



Rhode Island Justice Reinvestment Working Group *Final Meeting*

December 15, 2015

The Council of State Governments Justice Center

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The CSG Justice Center & Justice Reinvestment

The Council of State Governments is a national non-profit, non-partisan membership association of state government officials that engages members of all three branches of state government.

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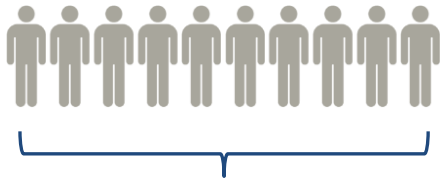
JUSTICE REINVESTMENT

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

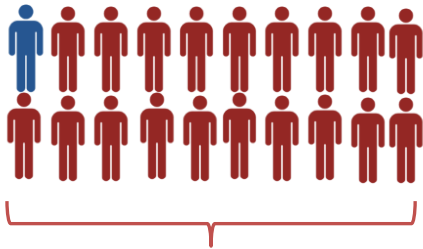
The Justice Reinvestment Initiative is supported by funding from the U.S. Department of Justice's **Bureau of Justice Assistance (BJA)** and **The Pew Charitable Trusts**

RHODE ISLAND'S PROBATION SYSTEM IS IN CRISIS

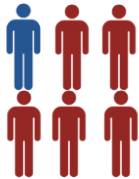
23,000 people on probation



1 in 20 adult men



1 in 6 adult black men



In Rhode Island, 23,000 people (1 in 20 adult men, 1 in 6 adult black men) are serving a probation sentence, the second highest rate in the nation. The average length of probation terms for those leaving the Adult Correctional Institutions (ACI) is six years (three times the national average). Eighty percent of the probation population has served more than a year, a point beyond which individuals are much less likely to reoffend.

Probation sentences outpace resources appropriated by the General Assembly, which means that the Department of Corrections cannot supervise 60 percent of the probation population. Probation officers' caseloads are so high as it is (averaging over 150 per officer), that no meaningful supervision can occur to lower recidivism rates.

As a result, failure rates are high. Within three years of starting a probation sentence, half of probationers are back in front of a judge for resentencing. Along the way, costs mount as those on probation are detained at the ACI and opportunities for halting cycles of drug abuse are missed.

Probation violators (most of whom are either misdemeanants or condition violators) account for an estimated three out of every five people sentenced to the ACI and at least 29 percent of the ACI's total population on any given day.

Each year \$49 million is spent sanctioning the behavior of those on probation, while only \$15 million is spent on supervision and services.

50%

of people placed on probation are re-sentenced within three years

29%

of the ACI's total population are probation violators

1: MISSED OPPORTUNITIES TO IDENTIFY RISKS, NEEDS, AND DIVERT

Probation is the most widely utilized sentencing option and diverts half of all people with felony sentences from serving a term of incarceration at the ACI.

People sentenced to probation are

12 %

less likely to reoffend.

Even with limited resources, people on probation reoffend 12 percent less often than similar people who are sentenced to periods of incarceration.

50 days

Is the average length of stay at the ACI for a felony

Those charged with a felony and held at the ACI stay an average of 50 days. Research has found that holding people two days or more increases recidivism by destabilizing their housing, employment, and family situation.

Over 10,000

people are arrested and arraigned without any assessment each year

Thousands of Rhode Islanders are arrested and arraigned each year for criminal behavior without any assessment of their criminal history, risk to reoffend, or need for drug or mental health treatment.

Early assessment can help reduce unnecessary pretrial incarceration and connect people to needed services that would make further involvement in the criminal justice system less likely or needed.

2: OUTDATED SENTENCING AND PROBATION LAWS RESULT IN LONG PROBATION AND SUSPENDED SENTENCES

33 states
Supervision periods are capped

Rhode Island's criminal sentencing and probation laws have been largely untouched for decades.

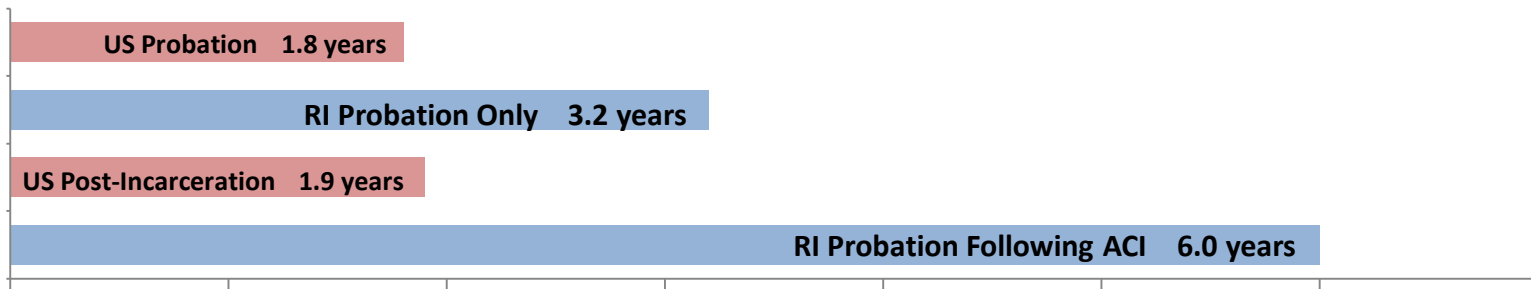
Most other states have modernized their supervision laws to adhere to evidence-based practices and improve public safety outcomes. Rhode Island's outdated laws result in lengthy sentences, with probation terms tied to the length of the suspended sentence.

35 states
Allow probation terms to be reduced after sentencing.

If the total sentences of those going to the ACI were instead executed, Rhode Island would have the highest incarceration rate in the nation. If lengthy suspended sentences deterred people from reoffending, Rhode Island would have the lowest recidivism rate in the nation.

Supervision periods are capped in 33 states, and 35 states permit probation terms to be reduced after sentencing based on risk and demonstrated good behavior. Rhode Island does neither of these things. In 47 states, the burden of proof to revoke probation is at least "a preponderance of the evidence" but in Rhode Island it is only "reasonable satisfaction."

Average Length of Supervision Terms for Individuals Convicted of Felony Offenses



3: PROBATION SUPERVISION RESOURCES AND CURRENT PRACTICES ARE INSUFFICIENT TO REDUCE RECIDIVISM



With high caseloads, and a 50 percent recidivism rate, it is critical to focus the State's limited resources on the half of probationers who are most likely to reoffend. But, unlike most states, Rhode Island has yet to fully adopt a risk and needs assessment to triage caseloads based on risk, offense level, and time on supervision. Probation officers report spending most of their time completing paperwork and only having a couple of minutes to interact with those they supervise during each visit. Despite receiving training on evidence-based practices such as motivational interviewing, probation officers are unable to put it into practice.

Supervision alone cannot change behavior, and current programs in the community are insufficient to address the needs of those most likely to reoffend. The State needs more evidence-based cognitive behavioral programs to address criminal thinking, substance use, and mental health disorders.


THE PROBATION SYSTEM IS AT A CROSSROADS



Rhode Island can retain its **outdated** set of laws and practices governing probation and match resources to the probation sentences imposed.

To fund supervision for everyone currently on probation:

\$50m or more to supervise everyone on probation over five years

 caseloads would remain too high (~155 people per officer) to reduce recidivism

+8% forecast prison growth over five years

Rhode Island can **modernize** its approach to pretrial assessment and diversion, probation sentencing, and supervision practices.

If Rhode Island embraces the policy framework that follows, the state could:

- \$13.4m 5-year averted costs at the ACI

\$9.5m fund an increased annual investment in assessment, programs, and supervision



make smarter use of existing investments in probation and diversion programs



reduce recidivism by 15% and increase public safety

- 2% reduction in current prison population over five years

RHODE ISLAND JUSTICE REINVESTMENT POLICY FRAMEWORK

Goal: Reduce recidivism, increase public safety, and lower costs

STRATEGY

1

ASSESS & DIVERT

Assess people prior to their arraignment for a felony in order to inform and improve judicial decision-making about conditions of release, divert more people to the most appropriate option as early as possible, and connect people to supervision and services based on individualized assessments.

STRATEGY

2

MODERNIZE SENTENCING & PROBATION POLICY

Modernize Rhode Island's legal foundation for probation sentencing and supervision to hold people on probation more accountable, reduce recidivism, and improve the state's return on the investment in supervision.

STRATEGY

3

REALLOCATE & REINVEST IN EFFECTIVE PROBATION

Increase public safety by strengthening probation supervision and the quality of community-based programs to reduce recidivism.

STRATEGY

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ASSESS & DIVERT

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MODERNIZE SENTENCING & PROBATION POLICY

3

REALLOCATE & REINVEST IN EFFECTIVE PROBATION

1 ASSESS & DIVERT

A

Require **pre-arraignment assessment** of risks and needs, beginning implementation with people charged with and detained for a felony offense or a domestic violence misdemeanor offense.

B

Building upon assessment, adopt a process to identify diversion eligibility and **make diversion decisions** more quickly, and supervise pretrial diversions selectively.

C

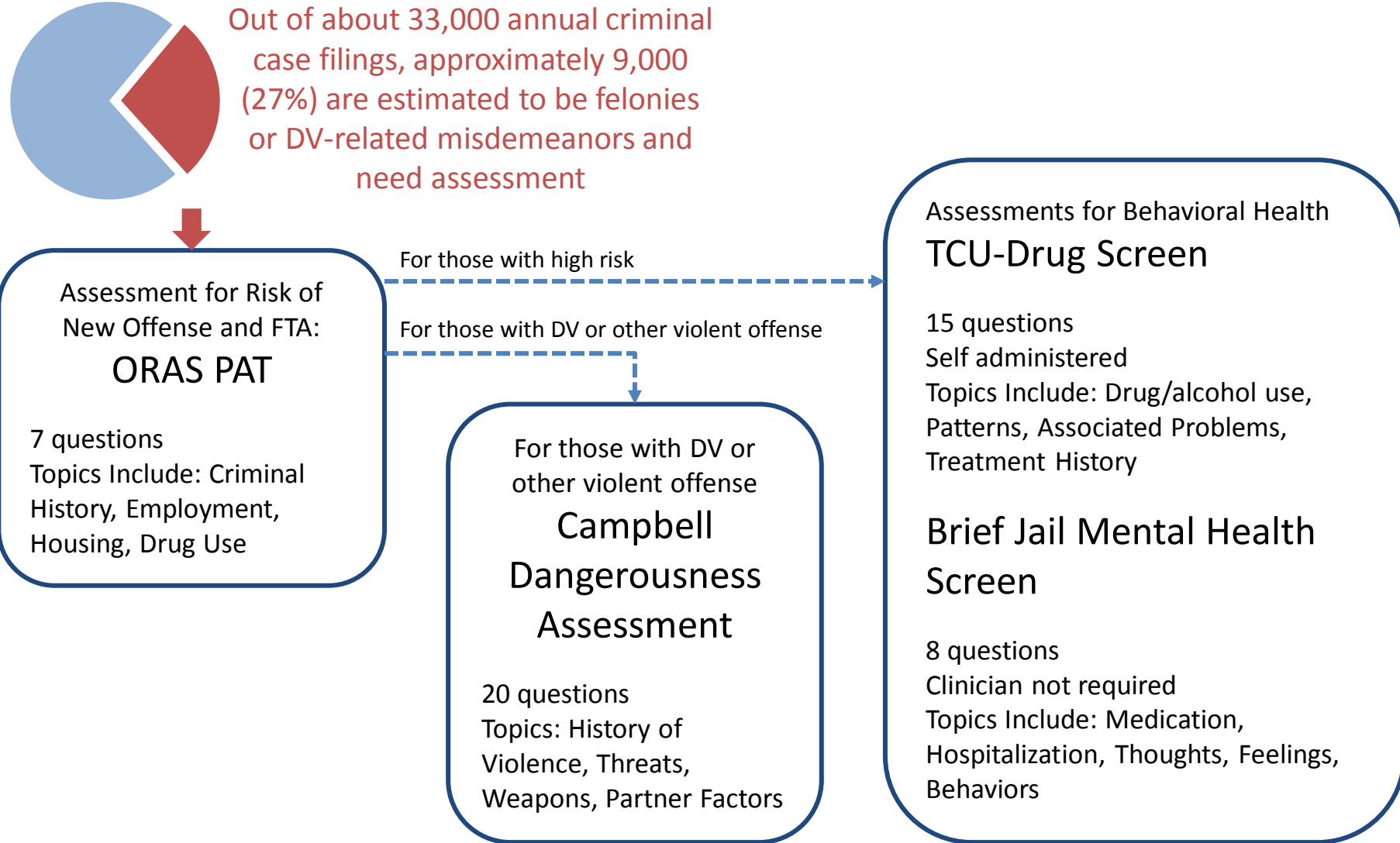
Modernize the legal foundation for diversion.

1 ASSESS & DIVERT

A Require pre-arraignment assessment of risks and needs, beginning implementation with people charged with and detained for a felony offense or a domestic violence misdemeanor offense.

- Implement a pre-arraignment screening tool that maximizes efficiency and can be conducted in a timely manner.
- The pre-arraignment screening tool should assess for risk of failure to appear for future hearings and for risk of being rearrested for a new offense, and should be made available to the Department of Corrections.
- Require an assessment of lethality or dangerousness for individuals accused of an intimate partner domestic violence (DV) or other violent offense.
- Require a behavioral health evaluation for individuals identified as high risk by the pre-arraignment screening tool.
- Focus initially on assessing those charged with felonies and domestic violence offenses, to maximize potential cost savings and benefits to public safety. Felony offenders are held at the ACI 50 days on average, while misdemeanors are typically only held 6 days.

A set of assessments can identify multiple risks and needs



1 ASSESS & DIVERT

B Building upon assessment, identify diversion eligibility and suitability, make diversion decisions more quickly, and supervise pretrial diversions selectively.

- Develop a comprehensive questionnaire that is administered pre-arraignment to determine an individual's eligibility for each diversion program.
- Reinvigorate the Rule 46(i) process in the District and Superior Courts “for the purpose of eliminating all unnecessary detention,” and determine if court rule changes are needed.
- Supervise felony defendants and those charged with a DV offense who are at high-risk to reoffend. Supervision and services should be tailored based on the assessments, with reports regularly provided to the court, Attorney General, and public defender or private defense attorney.
- Establish a behavioral health diversion program through RIDOC, using specially trained probation officers with reduced caseloads linked with access to comprehensive high quality community-based treatment to administer services.

Reminder: Research shows that longer lengths of stay for low-risk defendants *increases* their likelihood of recidivism

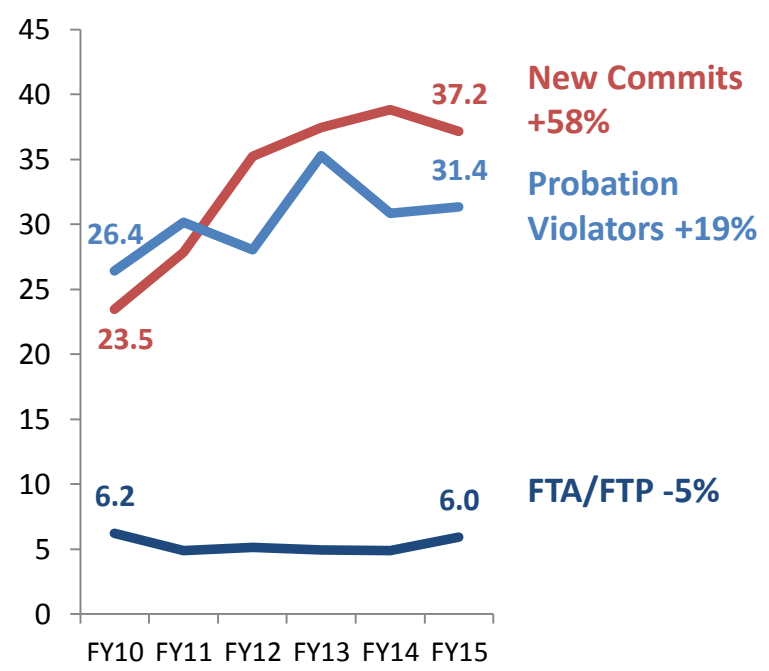


The Hidden Costs of Pretrial Detention

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

Length of Stay in Days for ACI Pretrial Releases by Admission Type, FY2010-2015



Source: LIAF <http://www.arnoldfoundation.org/initiatives/case-studies/performing-foundational-research/>

1 ASSESS & DIVERT

C Modernize the legal foundation for diversion.

- Provide clear authority for law enforcement to outright divert the mentally ill and to issue a summons in lieu of arrest for certain low-level felonies.
- Provide that “filings” can allow for a sanction in lieu of “violation of the filing,” and provide greater judicial discretion to impose restitution, when the defendant has the ability to pay in full.
- Provide general authority for the Attorney General’s discretionary diversion program.
- Provide clear authority for judicial discretion to divert as a deferred sentence, and allow a deferred sentence for three years instead of mandatory five years under current law.
- Provide for home confinement without risking ineligibility for parole.
- Provide for discretion to grant street time credit in a parole revocation.
- Provide for greater flexibility to pursue medical paroles.

STRATEGY

1

ASSESS & DIVERT

2

MODERNIZE SENTENCING & PROBATION POLICY

Modernize Rhode Island's legal foundation for probation sentencing and supervision to hold people on probation more accountable, reduce recidivism, and improve the state's return on the investment in supervision.

3

REALLOCATE & REINVEST IN EFFECTIVE PROBATION

2 MODERNIZE SENTENCING & PROBATION POLICY

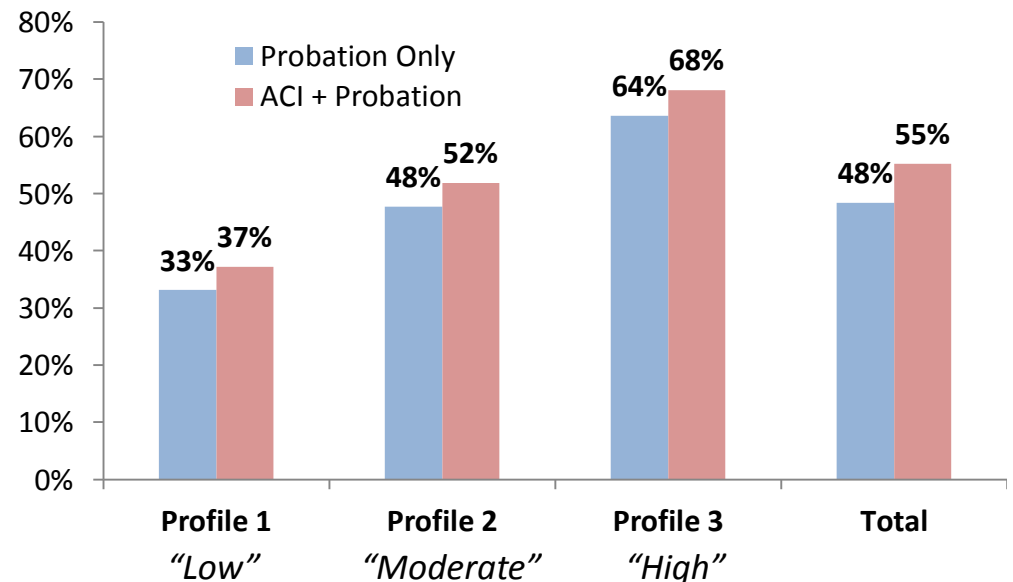
- A** Define in law the purposes of probation, incarceration, and the suspended sentence, and the presumptive use of probation for most felonies.
- B** Adopt a presumption that the suspended sentence should be no longer than would be considered an appropriate sentence of incarceration, if imposed, based on the offense and the individual being sentenced.
- C** Require, with limited exceptions leading to longer terms, that a term of probation imposed in addition to a term at the ACI for a felony be no greater than three years, and establish a presumptive requirement of one year.
- D** Require the RIDOC to conduct a validated risk and needs assessment within 30 days after placement on probation and use the results for the court to determine any special treatment conditions.
- E** Allow probation officers the authority to reward compliance with incentives and respond to technical condition violations with administrative sanctions that do not involve incarceration.
- F** Require a preliminary violation hearing within seven days after arrest.
- G** Allow incarceration for alleged serious probation violations for up to 30 days.
- H** Amend the probation revocation statute to require proof by a preponderance of the evidence that a condition of probation has been violated.
- I** Require RIDOC to refine transfer policy from active to banked cases based on offense type, risk level, compliance, and time on supervision.
- J** Create a procedure to allow a defined group of the individuals who are currently on probation to petition the court for early termination.

2 MODERNIZE SENTENCING & PROBATION POLICY

A Define in law the purposes of probation, incarceration, and a suspended sentence, and the presumptive use of probation for most felonies.

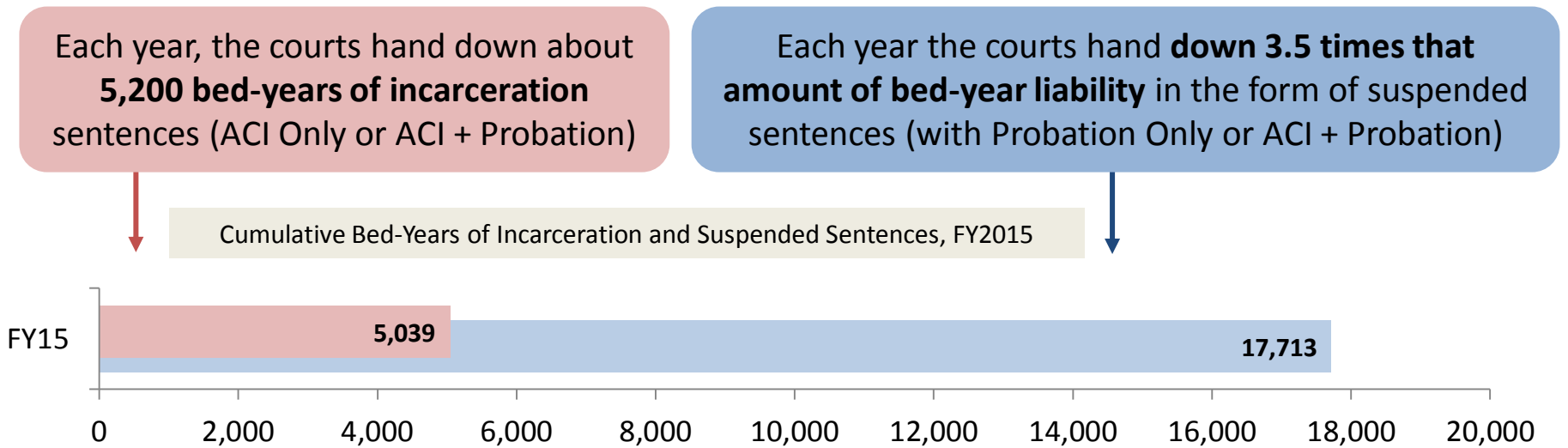
- The purpose of probation is reduce recidivism through effective supervision and programs, and to hold people accountable for restitution and for compliance with conditions.
- Probation (with a suspended sentence) should be the presumptive sentence for felonies other than first time felonies.
- Probation without a suspended sentence should be the presumptive sentence for a first time felony to provide for a second chance before being marked with a felony conviction.

Three-year Resentencing Rate by Offender Profile and Probation Sentence Type, FY2012 Probation Start Cohort



2 MODERNIZE SENTENCING & PROBATION POLICY

B Adopt a presumption that the suspended sentence should be no longer than would be considered an appropriate sentence of incarceration, if imposed, based on the offense and the individual being sentenced.

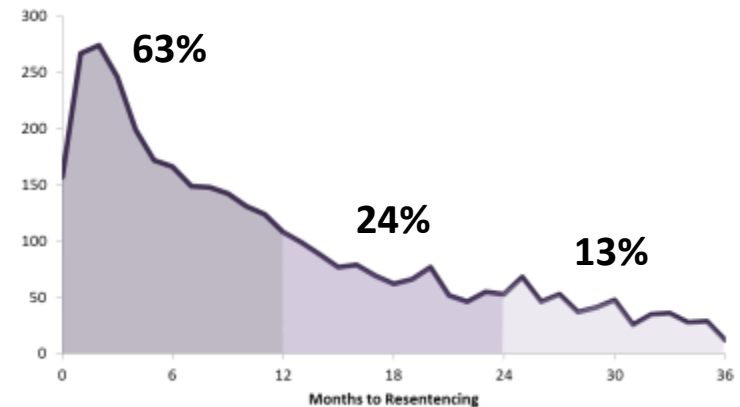


2 MODERNIZE SENTENCING & PROBATION POLICY

C Require that in most cases a term of felony probation imposed in addition to a term at the ACI be no greater than three years, with a presumptive requirement of one year.

- Establish a presumptive length of six months for people who commit a misdemeanor offense.
- Allow for offense-specific exceptions leading to longer terms.
- Allow for continuation of a criminal no contact order after probation is completed.
- Require that any restitution remaining after a probation term is completed must continue to be paid through Superior Court Central Registry or District Court, as applicable.

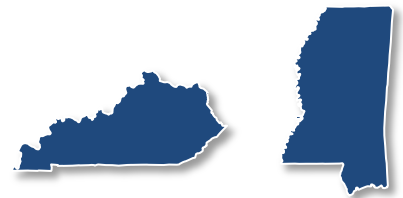
Months to Resentencing Among Those Resentenced Within Three Years, FY2012 Probation Start Cohort



2 MODERNIZE SENTENCING & PROBATION POLICY

D Require the RIDOC to conduct a validated risk and needs assessment within 30 days after placement on probation and use the results for the court to determine any special treatment conditions.

- Provide judges with more information to set special conditions that relate to the individuals' risk level and criminogenic needs.
- Revalidate the risk and needs assessment routinely.
- Establish by statute the general conditions for probation, including reporting to the probation officer as directed and paying restitution if ordered.

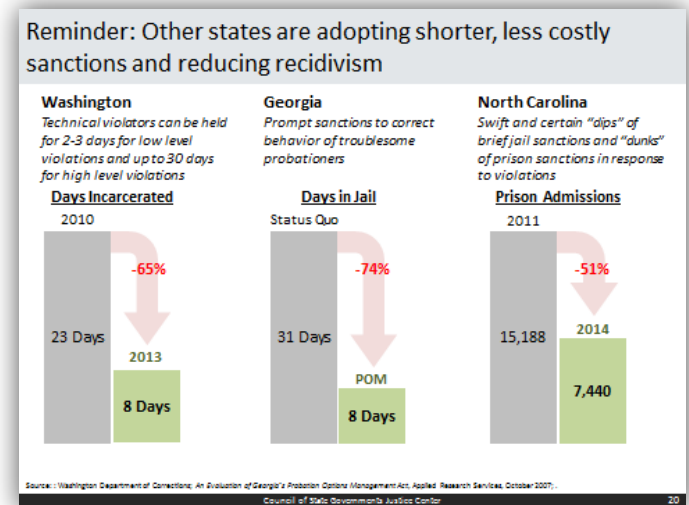


Required/improved risk-needs assessments for people supervised in the community

2 MODERNIZE SENTENCING & PROBATION POLICY

E Allow probation officers the authority to reward compliance with incentives and respond to technical condition violations with administrative sanctions that do not involve incarceration.

- Establish guidelines for incentives and violation responses that are proportionate and fair.
- Include in each court order that the probation officer can use the incentives and violation sanctions to appropriately respond to behavior, as needed.



2 MODERNIZE SENTENCING & PROBATION POLICY

F Accelerate court dispositions and sanctions for probation violations. Require a preliminary violation hearing within seven days after arrest.

- This policy would address a longstanding issue in Rhode Island case law.
- In *Gagnon v. Scarpelli* the Supreme Court of the United States held: “*Morrissey* mandated preliminary and final revocation hearings.” 408 U.S. 778, 786 (1973)
- But in 1977 the Supreme Court of Rhode Island held: “[D]ue process does not, of course, require two hearings. ... [N]o constitutional purpose would be served by bifurcating our present unitary judicial violation hearing, at which an alleged violator is afforded due process rights equal or superior to those required in a *Scarpelli* final hearing.” *State v. DeLomba*, 370 A. 2d 1273

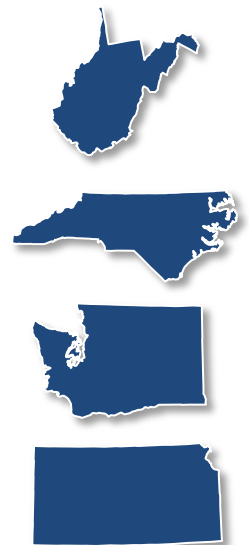
2 MODERNIZE SENTENCING & PROBATION POLICY

G Allow incarceration for alleged serious probation violations for up to 30 days.

- Define serious violations, which may include absconding, violation of a protective order, and arrest for a new crime.
- Limits the court's ability to execute the suspended sentence to no more than 30 days at one time.

Other State Examples

- West Virginia adopted 60 and 120-day revocations for probation and parole.
- North Carolina adopted 2 and 3-day sanctions and 90-day revocations for probation, and 3-month revocations for post-release supervision.
- Washington adopted 1, 2, 3-day, and 30-day sanctions for post-release supervision.
- Kansas adopted 2, 3, 120, and 180-day sanctions for probation.

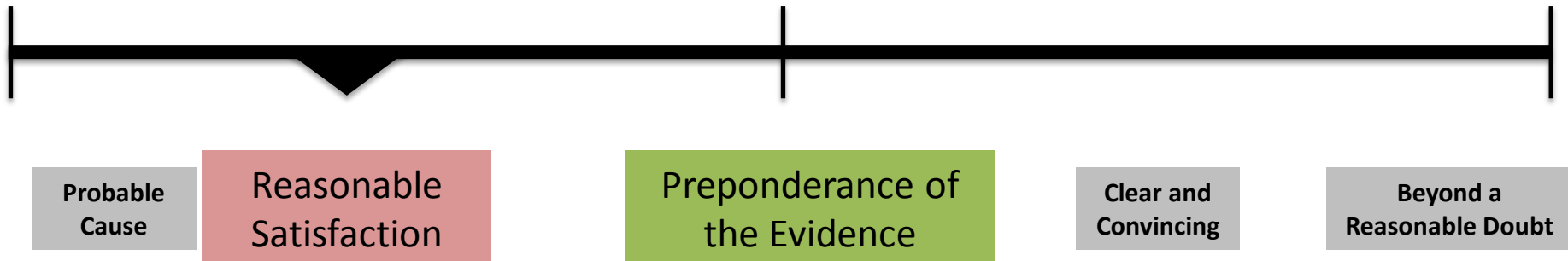
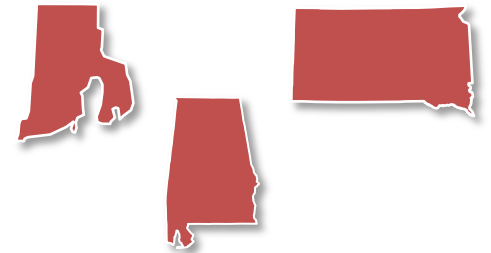


2 MODERNIZE SENTENCING & PROBATION POLICY

H Amend the probation revocation statute to require proof by a preponderance of the evidence that a condition of probation has been violated.

- Under case law “a probation-revocation hearing is not part of a criminal prosecution and therefore does not give rise to the full panoply of rights that are due a defendant at trial.” Even with raising the burden of proof, the following would still *not* apply: Rules of Evidence; 6th Amendment right of confrontation; 4th Amendment exclusionary rule

Rhode Island is one of only three states that uses “reasonable assurance” as the standard of proof for probation violation



2 MODERNIZE SENTENCING & PROBATION POLICY

Require RIDOC to refine probation transfer policy from active to banked cases based on offense type, risk level, compliance, and time on supervision.

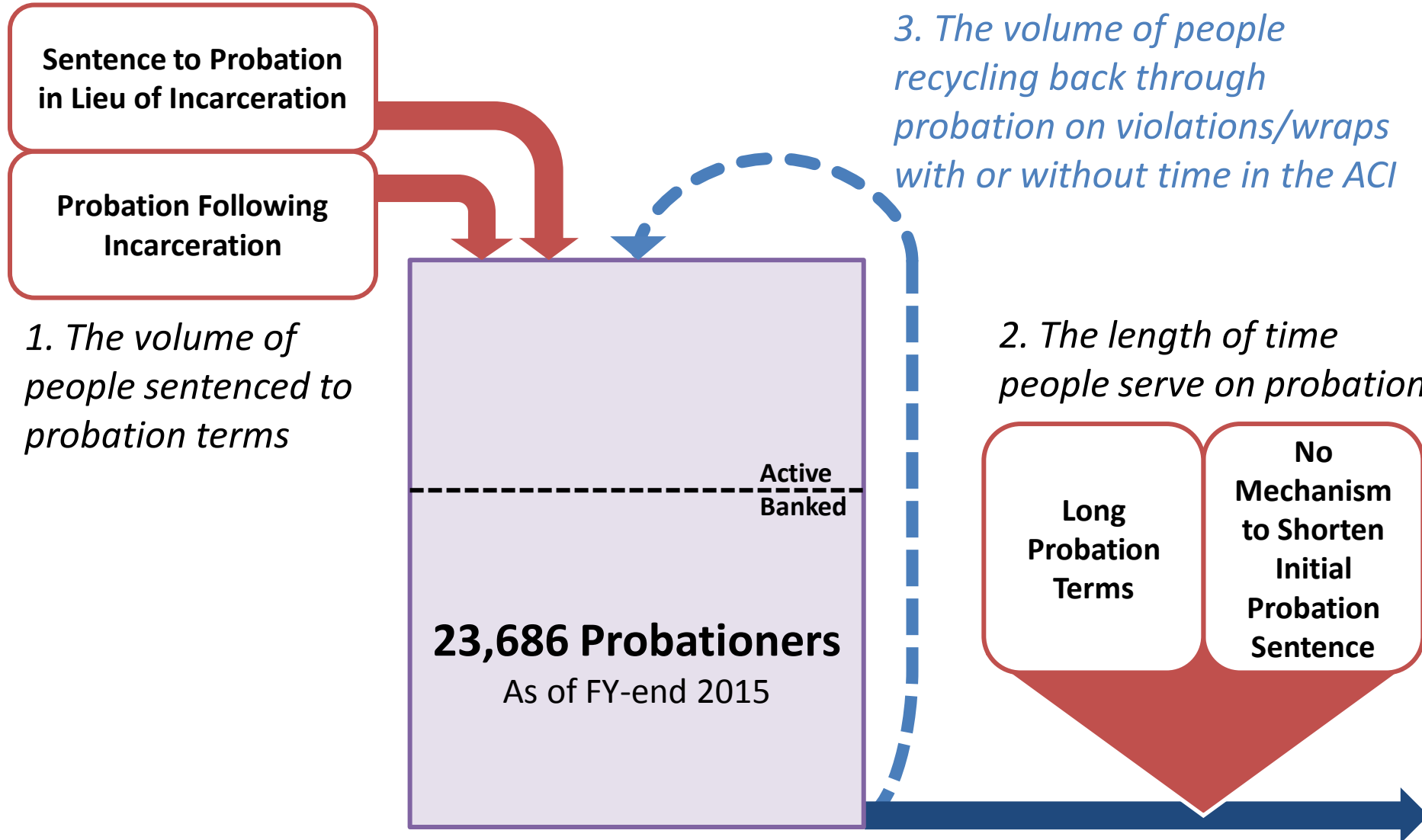
Risk Level	Felony	Misdemeanor
High	12 months	9 months
Medium	9 months	3 months
Low	3 months	Banked

- Allow for overrides for more severe offenses, such as sex and violent offenses.
- Apply this new policy retroactively.

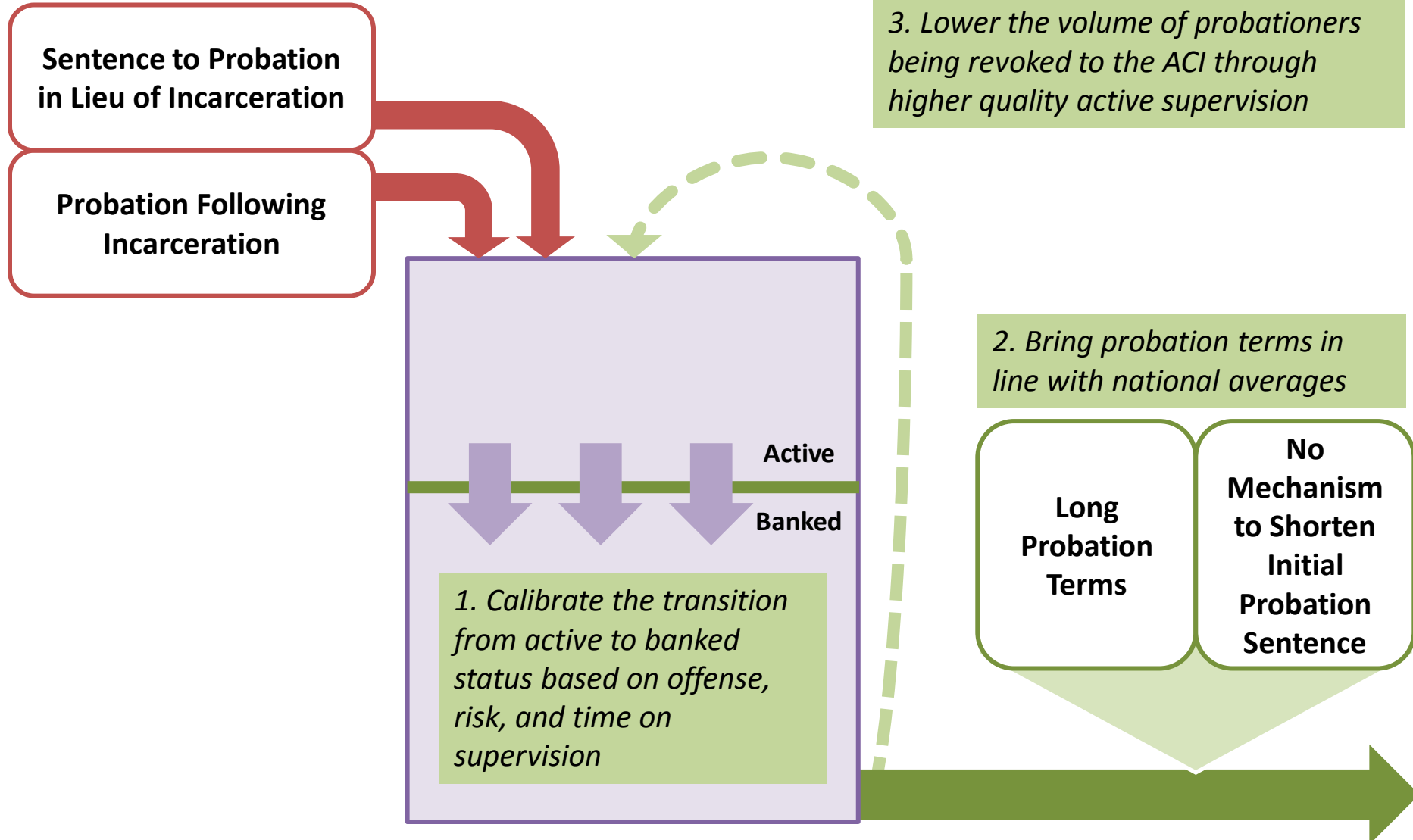
Other State Examples

- Washington supervises high risk for 12 months.
- North Carolina supervises people coming out of prison for 9-12 months depending on offense severity.
- Arizona doesn't supervise most misdemeanors.

Reminder: Three factors drive Rhode Island's large probation population



The policy framework employs multiple means to lower the probation population



2 MODERNIZE SENTENCING & PROBATION POLICY

J Create a procedure to allow a defined group of the individuals who are currently on probation to petition the court for early termination.

- Define an eligible population, such as those on banked supervision who have served 4+ years, creating one big cohort and a steady stream thereafter.
- Request the Supreme Court to adopt procedures that:
 - Provide for the Superior Court to grant termination, unless the Attorney General objects;
 - Provide for a hearing upon objection; and
 - Allow for denial of termination if there is a current threat to public safety or the person would benefit from a continued probation term, even if the person is not actively supervised.

STRATEGY

1

ASSESS & DIVERT

2

**MODERNIZE SENTENCING &
PROBATION POLICY**

3

**REALLOCATE & REINVEST IN
EFFECTIVE PROBATION**

Increase public safety by strengthening probation supervision and the quality of community-based interventions to reduce recidivism.

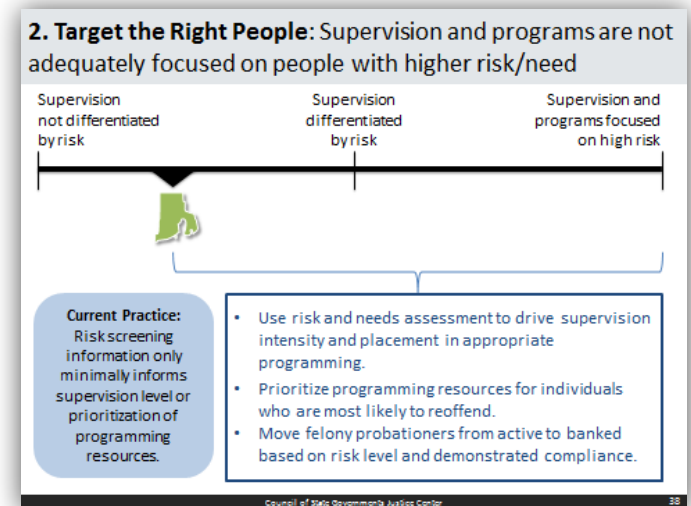
3 REALLOCATE & REINVEST IN EFFECTIVE PROBATION

- A** Require the RIDOC to use evidence-based practices, including the use of a validated risk and needs assessment to drive supervision intensity levels.
- B** Require low caseloads for probation officers for people who are high risk of reoffending and with severe behavioral health disorders.
- C** Require the RIDOC to adopt a clear and consistent policy for probation officers to provide incentives for positive behavior and swift and proportional sanctions for low-level violations.
- D** Transition from a paper-based file system to a computerized case management system.
- E** Fund and require community-based cognitive behavioral program(s) to address criminal thinking for high risk people on probation.
- F** Incentivize Medicaid payments based on timely access to high quality behavioral health treatment that is designed to be effective with justice-involved individuals.
- G** Expand the capacity and improve the quality of Batterer's Intervention Programs, while tailoring the requirement to refer domestic violence probationers to BIP.

3 MODERNIZE SENTENCING & PROBATION POLICY

A Require the RIDOC to use evidence-based practices, including the use of a validated risk and needs assessment to drive supervision intensity levels.

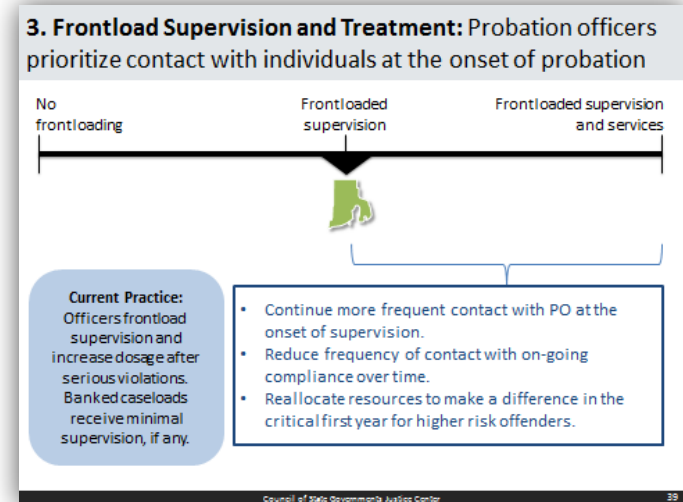
- Require annual training for probation officers in evidence-based practices, in addition to LSI-R training that has occurred.
- Allow for the use of a risk assessment-screening tool to identify individuals who would benefit most from a full risk assessment. The screening tool or full assessment should drive supervision intensity level and case management.
- When necessary, require a clinical assessment of the individuals' behavioral health treatment needs.



3 MODERNIZE SENTENCING & PROBATION POLICY

B Require low probation caseloads for people who are high risk of reoffending and with severe behavioral health disorders.

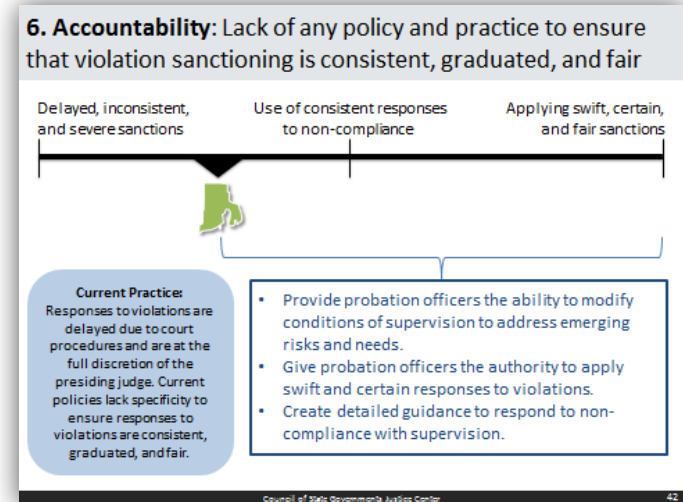
- With a lower caseload, probation officers can focus on developing specialized skills for better outcomes with people who are high risk.
- Probation officers will be able to dedicate more than a few minutes with each individual they supervise and could provide meaningful supervision, such as supporting individuals with high needs, rewarding compliance, and identifying violations as soon as they occur.



3 MODERNIZE SENTENCING & PROBATION POLICY

C Require the RIDOC to adopt a clear and consistent policy for probation officers to provide incentives for positive behavior and swift and proportional sanctions for low-level violations.

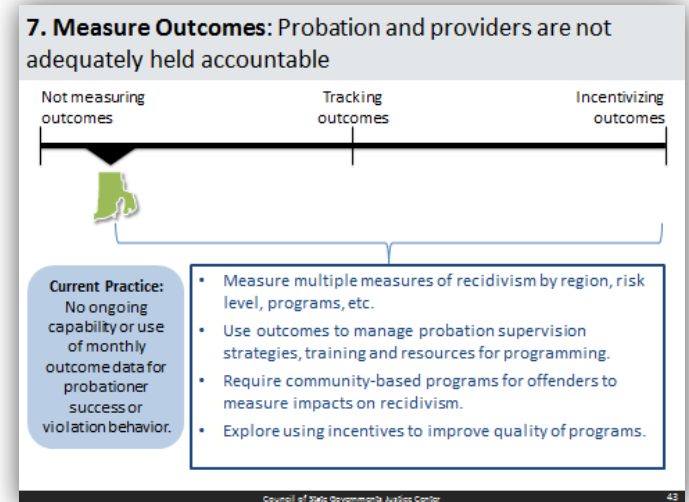
- Adopt a set of sanctions and incentives to respond to violations and compliance with the conditions of supervision.



3 MODERNIZE SENTENCING & PROBATION POLICY

D Transition from a paper-based file system to a computerized case management system.

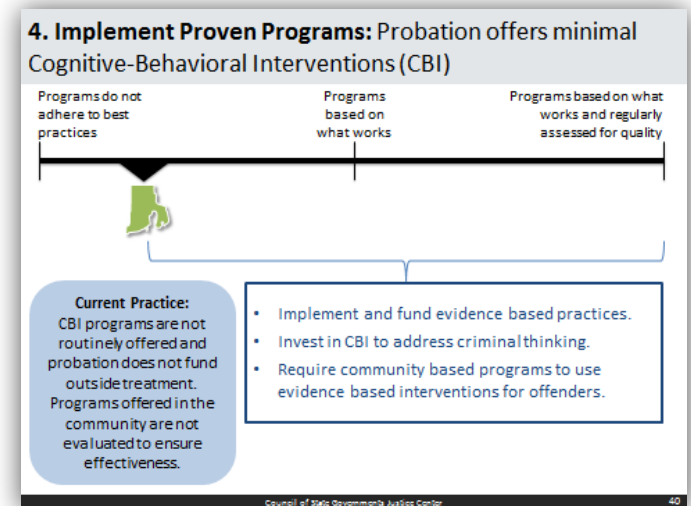
- Identify or develop a case management system that allows probation officers to easily access information about people on their caseload.



3 MODERNIZE SENTENCING & PROBATION POLICY

E Fund and require community-based cognitive behavioral program(s) to address criminal thinking for high risk people on probation.

- Require and sufficiently fund provision of evidence-based programs that address criminal thinking in the community utilizing probation officers.
- Require Medicaid funded behavioral health providers to utilize evidence-based approaches when providing treatment services for probationers, including addressing criminogenic needs.



3 MODERNIZE SENTENCING & PROBATION POLICY

F Incentivize Medicaid payments to help ensure timely access to behavioral health treatment designed to be effective with individuals on probation.

- Require providers to tailor their behavioral health treatment interventions for higher risk and needs referrals.
- Offset these additional treatment provision costs with additional revenue to encourage providers to grow their capacity and provide effective services.
- This strategy is complementary to the key principles of the Final Report of the Governor’s “Reinventing Medicaid” initiative.

Leverage Medicaid to improve treatment access and effectiveness for people on probation with complex needs



Value-based incentives (VBI) are rate enhancements designed to improve access and effective services for high risk offenders on probation with treatment needs.

Timeline

Mar-June 2016	July-Sept 2016	Oct-Dec 2016	Jan-July 2017
Create VBI Workgroup	Authorization and Funding	Prepare for Implementation	Implementation
Data Analysis & Policy Development	Draft VBI for CMS & Provider Feedback	Provider and Broad System Training	

3 MODERNIZE SENTENCING & PROBATION POLICY

G Expand capacity and improve the effectiveness of Batterer's Intervention Programs, while tailoring the requirement to refer domestic violence probationers to BIP.

- The one-size-fits-all curriculum is outdated; screenings must assess participants' need for substance abuse and mental health needs and refer for additional services as clinically indicated.
- BIP may not be the most effective method to reduce instances of domestic violence; safety of victims requires a multi-disciplinary response to these offenses.
- Provide expansion grants to cover the costs of delivering programming to indigent offenders.
- Provide program improvement grants to program providers to help them transition to a more effective program design and to train staff.

Additional policies would improve victim services, due process, and certain criminal penalties

Victims:

- A. Expand eligibility for the victim compensation program
 - Remove time restrictions for reporting to law enforcement and applying to the program.
 - Separate prior bad acts from current eligibility.
- B. Increase compensation benefit caps for certain crime-related expenses (re-location, transportation).
- C. Improve required notification throughout the criminal legal system unless the victim opts out.

Due Process:

- A. Determine ability to pay for add-on fees.
- B. Eliminate law requiring direct payment from defendant to magistrate.

Criminal Penalties:

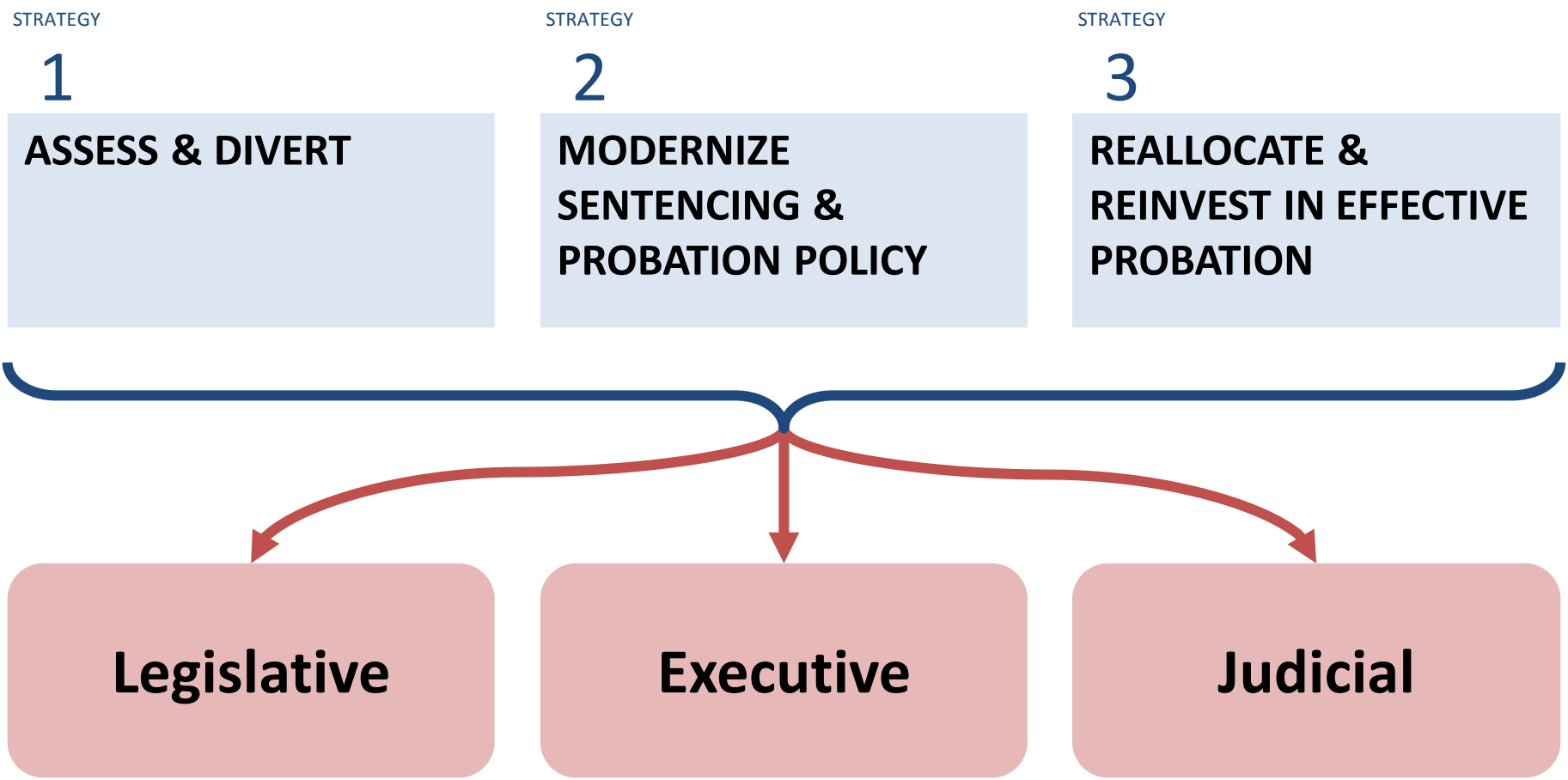
- A. Establish more graduated sentencing statutes for felony property crimes (over \$1,500) and felony assault without serious bodily injury).
- B. Provide for non-criminal penalties for administrative violations of driving with a suspended license.

Sustainability Recommendations

- The strategies detailed in this policy framework meet the identified core challenges with a comprehensive approach that must be implemented with fidelity and monitored closely to ensure sustained progress toward greater public safety.
- Anticipating the passage of legislation, court rules, and agency policies, three themes should inform the deliberations, and the implementation process and structure that follows:
 1. Frontload every resource except the most expensive one, imprisonment.
 2. Strengthen the effect of the largest diversion program, probation.
 3. Sustain data-driven attention to this fundamental state duty, public safety.
- Specifically:
 1. Require the use of statewide identifiers across all data systems to facilitate sharing and matching.
 2. Improve collection of data on race and ethnicity.
 3. Use correctional population impact statements for proposed legislation and require appropriations committees to approve the future costs.
 4. Establish an oversight committee to measure and assess policy impacts of the justice reinvestment policy framework on an ongoing basis.

Realizing the goals of RI's justice reinvestment framework requires cooperation of all three branches of government

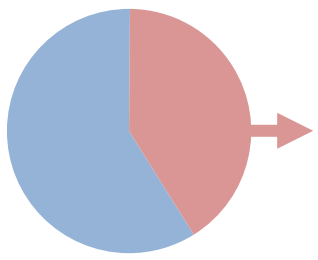
RHODE ISLAND JUSTICE REINVESTMENT POLICY FRAMEWORK
Goal: Reduce recidivism, increase public safety, and lower costs



Addressing the probation population with a massive funding increase would still not reduce recidivism

Rhode Island's Current Approach to Probation Supervision

63 Probation Officers 



Actively Supervising only 41% of the Population

Average Active Caseload **155 per officer**

=

No Public Safety Gain and Lost Opportunity to Reduce Recidivism

To maintain the current sentencing approach and at least carry out the promise of *supervised* probation would require an annual investment of over \$10M in staffing

$$\frac{23,756 \text{ People on Probation in FY2015}}{\text{Average Caseload } 155 \text{ per officer}}$$

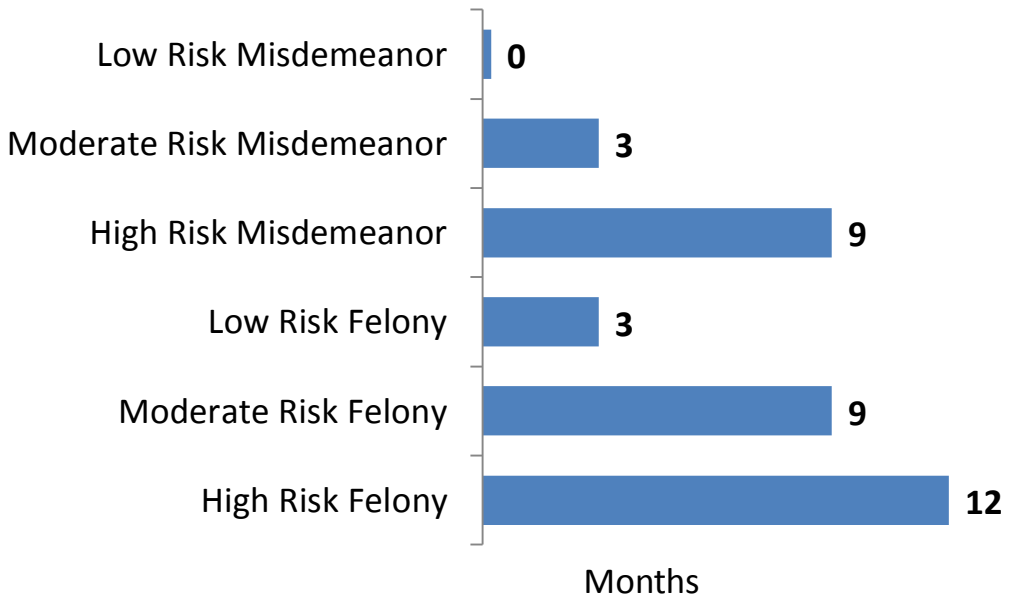
$$= 153 \text{ Total Officers} \rightarrow \text{Salary + Fringe for 90 additional officers (@ \$118K/year)} \\ \text{\$10.6M per year}$$

This still provides no opportunity to engage in supervision approaches shown to reduce recidivism

Addressing the probation population through sentencing and supervision reform can reduce recidivism

Alternatively, under a new sentencing scheme with capped probation terms, active supervision periods stratified by offense type and risk level, and a banking policy with statutory backing, we project that Rhode Island can achieve desired caseloads:

Proposed Average Active Probation Periods by Offense and Risk Level



Moderate Risk Misd. & Low Risk Felony	High Risk Misd. & Moderate Risk Felony	High Risk Felony
160/officer	90/officer	40/officer

Active caseloads that could be achieved with current number of probation officers and enable the opportunity to impact recidivism

Impact Analysis Approach and Key Assumptions

General

Five-year impact projection utilizing historical data to simulate the status quo trajectory of specific RIDOC subpopulations and compare them against assumed changes if the policy package was implemented as described. ACI bed savings under the impact model are compared to the current RIDOC population forecast, prepared by The JFA Institute in 2015.

Effective Date – Generally January 1, 2017, but allowing time to ramp up to full implementation.

ACI Pretrial Population

Options 1A and 1B – Using pretrial risk assessment to inform diversion decisions is assumed to reduced the volume of some lower risk/need detainees by 10%. Among high risk/need detainees, 25% are assumed to be diverted into the new behavioral health diversion program, although not until FY2019 to allow for program development.

Option 2F – 30% reduction in the pretrial length of stay of probation violators, gradual 15% reduction in the volume of probation violators achieved near the end of the 5-year period.

ACI Sentenced Population

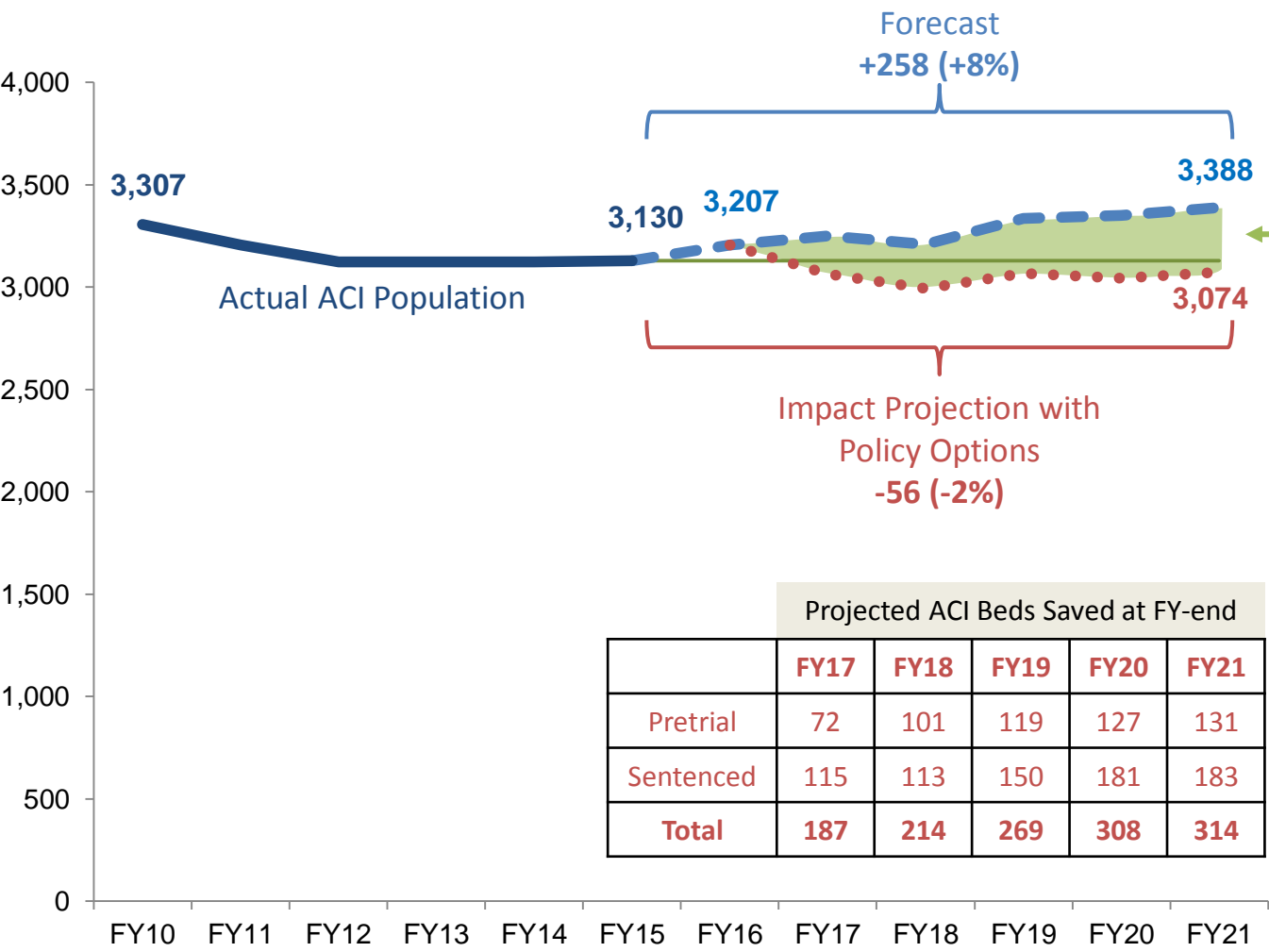
Option 2G – 30% of the current flow of technical revocations to prison are expected to continue to revoke, reclassified as new crimes. The remaining 70% of technical violators revoke in 30 day increments versus the status quo 6 months. A slightly reduced pool of violators is assumed to return to the ACI for second and third 30-day sanctions.

Options 2E, 2H and all options in Strategy 3 – The combined influence of these policies designed to strengthen supervision and enable recidivism reduction is expected to result in a modest 10% reduction in new crime probation revocations. These impacts are not projected be fully realized until FY2020 to allow time for system improvements.

Active Probation Population

Options 2A-D, 2I and 2J - The probation population is modeled to serve average active periods of 0, 3, 9 or 12 months, based on offense and risk level, before either expiring their sentence, or, for those eligible, banking under the new policy.

Policy framework projected to avert forecasted growth in ACI population and \$13.4 million in related costs over five years



Five Year Averted Costs **\$13.4M**

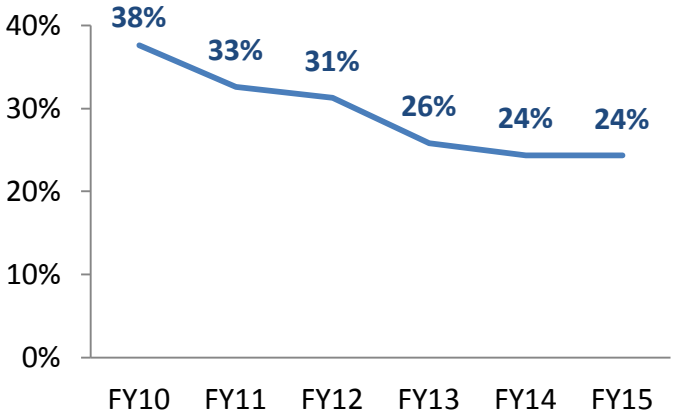
Five-year total based on marginal operating costs avoided below the DOC forecast (\$5.2M*) as well as the averted cost to open and staff additional housing modules to accommodate projected growth (\$8.1M**)

* Based on ACI marginal cost of \$4,593 per person per year.

** Based on cost to staff existing unoccupied minimum and medium security bed modules.

Additional Policy Option: Parole

In our first meeting we showed the decreasing parole grant rate

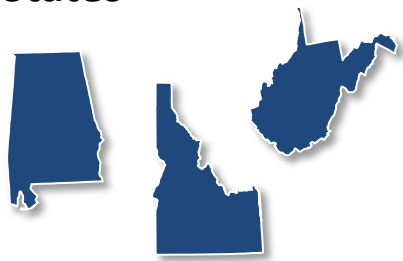


Each year, about 700 parole eligible individuals with sentence lengths of a year or more expire their ACI term with an average LOS of almost 2 years

Creating a policy that could achieve slightly higher grant rates and reduce average length of stay by 3 months just among this category of inmates could generate an additional **\$3M in averted operating costs over five years**

Parole Policy Examples from Other States

- Requiring risk assessments to inform parole decision-making.
- Mandating the development of parole guidelines.



Summary of Averted Costs and Reinvestment

		FY2017	FY2018	FY2019	FY2020	FY2021	Total
Averted Costs		\$1.1M	\$2.2M	\$3.2M	\$3.4M	\$3.5M	\$13.4M
Reinvestments	Front-End Assessment & Diversion	\$250K	\$225K	\$225K	\$225K	\$225K	\$1.2M
	Expanded Assessment of Probationers	\$23K	\$13K	\$13K	\$13K	\$13K	\$.07M
	Pay for Performance Contracts Leveraging Medicaid	\$65K	\$300K	\$450K	\$525K	\$525K	\$1.9M
	Community-based Cognitive Behavioral Programming	\$610K	\$560K	\$560K	\$560K	\$560K	\$2.9M
	Improved Batterer's Intervention Programs	\$100K	\$100K	\$100K	\$100K	\$100K	\$0.5M
	Victims' Compensation Benefits	\$120K	\$120K	\$120K	\$84K	\$48K	\$0.5M
	Additional Probation Officers	\$236K	\$590K	\$590K	\$590K	\$590K	\$2.6M
	Total Reinvestment	\$1.4M	\$1.9M	\$2.1M	\$2.1M	\$2.1M	\$9.5M
Projected Savings		-\$0.3M	\$0.3M	\$1.1M	\$1.3M	\$1.4M	\$3.8M

Reminder: If policies are enacted, BJA offers an implementation subaward of up to \$500K in the first two fiscal years.

Next Steps

The CGS Justice Center will:

- Work at the request of State leaders and stakeholders to help translate these ideas into bill language.
- Develop and distribute a final report in 2016, explaining the process, findings and policies.
- Continue to serve as a resource during the legislative session, such as testifying and meeting with legislators.
- Provide additional technical assistance and subaward funding from the Bureau of Justice Assistance to implement policies enacted this session. This technical assistance aids in implementing policies effectively, deploying targeted reinvestment strategies, tracking the impact of enacted change, and maximizing the grant opportunity to help fund one-time implementation costs.

Thank You

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