



Justice Center
THE COUNCIL OF STATE GOVERNMENTS

Vermont Justice Reinvestment II Working Group Meeting

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The Council of State Governments is a region-based organization that fosters exchange of ideas to help state officials shape public policy.



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The Council of State Governments (CSG) Justice Center is a national nonprofit, nonpartisan organization that combines the power of a membership association, representing state officials in all three branches of government, with policy and research expertise to develop strategies that increase public safety and strengthen communities. For more information about the CSG Justice Center, visit www.csjjusticecenter.org.

Corrections



Justice Reinvestment



Mental Health



Reentry



Substance Abuse



Youth



Courts



Law Enforcement



The CSG Justice Center assists state and local jurisdictions on a wide range of public safety topics.



Justice Reinvestment is a data-driven approach to reduce corrections spending and reinvest savings in strategies that can decrease recidivism and increase public safety. Justice Reinvestment focuses on adults in the criminal justice system.



Stepping Up is a national initiative calling on counties across the country to reduce the prevalence of people with mental illnesses and co-occurring substance addictions being held in county jails.



Clean Slate provides accurate information on record clearance and mitigation laws in each state, as well as contact information for legal service providers in all U.S. states and territories.



NRRC is a hub of information about corrections and reentry: funding opportunities, publications, webinars, conferences and trainings, and the What Works in Reentry Clearinghouse.



IOYouth helps states align their policies, practices, and resource allocation with what research shows works to reduce recidivism and improve outcomes for youth while enhancing public safety.

Presentation Outline



1. Justice Reinvestment in Vermont: Overview

2. Criminal Justice and Behavioral Health Trends and Challenges

a) Front-end system pressures

b) Incarcerated populations

c) Behavioral health challenges

3. Next steps and discussion



JUSTICE REINVESTMENT

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

Supported by funding from the U.S. Department of Justice's Bureau of Justice Assistance (BJA) and The Pew Charitable Trusts.

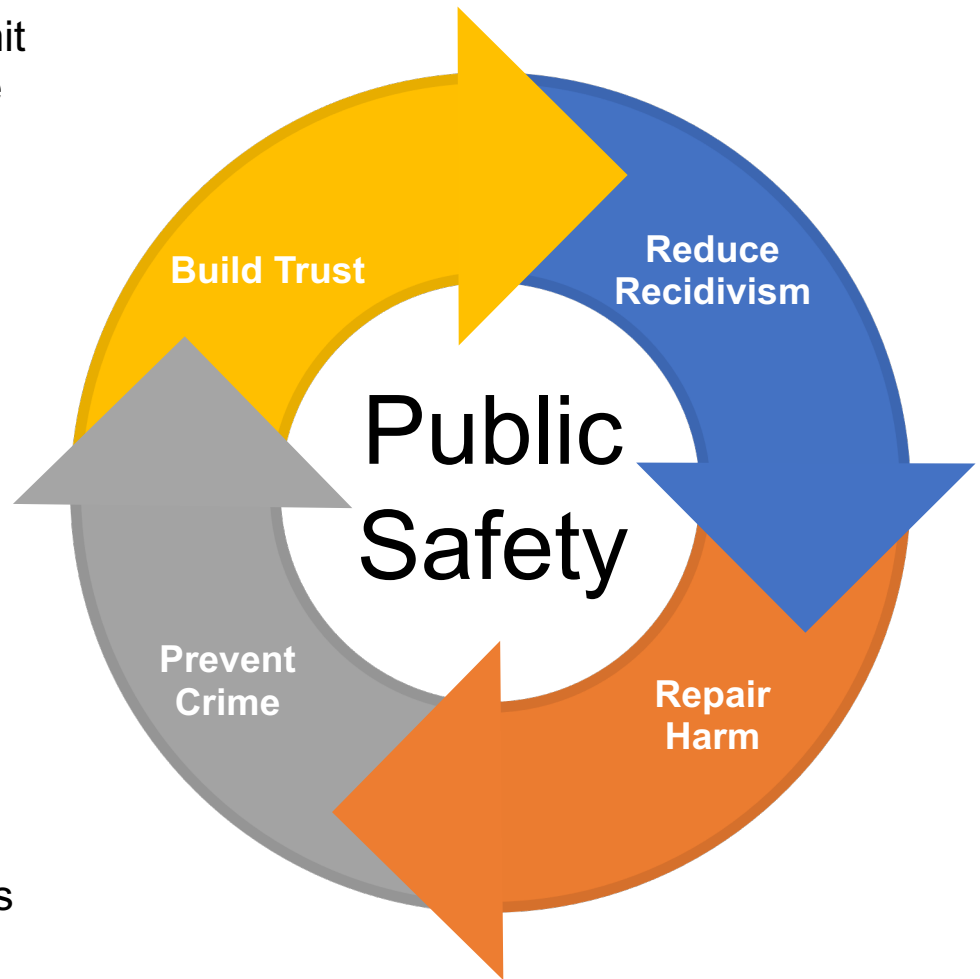
Increasing public safety is the focus of Justice Reinvestment.

Reduce Recidivism: People who commit crimes are held accountable, receive the intervention needed to change their behavior, and do not reoffend.

Repair Harm: Victims are safe, have access to help, understand how the criminal justice system works, see accountability, and heal.

Prevent Crime: A state utilizes policing strategies and public safety approaches to decrease crime and violence, not just *reported incidents* of crime.

Build Trust: Communities heavily impacted by crime and incarceration are supported, and any underlying conditions of distrust are directly addressed.



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

Phase I - Pre-Enactment

States apply by submitting a letter to funders for Phase I approval and funding

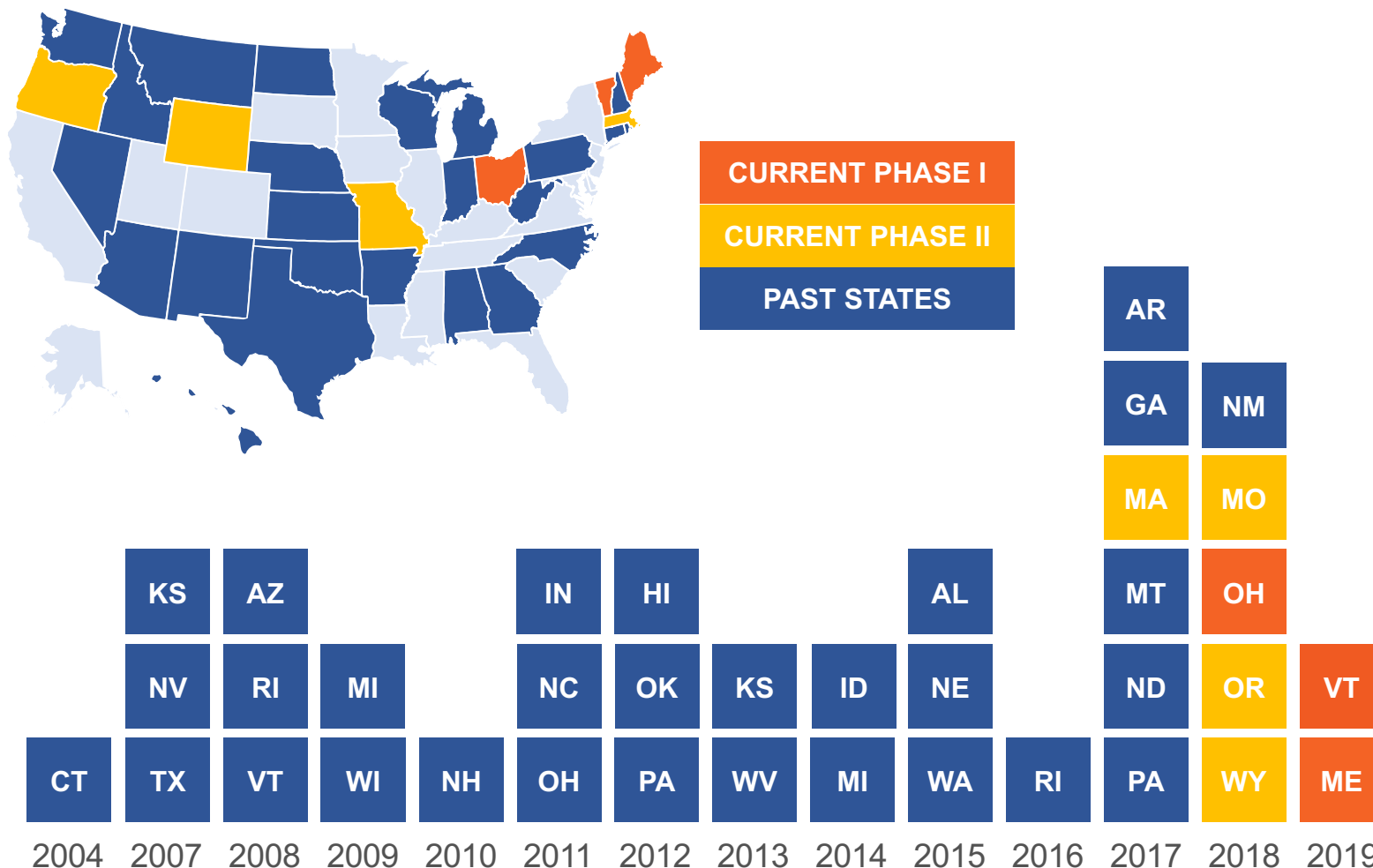
1	Bipartisan, Interbranch Working Group	Assemble practitioners and leaders; receive and consider information, reports, and policies.
2	Data Analysis	Analyze data sources from across the criminal justice system for comprehensive perspective.
3	Stakeholder Engagement	Complement data analysis with input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

Phase II - Post-Enactment

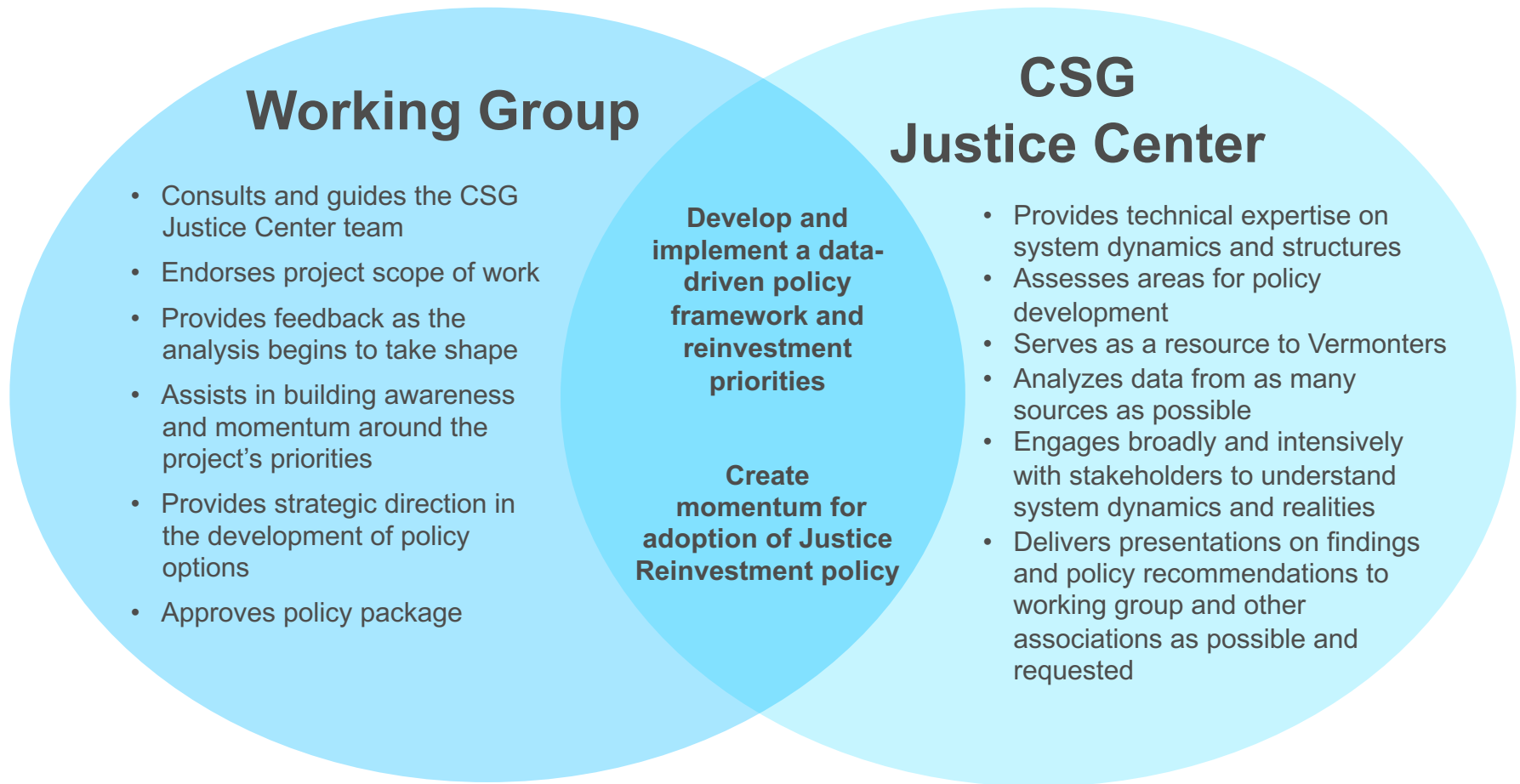
States that enact Justice Reinvestment legislation apply by submitting a letter to funders for Phase II approval and funding

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.

The CSG Justice Center has worked with 31 states, some twice, on a Justice Reinvestment approach to address criminal justice challenges.



This Justice Reinvestment approach engages key partners with different roles and responsibilities.



The Justice Reinvestment process seeks to answer key questions by analyzing data and engaging stakeholders.

1

What can data and stakeholders explain about how people move through Vermont's criminal justice system? What are the driving forces behind population pressures?

Data and Policy Analysis

- Crime
- Victim's services
- Sentencing
- Pretrial population
- Prison population
- Probation and parole populations
- Behavioral health challenges

2

What options and opportunities are available to make systemic improvements and reinvest in programs and practices that can improve public safety and behavioral health outcomes?

Stakeholder Engagement

- Law enforcement
- Prosecution and defense counsel
- Judges
- Correctional administrators
- Probation officers
- Treatment and/or programming staff
- Community-based service providers

3

How can Vermont ensure success moving forward and sustain those efforts in the long term?

Vermont was one of the first states in the country to use the Justice Reinvestment approach to address criminal justice challenges.



2007 Scope and Focus

Understand Vermont's rising prison population and identify supervision and reentry policy options designed to reduce corrections spending and increase public safety.

2007 Working Group Members

- Senator Dick Sears
- Senator Bill Carris
- Rep. Alice Emmons
- Rep. William Lippert
- Rep. Jason Lorber
- Amy Davenport, Chief Administrative Judge
- Kerry Sleeper, Commissioner, Department of Public Safety
- Lee Suskin, State Court Administrator and Clerk
- Robert Hofmann, Commissioner, Department of Corrections

In 2008, to safely and effectively address the state's rising prison population, Vermont enacted legislation that aimed to improve outcomes for people on supervision and reentering communities from prison.


2008 Major Findings


- Between 2000 and 2005, people sentenced for property and drug offenses were the fastest growing segment of the prison population.
- People incarcerated and on community reintegration who had a substance addiction were not receiving treatment, which would reduce their risk to public safety.
- A significant share of people eligible and appropriate for placement on reintegration status were still incarcerated due to a lack of community-based resources.


2008 Justice Reinvestment Legislative Changes


- Focused supervision resources on people most likely to reoffend
- Improved screening and assessment for behavioral health treatment needs and increased access to community-based substance addiction treatment programs
- Expanded transitional housing opportunities and job training programs

Vermont has continued to enact policies aimed at using evidence-based practices to address statewide challenges.

-  **2009–2013: \$6.3M state dollars reinvested**
 - Reinvestment focused on transitional housing, electronic monitoring, and substance addiction treatment in prisons and in the community

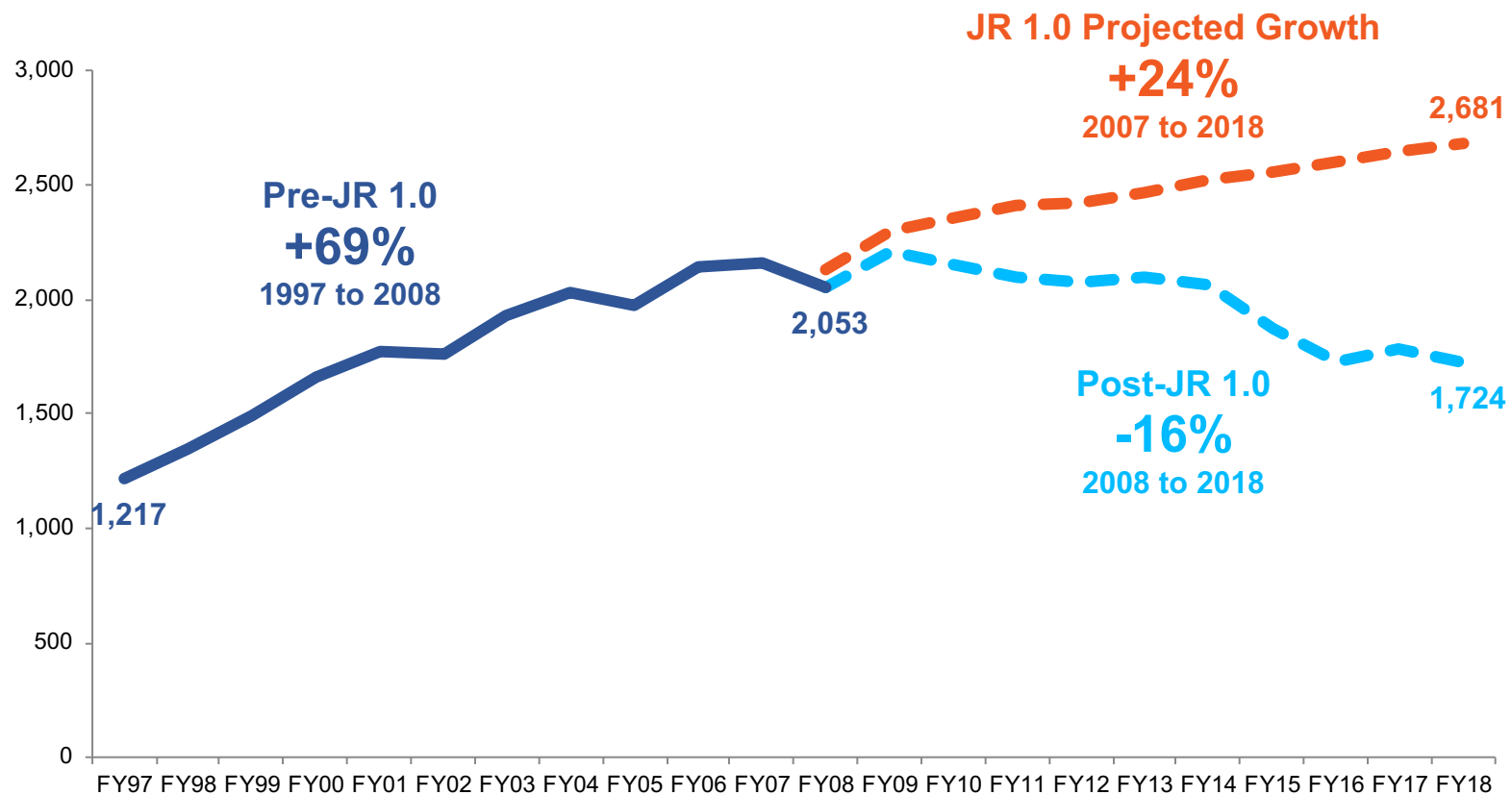
-  **2011: “War on Recidivism Act” passed:**
 - Established a statewide definition for recidivism
 - Encouraged state investment in programs “that work”

-  **2014: Established statewide pretrial services**
 - Required that pretrial screening take place and inform bail decisions (S. 295)
 - Created the Court Diversion and Pretrial Services Program, now administered by the Community Justice Division within the attorney general’s office (S. 134)

-  **2018: MAT expanded (Act 176)**
 - Senators Ashe, Sears, and Ayers co-sponsored S. 166 to expand access to Medically Assisted Treatment (MAT) for incarcerated populations

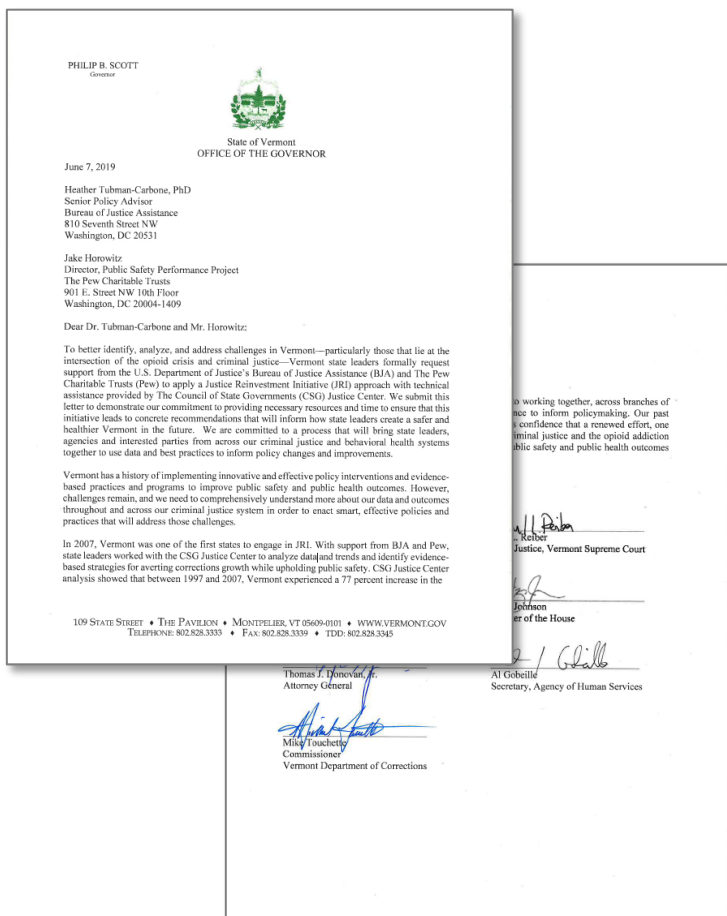
Using data to inform policymaking helped Vermont avoid projected prison population growth.

Vermont Fiscal Year-End Incarceration Population, FY1997–FY2018



Sources: Vermont Department of Corrections.

This summer, Vermont leaders signed a letter requesting funding for a second Justice Reinvestment project, affirming their commitment to identifying data-led policy solutions.



In June 2019, a **letter requesting technical assistance** for Vermont was drafted for Justice Reinvestment funders. State leaders from all three branches signed in support:

Governor
Phil Scott

Chief Justice
Paul Reiber

Senate President
Pro Tempore
Tim Ashe

Speaker
of the House
Mitzi Johnson

AHS
Secretary
Al Gobeille

DOC
Commissioner
Mike Touchette

Attorney General
T.J. Donovan

In July, Governor Phil Scott signed Executive Order 03-09, establishing the state's Justice Reinvestment II Working Group to lead this effort.

Justice Reinvestment II Working Group		Paul L. Reiber Chief Justice, Supreme Court (Working Group Chair)	John Campbell Executive Director, Department of State's Attorneys and Sheriffs
Xusana Davis Executive Director of Racial Equity, Governor's Office	Kelly Dougherty Deputy Commissioner, Alcohol & Drug Abuse, Department of Health	Alice Emmons State Representative, Windsor-3-2 District	Patricia Gabel State Court Administrator, Supreme Court
Maxine Grad State Representative, Washington-7 District	Jaye Johnson Legal Counsel, Governor's Office	James Duff Lyall Executive Director, ACLU of Vermont	Christopher Herrick Acting Commissioner, Dept. of Public Safety
Alice Nitka State Senator, Windsor District	David Scherr Co-Chief, Community Justice Division, Attorney General's Office	Dick Sears State Senator, Bennington District	Kendal Smith Director of Policy Development and Legislative Affairs, Governor's Office
Sarah Squirrel Commissioner, Dept. of Mental Health	Mike Touchette Commissioner, Dept. of Corrections	Karen Tronsgard-Scott Executive Director, Vermont Network Against Domestic and Sexual Violence	Matt Valerio Defender General

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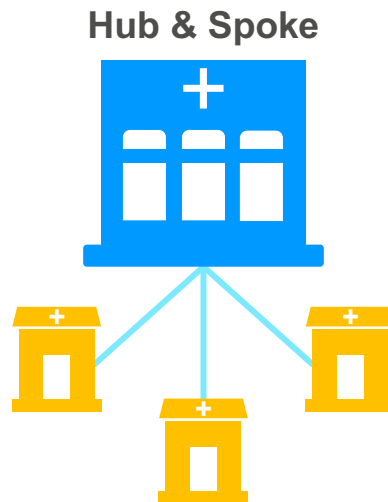
3. Next steps and discussion

Vermont leaders must make key decisions that will have profound and broad impacts across the state.

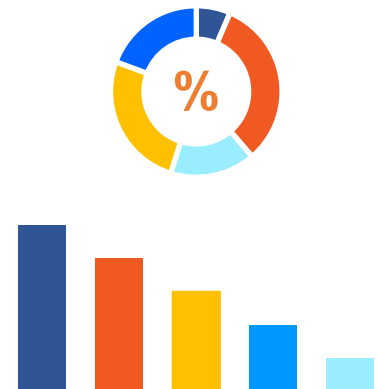
How can the state improve recidivism rates and reduce the number of people who cycle back through the system into jail and prison while improving public safety?



How can the state build on successful substance addiction treatment programs to reach even more rural and isolated communities and populations?



How can the state improve data sharing, tracking, and measurement to better inform decisions and planning in the future?



Analyses of high-level trends offer initial areas of focus for a Vermont Justice Reinvestment project.

A second Justice Reinvestment project in Vermont will primarily seek to:

- Analyze how increases in some categories of crime may be impacting other parts of the criminal justice system.
- Explain the connection between supervision revocations and incarceration.
- Assess how individuals' behavioral health challenges, such as serious mental illnesses and substance addictions, play a role in their movement through and their reentry from the criminal justice system.
- Identify where Vermont's data tracking and analytics can be strengthened and reinforced to provide lawmakers with more actionable information to guide safe policymaking.

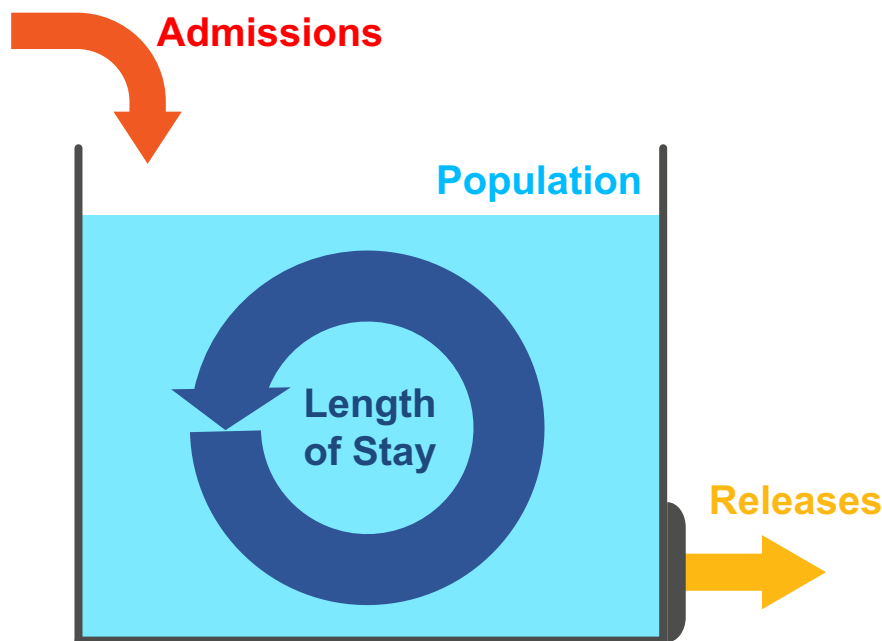
Vermont leaders must understand more of the dynamic factors in admissions, length of stay, and releases from jail and prison in order to safely prioritize incarcerated bed space.

ADMISSIONS:

- Rising admissions due to factors such as more crime, arrests, and/or convictions alone can increase the population.

LENGTH OF STAY:

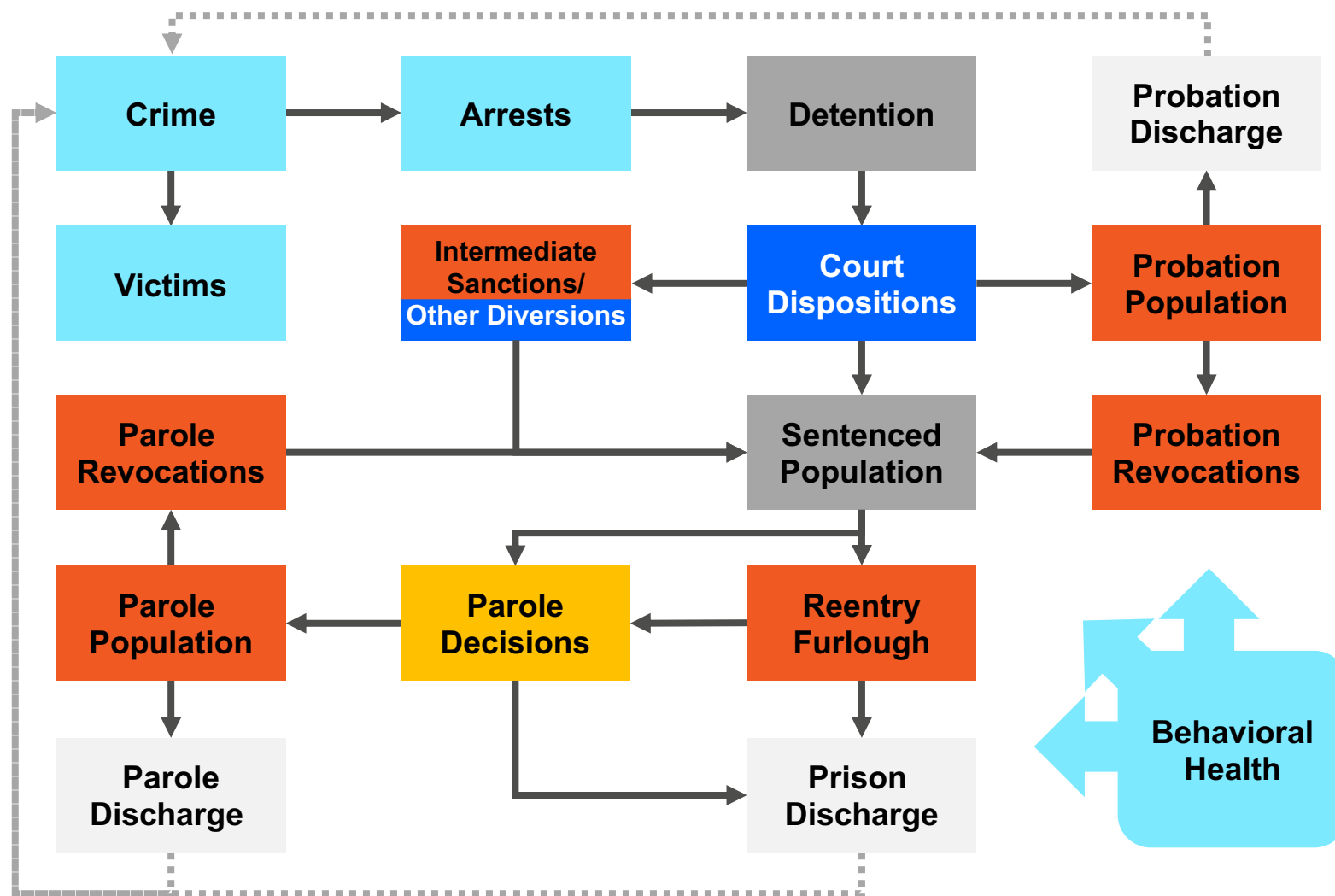
- Length of stays may increase due to harsher penalties for convictions or charges, which can also cause incarcerated populations to grow.
- This is average length of stay for the entire population. If the mix of incarcerated people/sentence lengths changes, so will the average length of stay.



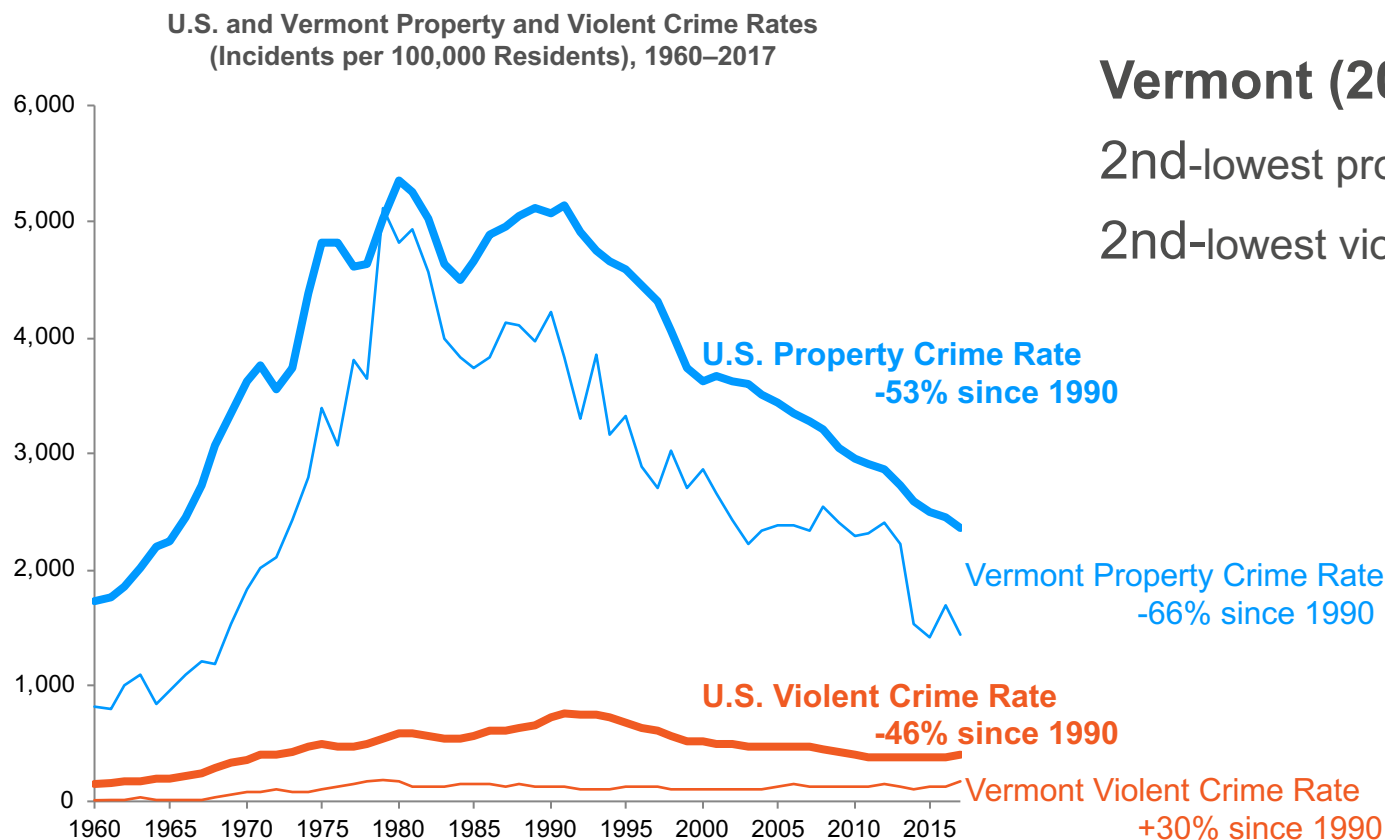
RELEASES:

- In a state with discretionary parole, the number and timing of parole releases affects length of stay and population.

Understanding those factors begins with analyzing how people are moving through the front and back ends of the criminal justice system.

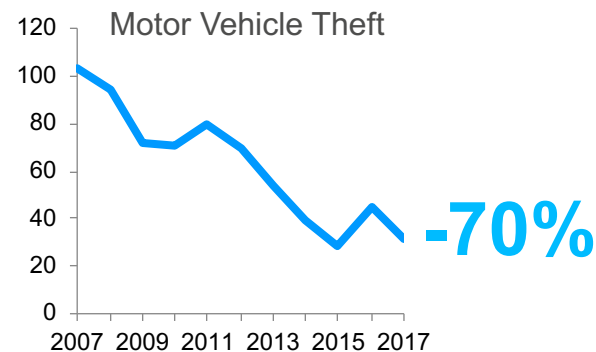
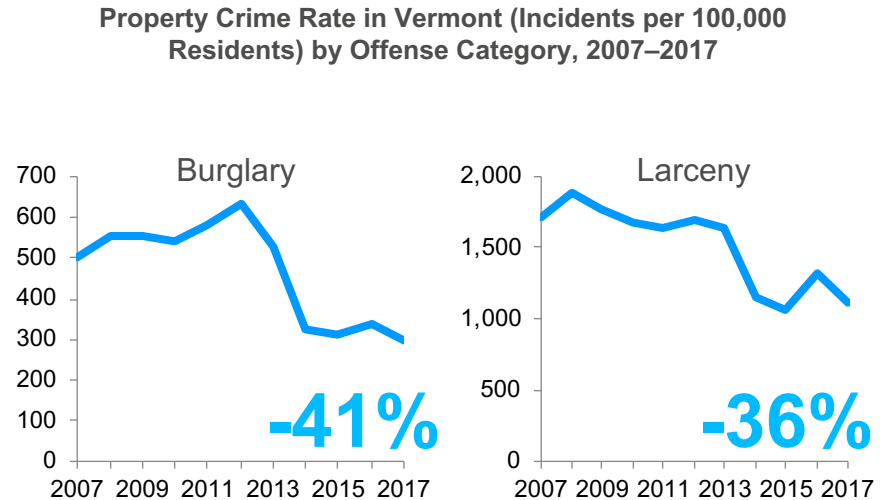
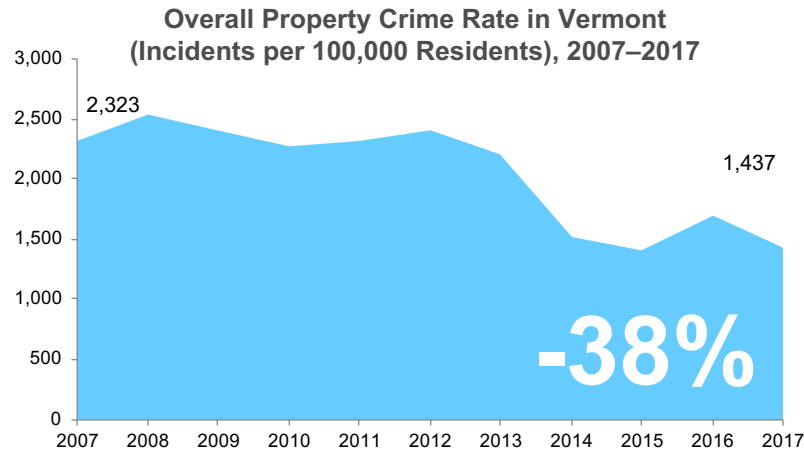


Nationally, crime is down since its peak in the early 1990s, and Vermont has historically maintained one of the lowest crime rates.



Sources: FBI, *Crime in the U.S.*, 2006–2016.

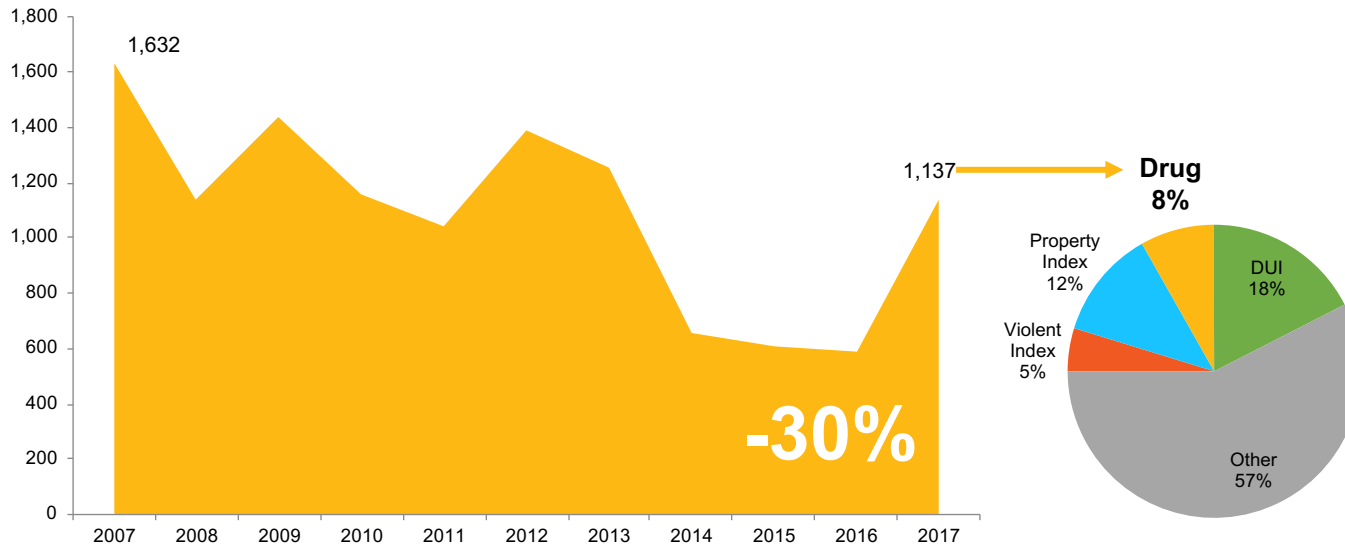
Between 2007 and 2017, Vermont's property crime rate dropped by more than a third, falling in all categories.



Sources: FBI, *Crime in the U.S.*, 2007–2017.

National arrest data indicate an overall decline in the impact of drug arrests across the state, but analysis of state-level data will provide more information.

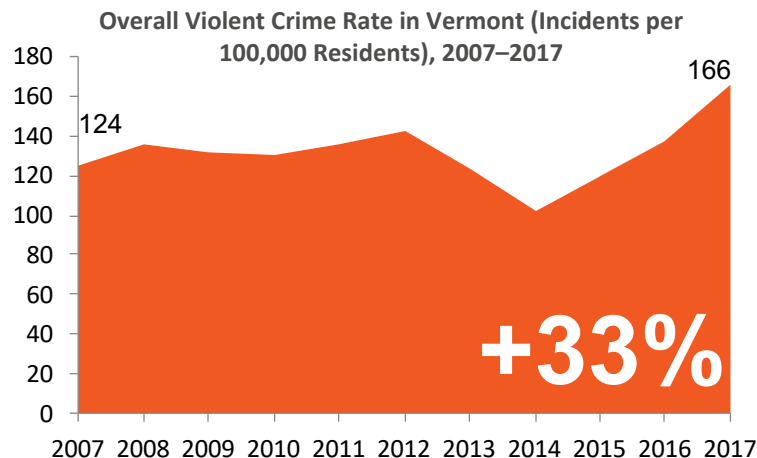
Drug Arrests in Vermont (Volume), 2007–2017



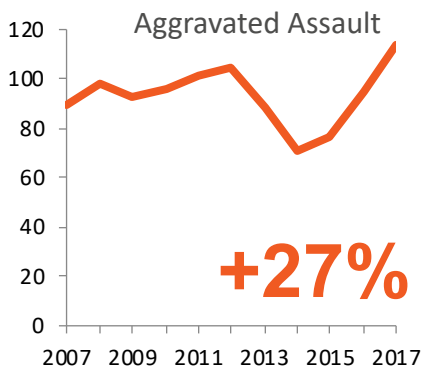
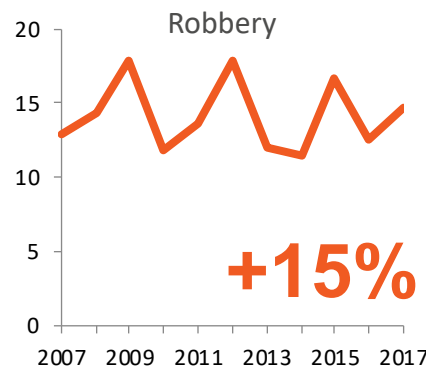
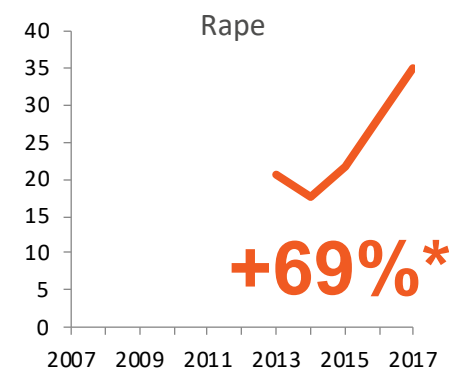
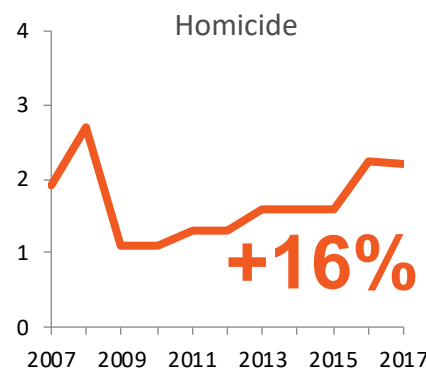
Drug-related offenses constituted 8% of all arrests in 2017.

Sources: FBI, *Crime in the U.S.*, 2007–2017.

Though the increase in volume of crimes is fairly small, national crime reporting data show that Vermont's violent crime rate increased across every offense category between 2007 and 2017.



Violent Crime Rate in Vermont (Incidents per 100,000 Residents) by Offense Category, 2007–2017

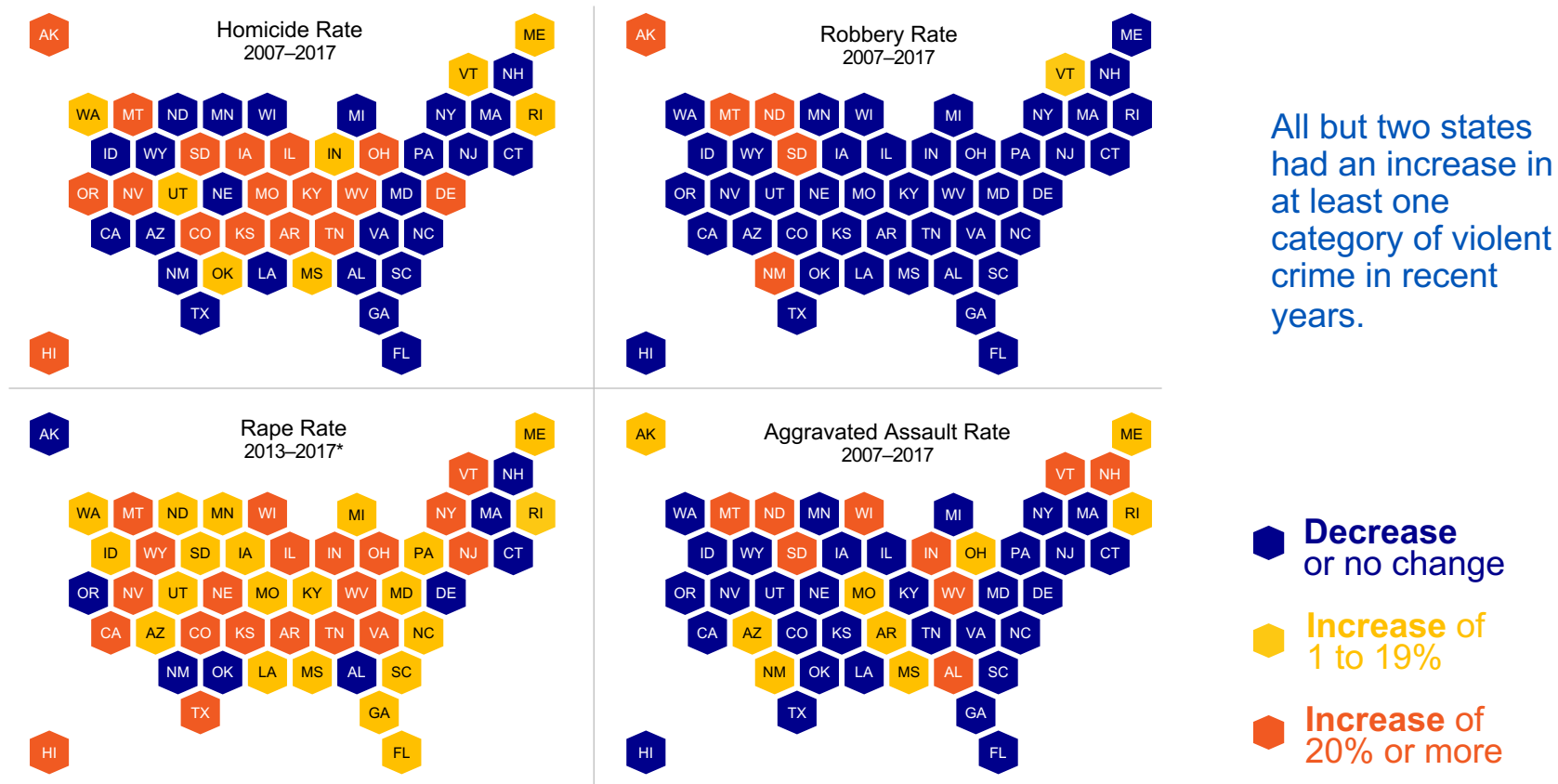


* Percentage change shown for rape is 2013 to 2017 as opposed to 2007 to 2017. A revised definition of rape was implemented by the FBI in 2013. It's unclear whether the increase here is a reporting artifact, if reporting of rape has increased, or if incidents are actually on the rise.

Sources: FBI, *Crime in the U.S.*, 2007–2017.

Most other states also saw categories of violent crime grow in recent years, but a more nuanced analysis is needed to understand the impact and drivers behind these increases.

Change in Violent Crime Rate (Incidents per 100,000 Residents) by State and Crime Category



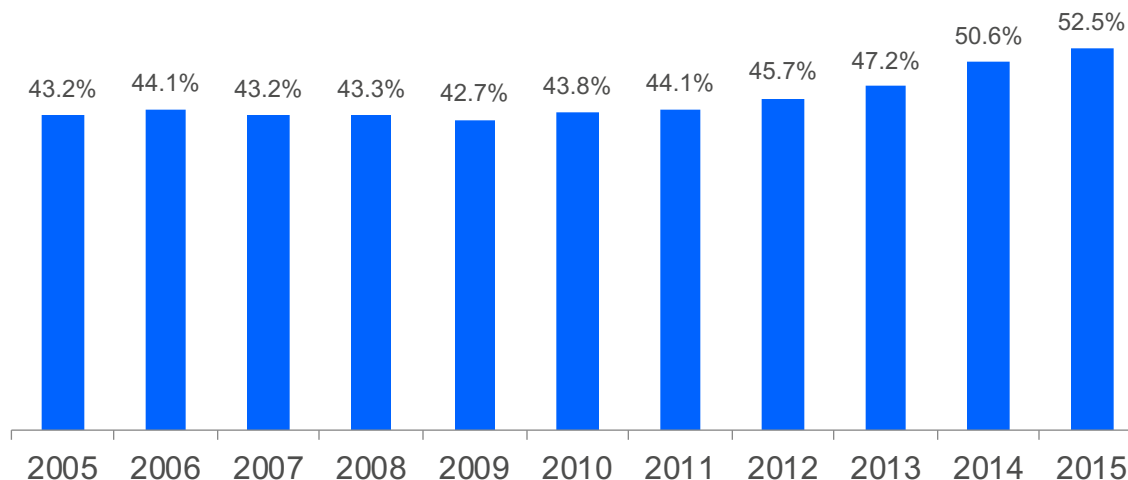
All but two states had an increase in at least one category of violent crime in recent years.

Sources: FBI, *Crime in the U.S.*, 2007–2017.

* In 2013, the FBI revised its definition of rape. Therefore, the timeframe used for rape is 2013–2017.

Vermont has a history of stable recidivism rates, but there is a need to understand drivers behind the recently increasing rates.

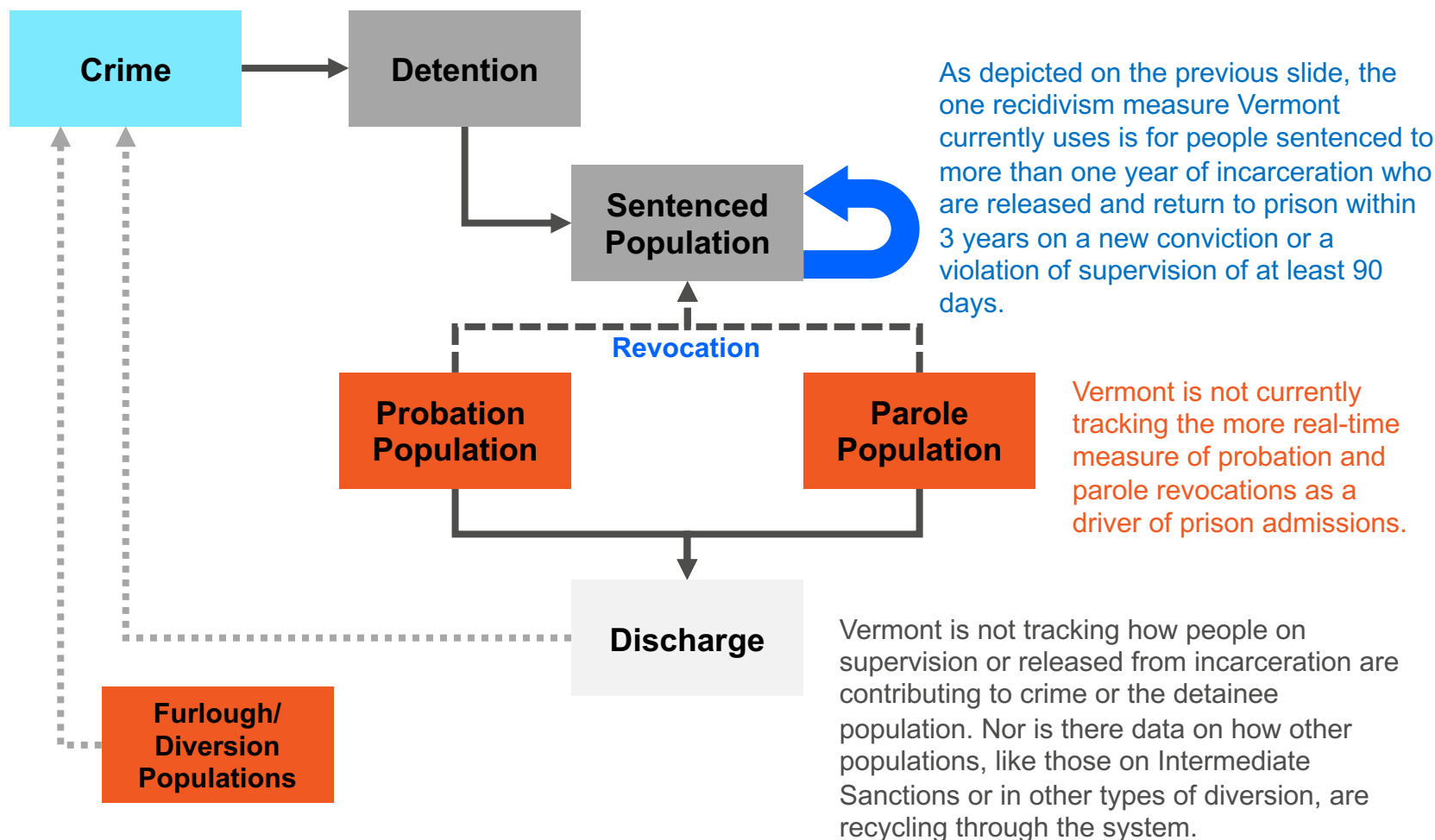
Vermont Prison Release Recidivism by Cohort Release Year, 2005–2015



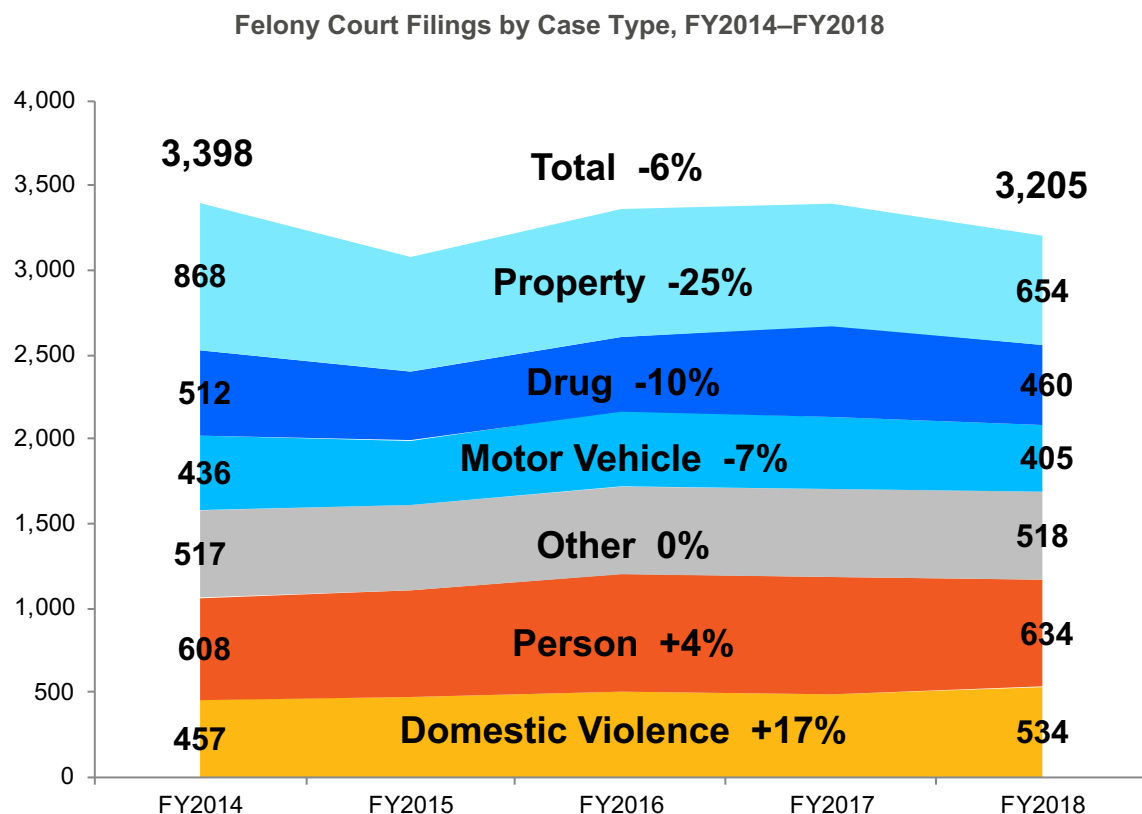
2011 Act 41 Section 5: “The Department shall calculate the rate of recidivism based upon offenders who are sentenced to more than one year of incarceration who, after release from incarceration, return to prison within three years for a conviction for a new offense or a violation of supervision resulting, and the new incarceration sentence or time served on the violation is at least 90 days.”

Sources: Vermont Department of Corrections.

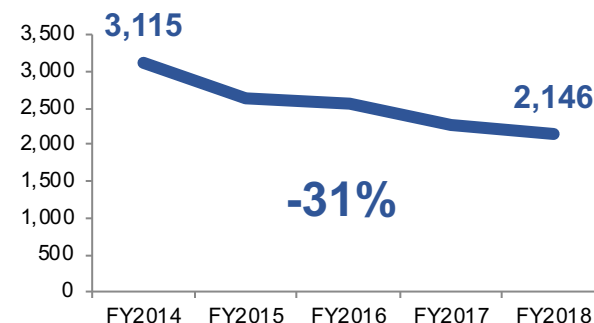
Supervision revocations are key drivers in most state prison populations, but Vermont is not currently able to track their impact.



Information from the Vermont judiciary offers some insight into the increases and decreases of various types of offenses and violations.



Probation Violation Filings, FY2014–FY2018

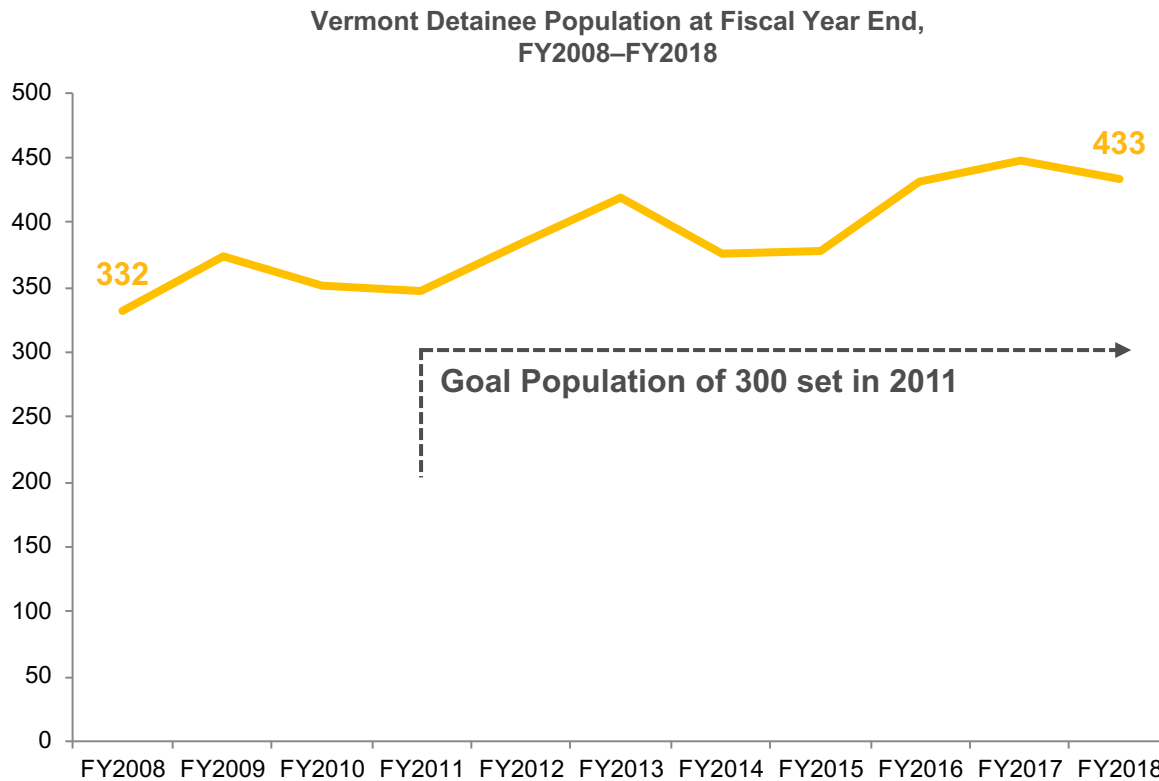


Changes in felony case filings reflect some of the same patterns seen in crime reports. The decrease in probation violation filings above is a positive trend.

These front-end data points beg key questions and areas for additional analysis.

- ❖ What diversion and pretrial programs are available across the state, and how effectively do these programs reduce recidivism?
- ❖ How are revocations and increases in certain types of crime and case filings impacting incarceration admissions?
- ❖ How do the courts, law enforcement, states attorneys, defense counsel, and victim advocates explain or experience increases in certain types of crimes, and what resources are available or needed to better support crime victims and reduce recidivism?
- ❖ What can we learn about probation and parole supervision and revocations, both from policy and practice as well as data analysis?

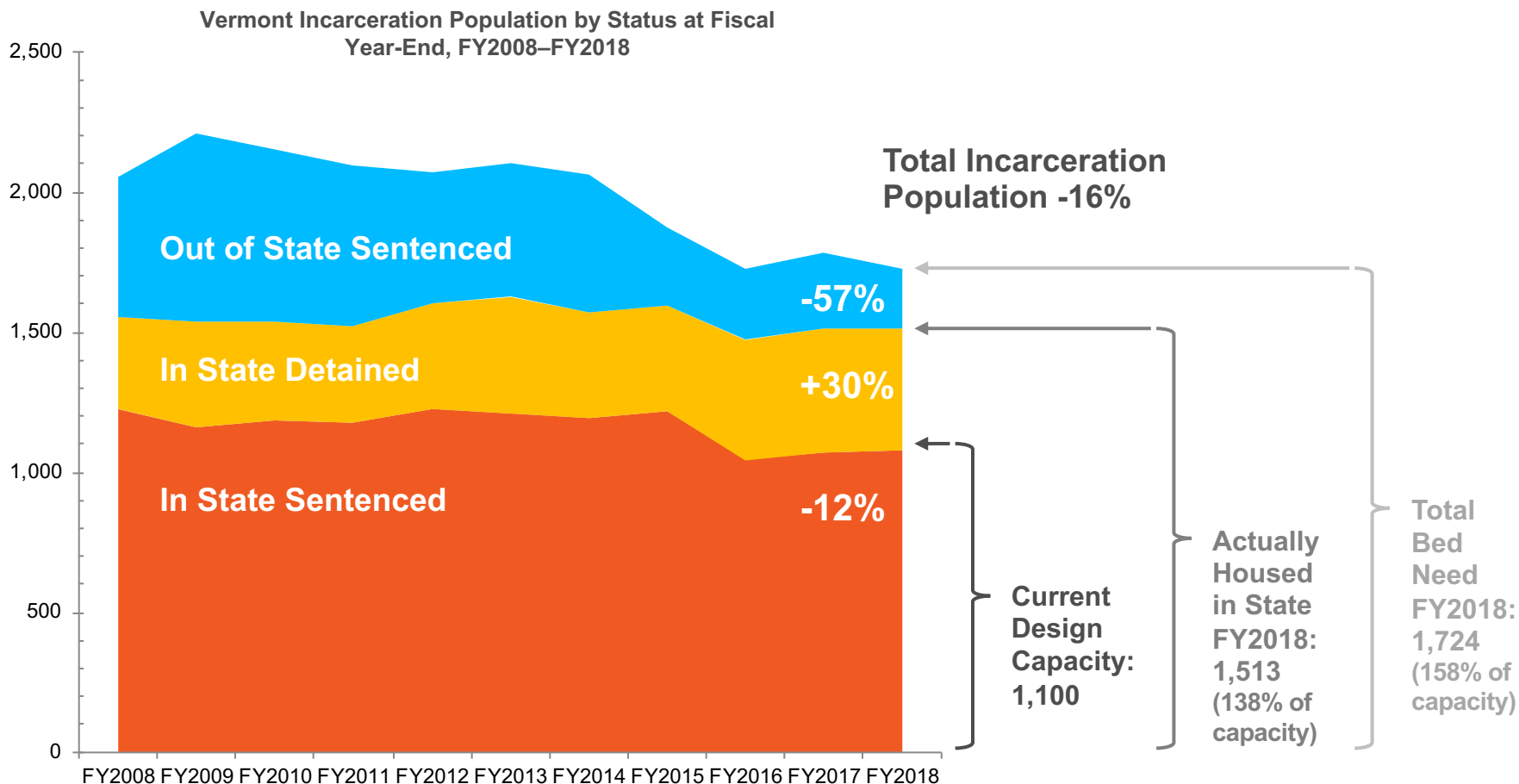
In 2011, Vermont set a goal of maintaining a lower pretrial detention population, but since that time, the number of people held awaiting trial has continued to grow.



- In a 2018 analysis by DOC, 56% of detainees were being held without bail.
- Those held without bail tend to be arrested for violent and sex offenses.
- Of those with bail set, 35% were \$5,000 or less.
- The estimated average length of stay for the on-hand detainee population in 2018 was just over 4 months.

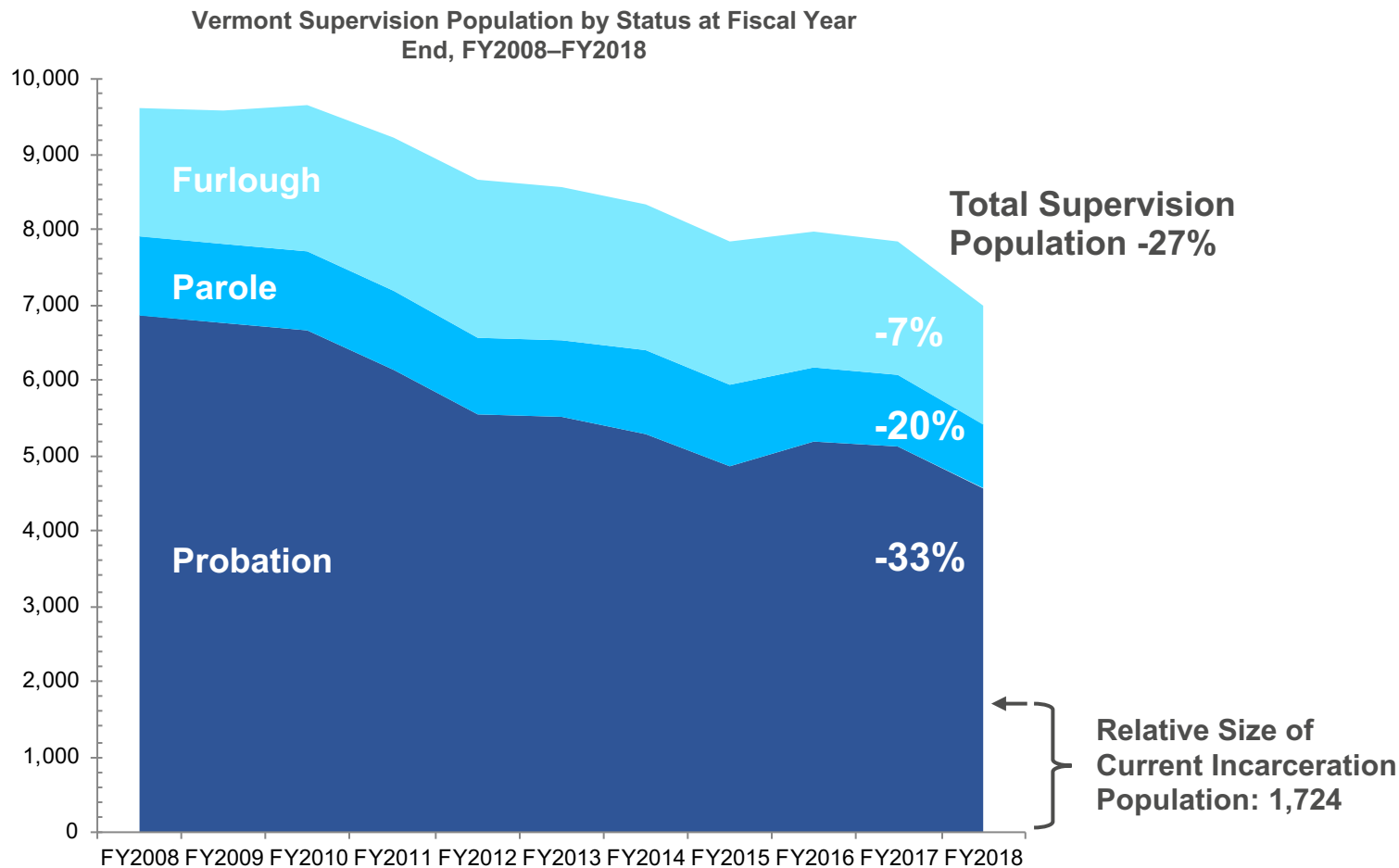
Sources: Vermont Department of Corrections.

Vermont's prison facilities do not have capacity for all Vermonters who receive state sentences, and over 250 people are currently serving their sentences out of state.



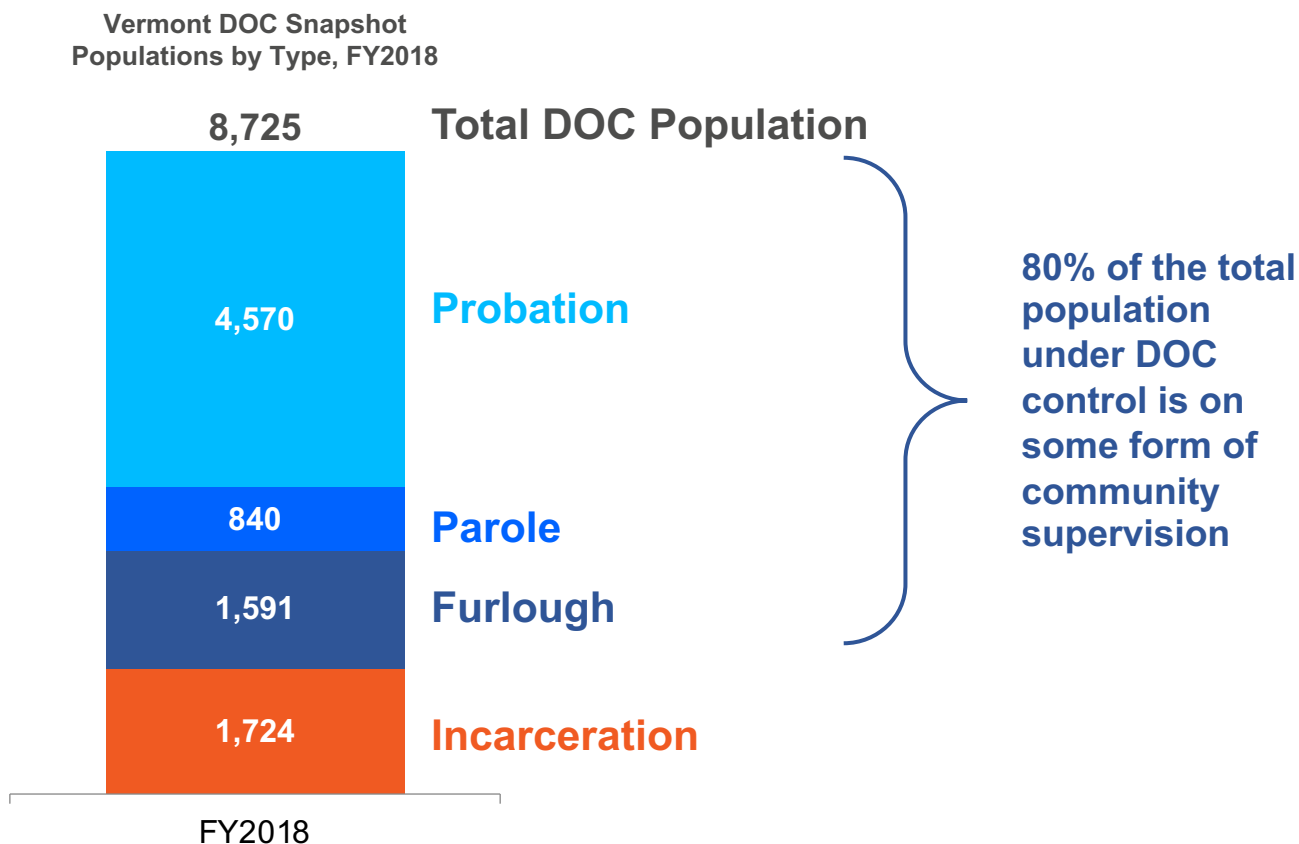
Sources: Vermont Department of Corrections.

All categories of community supervision have declined in population over the past decade, particularly probation.



Sources: Vermont Department of Corrections.

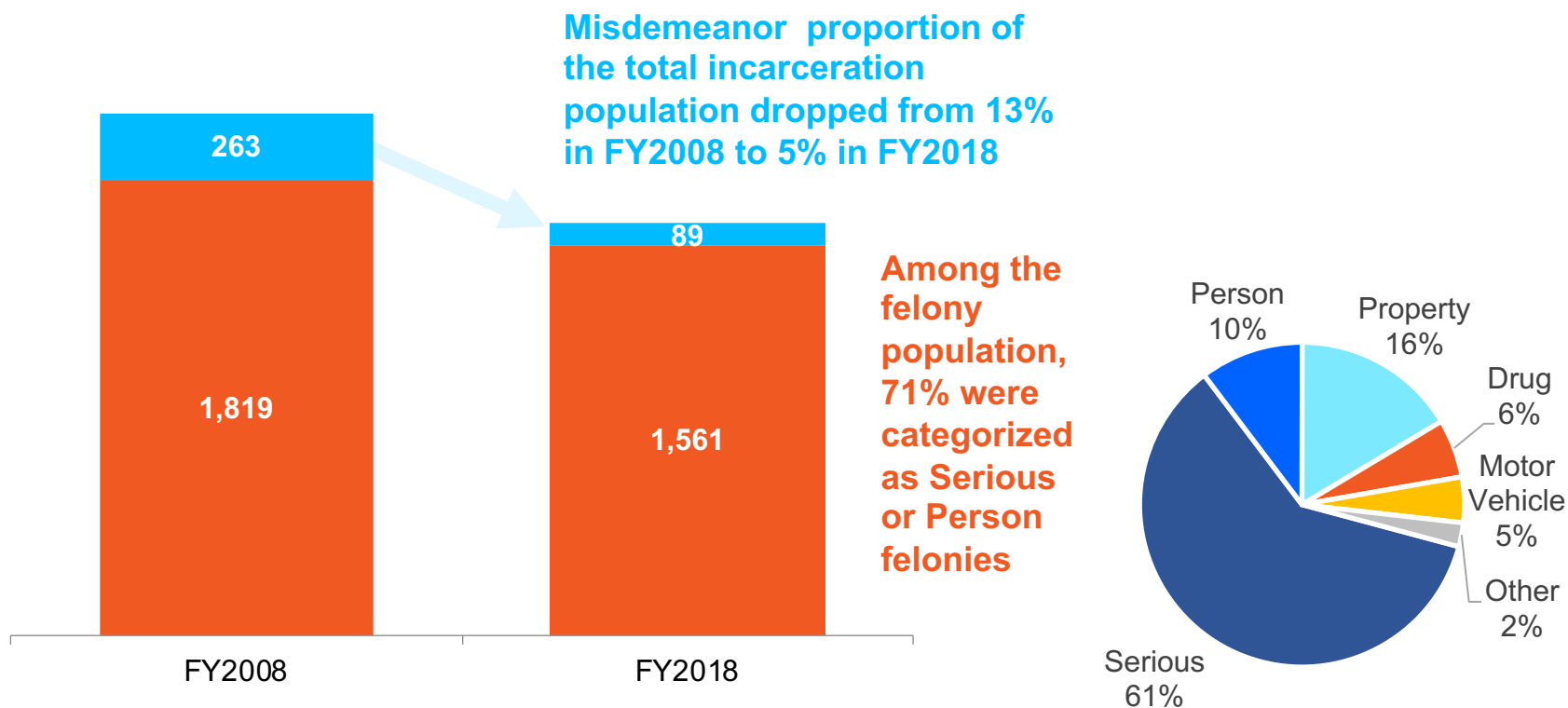
The vast majority of people under DOC control are on community supervision, but it is not clear how many are able to successfully reenter their communities and how many recidivate or are revoked to jail or prison.



Sources: Vermont Department of Corrections.

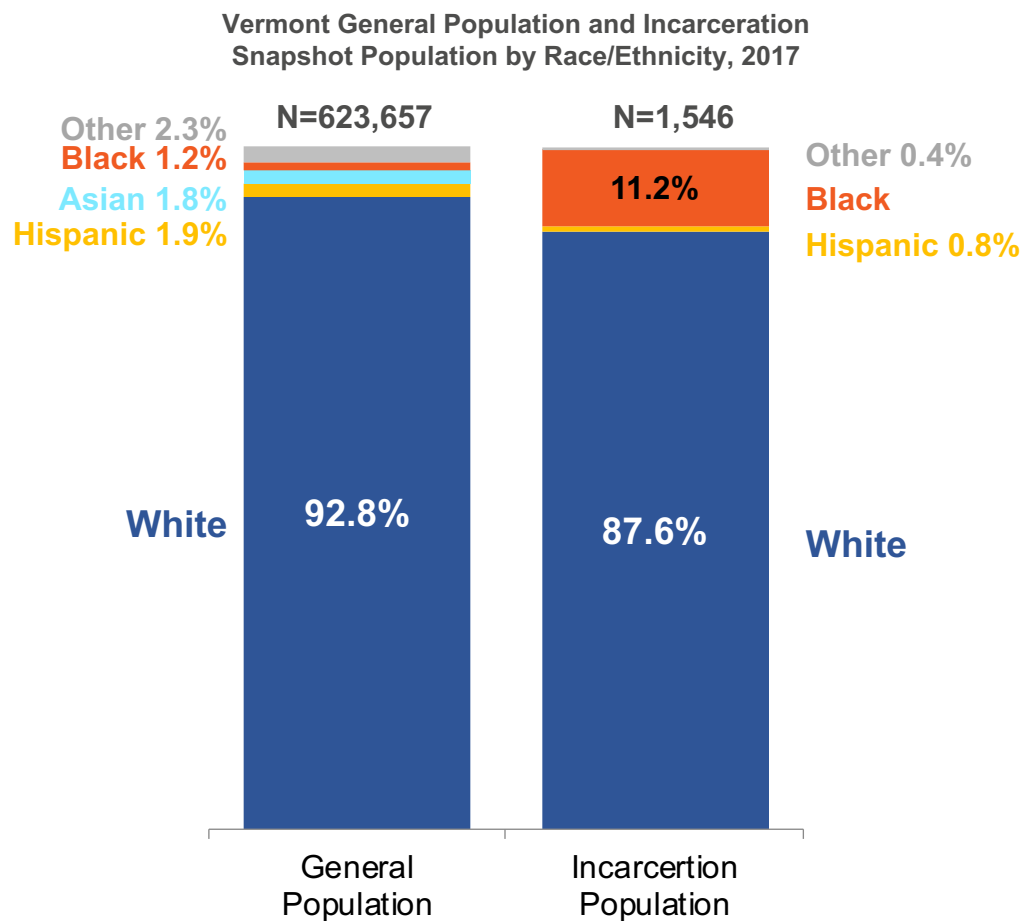
A snapshot of offense level and type does not reveal enough about the role of revocations, recidivism, and length of stay in understanding why people are incarcerated in Vermont.

Vermont Incarceration Population by
Felony/Misdemeanor at Fiscal Year End



Sources: Vermont Department of Corrections.

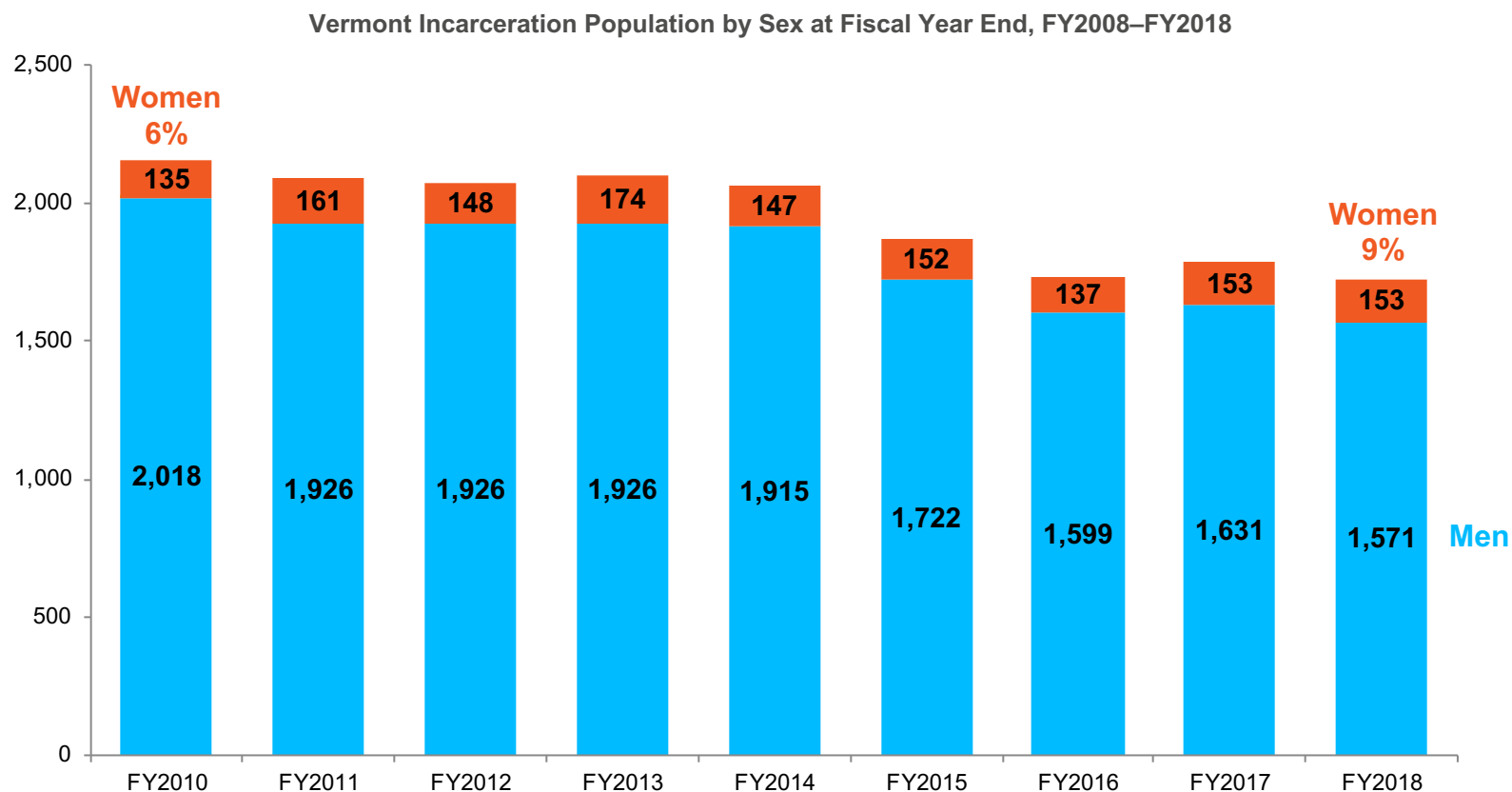
Additional analysis may reveal how racial disproportionalities grow at various points across the criminal justice system.



- As of 2017, the incarceration rate for black people in Vermont was nearly 10 times that of the incarceration rate for white people.
- In 2017, the legislature established the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel to further examine this issue, and in 2019 Governor Scott appointed the state's first Racial Equity Executive Director.

Sources: BJS, Prisoners in 2017, April 2019; ["B03002 HISPANIC OR LATINO ORIGIN BY RACE - Vermont - 2017 American Community Survey 1-Year Estimates"](#). [U.S. Census Bureau](#). July 1, 2017

The proportion of women incarcerated in Vermont has increased, while the number of men in jail and prison has decreased.

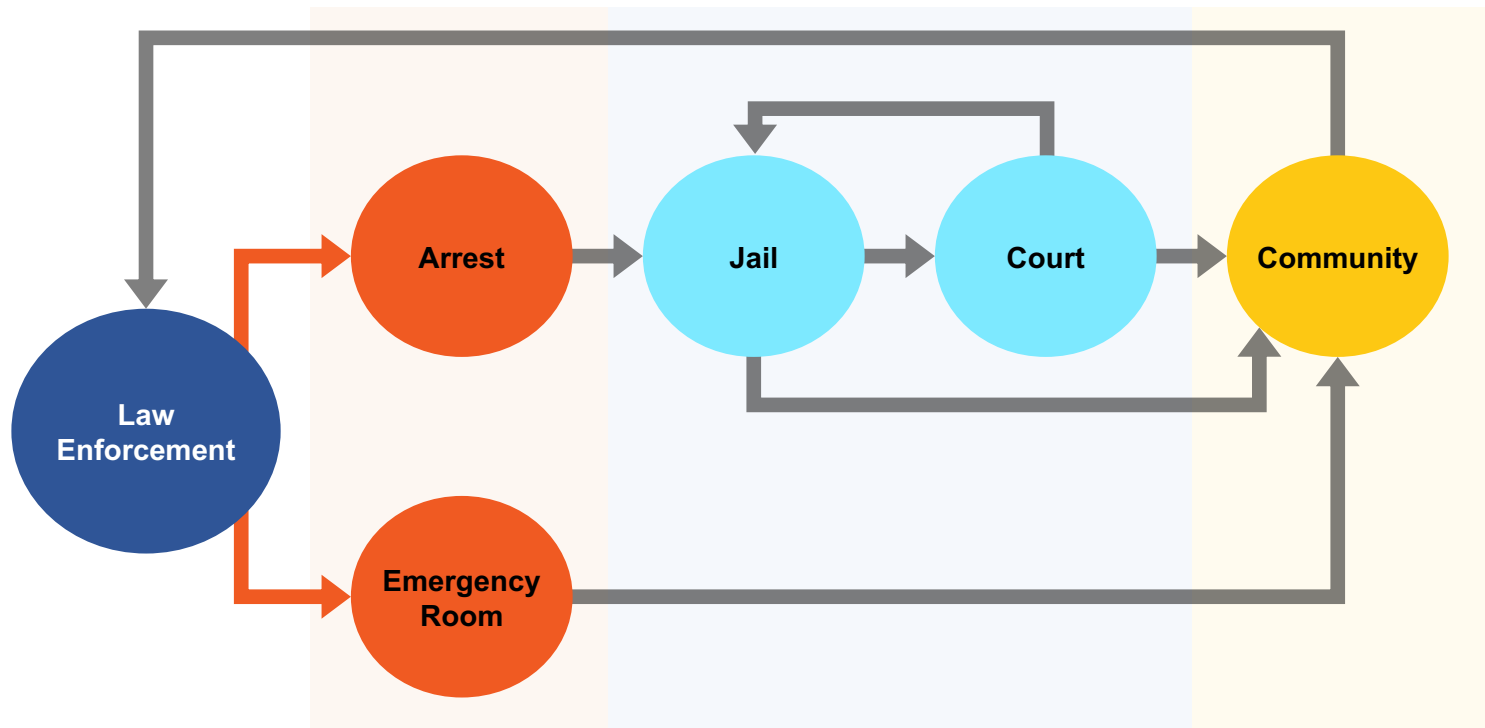


Sources: Vermont Department of Corrections.

These back-end data points beg key questions and areas for additional analysis.

- ❖ What is driving pretrial population increases?
- ❖ How do lengths of stay and sentences vary over time and by offense, and what role do these factors play in the state's incarcerated population?
- ❖ How are people supervised on probation, parole, and furlough status in Vermont, and what are the revocation outcomes among these populations?
- ❖ What data exist to identify decision points in the criminal justice system that may drive or contribute to racial disproportionalities?
- ❖ What employment barriers do people with criminal records face, and how can Vermont align its expungement laws to support recidivism reduction?

Addressing behavioral health challenges has become a shared responsibility across public health and criminal justice systems.

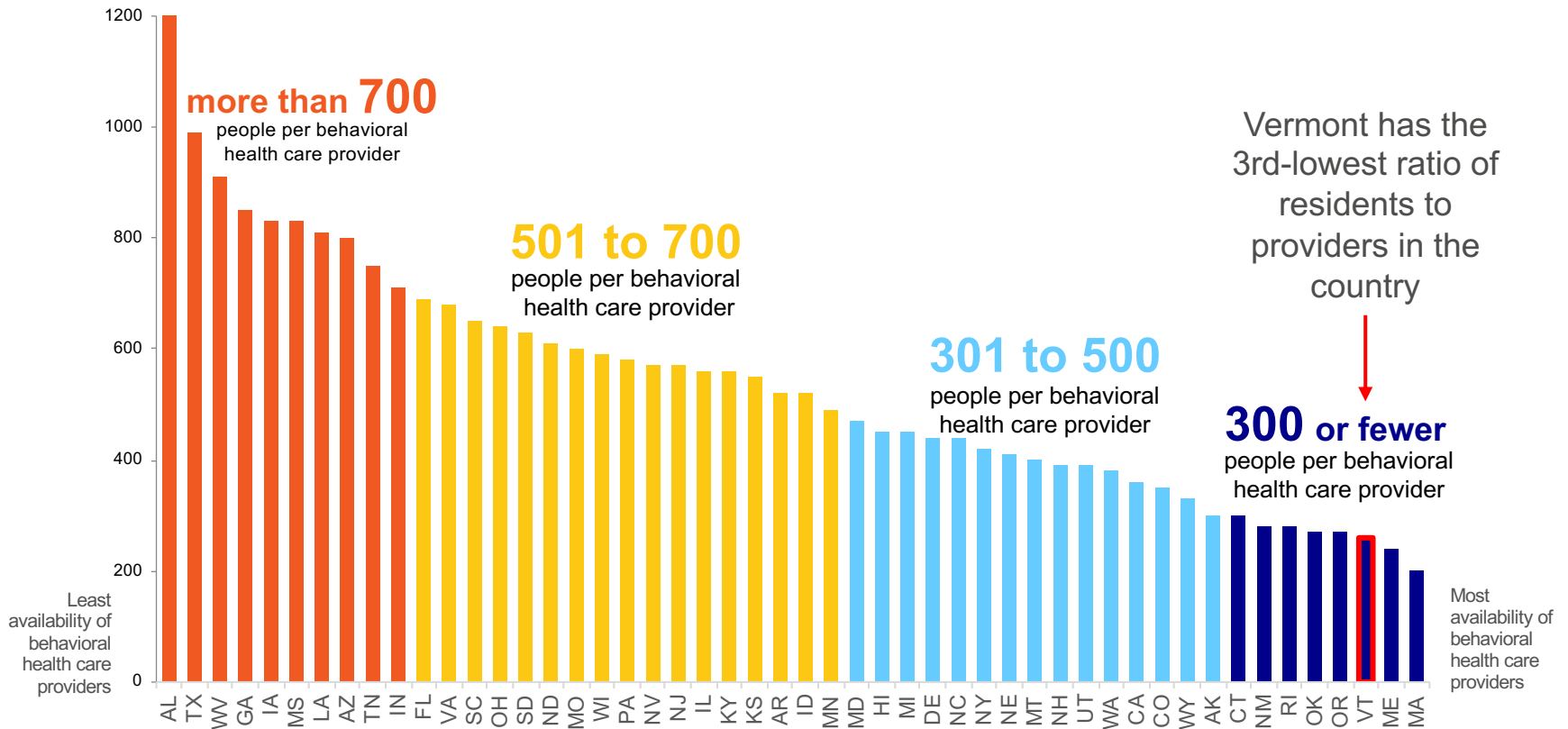


Public budgets are often burdened by the high average costs for the use of jail beds or emergency room visits.

Law enforcement agencies and officers are increasingly on the front lines of responding to mental health and addiction crises.

Nationally, Vermont stands out for its low ratio of residents to behavioral health care providers.

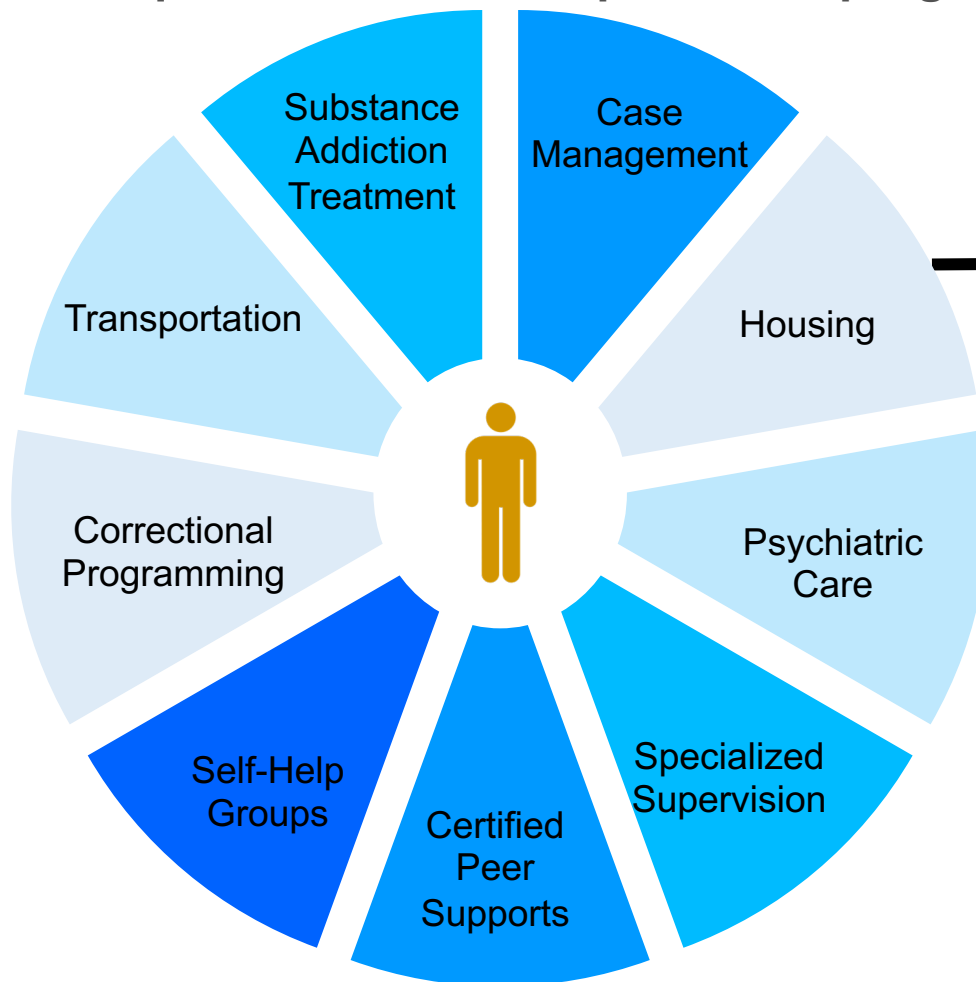
Number of Residents per Behavioral Health Care Provider, by State, 2017*



*The ratio includes credentialed behavioral health professionals and does not include paraprofessional staff.

Sources: Mental Health America, *The State of Mental Health in America*, 2017.

People with behavioral health needs require access to a number of providers and services, and people with criminal justice involvement often require additional or specialized programs as well.

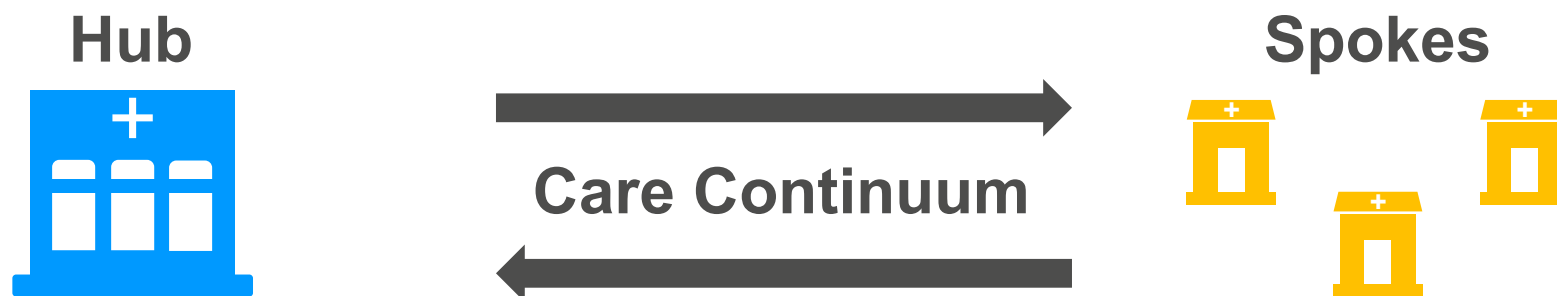


Access to stable housing is critical and housing barriers exist for many who interact with the criminal justice system, including those with behavioral health needs and challenges.



As of May 2019, 127 people in Vermont prisons were held past their minimum release date due to a lack of approved housing.

Vermont's Care Alliance for Opioid Addiction, or "Hub and Spoke," is a national model that identifies behavioral health needs, ensures access to effective treatment and services, and establishes strong collaboration.



Opioid Treatment Programs

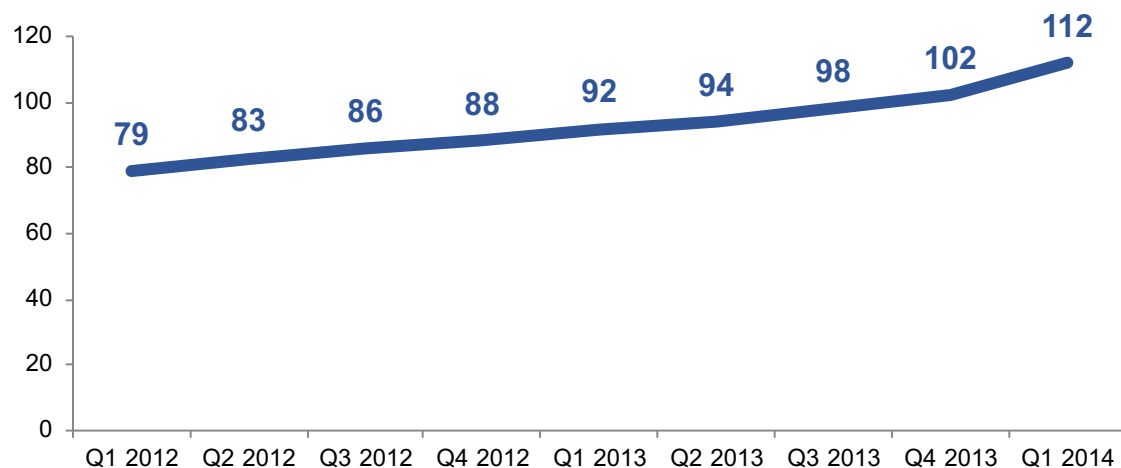
- Provide medication and individual and group counseling services
- Additional Health Home supports provided include:
 - Case management, care coordination, management of transitions of care, family support services, health promotion, referral to community services

Office-Based Opioid Treatment Settings

- Primary or family medicine practices across the state where prescribers have federal waivers to prescribe buprenorphine, naltrexone, or Vivitrol
- Care teams include:
 - Lead provider
 - Nurse
 - Licensed mental health or addictions counselor

The number of people across Vermont who have accessed medication assisted treatment (MAT) for opioid addiction has steadily increased, indicating a statewide expansion of these services in response to a strong need for MAT.

Number of People Receiving Medication Assisted Treatment per 10,000 Vermonters Age 18–64,
2012–2014



Act 176 (2018) expanded MAT for any incarcerated person with a diagnosed opioid addiction. By 2019, the number of people in DOC facilities receiving MAT has already far exceeded initial estimates, indicating a high prevalence of people with opioid addictions moving through the criminal justice system.

Vermont is already collecting and reporting on some measures of the prevalence and impact of behavioral health challenges among people moving through the criminal justice system.

Vermont's Opioids Scorecard includes:

Dept. of Public Safety - Opioids

Possession of heroin: Are we deterring by prosecuting people caught with heroin in Vermont? Measured as number of charges filed by Vermont State Prosecutors for possession, delivery, or trafficking of heroin.

Sale of heroin: Are we deterring by prosecuting people selling heroin in Vermont? Number of charges filed by Vermont State Prosecutors for the sale of heroin.

Department of Health – Alcohol & Drug Abuse Programs - Opioids

MAT waitlists: Are we getting Vermonters who need a high level of care for opioid addiction into treatment? Number of people on a wait list for treatment services in a Hub.

Emergency Rooms - Opioids


Rate of Emergency Department visits for heroin overdose per 10,000 Vermonters. Data source from the Electronic Surveillance System for the Early Notification of Community-based Epidemics (ESSENCE)

What can data and stakeholder perspectives from behavioral health providers, law enforcement, and others tell us about the interaction of substance addictions and crime, arrest, and incarceration?

Engaging with experts, providers, and leadership from other Vermont state systems will be critical to understanding behavioral health challenges and opportunities.

- ❖ How are people with behavioral health conditions who are in the criminal justice system identified and connected with treatment?
- ❖ What is the continuum of available treatment and supports for people with behavioral health conditions in the criminal justice system? Are community-based behavioral health treatment providers applying evidence-based practices to reduce recidivism and improve recovery?
- ❖ How do agencies share critical case-specific information to improve outcomes for people served across multiple agencies?
- ❖ What resources and support do law enforcement officers and agencies require as they engage with people in the midst of mental health crises?
- ❖ What existing behavioral health data analysis efforts in Vermont can inform a JR project?
- ❖ How do housing shortages or access challenges impact people who are reentering communities across the state?

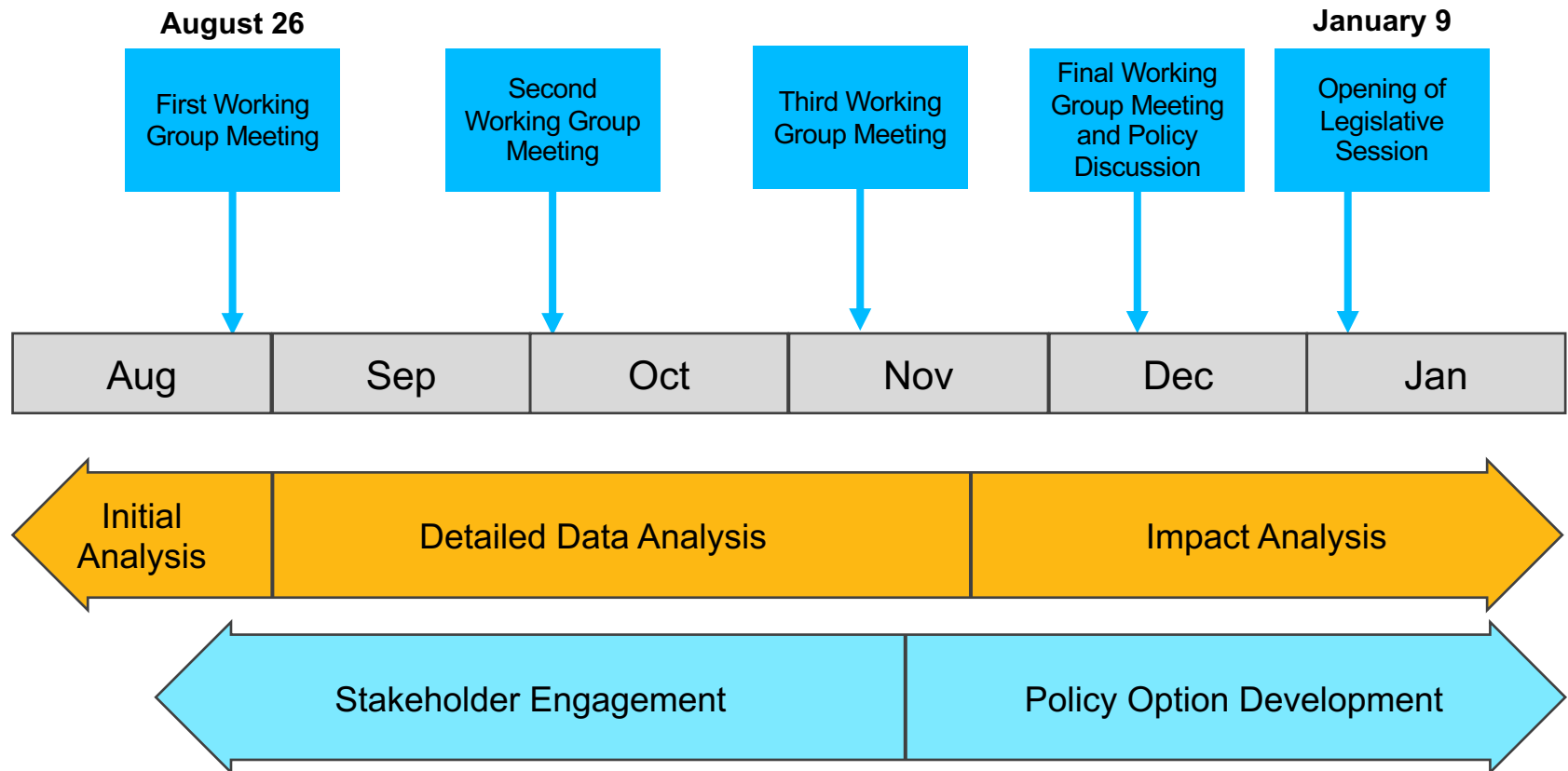
Presentation Outline

1. Justice Reinvestment in Vermont: Overview
2. Criminal Justice and Behavioral Health Trends and Challenges
 - a) Front-end system pressures
 - b) Incarcerated populations
 - c) Behavioral health challenges
-  3. Next steps and discussion

Summary of Initial Findings

- ❖ While modest, certain categories of violent crime and recidivism rates are increasing.
- ❖ The state has not undergone a systemic and comprehensive analysis of the criminal justice system since it last undertook a Justice Reinvestment project.
- ❖ The state's pretrial population continues to rise, and prison facilities are operating above their design capacity, both of which hinder the state's ability to safely prioritize bed space.
- ❖ The vast majority of people under DOC control are supervised in the community, but the impact and nature of their supervision revocations is not clear.
- ❖ Early indicators show a high need for behavioral health treatment and other social supports, including MAT, for people in the criminal justice system.
- ❖ Policymakers need more information to guide their planning and decisions to ensure they are achieving public safety and public health goals in the future.

The Vermont Justice Reinvestment timeline will be short and will require focused analysis, engagement, and discussions throughout the process.



Quantitative data gathering efforts are underway.

Data Type	Source
Crime/Arrests	Department of Public Safety
Pretrial Detention	Department of Corrections
Court Filings/ Diversion	Vermont Judiciary
Sentencing/ Criminal Histories	Vermont Judiciary/ Department of Public Safety
Probation Supervision	Department of Corrections
Prison	Department of Corrections
Parole Supervision	Department of Corrections
Victim Services	Vermont Center for Crime Victim Services
Behavioral Health	Department of Corrections/ Department of Health

Anticipated Data Challenges

- Legal or policy barriers to data sharing
- Lack of state identification numbers to facilitate matching of individuals across siloed data systems
- Differences in how and which data is collected across systems and agencies
- Exporting appropriate case-level data from new case management systems
- Previously unexamined data
- Limited recent analysis and reports to use as a baseline
- Research staff capacity and turnover
- Lack of an independently produced prison population projection

To understand what is behind the data and numbers, we will seek opportunities to learn from Vermonters who work within and are affected by the criminal justice system.

Front-End System Pressures

- Law enforcement officers and leadership
- Victim advocates
- People with lived experience
- Diversion program and pretrial services administrators
- Court officials, including judges
- State's attorneys
- Criminal defense attorneys
- Others?

Incarcerated Populations

- Department of Corrections leadership and staff, including supervision officers
- Court officials, including judges
- Parole officials
- Housing experts and leadership
- Victim advocates
- People with lived experience
- Others?

Behavioral Health

- Agency staff implementing behavioral health programs for criminal justice populations and tracking data and outcomes across both systems
- Community-based providers and treatment experts
- Law enforcement officers and leadership
- Victim advocates
- People with lived experience
- Others?

Working group discussion topics for today

1. Given the project's tight timeline, do working group members support the focus and analysis areas we have proposed today? How can we reasonably provide information or support to other ongoing discussions and work that fall outside this scope?
2. What information sources are critical for our team to examine and consider as we work to analyze these focus areas and challenges?
3. Who can we connect with to understand the human and practical experiences on the ground? How can working group members connect us to these groups and individuals?
4. How can we swiftly access as much data as possible, and are there opportunities for us to use other qualitative research tools (such as surveys and focus groups) to assess various parts of the criminal justice and behavioral health systems?

Thank You

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