



Justice Reinvestment in North Carolina

Detailed Data Analysis

September 17, 2010

Council of State Governments Justice Center

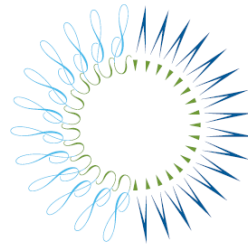
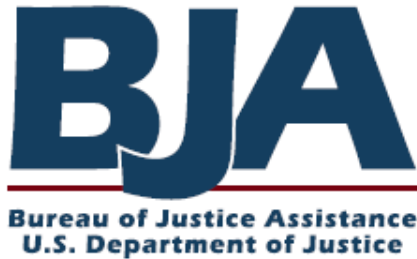
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Funders/Partners

Justice Reinvestment

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



Public Safety
Performance
Project

North Carolina Justice Reinvestment Process

1

Analysis

Collect & examine quantitative data

- Reported crime & arrests
- Court disposition & sentencing
- Jail population
- Probation and community corrections programs
- Prison admissions, population & releases

April - June

2

Implementation

Engage input from stakeholders

- Behavioral health & treatment providers
- Law enforcement
- Judges
- Prosecutors
- Defense bar
- Victim advocates/survivors
- County officials
- Community corrections
- Probation

May – September

3

Accountability

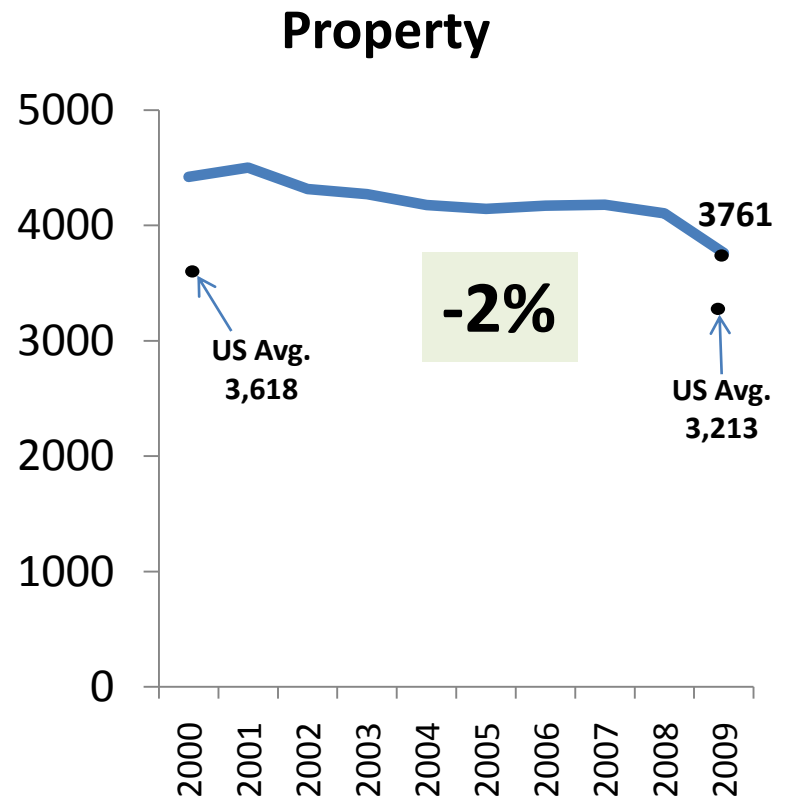
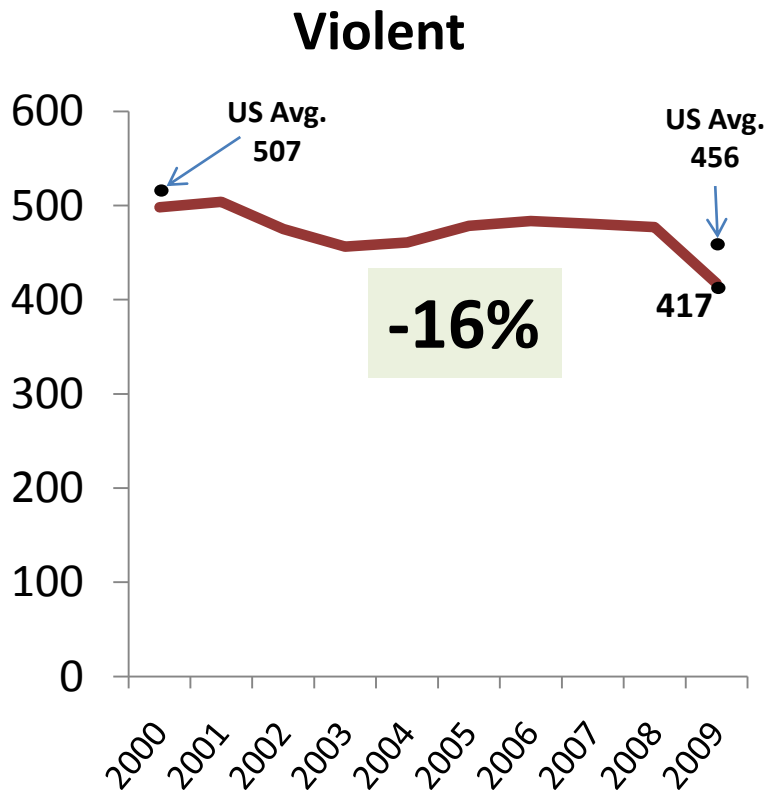
Develop & present a comprehensive analysis of the state's criminal justice system

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

September - January

North Carolina Crime Rate Has Declined Since 2000

Violent & Property Crime Rates per 100,000 (2000-2009)



How Has the State's Prison Population Increased 30 Percent Since 2000?

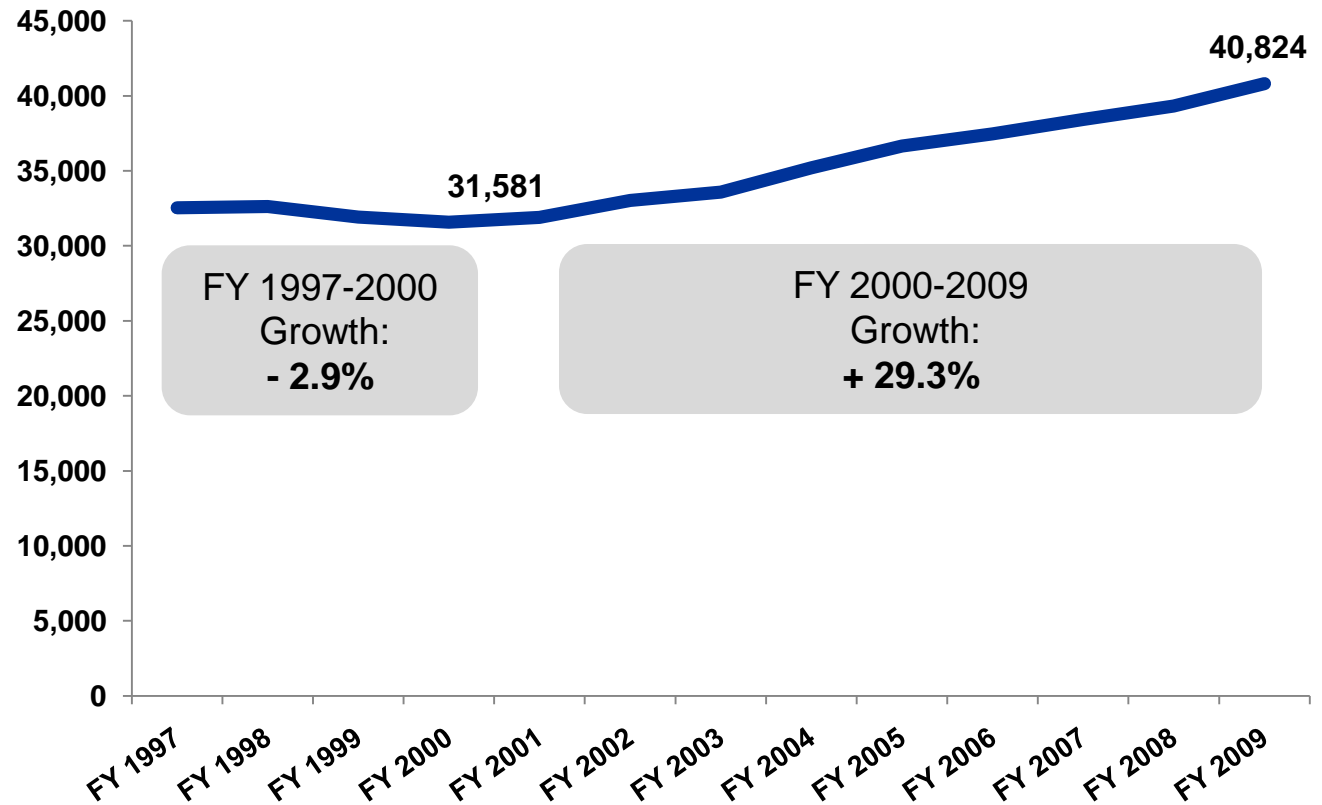
- DOC Expenditures:
 - \$899 million – FY00
 - \$1.51 billion – FY09
 - **68% Increase**

Average “County Jail Backlog” not included in graph:

FY06: 322
 FY07: 32
 FY08: 146
 FY09: 244

Oct-Dec 2009: 999

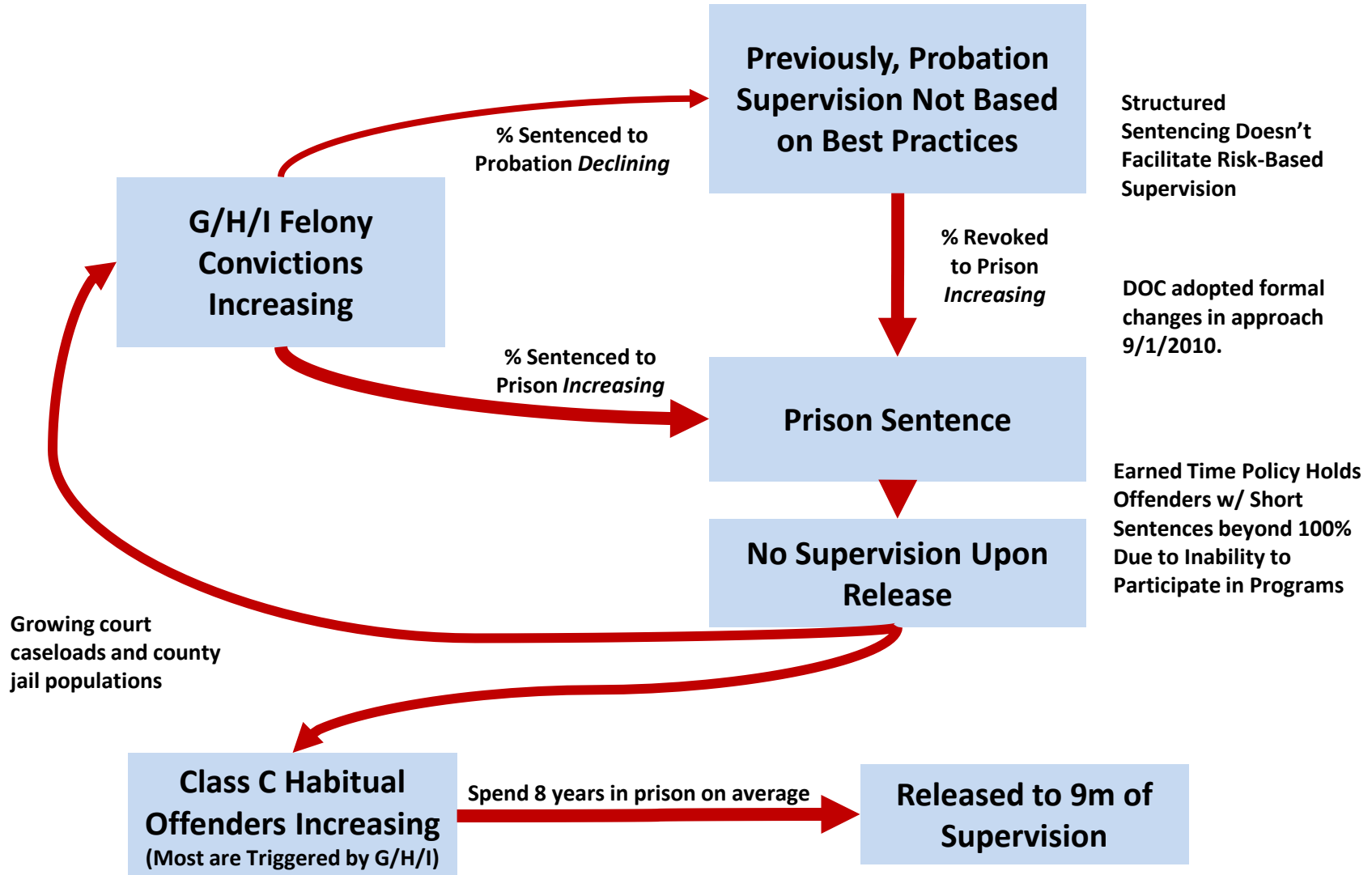
North Carolina Prison Population FY 1997 - 2009



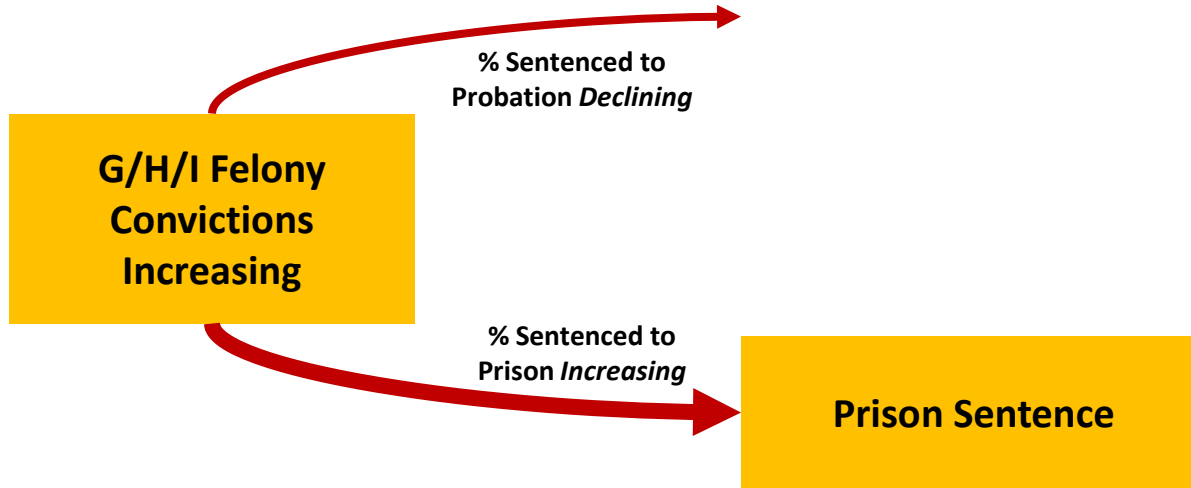
Source: North Carolina Department of Correction, Annual Statistical Reports and online Prison Offender Population Statistics; <http://www.doc.state.nc.us/rap/index.htm>.

Bottom Line Summary

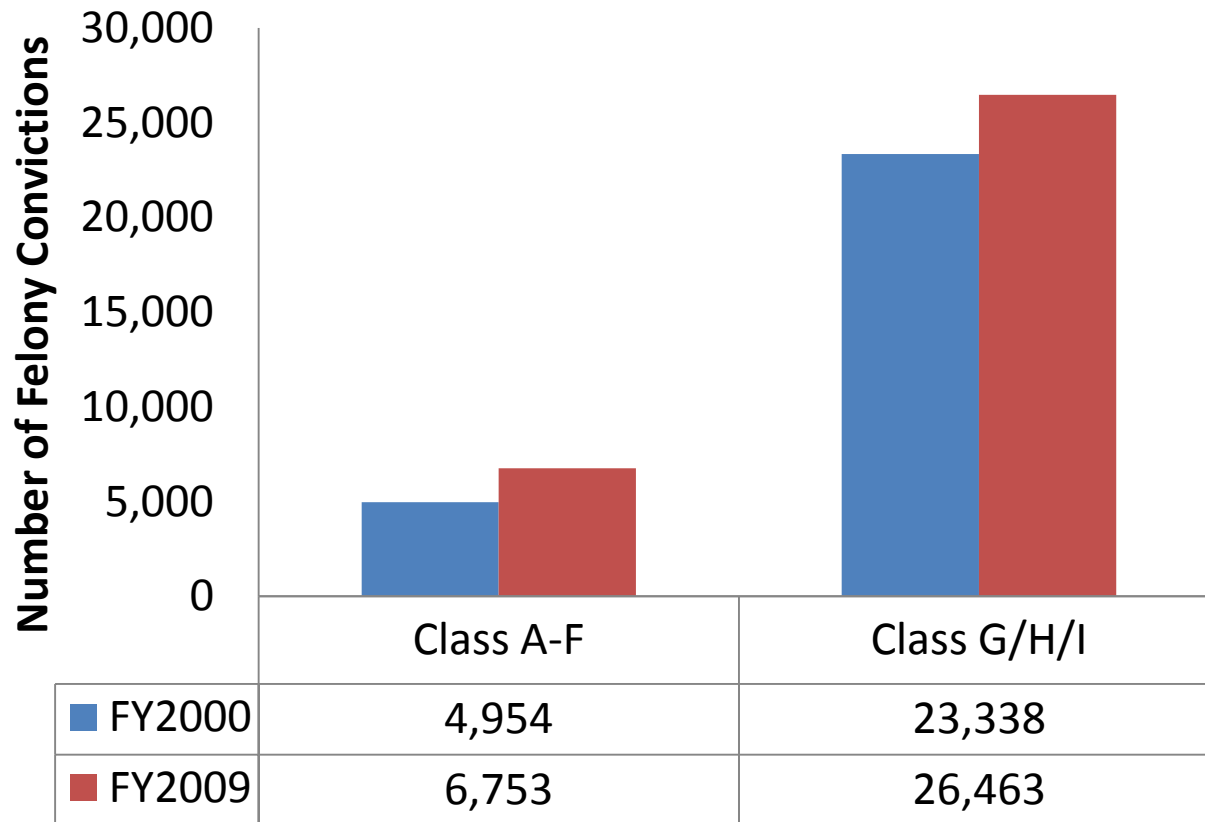
Effectively Managing Lower-Level Felony Offenders: The Challenge



More People Convicted of Low Level Felonies; A Greater Percentage Receiving Prison Sentences



Felony G/H/I Convictions Increased by 3,125 Since 2000



Felony G/H/I convictions **increased 13 percent** from 2000-2009.

Felony G/H/I convictions account for **80 percent of all convictions** in 2009.

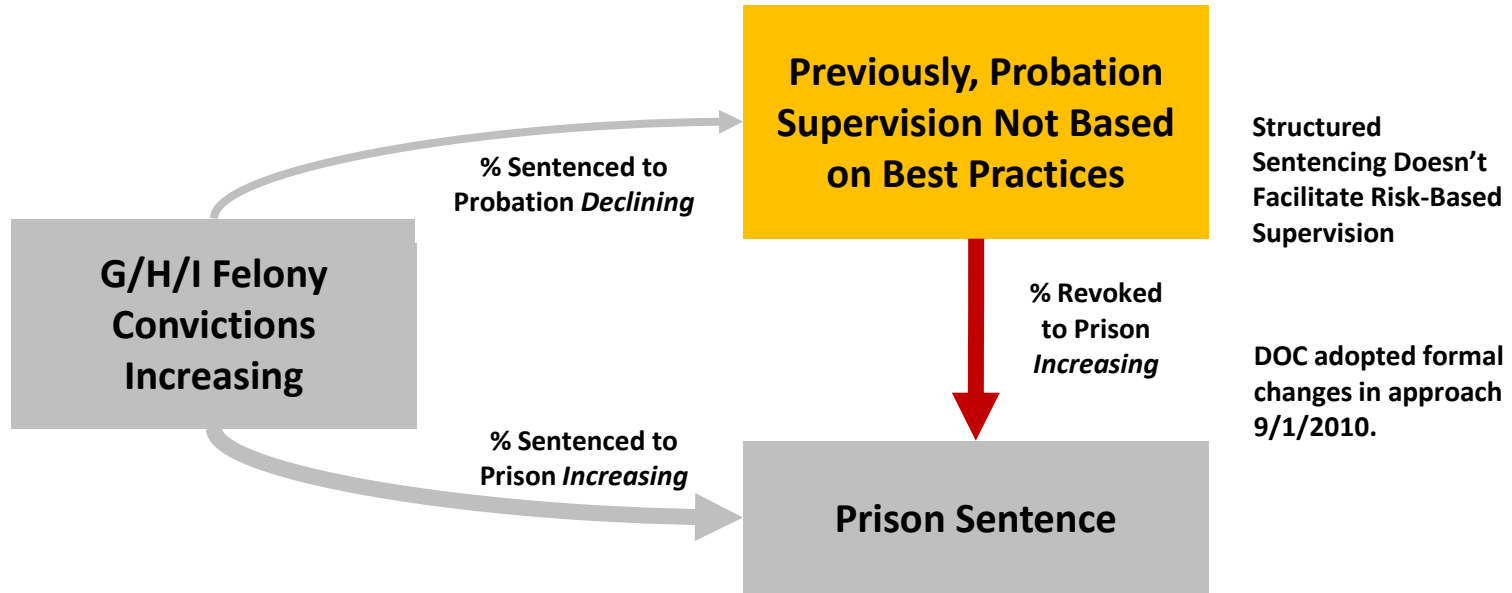
Percent of G/H/I Convictions Sentenced to Prison Increased from 26 to 31 Percent from 2000-2009

G/H/I Felony Convictions



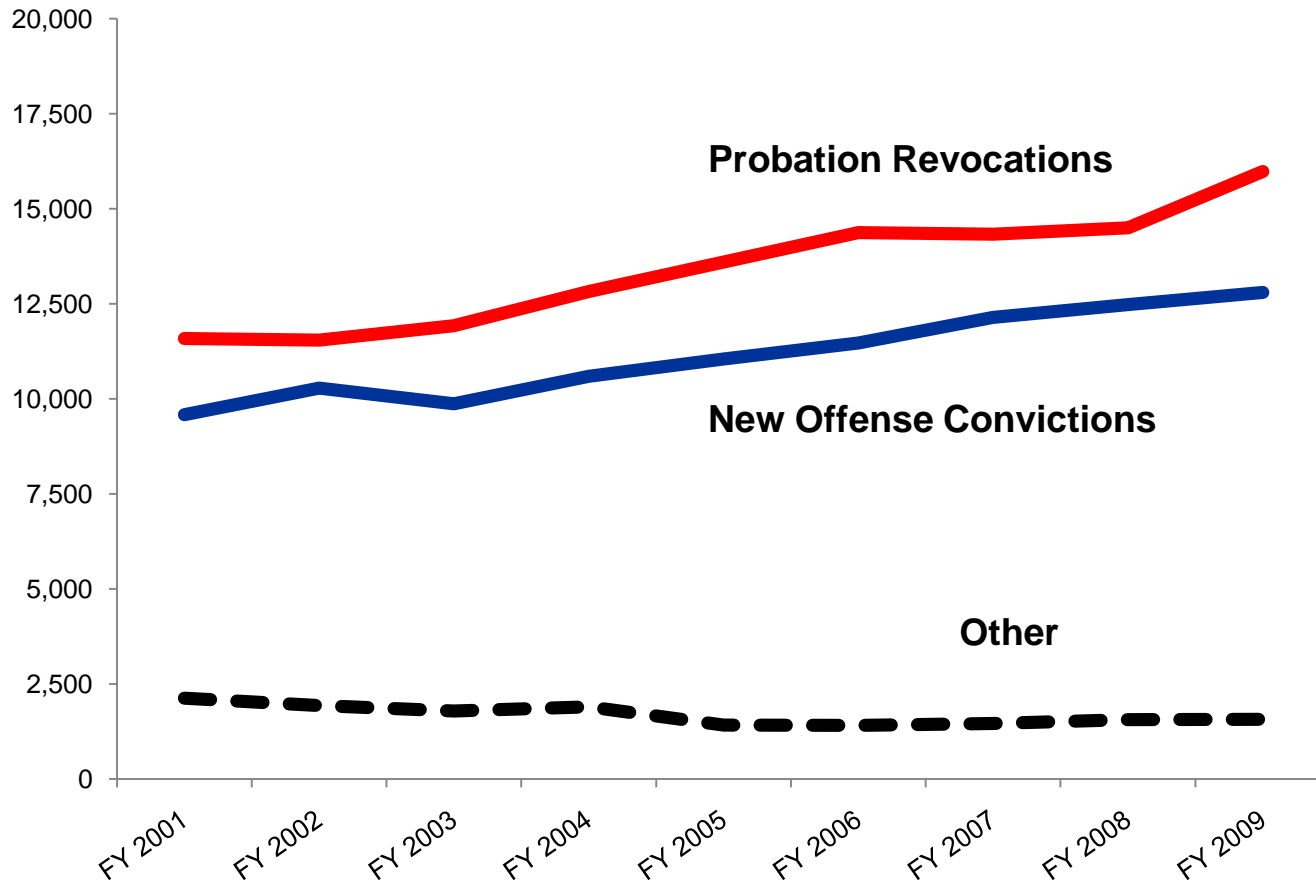
2,190 additional annual prison admissions

Probation Revocations Have Increased; Effectiveness of Supervision Limited By Sentencing Structure



An Increasing Number of People Are Failing on Probation and Being Revoked to Prison.

North Carolina Prison Admissions FY 2001 - 2009



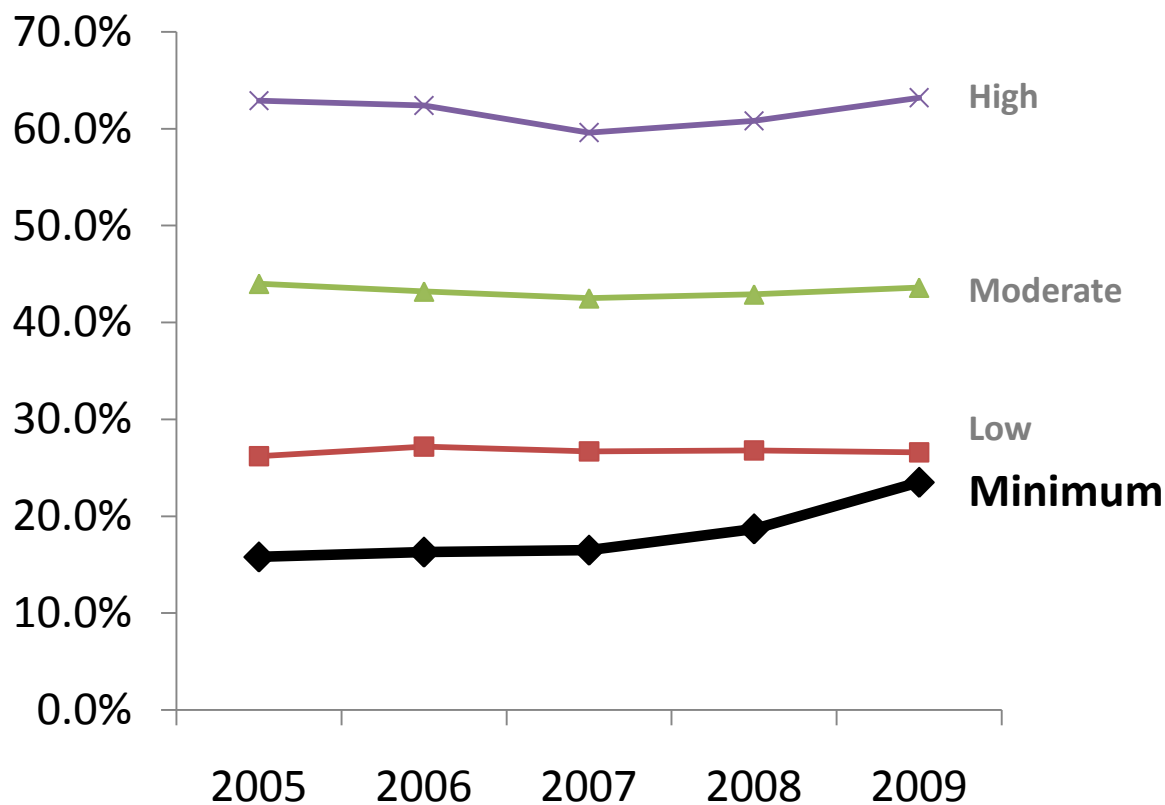
Probation Revocations as % of Total Prison Admissions

FY 2001	50%
FY 2009	53%

76% of the probation revocations to prison were for violating the conditions of supervision in 2009

Source: North Carolina Department of Correction Annual Statistical Reports

Revocation Rates for Minimum Risk Offenders Are the Lowest but Have Increased Since 2005



Change in revocation rate by risk level:

- Minimum: + 49%
- Low: + 2%
- Moderate: - 1%
- High: + 1%

Using best practices, the revocation rate of minimum and low risk probationers should decline

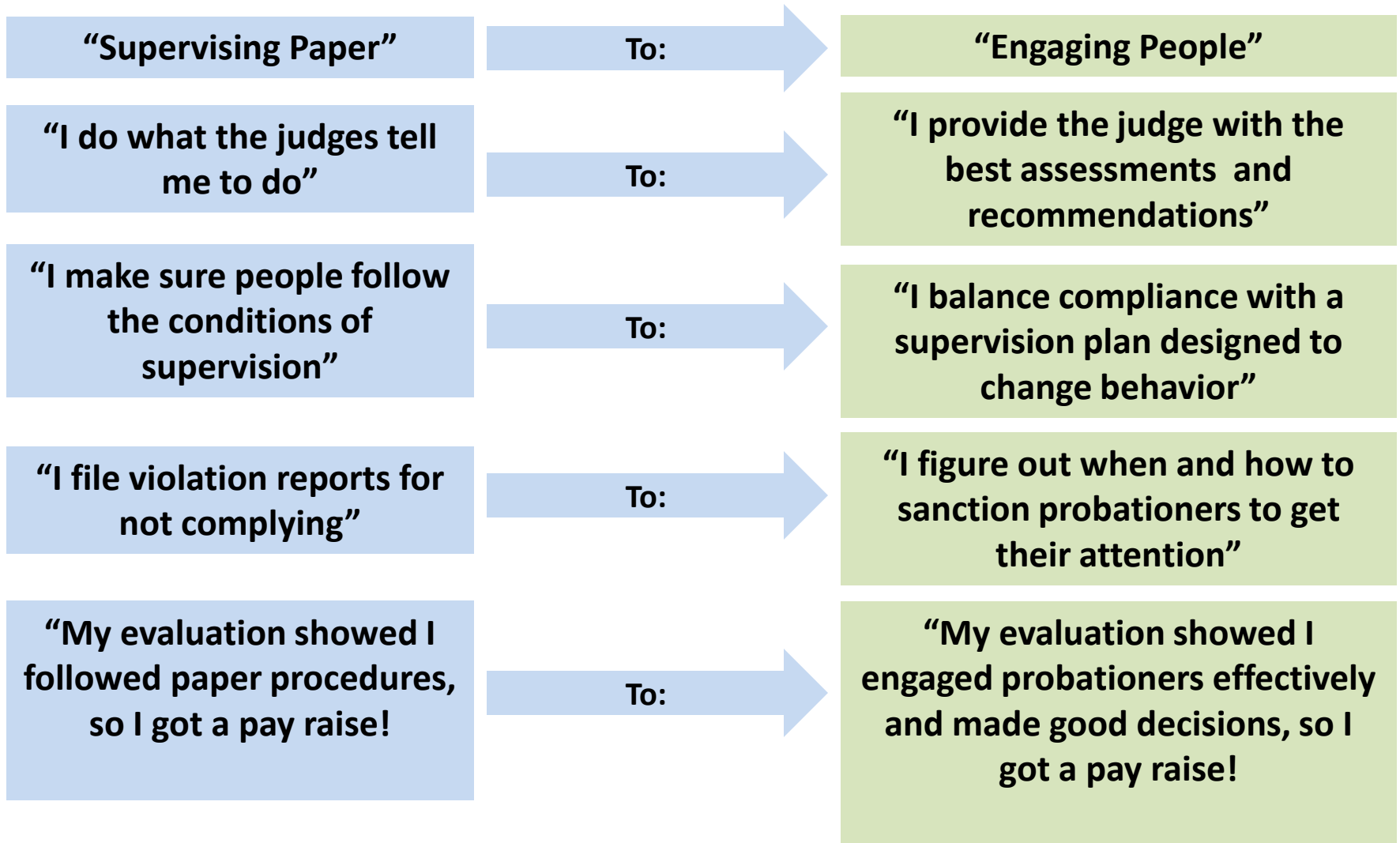
Until Recent Changes DOC Supervised Probationers the Same Regardless of Risk

Min Risk	Low Risk	Mod Risk	High Risk
9% Rearrested Within 1 Year	14% Rearrested Within 1 Year	23% Rearrested Within 1 Year	31% Rearrested Within 1 Year

No focus of supervision resources, programs, and interventions on the highest risk population

Shortage of program capacity to effectively address criminogenic needs like substance abuse

North Carolina Is in the Process of Changing the Culture of Probation Supervision and This Takes Time



DOC Moving the Probation System to EBP and Workgroup Needs to Consider How to Best Support Changes

Assessment

Before



Supervision not based on an individual's risk and needs

In Process



September 2010 – Assessment of criminogenic needs

Challenges



Assessment not centralized and is conducted by over 1,400 officers which present quality and reliability issues

Assessment done sixty days after sentencing so judges do not benefit from the assessment and their conditions of supervision may not match the results of the assessment

DOC Plan Moving the Probation System to EBP (continued)

Supervision Levels

Before



Supervised by punishment type – Community or intermediate

In Process



September 2010 – Five supervision levels based on assessment

Challenges



The sentencing structure presents obstacles to support EBP supervision strategies

Evaluate independently of DOC the impact on practices of initial policy implementation

DOC Plan Moving the Probation System to EBP (continued)

Case Planning

Before



On paper and directed at court ordered compliance

In Process



September 2010 – Automated case plan oriented at addressing criminogenic needs

Re-assessment protocol pending to be completed by December 2010 and is critical for effective supervision

Challenges



Present case plan structure needs to be reviewed to determine if it can be streamlined to identify top criminogenic needs



The capacity and quality of services and referral and follow-up protocols to services should be evaluated and enhanced

Sentencing Structure Does Not Support Risk-Based Supervision Strategies

**Community
Punishment**



Regular Probation

Outpatient Treatment

Restitution and Fines

**Treatment Accountability for
Safer Communities (TASC)**

Risk of re-offending does not determine how these strategies are utilized.

**Intermediate
Punishment**



Split Sentence/Special Probation

Residential Facility

Day Reporting Center

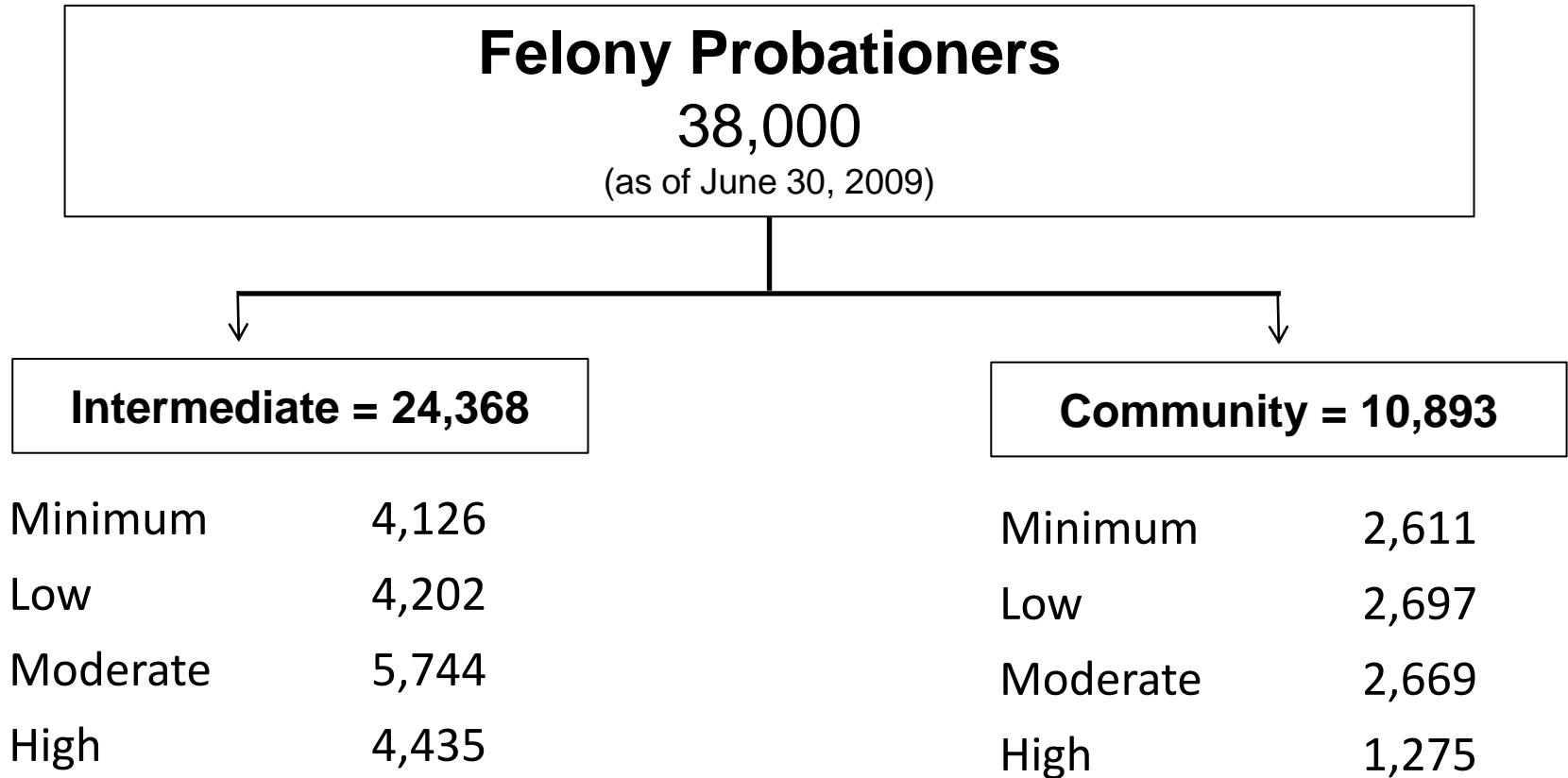
Intensive Supervision Probation

**House Arrest with Electronic
Monitoring**

Drug Treatment Court

Risk of re-offending does not determine how these strategies are utilized.

Probation Supervision Resources Aren't Currently Focused On Higher Risk Probationers



Supervision resources should be deployed according to risk of rearrest.

Prison Serves as a “Way Out” of Supervision, Particularly for Non-Trafficking Drug Offenders on Probation Supervision

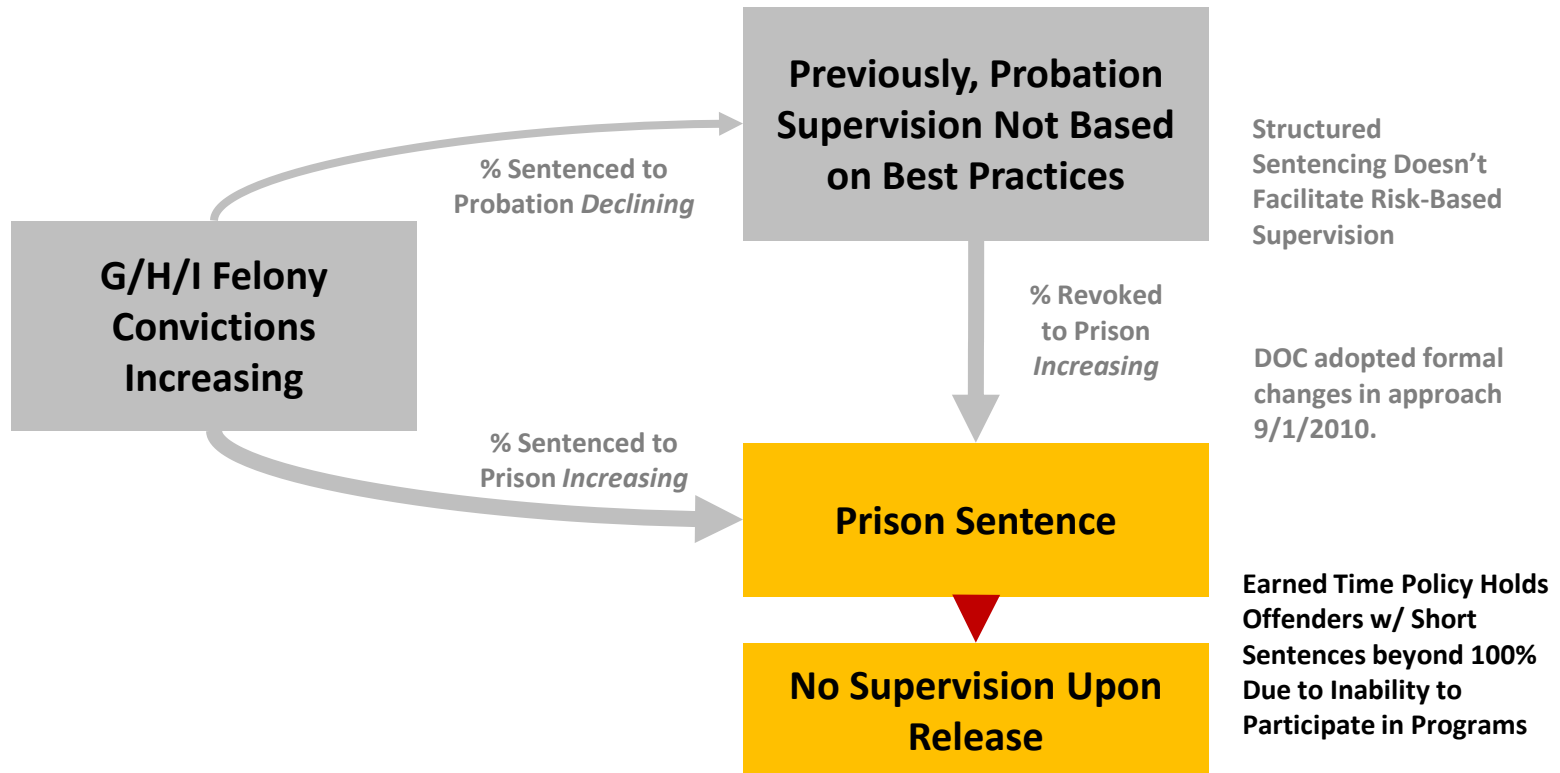
FY 2009 "Elect to Serve" Revocations by Offender Type and Number of Technical Violations

Crime for Which Person Was on Probation	Total	
Total	2,160	
	<i>Tech Vio Cat % of Total</i>	
DRUGS- NON TRAFFICK	502	23.2%
LARCENY	355	16.4%
ASSAULT	274	12.7%
OTHER TRAFFIC VIOLATIONS	232	10.7%
DRIVING WHILE IMPAIRED	212	9.8%
OTHER PUBLIC ORDER	134	6.2%
BREAKING, ENTERING	126	5.8%
OTHER PROPERTY	111	5.1%

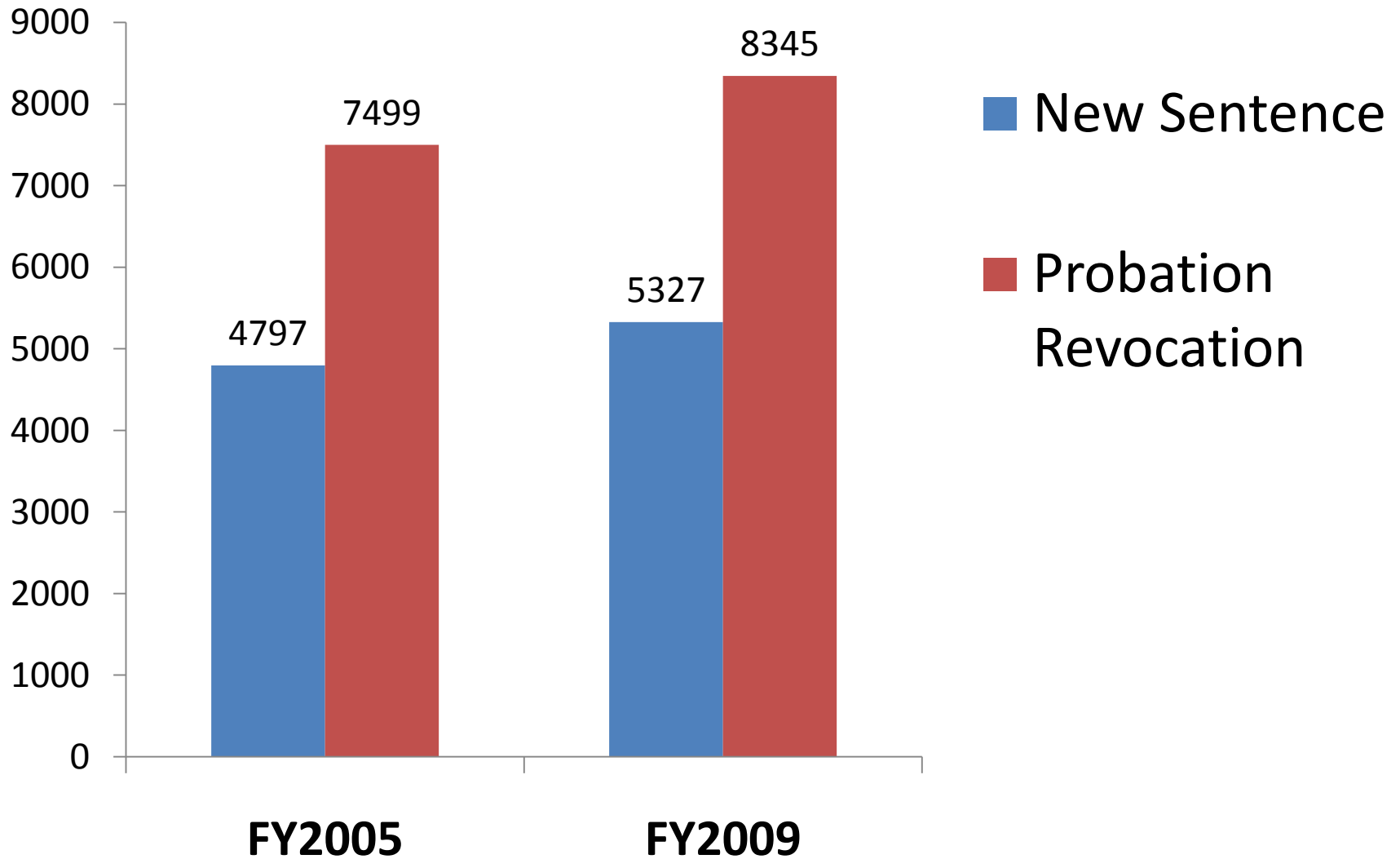
“Elect to Serve” terminations account for 8% of all revocations.

One-quarter are non-trafficking drug offenders.

G/H/I Offenders Admitted to Prison Are Later Released Without Any Supervision



G/H/I Felony Offenders Are 45% of All Prison Admissions; Most Are Probation Revocations



Actual Time Served and Relation to Minimum Sentence Length

Offense Class	FY09 Prison Releases			Population Reduction if Actual LOS = MIN
	#	Avg LOS (mos)	% MIN SL	
All B-I Felons	18,095	22.7	109%	1,785
B	169	131.1	102%	30
C	1,121	98.6	102%	175
D	890	80.8	104%	226
E	1,015	27.9	107%	153
F	1,735	22.8	106%	184
G	3,025	16.7	107%	274
H	6,815	10.1	111%	566
I	3,325	5.5	113%	177

G/H/I offense classes alone represent over 1,000 prison beds due to the serving of time above minimum sentence length.

DOC Process for Determining Time to Be Served

Admission to Prison

Projected Release Date Calculated from MAXIMUM Sentence Length

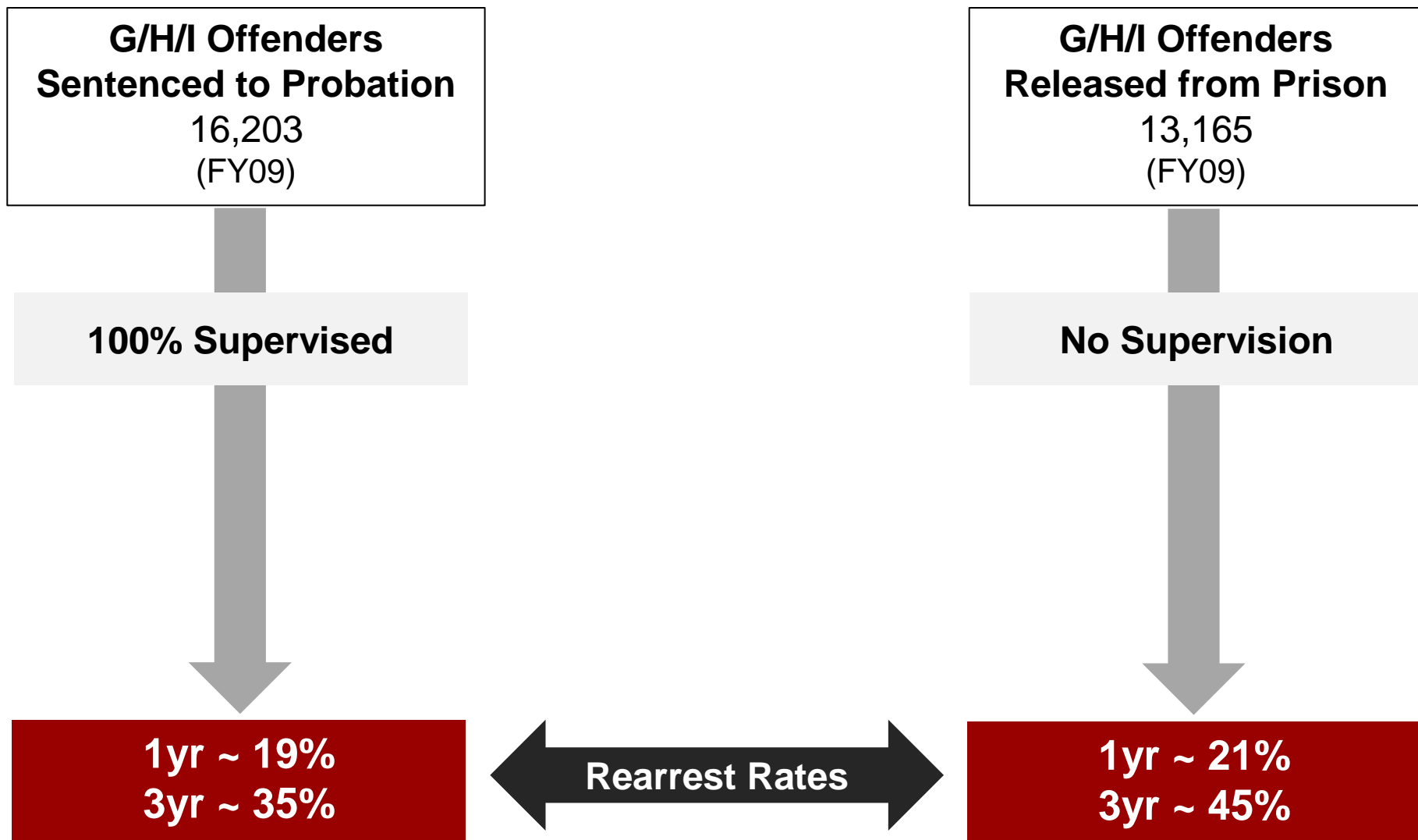
Only opportunities to reduce time served below MAXIMUM sentence length are through “Earned” or “Meritorious” time credits resulting from working and/or participating in programs

Any “Earned” or “Meritorious” time credits are subtracted from MAXIMUM Sentence Length

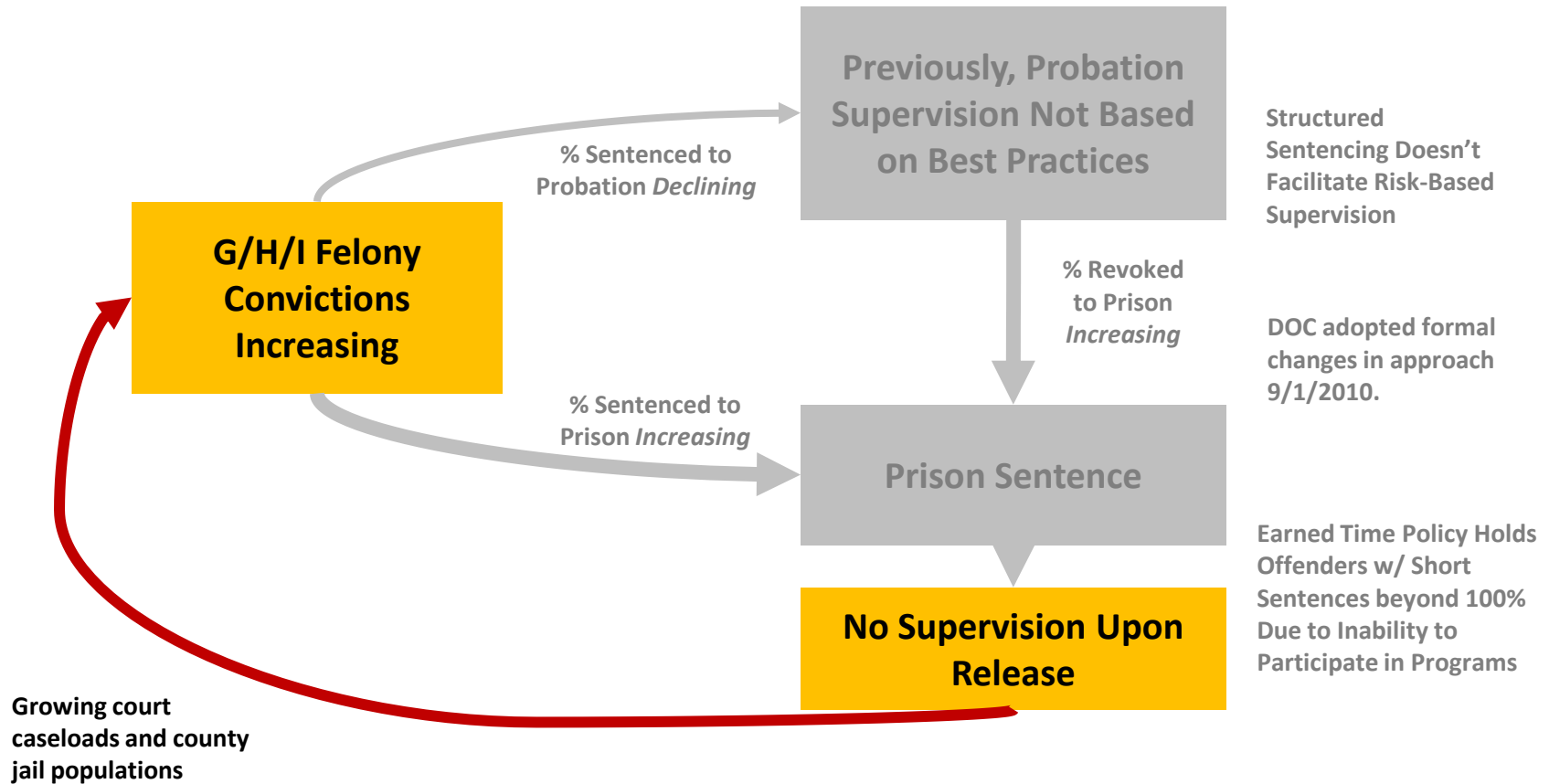
Effects of Current Approach

- More serious offenders serve closest to the minimum amount of time due to the fact that inmates with less serious offenses have little opportunity to work and/or participate in programs by virtue of their shorter sentence lengths.
 - As a result, well-behaved inmates at the lower levels are likely to serve as long as ill-behaved inmates.
- **Since short-timers are less likely to earn time credits, there is actually less ability to hold them accountable for misconduct.**

Post-Release Supervision: No G/H/I Offenders Are Supervised After Serving Brief Periods of Time in Prison.



Recidivism of G/H/I Offenders Contributes to Growing Court Caseloads and County Jail Populations



Increased Delay Between Offense & Conviction Likely an Indication of Pressures on Court Processes & Jails

Duration in Days from Offense to Conviction

Class	FY 2000	FY 2009	Days Increase	FY09 Conv	Add'l Days
G	307	368	61	4,739	287,989
H	273	314	41	13,328	540,717
I	278	325	48	8,396	400,489

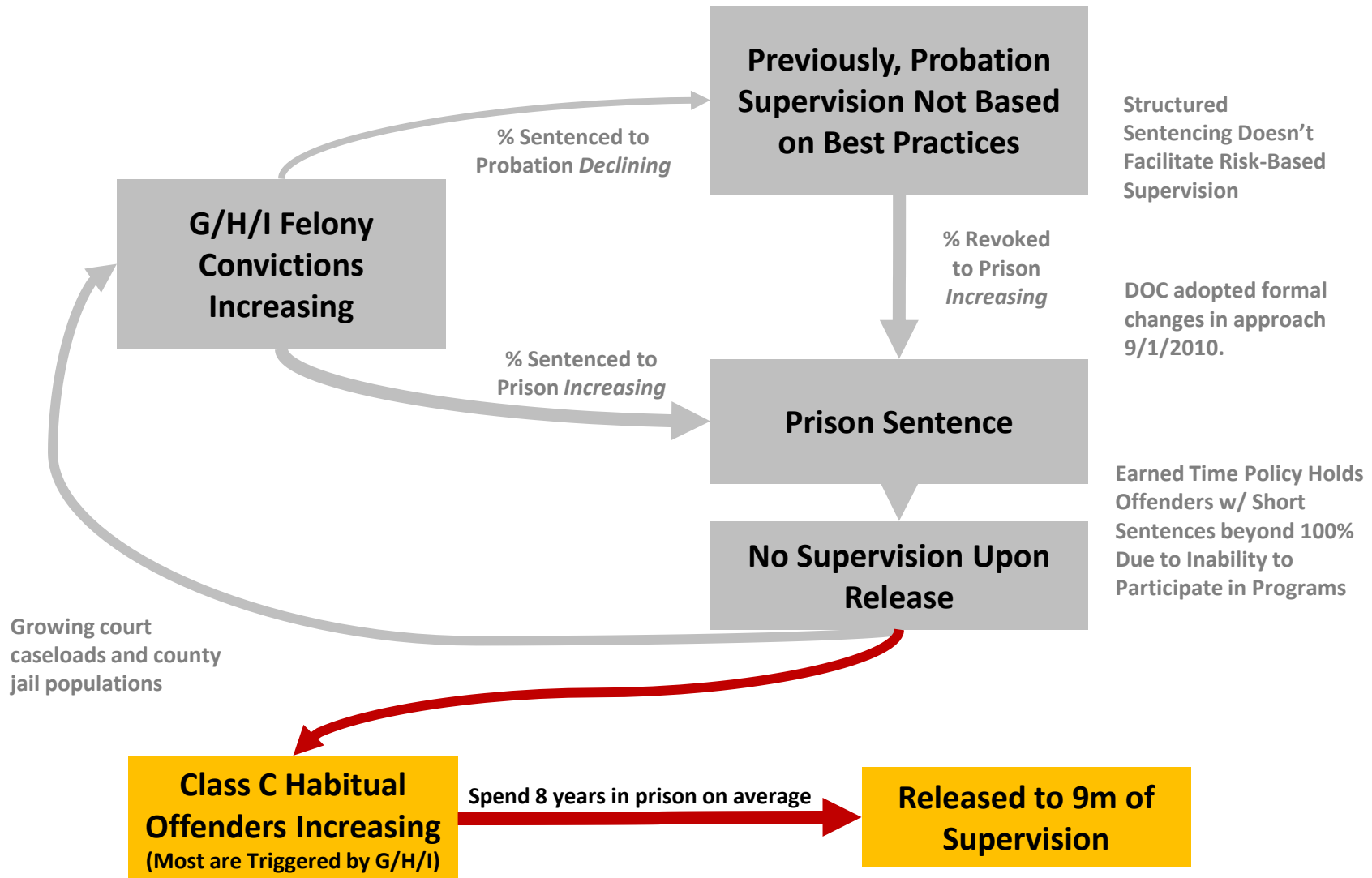
End of year pending felony cases in the courts increased 47% since FY 2000.

- 48,901 in FY00
- 71,971 in FY09

2009 County Jail Statistics

County	Capacity	Avg Daily Population	% of Capacity	Pretrial	Sentenced	Leased beds	% Pretrial	FY00 Days to Disposition*	FY09 Days to Disposition*
Statewide	20,986	19,880	94.7%	12,571	2,798	1,741	73%	296	358
<i>Top 10 Counties</i>	<i>9,577</i>	<i>8,481</i>	<i>88.6%</i>	<i>5,024</i>	<i>1,403</i>	<i>654</i>	<i>71%</i>	<i>293</i>	<i>335</i>
Mecklenburg	3,095	2,122	68.6%	1,585	187	350	75%	374	394
Wake	1,312	1,400	106.7%	na	na	na	na	225	218
Guilford	806	1,073	133.1%	323	590	160	30%	306	334
Forsyth	1,016	882	86.8%	642	160	80	73%	180	308
Cumberland	568	574	101.1%	493	81	0	86%	385	427
Durham	736	546	74.2%	451	95	0	83%	339	432
Buncombe	524	511	97.5%	432	79	0	85%	293	291
Gaston	584	471	80.7%	404	67	0	86%	237	335
New Hanover	672	621	92.4%	463	94	64	75%	277	280
Union	264	281	106.4%	231	50	0	82%	277	442
<i>% of Statewide</i>	<i>45.6%</i>	<i>42.7%</i>		<i>40.0%</i>	<i>50.1%</i>	<i>37.6%</i>			

Eventually G/H/I Offenders Recidivate & Are Sentenced as Class C Habitual Offenders



Habitual Felon Convictions Have Increased 25 Percent

Offender can be sentenced as “Habitual Felon” upon their fourth felony conviction.

Habitual Felon Sentences:

- FY 2005 – 645
- FY 2009 – 808
- ✓ 25% Increase

80% have
“triggering”
convictions in
offense classes
G/H/I.

*Average MIN Sentence Length
for G/H/I offenders falling in
Prior Record Level III or Higher:*

14 months

Average MIN Sentence Length
for Habitual Felons with G/H/I
triggering convictions:

93 months

**More effective
management of
lower-level offenders
should theoretically
reduce reliance on
habitual offender
sentencing**

80% of Habitual Felons Have Triggering Offense Convictions in Classes G, H and I

Underlying Conviction Characteristics of FY 2005 Habitual Felon Convictions

Offense Class	Prior Record Level						Total Conv	Class % of Total	Class % w/in Prior Levels		
	I	II	III	IV	V	VI			1-2	3-4	5-6
A	0	0	0	1	0	0	1	0.2%	0.0%	100.0%	0.0%
B1	0	0	0	0	0	0	0	0.0%	---	---	---
B2	0	0	0	2	2	0	4	0.6%	0%	50%	50%
C	1	4	12	19	8	5	49	7.6%	10%	63%	27%
D	1	2	6	13	6	3	31	4.8%	10%	61%	29%
E	0	0	5	8	3	2	18	2.8%	0%	72%	28%
F	0	3	9	10	3	7	32	5.0%	9%	59%	31%
G	2	23	29	56	10	14	134	20.8%	19%	63%	18%
H	0	41	69	91	40	34	275	42.6%	15%	58%	27%
I	1	20	29	34	11	6	101	15.7%	21%	62%	17%
Total	5	93	159	234	83	71	645				

Convictions for habitual felons increased by 25%, from 645 in FY 2005 to 808 in FY 2009

Underlying Conviction Characteristics of FY 2009 Habitual Felon Convictions

Offense Class	Prior Record Level						Total Conv	Class % of Total	Class % w/in Prior Levels		
	I	II	III	IV	V	VI			1-2	3-4	5-6
A	0	0	0	0	0	0	0	0.0%	---	---	---
B1	0	0	1	0	2	0	3	0.4%	0.0%	33.3%	66.7%
B2	0	0	0	0	0	1	1	0.1%	0%	0%	100%
C	2	6	10	16	8	11	53	6.6%	15%	49%	36%
D	1	2	8	7	9	10	37	4.6%	8%	41%	51%
E	0	1	2	9	2	3	17	2.1%	6%	65%	29%
F	0	11	9	30	3	6	59	7.3%	19%	66%	15%
G	5	15	37	59	27	36	179	22.2%	11%	54%	35%
H	6	23	67	140	48	54	338	41.8%	9%	61%	30%
I	0	8	26	47	21	19	121	15.0%	7%	60%	33%
Total	14	66	160	308	120	140	808				

The higher # of admissions for habitual felons will consume an additional 500 prison beds in 2009 compared to 2005

Habitual Offender Sentences Account for Large Percentage of Mitigated Sentences

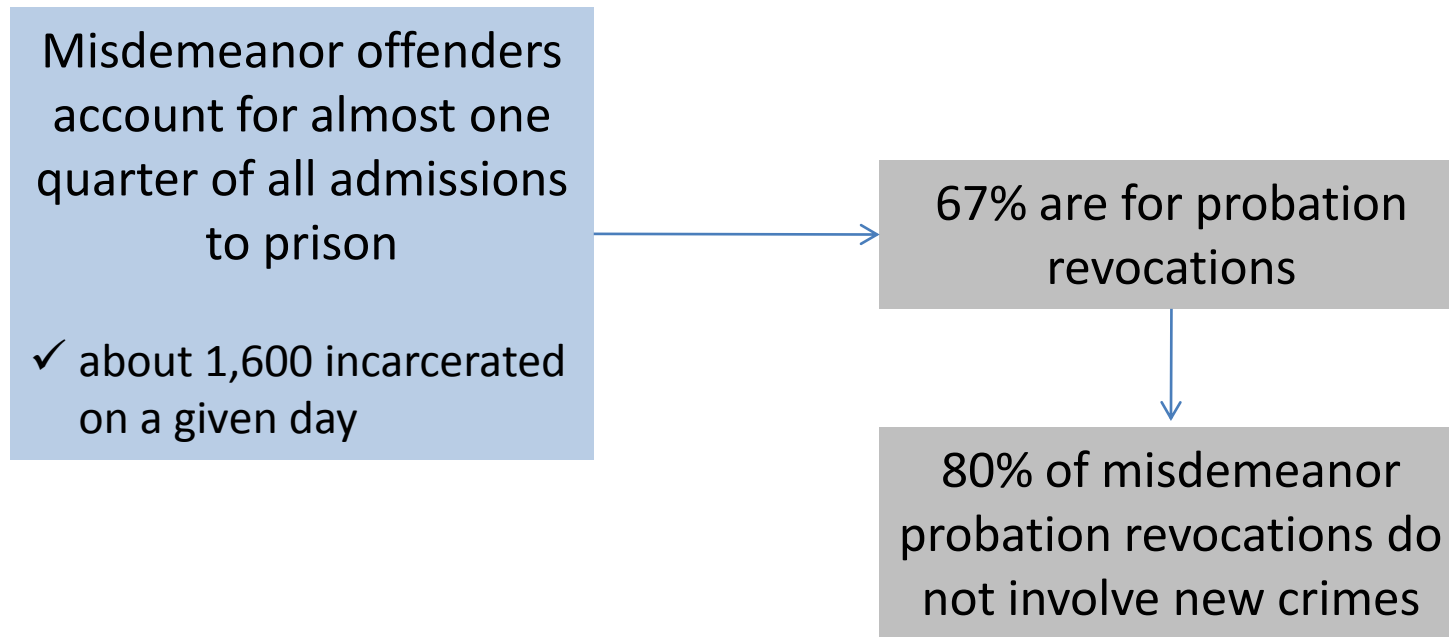
Mitigated sentences were handed down in 27% of all felony active punishments in FY09, up from 23% in FY05.

Habitual Felons account for 82% of Class C offenses receiving a mitigated sentence length.

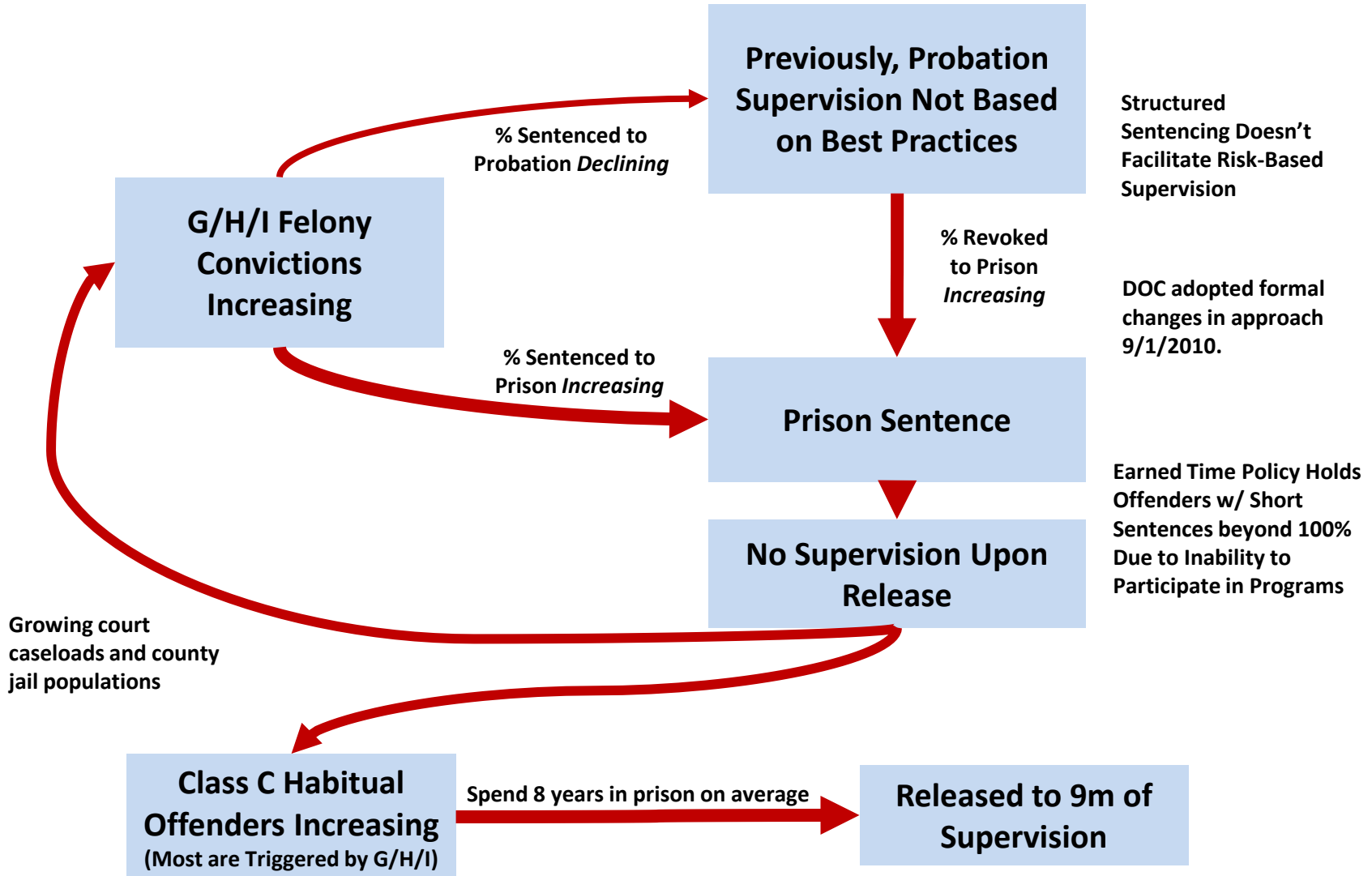
Felony Convictions Sentenced to Prison by Mitigated, Presumptive and Aggravated Ranges

Offense Class	FY 2005				FY 2009			
	Prison Sentences	% MIT	% PRES	% AGG	Prison Sentences	% MIT	% PRES	% AGG
All Felony	10,893	23%	72%	5%	13,148	27%	68%	5%
A	85	0%	100%	0%	90	1%	99%	0%
Vio Hab Fel	5	0%	100%	0%	6	na	na	na
B1	149	29%	69%	2%	158	32%	65%	4%
B2	273	23%	67%	10%	322	31%	55%	14%
C	928	56%	42%	2%	1,120	59%	38%	3%
D	757	43%	54%	3%	920	46%	52%	3%
E	560	20%	75%	5%	687	22%	70%	8%
F	1,019	26%	70%	4%	1,531	30%	65%	5%
G	1,626	19%	76%	5%	2,156	23%	72%	5%
H	4,256	16%	79%	5%	4,725	20%	76%	4%
I	1,235	17%	77%	7%	1,433	21%	73%	6%

North Carolina Unique Among States in Using State Prisons to Manage Misdemeanor Offenders



Effectively Managing Lower-Level Felony Offenders: The Challenge



Stakeholder Engagement

- BAART Community Health Care
- Carolina Justice Policy Center
- Center for Community Transitions
- Charlotte-Mecklenburg Police Department
- Coastal Horizons Center
- Community Success Initiative
- Conference of District Attorneys
- Defense Attorneys
- Disability Rights NC
- District Court Judges
- Durham Crisis Response Center
- Faith Seeds
- John Locke Foundation
- NC Association of County Commissioners
- NC Coalition Against Sexual Assault
- NC Governor's Crime Commission
- NC Justice Center
- NC Police Executives Association
- NC Victim Assistance Network
- Partnership for a Drug-Free NC
- Probation officers and managers
- Sentencing Services
- Superior Court Judges
- TASC
- Z Smith Reynolds Foundation

Stakeholder Concerns with Probation

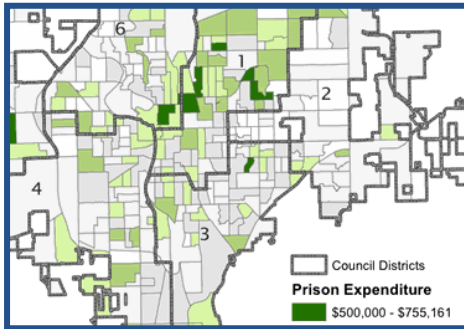
- Probation “lacks teeth”
- It is easier to serve a short sentence than to be supervised for two to three years on probation.
- Probation needs swift and certain sanctions to immediately respond to violations.
- Probation officers indicate they spend a lot of time waiting in court for probation violation hearings.
- Probation officers indicate they spend a lot of time doing paperwork and not enough time supervising probationers.

Other Concerns Raised by Stakeholders

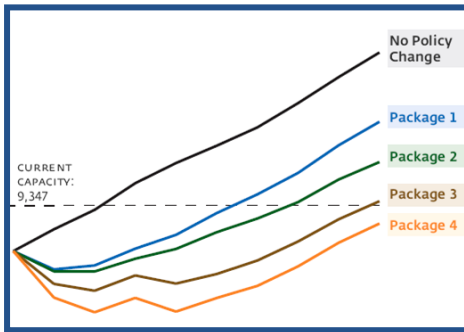
- Prosecutors advise that the people they charge as habitual felons have been through the system many, many times.
- Many people don't receive the substance abuse and mental health treatment they need either due to lack of services or an inability to pay.
- Individuals need assistance leaving prison. Post-release supervision isn't long enough and doesn't cover enough people.
- The lack of employment options is one of the biggest problems facing the criminal justice involved population.

Next Steps

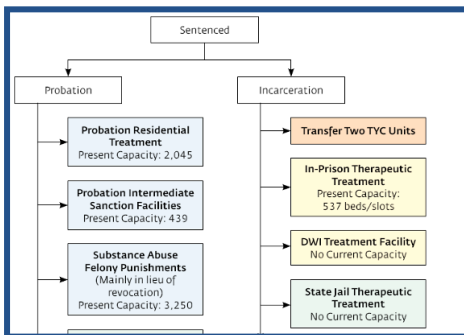
- **October**
Stakeholder meetings
- **November**
JR Work Group meeting
- **December**
JR Work Group meeting to develop policy options
- **January**
Conference to share findings and policy options



Thank You



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JUSTICE CENTER
THE COUNCIL OF STATE GOVERNMENTS