



Justice Reinvestment in Alabama

Third Presentation to Prison Reform Task Force, December 11, 2014

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Council of State Governments Justice Center

- National nonprofit, nonpartisan membership association of state government officials
- Engages members of all three branches of state government
- Justice Center provides practical, nonpartisan advice informed by the best available evidence



Justice Reinvestment

a data-driven approach to reduce corrections spending and reinvest savings in strategies that can decrease recidivism and increase public safety



1

Sentencing

- ❑ Prison remains most used disposition type for felony convictions
- ❑ Two-thirds of sentences to prison are for property and drug offenses
- ❑ Alabama treats low-level property crime more severely than other southern states

2

Parole Process

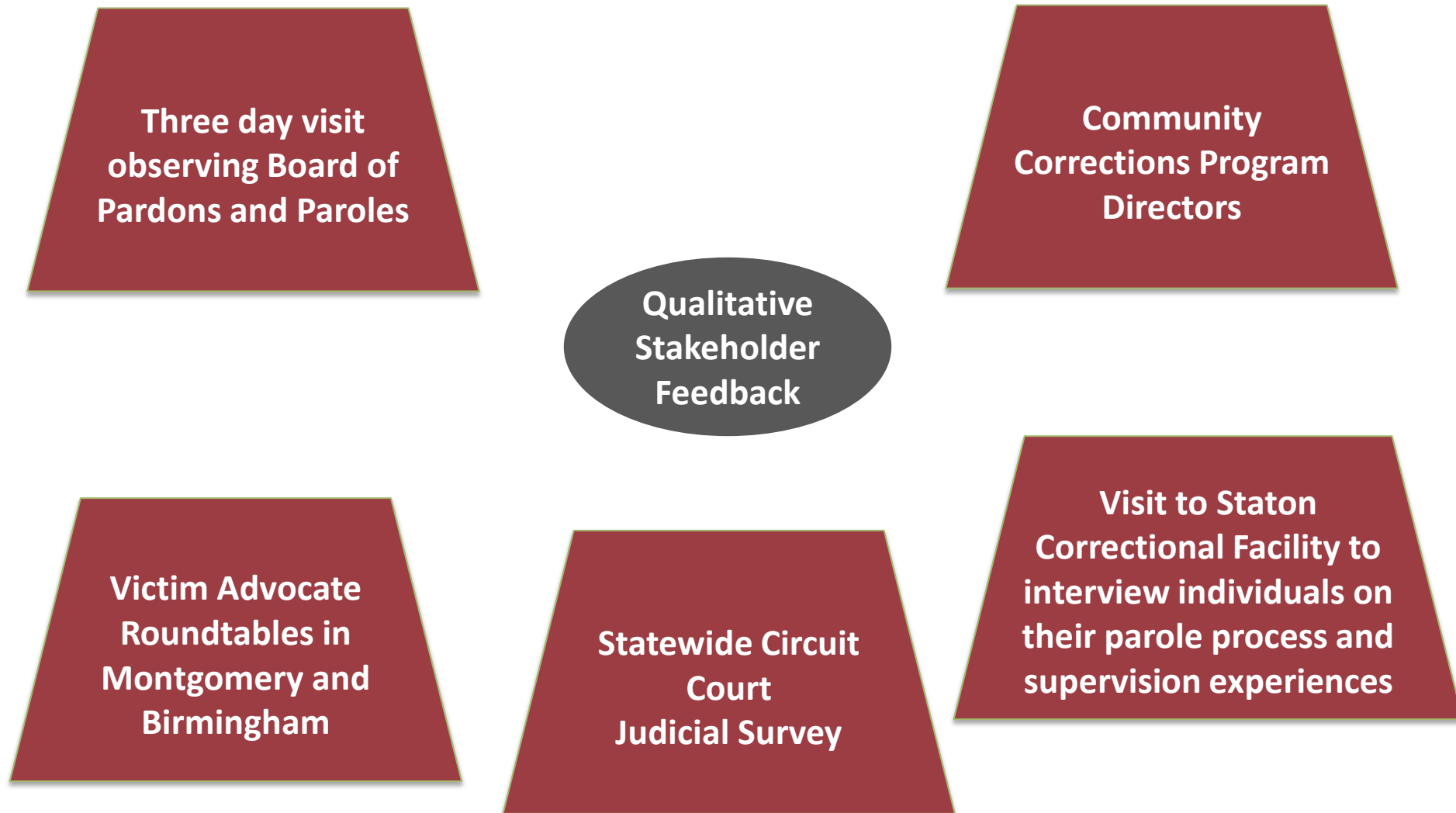
- ❑ Property and drug cases now being held by the Board twice as long prior to release
- ❑ Board's reasons for denial often a "re-sentencing" of the case
- ❑ Data suggest parole release delays are not benefiting public safety

3

Supervision

- ❑ Revocations of probation to prison up 47 percent since FY2009
- ❑ Current approach to sanctioning violators is costly and ineffective
- ❑ Lack of evidence-based practices for supervision has significant cost and public safety implications

Update on Criminal Justice System Stakeholder Engagement Since September Working Group Meeting



Alabama has Some Prison Diversion Options in Place

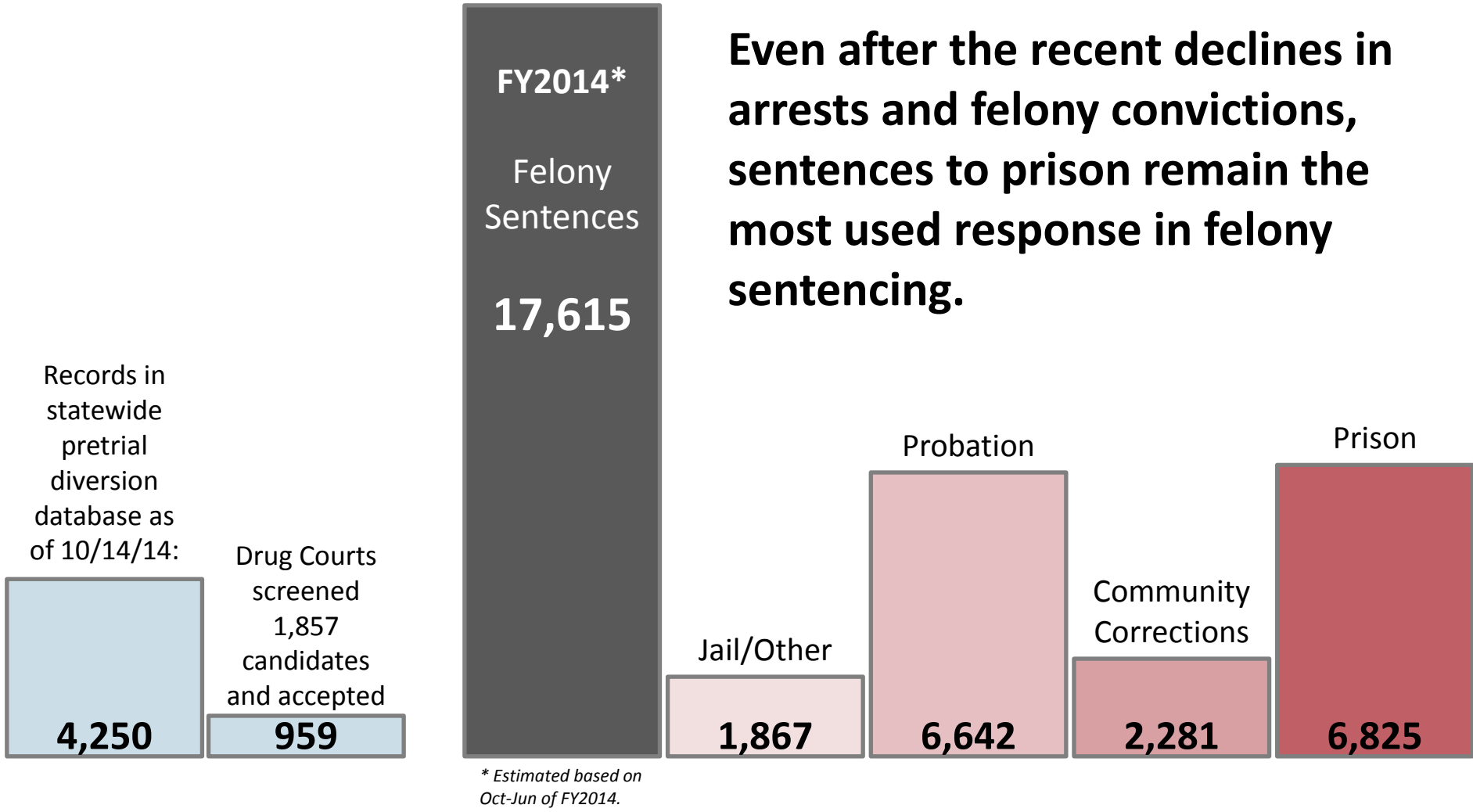
Pretrial Diversion

Programs run locally by prosecutors to offer opportunities for deferral of criminal charges

Drug Courts

Alternative sentencing option for nonviolent offenses committed while under the influence of alcohol or drugs

Opportunities Still Exist for More Diversion Away from Prison



Source: Alabama Office of Prosecution Services; Alabama Administrative Office of the Courts; and Alabama Sentencing Commission felony sentencing data.

Presumptive Guidelines have not Shut the Prison Doors

Hypothetical cases where only one prior felony needed to score as “IN” prison on presumptive drug and property sentencing guidelines

Possession with Intent to Distribute

Plus – one prior felony conviction resulting in prison sentence
= “IN” prison recommendation

OR

Plus – one prior felony conviction resulting in probation that was revoked
= “IN” prison recommendation

Theft of Property II

Plus – one prior felony conviction resulting in prison sentence
= “IN” prison recommendation

OR

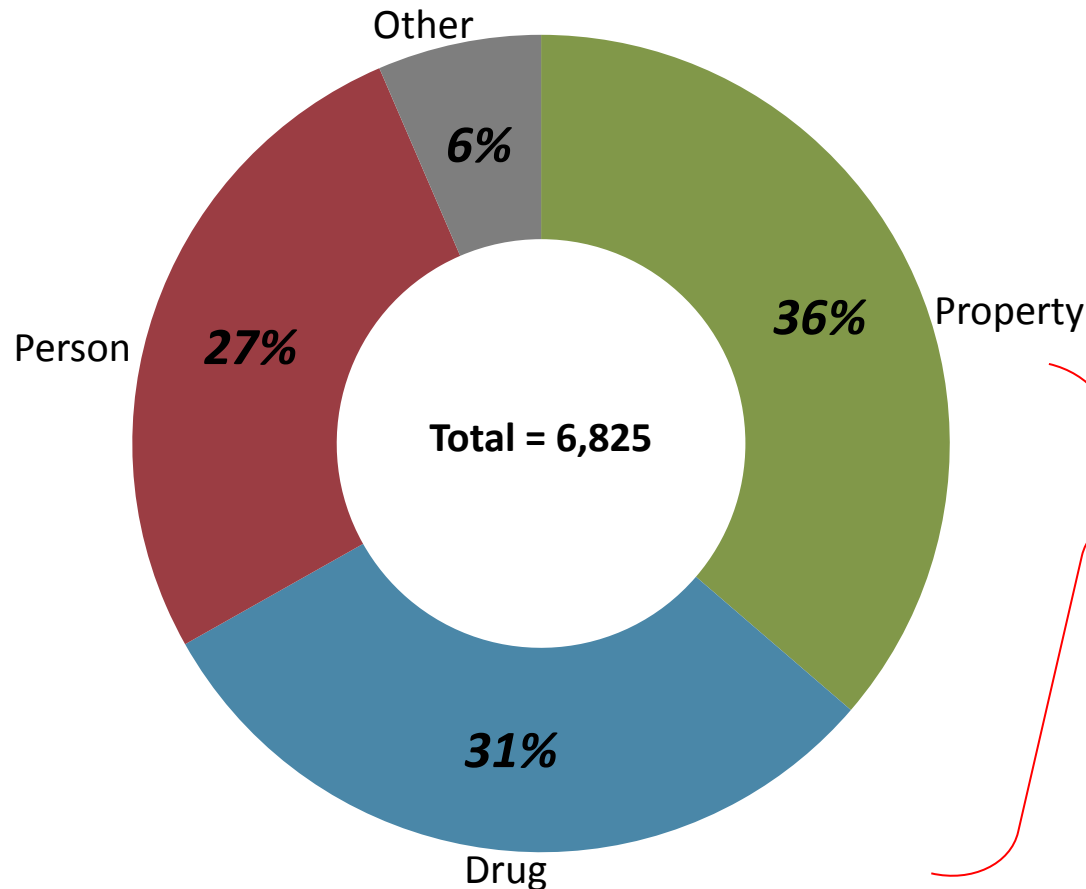
Plus – one prior felony conviction for same offense resulting in probation that was revoked, and two juvenile delinquency dispositions
= “IN” prison recommendation

- ✓ 8 percent of cases fit first hypothetical
- ✓ 22 percent of cases fit second hypothetical

Source: *Presumptive and Voluntary Sentencing Standards Manual*, and felony sentencing data, Alabama Sentencing Commission.

Property and Drug Offenses Account for 2/3 of All Sentences to Prison

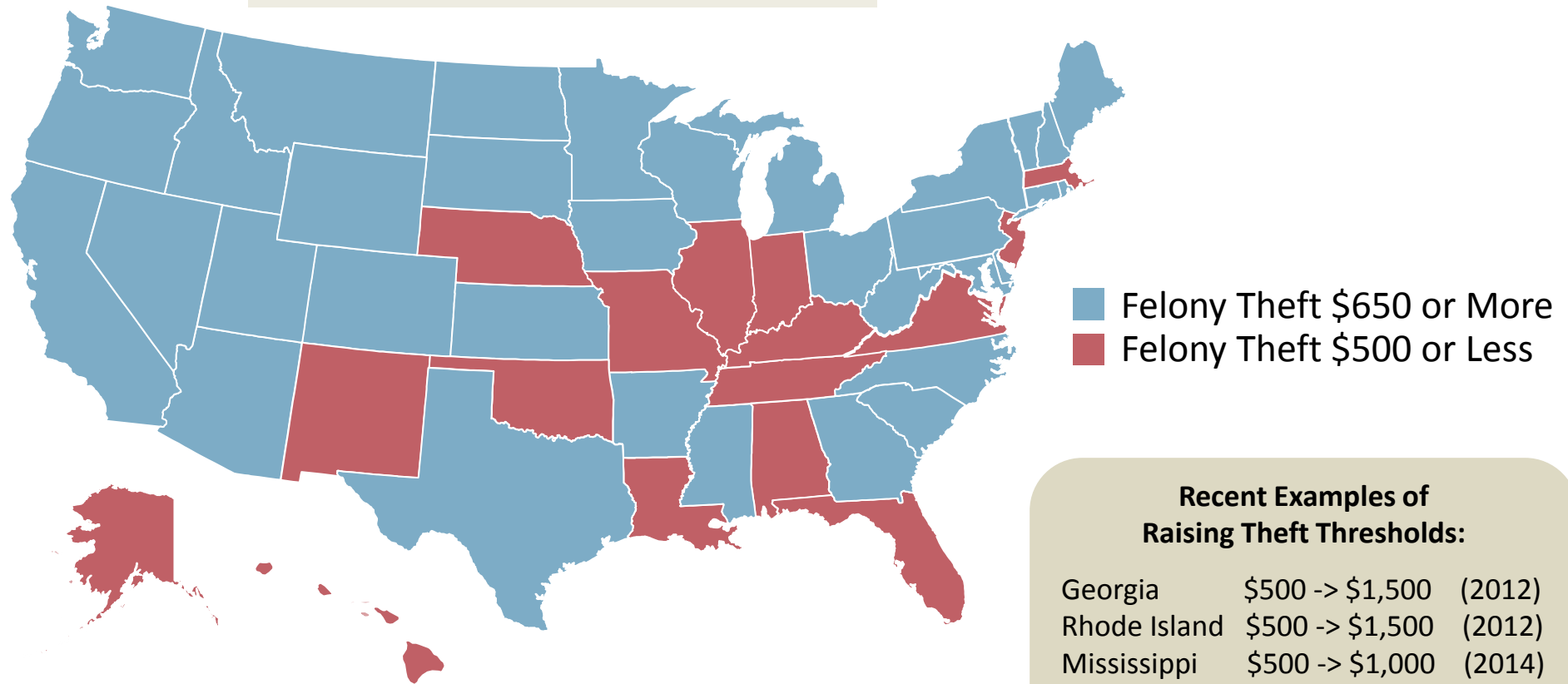
Estimated FY2014 Sentences to Prison by Offense Type



Many of these individuals are failing on supervision in the community where the lack of resources makes success less likely.

Alabama is One of 16 States with a Felony Theft Threshold of \$500 or Less

Felony Theft Thresholds by State, 2014

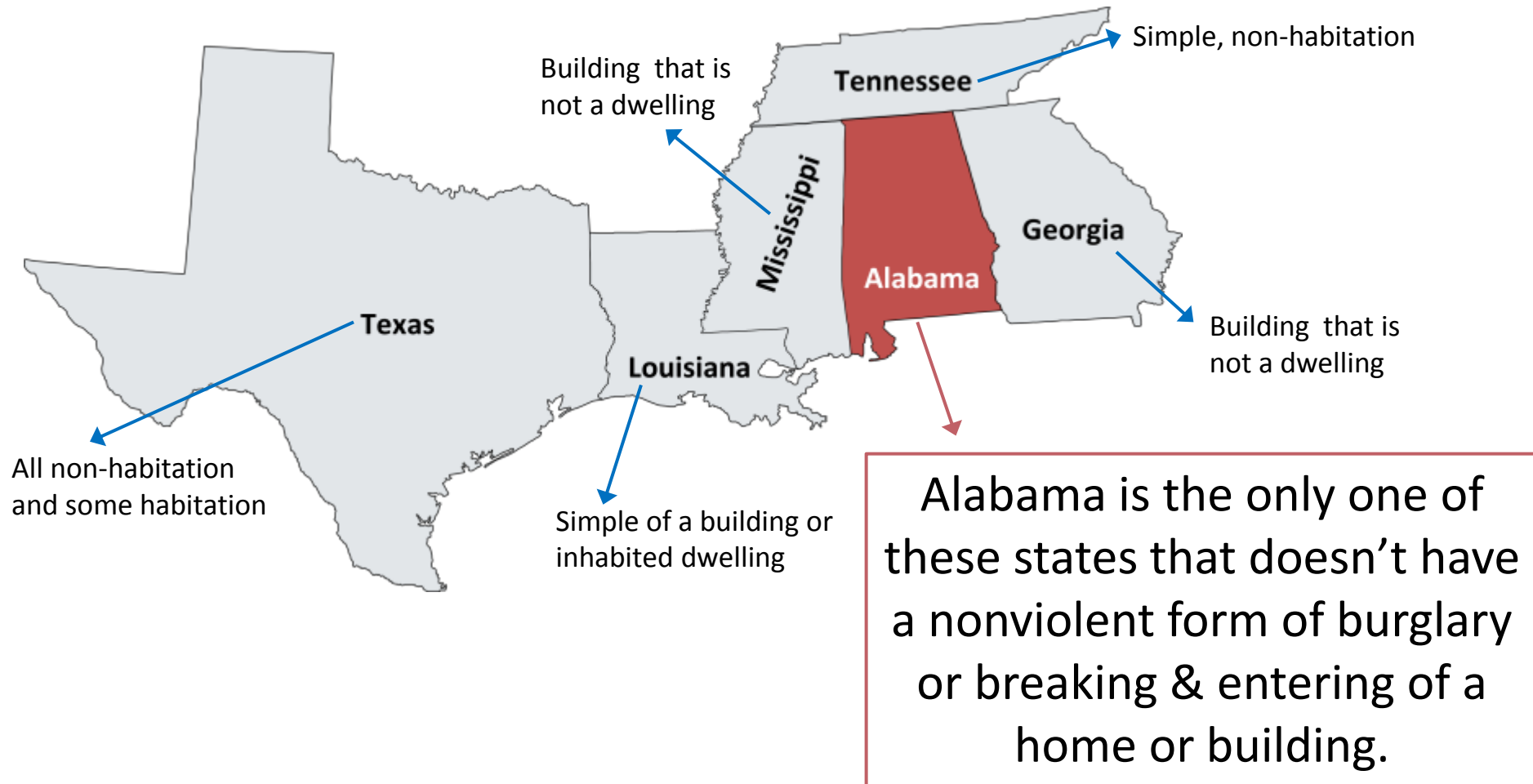


**Recent Examples of
Raising Theft Thresholds:**

Georgia	\$500 -> \$1,500	(2012)
Rhode Island	\$500 -> \$1,500	(2012)
Mississippi	\$500 -> \$1,000	(2014)
North Dakota	\$500 -> \$1,000	(2013)
Arkansas	\$500 -> \$1,000	(2011)

Most States Have Some Nonviolent Forms of Burglary —Alabama Does Not

Types of Burglary that Are Considered “Nonviolent”



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Parole Process

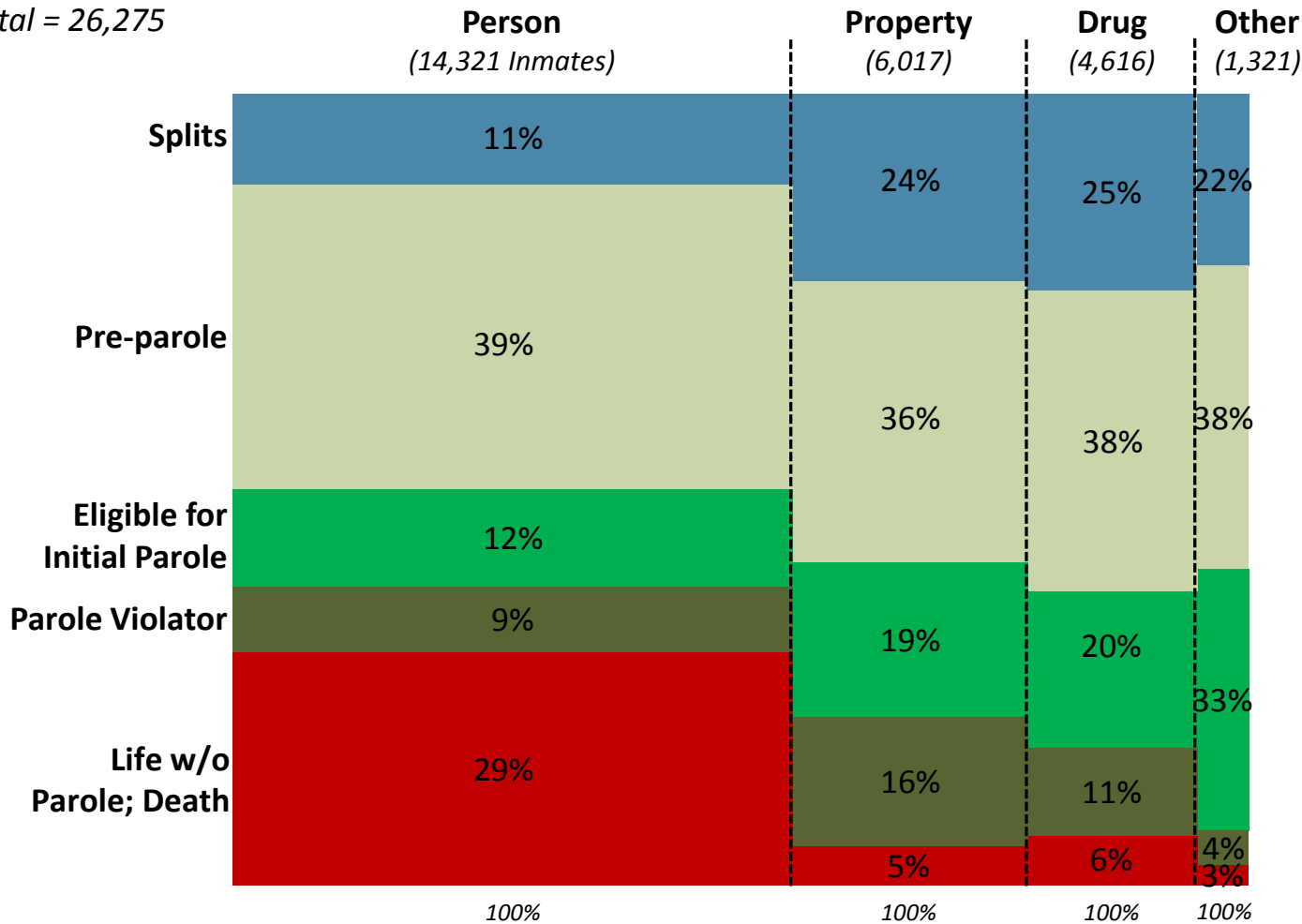
3

Supervision

One-Third of Current Property and Drug Inmates are Eligible for Release to Parole

Distribution of ADOC “Custody” Population, June 30, 2014

Total = 26,275



Initial Parole Eligible Population

As of June 30, 2014, approximately 4,283 inmates were eligible for initial parole.

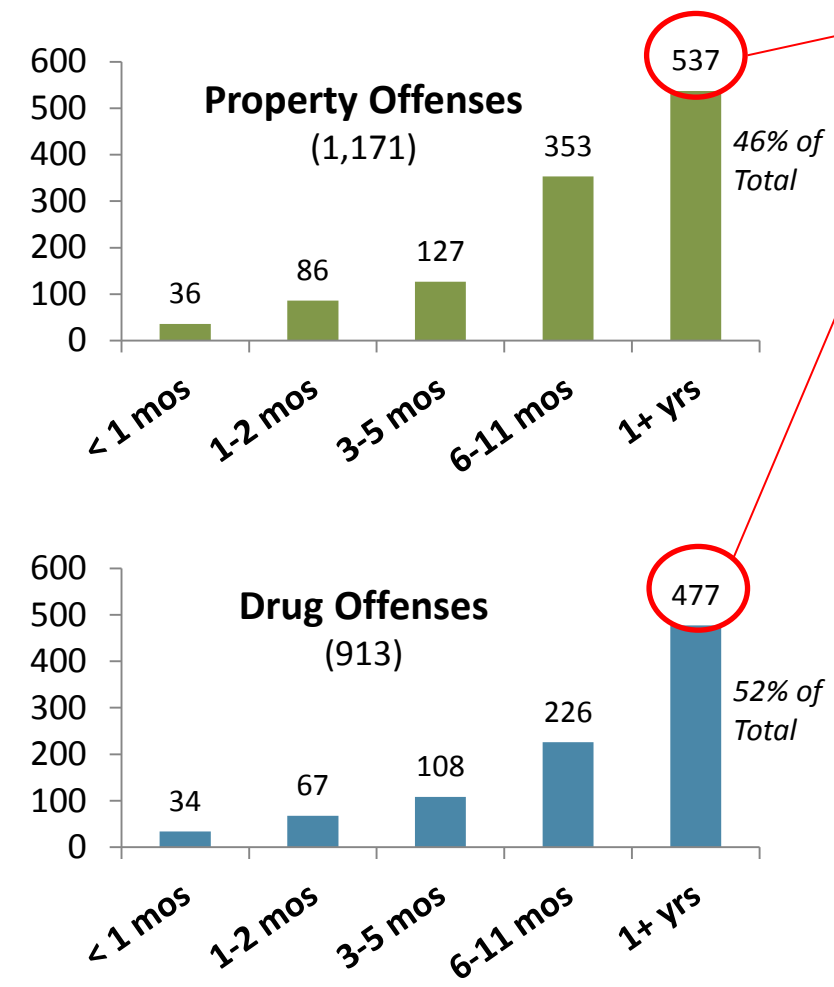
Offense types:

- 1,761 person
- 1,171 property
- 913 drug
- 438 other

Source: Alabama Department of Corrections prison population data.

More Than 1,000 Parole-Eligible Property and Drug Inmates Have Been Eligible for Initial Parole for More Than One Year

ADOC "Custody" inmates eligible for initial parole, June 30, 2014



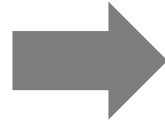
As of June 30, 2014, there were 1,014 individuals incarcerated in prison on property & drug offenses who had been eligible for initial release to parole for one year or longer:

- ☐ **57%** had been denied and given no re-hearing date (essentially saying they will discharge in full/EOS)
- ☐ **10%** had been denied and given a re-hearing date
- ☐ **10%** had upcoming hearing dates
- ☐ **8%** granted (and awaiting release)
- ☐ **7%** not worked by Board due to inadequate time (essentially saying they will discharge in full/EOS)
- ☐ **2%** waived parole
- ☐ **6%** other

Source: Alabama Department of Corrections prison population data; and Alabama Board of Pardons and Paroles case file review.

Denying Parole in Favor of “Maxing Out” has Significant Cost and Public Safety Implications

1,014 property and drug inmates still incarcerated more than 1 year after becoming eligible for parole



64 percent denied or passed over in favor of letting them “max out” to no supervision
= 650 inmates (and prison beds)

At one year past eligibility, the bed demand for these 650 inmates at \$42/day represents \$10 million, and each additional month it takes before they are released represents another \$819,000.

...and these individuals will have no supervision once released

Deconstruct “Parole-Eligible More Than One Year” Population

Specific Underlying Offenses for Those Property and Drug Inmates One Year or Longer Beyond Initial Parole Eligibility but Still Incarcerated:

Total Property = 537

- Burglary III = 166 (31%)
- Theft of Property II = 78 (15%)
- Theft of Property I = 61 (11%)
- Crim. Poss. of Forg. Instr. = 38 (7%)
- Receiving Stolen Property II = 32 (6%)
- Breaking & Entering a Vehicle = 32 (6%)
- All Others = 130 (24%)

Total Drug = 477

- Poss. of Cont. Subs. = 250 (54%)
- Dist. of Cont. Subs. = 78 (17%)
- Poss. of Marijuana = 69 (15%)
- Manu. Cont. Subs. = 34 (7%)
- Trafficking = 20 (4%)
- All Others = 16 (3%)

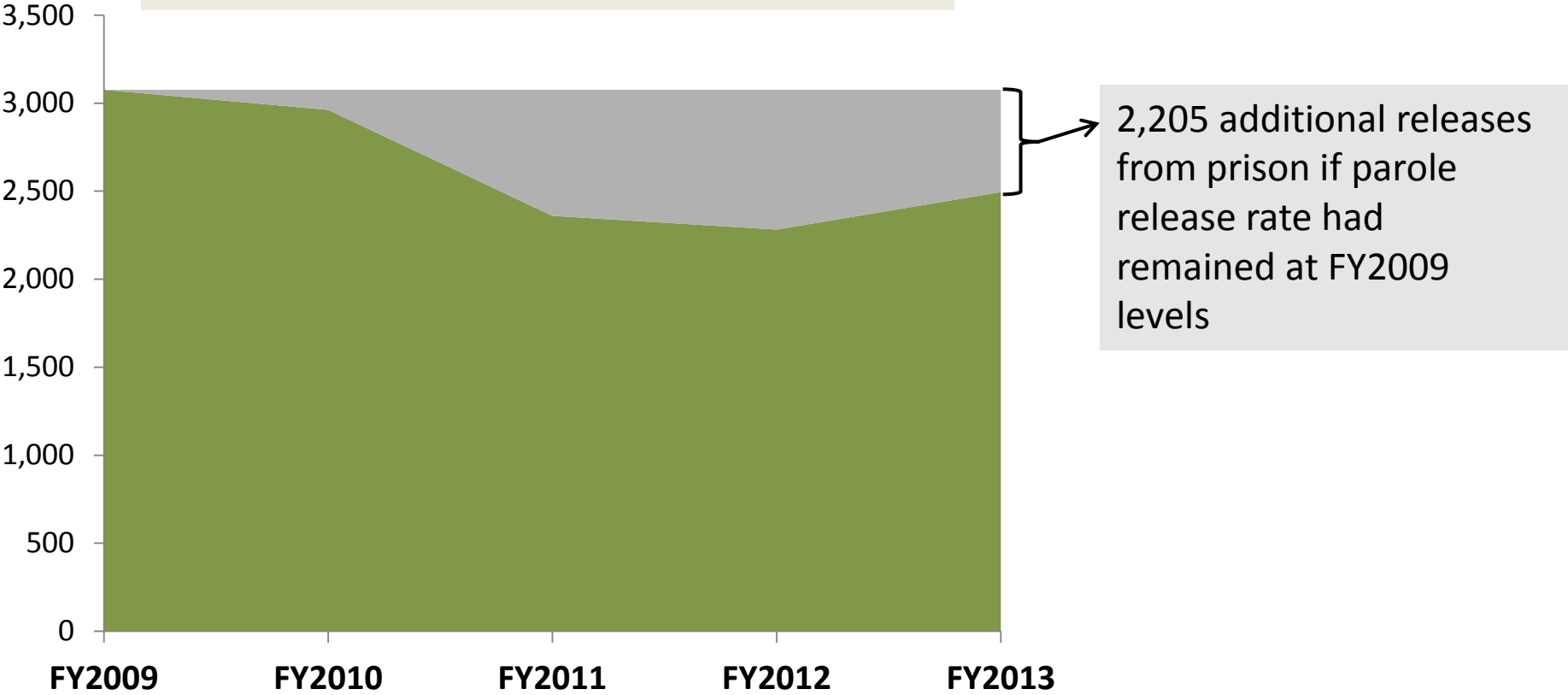
Rate of Parole Release Among Eligible Population Declined

	FY2009	FY2010	FY2011	FY2012	FY2013
Initial Parole Eligible Population	4,338	3,992	3,976	4,055	4,181
+					
Parole Violator Population	2,939	2,997	2,998	2,841	2,736
=					
Total Parole Eligible Population	7,277	6,989	6,974	6,896	6,917
Actual Releases to Parole	3,076	2,962	2,360	2,282	2,495
Parole Releases as Percent of Eligible	42%	42%	34%	33%	36%

Source: Alabama Department of Corrections prison population and releases data.






Prison Population Would be Lower had Parole Release Rate Not Declined

Actual and “Lost” Parole Releases from Prison, FY2009-13



Source: Alabama Department of Corrections prison population and releases data.

Parole Release Rates Have Declined for all Offense Types Except Drugs

		Total	Person	Property	Drug	Other
FY2009	Parole Eligible Population	7,277	2,723	2,312	1,738	504
	Parole Releases	3,076	608	1,140	1,193	135
	Release Rate	42%	22%	49%	69%	27%
FY2013	Parole Eligible Population	6,917	2,875	2,159	1,389	494
	Parole Releases	2,495	486	904	1,011	94
	Release Rate	36%	17%	42%	73%	19%
						

Source: Alabama Department of Corrections prison population and releases data.

Current Parole Grant Rate Still Below 35 Percent

Board members tracked denial reasons for cases heard over three week period (late October through early November)

477 Total Cases Heard

<u>164</u>	Denied with Subsequent Hearing Date Set	}	Total denials = 317 (66%)
<u>153</u>	Denied without Subsequent Hearing Date Set		
<u>160</u>	Granted Parole (34% grant rate)		

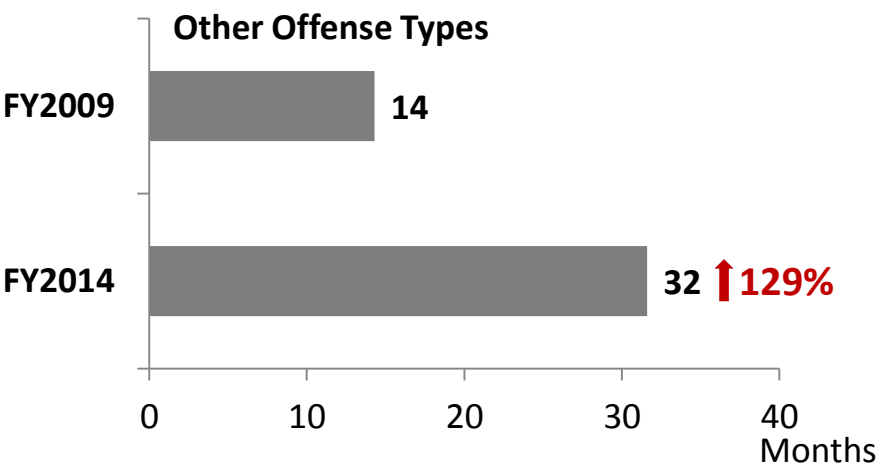
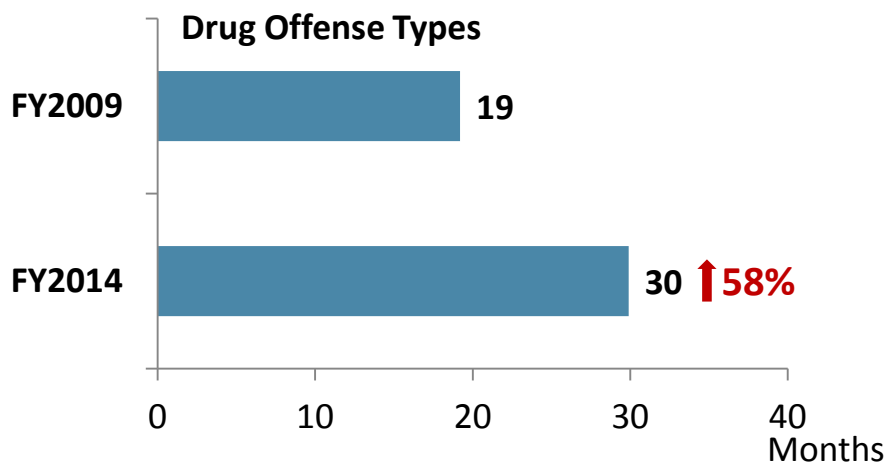
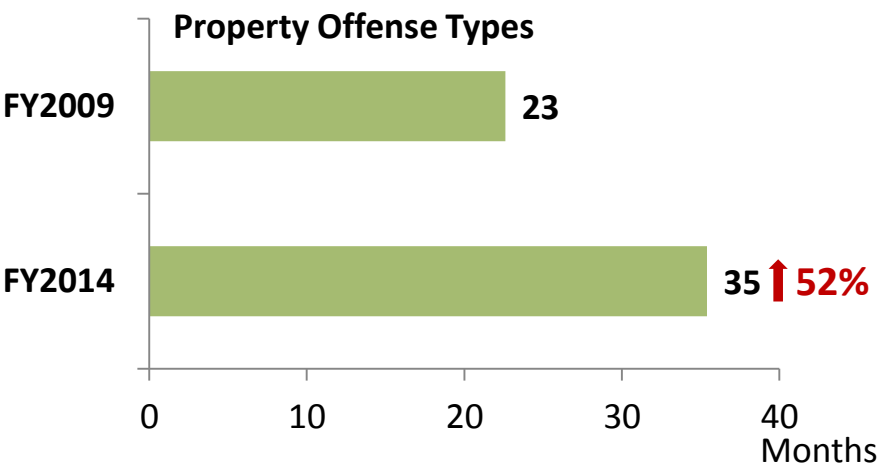
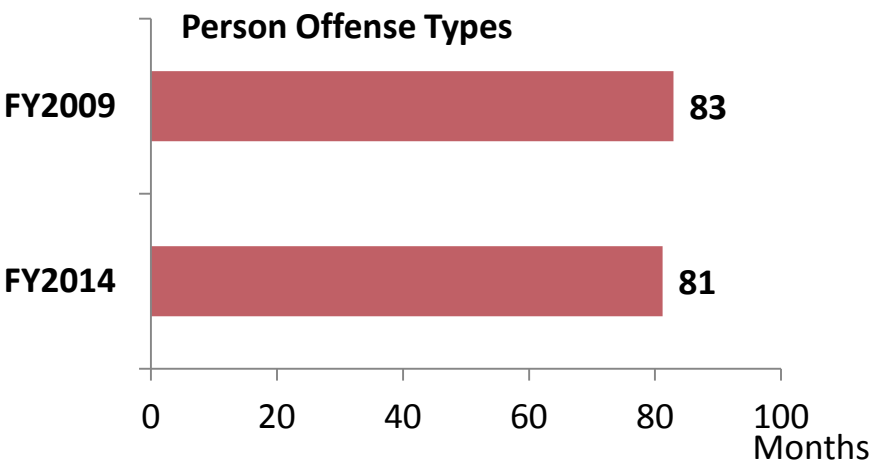
Parole Decisions are Often a “Re-sentencing” Based on Factors Addressed at Original Sentencing

Reasons for Denial		
Institutional misconduct – major	14%	
Prior criminal history	14%	57 percent of the reasons cited by Board members for denial of parole involved these particular factors
Stakeholder input	12%	
Assessment of risk to reoffend	12%	
Nature of underlying offense	12%	
Other (1/2 of these are pending cases)	11%	
Prior supervision failure on current case	11%	
Length of sentence imposed	5%	
Failure to complete programming	3%	
Actual time served	3%	
Lack of viable parole plan	2%	
Prior failed attempt at parole on same case	1%	
ADOC recommendation against parole	< 1%	
Institutional misconduct – minor	< 1%	

Source: Alabama Board of Pardons and Paroles Board Denial Survey, November 2014.

Increase in Time Served Prior to Parole Driven by Property, Drug, and Other Offenders

Months in Prison for Releases to Parole by Offense Type, FY2009 and FY2014



Source: Alabama Department of Corrections prison releases data.

High-Volume Property and Drug Cases Spending Twice as Long in Prison Since FY2009

Months in Prison for Releases to Parole by Offense Type, FY2009 and FY2014

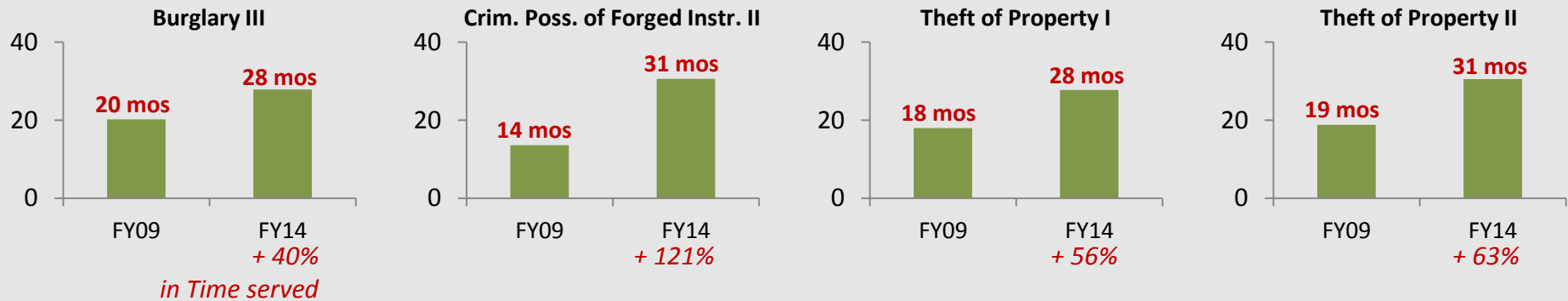
Offense		FY2009	FY2014	% Change
Property (Four highest volume offense types)	Burglary III	9.4 months	20.2 months	+ 115%
	Criminal Possession of Forged Instrument II	9.1	29.3	+ 222%
	Theft of Property I	9.4	19.9	+ 112%
	Theft of Property II	9.6	20.4	+ 113%
Drug (Four highest volume offense types)	Distribution of Controlled Substance	10.3	24.3	+ 136%
	Possession of Controlled Substance	9.3	20.3	+ 118%
	Possession of Marijuana I	9.5	17.5	+ 84%
	Manufacture of Controlled Substance	10.7	25.5	+ 138%

Source: Alabama Department of Corrections prison releases data.

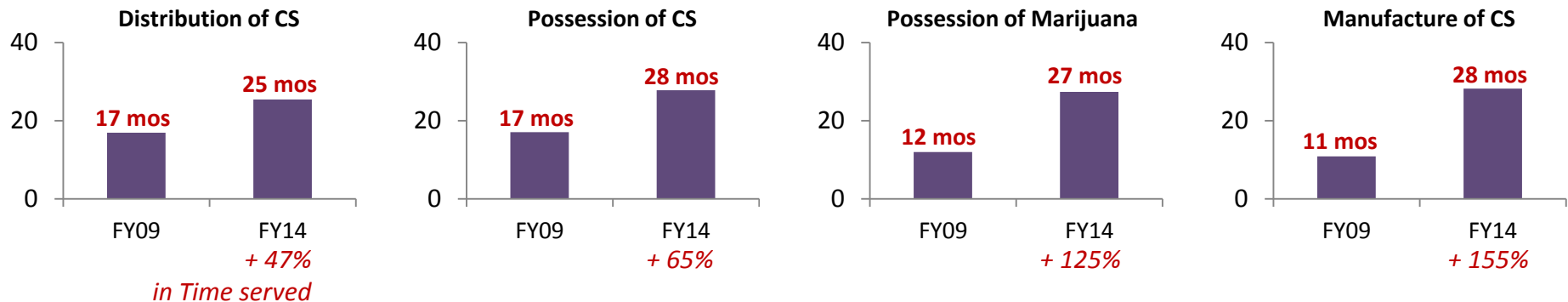
Across-the-Board Increases in Actual Time Served Among Most Common Property and Drug Offenses with 10-Year Terms

Months in Prison for High-Volume Property & Drug Offenses Sentenced to Parole Eligible Ten-Year Terms, FY2009-14

Property



Drug

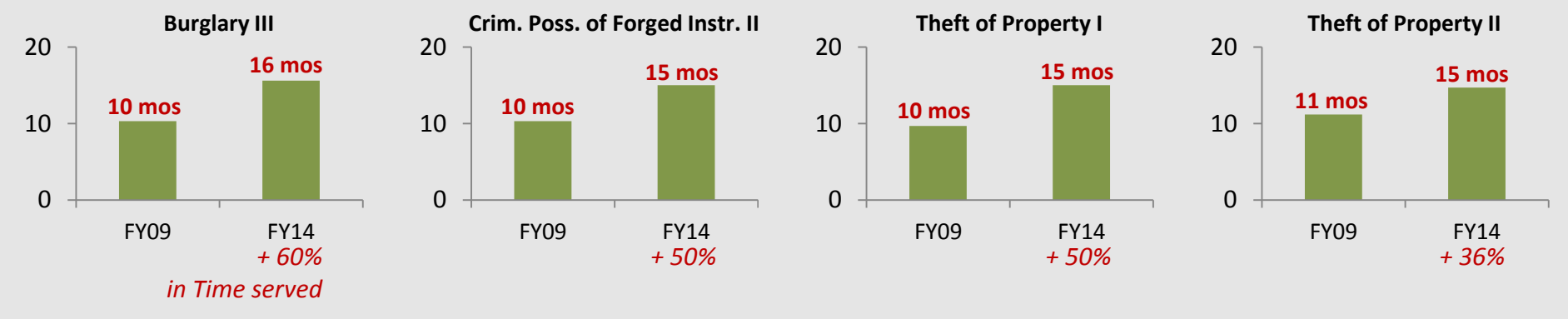


Source: Alabama Department of Corrections prison releases data.

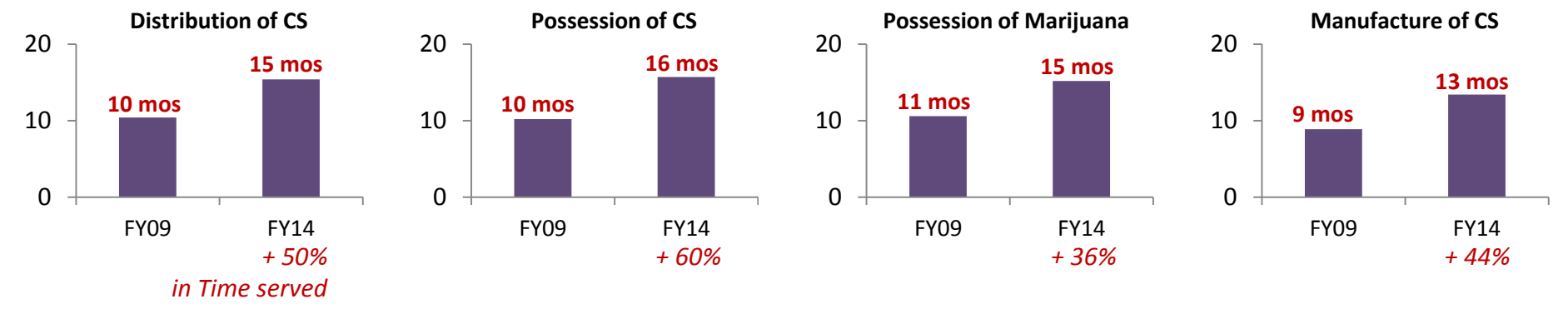
Across-the-Board Increases in Actual Time Served Among Most Common Property and Drug Offenses with 5-Year Terms

Months in Prison for High-Volume Property & Drug Offenses Sentenced to Parole Eligible Five-Year Terms, FY2009-14

Property



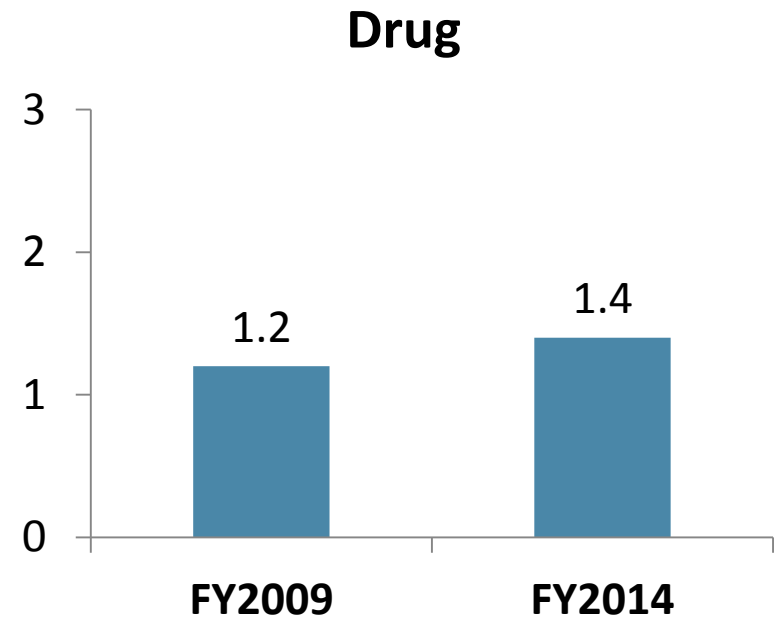
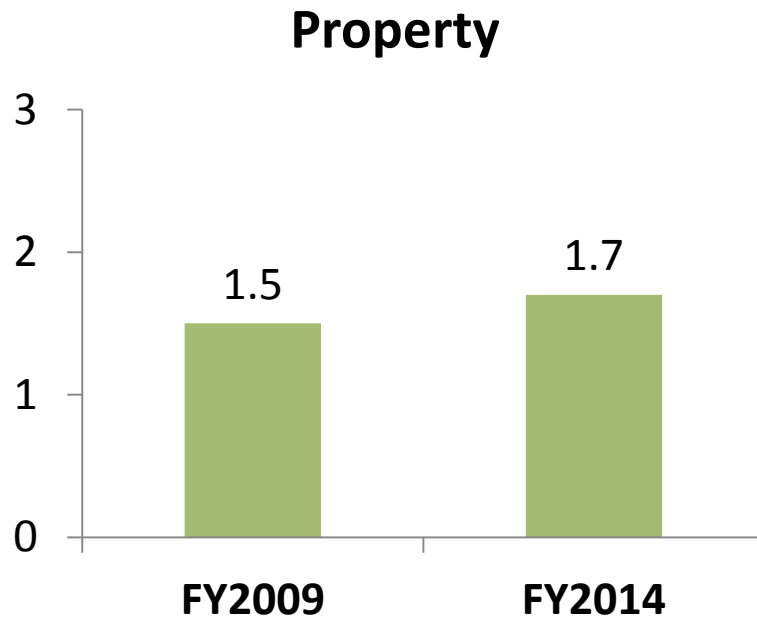
Drug



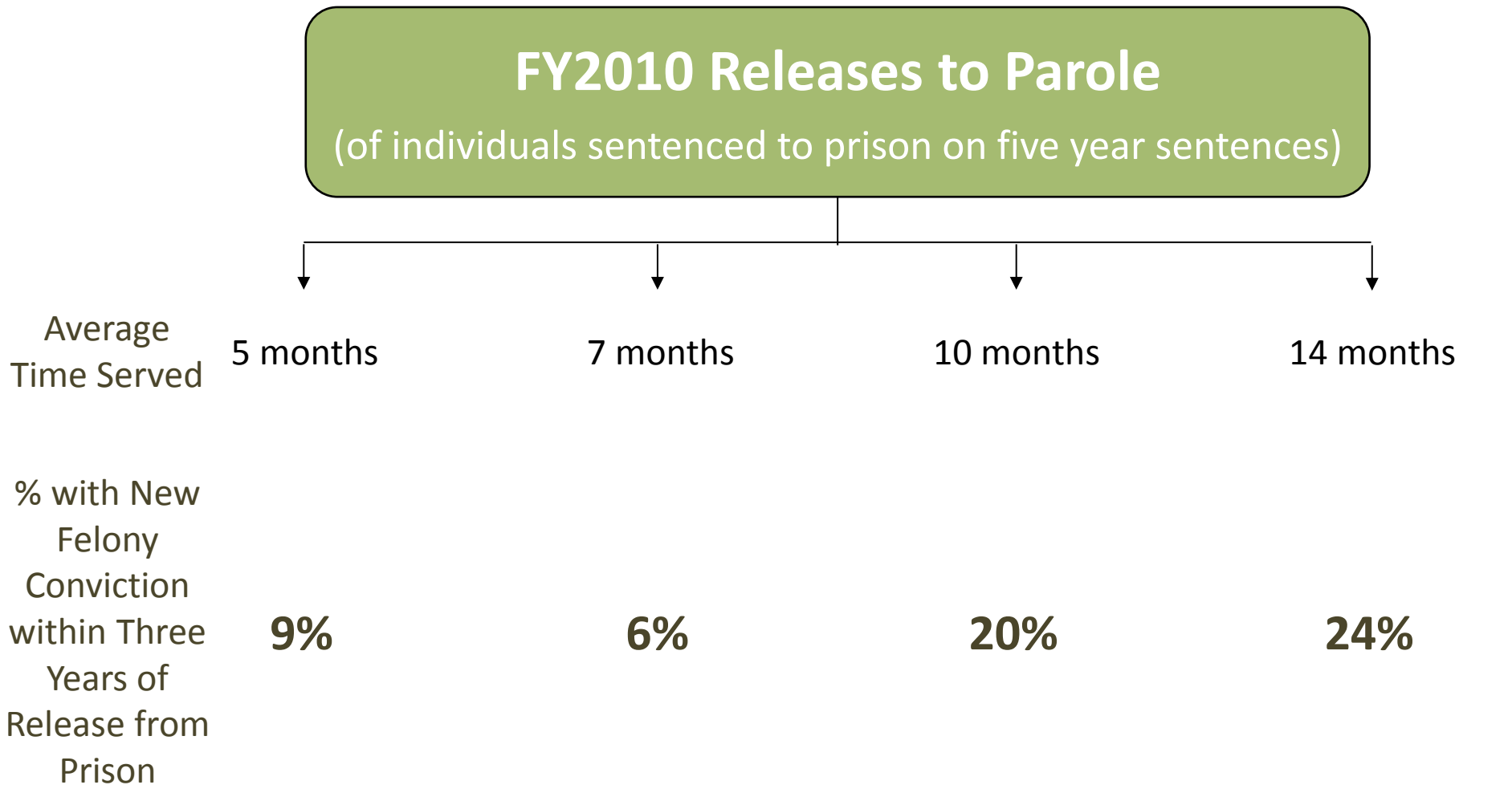
Source: Alabama Department of Corrections prison releases data.

Current Parole-Eligible Populations Are Not More “Hardened”

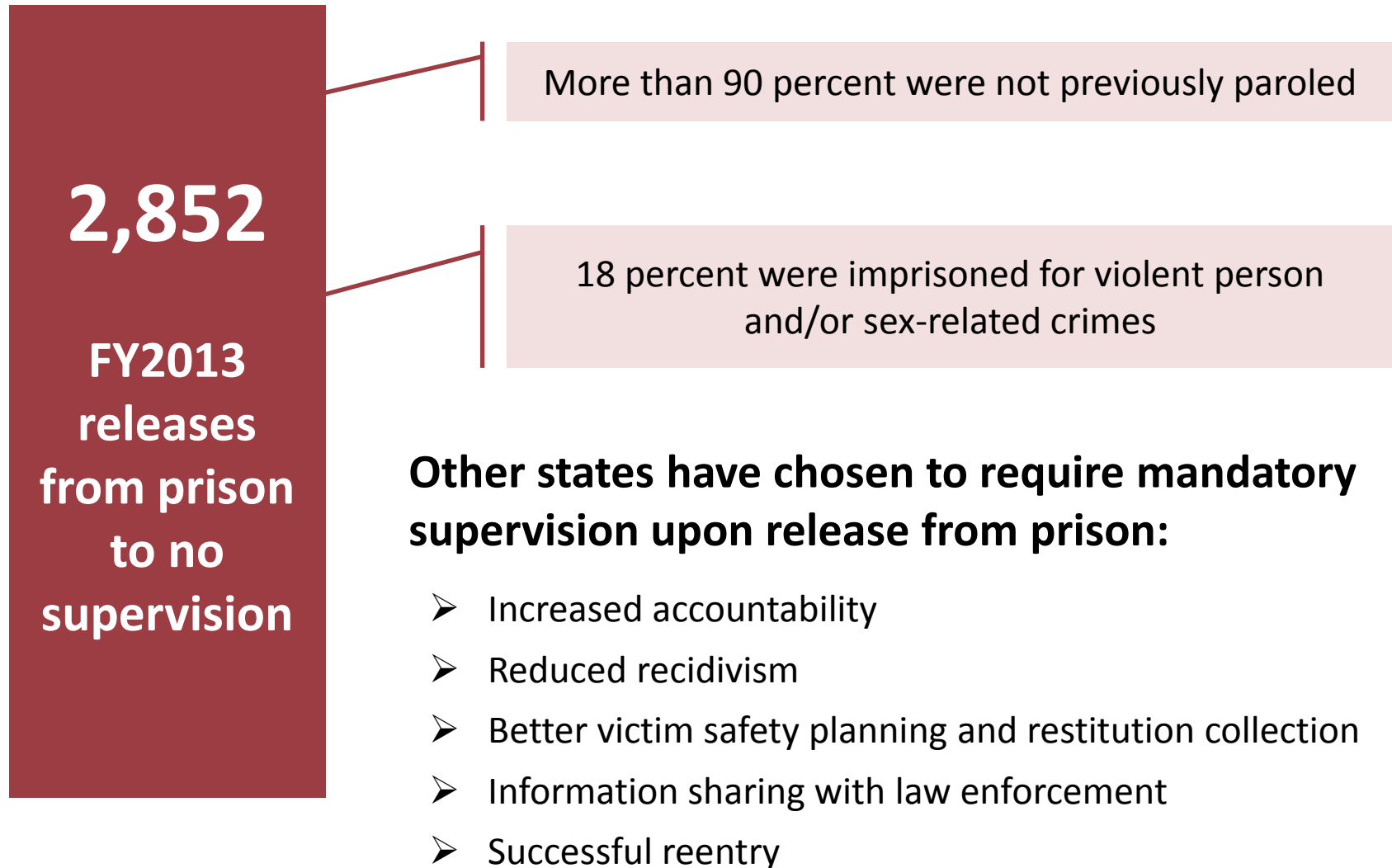
Average Number of Prior Felony Convictions for Property and Drug Inmates Parole Eligible One or More Years



Holding Inmates Longer Beyond Parole Eligibility Does Not Increase Public Safety

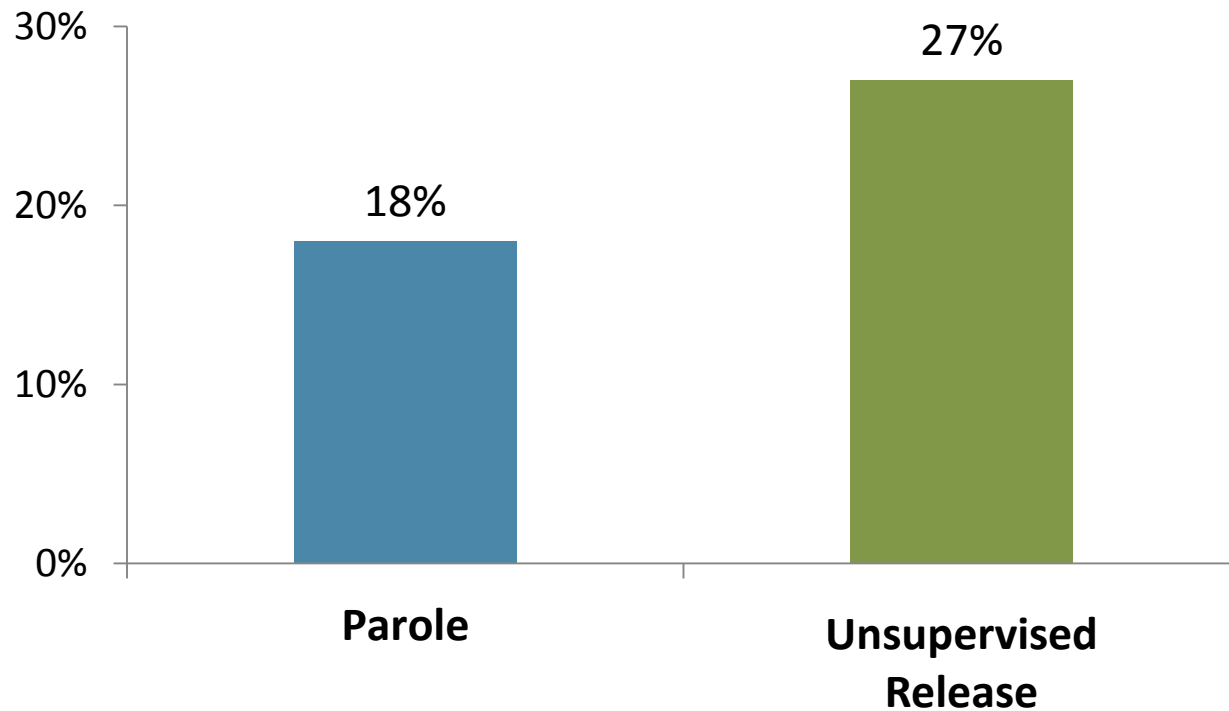


Nearly 3,000 Individuals are Released from Prison Each Year Without Any Supervision



Those Leaving Prison Without Supervision have Higher Recidivism Rates than those Released to Supervision

Three Year Reconviction Rates for ADOC Parole and End of Sentence Releases, FY2010 Releases



Alabama's Law Addresses Concept of Risk but Undercuts Role of Supervised Reentry

“No prisoner shall be released on parole merely as a reward for good conduct or efficient performance of duties assigned in prison, but only if the Board of Pardons and Paroles is of the opinion that there is reasonable probability that, if such prisoner is released, he will live and *remain at liberty without violating the law and that his release is not incompatible with the welfare of society...*”

Risk of future criminal activity should be at the heart of release decision-making.

But as a higher-risk person gets closer to their end-of-sentence (EOS) date, their likelihood of release to supervision as well as length of supervision diminishes.

Stakeholders Prefer a Period of Accountability Instead of Unsupervised Release from Prison

Judges expect supervision after release from prison

- 82 percent of judges said everyone released from prison should have at least a minimal amount of supervision

Victims prefer that individuals considered dangerous receive supervision when released from prison

- Victims told stories about their offenders declining parole to avoid supervision
- Victims support supervised release from prison but want a stronger supervision system

Parole Process Involves Uncertainty

Judges

- Some prefer split sentencing as a way to provide certainty of incarceration time and release to supervision

Individuals Incarcerated at Staton Correctional Facility

- Want opportunity to articulate readiness for parole to Board
- Not told reason for denial and do not know what they can do to increase parole likelihood
- Believe completing programs and institutional behavior has little or nothing to do with parole decisions
- Described knowing about individuals with worse offenses being paroled first, and believe the parole process is unfair
- Some unclear on if they had a parole date set and when that parole date would be

Current Board Operates Among Pressures that are Often Irreconcilable



21st Century Alabama Parole Board



When making decisions about when someone should be released, the Board should have a transparent structure around which decisions are made:

- ☐ Risk to re-offend?
 - ✓ Completion of required programming in prison?
 - ✓ Institutional misconduct?
- ☐ How should potential risk be managed through supervision, including programming interventions?

1

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2

Parole Process

- ☐ Property and drug cases being held by the Board twice as long prior to release
- ☐ Board's reasons for denial often a "re-sentencing" of the case
- ☐ Data suggest parole release delays are not benefiting public safety

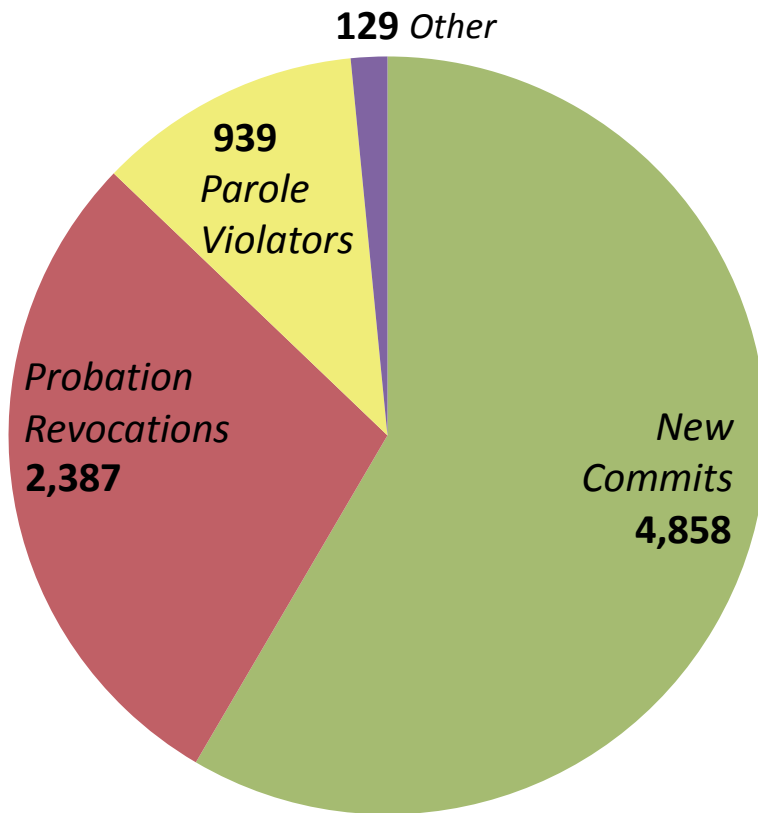
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Supervision

40 Percent of All Admissions to ADOC Custody are Due to Violations of Either Probation or Parole

Admissions to ADOC Custody by Type of Admission

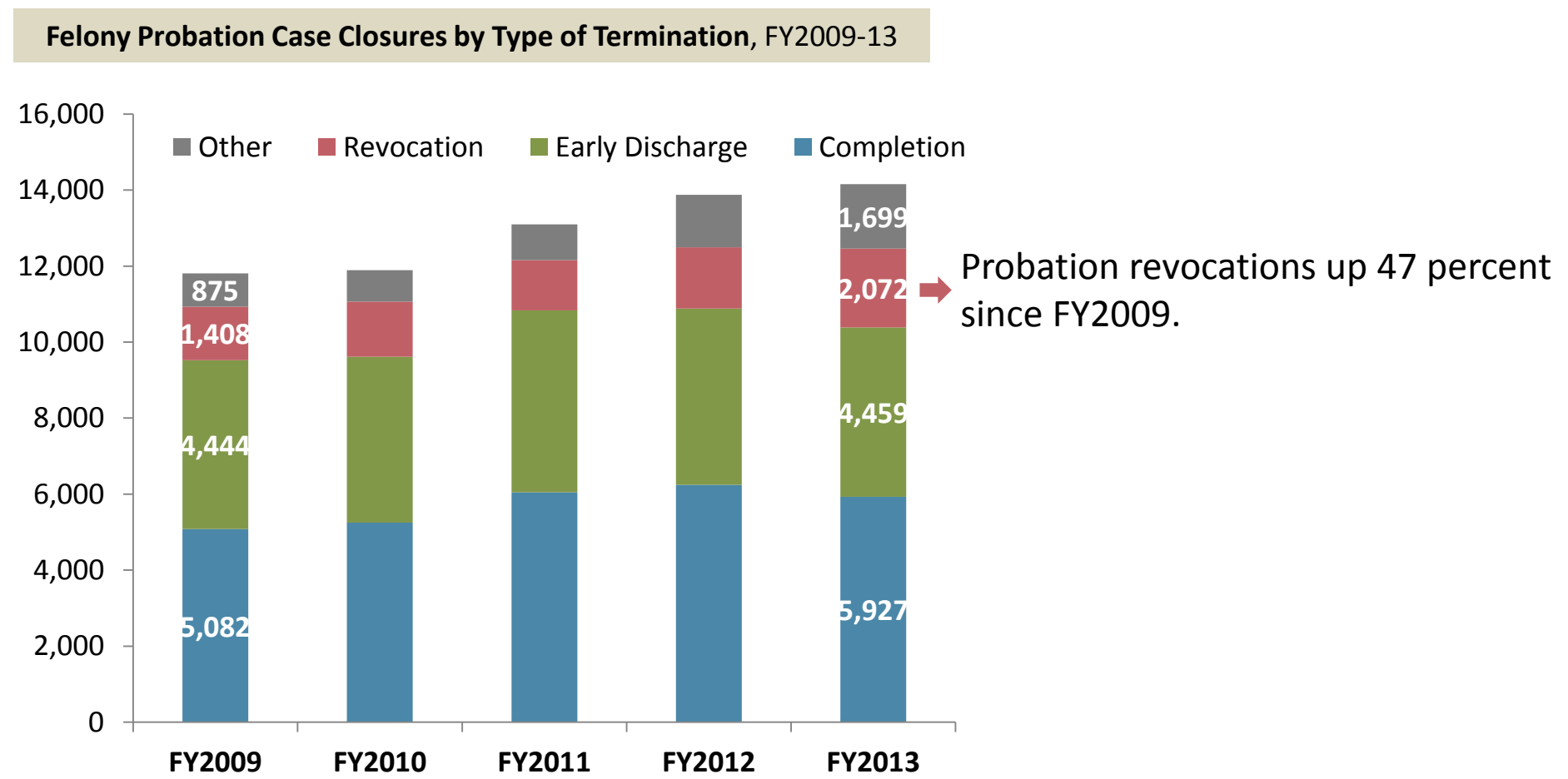
**FY2013 Total
Admissions = 8,313**



Probation revocations and parole violators combined represented 3,326 prison admissions in FY2013.

- According to ADOC intake screening, 39 percent had either a substance use or mental health need (or both).

Probation Revocations are up 47 Percent Since FY2009



Source: Alabama Board of Pardons and Paroles probation terminations data.

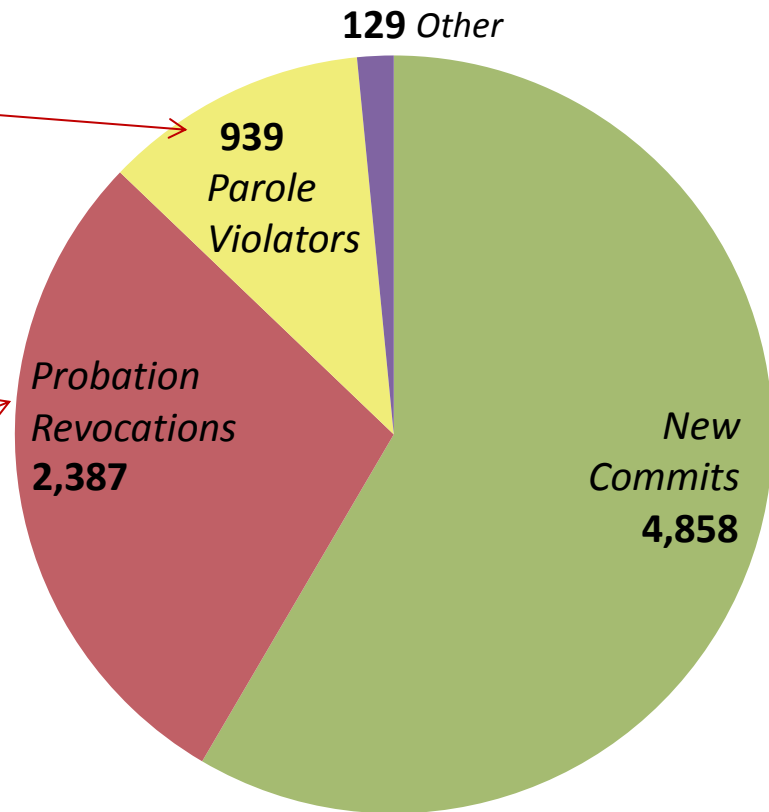
Significant Share of Probationers and Parolees Admitted to Prison for Technical Violations

Admissions to ADOC Custody by Type of Admission

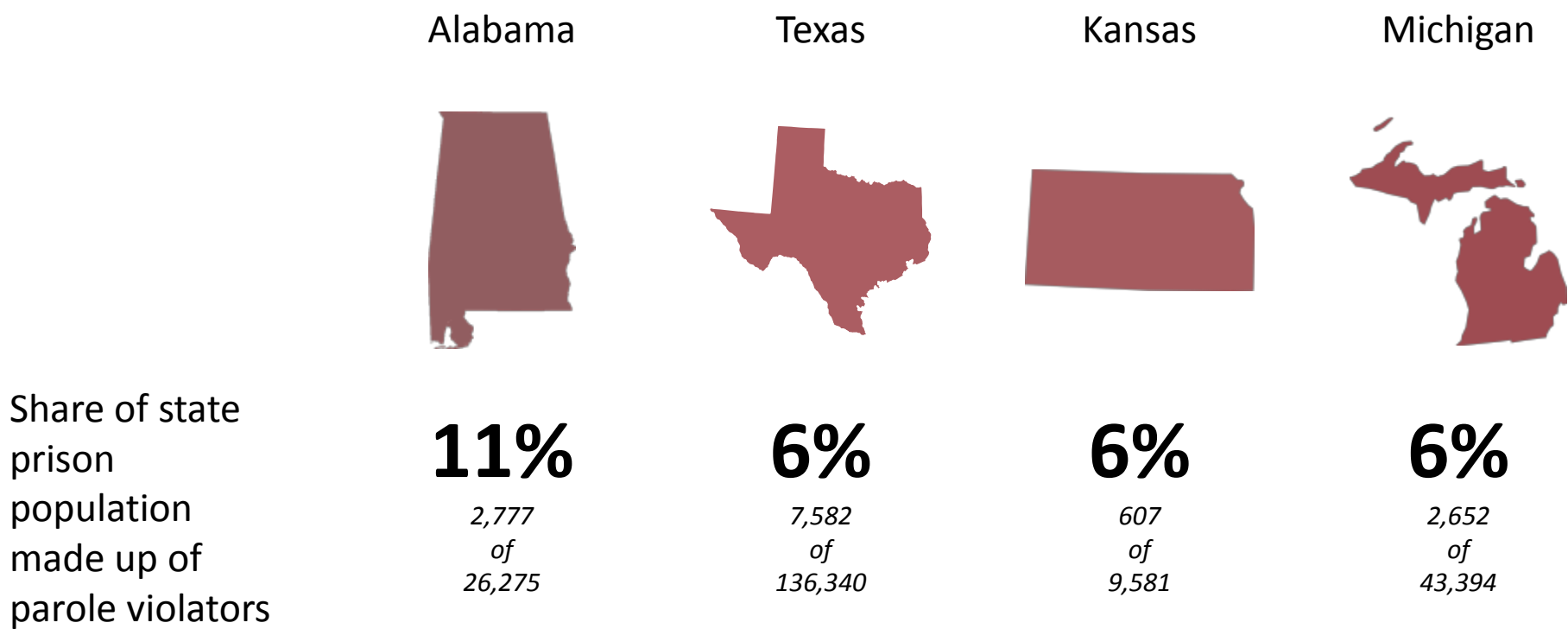
**FY2013 Total
Admissions = 8,313**

36 percent of parole violators returned to prison are for purely technical reasons

27 percent of probation revocations to prison are for purely technical reasons



Parole Violators as Share of Prison Population is Higher in Alabama than Other States

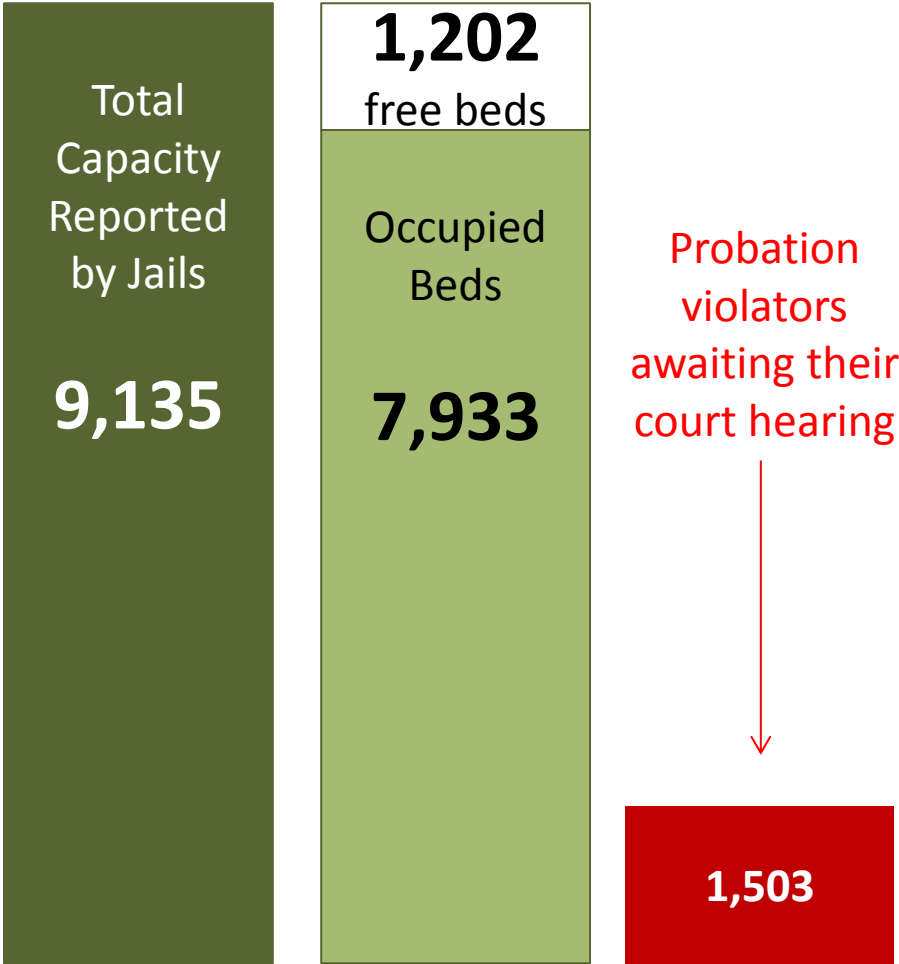


Source: Analysis of case data for Alabama and Michigan; FY13 Annual Report for Texas Dept. of Criminal Justice; and FY13 Annual Report for Kansas Dept. of Corrections.

Sheriffs Indicate Numerous Jail Beds Taken up by Probation Violators

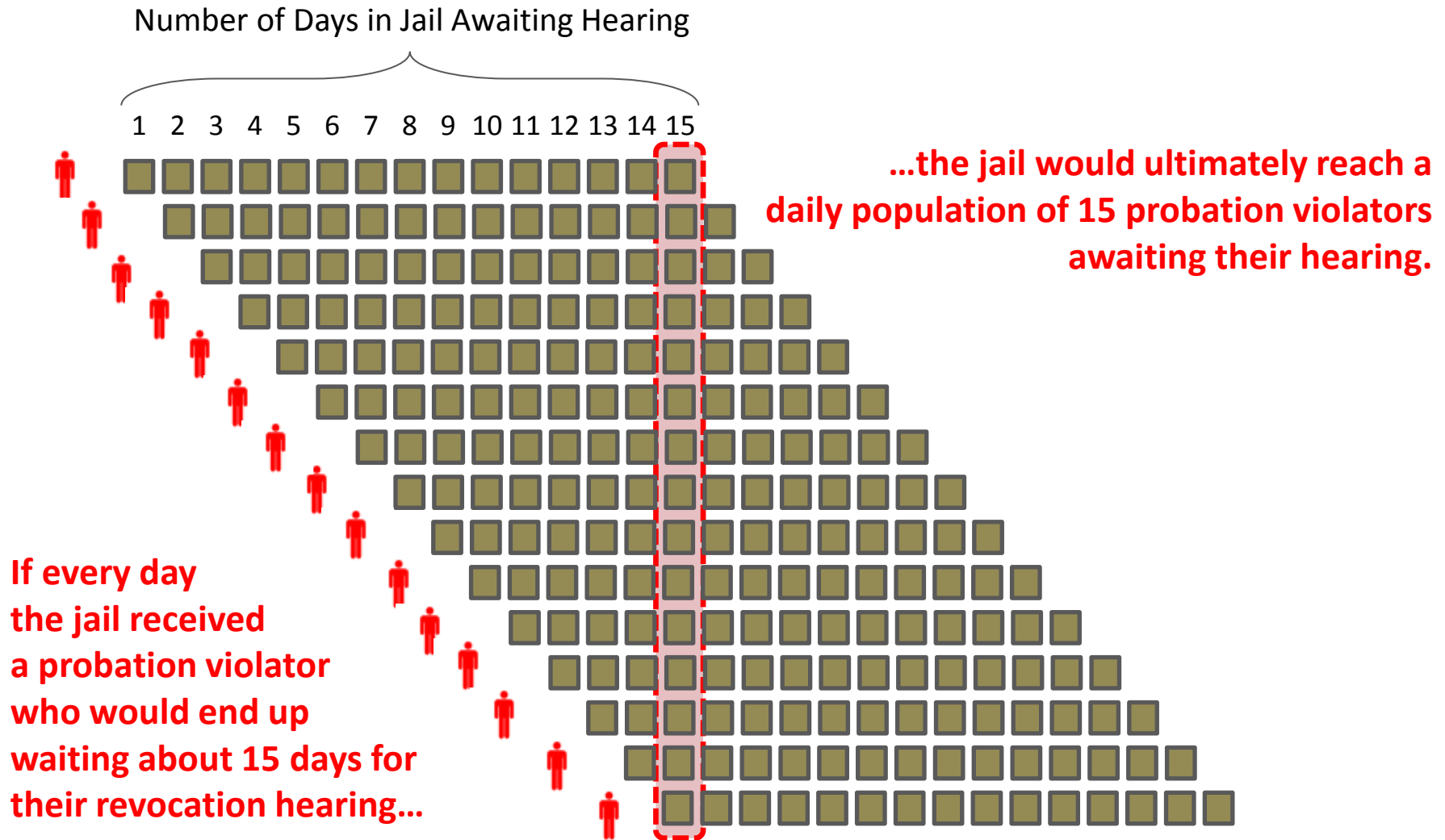
22 of Alabama's 67 counties responded to survey about their jails

- These counties represent 59 percent of the state population
- 16 percent of jail beds are used for probation violators

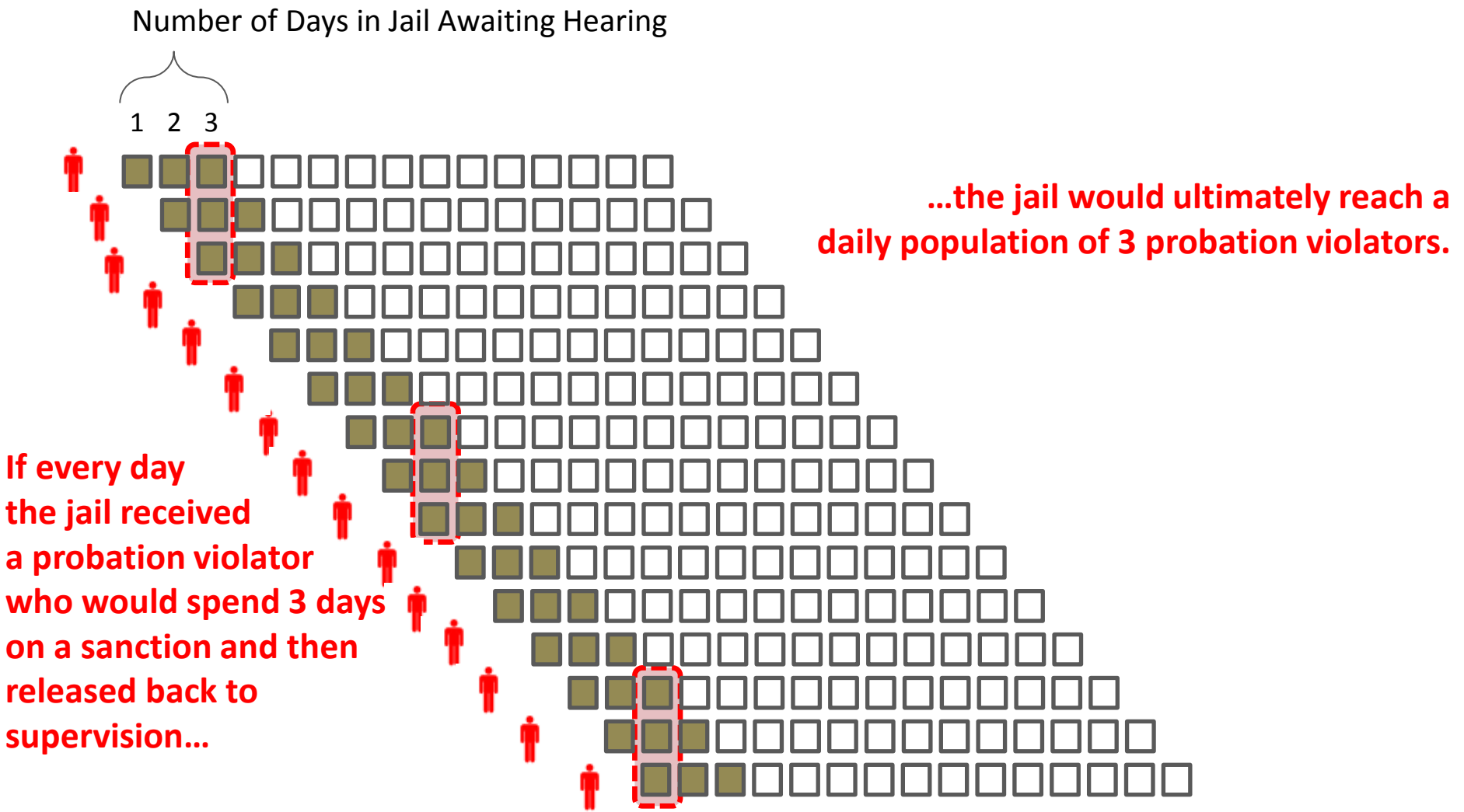


Source: Survey of sheriffs for county jail capacity and population statistics.

Traditional Stacking of Probation Violators in County Jails



Swift and Sure Sanctioning Places Much Less Burden on Jails



The “Math” of Swift and Sure Sanctioning Provides more Accountability at Less Cost to Jails

Traditional

① violator per day at 15 days each =
jail capacity demand of 15 beds

Swift and Sure

1 violator per day at 3 days each =
jail capacity demand of 3 beds

3 violators per day at 3 days each = jail
capacity demand of 9 beds

⑤ violators per day at 3 days each =
jail capacity demand of 15 beds

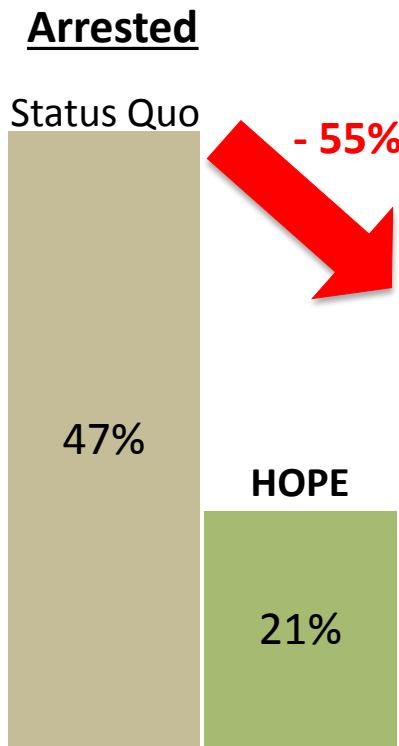
A “swift and sure” approach would accommodate five times more probationer sanctions than under the traditional approach...without requiring more jail beds.

73 percent of judges surveyed would like to see a clear legal framework established to allow for use of swift and certain sanctioning of probationers.

Swift and Sure Policies in Other States Show Decline in Arrests, Time Spent in Jail, and Prison Population

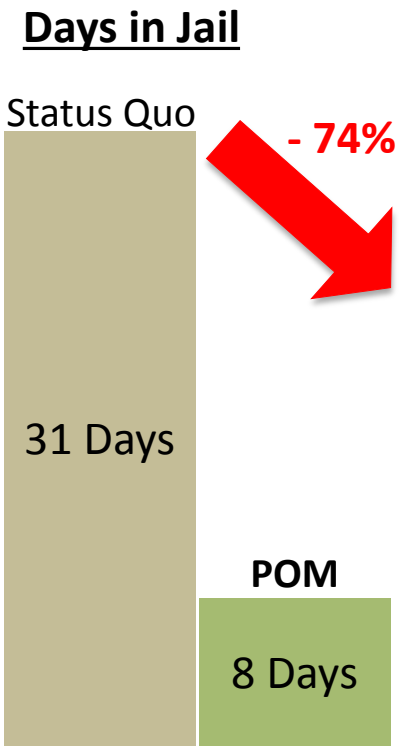
Hawaii HOPE

Intensive, random drug testing with swift, certain, and brief jail sanctions to supervision violations.



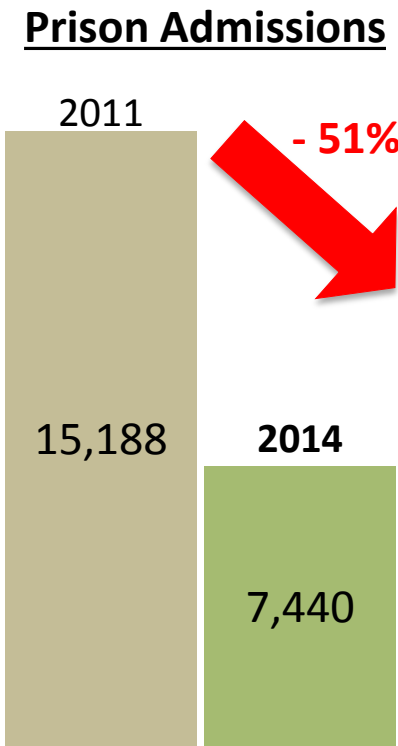
Georgia POM

Prompt sanctions to correct behavior of troublesome probationers.



North Carolina

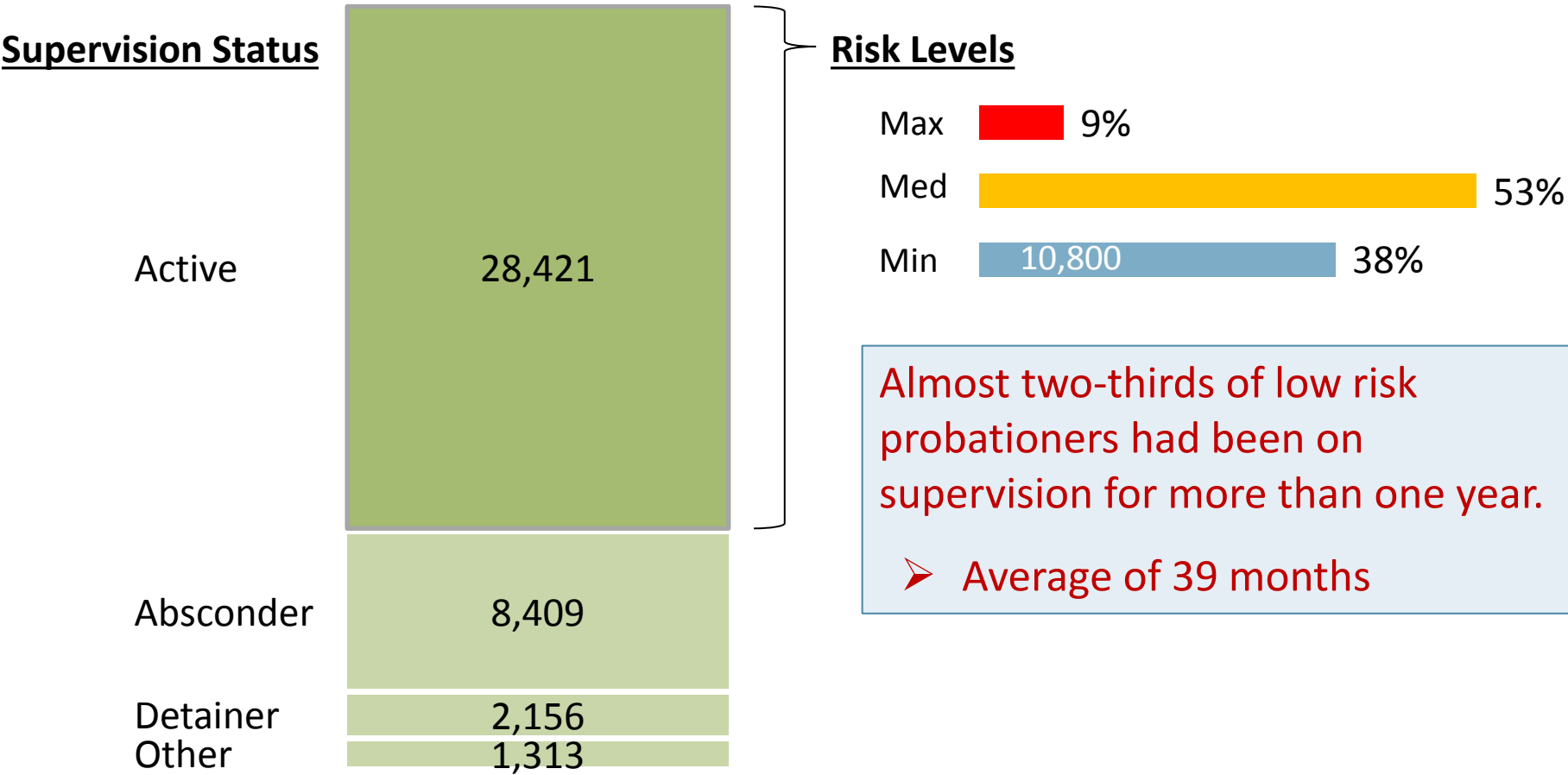
Swift and certain “dips” of brief jail sanctions and “dunks” of prison sanctions in response to violations.



Source: *An Evaluation of Georgia’s Probation Options Management Act*, Applied Research Services, October 2007; *Managing Drug Involved Probationers with Swift and Certain Sanctions: Evaluating Hawaii’s HOPE*, Hawken, Angela and Mark Kleiman, December 2009.

Supervision Resources are Not Targeted at Higher Risk Probationers

Felony Probationers as of June 30, 2014 (Total = 40,299)



Source: Alabama Board of Pardons and Paroles probation supervision data.

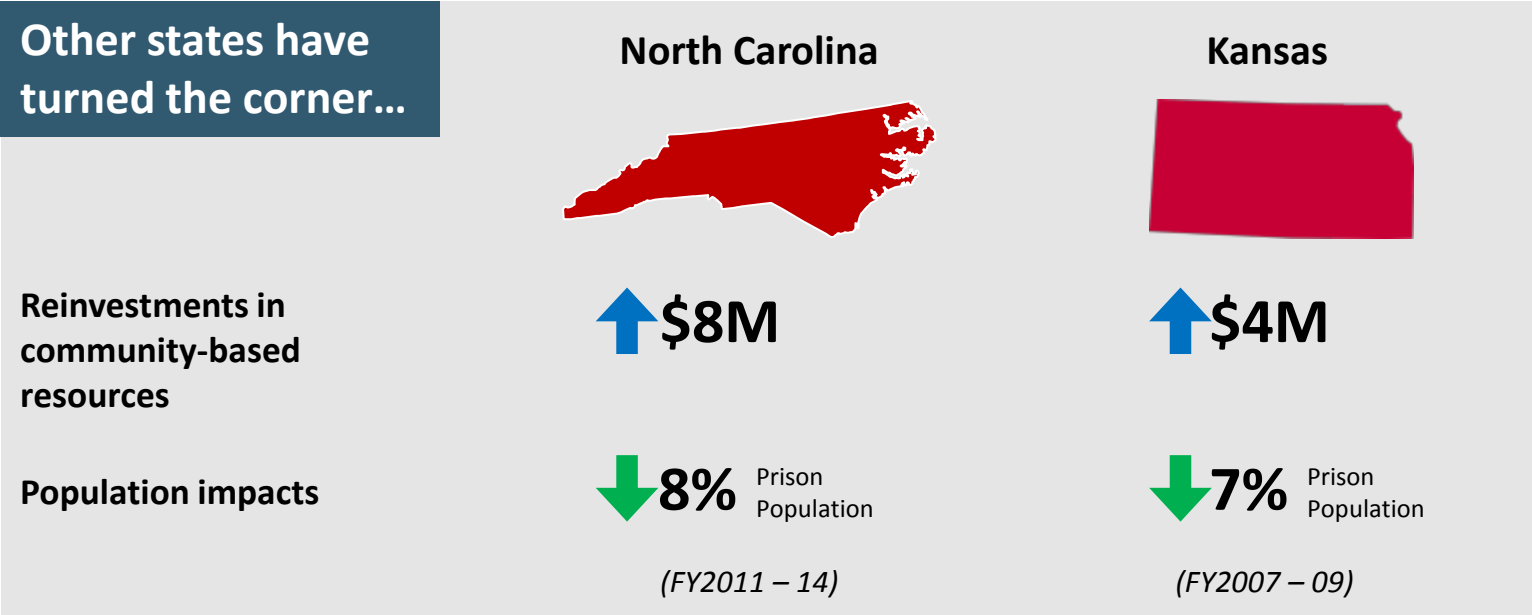
Lack of Evidence-Based Practices and Community-Based Resources Increase Jail and Prison Costs

- ❑ Lack of targeting by risk
- ❑ Inadequate system of accountability
- ❑ Exceptionally high caseloads preventing quality supervision
- ❑ Insufficient resources to address substance use & mental health needs

Result is high and growing number of revocations to prison:

- 2,387 prob. revs to prison in FY2013
- Est. length of stay in prison = 32 months
- Represents 6,365 prison beds

At \$42/day, these represent \$98 million in annual bed demand.



Source: Alabama Department of Corrections prison releases data.

Judges' Perception of Risk Assessment Use Does Not Align with Practice

Two-thirds of judges believe that probation officers use the results of risk assessment to determine supervision levels.

Findings from survey of probation officers:

- Only 24 percent of probation/parole survey respondents place “high” value in risk assessments.
- Some field officers supervise all individuals the same regardless of risk level or supervision level.

Community Corrections Directors Want to Work with More Clients and Improve Services

CCPs express willingness to meet the needs for increased diversions, if resources are added

CCPs interested in improving standards and service delivery and agree that certain funds should only be given for programs that produce results

Findings from survey of Community Corrections directors :

- Approximately 48 percent of their felony client population are low risk.
- Community corrections minimum standards do not direct programs to differentiate supervision and treatment based on assessment of risk and need.

Source: CSG Justice Center electronic survey of Alabama probation and parole officers, August 2014 (234 probation and parole supervising officers completed the survey); CSG Justice Center electronic survey of Alabama community corrections program, August 2014 (41 community corrections providers completed the survey); Alabama Board of Pardons and Paroles probation and parole population data

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Preview of Alabama Justice Reinvestment Policy Framework

Goal: Increase public safety by reducing recidivism, holding offenders more accountable, and addressing prison overcrowding

- 1

Increase public safety by reducing recidivism
- 2

Hold offenders accountable before and after release
- 3

Address prison overcrowding



Additional options to reduce prison overcrowding further

JR
Package

-XYZ

A

- Option

-XXX

B

- Option

-YYY

C

- Option

-ZZZ

Thank You

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