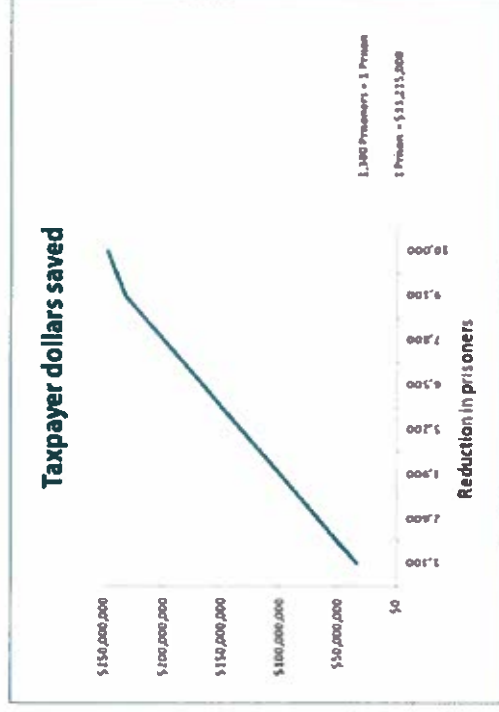


# CAPPS report: 10,000 fewer Michigan prisoners: Strategies to reach the goal

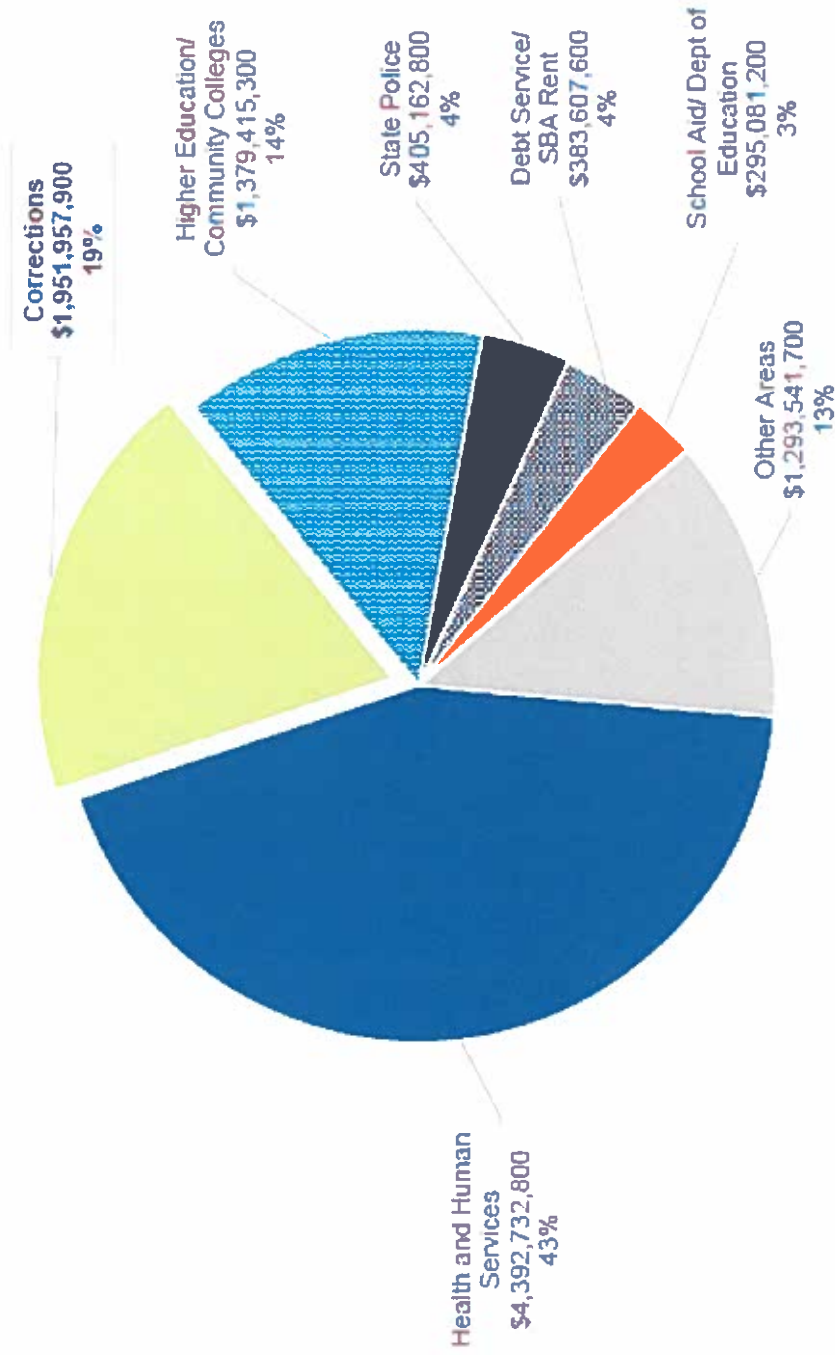
## 10,000 fewer Michigan prisoners: Strategies to reach the goal

- Provides a “Road Map for Reform”
- Analyzes **how and why** prison population increased
- Identifies strategies for reform
- Provides estimates of prison bed savings

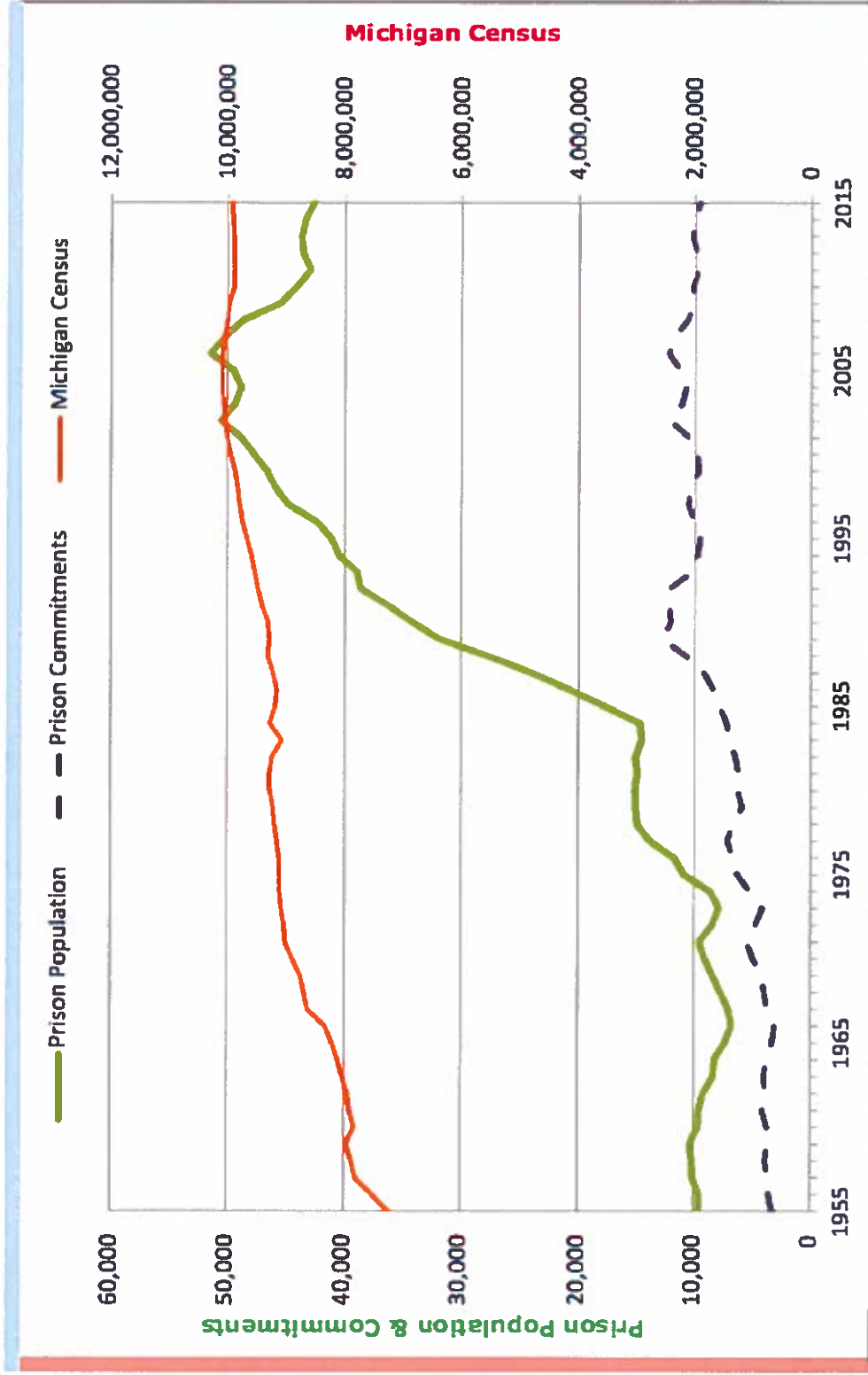


# MDOC Share of Total GF/GP Budget

The MDOC budget represents 19% of the state's \$10.1 billion GF/GP budget for FY 2016-17.



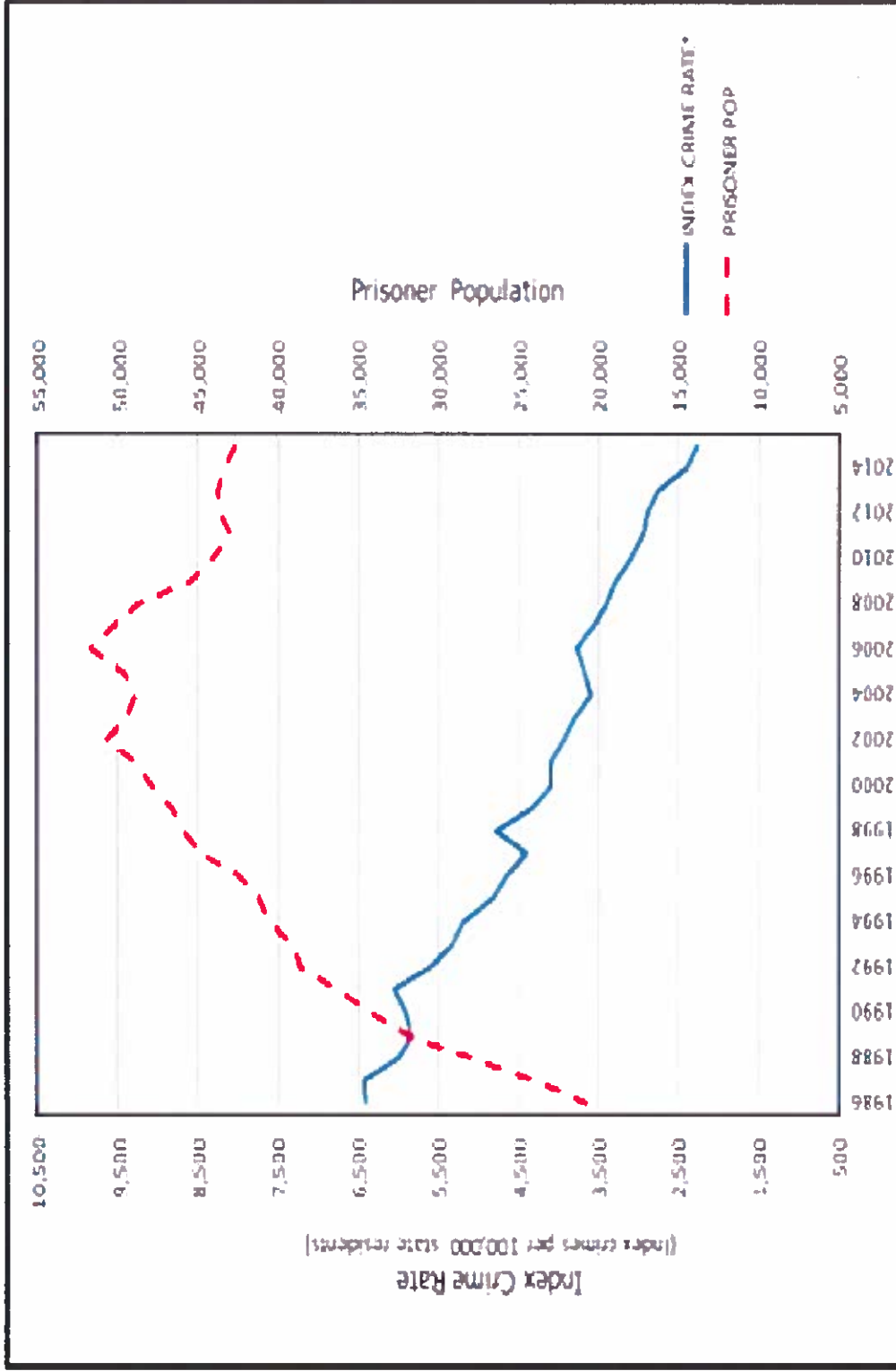
### CC Trends in Prison Population, Prison Commitments and Michigan Census 1955 - 2015



Citizens Alliance on Prisons and Public Spending (CAPPS)

Chart from 2015 MDOC Statistical Report, pg. C-13

## Michigan index crime rate vs prisoner population: 1986-2015



\*THE FBI'S UNIFORM CRIME INDEX IS COMPOSED OF SEVEN INDEX CRIMES: MURDER AND NON-NEGLIGENT MANSLAUGHTER, FORCIBLE RAPE, ROBBERY, AGGRAVATED ASSAULT, BURGLARY, LARCENY (THEFT), AND MOTOR VEHICLE THEFT.

## Key Facts About Michigan's Prison Population

- **Offense Type**
  - 72.6 percent serving for assaultive offenses
  - 7.8 percent serving for drug offenses
- **Gender:** Almost 95 percent male
- **Race/ethnicity:** 55.5 percent people of color
- **Sentence length:**
  - 29 percent serving >15 years
  - 20.5 percent serving <2 years
- **Age:** 21.5 percent over 50; 6.9 percent over 60; 1.3 percent over 70

# Two Key Drivers of Population: Intake + “Length of Stay”

- **Intake – 5 Components:**
  1. New court commitments
  2. Technical probation violators
  3. Probation violators with new sentences
  4. Technical parole violators
  5. Parole violators with new sentences
- **Length of Stay:** Minimum sentence + parole decision

## Pew Study on “Length of Stay”

	All Offenders			Assaultive Offenders <sup>24</sup>		
	1990 Avg. Years	2009 Avg. Years	Percent Change	1990 Avg. Years	2009 Avg. Years	Percent Change
35 states	2.1	2.9	36%	3.7	5.0	37%
Michigan	2.4	4.3	79%	3.9	7.6	97%



**Sentencing Grid for Class C Offenses—MCL 777.64**  
*Includes Ranges Calculated for Habitual Offenders (MCL 777.21(3)(a)-(c))*

OV Level	PRV Level						Offender Status
	A 0 Points	B 1-9 Points	C 10-24 Points	D 25-49 Points	E 50-74 Points	F 75+ Points	
I 0-9 Points	11*	17*	19	24	38	57	
	13*	21	23	30	47	71	HO2
	16*	25	28	36	57	85	HO3
	0	0	10	12	19	29	HO4†
II 10-24 Points	17*	17*	24	38	57	71	
	21	21	30	47	71	88	HO2
	25	25	36	57	85	106	HO3
	0	5	12	19	29	36	HO4†
III 25-34 Points	34	34	48	76	114	142	
	19	24	38	57	71	86	
	23	30	47	71	88	107	HO2
	10	12	19	29	36	43	HO3
IV 35-49 Points	28	36	57	85	106	129	
	38	48	76	114	142	172	HO4†
	24	38	57	71	86	100	
	12	19	29	36	43	50	HO2
V 50-74 Points	30	47	71	88	107	125	
	36	57	85	106	129	150	HO3
	48	76	114	142	172	200	HO4†
	19	29	36	43	50	58	
VI 75+ Points	38	57	71	86	100	114	
	47	71	88	107	125	142	HO2
	57	85	106	129	150	171	HO3
	29	36	43	50	58	62	HO4†
	29	36	43	50	58	62	
	114	142	172	200	228	228	HO4†

† Certain fourth habitual offenders may be subject to a mandatory minimum sentence of 25 years' imprisonment. See MCL 769.12(1)(a).



## Roles and Responsibilities in Indeterminate Sentencing

- **Judge:** imposes minimum sentence as punishment based on the facts of the case and the defendant's prior criminal record. **Backward-looking.**
- **Parole Board:** Decides whether to grant parole after serving minimum sentence, based on an evaluation of the prisoner's risk to the community. **Forward-looking.**
- The parole decision should not turn on the facts of the crime but rather on post-sentencing conduct and current risk **only** (unless specific facts predict current risk).

**Table 2 – Number of Paroles Granted, Denied or Deferred by Parole Guideline Description**

	Parole Guideline (PG) Description				Total
	Low	Average	High	Total	
Mar '16 - May '16	Grant	30	1,033	1,460	2,523
	Deny	212	507	323	1,042
	Defer	33	621	778	1,432
	<b>Total</b>	<b>275</b>	<b>2,161</b>	<b>2,561</b>	<b>4,997</b>
June '16 - Aug '16	Grant	41	1,130	1,597	2,768
	Deny	225	579	377	1,181
	Defer	44	605	643	1,292
	<b>Total</b>	<b>310</b>	<b>2,314</b>	<b>2,617</b>	<b>5,241</b>
Sept '16 - Nov '16	Grant	42	916	1,341	2,299
	Deny	217	527	304	1,048
	Defer	24	451	526	1,001
	<b>Total</b>	<b>283</b>	<b>1,894</b>	<b>2,171</b>	<b>4,348</b>
Dec '16 - Feb '17	Grant	37	878	1,400	2,315
	Deny	182	509	338	1,029
	Defer	28	453	550	1,031
	<b>Total</b>	<b>247</b>	<b>1,840</b>	<b>2,288</b>	<b>4,375</b>
Total	Grant	150	3,957	5,798	9,905
	Deny	836	2,122	1,342	4,300
	Defer	129	2,130	2,497	4,756
	<b>Total</b>	<b>1,115</b>	<b>8,209</b>	<b>9,637</b>	<b>18,961</b>
SAI Grants					521
No Parole Guideline Score					262
<b>Total</b>					<b>19,744</b>

## Impact of Parole Policies

- In 2014, the Council on State Governments reported that, on average, Michigan prisoners serve **125 percent of their minimum sentence**.
- Over 5,500 prisoners were past their earliest release date at the time of the study:
  - **1,555 (29 percent)** scored high probability of release (i.e. low risk of reoffending) on the parole guidelines
  - These prisoners were, on average, **2.6 years past their earliest release date**.
  - **~\$55 million** annual cost of incarceration for these prisoners.

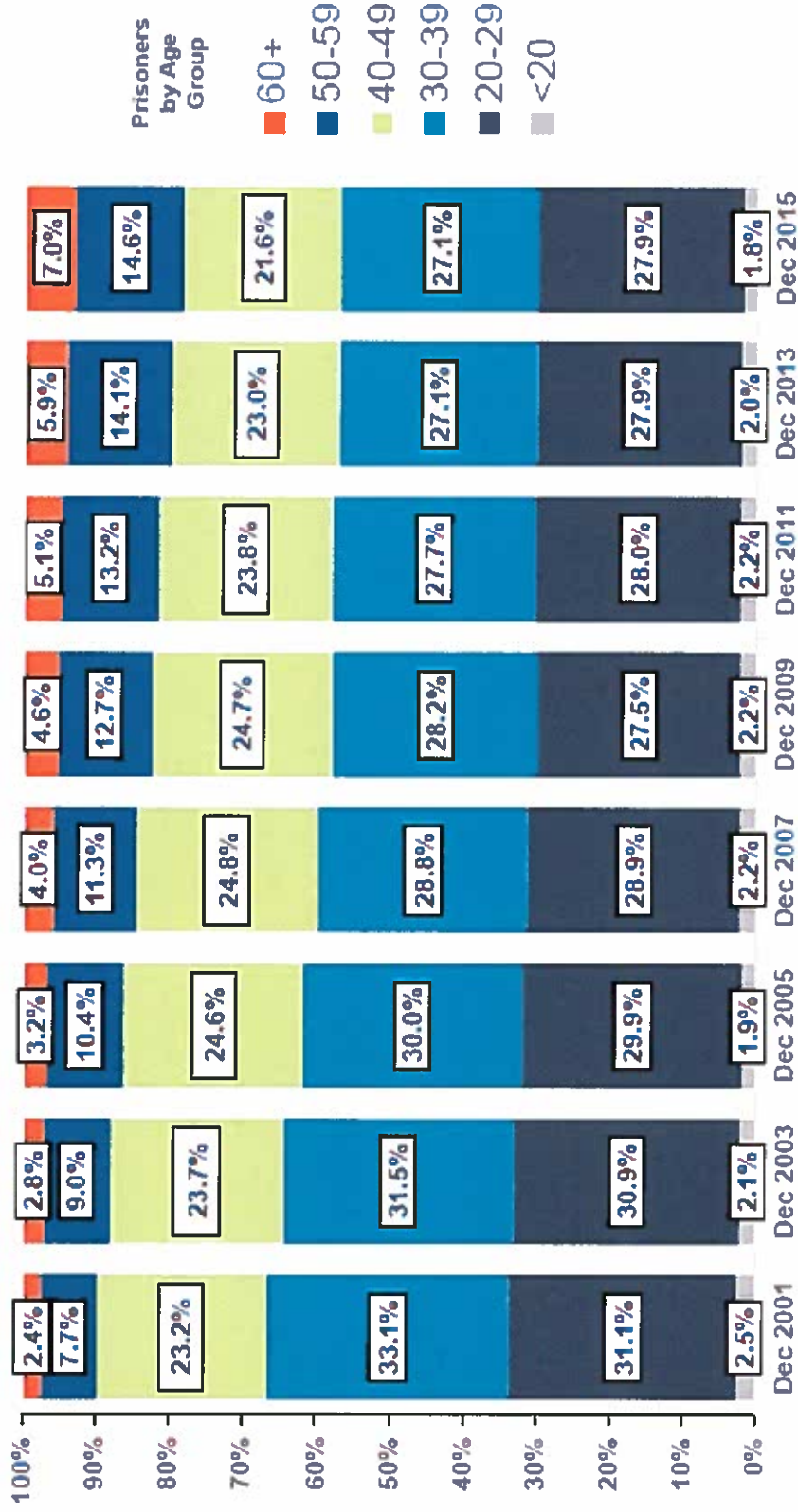
# Increases in Sentence Length for Serious Crimes

Parole Eligibility	1970-1979	1980-1989	1990-1999	2000-2009
<b>Murder, 2nd Degree</b>				
10 years or less*	73%	50%	20%	12%
> 20 years	4%	19%	31%	46%
<b>Criminal Sexual Conduct, 1st Degree</b>				
10 years or less*	84%	69%	54%	48%
> 20 years	4%	11%	15%	16%
<b>Armed Robbery</b>				
10 years or less*	87%	88%	87%	77%
> 20 years	2%	3%	2%	5%

\*Includes parolable life terms from 1970 through 1989.

# Prisoner Age Distribution and Health Care

One major factor in the rise of per-prisoner health care costs is the aging of the prison population. In 2001, 33% of prisoners were over age 40 and 10% were over age 50. By 2015, those percentages increased to 43% over age 40 and 22% over age 50.



## Dealing With Aging Prisoners

- It makes little sense to continue to incarcerate aging and ill prisoners:
  1. Criminal behavior **declines** as people age.
  2. The elderly and ill in particular pose **little current threat** to the public. Many have already served decades in prison.
  3. Their health care costs **will continue to increase.**

## Public Support for Reform

- On Oct. 1, 2015, CAPPS released a statewide poll that showed **strong public support** for criminal justice reform.
- The poll also found that **70%** of Michiganders think it's “**very important**” or “**important**” to reduce corrections spending.



## Policy Options: Two Things to Keep in Mind

- There is no **single** magic bullet.
- Many of these options are **conservative in the truest sense** – they would restore policies that were in effect in the past.

## Intake: Technical Parole Violators

- **1,854** people on parole were returned to prison as “technical parole violators” (or “PVTs”) in 2015.
- PVTs are often returned to prison for **two and even three years**, even though more than half had minimum sentences on their original sentences of **less than two years**.

## Intake Policy Option: Change Revocation Policy for Technical Violations

- Only allow revocation for technical violations if there is “**significant risk to prior victims or the community at large and the risk cannot be appropriately managed in the community.**”

## Length of Stay – Felony Firearm

- MCL 750.227b creates a **mandatory minimum consecutive** sentence of 2 years for any person that possesses a firearm while committing a felony.
- In 2015, there were **980** prisoners whose longest sentence was the two years for felony firearm.

## Length of Stay Policy Option: Amend Felony Firearm Statute

1. Make felony firearm sentence **indeterminate**, like other Michigan sentences, instead of two years flat.
2. Place on sentencing guidelines grid in **straddle cell**.
3. Increase maximum to three years to allow for a minimum **up to two years**.
4. Give judges discretion to make sentence consecutive or **concurrent**.

## Length of Stay Policy Option: Enforcing Parole Guidelines

- Amend the parole guidelines statute to provide a **uniform definition** of “substantial and compelling” reasons that is **relevant** to the prisoner’s **current risk**.

## Length of Stay - Paroling Lifers

- Depending on their offense date, parolable lifers become eligible for release after 10 or 15 years.
- Throughout the 1970s and 1980s, judges sentenced parolable lifers in the belief that they would be paroled—**likely in 12, 14, or 16 years.**
- Beginning in the 1990s, almost **no** lifers were paroled.
- Although some lifers are being paroled, over **900** lifers are currently eligible.



## Length of Stay Policy Option: Reform Parole Process for Lifers

1. **Restore the former review process** to increase lifer releases.
2. Conduct interviews **every two years**.
3. **Assess actual risk** as is done with other prisoners.
4. **Give reasons** for not granting parole.

# Length of Stay Policy Option: Authorize Parole for Medically Frail Prisoners **HOUSE BILL NO. 4101**

January 26, 2017, Introduced by Reps. Pagel, Verheulen, Garcia, Victory, Lucido, LaGrand, Howrylak, Chang, Schor, Robinson, Ellison, Lovc, Whiteford, Wittenberg, Calley, Rabhi and Lilly and referred to the Committee on Appropriations.

A bill to amend 1953 PA 232, entitled  
"Corrections code of 1953,"  
by amending section 35 (MCL 791.235), as amended by 2012 PA 24.

(10) The parole board may grant a medical parole for a prisoner determined to be ~~physically or mentally incapacitated.~~ **MEDICALLY FRAIL.** A decision to grant a medical parole ~~shall~~ **MUST** be initiated upon the recommendation of the bureau of health care services. ~~and shall be reached only after a review of the medical institutional, and criminal records of the prisoner.~~ **IF THE BUREAU**

Citizens Alliance on Prisons and Public  
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## Length of Stay Policy Option: Review pre-Aaron Sentences for Felony Murder

1. Make holding of *People v Aaron* **retroactive**.
2. Allow those who did not receive **correct jury instructions** to file motion for relief from judgment.

## Length of Stay Policy Option: Consider Age-Related Characteristics of Juveniles

1. Require judges to **consider the characteristics of youth** whenever they sentence a juvenile as an adult.
2. Permit people currently serving long minimum sentences **who did not have their youth considered** at sentencing to seek resentencing.
3. Require the parole board to **consider youthful age at offense** when it is deciding whether to grant release.



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