

Justice Reinvestment in Pennsylvania

Fourth Presentation to the Working Group – September 2016

Carl Reynolds, Senior Legal and Policy Advisor
Ed Weckerly, Research Manager
Patrick Armstrong, Policy Analyst

The Council of State Governments Justice Center

Corrections



Justice Reinvestment



Mental Health



Reentry



Substance Abuse



Youth



Courts



Law Enforcement



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

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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
Criminal History	Pennsylvania State Police	Sample Data Received
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	Received

Stakeholder Engagement Since the July Working Group Meeting

County Commissioners Association of Pennsylvania Conference	CCAP Annual Conference attendees engaged in a dialogue with CSG staff and received an update on JRI.
Court of Common Plea Judges	CSG staff continued conversations focused on sentencing with CCP judges from Blair, Jefferson, and Philadelphia Counties.
Pretrial Stakeholders	Pretrial service providers, technical assistance providers, and grant managers shared details of current and future efforts underway to improve pretrial decisions and processes.
Commission on Sentencing Quarterly Meeting	Commission members participated in discussion about JRI analyses with a focus on sentencing issues and opportunities for improvement.
Magisterial District Court Judges and Chiefs of Police Association	CSG staff discussed arrest and pre-arraignment process with law enforcement and MDJs representing Erie, Bucks, and York Counties.
Pennsylvania District Attorney's Association	CSG staff met with representatives of the association to update them on challenges identified by JRI and potential solutions.
State Agencies	CSG staff continued to regularly correspond and visit with staff from DOC, PCCD, AOPC, and other agencies.

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

Work for Victims Outside of Justice Reinvestment

The **Access to Services Subcommittee** is thinking strategically about awareness and outreach to find victims who may need services in Pennsylvania.

Justice Reinvestment Policy Proposals Developed Through this Engagement

- **Improve the Crime Victim Compensation program:** Expand the program for greater eligibility, benefits, and utilization.
- **Increase the likelihood that victims can connect to victim service providers:** Strengthen referral and notification language in the Crime Victims Act to compel referrals between law enforcement agencies, prosecutors, and victim service providers.
- **Offer emergency financial assistance for victims of property crimes through victim service providers throughout the state:** Victims need help with immediate financial loss due to property crimes such as larceny and burglary.

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 individual 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.

Short Min - A sentence to prison with a minimum sentence of one year or less.

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

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.



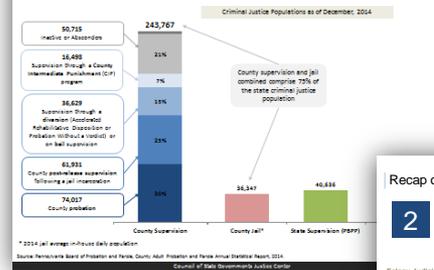
Overview

- 1 Focusing on Recidivism Reduction
- 2 Sentencing Choices and Outcomes
- 3 Policy Option Discussion

Previous findings often relate to the failure to interrupt criminal behavior for a high volume of people.

- Overwhelming caseloads on county supervision.
- Failure to adopt swift responses to probation violations.
- High volume of property and drug cases in prison and jail.
- High volumes of short min and probation violator admissions to prison.
- 61 percent of felonies that are property and drug offenses.
- 75 percent of cases in Levels 2 and 3 of the sentencing grid.

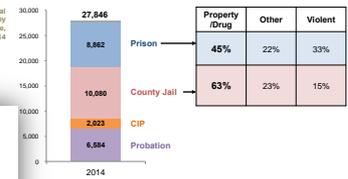
Almost a quarter million people are supervised by 65 county adult probation departments on any given day.



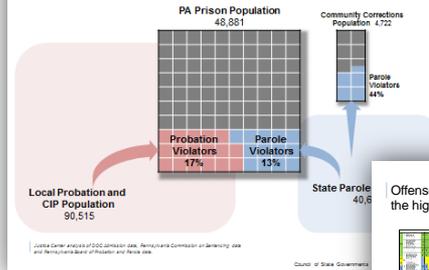
Recap of Findings about Sentencing

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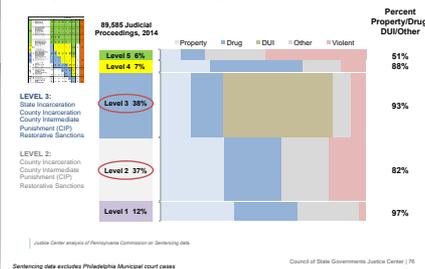
An array of options and mandates overlays the guidelines, and yet the guidelines allow wide variation with insufficient guidance. Property and drug offenses drive sentencing volume and comprise large proportions of sentences to jail and prison.



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



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



Justice reinvestment policy directions all involve reducing recidivism.

How do we increase the odds of interrupting criminal behavior across a broad population during the pretrial period, while on probation, and during incarceration?

- Early assessment
- Shift sentencing paradigm to include risk reduction
- Strengthen supervision with a continuum of interventions to cause behavior change
- Respond effectively to violations with swift, low-severity sanctions
- Reserve hard beds for dangerous people

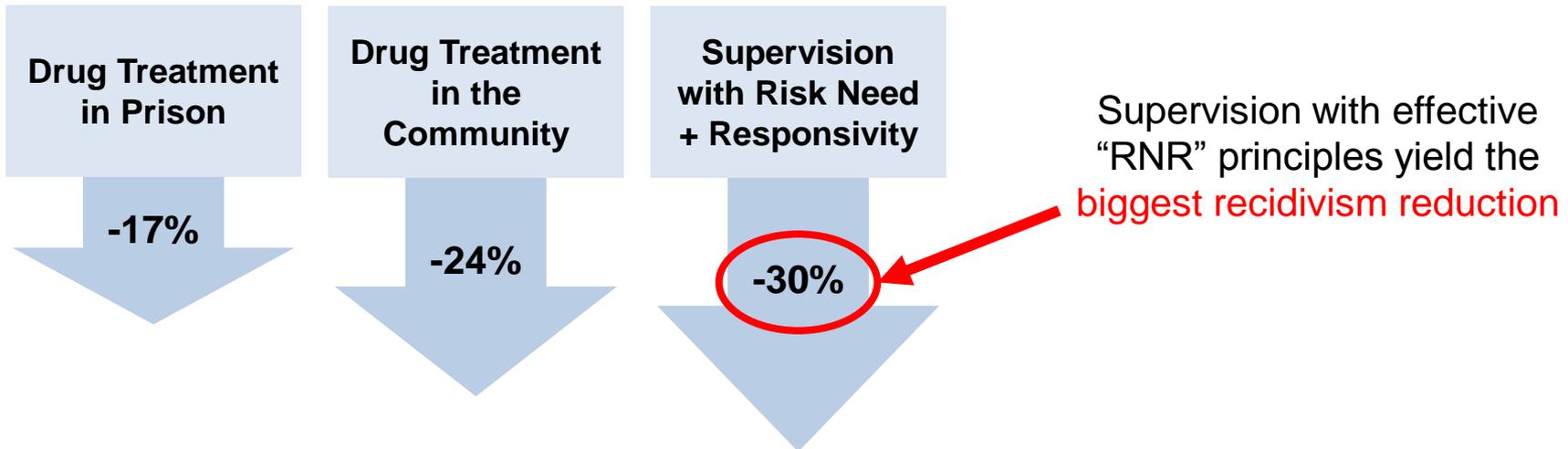


Reinvest hard bed savings into pretrial assessment and diversion, supervision, and effective interventions.

Risk-Need-Responsivity (RNR) principles are key to containing costs and reducing recidivism when delivering treatment on community supervision.

Impact of Treatment

Intervention on Recidivism Rates



Studies have shown that treating **low-risk** people actually *increases recidivism*, while treating **high-risk** people with high-intensity programming dramatically *decreases recidivism*.

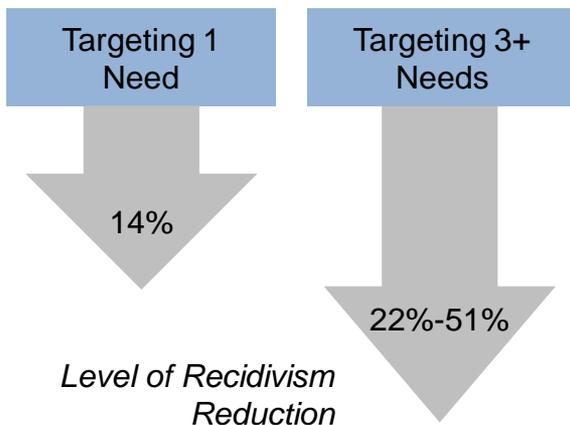
Further, providing very low-intensity programming to high-risk people does little, if anything, to reduce recidivism.

Source: Donald Arthur Andrews and James Bonta, *The Psychology of Criminal Conduct* (Cincinnati: Anderson, 2010); Lee, S., Aos, S., Drake, E., Pennucci, A., Miller, M., & Anderson, L. (2012). *Return on investment: Evidence-based options to improve statewide outcomes*, April 2012 (Document No. 12-04-1201). Olympia: Washington State Institute for Public Policy.; Latessa, Lovins, and Smith, "Follow-up Evaluation of Ohio's Community Based Correctional Facilities, Outcome Study, February 2010

To reduce recidivism, programs must address individually tailored need areas that drive criminal behavior.

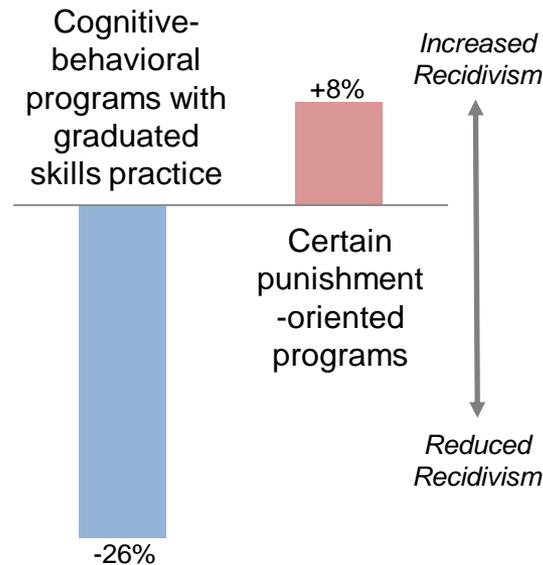
Addressing just one need is insufficient to change behavior

Addressing only one criminogenic factor has significantly less of an impact than addressing multiple factors for those who have multiple needs



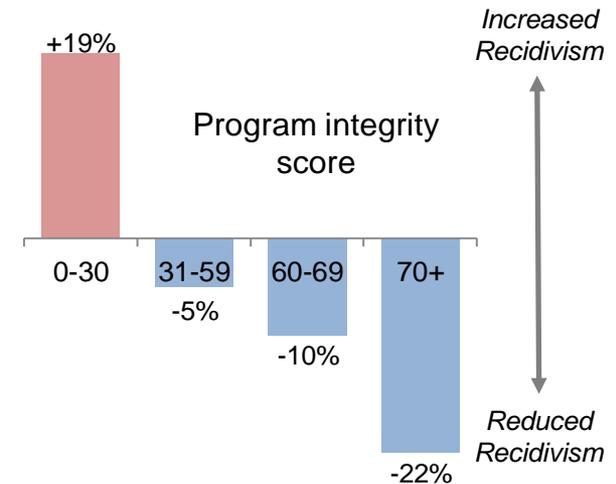
Programs must be based on proven curricula or principles of effective intervention

Evidence-based practices significantly reduce recidivism, while some punitive approaches can increase negative results



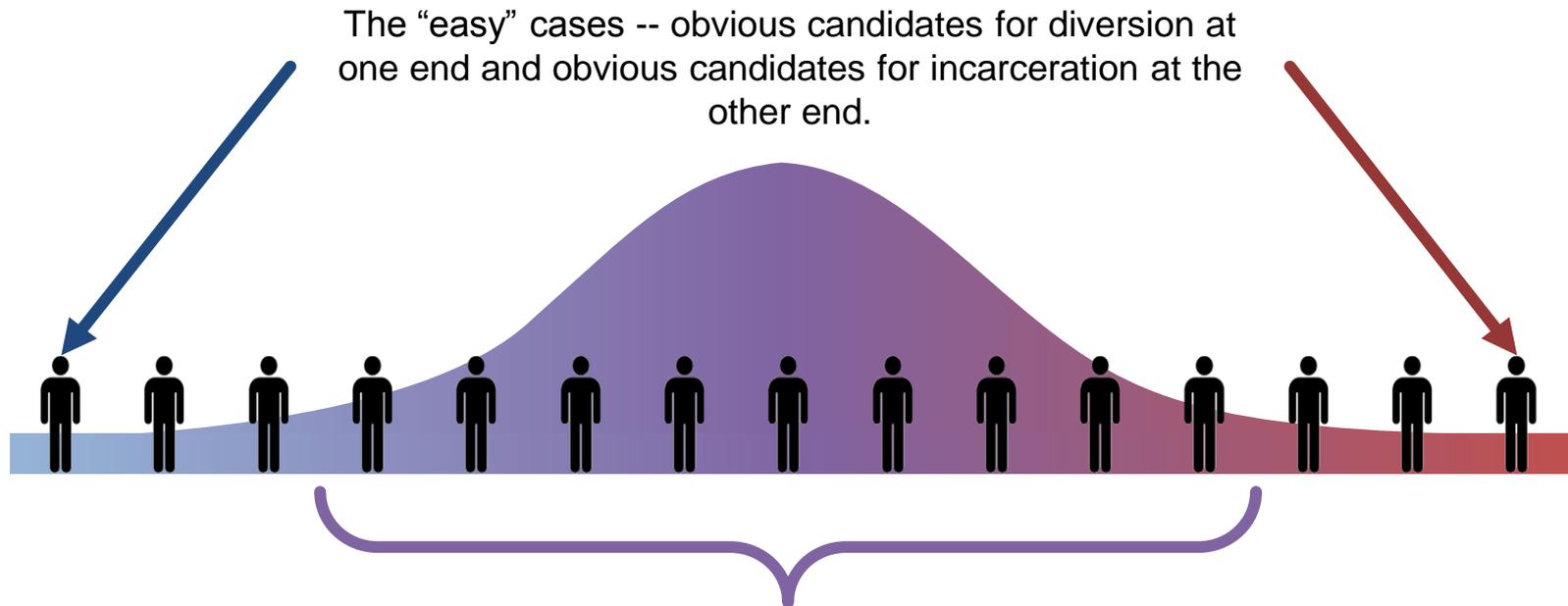
Programs must have high integrity

Program integrity is how closely a program aligns with best practice standards (fidelity to the model).



Source: Andrews and Bonta, *The Psychology of Criminal Conduct*, 5th ed. (New Providence, NJ: Mathew and Bender & Company, Inc., 2010); Lowenkamp, Latessa, and Holsinger, "The Risk Principle in Action: What Have We Learned from 13,676 Offenders and 97 Correctional Programs?" *Crime and Delinquency* 52, no. 1 (2006): 77-93

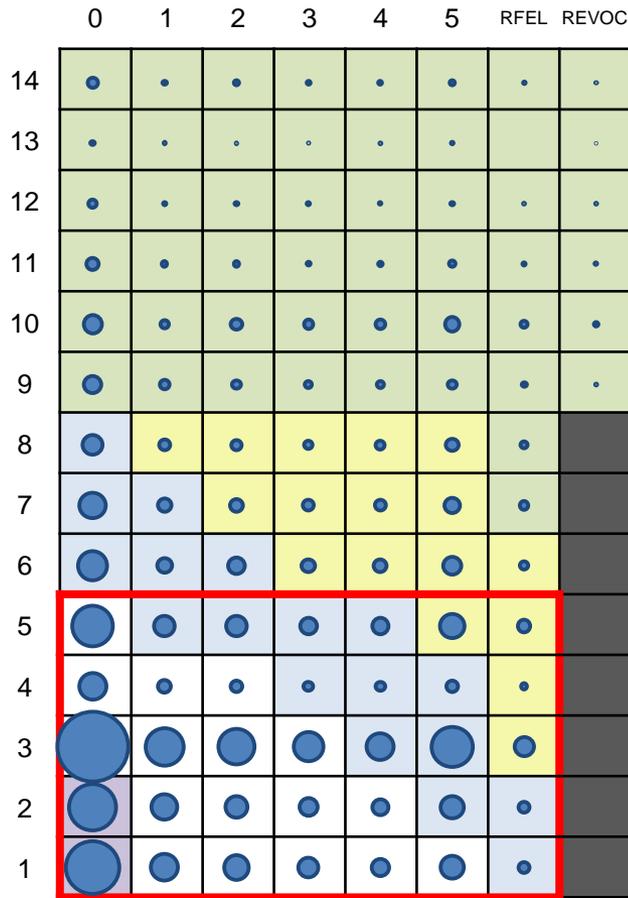
The policy focus is on the high volume of people in the middle of the spectrum.



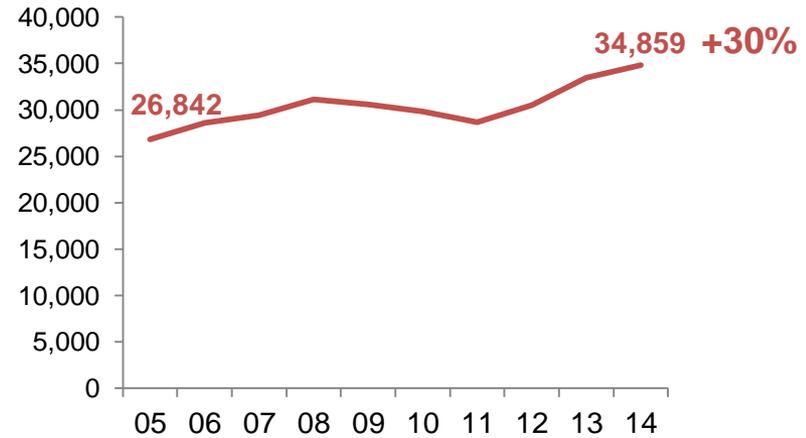
The mid-range population is harder to address and costs the state more, with high volume, high recidivism rates, and complex intervention needs. Currently there is little dispositional guidance for this population. “Cost-effective accountability” is necessary for this population.

79 percent of sentences are OGS 5 or lower, and most of those are in the growing volume of property and drug offenses, excluding DUI.

Non-DUI Sentences, 2014



Property and Drug Offense Sentences, 2005-2014

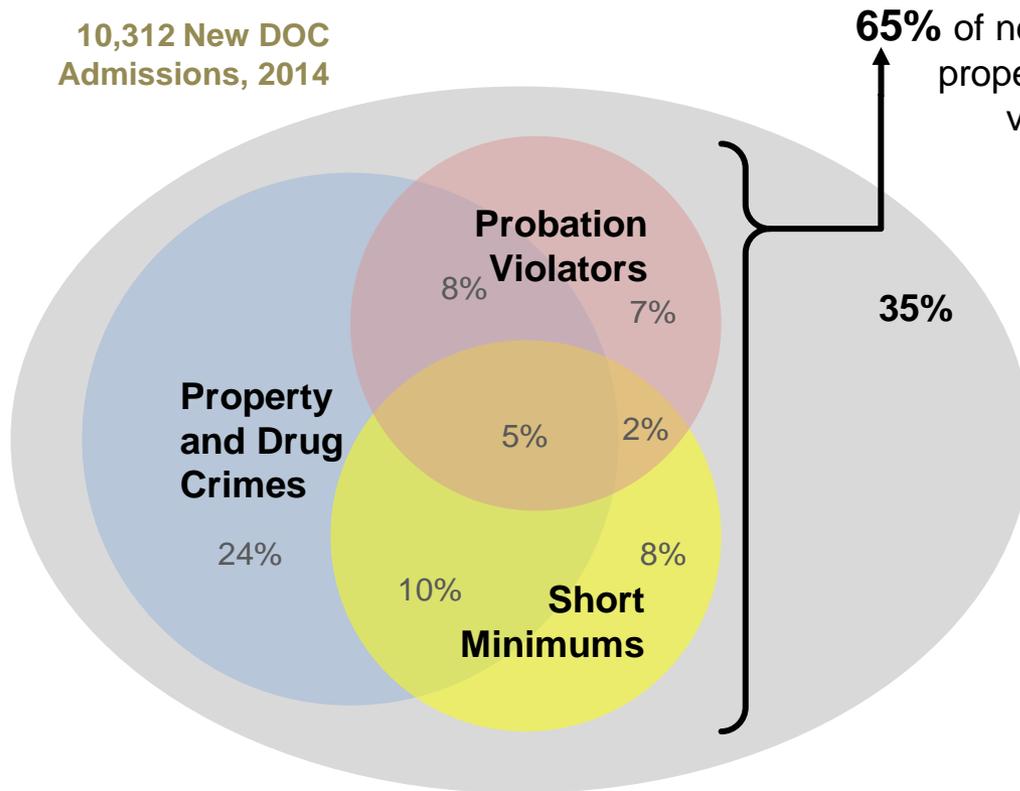


79% fall in OGS 5 or lower

3 out of 5 sentences in this range are property/drug offenses

Almost two-thirds of new prison admissions are property and drug crimes, probation violators, or short mins.

10,312 New DOC Admissions, 2014



65% of new admissions were either property/drug crimes, probation violators, or short minimum sentences.

Short min property and drug admissions to prison illustrate high criminogenic risk, long criminal histories and significant behavioral health issues.

Prior Record Score	5
Violated a period of community supervision	91%
Ever had a drug problem	91%
Moderate or high risk	90%
One or more prior incarcerations	53%
Sanctioned for institutional behavior	48%
Any history of violence	37%

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

One case example, chosen at random from OGS 5, PRS 5 short min prison sentences, personifies this challenging population.

Criminal History

First arrest at age 13. **Seventeen prior arrests** with charges including: truancy, receiving stolen property, drug manufacture/ sale/possession with intent, theft, robbery, simple assault, burglary, disorderly conduct, unauthorized use of a motor vehicle, reckless endangerment, harassment, criminal mischief.

Prior sanctions: juvenile probation, juvenile detention, adult probation (4x), jail (6x), prison (1x).

Social History

Reports sexual abuse as a child, father used heroin, sister died of an overdose, childhood spent in juvenile placement or on streets. Dropped out of school in 11th grade, got GED while in jail. Never held a job for more than a year, works odd jobs or steals for income, has no assets, homeless, and has LFOs (at least \$6,500). Has two children.

Since previous release from DOC in 2010, reported abuse of alcohol, marijuana, and valium/Xanax daily; crack-cocaine and opiates weekly. In and out of treatment since 2001. Reports several suicide attempts. Diagnosed with polysubstance dependence, substance-induced mood disorder, history of psychosis, probably substance induced, and antisocial personality disorder. Recommended for therapeutic community (waitlisted) and violence prevention (completed) programming. High criminogenic risk.

Mr. H



Current Sentence

2014 short min prison sentence (1 to 3 years) for F3 retail theft (>\$2000)

Prison admission 5/2014, minimum date 12/2014, max date 12/2016

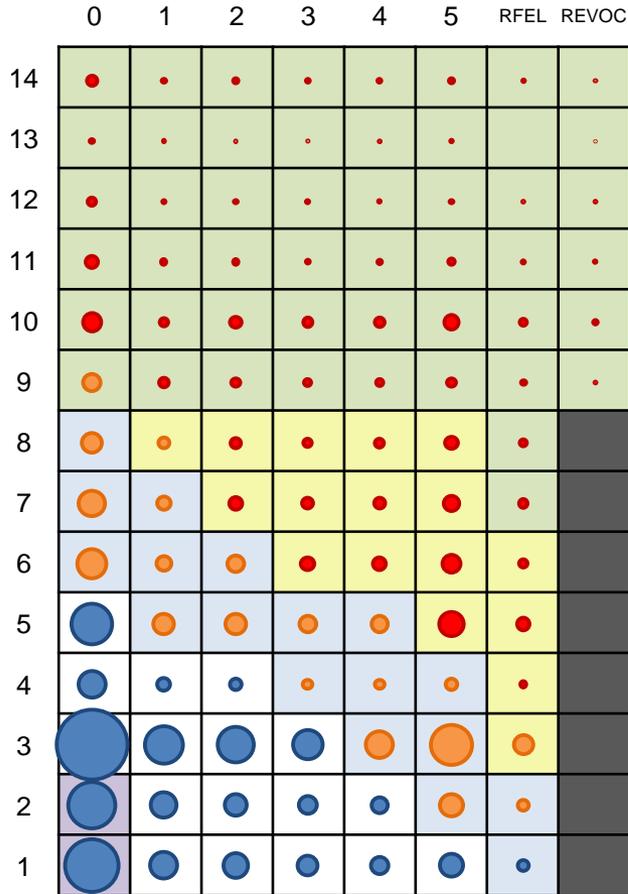
In 12/2013, Mr. H. attempted to take five televisions out the back door of a Wal-Mart. He reported he had quit taking his psych meds and was self-medicating by using alcohol, marijuana, and Xanax at the time.

Update

Paroled to center 2/2015 on maximum supervision with 15 special conditions imposed. Went to a drug treatment center, failed for testing positive, went to another treatment program and completed it. Has been paroled to home plan since 3/2016.

Guideline prior record scores reflect continued criminal behavior and drive admissions into more severe, expensive, and longer sanctions.

Non-DUI Judicial Proceeding Sentences by Most Frequent Sanction, 2014
N=71,468



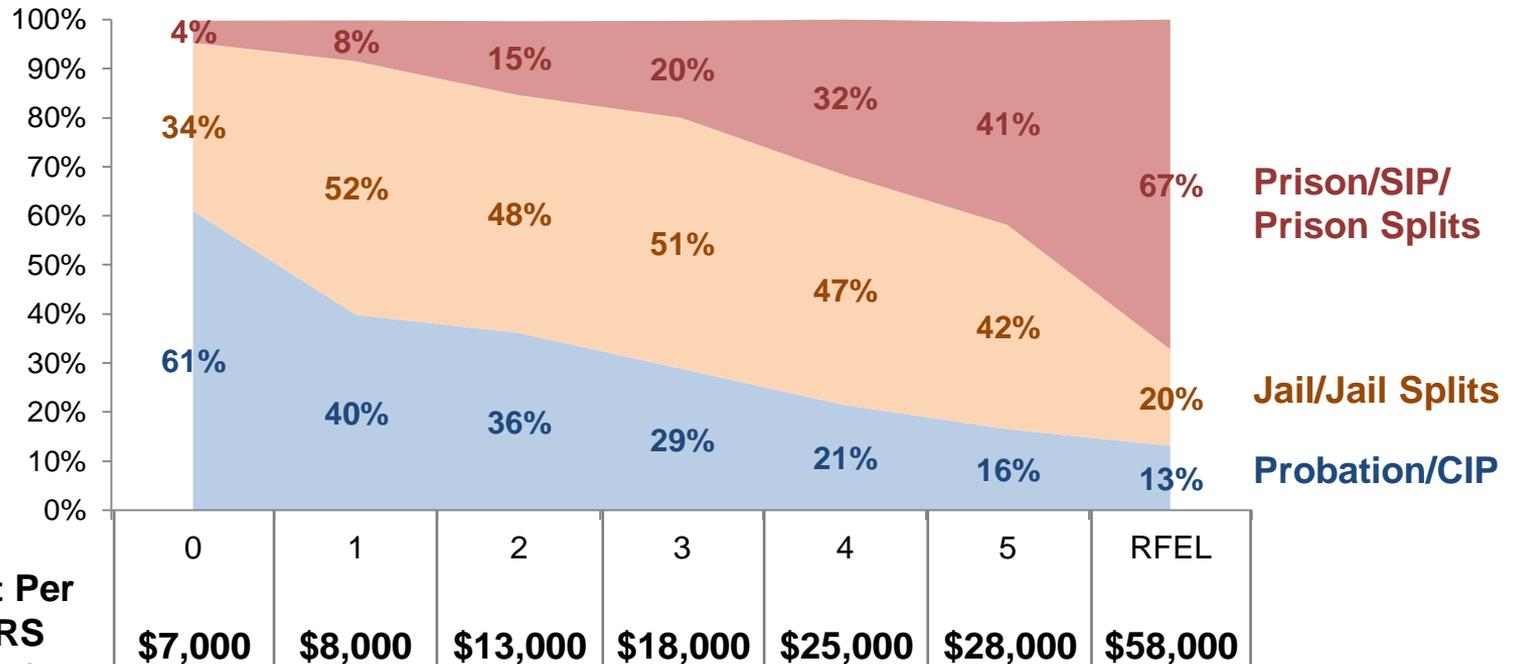
Largest Proportion of Sanctions

-  Probation / CIP
-  Jail / Jail Splits
-  Prison / Prison Splits / SIP

As PRS scores increase, so does the proportion of people sent to more costly sanctions with longer sentences—increasing retribution but not the intensity of the behavioral intervention to interrupt the cycle of recidivism.

Sentences for OGS 5 property and drug offenses show the progression toward jail and prison as PRS increases.

OGS 5 Property and Drug Sentences by PRS and Sanction Type, 2014



Minimum Cost Per Sanction by PRS
(sanction proportion x per diem x min sentence length)

Currently the state is willing to ratchet up the costs of sanctions for individuals with higher PRS who are cycling through the system, without a proven benefit in terms of reduced recidivism.

Justice Center analysis of Commission on Sentencing data.

As sanction severity increases, so does cost, without proven effect on recidivism.

Property and Drug Offenses	Probation	CIP	D&A RIP ¹	Jail	Prison
Estimated Annual Admissions	22,000	1,400	1,000	12,000	4,700
Estimated Average Length of Stay	20.0 months	18.0 ² months	15.8 ² months	4.5 months	30.5 months
Annual Cost per Participant	\$1,000 ³	\$1,300 ⁴	\$4,130	\$24,500 ⁵	\$36,500 ⁶
Cost per Sentence (Length of Stay x Cost per Day)	\$1,667	\$1,950	\$5,438	\$9,188	\$92,771
Total Cost per Year (Cost per Sentence x Annual Admissions)	\$37M	\$3M	\$5M	\$110M	\$436M
Bearer of Cost	County	County <small>with some state support</small>	State	County	State
Likelihood of Receiving Risk-reduction Programs/Treatment	Possible	Possible	Certain	Unlikely	Likely
Recidivism Rate	Initial explorations of comparative recidivism rates are included later in this presentation.				

1. State Funded D&A RIP only.
2. Average LOS for all offense types.
3. Legislative Budget and Finance Committee, Funding of County Adult Probation Services, February 2015.
4. Cost estimate based on blend of state and county funds.
5. Average statewide county jail cost per day in 2014.
6. Fully loaded cost per year.

Note that these cost estimates do not include the additional cost of post-incarceration supervision.

To improve outcomes without increasing costs, the state could consider changing LOS and reinvesting savings.

OGS 3,4,5	PRS 0,1 Low	PRS 2,3,4 Moderate	PRS 5+ High
Most Common Sentencing Option	Probation	Probation/Jail	Jail/Prison
Average Cost of Sentencing	\$6,000	\$13,000	\$28,000
3-Year Rearrest Rate	~36%	~48%	~52%
Alternative Scenario			
Example reduction in length of stay (LOS) and cost of incarceration	No change	Reduce LOS/ cost by \$5,000	Reduce LOS/ cost by \$15,000
Possible reinvestment in services to be used on probation or post-release supervision	Up to \$1,000	Up to \$3,000	Up to \$10,000



Overview

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- 2 Sentencing Choices and Outcomes
- 3 Policy Option Discussion

Two measures of recidivism: rearrest, and rearrest or incarceration, within three years of a defined starting point.

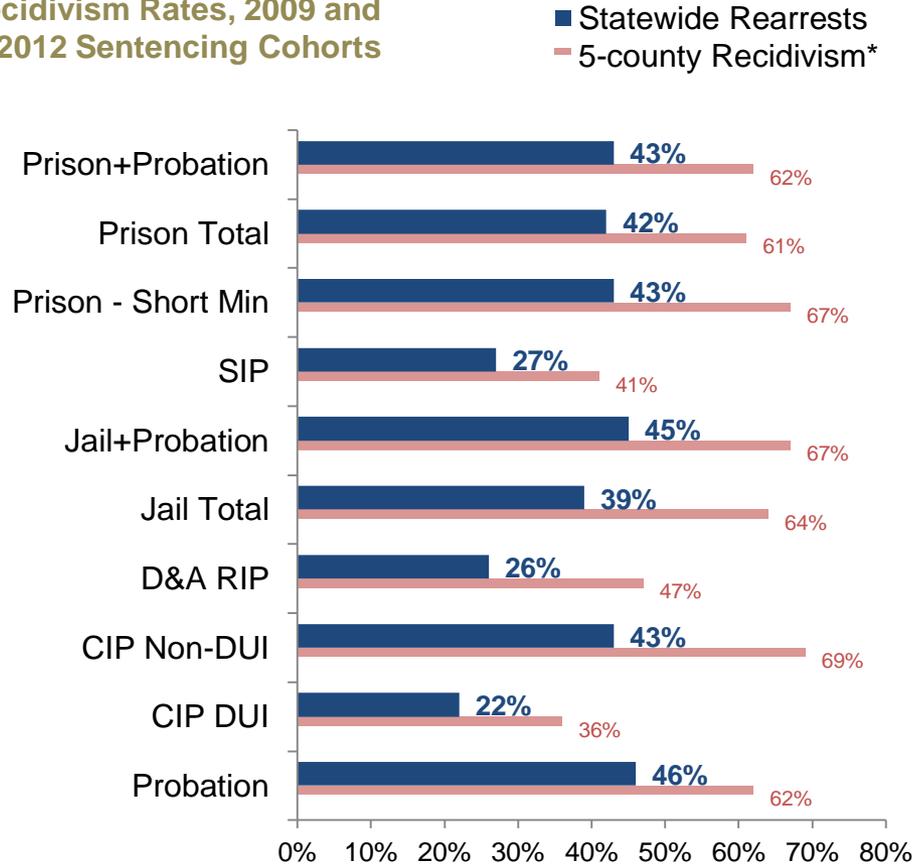
	Statewide Rearrest Analysis	Five-County Overall Recidivism Analysis
Cohort	Level 2, 3, and 4 sentences only from two sentencing years combined (2009 and 2012). Person-based sentencing, looking at the first sentence of the year per individual. Sentencing data excludes Philadelphia Municipal court cases.	Level 2, 3, and 4 sentences only from two sentencing years combined (2009 and 2012) in five counties (Allegheny, Lackawanna, Lehigh, Northampton, Westmoreland). Person-based sentencing, looking at the first sentence of the year per individual.
Treatment Groups	<ul style="list-style-type: none"> • Probation • CIP • D&A RIP subgroup of CIP (state funded only) • Jail • Jail + Probation 	<ul style="list-style-type: none"> • SIP • Prison • Prison + probation • Subgroups of DUI vs. Non-DUI offenses when needed for CIP comparisons
Recidivism Measure	<p>3-year rearrest rate</p> <p>For probation/CIP/D&A RIP/SIP sentences, the clock starts at sentence date. For jail sentences, the clock starts at the estimated jail release date (min date). For prison sentences, the clock starts at the actual release date.</p>	<p>3-year overall recidivism rate including rearrest and incarceration in jail or prison</p> <p>For probation/CIP/D&A RIP/SIP sentences, the clock starts at sentence date. For jail and prison sentences, the clock starts at the actual release date.</p>

PA DOC, CSG, UMD, Commission on Sentencing, PCCD sentencing recidivism analysis.

Observed recidivism rates alone are insufficient because they may reflect selection bias rather than effects of the treatment.

Three-year Observed Recidivism Rates, 2009 and 2012 Sentencing Cohorts

N
1,566 268
5,686 810
2,313 302
445 75
16,030 2,514
46,124 5,591
1,110 404
4,836 1,144
11,396 4,323
38,295 9,687



The rates to the left should not be compared across sanction categories because they often reflect the type of individual sentenced to that option rather than representing the effect of the sanction on the individual.

The five-county overall recidivism rates are higher than rearrest rates because they capture returns to jail or prison that may not have been accompanied by an arrest such as a revocation or sanction for a technical violation of supervision. It is important to consider overall recidivism because if a group is reincarcerated at a different rate for technical violations or something that didn't involve an arrest, then their rearrest rate will appear lower simply because they were not in the community and able to get rearrested.

PA DOC, CSG, UMD, Commission on Sentencing, PCCD sentencing recidivism analysis.

* The overall recidivism results for the five counties should not necessarily be considered representative of the state as a whole.

Propensity Score Matching allows researcher to control for individual factors and compare the outcome of treatments by their merits.

Introduction to Propensity Score Matching

- When random placement in treatment and control groups is not possible and we want to compare outcomes between different treatment groups that have inherent selection bias, we have to control for the covariates (factors that may contribute to the outcome).
- Propensity Score Matching (PSM) is a statistical approach to reducing the bias due to covariates and measuring the effect of the treatment on matched groups.
- The match attempts to compare the subjects who 'look alike' - subjects who were comparable in terms of covariates prior to treatment. If two individuals both have the same propensity score based on their covariates, we can essentially rule out these factors as influences on the treatment assigned and the outcome.
- Covariates should precede the treatment assignment temporally, and should be theoretically relevant to determining treatment assignment, and/or determining the outcome.

Covariates in sentencing analysis:

Age

Race

Sex

County Class

Offense Type

OGS

Sentencing Level

PRS

Prior Arrest Offense Categories

Age at First Arrest

Recidivism Analysis Caveats and Limitations

- While propensity score matching works to counteract the effects of selection bias, matched comparison rates only represent those cases that could be included in the matched groups, not the entirety of those sentenced to each option.
- The covariates used in the analysis are limited to those that we have access to in the data. For example, a substance abuse indicator would likely be very helpful for comparing sentencing options like SIP, CIP, and D&A RIP, but that data was not available.
- Overall recidivism measure could only be completed for five counties where we had access to jail admission and release data. These five counties are not necessarily representative of the entire state.
- The jail rearrest period is based on an estimated date of release from incarceration (the minimum date), therefore the three-year exposure period for recidivism will not always be entirely accurate.
- A small percentage of cases from sample cohorts were dropped for various reasons such as missing ID numbers, or conflicting release information.
- SIP and CIP recidivism events may be slightly under-counted because they are incarcerated in the first phase of the program and less exposed to rearrest/reincarceration.
- It is important to keep in mind the difference between statistical significance and practical significance. Statistical significance tests whether we can rule out chance as the explanation for any difference in outcomes, and is influenced by sample size. While a difference of one percentage point may be statistically significant, it is not a strong effect size, and practically speaking, it is not significant.

Descriptive statistics help paint a picture of study group composition.

Covariate Descriptive Stats	Statewide Rearrest Analysis	Five-County Overall Recidivism Analysis
Average Age	34	34
Percent White / Black	68% / 25%	61% / 30%
Percent Male	80%	80%
Percent Violent Offense	13%	14%
Percent Drug Offense	21%	24%
Percent Property Offense	20%	19%
Percent DUI Offense	29%	27%
Average OGS	3.4	3.5
Percent Level 2	42%	43%
Percent Level 3	49%	49%
Percent Level 4	9%	8%
Average PRS	1.6	1.7
Percent with Prior Violent Offense	44%	50%
Percent with Prior Drug Offense	46%	52%
Percent with Prior Property Offense	57%	60%
Percent with Prior Public Order Offense	69%	71%
Average Age at First Arrest	24	24

The five counties are all in population Class 2 (Allegheny) or Class 3 (Lackawanna, Lehigh, Northampton, Westmoreland), all counties over 210,000 people.

Individuals in the five-county cohort had a more diverse racial profile, slightly higher proportion with a drug offense, and longer criminal histories.

Descriptive statistics across sentencing groups reveal some core differences.

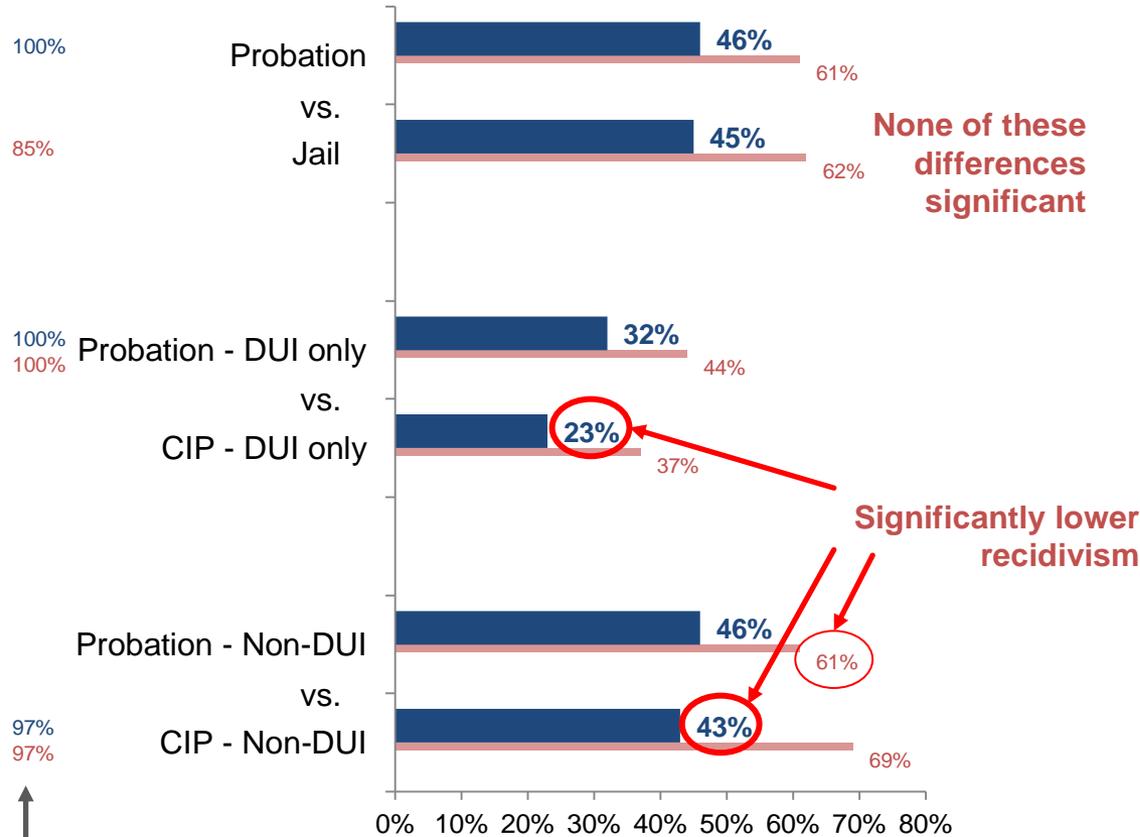
Covariate Descriptive Stats	Probation	CIP	D&A RIP	Jail	SIP	Prison
Average Age	33	36	37	34	34	34
Percent White / Black	65% / 27%	77% / 16%	78% / 16%	69% / 24%	80% / 16%	57% / 34%
Percent Male	74%	78%	76%	83%	82%	91%
Percent Violent Offense	17%	4%	1%	14%	<1%	13%
Percent Drug Offense	27%	13%	28%	15%	41%	39%
Percent Property Offense	29%	7%	8%	18%	19%	22%
Percent DUI Offense	5%	71%	59%	39%	31%	10%
Average OGS	3.1	3.4	5.1	3.3	5.5	5.5
Percent Level 2	79%	12%	5%	30%	10%	9%
Percent Level 3	19%	84%	80%	63%	66%	45%
Percent Level 4	2%	4%	15%	7%	24%	47%
Average PRS	1.3	1.1	1.5	1.7	2.3	3.1
Percent with Prior Violent Offense	45%	29%	27%	44%	28%	58%
Percent with Prior Drug Offense	50%	33%	45%	42%	65%	64%
Percent with Prior Property Offense	65%	38%	40%	56%	61%	67%
Percent with Prior Public Order Offense	56%	86%	81%	75%	71%	67%
Average Age at First Arrest	24	26	27	24	23	22

PA DOC, CSG, UMD, Commission on Sentencing, PCCD sentencing recidivism analysis.

PSM Probation Comparisons: Probation and jail showed similar recidivism outcomes, but mixed results compared to CIP.

Three-year Matched Group Recidivism Rates, 2009 and 2012 Sentencing Cohorts

■ Statewide Rearrests
 — 5-county Recidivism*



For a cohort of probationers matched to a group of people who were comparable in terms of the covariates but were instead sent to jail, recidivism outcomes were essentially the same. So while there was no recidivism benefit from using probation as it is currently funded and run, there is also no gain from utilizing jail, despite the higher cost.

When probationers were compared to matched cohorts of CIP placements, CIP showed better rearrest outcomes for DUI offenses. Non-DUI CIP recidivism results were mixed compared to probation.

Because CIP has such a heavy concentration of DUI, these cohorts were often split by DUI and Non-DUI to improve the quality of the analysis. This is not to suggest anything about how DUI sentencing is approached.

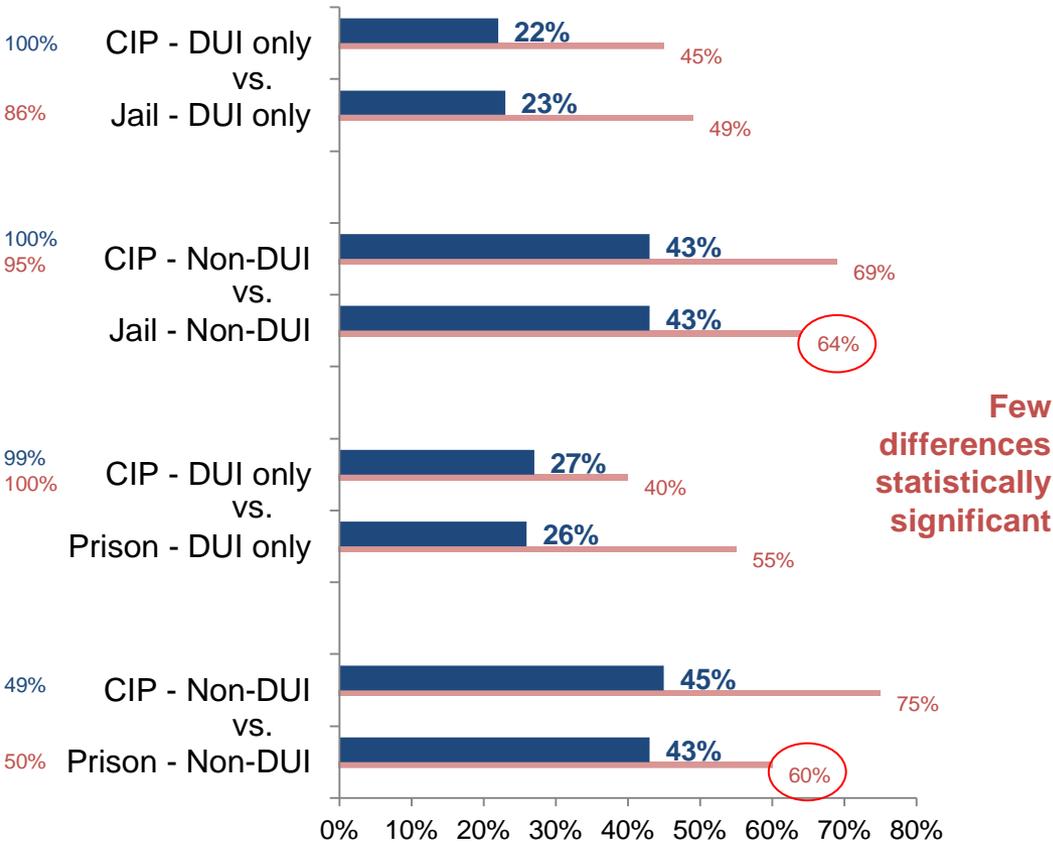
PA DOC, CSG, UMD, Commission on Sentencing, PCCD sentencing recidivism analysis.

* The overall recidivism results for the five counties should not necessarily be considered representative of the state as a whole.

Additional PSM CIP Comparisons: CIP comparisons with jail and prison showed little difference in recidivism.

Three-year Matched Group Recidivism Rates, 2009 and 2012 Sentencing Cohorts

■ Statewide Rearrests
 — 5-county Recidivism*



Additional CIP comparisons with matched groups sentenced to jail and prison showed little significant recidivism benefit, but at the same time reveal that there was no apparent public safety trade off to utilizing the less severe, and less costly sentencing option for those that could have conceivably gone to one option or the other.

Because CIP has such a heavy concentration of DUI, these cohorts were often split by DUI and Non-DUI to improve the quality of the analysis. This is not to suggest anything about how DUI sentencing is approached.

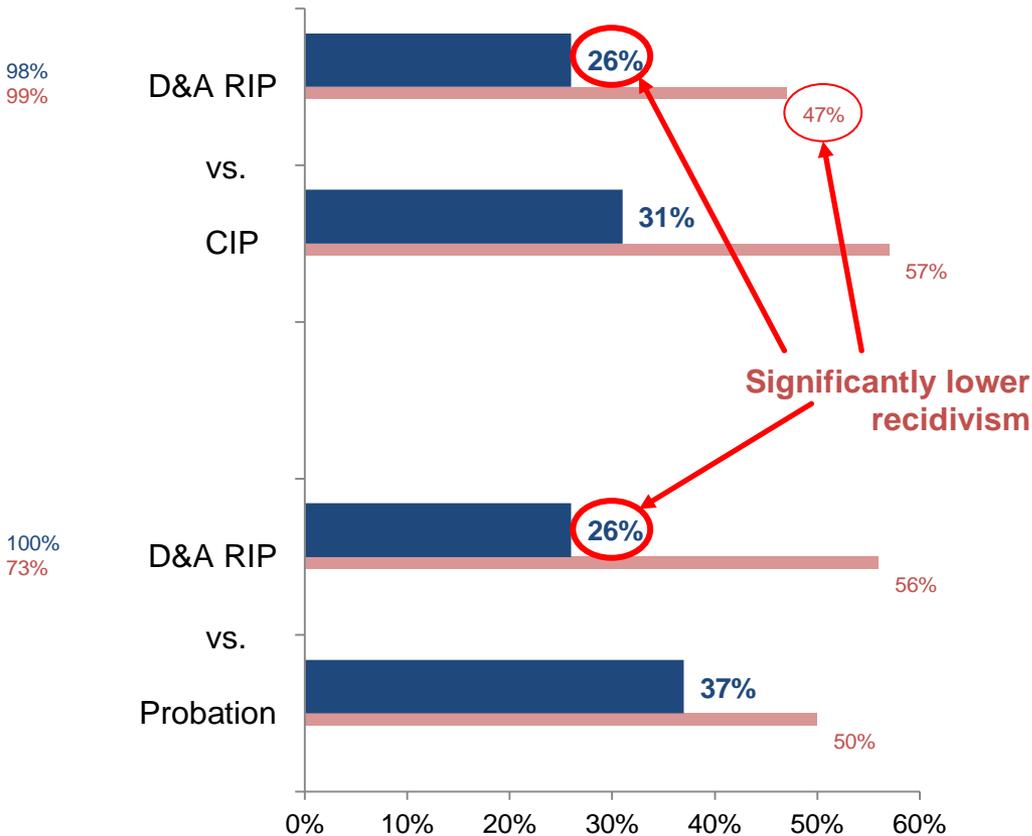
PA DOC, CSG, UMD, Commission on Sentencing, PCCD sentencing recidivism analysis.

* The overall recidivism results for the five counties should not necessarily be considered representative of the state as a whole.

PSM D&A RIP Comparisons: D&A RIP generally had better recidivism outcomes compared to CIP and probation.

Three-year Matched Group
Recidivism Rates, 2009 and
2012 Sentencing Cohorts

■ Statewide Rearrests
— 5-county Recidivism*



The investment made in D&A RIP for more intensive supervision and treatment appears to produce reduced recidivism compared with regular CIP or probation. Note that this refers to state funded D&A RIP program participants only.

This is a material example of frontloading investments in treatment/supervision to aid in interrupting patterns of criminal behavior.

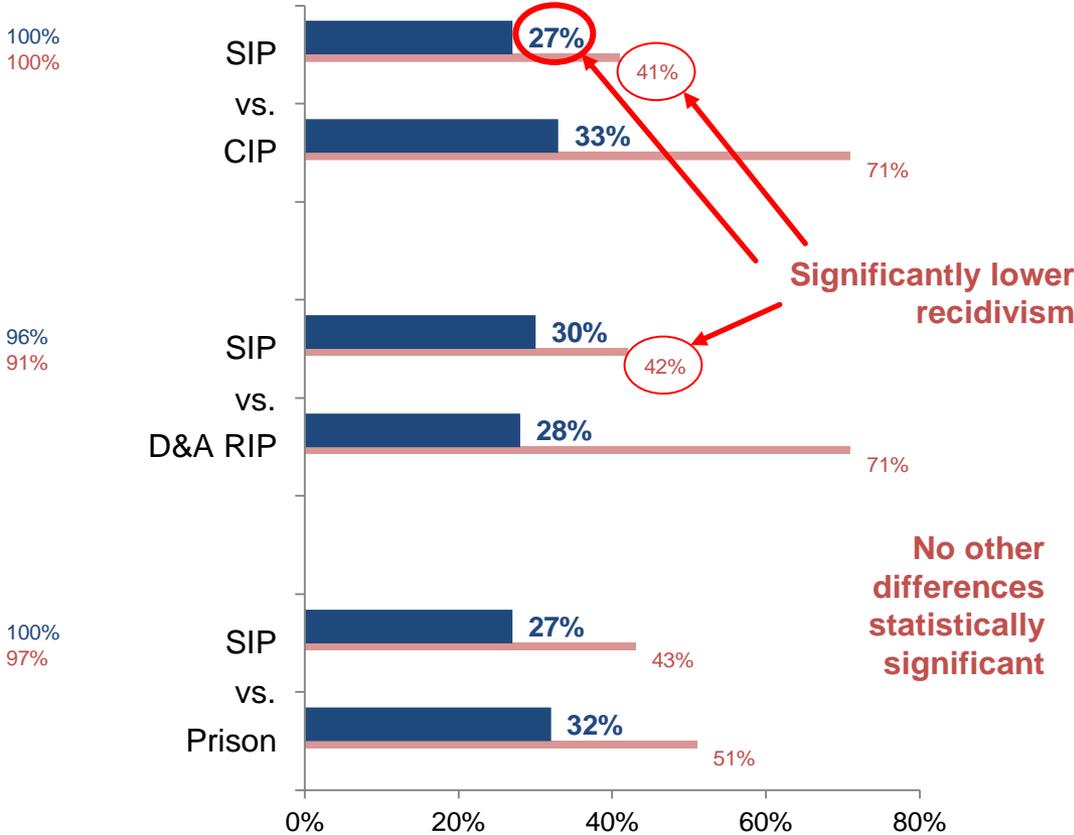
PA DOC, CSG, UMD, Commission on Sentencing, PCCD sentencing recidivism analysis.

* The overall recidivism results for the five counties should not necessarily be considered representative of the state as a whole.

PSM SIP Comparisons: SIP had lower recidivism than CIP and was comparable or better than D&A RIP.

Three-year Matched Group Recidivism Rates, 2009 and 2012 Sentencing Cohorts

■ Statewide Rearrests
 — 5-county Recidivism*



SIP also yields better recidivism-reduction results than CIP. SIP recidivism outcomes were similar to D&A RIP.

SIP recidivism was not significantly lower than regular prison sentences, however, and comparing SIP to all prison sentences without more careful matching on SIP statutory eligibility criteria (including diagnosed substance abuse problem) means that this may not be a fair comparison.

SIP sentences do save money due to shorter lengths of stay compared to regular prison sentences, without increased recidivism.

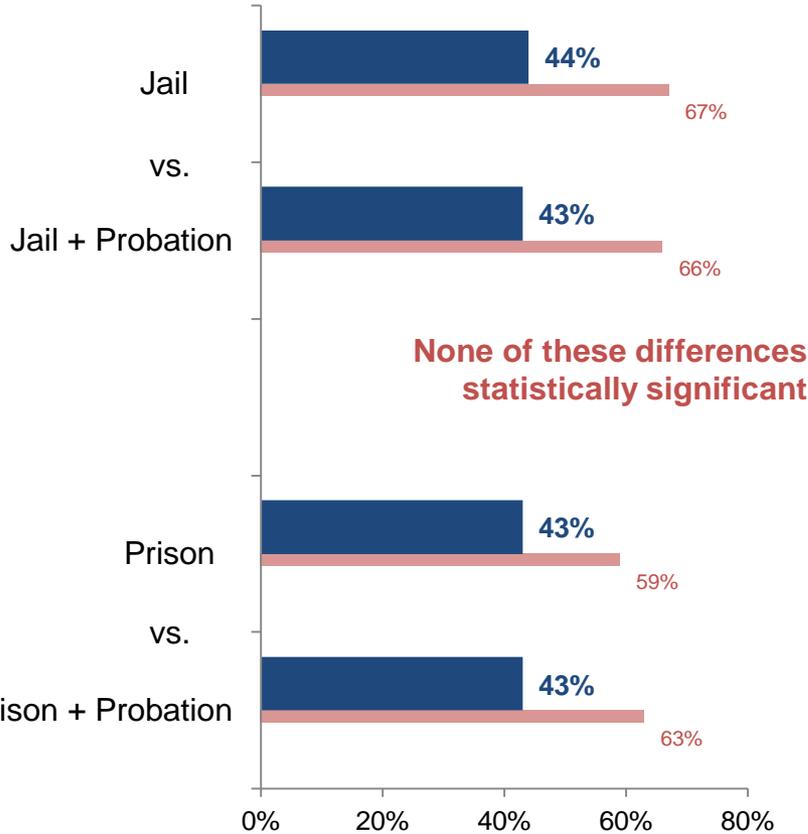
PA DOC, CSG, UMD, Commission on Sentencing, PCCD sentencing recidivism analysis.

* The overall recidivism results for the five counties should not necessarily be considered representative of the state as a whole.

PSM Split Sentence Comparisons: Split sentences did not improve recidivism rates compared to jail or prison alone.

Three-year Matched Group Recidivism Rates, 2009 and 2012 Sentencing Cohorts

■ Statewide Rearrests
 ■ 5-county Recidivism*



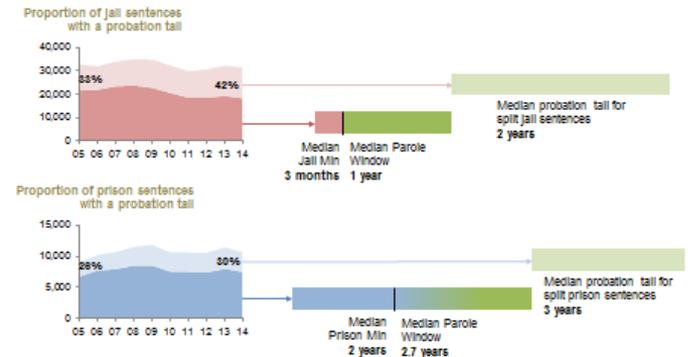
77%
55%

98%
86%

Split sentences show no recidivism benefit compared to straight incarceration sentences to jail or prison.

If split sentences are meant to increase accountability by creating extended periods of post-release supervision, as indicated in the judicial survey, they do not appear to achieve that goal.

Reminder: Our second presentation showed the increasing use of split sentences to jail and prison.



Justice Center analysis of Pennsylvania Commission on Sentencing data.

Sentencing date excludes Philadelphia Municipal court cases

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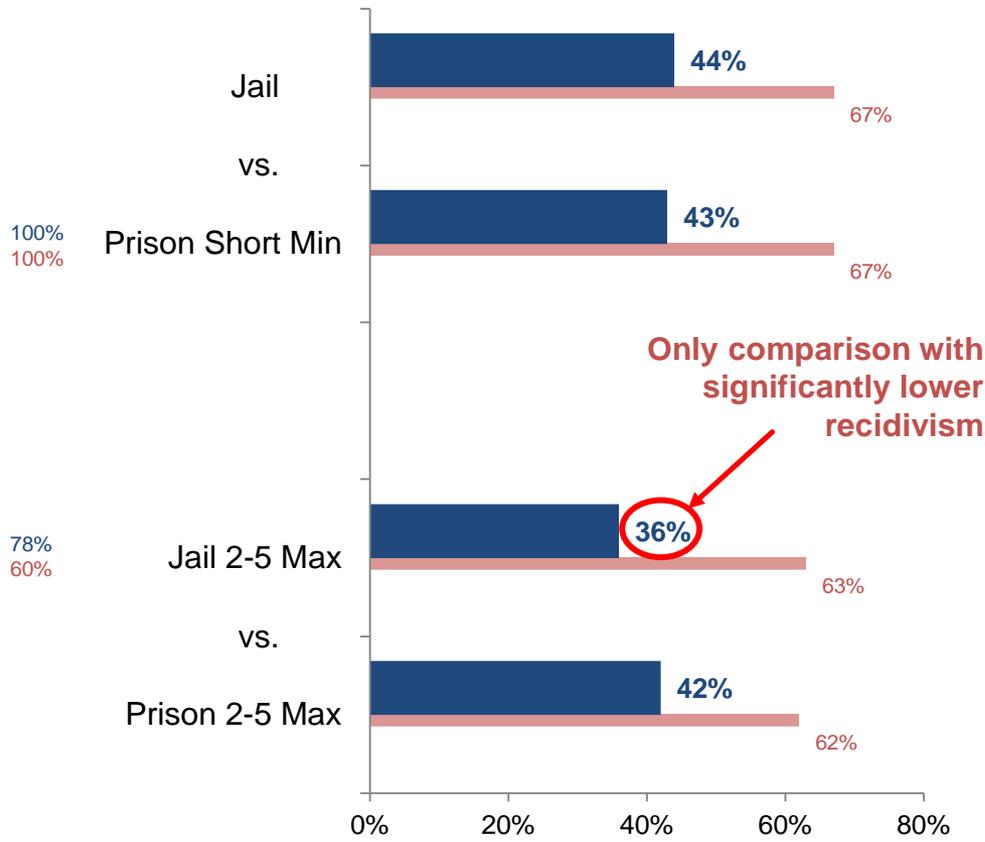
PA DOC, CSG, UMD, Commission on Sentencing, PCCD sentencing recidivism analysis.

* The overall recidivism results for the five counties should not necessarily be considered representative of the state as a whole.

PSM Prison Short Min Comparisons: Short min prison sentence recidivism rates were indistinguishable from jail.

Three-year Matched Group Recidivism Rates, 2009 and 2012 Sentencing Cohorts

■ Statewide Rearrests
 — 5-county Recidivism*



Short min prison sentences showed no significant improvement in recidivism compared to similar groups sentenced to jail. Among other short incarcerations, jail sentences with a maximum sentence of 2 to 5 years were rearrested at a significantly lower rate than prison sentences of comparable maximum length.

Prison sentences have a higher cost per day compared to jail (fully loaded cost) and they often serve well beyond their minimum. Jail sentences typically release at their minimum.

If the purpose of holding short mins beyond their minimum sentence length is to make sure they complete programming before parole, that programming is not paying off in terms of reduced recidivism.

PA DOC, CSG, UMD, Commission on Sentencing, PCCD sentencing recidivism analysis.

* The overall recidivism results for the five counties should not necessarily be considered representative of the state as a whole.

Recidivism Analysis Recap

- 1) Probation recidivism outcomes were similar to jail at a lower cost.
- 2) CIP had lower rearrest rates than probation for DUI offenses, although the results were slightly mixed for recidivism among non-DUI offenses.
- 3) CIP comparisons with jail and prison showed little difference in recidivism, but at lower cost.
- 4) D&A RIP had better outcomes compared to CIP and probation.
- 5) SIP recidivism was lower than CIP and was comparable or better than D&A RIP. SIP recidivism also appeared to be lower than prison, but the comparison to general prison sentences is difficult to make.
- 6) Split sentences did not improve recidivism rates compared to jail or prison alone.
- 7) Short min recidivism rates were no different from jail rates. Other short prison sentences (2 to 5 max) had a higher rearrest rate than similar jail sentences. Prison stays are more costly due to both a higher per diem and average releases well beyond the min date compared to jail.

Pennsylvania can improve outcomes by focusing resources on more intensive recidivism-reducing services.

Cost of ratcheting up sanctions in sentencing...

- As criminal history grows, costs of sanctions increase and spending is concentrated on incarceration rather than services.
- The additional dollars spent on sanctions and incarceration do not result in better recidivism outcomes.
- Research shows that investments in high-quality services and supervision (that intensify based on risk to reoffend) are a more efficient and safe way to focus spending.

...offers potential for restructuring investments more effectively.

- Achieve a more balanced trade-off between length of incarceration and risk-reduction services.
- Reduce lengths of stay for short mins beyond their minimum sentence.
- Reinvest savings into effective programs and interventions that reduce recidivism, focusing the most intensive services on those with higher PRS scores.

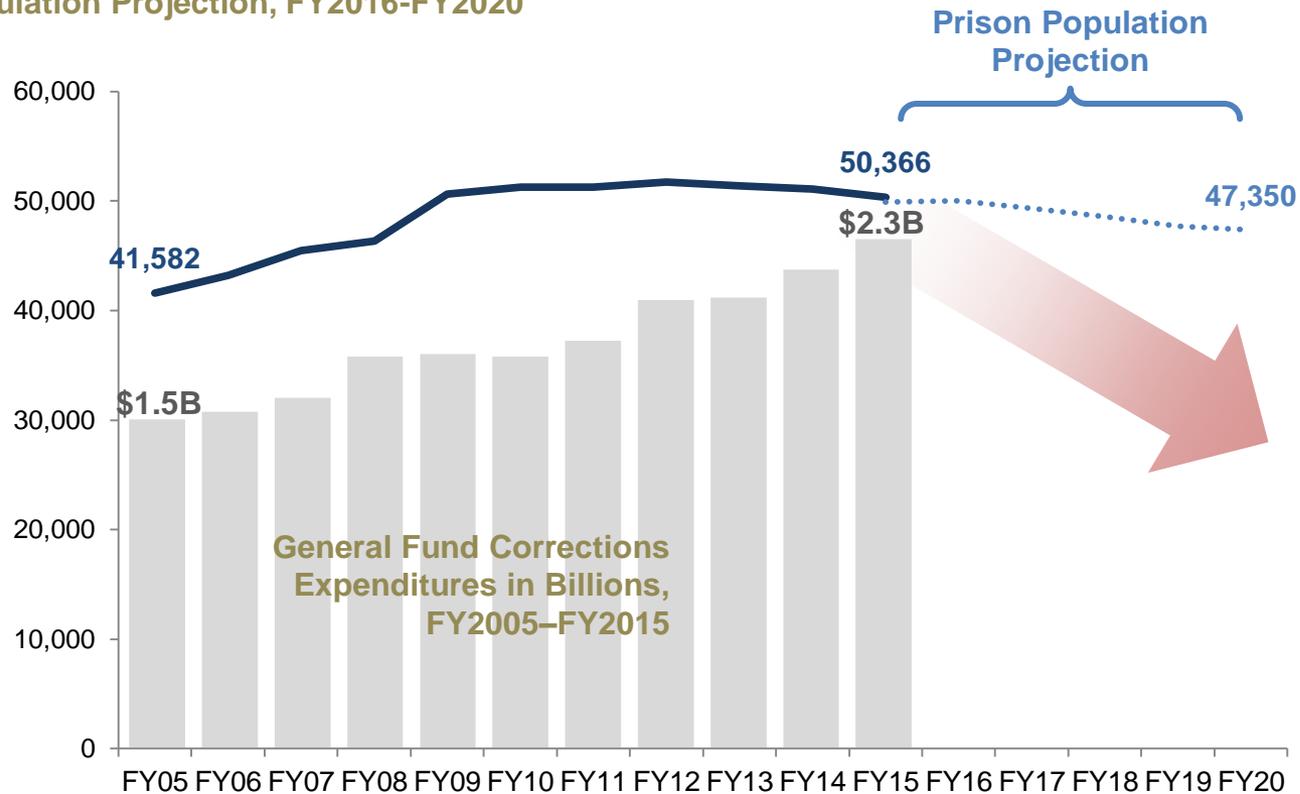


Overview

- 1 Focusing on Recidivism Reduction
- 2 Sentencing Choices and Outcomes
- 3 Policy Option Discussion

Reinvestments to reduce recidivism will require consensus on policies to reduce the corrections population and expenditures.

**Pennsylvania Prison Population, FY2005-FY2015
and Population Projection, FY2016-FY2020**



DOC Annual Statistical Report. Criminal Justice Population Projections Committee, Pennsylvania
Criminal Justice Population Projections, FY2015/16 to FY2019/20.

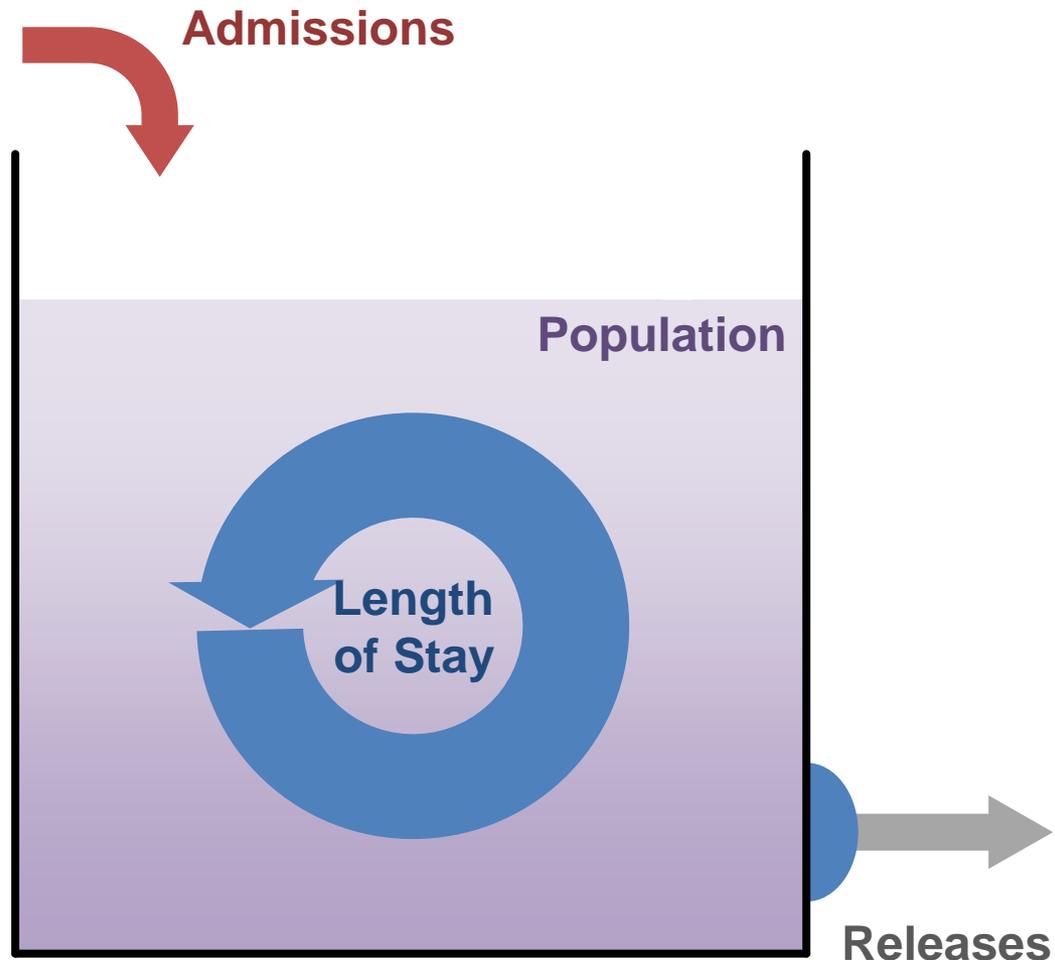
Reducing corrections population means changing admission volume, length of stay, or release volume (or some combination).

In a state of equilibrium, admission volume equals release volume, average length of stay is constant, and the population total is stable.

- Rising admissions alone can increase the population (e.g., more crime, arrests, or convictions).
- Population could also increase without rising admissions, just longer stays (e.g., harsher penalties).

This is average length of stay for the entire population. If the mix of inmates/sentence lengths changes, so will the average length of stay.

- In a state with discretionary parole, the number and timing of parole releases affects length of stay and population.
- If admissions and length of stay both increase, the population can increase rapidly as was seen in the 1980s and 1990s.
- In order to reduce the population, either admissions, or length of stay, or both have to be reduced.
- Sometimes reductions are made in one area but other increases cancel them out, resulting in little population change (e.g., shorter stays for violators, but a larger revocation volume).



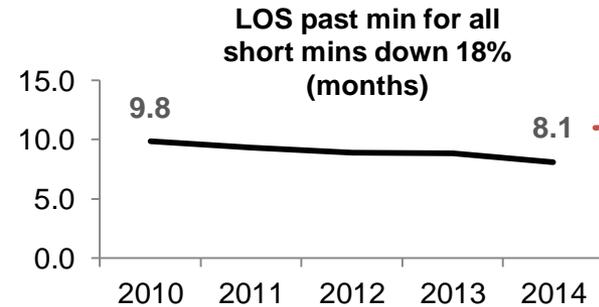
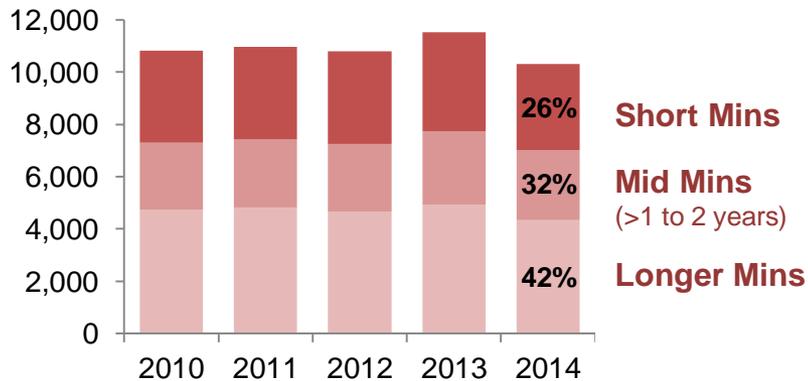
Summary of New and Previously-Identified Major Challenges

Challenge

A.	Inefficient short sentences to prison
B.	Lack of dispositional advice to reduce recidivism
C.	Insufficient probation funding, governance, and adoption of evidence-based approaches
D.	Unguided use of community corrections beds
E.	Insufficient investment in recidivism-reduction services, victims services, and pretrial reform
F.	Increase state focus on front-end issues

A. Inefficient short sentences: \$69M per year to hold short mins an average of 8 months beyond minimum sentence to prison.

Prison Admissions by Min Length, 2010-2014



Prisoners with a minimum sentence of one year or less constitute a quarter of new admissions.



Justice Center analysis of Pennsylvania Department of Corrections data.

* Based on DOC fully loaded cost per year.

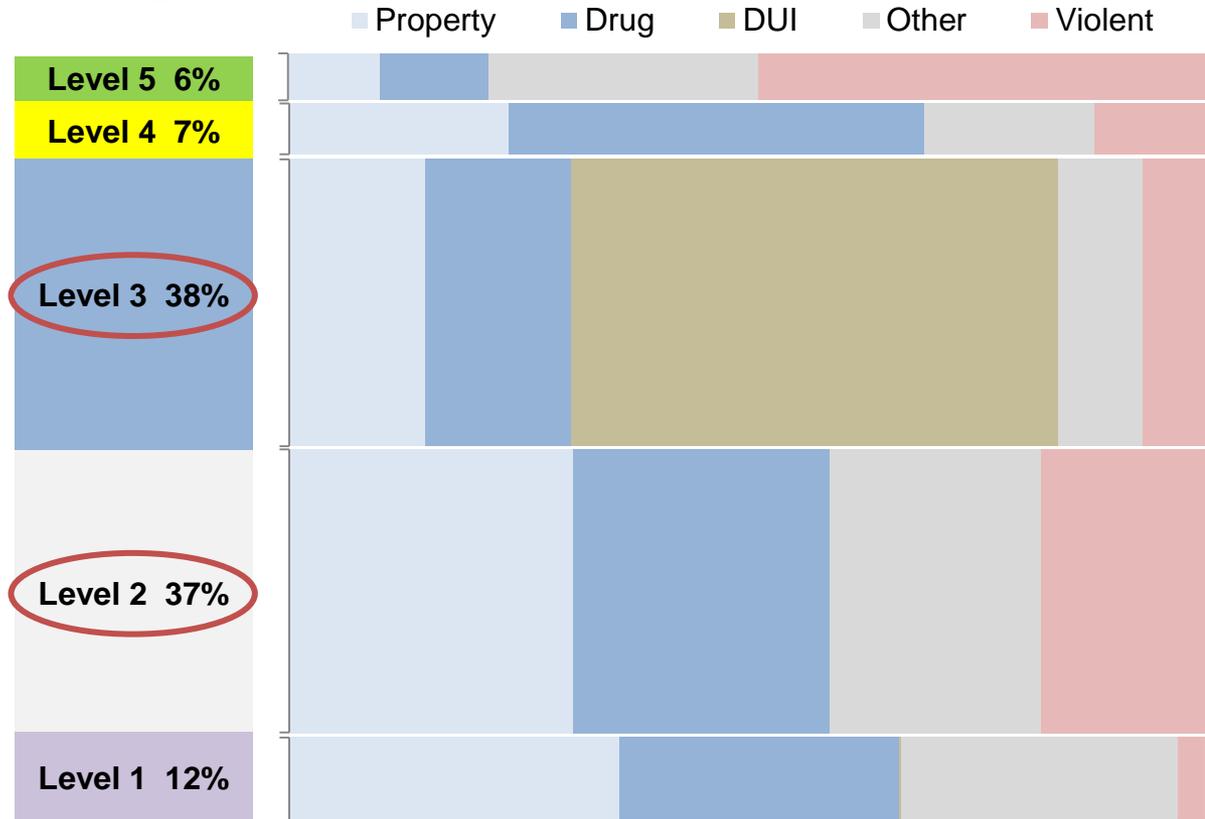
Discussion of Policy Considerations

	Challenge	Policy Considerations
A.	Inefficient short sentences to prison	<ul style="list-style-type: none">➤ Reduce time served beyond minimum on short sentences to prison, which cost the state \$69 million per year but do not result in lower recidivism rates.➤ Avoid strategies that would simply shift the burden or expense to county jails.➤ Weigh the pros and cons of alternative ways that these individuals would serve a more predictable minimum sentence.➤ Determine how best to provide risk-appropriate length of supervision following release.

B. Lack of dispositional guidance: 75 percent of sentences in Levels 2 and 3

Case Type	Level 1	Level 2	Level 3	Level 4	Level 5
Property	15%	15%	15%	15%	15%
Drug	10%	10%	10%	10%	10%
DUI	5%	5%	5%	5%	5%
Other	10%	10%	10%	10%	10%
Violent	5%	5%	5%	5%	5%

89,585 Judicial Proceedings, 2014



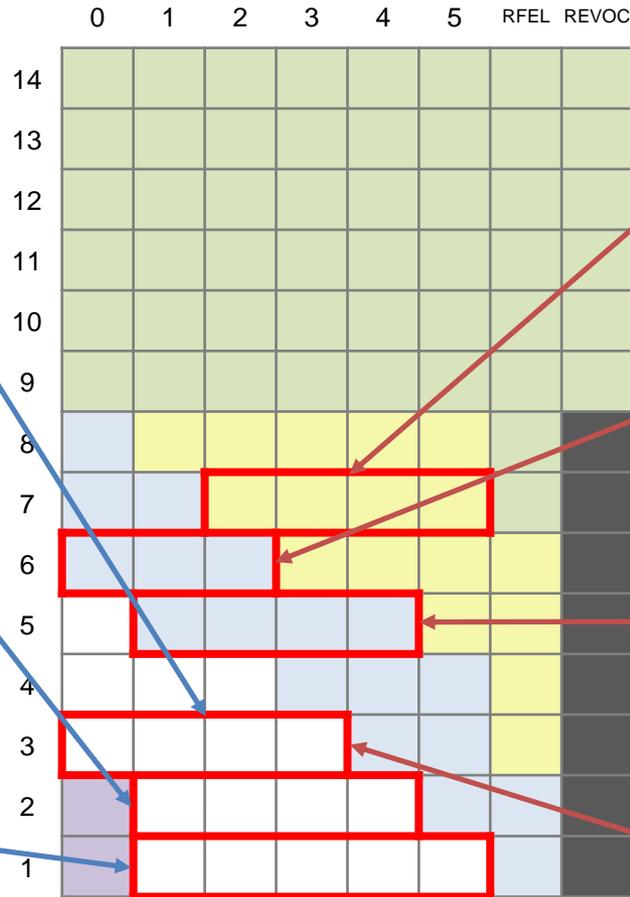
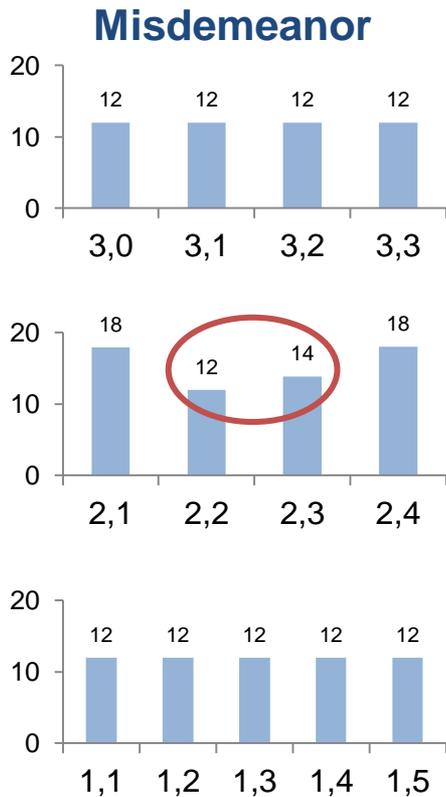
LEVEL 3:
 State Incarceration
 County Incarceration
 County Intermediate Punishment (CIP)
 Restorative Sanctions

LEVEL 2:
 County Incarceration
 County Intermediate Punishment (CIP)
 Restorative Sanctions

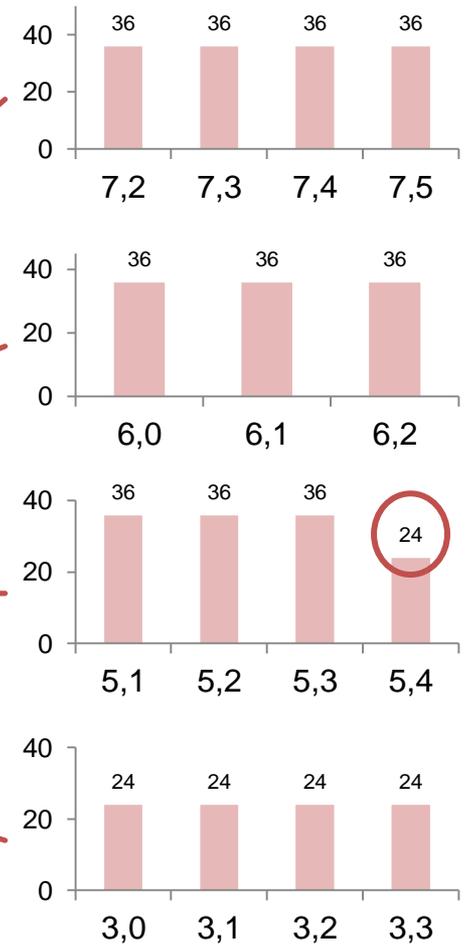
Justice Center analysis of Pennsylvania Commission on Sentencing data.

B. Lack of dispositional guidance for terms of probation

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



Felony

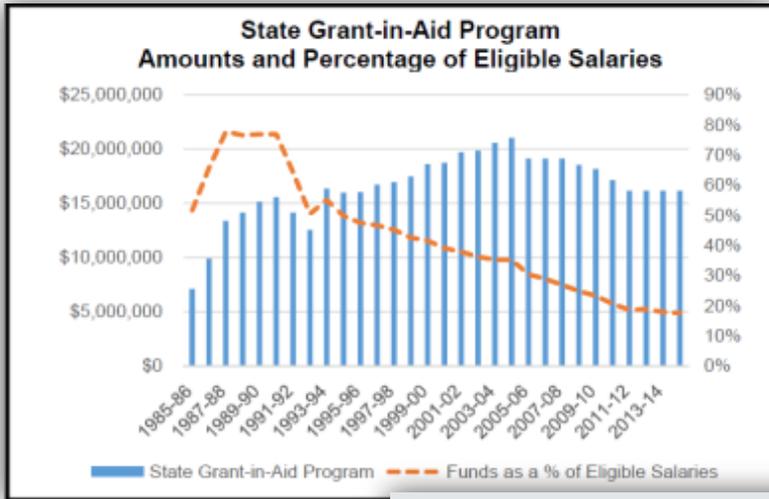


Justice Center analysis of Pennsylvania Commission on Sentencing data.

Discussion of Policy Considerations

	Challenge	Policy Considerations
B.	Lack of dispositional advice to reduce recidivism	<ul style="list-style-type: none">➤ Weigh various methods to accomplish this goal for select OGS levels and offense types.➤ Recalibrate PRS scores to better reflect risk and achieve more balance between length of incarceration and risk-reduction services.➤ Guide risk-appropriate term lengths for probation, split sentences, and parole-term maximums.➤ Determine how the legislature and commission could work in concert to enable such mechanisms.

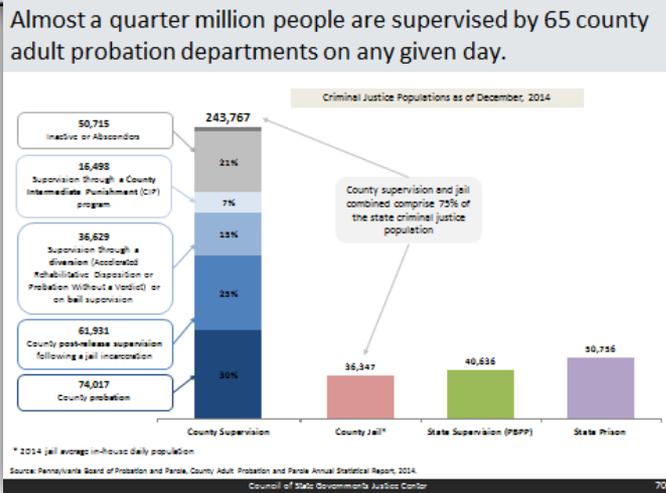
C. Insufficient probation funding and governance



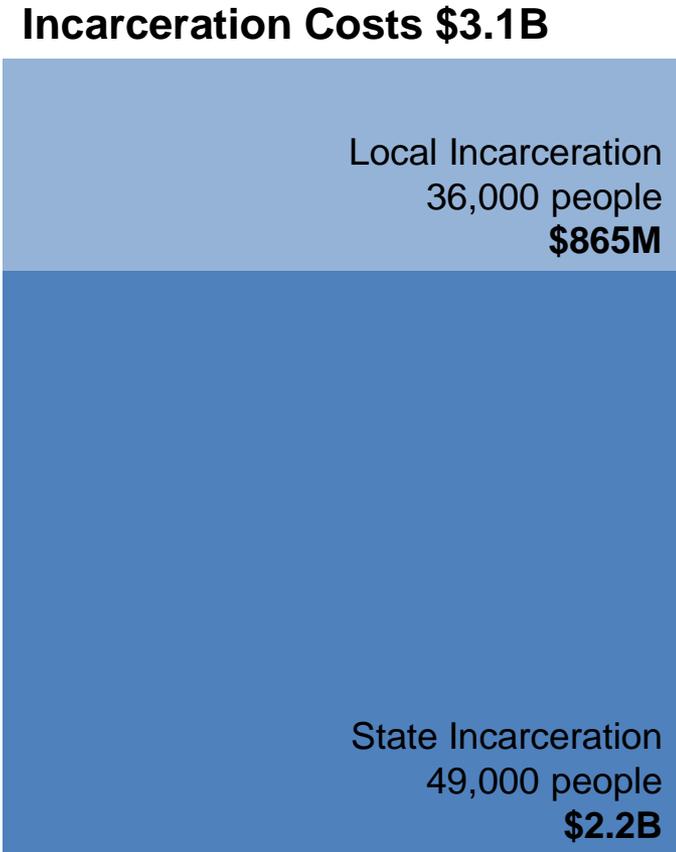
Reminder: County-based probation presents a challenge with governance, and current efforts to drive reform necessarily involve a host of entities.

Goal 3
Establish, with AOPC, CCAP, PCPD, 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.

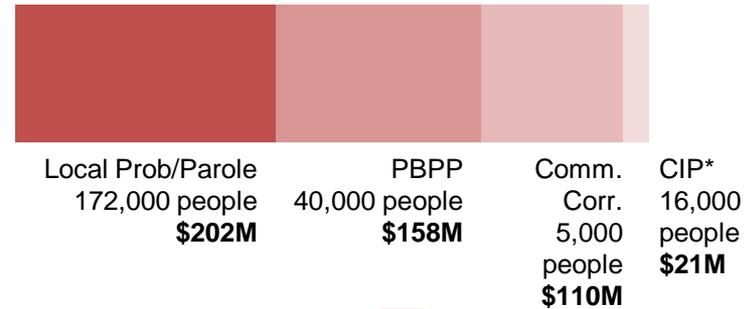
PROSP: Evidence-Based Practices Strategic Plan, 2016-2019
Council of State Governments Justice Center | 13



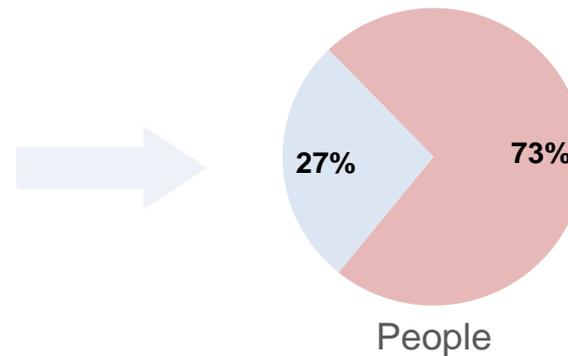
C. Supervision accounts for 73 percent of the correctional control population but only 14 percent of expenditures.



Community-based Criminal Justice Costs \$491M*



* Does not include the unknown amount spent on CIP by counties.



C. Texas spends about \$800 state and \$450 county dollars per probationer per year, versus \$100 and \$730 in Pennsylvania.



Texas

In Texas

State funding for local probation in FY2016 - \$311M

County Funding - \$170M (includes program participant fees, supervision fees, and other funds including federal grants)

Total felony and misdemeanor probationers (2015) – 383,000

= **\$800** per probationer per year from state funds
\$450 per probationer per year from county funds
\$1,250 per probationer per year total



Pennsylvania

In Pennsylvania

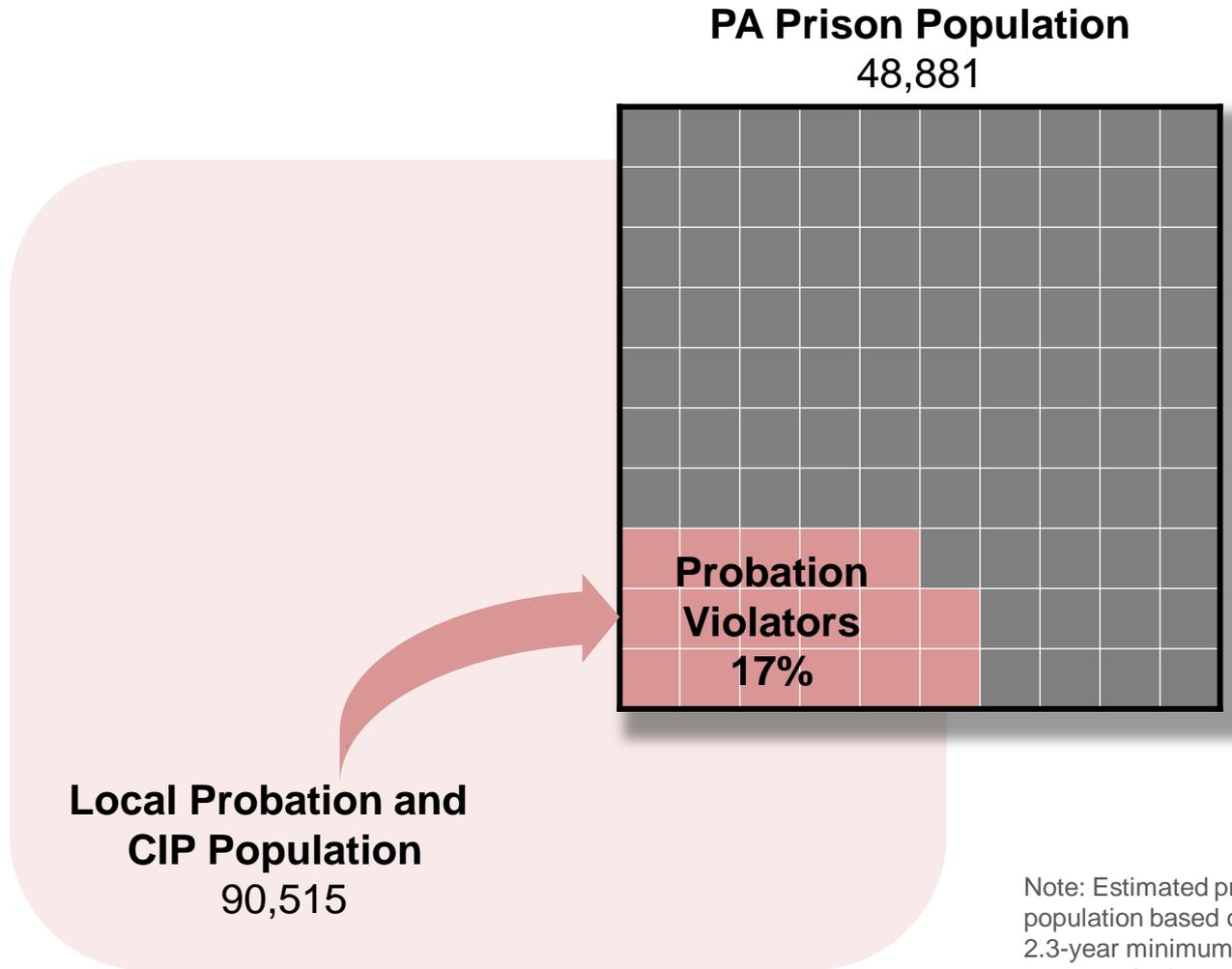
State funding for local probation in FY2015 (GIA + PCCD funds) - \$24M

County funding - \$177M (includes fees grants and county funds)

Total felony and misdemeanor probationers, local parolees, and those on CIP, ARD and bail supervision (2014) – 244,000

= **\$100** per probationer per year from state funds
\$730 per probationer per year from county funds
\$830 per probationer per year total

C. Probation violators as a driver of prison population



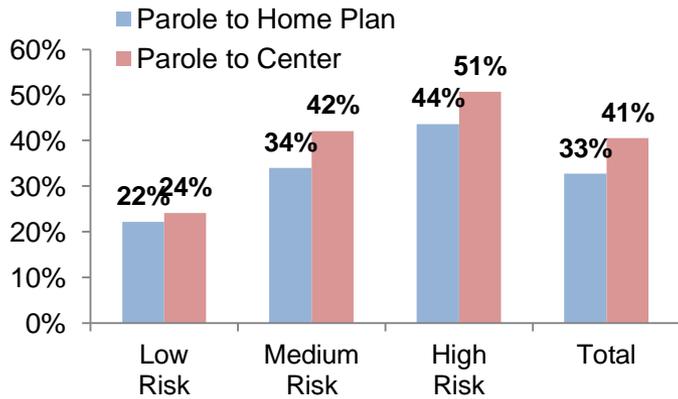
Note: Estimated probation violator proportion of the population based on 2,351 matched admissions x 2.3-year minimum sentence x 150% average percent of min served at first release = 8,100 beds.

Discussion of Policy Considerations

	Challenge	Policy Considerations
C.	Insufficient probation funding, governance, and adoption of evidence-based approaches	<ul style="list-style-type: none">➤ Reconceive the probation funding structure.➤ Leverage an existing agency to achieve oversight and advocacy of adult probation.➤ Improve uniformity and quality of community supervision and programming across the state.➤ Improve statewide case-level data collection and monitoring.➤ Change behavior by responding to violations proportionately and saving long lengths of stay in prison for more important uses.

D. Unguided use of community corrections beds

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



We showed that recidivism rates were higher for people paroled to center versus to home plan, but the working group wanted to investigate outcomes for those coming back into community corrections or the SCI on violations as well.

	Average Length of Stay	Annual Admissions	Per Diem	Cost per Sanction	Cost per Year
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 (Technical only)	6.7 months	1,600	Marginal \$17 Fully Loaded \$100	Marginal \$3,467 Fully Loaded \$20,393	Marginal \$6M Fully Loaded \$33M

PA DOC analysis of community corrections recidivism data, Community Corrections Centers, January 2016 PA DOC JPM and JRI Dashboards, Cost per day information received from PA DOC.

* Based on DOC RST risk assessment instrument.

D. DOC was also able to use Propensity Score Matching to analyze outcomes for parole violators.

Cohort: Technical parole violators successfully discharged from parole violation facilities between June 2013 and December 2014 – post JRI I.

Treatment Groups:

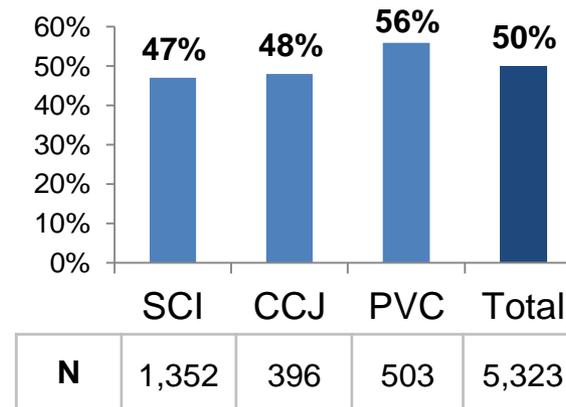
Technical parole violator releases from PVC, CCJ, SCI.

Recidivism Measure: 1 year rearrest or return to a secure DOC or Community Corrections facility.

Covariates in parole violator propensity score matching analysis:

Age
Race
Sex
Offense Type
Remaining Sentence Length
County
Parole District
Supervision Level
Prior Arrests
Prior Incarcerations
Prior Sanctions and Violations
Severity of Violations
Risk Score

One-year Observed Recidivism Rates for Technical Parole Violators by Facility Type, June 2013-December 2014 Releases

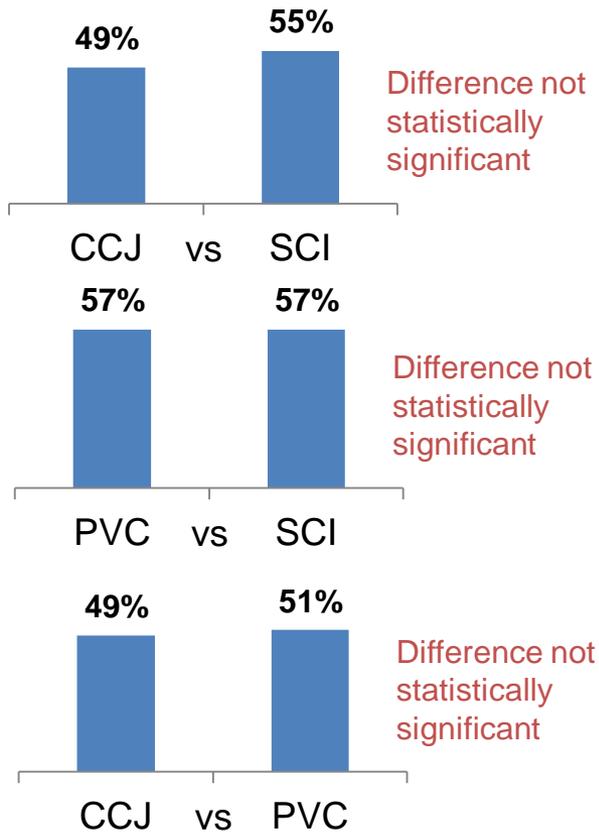


The problem with the observed recidivism rates alone is that we do not know how much they are influenced by the type of people being sent to that facility versus the effects of the treatment or sanction received.

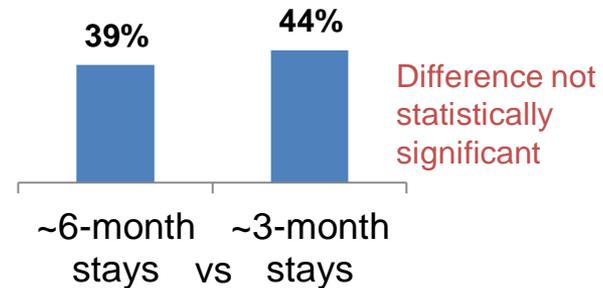
Note -- Observed recidivism rates are high among these groups, but bear in mind that these parolees have already violated parole at least once and we are now looking at their recidivism following their return to a parole violator facility.

D. PSM analysis reveals no difference in recidivism rate when comparing violator facility types and length of stay.

One-year Recidivism Rates for Technical Parole Violators by Facility Type with PSM Comparisons, June 2013-December 2014 Releases



For a comparison of recidivism outcomes of shorter stays in parole violator facilities vs. longer stays, all facility types were combined, including those violators who were placed in Halfway Back facilities.

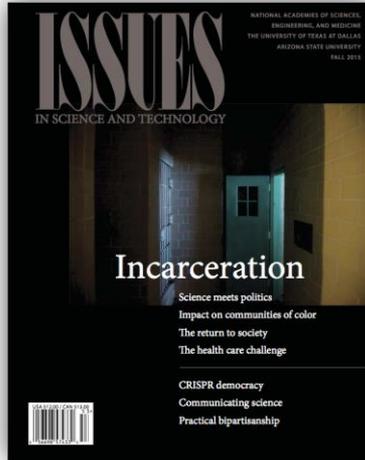


Given that neither facility type nor sanction length are currently impacting recidivism rates, the economic argument would be to default to shorter/less costly sanctions.

Discussion of Policy Considerations

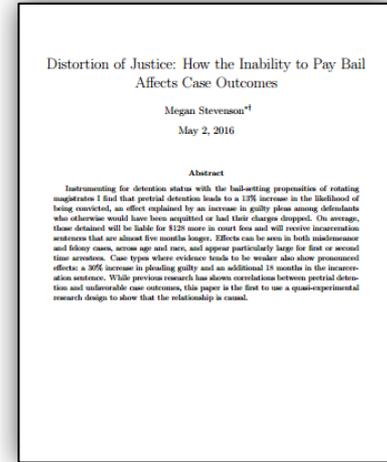
	Challenge	Policy Considerations
D.	Unguided use of community corrections beds	➤ Tailor admissions to parole community correction programs based on risk, and violation severity.

Reminder: Research shows the importance of quality defense and the cascading negative impact of pretrial time in jail.



A defendant represented effectively is more likely to:

- Have the charges dismissed
- Be released on pretrial supervision, or to receive a sentence to probation instead of prison
- Receive a shorter sentence to prison



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.

Discussion of Policy Considerations

	Challenge	Policy Considerations
E.	Insufficient investment in recidivism-reduction services, victim services, and pretrial reform	<p>➤ Reinvest state corrections savings from policy areas A through D</p> <p>1) first into strengthening local services that reduce recidivism; and</p> <p>2) second into victim services, indigent defense, and pretrial reform.</p>

Justice Reinvestment Policy Proposals Developed Through this Engagement

- **Improve the Crime Victim Compensation program:** Expand the program for greater eligibility, benefits, and utilization.
- **Increase the likelihood that victims can connect to victim service providers:** Strengthen referral and notification language in the Crime Victims Act to compel referrals between law enforcement agencies and prosecutors and victim service providers.
- **Offer emergency financial assistance for victims of property crimes through victim service providers throughout the state:** Victims need help with immediate financial loss due to property crimes such as larceny and burglary.

Reminder: 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 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.
- Allegheny and Berks have exceptional programs.
- 37 counties have pretrial programs but few are research-driven or follow NAPSA standards.
- PCCD study shows “sparse use of actuarial pretrial risk assessment instruments.”

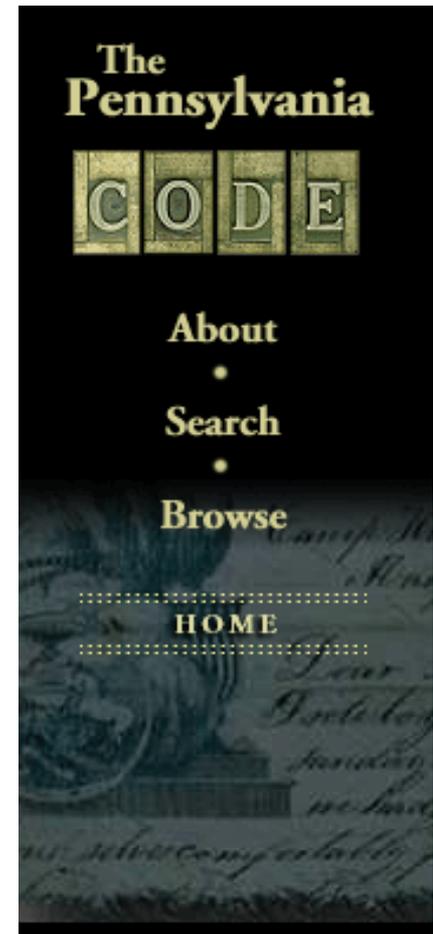
The FJD effort has led to clarification by the Supreme Court that pretrial risk assessment is permissible under RCP Rule 523.

On June 15, 2016, effective October 1, 2016, upon the recommendation of the Criminal Procedural Rules Committee, the court approved the revision of the Comment to Rule of Criminal Procedure 523 (Release Criteria) **to recognize the use of risk assessment tools as one factor permitted to be considered in bail determination:**

“When deciding whether to release a defendant on bail and what conditions of release to impose, the bail authority must consider all the criteria provided in this rule, rather than considering, for example, only the designation of the offense or the fact that the defendant is a nonresident.

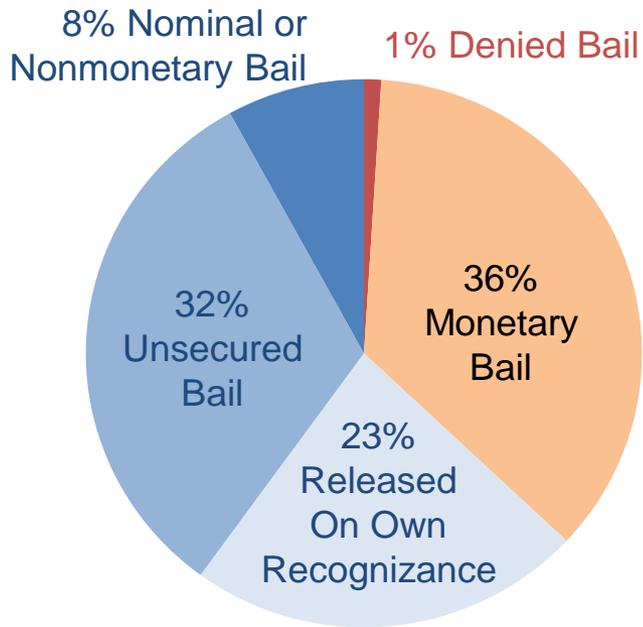
Nothing in this rule prohibits the use of a pretrial risk assessment tool as one of the means of evaluating the factors to be considered under paragraph (A). However, a risk assessment tool must not be the only means of reaching the bail determination.”

<http://www.pacourts.us/assets/opinions/Supreme/out/475crim-attach.pdf?cb=1>

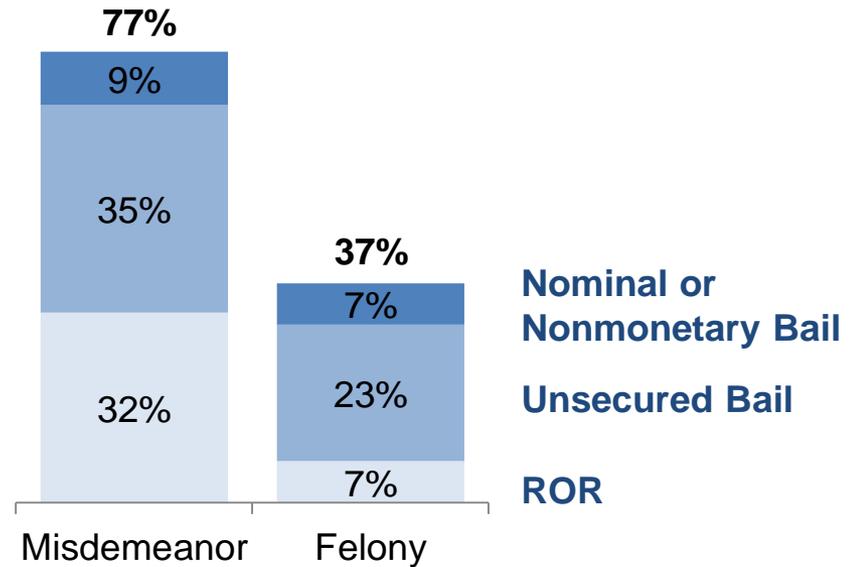


State court data reveals that 36 percent of cases result in a monetary bail decision.

Filed Court Cases* with Bail Information by Bail Type, 2015, N=217,848



Filed Court Cases with ROR, Nominal, Nonmonetary, or Unsecured Bail by Lead Offense Level, 2015



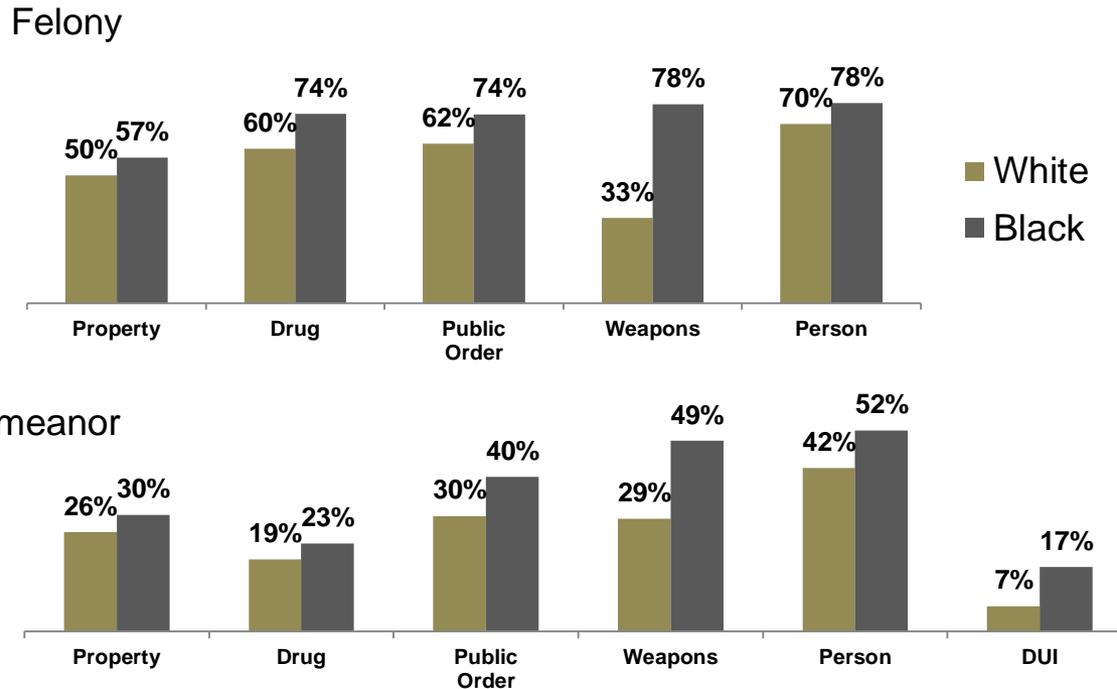
Justice Center analysis of AOPC data.

* Includes felony, misdemeanor, and summary offenses.

Across offense types, black defendants were more likely to receive a monetary bail decision.

We cannot control for all of the factors that likely play a part in the bail decision (e.g., criminal history, pending charges/warrants, supervision status, behavioral health issues, history of flight, public safety threat, employment, housing). The following only depicts monetary bail decisions by race and the charge that is flagged as the lead offense in the case.

Percent Given Monetary Bail by Lead Offense Type and Race, 2015



Justice Center analysis of AOPC data.

Less than half of those with monetary bail succeed in posting it, even for misdemeanors, a total of almost 43,000 cases.

	Misdemeanor	Felony
Cases with monetary bail	30,650	43,089
Among those that received monetary bail:		
Percentage with monetary bail that posted bail	46% Posted	39% Posted
Percentage posted among lowest tier bail amounts	53%	40%
Middle tier bail amounts	46%	39%
High tier bail amounts	33%	17%
Cases that did not post	16,494	26,452
		= 42,946

Almost 6,000 felony and misd. cases filed in 2015 with monetary bail set at \$1,000 or less did not post bail.

It is not clear in the data why bail was not posted, and there may be factors other than the dollar amount that explain pretrial detention.

Building blocks are in place for systemic progress in improving pretrial decisions and recidivism reduction.

Goals

- Increase use of risk/needs assessment to inform the initial bail/pretrial decision.
- Decrease the quantity and length of stay of defendants in pretrial status in county prisons, particularly defendants with mental illness.
- Collect statewide data on pretrial percent of jail population, proportion with mental illness, probation violators, and length of stay.
- Increase referrals to diversion and treatment.
- Build state capacity for assisting counties with pretrial progress.

FJD Pretrial Reform	Rule 523 Comment/ Clarification
CCAP Pretrial Project	PCCD Pretrial Drug & Alcohol Initiative
Stepping Up	Justice Reinvestment

Discussion of Policy Considerations

Challenge	Policy Considerations
<p>F. Increase state focus on front-end issues</p>	<ul style="list-style-type: none"> ➤ Collect data at the state level that can be used to propose some measure of state support for county public defenders. ➤ Commission a strategic planning effort to organize and advance current efforts to improve bail decisions, diversions, and supervision at the pretrial stage.

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

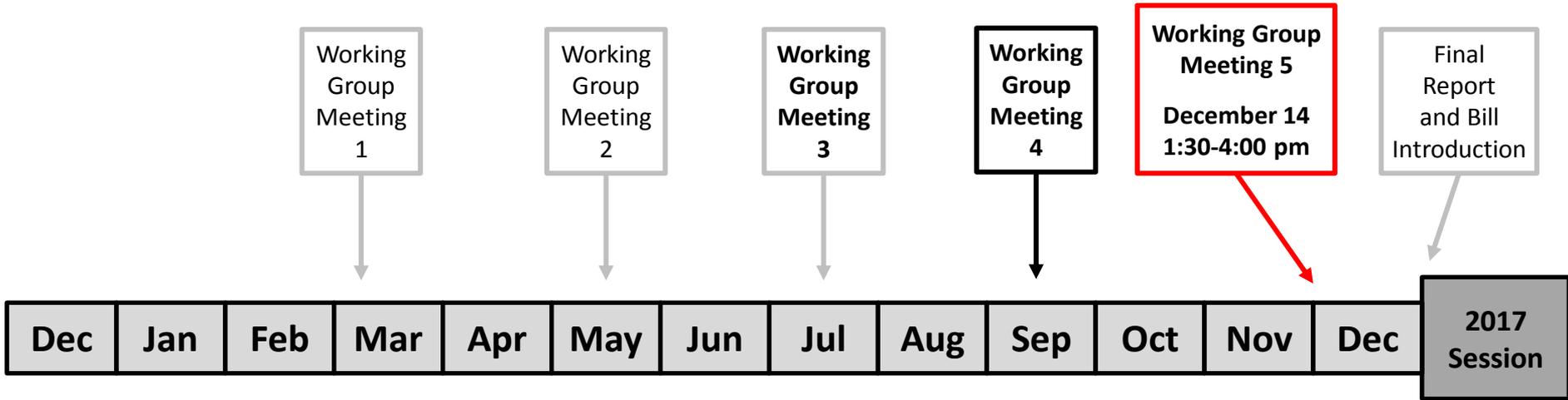
<http://gpa.state.pa.us/resources/documents/fpcj03rat011-202-indgenr02024enr.pdf>

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Summary of Challenges and Policy Directions

A.	Inefficient short sentences to prison	Solve the inefficiency of short prison sentences so that time served is as predictable as it is for jail sentences.
B.	Lack of dispositional advice to reduce recidivism	Refine the sentencing guidelines so that they more effectively provide dispositional guidance and reduce risk.
C.	Insufficient probation funding, governance, and uniformity of evidence based approaches	Leverage an existing state agency's infrastructure to provide for governance of adult probation.
D.	Unguided use of community corrections beds	Tailor admissions to parole community correction programs based on risk, and violation severity.
E.	Insufficient investment in recidivism-reduction services, victim services, and pretrial reform	Reinvest state corrections savings from A through D first, into strengthening local services that reduce recidivism and second, into victim services, indigent defense, pretrial reform, and prosecution.
F.	Increase state focus on front-end issues	Support increased state focus on issues related to the front end of the criminal justice system.

Proposed Pennsylvania Justice Reinvestment Timeline



Data Analysis



Policymaker and Stakeholder Engagement



Thank You

Patrick Armstrong, Policy Analyst
parmstrong@csg.org

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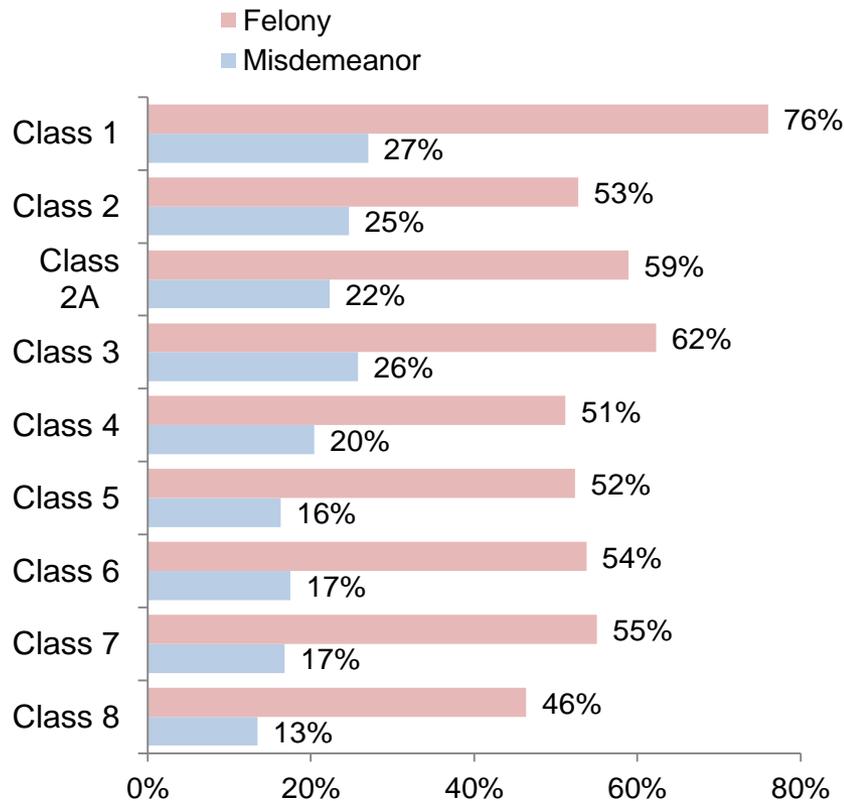


Appendix

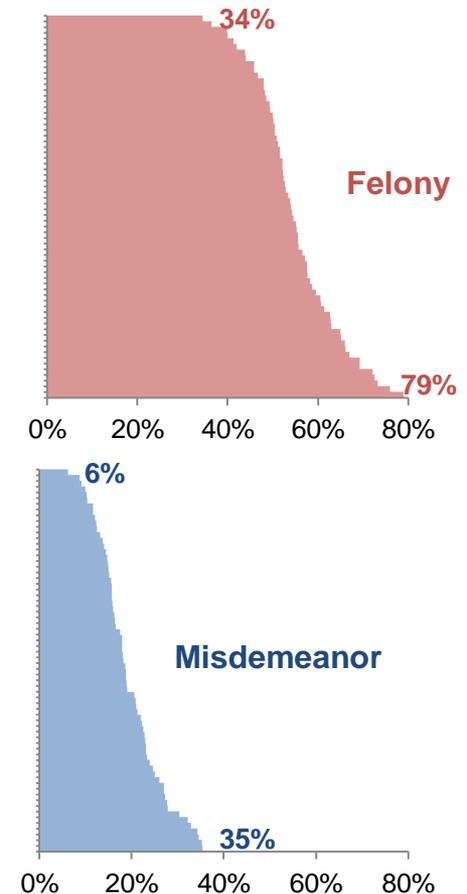
Additional Pretrial Information

Monetary bail was used in three-quarters of felony cases in Philadelphia in 2015, closer to half in other county classes.

Percentage of Filed Court Cases with Monetary Bail by County Class and Lead Offense Level, 2015

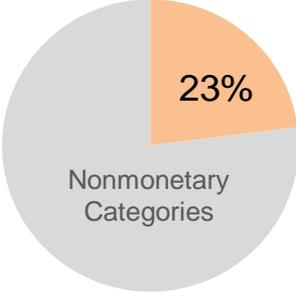
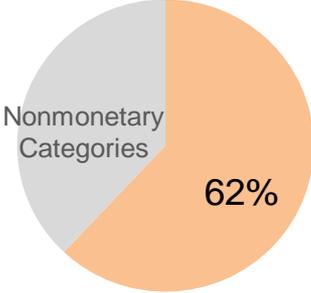


Percentage of Filed Court Cases with Monetary Bail by County and Lead Offense Level, 2015



Justice Center analysis of AOPC data.

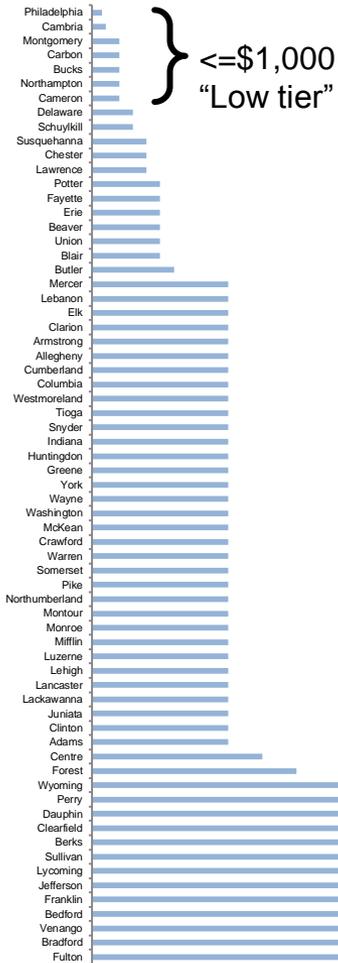
The option of using lower cash percentage rates for bail varies widely and dramatically lowers the amount actually required.

	Misdemeanor	Felony
Total Cases with Bail Info	132,707	69,331
Percentage that received monetary bail:	 <p>23%</p> <p>Nonmonetary Categories</p>	 <p>62%</p> <p>Nonmonetary Categories</p>
Median Bail Amount	\$5,000	\$20,000
However, in some cases a lower bail percentage rate is used (1% to 10%) to lower the cash amount that would be needed to secure release.		
Percent of cases with lower bail percentage rate	39%	48%
Some counties almost always use a lower percentage rate (e.g. Bucks, Cambria, Philadelphia) and some almost never use it (e.g. Dauphin, York).		
Median bail amounts accounting for cases with lower percentage rates	\$5,000	\$10,000

Justice Center analysis of AOPC data.

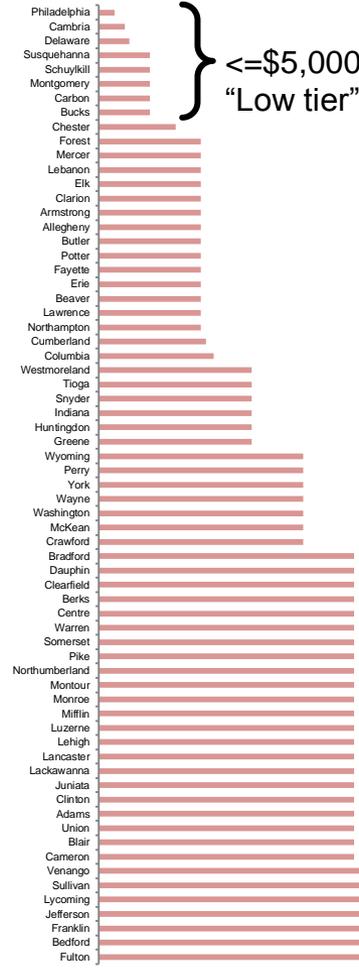
Accordingly there is wide variation in the amount actually required to make bail.

Median Misdemeanor Monetary Bail Amounts, 2015



Bail amounts for misdemeanors and felonies can be ten times higher in some counties compared to others.

Median Felony Monetary Bail Amounts, 2015



Note that people can typically use a county bail program or bail bondsman to secure release by paying only a percentage of the total bail amount.

Justice Center analysis of AOPC data, Philadelphia note from Megan Stevenson at Penn Law.