Impact of House Bill 86 & Sentencing-Related Legislation on the Incarcerated Population in Ohio

PREPARED FOR THE OHIO CRIMINAL SENTENCING COMMISSION

A Report by Case Western Reserve University
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EXECUTIVE SUMMARY

Reducing the incarcerated population in both the juvenile- and adult-justice systems has been an area of focus for many states nationwide. The Justice Reinvestment Initiative (JRI) focused on data and evidence-driven approaches to address the problem at the front end and the back end.

This report describes the impact of Ohio's House Bill 86 (HB 86), a codification of the JRI efforts in Ohio, and several other related pieces of legislation on the population of incarcerated youth and adults. Generally, HB 86 aimed to reduce the incarcerated population by utilizing community alternatives to incarceration particularly among low-level offenders, increasing the use of judicial release, and mandating risk assessments to better understand the needs of offenders and reduce recidivism.

Data available from the Ohio Department of Youth Services (ODYS) and the Ohio Department of Rehabilitation and Corrections (ODRC) between 2011 and 2016 were used to examine the impact of HB 86 and related legislation on the incarcerated population. Data from the ODYS revealed three key findings:

- **The Ohio Youth Assessment System (OYAS), an actuarial tool measuring criminogenic risk, has been widely used across the state to inform a number of decisions at different points in the juvenile-justice system;**
- **New commitments made up more than 75 percent of all commitments to ODYS with youth who were at high risk to recidivate constituting nearly half of these cases;**
- **African-American and Hispanic youth had greater odds of being classified as high-criminogenic risk for counties outside of the six largest counties in Ohio.**

While data from the juvenile-justice system pointed to clear outcomes, results of HB 86 on the adult-prison population were mixed.

- **The majority of new commitments to ODRC facilities were male and white, more than a quarter of these cases involved a fifth-degree felony, and less than half of new commitments were for a violent offense.**
- **The percentage of cases with one-year sentences or less that resulted in judicial release increased slightly between 2011 and 2016.**
- **New commitments to ODRC facilities decreased for fourth-degree felony offenses, but did not decrease for fifth-degree-felony offenses.**

Based on these findings, we recommend that the Ohio Criminal Sentencing Commission continue to collect data in a number of areas. For the juvenile-justice system, continuing to collect detailed data on the OYAS-risk assessment may provide insight into county-specific differences on its implementation.

For the adult-criminal-justice system, further data collection is necessary to link arrest data, court records, and ODRC data. These data linkages can help us to further understand the impact that legislation has had on sentencing for specific types of crimes and offenders. Further, data on the community-sanctions population should be linked to court records and ODRC data to understand what programs work and for whom.

INTRODUCTION

During the past four decades, the U.S. state and federal prison population increased fivefold (The Sentencing Project, 2017). While estimates around the cost of a prison sentence differ due to a number of factors, the Vera Institute estimates an annual cost of $31,286 per inmate (Henrichson & Delaney, 2012). Further, research has found that prison has no effect on recidivism when pared heaper alternative sanctions (Mitchell, Cochran, Mears, & Bales, 2017) and may even have a criminogenic effect (Cullen, Jonson, & Nagin, 2011). The high cost of incarceration coupled with mounting evidence of its ineffectiveness have forced many states to rethink sentencing policy. In recent years, these changes to sentencing policy likely led to a U.S. prison population that has slowly declined (Carson & Anderson, 2016). Policy responses to decreasing the prison population seem deceptively simple. To reduce the prison population, policy should focus on decreasing the total number of individuals sentenced to prison (front end) while increasing the total number of individuals released from prison (back end). However, there are a number of decisions that greatly affect both of these numbers directly and indirectly (Clear & Schrantz, 2011) and these decisions can make a significant impact on how sentencing policies are implemented.

As states made a concerted effort to reduce the adult-prison population, the majority of states in the U.S. have seen a reduction in the prison population since the early 2000s. Many states have adopted sentencing reforms for drug offenses, reduced the number of admissions to prison for technical violations, and introduced diversion programs for low-level offenses (The Sentencing Project, 2017). While many states have seen decreases in the prison and jail population, Ohio has been fairly unsuccessful over the same period (The Sentencing Project, 2017).

While Ohio has not seen a meaningful reduction in the incarcerated population in the adult system, the juvenile-justice system has seen a large decrease in the number of incarcerated youth. In 1997, the average daily population incarcerated in state facilities was 2,096 (Ohio Department of Youth Services, 1997). In the two decades since, the average daily population decreased by 79 percent to 429 in 2017 (Ohio Department of Youth Services, 2017). This large decrease in the incarcerated population during this time period coincided with RECLAIM Ohio, which expanded the availability of services for juvenile-justice-involved youth at the local level. Through several programs funded through the Ohio Department of Youth Services (ODYS), counties were incentivized against placing youth in residential services, including in local and state detention and incarceration facilities (Panzino, 2017). The state placed a heavy emphasis on investing in evidence-based assessment, treatment, and programming to identify the needs of youth being served and to monitor programmatic outcomes.

The Justice Reinvestment Initiative (JRI) emerged nearly a decade ago in states nationwide as a way to promote cost-effective and evidence-based approaches to reducing the incarcerated population. While states have used a variety of approaches, JRI involves data-driven methods to improve the use and application of criminal justice and community responses to managing the incarcerated population (Urban Institute, 2014). Data can help provide states with detailed information on sentencing trends, profiles of the incarcerated population, and treatment needs of this population, among other pertinent information. This data-driven approach can help systems serve the population more efficiently by identifying ways to reduce recidivism.

JUSTICE REINVESTMENT

JRI states first develop a working group of criminal-justice practitioners, legislators, and policy experts, among others, to develop a policy plan. Work groups develop a plan to formalize JRI policies and states work to implement and measure the effectiveness of these policies. As a JRI state, Ohio codified its policies through House Bill 86 (HB 86). HB 86 was passed in September 2011, and included policy changes that addressed the prison population at the front end and at the back end.

FRONT END

- The threshold for stiffer penalties for theft-related offenses and certain elements of the offenses of vandalism and engaging in a pattern of corrupt activity increased from $500 to $1,000.
- Revised and clarified the law regarding prosecution of multiple theft, Medicaid fraud, workers' compensation fraud, and similar offenses.
- Included workers' compensation fraud as a theft offense.
- A sentencing court must consider community-control sanctions in certain nonsupport of dependents cases.
- Eliminated the differences in penalties for crack and powder cocaine.
- Revised penalties for certain drug offenses that carried mandatory prison terms.
- Generally required offenders convicted of or pleading guilty to fourth- or fifth-degree felonies to serve community-control sanctions.
- Created the offense of trespass in a habitation of a person.
- Reduced the penalty for escape under certain conditions for individuals under supervised release.

BACK END

- Revised the eligibility criteria for judicial release.
- Implemented 80-percent-judicial release, where individuals possibly would be released with sentencing-court approval upon serving at least 80 percent of their prison term.

We received complete data on ODYS and ODRC commitment cases during the period between 2011 and 2016. These years represent the period short before and after the passage of HB 86. We conducted statistical analyses on both datasets using different methodology based on the research

question of interest. Our overall purpose of the current study is to provide an examination of the impact of HB 86 on the incarcerated population in Ohio.

We examined five research questions around HB 86:

1. **What is the trend of admissions to ODRC for felony-theft-related admissions over time?**
2. **What is the trend of commitment cases for nonsupport of dependents, among those who have no prior commitment cases?**
3. **What is the trend of judicial releases among new commitment cases over time?**
4. **What is the trend of new-commitment, fourth-degree-felony offenses over time?**
5. **What is the trend of new fifth-degree-felony offenses over time?**

In addition to sentencing-related changes, HB 86 required the use of a risk assessment tool. Two separate assessment tools were developed for the youth system (Ohio Youth Assessment System) and the adult system (Ohio Risk Assessment System) as an actuarial measure of criminogenic risk. These measures assess an individual's risk of recidivism and are designed to be provided at different points in the justice system.

For both measures, individuals can be at low, moderate, or high risk for recidivism and their level of risk can change as the measure is collected at multiple points in the justice system. The Ohio Youth Assessment System (OYAS) has had a large impact on policy-making in the juvenile-justice system. Therefore, we examined the impact that risk assessment had on the ODYS population.

During the intervening years since the passage of HB 86, there have been several pieces of legislation that have enacted policies that may have had an effect on the incarcerated population.

House Bill 262 (HB 262)

- Included an amendment to increase the penalties to the offense of obstructing justice.

1. **What is the trend of new felony offenses for obstructing justice over time?**

Senate Bill 337 (SB 337)

- Increased the age at which offenders may be held in facilities that were not authorized for the confinement of children.

- Revised the penalties of certain fifth-degree-felony-drug offenses to generally favor prison alternatives.

1. **Did SB 337 impact the proportion of new-commitment-cases-under 21 out of total new commitment cases over time?**

2. **What is the proportion of new F-5-drug offenses out of all new F-5 offenses over time?**

House Bill 123

- Allowed for community-control sanctions to be imposed for a felony case without a presentence investigation report.

1. **What is the trend of new commitments for felony offenses over time?**

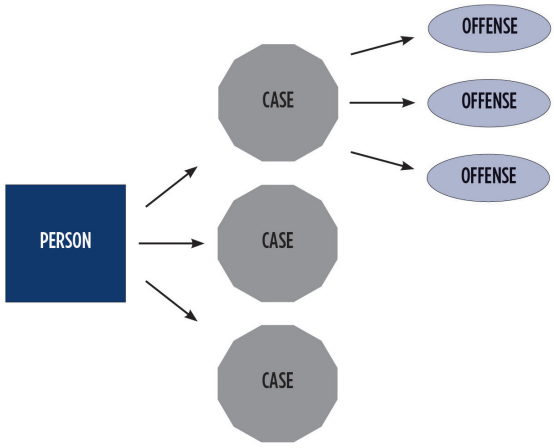
The following sections provide an explanation of the methodology we used in addressing each of the research questions proposed above. As the available data differed quite a bit for the juvenile- and adult-justice systems, the methodology for each are separated.

ODYS METHODOLOGY

Descriptive statistics were conducted for the total ODYS population to show the prevalence of commitment cases throughout the study period. The total prevalence was calculated, as well as case trends over the years. Because new commitment cases comprise 77 percent of the cases, most of the remaining analyses focused on the new commitment case sub-sample (N = 2,488).

Descriptive statistics of new commitment cases include gender, race, average age at beginning of sentence, average sentence length, whether the case belonged to a "big-six" county, the prevalence of an offense for each commitment case, whether the commitment cases were violent, and the OYAS-risk category for each commitment case. Big-six counties consist of the six counties that constitute a large proportion of Ohio's population and consequently ODYS commitment cases. These include: Cuyahoga, Franklin, Hamilton, Lucas, Montgomery, and Summit counties. These statistics were not tabulated on offenses, but rather commitment cases.

To understand this, we present this figure:



The figure illustrates that a person can have multiple commitment cases, and a commitment case can have multiple offenses. In other words, a person can be committed to an ODYS facility multiple times and each case that involved a commitment may involve one or multiple offenses. To comply with protocols to protect the identity of individuals, the data we obtained cannot be linked to a person. Unless noted in the results, all of the statistics described are at the commitment-case-level, unless we are discussing the data at the offense level. It is important to note here that commitment cases represent each sentencing decision that resulted in an incarceration.

Following this, we tabulated the descriptive statistics of new commitment cases broken down by OYAS-risk category (low, moderate, or high), gender, race, average age at beginning of sentence, and average sentence length. Also, we developed a variable for each case that we called "low-level offense" commitment cases. As defined by the Ohio Revised Code (ORC), these are commitment cases that are not for a violent offense and do not include first-, second-, and third-level felonies, murder, or gun-specification offenses. The characteristics for this group (N = 846) were computed, and then divided into three groups: Big-six county; Non-big-six county; and the total population.

We computed several trends for new offenses among the ODYS population over time. It should be noted that these trends were tabulated at the offense level and not at the commitment-case level. Therefore, multiple offenses could be represented by one case. We tabulated felony offenses, violent/non-violent offenses, average sentencing-length-by-offense level, and average sentencing length by violent/non-violent offense. We also calculated OYAS-specific phenomena for new commitment cases, as well as technical recommitment cases, and these were calculated at the commitment-case level. In analyses that report the offenses, we examined the most serious offense based on the degree of the offense. These include the percentage of cases by OYAS-risk level over time, percentage of recommitments for technical violations (e.g., parole violation) by OYAS-risk level, and the average sentencing length by OYAS-risk level. In addition to trends over time, OYAS category breakdowns were calculated for new offenses among commitment cases in 2016: categories of felony offenses by OYAS-risk level and the percentage of non-violent/violent offenses by OYAS-risk level.

In order to examine the variables that predict high-risk-OYAS classifications, as compared to moderate or low risk, we calculated a multinomial logistic regression stratified by county among new commitments. County was chosen as the stratification level because during testing, we found that it was statistically related to felony categories and OYAS-risk level. In other words, county was an important factor distinguishing between OYAS-risk levels and, therefore, we examined the variables that predict OYAS risk separately for big-six counties and those outside of the big six. The results are presented in a table using odds ratios (OR), 95-percent confidence limits (CL) for those odds ratios, and p-value ($\alpha = .05$). A variable that is significant indicates that it has an effect on OYAS-risk level while odds ratios indicate the strength of the effect.

We tabulated the number of judicial releases for new commitments by month from 2011 to early 2017. While we originally aimed to conduct a time-series regression that could determine whether the number of judicial releases increased significantly after HB 86, we could not employ that analysis because of the lack of data prior to HB 86. Therefore, we plotted the proportion of judicial releases out of total releases for that time frame on a line graph, and depicted the HB 86 time period as a blue-shaded block. We also tabulated descriptive statistics of the new-commitment-release population, breaking it out by judicial release compared with those released to parole.

ODRC METHODOLOGY

Descriptive statistics were conducted for the ODRC population to examine the types of commitment cases throughout the study period, as well as trends of commitment cases over time. Because most of the DRC cases are new commitments, we focused the remainder of the statistics on that population. However, similar to the ODYS population, new commitment cases do not necessarily indicate that the individuals have never been committed to an ODRC facility. Rather, it indicates that each case consists of at least one new offense and not technical violations or recommitments. Where appropriate, we used prior DRC commitment case as a covariate or grouping strategy.

When we discuss ODRC data, we are focusing on either commitment-case-specific outcomes (such as the proportion of judicial releases over time) or on specific offenses (such as the number of theft-related offenses over time). This distinction is the same one that we discussed in the DYS methodology, where a person could have multiple commitment-case IDs, and that a commitment case can represent multiple offenses. We will denote which level (commitment case or offense) for each analysis.

We conducted descriptive statistics on the new-commitment-case population. These descriptive statistics include gender, race, ethnicity, average age at beginning of sentence, level of most serious offense, any violent offense within that case, and the number of prior commitments. Following this, we produced descriptive statistics based on the number of prior commitment cases grouped into three categories: no prior commitment cases, one prior commitment case, and two or more prior commitment cases.

For research questions involving HB 86, results are longitudinally descriptive, with demarcations of the passage of HB 86. We could not perform statistical tests of the impact of legislation on these phenomena due to a lack of data prior to the passage of HB 86. This is the case for most of the following analyses, with some exceptions.

To examine HB 262, we employed descriptive statistics examining the trend of new felony offenses for obstructing justice over time. For this analysis, first-degree felony (F-1) and second-degree felony (F-2) data were unavailable because there were no F-1 or F-2 cases newly committed to DRC for that offense for the time period. Therefore, we examined only third-degree felony (F-3), fourth-degree felony (F-4), and fifth-degree felony (F-5) offenses.

We answered two questions for Senate Bill 337 (SB 337):

1. **Did SB 337 impact the proportion of new-commitment-cases-under 21 out of total new commitment cases over time?**

2. **What is the proportion of new F-5-drug offenses out of all new F-5 offenses over time?**

For the first research question, we were able to employ a time-series-poisson-regression analysis. A time-series regression allows us to measure whether the number of new-commitment-cases-under 21 changed significantly as a result of the legislation. While we could have conducted a time-series-regression model to answer the second research question, we noticed while examining the descriptive statistics that the outcome did not change and seemed to have an even slope. Therefore, we opted to present a descriptive analysis for that question.

To examine HB 123, we focused on the number of new commitment cases for felony offenses over time, in order to understand the impact of the legislation aimed to increase communitycontrol sanctions among felony offenders.

OHIO DEPARTMENT OF YOUTH SERVICES (ODYS) RESULTS

While there has been a shift in the way that decisions are made in the juvenile-justice system toward data-driven policy making, this shift has not necessarily been driven by legislation. The following section focuses on this change reflected primarily by ODYS policy in the characteristics of the ODYS population over time, the Ohio Youth Assessment System (OYAS), and the use of judicial release in the juvenile-justice system.

PROFILES OF OFFENDERS ON NEW ODYS COMMITMENT CASES

Figure 1. Composition of ODYS Commitment Cases by Type: 2011-2016

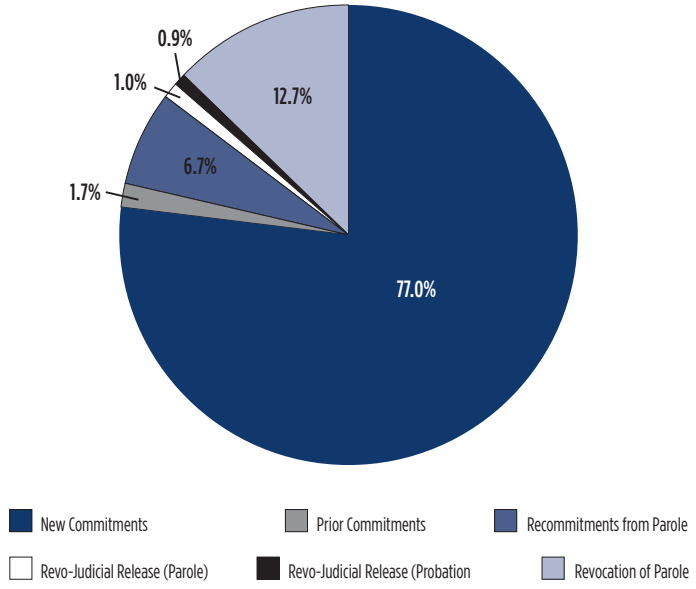
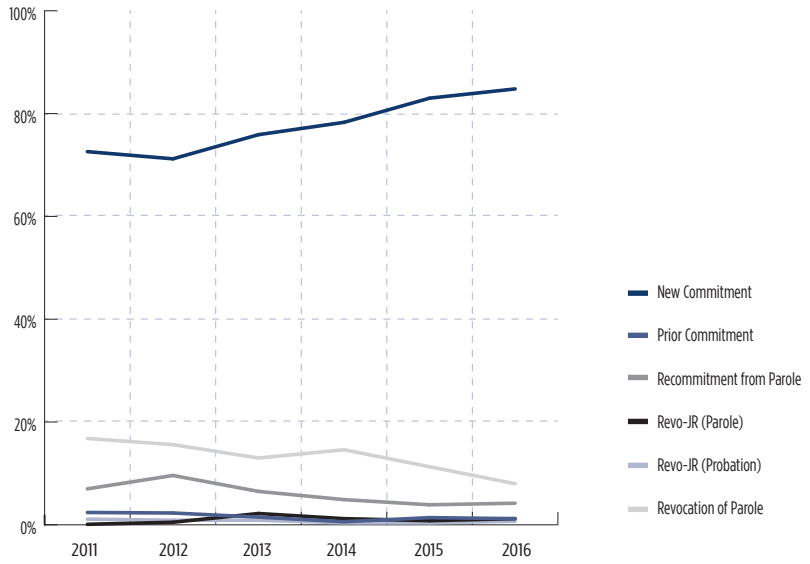


Figure 1 shows the composition of commitment cases to ODYS facilities by type. New commitments constitute a majority of commitment cases in ODYS (77 percent) during this time period, followed by revocation-of-parole-commitment cases (12.7 percent), and recommitment-from-parole cases (6.7 percent).

Types of ODYS commitment cases are depicted over time in Figure 2. New commitment cases increasingly constituted a larger percentage of commitments to ODYS facilities during this time period.

In 2011, new commitment cases constituted 72.6 percent of all ODYS commitments, steadily increasing to 84.8 percent of all commitments in 2016. Commitment cases for the revocation of parole were cut in half from 16.8 percent in 2011, to 8 percent in 2016. This may reflect a general policy shift away from committing youth to ODYS facilities for technical violations. As these types of commitments decreased, new commitments made up a larger proportion of all ODYS commitments.

Figure 2. Types of ODYS Commitment Cases over Time: 2011-2016



Demographic and descriptive information for all new commitment cases for the study period are presented in Table 1.

The vast majority of new commitment cases are male (93.8 percent; n = 2,333). More than half are African-American (58 percent; n = 1,438), followed by 33 percent white (n = 132), and multi-racial (5.3 percent, n = 132). The "All Others" category represents unspecified other, American Indian, or Pacific Islander.

The average age of a new commitment -offender is 17.36 years, and average sentence length is 10.02 months (this excludes those serving life sentences). More than half of the cases were from a big-six" county (55.4 percent; n = 1,378).

Table 1. Demographic & Descriptive Information of New Commitment Cases: 2011-2016
(n = 2,488)

Characteristic	Percentage (Number)
GENDER	
Male	93.8 % (2,333)
Female	6.2 % (155)
RACE	
African-American/Black	58.0 % (1,438)
White	33.0 % (818)
Multi-Racial	5.3 % (132)
Hispanic	2.4 % (59)
All Others	1.3 % (33)
Average Age at Beginning of Sentence	17.36 years (Std. Dev. 1.75 years)
Average Sentence Length	10.02 Months (Std. Dev. 6.32 Months)
"Big Six" County	55.4 % (1,378)
OFFENSE LEVEL	
F1	20.4 % (835)
F2	19.9 % (814)
F3	16.4 % (671)
F4	15.6 percent (639)
F5	14.4 percent (588)
Gun Offenses	12.9 percent (531)
Murder	0.1 % (6)
Any Violent Offense	75.4 % (1,877)
OYAS-RISK CATEGORY	
Low Risk	44.3 % (956)
Moderate Risk	32.7 % (707)
High Risk	23.0 % (496)

Note: Offense-level information is inclusive of all charges associated with each new commitment. Therefore, if an individual case was charged with multiple offenses, each charge is included in Table 1. As such, the percentage of each offense will add up to more than 100 percent when summed.

Of the new commitment cases, 20.4 percent contained a first-degree felony (F-1) (n = 814), and 12.9 percent contained a gun offense or specification (n = 531). Violent offenses, as defined by the Ohio Revised Code, constituted 75.4 percent of new-commitment cases. Most new commitment cases are classified as OYAS-low risk for re-offending (44.3 percent; n = 956).

Table 2. Demographic and Descriptive Characteristics of New Commitment Cases by OYAS Risk: 2011-2016

Characteristic	Low Risk	Moderate Risk	High Risk
Gender			
Male	43.9 % (897)	32.9 % (672)	23.2 % (473)
Female	50.4 % (59)	29.9 % (35)	19.7 % (23)
Race			
African American/Black	40.5 % (509)	34.1 % (429)	25.4 % (320)
White	52.3 % (375)	29.7 % (213)	18.0 % (129)
Multi-Racial	37.9 % (39)	36.9 % (38)	25.2 % (26)
Hispanic	42.0 % (21)	30.0 % (15)	28.0 % (14)
All Others	34.6 % (9)	42.3 % (11)	23.1 % (6)
Average Age at Beginning of Sentence	17.59 years (Std. Dev. 1.55 years)	17.45 years (Std. Dev. 2.14 years)	17.3 years (Std. Dev. 1.58 years)
Average Sentence Length	11.78 months (Std. Dev. 8.22 months)	11.67 months (Std. Dev. 8.52 months)	10.28 months (Std. Dev. 6.80 months)

Table 2 presents demographic and descriptive characteristics of new commitment cases by OYAS risk category.

Males and females generally were distributed equally among the OYAS-risk categories. The majority of females were in the low-risk category (50.4 percent; n = 59), as were males, but at a lower percentage (43.9 percent; n = 897). A majority of African-American (52.3 percent), white (52.3 percent), multi-racial (37.9 percent), and Hispanic (42.0 percent) youth were in the low-risk category.

The average age at the beginning of a sentence does not vary widely among the risk categories. However, those with lower risk have slightly longer sentences.

TABLE 3. Demographic and Descriptive Information of Non-Violent, Low Level New Commitment Cases: 2011-2016

Characteristic	Total (N = 423)	Big Six County (N = 154)	Non-Big Six County (N = 269)
Gender			
Male	91.7 % (388)	97.4 % (150)	88.5 % (238)
Female	8.3 % (35)	2.6 % (4)	11.5 % (31)
Race			
African American/Black	40.7 % (171)	82.9 % (126)	16.8 % (45)
White	46.4 % (195)	10.5 % (16)	66.8 % (179)
Multi-Racial	8.1 % (34)	3.3 % (5)	10.8 % (29)
Hispanic	2.9 % (12)	a	3.7 % (10)
All Others	1.9 % (15)	3.3 % (5)	1.9 % (5)
OYAS-Risk Category			
Low Risk	32.4 % (107)	31.6 % (37)	32.9 % (70)
Moderate Risk	37.9 % (125)	32.5 % (38)	40.8 % (87)
High Risk	29.7 % (98)	35.9 % (42)	26.3 % (56)
Average Age at Beginning of Sentence	16.8 years (1.1)	16.8 years (1.1)	16.9 years (1.1)
Average Sentence Length	173.9 days (133.4)	169.5 days (664.8)	181.6 days (527.6)

[a] Due to small cell sizes, this category has been collapsed with the "All Others" category for this column.

Table 3 presents the demographic and descriptive information for non-violent, low-level-felony offenses (F-4 or F-5) to ODYS from 2011 to 2016. As of 2016, there were 423 new commitment cases for non-violent, low-level felonies.

The majority of these cases were from outside the big six counties (63.6 percent; n = 269). The average sentence length for these cases was 173.9 days, with longer commitments from non-big six counties at 181.6 days, compared to 169.5 days for commitments from big six counties.

TRENDS OF NEW ODYS COMMITMENT CASES OVER TIME

In this section, we examined trends in offending and sentencing among new commitment cases over the study period.

Figure 3. Percent of New Commitment Felony Offenses by Felony Type: 2011-2016

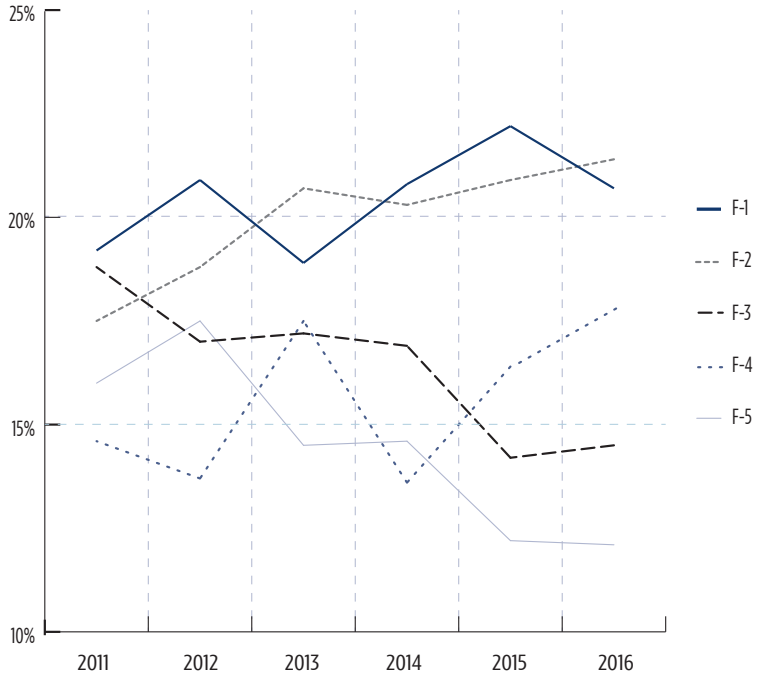


Figure 3 presents a breakdown of new-commitment-felony offenses (offense-level data). Percentages represent the makeup of all felony offenses attributed to new commitment cases during the study period.

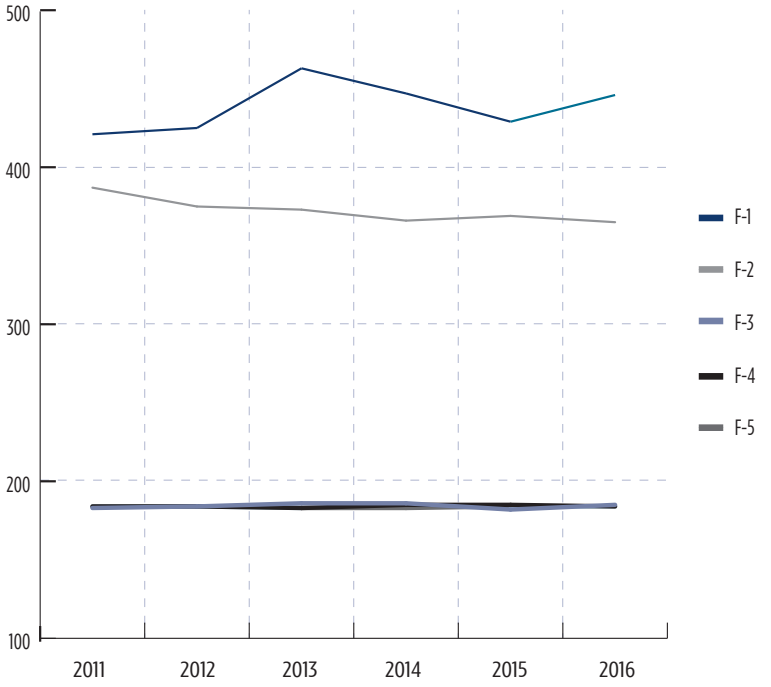
Overall, while the level of new-commitment-felony offenses in 2011 began with little difference in prevalence, by 2016, the gaps between the prevalence of offenses widened and diversified. As expected, the percentage of new F-1s and F-2s rose, while the percentage of F-3s and F-5s decreased over time. The percentage of F-4s did not decrease, but rather increased over time, noticeably between 2012 and 2013, then again between 2014 and 2016. While it is difficult to pinpoint the exact cause of this phenomenon, this may reflect a statewide effort to decrease the number of youth committed to ODYS facilities for F-5 offenses.

Some preliminary examination of related data showed a preponderance of firearms-related F-4 offenses for youth in a diversion program. Firearms-related offenses may be contributing to the increasing proportion of F-4 commitments.

Figure 4. Percentage of New Commitment Violent and Non-Violent Offenses: 2011 -2016

Figure 4 presents the composition of new-commitment-violent and non-violent offenses. During the study period, we found a steady increase in the percentage of non-violent offenses and a steady decrease in the percentage of violent offenses resulted in the gap narrowing. Barring any changes, we anticipate that in the next two years, non-violent offenses will be more prevalent among new ODYS commitments than violent offenses. It is difficult to explain, as we might expect the opposite given an overall push toward decarceration of non-violent offenses among youth. This is, however, an important trend to examine further.

Figure 5. Trends in Average Sentence Length for New Commitment Felonies by Felony Type: 2011-2016



The average sentencing length by felony level is presented in Figure 5. Generally, sentencing length remained steady over the past five years. Further, the average sentencing length is nearly identical for F-3, F-4, and F-5 offenses and remained that way during the study period. Offenses categorized as felony 1 carried the longest average sentencing length and rose slightly, while F-2s slightly decreased.

Figure 6. Average Sentence Length by New-Commitment-Violent and Non-Violent Offense: 2011- 2016

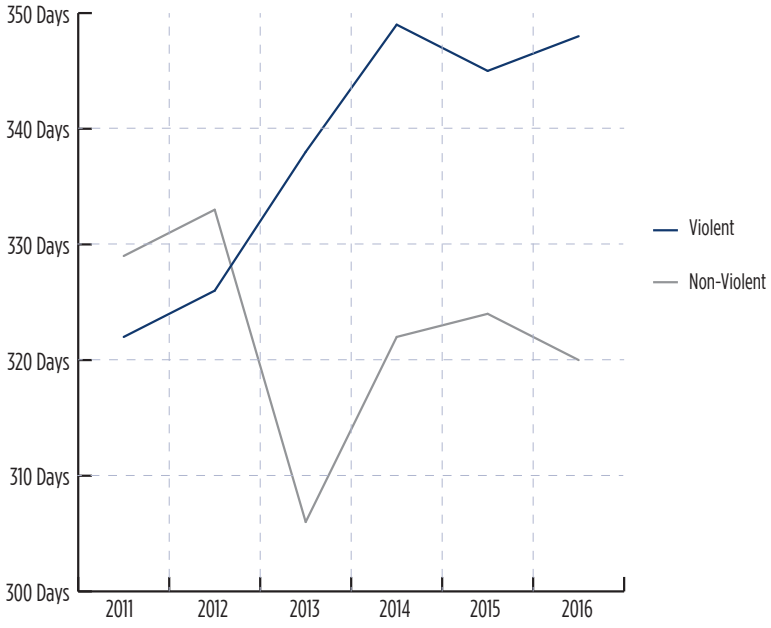


Figure 6 presents average sentence lengths (day) by violent and non-violent offense during the study period.

Prior to 2012, non-violent offenders experienced marginally longer sentence lengths than violent offenders. However, this changed during 2012, as the average sentence lengths for adjudications for non-violent offenses dropped, while sentencing lengths for adjudications for violent offenses increased. Sentence lengths for adjudications for violent offenses, increased consistently, for the most part, while sentences for adjudications for non-violent offenses decreased.

TRENDS OF OYAS-SPECIFIC PHENOMENA OVER TIME

The Ohio Youth Assessment System (OYAS) is a criminogenic risk-assessment tool to inform placement and treatment decisions at many points of the juvenile-justice system. Criminogenic risk is not a static factor and, therefore, the tool is administered at multiple points. Assessments are tailored to different decision points in the juvenile-justice process, including diversion, detention, disposition, residential, and re-entry. For the following sections, we report on OYAS assessments closest to sentencing or decision point. For example, OYAS levels for new commitment cases were measured at disposition or the residential tool nearest to the commitment date.

Figure 7. Composition of New ODYS Commitments by OYAS Risk

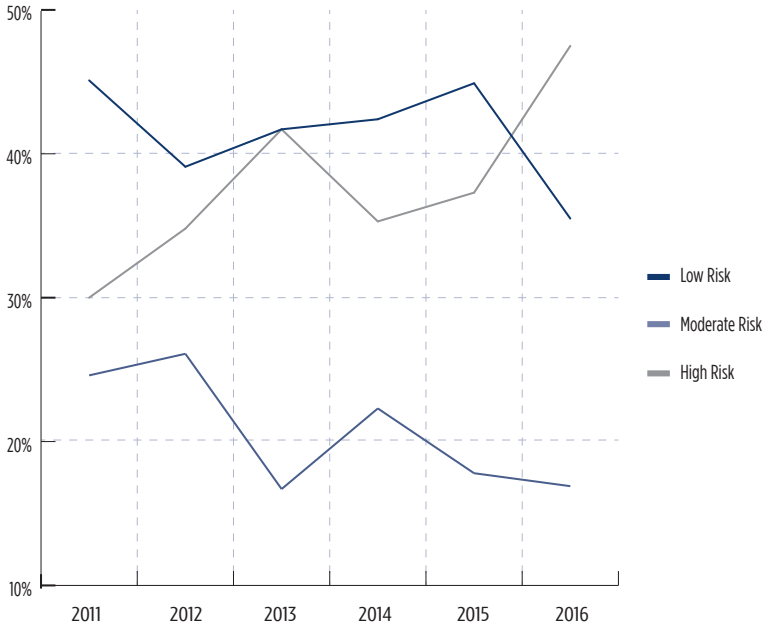


Figure 7 depicts the composition of new ODYS commitment cases by OYAS risk over time.

Prior to 2012, the percentages of low- and high-risk among new commitment cases were fairly similar. However, the percentage of new commitment cases that are at high-criminogenic risk steadily increased.

In 2016, nearly half of the new commitments were at high-criminogenic risk. We expect this decrease in moderate- and low-risk categories to the increasing availability of programming and diversion options and the increased usage of the OYAS to guide sentencing decisions.

Figure 8. Composition of Technical Violation Recommitment Cases to ODYS by OYAS-Risk Level

Criminogenic risk among recommitment cases for technical violations was evenly spread at the beginning of the study period (*See Figure 8.*) However, this trend changed dramatically in 2014. Recommitments for technical violations declined sharply for low-risk youth and increased for high-risk youth.

We expect that with current trends, the percentage of low-risk youth will be near zero among these recommitment cases. This reflects a policy shift toward focusing on admitting only youth with high and moderate risk to recidivate to ODYS facilities for technical violations.

Figure 9. Average Sentencing Length by OYAS-Risk Level among New ODYS Commitment Cases: 2011 - 2016

Similar to previous Figures, there was little difference in average length of sentence for the three OYAS-risk levels in 2011 (*See Figure 9.*) However, this changed markedly in 2012.

Cases involving moderate- and low-risk youth received longer sentences on average than high-risk youth. This could be reflective of some of the items that make up the OYAS-assessment tool. High-risk youth may be in that category because of their prior and repeated involvement with the juvenile-justice system. These youths then may be more likely to be sent to ODYS facilities for lower-level-felony offenses, which, therefore, lowers the average sentence length.

OYAS-SPECIFIC PHENOMENA IN 2016

Trend data over the study period suggests that OYAS as an assessment tool has become a larger and more important piece of the overall ODYS picture. In addition to examining OYAS trends across time, we examined new ODYS commitment cases in 2016, to understand how OYAS recently influenced the ODYS population.

Figure 10. New DYS Commitment Offenses in 2016 by OYAS-Risk and Felony Levels

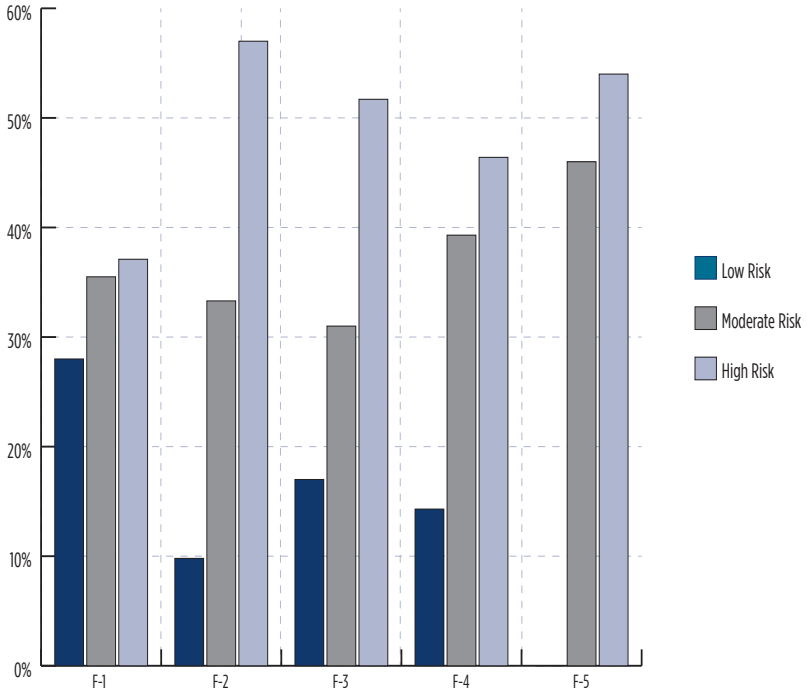
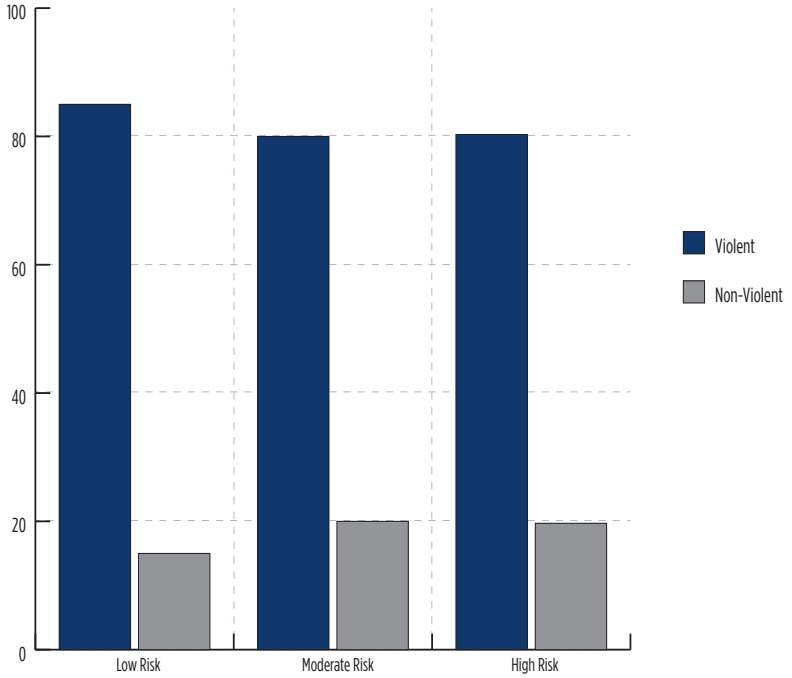


Figure 10 depicts the composition of new ODYS commitment offenses by OYAS risk and felony levels. We used the highest offense level per case for this analysis.

Among new ODYS commitment offenses for first-degree felonies in 2016, there was a fairly even distribution of OYAS-risk levels. However, as the level of felony decreases, the percentage of cases categorized as low-criminogenic risk decreased. There were no new commitment cases for fifth- degree felonies that were identified as low risk.

This was a surprising result at first, because we expected low-level offenders to have the lowest level of risk. However, given that youth at low risk to recidivate are unlikely to be committed to ODYS facilities, commitments for youth representing high- and moderate-criminogenic risk likely would make up the small number of cases committed to ODYS facilities for a fifth-degree-felony offense.

Figure 11. New ODYS Commitment Cases in 2016 by Violent/Non-Violent Offense and OYAS Risk



For every risk category, there is a higher percentage of violent offenses than non-violent offenses in 2016 (*See Figure 11*.) We treated "violent" as if the commitment case had violent offenses and "non-violent" if the commitment case had no violent offenses. There was a slightly higher percentage of non-violent commitment cases representing moderate and low risk than low-risk, non-violent commitment cases. Low-risk, non-violent offenders are more likely to be diverted out of the system and, therefore, make up a small proportion of cases committed to ODYS facilities.

To further understand the impact of risk assessment for this population, we examined the factors that predict OYAS risk. We examined demographic factors (gender, age, and race), offense level, type of offense, number of offenses, and whether the case originated in a big-six county (*See Table 4*.)

We chose these variables because we hypothesized, based on previous studies, that they may be associated with OYAS-risk level. A stratified-multinomial-logistic regression was performed to model the odds of OYAS-risk level among new commitment cases to DYS. The analysis was stratified by county designation (big six versus non-big six) due to a statistically significant interaction between county and race. This means that county designation increased the effect of the relationship between race and OYAS-risk level. Because of that, we separated the analysis into two results: The results if the case was in a big six county; and the results if the case was in a non-big six county. Therefore, the results will differ based on the county designation.

Table 4. Multinomial Logistic Regression Modeling the Odds of OYAS-Risk Level Stratified by County Classification, among New Commitment Cases

Independent Variable	Big-Six County			Non-Big Six County		
	OR	95 % CI	p-value	OR	95 % CI	p-value
	Moderate Risk (Low Risk as Reference)					
Male[a]	1.84	0.94-3.60	.08	1.10	0.60-2.03	.75
African-American[b]	1.38	0.9-2.11	.14	1.83	1.29- 2.60	.0008
Hispanic[b]	0.75	0.32-1.76	.51	2.99	1.48-5.70	.0008
All Others[b]	1.77	0.79-3.99	.17	1.19	0.52- 2.75	.68
Age at Admission	0.96	0.88-1.06	.42	0.99	0.90-1.09	.87
Felony 1[c]	0.52	0.25-1.08	.08	0.55	0.31-0.98	.04
Felony 2[c]	0.64	0.31-1.32	.22	1.00	0.56-1.81	.99
Felony 3[c]	0.58	0.28-1.21	.15	0.93	0.53-1.62	.80
Felony 4[c]	0.52	0.79-1.99	.11	1.32	0.78-2.23	.31
Violent Offense[d]	0.86	0.55-1.35	.52	0.67	0.44-1.03	.07
Number of Offenses	1.01	0.93-1.10	.81	1.01	0.92-1.10	.88
	High Risk (Low Risk as Reference)					
Male[a]	1.12	0.58-2.17	.73	2.34	0.98-5.59	.06
African-American[b]	1.25	0.79-1.99	.34	2.47	1.66-3.69	< .0001
Hispanic[b]	0.94	0.38-2.33	.90	3.29	1.59-6.79	.001
All Others[b]	0.71	0.24-2.17	.17	3.14	1.46-6.79	.003
Age at Admission[b]	0.76	0.69-0.85	< .0001	0.98	0.87-1.11	.80
Felony 1[c]	0.67	0.29-1.55	.35	0.35	0.18-0.68	.002
Felony 2[c]	0.88	0.39-2.00	.76	0.75	0.38-1.45	.39
Felony 3[c]	1.12	0.49-2.54	.78	0.68	0.36-1.28	.23
Felony 4[c]	1.55	0.66-3.66	.32	0.95	0.52-1.73	.86
Violent Offense[d]	0.86	0.54-1.38	.53	0.77	0.47-1.26	.30
Number of Offenses	1.13	1.04-1.23	.003	0.94	0.82-1.08	.38

[a] Female is reference category
[b] White is reference category
[c] F-5 is reference category
[d] Non-violent offense is reference category

Big-Six County: Compared to those categorized as low risk, we failed to find a statistically significant effect on any of the exposure variables for the moderate-risk outcome.

However, we found that males have 1.84 times the odds of being classified as moderate risk than females ($p = .08$). Younger youth have greater odds of being in the high-risk category. Youth have 1.32 times the odds of being high risk for every year that they are younger, compared to a low-risk score ($p < .0001$). Youth have 1.13 times the odds of having a high-risk OYAS for every additional offense they have, compared to a low-risk score ($p = .003$).

Non-Big-Six County: We found that compared to white youth, African-American youth had 1.83 times the odds of being categorized as moderate risk ($p = .0008$), and Hispanic youth had 2.99 times the odds of being categorized as moderate risk ($p = .0008$).

We see this relationship persists in modeling the odds of being categorized as high risk, where African- American youth have 2.47 times the odds of being categorized as high risk, Hispanic youth have 3.29 times the odds, and other racial categories have 3.14 times the odds. All of these are statistically significant at the .05 level.

While not statistically significant, we found that those who did not have a violent offense had 1.49 times the odds of being categorized as moderate risk, compared to those who had a violent offense.

HB 86: JUDICIAL RELEASE FOR JUVENILE CASES

One of the provisions of HB 86 was to increase the use of judicial release for juvenile cases. In Figure 12, we examined the proportion of judicial releases granted out of the total number of releases among new commitment cases. As shown in the figure, the proportion of judicial releases out of total releases increased slightly from 2011 to the beginning of 2017. While we cannot say whether HB 86 was the impetus for the increase, it seems that judicial release was increasing prior to HB 86, and continued to do so through February 2017.

Figure 12. Proportion of Judicial Releases Out of Total Releases by Month: 2011-2017

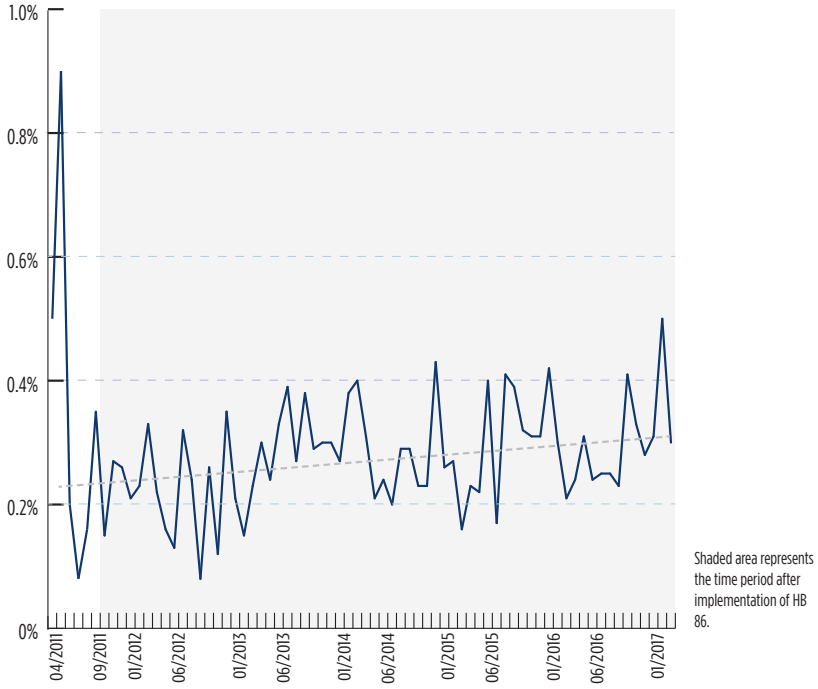


Table 5 presents the profiles of cases receiving judicial release and parole among new commitment cases during the study period. The characteristics of the judicial-release population were similar to the population released to parole for most of the variables we examined, with the exception of the most serious offense. Among the new commitment cases that received judicial release, there were a higher number of F-1 and F-2 offenses than those released to parole. There was a higher number of F-3, F-4, and F-5 offenses among cases released to parole than those that received judicial release. We expected that higher-level offenders would be eligible for judicial release, as opposed to parole.

Table 5. Profiles of Judicial Release and Parole Cases among New Commitment Cases: 2011-2016

Characteristic	Judicial Release (n = 614)	Released to Parole (n = 1,463)
Gender		
Male	91.5 % (562)	93.4 % (1,367)
Female	8.5 % (52)	6.6 % (96)
Race		
African American/Black	59.7 % (366)	54.9 % (800)
White	29.7 % (182)	36.4 % (531)
Multi-Racial	6.7 % (41)	5.0 % (73)
Hispanic	2.0 % (12)	2.6 % (38)
All Others	2.0 % (12)	1.1 % (15)
Average Age at Beginning of Sentence	17.47 years (1.42)	16.88 years (1.17)
Level of Most Serious Offense		
F1	38.4 % (236)	20.8 % (304)
F2	31.1 % (191)	22.1 % (324)
F3	11.7 % (72)	24.9 % (365)
F4	10.6 % (65)	16.2 % (237)
F5	7.7 % (47)	15.9 % (233)
Other Offenses	0.3 % (3)	0
OYAS-Risk Level		
Low Risk	48.2 % (262)	45.5 % (550)
Moderate Risk	32.0 % (174)	31.5 % (381)
High Risk	19.9 % (108)	23.1 % (279)

DISCUSSION POINTS AROUND ODYS DATA

The Justice Reinvestment Initiative (JRI) and HB 86 have had a significant effect on the juvenile-justice system in Ohio. Generally, the JRI effort in Ohio has centered around using risk assessments to provide a data-driven approach to help guide decisions on both incarceration and decarceration. For the juvenile-justice system in Ohio, there was a sharp decline from 2,521 commitments to ODYS facilities in 1997, to 408 commitments in 2015. This rapid decarceration happened alongside a larger effort to identify and assess youth for front-end diversion and alternative sanctions that involve community-based treatment among other support programs.

Along with other assessment tools, the Ohio Youth Assessment System (OYAS) was used widely across the state to inform a number of decisions at different points in the juvenile-justice system. Data presented here generally reflects this policy shift toward using the OYAS to inform sentencing decisions. It is particularly notable that youth with moderate- and high-criminogenic risk constitute more than 80 percent of new commitments to DYS, and high-risk youth constitute nearly 70 percent of commitments for technical violations. Further, moderate- and high-risk youth constitute nearly the entirety of new DYS commitments for low-level-felony charges. These trends reflect the policy shift toward using risk assessments as a factor in sentencing decisions.

Given the importance of the OYAS in sentencing for juvenile-justice-involved youth, data presented here provide a starting point to examine the validity of the OYAS. Our analyses indicated that race was a significant predictor of OYAS-risk level for new DYS commitments in counties outside of the big six. Race was a significant predictor controlling other factors, such as severity of charge, violent offense, total number of offenses, age, and gender. The data we had available for the current study did not allow us to examine whether there are specific characteristics of the items included in the OYAS that might explain these findings. Further, efforts to reduce disproportionate minority contact in many of the big six counties may have had an impact on these findings. While it is difficult to tell whether these racial differences are an artifact of the instrument itself or of policy-related issues, this result is particularly important considering that the OYAS-risk assessment may be used to guide a number of decisions across the juvenile-justice system.

The JRI initiative and the overall movement toward an evidence-based strategy to reduce the population of incarcerated youth in Ohio have been successful in reducing the total ODYS population. Further, ODYS has been successful in the statewide implementation of OYAS as a tool to facilitate decision making both at the front end of the juvenile-justice system and at re-entry. Ultimately, data presented here point to the need to continue to evaluate the validity and the implementation of the OYAS to ensure that decarceration efforts are effective across all communities statewide.

OHIO DEPARTMENT OF REHABILITATION & CORRECTION (ODRC) RESULTS

The following sections present results from data collected from all commitments to ODRC facilities during the study period.

PREVALENCE AND CHARACTERISTICS INFORMATION FOR ODRC COMMITMENT CASES

Figure 13. Percentage of Cases Committed to DRC Facilities by Type: 2011-2016

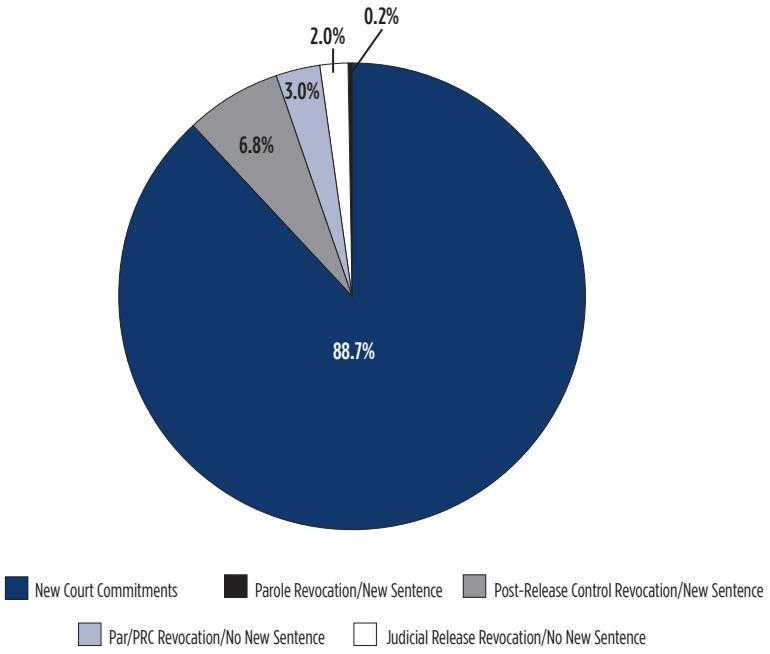


Figure 13 shows the composition of cases committed to ODRC during the study period. As with the data on ODYS, we use the term "cases," rather than the term "offenders" to reflect the possibility that individuals were committed to ODRC facilities on multiple occasions.

The majority of cases that go to ODRC facilities are new commitments (88.7 percent; n = 112,255). The remainder are comprised of revocations of parole or post-release control with a new sentence (7 percent; n = 8,811), and parole/post-release control or judicial-release revocation, with no new sentence (9 percent; n = 5,513).

Figure 14. Annual Percentage of ODRC Commitment Cases by Type: 2011-2016

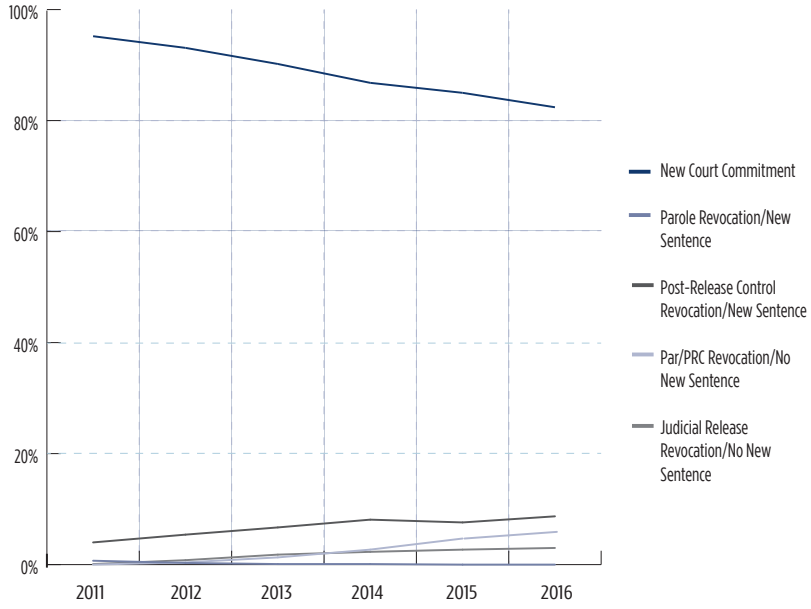


Figure 14 presents the types of cases committed to ODRC facilities annually over time. As shown in this figure, the composition of commitment cases by type has changed slightly over time. There has been a slight reduction in the proportion of new commitments to ODRC facilities and a slight increase in the different types of revocations we examined. New commitment cases made up more than 95 percent of all commitments in 2011, and decreased to about 82 percent in 2016.

Table 6 provides descriptive information on all new cases committed to ODRC during the study period. The majority of new commitments to ODRC were male (85.1 percent; n = 95,577) and white (60.5 percent; n = 67,492). Only 2.3 percent of new commitments identified as Hispanic (n = 2,442). The average age was 33.08 years.

Examining the level of the most serious offense, the most frequent category was F-3 (28.1 percent; n = 31,485), followed by F-5 (25.4 percent; n = 28,533), and F-4 (20.6 percent; n = 28,533). Less than half of new commitment cases had a violent offense defined by the ORC (41.1 percent; n = 46,096). More than half of new commitment cases did not have a prior DRC ID number, indicating they were not to an ODRC facility before (55.6 percent; n = 62,392). The remainder had at least one, with 21.9 percent having two to five prior commitments (n = 25,630).

Table 6. Characteristics of New Commitments to ODRC: 2011-2016

Characteristic	Percentage (Number)
Gender	
Male	85.1 % (95,577)
Female	14.9 % (16,671)
Race	
African American/Black	37.0 % (41,590)
White	60.5 % (67,942)
Asian	0.1 % (142)
Other	2.2 %
Ethnicity	
Hispanic-White	0.3 % (290)
Hispanic-African American	0.1 % (53)
Hispanic	1.9 % (2,099)
Average Age at Beginning of Sentence	33.08 years (10.39 years)
Level of Most Serious Offense	
Life/Death	1.4 % (1,574)
F1	8.8 % (9,930)
F2	15.7 % (17,592)
F3	28.1 % (31,485)
F4	20.6 % (28,533)
F5	25.4 % (28,533)
Any Violent Offense	41.1 % (46,096)
Number of Prior Commitments	
0	55.6 % (62,392)
1	20.2 % (22,675)
2 to 5	21.9 % (25,630)
6 to 10	2.2 percent (2,485)
11 to 18	0.1 percent (191)

We examined how the profiles of new commitment cases differed depending on whether there were prior commitments to an ODRC facility (*See Table 7.*)

The characteristics of new commitment cases differed depending on the number of prior commitments. Fewer females have more commitments (6.5 percent have two or more, compared to 19.5 percent with none). Among new commitment cases that did not have prior commitments, there was a large racial disparity between cases that involved white offenders and cases that involved African-American offenders. This disparity nearly disappeared for the group of new commitment cases that had two or more prior commitments. Cases involving offenders with two or more prior commitments involved offenders who were 10 years older, on average, compared to those with no prior commitments.

Table 7. Descriptive Characteristics of New Commitment Cases by Number of Prior Commitments

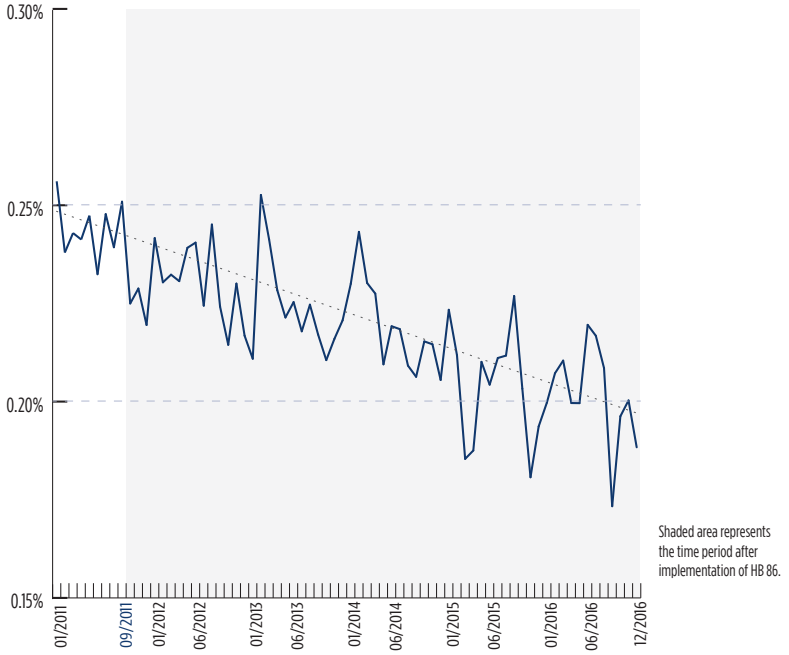
Characteristic	No Prior Commitments (n = 62,392)	1 Prior Commitment (n = 22,675)	2 or More Commitments (n = 27,188)
Gender			
Male	80.5 % (50,243)	87.8 % (19,913)	93.5 % (25,421)
Female	19.5 % (12,144)	12.2 % (2,761)	6.5 % (1,766)
Race			
African American/Black	32.1 % (20,056)	36.6 % (8,304)	48.7 % (13,230)
White	64.8 % (40,445)	61.7 % (13,980)	49.7 % (13,517)
Asian	0.2 % (110)	0.1 % (18)	0.1 % (14)
Other	2.8 % (1,722)	1.6 % (352)	1.4 % (34)
Hispanic	2.8 % (1,712)	1.5 % (335)	1.3 % (385)
Average Age at Beginning of Sentence	30.41 years (10.22)	33.51 years (9.13)	39.03 years (9.18)
Under 21 Years of Age	14.8 % (9,239)	1.4 % (312)	0
Level of Most Serious Offense			
Life/Death	1.8 % (1,123)	1.0 % (237)	0.8 % (214)
F1	10.6 % (6,619)	7.0 % (1,588)	6.3 % (1,723)
F2	17.7 % (11,072)	13.8 % (3,137)	12.4 % (3,383)
F3	27.8 % (17,316)	28.7 % (6,518)	28.1 % (7,651)
F4	19.8 % (12,360)	21.2 % (4,803)	21.9 % (5,962)
F5	22.3 % (13,892)	28.2 % (6,390)	30.4 % (8,251)
Any Violent Offense	44.9 % (27,992)	37.3 % (8,466)	35.4 % (9,638)

There was a higher percentage of life, F-1 and F-2 offenses for those with no prior commitments compared to those with at least one. The inverse is the case with F-4s and F-5s, where we see a higher percentage among those with at least one prior commitment.

HB 86 LEGISLATION ANALYSIS RESULTS

House Bill 86 increased the threshold to increase penalties for theft-related offenses and certain elements of vandalism and engaging in a pattern of corrupt activity from $500 to $1,000. Therefore, we examined the data to see the impact that raising this threshold had on the number of commitment cases to ODRC facilities. We expected that raising the threshold would decrease the number of ODRC cases for those eligible offenses.

Figure 15. Percentage of Felony-Theft-Related Admissions to ODRC: 2011-2016

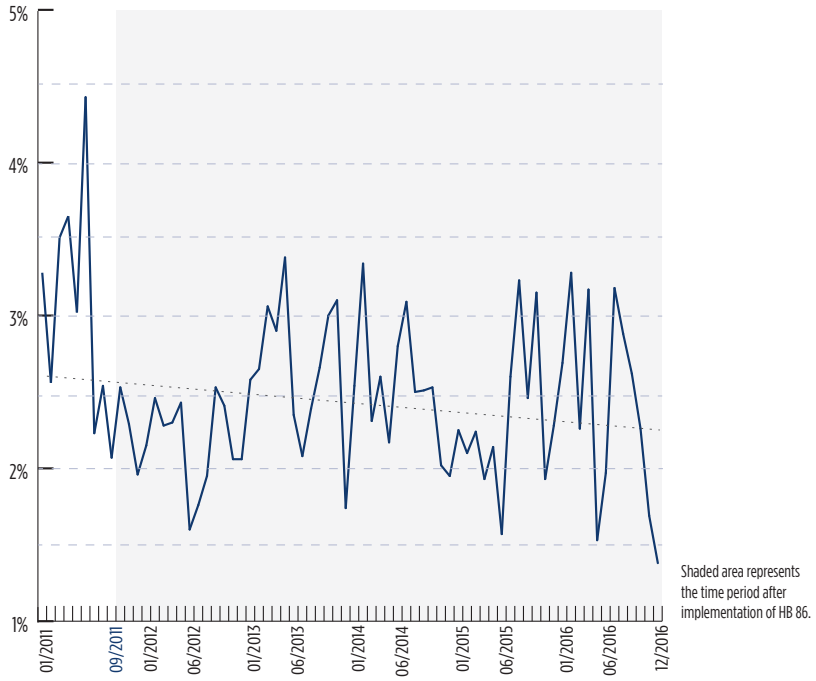


The percentage of felony-theft-related admissions out of total new commitment cases decreased from 2011 to 2016 (25.6 percent in January 2011 to 18.8 percent) in 2016. (*See Figure 15.*)

We observed a steady decline in the percentage of felony-theft-related admission to ODRC from prior to October 2011, suggesting a downward trend in part due to the passage of HB 86. We expect that if we had more data prior to HB 86, a statistical test would find that HB 86 contributed to the decline in new commitment cases. To further understand the impact of HB 86, however, it is necessary to include the prevalence of arrests for theft-related crimes in order to determine whether changing crime trends impacted the results here.

HB 86 included a provision that changed the penalty of nonsupport to add a preference for community-control sanctions. In keeping with the purpose of the law, community-control sanctions will provide those charged with nonsupport with the means to obtain or maintain employment to help ensure that support is provided to the dependents of the offender.

Figure 16. Percentage of Commitments for Nonsupport of Dependents out of All New Commitments Cases to ODRC: 2011-2016

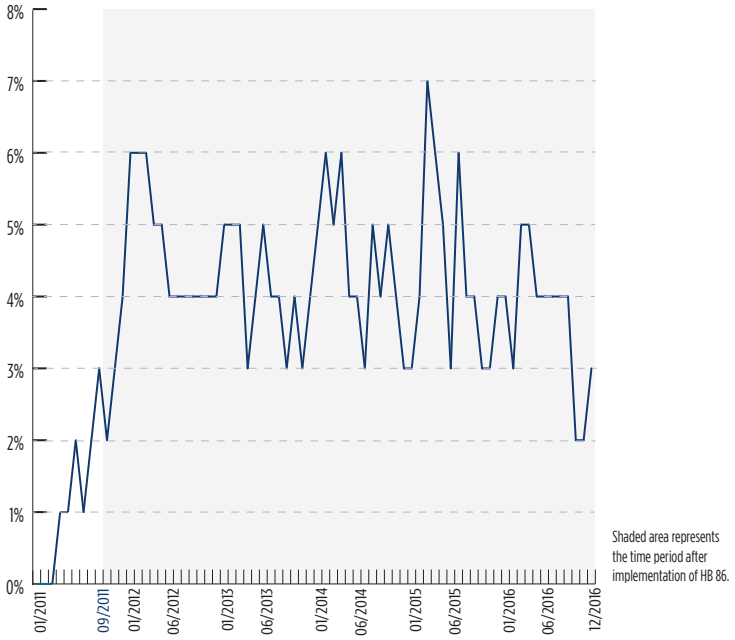


Note: In this case, "new commitment cases" excludes anyone who previously went to prison, because the law excludes those who previously went to prison for non-support.

The percentage of new ODRC admissions for felony-level nonsupport-of-dependents out of total new commitment cases (excluding those with prior commitments) decreased slightly from 2011 to 2016, from 2.5 percent to below 1.5 percent (*See Figure 16.*) While HB 86 may have contributed to this decline somewhat, this type of commitment appears to be cyclical, in that it appears to increase and decrease dramatically from month to month.

HB 86 expanded the criteria of eligibility for judicial release in a number of ways. This expansion of eligibility was intended to increase the availability of sentence-reduction measures to decrease the incarcerated population. We examined the proportion of judicial releases among new commitment cases with a prison term of one year or less from 2011 to 2016. We examined judicial release among those receiving a sentence of one year or less to reflect those who likely would be considered for reduced sentences. This was to avoid artificially minimizing the proportion of cases receiving judicial release by including those who likely would not be considered for early release. With the intention of the bill to increase the use of judicial release, we expected this number to increase.

Figure 17. Percentage of Judicial Releases out of Total Eligible Releases among New Commitment Cases to ODRC: 2011-2016



The proportion of judicial releases of total eligible releases per month increased from 2011 to 2012, then remained mostly steady since (*See Figure 17.*)

More data pre-HB 86 is necessary to test whether the specific piece of legislation was the catalyst for initial increase. We did notice there seems to be a cyclical pattern of releases, mostly peaking between January to April of each year. This phenomenon hides the slight increase in percentage of cases from 2.5 percent in 2011, to 3.6 percent in 2016. While HB 86 may have been a contributing factor to the initial increase in judicial releases from 2011 to 2012, there was a negligible increase in judicial releases since that period.

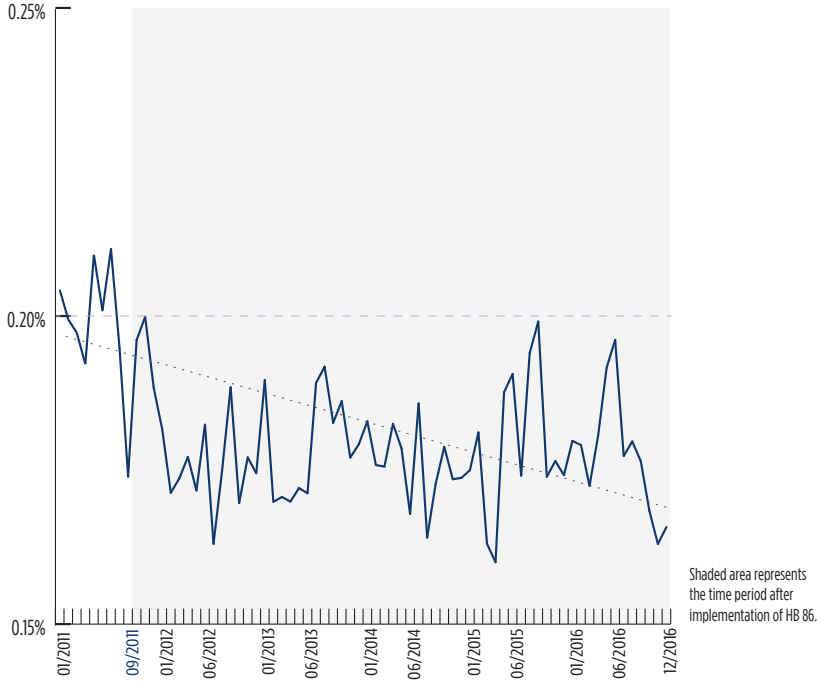
Table 8. Characteristics of New Commitment Cases Resulting in Judicial Release: 2011-2016

Characteristic	Percentage (Number)
Gender	
Male	76.0 % (5,977)
Female	24.0 % (1,883)
Race	
African American/Black	23.0 % (1,811)
White	75.3 % (5,922)
Other	1.6 % (127)
Hispanic	1.4 % (112)
Level of Most Serious Charge	
Life/Death	0
F1	3.5 % (272)
F2	15.3 % (1,200)
F3	39.5 % (3,101)
F4	23.6 % (1,858)
F5	18.2 % (1,429)
Any Violent Offense	41.0 % (3,221)
Number of Prior Commitments	
0	72.3 % (5,686)
1	14.6 % (1,147)
2 to 5	12.3 % (967)
6 to 15	0.8 % (60)

We examined the profiles of new commitment cases that were given judicial release at some point during the study period (See Table 8). The majority of judicial releases were male (76 percent), white (75.3 percent), and had an F-3 as the most serious offense (39.5 percent). Nearly three-quarters of the judicial-release population did not have a prior commitment to ODRC (72.3 percent), and 41 percent were committed for a violent offense.

HB 86 required offenders convicted of a fourth- or fifth-degree felony that does not fall under special circumstances to serve community sanctions. This was an extension of a previous Ohio Senate bill that helped to discourage prison terms for F-4s and F-5s, designed to further reduce the number of low-level offenders in the prison population. We expected this provision would decrease the number of F-4 and F-5 new commitment cases in ODRC.

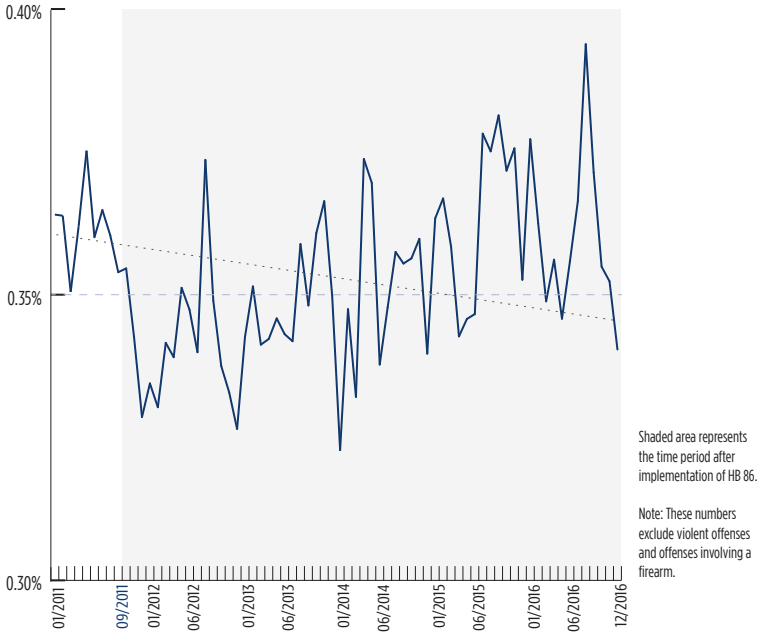
Figure 18.
Percentage of New Commitments for Fourth-Degree Felonies: 2011-2016



We examined the percentage of new commitments to ODRC facilities where the most serious offense was a fourth-degree felony, excluding offenses that were violent and offenses that involved a firearm.

Figure 18 shows a steady decrease from 2011 to 2016 in the percentage of fourth-degree-felony offenses that were not violent or did not include a firearm specification. There is a noticeable drop in F-4 offenses starting in October 2011. Further statistical testing with a larger pre-HB 86 population may show that HB 86 had a significant impact on F-4 new commitment cases.

Figure 19. Percentage of New Commitment Cases for Fifth-Degree Felonies: 2011-2016



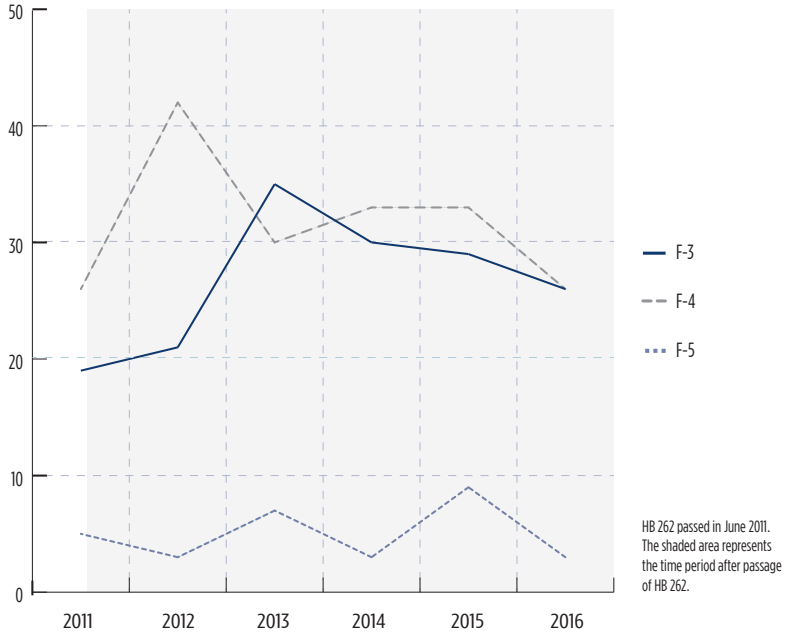
Similar to the analysis shown in Figure 18, we examined the percentage of new ODRC commitment cases where the most serious charge was a fifth-degree felony (*See Figure 19.*)

There was a slight decrease from 2011 to 2016 in the number of fifth-degree-felony offenses that were not violent or did not include a firearm specification. However, this decrease was not as pronounced compared to the decrease in the number of new commitments for fourth-degree-felony offenses. We do not think HB 86 had the same effect as it might have had on F-4 new commitment cases. This may be due to the nature of the F-5 new commitment cases. Perhaps they are more violent or those offenders had been to ODRC multiple times before.

HB 262 LEGISLATION ANALYSIS RESULTS

While HB 86 constituted the bulk of the legislative changes affecting the prison population during the study period, other Ohio House and Senate bills were of interest. These involved amendments to specific sections of the Ohio Revised Code. House Bill 262 (HB 262) included an amendment to increase the penalties to the offense of obstructing justice.

Figure 20. Number of New Commitments for Obstructing Justice: 2011-2016



There were no new commitment cases to ODRC facilities for obstructing justice at first- or second-degree-felony levels during the study period. While there was an increase during the time the bill was passed, there was a steady decline from 2012 onward.

While we may have expected new commitment cases for obstructing justice to increase as a result of HB 262, it is difficult to ascertain the incidence of arrest for these offenses from the available data.

SB 337 LEGISLATION ANALYSIS RESULTS

Senate Bill 337 (SB 337) made several legislative changes that may have impacted incarceration trends following the passage of HB 86. Specifically, the bill increased the age at which offenders may be held in facilities that were not authorized for the confinement of children. Further, the bill revised the penalties of certain fifth-degree-felony-drug offenses to generally favor prison alternatives.

Figure 21 depicts the proportion of new commitment cases to ODRC under the age of 21 years out of total new admissions cases from 2011 through 2016. A time-series-regression analysis was conducted to determine whether SB 337 significantly altered the number of under 21 admissions to ODRC over the study period. The analysis indicated that SB 337 did not change the trajectory of the rate of new commitment cases under the age of 21 years ($p = .40$). This likely is due to the decreasing number of new commitments under 21 years of age prior to the introduction of the bill.

Figure 21. Proportion of New Commitments under the Age of 21 out of Total New Commitments: 2011-2016

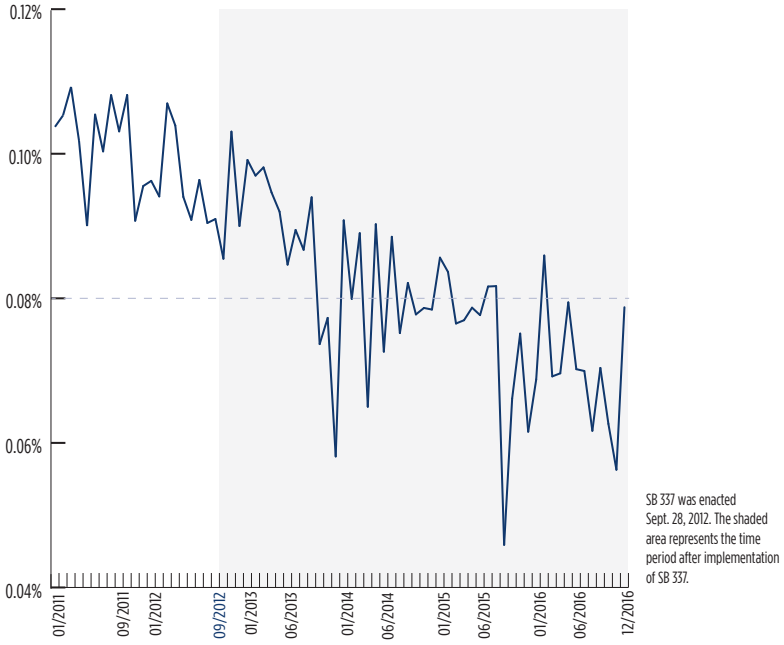
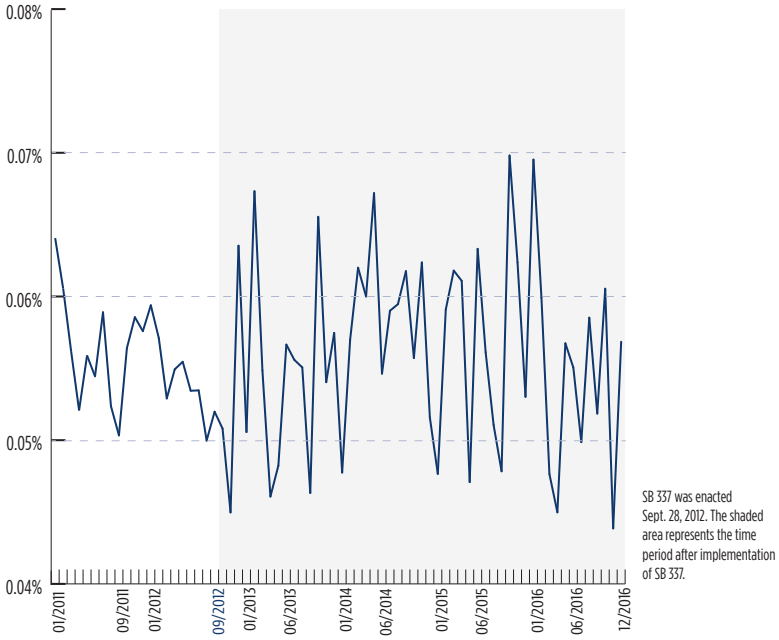


Figure 22 depicts the proportion of new commitments to ODRC for F-5-drug offenses out of total new commitments for F-5 offenses from 2011 through 2016.

We fit a linear line, which showed a flat trend, suggesting no change in new commitment cases for F-5-drug offenses during the study period. To further examine these findings, these data should be examined in the context of the prevalence of arrests for drug-related crimes.

Even if the legislation markedly decreased the proportion of drug-related arrests resulting in prison terms, if the total number of arrests for drug-related crimes increased, the number of new ODRC commitments for F-5-drug offenses would not decrease.

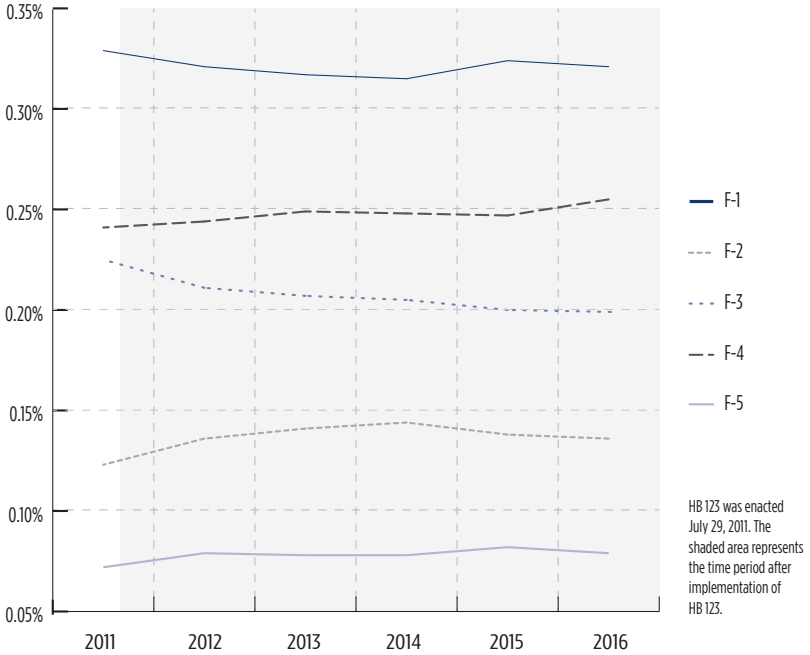
Figure 22. Proportion of New Commitment Cases for F-5 Drug Offenses out of Total New Commitments for F-5 Offenses: 2011-2016



HB 123 LEGISLATION ANALYSIS RESULTS

House Bill 123 (HB 123) allowed for community-control sanctions to be imposed for a felony case without a presentence investigation report. We examined whether this impacted new commitment cases for felony offenses after the passage of HB 123 (*See Figure 23*.)

Figure 23. Percentage of New Felony Commitment Cases: 2011-2016



As seen in Figure 23, it seems that some new admissions are decreasing, most notably F-4 and F-5 offenses. The rest of the categories remained stable throughout the period. While the decrease in commitments for F-4s and F-5s may be due to the impact of HB 123, without statistical testing, it is difficult to tell whether the decrease was due to the passage of the bill. We suspect it is not due to HB 123, because the decreases began prior to introduction of the bill.

LIMITATIONS

There are some limitations to making conclusions about these data. The first is that available data were only for the years 2011 to 2016. Much of the legislation we examined occurred in the middle or toward the end of 2011, not allowing enough time to examine the impact of these bills on sentencing outcomes for new commitments. For example, while we had data for technical recommitments to ODRC facilities prior to 2011, there were few cases. Additionally, we did not include technical recommitments with new commitments since they represent a different group of cases.

Relatedly, we did not know which cases represented the same person for either dataset. This was essential to understanding prior offending. This was very important for some of the analyses, because the legislation excluded some offenders from eligibility if they had a prior offense in a specified area. For example, in examining the number of nonsupport-of-dependent cases for DRC new commitments, we excluded those cases with prior commitments entirely. Instead, we should have excluded only cases with previous nonsupport offenses; however, we were unable to link cases to one person. Further analyses depend on the ability to link cases to a person in order to conduct a more robust and longitudinal impact evaluation.

Another limitation was that we did not have specific Ohio Revised Code (ORC) section codes for offenses in the dataset. Rather, we had offense codess. For example, we had an offense code for drug use or drug dealing, but did not have a section code that signified to what drug the offense referred. This impacted the analyses we conducted, and as a result, we could not examine sentencing trends for some offenses that required that level of specificity.

DISCUSSION POINTS AROUND ODRC DATA

House Bill 86 made sweeping legislative changes to promote the use of prison alternatives for a variety of offenses and provided avenues for offenders to be released early. These legislative changes, however, have not contributed necessarily to a steady decline in the prison population for many of the intended types of offenders. During the time period immediately following its passage, there was evidence of only marginal declines in a number of areas that HB 86 targeted. These findings mirrored those reported previously (See Andrews, VanDien, Martin, & Galli, 2013).

A major component of the movement toward decarceration in Ohio among the adult population was the use of community control and sanctions for fourth- and fifth-degree-felony offenders. While we noted a decline in the number of new commitments to ODRC for fourth-degree felonies, we found that commitments for F-5s were static during the same period.

Further, Senate Bill 337 was introduced following the introduction of HB 86 to reduce the incarcerated population by promoting alternatives to prison for offenders charged with certain drug-related fifth-degree felonies. However, during the time period examined, out of all commitments for F-5 offenses, the proportion of commitments for F-5-drug offenses remained steady. These data points suggested that legislation to increase the use of prison alternatives for lower-level felonies and drug offenses has not had a measurable effect on the prison population.

Several components of HB 86 had either a slight or negligible effect. The proportion of cases that received judicial release rose slightly since the introduction of the bill and leveled off in recent years. Judicial release was expanded in HB 86 to further reduce the incarcerated population at the back end of the justice system. However, we did not find evidence that this led to an increased usage of judicial release. Several other components of HB 86 and other subsequent legislation had a negligible effect on the prison population. The data we examined indicated that only 57 total cases were given 80-percent-judicial release between 2011 and 2016. Further, the prosecution of fraud cases was changed by HB 86 to include Medicaid and workers' compensation, among others, but this constituted less than 20 commitments to ODRC annually. Also, Senate Bill 97 enacted mandatory prison terms for violent career criminals convicted of a violent felony, which accounted for 25 new commitments between 2011 and 2016.

While these mixed results seem to indicate that the movement toward using alternatives to incarceration in Ohio had a negligible effect on the criminal-justice system, we advise caution when interpreting these results. These data represent a general examination of ODRC commitments, but lack some specific detail that may help to further understand incarceration trends. For example, we observed little change in the proportion of drug offenses committed to ODRC facilities, yet a more detailed examination of specific drug violations was not possible due to data limitations. Section codes from the Ohio Revised Code did not have the level of detail to parse out what specific types of drugs led to the arrest and conviction. This level of detail may provide a better look at the numbers presented here.

Further, in the ODYS system, risk-assessment data were more available compared to the adult system. Considering the effect that risk assessment had on juvenile-justice policy, we recommend examining the impact the Ohio Risk Assessment System has on the prison population. Data collection for the adult system will be a much larger task compared to the juvenile system considering the sheer volume of offenders who go through ODRC facilities.

Generally, this report is a first step to presenting data on the result of decarceration efforts in Ohio. Data presented here provide an overview of how the incarcerated population changed since the passage of HB 86. However, we stress that this also uncovers additional opportunities to collect data to answer more detailed questions around these issues. Ohio has moved to address the issue of the overuse of incarceration and has provided community alternatives to prison and it is vital to this effort to identify how these legislative efforts work in practice through careful analysis of the data and evidence.

CONCLUSIONS

While the interest in reducing the incarcerated population was equal for both the adult- and juvenile-justice systems, the two systems had differing results. On the juvenile-justice side, the ODYS emphasized the use of evidence-based assessment to have a heavy influence on sentencing decisions. Data show fairly consistently that the OYAS system had a heavy influence on sentencing trends statewide.

For the adult system, HB 86 and subsequent legislation intended to affect sentencing had mixed results. While it is clear that Ohio has begun to experience an ideological shift toward data-drive policy decisions in the criminal-justice system, there is much work to be done in this area to efficiently manage the correctional population. Data can help identify policy responses that help maximize the effectiveness of prison alternatives to reduce recidivism and promote public safety.

RECOMMENDATIONS

- **Collect detailed aggregate data on the Ohio Risk Assessment System.**

The juvenile-justice system has been successful in using risk assessment to shape sentencing policy. While the ORAS is designed to be a similar actuarial tool for the adult system to inform sentencing decisions to reduce the prison population and to reduce recidivism, data collection has been inconsistent from county to county.

We recommend the Ohio Criminal Sentencing Commission collect and analyze data on the ORAS to understand how the tool can best guide and inform sentencing decisions. This may include data collection at the county level in several pilot sites to build a comprehensive database linking ORAS information to sentencing data collected by the ODRC.

- **Continue data collection and analysis for the OYAS tool, including at the item level.**

One interesting finding in the current report is that race predicted OYAS-risk levels in counties outside of the six biggest counties in the state. While these data may indicate some racial differences in sentencing outcomes, it is difficult to understand the root cause of these differences without examining item-level data. The OYAS is made up of many questions/items that measure different aspects of criminogenic risk (e.g. delinquent peers, substance use, etc.).

For the analyses presented here, we were able to specify the criminogenic-risk category assigned to the youth; however, we were not able to examine more detailed data. We recommend working with ODYS to secure available OYAS data at the item level. In addition to examining these data for youth in ODYS facilities, we recommend collecting and analyzing these data at the item level for other juvenile-justice-involved youth.

- **Examine data on arrest trends to understand how fluctuations in arrests affect the incarcerated population.**

As discussed in the limitations section, data presented in the current report are limited to those kept by the ODRC and the ODYS. Sentencing trends likely are most impacted by the prevalence of arrests. Therefore, we recommend that the Ohio Criminal Sentencing Commission integrate statewide arrest data with ODYS and ODRC data. This would allow the commission to understand the impact of sentencing legislation on sentencing trends more accurately and to project the incarcerated population.

- **Collect specific ORC codes at the local and state levels to better guide policy around these issues.**

A main challenge to understanding the impact of sentencing legislation for this report was the lack of specific ORC codes. As discussed previously, we were unable to discern whether the finding that commitments for F-5-drug offenses remained steady during the study period. Having specific ORC codes would provide detailed information to help understand the prevalence of commitments for F-5- drug-related offenses.

- **Collect data around community sanctions that link to the ODRC data presented throughout this report.**

While this report speaks to the impact of legislation on the prison population, it is important to further examine how community sanctions were impacted by HB 86 and subsequent legislation. A main policy area addressed by Ohio's JRI efforts was the smart use of community sanctions. While ODRC reported a significant increase in the use of community sanctions,[1] these data need to be linked at the case level. Doing so will help examine what types of offenders likely are to be sentenced to community sanctions and whether these placements are successful in reducing recidivism.

Ultimately, these recommendations for data collection and analyses will allow for a more nuanced understanding of the impact of JRI and associated legislative changes. The codification of JRI efforts through HB 86 was an important first step in implementing JRI principles to smart decarceration in Ohio. While the data show that JRI efforts so far have not had a measured effect on the incarcerated population in the adult system, there are more questions to explore.

The next step for JRI efforts in Ohio should be to improve data collection and data linkage standards throughout the system. It is important to note that this report is a preliminary examination using the data available through the ODYS and the ODRC. The prior recommendations can help to provide data and address some limitations of this report. Data collection targeted to answer specific questions around sentencing ultimately can help provide intelligence around the effectiveness of policies, by helping to target the most appropriate population to reduce the incarcerated population while preventing recidivism.

1 For information, see data reported by Ohio Department of Rehabilitation and Correction at drc.ohio.gov/reports/apa-monthly.

REFERENCES

Andrews, S., VanDine, S., Martin, B., & Galli, C. (2013). Ohio Department of Rehabilitation and Correction [Powerpoint slides].

Carson, E. A. & Anderson, E. (2016). Prisoners in 2015. Bureau of Justice Statistics, Washington D.C. Retrieved from bjs.gov/content/pub/pdf/p15.pdf.

Clear, T. R. & Schrantz, D. (2011). Strategies for reducing prison populations. The Prison Journal, 91, 138S-159S. doi: 10.1177/0032885511415238

Cullen, F. T., Jonson, C. L., & Nagin, D. S. (2011). Prisons do not reduce recidivism: The high cost of ignoring science. The Prison Journal, 91, 48S-65S. doi: 10.1177/0032885511415224

Henrichson, C. & Delaney, R. (2012). The Price of Prisons: What Incarceration Costs Taxpayers. Vera Institute of Justice, New York, NY.

Mitchell, O., Cochran, J. C., Mears, D. P., & Bales, W. D. (2017). Examining prison effects on recidivism: A regression discontinuity approach. Justice Quarterly, 34, 571-596. doi: 10.1080/07418825.2016.1219762

Ohio Department of Youth Services. (1997). Annual Report Fiscal Year 1997. Retrieved from dys.ohio.gov/Portals/0/PDFs/Home/NewsAndFacts/AnnualReports/FY1997AnnualReport.pdf.

Ohio Department of Youth Services. (2017). Annual Report Fiscal Year 2017. Retrieved from dys.ohio.gov/Portals/0/PDFs/Home/NewsAndFacts/AnnualReports/FY2017AnnualReport.pdf.

Panzino, A. (2017). The Future of State Grant Funded Activities [Powerpoint slides].

The Sentencing Project (2017). Trends in U.S. Corrections. Retrieved from sentencingproject.org/publications/trends-in-u-s-corrections.

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