

# final minutes

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## **Criminal Justice Policy Commission Meeting**

10:30 a.m. • Wednesday, June 3, 2015

Senate Appropriations Room • 3<sup>rd</sup> Floor State Capitol Building

100 N. Capitol Avenue • Lansing, MI

### **Members Present:**

Senator Bruce Caswell, Chair  
Stacia Buchanan  
Representative Vanessa Guerra  
D. J. Hilson  
Kyle Kaminski  
Sheryl Kubiak (via teleconference)  
Barbara Levine  
Sarah Lightner  
Laura Moody  
Sheriff Lawrence Stelma  
Jennifer Strange  
Judge Paul Stutesman  
Andrew Verheek  
Judge Raymond Voet  
Representative Michael Webber

### **Members Excused:**

None

### **I. Call to Order and Roll Call**

The Chair called the meeting to order at 10:30 a.m. The Chair asked the clerk to take the roll. A quorum was present and there were no absent members (Representative Webber arrived after the start of the meeting).

### **II. Welcome**

The Chair welcomed the members and indicated it is his intention to start off meeting once a month and more frequently, if necessary. He noted that the goal is to have recommendations in a year and there are three areas to review—sentencing reform, probation reform and parole reform.

### **III. Introduction of Commission Members**

The Chair asked members to introduce themselves, who they represent, and provide information on their backgrounds.

### **IV. Legislative Charge and Commission Achievement Goals**

The Chair asked each member to present one item that they feel is the most important concept to keep in mind as the Commission moves forward with recommendations.

#### **Sarah Lightner**

One of the biggest concerns she has is the rate of return for people that are reoffending. She feels any solution needs to focus on alternative programs and finding more money to help with alternatives for repeat offenders. (recidivism)

#### **Barbara Levine**

She feels the concept of discretion, including the role of constraints on discretion and how is it enforced, is one of the primary areas that the Commission should keep in mind.

#### **Judge Paul Stutesman**

He stresses that everything is interconnected. In terms of money and policy, he hopes the Commission will consider that moving from one area to save money may cost money in another area and that a short term answer may not produce a long term solution.

#### **Kyle Kaminski**

He would like to see ways to better utilize all resources by matching policy, in terms of sentencing, parole, and probation, to what the State wants which is a more effective and efficient criminal justice system. In terms of effectiveness, he would like see fewer people coming to prison as a result of more effective probation and a program designed to be a true deferral from incarceration. On the parole side, he urges continued progress with the recidivism rate in terms of trying to limit the number of returning offenders.

**D.J. Hilson**

One concept he would like the Commission to keep in mind is the idea of structuring a system that encourages a person to only want to have one touch in the system whereby a person makes one mistake and, through programming or sentencing, never wants to return to the system. He feels the system should punish appropriately, but also provide the tools, resources, and programs that make the person better than when they first came into the system.

**Representative Vanessa Guerra**

The concept she holds in highest regard is that of public safety. She recommends that as the Commission moves forward to create a more efficient and just criminal justice system, we don't forget that there has been a lot of work done already and that the Commission should not undo those efforts.

**Stacia Buchanan**

She would like to see more consistency and certainty in sentencing across all communities.

**Professor Sheryl Kubiak**

She hopes we keep in mind that there are structural issues that are often a factor that underline failure when offenders are released. Because community and family problems may circumvent any policy changes that may be recommended, she urges the Commission to keep this in mind and not make any decisions in isolation.

**Laura Moody**

She stresses that public safety is still the goal of government and the Commission should keep the safety of past and potential future victims in mind when entertaining budget and reform issues.

**Sheriff Lawrence Stelma**

He is concerned about the cost, both financially and in human toll, to local communities.

**Jennifer Strange**

She emphasizes the need to consider the high number of individuals with mental health issues currently within the criminal justice system. She urges that any reforms meet these mental health needs and that individuals with mental health issues receive quality programming, whether it be in a detention setting or an outside setting within the community.

**Andrew Verheek**

He would like the Commission to keep in mind the importance of re-entry from all levels of incarceration.

**Judge Raymond Voet**

He urges the Commission to fully evaluate the consequences of any policy changes it recommends.

The Chair then inquired if there are other groups who may have concerns or want ideas brought to the table that have not been represented by the views expressed today by the members. Ms. Levine shared that prisoners and their families would want the Commission to understand that sentences may not need to be as long as they are in order to be effective. She added that data shows that there is a point past which there is no gain in keeping people longer and sentences need not be excessive to protect the public. Sheriff Stelma noted that victim and victim rights advocacy groups are not specifically represented on the Commission. Ms. Moody agreed and pointed out the Attorney General's crime victim advocate will be in the audience and available if the Commission ever needs a specific victim advocate position which not only includes concerns about public safety, but also restitution issues.

The Chair ask members to submit the names of any particular groups they think will be worthwhile to invite to testify at future meetings to provide insight on the areas the Commission will delve into.

The Chair asked members to read the 2014 Michigan Law Revision Commission Special Report Sentencing Guidelines and Justice Reinvestment Study and respond to each of the seven finding and policy options presented in the report as to whether each is a legitimate concern or not. He asked members to send their responses to Susan by June 17.

The Chair asked Mr. Kaminski to have someone from the Parole Board at the next meeting to explain the parole process. Mr. Kaminski agreed and will try to have Parole Board Chairman Mike Egan attend.

The final issue the Chair brought forward for discussion was the three goals of the sentencing guidelines mentioned in the MLRC report—to provide protection to the public, that the guidelines are proportionate to the seriousness of the offense, and to reduce disparity in sentencing throughout the state. He urged that the Commission be respectful of the work that has been done in the past and to keep in mind the financial resources that may be needed for any of the Commission's recommendations.

**V. Consideration of Meeting Schedule**

After a discussion of the Commission meeting schedule, it was agreed that future meetings will be conducted on the first Wednesday of each month with a start time of 9:00 a.m. The Chair announced that the next meeting is scheduled for Wednesday, July 1, 2015 at 9:00 a.m. Members will be notified of the meeting location as soon as it is determined.

**VI. Council of State Government (CSG) Presentation**

Ellen Whelan-Wuest, Project Manager of the Council of State Government Justice Center, provided an overview of the CSG Sentencing Guidelines and Justice Reinvestment Study. See attached presentation for more details. A period for questions and answers followed.

The Chair presented questions regarding the Commissioners' views on the accuracy of the CSG data, CSG's opinion of the good things Michigan is doing and the reasons behind Michigan's sentencing discrepancies, the accuracy of risk assessments, community correction activities and services, gaps in data and the need for a centralized data collection warehouse, and the tracking of restitution and distribution to victims.

Professor Kubiak had questions regarding the gaps in the accuracy of missing data and CSG's computation of jail data and the ownership of the CSG data.

Judge Stutesman inquired about CSG's definition of recidivism. A discussion followed. The Chair suggested the Commissioners give some thought before the next meeting as to what the Commission should use as the recidivism rate so that any numbers the Commission asks for are based on the same definition and consistent. He asked members to turn in their thoughts in two weeks.

Ms. Levine raised a question regarding rearrests rates and whether this includes cases where there is a return to prison for probation violations.

**VII. Public Comment**

The Chair asked if there were any public comments. There were none.

Commissioners were then given the opportunity to offer comment.

The Chair addressed some procedural questions regarding reimbursement of Commission travel costs.

Mr. Verheek commented that the CSG report did not provide a lot of context of some of the numbers that CSG provided and urged the Commission to have contextual information available in the data so that we can make apple-to-apple comparisons.

Judge Stutesman commented that each court has its own case management system and may input data differently in the judicial data warehouse. He cautioned the Commission to be careful about all the numbers since there is not a unified system.

**VIII. Adjournment**

There was no further business. The Chair adjourned the meeting at 1:02 p.m.

*(Minutes approved at the July 1, 2015 Criminal Justice Policy Commission meeting.)*



## **Sentencing & Justice Reinvestment in Michigan**



June 3, 2015  
Michigan Criminal Justice Policy  
Commission

Ellen Whelan-Wuest, Project Manager

Council of State Governments Justice Center  
[www.csjusticecenter.org](http://www.csjusticecenter.org)

# Overview of Presentation

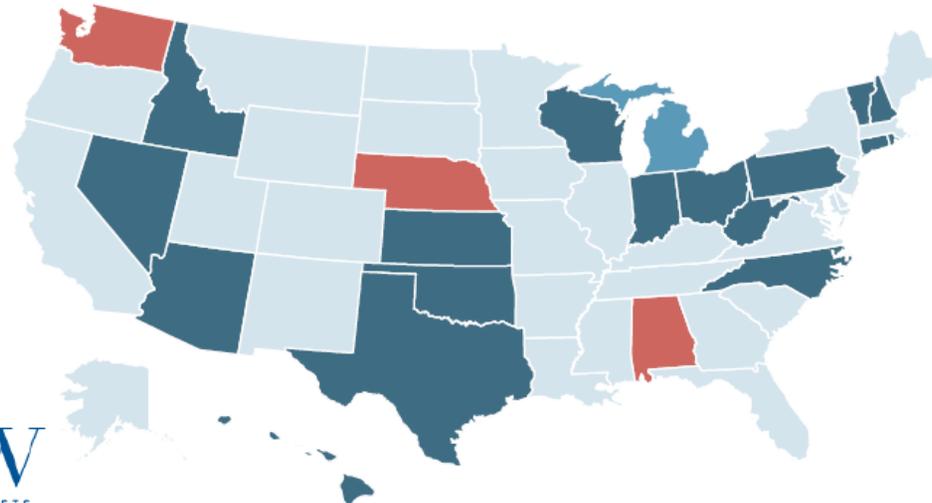
**Project Overview**

**Project Findings**

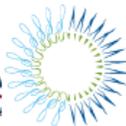
**Project Recommendations**

## The Council of State Governments, the Justice Center, and states where we have conducted Justice Reinvestment

- **CSG** - national non-profit, non-partisan membership association of state government officials that works with members of all three branches of state government
- **CSG Justice Center** - provides practical, nonpartisan advice informed by the best available evidence
- **Justice Reinvestment** – a data-driven approach to reduce corrections spending and reinvest savings in strategies that can decrease recidivism and increase public safety.
- 21 states have used a Justice Reinvestment approach with assistance from the Justice Center.
- Funding provided by:



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

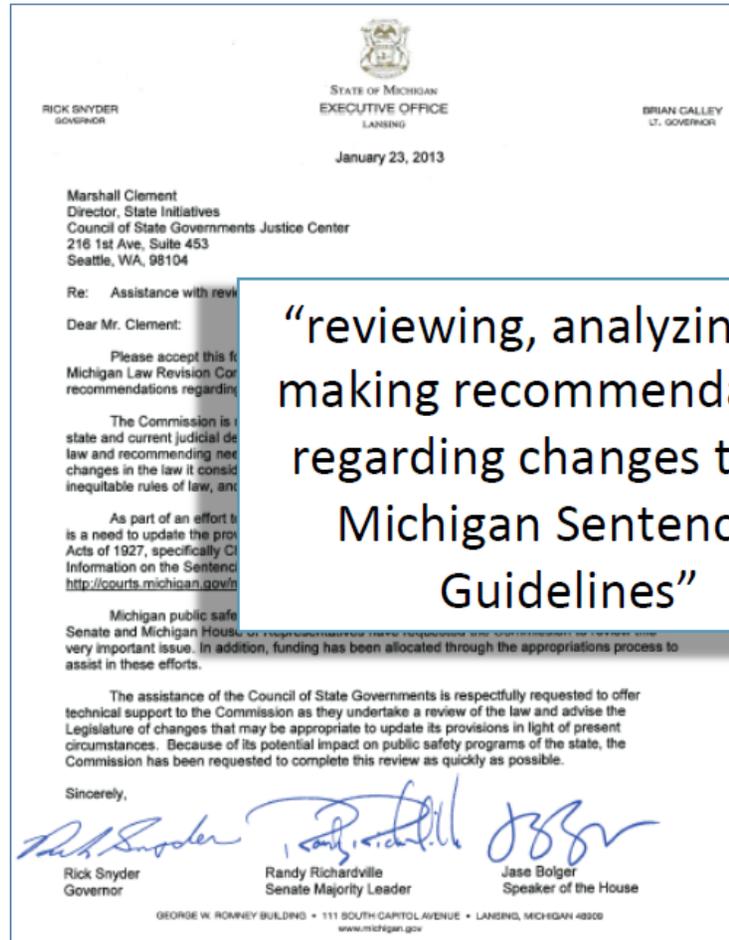


THE  
**PEW**  
CHARITABLE TRUSTS

# Michigan helped fund the project and specifically asked for recommendations around sentencing and parole

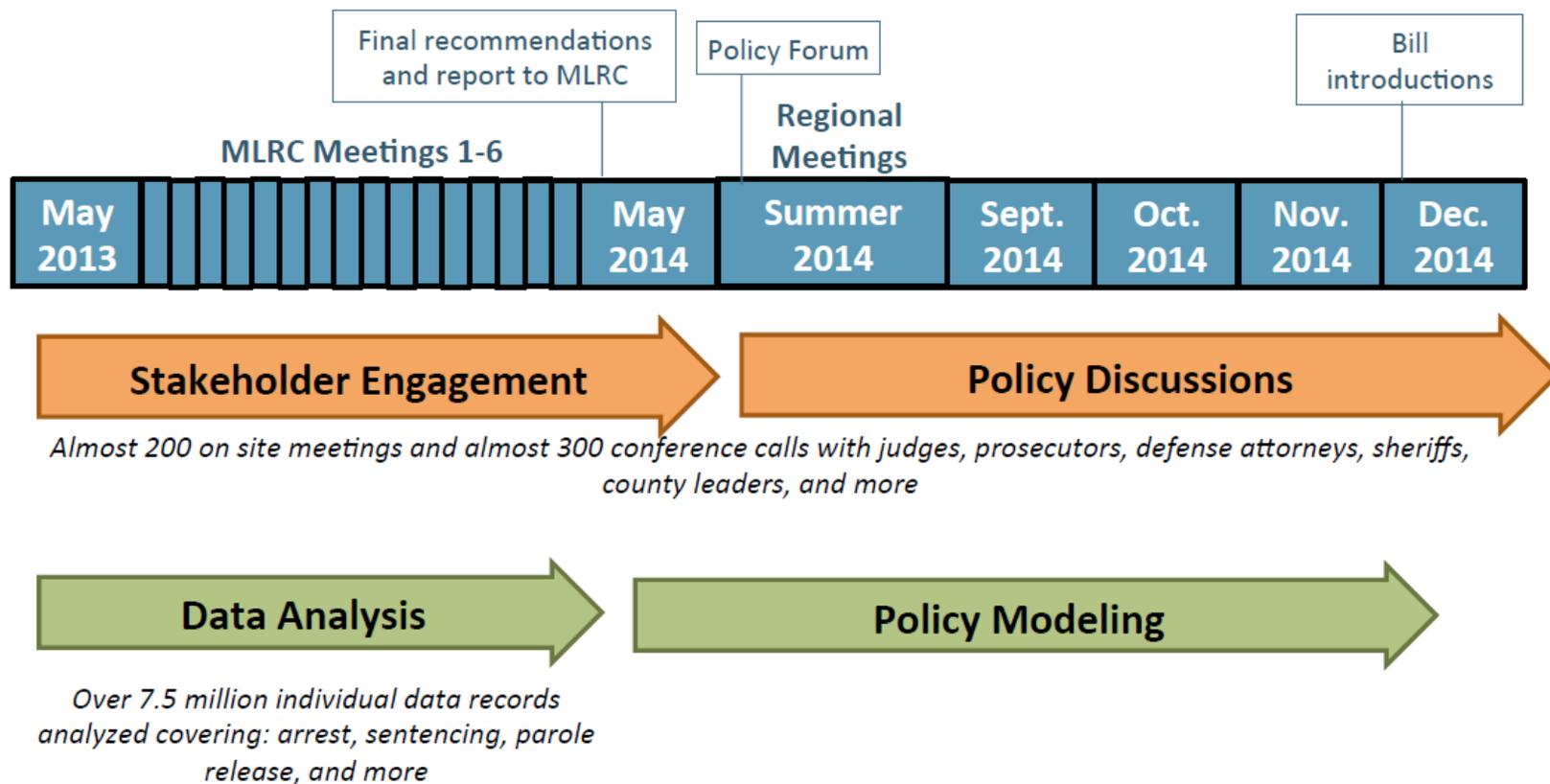
**January 2013:  
SB 233, Section 351**

*“The funds appropriated ...shall be used for a contract [between the Michigan Law Revision Commission and] the Council of State Governments to continue its review of Michigan’s sentencing guidelines and practices, including, but not limited to, studying length of prison stay and parole board discretion.”*



**“reviewing, analyzing and making recommendations regarding changes to the Michigan Sentencing Guidelines”**

# Project timeline



## CSG Justice Center undertook extensive research through data analysis and stakeholder engagement

### **May 2013 through December 2014:**

- ✓ 7.5 million records from 10 databases representing more than 200,000 individuals
- ✓ 25 site visits to Michigan
- ✓ 188 meetings and 285 conference calls with prosecutors, defense attorneys, sheriffs, county leaders, victim advocates, reform advocates, and legislative and executive branch leadership
- ✓ 7 presentations to MLRC, 10 presentations to stakeholder organizations, and 7 regional meetings

# Justice Center report issued in May 2014, and technical appendix compilation of analyses issued in July 2014

**JUSTICE CENTER**  
THE COUNCIL OF STATE GOVERNMENTS

May 2014

## Applying a Justice Reinvestment Approach to Improve Michigan's Sentencing System

Summary Report of Analyses and Policy Options

**I**N MICHIGAN, ONE OUT OF EVERY FIVE STATE dollars is spent on corrections. While policymakers look for ways to contain the high costs of corrections, victims, law enforcement, and prosecutors have urged caution against letting fiscal concerns trump efforts to reduce crime and protect the public. Everyone seems to agree, however, that the state should be getting a much greater return on the significant investments taxpayers currently make in the criminal justice system.

Michigan has analyzed these problems in recent years and implemented various strategies, from statewide mentoring programs to reduce recidivism, to law enforcement efforts to deter crime in cities plagued by violence. Michigan has achieved measurable progress: reported violent crime is down 15 percent from 2008 to 2012;<sup>1</sup> inmate rates for juveniles declined by 20 percent from 2008 to 2011;<sup>2</sup> and the prison population dropped 15 percent between 2006 and 2012.<sup>3</sup>

Despite these achievements, however, high costs and crime persist, and the prison population is starting to increase again.<sup>4</sup> Counties struggle with costly jail populations. Rates of violent crime in four Michigan cities are three to five times greater than the national average, and victim service providers assert that reported crime statistics do not fully capture the incidence of victimization or the impact of reduced law enforcement resources across the state.<sup>5</sup>

As a result of these persistent problems, in January 2013, state leaders decided to look at sentencing in Michigan. Enacted in 1998, the state's sentencing guidelines have been modified from time to time over the past 15 years, but after the Sentencing Commission that created the guidelines was dissolved in 1993, policymakers could not track how the system was contributing to public safety, recidivism trends, and state and local spending. Governor Rick Snyder, Chief Justice Robert Young,

**JUSTICE CENTER**  
THE COUNCIL OF STATE GOVERNMENTS

## REPORT TECHNICAL APPENDIX: Compilation of Michigan Sentencing and Justice Reinvestment Analyses

May 2014

Council of State Governments Justice Center

[csgjusticecenter.org](http://csgjusticecenter.org)

# Overview of Presentation

Project Overview

Project Findings

Project Recommendations

## Project Findings

**Consistency  
and  
Predictability**

**There are opportunities to improve the consistence and predictability of Michigan's sentencing system**

**Public Safety  
and  
Cost**

**Key changes to the sentencing system can help reduce recidivism and costs to taxpayers**

**Evaluation  
and  
Monitoring**

**Michigan needs better tools to monitor and assess the effectiveness of the sentencing system**

## Project Findings: Consistency and Predictability

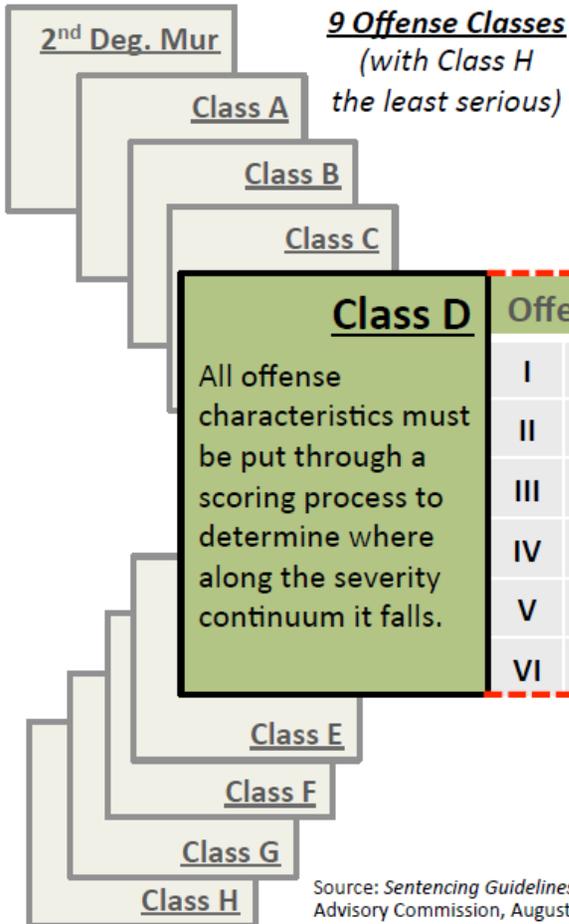
### Consistency and Predictability

#### **Michigan's sentencing system can be more consistent & predictable**

- People with similar criminal histories who are convicted of similar crimes receive significantly different sentences
- After a person is sentenced, it remains unclear how much time he or she will actually serve.

# In handling offense characteristics, Michigan is more complex than other states

## Michigan Guidelines



### Offense Value

I	Least Severe
II	↑
III	
IV	
V	
VI	Most Severe

Many state grids capture offense severity in one row. Michigan has an additional dimension of scoring offense variables leading to many more potential rows into which an offense may fall.

## North Carolina Guidelines

**10 Offense Classes**  
(with Class I the least serious)

Offense Class	
A	Most Severe
B1	↑
B2	
C	
	Aggravated
<b>D</b>	Presumptive
	Mitigated
E	↓
F	
G	
H	
I	

Source: *Sentencing Guidelines Manual*, MI Judicial Institute, June 2012; and *Structured Sentencing: Training and Reference Manual*, NC Sentencing and Policy Advisory Commission, August 2004.

# Michigan's Sentencing Guidelines Aim for High Precision in Sorting Felony Offenders

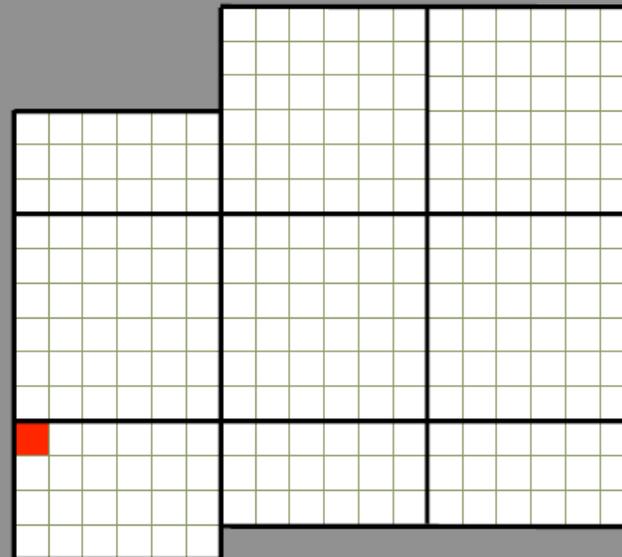
**Narrowing the offense/  
offender profile  
into 1 of 258 cells**

- 9 Different Grids
- 33 Scoring Choices Across 7 PRVs
- 76 Scoring Choices Across 20 OVs

*Guidelines Scoring  
Process*

*Defendant is  
"scored" and  
awaiting sentencing.*

**258 Cells Spread Across  
9 Different Offense Grids**



# Most Felony Cases Fall in Grid Cells Allowing for a Wide Variety of Possible Punishments

Type of Cell			Allowable punishments:
Prison	Straddle	Intermediate*	
✓	✓		Prison
	✓	✓	Up to 1 year in jail plus probation
	✓	✓	Jail only (1 year max)
	✓	✓	Probation only (5 year max)
	✓	✓	Fees/fines only
11% of Cases	27% of Cases	62% of Cases	

*\* The statutory definition of "intermediate sanction" lists 15 different options.*

Note: Departure sentencing allows a sentence type (or duration) outside the guidelines, provided a substantial and compelling reason for the departure is entered into the record.

# Even within the same straddle cell, offenders receive very different sentences

**Brand new cases in the 'E' grid Straddle cells**  
 (Non Habitual; Total 2012 Sentences = 1,463)

	A	B	C	D	E	F
I				402	128	103
II				359	141	69
III				77	26	
IV			69	36		
V		10	27			
VI		7	9			

Very different sentencing outcomes...

Supervision	"Behind Bars"
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**43** Prison  
 Avg. min. term imposed = 17 mos.;  
 Range of 6-36 mos.

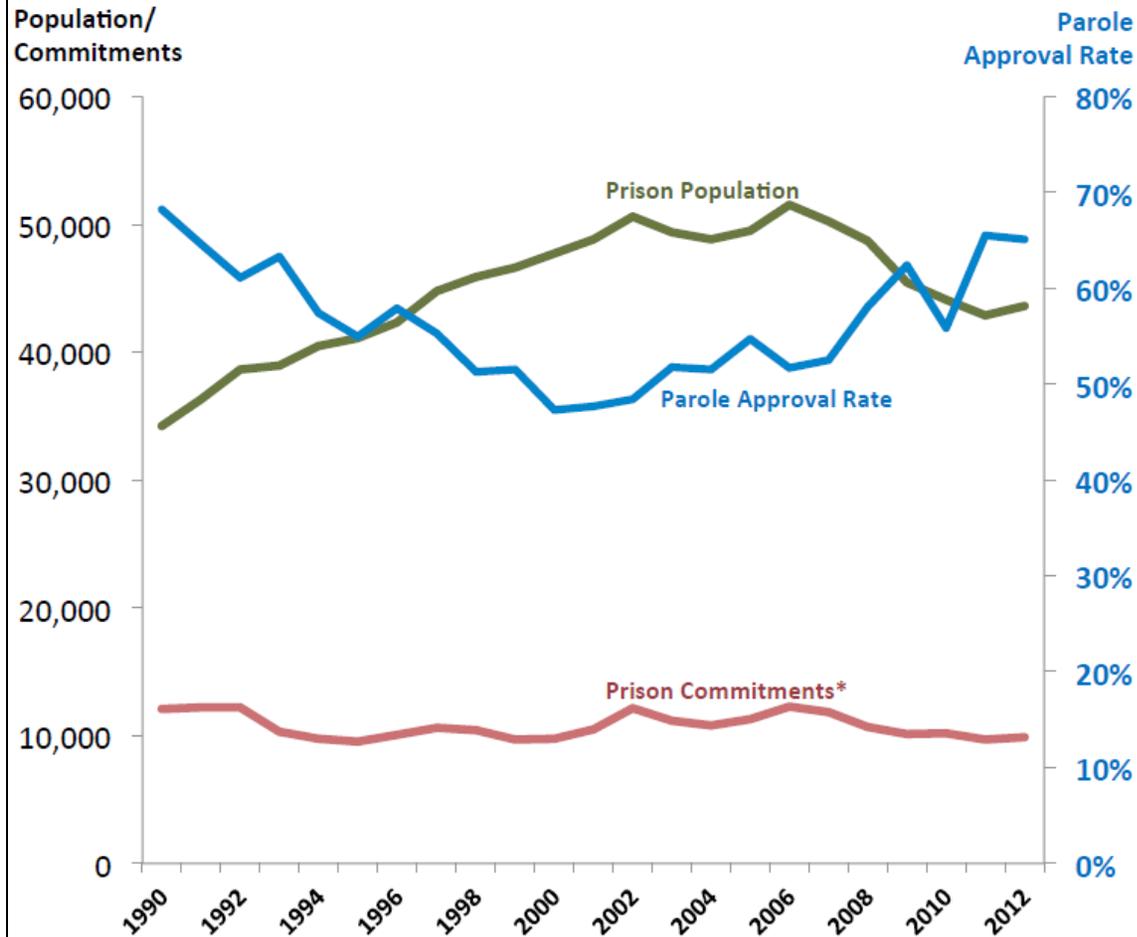
**224** Jail  
 Avg. term imposed = 6 mos.;  
 Range of 1-365 days.

Probation **134**  
 Avg. term imposed = 24 mos.;  
 Range of 9-60 mos.

**Despite falling in the same cell on the same grid, defendants punished disparately:**

- As little as a few months in jail without any supervision to follow,
- As much as 5 years on probation, or
- Minimum of up to 3 years in prison with potential for parole supervision of varying length.

## Prison population dependent upon parole approval rate rather than commitments



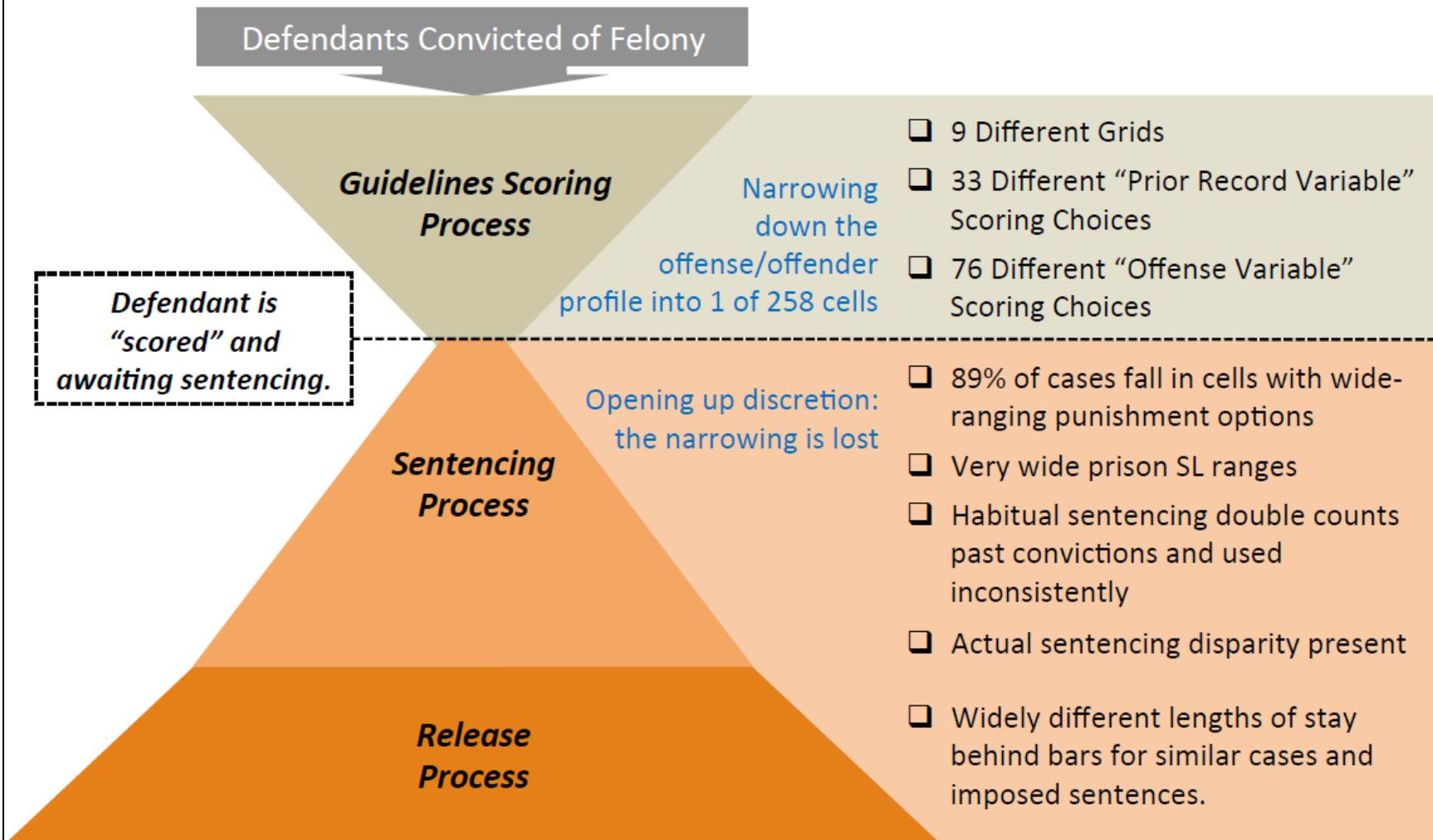
Since the early 1990s, the fluctuations in prison population and parole approval rates have been mirror opposites:

- As approval rates have declined, the prison population has risen.

Source: 2006-2011 Statistical Reports, MI Dept. of Corrections; 2008-2012 Intake Profiles, MI Dept. of Corrections; Trends in Key Indicators, MI Dept. of Corrections, February 2013.

\* Prison commitments include new sentences, all probation violators (technical and new offense), and new offense parole violators.

# Michigan's sentencing structure undermines intent to narrow discretion and reduce disparity



# Michigan's sentencing guidelines do not impact maximum sentence length

Hypothetical where an offender faces minimum of 5 years in prison...

**Kansas:** guidelines dictate maximum sentence and available time credits.

No less than 60 months w/ good time  
Max sent = 71 months

No parole board, but offenders must "earn" their way to the minimum.

**North Carolina:** guidelines dictate minimum and maximum sentence.

Min sentence = 60 months  
Max sent = 84 months

**Michigan:** guidelines dictate minimum sentence in most cases. The Parole Board controls most of the prison sentence.

Min sentence = 60 months

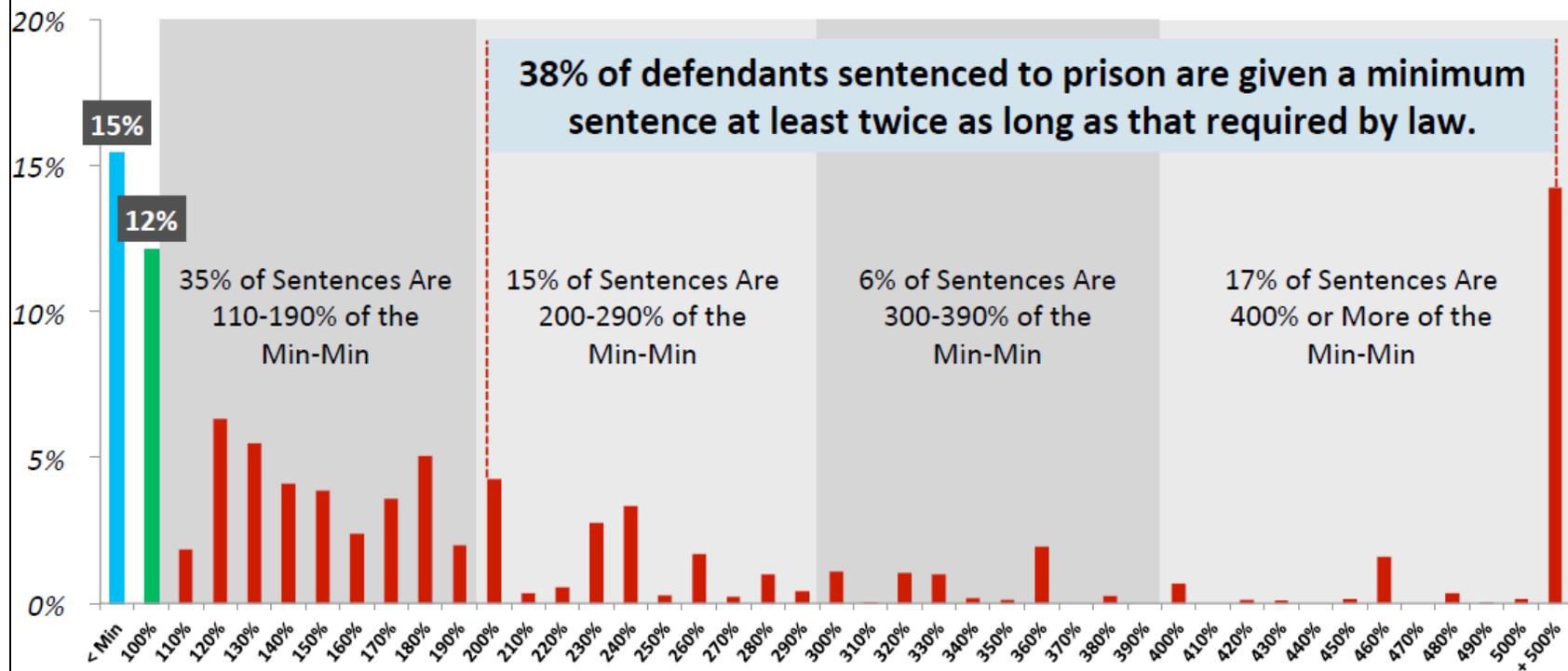
Parole board determines when released.

Max sentence = 180-240 months  
(set in statute for specific offense)

Source: *Sentencing Guidelines Manual*, MI Judicial Institute, June 2012; *Kansas Sentencing Guidelines Desk Reference Manual 2012*, KS Sentencing Commission; and *Structured Sentencing: Training and Reference Manual*, NC Sentencing and Policy Advisory Commission, August 2004.

# Significant Portion of Minimum Sentences to Prison Are at Upper Ends of Broad Allowable Ranges

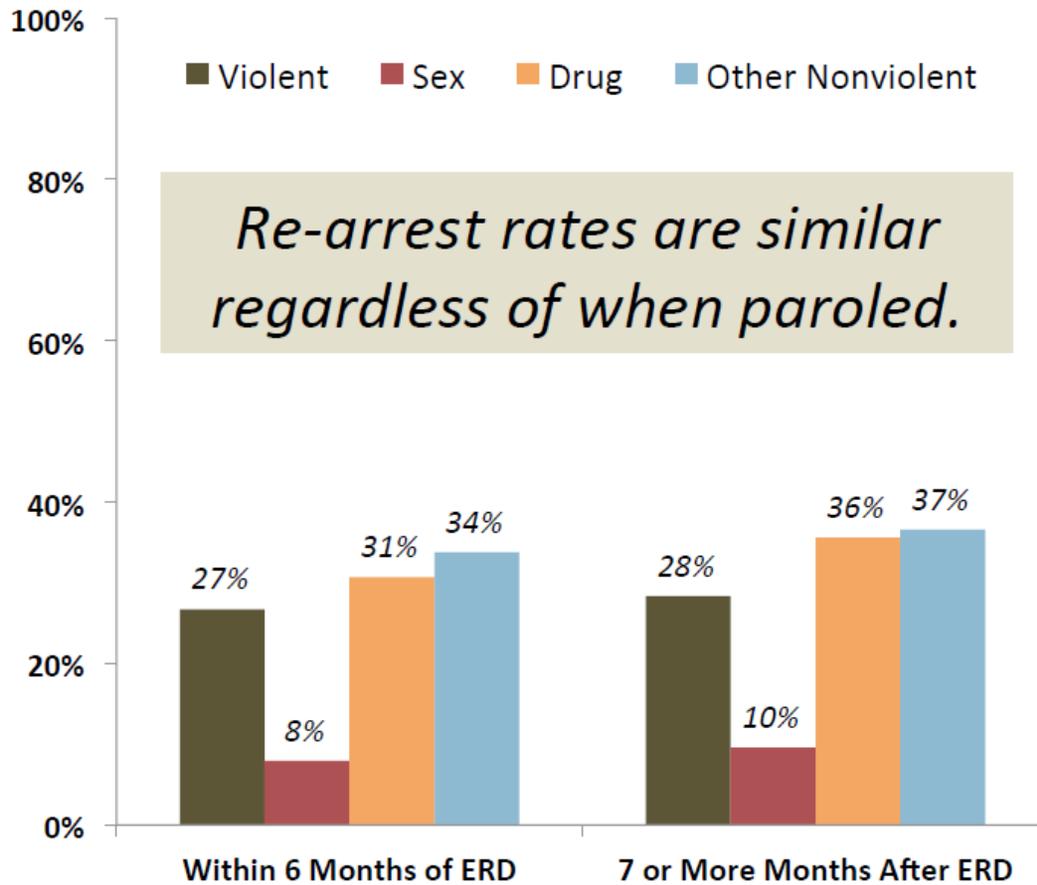
**Actual Minimum Imposed as Percent of Minimum Required** (2012 SGL Non-Habitual Sentences to Prison)



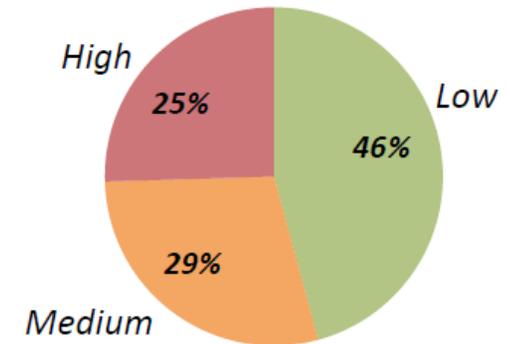
# Re-arrest rates are very similar for those held further beyond earliest release date

## 2 Year Re-Arrest Rates by Time Served Beyond Minimum:

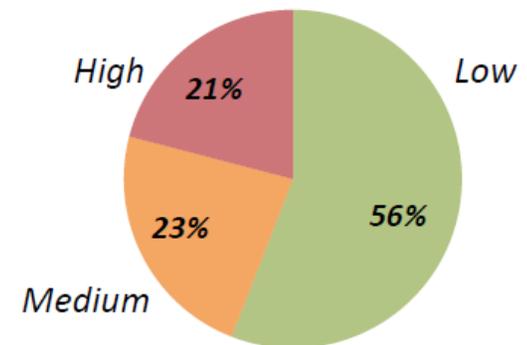
(2010 Releases to Parole Excluding Parole Violator Admissions)



## Risk Breakdown of Those Released w/in 6 months:



## Risk Breakdown of Those Released 7+ months:



Source: Prison Releases Data 2008-2012 and COMPAS Risk/Needs Data, Michigan Dept. of Corrections; and Criminal History Records, Michigan State Police.

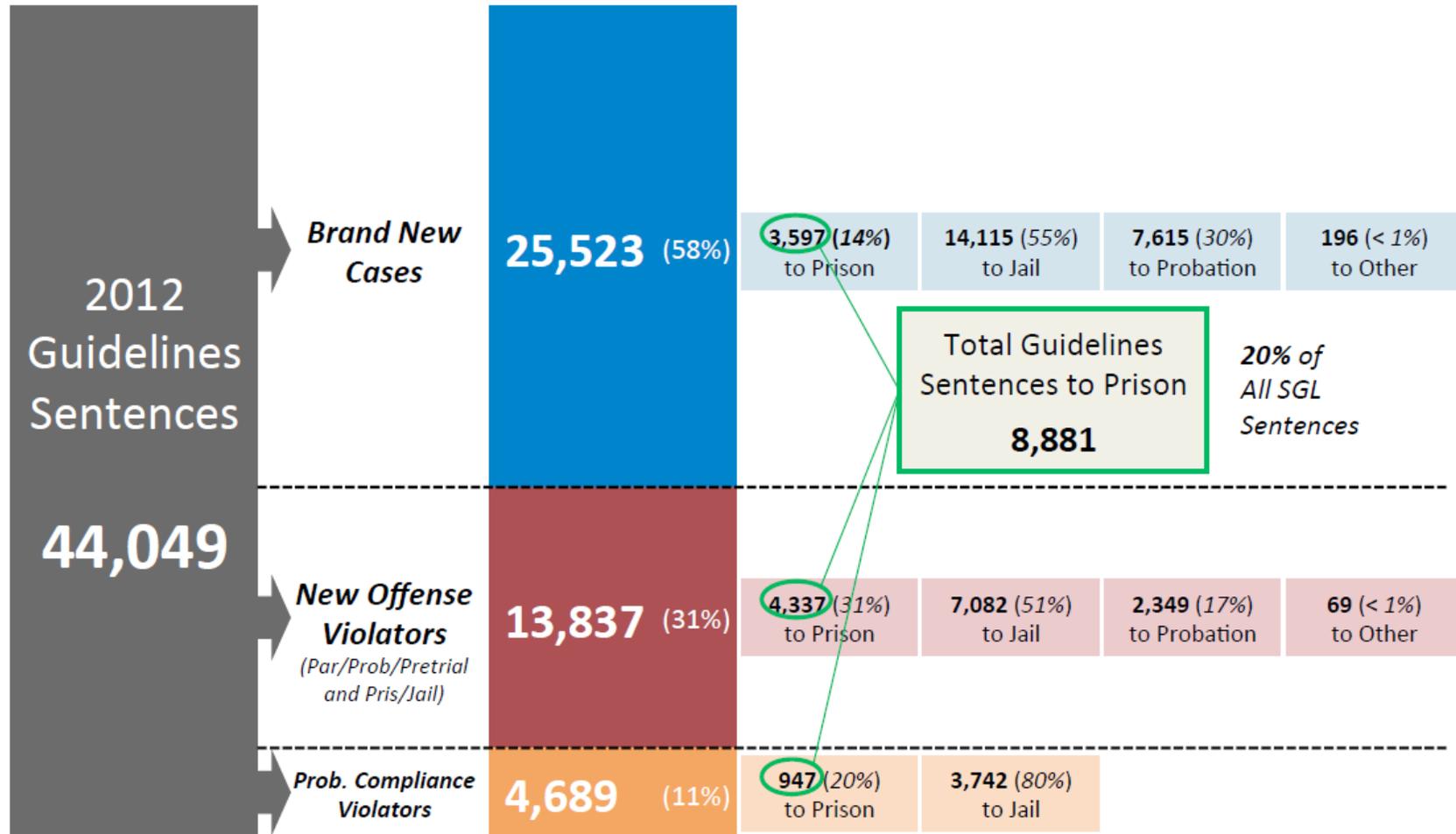
## Project Findings: Public Safety and Cost

### Public Safety and Cost

#### **Michigan's sentencing system can reduce recidivism & taxpayer costs**

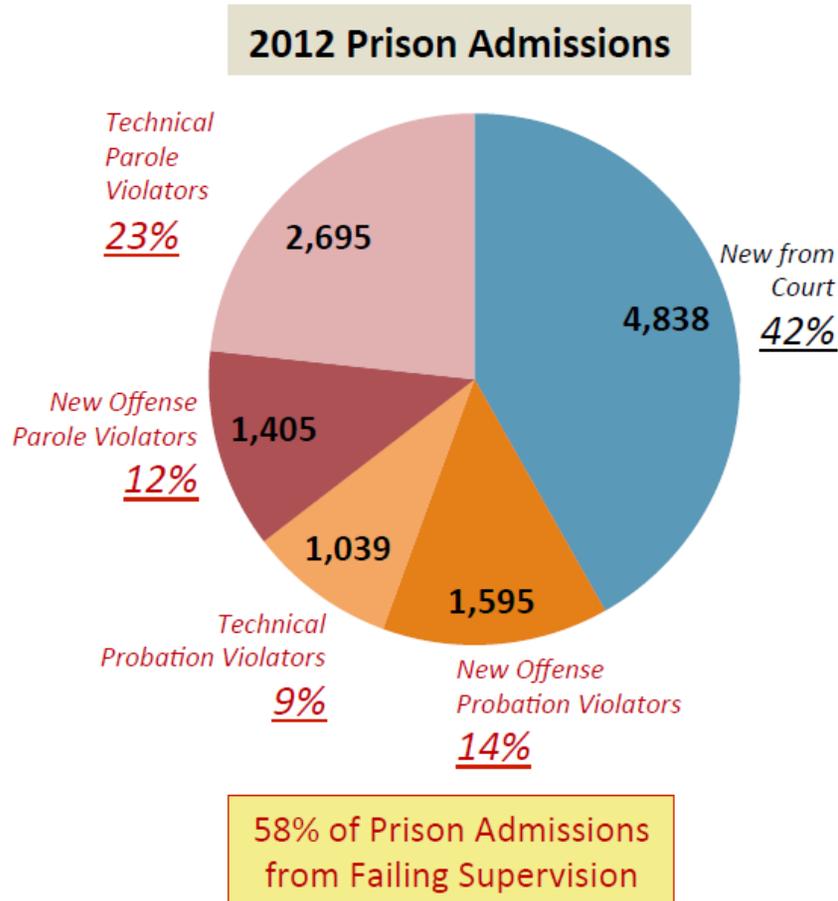
- High rates of recidivism generate unnecessary costs
- Funds to reduce recidivism are not targeted to maximize the effectiveness of programs and services
- Supervision resources are not prioritized to reduce recidivism

## Breakdown of sentences shows “brand new” versus violators



Source: Felony Sentencing (BIR) Data 2008-2012, Michigan Dept. of Corrections.

# Supervision violators make up almost 60% of admissions to prison – compliance violators alone account for a third

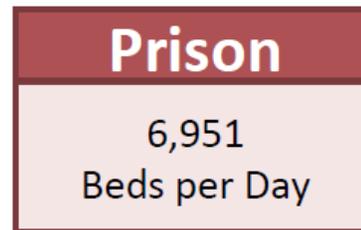


Source: *Prison Admissions Data-2012*, Michigan Dept. of Corrections.

# More than \$300 million spent annually locking up probation violators (using average cost per day)

## 2008-12 Average Admissions of Probation Violators to Prison and Jail, and Length of Stay

- ❑ New Off. Prob. Revs. = 1,590 for 37 mos →
  - ❑ Tech. Prob. Revs. = 1,030 for 25 mos →
- 2,620 violators admitted to prison annually
- 39% are compliance violators



at \$98 per day  
= \$249 million Annually

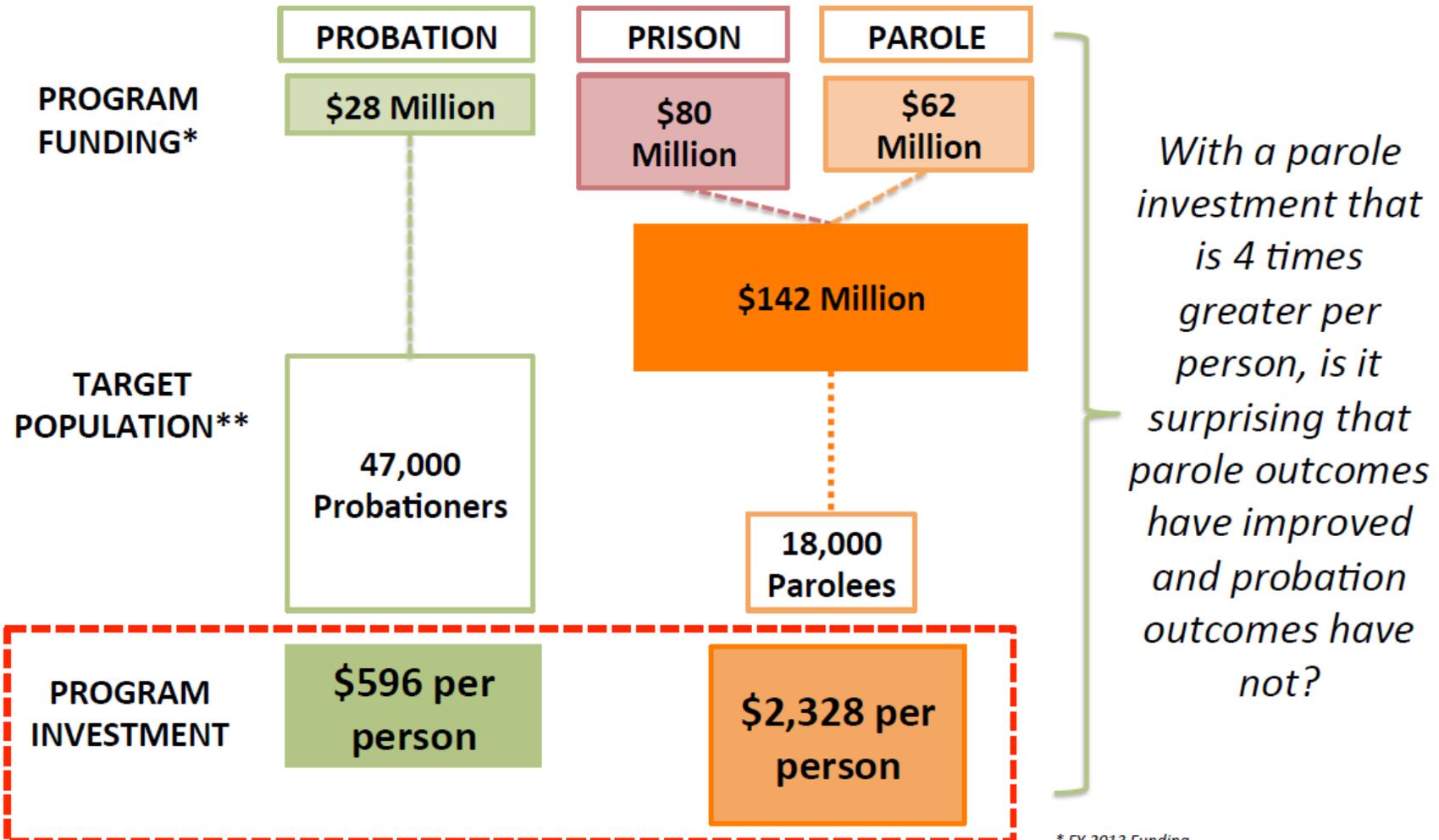
- ❑ New Off. Prob. Revs = 2,295 for 7 mos →
  - ❑ Tech. Prob. Revs. = 3,742 for 7 mos →
- 6,037 violators admitted to jail annually
- 62% are compliance violators



at \$45 per day  
= \$57 million Annually

Source: *Felony Sentencing (BIR) Data 2008-2012, Prison Admissions Data 2008-2012, and Prison Releases Data 2008-2012*, Michigan Dept. of Corrections; and *Corrections Background Briefing*, December 2012, House Fiscal Agency.

## Funding for Front-End Probation Is Inadequate

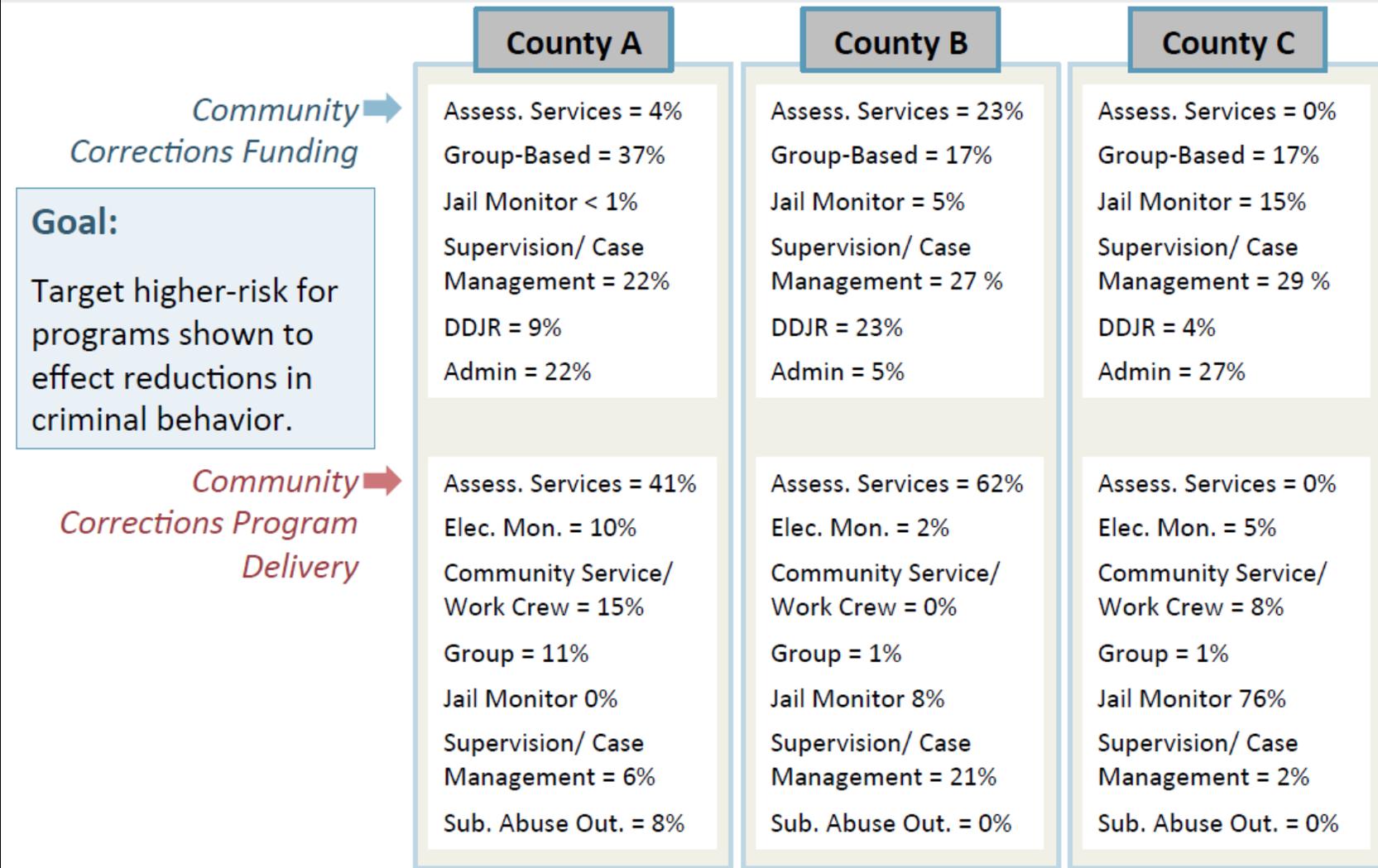


\* FY 2013 Funding

\*\* Rounded based on 2012 population data

Source: Written and verbal communications with Budget Office, Michigan Dept. of Corrections.

# Program Resources not Clearly Related to Reducing Criminal Behavior



## Project Recommendations: Education and Monitoring

### Evaluation and Monitoring

**Michigan needs better tools to monitor and assess the effectiveness of the sentencing system.**

- Policymakers and practitioners do not have an effective mechanism to track sentencing and corrections outcomes
- Data currently do not sufficiently measure victimization or the extent to which restitution is collected

## There is a lack of comprehensive information about the sentencing system and crime across the state

- Sentencing guidelines have not been comprehensively analyzed since taking effect in 1998
- Existing knowledge gaps about utility and effectiveness of risk assessment tools and evidence-based practices
- Crime and arrest statistics improving, but high crime persists in specific communities
- Limited information about restitution collection rates across systems and agencies

# Overview of Presentation

Project Overview

Project Findings

Project Recommendations

## Project Recommendations: Consistency and Predictability

### Consistency and Predictability

#### *FINDING:*

**Michigan's sentencing system can be more consistent & predictable**

#### *RECOMMENDATIONS:*

- **Structure sanctions in the guidelines to produce more consistent sentences**
  - Structure use of probation, jail and prison within the guidelines to increase predictability.
  - Reduce the wide ranges in possible sentence lengths in cells that include the possibility for a prison sentence.
- **Make the length of time a person will serve in prison more predictable at sentencing**
  - Truth in sentencing should be enhanced by establishing minimum and maximum periods of incarceration at sentencing

## Project Recommendations: Public Safety and Cost

*FINDING:*

**Michigan's sentencing system can reduce recidivism & taxpayer costs**

*RECOMMENDATIONS:*

**Public Safety  
and  
Cost**

- **Use risk of reoffense to inform probation and post-release supervision**
- **Hold people accountable and increase public safety for less cost**
  - *Incorporate swift and certain principles in community supervision practices and set clear parameters around length of confinement as a response to parole and probation revocation.*
- **Concentrate funding on the programs most likely to reduce recidivism**
  - *Focus resources and measure performance based on the goals of reduced recidivism and improved public safety*

## Project Findings: Education and Monitoring

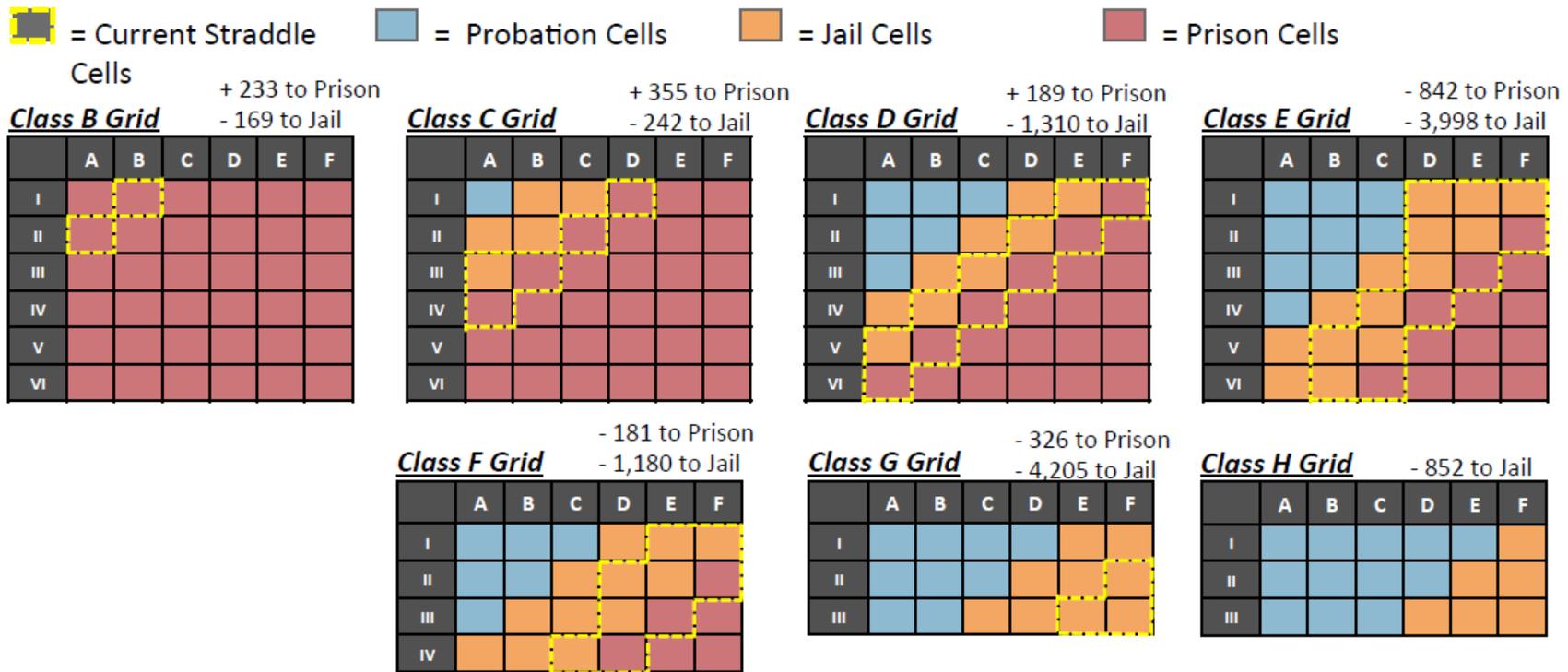
### Evaluation and Monitoring

#### **Michigan can educate practitioners and improve monitoring**

- Policymakers and practitioners do not have an effective mechanism to track sentencing and corrections outcomes.
- Data currently collected do not sufficiently measure victimization or the extent to which restitution is collected

# Proposed sentencing structure to make use of probation, jail and prison more predictable and consistent

Example of reallocation of dispositions and resources based on the structured use of probation, jail and prison within the guidelines.



## Legislative package was refined to four bills

<b>Bill Draft</b>	<b>Topics</b>
6301	<ul style="list-style-type: none"><li>-Measuring restitution collection</li><li>-Creating Criminal Justice Policy Commission</li><li>-Revising County Jail Reimbursement Program</li></ul>
6303	<ul style="list-style-type: none"><li>-Targeting probation supervision terms by risk</li><li>-Defining probation violation 'sanction regimen'</li><li>-Tweaking swift and sure sanctions probation</li></ul>
6305	<ul style="list-style-type: none"><li>-Increasing parole certainty</li><li>-Defining parole sanction regimen</li></ul>
6307	<ul style="list-style-type: none"><li>-Updating community corrections</li><li>-Focusing on EBP and recidivism reduction</li></ul>

## Prison impacts of proposed policies and their potential savings

### Policy Impacts on Prison Beds

Policy	2015	2016	2017	2018	2019	2020
Greater Certainty in Parole	-10	-316	-1,045	-1,930	-2,771	-3,653
Probation Violators Held in Jail	-98	-760	-1,158	-1,029	-990	-1,014
Parole Violators Held in Jail	0	-1	-32	-132	-244	-380
Combined Total Impacts	-108	-1,077	-2,235	-3,091	-4,005	-5,047

## Proposed policies could reduce jail usage even with new populations

### Policy Impacts on Jail Beds

Policy	2015	2016	2017	2018	2019	2020
Probation Violators held in Jails	-177	-812	-796	-703	-704	-711
Probation Violators (formerly to MDOC) held in Jails	37	110	139	143	146	150
Parole Violators (formerly to MDOC) held in Jails	632	221	218	219	220	222
Combined Total Impacts	492	-481	-439	-341	-338	-339

## State savings would create the opportunity for a win-win for the state and for counties

- Counties should be reimbursed for holding violators
- Use of jails for violators should be contingent on capacity
- Using jails for parole violators can be delayed
- Dormant state capacity can be activated if needed
- Reinvestment in community corrections can assist with jail management

## Big picture outcomes anticipated from proposed policies



- Fewer unsupervised releases from jail



- Greater accountability for more violations



- More effective use of supervision



- Increased public safety



- Stable releases and state savings over time



- Reinvestment opportunities for probation, courts, counties & victims



**Ellen Whelan-Wuest**  
**Project Manager**  
[ewhelan-wuest@csg.org](mailto:ewhelan-wuest@csg.org)

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