Levels (Probation Misdemeanants)



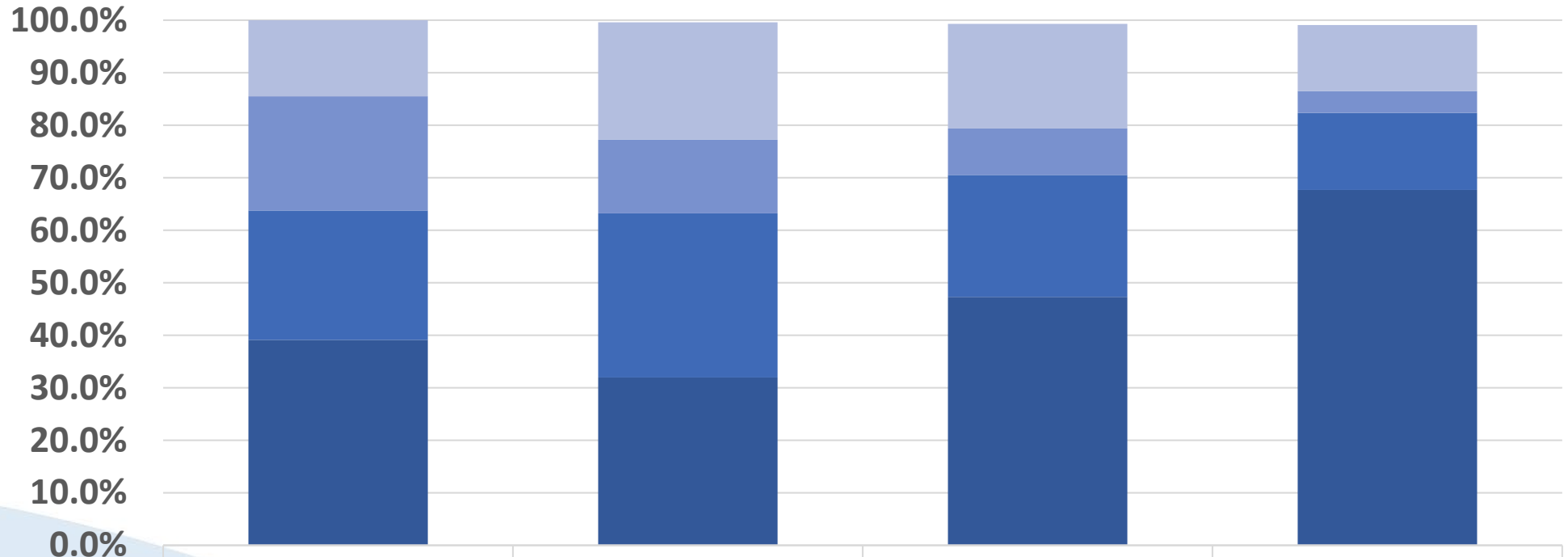
	High Risk	Higher Risk/Higher Need	Medium Risk	Lower Risk/Lower Need
Abscond	14.4%	15.5%	10.8%	7.0%
New Crime	22.6%	14.5%	6.7%	2.6%
Technical Violation	22.2%	24.7%	12.8%	6.5%
Successful	40.4%	44.1%	69.0%	82.9%

Felony Probationer Versus Misdemeanor Success Rate by Assessed Risk Level



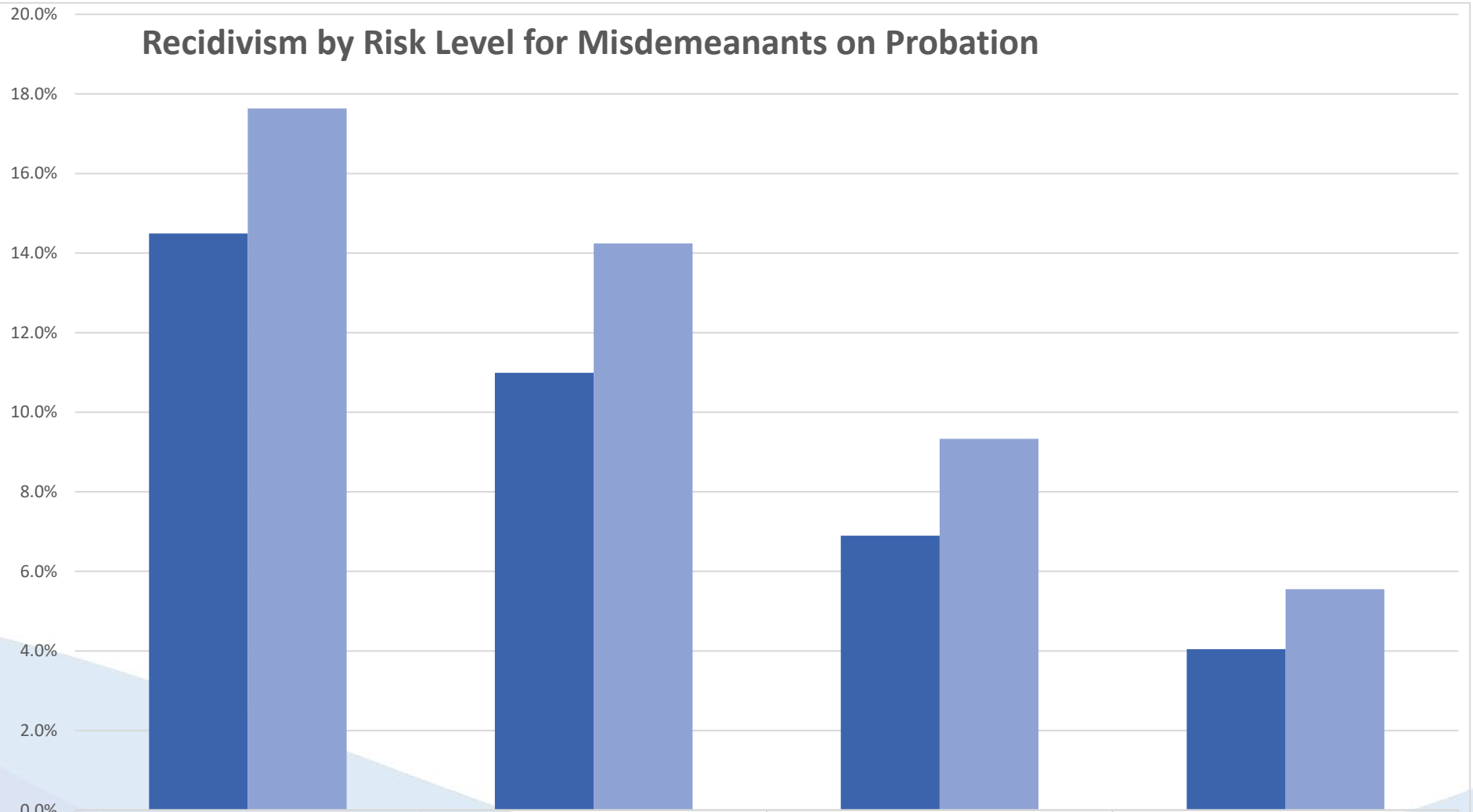
	High Risk	Higher Risk/Higher Need	Medium Risk	Lower Risk/Lower Need
Fel Success Rate	48.9%	47.9%	67.4%	83.2%
Misd Success Rate	40.4%	44.1%	69.0%	82.9%

Outcomes for Drug Misdemeanor Probationers by Risk Level




	High Risk	Higher Risk/Higher Need	Medium Risk	Lower Risk/Lower Need
Abscond	14.5%	22.4%	19.9%	12.6%
New Crime	21.7%	14.0%	8.8%	4.2%
Technical Violation	24.6%	31.3%	23.2%	14.7%
Successful	39.1%	32.0%	47.3%	67.7%

Recidivism by Risk Level for Misdemeanants on Probation

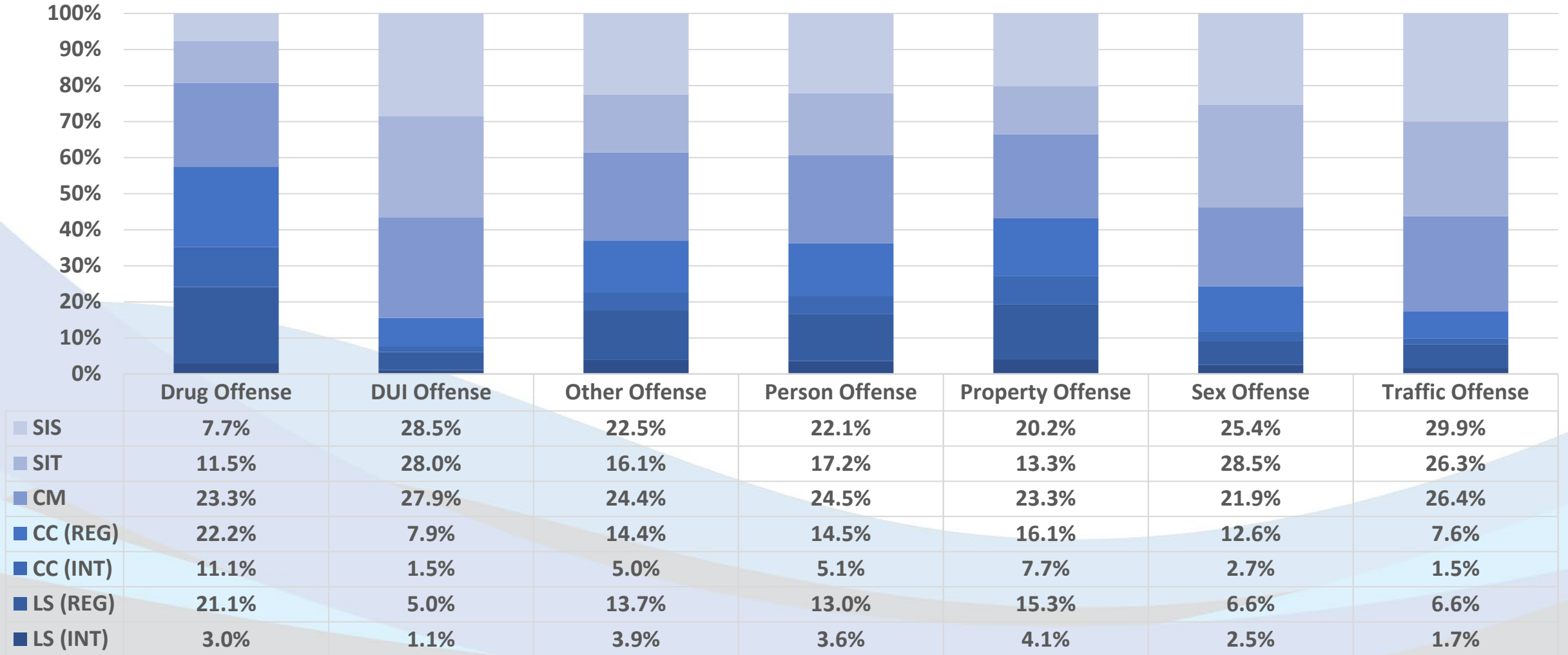


	High Risk	Higher Risk/Higher Need	Medium Risk	Lower Risk/Lower Need
Fel Recidivism Rate	14.5%	11.0%	6.9%	4.0%
Misd Recidivism Rate	17.6%	14.2%	9.3%	5.6%

		Typology	Description	Distribution	Success Rate	Unsuccessful Termination Rate		
						Abscond	Tech Viol	New Crime
Higher Risk and Higher Need 	Limit Setter Intensive (LS-INT)	Higher risk with antisocial orientation. Eligible for intensive program.	3%	43.9%	15.0%	20.4%	20.6%	
	Limit Setter Regular (LS-REG)	Higher risk with antisocial orientation and secondary needs.	12%	40.0%	17.4%	24.6%	18.1%	
	Casework Control Intensive (CC-INT)	Higher risk and higher need with stability issues. Eligible for intensive program.	5%	47.4%	13.8%	23.7%	15.2%	
	Casework Control (CC-REG)	Higher risk and higher need with stability issues. Eligible for intensive program.	13%	51.9%	15.0%	21.4%	11.7%	
	Case Management (CM)	Medium risk and need.	25%	69.6%	11.2%	12.2%	7.0%	
	Selective Intervention-Treatment (SIT)	Lower risk with single need factor typically related to a substance use or mental health treatment need.	20%	82.0%	7.0%	7.5%	3.5%	
	Selective Intervention-Situational (SIS)	Lower risk with no distinguishing need factors and high levels of stability and protective factors.	23%	86.9%	6.6%	4.5%	2.0%	
Lower Risk and Lower Need								

Crime Types Do NOT Correlate with Risks and Need of Probationers

Risk/Need Typologies for Probationers Across Crime Types



Crime and Justice Institute (CJI) Findings

- ***Individuals who have their probation revoked and regranted are unlikely to complete probation successfully. The study found that despite a sample of cases who were regranted probation after being revoked, even multiple times, the revoke/regrant option rarely changed the terminal outcome.***

(In other words, revoking and then regranting probation is not an effective strategy to prevent negative outcomes and only extends the term of probation with no corresponding benefit to the client, the victim, or the community.)

- ***Probation officers typically seek a revocation after an individual has committed three or more violations. CJI reported that officers seek a revocation when they have exhausted all resources and feel they have no options to address an individual's behavior in the community as well as rarely revoked after only one violation in the published report.***

(In other words, probation officers work hard to avoid a terminal revocation and do not revoke for single violations or even after the first few violations.)

Crime and Justice Institute (CJI) Findings

- ***Availability and quality of programming and services to address criminogenic needs and responsivity factors vary considerably by region in Colorado. CJI found that there are gaps in services to meet the risk/need profiles for those on probation. Specifically, the report provided that officers across the state reported that housing assistance, services for female clients, gang interventions, inpatient/residential treatment, transportation support, and language/translation services are significantly lacking in many areas.***

Current Legal Mechanisms and Practice

with Misdemeanants in Community Corrections

Contract to Provide Residential Placement as Alternative to County Jail

C.R.S. § 18-1.3-301(4)(a)

District courts, county courts, and other local criminal justice officials may enter into agreements with community corrections programs which include the use of such programs to supervise offenders awaiting trial for felony or misdemeanor offenses, offenders convicted of misdemeanors, or offenders under deferred judgments, or to accept for residential placement person convicted of misdemeanor as an alternative sentence to a county jail sentence. Such agreements are subject to review and approval by the community corrections board of the jurisdiction in which any community corrections program making such agreement is located. Any such use of a community corrections program may be supported with funding from local governments, public or private grants, offender fees, and other sources other than the state general fund.



Work Release
is available
with local
funding

Judicial District	WR Program	Comm Corr facility	Special Notes/Circumstances RE Work Release
1	Yes	Yes	Yes, in Jeffco, staffing issues in Gilpin
2	No	Yes	Available pre-COVID
3	No	No	
4	No	Yes	Available pre-COVID, thinks it will come back in future-
5	No	No	Available pre-COVID
6	Yes	Yes	
7	No	Yes	Suspended in 2020 due to funding
8	Yes	Yes	Run by County Department that also runs CC
9	Yes	Yes	Garfield only run through Community Corrections agreement w/jail
10	No	Yes	
11	No	No	
12	No	Yes	
13	No	Yes	All 5 counties had WR prior to COVID supports none now- supports misdo CC option
14	No	No	Intermittent at best pretty much gone since COVID
15	No	Yes	Eliminated during COVID-unlikely to return
16	No	Yes	
17	No	Yes	Eliminated w/pandemic & possibly staffing-efforts for return
18	Yes	Yes	
19	Yes	Yes	
20	Yes	Yes	Community Correction operates it by contract
21	No	Yes	We're not using beds, discontinued for financial reasons. Can use CC for WR but no funding source
22	No	No	Available pre-COVID in Montezuma

Condition of Probation Placements for Clients who need Residential Drug Treatment

C.R.S. § 18-1.3-301(4)(b)

A district court, county court, and any other criminal justice official may enter into agreements with community corrections programs that provide residential substance abuse treatment, for the placement and supervision of offenders as a term and condition of probation when assessed treatment need levels indicate that residential substance abuse treatment is necessary and appropriate. The agreement is subject to review and approval by the community corrections board in the jurisdiction where a community corrections program is located. A community corrections program used pursuant to this subsection (4)(b) may receive funds from the correctional treatment cash fund, as well as local funding, public or private grants, or offender fees.



Community
Corrections
Inpatient SUD
Treatment is an
Option with
CTF funds

Limits on Misdemeanants and Community Corrections/Jail

Maximum Probation Length	
(This is the limit on the any community corrections sentence as a condition of probation including the residential and nonresidential community correction portion combined)	
M1	5 years
M2	5 years
DM1	2 years
DM2	1 year

Maximum Jail as a condition of probation			
(The two far most right columns are limit on the residential portion of any community correction sentence for a misdemeanor)			
	Jail as condition of probation	Education or Work Release as condition of probation	Jail without probation
M1	60 days	364 days	364 days
M2	60 days	120 days	120 days
DM1 – 1 st or 2 nd	60 days	180 days	180 days
DM1 – 3 rd or sub.	60 days	364 days	364 days
DM2 – 1 st of 2 nd	60 days	120 days	120 days
DM2 – 3 rd or sub.	60 days	180 days	180 days

Comparing Outcomes for Misdemeanants

Probation and Community Corrections

Limited Ability to Compare

- Limitations on Comparing by Risk Levels
- Limitations on Comparing by Recidivism

Draft CCTF Recommendation

FY23-CC #01. Placement of Certain High Risk and High Need Misdemeanant Probationers in Community Corrections [Statutory]

General Concept

- Amend the statute regarding the placement of and funding for misdemeanants in community corrections to allow for high-risk/high-need probationers at risk of revocation to be placed into a community corrections facility with funding provided by the General Fund.
- The language should include a requirement to evaluate the effectiveness of these placements.
- This recommendation would allow for the placement of misdemeanor probationers classified as high risk and high need, as determined by validated risk and need assessment tools, into participating programs and with the approval of local community corrections boards and providers.
- DCJ/OCC to be the state regulatory agency to fund, evaluate and provide technical assistance as they do with felony community corrections placements
- Length of placement is determined individually by the court considering law, pre-sentence confinement, risk/need profile of client
- Failure to participate/complete is a technical matter and not a new crime (e.g. abscond)
- Subsistence fees waived
- Capacity to accept is determined locally and limited by DCJ through allocations and contracts
- DCJ funded and required to evaluate program effectiveness for sunset review in 2030

Statutory Changes

Amend §18.1.3-301(4)(b):

Expand Comm Corr for Other Supervision
and/or Inpatient Treatment and with
General Funds

A district court, county court, and any other criminal justice official may enter into agreements with community corrections programs that provide residential **SUPERVISION**, substance abuse, **MENTAL HEALTH OR DUAL DIAGNOSIS** treatment, for the placement and supervision of offenders as a term and condition of probation when assessed RISK AND treatment need levels indicate that residential ~~substance abuse treatment~~ **SUPERVISION OR TREATMENT** is necessary and appropriate. The agreement is subject to review and approval by the community corrections board in the jurisdiction where a community corrections program is located. A community corrections program used pursuant to this subsection (4)(b) may receive funds from the correctional treatment cash fund **OR STATE GENERAL FUND**, as well as local funding, public or private grants, or offender fees. **THE DEPARTMENT OF PUBLIC SAFETY MAY LIMIT PLACEMENTS FOR CONDITION OF PROBATION THROUGH CONTRACTS AND ANNUAL ALLOCATIONS TO COMMUNITY CORRECTIONS BOARDS AND PROVIDERS.**

Statutory Changes

New Law

Develop Criteria and Governance
Between Branches

ON OR BEFORE JANUARY 1, 2024, THE OFFICE OF COMMUNITY CORRECTIONS IN THE DEPARTMENT OF PUBLIC SAFETY AND THE STATE COURT ADMINISTRATORS OFFICE IN THE JUDICIAL BRANCH SHALL DEVELOP CRITERIA THAT WOULD GUIDE APPROPRIATE PLACEMENT FOR HIGH RISK AND HIGH NEED MISDEMEANANT PROBATIONERS IN RESIDENTIAL OR NON-RESIDENTIAL COMMUNITY CORRECTIONS. THE GUIDELINES SHALL PRIORITIZE USE OF VALIDATED RISK AND NEED ASSESSMENTS IN PROBATION AND COMMUNITY CORRECTIONS PROGRAMS. THE GUIDELINES SHOULD ALSO ESTABLISH CRITERIA WHERE PLACEMENT IN COMMUNITY CORRECTIONS AS A CONDITION OF PROBATION UNDER THIS CIRCUMSTANCE REQUIRES A COURT ORDER AS WELL AS A RECOMMENDATION OF A PROBATION OFFICER, CONSENT OF THE PROBATIONER, APPROVAL OF THE LOCAL COMMUNITY CORRECTIONS BOARD, APPROVAL OF THE COMMUNITY CORRECTIONS PROVIDER AND COMPLIANCE WITH THE VICTIMS RIGHTS ACT.

Statutory Changes

New Law

Set State Standards, Regulatory Structure and Collect Data

ON OR BEFORE JULY 1, 2024, THE OFFICE OF COMMUNITY CORRECTIONS IN THE DIVISION OF CRIMINAL JUSTICE SHOULD MODIFY OR SET STANDARDS FOR THE APPROPRIATE SUPERVISION, PROGRAMMING, AND TREATMENT OF HIGH RISK AND HIGH NEED MISDEMEANANTS WHO ARE PLACED AS A CONDITION OF PROBATION PURSUANT 18.1.3-301(4)(b) AND SHALL COLLECT BILLING, SERVICE, AND OUTCOME DATA AND SHALL PERFORM PERFORMANCE AUDITS AND PROVIDE TECHNICAL ASSISTANCE AS NEEDED TO STATE FUNDED PROVIDERS IN ORDER TO COMPLY WITH STATE COMMUNITY CORRECTIONS STANDARDS. THE STANDARDS SHALL INCLUDE GUIDELINES FOR APPROPRIATE LENGTH OF STAY AND CONDITIONS UNDER WHICH CLIENTS ARE RELEASED FROM RESIDENTIAL SUPERVISION.

Statutory Changes

New Law

Determine Funding, Report Outcomes for Sunset Review

ON OR BEFORE JANUARY 1, 2029, THE DEPARTMENT OF PUBLIC SAFETY SHALL REPORT SHORT TERM AND LONG-TERM OUTCOMES FOR MISDEMEANANTS PLACED IN COMMUNITY CORRECTIONS AS A CONDITION OF PROBATION TO THE STATE COURT ADMINISTRATORS OFFICE AND THE GENERAL ASSEMBLY.

THE GENERAL ASSEMBLY SHOULD SET A PER DIEM RATE FOR REGULAR RESIDENTIAL SUPERVISION AND SHOULD MODIFY THE LONG BILL FOOTNOTES IN THE COMMUNITY CORRECTIONS PLACEMENTS, CORRECTIONAL TREATMENT CASH FUND RESIDENTIAL PLACEMENTS, AND SERVICES FOR SUBSTANCE ABUSE AND CO-OCCURRING DISORDERS LINES IN ORDER TO AUTHORIZE PLACEMENTS OF MISDEMEANANTS WITH STATE GENERAL FUNDS AS WELL AS CORRECTIONAL TREATMENT CASH FUNDS.

THE LEGISLATION SHOULD BE SET FOR SUNSET REVIEW ON OR BEFORE JANUARY 1, 2030.