JUSTICE CENTER
THE COUNCIL OF STATE GOVERNMENTS

Justice Reinvestment in Kansas

Initial Working Group Meeting

June 13, 2012

Council of State Governments Justice Center

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Council of State Governments Justice Center

- **National non-profit, non-partisan, membership association of state government officials**
- **Represents all three branches of state government**
- **Justice Center provides practical, nonpartisan advice informed by the best available evidence**

Criminal Justice / Mental Health

Consensus Project

Reentry Policy Council

Justice Reinvestment

Justice Reinvestment Assists State Officials in Identifying Policies to Improve Public Safety

Justice Reinvestment

a data-driven approach to reduce corrections spending and reinvest savings in strategies that can decrease crime and strengthen neighborhoods.

BJA
Bureau of Justice Assistance
U.S. Department of Justice

THE PEW CENTER ON THE STATES | Public Safety Performance Project

This Approach Focuses on Four Evidence-Based Strategies

1. Focus on the people most likely to commit crime
2. Use programs proven to work and ensure they are high quality
3. Deploy supervision policies and practices that balance sanctions and treatment
4. Target places where crime and recidivism rates are the highest

Kansas Has Used the JR Process Before

SB14 Passed in the 2007 Session

- ✓ Performance based grants for Community Corrections
- ✓ Credits for completing treatment, education, and vocation programs
- ✓ Restored credits for good behavior for nonviolent felons

THE NEW YORK TIMES EDITORIAL/LETTERS MONDAY, JULY 2, 2007

The New York Times

A Much-Needed Second Chance

The United States now has more than two mil-

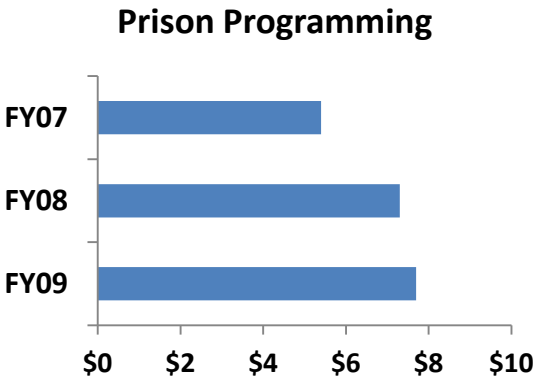
lion dollars to build several new prisons.

A similar solution was found in Kansas, where about 66 percent of the state's admissions to prison were traced to technical violations of probation or parole, often by people with drug addictions or mental illnesses. The Legislature has expanded drug treatment behind bars and created a grant program that encourages localities to provide more effective supervision and services as a way of keeping recently released people away from crime and out of prison.

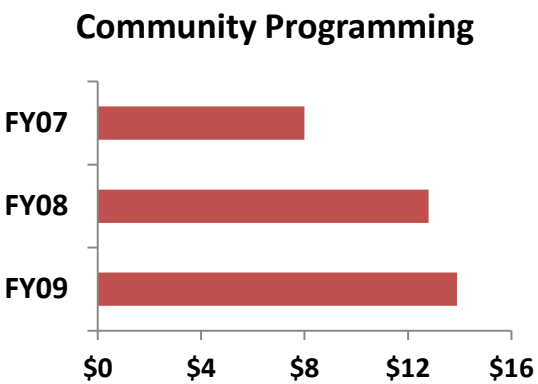
ture was facing a projected upsurge in the prison population and a projected outlay of more than a bil-

movement with money, training, technical assistance — and the federal stamp of approval.

Investments in Programming and Outcomes Accompanied Passage of SB14



$2.3m increase in funding for prison-based programs



$3.6m increase in funding for community-based programs

$3.6m increase in funding for performance-based outcomes

Prison population as of passage of SB14 : **8,872**

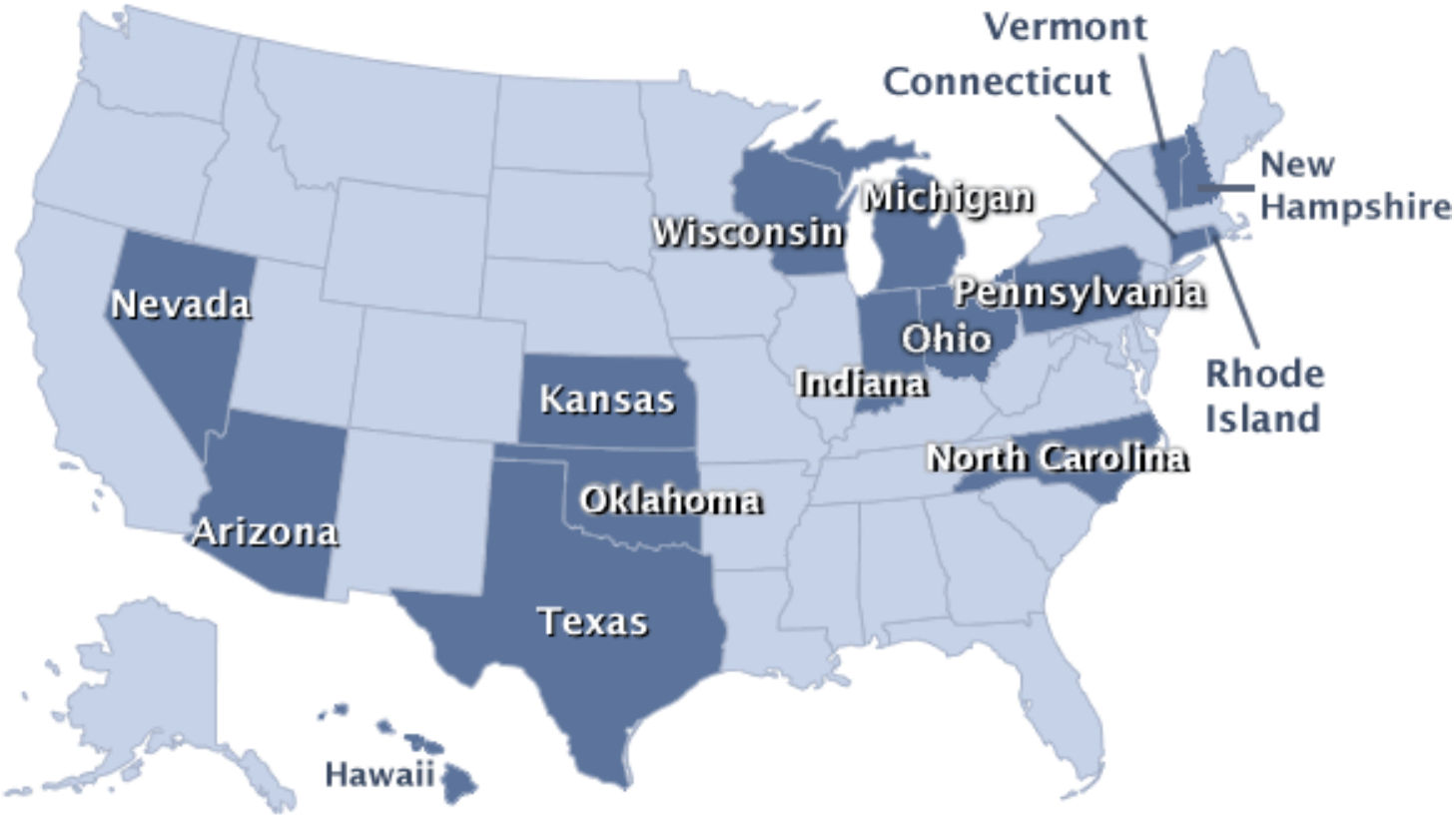
Prison population two years after passage of SB14 and reinvestments into system: **8,610**

... as opposed to about 9,300 as projected prior to Justice Reinvestment

Significant Savings

Source: Kansas Department of Corrections

16 States Have Used the Justice Reinvestment Approach



North Carolina Reinvested in High Performing Programs

PROBLEM → **DATA** → **POLICY CHANGE**

$9
million

Formula-based Grants to Counties/Regions

Lack of Outcomes from Community-Based Programs
(substance use & mental health treatment)

- **Ineffective program models**
- **No target populations**
- **$ spent on administration instead of treatment**
- **Only served 50% of those needing treatment**

$13
million

+ 40%

DOC Contracts
for Serving High Risk/Need with Effective Program Models

Community-Based Programs
(primarily substance use treatment)

North Carolina Strengthened Their Probation System

PROBLEM → DATA → POLICY CHANGE

Violation hearings are time-consuming
& often result in placement back on probation

Few meaningful sanctions
for minor violations

53%
of prison admissions were **probation revocations**

¾
of revocations were for **condition violations**

Administrative Jail Sanctions

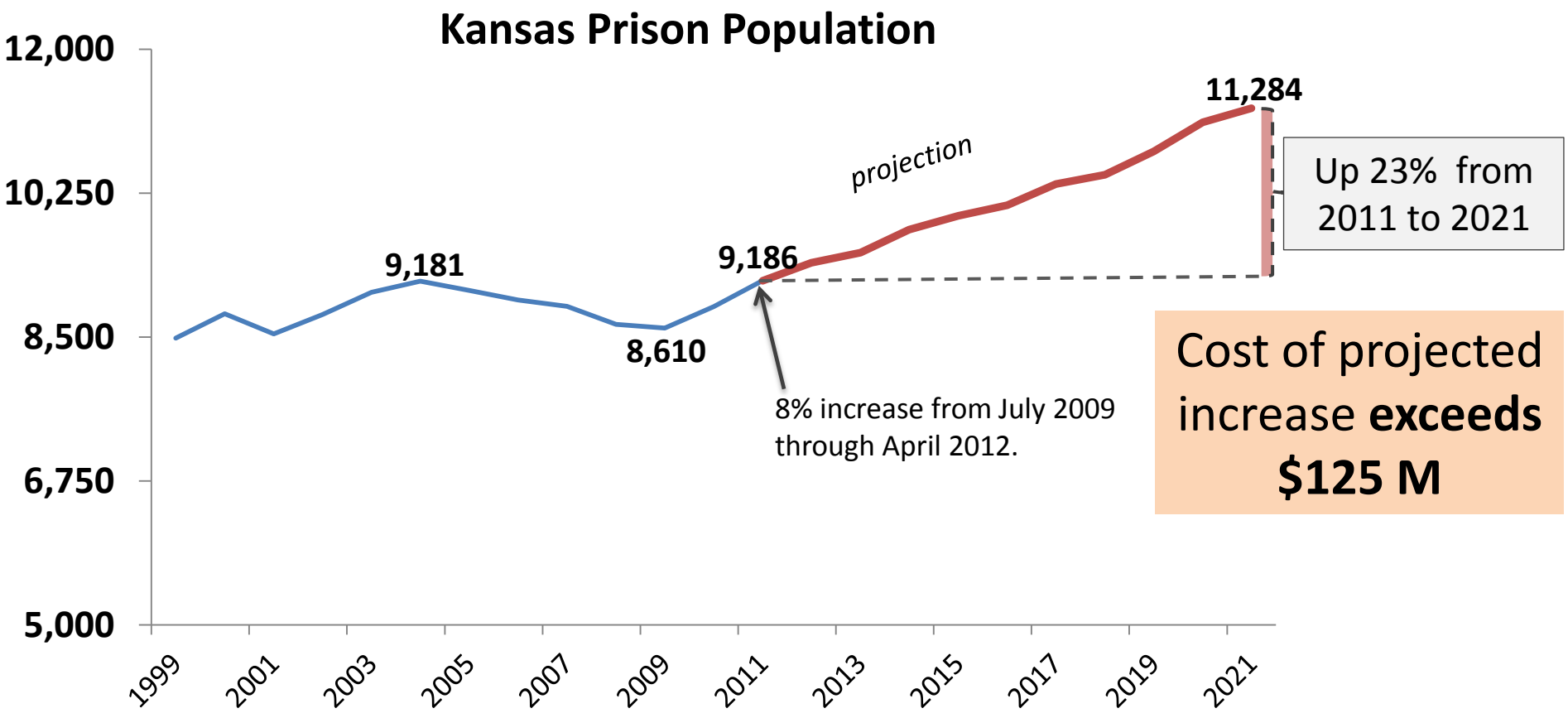
Designed to:
- Reduce violation hearings
- Reduce time in court
- Reduce jail time spent awaiting hearings

2-3 day sanction

90-day revocation for 1st & 2nd condition violations

Full revocation for absconding & new crimes

Projections Indicate the Kansas Prison Population Will Grow 23% Over Next Ten Years



Source: Kansas Sentencing Commission

Legislature Passed House Bill 2684 Establishing JR Working Group

- After the legislature passed HB 2684, Gov. Brownback signed the bill on June 6, 2012.

- The legislation renews the state's prior efforts to increase public safety, stem recent growth in its prison population, and reduce recidivism.

Gov. Sam Brownback signed House Bill 2684 on June 6, 2012.

- HB 2684 establishes an inter-branch, bipartisan working group that will guide an analysis of the state's criminal justice system and yield policy options for state leaders to consider in the 2013 legislative session.

Overview

Justice Reinvestment Process & Data to Be Analyzed

Initial Analyses and Areas for Further Consideration

Next Steps

Justice Reinvestment Process

Bipartisan , bicameral, inter-branch working group

Phase I

Analyze Data and Develop Policy Options

- **Analyze data to look at crime, court, corrections, and supervision trends**
- **Solicit input from stakeholders**
- **Map allocation of resources**
- **Develop policy options & estimate cost savings**

Phase 2

Implement New Policies

- **Identify assistance needed to implement policies effectively**
- **Deploy targeted reinvestment strategies to increase public safety**
- **Track the impact of enacted policies/programs**
- **Monitor recidivism rates and other key measures**

The Next Several Months

Phase I **Analyze Data & Develop Policy Options**

Collect and examine quantitative data

- Reported crime and arrests
- Court dispositions and sentencing
- Court services, community corrections and post-release supervision
- Prison admissions, population, and releases

Engage stakeholders

- Law enforcement
- Judges
- County & District Attorneys
- Defense bar
- Victim advocates/ survivors
- County officials
- Supervision agencies
- Behavioral health and treatment providers

Develop and present a comprehensive analysis of the state's criminal justice system

Develop a framework of policy options that together would increase public safety and reduce/avert taxpayer spending

~ 6 months

~2 months

Data Requested

Data*	Source	Status
Felony Sentences	KSC	Received
Court Services	Judiciary	Pending
Community Corrections	DOC	Received
Prison Admissions, Releases, & Annual Population Snapshot	DOC	Received
Parole/Post-Release Supervision	DOC	Received
Arrests	KBI	Pending

* Denotes case specific records at person level

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Sustaining Positive Outcomes

Kansas has responded to criminal justice system pressures before

- Demonstrated success in terms of reducing revocations among offenders supervised in the community
- Investments in proven strategies and programming

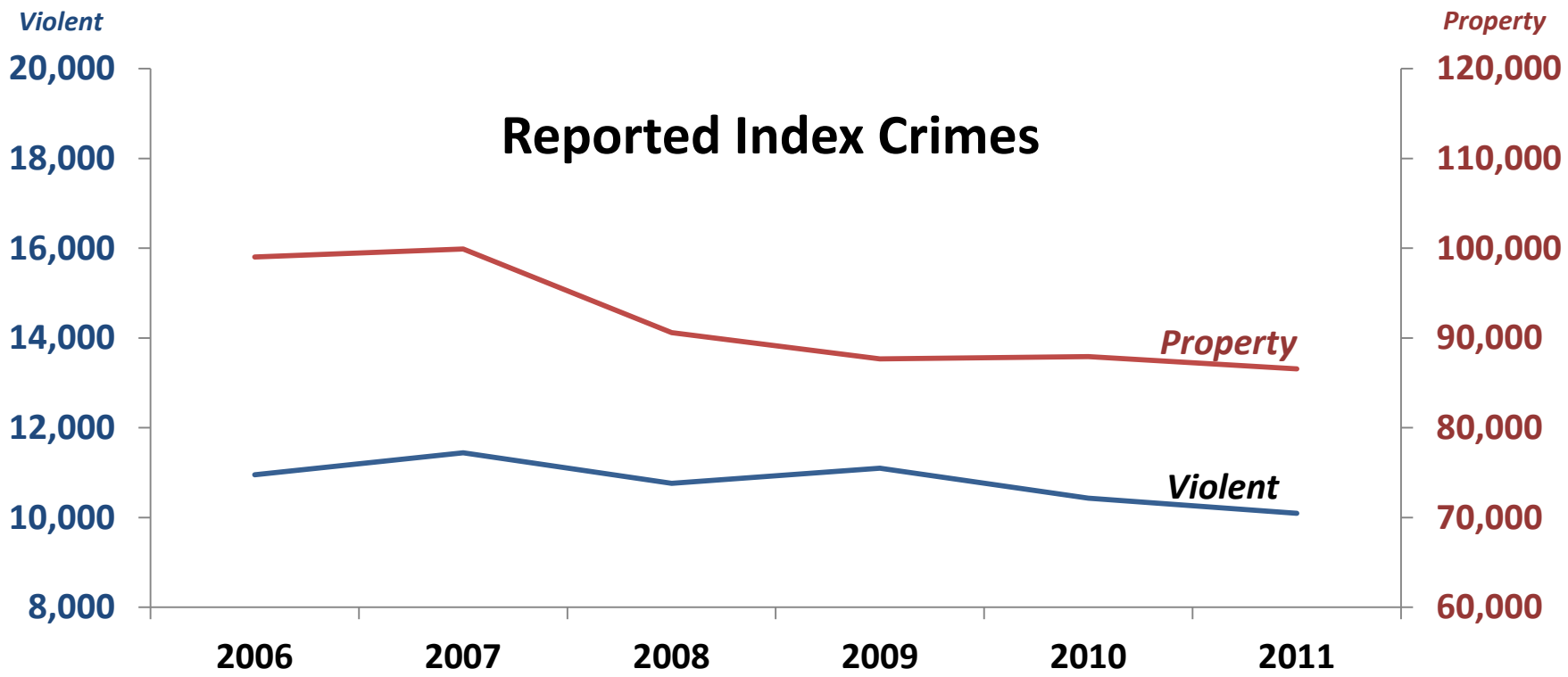
Sound policy requires diligent oversight, otherwise...

- Causes of system pressures poorly understood
- Declining investments in proven strategies
- Dwindling outcomes

Analysis of Aggregate Data Indicates...

- Declining volume of reported crime for both violent and property
- Increasing arrest totals
- Increasing use of prison by the courts
- Half of the recent increase in prison admissions driven by revocation of probation for conditions violations (excluding new offense)

Fewer Violent and Property Crimes Being Reported

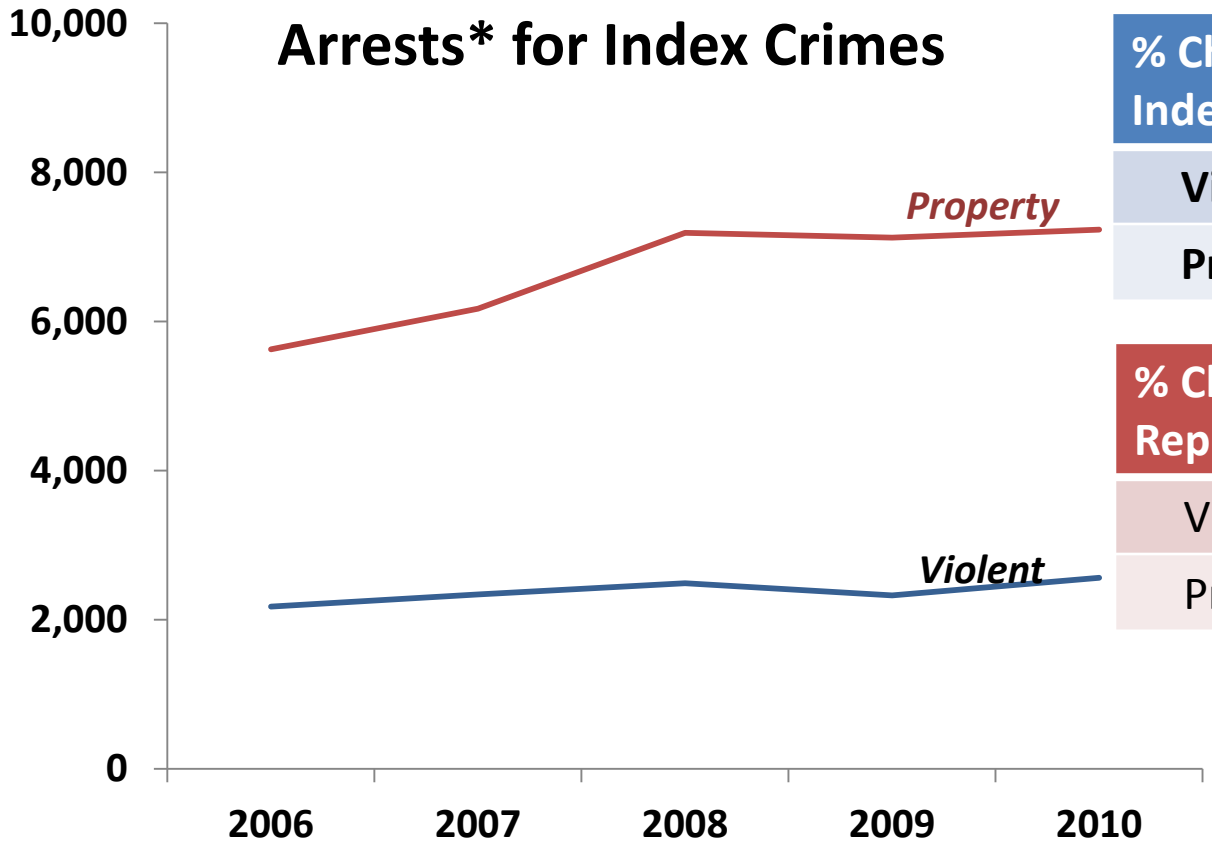


% Change in Reported Crime	2006-11	2009-11
Property	- 13%	- 1%
Violent	- 8%	- 9%

4% growth in state population from 2006 to 2011

Source: Kansas Bureau of Investigation

Despite Declining Crime, Index Arrests Increased in Recent Years



*2011 arrest data not yet published

% Change in Index Arrests	2006-10	2009-10
Violent	+ 18%	+ 10%
Property	+ 29%	+ 2%

% Change in Reported Crime	2006-10	2009-10
Violent	- 5%	- 6%
Property	- 11%	+ <1%

Source: Federal Bureau of Investigations. *Uniform Crime Report,*

Non-Index Arrests Also Increased in Recent Years

% Change in Arrests	2006-10	2009-10
Violent Index	+ 18%	+ 10%
Property Index	+ 29%	+ 2%
Non-Index Offenses		
Total Non-Index	+ 12%	+ 6%
Drug	+ 25%	+ 29%
DUI	+ 15%	- 2%

Source: Federal Bureau of Investigations. *Uniform Crime Report,*

As a Result, Clearance Rates Have Increased

Index Violent

Year	Reported Crimes	Arrests	Clearance Rate
2006	10,952	2,177	*20%*
2008	10,759	2,491	*23%*
2010	10,429	2,562	*25%*
2006-10 % chg	*-5%*	*+ 17%*	*+ 25%*

What's a Clearance Rate?
It's a measure of crimes solved by police.

Index Property

Year	Reported Crimes	Arrests	Clearance Rate
2006	99,032	5,626	6%
2008	90,585	7,187	8%
2010	87,926	7,230	8%
2006-10 % chg	*- 11%*	*+ 29%*	*+ 33%*

How is it calculated?
The Clearance Rate is determined by dividing the number of crimes that are "cleared" (an arrest is made) by the total number of crimes reported.

Sources: Kansas Bureau of Investigation; Federal Bureau of Investigation *Uniform Crime Report*

Summary of Crime and Arrest Trends Since 2006

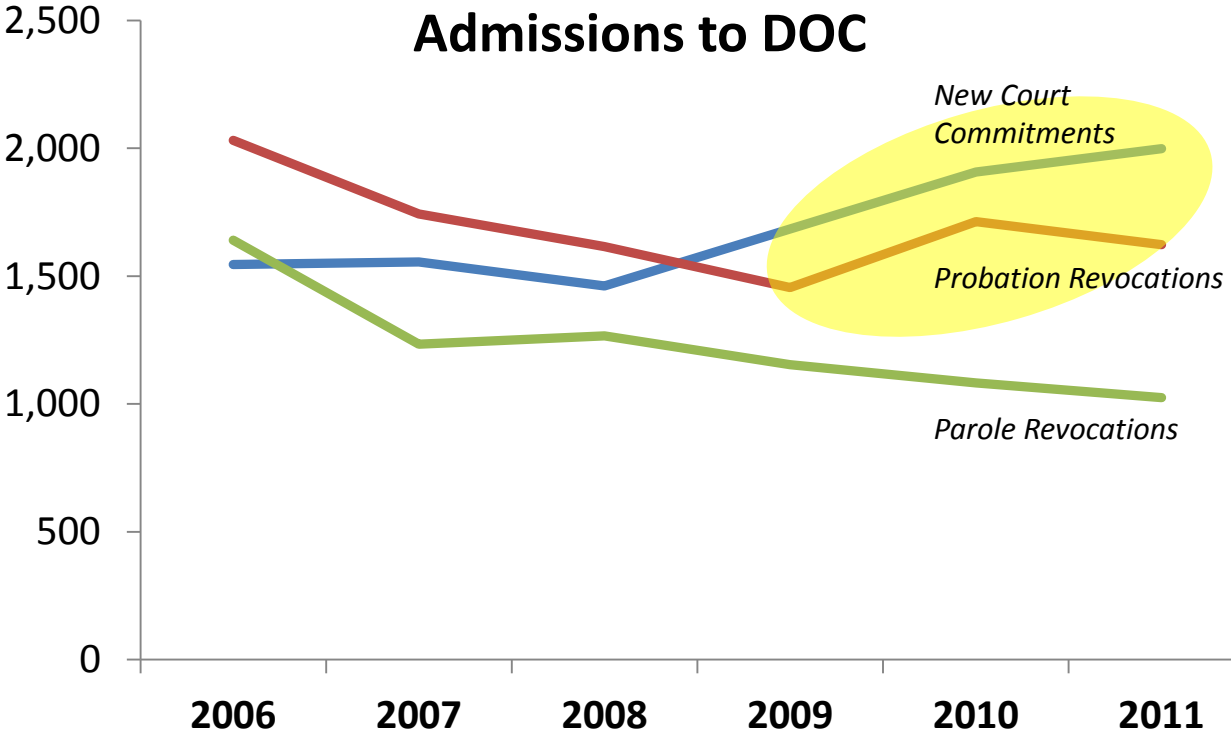
Modest statewide population growth (+ 4%)

Declining volume of reported index crimes (- 8% and - 13% for violent and property, respectively)

Increasing volume of index arrests (+ 18% and + 29% for violent and property, respectively)

?

Recent Upturn in New Court Commitments and Probation Revocations



% Change	2006-11	2009-11
New Court Commitments	+ 37%	+ 19%
Probation Revocations	- 9%	**+ 12%**
Parole Revocations	- 52%	- 11%

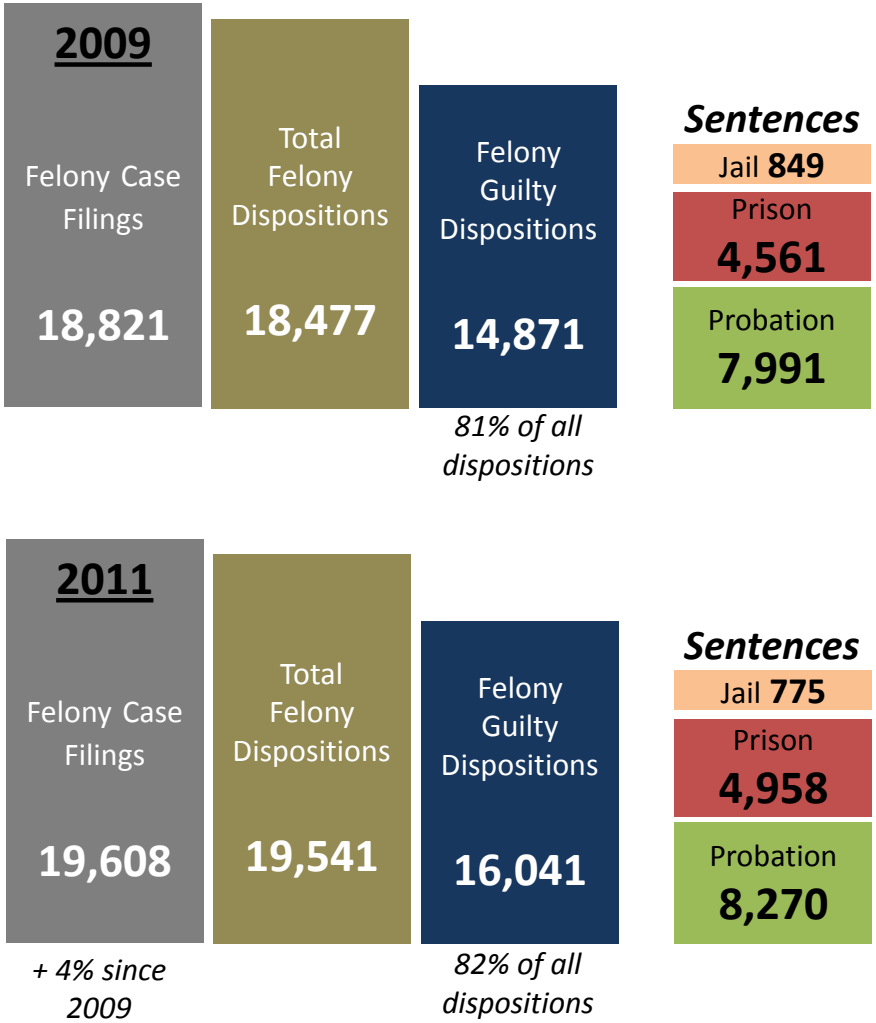
What types of offenses are driving the increase in new court commitments?

What might be driving recent increases in probation revocations?

Sizeable drop in parole revocations – the key is sustaining them.

Source: Kansas Department of Corrections, *Annual Reports*

Recent Increases in Felony Filings Are Driving the Increase in Prison Sentences

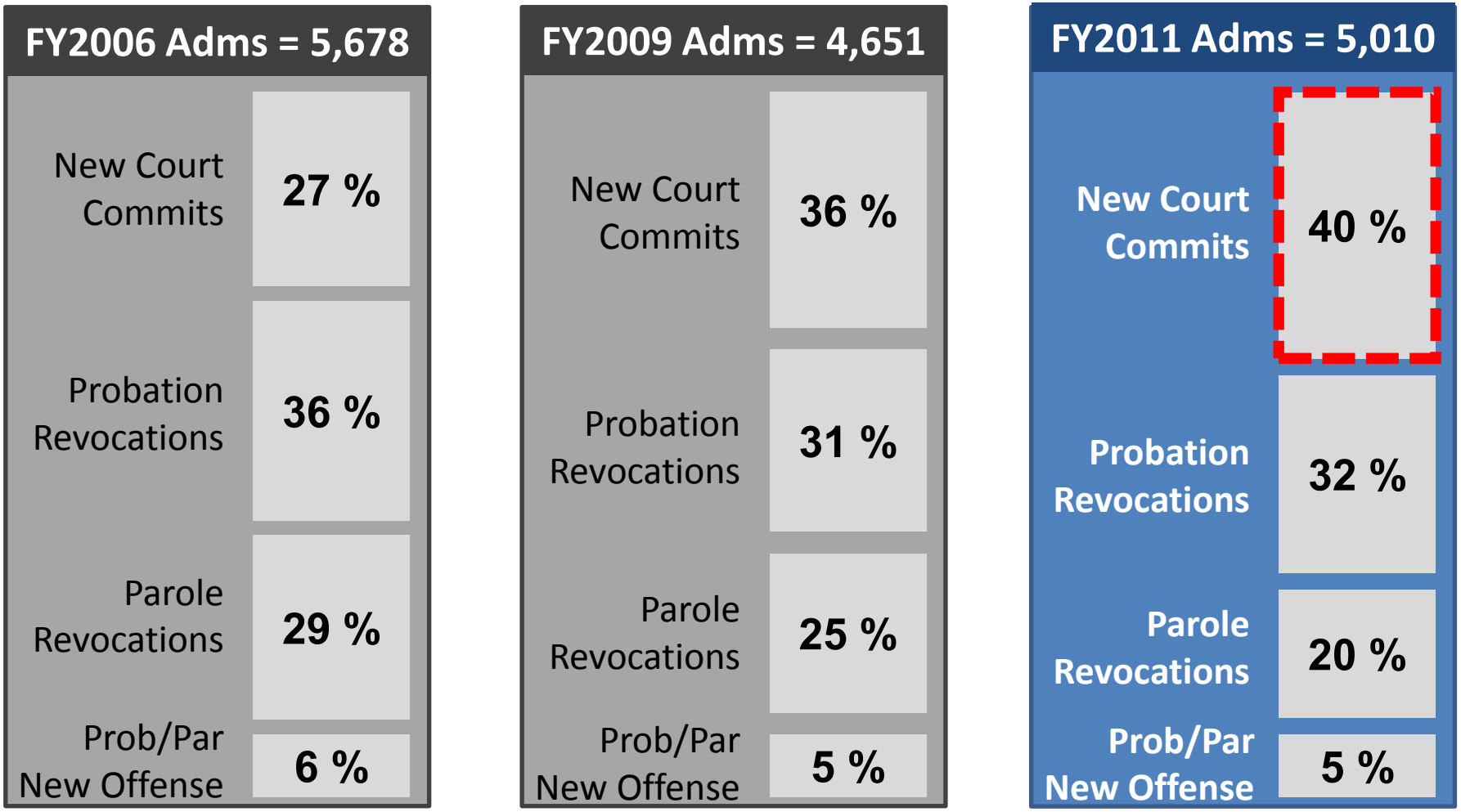


This is likely a product of increasing arrests

✓ So what can we learn about drivers of recent arrest surges?

Sources: Kansas Judicial Branch, *Annual Reports*; Kansas Department of Corrections, *Annual Reports.*

New Court Commitments Now Comprise More than One-Third of All Prison Admissions



Sources: Kansas Department of Corrections, *Annual Reports*

Kansas Utilizes Two Systems of Probation

Court Services

- Standard probation tool for offenders whose sentence places them in a presumptive probation box on the sentencing grid.
- Probationers supervised by Court Services are subject to less intensive supervision (drug testing, monitoring, etc.)

Community Corrections

- Offenders whose criminal history and offense place them in the border boxes on the sentencing grid.
- Individuals who qualify for presumptive probation, but are considered high risk/needs based on pre-sentence risk assessment.
- First or second-time nonviolent drug possession with no prior felonies for sale or manufacture of drugs.

SB 123 Passed in 2003

Source: Senate Bill 323 (2000) and Senate Bill 123 (2003)

Recent Amendments to SB 123 Should Improve Targeting for Intensive Supervision

Only first and second-time drug offenders who are:

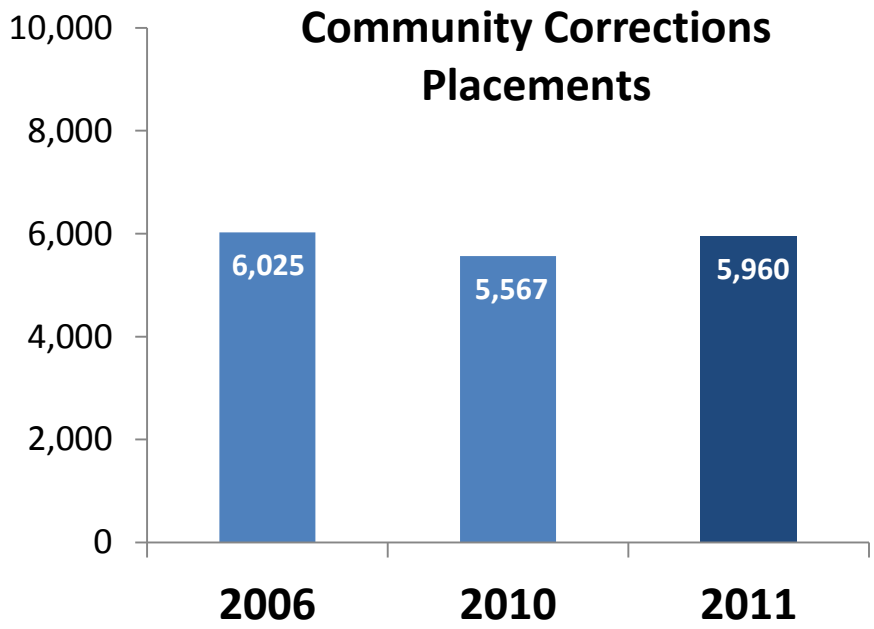
- High need (as determined by a substance abuse assessment) AND
- Moderate or high risk (as determined by a criminal risk-need assessment)

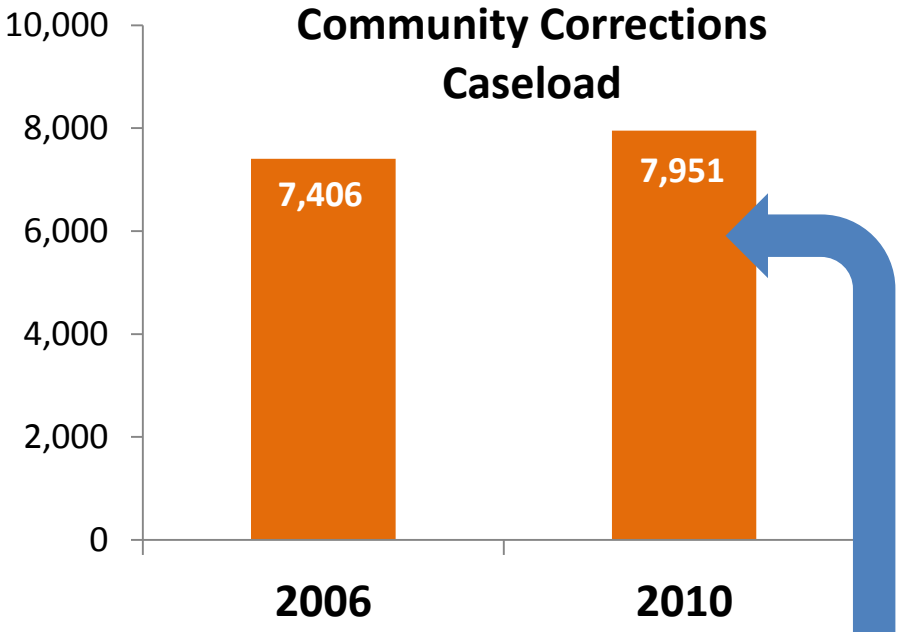
...are automatically sentenced to community corrections and ordered to successfully complete a drug treatment program.

➢ All other offenders can be sentenced either to community corrections or court services (less intensive supervision).

Source: HB 2318 as passed during 2012 legislative session.

Community Corrections Caseloads Up 7% Since FY 2006





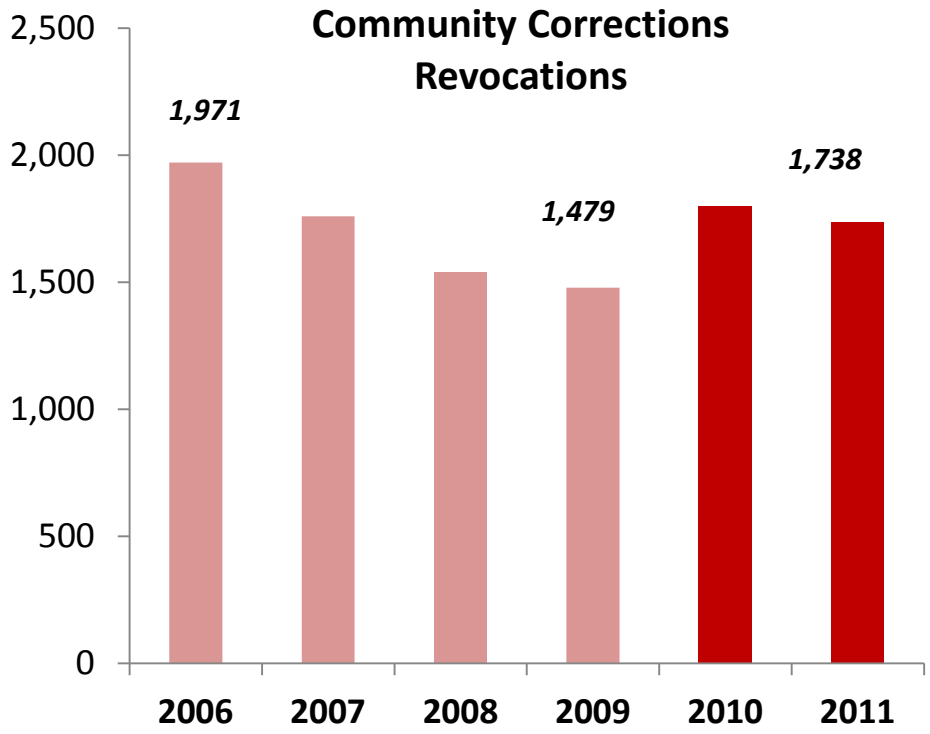
Placements = number beginning a supervision term

Caseload = number supervised on last day of fiscal year

Is there a length of stay or other dynamic affecting caseload?

Source: Kansas Department of Corrections, *Annual Reports and Community Corrections Statistical Summaries*

Community Corrections Revocations Up 18% Since FY 2009

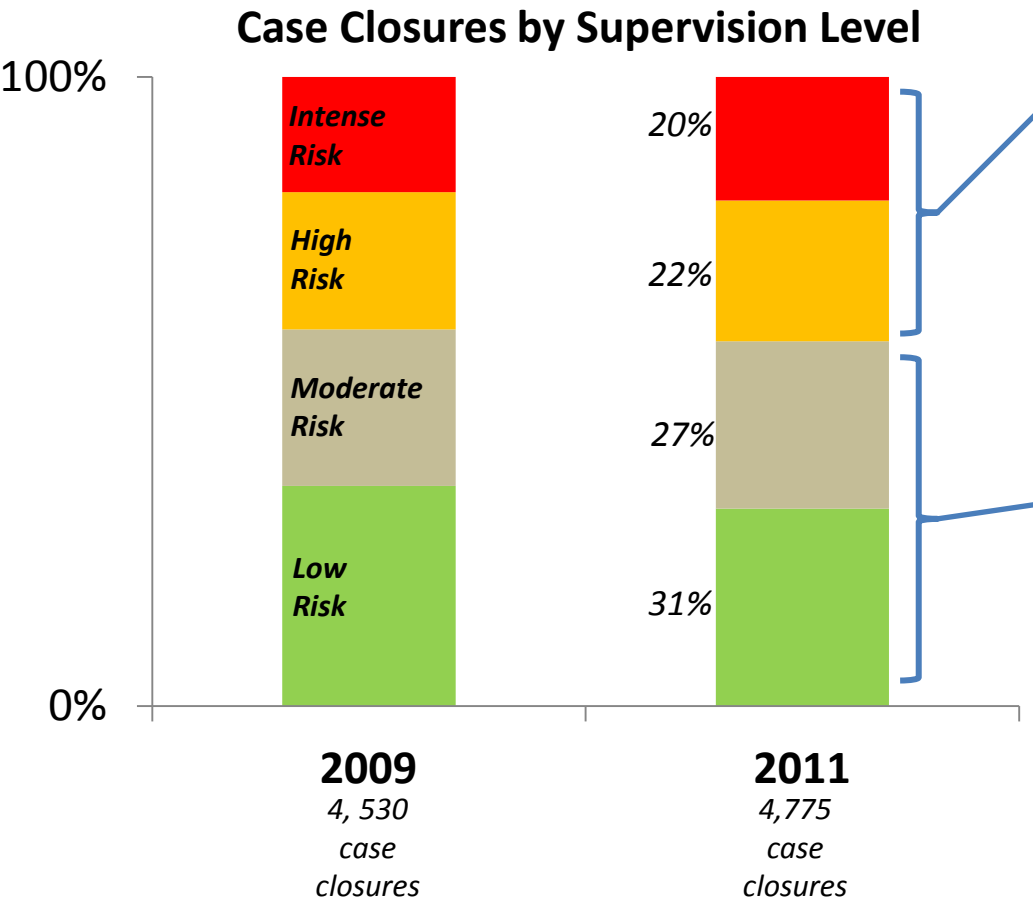


- FY 2006 through FY 2009 saw a 25% decline in revocations of community corrections probationers.
- But, some of those gains have been lost.

We want to look carefully at types of programming utilized and targeting by risk/needs levels.

Source: Kansas Department of Corrections, *Annual Reports*

Two-Thirds of High Risk Probationers Are Revoked, Mostly for Conditions Violations



Of the FY 2011 case closures of highest risk probationers:

- **65% were revocations**
  - 69% of the revocations were for conditions violations

By contrast, only 11% of case closures of lower risk probationers were revocations.

Source: Kansas Department of Corrections, *Community Corrections Statistical Summaries*

SB 14 Provisions & Key Goals

Reduce community corrections revocations & hold offenders accountable in the community

Established goal for local agencies to reduce revocations by 20 percent

- ✓ **+ $4m in grants to reduce risk**

Reduce recidivism rates by creating an incentive for people to complete programs prior to the end of their sentence

Risk reduction program credit of 60 days for offenders who successfully complete programs designed to reduce their risk to public safety

- ✓ **Increase in program capacity**

Reserve prison space for the most serious and violent offenders

Return to 80 percent of time to be served for offenders in lowest sentencing guideline categories

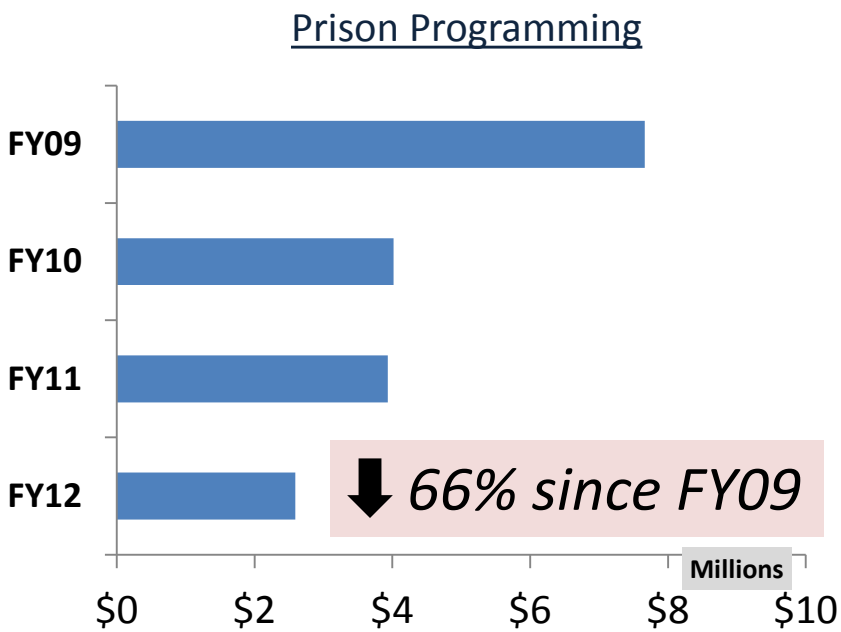
Questions Remain Regarding Implementation

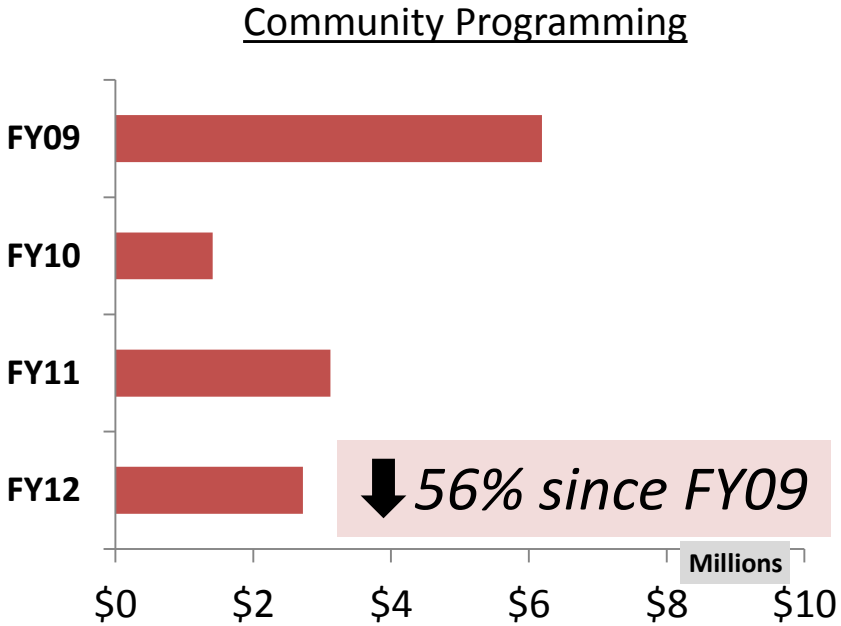
- ❑ **Performance-based grant funding has fallen 9% the last four years.**
- ❑ **Funding for community-based programs has fallen 56% the last four years.**
  - ***Number of probation conditions violators to prison up 12% since FY09.***

- ❑ **Funding for in-prison programs has fallen 66% the last four years.**
  - ***Yet the number of parole/post-release supervision violators is at a five-year low.***

Source: Kansas Department of Corrections

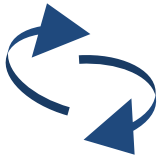
Program/Treatment Funding 2009-12





Is there a relationship between recent reductions in funding for programs and upturns in new court commitments and probation revocations?

Less capacity to provide programming in the community



Judges prefer that supervision be paired with programming in the community

Source: Kansas Department of Corrections

Summary of DOC Admissions Trends Since 2009

New court commitments up (+ 19%) since FY 09

Probation conditions viol. up (+ 12%) since FY 09

Parole conditions viol. down (- 11%) since FY 09

Prison releases flat (+ <1%) since FY 09

Increases in new court commitments and probation violations outnumber reductions in parole revocations by **more than 3 to 1**.

These recent trends reflect a growing challenge. Programing cuts are likely to exacerbate this.

Summary of Initial Analyses

Positive Trends

- Reported crime steadily declining since 2007
- 60-day program credits
  - *incentivize program participation*
- Technical parole revocations cut in half since 2006
- Demonstrated ability to reduce probation revocations
  - *performance based grant funding*

Areas of Concern

- Significant increase in new court commitments
- Technical probation revocations increasing since 2009
- Funding cuts reduce impact that program credits, community corrections, and parole can have in reducing recidivism and costs

Proposed Direction of Detailed Analysis

- Why are arrests rising dramatically while crime is falling?
- What is driving the increase in new court commitments?
  - *Are some offenses or counties driving increases?*
- Why are probation revocations increasing?
  - *Violations history*
  - *Risk level*
  - *Access to programs*
- What programs do high risk probationers need, and what is currently provided to reduce recidivism among this population?
- How effective has the 60-day program credit policy been in reducing recidivism?
- What are the mental health issues among new prisoners?

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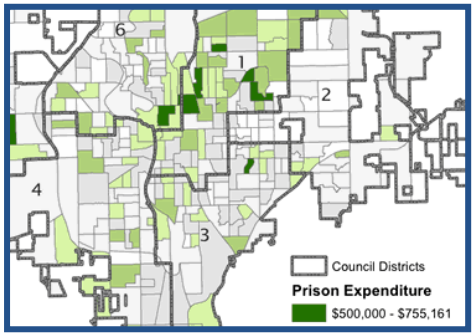
Proposed Timeline

Date	Activity
May-June	• Data Collection
June 6	• Bill Signing
June 13	• **Working Group Meeting**
July-October	• Detailed Data Analysis • Stakeholder Engagement
September 5	• **Working Group Meeting**
October-November	• Policy Framework Development • Stakeholder Consultation
November 14	• **Working Group Meeting**
November-December	• Policy Option Rollout • Begin drafting legislation



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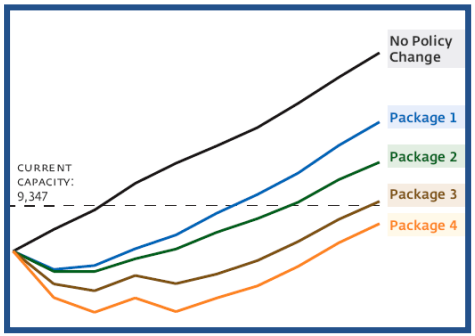

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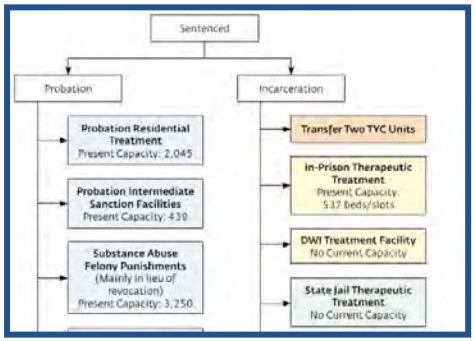

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