

THE
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Alaska Criminal Justice System Assessment

Alaska Commission on Criminal Justice
August 3, 2015
Anchorage, AK

Presentation Outline

- System assessment
 - Pretrial
 - Sentencing
 - Community supervision
- Prison growth and costs
- Next steps
 - Subgroups and schedule

Sources

- Data analysis
 - Alaska Department of Corrections probation/parole data
 - Alaska court case file review
- Statutory and policy review
- Interviews with system stakeholders
 - Department of Corrections, judiciary, Department of Law, public defenders, Division of Behavioral Health, Mental Health Trust

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PRETRIAL

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Presentation Outline

- System assessment
 - **Pretrial**
 - **Pretrial research**
 - **Pretrial practices in Alaska**
 - Sentencing
 - Community supervision
- Prison growth and costs
- Next steps
 - Subgroups and schedule

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PRETRIAL RESEARCH

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Pretrial

Pretrial Risk Assessment

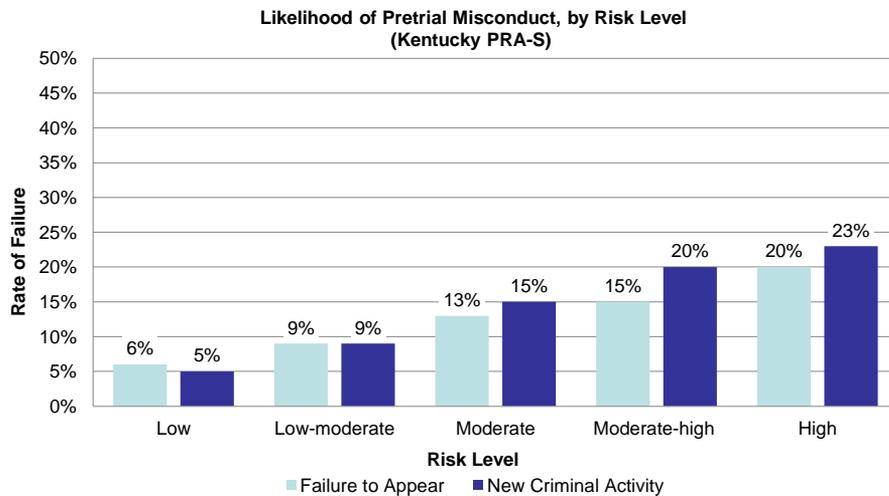
- Risk = the likelihood of a negative future outcome
- Pretrial risk = the likelihood of failure to appear in court or new criminal activity during the pretrial period
- Actuarial risk assessment tools are more accurate than professional judgment alone
 - Have higher predictive validity
 - Reduce disparities across judicial districts

Source: Mamalian (2011), *State of the Science of Pretrial Risk Assessment*

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Pretrial

Risk Assessment Tools Predict Likelihood of Pretrial Failure



Source: Lowenkamp & VanNostrand (2013), *Assessing Pretrial Risk Without a Defendant Interview*

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Pretrial

Use Risk Scores to Guide Decisions About Release Conditions

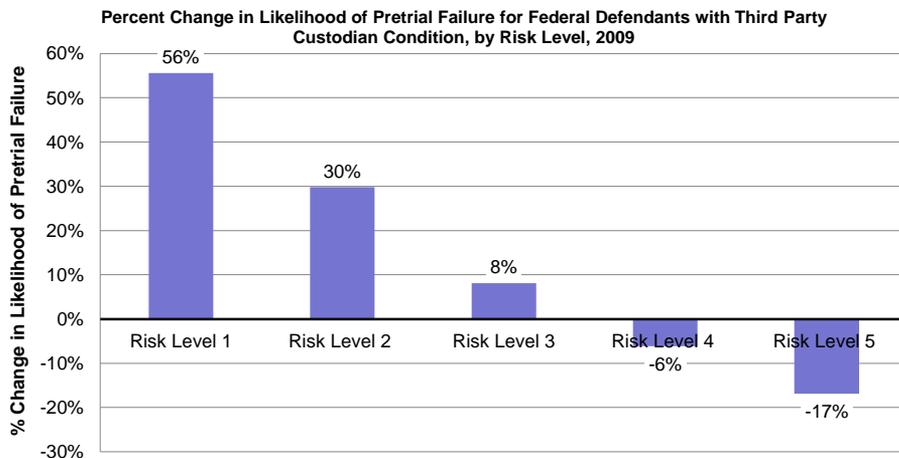
- Courts should use risk scores to guide decisions about release conditions
 - Examples of release conditions: Third-party custodian, electronic monitoring, drug and alcohol testing, etc.
- When applied to higher-risk defendants, restrictive release conditions lead to better pretrial outcomes
- When applied to lower-risk defendants, restrictive conditions lead to worse pretrial outcomes

Source: VanNostrand (2009), *Pretrial Risk Assessment in the Federal Court*

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Pretrial

Third-Party Custodians Helpful For Higher-Risk Defendants, Not For Lower-Risk Defendants



Source: VanNostrand (2009), *Pretrial Risk Assessment in the Federal Court*

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Pretrial

Pretrial Detention Can Lead to Worse Outcomes

Pretrial detention can lead to worse outcomes, particularly for low-risk defendants

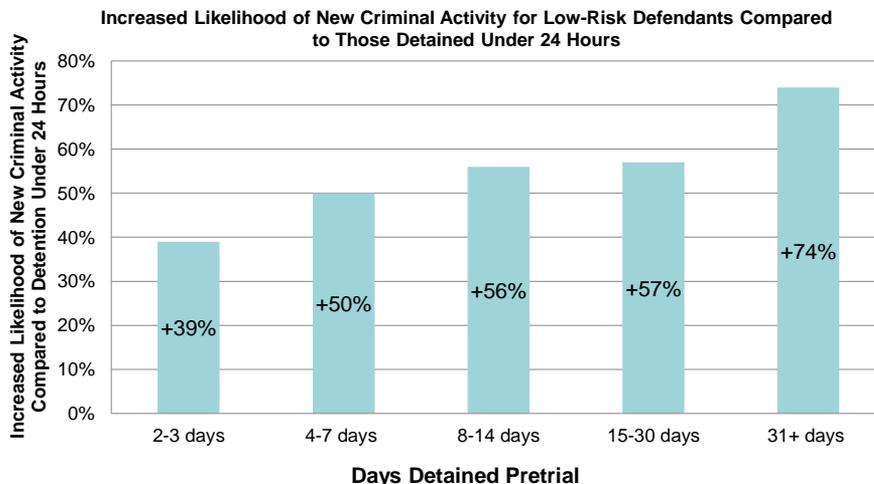
- Low-risk defendants detained longer than 24 hours are:
 - Less likely to appear for court
 - More likely to engage in new criminal activity during the pretrial period
 - More likely to recidivate long-term

Source: Lowenkamp, VanNostrand & Holsinger (2013), *The Hidden Cost of Pretrial Detention*

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Pretrial

For Low-Risk Defendants, Detention Longer than 24 Hours Associated with Increased Criminal Activity



Source: Lowenkamp, VanNostrand & Holsinger (2013), *The Hidden Cost of Pretrial Detention*

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Pretrial

Money Bond Not The Most Effective Tool To Protect The Public During The Pretrial Period

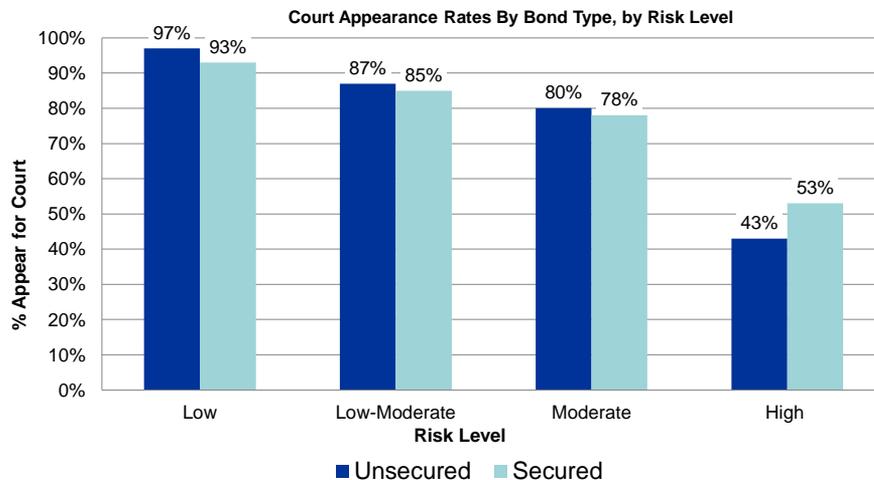
- Ability to pay money bond ≠ low-risk
 - There are low-risk defendants who are unlikely to engage in new criminal activity but who *can't* afford bail
 - And there are high-risk defendants who are likely to engage in new criminal activity who *can* afford bail

Source: Schnacke (2014), *Money As a Criminal Justice Stakeholder: The Judge's Decision to Release or Detain a Defendant Pretrial*

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Pretrial

Unsecured Bonds Are As Effective At Achieving Court Appearance As Secured Bonds

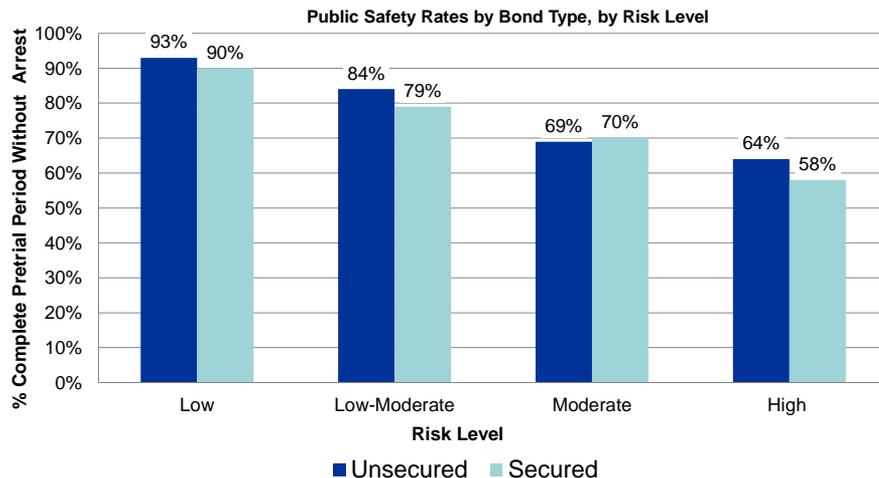


Source: Jones (2013), *Unsecured Bonds: The As Effective and Most Efficient Pretrial Release Option*

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Pretrial

Unsecured Bonds Are As Effective At Achieving Public Safety As Secured Bonds

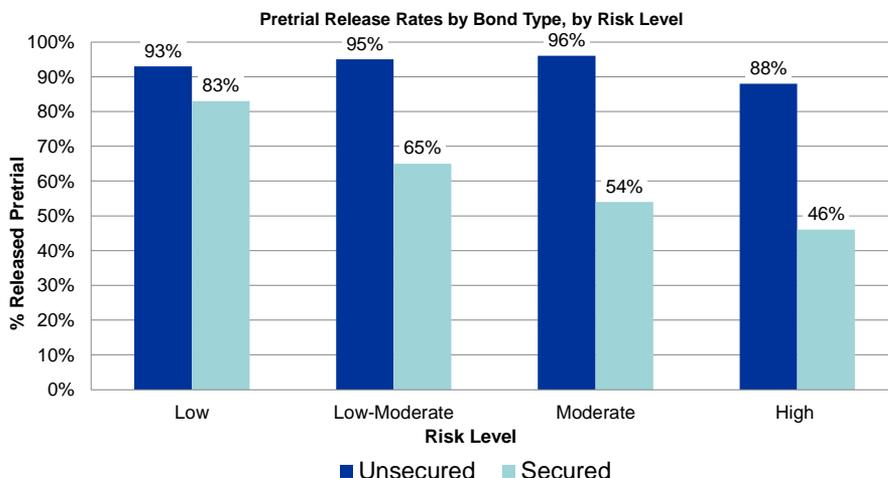


Source: Jones (2013), *Unsecured Bonds: The As Effective and Most Efficient Pretrial Release Option*

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Pretrial

Defendants With Unsecured Bonds Released At Higher Rates Than Those With Secured Bonds



Source: Jones (2013), *Unsecured Bonds: The As Effective and Most Efficient Pretrial Release Option*

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Pretrial

Appearance Rates Increase When Courts Make Accommodations For Defendants

- Court date reminders (mail, email, phone call, text)
- Night court for defendants who work during the day
- Remote participation in court hearings by teleconference

Source: Bechtel, Holsinger, Lowenkamp & Warren (2015), *A Meta-Analytic Review of Pretrial Research: Risk Assessment, Bond Type, and Interventions*

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Pretrial

Research Summary

- Pretrial risk assessment can help predict likelihood of pretrial failure
 - Courts should use risk scores to guide release decisions, and focus release conditions on higher-risk defendants
- Pretrial detention can lead to worse outcomes, particularly for low-risk defendants
 - Secured financial bond increases pretrial detention, without increasing pretrial success

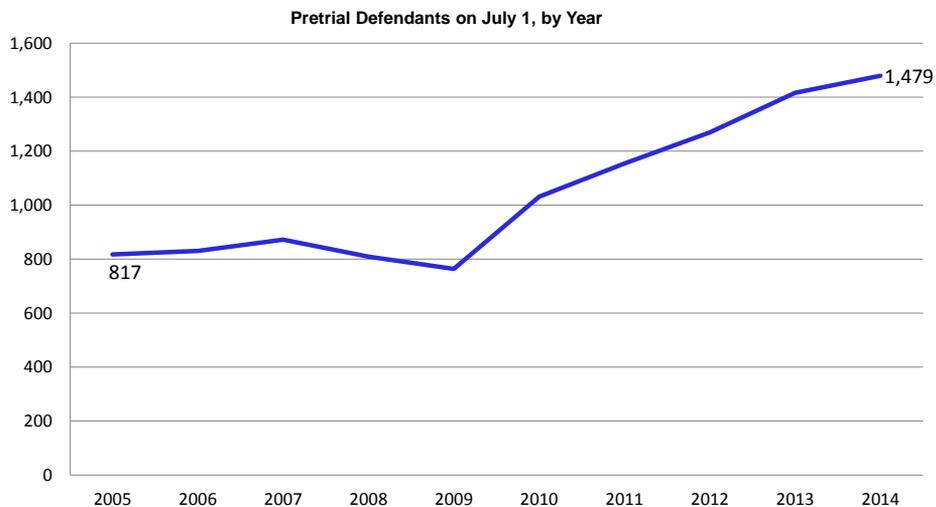
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PRETRIAL PRACTICES IN ALASKA

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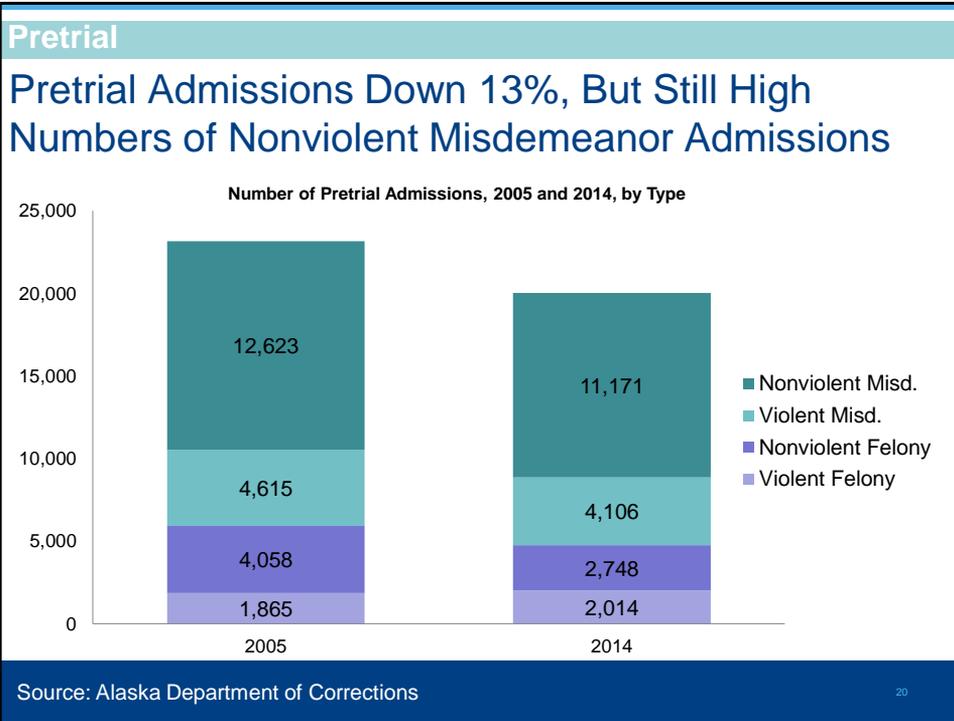
Pretrial

Number of Pretrial Detainees Up 81% in Last Decade



Source: Alaska Department of Corrections

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Pretrial

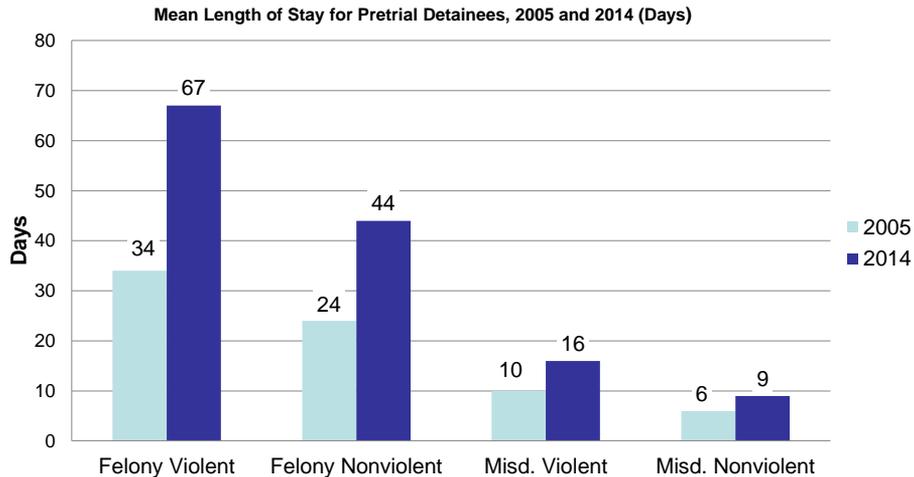
Pretrial Admissions: Citation vs. Arrest

- Officers permitted by statute to issue citations for nonviolent misdemeanors rather than arrest
- However, lack of statutory guidance on when to cite vs. arrest

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Pretrial

Defendants Staying Longer Pretrial Than They Used To



Source: Alaska Department of Corrections

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Pretrial

Alaska Court File Review

- Purpose: To examine pretrial release conditions and time to first release
- Sampled court case files from Anchorage, Fairbanks, Juneau, Bethel, and Nome
 - Randomly selected from DOC release cohort for each jurisdiction
 - Of case files reviewed, 310 files had bail conditions for analysis
 - Data entry and analysis by Pew and Alaska Judicial Council

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Pretrial

Few Defendants Released On Their Own Recognizance Or On Unsecured Bond

- Statute presumes release on recognizance or unsecured bond
- In practice, only 12% of defendants sampled were released on their own recognizance, and an additional 10% had unsecured bond

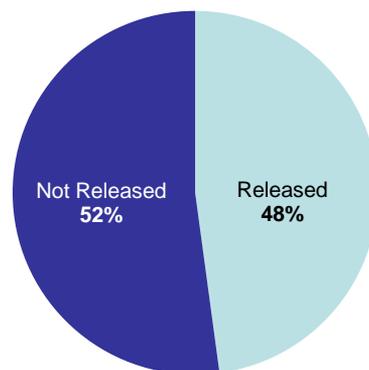
Source: Alaska Court File Review

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Pretrial

Less than Half of Sampled Defendants Are Released From Prison Pretrial

Percent of Sampled Defendants Released Pretrial



Source: Alaska Court File Review

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Pretrial

Release Linked to Ability to Pay Rather Than Defendant's Risk

- Pretrial risk assessment not used in decisions about whether to release or detain, or in setting conditions of release
- Because secured bond is ordered in the majority of cases, release is often linked to ability to pay rather than the defendant's risk of pretrial failure

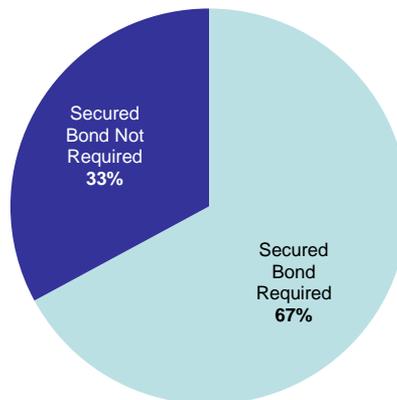
Source: Alaska Court File Review

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Pretrial

Money Bond Set In Two-Thirds Of Cases

Percent of Sampled Defendants With Secured Bond Requirements

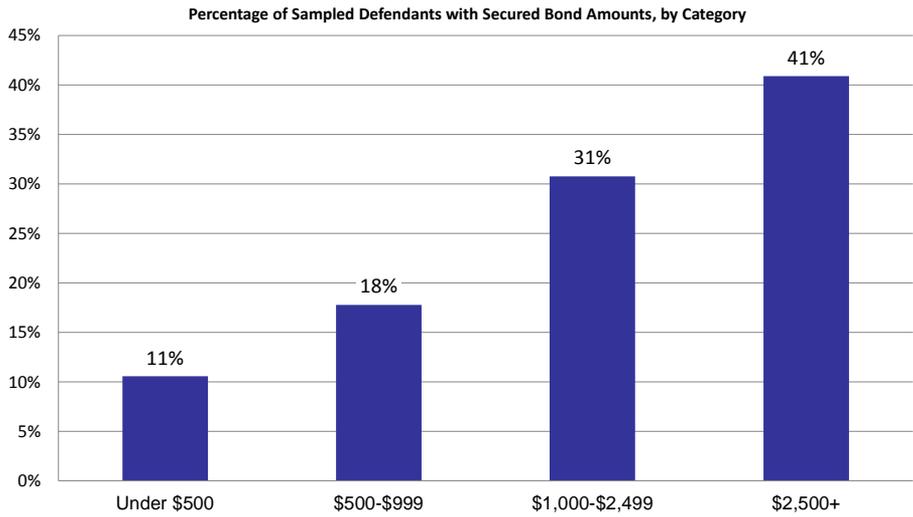


Source: Alaska Court File Review

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Pretrial

41% of Bonds Set At \$2,500 or More

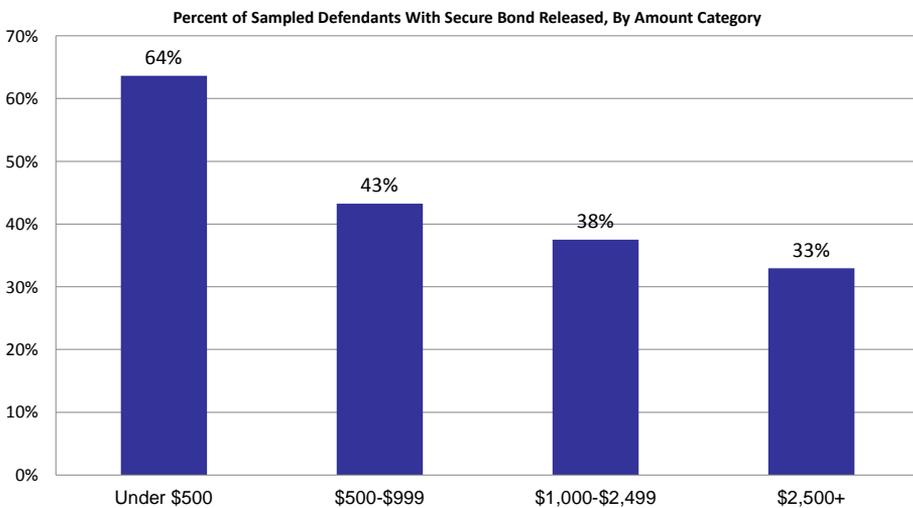


Source: Alaska Court File Review

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Pretrial

Lower Release Rates For Higher Bond Amounts

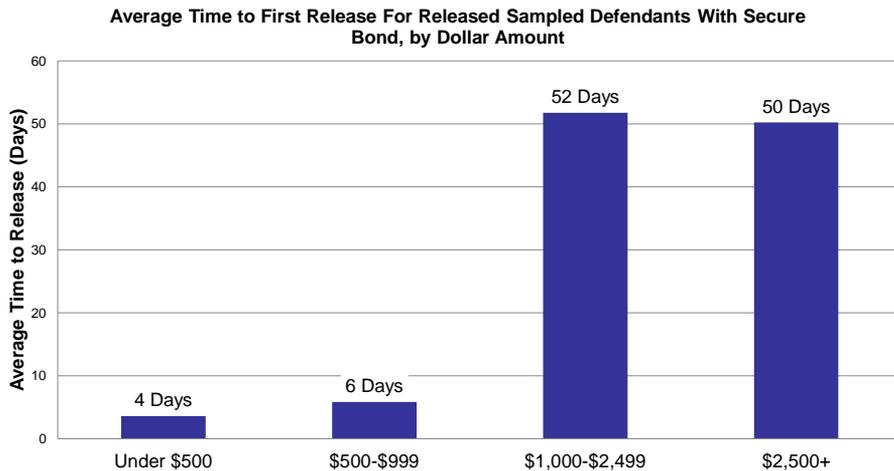


Source: Alaska Court File Review

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Pretrial

Longer Detention Before First Release For Defendants With Higher Bond Amounts



Source: Alaska Court File Review

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Pretrial

Other (Non-Financial) Release Conditions Not Tied To Risk

- While courts have statutory authority to order non-financial release conditions
 - Examples: Third-party custodians, drug and alcohol monitoring, home arrest, etc.
- No actuarial tool used to guide decisions on release conditions
 - Unknown whether more restrictive conditions are focused on higher-risk defendants

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Pretrial

Third-Party Custodian Conditions Required In Addition to Money Bond

- Third-party custodian required for defendant's release in 23% of cases sampled
- Of those defendants with a third-party custodian condition, all also had money bail conditions

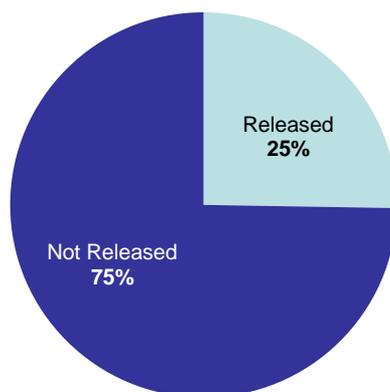
Source: Alaska Court File Review

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Pretrial

Three-Quarters of Defendants With Third Party Custodian Conditions Not Released Pretrial

Percentage of Sampled Defendants with Third Party Custodian Condition Who Were Released



Source: Alaska Court File Review

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Pretrial

Accommodations To Increase Court Appearance

- No statewide court date reminder system (mail, email, phone call, text) to increase court appearance rates
- Reports of some courts making ad hoc accommodations to increase court appearance such as conducting hearings by teleconference

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Pretrial

Less Serious Cases Not Prioritized For Speedier Trial

- No statute on speedy trial timelines
- Court rule on speedy trial:
 - Prioritizes scheduling of cases for defendants in custody over defendants who have been released
 - But does not prioritize scheduling of misdemeanor cases over felony cases
 - Speedy trial time limit for felonies, misdemeanors, and violations is 120 days

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Pretrial

Questions For Policy Development

- What guidance can be provided to law enforcement regarding cite vs. arrest for misdemeanor offenses?
- How can Alaska incorporate evidence-based risk tools into pretrial decision-making?
- What accommodations can be made to increase court appearance rates?
- How can court processes be streamlined to reduce pretrial lengths of stay?

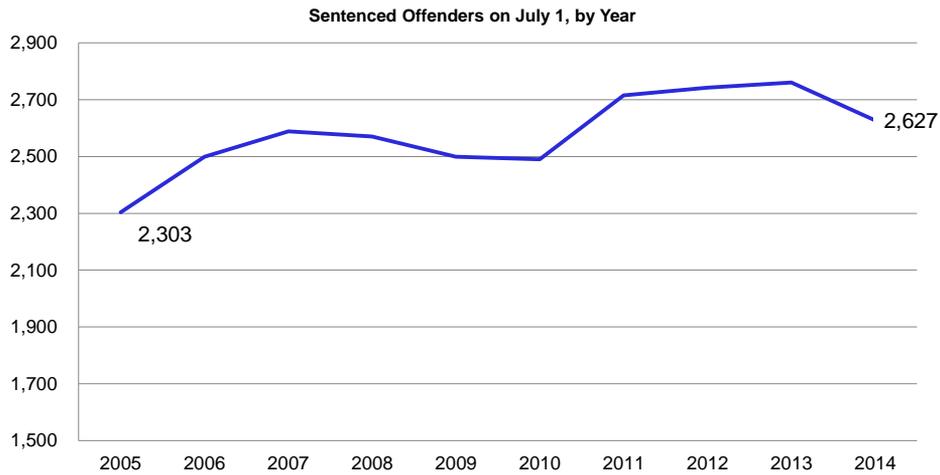
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SENTENCING

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Sentencing

Number of Sentenced Inmates Up 14% in Last Decade



Source: Alaska Department of Corrections

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Presentation Outline

- System assessment
 - Pretrial
 - **Sentencing**
 - **Prison admissions and recidivism**
 - **Prison length of stay and recidivism**
 - Community supervision
- Prison growth and costs
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 - Subgroups and schedule

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PRISON ADMISSIONS AND RECIDIVISM

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Sentencing

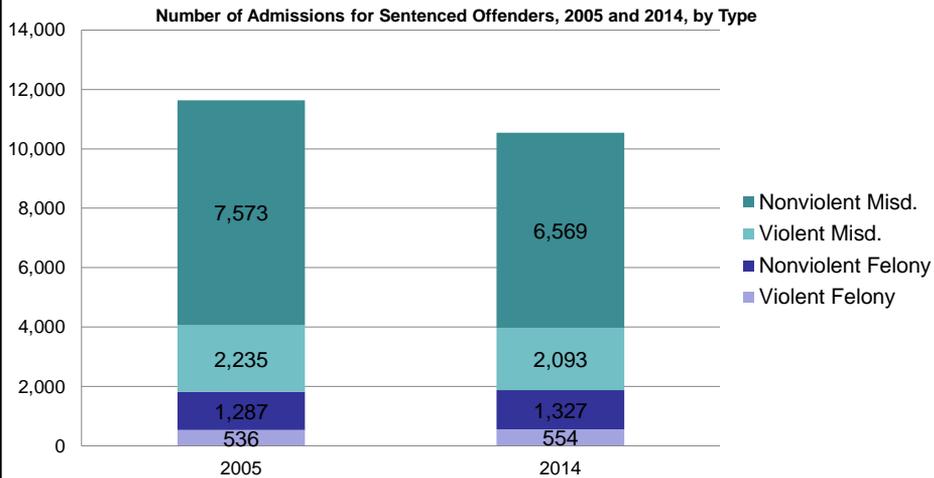
Prison Admissions and Recidivism: Current Practice in Alaska

- Research summary—
 - Incarceration is not more effective at reducing recidivism than non-custodial sanctions
- Current practices in Alaska—
 - Large – though declining – number of misdemeanants sentenced to prison
 - Number of nonviolent felons sentenced to prison up slightly
 - Despite options, limited use of prison alternatives outside of probation

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Sentencing

Despite Declines, 82% of Prison Admissions Are Misdemeanants; Nonviolent Felons Up Slightly



Source: Alaska Department of Corrections

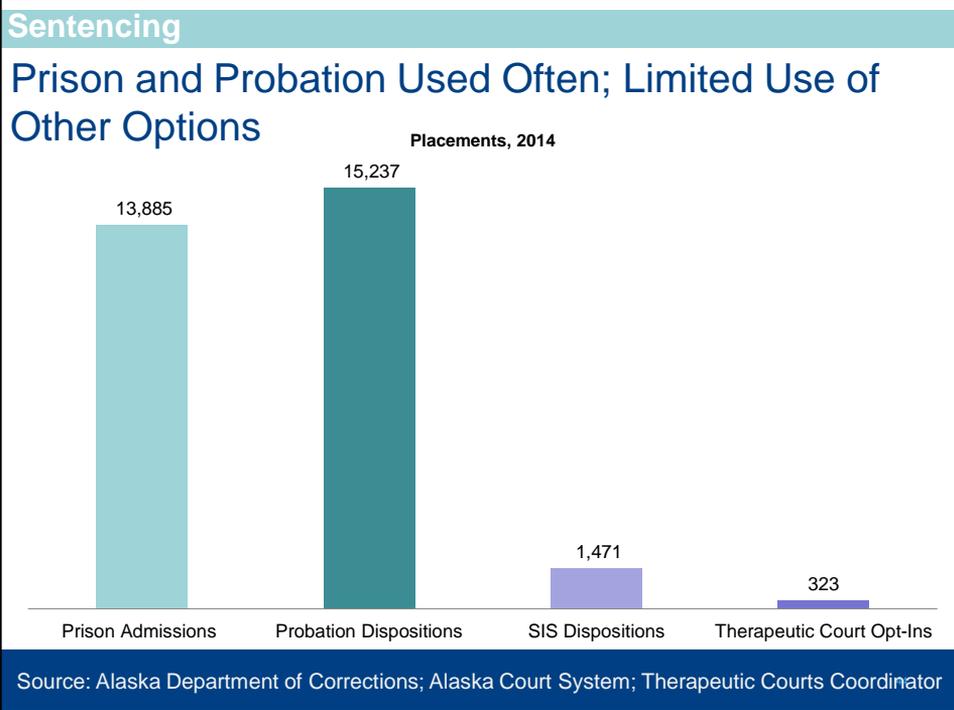
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Sentencing

In Sentencing Offenders, 5 Primary Options

Sentencing Option	Eligibility
Prison/jail (including time served)	Felons and some misdemeanants
Therapeutic courts	Misdemeanants and some felons
Probation	Misdemeanants and some felons
Suspended imposition of sentence	Misdemeanants and some felons
Fine	Misdemeanants and few felons

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Sentencing

Therapeutic Courts Underutilized

Court Type	Available Slots Statewide, FY15	Average Utilization, FY15	Range
Drug/DUI/Veteran	192	67%	73% - 99%
Mental Health	115	88%	53% - 94%

And Lack Statewide Practice Standards

- High risk/high need participants that could benefit most from program potentially screened out prior to undergoing risk assessment

Source: Therapeutic Courts Coordinator

Sentencing

Availability Of Therapeutic Courts Differ Geographically

Court	Drug Court	DUI Court	MH Court
Anchorage	X	X	X
Fairbanks		X	
Juneau		X	X
Ketchikan	X	X	
Palmer			X
Bethel		X	
32 other courts			

Source: Therapeutic Courts Coordinator

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LENGTH OF STAY AND RECIDIVISM

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Sentencing

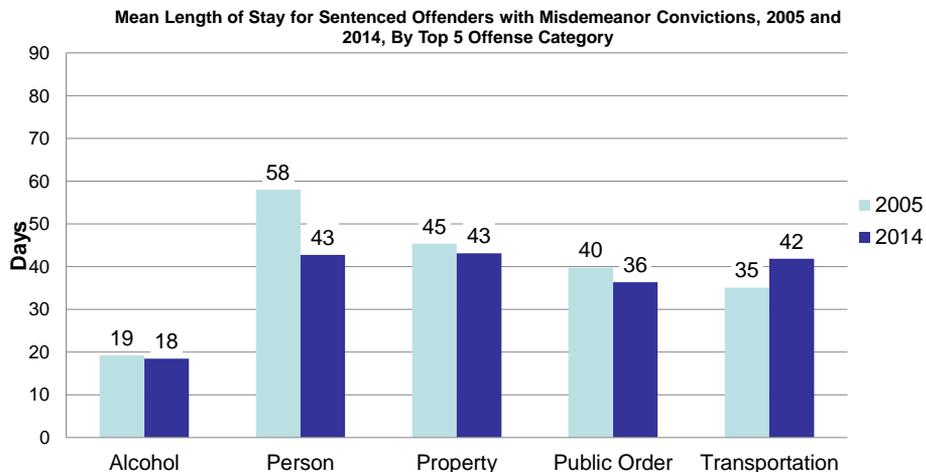
Length of Stay: Current Practice in Alaska

- Research summary: Longer prison stays do not reduce recidivism more than shorter stays
- Current practices in Alaska:
 - Misdemeanant length of stay down slightly
 - All felony offense types staying in prison longer over previous decade
 - Nonviolent: Property and drug offenders staying a month longer; alcohol and public order offenders staying about three months longer
 - Violent: Person offenders staying about three months longer; sex offenders staying 15 months longer

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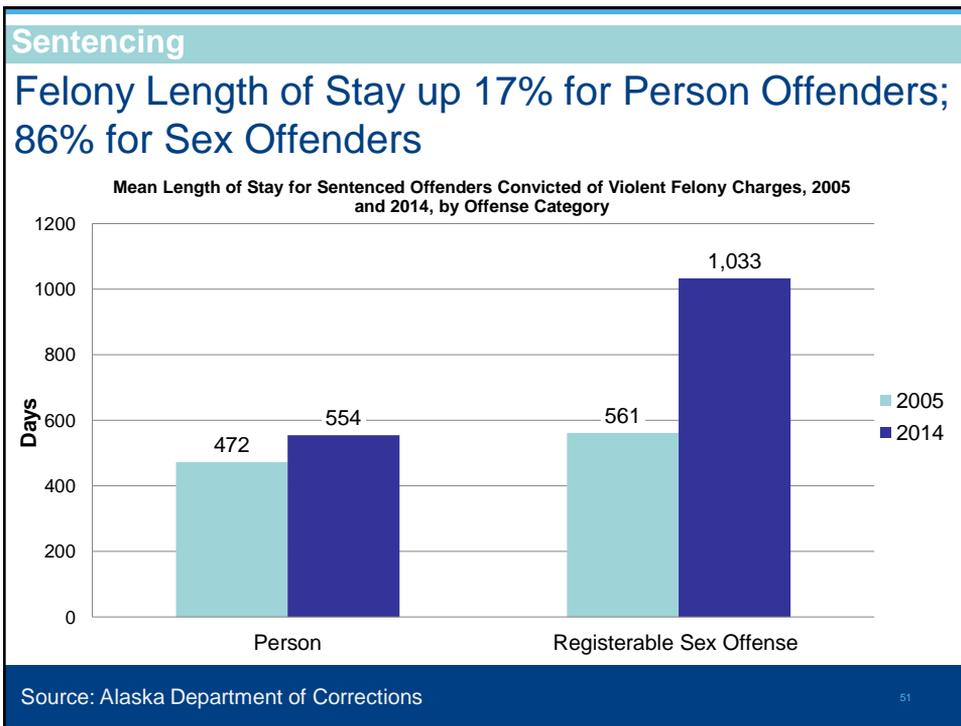
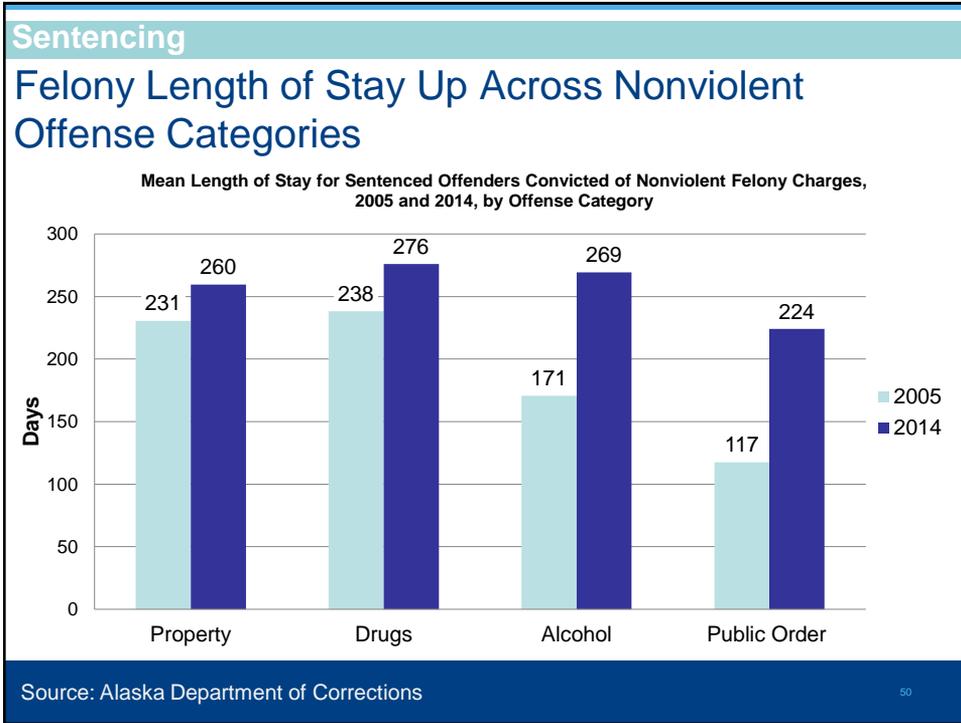
Sentencing

In 4 out of 5 Major Categories, Misdemeanor Length of Stay Down



Source: Alaska Department of Corrections

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Sentencing

Questions for Policy Development

- Can Alaska increase availability of its alternatives to incarceration?
- How can the state ensure its therapeutic courts are achieving the maximum recidivism reduction?
- What opportunities exist to target longer prison stays on more serious offenders and shorter prison stays on less serious offenders?
- Can Alaska further focus prison beds on serious violent offenders?

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COMMUNITY SUPERVISION

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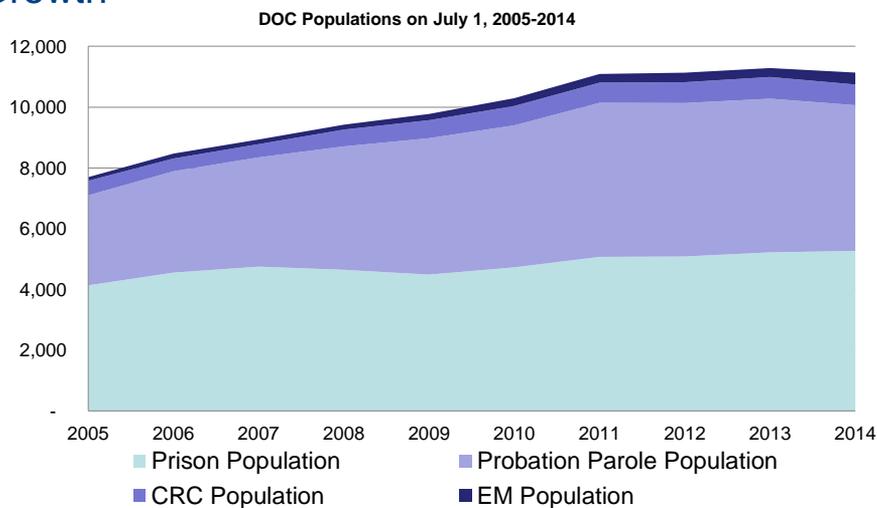
Presentation Outline

- System assessment
 - Pretrial
 - Sentencing
 - **Community supervision**
 - **Focus on high risk offenders and target criminogenic needs**
 - **Use swift, certain, and proportionate sanctions**
 - **Incorporate rewards and incentives**
 - **Incorporate treatment into supervision**
 - **Frontload resources**
- Prison growth and costs
- Next steps
 - Subgroups and schedule

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Community Supervision

Community Corrections Growth Outpacing Prison Growth

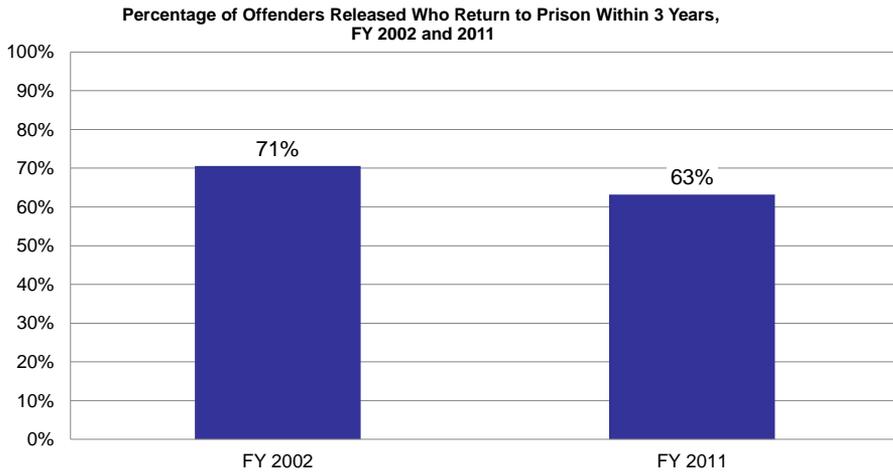


Source: Alaska Department of Corrections

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Community Supervision

Almost Two-Thirds of Offenders Released Return to Prison Within Three Years

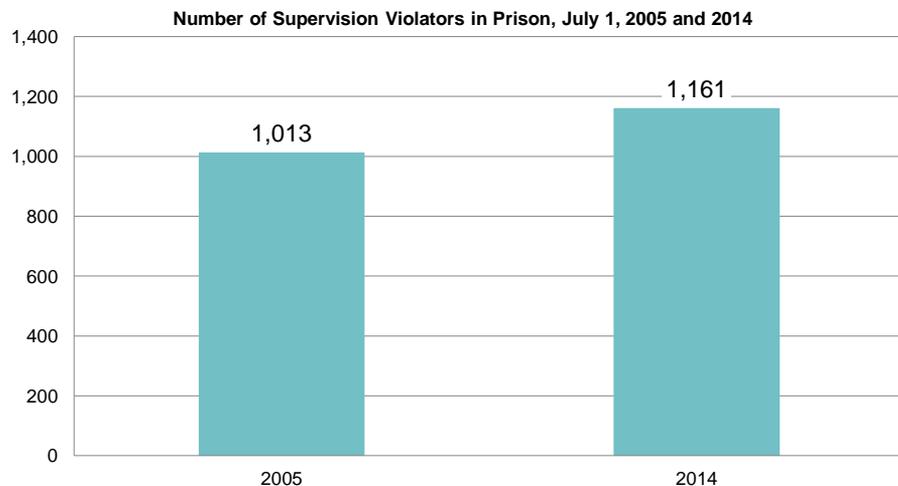


Source: Alaska Department of Corrections

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Community Supervision

Number of Supervision Violators in Prison Up 15% in Last Decade



Source: Alaska Department of Corrections

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Community Supervision

Recidivism Reduction Principles

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

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Community Supervision

Risk, Needs, Responsivity: Research Principle

- Risk: Focus resources on higher-risk offenders
- Needs: Use supervision and programming to target criminogenic needs
- Responsivity: Address barriers to program success

Source: Andrews (1999), *Recidivism Is Predictable and Can Be Influenced: Using Risk Assessments to Reduce Recidivism*

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Community Supervision

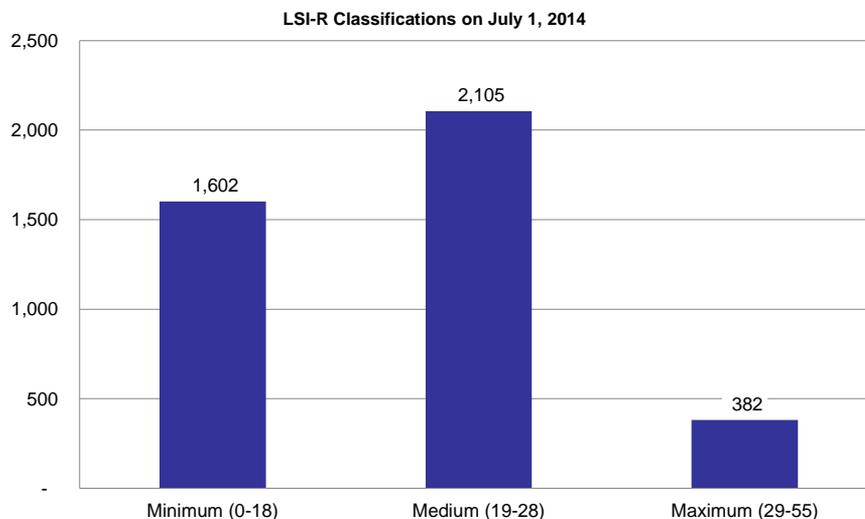
Risk, Needs, Responsivity: Current Practices

- Alaska uses risk/needs assessment tools to identify risk of reoffending and treatment needs, and uses scores to inform supervision levels and case planning
- However, large portion of community supervision resources still focused on low-risk offenders
 - Even with lower supervision standards, low-risk offenders make up a large share of caseloads and require staff resources that would otherwise be dedicated to offenders who are more likely to reoffend
- Significant portion of the halfway house population is not assessed, potentially leading to mixing of risk levels

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Community Supervision

39% of Probation/Parole Population Low-Risk



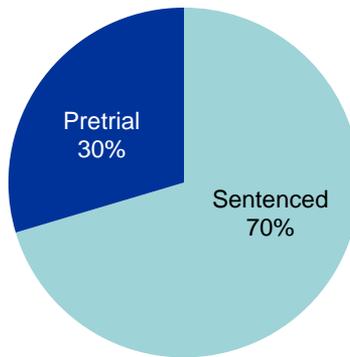
Source: Alaska Department of Corrections

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Community Supervision

Pretrial Population in Halfway Houses Unassessed for Risk Level

Halfway House Population On July 1, 2014, by Status



Source: Alaska Department of Corrections

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Community Supervision

Swift, Certain, and Proportional Sanctions: Research Principle

- Respond to problem behavior in a manner that will change that behavior
- Deterrence:
 - Swift, certain, and proportional sanctions have a stronger deterrent effect than delayed, random, and severe sanctions

Source: Nagin & Pogarsky (2001), *Integrating Celerity, Impulsivity, and Extralegal Sanction Threats into a Model of General Deterrence: Theory and Evidence*

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Community Supervision

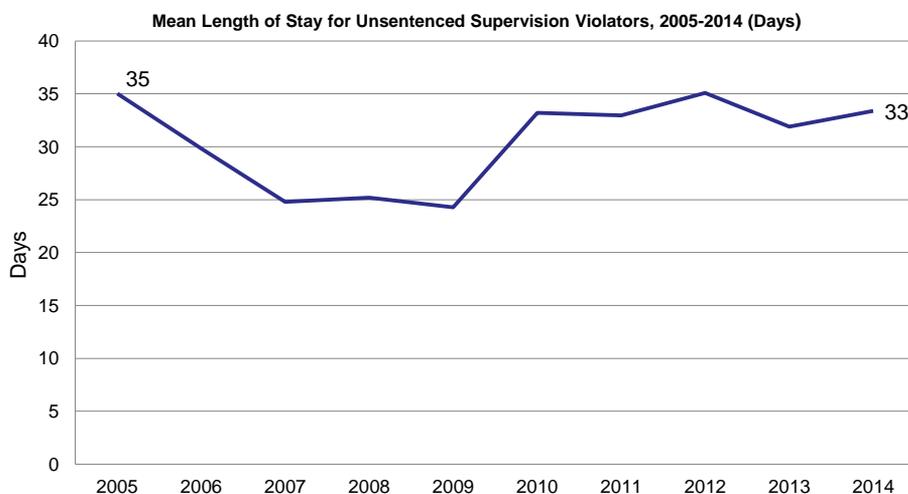
Swift, Certain, and Proportional Sanctions: Current Practices

- PACE program incorporates swift and certain responses
 - PACE probation imposes swift, certain and proportional jail stays for higher-risk offenders who violate supervision conditions
 - However, only applies to a small portion of offenders on community supervision
- For standard probation and parole, no system-wide framework for swift, certain, and proportional sanctions
 - There is a system in place for revoking offenders to prison, but no statewide system for intermediate sanctioning
 - Some sanctioning processes are inconsistent with swift, certain, and proportionate principles, including long delays between the problem behavior and the response, and disproportionately long revocation sentences

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Community Supervision

Petitions To Revoke Take A Month to Resolve

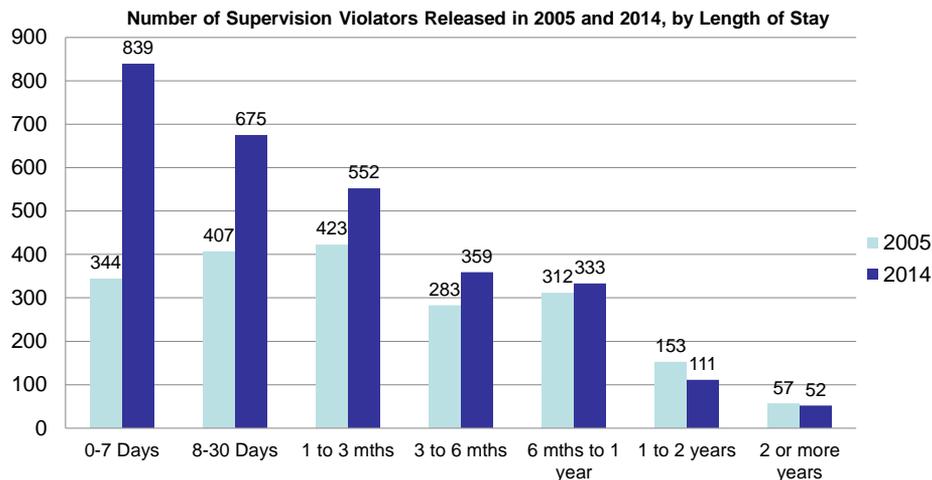


Source: Alaska Department of Corrections

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Community Supervision

Nearly Half Of Revocations Staying More Than One Month; 29% More Than Three Months



Source: Alaska Department of Corrections

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Community Supervision

Incorporate Rewards and Incentives: Research Principle

- Provide rewards and incentives for meeting case-specific goals of supervision to enhance individual motivation
- Develop a continuum of rewards to round out the continuum of sanctions
- Higher program completion when rewards outnumber sanctions

Source: Wodahl, Garland, Culhane & McCarty (2011), *Utilizing Behavioral Interventions to Improve Supervision Outcomes in Community-based Corrections*

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Community Supervision

Incorporate Rewards and Incentives: Current Practices

- For offenders in prison, statute authorizes good time and furlough incentives to reward positive behavior and program participation
- However, for offenders on community supervision, no system-wide framework exists to incentivize and reward positive behavior and compliance
 - No statutory mechanism for earned compliance credits
 - Variation in practices limit the use of early termination as a motivational tool

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Community Supervision

Incorporate Treatment Into Supervision: Research Principle

- Incorporate treatment into supervision case plans rather than using surveillance alone
- Utilize cognitive-behavioral treatment and community-based drug and alcohol treatment

Source: Washington State Institute for Public Policy (2012), *available at:*
<http://www.wsipp.wa.gov/BenefitCost?topicId=2>

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Community Supervision

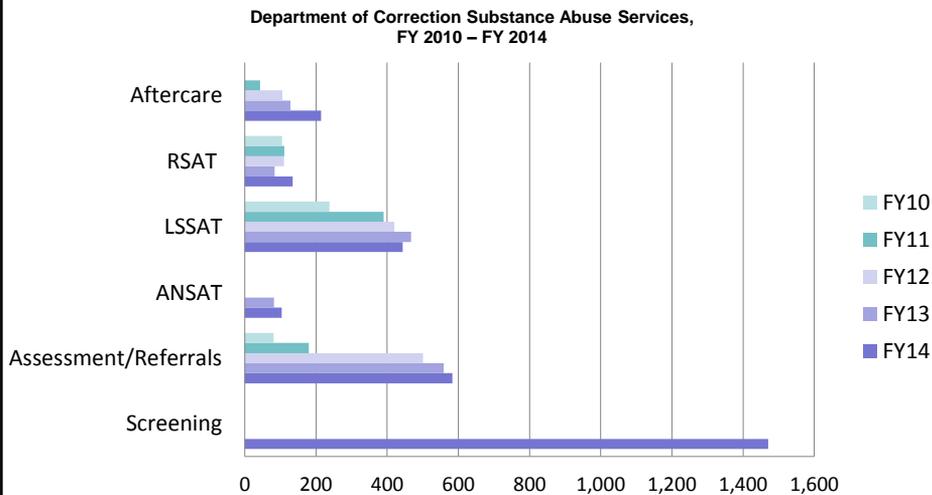
Incorporate Treatment Into Supervision: Current Practices

- Division of Probation and Parole uses LSI-R to identify criminogenic needs with top priority needs forming the basis of offender case management plans
- Significant efforts to increase access to treatment and programming, but still dramatic unmet treatment needs
 - Insufficient inpatient and outpatient treatment beds and qualified treatment providers
 - Regional disparities in community-based treatment and programming

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Community Supervision

DOC Substance Abuse Services Increasing



Source: Alaska Department of Corrections

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Community Supervision

DOC Community-Based Treatment

- Community-based intensive outpatient and continuing care programs in 5 communities
 - Anchorage
 - Fairbanks
 - Juneau
 - Kenai
 - Palmer

- In FY15, 21% of the community supervision population accessed DOC community-based treatment

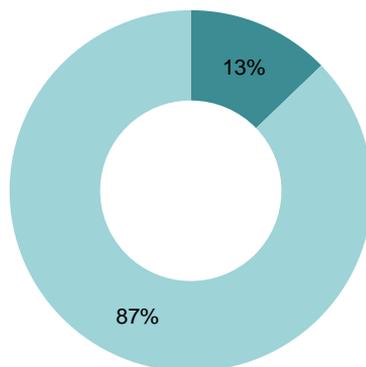
Source: Alaska Department of Corrections

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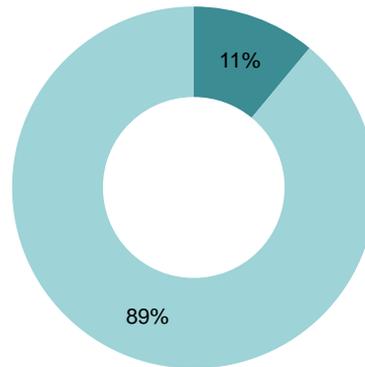
Community Supervision

Significant Unmet Treatment Need in Alaskan Population

Percentage of Alaskans With Alcohol Dependence or Abuse Who Received Treatment (2009-2013)



Percentage of Alaskans With Illicit Drug Dependence or Abuse Who Received Treatment (2009-2013)



Source: SAMSHA (2014), *Behavioral Health Barometer: Alaska, 2014*

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Community Supervision

Frontload Resources: Research Principle

- Focus supervision and programming resources during the initial weeks and months following release from prison when violations and arrests are most likely to occur

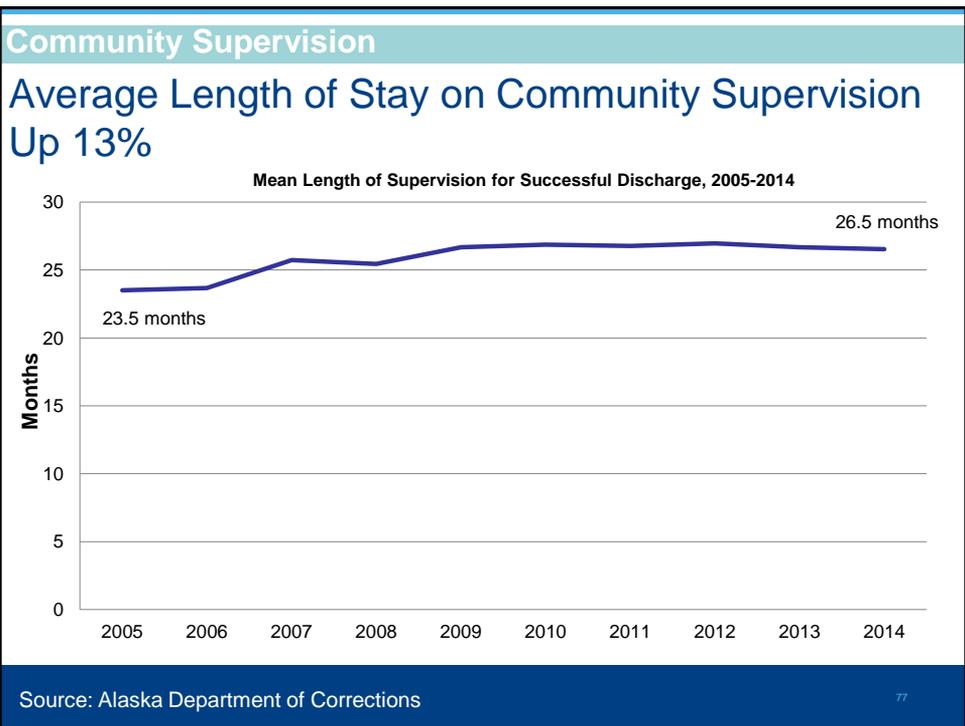
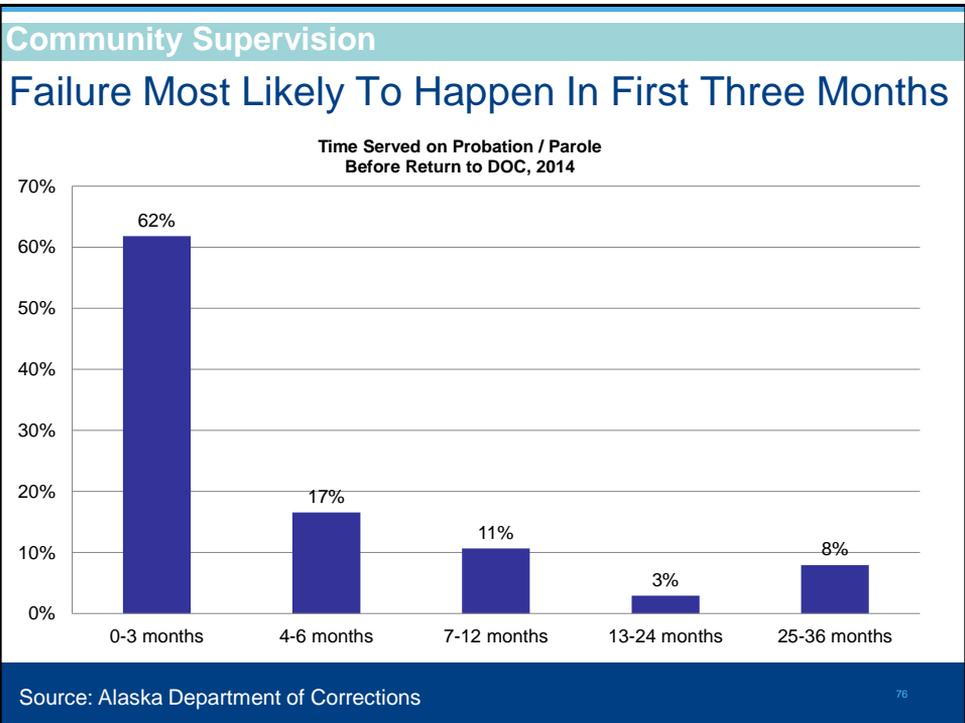
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Community Supervision

Frontload Resources: Current Practices

- Significant recent efforts to improve transition in the first months following release from prison
 - Improved re-entry planning policies, creation of re-entry coalitions, hiring re-entry coordinators
- Revocations in Alaska most likely to happen in the first months following release from prison; however, supervision resources allocated well beyond these initial months
 - Moreover, supervision terms have increased over past decade
- While probation officers have some discretion to reduce supervision levels over time, options are limited and potentially arbitrary

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Community Supervision

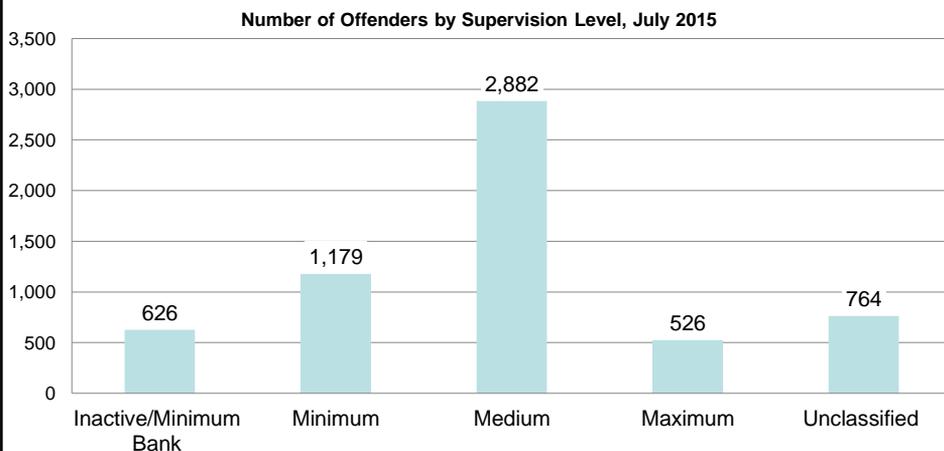
Limited and Potentially Arbitrary Process To Reduce Offenders' Supervision Levels Over Time

- Probation and parole officers have the discretion to:
 - Reduce supervision levels over time
 - Place low-risk offenders on an administrative caseload
 - Recommend certain offenders for early termination of probation
- However, there are opportunities to streamline and standardize step down process in order to most efficiently allocate resources

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Community Supervision

Most Offenders on Active Medium or Minimum Supervision; 10% Inactive



Source: Alaska Department of Corrections

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Community Supervision

Questions For Policy Development

- What measures can be put in place to focus community supervision resources more on higher-risk offenders?
- Are there opportunities to expand use of swift, certain, and proportional sanctions on supervision?
- Are there opportunities to incentivize positive behavior and reward compliance with supervision conditions?
- What opportunities exist for expanded training and quality assurance processes?

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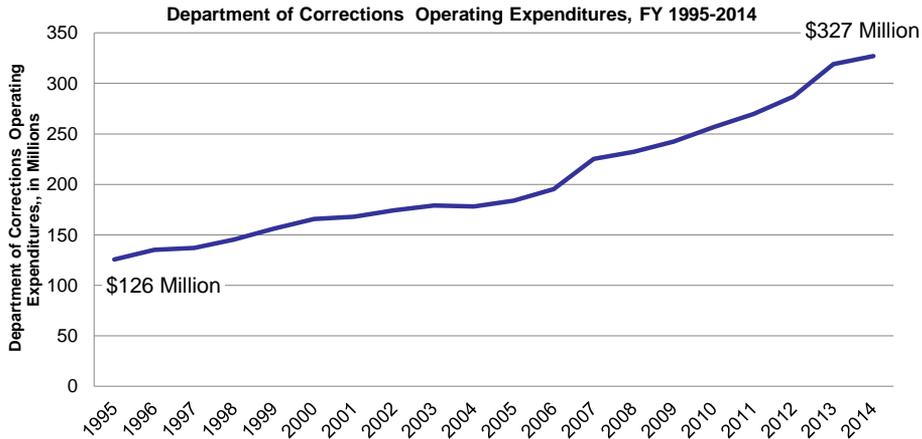
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Projected Growth and Costs

Spending on Corrections Up 60% Over Past 2 Decades



*Figures do not include capital expenditures; 60% based on inflation-adjusted numbers

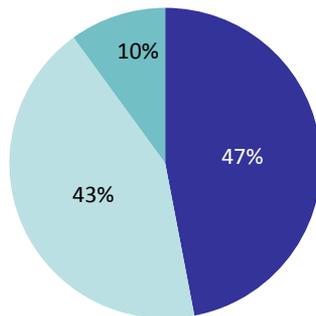
Source: Alaska Department of Corrections

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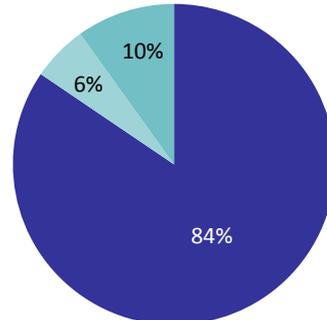
Projected Growth and Costs

Community Supervision Accounts For 43% Of DOC Population, But Only 6% of DOC Budget

DOC Population by Placement Type, July 1, 2014



DOC Spending by Placement Type, FY15



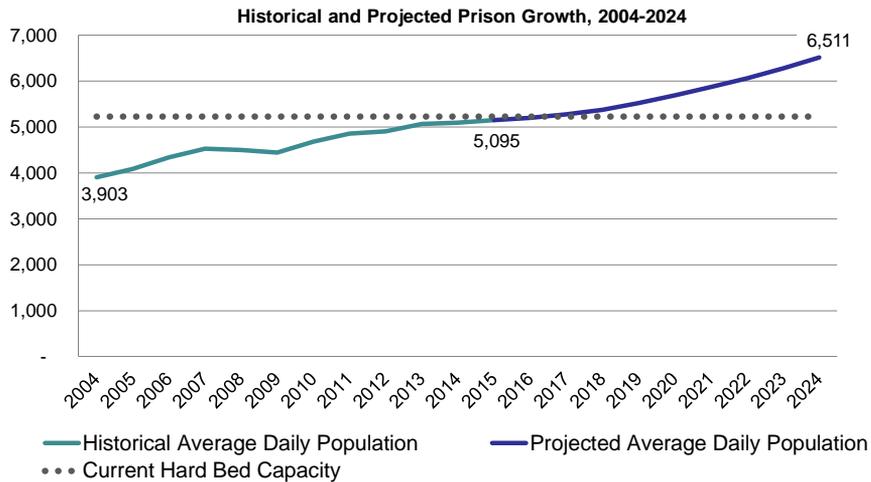
■ Institutions ■ Probation/Parole ■ Alternatives (EM/CRCs)

Source: Alaska Department of Corrections

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Projected Growth and Costs

Absent Further Reform, Prison Population Projected to Grow 27%, Costing At Least \$169 Million



Source: Alaska Department of Corrections

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Projected Growth and Costs

Methodology for Projected Growth and Costs

- Prison population projected to grow by 1,416 beds in 10 years
- By 2017, the population will exceed current hard bed capacity, requiring the reopening of a closed facility (128 beds)
- By 2018, the population will exceed expanded capacity, necessitating out of state contracting
- Accommodating the projected growth will cost taxpayers at least \$169 million

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Questions?

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Presentation Outline

- System assessment
 - Pretrial
 - Sentencing
 - Community supervision
- Prison growth and costs
- Next steps
 - Subgroups and schedule

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Next Steps

Policy Subgroups

A	B	C
Sentencing	Community Supervision	Pretrial
Alex Bryner (chair)	Ron Taylor (chair)	Trevor Stephens (chair)
Craig Richards	Kris Sell	Terry Vrabec
Quinlan Steiner	Jeff Jessee	John Coghill
Wes Keller	Stephanie Rhoades	Brenda Stanfill
Greg Razo		

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Next Steps

Meeting Schedule

Subgroup A	Wed., Sept. 9, 9:00 a.m. – 12:00 p.m. Wed., Oct. 14, 9:00 a.m. – 12:00 p.m. Wed., Nov. 18, 9:00 a.m. – 12:00 p.m.
Subgroup B	Wed., Sept. 9, 1:00 – 4:00 p.m. Wed., Oct. 14, 1:00 – 4:00 p.m. Wed., Nov. 18, 1:00 – 4:00 p.m.
Subgroup C	Thurs., Sept. 10, 9:00 a.m. – 12:00 p.m. Thurs., Oct. 15, 9:00 a.m. – 12:00 p.m. Thurs., Nov. 19, 9:00 a.m. – 12:00 p.m.
Full Commission	Thurs., Oct. 15, 1:00 – 4:00 p.m. Thurs., Nov. 19, 1:00 – 4:00 p.m. Thurs., Dec. 10, 10:00 a.m. – 1:30 p.m.

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