

# **Justice Reinvestment: A Framework to Improve Effectiveness of Justice Policies in Texas**

*Dr. Tony Fabelo*



**Austin, Texas**

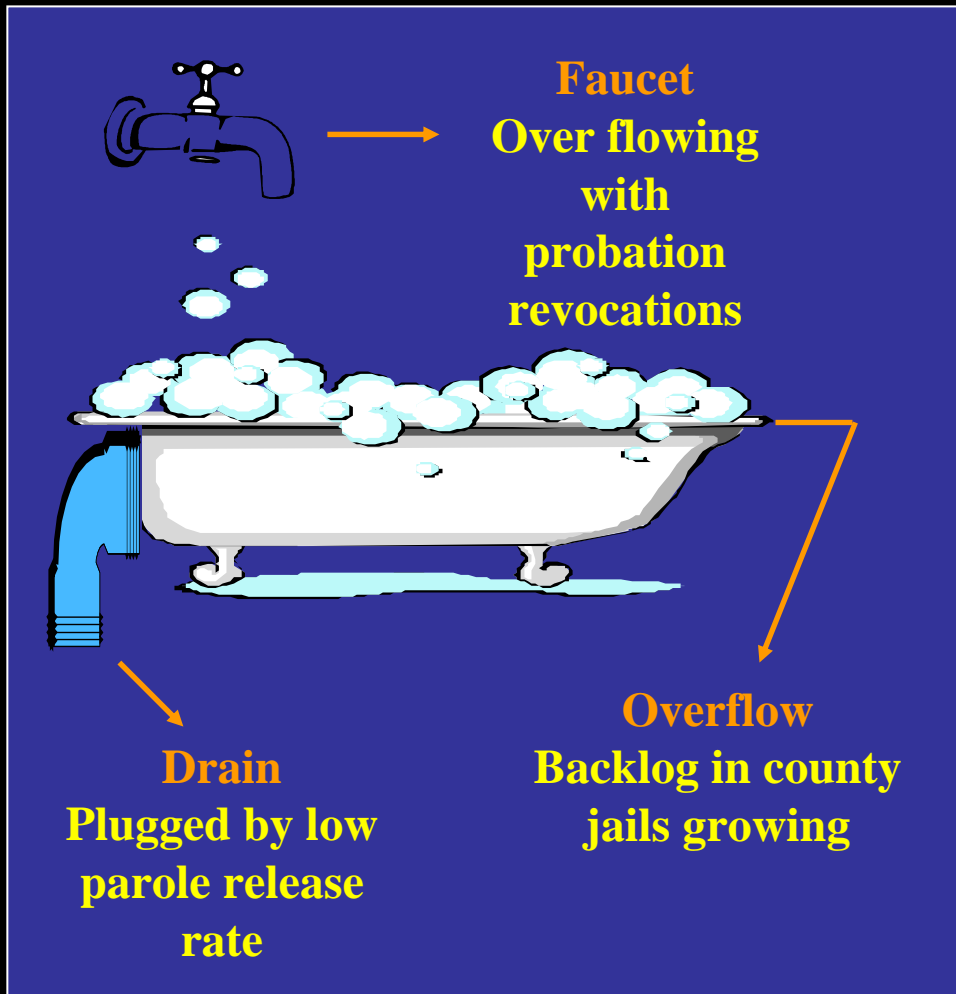
**80<sup>th</sup> Texas Legislature, 2007**

# **TEXAS DEMAND FOR PRISON BEDS ON A NATIONAL PERSPECTIVE**

## **MAIN FACTORS IMPACTING PRISON POPULATION GROWTH**

## **JUSTICE REINVESTMENT SCENARIOS**

# Texas Prison “Bathtub” is Overflowing Again



## Bathtub is Full...

System is at capacity with over **152,000** inmates

Annual cost of **\$2.5 billion**

## ...Even After Adding...

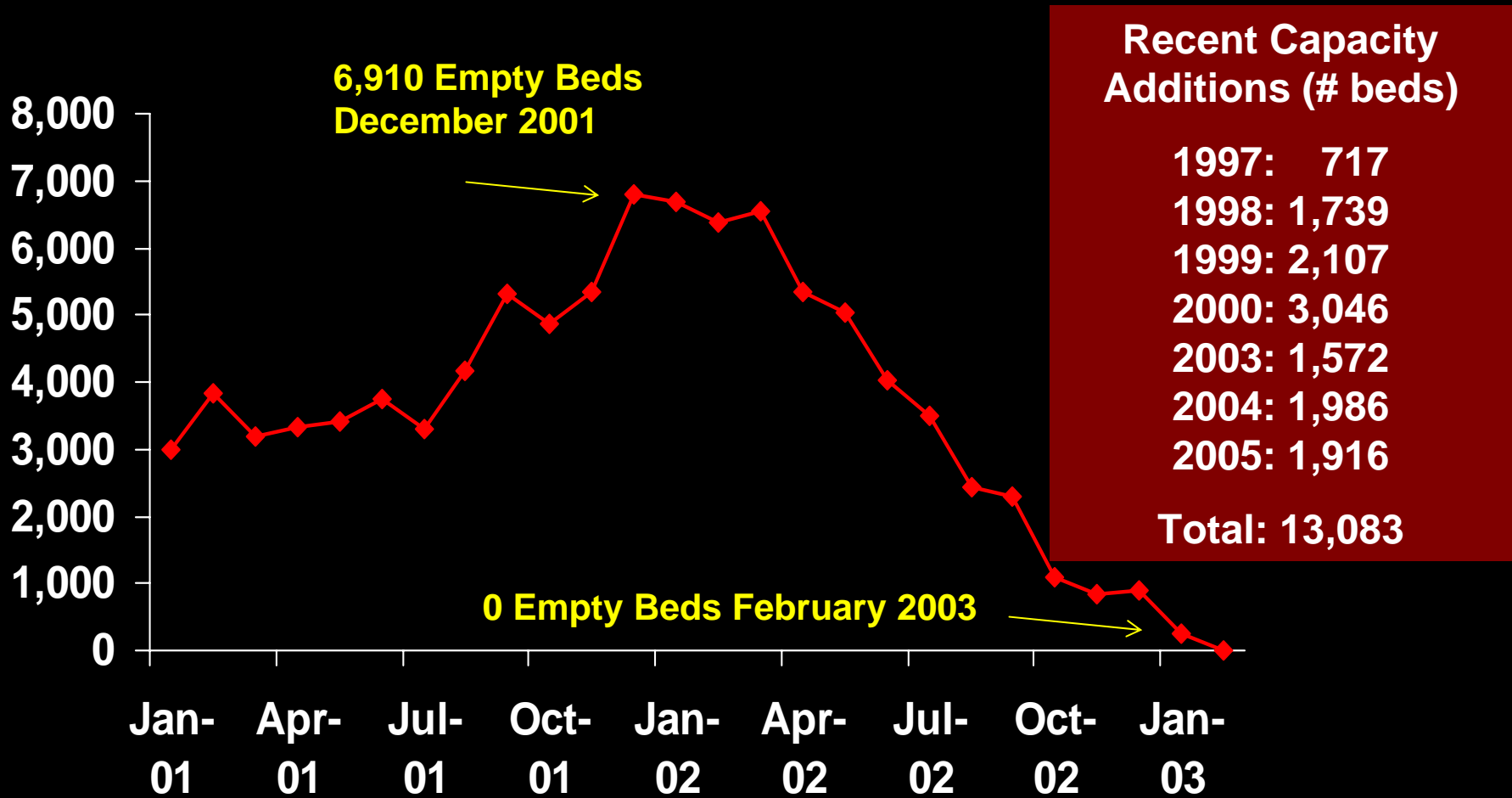
**3,559** beds in internal prison capacity since March 2003

## ...and Overflowing

Present emergency contracts for approximately **1,900** beds

Additional **\$27 million** cost annually

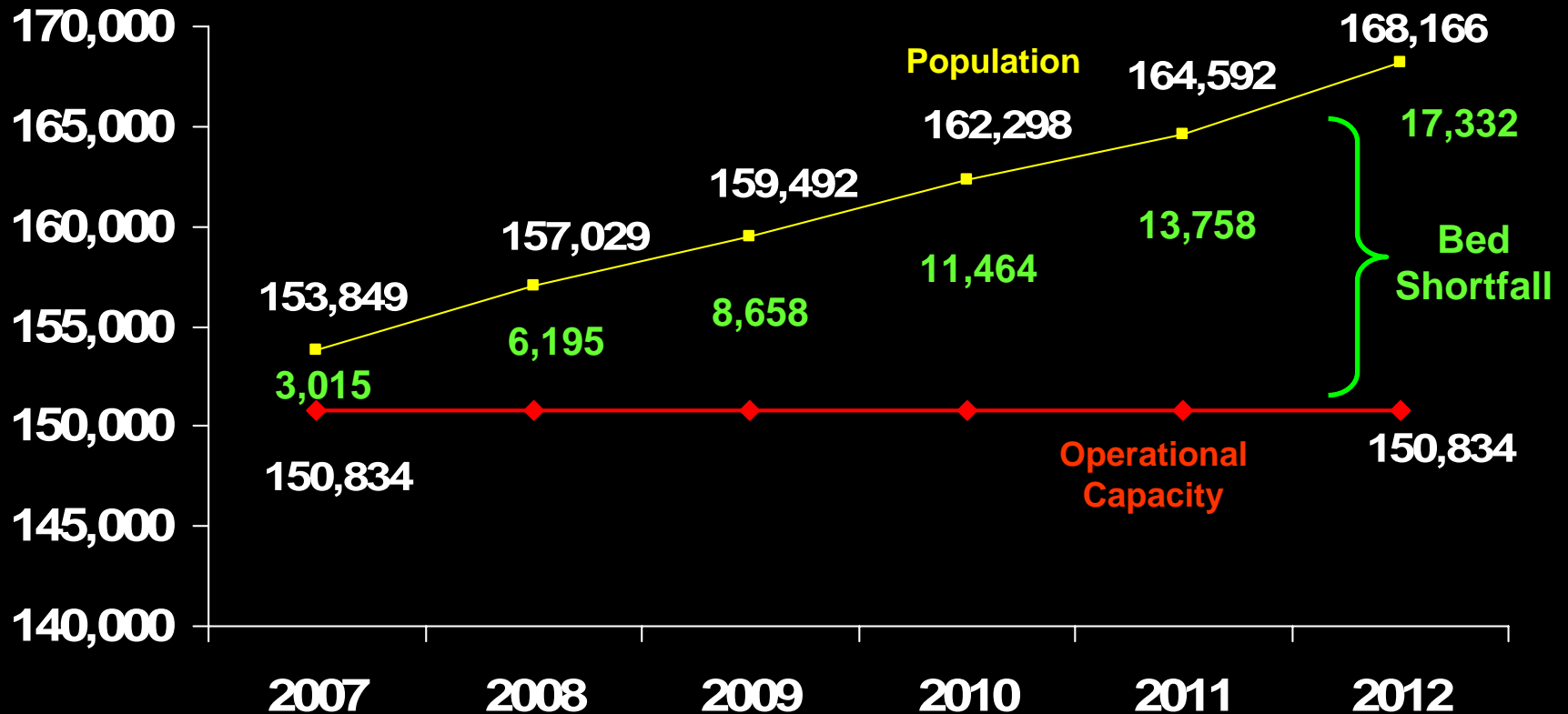
# Prison Bed Surplus of 2002 Was Consumed in About a Year and Texas Has Been Adding Capacity Every Year Since 1997



Source for building: TDCJ "Closing of a Millennium, Reviewing the Past Decade"; bed utilization, CJPC Biennial Report, 2003

# Official Projections by LBB Show the TDCJ Population Continuing to Increase Assuming No Changes in Policies

Projected TDCJ Population and Capacity  
2007-2012, January 2007 LBB Projection



Source: Legislative Budget Board, June 06 and January 07, Adult and Juvenile Correctional Population Projections

# TDCJ is Requesting Additional Prisons and Contracted Capacity and Some Expansion of Alternatives to Incarceration

**Request for Appropriations, August 2006  
Texas Department of Criminal Justice (TDCJ)  
Biennial Additional Funds Requested (approx.)  
**\$899.3 million****

**\$440.6 million for  
three prison units  
totaling **5,080** beds**

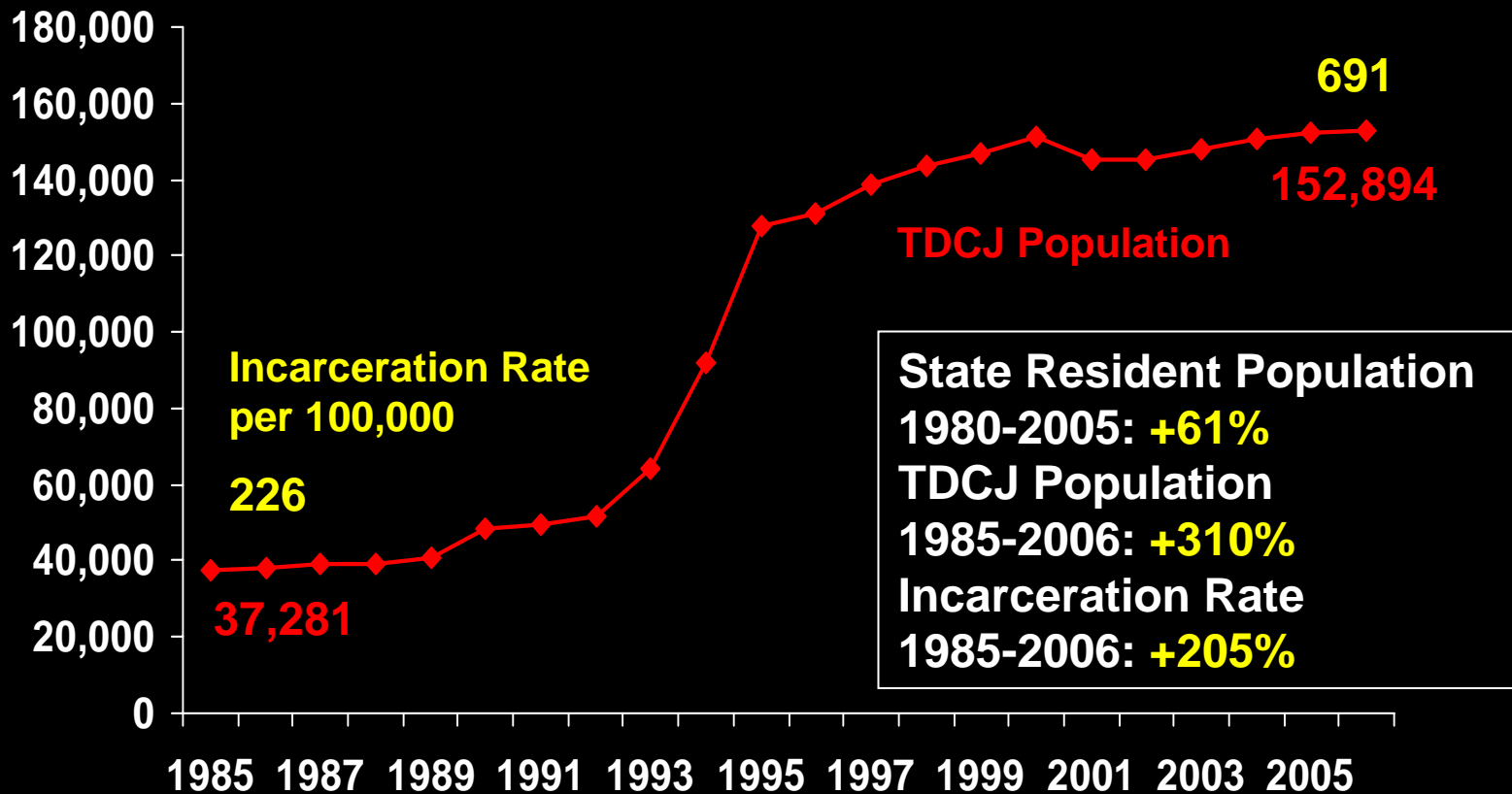
**\$173.9 million for  
**7,328** contracted  
beds in 08-09**

**\$284.8 million in  
additional  
operational/other  
funds**

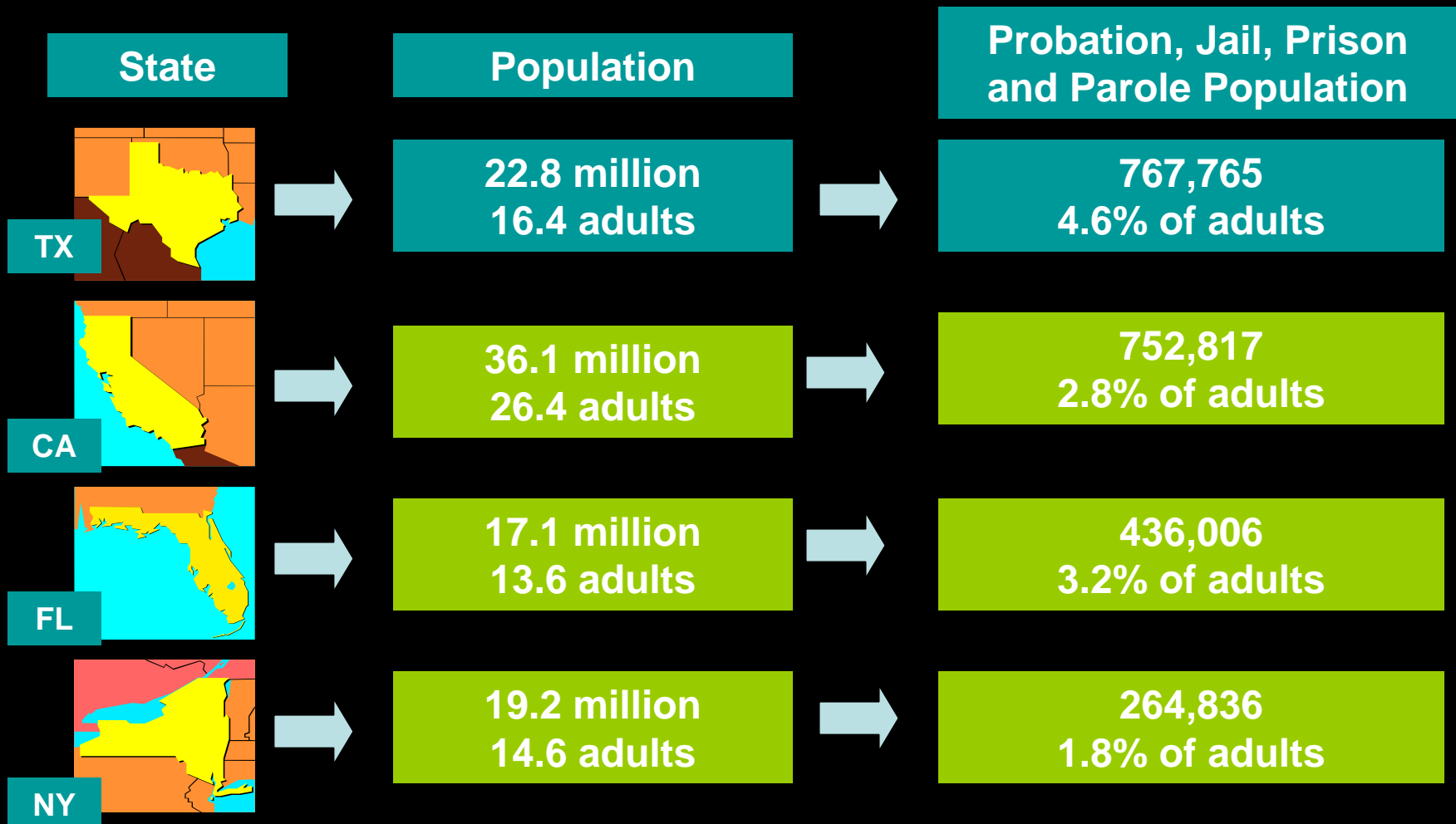
**Included here are an additional 250 SAFP beds, 200 IPTC beds, 150 halfway house beds, 250 residential probation beds and outpatient substance abuse treatment for probationers**

# Texas Has Increased Its Prison Population and Incarceration Rates at a Pace That Surpasses the Percentage Increase in the State Population

## TDCJ Population, 1985-2006

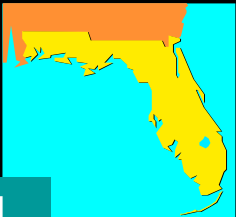



# Texas Has More Persons Under the Control of the Correctional System Than Any of the Other Three Most Populous States



Sources: US Census 2005; BJS "Probation and Parole in US, 2005"; jail figures from BJS "Prison and Jail Inmates at Midyear 2005"; prison figures from BJS, Prisoners in 2005, November 06 report

# Historical View Shows the Relationship Between Population Growth, Incarceration Rates and Crime Rates in Populous States

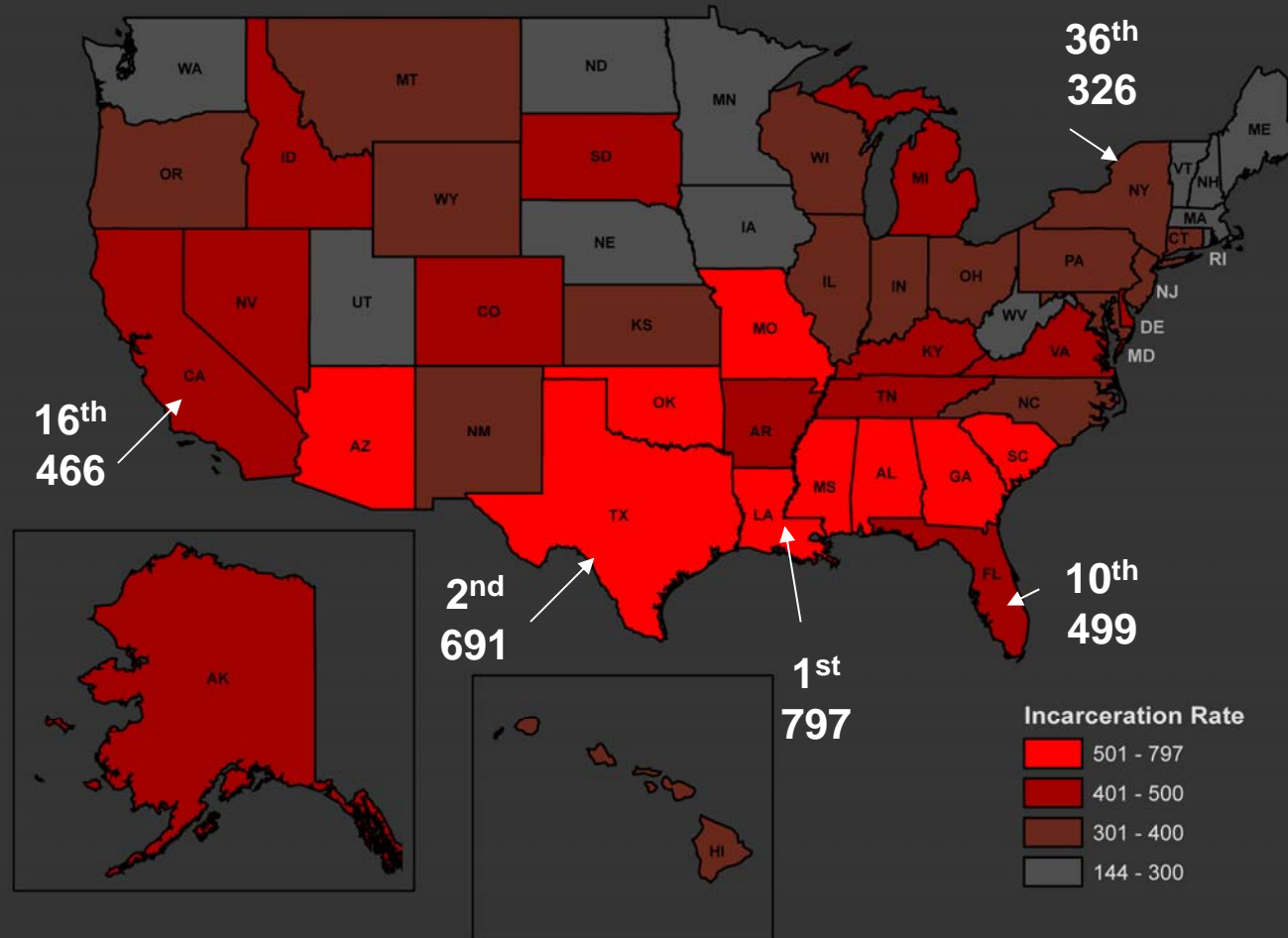
	Population	Incarceration Rate*	Crime Rate*
 TX	1980: 14,229,191 2005: 22,859,968 +61%	1980: 226 2005: 691 +206%	1980: 6,030 2005: 4,862 -19%
 CA	1980: 24,037,626 2005: 36,132,147 +50%	1980: 162 2005: 466 +188%	1980: 6,468 2005: 3,849 -40% 
 FL	1980: 9,746,324 2005: 17,789,864 +82%	1980: 242 2005: 499 +106%	1980: 6,821 2005: 4,716 -31% 
 NY	1980: 17,558,072 2005: 19,254,630 +10%	1980: 187 2005: 326 +74%	1980: 5,577 2005: 2,554 -54% 

Incarceration and Reported Index Crime Rate by FBI per 100,000 population

# Today Texas Incarceration Rate is the Second Highest in the Nation

2005 Incarceration Rate & (Rank)

Per 100,000 Population



## United States States

Rank	State	Incarceration per 100,000
------	-------	---------------------------

1	LA	797
2	<b>TX</b>	<b>691</b>
3	MS	660
4	OK	652
5	AL	591
6	GA	533
7	MO	529
8	SC	525
9	AZ	521
10	FL	499
11	MI	489
12	AR	479
13	NV	474
14	ID	472
15	DE	467
16	CA	466
17	VA	464
18	KY	459
19	CO	457
20	SD	443
21	TN	440
22	AK	414
23	OH	400
24	WY	400
25	MD	394
26	IN	388
27	WI	380
28	CT	373
29	MT	373
30	OR	365
31	NC	360
32	IL	351
33	PA	340
34	HI	340
35	KS	330
36	NY	326
37	NM	323
38	NJ	313
39	WV	294
40	W	291
41	A	273
42	UT	252
43	VT	247
44	NE	245
45	MA	239
46	ND	208
47	NH	192
48	RI	189
49	MN	180
50	ME	144

Data Source:  
Bureau of Justice Statistics "Prisoners in 2005,"  
Table 4

# **TEXAS DEMAND FOR PRISON BEDS ON A NATIONAL PERSPECTIVE**

## **MAIN FACTORS IMPACTING PRISON POPULATION GROWTH**

## **JUSTICE REINVESTMENT SCENARIOS**

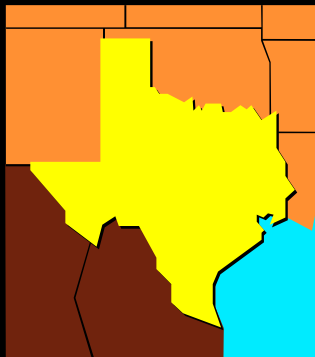
# **State Resident Population is Growing But Policies Have a Bigger Impact on the Prison Population Growth**

**Increase in conviction rates**

**Low parole rates**

**Shortage of probation and parole alternative sanctions and prison treatment programs**

# Since 2000 Changes in Crime and Arrests Have Been Lower Than Population Growth But Convictions Have Continued to Increase



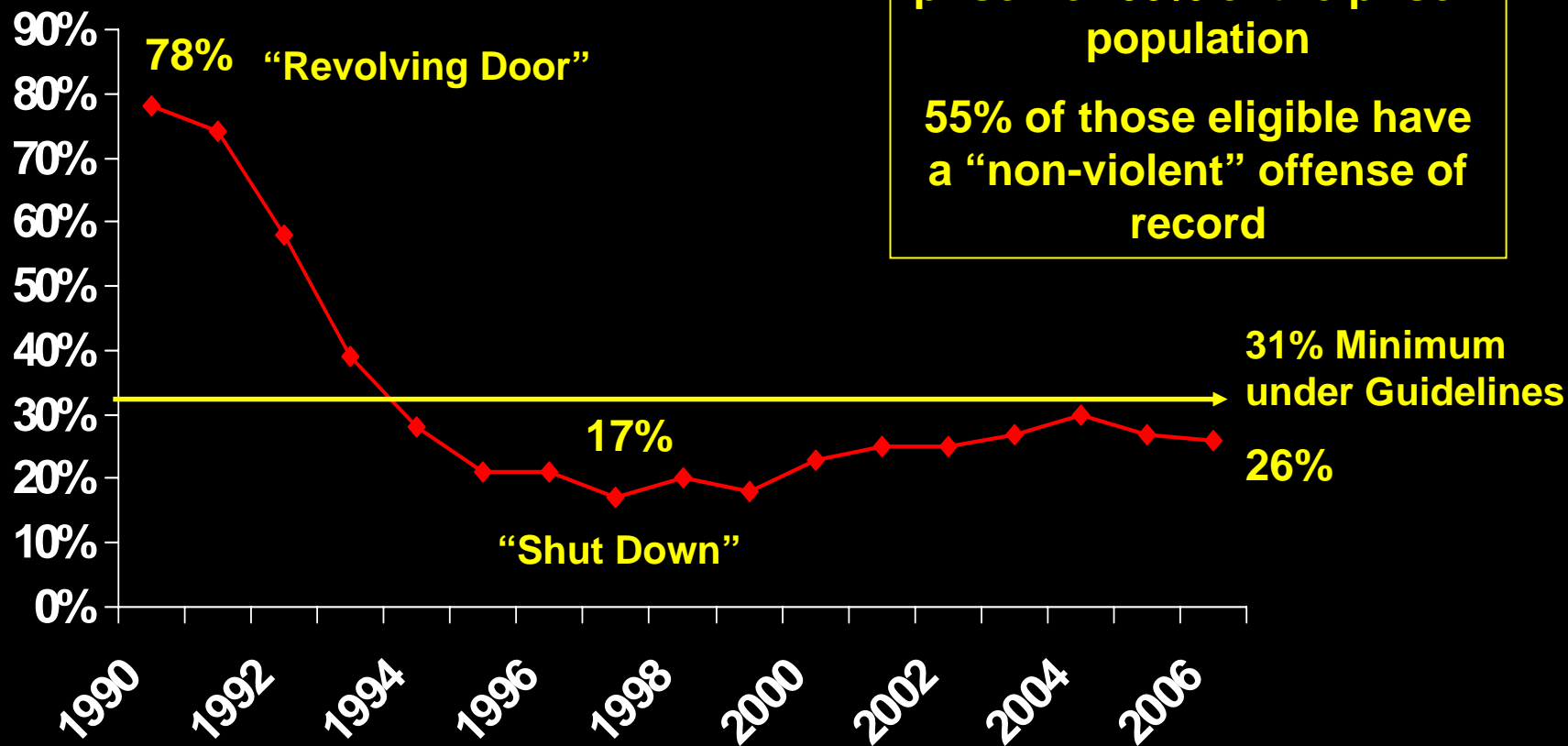
% Change 2000-2005			
State Population	Crime Rate	Adult Arrests	Felony Convictions
9.6%	-1.9%	5.8%	29%

Judicial machinery and laws are “engaged” to produce more convictions out of fewer arrests

More persons with prior “failures” make it easier to convict

# Low Parole Approval Rates Are a Key Factor Driving the Increase in the Population as Offenders Eligible for Release Are Not Approved

Parole Approval Rates, 1990-2006



**88,000 inmates are eligible for discretionary release in prison or 66% of the prison population**

**55% of those eligible have a "non-violent" offense of record**

# Sunset Commission Said Parole Board Has Consistently Not Followed Its Own Guidelines Negatively Impacting Releases

## *History of Texas Parole Guidelines*

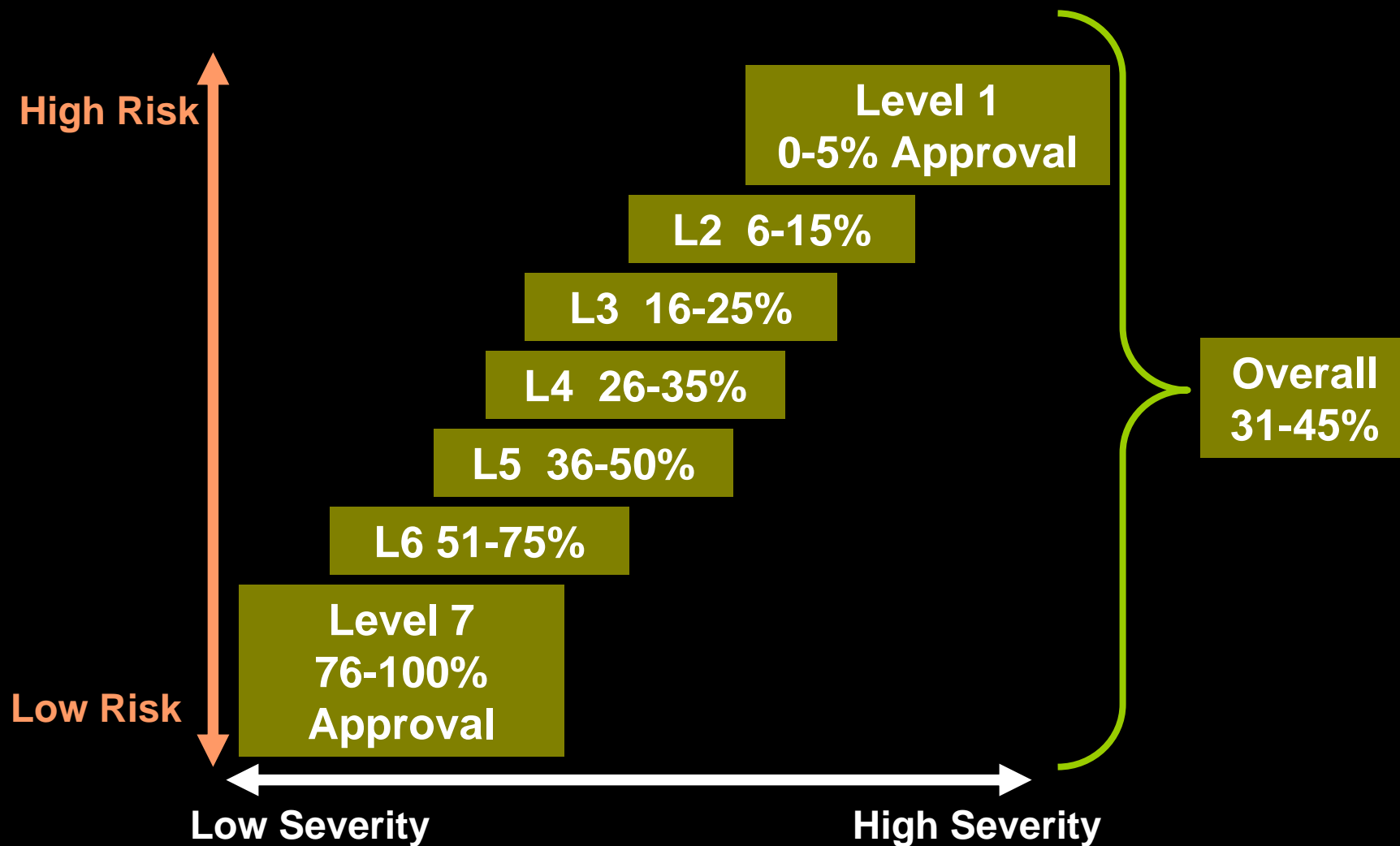
- 1987 The Legislature required the Parole Board to develop and implement parole guidelines, and the Parole Board formally adopted parole guidelines to assist in decision making.
- 1993 The Legislature directed the Policy Council to monitor the use of the guidelines, and required the Parole Board to provide a written explanation for deviations from the guidelines.
- 1994 The Policy Council could not report on the use of the guidelines due to lack of Parole Board data for analysis.
- 1996 The Policy Council reported that the Parole Board was not fully and consistently using the parole guidelines to assist them in their parole decisions as mandated by law.
- 1997 The Policy Council reported that the Parole Board had not updated the guidelines, and had not submitted a report to the leadership identifying strategies, timelines, and resources needed to update and implement the guidelines.
- 1998 A National Institute of Corrections assessment recommended a fundamental reexamination and redesign of the guidelines.
- 1999 Security Response Technologies completed the new parole guidelines, incorporating offense severity and risk into one scoring instrument.
- 2001 The Parole Board adopted the new parole guidelines.
- 2003 The Policy Council reported that parole panel approval rates for certain guideline levels were below the rates suggested in the guidelines.
- 2004 The Senate Committee on Criminal Justice reported that the parole panels were not following the approval probability rates for certain guideline levels.

## SUNSET ADVISORY COMMISSION

Texas Department of Criminal Justice  
Board of Pardons and Paroles  
Correctional Managed Health  
Care Committee

Staff Report  
October 2006

# Parole Board Adopted Guidelines Based on Risk and Severity with Recommended Rates to Guide Its Discretion



# Less Severe Cases in Parole Guidelines Are Not Being Released at the Levels Recommended by Guidelines

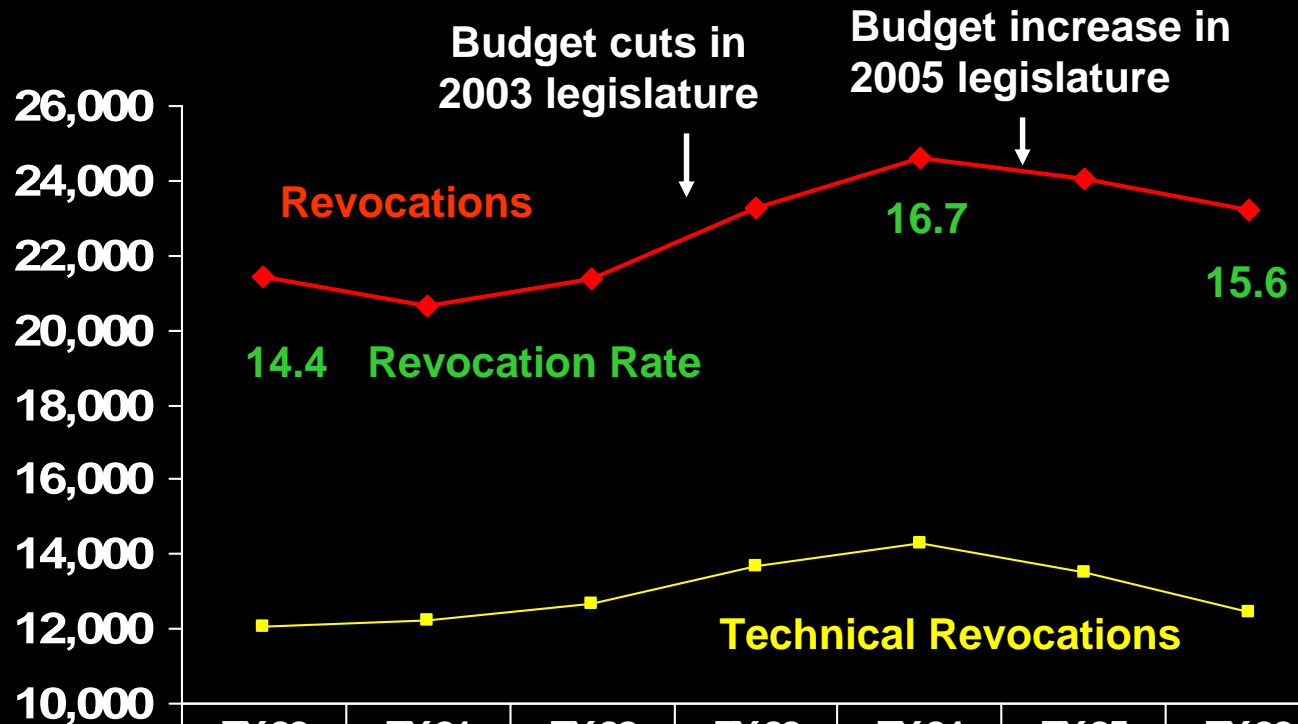
Guideline Level	Estimated Rate	Actual FY 06
1 (More Severe)	0% - 5%	2.8%
2	6% - 15%	12.8%
3	16% - 25%	17.3%
4	26% - 35%	21.0%
5	36% - 50%	33.3%
6	51% - 75%	40.3%
7 (Less Severe)	76% - 100%	47.9%
	<b>Overall: 31-45%</b>	<b>26.5%</b>

Meeting minimum overall parole approval rate would have meant 2,480 additional parole releases in 2006

Source: Parole Approval Rates by Guidelines Level,  
 \* As of January 2007

# Probation Revocations Represent One-Third of Prison Admissions and Probation Budget Cuts Impacted Recent Increases

**12,440 technical revocations in FY 06 will cost the state \$757.5 million in incarceration costs**



	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05	FY 06
◆ Revocations to Prison/State Jails	21,447	20,623	21,370	23,281	24,609	24,021	23,202
■ Technical Revocations	12,088	12,257	12,700	13,702	14,287	13,504	12,440

Source: TDCJ, CJAD Statistical Tables; Cost avoidance: cost per year of \$14,622 \* each offender incarcerated\* by average of four years in prison per LBB Revocation study of September 06; rates from LBB January 07 recidivism report

# Increased Funding for Probation in 2005 is Producing a Return of More Than Two Dollars in Incarceration Savings Per Dollar Invested

**New Funding in 2005 = \$27.6 million**

**\$13.6 million a year for 635 residential treatment and sanction beds**

**\$14 million a year to reduce probation caseload**

**Impact on revocations in counties receiving new funding**

**1,155 fewer revocations in FY 2006 than in FY 2005**



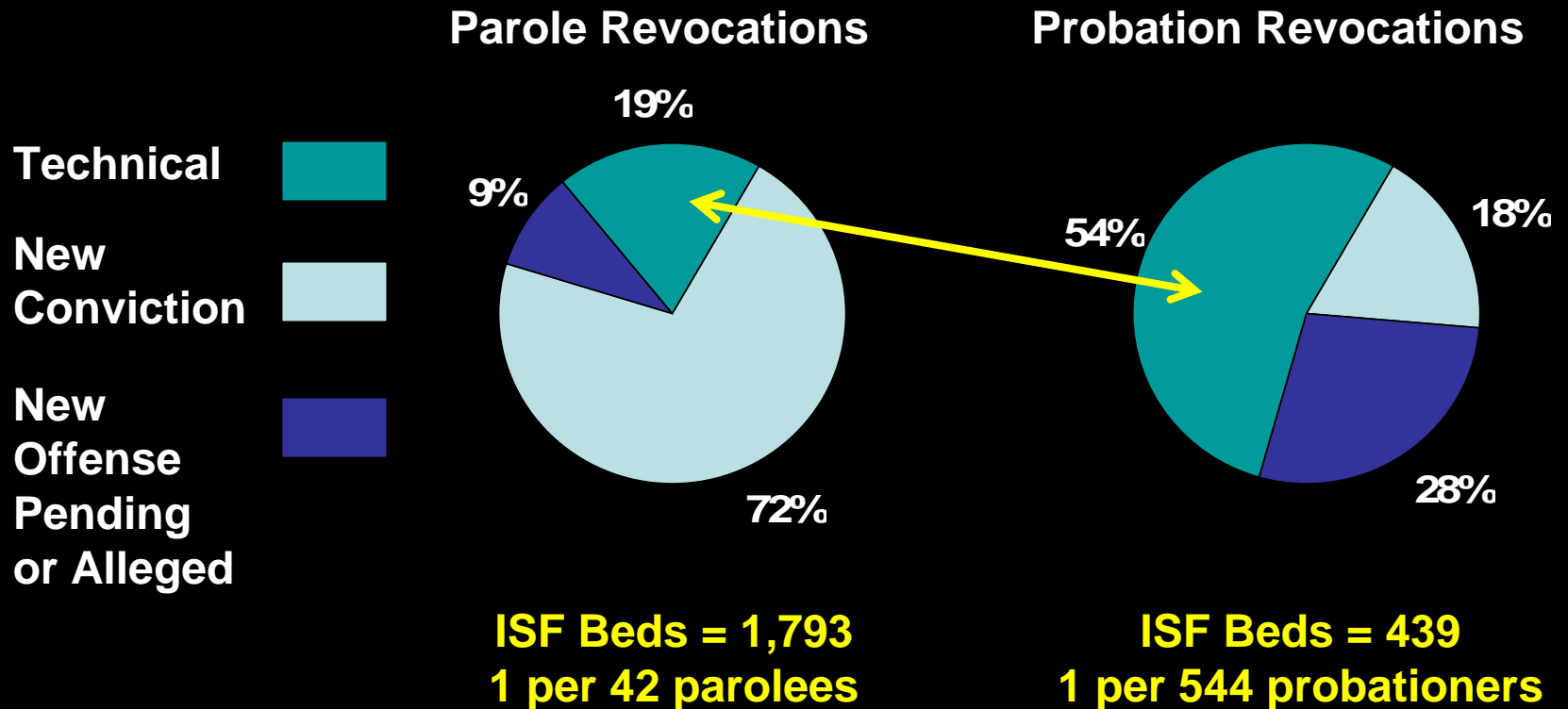
**Approximately \$67 million in avoided incarceration costs for this group**

**628 fewer revocations in 1<sup>st</sup> Quarter FY 2007 than in 1<sup>st</sup> Quarter 2005**

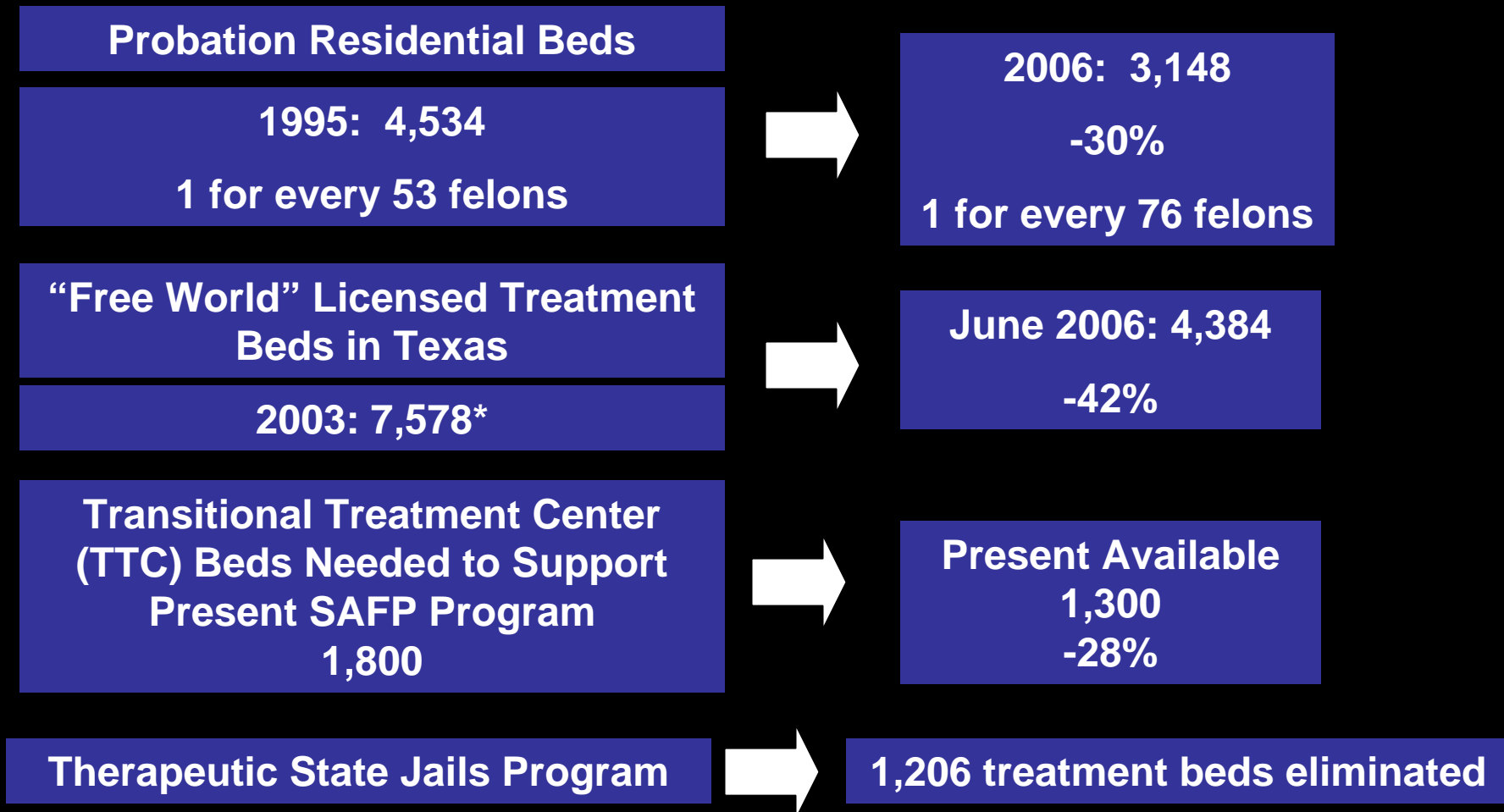


**Approximately another \$37 million in avoided incarceration costs for this group**

# Parole System Has Fewer Technical Revocations Than Probation System in Part Due to Larger Intermediate Sanction Capacity



# Probation and Community Substance Abuse Treatment Capacity Has Been Reduced Even as the State Population Has Increased



Source: CJAD memo, 11/10/06 from Mike Eisenberg; Rep. Madden's memo from Marsha McLane, 10/31/06 using DSHS figures

\*There were 3,786 prison beds licensed in 2003 but these are excluded from the count as the DSHS stopped licensing TDCJ beds by 2006

# There Are Waiting Lists for Key Programs Creating a Backlog of Releases from Prison and Placements from Probation

## Waiting Lists in Key Programs

Substance Abuse Felony  
Punishment (SAFPs)



823 awaiting program placement  
in county jails

In-Prison Therapeutic Community



174 awaiting in prison for  
program as condition of parole

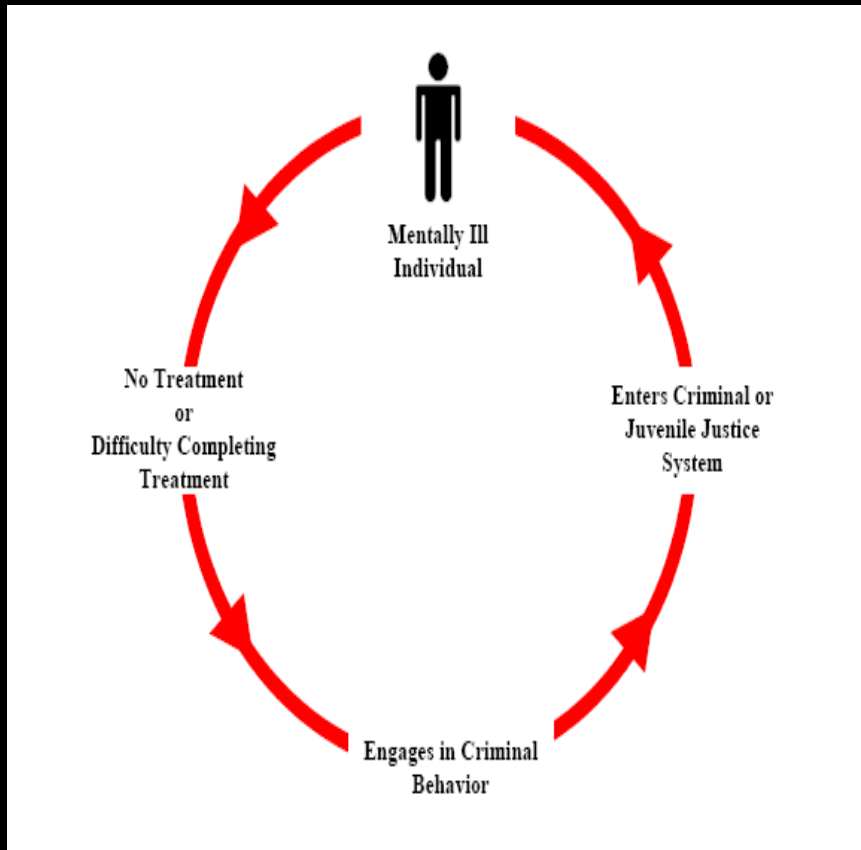
Parole Halfway Houses



600 offenders awaiting in prison  
to be released to a halfway  
house

Offenders recommended for parole on condition that they complete a program cannot be released and being on a waiting list adds to their time in prison

# Mental Health Problems Are Prevalent in Correctional Populations and Failure to Address Them Also Fuels the Recycling of Offenders



## Offenders with a Prior Record in the Mental Health System, February 06 Record Match, Number and % of Population

<b>Probationers</b>	<b>57,719 (13%)</b>
<b>Parolees</b>	<b>21,097 (27%)</b>
<b>Prisoners</b>	<b>45,628 (30%)</b>
<b>Total</b>	<b>124,444 (19%)</b>

**About 10% of prisoners and parolees and 6% of the probationers matched with a “priority population” diagnosis**

**TEXAS DEMAND FOR PRISON BEDS ON A  
NATIONAL PERSPECTIVE**

**MAIN FACTORS IMPACTING PRISON  
POPULATION GROWTH**

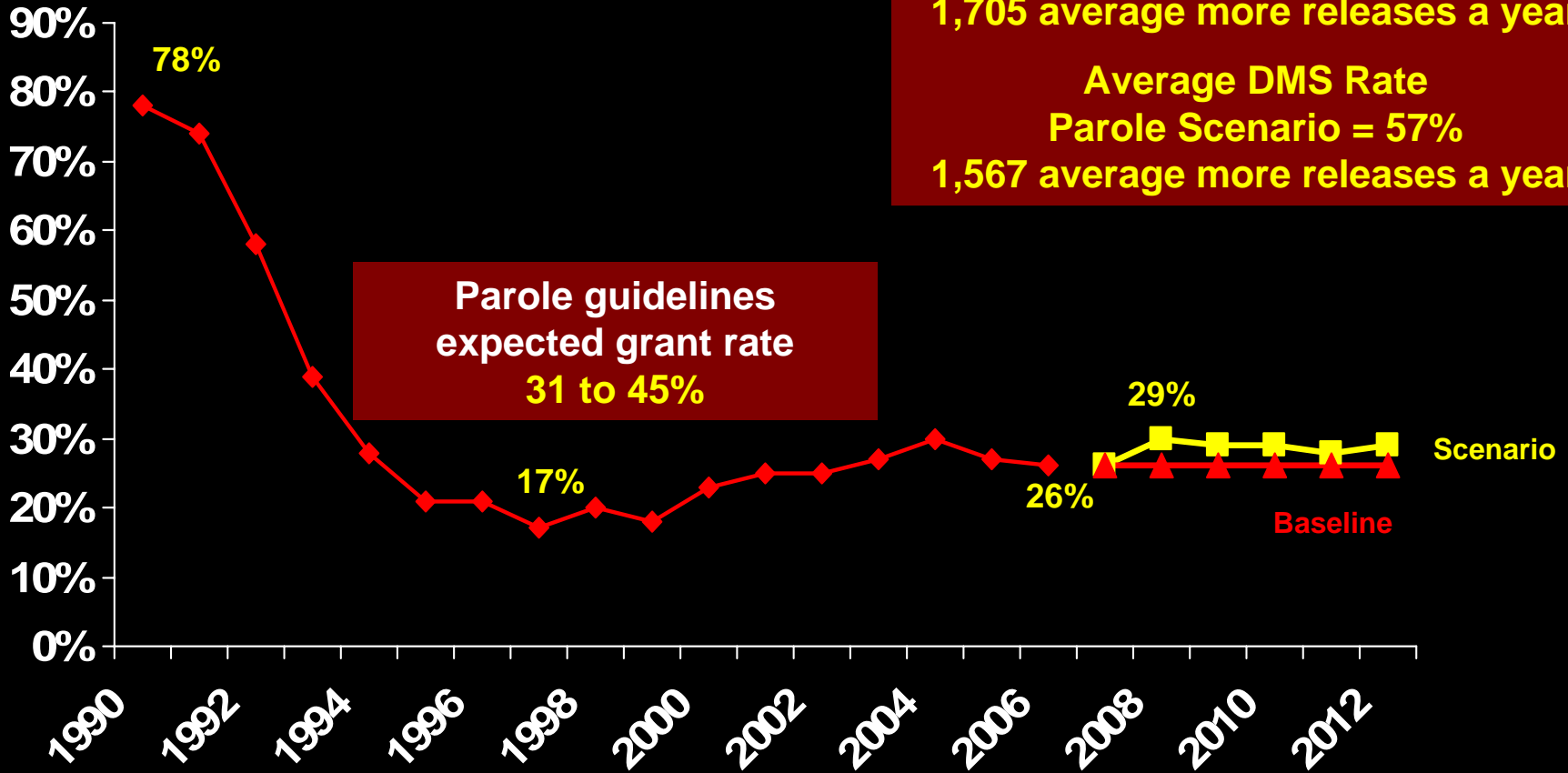
**JUSTICE REINVESTMENT SCENARIOS**

# Parole Scenario Assumes Funding of New Treatment Facilities and Strategies to Strengthen Parole Supervision

<b>Parole Scenario Key Assumptions</b>	
<b>TDCJ Facilities</b>	<b>1,000</b> bed facility for DWI and IPTC treatment
<b>Parole Facilities</b>	<b>150</b> Halfway house beds
<b>Key Assumptions</b>	Parole board will <b>increase</b> parole rate for offenders at the <b>low risk/low severity levels</b> of the guidelines
<b>Other Policies</b>	<b>Recidivism tracking</b> to determine if additional releases are negatively impacting public safety

# LBB Model Shows That Slightly Increasing Discretionary Release Rates Will Wipe Out the Projected Bed Shortfall

**LBB Projected Parole Rates, Baseline and Parole Scenario, 2006-2012**



**2007-2012 Average Parole Rate**  
**Parole Scenario = 29%**  
**1,705 average more releases a year**

**Average DMS Rate**  
**Parole Scenario = 57%**  
**1,567 average more releases a year**

**Parole guidelines**  
**expected grant rate**  
**31 to 45%**

# LBB Fiscal Analysis Shows That the State Can Save a Substantial Amount of Funds That Could Be “Reinvested” in Other Alternatives

## LBB Projected Five Year Fiscal Impact for Parole Enhancement Scenario, 2008-2012

General Revenue Probable Net Positive Impact	
2008-2009	\$99,874,930
2009-2012	\$443,186,977
Total: 2008-2012	\$543,061,907

Above does not include potential “cost avoidance” of \$377.7 million for the construction of 4,080 beds proposed by TDCJ

# Reinvesting in Probation/Treatment Can Significantly Increase Sanctioning Capacity for Alternative Punishments

<b>Sanction and Treatment Capacity Inventory</b>		
<b>Facility</b>	<b>Present Capacity</b>	<b>Proposed Additional</b>
<b>Intermediate Sanctions Facilities (ISFs)</b>	1,793 beds in parole system (1 per 42 parolees) and 439 in probation system (1 per 544 probationers)	<b>2,400</b> beds available for parole and probation system
<b>Probation Residential Treatment (PRT)</b>	2,123 beds for 187,054 offenders on probation with substance abuse problems*	<b>1,600</b> beds
<b>In-prison Therapeutic Community (IPTC)</b>	537 beds with 174 offenders in a waiting list	<b>200</b> beds
<b>Substance Abuse Felony Punishment (SAFP)</b>	3,250 beds with a waiting list of 823 offenders	<b>500</b> beds
<b>DWI Prison Treatment</b>	No facility dedicated to this	<b>500</b> bed facility
<b>Parole Halfway Houses</b>	1,159 beds with a current backlog of 600 inmates	<b>150</b> beds
<b>TDCJ Capacity</b>	Transfer of San Saba and Marlin TYC Units to TDCJ	<b>1,200</b> beds

**6,550 beds in different types of facilities**

# Diversion Impact for Main Scenario Was Calculated Based on Research But LBB Also Calculated Alternative Impacts

## Diversion Factor for Probation Programs

100 Offenders



75

Placed in program  
Would have gone to prison

25

Placed in program  
Would not have gone to prison



Counts as “diversion” for projection



“Expansion of the net”

Baseline

75% diversion factor  
based on CJPC  
research

100% diversion factor

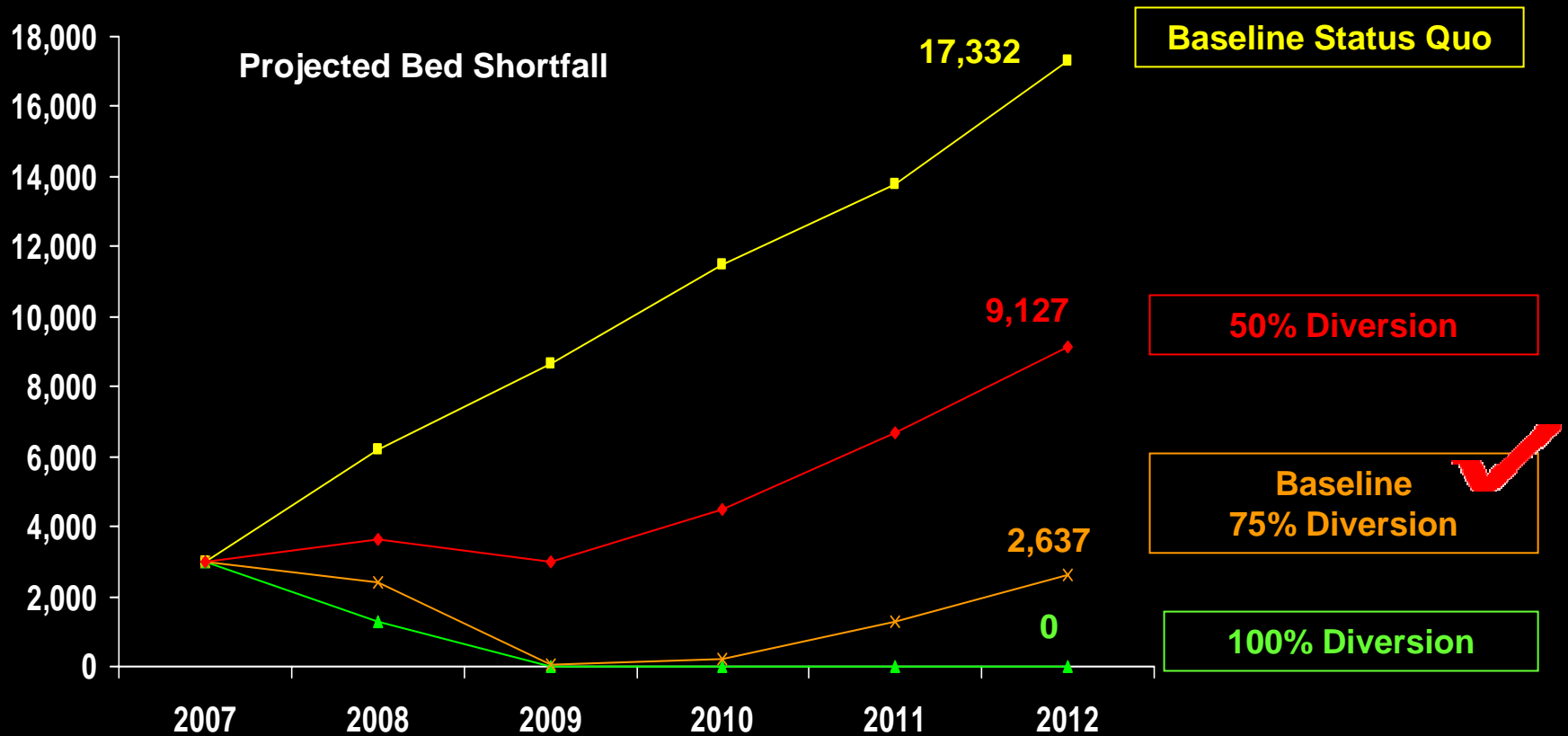
Not Sustained by Data

50% diversion factor

Should not occur if  
best practices are  
used

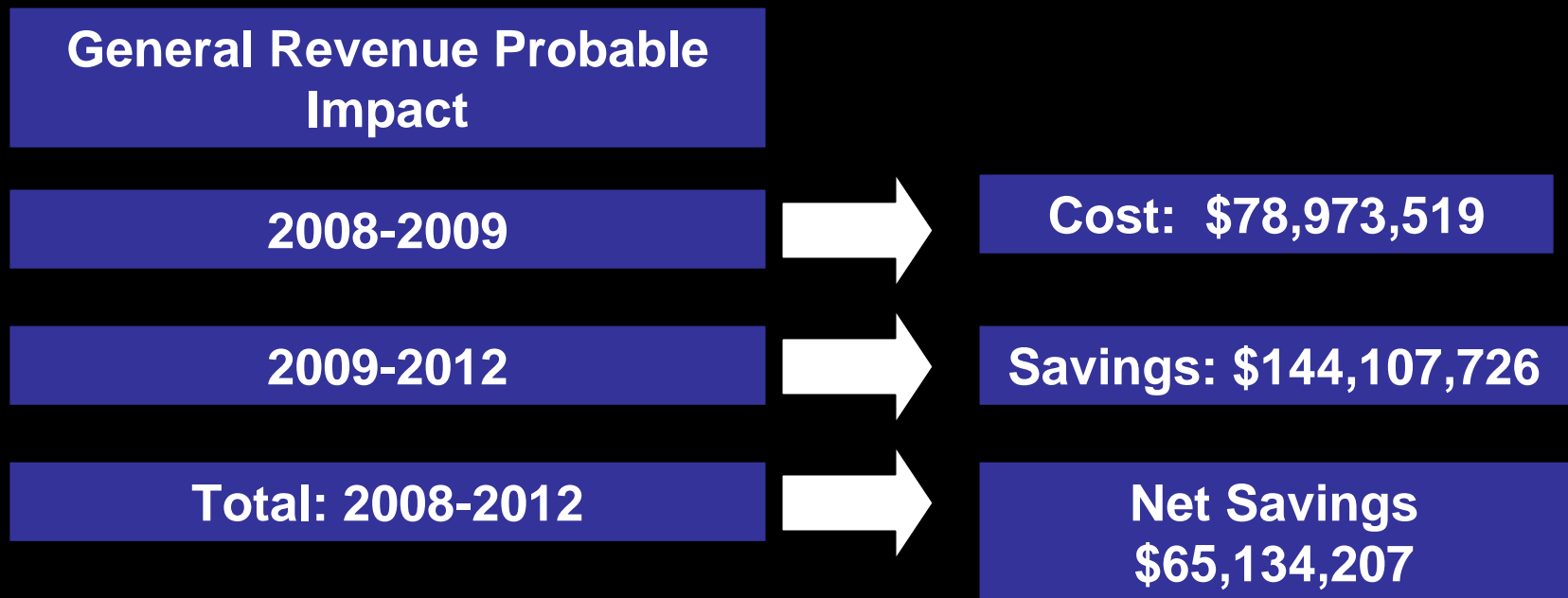
# LBB Estimated Impact on TDCJ Projected Bed Shortfall Using Three Sets of Assumptions Regarding Diversion Factors

**Projected TDCJ Bed Shortfall Under Probation  
Diversion Scenarios, 2007-2012, January 2007  
LBB Projection**



# LBB Fiscal Analysis Shows That the State Can Save Substantial Funds by “Reinvesting” in Probation/Treatment

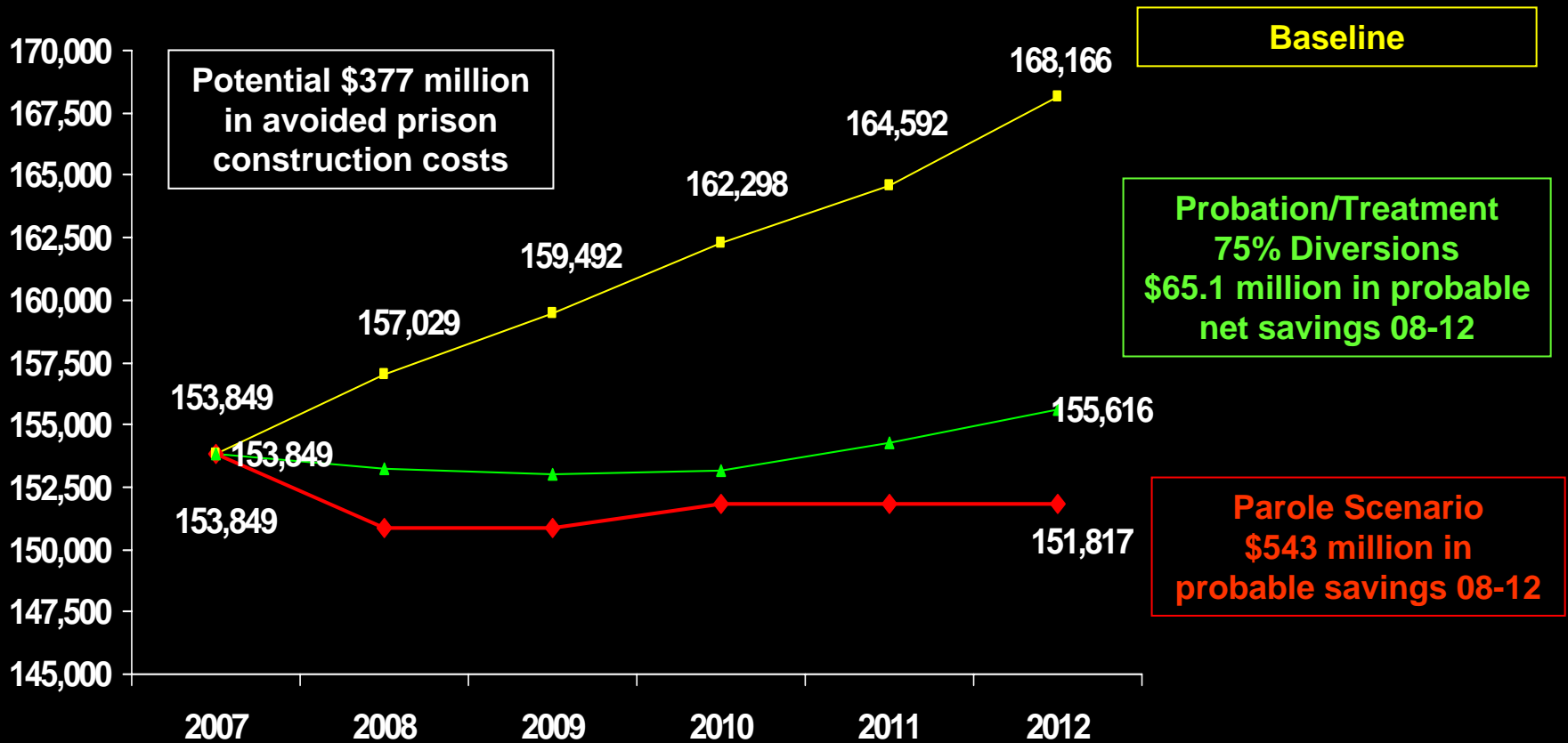
## LBB Projected Five Year Fiscal Impact for 75% Diversion Probation/Treatment Enhancement Scenario, 2008-2012



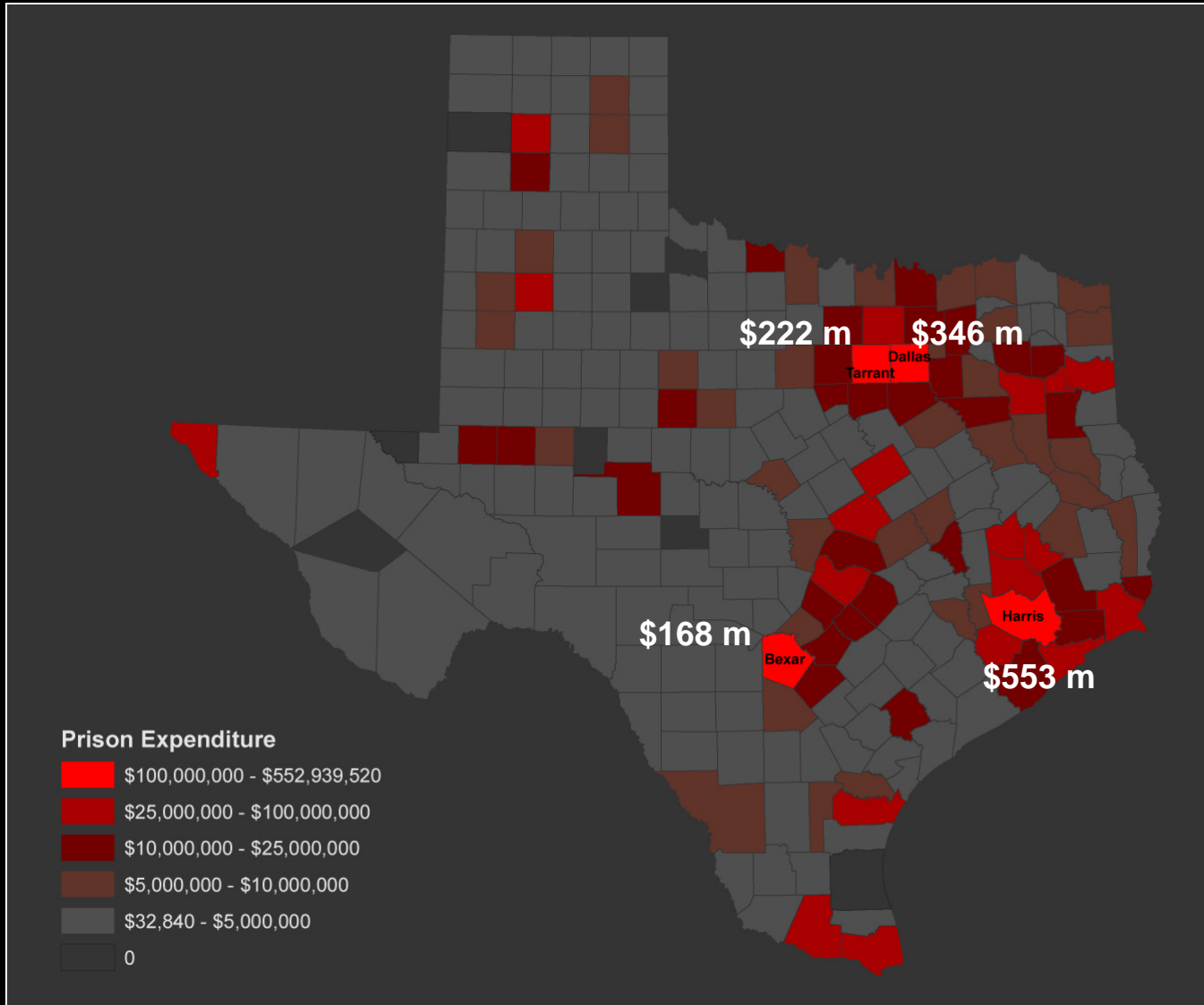
Above does not include potential “cost avoidance” of \$377.7 million for the construction of 4,080 beds proposed by TDCJ

# Both Scenarios or a Combination Can Address the Projected Bed Shortfall at a Lower Cost Than Baseline

**Projected TDCJ Population Under Scenarios, 2007-2012, January 2007 LBB Projection**



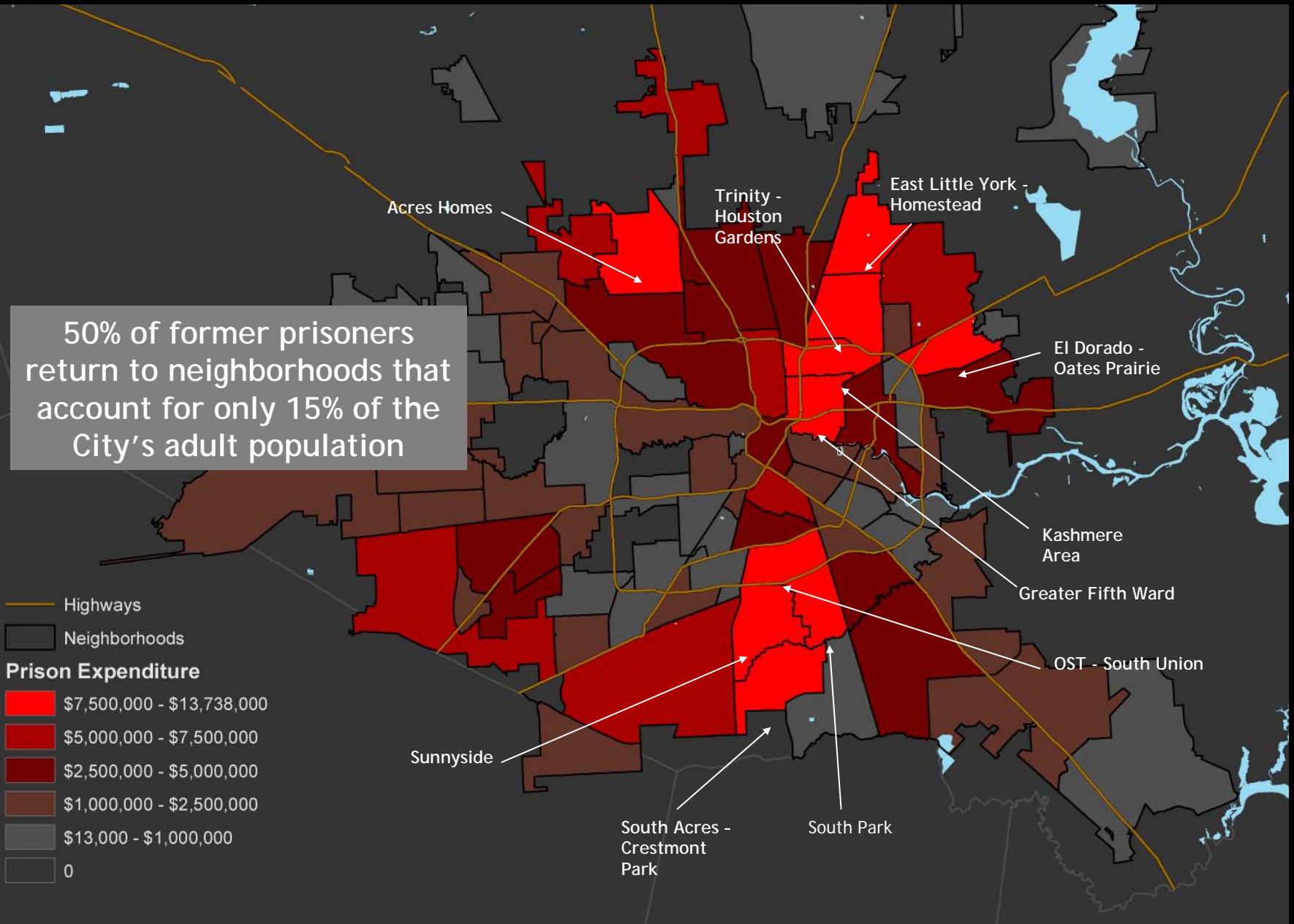
# Justice Reinvestment Framework Also Shifts Long-Term Strategy to Investments in “High Stakes” Communities



“High Stakes Communities” are those neighborhoods in counties that receive the most residents from and contribute the most residents to the prison system

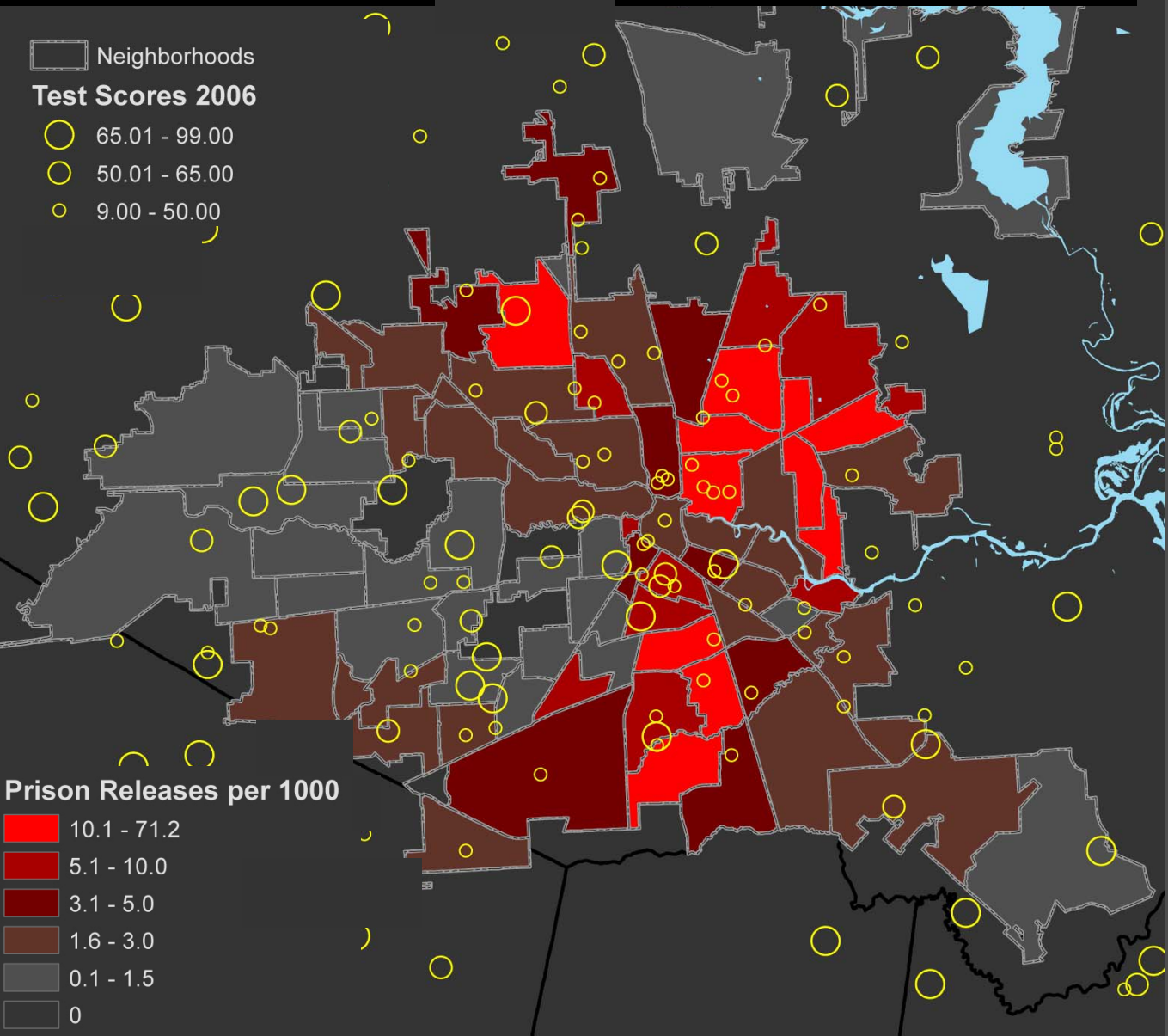
The four highest reentry counties in the state cost the state over \$1 billion a year in incarceration costs

# Ten of Houston's 88 Neighborhoods Account for Almost \$100 million a Year in Prison Expenditures



# Quality of Schools in High Stakes Communities is a Critical Factor to Review

## Houston Neighborhood Prison Release Rates and School Test Performance

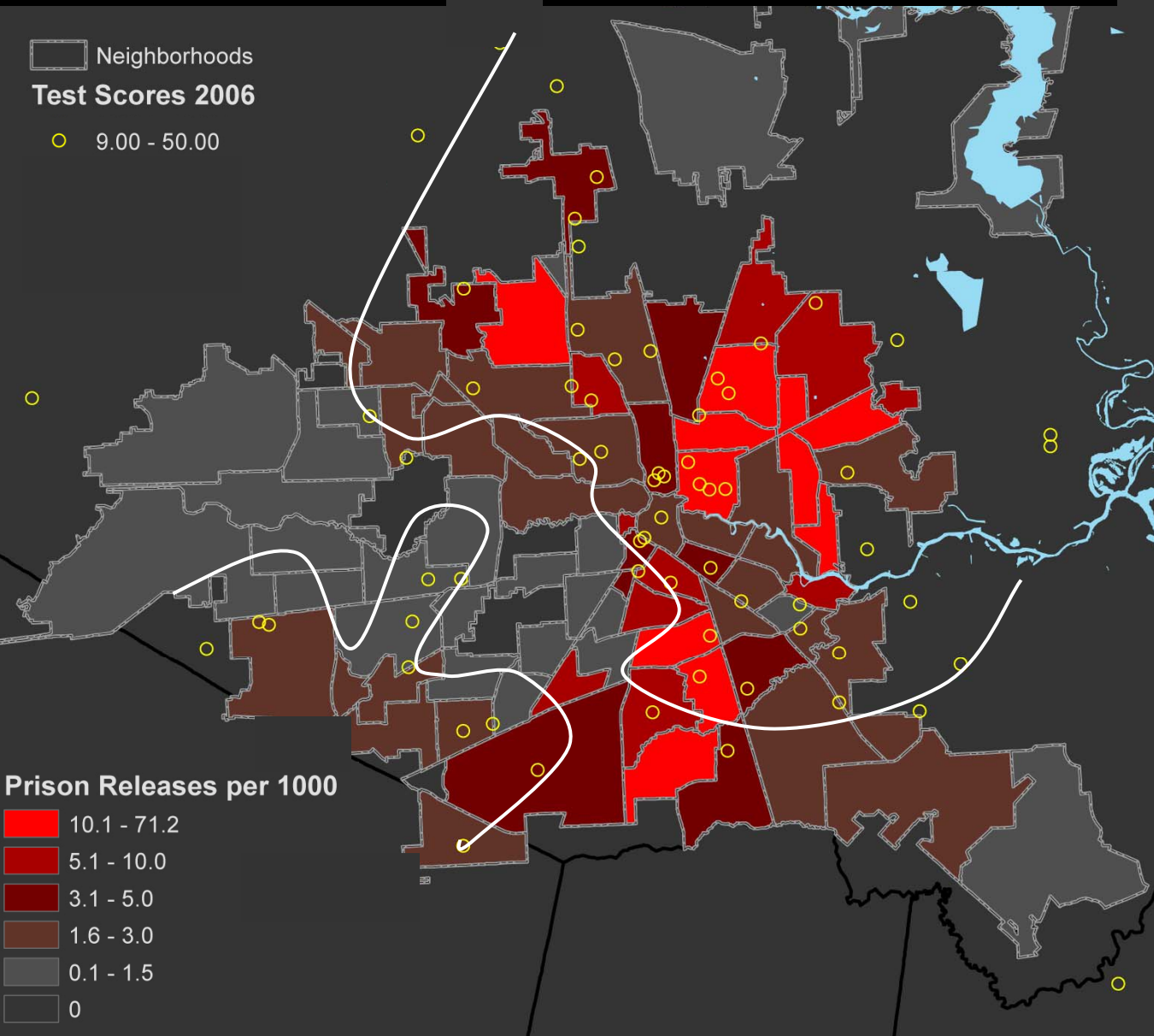


### High Schools Test Scores

The HS with the highest % of students passing all tests tend to be concentrated in neighborhoods with the lowest rate of people returning from prison.

# Low Performing High Schools Tend to Be in “High Stakes” Communities

## Houston Neighborhood Prison Release Rates and School Test Performance



Neighborhoods with high rates of returning prisoners tend to be those with low performing High Schools

# High Schools with High Drop Out Rates Also Tend to Be in “High Stakes” Neighborhoods

Houston  
Neighborhoods

## High School Drop Out Rates

Neighborhoods

Dropout Rate

10.1% - 60.0%

Prison Releases per 1000

10.1 - 71.2

5.1 - 10.0

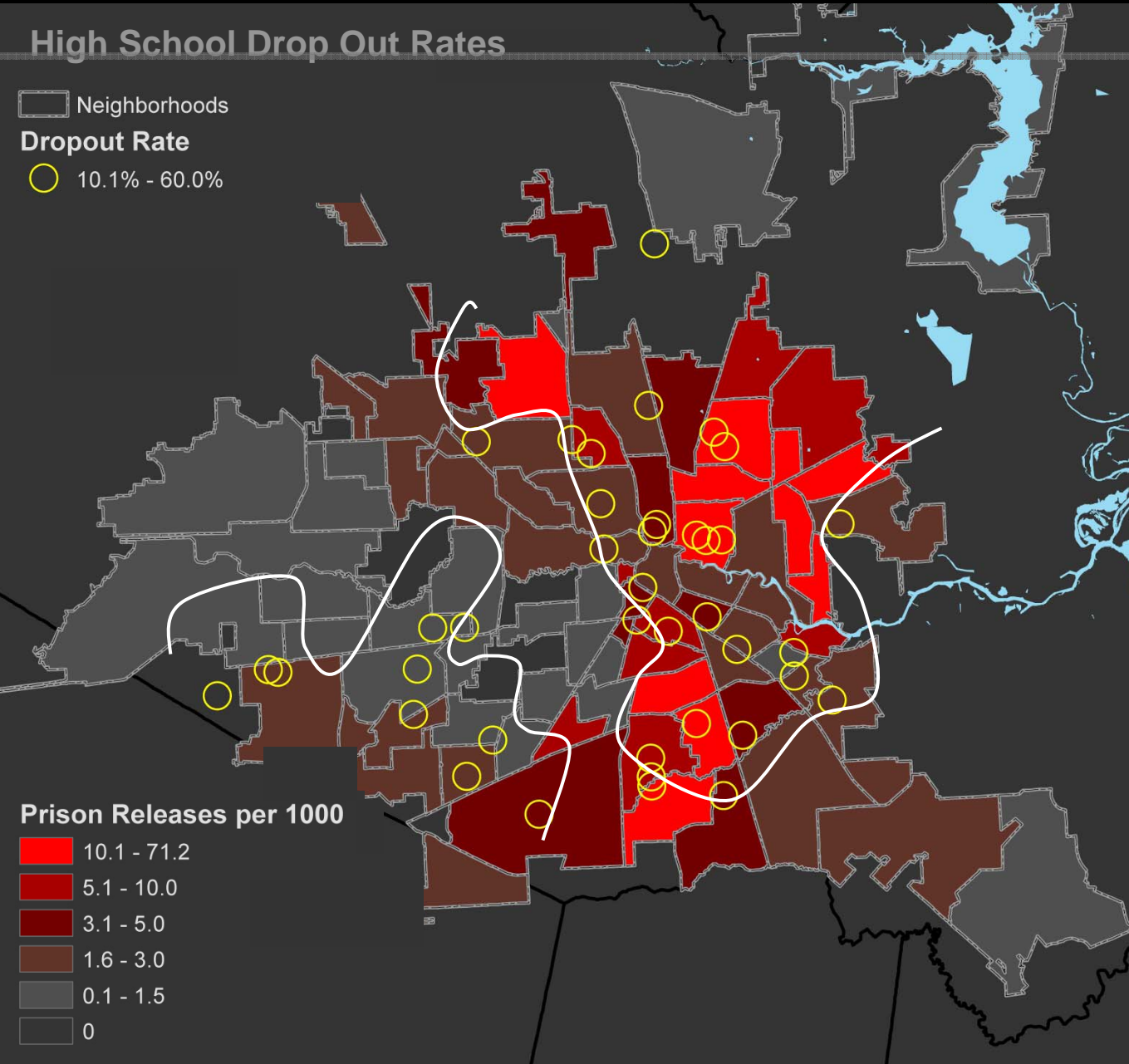
3.1 - 5.0

1.6 - 3.0

0.1 - 1.5

0

Neighborhoods with high rates of returning prisoners also tend to have High Schools with high drop out rates



# Policies to Reduce the High Percentage of Disconnected Youth in High Poverty Neighborhoods Are Also Critical

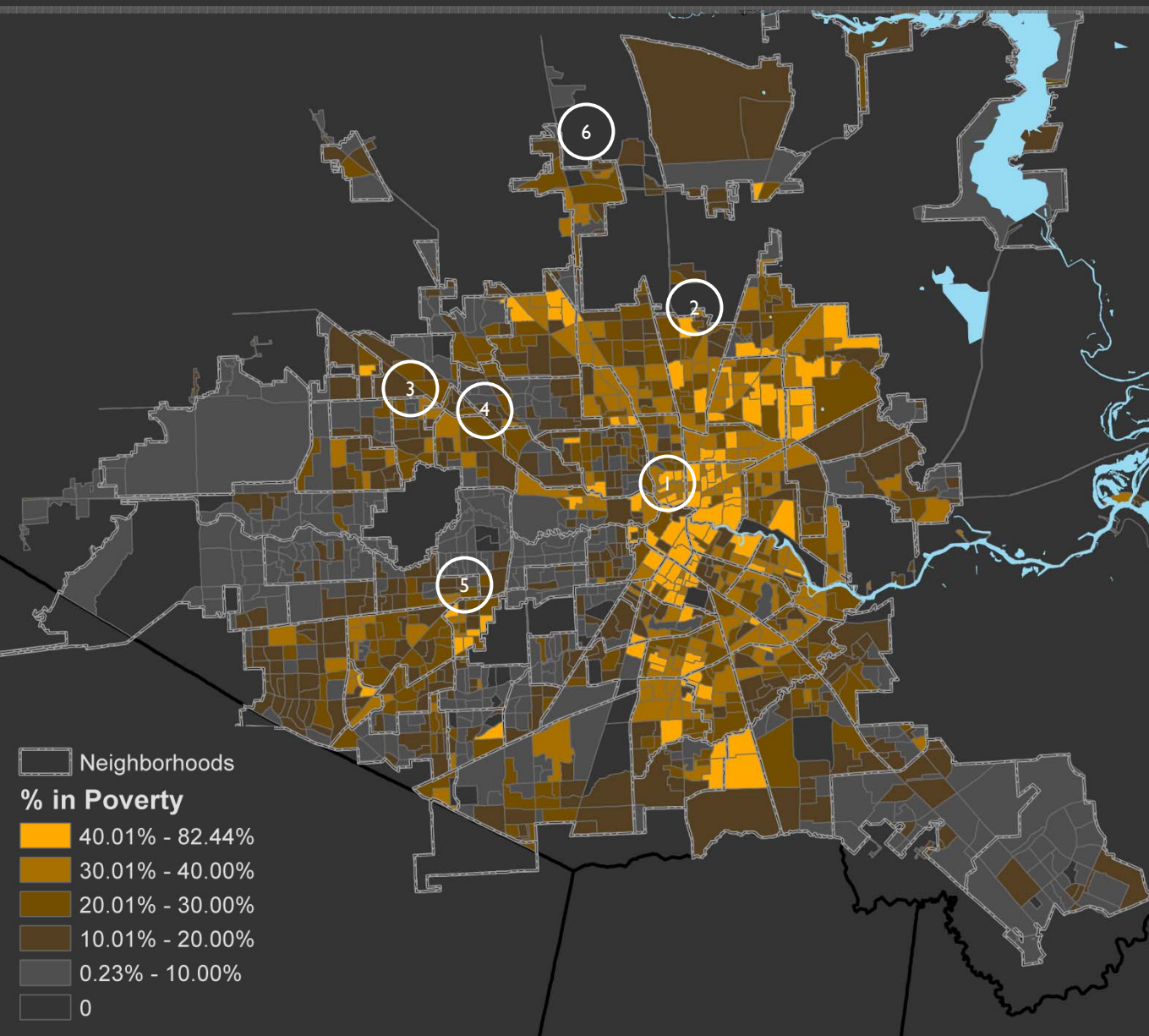
## Houston Block Groups Neighborhood Borders

Another key indicator of neighborhood conditions is **Disconnected Youth: 16 – 19 year-olds who are not working, not in school, and have no high school diploma.**

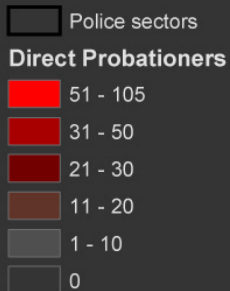
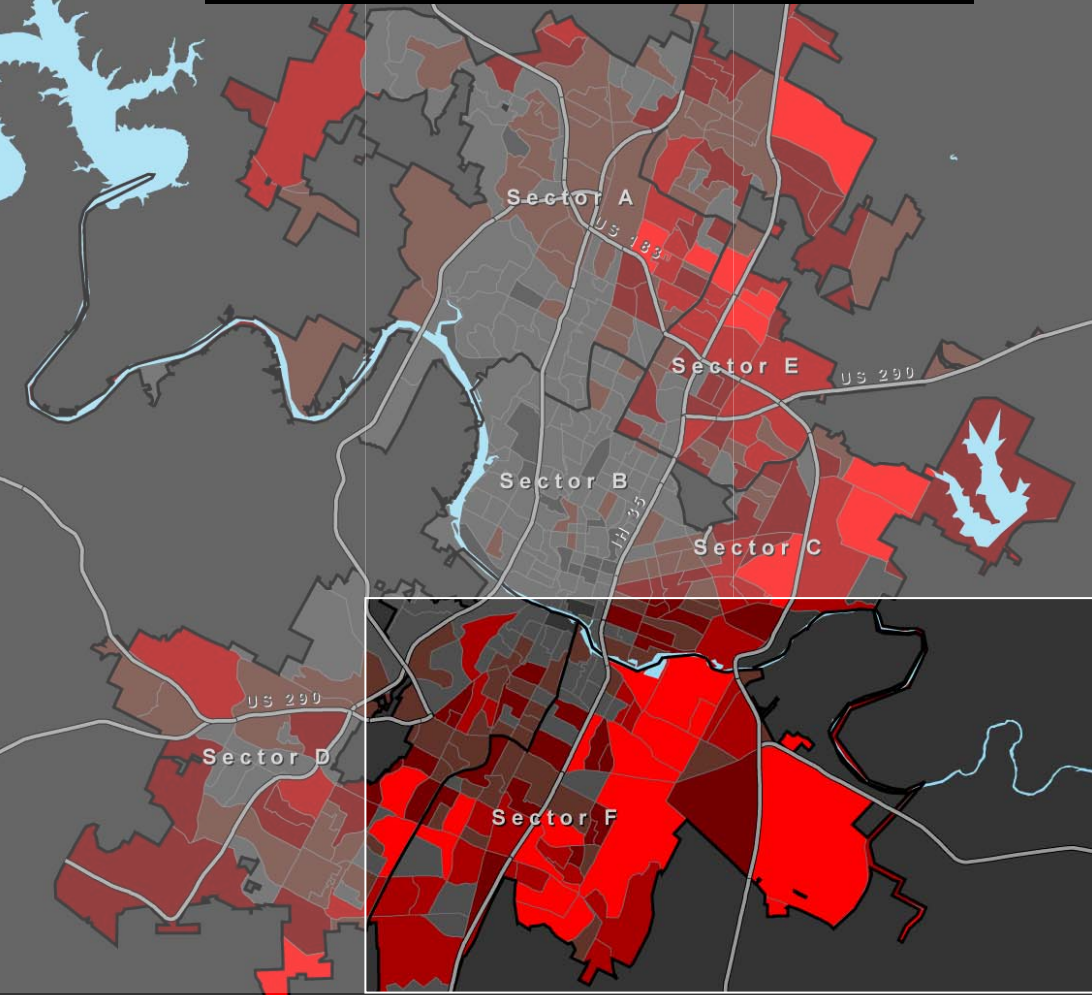
### Neighborhoods with High Rates of Disconnected Youth

Neighborhood Name	Count	Percent
(1) Downtown	413	38.2%
(2) Eastex-Jensen Area	401	20.7%
(3) Spring Branch Ctr.	368	19.8%
(4) Spring Branch East	308	18.9%
(5) Gulfton	527	18.6%
(6) Greater Greenspoint	362	16.7%

Neighborhoods with 300 or more 16 – 19 year olds and > 15% not working/not in school/no diploma



# Austin, Travis County



Probationers and Parolees  
Tend to Be Concentrated in  
“High Stake” Communities Yet  
Probation and Parole Do Not  
Coordinate Strategies and  
Services

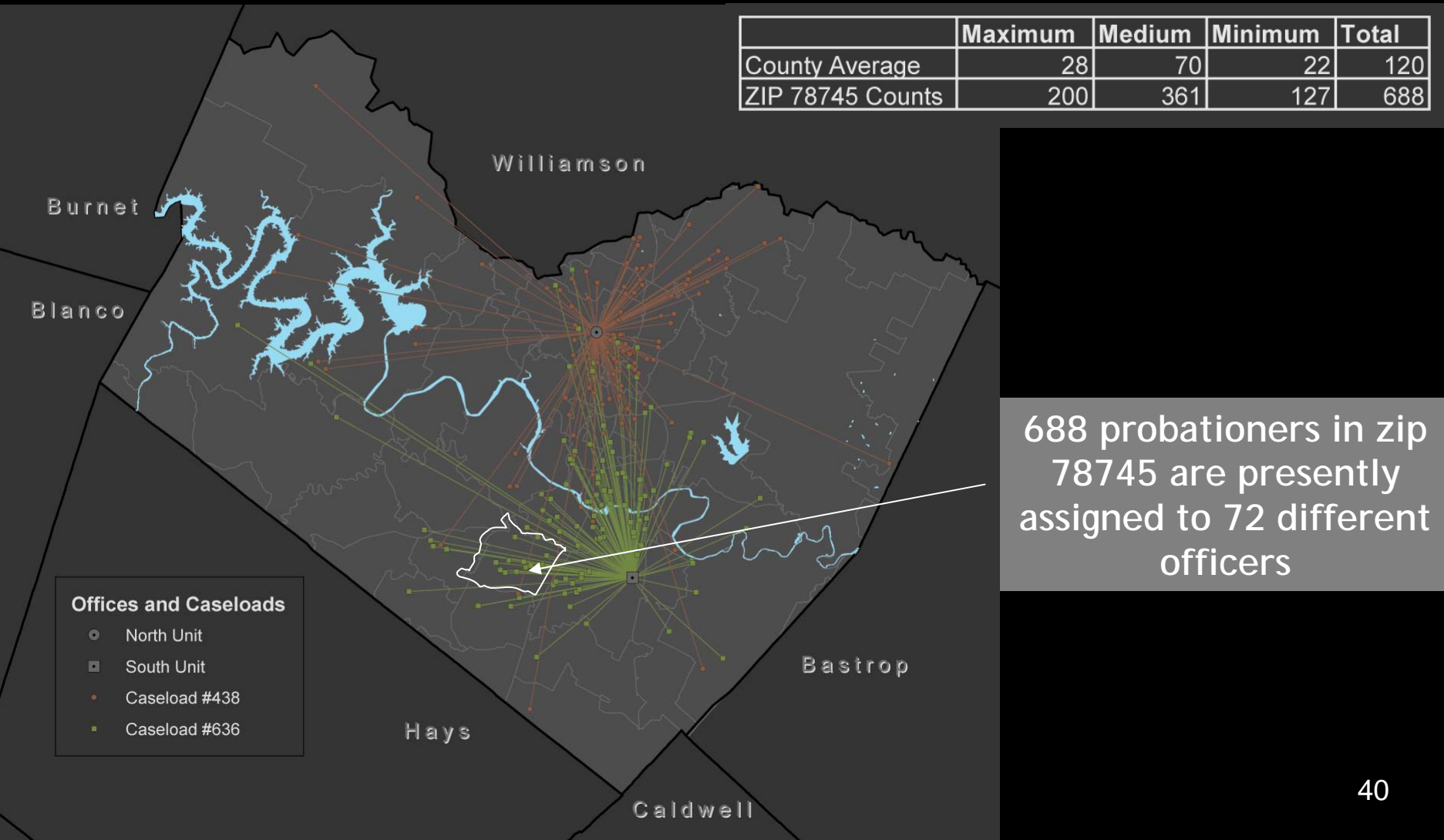
## Travis County Sector F

Sector F has the highest  
number of probationer per  
capita in Travis (24 per 1,000  
population)

34% of prison discretionary  
releases to Austin are also in  
this area

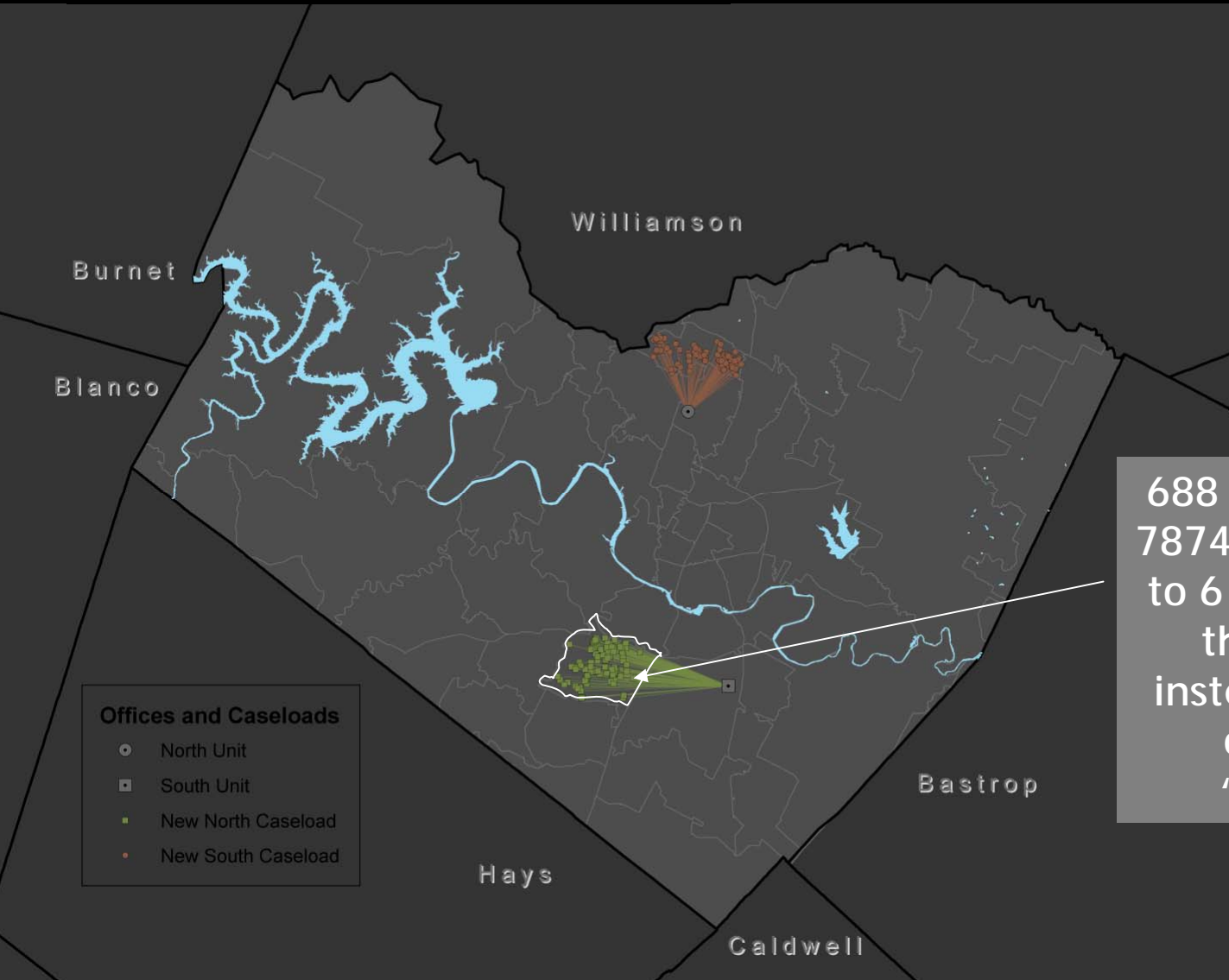
# Thinking About High Stake Communities Can Even Encourage a Better Utilization of Present Resources Like Probation Supervision

## Austin, Travis County



# Probation Caseloads Could Be Organized More Effectively Around “High Stakes” Neighborhoods

## Austin, Travis County



688 probationers in zip 78745 could be assigned to 6 officers working in the neighborhood instead of 72 different officers from a “central” office

## **Sunset Commission Language Describes the Essence of the Challenge You Are Facing After Years of Building Prisons**

**“Construction only acts as a temporary solution and does not address the causes of the capacity needs.”**

**“Additional construction does not create incentives to address the causes of increasing capacity; instead it may encourage prison population growth. If the state continues to add beds, history shows that those beds will quickly fill.”**

***Legislature Sunset Advisory Commission, Staff Report, October 2006***

# Thank You

Recent and Projected  
Growth of the Texas  
Prison Population

Policy Options to  
Increase Public Safety  
and to Manage the Growth  
of the Prison Population

Texas Justice  
Reinvestment  
Scenarios

Travis County Probation:  
A Mental Health  
Learning Site

Justice Center  
Council of State Governments  
100 Wall Street, 20th Floor  
New York, NY 10005  
[www.justicecenter.csg.org](http://www.justicecenter.csg.org)

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