

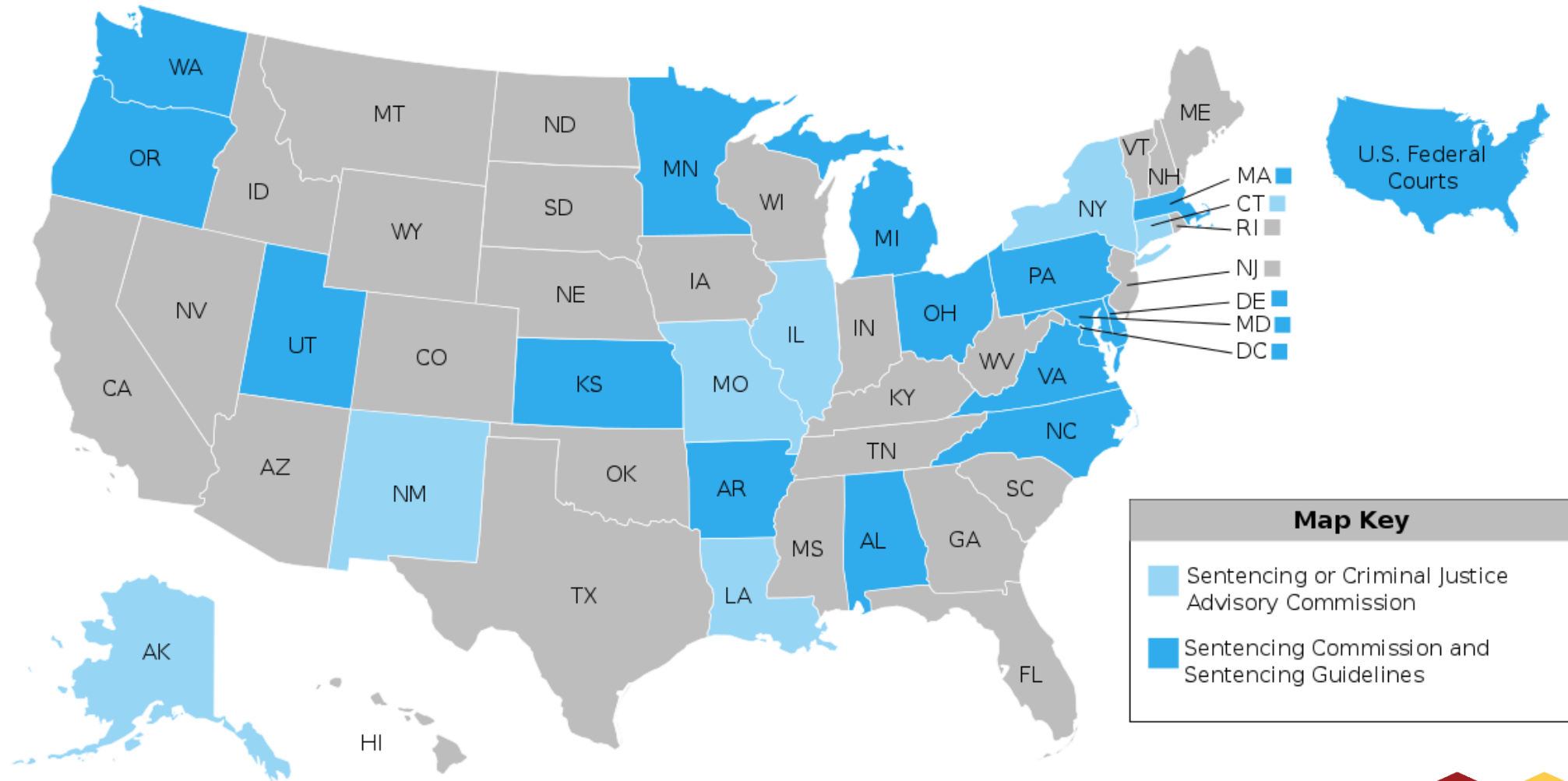
Sentencing Commissions & Guidelines

KELLY MITCHELL, EXECUTIVE DIRECTOR
ROBINA INSTITUTE OF CRIMINAL LAW AND CRIMINAL JUSTICE

PRESENTED TO NEVADA ADVISORY COMMISSION ON THE ADMINISTRATION OF JUSTICE

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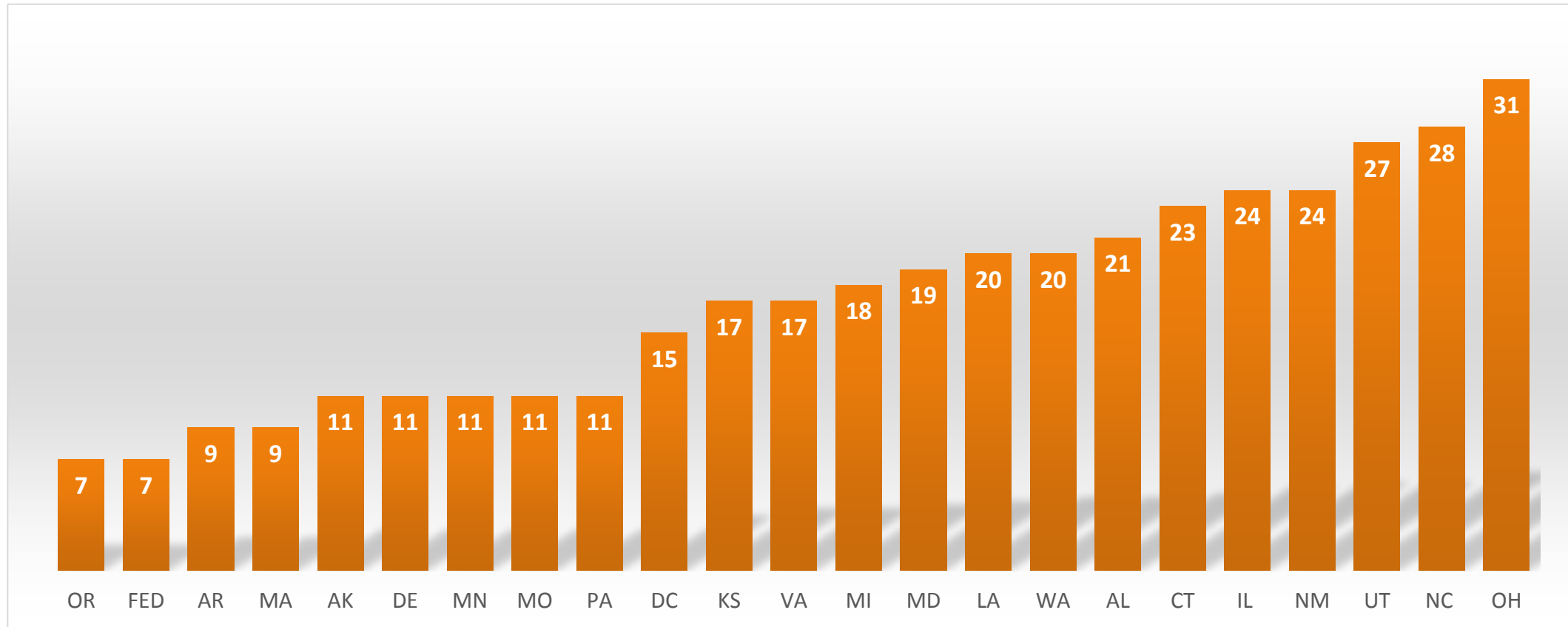
Commissions and Guidelines



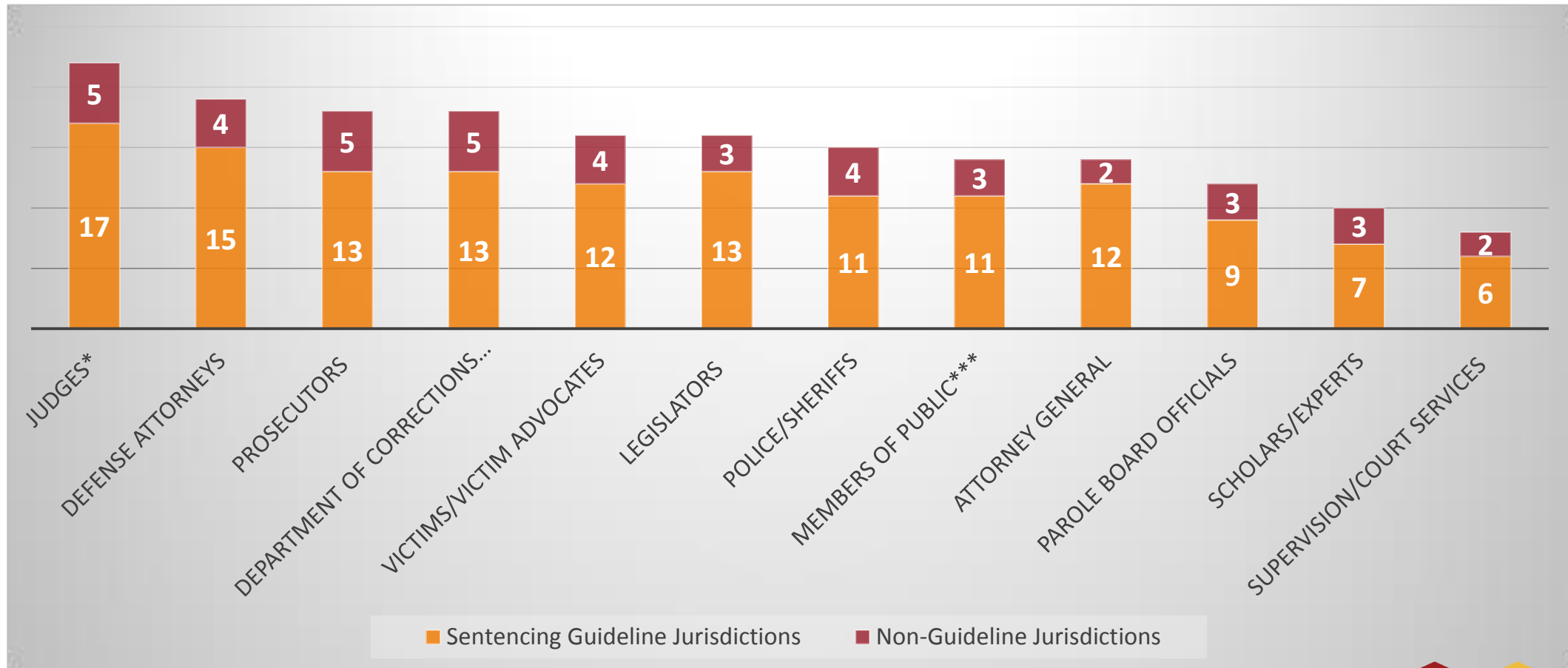
Branch of Government

Executive	AR, CT, DE, DC, IL, KS, MD, MN, UT, WA
Judicial	AL, MA, MO, NC, OH, VA, US
Legislative	OR, PA, MI

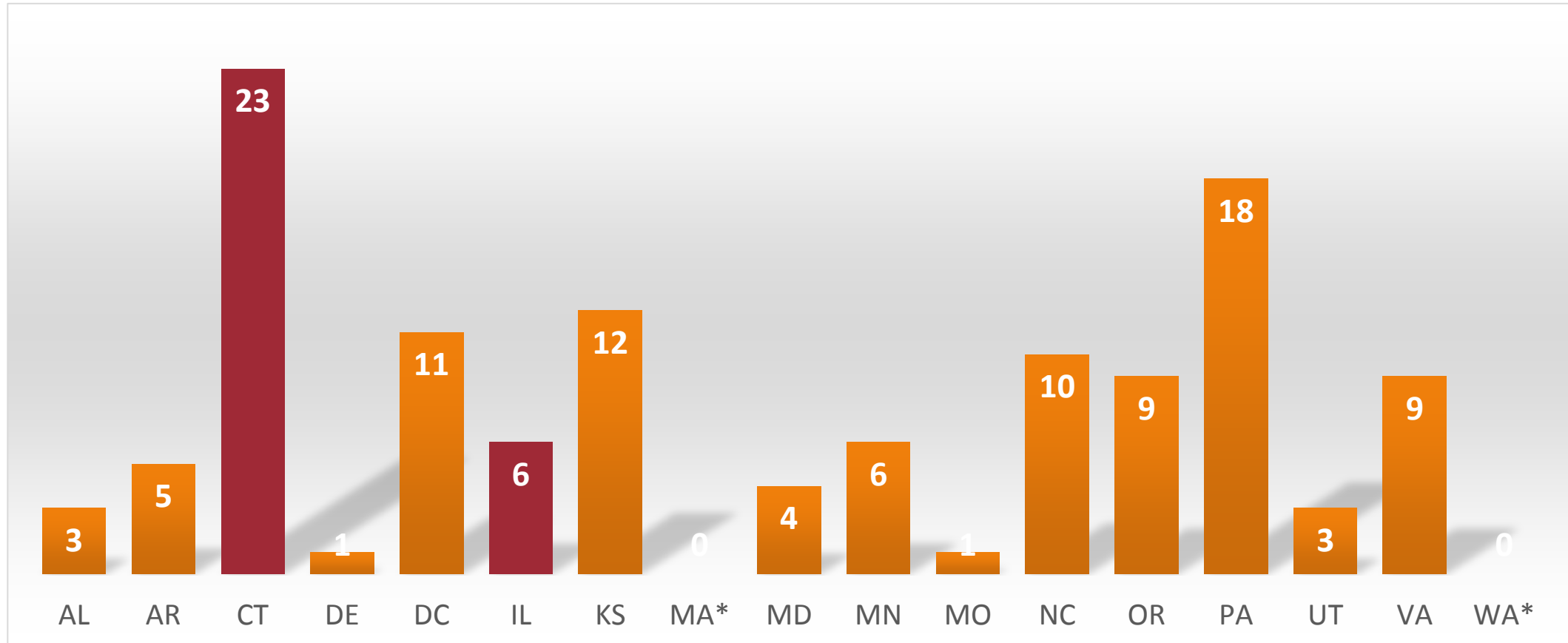
The Size of Sentencing Commissions



Typical Commission Members



Commission Staff Size



* No dedicated staff; commission is supported by another agency within the state

Primary Commission Purposes

- Recommend or Establish Sentencing Policies and Practices (To Uphold Stated Goals)
- Protect Public Safety
- Manage Correctional Resources
- Maintain Judicial Discretion in Sentencing
- Avoid Disparity / Increase Equity and Fairness in Sentencing
- Achieve Certainty in Sentencing

Commission Duties

Duties	No.
Collect data, conduct research (some general; some specific to initiatives) and publish reports	18
Review and recommend changes to criminal code, criminal procedure, sentencing policies or practices	15
Recommend / adopt / develop / implement / promulgate / amend sentencing guidelines / standards / structures	15
Produce correctional populations projections (develop simulation models) and make recommendations to manage correctional capacity	11
Analyze legislation to determine if consistent w/sentencing guidelines or system and prepare fiscal impact statements	8
Conduct training and education seminars	7
Serve as clearinghouse for collection, preparation, and dissemination of sentencing research and information	6
Provide recommendations or expertise on juvenile justice issues	4
Adopt / recommend guidelines for other aspects of sentencing, probation, and parole	4
Develop risk assessment tool for use in sentencing	2
Provide recommendations or expertise on parole issues	2

Commission Duties

Collect data, conduct research (some general; some specific to initiatives) and publish reports

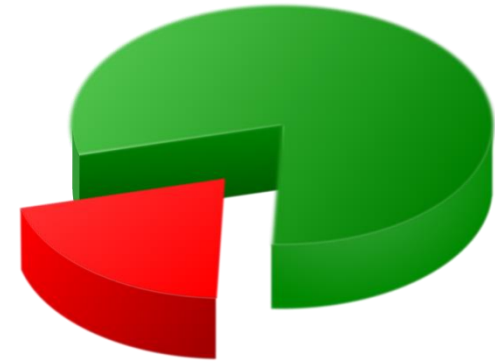
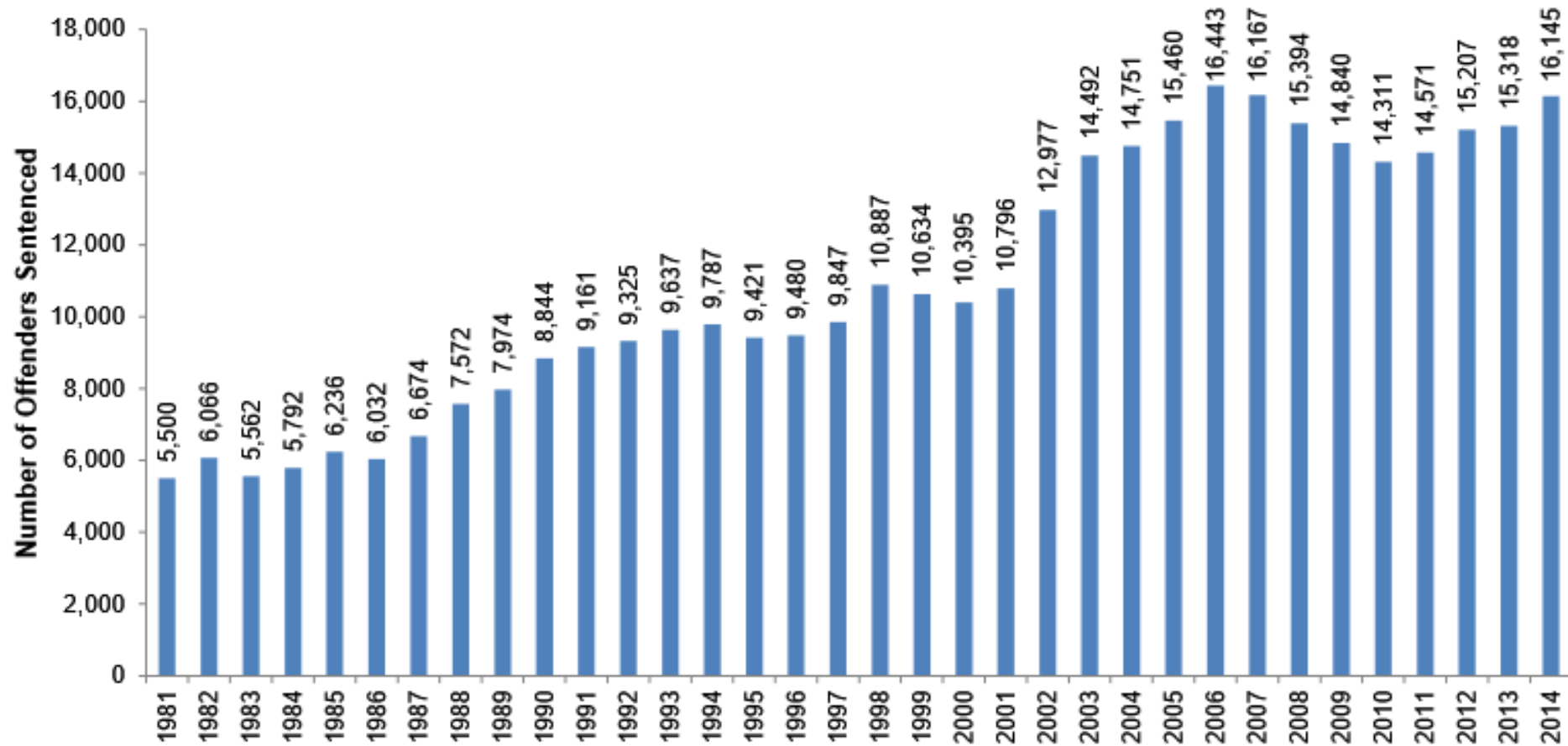
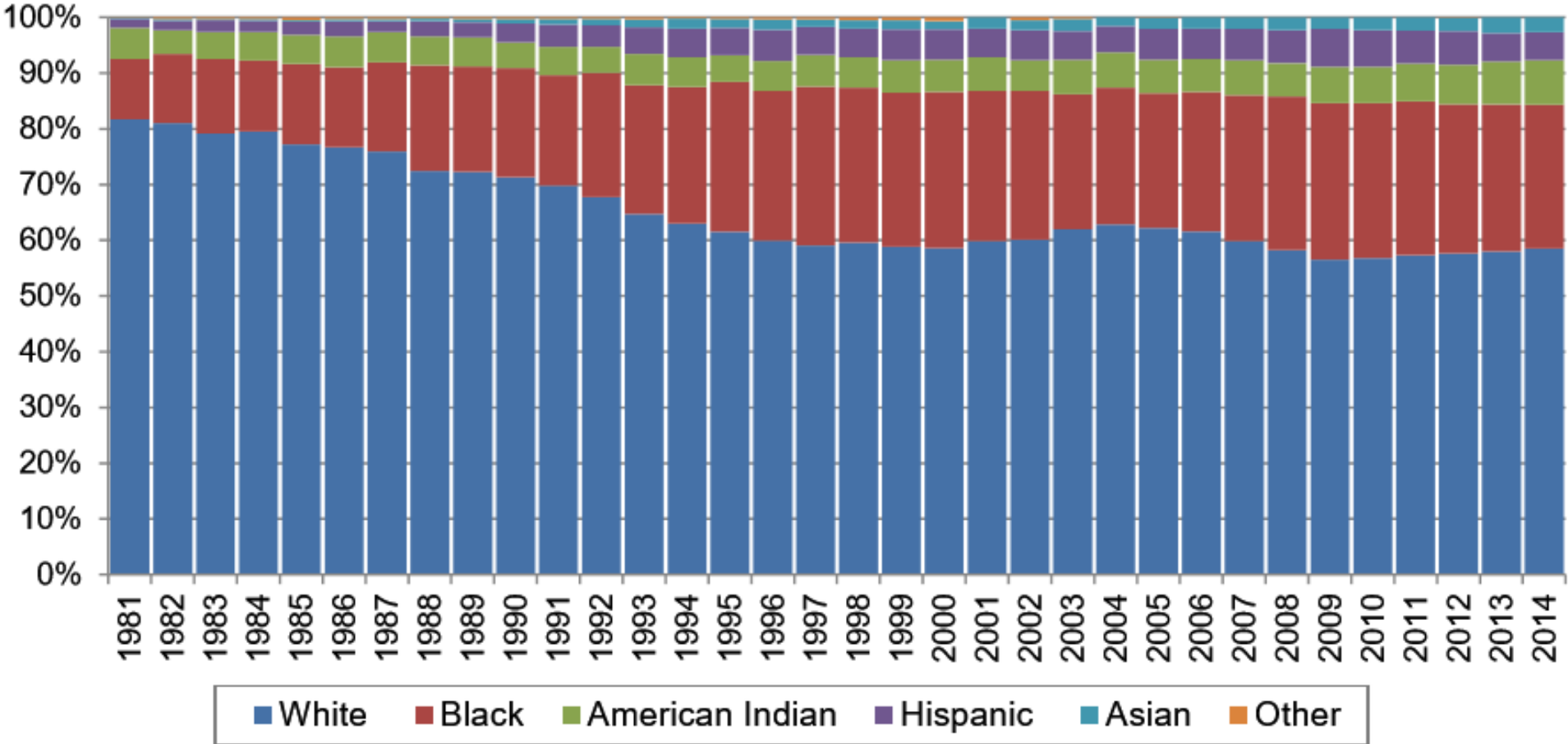


Figure 1. Number of Offenders Sentenced for Felony Convictions, 1981-2014



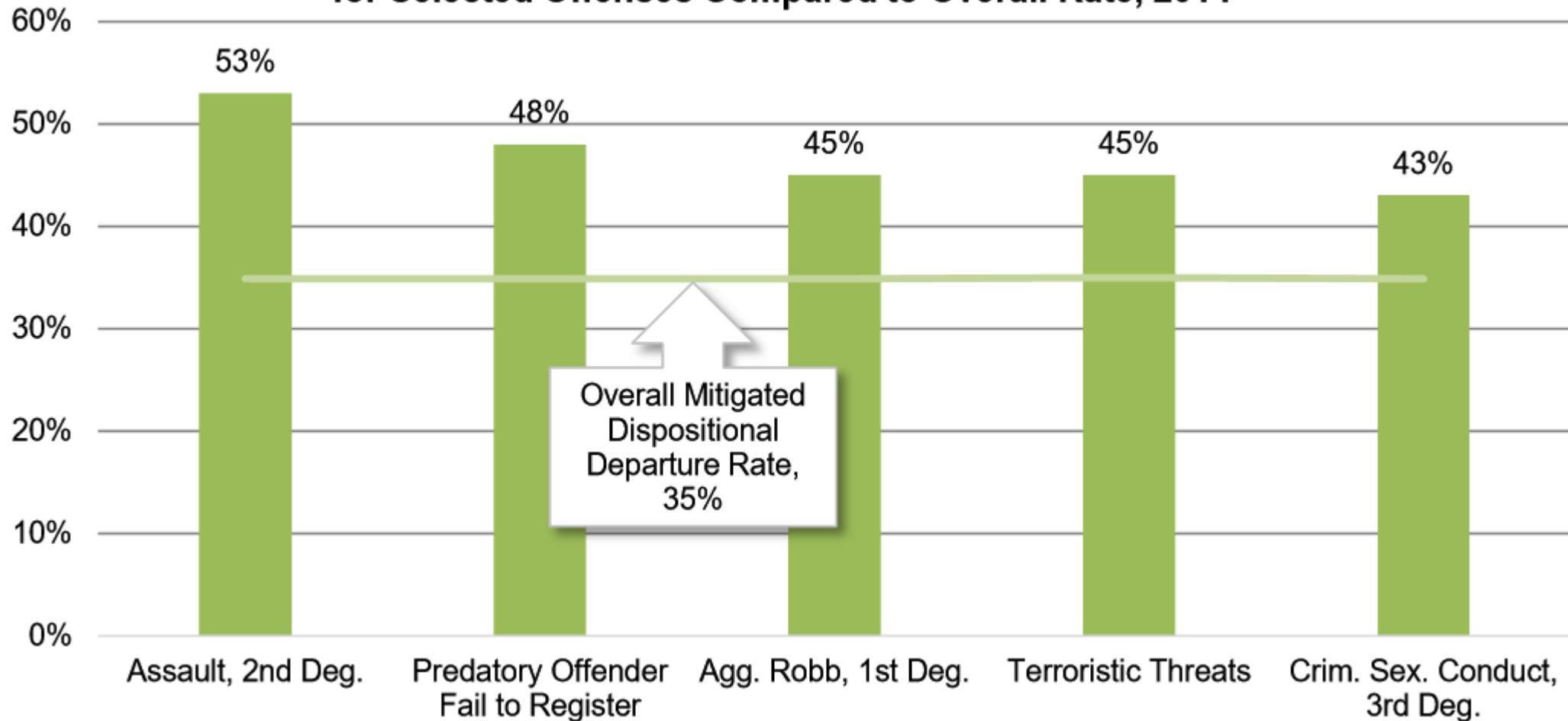
Source: Minnesota Sentencing Guidelines Commission, *2014 Annual Sentencing Practices* at p. 6 (Nov. 2015).

Figure 6. Distribution of Felony Offenders by Race/Ethnicity, 1981-2014



Source: Minnesota Sentencing Guidelines Commission, *2014 Annual Sentencing Practices* at p. 13 (Nov. 2015).

Figure 14. High Mitigated Dispositional Departure Rates for Selected Offenses Compared to Overall Rate, 2014*



Source: Minnesota Sentencing Guidelines Commission, *2014 Annual Sentencing Practices* at p. 27 (Nov. 2015).

Commission Duties

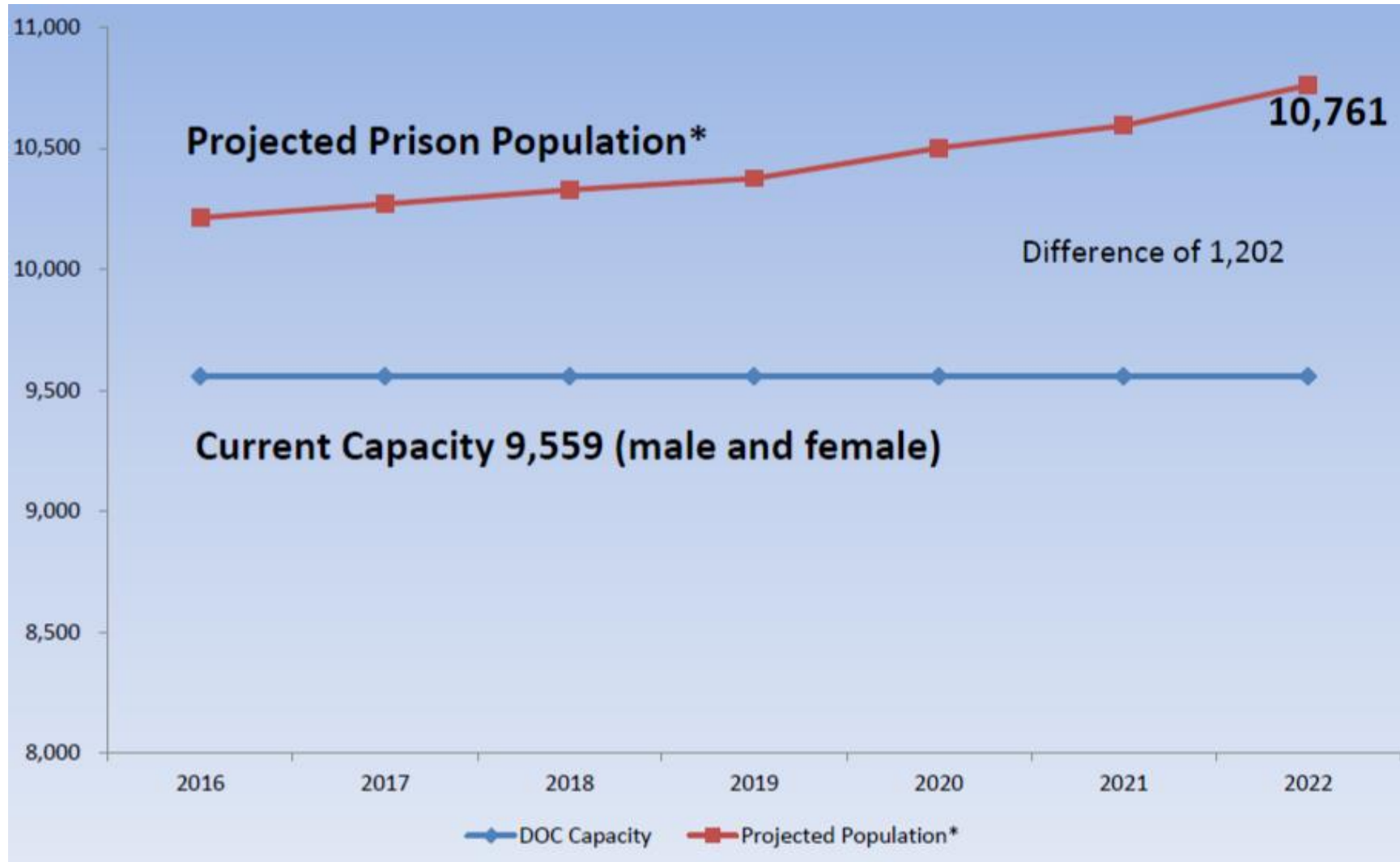
Review and recommend changes to criminal code, criminal procedure, sentencing policies or practices

Commission Duties



Produce correctional populations projections (develop simulation models) and make recommendations to manage correctional capacity

Projected Prison Population vs. Capacity



Source: MN Department of Corrections

*Based on October 2014 Projection

HOUSE BILL 3884

SENTENCE CREDIT FOR PASSING HIGH SCHOOL EQUIVALENCY TESTING 730 ILCS 5 SECTION 3-6-3

TOTAL BENEFITS IN REDUCED FISCAL COSTS IN FISCAL YEAR 2014: \$445,134

House Bill 3884 ([HB 3884](#)) amends the Unified Code of Corrections to award 90 days of sentence credits to any prisoner who passes a high school equivalency test (such as the General Equivalency Degree, or GED, test) while committed to the Illinois Department of Corrections (IDOC) or while in pre-trial detention prior to the current commitment. This bill increases the amount of sentence credits from the current law of 60 days.

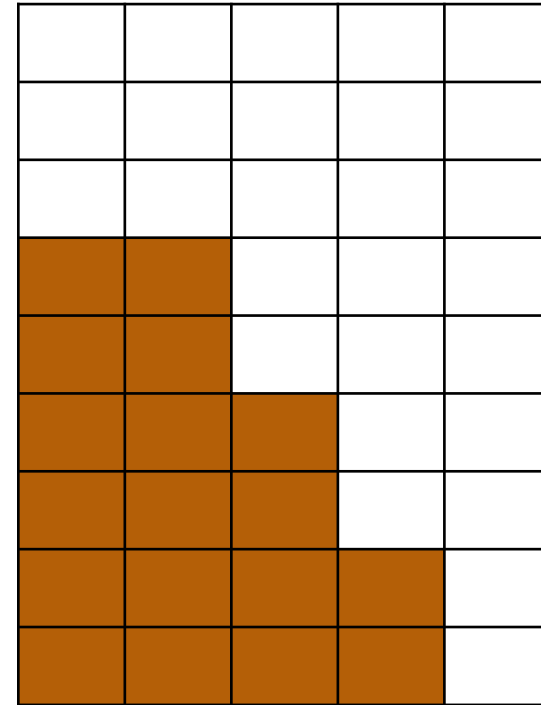
The increased sentence credits for passing the GED test may incentivize participation from inmates and aid IDOC in managing the prison population. Research also indicates that GED programs have a positive impact on recidivism, meaning those who participate in the program will likely have a lower recidivism rate than those who do not.¹

To analyze the possible impact of this bill, SPAC analyzed GED completion data from fiscal year 2014. The estimate below uses assumed IDOC credit awards. These awards may vary due to truth-in-sentencing or policy rules that limit sentence credits. SPAC presents these estimates as a starting point for discussion.

FY 2014 Impact of Additional Sentence Credit		
	Current	Proposed
Number of Offenders (FY14)	929	
Credits Awarded in Days	60	90
Credits Awarded in Years	0.16	0.25
Total Bed Years of Credits (Offenders x Credit Years)	152.6	228.9
Difference in Bed Years (Proposed – Current)	76.3	
Marginal Cost of Year in IDOC	\$5,834	
Value of Additional Time Awarded	\$445,134	

Commission Duties

Recommend, adopt, develop, implement, promulgate, and/or amend sentencing guidelines, standards, or structures



What Are Sentencing Guidelines?

- Sentencing guidelines are a set of standards that are generally put in place to establish rational and consistent sentencing practices within a particular jurisdiction.
- Sentencing guidelines are one mechanism that can be used to implement determinate sentencing.

What Are Sentencing Guidelines?

Sentencing guidelines are a system of recommended sentences based upon offense and offender characteristics.

Offense Characteristics: Most guidelines systems have rules for ranking the seriousness of offenses. This ranking is typically based on how the crime is defined by the legislature, not on how a particular offender committed a particular crime. For example, theft of an unoccupied building would be ranked as less serious than assault with a weapon.

Offender Characteristics: Offender characteristics are things that are unique to a particular offender. Examples include the number and type of prior offenses (i.e., felonies, misdemeanors, juvenile adjudications) or whether the offender was under a custody status at the time of the offense (e.g., probation or jail).

Sentencing Grid

The horizontal axis represents the offender's total criminal history score.

The vertical axis represents the severity level of the current offense. Felonies are currently ranked from 1-11. The offenses listed on the grid are examples of common offenses at that severity level.

In the gray shaded area, the guidelines recommend a stayed sentence (probation). In the white area of the grid, the guidelines recommend prison

4.A. Sentencing Guidelines Grid

Presumptive sentence lengths are in months. Italicized numbers within the grid denote the discretionary range within which a court may sentence without the sentence being deemed a departure. Offenders with stayed felony sentences may be subject to local confinement.

SEVERITY LEVEL OF CONVICTION OFFENSE (Example offenses listed in <i>italics</i>)		CRIMINAL HISTORY SCORE						
		0	1	2	3	4	5	6 or more
<i>Murder, 2nd Degree</i> (intentional murder; drive-by-shootings)	11	306 261-367	326 278-391	346 295-415	366 312-439	386 329-463	406 346-480 ²	426 363-480 ²
<i>Murder, 3rd Degree</i> <i>Murder, 2nd Degree</i> (unintentional murder)	10	150 128-180	165 141-198	180 153-216	195 166-234	210 179-252	225 192-270	240 204-288
<i>Assault, 1st Degree</i> <i>Controlled Substance Crime, 1st Degree</i>	9	86 74-103	98 84-117	110 94-132	122 104-146	134 114-160	146 125-175	158 135-189
<i>Aggravated Robbery, 1st Degree</i> <i>Controlled Substance Crime, 2nd Degree</i>	8	48 41-57	58 50-69	68 58-81	78 67-93	88 75-105	98 84-117	108 92-129
<i>Felony DWI</i>	7	36	42	48	54 46-64	60 51-72	66 57-79	72 62-84 ²
<i>Controlled Substance Crime, 3rd Degree</i>	6	21	27	33	39 34-46	45 39-54	51 44-61	57 49-68
<i>Residential Burglary</i> <i>Simple Robbery</i>	5	18	23	28	33 29-39	38 33-45	43 37-51	48 41-57
<i>Nonresidential Burglary</i>	4	12 ¹	15	18	21	24 21-28	27 23-32	30 26-36
<i>Theft Crimes (Over \$5,000)</i>	3	12 ¹	13	15	17	19 17-22	21 18-25	23 20-27
<i>Theft Crimes (\$5,000 or less)</i> <i>Check Forgery (\$251-\$2,500)</i>	2	12 ¹	12 ¹	13	15	17	19	21 18-25
<i>Sale of Simulated</i> <i>Controlled Substance</i>	1	12 ¹	12 ¹	12 ¹	13	15	17	19 17-22

Presumptive commitment to state imprisonment. First-degree murder has a mandatory life sentence and is excluded from the Guidelines under Minn. Stat. § 609.185. See Guidelines section 2.E. Mandatory Sentences, for policies regarding those sentences controlled by law.

Presumptive stayed sentence; at the discretion of the court, up to one year of confinement and other non-jail sanctions can be imposed as conditions of probation. However, certain offenses in the shaded area of the Grid always carry a presumptive commitment to state prison. Guidelines sections 2.C. Presumptive Sentence and 2.E. Mandatory Sentences.

¹ 12¹=One year and one day

² Minn. Stat. § 244.09 requires that the Guidelines provide a range for sentences that are presumptive commitment to state imprisonment of 15% lower and 20% higher than the fixed duration displayed, provided that the minimum sentence is not less than one year and one day and the maximum sentence is not more than the statutory maximum. Guidelines section 2.C.1-2. Presumptive Sentence.

What Are Sentencing Guidelines?

- The recommended sentences are generally believed to be appropriate for all “typical” cases sharing the same or similar offense and offender characteristics.
- Most sentencing guidelines systems also allow for departure sentences. A *departure* is simply a sentence that is something other than the sentence recommended under the guidelines. If the crime or the offender is truly “atypical” then a departure sentence may be more appropriate than the recommended sentence.

Purposes of Sentencing Guidelines

The primary purposes of sentencing guidelines are to:

- Achieve **certainty** in sentencing
- Promote **fairness**
- **Reduce disparity**
- Secure **public safety**
- **Manage** correctional capacity

Advisory to Mandatory Continuum

Mandatory
(Legally
Binding)

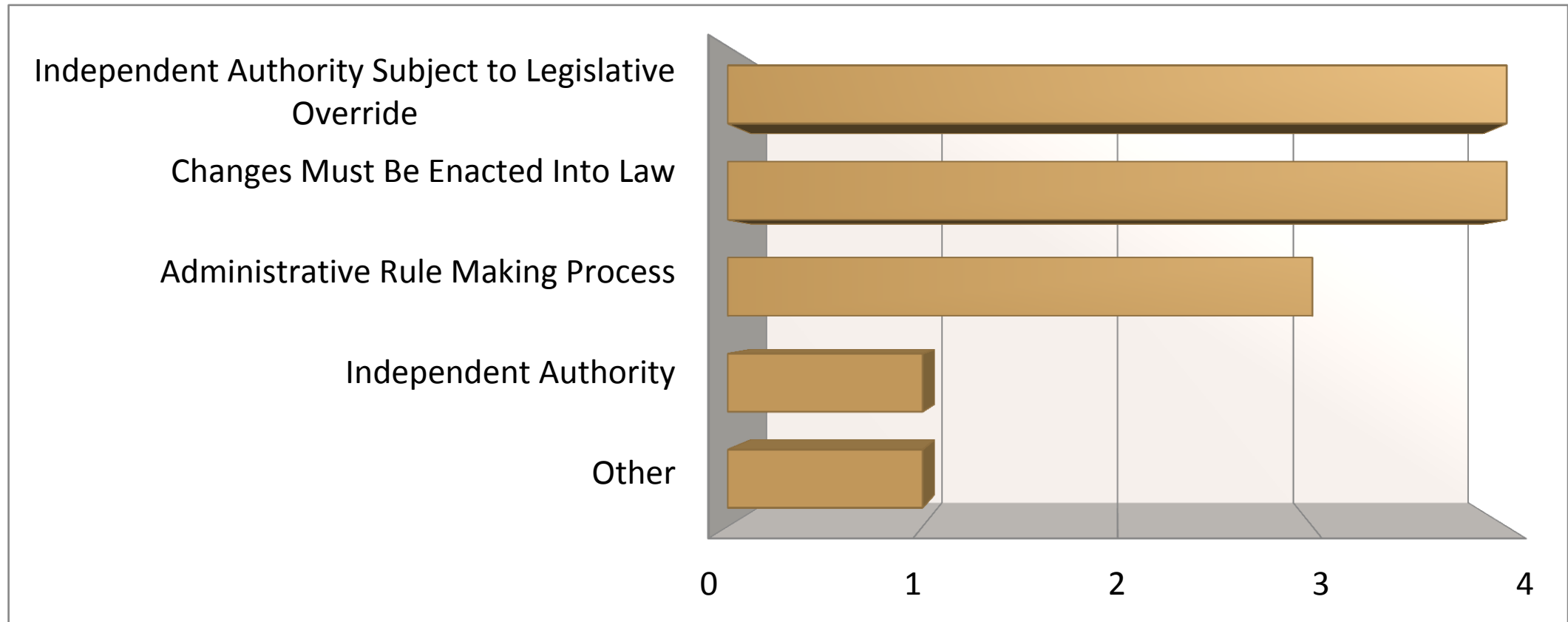


Advisory

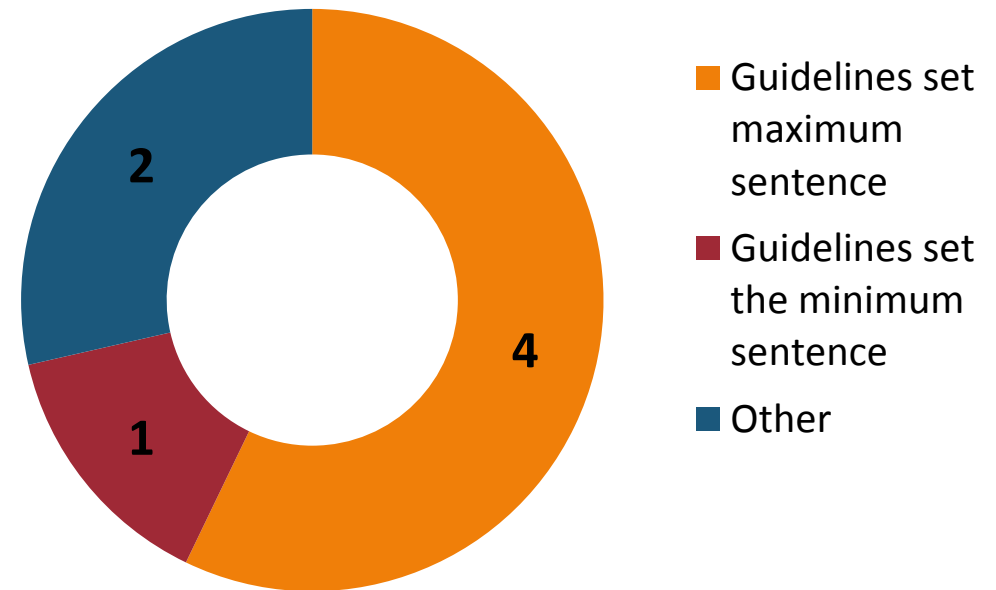
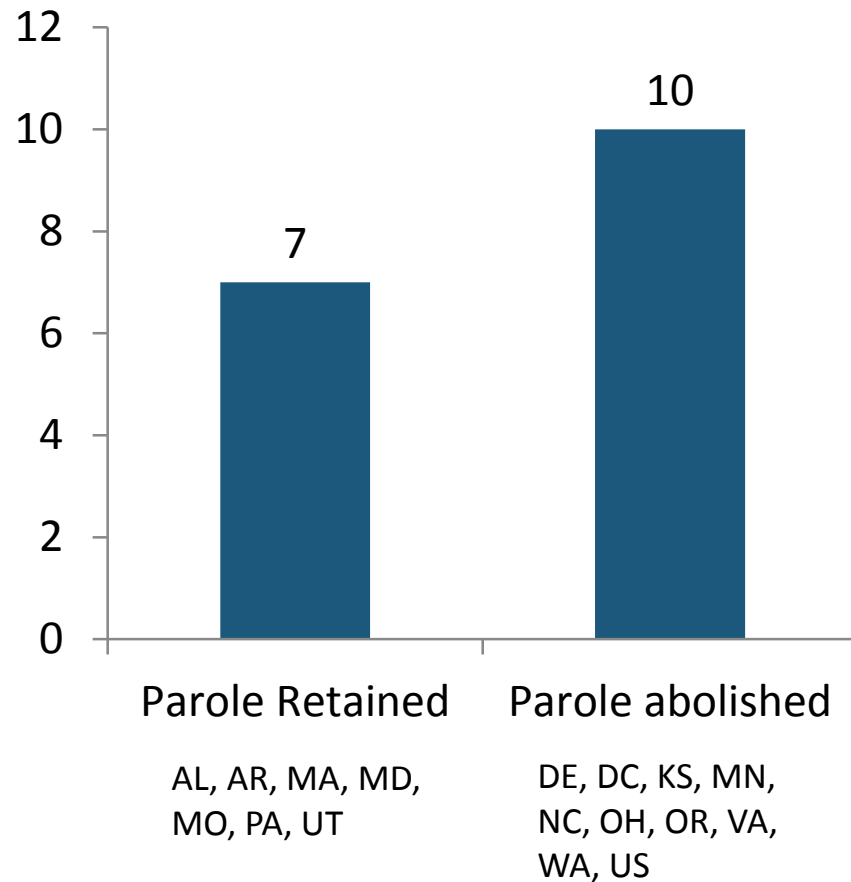
- Subject to appellate review
- Departure reasons required

- Limited or no appellate review
- Full judicial discretion in sentencing

Authority to Modify the Guidelines



Guidelines Often Coexist with Parole



Questions?

Contact Information:

Kelly Mitchell, Robina Institute
229 19th Avenue South
Minneapolis, MN 55455
(612) 626-4736
mitch093@umn.edu

Visit the Sentencing Guidelines Resource Center
sentencing.umn.edu