

Justice Reinvestment in Pennsylvania

Third Presentation to the Working Group—July 2016

Carl Reynolds, Senior Legal and Policy Advisor
Marc Pelka, Deputy Director
Ed Weckerly, Research Manager
Patrick Armstrong, Policy Analyst
Dan Altman, Program Associate

The Council of State Governments Justice Center

Corrections



Justice Reinvestment



Mental Health



Reentry



Substance Abuse



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

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

What is Justice Reinvestment?



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 includes a two-part process spanning analysis, policy development, and implementation.

Pre-enactment

1	Bipartisan, Interbranch Working Group	Assemble practitioners and leaders; receive and consider information, reports, and policies
2	Data Analysis	Analyze data sources from across the criminal justice system for comprehensive perspective
3	Stakeholder Engagement	Complement data analysis with input from stakeholder groups and interested parties
4	Policy Option Developments	Present a policy framework to reduce corrections costs, increase public safety, and project the impacts

Post-enactment

5	Policy Implementation	Identify needs for implementation and deliver technical assistance for reinvestment strategies
6	Monitor Key Measures	Monitor the impact of enacted policies and programs; adjust implementation plan as needed

Data acquisition and stakeholder engagement update

Data Type	Source	Status
Arrests	Pennsylvania State Police	Pending
Jail	Counties	Sample Data Received
Court Filings	Administrative Office of Pennsylvania Courts	Received
Sentencing	Pennsylvania Commission on Sentencing	Received
Prison	Pennsylvania Department of Corrections	Received
Parole Supervision	Pennsylvania Board of Probation and Parole	Received
Parole Decision Making	Pennsylvania Board of Probation and Parole	Received
Probation Supervision	Counties/CCAP	Sample Data Received
Behavioral Health	Pennsylvania Department of Corrections/ Department of Drug and Alcohol Programs/ Department of Human Services	Received Scoping

Stakeholder Engagement Since the May Working Group Meeting

Victim Advocates Roundtable

Two additional meetings were convened with more than 30 participants from organizations including the Office of the Victim Advocate and the Crime Victim Alliance of Pennsylvania.

Survey of Courts of Common Pleas

Criminal court judges statewide participated in an online survey to share their experiences and insights on the criminal justice system.

President Judges/PCAM Conference

Attendees of the President Judges and Court Management Conference in State College engaged in a dialogue with CSG staff and received an update on JRI.

Commission on Sentencing Quarterly Meeting

Commission members participated in discussion about JR analyses with a focus on sentencing issues and opportunities for improvement.

Allegheny Criminal Justice Stakeholders

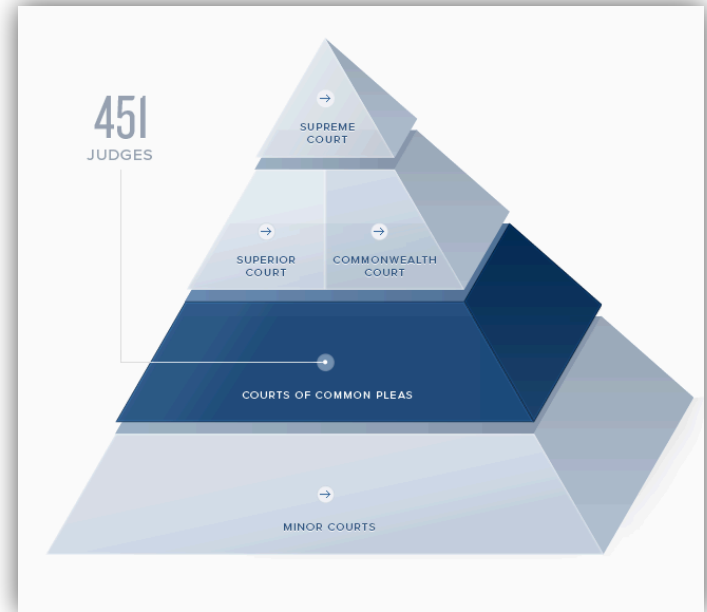
CSG staff met stakeholders in Allegheny County from all areas of the criminal justice system including judges, district attorneys, criminal defense lawyers, and pretrial services.

Bureau of Community Corrections (BCC) and Board of Probation and Parole (PBPP)

20 managers and staff from BCC and PBPP discussed a range of topics with CSG staff including parole supervision policy and practices, treatment and services available for those on supervision, and violation responses.

Our judicial survey showed an encouraging response rate and wide consensus on many issues, including the need for more treatment resources.

- 96 of ~146 judges responded (66%), 51 of 60 judicial districts were represented (85%).
- 60 percent of judges do not receive a sentencing recommendation in their local pre-sentence investigation.
- Most judges are aware of their jail population but two-thirds say it does not have an impact on their sentencing or violation sanction decisions.
- The biggest problems judges see are the need for more treatment options, and mandatory minimum sentencing laws.
- The vast majority of judges are satisfied with probation, but also recognize that there are high caseloads and inadequate resources.
- Judges expressed general satisfaction with the sentencing guidelines.



Judicial Survey

Additional relevant survey results appear throughout the presentation in this format.

Engaging victims and victim advocates in justice reinvestment

Process—Victim Advocate Focus Groups

April 11, 2016, Harrisburg

July 11, 2016, Camp Hill

July 12, 2016, Philadelphia

July 28, 2016, Cranberry Township

August 15, 2016, State College

Brief survey for those not able to attend.

Issues Raised

- **Fragmentation:** Every county works differently, and victims need more transparency about the processes.
- **Notification:** “Opt out” vs. “opt in.” Pretrial stage and early accountability proceedings.
- **Compensation and reparations:** Quicker access, greater eligibility, benefits, and utilization. Victims need help with immediate financial loss due to property crimes such as larceny and burglary.
- **Neighborhoods:** Support for areas with generations of violence.
- **Programming:** Batterers Intervention Programming consistency. Mandatory supervision for sex offender max outs refusing treatment. Increased support for victim awareness/understanding the impact of the crime for individuals at diversion/reentry; and evaluation to determine if programming is evidence-based and effective.
- **Awareness:** Victims don’t know about the resources available to them.

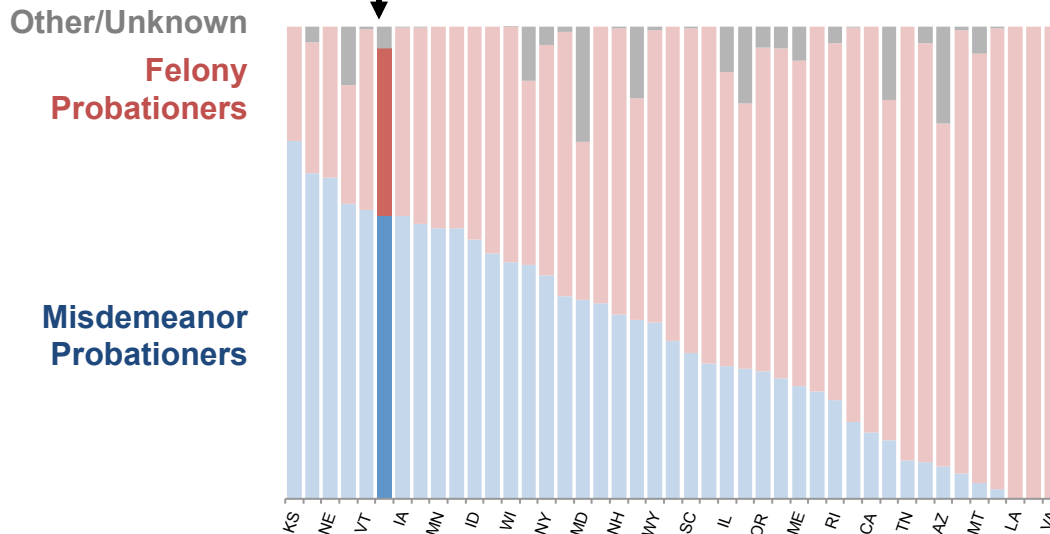
Recap of Findings about County Impacts

1

Counties bear a large and increasing share of the cost of probation. High caseloads and other challenges hinder the adoption of evidence-based practices.

In 2014, 60% of Pennsylvania probationers were misdemeanants, the sixth highest percentage among 43 states.

The national average was 38%.



Probation Survey

Average active caseload size among probation officer respondents was 132.

Among those that indicated that more than half of their caseload was high risk, 59% reported spending less than half of their week in direct contact with probationers.

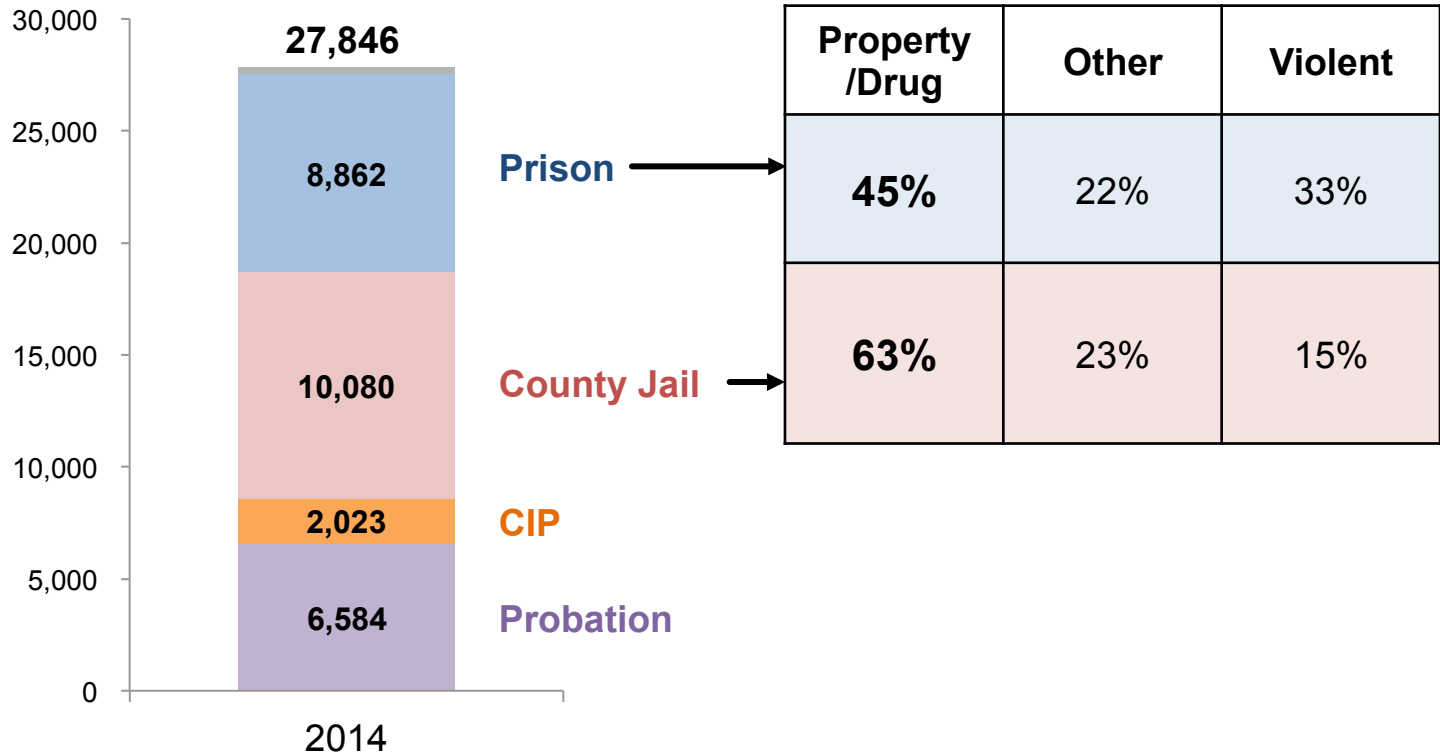
The large volume of misdemeanants on probation can present a challenge when trying to focus supervision on those with higher risk and more serious offenses.

Recap of Findings about Sentencing

2

An array of options and mandates overlays the guidelines, and yet the guidelines allow wide variation with insufficient guidance. Property and drug offenses drive sentencing volume and comprise large proportions of sentences to jail and prison.

Felony Judicial Proceedings by Sanction Type, 2014



Justice Center analysis of Pennsylvania Commission on Sentencing data.

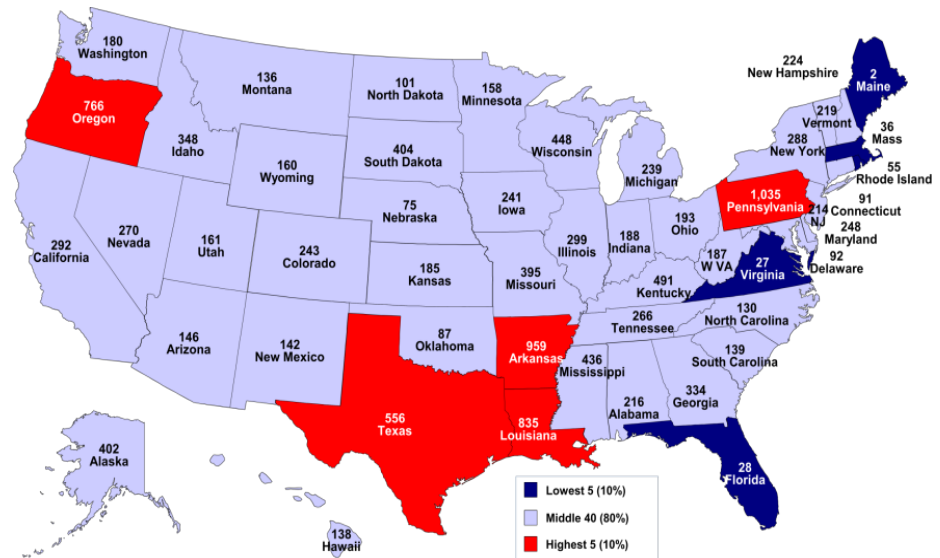
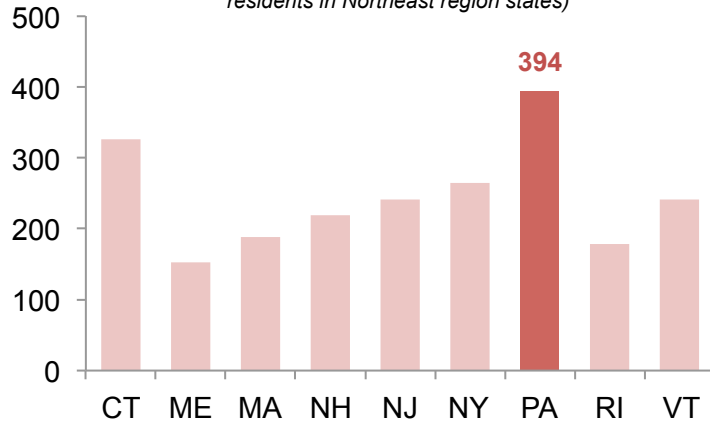
Recap of Findings about Prison and Parole Volume

3

Pennsylvania has a high incarceration rate and the highest parole supervision rate in the country.

2014 Incarceration Rate

(Sentenced prisoners (>1 year) per 100,000 residents in Northeast region states)



U.S. Total Parole Rate: 303

Reminder that the parole supervision rate includes local parole which is a feature many states do not employ.

Glossary of terms used in this presentation

Community Corrections:

Community Correction Centers (CCC)—Thirteen state facilities housing parolees, parole violators, or individuals participating in SIP that are administered by the Bureau of Community Corrections division of the DOC.

Community Contract Facilities (CCF)—The Bureau of Community Corrections also contracts with 40 private entities that provide services similar to CCCs throughout Pennsylvania.

Contract County Jail (CCJ)—A county correctional facility that has contracted with DOC to provide correctional or other services.

Halfway Back Population—People with technical parole violations who are sent to CCCs and CCFs to receive specialized programming for technical parole violators.

County Intermediate Punishment (CIP)—A direct sentencing alternative that consists of a restrictive intermediate punishment, such as a short jail stay or home confinement, and a restorative sanction/probation period.

Judicial Proceeding—Unit of analysis for sentencing data. A judicial proceeding includes all offenses committed by an offender that are sentenced on a given date and may contain a single criminal incident or multiple criminal incidents.

Offense Gravity Score (OGS)—Score assigned to the gravity of the current conviction offense for use in the sentencing guidelines. Offense Gravity Scores range from 1 to 14 on the Y axis of the sentencing guidelines grid.

Prior Record Score (PRS)—Score that depicts the seriousness and extent of an individual's prior criminal record for use in the sentencing guidelines. Prior Record Scores range from 0 to 5 with two additional higher categories for repeat offenders, on the X axis of the sentencing guidelines grid.

Split Sentence—A sentence that combines jail or prison incarceration with a probation sentence to follow the incarceration and any parole period.

State Correction Institution (SCI)—Used in this presentation to distinguish secure prison facilities generally from community corrections.

State Intermediate Punishment (SIP)—A sentencing alternative designed for individuals convicted of a drug-related offense, or for a crime that was motivated by the defendant's consumption of or addiction to alcohol and other drugs. Prior to sentencing, the judge must request that the DOC conduct a thorough drug and alcohol and risk assessment of the individual.



Overview

1

County Impacts

Challenge: Insufficient state policy guidance and funding for probation, indigent defense, pretrial services, and diversion limits effectiveness

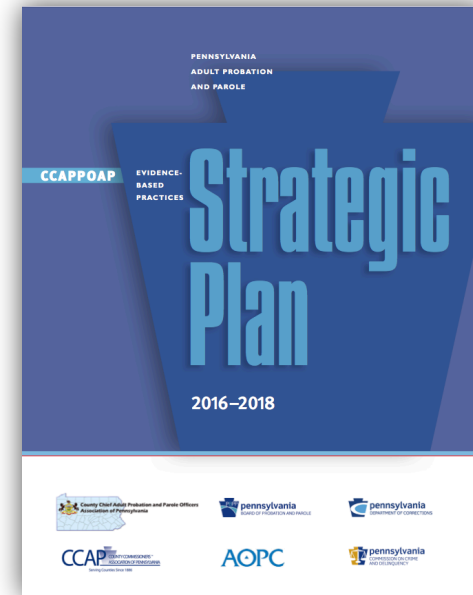
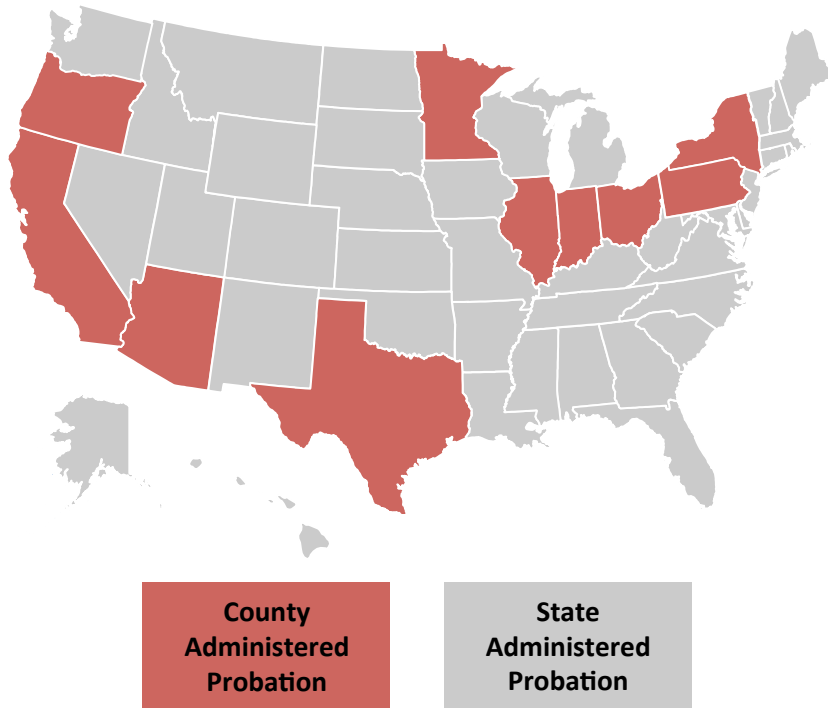
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Sentencing Guidance

3

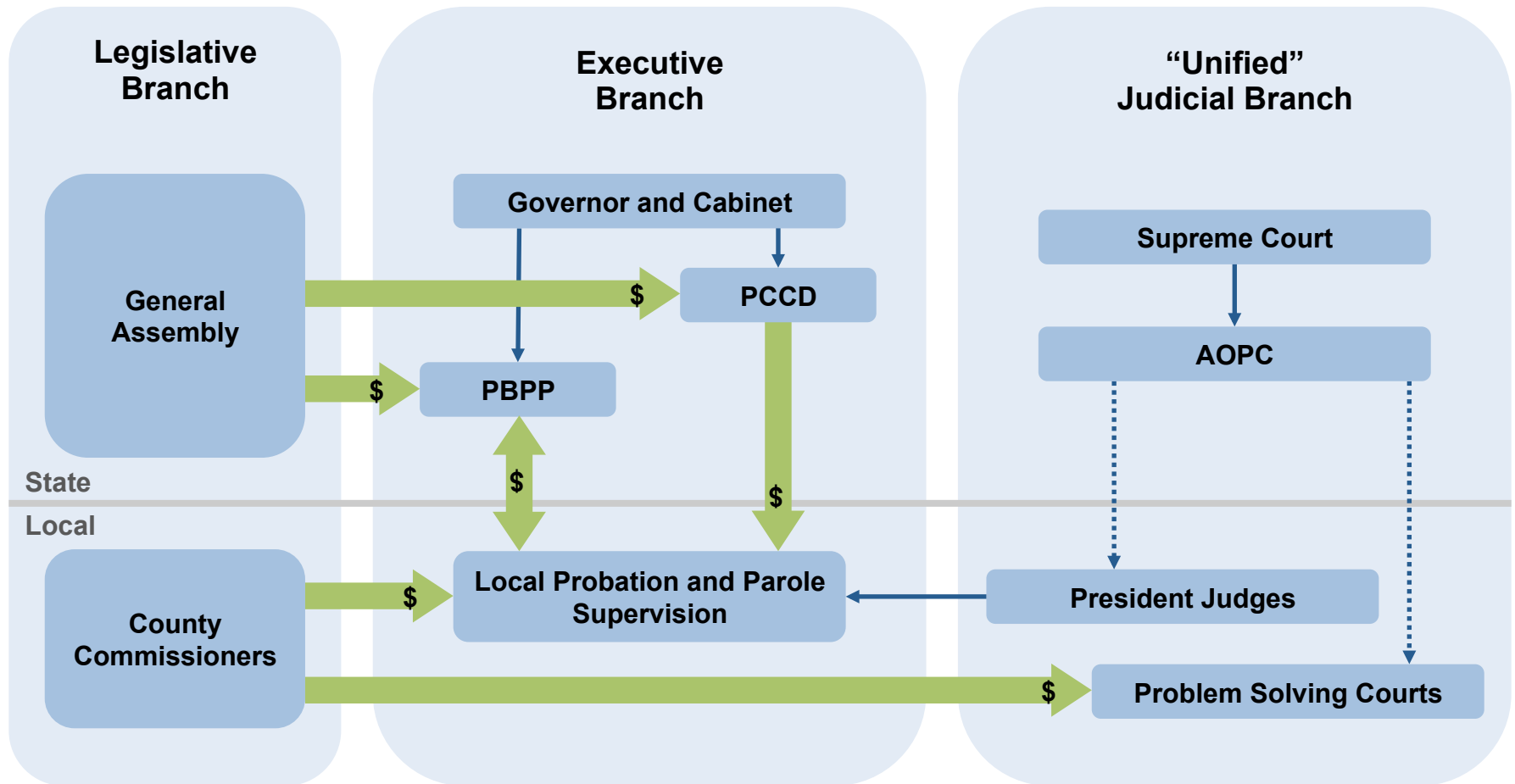
Supervision Violations

Reminder: County-based probation presents a challenge with governance, and current efforts to drive reform necessarily involve a host of entities.

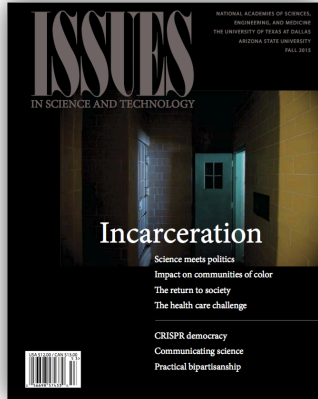


Goal 3
Establish, with AOPC, CCAP, PCCD, and PBPP, a policy and organizational infrastructure and technical assistance resources to support the successful implementation of evidence-based practices at the local and state levels.

Funding and governance of probation and related programs is an accumulation of components rather than a conscious design.



Indigent defense is a critical part of the system that can have large impact on volume, cost, and human effects.

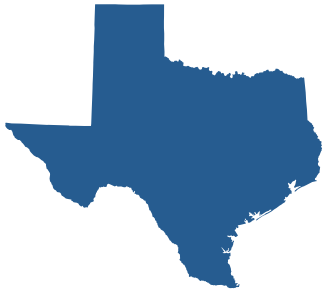


Indigent Defense: The National Academy of Sciences recently published nine “lessons learned” in justice reinvestment work, by Thompson and Fabelo.

1. Intensive work
2. Solutions need investments
3. Few sentence reductions
4. “Nonviolent” debate
5. Race not explicit
6. Indigent defense neglected
7. Data is key
8. Implementation is key
9. Champions needed

“Compared with a person without effective counsel, a defendant represented effectively is more likely, following his or her arrest, to have the charges dismissed, to be released on pretrial supervision, or to receive a sentence to probation instead of to prison. Similarly, a person who is effectively represented and convicted of a crime that carries a prison sentence is more likely to receive a shorter sentence than someone with a similar conviction who does not receive effective representation.”

The Texas Fair Defense Act of 2001 created state policy and funding for indigent defense.



Core Policies

- Explicit local plan for defense
- Prompt access to counsel
- Neutral criteria for selecting attorneys
- Counsel qualifications matched to case level
- Counsel compensation standardized
- Criteria for indigence
- Consistent collection of key performance measures

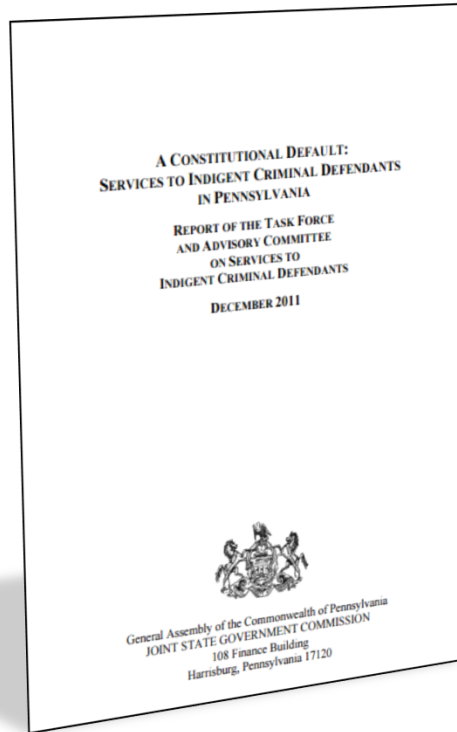
Selected Accomplishments

- Appointment rates have increased, particularly in misdemeanor cases
- State support increased from \$7M to \$29M*
- Regional Capital Public Defender covering rural Texas
- Mental health public defenders in 4 counties
- Guidelines for indigent defense caseloads published in 2015

Study to Assess the Impacts of the Fair Defense Act Upon Counties , Texas A&M Public Policy Research Institute (2005)

* County expenditures also increased.

Pennsylvania is now the *only state* that takes no responsibility for ensuring the independence and quality of counsel under the Sixth Amendment.

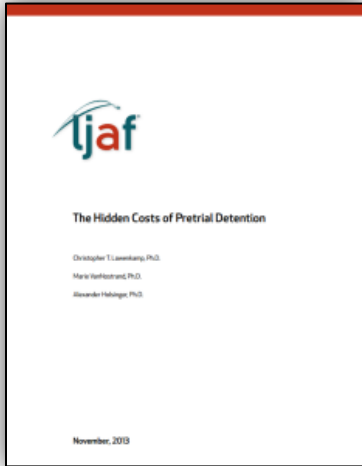


“While recognizing the difficult fiscal environment the Commonwealth faces currently, the advisory committee urges the General Assembly to perform its duties under the U.S. Constitution and as a civilized society by finally addressing the deficiencies that undermine its indigent criminal defense system by reforming the system to comply with national standards.”

The “System” Lacks:

- Independence
- Training
- State Support
- Investigators
- Social Workers
- Parity
- Time
- Data

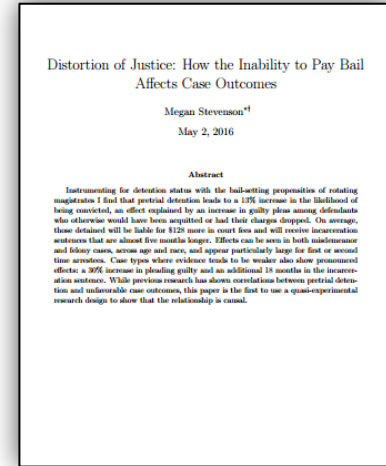
National and Pennsylvania research shows the cascading negative impact of pretrial time in jail.



The Hidden Costs of Pretrial Detention

Detaining low-risk defendants, even just for a few days, is strongly correlated with higher rates of new criminal activity both during the pretrial period and years after case disposition.

Low-risk defendants had a **40% higher chance of committing a new crime before trial** when held 2 to 3 days compared to those held one day or less and **51% higher chance of committing a new crime** in the next two years when held 8 to 14 days compared to one day or less.



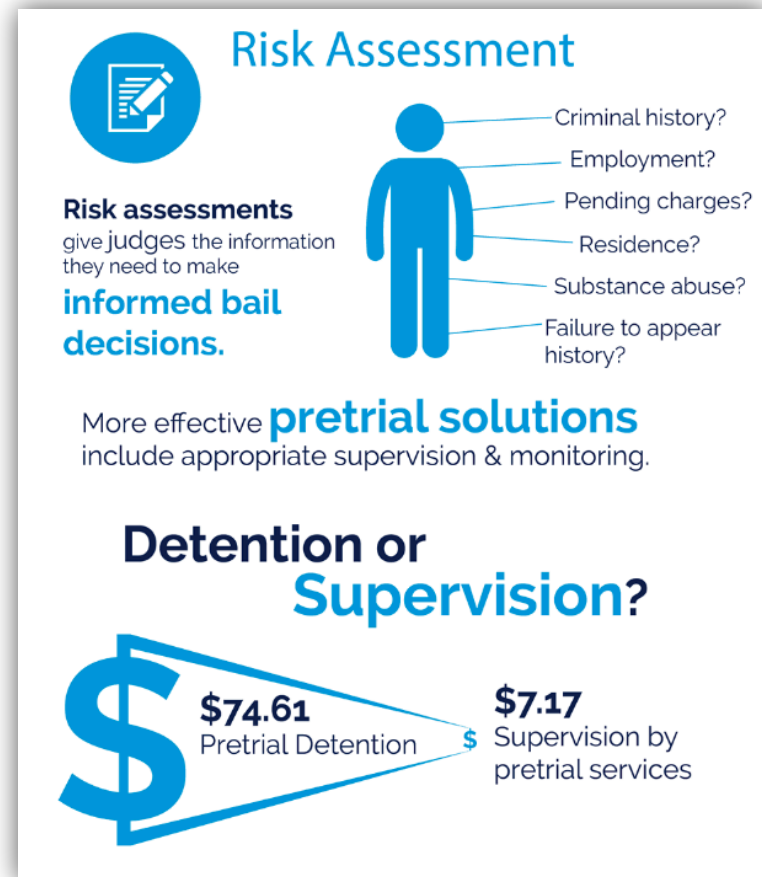
Distortion of Justice: How the Inability to Pay Bail Affects Case Outcomes

Pretrial detention leads to:

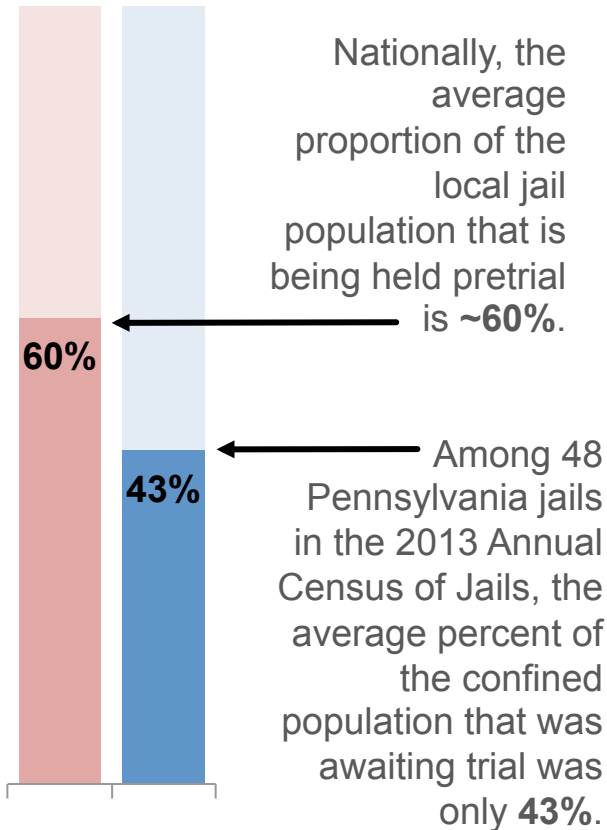
- 13% increase in the likelihood of conviction, 21% increase in the likelihood of pleading guilty,
- Higher average court costs,
- Incarceration sentences that are 4.6 months longer on average.

Experts recommend key tools and strategies states can provide to move from resource-based to risk-based pretrial decisions.

1. Pretrial risk assessment
2. Pretrial supervision
3. Citation in lieu of arrest
4. Elimination of bond schedules
5. Screening of criminal cases by an experienced prosecutor
6. Presence of defense counsel at initial appearance
7. Availability of detention with due process
8. Collection & analysis of performance measures



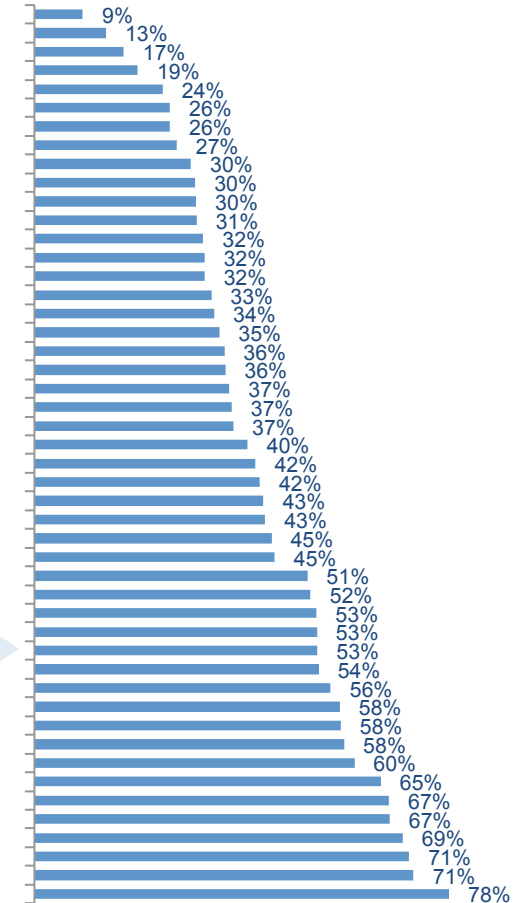
The proportion of Pennsylvania's jail population being held pretrial varies widely by county.



This is likely due in part to a larger proportion of inmates in Pennsylvania serving longer jail sentences.

But there is also a tremendous range of pretrial population percentages across counties which speaks to a lack uniformity in pretrial process.

Proportion of the Jail Confinement Population that is Pretrial by Facility, 2013



<http://www.bjs.gov/content/pub/pdf/jim13st.pdf>, 2013 Annual Survey of Jail data.

Many counties are addressing pretrial challenges, and there is movement toward better practice.

Pennsylvania Pretrial Services Association 2015 Survey Results:

- 25 counties have no pretrial services function.
- 37 counties do have pretrial services, and all but one provide supervision.
- Most pretrial departments are in probation but some are in the jail and some are nonprofits.
- 12 programs use a risk assessment but use at least six different instruments.
- Most programs make referrals for treatment and other resources.
- Most programs are involved with local problem-solving courts.

Pretrial Pilot Project Information:

- CCAP pilot counties are Bucks, Blair, Columbia, Lackawanna, & Potter.
- Seven pretrial services grants are to be awarded in September (up to \$236,000 per county).
- Allegheny and Berks have exceptional programs.
- 37 counties have pretrial programs but few are research-driven or follow NAPSA standards.
- PCCD study (in progress) shows “sparse use of actuarial pretrial risk assessment instruments.”

However, a national guide to pretrial laws shows Pennsylvania lacks statewide policy in three key areas where other states are moving forward.

- 1) Presumption in favor of releasing defendants on personal recognizance or an unsecured bond (23 states).
- 2) Requiring courts to impose the least restrictive condition, or combination of conditions, that will reasonably ensure appearance and safety (16 states).
- 3) Authorizing or requiring courts to consider the results of an actuarial risk assessment (15 states).



Court rules, 234 Pa. Code Rule 520 et seq., do not achieve these policies, although (2) 'least restrictive condition' is arguably encouraged in Rule 524.

Initiatives like Stepping Up provide a roadmap for addressing the intersection of behavioral health and criminal justice.

DRAFT: Not for release or distribution

APRIL 2016

Reducing the Number of People with Mental Illnesses in Jail

Six Questions County Leaders Need to Ask

Risë Haneberg, Dr. Tony Fabelo, Dr. Fred Osher, and Michael Thompson

Introduction

Not long ago the observation that the Los Angeles County jail serves more people with mental illnesses than any single mental health facility in the United States elicited gasps among elected officials. Today, most county leaders are quick to point out that the large number of people with mental illnesses in their jails is nothing short of a public health crisis, and doing something about it is a top priority.

Over the past decade, police, judges, corrections administration, public defenders, prosecutors, community-based service providers, and people with mental illnesses and their families have mobilized. Most large urban counties, and many counties smaller in size, have created specialized police response programs, established programs to divert people with mental illnesses charged with low-level crimes from the justice system, launched specialized courts to meet the unique needs of defendants with mental illnesses, and embedded mental health professionals in the jail to improve the likelihood people with mental illnesses are connected to community-based services.

Despite these tremendous efforts, the problem persists. By some measures, it is more acute today than it was ten years ago, as counties report a greater number of people with mental illnesses in local jails than ever before. Why?

After several criminal justice reform initiatives across the state, the people who work in the jails and courts are actually more aware than ever of the problem. There are a few initiatives that have been established in some counties that find a county's current policies and procedures are not working. Some people with mental illnesses, but at the same time, are not getting the behavioral health services they need.

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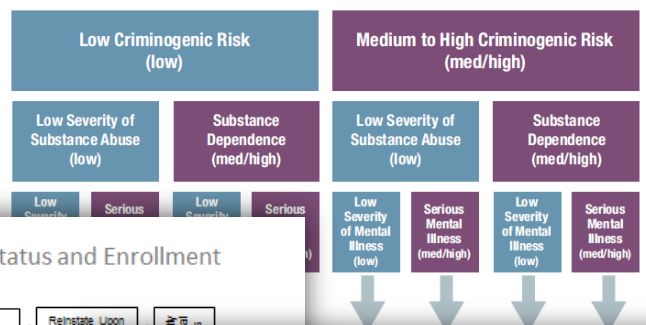
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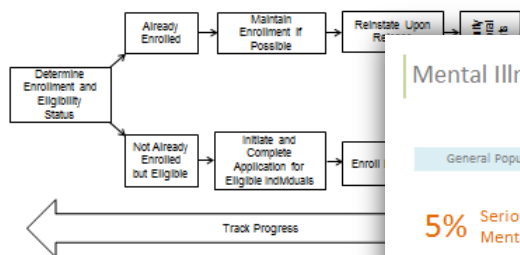
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FIGURE 1. THE CRIMINOGENIC RISK AND BEHAVIORAL HEALTH NEEDS FRAMEWORK

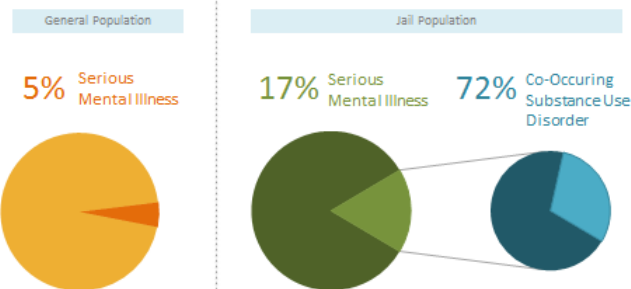


Next Step: Medicaid Eligibility Status and Enrollment



- Are people screened for eligibility and enrollment status?
- If people are enrolled, are they staying enrolled when they are not terminated?
- If people are not enrolled, are they getting enrolled upon release?

Mental Illnesses: Overrepresented in Our Jails



Seven counties in Pennsylvania have passed resolutions to reduce the number of people with mental illness in jails and teams from Allegheny, Berks, and Franklin attended the National Stepping Up Summit in April.

Summary information collected by DOC in 2015 indicates that out of a statewide jail population of 36,000, nearly 10,000 people (27%) at any given time are on psychotropic medications.

Section One Summary and Policy Direction

1

County Impacts

Challenge: Insufficient state policy guidance and funding for probation, indigent defense, pretrial services, and diversion limits effectiveness.

- Limited statewide governance and funding of probation hampers counties' ability to adopt consistent evidence-based practices, including caseload management, graduated sanctions, and program referrals.
- Pennsylvania is the only state in the country that does not provide funding support for indigent defense. The cost of indigent defense is borne entirely by the counties.
- Pretrial risk and needs assessment is not required by the state, and as a result, many counties do not use assessment results to inform decisions about pretrial diversion, release, and supervision.

Policy Direction: Improve the capacity of county justice systems to provide effective defense, assessment, diversion, and supervision.

- Settle upon a single state-level agency and new funding mechanisms to guide practices such as risk assessment, supervision levels, and responses to violations.
- Incubate a state-level presence for the support and improvement of indigent defense.
- Use risk assessment to inform the pretrial release decision, type of supervision, and conditions.
- Help counties safely divert appropriate populations to treatment.



Overview

1 County Impacts

2

Sentencing Guidance

Challenge: There is insufficient guidance for choosing among sentencing options and targeting supervision resources to reduce recidivism

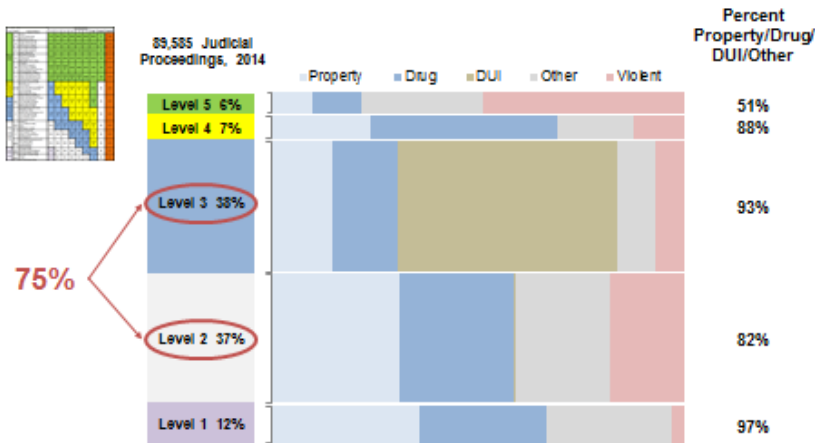
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Supervision Violations

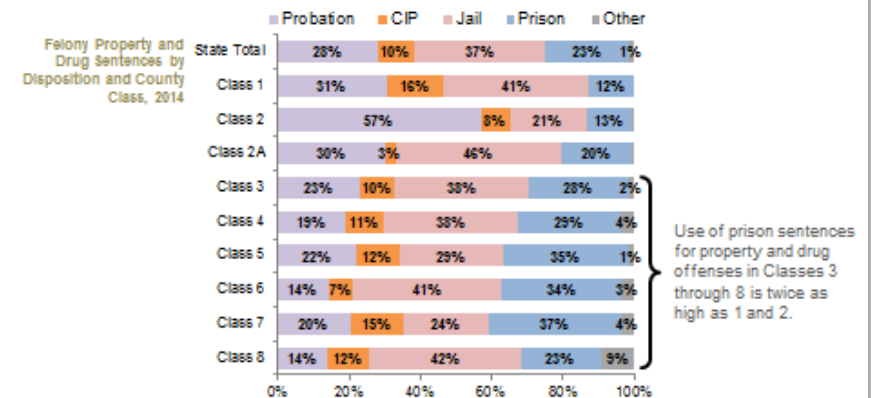
Reminder: Sentencing disposition guidance is lacking for large volume populations where recidivism could be lowered...

...and sentencing patterns can vary widely across the state.

Offenses other than Violent comprise a majority of sentences even on the highest level of the sentencing guidelines.



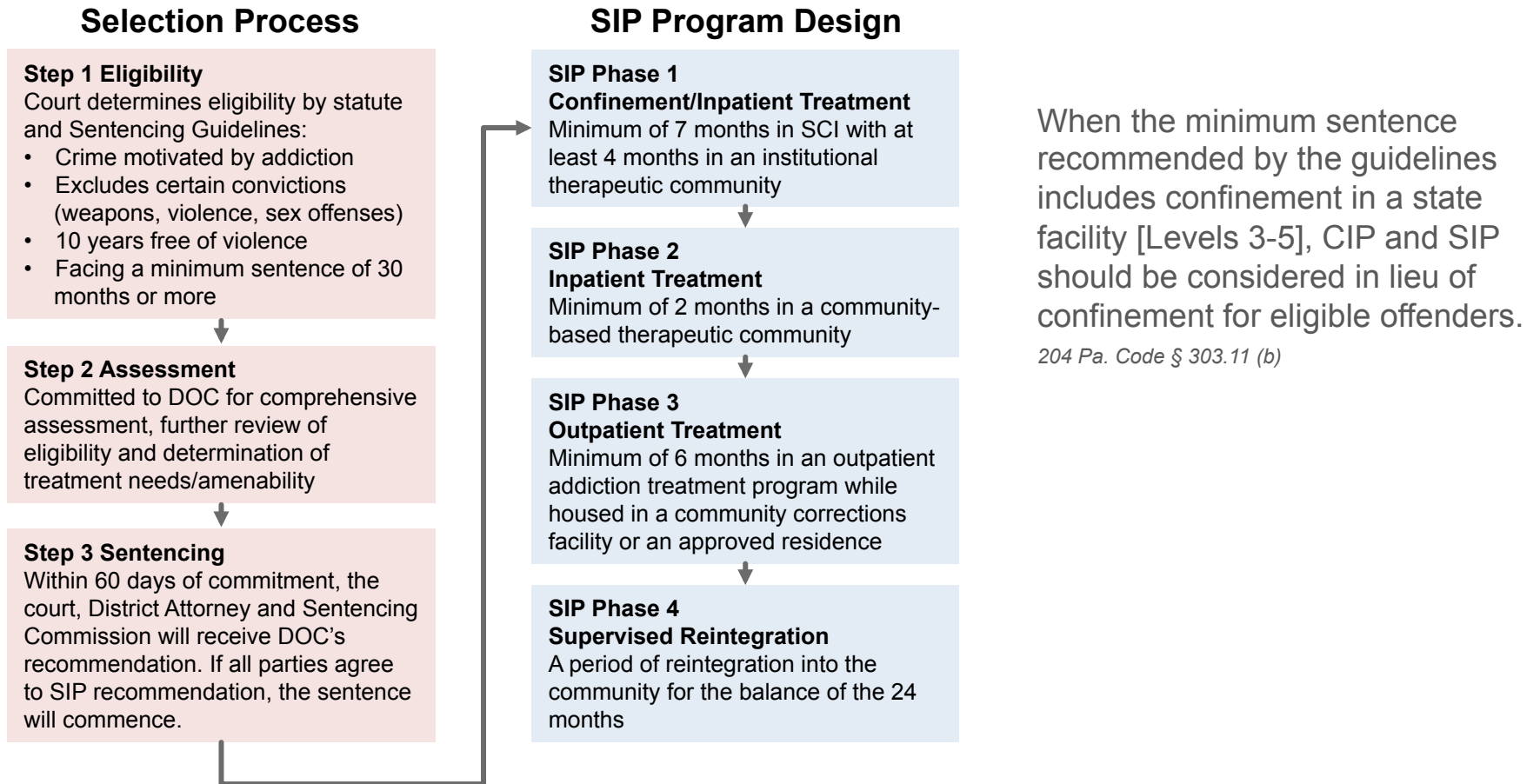
Property and drug sentencing varies widely by county class, with Allegheny County sentencing the largest portion to probation.



Judicial Survey
60% of judges said the guidelines are very important in helping them determine which option to use.

Judicial Survey
Three out of four judges rely most on professional judgment in making a disposition choice in Levels 2 and 3 of the sentencing guidelines but large percentages also cite criminal history, risk, offense gravity, statutory requirements, and plea agreements.

SIP requires a multi-stage selection process and multi-phase program, but lacks meaningful sentencing guidance.



Cost savings from SIP suggest expansion, but streamlining and better targeting are warranted.

SIP Program Total Volume,
May 2005 to Sept. 2014

**DOC New Court
Commitments**
101,700

Eligible for SIP
22,123 (22%)

Evaluated for SIP
5,232 (24%)

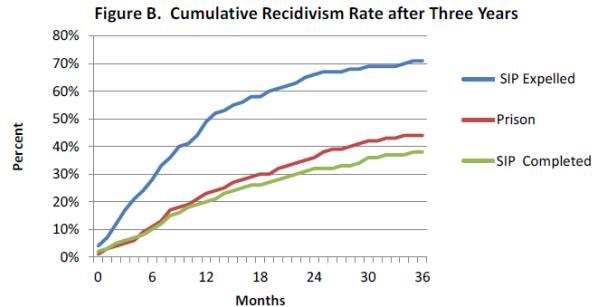
Sentenced to SIP
4,318 (83%)

Expelled from SIP
849

Completed SIP
2,403

Enrolled in SIP
836

Low Risk—223 (27%)
Medium Risk—473 (56%)
High Risk—140 (17%)



Recidivism for SIP is comparable to prison releases. Those who fail SIP have a higher recidivism rate but their volume is relatively small.

Cost Savings

“Current estimates indicate that on average the Commonwealth will save approximately \$33,250 per SIP participant due to their total reduced stay under PA DOC custody.”

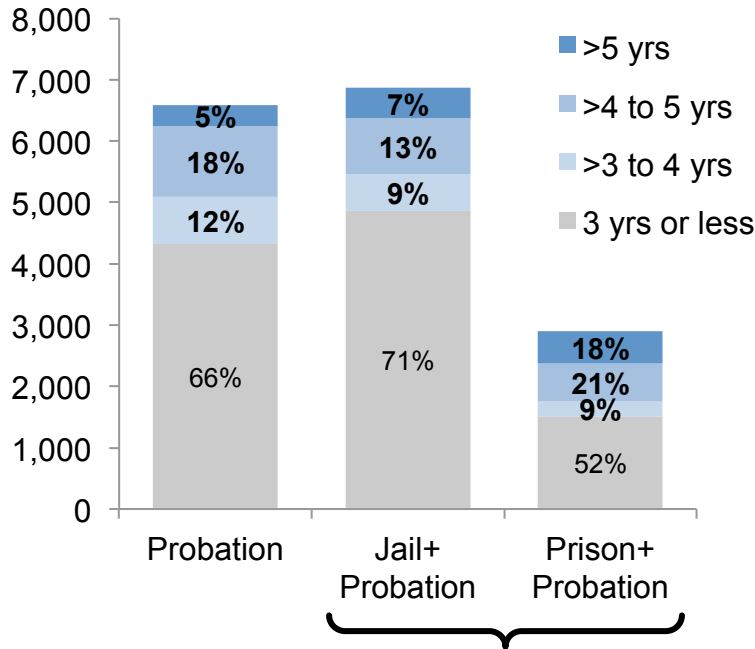
Upon revocation from SIP, the court may sentence the individual to any of the sentencing options available at the initial sentencing with credit for time served.

Probation and CIP are distinct sentencing options under two different agencies and two different sources of limited state funding.

	Probation	CIP
Created	1909	1990
Purpose	None stated	Diversion from confinement
Allowable Term	Up to maximum penalty	Up to maximum penalty
Eligibility	12 mitigating factors to suggest use	Nonviolent, elaborately defined
Conditions	List of 14	Same list plus electronic monitoring and intensive supervision
State Funding Agency	PBPP	PCCD
State Funding	\$24M	\$18M
County Funding	\$117M - the portion spent locally on CIP is unknown	

Probation sentencing is permitted for up to the maximum penalty, and 35 percent of probation terms are longer than three years.

Probation Sentence Lengths by Type, 2014



In addition to the proportions subject to longer probation terms, those with split sentences may also spend a period of time on local or state parole.

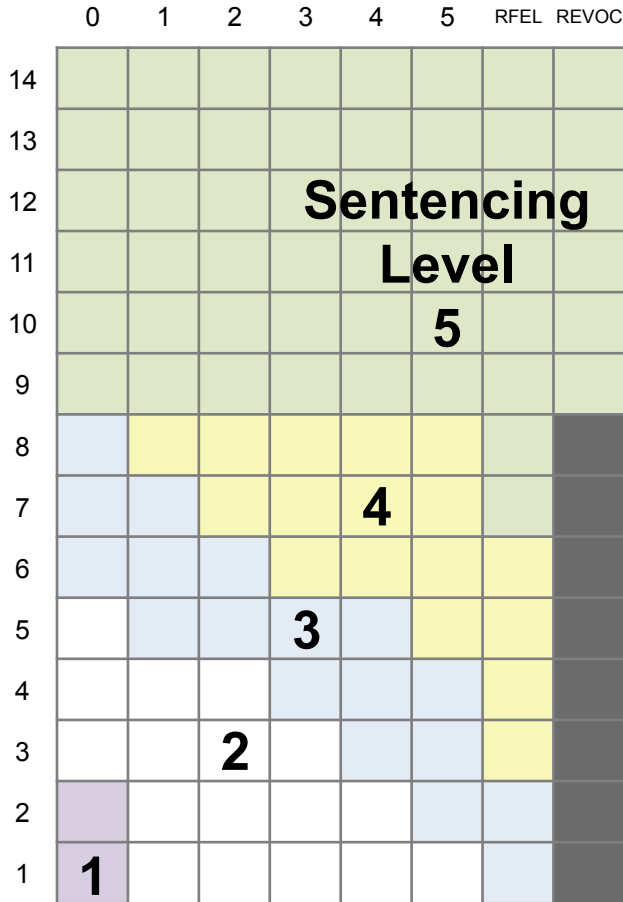
2014 American Law Institute Model Penal Code:

- Probation is for accountability and risk reduction.
- Terms should be limited to three years for felonies.
- Early termination should be authorized and encouraged.
- Lesser sanctions should be used before revocation.

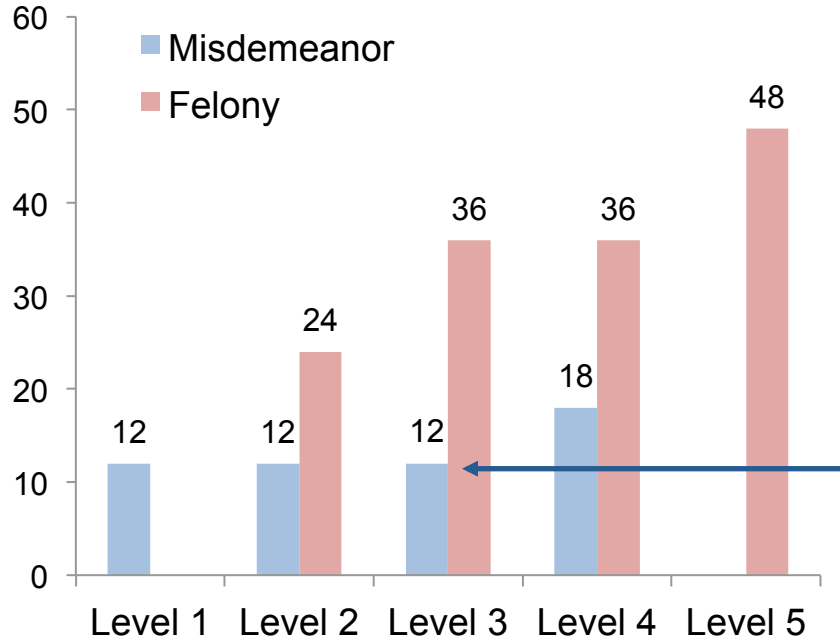
Judicial Survey

72 percent of judges said extending the length of supervision following jail and parole is a very important factor in their decision to add a probation term.

Probation terms don't show the incremental increase expected across sentencing level categories.



Median Property and Drug Probation* Sentence Lengths (months) by Sentencing Level, 2014



Felony probation terms show some differentiation but are all long.

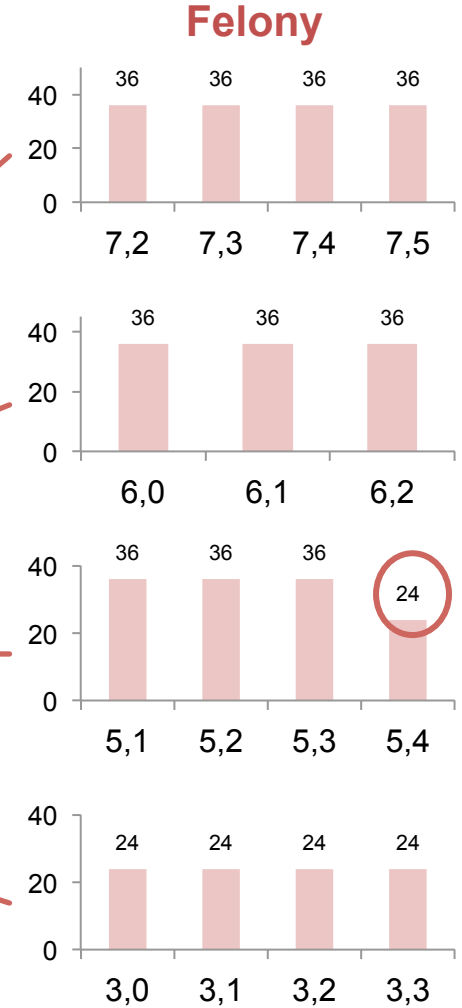
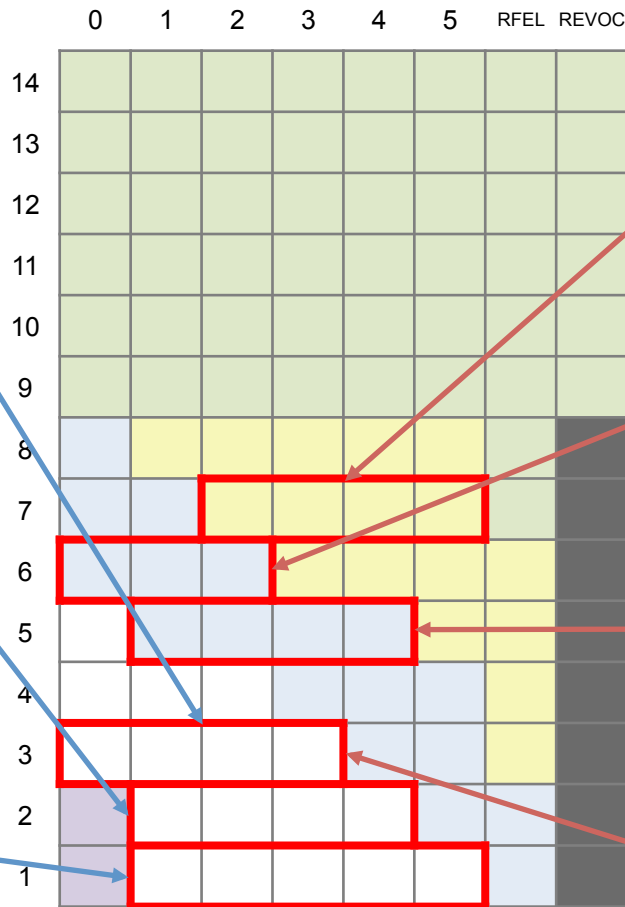
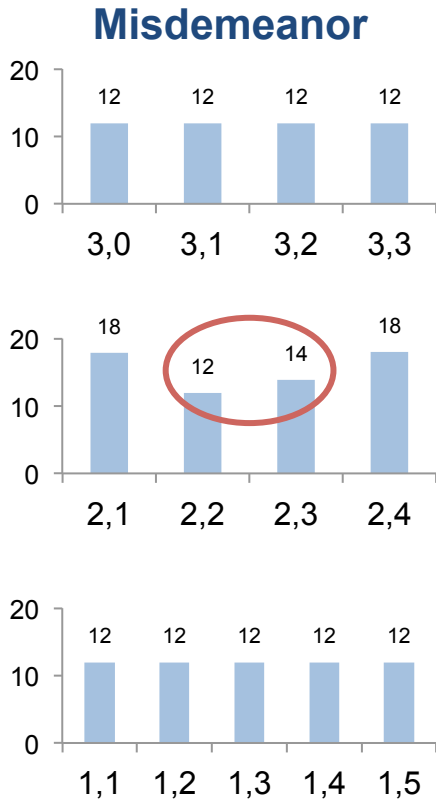
Misdemeanor probation terms are largely uniform.

Justice Center analysis of Pennsylvania Commission on Sentencing data.

* Includes probation alone and split sentences.

Probation terms are not correlated with PRS scores, a disconnect between sentencing and risk reduction.

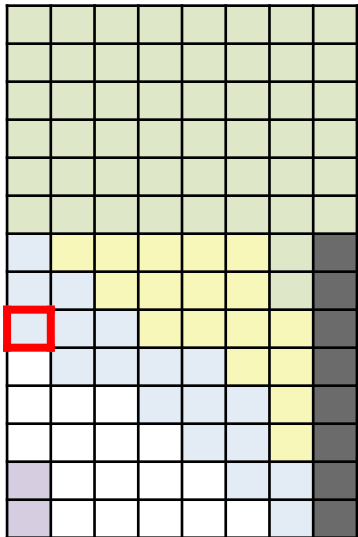
Median Property and Drug Probation Sentence Lengths (months) by OGS and PRS, 2014



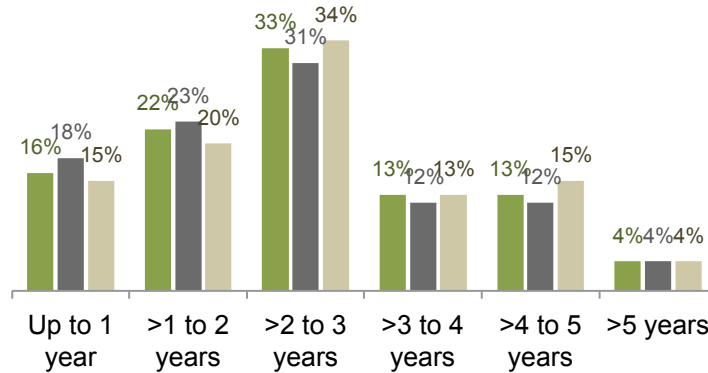
Justice Center analysis of Pennsylvania Commission on Sentencing data.

Felony probation terms within an example grid cell and crime type show a large range and geographic disparity, but not racial disparity.

Probation Sentence Lengths (months) for Specific OGS 6, PRS 0 Felony Crime, 2014

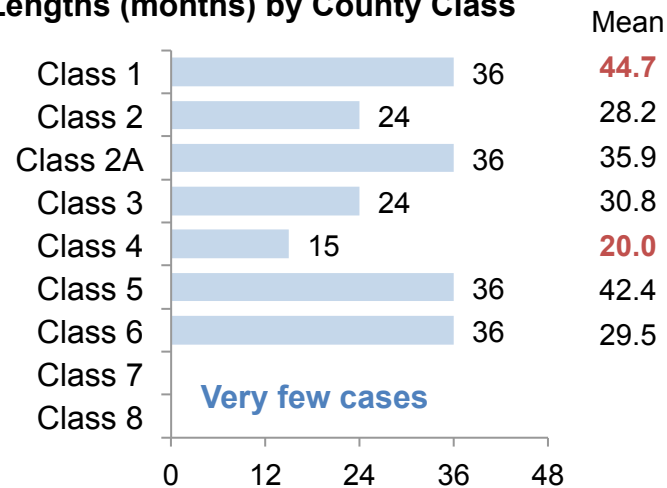


6,0 Felony Drug Possession w/Intent to Deliver by Probation Length and Race



	N	Mean	Median
Total	666	36.0	36.0
Black	205	35.6	35.9
White	420	36.1	36.0

Median Probation Lengths (months) by County Class



Justice Center analysis of Pennsylvania Commission on Sentencing data.

* Counties with fewer cases will have larger variance.

Sentencing practices often lead to long parole periods that cannot be terminated early except for commutations.

Jail sentences with minimum sentences over 90 days in 2014

	Property	Drug	DUI	Other	Violent
Percent of maximum sentences that were more than twice the minimum	84%	79%	78%	77%	78%
Mean length of maximum in relation to the minimum	3.9 x longer	3.4	7.3*	3.4	3.5
Median	3.7 x longer	2.6	5.0	2.6	2.6

Maximum sentences average more than twice the minimum, especially for property and DUI offenses.

Prison sentences in 2014

	Property	Drug	DUI	Other	Violent
Percent of maximum sentences that were more than twice the minimum	59%	45%	72%	42%	40%
Mean length of maximum in relation to the minimum	3.3 x longer	3.5	4.0	2.8	2.8
Median	2.4 x longer	2.0	3.8	2.0	2.0

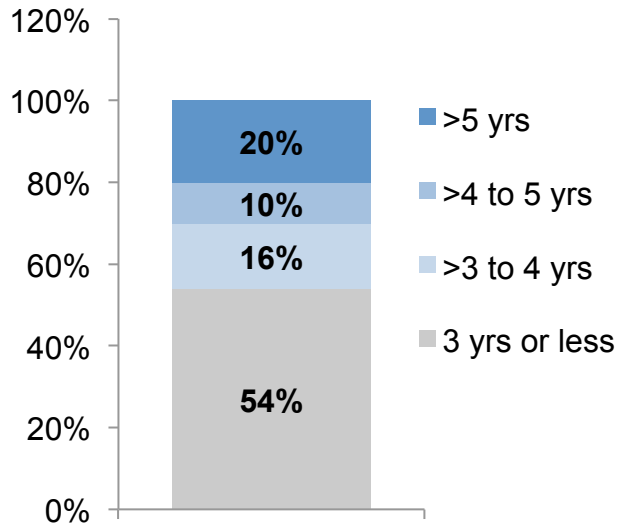
Judicial Survey
97 percent of judges anticipate parole at most halfway through the parole window for prison sentences, and none anticipate a max out.

Justice Center analysis of Pennsylvania Commission on Sentencing data.

* 17% were 90 days to 5 years (Max 20 times longer than the min)

As a result, 46 percent of parole supervision terms are longer than three years.

State Parole Term Lengths by Type, FY2015 Parole Starts



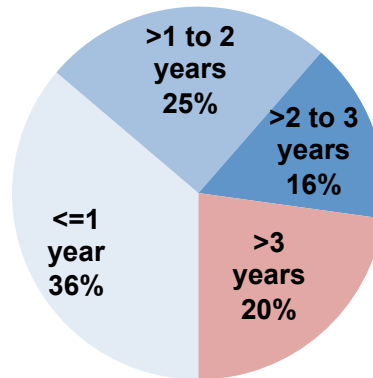
Average initial parole length
3.7 years (median 2.9 years)

The average length of stay on parole supervision for those revoked to DOC in FY2015 was two years.

30% were revoked within the first year on parole, 64% within two years, and 82% within 3 years.

First-time successful parolees served an average of three years before completing their parole term.

Length of Time on State Parole, FY2015 Snapshot Population



24% of those on parole for longer than three years were initially assessed as high risk.

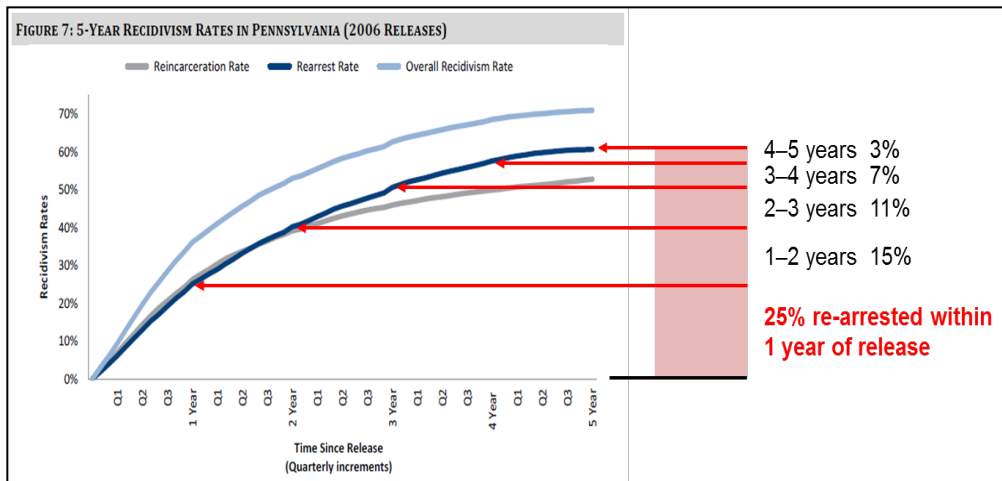
Independent research has shown that those on high supervision have similar recidivism rates as those on low supervision after three years or more on parole in PA.

Justice Center analysis of Pennsylvania Commission on Sentencing data, Kiminori Nakamura, University of Maryland, Applying Redemption to the Length & Level of Parole Supervision.

Reminder: Reducing probation and parole caseloads can improve supervision and reduce recidivism.

Probation caseloads are high, but structured probation lengths could provide relief by exchanging longer supervision for better supervision.

2014	State Probation/ Parole	County Probation/ Parole
Number of Agents	498	1,724
Active Cases (All supervision types and levels)	33,082	187,707
Average Active Caseload per Agent	66	109



While higher caseloads are less of an issue for parole supervision, these are still important resources that could be redirected to further drive down recidivism, and there is little public safety benefit to holding people past three years.

Section Two Summary and Policy Direction

2

Sentencing Guidance

Challenge: There is insufficient guidance for choosing among sentencing options and targeting supervision resources to reduce recidivism.

- SIP is a complex sentencing option that creates savings but needs better targeting.
- CIP and probation are distinct sentencing options under two different agencies and two different sources of limited state funding.
- Probation terms are uncorrelated with criminal history, which impedes ability to focus supervision based on risk of recidivism.
- Sentencing practice contributes to state parole terms that extend well beyond the period when likelihood of recidivism is the highest.

Policy Direction: Simplify sentencing options so that supervision and program resources are prioritized by risk and cost-effectiveness.

- Simplify SIP and design it to be more broadly utilized.
- Merge probation and CIP into a single sentencing option, a continuum of supervision and interventions designed as a behavioral change agent.
- Provide guidance for setting the length of probation terms based on criminal history (PRS).
- Provide for accelerated parole discharge to focus parole supervision and programs on periods when risk of recidivism is the highest.



Overview

1 County Impacts

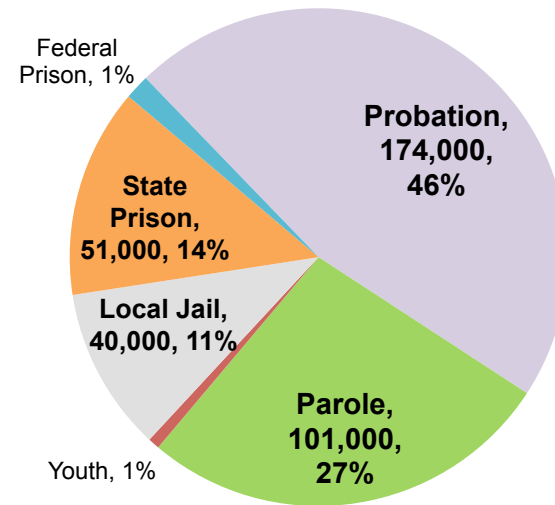
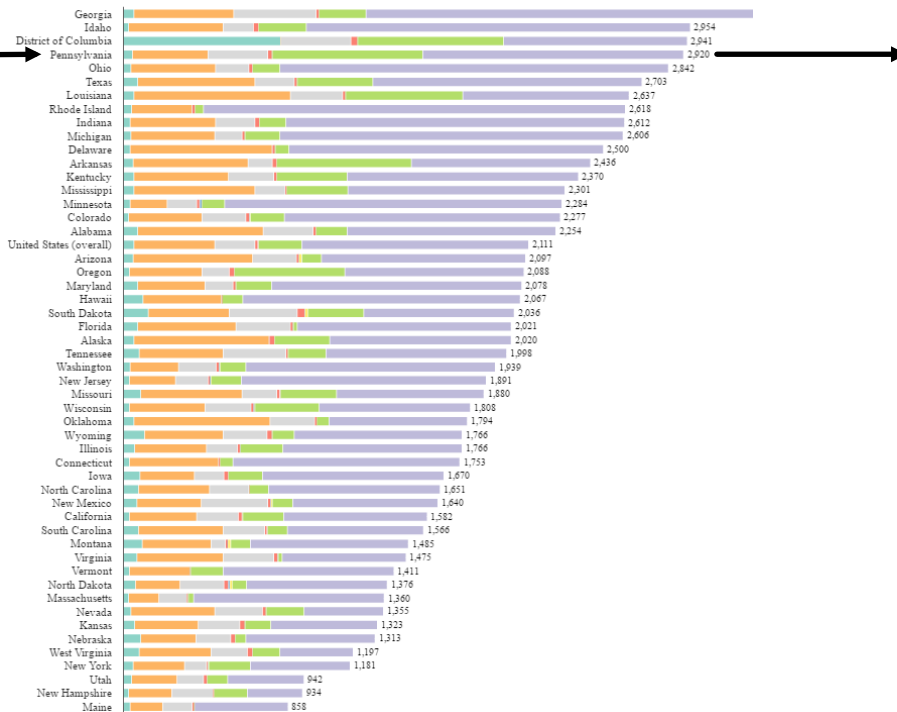
2 Sentencing Guidance

3 Supervision Violations
Challenge: Responses to probation and parole violations are costly and are not informed by a person's risk and needs

Pennsylvania has the third-highest rate of adults on correctional control among states, with large volumes on supervision.

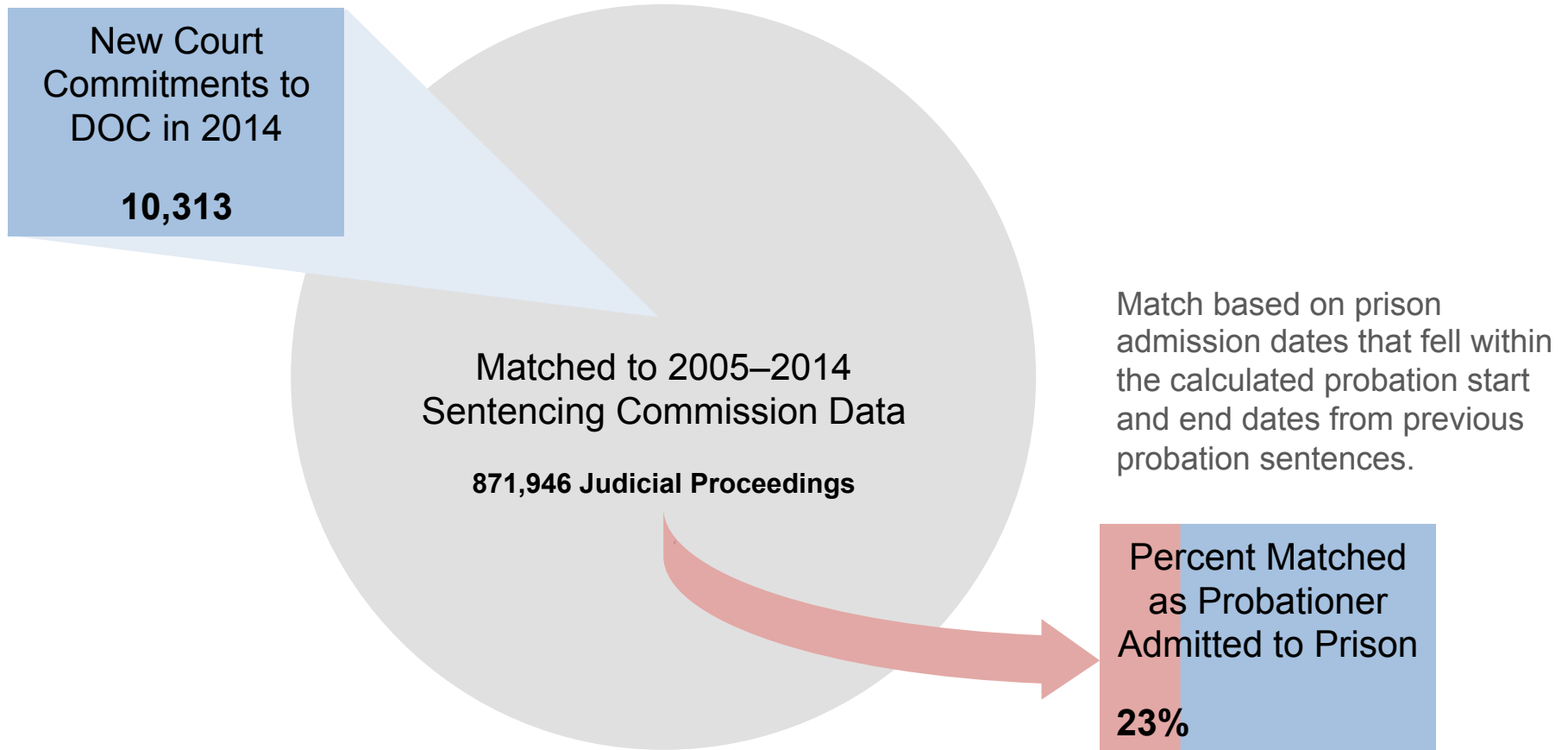
Pennsylvania ranks third among states in rate of people under correctional control (2,920 per 100,000).

Includes federal, state, and local incarceration as well as state and local supervision.



73% of Pennsylvania's total correctional control population is on probation or parole.

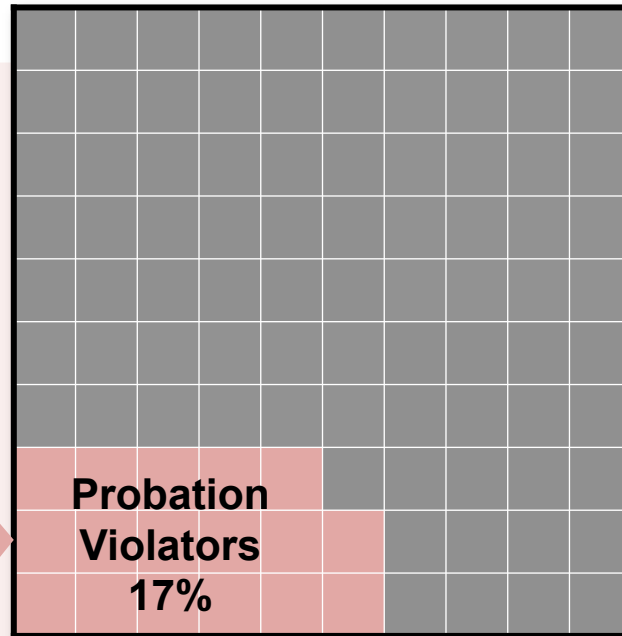
An estimated 23 percent of people admitted to prison in 2014 were on probation or CIP at the time.



Justice Center analysis of DOC Admission data and Pennsylvania Commission on Sentencing data.

A large probation supervision population can provide a driver for the prison population.

PA Prison Population
48,881

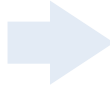


Local Probation and CIP Population
90,515

Note: Estimated probation violator proportion of the population based on 2,351 matched admissions from the previous slide x 2.3 year minimum sentence x 150% average percent of min served at first release = 8,100 beds.

Most probation violators admitted to prison have property/drug convictions, have substance use issues, and are short mins.

2014 New Prison Commits	Non-probation Violators	Probation Violators
Property and Drug Offense	44%	59%
Short Mins*	23%	34%
Average Min Sentence Length	3.7 years	2.3 years
Moderate or High Risk	70%	88%
Misdemeanants	23%	28%
Substance Abuse Indicator	65%	71%
Two or more prior adult convictions	71%	88%



Probation violators constituted 28% of the 4,889 property and drug offense admissions to prison in 2014.

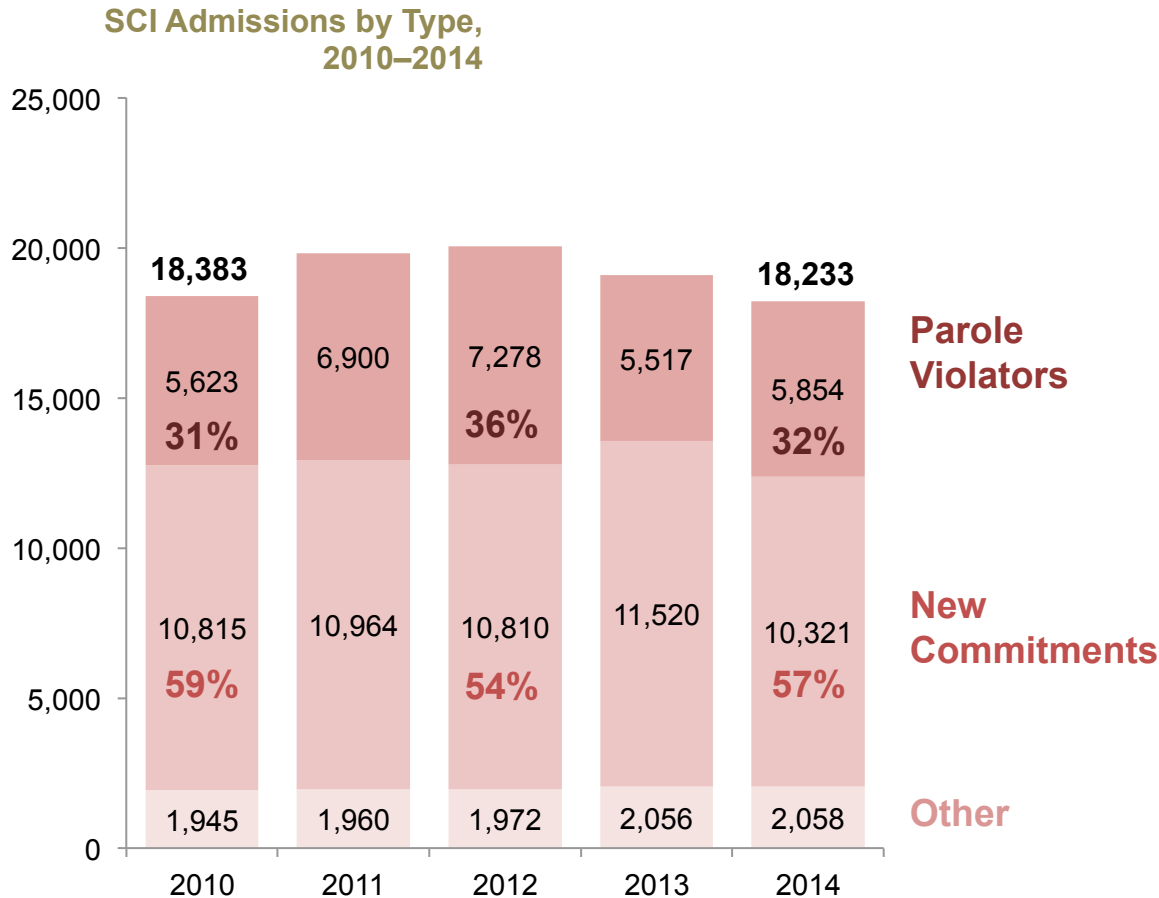
Justice Center analysis of DOC Admission data and Pennsylvania Commission on Sentencing data.

* Short mins are prison admissions with a minimum sentence of a year or less.

Implementing evidence-based practices in probation would help reduce recidivism and avoid correction costs.

Challenge	Opportunity to Strengthen Supervision
Large and growing county supervision population	Use risk assessment to drive case management and focus officer time on higher-risk cases.
Supervision revocations adding cost to jail and prison	Provide a consistent range of non-custodial responses to violation.
Slow and costly responses to serious violations	Enable swift, certain, and proportional 2 to 3 day jail stays.
Insufficient program capacity for higher-risk county probationers and parolees	Integrate state funds for probation (CIP, D&A RIP, and grant-in-aid) and make systematic.
Long supervision periods stretch resources	Frontload supervision resources within the early period of the probation term.
Many outcomes and performance measures for county supervision are unknown	Collect county supervision data statewide to enable regular analysis.

Since 2012 the number of parole violators admitted to the SCI dropped by 19 percent, with some diverted to community corrections.

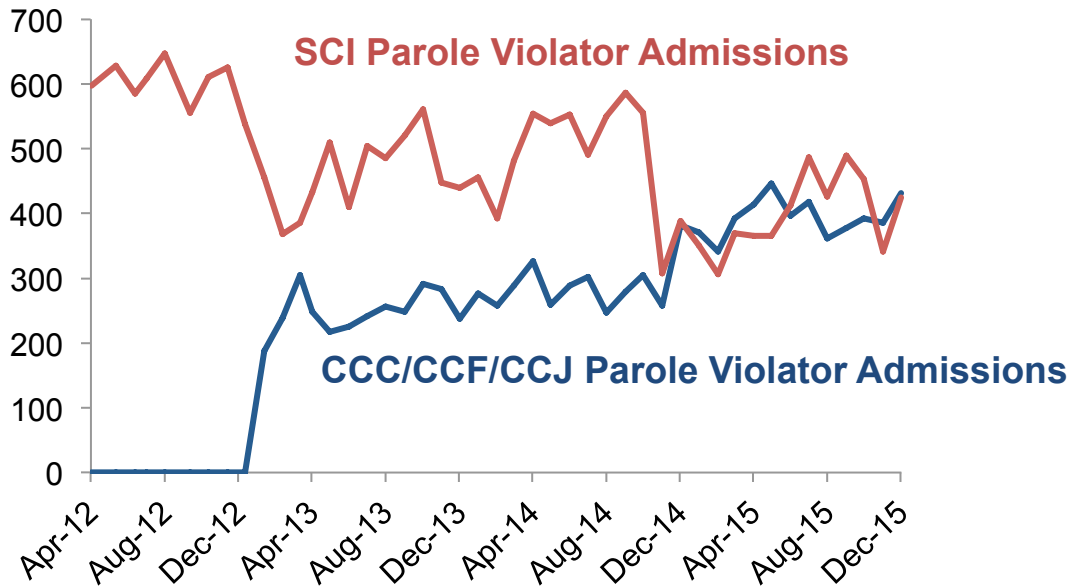


Since enactment of Pennsylvania’s 2012 justice reinvestment policy framework, the number of technical parole violators diverted to community corrections has increased, and lengths of stay for those recommitted to prison have decreased. The impacts have generated savings that are being reinvested into public safety strategies.

Justice Center analysis of Pennsylvania Board of Probation and Parole data.

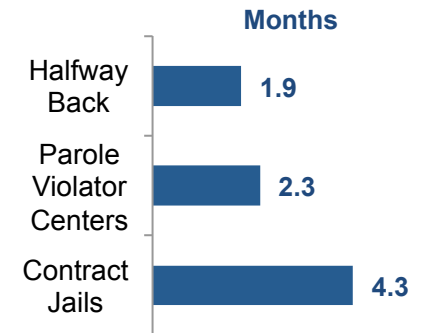
Parole violator admissions to community corrections equaled the number of people returning to the SCI at the end of 2015.

Monthly Parole Violator Admissions by Facility Type, April 2012–Dec 2015



Average length of stay for parole violators in community corrections has held steady in recent years.

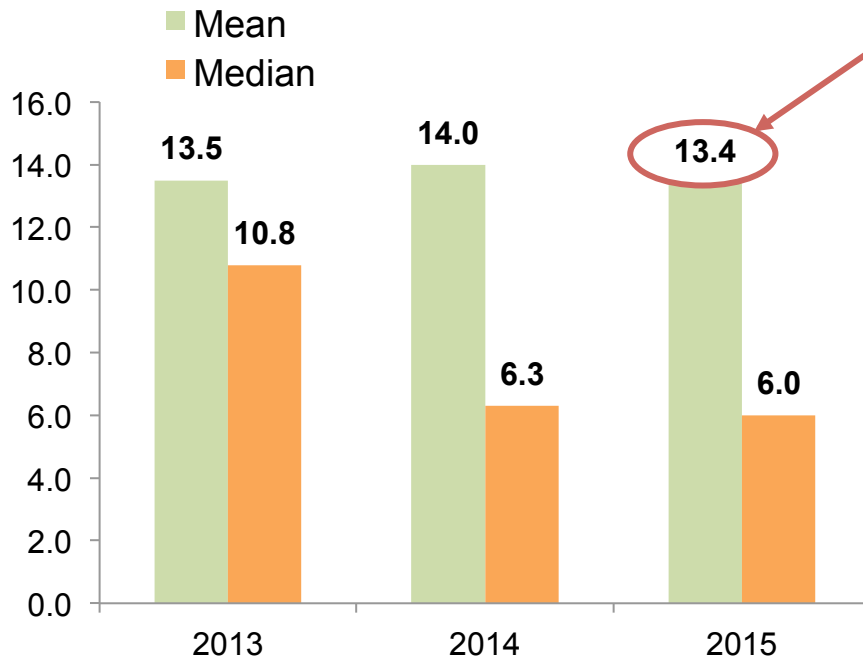
Median Length of Stay by Facility Type, 2015 Releases



Important Note: DOC reports that due to budgetary constrictions in 2016, substantial numbers of technical violators that were being housed in CCJs are now being returned to the SCI where the marginal costs per day are much lower than the contract per diem.

Capped periods for technical parole violators have not dropped the average length of stay below one year.

Technical Parole Violator Average Length of Stay in the SCI in Months, 2013–2015



If only those admitted after Jan. 1, 2013 are included, the average drops from 13.4 months to 6.7 months. 51% of that group spent more than 6 months in the SCI and 10% were incarcerated for more than 12 months.

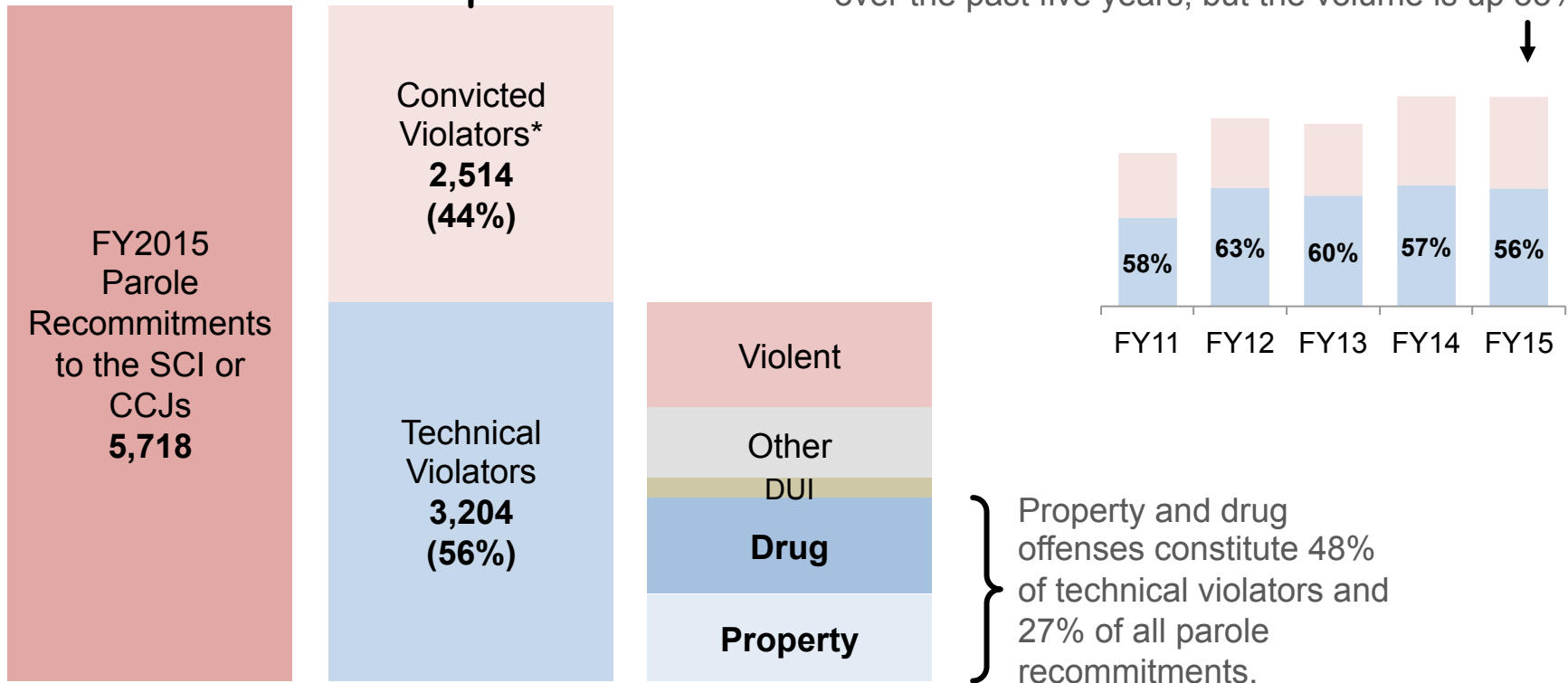
Technical parole violations that meet the “fab five” criteria may be exempt from capped returns to the SCI if they meet criteria such as refusing programming or getting certain misconduct reports.

Fab five violators include:

1. Violations of a sexual nature
2. Assaultive behavior
3. Possession of a weapon
4. Absconding
5. An identifiable threat to public safety

Technical violators represent 56% of parole recommitments, and their volume is up substantially.

The proportion of parole recommitments that were technical violators has not changed dramatically over the past five years, but the volume is up 33%.

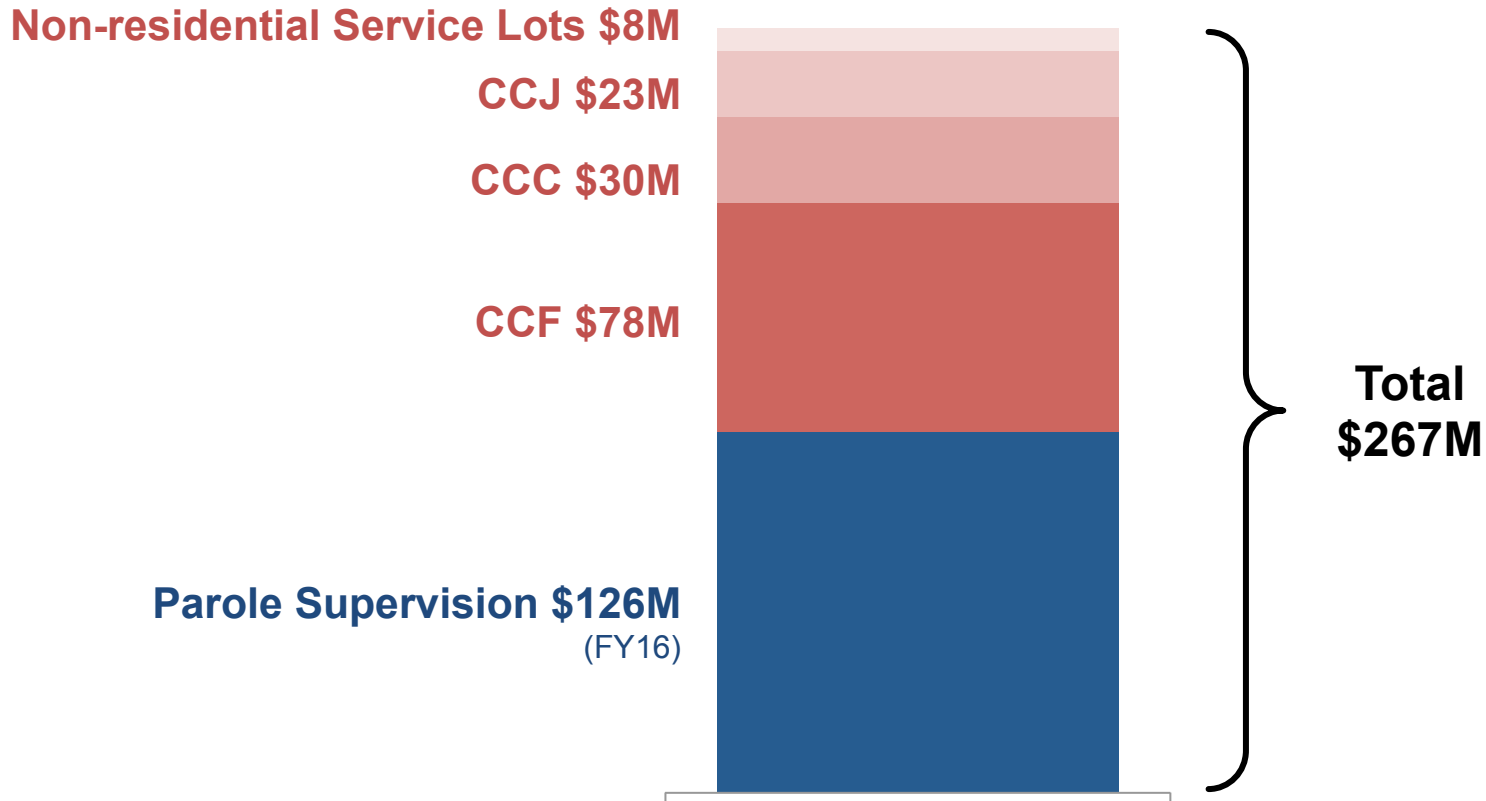


Justice Center analysis of Pennsylvania Board of Probation and Parole data.

* Convicted violators include those that had technical violations in addition a new crime.

In addition to parole supervision, Pennsylvania invests heavily in community correction programs and sanctions.

Community Corrections and Parole Supervision Expenditures, FY2015



Community corrections is made up of a blend of various population types, population sizes, risk levels, and housing types.

Community Corrections Population	Security	Supervised by	Facility Types	Low Risk	Medium Risk	High Risk
SIP	Open	DOC facility staff	CCC and CCF	21%	56%	23%
Parole to Center	Open	Facility staff and PBPP agent	CCC and CCF	17%	54%	30%
Halfway Back	Open	Facility staff and PBPP agent	CCC and CCF	11%	52%	37%
Parole Violators	Secure	DOC or contract facility staff	CCC, CCJ, and CCF	10%	48%	41%



Some facilities have both open and secure beds. 48 of 69 total facilities serve more than one type of population. 17 facilities serve three or all four population types.

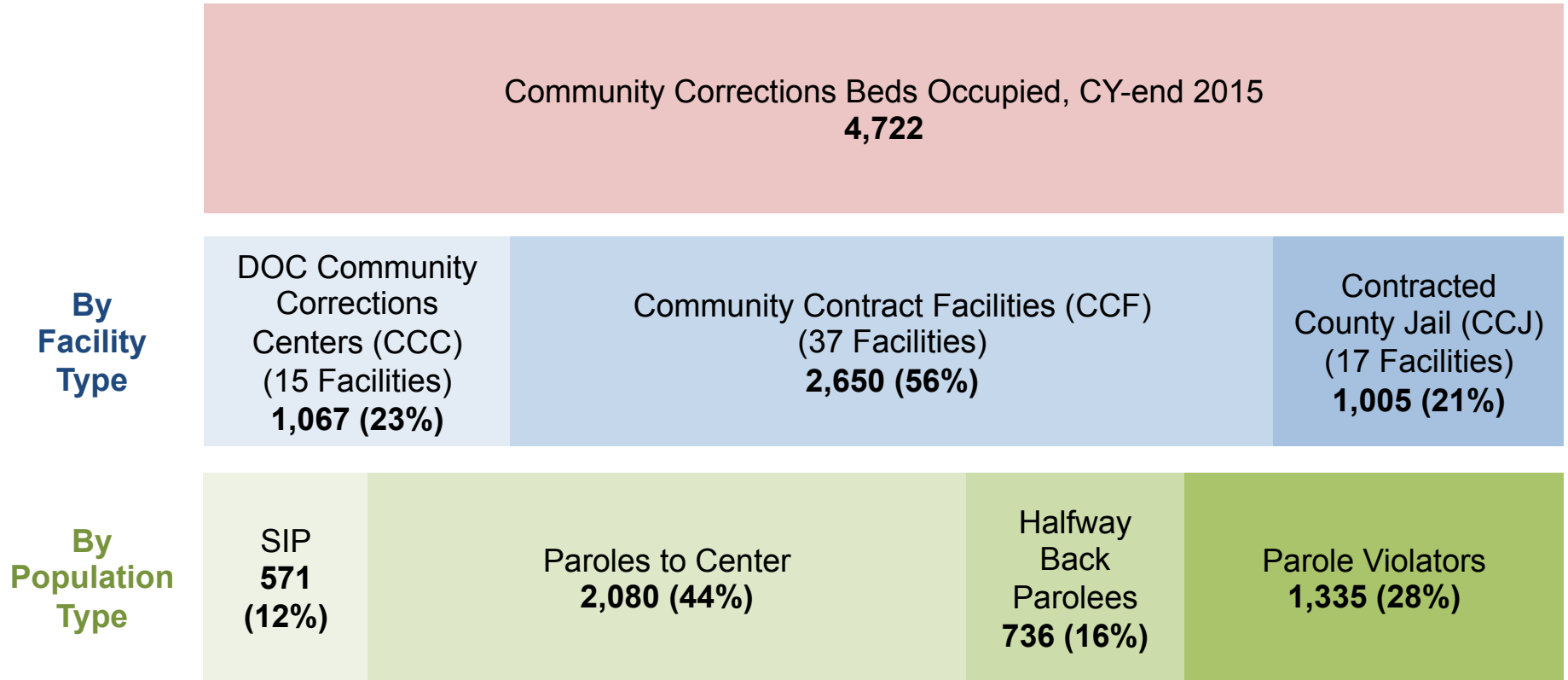


CCCs house an average of 71 people (range 27 to 156). CCFs house an average of 72 people (range 1 to 240). CCJs house an average of 59 people (range 7 to 189).



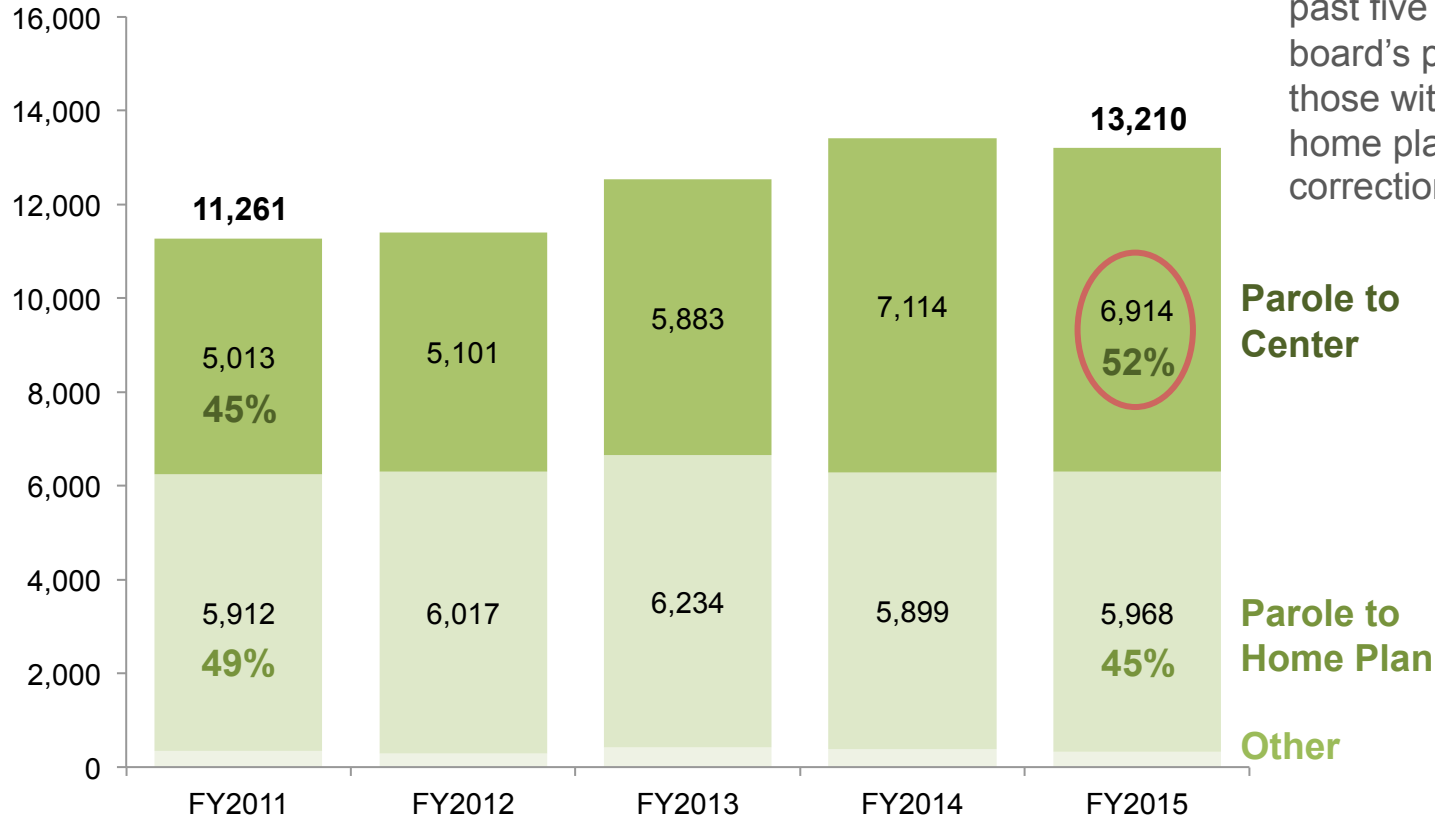
Larger proportions of medium- and high-risk people are found in the Halfway Back and Parole Violator populations. Low-, medium-, and high-risk individuals mix within facilities.

Many center beds are occupied by people leaving prison, limiting usage for response to violations.



A majority of parolees are released to centers instead of an approved home plan.

State Sentence Parole Starts by Release Type, FY2011–FY2015

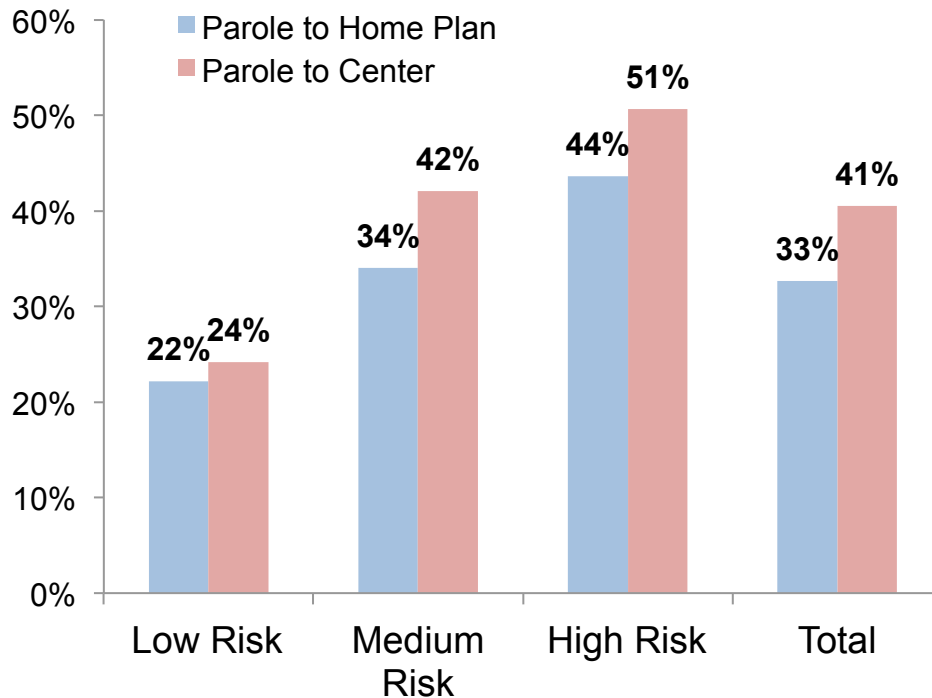


Volume paroled to center up 38% (1,901 people) over the past five years. The parole board's practice is to parole those without an approved home plan to community corrections centers.

Justice Center analysis of Pennsylvania Board of Probation and Parole data.

Recidivism rates are higher for people released to a center versus released to home plan, regardless of risk.

1-year Overall Recidivism Rates by Release Type and Risk Level,* 2010–2011 Releases



These results are in alignment with the evaluation of community corrections in 2009 by Latessa, Lowenkamp, and Bechtel at the University of Cincinnati which found:

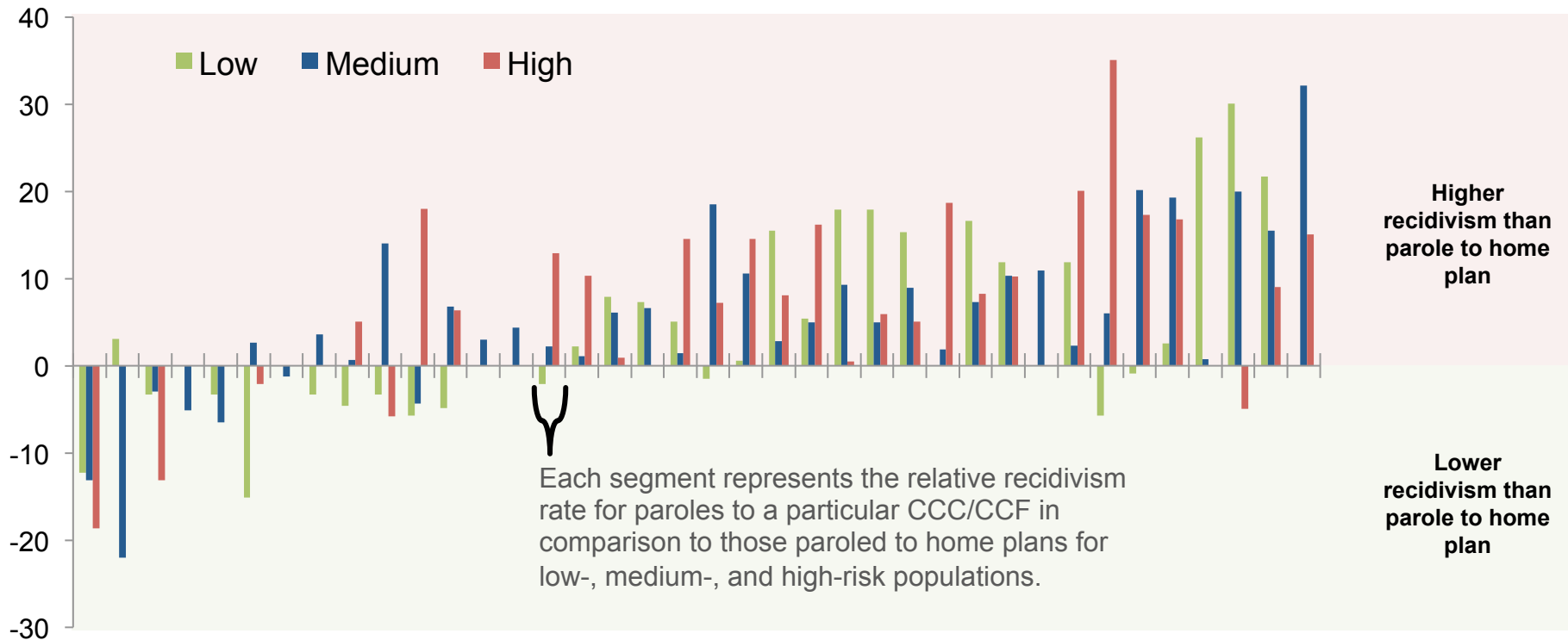
- The comparison group consistently had significantly lower recidivism for all five outcome measures than the treatment group.
- Within programs, there was a mix of risk levels. Most programs did not separate offenders by risk level and were not conducting their own validated and normed actuarial risk assessment on their target population.
- Interaction between offenders of various risk levels may contribute to the higher recidivism rates for the treatment group.
- Placement into programming, dosage of treatment, and case management planning should be done with the most recent risk evaluation taken into consideration.

PA DOC analysis of community corrections recidivism data, Community Corrections Centers, Parolees, and Recidivism: An Investigation into the Characteristics of Effective Reentry Programs in Pennsylvania, May 2009.

* Based on DOC RST risk assessment instrument.

Some community corrections facilities have had better recidivism results in general or within certain risk groups.

1-year Overall Recidivism Rate Percentage Point Difference Compared to Parole to Home Plan by CCC/CCF Program and Risk Level,* 2006–2011 Releases



PA DOC analysis of community corrections recidivism data.

* Based on DOC RST risk assessment instrument.

Performance-based contracting in CCFs is showing promise as one aspect of a comprehensive recidivism-reduction strategy.

Are community corrections programs following the principles of effective intervention?



1. Prioritize high-risk people
2. Address criminogenic needs
3. Implement programs with fidelity

Performance-based Contracting

In early 2013, DOC re-bid all contracts for the operation of CCF centers with the idea that contractors should be held accountable for their role in recidivism reduction.

If a CCF reduces its recidivism rate below the baseline recidivism range within a given 6-month period of the contract, they receive a 1% increase in their per-client daily charge rate for the next period. Increases in recidivism will result in warnings and possible contract cancellation.

Results from the first two marking periods:

- The overall recidivism rate was down in both periods.
- In total, 17 CCF contract periods showed reduced recidivism and received the 1% incentive.
- Only two centers have received warnings for increased recidivism above baseline.

Parole supervision employs a sanctions matrix to structure violation response but lacks policy guiding program placement.

PBPP's Violation Sanctions Matrix

The image shows a complex grid form titled "Violation Sanctioning Grid Form (PBPP-347)" from the Pennsylvania Board of Probation and Parole. It includes fields for offender information, violation type, and a grid of sanctions. The grid lists various violations such as "Failure to report to parole officer" and "Failure to comply with curfew," each with a corresponding sanction code and description.

Uses Three Factors
 Violation Severity
 Parolee Risk Score
 Prior Adjustment

To guide responses from three ranges:

Although a range of state-funded residential and nonresidential programs are available, the absence of policy to sort parolees into programs based on risk, need and violation behavior limits potential for maximizing impact.

High-range Responses
Inpatient Alcohol or Drug Treatment
CCC/CCF Halfway Back
PV Center
Contract Jail
SCI
Medium-range Responses
Cognitive behavioral
Day reporting
Family reunification
Housing Group
Domestic Violence Group
Increased Urinalysis Testing
Outpatient Alcohol or Drug Treatment
Low-range Responses
Written travel restriction
Written warning
Community service
Curfew (increased curfew)
Refer to ASCRA groups

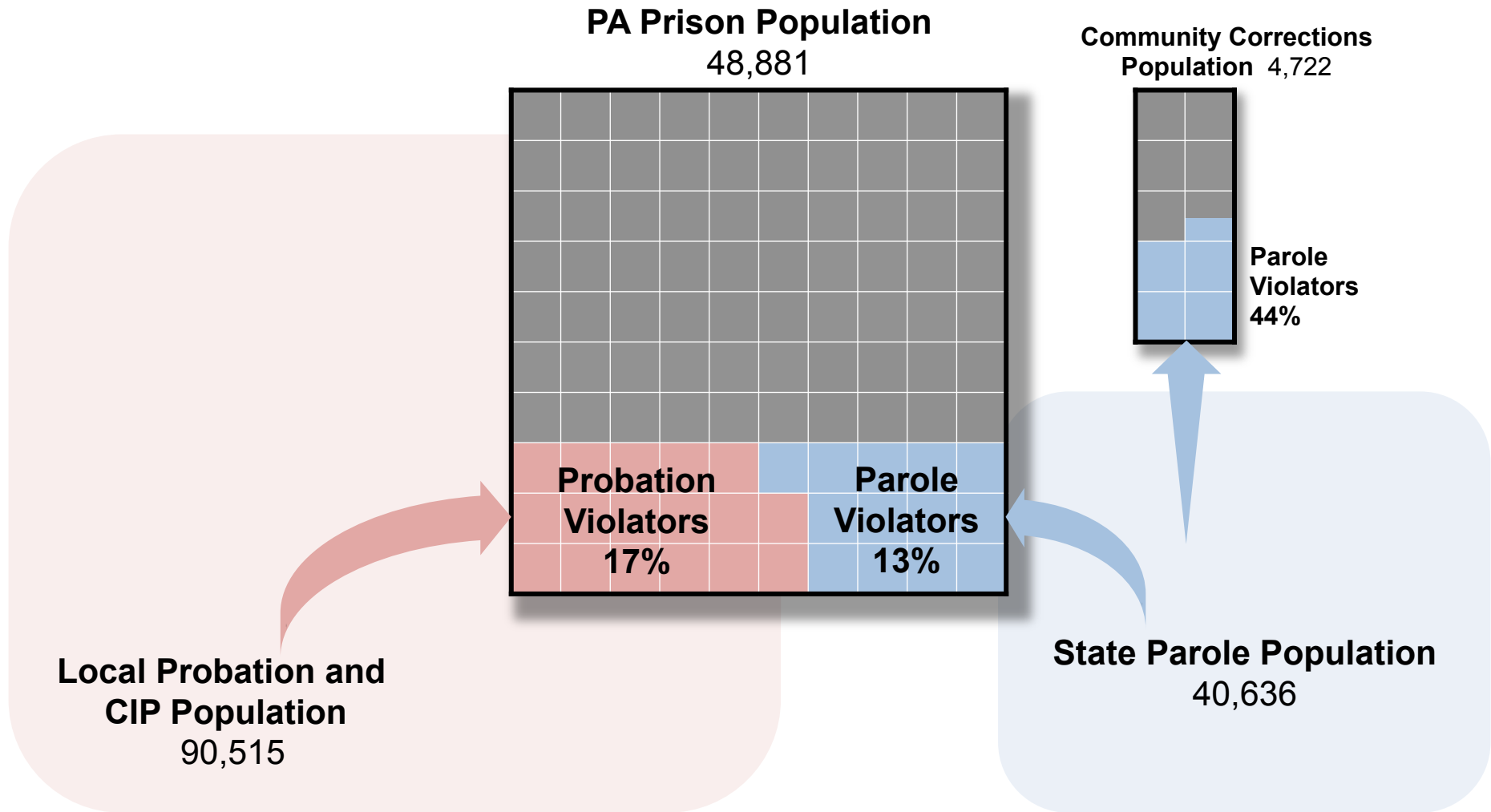
Current policies lack admission criteria to prioritize participants based on assessed risk and need.

	Average Length of Stay	Annual Admissions	Per Diem	Cost per Sanction	Cost per Year
Halfway Back	1.9 months	3,800	\$74	\$4,280	\$16M
Parole Violator Center	2.3 months	2,900	\$80	\$5,601	\$16M
Contract Jail	4.3 months	1,700*	\$68	\$8,900	\$15M
SCI Parole Violators	13 months	4,800*	Marginal \$17 Fully Loaded \$100	Marginal \$6,727 Fully Loaded \$39,569	Marginal \$32M Fully Loaded \$190M

The cost of the more intensive, restrictive options are considerable, requiring these resources to be focused on higher-risk parolees who have committed the most serious violations.

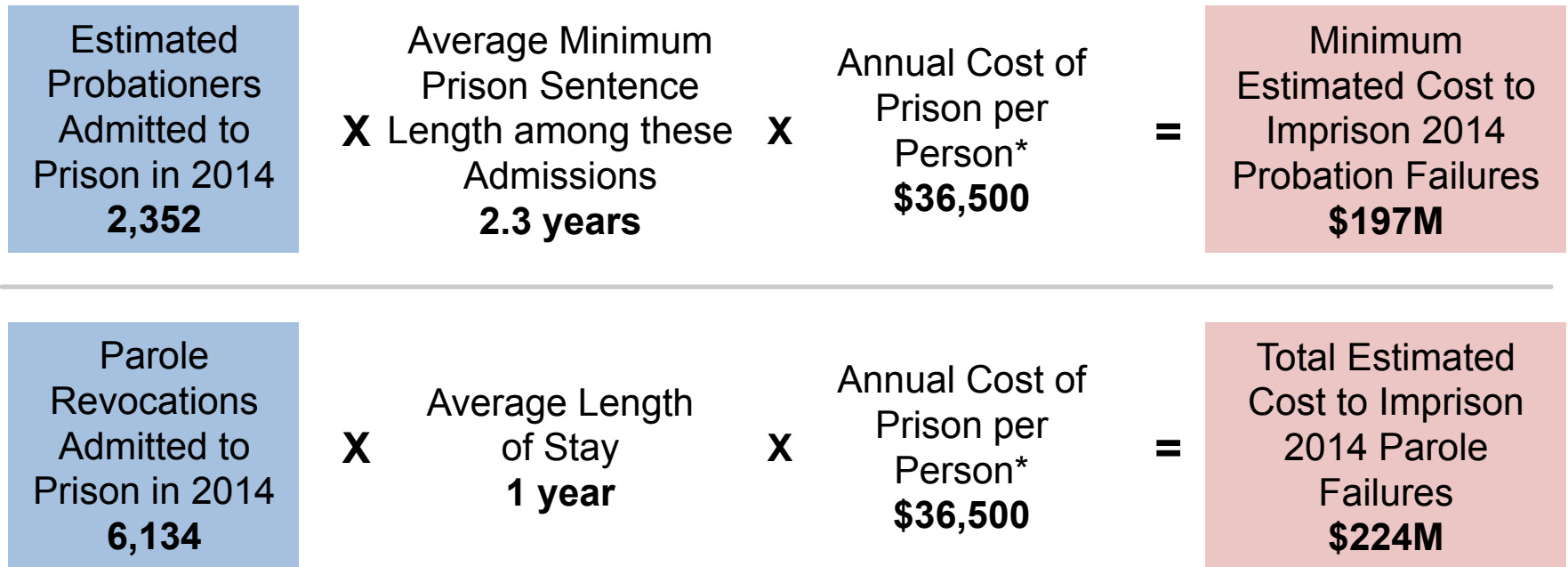
* As noted earlier, the admissions pattern for technical violators is shifting in 2016, which will affect average length of stay and costs.

More than 15,000 state-funded prison and community correction beds are used to sanction probationers and parolees.



Justice Center analysis of DOC Admission data, Pennsylvania Commission on Sentencing data and Pennsylvania Board of Probation and Parole data.

Incarcerating probation and parole revocations cost Pennsylvania taxpayers an estimated \$421 million per year.



Note: This does not include the costs associated with probation and parole violators awaiting hearings, probationers serving jail revocation sentences in local jails, or parole violators being housed in community corrections facilities.

Justice Center analysis of DOC Admission data and Pennsylvania Commission on Sentencing data.

In recent years, many states have implemented swift, certain, proportionate sanctions for technical violators.



Washington (2007)
Up to 30 days of confinement for “high level” supervision violations.



SAC reduced the length of stay and encouraged more appropriate and proportionate responses to violations.

SAC participants were less likely to recidivate—20% less likely to receive any felony conviction, and 30% less likely to receive a violent felony conviction.



North Carolina (2011)
Enable probation to respond to violations of supervision conditions with 2 to 3 day jail sanctions.



Probation revocations to prison fell by half.

Recent analysis indicates violators with a “quick dip” were less likely to abscond or be revoked to prison and more likely to be successful on supervision than those that did not receive a quick dip in response to supervision violations.



Pennsylvania (2012)
Allows judicial districts to establish a program of short jail sanctions but does not require it. Sanctions can range from 3 to 21 days, even for low-level violations if the individual has had multiple violations.

Judicial Survey

82 of 94 (87%) said administrative violation hearings/sanctioning by probation officers was either currently allowed, or that they would support it, perhaps with judicial review.

“Evaluation of Washington State Department of Corrections (WADOC) Swift and Certain (SAC) Policy Process, Outcome and Cost-Benefit Evaluation”, Washington State University, Pew Charitable Trusts; “Justice Reinvestment in North Carolina: Three Years Later”, Council of State Governments Justice Center, Code of Ala. § 15-22-52, 42 PA C.S. § 9771.1

Section Three Summary and Policy Direction

3

Supervision Violations

Challenge: Responses to probation and parole violations are costly and are not informed by a person's risk and needs.

- Incarcerating people who have failed on probation and parole supervision costs Pennsylvania taxpayers an estimated \$420 million per year.
- People who have violated the terms of their probation or parole occupy nearly one-third of prison beds.
- People paroled from prison occupy more than half of the state's community corrections beds, even though they are more likely to fail on parole than people released from prison straight to parole supervision.
- Parole violators are not matched to programs based on their individual risk and needs, which contributes to the likelihood they will fail on supervision.

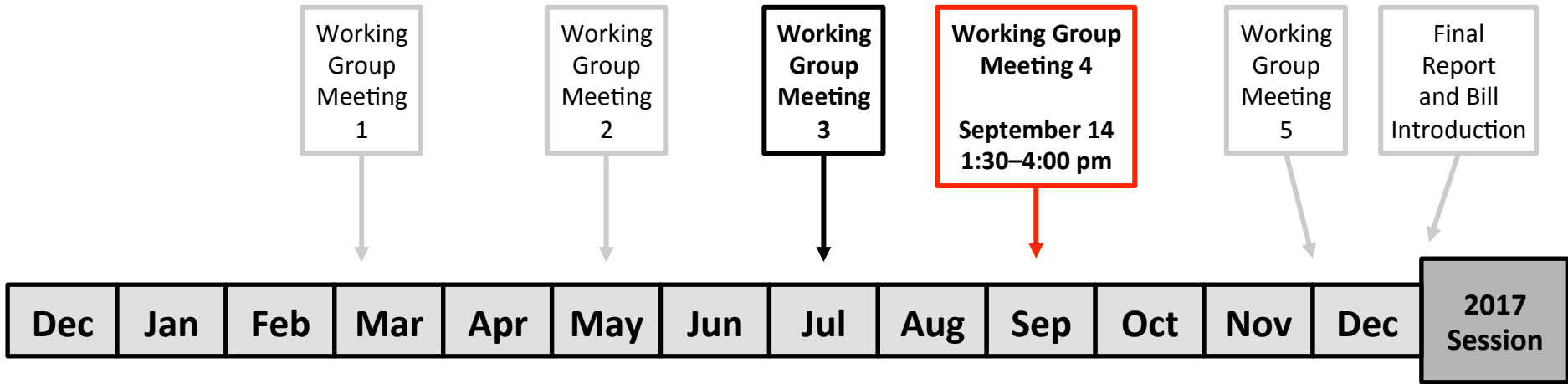
Policy Direction: Structure how sanctions and programs are used in response to supervision violations.

- Incentivize and guide the adoption of swift, certain, and brief sanctions for minor supervision violations.
- Emulate states that are using shorter sanction periods for more serious supervision violations to achieve the same sanctioning impact with dramatically lower cost.
- Tailor admissions to community correction programs based on risk, violation severity, and cost-effectiveness.

Summary for Discussion of Policy Directions

	Pursue	Committee
1. Capacity of county justice systems:		
a. Single agency for probation		
b. State support for indigent defense		
c. Risk assessment for pretrial release		
2. Simplify sentencing options:		
a. SIP expansion and streamlining		
b. Probation and CIP		
c. Probation terms		
d. Parole discharge		
3. Supervision violations:		
a. Swift and certain		
b. Sanctions in lieu of revocation		
c. Community corrections admissions		

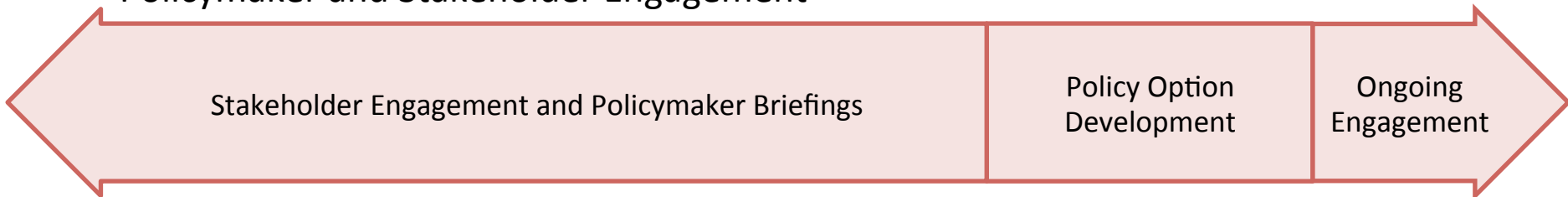
Proposed Pennsylvania Justice Reinvestment Timeline



Data Analysis



Policymaker and Stakeholder Engagement



Thank You

Patrick Armstrong, Policy Analyst
parmstrong@csg.org

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