

# elements of change

highlighting trends and issues in the criminal justice system

vol. 2 / no. 2

## Mandatory Parole Has Changed the Focus of Parole Board Discretion

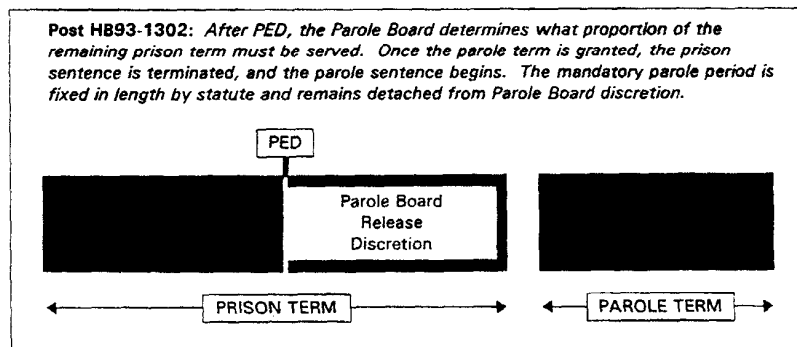
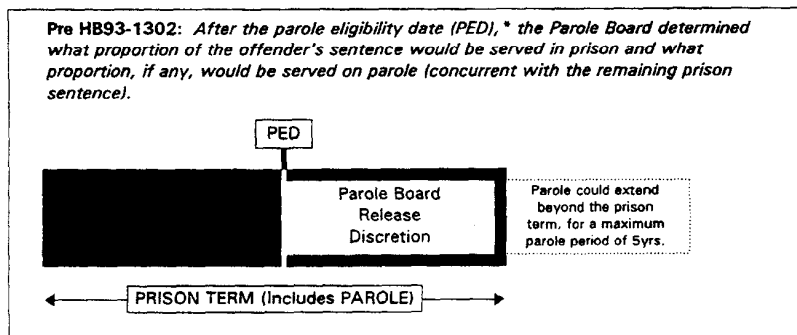
Since 1993, HB1302 requires that all offenders sentenced to prison also receive a *separate* sentence to parole. The length of mandatory parole, set in statute, is determined by the felony class of the offense of conviction. The Parole Board determines only *when* the offender will be paroled. Previous to HB93-1302, the state Parole Board determined *whether or not* to grant parole. If granted, the Parole Board determined the length of parole (up to a limit of five years). Please see the charts on the following pages for a description of parole periods and eligibility policies.

*in this issue:*

- ❶ Mandatory Parole
- ❷ Plea Practices
- ❸ Juvenile Detention and Commitment Population Projections
- ❹ Most Harmful Substances (drugs, that is)

### PAROLE POLICY CHANGES:

#### Structure and Parole Board Discretion



\* See page 3 for detail on how parole eligibility is determined.  
Note: This illustration does not outline the process of parole violation decisions.  
Source: Colorado Revised Statutes 18-1-105 (V)(A).

## More

### on Mandatory Parole...

❶ See page 2 for a breakdown of mandatory parole periods -- showing how they correspond to sentence category and sentence range.

❷ See page 3 for a description of how mandatory parole fits in to the system of parole eligibility.

# CHANGES IN PAROLE: Parole Periods and Prison Sentence Ranges

July 1985 - June 1993 vs. Post-July 1993

Sentence Category	July 1985 - June 1993		Beginning July 1993	
	Sentence Range:	Parole Period:	Sentence Range:	Mandatory Parole: <sup>1</sup>
<i>Felony 1</i>	Life/Death	No Parole	Life/Death	None
<i>Felony 2</i>	8 - 24 years (4 - 48 years) <sup>2</sup>	Between July 1985 and June 1993, offenders could be placed on parole for a period of up to five years.	8 - 24 years (4 - 48 years) <sup>2</sup>	5 years
<i>Felony 3 - Extraordinary</i> <sup>3</sup>	4 - 16 years (2 - 32 years) <sup>2</sup>		4 - 16 years (2 - 32 years) <sup>2</sup>	5 years
<i>Felony 3</i>	4 - 16 years (2 - 32 years) <sup>2</sup>		4 - 12 years (2 - 24 years) <sup>2</sup>	5 years
<i>Felony 4 - Extraordinary</i> <sup>3</sup>	2 - 8 years (1 - 16 years) <sup>2</sup>		2 - 8 years (1 - 16 years) <sup>2</sup>	3 years
<i>Felony 4</i>	2 - 8 years (1 - 16 years) <sup>2</sup>		2 - 6 years (1 - 16 years) <sup>2</sup>	3 years
<i>Felony 5 - Extraordinary</i> <sup>3</sup>	1 - 4 years (.5 - 8 years) <sup>2</sup>		1 - 4 years (.5 - 8 years) <sup>2</sup>	2 years
<i>Felony 5</i>	1 - 4 years (.5 - 8 years) <sup>2</sup>		1 - 3 years (.5 - 6 years) <sup>2</sup>	2 years
<i>Felony 6 - Extraordinary</i> <sup>3</sup>	1 - 2 years (.5 - 4 years) <sup>2</sup>		1 - 2 years (.5 - 4 years) <sup>2</sup>	1 year
<i>Felony 6</i>	1 - 2 years (.5 - 4 years) <sup>2</sup>		1 - 1.5 years (.5 - 3 years) <sup>2</sup>	1 year
<i>Habitual (Little)</i>	25 - 50 years		3 times maximum for felony class convicted	Based on the felony class of conviction
<i>Habitual (Big)</i>	Life	4 times maximum for felony class convicted	Based on the felony class of conviction	

1 If an offender is sentenced consecutively for the commission of two or more felonies, the mandatory parole period is based on the highest class of felony for which the offender has been sentenced.

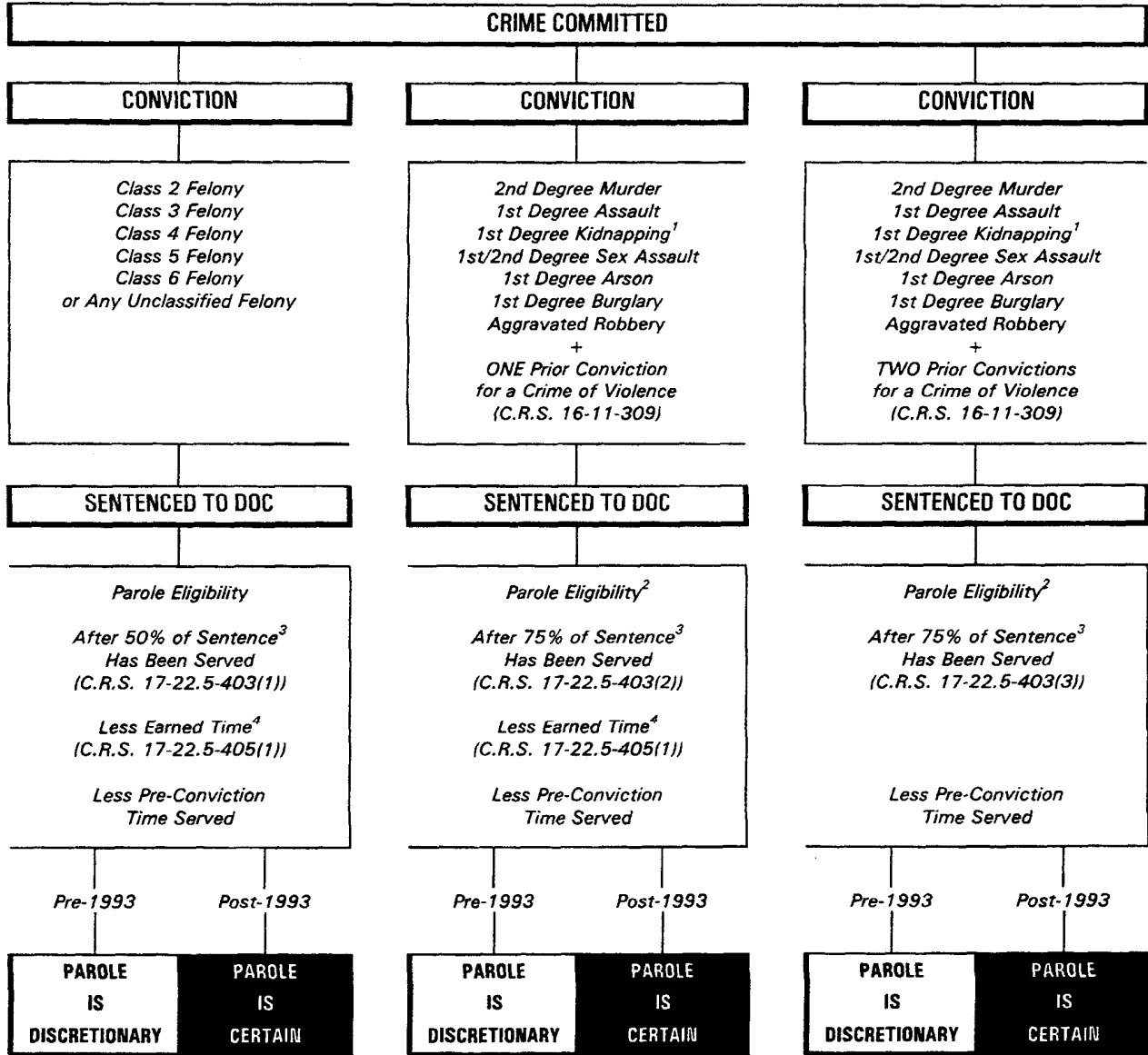
2 If the sentencing court finds case evidence to support the presence of *mitigating* circumstances, the judge can sentence an offender to a term of no less than one-half of the presumptive range (18-1-105 (6)). If the sentencing court finds case evidence to support the presence of one or more *aggravating* circumstances (defined in 18-1-105 (a)) or sentence-enhancing circumstances (defined in 18-1-105 (9.5)), the court is required to sentence (if the sentence is incarceration) the defendant to a term of at least the midpoint but not more than twice the maximum sentence range.

3 Offenses considered to present an extraordinary risk of harm to society are labeled in this table as "extraordinary." The separate classification of extraordinary risk offenses was created by 1993's HB1302. The sentence ranges for non-extraordinary offenses were reduced in this same legislation. Crimes that present an extraordinary risk of harm to society (and their defining statutory references) include the following: first degree sexual assault (18-3-402), second degree sexual assault (18-3-403), third degree sexual assault (18-3-404), sexual assault on a child (18-3-405), sexual assault on a child by one in position of trust (19-3-405.3), sexual assault by a psychotherapist (18-3-405.5), incest (18-6-301), aggravated incest (18-6-302), aggravated robbery (18-4-302), child abuse (18-6-401), unlawful distribution, manufacturing, dispensing, sale, or possession of a controlled substance with the intent to sell, distribute, manufacture, or dispense (18-18-405), and any crime of violence as defined in 16-11-309. Crimes of violence include: crimes in which a defendant used, possessed, or threatened use of a deadly weapon; any crime committed against an elderly person, person with a disability, or an at risk adult; or the crime of murder, first or second degree assault, kidnapping, sexual assault, robbery, first degree arson, first or second degree burglary, escape, or criminal extortion.

Source: Colorado Revised Statutes 18-1-105.

# CHANGES IN PAROLE: *Parole Eligibility*

Pre-1993 vs. Post-1993



1 Unless the 1st Degree Kidnapping is a Class 1 Felony, making the offender ineligible for parole.

2 Crime committed on or after July 1, 1987.

3 May be extended for misconduct while in institution.

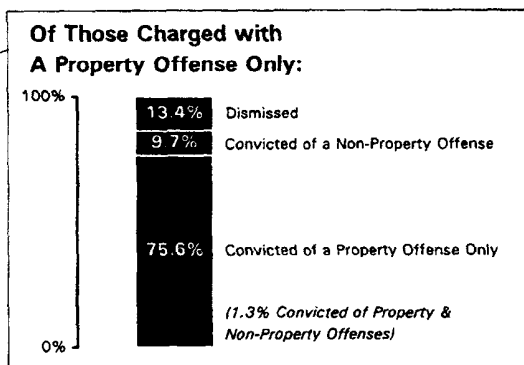
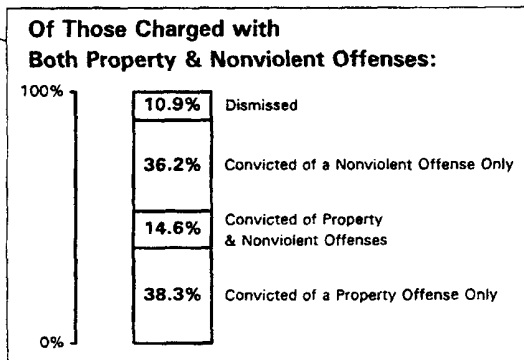
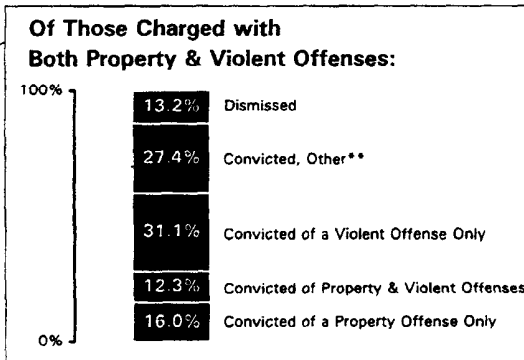
4 Individuals serving a prison sentence are eligible to earn up to 10 days off their sentence per month. The granting of earned time is based on institutional behavior, including program participation.

Source: Colorado Revised Statutes.

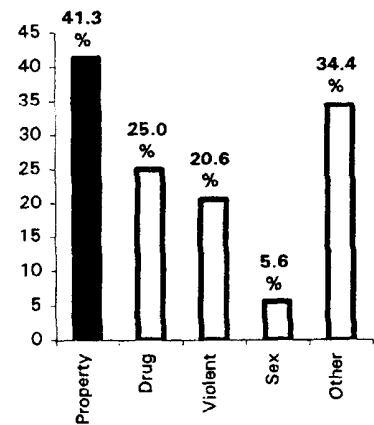
# In 1994, 62% of Persons Charged with A Property Crime Were Convicted of A Property Crime\*

The Division of Criminal Justice's court database contains the three most serious offense charges filed for each arrestees in a sample of cases filed in Colorado (see Source below for a description of the sample). Seriousness is determined first by felony class and second by offense type. ■ The graph below and to the right represents, by offense category, the three most serious offense charges filed for each person in the 1994 court sample. Because we record the three most serious offenses, each offense category in the graph is not mutually exclusive. For example, a person charged with both a drug crime and a property crime would be represented twice. ■ The illustration below shows, for persons in the sample charged with felony property offenses, what proportion were convicted of property offenses, and what proportion were not.

## PROPERTY OFFENSES CHARGED



Charges Filed in Colorado, 1994 (Offense categories not mutually exclusive)



\* The 38% NOT convicted of a property crime represent cases pled to other offense categories and cases dismissed.

\*\* Other convictions (of those charged with both property and violent offenses):  
 1.9% Convicted of Property & Nonviolent  
 11.3% Convicted of Violent & Nonviolent  
 14.2% Convicted of Nonviolent

Source: DCJ's 1994 court database. Annually, DCJ collects data on-site from a 20% sample of court cases filed in nine of the state's 22 judicial districts. The nine judicial districts represented in the court database are: 1st (Jefferson County), 2nd (Denver County), 4th (El Paso County), 8th (Larimer County), 10th (Pueblo County), 17th (Adams County), 18th (Arapahoe County), 19th (Weld County), and the 21st (Mesa County). These jurisdictions represent approximately 80% of Colorado's population.

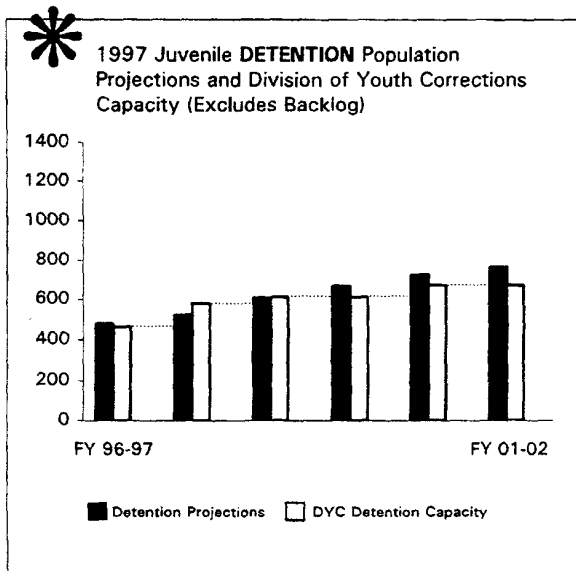
Note: Violent=assault, vehicular assault, menacing, extortion, reckless endangerment, homicide, kidnapping, robbery.  
 Property=burglary, theft, motor vehicle theft.

For more information: Contact Susan Colling at the Division of Criminal Justice, 303-239-4664.

## Juvenile Detention and Commitment Populations Projected to Increase by 62% & 47% Respectively During the Next Six Years

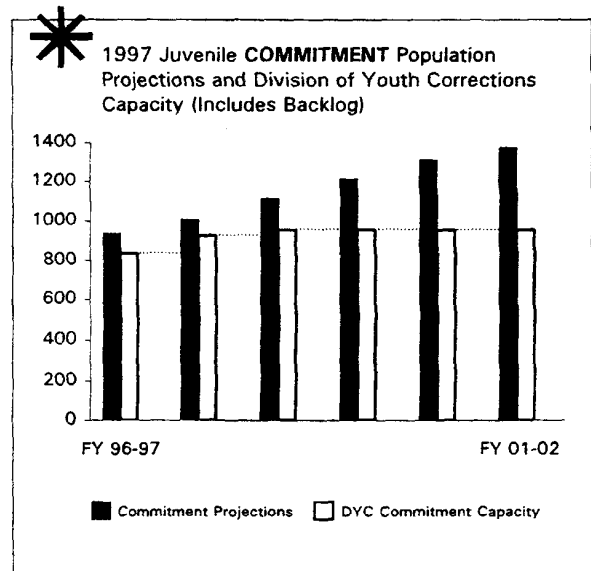
The Division of Criminal Justice's population projections for the Division of Youth Corrections (DYC) indicate that the statewide detention (see note below for a definition) population will increase by 62% over the next six years, from a projected average daily population (ADP) of 476 in FY 96-97 to an ADP of 769 in FY 01-02. Despite efforts to increase detention capacity by the addition of 310 new beds during the projection period, this represents a shortfall of 98 beds by FY 01-02.

DYC's commitment (see note below for a definition) population is expected to increase by 47% over the next six years, from a projected ADP of 938 in FY 96-97 to a projected ADP of 1376 in FY 01-02. The growth in the commitment population is the result of increasing commitments and an increase in the length of stay experienced during the last three years. Commitments and length of stay are expected to continue to increase during the projection period. Considering the current appropriated capacity, this estimate represents a shortfall of 421 beds by FY 01-02.



### What is DETENTION?

The Division of Youth Corrections detention facilities are short-term secure lock-up facilities. These facilities are for youth who have either been detained by law enforcement officials or for youth who are serving a short sentence for a minor crime.



### What is COMMITMENT?

The Division of Youth Corrections commitment facilities are for adjudicated youth who are incarcerated for more serious crimes that have longer sentences. Legal custody for these clients has been transferred to the DYC. Sentences for these youth can be up to five years in length.

Source: Division of Youth Corrections Detention and Commitment Projections for the Period FY 1996-97 through FY 2001-02, prepared by the Colorado Division of Criminal Justice, Office of Research and Statistics.  
 For more information: Contact Suzanne Pullen at the Division of Criminal Justice, 303-239-4492.

# Most Harmful Substances

## Named By Police & Sheriffs

Members of Colorado police and sheriff's departments were surveyed in 1993 and 1996:

“Considering the prevalence and impact of each of these substances (alcohol, crack/cocaine, marijuana, methamphetamines, hallucinogens, inhalants, depressants, heroin), indicate the TWO that you would say cause the greatest harm or community disruption in your jurisdiction.”

Between 1993 and 1996:

- ☞ There was a substantial drop in the proportion of respondents listing crack/cocaine as one of the two most harmful substances (59% to 35%).
- ☞ There was a five-fold increase in the proportion of respondents listing methamphetamines as one of the two most harmful substances (5% to 25%).

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Percent (and #) of respondents who listed each substance as one of the "most harmful two" (each respondent named two substances, so percentages in each column add to 200).

Substance	1993 (n = 97)	1996 (n = 94)
Alcohol	91% (88)	88% (83)
Crack/Cocaine	59% (57)	35% (33)
Marijuana	37% (36)	43% (40)
Methamphetamines	5% (5)	25% (24)
Hallucinogens	4% (4)	4% (4)
Inhalants	2% (2)	1% (1)
Depressants	2% (2)	1% (1)
Heroin	0% (0)	2% (2)

Source: 1996 Colorado Anti-Drug Abuse Needs Assessment: Preliminary Report of Law Enforcement Responses to Selected Survey Questions, Grant Johnson, University of Colorado Center for Action Research, November, 1996.



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