



**Justice Center**  
THE COUNCIL OF STATE GOVERNMENTS

# House Committee on Judiciary

# Vermont Justice Reinvestment II

January 14, 2020

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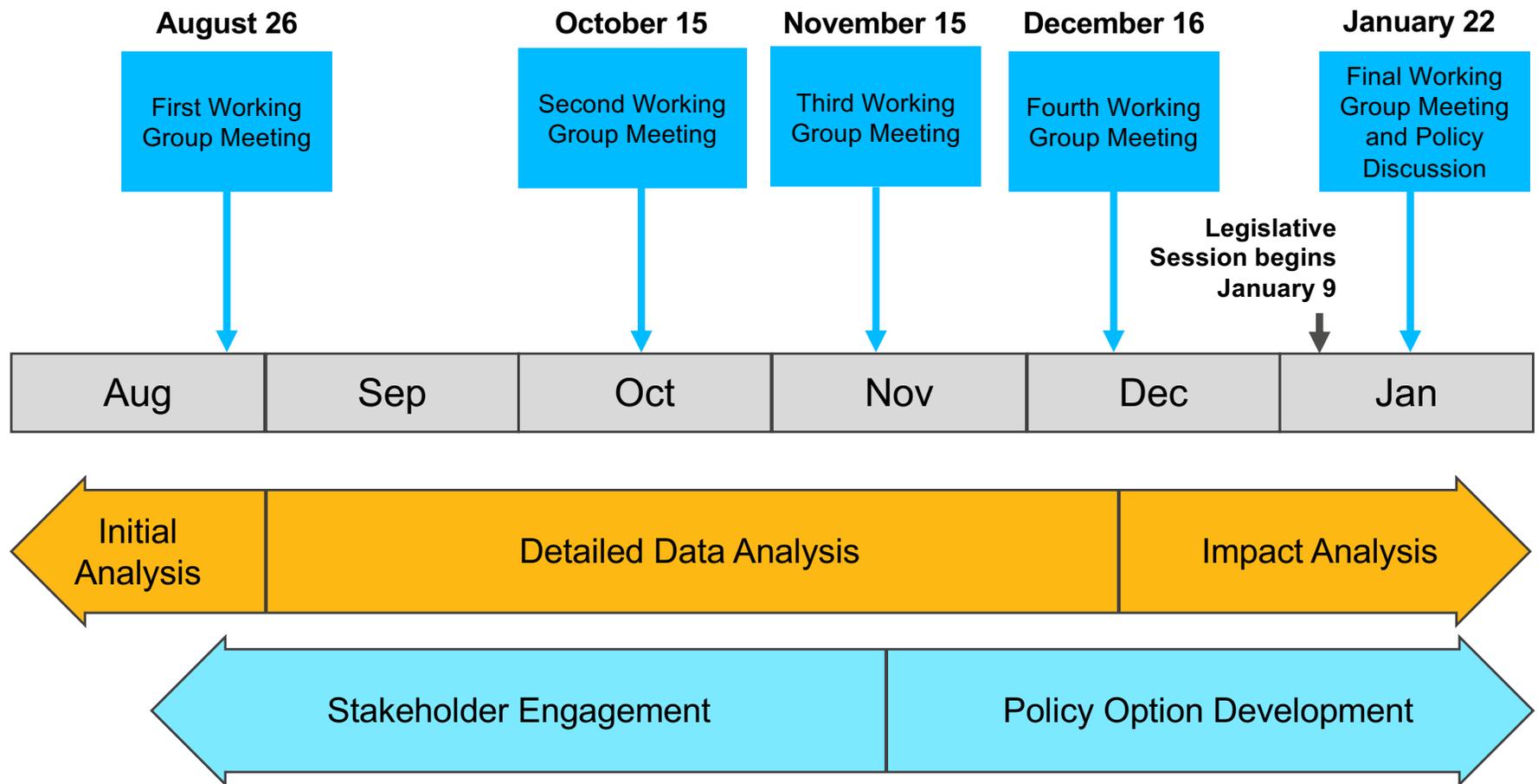
# JUSTICE REINVESTMENT

A data-driven approach to identify and respond to public safety challenges.

Supported by funding from the U.S. Department of Justice's Bureau of Justice Assistance (BJA) and The Pew Charitable Trusts.

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**The Vermont Justice Reinvestment II Working Group has held four meetings, and it's fifth, focused on policy recommendations, is slated for January 22.**



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**Over the course of four Justice Reinvestment working group meetings, the following key project findings were identified.**

**1. Revocations and returns from supervision are driving a large share of prison admissions.**

**2. There are disparities across race and geography.**

**3. There are gaps in data reporting.**

**4. There is a lack of resources available to DOC and in the community for serving complex needs populations.**

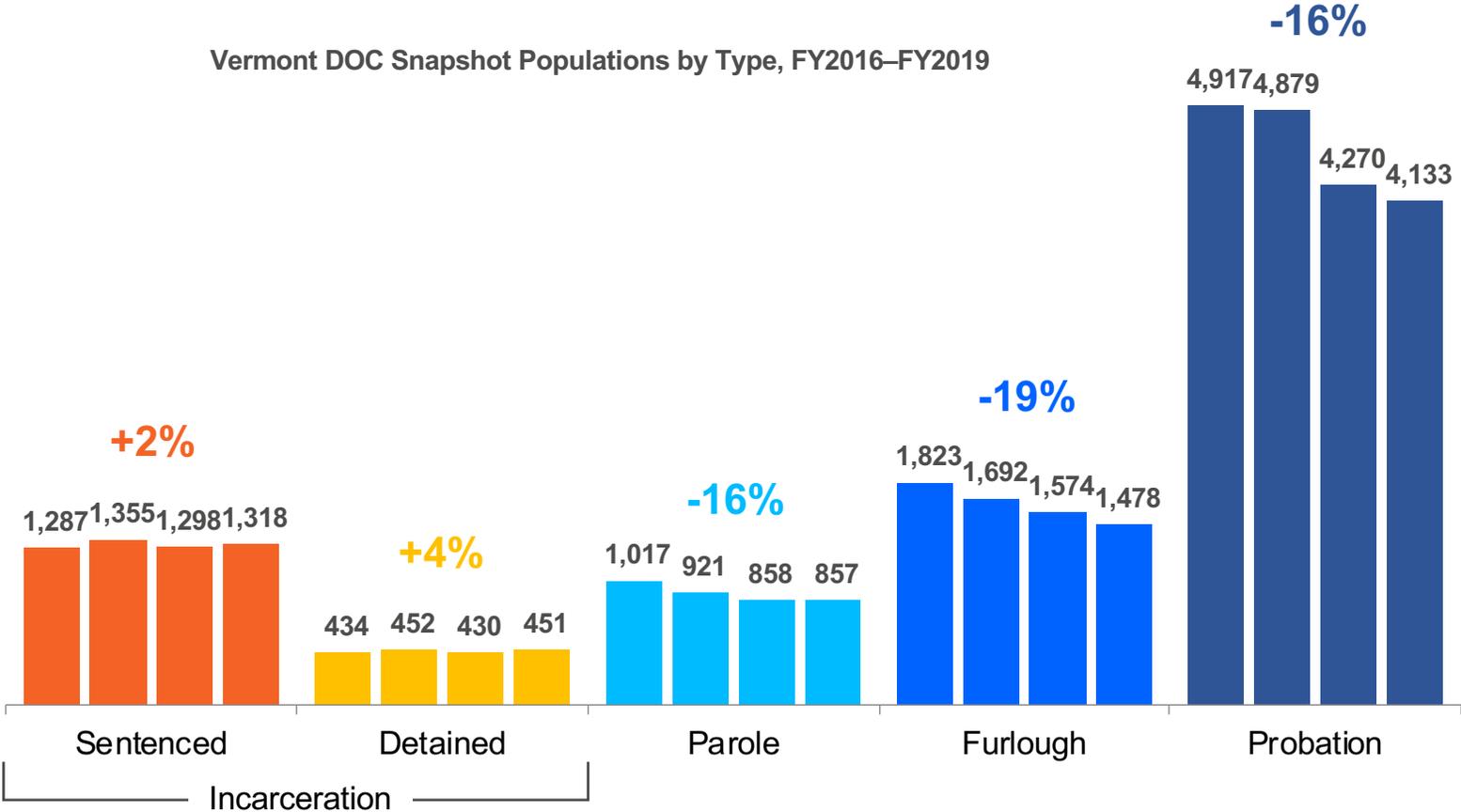
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## **Revocations and returns from supervision are driving a large share of prison admissions, and limited funding leaves large numbers of high-risk people without the programs and services they need to succeed in the community.**

- The state's incarcerated population has grown in recent years, while funding for the DOC has remained flat.
- Over the last three years, the average annual proportion of admissions to sentenced incarceration that were people returning or being revoked from furlough, parole, and probation was 78 percent.
- Technical violations make up large percentages of supervision returns and revocations, particularly for the furlough population.
- The length of stay for people who are returned or revoked to prison is generally short.
- Research indicates that people are most vulnerable and likely to recidivate in their initial months following release from prison into the community, and in Vermont most people are on furlough during that period.
- Level funding for DOC and limited community-based resources statewide result in large numbers of higher-risk people who do not receive programming and services that would address their criminogenic risks and needs more effectively.

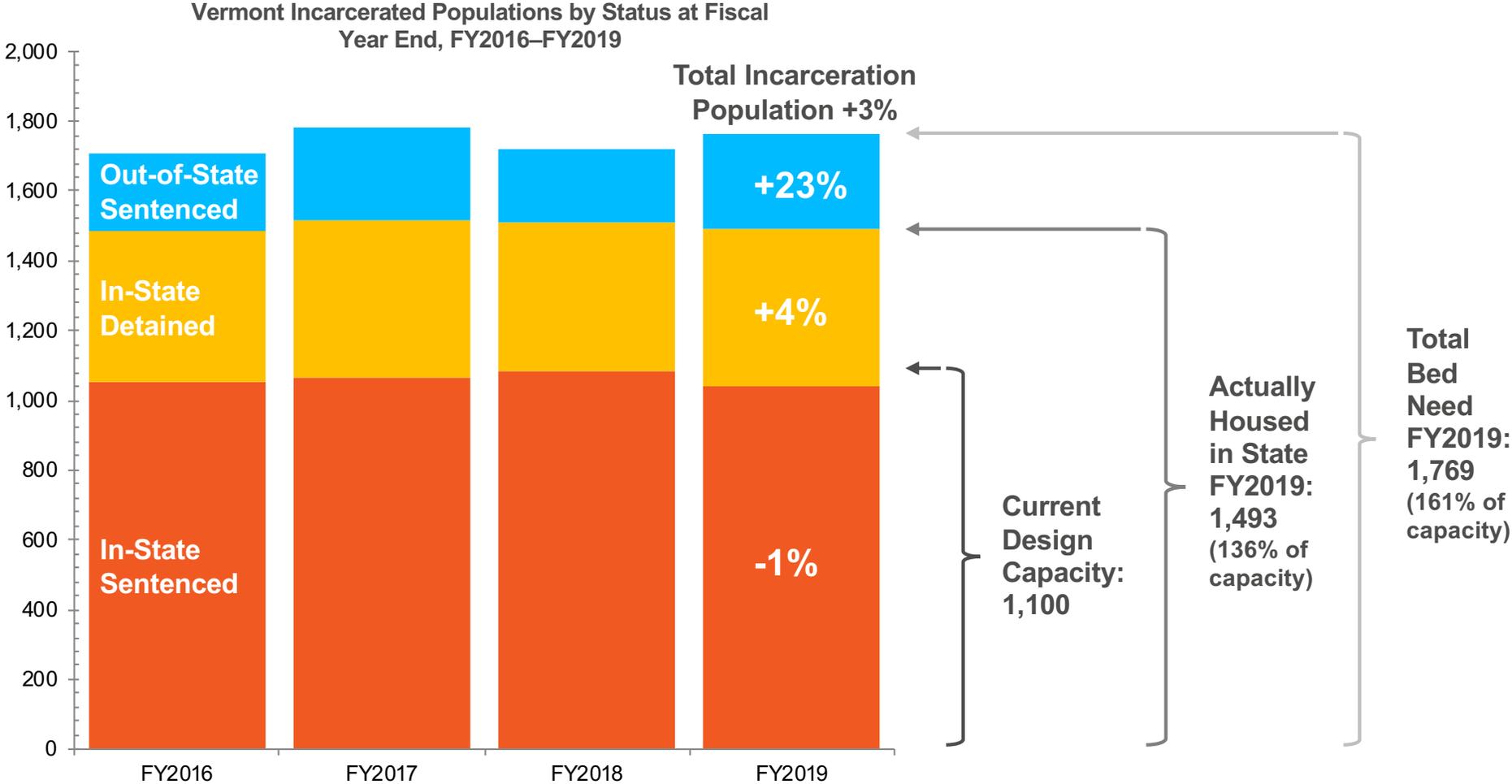
**Despite decreases in the incarcerated population over the past decade, recently Vermont’s sentenced and detained populations have risen slightly, underscoring the need for new approaches to safely reduce these populations further.**

Vermont DOC Snapshot Populations by Type, FY2016–FY2019



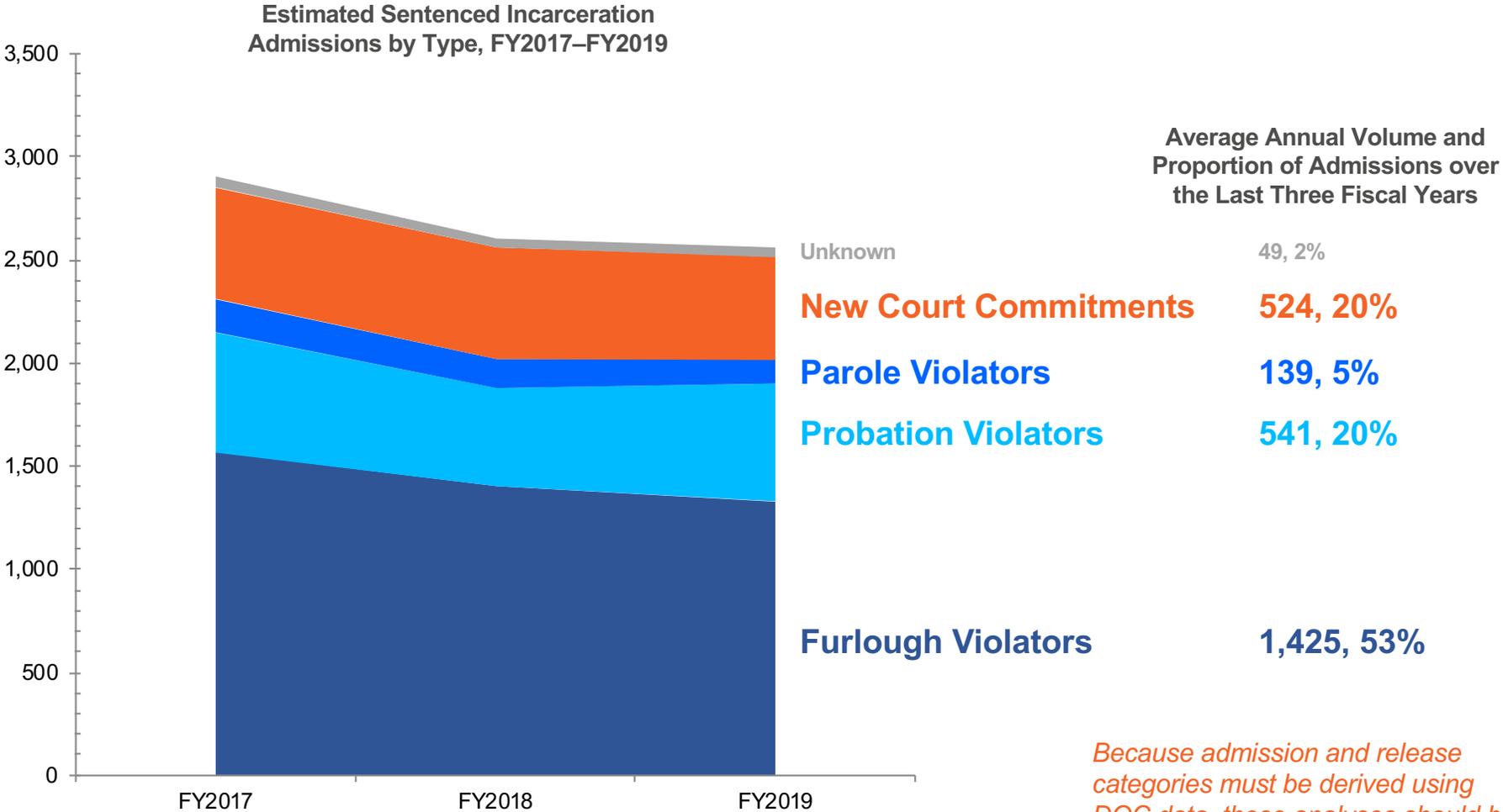
Sources: The Council of State Governments Justice Center analysis of data from the Vermont Department of Corrections.

# Vermont incarcerates more people than current facilities can accommodate, and that incarceration population is growing.



Sources: The Council of State Governments Justice Center analysis of data from the Vermont Department of Corrections.

**Almost 80 percent of sentenced DOC admissions are for people returned or revoked from furlough, parole, and probation, primarily driven by furlough violators.**



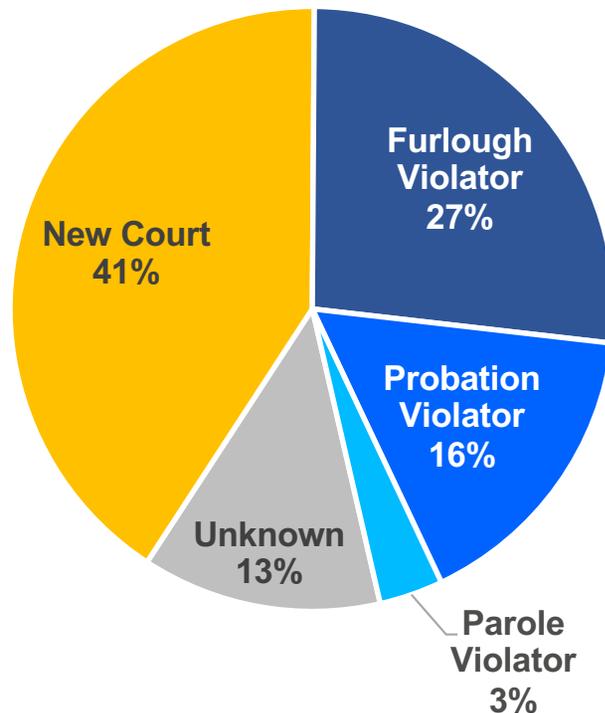
*Because admission and release categories must be derived using DOC data, these analyses should be considered strong estimates.*

Sources: The Council of State Governments Justice Center analysis of data from the Vermont Department of Corrections.

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## Nearly half of Vermont's sentenced prison population at the end of FY2019 consisted of people who were returned from community supervision, primarily furlough.

1,318 Total People in Sentenced Incarceration  
Population by Admission Type at the End of FY2019



Furlough violator admissions make up a large proportion of admissions, but because of relatively short lengths of stay, they contribute a smaller percentage of the snapshot sentenced incarceration population at any given time.

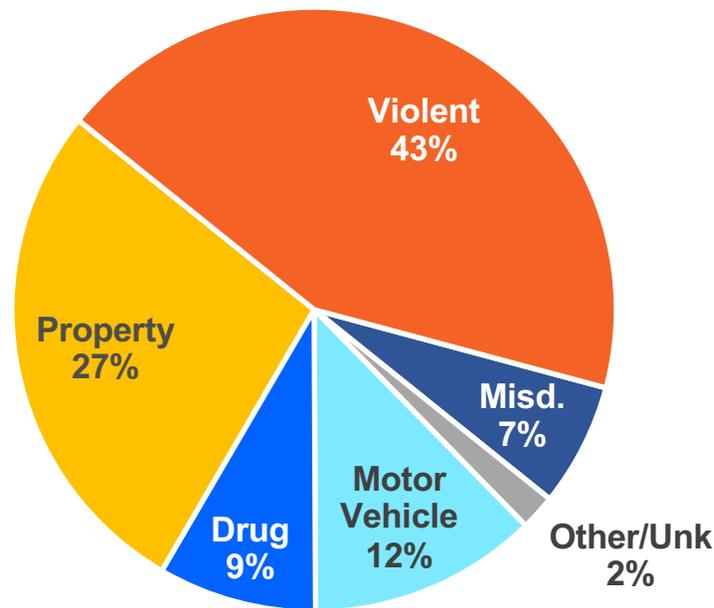
*Because admission and release categories must be derived using DOC data, these analyses should be considered strong estimates.*

Sources: The Council of State Governments Justice Center analysis of data from the Vermont Department of Corrections.

**The underlying offenses for incarcerated women are primarily violent and property crimes, but prison returns and revocations still make up more than half of the female incarcerated population.**

Among the 106 women in the sentenced population, **58% (62 women) were incarcerated for supervision revocations** (36 from furlough, 23 from probation, 3 from parole)

106 Total Women in Sentenced Population at the end of FY2019



**Violent**

- 16 Assault (13 Listed)
- 15 Murder (All Listed)
- 7 Robbery (All Listed)
- 5 Rape (All Listed)
- 2 Kidnapping (All Listed)
- 1 Sex Offense (Listed)

**Property**

- 19 Burglary (11 Listed)
- 7 Forgery/Fraud (2 Listed)
- 1 Stolen Property

**Drug**

- 7 Manufacture/Delivery
- 2 Possession

**Motor Vehicle**

- 7 DUI (3 Listed)
- 6 Other (4 Listed)

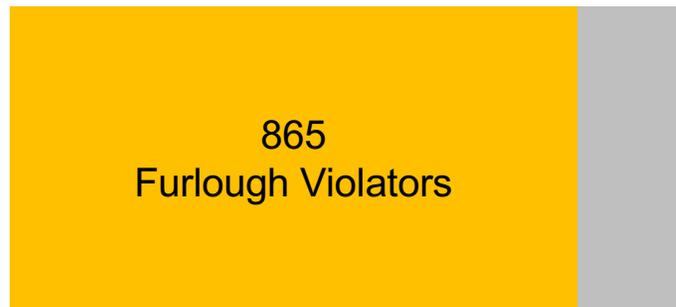
*Because admission and release categories must be derived using DOC data, these analyses should be considered strong estimates.*

Sources: The Council of State Governments Justice Center analysis of data from the Vermont Department of Corrections.

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## Nearly 80 percent of furlough returns to incarceration are due to technical violations rather than new crime offenses.

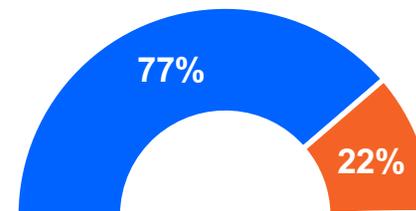
Jan–Oct 2019 Furlough  
Returns Tracked



*An estimated 85% or more of  
total furlough returns were  
tracked in 2019*

**Because furlough is defined as an extension of incarceration to be served in the community, it carries a lower burden of proof for reincarceration than other supervision statuses, and different expectations for responses to violations than parole or probation.**

Reason for Return  
**Technical** **New Crime**



Among 668 with technical violations only:  
46% included program or work failures  
42% included a loss of housing  
35% included drug or alcohol issues  
22% included OOP or curfew violations  
7% included violent or threatening behavior  
4% included a sex offender condition violation  
3% included a DV condition violation

The average technical return had 1.6 violation categories flagged.

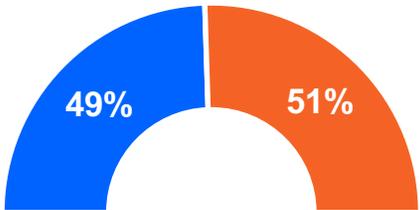
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Sources: The Council of State Governments Justice Center analysis of data from the Vermont Department of Corrections.

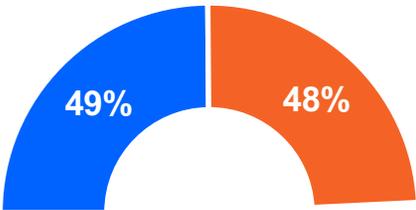
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**Vermont’s proportion of parole and probation revocations for technical violations is consistent with other states, but the proportion of furlough returns for technical violations is high.**

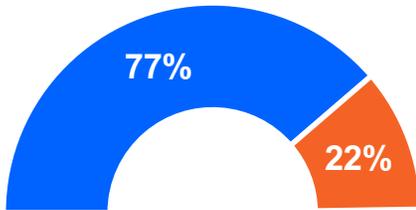
Parole Revocations  
Technical New Crime



Probation Revocations  
Technical New Crime



Furlough Returns  
Technical New Crime



**The CSG Justice Center recently completed an analysis of technical versus new crime violations across states:**

A parole technical revocation rate of 49% would rank 31<sup>st</sup> if included among 41 states reporting data from 2017.

A probation technical revocation rate of 49% would rank 21<sup>st</sup> if included among 33 states reporting data from 2017.

A furlough technical return rate of 77% doesn't have a direct comparison to other states but is well above the average among all states for either probation (54%) or parole (66%).

Sources: Data from the Vermont Parole Board and the Vermont Department of Corrections, CSG Justice Center Confined and Costly, <https://csgjusticecenter.org/confinedandcostly/>.

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# The number of furlough returns places enormous strain on individuals as well as the corrections system.

2,929 estimated individuals had furlough returns over the past four years for a total of over 5,800 furlough return events\*

1,288 people (44%) had two or more furlough returns within the period

The average person had **two furlough returns** within these four years alone.

228 people (8%) had **five or more** furlough returns over the course of their time with DOC.

The median length of time spent on furlough before returning to sentenced incarceration was **4 months**.

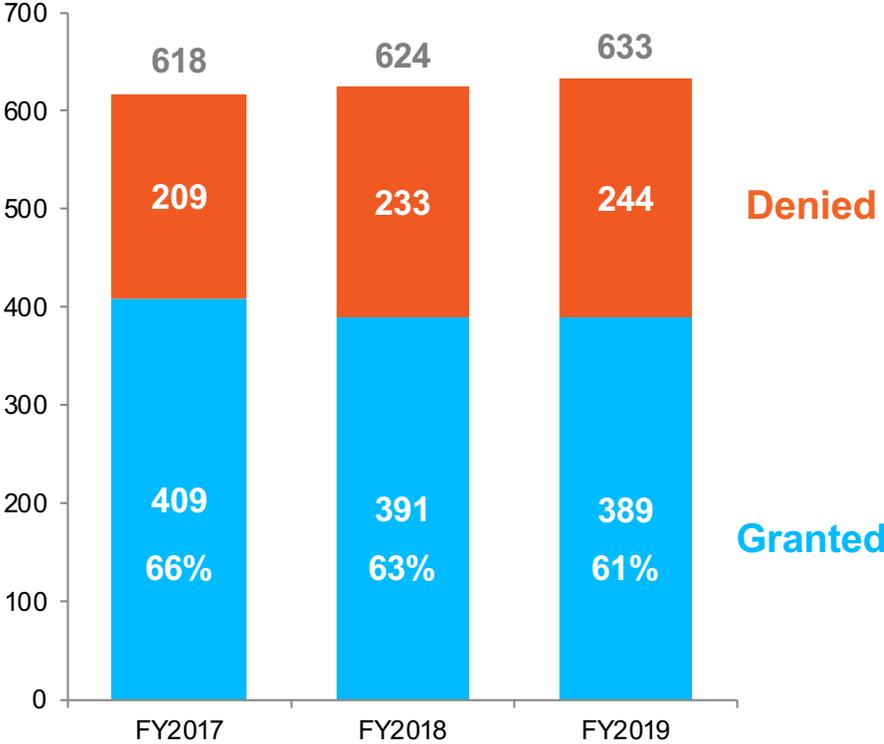
*Because admission and release categories must be derived using DOC data, these analyses should be considered strong estimates.*

\* A small number of individuals had furlough returns associated with different criminal sentencing events within the four-year period (145).

Sources: The Council of State Governments Justice Center analysis of data from the Vermont Department of Corrections.

**Often, parole is granted to people who have already navigated some of the highest-risk months while supervised on furlough.**

Vermont Parole Board Release Decisions, FY2017–FY2019



Only an estimated 10% of parole grants are for people in the sentenced incarceration population, while 90% of people who are granted parole have already been in the community on furlough.

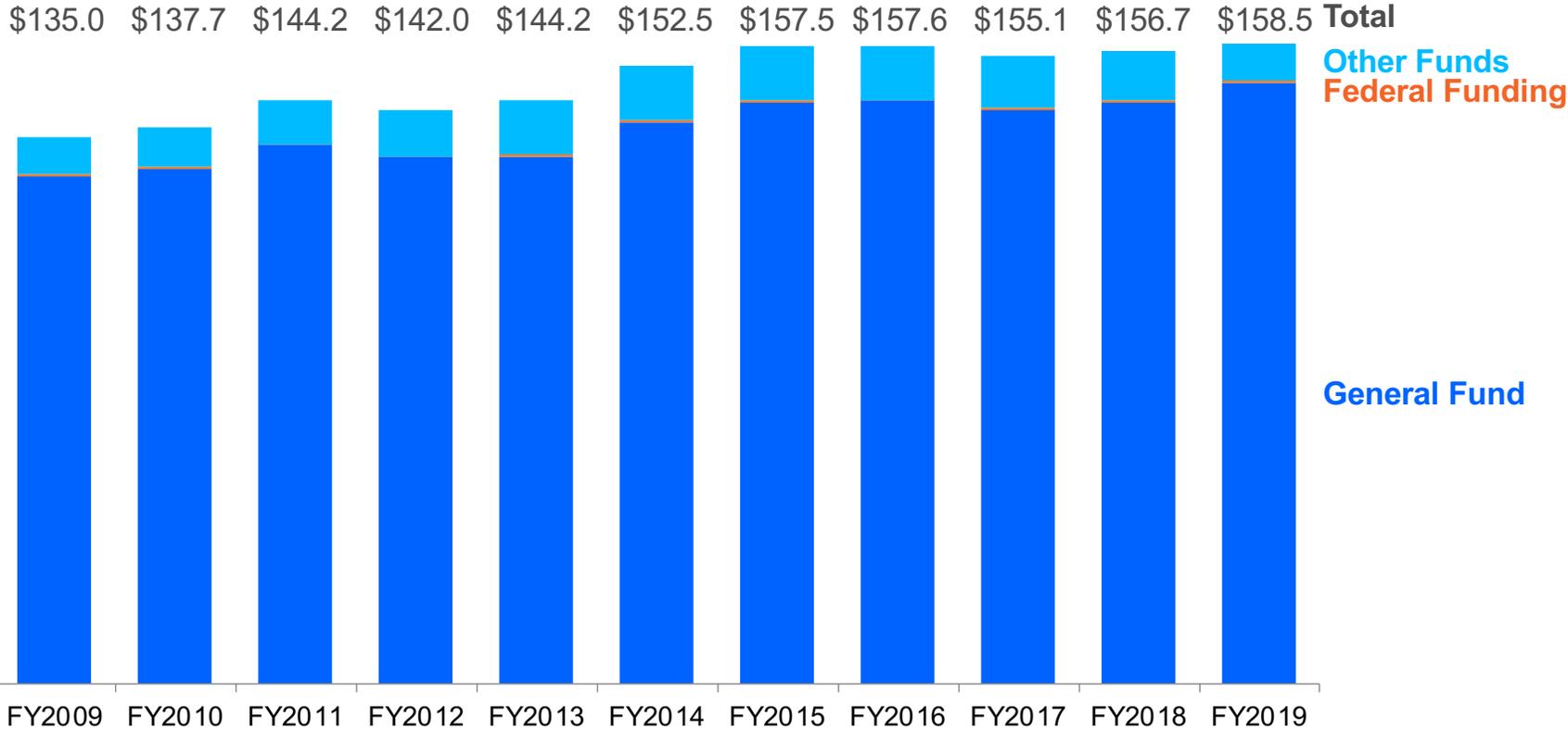
Using a sample of ~500 people placed on furlough whose next legal status was parole supervision, the average period spent on furlough before parole approval was 7 to 8 months.

*Because admission and release categories must be derived using DOC data, these analyses should be considered strong estimates.*

Sources: The Council of State Governments Justice Center analysis of data from the Vermont Department of Corrections.

**In the face of a growing incarcerated population, level funding is equivalent to budget cuts, which de-invests in programs and services for people who are in the corrections system.**

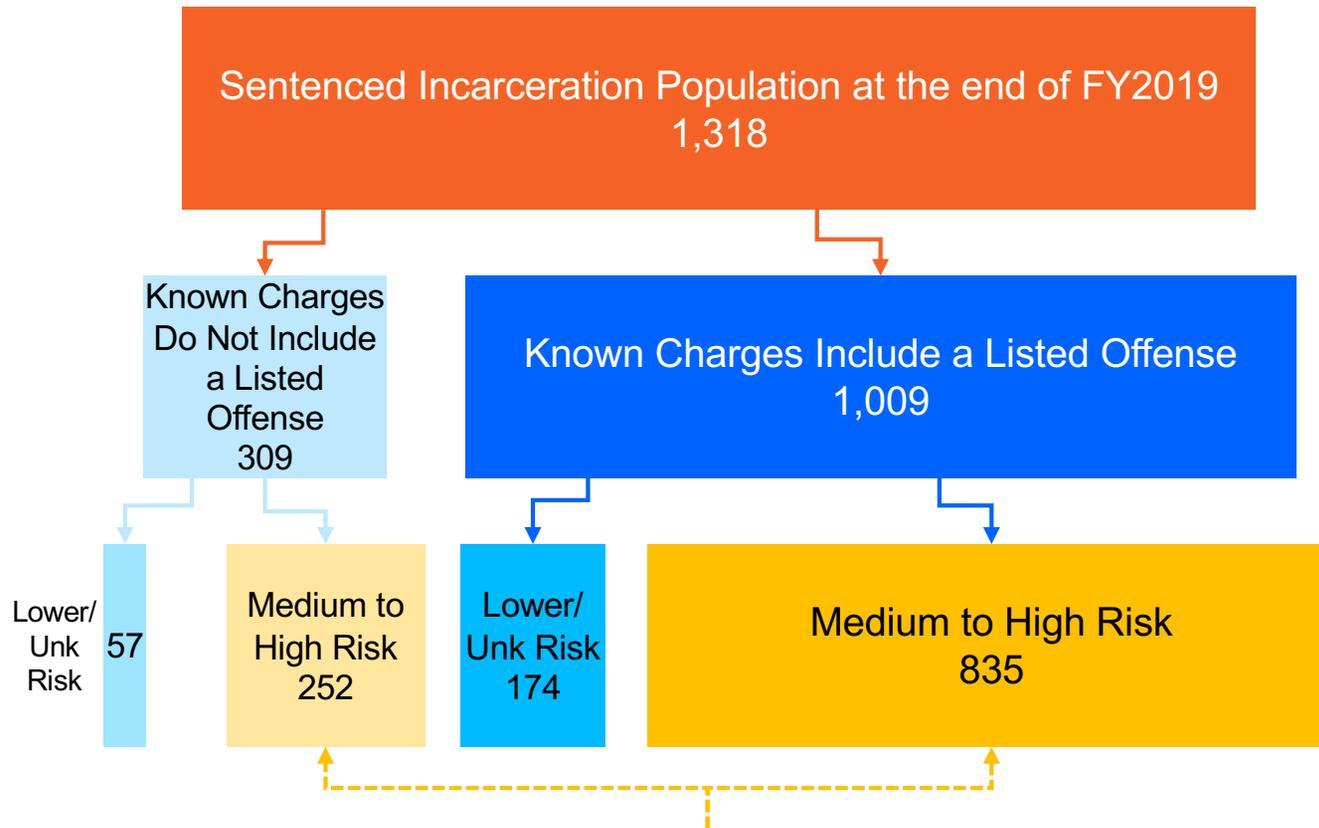
Department of Corrections Budget Appropriations by Funding Source in Millions of Dollars, FY2009–FY2019



Sources: Data from the Vermont Department of Corrections.

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**Limited funding and resources have required DOC to prioritize risk-reduction programming (RRP) for people who are sentenced for listed offenses and who score as medium to high risk on the ORAS.**

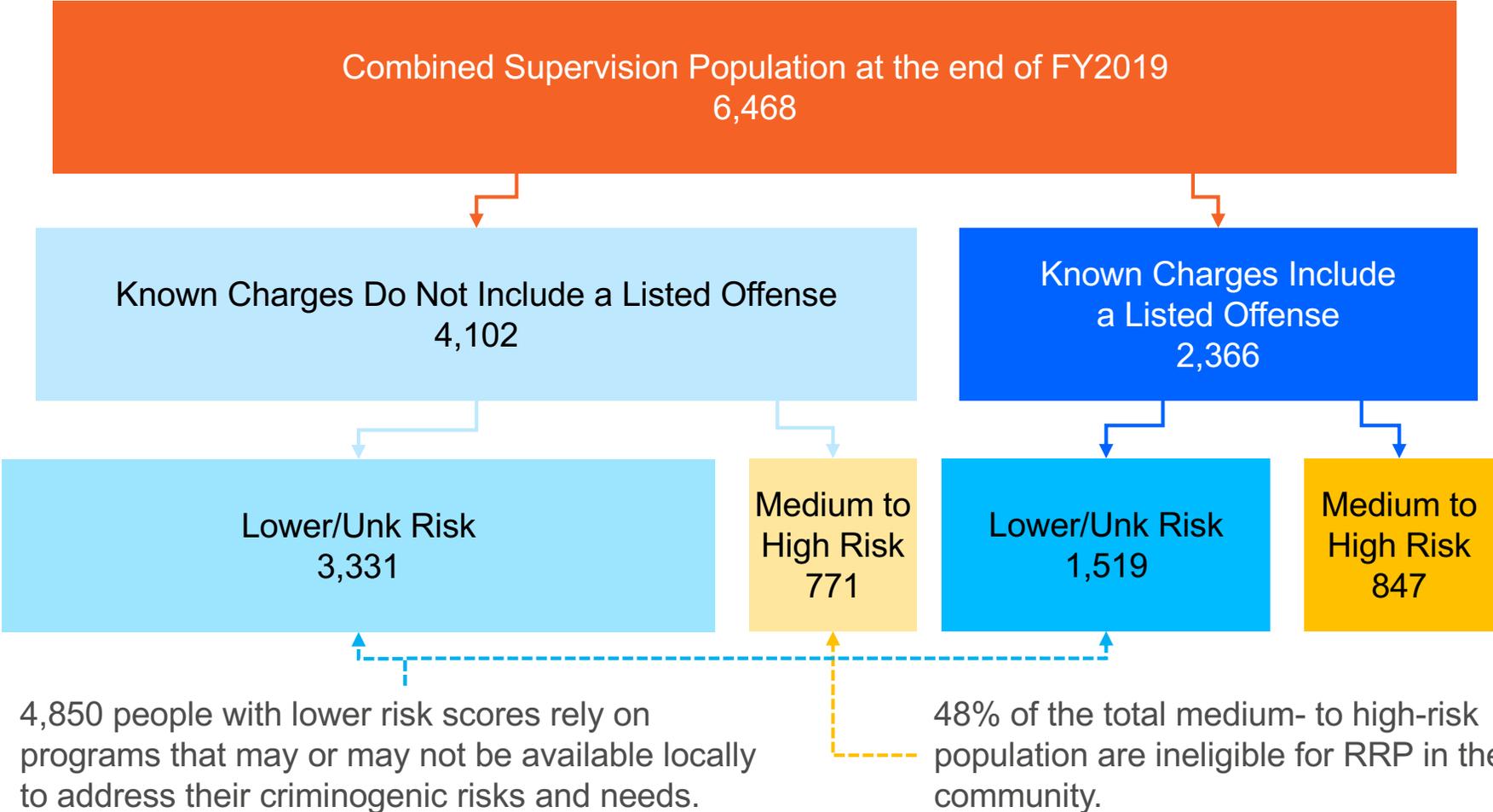


**23% of the total medium- to high-risk population with incarceration sentences are not eligible to participate in RRP because they were not convicted of listed offenses.**

\* Listed offenses are a set of the most serious crimes in Vermont as defined in 13 V.S.A. § 5301.

Sources: *The Council of State Governments Justice Center analysis of data from the Vermont Department of Corrections.*

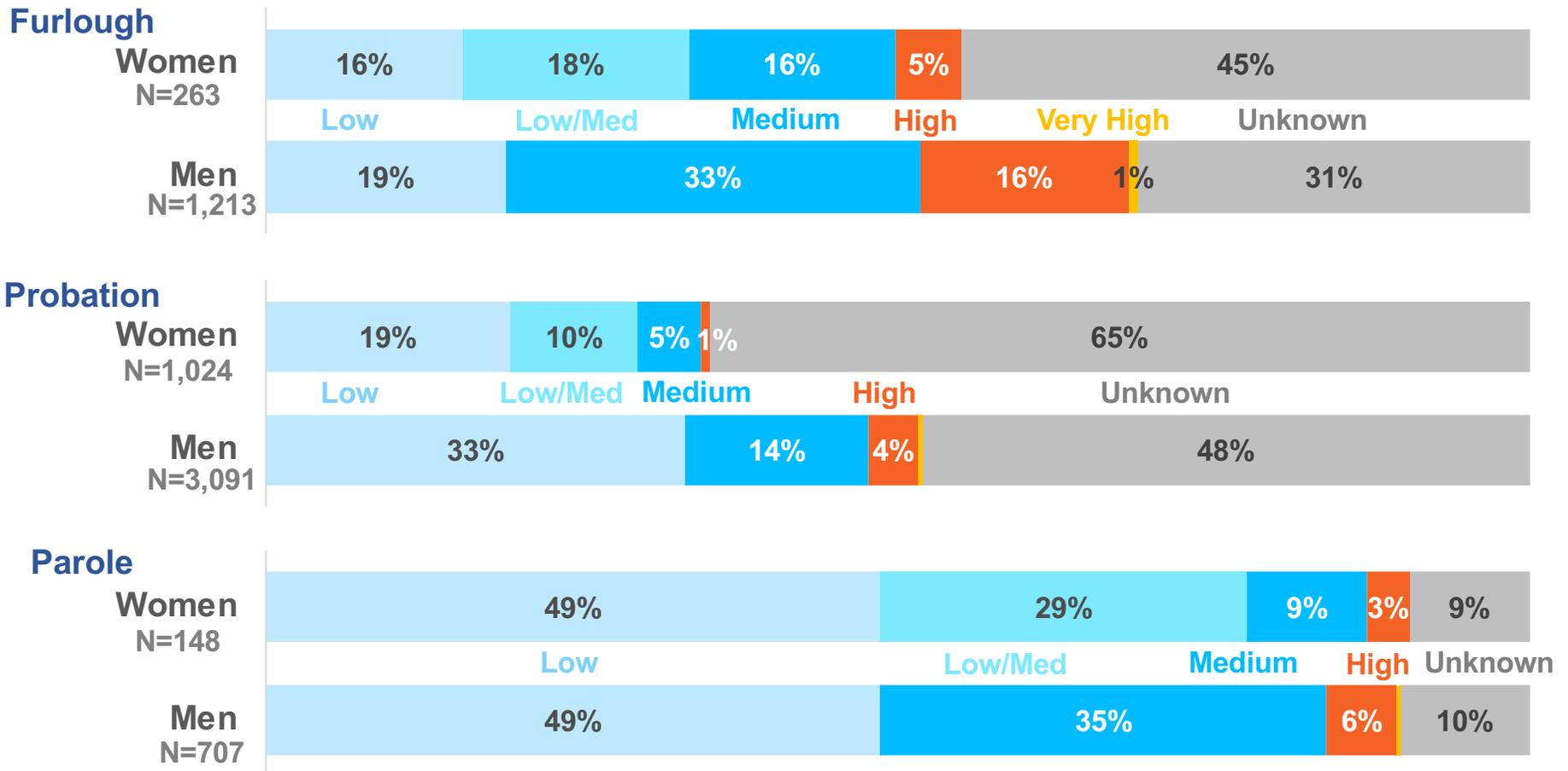
**Among people on supervision, almost half of the medium-high risk population does not receive risk-reduction programming based on the same eligibility criteria.**



Sources: The Council of State Governments Justice Center analysis of data from the Vermont Department of Corrections.

**Overall, people on furlough are higher risk than those who are on parole.**

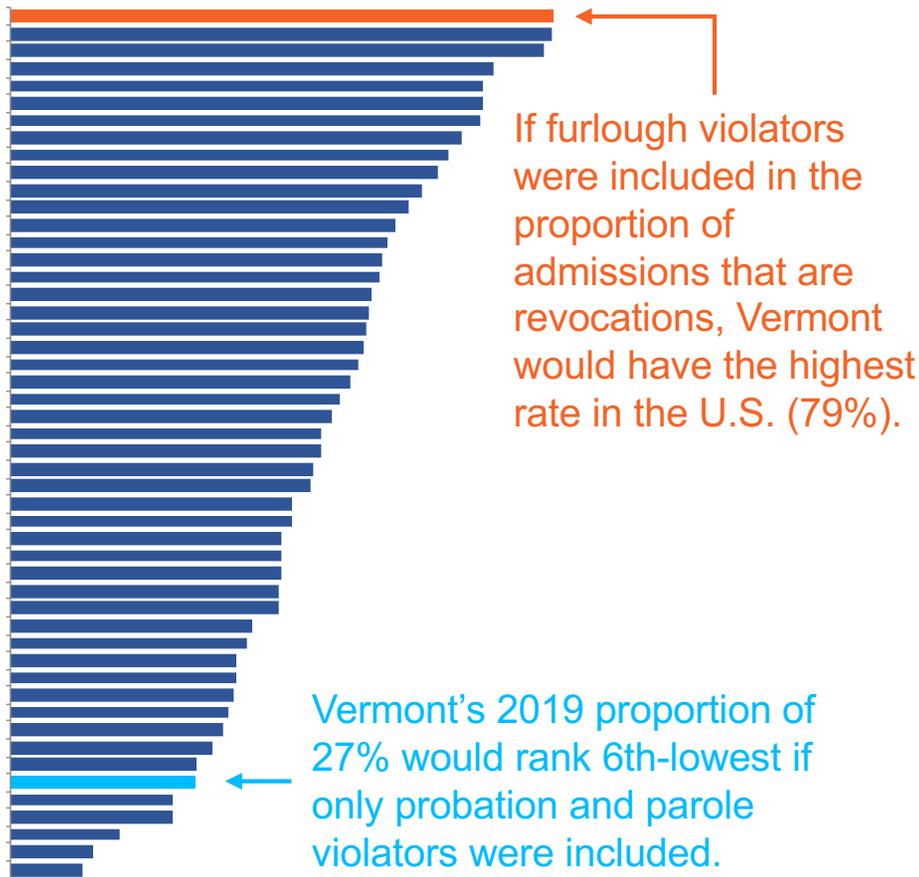
Vermont DOC Supervision Snapshot Populations by Sex and Risk Level, FY2019



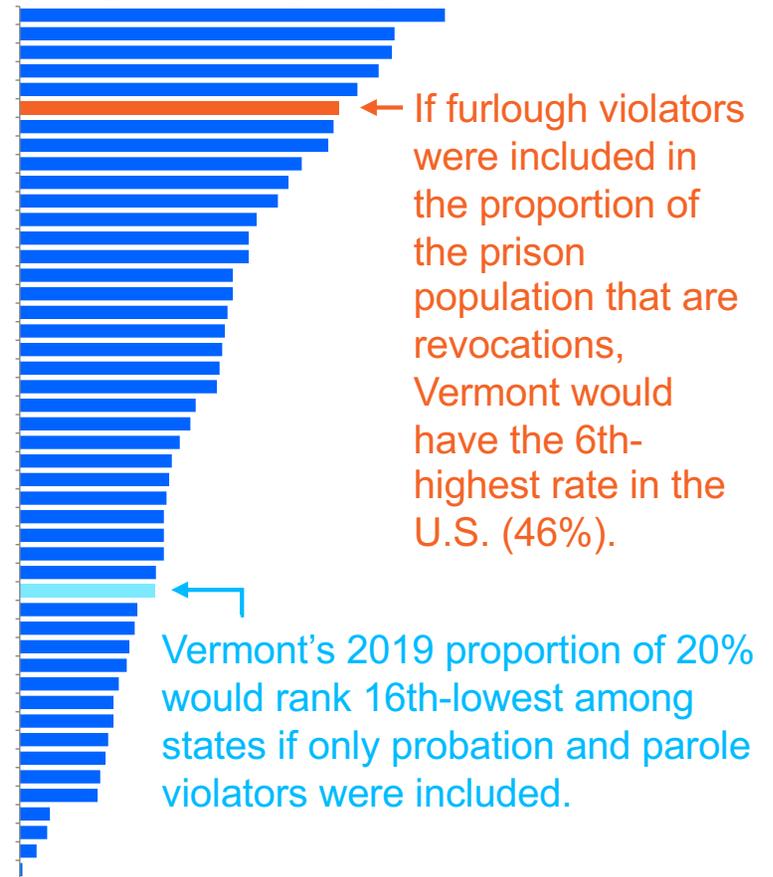
Sources: The Council of State Governments Justice Center analysis of data from the Vermont Department of Corrections.

**Vermont's revocation rates are fairly low nationally when accounting only for probation and parole, but with furlough included Vermont's position would change dramatically.**

Revocations as a Proportion of Admissions Among 48 States Reporting Data from 2017



Revocations as a Proportion of Admissions Among 45 States Reporting Data from 2017



Sources: Data from the Vermont Parole Board and the Vermont Department of Corrections, CSG Justice Center Confined and Costly, <https://csjusticecenter.org/confinedandcostly/>.

*Because admission and release categories must be derived using DOC data, these analyses should be considered strong estimates.*

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**There are important and foundational strengths built into Vermont's corrections policies and practices, as well as significant challenges facing the state.**

- ✓ DOC has invested in the adoption of evidence-based policies throughout its supervision system.
- ✓ Similarly, DOC uses evidence-based programs for higher-risk people as much as possible.
- ✓ Supervision agents and supervisors are well trained and many are focused on habilitation.
- ✓ Most people are receiving a risk and needs screen or assessment.
- ✗ Existing resources do not adequately support the full implementation of evidence-based practices and provision of recidivism-reduction programming to all higher-risk people.
- ✗ DOC staff and community-based providers could benefit from additional training on effective practices for working with higher-risk and higher-needs individuals.
- ✗ There are wide variations in the quality and access of non-DOC provided community-based programs available to people on supervision.
- ✗ Gaps in access to the appropriate level of behavioral health care are likely contributing to recidivism.
- ✗ Different supervision staff have different approaches to working with people on supervision.

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## **Key challenges remain for the state as it continues to work with limited resources that have not grown to meet the needs of a higher-risk, higher-need corrections population.**

- Limited resources have required DOC to take a “triage” approach to supervision, focusing supervision and corrections programming on only a portion of people who are at the greatest risk of recidivating, inside facilities and especially in the community.
- There are limitations and inconsistencies in how DOC is able to use relevant criminogenic risk information to guide supervision and programming case planning and decisions.
- Risk and needs information is often not available to judges when making supervision condition decisions, a critical point that can help frontload a person’s supervision and treatment.
- Community Corrections Officers (CCOs) are DOC staff who make home visits for people on supervision. The CCO role was established as a function of a home confinement furlough status, but this original function deviates from the current research regarding effective supervision and client habilitation.
- There are inadequate community-based programming and supports to help people with complex needs on supervision across the state.
- The use of graduated sanctions is inconsistently tracked in the case management system, and the use of these sanctions appears to vary.
- There is not a centralized training curriculum for supervision officers, leading to different approaches between DOC Central and offices across the state.

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## DOC has contracted with providers to offer incarcerated women at the Chittenden Regional Correctional Facility (CRCF) a variety of programs that are focused on the specific issues that incarcerated women often face.

In addition to RRP, DOC contracts with providers to offer a variety of voluntary gender-responsive programs inside CRCF:

**Vermont Works for Women:** provides women with job-readiness and skills training.

**UVM Liberal Arts in Prison Program:** provides education services for women to obtain their high school equivalency diploma and college level, credit-bearing courses every semester.

**Phoenix House:** provides programs and classes focused on substance use and addiction.

**Kids A Part Parenting Program (KAPP):** provides women with space and parental coaching to facilitate visitation from their children and facilitates the maintenance of their relationships with children.

**Discussing Intimate Violence and Accessing Support (DIVAS):** provides domestic and sexual violence education, support, skill-building, and advocacy to incarcerated women and connections to community providers upon reentry.

- ✓ Upon intake, women participate in an orientation process that reviews the available programs, allowing for relatively fast access to these programs.
- ✓ Program providers have decades of experience working with Vermont's incarcerated women, and program staff are committed and passionate.
- ✓ These programs provide opportunities for women to reconnect with their children and to discuss their lived experience with other women and providers.
- ✓ CRCF staff recently worked to organize service fairs, and providers work to connect women with local programs and resources in their home community to assist with reentry needs.

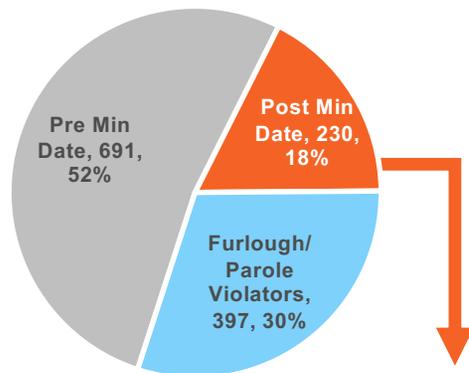
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**However, additional resources are limited, and challenges exist that compromise rehabilitation and successful, permanent reentry for incarcerated women.**

- ✗ While providers submit routine reports about services, there is limited to no direct service observation and case file review, which could improve program fidelity.
- ✗ Both DOC staff and providers described the significant impact budget and contract cuts have on their ability to provide the full scope of programs they feel would benefit women inside CRCF.
- ✗ The physical building of CRCF, which was originally designed to function as a holding facility for men, does not have adequate programming space.
- ✗ Programs are in high demand, particularly those that focus on substance use and addiction, and staffing and space limitations can result in wait lists for women to participate.
- ✗ Some women who are incarcerated on furlough returns expressed their hopelessness over losing hard-earned employment, cars, or housing due to violations that led to repeated reincarceration.

# The current availability of reentry housing does not match the needs of people accessing it.

1,318 Total People in Sentenced Incarceration Population at the end of FY2019



Programming Issues	38%
Lack of Housing	26%
Holds/Security/Safety	24%
Plan to Max Out	6%
Unknown	6%

- ✓ Vermont DOC has a Transitional Housing budget dedicated to supporting reentry for the sentenced population and has established grants with an array of housing providers across the state.
- ✓ Vermont has pioneered certain housing options, including Pathways (Housing First Model), to serve people with complex needs.
- ✗ Vermont has a network of sober housing options available for people returning from prison, but these options often have rigid rules about relapse that differ from current evidence-based practices and some disallow the use of MAT, resulting in increased revocations for people who relapse and lose their housing.
- ✗ Under DOC's transitional housing program, approximately 20 percent of beds at any given time go unused. Some DOC clients are denied entry because of past violations of program agreements, causing beds to be vacant.
- ✗ Only a limited number of DOC's population accesses Pathways, and there is no formal funding bridge to support people finding and maintaining stable services after they leave community supervision.

Source: The Council of State Governments Justice Center analysis of data from the Vermont Department of Corrections.

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**Housing is a significant reentry and recidivism challenge, particularly for people with behavioral health needs, and a critical step in addressing this challenge is for the state to better understand housing needs for people who are incarcerated.**

- ✓ There are ongoing discussions between DOC and Agency of Human Services to match corrections and homeless information in Vermont to understand the overlap in populations.
- ✗ Currently, housing needs are identified for people in the sentenced population during reentry case planning; however, there is no consistent screening provided to the sentenced population to determine the full scope of their housing needs.
- ✗ There is no housing needs assessment for people in the detained population.
- ✗ Although DOC, the Department of Mental Health, and the Department of Health's Division of Alcohol and Drug Abuse Programs have shared clients with behavioral health and housing needs, each of these agencies contract separately with housing providers, which can lead to an uncoordinated response for the same person.

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## Key takeaways for the behavioral health services and treatments available for people moving through Vermont's criminal justice system

- DOC facilities have worked hard to develop mechanisms for behavioral health screening and assessment, but there are still opportunities to improve identification of people with co-occurring disorders and mental health needs that do not rise to severe mental illness (SMI).
- There are limited mental health and substance use treatment resources in DOC facilities and in the community, requiring the department to use a “triage” approach focused primarily on SMI and MAT populations.
- There are case planning policies in place to ensure behavioral health information guides treatment and programming referrals, but due to information sharing inconsistencies, supervision officers do not always have consistent or comprehensive knowledge of clients' behavioral health needs.
- State police and local law enforcement have cross-system mental health training; however, there is less focus on training law enforcement on responding to people with addictions or co-occurring disorders.
- Appropriate housing is a significant challenge for people with behavioral health needs in the criminal justice system, and due to resource limitations, DOC does not screen for housing needs of their detainee and sentenced populations.

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**1. Revocations and returns from supervision are driving a large share of prison admissions.**

**2. There are disparities across race and geography.**

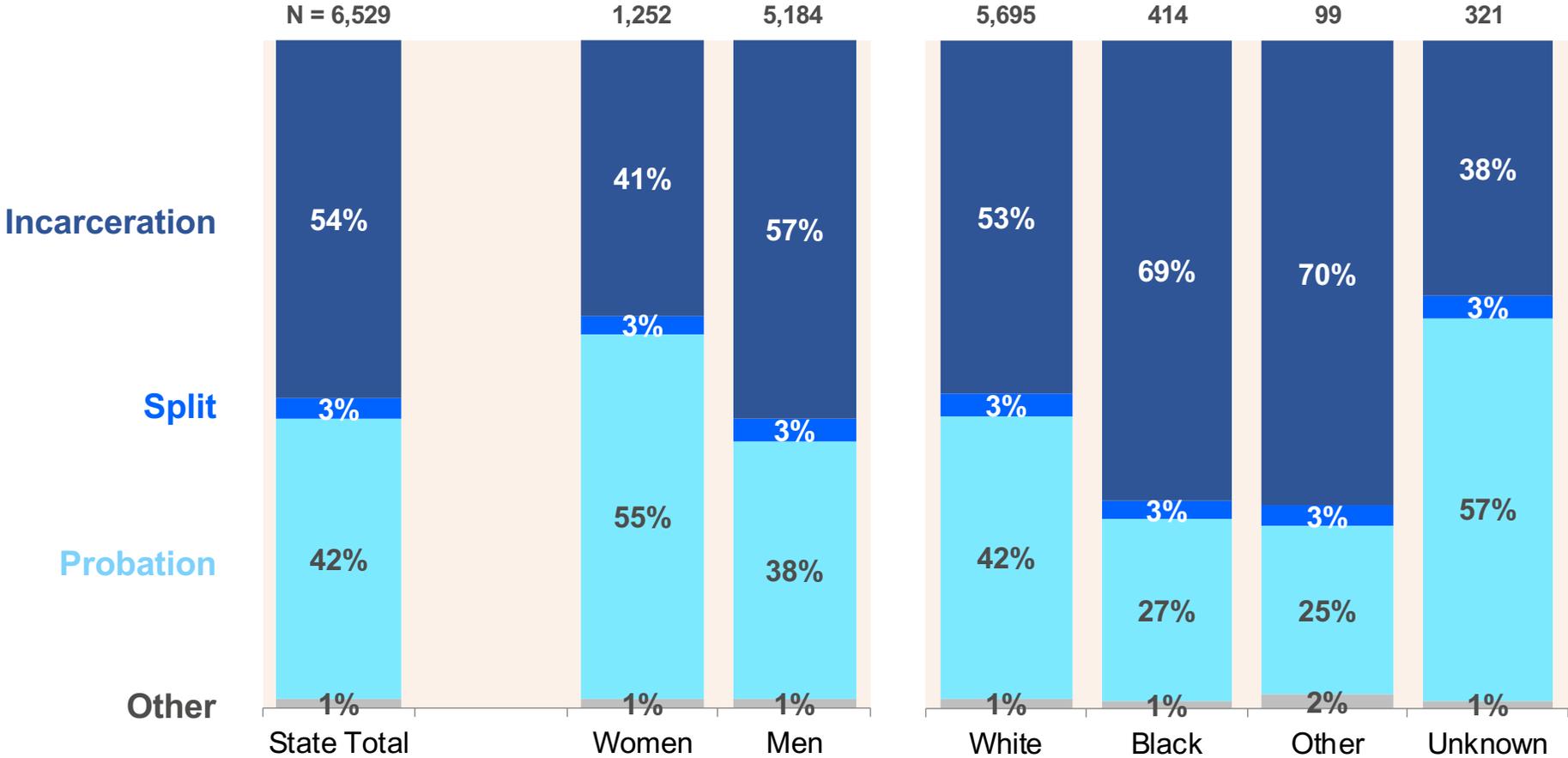
**3. There are gaps in data reporting.**

**4. There is a lack of resources available to DOC and in the community for serving complex needs populations.**

# Without controls for the crimes or criminal history, men and black people appear to receive incarceration for felonies more often.

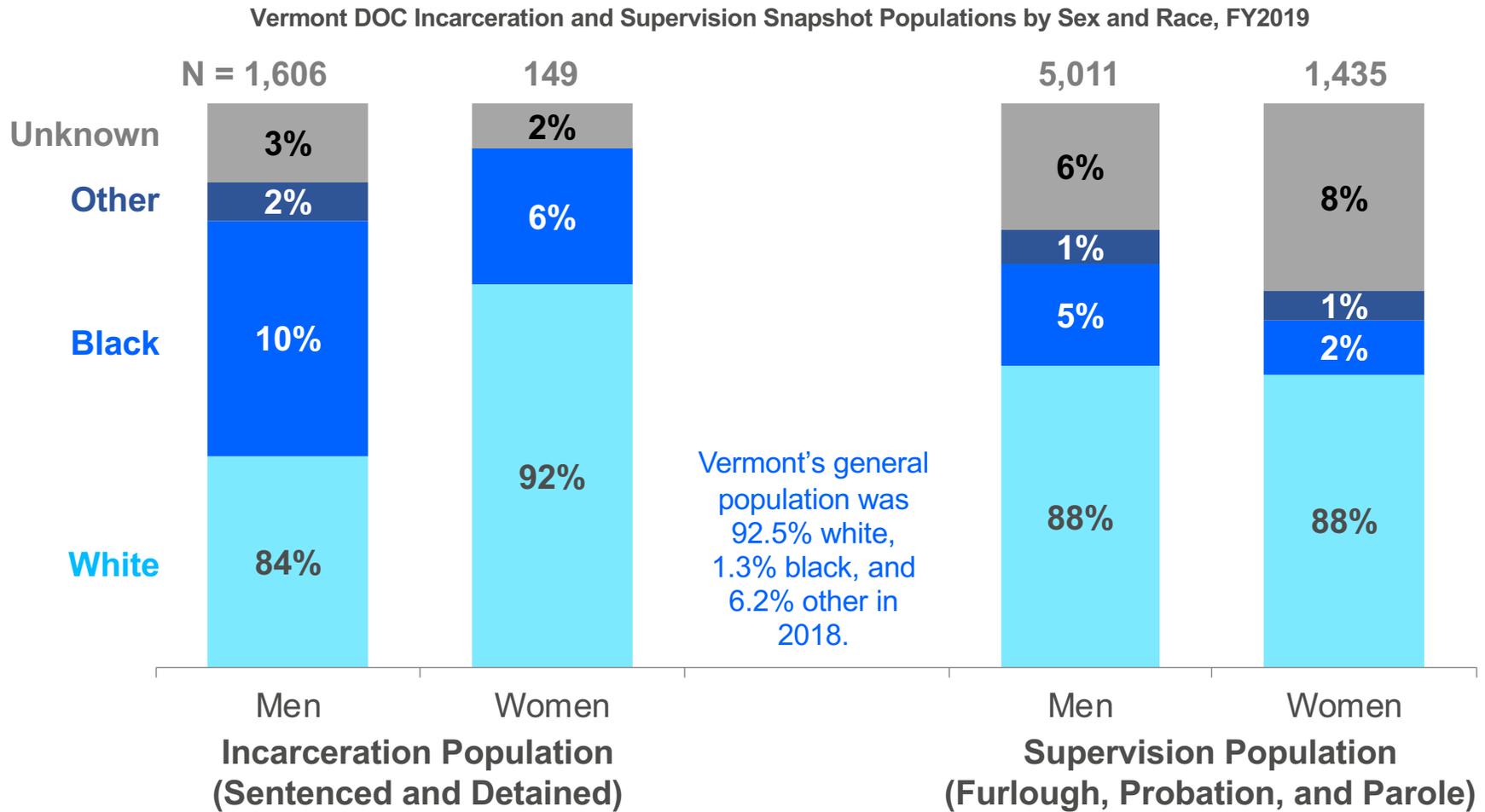
Felony Case Dispositions by Sex and Race, FY2015–FY2019 Combined

Note that this analysis does not control for factors that might explain the sentencing pattern, such as the severity of the crimes or the criminal history of the people being sentenced.



Sources: The Council of State Governments Justice Center analysis of disposition data from the Vermont Judiciary.

**In particular, black men are over-represented in all corrections populations.**

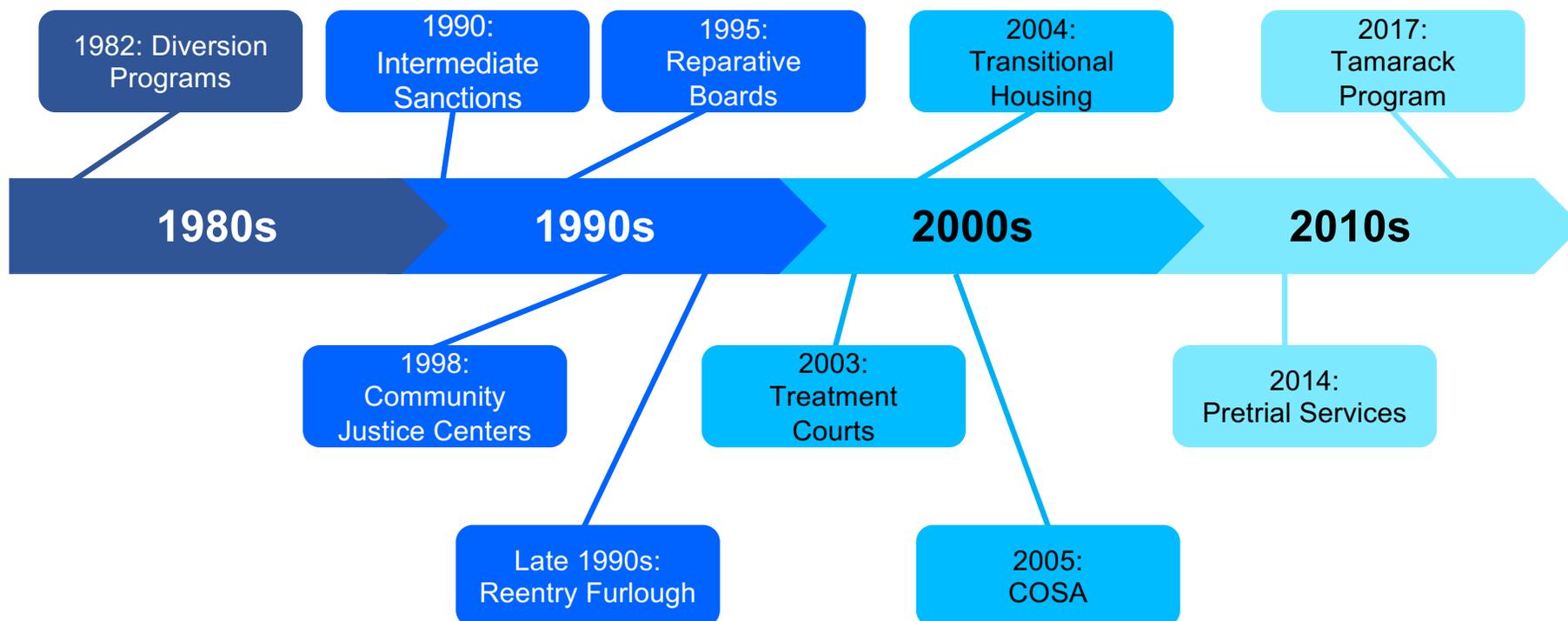


Sources: The Council of State Governments Justice Center analysis of data from the Vermont Department of Corrections U.S. Census Bureau, Annual Estimates of the Resident Population by Sex, Age, Race, and Hispanic Origin, April 1, 2010 to July 1, 2018..

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**Over several decades, Vermont has established a variety of programs and sentencing options with the goals of safely lowering the criminal justice population through diversion and recidivism reduction.**

However, the availability of these different programs varies by county.



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**Vermont has built an array of “off ramps” at the front end of the system for people with limited criminal history, which almost ensures that people ineligible to participate in them who end up under DOC control will have higher criminogenic risks and needs.**

- Each of these programs provides a variety of opportunities for people to be diverted from the criminal justice system or chart a less punitive path through it, either through straight diversion, reduced charges, or access to services.
- Most of these opportunities are available across the state, but the consistency in the types and quality of the services that are offered likely varies by county.
- Referrals to most of these programs rely on local actors, principally state’s attorneys, which will also lead to variances in who is able to receive or participate in these programs.
- Only one of these programs (Tamarack) has broad enough eligibility criteria to allow for people with more extensive criminal histories or who are charged with more serious offenses to participate.
- Data collection and outcome reports are inconsistent, and some programs may be duplicating efforts depending on varying structures.
- **In many cases, individuals who are at higher criminogenic risk and have greater needs and longer histories with the criminal justice system will continue on to some form of sentenced supervision or incarceration.**

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**1. Revocations and returns from supervision are driving a large share of prison admissions.**

**2. There are disparities across race and geography.**

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**4. There is a lack of resources available to DOC and in the community for serving complex needs populations.**

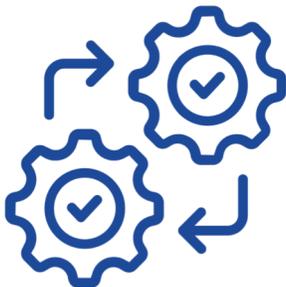
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## Vermont has not adequately invested in analytic capacity and practices to effectively use data to inform decision-making.

### Measure outcomes

Data should be the driver for change at multiple levels of supervision delivery.

Correctional leadership, management, supervisors, and officers all need access to timely data showing how actions impact outcomes.



**What gets measured, gets managed.**

- ✓ DOC leadership and staff have initiated their own strategies for accessing and utilizing available data, from shifting resources where necessary to boost the department's analytic staffing capacity to having field agents run their own reports to better understand the needs of their clients.
- ✓ Additional training in case management and planning is in development to improve how supervision officers and field staff use the offender management system.
- ✗ Field staff do not yet consistently receive coaching and quality assurance to ensure they are using the system effectively.
- ✗ Supervision officers report that entering and retrieving information into the case management system can be cumbersome to the point of affecting their ability to input or access necessary information and decreasing the time they are able to work with clients.
- ✗ Officers do not appear to consistently enter information about intermediate sanctions into the case management system, which means DOC leadership cannot monitor this policy.
- ✗ DOC needs resources for expanded internal capacity to regularly extract data, clean and maintain data files for analysis and potential data sharing, develop a set of key metrics including critical information such as supervision outcomes, and publish them regularly in dashboards or annual reports to better inform agency and legislative decision-making.

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**2. There are disparities across race and geography.**

**3. There are gaps in data reporting.**

**4. There is a lack of resources available to DOC and in the community for serving complex needs populations.**

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**Vermont's corrections system is increasingly populated by people who have higher risks and needs that can be addressed through effective supervision practices and access to appropriate programming and services.**

- Vermont incarcerates more people than current facilities can accommodate, and almost 80 percent of sentenced DOC admissions are for people returned or revoked from community supervision.
- Limited resources have prevented the state from fully implementing evidence-based approaches that may better support people and enable them to remain in their communities.
- People in the corrections system with behavioral health challenges, particularly those with co-occurring disorders, non-SMI and housing needs, must be better identified and connected to community services, which will require expanding existing resources.

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## SUMMARY

1.

**Revocations and returns from supervision are driving a large share of prison admissions.** Vermont's community supervision system is complicated by the many and varied legal statuses. DOC currently has limited funding that leaves large numbers of high-risk people without the correctional programs and services they need to succeed in the community. Current funding and space limitations prevent DOC from providing sufficient gender-responsive programming in an appropriate space for women who are incarcerated. There are also challenges identifying and connecting people with behavioral health needs to appropriate treatments and services, and available reentry housing options do not fit this population's needs.

2.

**Disparities across race and geography.** There is an overrepresentation of black people in the criminal justice system and current data challenges limit the state's ability to fully analyze the drivers behind racial disparities across the criminal justice system. Diversion and pretrial service opportunities are available across the state, but the types and quality of the services available to people vary by county.

3.

**Gaps in data reporting.** Vermont has not adequately invested in analytic capacity and practices within state agencies to effectively use data to inform decision-making.

4.

**Lack of resources available to DOC and community for serving complex needs population.** There are inadequate resources available to DOC and in the community for serving its high-risk, high-and-complex-needs correctional population.

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## Next Steps

- ❖ **Final Justice Reinvestment II Working Group meeting:**
  - Wednesday, January 22 in Montpelier at State Capitol
- ❖ **Justice Reinvestment II Bill introduction**
  - Friday, January 31



# Thank You

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