

## Kentucky Drivers II

Kentucky Justice Reinvestment Work Group

October 11, 2017

# Agenda

- Prison trends review
- Follow-up questions
- Pretrial trends
- Charging and sentencing trends
- Community supervision trends
- Introduction to policy development

# Data Used: AOC

- Administrative Office of the Courts Data 2012-2016
  - All Pretrial Services interviews conducted from January 1, 2012 - December 31, 2016 concerning felony or misdemeanor level charges
  - All criminal cases concerning felony or misdemeanor level charges filed from January 1, 2012 - December 31, 2016
- Unless stated otherwise, all data presented was analyzed by CJI in consultation with AOC and Pretrial Services
- Data presented here may not match AOC reports due to different methodologies for analysis

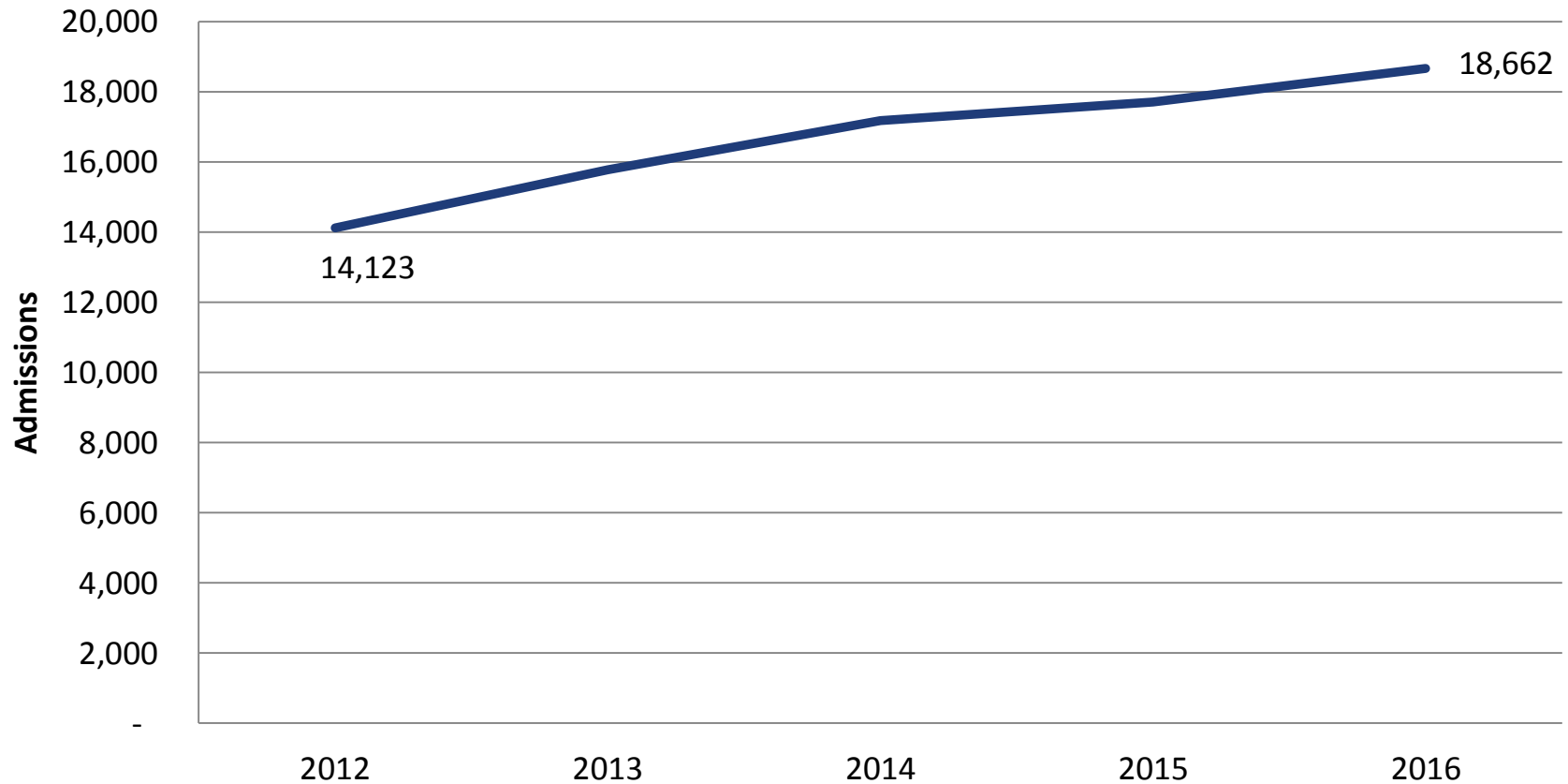
# Data Used: DOC

- Department of Corrections Data 2012-2016
  - All admissions to post-release supervision by Calendar Year
  - All releases from post-release supervision by Calendar Year
  - Population snapshots of supervision populations each December 31, 2012-2016
- Unless stated otherwise, all data presented was analyzed by CJI in consultation with DOC
- Data presented here may not match DOC reports due to different methodologies for analysis

# Drivers I Review

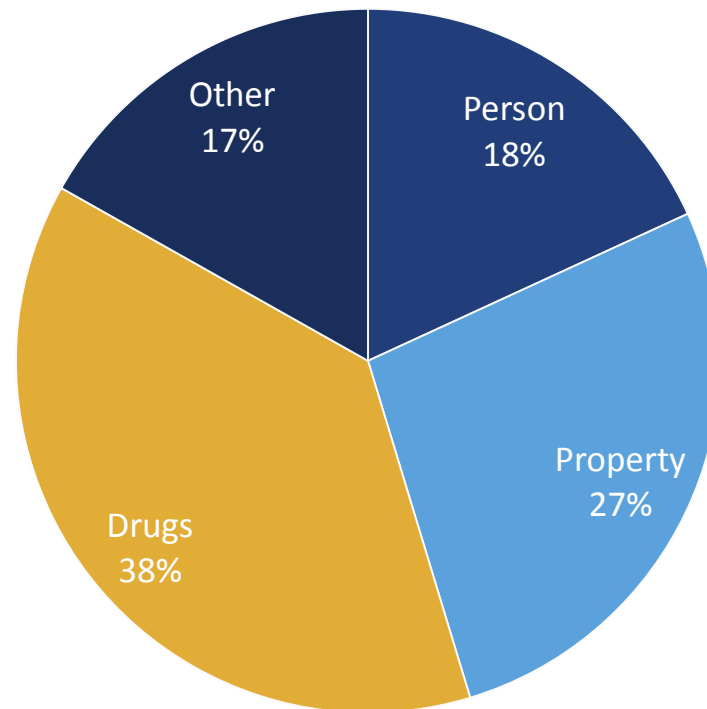
# 32% Growth in Admissions Over Five Years

Number of Admissions by Year



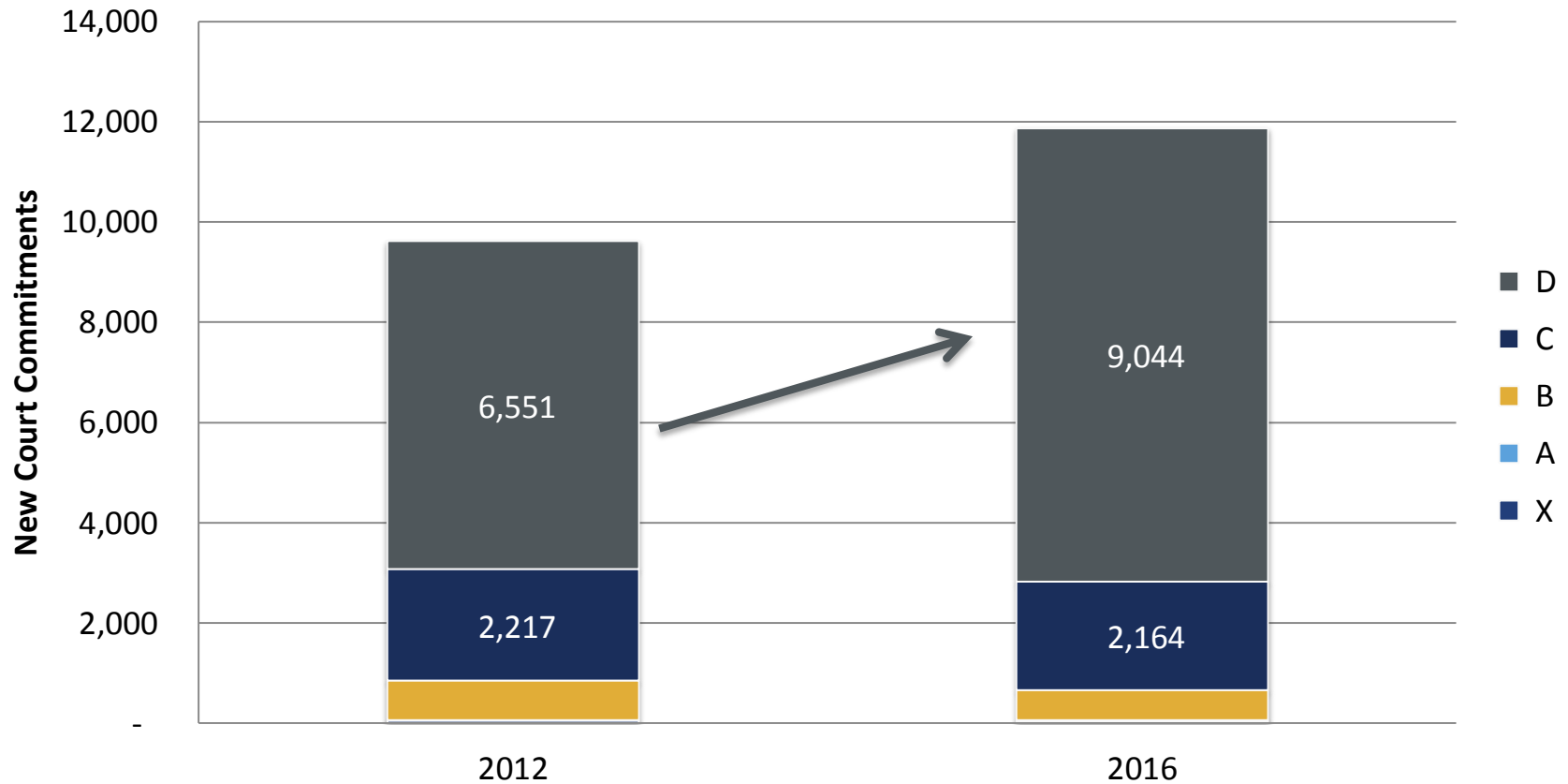
# 82% of Admissions Sentenced for Non-Person Offenses

**New Court Commitments by Offense Type, 2016**



# Class D Admissions Rose 38%, All Other Classes Declined

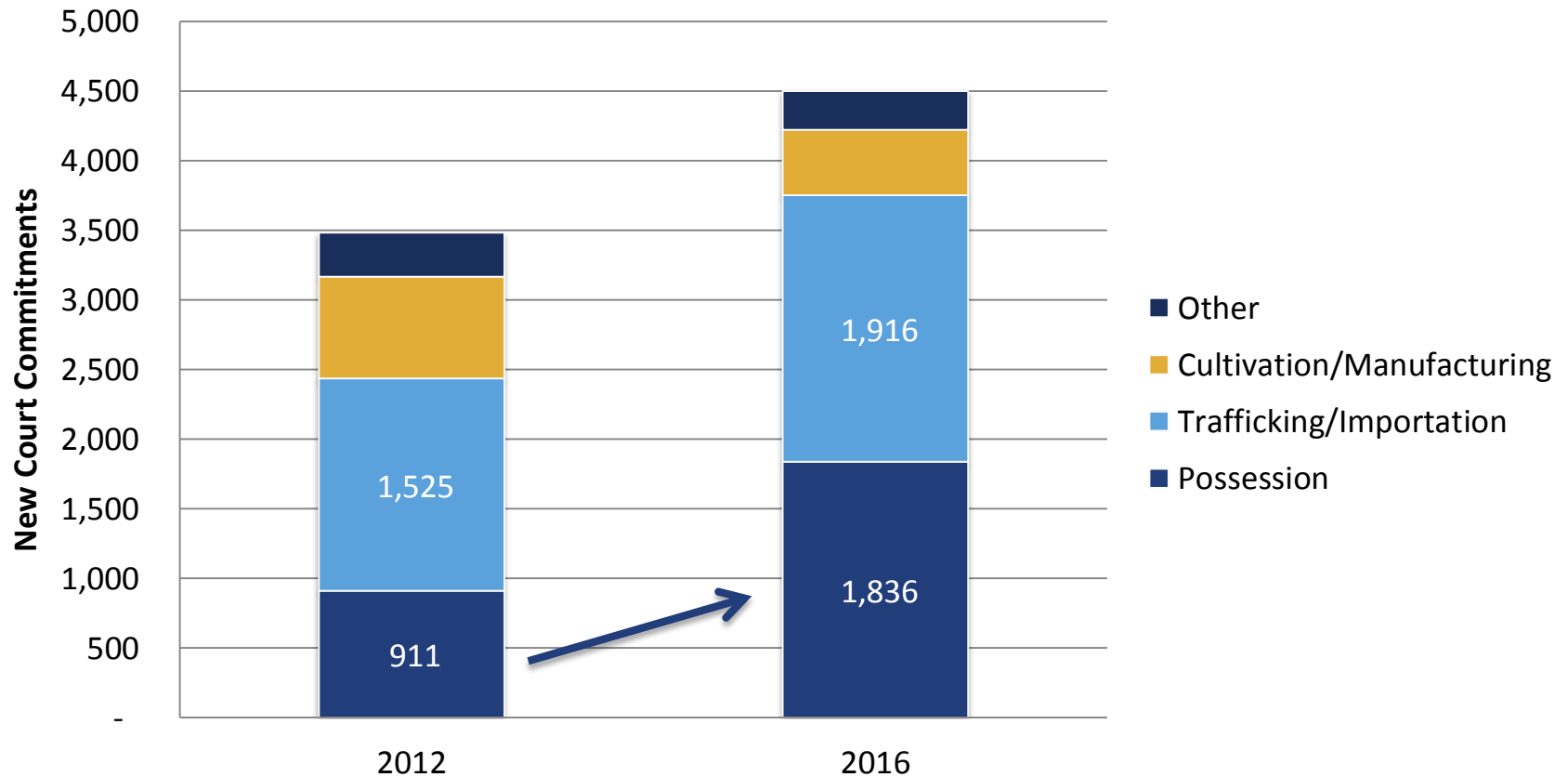
New Court Commitments by Felony Class, 2012 vs 2016





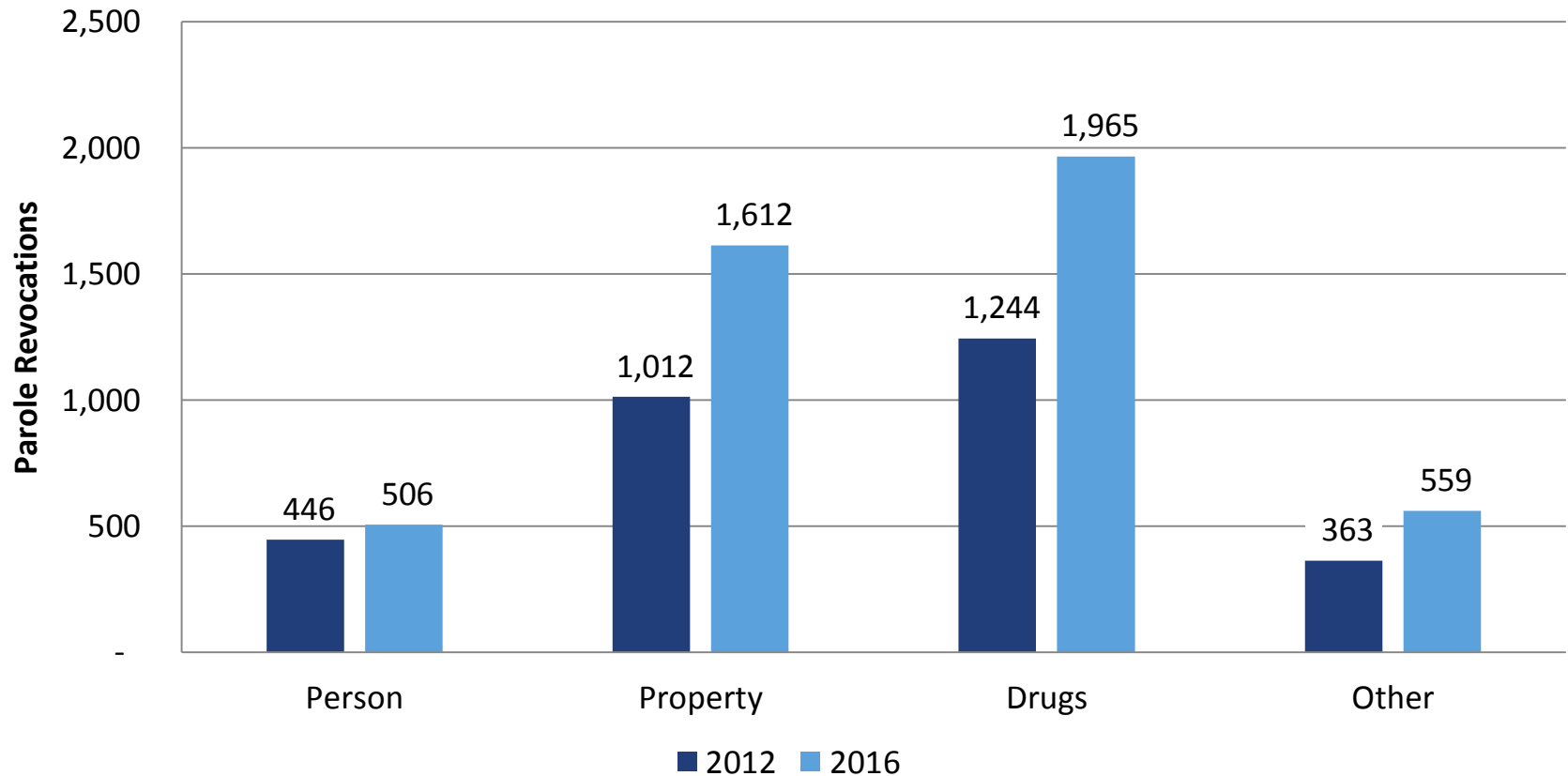
# Number of People Sent to DOC for Possession Offenses Doubled in Five Years

New Court Commitments by Drug Offense Type, 2012 vs 2016



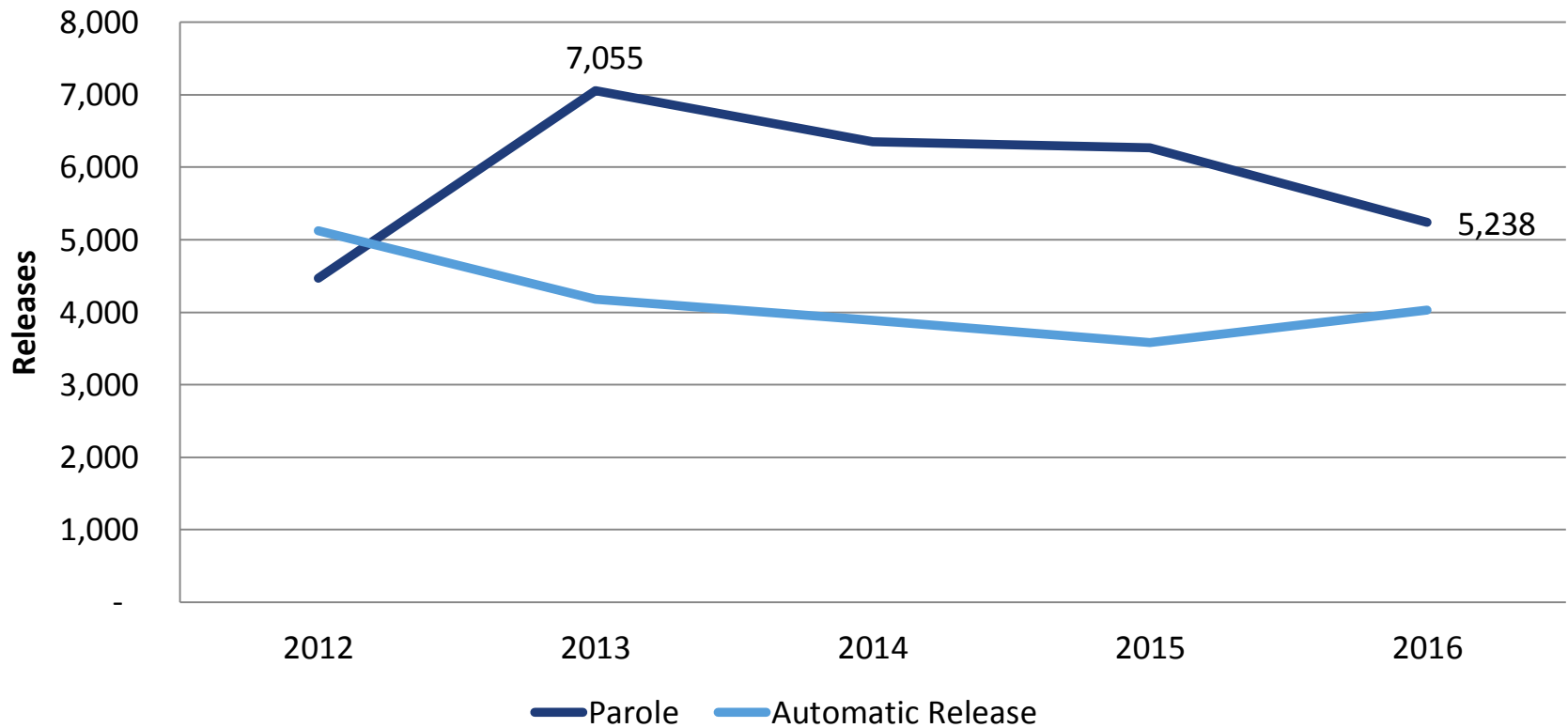
# Parole Revocations Increased for Property and Drug Offenses

Parole Revocations by Offense Type, 2012 vs 2016



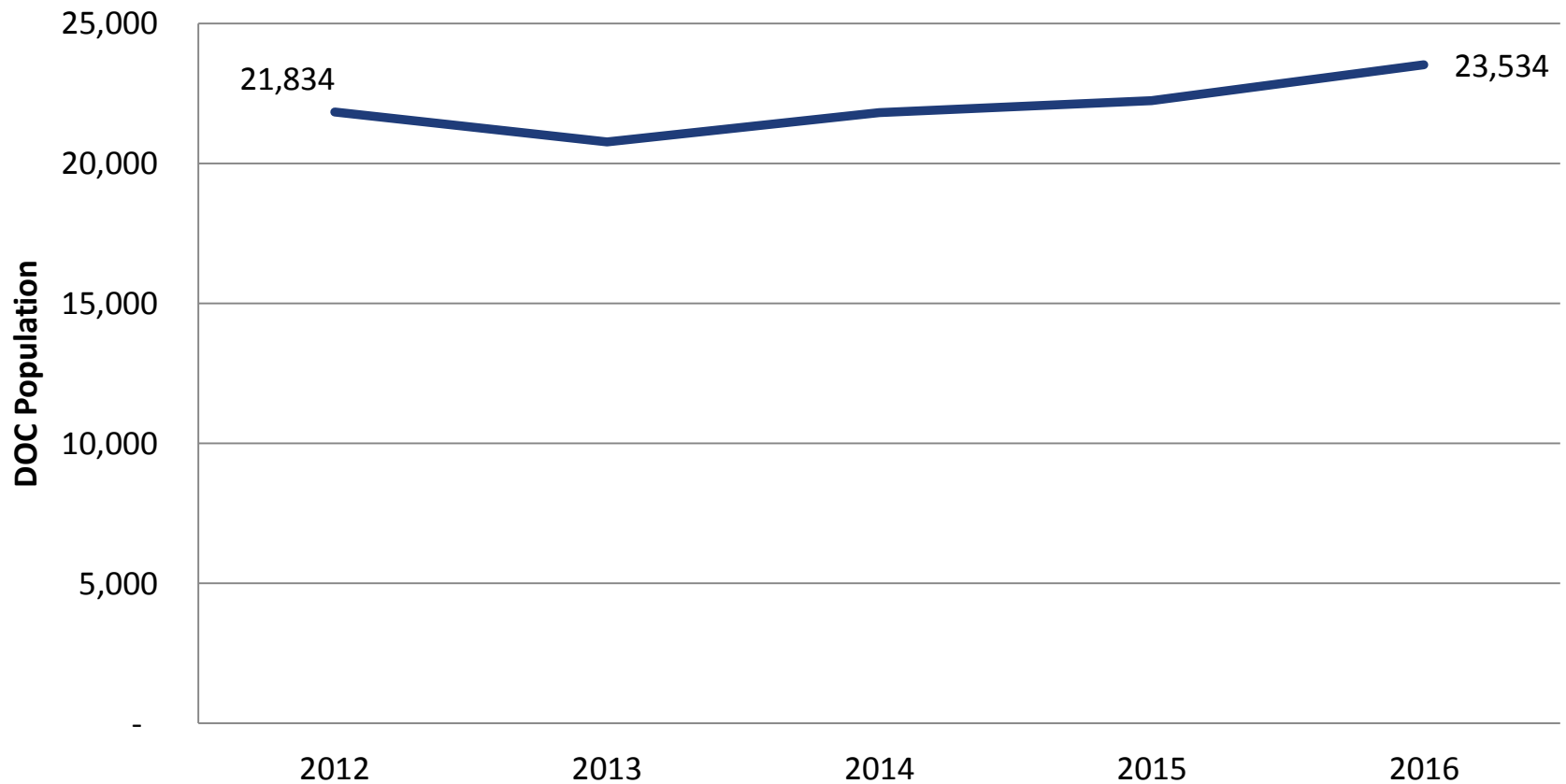
# Parole Releases Dropping Since 2013

Releases for New Court Commitments by Simplified Release Type, 2012-2016



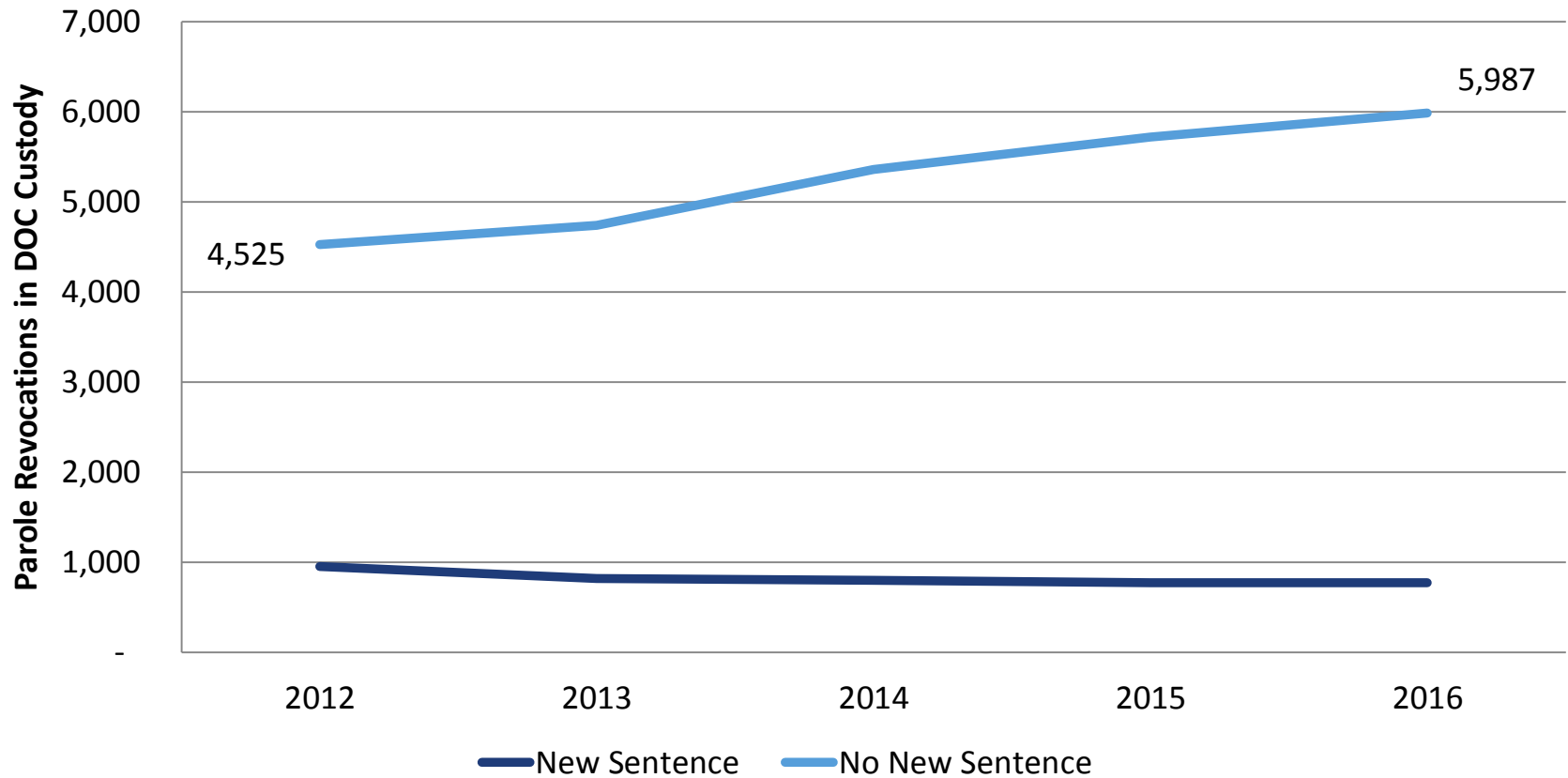
# DOC Population Grew 8% Since 2012

DOC Population, Annual Snapshots, 2012-2016



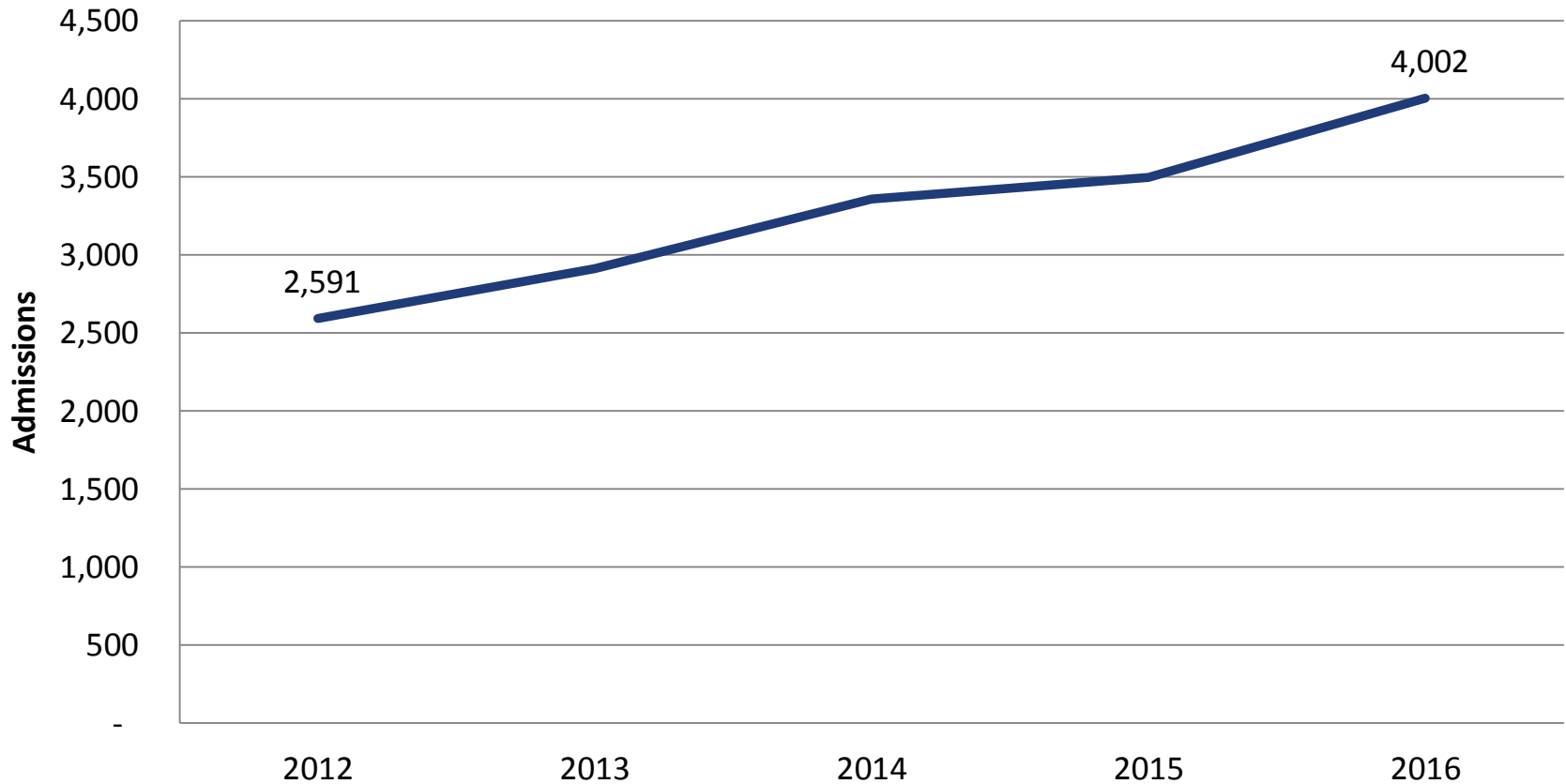
# Almost 6,000 Current State Prisoners for Technical Violations of Parole

Parole Revocations in DOC Custody by Type of Violation, 2012-2016



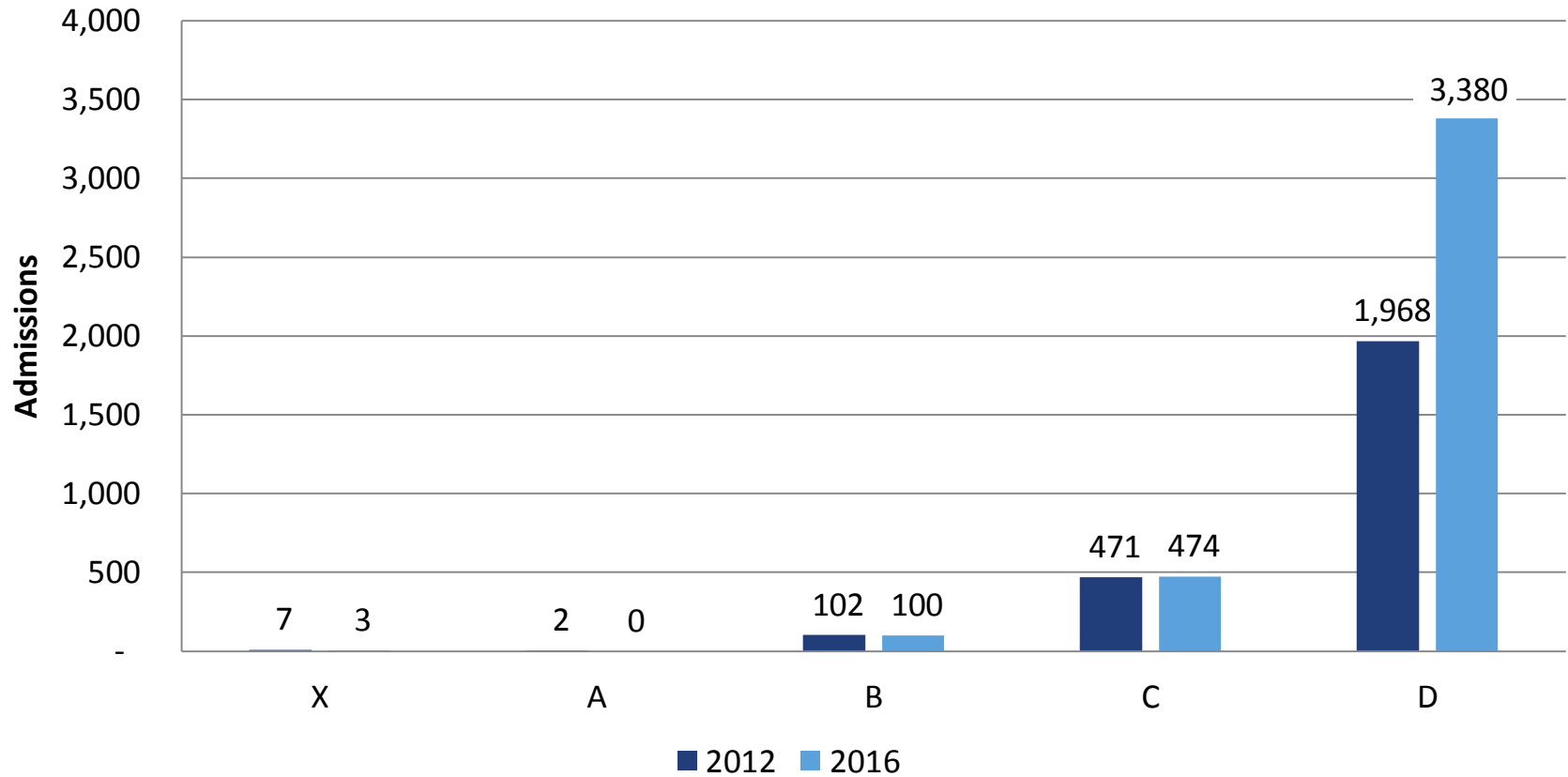
# Female Admissions Up 54% Since 2012

Female Admissions, 2012-2016



# Class D Felonies Account For 85% of Female Admissions, Grew 72% Since 2012

Female Admissions by Felony Class, 2012 vs 2016



# Follow-Up Questions

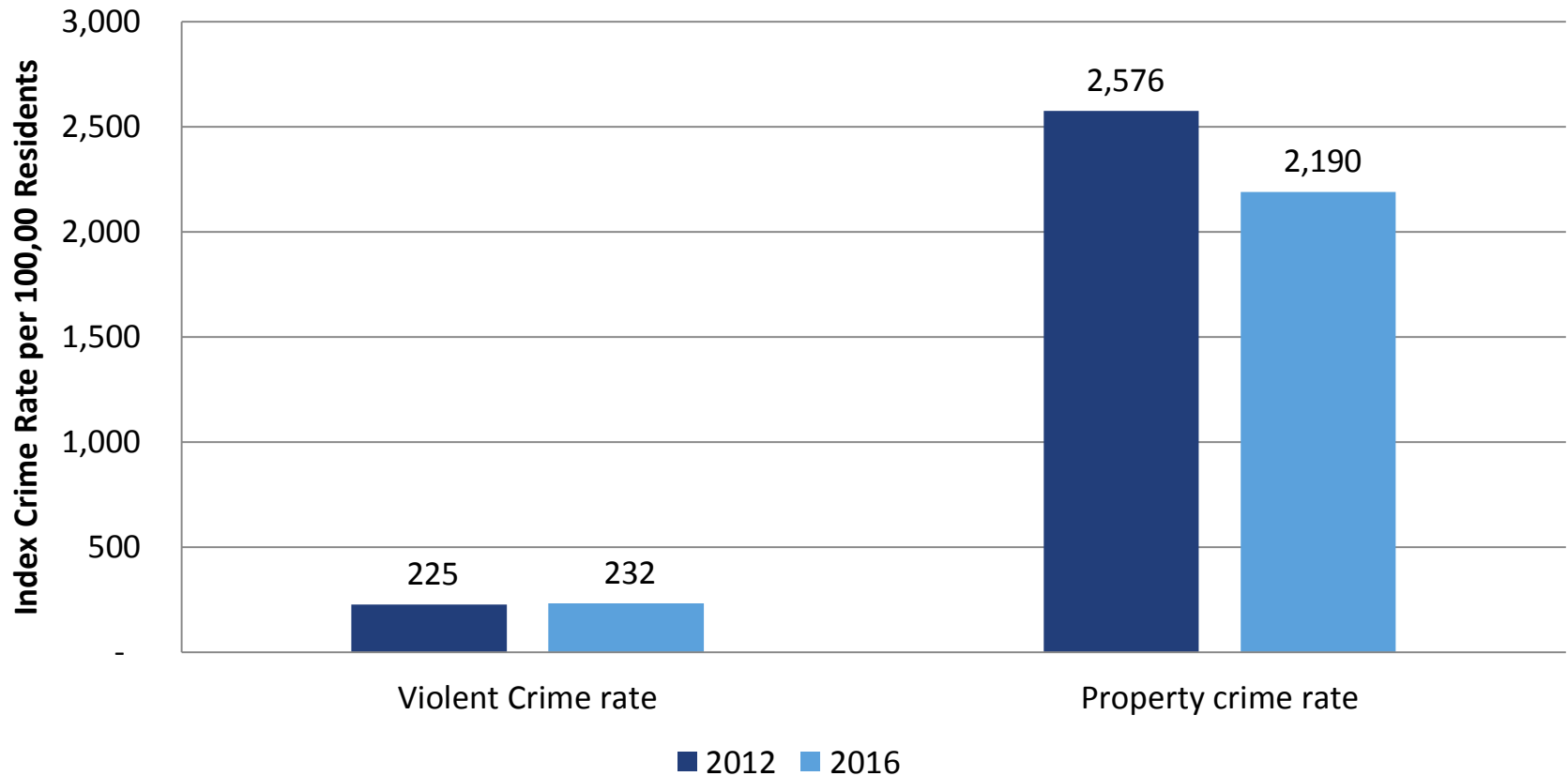


# UCR Crime Reporting: 2016 Data Update

- The Uniform Crime Reporting Program collects statistics on the number of offenses known to law enforcement.
- The traditional reports consist of eight crimes or Part I offenses
  - Violent: Murder, Rape, Robbery, Aggravated Assault
  - Property: Burglary, Motor Vehicle Theft, Larceny-Theft, Arson

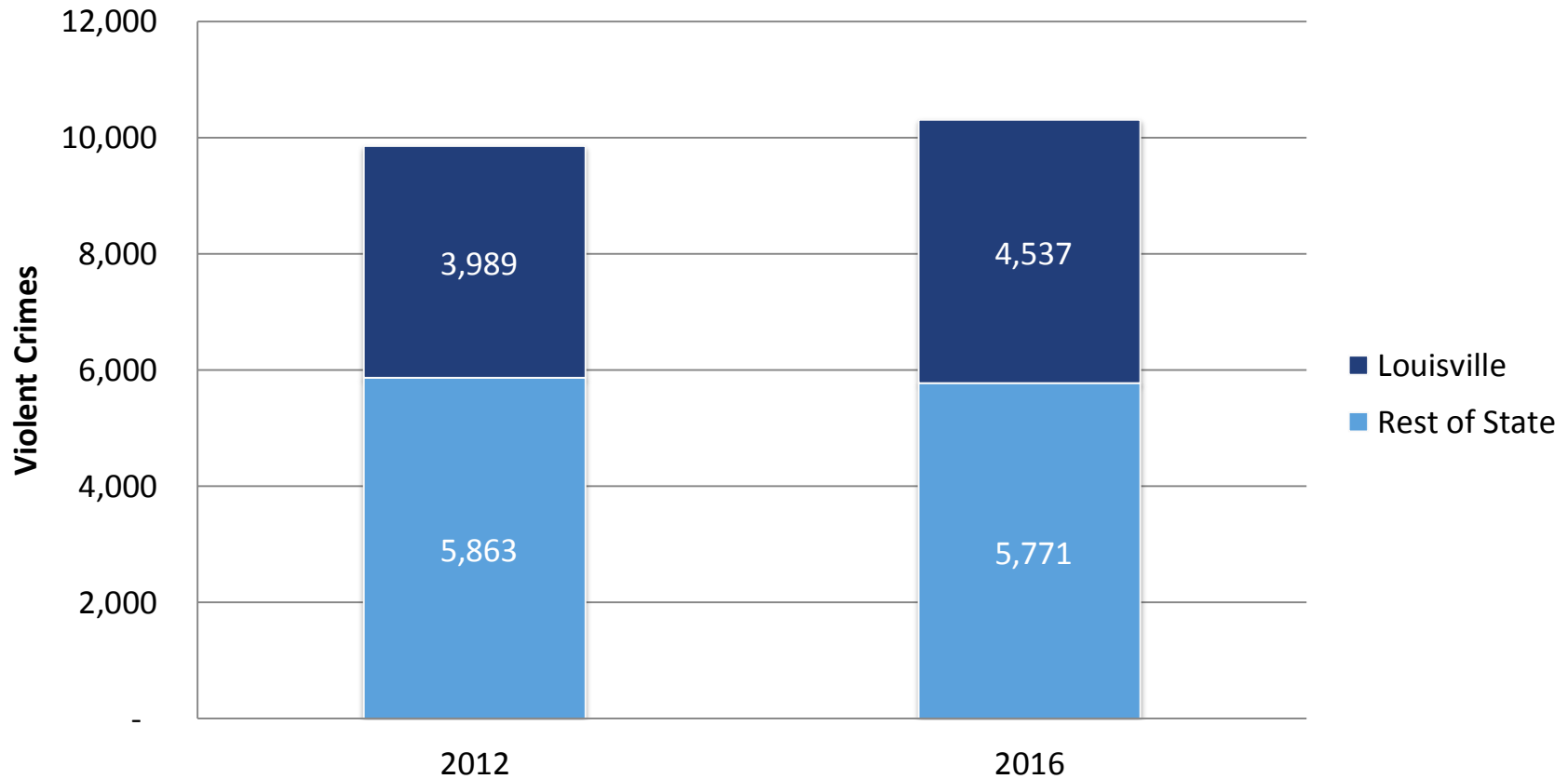
# Property Crime Rate Decreased 15%, Violent Crime Rate Increased 3%

Kentucky Reported Crime Rates, 2012 vs 2016



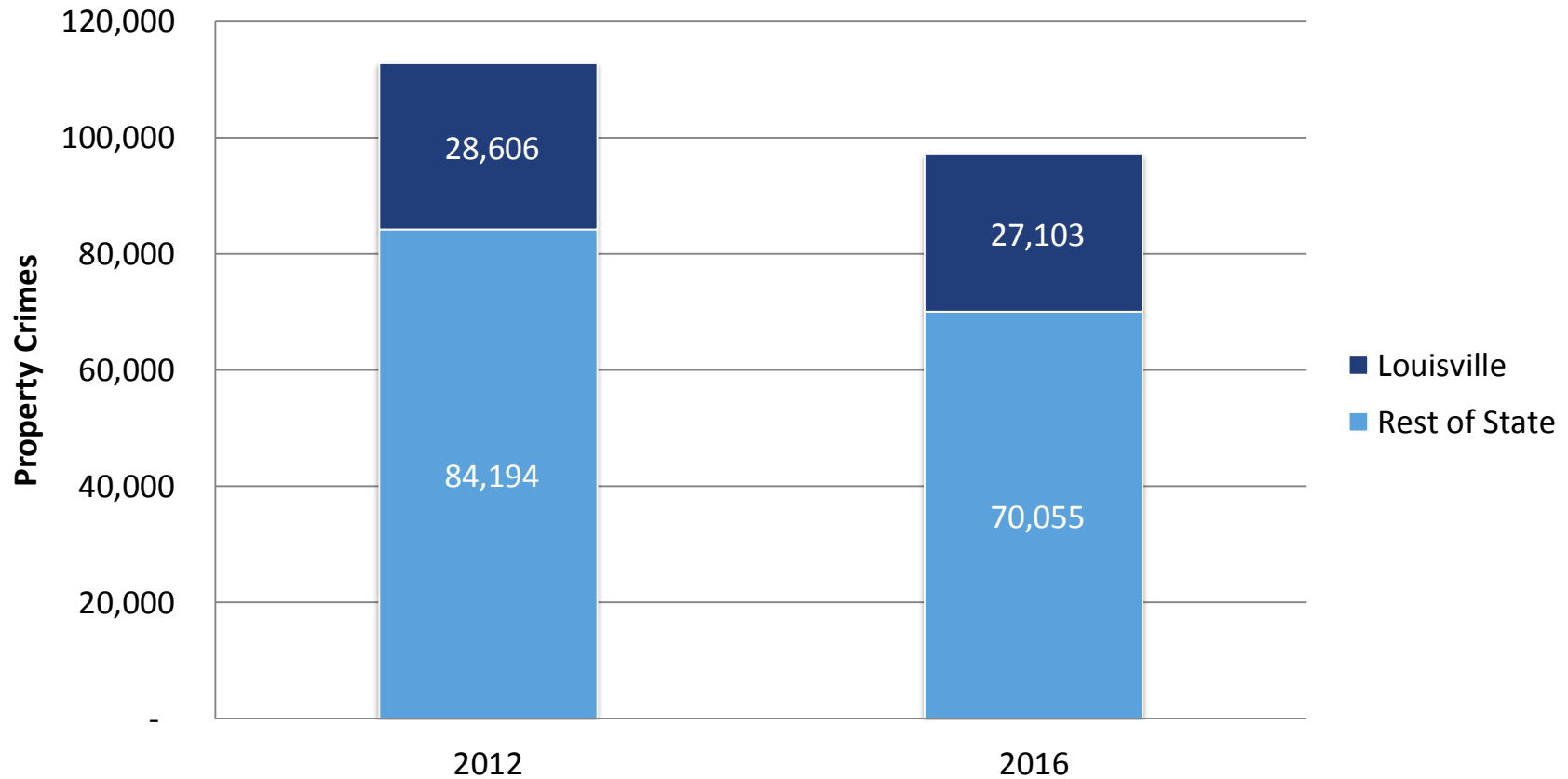
# Number of Violent Crimes Increased in Louisville, Decreased in Rest of Commonwealth

UCR Violent Crimes in Kentucky, 2012 vs 2016



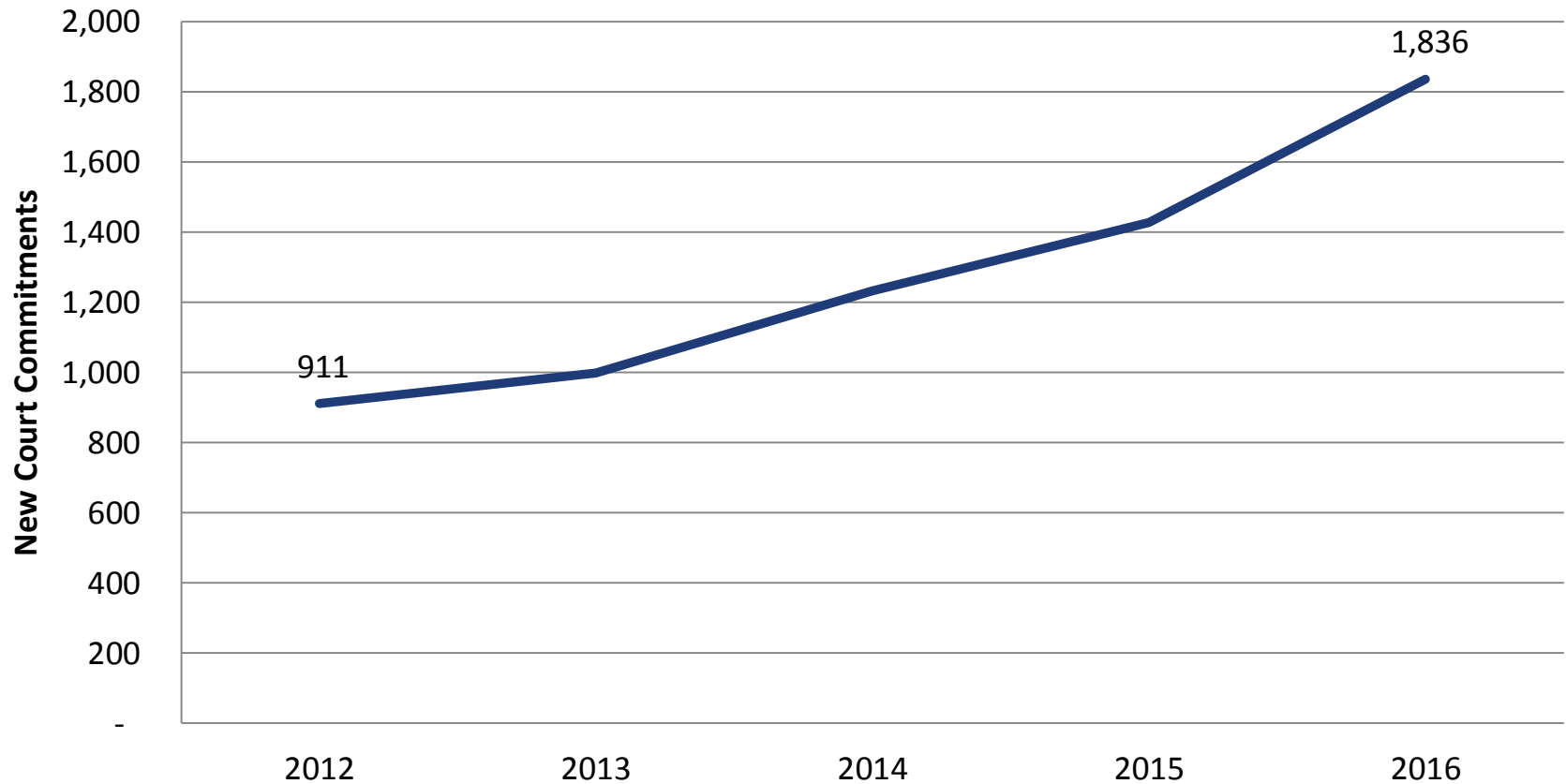
# Number of Property Crimes Decreased Across Kentucky

UCR Property Crimes in Kentucky, 2012 vs. 2016



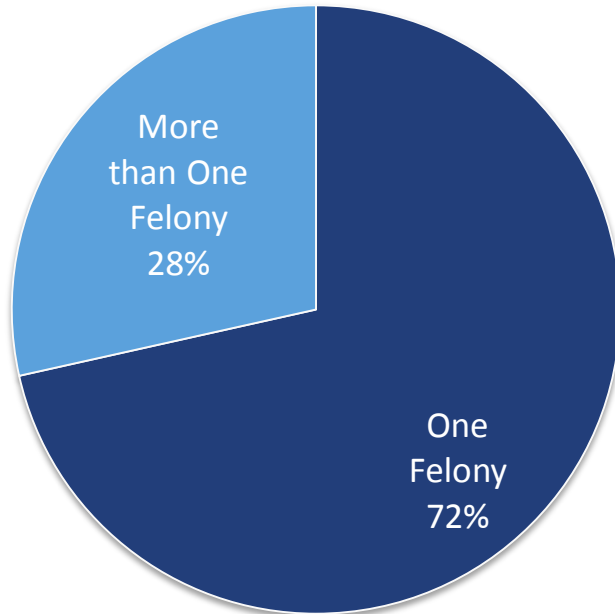
# 102% Growth in New Court Commitments for Drug Possession

Drug Possession New Court Commitments, 2012-2016

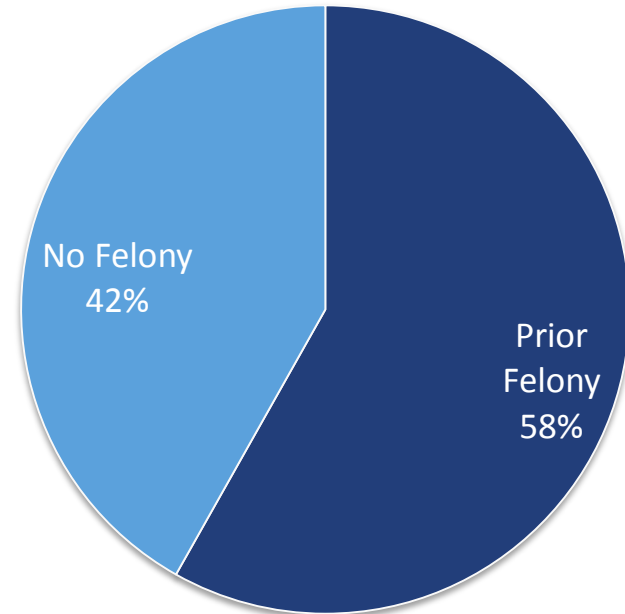


# 72% of Drug Possession Commitments Had Only One Felony Charge at Admission in 2016

**Drug Possession New Court Commitments by Number of Felony Charges at Admission, 2016**



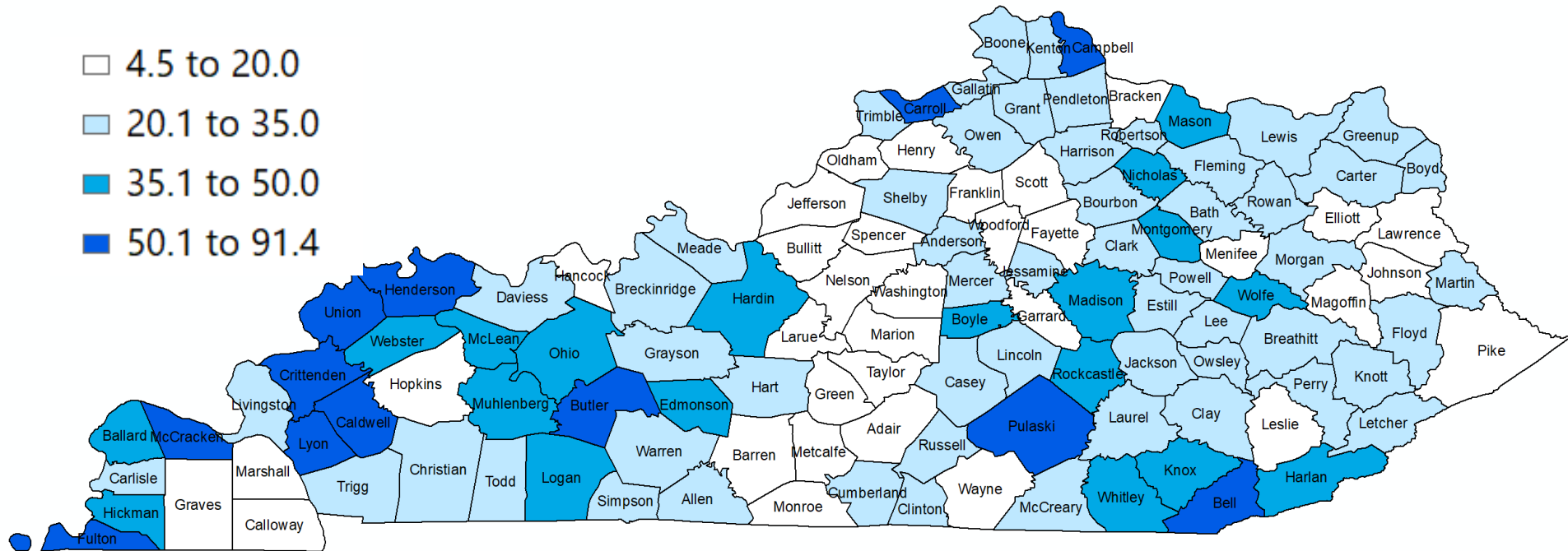
**Drug Possession New Court Commitments by Prior Felony History, 2016**



# Major Variation in DOC Commitment Rates Across Counties

## Rate of New Court Commitments per 10,000 Residents, 2016

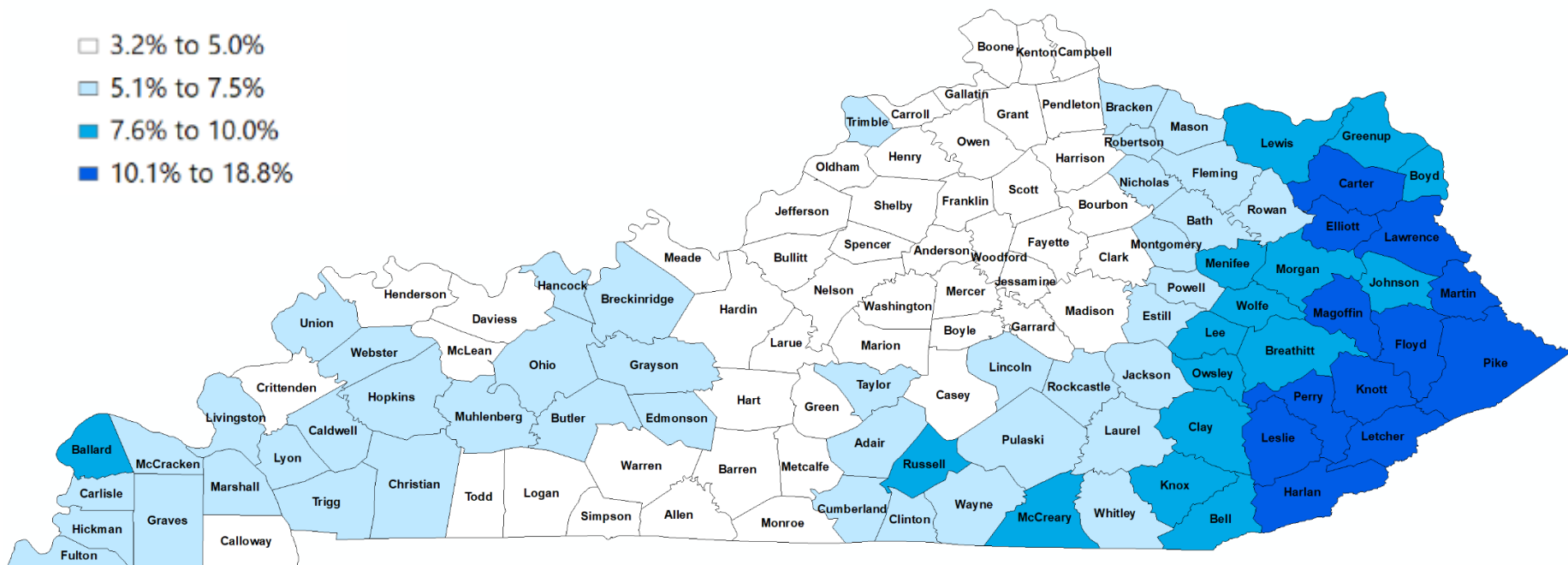
- 4.5 to 20.0
- 20.1 to 35.0
- 35.1 to 50.0
- 50.1 to 91.4



# Unemployment Rate Much Higher in Eastern Kentucky

## Unemployment Rate by County, 2016

- 3.2% to 5.0%
- 5.1% to 7.5%
- 7.6% to 10.0%
- 10.1% to 18.8%



Source: Bureau of Labor Statistics

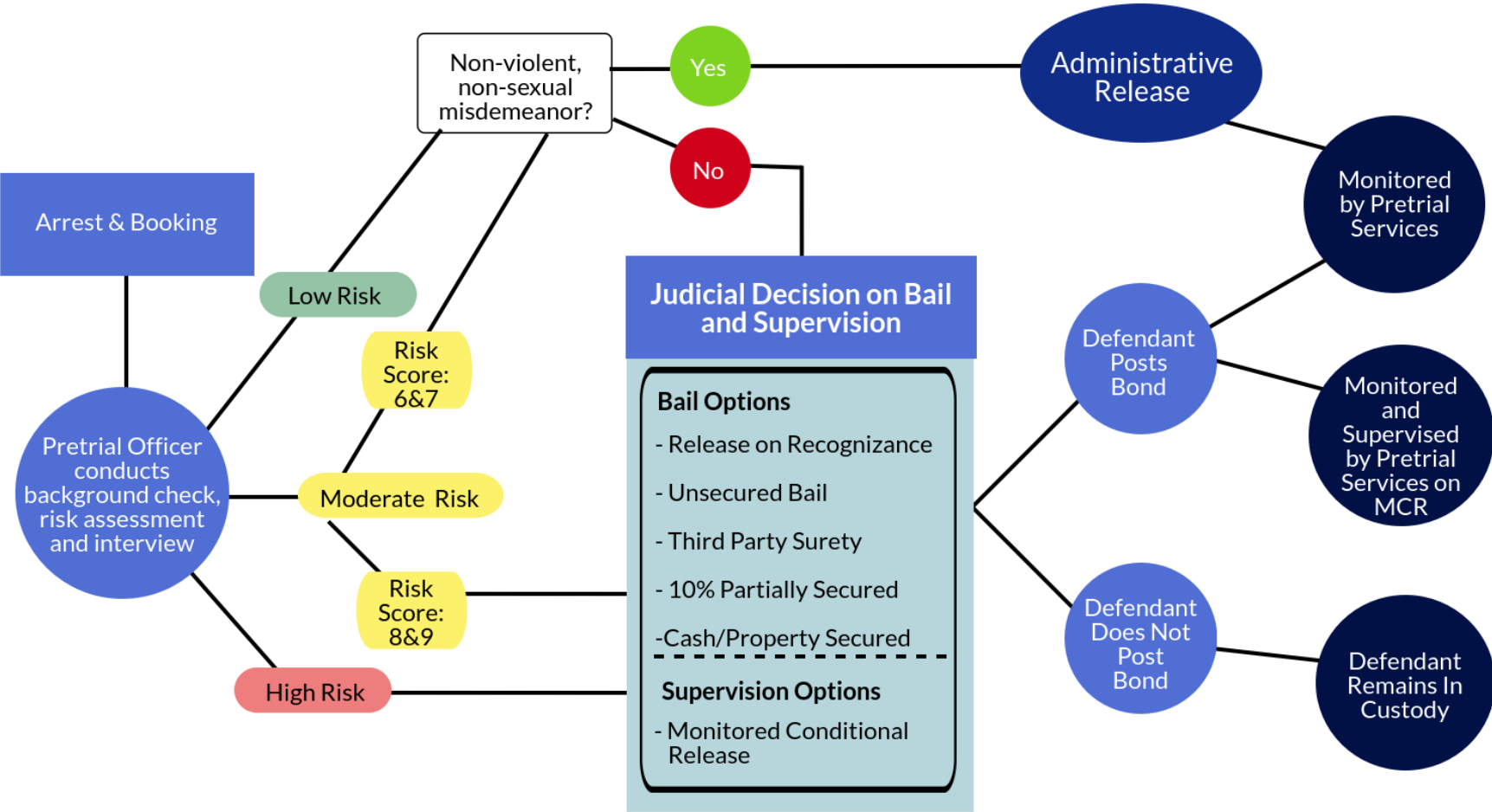


# Pretrial

# Pretrial Definitions

- **Administrative Release:** program through which eligible low and moderate risk misdemeanants are released and monitored by pretrial services
- **Monitored Conditional Release (MCR):** program through which defendants are released and supervised by pretrial services
- **Risk Assessment:** actuarial tool that assesses the risk that a person will have an pretrial failure
- **Failure to Appear (FTA):** a pretrial failure; a defendant who was released pretrial not did not appear for a court hearing
- **New Criminal Activity (NCA):** a pretrial failure; a defendant who was released pretrial committed a new criminal act

# Overview of Pretrial System



# Pretrial Detention Research

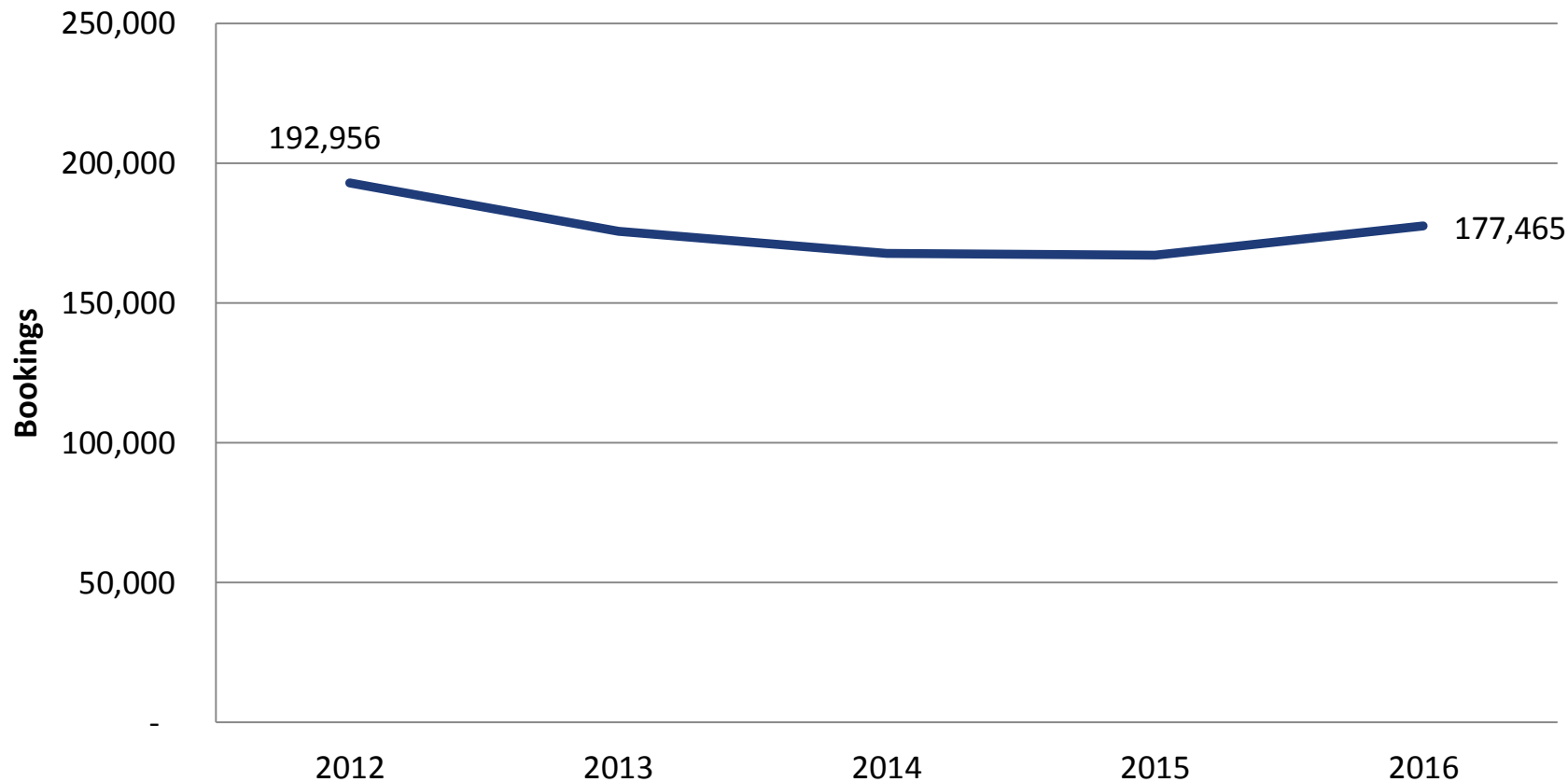
- **Research Summary:** Those detained during the pretrial period tend to have unfavorable outcomes to their court case
- Rankin (1964)
  - Those who are detained while awaiting trial are more likely to be convicted and more likely to be sentenced to prison
  - Those who had higher bond amounts were more likely to be convicted and sentenced to prison
  - Those who possessed higher family integration and employment stability were less likely to be convicted and less likely to receive prison sentences
- Lowenkamp, VanNostrand & Holsinger (2013)
  - Those who are incarcerated the entire pretrial period are more likely to be sentenced to jail/prison and are more likely to have longer sentences

# Risk Assessment Research

- **Research Summary:** When properly developed and validated, pretrial risk assessments are the strongest predictor of pretrial failure
- Bechtel, Lowenkamp, & Holsinger (2011)
  - Static risk factors (such as prior criminal history) were the most predictive of pretrial failure
- Latessa & Lovins (2010)
  - Research shows that the use of actuarial risk assessments along with professional judgment results in a higher predictive validity than clinical or professional judgment alone

# Bookings in District Court Fell by 8% Since 2012

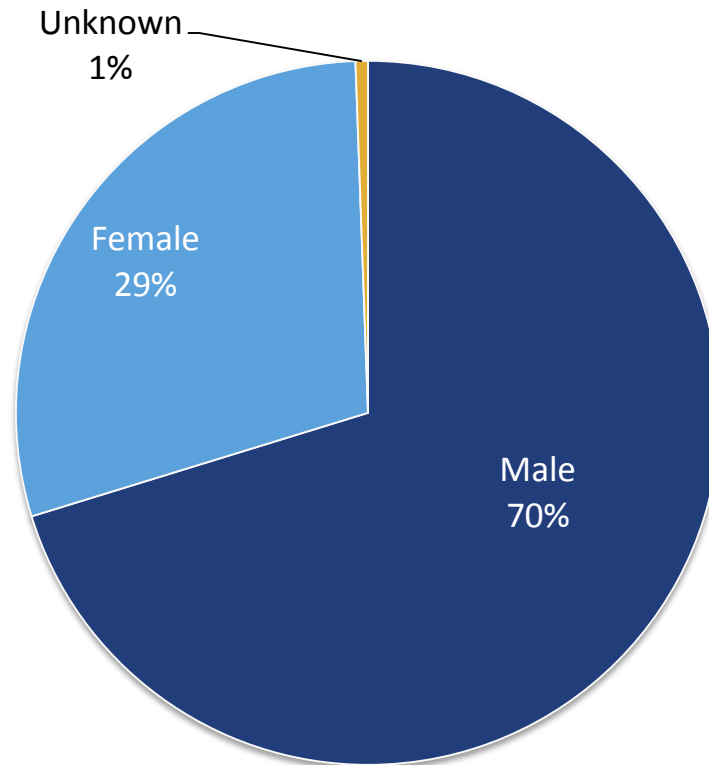
District Court Bookings, 2012-2016





# Men Make Up 70% of Bookings

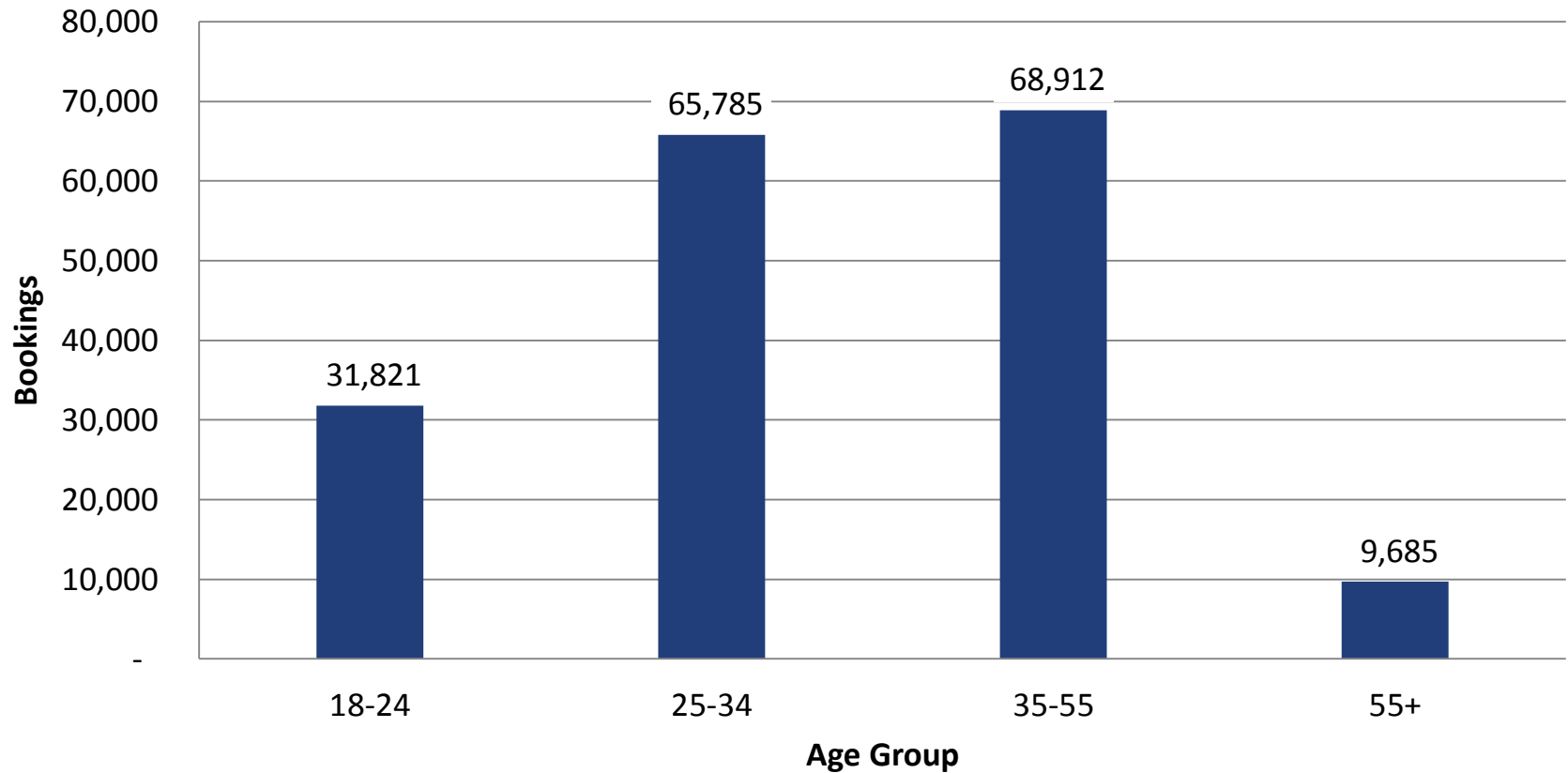
**District Court bookings by gender, 2016**





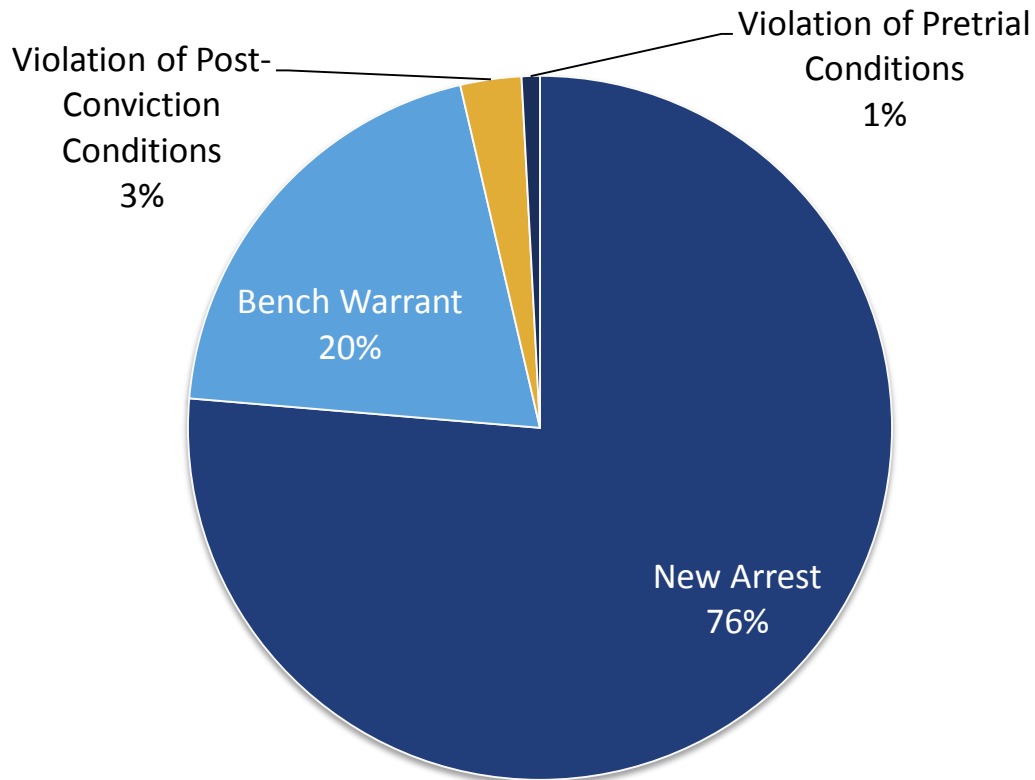
# 39% of Bookings Between Ages 35 and 55

District Court Bookings by Age Group, 2016



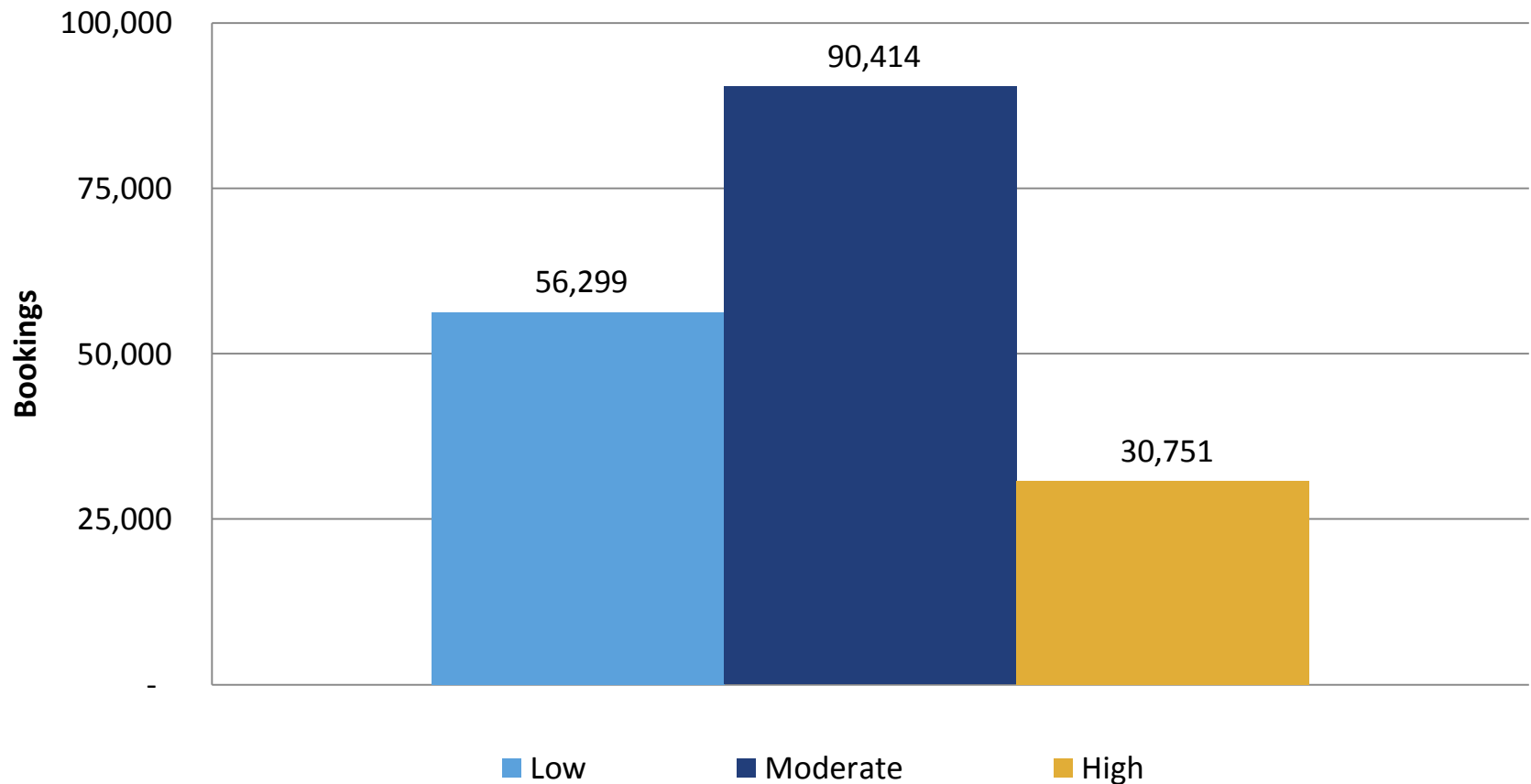
# New Arrests Made Up 76% of 2016 Bookings

**District Court Bookings by Arrest Type, 2016**



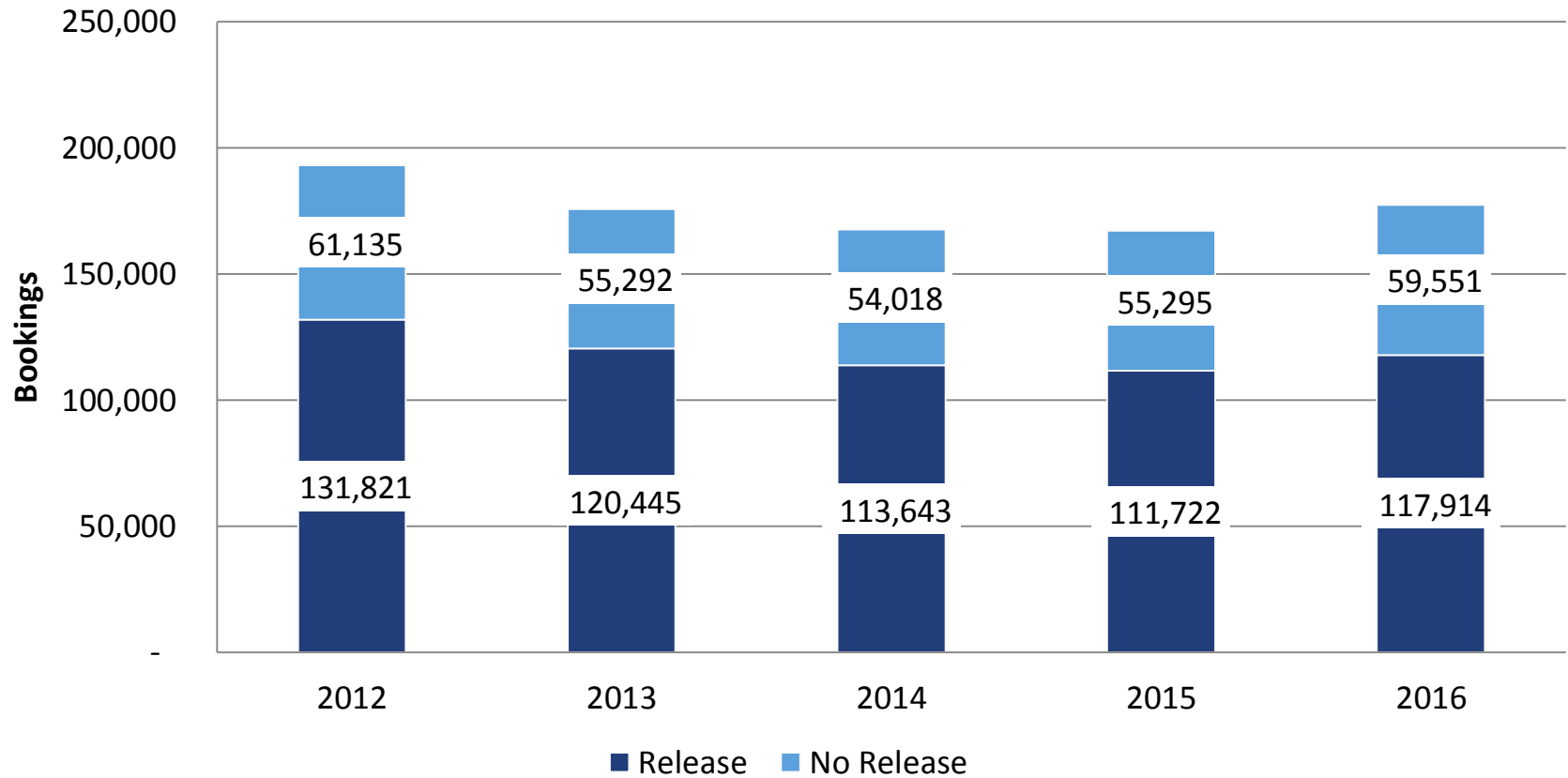
# 83% of Bookings Low or Moderate Risk

District Court Bookings by Risk Level, 2016



# Two-Thirds of Bookings Released Pretrial

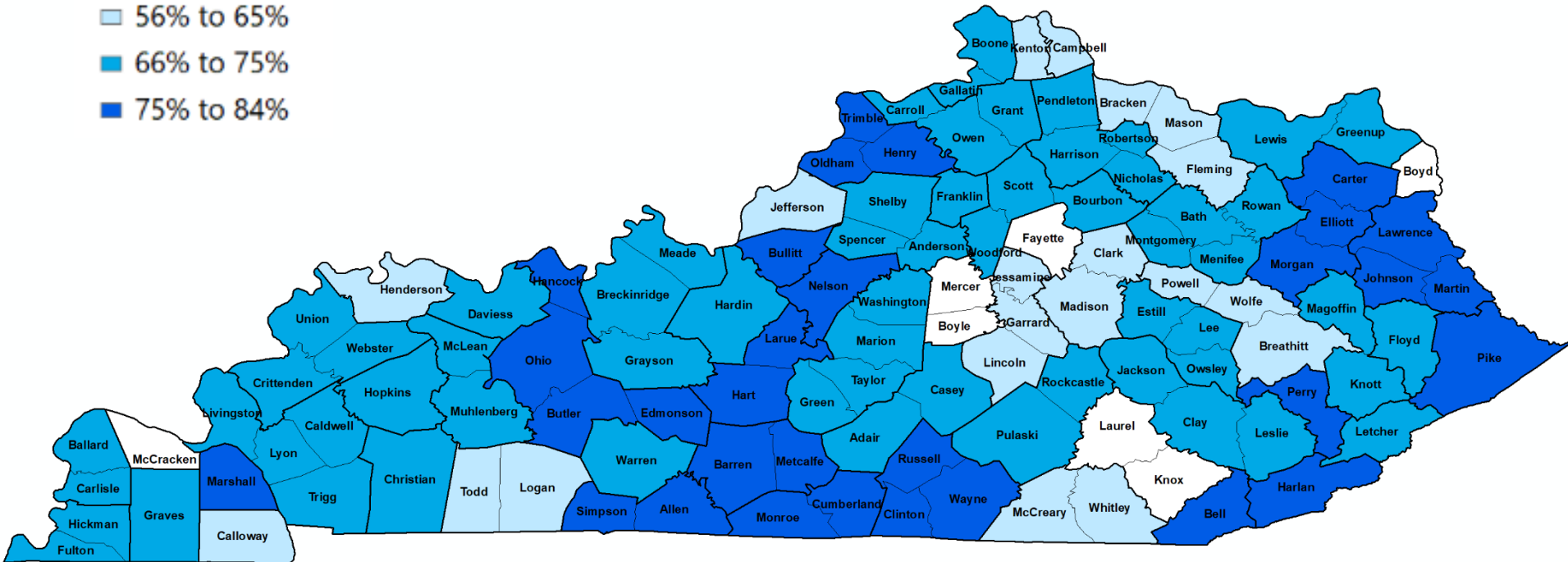
District Court Bookings by Release Decision, 2012-2016



# Release Rate Varies Across State

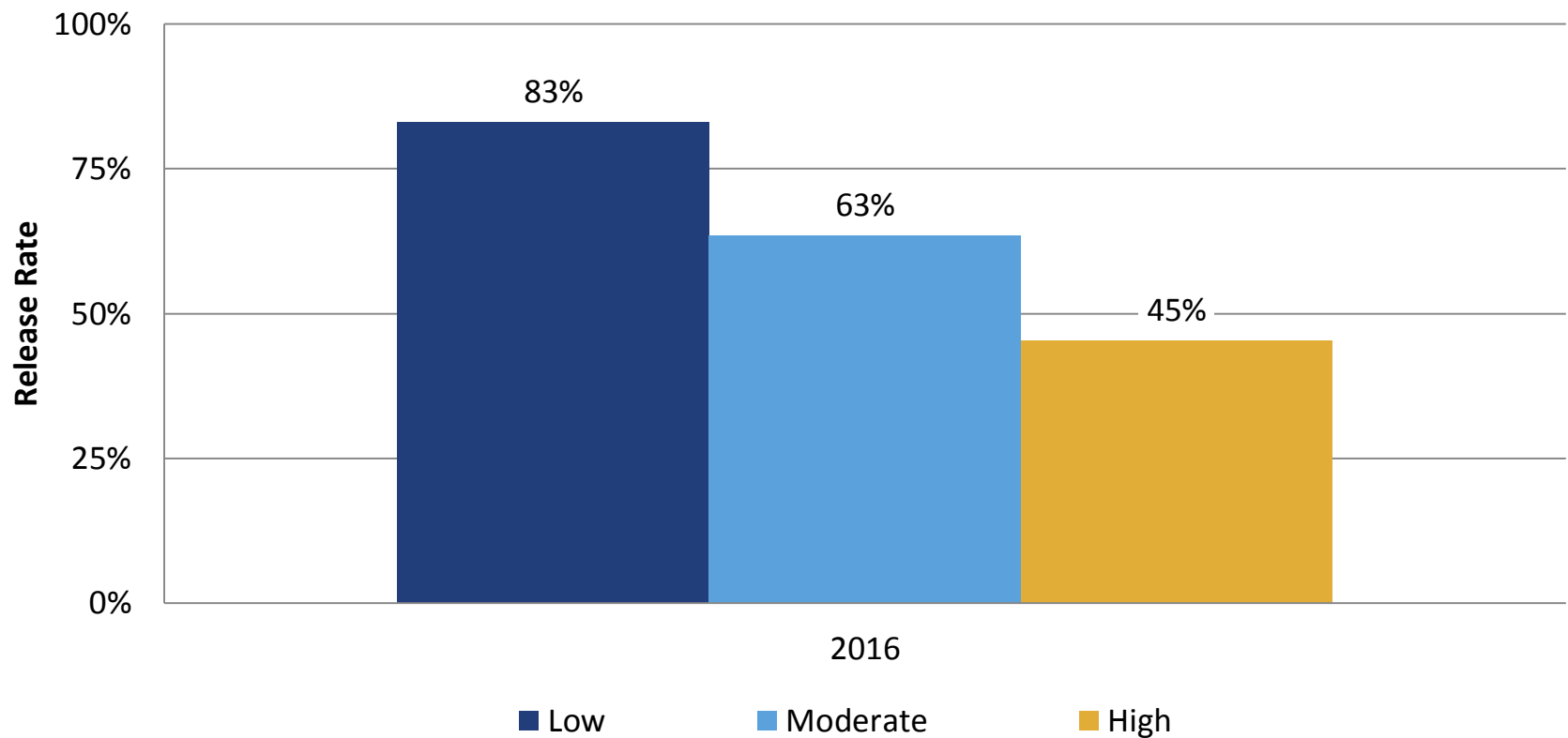
## Release Rate by District Court, 2016

- 46% to 55%
- 56% to 65%
- 66% to 75%
- 75% to 84%



# Release Rates Vary By Risk Level

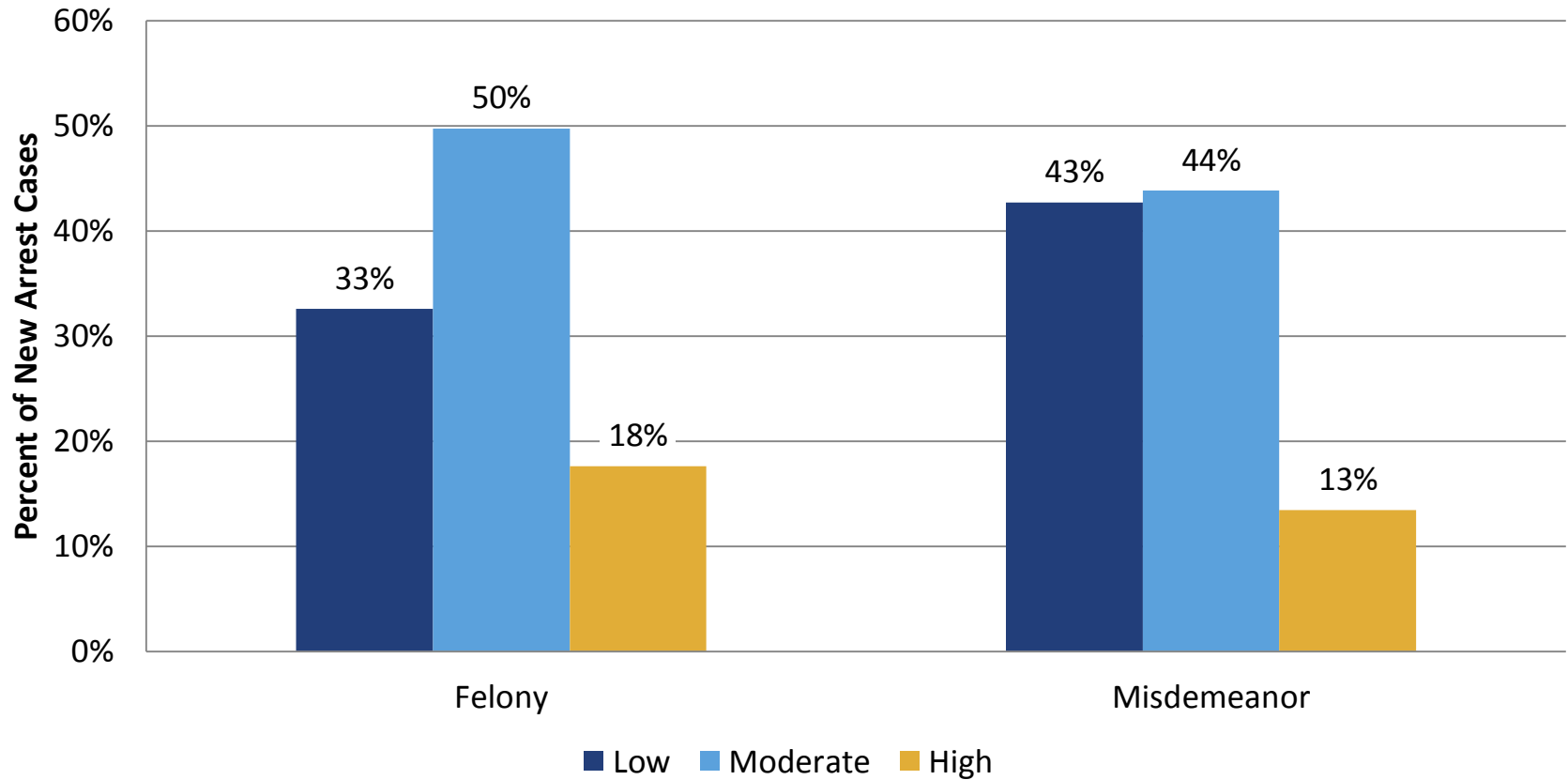
Release Rates for District Court New Arrest Cases by Risk Level, 2016





# 82% of Felony, 87% of Misdemeanor Cases Assessed as Low or Moderate Risk

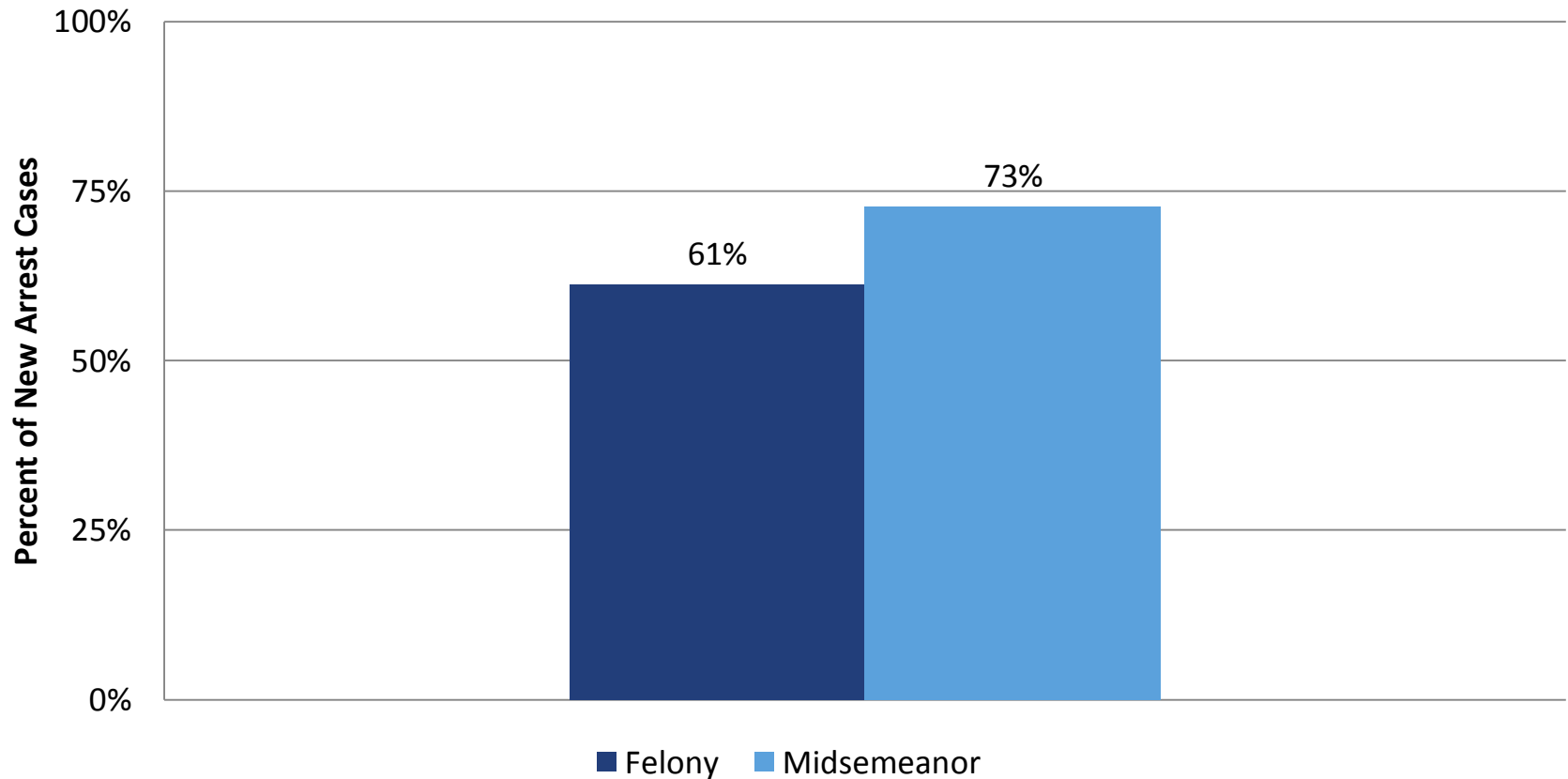
District Court New Arrest Cases by Risk Level, 2016





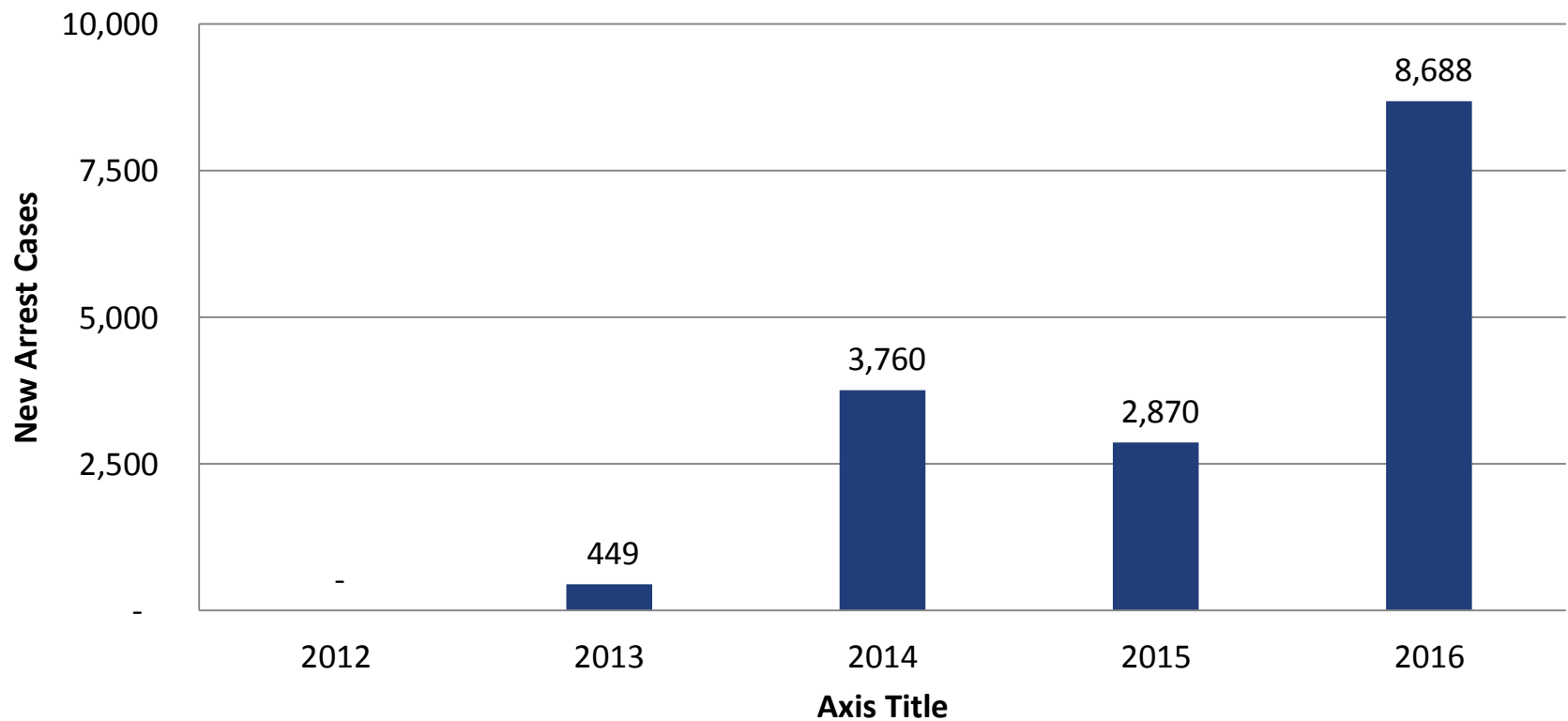
# 61% of Felony Charges and 73% of Misdemeanor Charges Released Pretrial

Release Rates for District Court New Arrest Cases by Charge Level, 2016



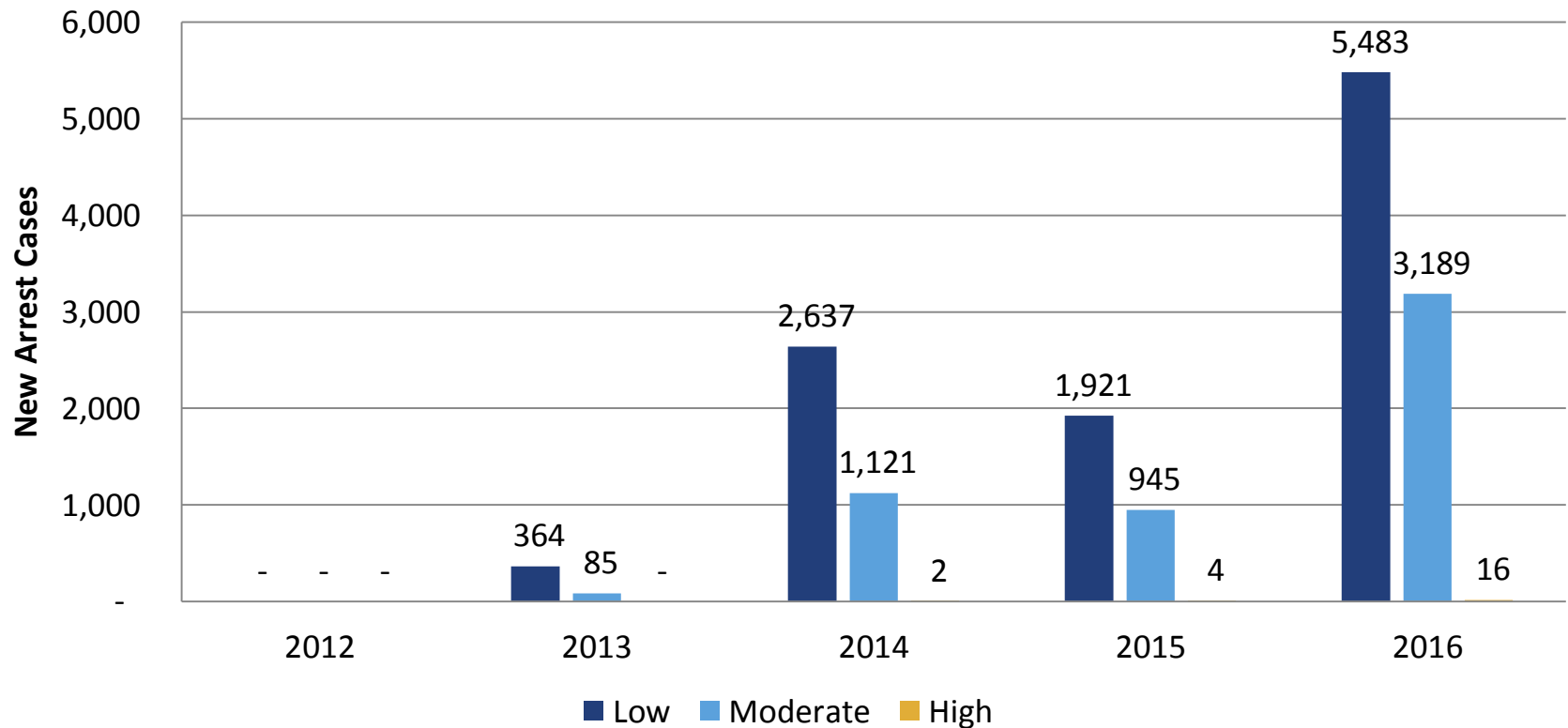
# Increased Participation in Administrative Release Program

**District Court New Arrest Cases Granted Administrative Release, 2012-2016**



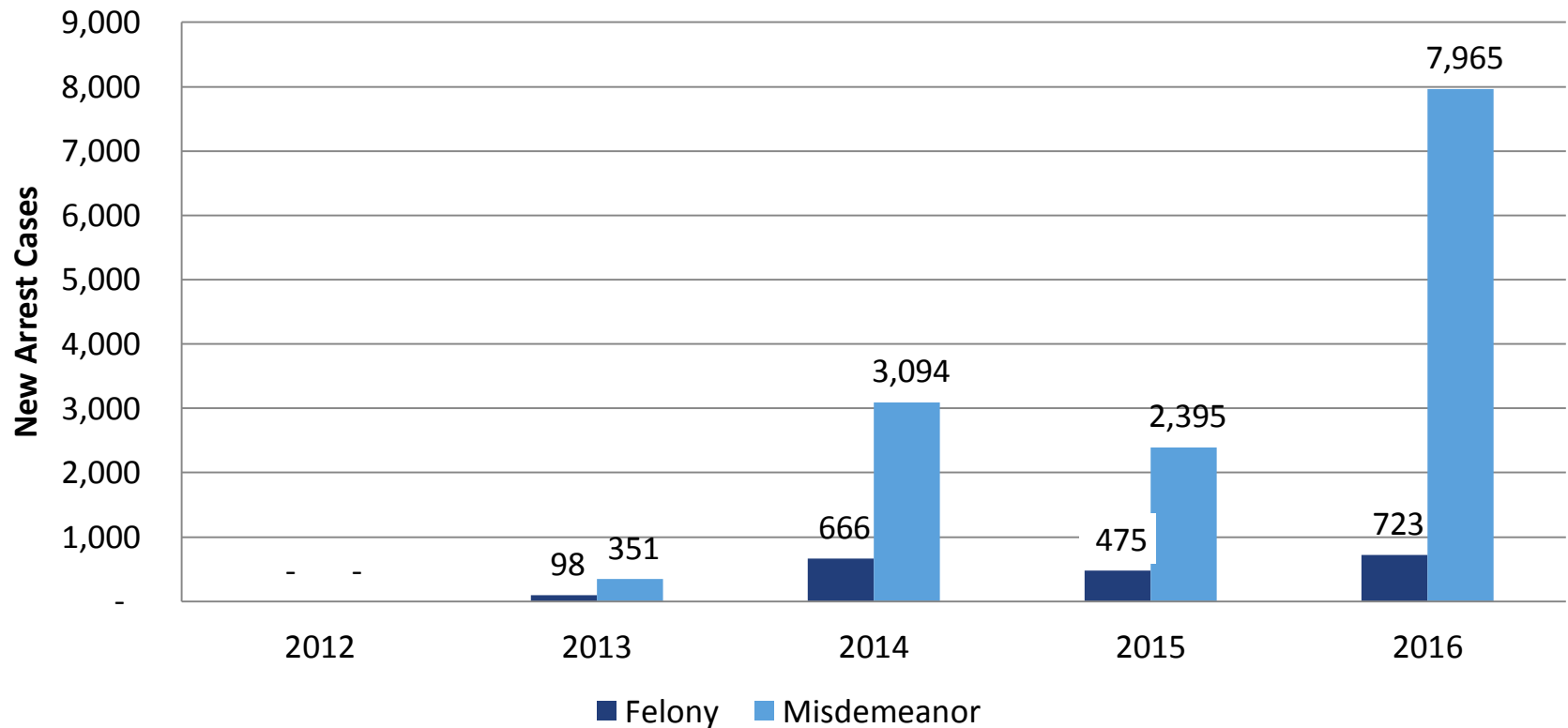
# Administrative Release Program Targets Low and Moderate Risk Defendants

District Court New Arrest Cases Granted Administrative Release by Risk Level, 2012-2016



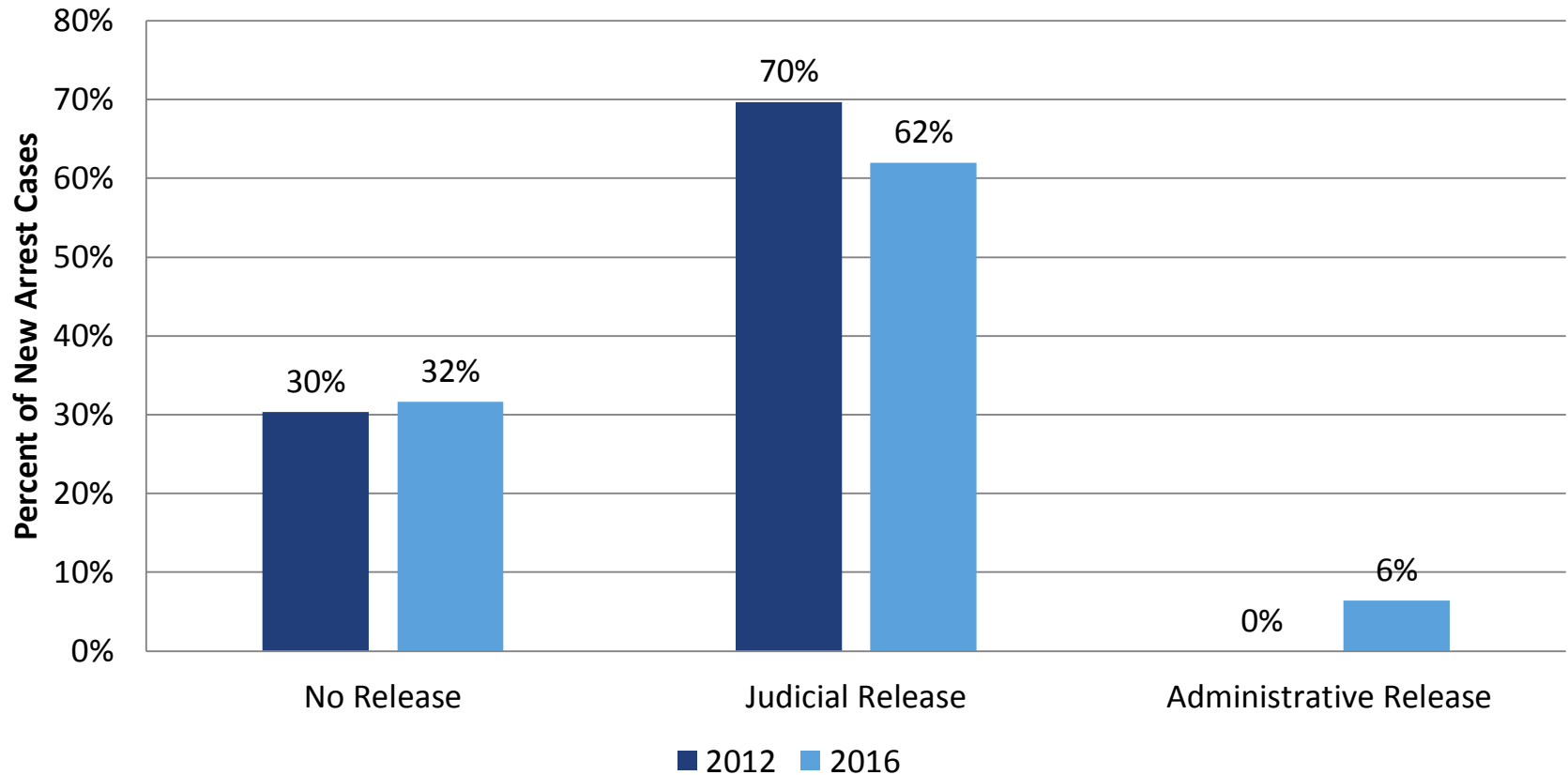
# Felony Participation in Administrative Release Program Remains Low

District Court New Arrest Cases Granted Administrative Release by Charge Type, 2012-2016



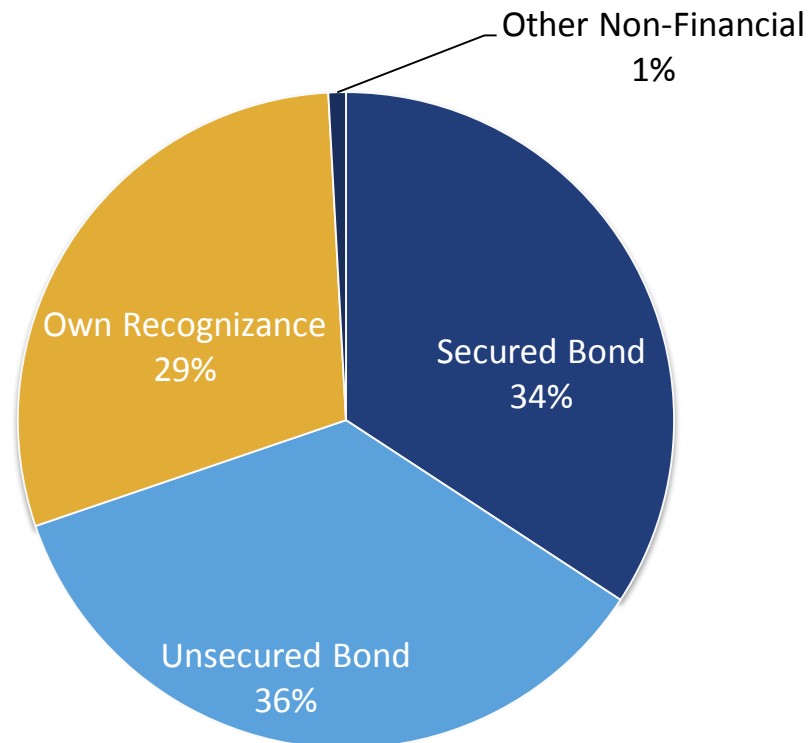
# Decline in Use of Judicial Release Balanced by Increase in Administrative Release

District Court New Arrest Cases by Release Type, 2012 vs 2016



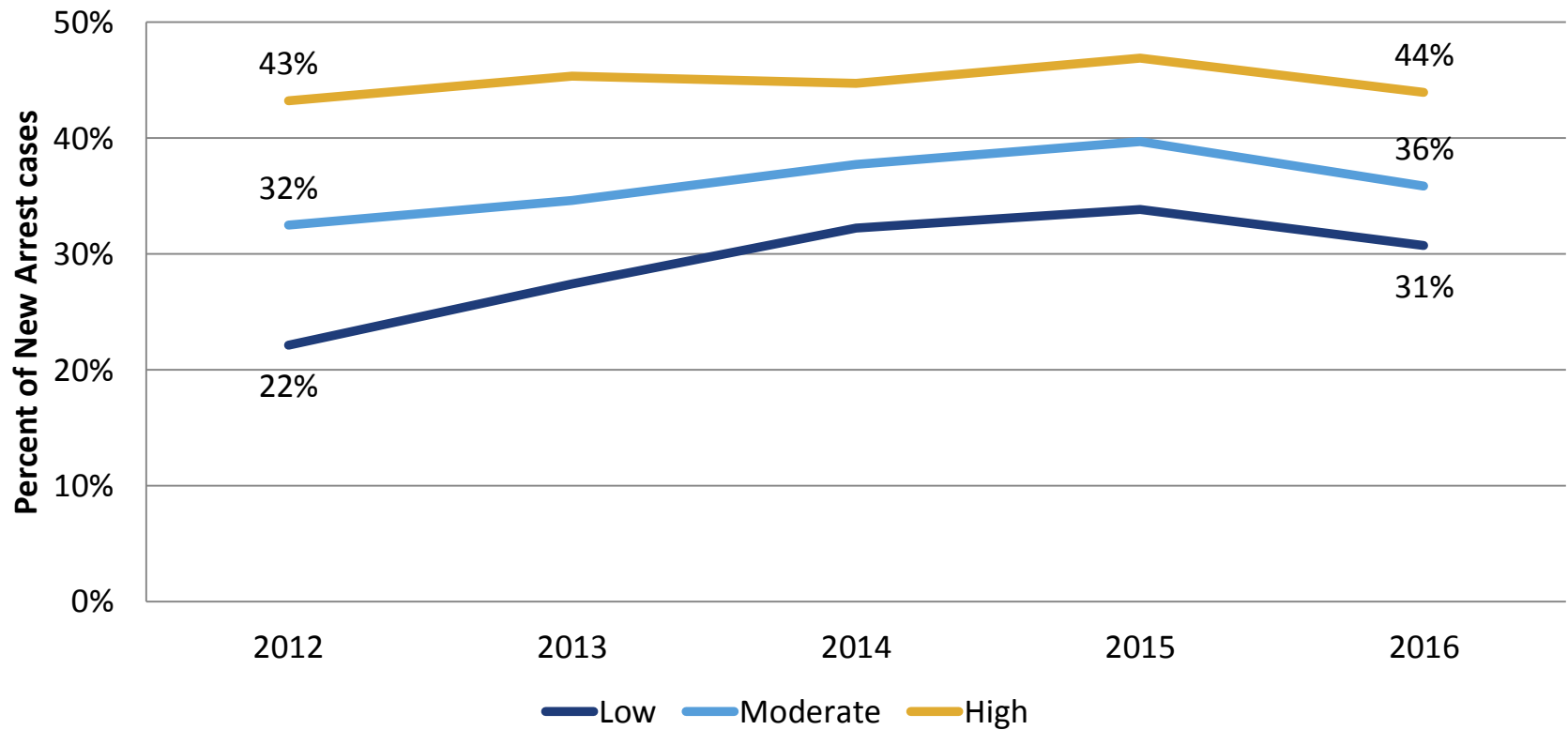
# 34% of Releases Use Secure Bond

**District Court New Arrest Cases by Bond Type on First Release,  
2016**



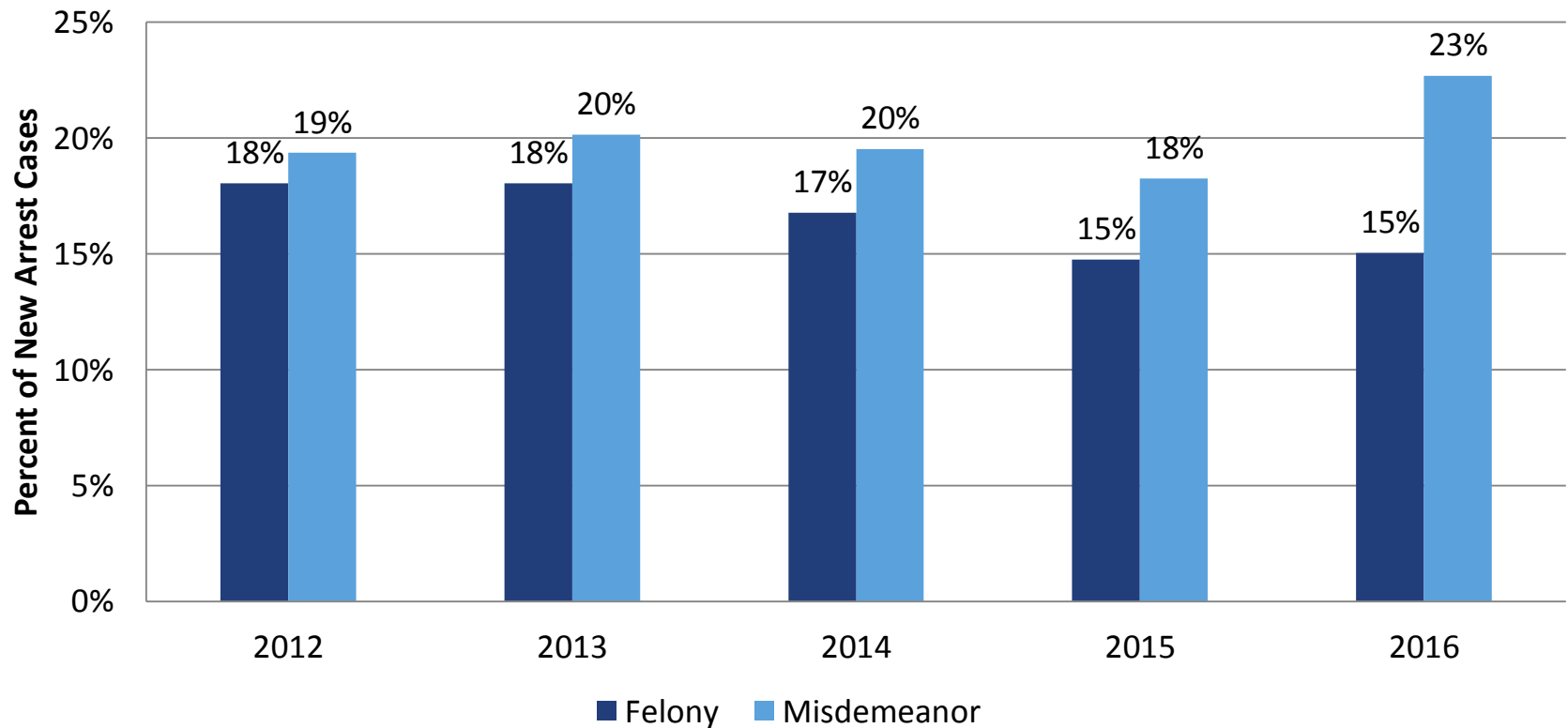
# Use of Secured Bond Increased Substantially for Low Risk Defendants

Percent of District Court New Arrest Cases Assigned a Secured Bond on First Release by Risk Level, 2012-2016



# ROR Use Increased for Misdemeanors, Declined Slightly for Felonies

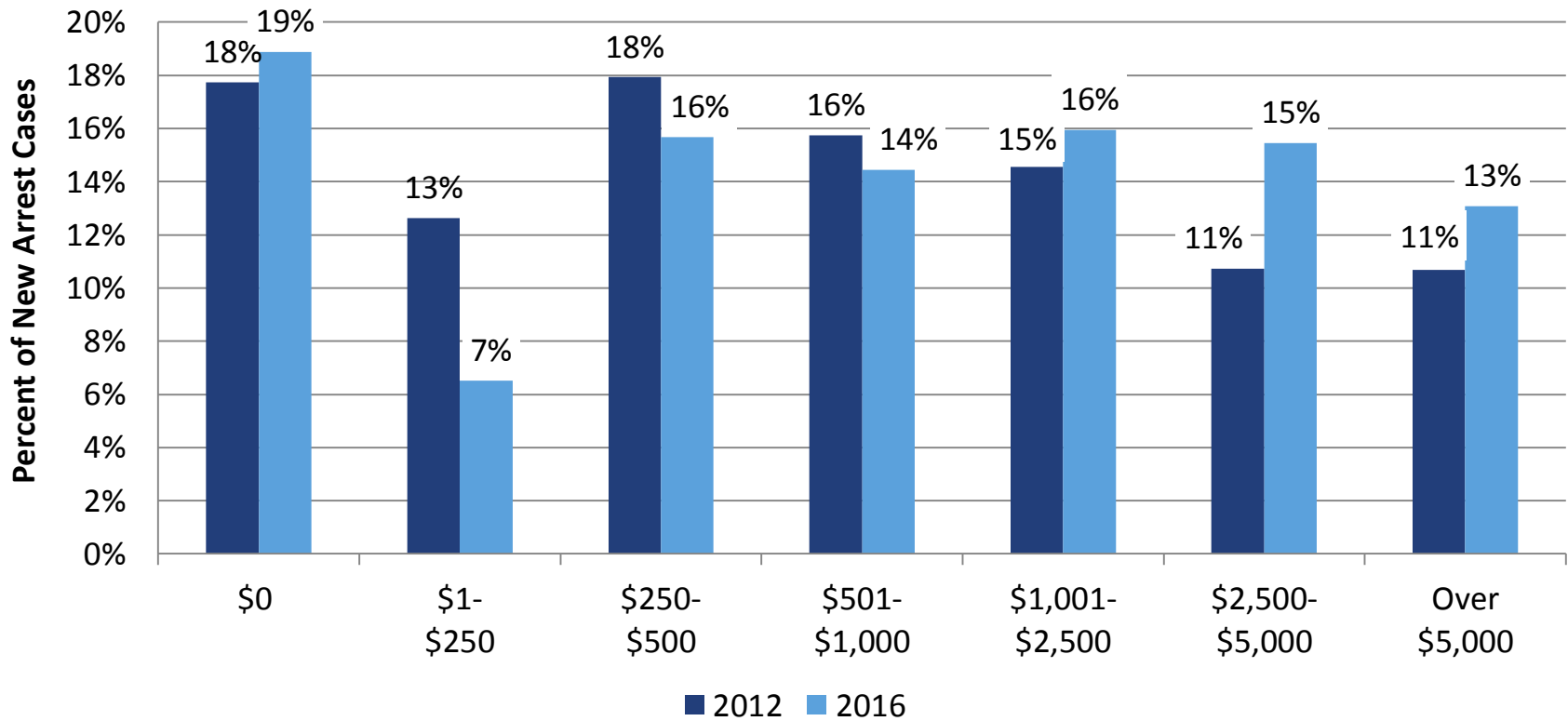
Rate of Own Recognizance Release for District Court New Arrest Cases on First Release by Charge Type, 2012-2016





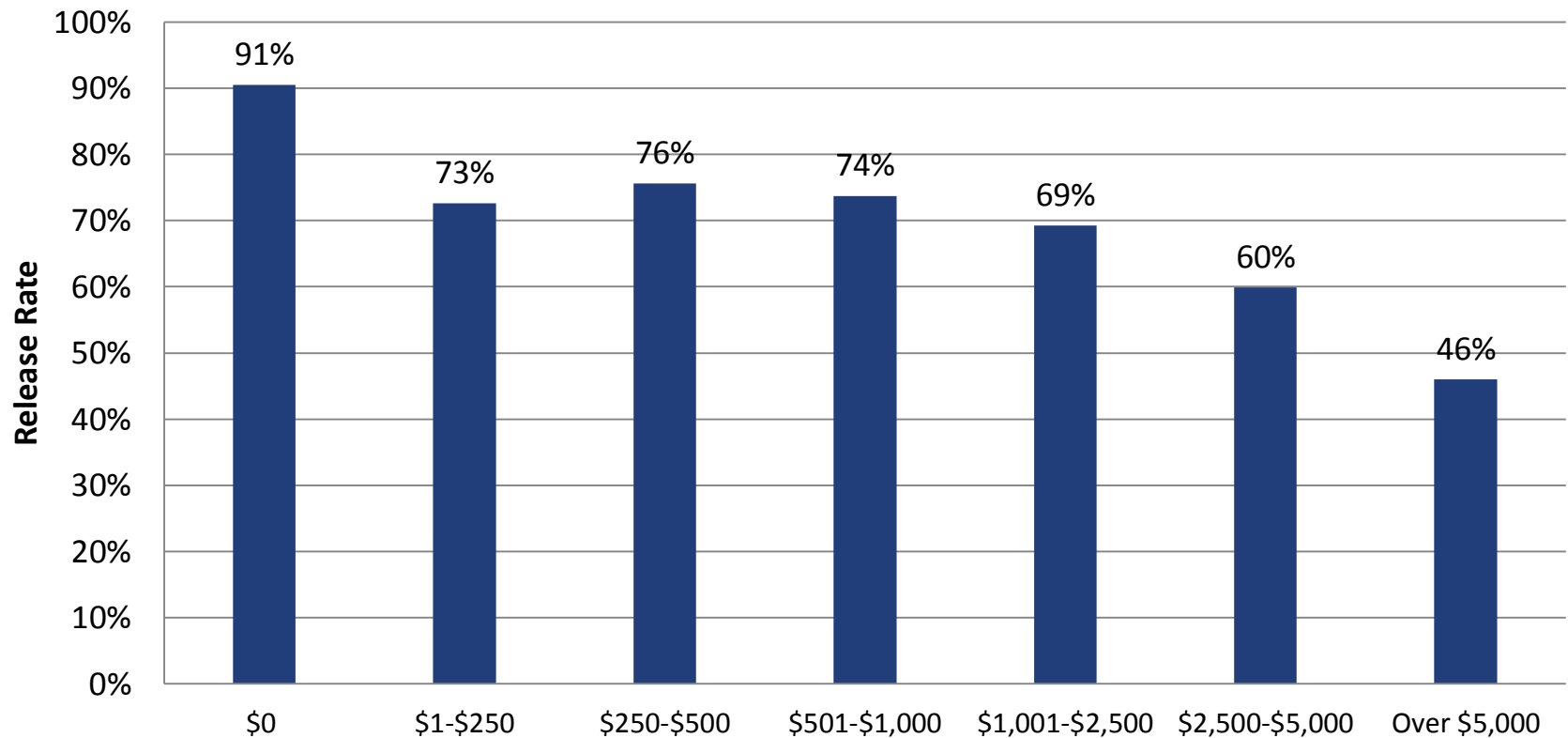
# Use of Small Initial Bond Amounts Declined

Initial Bond Amounts Set for District Court New Arrest Cases (%),  
2012 vs. 2016



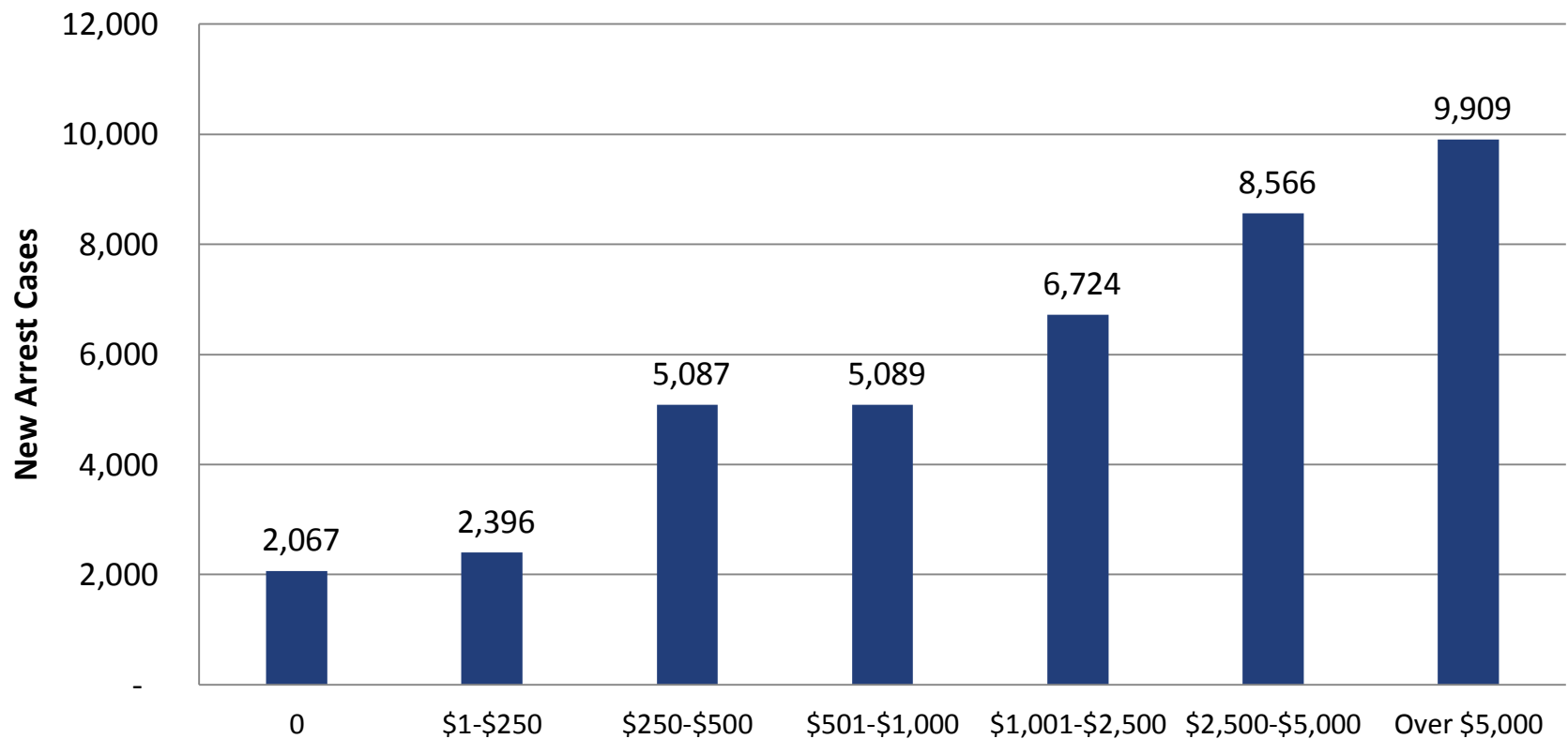
# Release Rate Declined as Initial Bond Increased

Release Rates for District Court New Arrest Cases by Initial Bond Amount Set, 2016



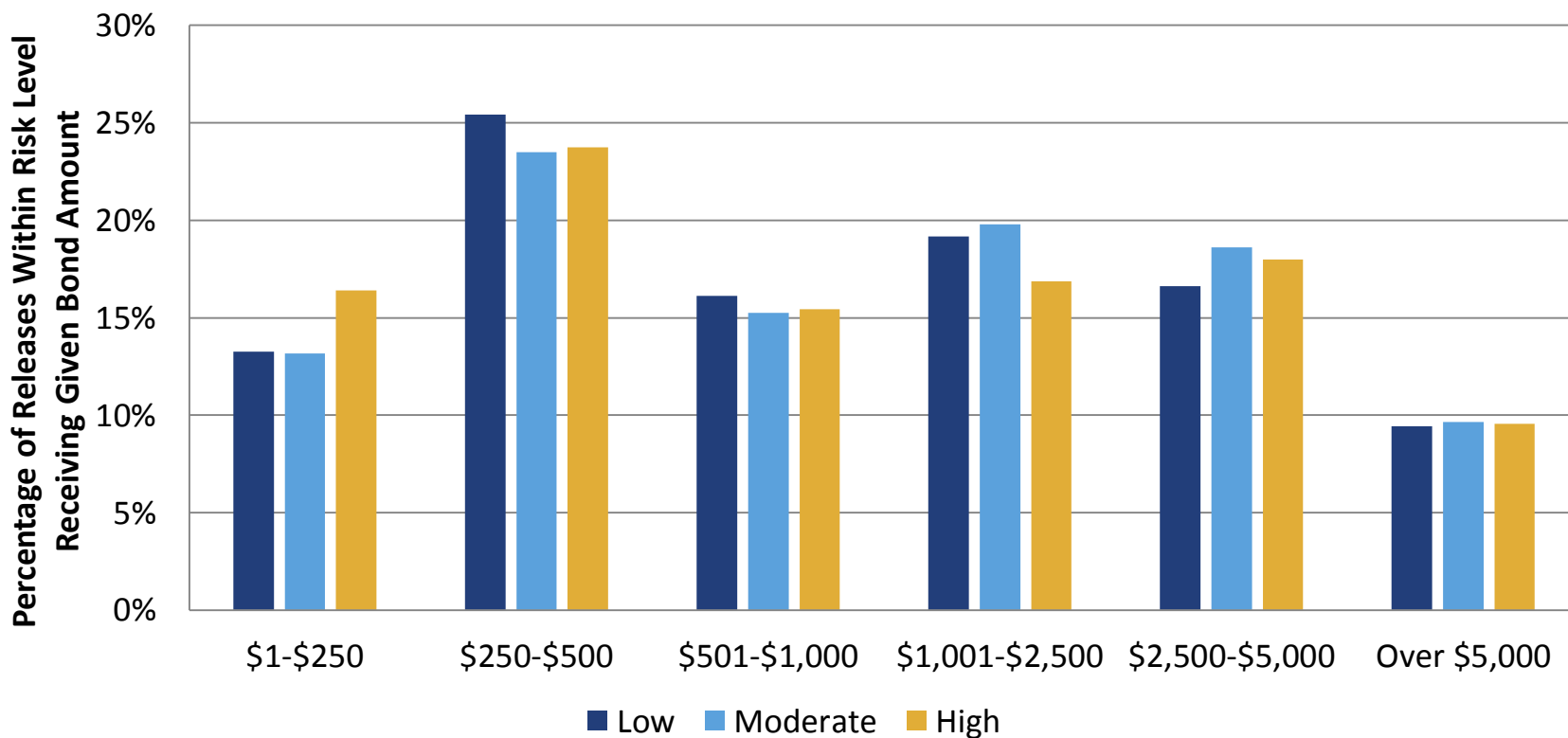
# Almost 15,000 Cases Detained on Bond Amounts Less Than \$1,000 in 2016

**District Court New Arrest Cases Not Released During District Court Pretrial Period by Initial Bond Amount Set, 2016**



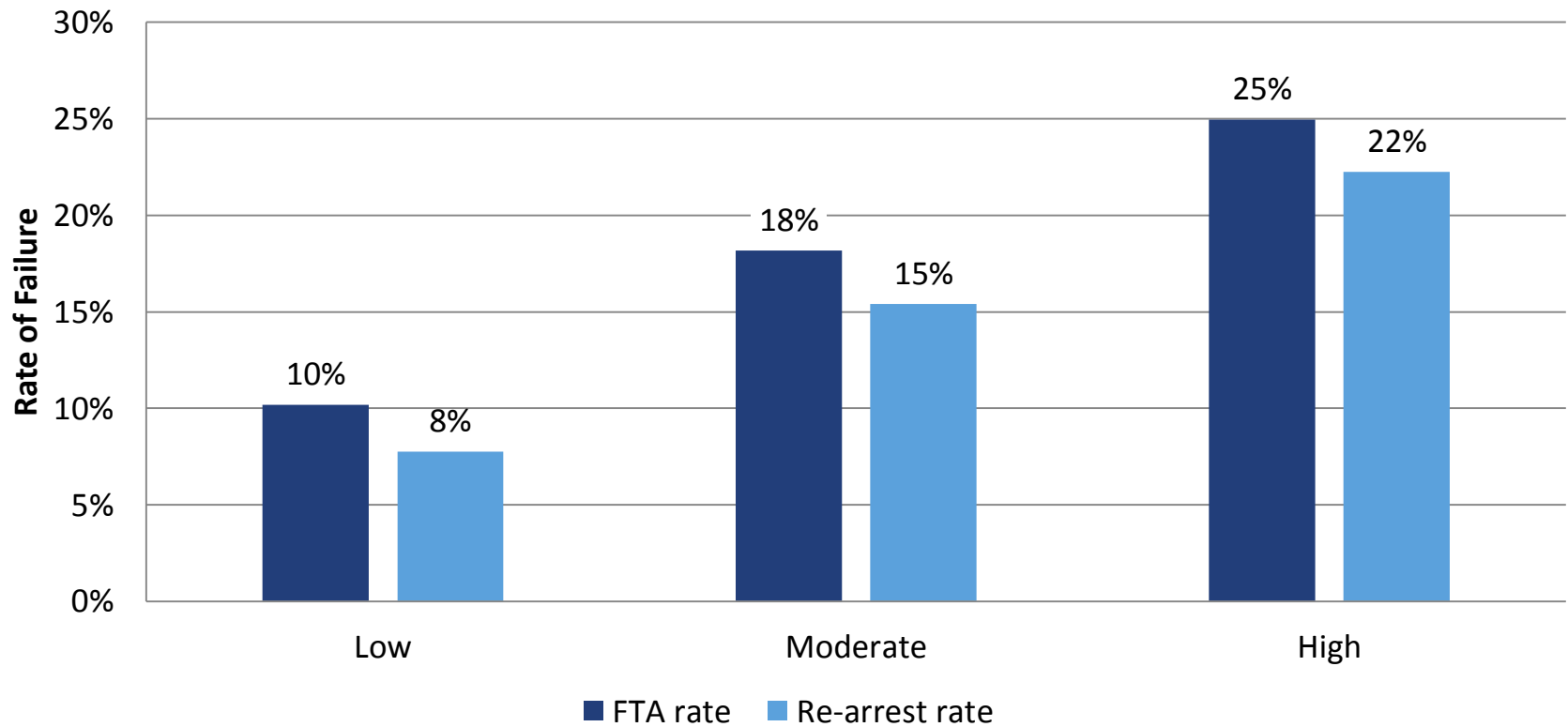
# Bond Amounts Do Not Vary by Risk Level

Percent of District Court New Arrest Cases Released on Secure Bond by Risk Level and Bond Amount, 2016



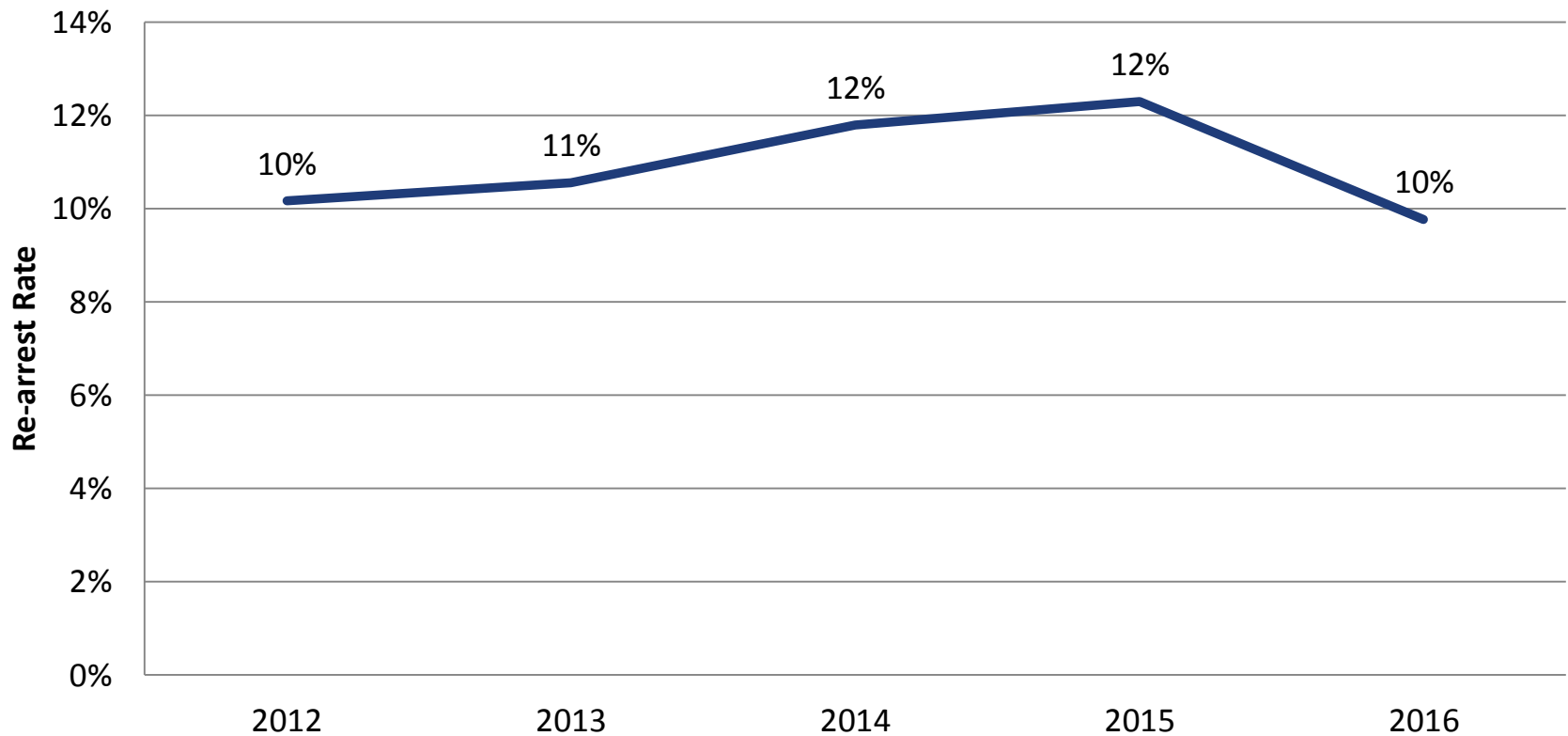
# Failure Event Rates Increased with Risk Level

Failure to Appear and Re-arrest Rates for Releases from District Court  
New Arrest Cases by Risk Level, 2015



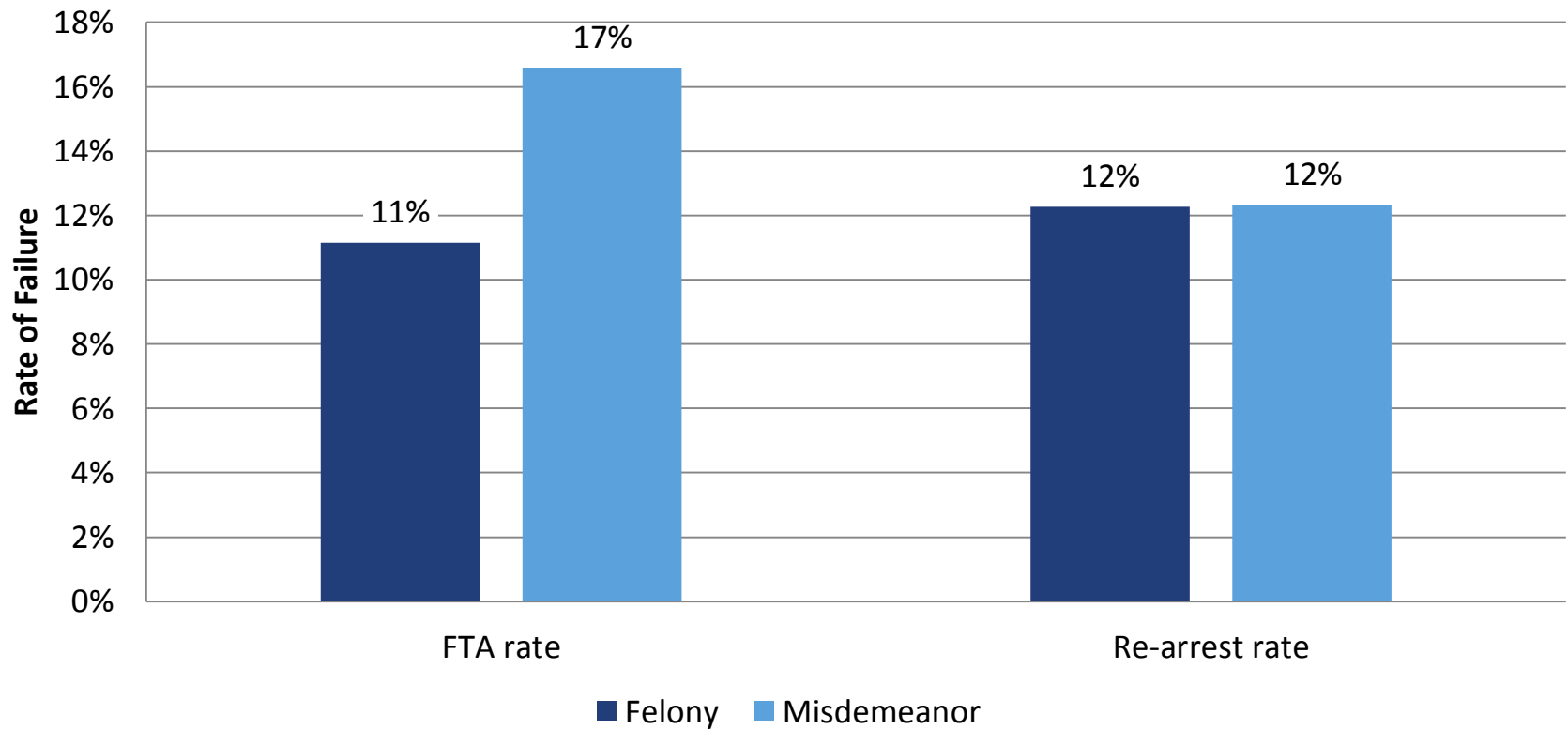
# Re-arrest Rate Remains Steady Between 10% and 12%

Re-arrest Rates for Releases from District Court New Arrest Cases by Year, 2012-2016



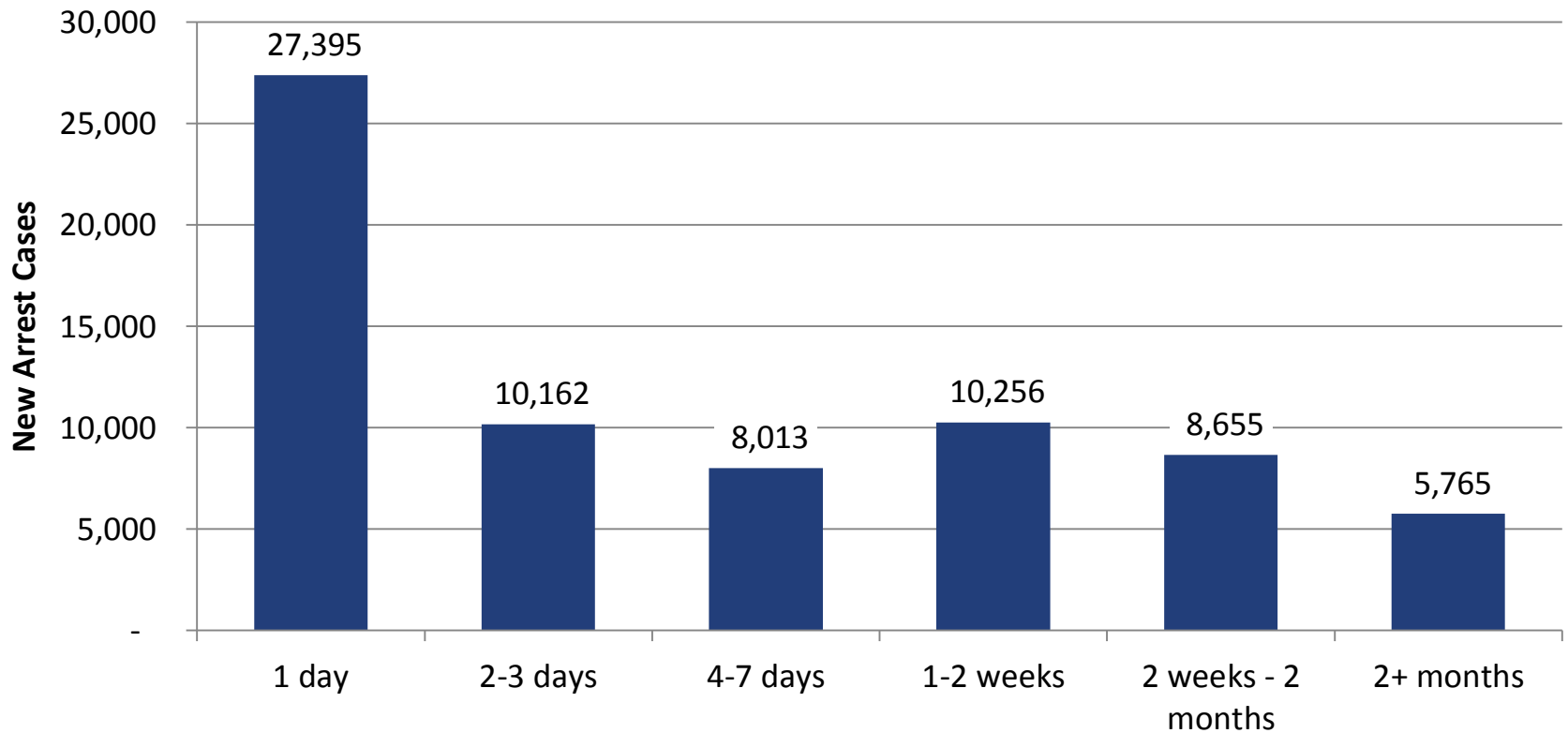
# 88% of Misdemeanor and Felony Releases Have No Re-Arrest

Failure to Appear and Re-arrest Rates for Releases from District Court  
New Arrest Cases by Charge Type, 2015



# 35% of District Court Dispositions Stay for Longer than a Week

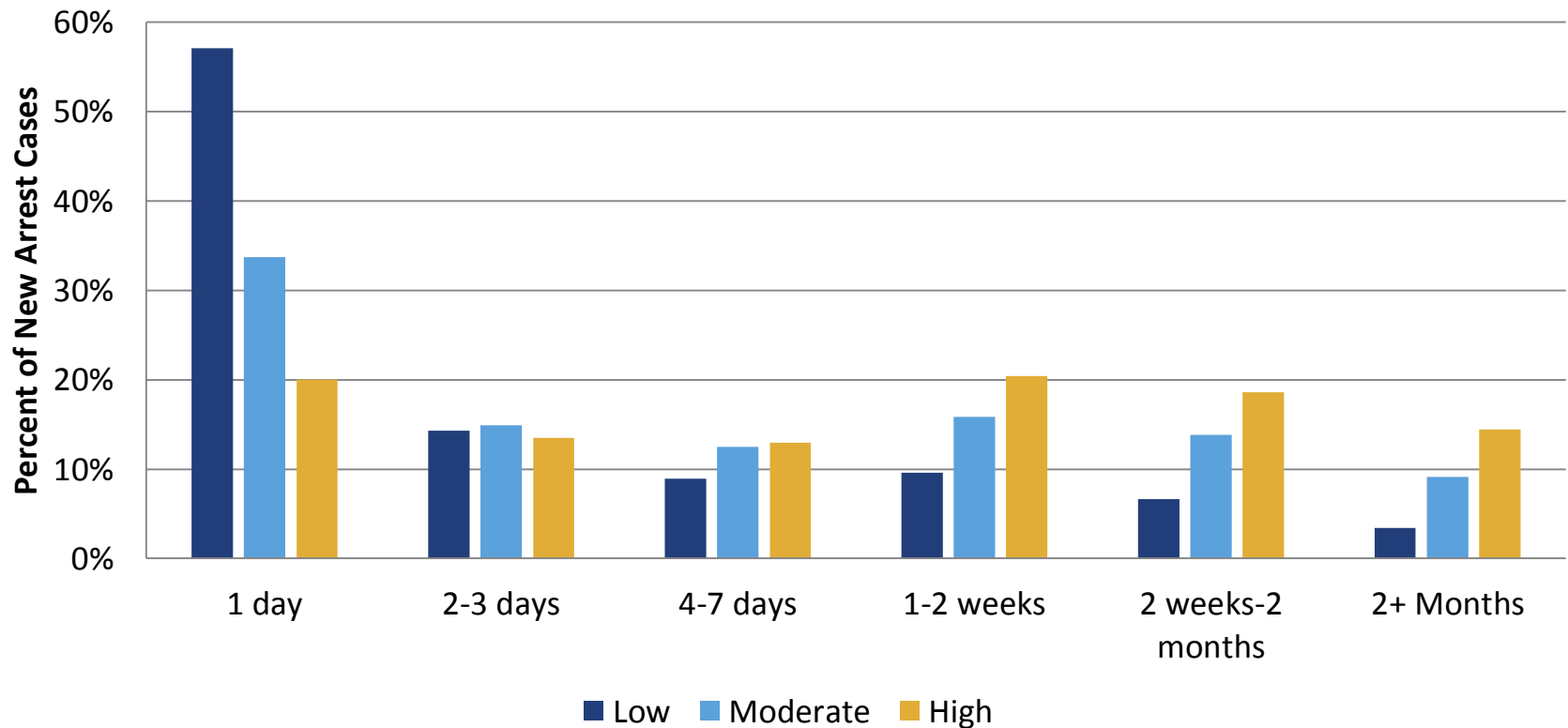
District Court New Arrest Cases Receiving a Final Verdict in District Court by Length of Pretrial Detention, 2016





# 31% of Low and Moderate Risk Cases Disposed at District Court Detained for Over a Week

District Court New Arrest Cases Receiving a Final Verdict in District Court by Length of Pretrial Detention and Risk Level, 2016



# Pretrial Takeaways

- 83% of bookings were assessed as low or moderate risk in 2016
- Two-thirds of all bookings at the District Court level were released before disposition or indictment
- 34% of releases had a secured money bond in 2016, with low risk offenders more likely to be released on secure bond in 2016 than in 2012
  - Almost 15,000 cases were detained on bond amounts less than \$1,000 in 2016
  - In 2016, 35% of District Court dispositions were detained for longer than 1 week, including 31% of low and moderate risk cases
- Pretrial releases had low rates of FTA and re-arrest, with even 75% of high risk defendants successful during pretrial release

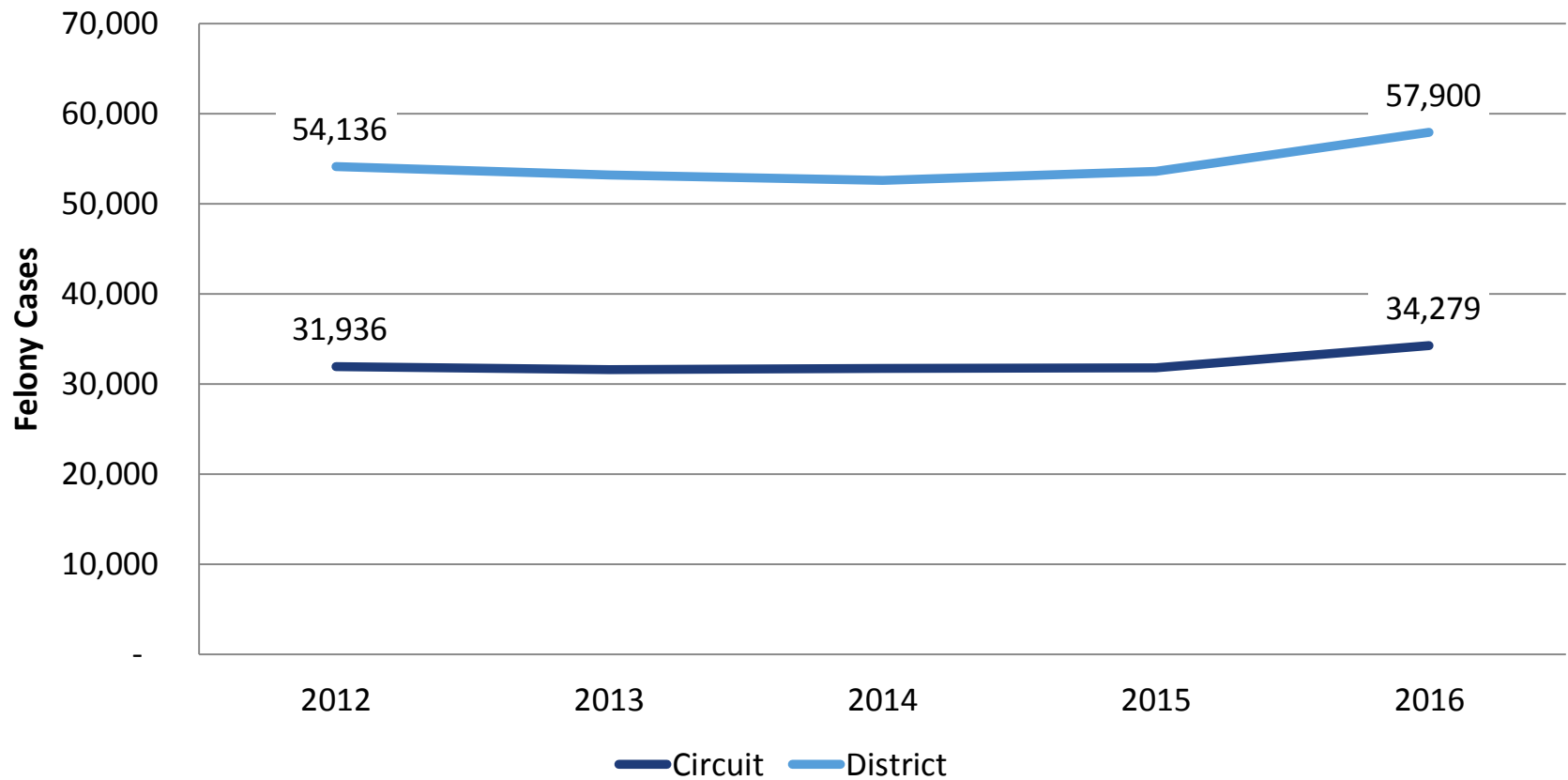
# Pretrial Takeaways

- Only 12% of either misdemeanor or felony cases released had a new criminal arrest during their pretrial release period
- From 2012 to 2016, there has been substantial growth in the number of low and moderate risk misdemeanants released via the Administrative Release program, but limited use of the program for defendants charged with a felony

# Charging and Sentencing

# 7% Increase in Both Felony Cases Filed in District Court and Felony Indictments

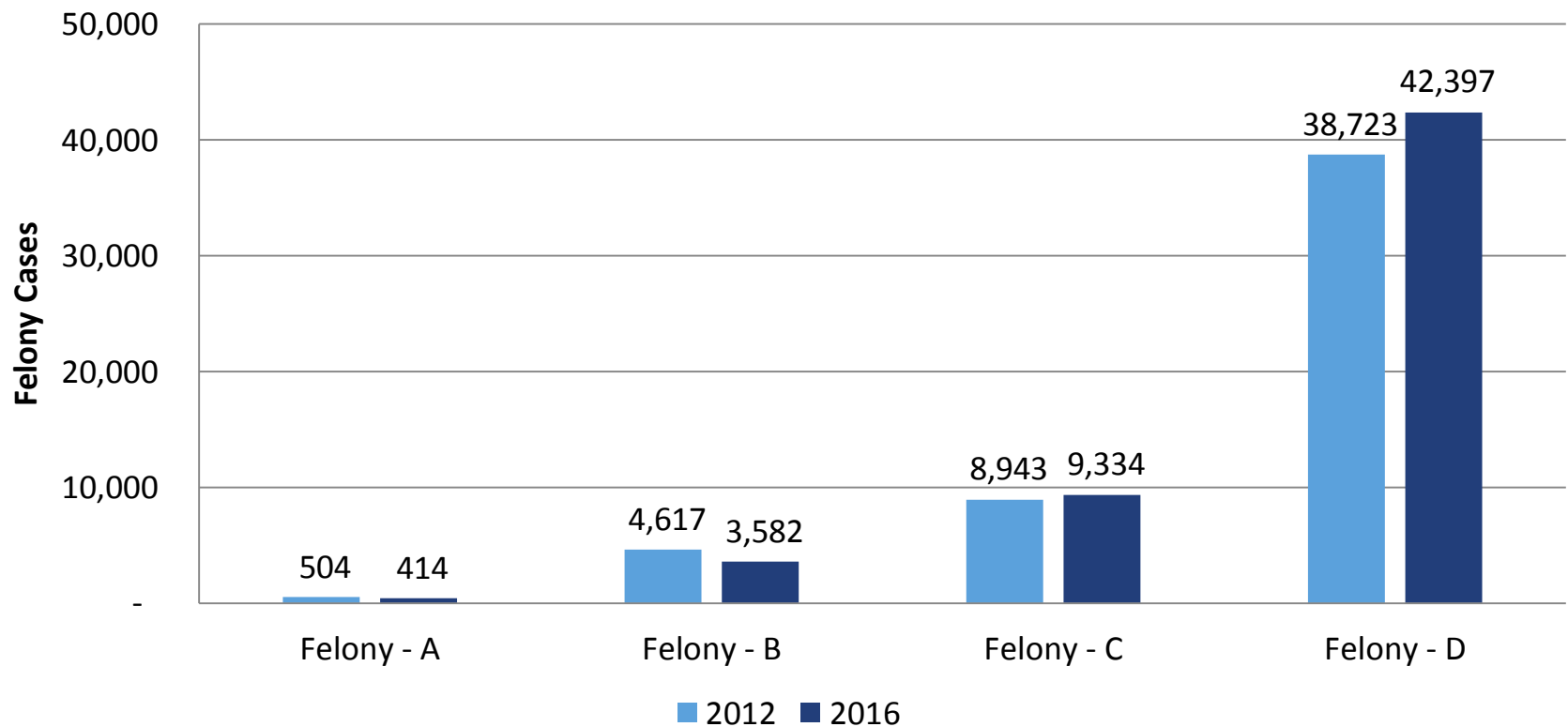
Felony Cases by Court, 2012-2016





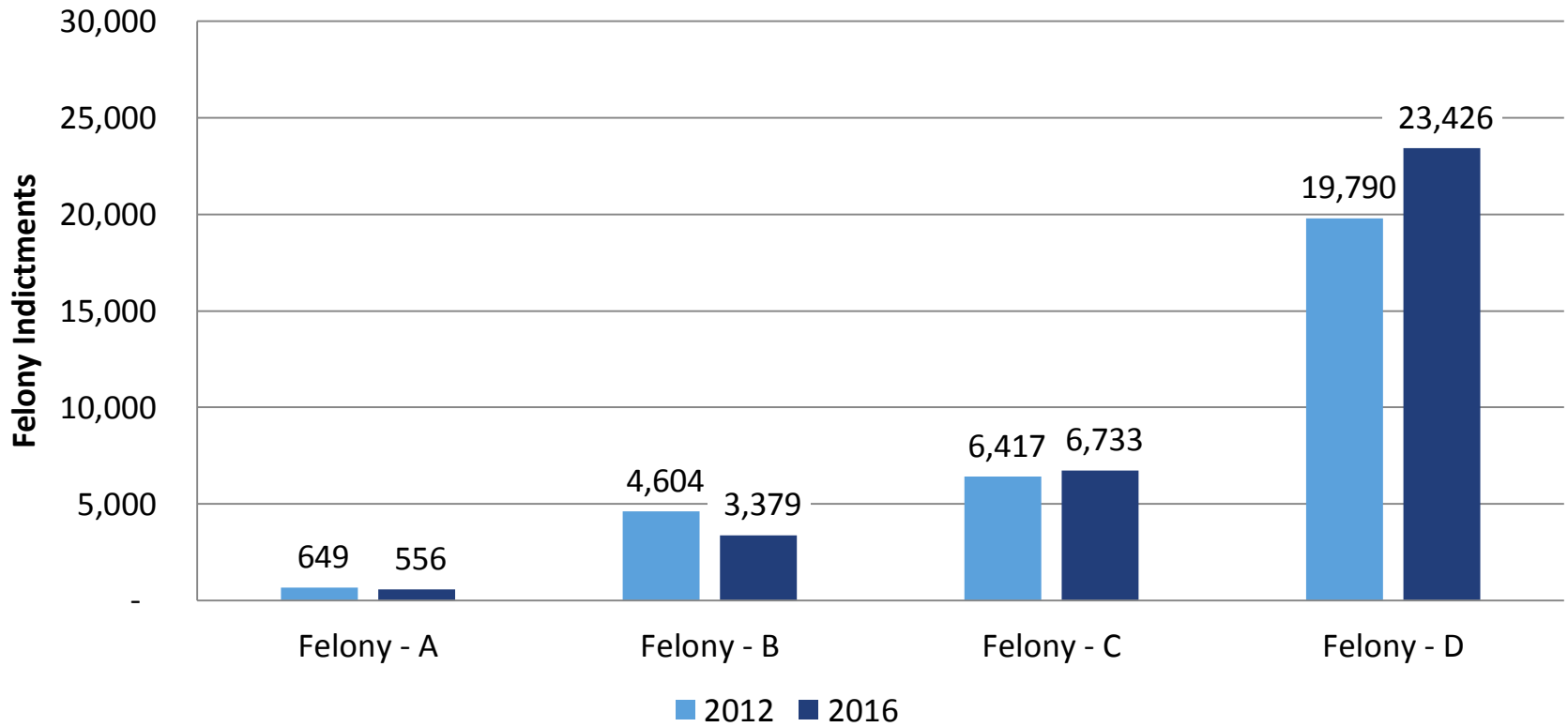
# Number of Class D Felony Charges Filed Grew 9%

Felony Cases Filed in District Court by Class of Most Serious Charge, 2012 vs 2016



# Class D Felony Indictments Grew 18%, Double Growth Rate for Class D District Court Filings

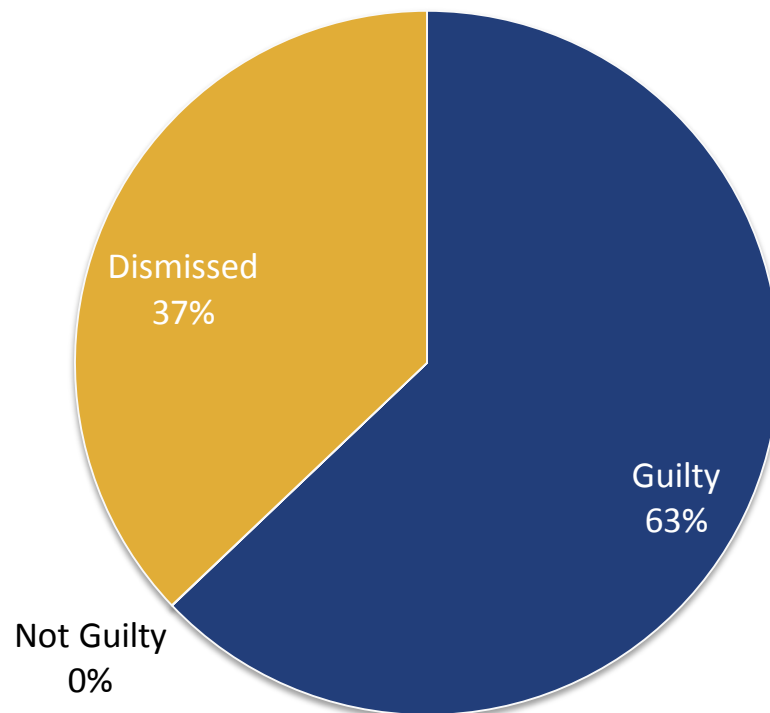
Felony Indictments Filed in Circuit Court by Class of Most Serious Charge, 2012 vs 2016





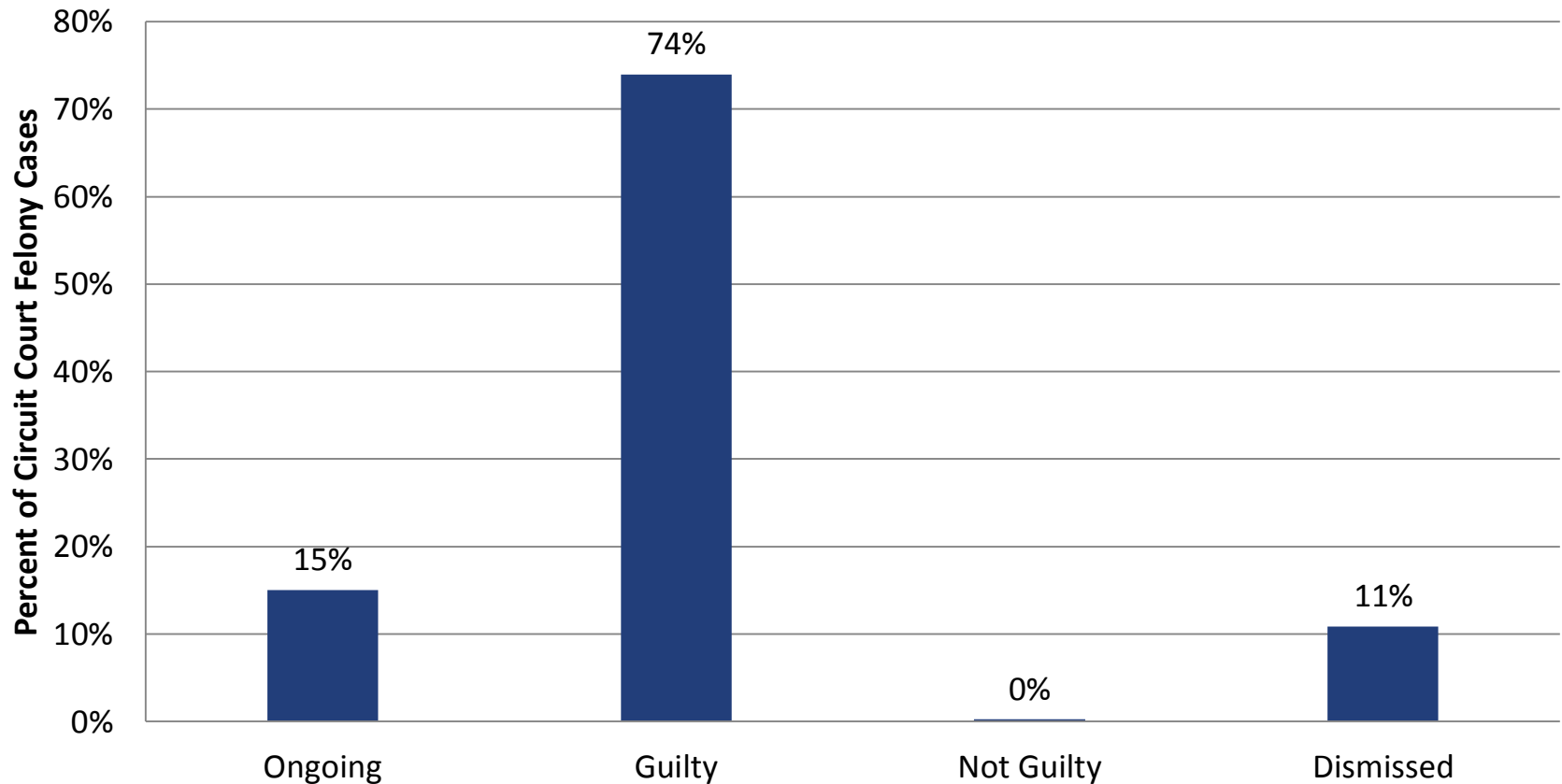
# Just Over One-Third of Felony Cases Disposed at District Court End in Dismissal

Disposition Type of Felony Cases Decided at District Court, 2016



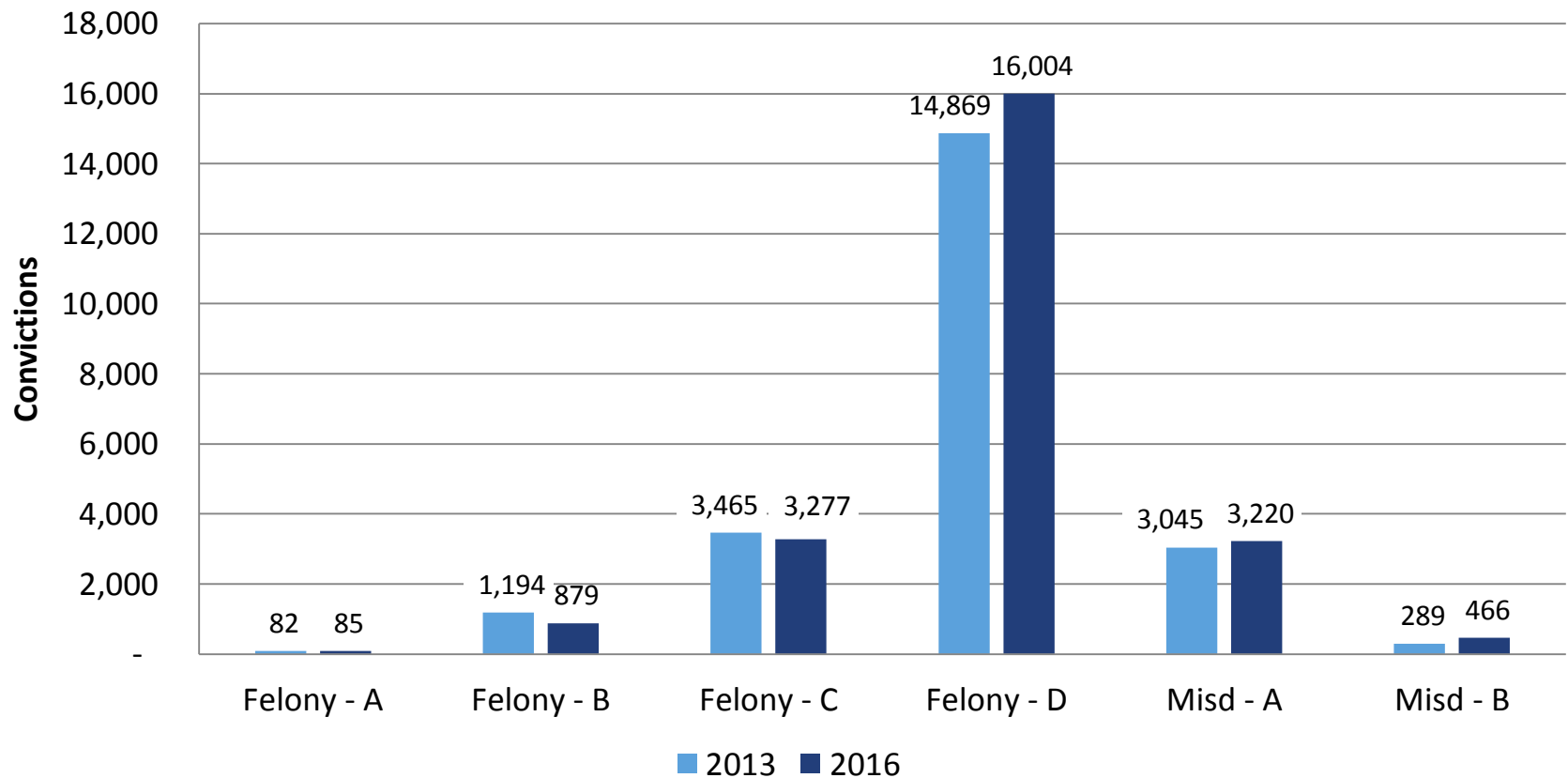
# 15% of Circuit Court Cases Disposed in 2016 Received Deferred Prosecution or a Diversion

Dispositions of Felony Cases in Circuit Court, 2016



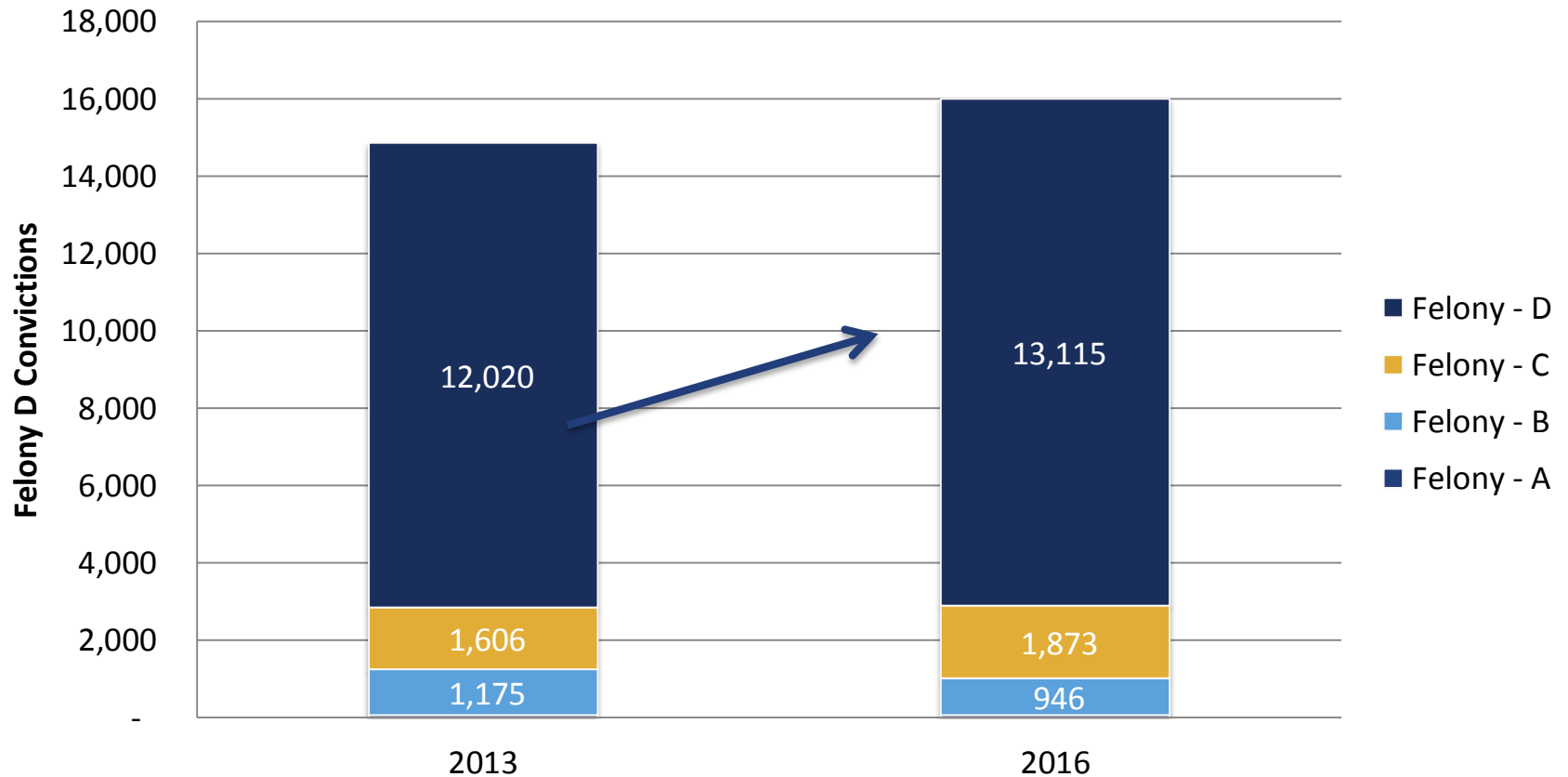
# 8% Increase in Class D Convictions Since 2013

## Convictions in Circuit Court by Felony Class, 2013 vs 2016



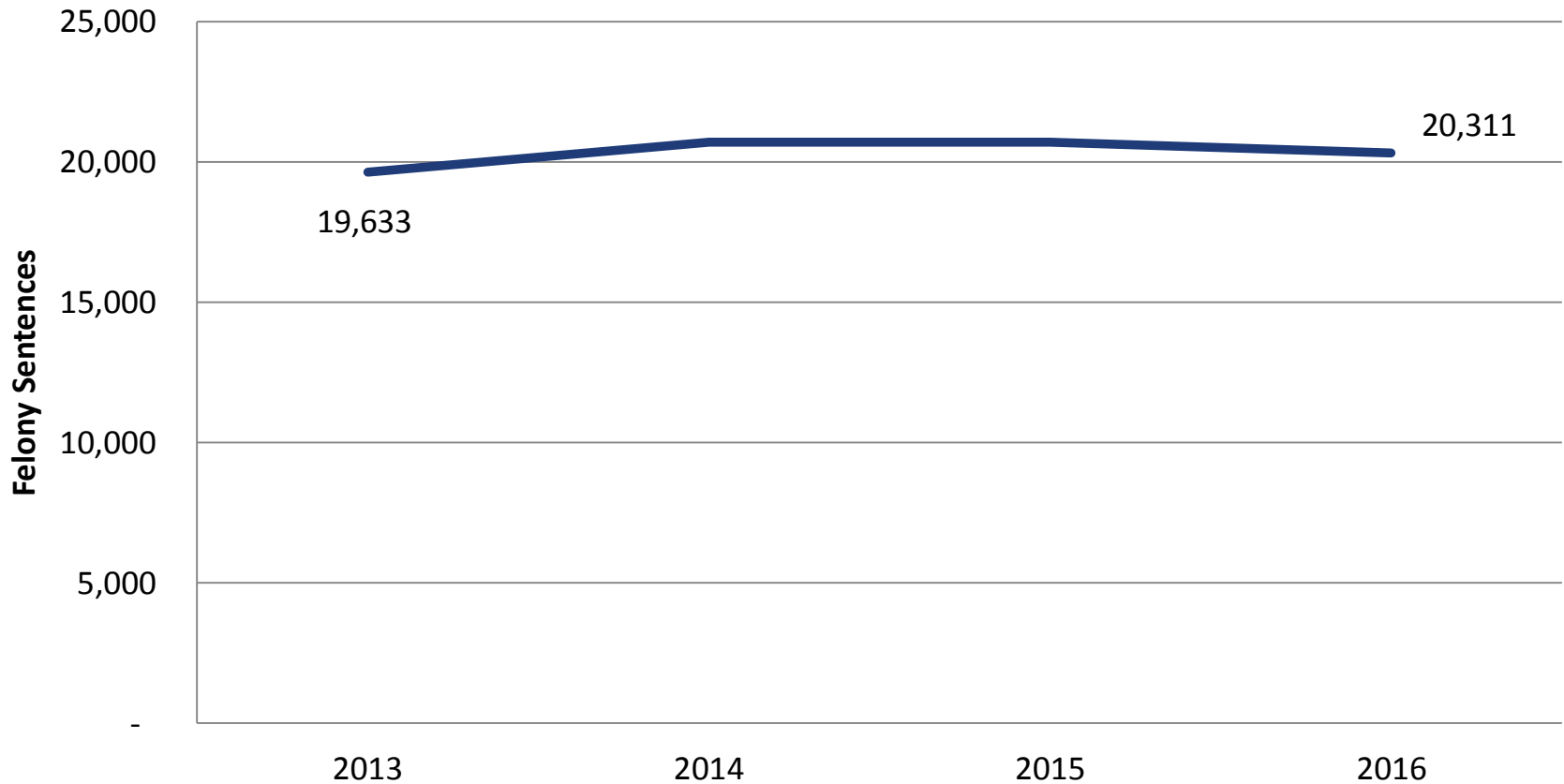
# 82% of Class D Convictions Started as Class D Charges

Felony D Convictions by Initial Charge Class, 2013 vs 2016



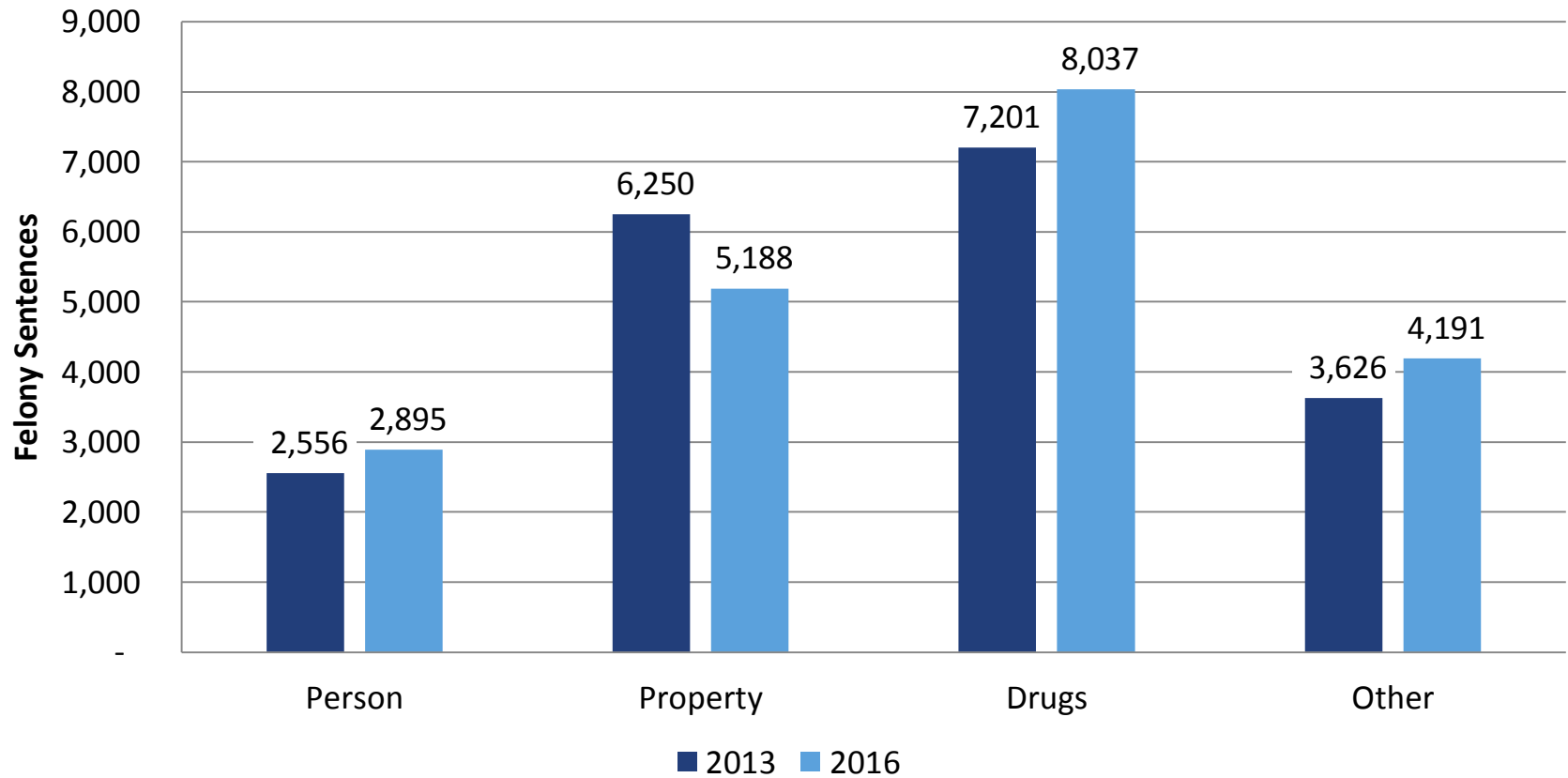
# 3% Increase in Felony Sentences at Circuit Court

Felony Sentences in Circuit Court, 2013-2016



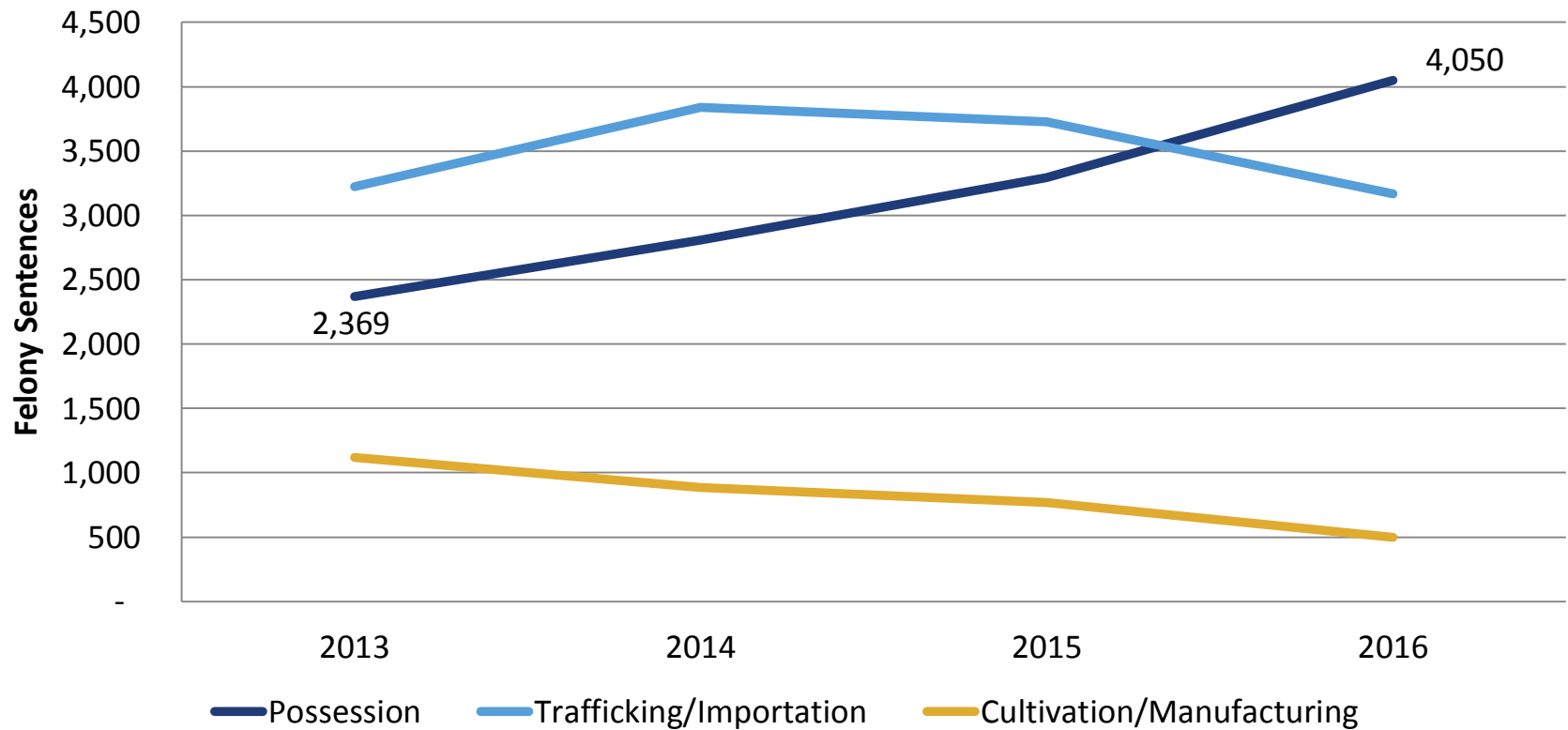
# 12% Growth in Drug Convictions Since 2013

Felony Sentences by Offense Type, 2013 vs 2016



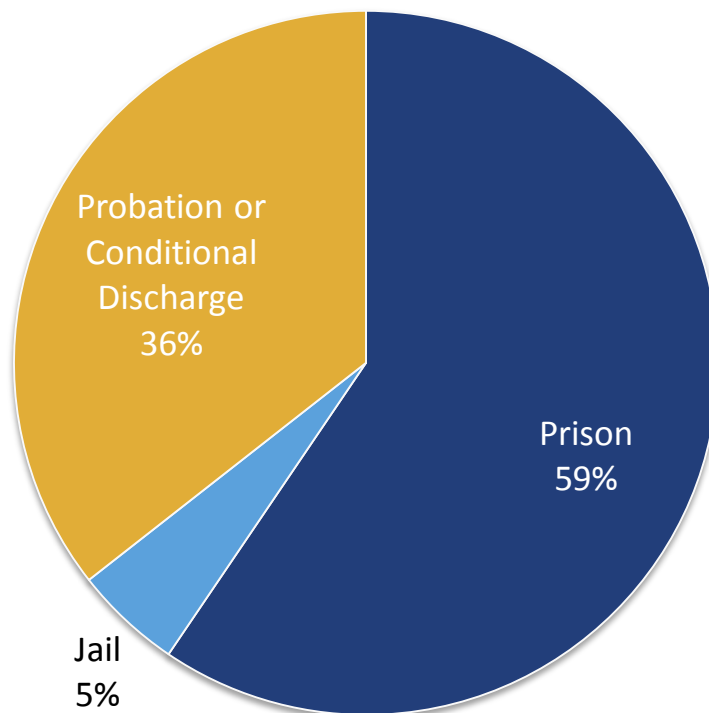
# Convictions for Drug Possession Increased 71%

Felony Sentences in Circuit Court for Drug Offenses by Offense Type, 2013-2016



# 59% of Felony Convictions Sentenced to Prison

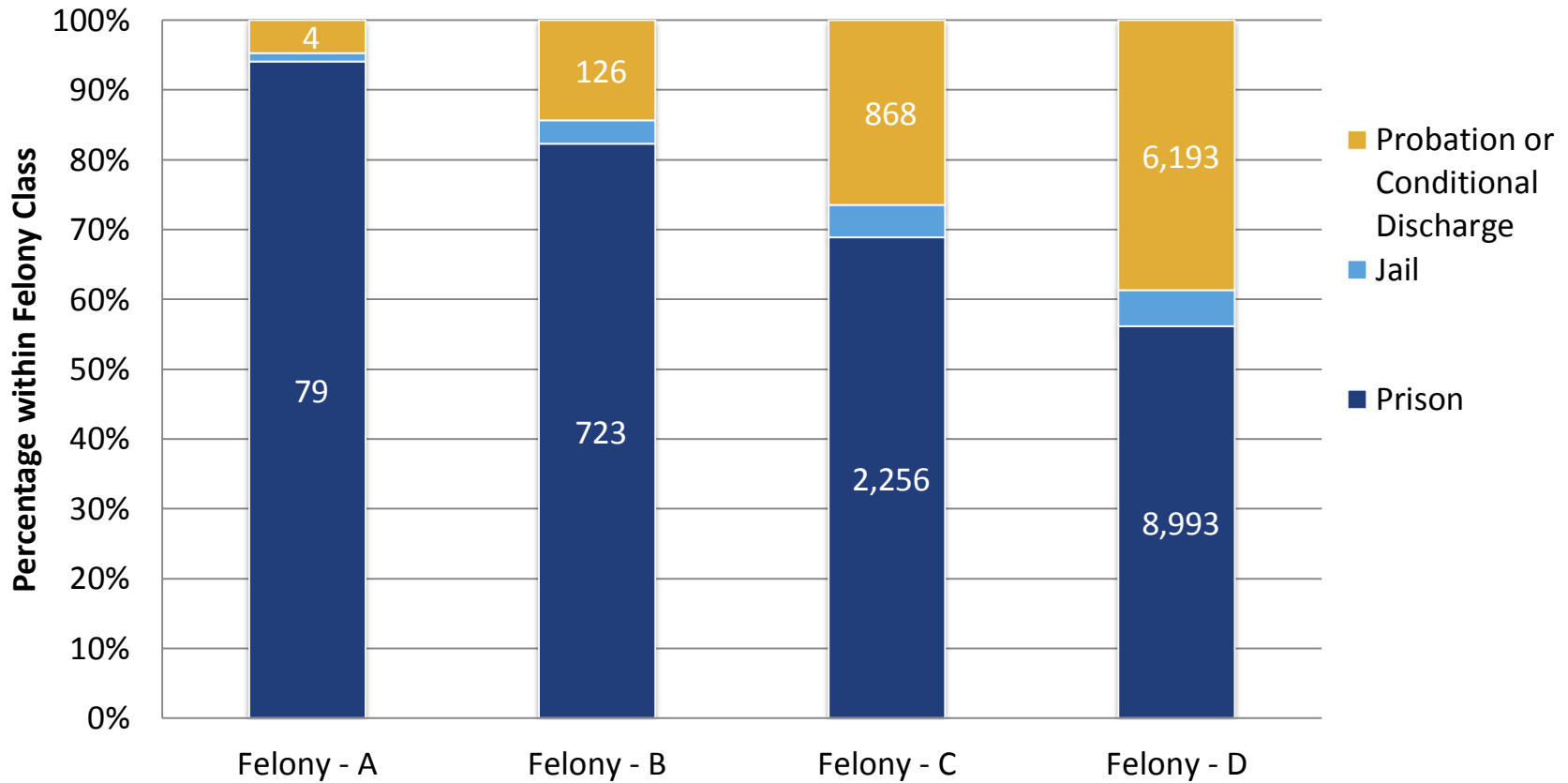
**Felony Sentences in Circuit Court by Sentence Type, 2016**





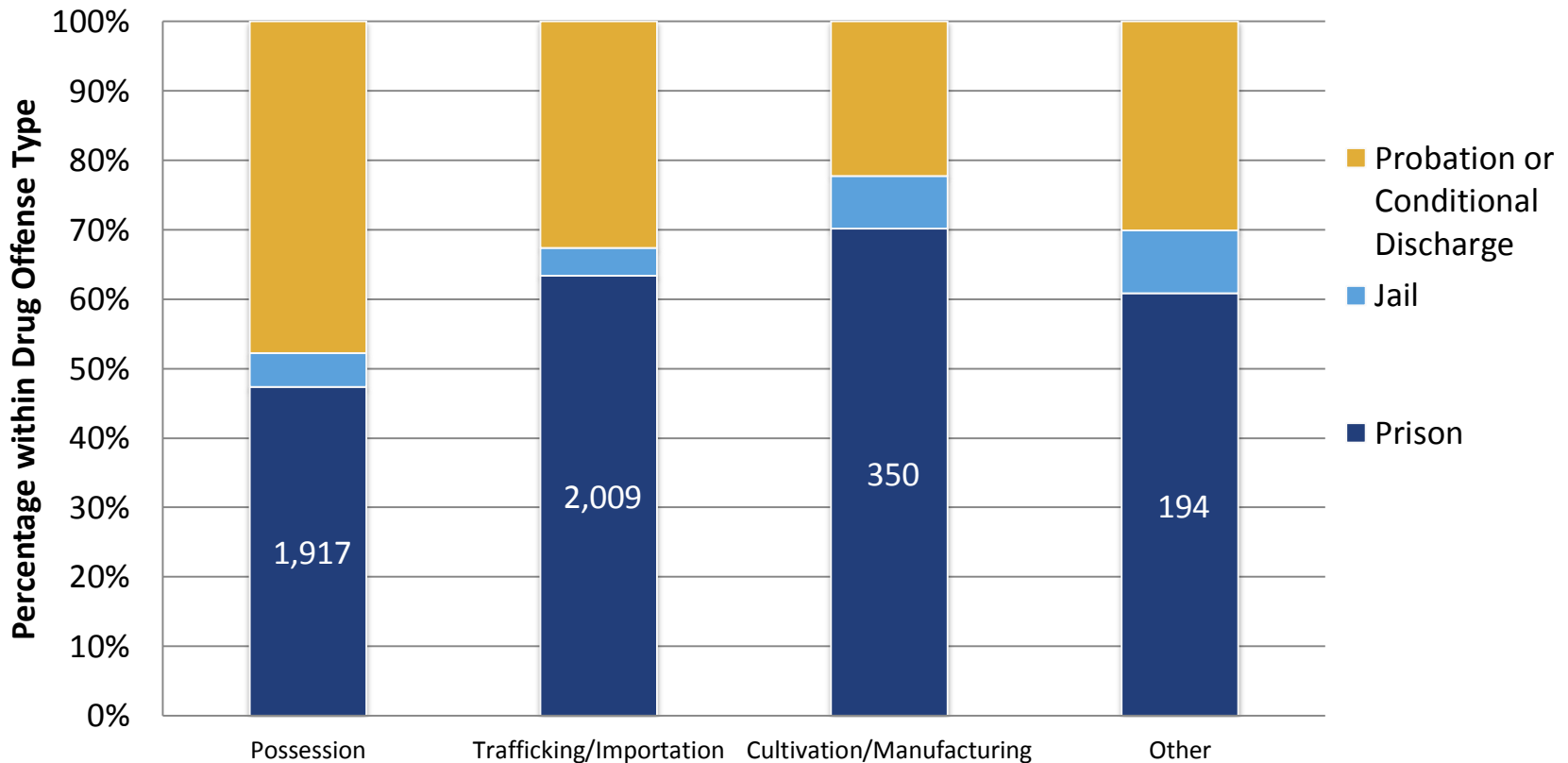
# 56% of Class D Convictions Sentenced to Prison

Sentence Type by Class of Conviction, 2016



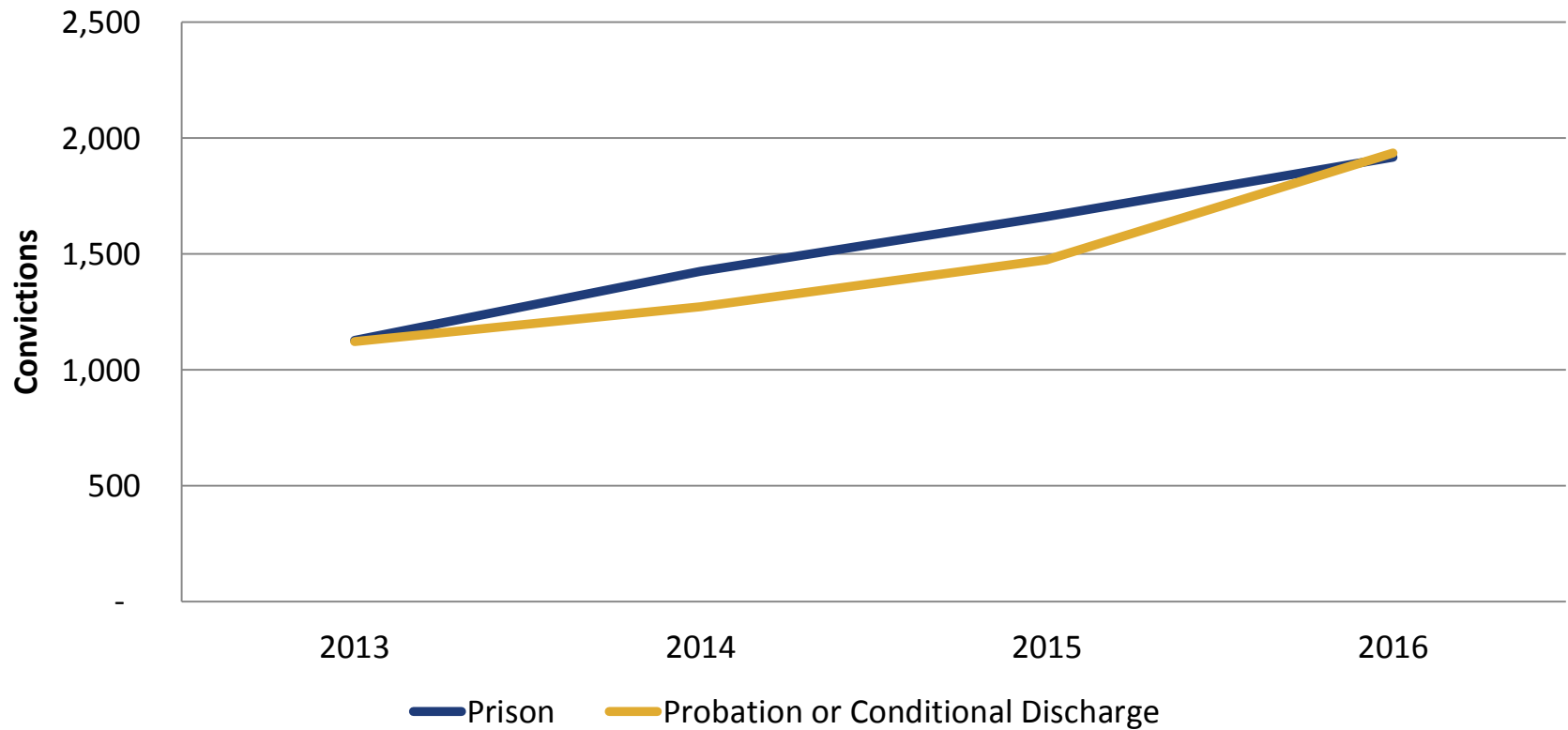
# Just Under Half of Drug Possession Cases Sentenced to Prison

Sentence Type in Circuit Court by Offense Type, 2016



# 70% Increase in Sentences to Prison for Drug Possession, Driven by Growth in Number of Cases

Sentence Type for Drug Possession Convictions in Circuit Court, 2013-2016



# Top 10 Circuit Court Convictions

Offense	2013	2016	% Change	% to Prison '16
Class D Drug Possession	2,254	4,074	81%	48%
Class D Drug Trafficking	2,005	2,051	2%	61%
Class C Drug Trafficking	1,065	1,096	3%	66%
Wanton Endangerment 1 <sup>st</sup>	613	775	26%	62%
Flagrant Non Support	866	760	-12%	32%
Burglary 3 <sup>rd</sup>	754	693	-8%	65%
Receiving Stolen Property <\$10,000	849	600	-29%	62%
Criminal Possession Forged Instrument 2 <sup>nd</sup>	589	563	-4%	52%
Theft \$500--\$10,000	n/a	511	n/a	52%
Burglary 2 <sup>nd</sup>	655	493	-25%	73%

# Sentencing Takeaways

- Both felony charges filed at District Court and felony indictments rose 7% since 2012
  - These increases were driven by growth in Class D charges and indictments, with Class D indictments growing 18% in five years
- A majority of felony convictions receive a prison sentence, regardless of the class
  - This has not changed over time despite the growth in lower-level felony cases

# Sentencing Takeaways

- Increased felony indictments and a high rate of prison sentences for low-level crimes contributed to prison admission growth
  - Class D convictions increased 8%, with 56% sentenced to prison in 2016
  - Growth in the underlying number of possession cases drove a 70% increase in sentences to prison for drug possession
    - While total drug convictions grew 12% between 2013 and 2016, convictions for drug possession increased 71%
    - 47% of drug possession convictions were sentenced to prison in 2016, compared to 56% of all drug convictions

# Community Supervision

# Supervision Types

## Mandatory Reentry Supervision

Automatic release for any eligible offender with a sentence longer than 2 years who is not released on parole at 6 months before sentence expiration



## Post-Incarceration Supervision

Released at expiration of sentence with additional supervision to follow for certain high-level offenders who are ineligible for parole or Mandatory Reentry Supervision



## Other

Other types of Community Supervision, including Misdemeanor Intensive Program and ISC Misdemeanant Supervision



## Parole

Released by the Parole Board at 15%, 20%, 50% or 85% of sentence



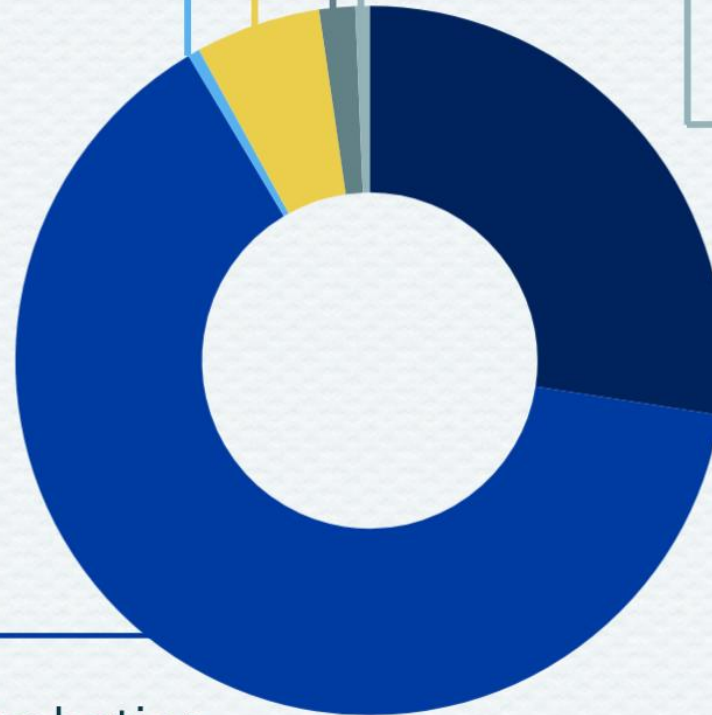
## Probation

Released to supervision by the Court as an alternative to incarceration.



## Home Incarceration

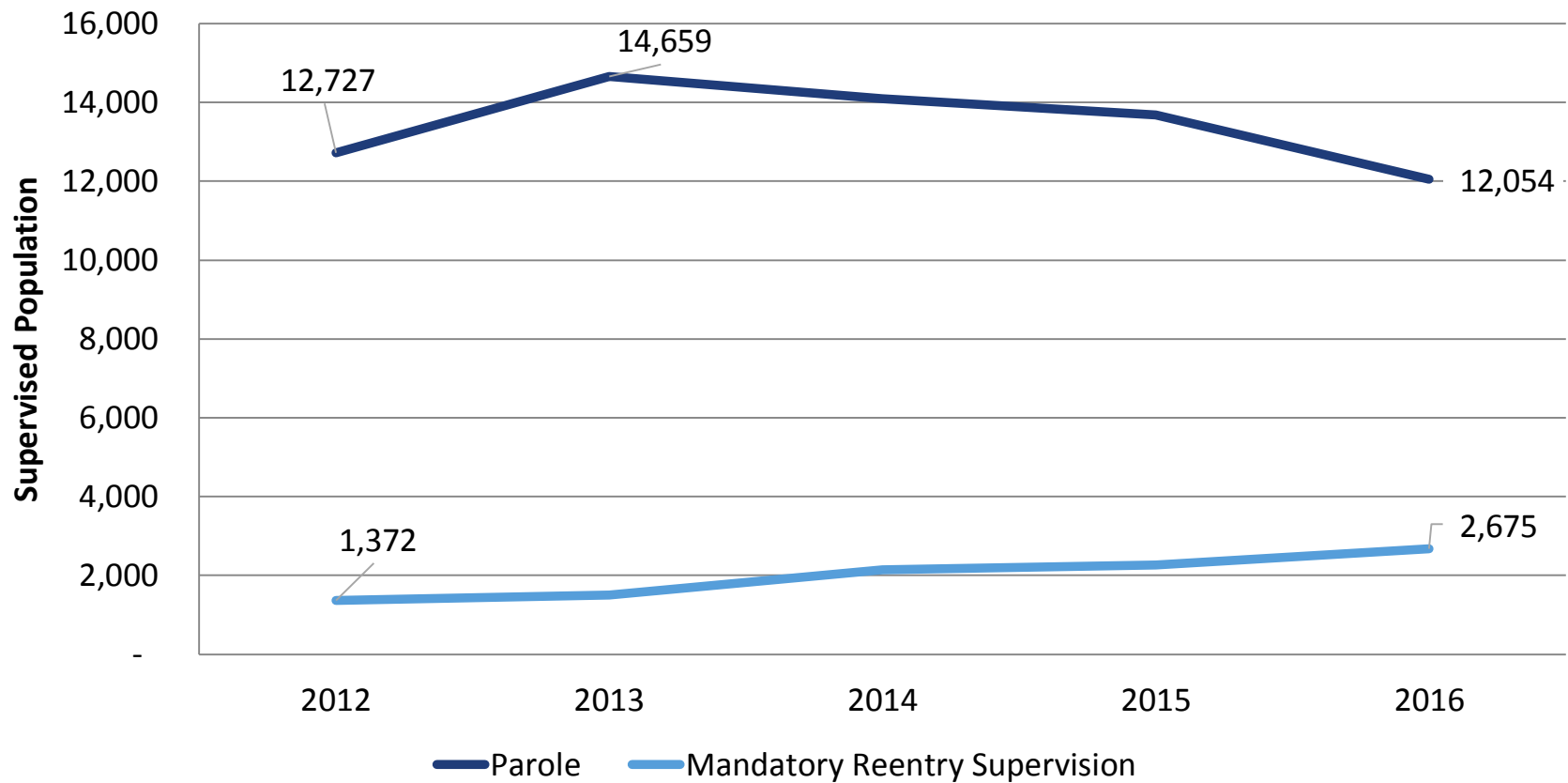
Early release option allows certain eligible offenders to serve last 9 months of sentence at home with electronic monitor





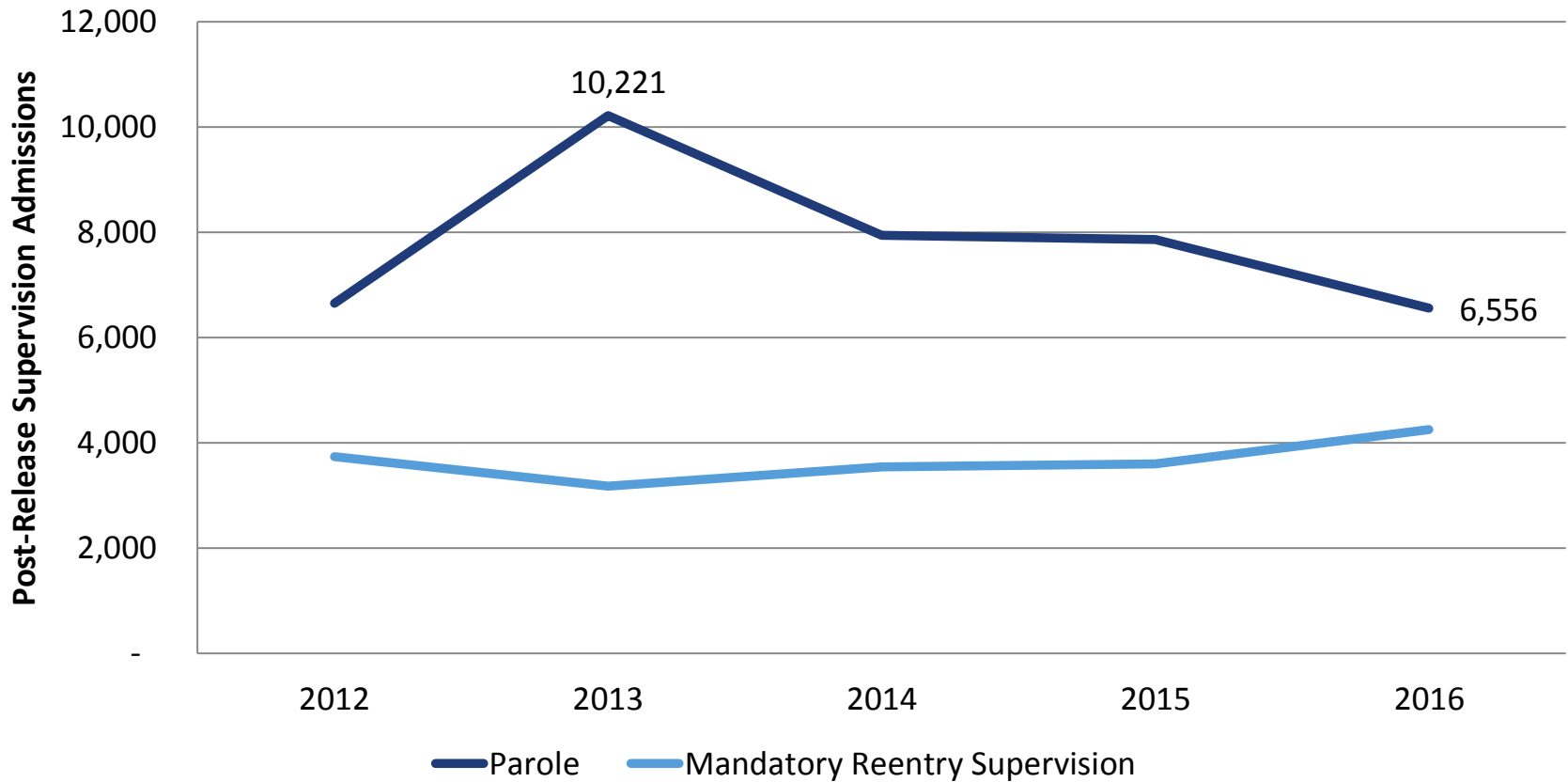
# After Increase, Parole Population Has Stabilized and Declined

Supervision Populations by Type on December 31, 2012-2016



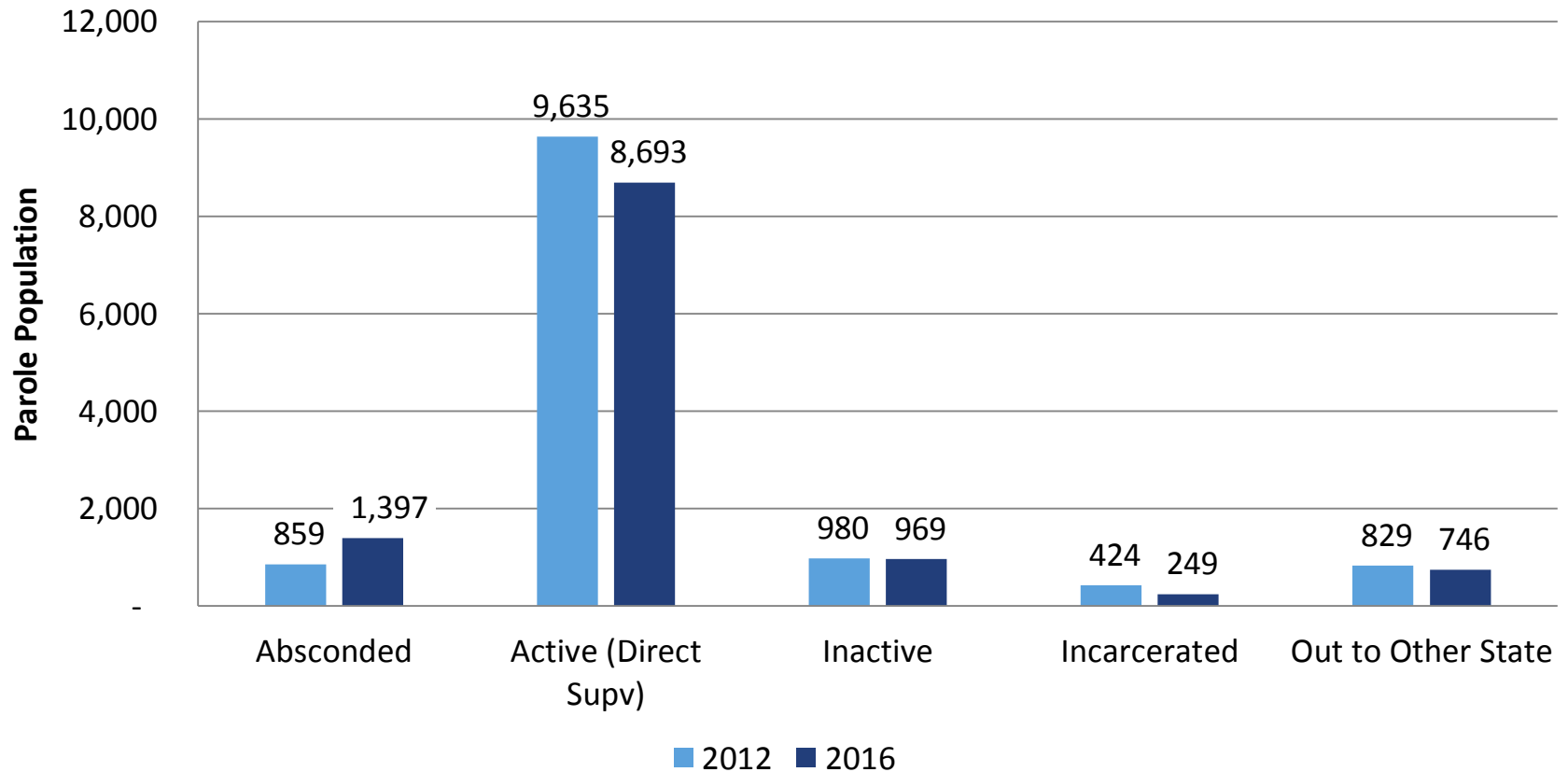
# Parole Decline Driven by Fewer Parole Admissions From Prison

Admissions to Post-Release Supervision by Supervision Type, 2012-2016



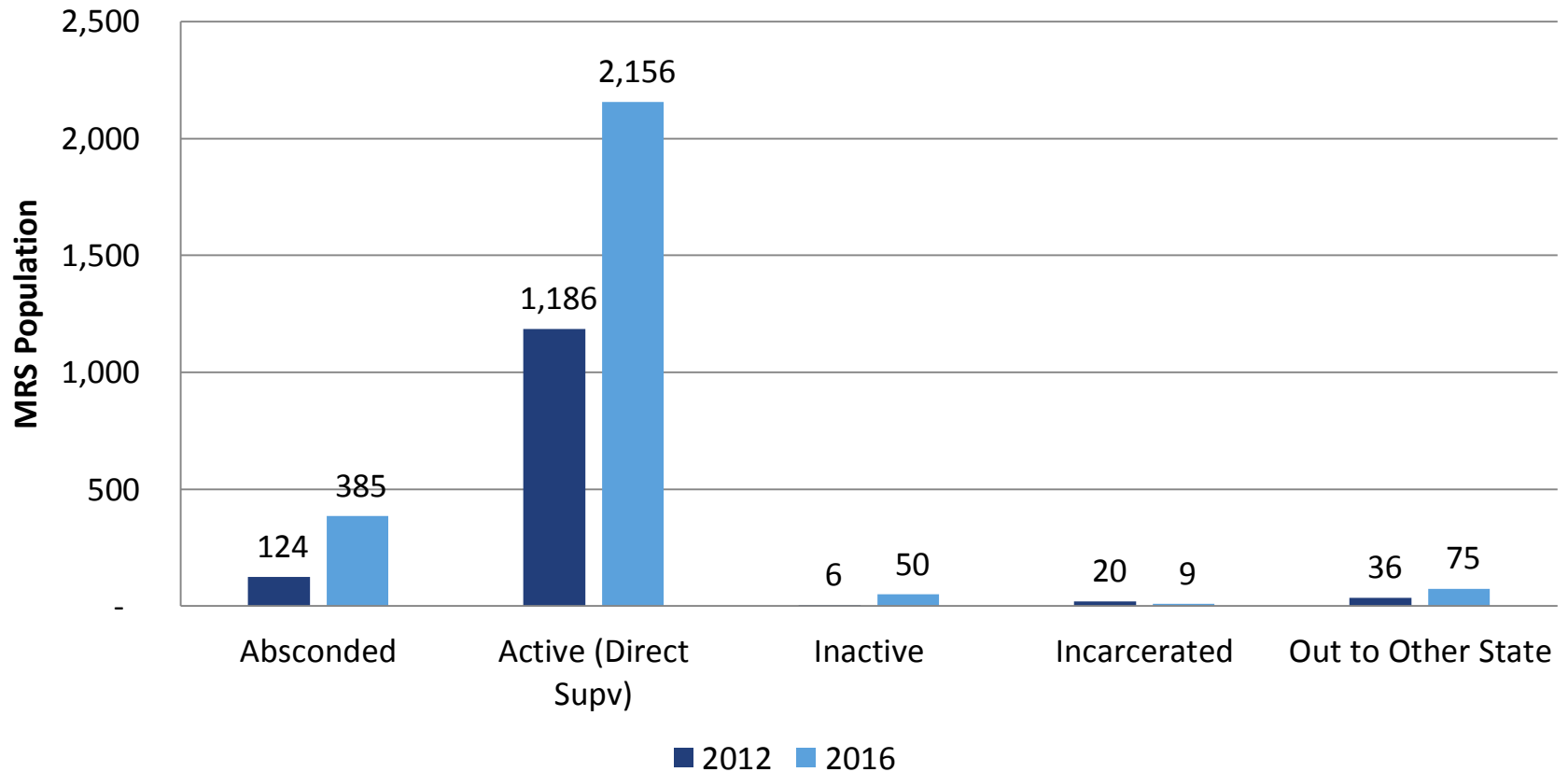
# Parole Active Supervision Population Declined 10%

Parole Population by Supervision Status on December 31, 2012 vs 2016



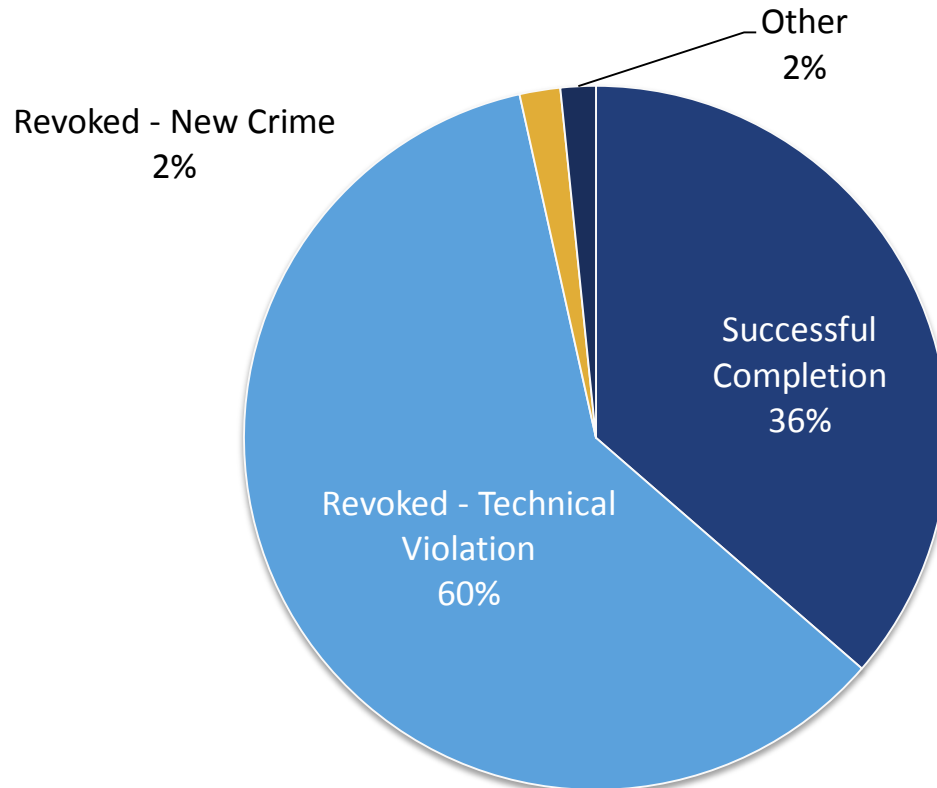
# Mandatory Reentry Supervision Active Population Grew 82%

MRS Population by Supervision Status on December 31, 2012 vs 2016



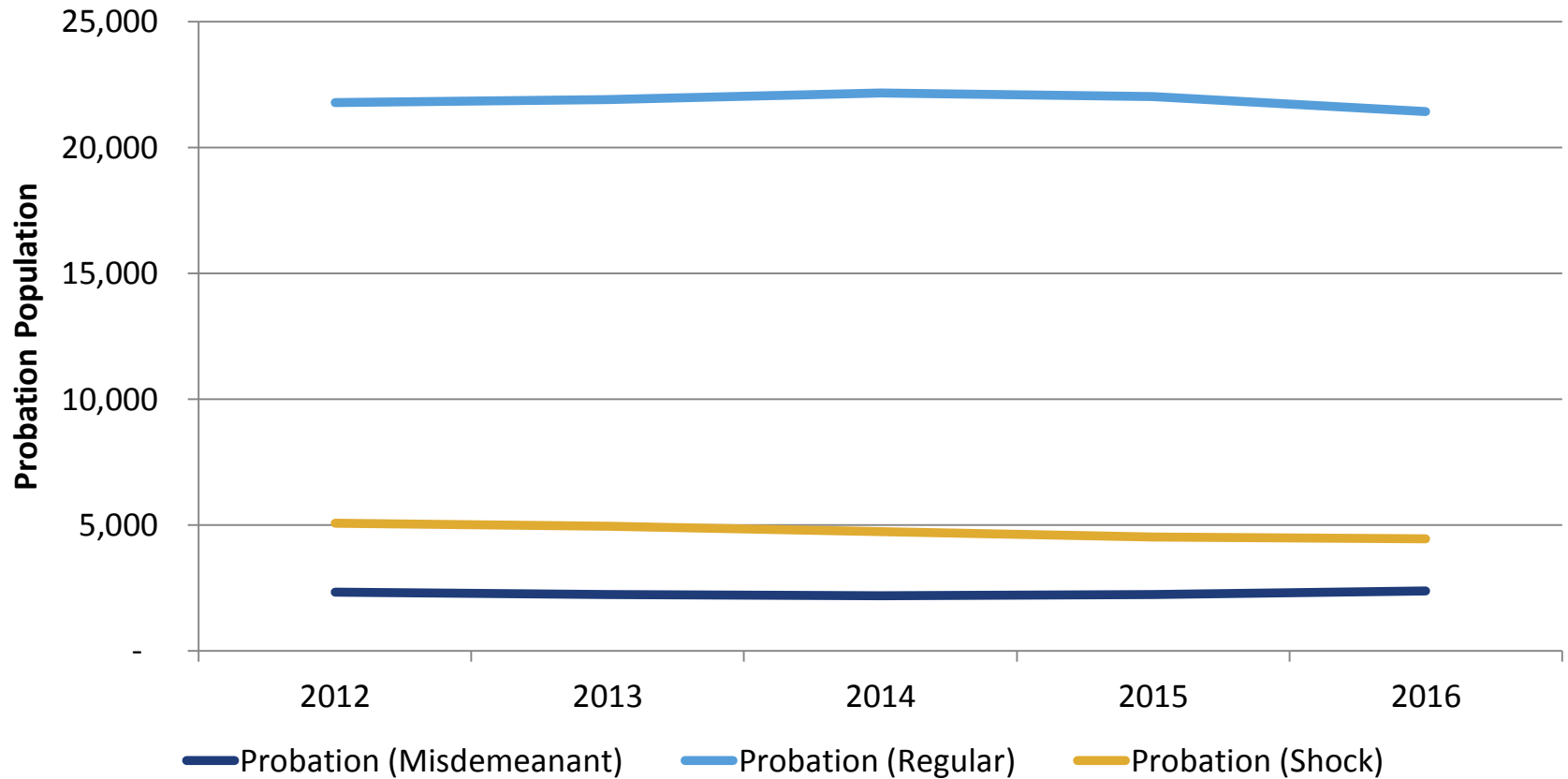
# Only 36% of Post-Release Supervision Discharges Are Successful

Post-Release Supervision Releases by Discharge Type, 2016



# Probation Population Stable in Last Five Years

Probation Population on December 31st, 2012-2016



# Supervision Takeaways

- After an initial increase from 2012 to 2013, the parole supervision population declined, driven by fewer parole releases from prison between 2013 and 2016
- Only 36% of post-release supervision discharges are successful, with 60% failing for technical violations
- The probation supervision population remained stable from 2012 to 2016

# Summary



# Summary

- Both felony charges filed at District Court and felony indictments rose 7% since 2012
  - Driven by increases in charges, indictments, and convictions for Class D felonies
- Despite similar risk levels, pretrial success rates, and the growth in low-level felony defendants, felony defendants receive more restrictive pretrial decisions than misdemeanor defendants

# Summary

- 34% of releases had a secured money bond in 2016, with use of secured bond increasing for all risk levels from 2012 to 2016
  - Though the use of small initial bond amounts declined from 2012 to 2016, almost 15,000 cases were detained on bond amounts less than \$1,000 in 2016
  - In 2016, 35% of district court dispositions stayed for longer than 1 week, including 31% of low and moderate risk cases

# Summary

- Increased felony indictments and a high rate of prison sentences for low-level crimes contributed to prison admission growth
  - Felony D convictions increased 8%, with 56% sentenced to prison in 2016
  - Growth in the underlying number of possession cases drove a 70% increase in sentences to prison for drug possession
- Only 36% of post-release supervision discharges are successful, with 60% failing for technical violations

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# Introduction to Policy Development

# Policy Development Schedule and Subgroups

- The Justice Reinvestment Work Group will split into three subgroups:
  - Sentencing
  - Release and Pretrial
  - Supervision
- Schedule:
  - Meeting #1: October 17 and 18
  - Meeting #2: October 31 and November 1
  - Meeting #3: November 15 and 16
  - Subgroup report out to full work group: November 29 (10-12pm)
  - Adoption of report: December 19

# Policy Development Subgroup Members

<b>Sentencing</b>	<b>Release and Pretrial</b>	<b>Supervision</b>
Rep. Nemes (Chair)	Judge Tommy Turner (Chair)	Johnathon Hall (Chair)
Courtney Baxter	Amy Milliken	Jason Woosley
Damon Preston	Amy Hannah	Daniel Cameron
Judge Patricia Summe	Chief Wayne Turner	Adrienne Southworth
Chairman Fischer	Judge Kevin Holbrook	Eileen Recktenwald
Ashli Watts	Sen. Schickel	Chairman Westerfield
Sec. Tilley	Sec. Tilley	Sec. Tilley

# Sentencing: Subgroup Questions

- Can Kentucky further focus prison space on serious and violent offenders by examining its sentencing policies, including:
  - Eligibility for existing alternatives to prison
  - Availability and use of alternatives to prison
  - Sentence lengths

# Release and Pretrial: Subgroup Questions

- Can Kentucky further target prison beds on serious and violent offenders by examining its release policies, including:
  - Parole eligibility, the parole hearing process, and decision-making factors
  - Release options for specialized, low-risk populations (e.g. geriatric or medically frail offenders)
  - Reentry practices



# Supervision: Subgroup Questions

- Can Kentucky better hold offenders accountable through strengthening probation and parole supervision practices by examining:
  - Responses to technical violations using swift, certain, and proportional sanctions
  - Use of incentives and rewards to encourage compliant behavior
  - Access to treatment and programming for offenders on supervision
  - Barriers to successful reentry

# Policy Development Schedule and Subgroups

- The first subgroup meetings will occur October 17<sup>th</sup> & 18<sup>th</sup>
  - Sentencing:
  - Release and Pretrial:
  - Supervision:

# Questions?

# Contact Information

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