



Justice Reinvestment in Kansas

2nd Working Group Meeting

September 5, 2012

Council of State Governments Justice Center

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Council of State Governments Justice Center

- **National non-profit, non-partisan, membership association of state government officials**
- **Represents all three branches of state government**
- **Justice Center provides practical, nonpartisan advice informed by the best available evidence**

**Criminal Justice /
Mental Health
Consensus Project**

**Reentry Policy
Council**

**Justice
Reinvestment**

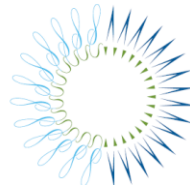
Justice Reinvestment Assists State Officials in Identifying Policies to Improve Public Safety

Justice Reinvestment

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



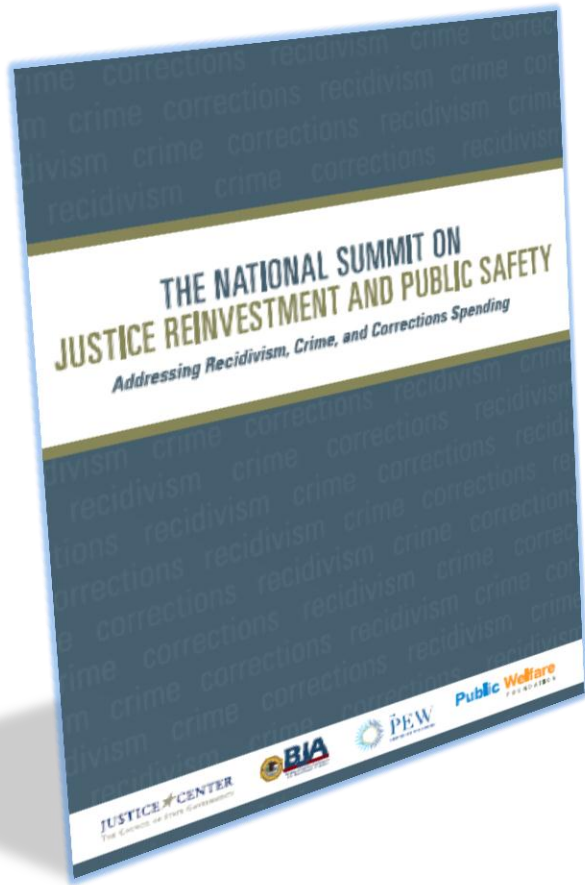
BJA
Bureau of Justice Assistance
U.S. Department of Justice



THE
PEW
CENTER ON THE STATES

Public Safety
Performance
Project

This Approach Focuses on Four Evidence-Based Strategies



1. Focus on the people most likely to commit crime
2. Use programs proven to work and ensure they are high quality
3. Deploy supervision policies and practices that balance sanctions and treatment
4. Target places where crime and recidivism rates are the highest

Justice Reinvestment Process

Bipartisan , bicameral, inter-branch working group

Phase I

Analyze Data and 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**

Phase 2

Implement New Policies

- **Identify assistance needed to implement policies effectively**
- **Deploy targeted reinvestment strategies to increase public safety**
- **Track the impact of enacted policies/programs**
- **Monitor recidivism rates and other key measures**

The Next Several Months

Phase I

Analyze Data & Develop Policy Options

Collect and examine quantitative data

- Reported crime & arrests
- Court dispositions & sentencing
- Court services, community corrections & post-release supervision
- Prison admissions, population & releases

Develop and present a comprehensive analysis of the state's criminal justice system

Engage stakeholders

- Law enforcement
- Judges
- County/district attorneys & defense counsel
- Victim advocates
- County officials
- Supervision agencies
- Behavioral Health Treatment Providers

Develop a framework of policy options that together would increase public safety and reduce/avert taxpayer spending

June - October

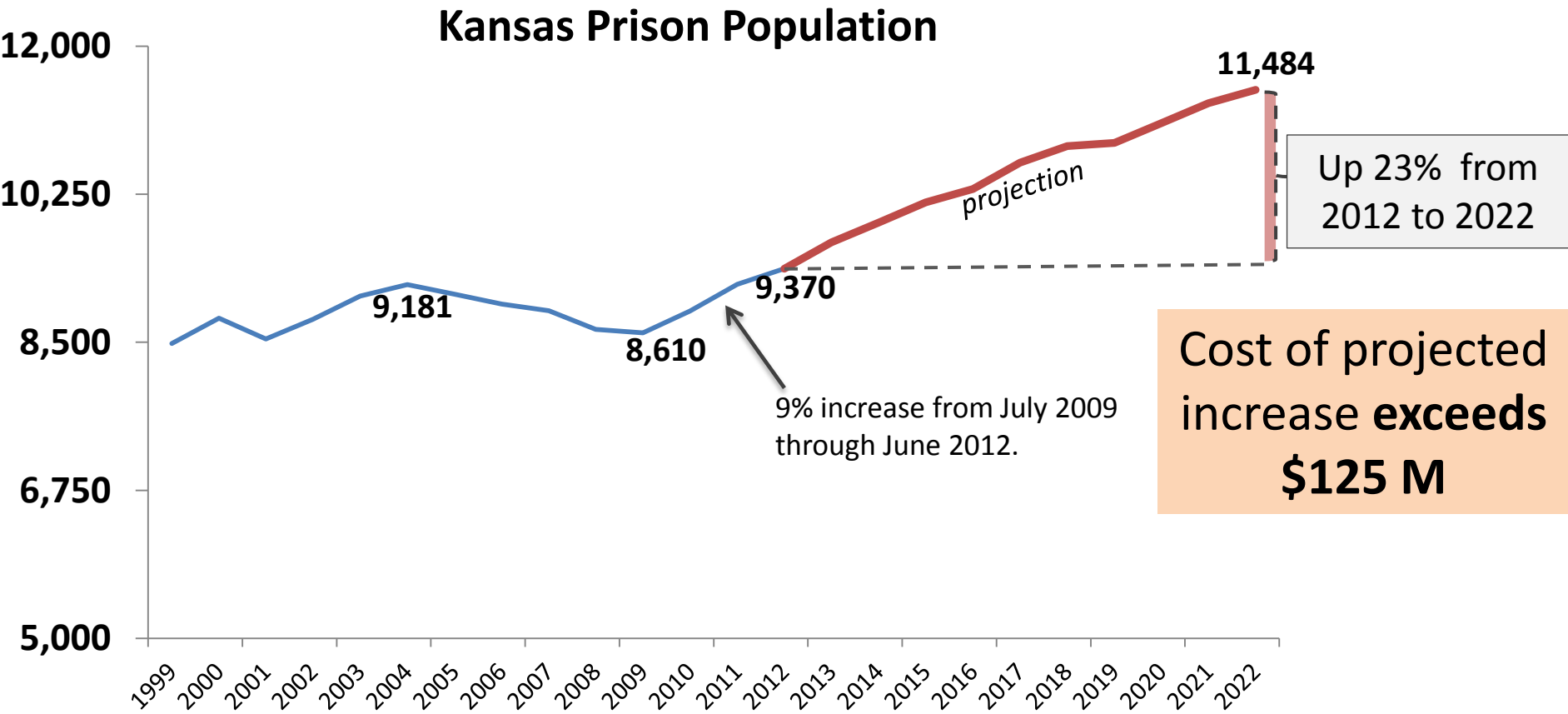
November - December

Status Update on Requested Data

Data*	Source	Status
Felony Sentences	KSC	Received
Court Services	Judiciary	Received
Community Corrections	DOC	Received
Prison Admissions, Releases, & Annual Population Snapshot	DOC	Received
Parole/Post-Release Supervision	DOC	Received
Arrests	KBI	Withdrawn

* Denotes case specific records at person level. Court Services data are the exception as they were available only in aggregate form.

Prison Population to Grow 23% Over Next Ten Years



Initial Findings & Subsequent Areas of Research

Declining volume of reported violent and property crime; increasing arrest totals

- Why are arrests rising while crime is falling?
- Are arrests up across the board or just for certain offenses?
- Have the number of law enforcement officers changed?

Increasing use of prison by the courts

- Are certain offenses driving the increase?
- Is there an increase in guilty dispositions or just case filings?
- Are specific counties pushing up the number by using prison more frequently than the rest?

Prison admissions are driven significantly by probation revocations for conditions violations

- Are revocations being driven by offenders across risk levels?
- Have the individuals had access to programming in the community?
- What are the violation histories of those being revoked?

What We Have Learned Since Last Meeting

Crime Down – Arrests Up

- Arrests up across most offense types
- Not leading to more criminal case filings
- Impact on local jail populations (pretrial) to be determined

More Sentencing To Prison

- More cases ending as “guilty”
- Within allowed discretion, courts increasingly sentencing offenders to prison

Probation Revocations Drive Prison Admissions

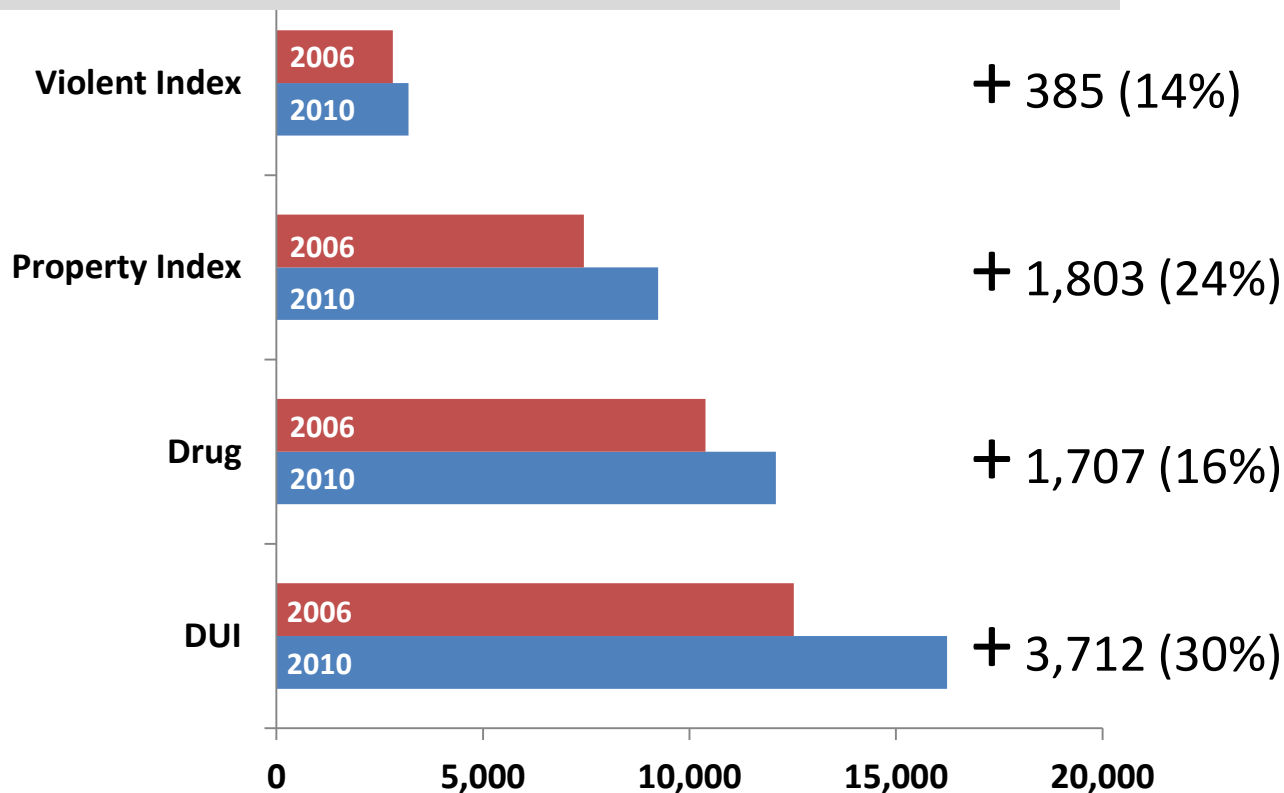
- Probation failures concentrated among higher risk clients with substance abuse and/or mental health needs
- Probationers supervised much longer, regardless of outcome

Overview



Arrests Increase Across Offense Types

Adult Arrests, 2006 and 2010



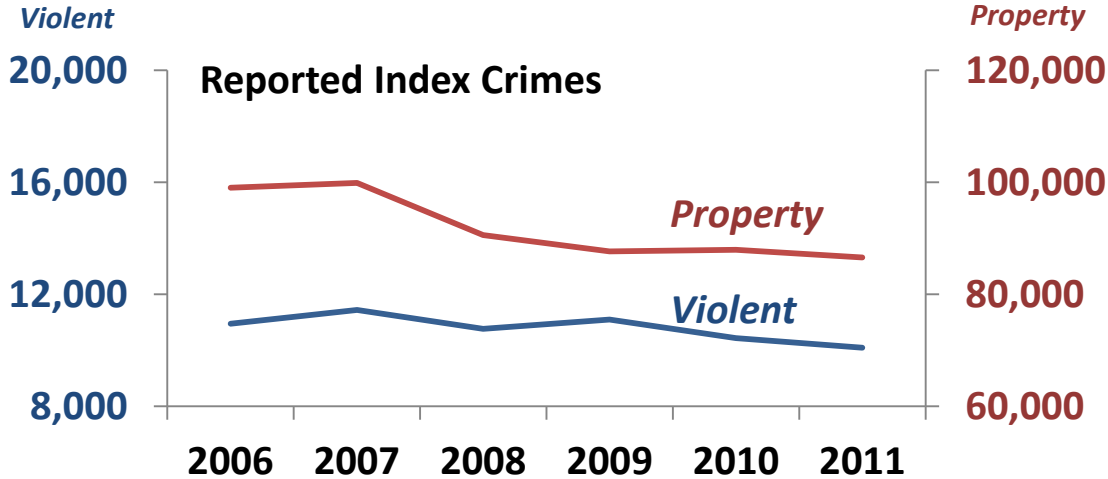
✓ Driven by increase in aggravated assault.

✓ Driven by increases in burglary and theft arrests.

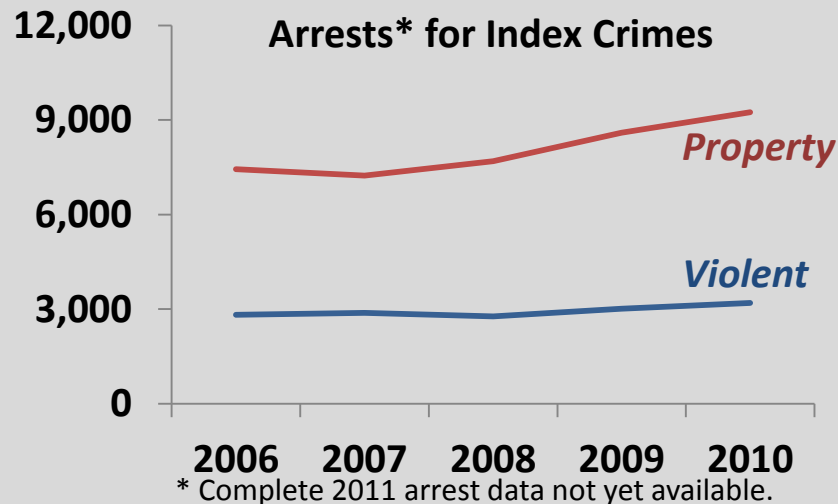
Have local jail populations been impacted by the arrest increases?

23% Increase in Adult Arrests Statewide

Fewer Crimes Being Reported, But Increasing Number of Arrests

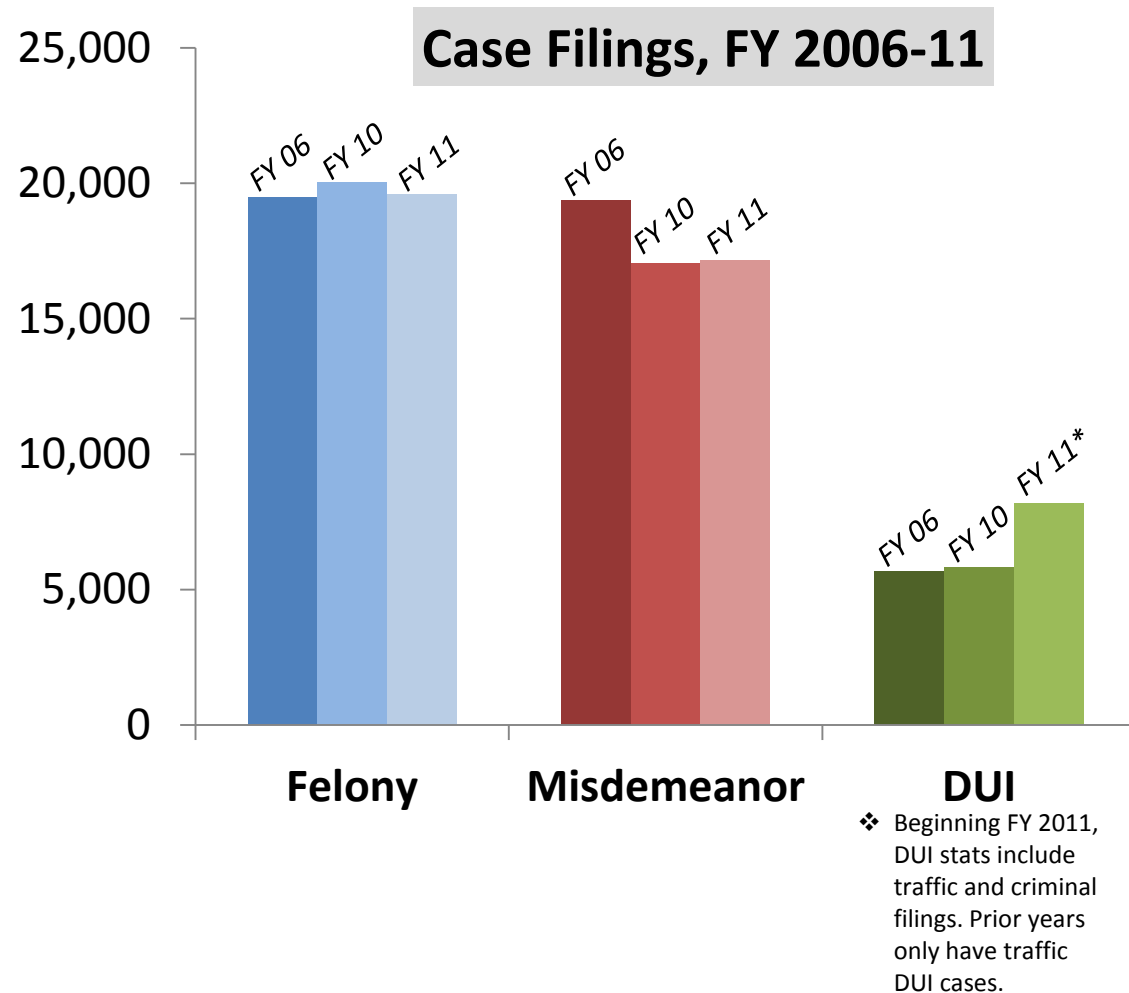


% Change - Reported Crime	2006 - 2011	2009 - 2011
Property	- 13%	- 1%
Violent	- 8%	- 9%



% Change - Index Arrests	2006 - 2010	2009 - 2010
Property	+ 24%	+ 8%
Violent	+ 14%	+ 6%

Increased Arrests Have Not Generated More Criminal Court Cases



Despite more than 20,000 additional adult arrests from 2006-10:

- ✓ Felony filings were flat, and
- ✓ Misdemeanor filings decreased.
- ✓ DUI filings were flat.

DUI filings increased from FY10-11, but may be due to methodology change.

Crime & Arrest Summary Diagnosis

Crime is down, but arrests have risen during same time period.

Arrest increases seen for most offense types

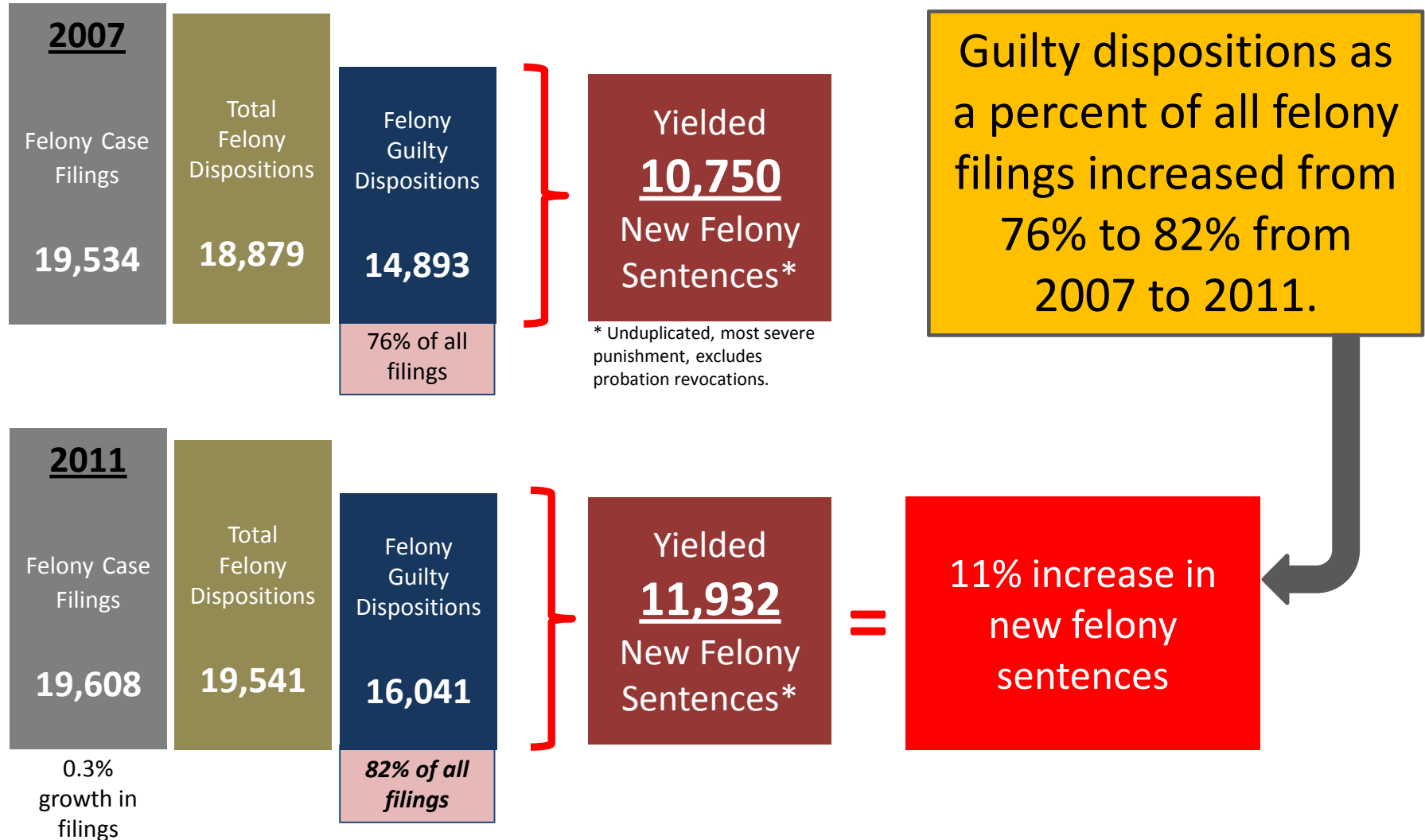
Criminal case filings have not increased

Uncertain how jails have been impacted?

Overview

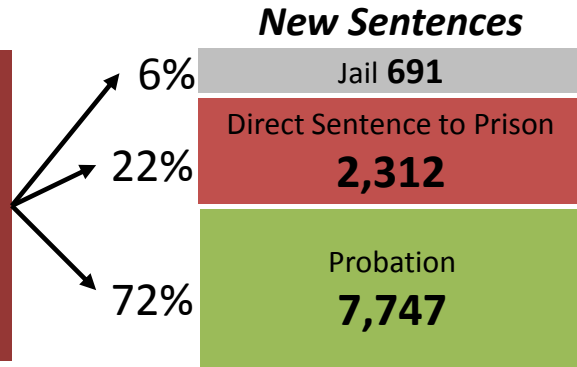


Increase In Guilty Disposition Rate Has Yielded More Felony Sentences



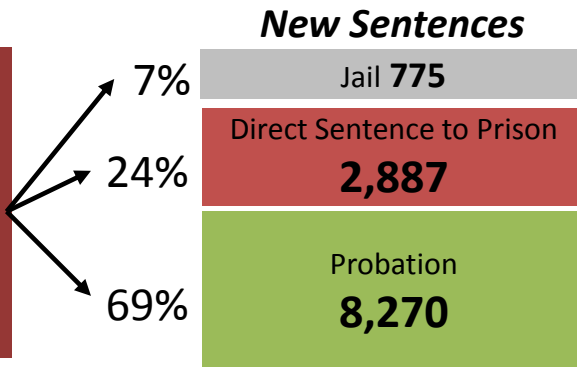
Increased Convictions Yielded As Many Sentences to Prison As Sentences to Probation

FY 2007
New Felony
Sentences
10,750



Greater “guilty” rates and shift towards prison as sentence has generated almost 600 additional prison sentences each year.

FY 2011
New Felony
Sentences
11,932

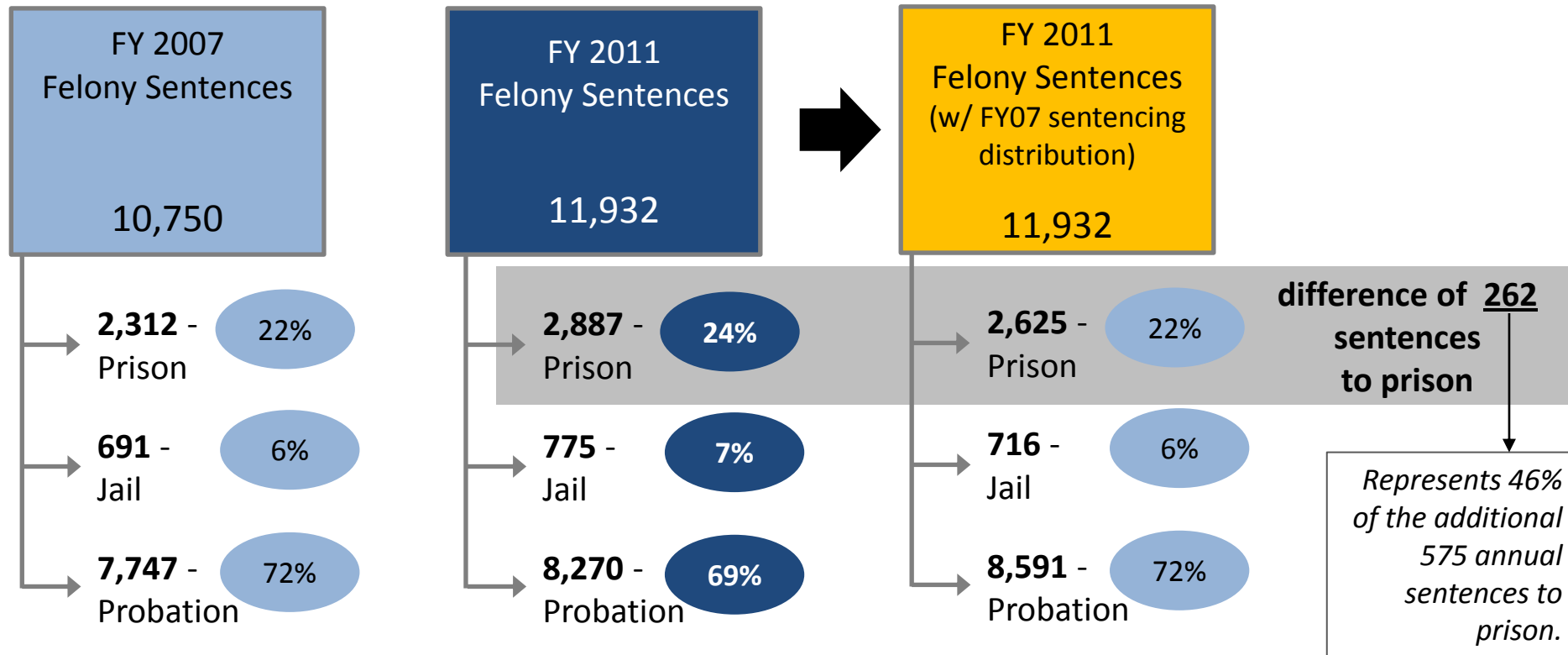


+ 12% since 2007 (+ 84 per year)

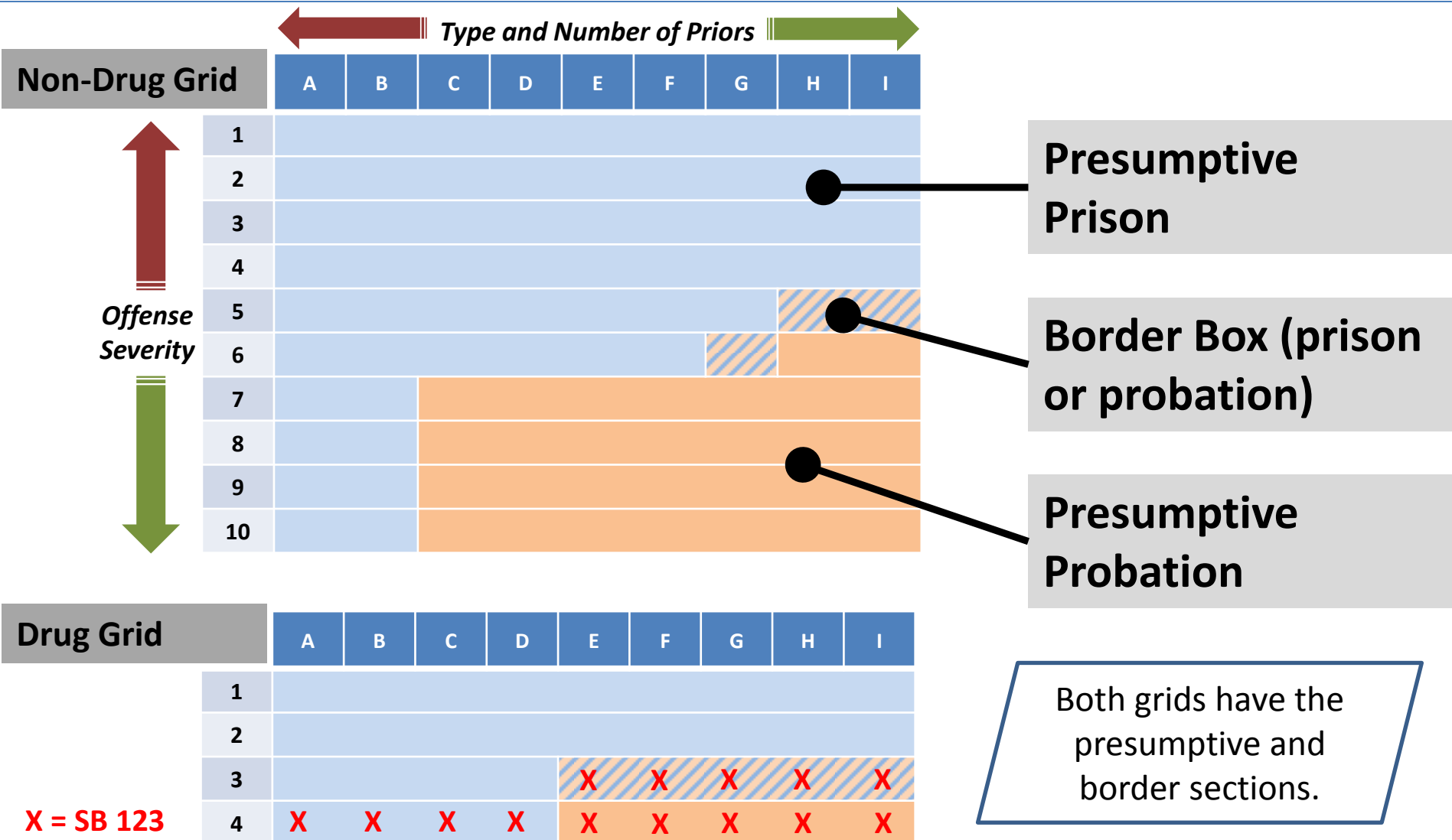
+ 25% since 2007 (+ 575 per year)

+ 7% since 2007 (+ 523 per year)

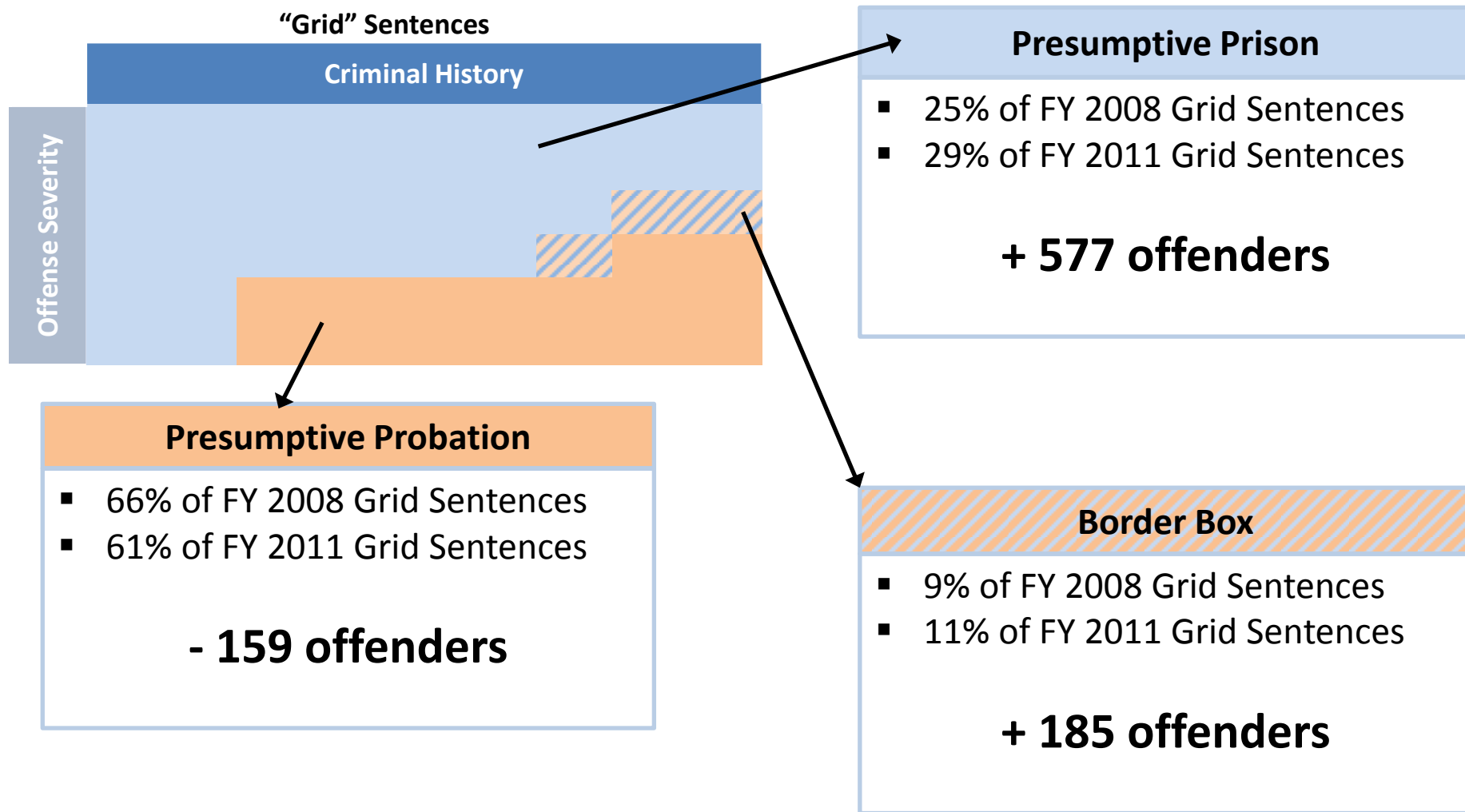
Half of the Additional Sentences to Prison Are Due to Shifts in Sentencing Disposition Patterns



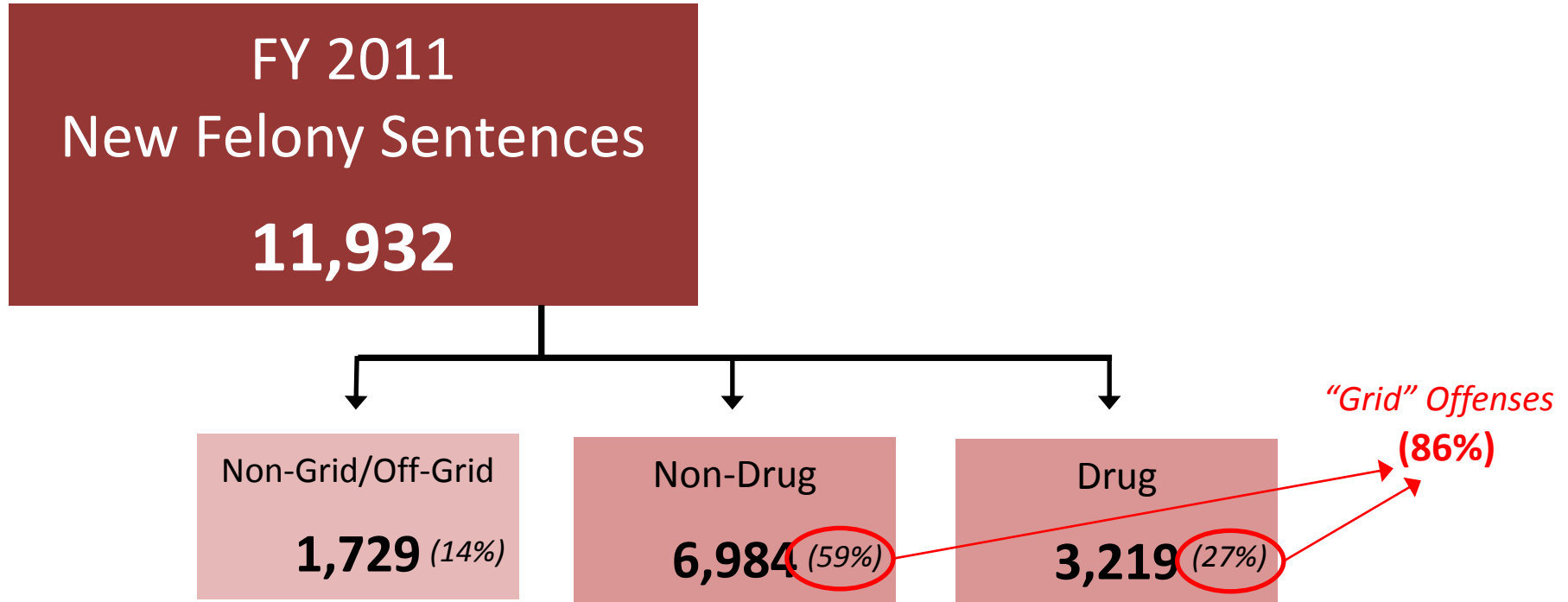
Kansas Sentencing Grids (through FY 2012)



Large Increase in Number of Offenders Falling in Presumptive Prison Section of Grid



86% of Felony Sentences Fall on Grid



Discretion Exists to Depart from “Presumptive” Sentence

FY 2011 “Grid” Sentences = 10,203

Criminal History

Offense Severity

2,951 Presumptive Prison
- 29% of All “Grid” Convictions

- 65% to prison
- 35% to probation

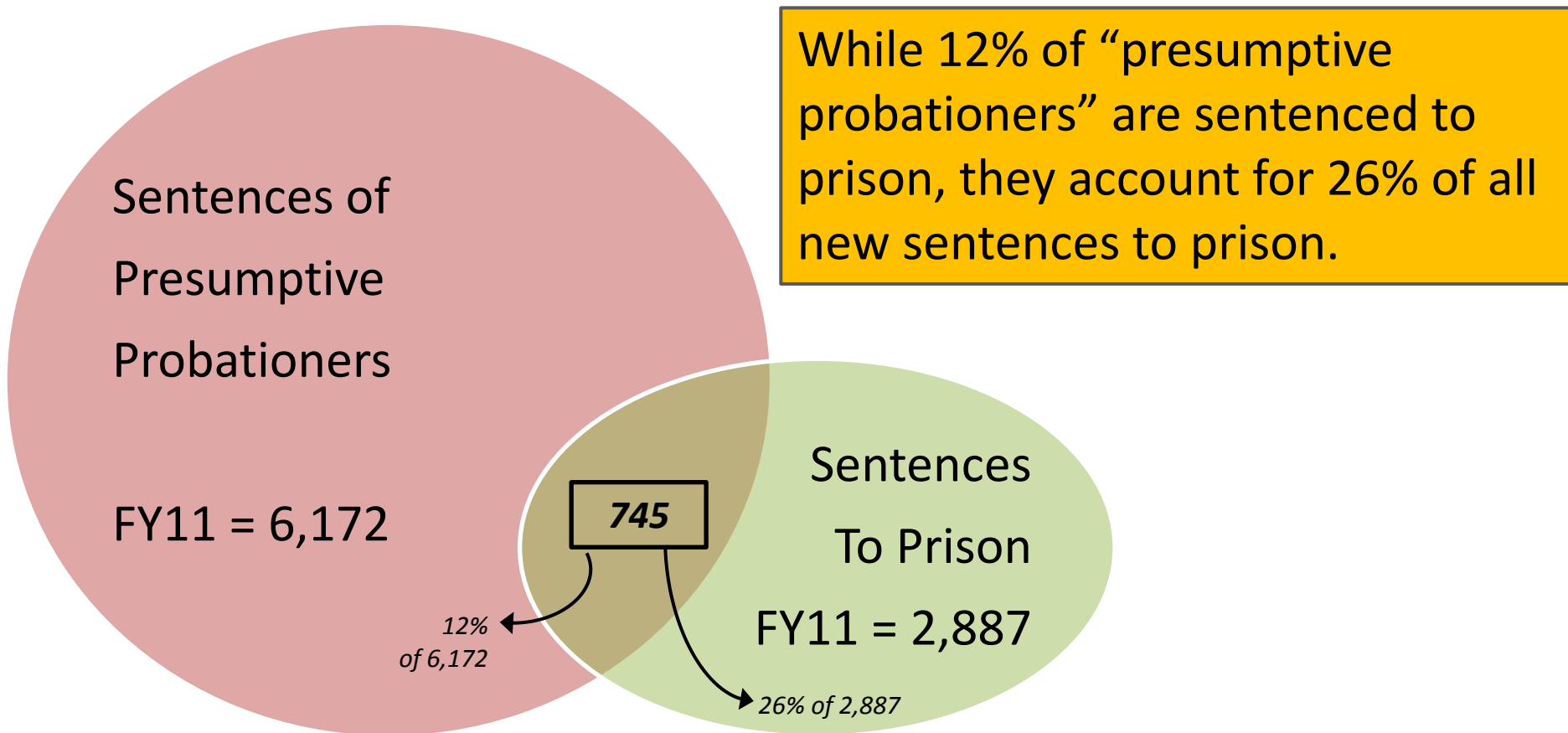
1,080 Border Box
- 11% of All “Grid” Convictions

- 18% to prison
- 82% to probation

6,172 Presumptive Probation
- 60% of All “Grid” Convictions

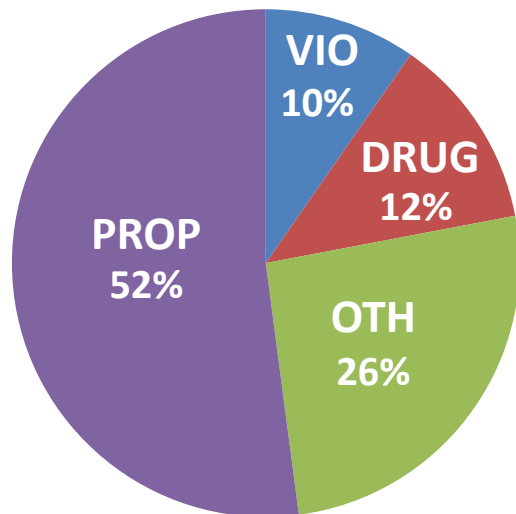
- 12% to prison
- 88% to probation

More than One-Quarter of Prison Sentences Are Offenders Who Fall in Presumptive Probation



90% of “Presumptive Probation” Sentences to Prison Involve Nonviolent Offenses

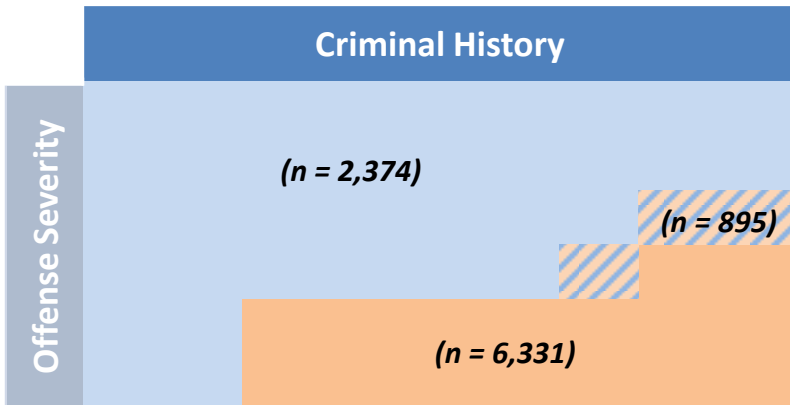
Offense Type	FY 2011 Sentences of Offenders Falling in Presumptive Probation		
	Total Sentenced	# to Prison	% to Prison
Total	6,172	745	12%
Violent	730	72	10%
Property	2,754	388	14%
Drug	1,654	92	6%
Other	1,034	193	19%



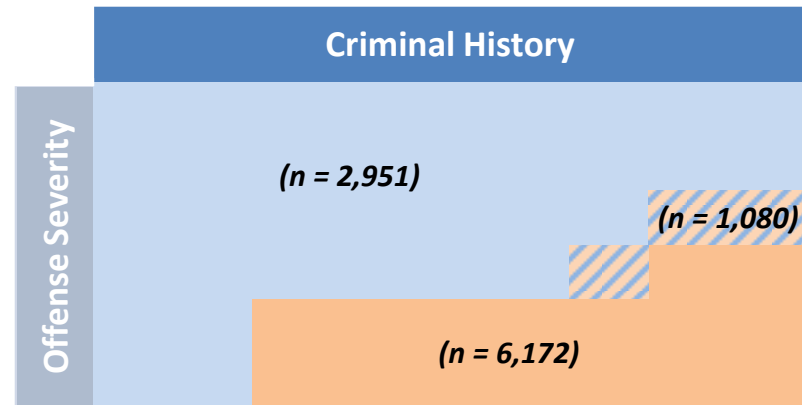
- ❑ More than half of the “property” offenses are theft.
- ❑ The “other” offenses involve escape from custody, obstructing legal process, fleeing or eluding a law enforcement officer (2 or more priors of same), criminal threat, aggravated failure to appear...

Recent Trends Demonstrate Shift in Discretion Towards More Prison Sentencing

FY 2008 "Grid" Sentences = 9,600



FY 2011 "Grid" Sentences = 10,203



Presumptive Prison

	FY08	FY11
% to Prison	64%	65%
% to Probation	36%	35%

*Fewer downward
departures*

Presumptive Probation

	FY08	FY11
% to Prison	10%	12%
% to Probation	90%	88%

*More upward
departures*

**Combined =
150 more prison
sentences**

Felony Sentencing Summary Diagnosis

New sentences to prison have increased by almost 600 annually.

Increase in “guilty” rates

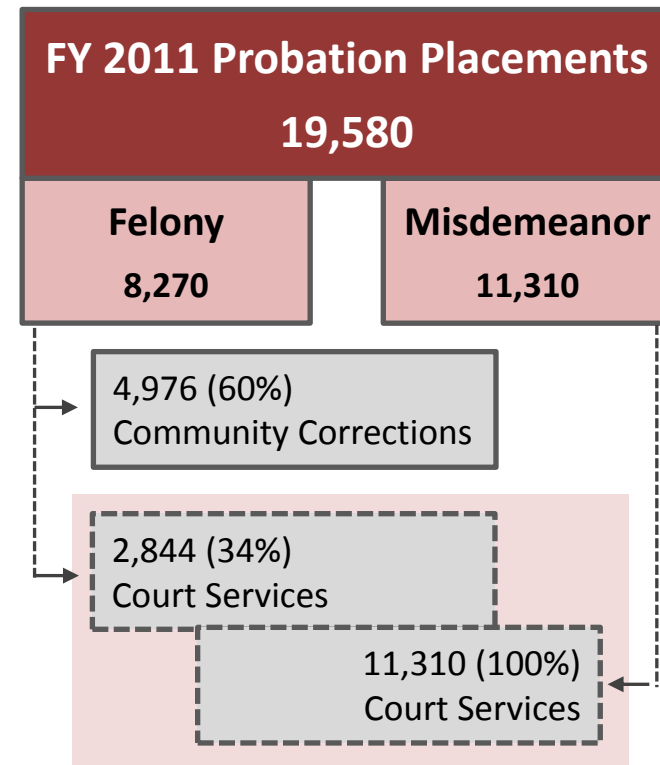
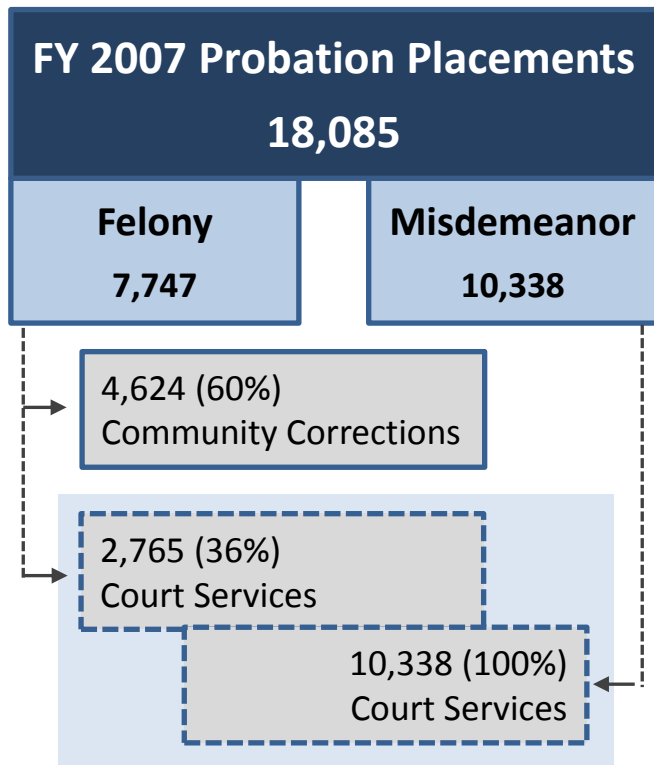
More offenders falling in “prison” section of grids

Discretion shifting towards prison

Overview



Overall Probation Placements Are up 8%

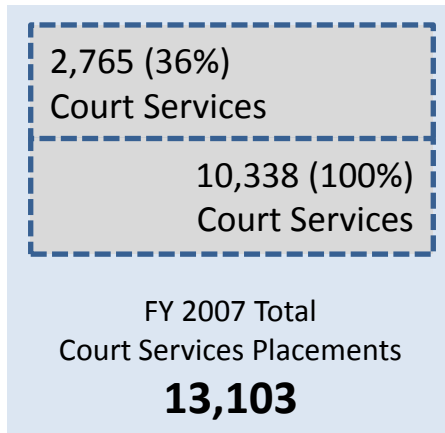


❑ Felony placements are up 7%.

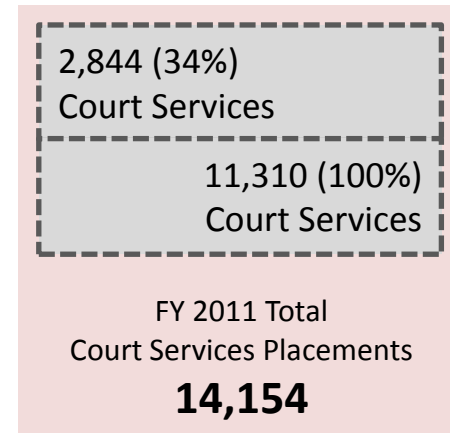
❑ Misdemeanor placements are up 9%.

Overall Placements to Court Services Are up 8%

FY 2007 Probation Placements

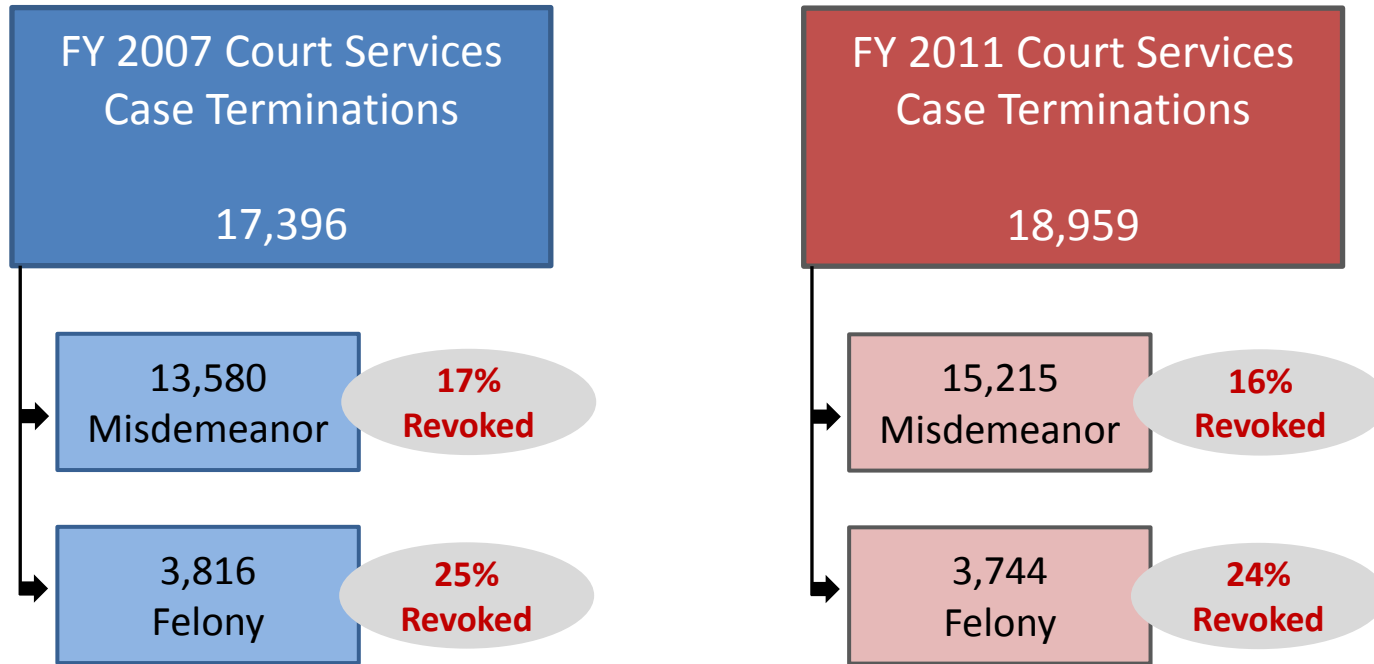


FY 2011 Probation Placements



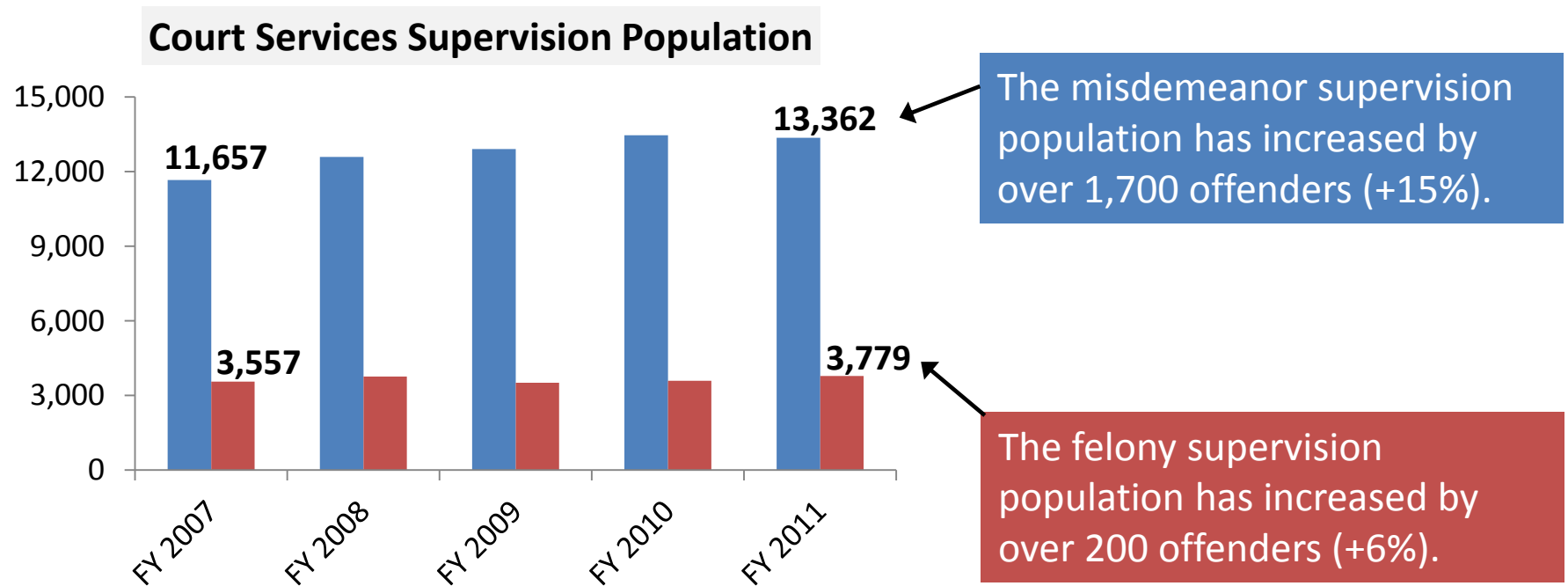
- ❑ Felony placements to Court Services are up 3%.
- ❑ Misdemeanor placements to Court Services are up 9%.

Percent of Court Services Cases Revoked Has Remained Steady



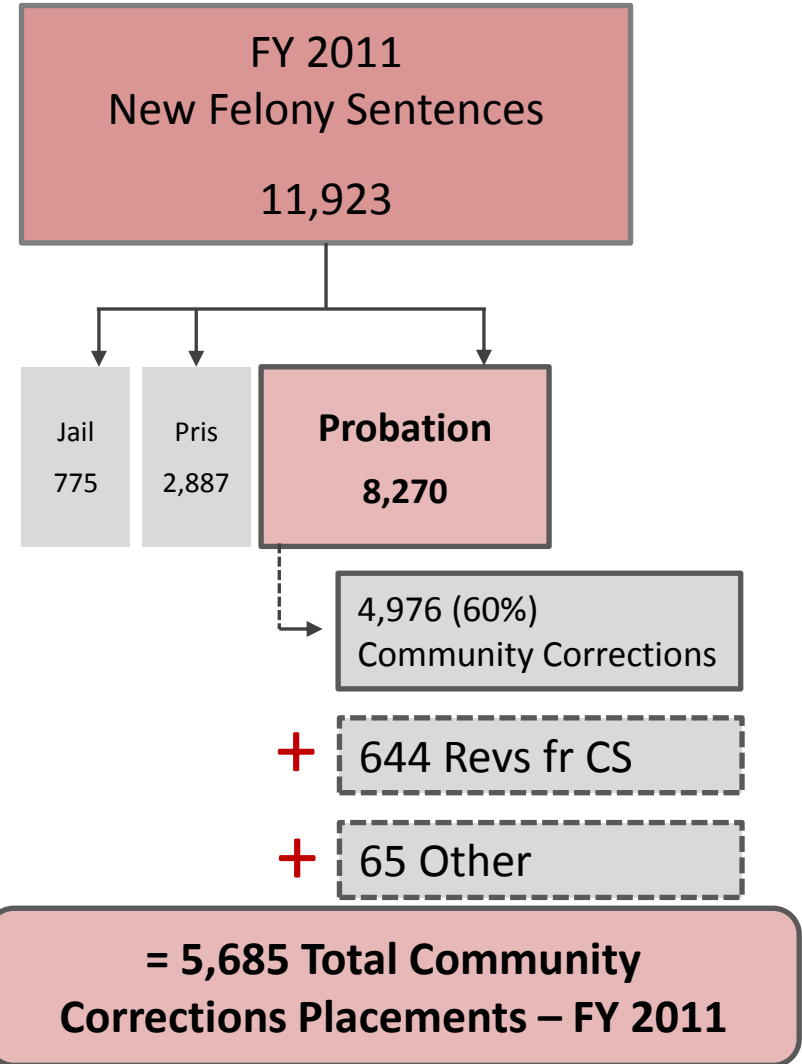
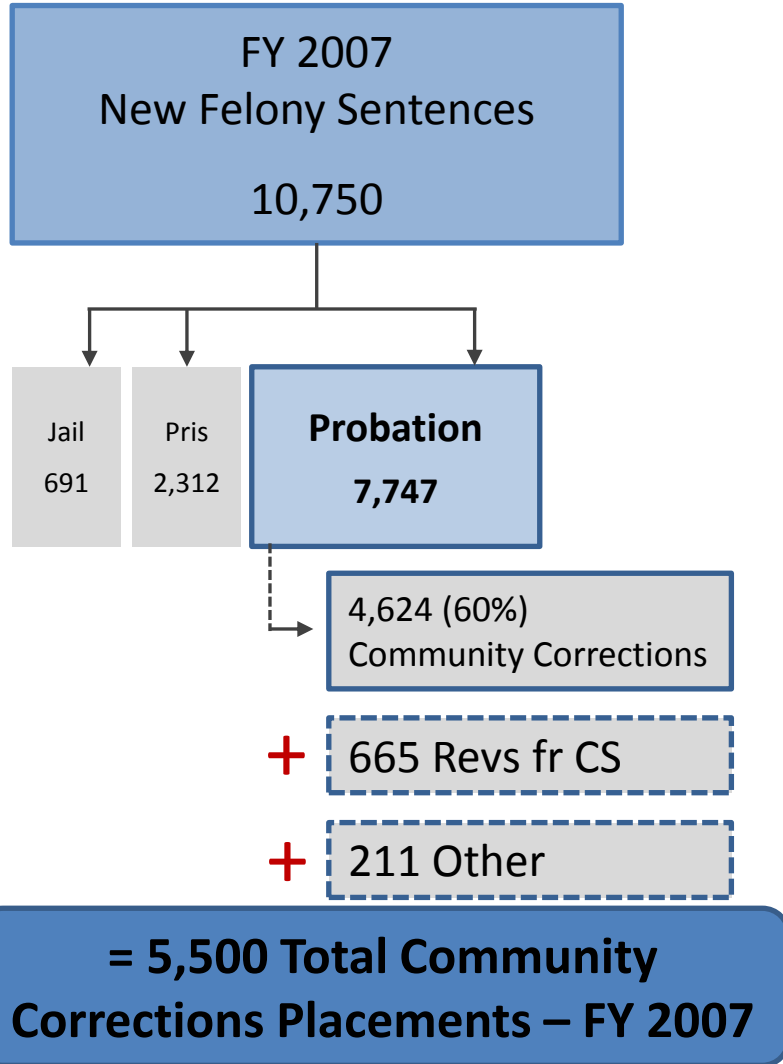
❑ Vast majority of Court Services felony revocations are to Community Corrections.

Number Supervised on Court Services Has Increased 13% Since FY 2007



❑ Misdemeanants represent 75-80% of the Court Services supervision caseload.

Almost Two-Thirds of Felony Probation Sentences Are to Community Corrections

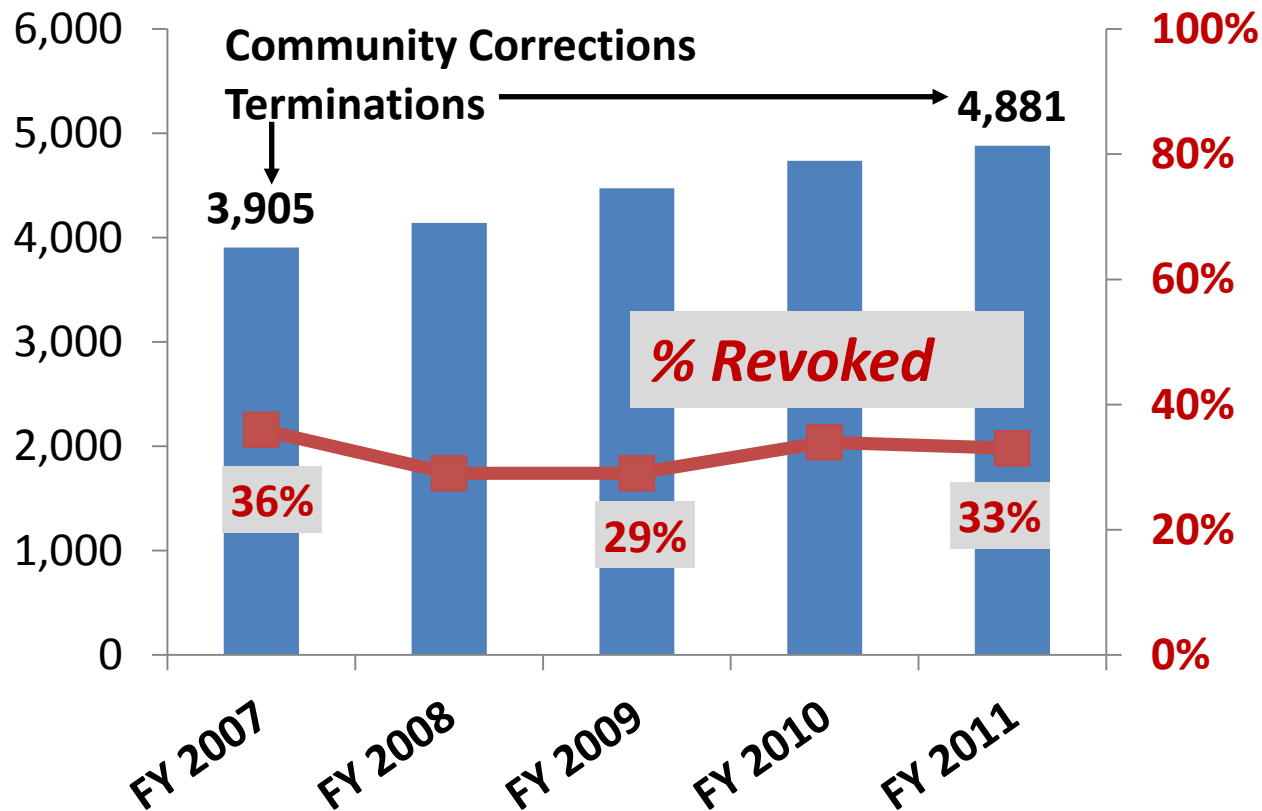


Placements to Community Corrections Have Been Stable Since FY 2007

Source of CC Placement	FY 07	FY 08	FY 09	FY 10	FY 11	% Chg
Direct from Court	3,267	3,468	3,572	3,512	3,920	20.0%
SB 123	1,357	1,326	1,197	1,098	1,056	-22.2%
Revoked from Court Services	665	624	602	561	644	-3.2%
Other	211	174	86	60	65	-69.2%
Total CC Placements	5,500	5,592	5,457	5,231	5,685	3.4%

❑ Community Corrections placements have grown by less than 5% since FY 2007.

One-Third of Community Corrections Terminations Are Revocations



After a decline in revocation rates from FY07 to FY09, they have since risen by 14%.

More than Three-Quarters of High Risk Community Corrections Probationers Are Revoked

FY 2011
Total CC Terminations

4,881

➡	Low Risk 1,732	4% Revoked	=	67 Revs
➡	Mod Risk 1,625	37% Revoked	=	605 Revs
➡	High Risk 982	76% Revoked	=	748 Revs
➡	UNK Risk 542	34% Revoked	=	184 Revs

Total Revocations
1,604

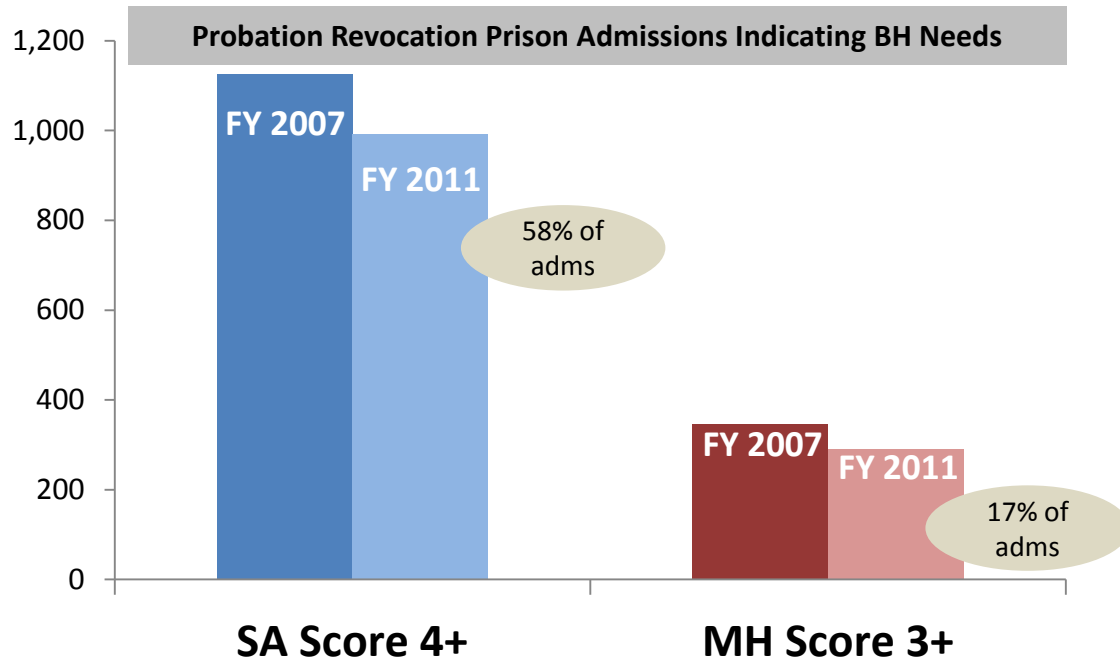
Of the successful mod/high risk terminations:

- ✓ 57% completed two or more behavioral health programming interventions.

Of the mod/high risk revocations:

- ✓ Only 31% completed two or more behavioral health programming interventions.

Most Probationers Revoked to Prison Have Behavioral Health Needs



Of FY 2011 Probation Revocations

- ✓ 58% had SA score of 4 or higher
- ✓ 17% had MH score of 3 or higher
- ✓ 12% had both

For comparison, only 16% of the successfully terminated CC probationers had an SA score of 4 or higher.

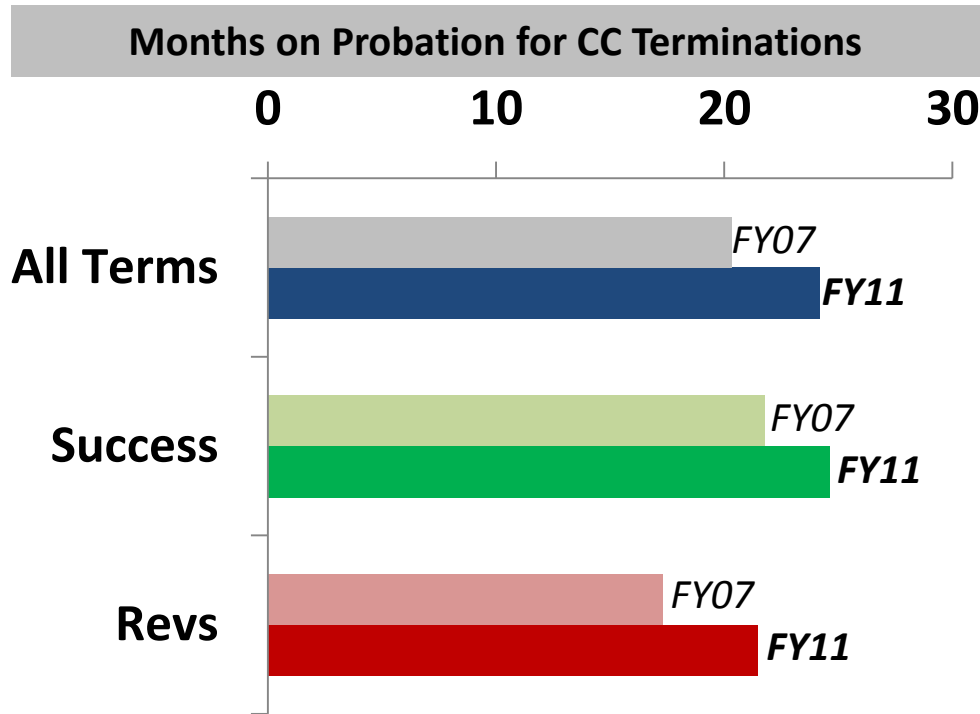
SA Score 4+

- SA Scores range from 0 to 9 and are based on nine questions within the substance abuse domain within the LSI-R risk assessment.
(A score of 4 means that four of the nine questions were answered in the affirmative.)

MH Score 3+

- MH Scores range from 1 to 7 and are based on a continuum of MH programming intensity.
 1. Not currently requiring MH
 2. Receives time-limited mental health services
 3. Receives on-going mental health services that may include medication management
 4. Receives special needs treatment monitoring
 5. Placed in mental health structured reintegration program at LCF-TRU
 6. Placed in intensive mental health placement at LCMHF or TCF-MHU
 7. Hospitalization at LSSH

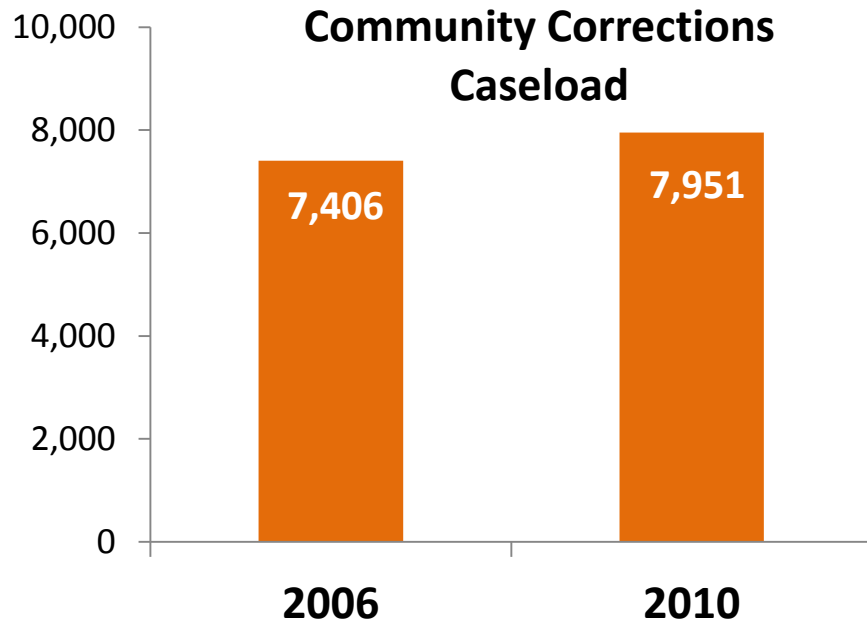
Probationers Are Spending Almost 20% Longer on Supervision



- 19% increase in months on supervision FY07-11
 - 20mos to 24mos

The increased length of supervision does not seem to be related to success or failure on probation.

Community Corrections Caseloads Up 7% Since FY 2006



Because placements have been stable since FY07 (+3%), the increased length of supervision (+20%) is driving the rising population.

But as demonstrated in previous slides, there hasn't been a corresponding increase in success rates.

Probation Agencies Indicate Challenges to Providing Successful Supervision

Standardization & Coordination Issues

Communication between most Community Corrections and Court Services agencies is limited.

Every offender is given an LSI-R upon placement in Community Corrections, even if Court Services already did one.

Court Services does not conduct LSI-Rs uniformly across Judicial Districts.

Court Services does not use uniform LSI-R cut-off scores across the state.

There is no standardized grid of progressive sanctions for responding to violations.

There are no contact standards or guidance on how to supervise low-risk offenders.

System Inefficiencies

Sanctions lack speed; too much time elapses between when a motion to revoke is filed and the hearing date.

Many agencies cannot impose a brief jail stay without going back to court.

Officers spend excessive time in court due to continuances and postponements.

No way to track probationer violations electronically.

Officers are unable to move an offender between Community Corrections and Court Services.

Restitution-only cases comprise significant share of caseload; they still require officer face time.

Effective Programs and Supervision Strategies Are Key to Maximizing Probation Effectiveness

- ❑ In FY 2011, offenders targeted by probation system accounted for 47% of all admissions to prison
 - 745 as “presumptive probation” sentenced to prison
 - 1,604 as probation revocations
- ❑ These offenders will spend approximately 1 year in prison
 - Most will be released back into community without supervision
- ❑ Identified obstacles to effective supervision
 - Need for more (and successful) programming
 - Lack of progressive sanctions model
 - Sanctions that aren’t timely responses to non-compliance

Probation Summary Diagnosis

Despite modest growth in placements, probation caseloads are rising and putting greater burden on officers.

Increases in length of supervision

Increases in need for programming resources

Increases in recidivism

Overview



Summary and Proposed Analyses

Crime down, but rising arrests

- How is law enforcement allocating scarce resources?
- Have prosecutors changed practices regarding decisions to file?
- How have local jail populations been impacted to increased arrests?

Shift in sentencing from probation to prison

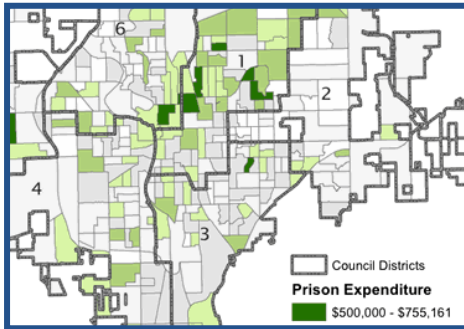
- What contributes to prison sentencing for “presumptive probationers?”
- Is prison or probation better at reducing recidivism rates for nonviolent offenders?
- Would strengthening probation provide better sentencing options?

Probation recidivism rates, caseloads and length of supervision increasing

- What are the obstacles to ensuring access to quality programs for higher risk probationers?
- How can Kansas recapture performance of prior years?

Proposed Timeline

<u>Date</u>	<u>Activity</u>
May-June	• Data Collection
June 6	• Bill Signing
June 13	• Working Group Meeting
July-October	• Detailed Data Analysis • Stakeholder Engagement
September 5	• Working Group Meeting
October-November	• Policy Framework Development • Stakeholder Consultation
October 23	• Working Group Meeting
November-December	• Policy Option Vetting
December 7	• Working Group Meeting

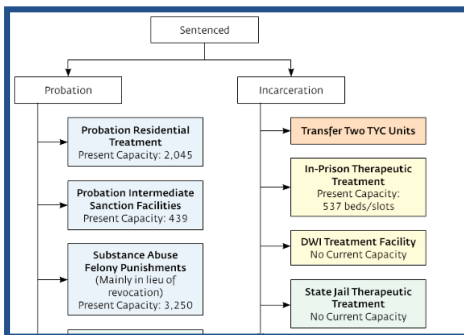
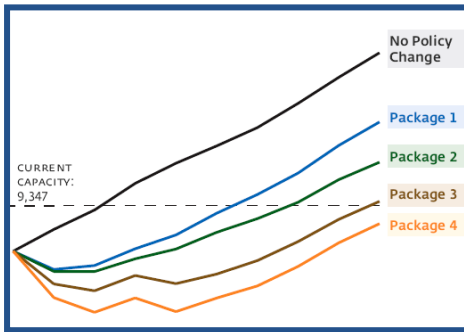


Thank You

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



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