



Justice Reinvestment in Alabama

2nd Presentation to Prison Reform Task Force
September 30, 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



Data requests to stakeholders have been mostly fulfilled

| Data Type | Status | Source |
|---|--------|---|
| - Sentencing | ✓ | Sentencing Commission |
| - Pretrial diversion | ✓ | District Attorneys |
| - Problem-solving courts | Pend. | Administrative Office of the Courts |
| - Jail - Community Corrections | ✓ | Counties - utilized statewide surveys of sheriffs and CCPs to collect basic information |
| - Prison | ✓ | Department of Corrections |
| - Probation supervision - Parole decision-making - Parole supervision | ✓ | Board of Pardons and Paroles |
| - Criminal history information | Pend. | Criminal Justice Information Center |

Update on criminal justice system stakeholder engagement since June working group meeting

On-site Meetings with Stakeholders

Probation/Parole & Community Corrections
4 days around state holding 9 focus groups with probation and parole officers and staff from CCPS, representing 15 counties

Judges and Prosecutors
Working lunch discussions in three circuits

LIFE Tech
Visit to residential transition center in Thomasville

County Officials
Meeting with nine county-level representatives, including county attorneys, commissioners, jail administrators, and community corrections directors

Calls with Stakeholders and Review of Policy/Practice

- 60+ hours spent on calls with stakeholders
- 100+ hours reviewing sentencing and corrections law, probation & parole policies, CCP standards

Statewide Surveys

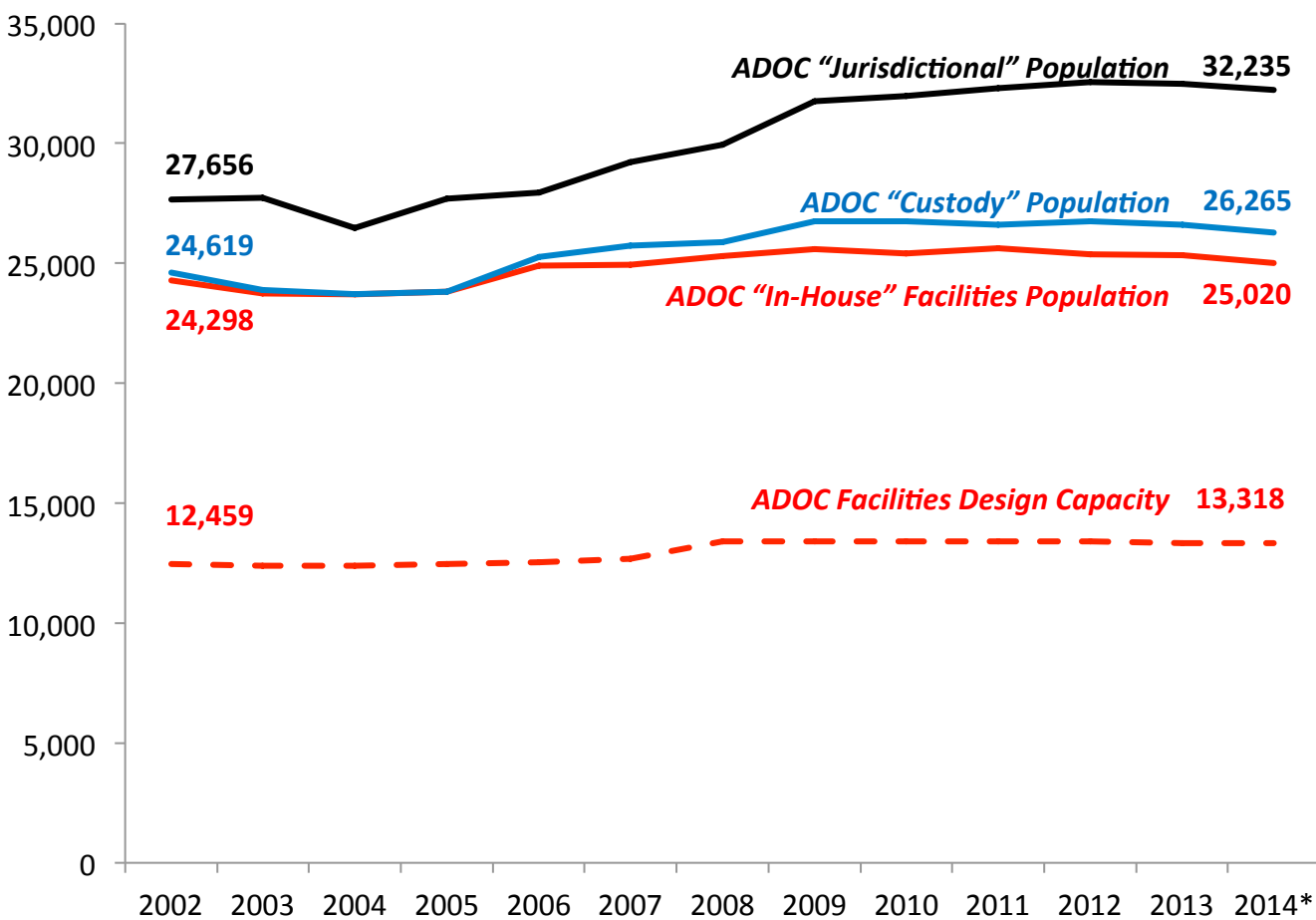
- Probation/parole and community corrections supervision practices
- County jail populations

Data Analysis

- Over 250,000 data records analyzed across felony sentencing and ADOC prison in/out

Alabama's prisons are significantly over capacity

ADOC Population and Capacity, 2002 – 2014



What would it cost Alabama to build its way out of the current situation?

Achieving **130%** operational capacity requires adding 6,000 prison beds:

- ❖ Construction costs = \$420m
- ❖ Annual operating costs = \$93m

Achieving **100%** operational capacity requires adding 12,000 prison beds:

- ❖ Construction costs = \$840m
- ❖ Annual operating costs = \$186m

Source: Annual Reports and Monthly Reports, Alabama Department of Corrections; Alabama Legislative Fiscal Office estimates \$102 million construction cost for 1,500 bed facility; ADOC inmate operating cost = \$42.54 per day, 2012 Annual Report.

One of every five General Fund dollars is spent on corrections

| Agency | FY2015 Appropriation | % of Total State General Fund |
|-----------------------------|-------------------------|----------------------------------|
| Total State General Fund | | \$1.995 Billion |
| ADOC | \$399.8 m | 20% |
| ABPP | \$ 27.3 m | 1% |

To build to 130% of capacity, the \$420 million in construction costs alone would be the equivalent of another 21% of the total state general fund.

| Agency | FY2002 Expenditure | % of Total State General Fund |
|-----------------------------|-----------------------|----------------------------------|
| Total State General Fund | | \$1.268 Billion |
| ADOC | \$197.4 m | 15% |
| ABPP | \$ 13.9 m | 1% |

Source: Alabama Legislative Fiscal Office

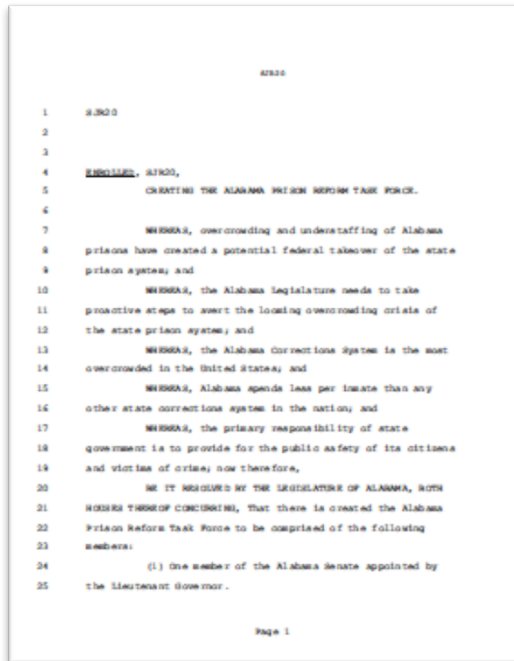
In June, Alabama launched its Justice Reinvestment project

In February 2014, SJR 20 establishes the Alabama Prison Reform Task Force



“Justice Reinvestment is an opportunity for Alabama to examine the criminal justice system in order to reduce prison crowding and increase public safety”

Governor Bentley



1

Sentencing Trends

- ☐ Fewer arrests, felony convictions, and sentences to prison since 2009
- ☐ Presumptive guidelines are further reducing sentences to prison
- ☐ Nevertheless, prison overcrowding levels persist

2

Prison Trends

- ☐ One in three prison inmates currently eligible for parole
- ☐ Parole release rate declining, resulting in fewer releases and longer prison stays
- ☐ One in three people released from prison are unsupervised

3

Community Supervision

- ☐ 40% of prison admissions are individuals who were unsuccessful on supervision
- ☐ Stopping this revolving door will require more effective supervision and treatment
- ☐ Other states demonstrate potential to reinvest and reduce recidivism

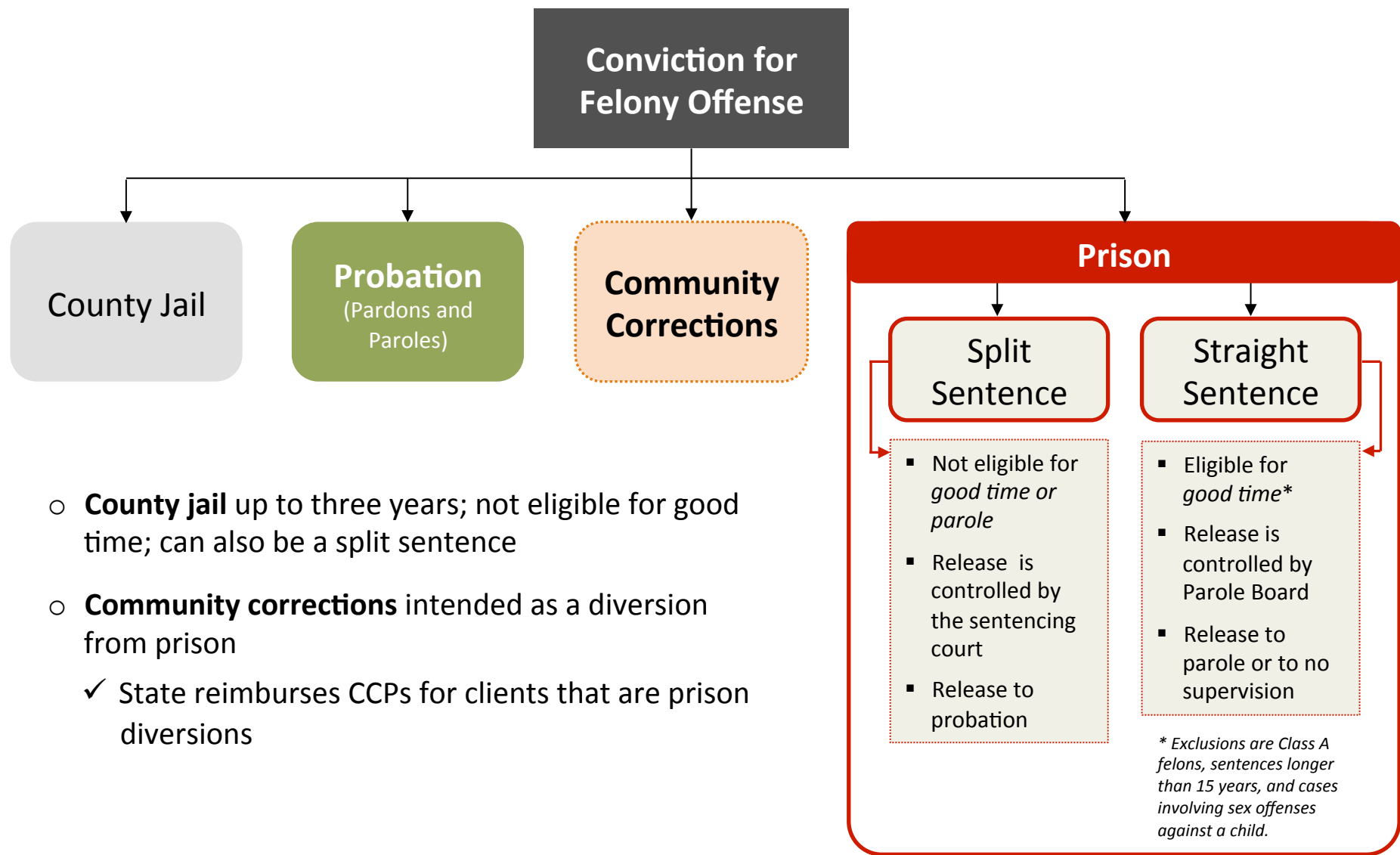
Sentencing Trends

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graph TD; A[Sentencing Trends] --- B[Prison Trends]; B --- C[Community Supervision];
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Prison Trends

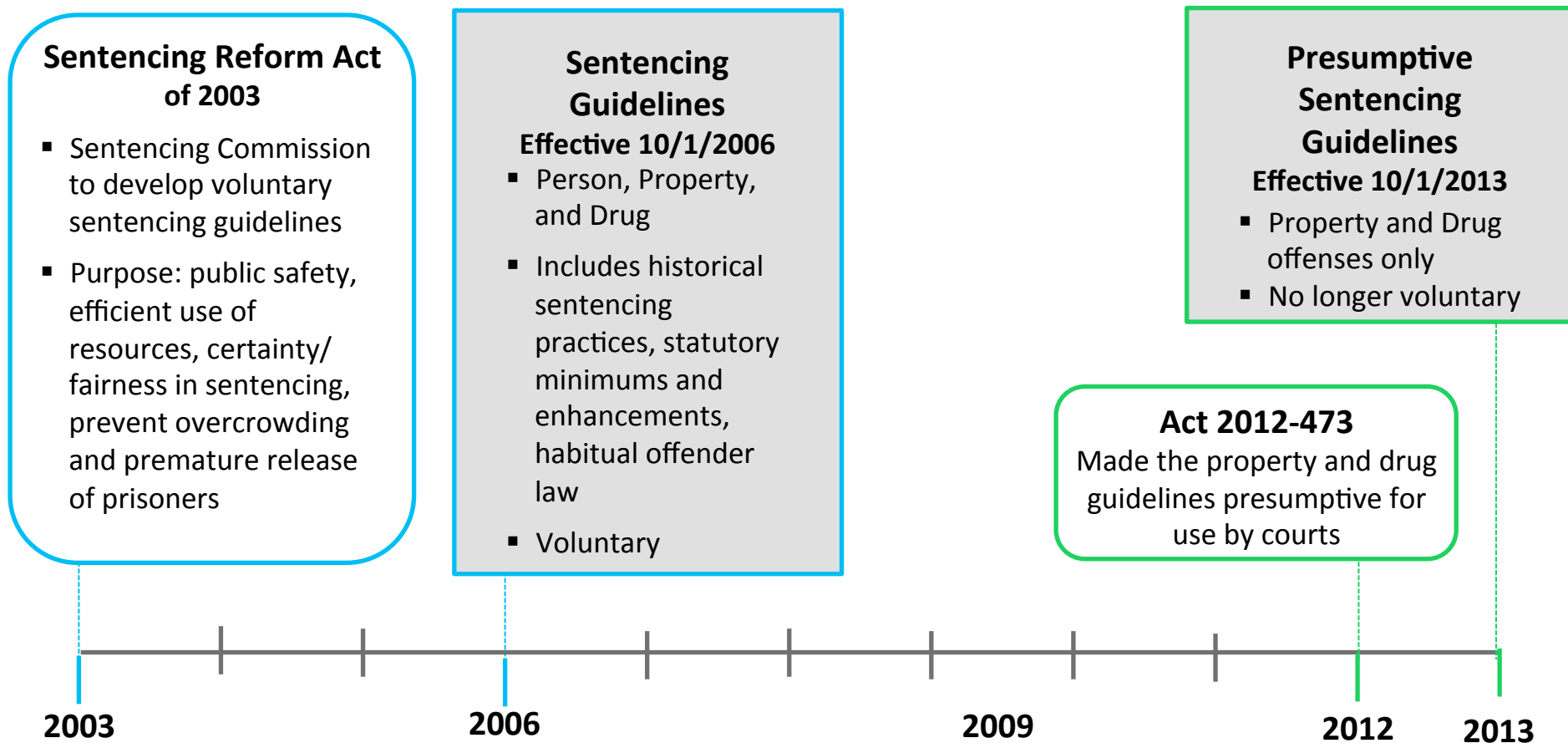
Community Supervision

Alabama felony sentencing lacks a consistent philosophy



Source: *Sentencing Reference Manual for Circuit and District Judges* (Montgomery, Alabama: Alabama Sentencing Commission, Summer 2012)

Alabama's adoption of sentencing guidelines began in 2003

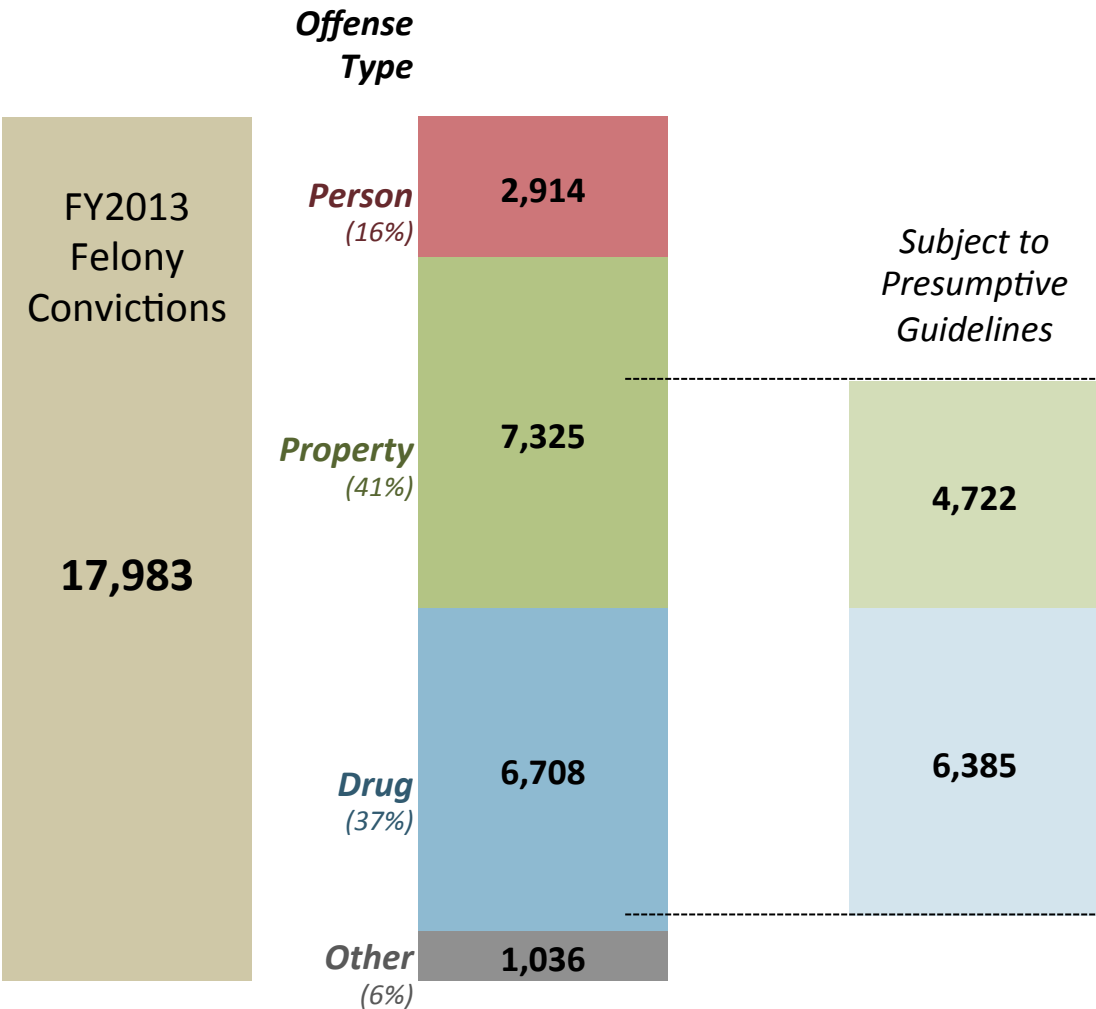


Notes about Presumptive Sentencing Guidelines:

- ✓ Covered **Property** offenses exclude all Burglary offenses
- ✓ Defines aggravating and mitigating factors that allow for departure
- ✓ Departures from guidelines are appealable

Source: *Presumptive and Voluntary Sentencing Standards Manual, Effective October 1, 2013* (Montgomery, Alabama: Alabama Sentencing Commission, 2013)

62% of all felony cases are subject to the presumptive sentencing guidelines



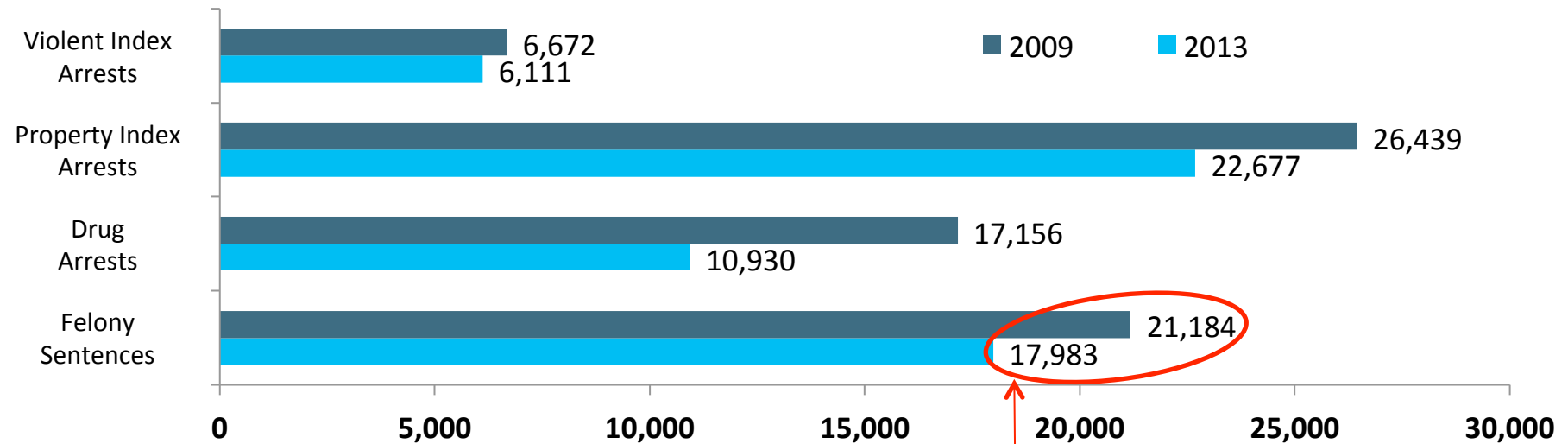
- ❑ 62% of the FY2013 felony convictions were for offenses that are subject to the presumptive sentencing guidelines that became effective 10/1/2013.
- ✓ 64% of all property offenses
- ✓ 95% of all drug offenses

Primary property and drug offenses not subject to the presumptive guidelines include all burglary classes and drug trafficking.

Source: Alabama Sentencing Commission felony sentencing data

Significant declines in arrest activity since 2009, yet smaller declines in felony sentences

Arrest and Felony Sentencing Trends, 2009–2013



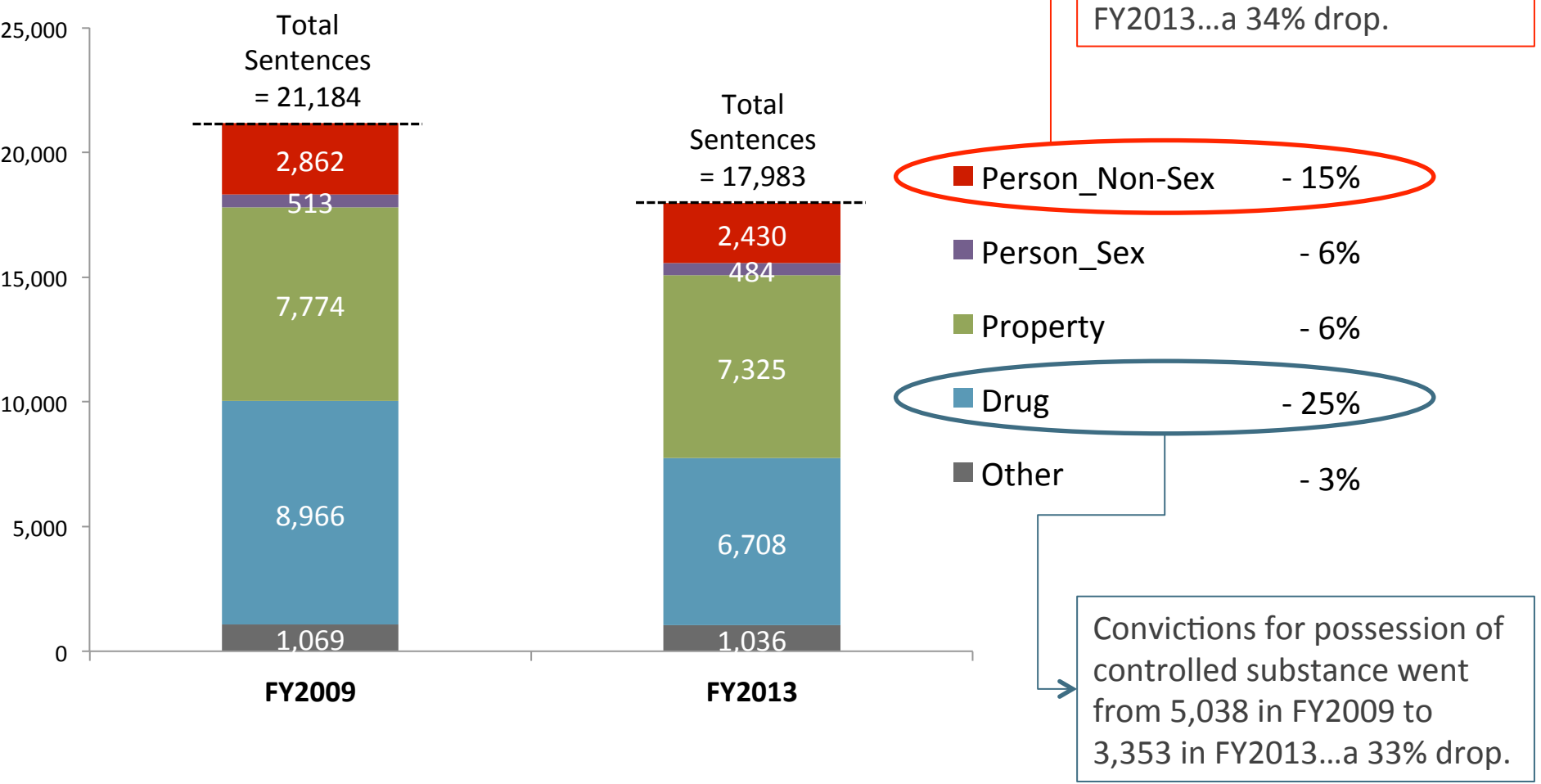
Volume decline 2009 to 2013:

- ☐ Violent index arrests - 561
- ☐ Property index arrests - 3,762
- ☐ Drug arrests - 6,226
- ☐ **Subtotal decline - 10,549**

Despite a drop of more than 10,000 arrests per year, sentences have only declined by a little over 3,000.

Declines in volume of robbery and possession of controlled substance cases drove overall decline in sentences

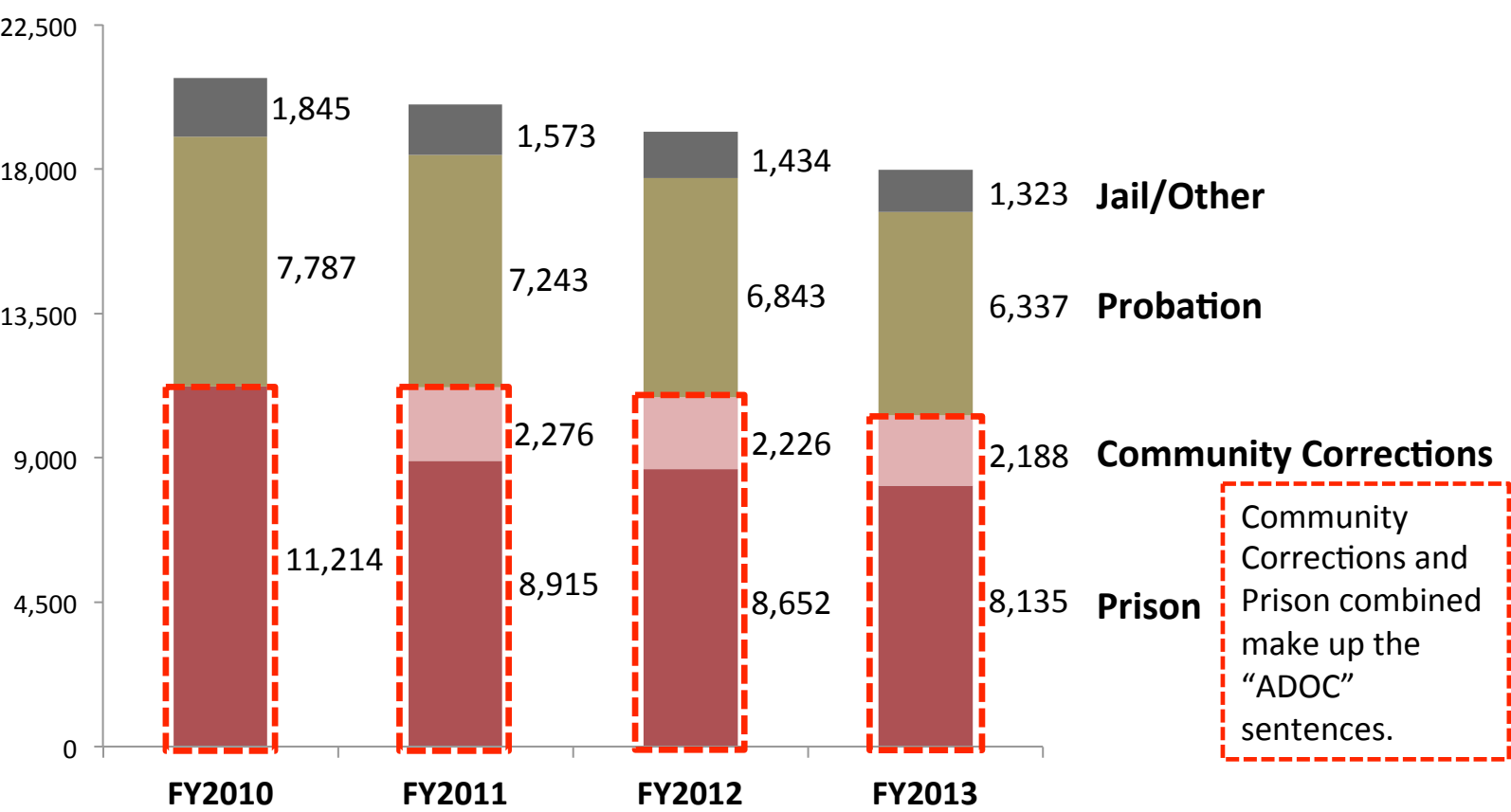
Felony Sentences by Offense Category, FY2009 and FY2013



Source: Alabama Sentencing Commission felony sentencing data

Community corrections accounts for about 12% of sentences overall and about 20% of sentences to ADOC

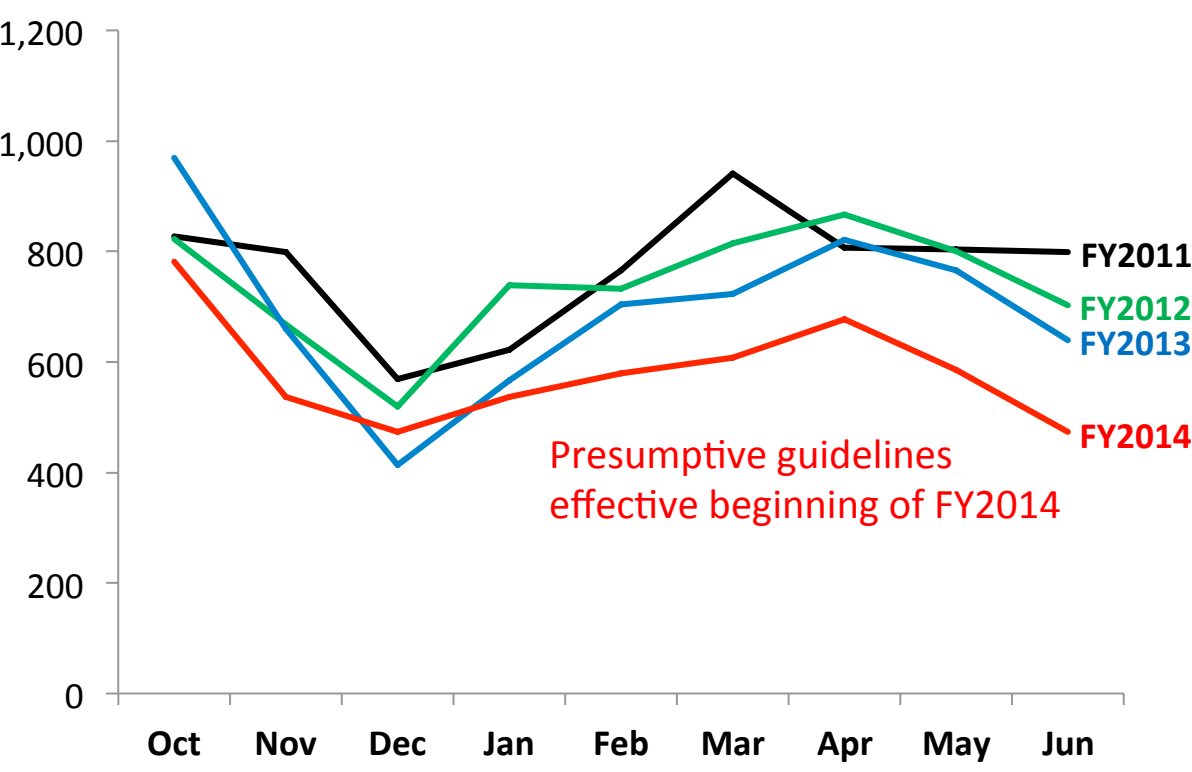
Felony Sentences by Specific Sentence, FY2010–FY2013



Note: Sentencing data unable to identify community corrections sentences prior to FY2011.

Early indications are that presumptive sentencing guidelines have further reduced sentences to prison

Felony Sentences to Prison, October-June FY2011–FY2014



| October - June | Sentences to Prison | % Change |
|------------------------|---------------------|----------|
| FY2011 | 6,932 | --- |
| FY2012 | 6,664 | - 4% |
| FY2013 | 6,260 | -6% |
| FY2014 | 5,253 | -16% |
| FY2011–FY2014 % change | | -24% |

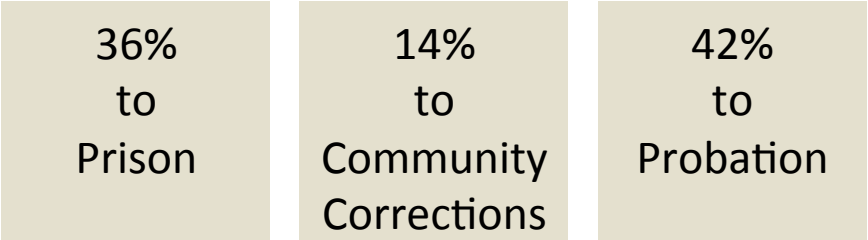
Source: Alabama Sentencing Commission felony sentencing data

How are presumptive guidelines impacting the dispositions of high volume felony offense types?

Convictions for Possession/Receipt of a Controlled Substance

Prior to Presumptive Sentencing Guidelines

October 2012 - June 2013
= 2,526



After Presumptive Sentencing Guidelines

October 2013 - June 2014
= 2,376



Clear shift towards probation instead of prison

Source: Alabama Sentencing Commission felony sentencing data

Presumptive guidelines have impacted a decline of more than 20% in sentences to prison for covered offenses

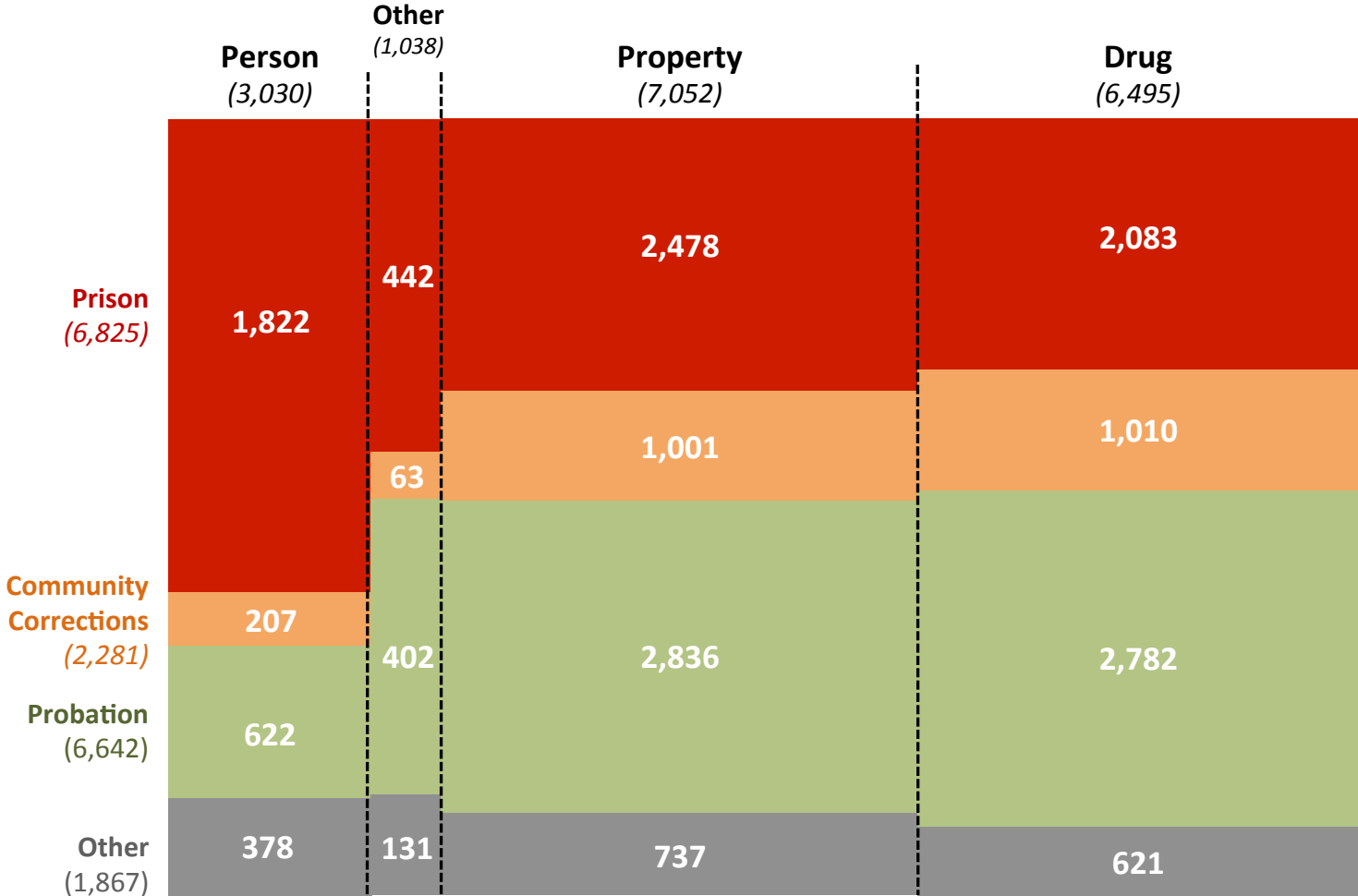
Prison Sentences for High Volume Offenses Subject to the Presumptive Guidelines, October – June of each Fiscal Year

| Most Serious Offense at Conviction | FY2013 | FY2014 | % Change |
|---|--------------|--------------|-------------|
| POSS/REC CONTROL SUBSTANCE | 912 | 629 | -31% |
| DISTRIBUTION CONTROL SUBSTANCE | 396 | 319 | -19% |
| THEFT OF PROPERTY 1 ST | 365 | 343 | -6% |
| THEFT OF PROPERTY 2 ND | 349 | 282 | -19% |
| POSS MARIHUANA 1 ST | 225 | 177 | -21% |
| POSS FORGED INSTRUMENT 2 ND | 162 | 120 | -26% |
| MANUFACTURING CONT SUBS 2 ND | 232 | 165 | -29% |
| BREAKING/ENTERING A VEHICLE | 162 | 100 | -38% |
| RECEIVING STOLEN PROPERTY 1 ST | 95 | 113 | +19% |
| RECEIVING STOLEN PROPERTY 2 ND | 113 | 75 | -34% |
| FRAUD/ILL USE CREDIT/DEBIT CARD | 90 | 62 | -31% |
| MANUFACTURING CONT SUBS 1 ST | 86 | 114 | +33% |
| FORGERY 2 ND | 33 | 18 | -46% |
| Subtotal | 3,220 | 2,517 | -22% |

Even with the large volume diverted at sentencing, property/drug account for two-thirds of prison admissions

Distribution of Felony Dispositions by Offense and Sentence Type, FY2014

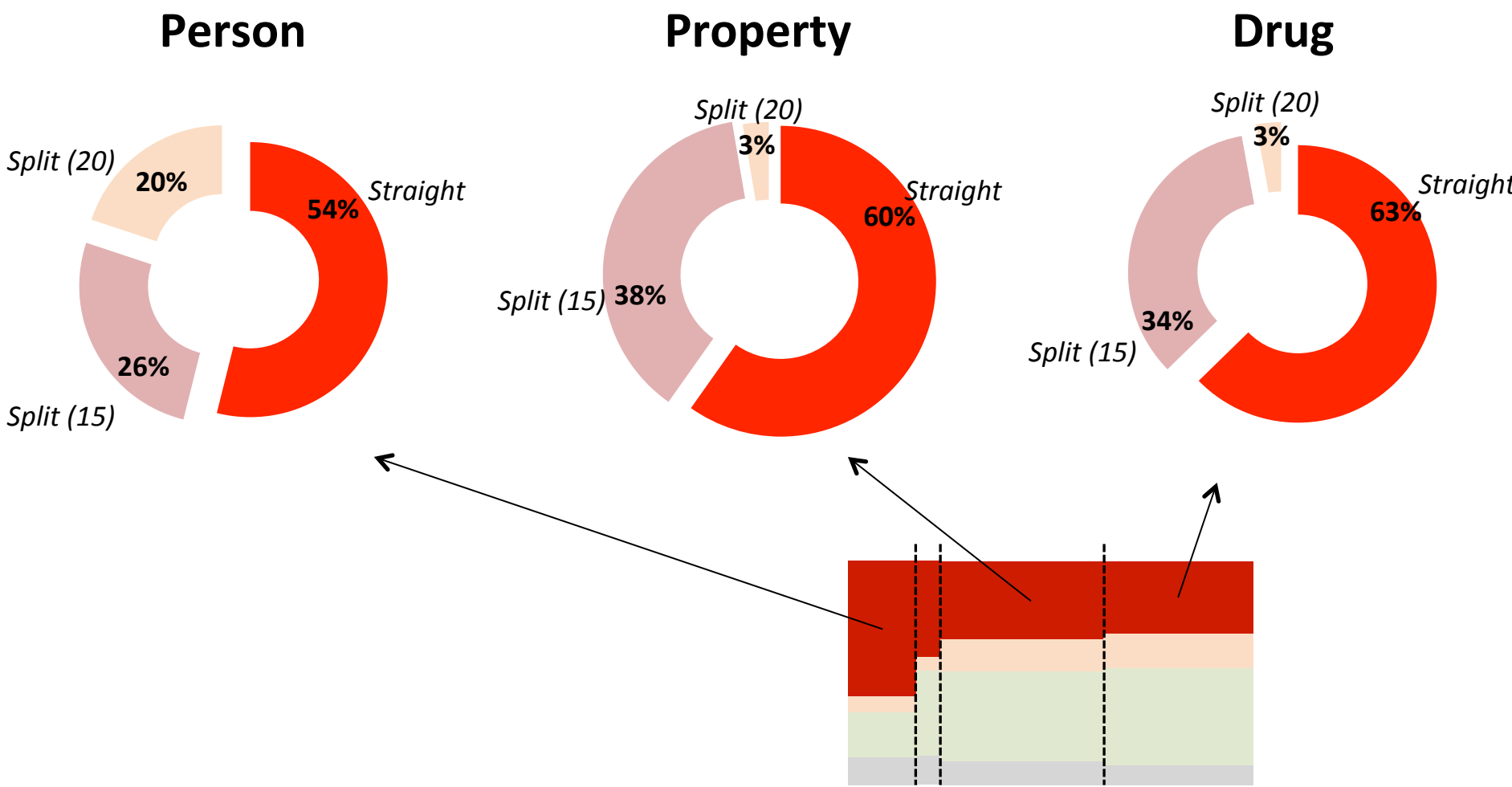
Total Estimated Cases = 17,615



Source: Alabama Sentencing Commission felony sentencing data

Unclear rationale for using a split sentence versus straight sentence to prison

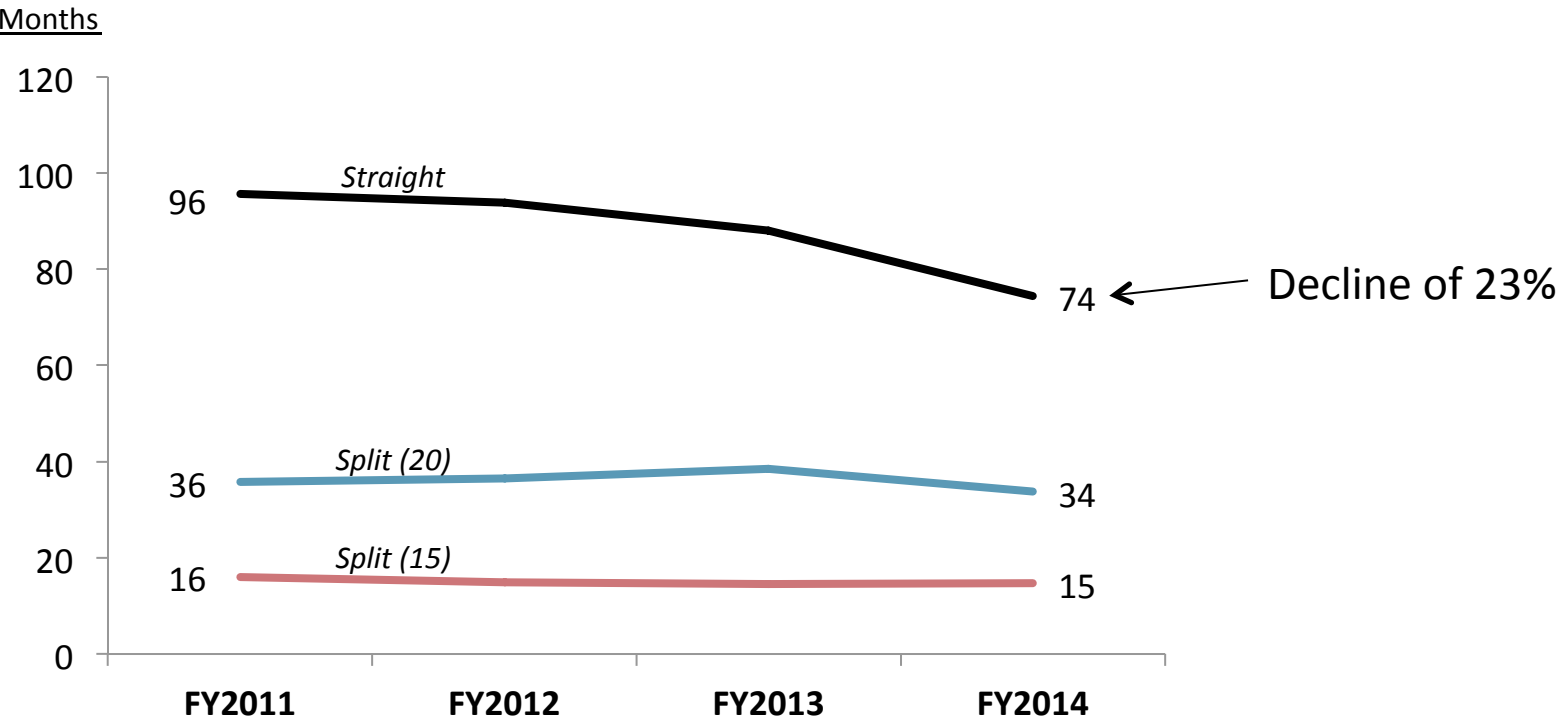
FY2014 Sentences to Prison by Type of Sentence for Person, Property, and Drug Offenses



Source: Alabama Sentencing Commission felony sentencing data

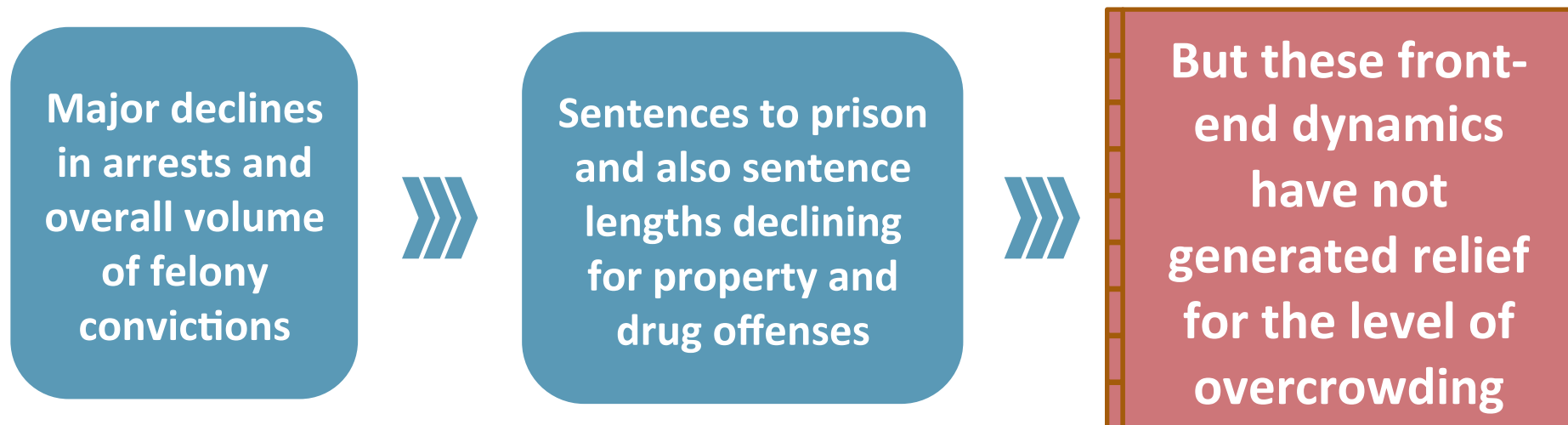
Presumptive guidelines are driving a decrease in the average sentence length imposed for straight sentences to prison

Prison Sentence Lengths for Offense Types Subject to Presumptive Sentencing Guidelines, FY2011–FY2014



Source: Alabama Sentencing Commission felony sentencing data

Summary of sentencing trends



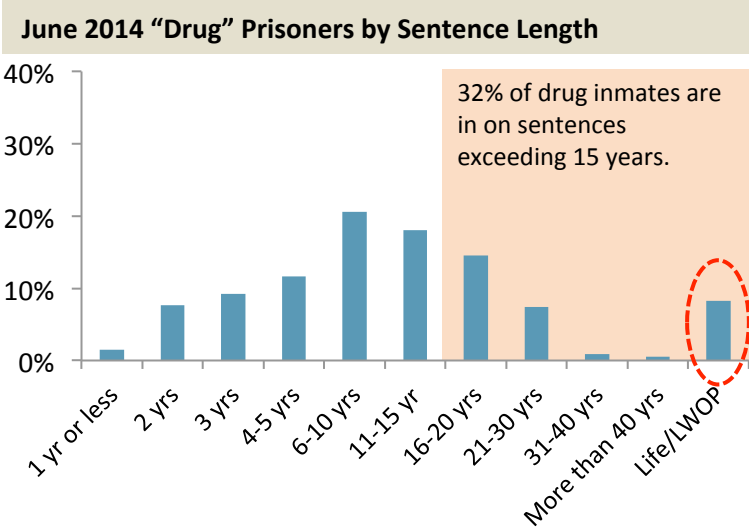
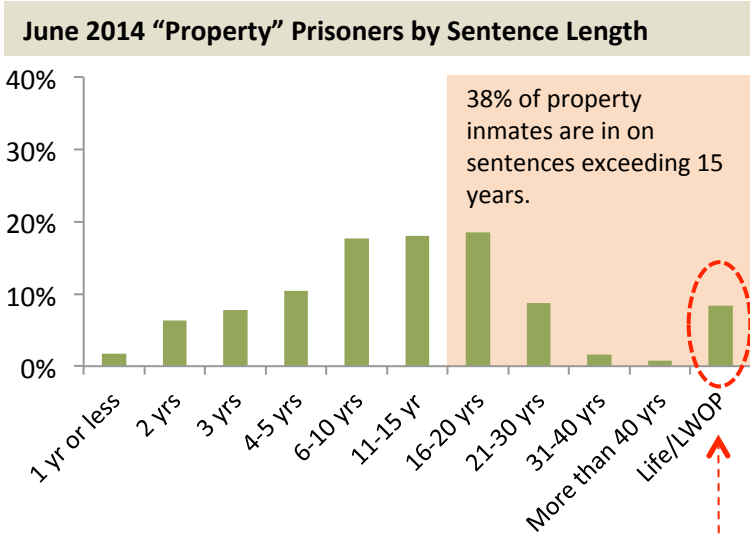
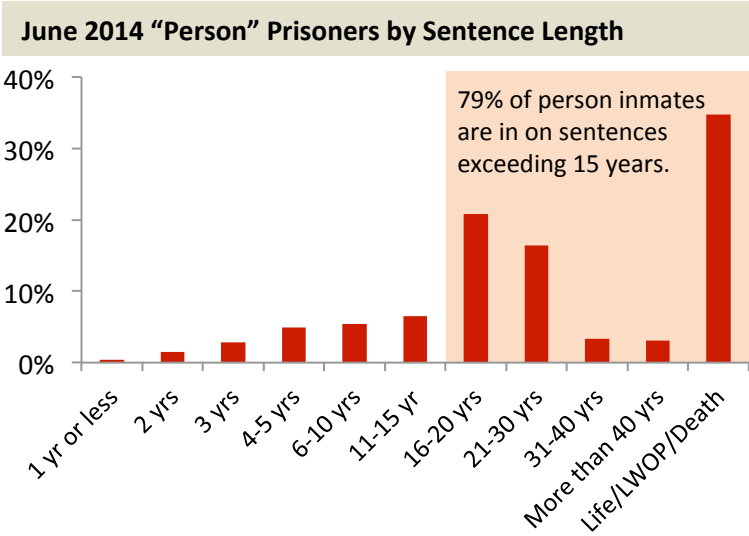
1. If these trends had not materialized, the overcrowding situation would be even worse.
2. To sustain and build on impacts, sentencing policy changes need to go further.

Sentencing Trends

Prison Trends

Community Supervision

More than a third of all property and drug inmates are serving sentences that are ineligible for good time

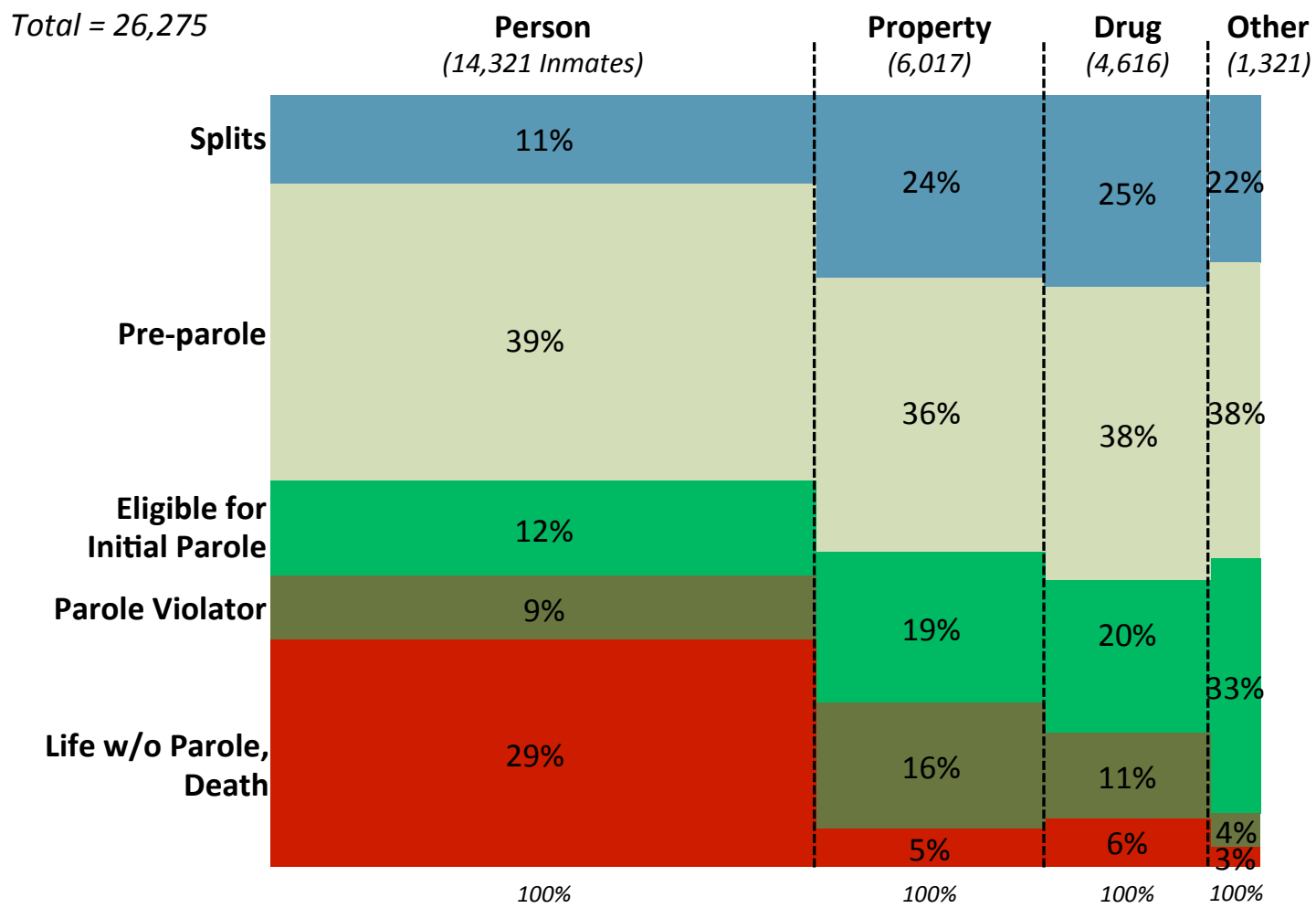


Equal percentages of property and drug offenders are serving life and life without parole sentences as are serving two-years-or-less sentences

Source: Alabama Department of Corrections prison population data

One-third of current property and drug inmates are eligible for release to parole

Distribution of ADOC "Custody" Population, June 30, 2014



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

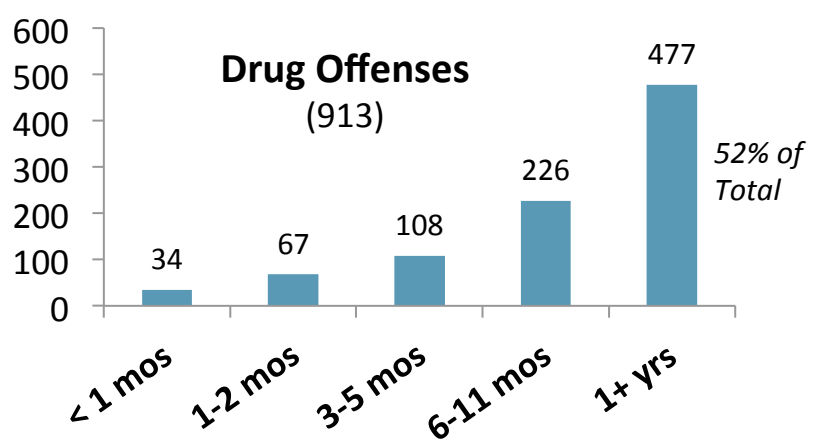
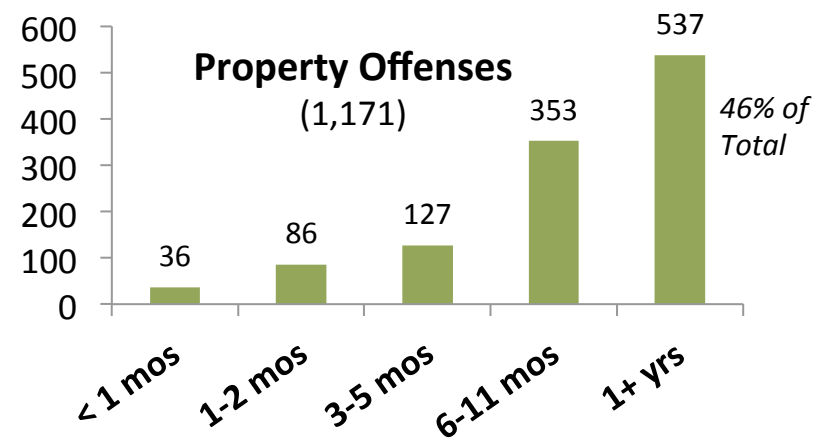
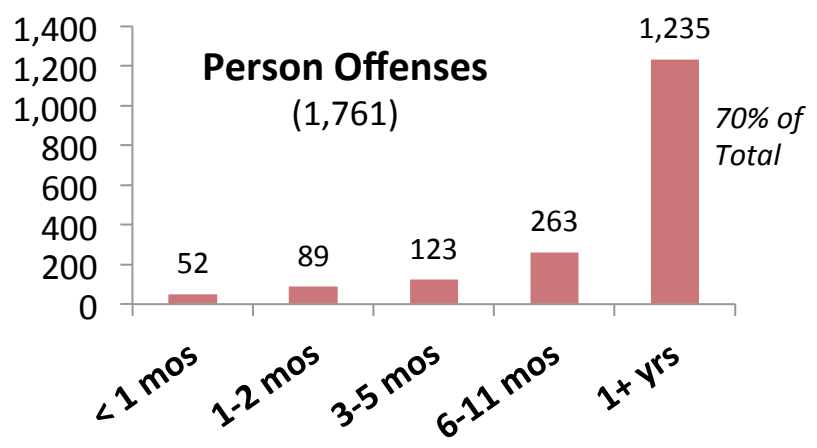
Rate of parole release among eligible population declined

| | 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

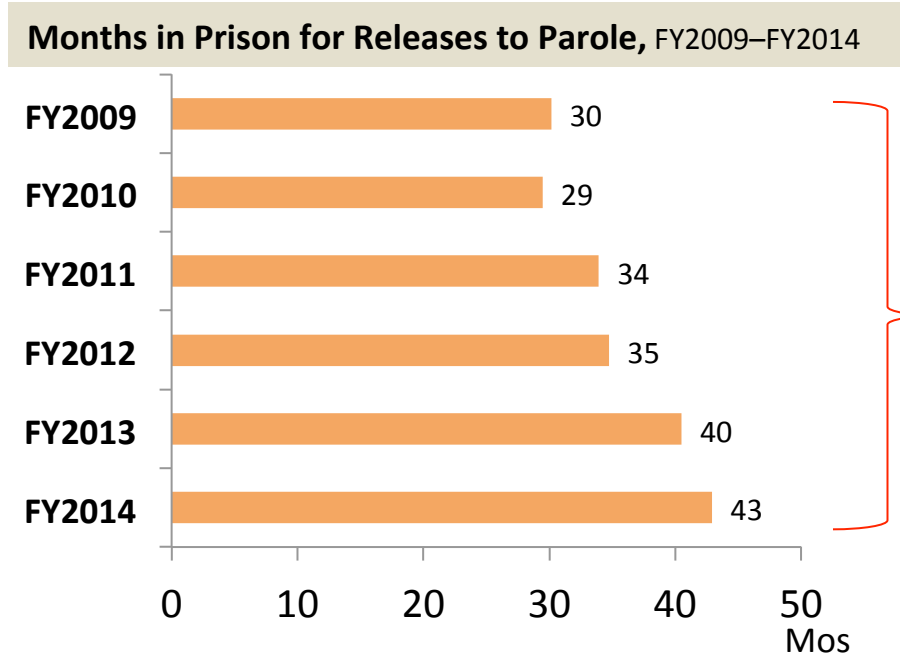
More than 1,000 parole eligible property and drug inmates have been eligible for initial parole for more than one year

ADOC "Custody" inmates eligible for initial parole by number of months eligible, June 30, 2014



Source: Alabama Department of Corrections prison population data

Length of incarceration prior to parole has increased 43%



Length of stay in prison for those released to parole grew by 13 months from FY2009 to FY2014.

✓ **Increase of 43%**

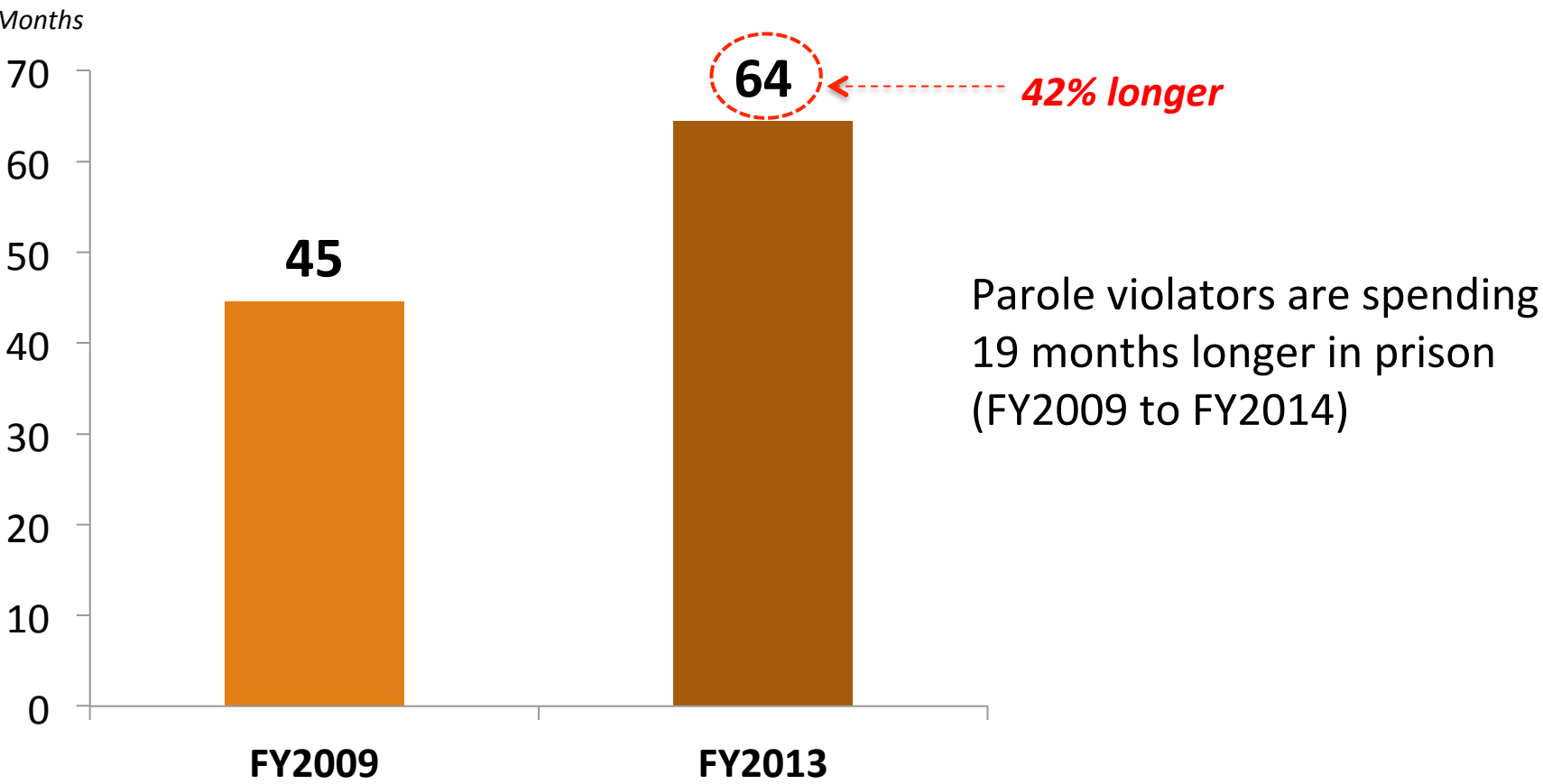
What factors might be contributing to the increasing length of time individuals are incarcerated prior to being released on parole?

➤ *Especially in light of the fact that the sentence lengths of those sentenced to prison since 2009 has not increased*

Source: Alabama Department of Corrections prison releases data

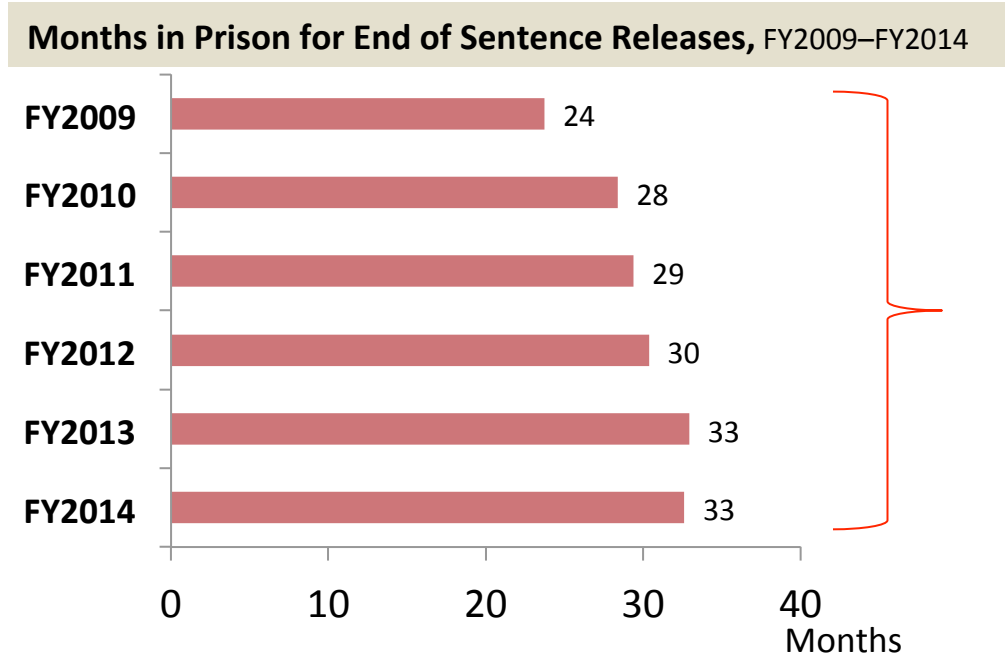
Length of stay in prison for parole violators is increasing

Length of Stay in Prison for Parole Violators Released from ADOC Custody, FY2009 and FY2014



Source: Alabama Department of Corrections prison releases data

Length of incarceration for those released to no supervision has increased 38%



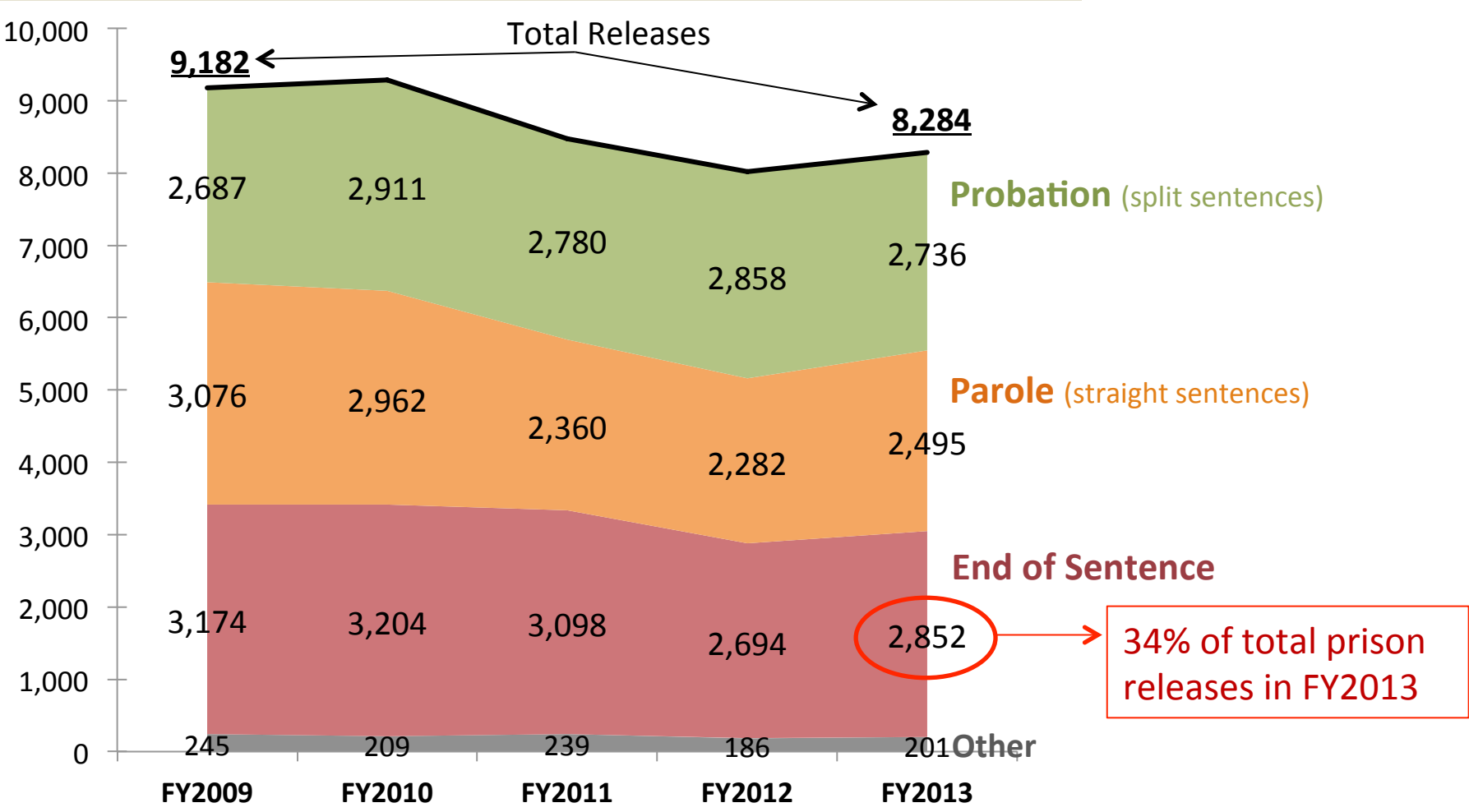
Length of stay in prison for those discharged from sentence grew by nine months from FY2009 to FY2014.

✓ **Increase of 38%**

Source: Alabama Department of Corrections prison releases data

People returning to the community unsupervised make up the largest share of prison releases

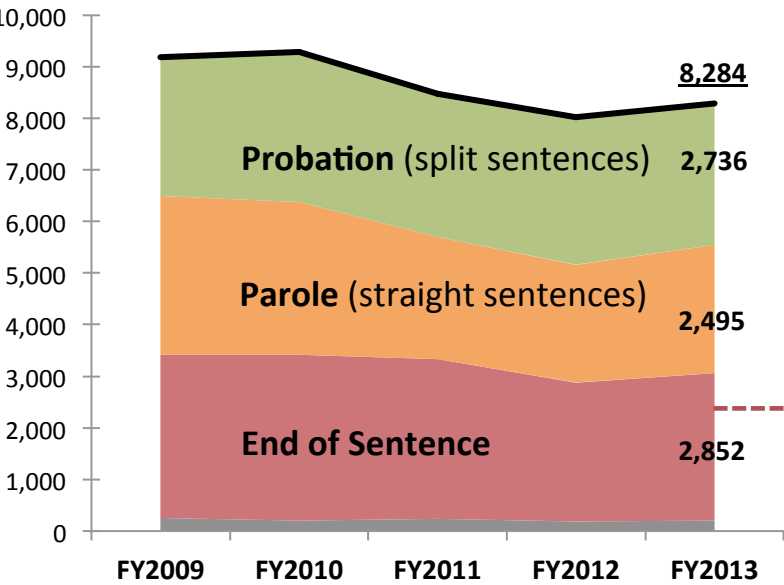
Releases from ADOC Custody by Type of Release, FY2009–FY2013



Source: Alabama Department of Corrections prison releases data

“End of sentence (EOS)” prison releases impose system costs and risks to public safety

Releases from ADOC Custody by Type of Release, FY2009–FY2013



EOS from ADOC custody comprised of two groups:

82% property, drug, & other offense types
Average length of stay in prison = 23 months

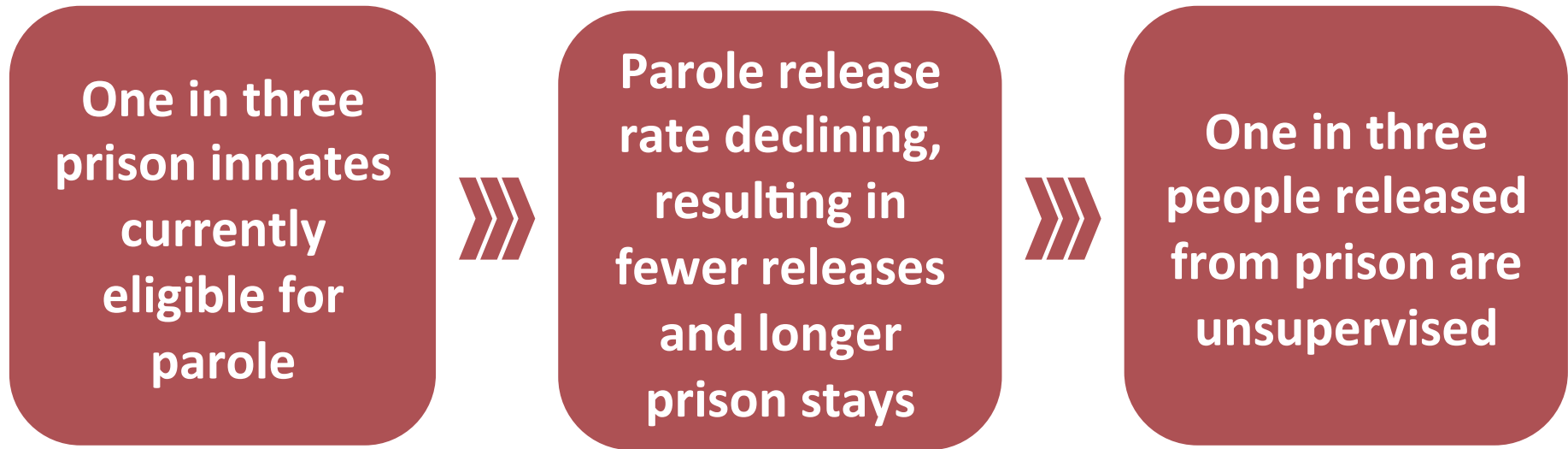
Highest likelihood of reoffending

18% person offense types
Average length of stay in prison = 77 months

More serious offense types separated from society longer

Source: Alabama Department of Corrections prison releases data

Summary of prison trends



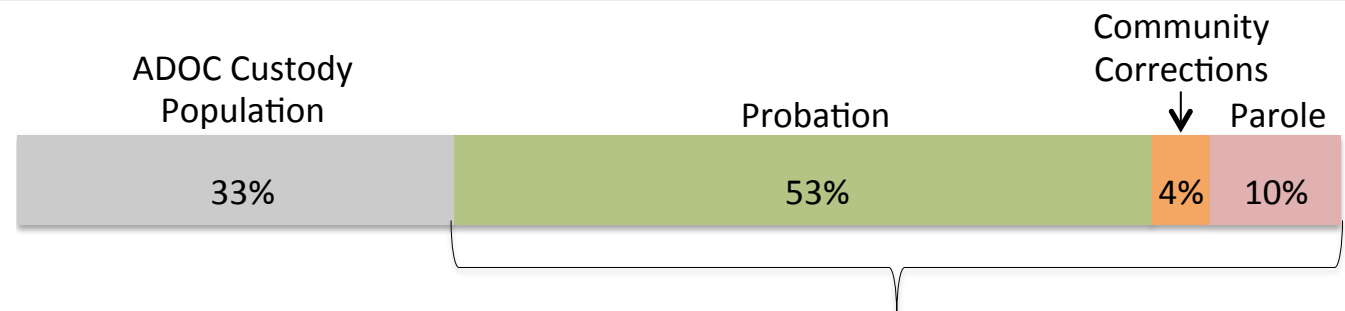
1. What is contributing to the longer lengths of stay and declining volume of parole releases?
2. Are there better approaches to sentencing and release that can reduce the volume released from prison without any supervision?

Sentencing Trends

Prison Trends

Community Supervision

67% of people in Alabama’s felony criminal justice system are being supervised in the community



Two-thirds of Alabama’s felony criminal justice population is supervised in the community

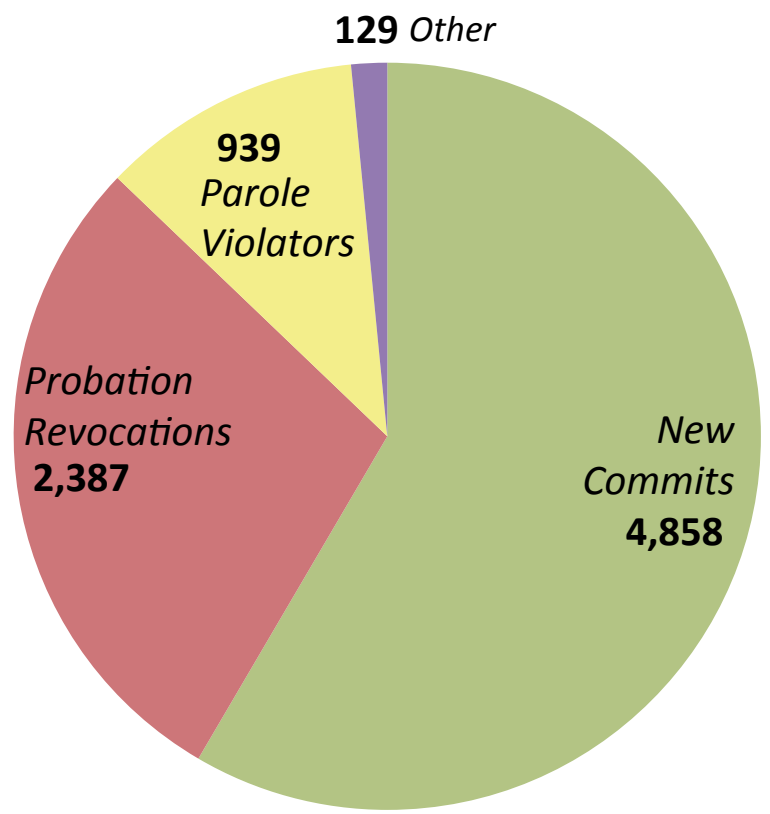
| | Probation | CCPs | Parole |
|--------------------------|--------------|---------------|--------------|
| Avg. Population | 44,854 | 3,739 | 8,391 |
| State Invest. per Client | \$1.40 / day | \$6.73* / day | \$1.40 / day |
| Avg. Supervision Term | 36 months | 18 months | 42 months |

* CCP cost per day based on “reimbursable” daily population of 2,239 on 7/31/2014.

40% of all admissions to ADOC custody are violators 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% had either a substance abuse or mental health need (or both).

Source: Alabama Department of Corrections prison releases data

Initial findings indicate opportunities for improvement in targeting by risk, treatment investments, and accountability

Targeting by Risk

- ✓ Surprisingly large share of probationers on medium intensity supervision
- ✓ Result is potential for both over- and under-supervision
- ✓ CCPs serve large number of low risk

Resources for Treatment

- ✓ Clear indications of gaps in capacity to provide substance abuse and mental health treatment
- ✓ Lack of clear policies around targeting resources to the highest risk populations

Sanctioning and Accountability

- ✓ Caseloads of almost 200 cases per officer make it hard to ensure accountability
- ✓ Long stays in jail awaiting violation hearings
- ✓ Lack of structured sanctioning approach resulting in inconsistent approach to responding to supervision violations

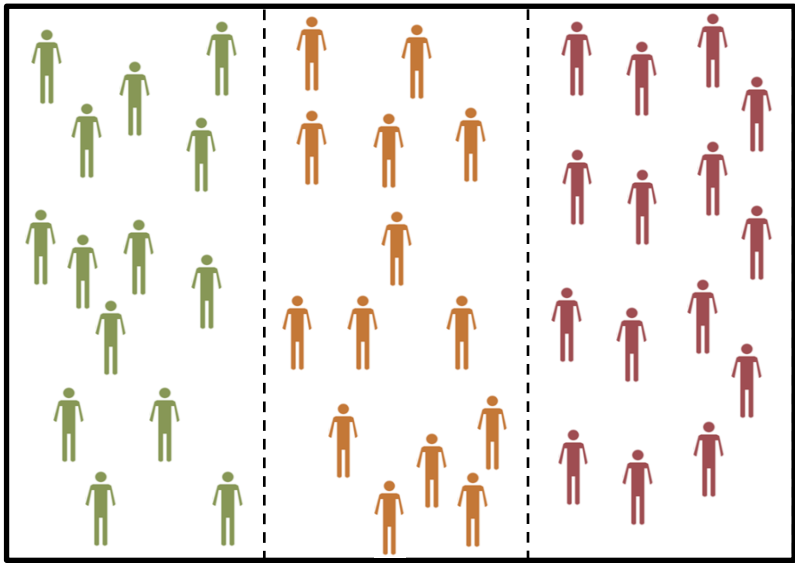
Reducing recidivism requires targeting high-risk to prioritize resources for their supervision and treatment

Risk



Assess risk of reoffense and **focus** supervision on the **highest-risk** offenders

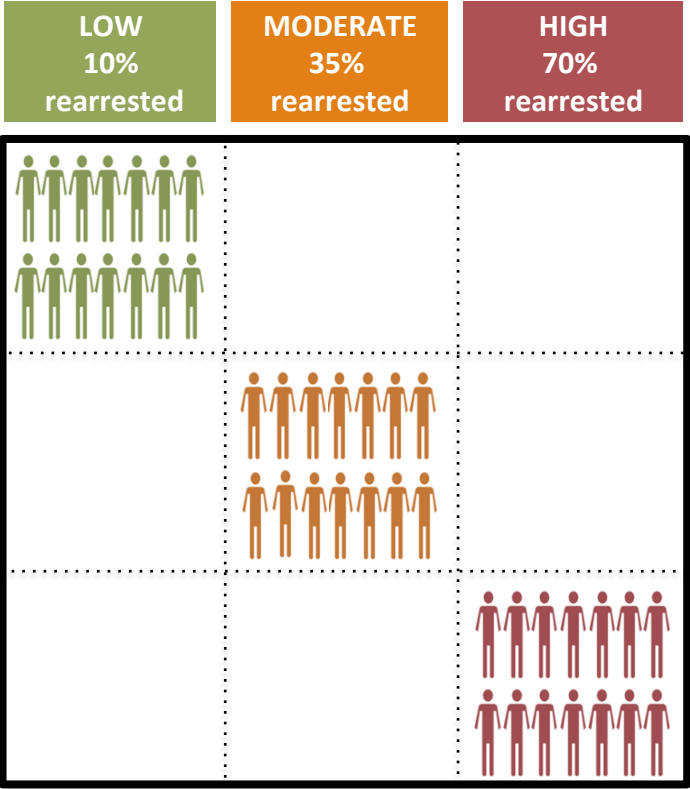
Assess for Risk Level...



Risk of Reoffending

| LOW | MODERATE | HIGH |
|------------|------------|------------|
| 10% | 35% | 70% |
| rearrested | rearrested | rearrested |

...and Focus Accordingly



Opportunities exist to adopt policies targeting and prioritizing resources based on assessed risk and need

Survey results:

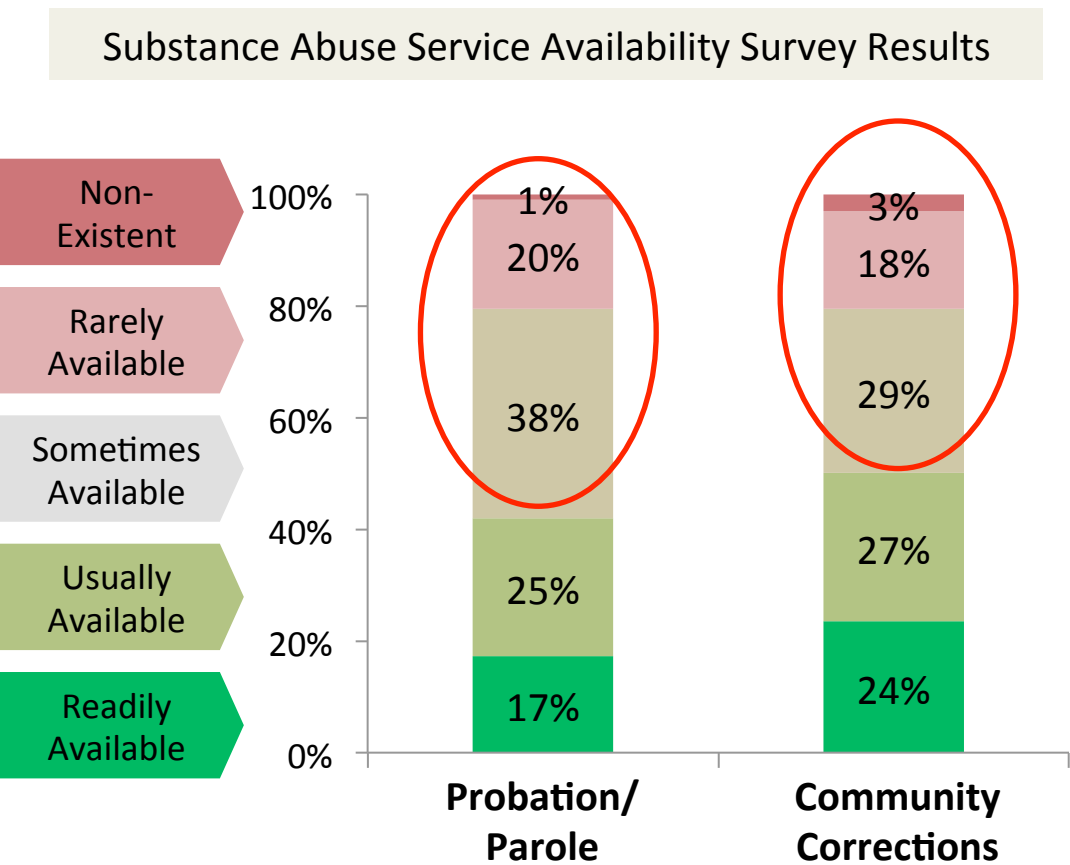
- Only 24% of probation/parole survey respondents place “high” value in risk assessments.
 - CCP respondents indicated that approximately 48% of their felony client population are low risk.
- ☐ ABPP data indicate that only 20% of probationers are supervised at the minimum level.
 - *Analyses are pending, but the share of the probation population that is low risk is likely higher than 20%.*

Policy review:

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

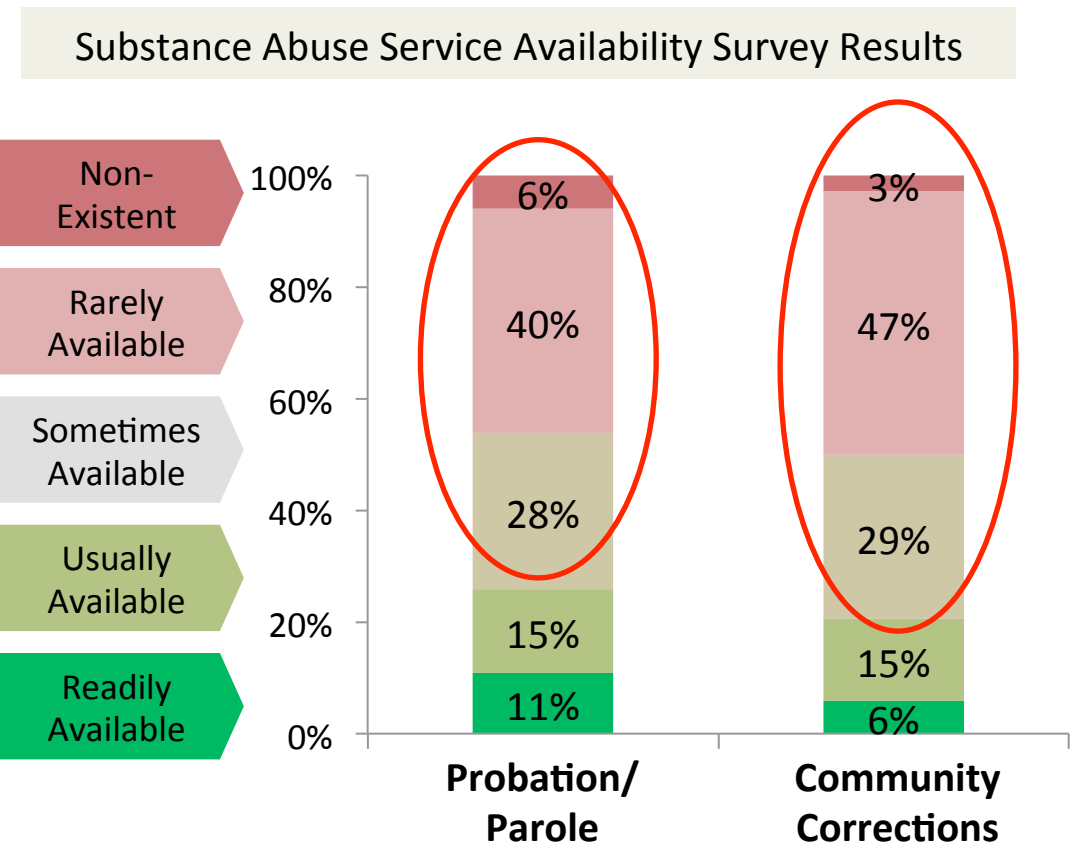
Lack of substance abuse services for those on supervision reflected in surveys



A majority of survey respondents indicated that substance abuse services are only sometimes available, rarely available, or non-existent.

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)

Mental health services are even more scarce



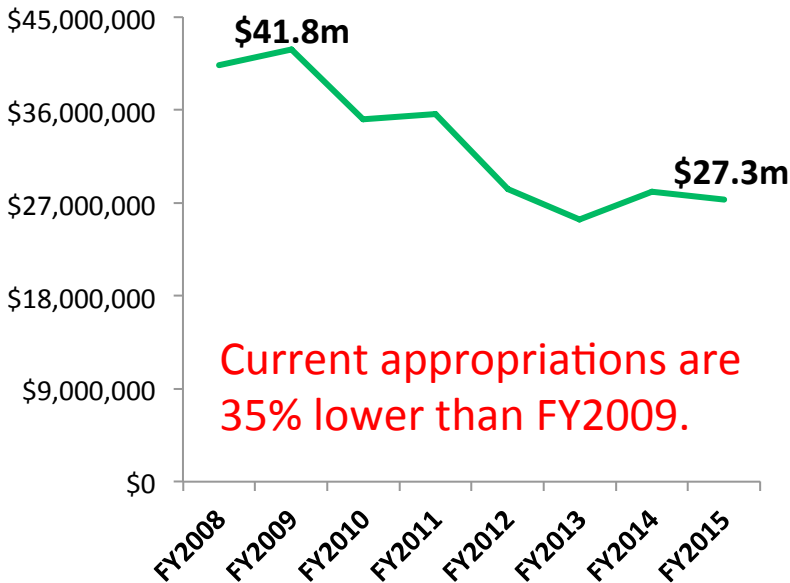
An even larger majority of survey respondents indicated that mental health services are only sometimes available, rarely available, or non-existent.

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)

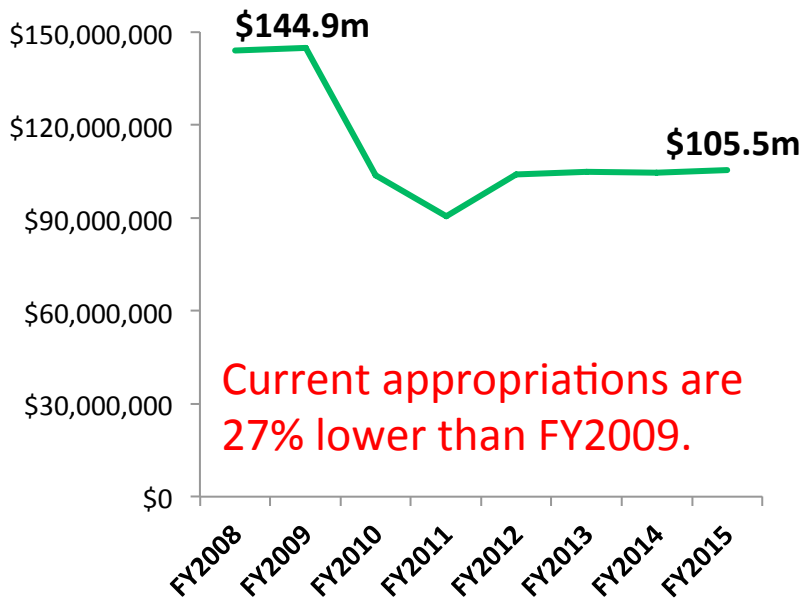
Ability of supervised populations to access behavioral health treatment greatly reduced over recent years

State General Fund Appropriations for Board of Pardons & Paroles and Dept. of Mental Health, FY2008-FY2015

Board of Pardons & Paroles



Dept. of Mental Health

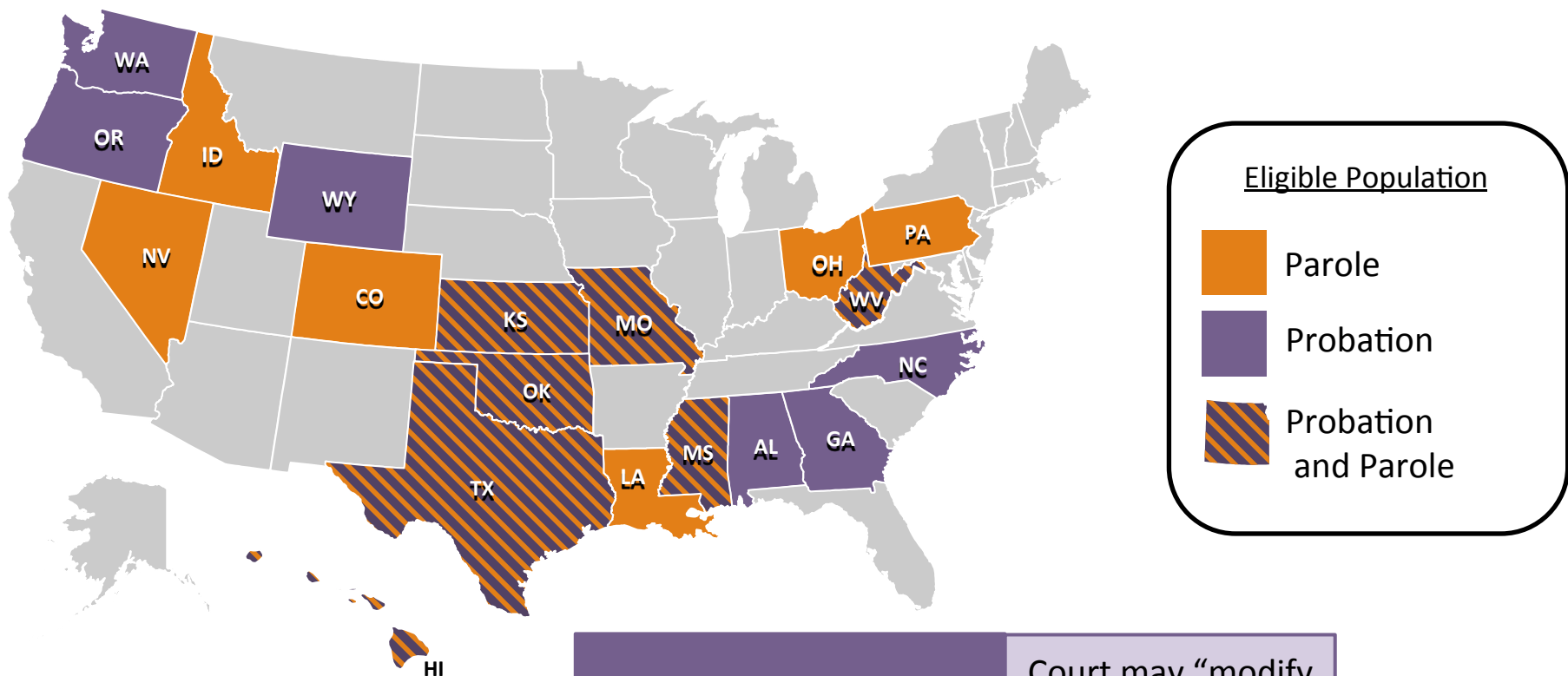


Source: Alabama Legislative Fiscal Office

Alabama needs a more structured approach to respond to supervision violations swiftly, consistently, and cost-effectively

| | Aim | Finding |
|--------------------|---|---|
| Swiftness | Supervision violations are responded to meaningfully without delay | <ul style="list-style-type: none">– 43% of probationers in jail awaiting a violation hearing are there longer than 2 weeks |
| Consistency | Graduated range of sanctions and incentives guide specific responses to violations | <ul style="list-style-type: none">– Variation across state in process for sanctioning– Largely dependent on local culture and court schedule |
| Cost-effectiveness | Prioritize most expensive, restrictive sanctions for offenders committing the most serious violations | <ul style="list-style-type: none">– Little evidence of use of swift and certain sanctions |

States are using tailored revocation terms to respond to supervision violations



Eligible Population

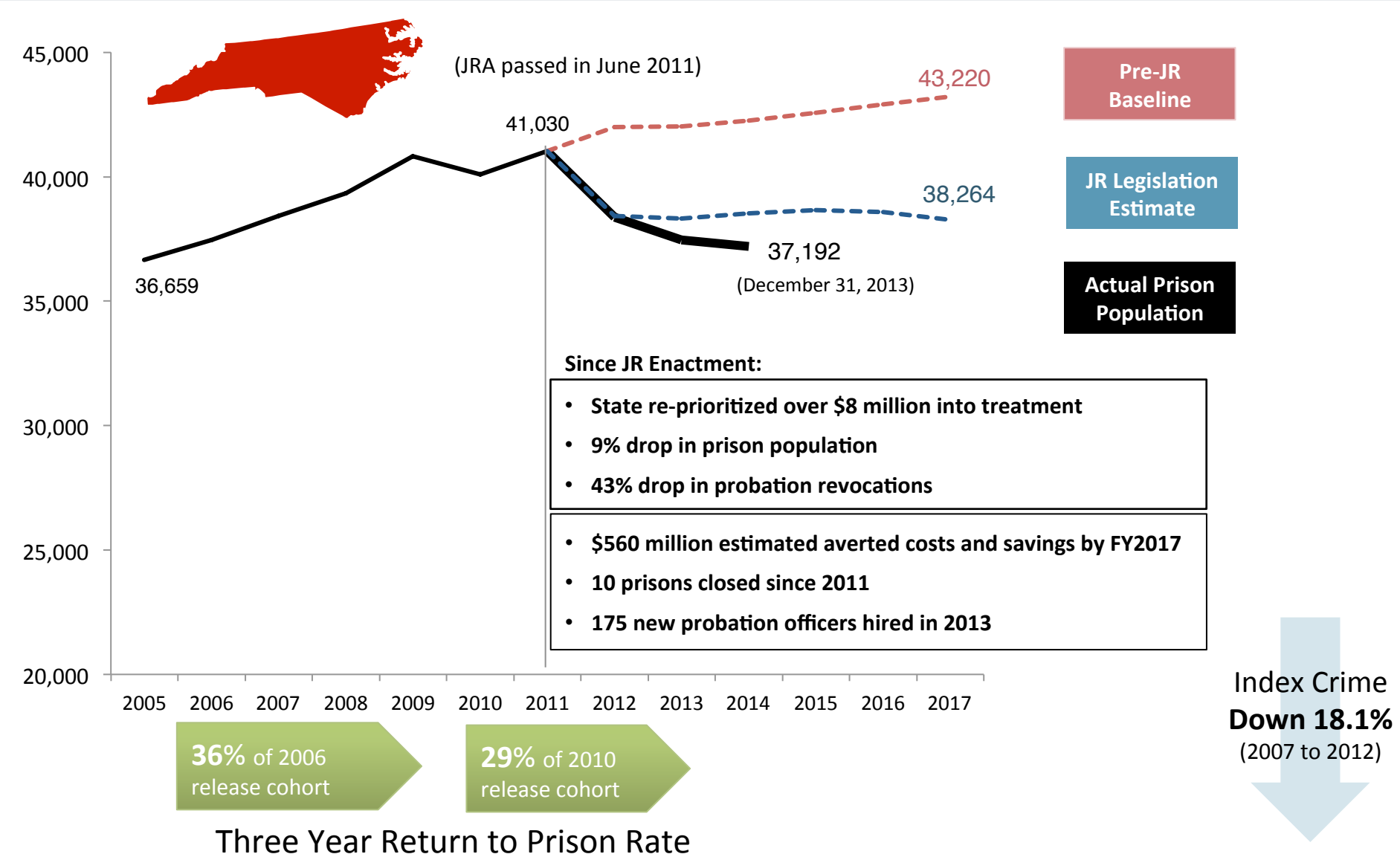
- Parole
- Probation
- Probation and Parole

Alabama's Probation Revocation Caps
§15-22-54

Court may “modify the conditions of probation, including short periods of incarceration, not to exceed 90 days.”

Probationers with any prior or current conviction for a violent offense are ineligible.

North Carolina focused on improving probation and has dropped their prison population



Key feature of North Carolina’s approach was development of a “Swift & Certain” philosophy to sanctioning violations



DATA —————> POLICY CHANGE

Supervision violation hearings are time-consuming, frequently delayed, and often result in reinstatement on supervision

53%
of prison admissions are **probation revocations**

There are few meaningful graduated sanctions for minor condition violations

75%
of revocations are for **condition violations**
(drug use, absconding)

Administrative Jail Sanctions

&

Tailored Prison Sanctions

↓

2-3 day sanction

↓

Capped at 6 days

↓

90 day sanction

↓

Capped at 3 revocations

- Designed to:**
- Reduce violation hearings
 - Reduce time in court
 - Reduce jail time spent awaiting hearings

Alabama has some promising features to build on

Probation and Parole

LIFE Tech Transition Center

Residential program offering substance abuse and mental health treatment, and cognitive-behavioral interventions

✓ **89% success rate**

350 slots

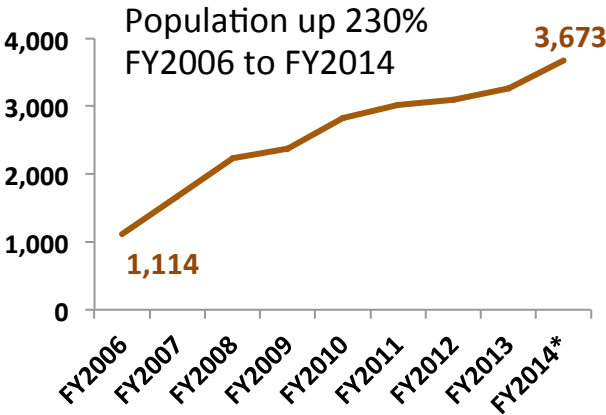
Birmingham Day Reporting Center

Intensive substance abuse treatment and cognitive-behavioral interventions; assist w/ life skills assistance

Grant-funded

Community Corrections

Growing Use of CCPs



Building from Research

CCPs such as Jefferson Co. and Montgomery Co. demonstrate incorporation of evidence-based practices and commitment to measuring outcomes.

Summary of supervision analysis

1. Risk assessment and targeting of resources according to risk are poorly incorporated into supervision practices.
2. Major gaps in capacity to deliver substance abuse and mental health treatment.
3. Inconsistent and costly approach to sanctioning violations of supervision.

1

Sentencing Trends

- ☐ Fewer arrests, felony convictions, and sentences to prison since 2009
- ☐ Presumptive guidelines are further reducing sentences to prison
- ☐ Level of overcrowding persists

2

Prison Trends

- ☐ One in three prison inmates currently eligible for parole
- ☐ Parole release rate declining, resulting in fewer releases and longer prison stays
- ☐ One in three people released from prison are unsupervised

3

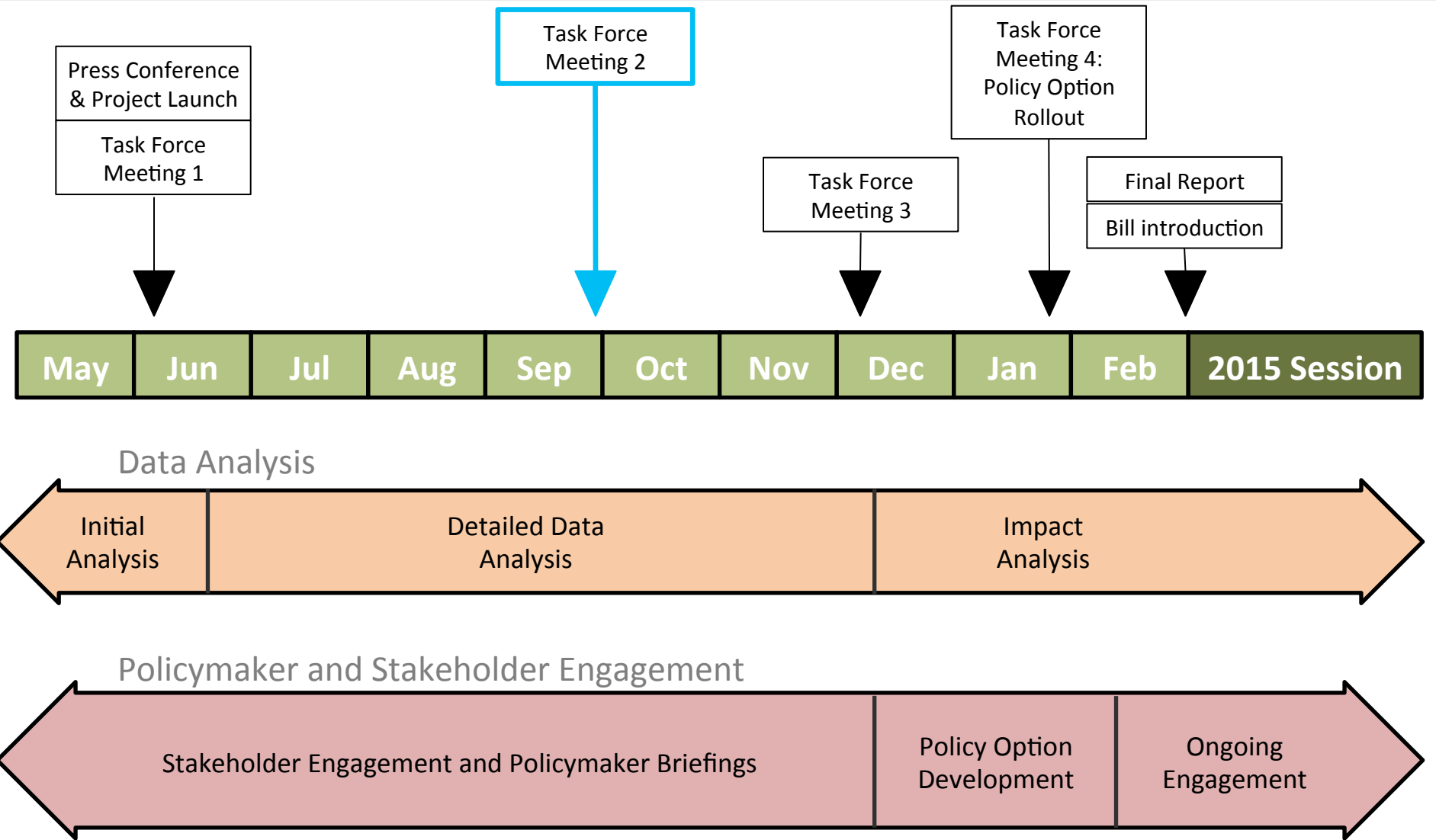
Community Supervision

- ☐ 40% of prison admissions are individuals who were unsuccessful on supervision
- ☐ Stopping this revolving door will require more effective supervision and treatment
- ☐ Other states demonstrate potential to reinvest and reduce recidivism

Next steps

- ☐ Continued engagement with key stakeholders
 - Circuit Court Judges
 - Sheriffs
 - Prosecutors
 - County level officials
 - Defense attorneys
 - Advocacy groups
- ☐ Third Task Force meeting in early December
 - Analysis of parole process
 - Feedback from stakeholder engagement
- ☐ Fourth and final Task Force meeting in late January
 - Presentation of policy recommendations
- ☐ Final report release in early February

Proposed project timeline



Thank You

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