

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
APPROPRIATIONS SUBCOMMITTEE ON CRIMINAL AND
CIVIL JUSTICE
Senator Brandes, Chair
Senator Bracy, Vice Chair

MEETING DATE: Wednesday, January 23, 2019
TIME: 1:30—3:00 p.m.
PLACE: *Mallory Horne Committee Room, 37 Senate Building*

MEMBERS: Senator Brandes, Chair; Senator Bracy, Vice Chair; Senators Gainer, Gruters, Harrell, Perry, Rouson, and Taddeo

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	Presentation on Criminal Justice Reform		Presented

Other Related Meeting Documents

Texas Public Policy
Foundation



RIGHT
ON CRIME

Never Going Back: Revolutionizing Reentry to Break the Cycle



Florida Legislature
January 23, 2019

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Vice President of Criminal Justice

Texas Public Policy Foundation (TPPF)/Right on Crime

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www.texaspolicy.com, www.rightoncrime.com

Introduction to the Texas Public Policy Foundation

- TPPF Mission: Liberty, Individual Responsibility, Free Enterprise, Limited Government, Private Property Rights
- We apply these foundational principles to criminal justice, bringing together stakeholders and working with policymakers and allies across the spectrum.



Getting Reentry Right

- Gov. Reagan in 1971: “Our rehabilitation policies and improved parole system are attracting nationwide attention. Fewer parolees are being returned to prison than at any time in our history, and our prison population is lower than at any time since 1963.”



What Does Health Care Tell Us About Reentry?

Health Care	Criminal Justice System
Continuity of care, such as medications and counseling, is maintained	Some 64 percent of Florida prisoners are released without supervision, having maxed out their time
Condition of patients who are hospitalized is regularly reassessed	Florida 85% law, even for nonviolent offenders, and absence of parole means new information cannot be considered
Precautions taken to prevent relapse	Collateral consequences of conviction increase recidivism rates

Corrections vs. K-12 Education

K-12 Education	Criminal Justice System
<p>Accountability measures grade schools and identify perpetually failing schools for closure, principals given more power and incentive to innovate, schools lose funds when fewer kids.</p>	<p>No data on recidivism rates of various prisons, little or no ability of warden to innovate, lack of incentives for improving outcomes. System grows when it fails.</p>
<p>The progress of each student is regularly assessed and instructional plan tailored accordingly</p>	<p>Those in prison and on supervision are at best typically assessed once at outset with cookie-cutter conditions and programs</p>

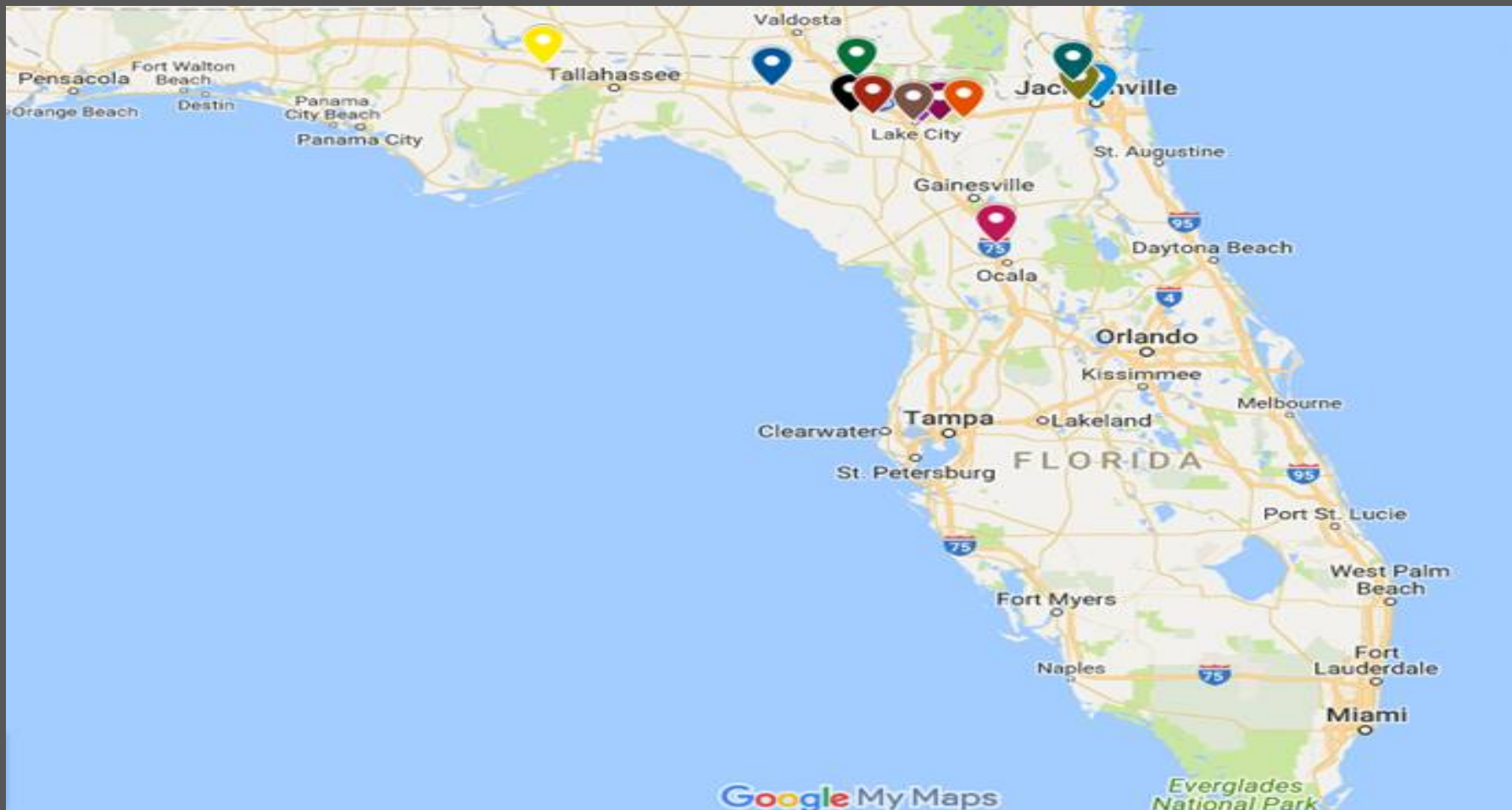
Inside Out: A Seamless Transition

- ▣ Typically, there is little connection, let alone a warm hand-off, between in-prison programs and post-release supervision/services.
- ▣ Safe Streets & Second Chances pilot program is changing that with continuity in vocational, mentoring, treatment, etc.
- ▣ Texas passed a law requiring in-prison vocational programs be aligned with available jobs in workforce and licensing



Safe Streets & Second Chances

- ▣ Some 414 Florida participants have been released. FSU is our academic partner.
- ▣ Reentry counties: Allegheny, Washington, Fayette, Duval, Columbia, Suwanee.



Strengthening Reentry

- ▣ Pew 2013 New Jersey study found similar inmates put on parole had 36% fewer new offenses than max-outs. Promotes continuity of care for mentally ill.
- ▣ Model ALEC bills and Texas laws provide immunity to employers who hire ex-offenders and to landlords who rent to them.

Leave Different

OUT 4 LIFE

THE STATE OF REENTRY

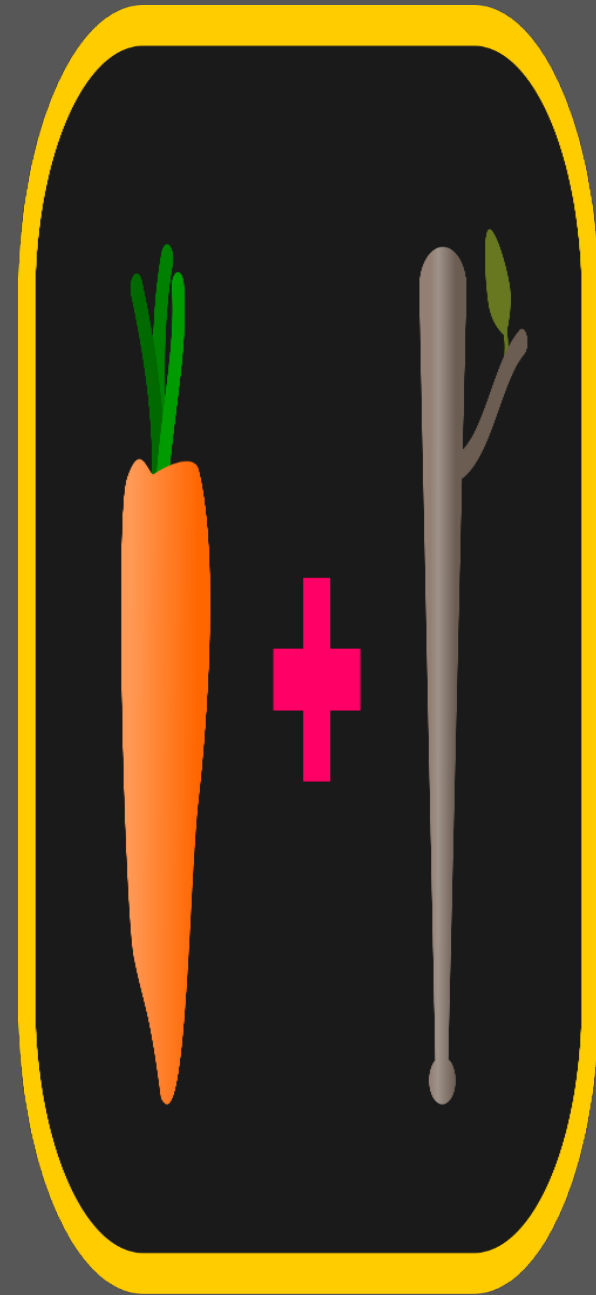
Enhance Earned Time & Medical Release

- ▣ Permit gain time to be applied to mandatory portion of term if serving for a nonviolent offense, with time earned to spent on supervision following release.
- ▣ Allow individuals not serving a life sentence or a death sentence to be eligible for gain time.
- ▣ Expand conditional medical release to include debilitating condition even if not terminal.



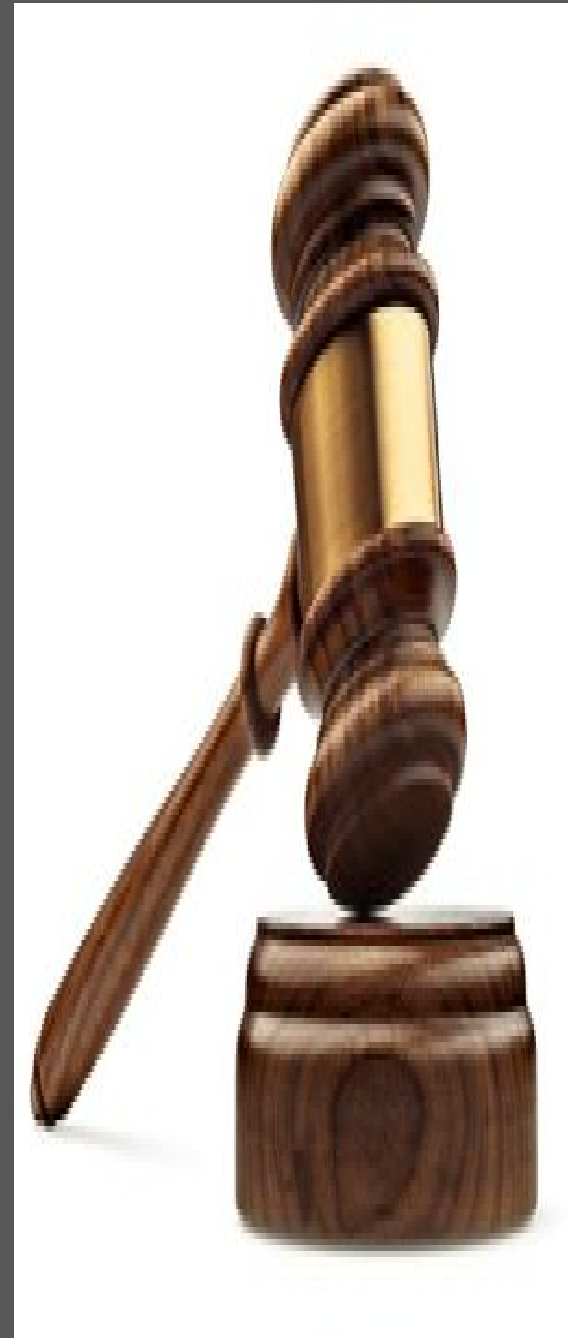
Carrot and Stick Supervision

- ▣ Research shows swiftness and sureness of sanction more impactful than duration and positive incentives are most powerful.
- ▣ Sanctions can include curfew, extending probation term, and weekend in jail.
- ▣ Positive incentives should include earned time, reduced reporting, and early discharge.



Promising Practice: Reentry Courts

- ▣ Pinellas County Reentry Drug Court provides case management, accountability, and connections to treatment, job, housing.
- ▣ Participants are either returning from DOC or from county jail where they were held for supervision violations.
- ▣ 2018 study by DOJ OJP found it reduced re-incarceration rate from 41% to 33%.



Fresh Start: Record Sealing

- ▣ Florida and most states have some procedure for record sealing in certain cases, but nationally only 5% of eligible people use.
- ▣ In 2018, Pennsylvania lawmakers passed Clean Slate law, which automatically clears records of some nonviolent offenses, eliminating need to hire a lawyer and file paperwork.



Unlocking Livelihoods

- ▣ Reform occupational licensing to avoid exclusions unless offense is directly related to job, recent, and duties of job would make recidivism more likely and harmful.
- ▣ License can include conditions such as initial period where licensee must be accompanied or can only do non-residential work.



Occupational Licensing Solutions

- ▣ Peer support programs have worked well in nursing and other fields when licensees confront problems such as substance abuse.
- ▣ Allow those with a criminal record to submit inquiry to find out whether they would be disqualified prior to undertaking educational and training requirements.



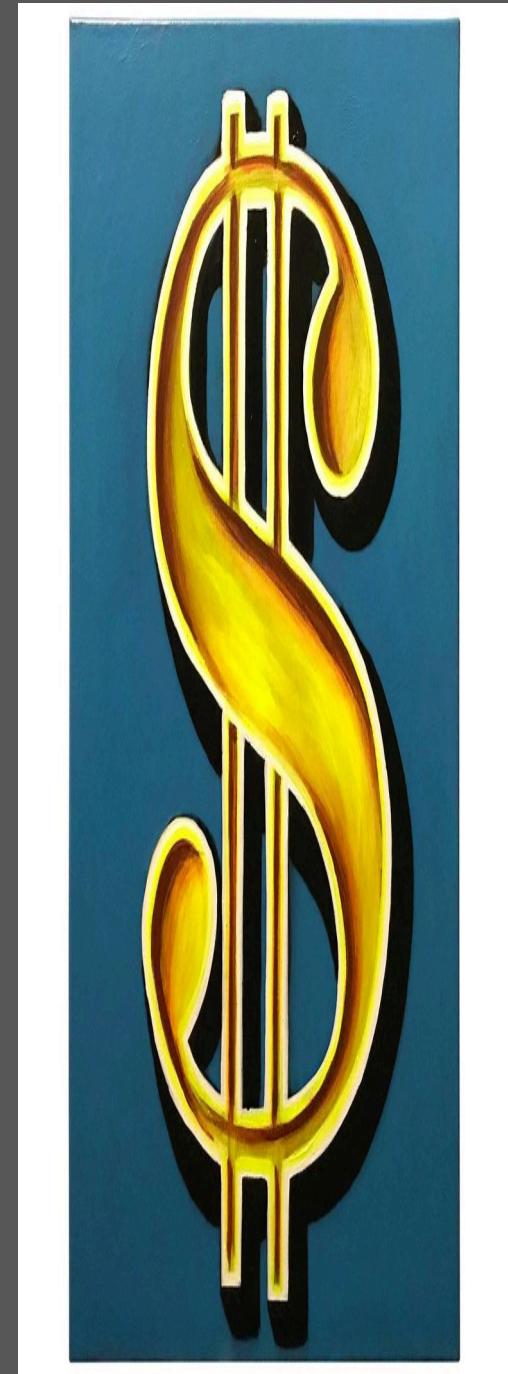
License to Drive or Fail?

- ▣ Many prisoners are discharged without driver's licenses or have suspensions
- ▣ Leads to jailing for driving with invalid license and more uninsured motorists
- ▣ ALEC model policy urges limiting suspensions for offenses that involve dangerous driving



Managing Financial Burdens

- ▣ Nationally, nearly 20% of county jail admissions for delinquent fines and fees.
- ▣ In 2017, TX. and LA. adopted legislation to preclude jailing of people who simply cannot afford to pay, enabling judges to reduce fines and sub community service.
- ▣ Returning citizens also owe billions in child support. Payment plans should ramp up commensurate with income growth.



Promoting Health Upon Reentry

- ▣ Pass statute similar to Texas 2017 law providing that federal benefits such as Medicaid will automatically restart if county jail stay less than 30 days and, if longer, can be automatically reactivated within 48 hours of release.
- ▣ Develop partnerships with community health care providers, including setting up appointments before release and transitional supply of medication, such as psychotropics



Key Resources

▣ ALEC (including model legislation)

www.alec.org

▣ Pew Public Safety

Performance Project

www.pewcenteronthestates.org

▣ Council of State Governments

www.csgjusticecenter.org

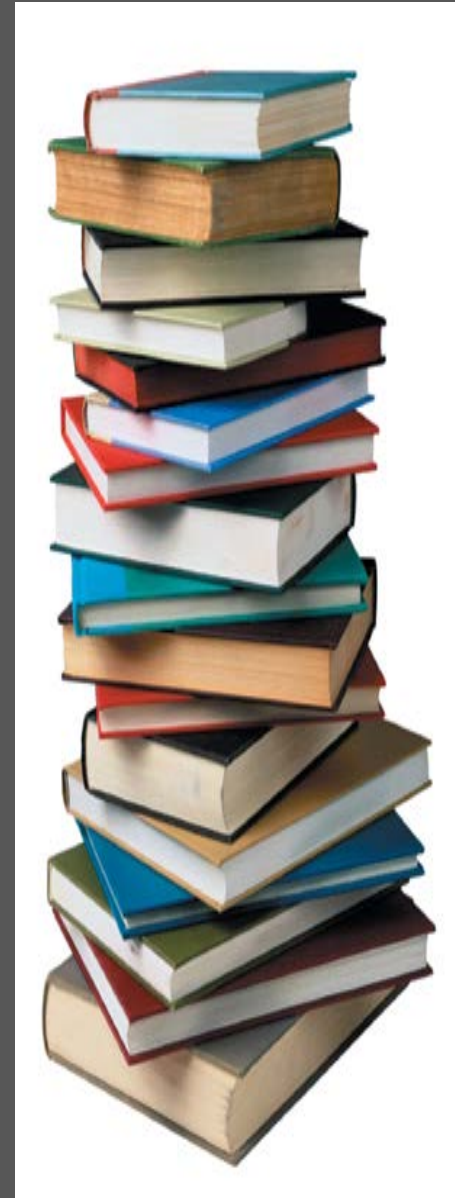
▣ Justice Fellowship

www.justicefellowship.org

▣ TPPF & Right on Crime

www.texaspolicy.com

www.rightoncrime.com



Diverting Low-Risk Offenders From Florida Prisons

A Presentation to the Senate Appropriations Subcommittee on Criminal and Civil Justice

Jim Clark, Ph.D.
Chief Legislative Analyst



OPPAGA

Office of Program Policy Analysis and Government Accountability

JANUARY 23, 2019

2018 General Appropriations Act Directed OPPAGA to

- Conduct a review of Florida's sentencing laws and identify policy options to reduce or divert low-risk offenders from entering Florida's prisons
- Consult with criminal justice policy experts who have conducted sentencing policy research in Florida

Questions

How are offenders sentenced in Florida?

What factors influence Florida's incarceration rate?

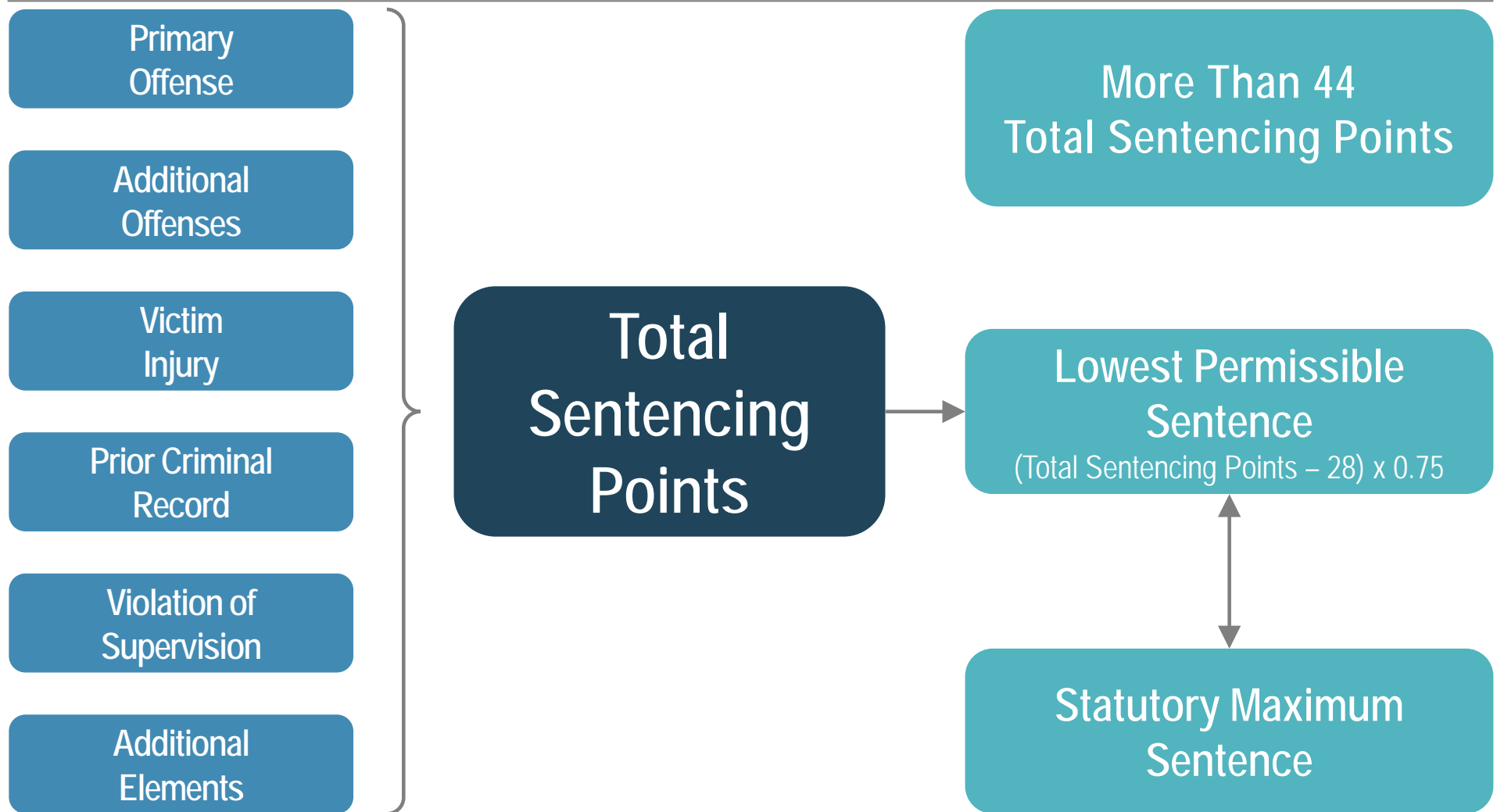
How does prison diversion occur in Florida?

Are there low-risk offenders who could be diverted from prison?

What options exist for diverting low-risk offenders from prison?

How are Offenders Sentenced in Florida?

Criminal Punishment Code



Source: OPPAGA analysis of the Criminal Punishment Code sentencing scoresheet.

Additional Factors That Determine Criminal Sentences

■ Mandatory Minimum Sentences

- Florida has more than 100 mandatory minimum terms that apply to many different crimes
- Statutory mandatory minimums are applied if they are greater than the lowest permissible sentence

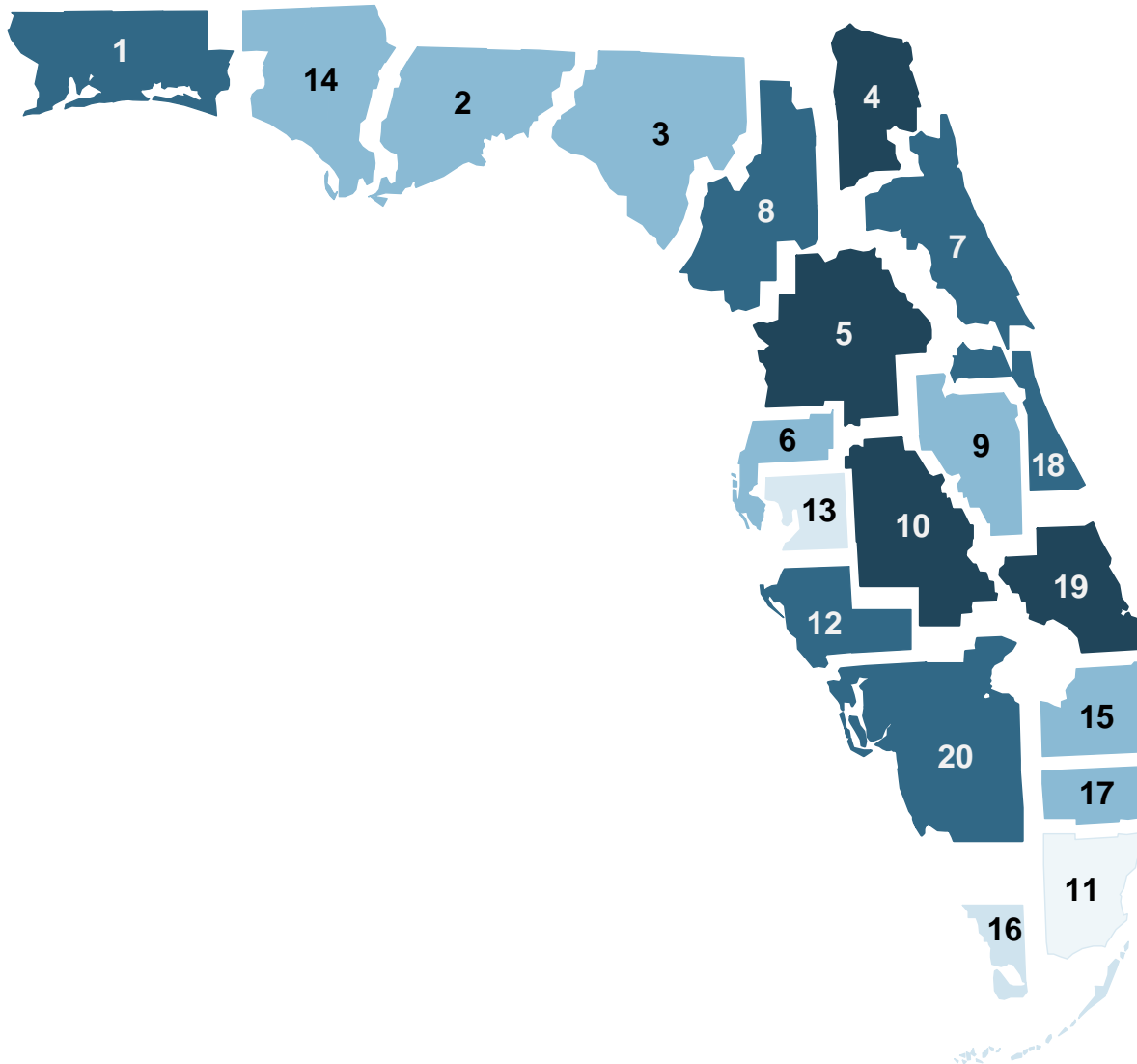
■ Downward Departures

- Judge may sentence below the lowest permissible sentence when mitigating factors are present but must make a written finding

■ Negotiated Plea Agreements

- 96% of felony sentences in Florida are the result of offenders' pleas

Imprisonment Rates for Offenders That Scored Above 44 Points by Circuit



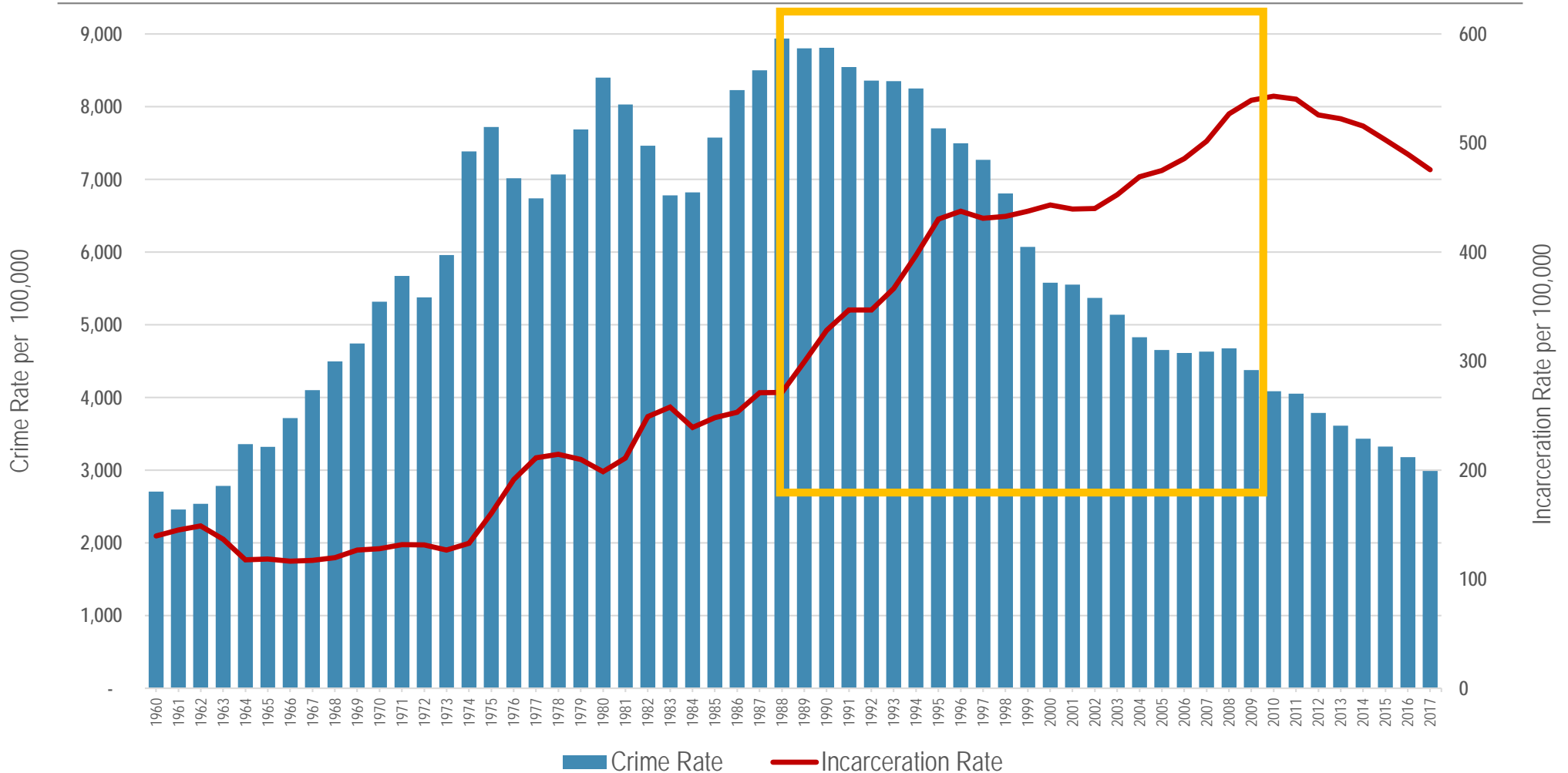
Judicial Circuit	Average
1st Circuit	66%
2nd Circuit	51%
3rd Circuit	52%
4th Circuit	71%
5th Circuit	72%
6th Circuit	58%
7th Circuit	65%
8th Circuit	67%
9th Circuit	55%
10th Circuit	79%
11th Circuit	37%
12th Circuit	64%
13th Circuit	49%
14th Circuit	58%
15th Circuit	56%
16th Circuit	43%
17th Circuit	50%
18th Circuit	62%
19th Circuit	79%
20th Circuit	63%
Average	59%

Note: Lighter blue color indicates lower imprisonment rate.

Source: OPPAGA analysis of Florida Department of Corrections scoresheet data for Fiscal Year 2016-17.

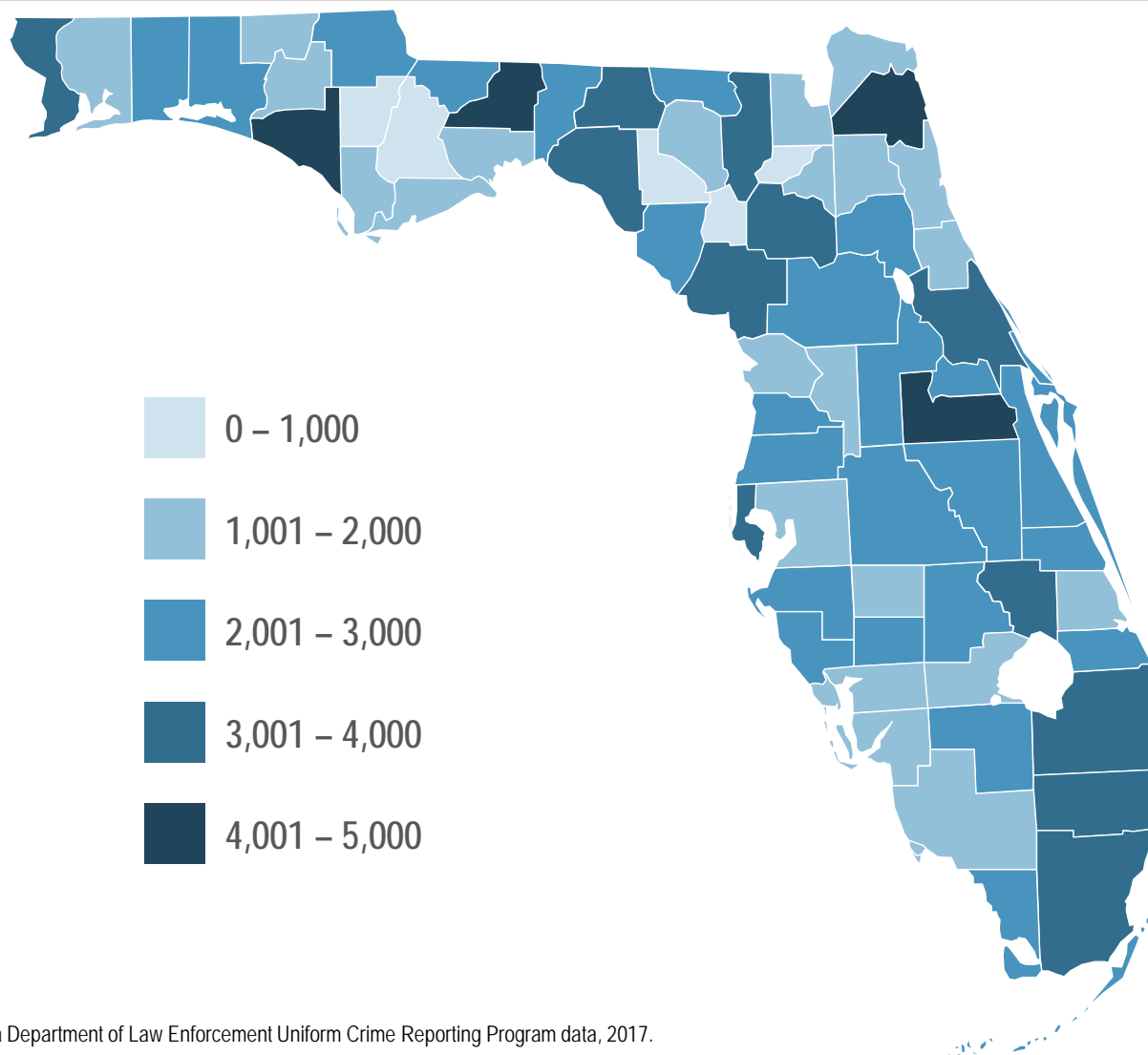
What Factors Influence Florida's Incarceration Rate?

Annual Rate of Crimes per 100,000 and Incarceration Rate per 100,000



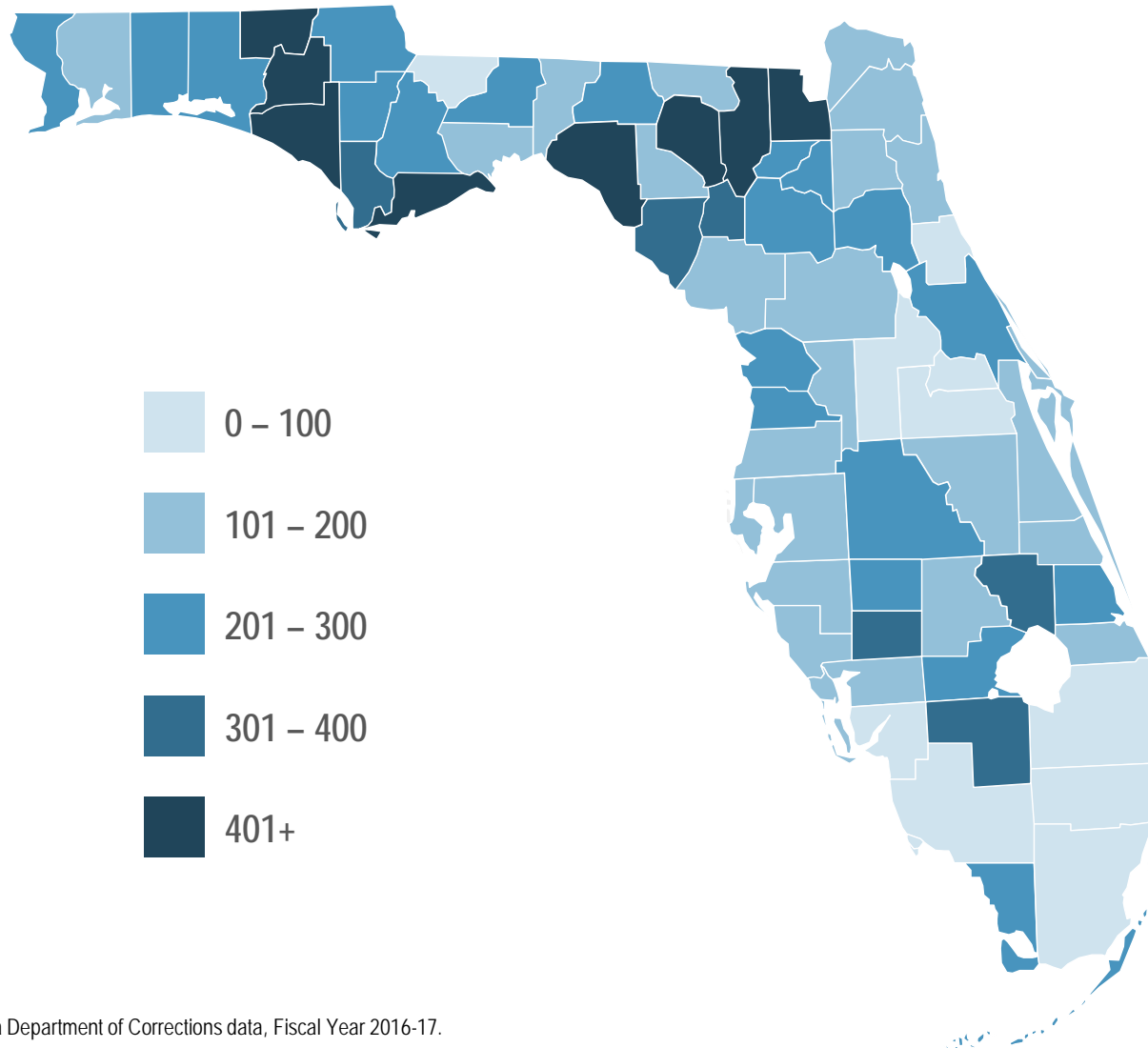
Source: OPPAGA analysis of Federal Bureau of Investigation and Florida Department of Law Enforcement Uniform Crime Reporting Program data, 1960 to 2017.

Crime Rate per 100,000 Population by County



Source: OPPAGA analysis of Florida Department of Law Enforcement Uniform Crime Reporting Program data, 2017.

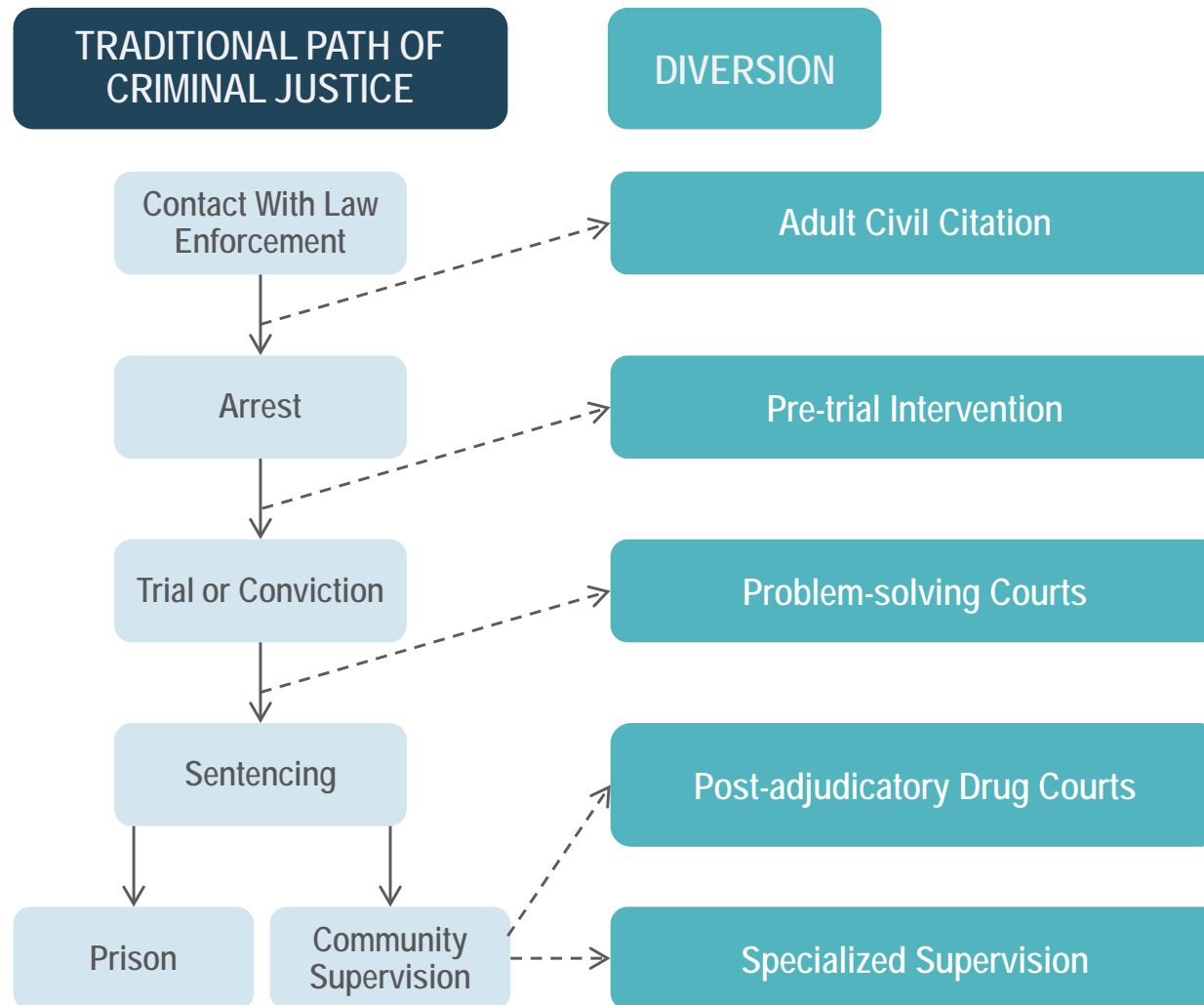
Incarceration Rate per 100,000 Population by County



Source: OPPAGA analysis of Florida Department of Corrections data, Fiscal Year 2016-17.

How Does Prison Diversion Occur in Florida?

Prison Diversion in Florida's Criminal Justice System



Source: OPPAGA analysis of Florida statutes.

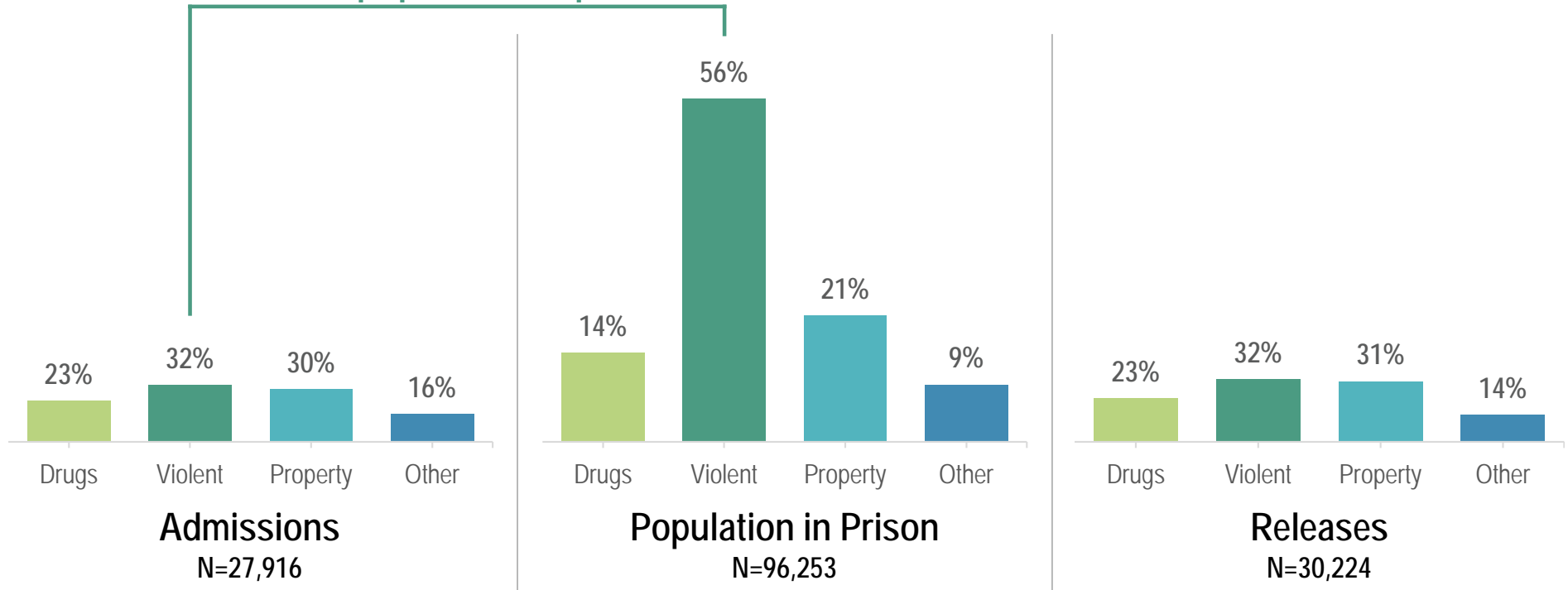
Potential Barriers to Prison Diversion

- **Diversion programs often serve very low-level offenders**
 - Many programs limited to first-time or misdemeanor offenders
- **Limited resources available for treatment programs**
 - State attorneys and public defenders both mentioned a lack of treatment programs in some areas of the state and a lack of funding to pay for treatment
- **Limited statewide data on program participation and outcomes**
 - Statewide data on program participation, program costs, treatment information, completion rates, and recidivism analysis are currently unavailable

Are There Low-Risk Offenders Who Could be Diverted From Prison?

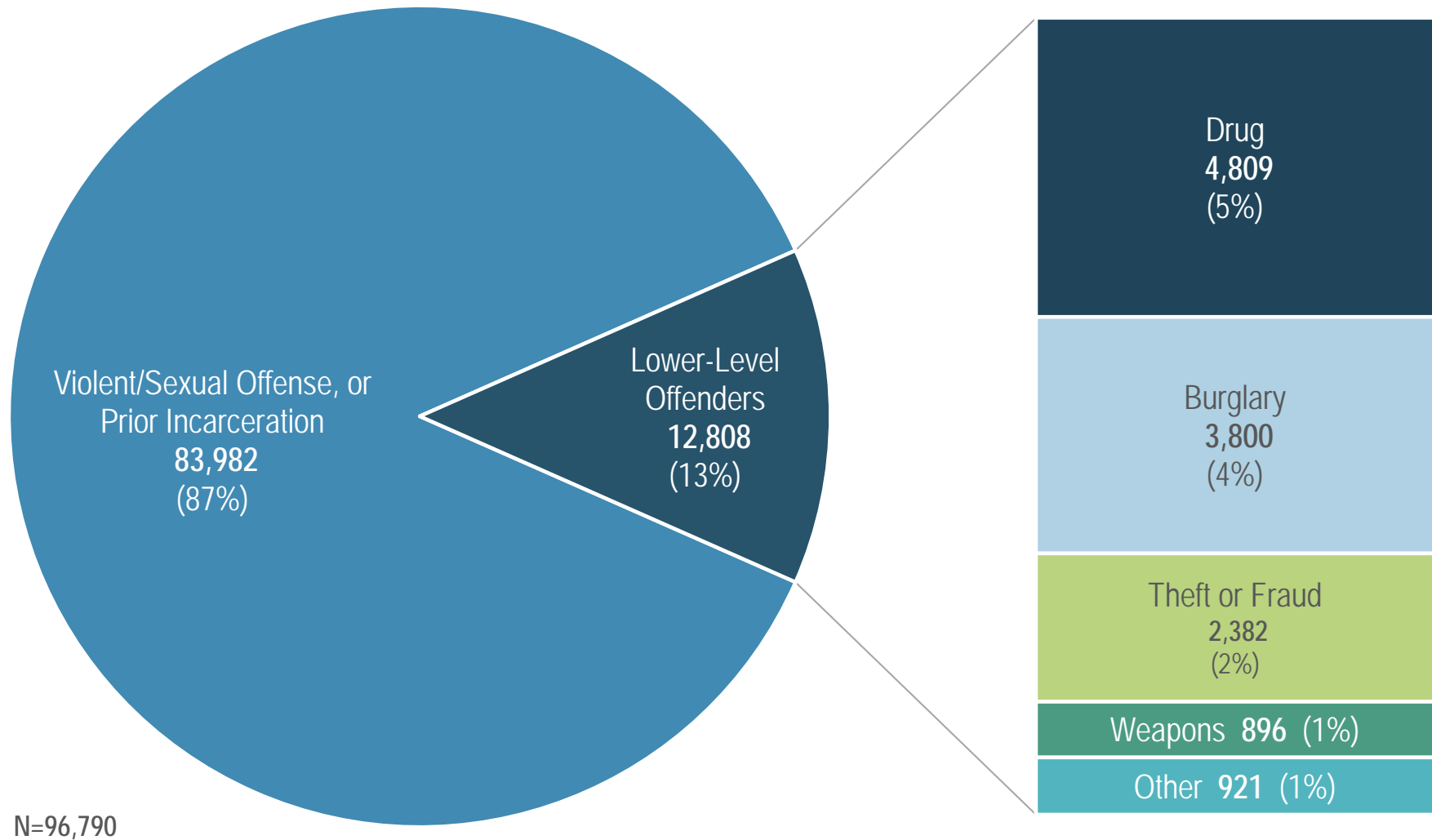
Most Offenders in Florida Prisons are Serving Sentences for Violent Crimes

Although **violent offenders** make up about one-third of those admitted to prison, they make up **more than half of the population in prison**



Source: Florida Department of Corrections Annual Report, Fiscal Year 2017-18.

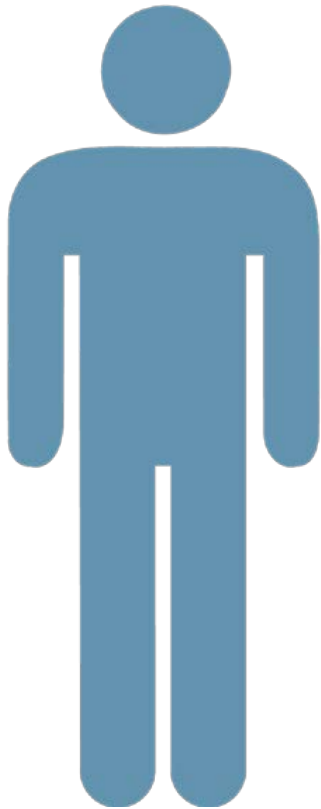
Primary Offenses of Inmates with No Violent/Sexual Convictions and First Time Imprisonment



Source: OPPAGA analysis of Florida Department of Corrections and Florida Department of Law Enforcement data.

Offender Matching Criteria for Recidivism Analysis

Community Supervision

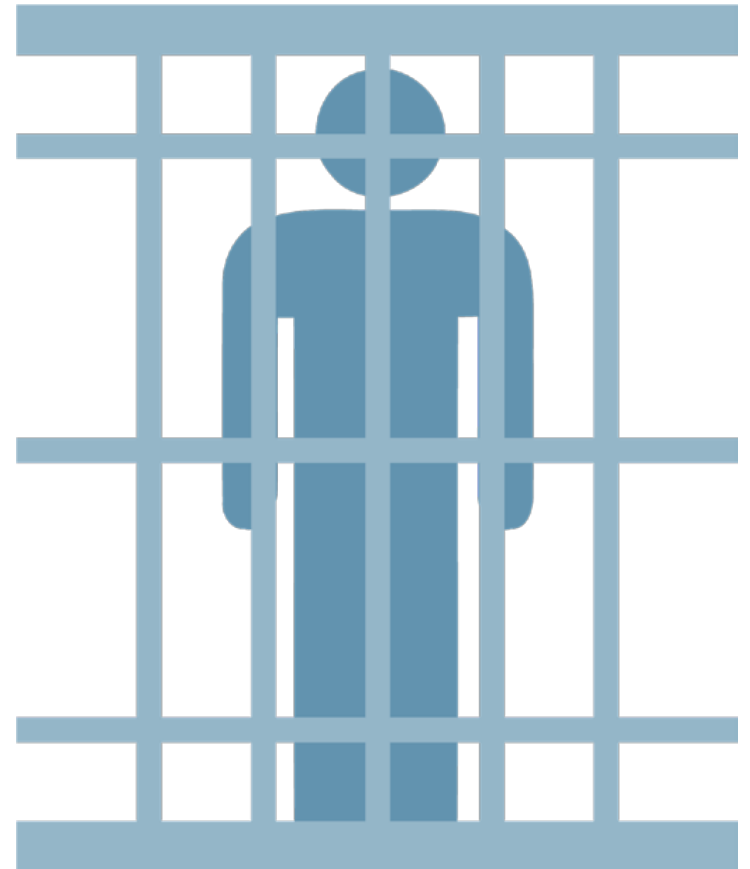


Match Criteria

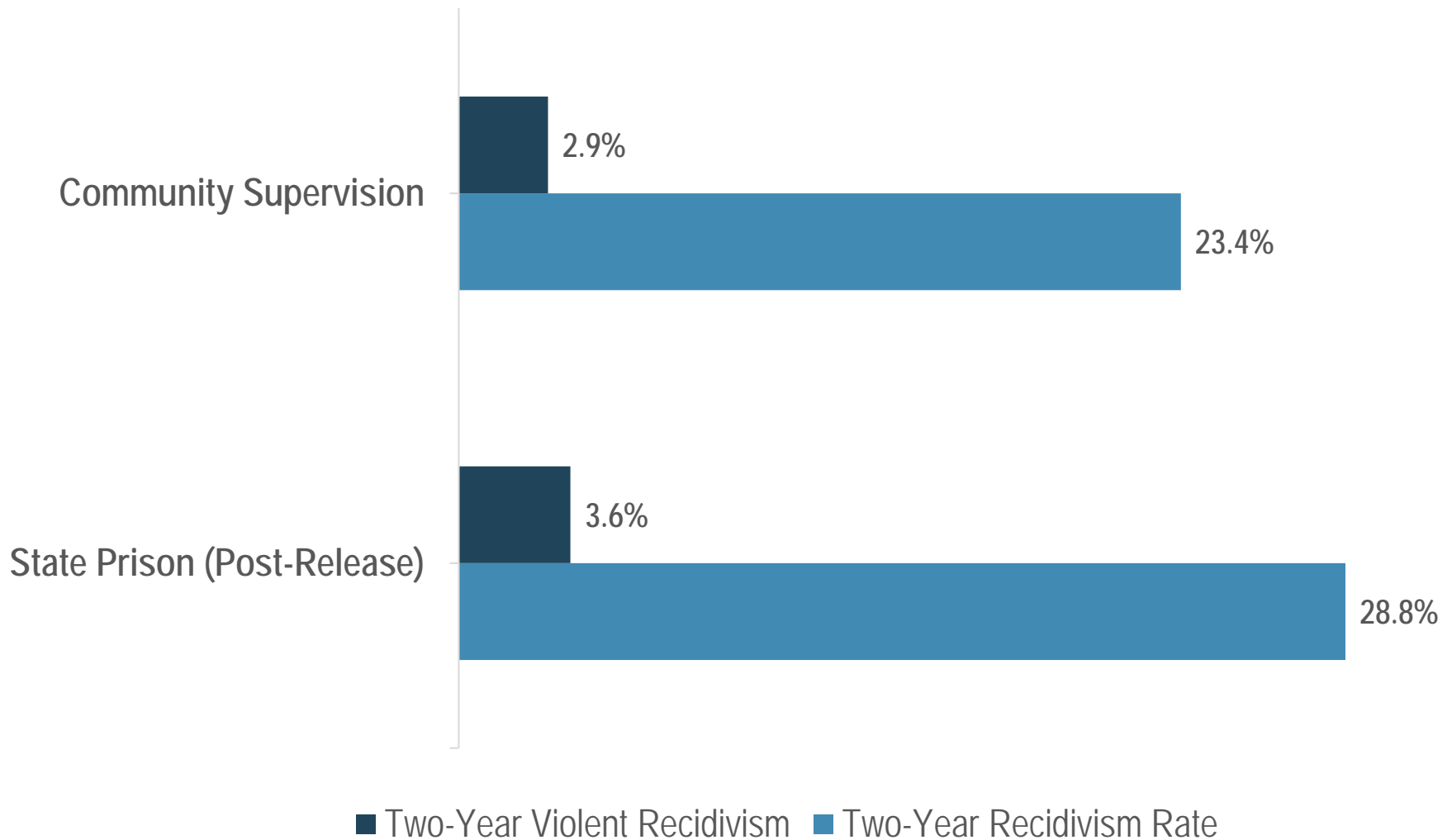
- Type of Offense
- Total Sentencing Points
- Criminal History
- Probation Violations
- Age
- Race
- Sex

N=48,878

Prison

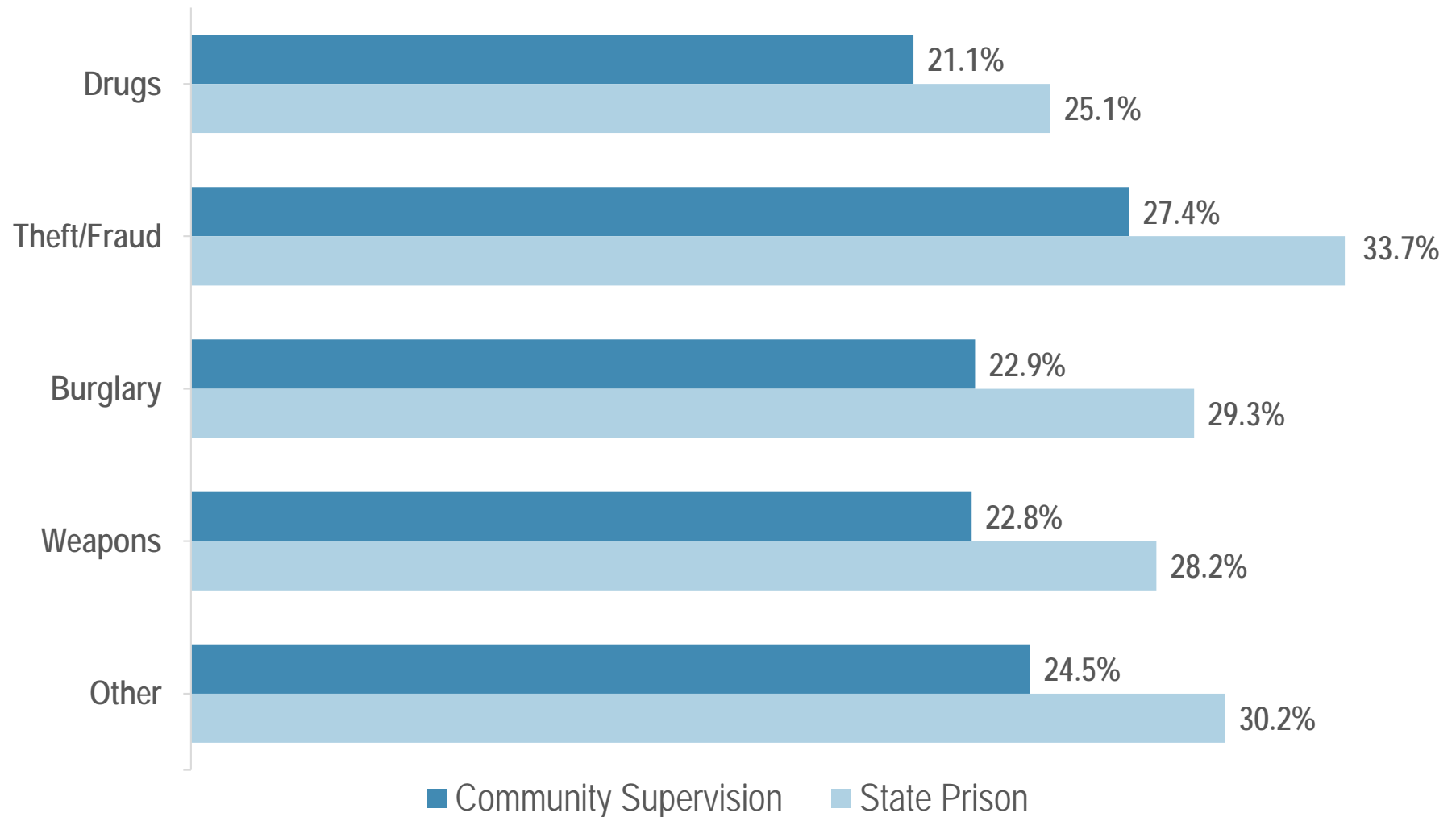


Comparison of Two-Year Recidivism Rates for Offenders on Community Supervision and in State Prison



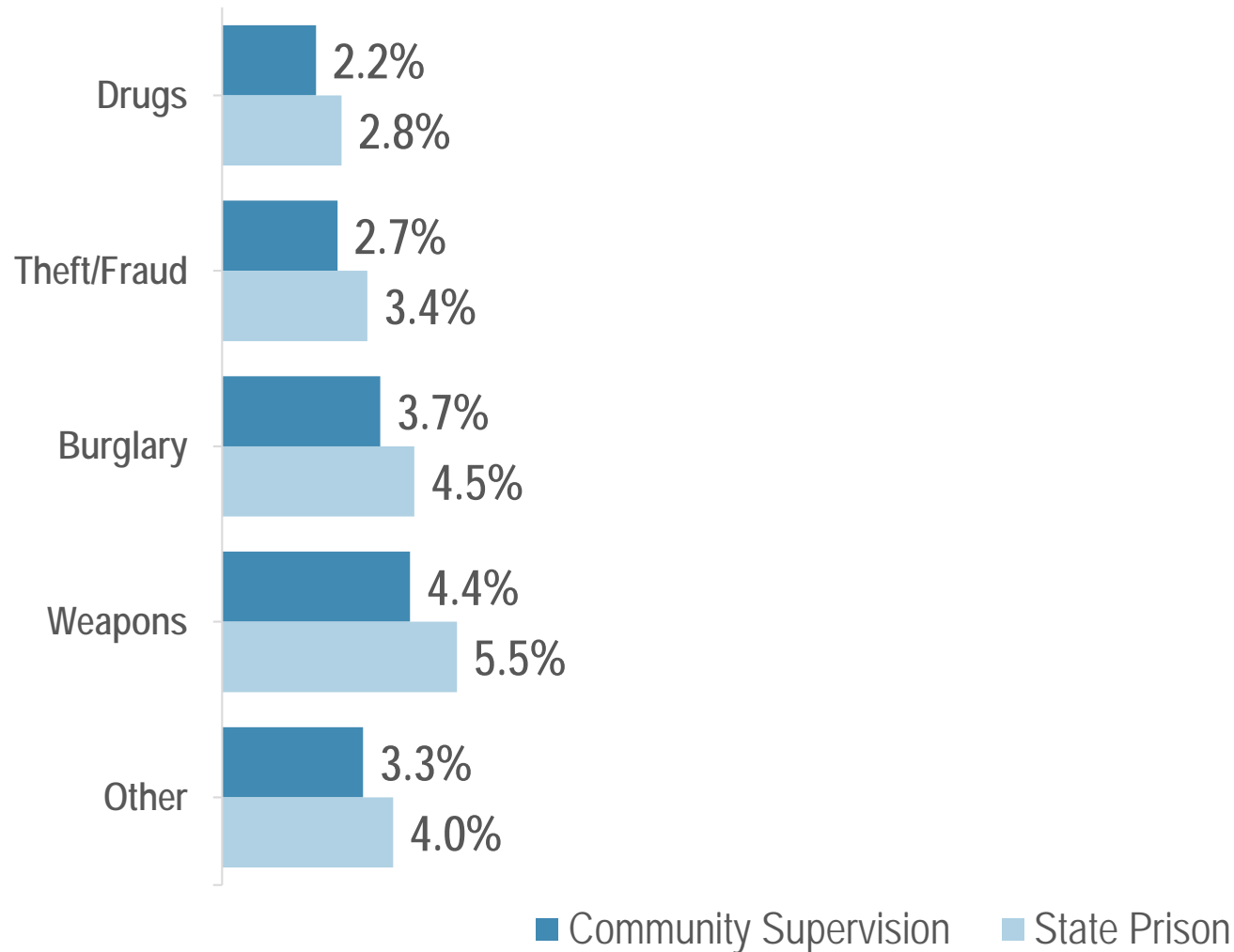
Source: OPPAGA analysis of Florida Department of Corrections and Florida Department of Law Enforcement data.

Recidivism Rates for Offenders on Community Supervision and in State Prison



Source: OPPAGA analysis of Florida Department of Corrections and Florida Department of Law Enforcement data.

Violent Recidivism Rates for Offenders on Community Supervision and in State Prison



Source: OPPAGA analysis of Florida Department of Corrections and Florida Department of Law Enforcement data.

What Options Exist for Diverting Low-Risk Offenders From Prison?

Cost Associated With Criminal Sanctions

Prison

- \$55.80/day or \$20,367/year
- 1,500 inmates cost \$30.5 million/year

Probation

- \$5.52/day or \$2,015/year
- 1,500 supervisees cost \$3 million/year

The Legislature Could Consider Options for Diverting Low-Level Offenders from Prison

- Encourage problem-solving courts to serve more offenders at risk of prison
- Create a safety valve or modify mandatory minimum terms for drug offenses
- Divert additional lower-level offenders from prison by reducing certain third degree felonies to misdemeanors
- Consider revising the Criminal Punishment Code to divert additional offenders from prison, while retaining judges' discretion to use prison as a sanction when appropriate

Questions?

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FLORIDA LEGISLATURE OFFICE OF PROGRAM POLICY ANALYSIS AND
GOVERNMENT ACCOUNTABILITY

OPPAGA supports the Florida Legislature by providing data, evaluative research, and objective analyses that assist legislative budget and policy deliberations.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/23/19

Meeting Date

Bill Number (if applicable)

Topic Criminal Justice

Amendment Barcode (if applicable)

Name Michelle Soskauer

Job Title Pres., FL Bar

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tallahassee FL 32399

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Speaking: [] For [] Against [X] Information

Waive Speaking: [] In Support [] Against (The Chair will read this information into the record.)

Representing The Florida Bar

Appearing at request of Chair: [] Yes [] No

Lobbyist registered with Legislature: [] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

CourtSmart Tag Report

Room: LL 37

Case No.:

Type:

Caption: Senate Criminal and Civil Justice Committee

Judge:

Started: 1/23/2019 1:33:18 PM

Ends: 1/23/2019 2:59:14 PM

Length: 01:25:57

1:33:17 PM Senator Brandes (Chair)
1:34:37 PM Presentation on Criminal Justice Reform
1:35:00 PM Jim Clark, Ph.D., Chief Legislative Analyst, Office of Program Policy Analysis and Government
1:53:43 PM Sen. Brandes
1:53:47 PM Sen. Rouson
1:54:31 PM J. Clark
1:54:57 PM Sen. Rouson
1:55:23 PM J. Clark
1:55:32 PM Sen. Rouson
1:55:55 PM J. Clark
1:55:58 PM Sen. Rouson
1:56:06 PM J. Clark
1:56:11 PM Sen. Rouson
1:56:20 PM Sen. Brandes
1:56:26 PM Sen. Rouson
1:56:43 PM Sen. Rouson
1:57:27 PM J. Clark
1:58:22 PM Sen. Brandes
1:58:29 PM J. Clark
1:58:31 PM Sen. Brandes
1:58:37 PM Sen. Perry
1:58:53 PM J. Clark
1:59:01 PM Sen. Perry
1:59:10 PM J. Clark
1:59:36 PM Sen. Perry
2:00:03 PM J. Clark
2:01:17 PM Sen. Perry
2:01:53 PM Sen. Brandes
2:02:38 PM Shon Hopwood, Lawyer and Professor at Georgetown University
2:11:31 PM Sen. Brandes
2:11:35 PM Sen. Bracy
2:12:12 PM S. Hopwood
2:14:44 PM Sen. Brandes
2:15:03 PM Marc Levin, Vice President of Criminal Justice Policy at the Texas Public Policy Foundation
2:27:33 PM Sen. Perry
2:27:51 PM M. Levin
2:30:46 PM Sen. Harrell
2:31:16 PM M. Levin
2:35:24 PM Sen. Brandes
2:35:29 PM Sen. Gainer
2:36:01 PM M. Levin
2:38:07 PM Sen. Brandes
2:38:29 PM Michelle Suskauer, President, The Florida Bar
2:41:18 PM Sen. Brandes
2:41:43 PM Vikrant Reddy, Senior Research Fellow at the Charles Koch Institute
2:48:14 PM Sen. Rouson
2:48:23 PM Sen. Brandes
2:48:39 PM Greg Newburn, State Policy Director at Families Against Mandatory Minimums
2:56:29 PM Sen. Brandes
2:57:47 PM Sen. Rouson
2:58:21 PM Sen. Brandes