



**Justice Center**  
THE COUNCIL OF STATE GOVERNMENTS

# Presentation to the Washington Sentencing Guidelines Commission

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**Bree E. Derrick, LMHC**  
Deputy Division Director

**Monica Peters**  
Research Manager



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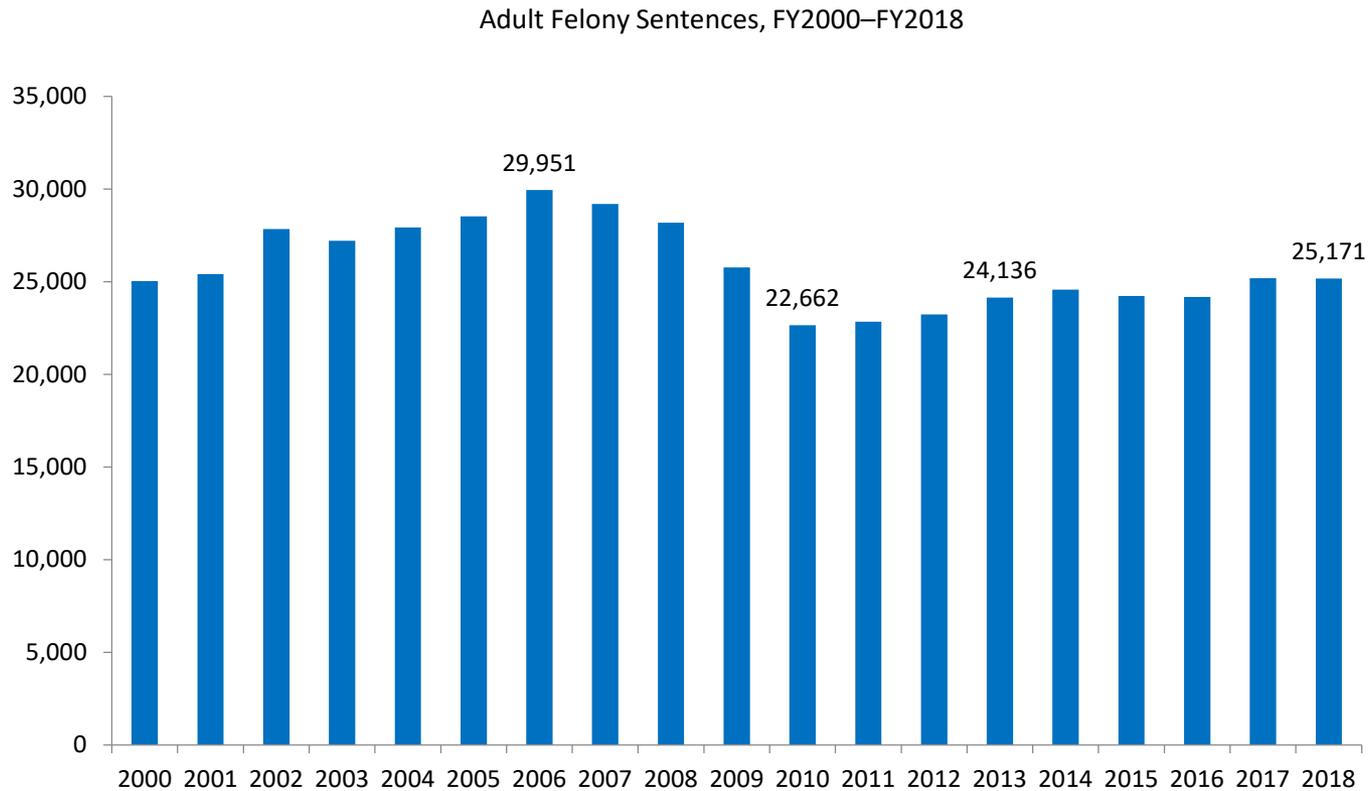
## Presentation Outline

- **Sentencing Trends**

- **Application of Supervision**
- **Recidivism Outcomes**

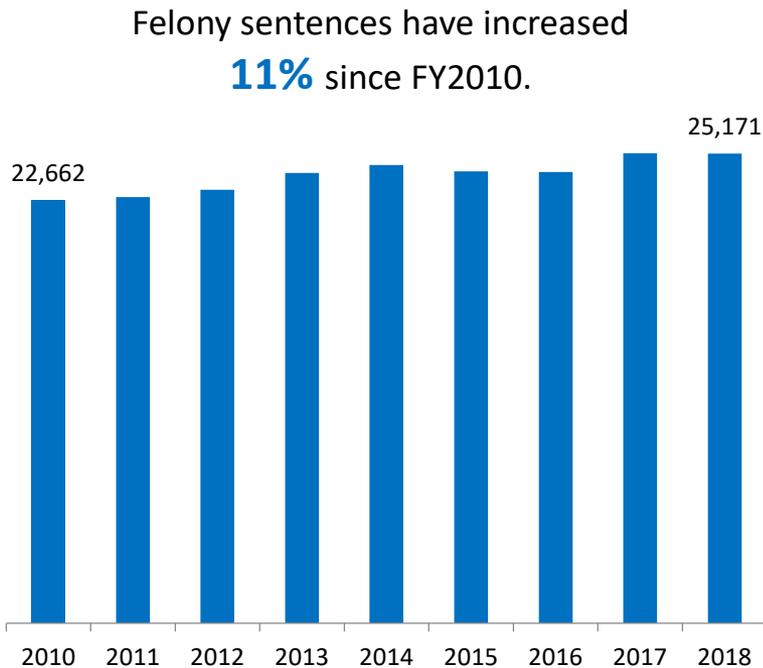
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After reaching a high in 2006, felony sentences declined sharply, but have been increasing since 2010.

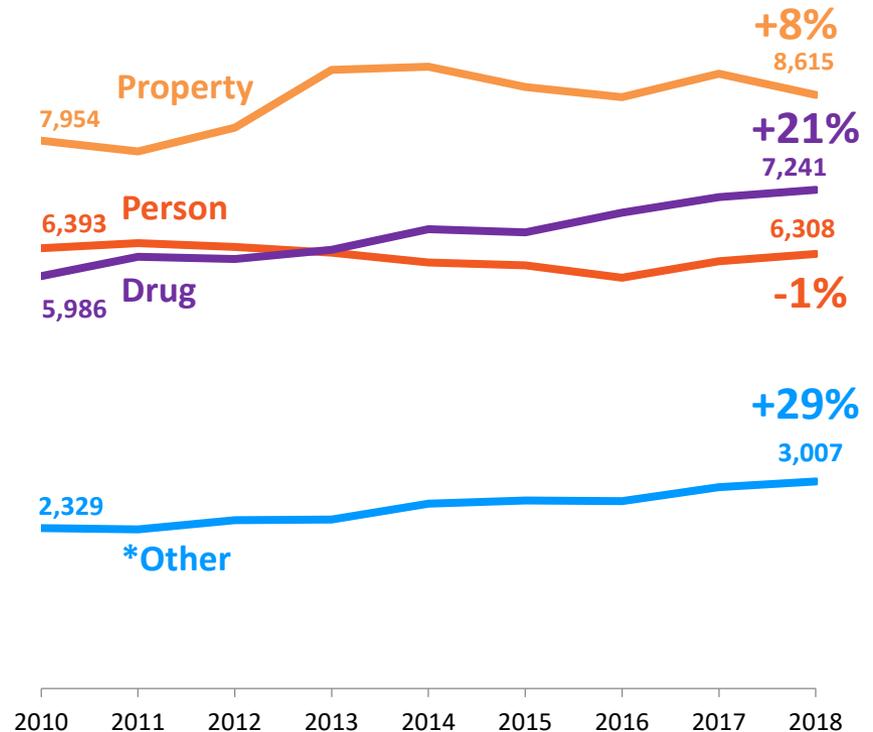


Sentences for property, drug, and “other” offenses have increased by more than 5 percent since 2010, but sentences for person offenses have slightly declined.

Felony Sentences, FY2010–FY2018



Felony Sentences by Offense Type, FY2010–FY2018

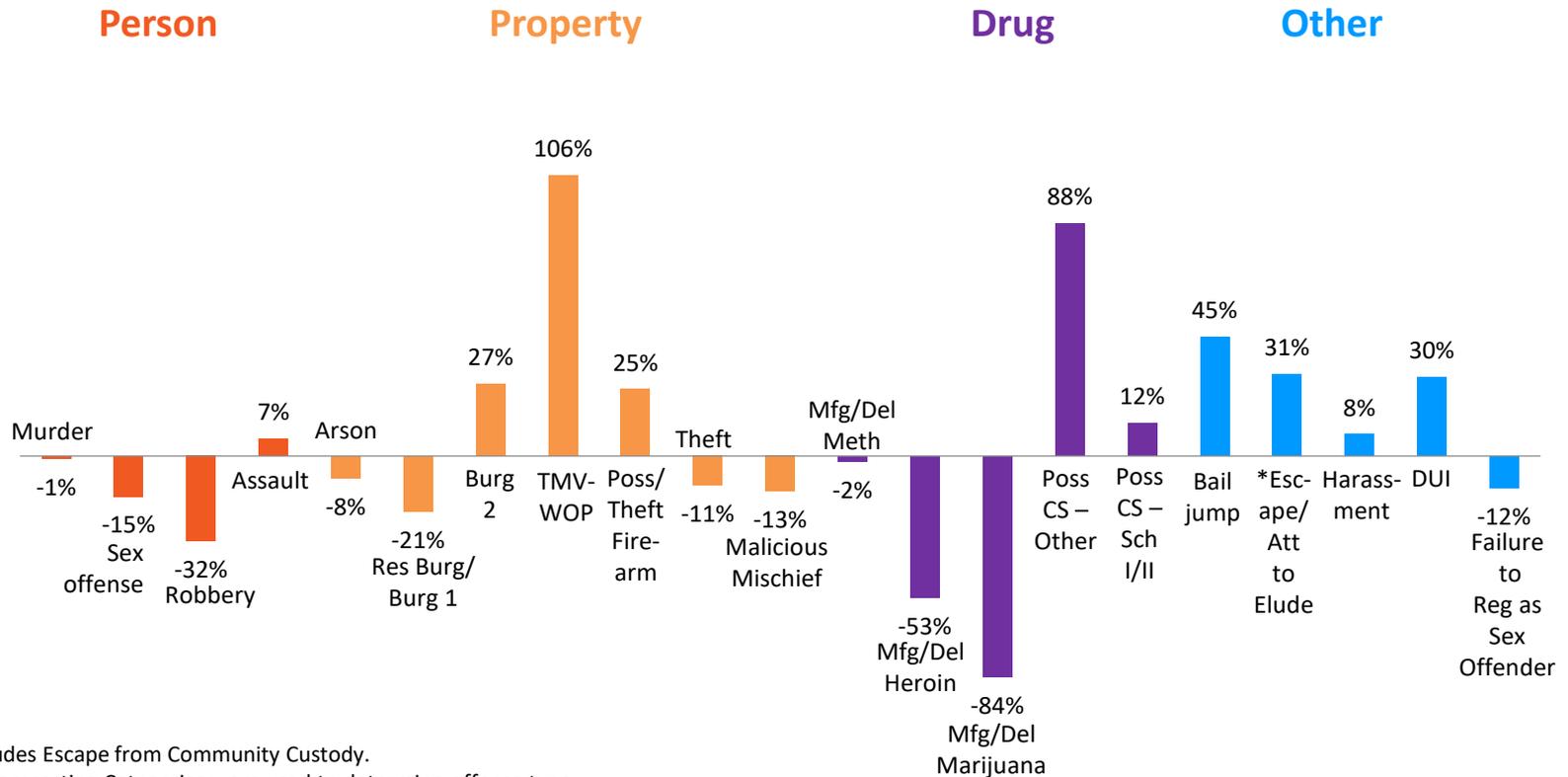


\*Other offenses include escape, bail jumping, and felony DUI. CFC Forecasting Categories were used to determine offense type.

Source: Justice Center analysis of CFC data

Property and drug offenses with the largest increases in sentences include possession of controlled substances, motor vehicle theft, second degree burglary, and firearm offenses.

Percent Change in Felony Sentences by Offense Type, FY2010–FY2018

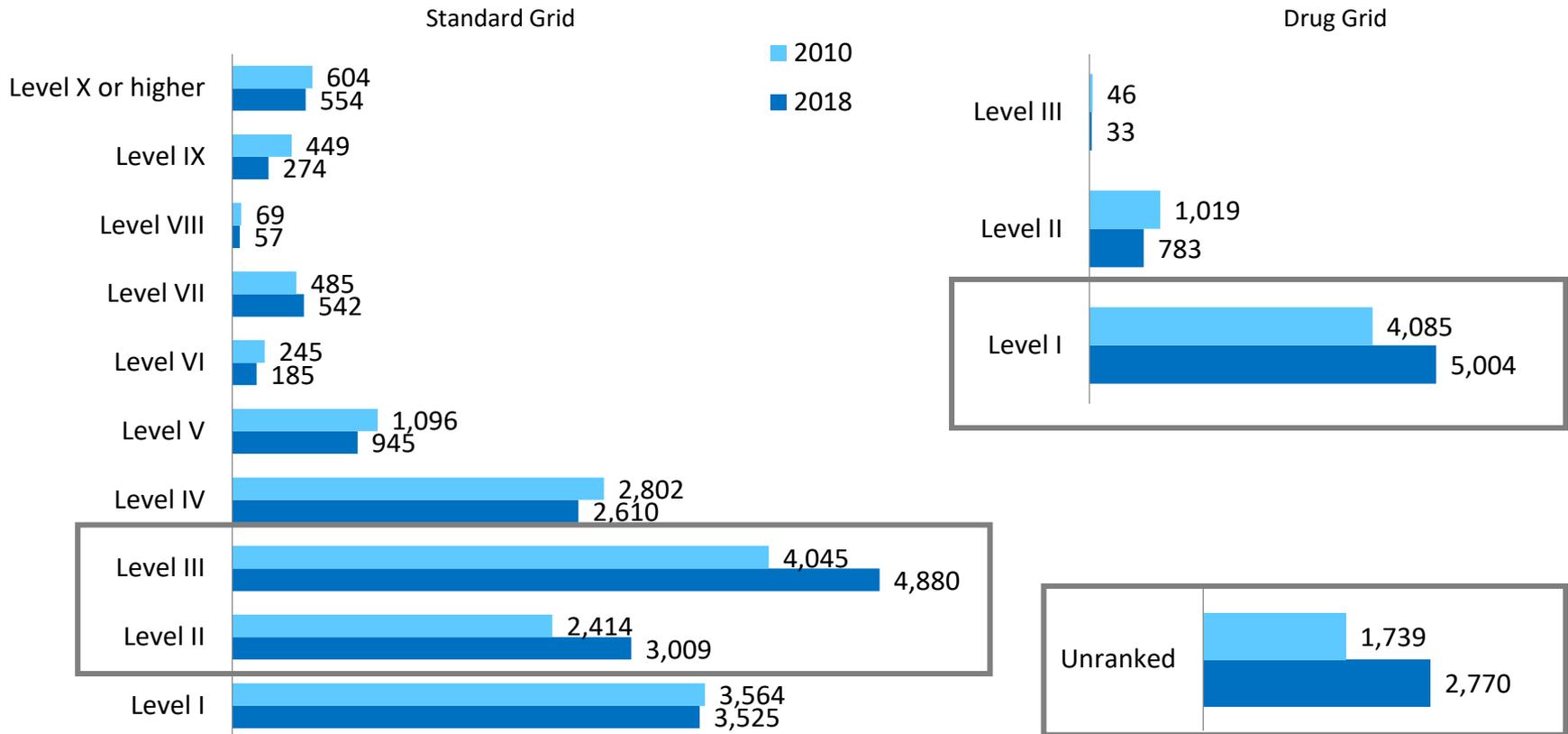


\*Includes Escape from Community Custody.  
CFC Forecasting Categories were used to determine offense type.

Source: Justice Center analysis of CFC data

Sentences have increased for offenses in lower seriousness levels as well as unranked offenses.

Felony Sentences by Seriousness Level, FY2010–FY2018

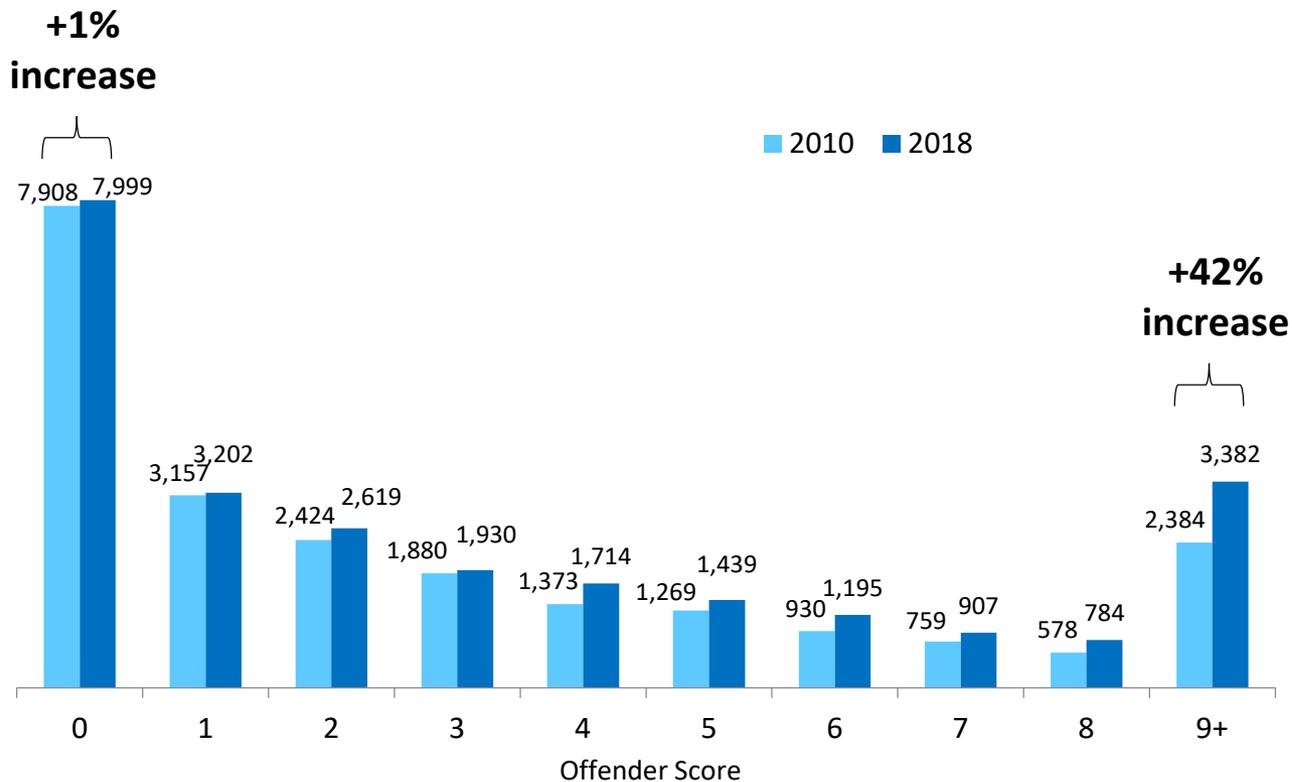


Source: Justice Center analysis of CFC data

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Sentences for people with more extensive criminal histories have increased by more than 40 percent since 2010.

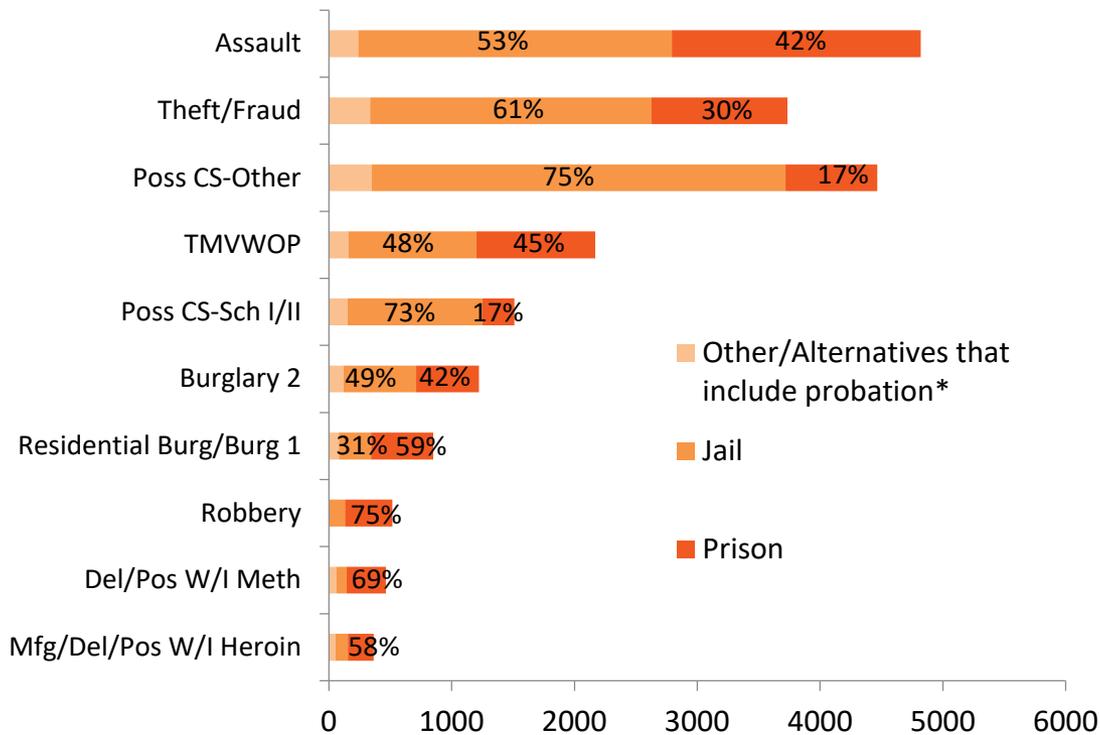
Change in Felony Sentences by Offender Score, FY2010–FY2018



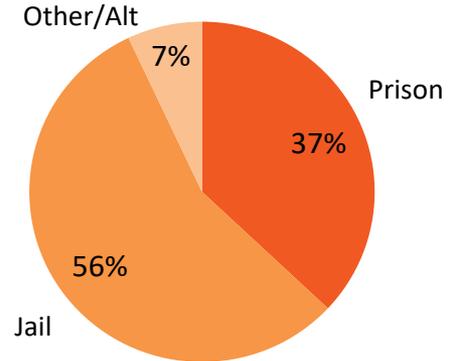
Source: Justice Center analysis of CFC data

Over 90 percent of felony sentences include incarceration in Washington, which is much higher than the national average.

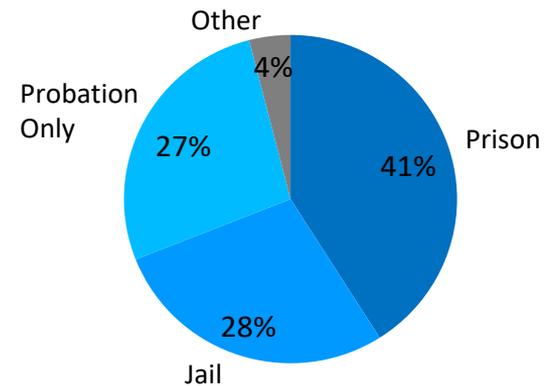
Sentence Type by Felony Offense, FY2018



Washington Felony Sentences, FY2018



National Felony Sentences, 2006

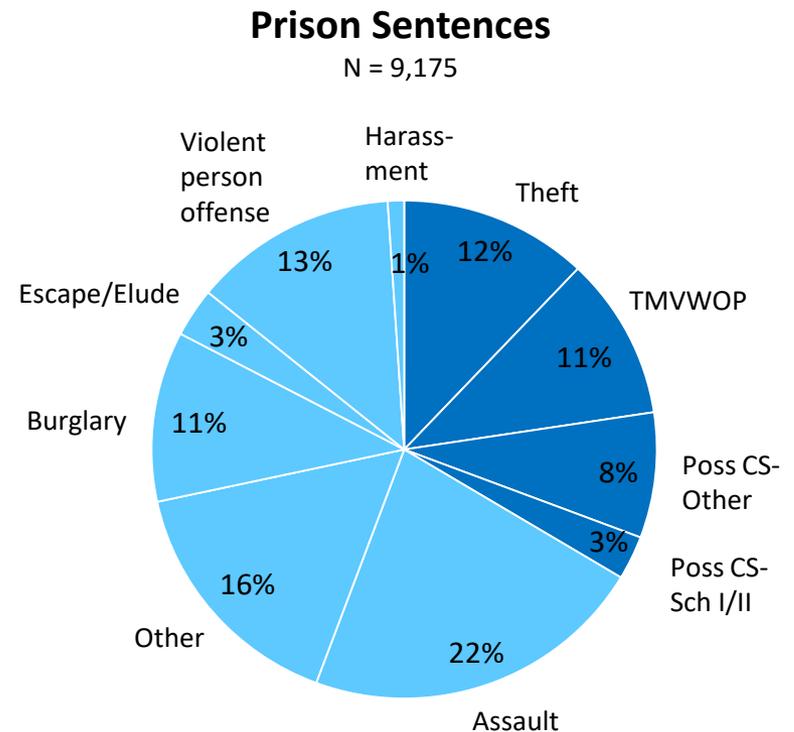
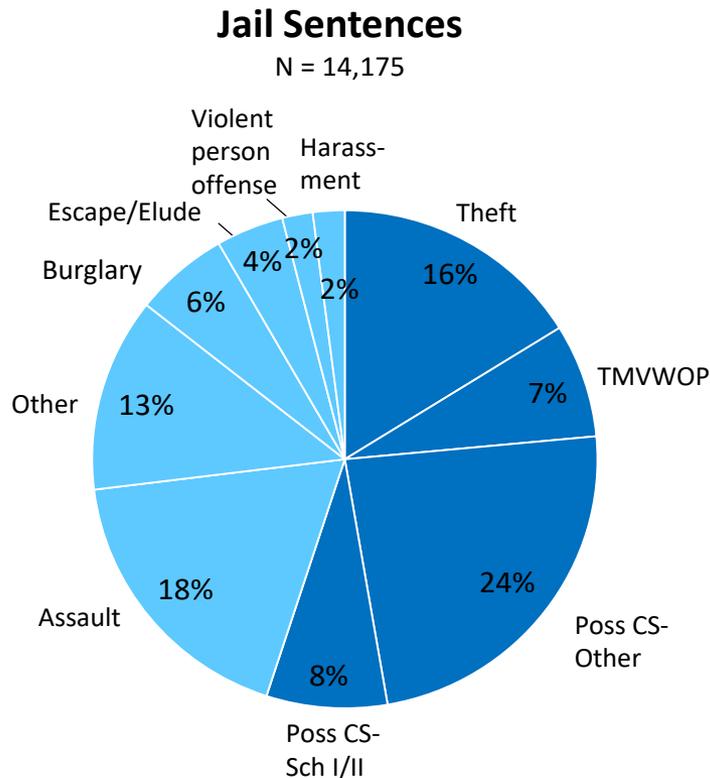


\*Includes Residential DOSA, but not Prison-Based DOSA, as these are included in prison sentences.

Source: Justice Center analysis of CFC data; Bureau of Justice Statistics, National Judicial Reporting Program, Felony Sentences in State Courts, 2006 Statistical Tables.

Theft (including motor vehicle) and possession of controlled substances account for one-third of prison and more than half of jail sentences.

Felony Sentences by Type and Offense, FY2018



\*CFC Forecasting Categories were used to determine offense type. Burglary includes Residential Burglary, Burglary 1 and Burglary 2. Violent person offense includes Murder, Manslaughter, Robbery, and Sexual Assault. Other offense includes other property, other drug, DUI, Failure to Register, and all other.

Source: Justice Center analysis of CFC data

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## Sentencing Summary

- Felony sentences have steadily increased since 2010.
- This increase appears to be driven by people with more extensive criminal histories sentenced for offenses in lower seriousness levels, generally property and drug offenses.
- Nearly all felony sentences include a period of incarceration in jail or prison, with more than half of felony sentences including a jail sentence.
- While alternative sentences without incarceration do exist, they are applied to less than 10 percent of felony sentences.
- As a result of few sentencing options, lower-level property offenses and possession of controlled substances make up nearly half of all felony sentences to incarceration.

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- **Application of Supervision**

- **Recidivism Outcomes**

Policy changes over the last 30 years have impacted who receives post-release supervision.

	Post-Jail/As a Sentence						Post-Prison					
	Property		Drug		Violent*		Property		Drug		Violent*	
Pre-1984	L,M	H	L,M	H	L,M	H	L,M	H	L,M	H	L,M	H
Post-1984	L,M	H	L,M	H	L,M	H						
1999	L,M	H	L,M	H	L,M	H			L,M	H	L,M	H
2003				H		H				H		H
Today				H		H				H		H

L,M Low- and Moderate-Risk     
 H High-Risk

\*Violent includes violent offenses and crime against a person offenses.

Source: Communications with Washington Department of Corrections staff.

Washington State Legislature. 56<sup>th</sup> Legislative Session. [SB 5421] *Enhancing supervision of offenders.*

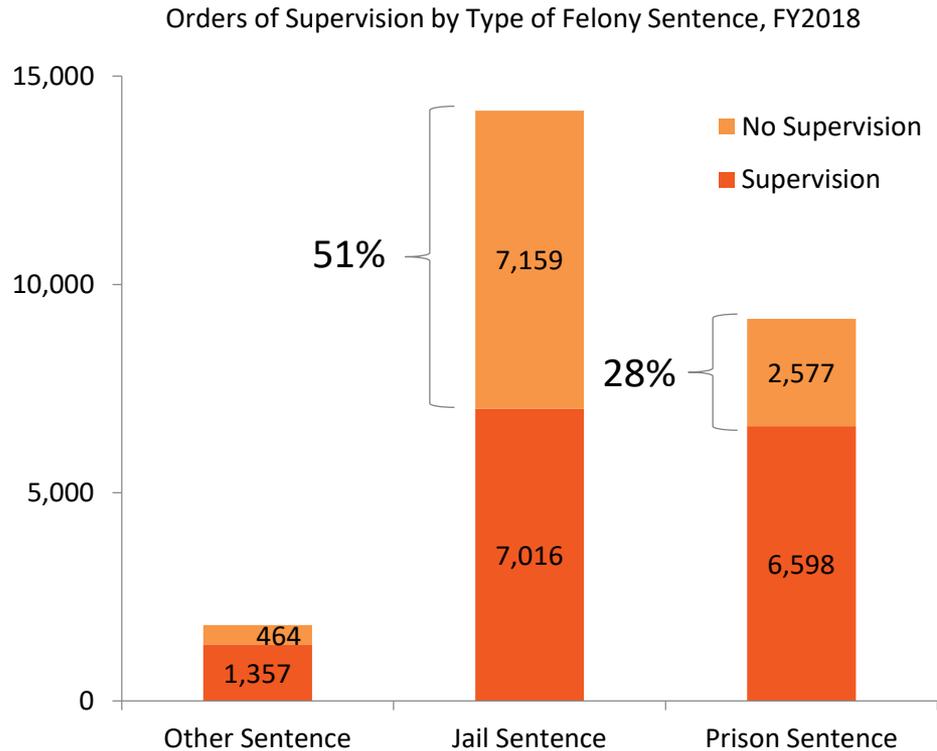
Washington State Legislature. 58<sup>th</sup> Legislative Session. [SB 5990] *Changing times and supervision standards for release of offenders.*

Washington State Legislature. 61<sup>st</sup> Legislative Session. [SB 6162] *Providing for the supervision of offenders sentenced to community.*

Supervision has been maintained for people convicted of serious violent offenses, sex offenses, vehicular homicide/assault, DUI, domestic violence, and for people with alternative sentences regardless of risk. Additionally, people who fail to register as a sex offender are supervised regardless of risk if the supervision is post-prison (if the supervision is post-jail, then people who are high risk are supervised).

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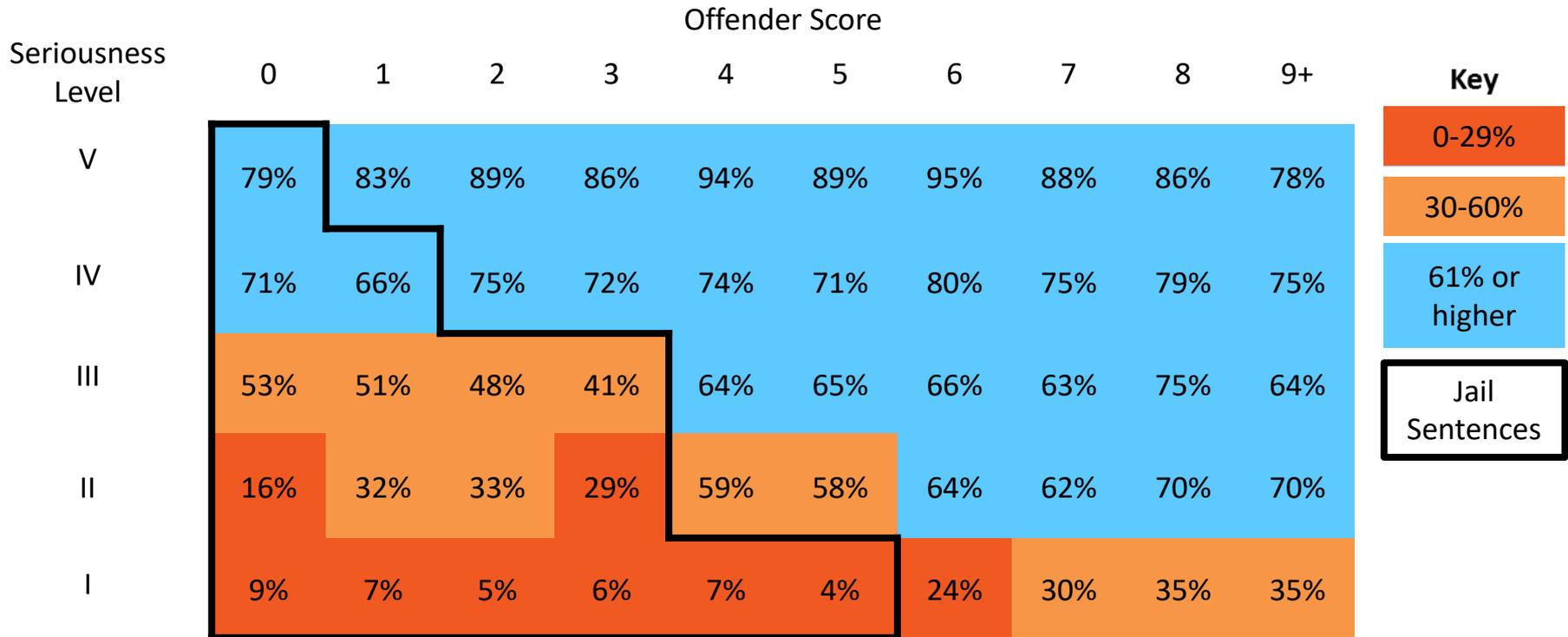
More than half of jail sentences do not include a period of supervision.



The actual number of people supervised is determined based on assessment of risk by the DOC, and is lower than the number of people ordered supervision at sentencing.

Supervision is more likely to be ordered for more serious offenses, but not necessarily for people with more extensive criminal history.

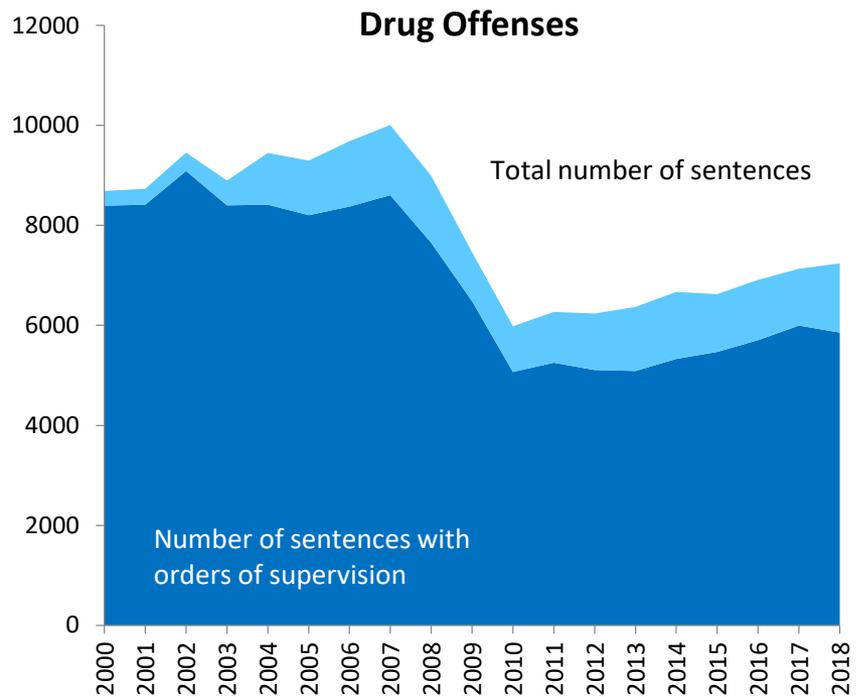
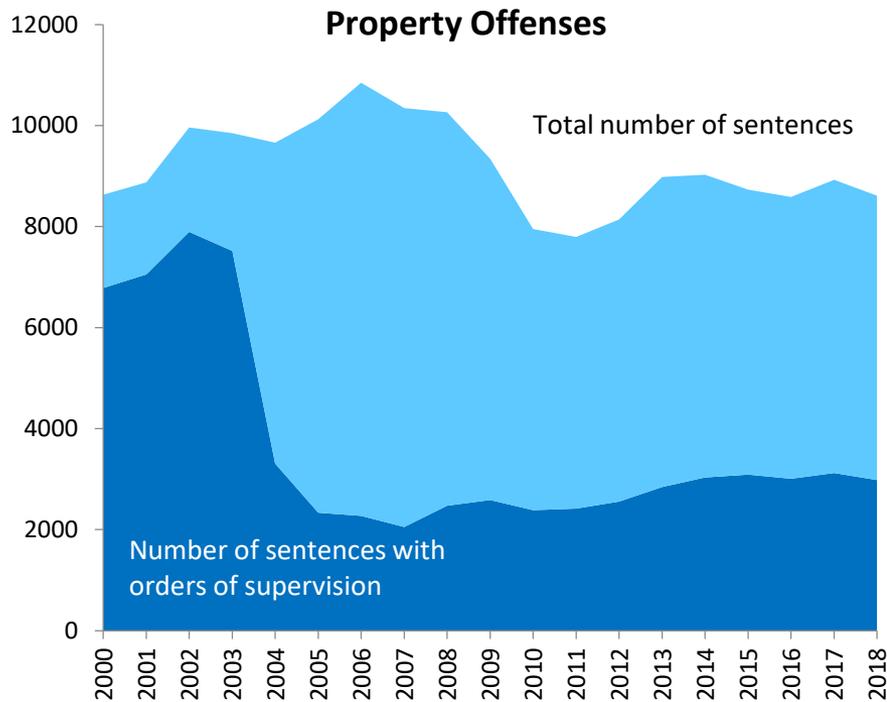
Percent of Sentences with Orders of Supervision by Grid Location, Seriousness Levels V or Lower\*, FY2018



\*In Seriousness Levels VI and higher, nearly 100% of all sentences receive an ordered term of supervision.

Property and drug offenses are handled differently by statute when it comes to eligibility for supervision.

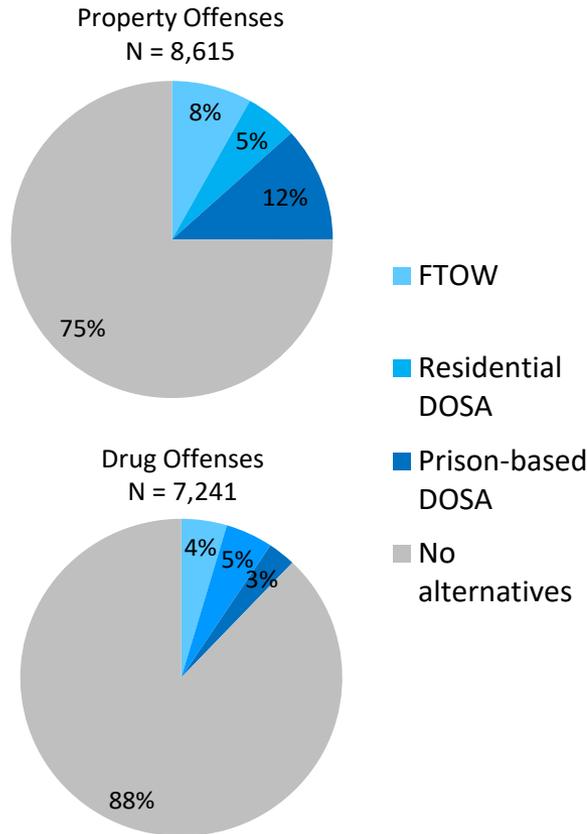
Felony Sentences, FY2000–FY2018



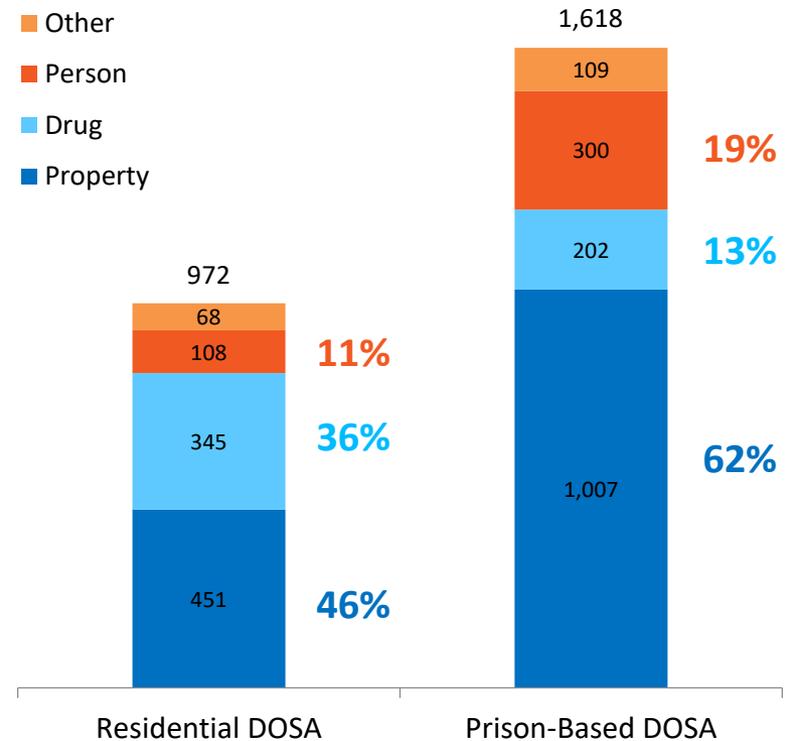
Source: Justice Center analysis of CFC data

# The Drug Offender Sentencing Alternative (DOSA) and other alternatives provide supervision to a portion of people sentenced for property offenses.

Sentences for Felony Property and Drug Offenses, FY2018



DOSA Sentences by Type of Felony Offense, FY2018



Source: Justice Center analysis of CFC data

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Swift and Certain (SAC) sanctioning offers a powerful tool, but must be coupled with programming to effectively change behavior.



2015 study found that SAC:

- Reduced propensities for confinement following a violation (20 percent reduced odds)
- Reduced average days confined (49 fewer days confined among people experiencing a violation)
- Reduced propensity for reconviction (20 to 30 percent reduced odds of reconviction, with the largest reduction for violent felonies)

In addition, SAC participants had:

- Greater proportion involved and more hours spent in CBT programming

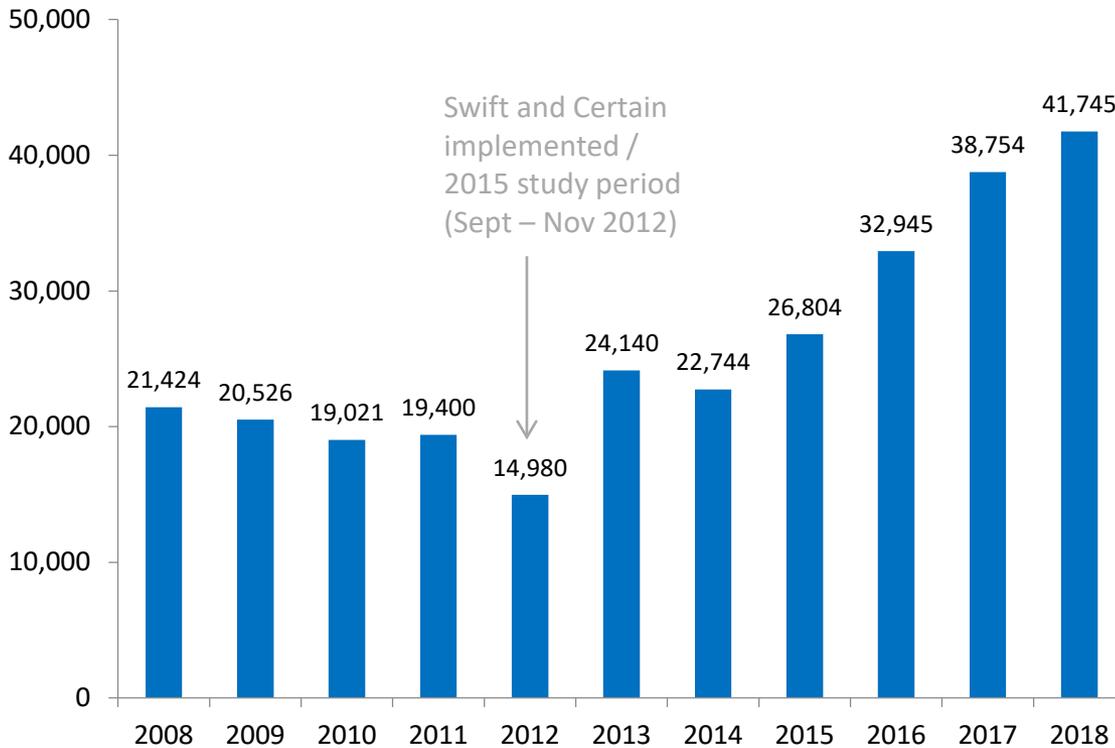


Concerns related to SAC:

- Questions remain about long-term effects
- Lack of replication in demonstration sites
- Curbing undesired behavior doesn't teach the desired behavior
- **4 reinforcers : 1 punishment**

# The number of supervision violator admissions has increased substantially in the last three years.

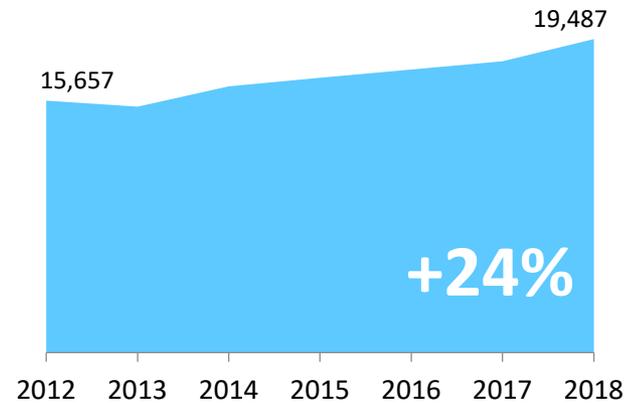
Supervision Violator Admissions, FY2008–FY2018\*



Under Swift and Certain, the response to a person's first violation on supervision is no confinement followed by 1–30 day jail stays upon subsequent violations.

Some of the increase in admissions between 2016 and 2017 is due to better data collection as the DOC underwent the Violator Improvement Project, a system update to more accurately capture violation admissions.

Adult Community Supervision Population

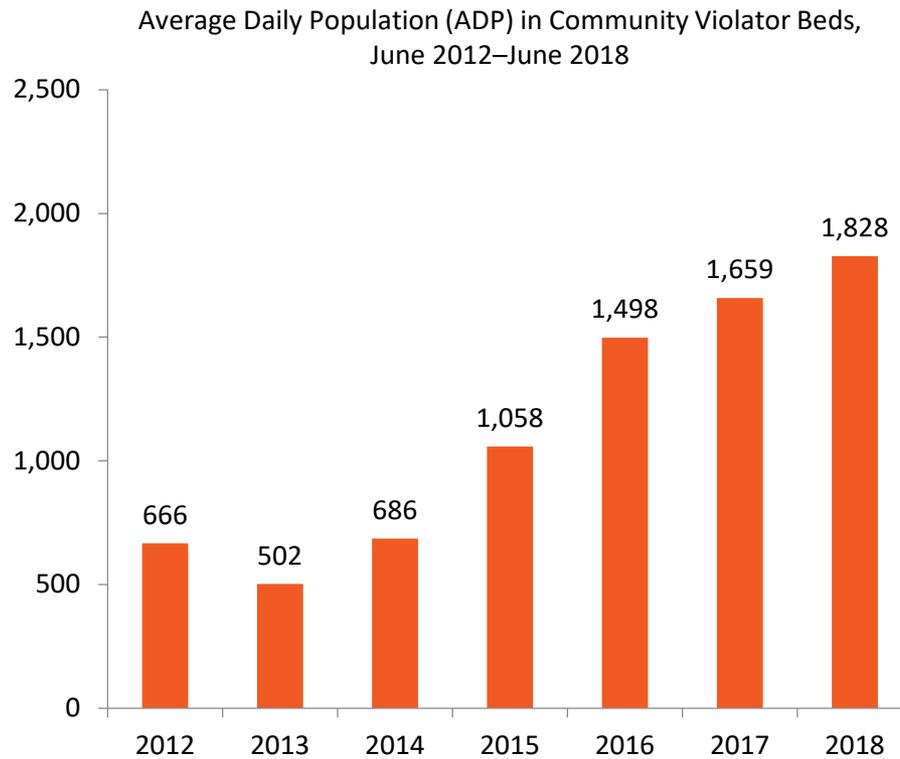


\*Admissions include local county jail/violator facilities.

Source: Justice Center analysis of DOC data; CFC Adult Community Supervision Contact Required Caseload Forecast.

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The average daily population of people incarcerated for community supervision violations has also experienced an uptick.



Source: Washington State Department of Corrections, Average Daily Population of Incarcerated Offenders.

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## Supervision Summary

- Statutory restrictions limit access to supervision for certain offenses, resulting in more than half of sentences to jail having no supervision following release.
- Supervision is more likely applied in cases with a higher seriousness level, and is less closely tied to a person's criminal history.
- There are limited opportunities for supervision of people sentenced for property offenses.
- The number of supervision violation admissions and the average daily population of people incarcerated for supervision violations have increased in the last three years.

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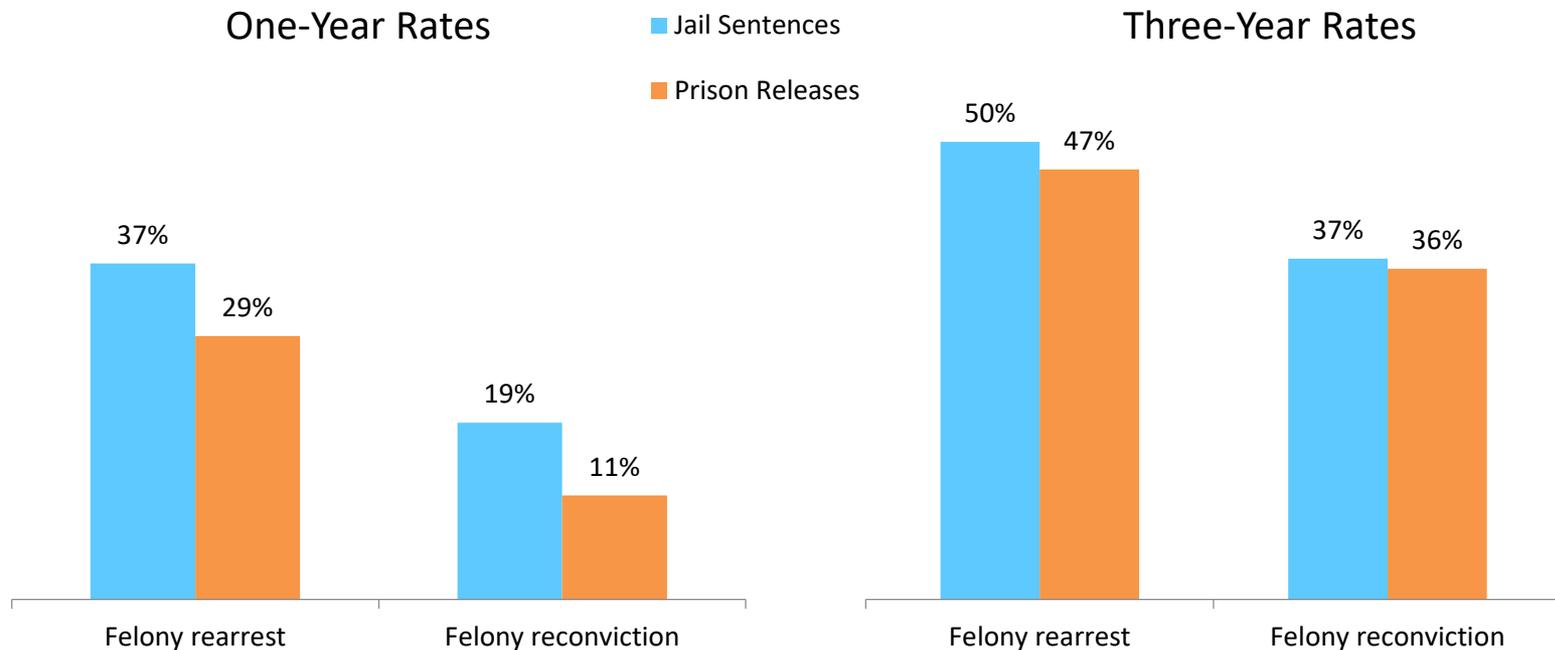
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People released from jail after serving a sentence are rearrested and reconvicted at higher rates than people released from prison, particularly in the first year.

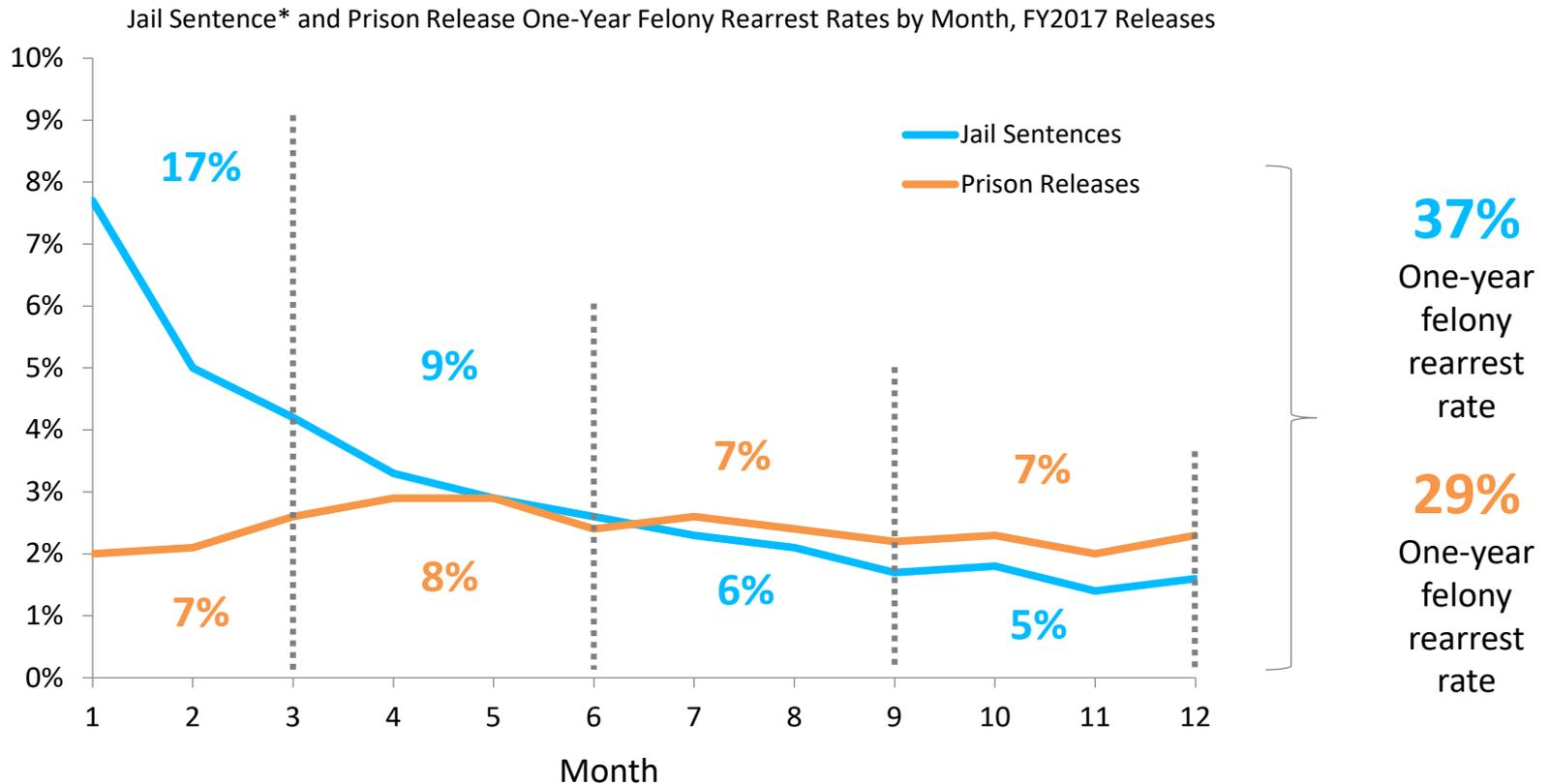
Jail Sentence\* and Prison Release Recidivism Rates, FY2017 One-Year and FY2015 Three-Year Rates



\*Estimated jail release date was calculated using sentence date, sentence length, and credit for time served. People released more than once in a fiscal year were only counted once in the analysis.

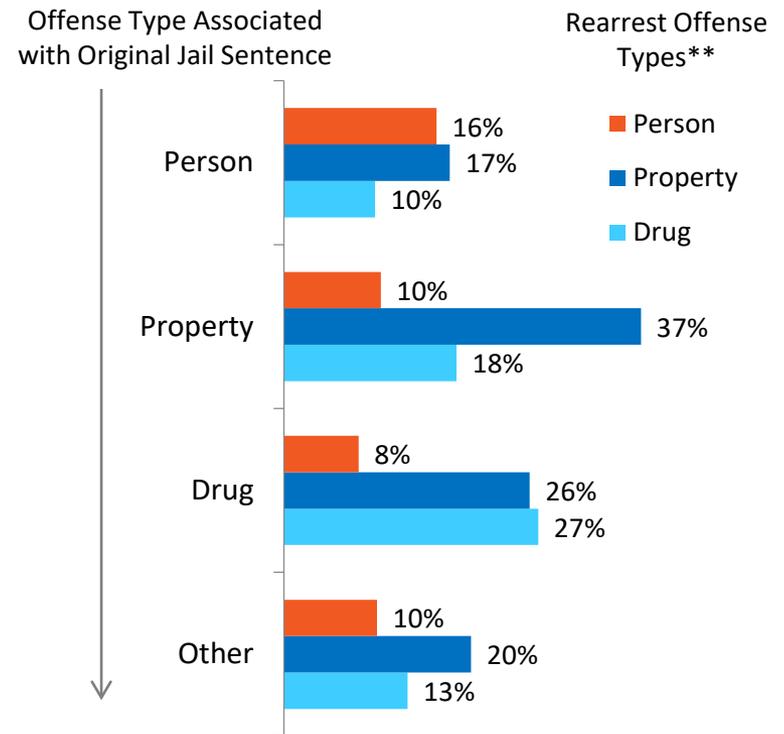
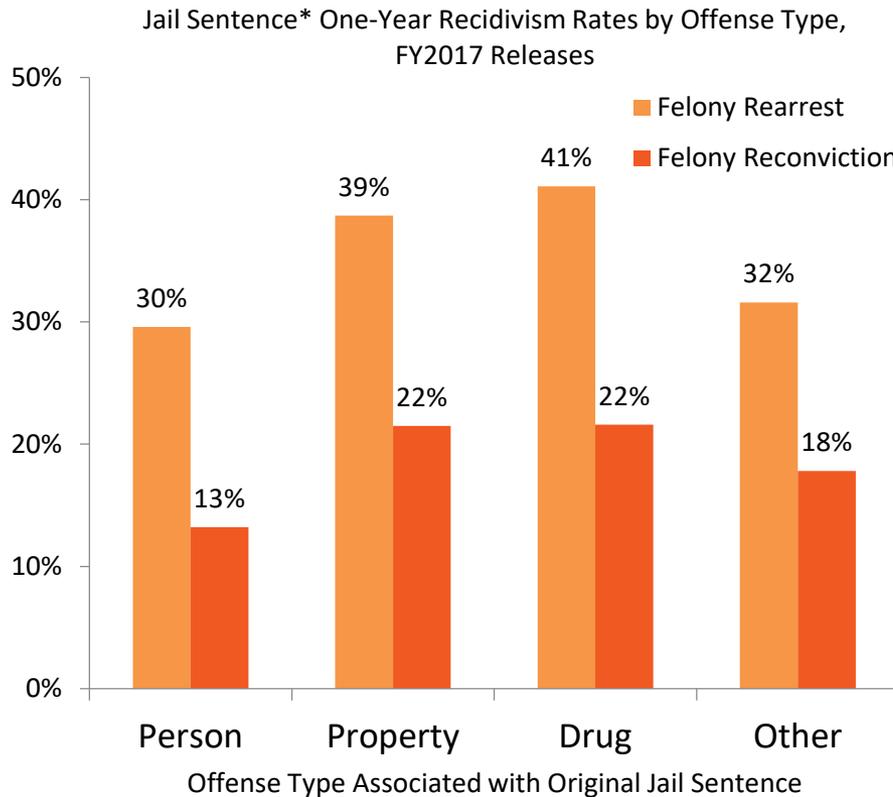
Source: Justice Center analysis of CFC, DOC, and WSP data

People are at greatest risk of recidivism in the first three months following release from a jail sentence, while people released from prison are at similar risk throughout the first year.



\*Estimated jail release date was calculated using sentence date, sentence length, and credit for time served. People released more than once in a fiscal year were only counted once in the analysis.

People sentenced to jail for drug offenses are rearrested at higher rates than people sentenced for other offense types, the majority of whom are rearrested for property and drug offenses one year following release.

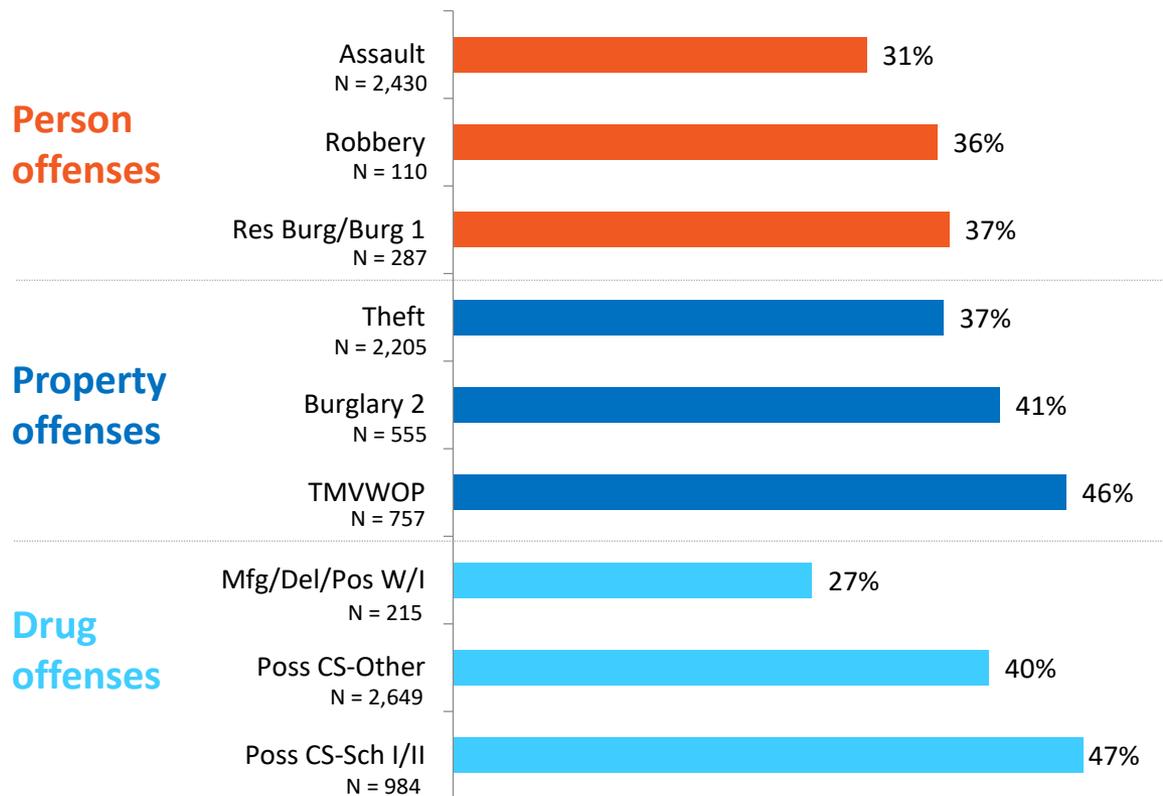


\*Estimated release date was calculated using sentence date, sentence length, and credit for time served. People released more than once in a fiscal year were only counted once in the analysis.

\*\*All arrest events in the year are counted. For instance, a person rearrested for a property offense and drug offense will be counted as rearrested in both categories.

There is variation in recidivism within offense types, with possession of controlled substances and motor vehicle theft having the highest rates.

Jail Sentence\* One-Year Felony Rearrest Rates by Offense Type, FY2017 Releases



\*Estimated release date was calculated using sentence date, sentence length, and credit for time served. People released more than once in a fiscal year were only counted once in the analysis.

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## Recidivism Summary

- People sentenced to jail have higher recidivism rates than people released from prison, particularly in the first year following release.
- Recidivism rates vary across types of offense, with people sentenced for certain property and drug offenses having higher rates than people sentenced for other offense types.
- People sentenced for property and drug offenses are most likely to be rearrested for property and drug offenses.

Study Findings	Implications for Next Steps
<ul style="list-style-type: none"> <li>▪ Felony sentences have steadily increased since a recent low in 2010, driven by increases in property and drug offenses, in particular possession of controlled substances and motor vehicle theft.</li> <li>▪ Sentences of people with more extensive criminal history committing lower-level offenses continue to increase in Washington.</li> </ul>	<p><b>Address behavioral health challenges and repeat criminal behavior with accountability and connection to services.</b></p>
<ul style="list-style-type: none"> <li>▪ The vast majority of sentences include a period of incarceration, largely in county jail, and without a period of supervision.</li> <li>▪ People with jail sentences have higher rates of rearrest and reconviction than people sentenced and released from prison, but people released from prison have higher rates of reincarceration in DOC.</li> </ul>	<p><b>Ensure options at sentencing that provide opportunities for reducing recidivism while maintaining public safety.</b></p>
<ul style="list-style-type: none"> <li>▪ The number of supervision violations admissions to incarceration and the average daily population of people incarcerated on a supervision violation have increased in recent years.</li> </ul>	<p><b>Examine supervision practices and outcomes.</b></p>

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## Topics of Analysis and Discussion in April

- Supervision policies and practices in Washington
- Impacts of supervision
- Detailed recidivism analyses and outcomes for supervision (including DOSA program)
- Summary of project findings

# Thank You

**Bree Derrick, *Deputy Director of State Initiatives***

[bderrick@csg.org](mailto:bderrick@csg.org)

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