



Justice Reinvestment 2.0 in Ohio

**Launch Presentation to the
Ohio Criminal Sentencing Commission
*November 9, 2017***

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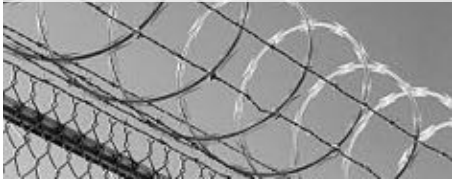
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The CSG Justice Center focuses on public safety topics with federal, state, and local policymakers.

Corrections



Justice Reinvestment



Mental Health



Reentry



Substance Abuse



Youth



Courts



Law Enforcement



National membership association of state government officials that engages members of **all three branches** of state government.

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

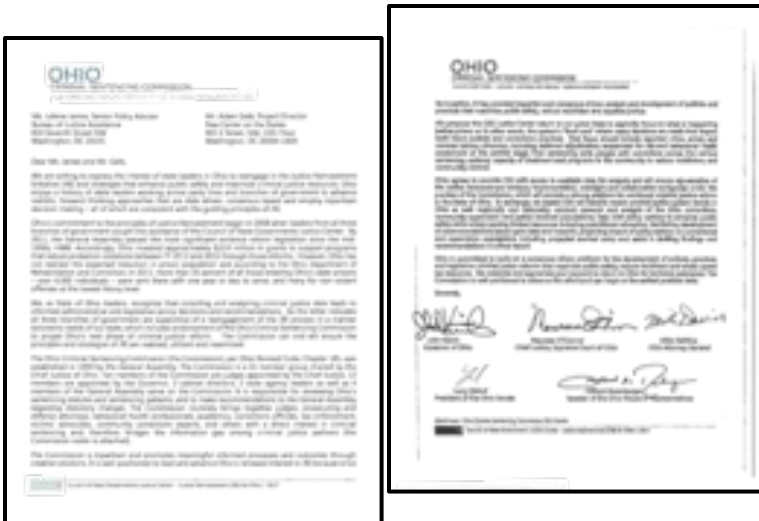
Justice Center provides **practical, nonpartisan advice** informed by the best available evidence.

Ohio state leaders requested technical assistance through the Justice Reinvestment Initiative.



In July 2017, Ohio state leaders submitted a signed letter requesting technical assistance to reengage in justice reinvestment.

In November 2017, the Justice Reinvestment Ad Hoc Committee, created under the Criminal Sentencing Commission, held its first meeting.



Proposed objective and principles for Ohio's JR 2.0

Proposed objective

Develop a statewide public safety strategy to reduce crime, improve behavioral health treatment, and adopt more cost-effective sentencing, corrections, and supervision policies.

Core principles to guide the process

1. Each state is unique.
2. Data should inform decision making.
3. New initiatives should be relatively cost neutral and should, on balance, improve public safety.
4. Bipartisan, interbranch commitment for reform from top policymakers is essential.
5. Policy and budgetary changes must result.
6. Engagement of stakeholders—in local and state government and in community organizations—is critical.
7. Sustainability planning and ongoing data analysis and reporting are essential elements to successful reform.

Ohio's criminal justice system faces major new challenges and three persistent barriers to solving these challenges.

Major New Challenges to Public Safety and Public Health



Recent increases in most violent crime categories



The epidemic of opioid abuse and overdose

Persistent Barriers to Reinvesting in Public Safety and Health Challenges



Ohio still lacks a coherent strategy for recidivism reduction for the huge population under probation supervision



Ohio's sentencing structure is ad hoc, convoluted, and opaque



Prison crowding and costs remain high

Overview

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New Challenges

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Justice Reinvestment



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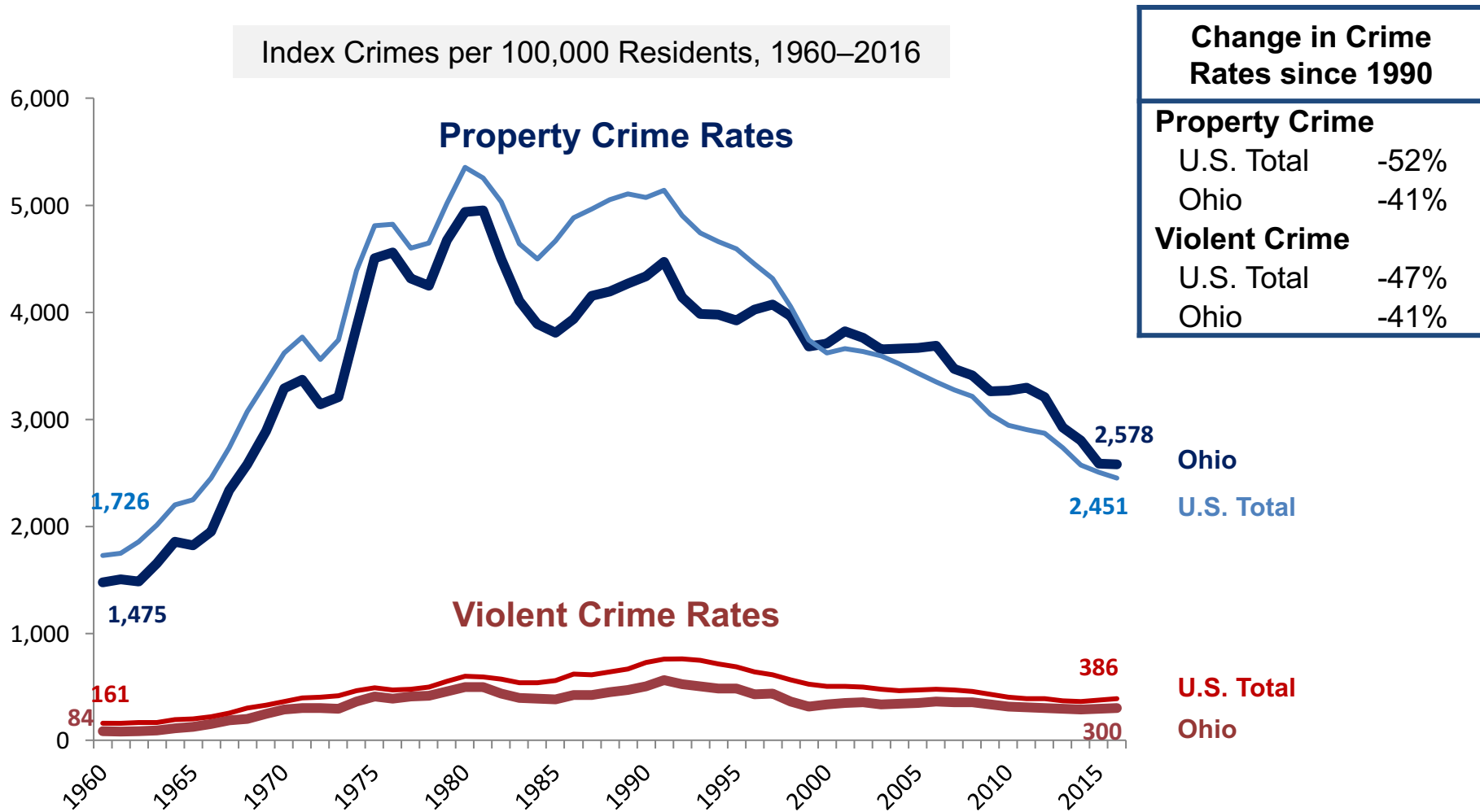


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Prison crowding and costs remain high

Ohio's violent and property crime rates have resembled national trends for more than 50 years.

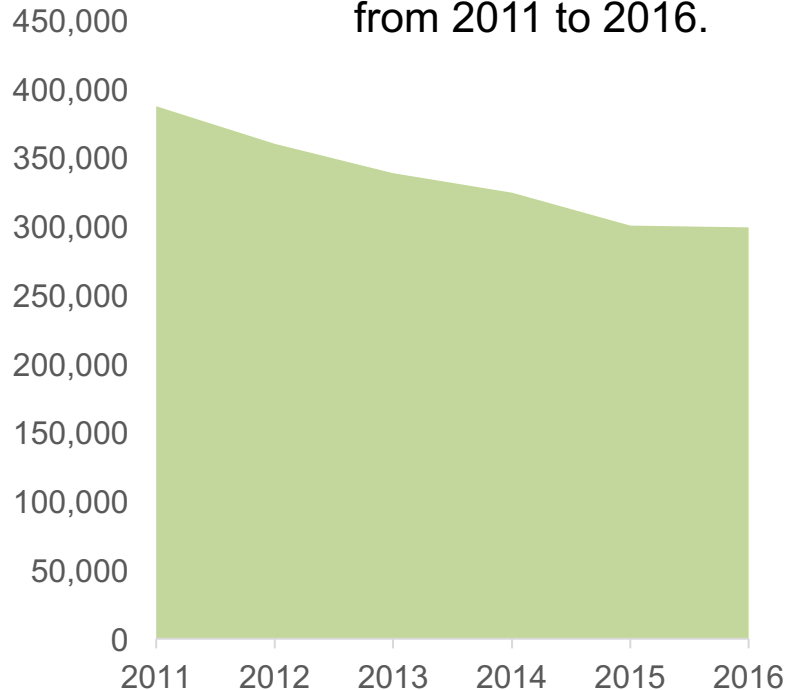


Source: FBI Uniform Crime Report Data Tool.

There were decreases in all types of reported index property crime from 2011 to 2016.

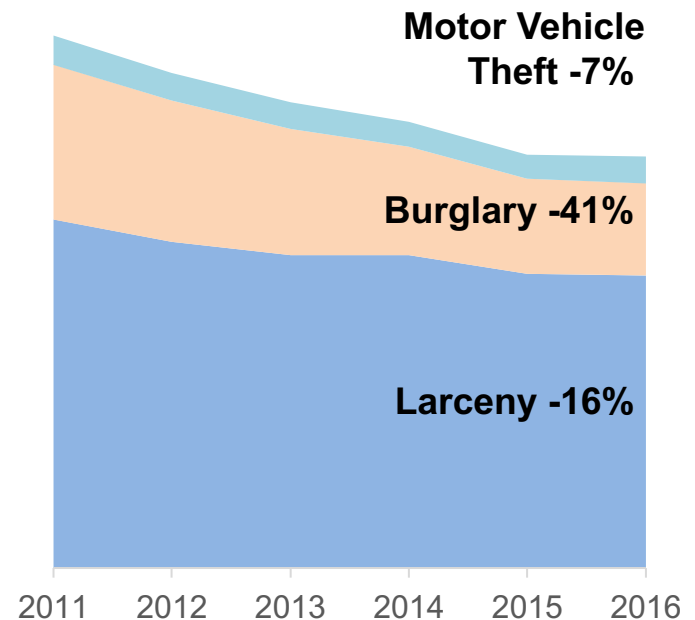
Reported Index Property Crime in Ohio, 2011–2016

Total property crime volume was down **23%** from 2011 to 2016.



Each of the three offenses comprising index property crime had reported decreases from 2011 to 2016.

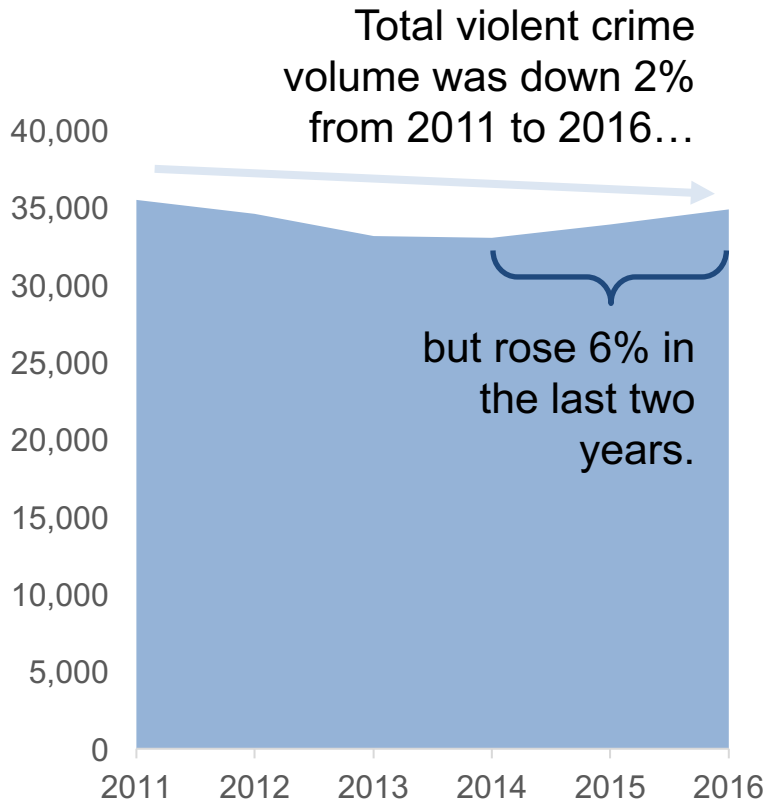
The only notable uptick during this period was for motor vehicle theft in 2016, with a 14% increase over the previous year.



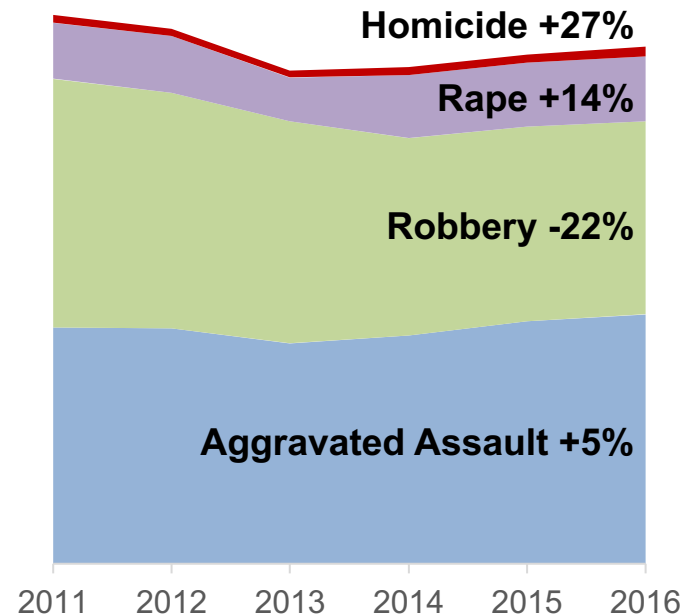
Source: FBI Uniform Crime Report.

The total decrease in reported violent crime between 2011 and 2016 masks an increase since 2014, with increases in most violent crime categories.

Reported Index Violent Crime in Ohio, 2011–2016



The majority of the violent crime increase is due to an increase in aggravated assaults, but homicides and rapes increased as well.

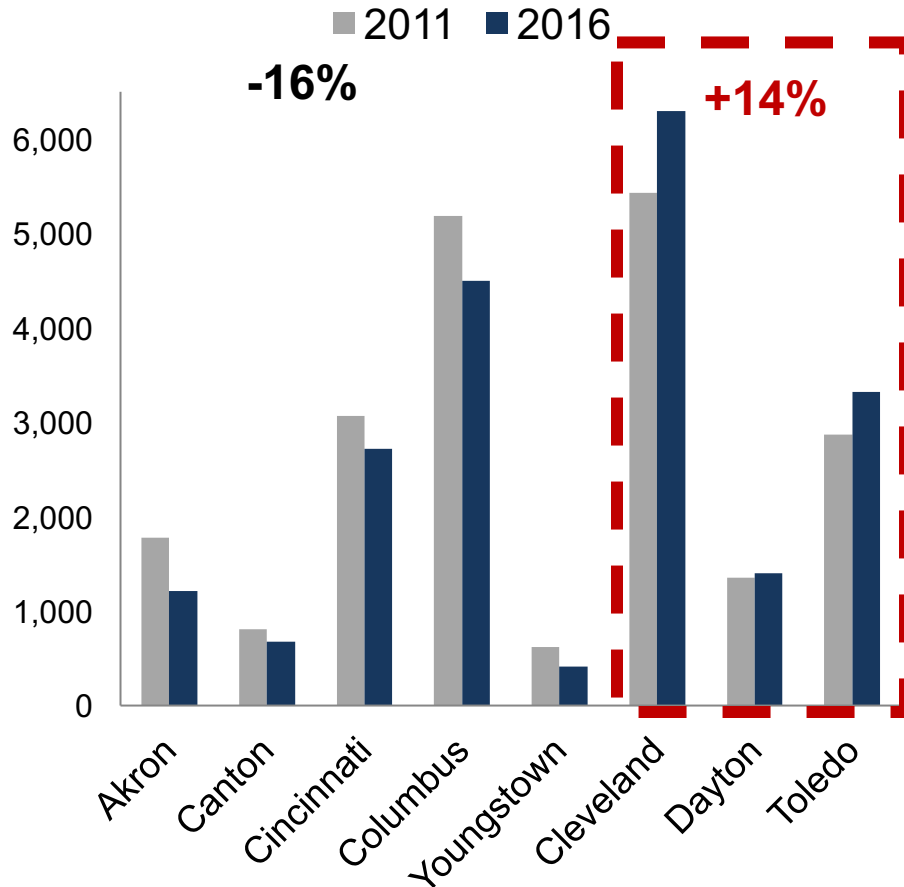


Note: This is the legacy definition of rape.

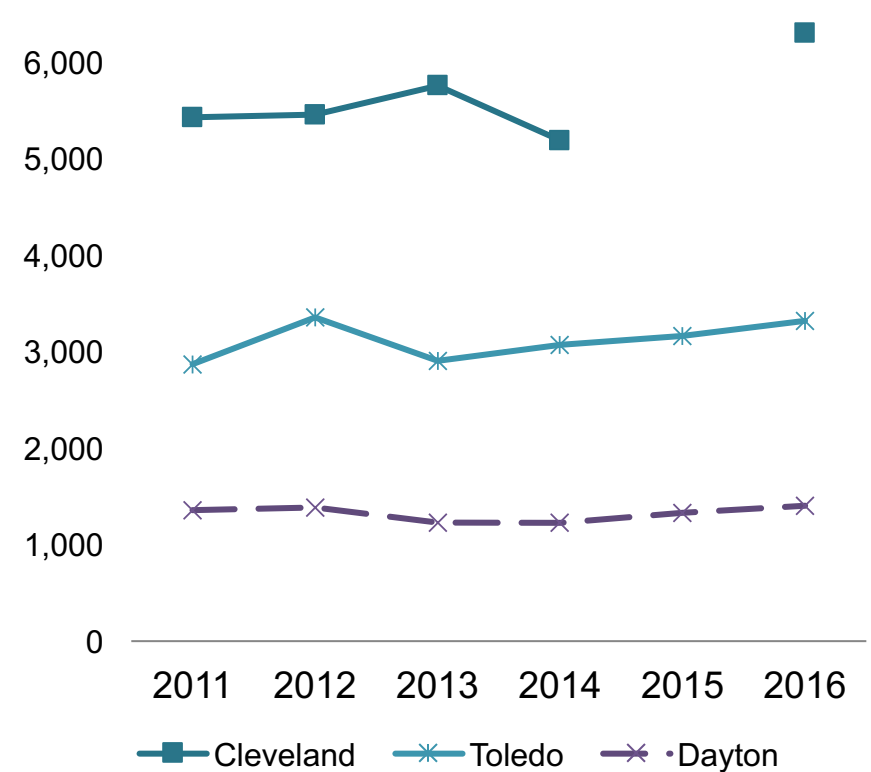
Source: FBI Uniform Crime Report.

Violent crime increased in Cleveland, Dayton, and Toledo between 2011 and 2016 but decreased in five other large cities.

Reported Violent Crime (2011 and 2016)



Reported Violent Crime for Cleveland, Dayton, and Toledo, 2011–2016

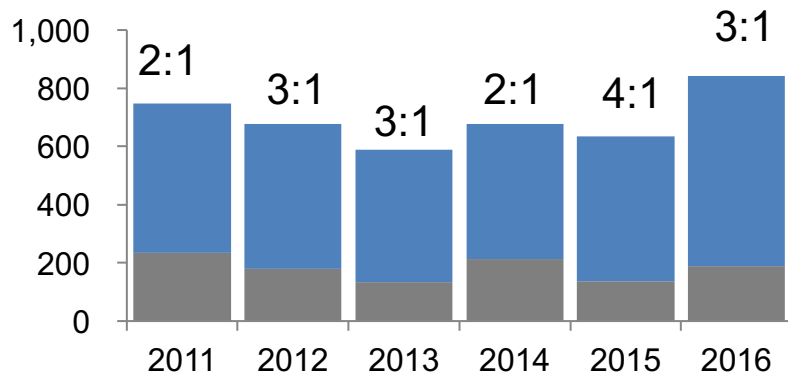


Note: Cleveland was not included in the 2015 UCR data.

Source: FBI Uniform Crime Report.

Every year there are many more reported homicides and aggravated assaults than there are arrests for those offenses.

Murder Reports and Arrests, 2011–2016



Reported Murders

Murder Arrests

Percent Change

2011–2016

2014–2016

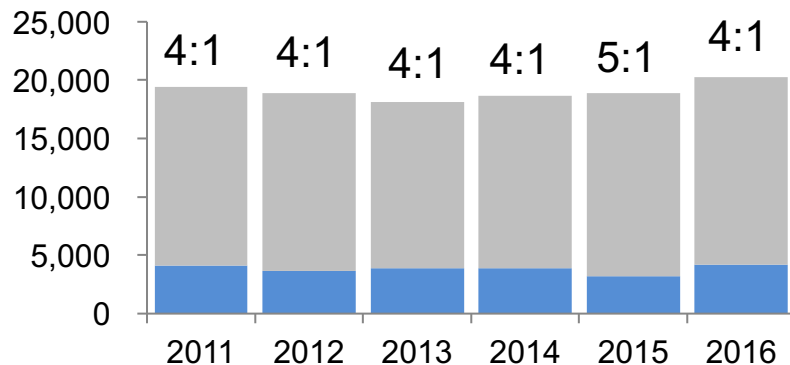
↑ 27%

↑ 41%

↓ 20%

↓ 11%

Aggravated Assault Reports and Arrests, 2011–2016



Reported Agg Assaults

Agg Assault Arrests

2011–2016

2014–2016

↑ 7%

↑ 9%

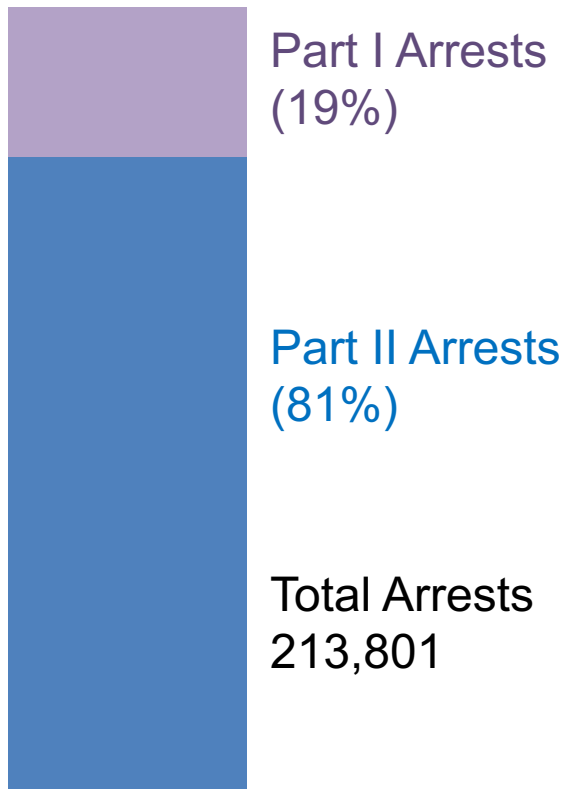
↑ 1%

↑ 7%

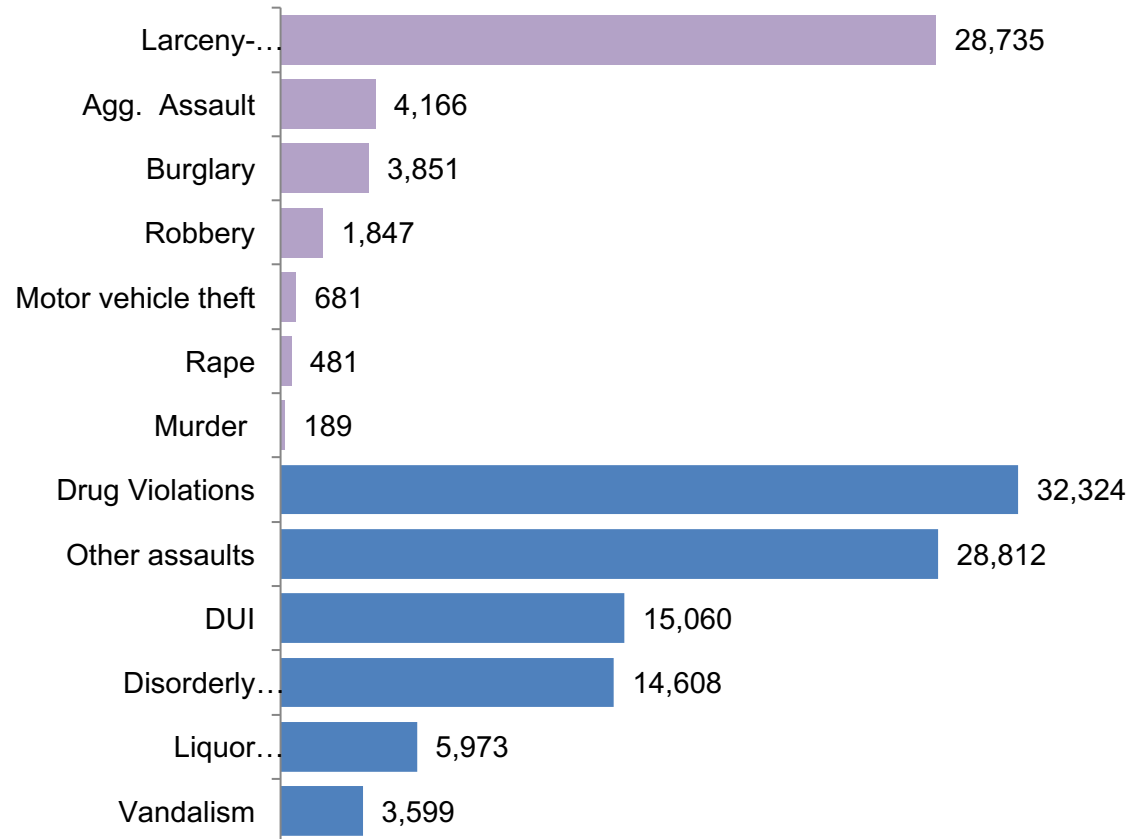
Source: FBI Uniform Crime Report.

Arrests for low-level offenses drive most arrest activity.

Arrests in Ohio, 2016



Part I and Most Frequent Part II Arrests, Ohio, 2016



Note: Other assaults, often called simple assaults, are assaults and attempted assaults where no weapon was used or no serious or aggravated injury resulted to the victim. Stalking, intimidation, coercion, and hazing are included.

Source: FBI 2016 Uniform Crime Report.

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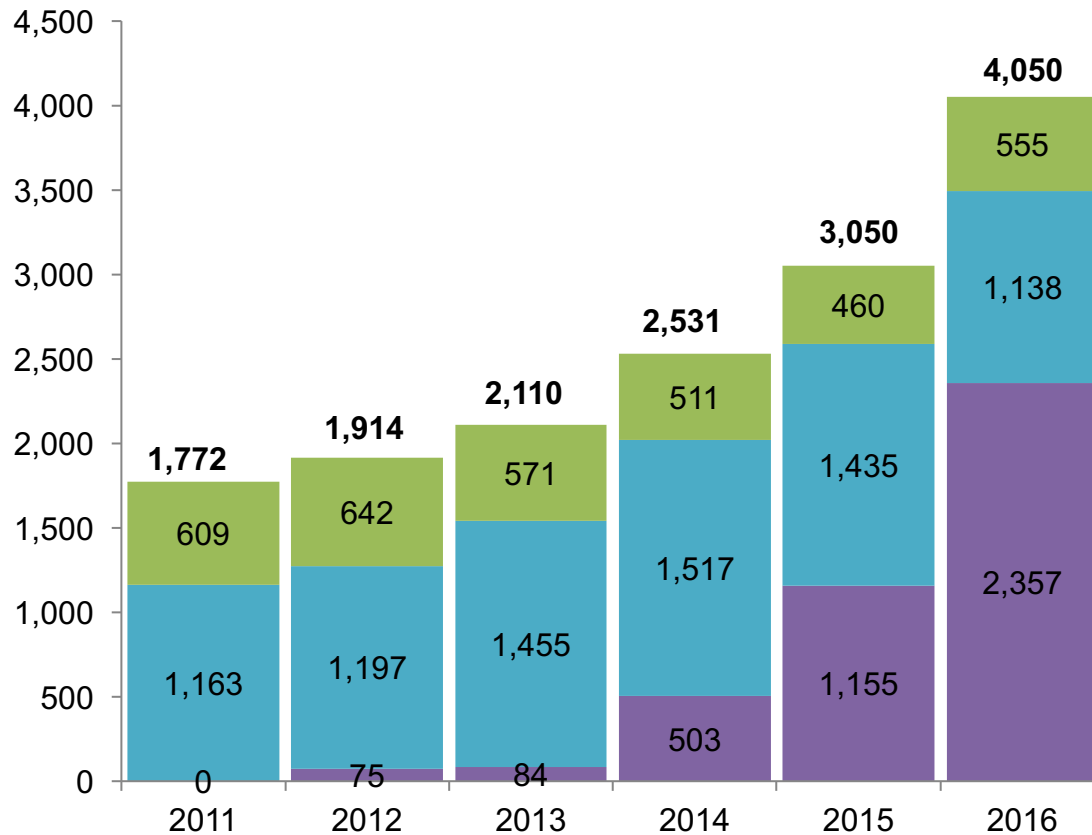
Ohio's sentencing structure is ad hoc, convoluted, and opaque



Prison crowding and costs remain high

Between 2011 and 2016, opioid overdose deaths tripled, driving the significant increase in total drug overdose deaths.

Drug Overdose Deaths, 2011–2016



Total drug overdose deaths

All other drug overdose deaths

All other opioid overdose deaths

Fentanyl overdose deaths

- Between 2011 and 2016, all drug overdose deaths increased by 129% and opioid overdose deaths tripled.
- In 2016, 86 percent of drug overdose deaths were opioid-related.
- In 2016, Ohio spent \$124 million on medication-assisted treatment for opioid use.

Source: Ohio Department of Health 2016 Ohio Drug Overdose Data: General Findings

Drug overdose deaths are concentrated in the Southwest region of the state.

Counties with Highest Age-Adjusted Unintentional Drug Overdose Death Rates, per 100,000

Montgomery: 42.5 (320 deaths in 2016)

Brown: 41.0 (18 deaths in 2016)

Butler: 40.5 (211 deaths in 2016)

Clermont: 39.5 (96 deaths in 2016)

Adams: 37.2 (12 deaths in 2016)

Clark: 36.6 (73 deaths in 2016)

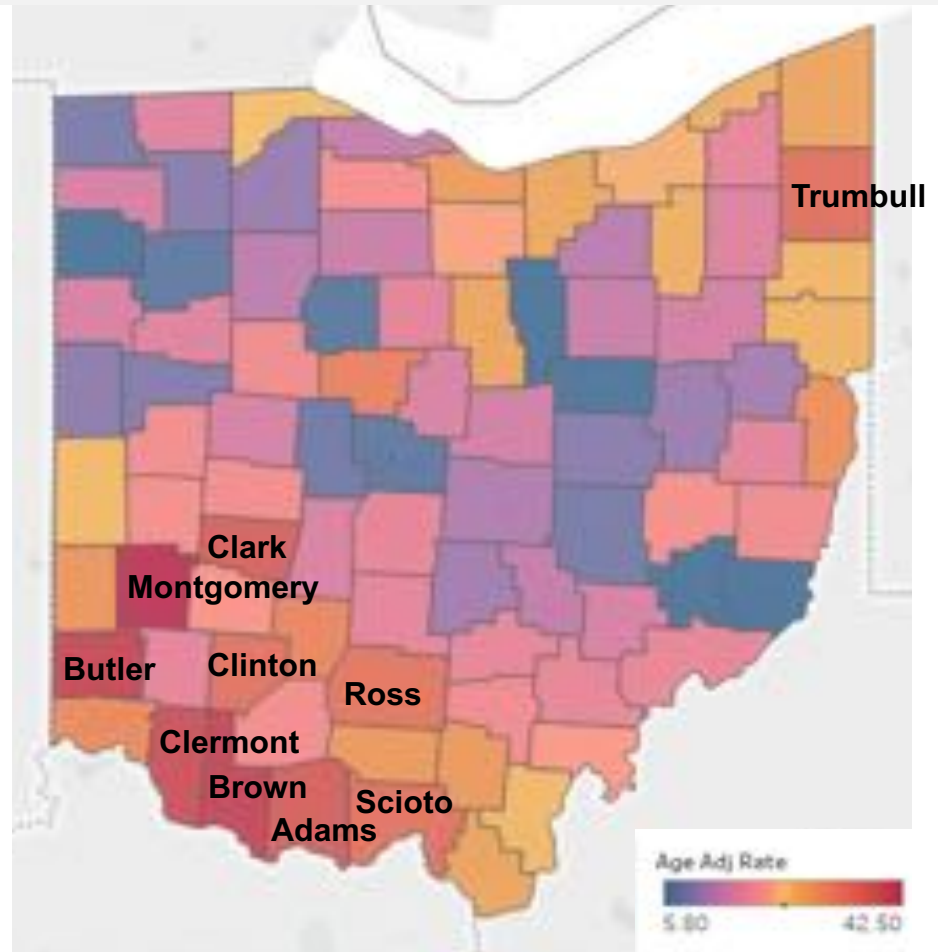
Trumbull: 34.2 (111 deaths in 2016)

Scioto: 34.1 (35 deaths in 2016)

Clinton: 34.0 (12 deaths in 2016)

Ross: 33.4 (40 deaths in 2016)

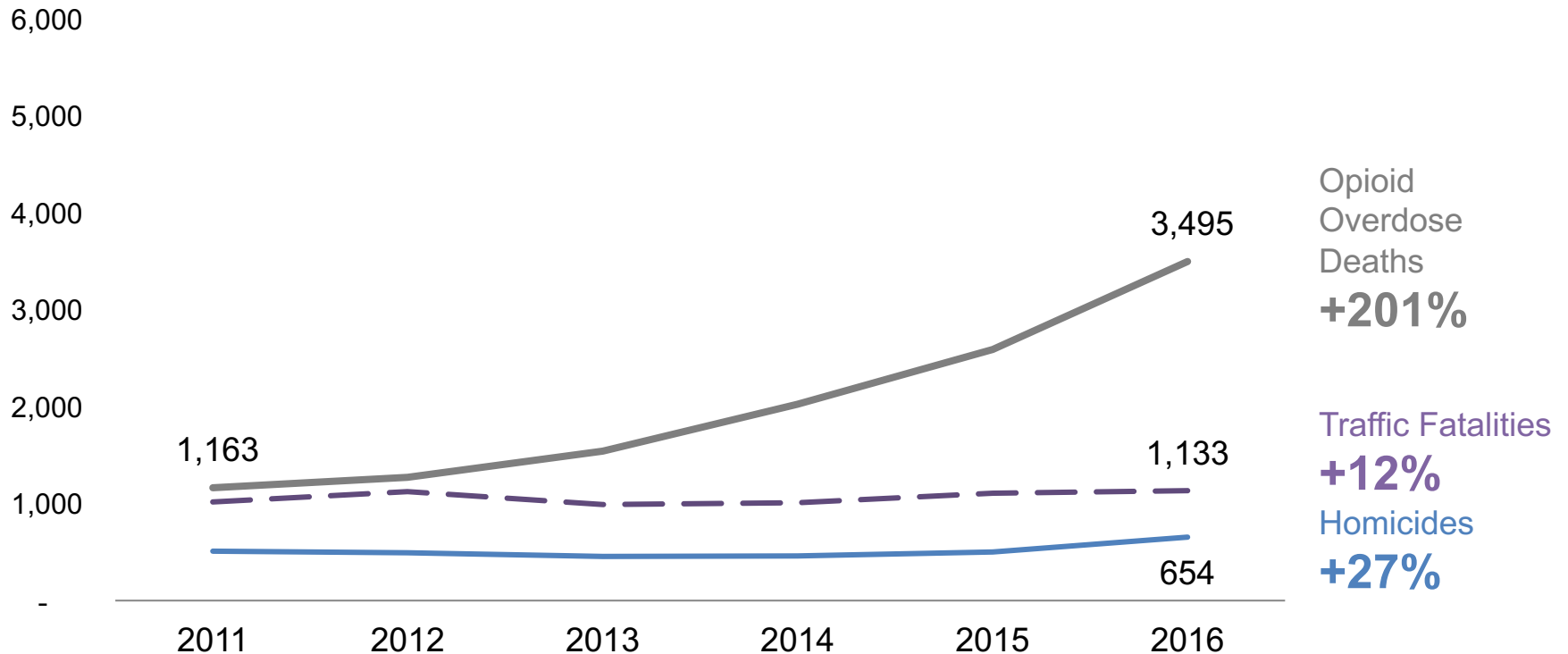
Average Age-Adjusted Drug Overdose Death Rate by County, 2011–2016



Source: Ohio Department of Health 2016 Ohio Drug Overdose Data: General Findings.

The growth in opioid overdose deaths between 2011 and 2016 outpaced traffic fatalities and homicides.

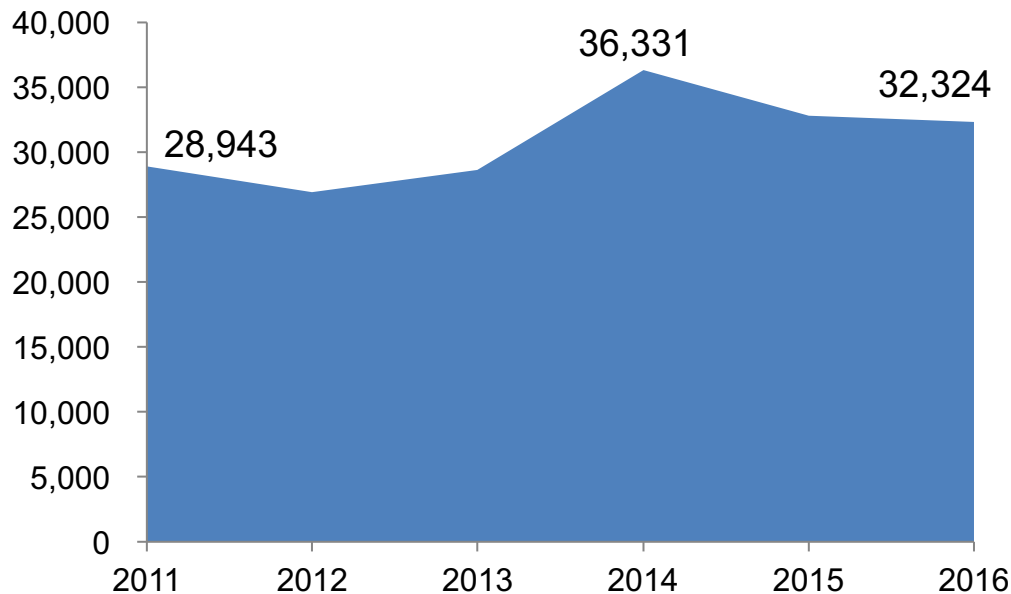
Opioid Overdose Deaths, Traffic Fatalities, and Homicides, 2011–2016



Source: Source: Ohio Department of Health 2016 Ohio Drug Overdose Data: General Findings, Ohio State Highway Patrol Statistics, and FBI Uniform Crime Report.

Arrests for drug violations increased between 2011 and 2016, peaking in 2014.

Arrests for Drug Abuse Violations, 2011–2016



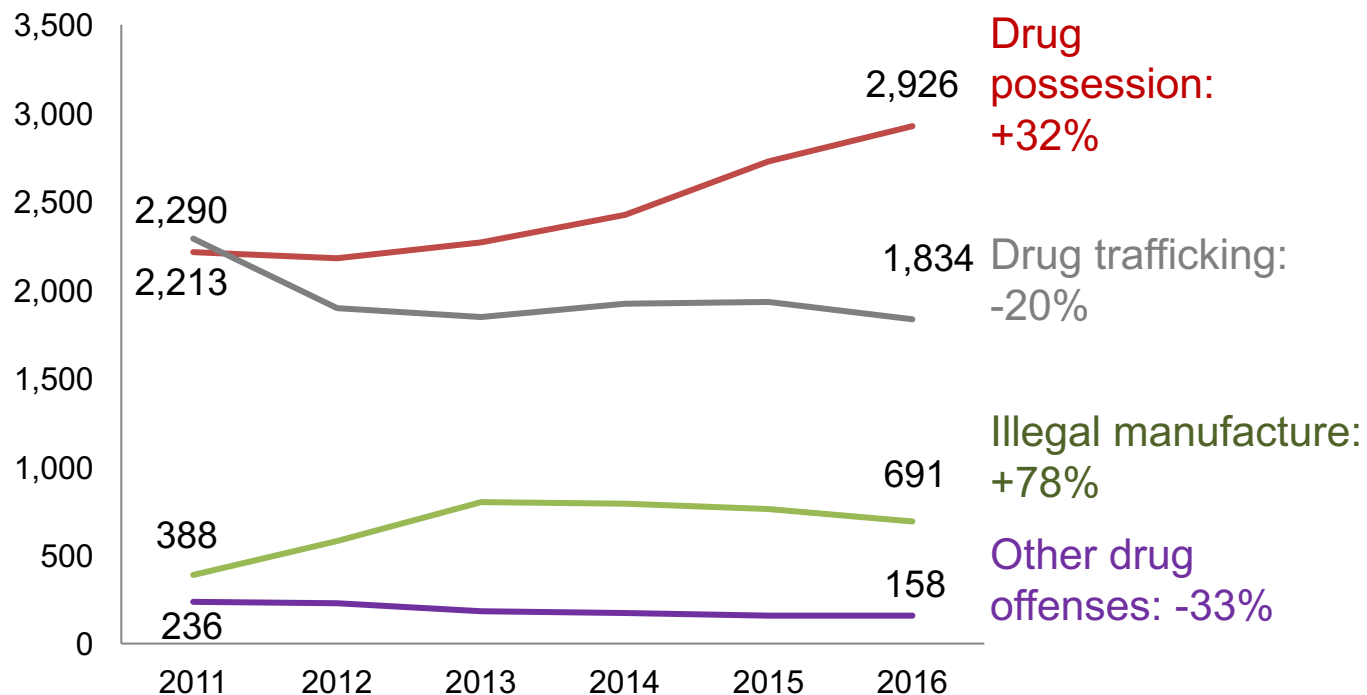
Arrests for drug abuse violations increased 12%, from 28,943 in 2011 to 32,324 in 2016.

North and South Dakota are the only states that had a larger percent increase than Ohio.

5,609 people were committed to ODRC for a drug offense in 2016.

Between 2011 and 2016, ODRC saw an increase in commitments for drug offenses.

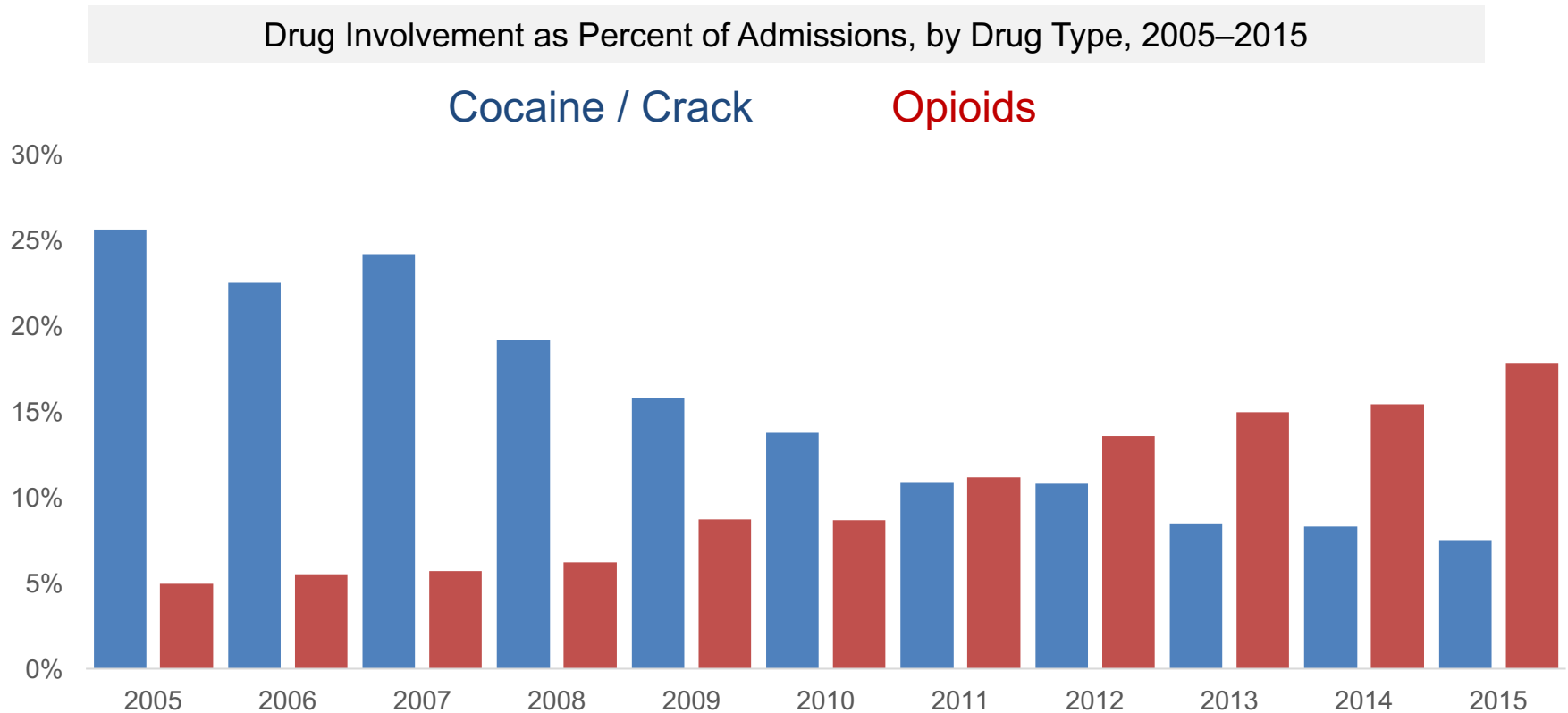
Commitments to ODRC for Drug Offenses, 2011–2016



+9%
All drug offense commitments

5,609 people were committed to ODRC for a drug offense in 2016.

One in six people admitted to prison are involved in opioid use.



Note: ODRC Intake Sample Series. Percentages reflect drugs used alone or in combination with other drugs.

Source: ODRC Prison Population Update, February 2017.

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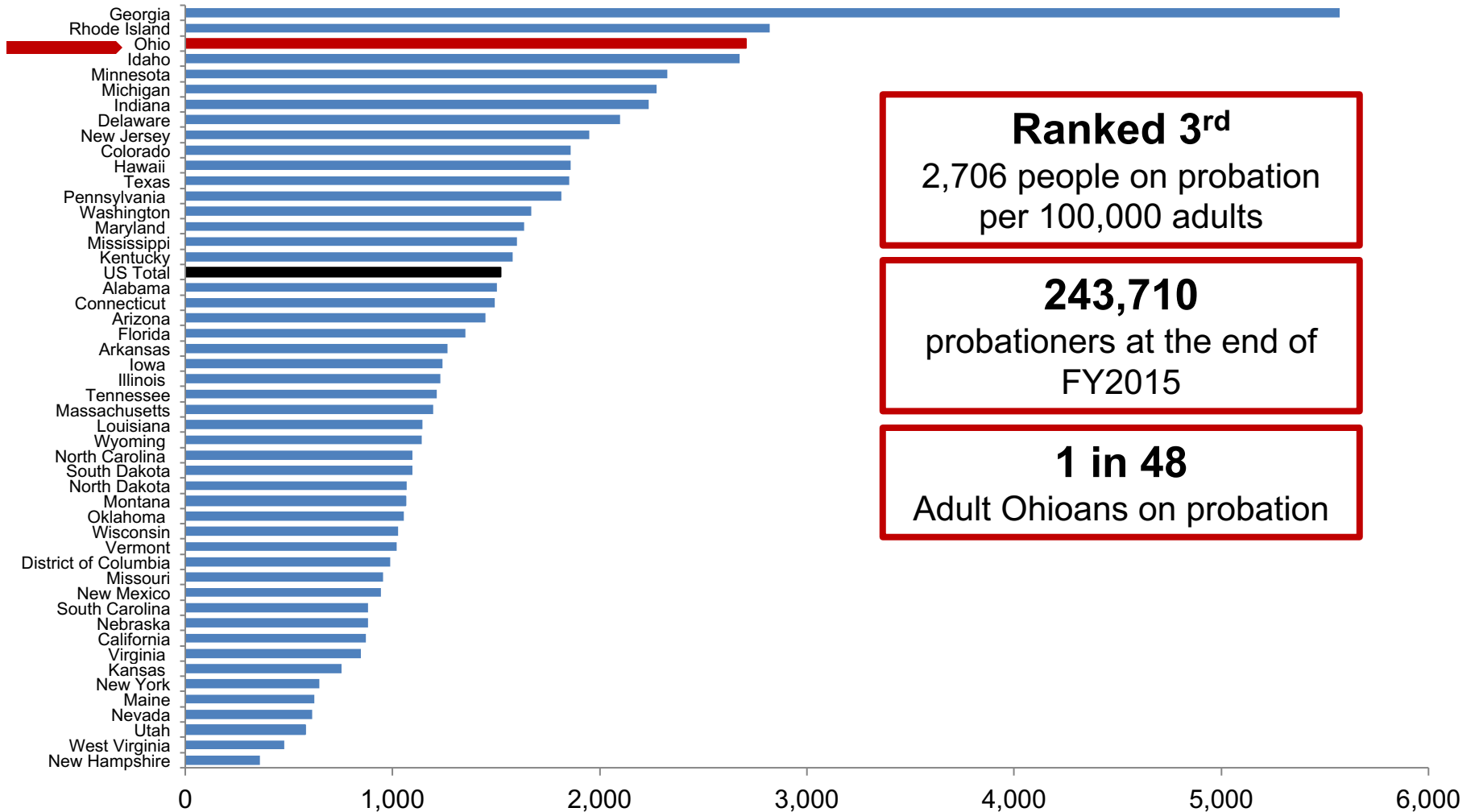
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Prison crowding and costs remain high

The rate of people on probation in Ohio is among the highest in the country.

Probationers per 100,000 Adult Residents, 2015



Ranked 3rd

2,706 people on probation
per 100,000 adults

243,710

probationers at the end of
FY2015

1 in 48

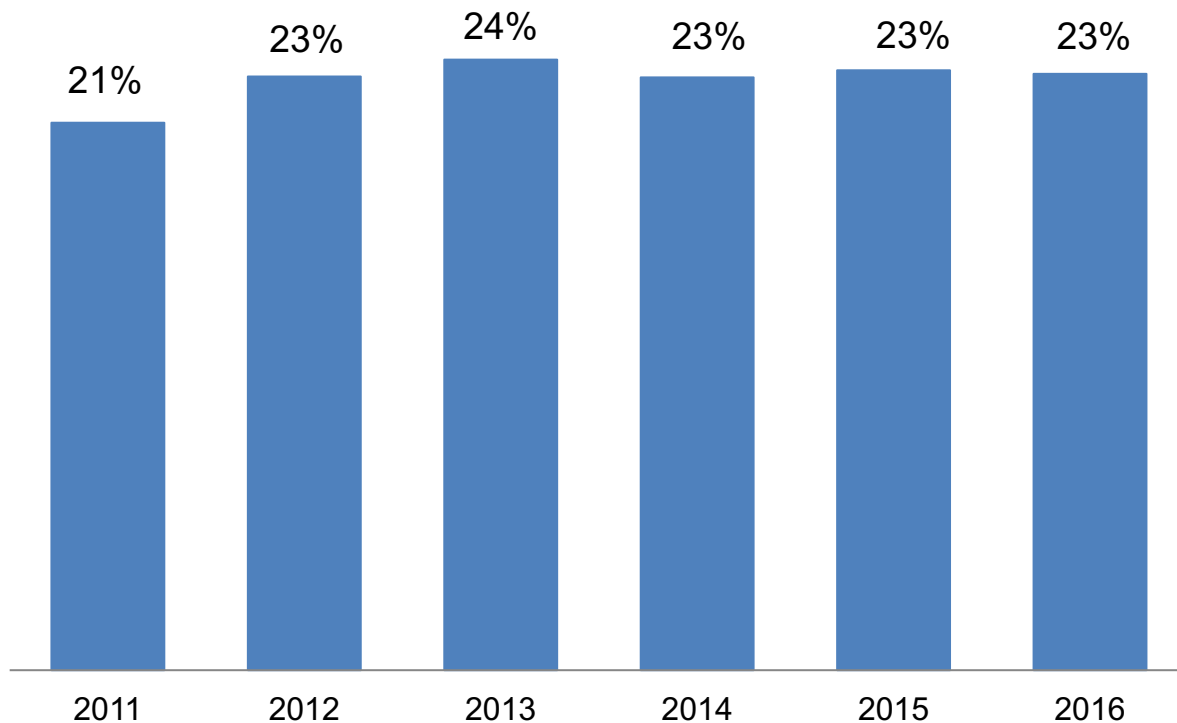
Adult Ohioans on probation

Source: Bureau of Justice Assistance Probation and Parole in the United States, 2015.

Note: Probation rates for Alaska and Oregon unknown

ODRC reports that probation violators routinely make up 21–24 percent of commitments.

Probation Violator Commitments to ODRC, 2011–2016



In 2016, probation violators accounted for 23% of commitments to prison.

Between 2011 and 2016, 21 counties received probation improvement and incentive grants. Probation violators accounted for 21% of commitments from these counties.

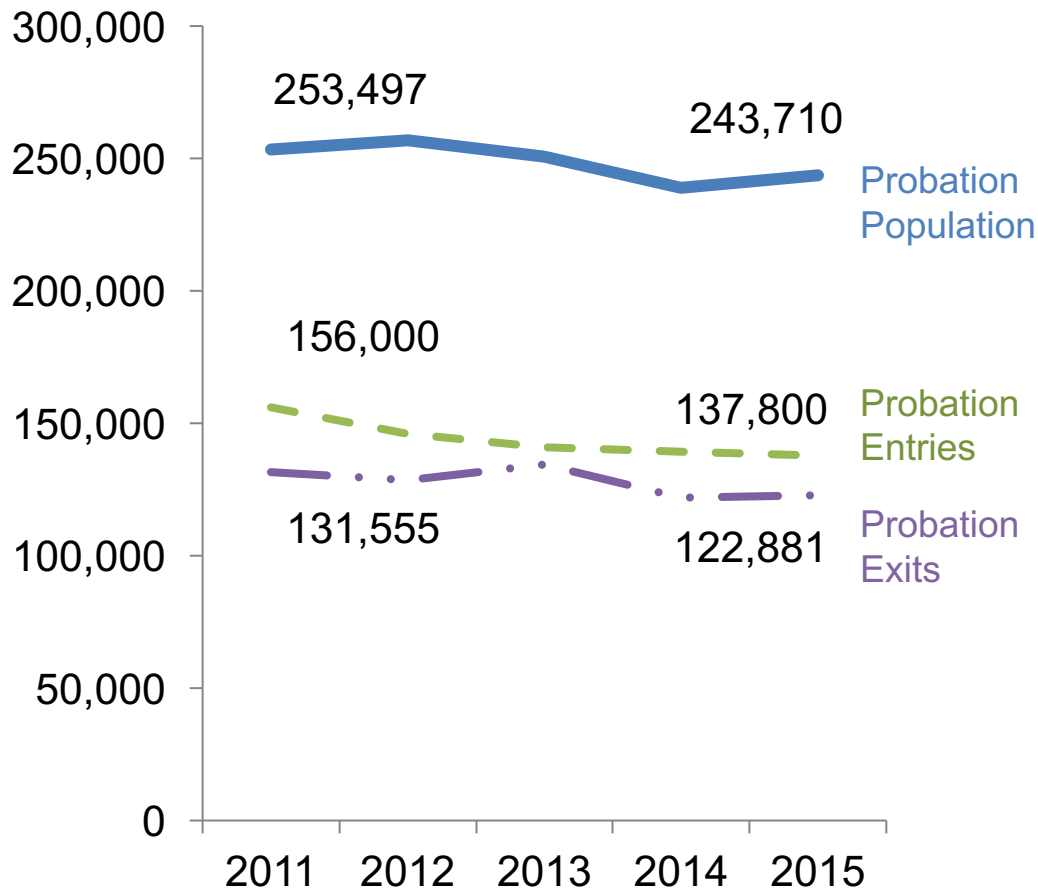
Source: ODRC Prison Population Update, February 2017.

Ohio has raised the bar for probation practices but large challenges remain.

	Ohio HB 86 (2011)	Remaining Challenges
Probation officers and practices	<ul style="list-style-type: none">• Required probation officer job posting• Required probation officer training standards• Required risk assessment• Required to sort people by risk level• Required single supervision agreements	No tracking of population No enforcement of standards No technical assistance resources
Data collection	Supreme Court reporting requirements: # placed on probation # terminated by type of termination # under probation supervision (monthly)	Lack of data definitions, (e.g., type of termination) Limited usage, at local discretion
Prioritize programs for higher-risk populations	CBCF/CCA admission standards	F4/F5 and probation violators continue to drive ODRC commitments.

Ohio does not collect statewide probation data so current perspective is limited to three measures in Bureau of Justice Statistics data.

Probation Population Measures, 2011–2015



Ohio lacks basic information:

- How many people are on felony versus misdemeanor probation?
- How do dispositions to probation vary by county, offense, criminal history, etc.?
- What are demographics and risk levels of people on probation?
- How many people on probation are arrested while on supervision?

Texas

- Monthly systemic probation data
- Formula and incentive funding
- Promotes EBP to counties (e.g., Bexar) with high probation violator rates
- Promotes effective violation response
- More expansive list of probation EBP in statute

Source: Bureau of Justice Assistance Probation and Parole in the United States.

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Ohio sentencing benchmarks reflect the history of sentencing in the U.S.

Indeterminate sentencing

- Legislatures set ranges
- Judges choose
- Parole boards release

Sentencing guidelines

states
& federal

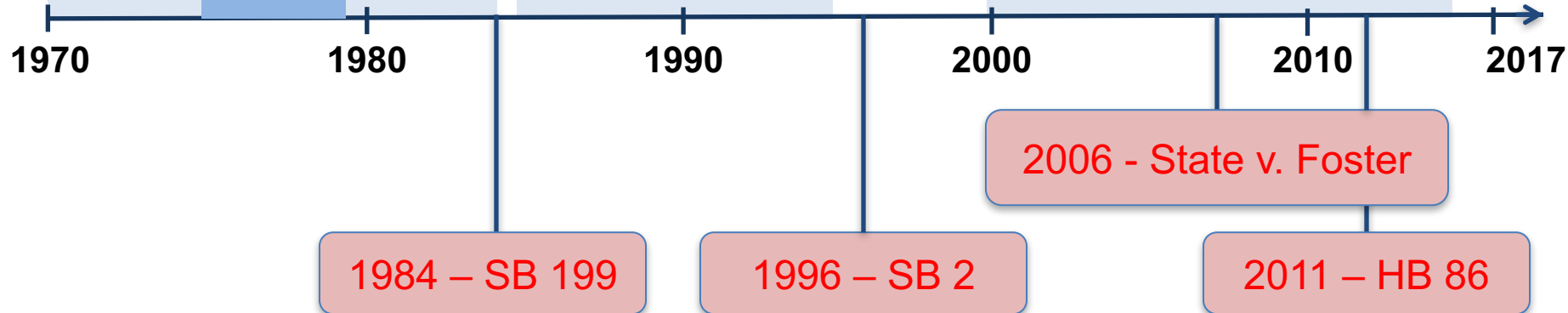
“Tough” policies

- Mandatory minimums
- Three strikes
- Truth-in-sentencing
- Life without parole

Right to a Jury on Sentencing Factors

2000 – Apprendi
2004 – Blakely
2005 – Booker
2013 – Alleyne

Determinate sentencing
CA, IL, IN, ME



General Assembly's sentencing policy approach in SB 2 was upended by *Foster* in 2006.

“trial courts have full discretion to impose a prison sentence within the statutory range and are no longer required to make findings or give their reasons for imposing maximum, consecutive, or more than the minimum sentences.”

“Where sentencing is left to the unguided discretion of the judge, there is no judicial impingement upon the traditional role of the jury.”



Ohio's determinate prison sentencing ranges are straightforward.

Level	Guidance	Terms
F-1	Presumptive prison	3–11 years
F-2		2–8 years
F-3	No guidance other than Purposes and Principles	9–36 months or 12–60 months
F-4	1-year community control for some; 11-factor guidance	6–18 months
F-5		6–12 months

Ohio's "quick reference guide" has seven pages of dense, difficult descriptions of hyper-legislated sentencing laws.

Contents:

Purposes and principles

Factors to consider

Mandatory prison terms

Length of mandatory terms

Optional prison terms

Length of optional terms

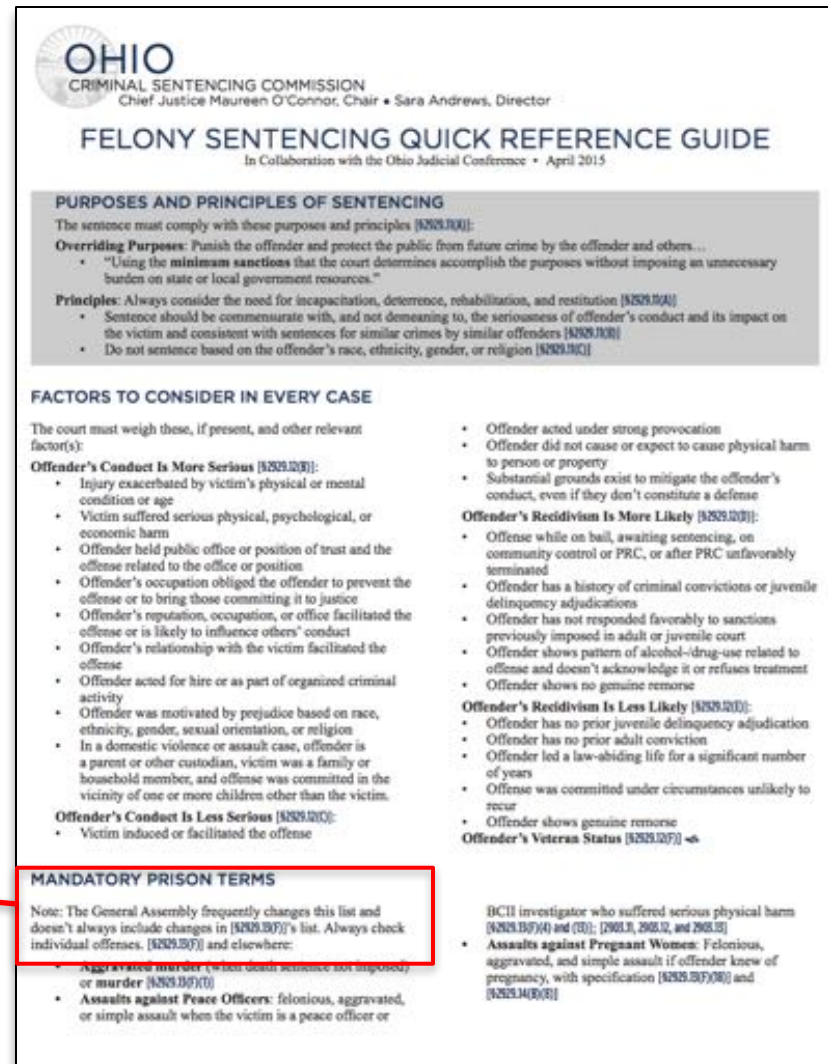
Sanctions

Other sentencing considerations

MANDATORY PRISON TERMS

"Note: The General Assembly frequently changes this list and doesn't always include changes in [§2929.13(F)]'s list.

Always check individual offenses. . . ."



The guide reflects the length and complexity of the law.

One statute R.C. § 2929.14 Definite Prison Terms

13 pages

100 paragraphs

≈8,000 words

85 “ifs”

2929.14 Definite prison terms.

(A) Except as provided in division (B)(1), (B)(2), (B)(3), (B)(4), (B)(5), (B)(6), (B)(7), (B)(8), (C), (D), (E), (F), (G), (H), (I), (J), or (K) of this section or in division (D)(6) of section 2912.22 of the Revised Code and except in relation to an offense for which a sentence of death or life imprisonment is to be imposed, if the court imposing a sentence upon an offender for a felony elects or is required to impose a prison term on the offender pursuant to this chapter, the court shall impose a definite prison term that shall be one of the following:

(1) For a felony of the first degree, the prison term shall be three, four, five, six, seven, eight, nine, ten, or eleven years.

(2) For a felony of the second degree, the prison term shall be two, three, four, five, six, seven, or eight years.

(3)

(a) For a felony of the third degree that is a violation of section 2903.06, 2903.08, 2903.21, 2903.24, 2907.05, or 3799.04 of the Revised Code or that is a violation of section 2911.02 or 2911.12 of the Revised Code if the offender previously has been convicted of or pleaded guilty to two or more separate proceedings for two or more violations of section 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code, the prison term shall be twelve, eighteen, twenty-four, thirty, thirty-six, forty-two, forty-eight, fifty-four, or sixty months.

(b) For a felony of the third degree that is not an offense for which division (A)(3)(a) of this section applies, the prison term shall be nine, twelve, eighteen, twenty-four, thirty, or thirty-six months.

(4) For a felony of the fourth degree, the prison term shall be six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, or eighteen months.

(5) For a felony of the fifth degree, the prison term shall be six, seven, eight, nine, ten, eleven, or twelve months.

(6)

(7)

(a) Except as provided in division (B)(1)(a) of this section, if an offender who is convicted of or pleads guilty to a felony also is convicted of or pleads guilty to a specification of the type described in section 2941.141, 2941.145, or 2941.145 of the Revised Code, the court shall impose on the offender one of the following prison terms:

(i) A prison term of six years if the specification is of the type described in division (A) of section 2941.144 of the Revised Code that charges the offender with having a firearm that is an automatic firearm or that was equipped with a firearm muffler or suppressor on or about the offender's person or under the offender's control while committing the offense;

(ii) A prison term of three years if the specification is of the type described in division (A) of section 2941.145 of the Revised Code that charges the offender with having a firearm

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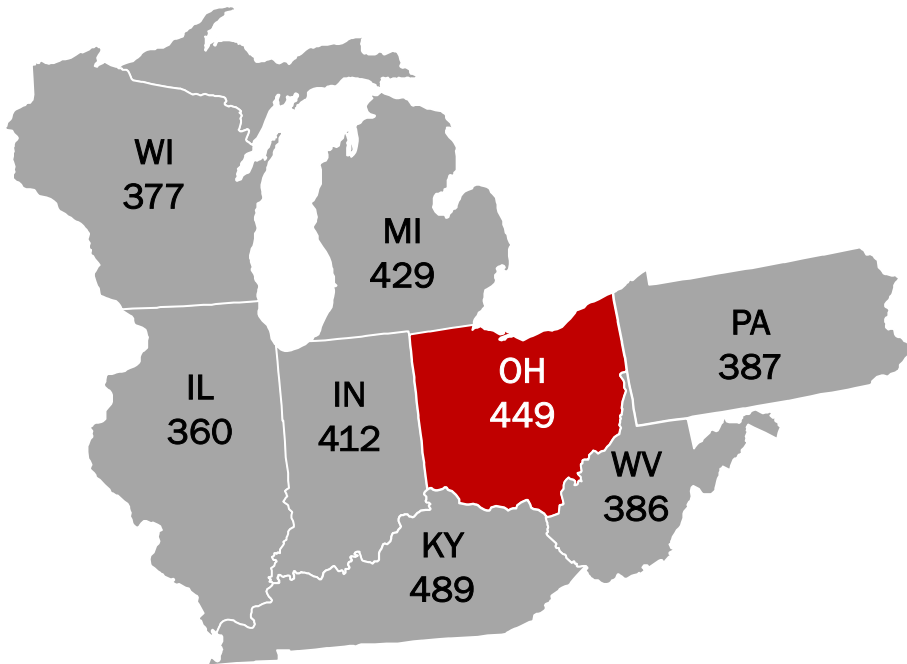
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Prison crowding and costs remain high

Ohio has the second-highest incarceration rate in the area and the 13th-highest in the country.

2015 Incarceration Rates per 100,000 Residents



Nearby States' Rank:

Kentucky – 489

Ohio – 449

Michigan – 429

Indiana – 412

Pennsylvania – 387

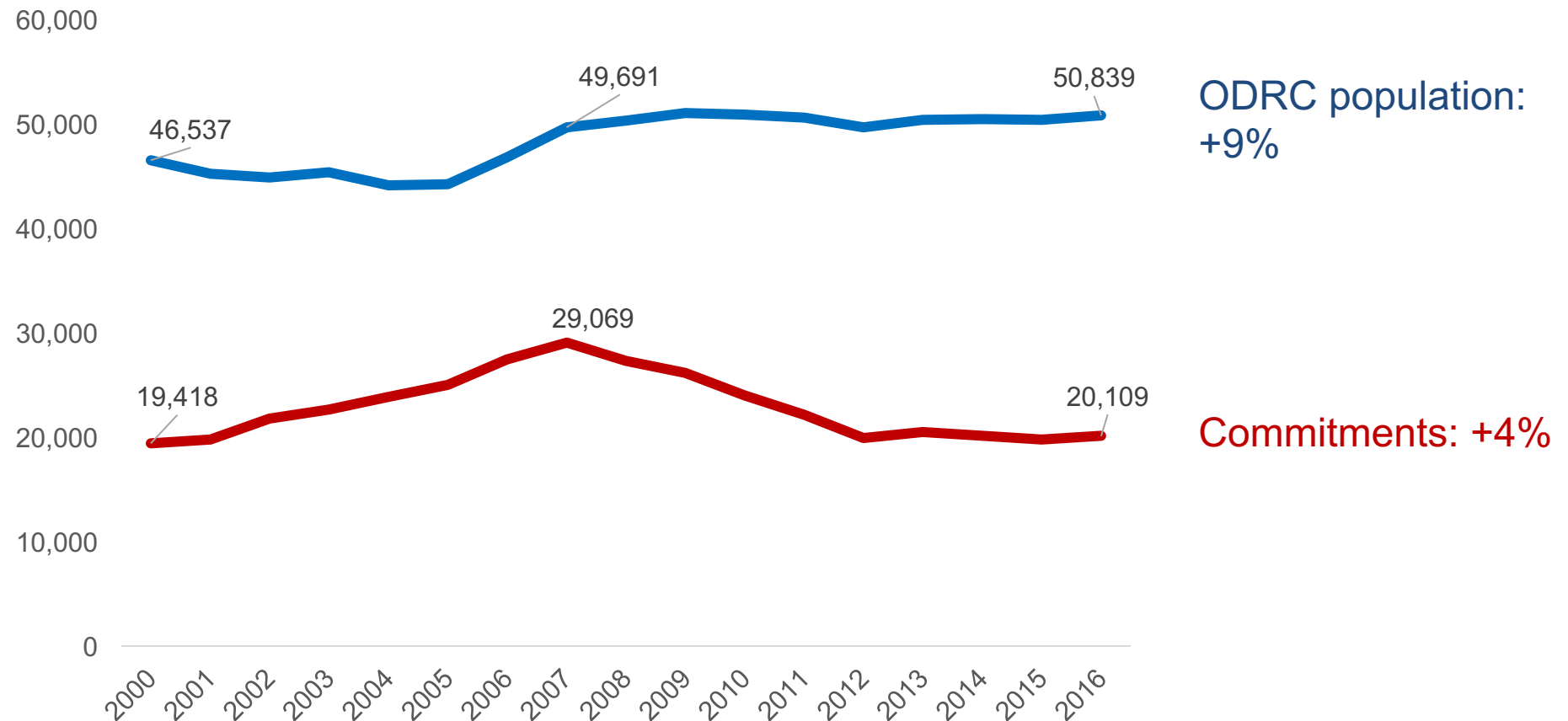
West Virginia – 386

Wisconsin – 377

Illinois – 360

Since 2000, the ODRC population increased 9 percent, and modest growth has continued since 2007 even though commitments fell by 9,000.

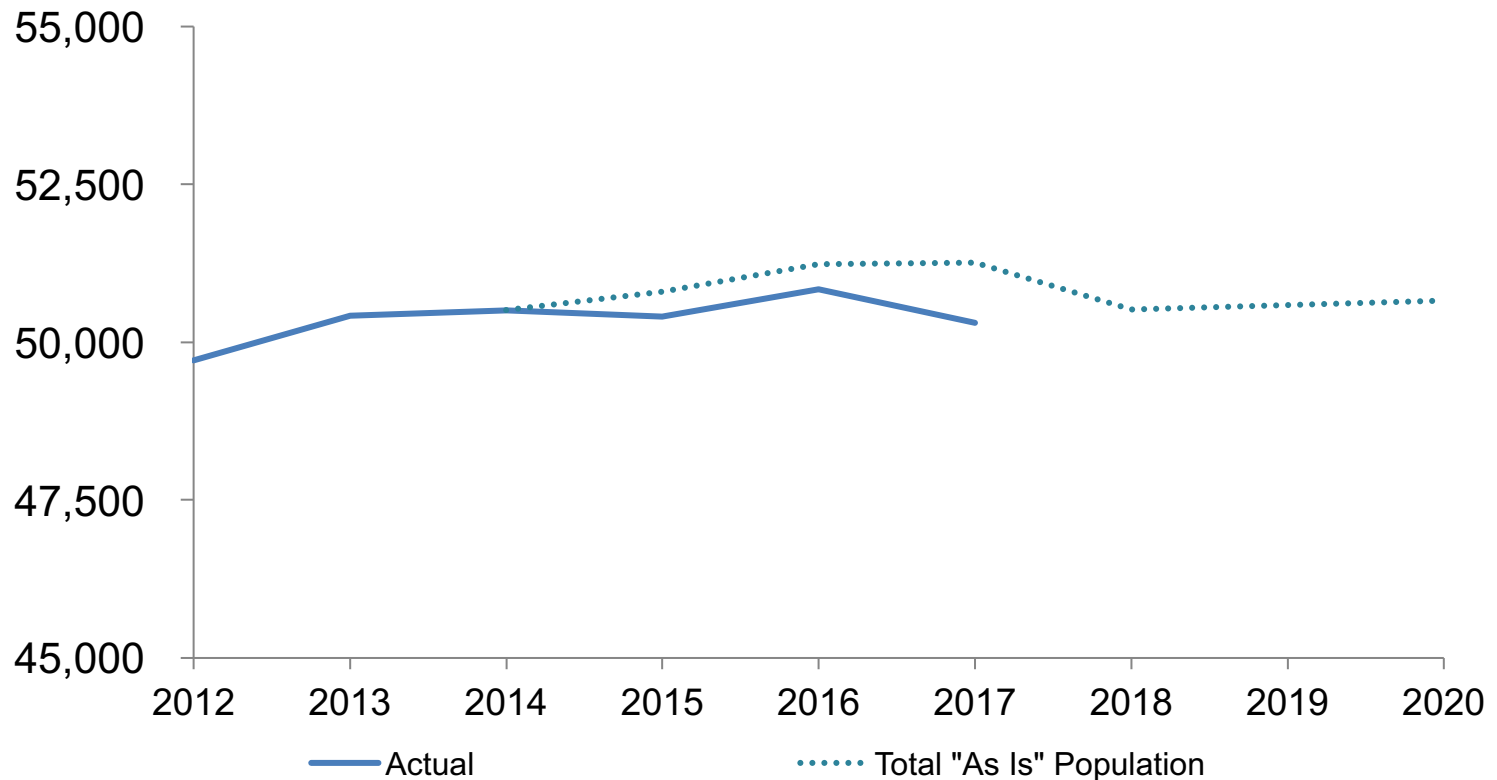
2000–2016 Change



Source: ODRC Prison Population Update, February 2017.

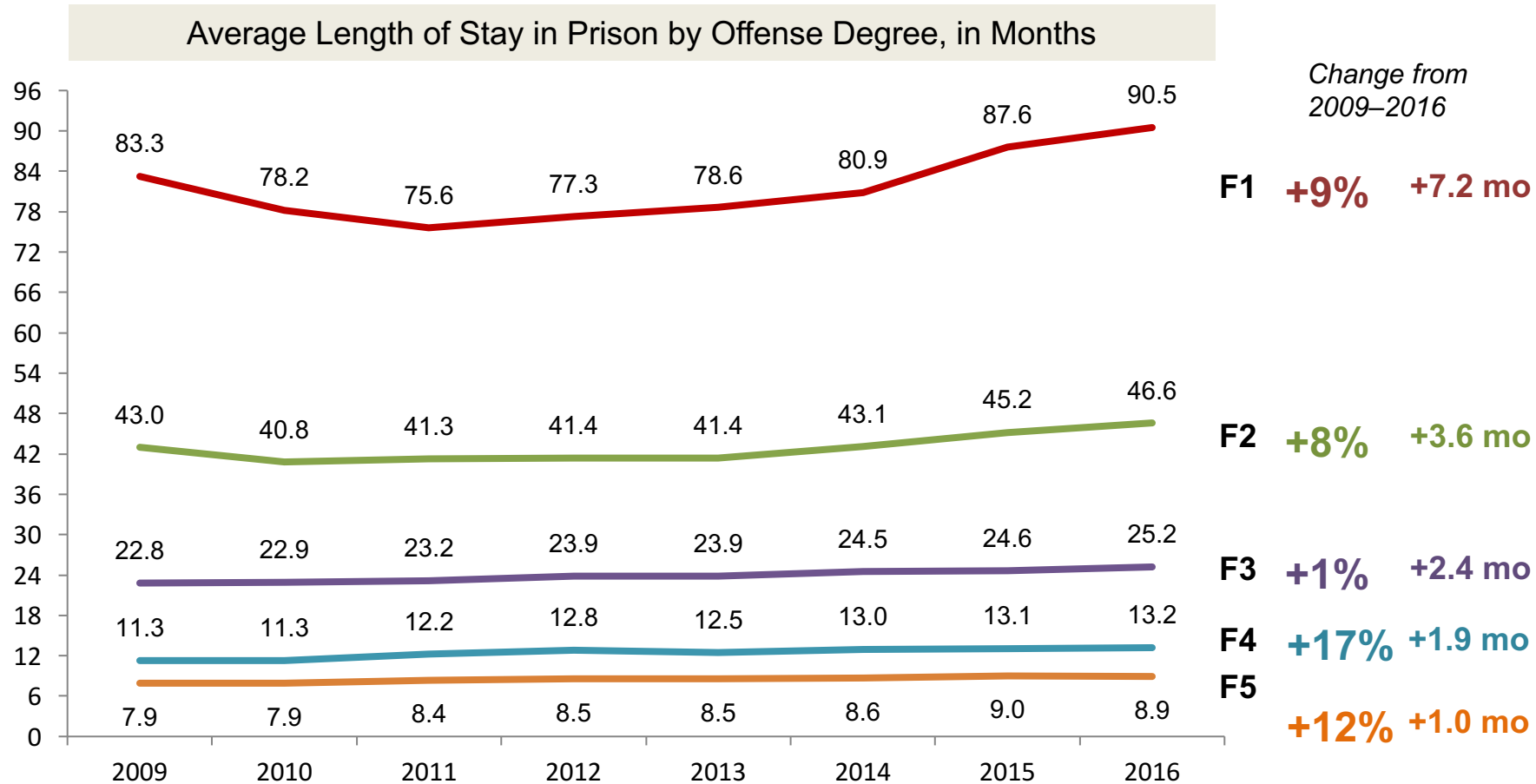
Under the state's most recent projections, the prison population is expected to remain stable with only modest growth through 2020.

Ohio's Projected Prison Population, FY2012–FY2020



Source: DRC Prison Population Projections.

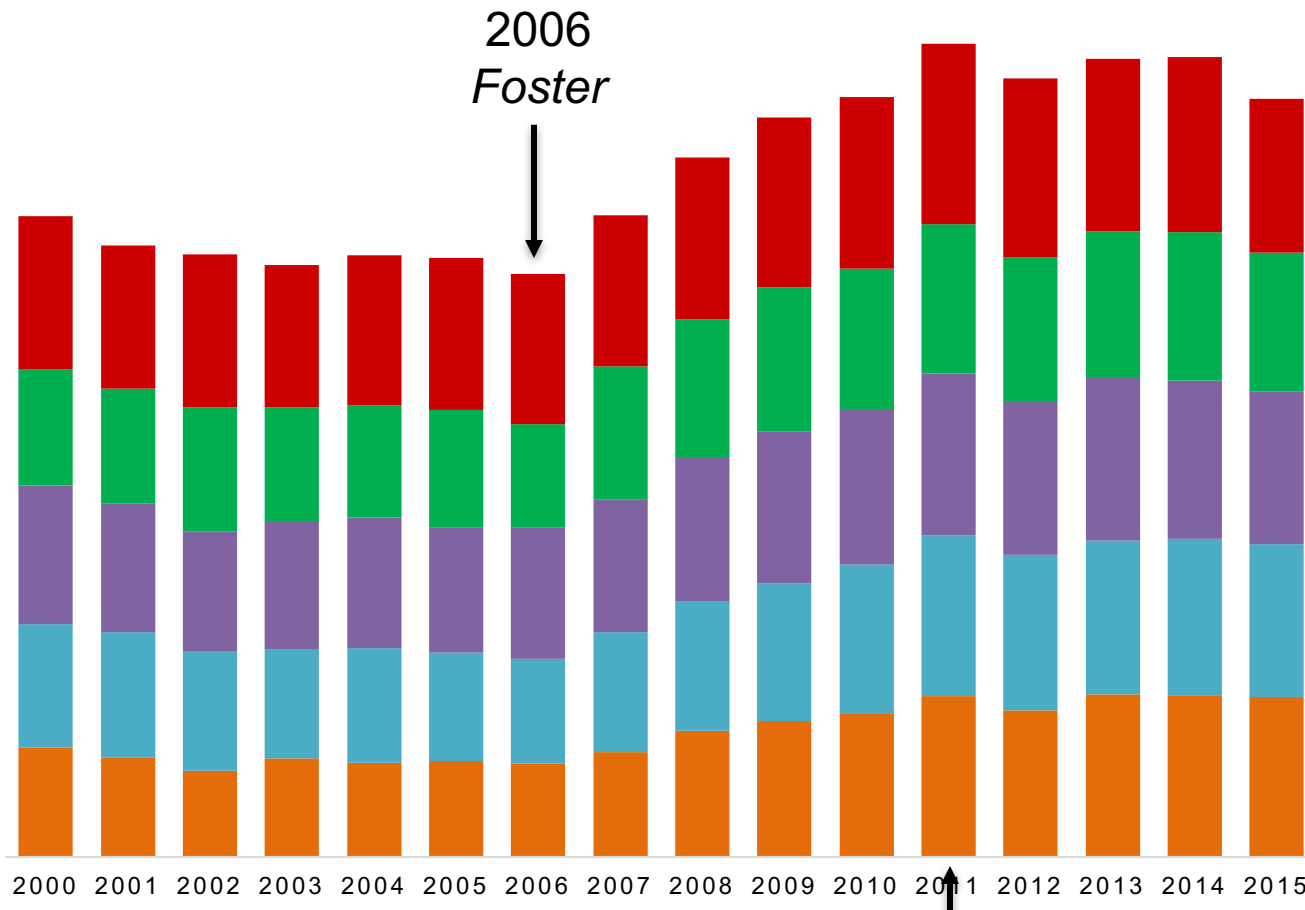
Lengths of stay are increasing across felony levels.



Source: Ohio Department of Rehabilitation and Corrections Time Served Reports by calendar year.
Numbers for 2016 are preliminary.

ODRC reports that consecutive sentences have increased for all felony levels since *Foster*, and decreased little after HB 86.

Percent of Multiple Conviction Commitments with Consecutive Terms Imposed, by Felony, FY2000–FY2015



Pre- and Post-2006
Average % of multiple conviction terms with consecutive terms imposed

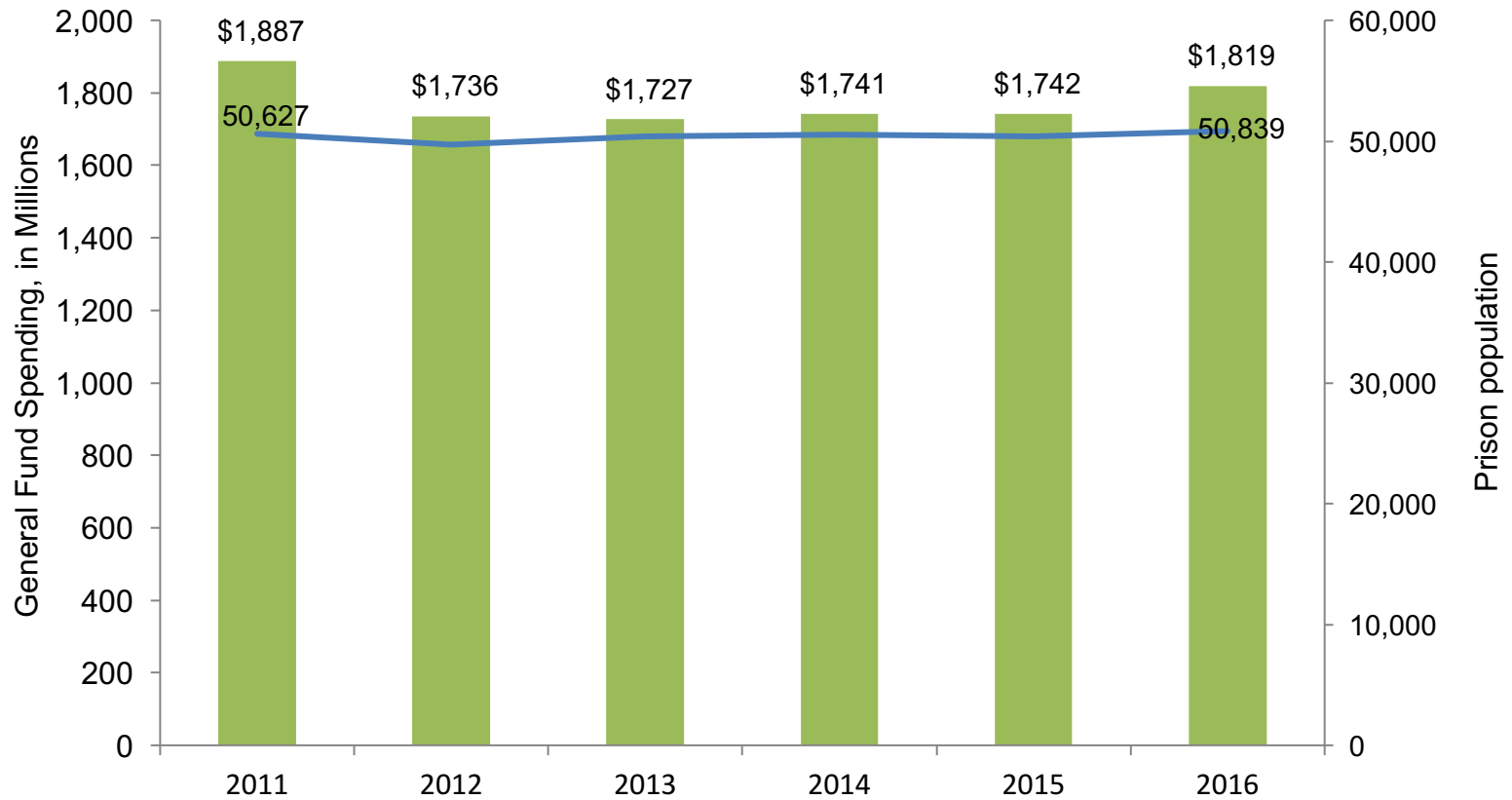
	Pre 2006	Post 2006
F1	41%	46%
F2	32%	39%
F3	35%	42%
F4	32%	40%
F5	27%	40%

Source: ODRC Prison Population Update, February 2017.

2011
HB 86

Ohio's general fund spending on corrections approaches \$2 billion annually.

General Fund Spending on Corrections, 2011–2016



Source: NASBO State Expenditure Report, DRC Population Sheet.

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JUSTICE REINVESTMENT

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

The Justice Reinvestment Initiative is supported by funding from the U.S. Department of Justice's **Bureau of Justice Assistance (BJA)** and **The Pew Charitable Trusts**

Justice reinvestment prioritizes public safety.

“Reduce recidivism” means people who commit crimes are held accountable, receive the intervention they need to change their behavior, and do not reoffend.

“Repair harm” means victims are safe, have access to help, understand how the criminal justice system works, see accountability, and heal.

“Prevent offenses” means a state uses policing strategies and public safety approaches to decrease crime and violence, not just *reported incidents* of crime.

“Build trust” means communities heavily impacted by crime and incarceration are supported, and conditions of distrust are directly addressed.



In Ohio: Develop a statewide public safety strategy to reduce crime, improve behavioral health treatment, and adopt more cost-effective sentencing, corrections, and supervision policies.

(1) Recent increases in most violent crime

Recap:

- Increases in most violent crime between 2011 and 2016.
- Every year there are many more reported homicides and aggravated assaults than there are arrests for those offenses.
- Low-level crimes drive arrest activity and limit law enforcement's capacity to respond to violent crime.

Key Questions:

- What is driving upticks in violent crime?
- What does the research say works to address violence?
- To what degree can reducing recidivism help drive down crime?

Potential JR 2.0 Approach:

- Analyze data to quantify people arrested for violent crime and their previous interaction with the criminal justice system or status on supervision—pretrial, probation, community corrections, or post-release control.
- Engage and survey law enforcement to clarify needs and goals.
- Identify how state policymakers can best support local law enforcement in addressing violent crime.

(2) Opioid abuse and overdose epidemic

Recap:

- Overdose deaths increased 129% and opioid overdose deaths tripled, 2011–2016.
- In 2016, Ohio spent \$124 million on medication-assisted treatment for opioid use.
- Increases in drug abuse are apparent in arrests and prison admissions.

Key Question:

- How can the response to people with behavioral health needs in the criminal justice system be improved to:
 - Enhance identification of people with behavioral health needs in the criminal justice system?
 - Ensure an array of timely, specialized treatment options?
 - Increase treatment's effectiveness at improving public safety and health?
 - Strengthen state and local collaboration between behavioral health and criminal justice agencies?

Potential JR 2.0 Approach:

- Analyze data to understand the overlap between criminal justice and behavioral health populations.
- Coordinate with stakeholders to assess the availability of behavioral health treatment.
- Identify opportunities to increase connections to timely, specialized treatment.

(3) Large and fragmented probation system driving one-quarter of prison admissions

Recap:

- Ohio has the third-highest probation rate and fourth-largest probation population in the U.S.
- Probation violators make up 21–24% of prison commitments.
- Revocation pressure on prison population can be affected using state improvement and incentive funding.
- There is no statewide recidivism-reduction strategy for probation.

Key Question:

- How can the consistency and effectiveness of probation be improved statewide while respecting local control?

Potential JR 2.0 Approach:

- Work with counties to understand data collection and reporting challenges to help the state better contribute to this effort.
- Analyze data, if available, to understand violations and responses leading to revocation or incarceration.
- Conduct focus groups to identify local supervision challenges and work to improve the ability of probation officers to decrease the number of total violations and revocations to prison.
- Review law and policy related to supervision practices and strengthen foundation for counties to adopt EBP.

(4) Ad hoc, convoluted sentencing structure

Recap:

- The current sentencing system has contributed to crowded prisons and large misdemeanor and felony probation populations.
- The use of aggravating and mitigating findings to guide sentencing has failed.
- Ohio law shows a micromanaged approach to sentencing policy that is needlessly complex.

Key Question:

- How can Ohio sentencing laws be refocused and simplified to prioritize incarceration for the most serious and violent offenses while facilitating recidivism reduction among people on supervision?

Potential JR 2.0 Approach:

- Explore using BCI, ODRC prison data, and individual county sentencing data to better understand the system due to lack of statewide sentencing data.
- Use practitioner interviews (prosecution, defense, judiciary) to inform recommendations.
- Explore the capacity of Criminal Sentencing Commission to evaluate proposed sentencing changes in the future and provide objective impact analysis.

(5) Prison population and costs remain high

Recap:

- Ohio has the second-highest incarceration rate (449) among neighboring states.
- Modest growth in prison population continues, despite fewer commitments.
- Growth and crowding are projected into the future.
- Corrections spending is the seventh-highest among all states.

Key Question:

- How can Ohio use sentencing and probation reforms to ease crowding and generate savings for reinvestment in strategies to increase public safety at the local level?

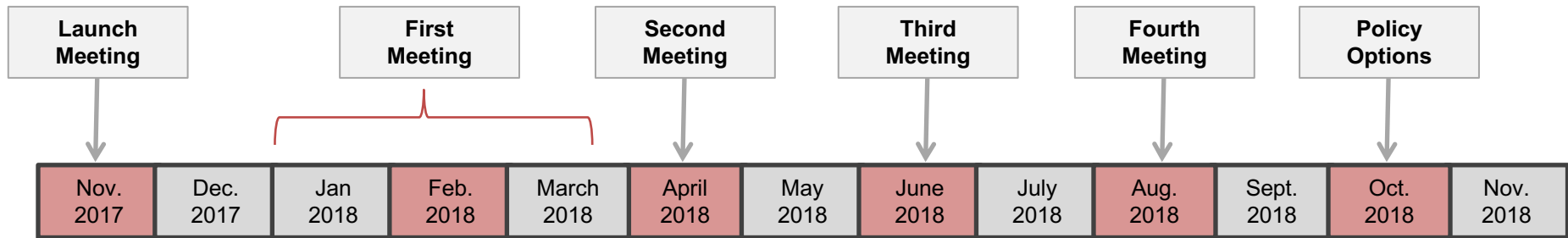
Potential JR 2.0 Approach:

- Analyze data to identify sentencing patterns and drivers of incarceration.
- Analyze impacts of recent policy changes.
- Improve probation and community corrections to reduce prison admissions.

Ohio data analysis is challenging because of database structures and silos at the state and local levels.

Data Type	Source	Goals for Analysis	Status
– Crime and Arrests	Ohio Bureau of Criminal Investigation	<ul style="list-style-type: none"> - Crime and arrest trends - Arrest trends for those on community supervision - Disposition trends - Re-arrest recidivism analysis 	Requested August 15; Submitted data assurance documents October 2; data expected December 1
– Sentencing	Ohio Courts Network	<ul style="list-style-type: none"> - Sentencing trends - Criminal history comparisons for sentences 	Data will not meet project's needs
– Prison (admissions, releases, and population snapshots)	Ohio Department of Rehabilitation and Correction	<ul style="list-style-type: none"> - Sentencing trends - Length of stay trends - Re-arrest recidivism analysis 	Requested September 8; ODRC data meeting October 4; submitted research application October 13; data expected December 1
<ul style="list-style-type: none"> – Probation Supervision – Post-release Control Supervision 	Ohio Department of Rehabilitation and Correction	<ul style="list-style-type: none"> - Sentencing trends - Length of stay trends - Re-arrest recidivism analysis 	Requested September 8; ODRC data meeting October 4; submitted research application October 13; data expected January 15 (probation) and February 15 (PRC)
– Community Based Correctional Facility	Ohio Department of Rehabilitation and Correction	<ul style="list-style-type: none"> - Sentencing trends - Length of stay trends - Re-arrest recidivism analysis 	Requested September 8; ODRC data meeting October 4; submitted research application October 13; data expected January 15
– Jail	Counties	<ul style="list-style-type: none"> - Length of stay trends - Pretrial/sentence population trends - Re-arrest recidivism analysis 	Still scoping
– County Probation	Counties	<ul style="list-style-type: none"> - Sentencing trends - Length of stay trends - Re-arrest recidivism analysis 	Still scoping

Ohio's justice reinvestment process will extend through November 2018 with at least four working group meetings.



First Committee Meeting

Public safety and Drivers of Crime/Arrests

- Examine local and regional trends
- Explore which high volume crimes drive statewide trends

Second Committee Meeting

Sentencing and Sorting of Cases

- Examine sentences using BCI criminal history data
- Research relevant case law
- Provide examples of statutory changes

Third Committee Meeting

Community Supervision, Programs, and County Innovations

- Delve into county-based probation systems
- Analyze county-level probation and CBCF data
- Provide recommendations to reduce recidivism

Fourth Committee Meeting

Behavioral Health Systems

- Review behavioral health system's intersection with criminal justice system
- Promote collaboration across systems to improve behavioral health outcomes

Thank You

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