

THE
PEW
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Utah Criminal Justice System Assessment

Commission on Criminal and Juvenile Justice
June 12th, 2014
Salt Lake City, UT

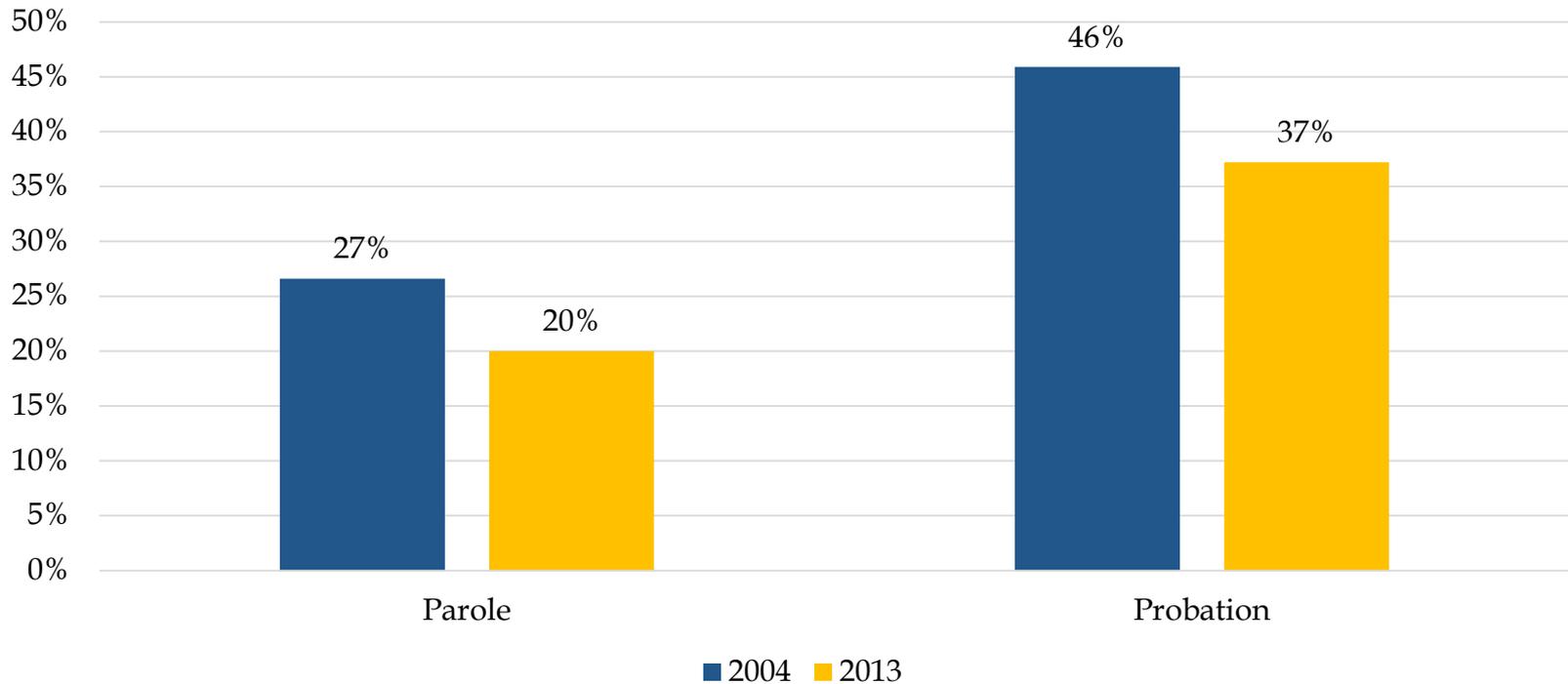
Outline of Presentation

- Community Corrections and Recidivism
- Incarceration and Recidivism

COMMUNITY CORRECTIONS AND RECIDIVISM

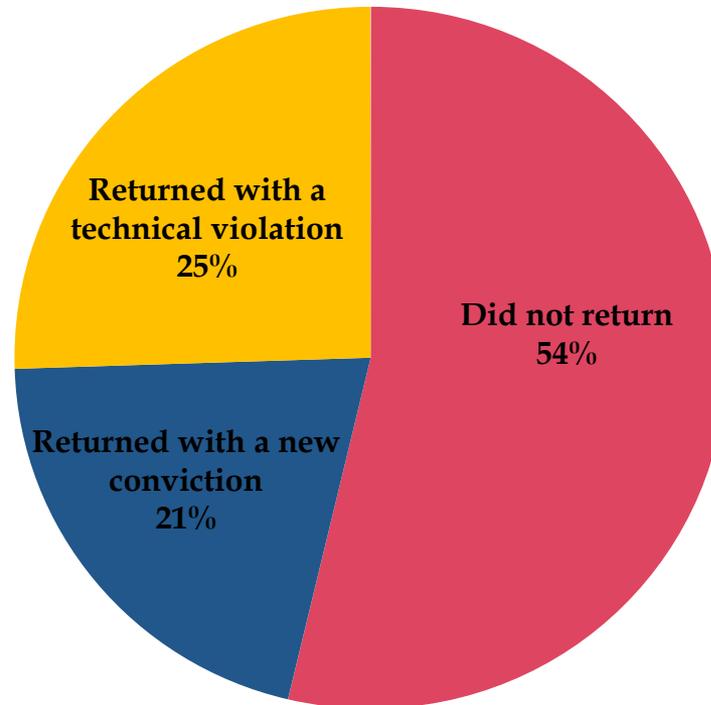
Declining Rates of Success for Probationers and Parolees

Parole and Probation Successful Discharge Rates, 2004 vs. 2013



46% of Released Prisoners Return Within 3 Years, and Majority of Returns are for Technical Violations

3-Year Return to Prison Rate for 2010 Prison Releases, by Return Type



Recidivism Reduction Principles

- Focus on high risk offenders and target criminogenic needs
- Incorporate rewards and incentives
- Use swift, certain, and proportionate sanctions for violations
- Frontload resources
- Balance surveillance with treatment

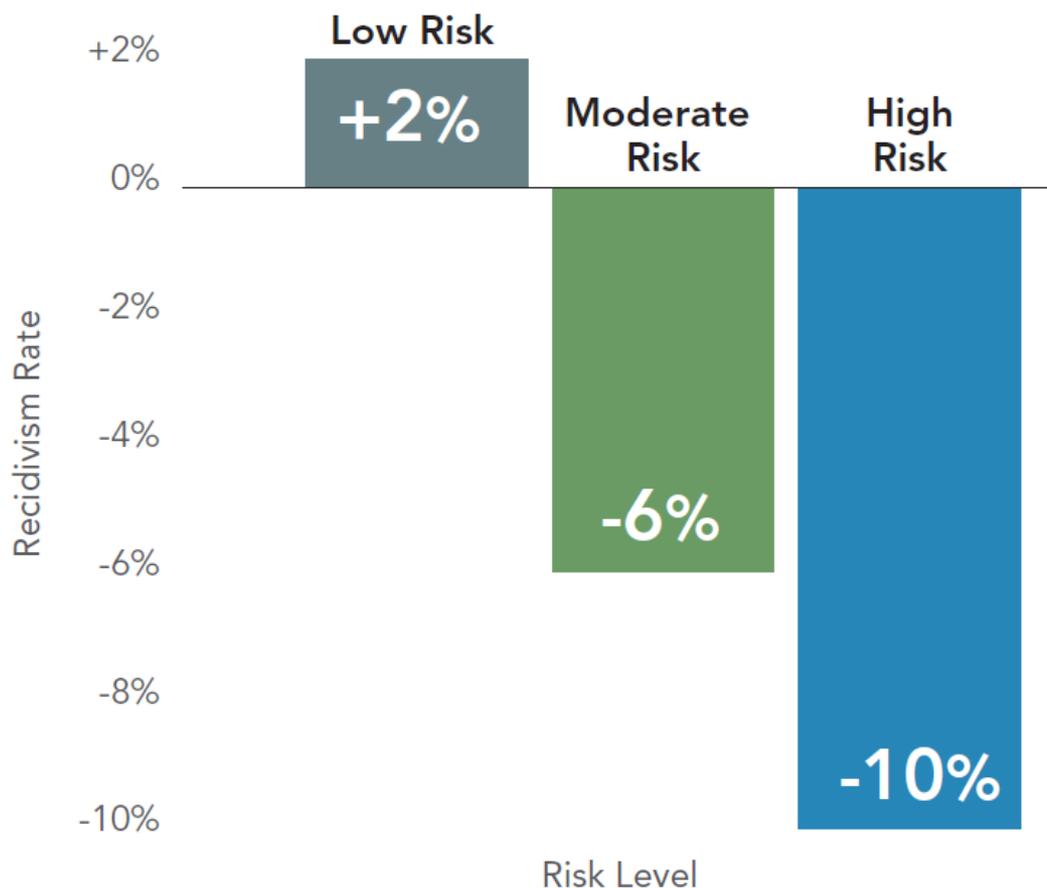
**FOCUS ON HIGH RISK OFFENDERS
AND TARGET CRIMINOGENIC
NEEDS**

Focus on High Risk Offenders and Target Criminogenic Needs: Concept

- Risk principle (who) – focus on offenders at the highest risk of reoffending
- Need principle (what) – identify the specific needs of the individual
- Responsivity principle (how) – use behavioral and treatment approaches that address risk and needs

Focus on High Risk Offenders and Target Criminogenic Needs: Research

Ohio Halfway House Results



Top Criminogenic Risk and Need Factors

1. History of anti-social behavior
2. Anti-social personality or temperament
3. Anti-social attitudes, values, or beliefs
4. Anti-social peers or companions
5. Family and/or marital stressors
6. Lack of pro-social leisure and recreation
7. Lack of employment and/or education
8. Substance abuse

Focus on High Risk Offenders and Target Criminogenic Needs: Current Practice in Utah

➤ Research summary:

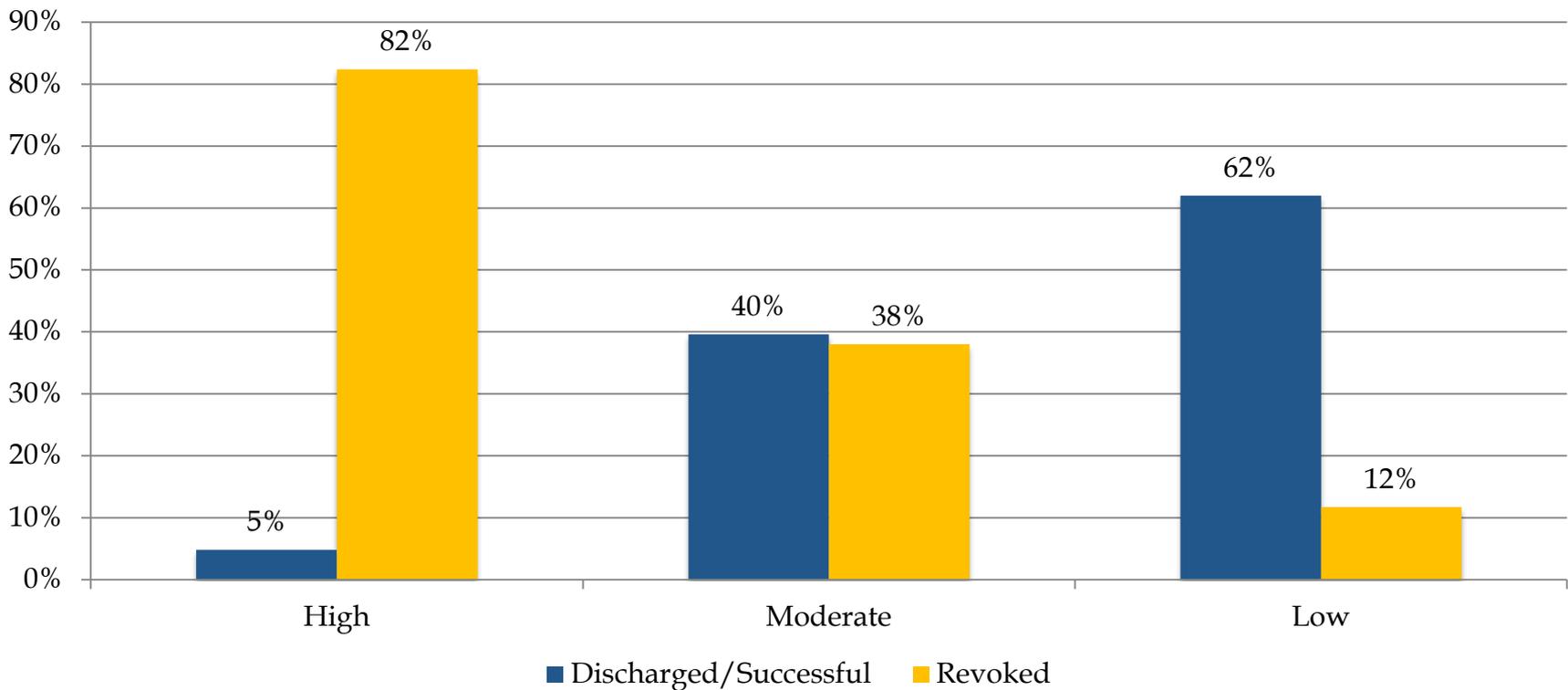
- » Resources should be targeted to higher risk offenders and interventions should focus on the offender's criminogenic factors

➤ Utah findings:

- » Utah uses a variety of screening and assessment tools to identify risk of reoffending and treatment needs, and has made strides to connect these tools to supervision practice
- » However, high risk offenders have dramatically high rates of failure on supervision and many supervision resources are still directed to low risk offenders

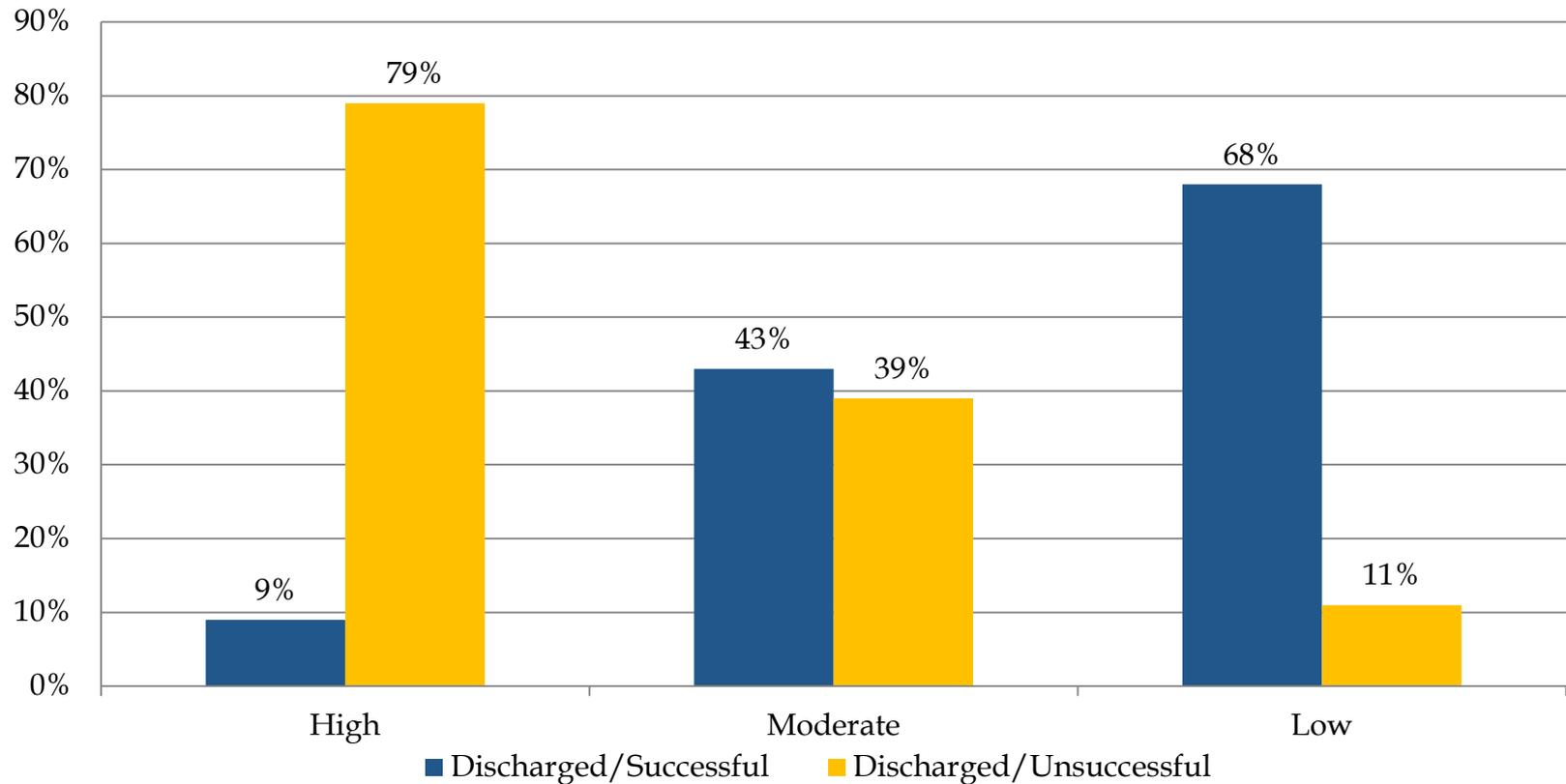
More than 80% of High Risk Parolees are Revoked

Parole Outcomes by Risk Level, 2013



Nearly 80% of High Risk Probationers are Unsuccessful Discharges

Probation Outcomes by Risk Level, 2013



Key Assessment Tools in Utah's Criminal Justice System

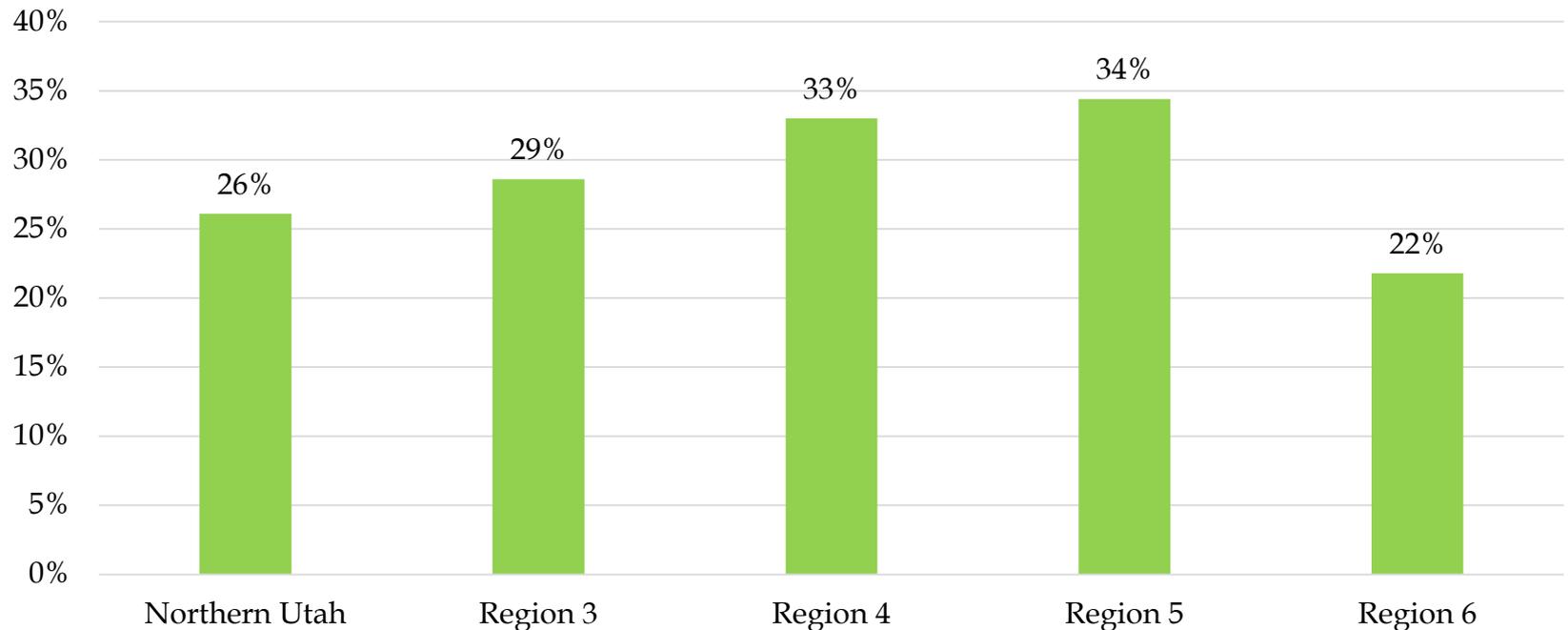
- Primary tool in Utah is LSI-R, one of the most widely utilized risk/needs assessment tools in the U.S.
 - » Incorporated into pre-sentence investigation process
 - » For those who go to prison, not used again until offender is released on supervision
 - » Ongoing work on validation and training/oversight of instrument
 - » AP&P currently developing new tools for sex offenders and female offenders
- Screening for substance abuse and mental health needs exists for select offenders, but there is no system-wide tool

Supervision Standards Based on Risk Level

- AP&P has implemented policies differentiating supervision standards based on offender risk level
 - » Low risk: Office and field contact once every 3 months
 - » Moderate risk: Monthly office contact; field contact every other month
 - » High risk: Monthly office and field contact
 - » Supervision intensive: 2 office contacts and 2 residence visits per month
- However, low risk offenders still account for a significant portion of AP&P caseloads

Depending on Region, Nearly One-Quarter to One-Third of Actively Supervised Offenders Are Low Risk

Percent of Active Supervision Caseloads Who Are Low Risk, 2013

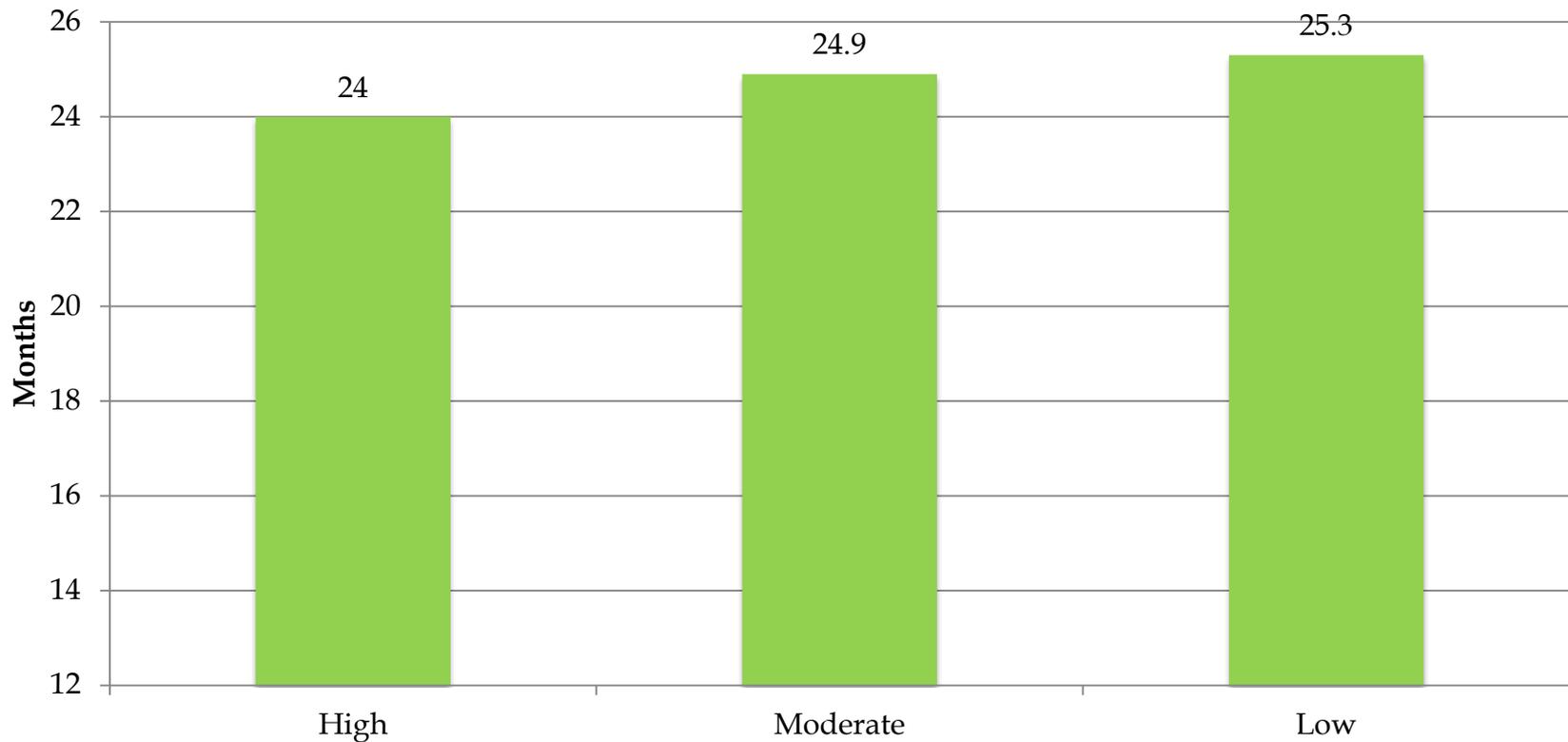


AP&P Policy on Discharge from Probation Supervision is Based on Risk

- Probation: default term is 36 months without violation, but have early discharge policies based on risk level
 - » Intensive: 24 months
 - » High: 18 months
 - » Sex/violent offenders (non-mandatory life): 18 months (6 months post-sex offender treatment completion)
 - » Moderate: 12 months
 - » Low: 6 months

However, in Practice Successfully Discharged Probationers Serve Same Time Regardless of Risk Level

Time Served on Probation Before Successful Discharge, 2013



INCORPORATE REWARDS AND INCENTIVES

Incorporate Rewards and Incentives: Concept

- Provide incentives for meeting case-specific goals of supervision to enhance individual motivation
- Strategically allocate resources by tailoring conditions of supervision (reduced reporting, less frequent drug testing, etc.)
- Allow probationers and parolees to step-down their supervision or earn their way off supervision for compliance with court-ordered conditions
 - » Earned discharge encourages offenders to “play by the rules,” thereby reducing violations

Incorporate Rewards and Incentives: Current Practice in Utah

- Research summary:
 - » Rewards and incentives encourage pro-social behavior and improve supervision outcomes

- Utah findings:
 - » There is no formal structure in place for rewarding positive behavior on supervision, including no way to earn time off of a supervision sentence

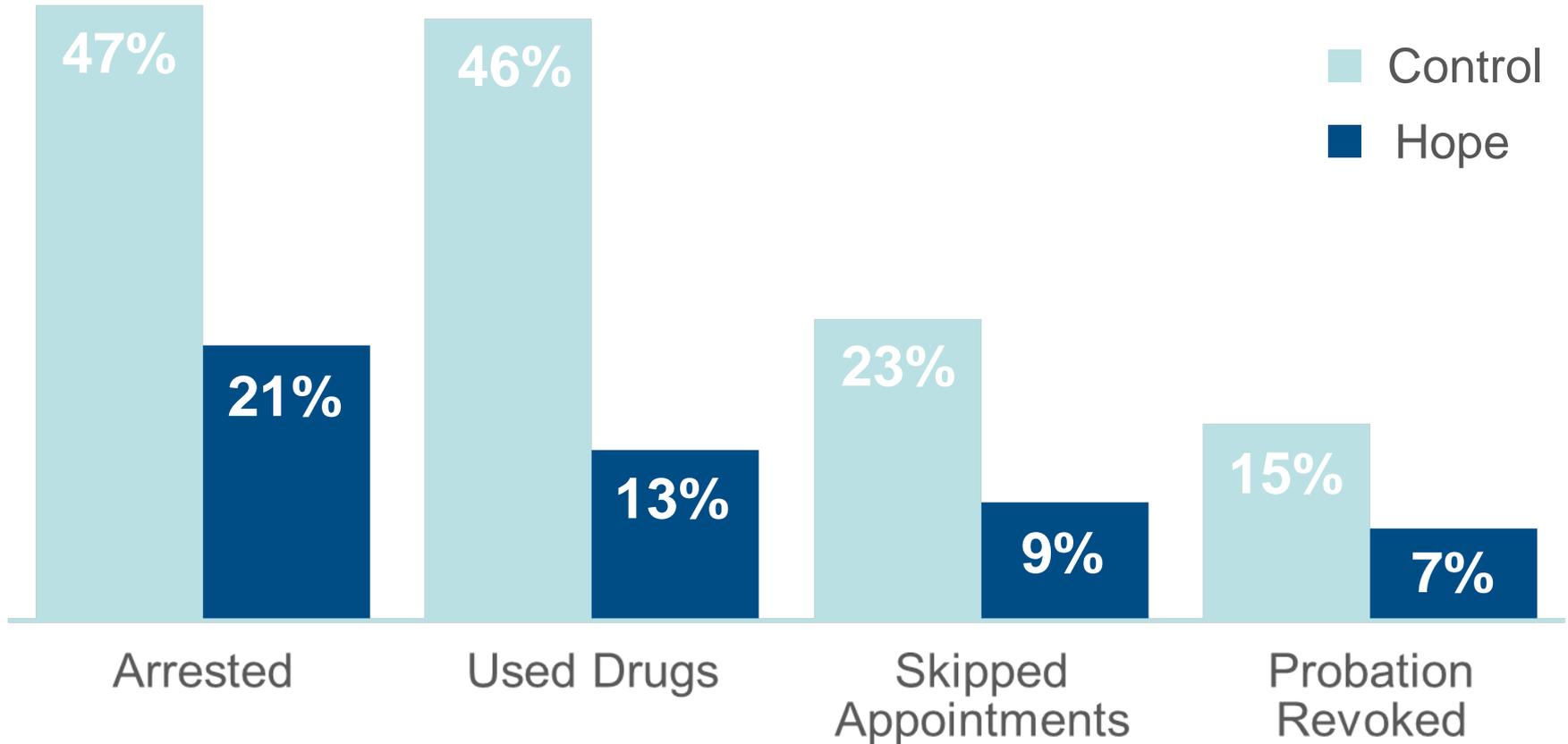
**USE SWIFT, CERTAIN, AND
PROPORTIONATE SANCTIONS**

Swift, Certain, and Proportionate Sanctions: Concept

- Respond to violations or criminal behavior with sanctions or sentencing that holds offenders accountable and confronts behavior in a way that will change it
- Deterrence: swift, certain, proportionate > delayed, random, severe
- Develop range of sanctions – from low-intensity community-based options to prison time – and apply according to the frequency and seriousness of the violations
- Communicate a credible and consistent deterrent threat
- Streamline procedures to allow for a swift response

Swift, Certain, and Proportionate Sanctions: Research

Hawaii's HOPE Program Outcomes



Swift, Certain, and Proportionate Sanctions: Current Practice in Utah

- Research summary:
 - » Responding with immediacy, certainty, and proportionality to negative behavior induces behavior change more effectively than delayed, random, and severe sanctions

- Utah findings:
 - » There is a system in place for revoking offenders, but no statewide system for graduated or intermediate sanctioning
 - » Some sanctioning processes are inconsistent with swift, certain, and proportionate principles

Swift, Certain, Proportionate Model Utilized in Problem Solving Courts

- Drug courts and mental health courts utilize sanctions and incentives
 - » Swift: offenders receive an immediate response to violations
 - » Certain: judges are consistent in their responses to negative and positive behavior
 - » Proportionate: graduated responses are based on the frequency/level of violations

Swift, Certain, and Proportionate Sanctioning Not Used Consistently in Supervision

- Variation across the state in the number of violations for an offender prior to revocation
 - » Low end average: 4.1
 - » High end average: 15.4
- Inconsistency at two decision points:
 - » AP&P alternative event requests
 - » Judge or Board agreement with recommendations

Many Violation Responses Are Inconsistent with Swift, Certain, and Proportionate Sanctioning

- “Revoke and reinstate” jail sanction and restart probation
 - » Huge range in potential jail time (1 day – 12 months) makes sanction uncertain
- “Zero tolerance” probation: judges threaten incarceration for subsequent violation
 - » Not proportionate to the severity of violation
 - » No opportunity for swift, graduated responses

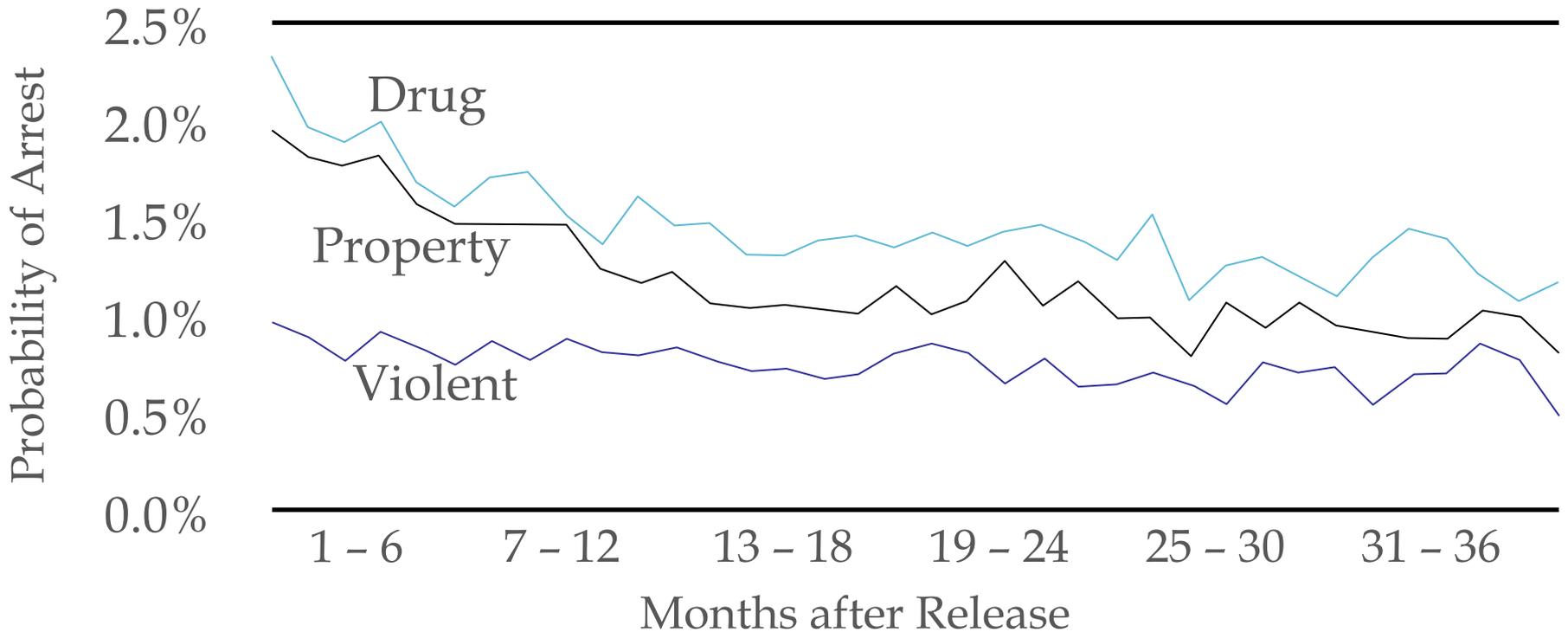
FRONTLOAD RESOURCES

Frontload Resources: Concept

- Focus community supervision resources in the first days, weeks, and months when offenders are most likely to commit a new crime
- Identify offenders who warrant enhanced supervision and those who do not
 - » Reduce reporting requirements/conditions for successful offenders to offset costs of frontloading
- Deter future crime and technical violations by changing offender behavior early in the supervision process

Frontload Resources: Research

Risk of Arrest in First Months after Prison



Between months 1 and 15 after release from prison, the chance of arrest drops by **40%**

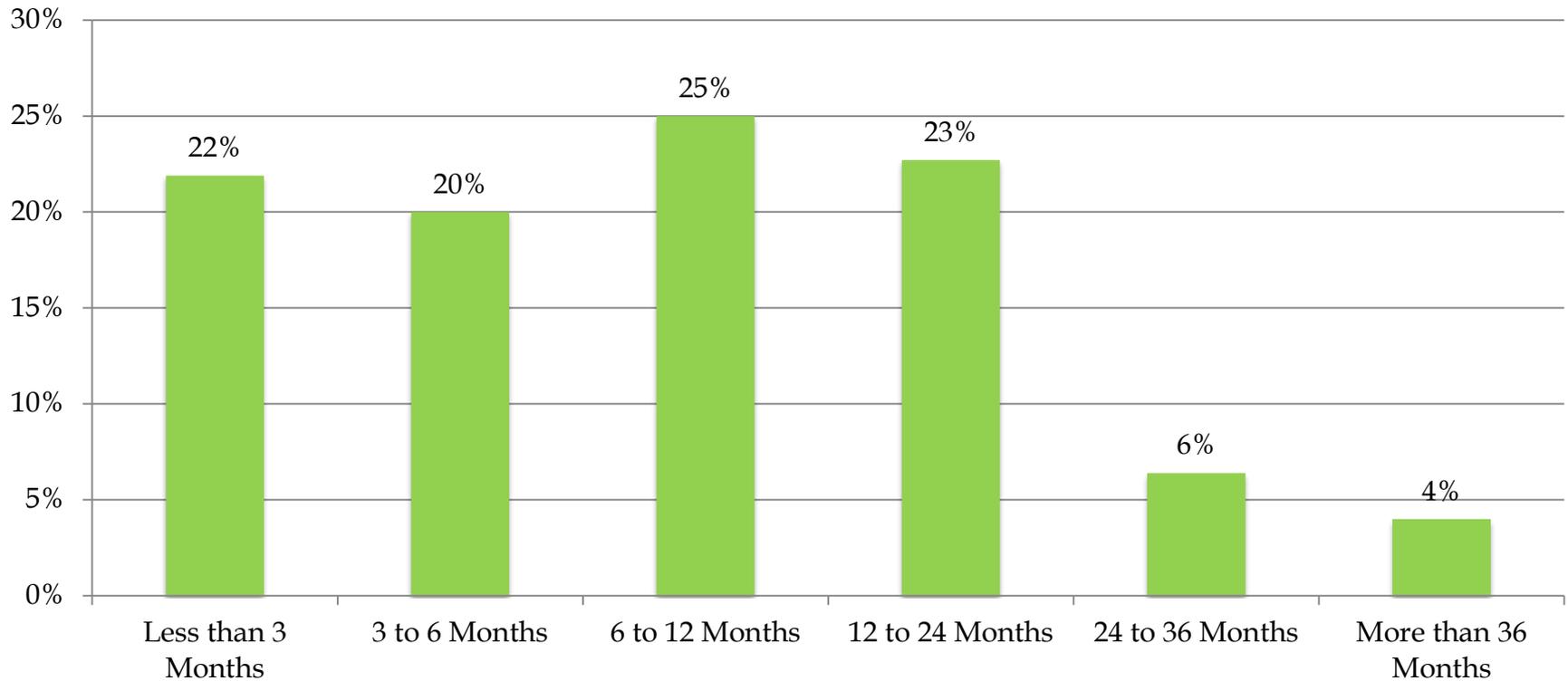
Frontload Resources: Current Practice in Utah

- Research summary:
 - » Because recidivism is most likely to occur in the first few months of supervision, focusing resources at the beginning of supervision reduces the likelihood of reoffending

- Utah findings:
 - » Majority of parolees are revoked within their first year of supervision
 - » Nearly one-third of offenders are released from prison without supervision

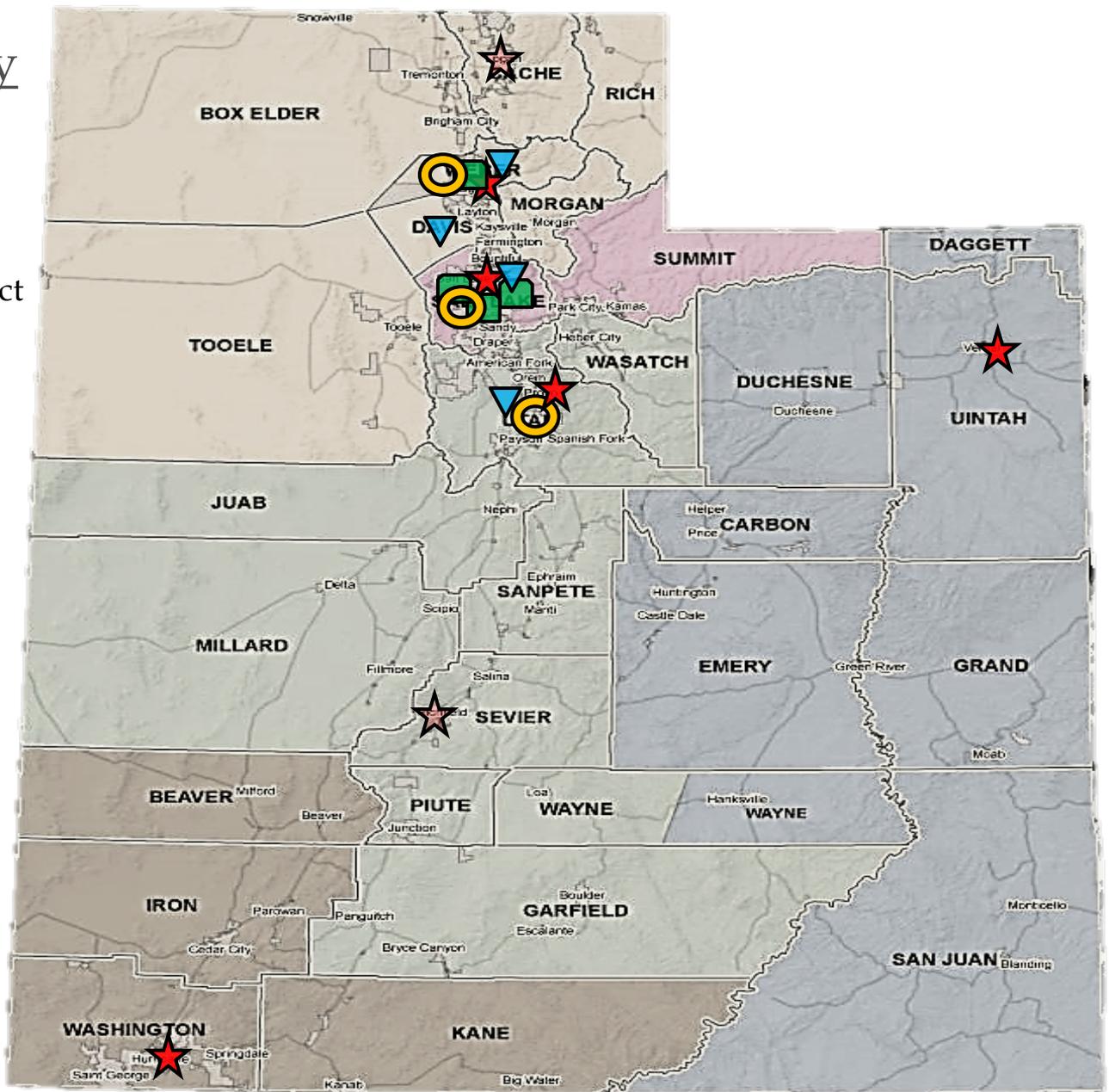
Majority of Revoked Parolees Return Within First Year of Supervision

Time Served on Parole Before Revocation, 2013



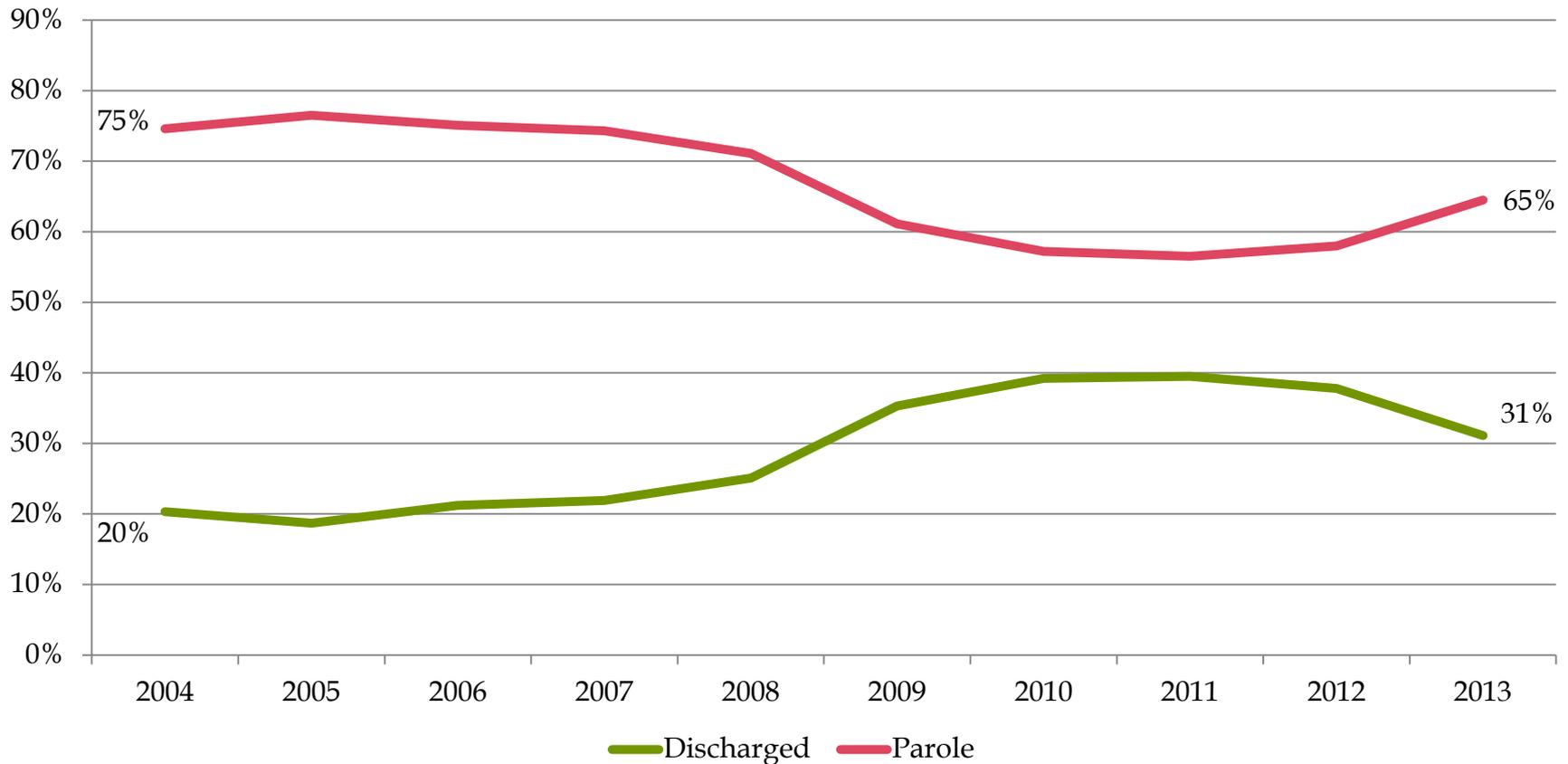
Community Reentry Options

- ★ - Treatment Resource Centers
- - Halfway Houses
- - Employment Placement Project
- ▽ - Parole Access to Recovery



Nearly One-Third of Offenders Are Released Without Supervision

Prison Releases by Type, 2004-2013



BALANCE TREATMENT WITH SURVEILLANCE

Balance Treatment with Surveillance: Concept

- Incorporate treatment and standard reporting, monitoring, and surveillance into supervision case plans
- Utilize cognitive behavioral treatment and community-based drug treatment, interventions shown to significantly reduce recidivism
- Design interventions (both surveillance and treatment) based on offenders' individually assessed risk and need factors

Balance Treatment with Surveillance: Research

Surveillance and Treatment Outcomes, 2010

- Washington Institute for Public Policy conducts extensive national meta-analyses of cost-benefit outcomes for criminal justice interventions
 - » A review of the research found that intensive probation supervision with only surveillance reduced crime by 2 percent
 - » However, integrating treatment into that intensive supervision reduced crime by 18 percent
 - » The cost-benefit of intensive supervision was far better for taxpayers when the supervision incorporated treatment

Balance Treatment with Surveillance: Current Practice in Utah

- Research summary:
 - » Balancing treatment with surveillance has a far greater impact on recidivism than just surveillance

- Utah findings:
 - » Due to a variety of geographic and funding constraints, treatment needs are not met by the current state capacity
 - » Many of the available treatment providers are not required to target criminogenic needs

Unmet Substance Abuse Treatment Needs in Utah

	Estimated # Adults With Substance Abuse Treatment Need	# Served	% Need Met
Bear River	5,447	1,232	23%
Central	2,259	386	17%
Davis	8,782	889	10%
Four Corners	1,214	554	46%
Northeastern	1,706	490	29%
Salt Lake	35,386	7,475	21%
San Juan	526	133	25%
Southwest	5,961	516	9%
Summit	1,106	304	27%
Tooele	1,644	400	24%
Utah	18,189	936	5%
Wasatch	664	129	19%
Weber	7,648	1,151	15%
Total	90,856	14,925	16%

Unmet Mental Health Treatment Needs in Utah

	Estimated # Adults With Mental Health Treatment Need	# Served	% Need Met
Bear River	14,090	1,902	13%
Central	6,193	685	11%
Davis	26,176	2,753	11%
Four Corners	3,800	890	23%
Northeastern	4,862	1,133	23%
Salt Lake	98,501	10,098	10%
San Juan	1,465	406	28%
Southwest	17,793	1,180	7%
Summit	3,311	436	13%
Tooele	4,819	1,151	24%
Utah	44,371	4,516	10%
Wasatch	1,940	324	17%
Weber	22,874	4,102	18%
Total	250,046	28,981	12%

Treatment-Based Sentencing Options Vary by County

County	DORA	Mental Health Courts	Drug Court
Beaver			
Box Elder		X	X
Cache			X
Carbon			X
Daggett			
Davis	X	X	X
Duchesne			
Emery			X
Garfield			
Grand			X
Iron		X	X
Juab			X
Kane			X
Millard			X
Morgan			
Piute			
Rich			
Salt Lake	X	X-2	X-5
San Juan			X
Sanpete			X
Sevier		X	X-2
Summit			X
Tooele			X
Uintah		X	X
Utah	X	X	X-2
Wasatch			X
Washington		X	X
Wayne			
Wayne			
Weber	X	X	X

Treatment Not Always Incorporating Best Practices to Reduce Recidivism

- Because most substance abuse and mental health services are designed to serve the general population, many treatment programs:
 - » Are not designed to explicitly address criminogenic needs
 - » Mix low/medium/high risk offenders, which can increase recidivism in lower risk offenders
 - » Mix offenders with non-offenders

- State is making efforts to develop guidance for substance abuse, mental health and sex offender treatment, but no statewide standards for offender programming currently exist

INCARCERATION AND RECIDIVISM

Incarceration and Crime

- Research indicates that increased incarceration contributed to the large crime decline since the 1990s, but was responsible for only one-tenth to one-third of the change
 - » Many other factors impacted the crime decline, including advancements in policing and community corrections, economic improvement, and the waning of the crack epidemic
- Recent research has focused on the marginal impact of incarceration, or the value to society of sending one more person to prison
 - » Marginal impact has declined as the use of incarceration has increased

Societies Use Incarceration for Multiple Purposes

- The commonly cited purposes for incarceration are incapacitation, deterrence, retribution, and rehabilitation
- Incarceration can be used to affect public safety by:
 - » Incapacitation: Reducing current criminal involvement by holding offenders in prison where they cannot commit crimes against the public
 - » Deterrence: Reducing the likelihood of future criminal involvement by increasing the punishment for the current offense
 - » Rehabilitation: Reducing the likelihood of recidivism by offering effective programming and treatment during the period of incarceration

PRISON ADMISSIONS AND RECIDIVISM

Meta-Analyses Show Increased Recidivism Associated with Incarceration Compared to Community-Based Sanction

- Jonson's (2010) meta-analysis, which included 57 studies and weighted effect sizes, found that custodial sanctions increased recidivism 14% compared to a noncustodial sanction
 - » Sentences to probation with conditions had largest reduction in recidivism compared to straight probation, community service, and other non-custodial sanctions
- Gendreau et. al.'s (2000) meta-analysis of 103 studies found that incarceration had a 7% increase in recidivism compared to a community-based sanction, and no effect when controlling for sample size
- Nagin et. al. (2009) found a mild criminogenic effect, or no effect, of custodial sentences in 5 RCTs, 11 comparison group studies

Impact of Prison on Recidivism for Nonviolent, First-Time Offenders and Technical Violators

- Spohn and Holleran (2002) found that drug offenders sentenced to prison were 5-6 times more likely than probationers to be rearrested and charged, controlling for offender characteristics
- Nieuwbeerta, Nagin, and Blokland (2009) found first-time imprisoned offenders who served less than 1 year were 1.9 times as likely to be reconvicted within 3 years, compared to offenders sentenced in the community
 - » Property crimes: 2 times as likely
 - » Other nonviolent crimes: 1.8 times as likely
- Drake and Aos (2012) found that technical violators of probation serving a period of confinement (jail or prison) had significantly higher recidivism than offenders sanctioned in the community

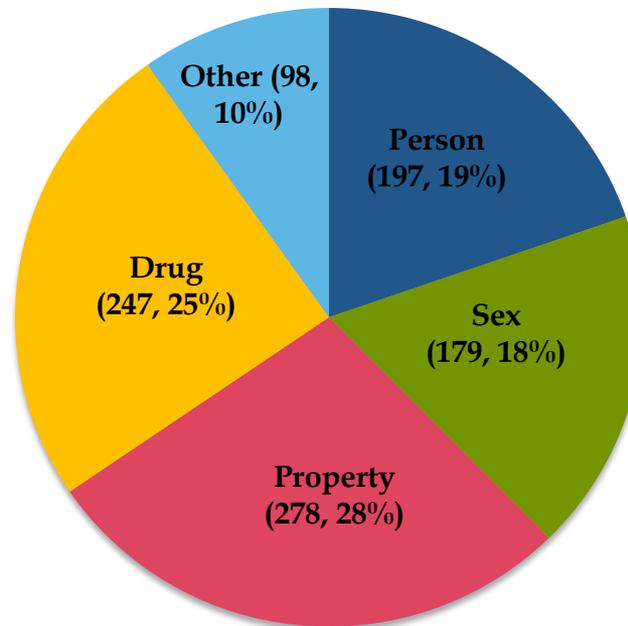
Prison Admissions and Recidivism: Current Practice in Utah

- Research summary:
 - » Incarceration can increase recidivism, particularly for nonviolent, low risk offenders

- Utah findings:
 - » Utah has experienced significant growth in admissions for nonviolent, low-risk offenders
 - » Probation and parole technical revocations account for a significant and growing portion of prison admissions

63% of New Court Commitments Admitted to Prison Were for Nonviolent Crimes

**Prison Admissions by Offense Type
(NCC Only, 2013)**

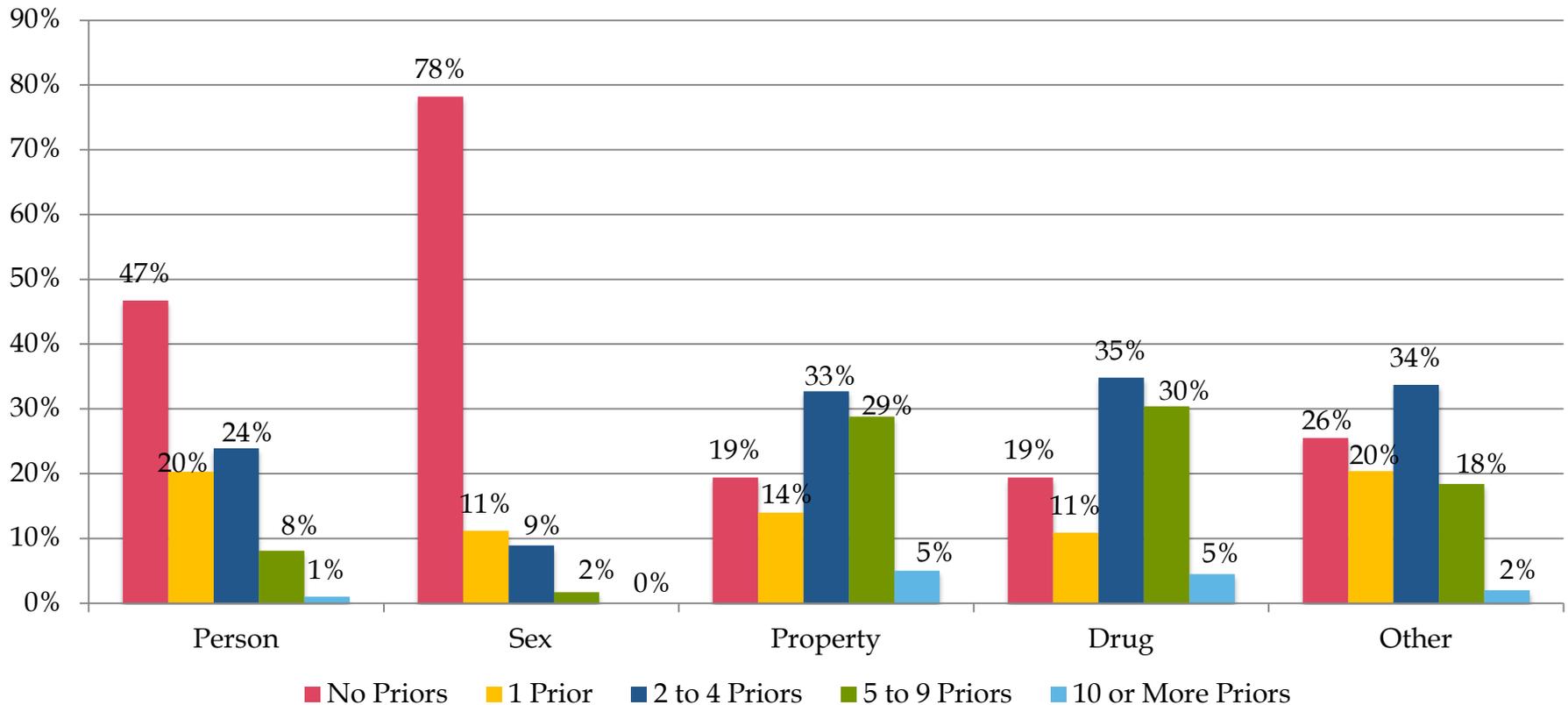


8 of Top 10 Offenses at Admission Were Nonviolent

Offense	NCC in 2004	NCC in 2013	% Change
Poss/Use Of Controlled Substance	151	120	-21%
Theft	62	71	15%
Poss W/ Intent To Dist Cont Substance	60	70	17%
Retail Theft (Shoplifting)	12	51	325%
Driving Under The Influence Of Alc/Drugs	52	47	-10%
Aggravated Sexual Abuse Of A Child	41	44	7%
Aggravated Assault	47	43	-9%
Burglary	38	43	13%
Distrib/Arrange Dist Cont Substance	36	41	14%
Theft By Receiving Stolen Property	27	39	44%

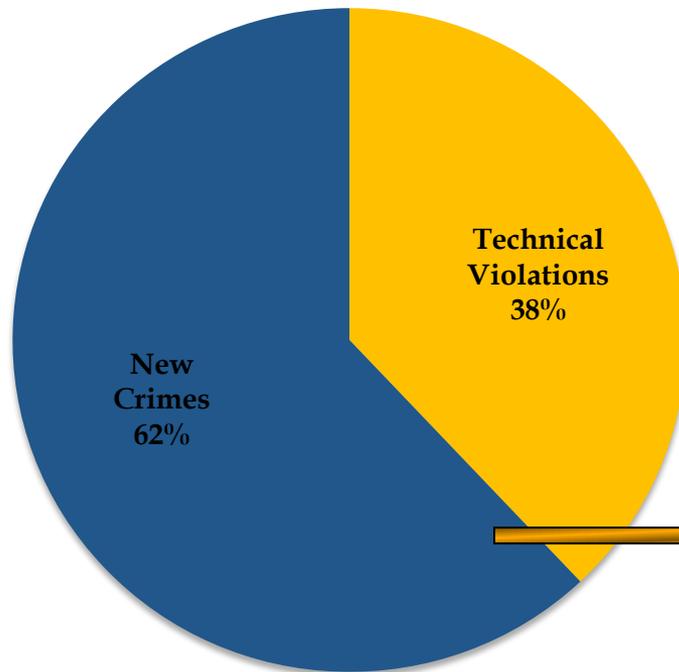
20% of Property and Drug New Court Commitments Admitted to Prison Had No Prior Felony Convictions

Prior Felony Convictions by Offense Type (NCC Only, 2013)

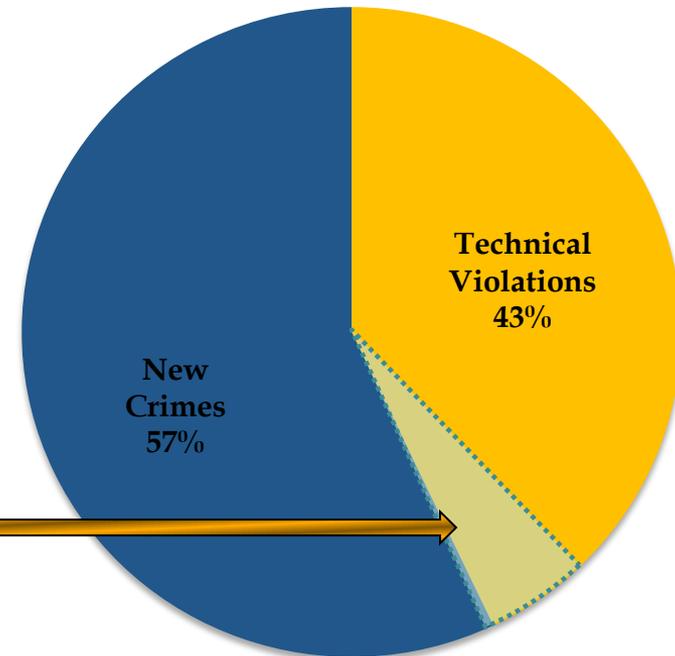


43% of Offenders Were Admitted to Prison with No New Criminal Conviction, Up From 38% in 2004

Prison Admissions, 2004



Prison Admissions, 2012



LENGTH OF STAY AND RECIDIVISM

Meta-Analyses Show Weak Relationship Between Length of Incarceration and Recidivism

- Nagin et. al.'s (2008) systematic review of length of custodial sanctions found few and contradictory significant effects
 - » RCT and comparison group studies suggest weak or no relationship between length of sentence and recidivism
- Gendreau et. al.'s (2000) meta-analysis identified 222 studies comparing impact of offenders' length of stay on recidivism
 - » Groups of offenders who spent more time in prison (30 months on average) versus less (17 months on average) time in prison had 3% higher recidivism rates

Recent Studies Reinforce Length of Stay Has Limited Impact on Recidivism

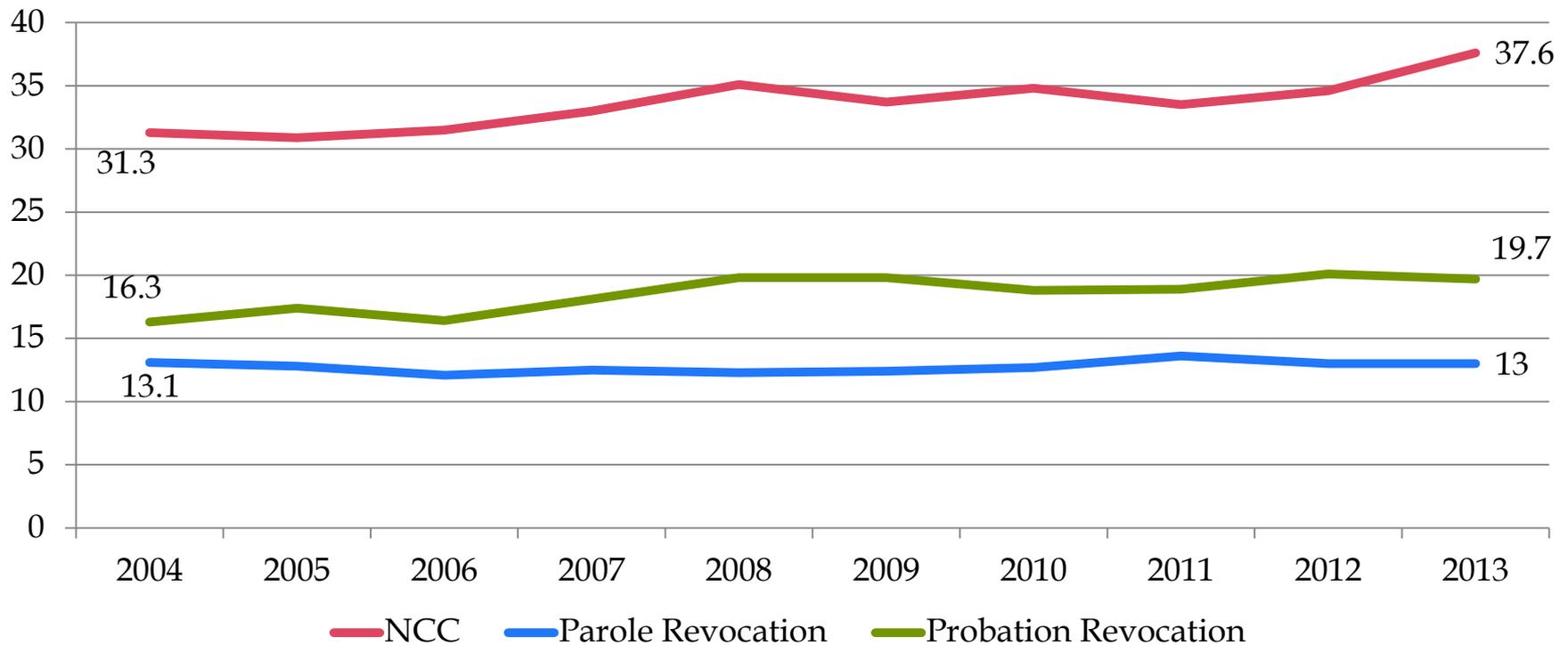
- Pew's Time Served report (2011) followed offenders released from three states and estimated the individual incapacitation and deterrent effects of prison on their future behavior
 - » 28%-57% of prisoners could have either never gone to prison or been released early without any loss of public safety
- Hunt and Peterson (2014) compared federal drug offenders serving their full sentences with those released early due to the retroactivity of the 2007 Crack Cocaine Amendment
 - » There was no difference in recidivism between groups, despite the resentenced group serving approximately 1 year less than the comparison group

Length of Stay: Current Practice in Utah

- Research summary:
 - » Longer lengths of stay in prison do not necessarily lower recidivism, and may increase reoffending
- Utah findings:
 - » Time served has grown 20% for new court commitments and probation revocations over the past decade
 - » Time served for technical probation violations increased 24%

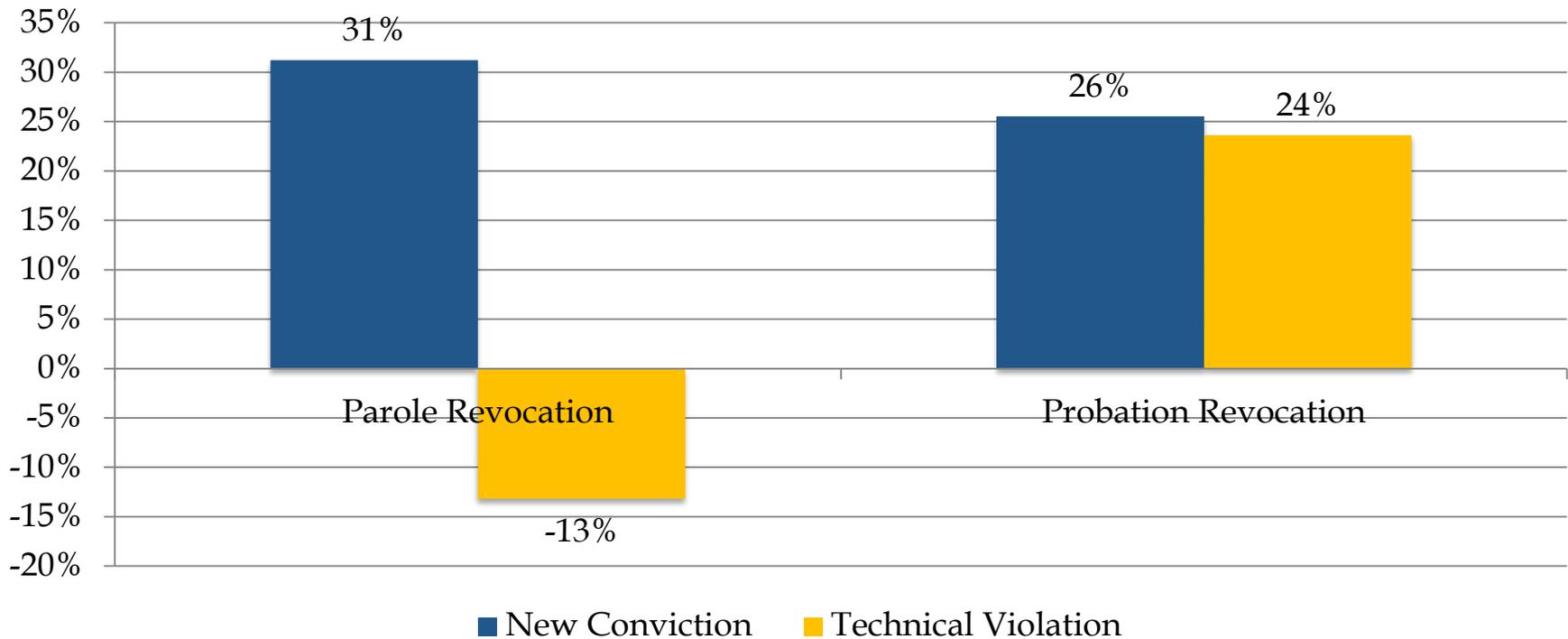
20% Growth in Time Served for New Court Commitments and Probation Revocations

Mean Time Served by Admit Type
(Months)



Probation and Parole Revocations With New Convictions Serving Longer

Change in Mean Time Served for Probation and Parole Revocations
(2004-2013)



Time Served Growing for Most Nonviolent Offenders

**Change in Mean Time Served by Criminal Category
(Offenders with a New Criminal Conviction, 2004-5 to 2012-13)**

	I	J	K	L
	2 nd Degree Other	2 nd Degree Possession	3 rd Degree Other	3 rd Degree Possession
V	22%	8%	2%	7%
IV	46%	16%	27%	-3%
III	42%	43%	17%	1%
II	26%	21%	28%	32%
I	34%	-24%	2%	12%

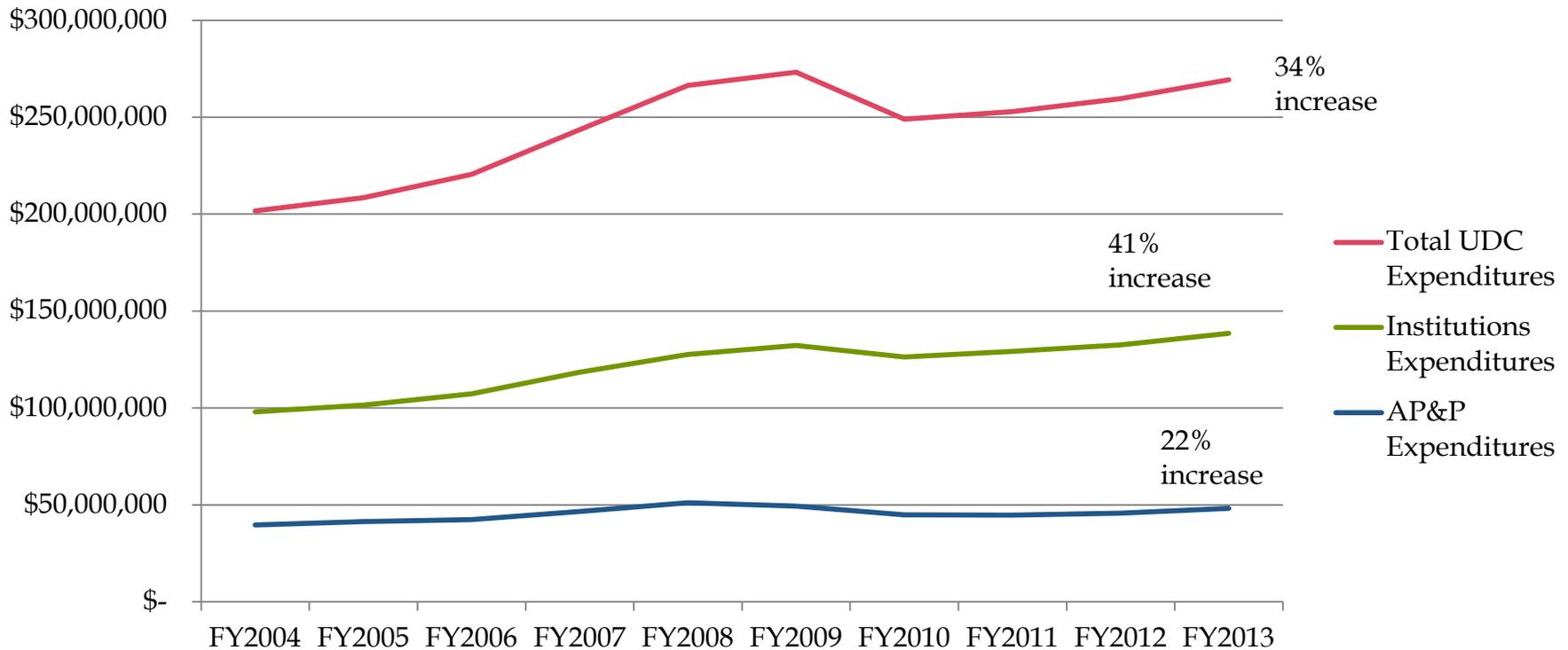
Criminal History

Offender Characteristics Do Not Explain Growth in Length of Stay

- An offender released in 2013 was likely to serve 4.6 months longer than an offender released in 2004, even if (s)he has the same:
 - » Demographics (race, age, sex)
 - » Criminal history
 - » Offense characteristics (type, degree, number of current felonies and misdemeanors)
 - » Sentencing type (concurrent vs. consecutive)
 - » Release type (parole vs. release without supervision)
 - » Sentencing court district

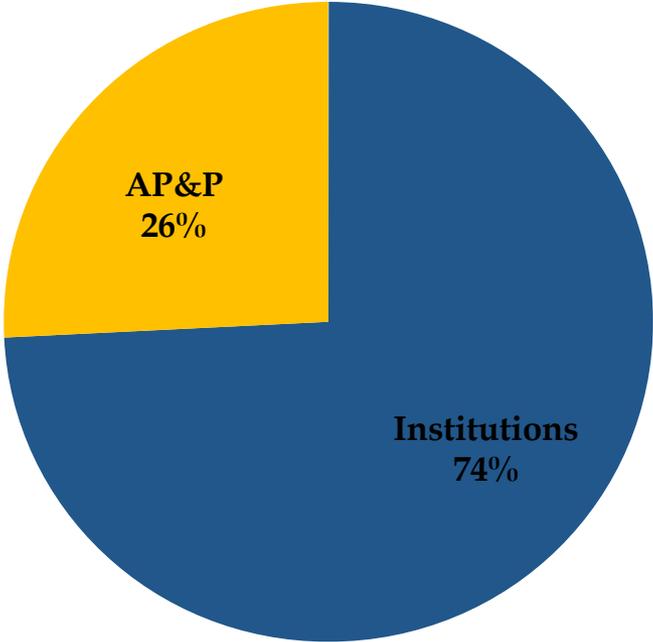
Growth in Funding for UDC Prisons Outpacing AP&P Supervision

UDC Expenditures, FY 04-FY 13

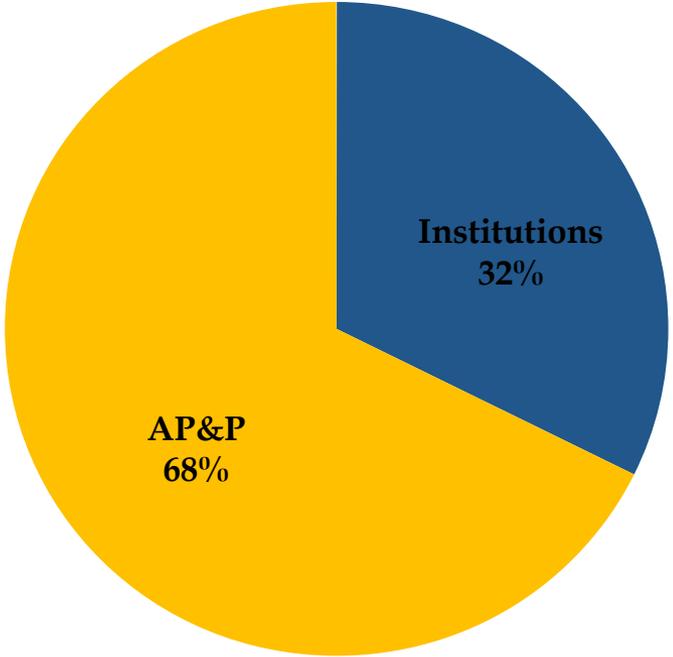


26% of UDC Budget, 68% of UDC Population on AP&P Supervision

UDC Budget (FY 13)



UDC Population (Jan 1, 2013)



KEY TAKEAWAYS

Recidivism Reduction in Community Corrections Challenged by...

- Lack of statewide structure to support evidence-based practices
 - » No statewide intermediate sanctioning program to effectively respond to violations
 - » No statewide incentives program to encourage compliance on supervision

- Lack of budgetary support for evidence-based practices
 - » Many existing resources not focused on high risk offenders or on criminogenic needs
 - » Significant shortfalls in treatment and reentry resources

Meanwhile, Growth in Utah's Prison Population is ...

- Unlikely to achieve reductions in recidivism
 - » Despite research demonstrating the diminishing public safety returns of sending more offenders to prison, admissions are on the rise for probation revocations and many first time and nonviolent offenders
 - » Despite research demonstrating the diminishing public safety returns of keeping offenders in prison longer, length of stay is on the rise for all offense groups and probation revocations
- Coming at great cost to state taxpayers
 - » The UDC budget grew 34% in the last decade and the majority of new dollars went to institutions while a minority went to community supervision
- Projected to continue
 - » Utah's prison population is projected to grow 37% in the next decade

Contact Info

- Pamela Lachman
 - » Office: 202-540-6832
 - » Email: plachman@pewtrusts.org
- Zoe Towns
 - » Office: 202-540-6702
 - » Email: ztowns@pewtrusts.org
- Public Safety Performance Project
 - » www.pewpublicsafety.org