



Alabama Sentencing Commission

2012 Report



ALABAMA SENTENCING COMMISSION

2012 Report

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Acknowledgements

The Alabama Sentencing Commission takes this opportunity to extend its sincere appreciation to the various criminal justice agencies, departments and state and local officials for the invaluable assistance and support they have provided to the Commission. The successes achieved by the Sentencing Commission have been accomplished only because of their consistent dedication, service, and encouragement, which is indicative of the extraordinary collaboration between Alabama's Executive, Legislative and Judicial branches that has evolved to improve Alabama's Criminal Justice System.

Collaborating with all branches of government, the Sentencing Commission has been able to obtain input from all stakeholders in the Criminal Justice system. By employing a deliberative and evidence-based process, the Commission has made, and will continue to make, recommendations for reform that reflect its number one priority – public safety.

The Commission and staff are grateful for the assistance that has been provided by these individuals in their commitment to improve Alabama's Criminal Justice System and sentencing practices. Special recognition is extended to the following individuals and organizations for lending their knowledge, expertise and support to this critical undertaking.

Governor Dr. Robert Bentley

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The Alabama Senate

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The Alabama Board of Pardons and Paroles and staff

The Alabama District Attorneys Association/Office of Prosecution Services

Victim Advocates; VOCAL, MADD, Angel House, Coalition Against Domestic Violence

Dr. Tammy Meredith and Dr. John Speir, Applied Research Service, Inc.

The National Association of Sentencing Commissions

Alabama Association of Community Corrections

Alabama Lawyer's Association

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Mission Statement

The Alabama Sentencing Commission shall work to establish and maintain an effective, fair, and efficient sentencing system for Alabama that enhances public safety, provides truth-in-sentencing, avoids unwarranted disparity, retains meaningful judicial discretion, recognizes the most efficient and effective use of correctional resources, and provides a meaningful array of sentencing options.

ALABAMA SENTENCING COMMISSION



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Executive Director

I am pleased to present to you the Alabama Sentencing Commission's 2012 Report. This report includes information on the work of the Commission for the previous year. Following the legislative directive, the Commission analyzed truth-in-sentencing extensively. In doing so, we evaluated several schemes and proposals. We also studied the data on existing and past sentencing practices and patterns in our state. Alabama's persistent problems of criminal justice funding and prison overcrowding underscore the need to base long-term sentencing strategies on empirical data to accurately measure outcomes to be fiscally responsible while always maintaining the Commission's number one objective – public safety.

The Commission's primary focus the previous year has been the development of truth-in-sentencing. The Sentencing Standards Committee, and the full Commission body, has been actively reviewing truth-in-sentencing options. This endeavor required Commission and Committee members to invest significant amounts of time and energy dedicated to analyzing an enormous amount of data and determine what scheme could be crafted to balance many different goals and objectives.

Truth-in-sentencing options were examined thoroughly by reviewing approaches developed by other states and the federal government while incorporating the use of Alabama data to measure the effect of different policy scenarios. Truth-in-sentencing is thought by some to be a simple and very well defined, circumscribed approach to sentencing when in fact, truth-in-sentencing is very complex and varies significantly from state to state and the federal system. It is important when reviewing a complicated process and area of law (such as truth-in-sentencing), not to succumb to oversimplifying the process or accepting easy answers. Detailed review of legal issues and sentencing structures coupled with rigorous data analysis is needed to avoid the hard mistakes others have made with this same issue.

Judicial compliance with the Initial Voluntary Sentencing Standards is also reported. The Commission continues to work with criminal justice professionals to improve the Sentencing Standards & Worksheets process. Previously, Commission staff identified issues that hindered worksheet submission and the Commission continues to work with practitioners to increase submission of valid worksheets. Recognizing the importance of accurate and reliable data, the Commission continues to increase efficiency of the worksheet process for worksheet users and clerks' office staff while improving the quality of the information received by the Commission.

Sincerely,

Joseph A. Colquitt, Chair
Alabama Sentencing Commission

EXECUTIVE SUMMARY

Truth-in-Sentencing Development

The Alabama Sentencing Commission and a subcommittee, the Standards Committee, at the direction of the Legislature, devoted a lot of time and energy to truth-sentencing research and development over the previous year. Truth-in-sentencing is a complicated issue that has large consequences, many of which could be detrimental to the State if a thoughtful and deliberate approach is not adopted and decisions are not informed by the use of reliable empirical data.

Many think truth-in-sentencing is a simple, well-defined issue when in reality, it is a complex concept that varies significantly in each jurisdiction. Truth-in-sentencing takes numerous forms and application of truth-in-sentencing measures can range from coverage of all offenders to a limited group of select offenders.

Four prison population forecasts are presented showing projections of the Department of Corrections correctional population five years into the future depending on various hypothetical policy decisions. And an example of possible specific truth-in-sentencing ranges is supplied for a select offense to demonstrate implications of adopting this approach.

Brown v. Plata

In May 2011, the United States Supreme Court decided *Brown v. Plata*. This landmark decision affirmed an order of a three judge panel, authorized by the Prison Litigation Reform Act, directing California to reduce its prison population from 184 percent to 137.5 percent of design capacity. With Alabama at over 190 percent of design capacity, policy makers here must be mindful of the effects of their actions on the criminal justice system if Alabama is to avoid a federal takeover and oversight of this State's correction system. The starting point for any consideration of these issues must be a review and analysis of where the corrections system stands now and what the future portends.

Sentencing Standards Compliance, Court Conviction, and Prison Admission Information

The Commission continues to work with key stakeholders to improve use, submission, and compliance with the Sentencing Standards and Worksheets. Submission of valid worksheets increased in fiscal year 2010, up 3 percent from the previous year. Overall compliance with the Initial Voluntary Sentencing Standards increased from previous years to 62 percent in fiscal year 2010. The worksheets' dispositional recommendation was followed 81 percent of the time for "In" recommendations and 75 percent of the time for "Out" recommendations.

The most noticeable trend in court conviction information is the rapid increase in Manufacturing 1st and 2nd degree convictions. These offenses continue

to shoot up the Top 25 list of convictions, over 1,200 offenders were convicted of these two offenses last year. The increase in Manufacturing convictions is also leading to a significant increase in prison admissions for Manufacturing offenders as well.

Chapter 1: Alabama Sentencing Commission & Standards Committee Truth-in-Sentencing Development

A subcommittee of the Alabama Sentencing Commission, the Standards Committee, has, at the Legislature's direction, invested much of the year researching Truth-in-Sentencing (TIS). The Standards Committee is comprised of judges, prosecutors, defense counsel, victims' advocates, and criminal justice professionals from the State. Many of the members have spent years working with the Commission developing a thorough understanding of the State's sentencing structure and over the past year, specifically learning about other states' TIS sentencing structures.

Generally, TIS refers to a broad range of reforms and sentencing practices to ensure that the amount of time that an offender is incarcerated is reflective, and predictable, of the sentence imposed by a judge. TIS reforms were created as a response in the 1980s when offenders in many of the nation's prisons were serving only small portions of their court imposed sentences. In 1984 Washington was the first state to adopt TIS, and The Sentencing Reform Act of 1984 introduced TIS to the federal criminal justice system as well. Many states began to embrace TIS in the 1990s as federal funds became available through The Violent Crime Control and Law Enforcement Act of 1994. Violent Offender Incarceration and Truth-in-Sentencing (VOI/TIS) incentive grants were awarded to expand prison capacity in the states to house violent offenders. Initially VOI/TIS funds hinged on assurances that violent offenders would serve substantial amounts of court imposed sentences. The Act was subsequently amended in 1996 to allow applicants to demonstrate that TIS laws would be effective within three years, demonstrate that violent offenders served at least 85 percent of their sentences, or demonstrate that offenders were serving 85 percent of prison sentences based on a state's sentencing guideline structure. This amendment allowed states with both determinate and indeterminate sentencing structures to qualify for funding.

The federal model is often used as "the" model of TIS, that is, offenders in the federal system are required to serve a minimum of 85 percent of their sentence, but in reality numerous variations of TIS exist. TIS is now typically used to describe any sentencing practice designed to reduce uncertainty about the length of time an offender is incarcerated. In practice, TIS measures take many forms and include sentencing guidelines, mandatory minimum sentencing laws, abolition of parole, parole eligibility criteria, and recidivist laws such as "three strikes" laws.

How has TIS been implemented in other states, and how does it vary from state to state? Should all offenders serve 85 percent of their sentence? Or, should offenders who commit different crimes be subject to serve different minimum percentages of their sentence? Should all felony offenders be subject to TIS, or just offenders that commit certain felonies? Should TIS be voluntary, presumptive, or mandatory? These are just some of the questions the Committee researched over the past year studying TIS. One

Criminal Justice Leaders Study TIS

The TIS Movement & Funding

TIS - Many Variations and Forms

TIS Presents Tough Questions

of the Commission's greatest strengths is its ability to measure the effect(s) of different policy scenarios and this ability is vital to address the numerous policy decisions that constitute any TIS scheme.

Can Alabama Handle the Truth (in Sentencing)?

The Commission's Chairman, current Professor of Law at the University of Alabama and retired Alabama Circuit Judge, Joseph A. Colquitt recently published an article about TIS in the Alabama Law Review¹. Judge Colquitt very clearly conveys the impetus for the TIS movement: "For decades, public officials, prosecutors, law enforcement officers, and crime victims have called for truth-in-sentencing laws because they are frustrated by the image of lengthy prison sentences undercut by the reality of early release under parole or good-time laws." Even before articulating the rationale for TIS, Judge Colquitt asks the two immediate questions for criminal sentencing in Alabama: "Do we really want truth in sentencing? And, if so, can we handle it?"

TIS Pitfalls

In a presentation to the Sentencing Commission, Judge Colquitt reminded Commission and Committee members to be mindful of many issues associated with TIS as the Standards Committee began exploring possible options. It is important not to oversimplify a complicated process and accept easy answers to difficult questions, or make faulty assumptions based on limited information. It was also noted that the political rhetoric surrounding TIS often fails to focus on specifics and subtleties, and TIS is often discussed as a well-defined and circumscribed approach, when in reality, TIS has significant differences from state to state. TIS is a complex array of issues that requires meticulous analysis and gathering as much information as possible to make informed decisions in complicated areas of law and policy, any other approach could lead to a correctional population explosion.

Time Served Information Reviewed

The Standards Committee in the prior year had already begun reviewing time served information for offenders released from Alabama prisons over a five year period of time. This information was critical to establish baseline values for lengths of time served for Alabama offenders. Offenders in Alabama can exit the prison system in a variety of manners including parole, transition to probation after serving time on a split sentence, or expiration of sentence. The Committee reviewed lengths of stay for offenders controlling for various criteria including, but not limited to, individual offenses, classification of felony (A, B, or C felony), offense category (personal, property, drugs), type of release (parole, split sentence, expiration of sentence), and criminal/incarceration history.

In order to get a better sense of the relationship of court imposed sentences and the actual amount of time served in Alabama's prisons, some statistical forecasting was performed to answer some reoccurring questions.² Figure 1 displays a status quo model of the Alabama Department of Corrections population, the projected forecast if the number of offenders entering the

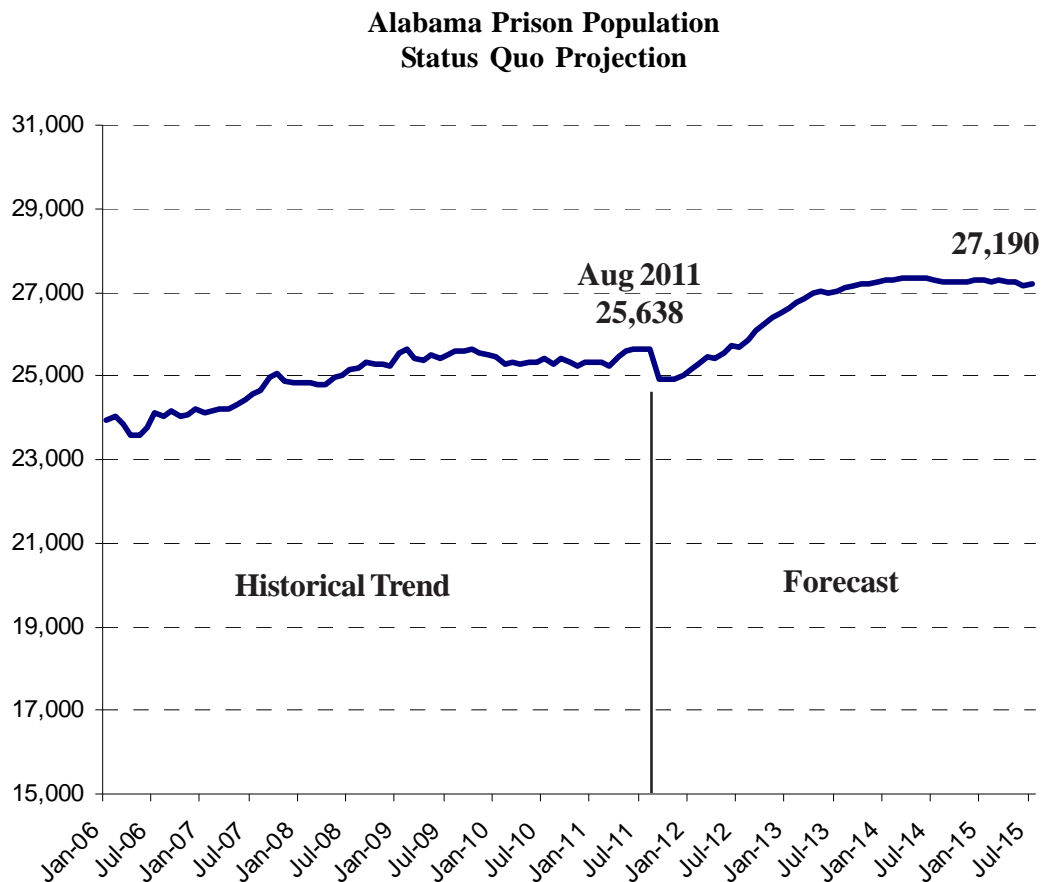
¹ Joseph A. Colquitt, *Can Alabama Handle the Truth (In Sentencing)?*, 60 Alabama Law Review 425 (2009).

² Figures 1-4 assume that sentence lengths imposed in court remain consistent.

prison system and the amount of time these offenders continued to serve in prison remained constant. Even with no changes to current trends of the number of offenders committed to prison and the length of time these offenders serve, the prison population would increase by approximately 1,500 offenders over the next five years.

ADOC Population Status Quo Model

Figure 1.

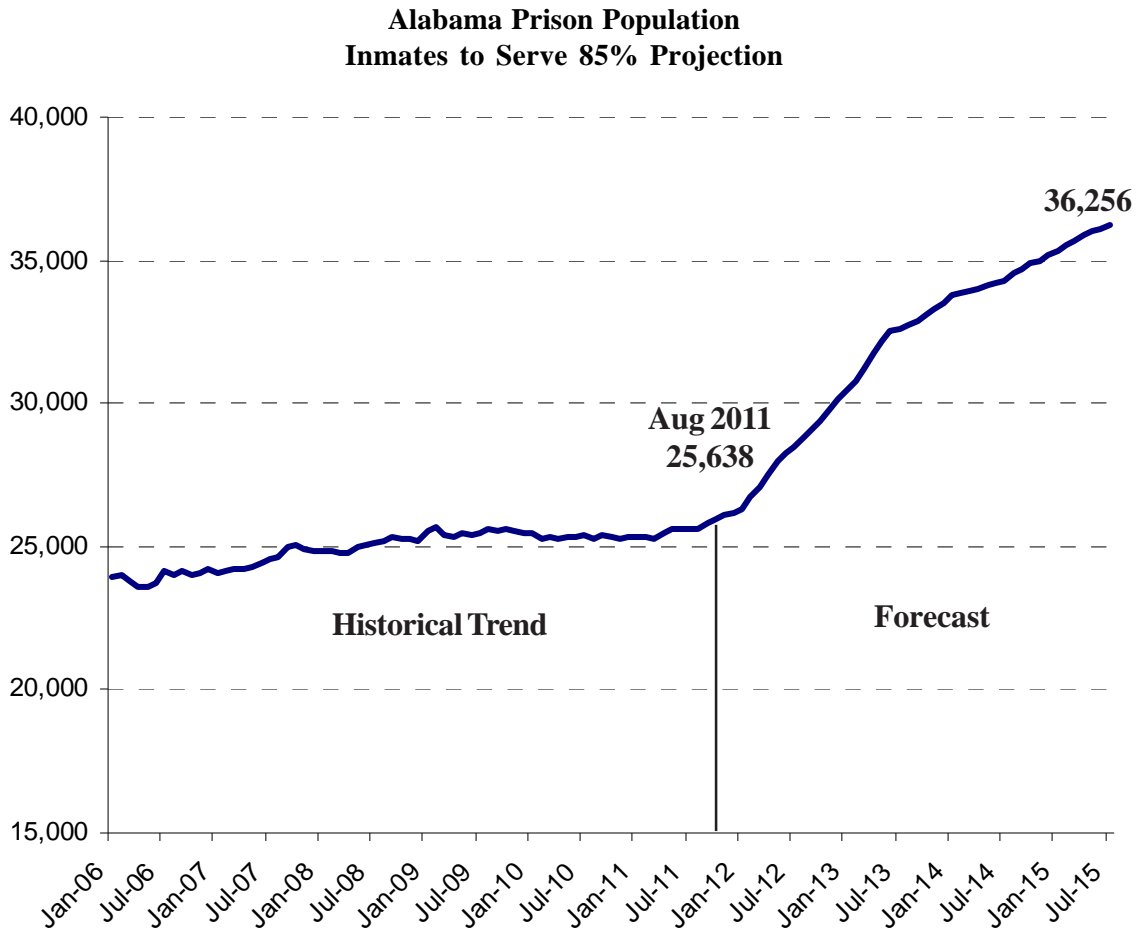


Source: Applied Research Services

TIS - 85% Model and Mississippi Experience

What would be the effect of making all Alabama offenders sentenced to prison serve 85 percent of their sentence (similar to that of the federal system requirement)? Figure 2 is a population forecast of the ramifications of moving to quasi-federal system time served requirement. Mississippi had a similar experience requiring offenders to serve 85 percent of their sentence leading to a near doubling of the prison population between 1994 and 2007. Alabama’s forecast shows an increase of over 10,000 inmates in five years if all offenders were required to serve 85 percent of their court imposed sentences.

Figure 2.



Source: Applied Research Services

Possibility of Varying Percentages by Felony Class

One of the policies raised was the possibility of offenders convicted of different felony classifications subject to different minimum percentages of time to serve in prison. The idea was the more severe the felony classification, the greater percentage of the sentence should be served in prison. Alabama has three felony classifications (Class A, Class B, and Class C), with Class A felonies subject to the highest punishment. Figure 3 displays the projected forecast of the prison system if offenders convicted of a Class A felony were required to serve 85 percent of their sentence, if offenders convicted of a Class B felony were required to serve 50 percent of their sentence, and offenders convicted of a Class C felony were required to serve 25 percent of their sentence. This scenario would result in an increase of approximately 1,500 inmates in the state prison system over a period of five years.

Figure 3.

**Alabama Prison Population
% Time Served - Felony Classification Projection
A 85% - B 50% - C 25%**

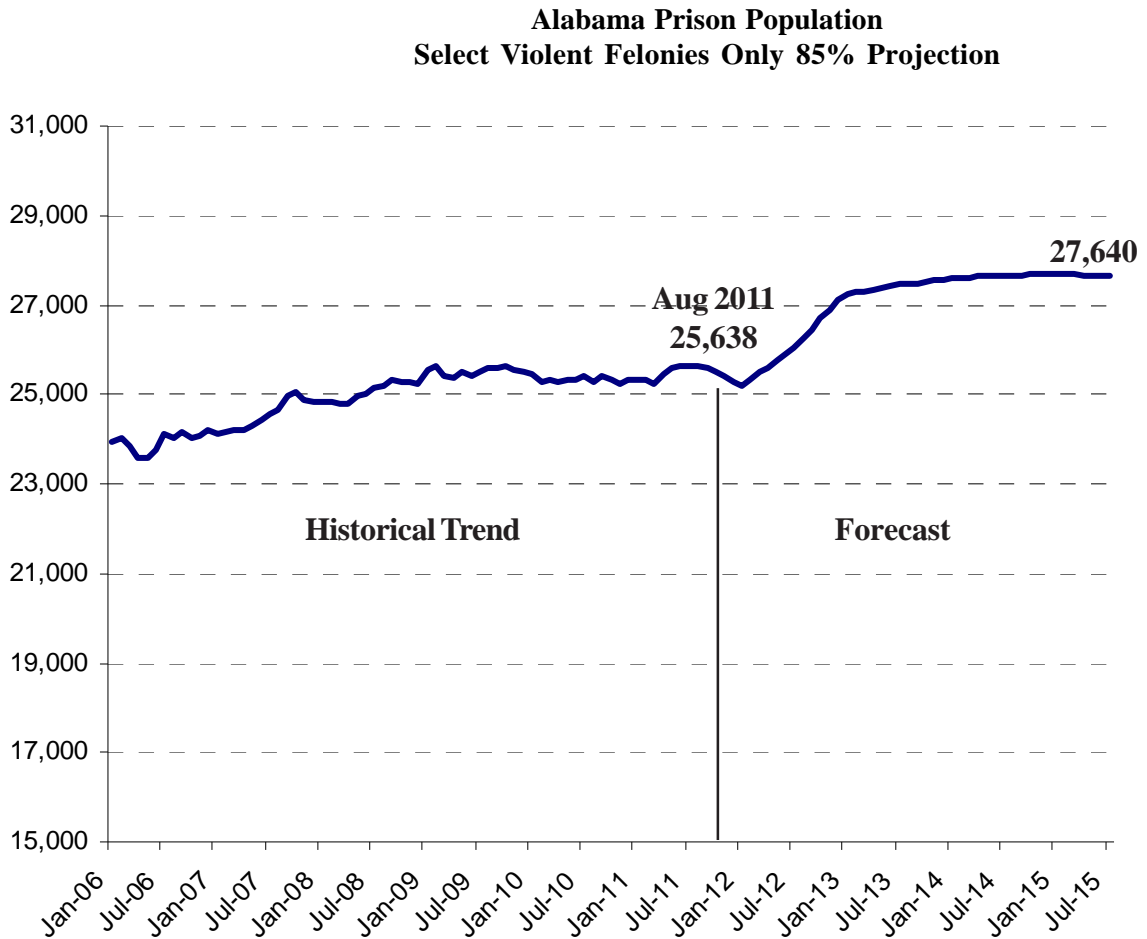


Source: Applied Research Services

Possibility of TIS for Most Egregious Offenses Only

Another TIS policy possibility that was modeled was the effect of requiring only offenders convicted of the most serious Class A felony violent offenses (including Murder, Rape 1st degree, Sodomy 1st degree, and Robbery 1st degree) to serve 85 percent of their sentence while all other offenders would see no change in their time served lengths. Figure 4 indicates that this policy scenario would result in an increase of approximately 2,000 inmates over a five year period.

Figure 4.



Source: Applied Research Services

Prison Population Result of 2 Factors

The forecasted projections of Alabama’s prison system, or any prison system for that matter, are a function of two variables; how many offenders go to prison, and how long they stay. Figure 1 demonstrates that with no changes, the prison population will continue to climb despite the belief, articulated by Judge Colquitt, held by some that inmates are not serving enough of their sentences in prison under current practice. One thing is certain, if all offenders serve more time, the prison population will continue to increase.

As previously mentioned, TIS is generally accepted to be any practice that increases predictability of the amount of time an offender will serve relative to the imposed sentence. These practices do not necessarily involve the use of guidelines, however states can simply abolish discretionary parole for offenses or they can set forth specific parole eligibility independent of a sentencing guideline structure. The Committee narrowed its focus to states that use sentencing guidelines as a mechanism for TIS as Alabama already employs a sentencing guideline approach.

Looking to states that have sentencing commissions and utilize sentencing guidelines, particular focus was placed on Virginia, North Carolina, Minnesota, and Kansas. Virginia employs a worksheet based system, similar to that of Alabama. Virginia however uses worksheets that are offense based rather than the more limited worksheets employed in Alabama based on offense category (drugs, property, personal). The other three states use what is commonly referred to as a “grid” system. One of the axes is used to reflect the seriousness of the current offense and the other axes is used to reflect the offender’s previous criminal history. The Committee reviewed dispositional and sentence length recommendations in these states, determining how long offenders would serve based on TIS laws and policies, and compared that to dispositional and sentence length recommendations based on Alabama’s sentencing standards and existing laws and policies. This exercise allowed the Committee to see if offenders in these other states that have TIS laws and policies serve longer sentences than they do currently in Alabama for similar criminal conviction offenses and criminal history. Many Committee members were surprised by not only the dispositional recommendations but also the sentence length recommendations in other states. Many offenders eligible for prison sentences in Alabama, were recommended for non-prison alternatives in other states’ sentencing structures. And those recommended for prison in other states, often had sentence length recommendations much lower than many anticipated.

TIS in Other States

Most of the states reviewed utilized a presumptive sentencing model that required, absent aggravating or mitigating factors justifying a departure, judges to sentence an offender to a specified disposition and a sentencing range more narrowed than existing statutory punishment ranges. The Committee wanted to know what dispositional and sentence length recommendations could possibly look like under a proposed Alabama TIS structure.

Voluntary TIS Rare

The distinction between a voluntary and a presumptive sentencing system is large. In a voluntary system, judges are not required to follow the recommendations but in a presumptive system judges are required to follow the recommendations unless aggravating or mitigating reasons justifying a departure exist. This distinction is very critical when measuring the impact of a TIS policy, if a system is voluntary it is more difficult to forecast the possible effect(s), if a system has more predictability that a presumptive system provides, a more reliable forecast can be produced measuring the outcome of the policy decisions.

Presumptive Systems More Predictable

**Importance of Measuring
Outcomes of Policy
Decisions**

The prison population, and the effect on prison capacity, is a critical concern when crafting any sentencing structure. Adoption of TIS in other states and the federal system resulted in significant rises in prison populations. Should the TIS system be crafted without the prison population in mind, or should the TIS system be used as a mechanism to control the prison population? The statistical modeling of possible Alabama TIS scenarios measured the impact of the decisions on the prison population as a tool to recognize the tangible outcome of policy decisions. To illustrate how possible TIS sentences would influence the prison population, the Class C felony offense of Burglary 3rd will be used.

Burglary 3rd Example

Burglary 3rd degree is currently covered by the Sentencing Standards. Over the last five years, 75 percent of offenders sentenced to prison received sentences between 36 and 180 months (3-15 years). During the same time period, 75 percent of offenders released from prison on Burglary 3rd convictions served between 17 and 43 months in prison. Figure 5 displays the information above and then also lists a possible “TIS 85% Range”. This was a possible TIS range for all Burglary 3rd convictions recommended for a prison disposition. The Range is listed as 23 to 57 months. The mitigated range is listed as 12 months, and the aggravated range is 144 months. There are then four different scenarios listed that show the impact on the prison population five years into the future.

**Policy Implications for a
Single Offense**

The first scenario shows the effect of all Burglary 3rd offenders serving 85 percent of imposed sentences if sentences remained constant. Over a five year period the prison population would increase by 448 Burglary 3rd offenders alone (this scenario is also reflected in Figure 2 showing the effect on the entire prison system if all offenders served 85 percent of their sentences). The second scenario shows even with 100 percent compliance with the existing voluntary sentencing standards and current application of good time and parole policies, the prison population for Burglary 3rd offenders would increase by 170 beds over a five year period. The final two scenarios show the effects of using the hypothetical TIS ranges and applying them with different levels of compliance to the sentence length recommendations if offenders were to serve 85 percent of the sentence. If the range of 23 to 57 months was followed in 100 percent of the cases, the prison population would fall by 78 Burglary 3rd offenders over a five year period. If the range was followed in only 20 percent of the cases and the other cases fell between the mitigated range of 12 months and the aggravated range of 144 months, the prison population would increase by 100 inmates in five years.

Potential TIS Range: Burglary 3rd

<u>Current Sentences</u>	<u>Actual Time Served</u>	<u>TIS 85% Range</u>		
		<u>Mitigated</u>	<u>Range</u>	<u>Aggravated</u>
36 to 180	17 to 43	12	23 to 57	144

Bed-Space Implications Under Different Scenarios

<u>Scenarios</u>	<u>Bed-Space (60 months)</u>
85% of current sentences	+448 beds
Current Sentences (100% Compliance)	+170 beds
New TIS 85% Ranges (100% Compliance)	-78 beds
New TIS 85% Ranges (20% Compliance)	+100 beds

The number of complex issues associated with TIS emphasizes the need for a deliberate and methodical approach. The ramifications for making decisions out of haste, faulty assumptions, or lack of empirical data are too great. In indeterminate sentencing structures, release valves exist (good time credits, parole) to relieve the pressure on the correctional system. In a TIS system, once a state has agreed to adopt those policies, no such release mechanisms exist and the effects of policy decisions are magnified.

TIS Requires Deliberate and Methodical Approach

Chapter 2: *Brown v. Plata* - A Blueprint for Federal Intervention in State Prisons

On May 23, 2011, the United States Supreme Court's decision in *Brown v. Plata*, 131 S. Ct. 1910 (2011), added an exclamation point to modern discussions about criminal justice, corrections, and prison funding and policies. The Court's 5-4 decision, upholding a court-ordered cap on California's prison population, signals the Court's willingness, despite state and national funding crises, to continue upholding constitutional standards for prison conditions and to enforce remedies for uncorrected, pervasive violations of those standards caused by overcrowding of facilities. Alabama must take note of this decision as this State attempts to maintain a fair, efficient, and effective criminal justice system.

Federal Court-Ordered Cap on California's Prison Population Approved

In *Brown v. Plata*, the Court lays the foundation for future consideration of overcrowding as a major factor in determining constitutional violations relating to prison conditions. Justice Anthony M. Kennedy's opening statement in the majority opinion makes the broad declaration: "This case arises from serious constitutional violations in California's prison system. The violations have persisted for years. They remain uncorrected." *Id.* at 1922. The Court does not initially refer to the mental health and health care issues, the specific violations that brought the case to the Court, but goes straight to the broader, more general concern of "*serious constitutional violations.*" The case is couched in the Eighth Amendment's prohibition against cruel and unusual punishment. *Brown* is about punishment and what is constitutionally allowed as punishment.

***Brown* Addresses "Serious Constitutional Violations" in Prison Conditions**

In assessing the constitutionality of California's prison conditions, the Court reckoned with the facts that "California's prisons are designed to house a population just under 80,000, but at the time of the decision under review the population was almost double that." *Id.* at 1923. Should Alabama consider how these facts correspond with this State's system, designed for less than 14,000, yet housing almost double that at over 25,400 inmates? Alabama prisons are over 190% of design capacity with 1 prisoner per 180 persons, and California is at 184% of capacity with 1 prisoner per 239 persons. There appear to be similarities here. Some facilities in Alabama are over 300% capacity. The Court finds "the degree of overcrowding in California's prisons is exceptional." *Id.* The similarities continue.

Alabama's Ratio of Inmates to Institutional Design Capacity Exceeds California's

The Court, relying on the Eighth Amendment's prohibition against cruel and unusual punishment applicable to the states through the Fourteenth Amendment's Due Process Clause, notes "after years of litigation, it became apparent that a remedy for the constitutional violations would not be effective absent a reduction in the prison system population." *Id.* at 1922. The Court upheld the trial court's order, based on expert testimony, to reduce California's prison population to 137.5% of design capacity, a reduction of 46,000 prisoners. In Alabama, assuming expert testimony would establish a 137.5% cap, Alabama's prison population would have to be reduced to about 19,000—a reduction of 7,600 prisoners. While Alabama might find some distinguishing factors, the *Brown* blueprint could have significant and

If Applied Here, Alabama Would Have to Increase Design Capacity or Release 7,600 Inmates

possibly devastating implications if ever applied to Alabama’s prison system. Alabama must take careful note of what the Court says and how the Court handles the issues.

Alabama cannot be lulled into a false security that this State can escape scrutiny under *Brown* by relying on its compliance with numerous consent decrees or settlement agreements resolving decades-long litigation concerning prison conditions. For recent litigation, see *Laube v. Campbell*, 333 F. Supp. 2d 1234 (M.D. Ala. 2004) (medical care and overcrowding at Tutwiler prison for women); *Aris v. Campbell*, CV-05-PWG-396 (N.D. Ala. 2005) (conditions at Hamilton Corrections Facility for Aged and Infirm); *Gaddis v. Campbell*, 301 F. Supp. 2d 1310 (M.D. Ala. 2004) (management and provision of health care for diabetics); *Baker v. Campbell*, CV-030C01114-M (N.D. Ala. 2005) (medical care at St. Clair Corrections Facility); *Leatherwood v. Campbell*, CV-02-BE-2812-W (M.D. Ala. 2004) (HIV medical care at Limestone Correctional Facility); and *Hicks v. Hetzel*, 2:09-CV-155-TMH (M.D. Ala. 2012) (safety issues at Donaldson Correctional Facility). Like these cases, the initial litigation in *Brown* began with specific issues (mental health and health care issues); however, the Supreme Court upheld the trial court’s finding that California’s problems were the result of pervasive overcrowding. The Court made it abundantly clear that pervasive overcrowding affects all parts of the system and repairing the two specific issues of mental health and health care will not remedy the constitutional violations. Although Alabama, unlike California, addressed recent issues by settlements in piecemeal litigation, with ever-increasing population numbers and continuous funding shortfalls, how many more class actions can Alabama defend? At what financial liability?

Like California, Alabama has a Long History of Prison Rights Litigation on Specific Issues

Justice Kennedy notes, in *Brown*, that no remedy, other than a wholesale reduction in overcrowding will suffice.

While, Thus Far Successful, Can Alabama’s Short-Term Remedies be Sustained with Ever Increasing Numbers?

Over the whole course of years during which this litigation has been pending, no other remedies have been found to be sufficient. Efforts to remedy the violation have been frustrated by severe overcrowding in California’s prison system. Short term gains in provision of care have been eroded by the long term effects of severe and pervasive overcrowding. . . . Overcrowding has overtaken the limited resources of prison staff; imposed demands well beyond the capacity of medical and mental health facilities; and created unsanitary and unsafe conditions that make progress in the provision of care difficult or impossible to achieve.

Brown at 1923. Yes, Alabama has, for now, met its obligations set by extensive litigation concerning health care and mental health care of inmates. Can it do so with another 5,000 inmates added to the system over the next five years? Can Alabama do so with a reduction or decrease in funding for corrections and probation and parole supervision?

The majority in *Brown* writes that the Prison Litigation Reform Act (PLRA), once thought to create an almost insurmountable burden for plaintiffs in prison conditions litigation, can be used to remedy the unconstitutional effects of pervasive overcrowding, and a court-ordered population limit is sustainable as a necessary remedy for the violation of prisoners' constitutional rights. Justice Kennedy notes "the PLRA requires a court to adopt a remedy that is 'narrowly tailored' to the constitutional violation and that gives 'substantial weight' to public safety." But the trial court must set the limit at the highest population consistent with an efficacious remedy, and the reduction must be achieved in the shortest period of time reasonably consistent with public safety.

As has been Alabama's experience and as the Court in *Brown* recognizes, "constitutional violations in conditions of confinement are rarely susceptible of simple or straightforward solutions." *Id.* at 1937. The Court further found, "In addition to overcrowding, the failure of California's prisons to provide adequate medical and mental health care may be ascribed to chronic and worsening budget shortfalls, a lack of political will in favor of reform, inadequate facilities, and systemic administrative failures." *Id.* Thus, a constellation of factors created the constitutional violations in California.

So will Alabama be required by the Courts to reduce its prison population? No one definitively knows the answer to that question, but *Brown* certainly provides a blueprint for finding out. Alabama is no stranger to federal court takeover of state institutions. While Alabama has worked its way out of past federal takeovers, vigilance is required to prevent repetition. Alabama prisons face budgetary concerns and physical plant needs. The *Brown* Court bases its ruling on health and mental health deficiencies, overcrowding, and a long history of litigation with short-term remedies. Alabama has had all three.

By piecemeal litigation and settlement agreements, Alabama has so far avoided a new far-reaching court order. While this type of intervention is a last resort, with an increasing population, how long can Alabama continue to hold off federal intrusion? The United States Supreme Court, addressing "pervasive" constitutional deficits in California, has given potential plaintiffs a blueprint for litigation. Experts have been named and briefs filed on all the issues. In the next state, the process is made much easier.

The Court recognizes, "Proper respect for the State and for its governmental processes require that the [trial] court exercise its jurisdiction to accord the State considerable latitude to find mechanisms and make plans to correct the violations in a prompt and effective way consistent with public safety." *Id.* at 1946. The Court does note that release is not the only remedy to resolve the violations. The state could elect to increase the availability of space and basic human services in its institutions or transfer prisoners to other facilities in the counties or other states, all remedies requiring substantial *additional* funding.

Alabama has already provided some alternative sentencing options, but these continue to fall short of actual need or go unfunded. Alabama has

“Constitutional Violations in Conditions of Confinement are Rarely Susceptible of Simple or Straightforward Solutions”

***Brown* Provides the Blueprint for Successful Prison Litigation by Prisoners for “Pervasive” Constitutional Deficits**

Alabama’s Efforts Have Made Inroads, but is Funding Sufficient? Even Short-Term Measures Cannot be Sustained Without Funding

built additional prisons with the last built over a decade ago, but has failed to keep up with expanding populations both in prison and under probation supervision. Alabama has back-logged state prisoners in county jails until ordered by state judges to remove them. Alabama has housed prisoners in other states or private institutions, but these alternatives were discontinued due to lack of funding. Alabama has expanded space in existing facilities as far as possible without additional funds to build and operate additional bed space. Alabama has had to limit inmate participation in providing for them, e.g., growing crops for feeding inmates and providing road crews, due to lack of funding to provide sufficient personnel to guard inmates occupying those programs. Alabama has sold capital assets, property owned by ADOC, to raise additional revenue for funding the prison system, including operating expenses. What is next?

While the dissent in *Brown* criticizes the majority opinion, it remains just that, a dissenting opinion. The dissent finds the result in *Brown* to be the perfect example of what the PLRA was intended to avoid. Justice Scalia, joined by Justice Thomas, states, “The proceedings that led to this result were a judicial travesty. I dissent because the institutional reform the District Court has undertaken violates the terms of the governing statute, ignores bedrock limitations on the power of Article III judges, and takes federal courts wildly beyond their institutional capacity.” *Id.* at 1951. The Court refused to adopt this view.

The Federal PLRA Will Not Protect the States from Federal Intervention to Corrective Constitutional Violations Caused by Pervasive Overcrowding

Despite the views of the dissent, the blueprint for future “overcrowding” litigation has been established. Who will be next? Alabama has the most crowded prison system in the United States, even more so than California. Thus far, excellent management has kept Alabama out of omnibus litigation. How long can that continue? The Sentencing Commission and Alabama’s governing authorities must be mindful of the Court’s majority opinion in *Brown*. How should Alabama address its own issues?

Alabama is Running Out of Options

Alabama has managed to meet the prison system’s pressing concerns in piecemeal litigation, unlike California, whose foundational cases spanned five and twelve years without resolution. The fact that Alabama has addressed these issues in the past and has, at times, been praised for its efforts, can give some defense to a California-type action. It is questionable, however, how long these efforts will remain effective with the continuing increase in the numbers of convicted offenders and in the prison population.

Alabama Must be Mindful of the *Brown* Blueprint and Address Prison Capacity Issues

How will Alabama confront the issues? Build and staff more prisons? Reduce prison admissions? Shorten the length of stay for non-violent offenders to make room for violent offenders? Increase community supervision alternatives? Redirect non-violent offenders to community alternatives? Find more revenue? What can Alabama financially afford? Are we willing to confront and answer this question?

Chapter 3: Sentencing Standards & Worksheets

Compliance and Data

The Alabama Sentencing Commission continues to evaluate and measure the use of the Initial Voluntary Sentencing Standards in the State on an annual basis. The Commission has taken a methodical approach to measure judicial compliance with the Sentencing Standards and worksheet recommendations while continuing to refine and improve the worksheet process and improve future data quality.

The Commission's *2009 Report* identified the 4-Stage model used to gauge judicial compliance with the Initial Voluntary Sentencing Standards. The first stage in the process (Use Compliance) consisted of contacting local practitioners and determining how implementation of the Standards was proceeding. The second stage (Submission Compliance) entails comparing the number of submitted *valid* worksheets to the number of applicable worksheet sentencing events. The third and fourth stages (In/Out and Sentence Length Compliance) measure compliance with the dispositional and sentence length recommendations found on the Standards' worksheets.

Use Compliance was completed by contacting judges, prosecutors, court clerks, the defense bar, and probation and parole officers to ascertain how implementation and use of the Standards was proceeding in local jurisdictions. Submission compliance is measured by comparing the number of valid received Sentencing Standards worksheets to the total number of applicable Standards worksheet sentencing events. The Commission knows the submission compliance measure is not an accurate indication of worksheet usage in local jurisdictions. A large number of worksheets received by the Commission are not categorized as valid worksheets because the conviction offense indicated on the worksheet was not consistent with the conviction offense found in SJIS or on received sentencing orders. Commission staff has also spoken with jurisdictions that are reporting using the worksheets and standards, but the Commission is not receiving the worksheets to report in all cases. For fiscal year 2010, the Commission received valid worksheets in 49 percent (up 3 percent since fiscal year 2009) of applicable cases. Worksheets were used and submitted in far more cases but had to be excluded because of inconsistent conviction offense information. Figure 1 shows submission compliance by county and for the entire State.

Figure 1.

**Sentencing Standards Worksheets Received
October 1, 2009-September 30, 2010**

	Worksheet Sentencing Events	Received Worksheets for Sentencing Events	% of Worksheets Sentencing Events with Received Worksheets
Autauga	117	96	82.1%
Baldwin	436	160	36.7%
Barbour	66	24	36.4%
Bibb	70	39	55.7%
Blount	175	64	36.6%
Bullock	17	0	0.0%
Butler	58	42	72.4%
Calhoun	343	112	32.7%
Chambers	90	67	74.4%
Cherokee	58	13	22.4%
Chilton	142	112	78.9%
Choctaw	20	2	10.0%
Clarke	82	6	7.3%
Clay	35	31	88.6%
Cleburne	79	58	73.4%
Coffee	164	111	67.7%
Colbert	160	114	71.3%
Conecuh	41	32	78.0%
Coosa	37	36	97.3%
Covington	112	96	85.7%
Crenshaw	17	11	64.7%
Cullman	224	97	43.3%
Dale	117	107	91.5%
Dallas	151	37	24.5%
Dekalb	158	67	42.4%
Elmore	216	179	82.9%
Escambia	140	106	75.7%
Etowah	330	180	54.5%
Fayette	63	0	0.0%
Franklin	81	37	45.7%
Geneva	61	43	70.5%
Greene	24	13	54.2%
Hale	48	13	27.1%
Henry	72	0	0.0%

Figure 1. (Continued)

Sentencing Standards Worksheets Received
October 1, 2009-September 30, 2010

	Worksheet Sentencing Events	Received Worksheets for Sentencing Events	% of Worksheets Sentencing Events with Received Worksheets
Houston	619	158	25.5%
Jackson	91	26	28.6%
Jefferson	2,529	1,124	44.4%
Lamar	43	0	0.0%
Lauderdale	159	102	64.2%
Lawrence	93	66	71.0%
Lee	235	203	86.4%
Limestone	197	1	0.5%
Lowndes	23	0	0.0%
Macon	43	12	27.9%
Madison	1,029	601	58.4%
Marengo	54	49	90.7%
Marion	116	10	8.6%
Marshall	304	141	46.4%
Mobile	1,279	495	38.7%
Monroe	54	30	55.6%
Montgomery	819	435	53.1%
Morgan	339	192	56.6%
Perry	20	1	5.0%
Pickens	57	0	0.0%
Pike	90	74	82.2%
Randolph	59	46	78.0%
Russell	183	43	23.5%
Shelby	555	340	61.3%
St. Clair	284	184	64.8%
Sumter	30	17	56.7%
Talladega	279	217	77.8%
Tallapoosa	142	56	39.4%
Tuscaloosa	765	337	44.1%
Walker	107	81	75.7%
Washington	38	9	23.7%
Wilcox	17	0	0.0%
Winston	73	19	26.0%
Total	14,729	7,174	48.7%

IN/OUT COMPLIANCE

Figure 2 is a flowchart displaying the “In/Out” worksheet recommendations and “In/Out” dispositions for the worksheets for which judicial compliance is reported statewide. This flowchart is organized as follows:

Valid Worksheets

- o **Box A** - Displays the number of number of completed and valid worksheets received by the Sentencing Commission used to determine judicial compliance;

Recommended Dispositions

- o **Box B** - Displays the number of “In” recommendations from the completed worksheets and the percentage of submitted worksheets with a resulting “In” recommendation;
- o **Box C** - Displays the number of “Out” recommendations from the completed worksheets and the percentage of submitted worksheets with a resulting “Out” recommendation;

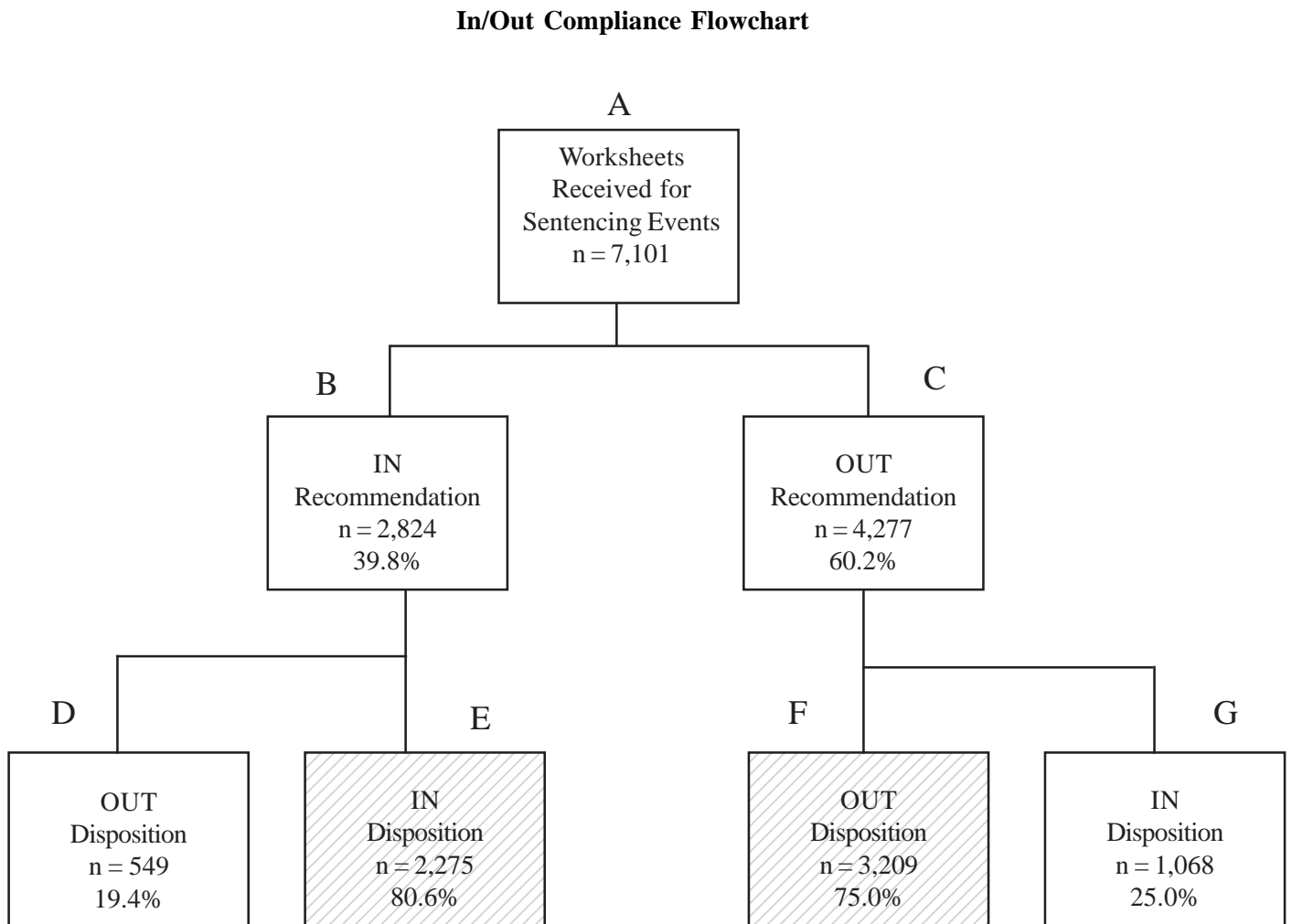
Imposed Dispositions

- o **Box D** - Displays the number of “In” recommendations that received an “Out” Disposition. The percentage displayed is the percentage of “In” recommendations that received an “Out” disposition;
- o **Box E** - Displays the number of “In” recommendations that received an “In” Disposition. The percentage displayed is the percentage of “In” recommendations that received an “In” disposition;
- o **Box F** - Displays the number of “Out” recommendations that received an “Out” Disposition. The percentage displayed is the percentage of “Out” recommendations that received an “Out” disposition;
- o **Box G** - Displays the number of “Out” recommendations that received an “In” Disposition. The percentage displayed is the percentage of “Out” recommendations that received an “In” disposition.

Box A shows the starting number of valid worksheets used to report judicial compliance - 7,101 worksheets. The “In/Out” recommendations reflect the Prison vs. Non-Prison recommendation based on the total score of the “In/Out” worksheet. An “Out” disposition was recommended in 60 percent of the received worksheets and an “In” disposition was recommended in 40 percent of the received worksheets. For those worksheets with an “In” recommendation, an “In” disposition was imposed 81 percent of the time (Box E). For those worksheets with an “Out” recommendation, an “Out” disposition was imposed 75 percent of the time (Box F).

The shaded boxes (Boxes E and F) indicate sentencing events that were “In/Out” compliant - that is a “prison” sentence was imposed for an “In” recommendation, or a “non-prison” sentence was imposed for an “Out” recommendation¹. A diagram is presented on the following page (Figure 3) providing examples of combinations of worksheet recommendations and case dispositions to show where sentencing events are categorized on the In/Out flowchart.

Figure 2.



¹ For the purpose of determining compliance only, an imposed community corrections sentence was categorized as In/Out compliant regardless of the worksheet In/Out recommendation (see Figure 3 for examples).

Figure 3.

In/Out Compliance Examples

Worksheet Recommendation	Imposed Sentence	Box Destination	IN/OUT Compliant
IN	Probation	Box D	No
IN	Community Corrections	Box E	Yes
IN	Jail	Box D	No
IN	Prison	Box E	Yes
OUT	Probation	Box F	Yes
OUT	Community Corrections	Box F	Yes
OUT	Jail	Box F	Yes
OUT	Prison	Box G	No

Figure 4.

Offense Category Compliance Flowcharts

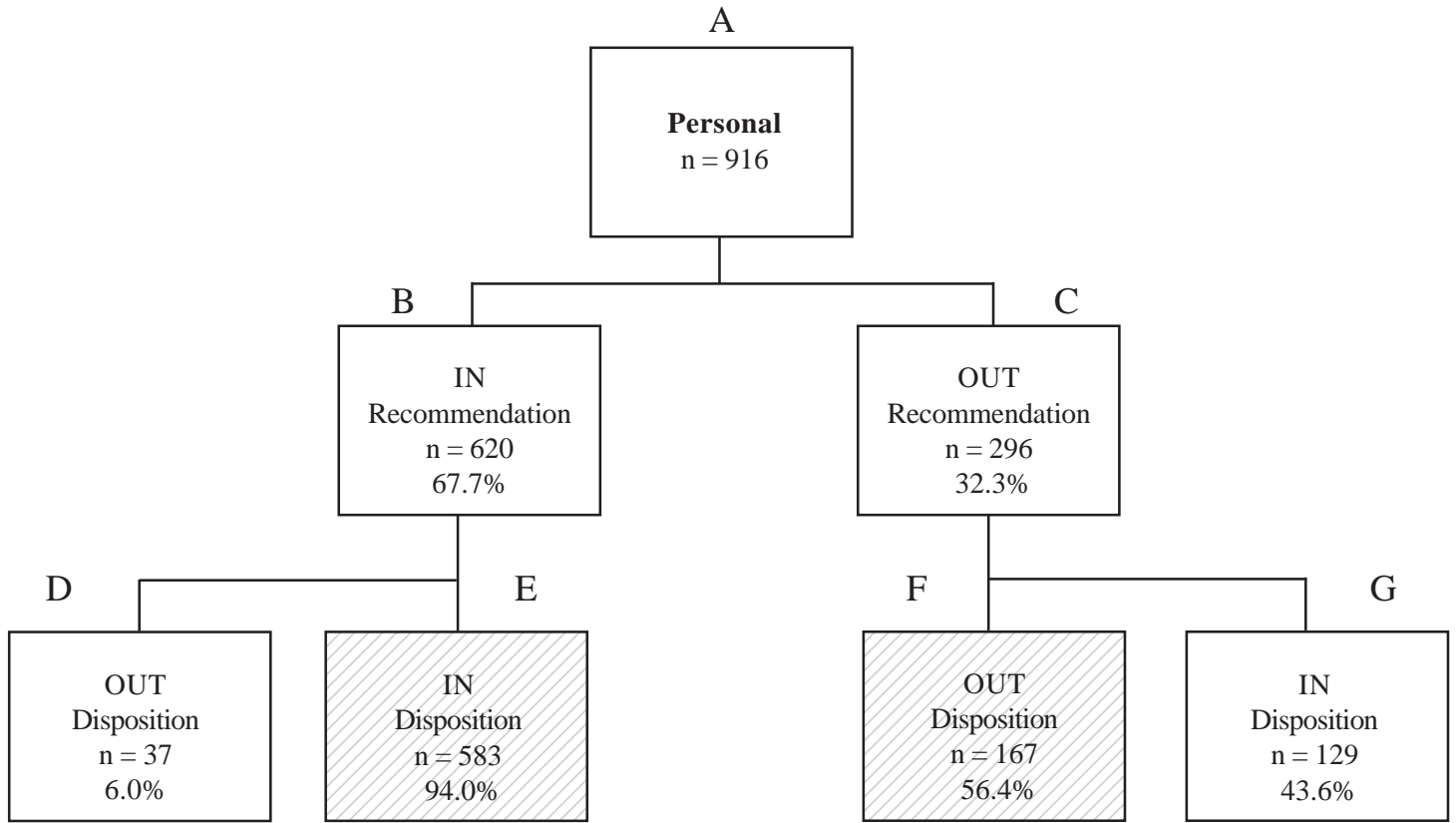


Figure 5.

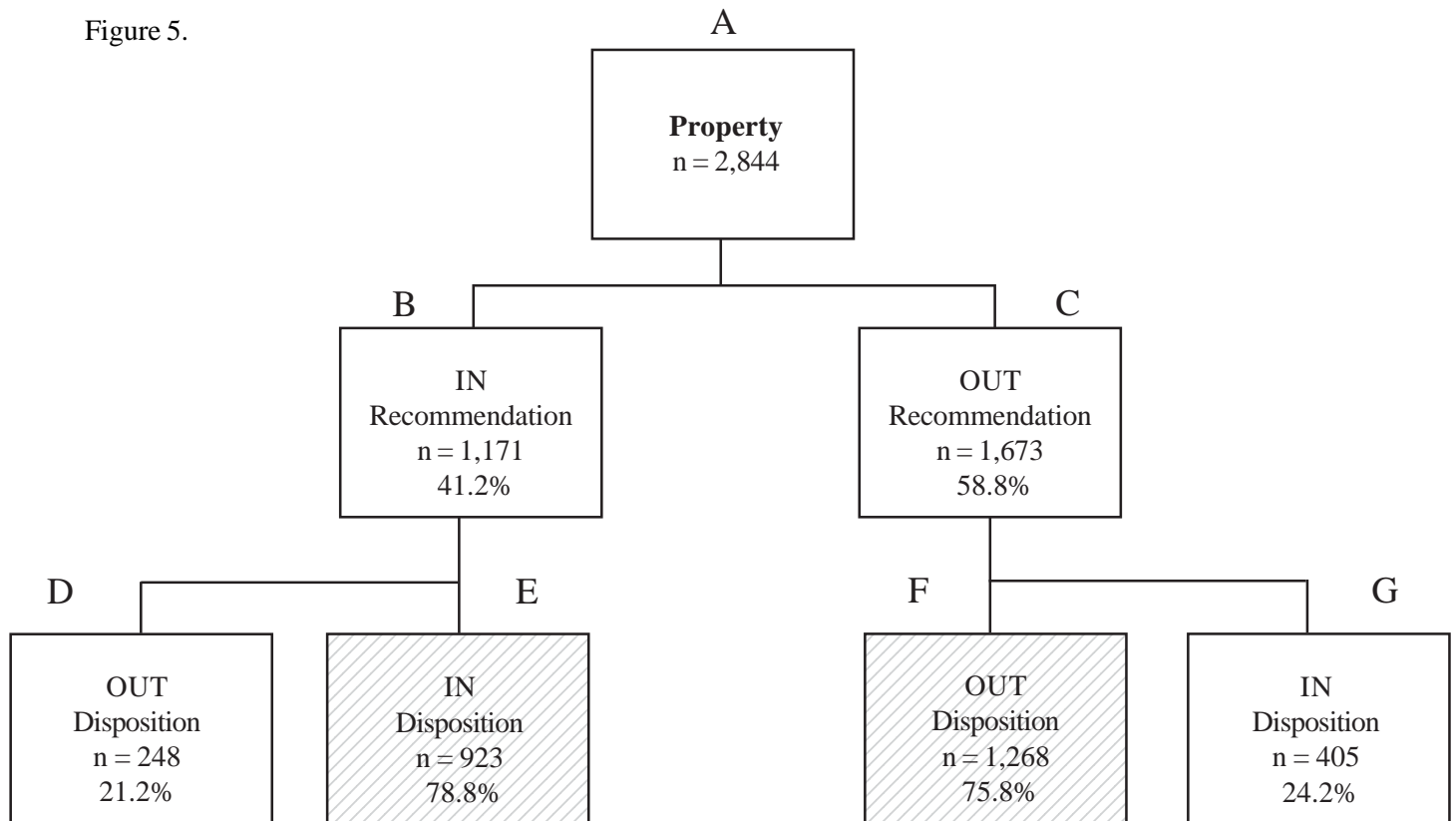
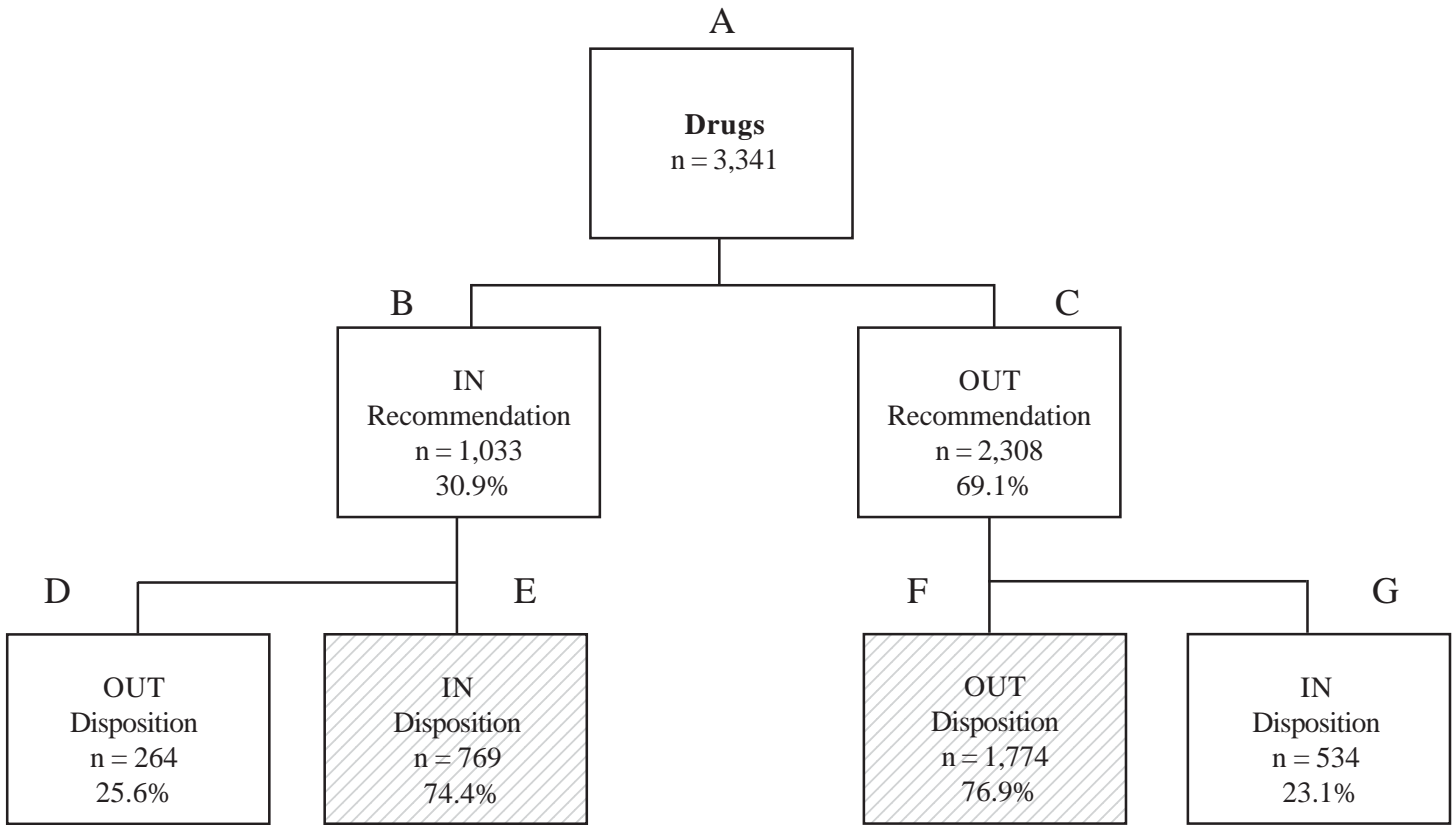


Figure 6.

Offense Category Compliance Flowcharts (Continued)



Figures 4, 5 and 6 report In/Out compliance for the three different worksheet categories; Personal, Property, and Drugs respectively. The Personal worksheet has the highest compliance with “In” recommendations at 94 percent of offenders receiving a prison sentence for a corresponding “In” recommendation. The Property worksheet had 79 percent compliance with “In” recommendations while the Drugs worksheet had 74 percent compliance with “In” recommendations. The Personal worksheet, while having the highest compliance with “In” recommendations, had the lowest compliance with “Out” recommendations at 56 percent. The Property and Drugs worksheets had 76 percent and 77 percent compliance, respectively, with “Out” recommendations.

Race & Gender Compliance Charts

Figures 7 and 8 display statewide compliance with the Initial Voluntary Sentencing Standards by race and gender respectively. Compliance data with the Standards show similar compliance rates for Black and White offenders. The “Other” category consists of a small number (n=90) of offenders representing numerous racial groups. While no large disparity is found in the compliance figures controlling for race, the overall compliance percentage for females is higher than overall compliance for males.

Figure 7.

Race			
	Overall	In/Out	
Black	60.7%	78.4%	n=3,696
White	63.1%	76.3%	n=3,315
Other			n=90

Figure 8.

Gender			
	Overall	In/Out	
Female	71.7%	79.6%	n=1,390
Male	59.4%	76.7%	n=5,711

SENTENCE LENGTH COMPLIANCE

Sentence Length compliance is measured by comparing the imposed term of confinement to the recommended term(s) of confinement found on the Sentence Length sentencing worksheet. For an imposed direct/straight prison sentence, the length of imposed confinement is compared to the “straight” recommended sentence range found on the Sentence Length worksheet. For an imposed split sentence, the split portion *and* the total sentence lengths are compared to the split and straight Sentence Length recommended sentence ranges found on the Sentence Length worksheet. For a direct/straight sentence to be Sentence Length compliant, the imposed confinement must fall within the “straight” Sentence Length range found on the worksheet. For a split sentence to be Sentence Length compliant, the split portion of the sentence and the total length portion of the sentence must both be within the “straight” and “split” ranges found on the worksheet.

Sentence Length compliance is only reported for those sentencing events where the worksheet recommendation was “In” and the sentencing event also had a corresponding “In” disposition (those events located in Box E of the In/Out flowchart). Less than one-third of all worksheets received were used to report Sentence Length compliance as only 2,275 worksheet sentencing events received an “In” recommendation and an “In” sentence (those in Box E).

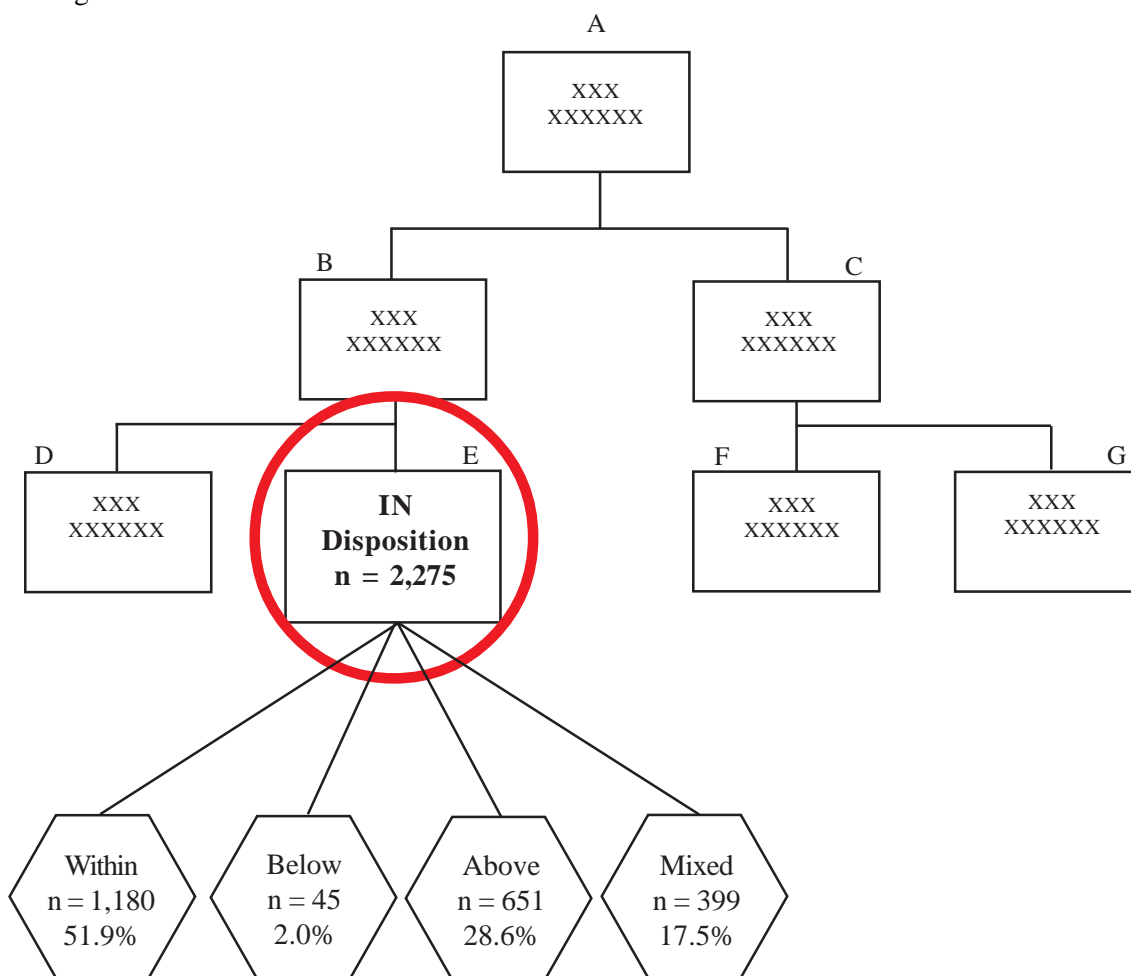
The diagram (Figure 9) on the following page displays statewide Sentence Length compliance using four categories - Within, Below, Above, and Mixed. The “Mixed” category is applicable only to split sentences when the different portions of the sentence (incarceration and total portions) are not consistent with each other (both either “Below”, “Above”, or “Within” the recommendations). Instances when the incarceration portion is above the recommended range and the total portion is below the recommended range, or the incarceration portion is within the recommended range and the total range is above the recommended range are examples of split sentences that would fall in the “Mixed” category. If both the split and total portions are within, above, or below the worksheet sentence length recommendations, they would be categorized as such, if they are not, they are categorized as “Mixed”. Approximately half (52%) of eligible sentencing events were sentence length compliant, twenty-nine percent of the sentencing events received sentences above the worksheet recommendations, 2 percent received sentences below the worksheet recommendations, and 18 percent fell in the Mixed category. The overwhelming majority of events in the “Mixed” category consisted of sentences when the incarceration portion of the split sentence fell within the recommendations, but the total sentence exceeded the recommendations.

The three pie charts on page 26 (Figures 10, 11, and 12) display sentence length compliance for each worksheet offense category - Personal, Property, and Drugs. The three different worksheet offense categories all have markedly different sentence length compliance patterns. Personal worksheet sentence length recommendations were followed in 72 percent of events, property worksheet sentence length recommendations were followed in

44 percent of events, and drug worksheet sentence length recommendations were followed in 46 percent of events.

Departures from the worksheet sentence length recommendations varied by worksheet offense category as well. Nearly 37 percent of all sentences imposed for property offenses fell above worksheet recommendations while 30 percent of drug sentences fell above, and only 14 percent of personal offense sentences exceeded the worksheet recommendations. The “Mixed” Category is most prevalent in drug events, but also is relatively high in property cases. Sentences imposed below worksheet recommendations were very low, at 4 percent or lower, across all three worksheet offense categories.

Figure 9.



Sentence Length Compliance

Figure 10.

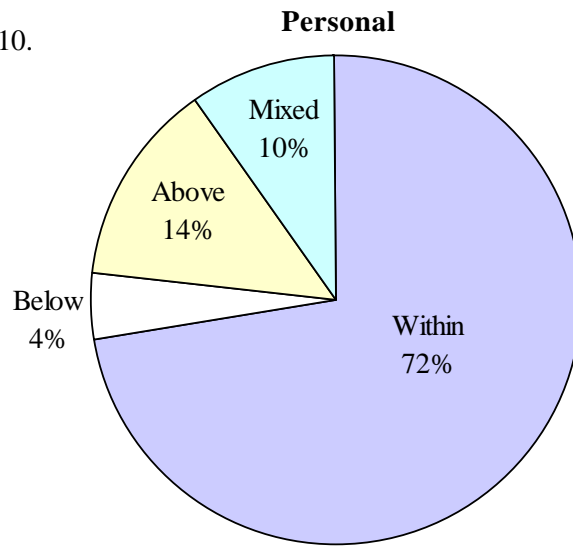


Figure 11.

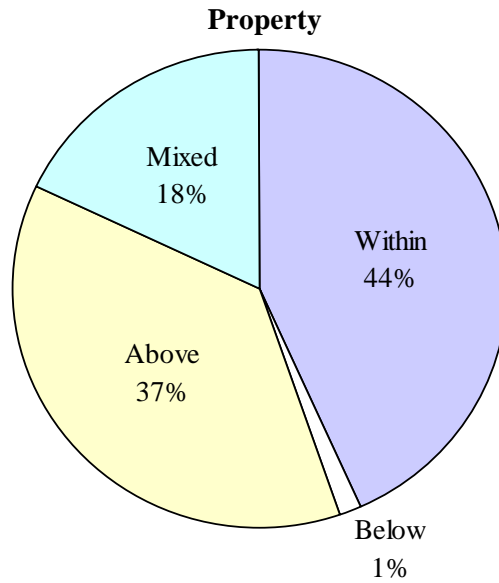
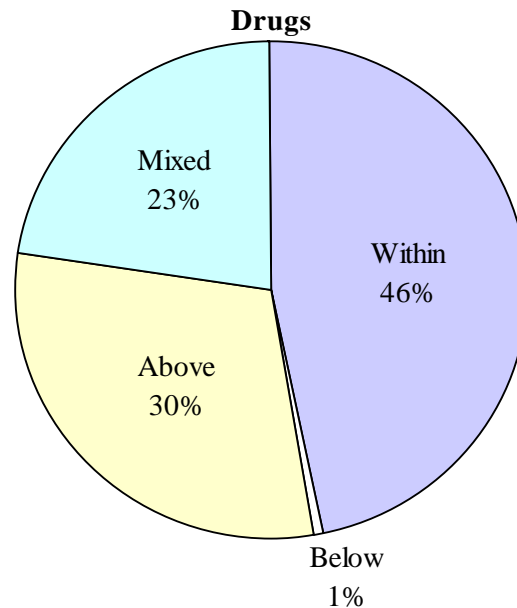


Figure 12.



OVERALL COMPLIANCE

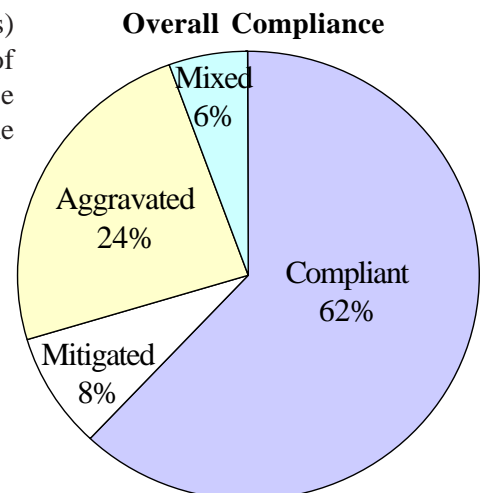
Overall compliance with the sentencing standards worksheet recommendations is achieved by conforming to the “In/Out” recommendation and the “Sentence Length” recommendation (when applicable). For the determination of compliance, sentence length recommendations are only applicable when the worksheets recommend “In” *and* an “In” sentence is imposed – those events located in Box E of the In/Out flowchart (Figure 2).

Consider the following examples for clarification:

- If the worksheet recommendation is “Out”, the sentence length recommendation is not applicable for compliance purposes. If in this example, an “Out” sentence was imposed, this event would be overall compliant. If however an “In” sentence was imposed, this event would be overall non-compliant;
- If the worksheet recommendation is “In”, and an “Out” sentence is imposed, this event would be overall non-compliant. If in this example, an “In” sentence was imposed and the sentence was not within the sentence length recommendation(s), this event would also be overall non-compliant. If using this same scenario, an “In” sentence was imposed and the sentence was within the sentence length recommendation(s), this event would be classified as overall compliant.

Overall compliance statewide is displayed in graphical format in the pie chart (Figure 13). All valid received worksheets are categorized into one of the categories in the pie chart. Overall compliance was realized in 62 percent of sentencing events (up from 57 percent in fiscal year 2009). Nearly one quarter (24 percent) of the events were categorized as “Aggravated”, meaning either an “In” sentence was imposed on an “Out” recommendation or the sentence imposed exceeded the worksheet recommendations. The “Mitigated” category was significantly smaller than the “Aggravated” category – only 8 percent of events were “Mitigated”. This category is comprised of “Out” sentences imposed on “In” recommendations and sentences that were imposed that fell below the worksheet recommendations. The Mixed category (exclusive to splits) contained 6 percent of all worksheet sentencing events – the majority of these events were instances when the incarceration portion of the sentence complied with the recommendation but the total sentence exceeded the sentence length recommendation.

Figure 13.



Who is in our Prisons - Top 25

Figure 14.

In-House Population on February 6, 2012

**Design Capacity for
Alabama Prisons less
than 14,000**

Robbery 1st	1	3,743
Murder	2	3,364
Distribution of Controlled Substance	3	1,310
Possession of Controlled Substance	4	1,167
Burglary 3rd	5	1,162
Rape 1st	6	1,104
Burglary 1st	7	972
Theft of Property 1st	8	934
Capital Murder	9	912
Manslaughter	10	771
Trafficking Drugs	11	738
Robbery 3rd	12	668
Attempted Murder	13	658
Sodomy 1st	14	539
Manufacturing Controlled Substance 2nd	15	514
Assault 1st	16	504
Robbery 2nd	17	436
Manufacturing Controlled Substance 1st	18	410
Receiving Stolen Property 1st	19	405
Assault 2nd	20	393
Breaking/Entering a Vehicle	21	372
Burglary 2nd	22	367
Sexual Abuse 1st	23	357
Possess Marihuana 1st	24	339
Rape 2nd	25	328

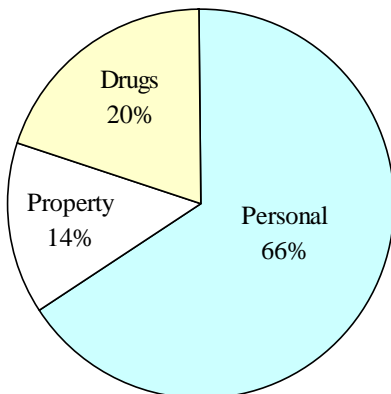
Top 25 Offenses **22,467**

Other Offenses 3,054

Total In-House Population **25,521**

Figure 15.

**In-House Population
Top 25 Offense Category**



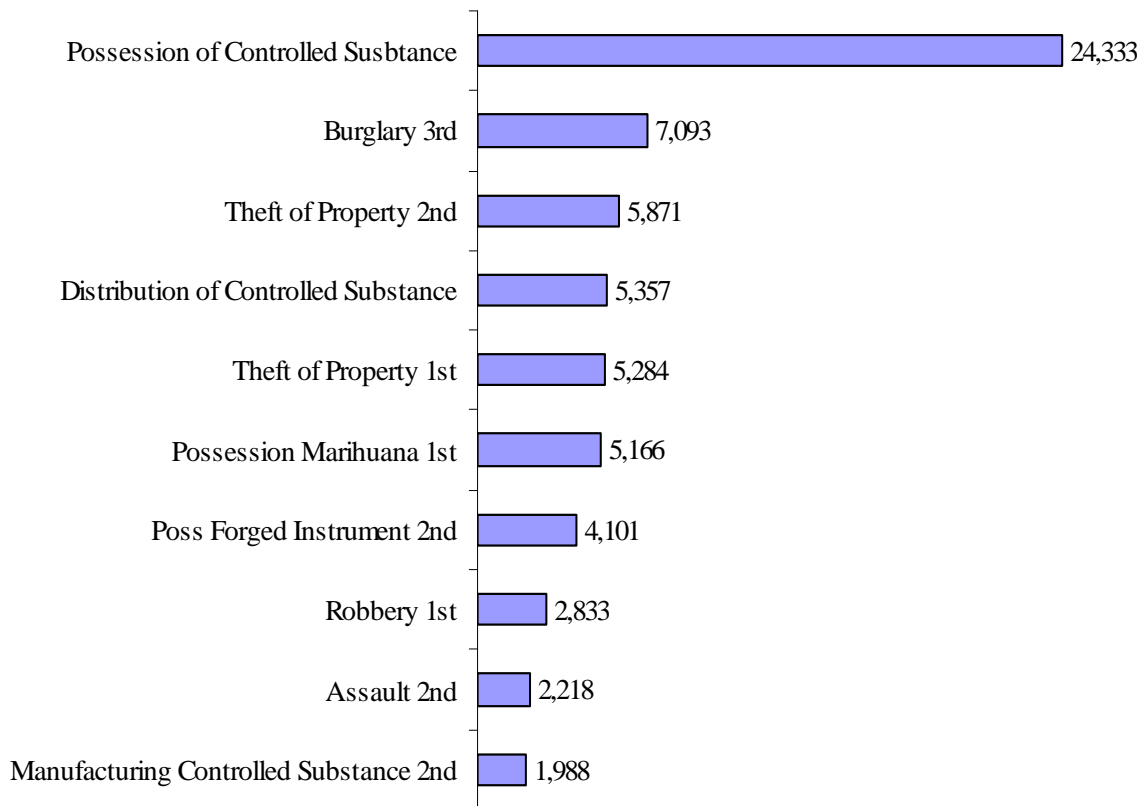
Most Frequent Felony Offense at Conviction

Possession of Controlled Substances convictions far outnumber convictions for other offenses for the past five years.

Possession Convictions Far Surpass Other Offenses

Figure 16.

Most Frequent Felony Offense at Conviction - Top 10 October 1, 2005 - September 30, 2010



Most Frequent Felony Offense at Conviction - Top 25**Manufacturing Convictions
Continue Large Increases**

The number of offenders convicted of Manufacturing Controlled Substances in the first and second degrees continues to increase. The number of offenders convicted for felony Manufacturing offenses is 3.5 times higher than two years ago (1, 246 offenders this year compared to just 353 two years ago). Other than Manufacturing offenses, offenses in the Top 25 list stayed relatively stable, both in their rank on the list and the number of convicted felony offenders.

Figure 17.

**Most Frequent Felony Offense at Conviction
October 1, 2007 - September 30, 2010**

		FY08	FY09	FY10	
Possession of Controlled Substance	1	4,745	1 5,038	1 4,650	
Burglary 3rd	2	1,376	2 1,618	2 1,667	
Theft of Property 2nd	3	1,140	3 1,348	3 1,236	
Theft of Property 1st	4	1,061	6 1,190	4 1,201	
Possession Marihuana 1st	6	1,002	5 1,197	5 1,174	
Distribution of Controlled Substance	5	1,059	4 1,255	6 1,136	
Manufacturing Controlled Substance 2nd	19	221	10 478	7 834	
Poss Forged Instrument 2nd	7	787	7 847	8 716	
Robbery 1st	8	574	8 648	9 622	
Assault 2nd	9	434	9 481	10 506	
Manufacturing Controlled Substance 1st		132	17 287	11 412	
Breaking/Entering a Vehicle	12	341	11 421	12 390	
Receiving Stolen Property 2nd	11	377	14 340	13 380	
Fraud/Illegal Use Debit/Credit Card	13	340	12 377	14 379	
Robbery 3rd	16	289	16 303	15 331	
Receiving Stolen Property 1st	10	418	13 358	16 317	
Trafficking Drugs	14	318	15 323	17 311	
Obstruct Justice-False Identity	17	288	18 273	18 286	
Community Notification Act-Moving Notice	18	225	19 227	19 228	
Robbery 2nd	T21	161	21 201	20 201	
Forgery 2nd	15	300	20 223	21 191	
Murder	T21	161	23 167	22 187	
Assault 1st	20	180	22 193	23 160	
Burglary 2nd		121	25 155	24 145	
Attempt - Possession of Controlled Substance	T24	136	24 164	25 133	
Manslaughter	23	139	120	117	
Felony DUI	T24	136	46	39	
Top 25 Offenses		16,208	18,112	17,793	
Other Offenses		3,004	3,072	3,053	
Total Most Serious Felony Offense Convictions		19,212	21,184	20,846	

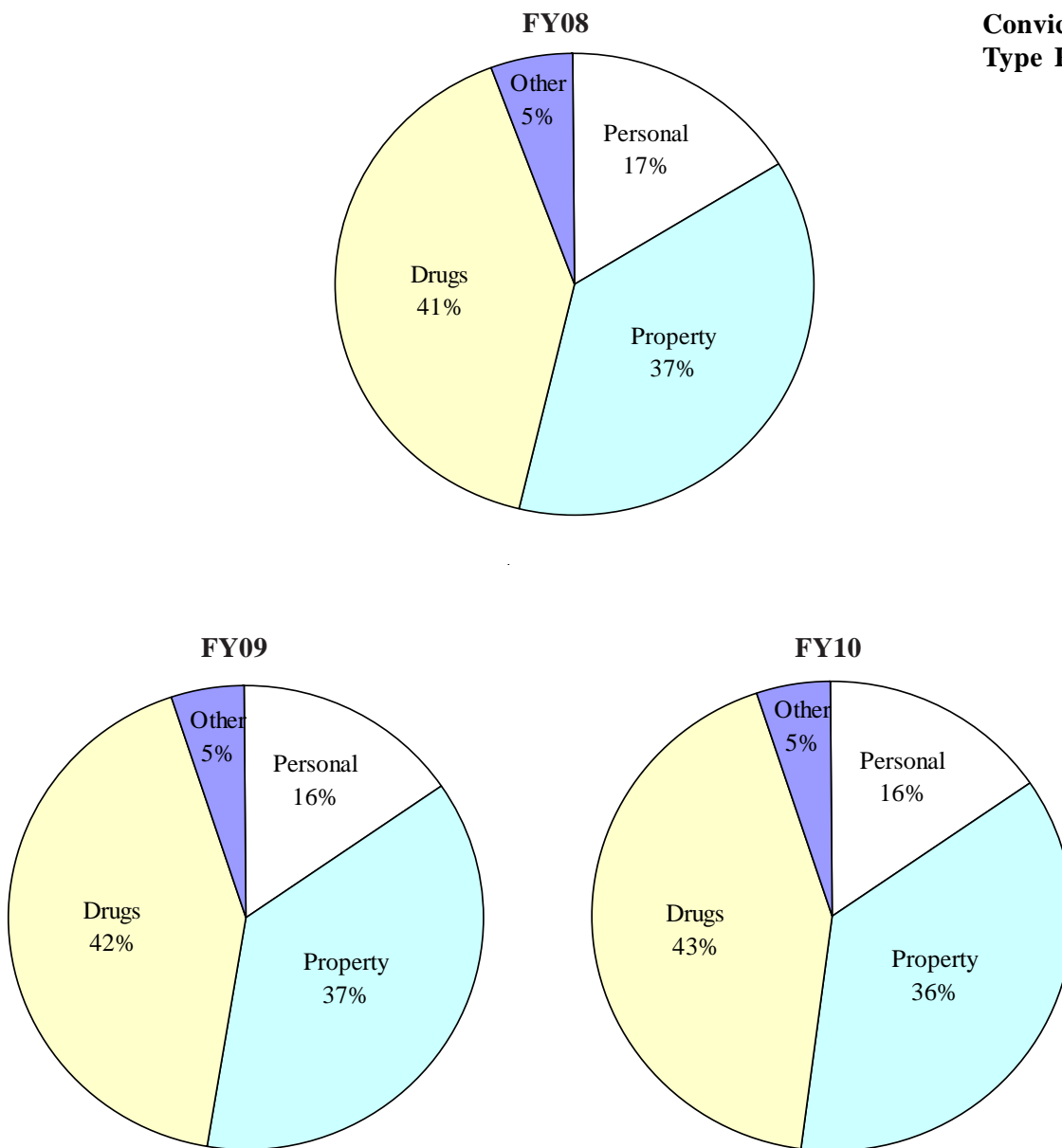
Type of Most Frequent Felony Offense at Conviction

The distribution of convictions by offense type remains nearly identical to last year's distribution.

Figure 18.

**Most Frequent Felony Offense at Conviction
Offense Category
October 1, 2007 - September 30, 2010**

**Convictions by Offense
Type Remains Consistent**



Drug Convictions**Possession Convictions
Majority of Drug
Convictions**

The majority of felony drug convictions continue to be Possession of Controlled Substances. Manufacturing convictions continue to rise sharply. Possession or Sale of Precursor Chemicals convictions are also increasing rapidly.

Figure 19.

**Most Frequent Offense at Conviction
Drug Offenses
October 1, 2007 - September 30, 2010**

	FY08	FY09	FY10
Possession of Controlled Substance	1 4,745	1 5,038	1 4,650
Possession Marihuana 1st	3 1,002	2 1,197	2 1,174
Distribution of Controlled Substance	2 1,059	3 1,255	3 1,136
Manufacturing Controlled Substance 2nd	5 221	4 478	4 834
Manufacturing Controlled Substance 1st	7 132	6 287	5 412
Trafficking Drugs	4 318	5 323	6 311
Attempt - Possession of Controlled Substance	T6 136	7 164	7 133
Precursor Chemical - Sale/Poss	19	8 54	8 111
Top Drug Offenses	7,749	8,796	8,761
Other Drug Offenses	118	171	217
Total Drug Offenses	7,867	8,967	8,978

Type of Trafficking Convictions**Cocaine Trafficking Most
Prevalent Trafficking
Conviction**

The number of Trafficking convictions continues to remain stable.

Figure 20.

**Most Frequent Drug Trafficking Convictions
Drug Type
October 1, 2007 - September 30, 2010**

	FY08	FY09	FY10
Trafficking - Cocaine	117	116	1 105
Trafficking - Marihuana	89	88	2 94
Trafficking - Illegal Drugs	36	50	3 67
Trafficking - Methamphetamine	64	58	4 41
Other	12	11	5 4
Total Most Serious Felony Offense Convictions for Trafficking	318	323	311

Prison Admissions - Top 25

Jurisdictional admissions to the Department of Corrections increased significantly for Manufacturing offenses, both in the first and second degrees. Admissions for Manufacturing have nearly tripled since 2008.

Jurisdictional Admissions for Manufacturing Offenses Increase

Figure 21.

Prison Admissions for New Offenses October 1, 2007 - September 30, 2010

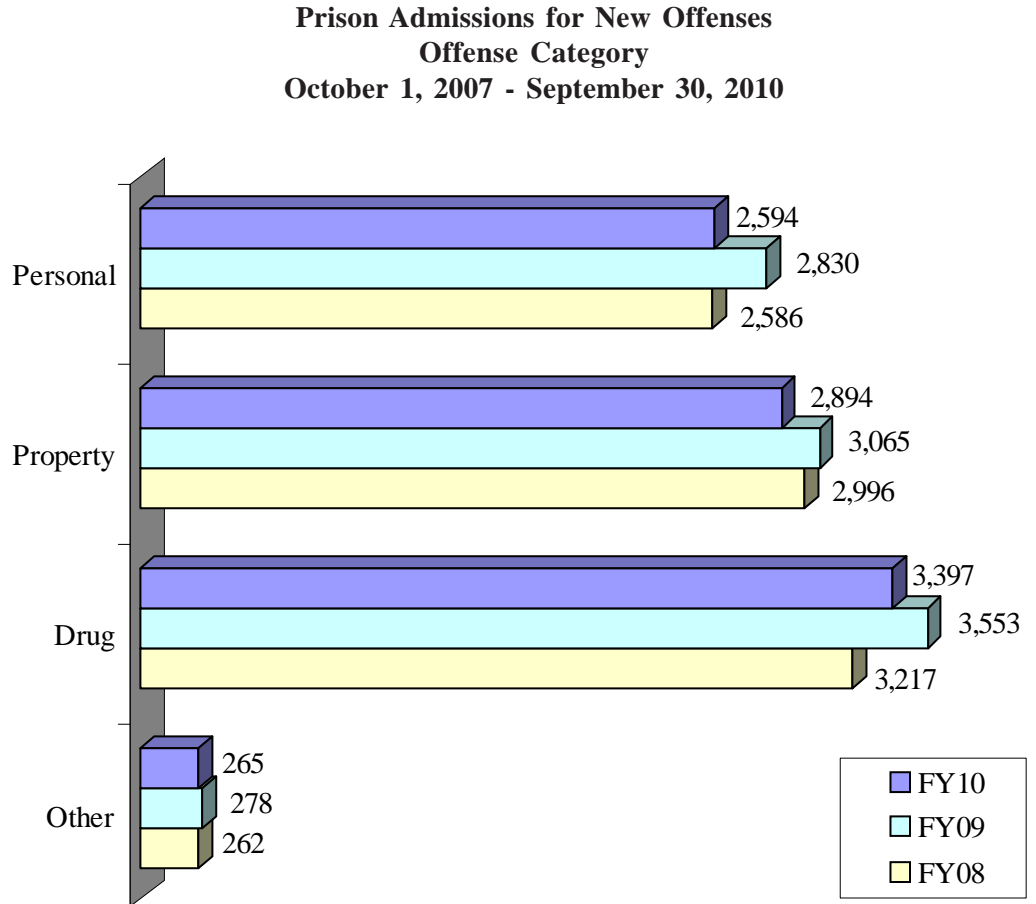
	FY08		FY09		FY10	
Possession of Controlled Substance	1	1,433	1	1,467	1	1,270
Distribution of Controlled Substance	2	822	2	845	2	794
Burglary 3rd	4	672	4	735	3	753
Robbery 1st	3	703	3	783	4	717
Theft of Property 1st	5	490	5	518	5	507
Poss Marihuana 1st	6	353	6	444	6	397
Manufacturing of Controlled Substance 2nd	22	120	11	240	7	378
Trafficking Drugs	9	259	8	298	8	256
Manufacturing of Controlled Substance 1st		97	16	181	9	248
Theft of Property 2nd	7	297	7	341	10	245
Breaking/Entering a Vehicle	12	220	12	238	11	241
Assault 2nd	11	227	10	247	12	237
Robbery 3rd	13	218	9	259	13	218
Murder	14	192	14	208	14	210
Poss Forged Instrument 2nd	8	272	13	232	15	186
Receiving Stolen Property 1st	10	238	15	195	16	180
Community Notification Act Violations	16	152	T18	169	17	164
Assault 1st	17	143	T18	169	18	159
Robbery 2nd	15	160	17	173	19	158
Burglary 1st	18	141	20	123	20	136
Burglary 2nd	25	108	24	108	21	122
Manslaughter	19	132	21	119	22	118
Poss Fraud Use of Credit/Debit Card	24	116	22	111	23	101
Attempted Murder		73	25	93	24	88
Receiving Stolen Property 2nd	21	124	23	110	T25	84
Forgery 2nd	23	119			T25	84
Felony DUI	20	129				
Top 25 Offenses		7,840		8,406		8,051
Other Offenses		1,237		1,320		1,113
Total Prison Admissions for New Offenses		9,077		9,726		9,164

Prison Admissions for New Offenses by Offense Category

Jurisdictional Admissions Drop

Offenders convicted of drug offenses continue to be largest category of prison admissions.

Figure 22.

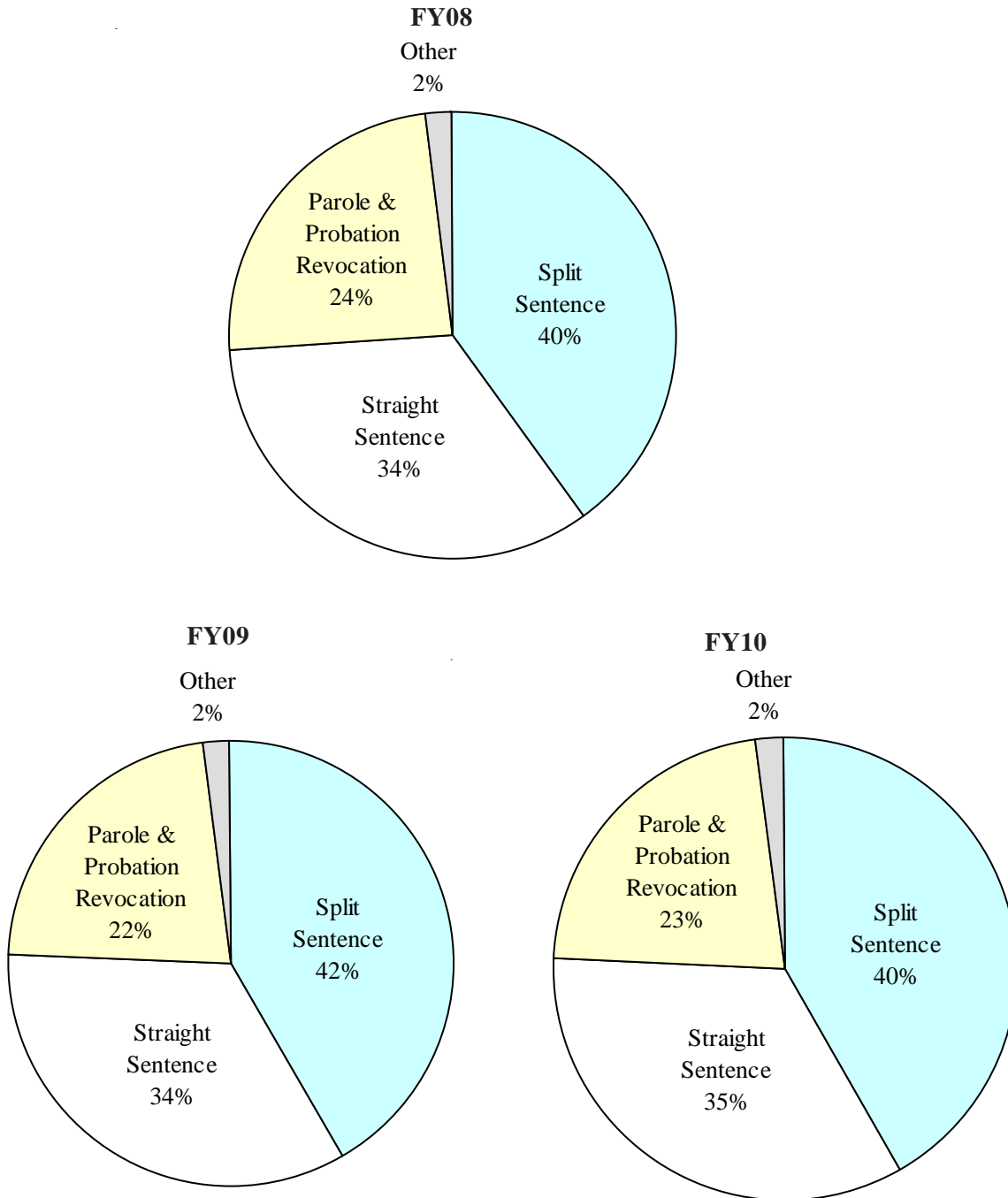


Prison Admissions by Type of Admission

Figure 23.

Prison Admissions by Type of Sentence Unchanged

Prison Admissions (all admissions)
Type
October 1, 2007 - September 30, 2010



Prison Releases - Top 25

**One Quarter of
Jurisdictional Releases are
Possession or Distribution of
a Controlled Substance**

Figure 24.

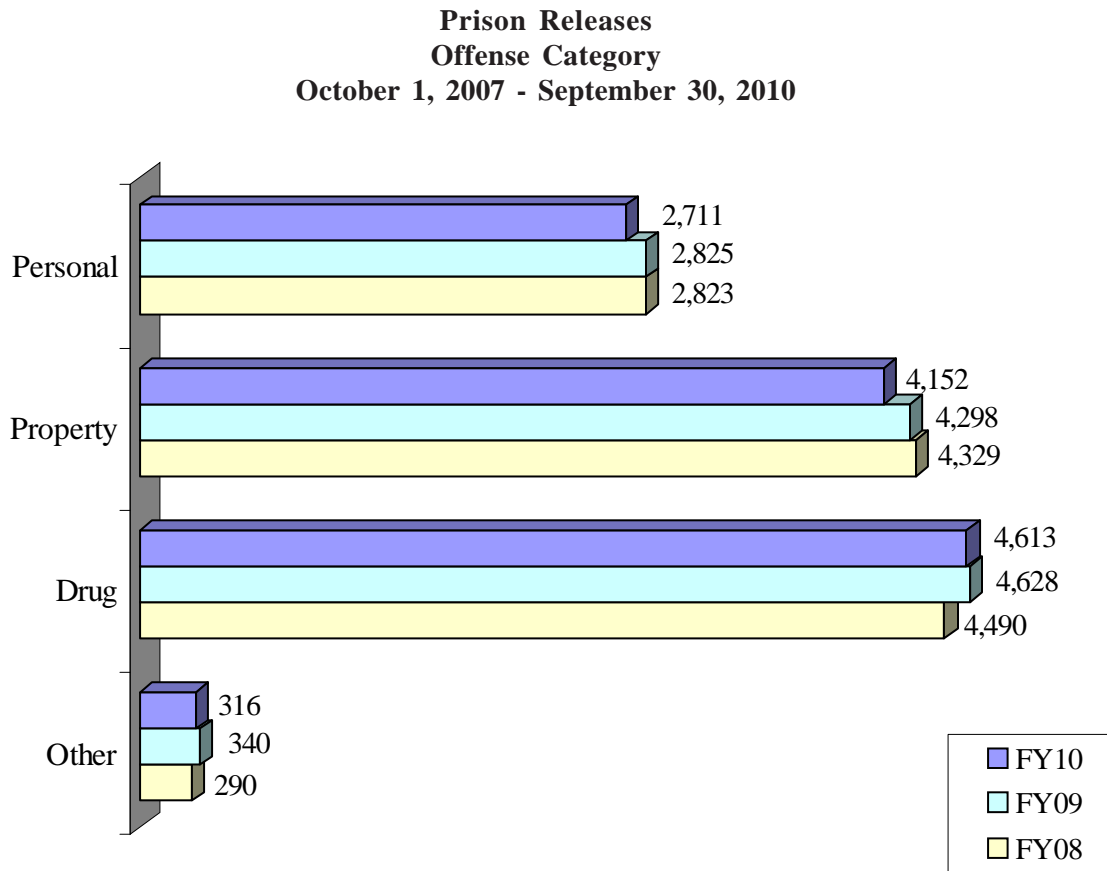
**Prison Releases
October 1, 2007 - September 30, 2010**

	FY08	FY09	FY10
Possession of Controlled Substance	1 1,978	1 2,148	1 1,971
Distribution of Controlled Substance	3 907	2 1,065	2 1,140
Burglary 3rd	2 918	3 957	3 986
Robbery 1st	4 734	4 736	4 687
Theft of Property 1st	5 695	5 702	5 675
Poss Marihuana 1st	6 567	6 563	6 601
Theft of Property 2nd	9 445	7 432	7 401
Poss Forged Instrument 2nd	7 453	8 383	8 357
Breaking/Entering a Vehicle	11 309	11 313	9 321
Robbery 3rd	10 353	13 295	10 315
Trafficking Drugs	13 290	12 301	11 298
Receiving Stolen Property 1st	12 308	9 327	12 294
Assault 2nd	14 286	10 324	13 289
Manufacturing of Controlled Substance 2nd	23 162	T18 167	14 259
Robbery 2nd	16 195	15 195	15 179
Manufacturing of Controlled Substance 1st	25 125	25 128	16 178
Receiving Stolen Property 2nd	T18 181	17 173	17 177
Assault 1st	22 163	T18 167	18 170
Poss Fraud Use of Credit/Debit Card	20 175	22 161	19 169
Burglary 1st	15 210	16 194	20 164
Felony DUI	8 451	14 251	21 160
Community Notification Act Violations	113	24 156	22 159
Forgery 2nd	17 185	23 158	23 150
Burglary 2nd	21 174	21 165	24 148
Murder	T18 181	20 166	25 143
Sexual Abuse 1st	24 128	98	100
Top 25 Offenses	10,579	10,446	10,391
Other Offenses	1,368	1,645	1,418
Total Prison Releases	11,947	12,091	11,809

Prison Releases by Offense Category

Figure 25.

Drug Offenders Continue to be Largest Category of Jurisdictional Releases

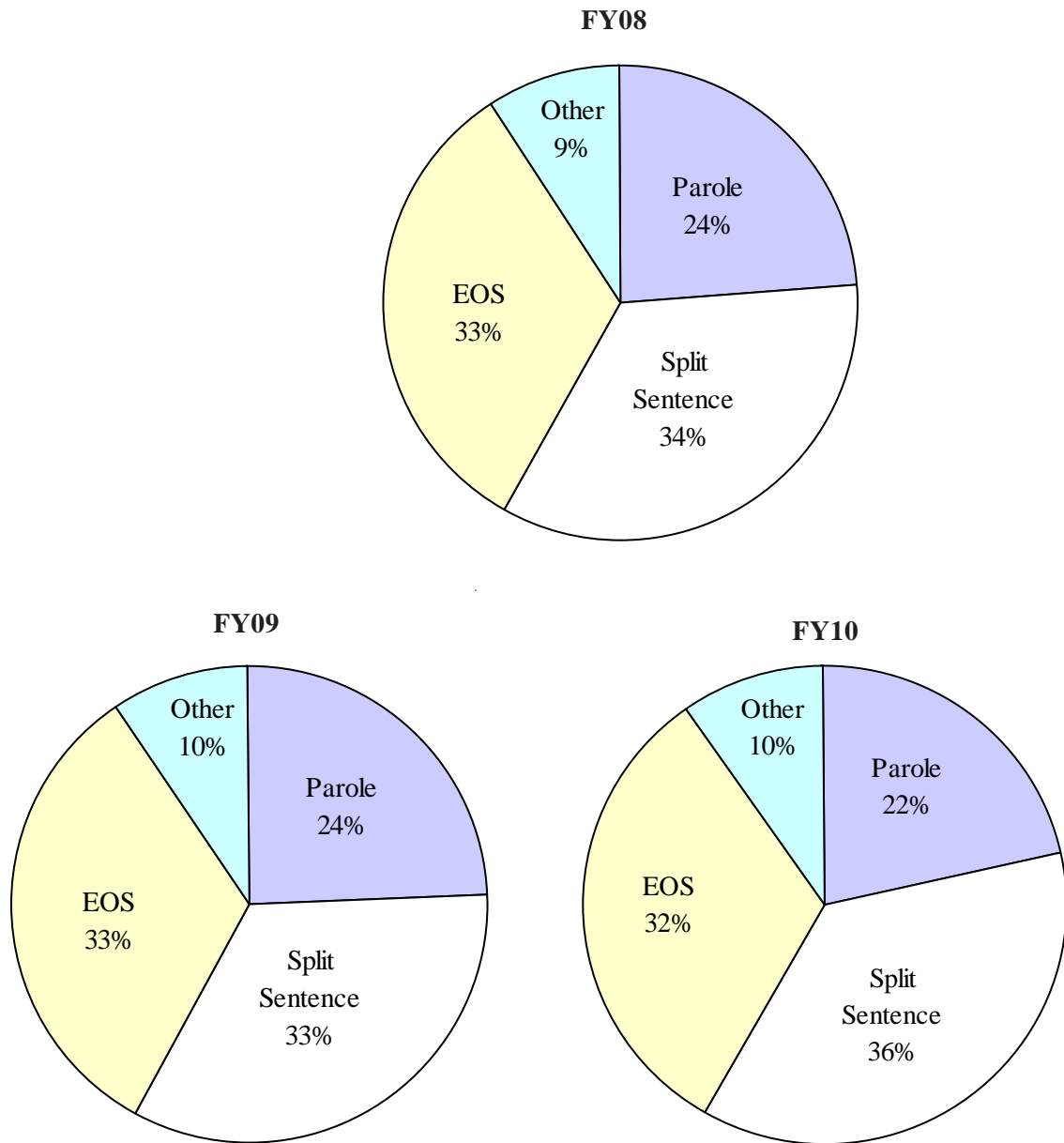


Prison Releases by Type

Small Changes in Release Type

Figure 26.

**Prison Releases
Type of Release
October 1, 2007 - September 30, 2010**

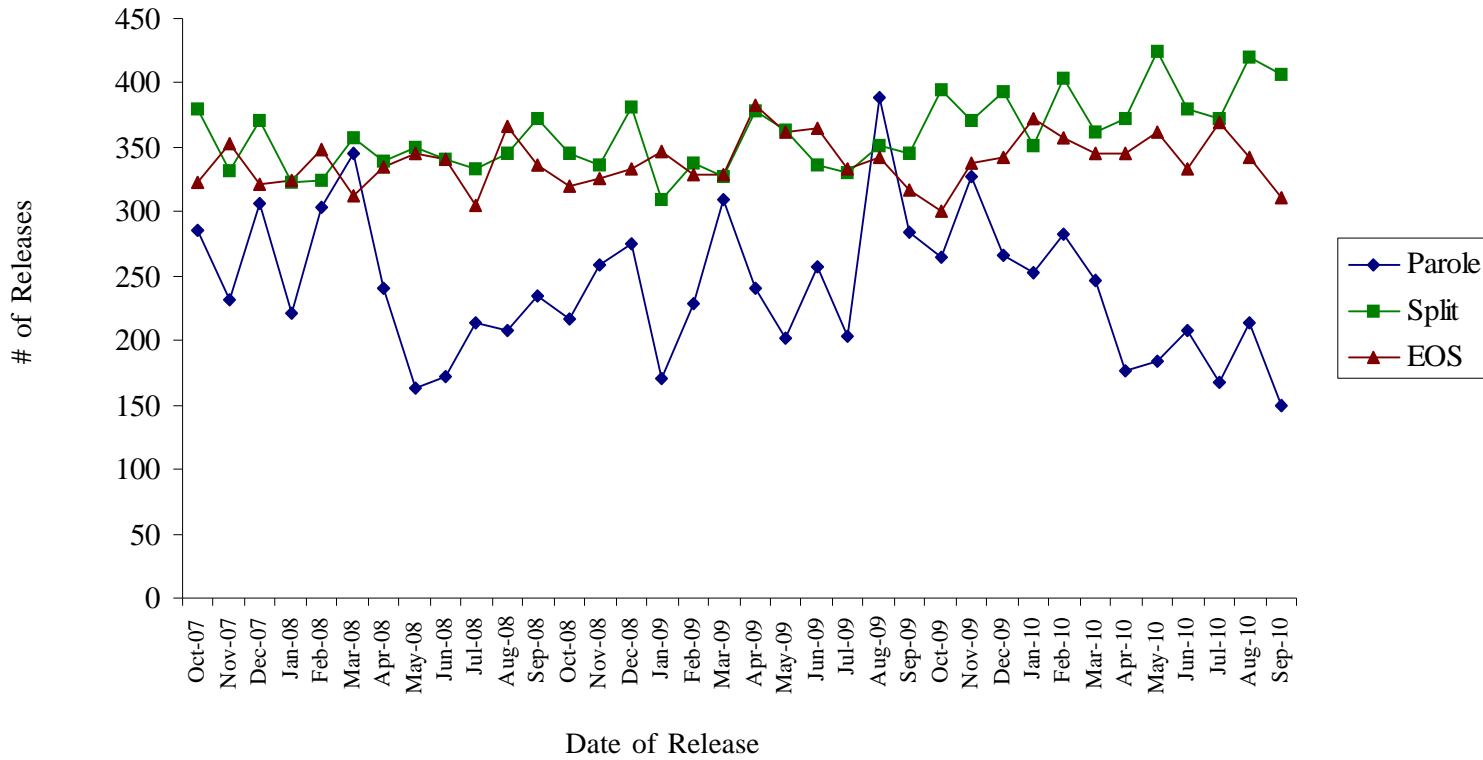


Prison Releases by Type

Figure 27.

**The Number of Paroles
Varies Significantly
Monthly**

**Prison Releases
Type of Release
October 1, 2007 - September 30, 2010**



Prison Releases by Offense Category by Type

**Release Type Varies by
Conviction Offense Category**

Figure 28.

**Prison Releases
Offense Category by Type
October 1, 2005 - September 30, 2010**

		Parole	Split	EOS	Other	Total
Personal	2006	928	1,071	689	306	2,994
	2007	779	931	701	289	2,700
	2008	741	1,008	744	330	2,823
	2009	655	1,069	778	323	2,825
	2010	472	1,128	774	309	2,683
			3,575	5,207	3,686	1,557
Property	2006	857	1,307	1,340	285	3,789
	2007	739	1,298	1,415	400	3,852
	2008	1,000	1,391	1,554	384	4,329
	2009	1,044	1,293	1,556	405	4,298
	2010	820	1,465	1,552	315	4,152
			4,460	6,754	7,417	1,789
Drugs	2006	880	1,654	1,461	263	4,258
	2007	755	1,637	1,558	293	4,243
	2008	992	1,606	1,588	304	4,490
	2009	1,154	1,564	1,615	295	4,628
	2010	988	1,698	1,638	289	4,613
			4,769	8,159	7,860	1,444