



Georgia Probation and Sentencing Subcommittees

Fifth Meeting

October 20, 2016

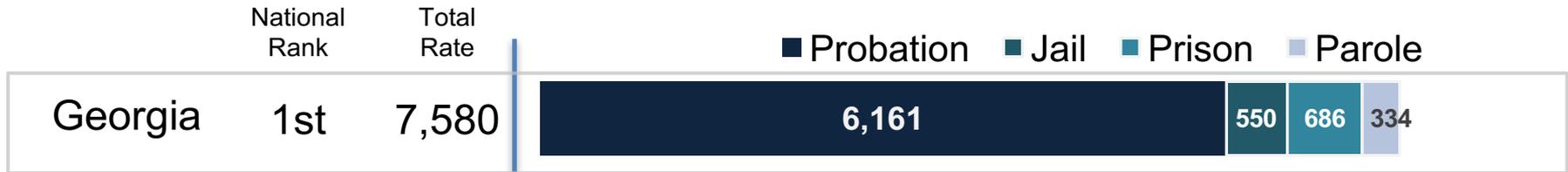
Marshall Clement, Division Director
Chenise Bonilla, Policy Analyst
Angie Gunter, Senior Research Associate

JUSTICE ★ **CENTER**
THE COUNCIL OF STATE GOVERNMENTS

Please note that these draft policy options are for discussion purposes only, and input from subcommittee members is needed.

For the next subcommittee meeting, the CSG Justice Center will present updated policy options based on feedback from the subcommittee, projected impacts based on updated policy options, and estimated reinvestments.

Georgia has the highest correctional control rate in the country, driven by the high rate of people on probation and lengthy supervision terms



166,383 felony probationers,
Rate of 1,629 per 100,000 residents



38,979 felony probationers,
Rate of 388 per 100,000 residents



198,911 felony probationers,
Rate of 724 per 100,000 residents

Two main drivers of Georgia’s high felony probation rate:

1. Use of probation in lieu of incarceration, and in addition to incarceration as split sentences
2. Lengthy felony probation terms

Georgia's large felony probation population creates challenges to applying effective supervision practices

Three Key Challenges:

1. DCS is not able to frontload supervision resources on people who pose the highest risk



Transitioning probationers from active to unsupervised status more quickly, based on risk, will allow officers to target resources and efforts to people who pose the highest risk

2. Intensity of supervision for people at the highest risk may not be sufficient to change behavior

DCS minimum contact standards

Specialized: Twice per month

High: Once per month for 2–5 minutes

Standard: Once every 90 days for 2–5 minutes



Meaningful, proactive engagement with motivational interviewing for high-risk probationers requires at least 15–20 minutes, multiple times per month

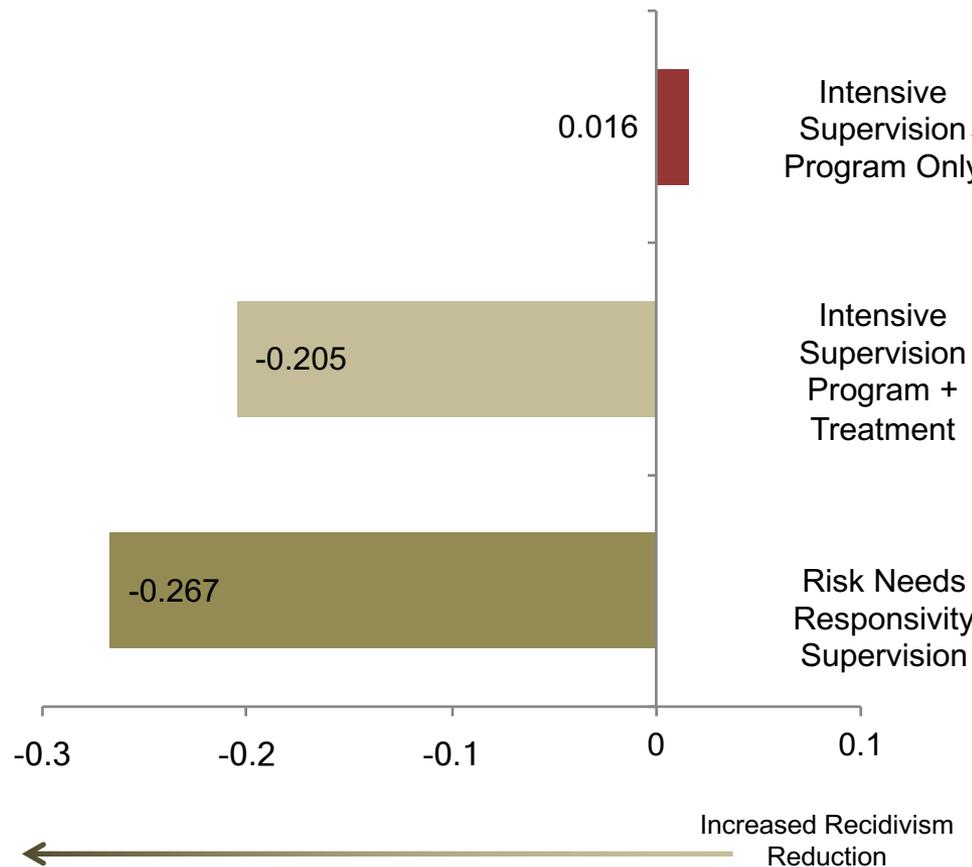
3. Due to high caseloads, supervision follows a reactive approach



Supervision should follow a proactive case planning approach

Adherence to RNR principles is especially important to the effectiveness of community supervision as a recidivism-reduction strategy

Effect Size of Different Supervision Programs on Recidivism Reduction as Determined by Inventory of Evidence-based and Research-based Programs for Adult Corrections as of December 2013



Characteristics of Intensive Supervision Programs Only

- Surveillance focus
- One-size-fits-all approach
- Contact frequency as a key performance measure for officers
- Use of incarceration as primary sanction
- Proportionality of sanctions not prioritized
- Little consideration of criminogenic “needs”

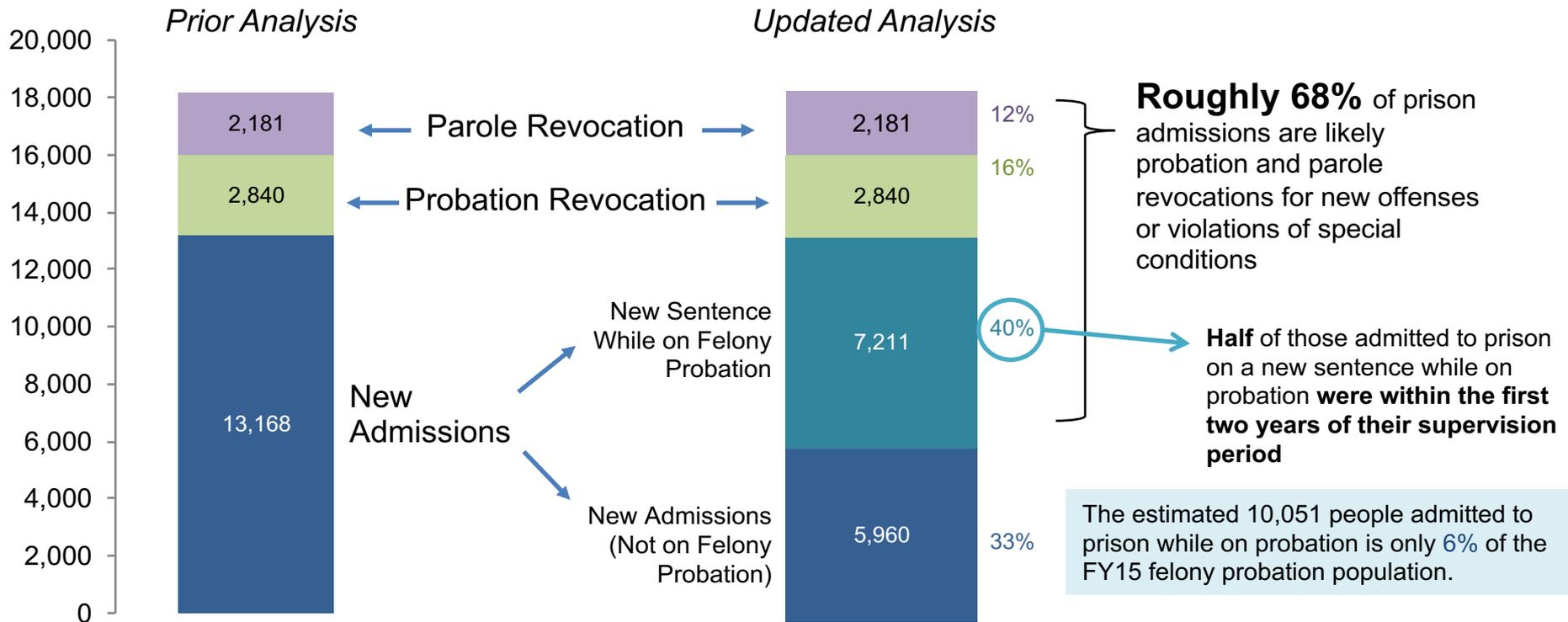
Characteristics of RNR Supervision

- Assessing risk/needs
- Focusing on high-risk parolees
- Balancing supervision and treatment
- Using incentives and rewards
- Involving offenders in process
- Responding to violations in swift and consistent manner
- High-quality CBI programming

Source: Washington State Institute for Public Policy. Benefit Cost Results: Adult Criminal Justice System. June 2016. <http://wsipp.wa.gov/BenefitCost?topicId=2>

Reducing recidivism among people on probation and parole can increase public safety and reduce prison admissions

Prison Admissions (New Admission or Revocation), FY2015



Note: GDC data does not capture cases where probationers were reconvicted with a new offense and subsequently admitted to prison; the values presented here are estimated based on matching probation terminations to prison admissions where the termination was close to the admission date.

Source: CSG Justice Center Analysis of Prison Admissions and Probation Terminations Data

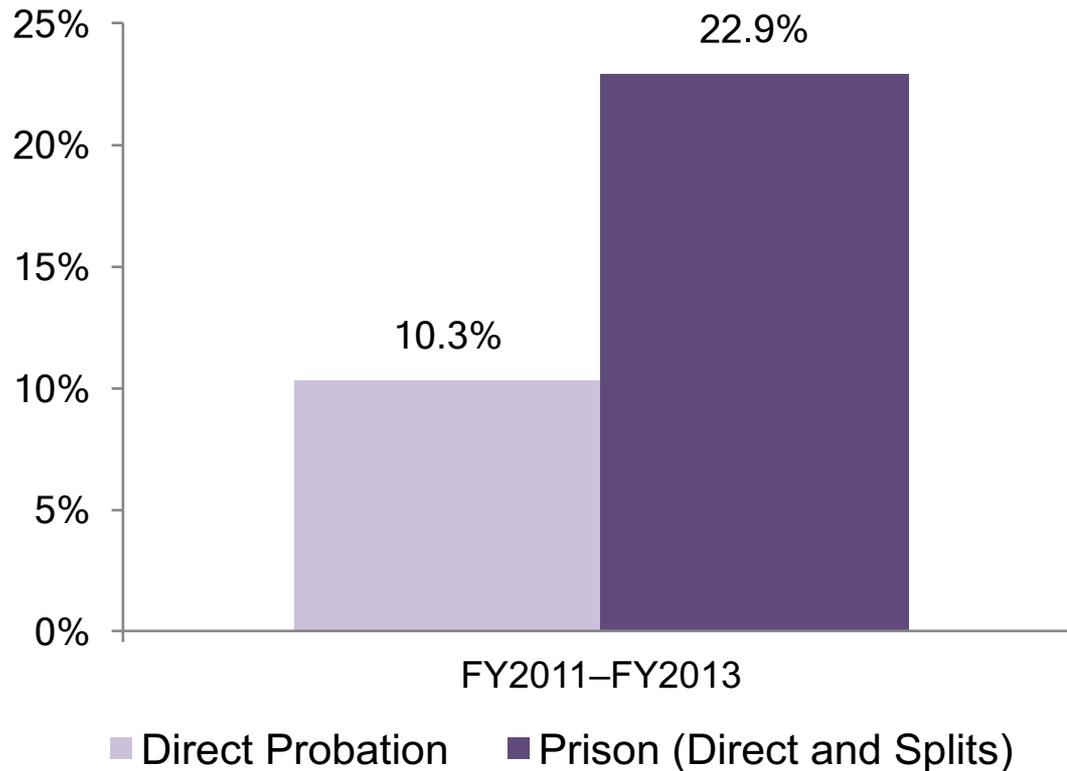
Overview



- 1 Use probation, programming, and treatment to reduce recidivism among people convicted of a 1st or 2nd drug or property offense
- 2 Enable the reduction of lengthy probation sentences for certain offenses and as an incentive
- 3 Frontload active probation supervision to reduce caseloads and deliver more meaningful supervision
- 4 Improve the cost-effectiveness of responses to probation and parole violations
- 5 Improve handling and tracking of LFOs; adjust the recidivist sentencing statute; and consider policy options to sustain improvements

Challenge 1: People convicted of property and drug offenses with no more than one prior felony conviction who were sentenced to probation had significantly lower rates of reconviction than similar people sentenced to prison

Three-Year Felony Reconviction Rates
for **Property and Drug Convictions**,* FY2011–FY2013

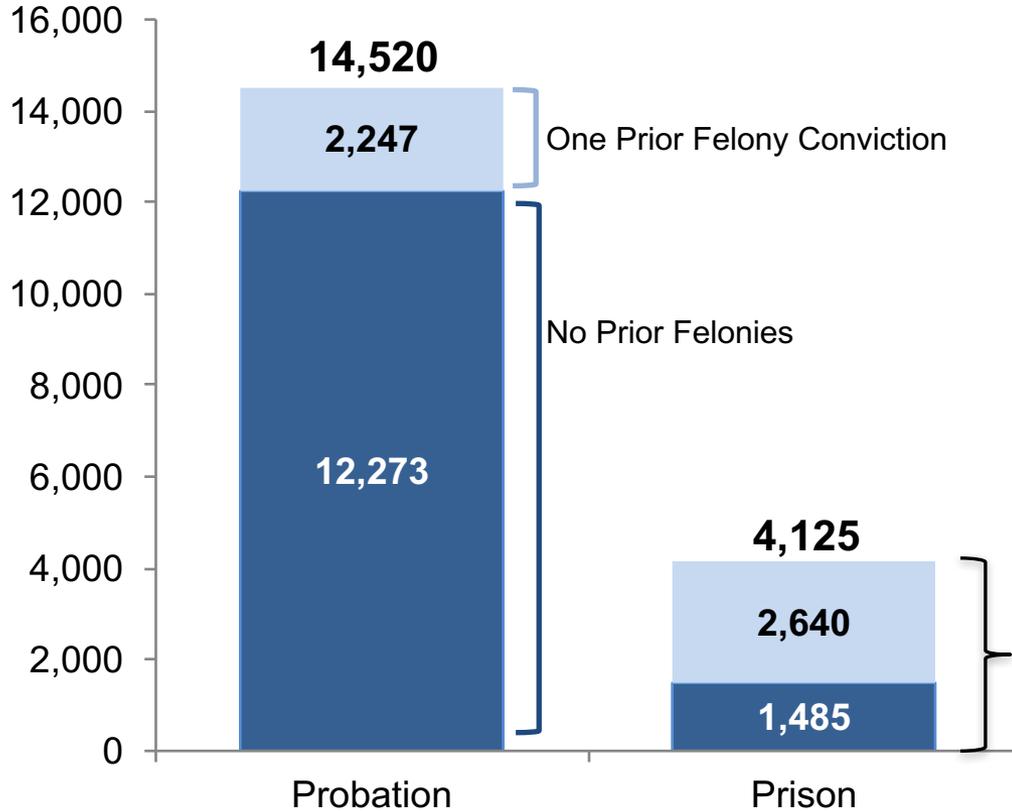


*Excludes 1st degree burglary and drug trafficking

Source: CSG Justice Center Analysis of Probation and Inmate research files

Most first and second felony convictions of property and drug crimes are already sentenced to probation

Probation Placements and New Admissions of **Property and Drug Offenses** with No Prior or One Prior Felony Conviction, FY2015



2,943
(or 15% of total prison admissions)
 Number of property and drug prison admissions with no more than 1 prior, excluding 1st-degree burglary and drug trafficking offenses

Specific Offense Breakdown

* Burglary:	1,228	30%
Theft:	720	17%
Forgery/Fraud:	302	7%
Other Property:	135	3%
Drug Possession:	1,162	28%
Drug Sales:	320	8%
Drug Trafficking:	258	6%

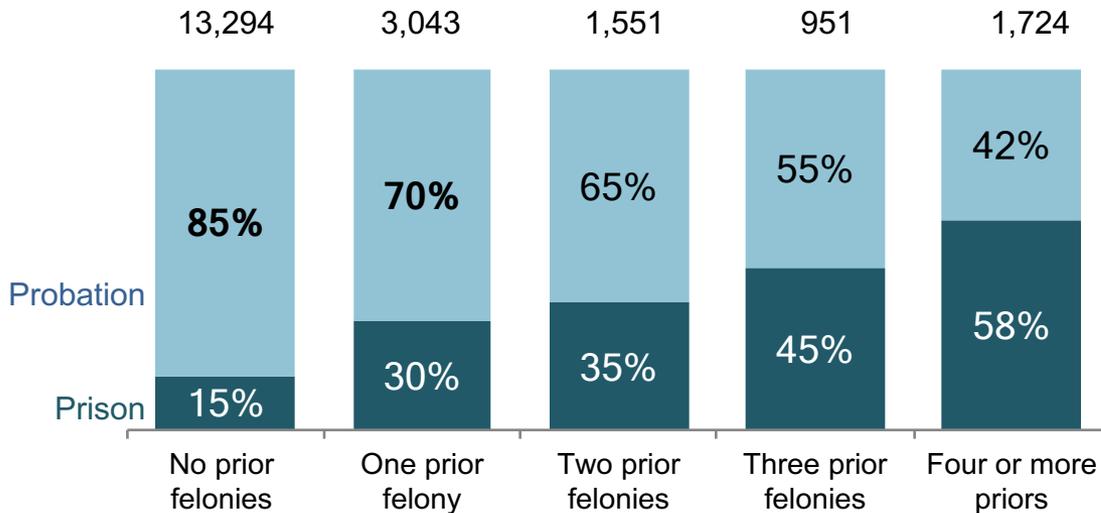
*Approx. 75% of new prison admissions for burglary are first-degree

Source: CSG Justice Center Analysis of Prison Admissions and Probation Placements Data

Policy Goal 1: Use probation, programming, and treatment to reduce recidivism among people convicted of a first or second drug or property offense

- Create a presumption of probation upon the 1st or 2nd conviction for certain drug and property offenses, excluding drug trafficking and 1st-degree burglary.

New Placements to Probation or Prison by **Criminal History**,
by **Property and Drug Offenses**, FY2015



Of the Property and Drug convictions in FY2015, **76%** (15,667) received probation in lieu of incarceration (4,896),

* Adjusted to exclude 1st-degree burglary and drug trafficking

Total all FY15 Placements: 36,309
Total Property and Drug: 23,586
Adjusted Property and Drug*: 20,563

Source: CSG Justice Center Analysis of Inmate Data and Probation Data, FY2015

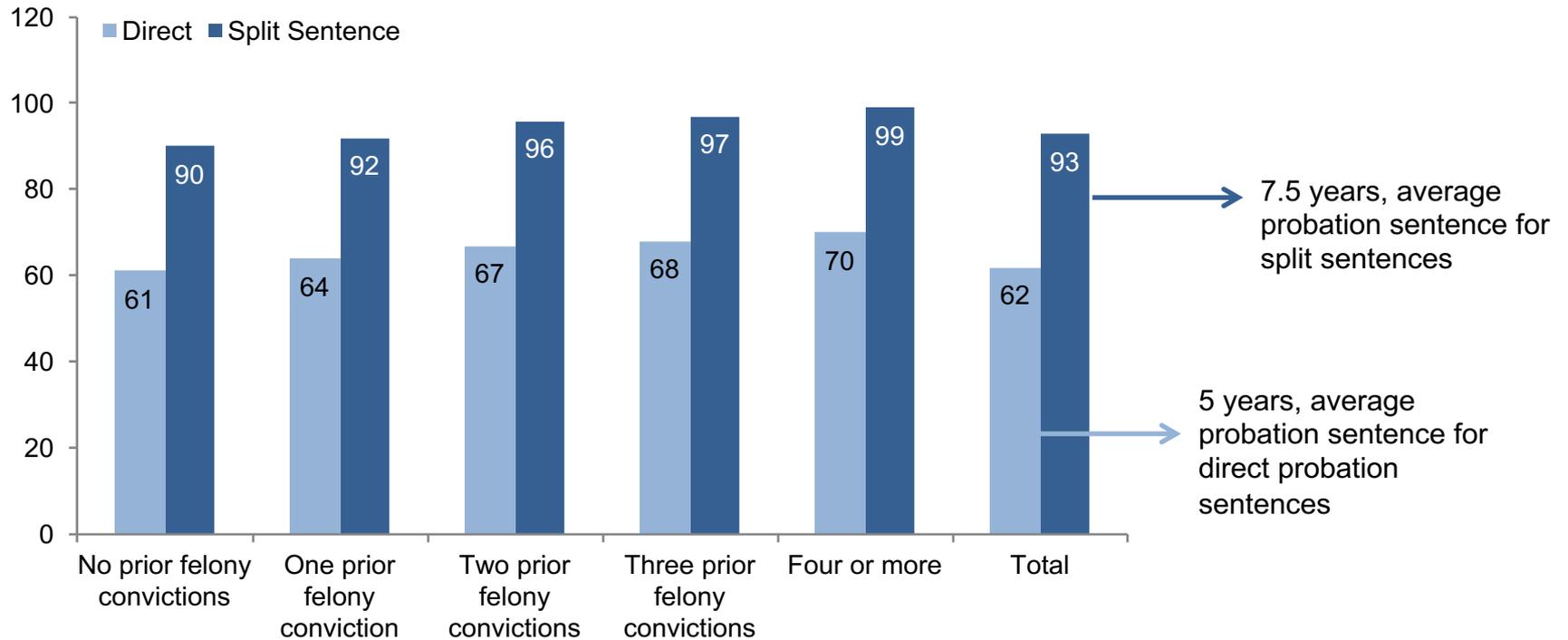


Overview

- 1 Use probation, programming, and treatment to reduce recidivism among people convicted of a 1st or 2nd drug or property offense
- 2 Enable the reduction of lengthy probation sentences for certain offenses or as an incentive
- 3 Frontload active probation supervision to reduce caseloads and deliver more meaningful supervision
- 4 Improve the cost-effectiveness of responses to probation and parole violations
- 5 Improve handling and tracking of LFOs; adjust the recidivist sentencing statute; and consider policy options to sustain improvements

Challenge 2: Georgia has lengthy felony probation terms regardless of criminal history and especially for the probation portion of a split sentence

Average Probation Sentence Lengths for **Property and Drug Convictions**
Placements to Probation, FY2005–FY2015



Source: CSG Justice Center Analysis of Probation Research file

Compared to North Carolina, Georgia has lengthier felony probation terms for people convicted of property and drug offenses



Community

25 months, on average

Intermediate (Split)

28 months, on average
($\frac{1}{4}$ in prison, $\frac{3}{4}$ on probation)

Active (Prison)

Range of 30–47 months

Probation

63 months, on average

Prison

9.9 years, on average

Split Sentences

20 years, on average
(12 years in prison, 8 years on probation)



Source: CSG Justice Center Analysis of Prison Admissions and Probation Terminations Data; North Carolina Sentencing and Policy Advisory Commission's Annual Sentencing Report, FY14-15

For first and second property and drug convictions, the length of the prison portion of split sentences is longer than prison-only sentences

Georgia	Prison Only		Split Sentences			Statutory Maximum
	Selected offenses	n.	Prison Sent.	n.	Prison Portion	
Burglary 2nd degree	84	7.9 Years	220	9.4 Years	5.0 Years	8 years
Theft (Taking/Receiving/Stolen)	208	7.3 Years	357	9.9 Years	5.6 Years	10 years
Forgery/Fraud	115	8.4 Years	187	10.1 Years	6.0 Years	15 for 1 st deg 5 for 2 nd deg
Shoplifting	39	4.3 Years	116	8.1 Years	6.3 Years	10 years upon 4 th conviction
Arson/Property Damage	25	7.0 Years	43	11.6 Years	6.7 Years	20 for 1 st deg 10 for 2 nd deg 5 for 3 rd deg
Other Property	9	7.1 Years	58	14.7 Years	9.9 Years	- Varies -
Drug Possession	428	6.3 Years	734	10.2 Years	6.8 Years	Based on qty: 3 yrs, 8 yrs, 15 yrs
Drug Sales	54	7.9 Years	266	12.3 Years	8.4 Years	5–30 on 1 st 10–40 on 2 nd

Source: CSG Justice Center Analysis of Prison Admissions Data

Policy Goal 2: Enable the reduction of lengthy probation sentences for certain offenses and as an incentive

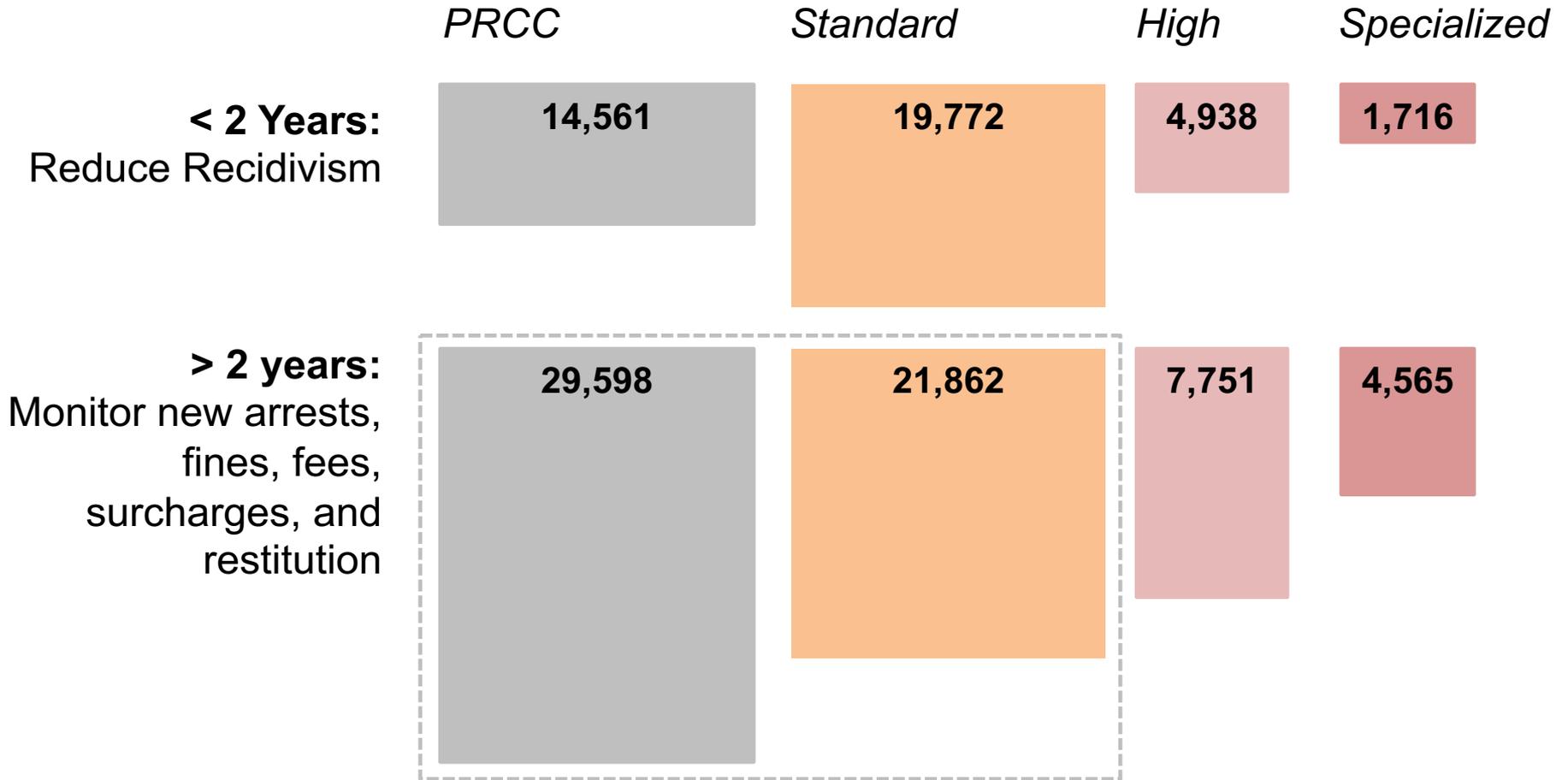
- A. Presumptive, automatic early termination from straight probation sentences after 3 years for people serving a sentence for a 1st or 2nd property or drug offense, unless restitution is outstanding. For people serving a split sentence, the termination of supervision should be presumptive at 3 years or the length of the remaining prison sentence, whichever is longer.
 - i. This approach could be automatic, unless the prosecuting attorney requested a hearing and upon showing of good cause.
- B. As a part of a felony probation sentence, require a behavioral incentive date (BID) to be established and not exceed five years. If the person remains in compliance, has no new arrests, and has paid all restitution and fines prior to reaching the BID, notice shall go to the court and supervision shall be automatically terminated.
 - i. This approach could be automatic, unless the prosecuting attorney requested a hearing and upon showing of good cause.
 - ii. Make the imposition of a BID optional for people with more serious and violent convictions or with extensive criminal history.



Overview

- 1 Use probation, programming, and treatment to reduce recidivism among people convicted of a 1st or 2nd drug or property offense
- 2 Enable the reduction of lengthy probation sentences for certain offenses and as an incentive
- 3 Frontload active probation supervision to reduce caseloads and deliver more meaningful supervision
- 4 Improve the cost-effectiveness of responses to probation and parole violations
- 5 Improve handling and tracking of LFOs; adjust the recidivist sentencing statute; and consider policy options to sustain improvements

Challenge 3: High probation caseloads result in less effective supervision

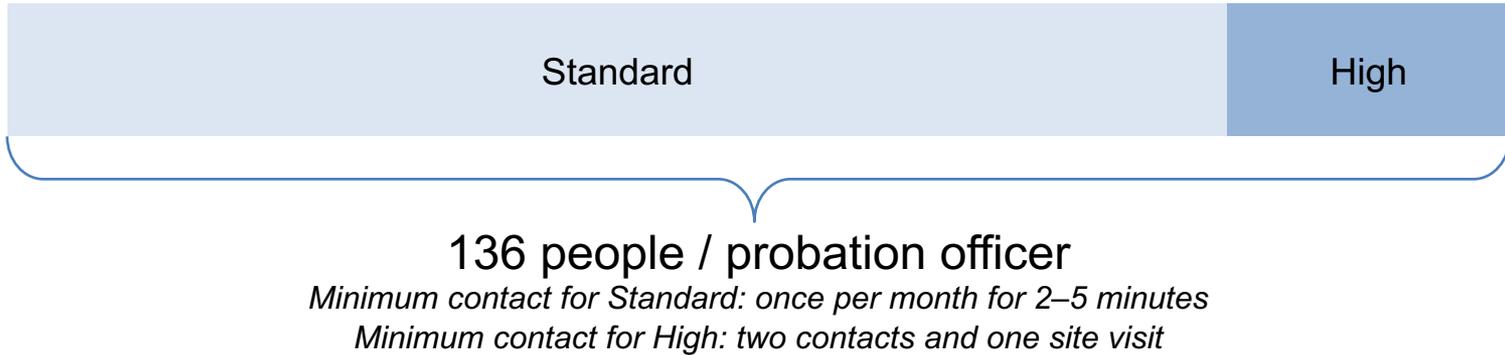


Fines and fees may be preventing people from transitioning to Unsupervised status, particularly for PRCC and Standard caseloads

Source: CSG Justice Center analysis of Probation Research file

Reducing standard caseloads would give probation officers more time to supervise high-risk people

Caseload Example:



Potential Impact:



Shifting some proportion of people who have been on PRCC supervision for longer than 2 years to Unsupervised status could free up officers to further reduce caseload sizes.

Source: CSG Justice Center analysis of Probation Research file

Policy Goal 3: Frontload active probation supervision to reduce caseloads and deliver more meaningful supervision

- A. Reduce recidivism by ensuring that high-risk people on probation receive intensive, meaningful engagement in the first two years on supervision. Reduce caseloads for officers supervising high-risk people to enable increased contacts and engagement.
- B. Move people on probation to unsupervised status after two years as suggested by current statute, unless the person owes restitution, is at a high risk of reoffending, or has been convicted of a sex offense.

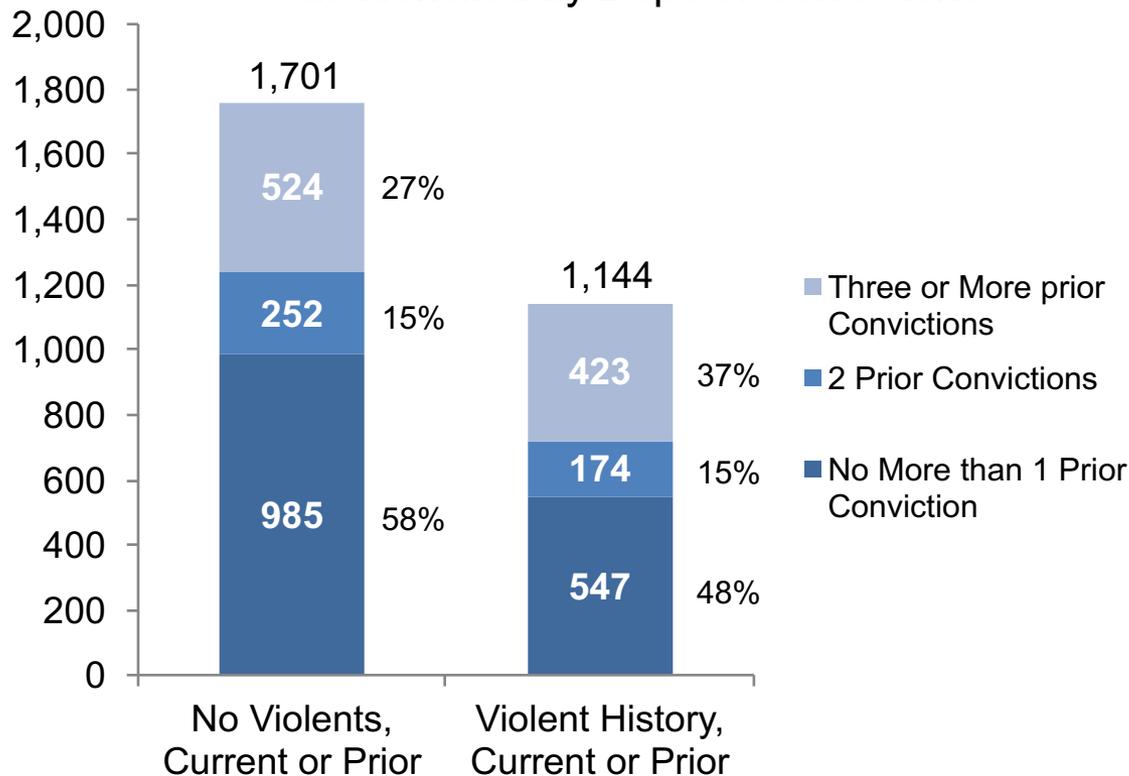
Overview



- 1 Use probation, programming, and treatment to reduce recidivism among people convicted of a 1st or 2nd drug or property offense
- 2 Enable the reduction of lengthy probation sentences for certain offenses and as an incentive
- 3 Frontload active probation supervision to reduce caseloads and deliver more meaningful supervision
- 4 Improve the cost-effectiveness of responses to probation and parole violations
- 5 Improve handling and tracking of LFOs; adjust the recidivist sentencing statute; and consider policy options to sustain improvements

Challenge 4: Responses to probation violations could be more cost-effective

FY2015 Probation Revocations,
as identified by Dept. of Corrections

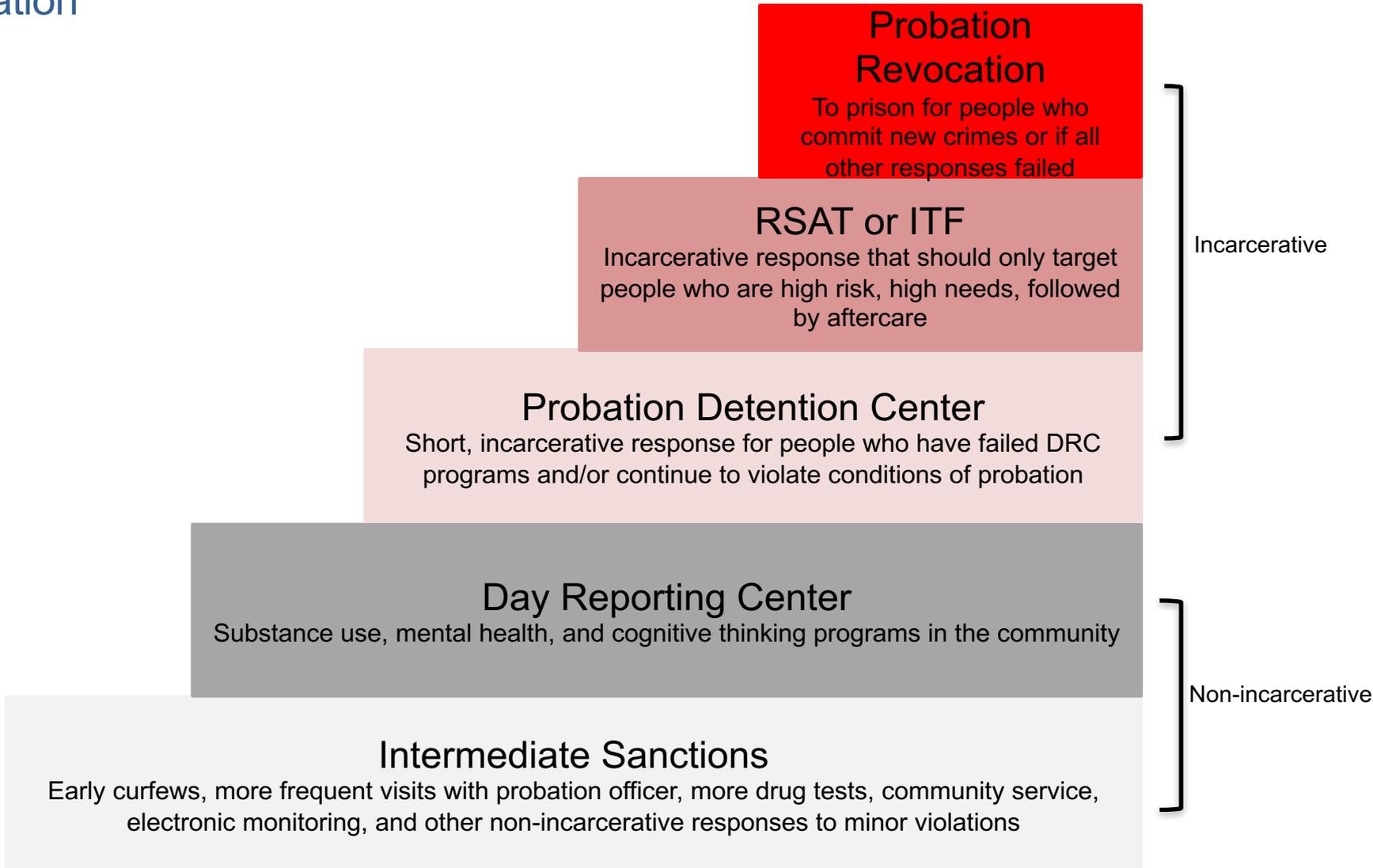
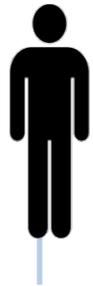


Offense Types

675	Violent/Person
259	Sex Offenses
1,012	Property
139	Drug Sales
512	Drug Possession
248	Other

Upon revocation to prison, any restitution, fines, and fees that are outstanding are dropped, but the challenge of addressing the individual's risk and needs upon release remains.

Georgia funds several types of responses to violation behavior in lieu of revocation



Policy Goal 4: Improve the cost-effectiveness of responses to probation and parole violations

- A. For people sentenced to split sentences, require parole supervision to follow probation conditions set by the judge in addition to any conditions set by the parole board, and enable parole to use responses to violations that are open to people on probation.
- B. Require that a case plan to reduce recidivism be developed for any person on probation who is assessed to have a likelihood of recidivism greater than 60 percent.
- C. Continue the total RSAT treatment program at 15 months (residential and aftercare). Increase the number of people in the existing capacity by reducing the RSAT program from 9 to 6 months, and expand RSAT aftercare program in the community from 6 to 9 months. Create criteria for RSAT placement, such as in response to probation violation behavior for people who are medium to high risk.
- D. Expand state-funded community-based access to treatment for people at a high risk of reoffending who have substance use issues who may not require a full RSAT model.
- E. Provide judges and DCS with the tools needed to reduce the number of probation condition violators from being sentenced to prison by 50 percent by reinvesting in expanding drug court capacity in lieu of revocation as well as a specialized probation revocation caseload.
 - i. Counties where judges can reduce the number of people revoked to prison should utilize drug courts (with PDCs as a sanctioning option) and/or revoke people on to a specialized probation revocation caseload.
 - ii. A specialized probation revocation caseload should be limited to no more than 20–30 people, and officers should have access to state-funded vouchers for services and programs to address the person’s risk and needs and stabilize them in the community (electronic monitoring, transitional housing, intensive outpatient, transitional employment and education).
 - iii. Being moved to a specialized probation caseload should also enable swift and certain, short sanctions in response to violations. This could be piloted using PDCs.

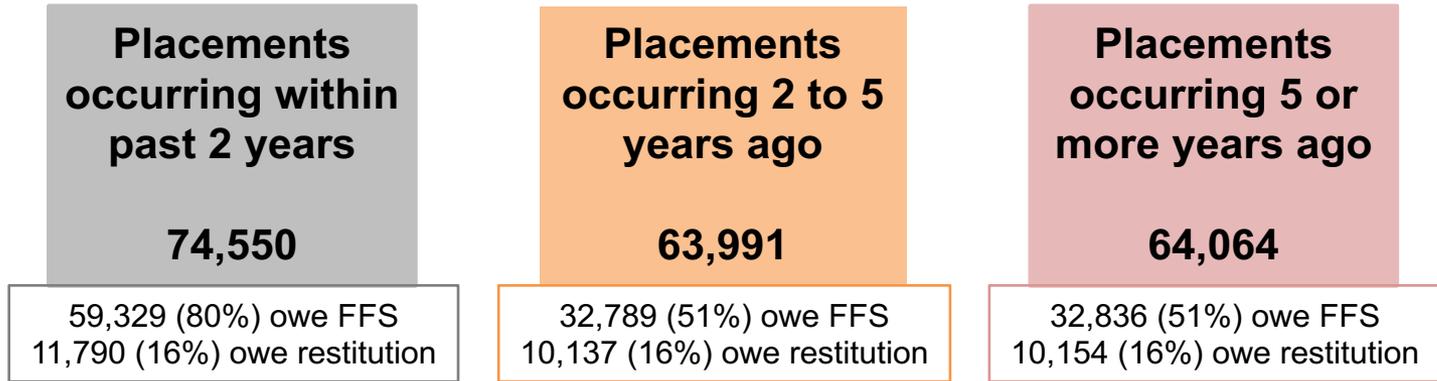


Overview

- 1 Use probation, programming, and treatment to reduce recidivism among people convicted of a 1st or 2nd drug or property offense
- 2 Enable the reduction of lengthy probation sentences for certain offenses and as an incentive
- 3 Frontload active probation supervision to reduce caseloads and deliver more meaningful supervision
- 4 Improve the cost-effectiveness of responses to probation and parole violations
- 5 Improve handling and tracking of LFOs; adjust the recidivist sentencing statute; and consider policy options to sustain improvements

Summary of fines, fees, surcharges, and restitution obligations of active and terminated people on probation, based on limited data

Current Active Probationers*



There may be some overlap in people owing both FFS and restitution. Supervision fees were not evaluated, as those fees depend on a person's supervision level.

Over 65,000 people on probation for longer than 2 years owe court fines;
Over 20,000 people on probation for longer than 2 years owe restitution.

Sample of active cases on supervision for at least 2 years:

- PRCC: Median amount owed \$1,589
- Standard: Median amount owed \$1,696
- Cases that expired in 2015: Median amount owed \$657
 - Balances under \$1,000 typically involved outstanding FFS
 - Balances over \$1,000 typically included restitution obligations

*includes Warrant Cases, of which there are approximately 39,000

Source: Georgia Department of Corrections special data analysis, October 2016 and CSG Analysis of Probation data

Policy Goal 5: Improve handling and tracking of LFOs; adjust the recidivist sentencing statute; and consider policy options to sustain improvements

- A. Establish presumption of indigency and waiving fines/fees/surcharges and supervision fees for felony sentences, similar to misdemeanor approach.
- B. Confirm payment of restitution owed to individuals (and/or small businesses) prior to payment of outstanding fines, fees, and surcharges.
 - A. Establish a statewide financial database to track any and all restitution, fines, fees, and surcharges ordered, what's been collected, and individual indigency. Require the database to be able to crosscheck state and county levels of collection and consolidate orders by individual, not just case.
 - B. Streamline the process for victims to receive the restitution that has been collected.
- C. Restore parole eligibility for certain property offenses sentenced under the recidivist sentencing statute.
- D. Establish a unified data system to collect information about people on misdemeanor probation.
- E. Evaluate quality of programming in PDCs, ITFs, RSATs, and DRCs at least every five years.
- F. Require that risk assessment instruments used by GDC and DCS be revalidated at least every five years.

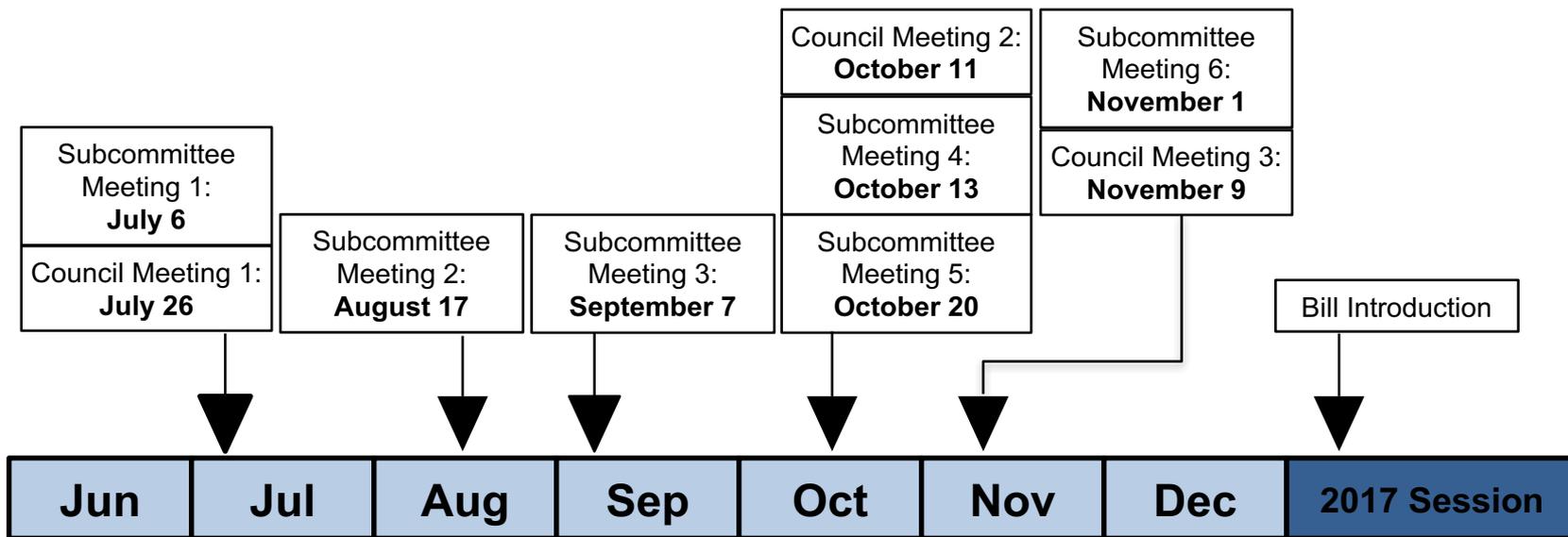
Next steps

- ❑ Further refine policy options based on stakeholder feedback and discussions

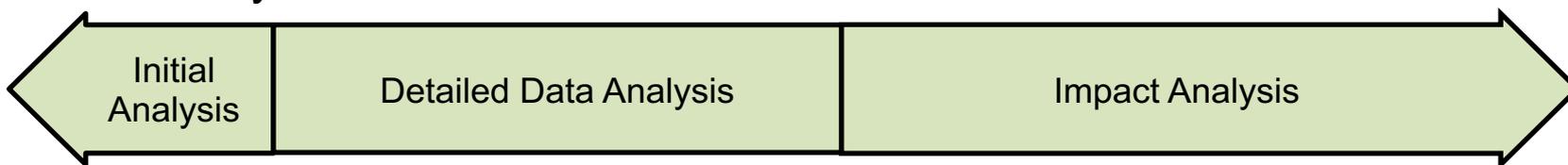
- ❑ Present projected impacts, including:
 - Actively supervised probation population
 - Prison population
 - Potential recidivism reduction

- ❑ Present suggested reinvestments, based on averted costs

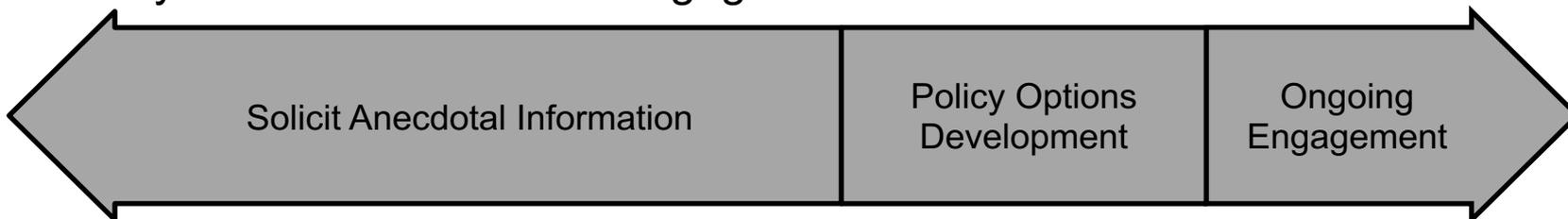
Proposed timeline for Georgia's Justice Reinvestment project



Data Analysis



Policymaker & Stakeholder Engagement



Thank You

Chenise Bonilla, Policy Analyst
cbonilla@csg.org

Receive monthly updates about justice reinvestment states across the country as well as other CSG Justice Center programs.

Sign up at:

CSGJUSTICECENTER.ORG/SUBSCRIBE

This material was prepared for the State of Georgia. The presentation was developed by members of the Council of State Governments Justice Center staff. Because presentations are not subject to the same rigorous review process as other printed materials, the statements made reflect the views of the authors, and should not be considered the official position of the Justice Center, the members of the Council of State Governments, or the funding agency supporting the work.

