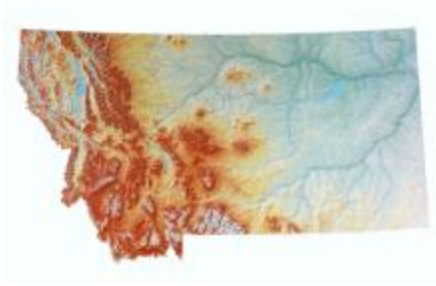




Montana Commission on Sentencing



Third Meeting: System Analyses

March 1

Council of State Governments Justice Center

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Council of State Governments Justice Center

- National non-profit, non-partisan membership association of state government officials
- Engages members of all three branches of state government
- Justice Center provides practical, nonpartisan advice informed by the best available evidence



Justice Reinvestment in Montana



JUSTICE REINVESTMENT

A data-driven approach to reduce corrections spending and reinvest savings in strategies that can decrease recidivism and increase public safety

The Justice Reinvestment Initiative is supported by funding from the U.S. Department of Justice's **Bureau of Justice Assistance (BJA)** and **The Pew Charitable Trusts**

SB 224 created the Montana Commission on Sentencing with a mandate for empirical study and evidence-based practices.

State leaders requested assistance to conduct a comprehensive analysis of Montana's criminal justice system.

Sincerely,

Governor Steve Bullock

Attorney General Tim Fox

Speaker of the House Austin Knudsen

House Minority Leader and
Legislative Council President Chuck Hunter


Chief Justice Mike McGrath

Senate President Debby Barrett

Senate Minority Leader Jon Sesso

Mike Batista, Director, Department of
Corrections

Justice Reinvestment Timeline

Following the Second Montana Commission on Sentencing Meeting CSG Justice Center Staff conducted visits to facilities and with stakeholders to gain greater insight into the Montana justice system.

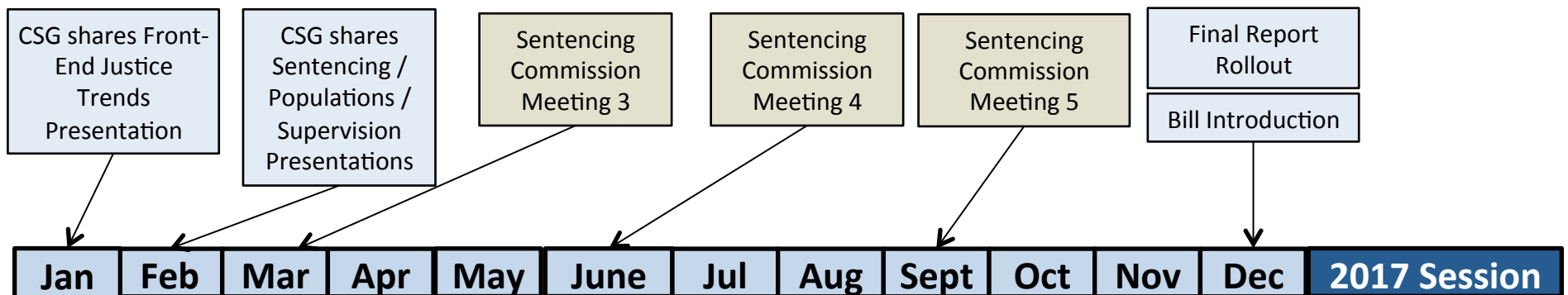
CSG Justice Center staff received a large collection of quantitative and qualitative data from various components of the justice system and provided early versions of some analyses to the Commission. The remaining analyses will be presented and discussed during this meeting.

This presentation will share current system trends and strategies used in other states with the Commission. CSG Justice Center staff anticipate the Commission will highlight areas for deeper analysis and policy exploration at the conclusion of this meeting.



The Council of State Governments is a national non-profit, non-partisan membership association of state government officials that engages members of all three branches of state government.

The CSG Justice Center provides practical, nonpartisan advice informed by the best available evidence.



Since the Last Meeting

<p>Stakeholders Engagement</p>	<p>Behavioral Health: Helena Indian Alliance, DPHHS, Western Montana Mental Health Center, DOC clinical staff and leadership</p> <p>Law Enforcement: Helena Police Department, Lewis and Clark County Sheriff’s Office, Butte-Silver Bow Sheriff’s Office; presentation to Sheriffs and Peace Officers’ Association; survey distributed and 12 responses received</p> <p>County Attorneys: Presentation to MCAA; survey distributed and 13 responses received</p> <p>Victims: Ryan United, Victims Compensation, DOC Victims Program</p> <p>Probation and Parole: Focus groups and meetings with field probation officers and supervisors, institutional probation and parole officers, parole board analysts, and 3 parole board members</p> <p>Community Corrections: Toured Missoula Prerelease Center, Helena Prerelease Center, Billings Prerelease Center (Passages), Elkhorn Treatment Center, Warm Springs Addiction and Treatment for Change (WATCh), and Sanction Treatment Assessment Revocation and Transition (START)</p>
<p>Facility and Program Observation</p>	<ul style="list-style-type: none"> • Chemical Dependency Group at Elkhorn • Relapse Prevention Group at START • Thinking for a Change at WATCh • Cognitive Principles and Restructuring at Missoula Prerelease Center • Therapeutic Communities Groups at WATCh and Connections Corrections Program • Intake at Missoula Assessment and Sanctions Center (MASC) • Parole Board hearings at Montana State Prison • Tour of Butte-Silver Bow Jail • Conversations with residents of various facilities and participants of various programs.

Summary of Last Meeting

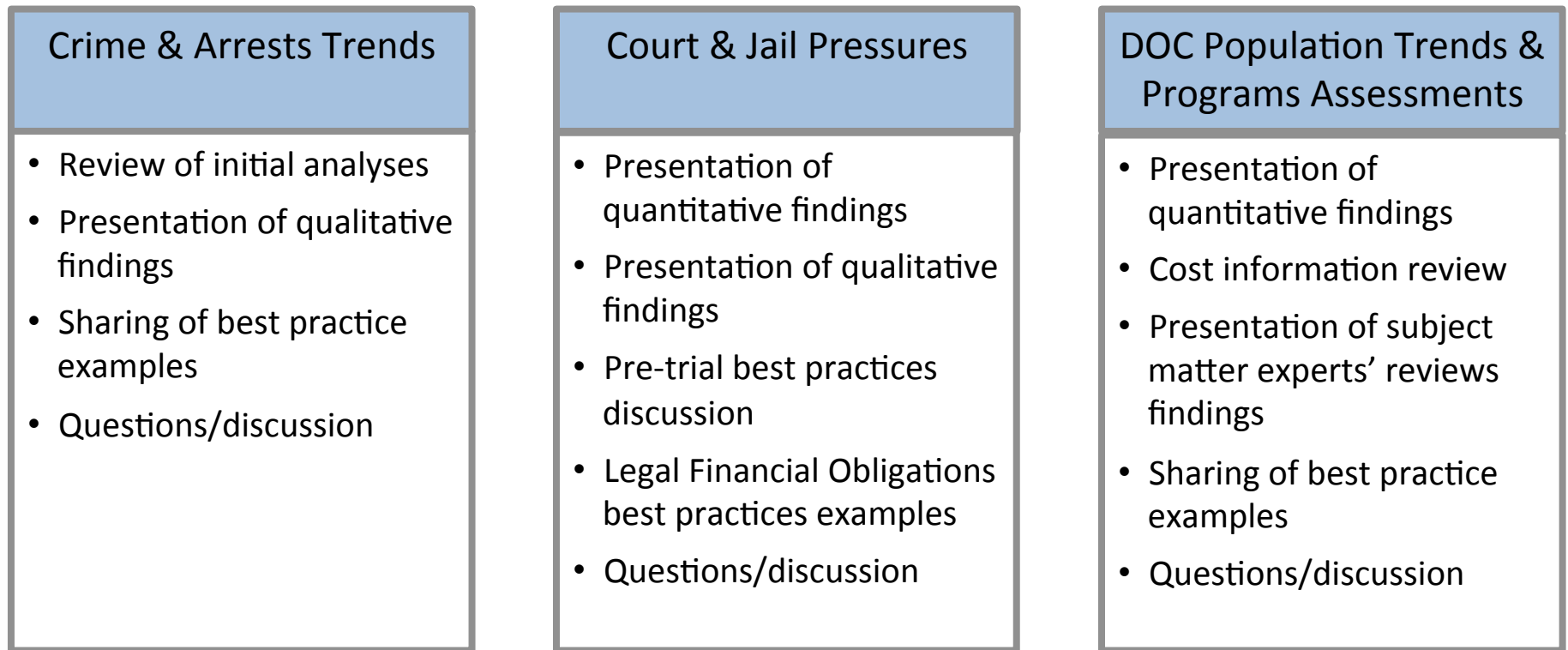
Risk Assessment: Reducing criminal behavior requires focusing on risk, need, and responsivity (RNR) and not adhering to the RNR principles can increase recidivism.

Behavioral Health: Mental health and chemical dependency complexities impact successful reentry and length of stay. Effective behavioral health interventions require coordinated system responses and enhance motivation to change.

Supervision: Best practices include assessing for risk and need, targeting high-risk individuals, frontloading supervision and treatment, implementing proven programs, addressing criminal thinking, holding individuals accountable, and measuring outcomes.

Local-Level Criminal Justice Challenges: Local governments face many criminal justice pressures and challenges. CSG has helped states craft policy and reinvestment strategies that are responsive to local needs and priorities.

Presentation Overview



Front End
prevention &
intervention efforts



Pre-Trial
prioritize services &
expedite outcomes



Corrections
match risk/needs to
service type/availability
to improve outcomes

1. Overall Crime and Arrest Findings

As measured by reported Part I index crime, Montana is safer today than in 2000. In the face of a large decrease in overall crime, driven by a consistent decrease in property crime and a small increase in violent crime, arrests have consistently increased.

Overall Part I crime has decreased

18 %

from 2000 to 2014.

Property crime has decreased 31%, while violent crime increased 4%. Property crime is at its lowest rate in more than 25 years. Violent crime has recently increased but remains under the levels of the early- to mid- 2000s.

Total reported arrests have increased

12%

from FY 2009 to FY2015.

Between FY2009 and FY2015, arrests increased by 4,000. During the same period Part I crime decreased by 1,000 reported incidents.

64%

of arrests are for misdemeanor charges

Drug-related charges account for about one-fifth of all misdemeanor arrests, as well as 24% of felony arrests.

American Indians account for

27%

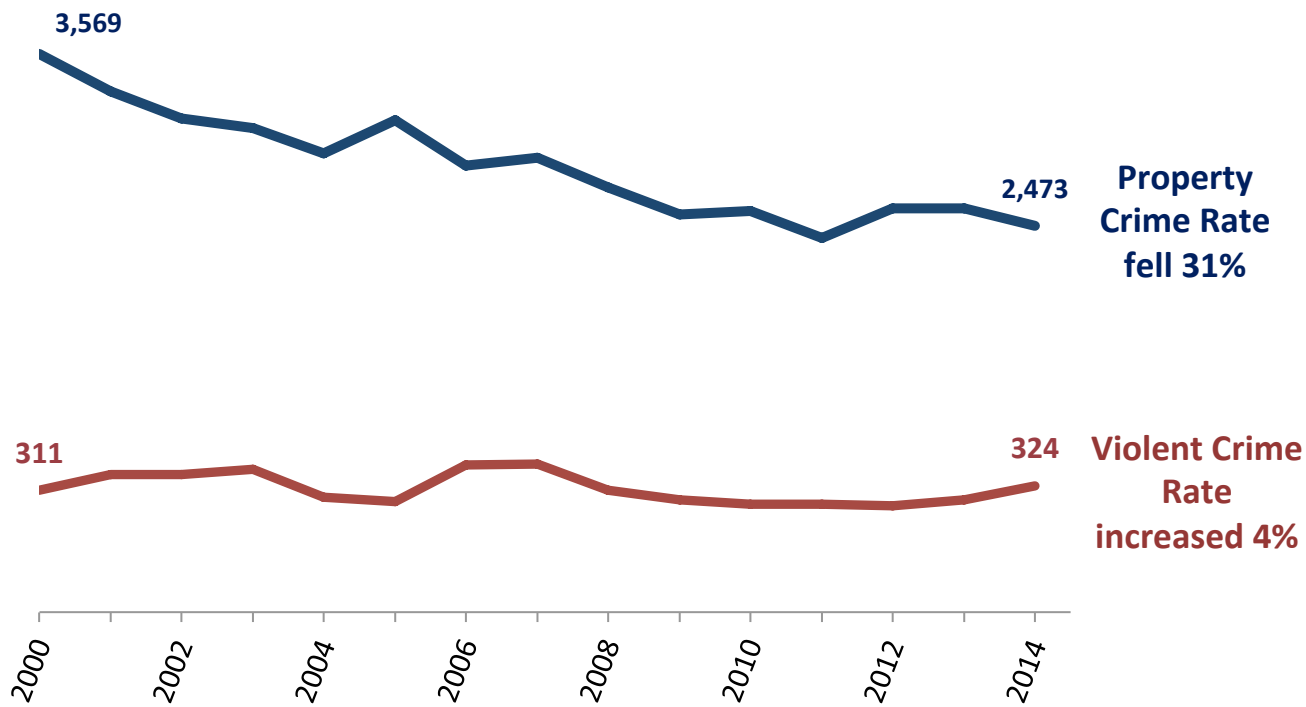
of arrests related to supervision/FTA

American Indians/Alaskan Natives are 7% of the Montana population, 19% of all arrests, and 27% of supervision and failure to appear (FTA) arrests.

Part I reported crimes have decreased so consistently that they likely are not exerting pressure on front-end resources. The relationship between drugs and misdemeanor crime, both directly and as an antecedent, is playing a key role in the pressure front-end law enforcement is experiencing.

Overall, reported index crime is down 18 percent as a result of a steady decrease in property crimes.

Index Crimes per 100,000 Population, 2000-2014
(2 vertical axes presented for trend clarity)



Property crimes include Burglary, Larceny-Theft, & Motor Vehicle Theft

Larceny-Theft, down 7,004 incidents (26%), accounted for almost all of the decrease in the number of property crimes.

Property Crime Rate fell 31%

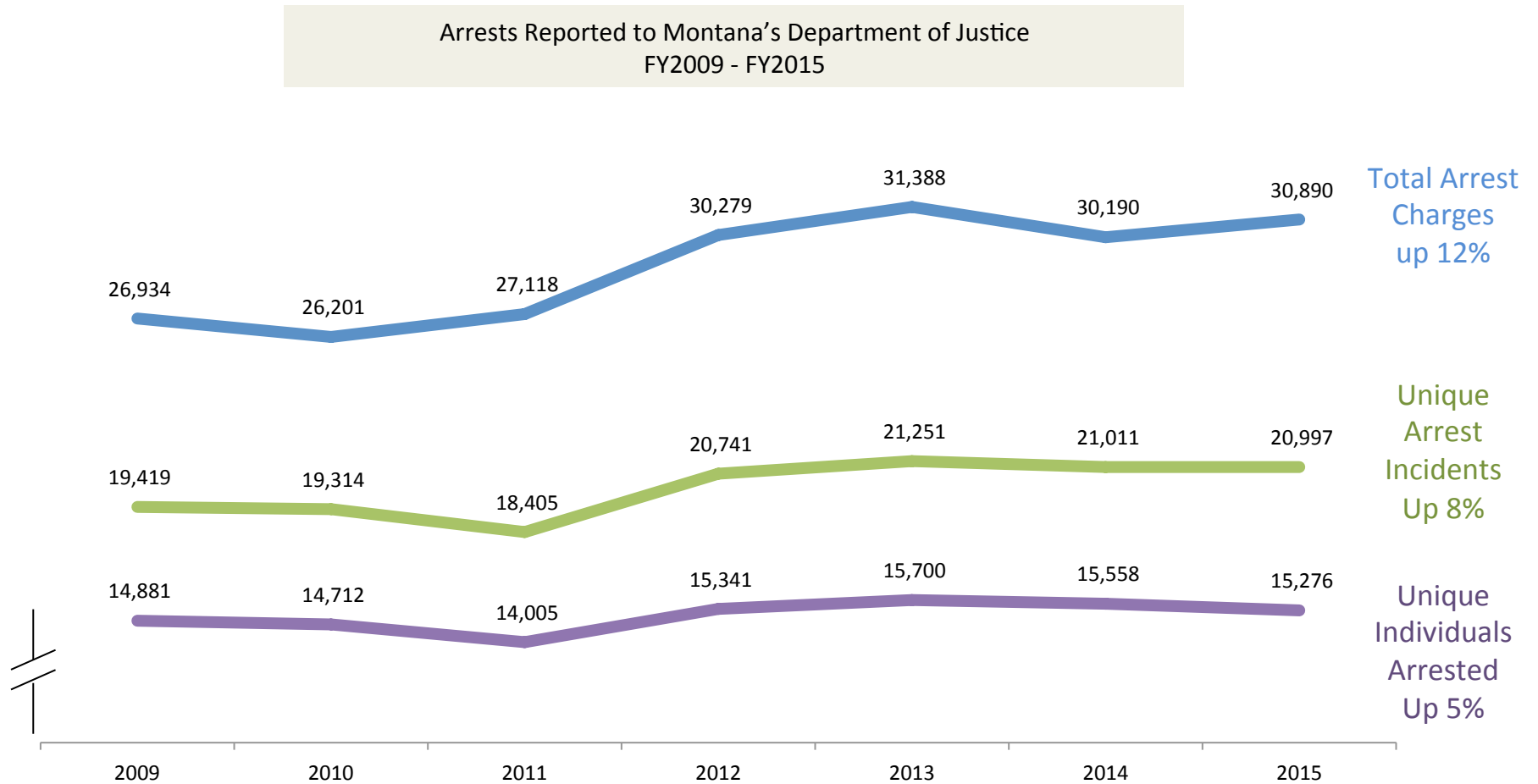
Violent crimes include Murder, Rape, Robbery & Aggravated Assault

Aggravated assaults, up 256 incidents (11%), accounted for 51% of the increase in the number of violent crimes

Violent Crime Rate increased 4%

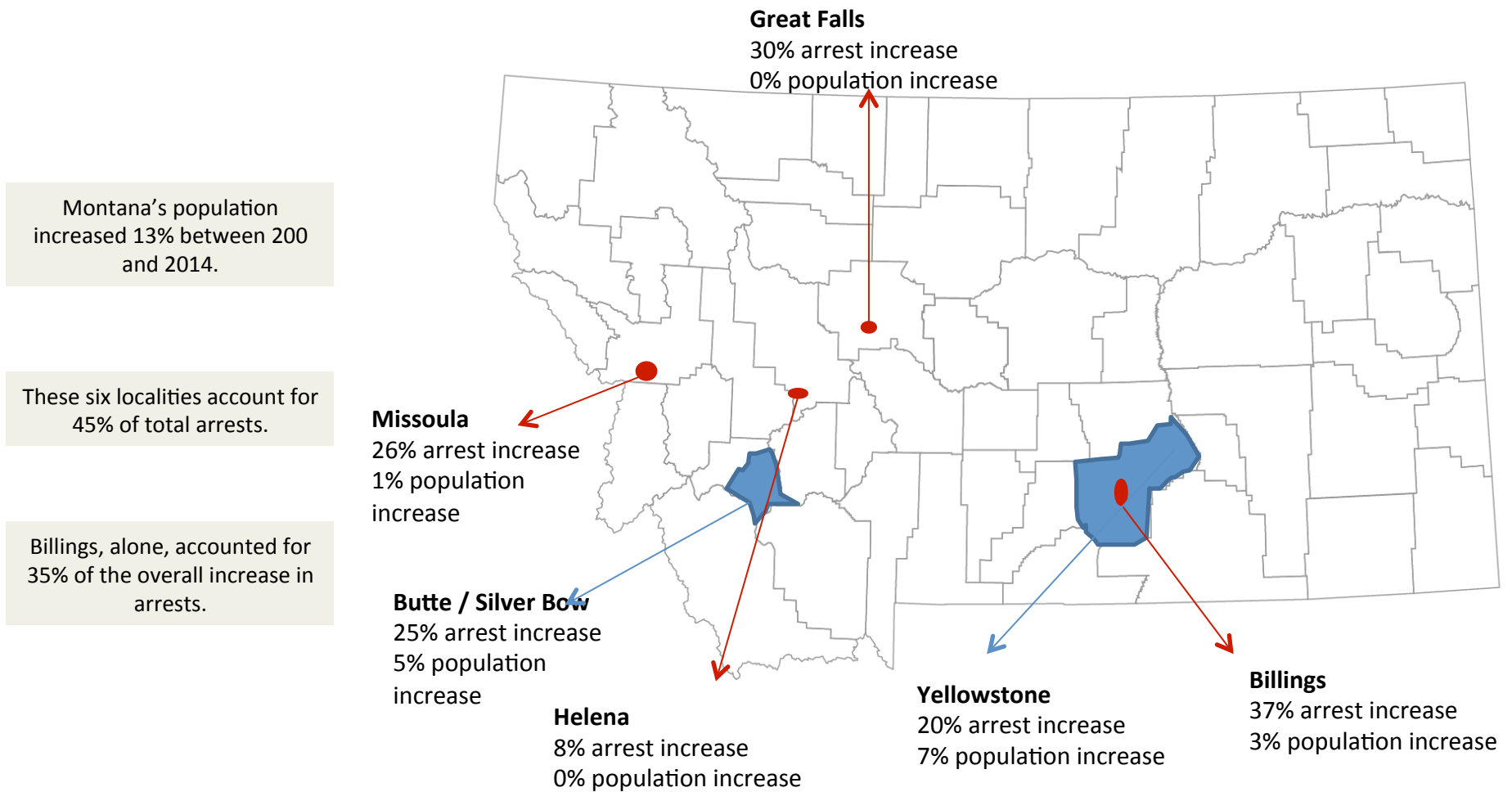
Source: FBI UCR Online Data Tool and Crime in the U.S., 2014. "Legacy" rape definition selected.

Despite the decline in reported crimes, total arrests have increased 12 percent, by 4,000 arrests, between FY2009 and FY2015.



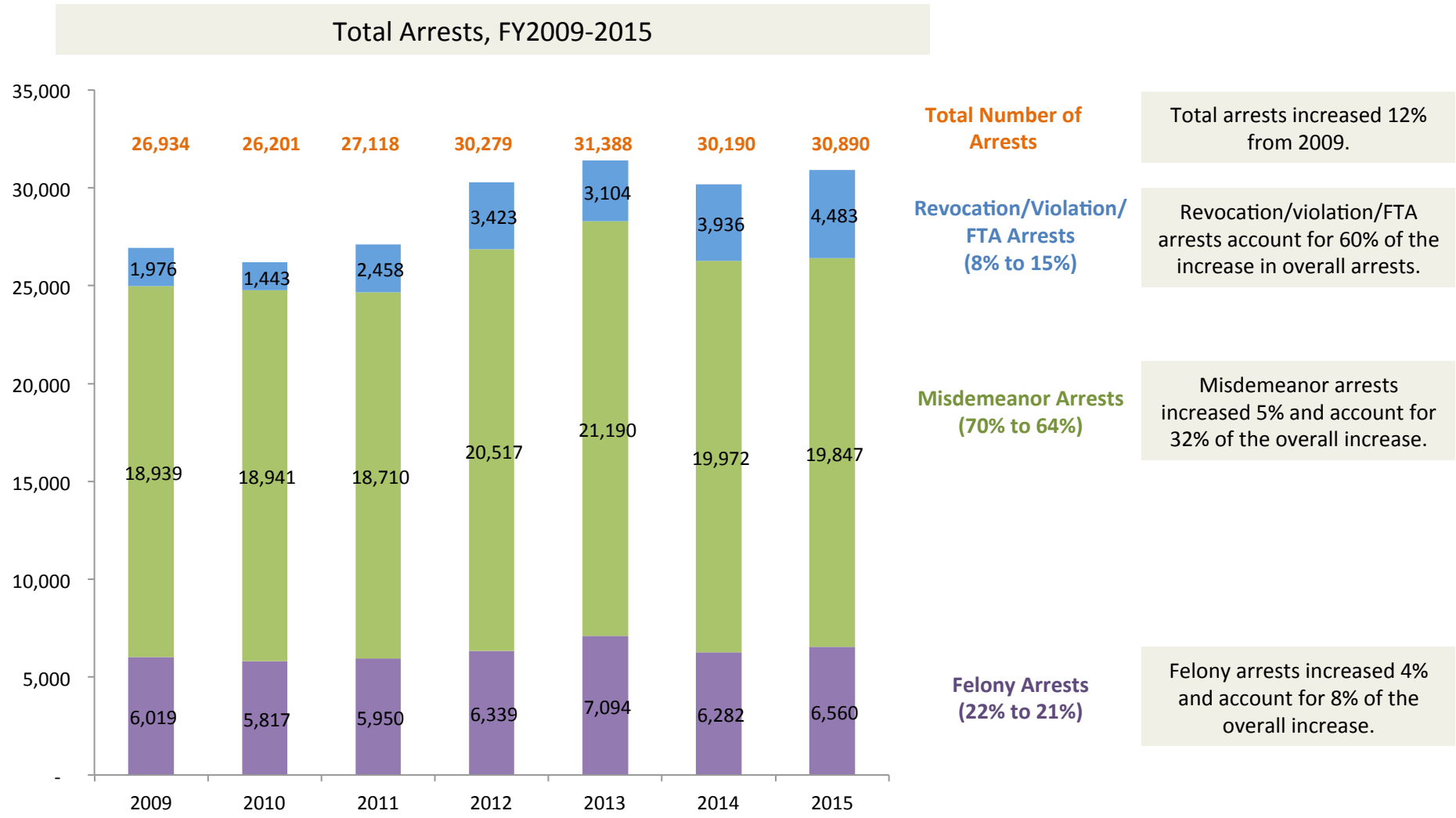
Source: Montana Department of Justice Arrest Data, FY2009 – FY2015

Six localities, representing 45% of the population growth, constitute 76% of the increase in arrests.



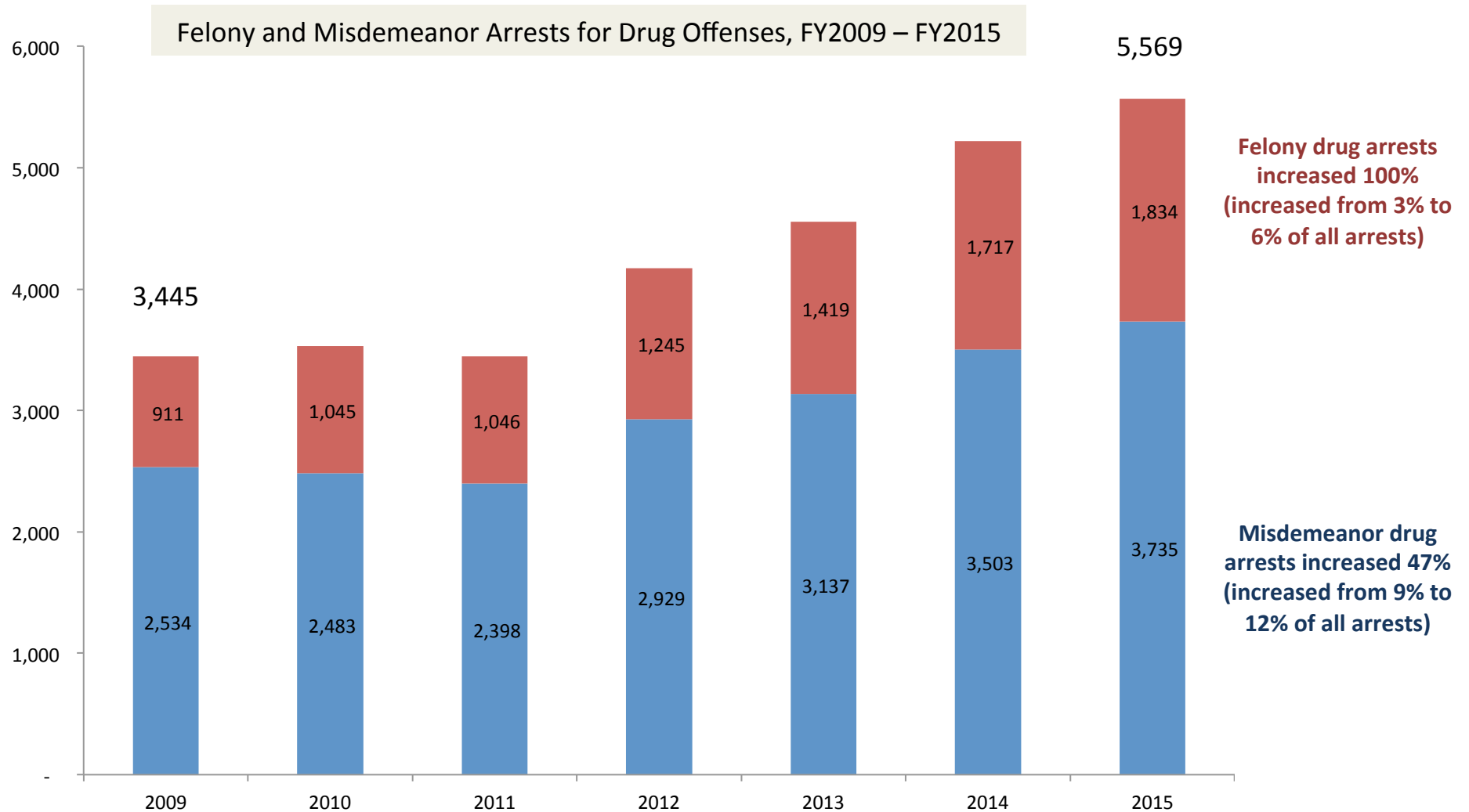
Source: Montana Department of Justice Arrest Data, FY2009 – FY2015

The number and proportion of arrests involving revocations/violations/FTAs has doubled and account for 60% of the increase in total arrests.



Source: Montana Department of Justice Arrest Data, FY2009 – FY2015

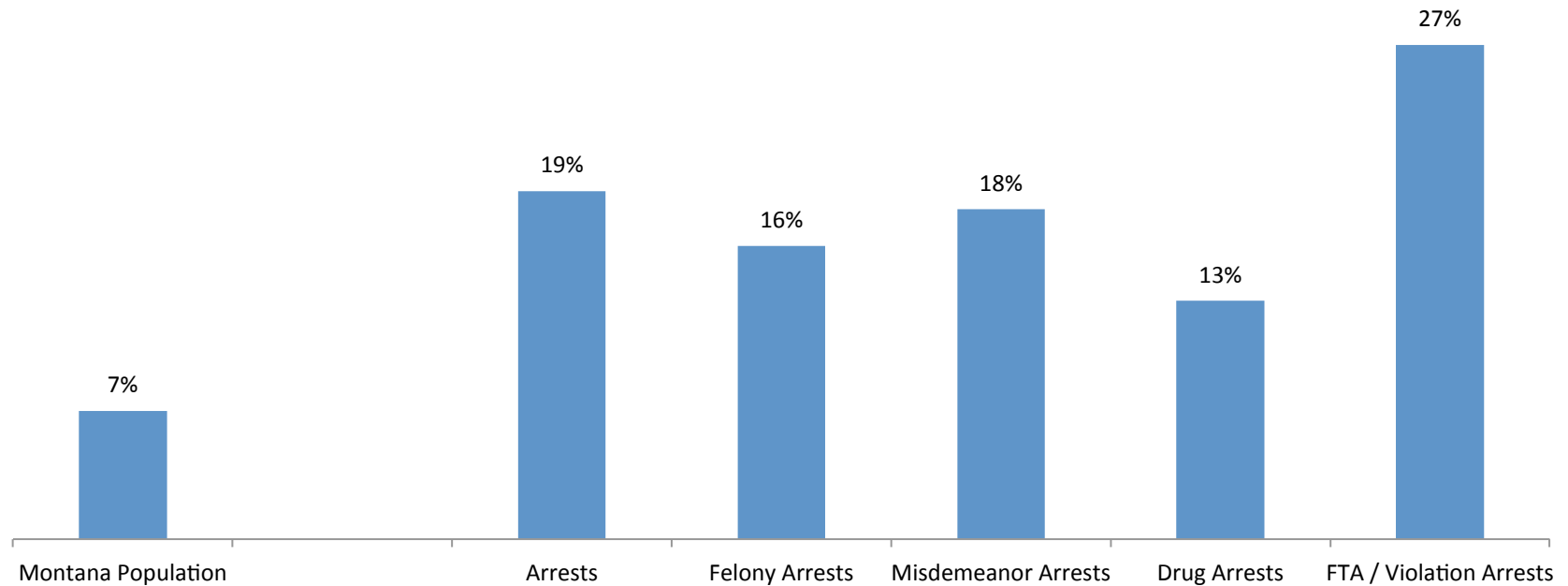
Drug-related arrests have increased 62% and now account for 18% of all arrests.



Source: Montana Department of Justice Arrest Data, FY2009 – FY2015

Arrests for American Indian/Alaskan Native people are driven by higher rates for arrests for failure to appear or supervision violations.

Proportion American Indian/Alaskan Native
Montana Population and Arrest Categories, FY2015



Source: Montana Department of Justice Arrest Data, FY2009 – FY2015

Initial Survey Results Sheriffs

Crime Concerns (12 respondents)

- Primary crime and enforcement concerns are drugs, sex offenses, theft, DUI & domestic violence. The most frequent top concerns were drugs then sexual assault.
- Among the respondents, an average of 35% of calls for service involve a behavioral health need, with the highest being 80%.
- Among the respondents, an average of 24% of calls for service involve a person on DOC supervision, with the highest being 50%, and an average of 36% are for arrests, with the highest being 80%.

Initial Survey Results Attorneys

Crime Concerns (13 respondents)

- Primary crime concerns are drugs, domestic violence, burglary, and parole/probation violations. Drugs (RX & Meth) were the most frequent top concerns among respondents.
- Among respondents, an average of 26% of cases involve an alleged offender with a mental health need, with the highest being 90%.
- Among respondents, an average of 70% of cases involve an alleged offender with a substance abuse disorder, with the highest being 90%, and 45% of cases involve an alleged offender with a co-occurring disorder, with the highest being 90%.

Front-End Justice Best Practices



- Reclassify selected low-level misdemeanors to civil statuses
- Increase police opportunities to cite and release; issue appearance tickets in lieu of detention



- Police-assisted diversion to treatment for offenses driven by substance abuse issues (Seattle, Albany (NY), Santa Fe (NM), Portland (ME))



- Single Point of Entry (SPOE) pre-booking assessment and diversion center



- Outsourcing fine collection and reduction programs; community service/sliding scale

2. Court & Jail Pressures

The increasing trend in arrests appears to be driving an increase in case filings in District Court, lengthier case processing, and pressure on county jails.

District Court case filings increased

20%

between FY 2009 to FY2015.

Between FY2011 and FY2015, case filings increased 29 percent.

Time from case filing to disposition increased

18%

between FY2012 and FY2015.

Between FY2012 and FY2015, time from case filing to disposition increased from 181 days to 213 days.

Time from plea to disposition increased

60%

between FY2012 and FY2015.

Between FY2012 and FY2015, time from plea to disposition increased from 77 days to 123 days.

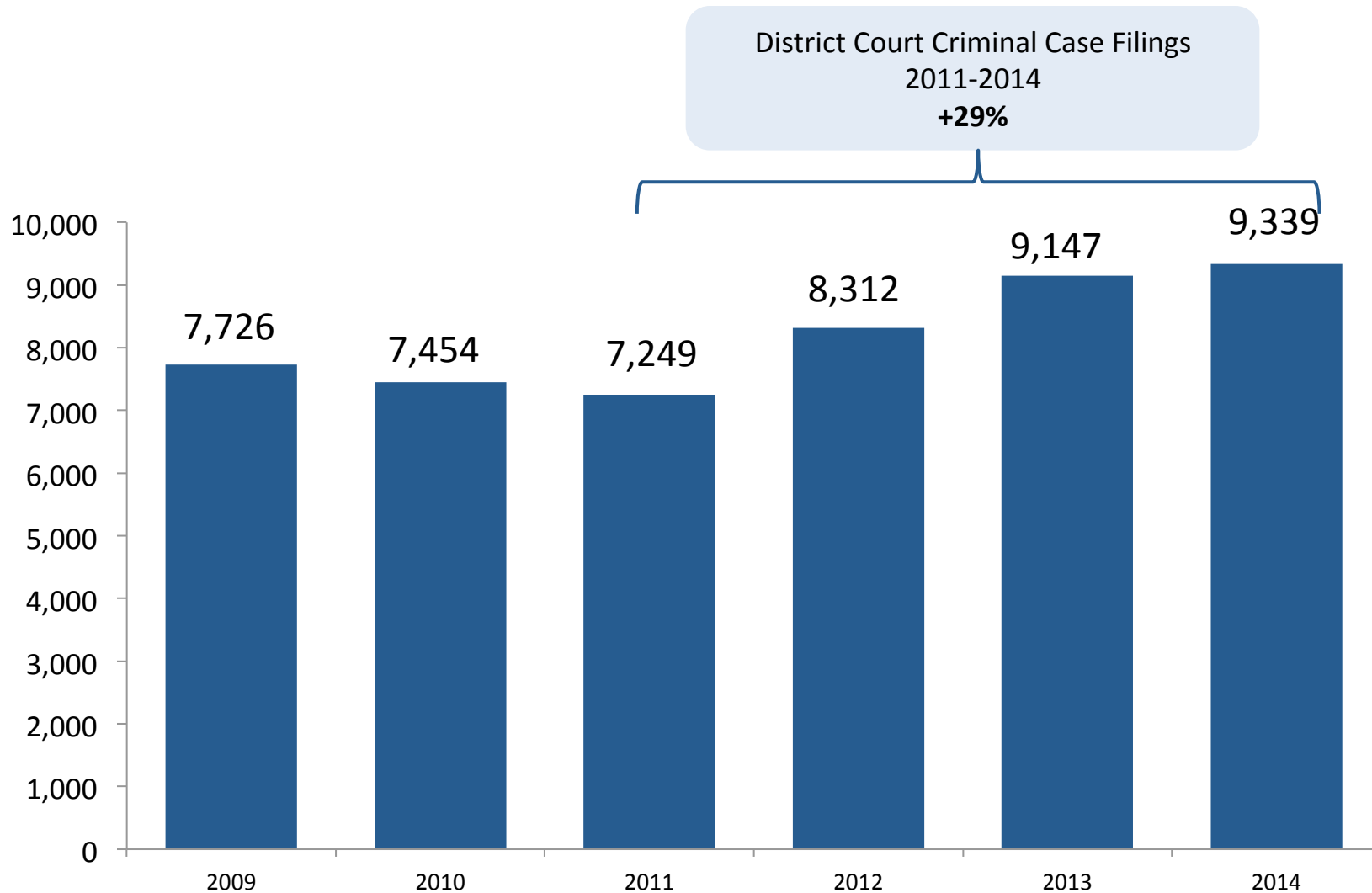
Montana's jail incarceration rate increased

67%

between 2011 and 2013.

Montana's jail incarceration rate grew significantly faster than other states in the region and at 360 is the highest in the region.

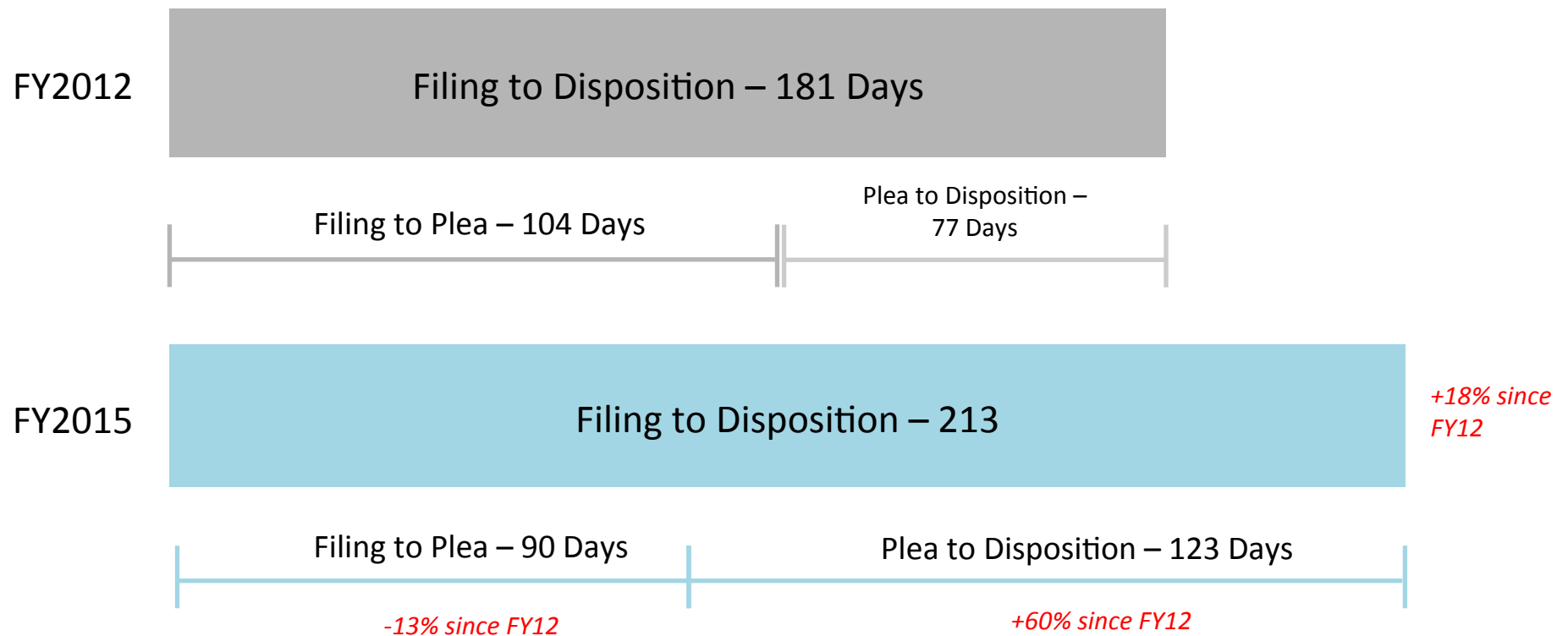
District court case filings are up sharply in the last four years. Almost half of the increase appears to be driven by increases in felony drug possession filings.



Source: Montana District Court Case Filings and Dispositions, 2005-2014. Cases include new offenses and "re-openings."

The time it takes for a case in District Court to reach disposition from various stages has increased.

Case Processing Measures, FY2012 and FY2015

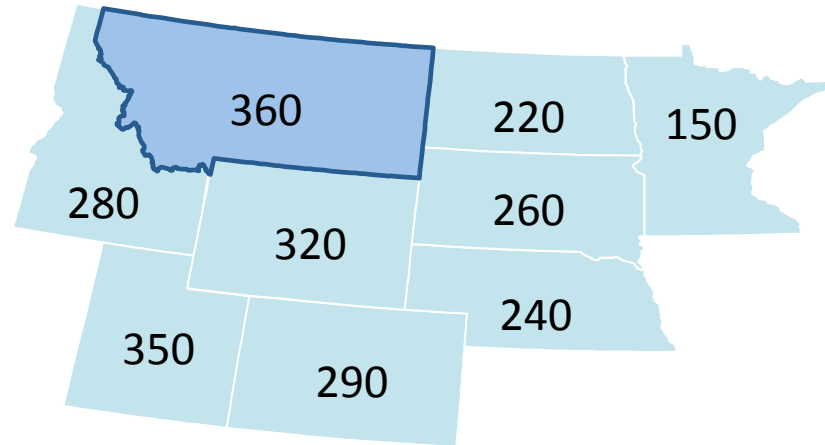


Source: Montana District Court Case Filings and Dispositions, 2005-2014

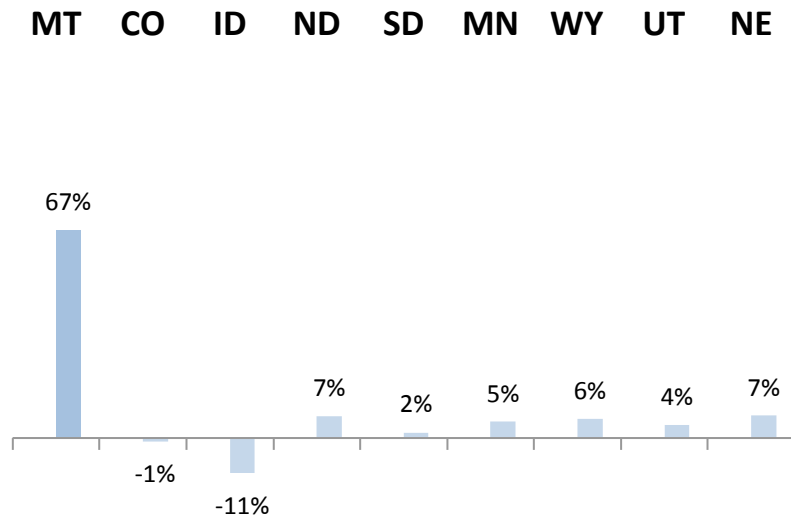
*Time calculations are based on the "oldest" filing for each unique filing. To attempt to control for abscond-delayed cases, those with a time to disposition over 500 days were excluded. Revocation proceedings also were excluded for this analysis.

Montana's jail incarceration rate increased significantly in recent years, and is the highest of its neighbors. Jail length of stay is above average.

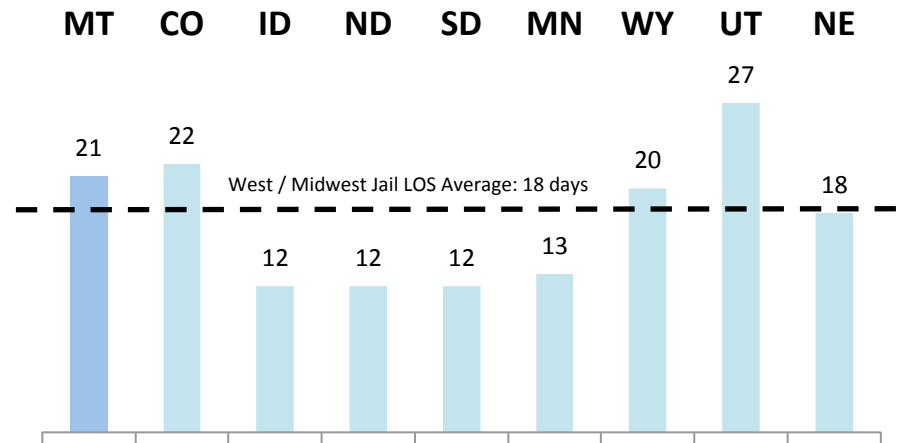
2013 Jail Incarceration Rate



Percent Change in Jail Incarceration Rate, 2011-2013



Jail Average Length of Stay, 2013



Source: US. Department of Justice, *Census of Jails: Population Changes, 1999-2013*

Initial Survey Results Sheriffs

System Concerns (12 respondents)

- Average jail capacity is at 86%, with 5 jails close to or significantly over capacity.
- Among respondents, 34% of the jail population were pre-trial felons (peak of 69%) and 28% for pre-trial misdemeanors (peak 70%).
- Among respondents, 17% of the jail population were for state holds and 10% were for violations.
- Most sheriffs are administering medical, mental health, substance, suicide, and general risk instruments in jail.
- Sheriffs report training needs for crisis intervention, use of force, and violent crime prevention strategies.
- Sheriffs report that DOC commitments are “ready” for too long and consume bed days while waiting for placement.

Initial Survey Results County Attorneys

System Concerns (13 respondents)

- Close to 50% of cases involve the crime lab.
- Up to 10% of misdemeanors are offered diversion (5% or less for felonies).
- Almost all report a lack of behavioral health resources to support case needs.
- 24/7 & SCRAM are reported as top tools to protect the public without adding to correction population
 - Many report Probation as a vital tool, but some say they don't have enough officers (PSIs take months)
- Consistent identification of pre-trial services as a strongly needed tool, in addition to aftercare for substance use.

Eight Pretrial Best Practices

Risk Assessment

Conduct a risk assessment, using a pretrial risk assessment tool, on all defendants in custody to inform release decisions.

Pretrial Supervision

Create a pretrial supervision program that supervises and monitors defendants released by the court and reminds them of court dates.

Citation Release

Use citation releases by law enforcement in lieu of custodial arrests for non-violent offenses when there is no reasonable cause to suggest a risk to the community.

Eliminate Schedules

Eliminate bond schedules and replace them with validated pretrial risk assessments.

Early Screening

Ensure an experienced prosecutor conducts early screenings of criminal cases before the initial court appearance to allow for appropriate charging and timely dismissals as well as early diversion.

Defense Counsel

Ensure that defense counsel is engaged prior to the initial appearance and is prepared to represent the defendant on the issue of bail.

Preventive Detention

Allow for risk-based preventive detention, using risk as the basis for allowing pretrial detention for those who pose unmanageable risks to public safety.

Data Collection

Collect and public pretrial performance and outcome measures.

Source: Pretrial Justice Institute, <http://www.pretrial.org/solutions/>

Pretrial Best Practices - Examples



- Use a pretrial risk instrument to inform release and detention decisions.
- Support a pretrial monitoring unit to supervise the completion of service and fine and program requirements.
- Implement an automated court date reminder system and a tracker system for those who are difficult to reach.
- Implement presumptive deferred sentencing for low-level, limited-history offenders.
- Utilize pretrial monitoring to increase deferred prosecution.
- Implement an accelerated misdemeanor system in which pre-plea cases are dismissed upon the completion of community service.
- Increase the utilization of community court and dismiss charges upon completion.
- Utilize swift, certain, and fair sanctions for violations of diversion and deferral conditions.

Thank You



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