

Justice Reinvestment in Vermont

Second Post-Enactment Presentation to the Justice
Reinvestment II Working Group

October 27, 2020



Justice Center

THE COUNCIL OF STATE GOVERNMENTS

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Justice Center

THE COUNCIL OF STATE GOVERNMENTS

We are a national nonprofit, nonpartisan organization that combines the power of a membership association, serving state officials in all three branches of government, with policy and research expertise to develop strategies that increase public safety and strengthen communities.

How We Work

- We bring people together
- We drive the criminal justice field forward with original research
- We build momentum for policy change
- We provide expert assistance

Our Goals

- Break the cycle of incarceration
- Advance health, opportunity, and equity
- Use data to improve safety and justice



A data-driven approach to improve public safety, reduce corrections and related criminal justice spending, and reinvest savings in strategies that can decrease crime and reduce recidivism

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.



Overview

- 1** Review of working group priorities
- 2** Analysis of Vermont's probation system
- 3** Probation policy examples and discussion
- 4** Behavioral health overview and next steps

As a refresher, the JR II Working Group oversees the implementation of Act 148 and performs additional statutory duties.

Act 148 section 21

- Reconvenes JR II Working Group with addition of parole board representative to oversee implementation of Justice Reinvestment II policy changes.
- Directs the working group to undertake specific tasks, including identifying additional system gaps, proposing more improvements, and studying other potential policy changes.

Requires the working group to report to the legislature and make policy recommendations by January 15, 2021, and again by January 15, 2022.

In addition to implementation oversight, Act 148 tasks the working group with analyzing and making **policy recommendations** regarding several policy areas by **January 15, 2021, and January 15, 2022.**

Working group duties include:

- Studying earned time for people on probation and exploring other related policy options
- Identifying ways to increase DOC and community provider risk assessment information sharing to help inform plea agreement, sentencing, and revocation decisions
- Identifying screening, assessment, case planning, and care coordination gaps for people with complex behavioral health issues in the criminal justice system and recommending system improvements
- Identifying new or existing tools to identify risk factors that can be targeted with treatment and services
- Studying presumptive probation
- Evaluating parole eligibility for older adults who have not served their minimum term
- Developing funding and appropriation recommendations

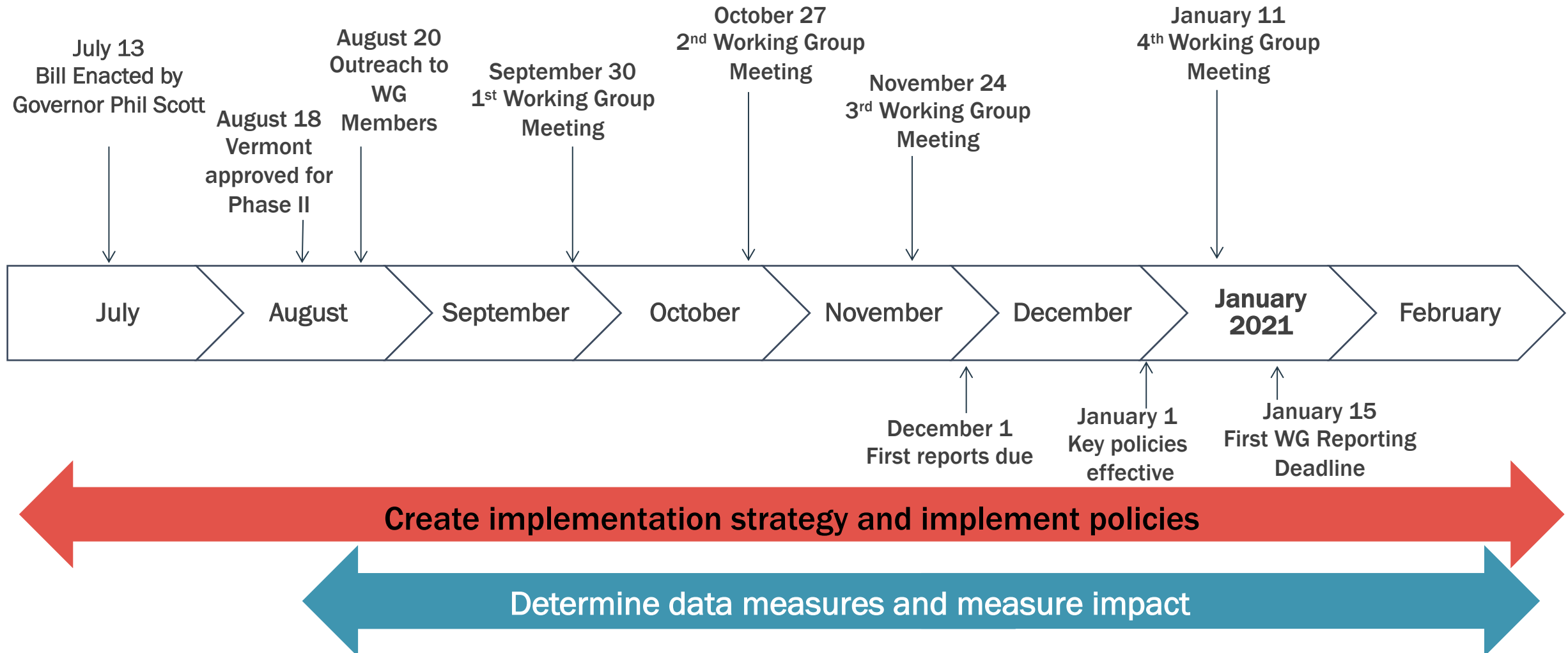
CSG Justice Center staff will assist the working group by providing data and policy analysis; communicating best practices from other states; sharing relevant research; and facilitating a collaborative, data-driven process.

Working group members prioritized specific statutory duties before the first reporting deadline on January 15, 2021.

In the September 30 working group meeting, members prioritized the following tasks for October 2020 through January 2021:

1. Study earned credit for people on probation and explore other related policy options.
2. Identify ways to increase Department of Corrections (DOC) and community provider risk assessment information sharing to help inform plea agreement, sentencing, and revocation decisions.
3. Determine screening, assessment, case planning, and care coordination gaps for people with complex behavioral health issues in the criminal justice system and recommend system improvements.
4. Identify new or existing tools to identify risk factors that can be targeted with treatment and services.

The working group also set three additional meetings before the January 15, 2021, reporting deadline.



The working group will address these tasks during upcoming meetings.



October 27

- Study and discuss earned credits for people on probation and related policy options.
- Review Justice Reinvestment II Phase I findings on risk and needs assessments and behavioral health screens and assessments.



November 24

- Discuss existing behavioral health information sharing, care coordination, case management protocols and service challenges for people in the criminal justice system.
- Consider Justice Reinvestment funding and appropriation recommendations for the upcoming budget cycle.



January 11

- Receive implementation updates and discuss reports submitted as per Act 148.
- Review policy options related to previous working group conversations and reports.
- Determine future meetings of the working group.



Overview

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- 4 Behavioral health overview and next steps

Act 148 tasks the working group with evaluating the policy for people on probation earning one day of credit toward their suspended sentence for each day served in the community without a violation.

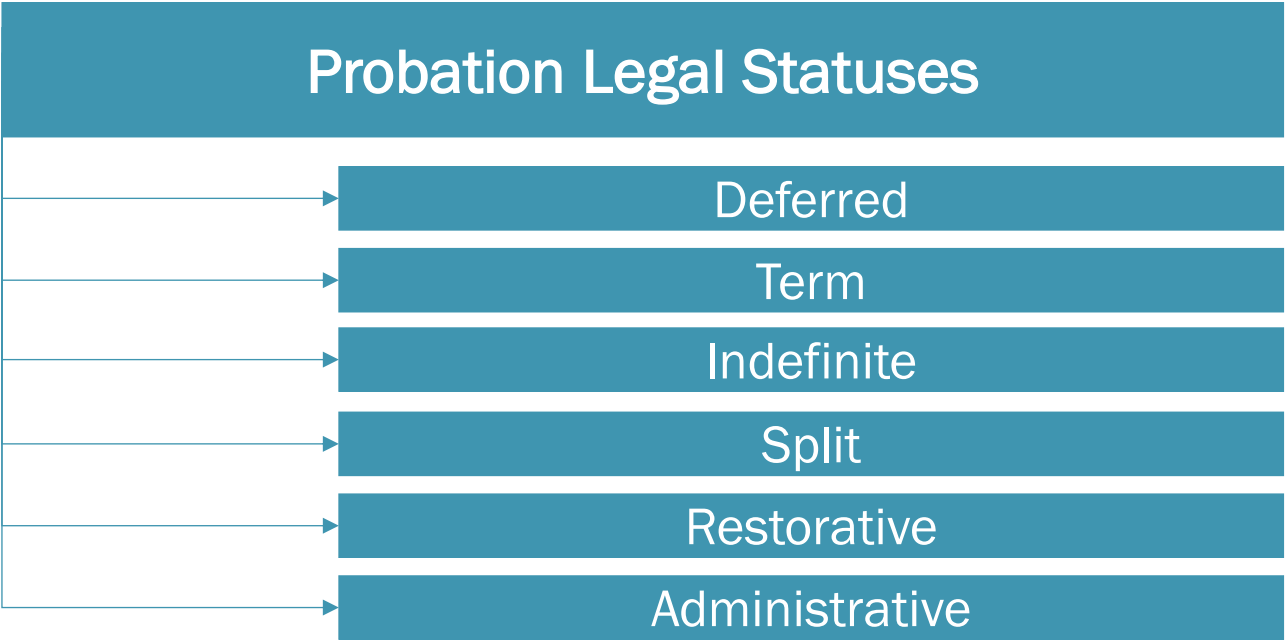
Other statutory considerations:

1. How to implement this policy without impacting probation term or suspended sentence lengths
2. Whether credit should apply to both maximum and minimum suspended sentences
3. Whether credit accrual equal to the imposed or statutory maximum term should result in discharge
4. Whether misdemeanor probation terms should be limited to two years or if the court should have discretion to impose a longer sentence
5. Additional options for early discharge from probation, including options modeled after Vermont's current midpoint review process

Under probation, a person who is found guilty of a crime, by verdict or plea agreement, is released by the court to community supervision.

Probation sentences include a defined probation term, as well as an underlying **minimum** and **maximum suspended incarceration sentence** to be served upon revocation.

There are several categories of probation in Vermont:



Probation in Vermont is administered by DOC, but the terms, conditions, releases, violations, and discharges of supervision are determined by the courts.



The Courts



The Vermont judiciary sentences people, sets conditions and terms of probation, and adjudicates probation violations and discharges.

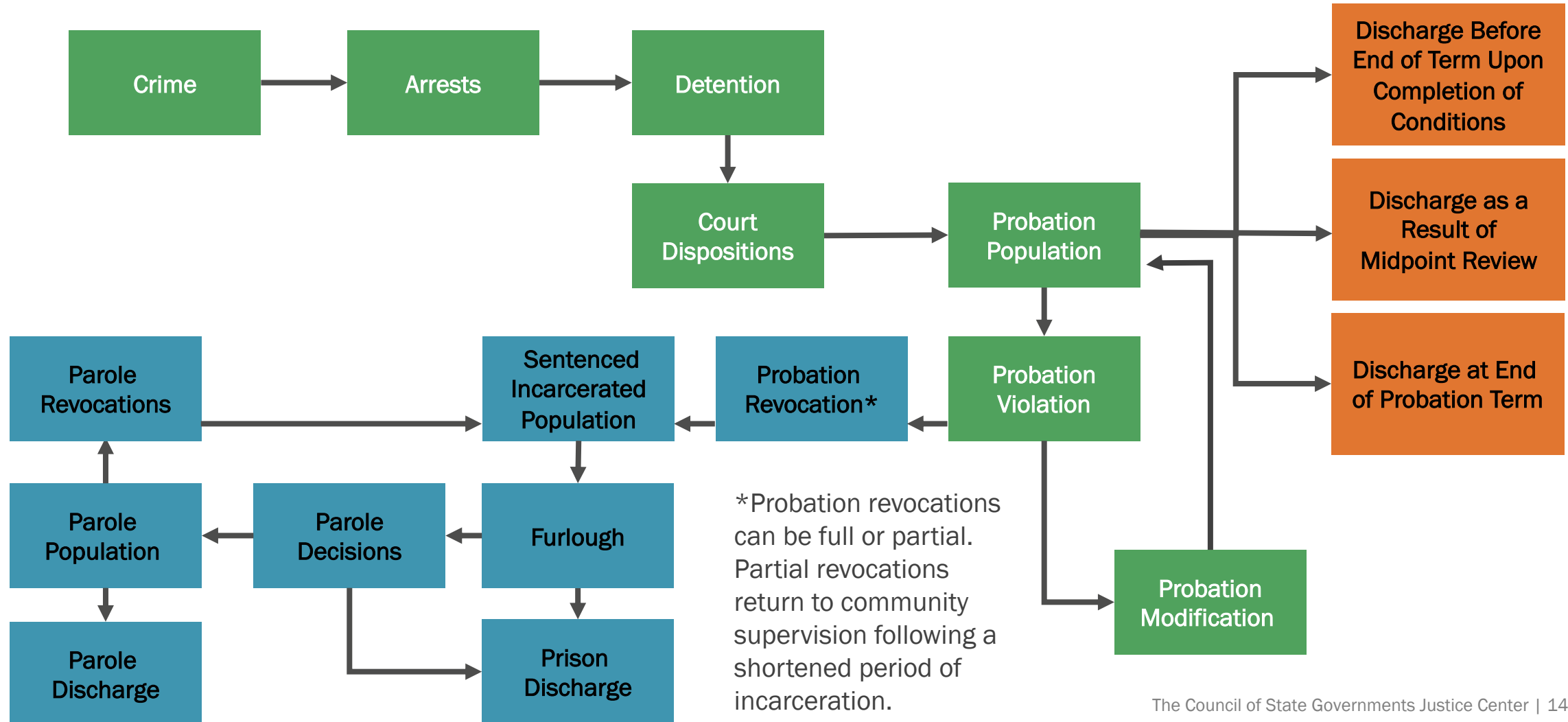


DOC



The DOC supervises all statuses of community supervision and files probation violations and requests for discharge with the courts.

A person's probation term can end through successful **discharge** or **revocation** to prison due to a violation.



Vermont has two mechanisms for discharging people on probation prior to the end of their imposed probation term.



Midpoint Review

At the midpoint of an individual's probation term, DOC conducts a case review and may submit a recommendation to the court for either discharge or a term reduction.

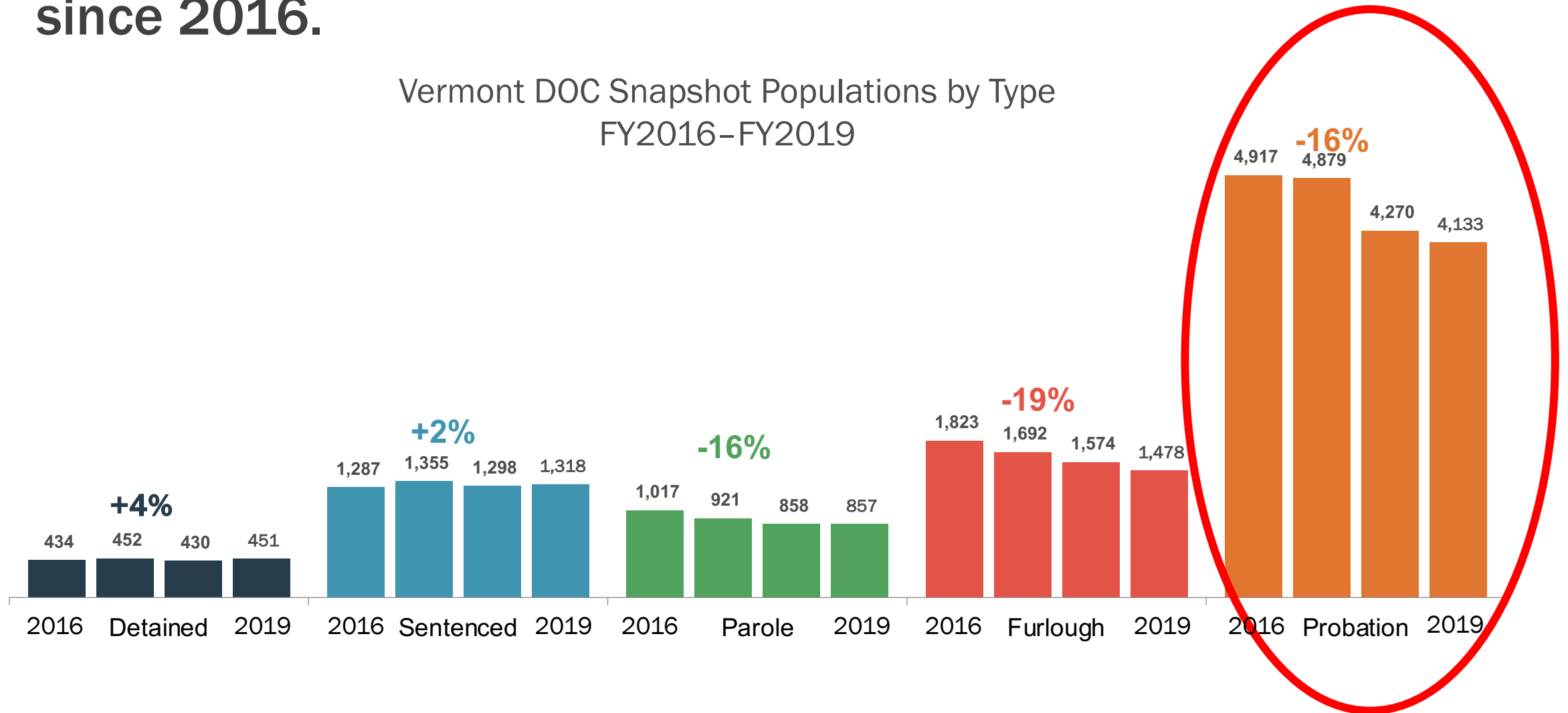


Discharge Upon Completion of Conditions

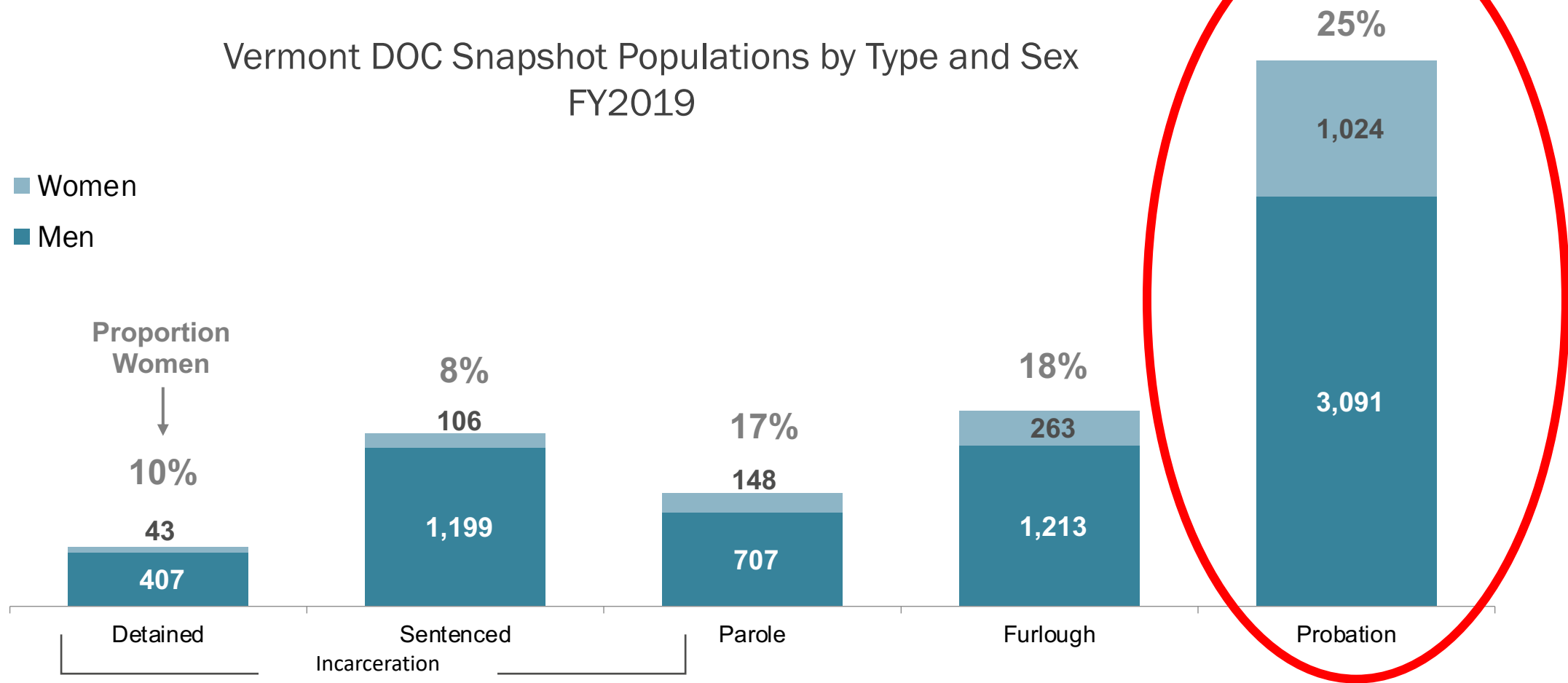
DOC may submit a recommendation to the court for early discharge when an individual has completed or complied with all the terms of their probation.

Vermont's probation population has decreased 16 percent since 2016.

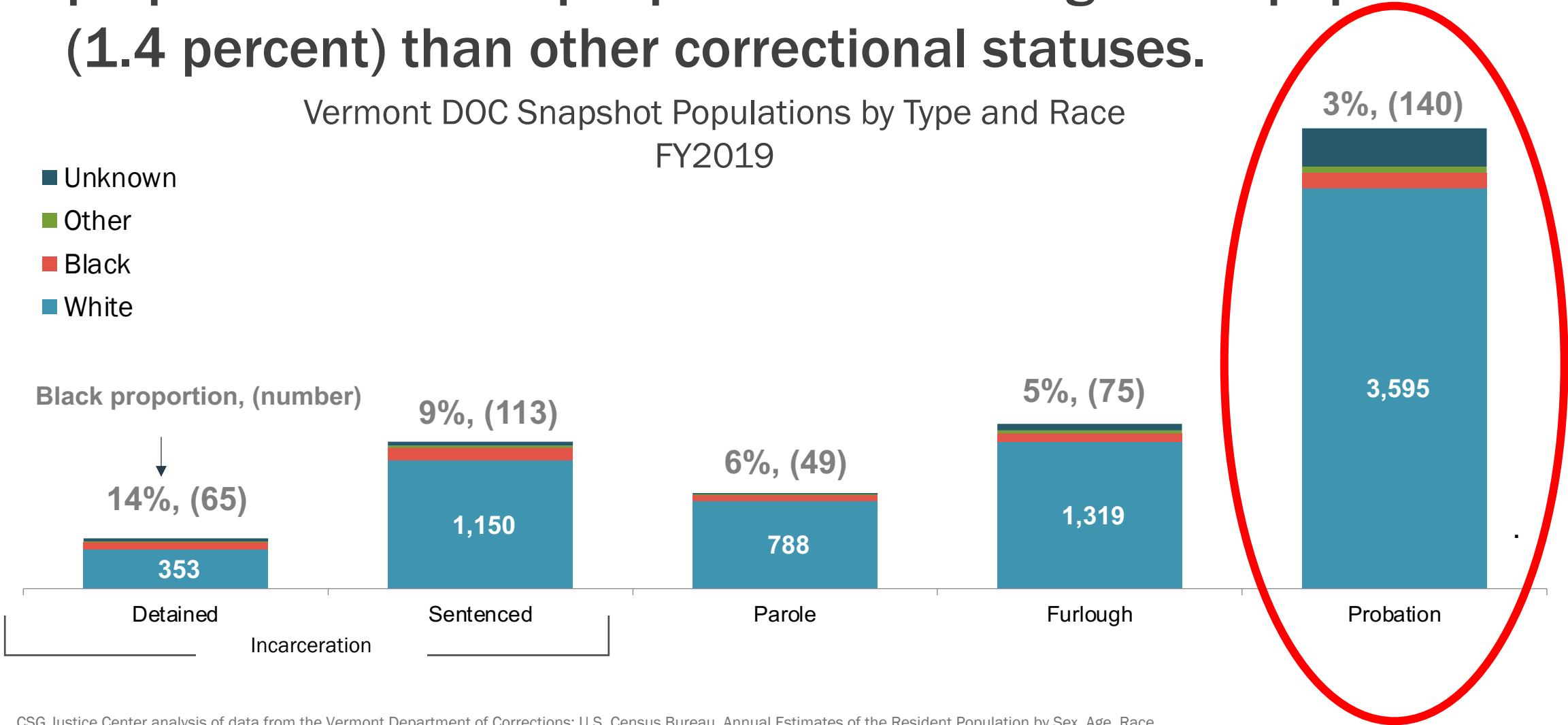
Vermont DOC Snapshot Populations by Type
FY2016–FY2019



Women make up a larger proportion of the probation population than other DOC populations.

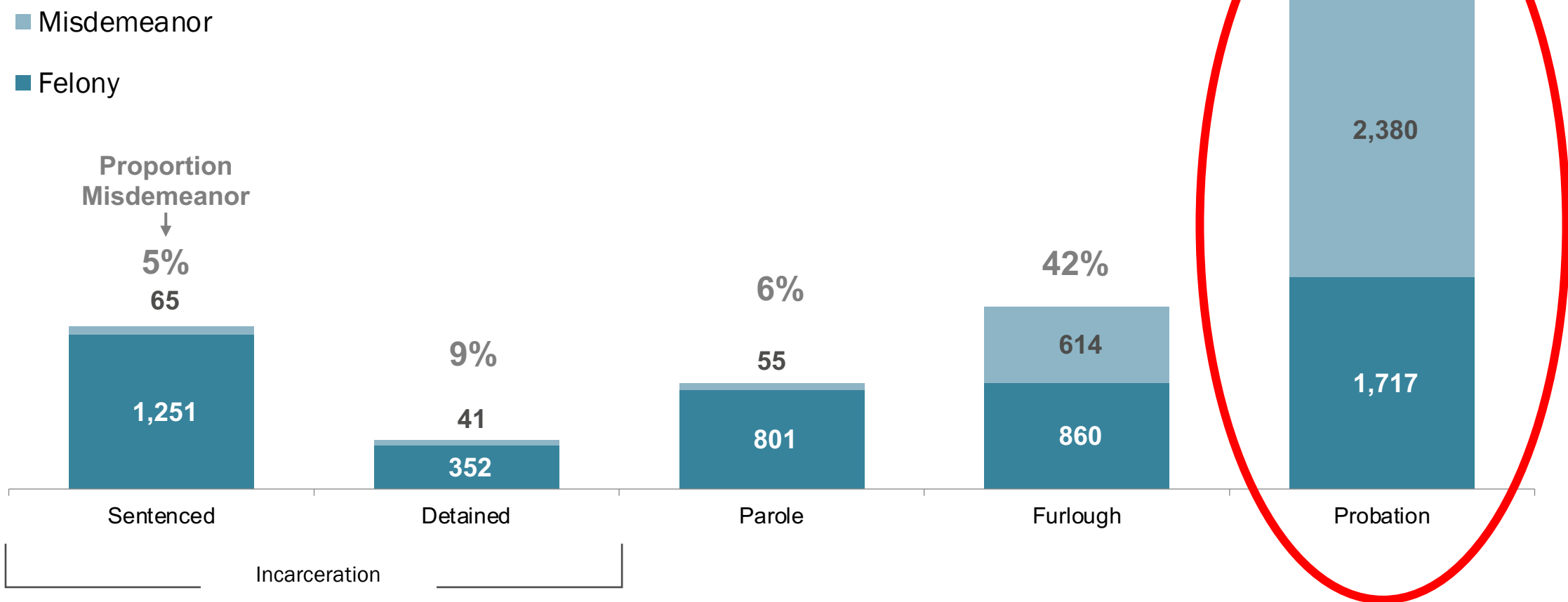


The proportion of Black people on probation is closer to the proportion of Black people in Vermont’s general population (1.4 percent) than other correctional statuses.



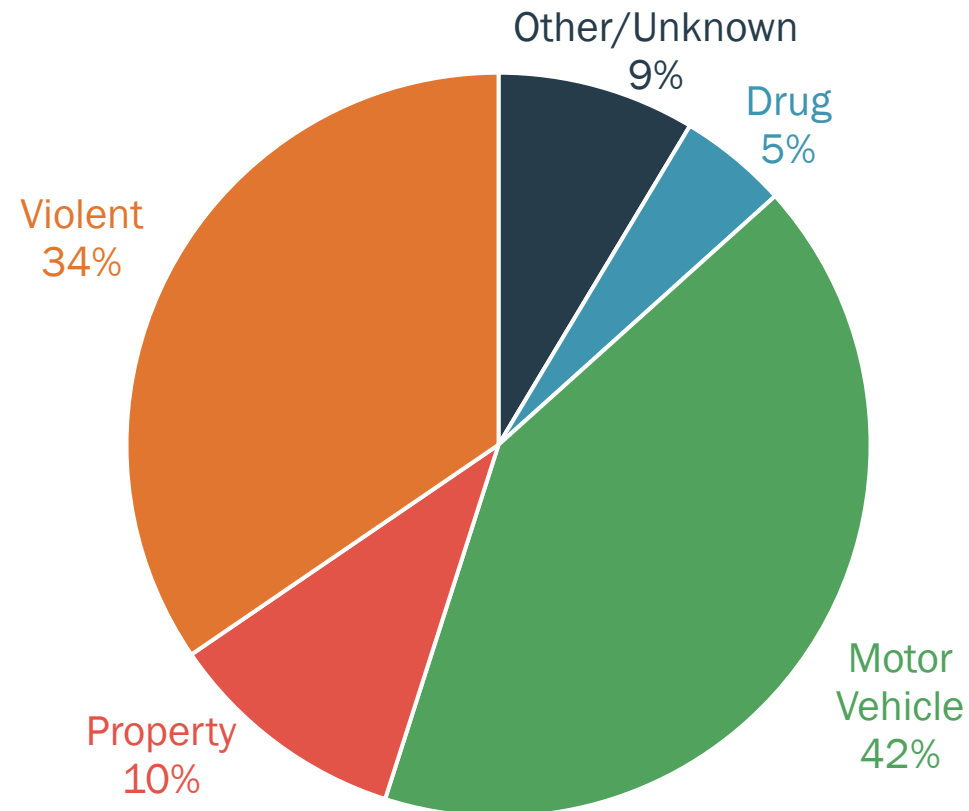
Most of Vermont's probation population consists of people convicted of misdemeanor offenses.

Vermont DOC Snapshot Populations by Type and Offense Level
FY2019

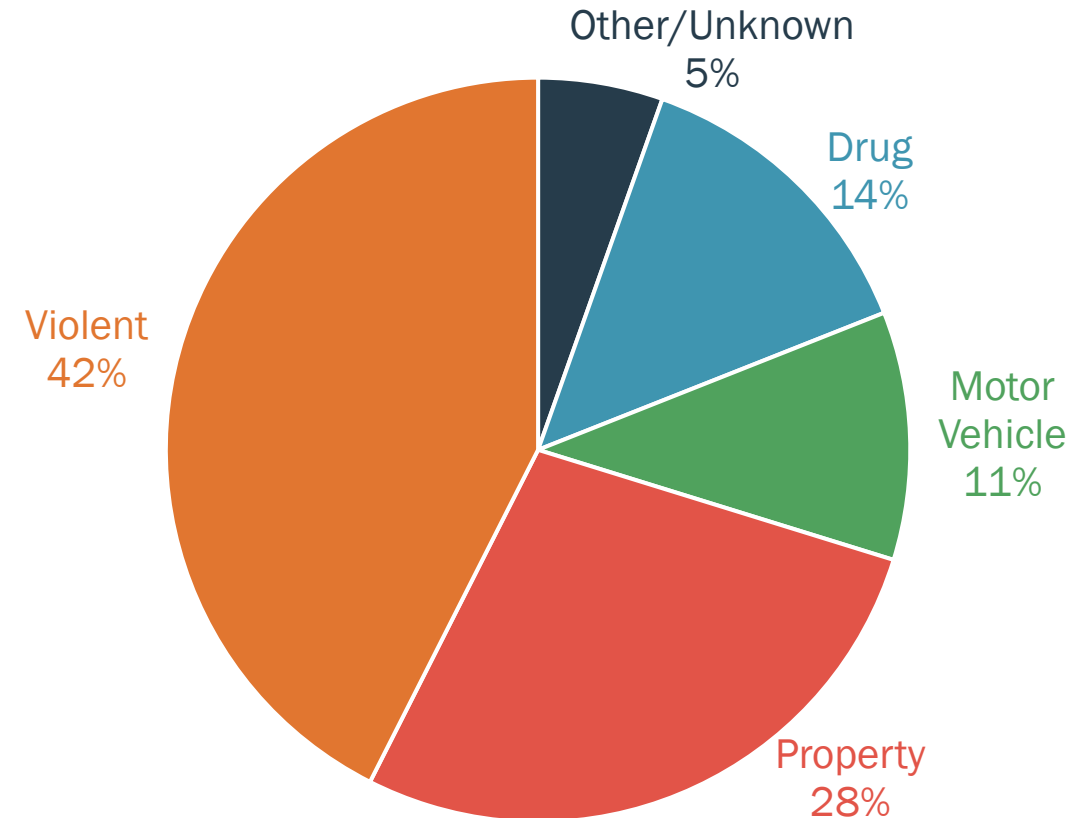


People convicted of motor vehicle offenses and people convicted of violent offenses make up the largest proportion of the misdemeanor and felony probation populations, respectively.

Misdemeanor Probation Snapshot Population by Offense Category, FY2019

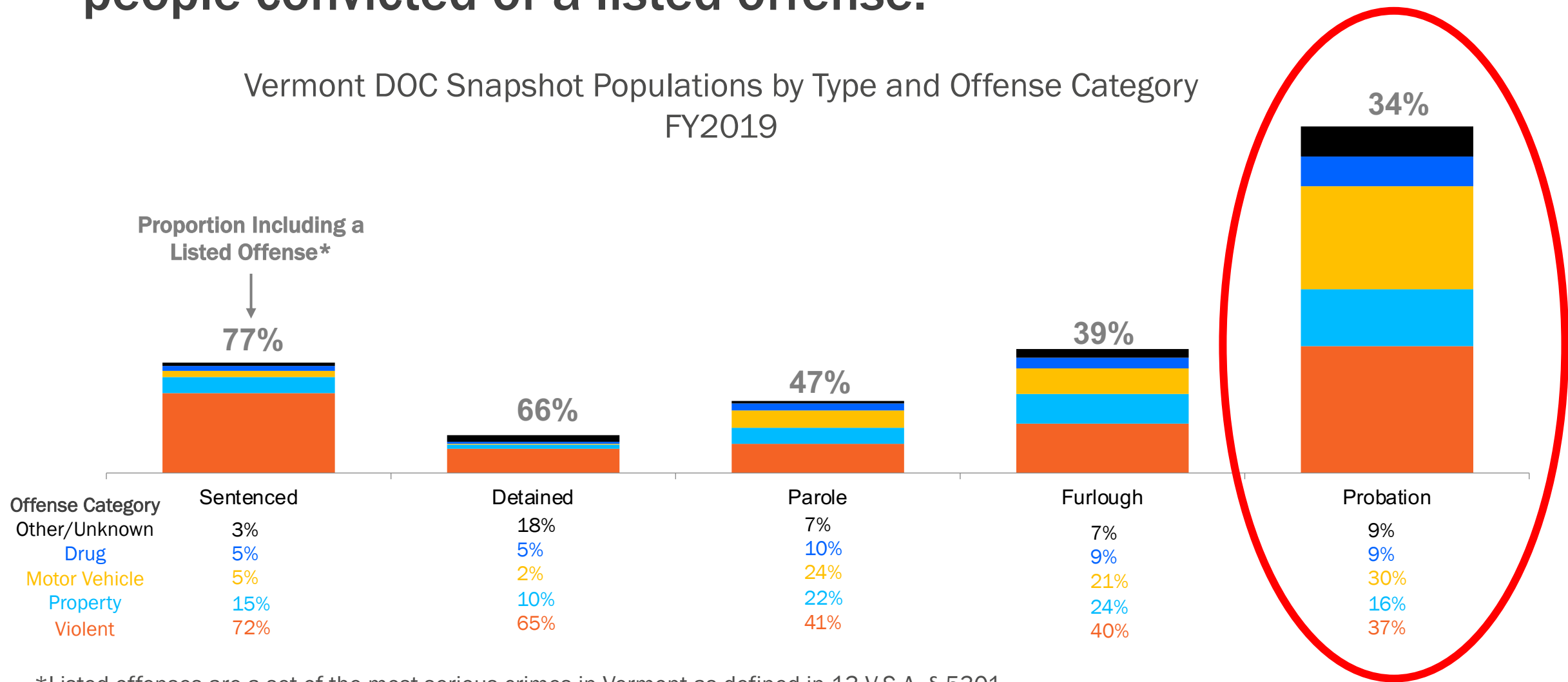


Felony Probation Snapshot Population by Offense Category, FY2019



Only 34 percent of Vermont’s probation population consists of people convicted of a listed offense.

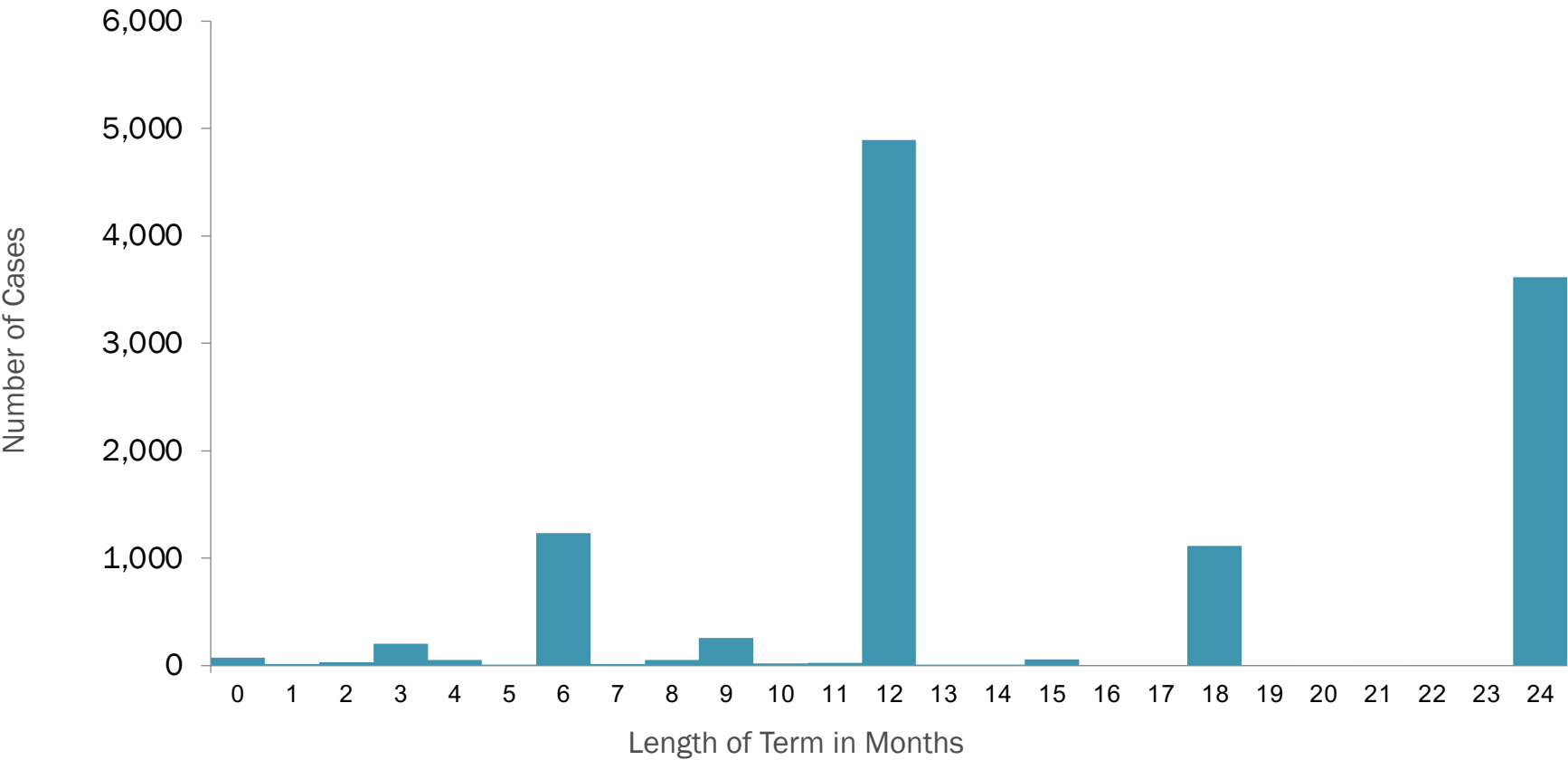
Vermont DOC Snapshot Populations by Type and Offense Category
FY2019



*Listed offenses are a set of the most serious crimes in Vermont as defined in 13 V.S.A. § 5301.

Misdemeanor probation sentences are often approximately one year in duration, and nearly all are two years or less.

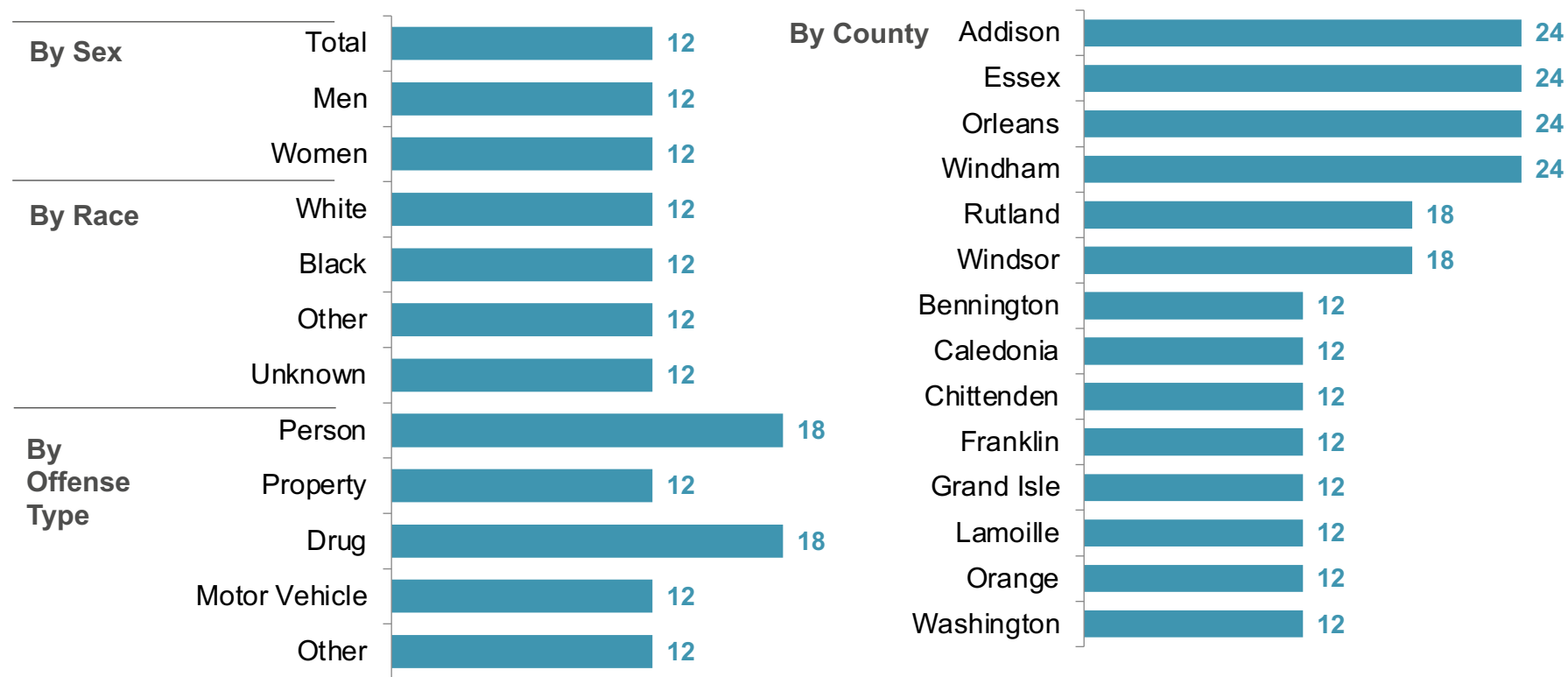
Misdemeanor Probation Term Length in Months by Number of Cases
FY2015–FY2019



This consistency in relatively short misdemeanor probation sentences is likely due to Vermont state law, which states that misdemeanor sentences are not to exceed two years unless the court deems a longer period appropriate.

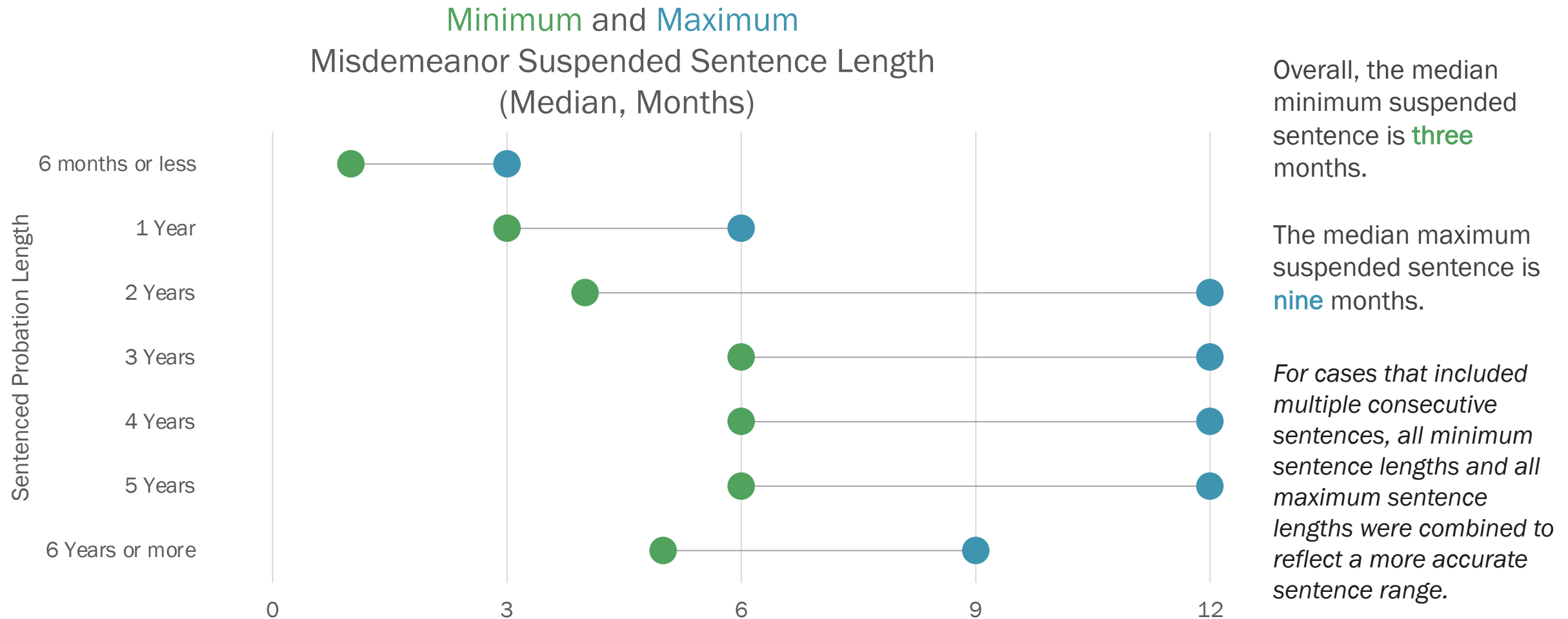
Statutory guidance seems to have ensured that there is little variation in misdemeanor average probation lengths by sex, race, offense type, or county, with a few exceptions.

Average Misdemeanor Probation Term Length in Months By Sex, Race, Offense, and County
FY2015–FY2019



Note that this analysis does not control for factors that might explain the sentencing pattern, such as the severity of the crimes or the criminal history of the people being sentenced.

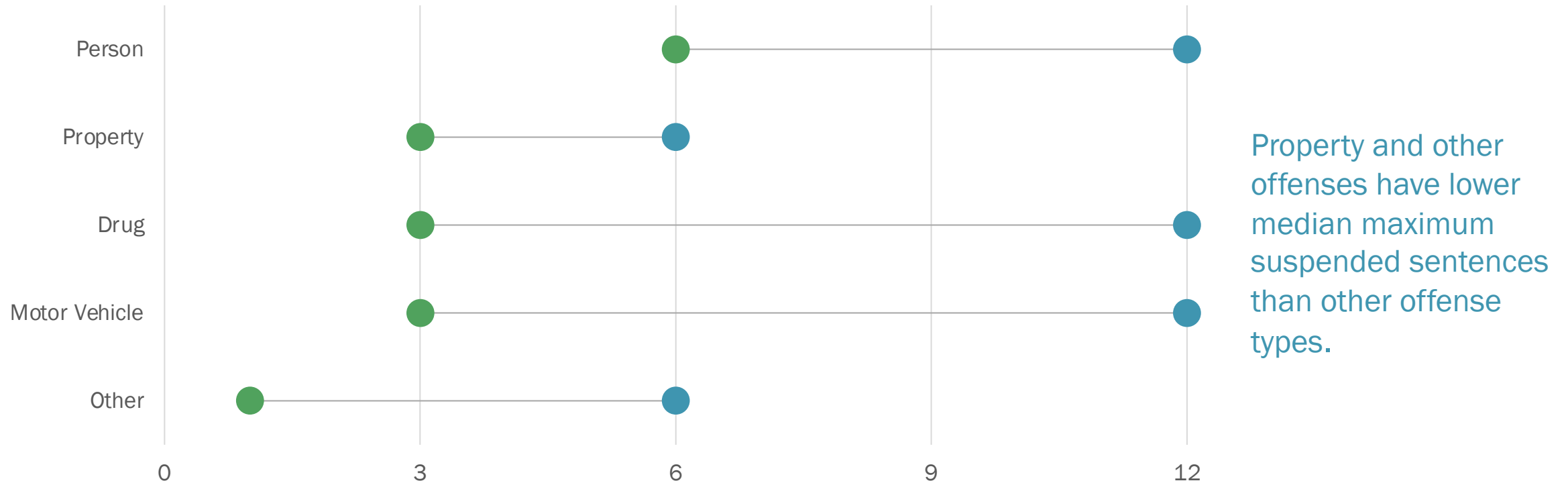
Underlying suspended incarceration sentences are generally significantly shorter than misdemeanor probation terms.



Misdemeanor suspended incarceration sentence minimums and maximums vary by offense type.

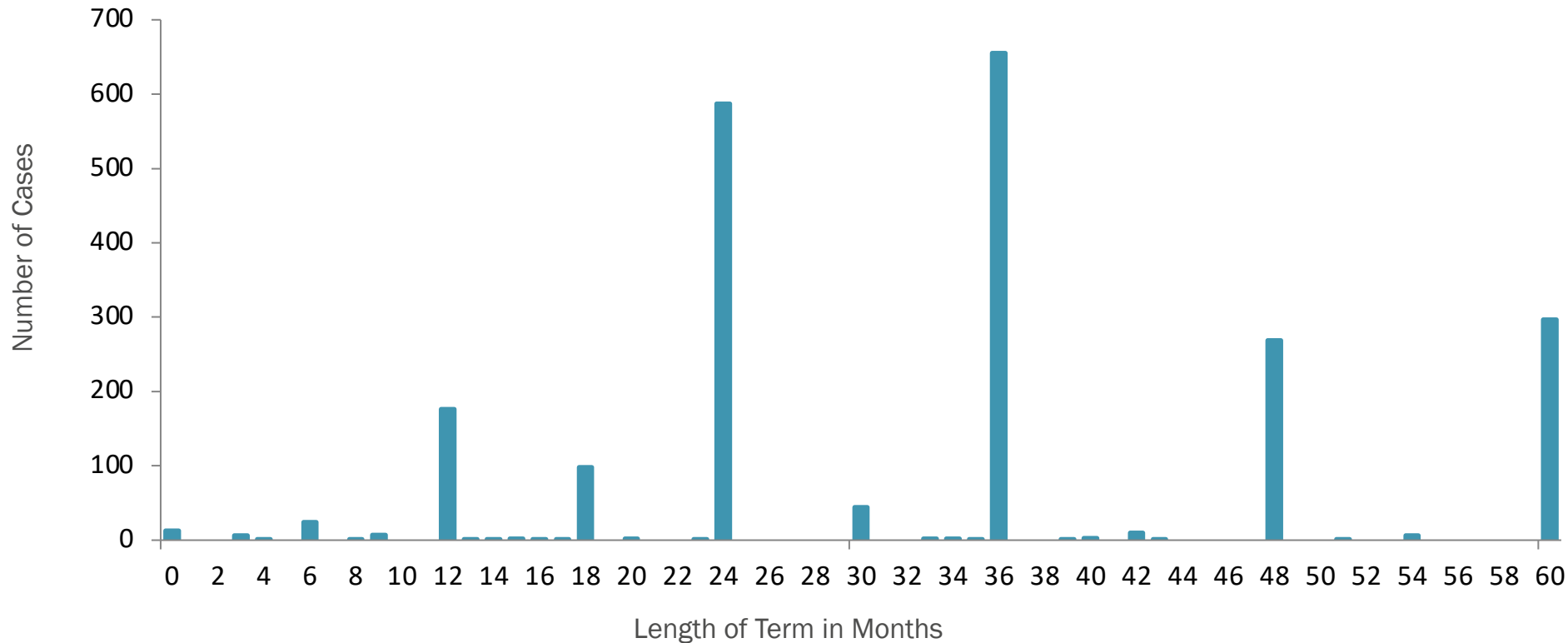
Minimum and Maximum

Misdemeanor Suspended Sentence Length by Offense Type (Median, Months)



Nearly all felony probation sentences are less than five years.

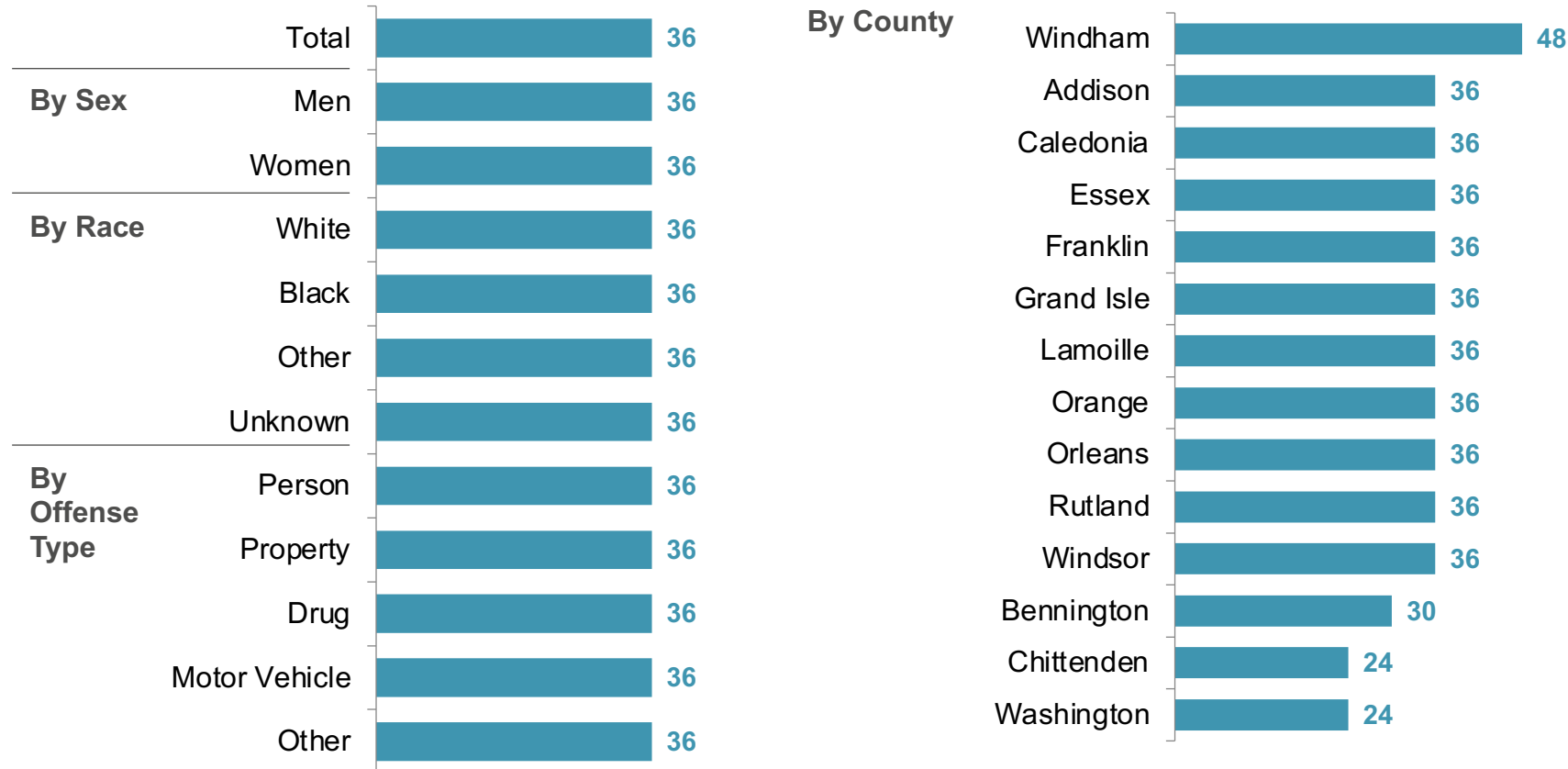
Felony Probation Term Length in Years by Number of Cases
FY2015–FY2019



Statutory guidance states that felony probation sentences should generally not exceed four years unless the court deems a longer period appropriate.

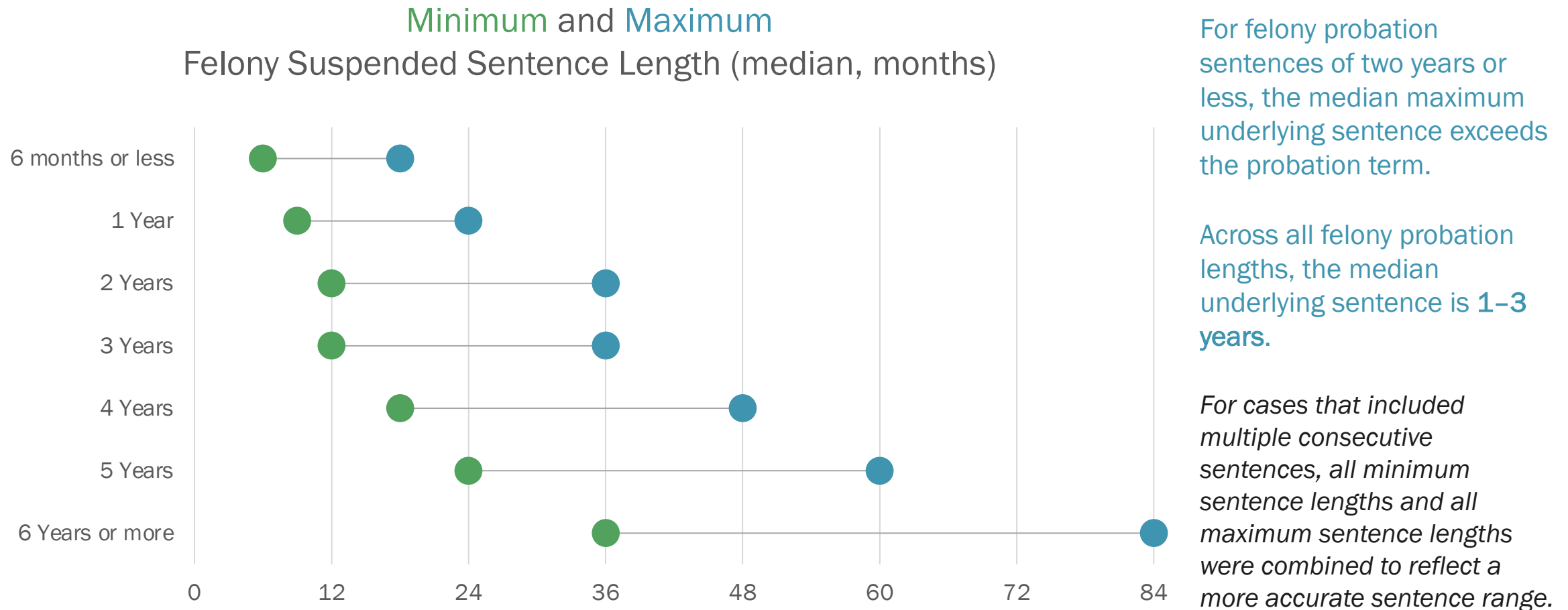
Statutory guidance seems to have ensured that there is almost no variation in felony average probation lengths by sex, race, offense type, or county.

Average Probation Term Length in Months by Sex, Race, Offense, and County
FY2015–FY2019

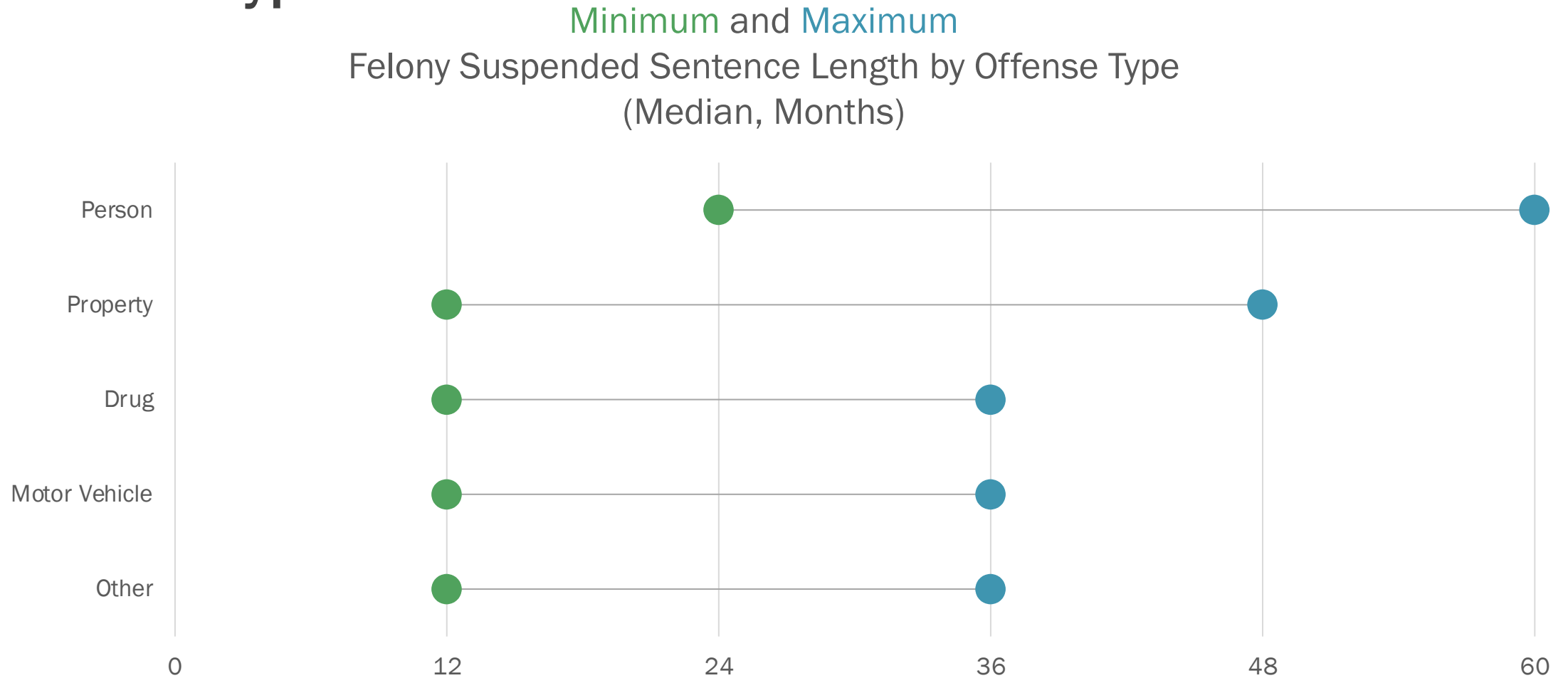


Note that this analysis does not control for factors that might explain the sentencing pattern, such as the severity of the crimes or the criminal history of the people being sentenced.

Maximum suspended incarceration sentences are the same length as the probation term for felony probation sentences of over two years.

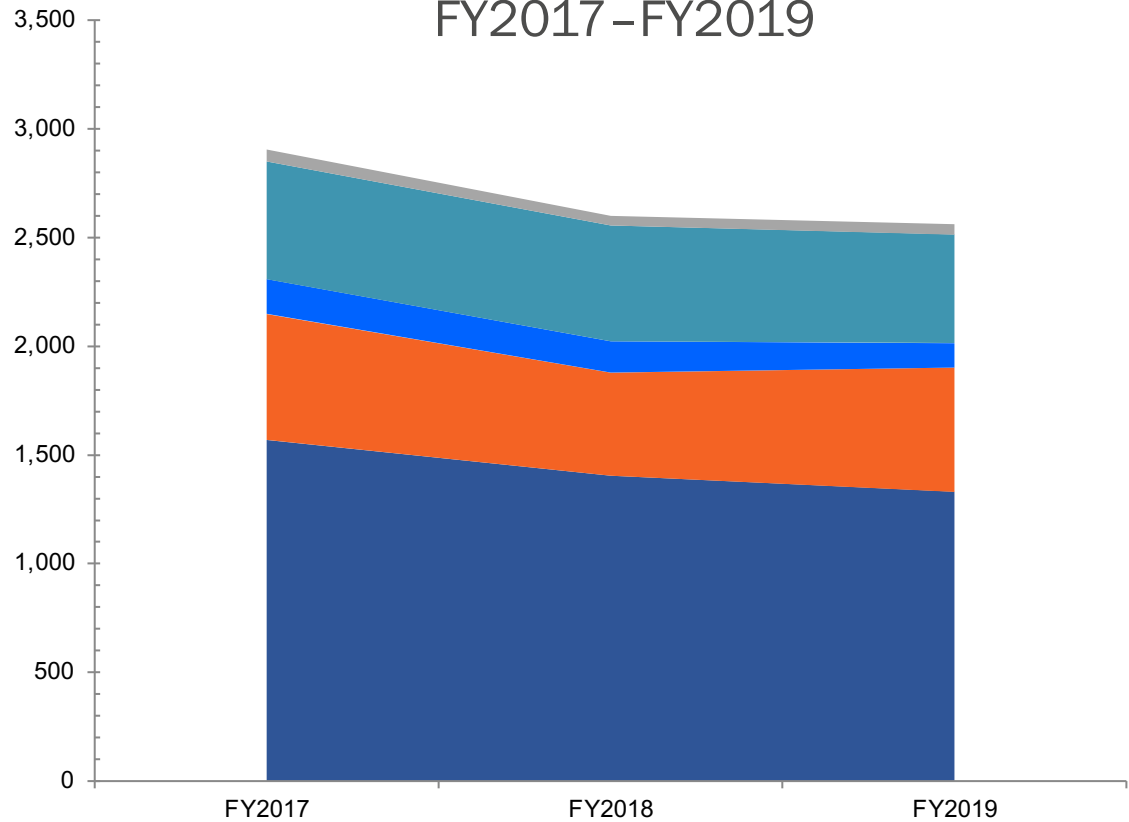


Person offenses have significantly higher maximum suspended incarceration sentences than other felony offense types.



About 20 percent of sentenced DOC admissions are for people who are returned or revoked from probation.

Estimated Sentenced Incarceration Admissions by Type
FY2017 – FY2019



Average Annual Volume and Proportion of Admissions
over the Last Three Fiscal Years

Admission Type	Number	Percent
Unknown	49	2%
New Court Commitments	524	20%
Parole Violators	139	5%
Probation Violators	541	20%
Furlough Violators	1,425	53%

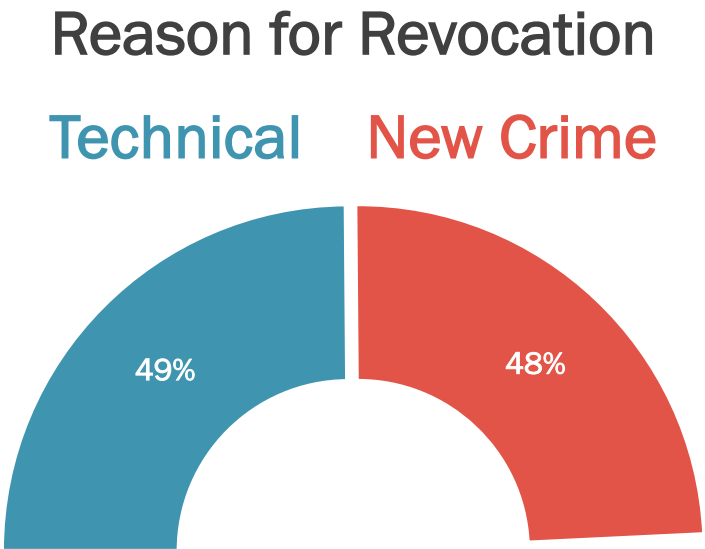


Because admission and release categories must be derived using DOC data, these analyses should be considered strong estimates.

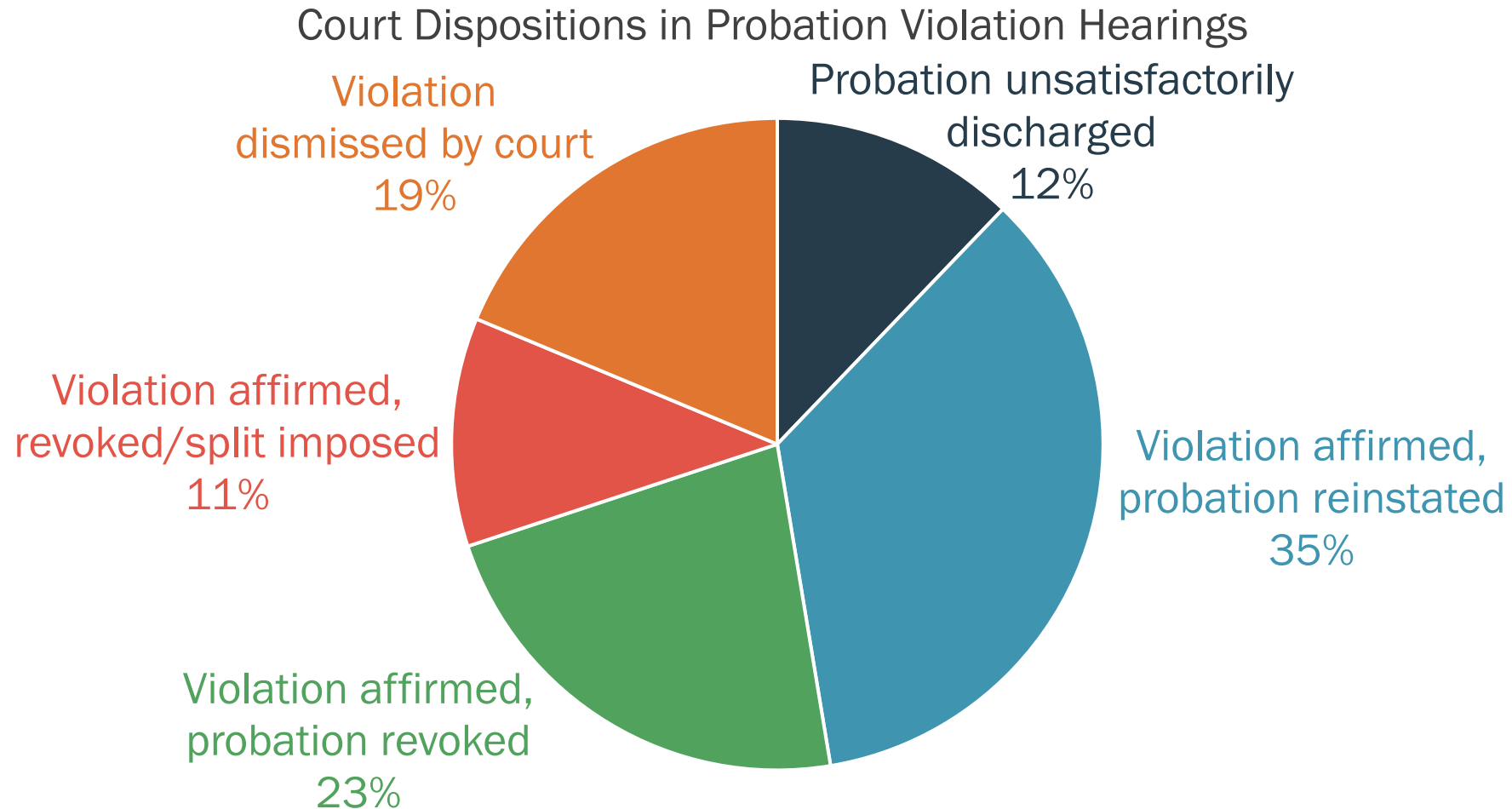
Probation revocations are evenly split between technical violations and new crime offenses.

Sample of Jan.–Oct. 2019 Probation Revocations Tracked by DOC

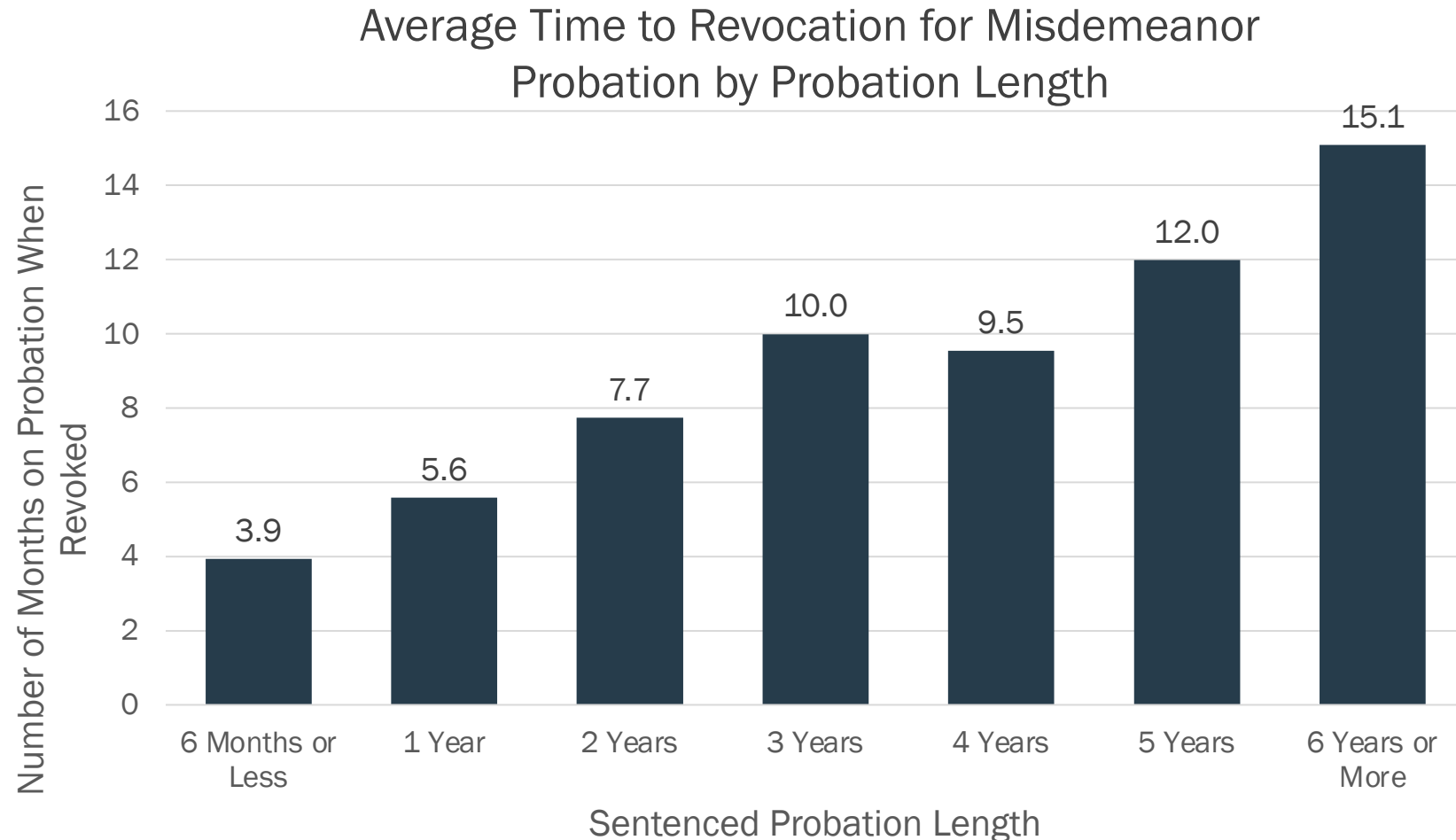
185
Probation
Revocations



In 34 percent of violation cases, probation is revoked or revoked with a split sentence imposed.



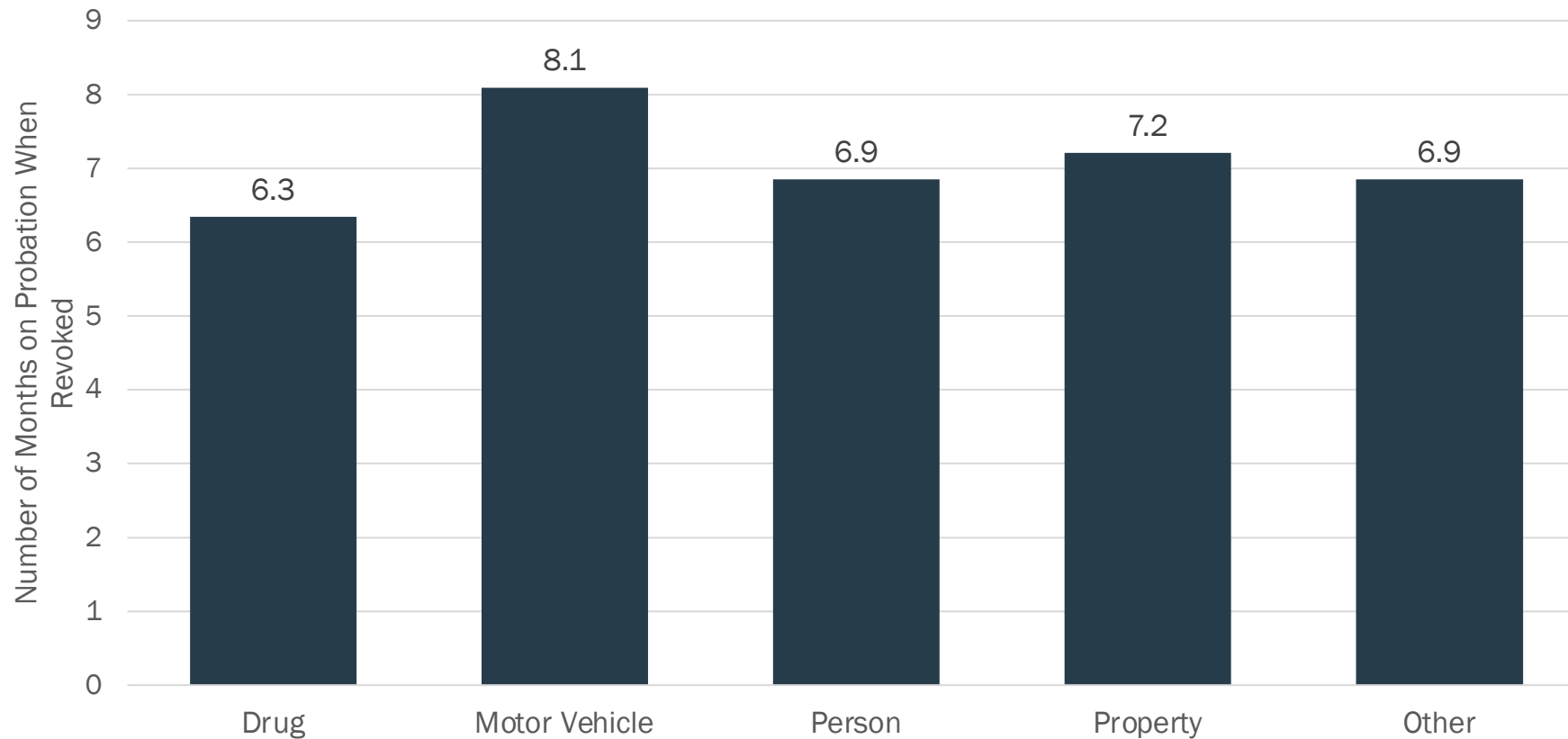
Most revocations for misdemeanor probation occur in the first half of the probation sentence.



On average, a person on misdemeanor probation, across all sentence lengths, is revoked in their seventh month of supervision.

Across all offense types, people are revoked from misdemeanor probation within 8 months, on average.

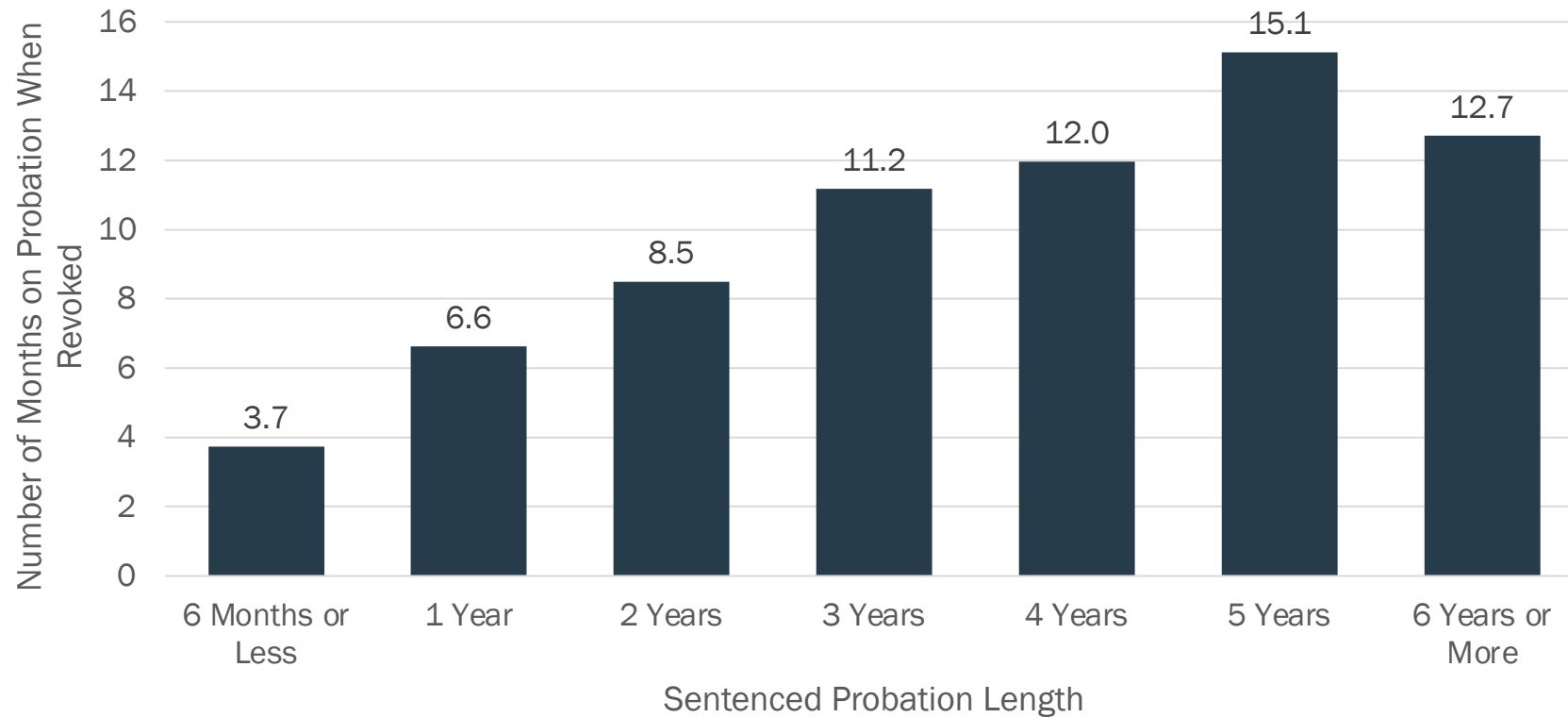
Average Time to Revocation for Misdemeanor Probation by Offense Type



The median time to revocation is even lower, within the fifth month of the supervision term.

Similar to misdemeanor probation, most revocations on felony probation occur in the first half of the probation sentence.

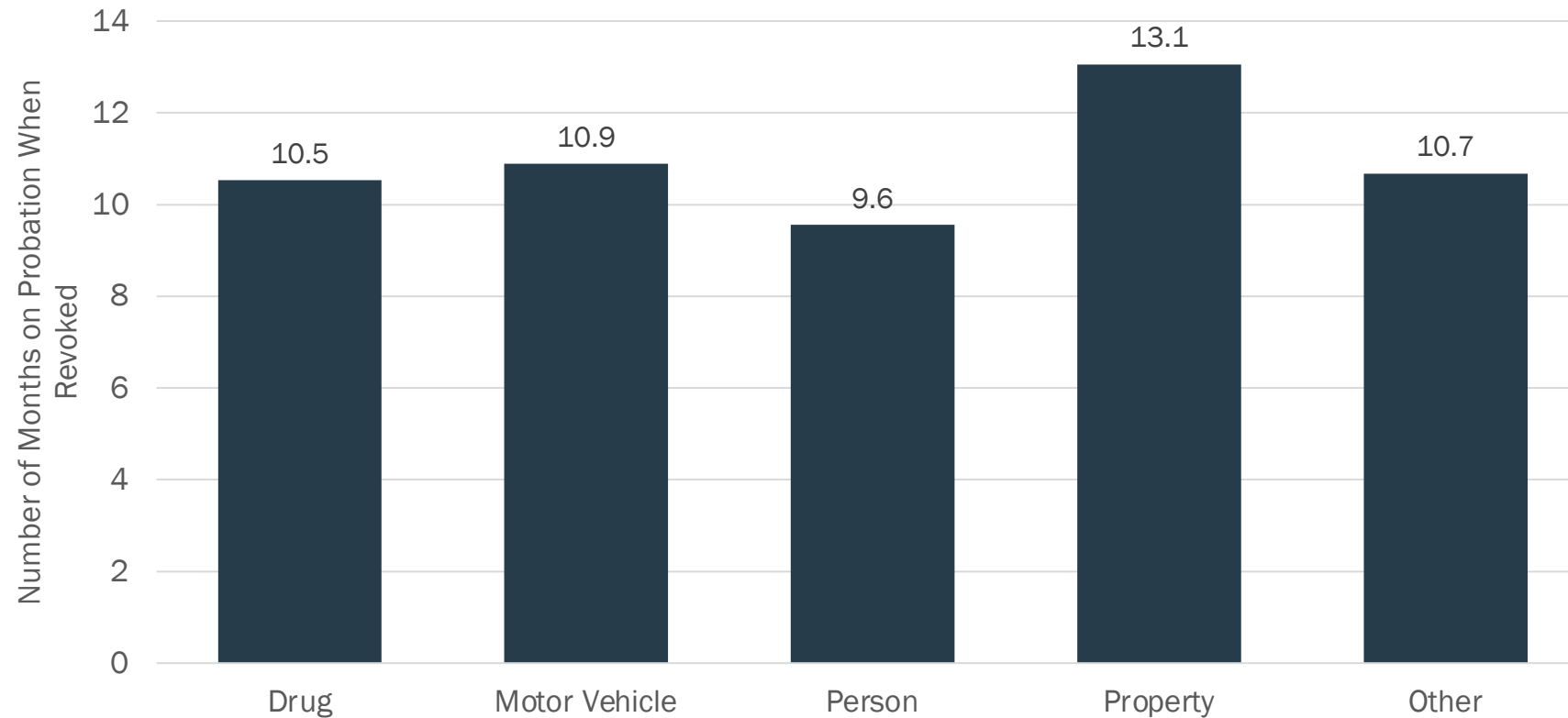
Average Time to Revocation for Felony Probation by Probation Length



On average, a person on felony probation, across all sentence lengths, is revoked in their 11th month of supervision.

Although on average, people are revoked from felony probation within 11 months, people charged with property offenses are revoked somewhat later in their term.

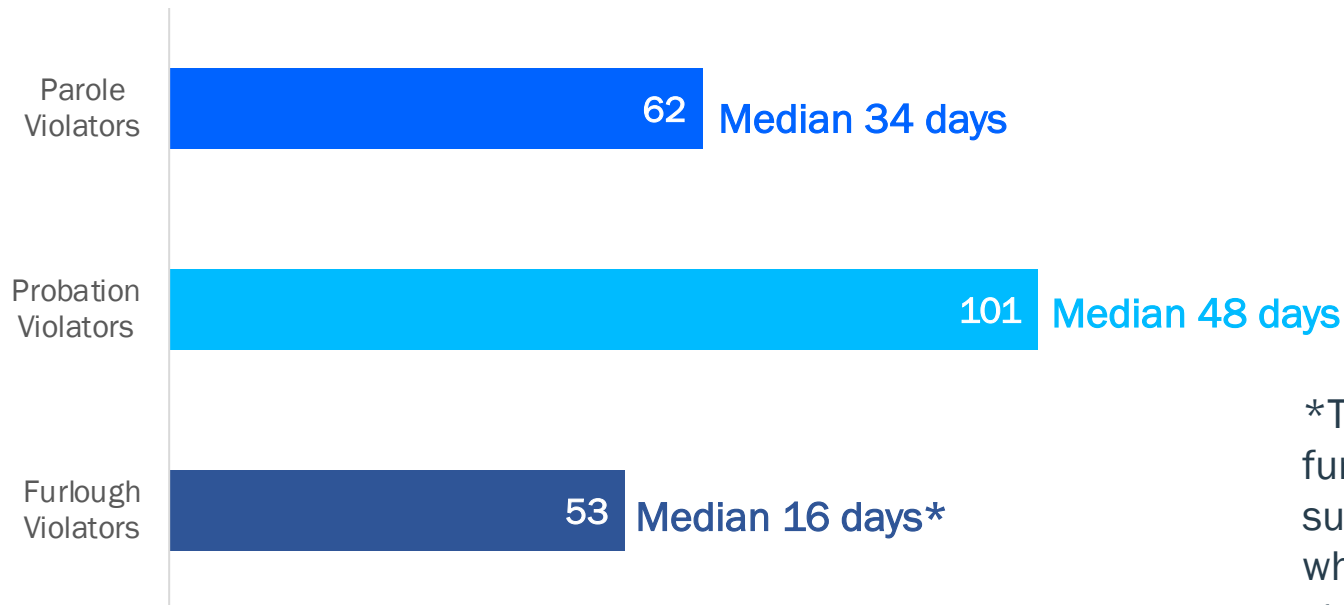
Average Time to Revocation for Felony Probation
by Offense Type



The median time to revocation is even lower, within the eighth month of the supervision term.

The average length of stay in prison for people who are revoked due to supervision violations is longest for people on probation compared to other types of community supervision.

Sentenced Incarceration Average Length of Stay in Days Among Violators
Whose Next Legal Status was a Re-Release to Furlough or Parole
FY2017–FY2019 Combined

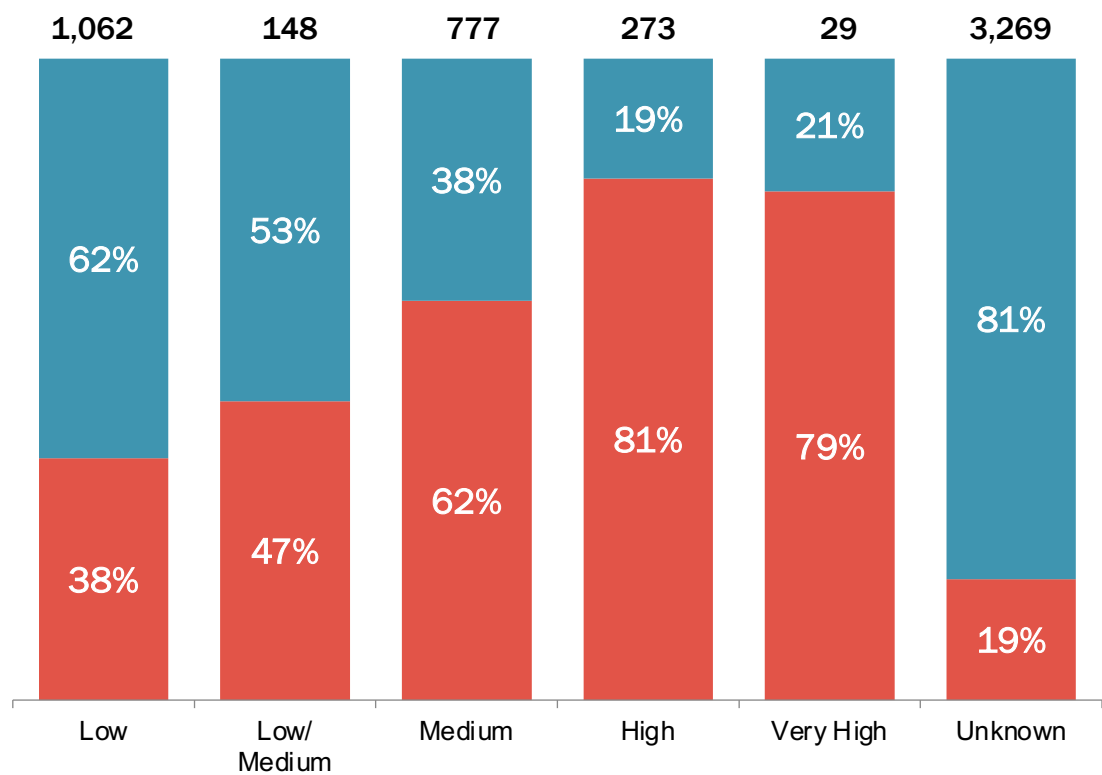


Because admission and release categories must be derived using DOC data, these analyses should be considered strong estimates.

*The data do not distinguish between those furlough return events that were part of a supervision sanction response vs. a full revocation, which likely explains why furlough return lengths of stay are shorter than other types of revocations.

Analysis of probation outcomes based on risk supports the need to focus resources on people most likely to reoffend.

Probation Success/Failure Outcomes by Risk Level
FY2017 – FY2019



Successes

Supervision Period Ended with Discharge

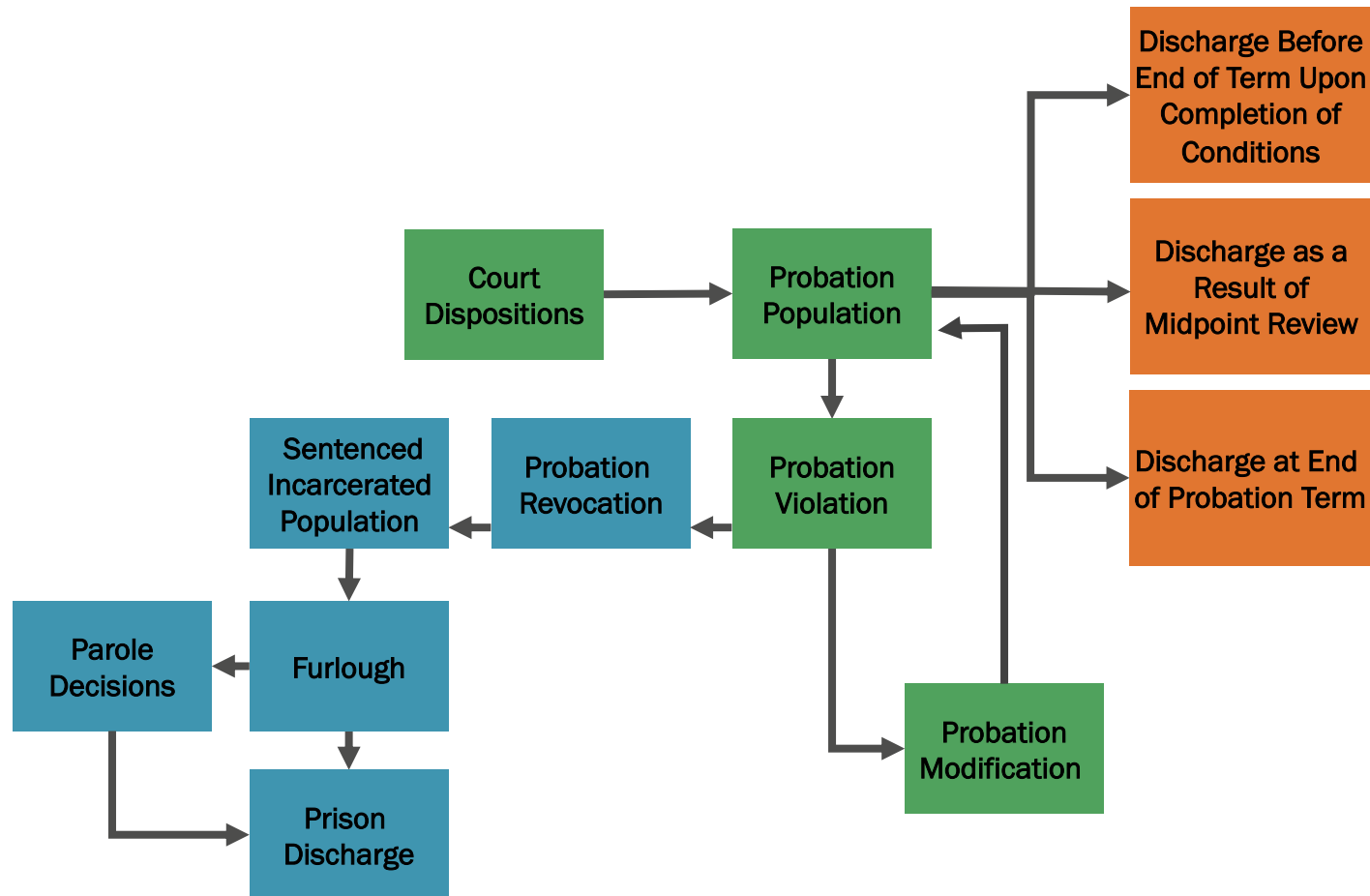
Failures

Supervision Period Ended with Stay in Detention or Incarceration

The large percentages of unknown risk assessments for probation populations are due to the use of an initial risk tool by DOC to screen out lower-risk people who do not need to receive the more involved ORAS assessment.

Because admission and release categories must be derived using DOC data, these analyses should be considered strong estimates.

To analyze the potential impacts of a probation credit accrual policy or improve earned discharge processes, Vermont will need additional information about people on probation.



- How often and for how long are probation terms extended as a result of a violation?
- How do the imposition of minimum and maximum suspended sentences correlate with the amount of time someone spends in prison on a revocation?
- What are the outcomes for people on probation who are revoked to prison and placed on furlough or parole?
- When are people discharged in relation to their imposed probation term?
- How often are early discharge mechanisms currently used?
- What are the challenges to fully utilizing early discharge mechanisms?



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Vermont's probation sentencing structure is unusual; in other states, probation lengths typically equal the length of time someone may be incarcerated for a probation revocation.

There are two main types of probation sentencing structures across the country:

1. The court sentences a person directly to probation. Throughout the term of probation, that person may have their probation revoked for a violation and be incarcerated for any period up to the entire length of their probation term.
2. The court suspends the execution of a sentence of imprisonment and orders that a person be placed on probation. In this case, the length of the probation term is the same as the suspended sentence and if revoked, the court may impose incarceration of equal or lesser severity to the suspended sentence.

38 states have some form of earned compliance credits or earned discharge for people on community supervision, but their policies and practices vary considerably.

- **Earned compliance credit policies** use set formulas to enable people on supervision to earn time off their sentence on a monthly basis as they comply with supervision conditions.
- **Earned discharge policies** allow people on supervision to have their probation or parole sentences shortened once they successfully serve a set period on supervision while complying with their established supervision conditions.
- Research has shown that these policies incentivize good behavior to help people succeed on community supervision. Data shows that the earned compliance credit policy significantly reduces the supervised population without jeopardizing public safety.

Missouri's 2012 Justice Reinvestment Act allows individuals to earn **30 days of credit** to their probation or parole term for every full calendar month that they comply with the conditions of their sentences.



- Credits automatically accrue for people who are compliant with their conditions of supervision but are only available to those who were convicted of lower-level felonies and have been under community supervision for at least two years.
- In the first three years the policy was in effect, more than 36,000 people shortened their probation and parole sentences by an average of **14 months**. Missouri's supervised population fell **18 percent** in the same period, reducing caseloads for supervision officers and helping them focus on higher-risk people. People who earned compliance credits were convicted of new crimes **at the same rate** as those before the policy went into effect, demonstrating no negative impact on public safety.

In 2017, Montana passed SB 63 as part of its Justice Reinvestment policy package, which required DOC to recommend people for **conditional discharge** from community supervision.



Supervision officers* must recommend discharge once a person on probation has served a set length of their sentence, based on their risk to reoffend, regardless of their underlying offense. These lengths are:

- Low risk: 9 months
- Medium risk: 12 months
- Moderate risk: 18 months
- High risk: 24 months

*Challenges to this statutory structure have modified implementation of the policy so that people on supervision work with public defenders to file their conditional discharge petitions.

Once they receive the petition, a judge makes the decision about whether to grant the discharge.



As per the statute, the judge must determine that a conditional discharge from supervision

1. Is in the best interests of the person on probation and society;
2. Will not present unreasonable risk of danger to the victim of the offense; and
3. The person has paid all restitution and court-ordered financial obligations in full.

Sixteen states have enacted policies to establish limits on the time people can spend incarcerated for supervision revocations.

- Referred to as **revocation caps**, these policies often apply to people who are revoked due to technical violations and limit the amount of time a person can be incarcerated to periods of less than a year, as opposed to the entire length of their sentence.
- Revocation caps are often adopted in conjunction with other probation improvements, such as tailoring supervision strategies to align with what research shows reduces reoffending, providing positive incentives, and using administrative responses in lieu of revocation.

North Carolina capped incarceration lengths to **90 days** for probation technical violations.



The Justice Reinvestment Act (JRA) of 2011 adjusted the state's revocation process:

- The court may only revoke probation for new crimes, absconding, or for people who have previously received two 90-day periods of incarceration because of revocations.
- These revocation caps were paired with other supervision reforms. As a result of the entire policy package, North Carolina's revocation rate fell to **18.6 percent**, which was a **57-percent decrease** in the number of individuals who failed supervision in comparison to the year JRA was enacted. Revocation rates for low-risk people had the largest decrease, from **31 to 10 percent**. Additionally, from 2010 to 2014, the overall crime rate fell more than 10 percent and the violent crime rate fell 8.5 percent.



In 2017, Michigan **limited the penalty** for people on probation who commit **technical violations to a maximum of 30 days**.

- Once a person commits **three or more technical violations**, the court may revoke probation for longer periods of incarceration.
- People on probation who receive these revocation caps are not given any credit for time served on a previous technical violation. After the period of temporary incarceration, they may be returned to probation under the terms of their original probation order or under a new probation order established at the discretion of the court.
- The court may extend the period of temporary incarceration to **no more than 90 days** if an individual has been ordered to attend a treatment program but a bed is not available.

Overall, CSG Justice Center staff are unaware of other states with earned credits on probation structured in a similar way to the policy proposed in Vermont.

- In 2017, Montana passed legislation allowing judges to credit time served in the community without a violation against a person's suspended incarceration sentence upon revocation. There are key differences in Montana's probation structure compared to Vermont, and Montana is still awaiting initial implementation outcomes related to this policy. As a result, this state example may need further examination before influencing the development of policy options in Vermont.
- CSG Justice Center staff currently do not have adequate data on how this would impact Vermont's system in order to support a specific policy option but can help the working group by facilitating a discussion to further explore the policy proposal.
- Any new policies designed to impact the lengths of probation and suspended incarceration sentences need to be paired with an ongoing effort to better support people on probation and reduce technical violations, including using supervision methods demonstrated by research to reduce recidivism, accurately understanding people's underlying needs and violation behavior, and connecting people on probation to effective community programs that address those needs.

The Senate version of S. 338* included language allowing people on probation to accrue credit toward their minimum sentence for time successfully served in the community.

Proposed bill language established the following:

- A process for people on probation to receive one day of credit toward their minimum sentence for each day successfully served on probation.
- Guidelines for when a person should cease accruing credit and how they may begin accruing credit again following a violation.
- A requirement that people on probation be discharged when they have accrued credit equal to their imposed maximum term of imprisonment.

*As passed by the Vermont Senate on February 11, 2020.

Approaches like Vermont's probation earned credit proposal can be structured to address several different policy goals.

It is important that Vermont clearly define the intended purpose and desired outcomes for implementing a probation earned credit policy.



Decrease length of incarceration for people who were successful on probation for a period and then revoked to prison.



Decrease probation term for people who are successful on probation.



Provide people on probation an increased incentive for positive behavior change.



Increase probation resources available for focusing on those most likely to reoffend.

Act 148 tasks the working group with evaluating the policy of people on probation earning one day of credit toward their suspended sentence for each day served in the community without a violation.

Other statutory considerations:

1. How to implement this policy without impacting probation term or suspended sentence lengths
2. Whether credit should apply to both maximum and minimum suspended sentences
3. Whether credit accrual equal to the imposed or statutory maximum term should result in discharge
4. Whether misdemeanor probation terms should be limited to two years or if the court should have discretion to impose a longer sentence
5. Additional options for early discharge from probation, including options modeled after Vermont's current midpoint review process

Discussion questions for the working group

- How do different stakeholders (e.g., prosecutors, defense attorneys, judges, DOC staff, and others) characterize the problem that a probation earned credit policy would solve?
- Does the working group know enough about the underlying need and challenges to recommend a particular policy structure?
- Is there a way to strengthen existing policies to better help people succeed on probation and limit incarceration for technical violations?

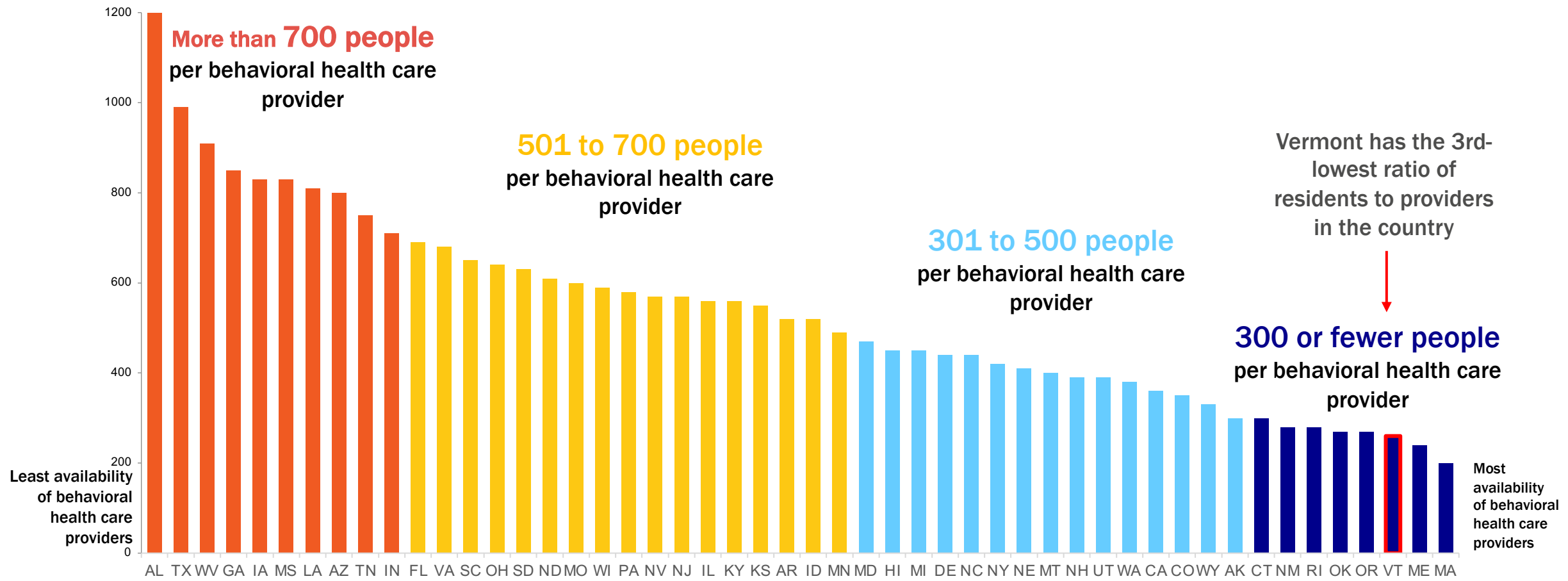


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Nationally, Vermont stands out for its low ratio of residents to behavioral health care providers.

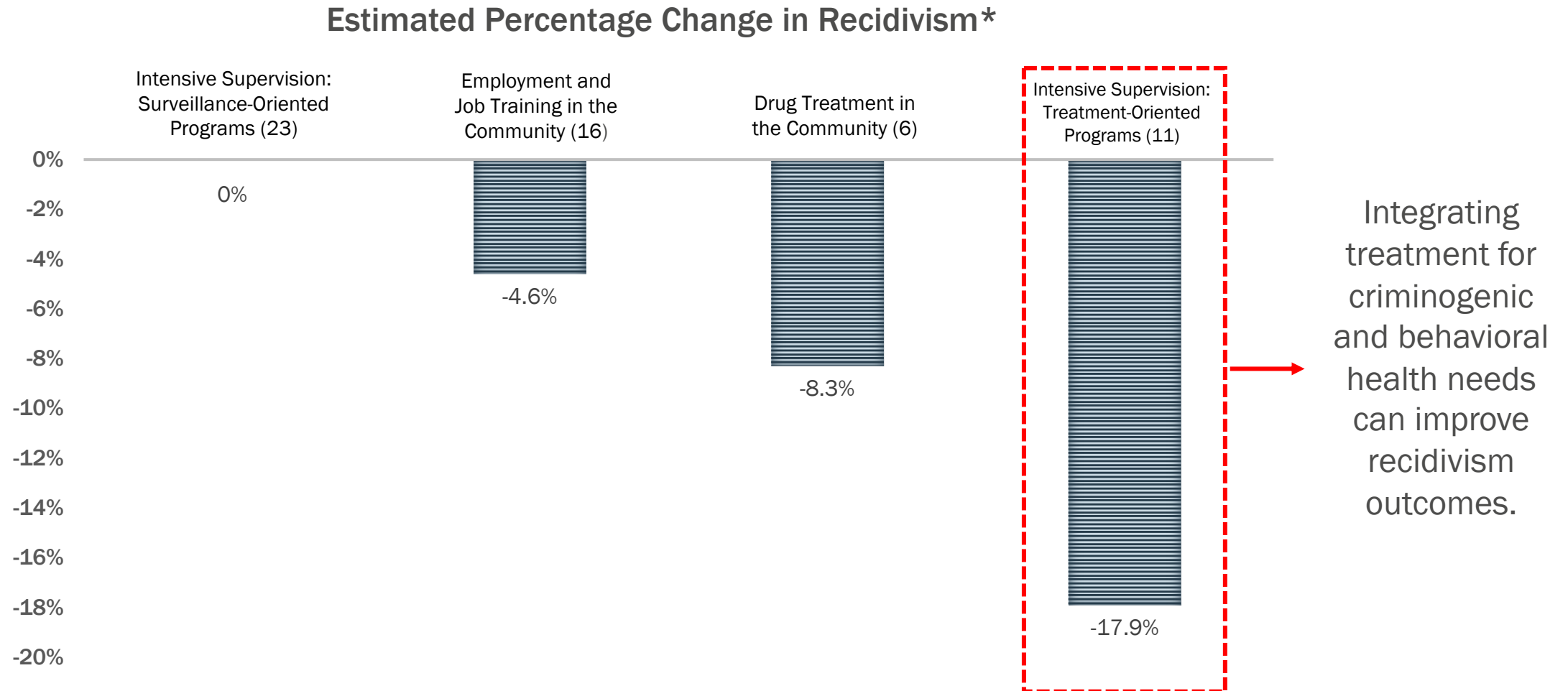
Number of Residents per Behavioral Health Care Provider, by State, 2017*



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

Mental Health America, The State of Mental Health in America, 2017.

Addressing the behavioral health needs of clients during community supervision is critical.



*Numbers in parentheses indicate the number of evidence-based studies on which the estimate is based.

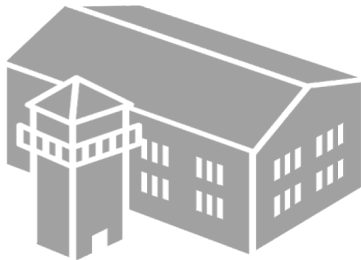
To address the overabundance of people with behavioral health needs who move through criminal justice systems, states must develop and implement a comprehensive approach for working with this population.

A comprehensive, statewide approach for addressing the intersection of behavioral health and criminal justice must aim to do the following:

1	Improve identification of people who have behavioral health needs in the criminal justice system.
2	Ensure access to a comprehensive array of treatment and support services both while incarcerated and in the community.
3	Prioritize effective correctional interventions for those at the highest risk, ensuring all people with behavioral health needs receive the behavioral health treatment they need, regardless of criminogenic risk level.
4	Strengthen collaboration and training between behavioral health and criminal justice agencies at the state and local levels.

1 Improve identification

DOC works to identify people's behavioral health needs—substance addictions and mental illnesses—at various points as they move through the corrections system.



When a person is **detained** pretrial, they are initially screened for substance use and mental health needs by DOC's health care contractor.

Anyone who is **sentenced** to a period of incarceration is also screened, and, based on the results, may receive a follow-up clinical assessment by DOC's health care contractor.



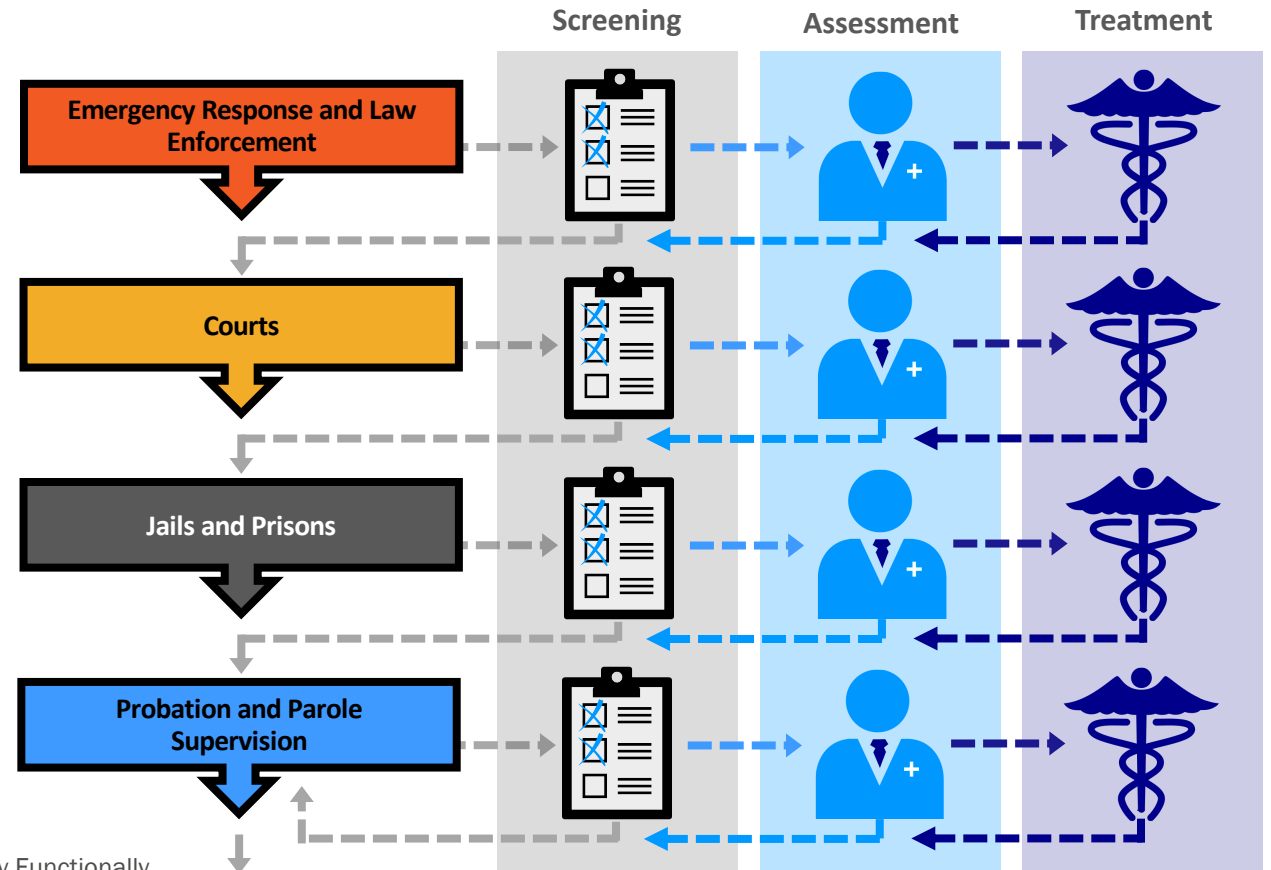
People who begin furlough or parole or have a split probation sentence receive the ORAS-CST, which includes a domain for behavioral health needs.

People who are sentenced straight to probation do not receive a mental health screen.

1 Improve identification

People must be screened for mental health and substance use needs at all stages of the criminal justice system.

For people who screen positive, ensure the person is assessed by a trained clinician who can reach a diagnosis. Data must be collected, recorded, and shared.



Within DOC's facilities, people with Severe Mental Illness (SMI) are part of DOC's Seriously Functionally Impaired (SFI) population. SFI is a DOC custodial designation that also includes people with disabilities and severe brain trauma.

1 Improve identification

Despite the use of behavioral health screeners, limited resources require DOC to prioritize behavioral health reentry planning for people with severe mental illnesses and opioid use disorder.

- ✓ DOC's health care contractor conducts mental health and substance use screeners at intake, typically within four hours of entry, and follow-up assessments within 14 days.
- ✓ For the sentenced population, behavioral health reentry planning begins 6 months to a year before release and is strongest for people who receive medication-assisted treatment (MAT) or who have severe mental illness (SMI). For the detained population, there is limited behavioral health reentry planning, and what exists is prioritized for the SMI and MAT populations, primarily because of the short periods of time people are detained pretrial.
- ✓ For the sentenced population, behavioral health reentry planning is not as strong or consistent for people with co-occurring disorders, or whose mental illness does not rise to the level of SMI.
- ✓ Unaddressed or inadequately addressed behavioral health needs are contributing to technical violation revocations.

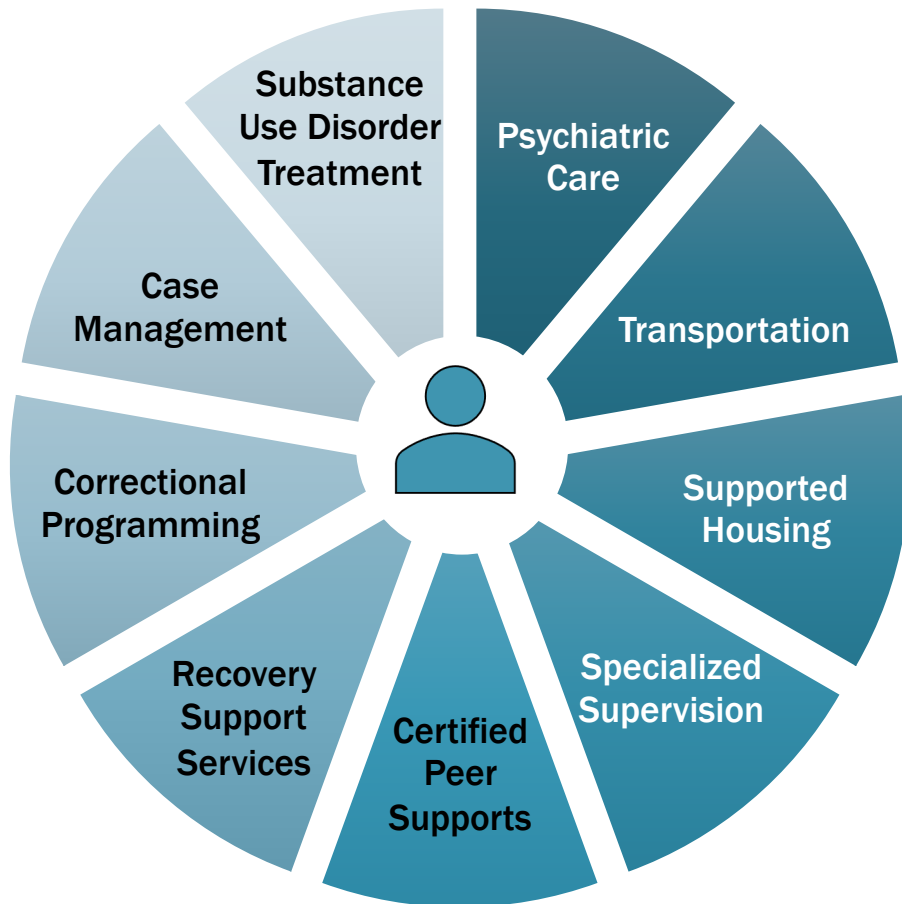
1 Improve identification

Supervision staff rely on reentry case plans to inform their understanding of a person's mental health and substance use needs, and there can be a disconnect between community providers and supervision officers.

- ✓ Supervision staff have access to behavioral health information within the reentry case plans to understand the behavioral health needs of people moving from incarceration to supervision. Case plans for people who do not receive MAT or who are not identified as having SMI may not always reflect other types of behavioral health needs.
- ✗ Community providers report some inconsistencies related to DOC facility MAT handoffs.
- ✗ Behavioral health information sharing between DOC (health care contractor, DOC facility reentry case workers, and supervision officers) and community-based providers for care coordination and care management is inconsistent, which increases the difficulty of coordinated, comprehensive case plans.
- ✗ There is less behavioral health information available to inform supervision conditions for people who are sentenced straight to probation compared to people on furlough or parole given that PSIs are rarely conducted and the SLA does not include mental health screening questions.

2 Ensure Access

People with behavioral health needs in the criminal justice system often require access to an array of providers and services.



As people in the criminal justice system with behavioral health needs are identified, states must ensure access to the range of treatment and services necessary to adequately address those needs by providing services, clinical treatments, crisis responses, and community engagement strategies necessary to help people gain stability and progress to recovery.

2 Ensure Access

Vermont has built critical service and support infrastructures that provide statewide assistance in innovative ways that can be strengthened and expanded for even greater impact.

- ✓ MAT is widely available both in the community and DOC facilities as part of the statewide hub and spoke model that serves people struggling with opioid use disorder.
- ✓ DOC's role as a spoke to provide MAT to people within its facilities is a unique and innovative national model.
- ✓ DOC has amended its contract with the health care contractor to a spoke level of care.
- ✓ Based on conversations with DOC and providers, there are strong wraparound services for the SMI population in the community.
- ✗ Counseling is offered to clients at hubs and spokes, and DOC offers medical supports, such as MAT, inside facilities; however, due to resource and workforce challenges, DOC is limited in its ability to offer clinical supports that align with best practices in clinical intervention.
- ✗ Many people accessing MAT at hubs and spokes have significant unmet housing needs, and the expertise and capacity to refer clients to housing resources varies across the state.

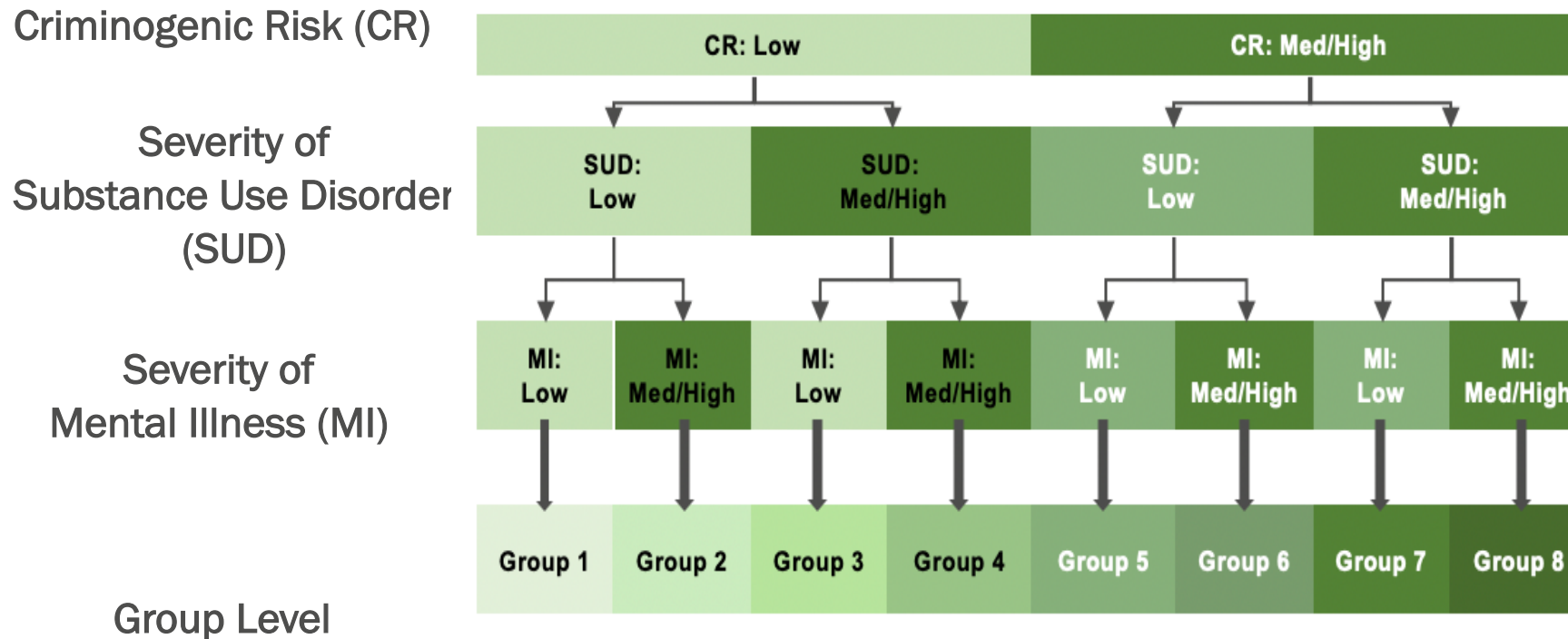
2 Ensure Access

There is opportunity and need to further strengthen and expand access to these services to have a more comprehensive and consistent impact across communities and people.

- ✓ There are innovative community models to support law enforcement's response to crisis calls that could inform a statewide approach, including the Howard Center's outreach teams and Brattleboro's Project Care.
- ✓ Vermont has peer recovery networks across the state, embedded peer recovery coaches in emergency rooms, and the voluntary DOC peer recovery coach service Open Ears.
- ✗ Law enforcement agencies have varied access to community-based resources when responding to behavioral health crisis calls.
- ✗ Due to resource and workforce challenges, DOC mental health treatment is prioritized for the SMI population.
- ✗ There is limited co-occurring disorder treatment available across the state for people who are incarcerated or on supervision.
- ✗ Transportation is a significant access barrier for people across the state.

3 Prioritize Effective Interventions

Case planning needs to be informed by a person's unique criminogenic risk and behavioral health needs.



People must be connected to the interventions and services based on their criminogenic and behavioral health needs.

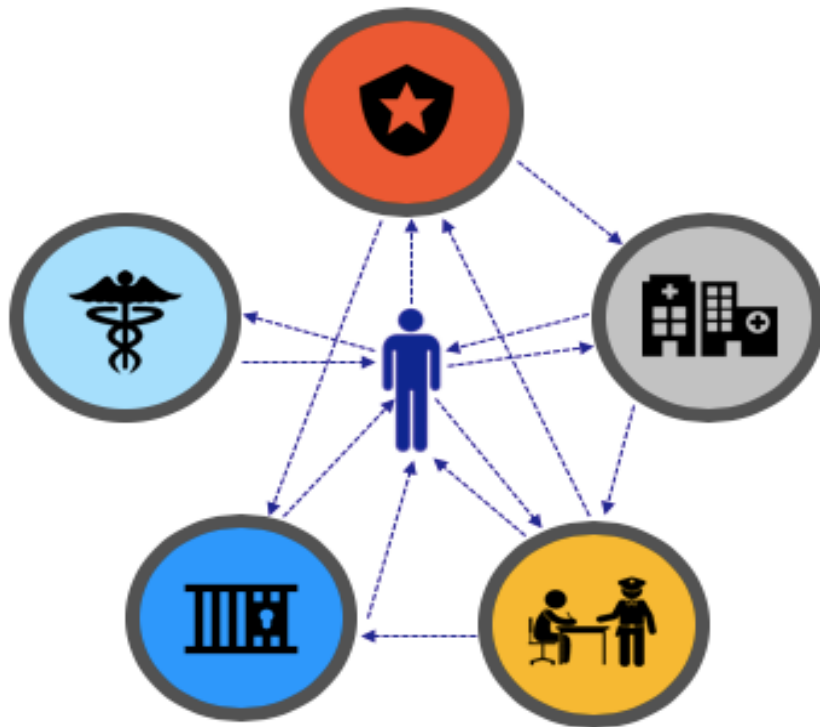
3 Prioritize Effective Interventions

Although there are treatment case planning policies in place, people are inconsistently connected to community-based treatment.

- ✓ According to DOC policy, case plans for people on community supervision will be informed by behavioral health information that is identified by screeners or assessments.
- ✓ Some DOC supervision offices have built strong relationships with local services and leverage these connections to help clients connect with available services.
- ✗ Despite policy, case plans are not always informed by the behavioral health needs of the client due to resource constraints, court ordered stipulations, or limited service availability.
- ✗ There are challenges to sharing relevant behavioral health information and coordinating care between supervision officers and community providers, which can negatively impact overall case planning and subsequent treatment and programming referrals.
- ✗ Due to funding limitations and challenges in care coordination, people with mental health needs that do not rise to the level of SMI are underconnected to the continuum of care offered by designated agencies for mental health in the community.
- ✗ For people with co-occurring disorders on MAT, there is often a lack of coordination for mental health treatment across providers and supervision.

4 Strengthen Collaboration and Training

While a person may interact with multiple agencies, the agencies themselves often do not communicate, coordinate, or collaborate.



The “system” people interact with is a fragmented collection of criminal justice and behavioral health agencies that serve people in the criminal justice system.

Vermont has been expanding cross-system training, particularly crisis training for law enforcement.

- ✓ Key actors in the criminal justice system, including judges, supervision officers, and state's attorneys, have reported that training they have received has evolved their responses to people with addictions, and they are more thoughtful and less punitive in response to a person experiencing relapse.
- ✓ Existing crisis training for law enforcement includes a strong focus on understanding mental illness and administering naloxone for people who have overdosed.
- ✓ State police receive cross-system training that includes sessions provided by trained clinicians and people with lived experience.
- ✓ Local law enforcement, mental health crisis workers, and dispatchers are offered cross-system mental health training by Team Two, a Department of Mental Health and Department of Public Safety grant-funded program administered by Vermont Care Partners.
- ✗ Crisis training for the state police and local law enforcement does not include sufficient information on substance use and co-occurring disorders.

During Phase I, the Justice Reinvestment II Working Group identified two primary areas to improve mental health and substance use services for people in the criminal justice system.

1. Provide more information at sentencing to better guide program and treatment supervision planning.
2. Address critical gaps in how people within the corrections system with behavioral health needs are identified and connected to resources.

Phase I Recommendation: Provide more information at sentencing to better guide program and treatment supervision planning.

Policy Recommendations

- Expand and modify the use of presentence investigation reports (PSIs) to better inform sentencing and programming decisions, possibly to include all domestic violence cases.
 - Explore how the current PSIs may be redesigned to emphasize a more efficient information collection and report format that specifically focuses on risk assessments and behavioral health.
- Consider refocusing current community-based staff to write and deliver PSIs in a timely manner, and to ensure that supervising officers can provide home visits for clients in accordance with best practices.
 - This may be possible by repositioning community corrections officers (CCOs) as supervision officers with a focus on developing PSIs and lower-risk supervision caseloads.

Provide more information at sentencing to better guide program and treatment supervision planning.

Reasoning

- When efficiently designed and delivered, PSIs can provide critical information regarding a person's risk and needs that may then inform supervision conditions.
 - PSIs are rarely ordered outside of cases for which they are required, but a survey of Vermont judges found that 94 percent of respondents identified PSIs as helpful in determining final sentencing decisions.
- Focusing an expansion of PSIs on cases that involve intensive supervision, such as pre-approved furlough and domestic violence cases, can connect people immediately and appropriately to programs and services that meet their individual risks and needs.
- CCOs were originally established to supervise the newly created furlough program, but their current function is inconsistent with current best practice by disconnecting supervision officers from observing clients outside of the office setting.

There are critical gaps in how people within the corrections system with mental health and substance use needs are identified and connected to resources.

DOC facilities have worked hard to develop mechanisms for behavioral health screening and assessment, but there are still gaps in identifying people with co-occurring disorders and mental health needs that do not rise to the level of SMI.

Despite case planning policies aimed at ensuring that behavioral health information guides treatment and programming referrals, challenges prevent this information from being appropriately shared in a way that would best support effective reentry planning.

Mental health and substance use counseling resources are limited within DOC facilities and in the community, requiring the department to use a “triage” approach focused primarily on SMI and MAT populations.

Current cross-system mental health training does not adequately focus on training for responding to people with substance use disorders or co-occurring disorders.

Appropriate housing is a significant challenge for people with behavioral health needs in the criminal justice system. DOC does not currently have resources to screen for housing needs among detainee and sentenced populations.

Phase I Recommendation: Develop more robust identification and connections for people with mental health and substance use needs who move through the corrections system.

Policy Recommendations

- Use validated behavioral health screening tools for all people who are sentenced to incarceration for any period and add mental health screening questions to the Supervision Level Assessment (SLA) tool for people on probation.
- Strengthen the impacts of DOC case managers by establishing an appropriate caseload level and defined role that will enable them to immediately connect people with appropriate and effective services upon their release to community supervision.
- Standardize behavioral health and reentry information policy and procedures between DOC contracted health care staff, case managers, reentry officers, hubs and spokes, designated mental health agencies, and other community service providers.
- Develop care coordination and case management protocols for executive agencies that serve people with behavioral health needs who are under DOC custody.
- Pursue opportunities to expand access to substance use counseling services for people in the criminal justice system who receive MAT inside DOC facilities and within community settings.

Develop more robust identification and connections for people with mental health and substance use needs who move through the corrections system.

Reasoning

- The ORAS-CST includes a domain for behavioral health needs but is not a validated behavioral health screening tool. The SLA tool screens for substance use but not mental health needs for people on probation.
- Due to information sharing inconsistencies, supervision officers do not always have consistent or comprehensive knowledge of clients' behavioral health needs.
- Counseling is offered to clients in the community-based hub and spokes, and DOC offers medical supports, such as MAT, inside facilities; however, due to resource and workforce challenges, DOC is more limited in its ability to offer clinical supports to align with best practices in clinical intervention.
- As evidenced by observing 15 parole hearings, mental health and substance use needs drive many parole revocations.

Policy changes alone are not enough.

Regardless of potential legislative policy changes, Vermont must continue efforts to address key areas for improvement identified during the Phase I process, including:

- Aligning DOC and the parole board's assessment of and response to supervision violations with evidence-based practices.
- Increasing cross-system understanding of mental health and substance use needs to ensure people on supervision are referred to the services they need to be successful.
- Increasing community-based resources for people on supervision with criminogenic, mental health, and substance use issues.

Absent these reforms, violation rates, as identified during the Phase I process, will remain high. However, by better identifying the criminogenic, mental health, and substance use needs of people on supervision and investing in community resources, Vermont can increase supervision success while safely decreasing returns to incarceration.

Next steps

Probation Earned Credit Policy

- Is there a need to continue the probation earned good time conversation in the working group?

Behavioral Health

- Agencies continue collaborating with AHS to provide required information to the working group
- Additional stakeholder engagement as needed

Upcoming Working Group Considerations

- Recommendations for reinvestment funding in FY2022 budget
- Continued study and discussion of existing behavioral health processes and protocols for people in the criminal justice system
- Begin discussing policy options related to behavioral health and information sharing

Thank You!

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