JUSTICE CENTER
THE COUNCIL OF STATE GOVERNMENTS

CSG Justice Center — Massachusetts Criminal Justice Review

Working Group Meeting 1: review of justice reinvestment process and proposed scope of work

January 12, 2016

The Council of State Governments Justice Center

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The 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

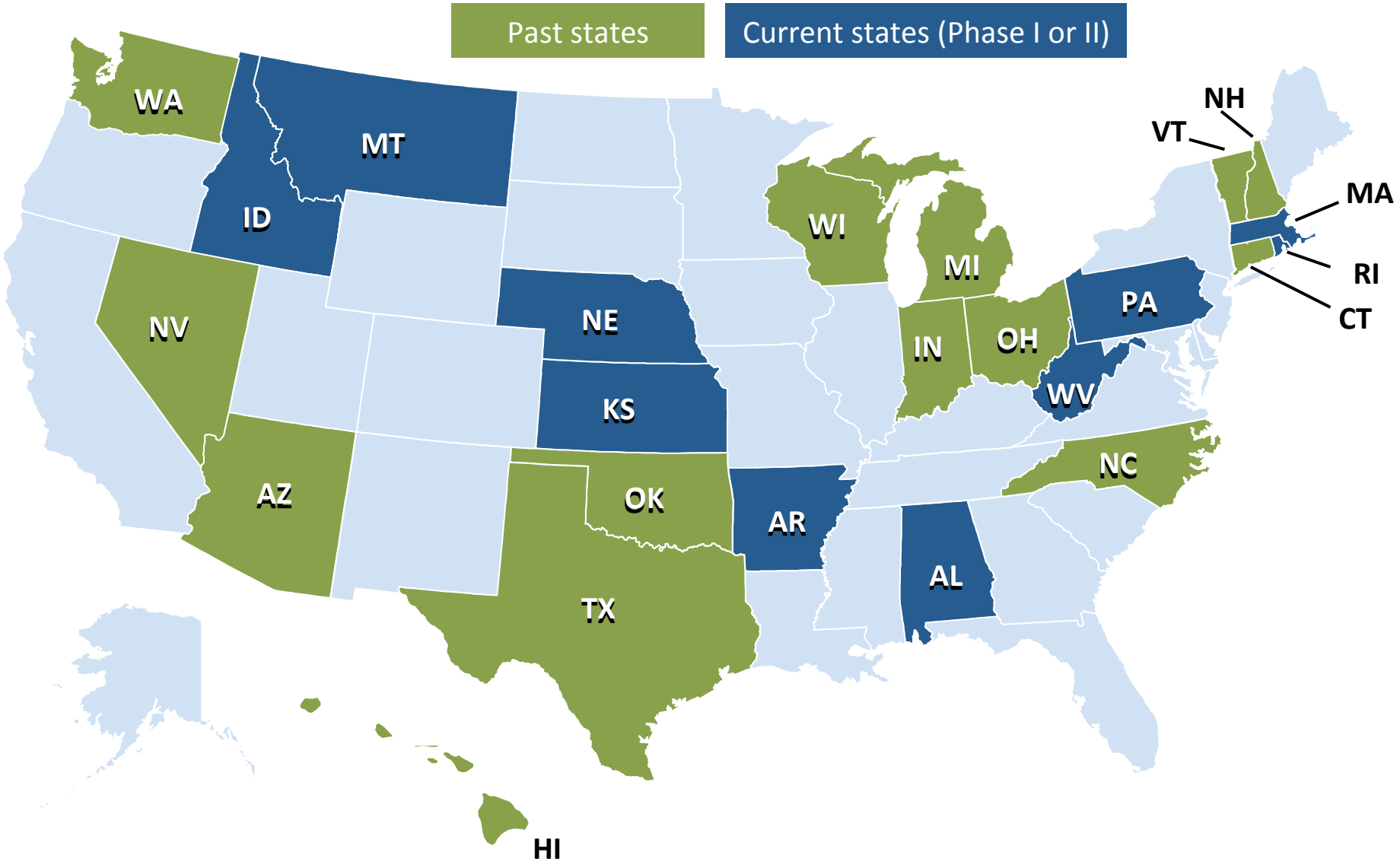
Justice reinvestment goals

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**

Massachusetts is the 24th state to use the justice reinvestment approach with CSG Justice Center assistance



States have reinvested in different public safety strategies

STATE	FINDING	REINVESTMENT
	Substance use needs contributing to probation and parole violations	Reinvest $2.5 million in substance use treatment focused on higher-risk probationers and parolees with higher needs
	Victims lack confidence that restitution orders will be managed effectively	Increase, by statute, prison-based restitution collections, reinvest in 15 victim service positions, and track collections using a database
	Despite substantial community correction program investment, probation failures account for close to one-third of prison admissions	Reinvest $10 million in funding for improving probation, including performance-incentive grants

State leaders requested assistance to build on past efforts and continue to improve criminal justice outcomes

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CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

July 30, 2015

Juliene James
Senior Policy Advisor
Bureau of Justice Assistance
810 Seventh Street NW
Washington, D.C., 20531

Adam Gelb
Project Director
Pew Center on the States
901 E Street, NW, 10th Floor
Washington, D.C., 20004

Dear Ms. James and Mr. Gelb:

Massachusetts has a long history of its state leaders working across party lines and branches of government to study systemic challenges and improve real-world outcomes. Past efforts have led to the adoption of evidence-based practices in many parts of our criminal justice system. A logical next step is for Massachusetts to request technical assistance from the Justice Reinvestment Project to use a data-driven approach to continue to improve criminal justice outcomes.

As you know, Massachusetts has experienced an overall decline in correctional population (including state prison and house of correction inmates) in the past decade, and has one of the lowest per capita rates of incarceration in the country. The decline in our state prison population has allowed us to begin mothballing facilities and redistributing prisoners to allow for more focus on step-down activities. However, despite this success in reducing the overall rate of incarceration, our three-year recidivism rate has remained at approximately 40% for a number of years. Recent data shows this rate dropping to 35% for those individuals released in 2011, but it is too soon to say whether this is the beginning of a trend or if it is an anomaly. It is also important to note that Massachusetts law does not mandate post-release supervision. As a result, 39% of those released from state prison returned to the community without any supervision in 2013.

Support from 3 branches of government to seek criminal justice system improvements through a data-driven approach

Massachusetts is committed to enhancing public safety and improving our approach to criminal justice by engaging in this data-driven process. We believe that Justice Reinvestment technical assistance will help us achieve our goals, and we would welcome and appreciate your support.

Sincerely,

Charles Baker
Governor

Ralph Gants
Chief Justice, Supreme Judicial Court

Stan Rosenberg
Senate President

Robert DeLeo
Speaker of the House

Justice reinvestment focuses on improving core correctional elements and involves intensive stakeholder engagement

The Justice Reinvestment Process

PHASE I

- Working group formation / presentations
- Data analysis
- Stakeholder engagement
- Sentencing policy analysis
- Policy development
- Modeling of policy impact

PHASE II

- Implementation oversight structure & planning
- Translating projections into metrics
- Training strategies
- Communication plan
- Subaward plan development and tracking
- State monitoring of key metrics

Improvement of Core Correctional Elements:
RISK ASSESSMENT, PROGRAMS, SUPERVISION

- System-wide assessment & analysis
- On-site observation of current practice
- Charting of current vs. ideal practice
- Rollout of options for improvement connected to policy framework

- Administrative policy review & redesign
- Retraining, revalidation, QA processes
- Troubleshooting the change process
- Supporting leaders and oversight of the process

Focus on Subject Matter Areas

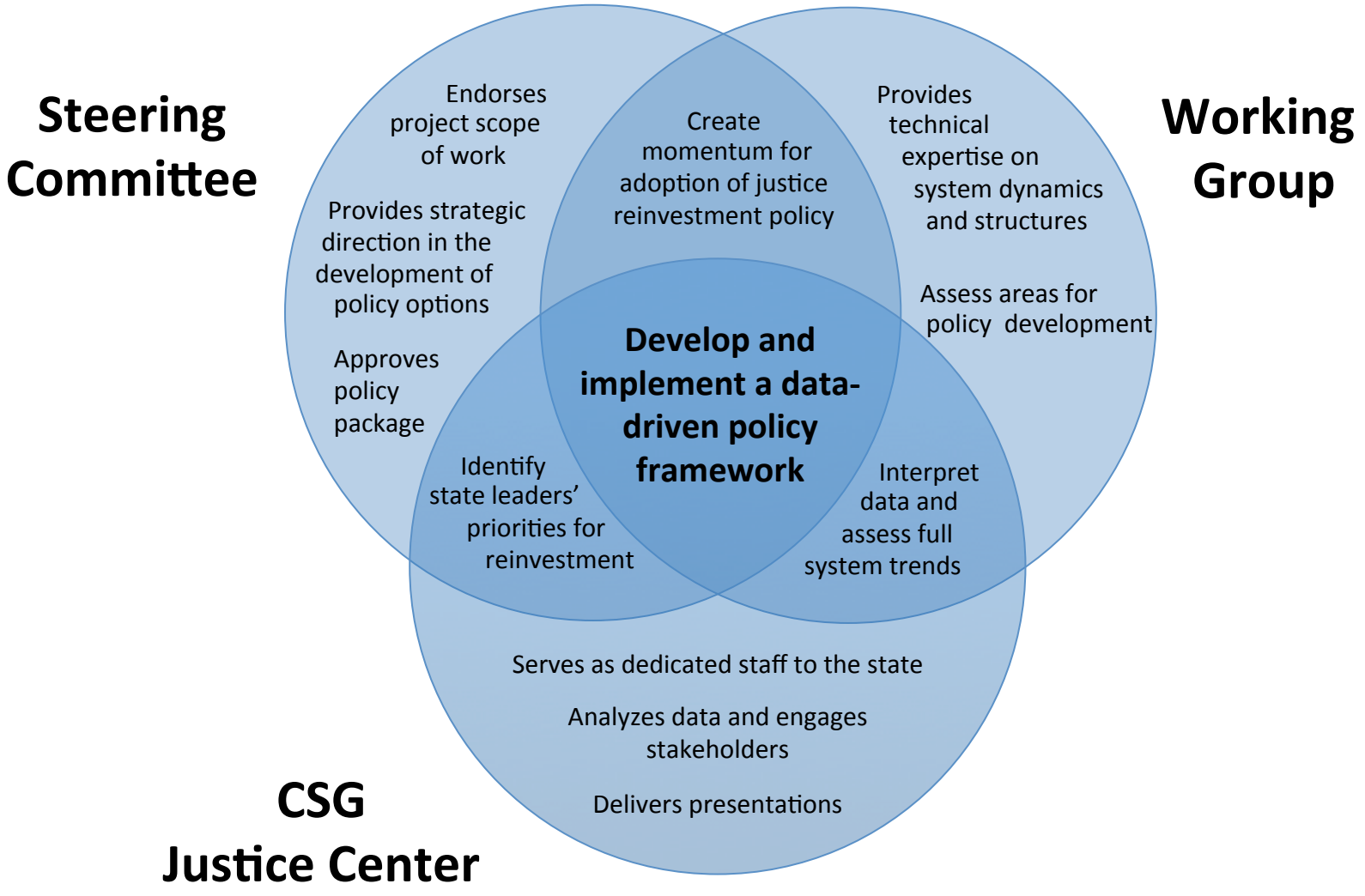
- Prosecutor engagement
- Victim advocates & service providers
- Parole board members

- Law enforcement
- Sentencing policies & case law
- Behavioral health state officials and providers

Justice Reinvestment and Results First are separate complementary projects

	JUSTICE REINVESTMENT (Council of State Governments)	Commonalities	Results First (The Pew Charitable Trusts)
POLICY AREA	Adult criminal justice policy	Data-driven CJ system improvements	Multiple policy areas: criminal/ juvenile justice, education, etc.
GOAL	Develop, implement data-driven policy framework	Improve public safety and reduce cost	Inform budget and policy process
FOCUS	Drivers of crime, recidivism, and correctional populations	Cross-system collaboration	Evidence of programs' effectiveness
COST SAVINGS	Reinvest cost savings in public safety strategies	Increased effectiveness of state spending	Reallocate to other budget priorities
DURATION	Phase I (1 year), Phase II (2-3 years), ongoing monitoring	Sustainable impacts	Ongoing

Roles and responsibilities during the CSG Justice Center-Massachusetts Criminal Justice Review



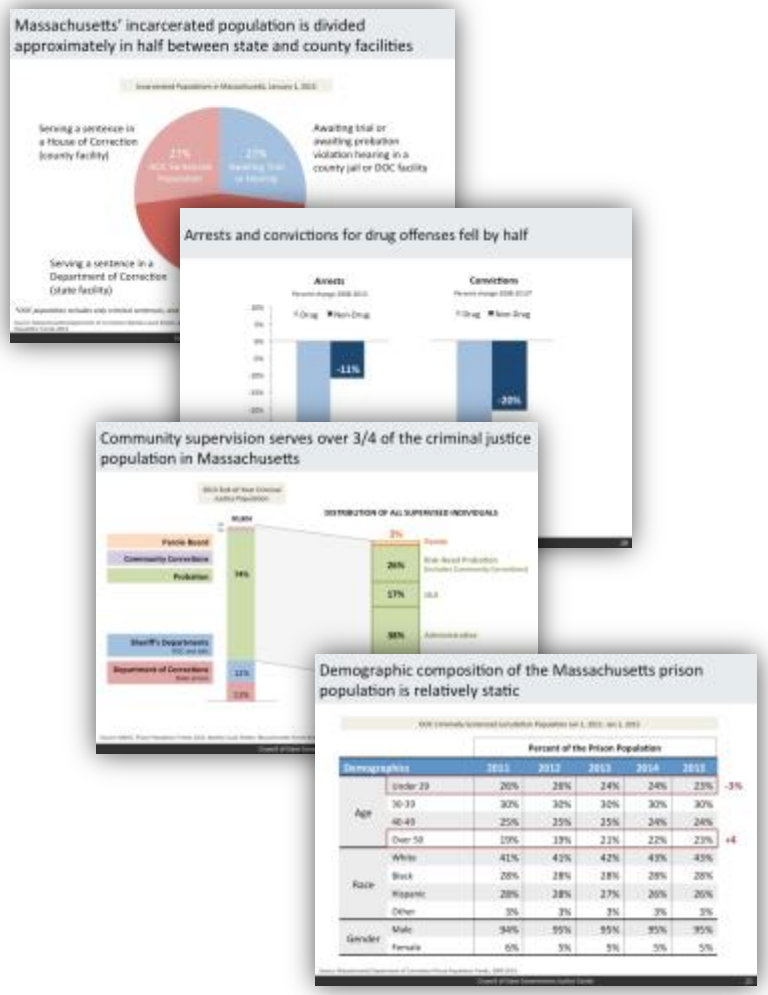
CSG Justice Center and state/local agencies and offices are entering into data-sharing agreements

Data Type	Source	Status
Sentencing	Massachusetts Trial Courts	Received, analyzing
Prison	Massachusetts Department of Correction	Received, analyzing
Probation supervision	Massachusetts Office of the Commissioner of Probation	Received, analyzing
Parole supervision	Massachusetts Parole Board	Received, analyzing
Parole decision-making	Massachusetts Parole Board	Delivery pending
HOC and Jail	Counties / Massachusetts Parole Board (HOC)	Received, analyzing – Middlesex County; Additional scoping underway
Behavioral Health Data	Department of Mental Health	Scoping underway

Roadblocks that sometimes arise

- Agencies unaccustomed to sharing data with outside groups
- Data is insufficient for analysis
- Shortage of "data staff"
- Delays in delivery due to "data cleaning"

Today's analyses are largely based on published reports, and future presentations will include case-level analysis



- This presentation aims to capture a snapshot of system trends in Massachusetts leading up to the justice reinvestment project
- While all future presentations will include original data analysis performed by the Justice Center, this presentation relies on publicly available system data
- All data sources are listed in slide footnotes

Presentation Overview

Incarceration

Recidivism

Supervision

Definition of terms for this presentation

County Jail – Operated by county sheriffs, these facilities house people who are awaiting trial or arraignment, or are being held for an alleged probation supervision violation.* Both of these populations are held in custody until they are released on their own recognizance, are able to post bail, or until their cases are disposed.

Total Jail Population – Single day count of individuals housed in a county jail, regardless of case status or county of jurisdiction.

House of Correction (HOC) – Operated by county sheriffs, these facilities house people who have been sentenced to a period of confinement for a misdemeanor or felony offense by either a district or superior court. A sentence to HOC must be no more than 30 months. These facilities primarily house individuals serving a county sentence, but may also include those serving a state or federal sentence.

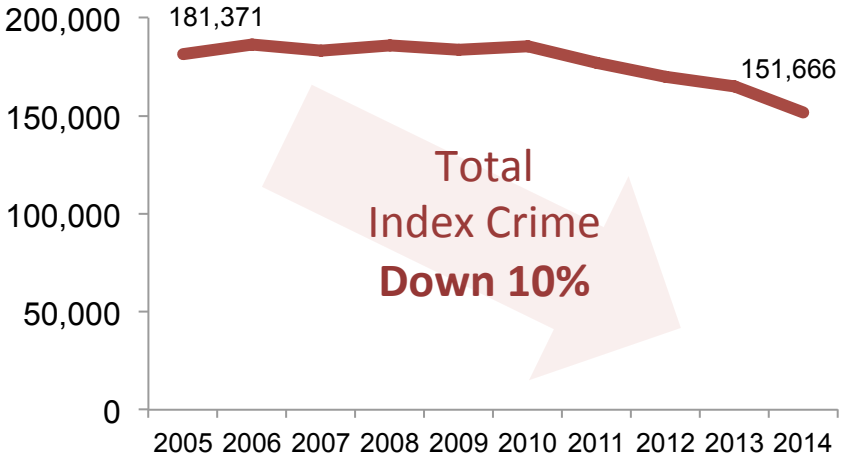
Department of Correction (DOC) – Operated by the state, these facilities primarily house people who have been sentenced to a period of confinement for a felony offense by the superior court. A sentence to DOC must be at least one year. These facilities may also house individuals awaiting trial or a hearing for an alleged supervision violation. In addition, the DOC also oversees facilities providing interventions for people who are civilly committed as mentally ill, substance abusing, or Sexually Dangerous Persons.

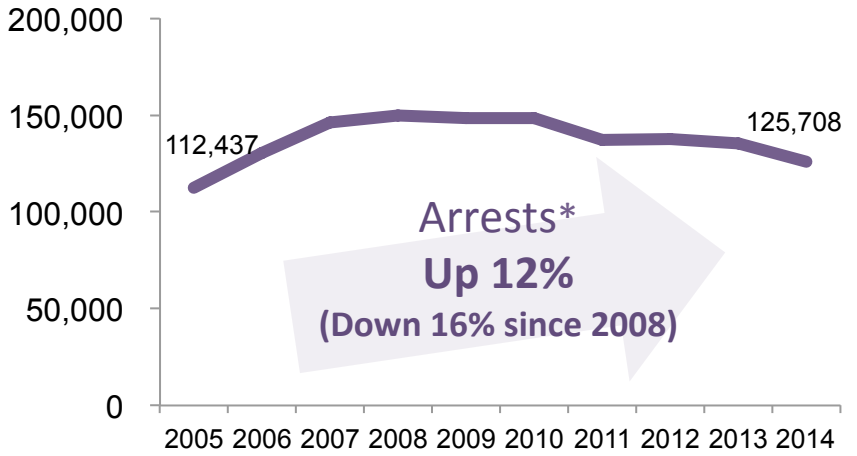
Department of Correction Sentenced Population – Single day count of individuals who have been criminally sentenced to a term of confinement and are housed in a Department of Correction facility. This primarily includes individuals serving a state sentence, but may also include those serving a county or federal sentence.

Incarcerated Population – Single day count of individuals housed in county jails, HOCs, and DOC for a criminal matter.

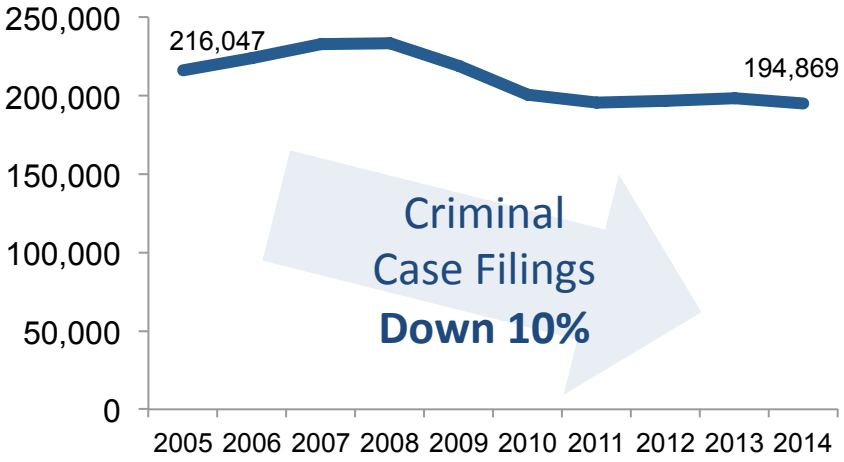
*Parole violators are returned to the HOC/DOC facility to which they were originally sentenced.

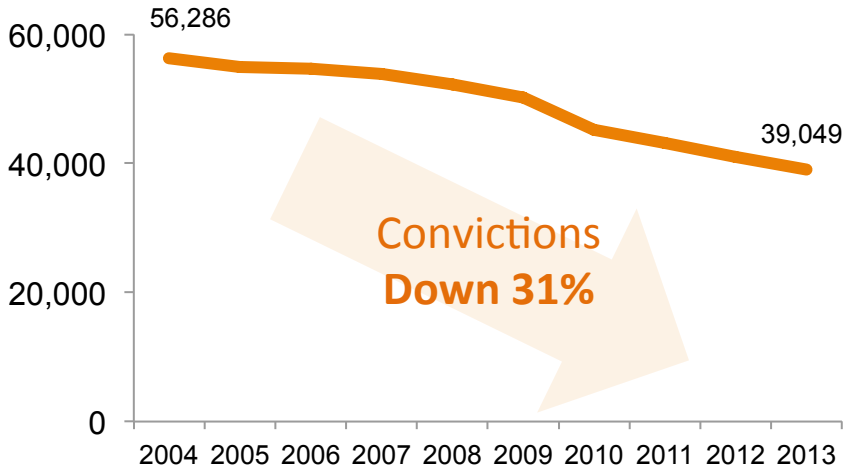
Front-end criminal justice system pressures are declining, particularly since 2008





**Arrest data is susceptible to gaps in reporting*





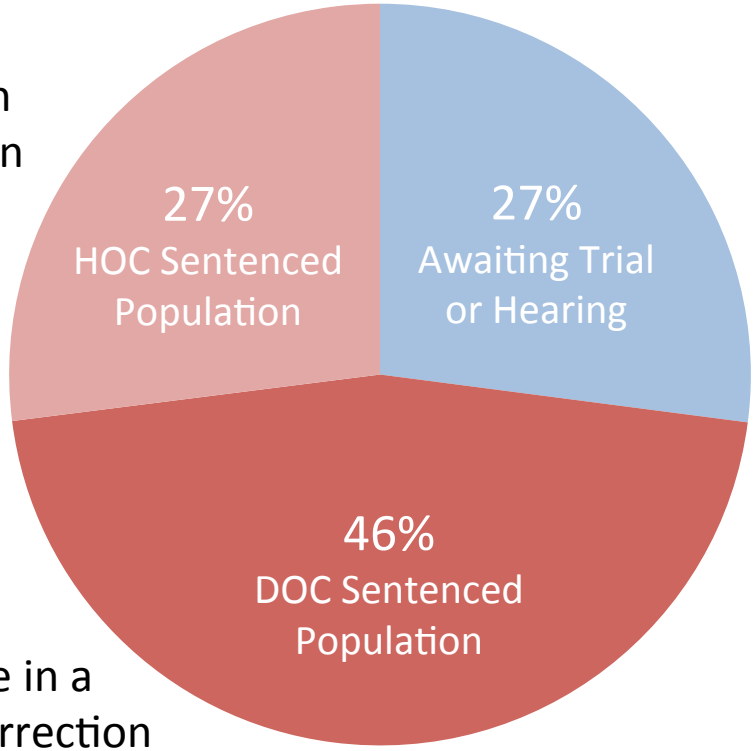
For crime, arrests, and criminal case filings, 2014 was the latest year of data available. For convictions, 2013 was the latest year available.

Source: FBI, Crime in the US; Massachusetts Office of the Trial Courts; Massachusetts Annual Survey of Sentencing Practices.

The incarcerated population is divided approximately in half between state and county facilities

Incarcerated Populations in Massachusetts, January 1, 2015

Serving a sentence in a House of Correction (county facility)



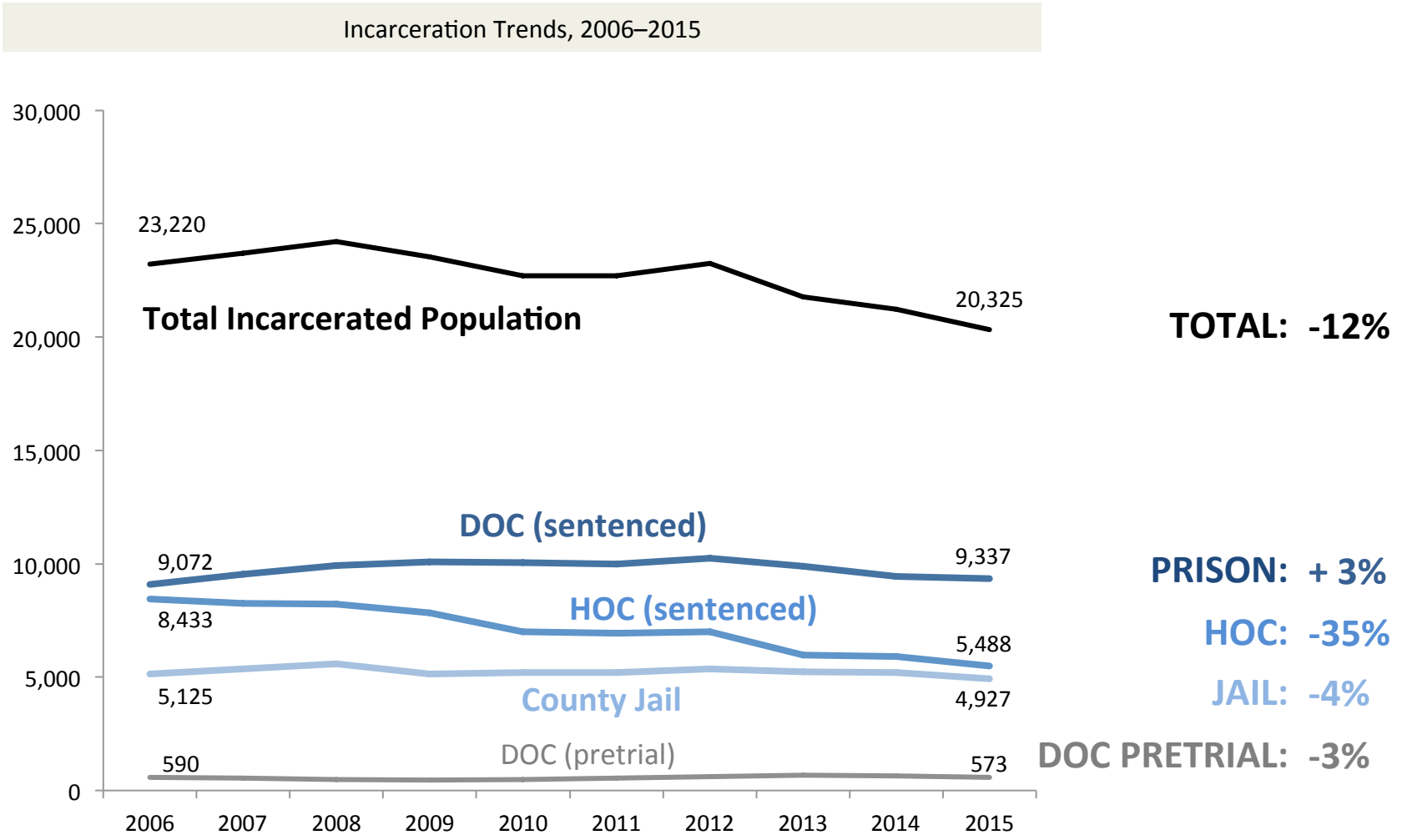
Awaiting trial or awaiting probation violation hearing in a county jail or DOC facility

Serving a sentence in a Department of Correction (state facility)

**DOC population includes only criminal sentences and includes a small number of people sentenced to a HOC who are serving time in DOC.*

Source: Massachusetts Department of Correction Weekly Count Sheets: http://www.mass.gov/eopss/law-enforce-and-cj/prisons/rsch-data/weekly-count-sheets.html; MDOC, *Prison Population Trends 2014.*

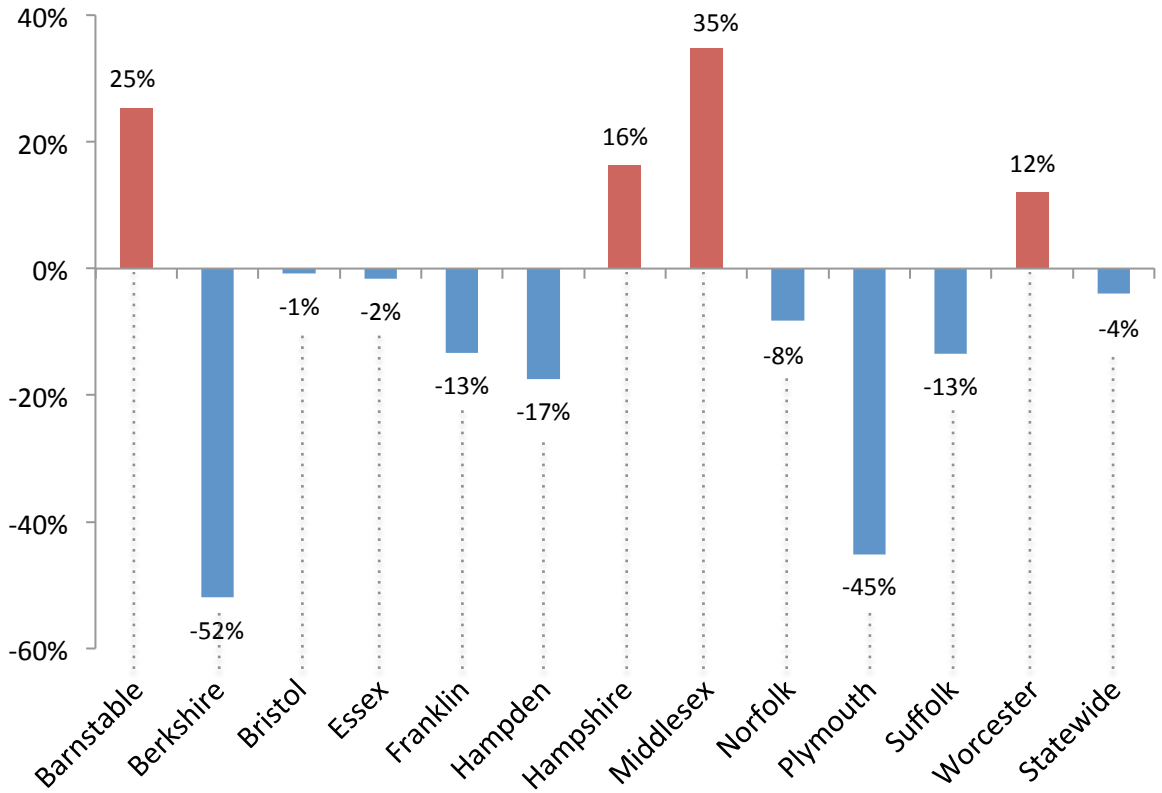
A sharp drop in the HOC population drove a reduction in the total number of people incarcerated



Source: Massachusetts Department of Correction Weekly Count Sheets: http://www.mass.gov/eopss/law-enforce-and-cj/prisons/rsch-data/weekly-count-sheets.html; MDOC, *Prison Population Trends 2014.*

The total jail population inched downward, but there is considerable variation in trends across the jails

Percent Change in Total Jail Population by County, January 2009–2015



**Total jail population, including detainees held from other counties. 2009 was the earliest available date for a breakdown by county. Dukes County not included due to small population.*

The number of people held in a county jail can be particularly volatile and can be affected by factors apart from crime and arrests, such as:

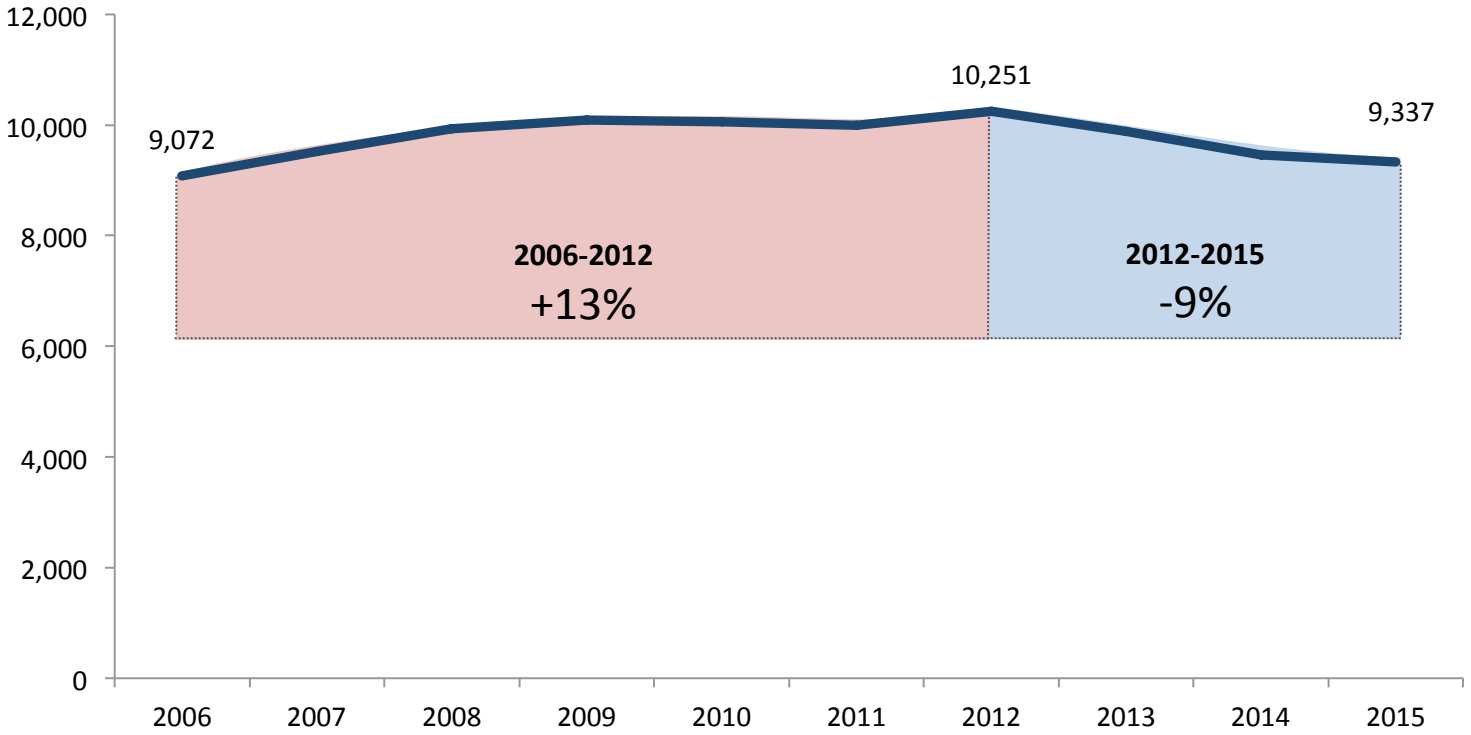
- Changes in the county's resident population
- Contracting out jail beds or holding detained individuals from neighboring counties
- Court-mandated population caps

Jails with a decreasing population still may be operating at or over capacity and experiencing budget and capacity pressure.

Source: Massachusetts Department of Correction, Weekly Count Sheets, January 2009 and January 2015.

After a substantial state prison population increase, numbers returned approximately to 2006 levels

Massachusetts DOC Criminally Sentenced Custody Population
January 1, 2006–2015



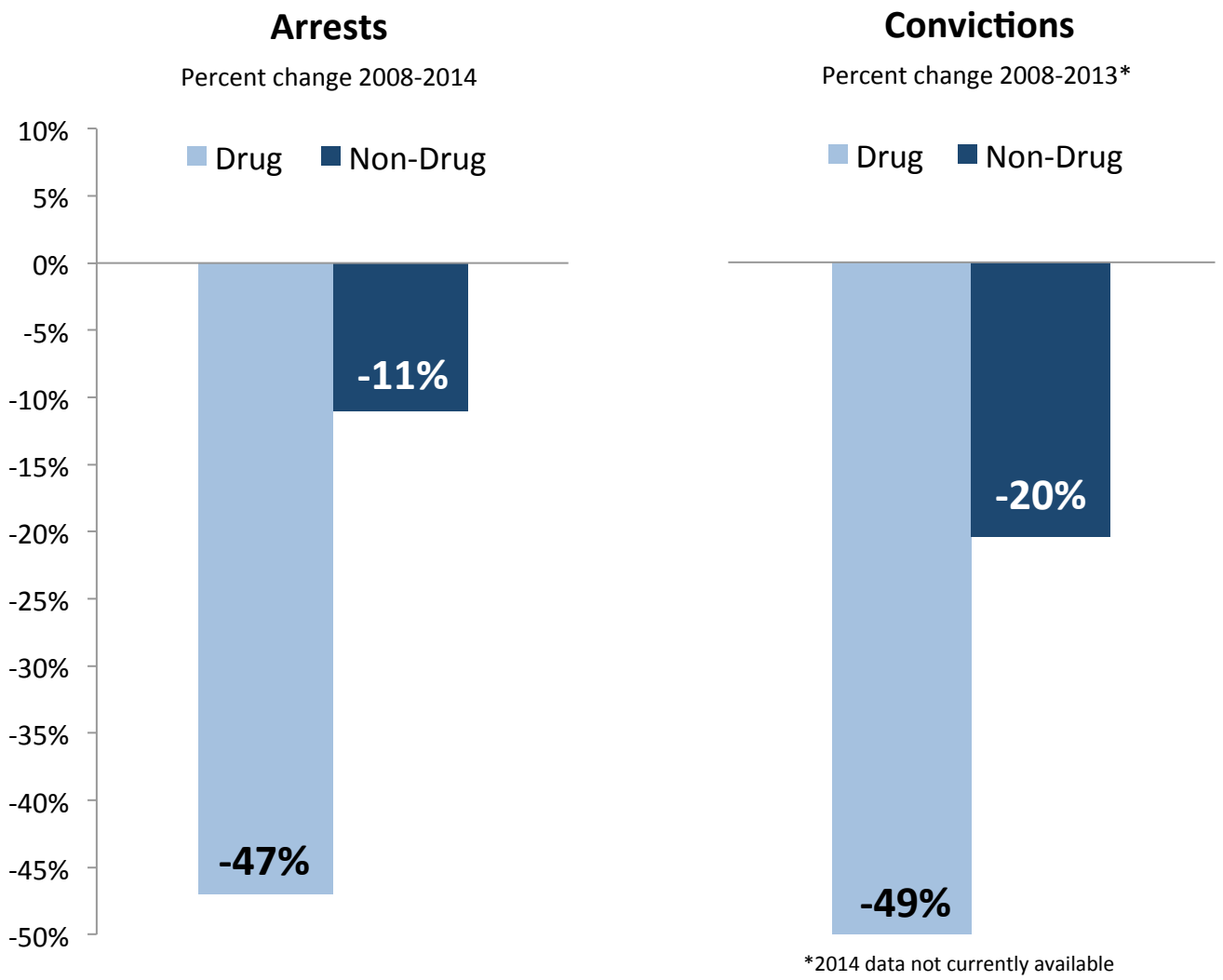
	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Number of Court/Crime Lab Releases*				77	168	89	**337**	134	74	**

As reported by the Department of Correction
***Data not available*

545 people released from DOC between 2012 and 2014 due to court or crime lab releases

Source: Massachusetts Department of Correction Prison Population Trends, 2014.

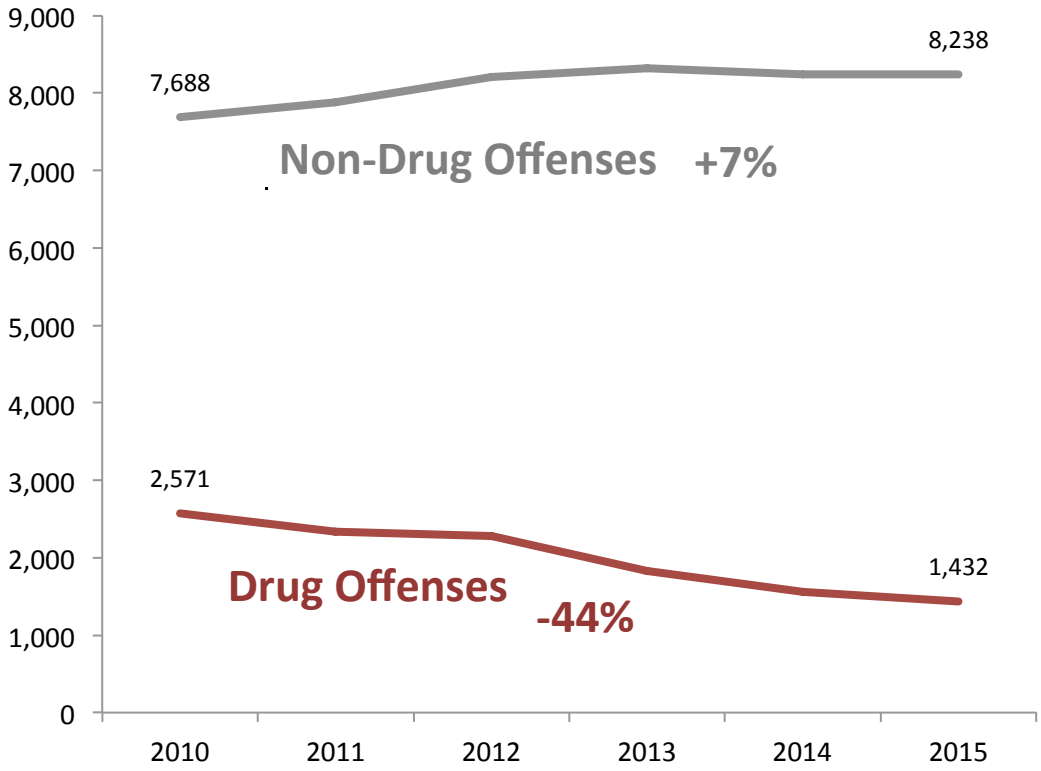
Arrests and convictions for drug offenses fell by half



Source: FBI, Crime in the US; Massachusetts Office of the Trial Courts; Massachusetts Annual Survey of Sentencing Practices.

The number of people in state prison for drug offenses dropped 44%, while other offense categories remained stable or increased

DOC Criminally Sentenced Jurisdiction Population by Governing Offense, January 1, 2010–2015



	% Change 2010 —2015	N 2015
Person	+ 9%	5,197
Sex	0%	1,352
Property	+ 2%	865
Other*	+ 14%	824
Total Non-Drug		8,238

** Other offenses include obstruction, habitual offender, prostitution, and certain weapons possessions.*

Source: Massachusetts Department of Correction Prison Population Trends, 2009-2014.

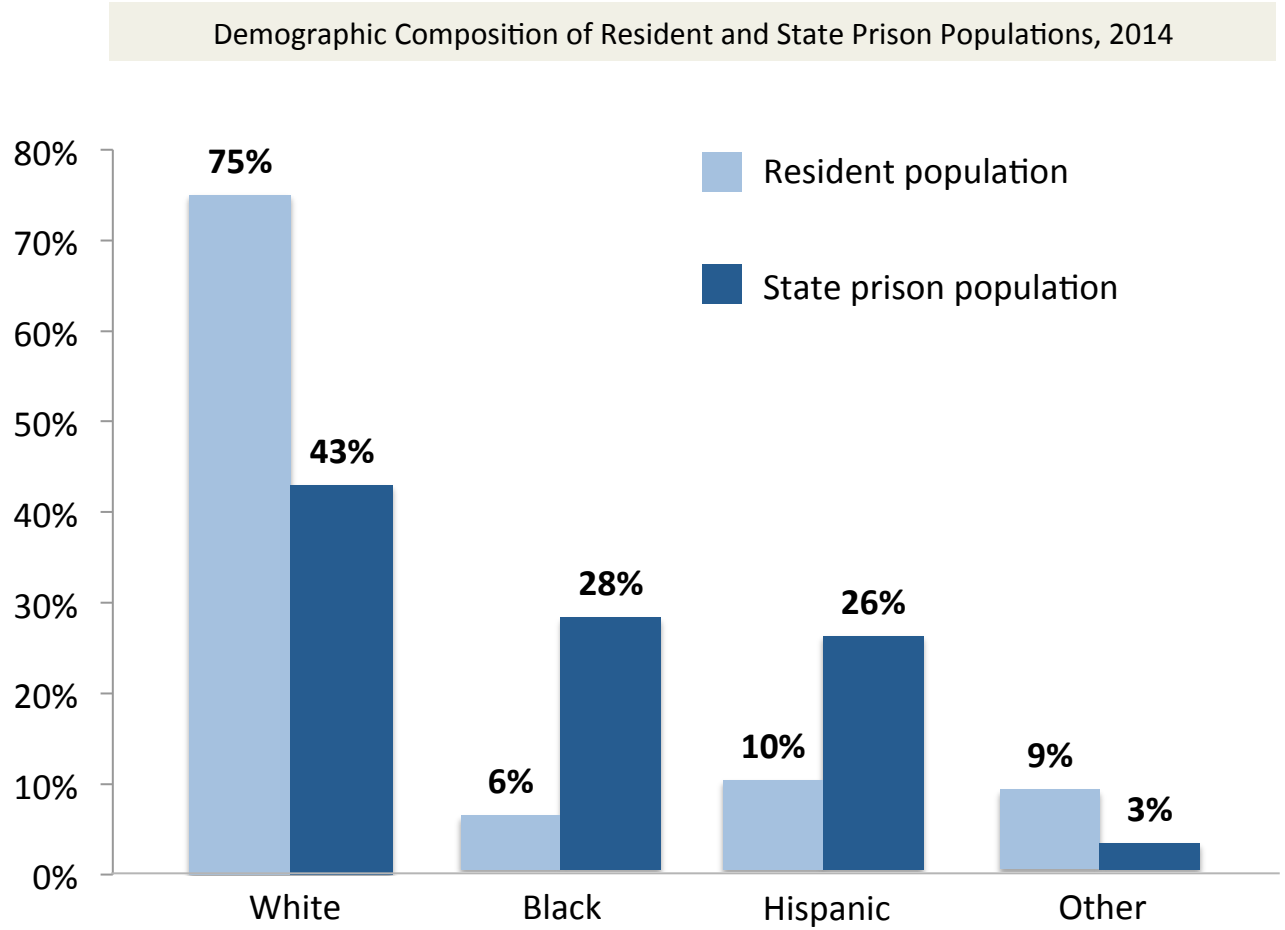
The demographic composition of the state prison population is relatively static

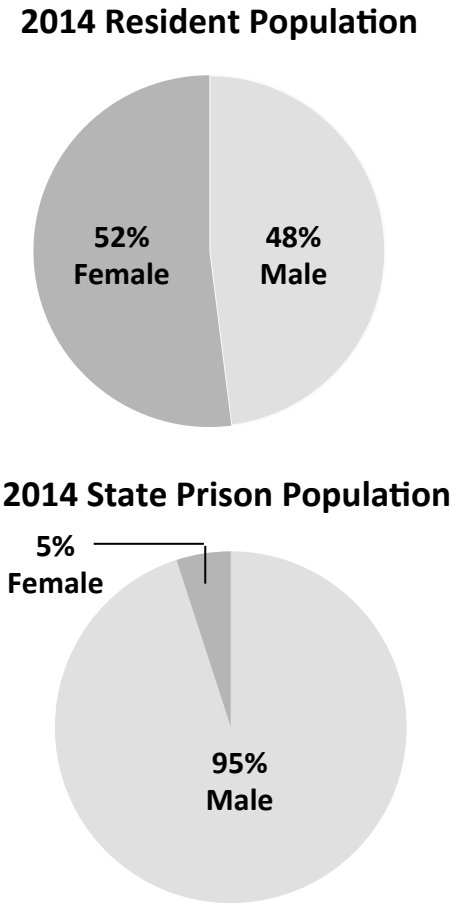
DOC Criminally Sentenced Jurisdiction Population Jan 1, 2011–Jan 1, 2015

		Percent of the State Prison Population					
Demographics		**2011**	**2012**	**2013**	**2014**	**2015**	
Age	Under 29	26%	26%	24%	24%	23%	-3%
	30-39	30%	30%	30%	30%	30%	
	40-49	25%	25%	25%	24%	24%	
	Over 50	19%	19%	21%	22%	23%	+4%
Race	White	41%	41%	42%	43%	43%	
	Black	28%	28%	28%	28%	28%	
	Hispanic	28%	28%	27%	26%	26%	
	Other	3%	3%	3%	3%	3%	
Gender	Male	94%	95%	95%	95%	95%	
	Female	6%	5%	5%	5%	5%	

Source: Massachusetts Department of Corrections Prison Population Trends, 2009-2014.

There are differences between the demographic composition of the resident and state prison populations





*Demographic information is currently only publicly available for the DOC criminally sentenced population representing approximately 11% of the total number of individuals in the criminal justice system.

**Race/ethnicity is self-reported by inmate at time of admission. Other categories include Asian, Native American, Pacific Islander, and Other. Resident population includes data reported by the U.S. Census. Hispanic includes any race while all other categories include that race alone.

Source: U.S. Census 2010-2014 American Community Survey 5-Year Estimates, http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=CF .

State leaders are interested in learning more about the behavioral health needs of justice system-involved individuals

Initial questions to approach a behavioral health systems analysis

How common are behavioral health issues at different points in the system?	What types of behavioral health needs exist in criminal justice populations?	What interventions exist to respond to these needs and who do they serve?
LE call for service	Serious mental illness	Treatment access
Diversion programs	Alcohol use	Health care coverage
Courts	Drug use	Tailored interventions
Supervision	Co-occurring disorders	Appropriate levels of care
Jail, HOC, prison		Relapse prevention

Information on the sizable diversion populations will also be pursued in case-level analysis

LAW ENFORCEMENT ASSISTED DIVERSION

CWOFs ***(continue without a finding)***

DA DIVERSION PROGRAMS

SPECIALTY COURTS
(Drug Court, Mental Health Court, Veterans Court, Homeless Court)

PROBATION
(Pretrial probation, pretrial conditions of release)

YOUTHFUL DIVERSION PROGRAM

**This is not a comprehensive list of pre-disposition, post-disposition, or other diversion or deferred adjudication programs in Massachusetts.*

Key questions in initial incarceration analysis

- What are the **demographic** and **criminogenic characteristics** of individuals incarcerated in Massachusetts?
- What types of admissions are driving **incarceration rates**—supervision violations, the commission of new crimes, or recidivism?
- What **diversion options** or **pretrial services** are available to individuals with behavioral health needs? Are those strategies impacting incarceration rates?
- How has **length of stay** changed over time? How is length of sentences impacting incarceration rates?
- How are **post-conviction release decisions** and **reentry plans**, including addressing **behavioral health needs** in the community, impacting incarceration rates in the state?
- Are there systemic factors affecting **classification decisions** and contributing to delays that impede **reentry transition planning**?

Policies and data to explore in initial incarceration analysis

POLICIES TO EXPLORE

- Availability of diversion options
- Bail and pretrial release decision-making
- Utilization and eligibility requirements of pretrial supervision
- Sentencing options and alternatives to incarceration
- Prison/HOC release process
- Access and availability to behavioral health

DATA TO ANALYZE

- Jail bookings and initial release decisions
- Pretrial detention and supervision populations
- Police, prosecutor, and court diversions and corresponding outcomes
- Jail and HOC population trends and characteristics
- Sentencing practices
- Prison admissions, releases, and population characteristics

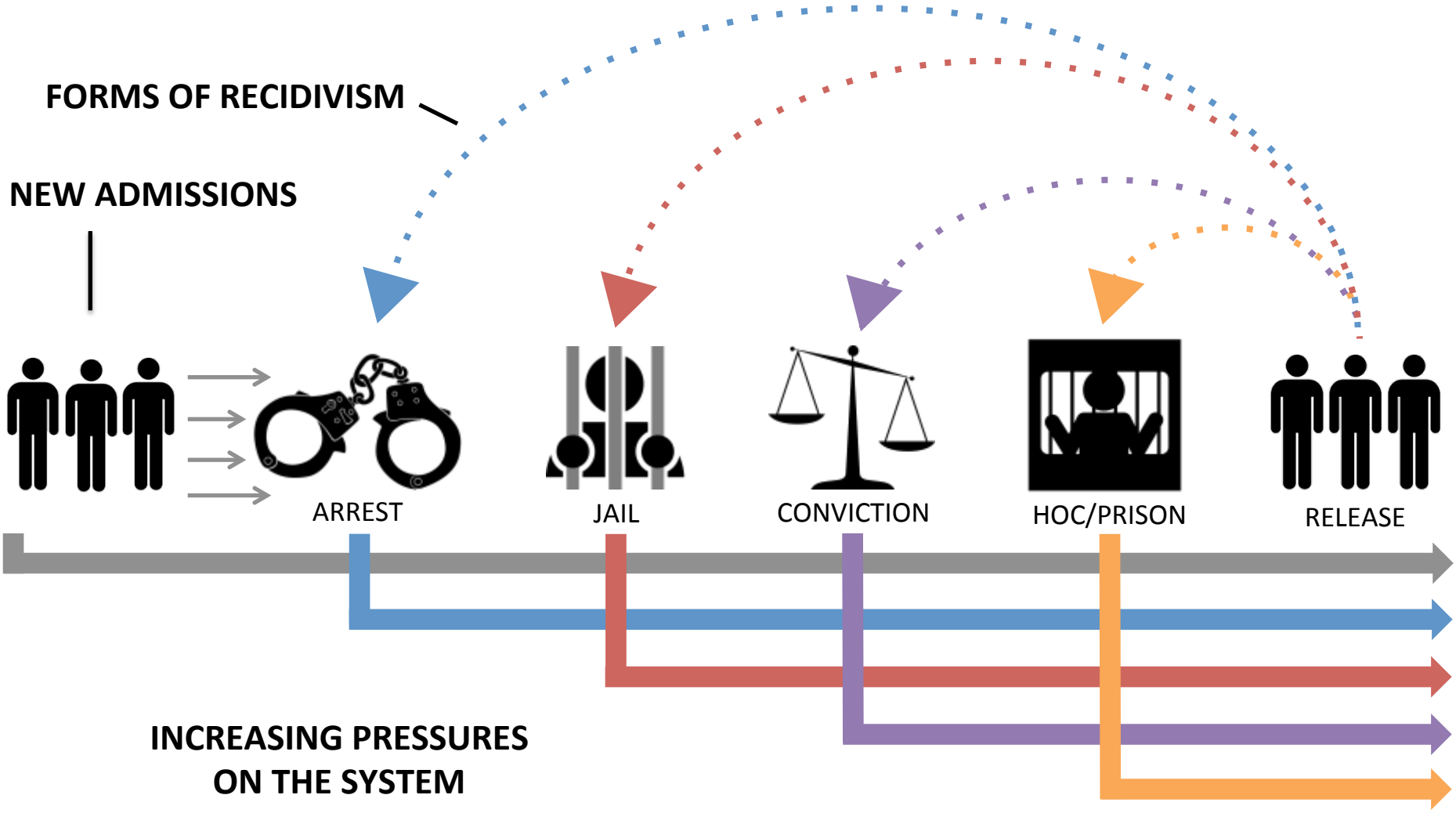
Presentation Overview

Incarceration

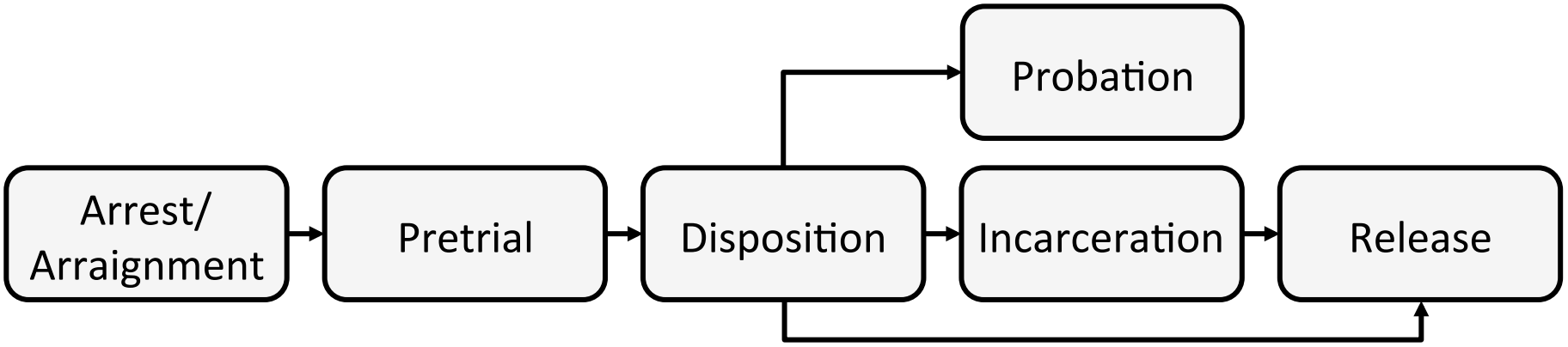
Recidivism

Supervision

Recidivism can add significant pressure to correctional systems



Measuring recidivism at multiple points in the system and over different timeframes provides valuable information to guide interventions



Who is recidivating?

Pretrial populations
Probationers
Parolees
Former HOC inmates
Former DOC inmates

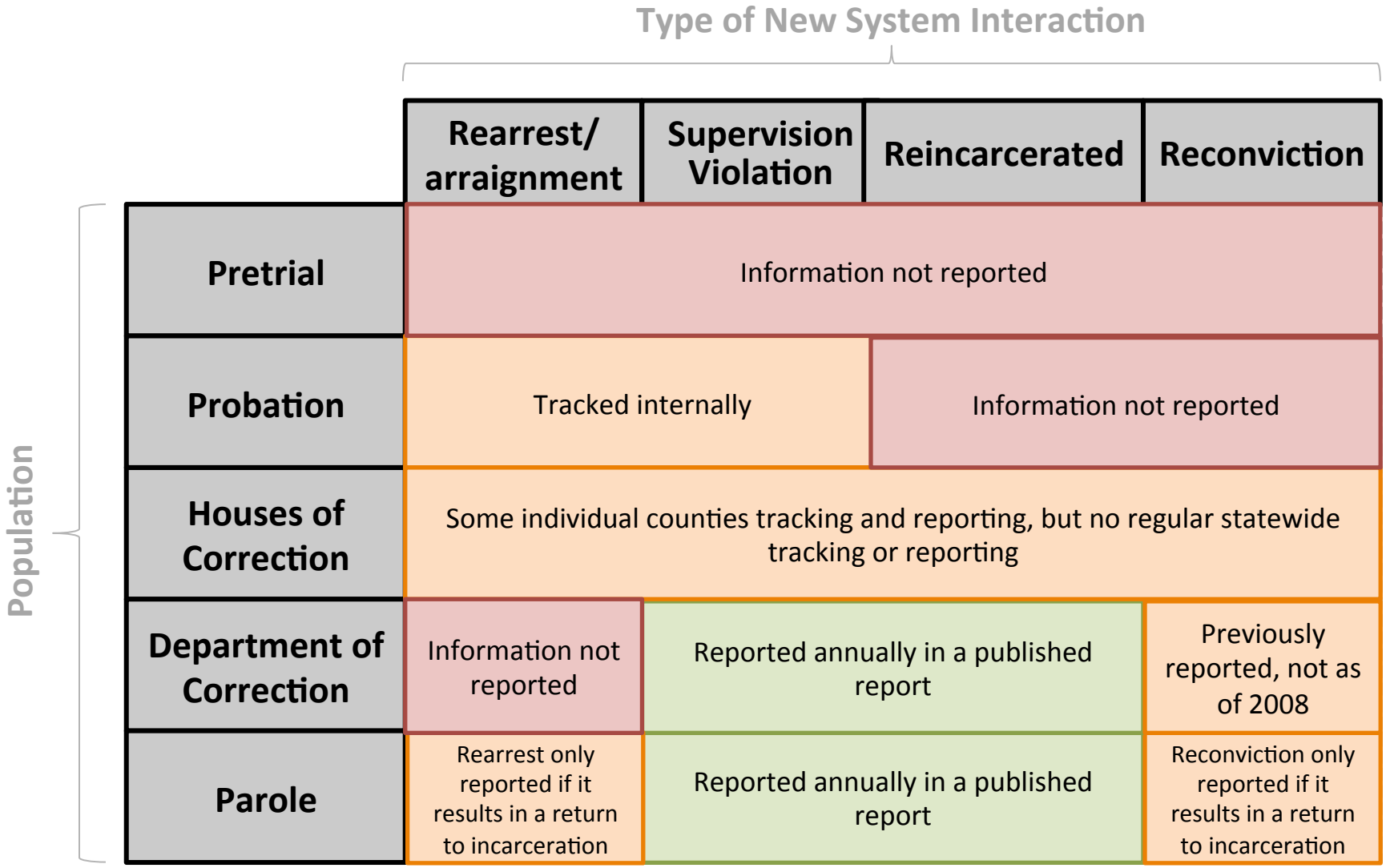
How?

Rearrest
Technical violation of supervision
Revocation of supervision
Reconviction
Reincarceration

When?

One year
Two years
Three years

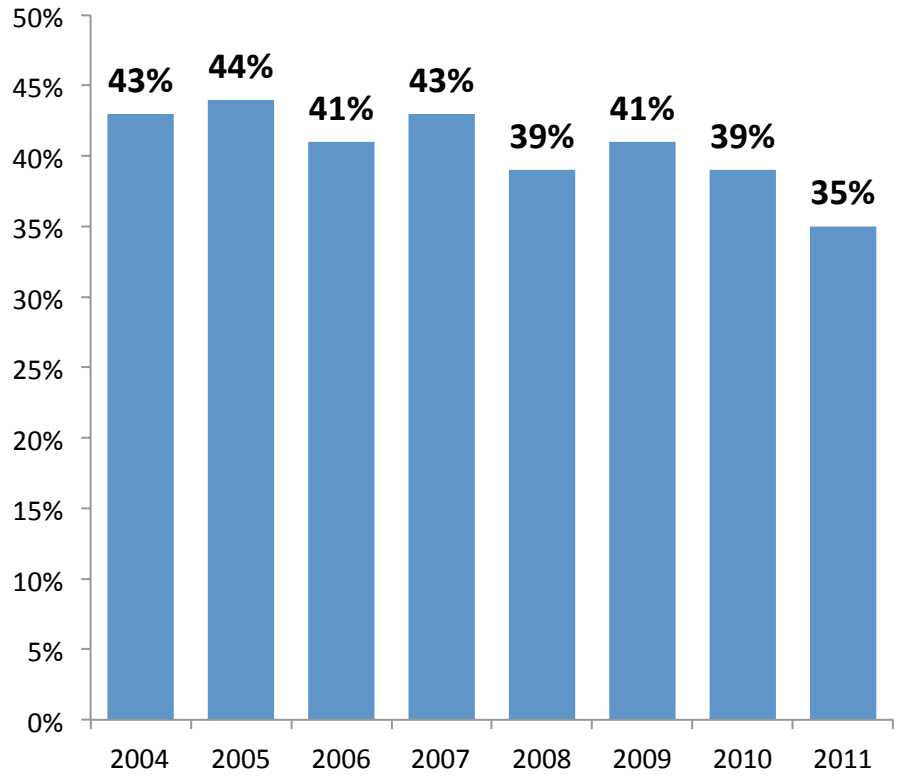
In Massachusetts, few recidivism measures are routinely calculated and reported



*Does not include MA's recent involvement in the Results First Initiative, which produced reconviction rates for HOC, DOC, probation, and parole populations

State prison recidivism rates have hovered around 40% in the last decade with a recent decline

Massachusetts DOC Three-Year Recidivism Rate (Reincarceration), 2004–2011



State prison recidivism represents a small portion of individuals involved with the criminal justice system.

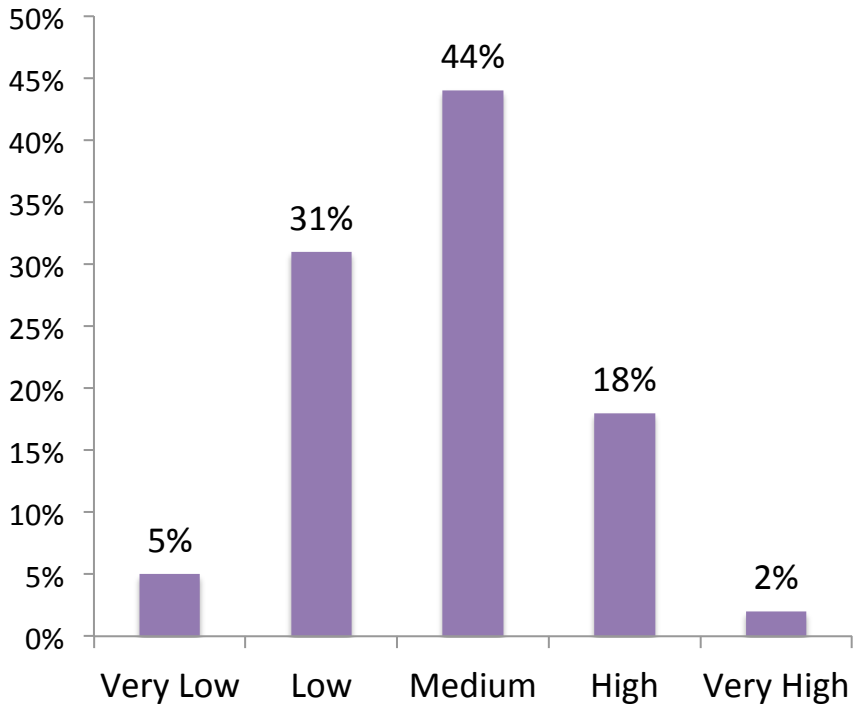
- 90,000 people with some form of correctional control
- DOC population represents 11% of individuals involved with the criminal justice system
- In 2011, 806 people returned to incarceration

Each year represents a cohort of individuals tracked for the following three years. Recidivists are defined as those criminally sentenced and released to the street from a DOC facility and reincarcerated for a new sentence or violation or parole or probation to a Massachusetts state or county facility or to a federal facility within three years of his/her release.

Source: Massachusetts Department of Correction Population Trends 2013, Massachusetts Department of Correction Population Trends 2014.

Risk assessment tools use key factors to predict the likelihood of recidivism

LS/CMI Risk Assessment Scores for Parolees in the Community, 2013



Domains typically included in risk assessments

- Criminal history
- Criminal attitudes and behavioral patterns
- Education and employment
- Family and relationship problems
- Substance use
- Peer associations

In 2013, the Parole Board adopted a risk/needs assessment instrument, the **LS/CMI**, for parole hearings and the supervision population.

Source: Massachusetts Parole Board, Annual Report 2013.

Key questions in initial recidivism analysis

- What **measures of recidivism** should be defined and promulgated in Massachusetts?
- **Who is recidivating**? How has recidivism changed over time?
- How are **behavioral health challenges** impacting recidivism, and what programs are currently making an impact on recidivism rates?
- How are **risk and needs assessments** being used throughout the system to drive evidence-based intervention strategies to achieve recidivism reduction goals?
- How are **reentry plans and programs** impacting recidivism rates?

Policies and data to explore in initial recidivism analysis

POLICIES TO EXPLORE

- Definition of recidivism
- Performance measurement in tracking outcomes
- Incentive-based programming
- Recidivism reduction goals
- Use of risk assessment at key decision points
- Application of risk and needs information

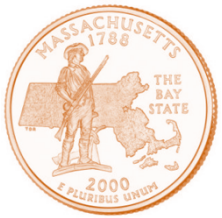
DATA TO ANALYZE

- Impact of recidivism on prison, HOC, and jail admissions
- Recidivism rates across the system (prison/HOC releases, probationers, pretrial defendants)
- Outcomes for reentry populations by supervision status
- Proportion of probationers and HOC population admitted to prison

Presentation Overview

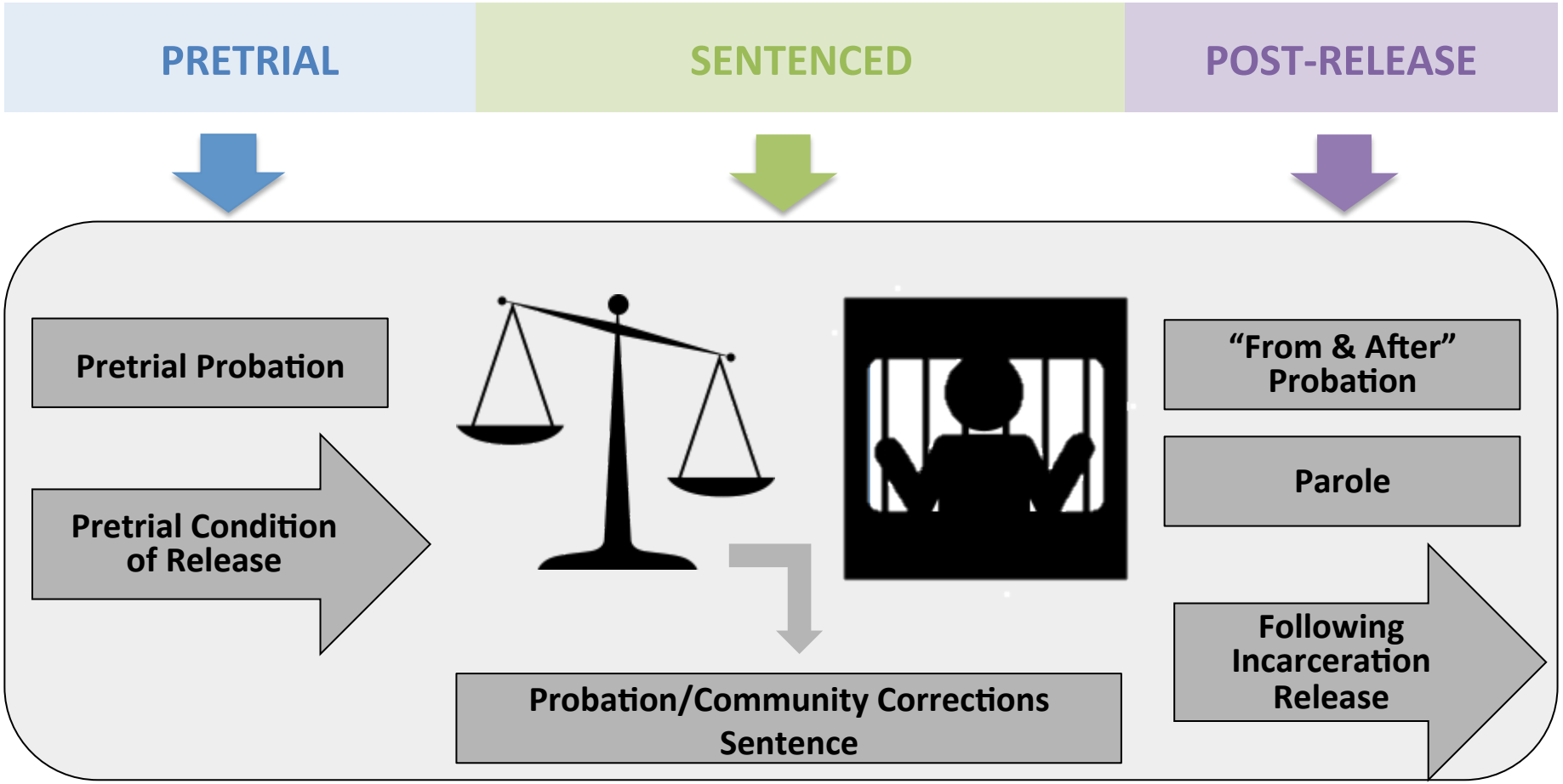
Incarceration

Recidivism

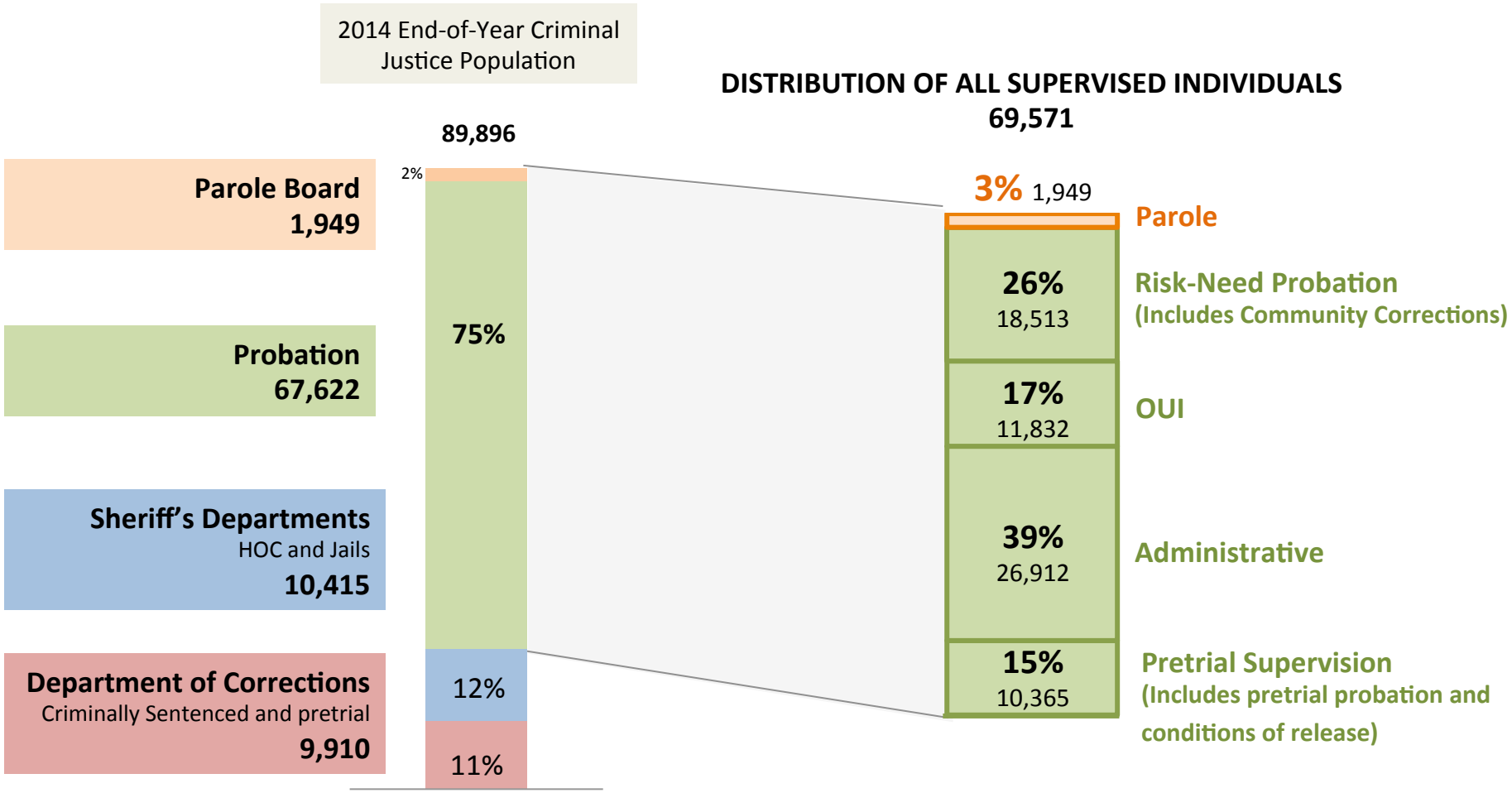


Supervision

Over 70,000 people are on probation or parole, supervised across multiple phases in the system



Community supervision serves over 3/4 of the total criminal justice population

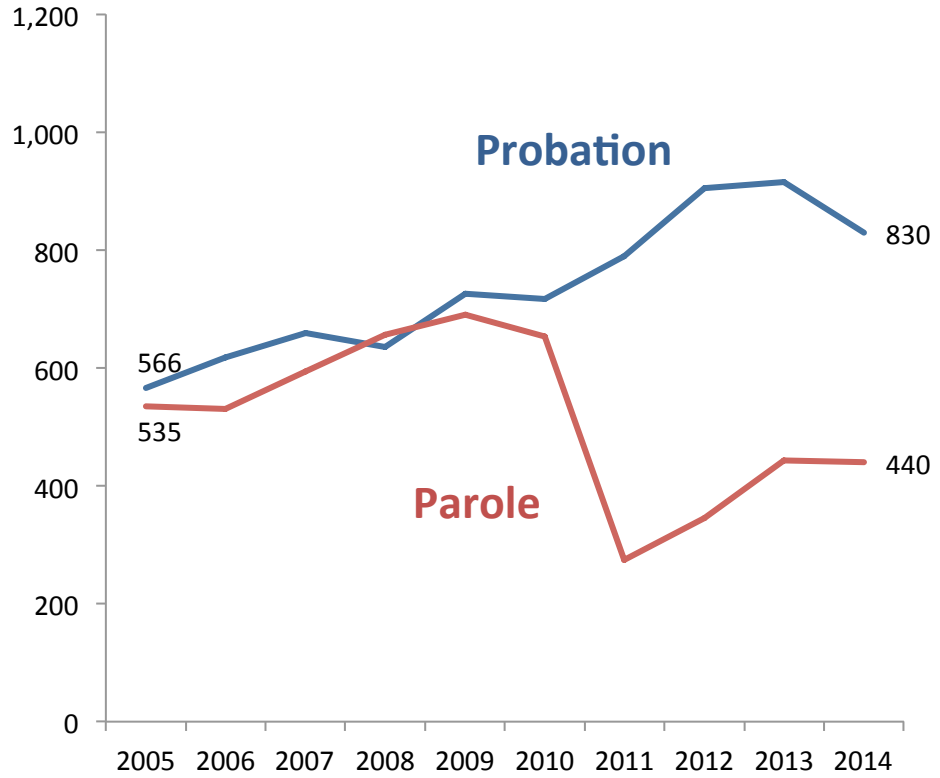


*Population in DOC, HOC, jail as of January 1, 2015. Probation and parole caseloads as of December 31, 2014.

Source: MDOC, Prison Population Trends 2013, Weekly Count Sheets; Massachusetts Parole Board, Annual Report 2013; Personal Communication, Office of Commissioner of Probation, 2015.

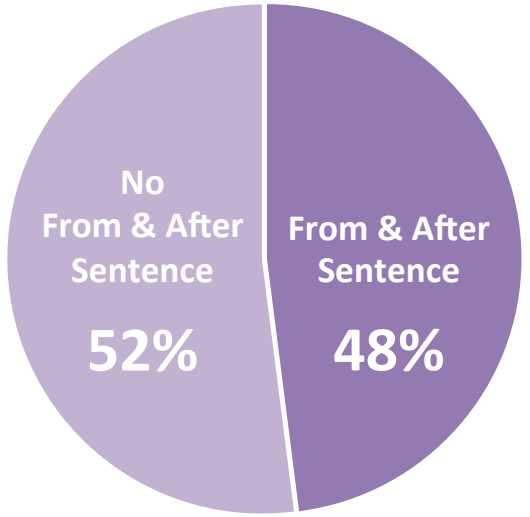
Probation has consistently been relied upon for post-release supervision, significantly more so in recent years

DOC Population Released to Supervision, 2004–2015



Individuals sentenced to DOC may receive a period of post-release probation through a sentencing structure called a "from & after." To be eligible for a from & after sentence, an individual must be convicted of two or more charges.*

Sentences to State Prison, FY2013**



**Individuals sentenced to HOC can also be sentenced to a period of probation after release through a from & after sentence as described above or a "split" sentence, which allows a mix of incarceration and post-release probation to be sentenced on one conviction. Only DOC information is included in this graphic.*

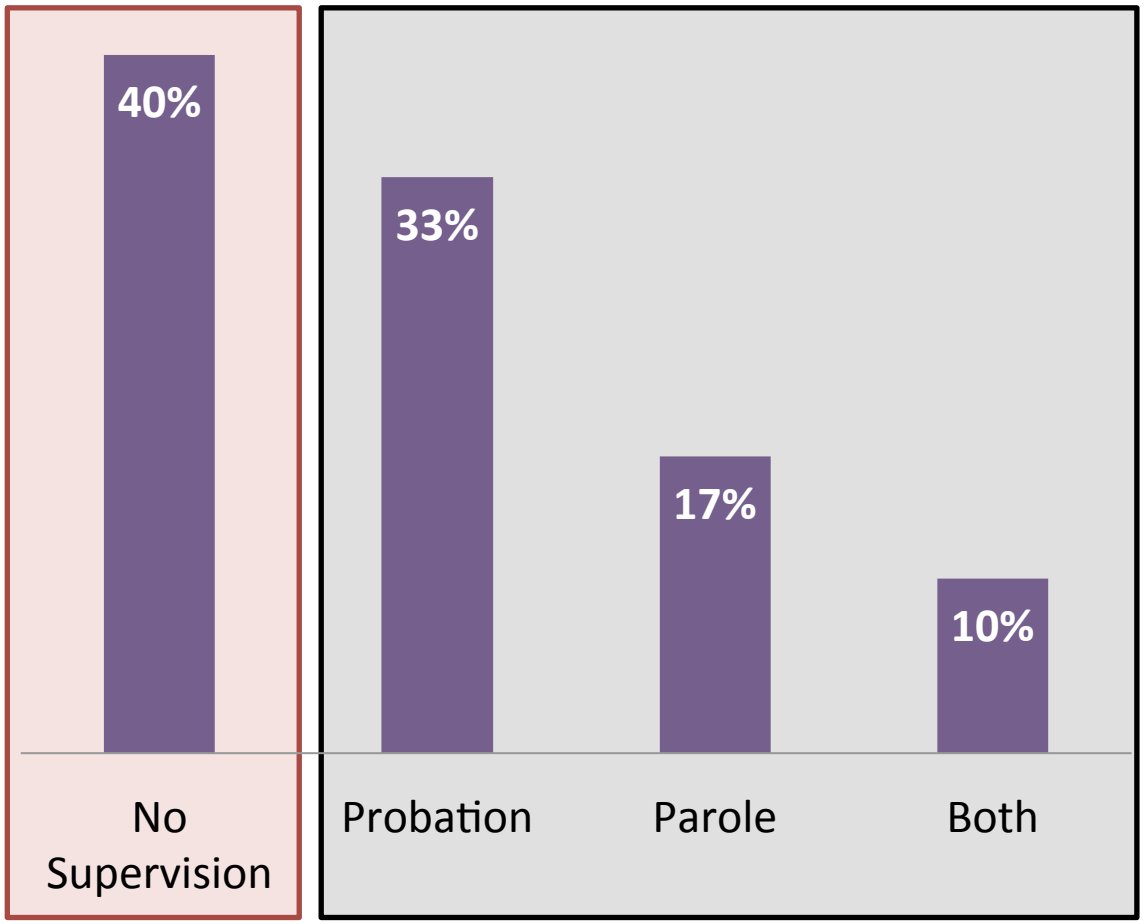
***2013 is the most recent year for which sentencing data is publicly available.*

Source: Massachusetts Department of Correction, *Prison Population Trends 2009-2014;* Massachusetts Trial Court, *Survey of Sentencing Practices 2013.*

Two out of five people released from state prison return to the community without probation or parole supervision

Massachusetts DOC Criminally Sentenced Releases to the Street, 2014

N = 2,535



A national report found that, in 2012, only six states had higher rates of people released from prison without supervision than MA.

Since then, four of those states (SC, NC, OH, and OK) have enacted policies to increase rates of release to post-release supervision.

Sources: MDOC, *Prison Population Trends 2014* (Concord: MDOC, May 2015). The Pew Charitable Trusts, "Max Out: The Rise of Prison Inmates Released Without Supervision," June 2014

Releases from incarceration offer an opportunity to support successful reentry

Initial questions to approach a recidivism-focused reentry analysis

EFFECTIVE SUPERVISION	Do supervision officers receive training in evidence-based practices?	Do supervision officers focus time and quality of interactions on higher-risk populations?
BEHAVIORAL HEALTH TREATMENT	Are there linkages to care to meet the behavioral health care needs of the higher-risk populations?	Do treatment providers receive training in working with people with criminogenic needs?
BEHAVIOR CHANGE	Are systems in place to respond to supervision violations in a swift, certain, and proportional manner?	Are the most intensive responses prioritized for more serious violations and highest-risk populations?
RISK, NEED, RESPONSIVITY PRINCIPLES	What is the risk and need profile of the reentry population?	Are high-quality programs available to address criminogenic needs?

More than 2,000 people are released from state prisons to the street each year

In 2014, N = 2,535

Are programs responsive to the learning and interaction styles of participants?

Key questions in initial supervision analysis

- **Who is on community supervision** in Massachusetts?
- How is risk and needs assessment information used in determining **diversion and step down opportunities** as well as **supervision supports and services** in the community? Is this risk and needs information impacting outcomes?
- Are community-based programs effectively **addressing criminal thinking**?
- Do probationers and parolees have **timely access to substance use and mental health treatment** that is tailored to criminogenic need? How are these programs impacting incarceration and recidivism?
- How does the system **respond to supervision violations**? Do different approaches have different impacts on recidivism?
- What is the impact of **fines and fee collection** on the quality and scope of supervision, on the rate of violation, and on the risk of recidivism?

Policies and data to explore in initial recidivism analysis

POLICIES TO EXPLORE

- Community-based reentry programs and services that address criminal thinking
- Substance abuse and mental health treatment, tailored to criminogenic needs, available in community
- System responses to supervision violations

DATA TO ANALYZE

- Caseload distribution across risk level
- Parole violations and revocations
- Outcomes for reentry populations by supervision status
- Probation programming and violation sanctioning practices
- Enrollment in community treatment and aftercare

Key initial findings

Incarceration

Massachusetts's incarcerated populations are divided in half between county and state facilities

HOC populations have driven overall decline in incarceration

Trends in jail populations differ across counties

Recidivism

Few recidivism measures are routinely calculated and reported in MA

Recidivism for prison releases has remained at around 40%

Use of risk and needs assessments are fundamental to effective recidivism reduction strategies

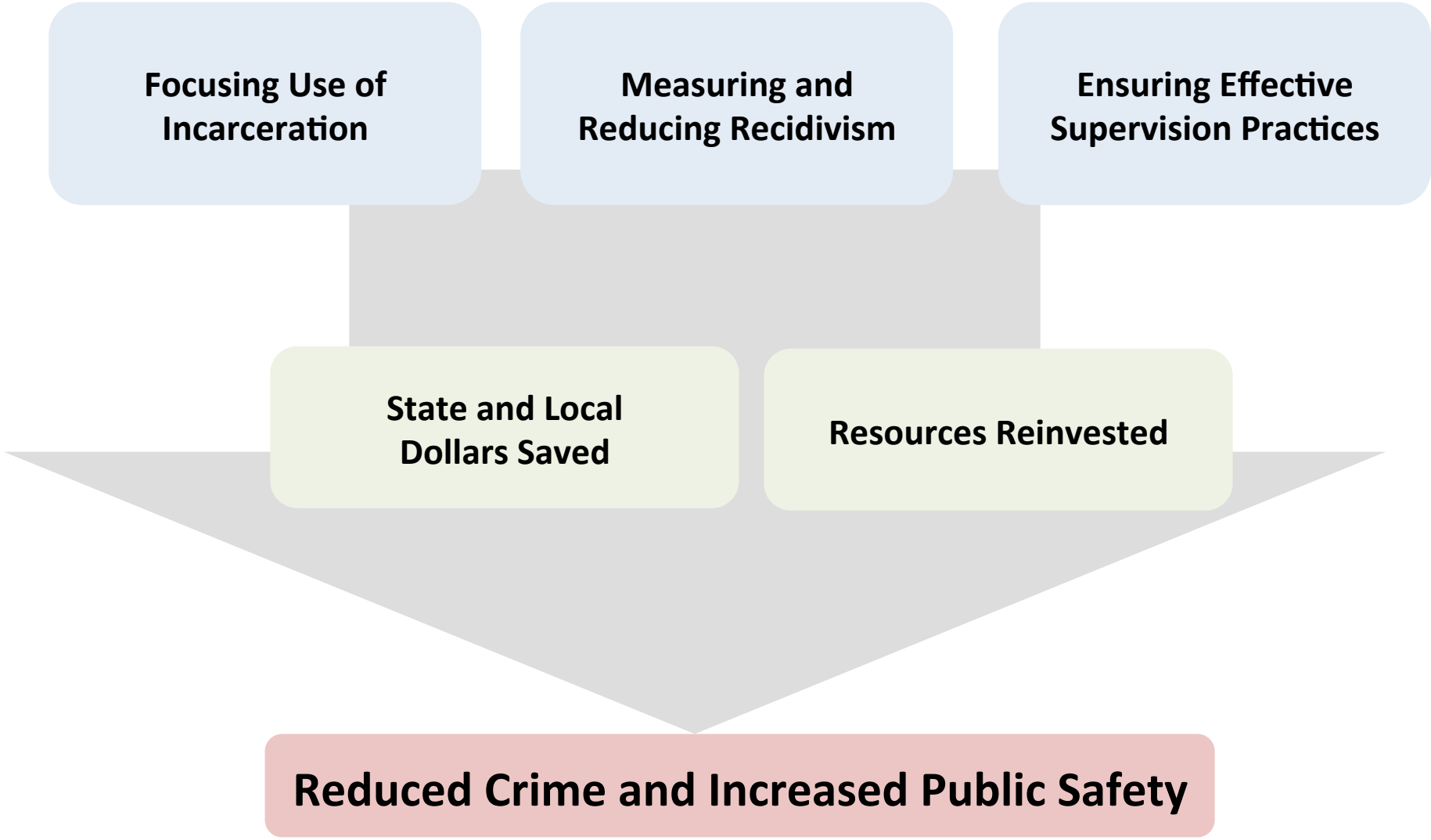
Supervision

Community supervision serves approximately 3/4 of the criminal justice population in MA

Probation has consistently been relied upon for post-release supervision from incarceration

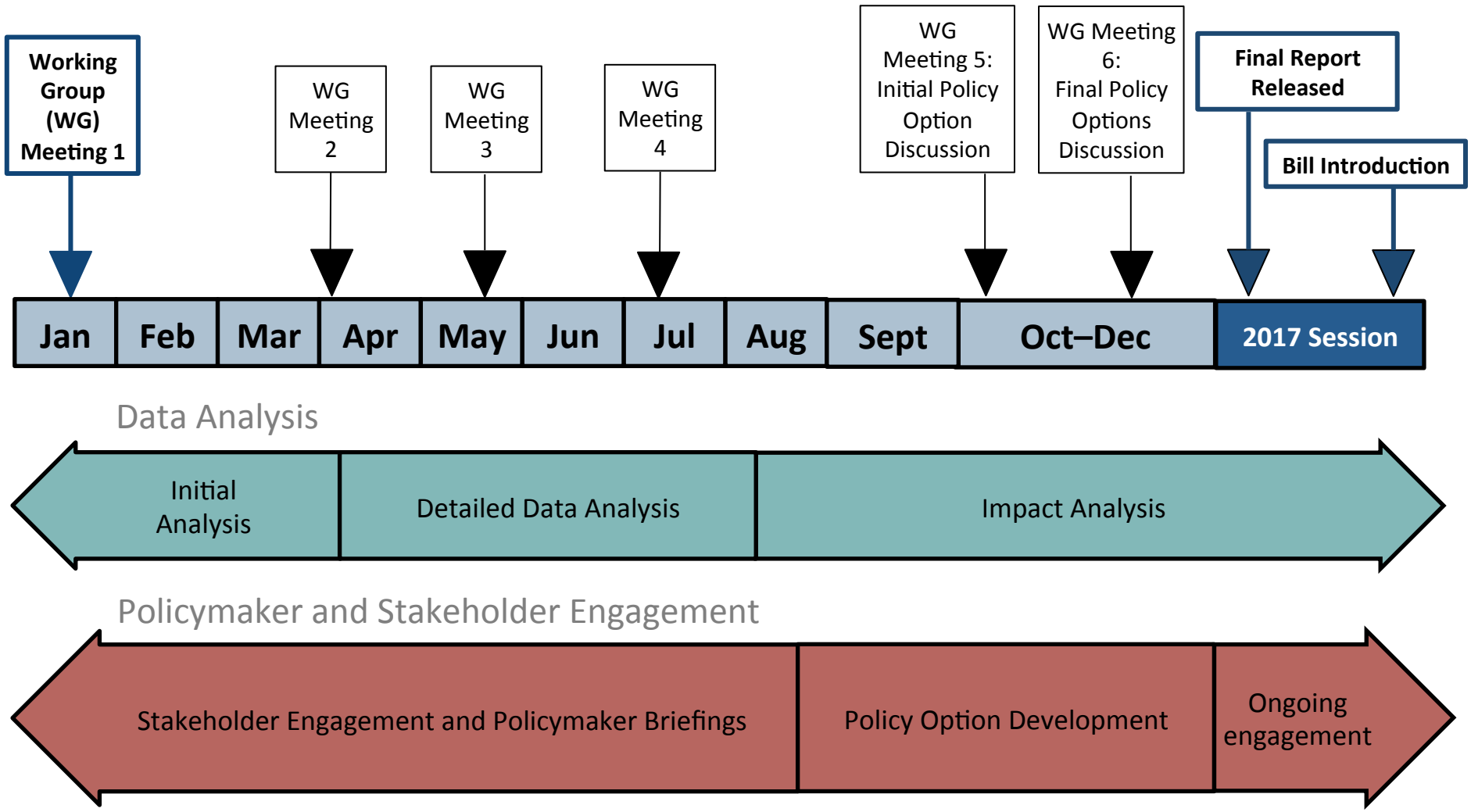
Two out of five prison releases are released to no supervision

Justice reinvestment will explore opportunities for generating increased public safety with less spending

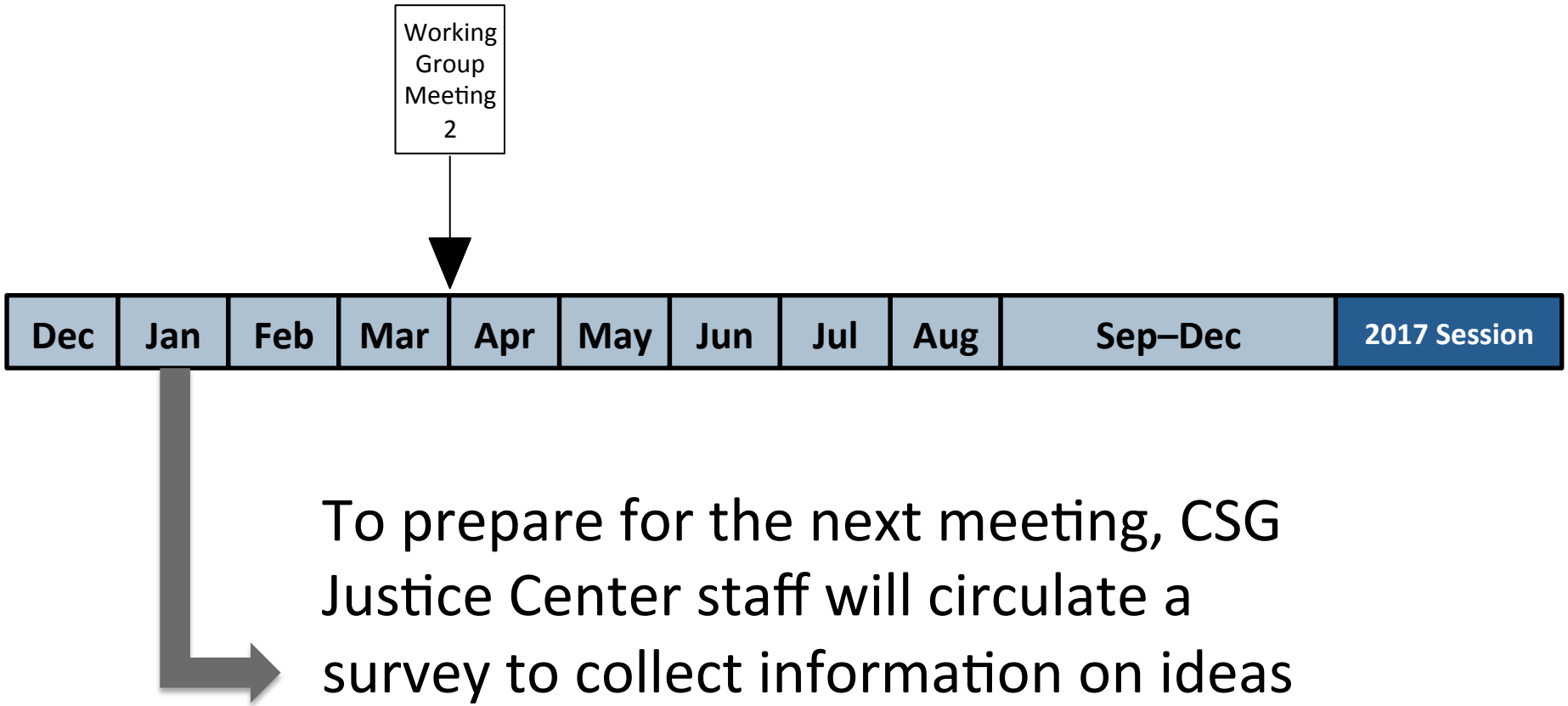


Justice reinvestment timeline

Steering committee to meet 1–2 weeks in advance of each working group meeting

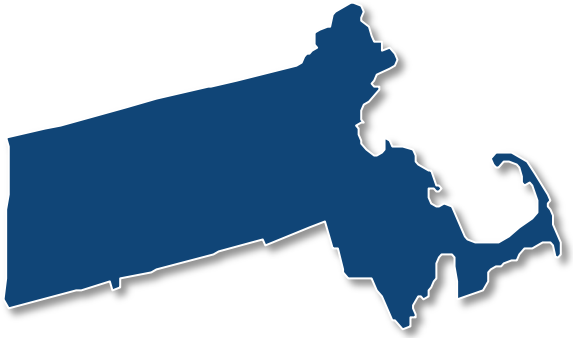


Community supervision is likely to be the focus of the next working group meeting



To prepare for the next meeting, CSG Justice Center staff will circulate a survey to collect information on ideas and recommendations for data analysis, stakeholder input, policy review, and more.

Thank You



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