

SB 91

ACJC Pretrial and Sentencing Recommendations

Sponsor: Senator John Coghill

3-30-2016

Pretrial Recommendations

Pretrial Recommendations

1. **Expand the use of citations in place of arrest for lower-level nonviolent offenses**
2. Utilize risk-based decision-making
3. Implement pretrial supervision
4. Focus supervision resources on high-risk defendants

Cite vs. Arrest

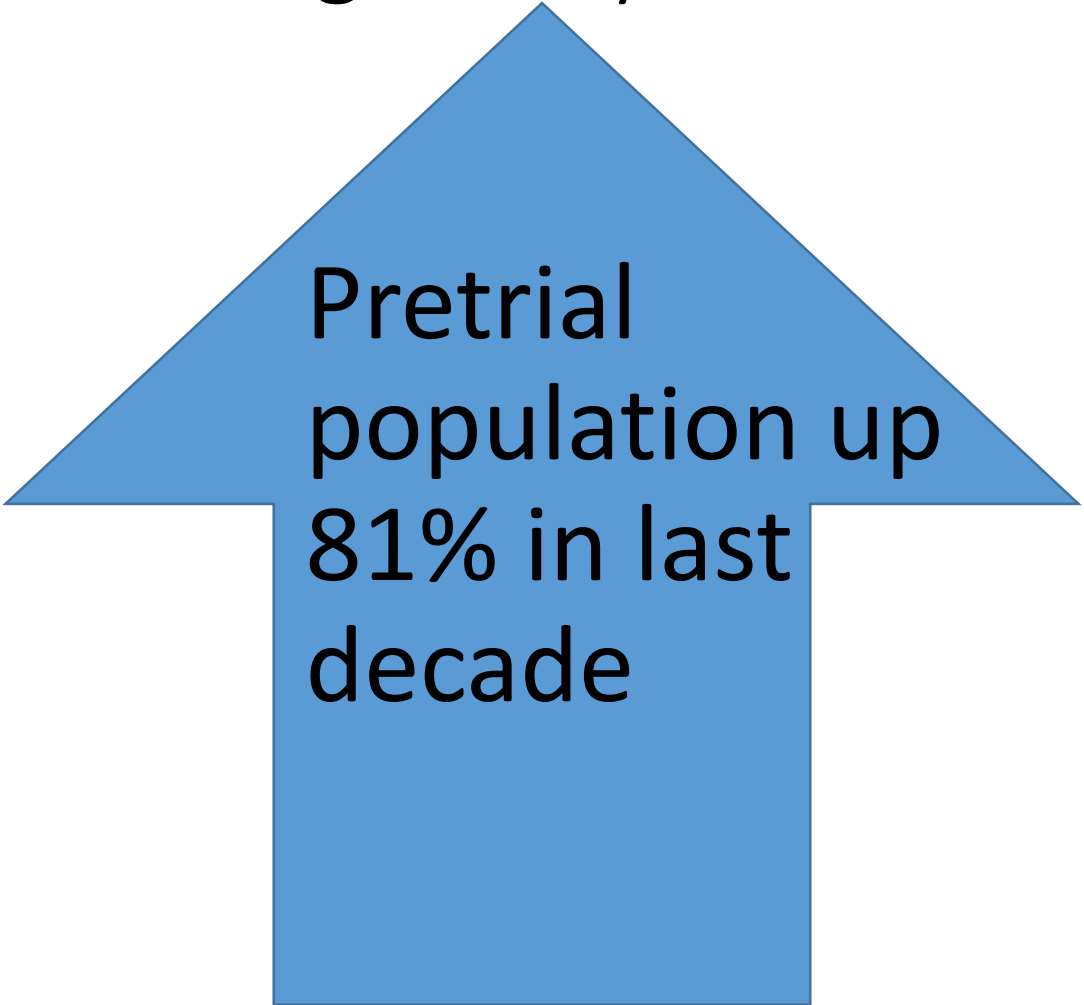
The Commission recommended expanding the use of citations in place of arrest for lower level non-violent offenses.

- 76% of pretrial admissions to prison are for misdemeanor charges.
- 56% of pretrial admissions to prison are for non-violent misdemeanor charges.

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Growth in Pretrial Population Linked to Large Number of Nonviolent Offenders Held Pretrial, Longer Stays Behind Bars



Pretrial
population up
81% in last
decade

- Half of pretrial defendants are detained on nonviolent charges, including misdemeanors
- Defendants staying longer pretrial than they used to

Research Shows: Detention Should be Linked to Risk, Limited for Low-Risk Defendants

- Pretrial risk assessment can help predict likelihood of pretrial failure (far better than a defendant's ability to pay bail); and
- Pretrial detention can lead to worse outcomes, particularly for low-risk defendants.

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Implement Pretrial Supervision

- Minimal supervision with court date reminders
- Basic supervision (in-office appointments, phone calls, field visits)
- Enhanced supervision (higher frequency contacts, drug and alcohol testing, electronic monitoring)

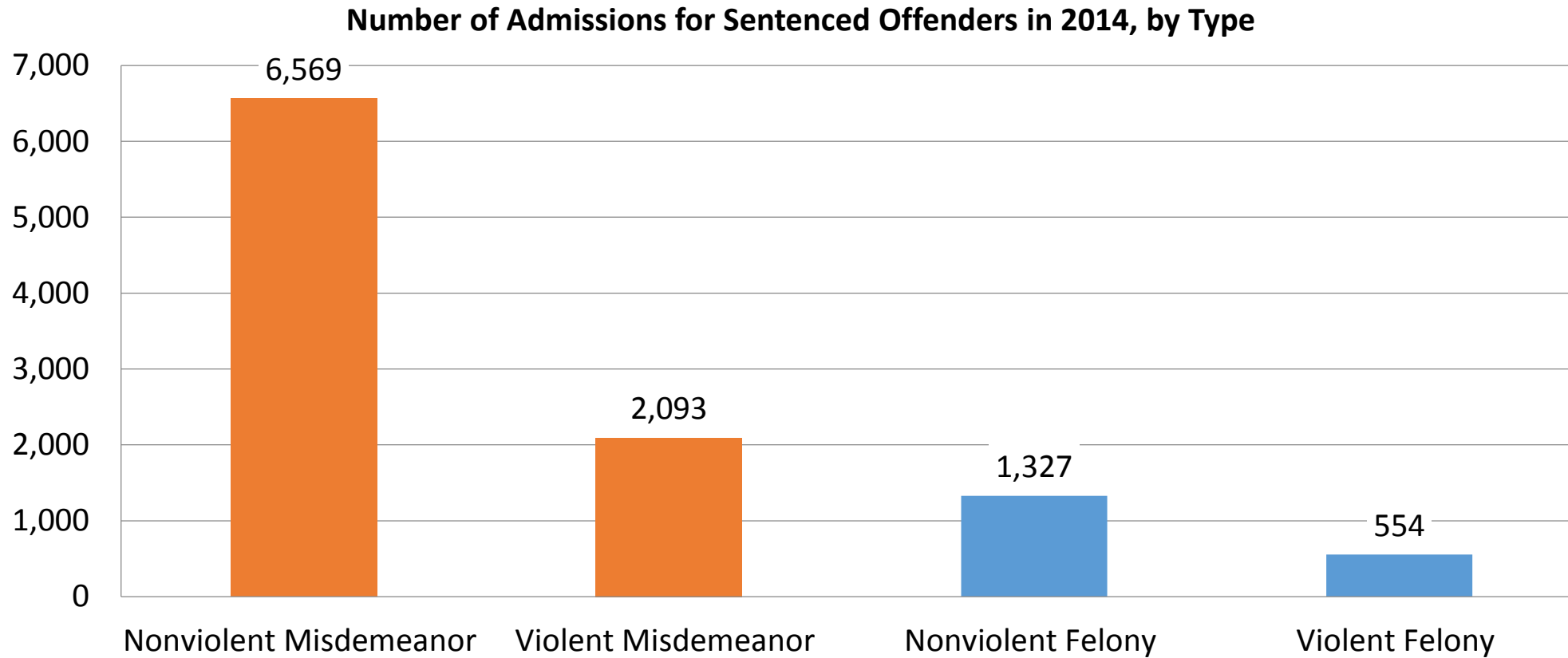
Research shows that enhanced supervision should be focused on those who are most likely to fail pretrial.

Sentencing Recommendations

Sentencing Recommendations

5. **Limit the use of prison for lower-level misdemeanor offenders**
6. Revise drug penalties to focus the most the severe punishments on higher-level drug offenders
7. Utilize inflation-adjusted property thresholds
8. Align non-sex felony presumptive ranges with prior presumptive terms
9. Expand and streamline the use of discretionary parole
10. Implement a specialty parole option for long-term geriatric inmates
11. Incentivize completion of treatment for sex offenders with an earned time policy

Vast Majority of Admissions to Prison Are Misdemeanants



Source: Alaska Dept. of Corrections

Sentencing Recommendations

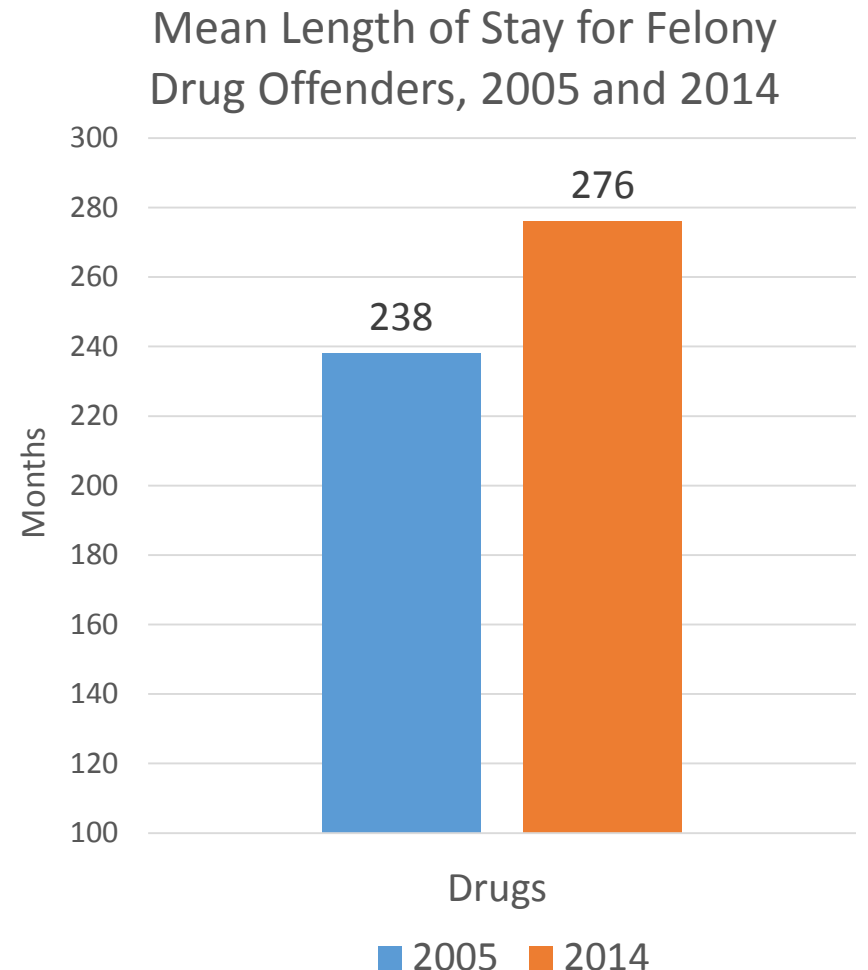
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Over Last Decade, More Offenders Entering Prison for Drug Crimes, and Staying Longer

Over past 10 years—

- admissions to prison for felony drug offenses has grown by 35%, driven in large part by a 68% increase in admissions for MICS 4 offenders; and
- length of stay for Alaska's felony drug offenders has increased by 16%.

Source: Alaska Dept. of Corrections



Research Shows: Long Prison Sentences for Drug Offenders Have Low Deterrent Value

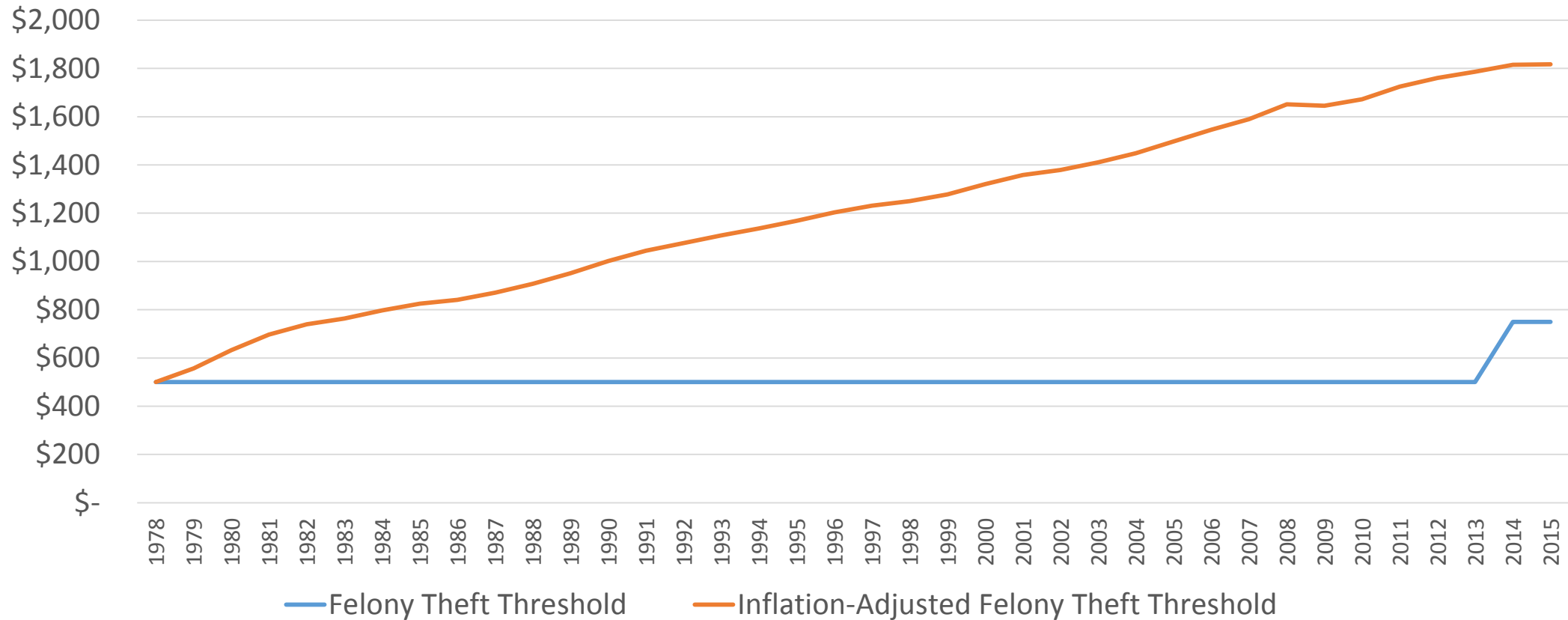
- There is no significant effect of longer prison stays on recidivism rates (i.e. staying in prison longer does not make an offender less likely to recommit a crime).
- In addition, some studies find that severe punishments such as felony convictions and prison terms may have criminogenic effects, causing offenders to be *more* likely to commit crimes in the future.

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Felony Theft Threshold in Alaska Has Not Kept Pace with Inflation

Alaska's Felony Theft Threshold and Inflation-Adjusted Value, 1978-2015



Source: Bureau of Labor Statistics

Research Shows: Raising the Felony Theft Threshold Has No Impact on Crime

- Between 2001 and 2011, 23 states raised their felony theft thresholds. In these 23 states, the change in threshold had no impact, up or down, in the state's overall property crime rate.
- In fact, property and larceny crime rates *fell* slightly more in the 23 states that raised their thresholds from 2001 to 2011 than the 27 states that did not.

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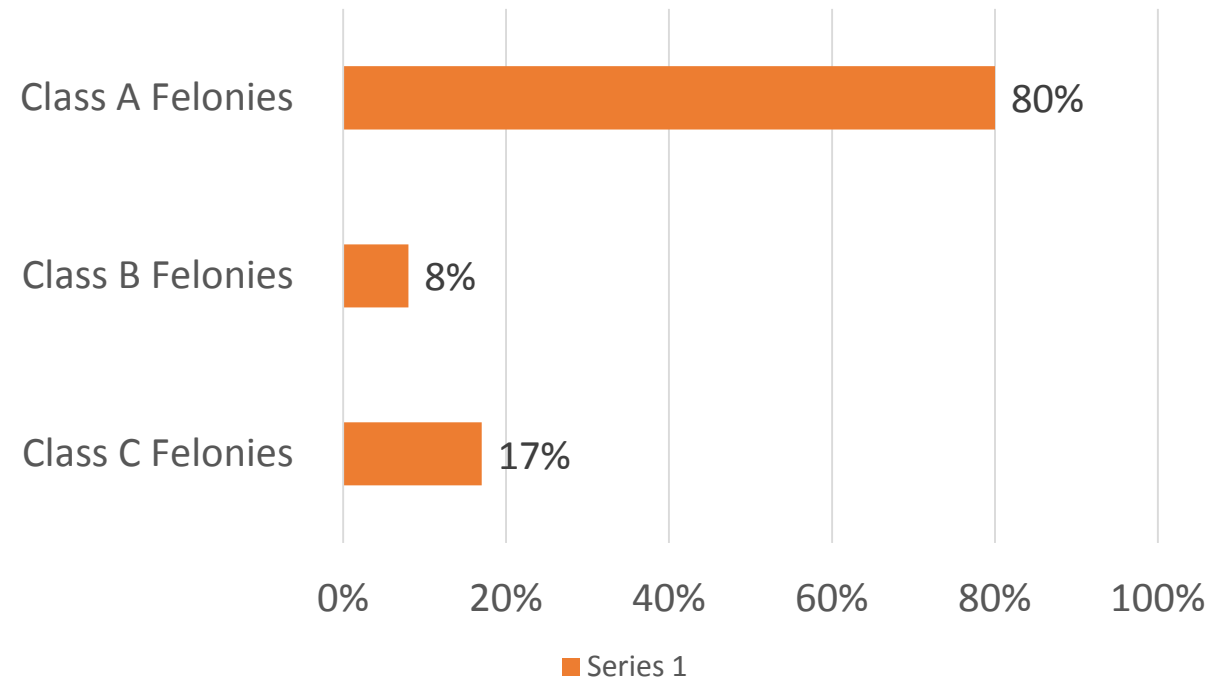
In 2005, Alaska Moved From Presumptive Terms to Presumptive Ranges

Felony Class	Presumptive Term (2005)	Alaska Current
A Felony		
First	[5] – 20 years	[5 – 8] – 20 years
First/Enhanced	[7] – 20 years	[7 – 11] – 20 years
Second	[10] – 20 years	[10 – 14] – 20 years
Third	[15] – 20 years	15 – 20 years
B Felony		
First	[n/a] – 10 years	[1 – 3] – 10 years
First/Enhanced	[n/a] – 10 years	[2 – 4] – 10 years
Second	[4] – 10 years	[4 – 7] – 10 years
Third	[6] – 10 years	6 – 10 years
C Felony		
First	[n/a] – 5 years	[0 – 2] – 5 years
Second	[2] – 5 years	[2 – 4] – 5 years
Third	[3] – 5 years	3 – 5 years

Change in Felony Sentencing Led to Increases in Length of Stay Behind Bars

From 2004 to 2014, average length of stay for:

- Class A felonies grew 80 percent;
- Class B felonies grew 8 percent; and
- Class C felonies grew 17 percent.



Source: Alaska Dept. of Corrections

Align Ranges with Prior Terms

Felony Class	Presumptive Term	Presumptive Ranges (Current)	ACJC Recommendation
A Felony			
First	[5] – 20 years	[5 – 8] – 20 years	[3 – 6] – 20 years
First/Enhanced	[7] – 20 years	[7 – 11] – 20 years	[5 – 9] – 20 years
Second	[10] – 20 years	[10 – 14] – 20 years	[8 – 12] – 20 years
Third	[15] – 20 years	15 – 20 years	13 – 20 years
B Felony			
First	[n/a] – 10 years	[1 – 3] – 10 years	[0 – 2] – 10 years
First/Enhanced	[n/a] – 10 years	[2 – 4] – 10 years	[1 – 3] – 10 years
Second	[4] – 10 years	[4 – 7] – 10 years	[2 – 5] – 10 years
Third	[6] – 10 years	6 – 10 years	4 – 10 years
C Felony			
First	[n/a] – 5 years	[0 – 2] – 5 years	[0 – 18 months susp.] – 10 years
Second	[2] – 5 years	[2 – 4] – 5 years	[1 – 3] – 5 years
Third	[3] – 5 years	3 – 5 years	2 – 5 years

Source: Alaska Criminal Justice Commission

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Parole Eligibility Applied Inconsistently

Current Parole Eligibility

Offense	No prior felony	One prior felony	Two prior felonies
Unclassified Felony	Eligible	Eligible	Eligible
A Felony	Not eligible	Not eligible	Not eligible
B Felony	Eligible	Not eligible	Not eligible
C Felony	Eligible	Eligible	Not eligible

Source: Alaska Criminal Justice Commission

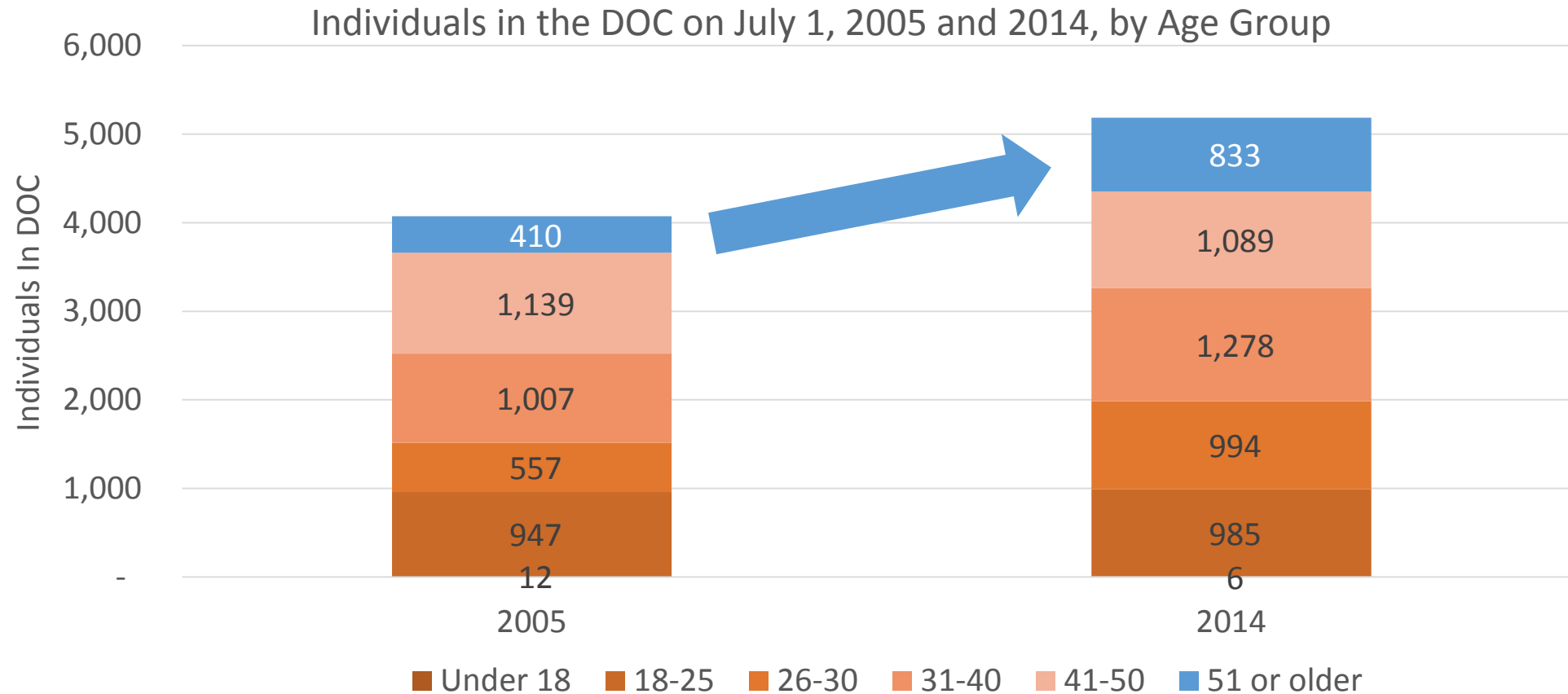
For Those Who are Eligible, Parole Underutilized

- On any given month in 2014, an average of 463 inmates were eligible for discretionary parole, and an average of only 15 parole hearings were held.
- Anecdotal reports point to long waits for parole hearings and archaic and confusing application procedures as reasons why offenders choose not to apply for parole.

Sentencing Recommendations

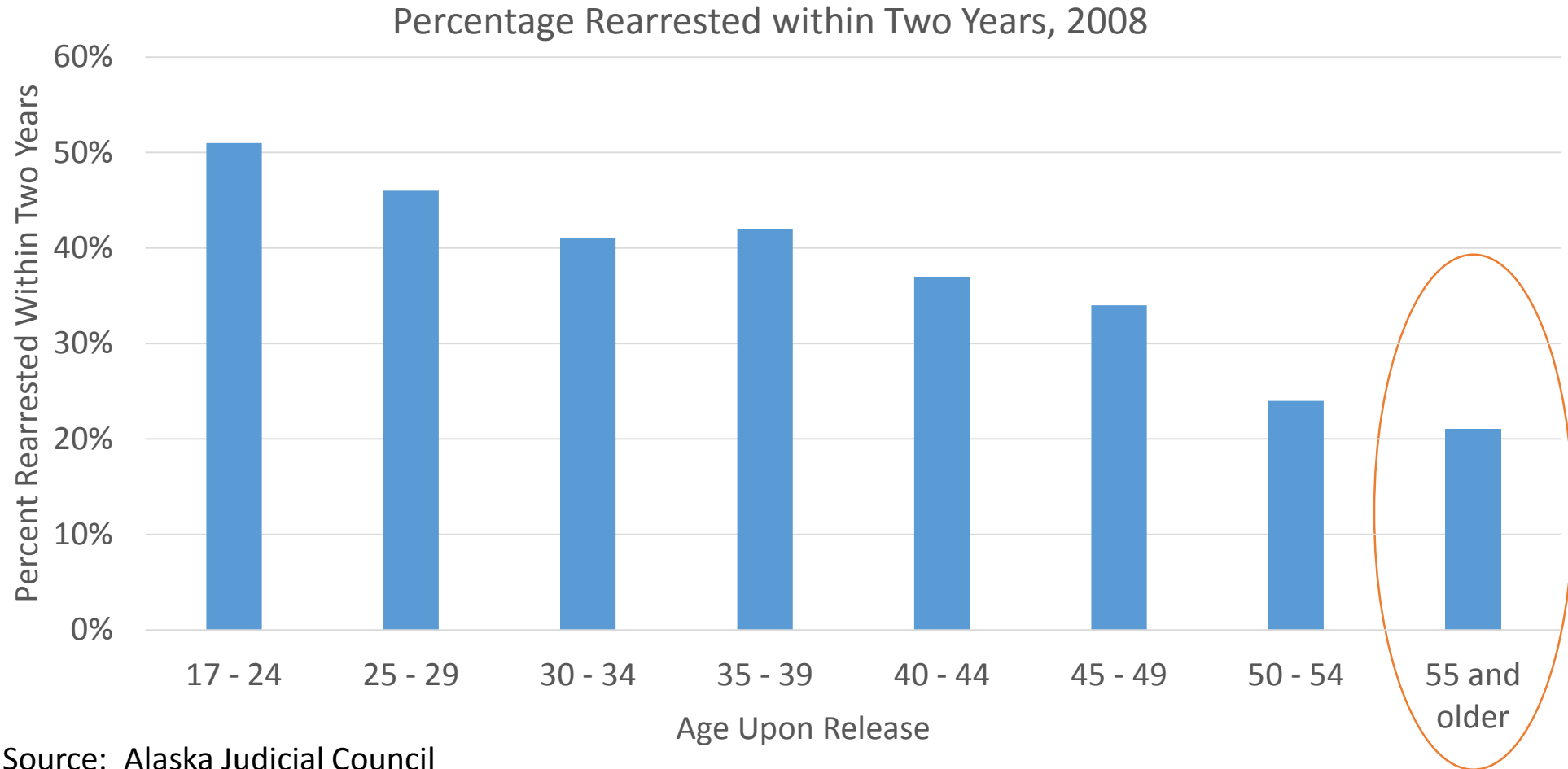
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Population of Oldest Offenders Has More than Doubled in Past 10 Years



Source: Alaska Dept. of Corrections

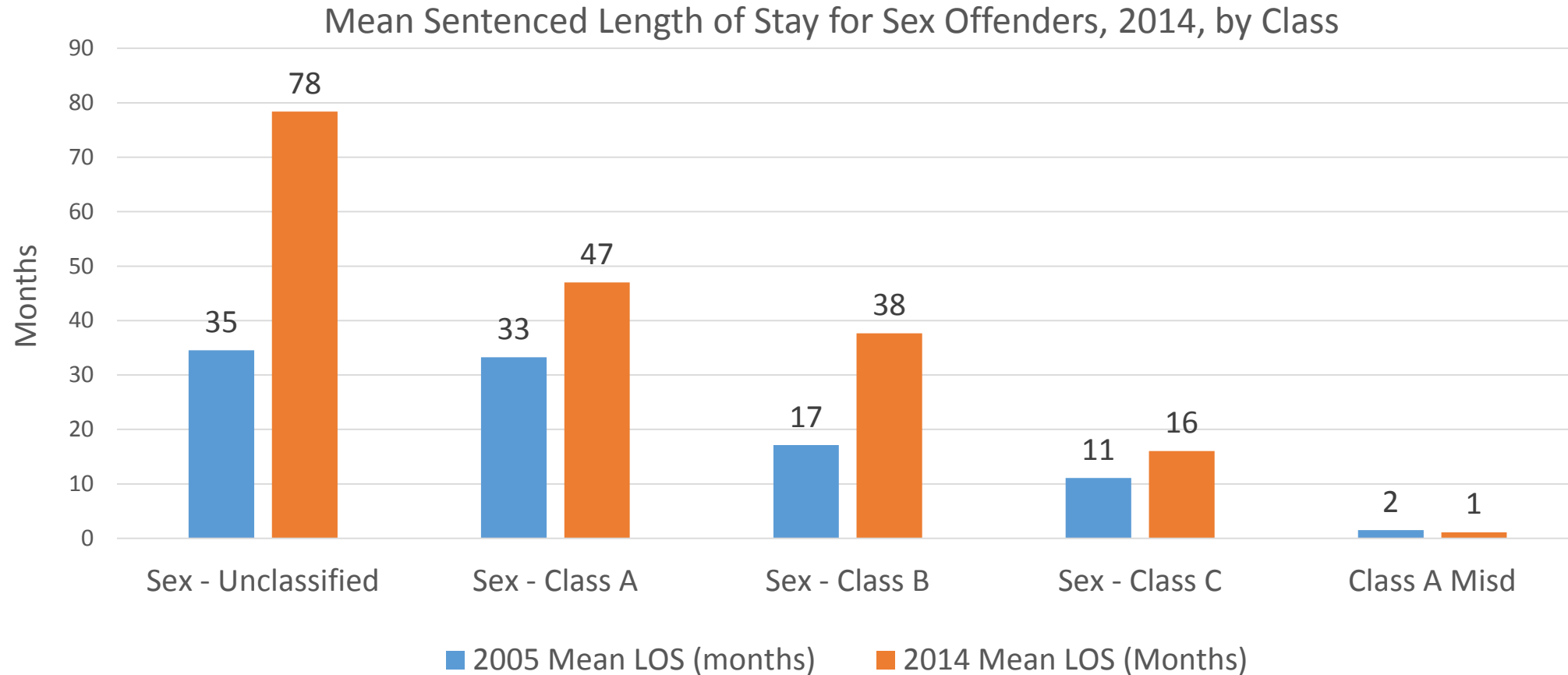
Alaska's Oldest Offenders Least Likely to Recidivate Upon Release



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Sex Offenders Staying 86 Percent Longer Behind Bars Over Past 10 Years



Source: Alaska Dept. of Corrections

Sex Offender Treatment Proven to Work, But Underfunded in Alaska

- A cost-benefit analysis compiling all credible evaluations of sex offender treatment found that in-prison treatment had a cost-benefit ratio of \$1.87 (i.e. for every \$1 spent on treatment, there is a \$1.87 dollar benefit returned to the state and state residents).
- However, in Alaska, the need for in-prison sex offender treatment far outstrips the supply. Currently, the waitlist for treatment is at least four years long.