

**AN INITIAL EVALUATION OF
INDIANA'S CRIMINAL CODE REFORM (HEA 1006)**

**SUBMITTED TO THE
INDIANA CRIMINAL JUSTICE INSTITUTE**

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Executive Summary

Pursuant to House Enrolled Act (HEA) 1006 (2014), the Indiana Criminal Justice Institute is required annually to gather data and analyze the impact of Indiana's criminal code reform on local units of government, the Department of Correction, and the judicial center. This requirement of the landmark Indiana criminal code reform enacted in 2013-2015 has no immediate impact on the criminal justice system but bodes well for the legislation's long-term success. The report is to be provided to the governor and the legislative council by July 1 of each year. In early 2015, the Indiana Criminal Justice Institute commissioned the Sagamore Institute to conduct the initial study. This report is the first such data collection and analysis.

In the preparation of this report, the Sagamore Institute has received invaluable cooperation and the provision of data and information from several key sources. It is important to note that many of 1006's policy changes took effect less than one year ago, and several significant changes have not yet taken effect. Moreover, many of the changes at the local level, which together constitute one of the most significant parts of 1006's reforms, have not yet been felt.

Additionally, the new sentencing structure is only gradually replacing the old. While offenders are being charged under the new felony structure, the majority of adjudications are still being sentenced under the old felony structure; in May 2015, 47 percent of the level 6 felony and class D felony adjudications were level 6 felonies. In the higher level offenses, the newer level felonies consisted of a much smaller percentage of the adjudications. It will take several more years for all the old class felonies to work their way out of the system. For these reasons, this initial study can only observe very preliminary trends.

The Sagamore Institute began its work earlier this year by interviewing many representatives of the executive, legislative, and judicial branches as well as prosecutors and public defenders, law enforcement and community correction officers, and other stakeholders in an effort to insure that the concerns of each are heard. Sagamore is working

with both the Governor’s Management Performance Hub and the Indiana Judicial Center’s Evidence-Based Decision-Making working group to share information and heighten the profile of Indiana’s reforms both in-state and nationally. Most importantly, Sagamore has worked with the data experts from across the state’s criminal justice system to observe trends in the early implementation of 1006 in Indiana. The bulk of this report features charts with the most pertinent data and narrative placing its findings in context of the state’s effort to reform its criminal code.

In addition to the explicit requirements for this report, Sagamore has also sought to provide baseline data – information regarding as many aspects of the criminal justice system as possible – as of June 30, 2014, in order to collect in one place data against which future progress may be measured.

One of the most frequent themes Sagamore heard from many stakeholders was the lack of reliable, centralized data that is readily accessible. Progress is being made: due to legislation from the General Assembly and rules promulgated by the Supreme Court, data is being collected, stored, and transmitted electronically more than ever before. Nevertheless, as discussed below, relevant data is collected and stored by at least twenty-six different sources in more than sixty different databases.

From one of these sources, the Division of Court Administration’s Trial Court Technology (“Court Technology”) office, data from electronic abstracts is readily available. Sagamore worked closely with Court Technology to obtain most of the charts and tables collected in this report. From this data, five trends are emerging. First, as would be expected, the number of offenders that are charged and sentenced under the revised criminal code is steadily growing. Second, there appears to be marked diversion of felony offenders away from DOC. Third, the criminal code reform’s attempt to revise property and substance offense sentencing appears to be paying dividends, as the number of offender-days at the DOC is falling. Fourth, the number of probation revocations shows some signs of decreasing under the revised criminal code, although it is much too early to be sure. Finally, due to the increase in suspendible sentences, the number of executed days in average sentences appears to be falling.

Despite these five emerging trends, it is obvious that only over the next several years will the full effect of 1006 be felt. The types of questions yet to be answered can be divided into four separate but related categories: sentencing and commitment; prison and community correction population; effective treatment and recidivism; and funding for each component. The report outlines many such issues for which answers will be sought.

Finally, the report concludes with four recommendations for future reforms. First, despite its progress, Indiana must develop a centralized data system that is more accessible to all criminal justice stakeholders. Second, to facilitate reliable data, to make criminal histories more certain, and to assist with reporting criminal statistics, a common, consistent offender number should be used. Third, to allow the continued diversion of low-level offenders away from the DOC, affirmative steps must be taken to reduce pretrial and civil detention in local jails. Finally, to aid in both data collection generally and to promote the efforts in the third recommendation, data regarding jail occupancy and bed availability must be maintained much more consistently and reliably.

Introduction

In 2013, Indiana began a process of substantially revising its criminal code for the first time in thirty years. The General Assembly built on this foundation in 2014 and 2015 by making further revisions to the criminal code, by amending the 2013 legislation, and by providing funding for the various aspects of House Enrolled Act 1006 (2013).

Among the additions enacted in 2014 was the requirement that the Indiana Criminal Justice Institute (ICJI) “monitor and evaluate criminal code reform.” Ind. Code § 5-2-6-24(b).¹ The ICJI is required to “annually gather data and analyze the impact of criminal code reform on (1) local units of government; (2) the department of correction; and (3) the judicial center.” Ind. Code § 5-2-6-24(c). ICJI is to prepare an annual report that contains its analysis before July 1 of each year and provide it to the governor and the legislative council. Ind. Code § 5-2-6-24(d). The required elements of the report are listed in the adjacent sidebar.

The ICJI commissioned the Sagamore Institute to conduct the initial study. Since the first year of implementing this landmark legislation was comprised of nascent system changes and phased-in policy changes, this initial report does not attempt to issue a verdict

Required Elements of ICJI’s Criminal Code Reform Report

(Ind. Code § 5-2-6-24):

(c) The institute shall annually gather data and analyze the impact of criminal code reform on:

- (1) local units of government;
- (2) the department of correction; and
- (3) the judicial center.

...

(e) The report required under this section must:

(1) include an analysis of:

(A) the effect of criminal code reform on:

- (i) county jails;
- (ii) community corrections programs;
- (iii) probation departments; and
- (iv) courts;

(B) recidivism rates;

(C) reentry court programs; and

(D) data relevant to the availability and effectiveness of mental health and addiction programs for persons who are at risk of entering the criminal justice system, who are in the criminal justice system, and who have left the criminal justice system; and

(2) track the number of requests for sentence modification that are set for hearing by the court, including the relief granted by the court, if any. . .

...

(h) Based on its analysis, the institute shall include recommendations to improve the criminal justice system in Indiana, with particular emphasis being placed on recommendations that relate to sentencing policies and reform.

(i) The institute shall include research data relevant to its analysis and recommendations in the report.

¹ The statute specifically defines “criminal code reform” as the “statutory provisions relating to criminal law enacted by P.L.158-2013 and HEA 1006-2014.” Ind. Code § 5-2-6-24(a).

on the law's full effects. Rather, it seeks to establish a baseline understanding of the incarceration data by considering three basic questions about the information available:

- A. What we can and do know
- B. What we could but don't know²
- C. What we can't know

In pursuit of answering these questions, Sagamore has begun a multi-dimensional and methodologically plural investigation. The first part of this report summarizes the vast array of databases and the types of information available to the Indiana criminal justice system, and to those seeking to study and support it. The strength of this wide and varied data collection effort is the sheer amount of data available. The weakness is the near complete autonomy of these systems and technologic dis-connectivity between them. This gives policymakers partial information at best and misleading reports at worst.

Second, Sagamore completed a comprehensive set of interviews with key state stakeholders – representatives of the executive, legislative, and judicial branches, prosecutors and the public defenders, and law enforcement and community corrections, at the State and local level – in an effort to insure that the concerns of each are heard. These efforts have also helped to start a dialogue regarding what works (and what does not) in the Indiana criminal justice system.

Third, Sagamore is working with both the Governor's Management Performance Hub and the Indiana Judicial Center's Evidence-Based Decision Making projects aimed at reducing recidivism. This three-party collaboration will expand information sharing between the partners and heighten the profile of Indiana's reforms both in-state and nationally.

Fourth, and more importantly, Sagamore has worked with the data experts from across the state's criminal justice system to detect patterns and outcomes in the early implementation of HEA 1006 in Indiana. The bulk of this report features charts with the

² Due to an unavailability of reliable data, this report does not discuss or include significant data regarding the availability and effectiveness of mental health and addiction programs. For the same reasons, it does not include data regarding requests for sentence modification.

most pertinent data and narrative placing its findings in context of the state's effort to reduce recidivism.

In all of these pursuits, Sagamore seeks to advance a more robust conversation about Indiana's criminal justice *system* – a system that operates with interactivity, communication, and collaboration to reduce crime and restore health to individuals and communities.

Because the legislative history of 1006 is more complex than most other legislation, and because aspects of it have been spread out over the course of three legislative sessions, this report begins with a summary of that story. In keeping with the theme of what we do and do not know, the following three sections summarize what sources will be helpful in obtaining the information necessary to evaluate the impact of 1006, what initial results are being seen, and what are some of the main questions yet to be answered. This report concludes with four recommendations for further reforms.

Legislative History of HEA 1006 – First, Second and Third Editions

The scope and impact of the Indiana criminal code revision in 2013 was extensive and groundbreaking. While the legislation was designed to clarify the code and make sentences more proportional, one of its most ambitious goals was to reduce recidivism by shifting the care of low-level offenders from the Department of Correction (DOC) to local community corrections and to make incarceration of offenders more effective. These changes were so extensive that additional legislation was enacted in the 2014 and 2015 legislative sessions to clarify, revise, and further fund the reforms enacted in 2013.

Before 2013, the last comprehensive review of the Indiana Criminal Code began when Governor Otis Bowen signed an executive order in 1973 reorganizing the Indiana Criminal Law Study Commission. The Commission began reworking the Criminal Code that same year and finished a proposed final draft in October 1974. The revised Criminal Code took effect January 1, 1976.

Since that time, the Criminal Code has been amended almost every year, but no comprehensive review has since been attempted. Too often, amendments were drafted

with little attempt to coordinate with existing statutes. The style and format of new criminal statutes were also often inconsistent with existing ones. As a result, terms were often undefined or in conflict with definitions used elsewhere in the Code, and clarity and predictability were undermined.³ Moreover, there was a growing concern that many sentences were disproportionate to the crimes to which they were attached and that Indiana's prisons could be used more effectively.

To address these concerns, a Criminal Code Evaluation Commission (CCEC) was appointed in 2010, and the CCEC met regularly in 2010, 2011, and 2012. The efforts of the CCEC had two related but distinct effects. First, in response to the increasing awareness that more information and reliable data was needed concerning criminal offenders, efforts were made to collect, store, and transmit data electronically. Second, comprehensive, cohesive criminal code reform was studied, discussed, drafted, and introduced in the General Assembly.

To meet the need for data, the General Assembly, Indiana courts, and the Indiana Department of Correction took concrete action to collect, store, and transmit certain data and documents to make procedures more efficient and allow for more accurate data. During the 2012 legislative session, the General Assembly enacted Indiana Code 35-38-1-31, which provided that when a court imposed a felony sentence involving a commitment to the DOC, "the court shall complete an abstract of judgment in an electronic format approved by the Department of Correction and the Division of State Court Administration." Abstracts of Judgment were already used and required by the courts to be completed for all DOC commitments, but the new statute added additional requirements and data elements that were not found in the previous Abstract of Judgment documents.

Shortly after the General Assembly enacted this legislation, the Indiana Supreme Court amended the Indiana Criminal Rules of Procedure to include Rule 15.2. This rule requires a court to "complete an abstract of judgment in an electronic format approved by the Division of State Court Administration" whenever an offender is sentenced for any

³ See Steven Johnson, former Executive Director, Indiana Prosecuting Attorneys Council, Presentation to CCEC on October 26, 2012, Ex. 1.

felony conviction. To make this more feasible for trial courts, the Supreme Court developed the electronic Abstract of Judgment Application in INcite, under the direction of the Records Management Committee.

As a result of this legislation and rule, statewide conviction and sentencing data is readily available to the courts, legislators and other policy makers through the electronic abstracts of judgment. Additionally, trial courts have a standardized, electronic method for transmitting sentencing information for offenders committed to the Department of Correction.

To address the need for criminal code reform, the CCEC devoted thousands of hours to studying the criminal code, researching alternatives, hearing expert testimony, and drafting proposed legislation. By October 2012, the Committee had completed the draft legislation that would become, when bill numbers were assigned in the 2013 legislative session, House Bill (HB) 1006. Representative Greg Steuerwald was designated as the author of the bill and introduced the proposed legislation.

The criminal code reform legislation passed both chambers, albeit in a slightly different form. After the conference committee members worked out a compromise, the House approved the final bill by a vote of 86-10, while the Senate approved it by a vote of 34-15. Governor Pence signed the bill on May 6, 2013, and it was enacted as Public Law 158 on May 13, 2013.

Due to the complexity and scope of HEA 1006, the General Assembly provided that the legislation would not take effect until July 1, 2014. This delay allowed the Legislature to propose further amendments and corrections during the 2014 legislative session. Indeed, LSA found dozens of “conflicts” between HEA 1006 and other legislation enacted in 2013.⁴

The General Assembly also realized that it would need additional time to calculate what additional funding would be needed to implement the law. As the bill was being considered in March 2013, the Department of Correction (DOC) released a report that

⁴ See Craig Mortell, Report to the Criminal Law and Sentencing Policy Study Committee, August 15, 2013, at p. 2 and Ex. 1.

surprised legislators: it concluded that the bill, which included tougher sentences for violent and sex crimes and which reduced credit time for good behavior, would increase Indiana's rate of incarceration by seventy percent over the next twenty years. This report conflicted with LSA's analysis, which indicated that HEA 1006 would cause a small increase before leading to a significant decrease in the prison population.

Therefore, in the interim between the 2013 and the 2014 legislative sessions, two different studies were completed in an attempt to ascertain the fiscal impact of HEA 1006. A study by Applied Research Services, Inc., concluded that while HEA 1006's offense reclassification and new sentencing ranges would lead to shorter sentences, the new seventy-five percent time-served requirement⁵ would increase the overall amount of time inmates would serve.⁶

In contrast, a study by American Institutes for Research concluded that HEA 1006 could lead to a reduction in the prison population, but only if Indiana made deliberate efforts to divert 14,000 offenders annually from the DOC and to manage them at the local level.⁷ This effort, AIR explained, would require the General Assembly to budget an additional \$10.5 million annually to cover shifting treatment and management of offenders to local communities.⁸

Based on these findings, the 2014 General Assembly introduced HB 1006, along with additional proposed legislation, to address the local fiscal impact of HEA 1006-2013, to reduce recidivism, and to modify the sentencing structure that both the ARS and the AIR studies concluded could lead to a growth in the prison population.

⁵ Before 1006 took effect, Indiana allowed most types of offenders to receive one day of credit for every day served; thus, an offender sentenced to serve ten years in the DOC could expect to only serve five years. One of the provisions of 1006, however, changed this requirement for most offenders, providing instead that an offender receives one day of credit for every three days imprisoned for a crime or confined while awaiting trial or sentencing. See Ind. Code § 35-50-6-3.1.

⁶ ARS Report at 7.

⁷ See AIR Report at 6, 96-100.

⁸ See *id.* at 2, 100.

Similarly, the 2015 General Assembly enacted additional legislation insuring that community corrections and local mental health were adequately funded. HEA 1001 approved funding for community corrections in the amount of \$52,299,753 in 2015 and \$63,424,747 in 2016. The Legislature also approved \$30 million for mental health and addiction services between the two years.

While some are calling the 2015 legislative additions the capstone to the entire criminal code reform, the real work has only just begun. The next section of this report summarizes what sources will be helpful in obtaining the information necessary to evaluate the impact of 1006.

How We Know What We Know: Sources for Further Evaluation

One of the primary challenges in evaluating the effect of HEA 1006 is that there is no central repository for all criminal justice related statistics. In fact, one recent attempt to list the primary sources for criminal justice data found twenty-six providers of data and more than sixty different databases. Some but not all of these databases are available on the internet. Many are limited to use by Indiana courts and law enforcement officials. A few have nearly real-time data; others have lag times of eighteen months or more. Many are cumbersome and difficult to use for anyone not experienced with the system; a few are easily understood and can be manipulated by the general public. The charts in Appendix A, included with this Report, identify the sources of information, the databases they offer, and, where necessary, a brief description of the information available.

What We Do Know: Baseline Data and Emerging Trends

What do we know? The first influences of 1006 began to be felt after July 1, 2014, when many of its significant provisions took effect. Because 1006 only governs offenses occurring on or after July 1, 2014, however, a fuller impact of the legislation will not be felt for several years until the offenders governed by the old system have worked their way through the system. Most of the emerging trends discussed below relate to Felony Level 6 felonies (“F6 felonies”), as many more such felonies have worked their way through the court system than higher-level felonies. Despite the uncertainty due to the lag time of the old offenses still in the system, some initial findings seem to suggest that the General Assembly’s goals are being achieved. This report first looks at two sets of baseline data before reviewing six emerging trends flowing from the reforms brought about by 1006.

1. Incarceration Baseline Data

The first set of baseline data consists of information about inmate population and capacity in the Department of Correction and in county jails. The following chart shows

that for February 2015, the DOC housed 28,940 inmates, which was five percent under its capacity:

TOTALS					
	January Operational Capacity	February Operational Capacity	February Adjusted Operational Capacity*	February Ending Count	Percent +/- Capacity
GRAND TOTAL FOR ALL ADULT MALES (Includes Jail Bed Count and Contracted Beds)	27,679	27,519	26,634	25,799	-3%
TOTAL FOR ADULT MALES IDOC FACILITIES ONLY	26,372	26,372	25,496	24,870	-2%
GRAND TOTAL FOR ALL ADULT FEMALES (Includes Jail Bed Count and Contracted Beds)	2,853	2,882	2,854	2,719	-5%
TOTAL FOR ADULT FEMALES IDOC FACILITIES ONLY	2,620	2,620	2,594	2,495	-4%
TOTAL FOR JUVENILE MALES	752	752	689	380	-45%
TOTAL FOR JUVENILE FEMALES	172	172	156	42	-73%
GRAND TOTAL FOR THE DEPARTMENT (Includes Jail Bed Count** and Contracted Beds)	31,456	31,325	30,333	28,940	-5%
GRAND TOTAL FOR THE DEPARTMENT (Excludes Jail Bed Count and Contracted Beds)	29,916	29,916	28,935	27,787	-4%

*Adjusted Operational Capacity includes Intake Beds and excludes Down, Held, and Segregation/Infirmary Hold Beds.

**Jail Bed Counts - IDOC offender Jail Bed holding is demand-based, therefore Jail Bed Percent Capacity is always 0%. Jail Bed Operational Capacity is determined by each county's availability and fluctuates from month to month.

Sources: Planning Division Facility Body Count Report
 Planning Division Juvenile Daily Count Report
 OIS - Jail Bed Count
 Operational Support Services - Vacancy Report

(6)

DOC Offender Population Statistical Report, February 2015 (available at <http://www.in.gov/idoc/2376.htm>, last visited May 26, 2015).

The Indiana DOC conducts annual jail inspections of each of the state's county jails and provides this information to the Indiana Sheriff's Association. A count of jail beds and populations is taken during the inspection. The most recent inspections yield the data in the table below, which consists of the date on which the inspection was made, each county jail's available beds, and its jail population:

County	Inspection Date	Inmate Population	Number of Beds				
				LaGrange	6/18/2014	83	242
				Lake	6/5/2014	727	1009
				Laporte	3/20/2015	323	368
				Lawrence	7/8/2014	129	168
				Madison	3/24/2015	171	207
				Marion II	10/2/2014	1043	1030
				Marion I	10/1/2014	1114	1135
				Marshall	6/24/2014	127	239
Adams	9/25/2014	57	60	Martin	8/15/2014	56	60
Allen	8/28/2014	721	741	Miami	10/8/2013	126	240
Bartholomew	1/24/2014	160	362	Monroe	1/15/2015	269	287
Benton	1/9/2014	18	54	Montgomery	2/5/2015	183	224
Blackford	6/26/2014	80	80	Morgan	2/21/2014	317	439
Boone	2/3/2015	126	222	Newton	7/24/2014	45	77
Brown	1/23/2015	36	117	Noble	9/30/2014	142	263
Carroll	9/16/2014	44	34	Orange	3/11/2014	56	92
Cass	7/8/2014	130	208	Owen	2/25/2014	53	72
Clark	4/21/2015	429	482	Parke	2/14/2014	57	92
Clay	7/23/2013	107	170	Perry	9/12/2014	48	143
Clinton	3/6/2014	127	222	Pike	2/18/2014	42	74
Crawford	5/9/2015	38	81	Porter	7/1/2014	433	348
Daviess	5/21/2013	132	218	Posey	10/9/2014	45	62
Dearborn	8/8/2014	253	216	Pulaski	8/19/2014	62	128
Decatur	8/22/2013	72	66	Putnam	6/3/2014	94	155
Dekalb	4/22/2015	73	105	Randolph	1/27/2015	85	77
Delaware	5/23/2013	297	221	Ripley	8/13/2014	91	124
Dubois	4/20/2015	78	84	Rush	5/13/2013	49	46
Elkhart	8/5/2014	643	1002	Scott	3/12/2014	102	64
Fayette	9/23/2014	129	114	Shelby	6/17/2014	169	203
Floyd	8/5/2014	316	234	Spencer	6/13/2014	61	71
Franklin	9/26/2014	44	75	Starke	7/15/2014	49	54
Fountain	2/27/2014	22	25	Steuben	7/29/2014	95	175
Fulton	9/11/2014	62	88	St. Joseph	7/7/2014	545	829
Gibson	7/11/2014	96	120	Sullivan	2/20/2014	49	56
Grant	5/6/2015	241	274	Switzerland	5/23/2014	28	60
Greene	2/11/2015	75	84	Tippecanoe	8/29/2014	329	553
Hamilton	4/15/2015	302	296	Tipton	10/23/2014	22	27
Hancock	4/1/2015	132	157	Union	10/4/2013	22	10
Harrison	5/30/2014	137	175	Vanderburgh	10/9/2014	635	553
Hendricks	10/21/2014	218	252	Vermillion	3/14/2014	49	74
Henry	5/1/2015	70	116	Vigo	9/19/2014	244	267
Howard	9/18/2014	365	364	Wabash	2/9/2015	89	72
Huntington	8/21/2013	263	331	Warren	3/14/2014	17	42
Jackson	6/10/2014	201	172	Warrick	3/18/2015	78	126
Jasper	10/17/2013	61	120	Washington	1/7/2014	81	56
Jay	10/31/2013	59	140	Wayne	6/27/2014	274	416
Jefferson	10/11/2013	126	109	Wells	9/23/2014	65	94
Jennings	7/25/2014	110	122	White	10/9/2014	112	165
Johnson	5/13/2014	295	322	Whitley	7/22/2014	119	104
Knox	10/25/2014	198	214				
Kosciusko	2/11/2015	290	331				
		Total Pop- ulation	Total Beds				
		16,637	20,452				

Data courtesy of the Indiana Sheriff's Association.

2. Recidivism Baseline

While attempting to establish a baseline for recidivism in Indiana, it must be recognized that no single definition is used. Broadly, recidivism is a relapse back into criminal activity. Several methods are used to measure recidivism. The period to follow a release is one such question, with three years being the norm. Another issue is at which point a genuine relapse has occurred: rearrest, reconviction, or reincarceration. Finally, the nature of what constitutes a relapse is also in question, particularly as it relates to technical violations, convictions for crimes committed prior to incarceration, and convictions for crimes committed after release.

Recidivism rates can be defined in terms of correctional success, societal impact, or the individual, all leading to different definitions. Ideally, a report would include data on rearrest, new convictions, and reincarceration separately at yearly intervals up to 5 years. Similarly, information on technical violations and time of relapse should be considered separately in the data. This will allow for easy comparison of data across states and improved ability to judge success of specific correctional programs.

The Indiana Department of Corrections defines recidivism in moderate terms, and it has been extremely consistent in its definition. In terms of time, only three years after release are considered. Any relapse after that point is not considered recidivism. No recidivism rate is reported for the one-year and two-year points, although the DOC has begun to analyze recidivism at these points (KSM Consulting 2015). In terms of what constitutes a relapse, the DOC only includes reincarceration in its definition of recidivism. As such, an individual who is only rearrested, or only rearrested and newly convicted but not incarcerated, will not be considered a recidivist.

The nature of the relapse is not considered, however, so a technical violation, a conviction for crime committed before incarceration resulting in reincarceration, and a conviction for crime committed after release resulting in reincarceration are all considered recidivism. While most relapses occur within three years, a significant amount of relapses occur after three years (Bureau of Justice Statistics 2014). Five years would likely be a more appropriate time frame. Similarly, it can be argued that rearrest or reconviction

both qualify as legitimate relapses. As noted in the previous section, it is important to consider what recidivism is intended to measure when defining it.

The actual Indiana recidivism rate based on this definition is 37.6% for 2014. This is a 1.8% increase from 2013. However, rates have varied from 39.3% to 35.8% over the past 10 years, so 37.6% should be considered average for Indiana (Indiana Department of Corrections 2014). Most of the trends generally associated with recidivism are present in Indiana, such as the following: male recidivism greatly outpaces female recidivism. The older the individual when released, the less likely they are to recidivate. While most recidivism is the result of technical violations, for 2014 the Indiana Department of Corrections reported 52% of recidivism was caused by the commission of a new crime, with 48% caused by a technical violation. It appears that Indiana does not differentiate between crimes committed prior to incarceration and those committed after release in this number.

In consultation with the Governor's Management and Performance Hub (MPH), a report by KSM Consulting noted slightly different recidivism rates in Indiana due to different methodologies and time frames (KSM Consulting, "A Parametric Method for Comparing Recidivist Populations," May 2015). All released offenders from 1973-2014 were included, and the Bureau of Justice Statistics's definition of recidivism was used, which included rearrests and reconvictions. A 42% recidivism rate was noted after the sample size was reduced due to data quality, matching, and completeness issues when attempting to merge the admissions and release records. A 38.6% recidivism rate was noted for the same data by the DOC prior to reduction in sample size.

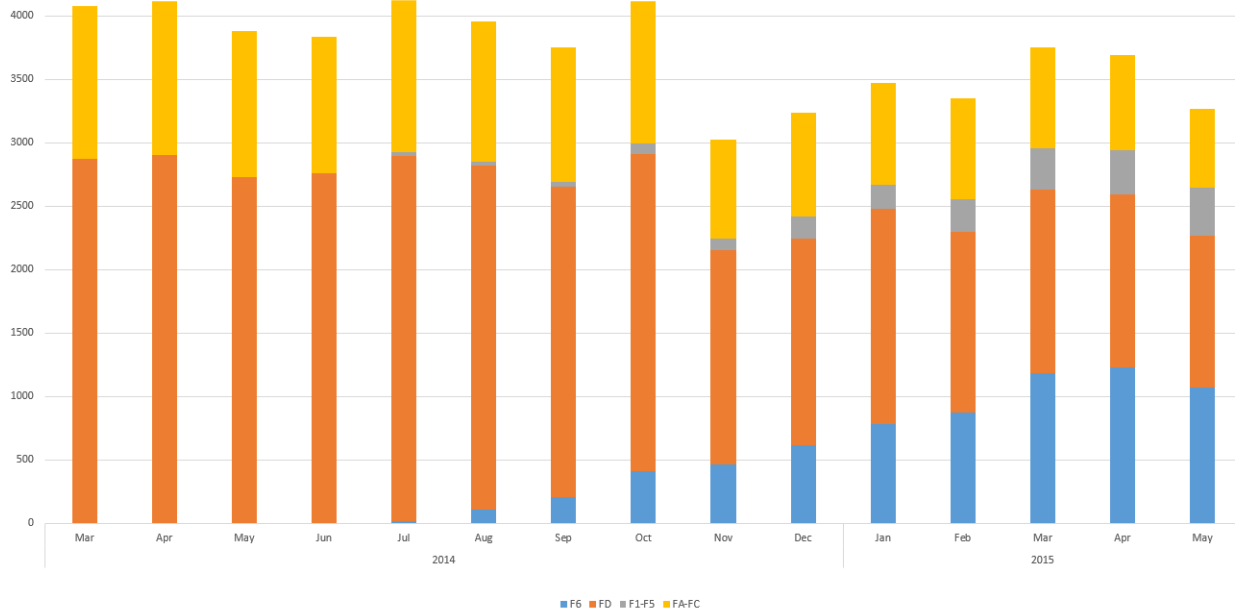
Due to differences in recidivism definitions, it is difficult to compare Indiana to other states or to any "national average." The Bureau of Justice Statistics report on recidivism across thirty states does not include Indiana (Bureau of Justice Statistics 2014). The Pew Center on the States research does, but only in the 2004-2007 period, and not in the 1999-2002 period. As such, no meaningful analysis of the rise or fall of recidivism over time in Indiana compared to other states can readily be made. The Pew Center on the States report notes that Indiana reported a recidivism rate of 37.8% for 2007. This is slightly below the average recidivism rate of 43.3% (The Pew Center on the States 2011). It is unclear whether or not the definition of recidivism was standardized when looking at

each state. The Pew Center on the States' definition of recidivism includes rearrest and reconviction, while Indiana does not. The recidivism rate reported for 2007, however, is the same for both reports. This seems to suggest that the definition was not standardized. Wisconsin and the Pew Center on the States define recidivism differently, and different recidivism rates were noted for the same period in the reports of both institutions (Wisconsin Department of Corrections 2014). Thus, it is unclear whether the definition was standardized. At any rate, the Pew Center on the States data seems to suggest that the Indiana recidivism rate is slightly better than the national average (2011).

3. Offenders charged and convicted under new felony classification.

The first trend is obvious and expected – offenders are being charged, convicted, and sentenced under the new felony classification and sentencing scheme. Convictions for F6 offenders rose from twenty in July 2014 to 1,070 in May 2015. These 1,070 convictions nearly equaled the 1,195 convictions entered for Class D felony (“FD”) offenders in May 2015. The number of convictions for more serious felonies grew steadily but more slowly, from thirty in July 2014 to 377 in May 2015, a number that is slightly more than half of the Class A (“FA”) through Class C (“FC”) felony convictions (623) entered in May 2015. *See Chart 1 and Table 1.*

Chart 1: All Abstracts 3/1/2014-5/31/2015



Courtesy Indiana Supreme Court, Division of State Court Administration, Trial Court Technology (“Court Technology”). Unless indicated otherwise, all following charts and tables provided by Court Technology.

Chart 1 shows the total number of abstracts completed by month from March 2014 to May 2015. The column for each month is divided into sections representing combined FA, FB, and FC cases; FD cases; F1, F2, F3, F4, and F5 cases; and F6 cases. The chart shows the new “level” felonies gaining on the old “class” felonies as a percentage of cases disposed. The number of F6 felonies was almost equal to FD felonies in May 2015. The Table below provides the data from which the chart above was drawn.

Table 1

Number of Abstracts					
	F6	FD	F1-F5	FA-FC	Grand Total
2014					
Mar		2871		1206	4077
Apr		2901		1216	4117
May		2728		1151	3879
Jun		2759		1079	3838
Jul	20	2878	30	1195	4123
Aug	110	2713	29	1107	3959
Sep	209	2447	36	1056	3748
Oct	410	2499	86	1121	4116
Nov	463	1688	89	787	3027
Dec	616	1628	176	817	3237
2015					
Jan	781	1701	187	802	3471
Feb	872	1426	253	798	3349
Mar	1185	1446	324	794	3749
Apr	1230	1366	348	747	3691
May	1070	1195	377	623	3265
Grand Total	6,966	32,246	1,935	14,499	55,646

4. Diversion of All Levels of Offenders Away From DOC

Data from completed abstracts suggest that progress is being made toward one of the goals of 1006: fewer FD and F6 offenders are being sentenced to the Department of Correction. Instead, more offenders are being placed in local programs, including jail, probation, and community corrections. For example, in the first three months of 2014, an average of 762 offenders was sentenced to the DOC only. In comparison, in the first three months of 2015, an average of 655 offenders were sentenced to the DOC only – a decrease of 107 offenders per month. Correspondingly, the numbers of offenders committed to community corrections grew: in the same periods, offenders sentenced to jail only grew slightly from 207 to 227 per month, and offenders committed to community corrections grew from an average of 300 to 311. *See Chart 2 and Table 2.*

Chart 2: F6 and FD Abstracts, January 2014 to May 2015, Total Placements

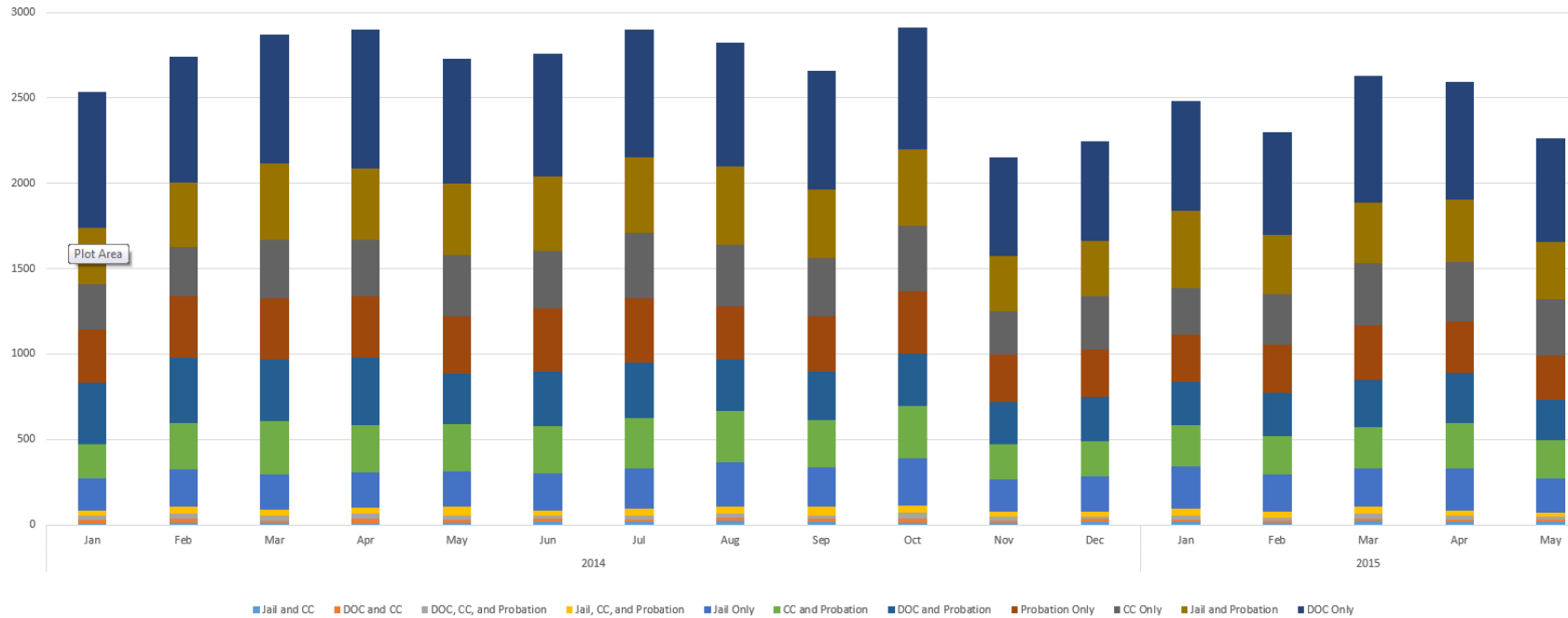


Chart 2 shows the total number of abstracts completed on FD and F6 felonies each month from January 2014 to May 2015. An original abstract documents the initial sentence on a case, as opposed to a sentence modification or a revocation. The height of each column corresponds to the number of abstracts completed that month, while the different colors included in each column show the placement of the offenders. A court may sentence offenders to a combination of DOC, jail, community corrections, or probation. Each color represents sentences to one or more of these options. For example, the “DOC Only” category includes offenders sentenced to the DOC without any further placement on community corrections or probation. The “DOC and Probation” category includes those offenders sentenced to a DOC commitment followed by a term of probation. Table 2 below provides the actual numbers from which Chart 2 is drawn.

Table 2

Number of Abstracts												
	Jail and CC	DOC and CC	DOC, CC, and Probation	Jail, CC, and Probation	Jail Only	CC and Probation	DOC and Probation	Probation Only	CC Only	Jail and Probation	DOC Only	Grand Total
2014												
Jan	9	23	23	28	191	200	359	309	269	331	793	2535
Feb	14	20	33	37	221	271	384	356	290	378	739	2743
Mar	13	14	24	37	210	307	365	355	341	451	754	2871
Apr	8	27	33	35	205	279	394	359	331	414	816	2901
May	11	18	25	50	209	275	296	336	360	417	731	2728
Jun	18	19	15	31	220	274	317	371	338	439	717	2759
Jul	16	13	22	47	233	296	324	378	382	441	746	2898
Aug	23	21	21	40	262	297	302	312	362	456	727	2823
Sep	19	16	19	50	232	278	285	321	343	400	693	2656
Oct	14	24	32	43	276	308	305	365	386	445	711	2909
Nov	10	14	22	32	186	211	242	280	252	325	577	2151
Dec	19	17	12	32	203	207	259	275	317	323	580	2244
2015												
Jan	18	12	21	44	246	242	253	279	272	455	640	2482
Feb	15	11	15	39	214	223	256	284	294	347	600	2298
Mar	23	13	28	45	224	241	278	315	367	352	742	2628
Apr	19	14	19	29	247	266	299	296	350	363	693	2595
May	20	8	19	24	200	224	239	256	331	338	603	2262
Grand Total	269	284	383	643	3,779	4,399	5,157	5,447	5,585	6,675	11,862	44,483

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In keeping with the theme of diversion away from the DOC and toward local options, the data indicate that the largest percentage of FD and F6 offenders are being placed in county jails and then placed on probation.

Chart 3: F6 Original Abstracts 7/1/2014-5/31/2015
Commitment/Placement

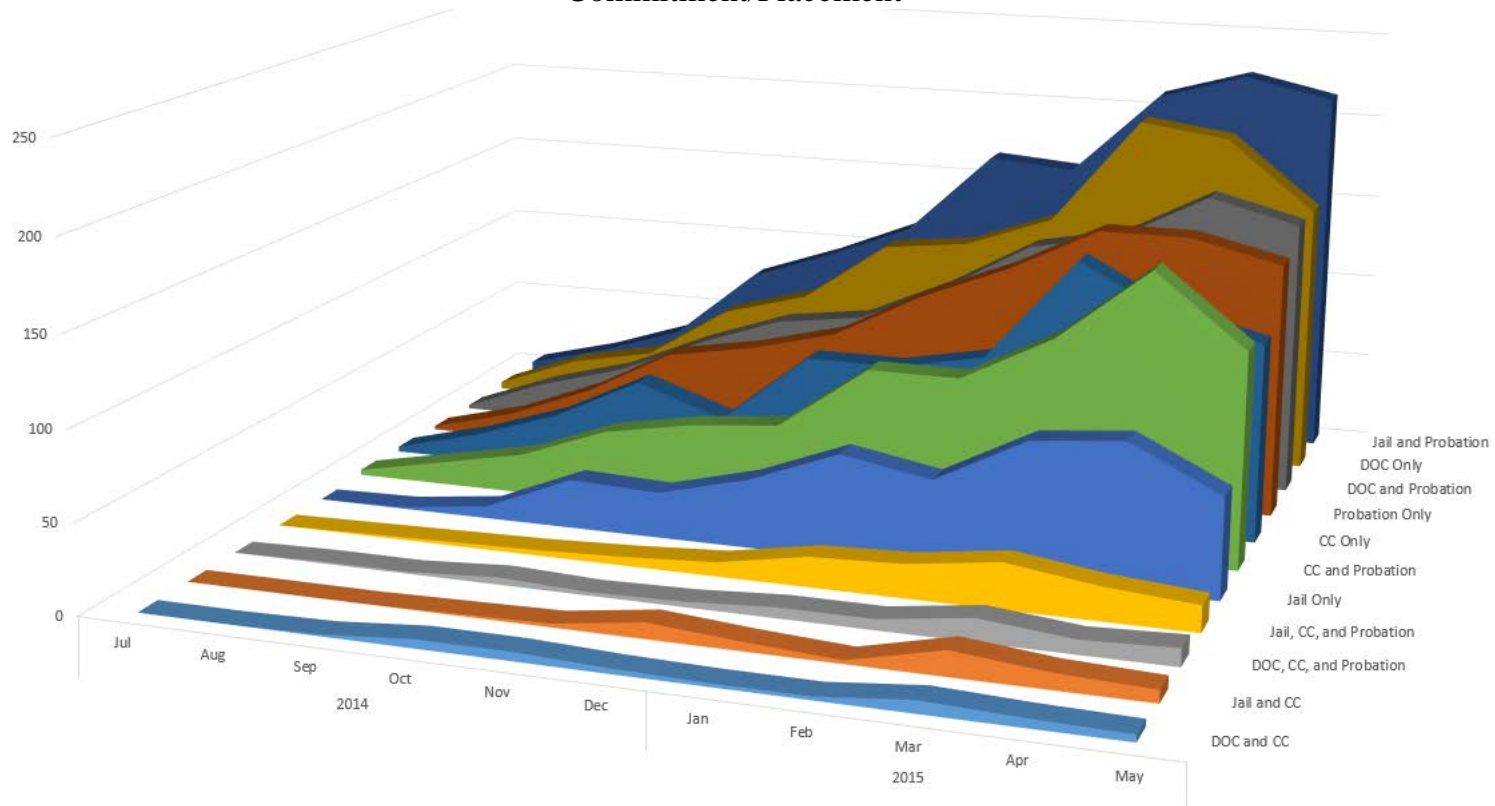


Chart 3 shows the original placement of offenders sentenced under the new Level 6 Felonies from July 2014 to May 2015. It shows that the largest portion of offenders are being incarcerated in county jails and then placed on probation. The chart further demonstrates the growth in the number of offenders being sentenced and committed pursuant to the new sentencing scheme pursuant to 1006. Table 3, below, provides the data from which Chart 3 is drawn.

Table 3

Number of Abstracts												
	DOC and CC	Jail and CC	DOC, CC, and Probation	Jail, CC, and Probation	Jail Only	CC and Probation	CC Only	Probation Only	DOC and Probation	DOC Only	Jail and Probation	Grand Total
2014												
Jul						3	3	2	2	4	5	19
Aug			1	1	1	13	16	15	21	23	18	109
Sep	1		1	2	7	23	33	35	35	33	35	205
Oct	5	1	4	3	28	42	58	62	57	65	77	402
Nov	5	2	2	5	26	51	41	71	75	79	95	452
Dec	3	9	3	8	39	56	82	84	82	115	116	597
2015												
Jan	2	5	6	17	59	93	82	111	105	121	165	766
Feb	2	2	6	19	50	93	92	132	134	140	161	831
Mar	7	14	13	26	77	120	152	158	144	203	210	1124
Apr	5	9	8	19	82	162	125	158	171	196	225	1160
May	4	7	10	15	57	122	113	146	158	156	214	1002
Grand Total	34	49	54	115	426	778	797	974	984	1,135	1,321	6,667

In contrast to the F6 felony commitments, which are growing rapidly in number, the number of FD commitments is falling quickly, as demonstrated by Chart 4 and Table 4. At the same time, however, the same theme of placement in county jails before entering probation is seen in the placement of FD offenders.

Chart 4: FD Original Abstracts 1/1/2014-5/31/2015
Commitment/Placement

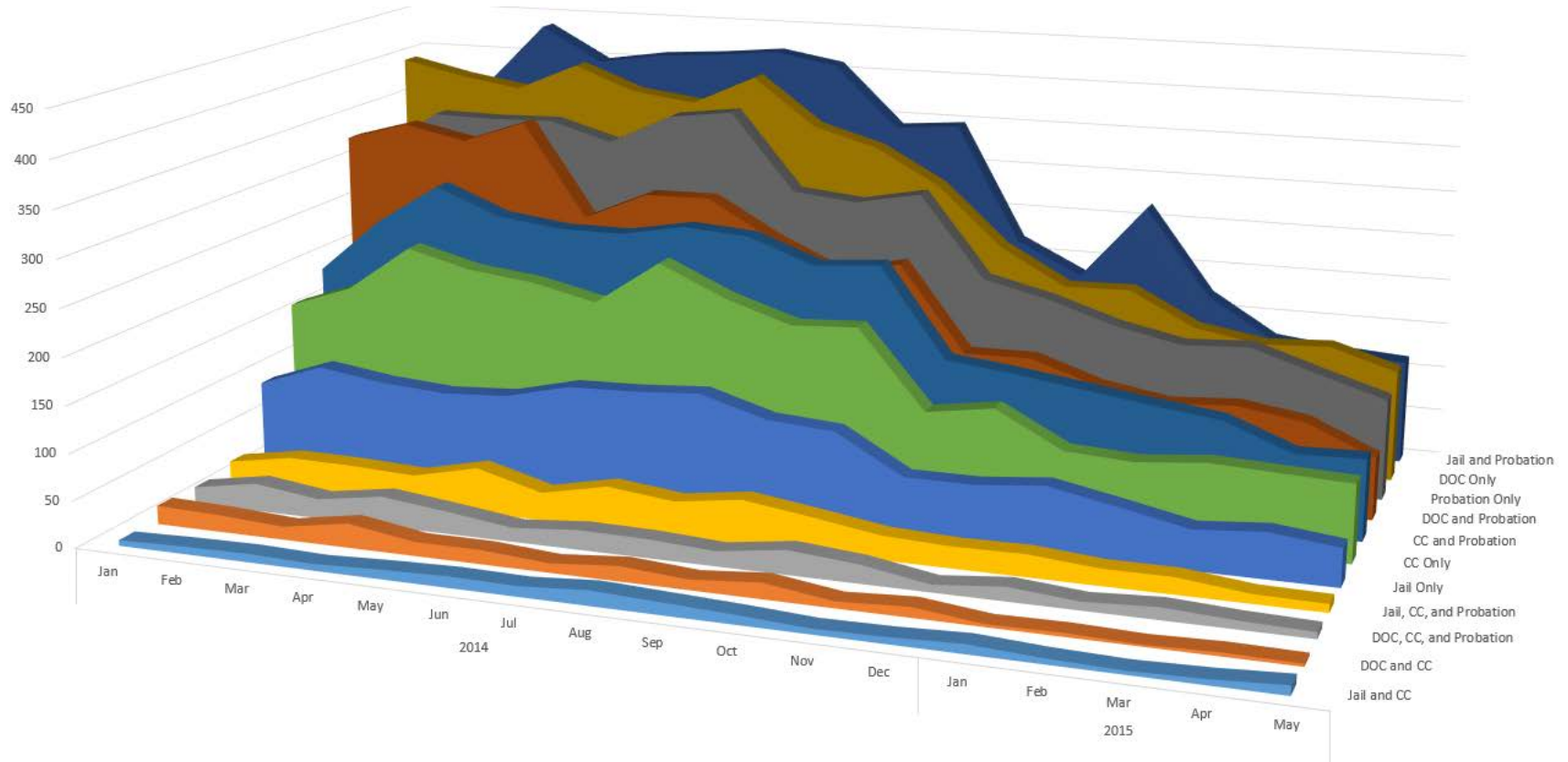


Chart 4 shows the eleven types of placements, the relative percentages assigned to each one, and the general decline of commitments to all types of placements as FD offenders work their way out of the system. Table 4 below provides the numbers from which Chart 4 above is drawn.

Table 4

Number of Abstracts												
	Jail and CC	DOC and CC	DOC, CC, and Probation	Jail, CC, and Probation	Jail Only	CC Only	CC and Probation	DOC and Probation	Probation Only	DOC Only	Jail and Probation	Grand Total
2014												
Jan	6	20	18	25	94	166	191	330	300	399	321	1870
Feb	8	18	30	37	119	191	252	350	350	384	364	2103
Mar	9	14	21	36	109	242	297	336	349	373	436	2222
Apr	7	26	32	33	104	224	269	361	351	404	398	2209
May	10	15	24	49	108	216	260	258	331	378	409	2058
Jun	12	15	15	30	125	200	260	289	365	369	414	2094
Jul	11	10	21	45	127	249	273	290	374	402	421	2223
Aug	16	16	20	37	132	217	268	250	289	350	409	2004
Sep	13	11	16	47	111	194	242	218	282	330	341	1805
Oct	10	17	26	37	106	198	248	233	296	291	347	1809
Nov	6	7	20	26	65	114	151	140	206	226	218	1179
Dec	7	11	8	23	65	125	143	141	189	187	183	1082
2015												
Jan	10	3	15	24	72	87	133	117	166	189	267	1083
Feb	6	4	9	18	58	83	123	105	151	152	171	880
Mar	4	2	13	18	43	90	114	110	155	140	127	816
Apr	6	4	9	10	49	87	86	99	132	144	119	745
May	10	3	7	9	41	84	88	67	110	122	114	655
Grand Total	151	196	304	504	1,528	2,767	3,398	3,694	4,396	4,840	5,059	26,837

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As could be anticipated, the decrease in FD and F6 felonies committed to the DOC from January 2014 to May 2015 led to a significant decrease in the number of offender days (days in which an offender occupied a bed) in the DOC. *See Chart 5 and Table 5.*

Chart 5: FD and F6 Abstracts with DOC Commitment
 Number of Abstracts and Number of Offender-days
 Adjusted for Credit Time

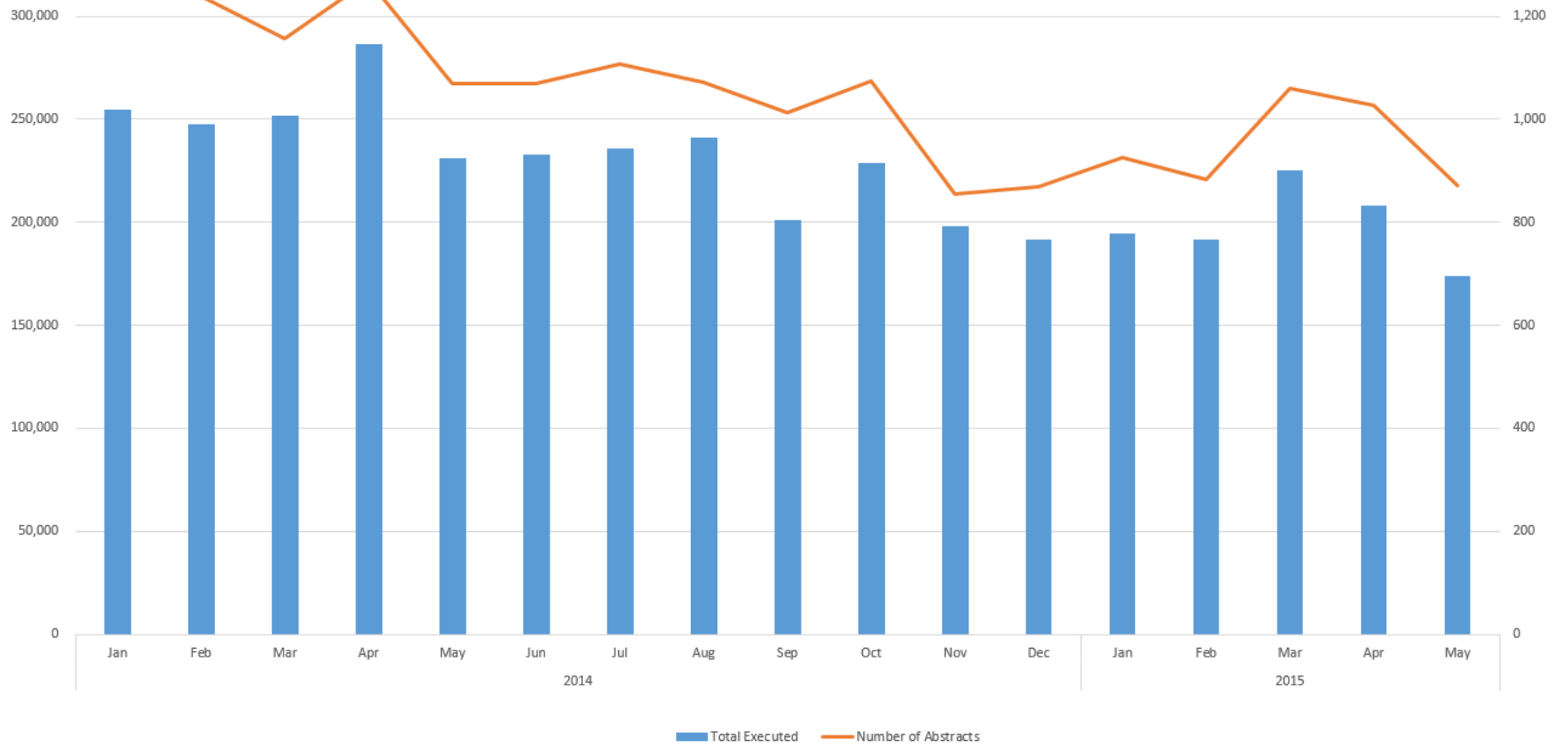


Chart 5 identifies the combined number of abstracts completed on Class D and Level 6 Felonies from January 2014 to May 2015 and the number of offender-days associated with those abstracts. The combined number of abstracts is shown by the orange line on the Y axis displayed on the right; the number of offender-days is shown by the blue columns with the Y axis displayed on the left. This graph shows a decrease in Class D and Level 6 Felonies committed to the DOC over a 17 month period, with a corresponding decrease in the number of offender-days. Table 5 below provides the hard data.

Table 5

	Total Executed	Number of Abstracts
2014		
Jan	254,593	1,313
Feb	247,645	1,239
Mar	251,596	1,157
Apr	286,545	1,270
May	231,199	1,070
Jun	232,613	1,069
Jul	236,083	1,107
Aug	241,172	1,071
Sep	201,110	1,013
Oct	228,549	1,073
Nov	198,058	855
Dec	191,778	868
2015		
Jan	194,815	926
Feb	191,324	882
Mar	225,045	1,061
Apr	208,249	1,026
May	174,173	872
Grand Total	3,794,549	17,872

Similarly, a review of the total number of abstracts (i.e., for all felonies) completed within this same period indicates that there was a decrease in the number of offenders committed to the DOC over the same period.

Chart 6: January 2014 to May 2015 All Abstracts with DOC Commitment
 Total Abstracts and Number of Offender-days
 Adjusted for Credit Time



As with the F6 and FD felonies illustrated in Chart 5 above, Chart 6 here shows the total number of abstracts completed on all felonies from January 2014 to May 2015 and the number of offender-days associated with those abstracts. Once again, the total number of abstracts is shown by the orange line on the Y axis displayed on the right, while the number of offender-

days is shown by the blue columns with the Y axis displayed on the left. This graph shows a decrease in offenders committed to the DOC over a 17-month span. Table 6 below provides the data from which this chart is drawn.

Table 6

	Total Executed	Number of Abstracts
2014		
Jan	1,233,835	2,173
Feb	1,563,364	2,079
Mar	1,578,651	2,055
Apr	1,536,703	2,146
May	1,414,193	1,924
Jun	1,239,145	1,834
Jul	1,482,836	1,988
Aug	1,341,752	1,857
Sep	1,230,127	1,763
Oct	1,364,131	1,940
Nov	1,009,281	1,474
Dec	1,192,559	1,564
2015		
Jan	1,188,333	1,613
Feb	1,219,678	1,638
Mar	1,236,482	1,820
Apr	1,181,209	1,780
May	1,052,365	1,536
Grand Total	22,064,643	31,184

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It is also helpful to break out the total commitments by offense type. The following chart and table perform this function.

Chart 7: All Abstracts, January 2014 to May 2015, with Type of Commitment Adjusted for Credit Time

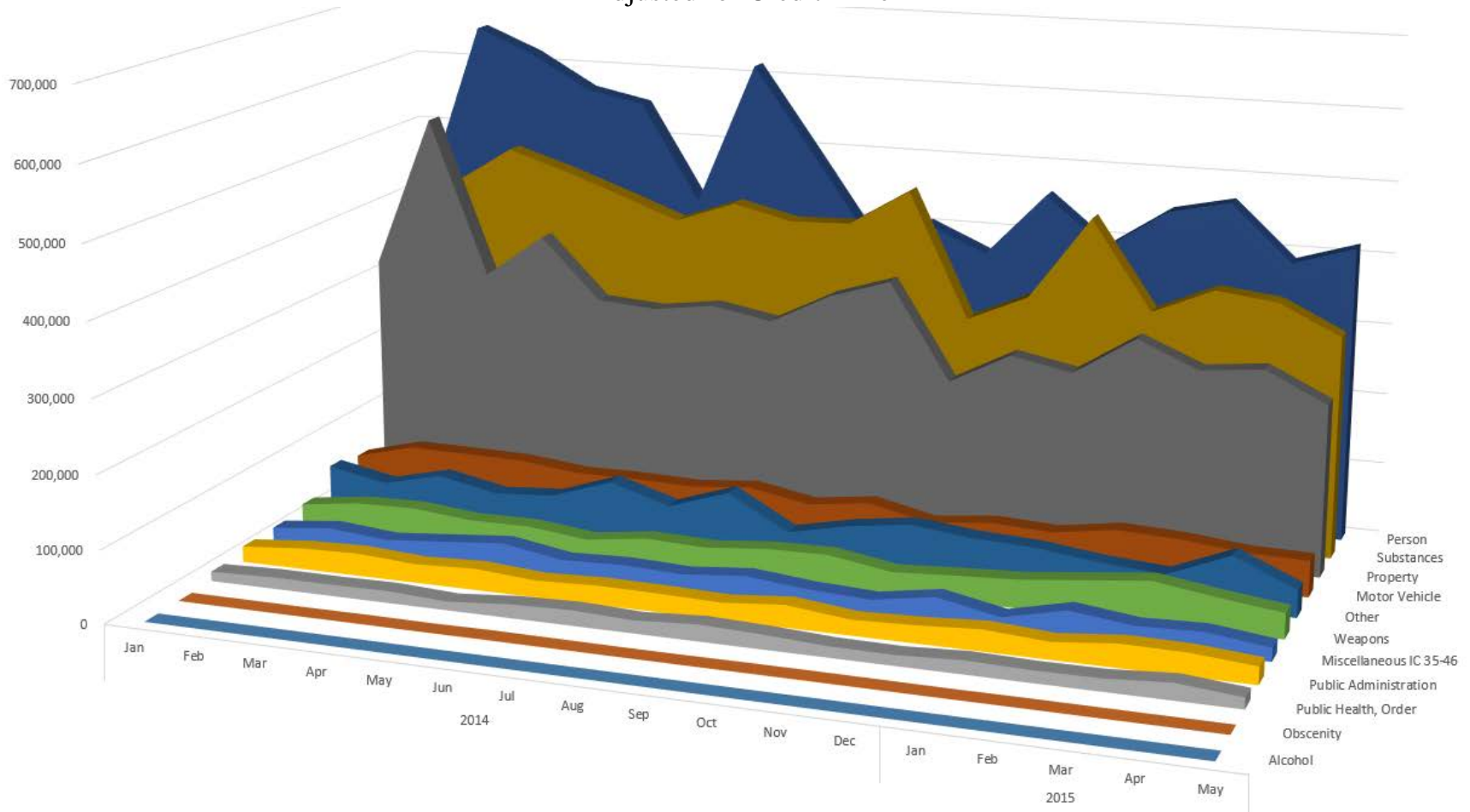


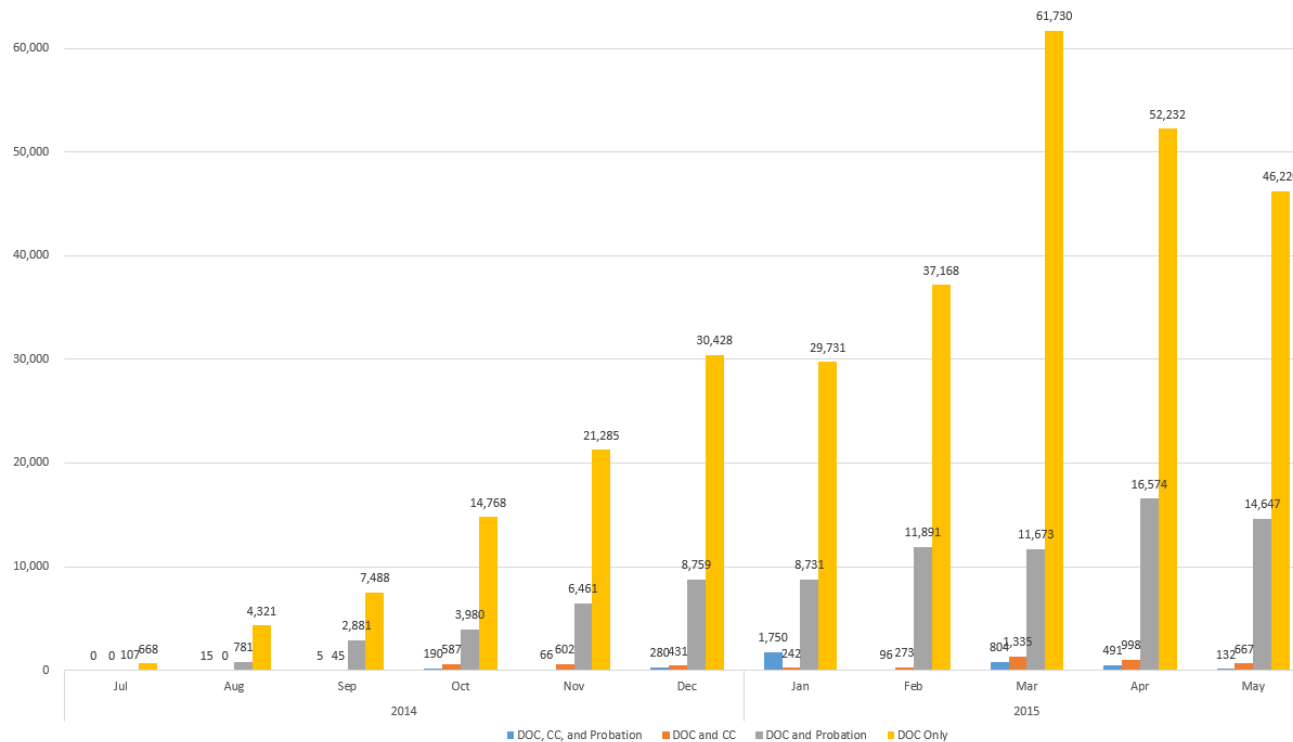
Chart 7 and Table 7, from which Chart 7 is drawn, demonstrate that the total executed days imposed in February 2015 was 28% less than in February 2014.

Table 7

Total Executed												
	Alcohol	Obscenity	Public Health, Order	Public Administration	Miscellaneous IC 35-46	Weapons	Other	Motor Vehicle	Property	Substances	Person	Grand Total
2014												
Jan		272	13,158	21,757	22,624	31,084	62,840	54,382	326,788	376,171	405,659	1,314,735
Feb	2	209	15,856	29,119	31,411	41,880	46,527	75,783	541,267	435,281	649,935	1,867,271
Mar		0	15,656	31,364	24,102	43,693	66,208	74,750	321,033	488,719	615,974	1,681,499
Apr		457	16,453	26,094	31,160	35,652	49,526	73,317	382,440	462,602	568,667	1,646,368
May		73	12,059	29,548	38,479	36,412	55,506	64,019	297,323	433,293	551,672	1,518,386
Jun	90	820	18,777	23,337	24,713	26,895	84,006	64,306	291,231	402,617	414,535	1,351,327
Jul	1	521	21,146	26,564	27,645	37,987	58,605	61,949	303,133	432,994	616,789	1,587,335
Aug	0	92	17,761	25,594	24,440	34,980	86,517	69,560	287,999	413,568	498,906	1,459,417
Sep			22,871	23,579	32,127	42,729	39,806	54,167	331,271	416,826	378,816	1,342,193
Oct		561	19,900	30,794	23,946	44,116	58,061	65,153	358,443	468,745	405,570	1,475,289
Nov	150	639	15,219	21,493	19,782	30,153	69,522	46,438	224,530	293,188	368,485	1,089,599
Dec		397	14,382	24,317	33,649	35,251	60,218	55,669	269,149	331,461	458,632	1,283,125
2015												
Jan	5	107	18,588	29,459	16,720	39,565	56,195	51,589	252,689	448,909	390,735	1,304,562
Feb		396	16,596	23,644	36,531	48,978	45,608	64,610	307,515	325,056	447,609	1,316,544
Mar		274	17,140	32,150	26,122	58,180	39,443	61,015	271,822	362,459	466,347	1,334,953
Apr		0	22,862	31,097	28,927	45,638	75,047	52,213	280,861	352,331	388,472	1,277,448
May		55	15,291	24,041	18,698	35,363	37,881	50,450	239,656	311,202	415,312	1,147,949
Grand Total	248	4,874	293,716	453,951	461,077	668,557	991,517	1,039,370	5,287,151	6,755,424	8,042,115	23,998,000

One of the most striking illustrations of the importance of the diversion of low-level offenders from the DOC to community corrections is shown in the following chart and data. The data demonstrates that the number of F6 offenders placed solely in the DOC is roughly similar to the number receiving split sentences: in Table 3 above, 18 offenders were sent to the DOC and community corrections (CC); 23 were committed to DOC, CC, and probation; and 511 were committed to DOC and probation – a total of 552. Meanwhile, 577 offenders were committed solely to the DOC. Nevertheless, as Chart 8 illustrates, the offenders placed solely in the DOC account for nearly three times as many offender days at the DOC (72,521 in February 2015) as the split sentences combined (24,517 in February 2015).

Chart 8: F6 Abstracts, July 2014 to May 2015, with DOC Commitment Adjusted for Credit Time



Each column in Chart 8 shows the total number of offender-days sentenced to the DOC in each month and in each category of placement. One bed-day reflects one offender sentenced for one day (thus one offender sentenced to 100 days has the same impact as 100 offenders sentenced to one day). The numbers at the top of the column indicate the number of offender-days sentenced to the DOC for that category and do not reflect the length of sentence on probation or community corrections. Again, this graph shows that offenders sentenced to a split sentence have much less impact on the DOC in terms of offender-days than those sentenced to a straight sentence.

The trend in FD/F6 placements in which community corrections is seen as a viable alternative to solely committing an offender to the DOC seems to be appearing increasingly as an option with regard to felonies as a whole, as illustrated in the following two charts and two tables.

Chart 9 shows the total number of original abstracts completed each month from January 2014 to May 2015. An original abstract documents the initial sentence on a case, as opposed to a sentence modification or a revocation. The height of each column corresponds to the number of abstracts completed that month, while the different colors included in each column show the placement of the offenders. A court may sentence offenders to a combination of DOC, jail, community corrections, and probation. Each color represents sentences to one or more of these options. For example, the “DOC Only” category includes offenders sentenced to the DOC without any further placement on community corrections or probation. The “DOC and Probation” category includes those offenders sentenced to a DOC commitment followed by a term of probation.

Chart 9: January 2014 to May 2015 Placements, All Felonies, Original Sentence

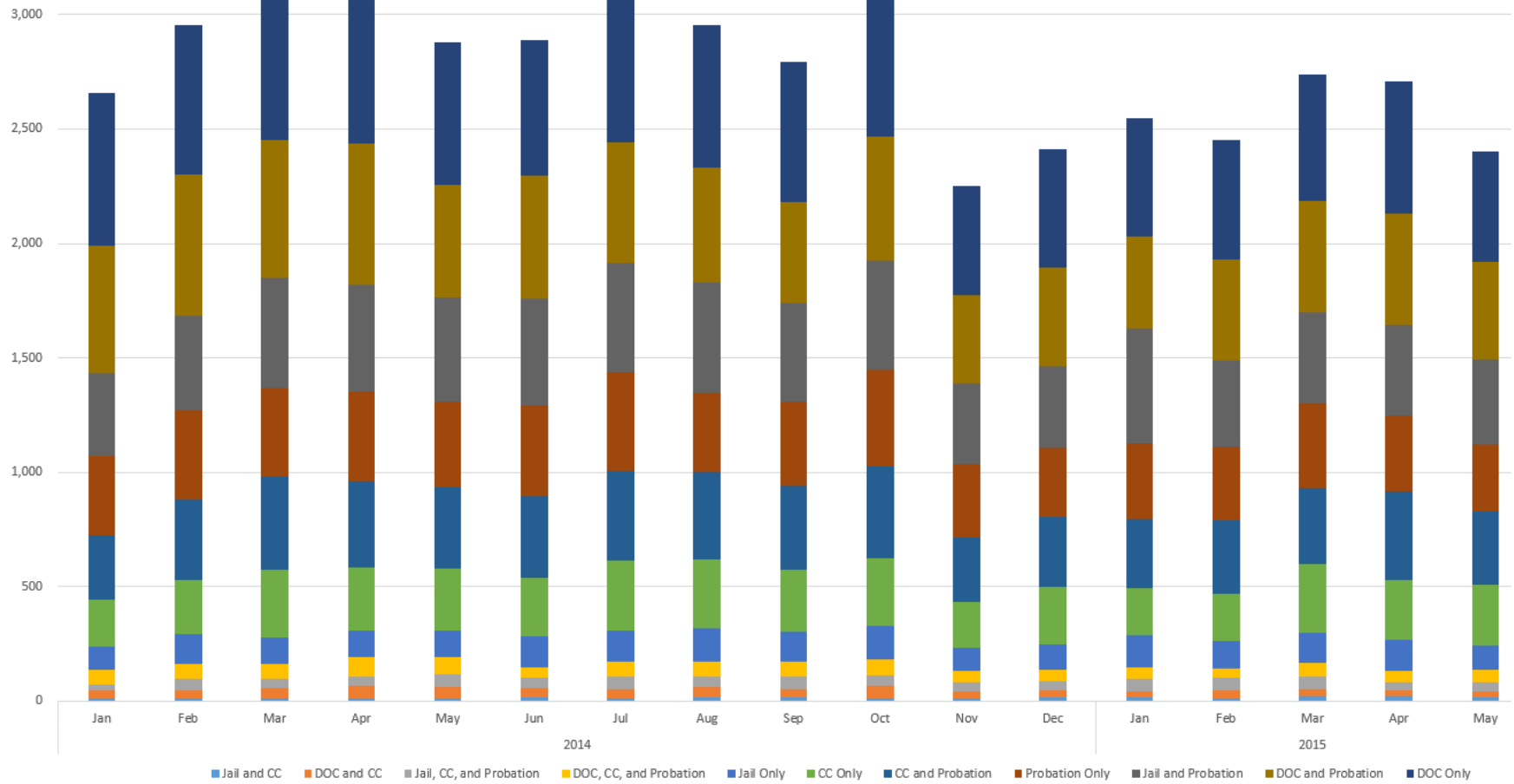


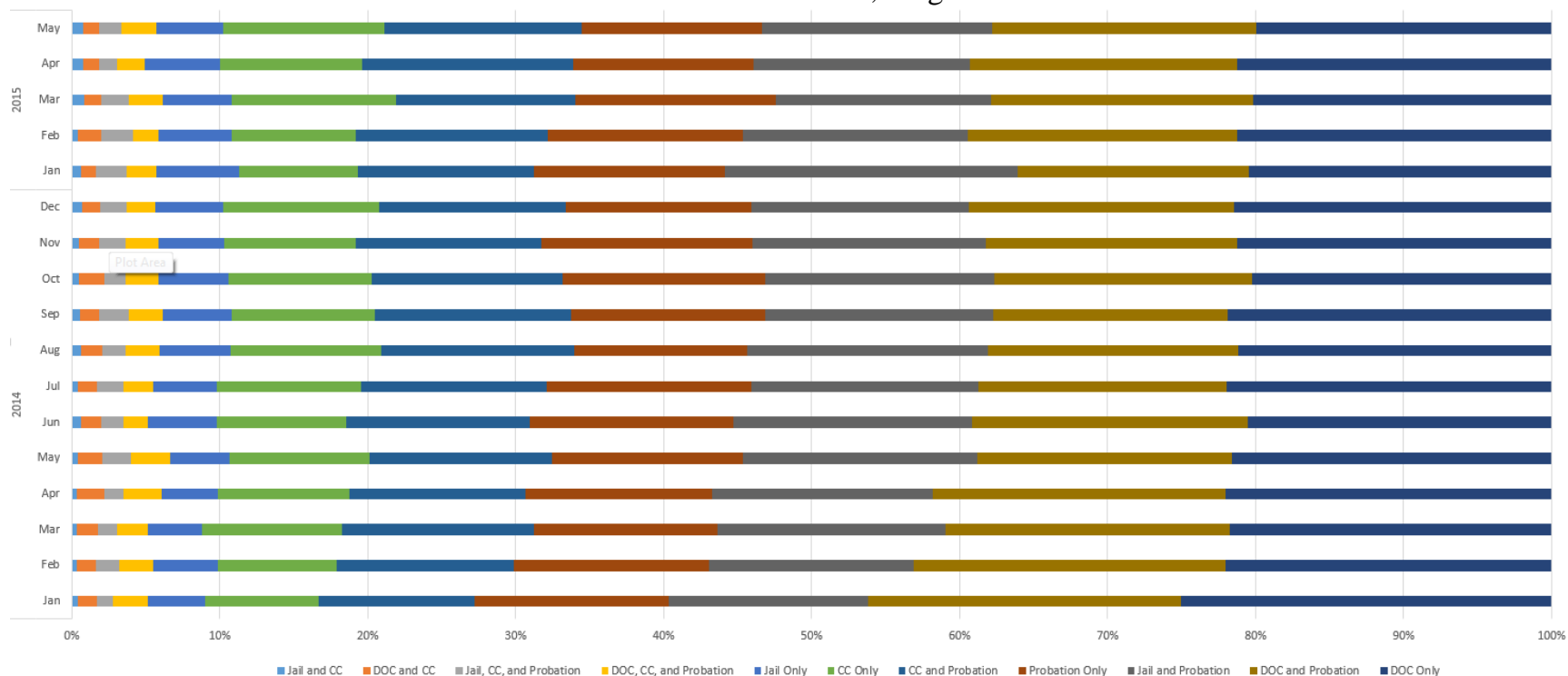
Table 9 contains the numbers from which Chart 9 is drawn:

Table 9

Number of Abstracts													
	Jail and CC	DOC and CC	Jail, CC, and Probation	DOC, CC, and Probation	Jail Only	CC Only	CC and Probation	Probation Only	Jail and Probation	DOC and Probation	DOC Only	Grand Total	
2014													
Jan	10	35	28	64	102	205	279	348	360	561	666	2,658	
Feb	10	39	46	68	128	237	354	390	410	621	652	2,955	
Mar	10	45	41	65	115	297	406	388	483	602	683	3,135	
Apr	11	57	40	82	118	278	373	395	465	620	689	3,128	
May	12	48	55	77	115	272	356	371	456	495	623	2,880	
Jun	17	41	42	49	134	254	357	399	465	540	593	2,891	
Jul	13	40	55	63	136	305	392	433	479	524	687	3,127	
Aug	19	41	48	66	142	301	386	346	481	500	625	2,955	
Sep	15	37	55	64	130	272	369	367	431	443	611	2,794	
Oct	14	54	44	68	148	297	400	423	478	539	625	3,090	
Nov	10	32	39	51	99	201	282	321	354	383	478	2,250	
Dec	16	30	43	47	111	253	305	303	354	432	518	2,412	
2015													
Jan	15	27	53	51	143	204	303	329	504	399	522	2,550	
Feb	10	39	52	42	122	205	320	323	373	446	522	2,454	
Mar	22	32	52	61	129	303	331	371	398	485	552	2,736	
Apr	21	28	34	50	137	261	386	330	395	490	575	2,707	
May	19	25	36	57	108	262	321	291	374	428	480	2,401	
Grand Total	244	650	763	1,025	2,117	4,407	5,920	6,128	7,260	8,508	10,101	47,123	

Chart 10 provides a slightly different perspective on the same data; instead of presenting columns showing the relative number of abstracts each month, Chart 10 provides the percentages for each type of placement:

Chart 10: Percent of Placements, Original Sentences



Each bar in Chart 10 represents 100% of the abstracts completed in that month and shows the percentage of each placement type. In the time represented here, there has been an increase in the placements in all categories not involving a DOC placement, and a decrease in most commitments involving a DOC placement. Table 10 provides the precise percentages for each month and placement.

Table 10

Count of Abstracts												
	Jail and CC	DOC and CC	Jail, CC, and Probation	DOC, CC, and Probation	Jail Only	CC Only	CC and Probation	Probation Only	Jail and Probation	DOC and Probation	DOC Only	Grand Total
2014												
Jan	0.38%	1.32%	1.05%	2.41%	3.84%	7.71%	10.50%	13.09%	13.54%	21.11%	25.06%	100.00%
Feb	0.34%	1.32%	1.56%	2.30%	4.33%	8.02%	11.98%	13.20%	13.87%	21.02%	22.06%	100.00%
Mar	0.32%	1.44%	1.31%	2.07%	3.67%	9.47%	12.95%	12.38%	15.41%	19.20%	21.79%	100.00%
Apr	0.35%	1.82%	1.28%	2.62%	3.77%	8.89%	11.92%	12.63%	14.87%	19.82%	22.03%	100.00%
May	0.42%	1.67%	1.91%	2.67%	3.99%	9.44%	12.36%	12.88%	15.83%	17.19%	21.63%	100.00%
Jun	0.59%	1.42%	1.45%	1.69%	4.64%	8.79%	12.35%	13.80%	16.08%	18.68%	20.51%	100.00%
Jul	0.42%	1.28%	1.76%	2.01%	4.35%	9.75%	12.54%	13.85%	15.32%	16.76%	21.97%	100.00%
Aug	0.64%	1.39%	1.62%	2.23%	4.81%	10.19%	13.06%	11.71%	16.28%	16.92%	21.15%	100.00%
Sep	0.54%	1.32%	1.97%	2.29%	4.65%	9.74%	13.21%	13.14%	15.43%	15.86%	21.87%	100.00%
Oct	0.45%	1.75%	1.42%	2.20%	4.79%	9.61%	12.94%	13.69%	15.47%	17.44%	20.23%	100.00%
Nov	0.44%	1.42%	1.73%	2.27%	4.40%	8.93%	12.53%	14.27%	15.73%	17.02%	21.24%	100.00%
Dec	0.66%	1.24%	1.78%	1.95%	4.60%	10.49%	12.65%	12.56%	14.68%	17.91%	21.48%	100.00%
2015												
Jan	0.59%	1.06%	2.08%	2.00%	5.61%	8.00%	11.88%	12.90%	19.76%	15.65%	20.47%	100.00%
Feb	0.41%	1.59%	2.12%	1.71%	4.97%	8.35%	13.04%	13.16%	15.20%	18.17%	21.27%	100.00%
Mar	0.80%	1.17%	1.90%	2.23%	4.71%	11.07%	12.10%	13.56%	14.55%	17.73%	20.18%	100.00%
Apr	0.78%	1.03%	1.26%	1.85%	5.06%	9.64%	14.26%	12.19%	14.59%	18.10%	21.24%	100.00%
May	0.79%	1.04%	1.50%	2.37%	4.50%	10.91%	13.37%	12.12%	15.58%	17.83%	19.99%	100.00%
Grand Total	0.52%	1.38%	1.62%	2.18%	4.49%	9.35%	12.56%	13.00%	15.41%	18.05%	21.44%	100.00%

5. Influence of Revised Sentencing Scheme on Property and Substance Offense Sentencing

One of the key efforts of 1006 was an effort to more proportionally sentence property crimes and to reduce the penalty for many substance-related crimes. Initial findings suggest that due to sentencing changes for burglary and theft, there will be a significant decrease in the number of total offender-days sentenced to DOC.

Chart 11: Offenses against Property
January 2014 to May 2015

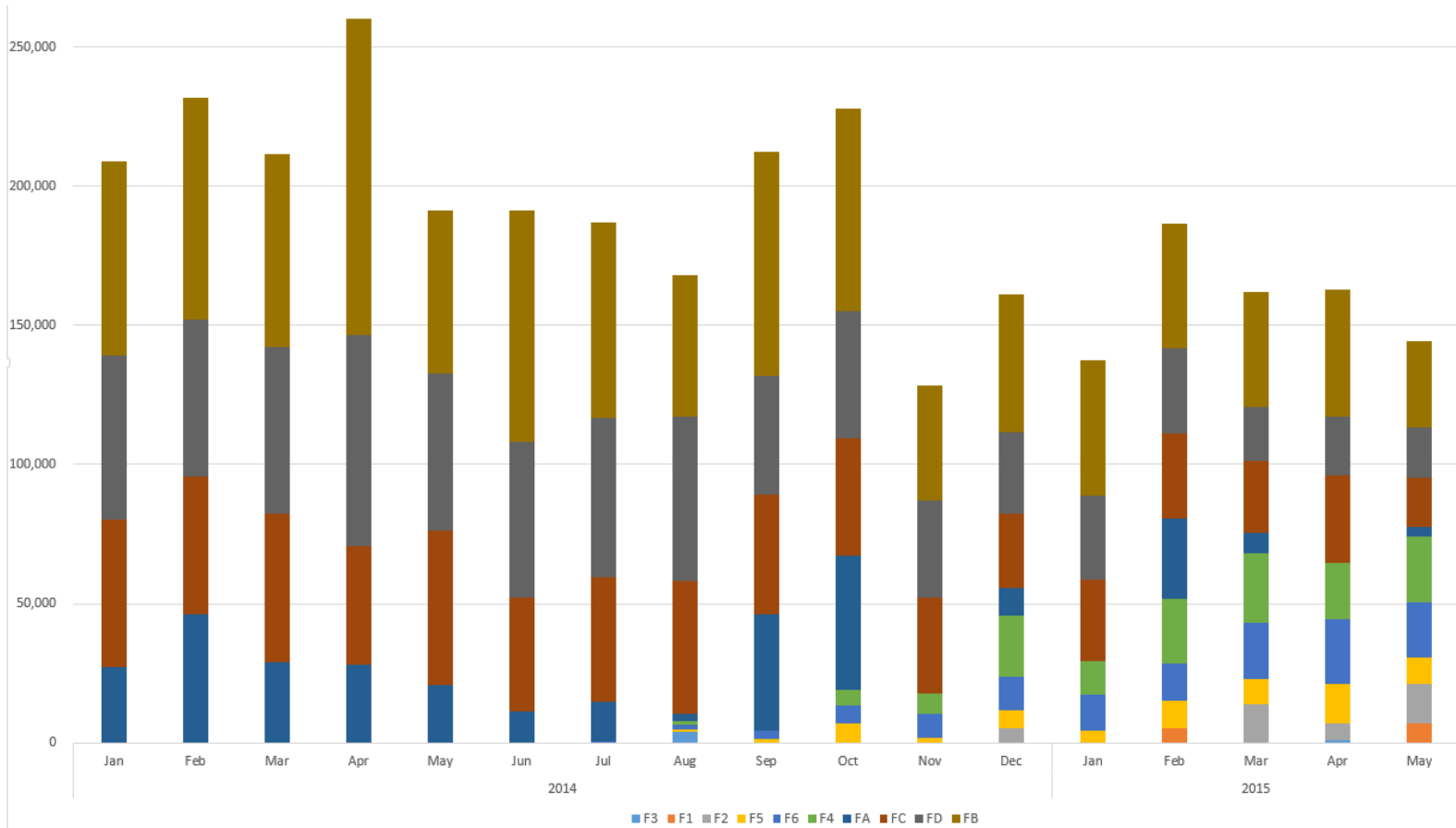


Chart 11 graphs the total number of offender days as sentenced to the DOC. The vertical columns are broken down by offense level and adjusted to reflect credit time for good behavior. This chart represents burglary and theft offenses. Penalties were reduced for both under HEA 1006. The great majority of offender days here are taken by Class felons. These

numbers are likely to continue to shrink due to reduced penalties and removal of mandatory minimum sentences under the new sentencing scheme. Table 11a provides the date from which this chart is drawn, while Table 11b provides additional information.

Table 11a

	F3	F1	F2	F5	F6	F4	FA	FC	FD	FB	Grand Total
2014											
Jan							27,210	53,188	58,605	69,899	208,903
Feb							46,017	49,671	56,214	79,871	231,774
Mar							29,037	53,371	59,576	69,395	211,380
Apr							28,306	42,273	75,687	114,039	260,305
May							21,001	55,240	56,431	58,604	191,276
Jun							11,505	40,619	55,874	83,150	191,148
Jul				135	401		14,062	44,761	57,626	69,786	186,771
Aug	4,109			864	1,792	1,096	2,557	47,818	59,035	50,775	168,046
Sep				1,370	3,187		41,637	43,234	42,479	80,373	212,281
Oct				6,915	6,452	5,886	47,846	42,307	45,622	72,772	227,801
Nov				1,652	8,886	7,396		34,083	34,938	41,363	128,318
Dec			5,479	6,356	12,066	22,004	9,861	26,549	29,316	49,692	161,323
2015											
Jan				4,514	12,891	11,779		29,534	29,983	48,576	137,277
Feb		5,479		9,785	13,327	23,284	28,671	30,506	30,802	44,588	186,442
Mar			13,970	9,040	20,058	25,245	6,940	26,103	19,146	41,633	162,135
Apr	1,096		5,753	14,448	23,349	20,202		31,413	21,016	45,380	162,657
May		6,848	14,244	9,662	19,660	23,693	3,652	17,297	18,106	31,318	144,480
Grand Total	5,205	12,327	39,446	64,739	122,068	140,585	318,304	667,967	750,458	1,051,216	3,172,315

Table 11b

Average of Total Executed											
	F6	FD	FC	F5	FB	F4	F3	F2	F1	FA	Grand Total
2014											
Jan		186	572		1,205					6,803	444
Feb		185	680		1,401					6,574	526
Mar		208	684		1,388					5,807	503
Apr		243	587		1,521					7,077	563
May		228	778		1,332					5,250	523
Jun		209	635		1,409					3,835	486
Jul	134	211	689	135	1,517					7,031	479
Aug	128	229	703	432	1,269	1,096	4,109			2,557	436
Sep	152	200	721	1,370	1,640					10,409	612
Oct	150	223	641	988	1,373	1,472				7,974	593
Nov	171	259	655	413	1,655	1,849					472
Dec	201	219	664	578	1,156	1,467		5,479		3,287	525
2015											
Jan	170	238	656	752	1,388	1,178					461
Feb	159	314	678	890	1,351	2,117			5,479	9,557	652
Mar	216	220	637	646	1,892	1,578		6,985		3,470	585
Apr	162	224	849	657	1,621	1,263	1,096	1,918			471
May	177	226	596	743	1,305	1,247		3,561	6,848	3,652	512
Grand Total	174	219	669	704	1,419	1,464	2,602	3,945	6,163	6,496	518

Table 11b shows the average number of days per abstract sentenced for each felony type from March 1, 2014 to May 30, 2015. It shows only original abstracts sentenced to the DOC for property crimes.

Similarly, early data indicate that due to sentencing changes for substance offenses, there will be a decrease in the number of total offender-days sentenced to DOC. See Chart 12 and Tables 12a and 12b.

Chart 12: Substance Offenses, January 2014 to May 2015, Original Sentences
Total Offender-Days sentenced to DOC

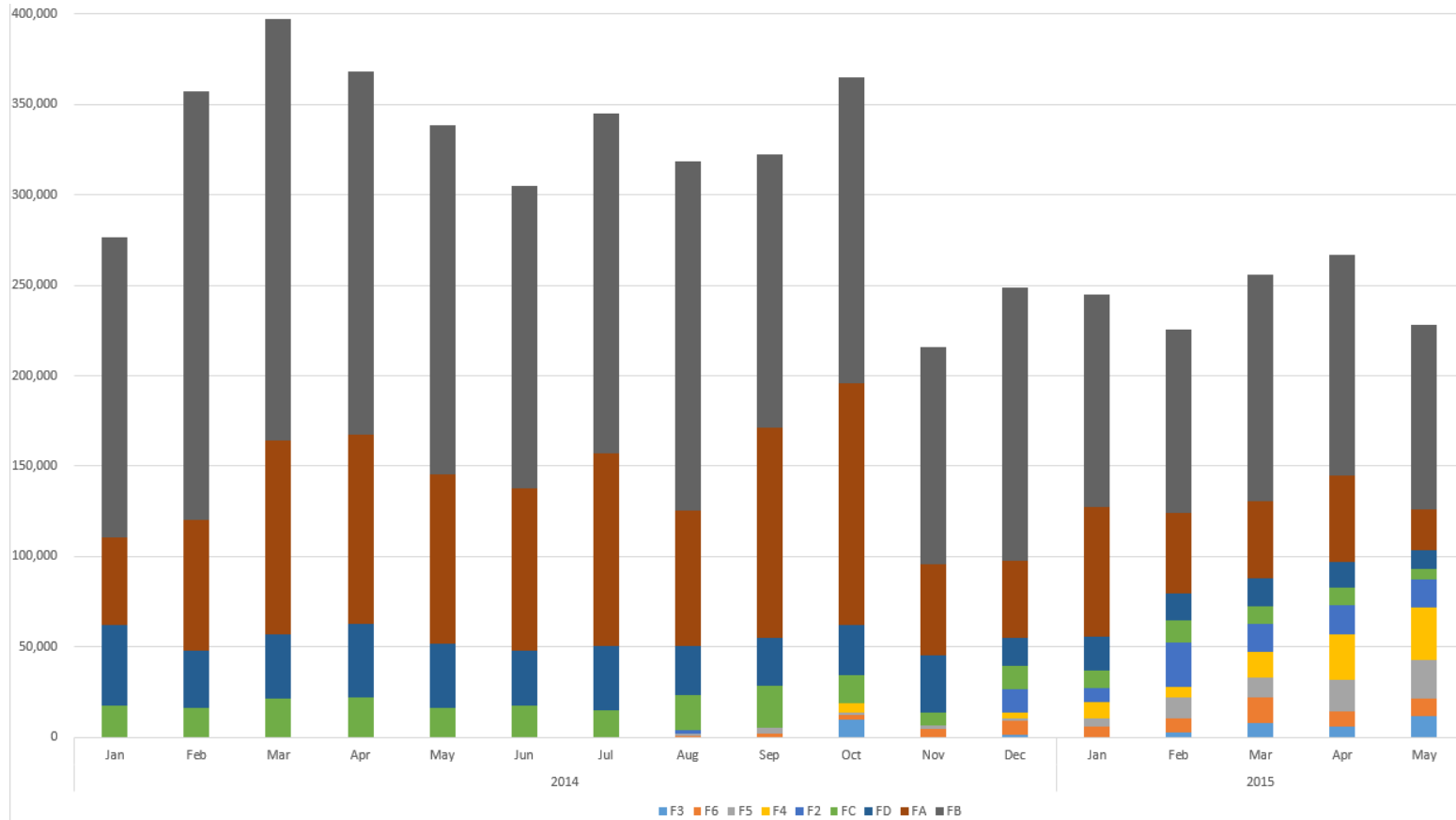


Chart 12 graphs the total number of offender days as sentenced to the DOC. The vertical columns are broken down by offense level and adjusted to reflect credit time for good behavior. Penalties were reduced by 1006 for many substance abuse offenses. Minimum sentences for these offenses may be suspended. Most of the felons currently being sentenced fall

under the old law (Felony Classes) where mandatory minimums sentences apply. The FB and FA column numbers should continue to drop significantly as these offenses wash out of the system. The data in Table 12a was used to graph this chart.

Table 12a

	F3	F6	F5	F4	F2	FC	FD	FA	FB	Grand Total
2014										
Jan						17,880	44,447	48,573	165,755	276,655
Feb						16,251	31,555	72,469	237,200	357,475
Mar						21,543	35,450	107,468	232,718	397,178
Apr						22,335	40,788	104,132	200,977	368,232
May						16,408	35,678	93,540	192,993	338,619
Jun						17,749	30,258	89,481	167,534	305,022
Jul		107				15,192	35,390	106,620	187,774	345,084
Aug	138	823	1,096		2,325	19,246	27,198	74,939	192,645	318,410
Sep		2,320	2,739			23,553	26,527	115,961	151,303	322,402
Oct	9,588	2,824	1,370	4,931		15,685	27,516	134,192	168,632	364,736
Nov		4,718	1,670			7,673	31,235	50,768	120,023	216,087
Dec	1,369	7,633	1,233	3,835	12,323	13,483	15,014	42,824	151,100	248,813
2015										
Jan		6,035	4,380	9,312	7,670	9,723	18,796	71,770	117,009	244,694
Feb	3,013	7,807	11,544	5,818	24,380	12,331	14,645	44,466	101,822	225,826
Mar	7,942	14,465	10,892	13,955	15,340	9,743	15,533	42,549	125,312	255,731
Apr	6,026	8,332	17,786	24,602	16,578	9,529	14,290	47,481	122,078	266,702
May	12,053	9,679	21,050	28,975	15,614	5,843	10,527	22,460	102,024	228,226
Grand Total	40,129	64,742	73,760	91,427	94,229	254,166	454,845	1,269,694	2,736,899	5,079,892

Table 12b

Average of Total Executed										
	F6	FD	FC	F5	F4	FB	F3	F2	FA	Grand Total
2014										
Jan		192	511			1,305			2,024	663
Feb		187	451			1,530			2,787	926
Mar		211	695			1,492			3,071	1,018
Apr		218	588			1,608			2,670	947
May		262	566			1,508			2,462	1,023
Jun		200	634			1,496			2,886	947
Jul	54	223	633			1,423			3,677	997
Aug	75	192	770	1,096		1,579	69	2,325	2,498	953
Sep	166	211	693	913		1,576			3,624	1,057
Oct	157	224	581	1,370	2,465	1,561	9,588		3,355	1,140
Nov	175	292	698	557		1,559			2,418	878
Dec	141	227	749	616	959	1,625	1,369	2,054	2,254	946
2015										
Jan	123	202	810	548	1,552	1,500		1,918	4,785	923
Feb	147	236	617	770	970	1,455	3,013	3,483	3,706	918
Mar	172	259	886	641	1,269	1,671	1,588	3,835	2,659	904
Apr	134	238	681	889	1,892	1,585	1,507	2,072	2,499	963
May	138	263	649	679	1,260	1,646	1,722	3,123	1,872	881
Grand Total	146	219	632	730	1,407	1,526	1,911	2,692	2,899	944

Table 12b shows the average number of days per abstract sentenced for each felony type from March 1, 2014 to May 30, 2015. It shows only original abstracts sentenced to the DOC for substance crimes. (Note: the 9,588 day sentence in October 2014 for the F3 felony was enhanced by twenty years for being a habitual offender.)

6. Impact on Probation Revocations

The impact of the criminal code sentencing reforms is also being felt in probation revocations. A revocation abstract is completed on a felony case where the court revokes a placement on any type of community correction. The abstract revocation data indicates that since January 2014, there have been several sharp reductions in the percentage of revocations resulting in commitments to the DOC, countered by corresponding increases therein. To draw effective conclusions on the impact of probation revocations under 1006, however, more time must pass for further data collection.

Chart 13: Total D Felony Abstracts Completed on Revocations for Technical Violations
January 2014 to May 2015

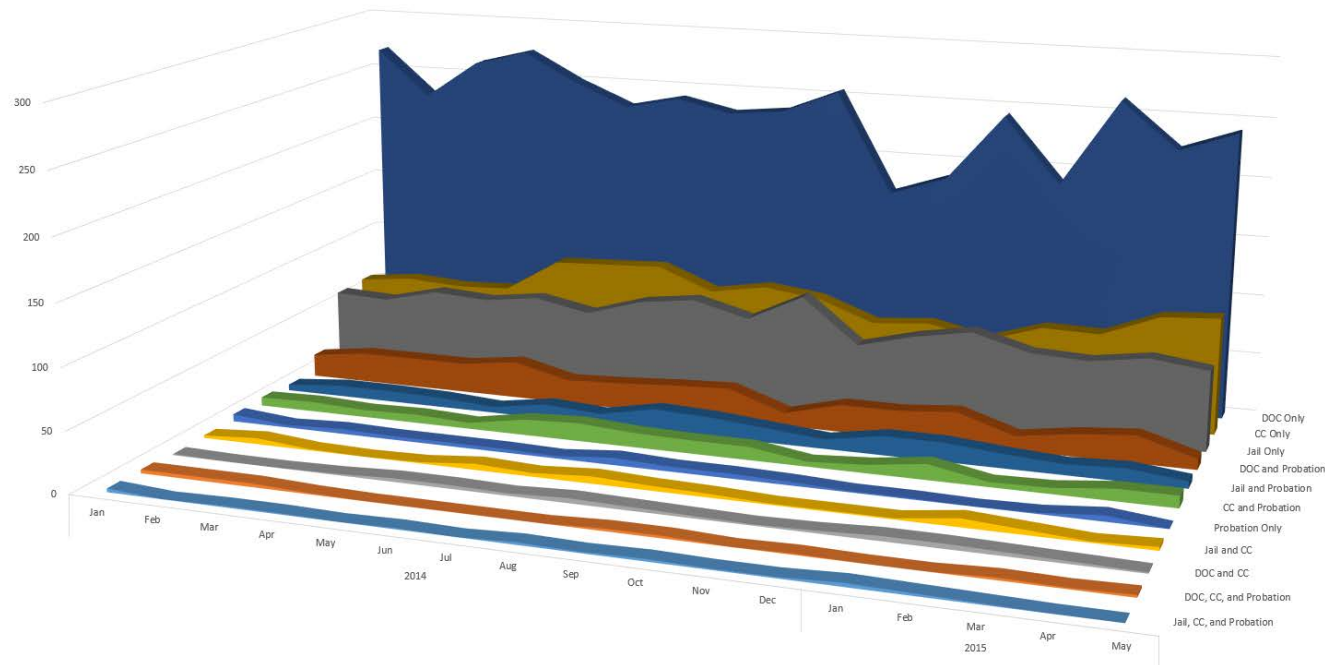


Table 13 provides the data from which Chart 13 was drawn:

Table 13

Count of AbstractOfJudgmentID	Jail, CC, and Probation	DOC, CC, and Probation	DOC and CC	Jail and CC	Probation Only	CC and Probation	Jail and Probation	DOC and Probation	Jail Only	CC Only	DOC Only	Grand Total
2014												
Jan	3	3	1	2	6	7	5	19	64	65	269	444
Feb		3		5	2	8	9	25	62	70	230	414
Mar	1	3		1	4	6	9	25	73	67	262	451
Apr	1	1	1		3	7	8	25	70	69	274	459
May			3	1	3	5	5	31	76	97	250	471
Jun	1		3	5	3	13	12	20	67	99	231	454
Jul			2	3	2	15	9	22	81	101	241	476
Aug	2		4	6	6	12	18	25	87	83	231	474
Sep	1	2	3	4	4	11	16	27	75	91	236	470
Oct	2	2	2	3	4	11	12	11	98	85	255	485
Nov	1		1	1	3	4	8	23	61	68	171	341
Dec	1	1	2	1	1	7	16	23	73	72	187	384
2015												
Jan	3		4	1	1	13	16	27	81	62	243	451
Feb	2		4	7		4	12	12	68	77	189	375
Mar	1	2	3	4	1	5	9	19	66	76	262	448
Apr		1	2	1	5	10	11	23	73	95	224	445
May		2	1	3		10	6	9	67	98	241	437
Grand Total	19	20	36	48	48	148	181	366	1242	1375	3996	7479

7. Dramatic Rise in Suspensible Offenses

Another significant feature of 1006 is that many offenses that were formerly non-suspensible may now be suspended. By way of background, once an offender is convicted, a probation officer prepares a presentence investigation report (PSI) before the offender is sentenced. The probation officer indicates on the PSI whether the offense is non-suspensible.⁹ If an offense is non-suspensible, the court may suspend only that portion of the sentence that is in excess of the minimum; in other words, the court must sentence the person to at least the minimum amount of executed time. HEA 1006 eliminated many situations in which an offense is non-suspensible.

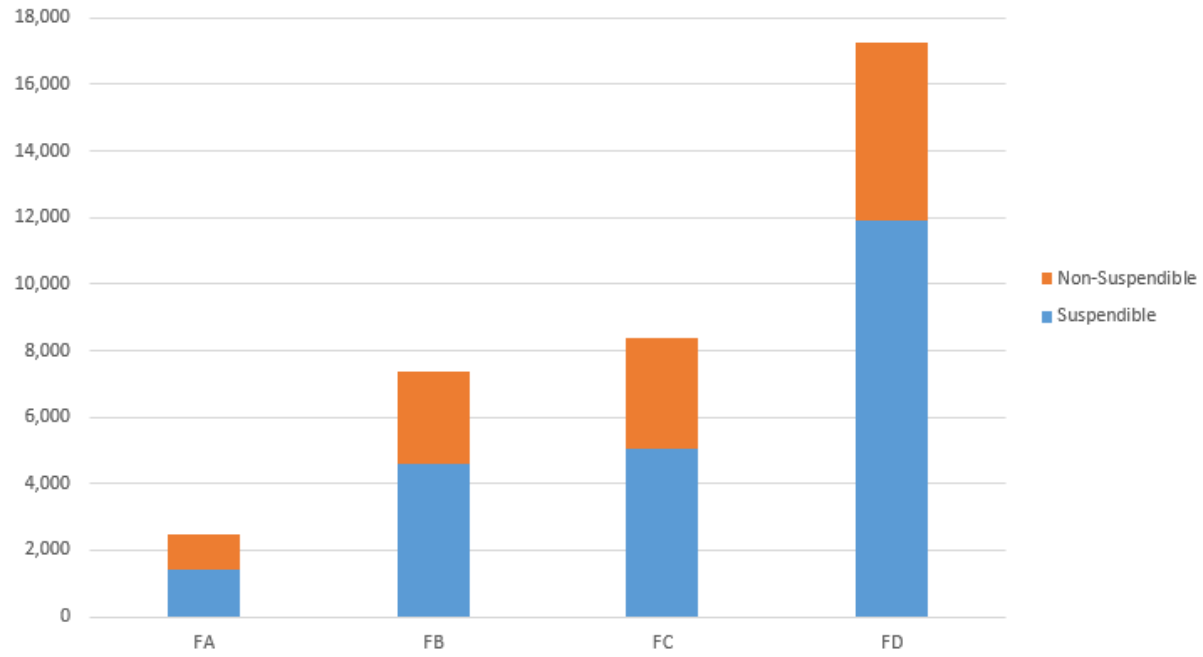
⁹ An offense may be non-suspensible under one of three statutes: Indiana Code §§ 35-50-2-2, 35-50-2-2.1 or 35-50-2.2.

An analysis of the presentence reports completed between July 1, 2012 and May 28, 2015 was recently completed, with the results in the charts and tables below. Most striking is the contrast between the percentage of sentences before and after July 1, 2014, when 1006 took effect. This difference suggests that courts may be much more likely to suspend sentences of all types, not just the lower-level F6 felonies, and that as a result incarceration rates may be shorter, as the following charts and tables illustrate.

Chart 14 and its accompanying table illustrate the number of suspendible versus non-suspendible sentences from January 2012 through June 2013, broken down by felony type.

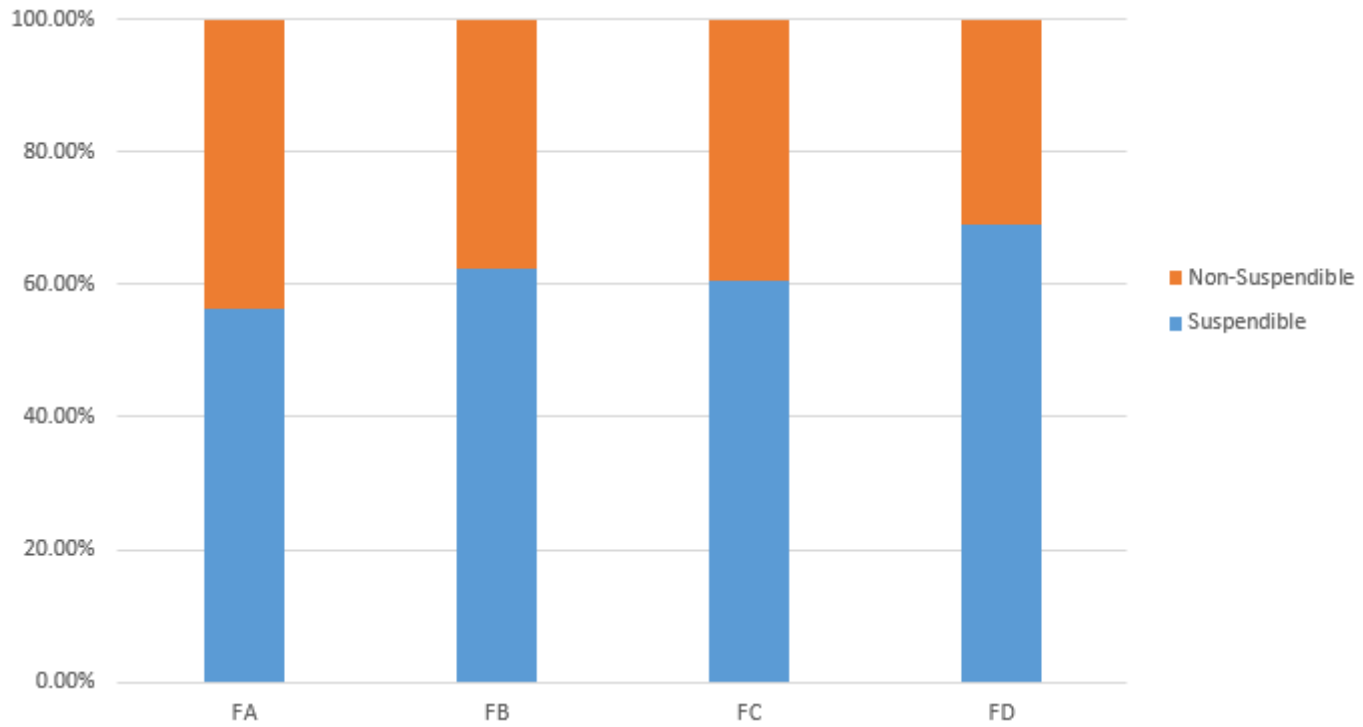
Chart 15 and its accompanying table cover the same amount of time, but illustrate and document the percentages of suspendible versus non-suspendible.

Chart 14



Count of PSIs			
	Suspensible	Non-Suspensible	Grand Total
FA	1,398	1,084	2,482
FB	4,579	2,778	7,357
FC	5,058	3,302	8,360
FD	11,917	5,362	17,279
Grand Total	22,952	12,526	35,478

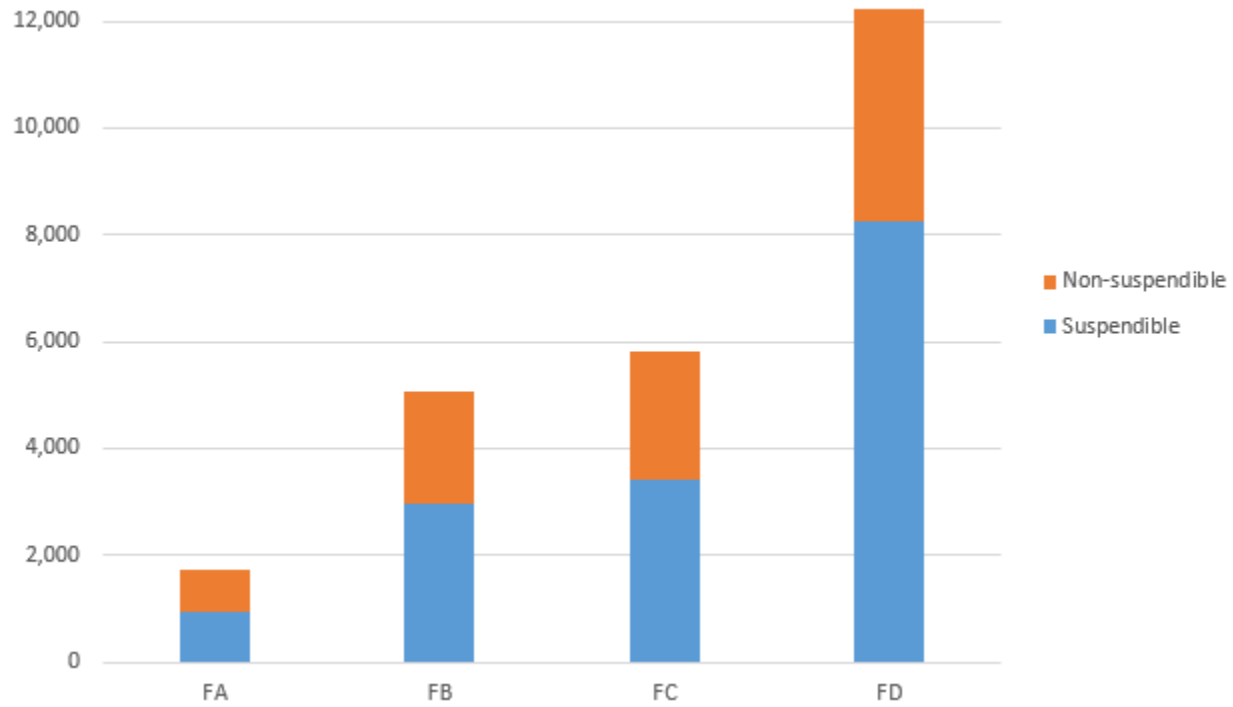
Chart 15



	Suspendible	Non-Suspendible	Grand Total
FA	56.33%	43.67%	100.00%
FB	62.24%	37.76%	100.00%
FC	60.50%	39.50%	100.00%
FD	68.97%	31.03%	100.00%
Grand Total	64.69%	35.31%	100.00%

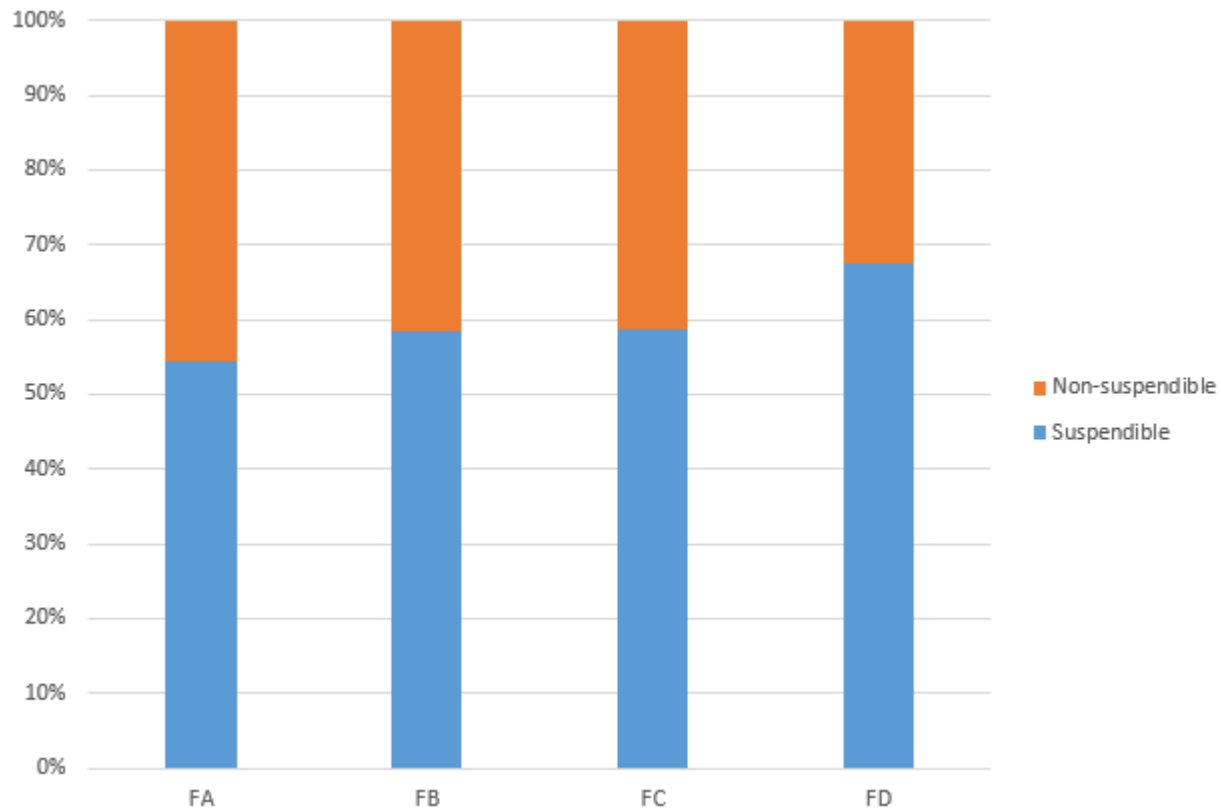
Charts 16 and 17, below, provide suspendibility numbers that are very similar to the numbers (adjusted for differences in time) and percentages to Charts 14 and 15 above. Indeed, the percentages between Charts 15 and 17 are all within four percentage points or less of each other.

Chart 16: Suspendibility, July 2013 through June 2014



Count of Cases			
	Suspendible	Non-suspendible	Grand Total
FA	929	782	1,711
FB	2,960	2,108	5,068
FC	3,419	2,397	5,816
FD	8,253	3,971	12,224
Grand Total	15,561	9,258	24,819

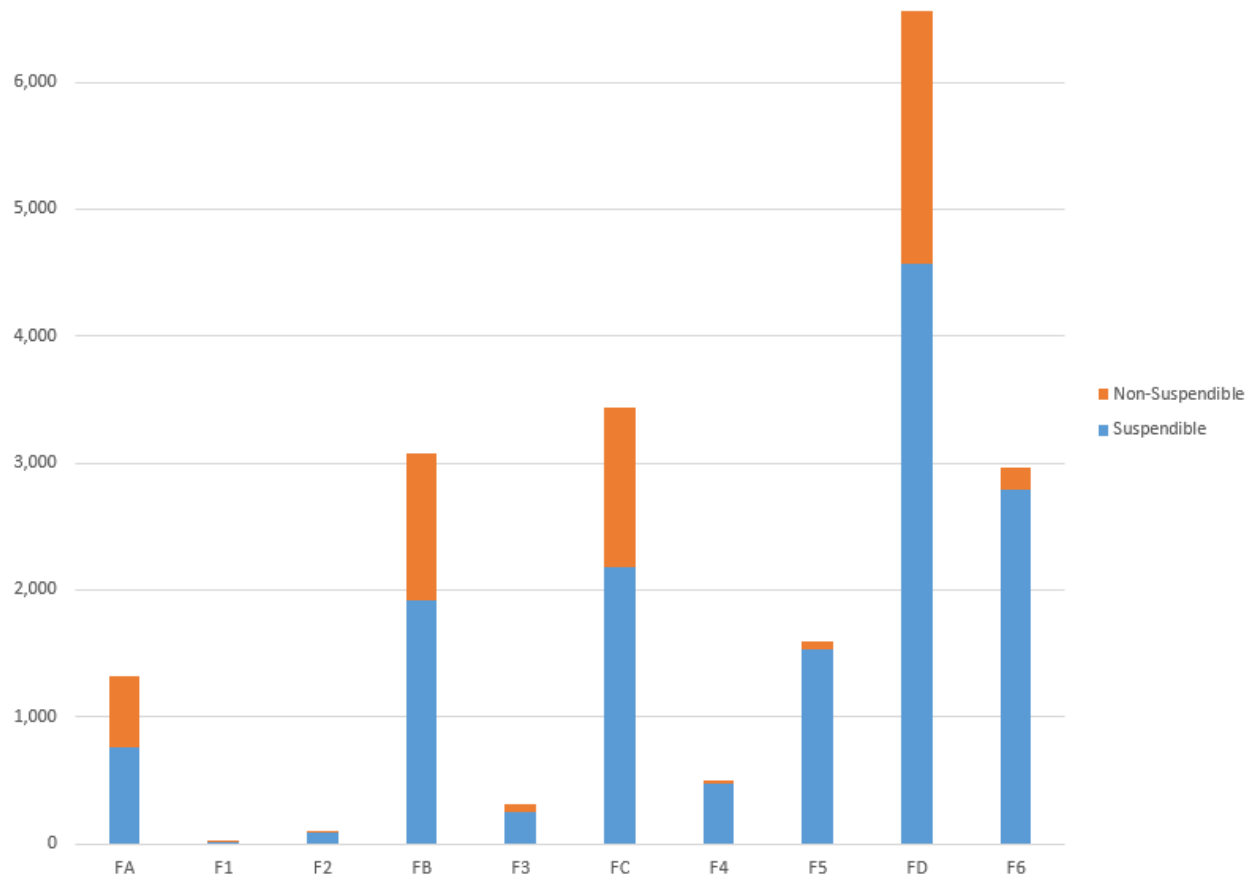
Chart 17: Suspendibility, July 2013 through June 2014, Percentages



Percent of Cases			
	Suspendible	Non-suspendible	Grand Total
FA	54.30%	45.70%	100.00%
FB	58.41%	41.59%	100.00%
FC	58.79%	41.21%	100.00%
FD	67.51%	32.49%	100.00%
Grand Total	62.70%	37.30%	100.00%

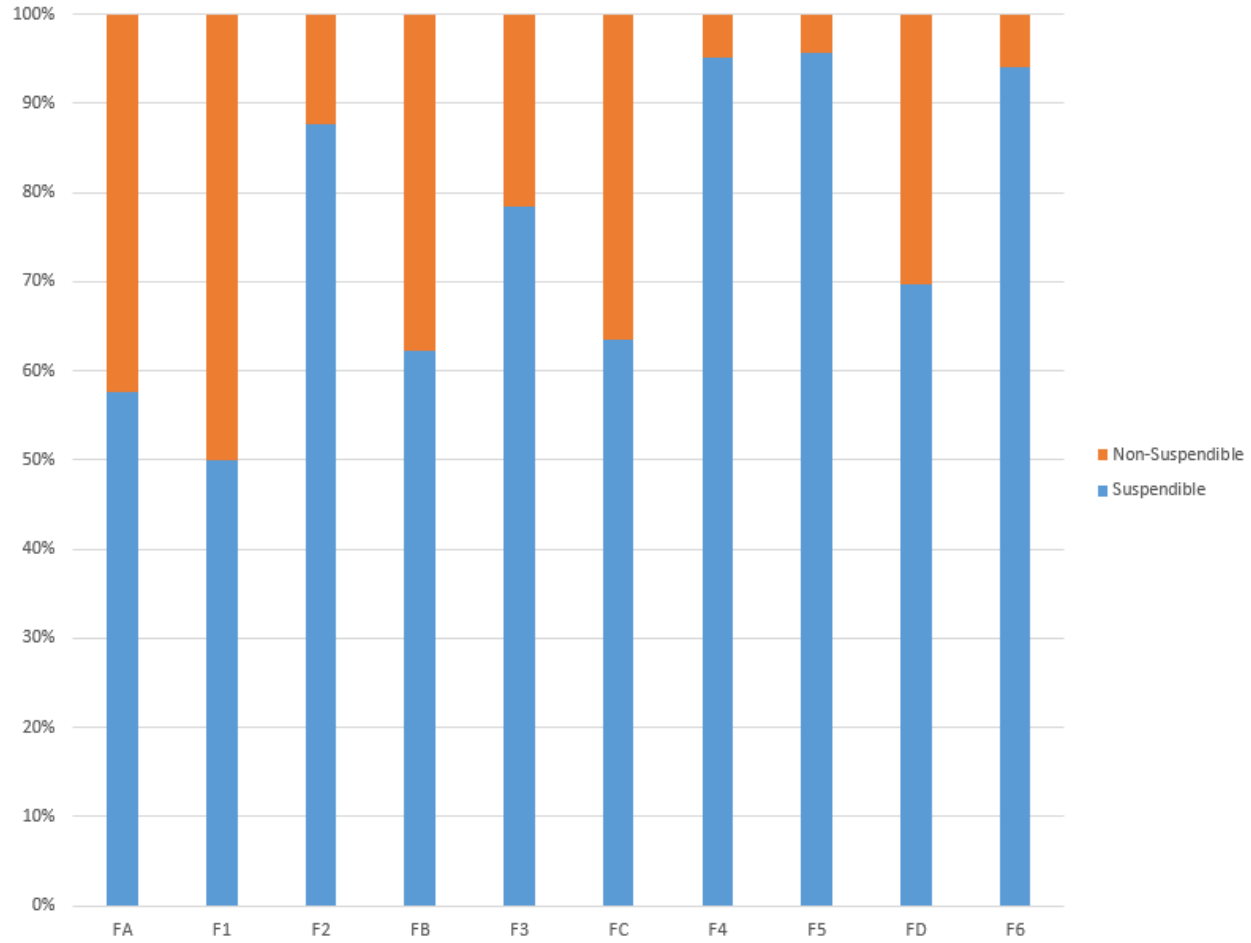
In Chart 18, however, which covers July 2014 to May 28, 2015, the difference is readily apparent, both between types of offenses and between the first four charts in this section.

Chart 18: Suspendibility post-1006



Count of Cases			
	Suspendible	Non-Suspendible	Grand Total
FA	765	561	1,326
F1	15	15	30
F2	93	13	106
FB	1,913	1,161	3,074
F3	244	67	311
FC	2,182	1,259	3,441
F4	469	24	493
F5	1,531	68	1,599
FD	4,568	1,991	6,559
F6	2,785	177	2,962
Grand Total	14,565	5,336	19,901

Chart 19: Suspendibility post-1006, Percentages

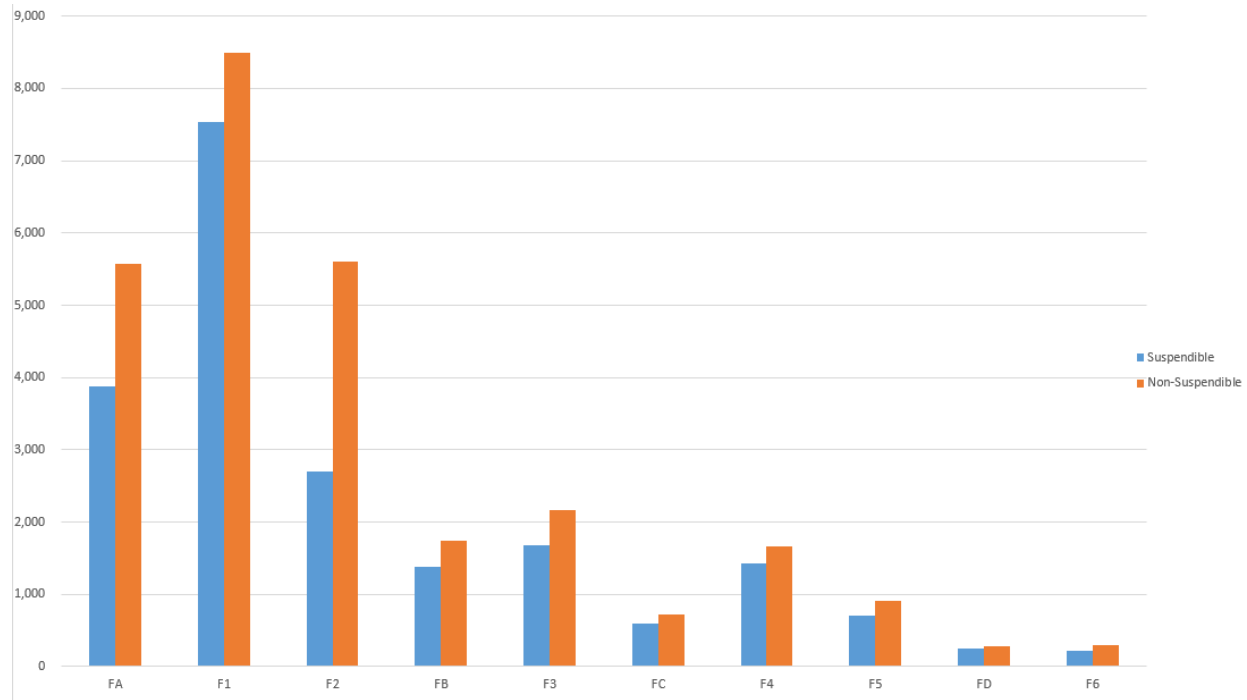


Count of Cases			
	Suspendible	Non-Suspendible	Grand Total
FA	57.69%	42.31%	100.00%
F1	50.00%	50.00%	100.00%
F2	87.74%	12.26%	100.00%
FB	62.23%	37.77%	100.00%
F3	78.46%	21.54%	100.00%
FC	63.41%	36.59%	100.00%
F4	95.13%	4.87%	100.00%
F5	95.75%	4.25%	100.00%
FD	69.64%	30.36%	100.00%
F6	94.02%	5.98%	100.00%
Grand Total	73.19%	26.81%	100.00%

Chart 19 shows the same data as Chart 18, but depicts percentages instead of numbers.

What is less obvious – and more important – is how much of an impact the increase of suspendible sentences will have. Chart 20 compares the average sentences between suspendible and non-suspendible sentences for offenders committed to the Department of Correction. As would be expected, sentences that are suspendible are shorter on average than those that are not. Further study will be required, however, to ascertain how frequently and to what extent courts post-1006 actually suspend sentences compared to pre-1006.

Chart 20: Average Sentences (Executed Days in DOC adjusted for credit time)
January 2014 through May 2015



Average of Total Executed		
	Suspendible	Non-Suspendible
FA	3,872	5,568
F1	7,533	8,492
F2	2,708	5,601
FB	1,383	1,742
F3	1,683	2,167
FC	589	723
F4	1,426	1,657
F5	705	910
FD	243	287
F6	216	294
Grand Total	757	1,164

This chart shows the average sentences on cases that had PSIs completed from January 1, 2014, to May 30, 2015, and original abstracts with DOC commitments. The “Grand Total” is the average sentence length of all sentences in each column.

What We Don't Know: Questions for Future Study

As discussed above, we have much to learn about how 1006 will work and what impact it may have. Questions can be divided into four general categories, each separate but tightly interwoven: sentencing and commitment; prison and community correction population; effective treatment and recidivism; and funding for each component.

A. Sentencing and commitment

Due to the recent implementation of 1006 and the correspondingly short time for offenses to occur, for offenders to be charged with the new felony level offenses, and for them to be tried and sentenced, how 1006 will be fully implemented is unknown. Even more of an issue is how judges may alter their sentencing practices in light of the new levels and the seventy-five percent credit time requirement. Similarly, how can problem-solving courts assist with 1006's reforms? And as discussed above, due to the greater freedom judges have to suspend sentences, how frequently and extensively will courts exercise their ability to suspend more of offenders' sentences? What have other states done with regard to "truth in sentencing" and how might it compare to the reforms of 1006?

B. Prison and community correction population

The AIR and ARS studies concluded that, as of late 2013, HEA 1006 would actually increase the number of offenders in the Indiana DOC. To address this, the General Assembly made various changes in 2014 and 2015. Nevertheless, it is far from certain whether those changes will be effective. The AIR study suggested that the DOC could avoid overcrowding, but only if 14,000 offenders – mostly F6 offenders – were diverted from the DOC to community corrections. The DOC has a bed count of 28,000. But merely saying DOC has 28,000 beds available is too simplistic an approach. Only about three thousand beds are designed for minimum security offenders. So, for example, if the effect of 1006 were to eliminate many of the F6 offenders from the DOC, it would not necessarily be the case that the remaining offenders could take the beds formerly occupied by F6/FD offenders. A detailed analysis of the bed system must be undertaken.

Furthermore, as mentioned above, with the seventy-five percent requirement for more serious offenses, will the prison population expand, requiring the construction of additional prisons?

Similarly, there is significant concern at the county level that the county jails will not be able to handle the F6 offenders who formerly would have gone to the DOC. An initial problem is that the precise number of jail beds is uncertain. While the most recent survey found the number of permanent beds to be approximately 20,450, this number may not be entirely accurate due to varying methods of counting permanent beds by the county jails.¹⁰ The Indiana Sheriff's Association is in the process of surveying the county jails and should have this information within the next year. This survey will be helpful in determining what volume of offenders the jails will be able to accommodate.

Additionally, further information should be ascertained regarding probation and parole violations. What percentage was for technical violations versus new crimes? How many violations resulted in revocations to prison or jail? What were the most common behaviors resulting in a violations? How many jail beds were used for probation violators? How many jail beds were used for civil violations?

C. Effective treatment and recidivism

Many pressing questions remain unanswered in this area. Will keeping offenders local instead of sending them to the DOC help or hinder recidivism? What effect will 1006's reforms have on probation, reentry programs, alcohol and mental health treatment, work release, and other community corrections? Specifically, what can be done to address probation violations, which is a key driver to increasing the prison population?

D. Funding

The General Assembly in 2015 appropriated funds for community corrections; in previous sessions, other amounts have been awarded to make possible the reforms that

¹⁰ The uncertainty regarding the actual bed count stems from various methods of counting beds. The Indiana Jail Standards define a "bed" as "a permanently installed fixture used for sleeping that is elevated at least twelve (12) inches off the floor." 210 IAC 3-2-2(c). Nevertheless, in some cases, detox benches, padded cells without beds, and temporary cots are counted as "permanent" beds.

1006 seeks to make. Are these amounts sufficient? Or should they be distributed otherwise?

Recommendations for Continuing Reform

Each of the four following recommended reforms flow directly from the issues addressed throughout this report: the need to centralize information and track offenders and the importance of allowing communities to fulfill the role assigned to them when offenders are diverted from the DOC.

A. Data Collection, Management, and Sharing

Indiana is one of only a few states without a centralized data system. As discussed and demonstrated above, the data necessary to analyze the 1006 criminal code revisions is scattered among multiple agencies, three branches of government, dozens of case management systems, hundreds of law enforcement bodies, and numerous other sources. Few if any of these data sources communicate easily with one another. Data sharing between the primary stakeholders has been almost non-existent, with major parties clueless about vital statistics from other parts of the system.

Of course, there is no quick, easy fix to this problem. Certain sources want to hold onto their information and are reluctant to share it for a variety of reasons: a) it is confidential, due to personally identifiable information or because it is used for law enforcement purposes; b) it was developed or obtained through the investment of the organization's time or money, and the organization seeks just compensation for its investment; c) the possessor of the information wants to be able to control how the data is used; or d) the information comes from an on-going process that could be misunderstood if care is not given to its presentation and explanation. Other sources of information are willing to share but do not have the ability to easily propagate the data to parties interested in receiving it.

B. Assignment of Offender Numbers

When an individual is arrested in Indiana, he is fingerprinted on a LiveScan and the prints receive a transaction control number (TCN). The prints are sent to the Indiana

State Police (ISP) and a state identification number (SID) is assigned. Subsequently the ISP attaches the SID to the TCN. While the Indiana prosecutor's case management system receives both the SID and the TCN from the ISP, the courts do not receive the SID number from either the ISP or prosecutors. Only recently did the Supreme Court begin requiring prosecutors to include the TCN with their appearances filed with the court. Depending on the Indiana county in which the individual is arrested, he may be assigned additional numbers at various stages in the arrest, booking, and charging stages. Finally, if the individual is convicted and committed to the DOC, he will be assigned a DOC number.

After this person is released from the DOC, if he is arrested in another county, the process begins again. Because the new county's data management system may not "talk" to the original county's system, no consistent numbering is assured. Only his SID number and DOC identification will be the same, but there is no assurance that the individual's SID will follow him and be available to the arresting officer, prosecutor, or court. Similarly, the individual's DOC number will not be used unless and until he returns to the DOC.

To aid in identification, to help measure recidivism, and to assist with crime reporting statistics, we recommend that an individual's SID follow an individual and be used at every step of the process that it is available. The SID should be used at an individual's arrest and booking (if a SID has already been assigned from a previous arrest), charging, prosecution, conviction, and commitment, regardless whether the individual is sentenced to the DOC, probation, community correction, or work release.

C. Pretrial Jail Use Reduction

As noted in the introduction to this report, one of the goals of Indiana's criminal code reform was to make incarceration more effective. Particularly as Level 6 offenders are shifted from the DOC to local jails, the importance of examining the use of local jails becomes more important.

Several policies can be implemented to reduce the need for pretrial jailing, such as increased use of bail, increased probationary measures, as well as release on one's own

recognizance. Additional means of mitigating the risk of suspect-flight include various probationary measures. These include visits or phone calls to a probation officer, drug testing, or community service, and are meant to serve as requirements that serve as proof of the suspect's good behavior and insure they have not fled. Lastly, a suspect may be released on his or her own recognizance. In this case, a judge may determine that as a result of the suspect's community ties, offense, or personality, he or she is a low flight risk and can be trusted to return for trial.

For many offenders, pretrial supervision can be the difference between incarceration and probation at the time of their sentencing.¹¹ Providing an effective means to demonstrate social capabilities before a judge allows for more appropriate punishment, as well as reduces the costs incurred by the state over the course of the process.¹² According to one study, pretrial detention is the single strongest variable when evaluating the likelihood of post-conviction incarceration.¹³

Focusing on supervised release rather than pretrial detention allows the state to save a significant amount of resources. In Baltimore, Maryland, a suspect held in jail will cost the state between \$100 and \$160 per day.¹⁴ In contrast, the same suspect would require simply \$2.50 of state investment in a pretrial supervision program.¹⁵ At that rate, releasing 1,000 suspects to supervision for the pretrial average 30 days would save the state more than \$2.9 million dollars.¹⁶ Were such a policy enacted in Indiana, many jail beds would be freed for other purposes.

¹¹ Vera Institute of Justice. *The Potential of Community Corrections: To Improve Communities and Reduce Incarceration*. New York, NY: Vera Institute of Justice, 2013 (available at <http://www.vera.org/sites/default/files/resources/downloads/potential-of-community-corrections.pdf>; last visited June 3, 2015).

¹² *Id.*

¹³ *Id.*

¹⁴ Tracy Velázquez. *Baltimore Behind Bars: How to Reduce the Jail Population, Save Money, and Improve Public Safety*. Justice Policy Institute: Baltimore, MD, 2010 (available at http://www.justicepolicy.org/images/upload/10-06_rep_baltbehindbars_md-ps-ac-rd.pdf; last visited June 3, 2015).

¹⁵ *Id.*

¹⁶ *Id.*

Indiana may consider the example of Washington, D.C., where the Pretrial Services Agency for the District of Columbia (PSA) has emerged as a national leader in establishing effective policies to reduce pretrial jail use and financial bail, while insuring that defendants attend court appearances and promoting public safety. Working in collaboration with the Court Services and Offender Supervision Agency for the District of Columbia (CSOSA), the PSA has provided exceptional results.

The PSA works with defendants through several parts: the Court Services Program (CSP), the Supervision Program, and the Treatment Program.¹⁷ The CSP itself is then divided into multiple departments. The Diagnostic Unit conducts interviews with defendants, conducts background checks, and analyzes criminal history to provide a recommendation to the judiciary regarding his or her pretrial release.¹⁸ The Release Services Unit then conducts an interview to explain the terms and consequences of the release, and is in charge of investigating warrants for those that fail to appear.¹⁹ The third section is the Drug Testing and Compliance Unit, which works in collaboration with the above to provide information on defendants and substance abuse problems to improve the results of the release.²⁰

The Supervision Program oversees defendants during their time on release, and has three categories of supervision: General Supervision, High Risk Supervision, which includes home confinement, and Supervision for Special Populations, which includes accommodations for mental health and substance abuse problems.²¹ These divided categories allow the PSA to track and evaluate the needs of risk-tiered defendants to best utilize the agency's resources, and to meet the goal of pretrial release as standard.

¹⁷ "Congressional Budget Justification and Performance Budget Request: Fiscal Year 2015." Pretrial Services Agency for the District of Columbia. (March 2014) (available at http://www.psa.gov/sites/default/files/FY2015%20PSA%20Congressional%20Budget%20Justification_0.pdf, page 9; last visited June 8, 2015).

¹⁸ *Id.*

¹⁹ *Id.* at 10.

²⁰ *Id.* at 11.

²¹ "Defendant Supervision." Pretrial Services Agency for the District of Columbia (available at http://www.psa.gov/?q=programs/defendent_supervision; last visited June 8, 2015).

Lastly, the Treatment Program is a wide-ranging department that maintains several initiatives to effectively respond to defendants struggling with drug, alcohol, and mental health problems. Drug Court, the Sanction-Based Treatment Track, and the Specialized Supervision Unit all work to provide specialized attention for those dealing with such difficulties.²²

The Washington, D.C. approach has proven to be dramatically successful. In 2012, 88% of defendants met the terms of their release, a 13% jump from the year's target.²³ 89% were not arrested during the time of their release, and attended all mandatory court appearances, and only 1% were rearrested for a violent crime.²⁴

Despite establishing a policy that reduces the use of financial bond to 4% of cases and sets pretrial release as the standard, the District of Columbia has kept the rate of rearrests at 15% or below, even among drug-using defendants.²⁵ This significant reduction in the use of pretrial jailing has not led to a rise in crime rates, but will certainly save the city money.²⁶ Their progressive policies are considered by the American Bar Association (ABA) to be among the best in the nation at meeting the ABA Pretrial Release Standards, and are a significant model for those utilized in other successful localities.²⁷

The policies enacted in Washington, D.C. regarding pretrial release have been copied throughout the United States. Kentucky does not permit bail bonding for profit²⁸ and utilizes a system similar to that of Washington's for the evaluation of defendants. In-

²² "Treatment and Related Services." Pretrial Services Agency for the District of Columbia (available at http://www.psa.gov/?q=programs/treatment_services; last visited June 8, 2015).

²³ "Performance Measures." Pretrial Services Agency for the District of Columbia (available at http://www.psa.gov/?q=data/performance_measures; last visited June 8, 2015).

²⁴ *Id.*

²⁵ *Id.*

²⁶ "Freedom and Money – Bail in America." Pretrial Services Agency for the District of Columbia (available at <http://www.psa.gov/?q=node/97>; last visited June 8, 2015).

²⁷ *Frequently Asked Questions About Pretrial Decision Making*, American Bar Association (available at <http://www.nacdl.org/WorkArea/DownloadAsset.aspx?id=25187>, page 5; last visited June 8, 2015).

²⁸ Kentucky Court of Justice, *Interview Process and Release Alternatives* (available at <http://courts.ky.gov/courtprograms/pretrialservices/Pages/interviewrelease.aspx>; last visited June 8, 2015).

interviews take place no more than 12 hours following an arrest, and then through a risk assessment, are considered for a recommendation to the court.²⁹ Unlike Washington, which determines the course of release through the Pretrial Services Agency, defendants are allowed the opportunity to apply for various release options, including both detention and one's own recognizance.³⁰ According to the ABA, 74% of defendants are released pending trial.³¹ Among that group, 92% attended all court appearances, and 93% did not reoffend prior to their trial.³²

In Indiana, the Supreme Court Committee was requested by the Indiana Supreme Court to conduct an evaluation of possible pretrial release programs in December 2014. In doing so, the Court hoped to see the establishment of a program like that of Washington, D.C., with a focus on pretrial release and reduction of monetary bail use.³³ In December 2014, the Indiana Supreme Court issued a \$40,000 grant to the Monroe Circuit Court Probation Department to establish a pilot pretrial release program.³⁴ The program includes offender screening by probation officers and evaluation, as well as automated phone calls for court reminders.³⁵

In addition to pretrial jail detention, Indiana should also reconsider use of its jails for non-criminal detention. Evidence from certain counties indicates that the majority of jail beds are occupied by civil offenders – persons who have failed to appear for a hearing, individuals who have failed to pay child support or who have had a body attachment. While jailing such individuals may have the desired effect of inducing certain behavior, the State should consider whether this is the best use of the local jail's limited beds.

²⁹ *Id.*

³⁰ *Frequently Asked Questions About Pretrial Decision Making*, American Bar Association (available at <http://www.nacdl.org/WorkArea/DownloadAsset.aspx?id=25187>, page 5; last visited June 8, 2015).

³¹ *Id.*

³² *Id.*

³³ Chief Justice Loretta Rush, Indiana Supreme Court, *Order on Pretrial Release* (2014) (available at <http://www.in.gov/judiciary/files/order-other-2014-94S00-1412-MS-757.pdf>; last visited June 8, 2015).

³⁴ Gretchen Frazee, *Monroe County Probation Pilot Program Could Be State Model*, Indiana Public Media News (2014) (available at <http://indianapublicmedia.org/news/monroe-county-probations-pilot-program-state-model-76187/>; last visited June 8, 2015)

³⁵ *Id.*

Reducing pretrial jail detention and civil incarceration may be an excellent means to free Indiana's jails. By allowing more offenders to be released under supervision, the State should see reduced recidivism, a lowered strain on resources, and an increased ability to concentrate on high-risk offenders.

D. Jail Data Collection

A common theme throughout this report has been the difficulty of obtaining data necessary to analyze the reforms that 1006 seeks to implement. Both with regard to general jail populations, as discussed in the baseline section above, and also in the context of reducing pretrial jail use, discussed immediately above, the lack of reliable jail data is a hindrance. Although Indiana jails are required to be inspected regularly, and this data is reported to the DOC, individual jails may define beds differently.

Due to varying methods of counting jail beds, a survey counting Indiana jail beds, such as the one being conducted by the Indiana Sheriff's Association, should be implemented as soon as possible.