



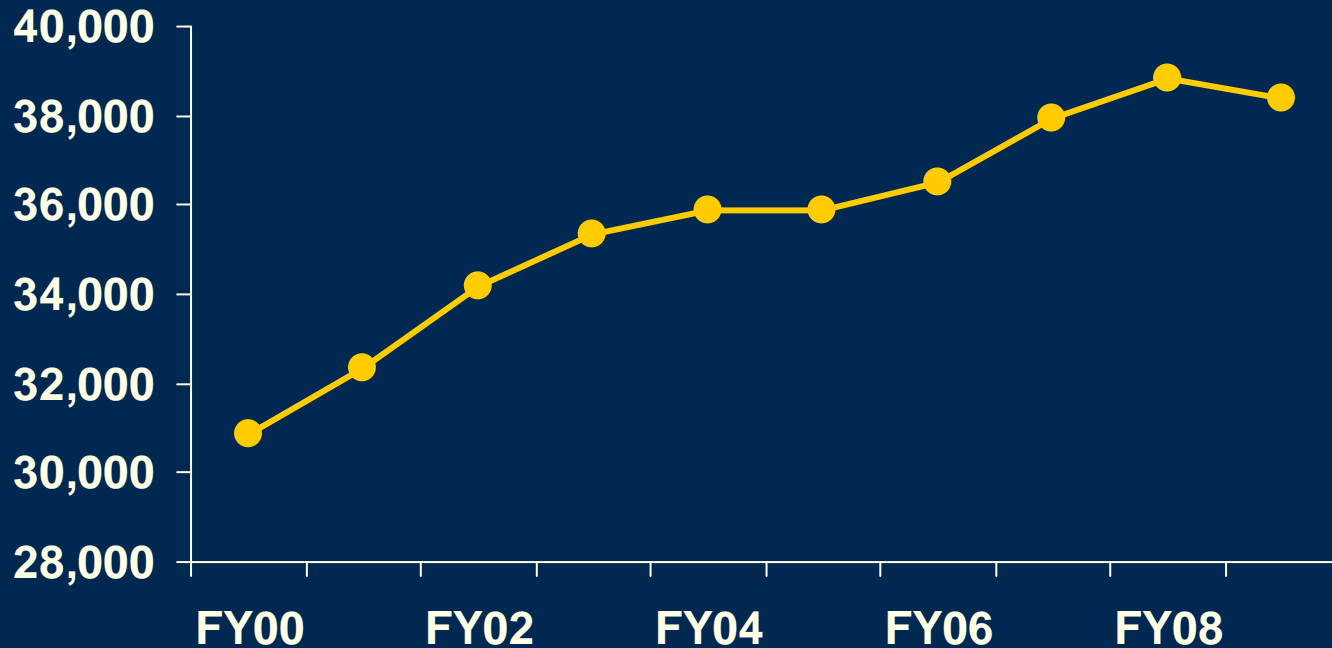
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*Impact of Technical Violators  
on Virginia's Prison Population*

**Presentation at the  
BJS/JRSA 2009 National Conference  
St. Louis, Missouri**

**Meredith Farrar-Owens  
Virginia Criminal Sentencing Commission**

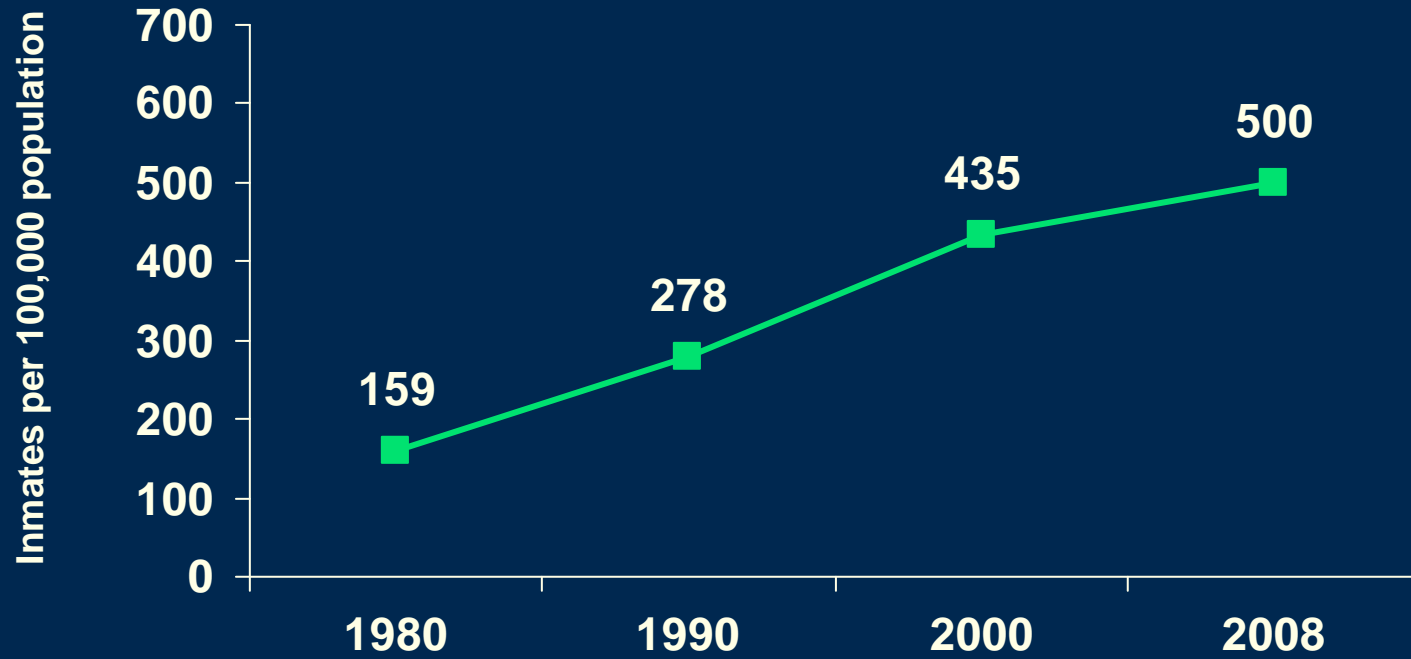
## Virginia's State-Responsible Inmate Population FY2000 – FY2009



**State-responsible inmates include inmates in DOC facilities and state-responsible inmates housed in local and regional jails.**

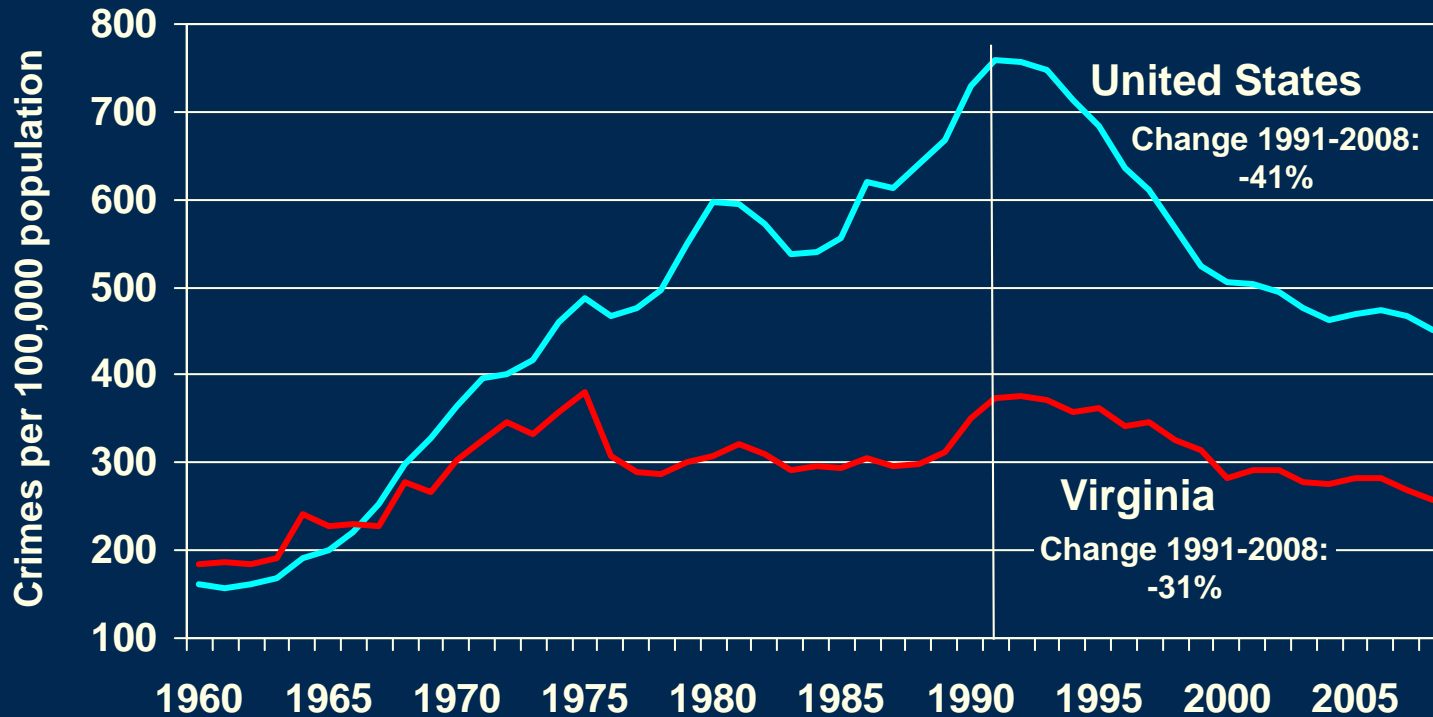


# Virginia's Prison Incarceration Rate: State-responsible inmates per 100,000 population



# Violent Index Crime Rates in Virginia and the US, 1960 – 2008

Violent index crimes are murder/non-negligent manslaughter, forcible rape, robbery and aggravated assault



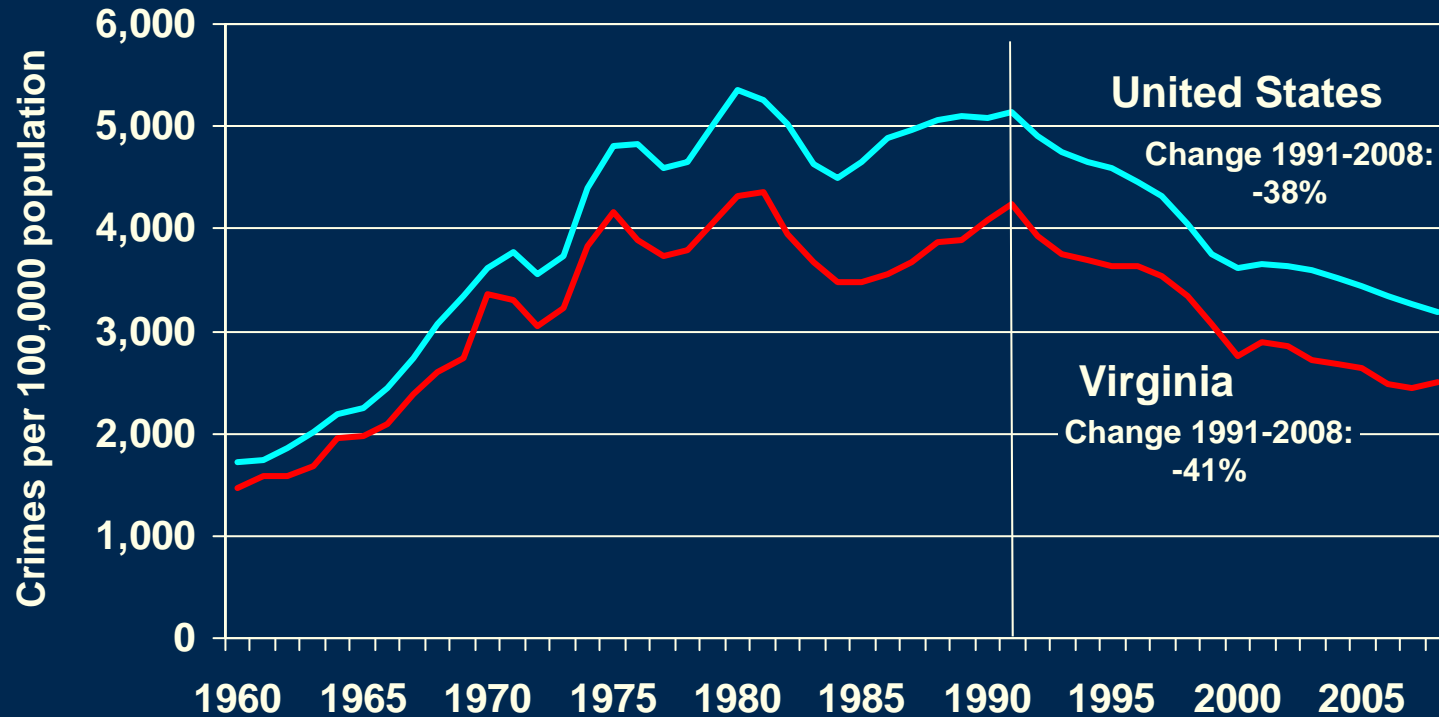
Note: 2008 figures are preliminary.



Virginia Criminal Sentencing Commission

# Property Index Crime Rates in Virginia and the US, 1960 – 2008

Property index crimes are burglary, larceny and motor vehicle theft

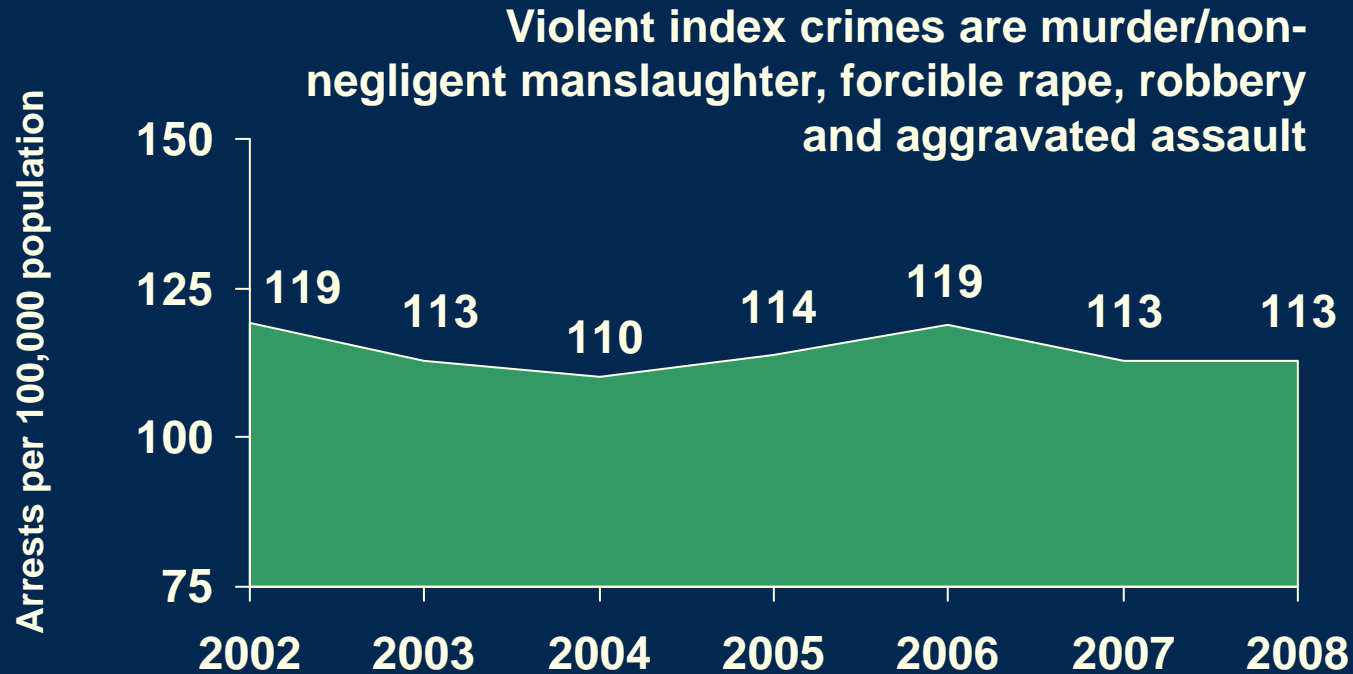


Note: 2008 figures are preliminary.



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# Arrest Rates for Violent Crimes in Virginia, 2002 – 2008

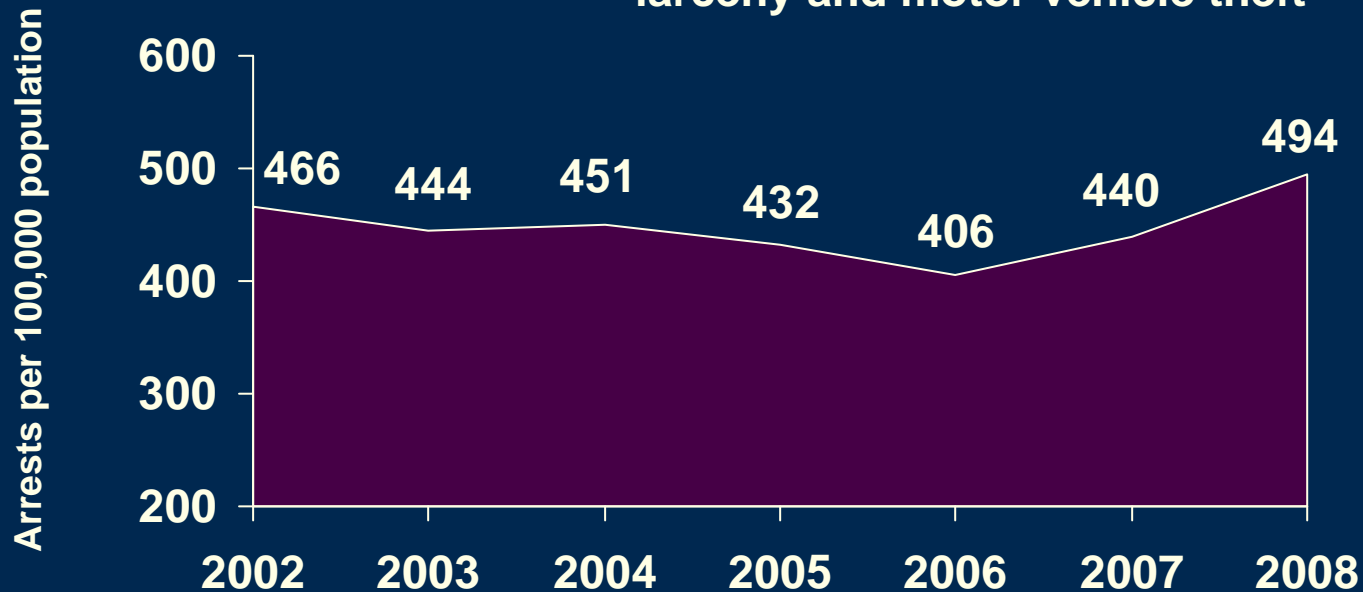


Note: 2008 figures are preliminary.



# Arrest Rates for Property Crimes in Virginia, 2002 – 2008

Property index crimes are burglary, larceny and motor vehicle theft



Note: 2008 figures are preliminary.



# Arrest Rates for Drug Crimes in Virginia, 2002 – 2008

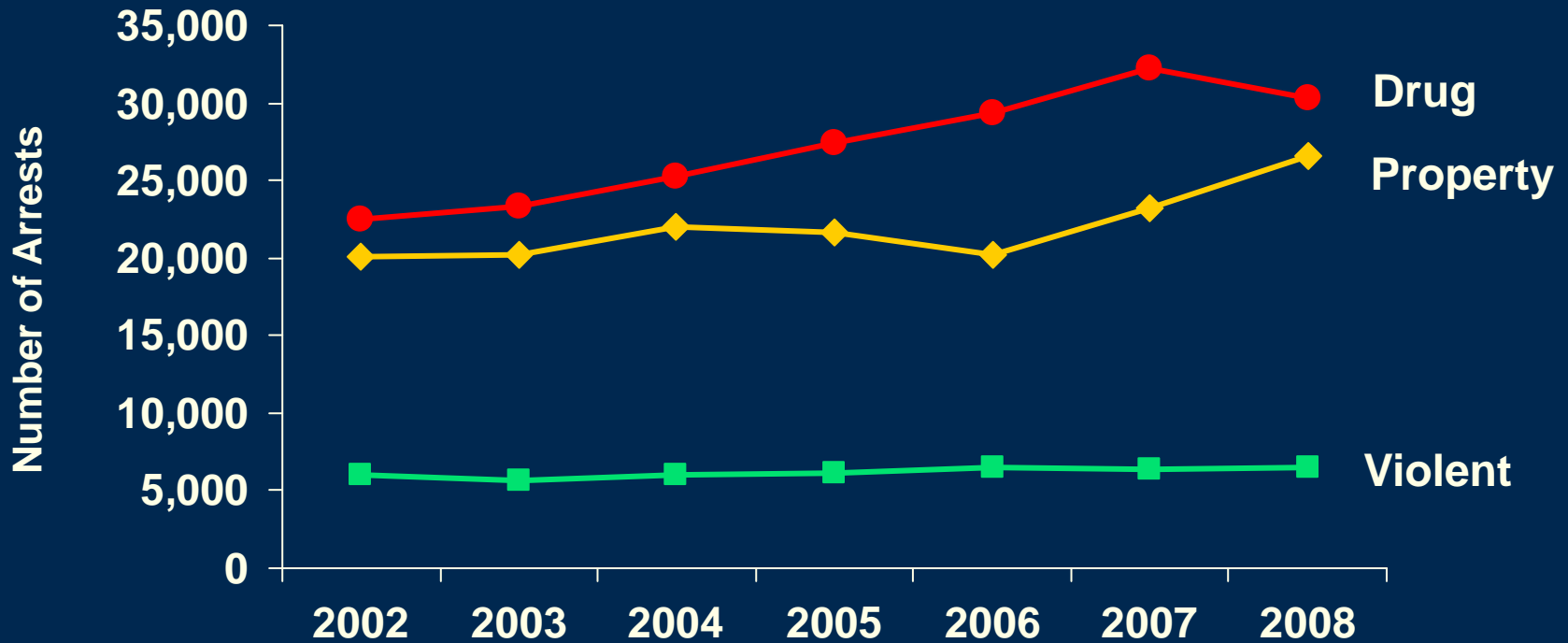
Drug crimes are not included in official crime rate statistics



Note: 2008 figures are preliminary.

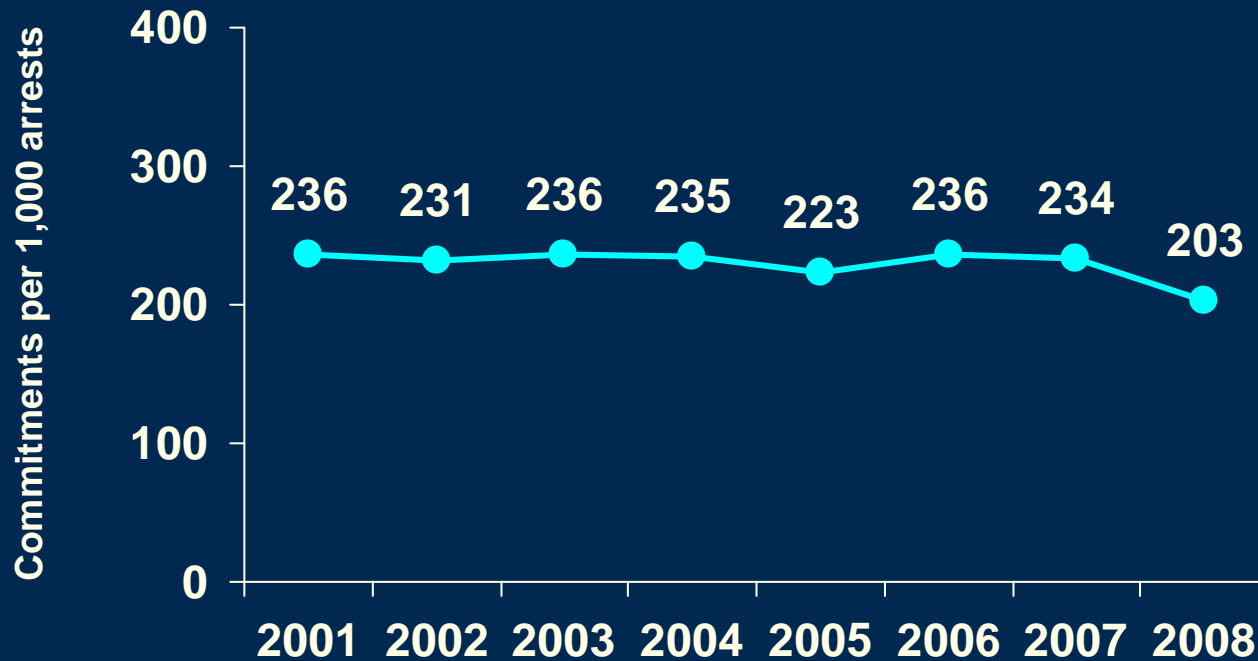


## Arrests of Adults (Age 18+) in Virginia, 2002 – 2008



VIRGINIA	Violent (Index Crimes)	Property (Index Crimes)	Drug
Change 2002 – 2008	+8.3%	+32.1%	+34.8%
Change 2007 – 2008	+2.2%	+14.5%	-6.0%

## Prison Commitments in Virginia per 1,000 Adult Arrests Made the Previous Year



Note: 2008 figure is preliminary.



# *Why has Virginia's prison population grown?*

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- Virginia's prison incarceration rate (state inmates per 100,000 population) increased significantly between 1990 and 2008.
  
- However,
  - violent and property crime rates have declined significantly since their peak in the early 1990s,  
  
and
  
  - judges have not increased the rate at which they sentence offenders to prison.



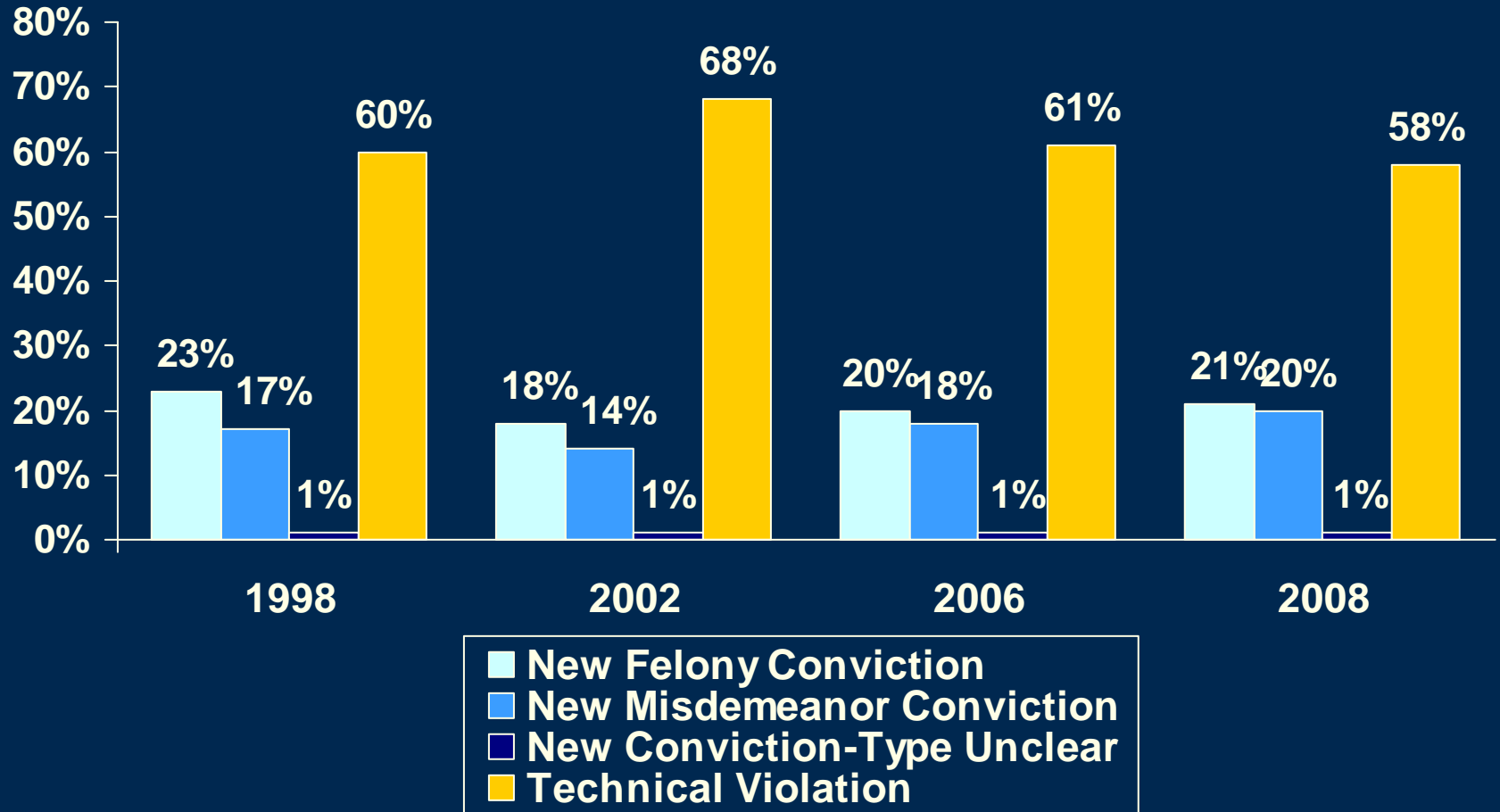
# *Why has Virginia's prison population grown?*

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- **Drug arrests**
  - **The drug arrest rate grew dramatically from 2002 through 2007.**
  - **Although the drug arrest rate declined in 2008, it remains significantly higher than in 2002.**
  
- **Technical violators**
  
- **Longer lengths of stay for violent offenders under truth-in-sentencing**



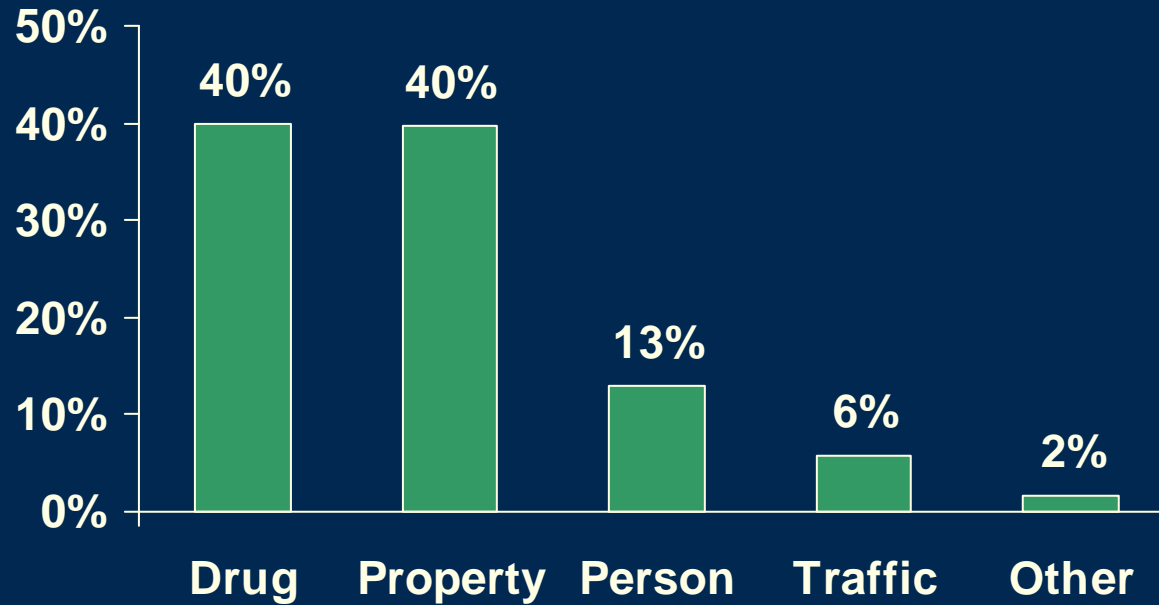
# Felony Offenders Returned to Court for Violations of Community Supervision: Type of Violation



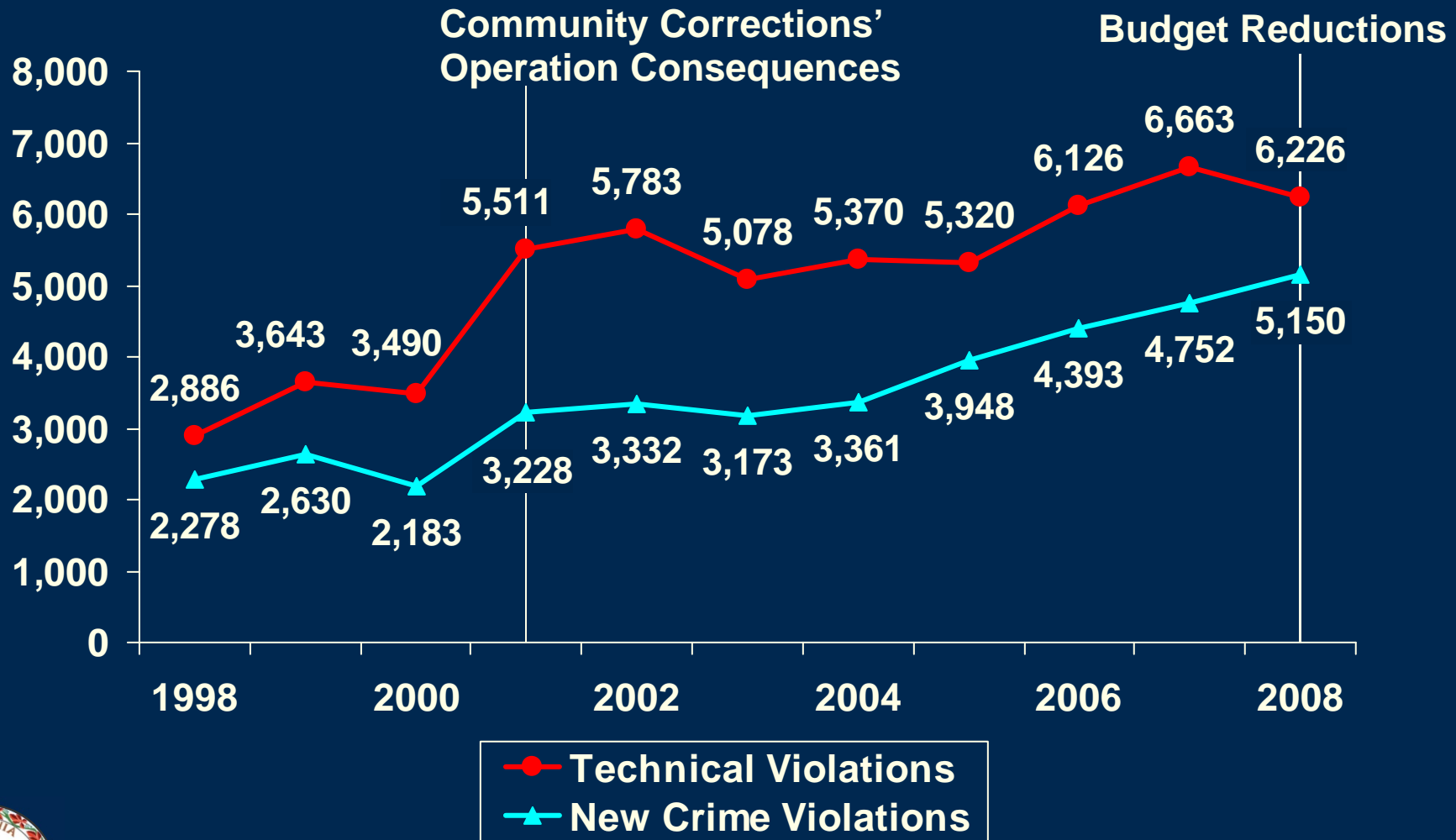
# Reason Cited for Violations of Community Supervision FY2008



# Felony Offenders Returned to Court for Technical Violations: Type of Original Offense FY2008

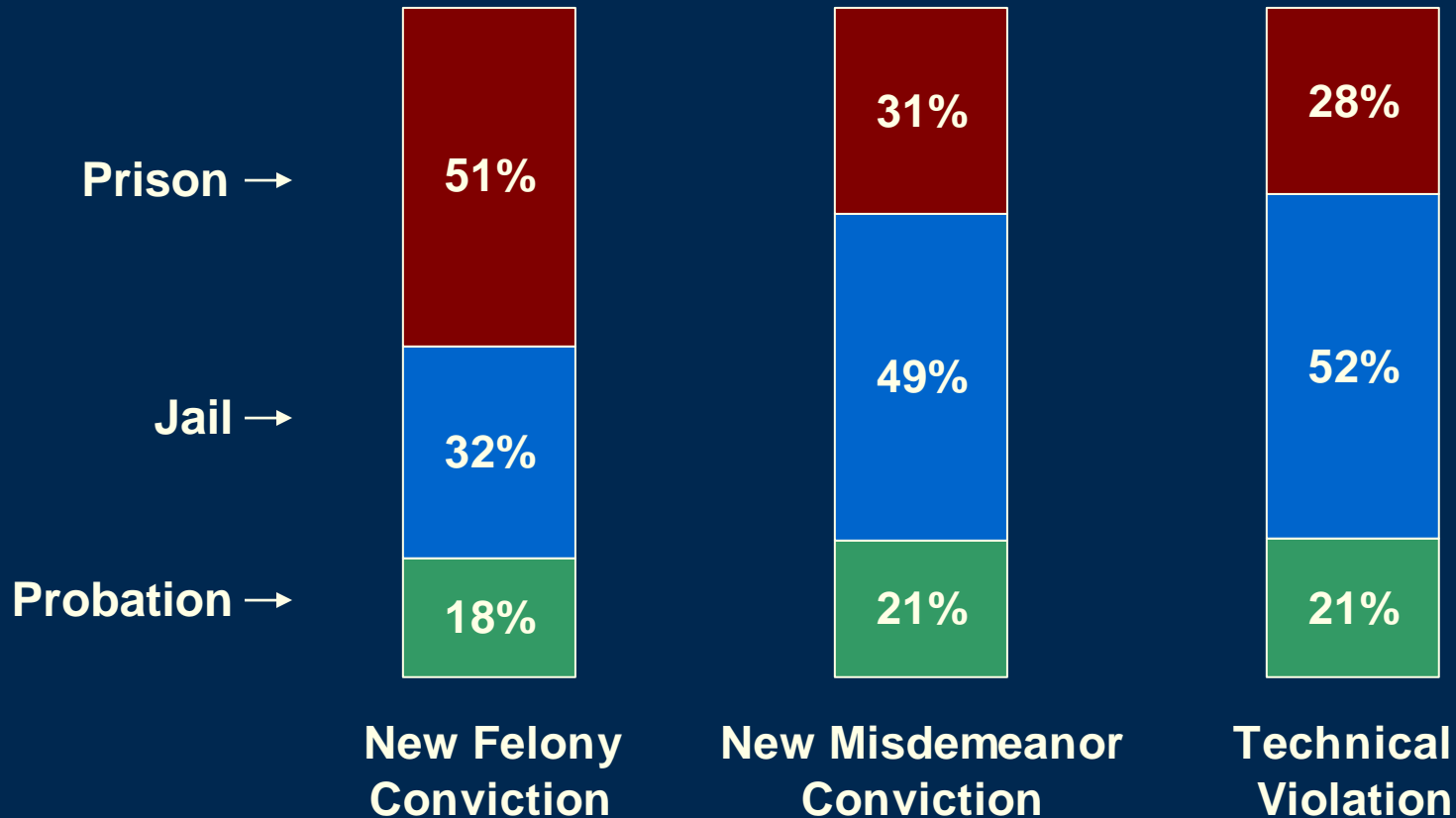


# Felony Offenders Returned to Court for Violations of Community Supervision, FY1998 - FY2008

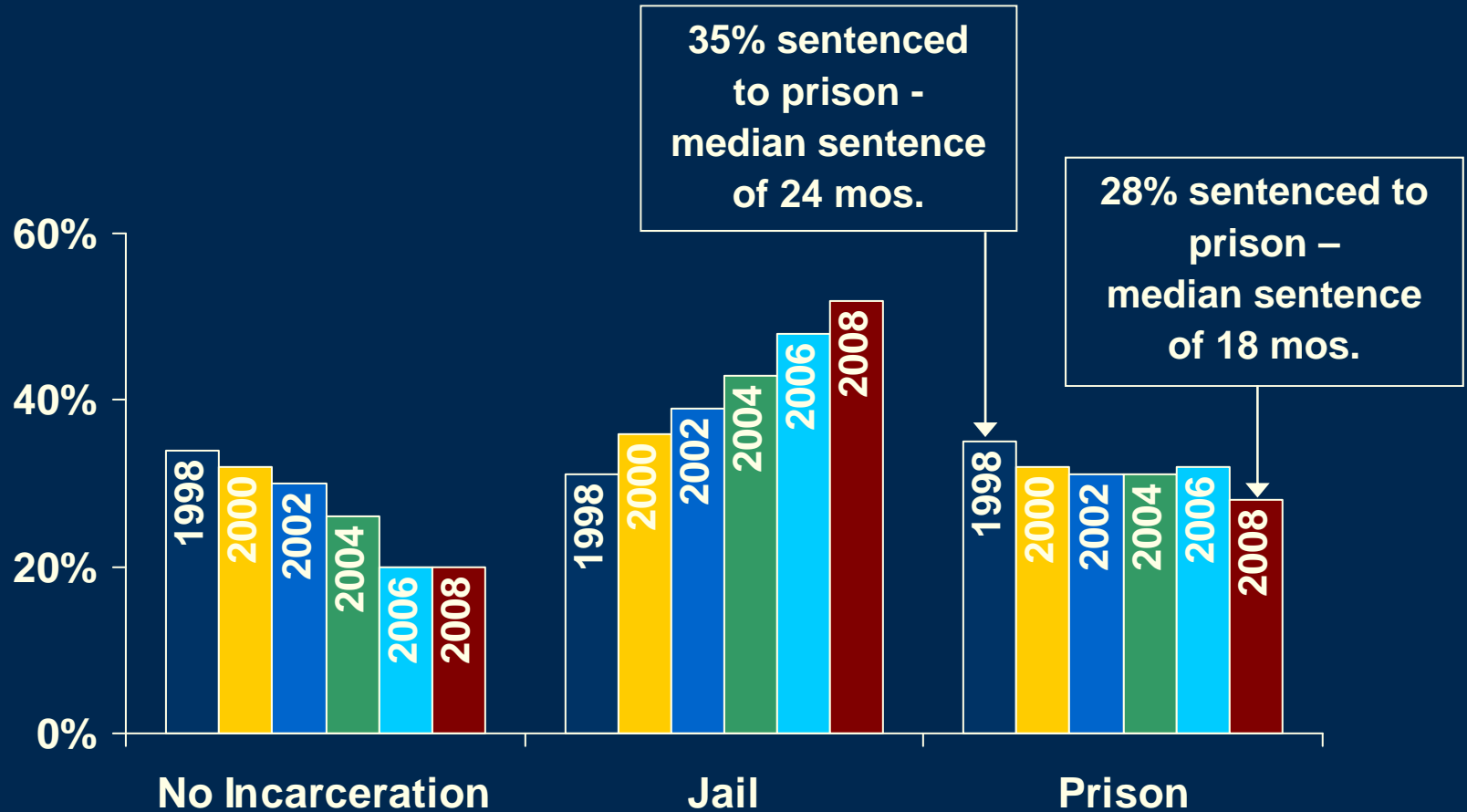


Virginia Criminal Sentencing Commission

# Felony Offenders Returned to Court for Violations of Community Supervision: Type of Disposition FY2008



# Felony Offenders Returned to Court for Technical Violations: Type of Disposition, FY1998 - FY2008



# Technical Violators Sentenced to Prison or Jail, FY2002-FY2008

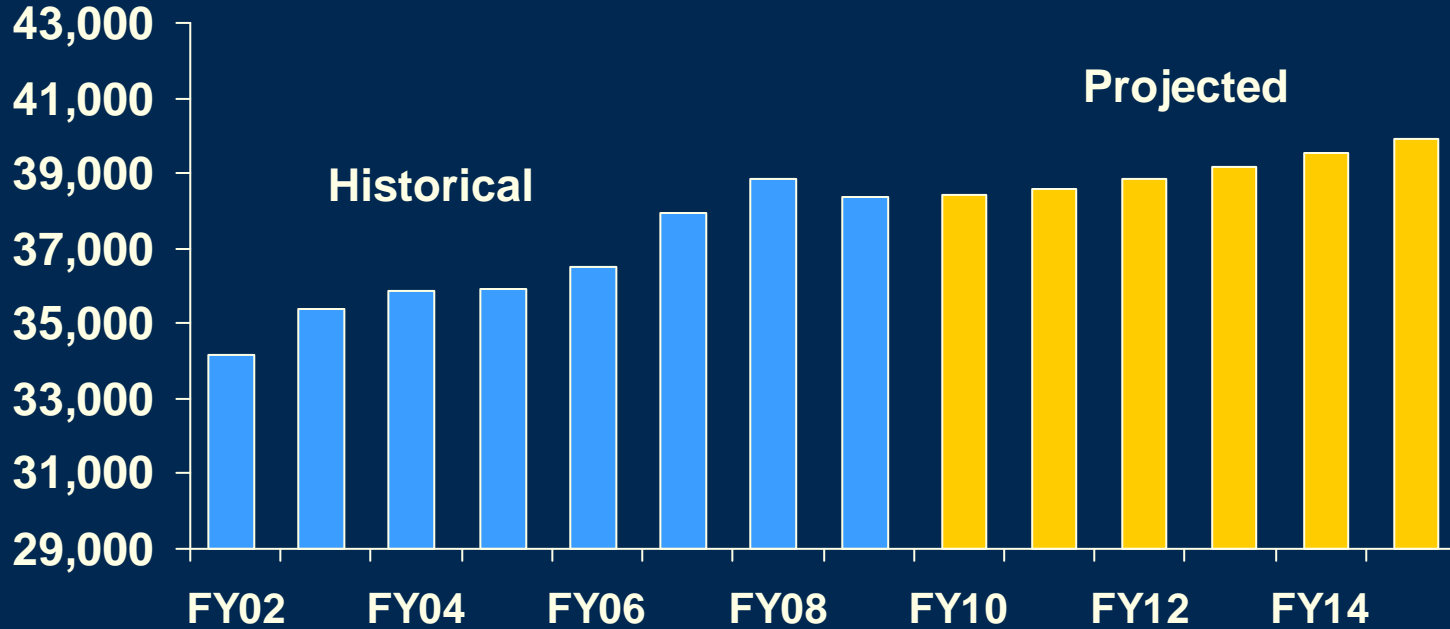


# New Commitments to the Virginia Department of Corrections

	Commitments with Probation Violations (New Crime or Technical)		Commitments without Probation Violations		Total New Commitments
CY2000	3,072		6,465		9,537
CY2001	4,285		6,171		10,456
CY2002	5,504		5,704		11,208
CY2003	5,691	Change: + 120%	5,766	Change: - 3.0%	11,457
CY2004	5,732		5,838		11,570
CY2005	5,988		5,916		11,904
CY2006	6,754		6,282		13,036
CY2007	6,317		6,770		13,087
CY2008					12,252



# State-Responsible Inmate Forecast



Year	June 30	Change	Forecast:	Year	June 30	Change
FY02	34,171	5.6%		FY10	38,429	0.1%
FY03	35,363	3.5%		FY11	38,597	0.4%
FY04	35,879	1.5%		FY12	38,857	0.7%
FY05	35,900	0.1%		FY13	39,176	0.8%
FY06	36,486	1.6%		FY14	39,531	0.9%
FY07	37,957	4.0%		FY15	39,910	1.0%
FY08	38,826	2.3%				
FY09	38,387	-1.1%				
<b>Avg. growth 2.2%</b>				<b>Avg. growth 0.7%</b>		

<b>Year</b>	<b>Total State-Responsible Inmate Forecast</b>	<b>Technical Violator Inmate Forecast</b>
<b>FY2010</b>	<b>38,429</b>	<b>2,276</b>
<b>FY2011</b>	<b>38,597</b>	<b>2,286</b>
<b>FY2012</b>	<b>38,857</b>	<b>2,301</b>
<b>FY2013</b>	<b>39,176</b>	<b>2,320</b>
<b>FY2014</b>	<b>39,531</b>	<b>2,341</b>
<b>FY2015</b>	<b>39,910</b>	<b>2,363</b>

**Technical violators are expected to make up 6% of the state-responsible inmate population.**



## 2003 Legislative Directive

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**Develop, with due regard for public safety, discretionary sentencing guidelines for probation violators returned to court for reasons other than a new criminal conviction;**

**Determine recidivism rates and patterns for these offenders; and**

**Evaluate the feasibility of integrating a risk assessment instrument into the sentencing guidelines for probation violators**

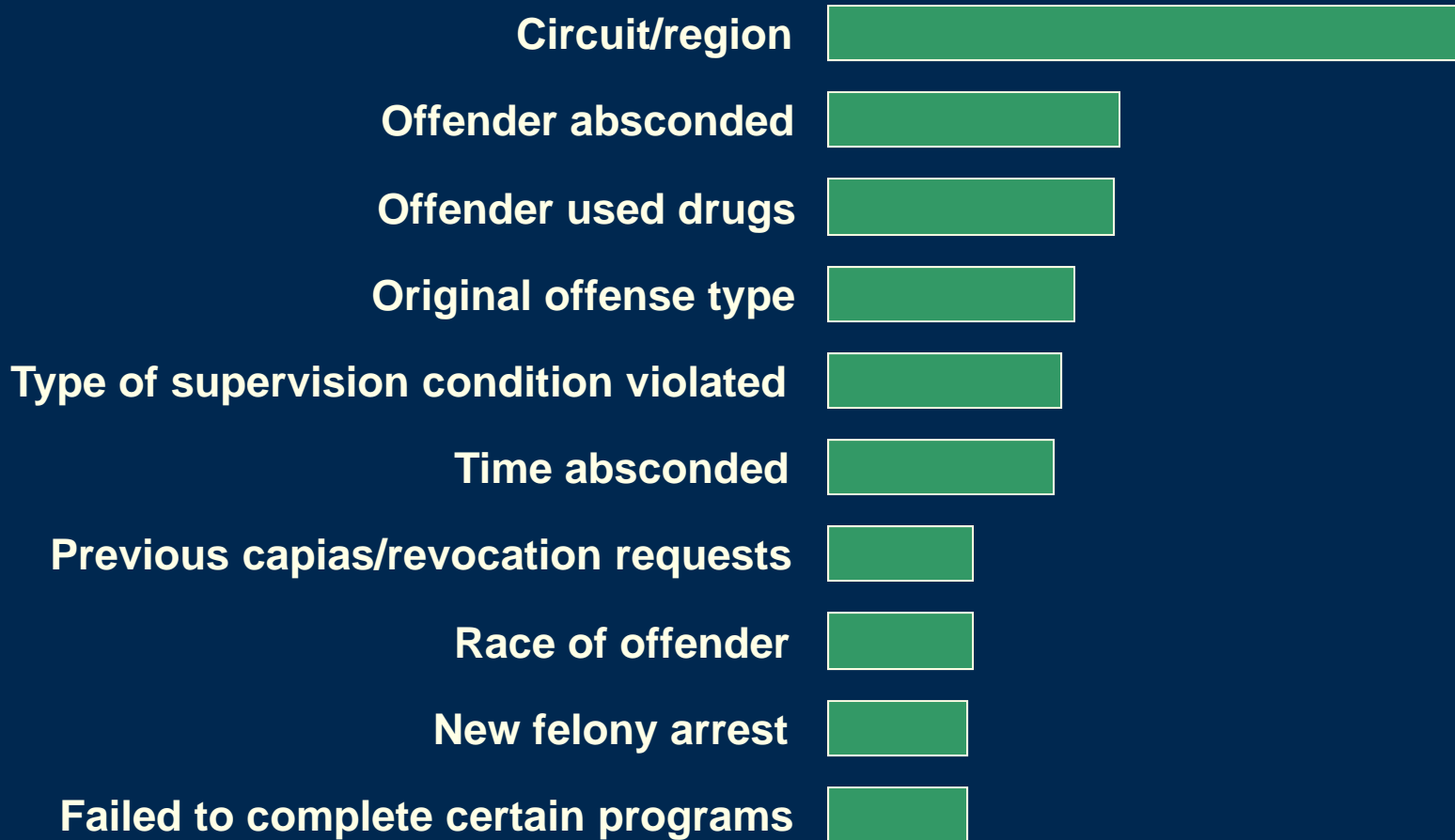


## Probation Violation Guidelines

- The same methodology used to create historically-based sentencing guidelines for felony offenses was applied to technical violation cases.
- Due to considerable variation in sentencing patterns for probation violators, modeling historical sanctioning practices was challenging.
  - It was difficult to identify factors used consistently by judges statewide to base their sentencing decisions for violators.
- Sentencing guidelines for technical violators were implemented statewide July 1, 2004.



# Offenders Returned to Court for Technical Violations: Relative Importance of Significant Factors – Incarceration In/Out Decision



# Nature of Risk Assessment

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- **Criminal risk assessment estimates an individual's likelihood of repeat criminal behavior and classifies offenders based on the relative risk of such behavior.**
- **In practice, risk assessment is typically an informal process in the criminal justice system.**
- **Empirically-based risk assessment, however, is a formal process using knowledge gained through observation of actual behavior within groups of individuals.**



# Nature of Risk Assessment

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- **The Commission's methodological approach to studying criminal behavior is identical to that used in other scientific fields such as medicine.**
- **In medical studies, individuals are studied in an attempt to identify the correlates of the development of diseases.**
- **Medical risks profiles do not perfectly fit every individual.**
  - **For example, some heavy smokers may never develop lung cancer.**



# Nature of Risk Assessment

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- No risk assessment research can ever predict a given outcome with 100% accuracy.
- The goal is to produce an instrument that is broadly accurate and provides useful additional information to decision makers.
- Individual factors by themselves do not place an offender in a high-risk group.
  - The presence or absence of certain combinations of factors determine the risk group of the offender.



# Risk Assessment for Technical Violators

- The goal is to identify low-risk offenders who could be safely recommended for sanctions other than traditional incarceration in jail or prison.
- The Commission elected to measure recidivism as any new crime arrest.
- The Commission selected a follow-up period of 18 months.
  - The majority of offenders who violate do so within 18 months of release to the community.



# Relative Importance of Significant Factors – Recidivism following a Technical Violation



**Risk assessment for technical violators  
has not yet been implemented**

**Virginia's Task Force on Alternatives for  
Nonviolent Offenders (2009) has recommended  
statewide implementation of risk assessment for  
this population of offenders**



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*Risk Assessment for  
Nonviolent Offenders*



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## Independent Evaluation by the National Center for State Courts – Virginia’s Risk Assessment Pilot Project

- ★ Conducted interviews with judges, prosecutors, defense attorneys, and probation officers
- ★ Completed statistical validation study of risk assessment instrument via recidivism analysis of diverted felons
- ★ Concluded that the risk assessment instrument is an effective tool for predicting recidivism
- ★ Recommended that the risk assessment instrument be refined and retested with more recent felony cases and expanded to all jurisdictions



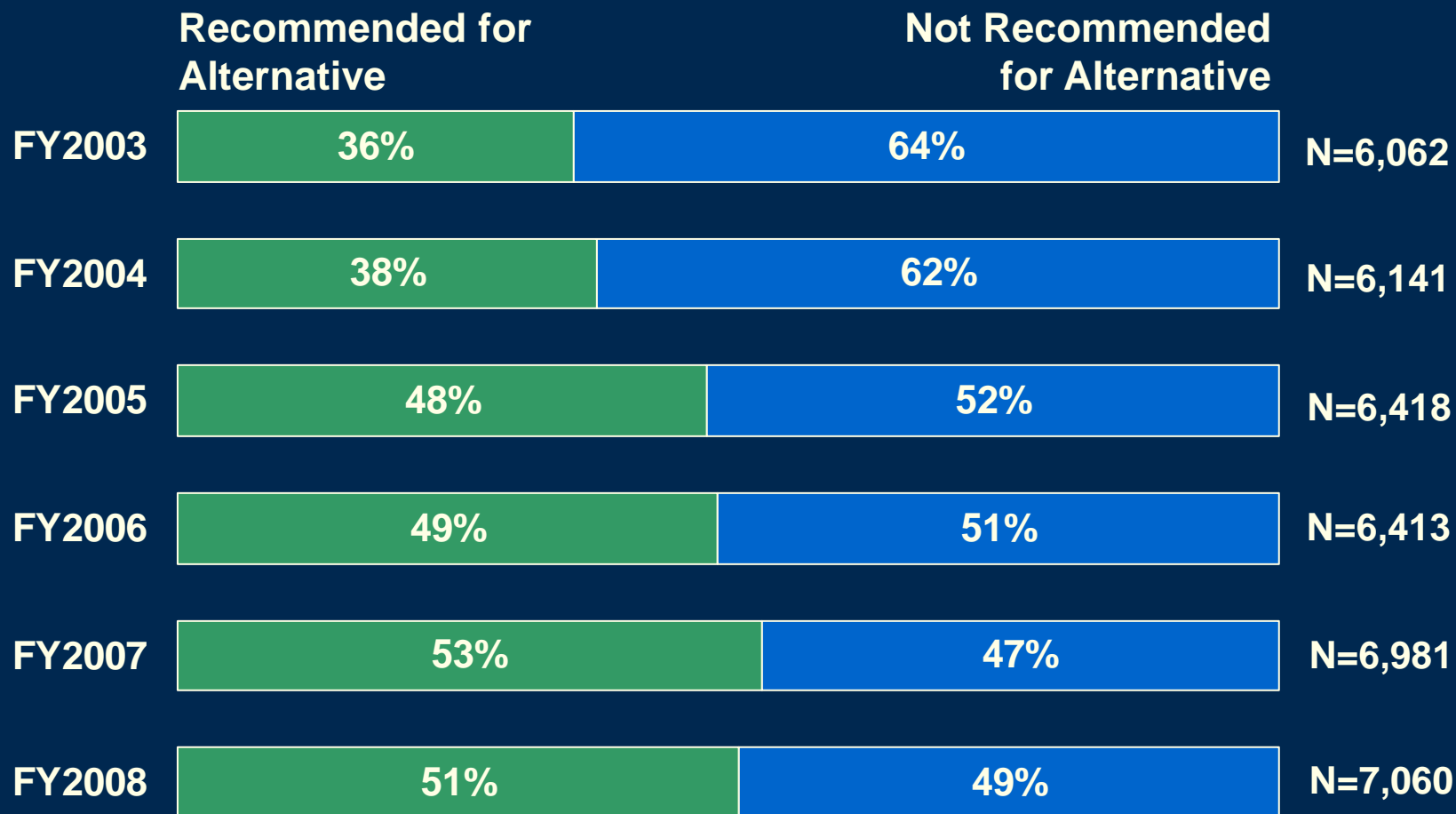
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## Independent Evaluation by the National Center for State Courts – Virginia's Risk Assessment Pilot Project

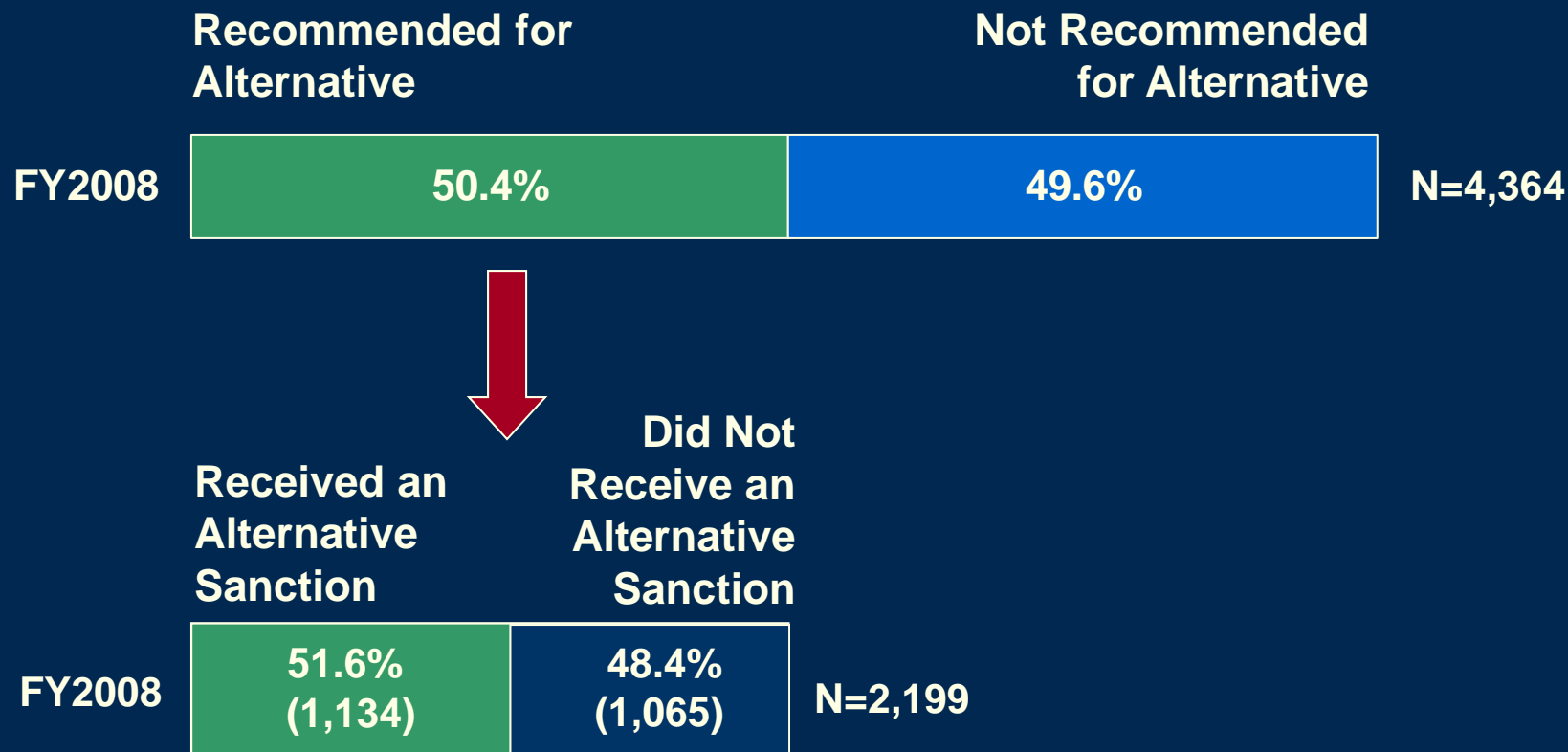
- ★ Conducted a cost-benefit analysis of the risk assessment instrument
- ★ Benefits of reduced prison (363 felons diverted) and jail (192 felons diverted) populations saved an estimated \$8.7 million dollars
- ★ Cost of alternative sanctions was \$6.2 million. An additional \$1 million in costs incurred when offenders became recidivists
- ★ Net benefit in pilot sites of \$1.5 million
- ★ If expanded statewide, estimated net benefit of \$3.7 to \$4.5 million in reduced costs



# Virginia's Nonviolent Offender Risk Assessment (as applied to those recommended for jail or prison incarceration)



# Virginia's Nonviolent Offender Risk Assessment (as applied to those recommended for prison incarceration\*)



\* Sentencing guidelines midpoint is one year or more.



