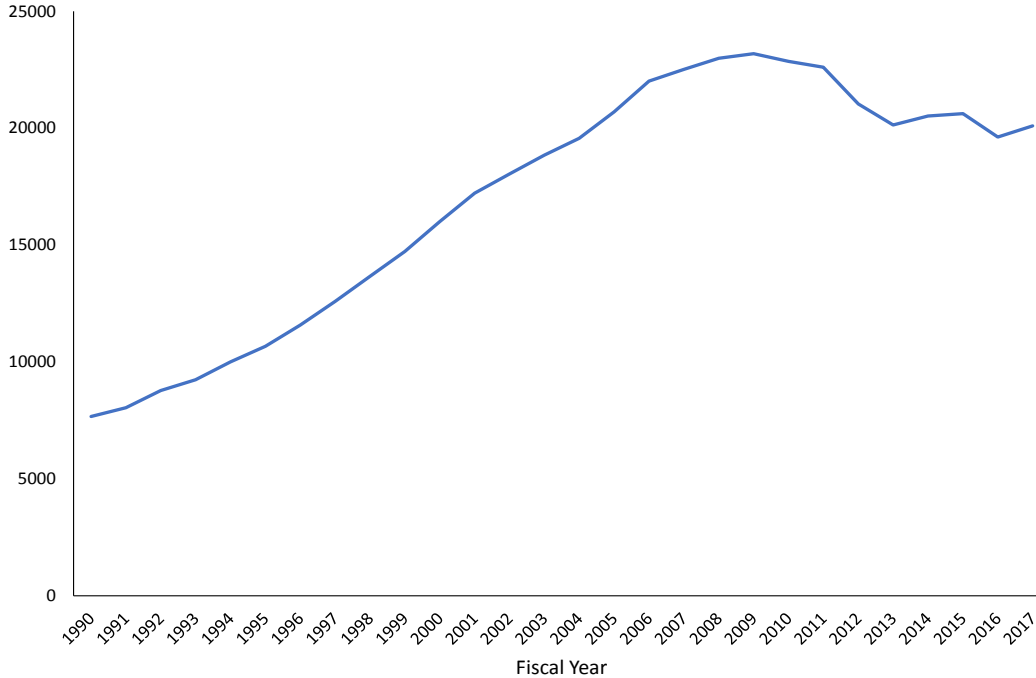COLORADO

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Factors Influencing the Increase in the Prison Population

Updated February 2018

Figure 1. Colorado prison population, Fiscal Year End 1990-2017

Data source: Colorado Department of Corrections Monthly Capacity and Population Reports. Available at: https://www.colorado.gov/pacific/cdoc/departmental-reports-and-statistics

PURPOSE OF THIS PAPER

The Division of Criminal Justice undertook an analysis to explore the factors driving the recent increase in the prison population (see Figure 1). Researchers analyzed trends in arrests; filings by judicial district, crime type, gender and race/ethnicity; convictions; sentences and probation revocations to DOC; and aspects of the current DOC population, including the recent increase in women as a proportion of the total population (see Figure 2).
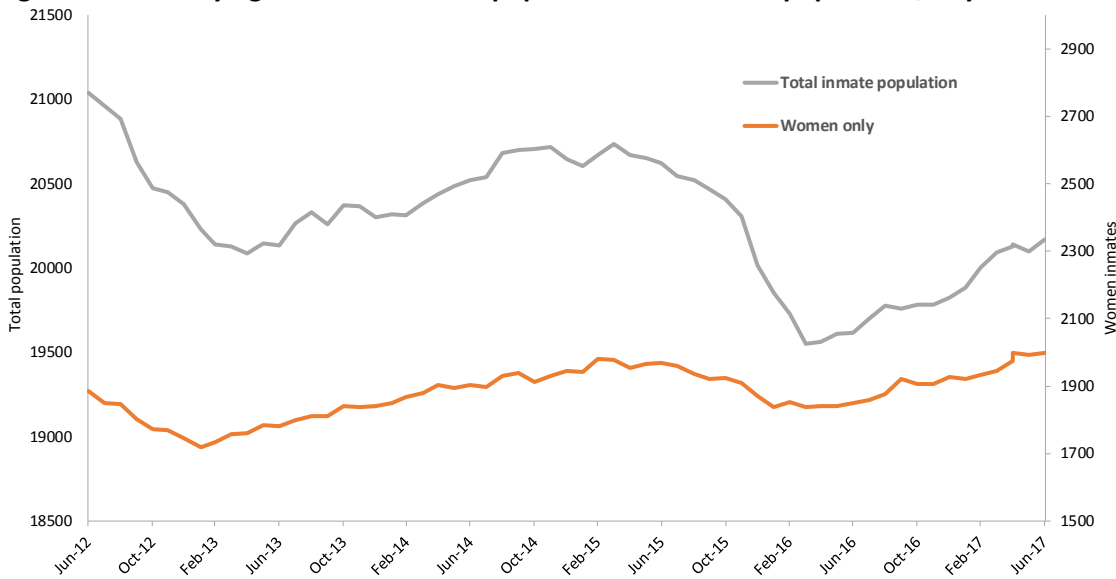
BACKGROUND

After decades of continuous growth, the Colorado prison population began to decrease in FY 2010 (see Figure 1). This decline accelerated dramatically in FY 2012 and FY 2013 as new court commitments declined, but reversed sharply beginning in the fourth quarter of FY 2013, with growth continuing through early FY 2015.

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However, the population began to level in the middle of FY 2015 and resumed a declining trend through the end of the year and into the first half of FY 2016. While the prison population fell by over 1,000 beds across FY 2016, this drop mainly occurred in the first 9 months of the year. Growth resumed in the final quarter of FY 2016 and continued throughout FY 2017 (see Figure 2).
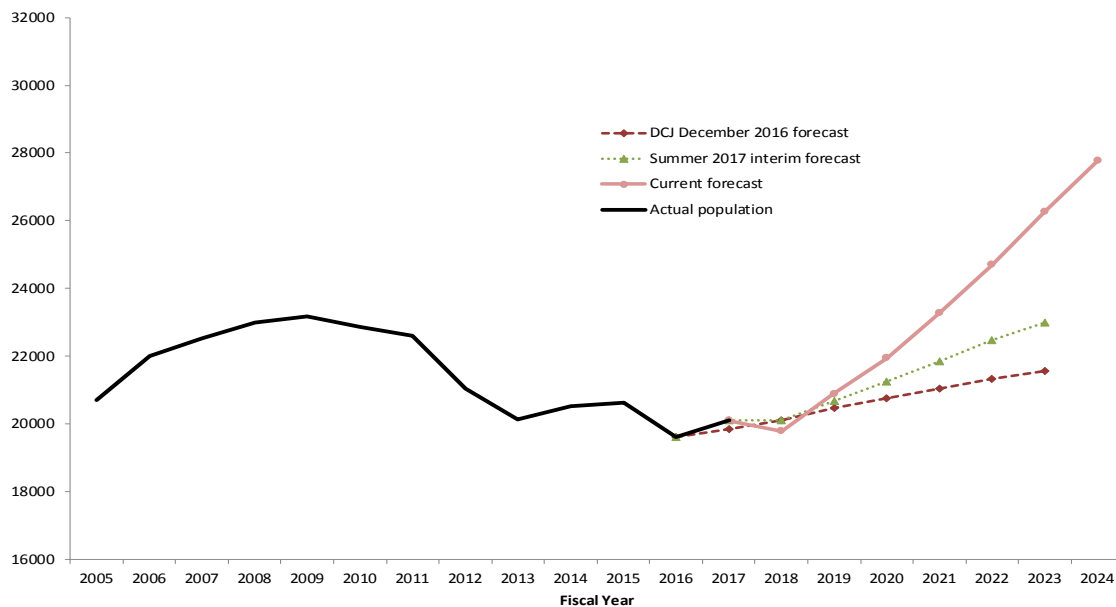
The Division of Criminal Justice prepares annual forecasts of the prison population; Figure 3 shows that the DOC population is expected to increase in future years.

Figure 2. Quarterly figures: Total inmate population and women population, July 2012-June 2017

Data source: Colorado Department of Corrections Monthly Capacity and Population Reports. Available at: https://www.colorado.gov/pacific/cdoc/departmental-reports-and-statistics

Figure 3: Actual and projected total prison population FY 2006 through FY 2024:
Comparison of DCJ December 2016, December 2017, and Summer 2017 Prison Population Projections

Data source: Actual population figures FY 2006 through FY 2017: Colorado Department of Corrections Monthly Capacity and Population Reports. Available at: https://www.colorado.gov/pacific/cdoc/departmental-reports-and-statistics

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WHAT IS HAPPENING?

The main driver of the short-lived decline in the prison population was a reduction in admissions due to technical parole violations. Parole revocations fell by 21.5% in FY 2016, but the majority of this decline occurred in the second quarter of the year. *Renewed growth began in FY2017 and is generally expected to continue through 2024.*

While returns to prison for technical parole violations may remain significantly reduced, these cases have a minimal impact on the long-term prison population forecast (in comparison to admissions with new sentences) as they will be re-released in less than six months.

The proportions of prison admissions made up of new court commitments and of parolees returning with a new sentence is much larger than observed over the past seven years. This will serve to put significant upward pressure on the population for several years into the future, as these new inmates will remain in prison for an average of three years.

Increases in new court commitments are expected to *continue in FY 2017 and FY 2018 and beyond,* due to patterns in arrests, criminal court filings, growth in the Colorado population, and legislation. These trends are summarized below.

- **Arrests increasing.** As shown in Table 1, the number of arrests increased from 177,000 in 2012 to 194,878 in 2016. For men, the increases were driven by felony assault, drug offenses, motor vehicle theft, and fraud; for women, arrests increased especially for drug offenses and motor vehicle theft (data not presented).

- **Ratio of arrests to filings increasing slightly.** In 2012, 21% of arrests resulted in a district court filing, increasing to 25% in 2016 (data not presented).
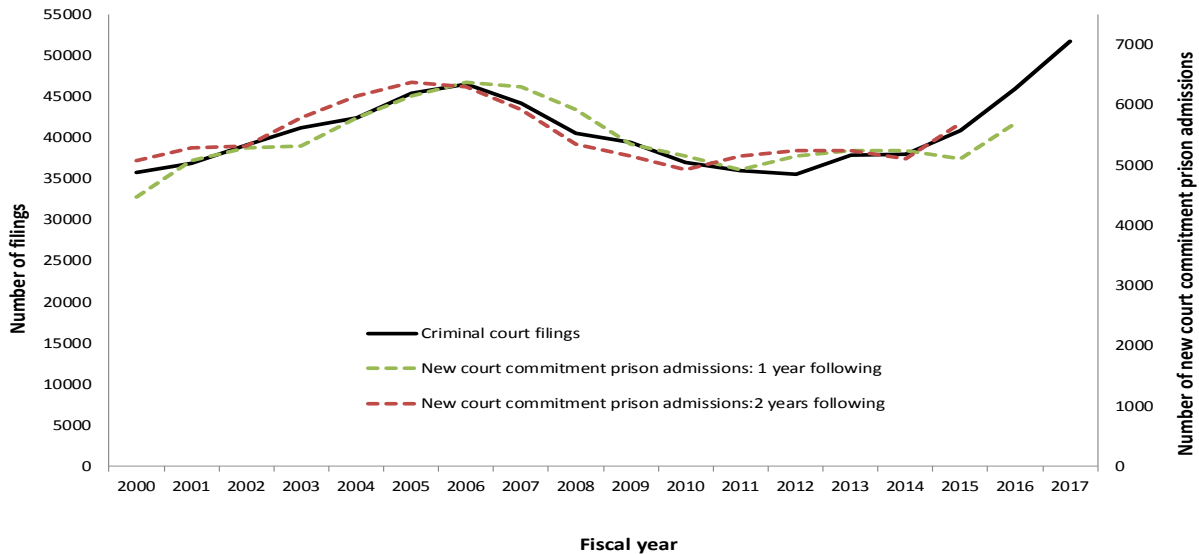
Table 1. Colorado Arrests CY 2012 to 2016

Crime	2012	2013	2014	2015	2016
Aggravated Assault	3,814	3,880	4,083	4,402	4,929
Arson	106	106	103	116	161
Burglary	1,804	2,018	2,255	1,993	2,237
Drug Violations	17,814	12,262	13,253	14,861	16,622
Embezzlement	116	89	93	97	101
Forgery	714	664	594	589	735
Fraud	1,639	1,778	1,962	2,235	2,707
Group B Offenses	112,190	118,913	122,769	116,037	116,363
Homicide/Manslaughter	118	118	125	106	150
Human Trafficking	0	0	2	6	3
Kidnapping/Abduction	506	531	594	655	708
Motor Vehicle Theft	841	1,093	1,295	1,737	2,240
Other	6,075	6,495	6,758	7,459	7,780
Other Sex Offenses	330	320	273	291	291
Robbery	780	893	829	887	858
Sexual Assault	489	489	515	488	459
Simple Assault	11,686	12,544	13,677	14,432	14,437
Theft	16,001	19,987	22,956	22,638	21,959
Weapon Violations	1,456	1,543	1,837	1,949	2,138
Total	**176,479**	**183,723**	**193,973**	**190,978**	**194,878**

Data source: CBI Beyond 20/20.

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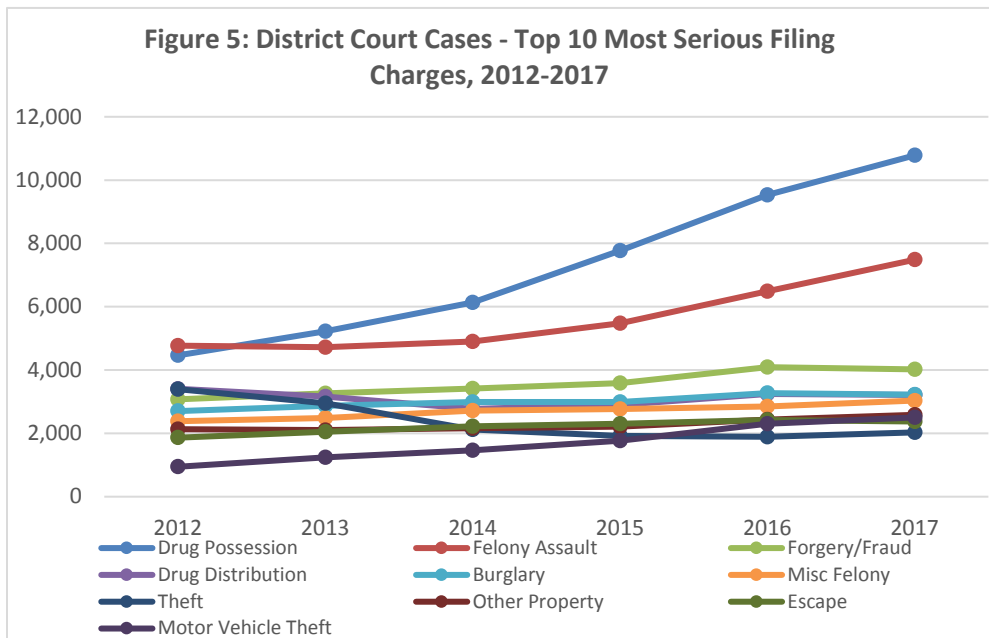
- **Filings increasing.** Following the increase in arrests, the number of district court filings increased by 12.5% in both FY 2016 and again in FY 2017*, the largest increases seen over the past fifteen years.* This follows the 7.7% increase observed in FY 2015.[1] Increases in filings are, in due course, followed by increases in prison admissions (see Figure 4). District court filings for drug possession and felony assault, in particular, have increased substantially (Figure 5).

Figure 4. Correspondence of Colorado criminal court filings FY 2000 through FY 2017 and new court commitments in following years

Data Sources: Colorado Dept. of Corrections Annual Statistical Reports; Colorado Judicial Branch Annual Statistical Reports, FY 2000-FY 2017. District and county court filings are included, with the exception of Denver County court.
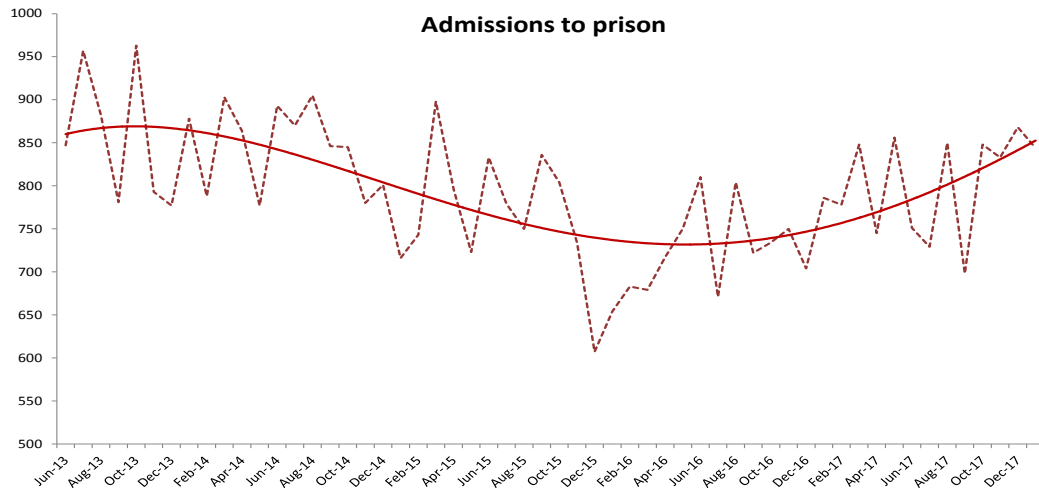

Data Sources: Court records were extracted from Judicial Branch's Integrated Colorado Online Network (ICON) information management system via the Colorado Justice Analytics Support System (CJASS) and analyzed by DCJ/ORS.

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[1] Colorado State Judicial Branch (2007-2016). *Colorado Judicial Branch Annual Reports.* Denver, CO: Colorado Judicial Branch, Division of Probation Services. Available at: http://www.courts.state.co.us/Administration/Unit.cfm?Unit=annrep.

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- Prison admissions have been increasing since June 2016 (Figure 6).

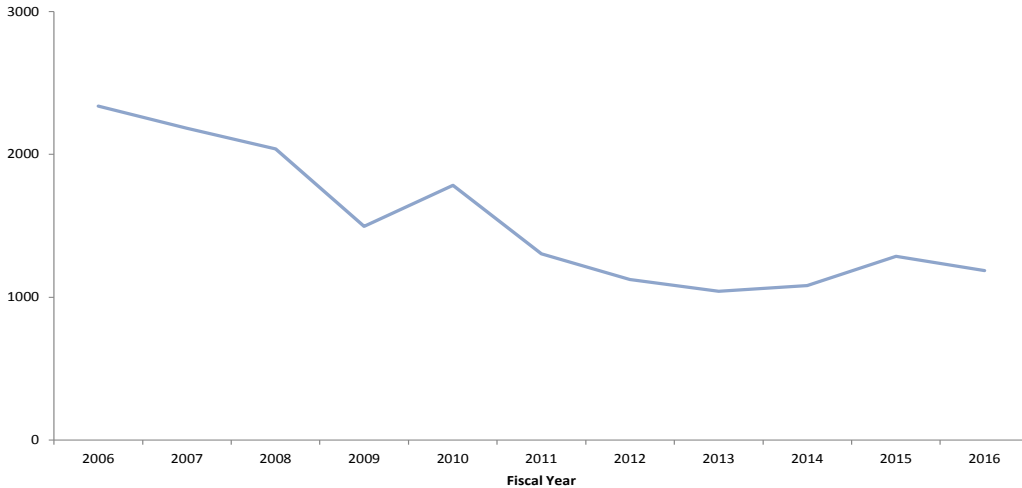**Figure 6: Prison Admissions June 2013-December 2017**

- **Felony DUI.** The passage of HB 15-1043, which created a class of felony DUI offenders, increased admissions to prison much more quickly than expected, with 110 offenders admitted to prison with a felony DUI as their most serious crime during FY 2016 and another 176 in FY 2017. This number can be expected to increase in upcoming years.

- **Cases sentenced to DOC.** An analysis of district court cases[2] sentenced to DOC in 2015 and 2016 found the following offense types increased in 2016. *Most notable was drug possession, which increased by 17% overall, and by 24% for women alone.*

  - Drug possession   17%
  - Drug distribution   12%
  - Motor vehicle theft   15%
  - Assault   16%
  - Forgery/fraud   15%
  - Weapons   10%

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[2] We analyzed cases not individuals. Individuals may have multiple cases, and cases may have multiple counts; cases are classified by the most serious offense.

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- **Revocations from probation to DOC.** Revocations to DOC increased slightly between 2013 and 2015, as shown in Figure 7, and declined slightly in 2016.
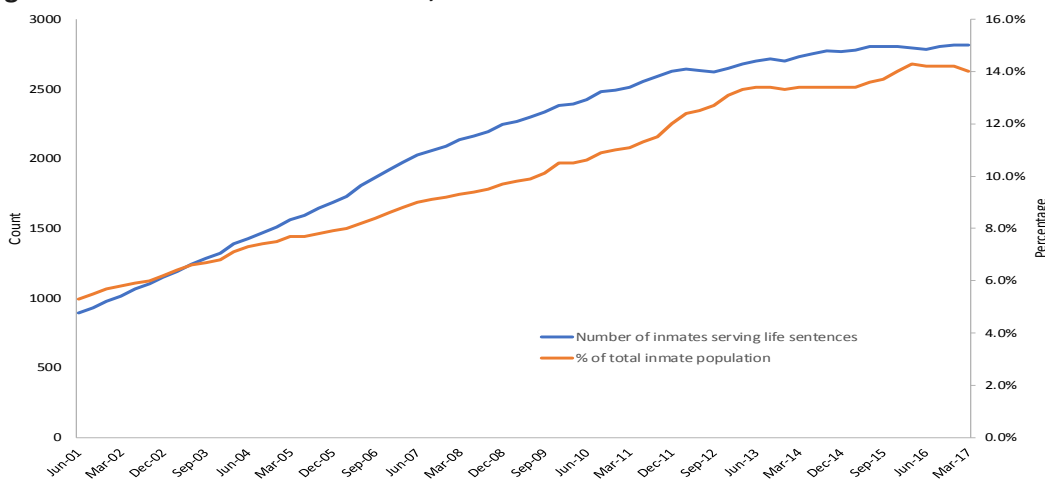
Figure 7. Adult probation revocations sentenced to DOC: FY 2006 – FY 2015

Source: Colorado State Judicial Branch. *Colorado Judicial Branch Annual Recidivism Reports.* Denver, CO: Colorado Judicial Branch, Division of Probation Services. Available at http://www.courts.state.co.us/Administration/Unit.cfm?Unit=eval

- **Lengthy sentences.** Life sentences will continually exert upward pressure on the overall population (see Figure 8). The annual number of sentences to life without parole is small, but very consistent at approximately 30 per year. However, even fewer are removed from the population.

  o There was a 96.4% increase in the population of life-without-parole inmates over the pastdecade, from 360 in 2005 to 707 in 2016.

  o Sexual offenders sentenced under the Lifetime Supervision Act of 1998 receive indeterminate prison sentences, ranging between one year and life. The number of these offenders in prison grew to 1,729 by the end of FY 2016, comprising 8.9% of the inmate population.

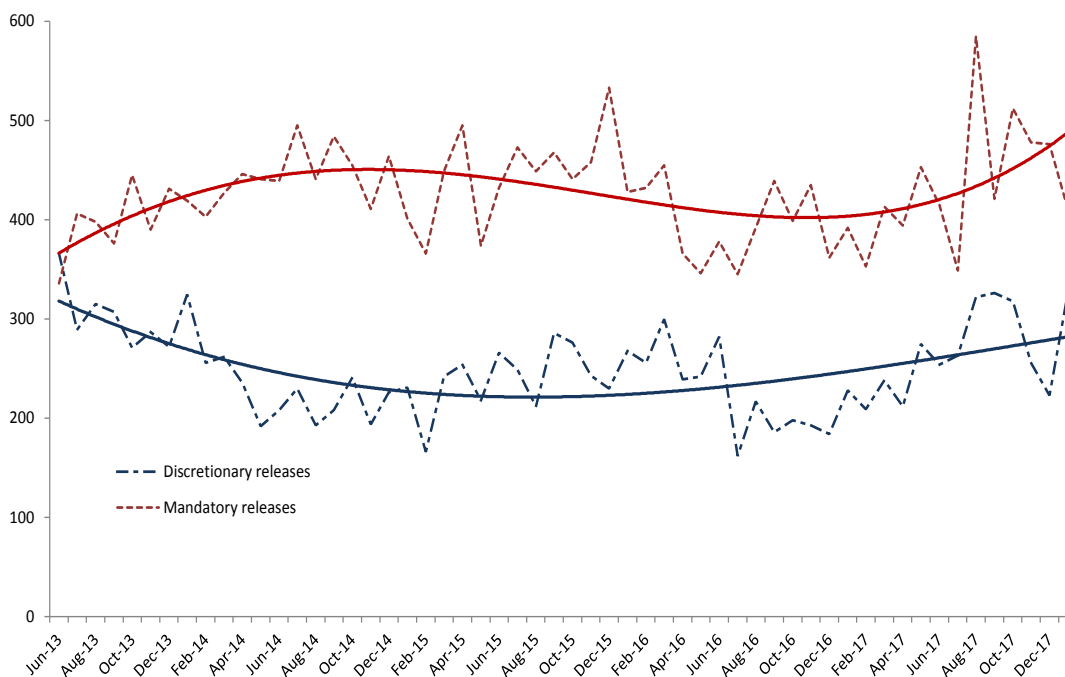**Figure 8. Inmates with life sentences, June 2001-March 2017**

Data source: https://www.colorado.gov/pacific/cdoc/departmental-reports-and-statistics

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- Releases from prison decreased over the 18 months following December 2015. Total prison releases declined substantially and remained at a low level between December 2015 and July 2017 (Figure 9), at a time when admissions to prison were increasing. Figure 9 shows that parole releases dropped off significantly in the last quarter of FY 2016 and early FY 2017. The decline was particularly notable among discretionary releases, however, this release rate has increased in the last year.

  o According to the Colorado Department of Corrections' FY 2016 Annual Statistical Report, the most recent available, 43.2% of the prison population was past their parole eligibility date at the end of the fiscal year.

  o HB15-1122 made individuals who were convicted of a Class 1 Code of Penal Discipline (COPD) infraction in the prior 12 months ineligible for parole. In addition, this legislation made those who refused to participate in recommended programs in the 12 months prior to their regularly scheduled parole hearing also ineligible for parole.

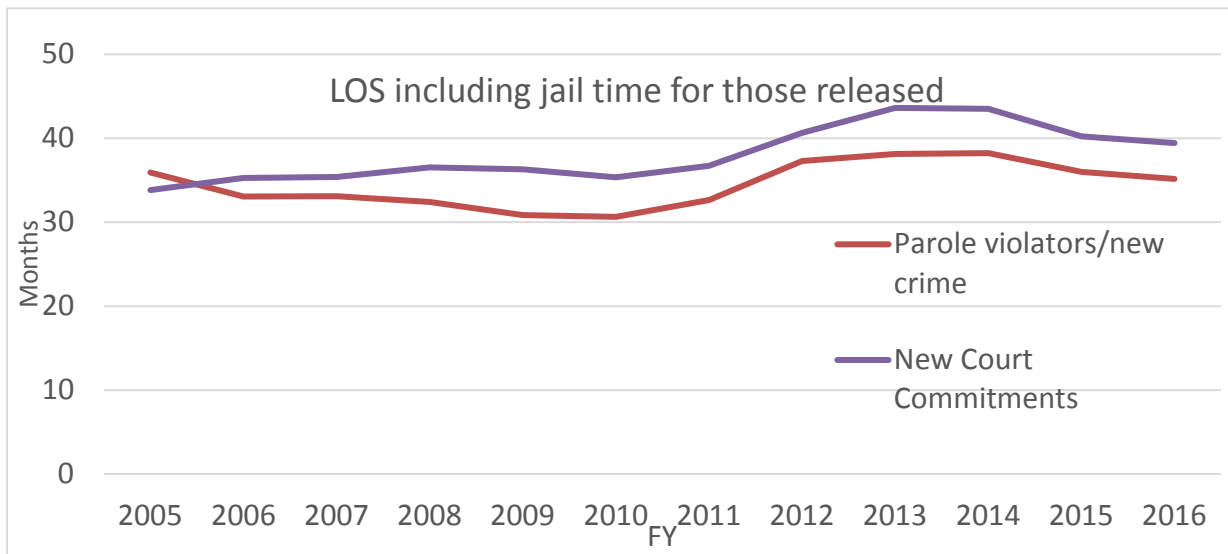**Figure 9. Releases to parole by type FY 2013 through December 2017**

Data sources: Colorado Department of Corrections Monthly Capacity and Population Reports. Available at:
https://www.colorado.gov/pacific/cdoc/departmental-reports-and-statistics

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- Overall average length of stay increased from 34.2 months in FY 2005 to 39.0 months in FY 2016 (Figure 10).

Figure 10. Average Length of Stay in Prison (months) (including jail time)

- **State population growth**. Very strong growth in the Colorado adult population is expected in upcoming years, particularly for those within the 24-44 year old age range. This growth is expected to accelerate, especially between FY 2017 and FY 2020, according to the State Demographer's Office. The Demographer's Office estimates growth in the Colorado adult population at a rate of approximately 2% per year through at least 2025.

SUMMARY

Many factors are driving the increase in the prison population: increases in the number of arrests, filings, convictions, prison sentences, probation revocations, and the growth of the state population. Legislation (such as the recent felony DUI law and restrictions on eligibility for a parole hearing) also contribute to growth. These components will serve to push the population upwards in coming years.

DOC's successful efforts to reduce technical violations had an important but short-term impact on the prison population. However, because many of these individuals will remain in prison less than six months, the long-term impact of this reform is mitigated.

Individuals whose most serious crime is drug possession are being sentenced to prison at high rates; this is especially affecting women which may be contributing to the increasing number of women in the inmate population. The proportion of the population represented by women increased from 8.8% at the end of FY 2013 to 9.9% as of June, 2017.

The increase in motor vehicle thefts since 2011, according to law enforcement officials familiar with these crimes, reflects a shift from what might be considered a basic property crime to one in which the vehicle theft is part of web of other criminal activity including drugs (particularly heroin and methamphetamine), gang activities, car-jacking, identity theft, and other serious offenses. Consistent with national trends, law enforcement investigators now consider auto theft an "event" within a series of related crimes. This crime will also exert pressure on the prison population in the coming years.

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