RE-DIRECTING JUSTICE

The Consequences of Prosecuting Youth as Adults and the Need to Restore Judicial Oversight

QUICK DIRECT FILE FACTS

FROM OVER 1800 DIRECT FILE CASES SINCE 1999

85% OF DIRECT FILE CASES INVOLVE MIDDLE-TO-LOW LEVEL FELONIES

15% OF DIRECT FILE CASES ARE HOMICIDES

5% OF DIRECT FILE CASES ARE FIRST DEGREE MURDER

22% OF DIRECT FILE CASES ARE DISMISSED

75% OF DISMISSED CASES INVOLVE WHITE YOUTH

25% OF DIRECT FILE CASES RESULT IN PROBATION OR DEFERRED SENTENCES

28% OF DIRECT FILE CASES ARE CONVICTED AS CHARGED

95% OF DIRECT FILE CASES ARE PLEA BARGAINED

82% OF YOS ADMISSIONS ARE BLACK & HISPANIC YOUTH

A Special Report by the
Colorado Juvenile Defender Coalition

TABLE OF CONTENTS

Executive Summary and Recommendations 2

PART I: INTRODUCTION

The Changing Landscape of Juvenile Court
and the Prosecution of Children as Adults 13

The History of Colorado's Direct File Statute 19

PART II: KEY FINDINGS

1. Trying youth as adults doesn't make Colorado safer,
but increases the likelihood a teenager will re-offend.....27

2. Direct file has affected thousands of youth, and the law
disproportionately impacts black and Hispanic youth 30

3. The vast majority of youth impacted by direct file
are not the most serious offenders 37

4. Most youth who enter the system as a result of Direct File do not see
their case reviewed by a judge or jury, and are convicted of
a lower offense than their original charge 41

5. Most youth prosecuted in adult courts await trial in adult jails,
which are dangerously unequipped for youth 43

6. Convicting youth as adults can expose them to all of the risks
youth face in adult prisons, and carry long-term consequences
that make it difficult to reintegrate into society 45

7. The Youthful Offender System has not been shown to be an effective
intervention program, is costly, and its services and outcomes
need to be better scrutinized 46

PART III: APPENDIX

Acknowledgements 63

Methodology 64

EXECUTIVE SUMMARY

Nearly 20 years ago Colorado altered the course of juvenile justice policy by sidetracking youth and resources to the adult criminal system. It was 1993 when over-publicized crime led to a five-day special legislative session that created the Youthful Offender System and made it easier to convict children as adults. A quarter of a billion dollars later, it's time to take a look at how we got to this point, how these laws have affected children and public safety, and what policymakers can do to stay on track to achieve meaningful reform.

Statistics show that "direct filing," prosecuting youth as adults, has cast too wide of a net. The law was contemplated for the most serious cases and repeat offenders who exhausted chances in the juvenile system. Yet research indicates that prosecutors are more often direct filing mid-level felony cases against teenagers who've often had no previous experience locked up in the juvenile system. The direct-file law has been used to try thousands of Colorado youth as adults, inappropriately incarcerate them in adult jails and prisons, and mark them with lifelong felony convictions.

The direct-file law also is ineffective. Contrary to what lawmakers intended, the direct-file law has done little to deter juvenile crime. A large body of research shows that prosecuting children as adults makes it **less** likely they'll be rehabilitated and become productive members of society. The departure from juvenile treatment is damaging kids, creating redundancies in state services, and jeopardizing community safety.

In recent years, Colorado's Legislature has taken important first steps toward reconsidering these policies but more work needs to be done. Research-based reforms, not half-measures, are necessary to bring balance back to the state. Colorado needs solutions that guarantee constitutional due process for children facing adult prosecution, as well as opportunities to be rehabilitated with programs proven to prevent recidivism in the juvenile system.

The Colorado Juvenile Defender Coalition spent the last year weighing the early 1990s rationale for prosecuting youth as adults against state data and current research that raise serious questions about the cost and consequences of our laws. This executive summary provides an overview of the full report, presents fact-based findings, and recommends urgent reform.

Children Need a Separate System of Justice

The law in Colorado has long acknowledged differences between children and adults. The state has age-based policies that prevent anyone under 18 from voting, sitting on a jury, buying cigarettes, buying a lottery ticket, entering a contract, marrying without parental consent or operating a motor vehicle without restrictions. These laws recognize that youth in their formative years—even 17-year-old high school seniors—have incomplete appreciation of risk and consequence and need guidance from their parents in decision-making.

Due to teenagers' stage of development, research shows that they act out for different reasons than adults, have less control over their environment, and generally are more impulsive. Research also shows that adolescents are likely to grow out of their immature behavior. For the same reasons children are less culpable than adults, they're also much more likely to respond to rehabilitative efforts. The U.S. Supreme Court has recognized these findings in recent decisions. More than a century ago, Denver Juvenile Judge Ben Lindsey drew from these principles when, in 1903, he created one of the first court systems in the nation designed specifically for children.

Colorado's juvenile system—including the Department of Human Services' Division of Youth Corrections (DYC)—includes punishment. It seeks to hold youths accountable for their crimes by meting out a range of increasingly serious consequences, including sentences of up to seven years in juvenile commitment facilities. In contrast with the state's Youthful Offender System (YOS), DYC has vast experience treating serious juvenile offenders with programs and facilities that craft individualized and localized plans for each child and family.

The juvenile system operates under the "Children's Code" that involves parents or guardians in cases against children 10 to 17 years old. The parents or guardians sit next to their teen in court and can be included in case dispositions that call for counseling or increased supervision. They have the right to participate in the proceedings, discuss possible outcomes with the judge or treatment team, and certify they believe the resolution of the case is in the best interest of their child.

When the state made it easier to charge youth as adults in 1993, juveniles suddenly became subject to previously enacted adult sentencing laws—prison terms that weren't meant for kids. By choosing to direct file, prosecutors in effect took over life-altering decisions about children's fates.

The U.S. Supreme Court has recognized the severity of moving an adolescent from juvenile court to an adult criminal court in which the protections of juvenile laws

no longer apply. From a constitutional perspective, due process is denied when district attorneys—who have a stake in the outcome of their prosecutions—decide whether a teenager is tried as an adult. Direct-file policies circumvent the involvement of impartial juvenile court judges who are able to weigh evidence presented by both sides.

Direct filing also fails to engage families. In adult criminal courts, the parent or guardian isn't allowed to sit next to their child during proceedings and isn't required to approve plea agreements. If the juvenile is held in an adult jail, the parent or guardian cannot visit in the same room, and can only communicate over a television screen or telephone. The parent and child may have no physical contact during the months—or possibly years—the case is pending in criminal court. These policies and procedures ignore the vulnerabilities of youth and unnecessarily strain families who already are in crisis.

Pathways for Children to Adult Criminal Court

While most children charged with crimes in Colorado are handled in the juvenile court system, a significant number are prosecuted every year in adult courts. There are two ways this plays out.

The first way is through a process known as "judicial transfer." Colorado has a law allowing juvenile court judges to move a case to adult criminal court. Under judicial transfer, the prosecutor initiates the transfer request; the judge sets a hearing where the prosecution and the child's defense counsel can present evidence. In these cases the judge considers the child's unique circumstances, risk, needs, and determines which system is appropriate.

The second way is by "direct file"—the law that was expanded in 1993 to give prosecutors greater discretion to file adult charges if the case meets basic age and offense characteristics. In some cases, prosecutors have to provide notice that they are considering direct filing a case in adult court. Yet in no cases does the juvenile have a right to judicial review of the prosecutor's choice to direct file. The law also gives prosecutors sole discretion whether a direct-filed youth should be held in an adult jail or a juvenile detention facility.

The cases analyzed for this report include both judicial transfer cases and direct file cases. Since the 1993 expansion of the direct file statute, the vast majority of juvenile criminal court cases are a result of prosecutorial direct file. Many organizations—including the National Council of Family and Juvenile Court Judges, the Federal

Advisory Committee on Juvenile Justice, and the Centers for Disease Control's Task Force on Community Preventive Services—caution against direct filing and recommend that every child considered for adult court have a transfer hearing decided by a judge.

In recent years, Colorado has made progress in reconsidering the prosecution of children as adults. In 2006, the state passed legislation that abolished the sentence of life without parole for juveniles. In 2009, it modified laws related to holding youth in adult jails. And in 2010, it made modest changes to the direct file statute. These are significant steps. Yet they stop short of accomplishing the improvements needed to fully address the needs of youth and, ultimately, to protect the safety of a state in which children are coming of age with felony convictions in adult prisons.

In hindsight, it's clear that well-intentioned lawmakers acted hastily during the five-day special session in 1993 when, responding to headlines hyping the "Summer of Violence," they dismantled many of Judge Ben Lindsey's historic reforms. Colorado's overly broad direct-file laws have had serious implications not only for the teenagers and families directly impacted, but also for the general public. Today, policymakers have more information about the research and expert recommendations regarding the prosecution of kids as adults. Now is the time to restore balance to the juvenile justice system that Judge Lindsey pioneered here in our state.

Key Findings

1. Trying youth as adults doesn't make Colorado safer, but increases the likelihood a teenager will re-offend.

While supporters of Colorado's direct file law may tout a decline in youth crime as evidence of the law's success, prominent researchers debunk this theory by showing that crime decreased for youth and adults, even in states that that didn't pass laws to direct file. In fact, multiple research studies have come to the conclusion that prosecuting youth in the adult system increases the risk of re-offending and decreases public safety.

An analysis of Colorado's crime rates by county and judicial district fails to show a relationship between direct file practices and juvenile arrest rates. Research published by the Centers for Disease Control and the Office of Juvenile Justice Delinquency and Prevention show prosecuting youth as adults does not deter crime.

2. The vast majority of youth impacted by direct file are not the most serious offenders, and the law disproportionately impacts black and Hispanic youth.

The common assumption during the height of the 1993 special session was that there had emerged a new kind of juvenile offender who was beyond the control and rehabilitation of the juvenile justice system. But lacking hard data and statistics lawmakers cast the net too wide. Today, some 85 percent youth prosecuted in the adult system are not accused of killing another person, and only 5 percent all direct file cases filed are for first-degree murder.

Direct file practices disproportionately affect children of color, particularly when it comes to how cases are resolved. From 2009 to 2010, for example, 82 percent of juveniles admitted to the Youthful Offender System were black and Hispanic. In contrast, 75 percent of dismissed cases involved white youth.

One of the main indicators that direct file has been overused is the fact that 22 percent of such cases are dismissed. Some 75 percent of these cases have been filed for Class 3, middle-level felonies or lower. Data

also shows that 25 percent of direct file cases result in probation or deferred sentences. This type of less serious case warrants juvenile court consideration that looks beyond the offense charged and sees the whole child and family.

3. Most youth who enter the adult system as a result of Direct File do not see their case reviewed by a judge or jury, and are convicted of a lower level offense than their original charge.

While prosecutors have always had the power to choose which offenses to charge, direct file inappropriately gives them discretion about whether to file those changes in a juvenile or adult court. What's more 95 percent of all cases are being resolved by plea bargain agreements where district attorneys are deciding the sentence as well. That means the child's case is not reviewed by a judge or jury. Direct file gives prosecutors too much unchecked authority.

Direct file is commonly being used for medium and lower level offenses. Of the juveniles who end up in adult criminal court, only 28 percent are convicted of the highest crimes they were originally accused of committing.

What this means, in practice, is that prosecutors can leverage direct-file to subject juveniles to adult sentencing in the Corrections Department's Youthful Offender System. The lack of due process also circumvents the role of judges. Judges can listen to both sides and weigh the evidence to make an individualized determination for the child, the victim, and the community.

4. The juvenile justice system already is equipped to manage and serve the kind of youth ending up in the adult system.

Lawmakers in 1993 intended direct-file to be "a second last chance" for youth too difficult to manage in the juvenile system. Yet the law is being used against kids who haven't been given a first last chance. YOS previously reported 80 percent of direct-filed youth incarcerated in the adult Department of Corrections' Youthful Offender System had **never** previously been sentenced to the Department of Human Services' Division of Youth Corrections (DYC).

DYC has developed a sophisticated process that considers the needs and risk level of youth. It has experience shaping safety strategies for

serious offenders with a collaborative approach that uses evidence-based practices, medical and psychological services, and counseling that includes the whole family. DYC has an established statewide network of facilities so programming can be localized to promote family engagement and include victims. Its staff is specifically trained to work with juveniles.

5. Most youth prosecuted in adult courts await trial in adult jails, which are dangerously unequipped for youth.

Direct filing leaves children awaiting trial in adult jails, which do not have separate areas for juveniles and cannot provide appropriate family visitation or adequate recreational and educational services. Although the law was changed in 2010 to require four hours of high school education a week, only one-third of jailed youth actually received any educational services.

The alternative also is grim. For their protection, juveniles often are held in isolation cells for 23 hours a day. Solitary confinement is known to be very damaging for developing adolescents. Two teenagers have committed suicide in Colorado's adult jails since 2008.

Current law inappropriately gives prosecutors discretion to have children transferred to adult jails that cannot serve their needs. That decision ought to be made by judges. Colorado is actively taking steps in the right direction. A pending 2012 bill will require all direct-filed youth remain in juvenile detention facilities unless the facility asks a judge to transfer the child to jail.

6. Convicting youth as adults can expose them to all of the risks youth face in adult prisons, and carry long-term consequences that make it difficult to reintegrate into society.

Although most children prosecuted as adults go to YOS, the second largest group of teens is going straight into a regular adult prison. Adult prison is traumatizing for juveniles and increases the likelihood they will grow up to be adult criminals. Youth held in adult facilities are at the greatest risk of sexual victimization. The National Prison Rape Elimination Commission found that "more than any other group of incarcerated persons, youth incarcerated with adults are probably at the highest risk for sexual abuse."

Under direct file, juveniles are receiving adult criminal convictions. They can never petition for the court to seal their record or convert their record to a juvenile adjudication. All youth who complete the Youthful Offender System have permanent felony convictions that make it difficult to get a job, go to college, and find a place to live. These barriers make it tough for direct-filed youth to earn enough money to live independently, pay restitution to the victim, cover court costs and go on to live crime-free lives.

7. The Youthful Offender System has not been shown to be an effective intervention program, is costly, and its services and outcomes need to be better scrutinized.

Colorado has spent a quarter of a billion dollars on the Youthful Offender System. When the program was created, legislators were promised aggressive evaluations of its effectiveness. The YOS statute requires independent evaluations every two years. No evaluation has been conducted since 2004.

Prior evaluations of YOS raised significant concerns about the lack of mental health care and evidence-based interventions, the absence of gender appropriate programming for girls and the abandonment of assurances that staffers would have experience working with juveniles.

YOS uses a recidivism measure that is less rigorous than the Division of Youthful Corrections' measure which many inappropriately use to claim YOS outcomes are better. But in calculating re-offense rates the Corrections' Department only counts YOS graduates who return to prison on a new crime. DYC counts all youth who pick up as new misdemeanor or felony filing, regardless of whether they are convicted or sentenced. No study has been conducted comparing the outcomes of youth in the two programs.

Recommendations

Nearly all direct-filed children will one day be released back into Colorado's communities. We know far more today than we did in 1993 about what helps young people move beyond their bad decisions and transition into adulthood.

Now is the time for Colorado to reassess policies that are trying and incarcerating juveniles in the adult system. Restoring opportunities for youth to be adjudicated in juvenile court leads to greater opportunities for future success and, thus enhances public safety for all of us. Key recommendations to consider that would help the system embrace data-driven research-based best practices follow:

1. **Restore authority over whether a youth should be tried in criminal court to juvenile court judges to ensure constitutional due process and better outcomes for kids and families.**

Juvenile court judges are best qualified to make critical decisions about whether a teenager should be transferred to the adult system. These judges are the most knowledgeable about adolescent development, rehabilitation and punishment in the juvenile system, and are best positioned to consider evidence from all sources before making life-altering decisions. Returning authority to neutral fact-finders will insure that more information is available for consideration and that determinations are transparent and reviewable.

Every child should receive a constitutional due process hearing before being prosecuted as an adult.

2. **If direct file laws are maintained, raise the age limit to 16 and over, restrict criteria to the most serious cases and provide juveniles an opportunity to request transfer back to juvenile court.**

Juveniles under the age of 16 are too young to begin their case in adult court. Studies show children under the age of 16 are less likely to understand court proceedings, effectively cooperate with their attorneys, and make sensible decisions. If policy makers choose to maintain prosecutorial discretion to charge juveniles as adults, the age limit should be 16 and over, so all younger children can be evaluated by a juvenile court judge through transfer hearings.

Direct filing was enacted to address the most serious offenses and should be restricted to extreme circumstances such as first-degree or second-degree murder. Even in those cases, children should not be defined by the offense charged, and should have the ability to ask the adult court judge to transfer the case back to juvenile court based upon their individual circumstances and ability to be managed and safely treated within the juvenile court system.

3. Create a separate sentencing scheme for juveniles in adult court.

Colorado's criminal court sentencing laws were designed for adults and include long mandatory sentences that deprive judges of discretion to impose individualized sentences for juveniles. Adult mandatory sentencing laws should not apply to children convicted as adults. A separate, flexible sentencing grid should be enacted that provides more options for adolescents.

4. Keep youth out of adult jails.

It is incumbent on Colorado to keep children—even those accused of serious crimes—as physically and psychologically safe as possible. Juveniles should have opportunities for pre-trial community supervision. Those who need to be locked up should be detained in juvenile facilities, which are better equipped with trained staff to manage an adolescent population.

5. Provide opportunities for youth convicted as adults to earn the ability to seal criminal convictions.

Young adults who had been direct filed and convicted as youth, who pay restitution and successfully reintegrate into society should have the ability to seal their criminal convictions. One alternative is to provide a method of converting adult convictions into juvenile adjudications. Colorado should recognize the redemption of former youth who despite all odds make amends and succeed.

6. Improve data collection. Provide comprehensive reports on the impact, cost and effectiveness of prosecuting children as adults.

Due to high cost and low prior performance, there is an urgent need evaluate the effectiveness of the Youthful Offender System (YOS) to

ensure Colorado isn't wasting taxpayer dollars on a corrections model program for youth that's not effective. The state should ensure the statutorily required independent evaluation of YOS is completed every two years. It also should take immediate inventory of whether YOS is adequately meeting the needs of girls and mentally ill youth. Thorough accountability will require YOS to measure recidivism rigorously, include information on the prior record of juveniles admitted to YOS, and ensure that YOS staff has experience working with kids.

Examine the racial and ethnic disparities among children prosecuted and sentenced in the adult criminal justice system. Engage national experts to reduce disproportionate rates of minority youth being prosecuted as adults.

Collect comprehensive data on juveniles prosecuted in the adult system, including whether they were involved in the child welfare system, and have prior juvenile adjudications or sentences to the Division of Youth Corrections.

PART I: INTRODUCTION

THE CHANGING LANDSCAPE OF THE JUVENILE COURT & THE PROSECUTION OF CHILDREN AS ADULTS

A Separate Juvenile Court to Support Youth Development

Colorado has many long-standing laws and policies recognizing differences between kids and adults. Laws prohibiting children from voting, entering into contracts, and serving on juries, for example, acknowledge what common sense tells us: that juveniles have a diminished capacity for weighing serious consequences. It was this principle – along with notions of redemption and growth – that led Colorado in 1903 to become the second state in the nation to establish a separate court for children charged with crimes.

Pioneered by Denver Juvenile Judge Ben Lindsey, Colorado's juvenile court was part of a national social reform movement to protect children from the harsh effects of adult criminal courtrooms, jails, and prisons.[1] Juvenile courts were set up across the country to rehabilitate children in their formative years separately from adults through guidance and services. Colorado's juvenile system holds public safety and accountability paramount while taking into consideration the best interests of the child, the victim, and the community in providing appropriate treatment to reduce the rate of recidivism and help youth offenders become productive members of society.[2]

Colorado's juvenile courts are governed by "The Children's Code," which applies to children 10 to 17 years of age and their families. The code is founded on the belief that families play a significant role in both the cause and cure of juvenile delinquency, and intends for parents to participate in the assessment and treatment of their child.[3] A juvenile court case begins when a prosecutor files a petition of delinquency that names the parent or guardian as the respondent in the interests of the child. Parents must be advised of their child's constitutional and legal rights,[4] and are required to attend all proceedings.[5] The juvenile court may impose requirements on the parent such as counseling, parenting classes, and increased supervision of their child.[6] In most courtrooms, parents and children are required to co-sign all documents related to their case.

The role of the judge in a juvenile court also is unique. In addition to the traditional administrative functions of managing a courtroom and protecting the rights of the participants, the juvenile judge or magistrate is tasked with ordering services that

protect the interest of the community and are appropriate to a child's needs.[7] Judge Lindsey and other founders of the juvenile system encouraged interactive judges who engaged the interests of children and embraced their individual strengths to help motivate improvements in behavior.[8]

Juvenile court judges have a wide selection of sentences to choose from to craft individualized plans for every child and family appearing before them.[9] Sentencing options include restorative justice programs, counseling, treatment, probation, placement out of the home, or commitment to a juvenile lock-up facility.[10] For teenagers found to be repeat, violent, or aggravated offenders, the Colorado Children's Code has mandatory sentencing terms that set serious consequences.[11] The current maximum sentence a child can receive in juvenile court is seven years. Senate Bill 28, which is pending bill before the 2012 Legislature, would further increase consequences for juveniles convicted of first- or second-degree murder. For these most serious cases, the Senate Bill 28 would provide an alternative to adult prosecution by allowing for consecutive sentences that would keep a youth locked in a juvenile facility until they turn 21, and then are subject to transfer to an adult prison, facility or program.[12]

The Criminal Code was Designed for Adults

Colorado's criminal laws were written to apply to adults. When, for example, the Legislature in 1991 increased the penalty for first-degree murder to life in prison without the possibility of parole,[13] there was no discussion the law would apply to teens convicted as adults.[14] Laws later enacted in 1993 through 1997 to make more juveniles eligible for adult prosecution suddenly subjected children to developmentally inappropriate sentencing laws.[15] This runs counter to the ideals described by Colorado's Supreme Court for how juveniles are handled in this state: "The goal of the juvenile system is to remain informal, flexible, and focused on the rehabilitation of the young person, whereas the adult system necessarily hardens in its approach to criminals –in procedures, goals and penalties."[16]

When a child as young as 14 years of age is convicted in criminal court and sentenced to a term of years in the Department of Corrections he or she goes to an adult prison. There is no Colorado law that requires separating youth from adult inmates in the general prison population. Federal laws that require "sight and sound" separation between children and adults do not apply to youth who are sentenced as adults.

In most states, an adult is defined as a person who has reached 18 years of age or older.[17] Lawmakers set the boundaries of the juvenile court based upon the

age of the child, and carved out limited exceptions permitting the prosecution of children in adult criminal court.[18] **Increased criminal prosecution of children subjects them to the same rules, convictions and sentences imposed on adults — the very outcomes juvenile courts were designed to stop a century ago.**

Adult criminal court doesn't serve the needs of children and parents. When a child is prosecuted as an adult, the parent is not a party to the case and is not permitted to sit at the table in court. The criminal court judge has no authority to order the parent to appear in court or participate in treatment. Likewise, adult jails don't accommodate families. If a child is held in an adult jail, the parent can only "visit" over a television screen and telephone. Parents and children can go months – and, in some cases, more than a year -- without any physical contact while a juvenile is held in an adult jail awaiting trial. Because the case is handled like any other criminal case, the parent is left out of the criminal court process. Adult criminal prosecution needlessly puts up barriers within already struggling families.

Pathways that Send Youth to Adult Criminal Court

The traditional method for moving a child from juvenile court to adult criminal court is called "judicial transfer." Forty-six states, including Colorado,[19] have judicial transfer laws that give juvenile court judges the discretion to decide whether a child's case should be tried in adult criminal court.[20] A Colorado court has found the judicial transfer decision analogous to a sentencing decision,[21] which makes sense since the court's ruling determines what sentencing code –juvenile or adult—the child will face. The power to impose a sentence is a traditional judicial function.[22] Judicial transfer statutes appropriately vest transfer decisions with judges.

In situations involving judicial transfers, the case begins in juvenile court and the prosecutor files a motion to transfer the case to adult criminal court. The juvenile court judge sets the motion for a hearing in which both the prosecutor and the juvenile defense attorney can present evidence. The judge considers a list of fourteen factors -- including the maturity of the child and the seriousness of the offense --and determines whether the interests of the child and the community are better served by treatment in the juvenile system or warrant more severe consequences in the adult criminal court system.[23]

Under judicial transfer, the prosecutor seeks to show that a youth is too dangerous or incapable of rehabilitation within the juvenile court system. The juvenile court judge considers the evidence and then makes the decision of whether to "waive" or give up jurisdiction and transfer the case to adult criminal court -- a ruling subject

to appeal by either side. Judicial transfer provides an individualized assessment of whether a child is capable of being rehabilitated in the juvenile court system before the decision is made whether to transfer to adult court.[24]

Transfer hearings ensure constitutional rights to due process. In the landmark *Kent v. United States* ruling, the U.S. Supreme Court found that a judge's decision to transfer a child from juvenile court to criminal court was a "critically important" action with "tremendous consequences" for the child.[25] The Court relied on the 5th Amendment in holding that "there is no place in our system of law for reaching a result of such tremendous consequences without ceremony – without hearing, without effective assistance of counsel, without a statement of reasons."[26] In practical terms, this means teenagers facing judicial transfer to criminal court are entitled to a fair hearing, representation by counsel, and a record of the facts and the reasoning underlying the judge's decision. Colorado's transfer law complies with the *Kent* decision.

A major shift in juvenile justice took place from the 1980's through the 1990's in response to an increase in violent crime and sensationalized media coverage of juvenile cases.[27] The thinking at the time was that youth offenders were criminals first, not children, and that policy should focus heavily if not completely on protecting the public.[28] Most states created new pathways to make it easier to try children in adult criminal court and incarcerate them in adult jails and prisons.[29] Twenty-nine states – not including Colorado -- enacted "mandatory exclusion laws" requiring certain cases be filed in adult criminal court at the outset. In those states, lawmakers eliminated discretion by redefining the boundaries of juvenile court for all youth accused of the same crime. Still, most of those states alleviated the harsh effects of mandatory laws by offering the possibility of "reverse waiver" or "reverse transfer" hearings that give teenagers the opportunity to petition the criminal court to transfer the case back to juvenile court.[30]

Direct file laws -- like the one we have in Colorado -- were enacted by fourteen states to give prosecutors discretion to decide which juvenile cases should be filed directly in adult criminal court. Direct file eligibility is based upon the age of the child and the charged offense.[31] In Colorado, once a case is filed directly in adult criminal court, the juvenile has no opportunity to appeal or contest the prosecutor's decision.[32] Ten of the fourteen states that permit direct file also provide reverse transfer hearings giving judges review over the prosecutor's filing decision, or provide an opportunity to remand the case to juvenile court at sentencing.[33] **Colorado is only one of four states with complete prosecutorial discretion to file the case in criminal court and no judicial review for remand to juvenile court.**

Fundamental fairness has been the hallmark of juvenile court.[34] The constitutionality of direct file and mandatory exclusion laws has yet to be considered by the Supreme

Court, although critics argue these laws violate the due process requirements set in the *Kent* decision.[35] Some state courts have struck down direct file laws. The Utah Supreme Court, for example, overturned a direct file statute because it permitted two identically situated juveniles to face radically different penalties by giving prosecutors discretion "in deciding which members of a potential class of juvenile offenders to single out for adult treatment." [36] The Supreme Court of Appeals of West Virginia expressed the same concern:

"For example, if two juveniles in different counties commit essentially the same offense, and are essentially alike in terms of their 'personal factors,' one juvenile could be transferred to adult status and one remains a juvenile – depending solely upon the different philosophies of two different prosecutors." [37]

The Colorado Supreme Court reviewed Colorado's direct file statute in 2006, but avoided ruling directly on whether the law was constitutional based upon its statutory interpretation of the law under the circumstances in that case.[38]

The National Council of Family and Juvenile Court Judges recommend against prosecutorial direct file laws. Specifically, the group asserts that the determination of whether a case should be handled in adult or juvenile court is best made by a judge after an evidentiary hearing in which the youth is represented by competent counsel.[39] Providing both sides an opportunity to be heard helps the system make a thorough assessment of a child's risk, needs, and circumstances, leading to better decisions and more effective use of state-funded programs.

New Adolescent Development Research Supports Juvenile Court Outcomes

Advanced studies on adolescent development and neuroscience show that young people's brains grow until age 25.[40] **Adolescents are less able than adults to assess risks and consequences, control impulses, handle stressful situations and say no to peer pressure.**[41] The pre-frontal cortex of the brain, which is responsible for "executive" functions of planning and abstract thinking, is not fully developed until one's early to mid-twenties.[42] How the teenage brain functions is also relevant in understanding why juveniles become involved in criminal behavior:

"Functional magnetic resonance imaging reveals that teenagers rely more heavily than adults on the amygdala and less heavily on the prefrontal cortex when responding to stressful stimuli. Thus, adolescent reactions to fear-evoking stimuli appear to be more instinctual responses rather than the product of cognitive processes... Many adolescents' decisions about risky behavior appear to be more a function of "gut reactions" than of conscious thought processes."[43]

This research has been relied upon by U.S. Supreme Court in several juvenile law decisions that consistently have held that youth should be treated differently from adults in the juvenile and criminal justice system.[44]

How society responds during this important period of development makes a difference in whether youth offenders mend their ways or continue breaking the law. National research tells us what doesn't work. For example, "scared straight" programs – those designed to deter youth from crime by lecturing them in prison – actually increase crime.[45] Equally ineffective are boot-camp programs that employ a military-style regimen.[46] Both programs have since been determined as unlikely to reduce recidivism rates.[47]

Leading experts on juvenile crime prevention have drawn from research to devise rehabilitation methods that have been proven to work. Blueprints for Violence Prevention -- a project of the Center for the Study and Prevention of Violence at the University of Colorado -- identifies drug and violence prevention programs that meet high scientific standards of effectiveness so policy makers can make smart use of scarce resources and avoid programs that do more harm than good.[48] For example, Blueprints certified "Multisystemic Therapy" and "Functional Family Therapy" programs take an intensive family and community approach that incorporate all of the systems and people in a child's life in working together toward rehabilitation.[49]

The MacArthur Foundation also has produced research showing that community and evidence-based programs are effective for delinquency intervention, even for youth who commit violent offenses.[50] The Foundation's "Pathways to Desistance" study followed kids who had committed serious offenses ranging from burglary to murder and found that only a small minority went on to commit crimes as adults.[51] The study also found longer institutional sentences do not appear to reduce re-offending. Rather, criminal activity was curbed with substance abuse treatment and family involvement.[52] The findings in major studies are consistent: closely tailored programs that engage kids, their families and communities lead to far better results than costly once-size-fits-all lock-up facilities. Better outcomes increase public safety for everyone.

Recent national polling regarding the prosecution of children as adults shows the general public wants juvenile justice reforms that focus on prevention and rehabilitation.[53] A majority of adults surveyed think teenagers should be held in juvenile facilities instead of adult facilities.[54] **With respect to who makes the decision to place a youth in adult criminal court, 81 percent of adults polled trust judges --not prosecutors-- to determine if and when a child should be prosecuted as an adult.**[55] Public opinion and scientific research reinforce the

principles on which Colorado's juvenile justice system was founded: Adolescents in their formative years are less culpable than adults and need effective rehabilitation to prevent re-offending.

Persuaded by research and polling, many states are reconsidering adult prosecution policies and enacting smart reforms that bring more youth back to juvenile court. Connecticut and Illinois have raised the minimum age for mandatory transfer to adult court.[56] Mississippi and Delaware have removed certain offenses from adult court jurisdiction.[57] Oregon and Texas have passed laws to house children in juvenile detention facilities instead of adult jails.[58] And Ohio and Arizona enacted "reverse transfer" laws so children in adult court can petition to return to juvenile court.[59] Across the country, state trends are returning more youth to juvenile court and juvenile facilities for more effective treatment.[60]

THE HISTORY OF DIRECT FILE IN COLORADO

The Evolution of the Direct File Statute's Expansion

Since the inception of Colorado's juvenile justice system in 1903, the state has gradually carved out exceptions for prosecuting children as adults. Colorado initially allowed direct prosecution only in cases involving 16- to 17-year-olds charged with the most serious Class 1 offenses such as first-degree murder.[61] Eligibility for adult prosecution remained the same until 1968, when the Children's Code was created and the minimum age for direct filing for first-degree murder was lowered to 14.[62] In the 1970's, lawmakers added new offenses – Class 2 and 3 felonies — for direct-file eligibility, but only for juveniles 16 years or older who previously had been adjudicated for a felony.[63]

In earlier days of expanded direct-file eligibility, lawmakers gave more discretion to adult criminal court judges overseeing these cases. **Colorado law previously gave adult criminal court judges the power to sentence the case as a juvenile court would or send the case back to juvenile court for sentencing.**[64] This meant a 17-year-old convicted as an adult could still receive a juvenile sentence or even be transferred back to juvenile court to be sentenced. Sentencing flexibility was partially curbed in the 1980's when adult sentences became mandatory for children convicted of first-degree murder,[65] children 16 years and older who had prior juvenile commitments,[66] and later for children convicted of violent crimes.[67]

For 90 years -- from 1903 to the 1993 -- direct prosecution in criminal court for anything less than first-degree murder was permitted only if a juvenile had a previous felony adjudication. As the direct file law stood in January of 1993, prosecutors had discretion to file charges directly in adult court if the child was:

- 14 years or older, and charged with a Class 1 felony
- or 16 years or older, with a prior felony adjudication, charged with a Class 2 or 3 felony[68]

During the regular legislative session in 1993, lawmakers eliminated the prior juvenile record requirement for 16- to 17-year-olds accused of Class 2 or 3 felonies that constitute crimes of violence.[69] At that time, adult sentencing was mandatory for first-degree murder and violent crime convictions. Other juvenile justice bills to increase sanctions and create a tough new juvenile program were rejected.[70]

1993 and the Media Constructed "Summer of Violence"

During the summer of 1993, Colorado's news media dramatically increased their coverage of violent crime. Juvenile crime in Colorado had been gradually rising from the 1980's up through its peak in 1991.[71] But, stepped-up news coverage in the summer of 1993 triggered public outcry about a higher perceived rate of youth violence, prompting lawmakers to take action.[72]

The Denver Post and *Rocky Mountain News* covered murders, rapes, and shootings in graphic detail that summer, with the over-arching implication that kids with guns were to blame.[73] A photo attached to an August 8, 1993 *Denver Post* article headlined "Denver's Summer of Violence" showed police searching youth for weapons, still the text of the article reported that juvenile crime rates had increased only slightly despite a substantial growth in the juvenile population.[74] When *The Denver Post* released news from the Colorado Bureau of Investigation that same weekend showing that serious crime was down 12 percent, it was in direct contrast with the widely held belief that crime was going up.[75]

The so-called "Summer of Violence" was a media construct that had more to do with a rise in news coverage of violent crime than with crime itself.[76] ***The Denver Post* ran up to ten times more articles on youth violence in the summer of 1993 than in the summers of 1992 and 1994.**[77] Paul Colomy, a Sociology and Criminology professor at the University of Denver, created this table summarizing the number, length and placement of news stories about juvenile and violent crime published by *The Denver Post* during the summers of 1992, 1993 and 1994:[78]

STORIES	1992	1993	1994
Total Stories	73	196	61
Front Page Stories	2	44	6
Section A Stories	2	73	10
Editorial Page Stories	3	43	5
Length of All Stories	1512.65	5606.87	1615.98
Total Photographs	29	106	2
Front Page Photographs	0	32	3

In January of 1994, *The Denver Post* published an article titled "Year of Violence: A Review of Denver's 130 Homicide Cases that Separates the Facts from the Fears."[79] The paper acknowledged that Denver homicides were down in 1993 and raised the question of whether the media was at fault for making the city seem more dangerous the summer before.[80] A police officer was quoted as saying "the misperception may stem from a recent pattern in journalism."[81]

Within the disproportionate news coverage, articles heightened fear by skewing and sensationalizing their portrayal of perpetrators and victims. Even though statistically the most likely victim of youth violence in the summer of 1993 was 17 and Hispanic, the victims portrayed by the news media were very young children or elderly, and white.[82] The articles also imparted a sense of increasing and random violence that was spreading beyond gang-ridden urban neighborhoods into traditionally "safer" Denver neighborhood and suburbs.[83]

By the end of July 1993, Gov. Roy Romer unveiled an "iron fist" plan, calling for a special legislative session to reexamine juvenile justice bills that had failed during the regular session and to consider new proposals with even harsher sanctions.[84] These bills were predicted likely to pass in special session because, as the Governor put it, there was "a different atmosphere now than there was in spring when the session was here...and a much more radical need for action."[85] Colorado was not alone. Many states reacted to high profile juvenile crime portrayals that led to a "moral panic" and rushed through reforms that led to wholesale changes in juvenile justice policy.[86]

The Five Days that Expanded Direct File, Eliminated Judicial Discretion and Created the Youthful Offender System

The special legislative session was called to order on September 7, 1993 and closed five days later on September 11, 1993.[87] Governor Romer set the deadline and urged legislators for quick passage.[88] Of the 33 bills introduced, 10 passed to become law.[89] Hearing testimony shows bills were moving so quickly during the

special session that up to six were being heard in committee at any given time, making it difficult for interested stakeholders to testify or even attend all of the hearings.[90] All of the statements and hearing testimony presented in this report were obtained from recordings located at the Colorado State Archives.[91]

Sen. Dottie Wham, (R-Denver/Arapahoe), introduced and shepherded Senate Bill 9 through the five-day special session. Her bill expanded prosecutorial discretion to file charges against more youth in adult criminal court. The age limit for direct file was lowered to 14 for all eligible offenses, and the offenses were increased to include all violent crimes and attempted violent crimes. Although adult sentencing already was mandatory for the most serious crimes, Wham's bill removed the section of the earlier law that let a judge impose a juvenile sentence or send a case to juvenile court for sentencing. In effect, it blocked off the last pathway back to juvenile court.

Wham's bill also created the Youthful Offender System (YOS) as a program within the adult Department of Corrections (DOC). Known as a "middle tier" alternative between juvenile and adult corrections for children convicted of violent or weapons offenses, YOS was promoted as what Wham called a **"second last chance"** program for juveniles who exhausted opportunities in the juvenile system. A direct-filed youth could be sentenced to YOS for one to five years (sentences were increased to two to six the following year). Every sentence to YOS also included a longer, suspended prison sentence that would be imposed if the youth failed the YOS program. The suspended prison sentence was touted as a "hammer" to ensure youth compliance with the new program.

Senate Bill 9 and YOS were created by prosecutors. "The DA's wrote this bill. The whole program was designed by district attorneys,"[92] Sen. Wham explained during hearings on Senate Bill 9. Bill Ritter -- who had been appointed as Denver district attorney by Gov. Romer[93] -- helped design the YOS program for the legislative session.[94] Lawmakers' discussions of Wham's bill didn't examine the details of the new direct file provisions or the removal of judicial discretion at sentencing. Instead, the debate at the Capitol focused on the new prison for the Youthful Offender Services program -- mainly its proposed size and cost.

Still, not all legislators agreed with the YOS plan. Sen. Sally Hopper (R-Golden) supported the idea of a new program, but not in adult corrections. She questioned why the $31 million proposed for YOS was going to the Corrections Department instead of youth services, arguing that youth services staff would be better trained to serve this young population.[95] Sen. Wham responded that she initially agreed with Sen. Hopper, but that "there wasn't enough time" to create a middle-tier alternative in youth services.[96] Since the new direct file provisions would increase

the number of teens, including 14 to 15 year olds, in adult court, Sen. Wham cautioned there would be no alternative but to send more youth to regular adult prison unless YOS passed as well.[97] Sen. Hopper urged her colleagues to "wait 'til there is time to do it properly," stating she was "very uncomfortable with the numbers" being proposed for YOS. **"If you build these beds, we will fill them up,"** she predicted.[98]

Sen. James Rizzuto (D-La Junta) also cautioned against building YOS within the Corrections Department instead of investing in youth services. "This system will further fragment the process. You may have one child going into youth services and another going into YOS, and with no criteria for distinguishing them....we need to study this piece before we put it in place," he said.[99] Sen. Rizzuto was outspoken against pressure to build within DOC. "I have not heard of this until four weeks ago and had no information on this until 4 days ago," he complained. "We are building the pipeline — that pipeline is going to get built by every DA that's out there... if DYS is so bad, why don't we change that system too. We are just throwing another piece out there with no controls anywhere in the system except to rely on the DA's."[100]

The five-day session provided no time to work out details or dollars. When questioned about the costs of YOS during an appropriations hearing, Sen. Wham had limited fiscal data, stating, "We need to work out these ideas, but the time is short...we don't have firm numbers... we don't have all that we need on where we would place people."[101]

John Perco, deputy director of the Corrections' Department, justified the $31 million dollar price-tag by explaining the YOS program would be "very rich in programming" to provide "counselors, teachers, mentors, coaches" for the highly at-risk youth population.[102] Wham agreed it was critical to screen and "staff the program properly" so that the people working at YOS understand adolescent behavior.[103] Assurances were made by the Department of Corrections that YOS would be carefully evaluated for quality control.

The move to invest in adult corrections was not opposed by the Division of Youth Services (DYS) (later renamed the Division of Youth Corrections/DYC). Rather, DYS officials testified the juvenile corrections system was "overcrowded and underfunded" and would operate better if more youth were handled by adult corrections.[104] Others, including members of the Colorado County Sherriff's Association, testified that "many kids have been in and out of DYS five or six times" and "we need a big stick to turn them around."[105]

The funding for direct file and YOS was split between two bills, with the $1.5 million in capital costs in one and the $29 million in operating costs in the other.[106]

The initial price tag and increase of 80 FTE's (full time equivalent employees) in the Department of Corrections was steep, so the bill was amended to calculate a gradual implementation of the system, starting at $3 million for the first wave of youth. Even though the new financial analysis of YOS was lowered to $3 million, one lawmaker cautioned that "the first fiscal note was $31 million; now we are looking at $3 million. We will be on the road to $31 million. Whatever money we spend we won't have for education."[107]

Over the years, the direct file and YOS statutes continued to expand to include more youth. YOS originally was placed in temporary quarters at the Denver Reception and Diagnostic Center with 96 beds. In 1994, the Legislature granted funding for YOS to build a 300-bed facility in Pueblo,[108] expanded the length of YOS sentences,[109] and made juveniles convicted of non-violent felony offenses with a habitual juvenile record eligible for YOS.[110] In 1997, lawmakers expanded eligible offenses for direct file to include non-violent habitual juvenile offenders, vehicular assault, vehicular homicide and arson.[111]

By 2000, there were 298 youth serving sentences in YOS.[112]

Lawmakers Reconsider Direct File & Adult Sentencing

After years of increasing the number of children in adult court and adult prisons, lawmakers began to reconsider these policies. In 2003, Rep. Lynn Hefley (R-Colo. Springs) introduced legislation that would have allowed prisoners convicted and sentenced to life without parole as kids to petition for reconsideration of sentence after serving 27 years.[113] That measure -- and another bill in 2005 -- did not pass. But in 2006, Rep. Hefley was successful in eliminating life without parole sentencing for juveniles, who are now eligible for parole after serving 40 calendar years (this means 40 full years with no reduction for good behavior).[114] The law didn't apply to the 50 youth previously sentenced to life without parole. They remain sentenced to die in prison.[115]

In 2008, a significant effort began to bring balance back to the direct file statute. Rep. Claire Levy (D-Boulder) introduced a bill that would have limited the eligible crimes to the most serious offenses and provided a "reverse-transfer" hearing so children in adult criminal court could petition to return to juvenile court.[116] The bill successfully passed a majority of both the state Senate and House of Representatives, but was vetoed by Gov. Bill Ritter. Ritter – who had been an architect of the 1993 legislation when he was Denver district attorney – issued a statement stating he was not convinced there was a problem with direct file.[117]

In the fall of 2008, 17-year-old James Stewart committed suicide in the Denver County Jail where he had been held in solitary confinement after killing a man in a drunk driving accident.[118] Rep. Levy introduced a bill that would have required a hearing before a youth could be moved to an adult jail.[119] Because at the time there were about 100 juveniles in adult jails throughout Colorado, the cost to place jailed youth in juvenile detention facilities was considered prohibitive.[120] The bill was amended to establish a list of factors prosecutors and defense attorneys should discuss regarding whether a youth is held in an adult or juvenile facility, but left the ultimate decision regarding where the youth is detained with the prosecutor without the right to appeal to the judge.[121] Six months later, after the curtailed bill had passed, 17-year-old Robert Borrego committed suicide in solitary confinement in the Pueblo County Jail.[122]

After news of Stewart's and Borrego's suicides exposed conditions for juveniles in adult jails, the Legislature took nominal action by amending the law to require that children in adult jails receive four hours of education a week.[123] This bill required data collection on the number of juveniles held in adult jails and whether they were provided educational services. The final report on this data was released in 2012, showing that only one-third of teens in adult jails received any educational services.[124]

House Bill 1139, which is pending in this 2012 legislative session, would keep direct filed youth in juvenile detention facilities. If the juvenile facility finds the teen cannot be safely held with other youth, the bill gives the facility the opportunity to ask the judge to transfer the teen to an adult jail. As of the printing of this report, House Bill 1139 passed the House of Representatives by a vote of 64 to 0, and now moves to the state Senate.[125]

In 2010, a bipartisan compromise direct-file reform bill (sponsored by Reps. Levy-D and May-R, and Sens. Newell-R and Lundberg-R) did pass and was signed into law by Gov. Ritter.[126] The new bill established factors for prosecutors to consider in deciding whether to direct file, and removed 14- and 15-year-olds from the direct file statute – except in murder cases, violent sex offenses and any attempts of those crimes.[127] For 16- and 17-year-olds accused of middle-level felonies such as robbery, assault and burglary, the new direct file statute requires prosecutors to file a "notice of consideration of direct file" in juvenile court. Under this provision, juvenile defense attorneys are provided two weeks (which could be extended by mutual agreement) to meet with the prosecutor in an attempt to persuade him or her not to direct file the case based upon factors outlined in the statute. The "notice of consideration of direct file" is not required in cases involving 14- to 17 –year-olds accused of murder or sex offenses.[128]

If a prosecutor now chooses to direct file a case, the 2010 law requires him or her to file a "statement of reasons" to explain what factors affected the decision.[129] In practice, the statement is a one-page list with boxes to check off and does not outline any particular facts or circumstances the prosecutor relied upon. Once the statement of reasons is filed, there is no right to appeal the prosecutor's reasoning or decision to direct file. **So -- while defense attorneys now have notice that a case may be direct filed and some time to try to persuade prosecutors to keep a case in juvenile court – there is still no opportunity for judicial review.**

There is additional concern that the notice of consideration of direct file has a coercive effect toward plea bargaining in juvenile court. When the prosecutor files a "notice of consideration of direct file," the discussions that take place are not merely about which judicial system the case belongs in, but also how the case will be resolved without a hearing or trial. There is pressure on the defense to negotiate a quick plea bargain for a juvenile adjudication and sentence to avoid the risks of adult prosecution, conviction and sentencing. This behind-the-scenes, high-stakes negotiation does not further the interests of due process or the goals of the juvenile justice system to craft an appropriate individualized treatment plan.

Colorado has taken significant first steps toward direct file reform, but has stopped short of accomplishing the improvements needed. "What has been missing, for the most part, is the kind of thoughtful deliberation and consideration of consequences that one would expect to inform legal and institutional changes of such sweeping importance."[130] Policymakers now have access to extensive studies and expert recommendations regarding the prosecution of kids as adults. It's time for a data-driven, research-based discussion around reform to bring balance back to Colorado's juvenile justice system.

PART II: DIRECT FILE FINDINGS

1. DIRECT FILE IS NOT MAKING COLORADO SAFER

In Colorado and nationally, crime rates have been on the decline for decades.[131] The violent crime rate also is at a near-historic low.[132] While the relationship between incarceration and crime is complex, changes in policing and shifts in social and economic factors likely are responsible for at least two-thirds or more of the overall drop in crime.[133] What's more, studies show that incarceration may lead to diminishing returns, as longer periods of incarceration raise the chances of re-offending.[134]

Youth crime also is at historic lows. Even though crime has dropped substantially, the number of adults arrested between 2001 and 2010 increased 1 percent. In contrast, juvenile arrests dropped 23.5 percent during that same timeframe.[135] From 1980 to 2009, juvenile violent crime arrests fell 50 percent.[136] According to the Federal Bureau of Investigation, youth under the age of 18 committed 4.7 percent of murder and manslaughter cases, 14 percent of robbery cases and 9.4 percent of aggravated assaults in cases that were closed in 2010.[137] In Colorado, violent juvenile arrests make up 10 percent of all arrests.[138]

No Cause & Effect between Direct File and Juvenile Crime

Supporters of the 1993 direct file expansion point to the decline in youth crime as proof of their success. Yet prominent researchers rebuke this theory by showing that the crime rate decreased even in states that didn't expand prosecutorial discretion.[139] **Colorado data shows there is no discernable connection between direct file practices and juvenile violent arrest rates, or arrest rates in general.**

Direct file rates fluctuate year to year in each judicial district. For this report, the Colorado Juvenile Defender Coalition analyzed available Colorado juvenile arrest statistics from 1999 to 2005[140] alongside direct file numbers obtained from the Office of the State Court Administrator. The rate of direct filing (per 1,000 youth) and the rate of violent juvenile arrests (per 1,000 youth) were calculated for each judicial district using juvenile population figures from the Office of Juvenile Justice Delinquency Prevention.[141]

The following table shows the 1st Judicial District, which is Jefferson County. Since 1999, prosecuting kids as adults there has had no impact on the violent crime rate. After direct filing against 137 teens from 1999 to 2004, the violent crime rate in 2005 was the highest in this six-year period, as was the total crime rate.

1st Judicial District – Jefferson County

Year	Number of Direct File Cases	Direct File Cases per 1,000 Youth	Violent Juvenile Arrests per 1,000 Youth	Property Juvenile Arrests per 1,000 Youth	Drug Juvenile Arrests per 1,000 Youth	Total Juvenile Arrests
1999	23	0.36	1.67	15.60	4.16	21.43
2000	19	0.30	2.81	20.76	5.15	28.71
2001	22	0.34	2.70	19.58	8.00	30.28
2002	33	0.52	2.71	16.67	7.58	26.95
2003	19	0.30	1.98	17.79	8.90	28.67
2004	21	0.34	2.73	17.56	9.44	29.73
2005	14	0.23	2.90	20.23	10.06	33.19

In the 19th Judicial District -- which is Weld County -- the violent juvenile arrest rate also went up in 2005 despite the preceding use of direct file on 106 youth.

19th Judicial District – Weld County

Year	Number of Direct File Cases	Direct File Cases per 1,000 Youth	Violent Juvenile Arrests per 1,000 Youth	Property Juvenile Arrests per 1,000 Youth	Drug Juvenile Arrests per 1,000 Youth	Total Juvenile Arrests
1999	28	1.28	3.62	24.31	2.06	30.00
2000	2	0.09	2.84	21.27	3.97	28.08
2001	17	0.71	3.85	21.51	3.26	28.63
2002	15	0.60	3.52	24.21	1.88	29.61
2003	17	0.66	3.62	25.55	5.06	34.22
2004	27	1.04	3.26	20.57	4.22	28.06
2005	13	0.48	4.48	14.96	5.52	24.95

Other jurisdictions, such as the 17th Judicial District –Adams and Broomfield Counties-- saw a decrease in violent juvenile arrests from 1999 to 2005. But there is no discernable connection between that decrease and the fluctuating direct file numbers. The highest direct file rate came in the year violent crime was at its lowest.

17th Judicial District – Adams & Broomfield Counties

Year	Number of Direct File Cases	Direct File Cases per 1,000 Youth	Violent Juvenile Arrests per 1,000 Youth	Property Juvenile Arrests per 1,000 Youth	Drug Juvenile Arrests per 1,000 Youth	Total Juvenile Arrests
1999	15	0.35	6.41	65.89	17.99	90.30
2000	18	0.38	5.68	53.66	13.45	72.79
2001	10	0.21	5.42	47.64	14.49	67.55
2002	13	0.26	5.10	48.10	12.48	65.68
2003	29	0.58	2.16	15.73	7.74	25.63
2004	11	0.22	2.16	22.19	9.21	33.56
2005	19	0.37	2.75	26.49	11.55	40.79

The 18th Judicial District --Arapahoe, Douglas, Lincoln, and Elbert Counties-- has seen violent juvenile arrests rise and fall with no connection to the rate of direct file.

18th Judicial District – Arapahoe, Douglas, Lincoln, Elbert Counties

Year	Number of Direct File Cases	Direct File Cases per 1,000 Youth	Violent Juvenile Arrests per 1,000 Youth	Property Juvenile Arrests per 1,000 Youth	Drug Juvenile Arrests per 1,000 Youth	Total Juvenile Arrests
1999	33	0.39	3.90	9.62	4.72	18.25
2000	19	0.22	1.16	8.52	4.26	13.94
2001	25	0.28	2.76	9.15	4.61	16.52
2002	31	0.33	1.24	7.68	3.11	12.03
2003	28	0.30	2.34	11.40	4.22	17.96
2004	27	0.28	2.19	17.16	4.79	24.14
2005	22	0.23	2.11	16.31	4.99	23.41

The data show no relationship between the number of direct file cases and the number of youth arrested for crimes in Colorado's judicial districts. Direct filing practices have not brought down crime, and are making it difficult for youth to be successful adults. Nearly all direct-filed youth will return to Colorado's neighborhoods and communities.

Prosecuting Youth as Adults Is More Likely to Increase Crime

In 2007, the Centers for Disease Control and Prevention Task Force on Community Preventative Services conducted a comprehensive study to measure the effectiveness of prosecuting juveniles as adults. Their findings indicate that prosecuting youth as adults generally results in increased arrest for crime, including violent crimes, as compared to juveniles retained in the juvenile justice system. **The report concluded that the increase in prosecuting youth as adults -- including**

the use of prosecutorial waiver-- is counterproductive to reducing juvenile violence and enhancing public safety.[142] The report recommends against direct file for the purpose of reducing violent juvenile offending.

In 2008, the Office of Juvenile Justice Delinquency and Prevention released a similar report, written by Professor Richard E. Redding, J.D., Ph.D., finding juveniles prosecuted in adult criminal court are more likely to reoffend due to the stigmatization and negative effects of being labeled as felons, learning criminal behavior from adult offenders, and a lack of rehabilitation and family support.[143] A felony conviction reduces opportunities for employment, housing and community reintegration. Adult prosecution of teens increases recidivism, promote life-long criminality, and decrease safety.

The Federal Advisory Committee on Juvenile Justice' 2010 report found the adult criminal system is poorly equipped to handle the developmental needs of adolescents.[144] The report recommends eliminating or narrowing the scope of prosecutorial direct file, creating a judicial transfer process that uses validated risk and needs assessment tools in decision making, and implementing reverse waiver procedures to reduce the number of youth in criminal court. The American Academy of Pediatrics recently reported that youth in the juvenile correctional system have a higher rate of unmet physical, developmental and mental health needs.[145] For these reasons, the Academy recommends children and adolescents be housed in facilities that can address their developmental needs.[146]

2. DIRECT FILE HAS AFFECTED THOUSANDS OF CHILDREN WITH DISPROPORTIONAL IMPACT ON YOUTH OF COLOR

How Many Cases are Direct Filed?

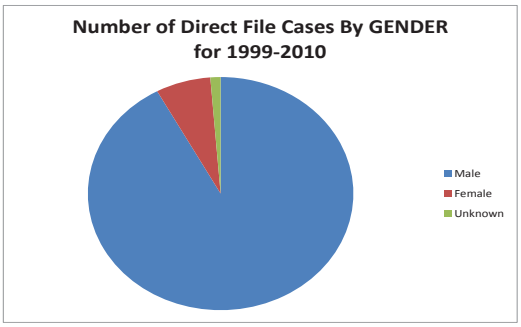
More than 3,000 cases have been direct filed in Colorado from 1993 to 2011.[147]

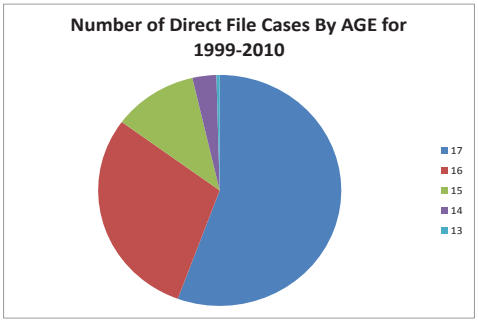
This report primarily analyzes the details of the 1,800 cases filed against youth in adult court from 1999 to 2010. The fifty-six (56) direct file cases[148] during fiscal year 2010-2011 that followed changes in the direct file statute were also obtained. The recent set of fifty-six cases is separately reviewed and analyzed in this report.

What are the Characteristics of Children Prosecuted as Adults?

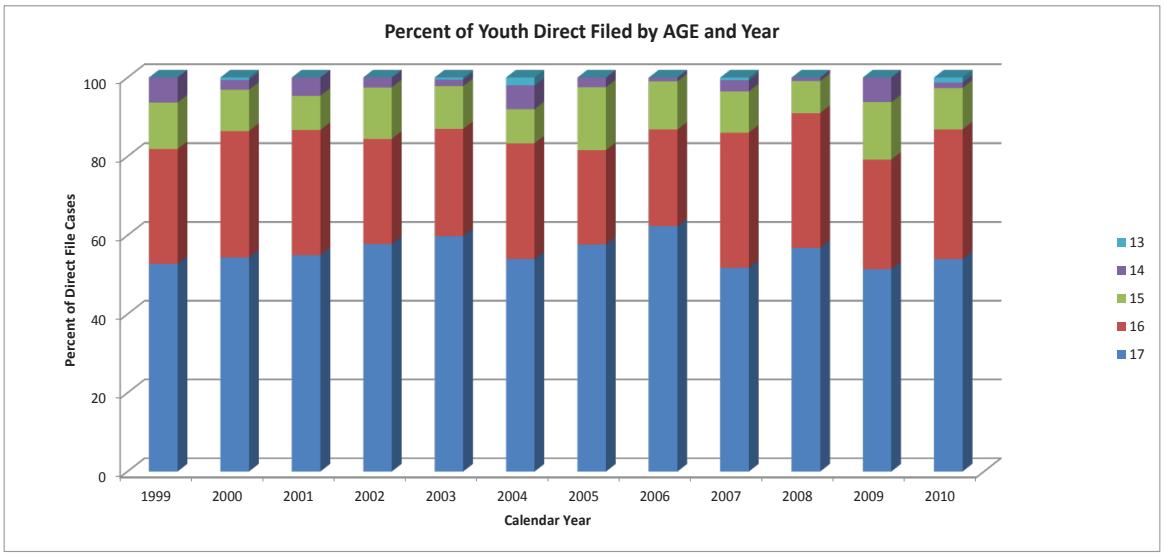
From statistical research, the average child who is direct-filed in Colorado is a 17-year-old white male who lives in or near a big city and is accused of an assault.

More than 90 percent of all direct filings are against boys.





Data also shows that just over half – 55 percent -- of all direct file cases are filed against 17-year-olds; about 30 percent against 16-year-olds; 11 percent against 15-year -olds; and 3 percent against 14-year-olds.

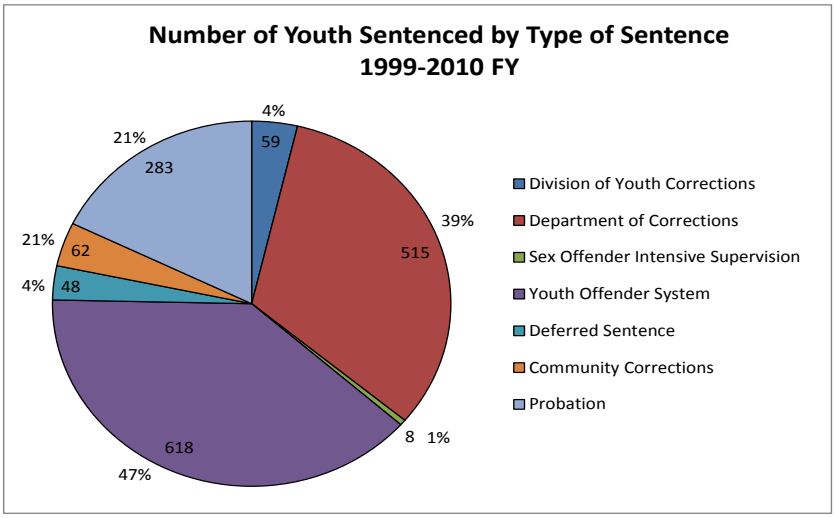


Recent cases follow the same age pattern, but as expected with the 2010 direct file law change that raised the age of eligibility to 16 for most offenses, the number of 14 and 15 year old youth who were direct filed dropped. In 2010-2011, there were no direct file cases filed against 14 year old children, and only four cases were filed against 15 year old children.

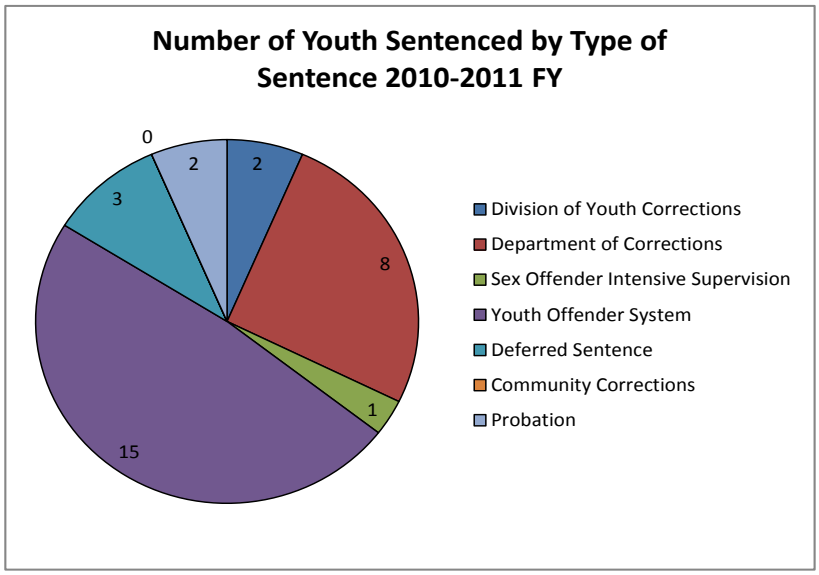
What Happens to Direct Filed Youth after Conviction?

The majority of direct file convictions result in sentences to the Youthful Offender System (47 percent). The second most likely sentence for direct-filed youth is a regular Department of Corrections' prison sentence (39 percent). Some direct file cases are resolved with multiple kinds of sentences, such as a sentence to the Division of Youth Corrections, followed by adult probation. The information presented here does not separate those sentences into one result, but counts both sentences.

Two-thirds of direct file sentences are served in the adult corrections system.



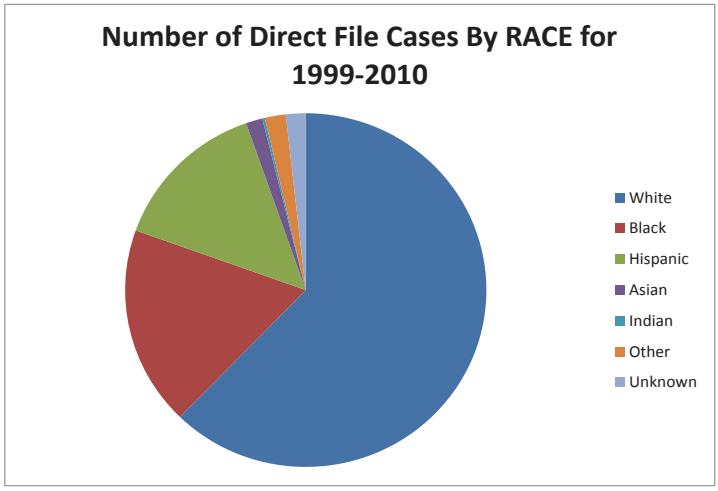
Some thirty-two of the fifty-six cases filed in 2010-2011 resulted in a sentence as of the date of this report. Of the thirty-two closed cases, fifteen or 46 percent resulted in a sentence to the YOS, eight or 25 percent resulted in a DOC sentence.

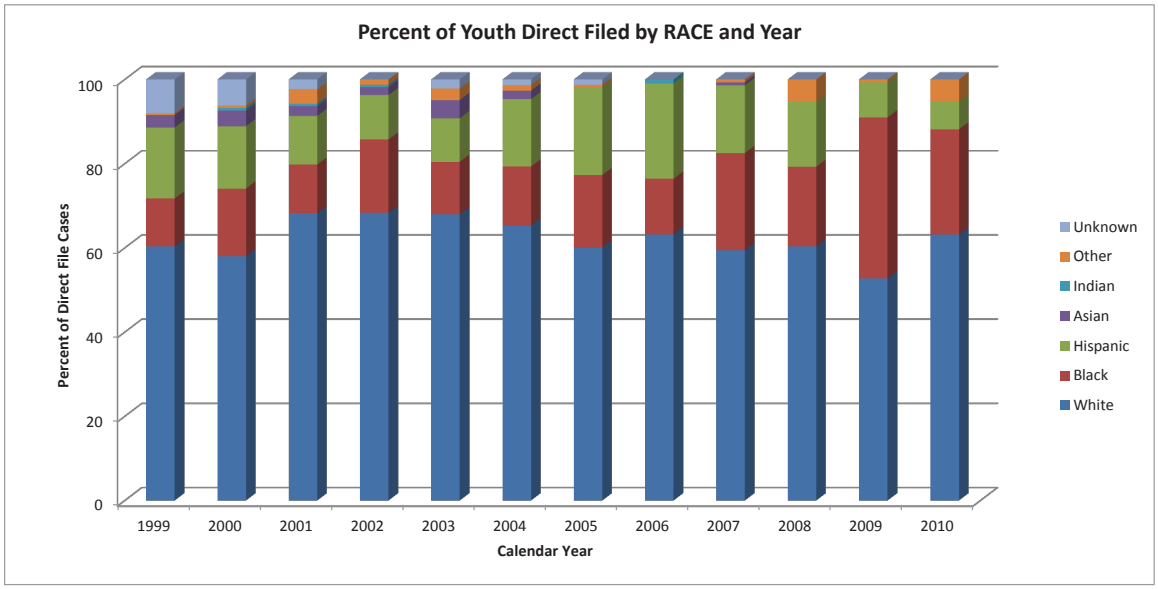


Direct File Disproportionately Impacts Youth of Color

Reporting on racial and ethnic minorities is complicated by limitations on data collection at different points in the criminal justice system. This particularly affects Hispanic youth, whose race may be recorded as "white" without additional data on ethnicity.[149] Comparisons between state court judicial data and Corrections Department data suggests Hispanic youth are underrepresented in direct file judicial statistics. The Department of Corrections may collect more accurate data on ethnicity than the state courts.

Kids of color --particularly black and Hispanic youth-- are more likely to experience harsher impact from direct file than white youth in direct file cases. During the primary 11-year period studied, 62 percent of direct file cases were filed against white children, 18 percent against black children, and 14 percent against Hispanic children.





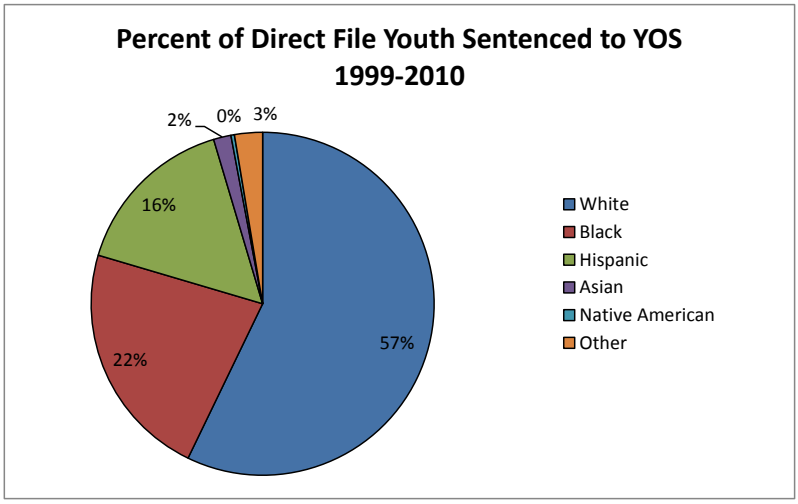
These racial and ethnic percentages do not reflect the demographics of Colorado's youth population. Black children in particular are over-represented in the number of direct file cases relative to their percentage in the population, and Hispanic youth are likely undercounted.

Race	% of Juvenile Population	% of Direct File Cases
White	68%	63.8%
Black	6%	17.8%
Hispanic	22%	14.6%
Other	5%	3.7%

Racial disparities continued in 2010-2011, with 16 percent of cases filed against black children, 50 percent of cases filed against Hispanic children, and 40 percent of cases filed against white children. The increase in percentage for Hispanic youth may reflect an increase in direct filing and/or more accuracy in data entry at the trial court level.

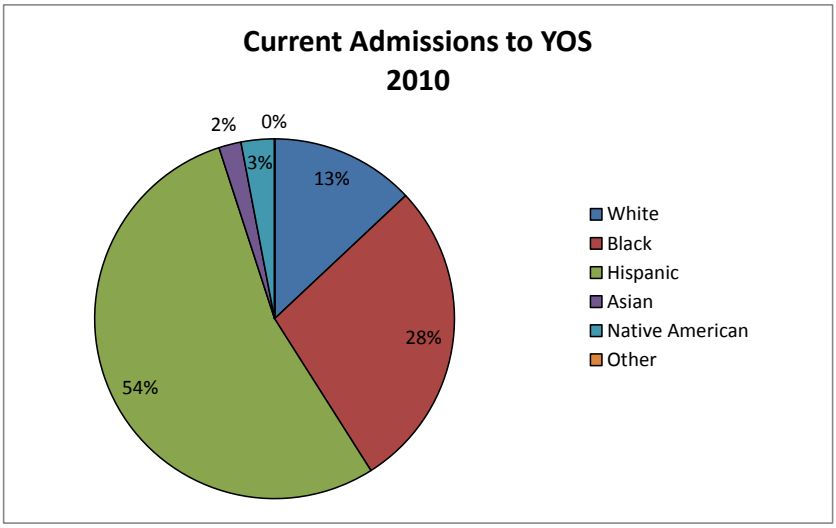
Disproportionate Racial & Ethnic Impact Increases at Sentencing

While there is disproportionate impact at the point in which a case is direct-filed, racial and ethnic disparities increase at the point of direct file sentencing. For example, although white children make up 62 percent of all direct file cases from 1999-2010, they constituted 57 percent of all children sentenced to YOS.



But in fiscal year 2009-2010, white children were only 13 percent of the new admissions to YOS. Again, data limitations on ethnicity for Hispanic youth suggest that youth categorized as "white" by the courts may be categorized as "Hispanic" by the Corrections' Department.

Today's YOS admissions are 82 percent black and Hispanic youth.[150]



The following figures are from the state courts:

White youth, 68 percent of the Colorado youth population, are underrepresented in direct file charging: 63.8 percent of direct file cases. White youth constitute 63.7 percent of sentences to DOC, 57 percent of sentences to YOS, and 71.9 percent of the sentences to the juvenile Division of Youth Corrections.

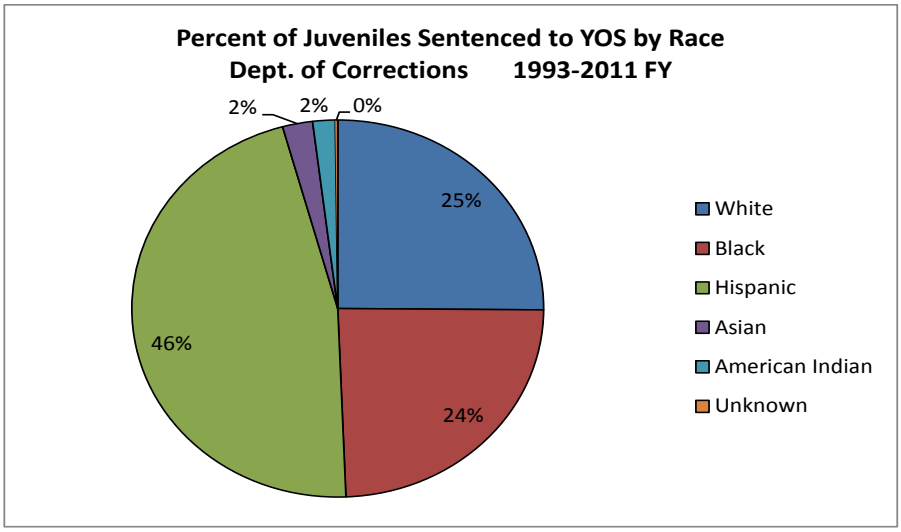
Black youth, 6 percent of the Colorado youth population, are overrepresented in direct charging: 17.8 percent of direct file cases. Black youth constitute 18.7 percent of sentences to DOC, 22.4 percent of sentences to YOS, and 14 percent of sentences to the juvenile Division of Youth Corrections.

Hispanic youth, 22 percent of the Colorado youth population, are under-represented but likely under-counted, at 14.6 percent of direct file cases charged. Hispanic youth constitute 14.9 percent of sentences to DOC, 15.8 percent of sentences to YOS, and 14 percent of sentences to the juvenile Division of Youth Corrections.

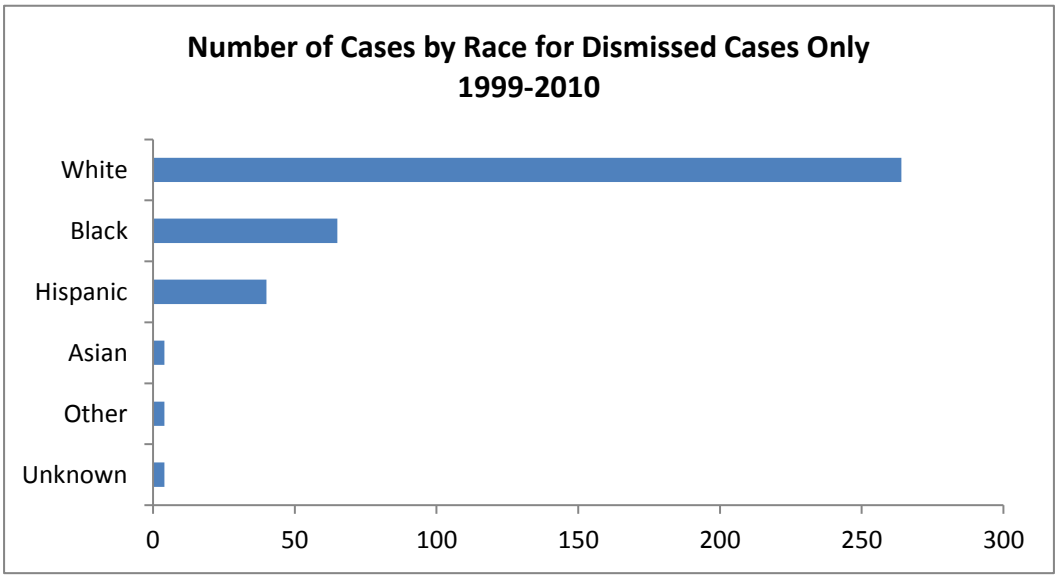
This table includes an RRI rate, which stands for Relative Rate Index, and is another way of measuring the rate of disproportionate impact on minority youth over white youth. A rate higher than "1.0" means there is over-representation of a minority group. The RRI is also included in the Judicial District Snapshots in the appendix.

Black and Hispanic Youth Have Always Been Over-Represented at YOS

According to data provided from the Department of Corrections, black and Hispanic youth have always been over-represented in the population of direct filed youth that is sentenced to YOS. From 1993 to 2011, the figures are as follows:



On the other side of the direct file spectrum are cases that get dismissed. Some 75 percent of dismissed direct file cases were filed against white children.



Racial and Ethnic Disproportionality Varies Across Jurisdictions

Racial disproportionality in direct file case varies across judicial districts, as shown in the "Judicial District Snapshots" included in the appendix to this report.

In the 2nd Judicial District -- which is Denver County -- white youth make up 30 percent of the juvenile population, yet only 13 percent of direct file cases.

Hispanic youth experience harsher effects in Denver, where they make up 46 percent of the juvenile population, yet 53 percent of direct file cases and 55 percent of youth sentenced to the Youthful Offender System.

In the 18th Judicial District -- which includes Arapahoe, Douglas, Elbert, and Lincoln counties -- white youth make up 73 percent of the population, yet only 50 percent of direct file cases. In sentencing, white youth constitute 62.5 percent of the sentences to the Division of Youth Corrections, 49.2 percent of the sentences to DOC, and only 41.5 percent of the sentences to YOS.

Black youth experience harsher sentencing impact in the 18th Judicial District. Black youth make up only 9 percent of the youth population, but 38.6 percent of direct file cases. In sentencing black youth are 37.5 percent of the sentences to the Division of Youth Corrections, 36 percent of the sentences to DOC, and 45.8 percent of the sentences to YOS.

3. THE VAST MAJORITY OF YOUTH IMPACTED BY DIRECT FILE ARE NOT THE MOST SERIOUS OFFENDERS

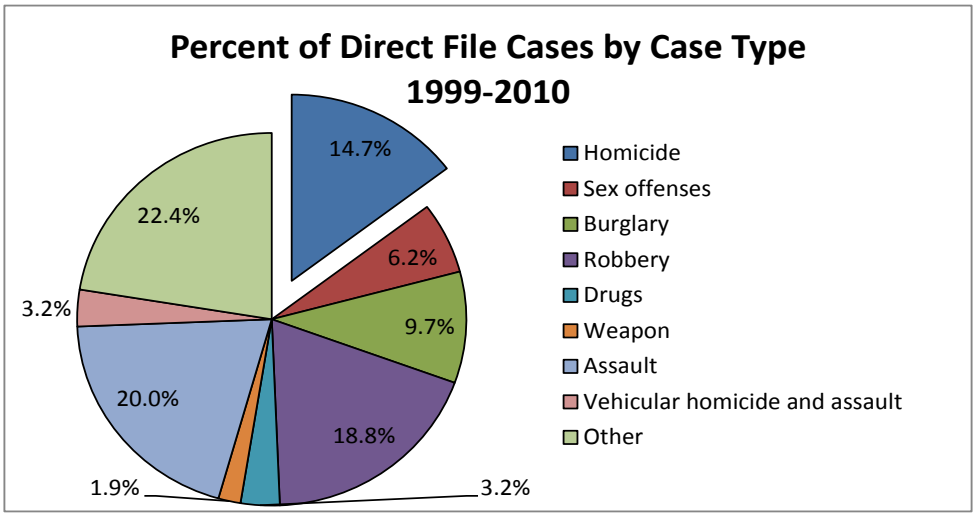
The theory behind the expansion of Colorado's direct file law was that it would be used only for the most serious juvenile offenders -- children who commit crimes so heinous that no review of their individual circumstances would be warranted. But the data shows that, in fact, most direct-filed children are charged and convicted of middle-level offenses that could instead be handled in the juvenile court system.

85 percent of direct file cases are for non-homicides. Only 5 percent of direct file cases are for first-degree murder

Contrary to the original intent of the direct file law, only 5 percent of direct filings are for first-degree murder. Homicide cases of all classifications -- from first-degree murder to criminally negligent homicide -- constitute only 14 percent of direct file cases in our study period. Vehicular homicide adds an additional 1 percent. The

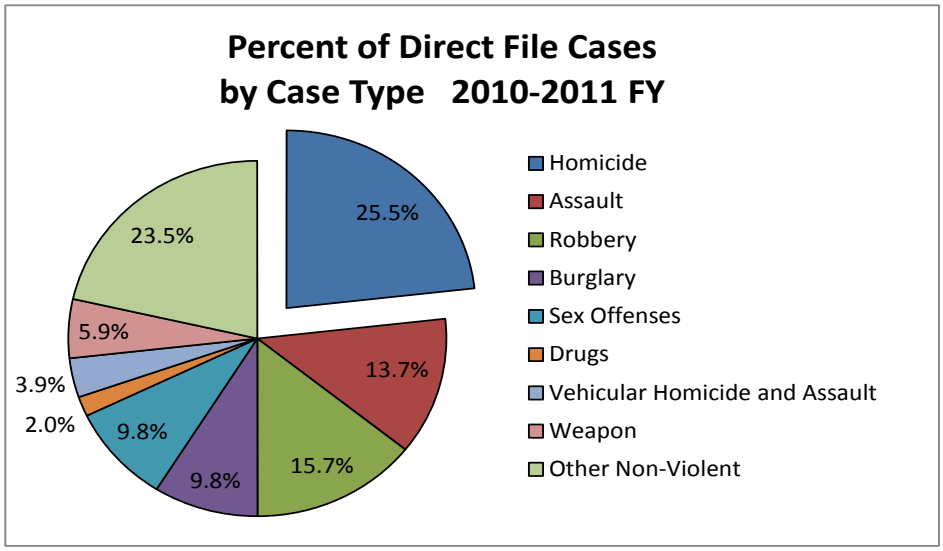
narrow circumstance that originally provided for adult prosecution of children has become the exception rather than the rule in most direct filing decisions.

What's more, 85 percent of all cases that are direct filed today were not eligible for direct file in the 1980's.



Direct file cases after the 2010 law change still resulted in an increased the percentage of homicide cases from 15 percent to 25 percent. Still, the percentage of non-homicide cases during the last fiscal year is 75 percent.

Even after the 2010 direct file law change, drug and non-violent direct file cases outnumber homicide direct file cases.



22 percent of all direct file cases are dismissed

Nearly a quarter of all direct file cases studied were dismissed completely or dismissed and re-filed as juvenile court cases. That means nearly a quarter of children prosecuted in adult court unnecessarily were subjected to proceedings in adult criminal court and time in adult jails. The case study also shows that cases that ultimately were dismissed took an average of four months between filing and dismissal.

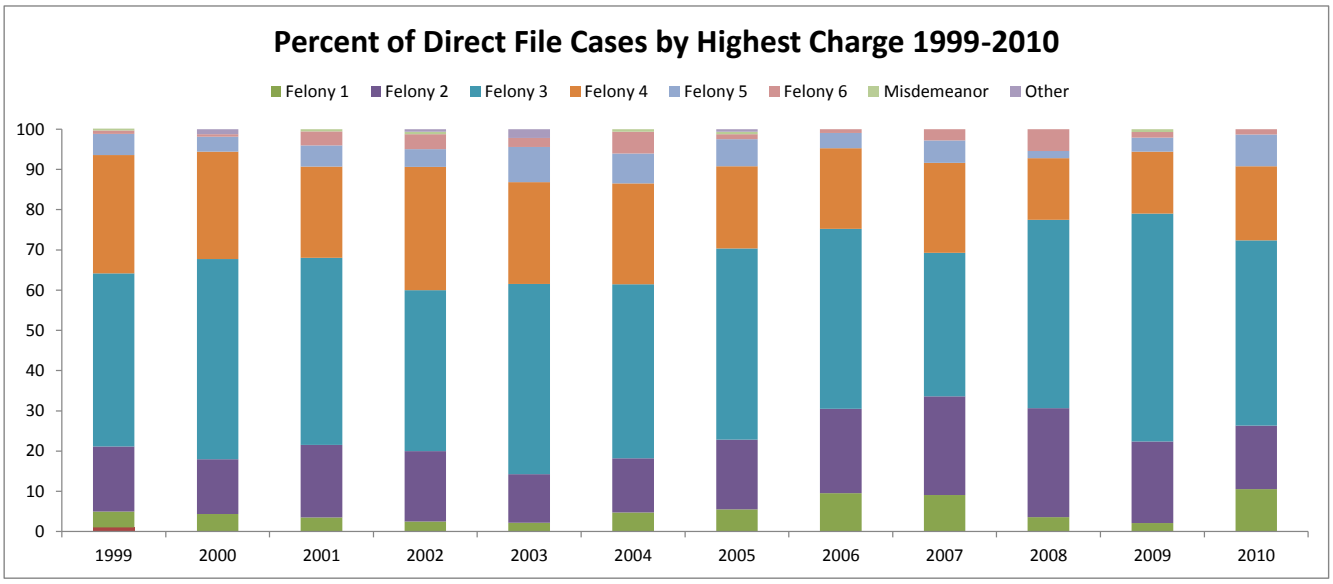
Every case that is direct filed is required to be reported to the teen's school,[151] which can result in expulsion hearings. This means a child may get kicked out of school, spend months in an adult jail, have an adult felony arrest on their record – even if his or her case gets dismissed. Some 396 youth studied faced this scenario.

24 percent of direct file cases result in probation or a deferred sentence

In addition to the 25 percent of direct-file cases that are dismissed; another 24 percent result in probation or a deferred sentence. Data shows that 21 percent of direct-filed children receive an adult probation sentence, and about 3 percent receive a deferred sentence. Probation and deferred sentences typically supervise children in their own communities. The frequent use of these sentences and dismissals suggests that most direct-filed kids are not nearly as dangerous as lawmakers imagined when passing the law.

75 percent of the all direct file case are at the time of charging only have a highest charge of a middle level Class 3 felony or lower

Today, the majority of the highest charges in all direct file cases are for middle level, Class 3 and 4 felonies such as burglary, assault, theft and robbery. While such crimes are concerning, middle- to lower-level felonies are the kind of cases that traditionally have been handled by the juvenile court system.



Number of Direct File Cases By Highest Charge

District	Number of Cases	Felony 1	Felony 2	Felony 3	Felony 4	Felony 5	Felony 6	Misdemeanor	Other	Total
1	176	4.55	21.59	33.52	35.23	4.55	0.57	0.00	0.00	100
2	210	7.62	28.10	43.81	15.24	3.33	1.90	0.00	0.00	100
3	5	20.00	40.00	0.00	20.00	0.00	0.00	0.00	20.00	100
4	183	8.74	22.40	43.17	21.31	3.28	1.09	0.00	0.00	100
5	10	0.00	0.00	50.00	30.00	0.00	0.00	10.00	10.00	100
6	31	0.00	3.23	48.39	32.26	9.68	6.45	0.00	0.00	100
7	33	0.00	12.12	39.39	21.21	15.15	6.06	3.03	3.03	100
8	116	2.59	8.62	44.83	30.17	6.03	6.90	0.00	0.86	100
9	17	5.88	11.76	64.71	11.76	5.88	0.00	0.00	0.00	100
10	116	8.62	18.10	39.66	23.28	8.62	1.72	0.00	0.00	100
11	15	13.33	0.00	20.00	46.67	6.67	6.67	6.67	0.00	100
12	17	5.88	11.76	35.29	23.53	0.00	17.65	0.00	5.88	100
13	23	8.70	17.39	43.48	17.39	4.35	4.35	0.00	4.35	100
14	4	0.00	0.00	25.00	50.00	0.00	0.00	25.00	0.00	100
15	6	0.00	50.00	0.00	33.33	0.00	0.00	0.00	16.67	100
16	8	0.00	12.50	25.00	37.50	12.50	0.00	0.00	12.50	100
17	194	5.67	18.04	46.39	23.71	5.15	1.03	0.00	0.00	100
18	302	1.66	19.54	53.97	18.21	4.64	1.32	0.33	0.33	100
19	178	2.81	8.99	50.00	25.84	7.87	3.93	0.00	0.56	100
20	65	4.62	16.92	52.31	20.00	6.15	0.00	0.00	0.00	100
21	74	0.00	8.11	54.05	25.68	6.76	4.05	1.35	0.00	100

80 percent of direct file cases against girls are Class 3 felonies or lower

Although girls make up only 10 percent of all direct file cases, 80 percent of cases against them are filed for Class 3 felonies or lower. Again, this shift from the most serious offenses to middle- and lesser felony offenses represents a significant departure from the kind of cases direct file was intended to address.

Number of Direct File Cases By Highest Charge and Gender

Highest Charge	Male	Female	Unknown	Total
Felony 1	77	5	2	84
Felony 2	297	15	4	316
Felony 3	748	52	15	815
Felony 4	377	36	7	420
Felony 5	93	4	0	97
Felony 6	35	8	0	43
Misdemeanor	6	0	0	6
Other	8	1	1	10
Total	1641	121	29	1791

88 Cases Concluded with a Misdemeanor as the Highest Charge Convicted

Of the 1,800 direct file cases analyzed for this report, 88 resulted in misdemeanor convictions. While this is not proportionately substantial, each of the 88 cases had an indelible consequence for the juvenile involved by leaving him or her a permanent criminal record. Any direct file case that results in a misdemeanor should have been returned to juvenile court. These cases warrant further review and consideration for sealing the adult misdemeanor conviction.

4. MOST YOUTH WHO ENTER THE SYSTEM AS A RESULT OF DIRECT FILE DO NOT SEE THEIR CASE REVIEWED BY A JUDGE OR JURY, AND ARE CONVICTED OF A LOWER OFFENSE THAN THEIR ORIGINAL CHARGE

95 Percent of Direct File Cases are settled by Plea Bargain

While plea bargaining is commonly used within the juvenile and criminal court systems, it poses unique problems in direct file cases. With direct file, the prosecutor is already choosing the charges and choosing the court (juvenile or adult) in which the case will be tried. When you factor in plea bargaining, the prosecutor is in effect choosing the sentence as well.

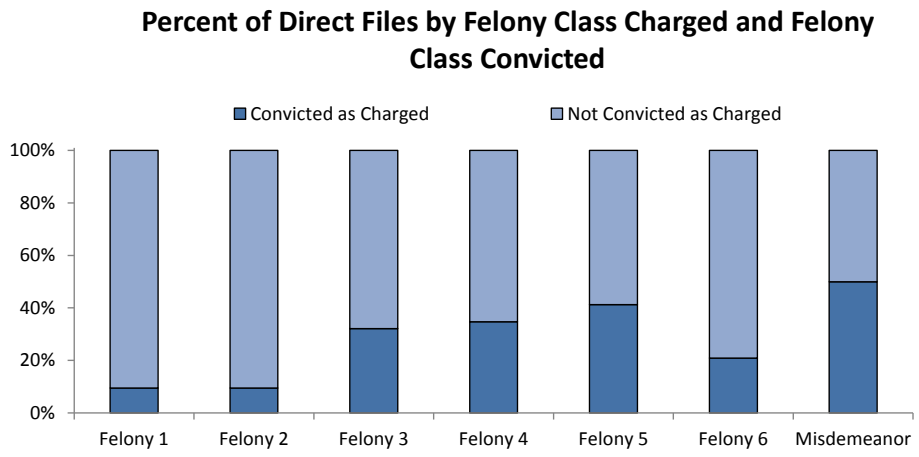
Technically, a juvenile could reject a prosecutor's plea bargain offer and exercise his or her right to a jury trial in adult criminal court. But without any ability to challenge the prosecutor's decision to file the case in adult criminal court, direct-filed children, if convicted, risk facing mandatory sentencing laws created for adults. This leaves youth with grossly unequal leverage in plea bargaining. The plea bargain process lacks the critical back and forth discussion that's more likely to occur in juvenile court where the needs of the youth, victim and community can be heard.

Another problem with plea-bargaining in direct file cases is the lack of protection against over-charging. The original charge is what provides prosecutorial discretion to file the case in adult criminal court. The child then pleads guilty to a lesser crime that may or may not have been eligible for direct file in the first place. Technically if the juvenile pleads guilty to a crime that was not direct file eligible, the judge has discretion to impose a juvenile sentence.[152] But with plea-bargaining, the sentence already has been designated by the prosecutor and rarely includes a juvenile adjudication and sentence.

72 Percent of Direct-Filed Youth Are Not Convicted of the Original Charge, Resulting in a High Concentration of Class 4 Felony Convictions

The overwhelming majority – 72 percent -- of direct file charges do not result in conviction on the original charge. In fact, the highest concentration of direct file convictions is for lower level Class 4 felony offenses. Even among cases filed for first-degree murder charges, 30 percent resulted in Class 4 felony convictions or less.

Highest Charge Felony Class	Highest Conviction Felony Class								
	Total	Felony 1	Felony 2	Felony 3	Felony 4	Felony 5	Felony 6	Misdem.	No conviction
Felony 1	84	8	29	22	16	2	0	0	7
Felony 2	315	0	30	136	49	28	1	10	61
Felony 3	814	0	0	262	255	67	11	23	196
Felony 4	417	0	0	0	146	86	11	38	136
Felony 5	96	0	0	0	0	40	9	7	40
Felony 6	43	0	0	0	0	0	9	7	27
Misdemeanor	5	0	0	0	0	0	0	3	2



Only 28 percent of direct filed youth are convicted of the original charge

Direct filing poses significant constitutional problems when the highest charge filed against a child, the charge that made them eligible for adult court, is not the charge for which the child is convicted. The child may not be convicted of a charge that would be direct file eligible but still cannot return to juvenile court under current law. Fundamental fairness and due process requires new policies.

5. MOST YOUTH PROSECUTED IN ADULT COURTS AWAIT TRIAL IN ADULT JAILS, WHICH ARE DANGEROUSLY UNEQUIPPED FOR YOUTH

The prosecution of children as adults also has led to ancillary laws and policies regarding the pre-trial confinement of teenagers in adult jails. In Colorado, prosecutors decide where juveniles charged as adults are held pending trial.[153] As this paper goes to print, lawmakers are considering a bill -- House Bill 1139 -- that would keep direct filed youth in juvenile detention facilities, and only move them to an adult jail after a hearing before the judge.[154]

Federal law requiring "sight and sound" separation between children and adults in adult jails or prisons does not apply when juveniles are prosecuted as adults in criminal court.[155] Nevertheless, Colorado law requires physical separation from adults when a child prosecuted as an adult is held in an adult jail.[156] Physical separation generally is achieved by isolating teenagers 23 hours a day in solitary confinement. They take their meals through a slot in the door, are allowed one hour out a day to use the shower or exercise room, and have little to no access to programming the jail may offer adult inmates.[157]

The confinement of children in adult jails is developmentally and emotionally damaging to children.[158] Long periods of isolation cause trauma that can be difficult to treat.[159] For this reason, children held in adult jails are thirty-six times more likely to commit suicide than children held in juvenile detention facilities.[160] Tragically, Colorado youth have committed suicide while being held in solitary confinement in adult jails in recent years. In 2008, James Stewart – held in isolation on a DUI reckless homicide charge -- hanged himself with a bed sheet in the Denver County Jail. A year later, Robert Borrego killed himself in the Pueblo County Jail. No known research exists on teen jail suicides in previous years. Neither teen had a chance to ask a judge to review the propriety of their placement in adult jail isolation cells.

In Colorado, adult jails are operated and funded by county sheriff's offices. Because county jails were not built for juveniles, sheriffs have been placed in the difficult position of trying to accommodate this special population.[161] Adult jails provide no schooling, organized recreation, developmentally appropriate programs, or contact visits with family members. A child in an adult jail can only visit his mother or father over a telephone and a TV screen. In contrast, juvenile detention facilities – which are operated by the state Division of Youth Corrections of the Department of Human Services -- provide education services, gyms, organized recreation, and community programs on gang intervention. Most importantly, they provide contact visits with family members so that a child can touch, hug and be held by his or her parent or guardian.

The detention of children in adult jails violates American Bar Association Juvenile Justice Standards.[162] In 2008 the Federal Advisory Committee on Juvenile Justice recommended the White House and Congress require the removal of all children under the age of 18 from adult jails.[163] And the American Psychiatric Association, in a statement entitled "Incarcerated Juveniles Belong in Juvenile Facilities," strongly advised against the incarceration of children 15 years of age and younger in adult jails, especially in solitary confinement.[164]

How Many Children are Held in Adult Jails in Colorado?

The number of youth in adult jails has declined. It was estimated that approximately 100 direct-filed children were being held in adult jails in Colorado in 2009. Two suicides and two pieces of legislation in recent years have called attention to this problem and helped reduce the numbers. Today, many direct-filed children are awaiting trial in juvenile detention facilities instead of adult jails. County Sheriff's are now required each year to report the number of children held in adult jails and the number of educational hours they receive.[165]

Last fiscal year, there were 42 direct-filed children held in adult jails.[166] The average length of stay in jail was 110 days.[167] Current law requires juveniles to be provided at least four hours of educational services a week – and more if they are under a special education Individualized Education Plan.[168] Despite the new law, only 15 of the 42 juveniles received educational services last fiscal year.[169] Holding kids in adult jails – especially in solitary confinement -- during their formative years does more harm than good. Policymakers must work to keep youth out of adult jails or give them the right to a hearing in front of a judge before they're moved to an adult jail. House Bill 1139 would take significant steps in remediating this problem.

6. CONVICTING YOUTH AS ADULTS CAN EXPOSE THEM TO ALL OF THE RISKS YOUTH FACE IN ADULT PRISONS, AND CARRY LONG-TERM CONSEQUENCES THAT MAKE IT DIFFICULT TO REINTEGRATE INTO SOCIETY

Although 35 percent of children prosecuted as adults are sentenced to the Youthful Offender System, the second largest group of teens, 29 percent, is going straight into regular adult DOC prisons. The average DOC prison sentence length for youth in 1999-2010 was nine years. Sentencing teens to prison only increases the likelihood they'll grow up to be adult criminals. Research confirms juveniles in adult prison spend much of their time learning criminal behavior from other inmates.[170]

Youth are also vulnerable in adult prisons. In one study more than 30 percent of youth in adult prison had been assaulted or had witnessed assaults by prison staff.[171] Youth held in adult facilities are at the greatest risk of sexual victimization. The National Prison Rape Elimination Commission found that "more than any other group of incarcerated persons, youth incarcerated with adults are probably at the highest risk for sexual abuse." The outlook can be bleak. Juveniles in adult prison are eight times more likely to commit suicide, and almost twice as likely to be attacked as teens held in a juvenile facility.[172]

Under direct file, juveniles receive adult criminal and felony convictions. They cannot petition for the court to seal their record, or convert their conviction to a juvenile adjudication.[173] All youth who complete the Youthful Offender System have permanent felony convictions that make it difficult to get a job, go to college and find a place to live. With unemployment rates high, young adults with felony convictions are competing for jobs with those who have no criminal record. These barriers make it tough for direct-filed youth to earn enough money to live independently, pay restitution to the victim, cover court costs, and go on to live crime-free lives.

Nearly all direct-filed children one day will be released back into Colorado's communities. Creating opportunities for them to be adjudicated in juvenile court leads to greater opportunities for future success and also enhances public safety. It's no longer a question of getting tough on crime; it's about getting smart on crime.

7. THE YOUTHFUL OFFENDER SYSTEM IS A COSTLY PROGRAM THAT HAS INSUFFICIENT OUTCOMES TO DATE TO DEFEND ITS EFFECTIVENESS AS AN INTERVENTION PROGRAM

The Youthful Offender System was created by a separate statute in the criminal code.[174] The law establishes what offenses are eligible for a YOS sentence and how the program shall be operated. All juveniles sentenced to YOS are convicted as adults and subject to the laws and rules of the Department of Corrections (DOC), with one exception: Unlike adults in DOC prisons, youth sentenced to YOS do not receive "good time" or "earned time" credits that reduce their sentence.[175] This means that four years in YOS is four years in YOS – no matter how well a teenager behaves in the program.

The statute requires that all youth sentenced to YOS also receive a suspended prison sentence that will be imposed if they fail the program. Juveniles return to the sentencing court for YOS revocation proceedings. If the judge revokes the youth from YOS, the suspended prison sentence must be imposed. The judge has no discretion to reconsider the length of the suspended sentence in revocation proceedings.[176]

YOS's program has four phases.[177] There is an intake and diagnostic phase that occurs for the first 30 days. Teenagers in this phase are housed in a separate building where they undergo assessments and interviews, and participate in boot-camp. They then graduate to Phase I –the period in which the majority of the YOS sentence is served in educational, vocational and recreational programming. Phase II is a three-month transition period that prepares youth for community placement by obtaining identification papers, going out for brief periods into the community and planning for their release. Phase III, last stage in YOS, is known as "community supervision," a parole-style period lasting six to twelve months. Once phase III is completed, the YOS sentence and suspended sentence are over.

A YOS sentence initially included a parole period of one year. This was changed in 1994 into the Phase III "community supervision" period.[178] The legal effect of this change is that, if a youth is having problems in community supervision, he or she can be taken directly back to the YOS facility and then transitioned out later. Under the old parole system, teens had the right to a parole revocation hearing

before they could be transferred back to YOS.[179]

The 1993 expansion of direct file authority and creation of the Youthful Offender System marked a radical shift in juvenile justice policy and funding. Abandoning a solution in youth corrections, Colorado built a prison for youth in the adult Department of Corrections. The Colorado Juvenile Defender Coalition asked the Bell Policy Center to calculate how much taxpayers have spent on YOS since its inception in 1993. The Bell researched state budgets, capital and operating expenses from 1993 to 2011 and calculated the total.

Colorado has spent nearly a quarter-of-a-billion dollars on YOS

A total of $250 million dollars was appropriated to YOS in the Department of Corrections budget from 1993 to 2011.[180] The original full time employee (FTE) allocation was 80, then rose to 231 in 1998, and has now decreased to 152.7.[181] The program first operated out of an outfitted unit at the Corrections' Department Denver Reception and Diagnostic Center, then moved to a newly constructed facility designed for YOS in Pueblo (La Vista Correctional Facility), and then into buildings at the Colorado Mental Health Institute in Pueblo. The most recent move left YOS without an indoor gym and other facilities.

Legislators created YOS on the basis of several assurances about the program: that it would be rich in youth programming with staff who had previous experience working with juveniles, and that it would be more effective reforming serious juvenile offenders than the juvenile system. Another assurance was that it would be rigorously and regularly evaluated to determine whether it was meeting its statutory requirements and goals.

The YOS statute mandates that the program be independently evaluated every two years, but the most recent independent evaluations performed by the Colorado Division of Criminal Justice (DCJ), Office of Research & Statistics were published in 2002 and 2004.[182] The first report raised extensive concerns about the program, many of which were reiterated two years later.[183] No evaluation has been conducted since YOS moved out of its newly built facility into older buildings on the Colorado Mental Health Institute Pueblo campus. After 15 years in operation, YOS has yet to adequately justify its cost and effectiveness as a juvenile intervention program that prevents recidivism.

Without any review of whether YOS has addressed DCJ's concerns or implemented its recommendations, hundreds of youth continue to be sentenced to YOS, which is now at an annual appropriation of more than $11 million dollars.[184] The briefings lawmakers receive regarding YOS come from the DOC itself and fail to address

many aspects of YOS programming that warrant re-examination. In 2003, YOS's chief architect, psychologist Richard Swanson, was calling for YOS to be removed from adult corrections or eliminated: "I really believe what we captured in the design of this program was a fantastic promise...but I don't advocate for anybody to send their kid to YOS now."[185]

Today the Department of Corrections has a new executive director who has requested DCJ initiate a new evaluation to ensure YOS is effective as an intervention program. This is a significant first step in meeting legal requirements. As the new evaluation is conducted, the following concerns must be addressed:

Lack of Mental Health Treatment

A high percentage of youth, 50 to 93 percent, in the juvenile justice system has experienced trauma and/or has mental health problems.[186] Yet YOS reports that only 19 percent of its youth population has mental health needs.[187] The significant disparity in these numbers raises questions regarding whether YOS is screening mental health needs or providing enough mental health care services. It's imperative that any criminal justice program serving youth adequately assess mental health issues and provide services and monitoring.

Evaluators in 2002 expressed deep concerns about the lack of integration of mental health services within the larger YOS program. After reviewing the files of all YOS residents with serious health needs, they found that alarmingly few received individual mental health treatment.[188] The mental health contact that did occur averaged nine minutes or less of contact per week[189] –hardly enough to constitute meaningful care. The report noted that mentally ill youth may not benefit from other aspects of YOS if chronic or acute mental health problems are not addressed, concluding, "This is a serious impediment to the core mission of YOS."[190]

Despite this admonition, the lack of adequate mental health care had not been remedied two years later when evaluators returned. They learned that psychological assessments and counseling with the psychiatrist frequently were taking place through teleconferencing.[191] Teleconferencing was perceived by both YOS residents and staff as ineffective, particularly for assessments that result in prescriptions for medications.[192] The system's inappropriately limited number of clinicians were seeing each patient once per quarter when policy mandated individual weekly counseling.[193] Previous concerns over the severe lack of mental health care for this population of at-risk youth must be urgently reviewed.

Under current YOS law, a juvenile who is diagnosed to be too mentally ill or developmentally disabled to complete the YOS program will be sent back to District Court for reconsideration of his or sentence.[194] The court has two options: impose the suspended DOC sentence, or impose a lesser DOC sentence.[195] The court is not authorized to vacate the adult conviction nor impose a juvenile sentence for the mentally ill or developmentally disabled youth.[196] As such, it is vital that YOS provide adequate mental health services for youth under its care. Moreover, this section of the statute should be changed to allow any youth who is mentally ill or developmentally disabled to return to juvenile court.

Lack of Evidenced-Based Programming

YOS begins with a 30-day boot camp that includes hair cutting and a military-style exercise regimen, even for the girls. While boot camps were popular in the 1980's and 1990's, current research shows these programs may do more harm than good.[197] Boot camps help ensure institutional compliance, but have no effect on long-term behavior change.[198]

YOS programs to change offender-thinking and behavior focus on models called "Positive Peer Culture" and "Guided Group Interaction." Neither program qualifies as evidence-based treatment under the standards developed by the Blueprints for Prevention of Violence which has cautioned against their use.[199] Even in 2002, research was showing that positive peer programs are inconsistent in that they yield no effect or have a negative effect on adolescent offending.[200] It was then recommended that YOS review these programs and determine what would work best with its population.[201] Yet two years later, evaluators found a general consensus among staff and youth that group leaders of the "Positive Peer Culture" and "Guided Group Interaction" programs were unqualified, untrained, or both.[202] Any evaluation of YOS must take inventory of the availability or lack of availability of evidence-based programs and practices.

YOS also was encouraged to develop a program that integrates family members into each resident's individual program plan. Because research then and now show the importance of family involvement in a juvenile's treatment,[203] evaluators recommended YOS to consider Multisystemic Therapy, an evidence-based program developed to treat chronic, violent or substance abusing adolescent offenders.[204] Today's YOS annual reports show no inclusion of Multisystemic Therapy. In fact, family integration efforts do not begin until the youth has nearly completed their YOS sentence.[205] Moreover, the single YOS location in Pueblo makes it very difficult for families in the Denver-metro area or beyond to participate in such a program.

Lack of Gender Specific Programming

The YOS legislation requires separate housing and equitable treatment of both male and female residents. Repeated evaluations have found inadequate gender-specific programming for girls. Evaluators have recommended that girls be placed in out-of-state facilities or in adult facilities that operate intensive treatment programs.[206] The Division of Youth Corrections in the juvenile system already provides gender-specific programming for girls at the Betty K. Marler Youth Services Center, which is a 40 bed facility for the highest needs and the highest risk girls.[207]

Due to prior prosecutions of YOS correctional officers for sexual assault on female residents (and sexual activity between male and female residents),[208] new security measures were implemented. The negative effect of this security is that girls are now "isolated" in their own building, without being able to use YOS's campus environment or recreational opportunities.[209] There is a serious lack of equitable access to space, programs and gender-appropriate treatment.

Females have different issues of concern and treatment than males who engage in juvenile delinquency. It is estimated that 56 percent to 88 percent of girls in the juvenile justice system have experienced some form of abuse, and that 70 percenthave experienced a traumatic incident.[210] Gender-specific treatment takes place in a space that is physically and emotionally safe so that providers can develop trust among the girls they're treating.

The lack of adequate treatment for girls puts them at greater risk for failing the YOS program and serving longer sentences in prison. Between 1994 and 2010, the revocation rate for girls was 40 percent, while the revocation rate for boys was 23 percent.[211] YOS does not separately report program statistics and outcomes by gender. This must be considered in a new evaluation.

YOS has yet to demonstrate it can provide treatment and services for girls. Prior evaluations found that developing intense gender-specific programming and security measures for fewer than 30 female offenders would inefficient and expensive.[212] If the small number of girls being housed at YOS cannot be treated adequately, equitably and in accordance with the law, they should be moved out promptly and placed in the juvenile system.

Lack of Staff with Prior Juvenile Experience

The experience and knowledge of staff is critical to ensuring quality programming and services. People working with adolescents in correctional settings must exhibit emotional stability, have a high tolerance for frustration and present a calm demeanor, among other qualities.[213] Architects of the YOS program required at least two years of experience working with adjudicated youth or in a related field.[214] In 1998, those hiring requirements were eliminated.[215]

Evaluators recommended YOS reinstitute the hiring requirements and provide quarterly training for all staff.[216] But by 2004, no requirement had been established and the evaluation found very few staff members who had any work experience with at-risk youth or juvenile treatment or detention populations.[217] Today, YOS has a 40-hour orientation program for staff, but does not require prior experience working with kids.[218]

The 2004 report found that 43.3 percent of youth reported feeling safe around other residents and guards; 25.7 percent felt somewhat safe; and 30.4 percent said they did not or "not really feel safe" at YOS.[219] There were reports of problematic staff behavior, including using obscene or abusive language, making degrading comments and slamming youth to the floor.[220] There also were reports of youth-on-youth assaults and a lack of security in sleeping areas.[221] Evaluators found the "slamming" incidents were not isolated events, leading DOC to refer the allegations to the Inspector General's Office for investigation.[222]

When YOS was relocated to Pueblo, several staff members reported a greater emphasis on security and less focus on creating a rehabilitative or "second last chance" environment for youth.[223] Evaluators noted a lack of cohesion[224] among personnel and philosophical tensions between staffers who took a treatment-based approach and those who saw their role more as prison guards. The lack of integration between programming and security lead to confusion and conflict and prevented a full implementation of the YOS program as described by statute, evaluators found.[225] There was considerable concern by staff and residents that YOS had become "a program in name only" and was in fact "just another prison."[226]

Lack of Stringent Recidivism Measures

Recidivism is an important measure of effectiveness in any criminal justice program. Generally, recidivism is defined by whether a person re-engages in criminal behavior. The Council of Juvenile Correctional Administrators describes three goals for measuring recidivism: (1) to reduce re-offending; (2) to increase support for evidence-based programs; and (3) to support continuous quality improvement of programs and systems of services.[227] Recidivism is a critical consideration for program administrators, policymakers and taxpayers.

Recidivism rates can differ significantly depending on how and at what point in a case it's measured: a new arrest, a new filing, a new conviction, or a new sentence.[228] Colorado prosecutors commonly assert that the YOS program is more effective than the Division of Youth Corrections (DYC) because YOS has "better" recidivism rates. Because youth must be direct-filed in order to be sentenced to YOS, the perceived effectiveness of the program can drive direct file rates and impact public policy decisions.

A quick glance at published recidivism rates shows the following: YOS' recidivism rate is 7 percent, DYC' recidivism rate is 33.9 percent. But these rates aren't comparable because YOS and DYC define recidivism differently using near-opposite points in the timeline of processing a new criminal charge.

YOS defines recidivism as "new criminal activity that results in a placement in the DOC prison system following successful completion of a YOS sentence."[229] The program only counts a new admission to prison -- the last step in a serious felony case -- in determining whether a YOS graduate engaged in re-offending. YOS does not count misdemeanor cases or felony cases that result in sentences other than to prison, such as probation or community corrections.

DYC defines recidivism as "a filing for a new felony or misdemeanor offense that occurred within one year following discharge from DYC."[230] It counts any misdemeanor or felony case that was filed in court -- the second step in a criminal case after arrest. DYC includes all new cases filed in court, regardless of whether a case results in a conviction or sentence of confinement. Its definition of recidivism is far more rigorous than the one used by YOS.[231]

When DCJ first evaluated YOS, it measured recidivism like DYC and reported the following:[232]

YOS Recidivism per 2002 Evaluation[233]	**1 Year Post YOS** (n=269)		**2 Years Post YOS** (n=184)		**5 Years Post YOS** (n=17)	
	Number	Percent	Number	Percent	Number	Percent
No New Filings	192	77.6	105	57.4	5	29.4
New Felony Filings	60	22.4	65	35.5	11	64.7
New Misdemeanors	21	7.7	15	8.2	2	11.8
Total New Filings		**30.1%**		**43.7%**		**76.5%**

But if only prison admissions for new crimes were counted during that same period, the recidivism figures would look like this:

New DOC Admissions[234]	1	**1%**	--	--	1	**1%**

Depending on the measurement used, one could say that YOS had a recidivism rate of either 30.1 percent or 1 percent in 2002. Five years out, the result becomes more polarized, with either a 76.5 percent or a 1 percent recidivism rate. YOS used to include rates of new misdemeanor and felony case filings in their annual reports, but stopped doing so in 2003.[235] This leaves a significant gap in information for policy makers and the public.

It's also important to note that YOS does not include youth who are revoked from the YOS program in the recidivism figures it makes public. YOS does calculate and report what it calls "Pre-Release Recidivism," but this figure only includes youth who are revoked from YOS and charged with new crimes.[236] Pre-release recidivism doesn't include youth who are revoked from YOS for non-compliance with the program. The pre-release recidivism rate for new crimes reported in 2010 was 8 percent, but the total revocation rate was 17 percent.[237] From 1994 to 2010, YOS's average revocation rate was 23 percent for boys,[238] 40 percent for girls.[239]

YOS analyzed revocations from 2004 to 2010 and found that 49 percent of were for new crimes, and 51 percent were for program non-compliance such as defiance or rule violation.[240] Of the new crime revocations, 45 percent were for escape. Since youth who walk away from placement during community release can be charged with the crime of escape. Notably, YOS found that youth convicted of the most serious crimes had the highest rate of successful completion.[241]

Under the 1993 YOS legislation, the Corrections Department was mandated to develop a data system for YOS offenders. That mandate was eliminated from the statute in 2002.[242] This left YOS evaluators unable to analyze the differences between YOS residents who re-offended and those who did not, and to explain who tends to fail and who tends to succeed. DYC publishes extensive recidivism reports each year.[243]

It's critical for policymakers and stakeholders to understand how recidivism is measured before gauging the effectiveness of a program. After giving YOS a quarter of a billion dollars in taxpayers' money, lawmakers should demand the program use a more rigorous definition of recidivism.

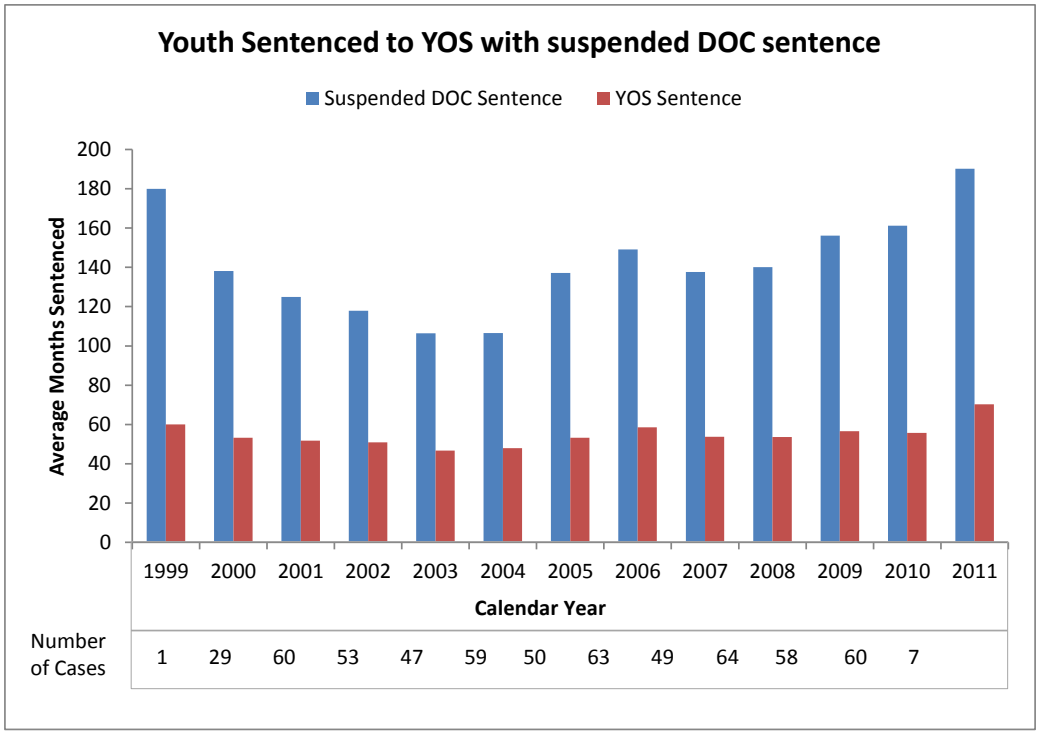
Unchallenged Assumptions about YOS and Direct File

Official reports assert that the suspended sentence imposed in every YOS case reflects what the youth would have received had he or she not gone to YOS and instead was sentenced to an adult prison.[244] This assertion sets up a false dichotomy (YOS or DOC) and leads to misleading fiscal analyses of the purported costs saved by YOS sentencing.

As stated above, every child sentenced to YOS is technically sentenced to regular prison, but that prison sentence is suspended while the youth is in YOS and considered discharged upon successful completion of the program. The YOS statute does not provide any guidelines regarding how much prison time should be suspended. Moreover, judges typically make no findings at sentencing that the suspended prison sentence is what the youth would have received if YOS did not exist. Since the overwhelming majority of these cases are plea-bargained, the prosecutor essentially decides how much time will be served in YOS and how much prison time will be suspended.

YOS recommends that a suspended prison sentence be two- to three times the length of the YOS sentence. This is meant to provide a "hammer" incentive with prison time hanging over the youth's head. What this means in practice is if a child receives a four-year YOS sentence, the program would recommend eight to twelve years in suspended prison time. In plea bargaining, the prosecutor could ask for 16 years suspended or even more. But it would be faulty to assume that 12 or 16 years in prison would be the time the youth would have received if YOS did not exist, particularly for a first-time felony offender. Nevertheless, this assumption becomes part of fiscal policy when state budget analysis compares the cost of four years in YOS to twelve or sixteen years in prison.

Because YOS sentences and suspended prison sentences are rising, these assumptions may skew future fiscal analysis even further.



With YOS sentence terms on the rise, policymakers may want to consider giving juveniles credit for "good-" or earned time that can reduce their sentences. Since technically the YOS program can be completed in two years, there is a risk that a youth sentenced to YOS for six years could spend a significant time in the system having already exhausted a good deal of what it has to offer. Balancing the suspended sentence ("hammer") with earned time ("carrot"), could transition successful youth out of YOS earlier and save the state money.

Accurate fiscal analysis is limited by the failure to consider that alternatives to YOS are available in the Division of Youth Corrections. All of the offenses eligible for YOS sentencing are also eligible for sentencing in DYC. As Sen. Rizzuto cautioned about bifurcating the juvenile justice system in 1993, there is no bright line distinguishing cases that belong in YOS from those that belong in DYC. Since direct filing decisions vary by jurisdiction, youth who have committed the same type of offense could end up in either system. A very early evaluation of YOS recommended study of a control group that was eligible for YOS but sentenced to DYC, but no such study has ever been conducted. [245]

State analysis sets up a false dichotomy by assuming all youth sentenced to YOS otherwise would have been sentenced to adult prison.[246] This ignores the role the direct file statute plays in subjecting youth to adult jurisdiction and sentencing. Since direct-filed adolescents have no right to a hearing before a judge who can determine which system would better serve society and the teen, it cannot be said

with certainty that teenagers sentenced to YOS cannot be managed in the juvenile system.

Some youth may be more appropriate for YOS instead of DYC but Colorado needs to do a better job of assessing which system would be more effective for individual youth. Currently, the primary factor that determines whether a child goes to YOS or DYC is the prosecutor's decision to direct file the case adult court.

YOS was created in part because of testimony that juveniles were being locked up over and over in DYC, and that widespread failure in the juvenile system necessitated another layer of incarceration in the adult system. But data show few YOS residents have been previously locked in a juvenile commitment facility. In 2001, nearly 80 percent of the YOS population had never been locked-up in DYC, and 56 percent of the YOS population had never been on juvenile probation.[247] Because YOS stopped including this information in their annual reports, policymakers lack critical data regarding the need for YOS as an additional incarceration tool beyond youth corrections.

Colorado must do better to ensure regular independent evaluations are conducted and thorough annual reports are submitted to gauge the quality effectiveness of the YOS program. Without regular, rigorous reviews, poor program design or implementation can do more harm than good to our most at-risk kids. Our systems should do everything possible to ensure adolescents are first and formally considered for treatment and lock-up options in the juvenile system. Lawmakers and the public need to know whether Direct File and YOS are being used as a "second last chance" or as a first and all-too-final solution. Colorado deserves a better return on its quarter-of-a-billion-dollar investment. And Colorado kids deserve a better shot at rehabilitation and a successful future.

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147 This figure is the sum of data from the State Court Administrator's Office and secondary data sources. Our data includes 1800 cases between 1999 and 2011 (which does not include sealed cases). Data obtained from the Department of Corrections shows 399 youth were sentenced to YOS and 345 youth (total of 744) were sentenced to regular DOC prison from 1994-1998. Taking the 744 and then applying the percentages from our study of cases that were dismissed (22%), and cases resolved with DYC, probation, community corrections, or deferred sentences (35%), the pre-1999 total of 1282 was added to the 1800 cases for an estimated total of 3082 cases
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172 Id.
173 C.R.S. 19-1-306(7)(c)(expungement is only available if the juvenile receives a juvenile sentence that was otherwise eligible for expungement)
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175 C.R.S. 18-1.3-407(2)(b)
176 C.R.S. 18-1.3-407(5)(c)
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190 2002 Report, p. 89
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192 2004 Report, p.30, 50
193 2004 Report, p.30
194 C.R.S. 18-1.3-407 (5)(b)(I)
195 C.R.S. 18-1.3-407 (5)(b)(I)(A), (B)
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215 2002 Report, p.2
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218 2010 YOS Annual Report
219 2004 Report, p.27
220 Id.
221 Id.
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228 Defining & Measuring Recidivism, supra, p.1
229 2010 YOS Annual Report, supra, p.iv
230 Recidivism Evaluation of Committed Youth, supra, p.iv
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232 2002 Report, p.30
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240 2010 YOS Annual Report, p.45
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242 2002 Report, p. 42
243 Recidivism Evaluation of Committed Youth Discharged in Fiscal Year 2009-2010, p. 3. DYC's annual recidivism reports are available online, http://www.colorado.gov/cdhsdyc/Resources-Publications/Recid2012.pdf
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PART III: APPENDIX

Acknowledgments

Methodology

Special Session Daily Status Sheets

YOS Spending Chart 1994-2011

Direct Filing by Zip Code

Direct Filings by Judicial District

Judicial District Map

Judicial District Snapshots

Acknowledgments

The Colorado Juvenile Defender Coalition (CJDC) is a non-profit organization dedicated to excellence in juvenile defense and advocacy, and justice for all children and youth in Colorado. CJDC seeks to protect the rights and improve the treatment of children and youth in the juvenile justice system by engaging in collaborative reform efforts, coalition building, and non-partisan research and legislative advocacy. CJDC also strives to elevate and support the practice of juvenile defense by providing continuing legal education seminars and resources for juvenile defense attorneys and advocates.

The authors, Kim Dvorchak, CJDC Executive Director, and Karina Swenson, CJDC Legislative Specialist, were assisted by dozens of individuals and organizations in the research, preparation, and review of this report.

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None of this would have possible without the hard-work and support of the CJDC staff, board of directors, and volunteers. Thank you.

Methodology

The Colorado Juvenile Defender Coalition requested data from the Office of the State Court Administrator on cases in which juveniles under the age of 18 were prosecuted in adult criminal courts. This information is not maintained separately from adult criminal cases, but can be extracted electronically by searching for the age of defendants.

Though the intent was to gather cases dating back to 1985, 1999 is the earliest year criminal court information could be provided electronically by age. This data was sent directly to the OMNI Institute, a reputable social science research and data analysis firm in Denver that created tables, graphs and maps that are part of this analysis. More recent data from fiscal year 2010-2011 cases was later obtained.

The data reported here were obtained from Colorado's State Court Administrator's Office (SCAO) from the ICON/Eclipse Database. Data include information on youth 17 years and younger who were direct filed in Colorado's adult court from the beginning of 1999 (calendar year) to the end of 2010 (calendar year). The first case was filed on January 5, 1999 and the last case on December 27, 2010. Additional data for fiscal year 2010-2011 was obtained for later analysis.

Several cases were included in the raw data obtained from SCAO that were not eligible direct file cases for this study. These cases included 5 cases without a recorded filing date and 57 cases without information on charges (from 2000 to 2010). The latter cases were likely entered into the system incorrectly either because they were test cases or because the case was closed and moved down to juvenile court with no charges entered once it was determined that they were underage. These cases were not included in any analyses reported here.

There were 11 cases in the final data set for which the highest charge was a felony with no felony class listed. These cases were categorized as "fugitive for justice" cases and were likely interstate filings. These cases were omitted from all charges and conviction tables and figures.

For 85 cases, data regarding the case finding was unavailable. Other data were available regarding charges and demographic variables for these cases. These cases span the entire date range and districts. It is unclear why these cases have no finding, whether the case was transferred back to juvenile court or whether staff failed to enter the information into the system. These cases have been excluded from all analyses that include finding data, but have been included in all other analyses.

Because the ICON/Eclipse system was new in 1999, charges were often entered as notes or by other means rather than in the traditional format. Information on charges is missing from 8 cases in 1999. These 8 cases were excluded from analyses on charges, leaving 1802 cases included in the analyses on charges.

There are 498 cases that are not included in the sentencing tables. Of these cases, 381 cases are excluded because the case was dismissed. The remaining 117 cases received a sentence (the case was not dismissed) but the sentence is not represented in the seven categories reported in the table (including DYC, DOC, SOIS, YOS, Community Corrections, Deferred Sentence, or Probation).

Sentences that were marked as Back-loaded, Revoked, Set Aside, Suspended, Time Served, Vacated, or Waived were excluded from analyses. Only those sentences that were upheld were included in the calculations of averages in the sentencing tables.

The following sentencing categories are not mutually exclusive. For example, if a defendant was sentenced to both YOS and Probation, their sentence is included in the calculation of the average for both the YOS and the Probation columns.

Urban and rural districts were categorized based on information from SCAO and are consistent with prior analyses of metro districts versus non-metro districts (personal communication, Jessica Zender, SCAO). Urban districts included: 1 (Jefferson), 2 (Denver), 4 (El Paso), 17 (Broomfield), 18 (Arapahoe), 19 (Weld), 20 (Boulder), and 21 (Mesa). All other districts were considered rural.

Violent offenses included cases coded with the following case types: assault, homicide, kidnapping, robbery, sex offenses, and weapons. All other case types were considered to be non-violent.

When interpreting district-level data, it is very important to keep in mind the number of cases direct filed in each district. When fewer than 10 to 15 cases were filed from 1999-2010, it is extremely hard to interpret any trends represented in the data, especially when looking at the data broken down in other ways such as by age, gender, cases type or sentencing. Often, certain categories are missing completely or represent a large portion of the data. These data should be interpreted extremely cautiously as 1 or 2 cases can have a large impact on any trend seen in the data, in either direction.

The *Relative Rate Index* (RRI) is a calculation used to detect disproportionate minority contact (DMC) with the justice system by comparing the rates of justice system contact experienced by racial/ethnic minority youth to that of White youth. It is very important that the population or total sample size for each group being compared and the incidence rate for each group for the experience or outcome in question be appropriately defined and determined. The RRI compares the rate of direct file for the minority group (numerator) to the rate of arrest for the majority group (the denominator). If the rates are exactly the same, the RRI will equal 1. Rates higher than 1 indicate some level of DMC, with higher numbers reflecting greater levels of disproportionality or over-representation. For example, a rate of 2.5 for the calculation above would indicate that African American youth in Colorado are two and one-half times more likely to be direct filed than their White counterparts (based on their respective population sizes).

Status of)ills as of 8:00 A.M. FIRST EXTRAORDINARY SESSION -- PTEMBER 9, 1993

COLORADO GENERAL ASSEMBLY

DAILY STATUS SHEET

BILL	SPONSOR	TITLE	House Action: INTRODUCED	COMMITTEE ASSIGNMENT	COMMITTEE REPORT	COMMITTEE ASSIGNMENT	COMMITTEE REPORT	FISCAL IMPACT	PASSED 2ND READING	PASSED 3RD READING	Senate Action: INTRODUCED OTHER HOUSE	COMMITTEE ASSIGNMENT	COMMITTEE REPORT	COMMITTEE ASSIGNMENT	COMMITTEE REPORT	PASSED 2ND READING	PASSED 3RD READING	CON-CURRENCE	OTHER ACTION
HB93S-																			
1001*	ADKINS	CRIMINAL ACTS COMMITTED BY JUVENILES	9-7	JUD	9-8*	APP	9-8*	FI	9-8*	9-9*									
1002*	MORRISON	APPEARANCE AT PROCEEDINGS INVOLVING CHILD	9-7	JUD	9-7*			NFI	9-7*	9-8	9-8	JUD	9-8*						
1003	T.HERNANDEZ	JUVENILE VIOLENCE	9-7	BUS	9-7*	APP	PI 9-8	FI											
1004	FOSTER	SUPP APP TO DEPT OF PUBLIC SAFETY	9-7	APP	9-7				9-7	9-8	9-8	APP	9-8						
1005*	COFFMAN	REGIMENTED JUVENILE TRAINING PROGRAM	9-7	BUS	9-7*	APP	9-8*	FI	9-8*	9-9*									
1006*	KREUTZ	CRIME OF UNLAWFUL SALE OF A FIREARM	9-7	JUD	9-7	APP	9-8*	FI	9-8*	9-9									
1007	GORDON	CRIMINAL OFFENSES IN HANDGUN POSSESSION	9-7	JUD	9-8*	APP	PI 9-8	FI											
1008*	PANKEY	GUN POSSESSION IN MOTOR VEHICLE OFFENSES	9-7	SA	9-7*	APP	9-8	FI	9-8*	9-9									
1009	HAGEDORN	LIABILITY INSURANCE ADULTS PROVIDING GUNS	9-7	BUS	PI 9-7			FI											
1010	GEORGE	LIABILITY OF ADULTS FOR JUVENILE ACTS	9-7	BUS	9-7			NFI	9-7	9-8	9-8	SA	9-8*						
1011	ALLEN	DETENTION OF JUVENILES WITH ADULTS	9-7	SA	R9-7*	APP	PI 9-8	CFI											
1012	GRAMPSAS	SUPP APP TO DEPT OF SOCIAL SERVICES	9-7	APP	9-7				9-7	9-8	9-8	APP	9-8						
1013	R.HERNANDEZ	JUSTICE SYSTEM FOR SERIOUS OFFENDERS	9-7	SA	9-7*	APP	PI 9-8	FI											
1014*	SCHAUER	INCREASE JUDGES IN EIGHTEENTH DISTRICT	9-7	APP	9-8*			FI	9-8*	9-9									
1015	ENTZ	SENTENCE OF GANG MEMBER UNDER 18	9-7	JUD	PI 9-8	APP		FI											
1016	LAWRENCE	WAIVER OF JUVENILE COURT JURISDICTION	9-7	BUS	9-7*	APP		FI											
1017*	ARMSTRONG	SURCHARGE ON FINES IMPOSED ON JUVENILES	9-7	FIN	9-7			FI	9-7*	9-8	9-8	JUD	9-8						
1018*	TUCKER	COUNTY POWER TO ADOPT JUVENILE ORDINANCES	9-7	BUS	9-7*			NFI	9-7*	9-8	9-8	SA	9-8*						
1019	RUPERT	FEMALE JUVENILE SENTENCED AS ADULT	9-7	SA	PI 9-7			NFI											
1020	ACQUAFRESCA	COST TO PARENT FOR JUVENILE CARE	9-7	SA				FI											
1021	FRIEDNASH	PREVENTION OF JUVENILE/GANG RELATED CRIME	9-7	SA	PI 9-7	APP		FI											
1022	SNYDER	COUNTY POWER TO ADOPT JUVENILE ORDINANCES	9-7	BUS	PI 9-7			NFI											
1023	AGLER	DELINQUENCY RIGHT TO JURY TRIAL	9-7	JUD	9-7			FI	L 9-7										
1024	KAUFMAN	SUPP APP TO JUDICIAL DEPT	9-7	APP															
1025	CLARK	PERMIT TO CARRY CONCEALED WEAPON	9-7	SA	PI 9-8			CFI											
HOUSE CONCURRENT RESOLUTIONS																			
HCR93S-																			
1001	TANNER	GUN OWNERSHIP OR POSSESSION UNDER 21	9-7	SA	PI 9-8			CFI											
HOUSE JOINT RESOLUTIONS																			
1001	FOSTER	JOINT SESSION FOR ADDRESS BY GOVERNOR	9-7							9-7	9-7						9-7		A 9-7
1002	PANKEY	FACILITIES AT LOWRY FOR DETENTION PURPOSE	9-7	SA	9-7														
1003	ALLEN	CONFINEMENT OF JUVENILES WITH ADULTS	9-7	JUD	9-8														
1004	WILLIAMS	EXISTING JUVENILE CRIME PREVENTION PROGRAMS	9-7	JUD	PI 9-8														
1005	RUPERT	JUVENILES AND VIOLENCE ISSUES	9-7	JUD	9-8														
1006	PANKEY	ACQUIRE CORRECTIONAL SPACE NAFTA COUNTRY	9-7	BUS															
1007	FOSTER	DEADLINE SCHEDULE	9-7							9-7	9-7						9-8		A 9-8
HOUSE RESOLUTIONS																			
1001	RUPERT	CORPORAL PUNISHMENT IN SCHOOLS	9-7	ED	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	WITHDRAWN 9-8

* Amended
A Adopted
AD Adherence
BL Became Law
CC Conference Committee
CR Conf. Committee Report
FI Fiscal Impact
H House
L Lost
LO Laid Over
NFI No Fiscal Impact
PFI Probable Fiscal Impact
PI Postponed Indefinitely
PV Portions Vetoed
PVO Portion Veto Overridden
R Referred
RC Reconsideration
RE Receded
RJ Rejected
RL Recalled
RR Rereferred
S Senate
SIG Signed by Governor
V V by Governor
VO erridden
VS stained

For Inform - Call 866-3055 or Historian 866-2900

Status of all bills as of 8:00 A.M. FIRST EXTRAORDINARY SESSION -- SEPTEMBER 11, 1993

COLORADO GENERAL ASSEMBLY

DAILY STATUS SHEET

			Senate Action								House Action								
BILL	SPONSOR	TITLE	INTRODUCED	COMMITTEE ASSIGNMENT	COMMITTEE REPORT	COMMITTEE ASSIGNMENT	COMMITTEE REPORT	FISCAL IMPACT	PASSED 2ND READING	PASSED 3RD READING	INTRODUCED OTHER HOUSE	COMMITTEE ASSIGNMENT	COMMITTEE REPORT	COMMITTEE ASSIGNMENT	COMMITTEE REPORT	PASSED 2ND READING	PASSED 3RD READING	CON-CURRENCE	OTHER ACTION
SB93S-																			
1	BISHOP	SEPARATE FACILITIES FOR SERIOUS OFFENDERS	9-7	JUD	9-7*	APP	PI 9-9	FI											
2*	ROBERTS	PLACEMENT IN PRIVATE MINIMUM SECURITY	9-7	SA	9-7*	APP	9-8*	CFI	9-8*	9-9	9-9	BUS	9-9	APP	9-9	I, 9-9			
3*	TIEBAUT	CHRONIC AND RECIDIVIST JUVENILES PROGRAM	9-7	SA	9-7*			FI	9-7*	9-8*	9-9	SA	PI 9-9						
4*	RUDDICK	PREVENTION OF GANG-RELATED CRIMES	9-7	JUD	9-7*	APP	9-8*	FI	9-8*	9-9	9-9	JUD	9-9	APP	PI 9-9				
5*	MENDEZ	INTENSIVE FAMILY PRESERVATION PROGRAMS	9-7	SA	9-7*	APP	9-8*	CFI	9-8*	9-9	9-9	SA	9-9*	APP	PI 9-10				
6*	SCHROEDER	REGIMENTED JUVENILE TRAINING PROGRAM	9-7	BUS	9-7*	APP	9-8*	FI	9-8*	9-8*	9-9	BUS	9-9*	APP	PI 9-9				
7	JOHNSON	ADDITIONAL JUVENILE HOUSING CAPACITY	9-7	JUD	9-8*	APP													
8*	OWENS	JUVENILE DELINQUENCY RECORDS TO PUBLIC	9-7	SA	9-7			NFI	9-7	9-8	9-8	SA	9-9*			9-9*	9-10	9-10	
9*	WHAM	JUVENILES FILED WITH CRIMINAL CHARGES	9-7	JUD	9-7*	APP	9-8*	FI	9-9*	9-9*	9-9	JUD	9-10*	APP	9-10*	9-10*			
10	MARES	POSSESSION OF HANDGUNS BY JUVENILES	9-7	JUD		APP		FI											
11*	MARTINEZ	REWARD FOR INFO LEADING TO CRIMINAL CASE	9-7	SA	9-7*	APP	9-8	FI	9-8*	9-9	9-9	BUS	PI 9-9	APP					
SENATE CONCURRENT RESOLUTIONS																			
SCR93S-																			
1	GROFF	PROHIBIT POSSESSION OF GUN UNDER 21	9-7	JUD	PI 9-7			CFI											
SENATE JOINT RESOLUTIONS																			
SJR93S-																			
1	WELLS	COMMITTEE TO NOTIFY GOVERNOR	9-7							9-7	9-7						9-7		A 9-7
2*	BISHOP	SCHOOL STRATEGIES TO COMBAT VIOLENCE	9-7	BUS	9-7*					9-9*	9-10	ED	9-10*				9-10*		
3*	ROBERTS	ETHICS AND MORALITY IN EDUCATION	9-7	BUS	9-7*					9-9*	9-10	ED	9-10*				9-10*		
4*	BUCKENSDERFER	RECOGNIZE NUGGETS, ROCKIES AND BRONCOS	9-7	JUD	9-7*					9-9*	9-10						9-10*	9-10	A 9-10
SENATE RESOLUTIONS																			
1	WELLS	EMPLOYEE FOR EXTRAORDINARY SESSION	9-7							9-7									A 9-7
2	WELLS	LIMIT NUMBER OF RESOLUTIONS AND MEMORIALS	9-10							9-10									A 9-10

*This status sheet is prepared as an informational service only and should not be relied upon as an official record of action taken by the General Assembly.

* Amended
A Adopted
AD Adherence
BL Became Law
CC Conference Committee
CR Conf. Committee Report
FI Fiscal Impact
H House
L Lost
LO Laid Over
NFI No Fiscal Impact
PFI Probable Fiscal Impact
PI Postponed Indefinitely
PV Portions Vetoed
PVO Portion Veto Overridden
R Referred
RC Reconsideration
RE Receded
RJ Rejected
RL Recalled
RR Rereferred
S Senate
SIG Signed by Governor
V Vetoed by Governor
VO Veto Overridden
VS Veto Sustained

For Information 866-3055 or Historian 866-2900

Youthful Offender System Appropriations, Bell Policy Center, January 2012						
Fiscal Year	**Long Bill Number**	**Total Corrections Appropriations**	**Youth Offender System**	**FTE**	**Aftercare**	**FTE**
2011-2012	SB 11-209	$727,033,553	$11,064,407	162.7	$1,839,547	8
2010-2011	HB 10-1376	$733,185,685	$10,723,596	171.9	$1,836,010	9.5
2009-2010	SB 09-259	$759,875,487	$10,836,460	172.9	$1,849,949	9.5
2008-2009	HB 08-1375	$759,502,556	$10,549,437	172.9	$1,814,537	9.5
2007-2008	SB07-239	$702,876,269	$10,232,494	172.9	$1,777,580	9.5
2006-2007	HB 06-1385	$643,770,510	$10,123,456	172.9	$1,765,968	9.5
2005-2006	SB 05-209	$589,304,017	$10,507,023	172.9	$1,743,726	9.5
2004-2005	HB 04-1422	$555,455,487	$10,357,252	174.4	$1,710,272	9.5
2003-2004	SB 03-258	$546,572,117	$10,860,754	183.4	$1,710,272	9.5
2002-2003	HB 02-1420	$562,287,191	$11,476,821	202.7	$1,887,262	10
2001-2002	SB 01-212	$538,906,402	$10,817,156	202.7	$2,081,799	10
2000-2001	HB 00-1451	$477,540,150	$11,026,575	221	$1,734,630	10
1999-2000	SB 99-215	$432,006,172	$9,940,399	221.3	$3,268,882	10
1998-1999	HB 98-1401	$406,393,889	$10,943,989	231.3	$2,512,738	8
1997-1998	SB 97-215	$337,612,360	$10,551,178	78	$1,381,725	5.5
1996-1997	HB 96-1366	$288,909,937	$8,171,159	78	$819,871	4.5
1995-1996	SB 95-214	$271,185,703	$5,608,306	78	$383,738	3.5
1994-1995	HB 94-1356	$231,544,544	$2,566,162	80	-	-
1993-1994	SB 94-234	$208,437,791	-	-	-	-
		YOS TOTAL	$176,356,624	**AFTERCARE TOTAL**	$30,118,506	
		YOS + Aftercare:	**$206,475,130**			

Link
http://www.leg.state.co.us/CLICS/CLICS2011A/csl.nsf/lbcontainer/913CB6597C987B648725786A00028043/$FILE/cor_act.pdf
http://www.leg.state.co.us/CLICS/CLICS2010A/csl.nsf/lbcontainer/DE16BC2C984C6089872576F300493A2E/$FILE/cor_act.pdf
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http://www.state.co.us/gov_dir/leg_dir/sess1998/hbills98/budget.htm
http://www.state.co.us/gov_dir/leg_dir/olls/sl1996/sl_324.pdf

Youthful Offender System - Capital Construction Appropriations

onfirmed

Year	Description	Costs	Bill Number	Notes	Source
1994	Original construction appropriation	$25,249,500	HB94-1340		1998 DOC Statistical Report: Table 6 Prison Expansion
1997	Expand total # beds	$11,085,824	HB97-1244	Additional construction appropriation to expand the total number of beds by 180…480 total beds. -2002 Audit **PAID FOR BY FEDERAL DOLLARS.**	1998 DOC Statistical Report: Table 6 Prison Expansion and Construction Legislation
04? 20C	Move to PMC/LVCF	$1,764,267	SB04-171 or SB05-104	PMC/YOS. 84 beds. SB05-104 or SB04-171 authorized use of Federal Funds. (or both: SB04-171 = re: state agency contracts, SB05-104 makes mention of the $ from the Jobs & Growth Tax Relief Reconciliation Act. Both are mentioned in connection with this appropriation). 2006 Statistical Report: Federal funds received under the Jobs & Growth Tax Relief Reconciliation Act of 2003 to facilitate the relocation of the YOS program. 2007 Statistical Report: Federal funds received in 2004 under the Jobs & Growth Tax Relief Reconciliation Act of 2003 to facilitate the relocation of the YOS program. Spending	2006 & 2007 Statistical Reports.
2009	Phase I for Multi-use Support Building	$296,332	Long Bill: SB09-259	Paid for by revenues earned by Correctional Industries; Canteen Fund & inmate phone time.	Long Bill 2009 - Capital Construction - DOC
	TOTAL =	$38,395,923			

Likely

Year	Description	Costs	Bill Number	Notes	Source
1994	"Min. R Expansion: Buildings 7, 8, 10 at CMHIP"	$1,633,166	Long bill: HB94-1356	Kori Donaldson: seems like a "safe bet" that these would be YOS expenditures. It is not capital so she does not have a record of the expenditure. She said it would be worth seeing if DOC can confirm whether those are YOS expenditures. It would be YOS money unless they were doing something else on the campus. Currently the highest security forensic facility is on the CMHIP campus, but Kori is not sure if it was there in the 1990s. Lizzy wrote to DOC to confirm expenditures on 1/12/12	Long Bill 1994 - Capital Construction - DOC

1994	DRDC Modulars/Fence YOS	$488,000	x	Mr. Allen saw a new appropriation, dated July 1 1994, that seems to have at least partially been for YOS. "Dual construction: wireless fence." Kori Donaldson (Capital Development Committee Staff) could not see this in her records, but if it was an expenditure on the Operations side she wouldn't be tracking it anyway. If it was a capital construction cost she should have it recorded. YOS was originally in DRDC while the Pueblo facility was being constructed, so perhaps the modulars would be for the temporary housing of the program.	Steve Allen, JBC, Corrections Specialist
1995	"CMHIP Planning & Design"	$823,800	Long bill: SB95-214	See note for 1994 CMHIP expansion above.	Long Bill 1995 - Capital Construction - DOC
	TOTAL =	$2,944,966			

NOTE:

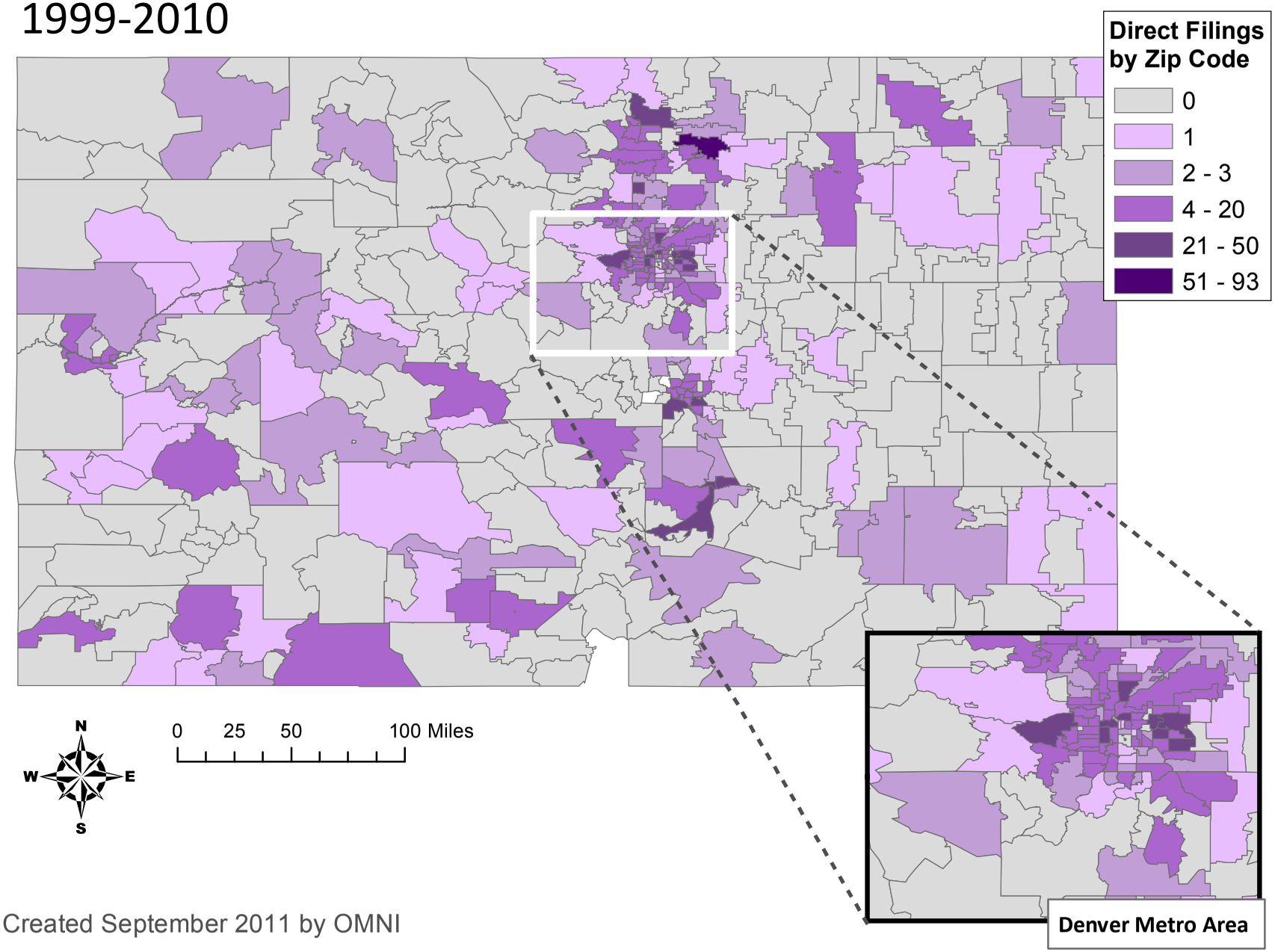
*February 2011: DOC withdrew its request for funding for Phase II of the Multi-use Support Building. The request was for $2,321,724.

*Steve Allen from the JBC - caution about the totals: Appropriations that you see will pick up PERA contributions but it doesn't include some of the employee benefits--those would be in the management section of the Executive Director's office & are hard to pull out. There's no easy solution--you would need the budget submissions of the Department. JBC has back until 2003. These could add up to 10% to the total you're seeing. It would be inaccurate to use the numbers you will have to compare the expenditures to those from other states.

*More notes from Steve Allen:
Oct. 2002: Still see $36 million. Only YOS. Continuing with construction.
Feb. 2004: Flat plate cooling: Controlled maintenance reports. Submitted, removed, approved. For YOS.
2005: "gates installed." Trailer moved. Building 10 framing in progress.
Feb. 2006: $1.764 million (*this is the federal $$ for the move)*
June 2007: Still showing relocation money

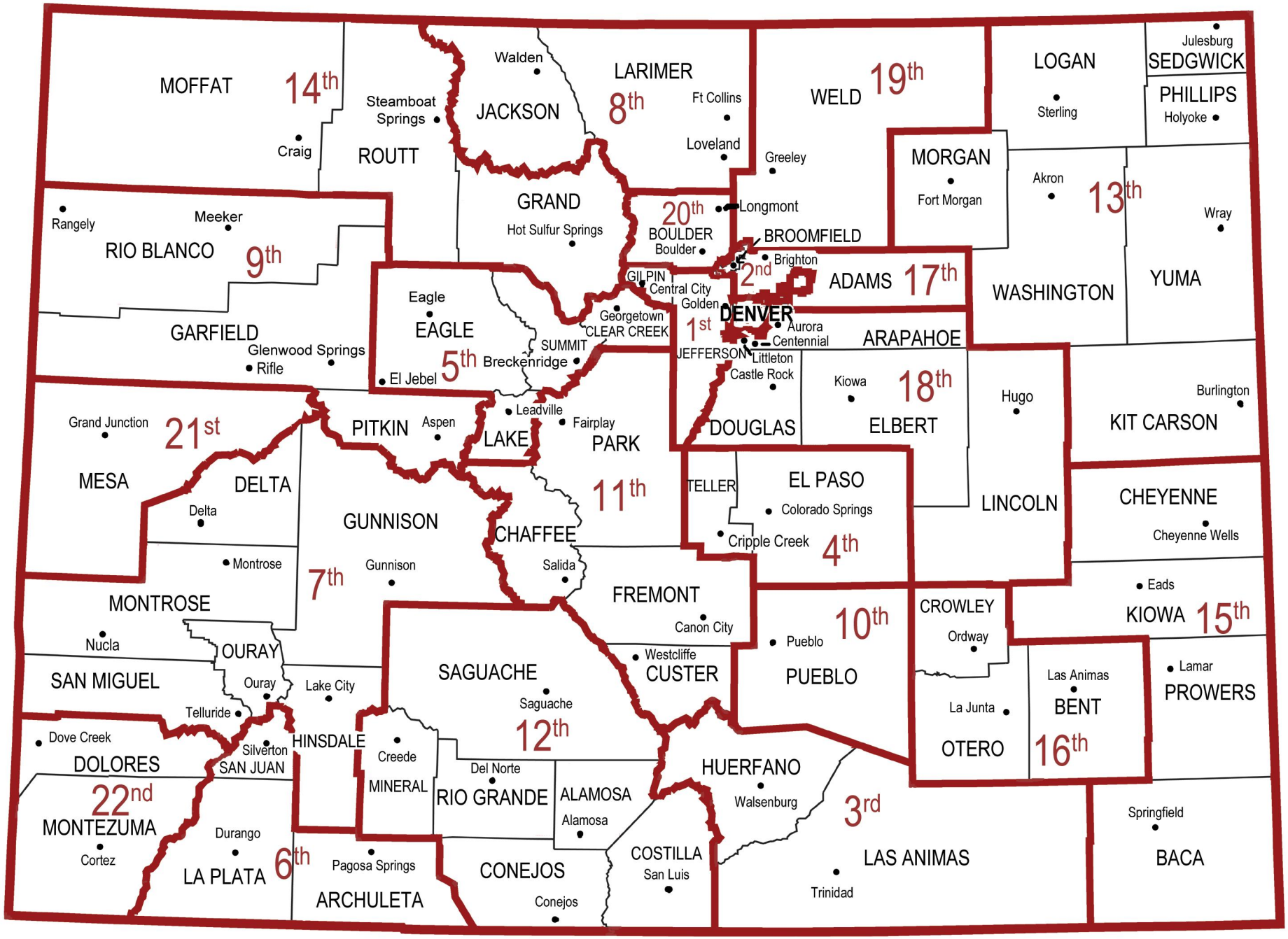
Colorado Direct Filings by Zip Code

1999-2010



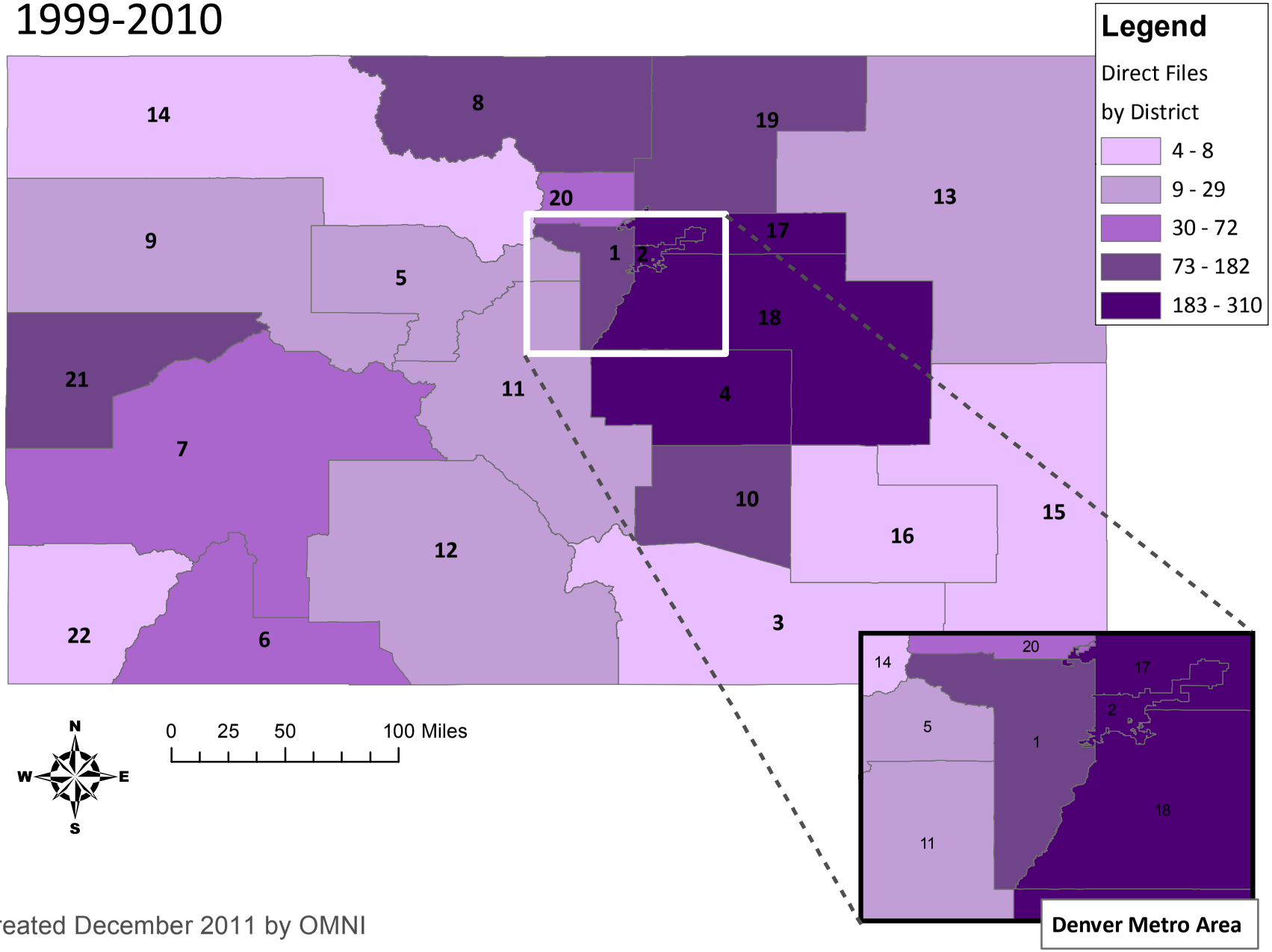
Created September 2011 by OMNI

Judicial Districts of Colorado



CJDC Direct Filings by District

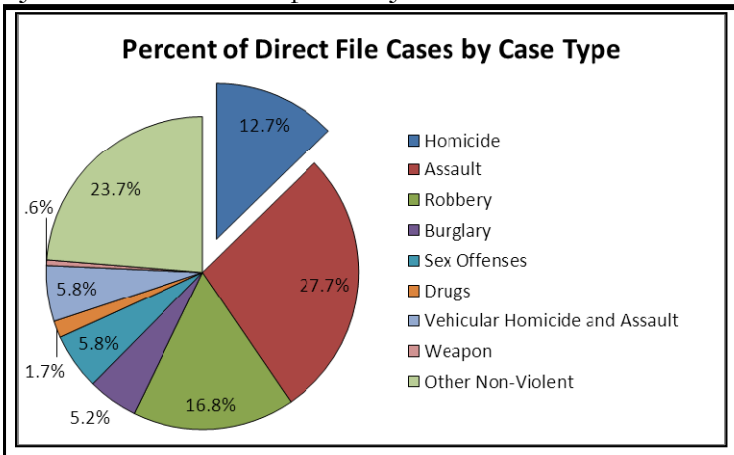
1999-2010

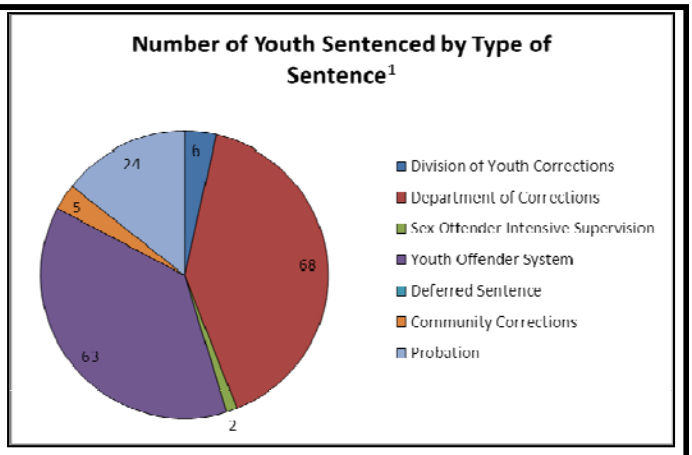


Created December 2011 by OMNI

Colorado Direct Files

Judicial District 1: Gilpin and Jefferson Counties Total Number of Direct Files: 178 1999-2010

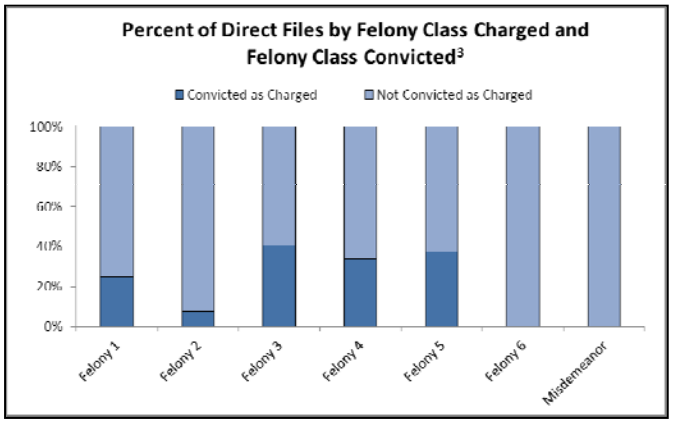




Colorado is Prosecuting Youth as Adults for lower to mid-level felonies

A majority of these cases result in plea bargain so the child's case is never reviewed by a judge or jury.

Highest Charge Felony Class	Highest Conviction Felony Class[2]								
	Total	Felony 1	Felony 2	Felony 3	Felony 4	Felony 5	Felony 6	Misdem.	No conviction
Felony 1	8	2	4	1	1	0	0	0	0
Felony 2	38	0	3	15	6	3	0	1	10
Felony 3	59	0	0	24	18	1	1	4	11
Felony 4	62	0	0	0	21	18	4	4	15
Felony 5	8	0	0	0	0	3	0	0	5
Felony 6	1	0	0	0	0	0	0	0	1
Misdemeanor	-	-	-	-	-	-	-	-	-



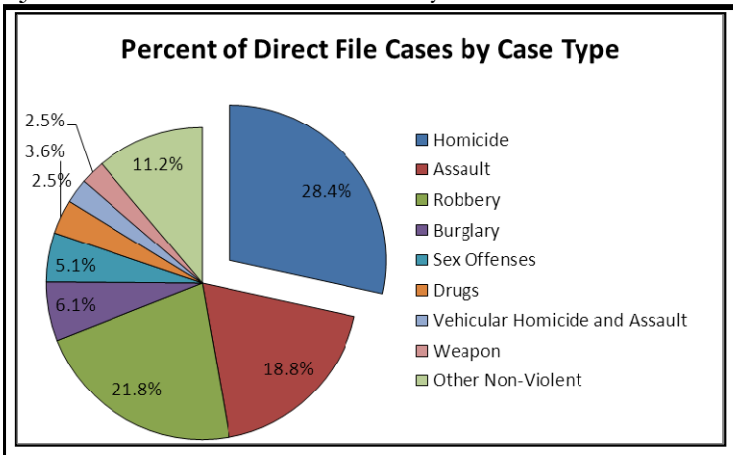
Among other injustices, the direct file process unduly affects black and Hispanic youth. Colorado needs to ensure the right to a hearing before a judge on the issue of whether the case should be in adult or juvenile court.

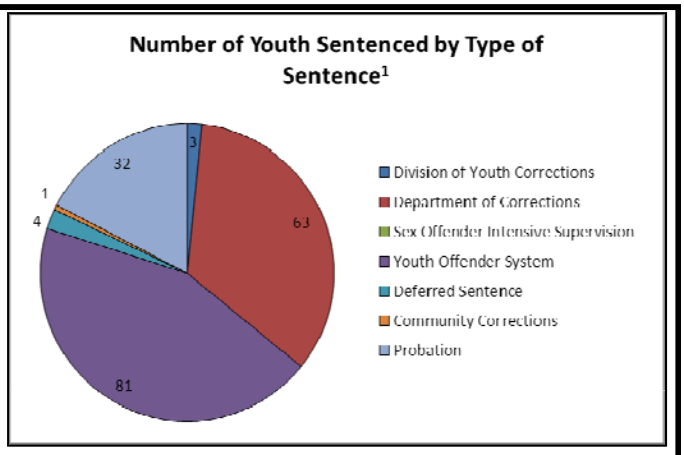
Race[4]	% of Juvenile Population[5]	% of Direct File Cases[5]	Relative Rate Index[6]	Division of Youth Corrections	Department of Corrections	Youth Offender System	Deferred Sentence	Probation
White	79%	75.7%	-	83.3%	80.9%	72.6%	0.0%	87.5%
Black	2%	13.6%	2.52	16.7%	14.7%	19.4%	0.0%	4.2%
Hispanic	14%	5.6%	0.57	0.0%	4.4%	3.2%	0.0%	8.3%
Other	5%	5.1%	2.01	0.0%	0.0%	4.8%	0.0%	0.0%

1. This figure represents the percent of direct filed youth by sentencing type. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
2. This figure represents the number of direct file cases by the felony class of the highest charge as compared to the felony class of the highest conviction. Direct file cases charged with "other" types of charges are not included.
3. This figure represents the percent of direct file cases convicted as charged (dark blue bars) and not convicted as charged (light blue bars) in the district from 1999-2010 broken out by the highest felony class charged. Hashed bars, if present, represent groups for which there were no direct file cases reported.
4. This table represents the percent of direct filed youth by sentencing type and racial group. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
5. These columns represent the overall district-wide juvenile population by race from 1999-2009 and the percent of direct file cases from 1999-2010 by race. Disparity in percentages across the percent of juvenile population and percent of direct file cases reflects some degree of minority over- or under-representation at the point of direct case filing.
6. For the RRI calculations, a value of 1.00 means that there is no difference in the proportion of white and minority youth filed on that are direct filed. A value of more than 1.00 means there is an over-representation of the minority group such that the proportion of minority youth filed on that are direct filed is higher than the proportion of white youth filed on that are direct filed.

Colorado Direct Files

Judicial District 2: Denver County | Total Number of Direct Files: 211 | 1999-2010

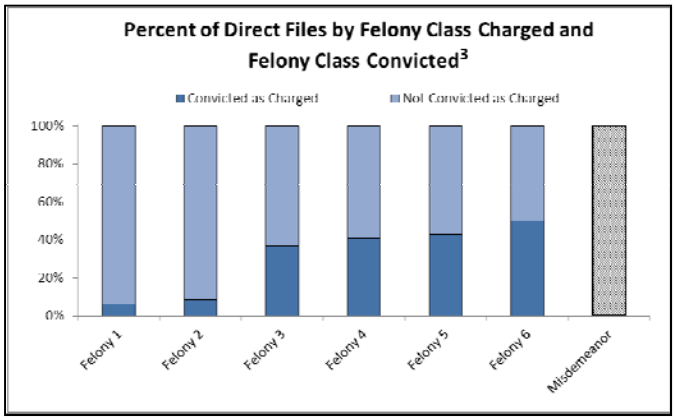




Colorado is Prosecuting Youth as Adults for lower to mid-level felonies

A majority of these cases result in plea bargain so the child's case is never reviewed by a judge or jury.

Highest Charge Felony Class	Highest Conviction Felony Class[2]								
	Total	Felony 1	Felony 2	Felony 3	Felony 4	Felony 5	Felony 6	Misdem.	No conviction
Felony 1	16	1	5	6	2	1	0	0	1
Felony 2	59	0	5	30	7	4	0	0	13
Felony 3	92	0	0	34	32	7	2	0	17
Felony 4	32	0	0	0	13	4	0	2	13
Felony 5	7	0	0	0	0	3	2	0	2
Felony 6	4	0	0	0	0	0	2	1	1
Misdemeanor	-	-	-	-	-	-	-	-	-



Among other injustices, the direct file process unduly affects black and Hispanic youth. Colorado needs to ensure the right to a hearing before a judge on the issue of whether the case should be in adult or juvenile court.

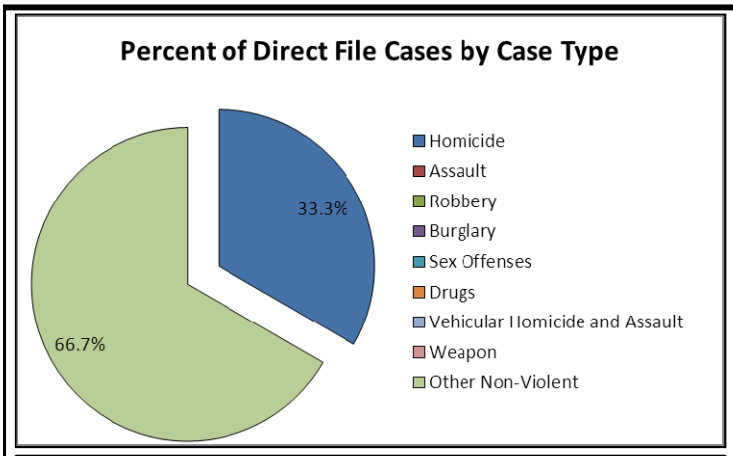
Race[4]	% of Juvenile Population[5]	% of Direct File Cases[5]	Relative Rate Index[6]	Division of Youth Corrections	Department of Corrections	Youth Offender System	Deferred Sentence	Probation
White	30%	13.4%	-	0.0%	6.7%	13.8%	0.0%	12.9%
Black	18%	31.7%	2.31	66.7%	38.3%	31.3%	50.0%	9.7%
Hispanic	46%	53.0%	2.95	0.0%	53.3%	55.0%	50.0%	67.7%
Other	6%	2.0%	1.88	33.3%	1.7%	0.0%	0.0%	9.7%

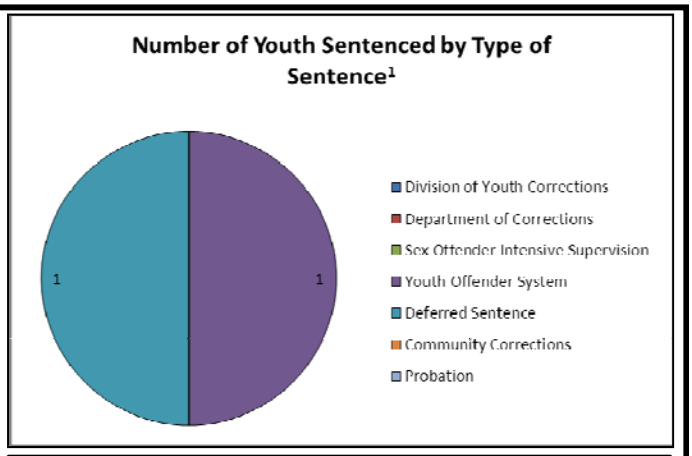
1. This figure represents the percent of direct filed youth by sentencing type. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
2. This figure represents the number of direct file cases by the felony class of the highest charge as compared to the felony class of the highest conviction. Direct file cases charged with "other" types of charges are not included.
3. This figure represents the percent of direct file cases convicted as charged (dark blue bars) and not convicted as charged (light blue bars) in the district from 1999-2010 broken out by the highest felony class charged. Hashed bars, if present, represent groups for which there were no direct file cases reported.
4. This table represents the percent of direct filed youth by sentencing type and racial group. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
5. These columns represent the overall district-wide juvenile population by race from 1999-2009 and the percent of direct file cases from 1999-2010 by race. Disparity in percentages across the percent of juvenile population and percent of direct file cases reflects some degree of minority over- or under-representation at the point of direct case filing.
6. For the RRI calculations, a value of 1.00 means that there is no difference in the proportion of white and minority youth filed on that are direct filed. A value of more than 1.00 means there is an over-representation of the minority group such that the proportion of minority youth filed on that are direct filed is higher than the proportion of white youth filed on that are direct filed.

Colorado Direct Files

Judicial District 3: Huerfano and Las Animas Counties Total Number of Direct Files: 6 1999-2010

Note: Trends for judicial districts that have less than 10 cases for the 11-year period are unreliable.

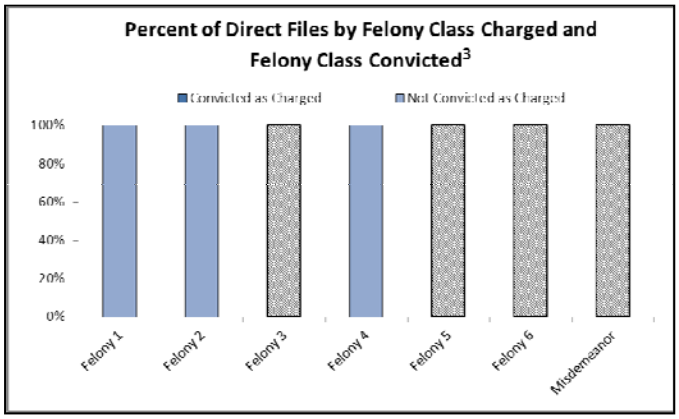




Colorado is Prosecuting Youth as Adults for lower to mid-level felonies

A majority of these cases result in plea bargain so the child's case is never reviewed by a judge or jury.

Highest Charge Felony Class	Highest Conviction Felony Class[2]								
	Total	Felony 1	Felony 2	Felony 3	Felony 4	Felony 5	Felony 6	Misdem.	No conviction
Felony 1	1	0	0	0	0	0	0	0	1
Felony 2	2	0	0	1	0	1	0	0	0
Felony 3	-	-	-	-	-	-	-	-	-
Felony 4	1	0	0	0	0	0	0	0	1
Felony 5	-	-	-	-	-	-	-	-	-
Felony 6	-	-	-	-	-	-	-	-	-
Misdemeanor	-	-	-	-	-	-	-	-	-



Among other injustices, the direct file process unduly affects black and Hispanic youth. Colorado needs to ensure the right to a hearing before a judge on the issue of whether the case should be in adult or juvenile court.

Race[4]	% of Juvenile Population[5]	% of Direct File Cases[5]	Relative Rate Index[6]	Division of Youth Corrections	Department of Corrections	Youth Offender System	Deferred Sentence	Probation
White	51%	66.7%	-	0.0%	0.0%	0.0%	0.0%	0.0%
Black	1%	0.0%	-	0.0%	0.0%	0.0%	0.0%	0.0%
Hispanic	43%	33.3%	1.83	0.0%	0.0%	100.0%	100.0%	0.0%
Other	5%	0.0%	-	0.0%	0.0%	0.0%	0.0%	0.0%

1. This figure represents the percent of direct filed youth by sentencing type. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
2. This figure represents the number of direct file cases by the felony class of the highest charge as compared to the felony class of the highest conviction. Direct file cases charged with "other" types of charges are not included.
3. This figure represents the percent of direct file cases convicted as charged (dark blue bars) and not convicted as charged (light blue bars) in the district from 1999-2010 broken out by the highest felony class charged. Hashed bars, if present, represent groups for which there were no direct file cases reported.
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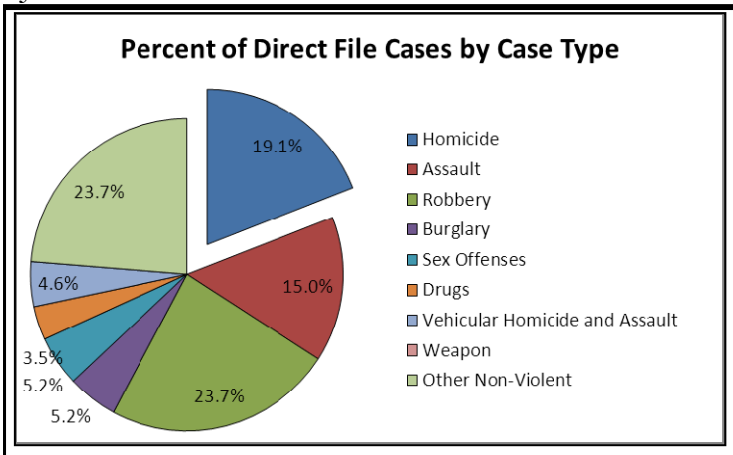
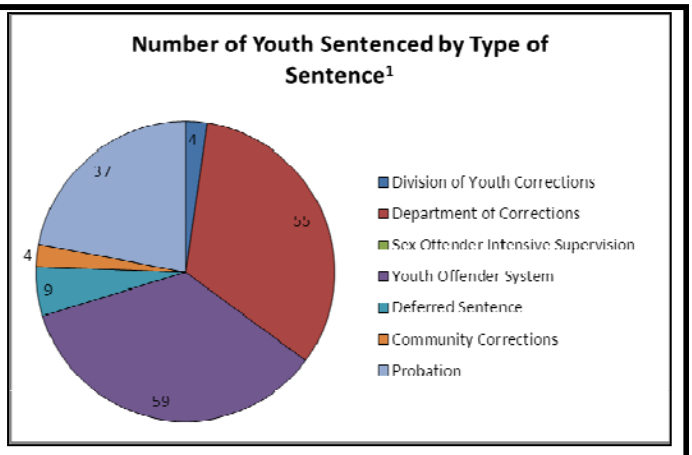
6. For the RRI calculations, a value of 1.00 means that there is no difference in the proportion of white and minority youth filed on that are direct filed. A value of more than 1.00 means there is an over-representation of the minority group such that the proportion of minority youth filed on that are direct filed is higher than the proportion of white youth filed on that are direct filed.

Colorado Direct Files

Judicial District 4: El Paso and Teller Counties | Total Number of Direct Files: 186 | 1999-2010

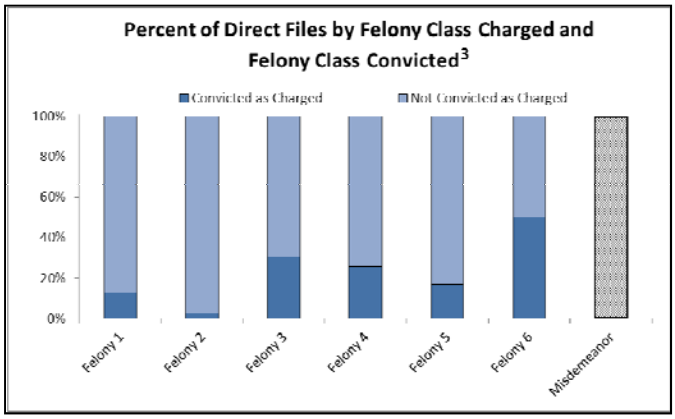




Colorado is Prosecuting Youth as Adults for lower to mid-level felonies

A majority of these cases result in plea bargain so the child's case is never reviewed by a judge or jury.

Highest Charge Felony Class	Highest Conviction Felony Class[2]								
	Total	Felony 1	Felony 2	Felony 3	Felony 4	Felony 5	Felony 6	Misdem.	No conviction
Felony 1	16	2	4	2	5	1	0	0	2
Felony 2	40	0	1	17	10	8	0	1	3
Felony 3	79	0	0	24	29	8	1	1	16
Felony 4	39	0	0	0	10	12	1	3	13
Felony 5	6	0	0	0	0	1	2	0	3
Felony 6	2	0	0	0	0	0	1	0	1
Misdemeanor	-	-	-	-	-	-	-	-	-



Among other injustices, the direct file process unduly affects black and Hispanic youth. Colorado needs to ensure the right to a hearing before a judge on the issue of whether the case should be in adult or juvenile court.

Race[4]	% of Juvenile Population[5]	% of Direct File Cases[5]	Relative Rate Index[6]	Division of Youth Corrections	Department of Corrections	Youth Offender System	Deferred Sentence	Probation
White	72%	47.0%	-	66.7%	42.0%	52.9%	57.1%	38.9%
Black	10%	28.0%	1.55	33.3%	36.0%	27.5%	28.6%	30.6%
Hispanic	13%	13.4%	1.22	0.0%	16.0%	9.8%	0.0%	16.7%
Other	5%	11.6%	2.95	0.0%	6.0%	9.8%	14.3%	13.9%

1. This figure represents the percent of direct filed youth by sentencing type. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
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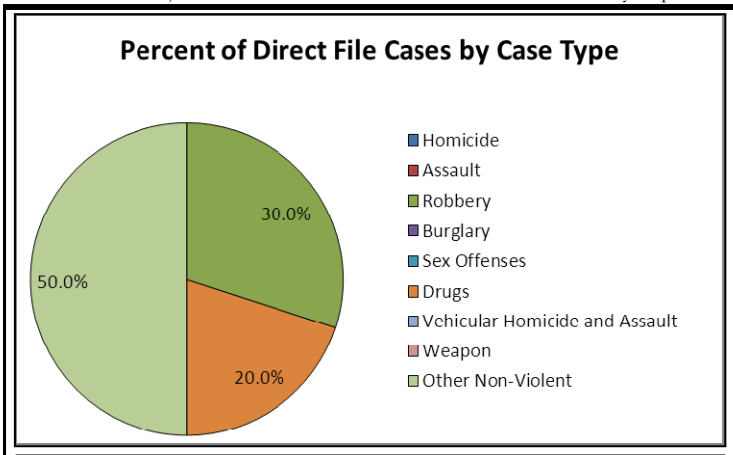
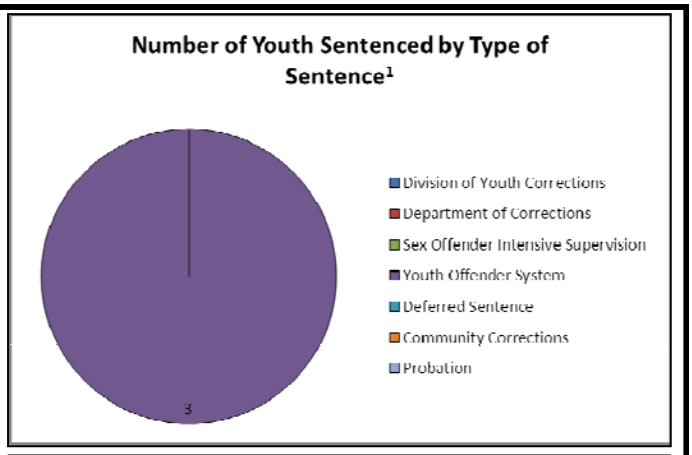
Colorado Direct Files

Judicial District 5: Clear Creek, Eagle, Lake, and Summit Counties Total Number of Direct Files: 10 1999-2010

Note: Trends for judicial districts that have less than 10 cases for the 11-year period are unreliable.

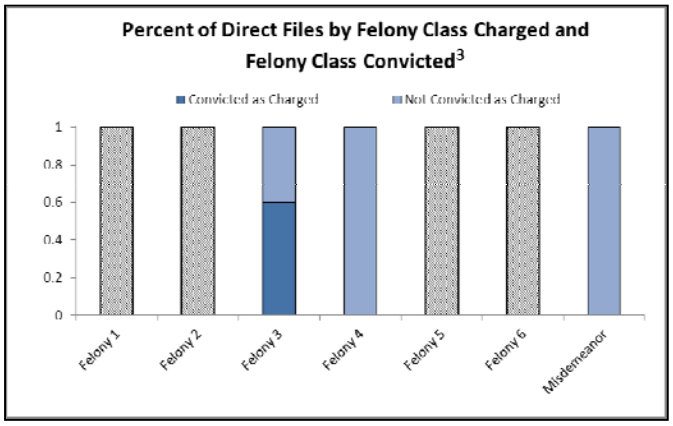




Colorado is Prosecuting Youth as Adults for lower to mid-level felonies

A majority of these cases result in plea bargain so the child's case is never reviewed by a judge or jury.

Highest Charge Felony Class	Highest Conviction Felony Class[2]								
	Total	Felony 1	Felony 2	Felony 3	Felony 4	Felony 5	Felony 6	Misdem.	No conviction
Felony 1	-	-	-	-	-	-	-	-	-
Felony 2	-	-	-	-	-	-	-	-	-
Felony 3	5	0	0	3	0	0	0	0	2
Felony 4	3	0	0	0	0	0	0	0	3
Felony 5	-	-	-	-	-	-	-	-	-
Felony 6	-	-	-	-	-	-	-	-	-
Misdemeanor	0	0	0	0	0	0	0	0	0



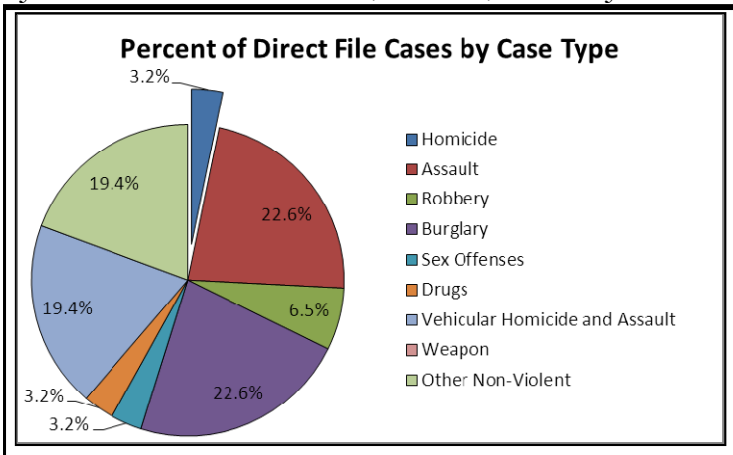
Among other injustices, the direct file process unduly affects black and Hispanic youth. Colorado needs to ensure the right to a hearing before a judge on the issue of whether the case should be in adult or juvenile court.

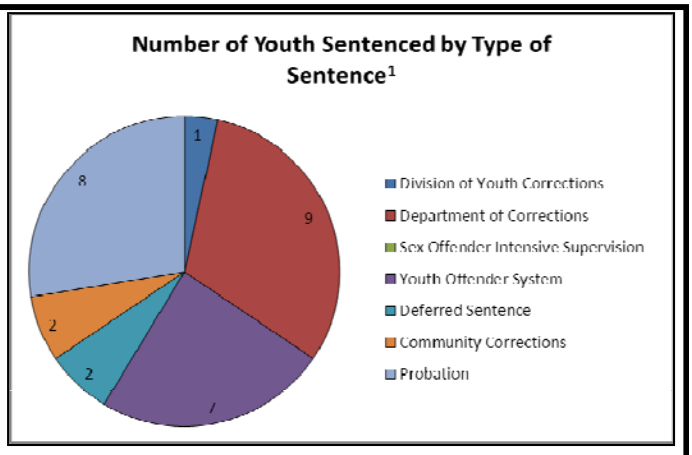
Race[4]	% of Juvenile Population[5]	% of Direct File Cases[5]	Relative Rate Index[6]	Division of Youth Corrections	Department of Corrections	Youth Offender System	Deferred Sentence	Probation
White	69%	80.0%	-	0.0%	0.0%	66.7%	0.0%	0.0%
Black	1%	0.0%	-	0.0%	0.0%	0.0%	0.0%	0.0%
Hispanic	29%	20.0%	1.23	0.0%	0.0%	33.3%	0.0%	0.0%
Other	2%	0.0%	-	0.0%	0.0%	0.0%	0.0%	0.0%

1. This figure represents the percent of direct filed youth by sentencing type. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
2. This figure represents the number of direct file cases by the felony class of the highest charge as compared to the felony class of the highest conviction. Direct file cases charged with "other" types of charges are not included.
3. This figure represents the percent of direct file cases convicted as charged (dark blue bars) and not convicted as charged (light blue bars) in the district from 1999-2010 broken out by the highest felony class charged. Hashed bars, if present, represent groups for which there were no direct file cases reported.
4. This table represents the percent of direct filed youth by sentencing type and racial group. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
5. These columns represent the overall district-wide juvenile population by race from 1999-2009 and the percent of direct file cases from 1999-2010 by race. Disparity in percentages across the percent of juvenile population and percent of direct file cases reflects some degree of minority over- or under-representation at the point of direct case filing.
6. For the RRI calculations, a value of 1.00 means that there is no difference in the proportion of white and minority youth filed on that are direct filed. A value of more than 1.00 means there is an over-representation of the minority group such that the proportion of minority youth filed on that are direct filed is higher than the proportion of white youth filed on that are direct filed.

Colorado Direct Files

Judicial District 6: Archuleta, La Plata, and San Juan Counties Total Number of Direct Files: 31 1999-2010

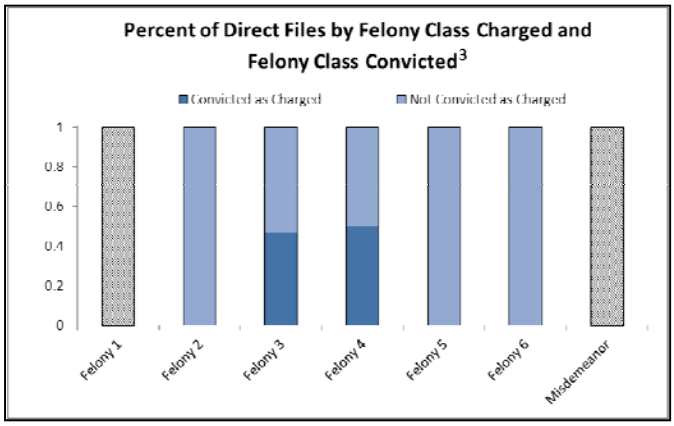




Colorado is Prosecuting Youth as Adults for lower to mid-level felonies

A majority of these cases result in plea bargain so the child's case is never reviewed by a judge or jury.

Highest Charge Felony Class	Highest Conviction Felony Class[2]								
	Total	Felony 1	Felony 2	Felony 3	Felony 4	Felony 5	Felony 6	Misdem.	No conviction
Felony 1	-	-	-	-	-	-	-	-	-
Felony 2	1	0	0	1	0	0	0	0	0
Felony 3	15	0	0	7	5	0	0	0	3
Felony 4	10	0	0	0	5	1	0	0	4
Felony 5	3	0	0	0	0	0	0	2	1
Felony 6	2	0	0	0	0	0	0	0	2
Misdemeanor	-	-	-	-	-	-	-	-	-



Among other injustices, the direct file process unduly affects black and Hispanic youth. Colorado needs to ensure the right to a hearing before a judge on the issue of whether the case should be in adult or juvenile court.

Race[4]	% of Juvenile Population[5]	% of Direct File Cases[5]	Relative Rate Index[6]	Division of Youth Corrections	Department of Corrections	Youth Offender System	Deferred Sentence	Probation
White	79%	69.0%	-	0.0%	62.5%	42.9%	100.0%	85.7%
Black	1%	0.0%	-	0.0%	0.0%	0.0%	0.0%	0.0%
Hispanic	12%	17.2%	1.15	0.0%	37.5%	14.3%	0.0%	14.3%
Other	8%	13.8%	0.87	100.0%	0.0%	42.9%	0.0%	0.0%

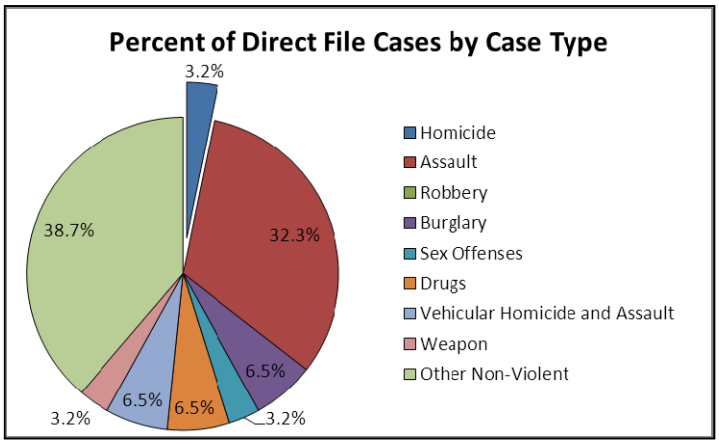
1. This figure represents the percent of direct filed youth by sentencing type. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
2. This figure represents the number of direct file cases by the felony class of the highest charge as compared to the felony class of the highest conviction. Direct file cases charged with "other" types of charges are not included.
3. This figure represents the percent of direct file cases convicted as charged (dark blue bars) and not convicted as charged (light blue bars) in the district from 1999-2010 broken out by the highest felony class charged. Hashed bars, if present, represent groups for which there were no direct file cases reported.
4. This table represents the percent of direct filed youth by sentencing type and racial group. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
5. These columns represent the overall district-wide juvenile population by race from 1999-2009 and the percent of direct file cases from 1999-2010 by race. Disparity in percentages across the percent of juvenile population and percent of direct file cases reflects some degree of minority over- or under-representation at the point of direct case filing.
6. For the RRI calculations, a value of 1.00 means that there is no difference in the proportion of white and minority youth filed on that are direct filed. A value of more than 1.00 means there is an over-representation of the minority group such that the proportion of minority youth filed on that are direct filed is higher than the proportion of white youth filed on that are direct filed.

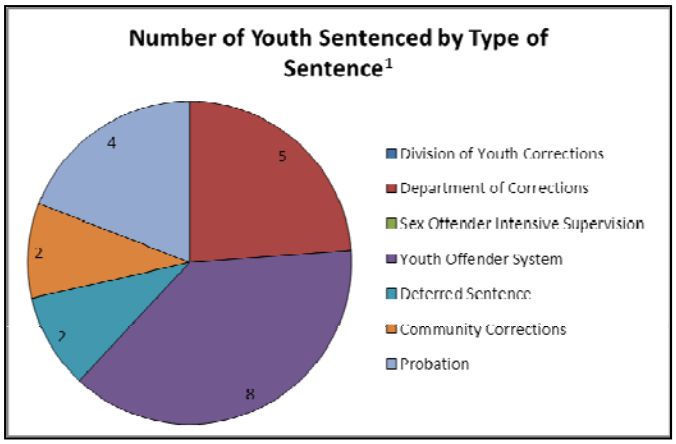
Colorado Direct Files

Judicial District 7: Delta, Gunnison, Hinsdale, Montrose, Ouray, San Miguel Counties

Total Number of Direct Files: 33

1999-2010

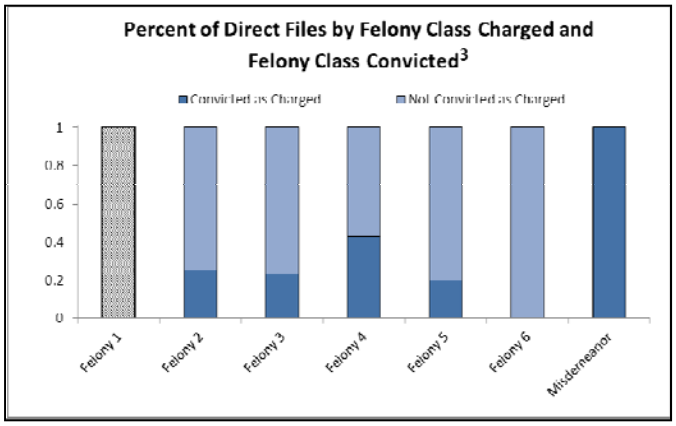




Colorado is Prosecuting Youth as Adults for lower to mid-level felonies

A majority of these cases result in plea bargain so the child's case is never reviewed by a judge or jury.

Highest Charge Felony Class	Highest Conviction Felony Class[2]								
	Total	Felony 1	Felony 2	Felony 3	Felony 4	Felony 5	Felony 6	Misdem.	No conviction
Felony 1	-	-	-	-	-	-	-	-	-
Felony 2	4	0	1	0	0	0	0	1	2
Felony 3	13	0	0	3	3	2	0	1	4
Felony 4	7	0	0	0	3	0	0	1	3
Felony 5	5	0	0	0	0	1	0	0	4
Felony 6	2	0	0	0	0	0	0	0	2
Misdemeanor	1	0	0	0	0	0	0	1	0



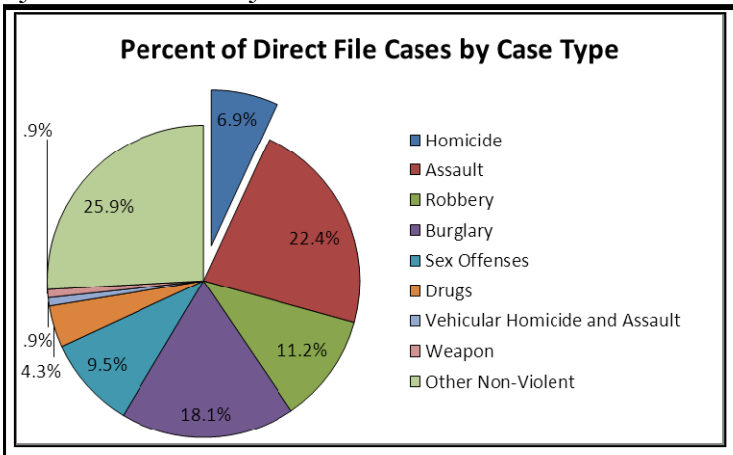
Among other injustices, the direct file process unduly affects black and Hispanic youth. Colorado needs to ensure the right to a hearing before a judge on the issue of whether the case should be in adult or juvenile court.

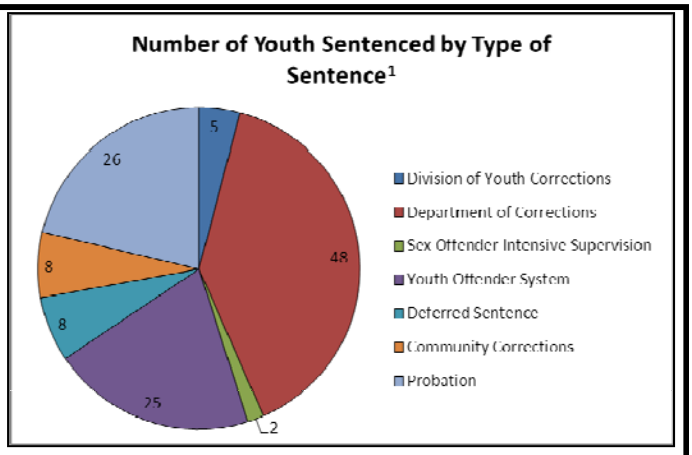
Race[4]	% of Juvenile Population[5]	% of Direct File Cases[5]	Relative Rate Index[6]	Division of Youth Corrections	Department of Corrections	Youth Offender System	Deferred Sentence	Probation
White	80%	78.8%	-	0.0%	80.0%	87.5%	100.0%	75.0%
Black	1%	0.0%	-	0.0%	0.0%	0.0%	0.0%	0.0%
Hispanic	17%	21.2%	1.50	0.0%	20.0%	12.5%	0.0%	25.0%
Other	2%	0.0%	-	0.0%	0.0%	0.0%	0.0%	0.0%

1. This figure represents the percent of direct filed youth by sentencing type. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
2. This figure represents the number of direct file cases by the felony class of the highest charge as compared to the felony class of the highest conviction. Direct file cases charged with "other" types of charges are not included.
3. This figure represents the percent of direct file cases convicted as charged (dark blue bars) and not convicted as charged (light blue bars) in the district from 1999-2010 broken out by the highest felony class charged. Hashed bars, if present, represent groups for which there were no direct file cases reported.
4. This table represents the percent of direct filed youth by sentencing type and racial group. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
5. These columns represent the overall district-wide juvenile population by race from 1999-2009 and the percent of direct file cases from 1999-2010 by race. Disparity in percentages across the percent of juvenile population and percent of direct file cases reflects some degree of minority over- or under-representation at the point of direct case filing.
6. For the RRI calculations, a value of 1.00 means that there is no difference in the proportion of white and minority youth filed on that are direct filed. A value of more than 1.00 means there is an over-representation of the minority group such that the proportion of minority youth filed on that are direct filed is higher than the proportion of white youth filed on that are direct filed.

Colorado Direct Files

Judicial District 8: Jackson and Larimer Counties | Total Number of Direct Files: 117 | 1999-2010

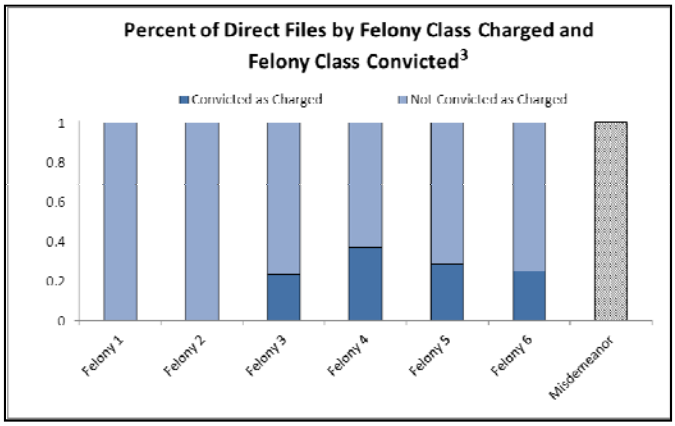




Colorado is Prosecuting Youth as Adults for lower to mid-level felonies

A majority of these cases result in plea bargain so the child's case is never reviewed by a judge or jury.

Highest Charge Felony Class	Highest Conviction Felony Class[2]								
	Total	Felony 1	Felony 2	Felony 3	Felony 4	Felony 5	Felony 6	Misdem.	No conviction
Felony 1	3	0	0	3	0	0	0	0	0
Felony 2	10	0	0	3	3	1	0	1	2
Felony 3	52	0	0	12	17	8	3	2	10
Felony 4	34	0	0	0	13	11	0	2	8
Felony 5	6	0	0	0	0	2	0	1	3
Felony 6	8	0	0	0	0	0	2	1	5
Misdemeanor	-	-	-	-	-	-	-	-	-



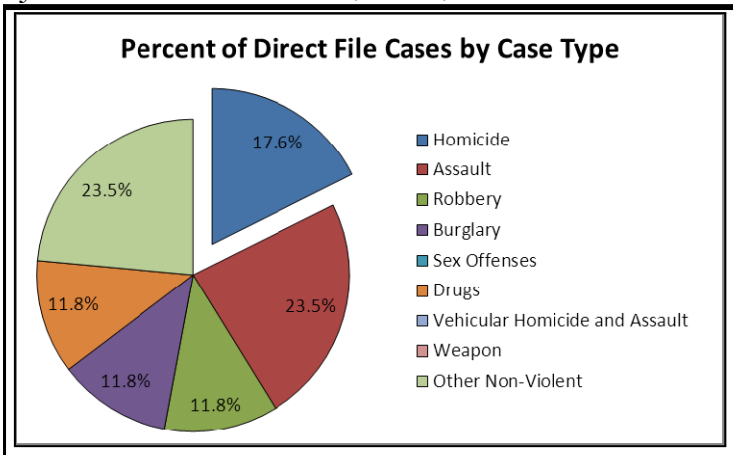
Among other injustices, the direct file process unduly affects black and Hispanic youth. Colorado needs to ensure the right to a hearing before a judge on the issue of whether the case should be in adult or juvenile court.

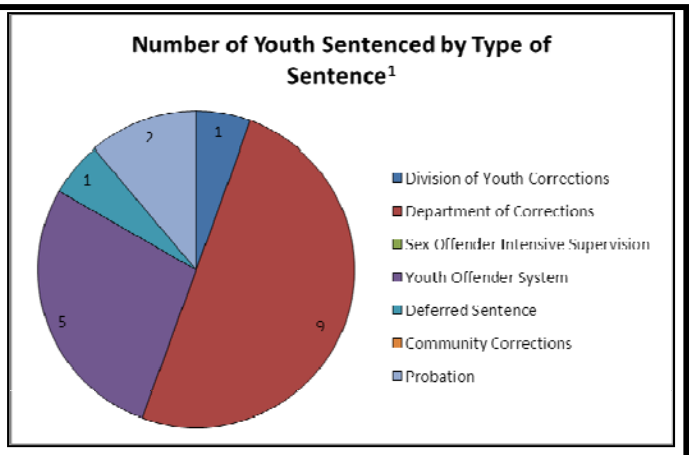
Race[4]	% of Juvenile Population[5]	% of Direct File Cases[5]	Relative Rate Index[6]	Division of Youth Corrections	Department of Corrections	Youth Offender System	Deferred Sentence	Probation
White	84%	90.6%	-	80.0%	91.7%	76.0%	100.0%	100.0%
Black	2%	5.1%	1.74	20.0%	6.3%	12.0%	0.0%	0.0%
Hispanic	12%	3.4%	0.75	0.0%	2.1%	8.0%	0.0%	0.0%
Other	3%	0.9%	0.71	0.0%	0.0%	4.0%	0.0%	0.0%

1. This figure represents the percent of direct filed youth by sentencing type. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
2. This figure represents the number of direct file cases by the felony class of the highest charge as compared to the felony class of the highest conviction. Direct file cases charged with "other" types of charges are not included.
3. This figure represents the percent of direct file cases convicted as charged (dark blue bars) and not convicted as charged (light blue bars) in the district from 1999-2010 broken out by the highest felony class charged. Hashed bars, if present, represent groups for which there were no direct file cases reported.
4. This table represents the percent of direct filed youth by sentencing type and racial group. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
5. These columns represent the overall district-wide juvenile population by race from 1999-2009 and the percent of direct file cases from 1999-2010 by race. Disparity in percentages across the percent of juvenile population and percent of direct file cases reflects some degree of minority over- or under-representation at the point of direct case filing.
6. For the RRI calculations, a value of 1.00 means that there is no difference in the proportion of white and minority youth filed on that are direct filed. A value of more than 1.00 means there is an over-representation of the minority group such that the proportion of minority youth filed on that are direct filed is higher than the proportion of white youth filed on that are direct filed.

Colorado Direct Files

Judicial District 9: Garfield, Pitkin, and Rio Blanco Counties Total Number of Direct Files: 17 1999-2010

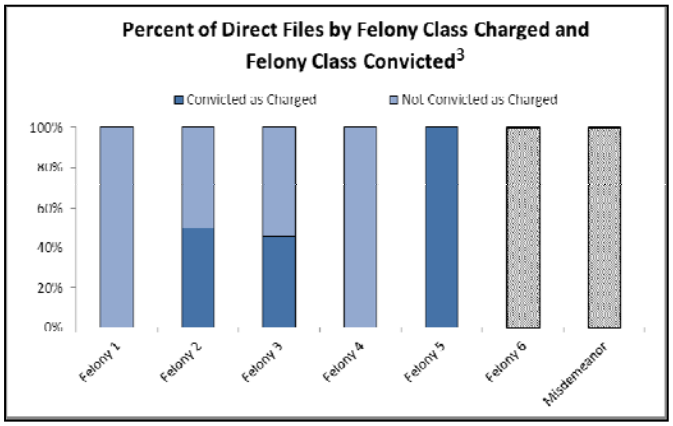




Colorado is Prosecuting Youth as Adults for lower to mid-level felonies

A majority of these cases result in plea bargain so the child's case is never reviewed by a judge or jury.

Highest Charge Felony Class	Highest Conviction Felony Class[2]								
	Total	Felony 1	Felony 2	Felony 3	Felony 4	Felony 5	Felony 6	Misdem.	No conviction
Felony 1	1	0	0	0	1	0	0	0	0
Felony 2	2	0	1	1	0	0	0	0	0
Felony 3	10	0	0	5	2	2	0	0	1
Felony 4	2	0	0	0	0	0	0	0	2
Felony 5	1	0	0	0	0	1	0	0	0
Felony 6	-	-	-	-	-	-	-	-	-
Misdemeanor	-	-	-	-	-	-	-	-	-



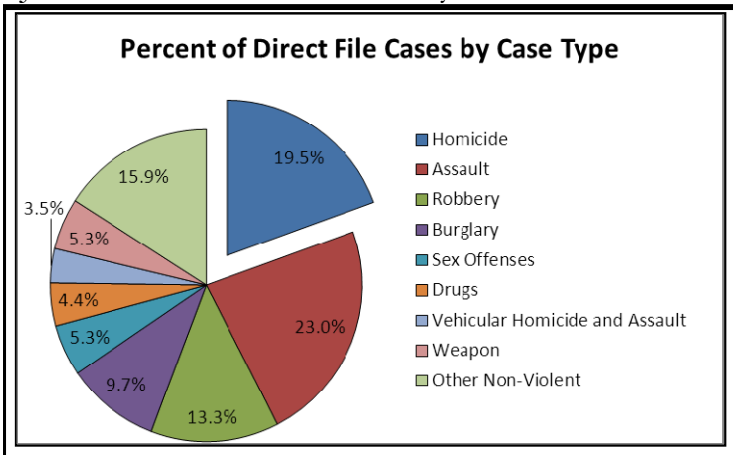
Among other injustices, the direct file process unduly affects black and Hispanic youth. Colorado needs to ensure the right to a hearing before a judge on the issue of whether the case should be in adult or juvenile court.

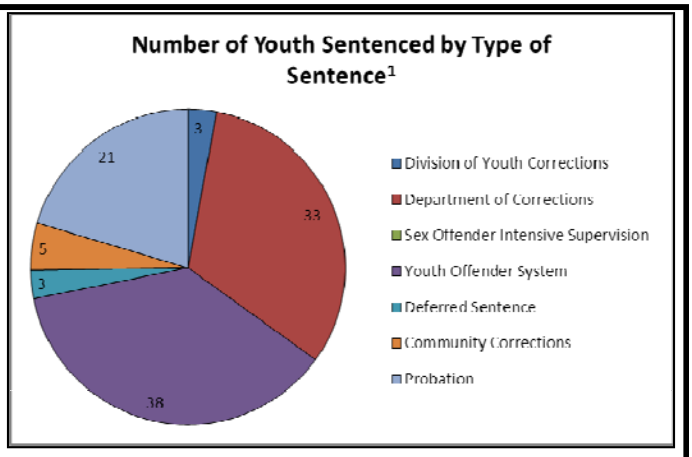
Race[4]	% of Juvenile Population[5]	% of Direct File Cases[5]	Relative Rate Index[6]	Division of Youth Corrections	Department of Corrections	Youth Offender System	Deferred Sentence	Probation
White	77%	73.3%	-	0.0%	57.1%	75.0%	100.0%	100.0%
Black	1%	0.0%	-	0.0%	0.0%	0.0%	0.0%	0.0%
Hispanic	20%	26.7%	1.95	0.0%	42.9%	25.0%	0.0%	0.0%
Other	2%	0.0%	-	0.0%	0.0%	0.0%	0.0%	0.0%

1. This figure represents the percent of direct filed youth by sentencing type. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
2. This figure represents the number of direct file cases by the felony class of the highest charge as compared to the felony class of the highest conviction. Direct file cases charged with "other" types of charges are not included.
3. This figure represents the percent of direct file cases convicted as charged (dark blue bars) and not convicted as charged (light blue bars) in the district from 1999-2010 broken out by the highest felony class charged. Hashed bars, if present, represent groups for which there were no direct file cases reported.
4. This table represents the percent of direct filed youth by sentencing type and racial group. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
5. These columns represent the overall district-wide juvenile population by race from 1999-2009 and the percent of direct file cases from 1999-2010 by race. Disparity in percentages across the percent of juvenile population and percent of direct file cases reflects some degree of minority over- or under-representation at the point of direct case filing.
6. For the RRI calculations, a value of 1.00 means that there is no difference in the proportion of white and minority youth filed on that are direct filed. A value of more than 1.00 means there is an over-representation of the minority group such that the proportion of minority youth filed on that are direct filed is higher than the proportion of white youth filed on that are direct filed.

Colorado Direct Files

Judicial District 10: Pueblo County | Total Number of Direct Files: 117 | 1999-2010

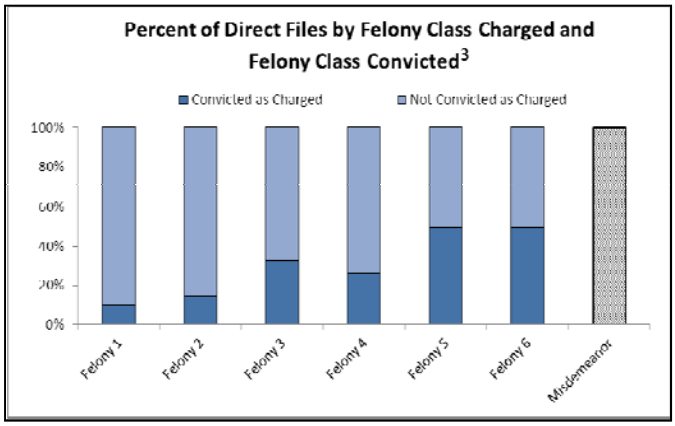




Colorado is Prosecuting Youth as Adults for lower to mid-level felonies

A majority of these cases result in plea bargain so the child's case is never reviewed by a judge or jury.

Highest Charge Felony Class	Highest Conviction Felony Class[2]								
	Total	Felony 1	Felony 2	Felony 3	Felony 4	Felony 5	Felony 6	Misdem.	No conviction
Felony 1	10	1	4	3	1	0	0	0	1
Felony 2	21	0	3	10	0	0	0	0	8
Felony 3	46	0	0	15	16	4	1	0	10
Felony 4	27	0	0	0	7	5	0	6	9
Felony 5	10	0	0	0	0	5	0	2	3
Felony 6	2	0	0	0	0	0	1	0	1
Misdemeanor	-	-	-	-	-	-	-	-	-



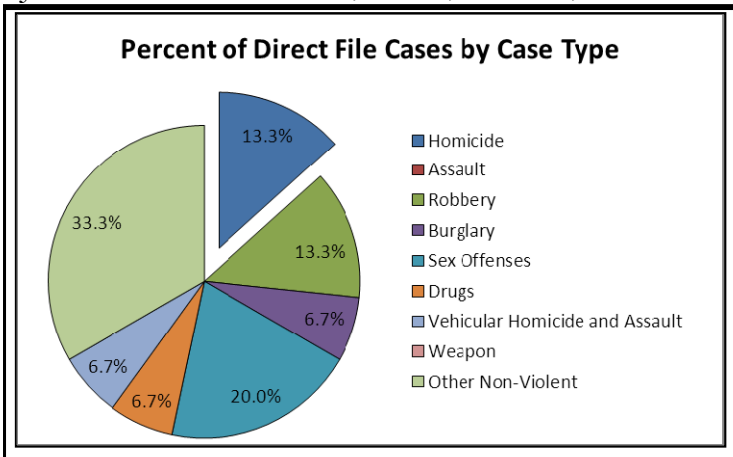
Among other injustices, the direct file process unduly affects black and Hispanic youth. Colorado needs to ensure the right to a hearing before a judge on the issue of whether the case should be in adult or juvenile court.

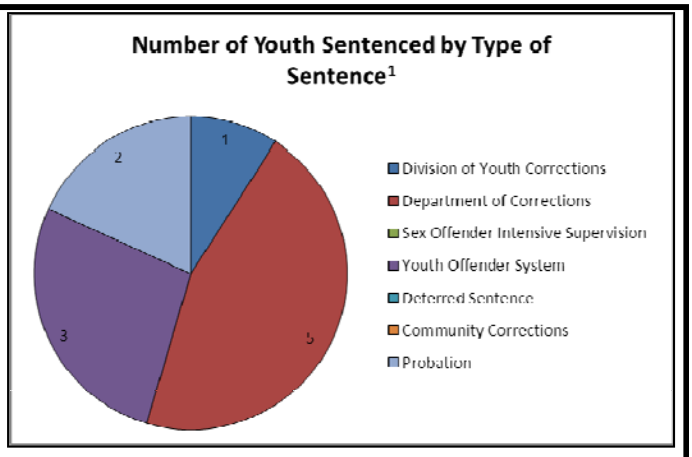
Race[4]	% of Juvenile Population[5]	% of Direct File Cases[5]	Relative Rate Index[6]	Division of Youth Corrections	Department of Corrections	Youth Offender System	Deferred Sentence	Probation
White	49%	71.8%	-	100.0%	66.7%	63.2%	66.7%	61.9%
Black	3%	6.0%	1.75	0.0%	3.0%	2.6%	0.0%	4.8%
Hispanic	44%	17.9%	1.15	0.0%	24.2%	23.7%	33.3%	33.3%
Other	3%	4.3%	2.12	0.0%	6.1%	10.5%	0.0%	0.0%

1. This figure represents the percent of direct filed youth by sentencing type. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
2. This figure represents the number of direct file cases by the felony class of the highest charge as compared to the felony class of the highest conviction. Direct file cases charged with "other" types of charges are not included.
3. This figure represents the percent of direct file cases convicted as charged (dark blue bars) and not convicted as charged (light blue bars) in the district from 1999-2010 broken out by the highest felony class charged. Hashed bars, if present, represent groups for which there were no direct file cases reported.
4. This table represents the percent of direct filed youth by sentencing type and racial group. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
5. These columns represent the overall district-wide juvenile population by race from 1999-2009 and the percent of direct file cases from 1999-2010 by race. Disparity in percentages across the percent of juvenile population and percent of direct file cases reflects some degree of minority over- or under-representation at the point of direct case filing.
6. For the RRI calculations, a value of 1.00 means that there is no difference in the proportion of white and minority youth filed on that are direct filed. A value of more than 1.00 means there is an over-representation of the minority group such that the proportion of minority youth filed on that are direct filed is higher than the proportion of white youth filed on that are direct filed.

Colorado Direct Files

Judicial District 11: Chafee, Custer, Fremont, and Park Counties Total Number of Direct Files: 15 1999-2010

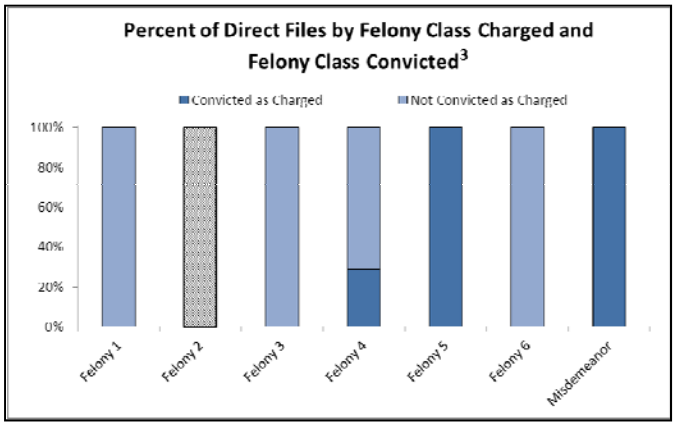




Colorado is Prosecuting Youth as Adults for lower to mid-level felonies

A majority of these cases result in plea bargain so the child's case is never reviewed by a judge or jury.

Highest Charge Felony Class	Highest Conviction Felony Class[2]								
	Total	Felony 1	Felony 2	Felony 3	Felony 4	Felony 5	Felony 6	Misdem.	No conviction
Felony 1	2	0	2	0	0	0	0	0	0
Felony 2	-	-	-	-	-	-	-	-	-
Felony 3	3	0	0	0	1	0	0	0	2
Felony 4	7	0	0	0	2	1	0	1	3
Felony 5	1	0	0	0	0	1	0	0	0
Felony 6	1	0	0	0	0	0	0	0	1
Misdemeanor	1	0	0	0	0	0	0	1	0



Among other injustices, the direct file process unduly affects black and Hispanic youth. Colorado needs to ensure the right to a hearing before a judge on the issue of whether the case should be in adult or juvenile court.

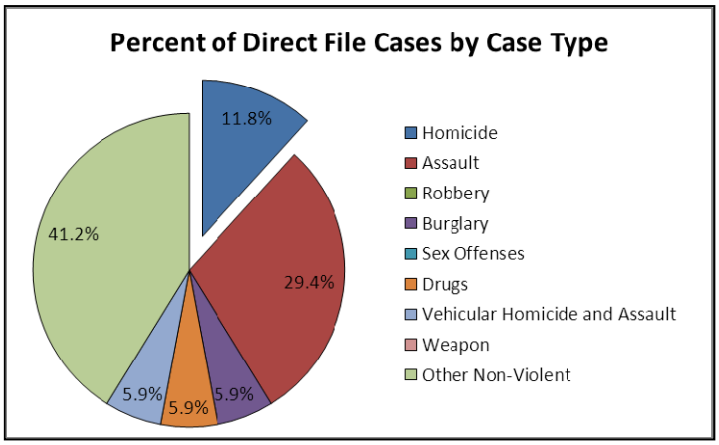
Race[4]	% of Juvenile Population[5]	% of Direct File Cases[5]	Relative Rate Index[6]	Division of Youth Corrections	Department of Corrections	Youth Offender System	Deferred Sentence	Probation
White	88%	86.7%	-	100.0%	80.0%	66.7%	0.0%	100.0%
Black	1%	6.7%	5.41	0.0%	0.0%	0.0%	0.0%	0.0%
Hispanic	9%	6.7%	2.59	0.0%	20.0%	33.3%	0.0%	0.0%
Other	2%	0.0%	-	0.0%	0.0%	0.0%	0.0%	0.0%

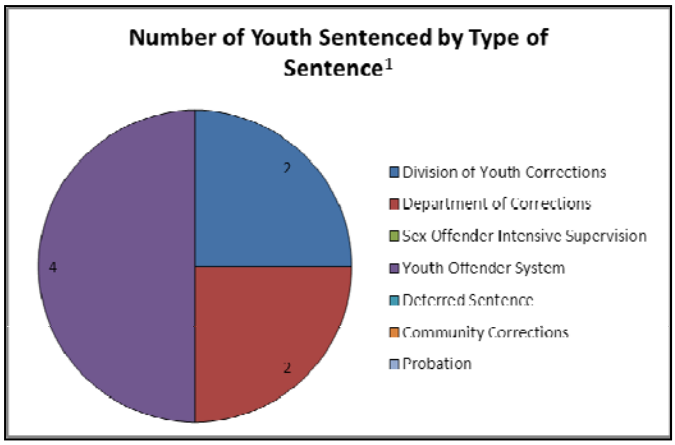
1. This figure represents the percent of direct filed youth by sentencing type. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
2. This figure represents the number of direct file cases by the felony class of the highest charge as compared to the felony class of the highest conviction. Direct file cases charged with "other" types of charges are not included.
3. This figure represents the percent of direct file cases convicted as charged (dark blue bars) and not convicted as charged (light blue bars) in the district from 1999-2010 broken out by the highest felony class charged. Hashed bars, if present, represent groups for which there were no direct file cases reported.
4. This table represents the percent of direct filed youth by sentencing type and racial group. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
5. These columns represent the overall district-wide juvenile population by race from 1999-2009 and the percent of direct file cases from 1999-2010 by race. Disparity in percentages across the percent of juvenile population and percent of direct file cases reflects some degree of minority over- or under-representation at the point of direct case filing.
6. For the RRI calculations, a value of 1.00 means that there is no difference in the proportion of white and minority youth filed on that are direct filed. A value of more than 1.00 means there is an over-representation of the minority group such that the proportion of minority youth filed on that are direct filed is higher than the proportion of white youth filed on that are direct filed.

Colorado Direct Files

Judicial District 12: Alamosa, Conejos, Costilla, Mineral, Rio Grande, Saguache Counties

Total Number of Direct Files: 17 1999-2010

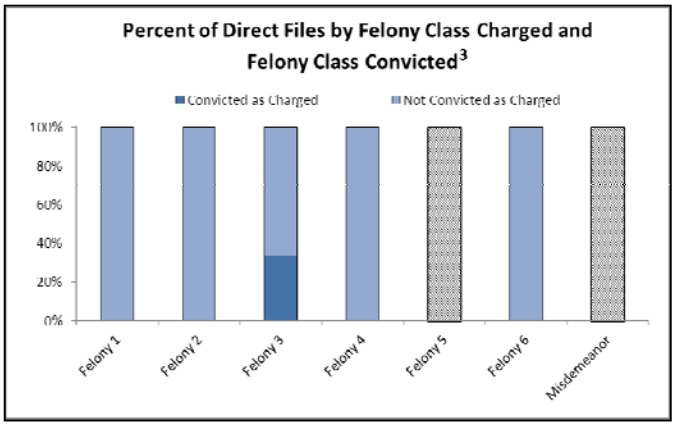




Colorado is Prosecuting Youth as Adults for lower to mid-level felonies

A majority of these cases result in plea bargain so the child's case is never reviewed by a judge or jury.

Highest Charge Felony Class	Highest Conviction Felony Class[2]								
	Total	Felony 1	Felony 2	Felony 3	Felony 4	Felony 5	Felony 6	Misdem.	No conviction
Felony 1	1	0	0	0	1	0	0	0	0
Felony 2	2	0	0	0	1	0	0	0	1
Felony 3	6	0	0	2	0	0	0	0	4
Felony 4	4	0	0	0	0	0	0	1	3
Felony 5	-	-	-	-	-	-	-	-	-
Felony 6	3	0	0	0	0	0	0	0	3
Misdemeanor	-	-	-	-	-	-	-	-	-



Among other injustices, the direct file process unduly affects black and Hispanic youth. Colorado needs to ensure the right to a hearing before a judge on the issue of whether the case should be in adult or juvenile court.

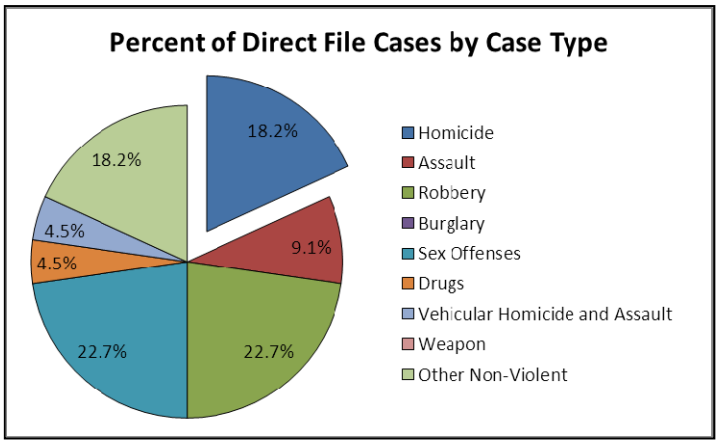
Race[4]	% of Juvenile Population[5]	% of Direct File Cases[5]	Relative Rate Index[6]	Division of Youth Corrections	Department of Corrections	Youth Offender System	Deferred Sentence	Probation
White	44%	82.4%	-	50.0%	50.0%	75.0%	0.0%	0.0%
Black	1%	0.0%	-	0.0%	0.0%	0.0%	0.0%	0.0%
Hispanic	50%	17.6%	0.63	50.0%	50.0%	25.0%	0.0%	0.0%
Other	4%	0.0%	-	0.0%	0.0%	0.0%	0.0%	0.0%

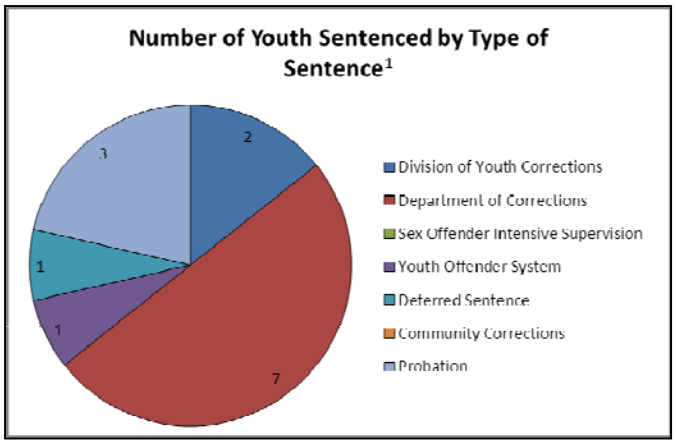
1. This figure represents the percent of direct filed youth by sentencing type. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
2. This figure represents the number of direct file cases by the felony class of the highest charge as compared to the felony class of the highest conviction. Direct file cases charged with "other" types of charges are not included.
3. This figure represents the percent of direct file cases convicted as charged (dark blue bars) and not convicted as charged (light blue bars) in the district from 1999-2010 broken out by the highest felony class charged. Hashed bars, if present, represent groups for which there were no direct file cases reported.
4. This table represents the percent of direct filed youth by sentencing type and racial group. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
5. These columns represent the overall district-wide juvenile population by race from 1999-2009 and the percent of direct file cases from 1999-2010 by race. Disparity in percentages across the percent of juvenile population and percent of direct file cases reflects some degree of minority over- or under-representation at the point of direct case filing.
6. For the RRI calculations, a value of 1.00 means that there is no difference in the proportion of white and minority youth filed on that are direct filed. A value of more than 1.00 means there is an over-representation of the minority group such that the proportion of minority youth filed on that are direct filed is higher than the proportion of white youth filed on that are direct filed.

Colorado Direct Files

Judicial District 13: Kit Carson, Logan, Morgan, Phillips, Sedgwick, and Washington Counties

Total Number of Direct Files: 24 1999-2010

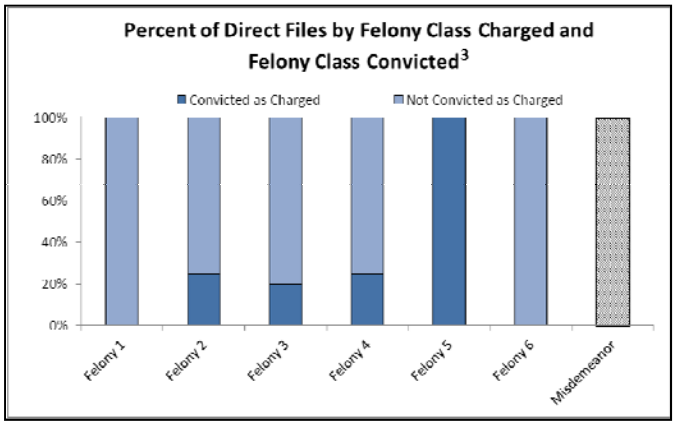




Colorado is Prosecuting Youth as Adults for lower to mid-level felonies

A majority of these cases result in plea bargain so the child's case is never reviewed by a judge or jury.

Highest Charge Felony Class	Highest Conviction Felony Class[2]								
	Total	Felony 1	Felony 2	Felony 3	Felony 4	Felony 5	Felony 6	Misdem.	No conviction
Felony 1	2	0	1	0	1	0	0	0	0
Felony 2	4	0	1	1	0	0	0	1	1
Felony 3	10	0	0	2	3	0	0	0	5
Felony 4	4	0	0	0	1	1	0	0	2
Felony 5	1	0	0	0	0	1	0	0	0
Felony 6	1	0	0	0	0	0	0	0	1
Misdemeanor	-	-	-	-	-	-	-	-	-



Among other injustices, the direct file process unduly affects black and Hispanic youth. Colorado needs to ensure the right to a hearing before a judge on the issue of whether the case should be in adult or juvenile court.

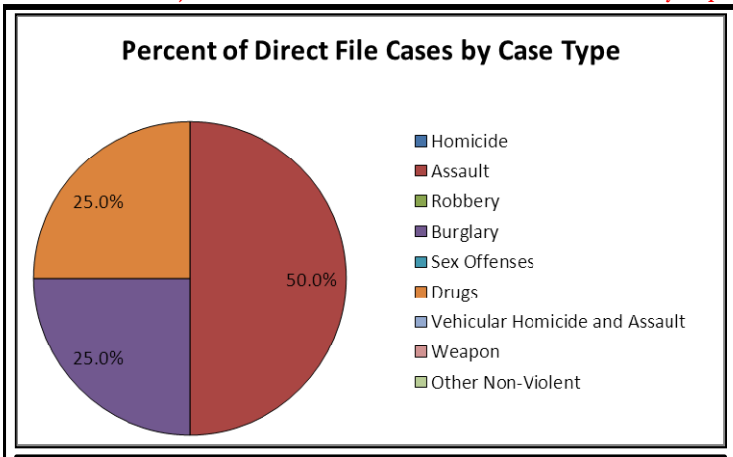
Race[4]	% of Juvenile Population[5]	% of Direct File Cases[5]	Relative Rate Index[6]	Division of Youth Corrections	Department of Corrections	Youth Offender System	Deferred Sentence	Probation
White	69%	87.5%	-	100.0%	100.0%	100.0%	0.0%	100.0%
Black	1%	0.0%	-	0.0%	0.0%	0.0%	0.0%	0.0%
Hispanic	28%	12.5%	0.94	0.0%	0.0%	0.0%	100.0%	0.0%
Other	2%	0.0%	-	0.0%	0.0%	0.0%	0.0%	0.0%

1. This figure represents the percent of direct filed youth by sentencing type. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
2. This figure represents the number of direct file cases by the felony class of the highest charge as compared to the felony class of the highest conviction. Direct file cases charged with "other" types of charges are not included.
3. This figure represents the percent of direct file cases convicted as charged (dark blue bars) and not convicted as charged (light blue bars) in the district from 1999-2010 broken out by the highest felony class charged. Hashed bars, if present, represent groups for which there were no direct file cases reported.
4. This table represents the percent of direct filed youth by sentencing type and racial group. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
5. These columns represent the overall district-wide juvenile population by race from 1999-2009 and the percent of direct file cases from 1999-2010 by race. Disparity in percentages across the percent of juvenile population and percent of direct file cases reflects some degree of minority over- or under-representation at the point of direct case filing.
6. For the RRI calculations, a value of 1.00 means that there is no difference in the proportion of white and minority youth filed on that are direct filed. A value of more than 1.00 means there is an over-representation of the minority group such that the proportion of minority youth filed on that are direct filed is higher than the proportion of white youth filed on that are direct filed.

Colorado Direct Files

Judicial District 14: Grand, Moffat, and Routt Counties Total Number of Direct Files: 4 1999-2010

Note: Trends for judicial districts that have less than 10 cases for the 11-year period are unreliable.



*Note: there is no district 14 figure as there were no direct file cases with sentencing in this district.

Colorado is Prosecuting Youth as Adults for lower to mid-level felonies

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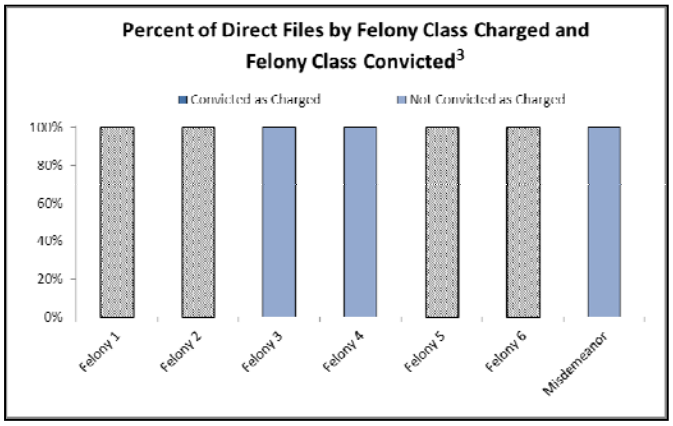
Highest Charge Felony Class	Highest Conviction Felony Class[2]								
	Total	Felony 1	Felony 2	Felony 3	Felony 4	Felony 5	Felony 6	Misdem.	No conviction
Felony 1	-	-	-	-	-	-	-	-	-
Felony 2	-	-	-	-	-	-	-	-	-
Felony 3	1	0	0	0	0	0	0	0	1
Felony 4	2	0	0	0	0	0	0	0	2
Felony 5	-	-	-	-	-	-	-	-	-
Felony 6	-	-	-	-	-	-	-	-	-
Misdemeanor	1	0	0	0	0	0	0	0	1



Among other injustices, the direct file process unduly affects black and Hispanic youth. Colorado needs to ensure the right to a hearing before a judge on the issue of whether the case should be in adult or juvenile court.

Race[4]	% of Juvenile Population[5]	% of Direct File Cases[5]	Relative Rate Index[6]	Division of Youth Corrections	Department of Corrections	Youth Offender System	Deferred Sentence	Probation
White	91%	100.0%	-	0.0%	0.0%	0.0%	0.0%	0.0%
Black	1%	0.0%	-	0.0%	0.0%	0.0%	0.0%	0.0%
Hispanic	8%	0.0%	-	0.0%	0.0%	0.0%	0.0%	0.0%
Other	1%	0.0%	-	0.0%	0.0%	0.0%	0.0%	0.0%

1. This figure represents the percent of direct filed youth by sentencing type. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
2. This figure represents the number of direct file cases by the felony class of the highest charge as compared to the felony class of the highest conviction. Direct file cases charged with "other" types of charges are not included.
3. This figure represents the percent of direct file cases convicted as charged (dark blue bars) and not convicted as charged (light blue bars) in the district from 1999-2010 broken out by the highest felony class charged. Hashed bars, if present, represent groups for which there were no direct file cases reported.
4. This table represents the percent of direct filed youth by sentencing type and racial group. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
5. These columns represent the overall district-wide juvenile population by race from 1999-2009 and the percent of direct file cases from 1999-2010 by race. Disparity in percentages across the percent of juvenile population and percent of direct file cases reflects some degree of minority over- or under-representation at the point of direct case filing.
6. For the RRI calculations, a value of 1.00 means that there is no difference in the proportion of white and minority youth filed on that are direct filed. A value of more than 1.00 means there is an over-representation of the minority group such that the proportion of minority youth filed on that are direct filed is higher than the proportion of white youth filed on that are direct filed.

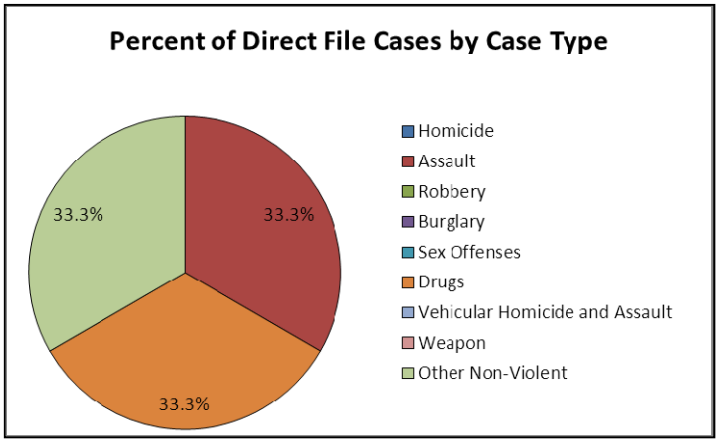
Colorado Direct Files

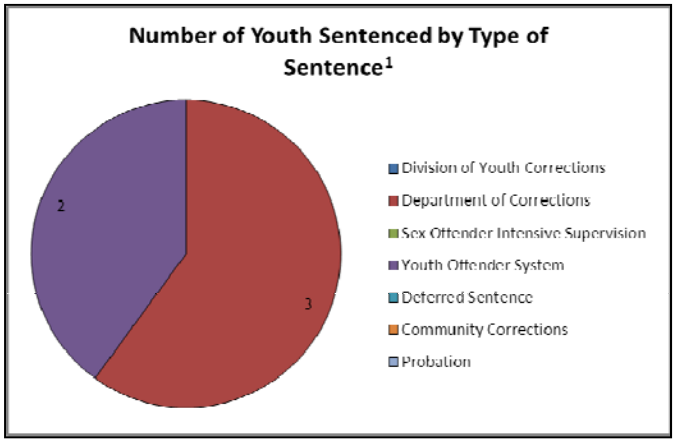
Judicial District 15: Baca, Cheyenne, Kiowa, and Prowers Counties

Total Number of Direct Files: 6

1999-2010

Note: Trends for judicial districts that have less than 10 cases for the 11-year period are unreliable.

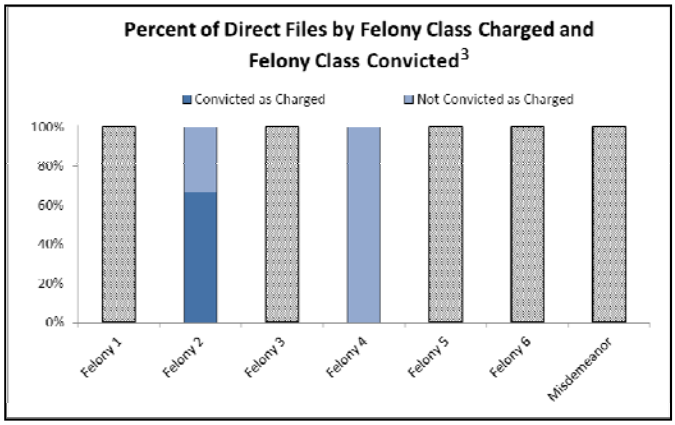




Colorado is Prosecuting Youth as Adults for lower to mid-level felonies

A majority of these cases result in plea bargain so the child's case is never reviewed by a judge or jury.

Highest Charge Felony Class	Highest Conviction Felony Class[2]								
	Total	Felony 1	Felony 2	Felony 3	Felony 4	Felony 5	Felony 6	Misdem.	No conviction
Felony 1	-	-	-	-	-	-	-	-	-
Felony 2	3	0	2	1	0	0	0	0	0
Felony 3	-	-	-	-	-	-	-	-	-
Felony 4	2	0	0	0	0	0	0	0	2
Felony 5	-	-	-	-	-	-	-	-	-
Felony 6	-	-	-	-	-	-	-	-	-
Misdemeanor	-	-	-	-	-	-	-	-	-



Among other injustices, the direct file process unduly affects black and Hispanic youth. Colorado needs to ensure the right to a hearing before a judge on the issue of whether the case should be in adult or juvenile court.

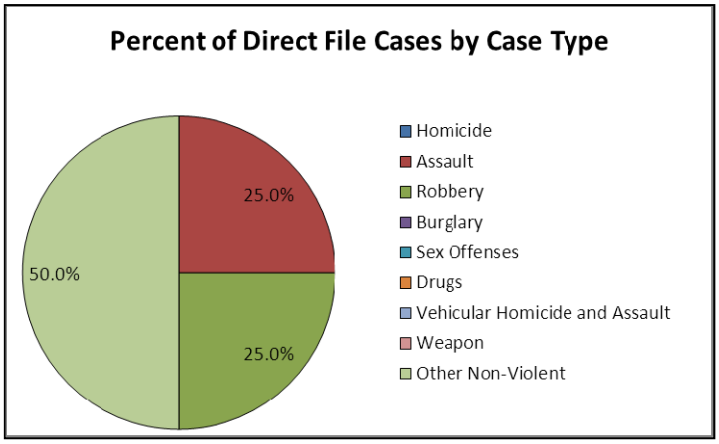
Race[4]	% of Juvenile Population[5]	% of Direct File Cases[5]	Relative Rate Index[6]	Division of Youth Corrections	Department of Corrections	Youth Offender System	Deferred Sentence	Probation
White	67%	40.0%	-	0.0%	33.3%	0.0%	0.0%	0.0%
Black	1%	40.0%	67.00	0.0%	66.7%	100.0%	0.0%	0.0%
Hispanic	30%	20.0%	1.22	0.0%	0.0%	0.0%	0.0%	0.0%
Other	2%	0.0%	-	0.0%	0.0%	0.0%	0.0%	0.0%

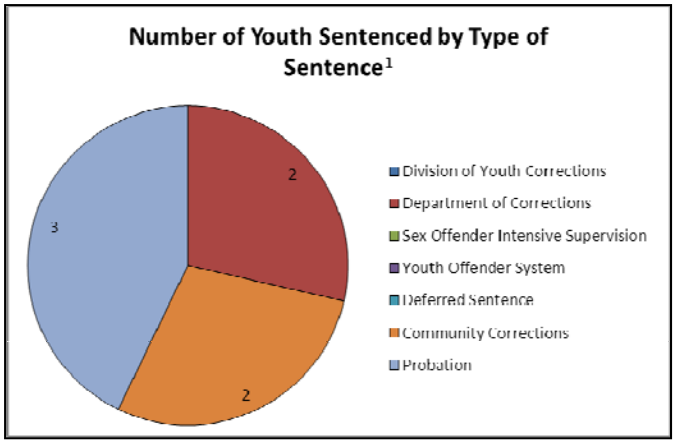
1. This figure represents the percent of direct filed youth by sentencing type. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
2. This figure represents the number of direct file cases by the felony class of the highest charge as compared to the felony class of the highest conviction. Direct file cases charged with "other" types of charges are not included.
3. This figure represents the percent of direct file cases convicted as charged (dark blue bars) and not convicted as charged (light blue bars) in the district from 1999-2010 broken out by the highest felony class charged. Hashed bars, if present, represent groups for which there were no direct file cases reported.
4. This table represents the percent of direct filed youth by sentencing type and racial group. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
5. These columns represent the overall district-wide juvenile population by race from 1999-2009 and the percent of direct file cases from 1999-2010 by race. Disparity in percentages across the percent of juvenile population and percent of direct file cases reflects some degree of minority over- or under-representation at the point of direct case filing.
6. For the RRI calculations, a value of 1.00 means that there is no difference in the proportion of white and minority youth filed on that are direct filed. A value of more than 1.00 means there is an over-representation of the minority group such that the proportion of minority youth filed on that are direct filed is higher than the proportion of white youth filed on that are direct filed.

Colorado Direct Files

Judicial District 16: Bent, Crowley, and Otero Counties Total Number of Direct Files: 8 1999-2010

Note: Trends for judicial districts that have less than 10 cases for the 11-year period are unreliable.





Colorado is Prosecuting Youth as Adults for lower to mid-level felonies

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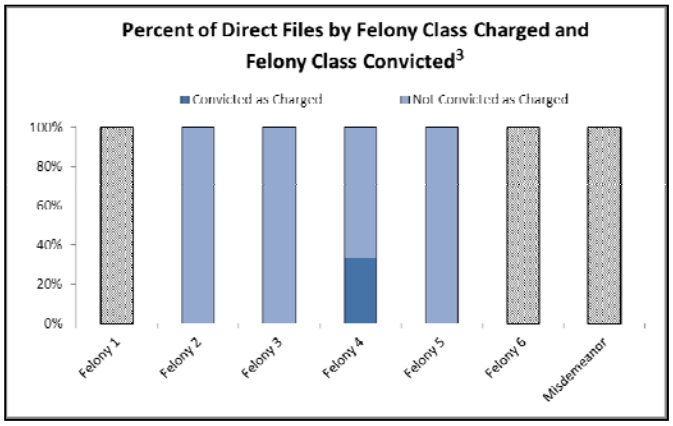
Highest Charge Felony Class	Highest Conviction Felony Class[2]								
	Total	Felony 1	Felony 2	Felony 3	Felony 4	Felony 5	Felony 6	Misdem.	No conviction
Felony 1	-	-	-	-	-	-	-	-	-
Felony 2	1	0	0	0	0	1	0	0	0
Felony 3	2	0	0	0	2	0	0	0	0
Felony 4	3	0	0	0	1	1	0	1	0
Felony 5	1	0	0	0	0	0	0	0	1
Felony 6	-	-	-	-	-	-	-	-	-
Misdemeanor	-	-	-	-	-	-	-	-	-



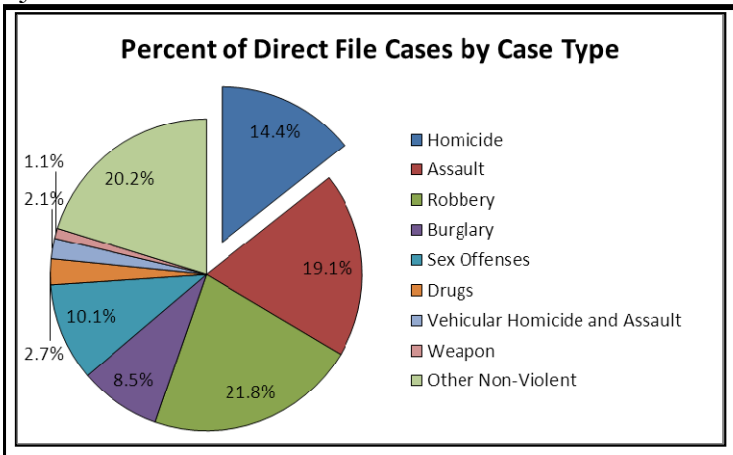
Among other injustices, the direct file process unduly affects black and Hispanic youth. Colorado needs to ensure the right to a hearing before a judge on the issue of whether the case should be in adult or juvenile court.

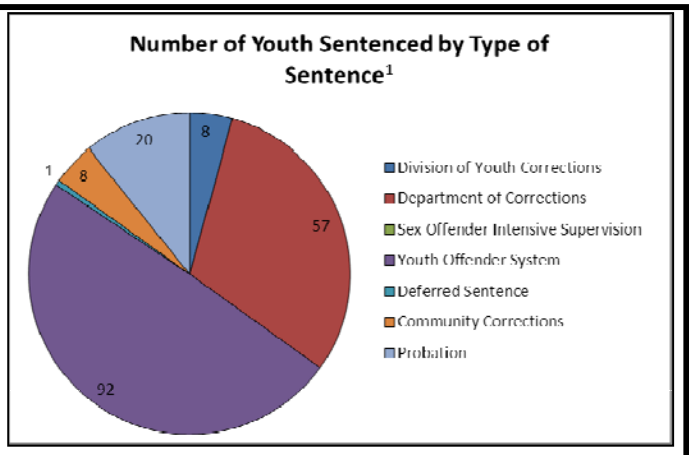
Race[4]	% of Juvenile Population[5]	% of Direct File Cases[5]	Relative Rate Index[6]	Division of Youth Corrections	Department of Corrections	Youth Offender System	Deferred Sentence	Probation
White	54%	62.5%	-	0.0%	50.0%	0.0%	0.0%	33.3%
Black	2%	0.0%	-	0.0%	0.0%	0.0%	0.0%	0.0%
Hispanic	39%	37.5%	2.01	0.0%	50.0%	0.0%	0.0%	66.7%
Other	4%	0.0%	-	0.0%	0.0%	0.0%	0.0%	0.0%

1. This figure represents the percent of direct filed youth by sentencing type. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
2. This figure represents the number of direct file cases by the felony class of the highest charge as compared to the felony class of the highest conviction. Direct file cases charged with "other" types of charges are not included.
3. This figure represents the percent of direct file cases convicted as charged (dark blue bars) and not convicted as charged (light blue bars) in the district from 1999-2010 broken out by the highest felony class charged. Hashed bars, if present, represent groups for which there were no direct file cases reported.
4. This table represents the percent of direct filed youth by sentencing type and racial group. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
5. These columns represent the overall district-wide juvenile population by race from 1999-2009 and the percent of direct file cases from 1999-2010 by race. Disparity in percentages across the percent of juvenile population and percent of direct file cases reflects some degree of minority over- or under-representation at the point of direct case filing.
6. For the RRI calculations, a value of 1.00 means that there is no difference in the proportion of white and minority youth filed on that are direct filed. A value of more than 1.00 means there is an over-representation of the minority group such that the proportion of minority youth filed on that are direct filed is higher than the proportion of white youth filed on that are direct filed.

Colorado Direct Files

Judicial District 17: Adams and Broomfield Counties Total Number of Direct Files: 194 1999-2010

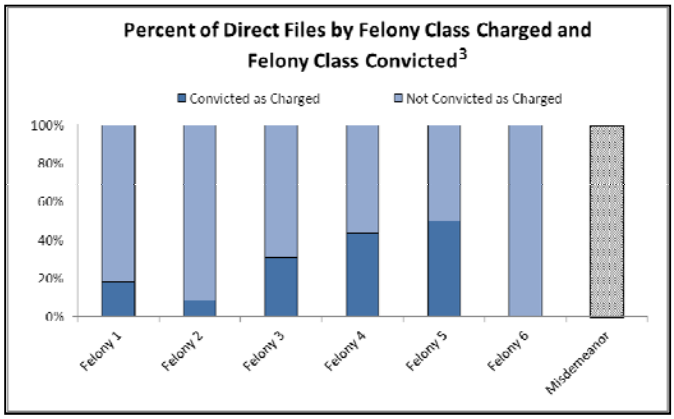




Colorado is Prosecuting Youth as Adults for lower to mid-level felonies

A majority of these cases result in plea bargain so the child's case is never reviewed by a judge or jury.

Highest Charge Felony Class	Highest Conviction Felony Class[2]								
	Total	Felony 1	Felony 2	Felony 3	Felony 4	Felony 5	Felony 6	Misdem.	No conviction
Felony 1	11	2	6	2	0	0	0	0	1
Felony 2	35	0	3	17	6	2	1	3	3
Felony 3	90	0	0	28	36	5	0	5	16
Felony 4	45	0	0	0	20	10	2	4	9
Felony 5	10	0	0	0	0	5	1	1	3
Felony 6	2	0	0	0	0	0	0	2	0
Misdemeanor	-	-	-	-	-	-	-	-	-



Among other injustices, the direct file process unduly affects black and Hispanic youth. Colorado needs to ensure the right to a hearing before a judge on the issue of whether the case should be in adult or juvenile court.

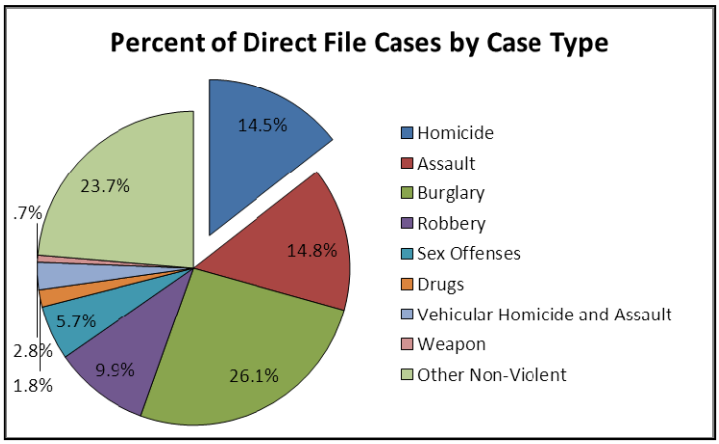
Race[4]	% of Juvenile Population[5]	% of Direct File Cases[5]	Relative Rate Index[6]	Division of Youth Corrections	Department of Corrections	Youth Offender System	Deferred Sentence	Probation
White	55%	71.0%	-	50.0%	71.4%	63.0%	100.0%	70.0%
Black	5%	17.6%	1.86	0.0%	19.6%	23.9%	0.0%	10.0%
Hispanic	34%	7.8%	0.62	37.5%	7.1%	7.6%	0.0%	15.0%
Other	6%	3.6%	1.39	12.5%	1.8%	5.4%	0.0%	5.0%

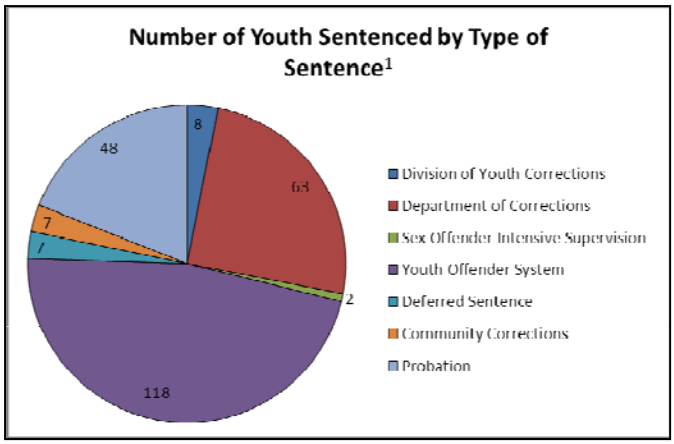
1. This figure represents the percent of direct filed youth by sentencing type. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
2. This figure represents the number of direct file cases by the felony class of the highest charge as compared to the felony class of the highest conviction. Direct file cases charged with "other" types of charges are not included.
3. This figure represents the percent of direct file cases convicted as charged (dark blue bars) and not convicted as charged (light blue bars) in the district from 1999-2010 broken out by the highest felony class charged. Hashed bars, if present, represent groups for which there were no direct file cases reported.
4. This table represents the percent of direct filed youth by sentencing type and racial group. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
5. These columns represent the overall district-wide juvenile population by race from 1999-2009 and the percent of direct file cases from 1999-2010 by race. Disparity in percentages across the percent of juvenile population and percent of direct file cases reflects some degree of minority over- or under-representation at the point of direct case filing.
6. For the RRI calculations, a value of 1.00 means that there is no difference in the proportion of white and minority youth filed on that are direct filed. A value of more than 1.00 means there is an over-representation of the minority group such that the proportion of minority youth filed on that are direct filed is higher than the proportion of white youth filed on that are direct filed.

Colorado Direct Files

Judicial District 18: Arapahoe, Douglas, Elbert, and Lincoln Counties

Total Number of Direct Files: 310 1999-2010

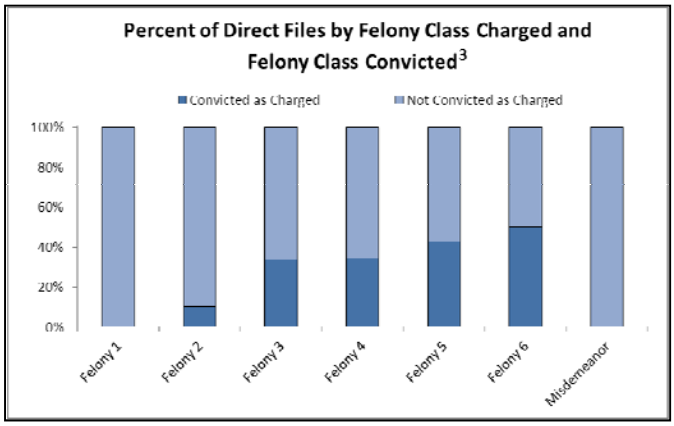




Colorado is Prosecuting Youth as Adults for lower to mid-level felonies

A majority of these cases result in plea bargain so the child's case is never reviewed by a judge or jury.

Highest Charge Felony Class	Highest Conviction Felony Class[2]								
	Total	Felony 1	Felony 2	Felony 3	Felony 4	Felony 5	Felony 6	Misdem.	No conviction
Felony 1	5	0	1	2	1	0	0	0	1
Felony 2	59	0	6	29	11	4	0	0	9
Felony 3	163	0	0	55	27	15	0	7	59
Felony 4	54	0	0	0	19	9	2	9	15
Felony 5	14	0	0	0	0	6	1	1	6
Felony 6	4	0	0	0	0	0	2	2	0
Misdemeanor	1	0	0	0	0	0	0	0	1



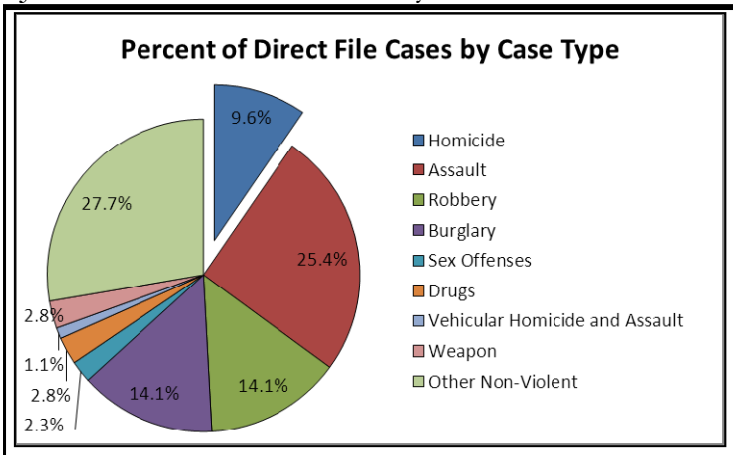
Among other injustices, the direct file process unduly affects black and Hispanic youth. Colorado needs to ensure the right to a hearing before a judge on the issue of whether the case should be in adult or juvenile court.

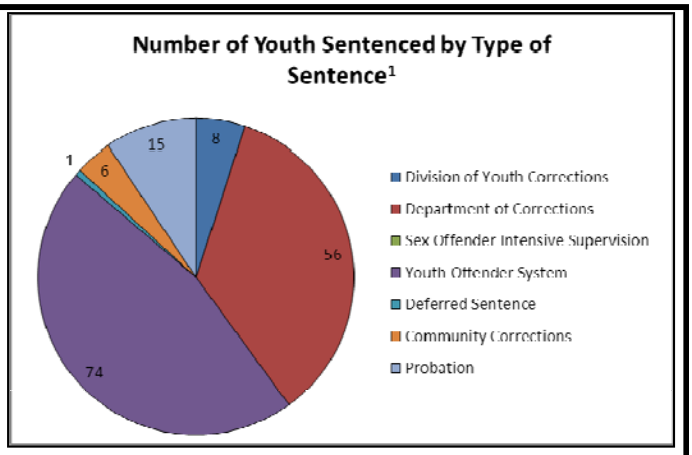
Race[4]	% of Juvenile Population[5]	% of Direct File Cases[5]	Relative Rate Index[6]	Division of Youth Corrections	Department of Corrections	Youth Offender System	Deferred Sentence	Probation
White	73%	50.6%	-	62.5%	49.2%	41.5%	57.1%	53.2%
Black	9%	38.6%	2.44	37.5%	36.5%	45.8%	42.9%	31.9%
Hispanic	13%	6.8%	1.56	0.0%	7.9%	8.5%	0.0%	6.4%
Other	5%	3.9%	2.03	0.0%	6.3%	4.2%	0.0%	8.5%

1. This figure represents the percent of direct filed youth by sentencing type. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
2. This figure represents the number of direct file cases by the felony class of the highest charge as compared to the felony class of the highest conviction. Direct file cases charged with "other" types of charges are not included.
3. This figure represents the percent of direct file cases convicted as charged (dark blue bars) and not convicted as charged (light blue bars) in the district from 1999-2010 broken out by the highest felony class charged. Hashed bars, if present, represent groups for which there were no direct file cases reported.
4. This table represents the percent of direct filed youth by sentencing type and racial group. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
5. These columns represent the overall district-wide juvenile population by race from 1999-2009 and the percent of direct file cases from 1999-2010 by race. Disparity in percentages across the percent of juvenile population and percent of direct file cases reflects some degree of minority over- or under-representation at the point of direct case filing.
6. For the RRI calculations, a value of 1.00 means that there is no difference in the proportion of white and minority youth filed on that are direct filed. A value of more than 1.00 means there is an over-representation of the minority group such that the proportion of minority youth filed on that are direct filed is higher than the proportion of white youth filed on that are direct filed.

Colorado Direct Files

Judicial District 19: Weld County | Total Number of Direct Files: 179 | 1999-2010

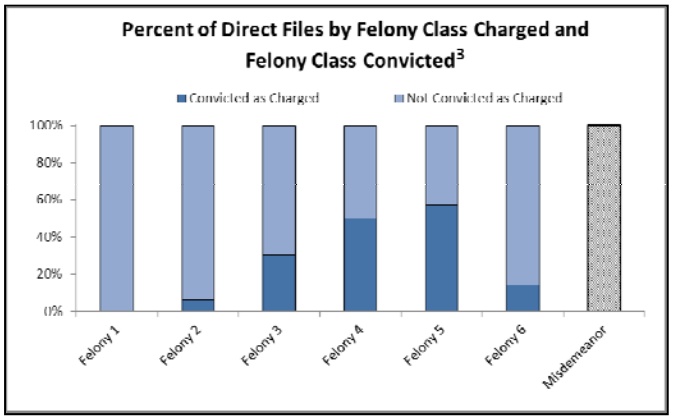




Colorado is Prosecuting Youth as Adults for lower to mid-level felonies

A majority of these cases result in plea bargain so the child's case is never reviewed by a judge or jury.

Highest Charge Felony Class	Highest Conviction Felony Class[2]								
	Total	Felony 1	Felony 2	Felony 3	Felony 4	Felony 5	Felony 6	Misdem.	No conviction
Felony 1	5	0	0	2	3	0	0	0	0
Felony 2	16	0	1	6	4	2	0	1	2
Felony 3	89	0	0	27	38	1	0	1	22
Felony 4	46	0	0	0	23	7	1	1	14
Felony 5	14	0	0	0	0	8	3	0	3
Felony 6	7	0	0	0	0	0	1	0	6
Misdemeanor	-	-	-	-	-	-	-	-	-



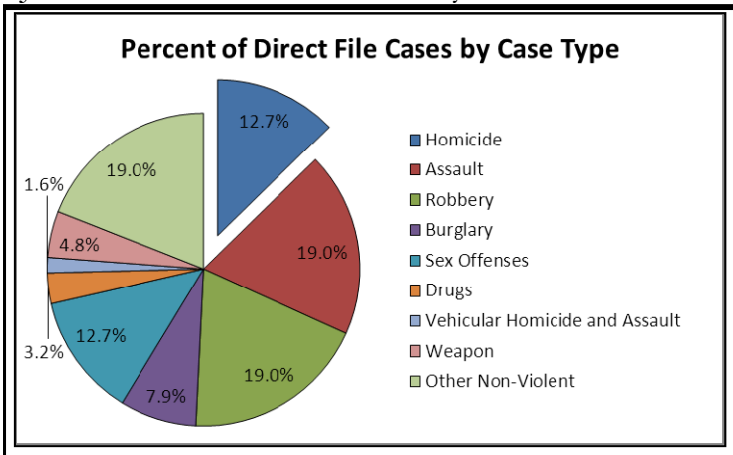
Among other injustices, the direct file process unduly affects black and Hispanic youth. Colorado needs to ensure the right to a hearing before a judge on the issue of whether the case should be in adult or juvenile court.

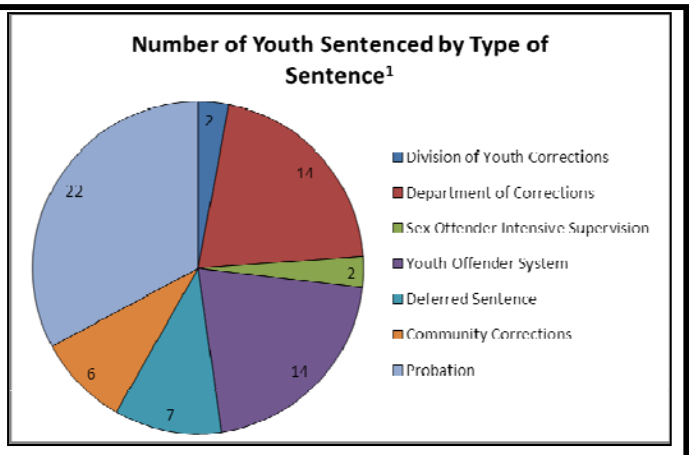
Race[4]	% of Juvenile Population[5]	% of Direct File Cases[5]	Relative Rate Index[6]	Division of Youth Corrections	Department of Corrections	Youth Offender System	Deferred Sentence	Probation
White	62%	93.3%	-	87.5%	92.9%	93.2%	100.0%	93.3%
Black	2%	3.4%	2.11	0.0%	5.4%	1.4%	0.0%	0.0%
Hispanic	34%	3.4%	0.18	12.5%	1.8%	5.4%	0.0%	6.7%
Other	3%	0.0%	-	0.0%	0.0%	0.0%	0.0%	0.0%

1. This figure represents the percent of direct filed youth by sentencing type. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
2. This figure represents the number of direct file cases by the felony class of the highest charge as compared to the felony class of the highest conviction. Direct file cases charged with "other" types of charges are not included.
3. This figure represents the percent of direct file cases convicted as charged (dark blue bars) and not convicted as charged (light blue bars) in the district from 1999-2010 broken out by the highest felony class charged. Hashed bars, if present, represent groups for which there were no direct file cases reported.
4. This table represents the percent of direct filed youth by sentencing type and racial group. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
5. These columns represent the overall district-wide juvenile population by race from 1999-2009 and the percent of direct file cases from 1999-2010 by race. Disparity in percentages across the percent of juvenile population and percent of direct file cases reflects some degree of minority over- or under-representation at the point of direct case filing.
6. For the RRI calculations, a value of 1.00 means that there is no difference in the proportion of white and minority youth filed on that are direct filed. A value of more than 1.00 means there is an over-representation of the minority group such that the proportion of minority youth filed on that are direct filed is higher than the proportion of white youth filed on that are direct filed.

Colorado Direct Files

Judicial District 20: Boulder County | Total Number of Direct Files: 65 | 1999-2010

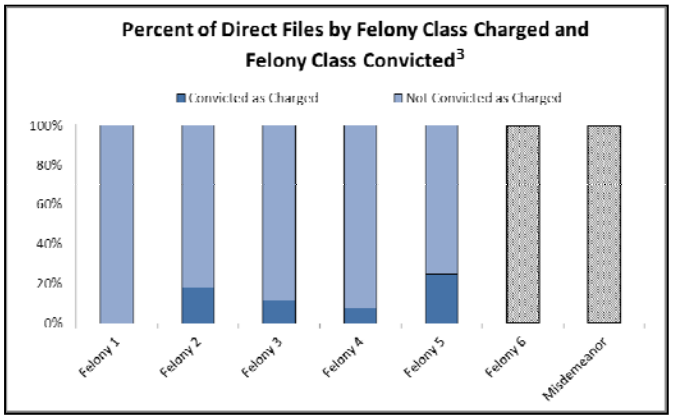




Colorado is Prosecuting Youth as Adults for lower to mid-level felonies

A majority of these cases result in plea bargain so the child's case is never reviewed by a judge or jury.

Highest Charge Felony Class	Highest Conviction Felony Class[2]								
	Total	Felony 1	Felony 2	Felony 3	Felony 4	Felony 5	Felony 6	Misdem.	No conviction
Felony 1	3	0	2	1	0	0	0	0	0
Felony 2	11	0	2	2	0	2	0	1	4
Felony 3	34	0	0	4	13	9	3	1	4
Felony 4	13	0	0	0	1	3	0	2	7
Felony 5	4	0	0	0	0	1	0	0	3
Felony 6	-	-	-	-	-	-	-	-	-
Misdemeanor	-	-	-	-	-	-	-	-	-



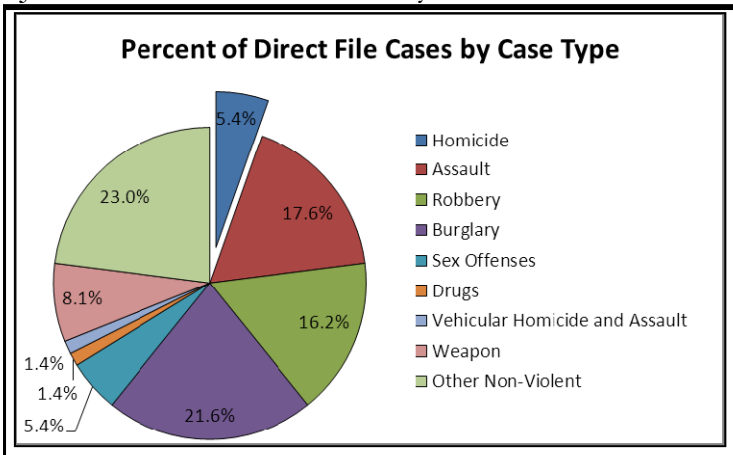
Among other injustices, the direct file process unduly affects black and Hispanic youth. Colorado needs to ensure the right to a hearing before a judge on the issue of whether the case should be in adult or juvenile court.

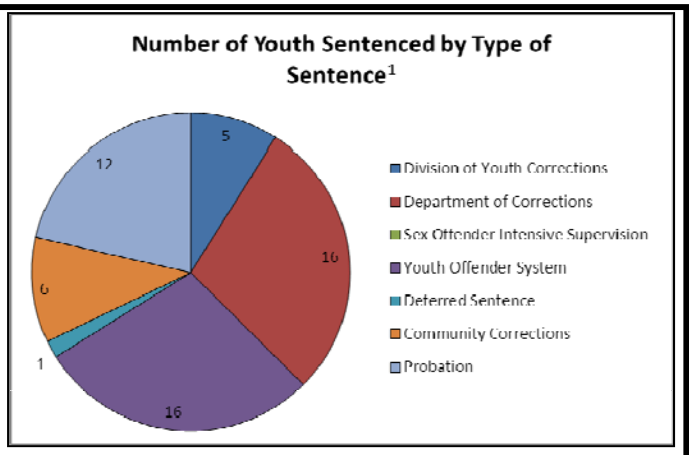
Race[4]	% of Juvenile Population[5]	% of Direct File Cases[5]	Relative Rate Index[6]	Division of Youth Corrections	Department of Corrections	Youth Offender System	Deferred Sentence	Probation
White	78%	76.9%	-	100.0%	78.6%	85.7%	71.4%	77.3%
Black	2%	0.0%	-	0.0%	0.0%	0.0%	0.0%	0.0%
Hispanic	16%	16.9%	1.07	0.0%	7.1%	7.1%	14.3%	18.2%
Other	5%	6.2%	3.32	0.0%	14.3%	7.1%	14.3%	4.5%

1. This figure represents the percent of direct filed youth by sentencing type. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
2. This figure represents the number of direct file cases by the felony class of the highest charge as compared to the felony class of the highest conviction. Direct file cases charged with "other" types of charges are not included.
3. This figure represents the percent of direct file cases convicted as charged (dark blue bars) and not convicted as charged (light blue bars) in the district from 1999-2010 broken out by the highest felony class charged. Hashed bars, if present, represent groups for which there were no direct file cases reported.
4. This table represents the percent of direct filed youth by sentencing type and racial group. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
5. These columns represent the overall district-wide juvenile population by race from 1999-2009 and the percent of direct file cases from 1999-2010 by race. Disparity in percentages across the percent of juvenile population and percent of direct file cases reflects some degree of minority over- or under-representation at the point of direct case filing.
6. For the RRI calculations, a value of 1.00 means that there is no difference in the proportion of white and minority youth filed on that are direct filed. A value of more than 1.00 means there is an over-representation of the minority group such that the proportion of minority youth filed on that are direct filed is higher than the proportion of white youth filed on that are direct filed.

Colorado Direct Files

Judicial District 21: Mesa County | Total Number of Direct Files: 74 | 1999-2010

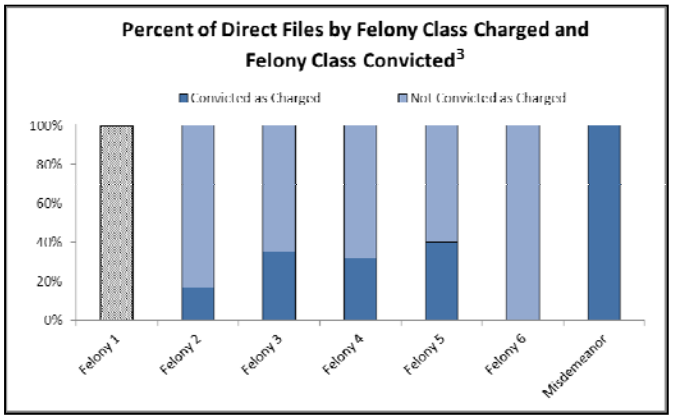




Colorado is Prosecuting Youth as Adults for lower to mid-level felonies

A majority of these cases result in plea bargain so the child's case is never reviewed by a judge or jury.

Highest Charge Felony Class	Highest Conviction Felony Class[2]								
	Total	Felony 1	Felony 2	Felony 3	Felony 4	Felony 5	Felony 6	Misdem.	No conviction
Felony 1	-	-	-	-	-	-	-	-	-
Felony 2	6	0	1	1	1	0	0	0	3
Felony 3	40	0	0	14	13	4	0	0	9
Felony 4	19	0	0	0	6	3	1	1	8
Felony 5	5	0	0	0	0	2	0	0	3
Felony 6	3	0	0	0	0	0	0	0	3
Misdemeanor	1	0	0	0	0	0	0	1	0



Among other injustices, the direct file process unduly affects black and Hispanic youth. Colorado needs to ensure the right to a hearing before a judge on the issue of whether the case should be in adult or juvenile court.

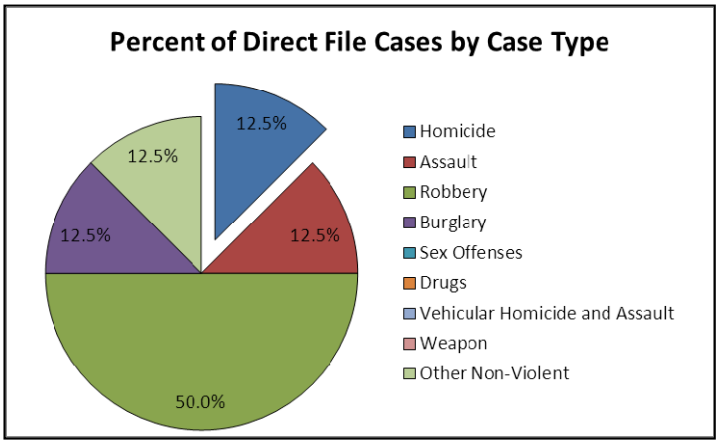
Race[4]	% of Juvenile Population[5]	% of Direct File Cases[5]	Relative Rate Index[6]	Division of Youth Corrections	Department of Corrections	Youth Offender System	Deferred Sentence	Probation
White	82%	79.5%	-	100.0%	86.7%	62.5%	100.0%	58.3%
Black	2%	8.2%	3.11	0.0%	0.0%	12.5%	0.0%	8.3%
Hispanic	14%	11.0%	0.86	0.0%	13.3%	18.8%	0.0%	25.0%
Other	2%	1.4%	0.58	0.0%	0.0%	6.3%	0.0%	8.3%

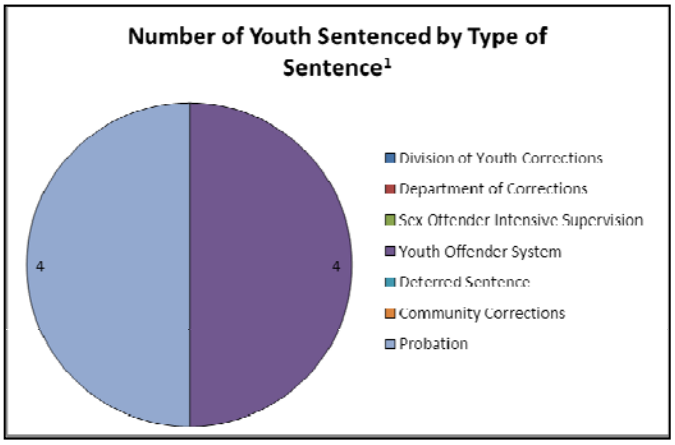
1. This figure represents the percent of direct filed youth by sentencing type. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
2. This figure represents the number of direct file cases by the felony class of the highest charge as compared to the felony class of the highest conviction. Direct file cases charged with "other" types of charges are not included.
3. This figure represents the percent of direct file cases convicted as charged (dark blue bars) and not convicted as charged (light blue bars) in the district from 1999-2010 broken out by the highest felony class charged. Hashed bars, if present, represent groups for which there were no direct file cases reported.
4. This table represents the percent of direct filed youth by sentencing type and racial group. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
5. These columns represent the overall district-wide juvenile population by race from 1999-2009 and the percent of direct file cases from 1999-2010 by race. Disparity in percentages across the percent of juvenile population and percent of direct file cases reflects some degree of minority over- or under-representation at the point of direct case filing.
6. For the RRI calculations, a value of 1.00 means that there is no difference in the proportion of white and minority youth filed on that are direct filed. A value of more than 1.00 means there is an over-representation of the minority group such that the proportion of minority youth filed on that are direct filed is higher than the proportion of white youth filed on that are direct filed.

Colorado Direct Files

Judicial District 22: Dolores and Montezuma Counties Total Number of Direct Files: 8 1999-2010

Note: Trends for judicial districts that have less than 10 cases for the 11-year period are unreliable.





Colorado is Prosecuting Youth as Adults for lower to mid-level felonies

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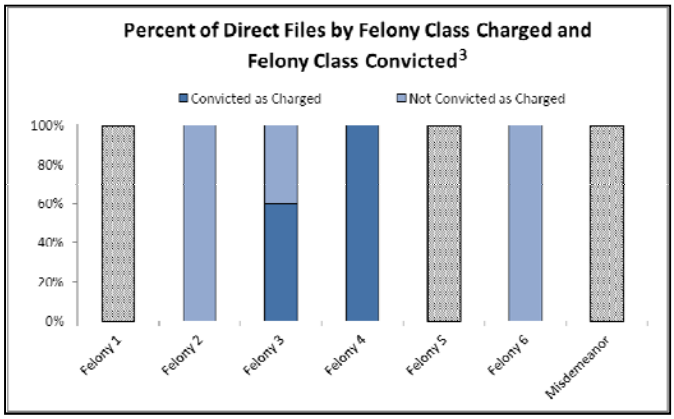
Highest Charge Felony Class	Highest Conviction Felony Class[2]								
	Total	Felony 1	Felony 2	Felony 3	Felony 4	Felony 5	Felony 6	Misdem.	No conviction
Felony 1	-	-	-	-	-	-	-	-	-
Felony 2	1	0	0	1	0	0	0	0	0
Felony 3	5	0	0	3	0	1	0	1	0
Felony 4	1	0	0	0	1	0	0	0	0
Felony 5	-	-	-	-	-	-	-	-	-
Felony 6	1	0	0	0	0	0	0	1	0
Misdemeanor	-	-	-	-	-	-	-	-	-



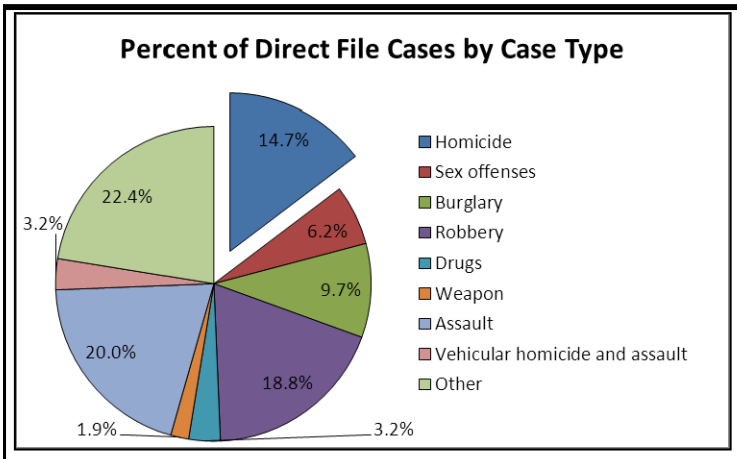
Among other injustices, the direct file process unduly affects black and Hispanic youth. Colorado needs to ensure the right to a hearing before a judge on the issue of whether the case should be in adult or juvenile court.

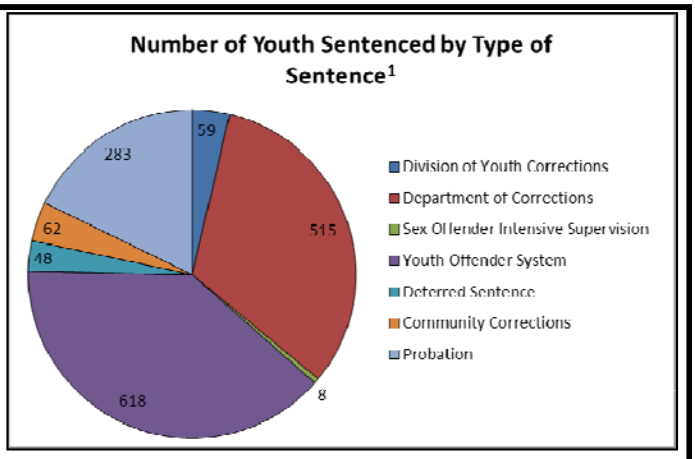
Race[4]	% of Juvenile Population[5]	% of Direct File Cases[5]	Relative Rate Index[6]	Division of Youth Corrections	Department of Corrections	Youth Offender System	Deferred Sentence	Probation
White	71%	62.5%	-	0.0%	0.0%	50.0%	0.0%	75.0%
Black	1%	0.0%	-	0.0%	0.0%	0.0%	0.0%	0.0%
Hispanic	10%	37.5%	7.39	0.0%	0.0%	50.0%	0.0%	25.0%
Other	17%	0.0%	-	0.0%	0.0%	0.0%	0.0%	0.0%

1. This figure represents the percent of direct filed youth by sentencing type. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
2. This figure represents the number of direct file cases by the felony class of the highest charge as compared to the felony class of the highest conviction. Direct file cases charged with "other" types of charges are not included.
3. This figure represents the percent of direct file cases convicted as charged (dark blue bars) and not convicted as charged (light blue bars) in the district from 1999-2010 broken out by the highest felony class charged. Hashed bars, if present, represent groups for which there were no direct file cases reported.
4. This table represents the percent of direct filed youth by sentencing type and racial group. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
5. These columns represent the overall district-wide juvenile population by race from 1999-2009 and the percent of direct file cases from 1999-2010 by race. Disparity in percentages across the percent of juvenile population and percent of direct file cases reflects some degree of minority over- or under-representation at the point of direct case filing.
6. For the RRI calculations, a value of 1.00 means that there is no difference in the proportion of white and minority youth filed on that are direct filed. A value of more than 1.00 means there is an over-representation of the minority group such that the proportion of minority youth filed on that are direct filed is higher than the proportion of white youth filed on that are direct filed.

Colorado Direct Files

State-Wide | Total Number of Direct Files: 1810 | 1999-2010

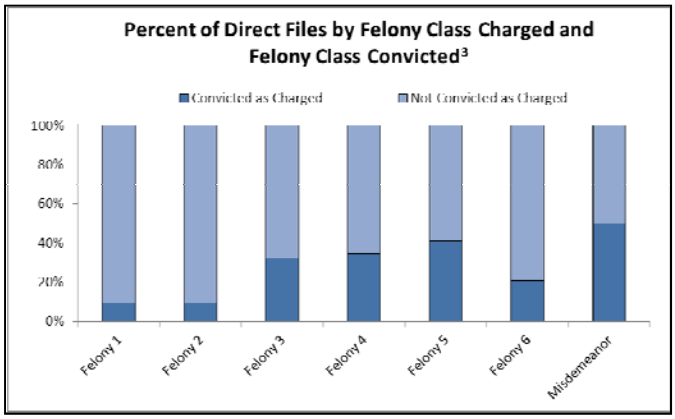




85% of youth prosecuted in the adult system are not accused of killing another person, and only 5% of all direct file cases are filed for first-degree murder.

Only 28 % of youth prosecuted as adults are convicted as charged. 72% plead to lesser offenses in the adult system.

Highest Charge Felony Class	Highest Conviction Felony Class[2]								
	Total	Felony 1	Felony 2	Felony 3	Felony 4	Felony 5	Felony 6	Misdem.	No conviction
Felony 1	84	8	29	22	16	2	0	0	7
Felony 2	315	0	30	136	49	28	1	10	61
Felony 3	814	0	0	262	255	67	11	23	196
Felony 4	417	0	0	0	146	86	11	38	136
Felony 5	96	0	0	0	0	40	9	7	40
Felony 6	43	0	0	0	0	0	9	7	27
Misdemeanor	5	0	0	0	0	0	0	3	2



Most youth prosecuted and incarcerated as adults in YOS have never been sentenced to the Department of Youth Corrections (DYC). Moreover, of the direct file youth who were admitted to YOS between 1999 and 2010, 82% are black and Hispanic.

Race[4]	% of Juvenile Population[5]	% of Direct File Cases[5]	Relative Rate Index[6]	Division of Youth Corrections	Department of Corrections	Youth Offender System	Deferred Sentence	Probation
White	68%	63.8%	-	71.9%	63.7%	57.2%	67.4%	62.7%
Black	6%	17.8%	1.62	14.0%	18.7%	22.4%	15.2%	12.2%
Hispanic	22%	14.6%	1.07	8.8%	14.9%	15.8%	13.0%	19.7%
Other	5%	3.7%	1.52	5.3%	2.6%	4.6%	4.3%	5.4%

1. This figure represents the percent of direct filed youth by sentencing type. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
2. This figure represents the number of direct file cases by the felony class of the highest charge as compared to the felony class of the highest conviction. Direct file cases charged with "other" types of charges are not included.
3. This figure represents the percent of direct file cases convicted as charged (dark blue bars) and not convicted as charged (light blue bars) in the district from 1999-2010 broken out by the highest felony class charged. Hashed bars, if present, represent groups for which there were no direct file cases reported.
4. This table represents the percent of direct filed youth by sentencing type and racial group. Groups are not mutually exclusive as youth may be sentenced to more than one sentence type.
5. These columns represent the overall district-wide juvenile population by race from 1999-2009 and the percent of direct file cases from 1999-2010 by race. Disparity in percentages across the percent of juvenile population and percent of direct file cases reflects some degree of minority over- or under-representation at the point of direct case filing.
6. For the RRI calculations, a value of 1.00 means that there is no difference in the proportion of white and minority youth filed on that are direct filed. A value of more than 1.00 means there is an over-representation of the minority group such that the proportion of minority youth filed on that are direct filed is higher than the proportion of white youth filed on that are direct filed.

Methodology

The Colorado Juvenile Defender Coalition requested data from the Office of the State Court Administrator on cases in which juveniles under the age of 18 were prosecuted in adult criminal courts. This information is not maintained separately from adult criminal cases, but can be extracted electronically by searching for the age of defendants.

Though the intent was to gather cases dating back to 1985, 1999 is the earliest year criminal court information could be provided electronically by age. The data includes more than 1,800 cases filed against juveniles in adult criminal court from 1999 to 2010. This data was sent directly to the OMNI Institute, a reputable social science research and data analysis firm in Denver that created tables, graphs and maps that are part of this analysis. More recent data from fiscal year 2010-2011 cases was obtained and separately analyzed. The appendix to the full report contains a detailed description of the data and methodologies for this study.

The appendix to the full report also includes "Judicial District Snapshots" with information on the prosecution of youth as adults specific to each of Colorado's 22 judicial districts.

Colorado Juvenile Defender Coalition

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The **Colorado Juvenile Defender Coalition** is a non-profit organization dedicated to excellence in juvenile defense and advocacy, and justice for all children and youth in Colorado. CJDC seeks to protect the rights and improve the treatment of children and youth in the juvenile justice system by engaging in collaborative reform efforts, coalition building, and non-partisan research and legislative advocacy. CJDC also strives to elevate and support the practice of juvenile defense by providing continuing legal education seminars and resources for juvenile defense attorneys and advocates.

Re-Directing Justice: the Consequences of Prosecuting Youth as Adults and the Need to Restore Judicial Review was prepared by Kim Dvorchak, Executive Director, and Karina Swenson, Legislative Specialist, of the Colorado Juvenile Defender Coalition. Please see full report for acknowledgements.

Question	Findings	Recommendations
How do kids end up in criminal court?	Direct File gives prosecutors sole discretion to file a case against a youth in adult criminal court based upon age and offense charged	Ensure the right to a hearing before a judge on the issue of whether the case should be in adult or juvenile court
Are direct file cases confined to the most serious offenses?	85% of direct file cases are not homicide cases Only 5% of direct file homicide cases are for first degree murder	Restrict direct file eligibility to the most serious offenses; let judges review the youth's circumstances and all of the options for treatment
Are direct file cases convicted as charged?	28% of direct file cases are convicted as charged 95% of direct file cases are plea bargained	Balance the power of the original charge that gets the case into adult court with a hearing to assess the youth's culpability and risk
Where are direct-filed youth held pending trial?	Most direct-filed youth who are not convicted spend time in an isolation cell in an adult county jail and do not receive educational services	Keep youth out of adult jails. If a child is detained pending trial, keep the child in a juvenile detention facility where there is programming
What are the characteristics of direct-filed youth?	Direct file unduly affects black and Hispanic youth 82% of youth admitted to YOS are black and Hispanic 75% of direct file dismissals are white youth	Collect better data on ethnicity. Engage experts to study the overrepresentation of youth of color in the adult system and recommend policy and practice reforms
What is the effectiveness of the Youthful Offender System (YOS) as an intervention program?	We don't know. YOS has cost a quarter of a billion dollars and has not been evaluated since 2004. YOS had two poor evaluations noting a lack programs for girls and mentally ill youth	Evaluate YOS' effectiveness as required every two years. Use a rigorous definition of recidivism. Take inventory of whether YOS can serve girls and youth with mental illness
What are the long-term consequences for youth?	Convicted direct-file youth receive a permanent felony conviction that makes it difficult to re-enter society	Provide opportunities for formerly direct filed youth to convert a felony conviction to a juvenile adjudication
What is missing in the data?	Information on prior juvenile delinquency or child welfare history was not readily accessible	Improve data collection systems and provide regular reports on the impact of prosecuting youth as adults