



Justice Reinvestment in Indiana

Analyses & Policy Framework

December 16, 2010

Council of State Governments Justice Center

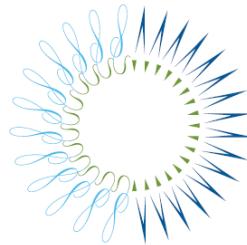
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Justice Reinvestment

a data-driven approach to reduce corrections spending and reinvest savings in strategies that can decrease crime and strengthen neighborhoods.



THE
PEW
CENTER ON THE STATES

Public Safety
Performance
Project



BJA

Bureau of Justice Assistance
U.S. Department of Justice

Justice Reinvestment Strategy

Bipartisan, inter-branch, bicameral structure

1

Analyze Data & Develop Policy Options

- Analyze data to look at crime, court, corrections, and supervision trends
- Solicit input from stakeholders
- Map allocation of resources
- Develop policy options & estimate cost savings

2

Adopt New Policies

- Identify assistance needed to implement policies effectively
- Deploy targeted reinvestment strategies to increase public safety
- Review implementation progress

3

Measure Performance

- Track the impact of enacted policies/programs
- Monitor recidivism rates & other key measures

Justice Reinvestment in Indiana



Governor Daniels speaking at a 6/28/10 press conference announcing the rollout of the Justice Reinvestment Initiative in Indiana.

Goals:

- Increase public safety
- Reduce spending on corrections
- Ensure adequate capacity for incarcerating serious and violent offenders
- Holding offenders accountable

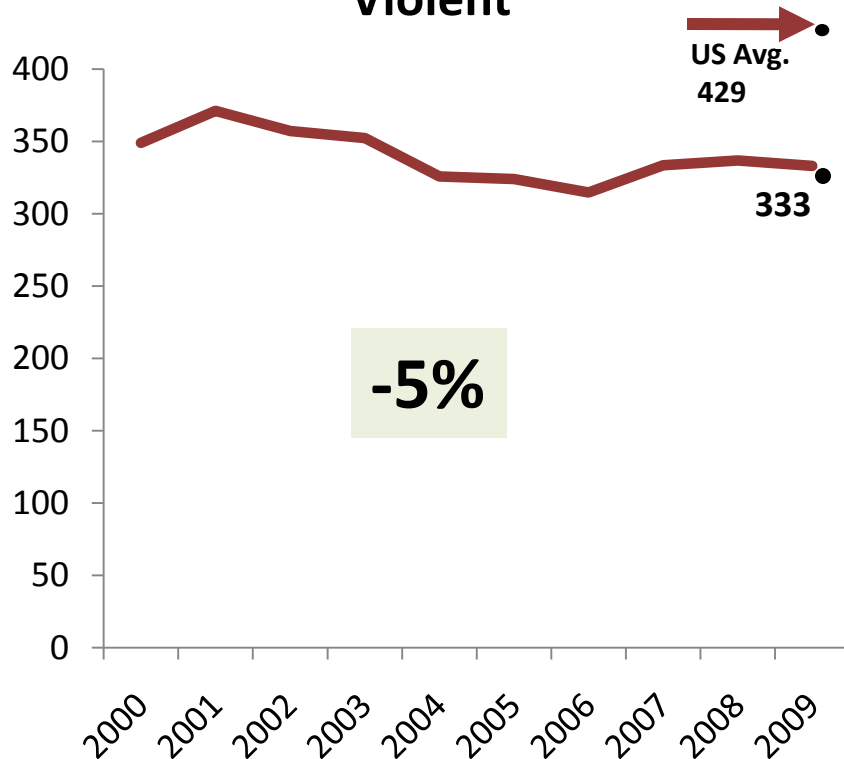
Stakeholder Engagement

Stakeholders Contacted	
Prosecutors	Parole
Defense Bar	Law Enforcement
Judges	Behavioral Health
Business Community	Local Government
Probation	Victims/Advocates
Community Corrections	Workforce

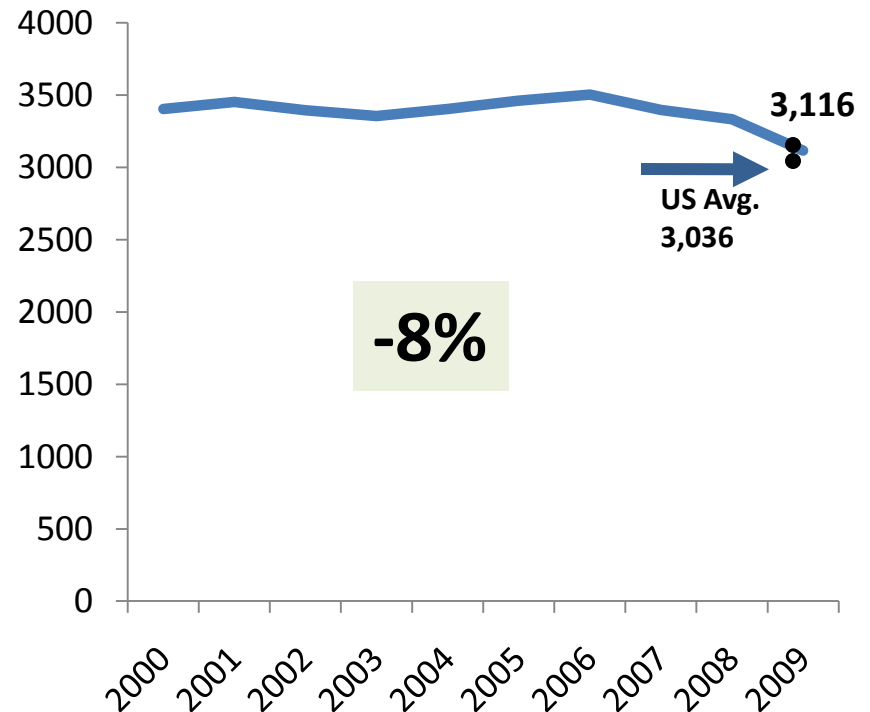
Indiana's Crime Rate is Declining

Violent & Property Crime Rates per 100,000 (2000-2009)

Violent



Property

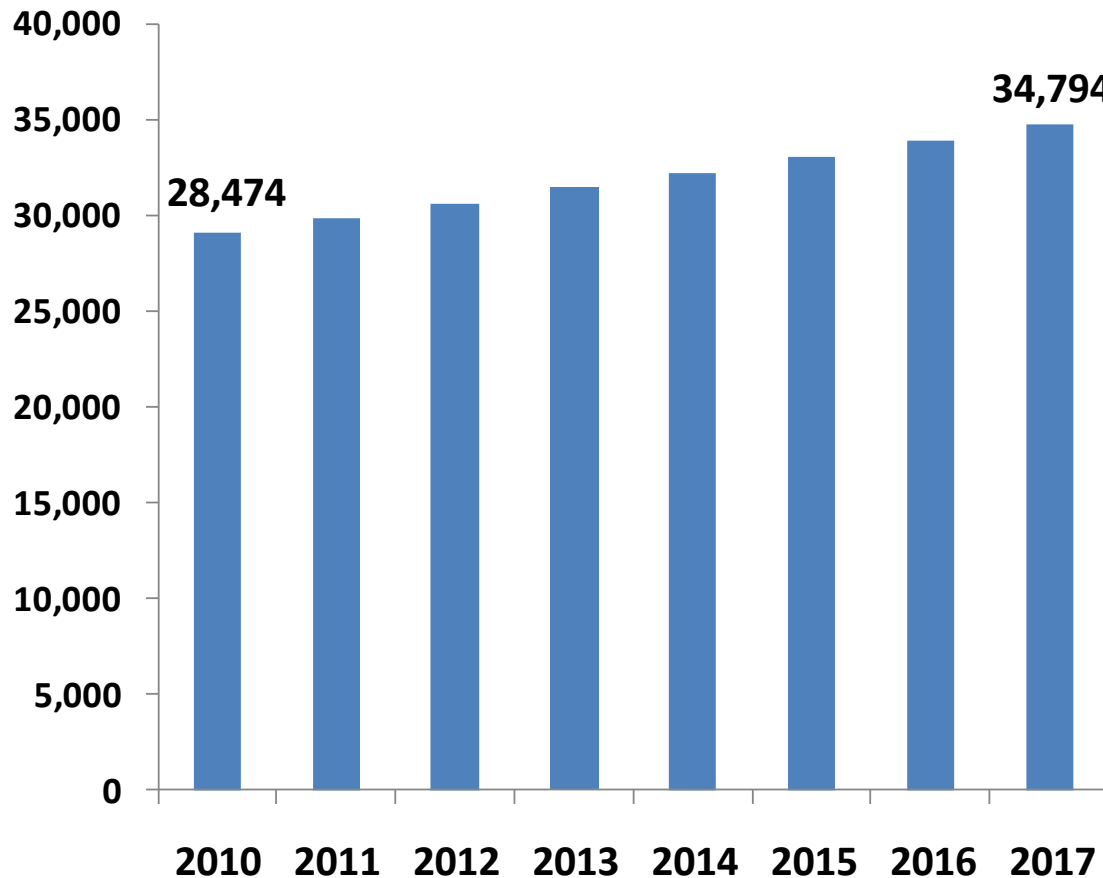


But, the prison population increased over 40 percent since 2000

State	Prison Pop. 2000	Prison Pop. 2008	Change in Prison Pop. 2000-2008	Incarceration Rate 2008
Indiana	20,125	28,322	41%	442
Wisconsin	20,754	23,380	13%	374
Ohio	45,833	51,686	13%	449
Missouri	27,543	30,186	10%	509
Michigan	47,718	48,738	2%	488
Illinois	45,281	45,474	0%	351

And is projected to continue to increase, costing taxpayers \$1.2 billion by 2017

Prison Population Projection: 2010-2017



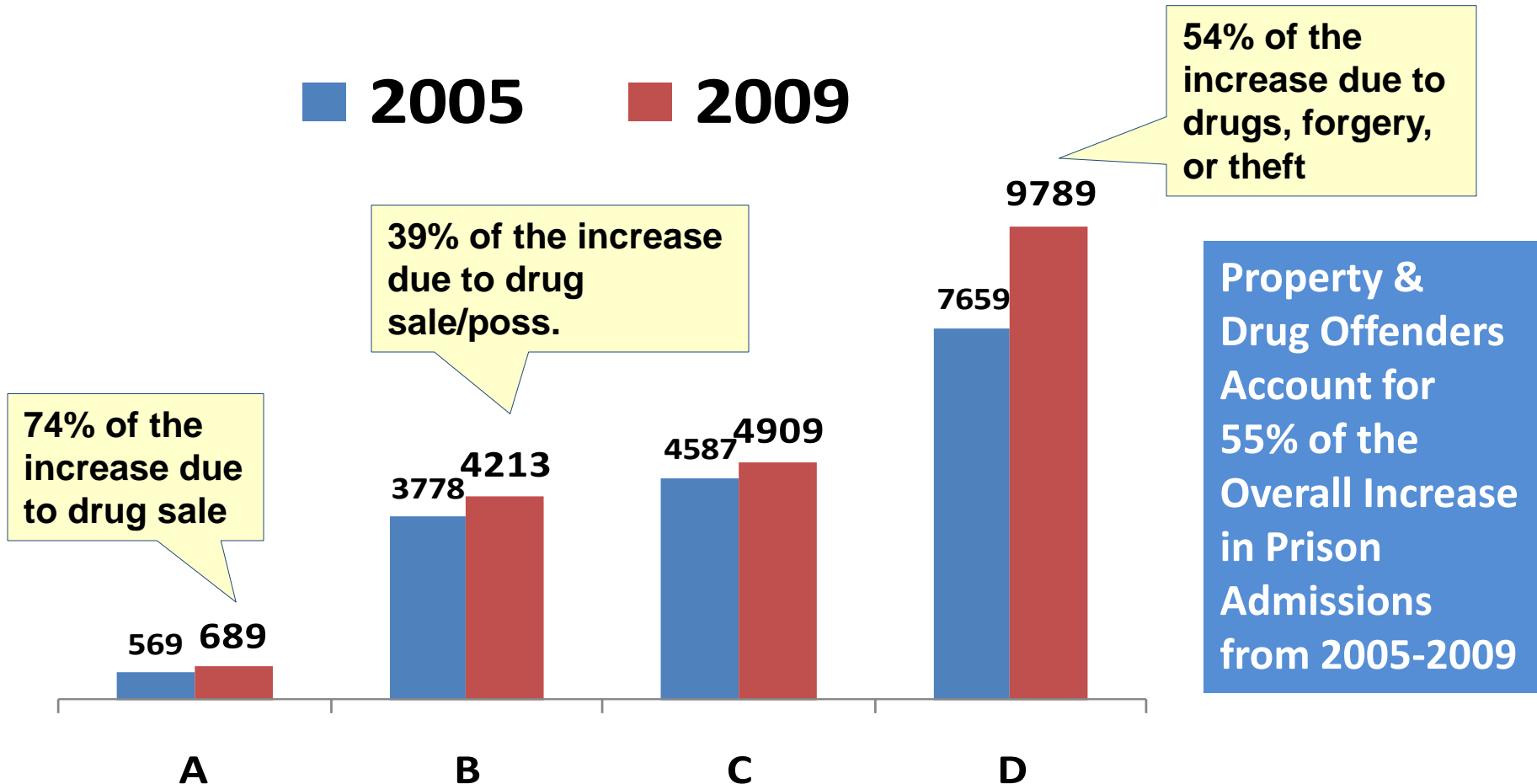
**21% increase projected
from 2010-2017**

**7 year cumulative costs to
house additional population
= \$1.2 billion**

**-Construction:
\$630 million
-Operating:
\$571 million**

Nonviolent Offenders Account for Most of the Growth in Admissions in Each Felony Group

■ 2005 ■ 2009



Policy Framework

Sentencing

1-A

Graduate drug penalties.

1-B

Restructure theft penalties.

1-C

Give judges more options when sentencing non-violent offenders.

Community Supervision

2-A

Use community corrections for felony offenders.

2-B

Create a probation improvement fund.

2-C

Focus supervision resources on high-risk offenders.

2-D

Ensure probation supervision after prison.

Public Safety

3-A

Increase access to cognitive-behavioral therapy and substance use treatment.

3-B

Apply swift and certain sanctions for probation violations.

3-C

Incentivize local governments to reduce Class D felony admissions to prison.

Policy Framework

Sentencing

CHALLENGE #1

Indiana's laws do not result in sentences that are proportionate to the severity of the crime.

Community Supervision

Public Safety

Indiana's Sentencing Policy for Low-Level Sale of Cocaine is Among the Most Severe and Costly

Penalties for Selling 3 Grams of Cocaine

State	Minimum	Maximum
Indiana	20 years	50 years
Texas	2 years	20 years
Wisconsin	--	Up to 12.5 years
Ohio	Probation	1 year

3 grams =



Indiana Lacks Graduated Penalties for Drug Offenders

Felony Penalty Thresholds for Sale of Cocaine

INDIANA	TEXAS	OHIO	MICHIGAN	WISCONSIN
< 3 g.	< 1 g.		< 50 g.	< 1 g.
	1-4 g.			1-5 g.
> 3 g.	4-200 g.	5-10 g.	50-450 g.	5-15 g.
		10-100 g.		15-40 g.
	200-400 g.	100-500 g.	450-1000 g.	> 40 g.
	> 400 g.	500-1000 g.	> 1000	
		> 1000 g.		

The Average Sentence is Longer for Some Nonviolent Offenders than for More Violent or Serious Offenders

Crime Type	Average Sentence (Months)
Drug Sale	96
Burglary	79
Sexual Assault	65

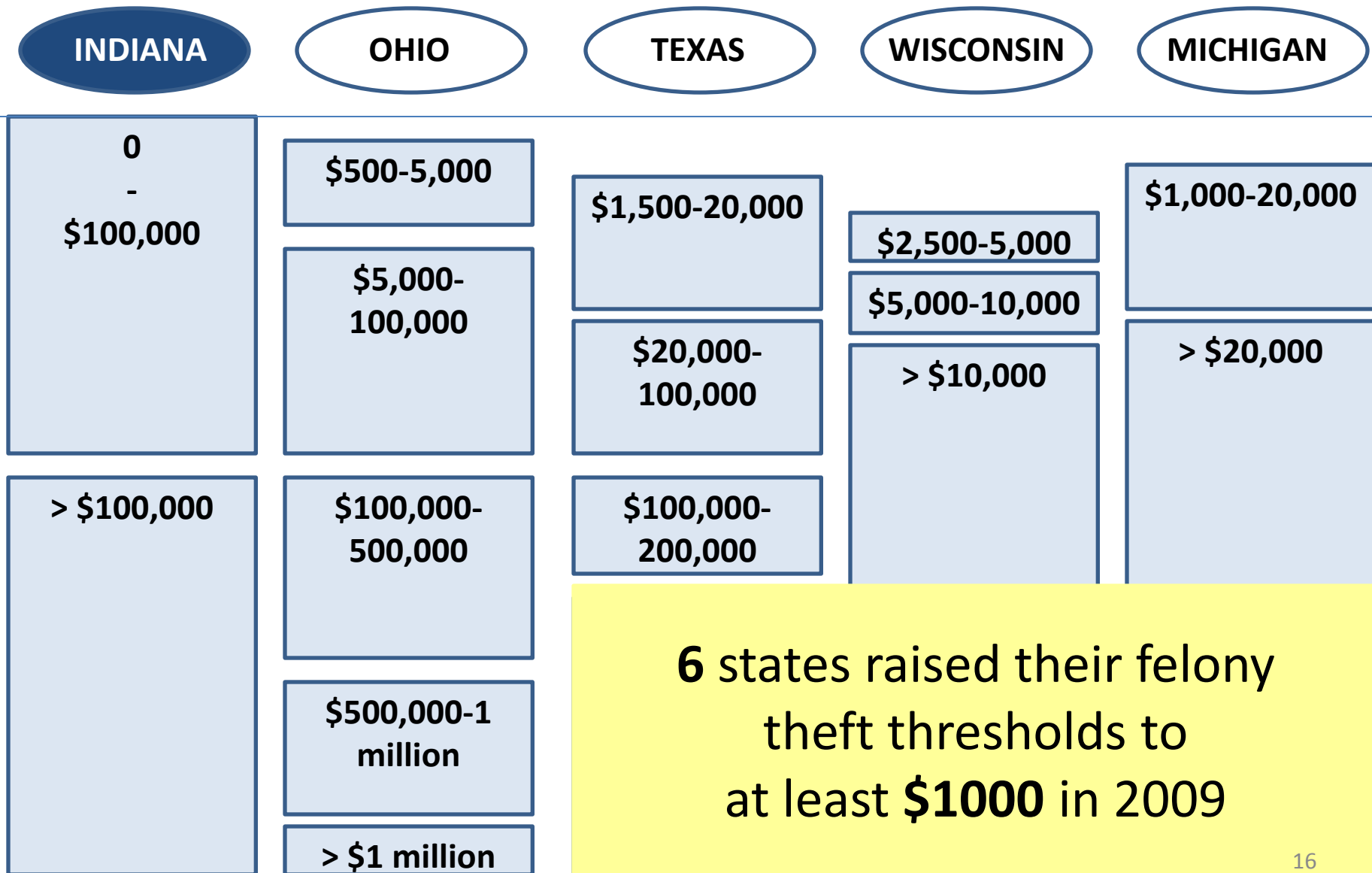
Policy Framework

Sentencing

1-A Graduate the penalties associated with drug possession and sale.

- Revise Indiana law by implementing various gradations for the possession and sale of cocaine, methamphetamine, and certain controlled substances.
- Provide that possession of up to 5 grams will be a Class D felony, 5-50 grams will be a Class C felony, and more than 50 grams will be a Class B felony. Manufacture or dealing up to 10 grams will be a Class C felony, 10-100 grams will be a Class B felony, and more than 100 grams will be a Class A felony.

Indiana Also Lacks a Felony Theft Threshold



Policy Framework

Sentencing

1-B

Restructure the penalties for theft to establish a minimum threshold amount for what constitutes a felony offense.

Current

C Felony

\$100,000+

D Felony

<\$100,000

Proposed

C Felony

\$50,000+

D Felony

\$750-\$50,000

A Misd.

<\$750

Policy Framework

Sentencing

1-C Give judges sentencing people who have committed a nonviolent offense more options.

- Allow nonviolent Class D felony offenses to be suspended at the judge's discretion.
- Remove “operating a vehicle with lifetime license suspension” from the current list of non-suspendible offenses.
- Repeal the provision mandating that if an adult is convicted of a felony within three years of committing a felony-equivalent offense as a juvenile, the sentence for the new felony is nonsuspendible.

Policy Framework

Sentencing

CHALLENGE

Indiana's laws do not result in sentences that are proportionate to the severity of the crime.

STRATEGY

Shift from a one-size-fits-all sentencing policy for theft and drug offenses to a more graduated approach; give judges options when sentencing a person charged with a nonviolent offense who has prior convictions.

GOAL

Graduated drug and theft penalties and increased judicial options ensure that the degree of punishment imposed is proportional to the severity of the crime committed.

Community Supervision

Public Safety

Policy Framework

Sentencing

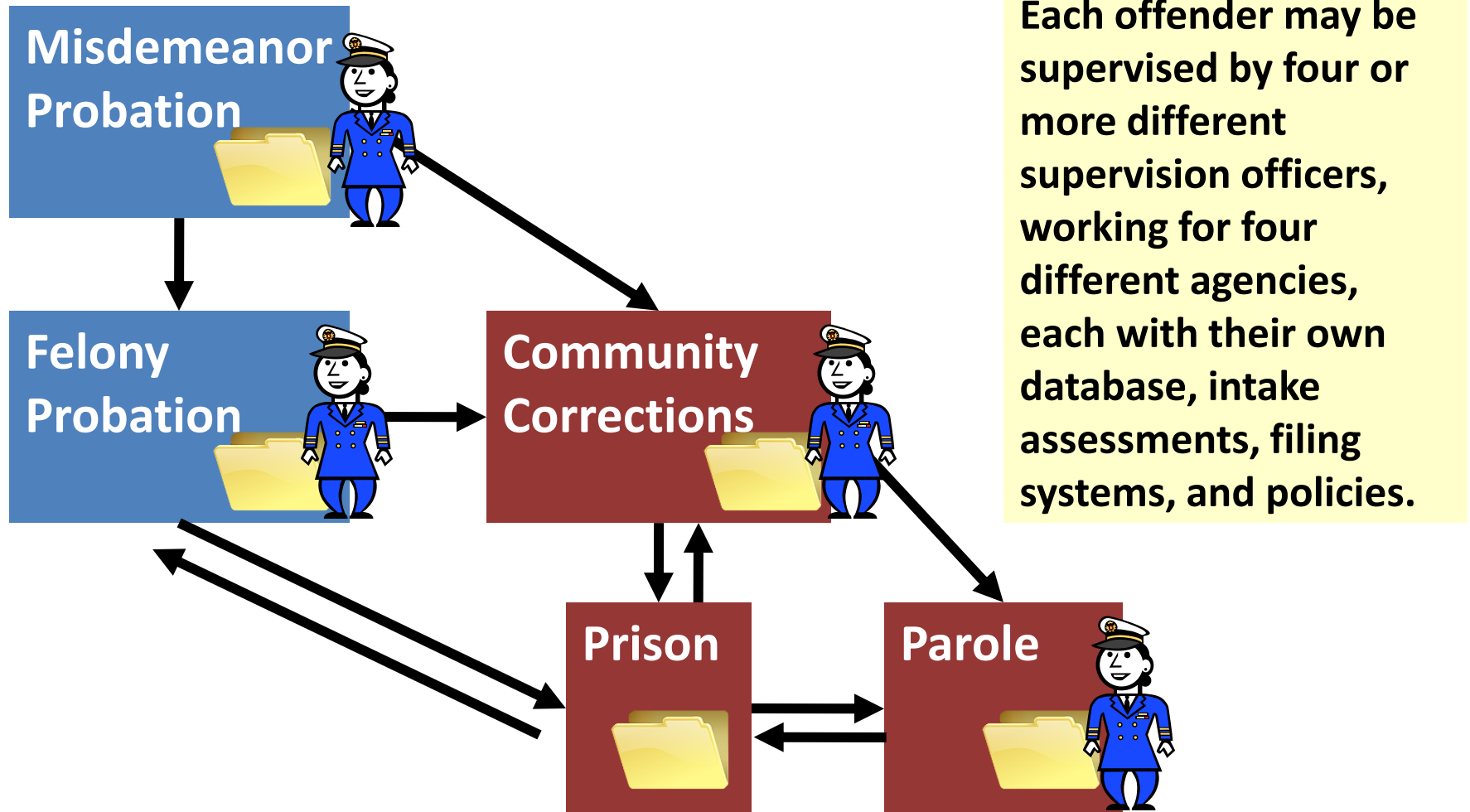
Community Supervision

CHALLENGE

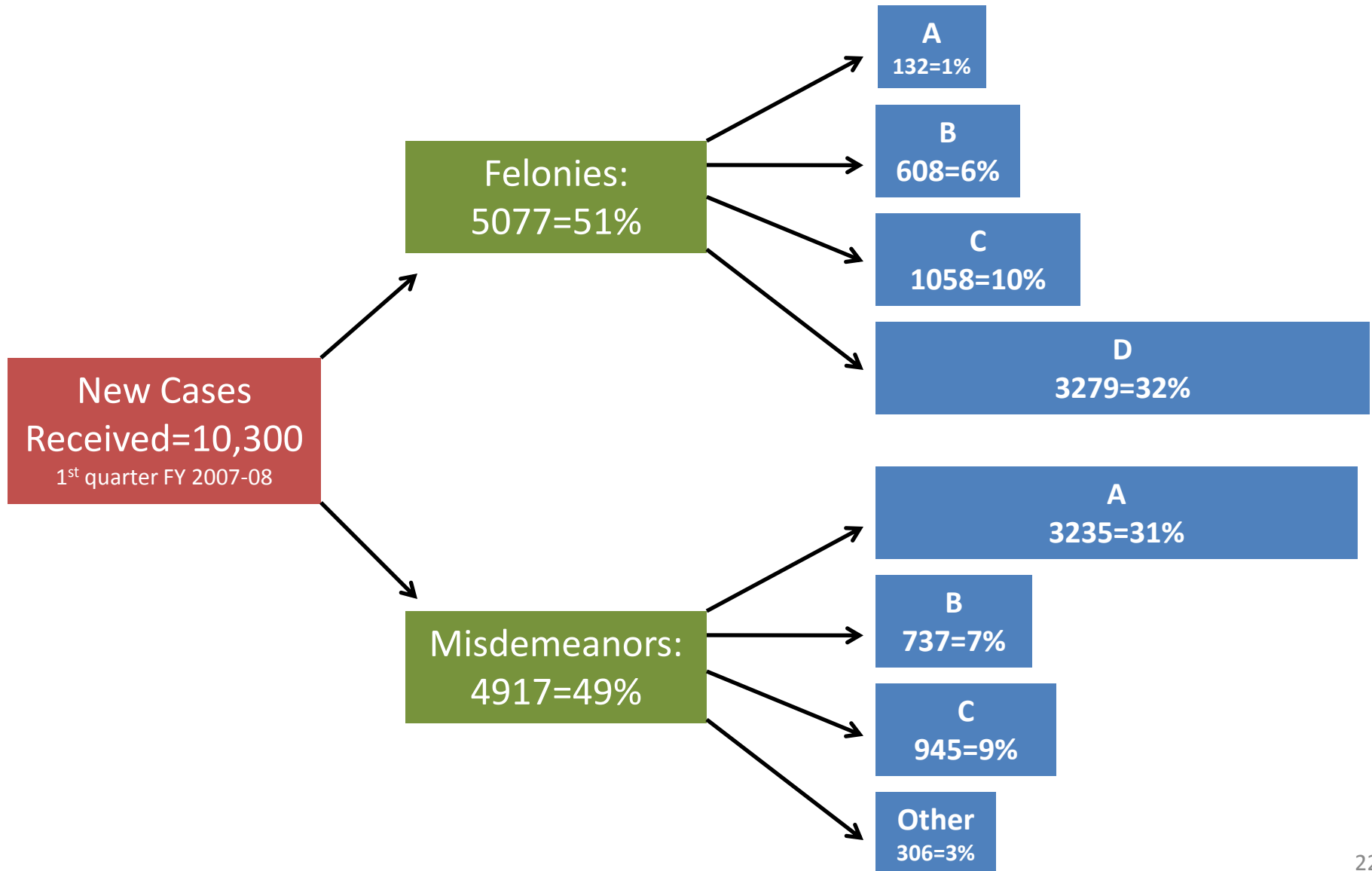
Probation, community corrections, and parole agencies do not coordinate operations, have overlapping authority, and do not share information about individuals under supervision.

Public Safety

Community Supervision and Information Systems are Fragmented & Uncoordinated



Community Corrections Serves Mostly D Felony & A Misdemeanor Offenders



Policy Framework

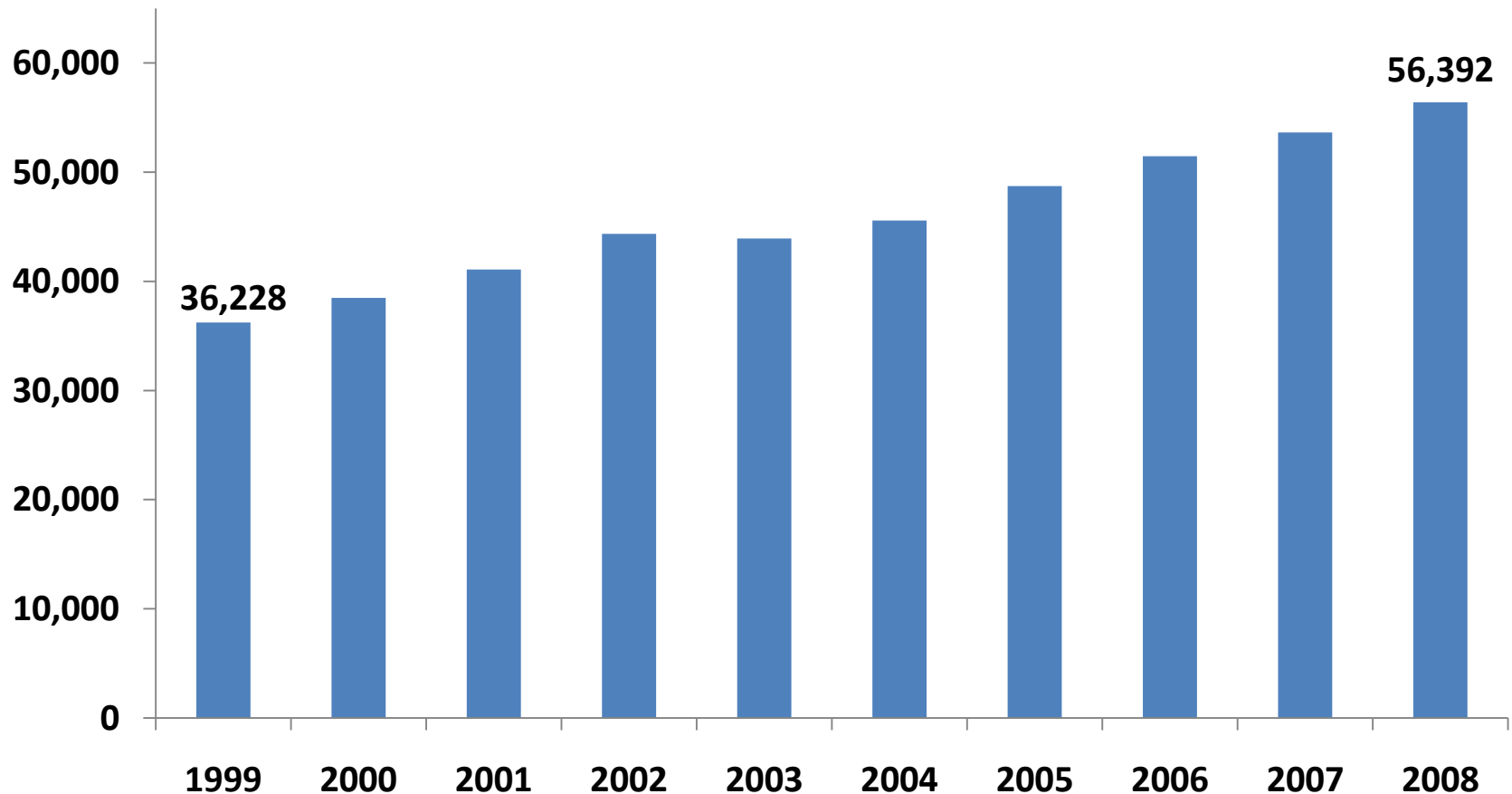
Community Supervision

2-A Require that state dollars allocated to community corrections agencies be dedicated to the provision of evidence-based practices for felony offenders.

- Remove community corrections statutory language specifying what program models can be used and replace it with a directive to use evidence-based practices that have been shown to reduce recidivism.
- Mandate that state community corrections funds can be used only for programs serving people convicted of a felony (not a misdemeanor) offense.

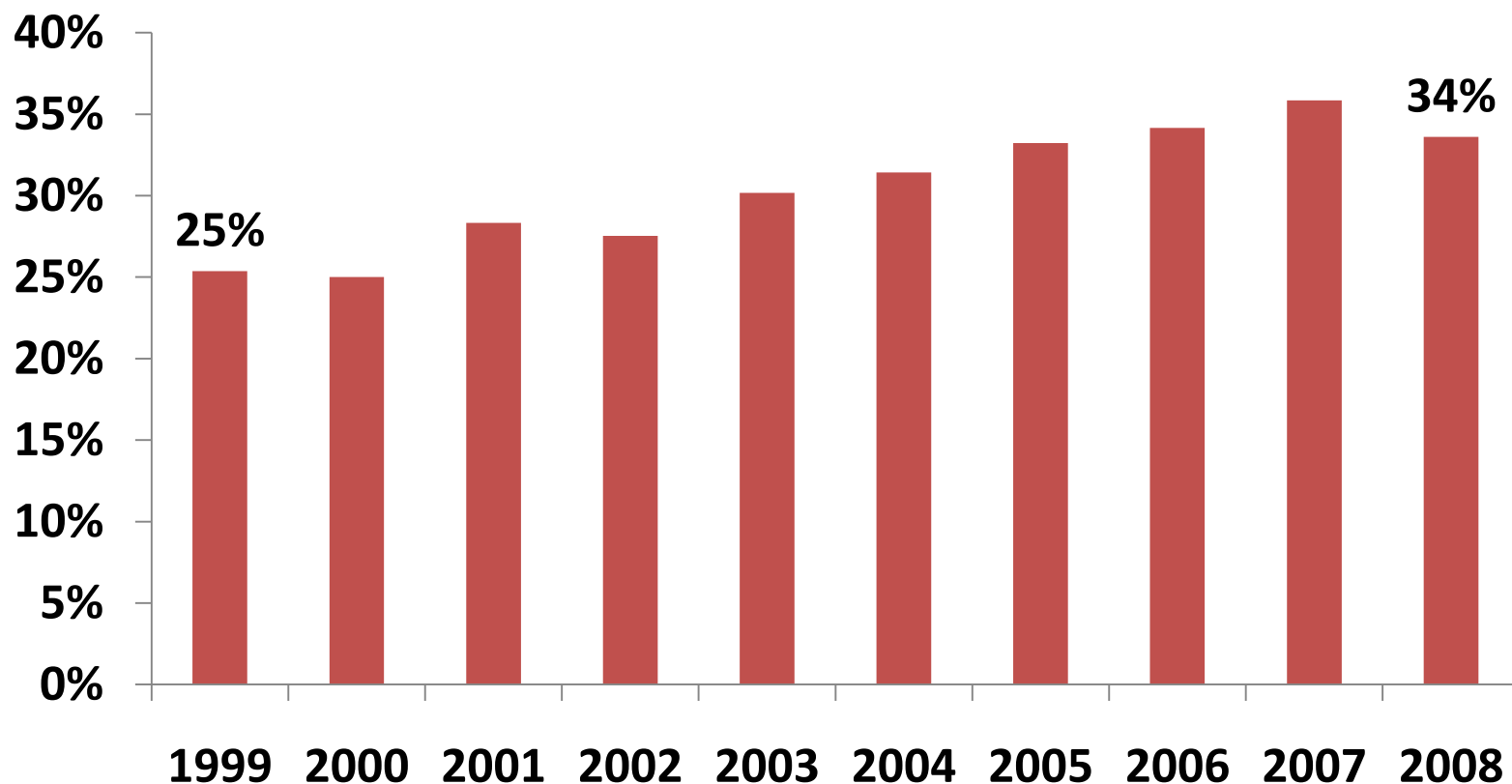
The Felony Probation Population Has Increased by 56% in the Last 10 Years

Felony Probation Population: 1999-2008



Probation Revocations Have Increased from 25% of All Terminations in 1999 to 34% in 2008

Percent of Terminations That Were Revocations: 1999-2008



Percent Revoked for Probation Violations in 2009 Varies from 33% in Marion County to 11% in St. Joseph County

Indiana Probation Terminations 2009			
	% Complete	% New Offense	% Violation
MARION	44%	24%	33%
ALLEN	61%	11%	27%
MADISON	59%	25%	16%
VANDERBURGH	79%	4%	17%
LAKE	56%	22%	22%
ELKHART	56%	21%	23%
HENDRICKS	70%	11%	19%
ST. JOSEPH	77%	12%	11%
HAMILTON	70%	14%	16%
DELAWARE	76%	11%	13%
OTHER	71%	15%	14%
STATE	64%	16%	19%

✓ Over 32% of probationers in Marion county are revoked due to technical violations compared to 10.6% in St. Joseph

Policy Framework

Community Supervision

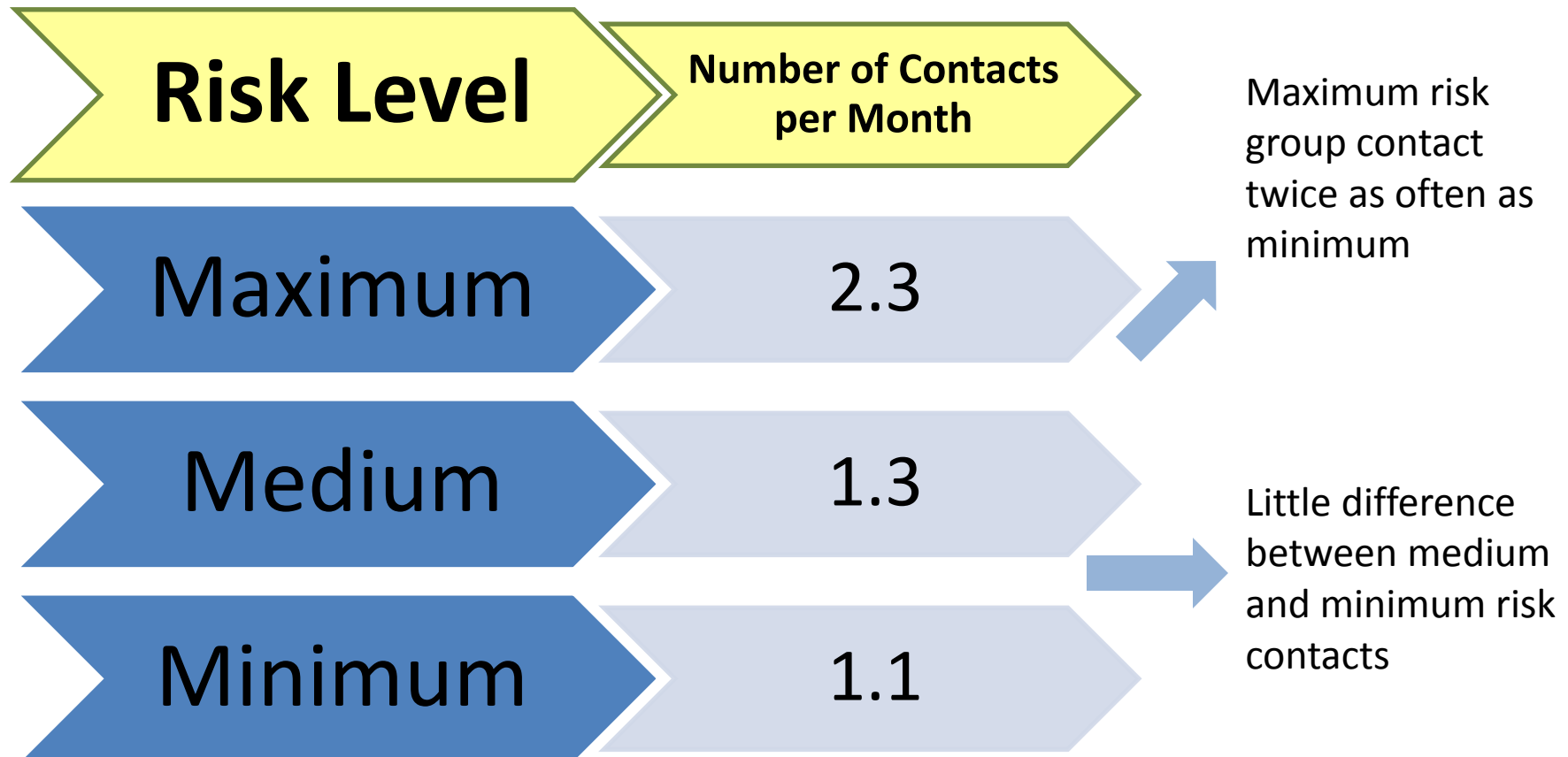
2-B

Create a probation improvement fund that provides counties with incentives to reduce probation revocations and coordinate with other supervision agencies.

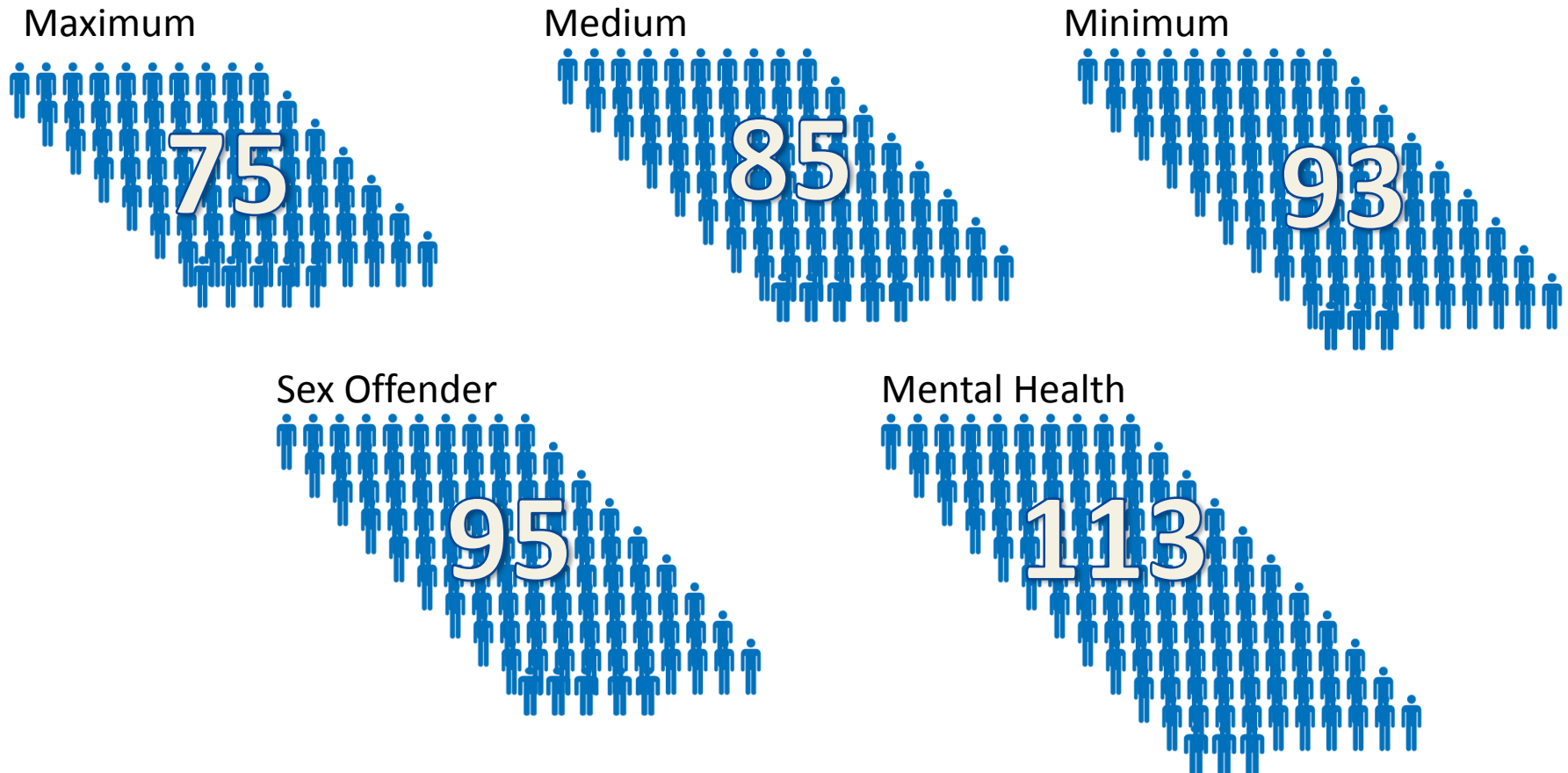
- Provide probation departments with competitive grants to support the adoption of best practices.
- Create a performance incentive that provides additional funding for jurisdictions that are able to reduce revocations to state prison.
- Require that funding be made available only to those jurisdictions that are actively working to improve coordination between the community corrections and probation departments operating within the county.

Contact Standards Were Related to Risk and Did Not Vary Significantly Across the State

61 % of respondents had contact standards related to risk



Average Probation Officer Caseload Size by Risk Level*



*These averages may include juvenile offenders and supervising officers.

Policy Framework

Community Supervision

2-C Focus probation supervision resources on high-risk offenders.

- Limit active supervision of low and medium-risk offenders to the first nine months for misdemeanor probationers and the first 12 months for felony probationers, unless they have violated a condition of supervision during that initial period.
- Place people who complete this supervision period successfully – and for whom additional active supervision is unnecessary – on administrative supervision.

Judges & Prosecutors Often Prefer People to be Supervised by Probation Instead of Parole After Prison

Felony Class	% Released from Prison to Probation with a Suspended Sentence
A	39%
B	38%
C	32%
D	27%

Policy Framework

Community Supervision

2-D **Require probation (as opposed to parole) supervision after release from prison, except for the most serious violent and sex offenders, who would be supervised on parole.**

- Continue to ensure that following a period of incarceration in prison, all people convicted of murder, a Class A felony, or a sex offense be supervised on parole unless the judge also imposed a suspended sentence.
- Require judges to impose a period of mandatory supervision for all other offenders sentenced to prison. Require that the period of supervision be at least six months and no more than three years.

Policy Framework

Sentencing

Community Supervision

CHALLENGE

Probation, community corrections, and parole agencies do not coordinate operations, have overlapping authority, and do not share information about individuals under supervision.

STRATEGY

Strengthen community supervision by focusing resources on high-risk offenders; create incentives for coordination among supervision agencies.

GOAL

Taxpayers get the most value from their investments in community supervision.

Public Safety

Policy Framework

Sentencing
Community Supervision

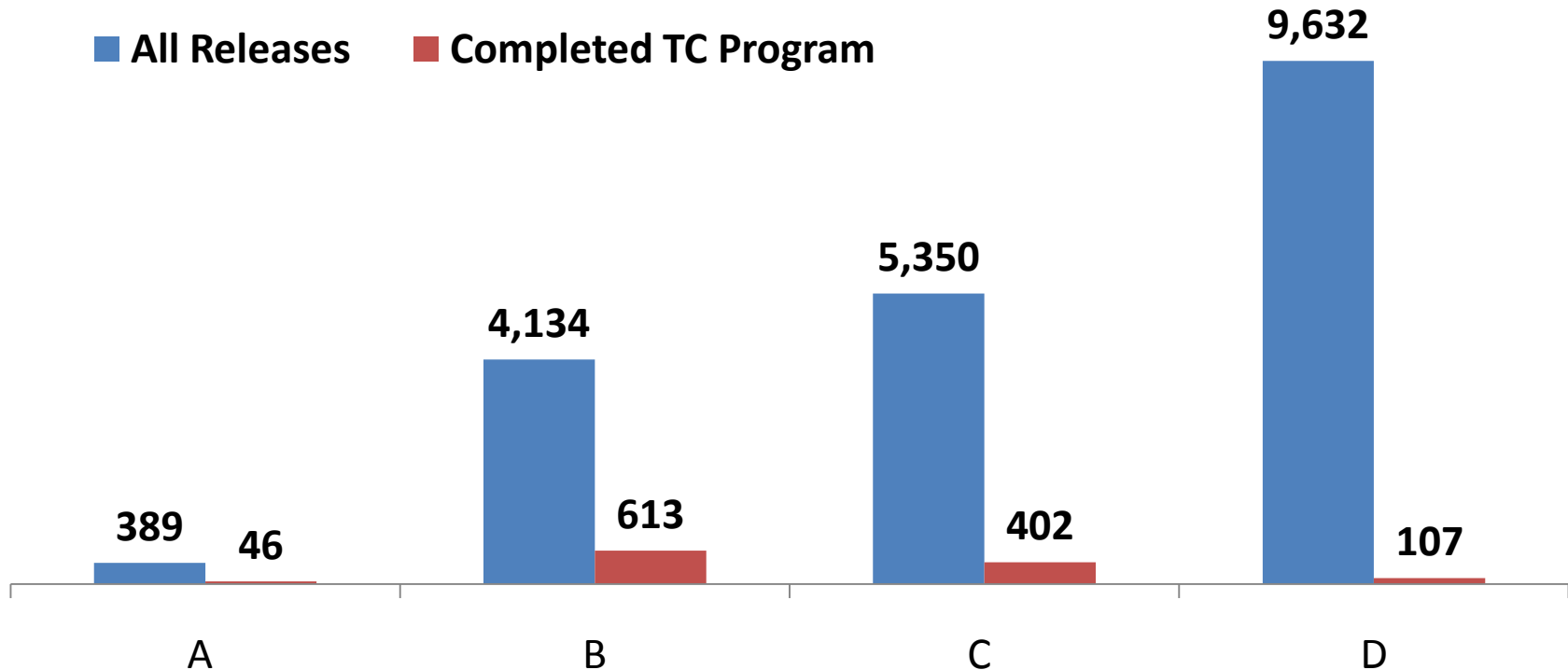
Public Safety

CHALLENGE

Adults under community supervision often cannot access substance use treatment programs; responses to violations of supervision conditions are slow and ineffective.

Few D Felony Offenders Receive Intensive Substance Use Treatment While in Prison

Few, if any, D Felony Offenders Access Programs Due to Short Length of Stay, Limited Incentive of Program Credits, and Large # in Held in Jail



Services for Offenders with Mental Illness and Substance Abuse Were Rated Poor or Fair



Policy Framework

Public Safety

3-A Increase access to substance use treatment in the community and cognitive-behavioral therapy in prison.

- Establish a grant program for localities to increase access to substance use treatment for high-risk felony probationers who have a high need for community-based treatment.
- Increase the number of people who complete the Therapeutic Community program and ensure access to community-based programming upon release to increase the impact on recidivism.
- Increase the availability of cognitive-behavioral therapy programming for people immediately prior to their release from prison.

Responses to Violations Are Not Always Swift

Indiana sheriffs report many probationers can stack up in local jails when violation hearings are not held for 30, 60, 90 days.

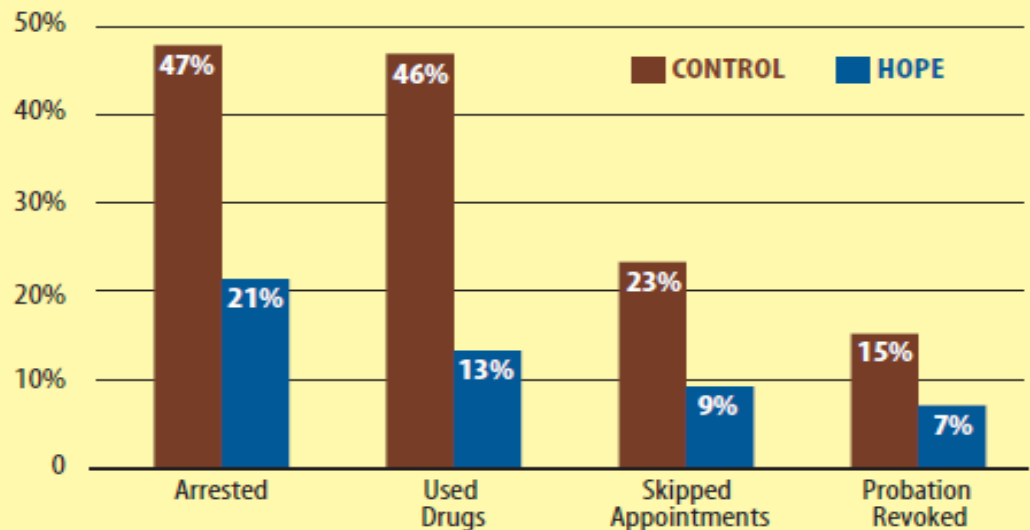
Research Suggests Swift & Certain (& Not Severe) Sanctions Work Best to Reduce Recidivism

Georgia POM

Enabling probation officers to employ administrative sanctions & probationers to waive violation hearings reduced jail time three-fold, reduced time spent in court, and increased swiftness of responses to violations.

Hawaii HOPE

Court-run intensive, random drug testing with swift, certain, and brief jail sanctions.



Policy Framework

Public Safety

3-B Enable the use of short, swift, and certain responses for probation supervision.

- Cap at 15 the number of days a person returned to jail for a probation violation can stay there while awaiting a court hearing.
- Provide probation officers with options, including short stays in local jails, that enable them to hold people on felony probation accountable for breaking the terms of their supervision, as opposed to requiring a court hearing in response to every violation.
- Administrative policies to ensure a process for enabling swift and certain sanctions while protecting due process rights of offenders shall be developed by the Indiana Judicial Conference.

Class D Offenders Admitted to Prison

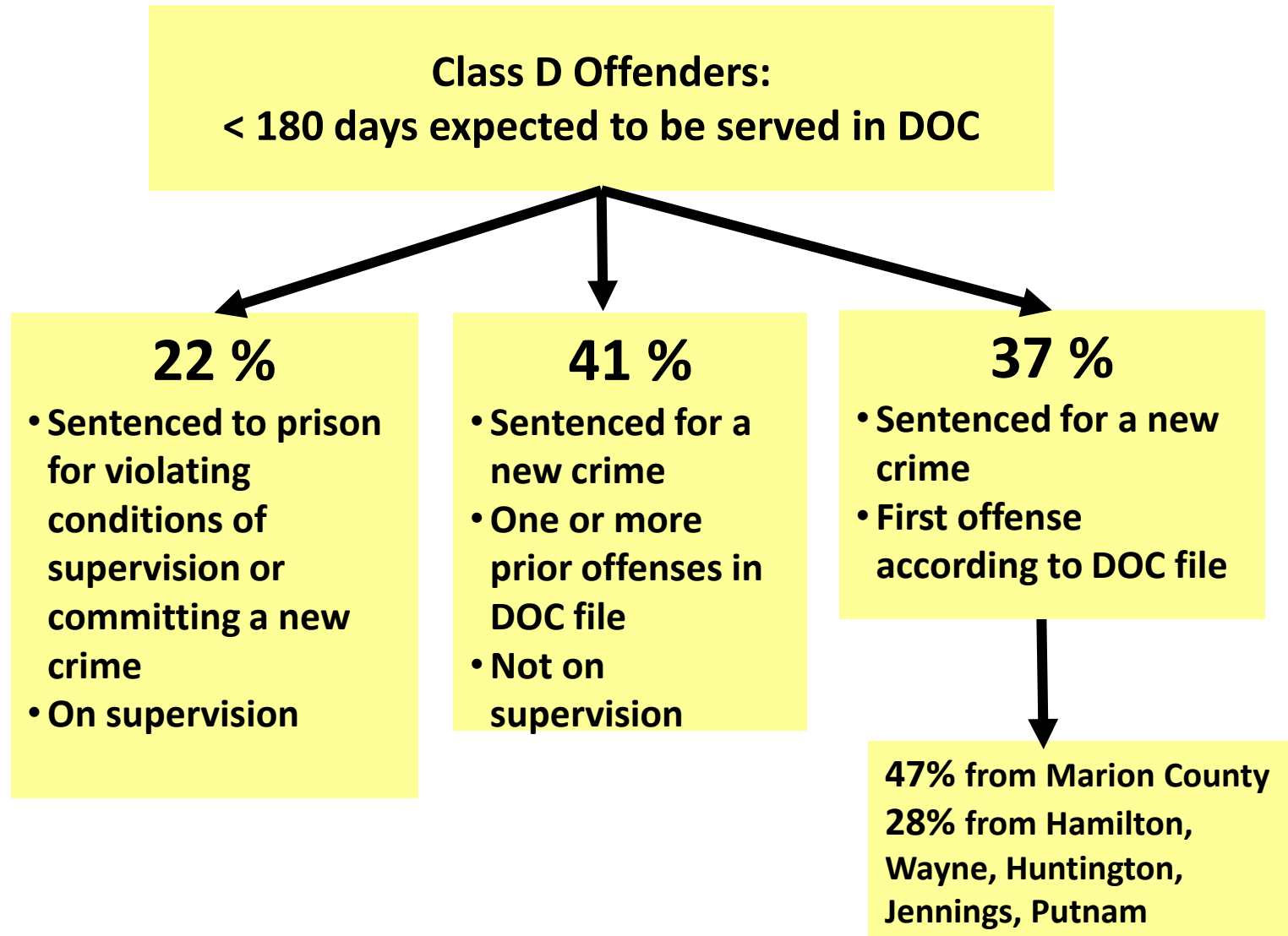
**19,600 Prison
Admissions in 2009**

Felony A:
689
4%

Felony B:
4,213
21%

Felony C:
4,909
25%

Felony D:
9,789
50%



Policy Framework

Public Safety

3-C Establish incentives to encourage local governments to reduce the number of Class D felony offenders sentenced to prison.

- Create a funding program that would allow the Department of Correction to provide performance-based funding to those counties that reduce the number of Class D felony offenders sentenced to prison. The prorated incentive would be 50 percent of the marginal costs the Department of Correction would otherwise assume for food, medical, and clothing expenses.
- Reduce other criminal justice funding for those counties that increase the number of Class D felony offenders sentenced to prison.

Policy Framework

Sentencing Community Supervision

Public Safety

CHALLENGE

Adults under community supervision often cannot access substance use treatment programs; responses to violations of supervision conditions are slow and ineffective.

STRATEGY

Increase availability of substance use treatment in the community and availability of cognitive-behavioral therapy in prison; encourage local governments to reduce the number of Class D offenders sentenced to prison; enable probation officers to use swift and certain sanctions for people who violate conditions of supervision.

GOAL

Crime and recidivism decline when offenders have access to community-based treatment, are supervised effectively and swift and certain sanctions are used in response to violations.

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Public Safety

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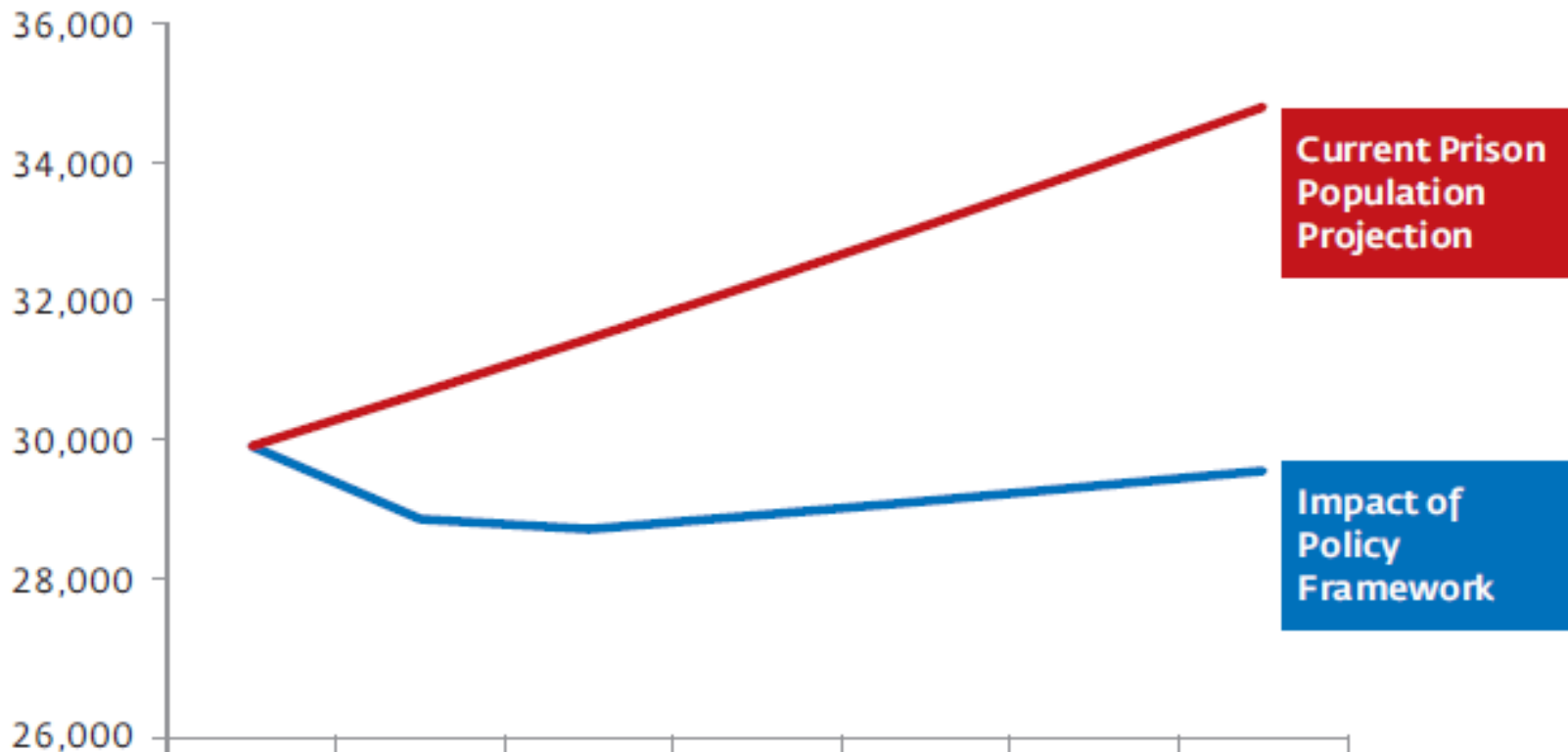
3-B

Apply swift and certain sanctions for probation violations.

3-C

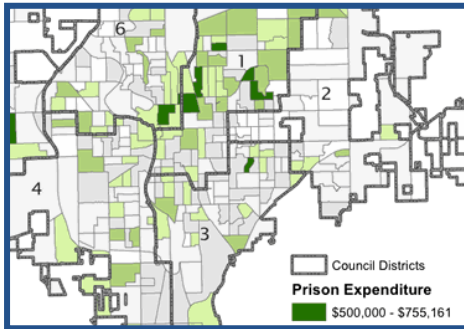
Incentivize local governments to reduce Class D felony admissions to prison.

Impact of Policies

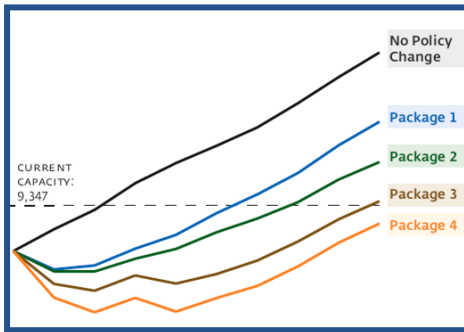


	2011	2012	2013	2014	2015	2016	2017
Current Projection	29,904	30,669	31,453	32,257	33,081	33,927	34,794
Impact of Policy Framework	29,904	28,852	28,707	28,907	29,112	29,330	29,547

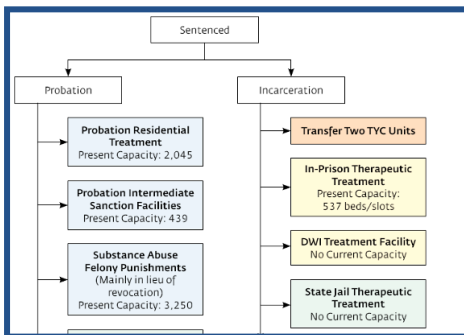
Marginal Cost Savings Per Biennium	\$ 12,200,000	\$ 13,600,000	\$ 11,600,000
Avoided Prison Expansion Costs	\$ 1,200,000,000		
Reinvestment Per Biennium	\$ 8,000,000	\$ 9,500,000	\$ 9,500,000



Thank You



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

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