



Justice Reinvestment in Kansas (House Bill 2170)

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&

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Presentation overview

The CSG Justice Center

Justice Reinvestment in Kansas

Kansas Sentencing Commission Data on
H.B. 2170

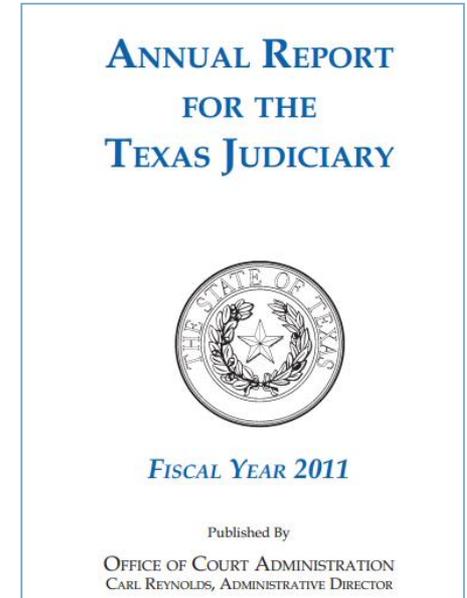
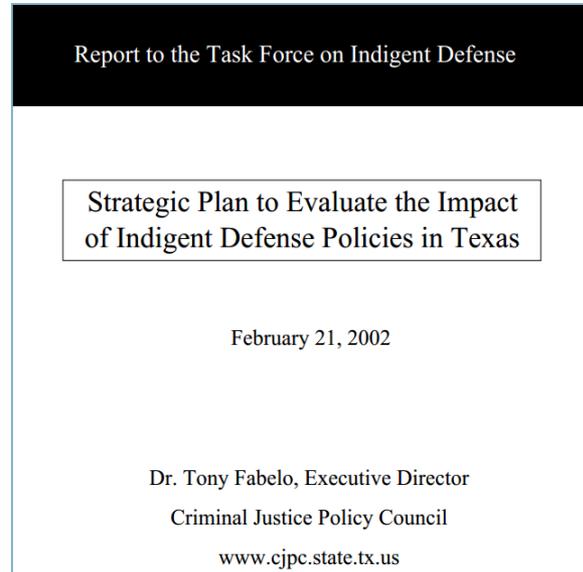
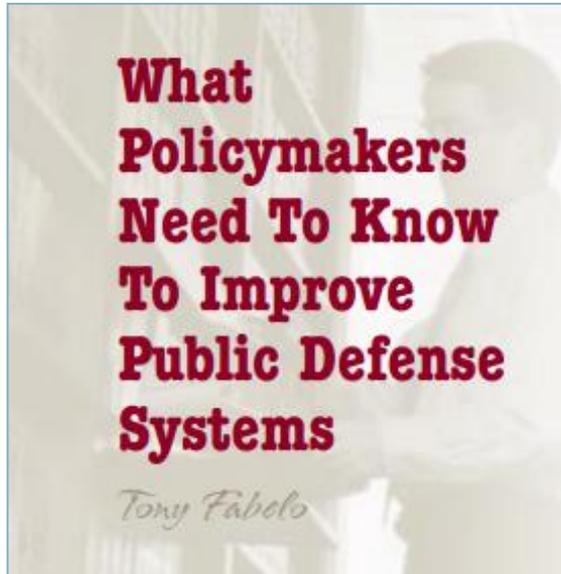
The Council of State Governments and the Justice Center

CSG is a national non-profit, non-partisan membership association of state government officials, and works with members of all three branches of state government

The CSG Justice Center provides practical, nonpartisan advice informed by the best available evidence



The Justice Center's Texas office is closely tied to state and national work on indigent defense.



1999-2001
Executive Sessions on
Indigent Defense at
Harvard

2002-Present
Led Taskforce on
Indigent Defense's
strategic planning

2005-2012
Former *Executive Director*
of Office of Court
Administration

Our indigent defense evaluation showed Houston/Harris County assigned counsel system allows overloading attorneys on the wheel.

18%
Attorneys
(45) were
paid for
assignment
to more than
150 felonies

**255 Attorneys on
Wheel**

10%
Of attorneys
10%
Of attorneys

10%
Of attorneys

10%
Of attorneys

10%
Of attorneys

10%
Of attorneys

10%
Of attorneys

30%
Of attorneys

**20,847 Assigned
Cases Paid**

30%
Of Cases
20%
Of Cases

17%
Of Cases

12%
Of Cases

8%
Of Cases

6% Of Cases

4% of Cases

3% of Cases

9,302
Cases with
an attorney
whose
caseload
exceeded
150 felonies

Harris County Public Defender has better defense outcomes -- higher proportion of dismissals and lower proportion of convictions.

372 Public Defender Clients, <i>February 2011 – June 2011</i>		28 Pilot Study Clients, <i>October 2010 – January 2011</i>		119* Match Clients, <i>October 2010 – January 2011</i>	
40% Misdemeanor A	60% Misdemeanor B	31% Misdemeanor A	69% Misdemeanor B	27% Misdemeanor A	72% Misdemeanor B
451 Misdemeanor Cases (1.2 cases per client)		32 Misdemeanor Cases (1.3 cases per client)		140 Misdemeanor Cases (1.1 cases per client)	

Client Outcomes

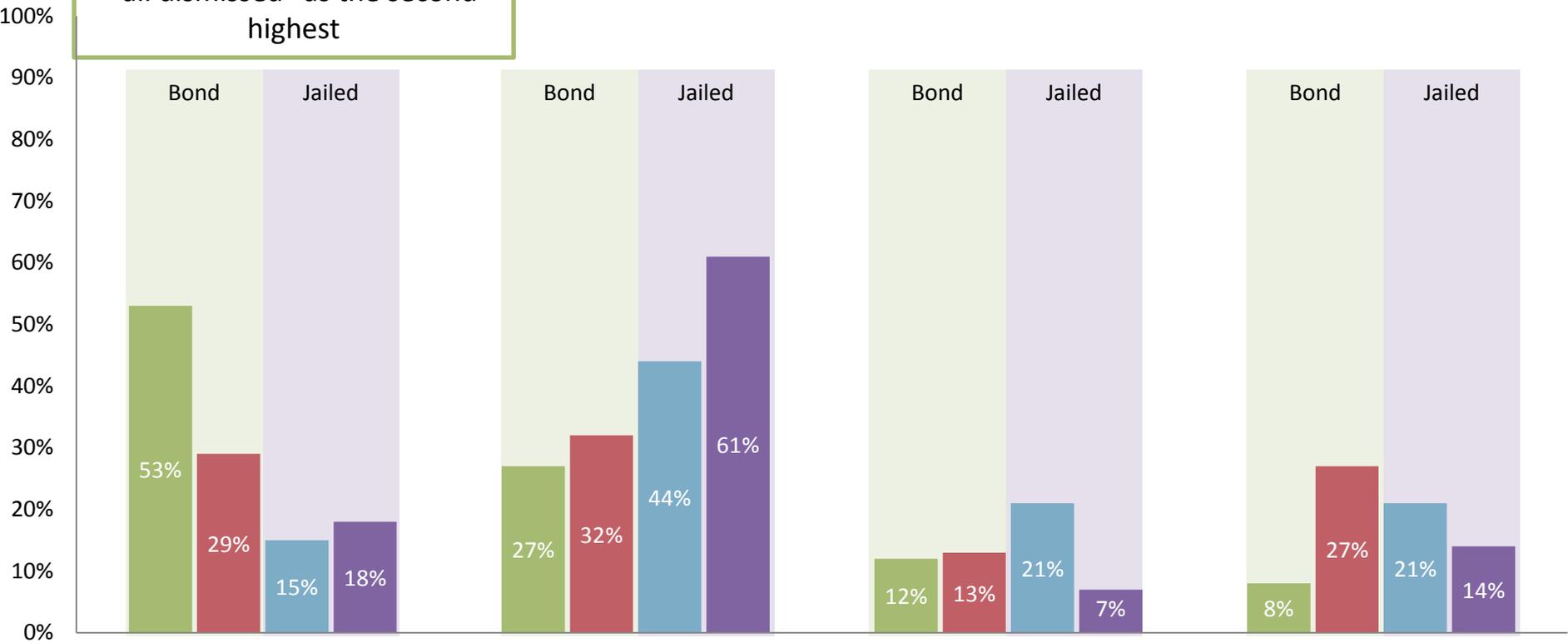
102 (27%) All Cases Dismissed	2 (7%) All Cases Dismissed	6 (5%) All Cases Dismissed
262 (70%) Total Convicted	26 (93%) Total Convicted	110 (92%) Total Convicted
8 (2%) Deferred	(0%) Deferred	2 (2%) Deferred

* Parts do not sum to total because 1 person had other outcome (fugitive)

Another system evaluation shows attorney outcomes – hired v. appointed – vary after controlling for ‘bond effect.’

Outcomes for Clients with Felony as Highest Charge by Bond and Attorney Type

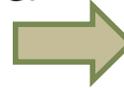
Hired attorneys for those out on bond get 1.8 times as many “all dismissed” as the second highest



Bond Felony Hired - Bond Felony Appointed - Bond Felony Hired - No Bond Felony Appointed - No Bond **Jailed**

Our work also tracks and influences developments in felony sentencing.

(1) New Framework: American Law Institute Model Penal Code - comprehensive sentencing sections



(2) Old Debate: “Determinate v. indeterminate”

(3) New Debate: “[T]he idea of sentencing defendants based on risk factors may help to reduce the prison population, but in certain circumstances it may run the risk of imposing drastically different punishments for the same crimes.” [AG Holder]

(4) Old and New Case law: developments on topics such as right to a jury, “inherent” judicial authority to sanction, due process for sanctions and for financial obligations, sentencing based on risk factors, etc.

(5) New Research: on components and scoring of criminal history.

1. Authorized Dispositions of Offenders

- Deferred Prosecution
- Deferred Adjudication
- Probation
- Economic Sanctions
- Collateral Consequences

2. Authority of Sentencing Commission

3. Sentencing Guidelines

4. Authority of the Court in Sentencing

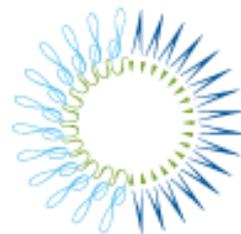
5. Research and Evaluation

6. Prison Release and Post-release Supervision

Justice reinvestment is the most visible work of the Justice Center.

Justice Reinvestment

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



“JR” project partners enable two phases of technical assistance to states.



Phase I
6 – 9 months



Phase II
12 – 24 months



National Academy of Sciences just published our 9 “lessons learned” in justice reinvestment work.

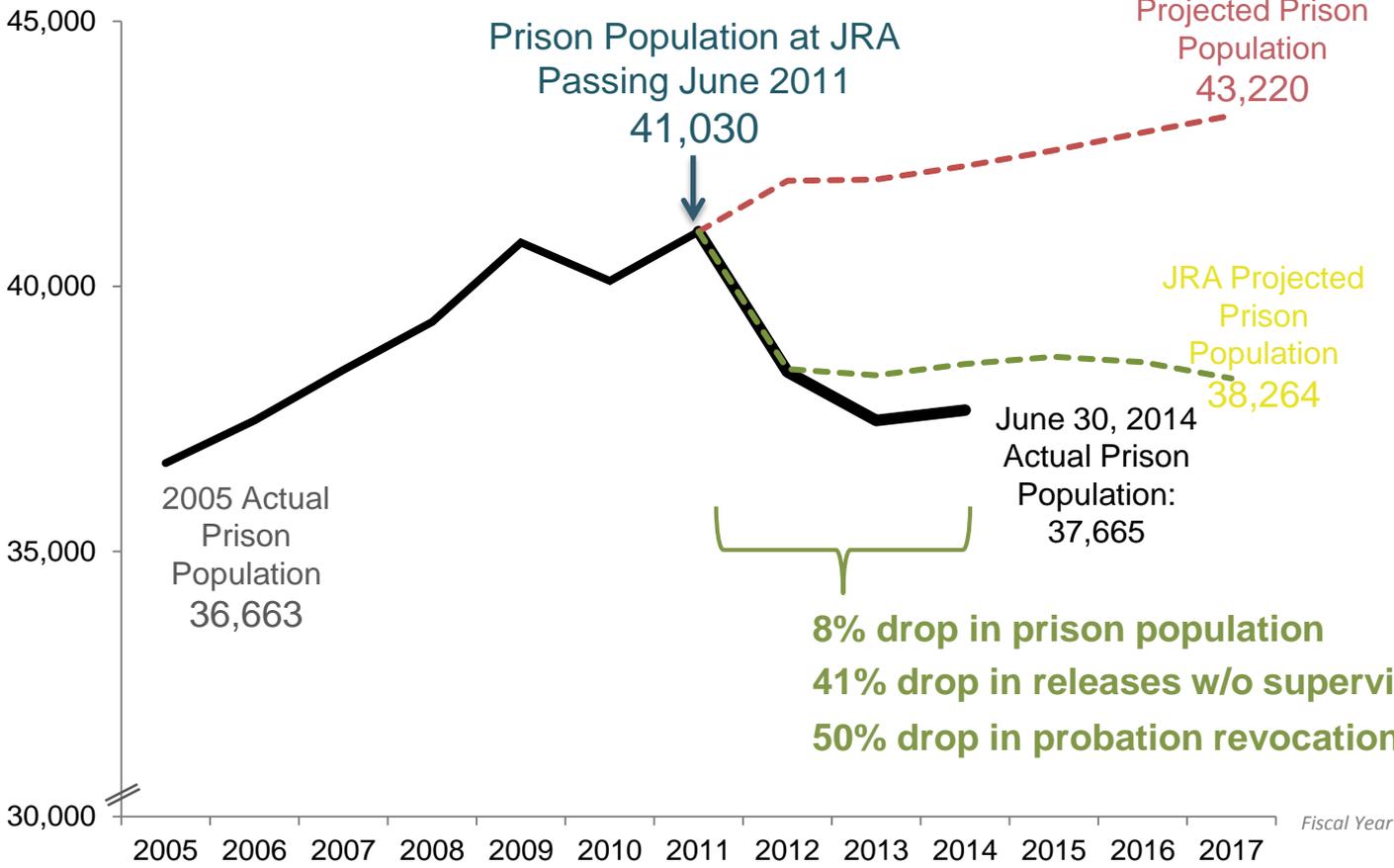
- 1) Intensive work
- 2) Solutions need investments
- 3) Few sentence reductions
- 4) “Non-violent” debate
- 5) Race not explicit
- 6) Indigent defense neglected
- 7) Data is key
- 8) Implementation is key
- 9) Champions needed

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

North Carolina's justice reinvestment policies and reinvestments were robust and bested projections of decreased incarceration.



Outcomes



\$560m
averted costs and savings by FY2017

10
prisons closed since 2011

175
new probation officers in FY2014 & FY2015

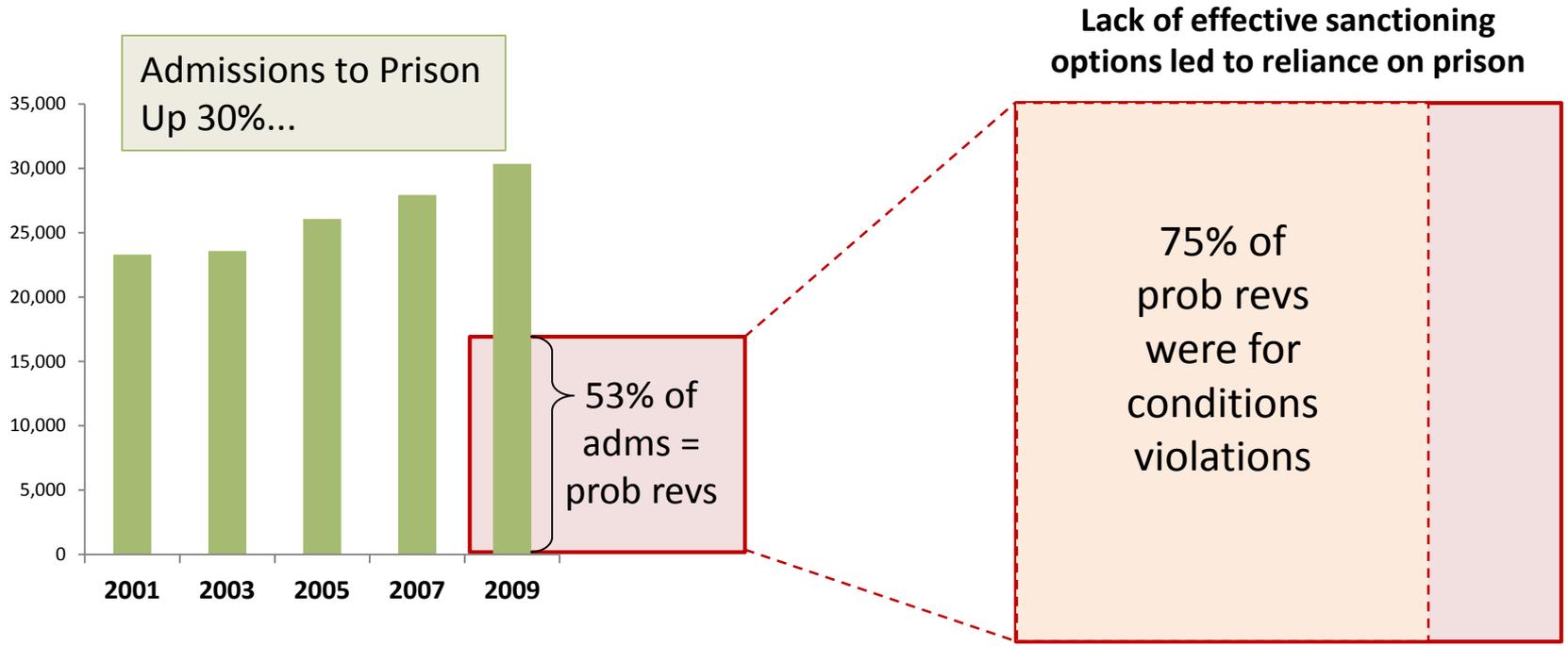
11%
drop in crime between 2011-2013

8% drop in prison population
41% drop in releases w/o supervision
50% drop in probation revocations

Pressure on North Carolina's prison system was linked to failures on probation.



Problem



Source: Council of State Governments Justice Center, *Justice Reinvestment in North Carolina: Analysis and Policy Framework to Reduce Spending on Corrections and Reinvest in Strategies to Increase Public Safety*, April 2011

Swift and limited sanctions show declining arrests, time spent in jail, and prison population.

Hawaii HOPE

Intensive, random drug testing with swift, certain, and brief jail sanctions to supervision violations.

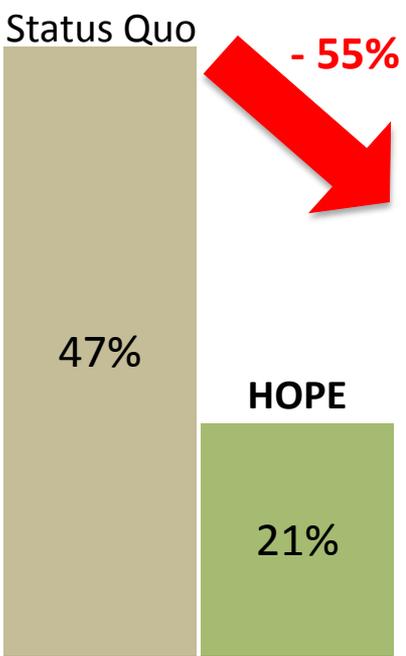
Georgia POM

Prompt sanctions to correct behavior of troublesome probationers.

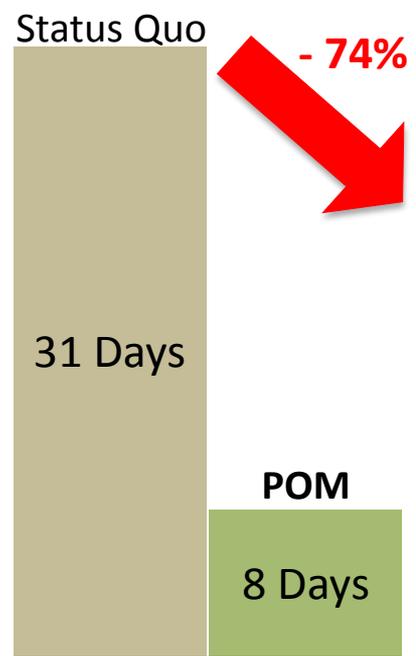
North Carolina

Swift and certain “dips” of brief jail sanctions and “dunks” of prison sanctions in response to violations.

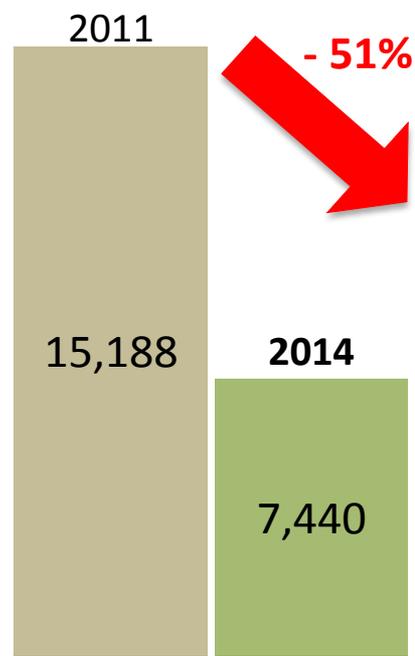
Arrested



Days in Jail



Prison Admissions



Source: *An Evaluation of Georgia’s Probation Options Management Act*, Applied Research Services, October 2007; *Managing Drug Involved Probationers with Swift and Certain Sanctions: Evaluating Hawaii’s HOPE*, Hawken, Angela and Mark Kleiman, December 2009.

Graduated sanctions plus targeted programs and supervision are best for addressing violation behavior.

Ineffective Practice



- Unlikely to receive programs in prison to reduce risk
- No supervision upon release to monitor risk & mitigate

~0% recidivism reduction
\$25,500 cost per person

Effective Practice



~20% recidivism reduction
\$13,800 cost per person

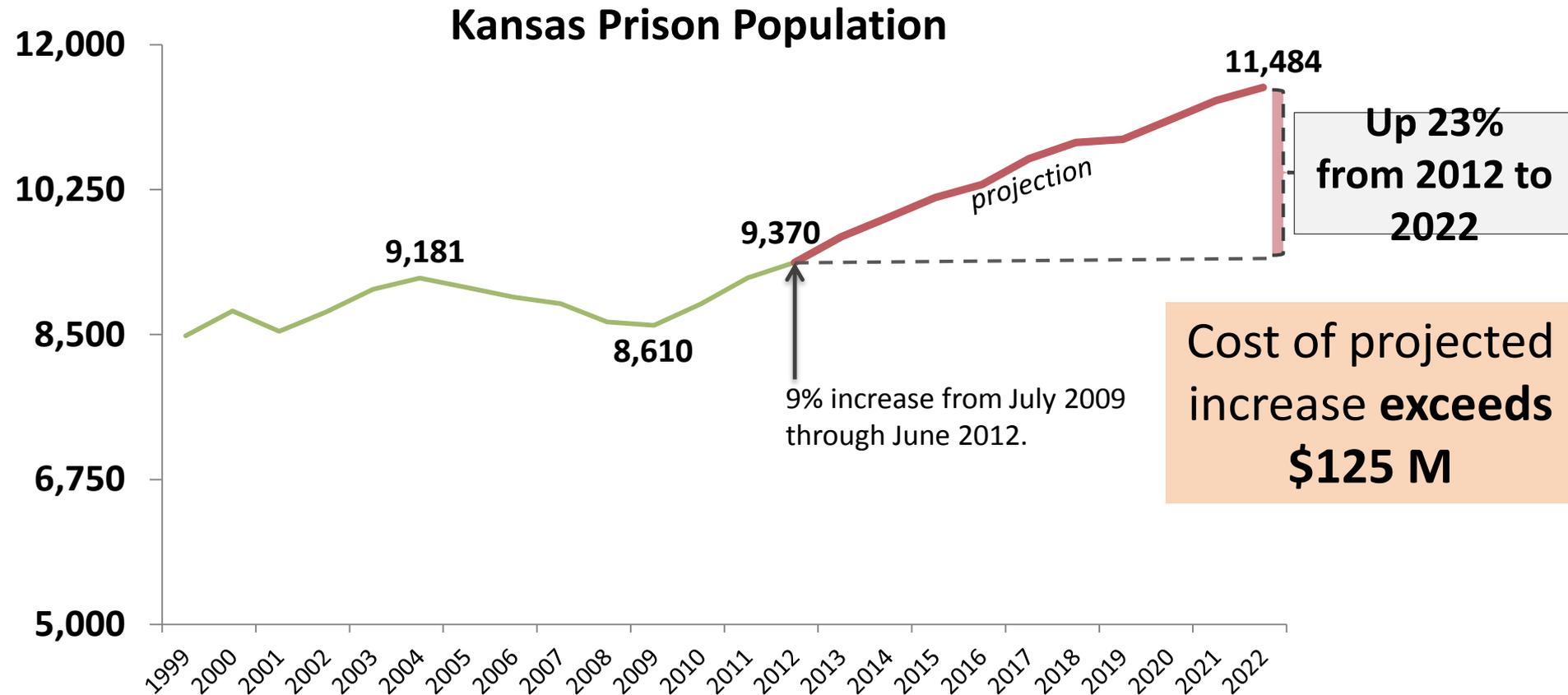
Presentation Overview

The Work of the Justice Center

Justice Reinvestment in Kansas

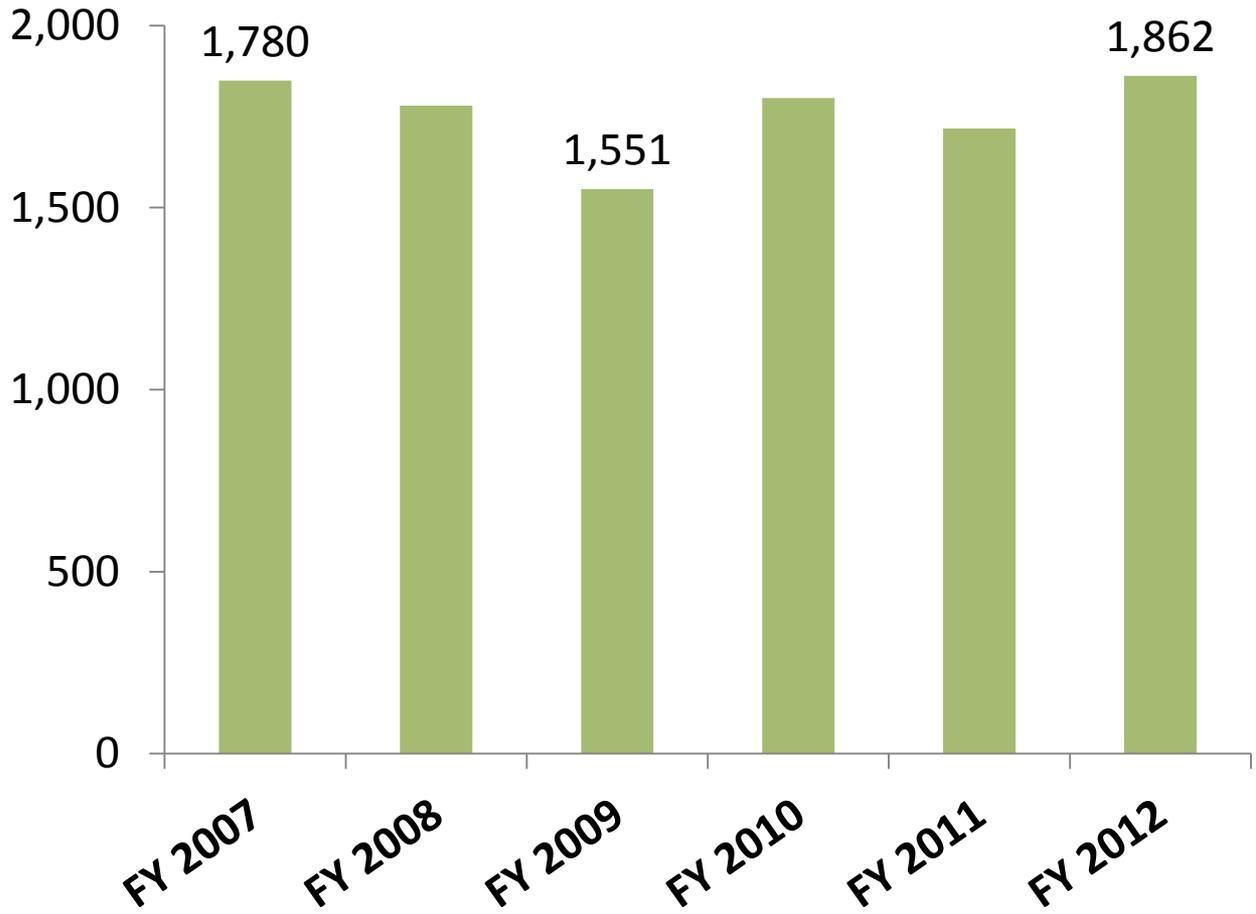
Kansas Sentencing Commission Data on
H.B. 2170

The Kansas prison population was projected to grow 23% between 2012 – 2022.



Sources: Kansas Sentencing Commission, 2013 Prison Population Projection, August 2012

Probation revocations to prison had increased 20% between 2009 – 2012.

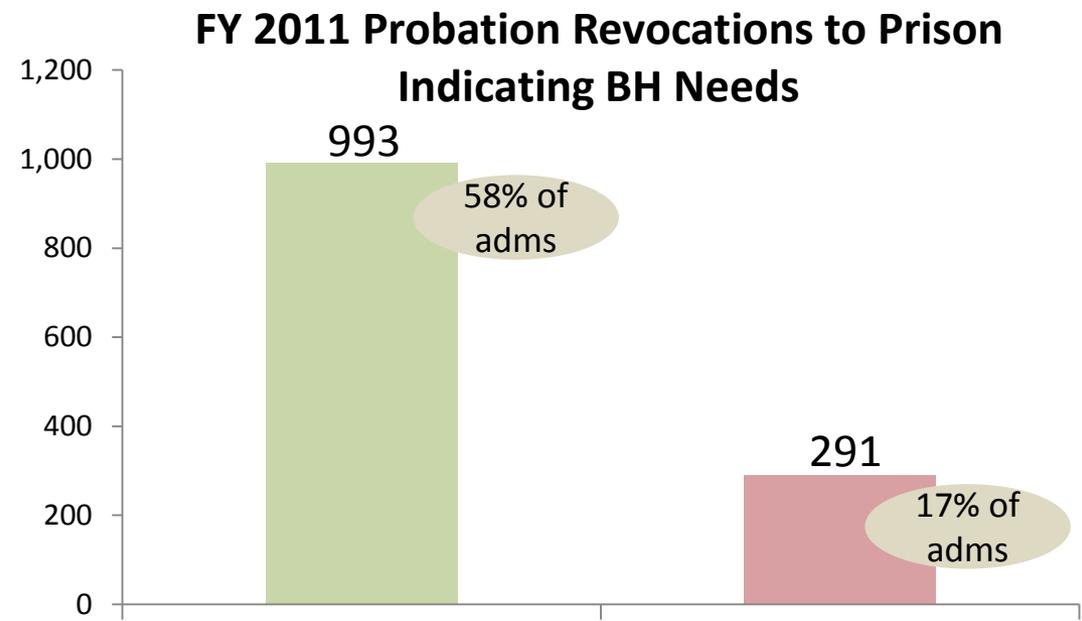


After a decline in revocations from FY07 to FY09, they have since risen by 20%.

Only one-quarter of Community Corrections revocations involve “presumptive prison” or “border box” offenders.

Sources: Kansas Sentencing Commission, Felony Sentencing Case Data, and 2013 Prison Population Projection, August 2012

Most probationers revoked to prison were identified as having behavioral health needs.



SA Score 4+

- SA Scores range from 0 to 9 and are based on nine questions within the substance abuse domain within the LSI-R risk assessment. (A score of 4 means that four of the nine questions were answered in the affirmative.)

MH Score 3+

- MH Scores range from 1 to 7 and are based on a continuum of MH programming intensity.
 - Not currently requiring MH
 - Receives time-limited mental health services
 - Receives on-going mental health services that may include medication management
 - Receives special needs treatment monitoring
 - Placed in mental health structured reintegration program at LCF-TRU
 - Placed in intensive mental health placement at LCMHF or TCF-MHU
 - Hospitalization at LSSH

Of FY 2011 Probation Revocations

- ✓ 58% had SA score of 4 or higher
- ✓ 17% had MH score of 3 or higher
- ✓ 12% had both

For comparison, only 16% of the successfully terminated CC probationers had an SA score of 4 or higher.

Sources: Kansas Dept. of Corrections, Prison Admissions and Inmate Assessment Case Data.

H.B. 2170 covered three major policy areas.



Prison Population

Probation Supervision

- ✓ Establish a violation response sanction to replace the current revocation process
- ✓ Require that people who are incarcerated for a probation revocation be subsequently released to PRS (post-release supervision)

Prison Sanctions

- ✓ Implement 120-day and 180-day incarceration responses in lieu of revocations for technical condition violators



Reinvestments

Behavioral Health Services

- ✓ Improve community-based responses to individuals with mental illnesses who have become involved in the criminal justice system
- ✓ Increase access to community-based programming for people sentenced to felony probation who are at higher risk of re-offending



Public Safety

Jail Sanctions

- ✓ Develop swift and certain responses for people under felony supervision who commit technical violations

Early Probation Discharge

- ✓ Allow probation officers to reduce the length of supervision time for successful, lower risk probationers

H.B. 2170 was projected to avert cost and reduce bed demand.

Policy Options: Projections FY 2014 – FY 2018

Costs Averted

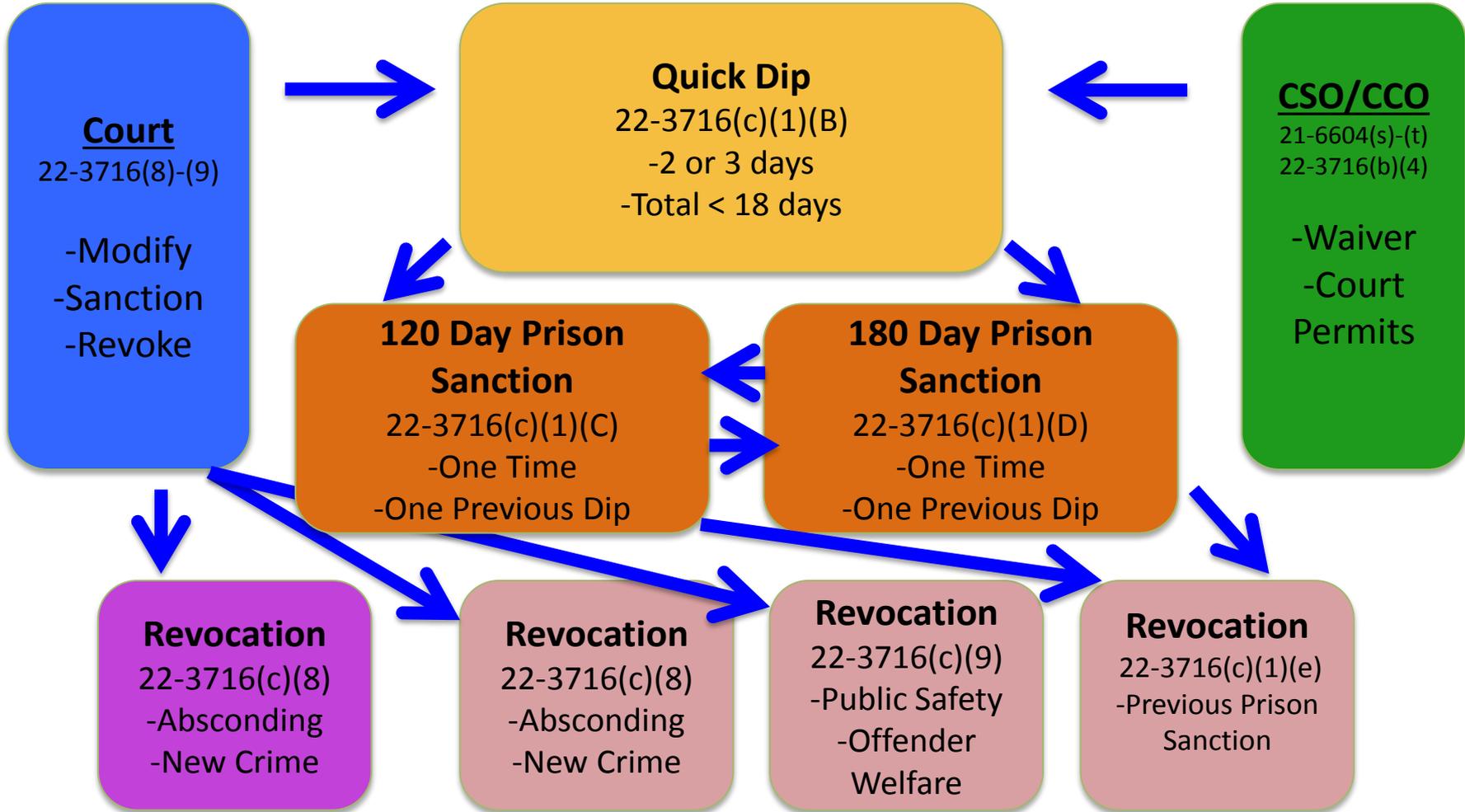
- \$53 million averted in operations costs*
- \$1.5 million averted in construction costs by FY '15
- Reinvestment of \$2 million in Behavioral Health

Bed Savings

- 800+ beds reduction from projected growth by FY '18
- Still anticipated to be 400+ beds over capacity by FY '18
- Will not prevent need for some expansion

*Source: KSDOC JRI Bill Implementation HB 2170 July updated ppt provided by Secretary Roberts

H.B. 2170 graduated sanction options include “quick dips” in jail and longer prison sanctions in lieu of full revocation.



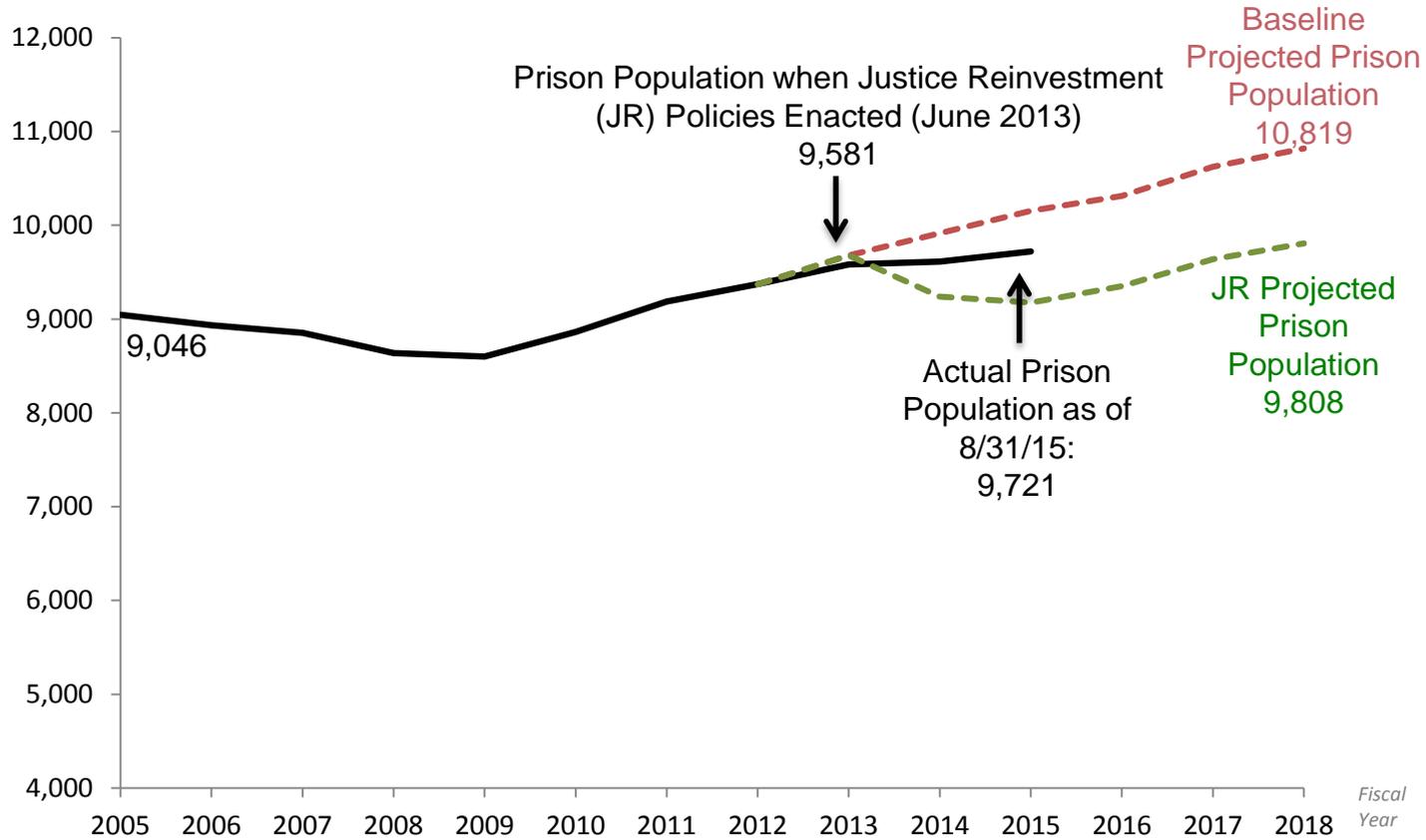
Presentation Overview

The Work of the Justice Center

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Kansas Sentencing Commission Data on H.B. 2170

Key Public Safety and Corrections Trends since H.B. 2170 Enactment (July 2013 – August 2015)



24
judicial districts
receiving behavioral
health investments

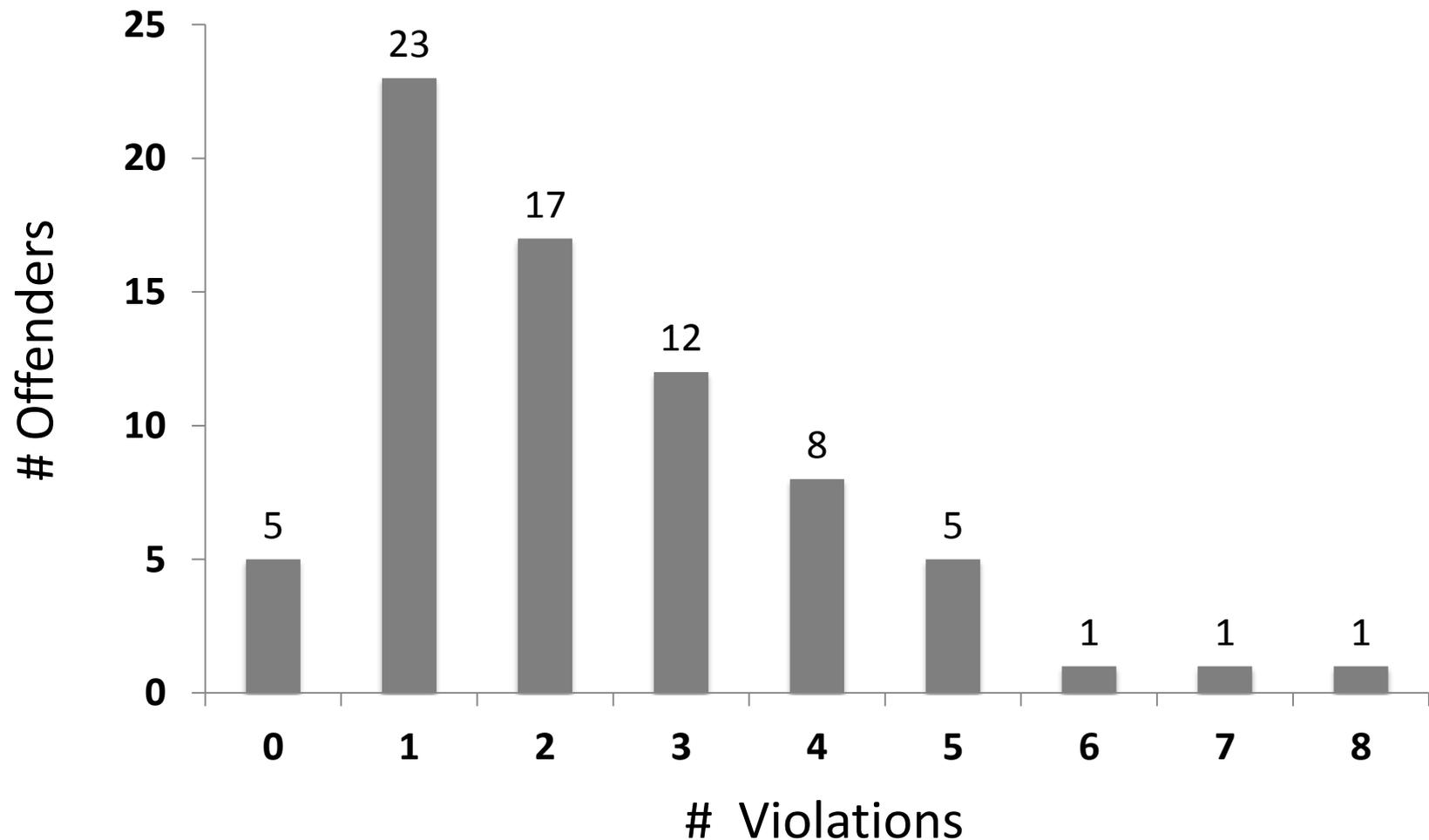
≈ 6,000
2-day and 3-day
sanctions issued

5%
drop in crime between
2011-2013

Source: Projections were provided by the Kansas Sentencing Commission (2012). Actual prison population totals can be found in the Kansas DOC's annual reports and represent FY populations.

Most individuals will violate at least 1-3 times before sustaining compliance with the terms of supervision.

Probation 180 Pilot Project: Riley County, KS (n = 73)

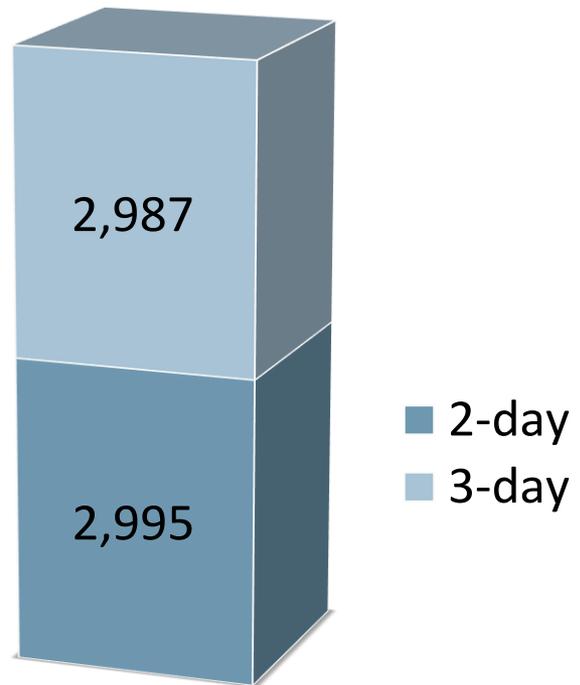


Approximately 6,000 “quick dips” in jail have been issued.

Quick Dip
22-3716(c)(1)(B)
-2 or 3 days
-Total < 18 days

**Total Number of Administrative Responses Issued
July 2013 – August 2015**

Total = 5,982

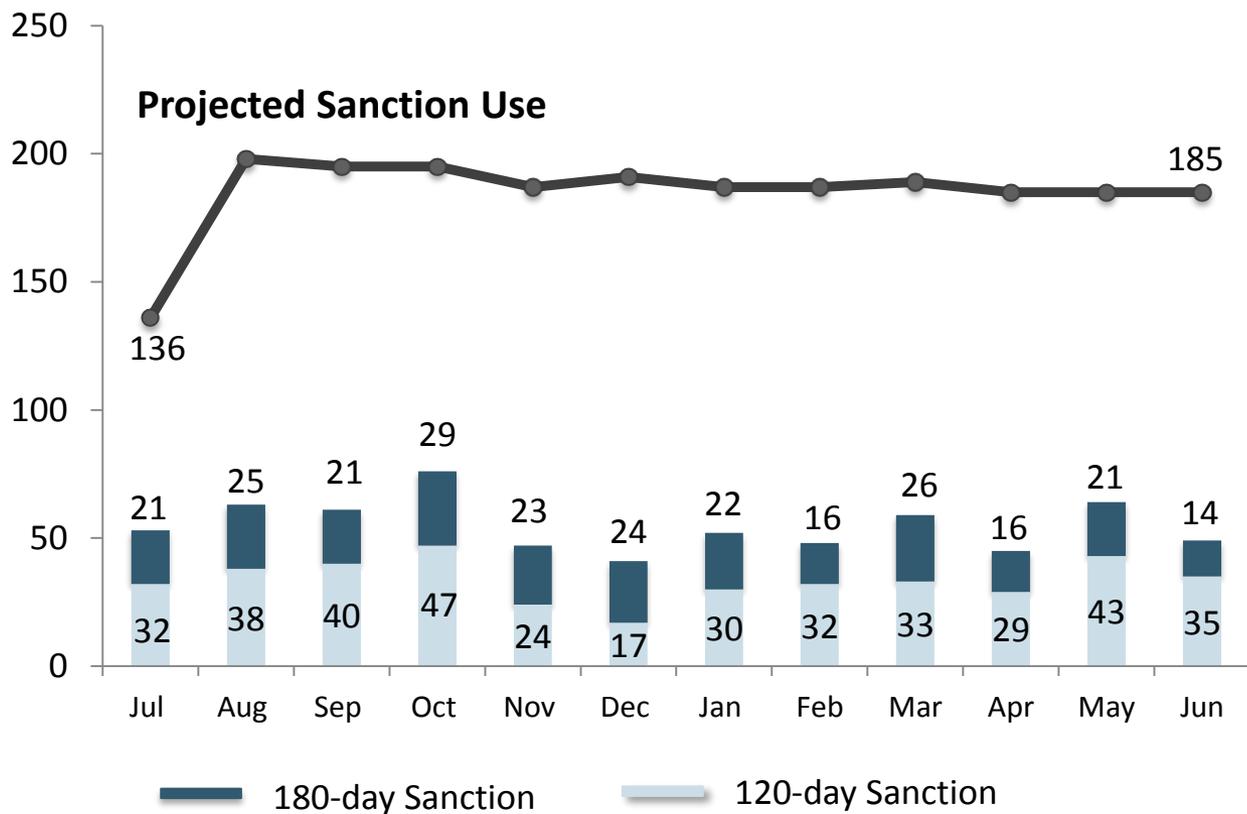


Use of 120- and 180-day prison sanctions continues to fall well short of projections.

120 Day Prison Sanction
 22-3716(c)(1)(C)
 -One Time
 -One Previous Dip

180 Day Prison Sanction
 22-3716(c)(1)(D)
 -One Time
 -One Previous Dip

FY15 Actual Prison Sanctions vs. Projected



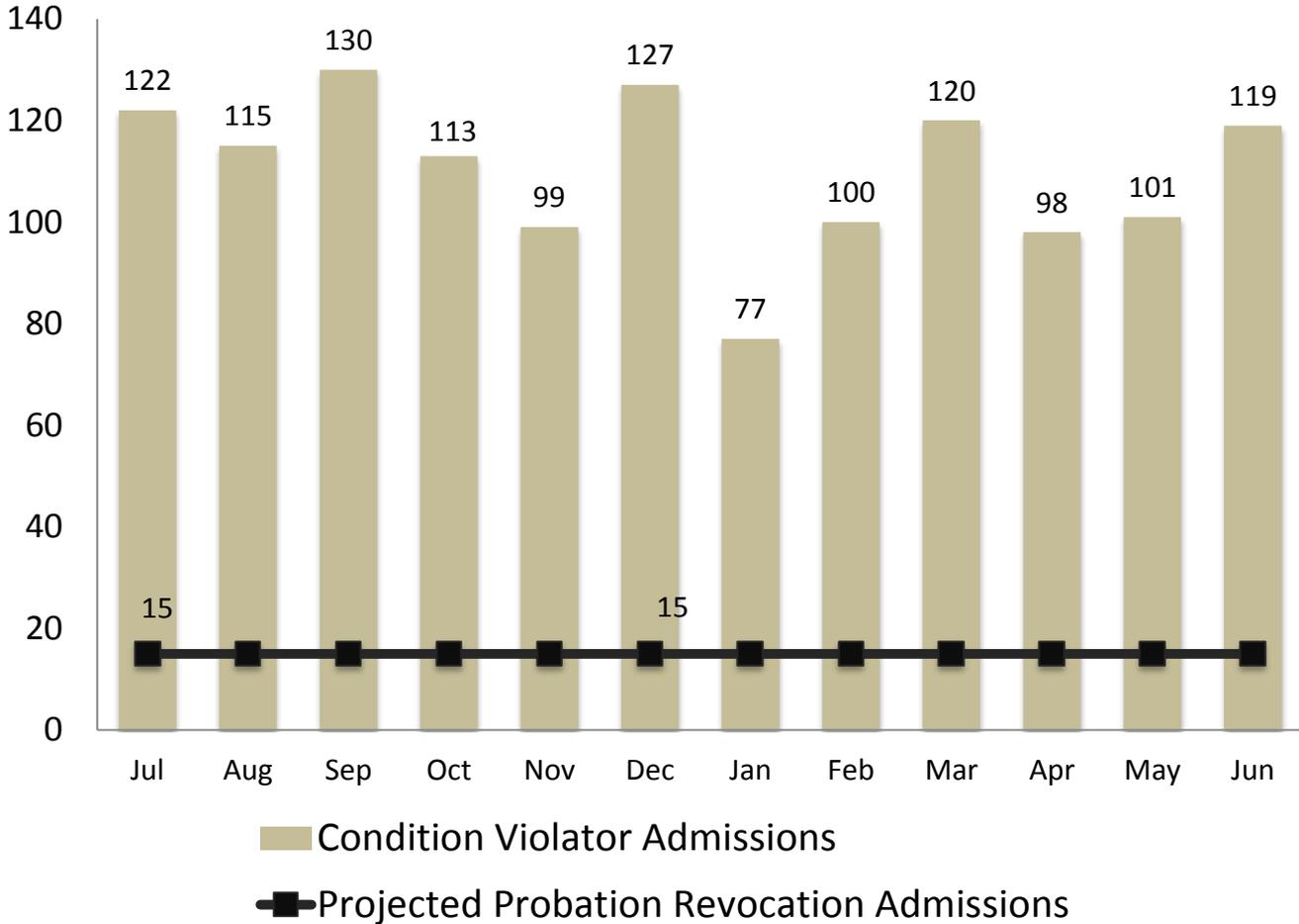
Admissions to prison for conditions violators greatly exceeding projections.

Revocation
 22-3716(c)(8)
 -Absconding
 -New Crime

Revocation
 22-3716(c)(9)
 -Public Safety
 -Offender Welfare

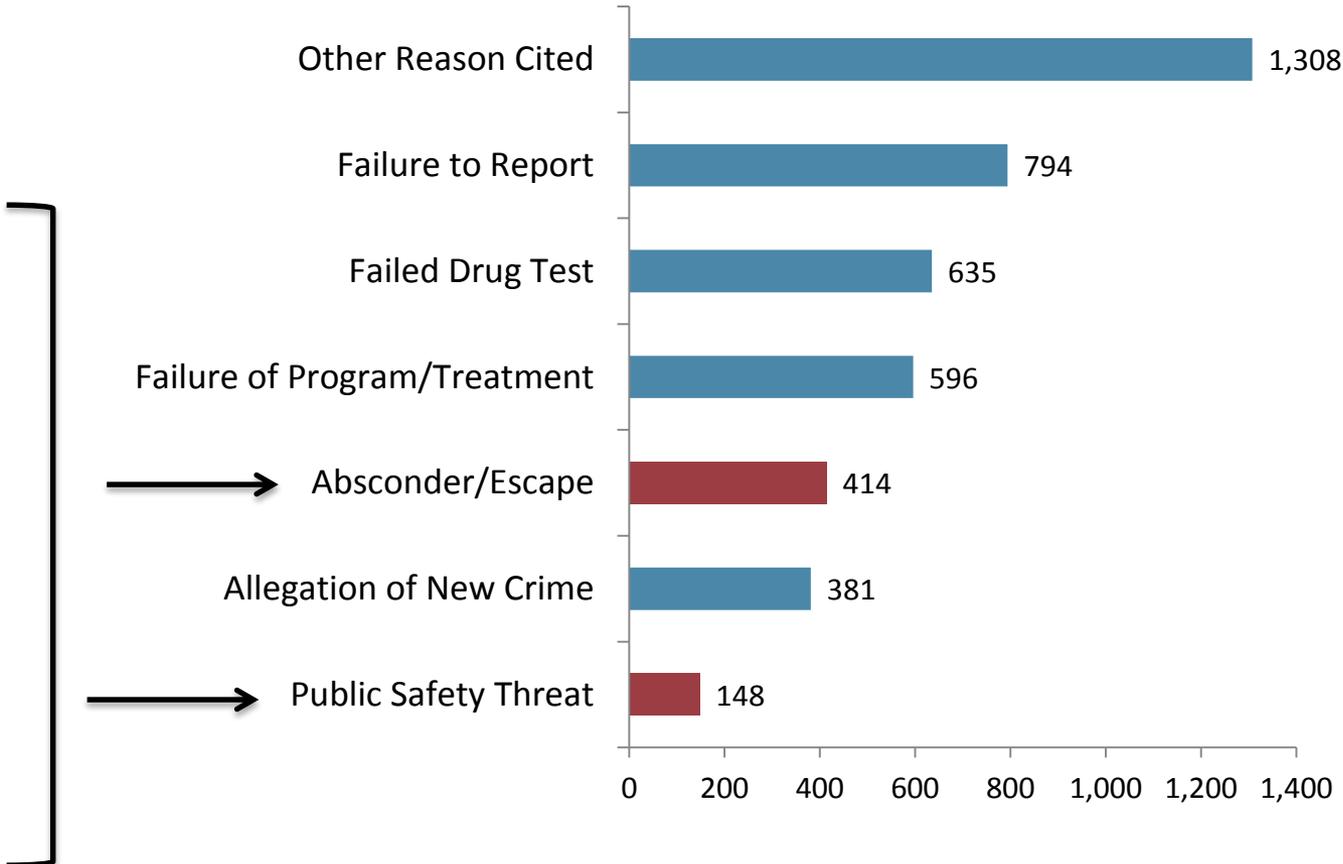
Revocation
 22-3716(c)(1)(e)
 -Previous Prison Sanction

FY15 Actual Probation Condition Violator Admissions vs. Projected



Absconding and public safety threat cited as justification for revocation only 13% of time.

Reasons Cited for Imposing Full Revocation FY 2015

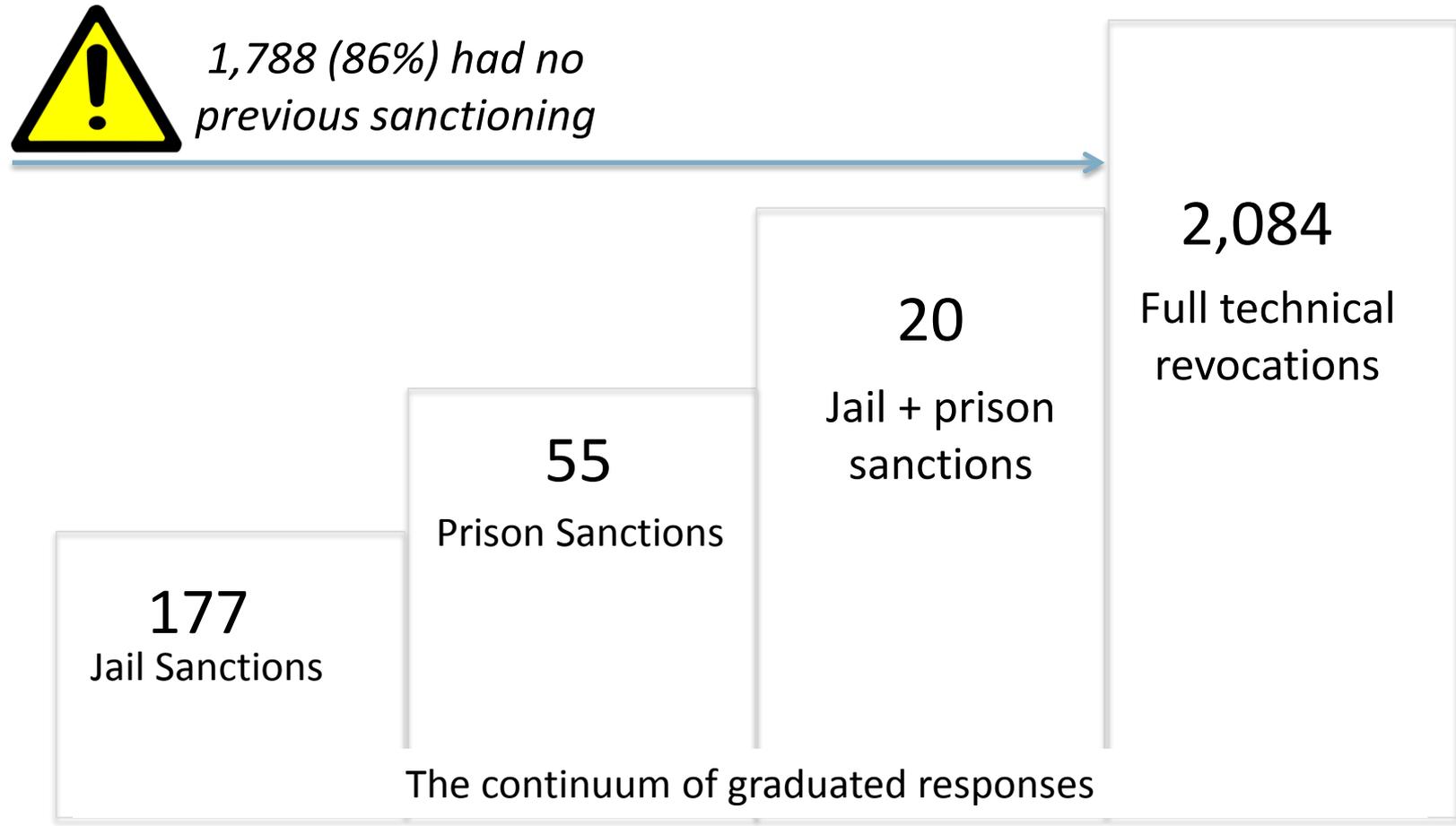


Revocation
22-3716(c)(8)
-Absconding
-New Crime

Revocation
22-3716(c)(9)
-Public Safety
-Offender Welfare

Note: multiple reasons can be cited for one revocation event.

86% of revocations were not preceded by a graduated sanction.

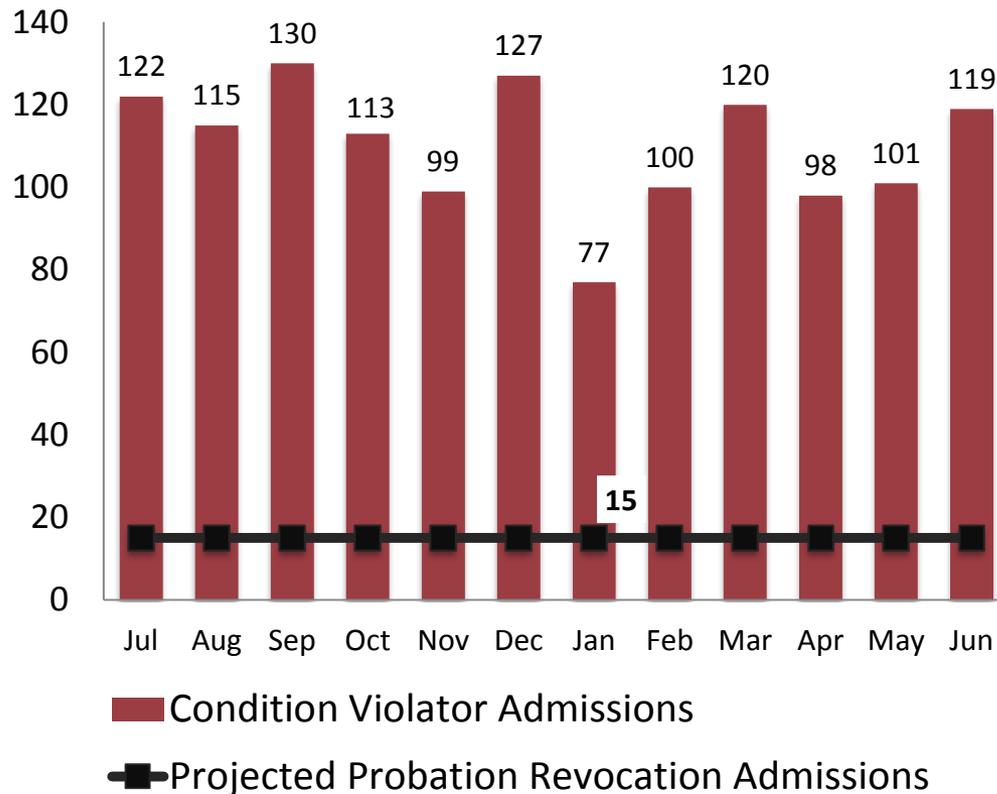


Note: Several individuals had sanctioning events not issued in standard progression.

Based on an analysis of Prophet data and TOADS Interventions data from July 2013 – December 2014

These violators continue to cost the state an additional \$13 million each year.

FY 15 Actual Probation Condition Violator Admissions vs. Projected

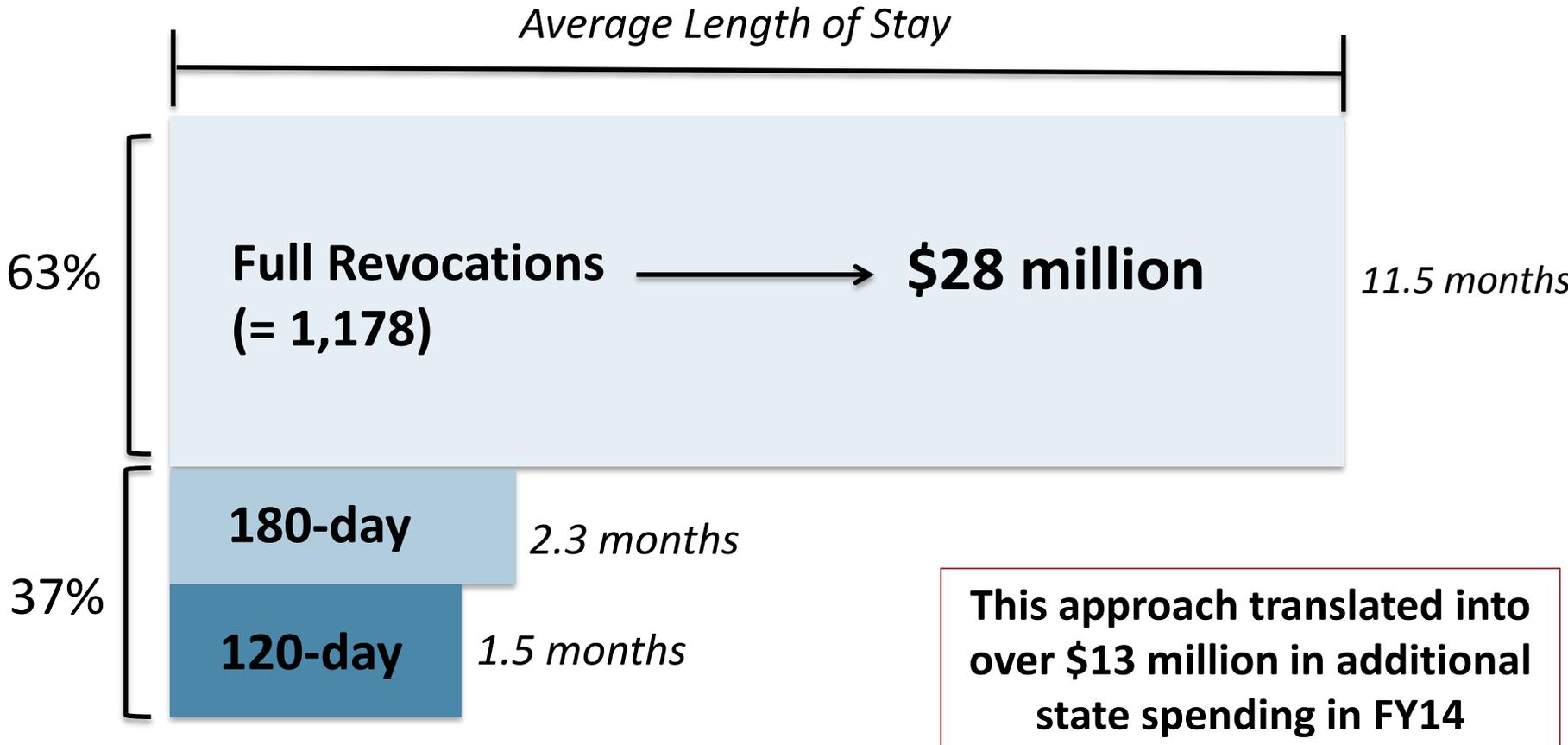


By the Numbers (FY15):

- **1,141** eligible probationers received full revocations rather than 120- or 180-day sanctions
- **11.5 Months** = Average Length of Stay for a Full Revocation
- **\$69 / day** = Cost per day for the state to incarcerate one person
- **\$13 million** = Additional spending in FY15 as the result of fully revoking individuals who were eligible for JRI sanctioning options

Admissions for technical probation revocations remain much higher than projected, costing the state millions of dollars.

Actual Sanctioning Practices w/ Partial Implementation of H.B. 2170 (FY14):

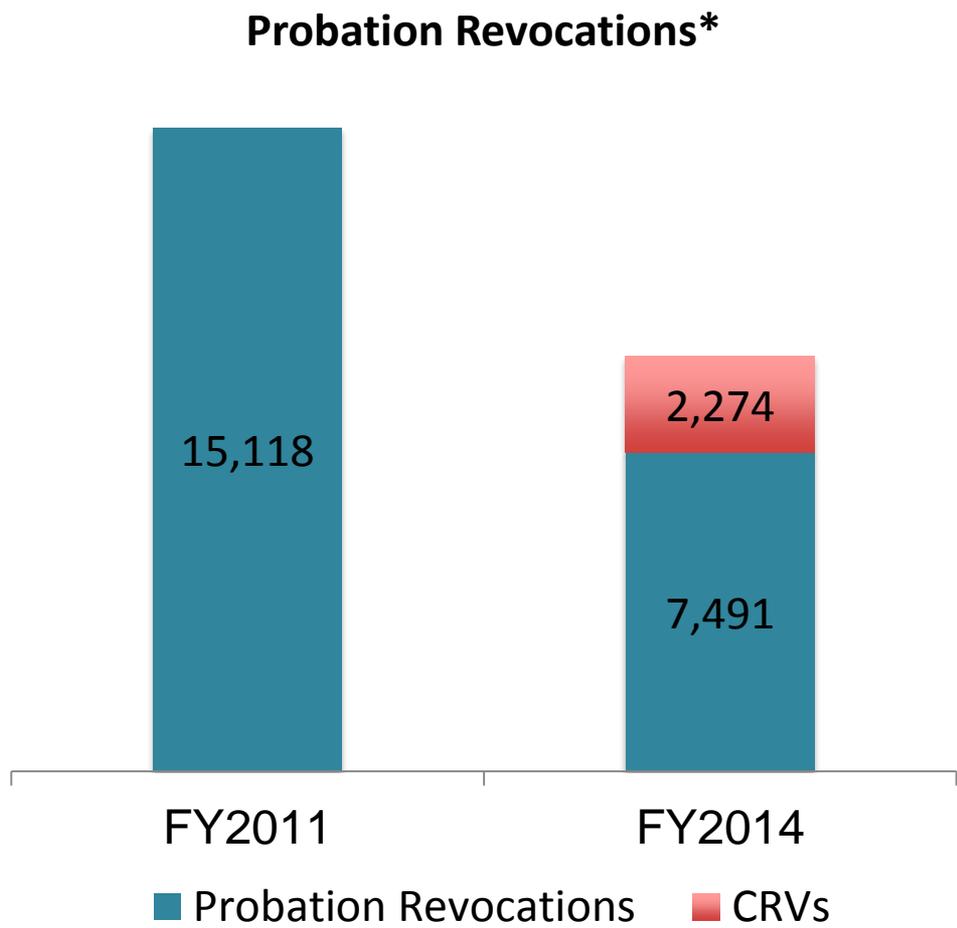


% of Violators

North Carolina has experienced consistent and widespread utilization of intermediate sanctions since 2011.

Since FY2011, probation revocations decreased by **50%**.

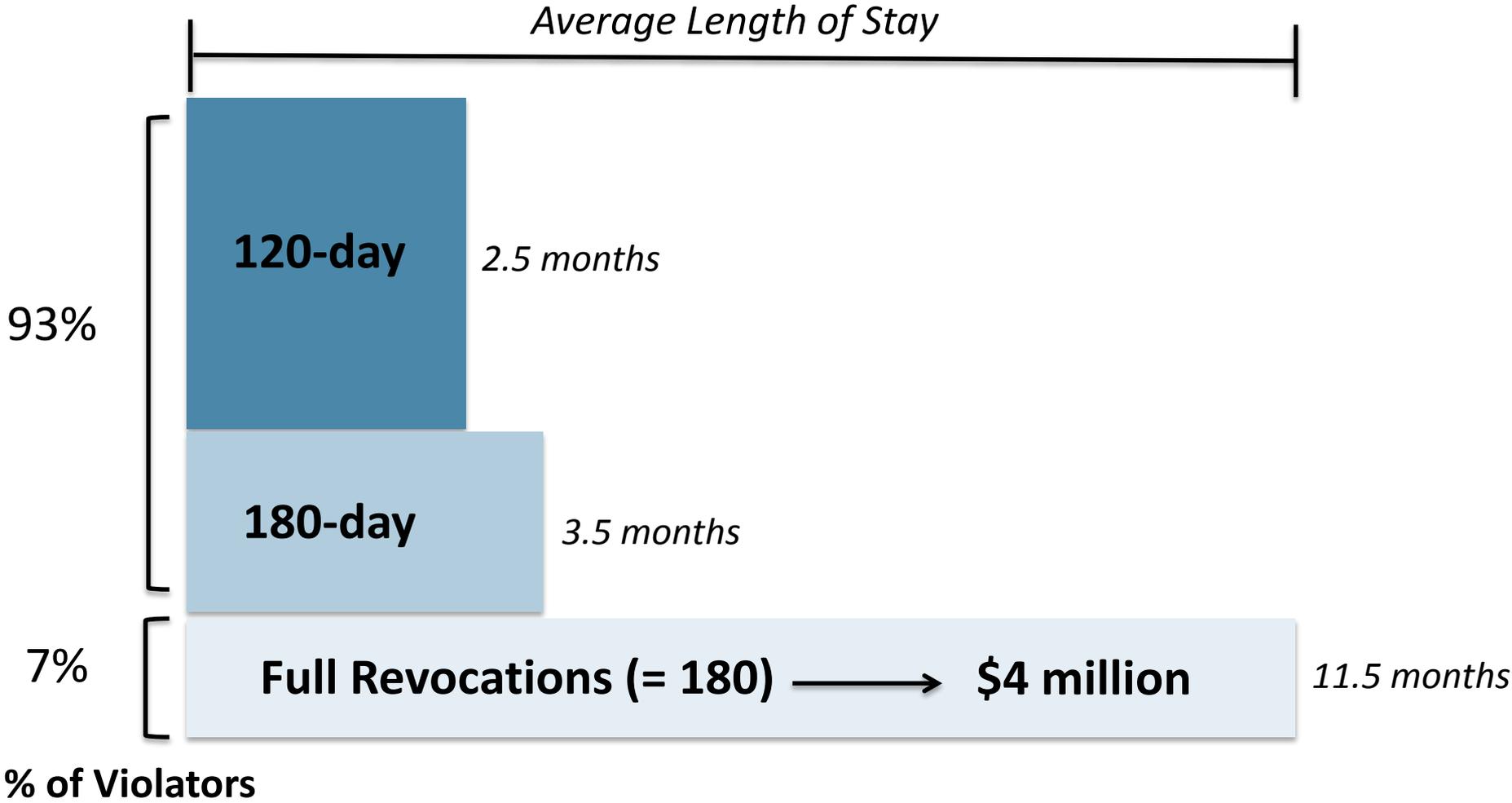
- In FY2011, probation revocations accounted for **52%** of prison admissions
- In FY2014, probation revocations accounted for **33%** of prison admissions
- In FY2014, probation revocations and 90-day JRI sanctions (CRVs) accounted for **43%** of prison admissions



*includes both felony and misdemeanor probation revocations

Why is Kansas not experiencing similar savings?

Projected Sanctioning Practices w/ Full Implementation of H.B. 2170 (FY14):



Possible areas of discussion . . .

- How are so many full revocations occurring without a justification under the law?
- Are there practical barriers, from a defense perspective, to using prison sanctions in lieu of full revocation?
- Are there concerns about the sanction regimen that have surfaced as a result of this presentation?

Contact Information

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