

# Virginia's Sexually Violent Predator Commitment Program



# Sexually Violent Predators

- 20 states and the Federal system have these statutes for committing the highest risk sex offenders at the end of their prison sentence.
- Commonalities in Criteria for Commitment across States:
  - Sex offending history
  - Mental disorder or defect
  - High risk for recidivism

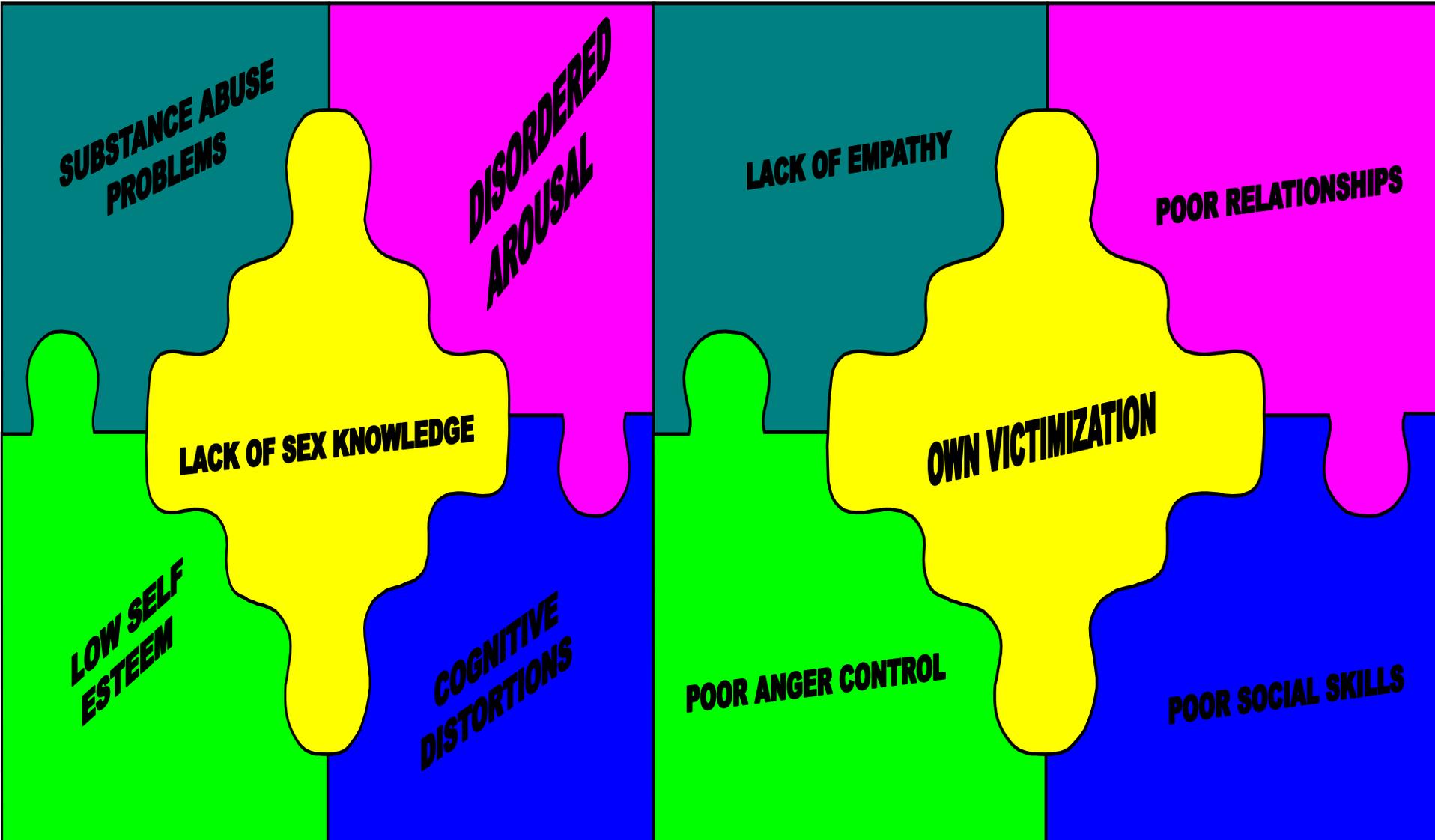
# The Virginia Center for Behavioral Rehabilitation (VCBR)

- Constructed for a maximum census capacity of 300
- In 2011, VCBR double bunked (literally created bunk beds) 150 bedrooms thus creating maximum census capacity of 450
  - Double bunking did not address inadequate programming space
  - Maximum census capacity assumes ideal circumstances, but does not reflect actual reality (i.e. some residents physically unable to sleep in upper bunk or upper tier, some residents too sexually violent to share room, etc.)
- Resident census, as of July 11, 2016:
  - 374 male residents committed to VCBR + 3 women committed but receiving treatment at CSH

# Primary Services Provided by VCBR

- Treatment and Rehabilitation
- Security
- Medical Services
- Vocational and Education Services

# Need for Comprehensive Treatment



# Research-Informed sex offender treatment

- Offered in three phases:

Phase I:	<b>Focuses on control over sexual behavior and aggression and accountability for offenses</b>
Phase II:	Focuses on developing insight into risk factors, practicing adaptive coping responses, demonstrating mature, responsible interactions with others, and introducing positive goals for lifestyle change.
Phase III:	Focuses on transition back to the community.

# Treatment Progress

- Need for observation by all staff to assess true behavior change
- Regular feedback to resident regarding progress

# VCBR Residents by Phase

Phase I	40%
Phase II	47%
Phase III	13%

# Treatment Groups

- Core Groups
- Topic-Focused Modules

# Vocational and Education Services

(Services that Increase the Likelihood of Success in the Community)

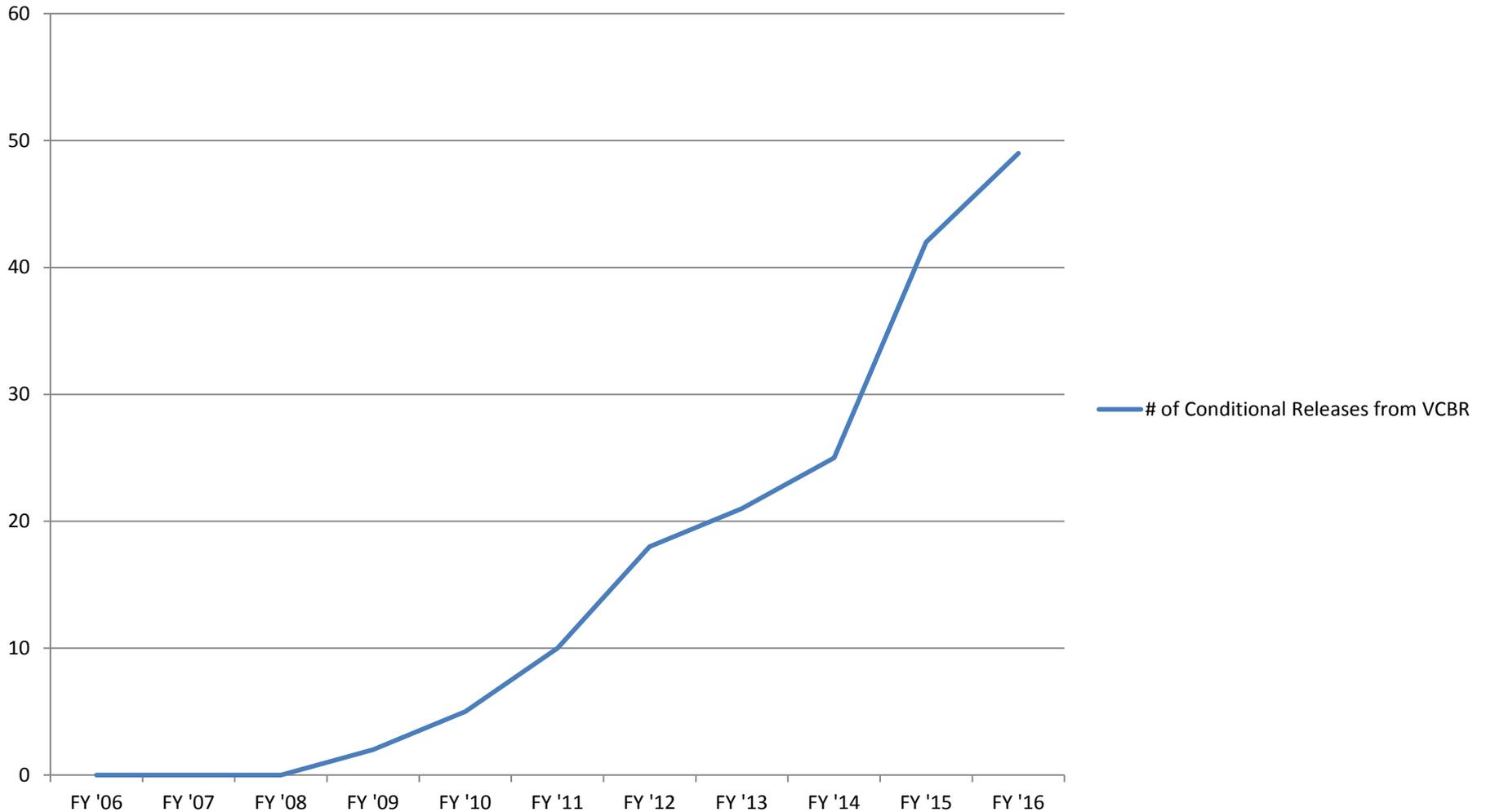
- Vocational Services:
  - Pre-Vocational Training
  - Paid Work-Training Opportunities
- Pre-Vocational Training includes:
  - Classes for residents on job interview skills, resume development, life skills, habits of successful individuals, entrepreneurship, and writing a business plan.

# Releases

- 221 Total Discharges
- 172 Conditionally Released
  - 9 of those unconditionally released after being in the community
- 4 Sexually reoffended
- 30 conditional releases revoked for other reasons

# Conditional Releases From VCBR by FY

## # of Conditional Releases from VCBR



# Comparison of Virginia's SVP Commitment Program to Others

- Pennsylvania's program:
  - Only for those juveniles who have “aged out” of the juvenile system, but are still too high risk to return to the community
- New Hampshire's program:
  - Only has one committed individual
- Florida's program:
  - Does not include Conditional Release, rather individuals are either committed or discharged
  - Have changed providers multiple times and do not have good data on outcomes
  - Currently have 616 individuals in secure confinement

# Comparison of Virginia's SVP Commitment Program to Others

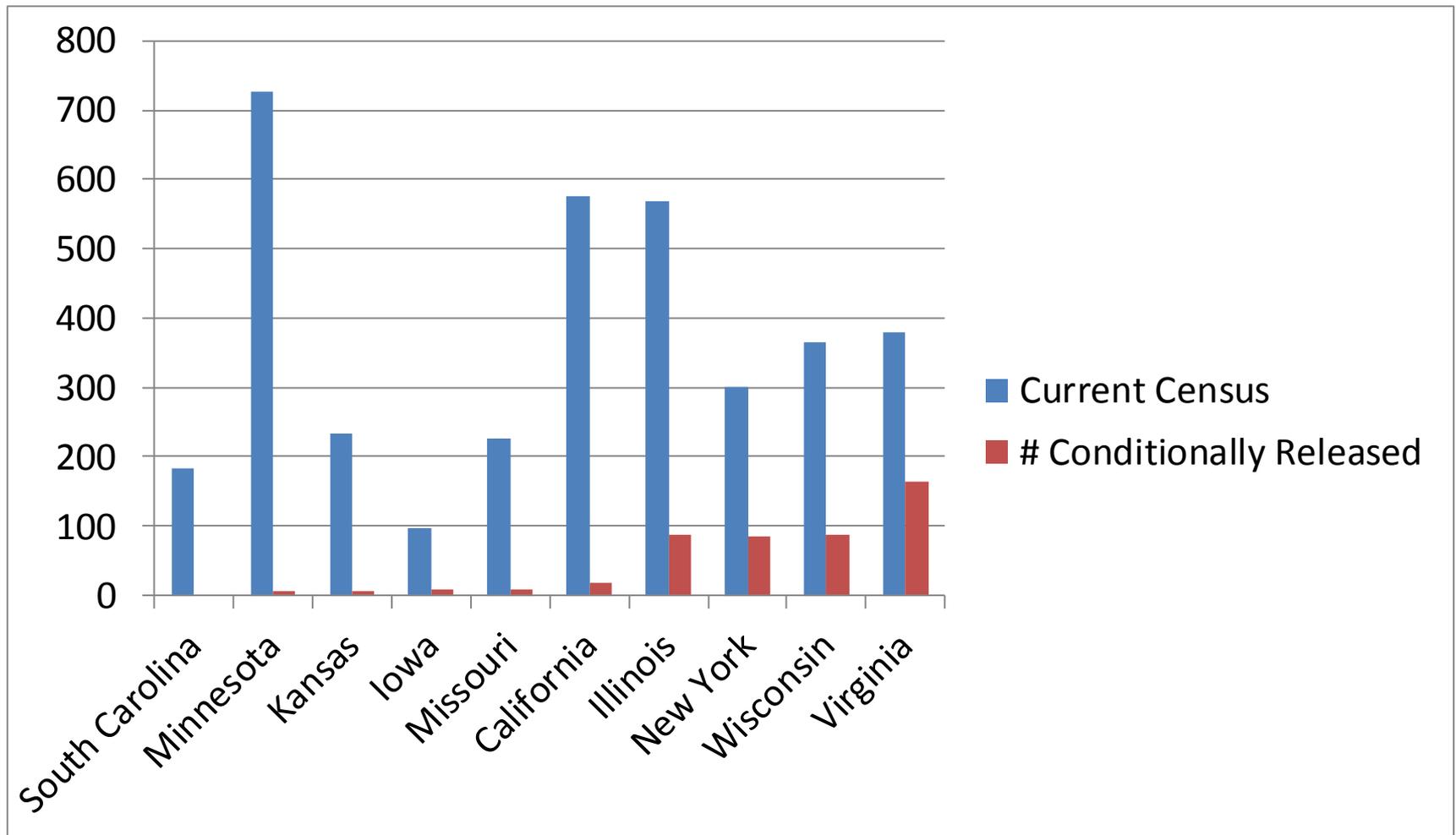
- Texas: started out outpatient only, but numerous problems:
  - Since 1999 –nobody released
  - Close to 50% re-incarcerated in prison, often for minor rule violations
  - Former leadership under investigation for questionable actions
  - Current program is inpatient in secure setting but area so remote that reintegration efforts are difficult

# Problems Nationwide

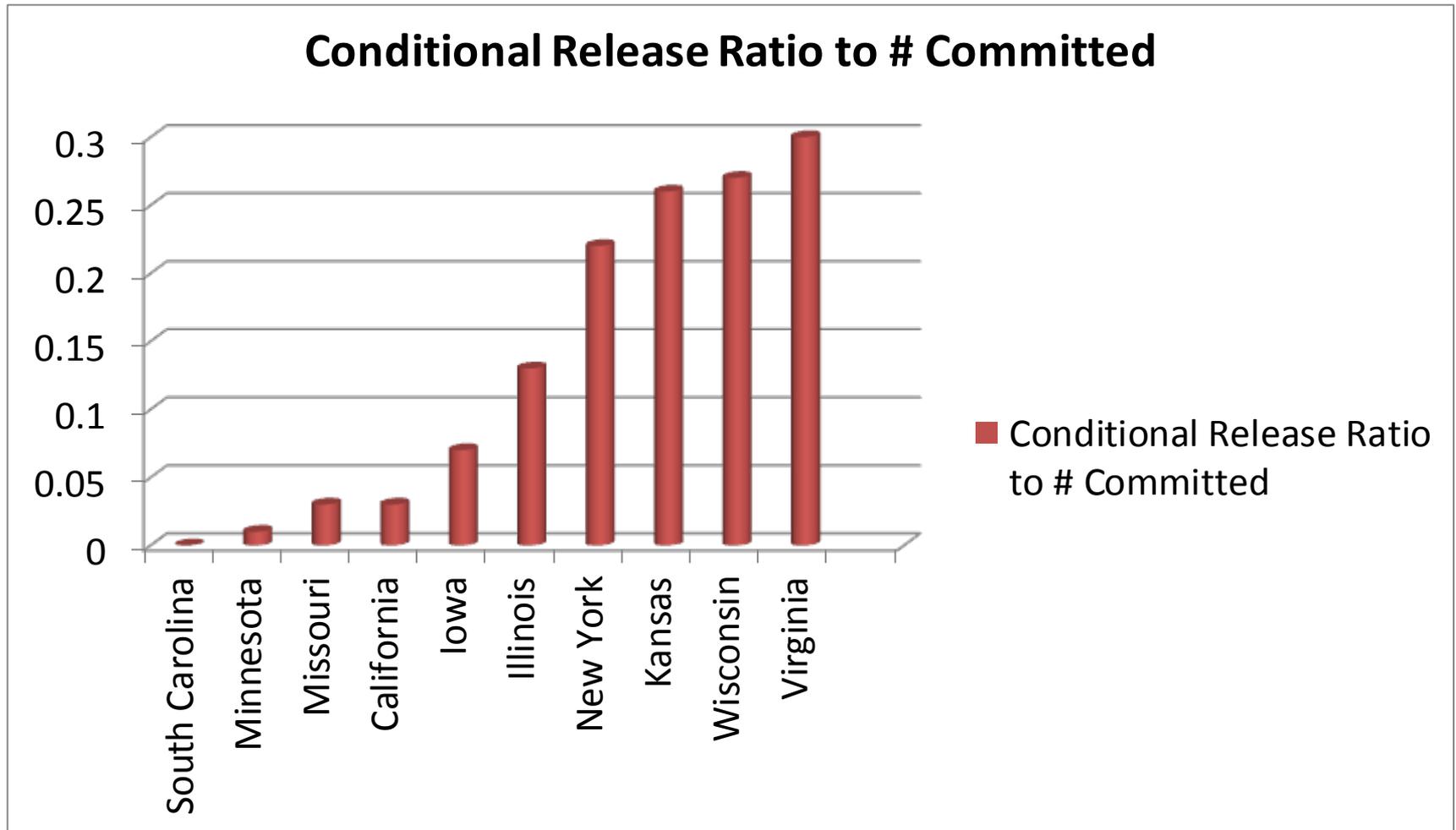
Class Action Lawsuits regarding conditions of confinement and adequacy of treatment program:

- Washington
- Missouri
- California
- Iowa
- Illinois
- New Jersey
- Florida

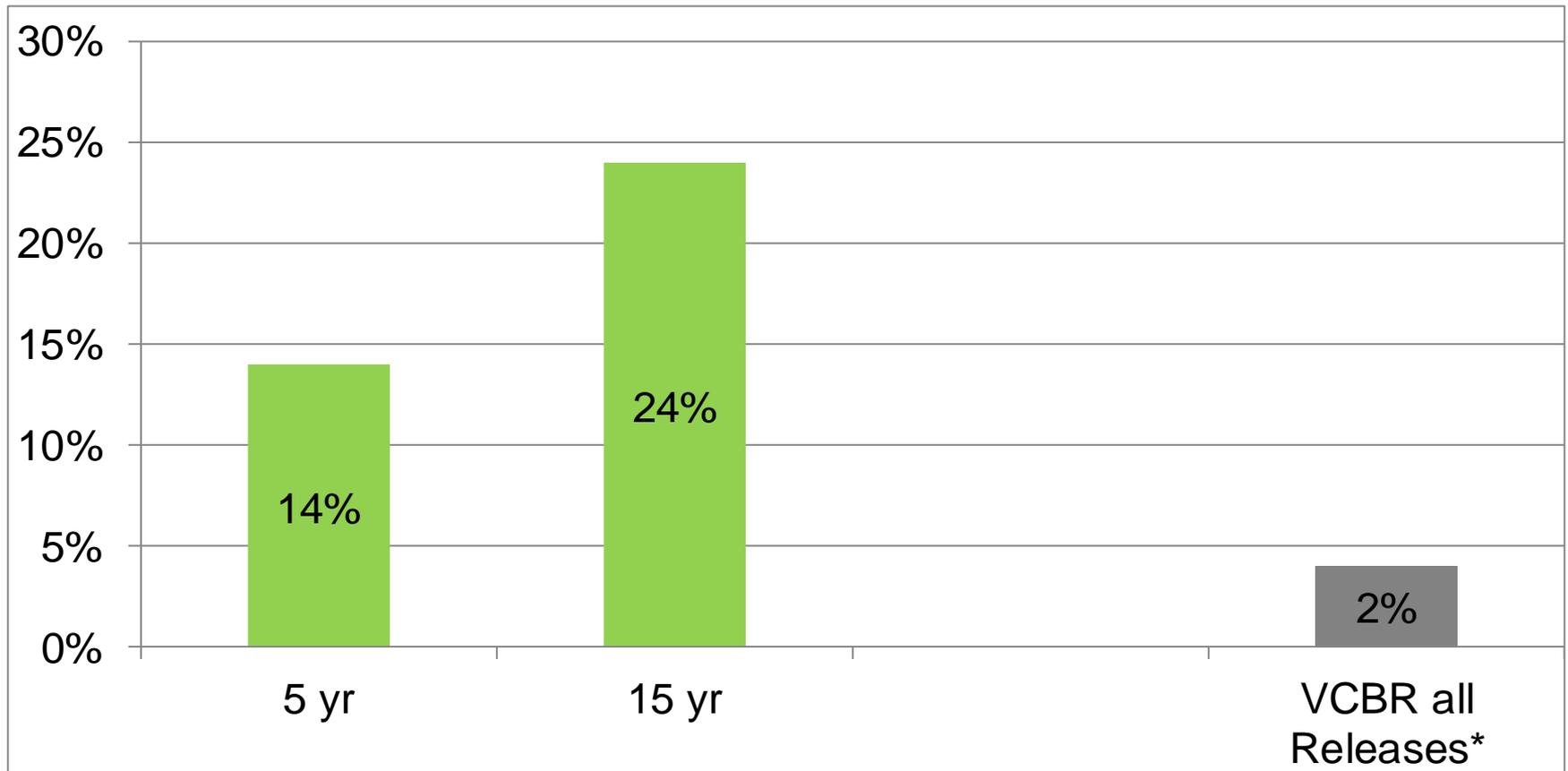
# SVP Programs: Current Statistics (As of June 1, 2016)



# Conditional Release Ratio (As of June 1, 2016)



# Sexual Offense Recidivism National Average vs VCBR



\*But many VCBR releases are recent releases

-no easy way to make direct comparisons.

# SVP Forecast

- Completed every November
- Forecasts VCBR Census for the next six fiscal years
- Collaborative project between DBHDS, VADOC, and Office of the Attorney General
- Results shared with Governor, House Appropriations, and Senate Finance
- Forecast projections used for planning purposes

# SVP Forecast – Step 1

- VADOC provided DBHDS with projection of # of VADOC offenders who are scheduled for release (in the upcoming six fiscal years) who meet criteria for SVP screening – have been convicted of a qualifying offense
- Historically, 20% of the eligible offenders score high enough on the Static-99 (see §37.2-903) to warrant a full assessment/evaluation

# SVP Forecast – Step 1 - Challenges

- There is variability across years in SVP eligible projections from DOC
- This variability contributes to error in forecast

Date of Forecast	DOC SVP Eligible for Release FY '11	DOC SVP Eligible for Release FY '12	DOC SVP Eligible for Release FY '13	DOC SVP Eligible for Release FY '14	DOC SVP Eligible for Release FY '15	DOC SVP Eligible for Release FY '16	DOC SVP Eligible for Release FY '17	DOC SVP Eligible for Release FY '18
10/1/10	846	836	835	854	876	902		
12/1/11		629	509	567	493	546	526	
10/26/12			670	676	679	681	686	690
04/01/14				615	617	622	638	632
11/14					611	558	603	636
11/15/15						625	612	586

# SVP Forecast – Step 2

## Projecting Annual Admissions

- Calculate the projected number of SVP Eligible VADOC offenders who have undergone assessment who will be recommended for commitment (see §37.2-904)
- Project the number of cases where Office of Attorney General will seek commitment and court will order commitment
- Historically 45% of all cases referred for review under §37.2-904 result in a commitment to VCBR

# SVP Forecast – Step 3

## Projecting Annual Discharges

- Project the number of discharges from VCBR
  - Conditional Releases
  - Unconditional Releases
  - Death
- Use historical factors to help project future trends
- Given untrodden nature of SVP commitment it is challenging to project how individuals will progress through treatment phases

# SVP Forecast – Step 3 - Challenges

- VCBR had a backlog of release eligible residents and in last three fiscal years have been clearing that backlog
- This has caused releases to be spuriously high (and higher than projected)
- Within next year the backlog will have cleared thus it is unlikely the higher discharge rate will continue but instead will revert back to “average” discharge rate
- As risk is contextual, recommendations for and success on Conditional Release is dependent on having available resources. It is difficult to know who will/won't have access to resources and/or when resources will cease to exist
- History suggests , when conditions are “normal” VCBR will discharge an average of 35-40 residents per year

## Projecting Annual Re-Admissions

- Unfortunately not everyone who is released is successful
- A portion must be returned to VCBR
  - Due to violating the conditions of their release
  - Relapse into substance misuse
  - Failure to follow directives

# SVP Forecast - Step 4 - Challenges

- As the number of individuals on conditional release grows, so does the pool of individuals who could be revoked at any given time
- Historically we have projected 10 revocations per year, but in FY '16 there were 16 revocations which resulted in readmission to VCBR
- Unclear if this was a one time occurrence or whether we will continue to experience higher rates of revocation in the coming years.
- Are investigating reasons for revocation to determine if we can safely mitigate revocation.

# Accuracy of SVP Forecast

- Errors or deviations in any data point affects the overall accuracy
- In FY'13-FY'15, projections one year out were within 6% of actual census
- The farther out you project, the less accurate the projection
- Spuriously high number of conditional releases in FY '15 and '16 significantly contributed to over-predicting when VCBR would reach maximum capacity.

# Addressing Conferee's Concerns About VCBR Census

- Governor delayed final approval for expansion of VCBR until the following conditions met:
  - DBHDS in collaboration with VADOC conducts in-depth review of forecast & provides best estimate of when maximum census capacity will be reached (Condition 1)
  - DBHDS to review current population at VCBR to ensure conditional release program is being fully used (Condition 2)
  - DBHDS to study alternatives that could provide a more cost-effective method to treat SVPs while also ensuring public safety (Condition 3)

# DBHDS Steps to Address Condition 1

- DBHDS already collaborates with DOC (& OAG) on yearly forecast
- DBHDS is reviewing current forecast methodology to try to improve accuracy
- VADOC continuously refines internal processes to get more accurate projections of SVP eligible offenders ready for release
- DBHDS is scheduling a work session with DOC to review forecast to identify methods to improve accuracy

# DBHDS Steps to Address Condition 2

- Per §37.2-910, the continued need for commitment each resident is reviewed on an annual basis (for the first five years and then biennial thereafter)
  - Each resident is evaluated by a psychologist not currently involved in their treatment who performs an independent risk assessment and offers recommendations to the court
  - Burden of proof is on Commonwealth to prove by clear & convincing evidence that the respondent remains a sexually violent predator
- Per §37.2-910 (b), each resident can request a “2<sup>nd</sup> opinion” evaluator.

# DBHDS Steps to Address Condition 2

- In FY '14, 36% of VCBR residents had this “second opinion” evaluation. In FY '15, 40% of VCBR residents had “second opinion”
- Thus a large portion of VCBR residents have been evaluated twice in the last year for appropriateness for release
- Given this data and the fact Virginia leads the nation in the Conditional Release of SVPs, DBHDS is confident that all current residents require continued secure confinement
- As risk is contextual, for those who have moved to Phase III, while clinically they may be ready for release without proper supports their release would pose risk to the community thus they continue to require secure confinement (under current Virginia Code) until such supports/resources have been secured.

# Additional Steps DBHDS Could Take (If Necessary)

- If deemed necessary (to demonstrate that all current residents indeed require continued secure confinement), DBHDS proposes the following (costly in terms of time):
- DBHDS will instruct VCBR to produce a summary of every resident:
  - Date of commitment
  - # of prior sexual offenses
  - Static 99 score
  - Date of last commitment review
  - Recommendation of VCBR independent evaluator
  - Recommendation of any 2<sup>nd</sup> opinion evaluator (as applicable)
  - Phase in treatment
  - Date graduated to current phase
  - Any recent incident reports of aggression or sexual disinhibition

# Additional Steps DBHDS Could Take (If Necessary)

- DBHDS will assign senior clinical leadership to review above data and note whether they concur with continued commitment or conversely recommend release (based on this limited data)
- In such cases where there is questions about the need for continued secure confinement, DBHDS senior clinical leadership will consult with VCBR treatment team and VCBR clinical leadership about the risk factors/treatment needs.
- DBHDS will then prepare summary of findings for Governor, Senate Finance, & House Appropriations.

# DBHDS Steps to Address Condition 3

- DBHDS has begun study of community based alternative treatment/monitoring options
- Have researched how other states manage SVP commitments
- As risk of future aggression/sexual aggression is contextual, have identified community supports/resources which if available might allow some individuals to be successfully released
- Are exploring pre-commitment alternatives (i.e. SVP treatment in DOC) to mitigate need for SVP commitment
- Proposed expansion of VCBR includes addition of programs/resources to facilitate more timely and successful Conditional Release

# Next Steps....

- DBHDS will share updates on the three conditions as soon as possible
- Will need to act quickly as DBHDS is projecting that we will reach maximum capacity in late FY '18/ early FY '19 (details will be included in revised forecast)
- Under best case scenario, expansion will not be ready in time
- DBHDS exploring feasibility of phasing construction to provide housing space.
- Exploring feasibility of using existing DBHDS facility bed-space (but this will impact on ability to admit civil patients)