

Unsustainable and unjust

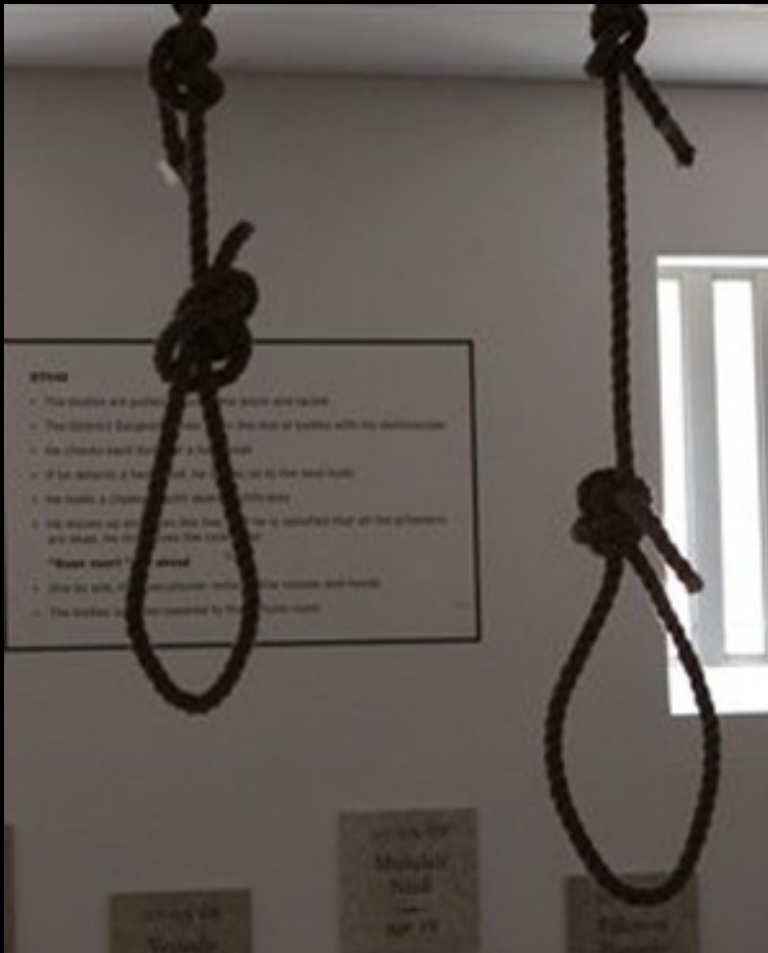
Criminal justice policy and remand detention since 1994

Amendments to bail law 1995-1998



- No after hours bail
- 7 day postponements of bail applications
- Interests of justice must be served by release
- “Exceptional circumstances” for serious offences

Amendments to sentencing circa 1997



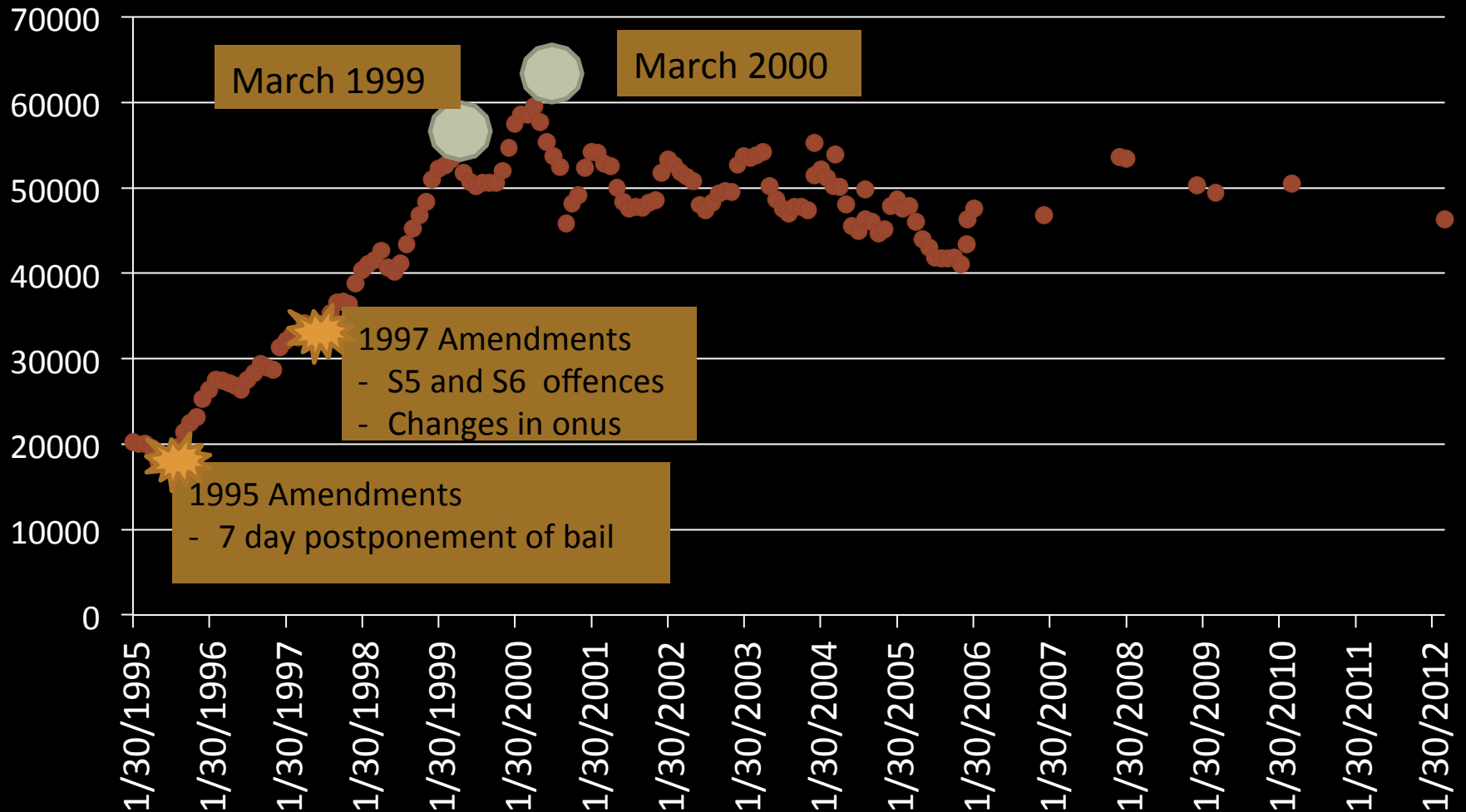
- Constitutional court found death penalty unconstitutional
- “Minimum” sentences of life imprisonment for serious crimes legislated
- Other minimums of 5, 10, 15 years introduced.

Sentencing impact on remand

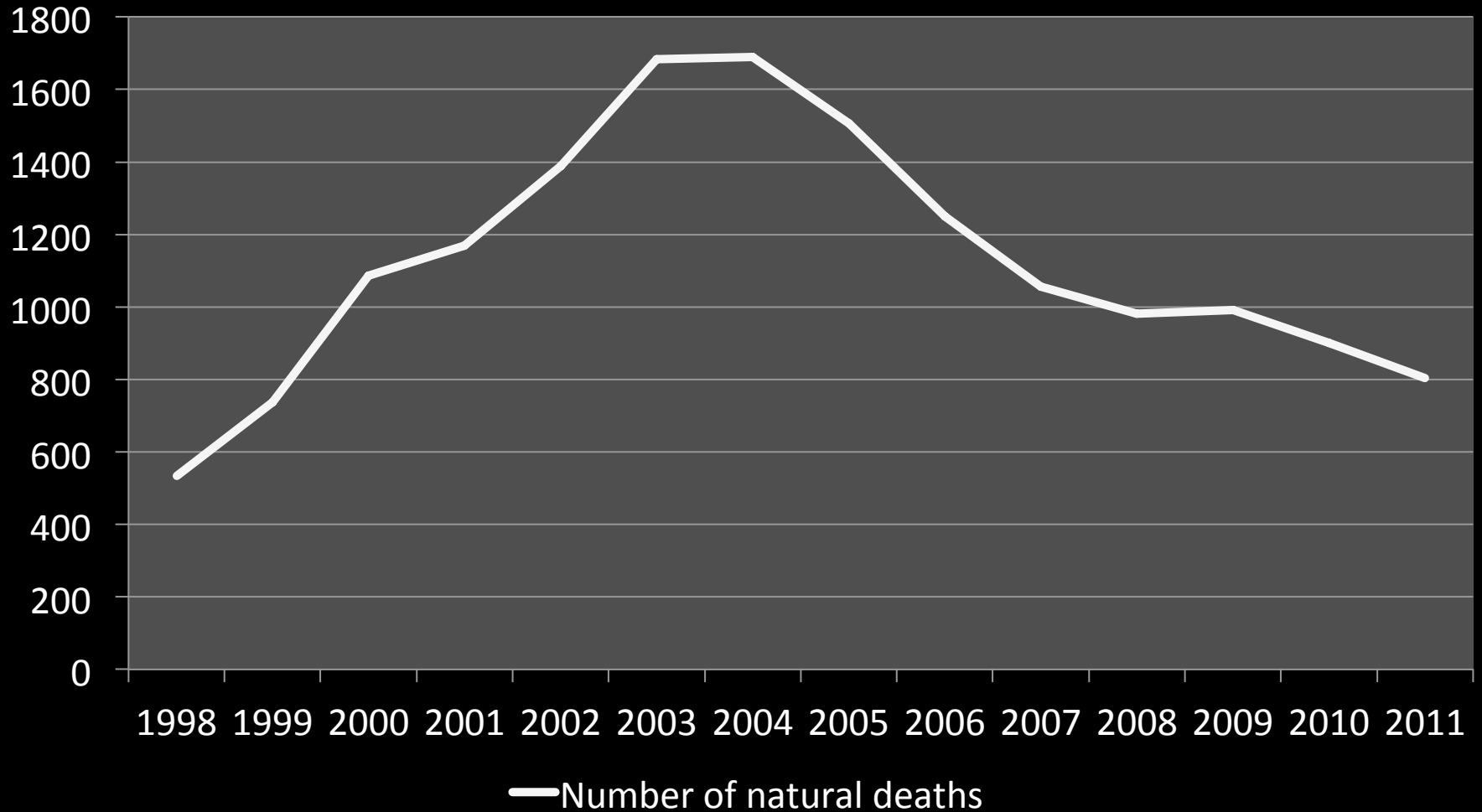
- Impact on plea bargain
- Only High Courts had jurisdiction
- 1998-2007 Regional Courts heard matters, High Courts imposed sentence – cumbersome process
- Regional Courts empowered to hand down life in these matters from 1997
- Right to automatic appeal removed 2010



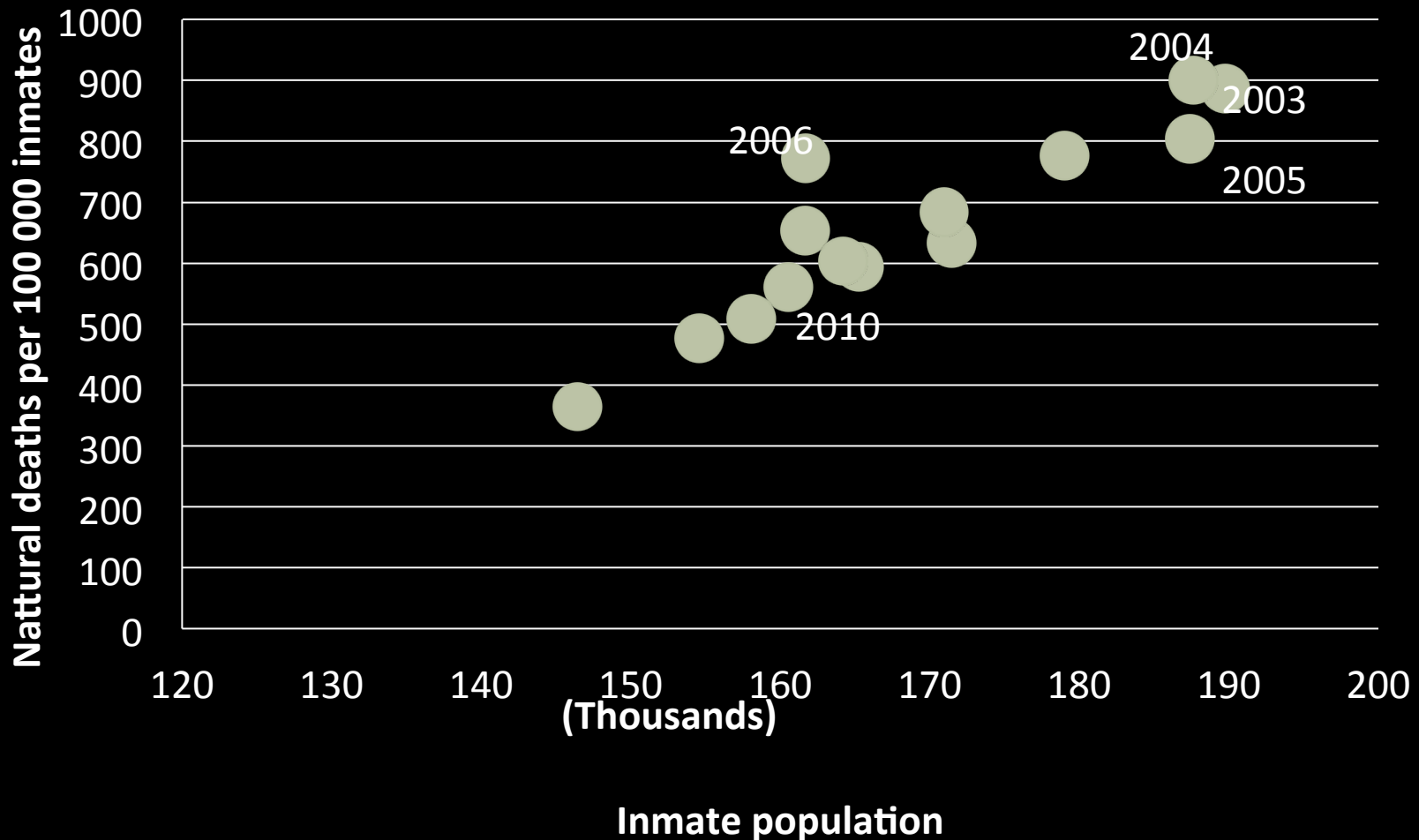
Month end remand population 1995-2012



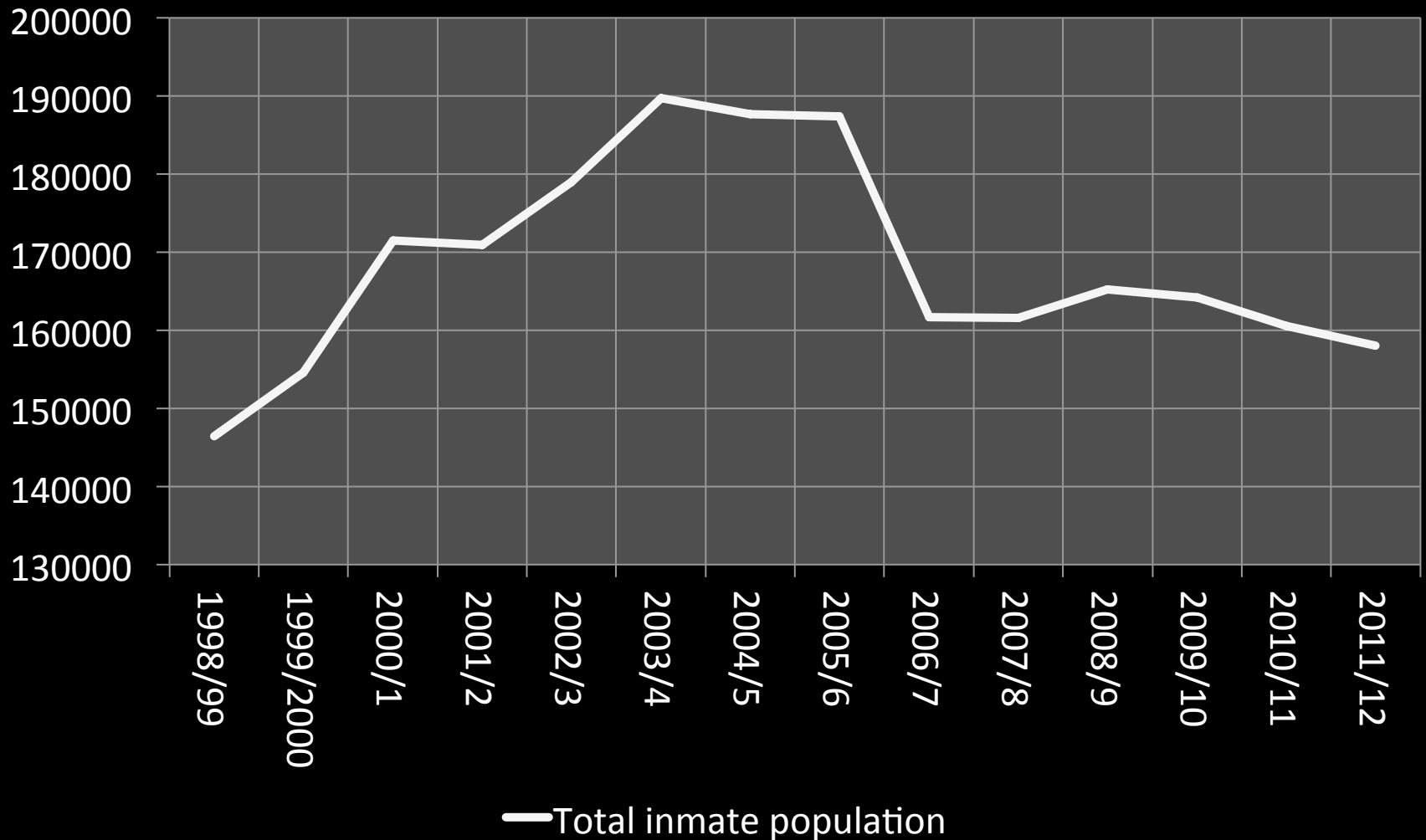
Deaths due to natural causes in prisons, 1998-2011



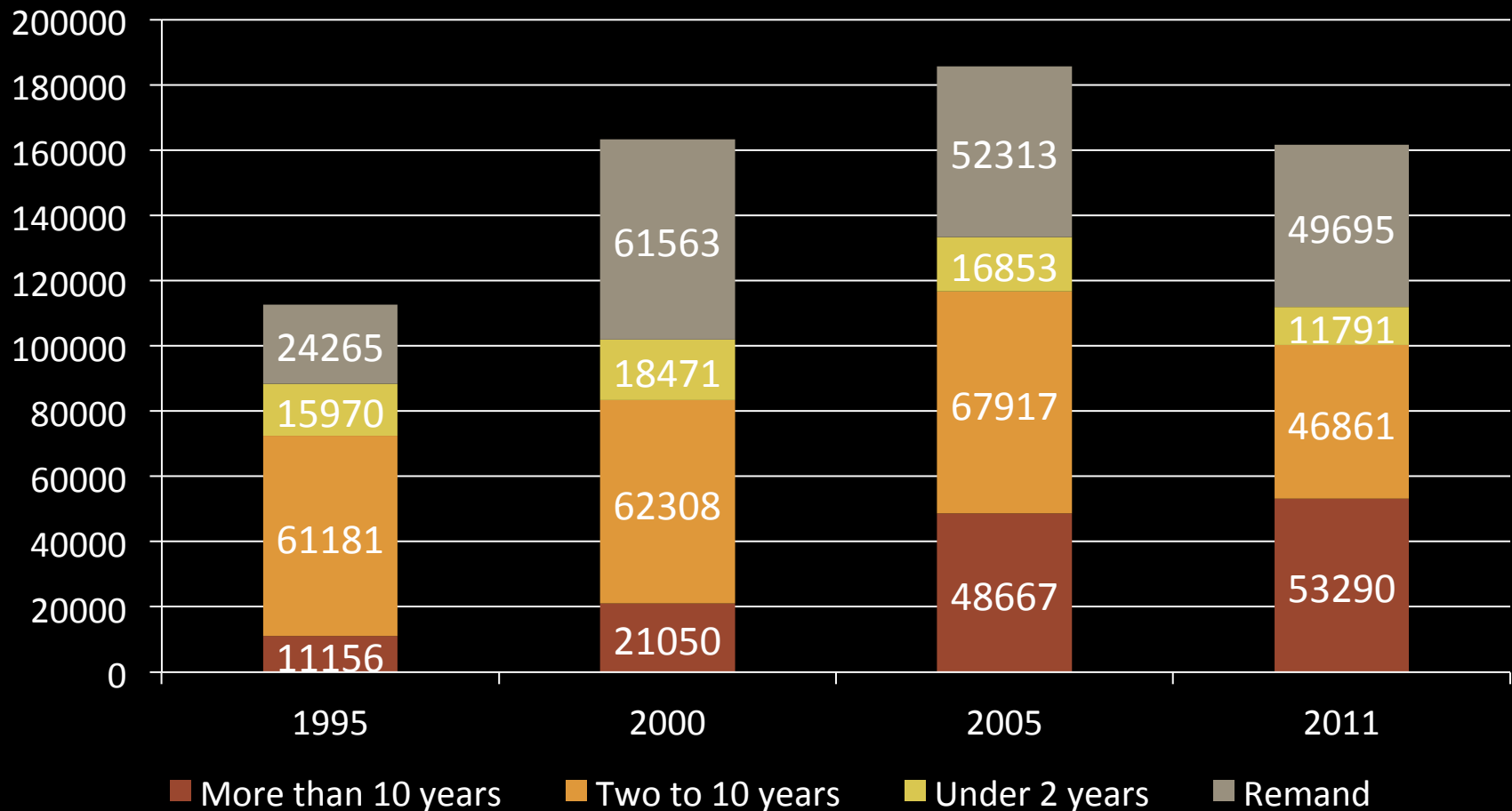
Rate of natural death and inmate population at 31 March, 1998 - 2011



Total inmate population 1998-2011



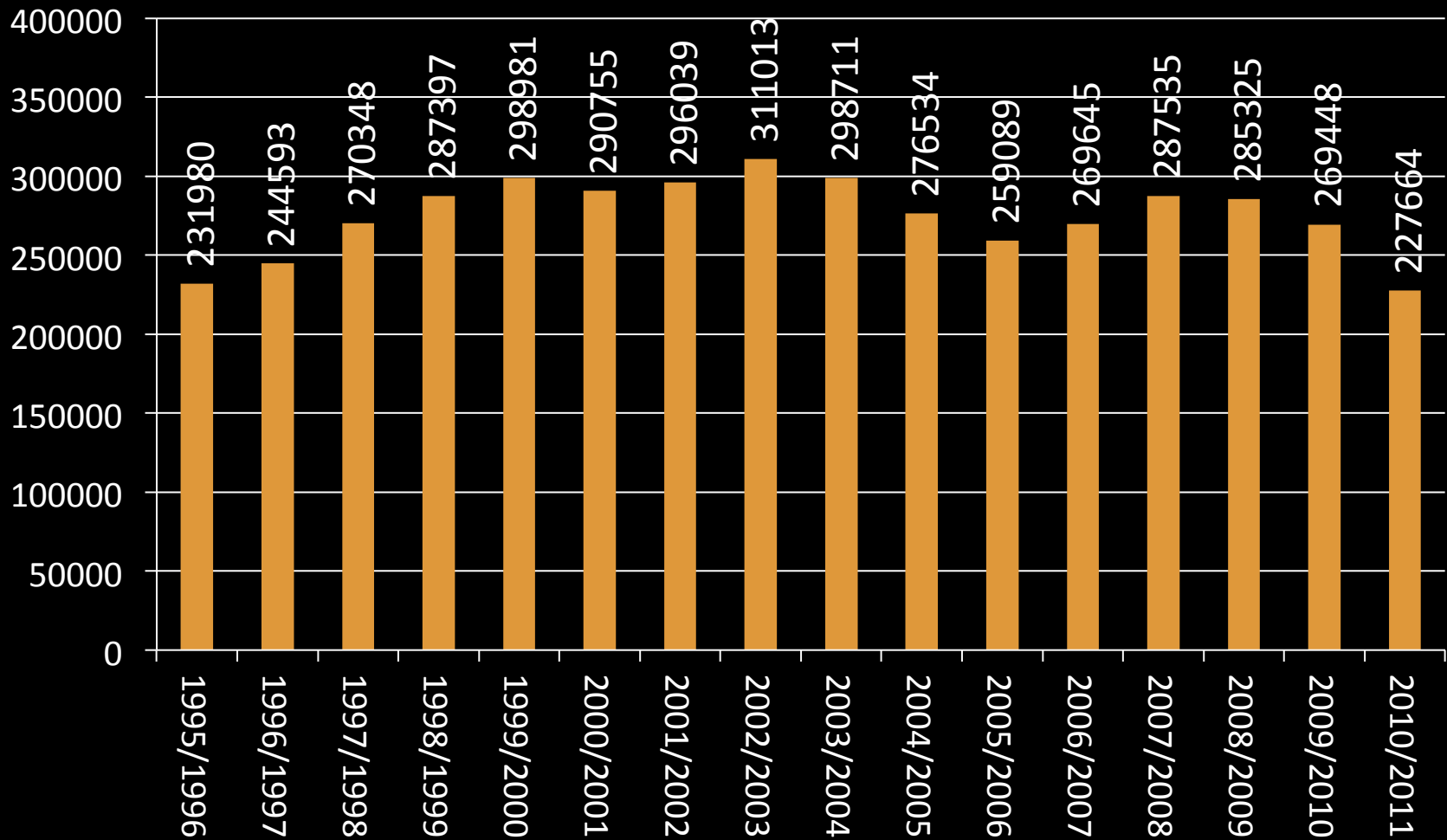
Prison population by sentence status, 1995, 2000, 2005 and 2011



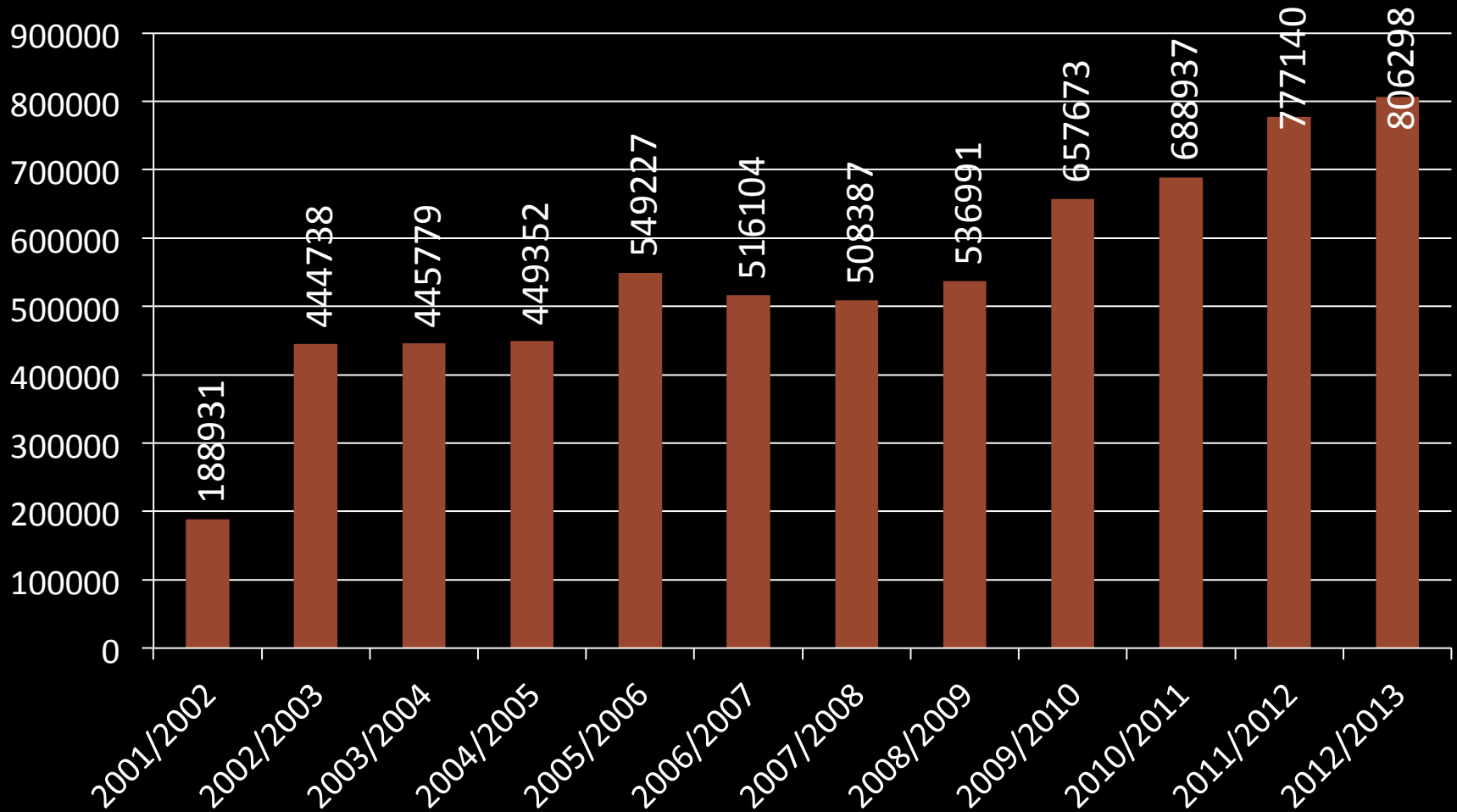
Drivers of remand populations

- Number of remand detainees influenced by two trends:
 - how many people are admitted to remand, and
 - how long each of them remain in detention.
- If arrests remained constant or increased, then the number admitted to remand should have **increased** with the change in the law.
- Admissions indeed rose considerably during the initial period of new law
- But by 2010/11 there were fewer remand **admissions** than there were in 1995/6.

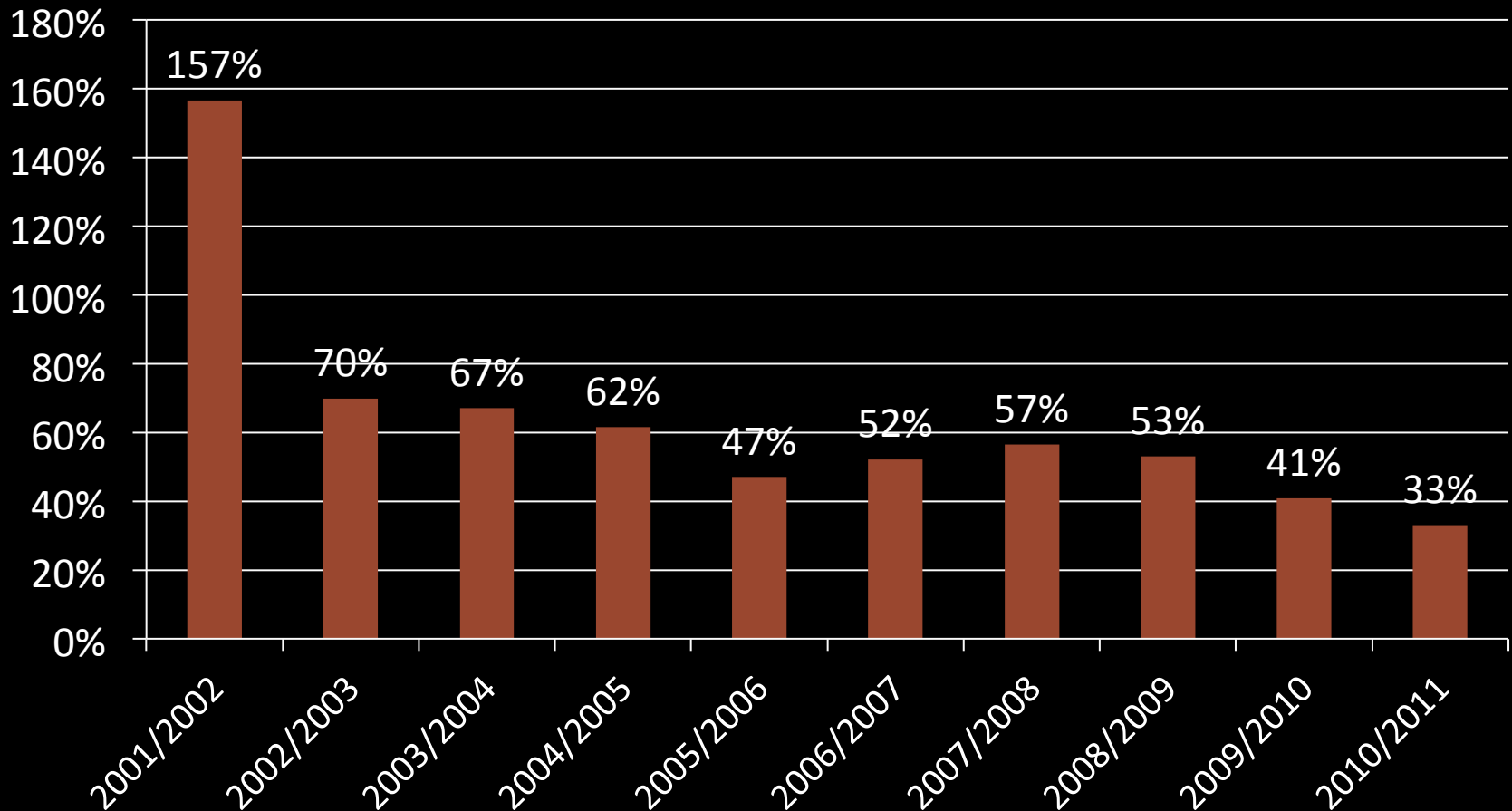
Number admitted on remand to prisons, 1995/6-2010/11



Number of priority crime arrests, 2001/2 to 2012/13



Remand admissions as percentage of priority crime arrests, 2001/2 - 2010/11



Drivers of remand population

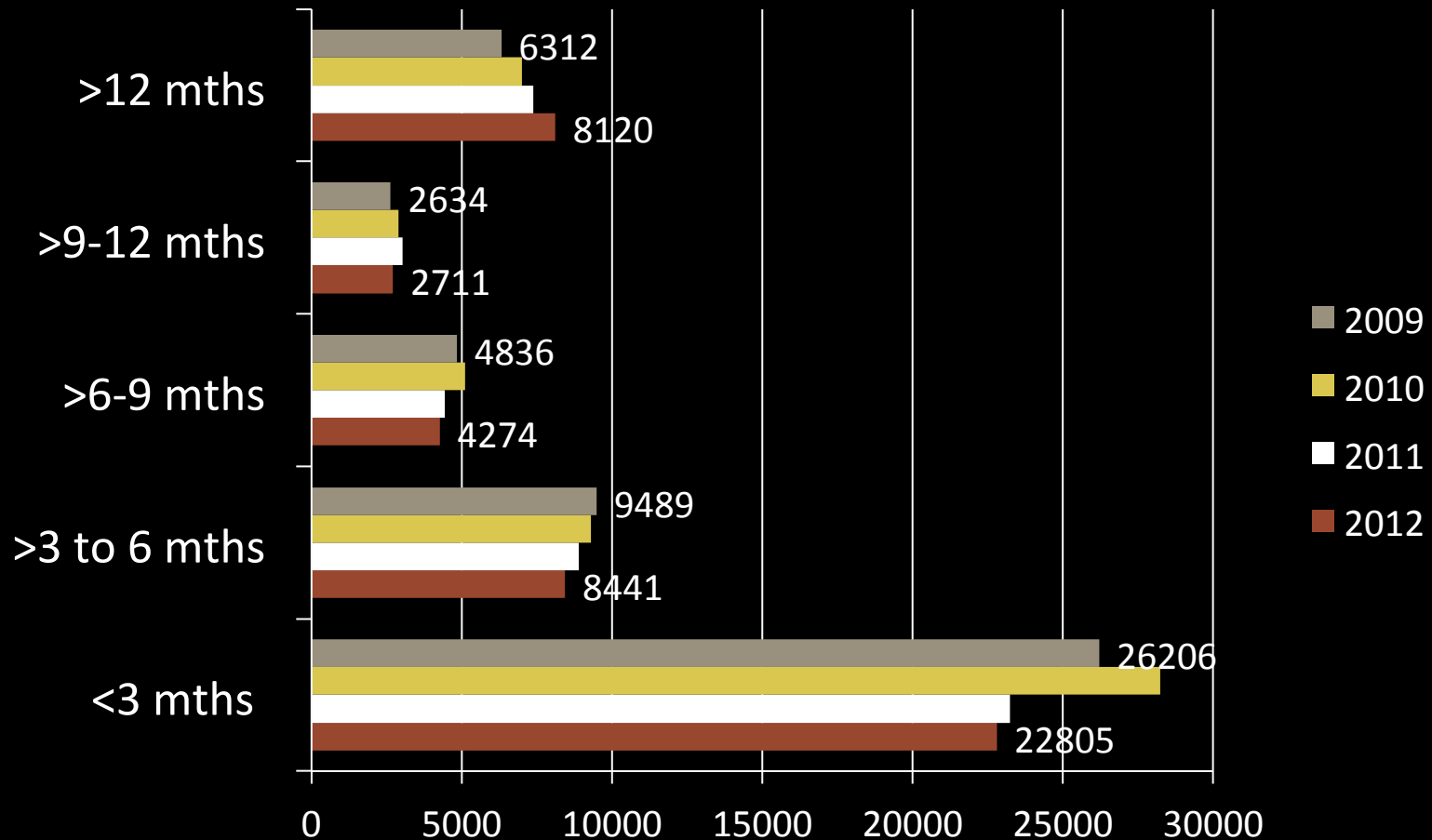
- The fact that the remand population in prisons remains high, despite the drop in admissions to prison on remand, must then relate to the **duration of remand detention**
 - Effects of minimum sentencing? – accused loath to plead guilty, as the bar is now set so high on their potential punishment, leading to backlogs and general slowing of the system. Such persons also highly likely to be denied bail
 - General slowing of system?

Duration of remand

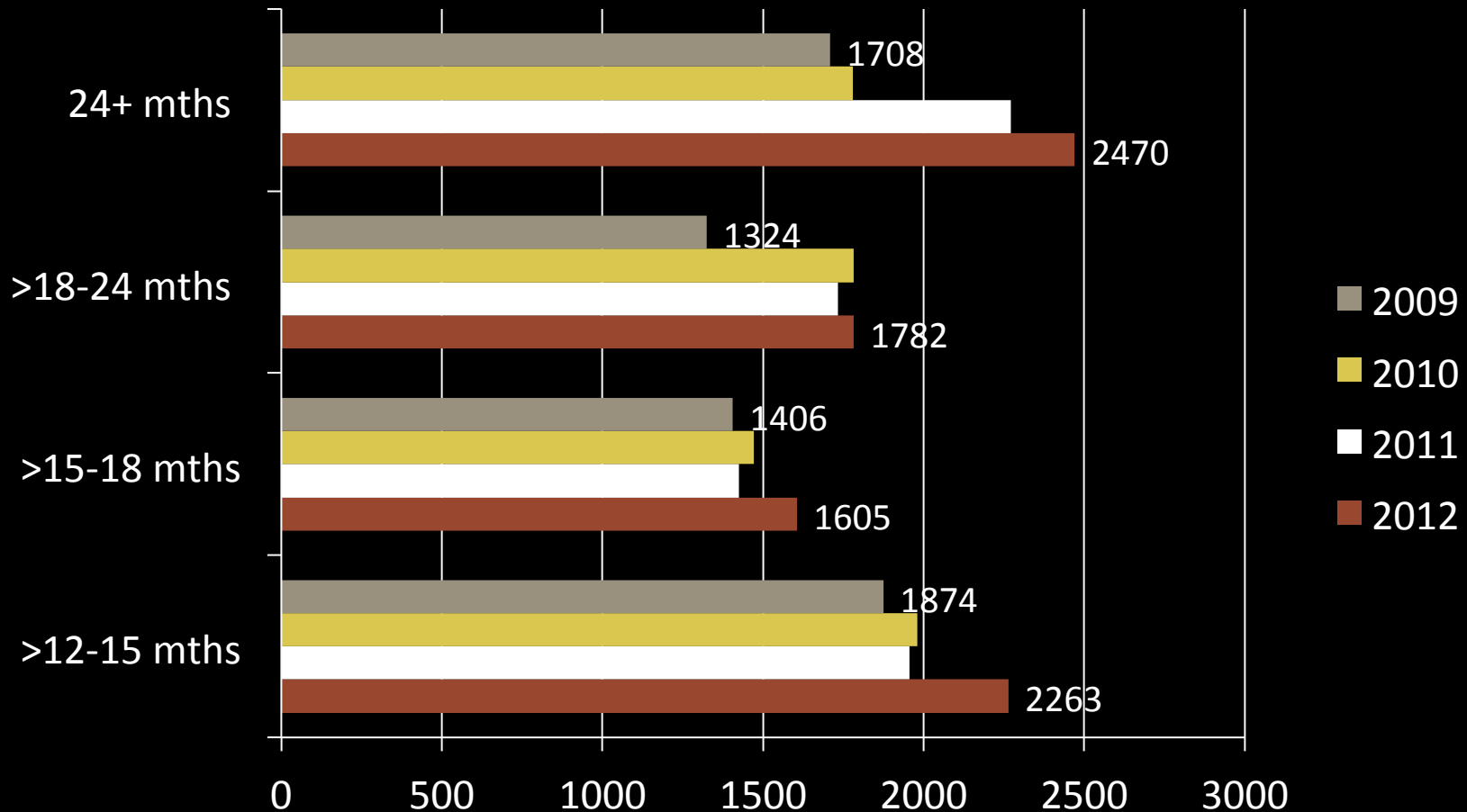


- Jonathan Davids (22) released after four months on remand.
- DNA evidence failed to link him to the rape and murder of Anene Booysen.

Number of people held by duration on remand, 2009-2012



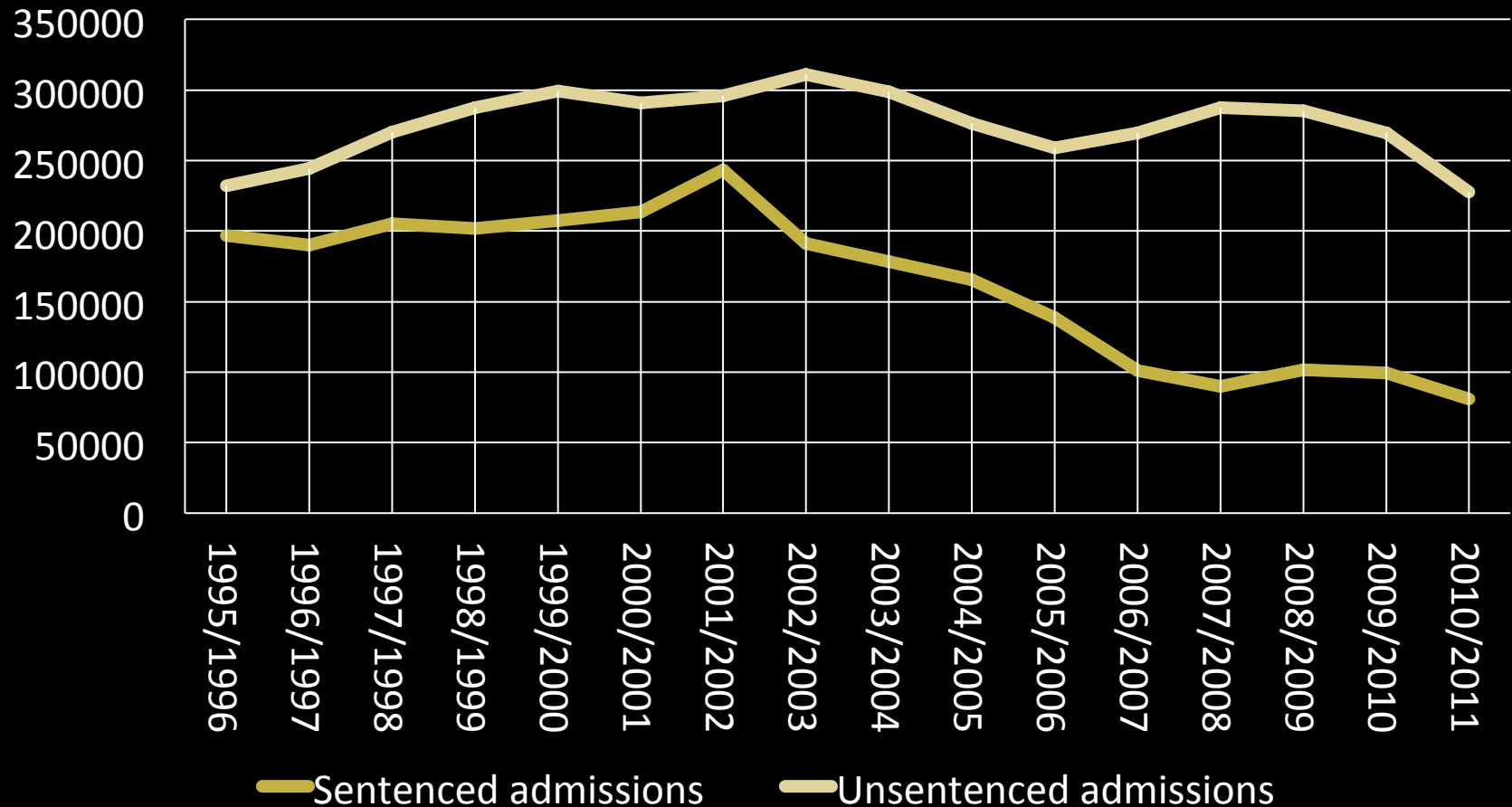
Number of people held for more than one year on remand, 2009-2012



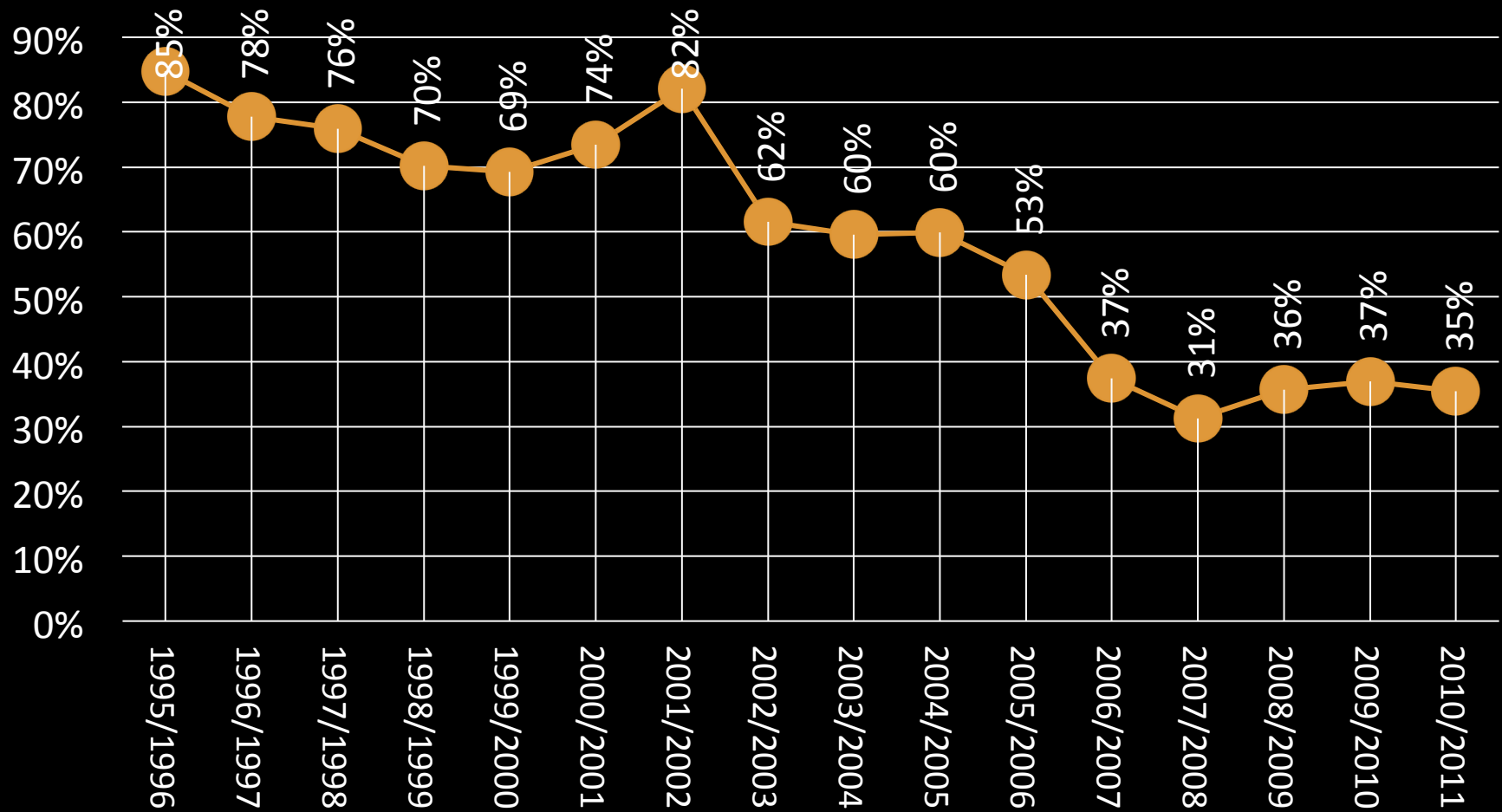
Do the ends justify means?

- Are long pre-trial incarcerations on remand ultimately justified by eventual convictions?
 - The number of people sentenced and admitted to prisons rose 24% from 1995/6 to 2001/2
 - Thereafter there was a steady **decrease** in the number of **sentenced admissions**.
 - Remand admissions, by contrast dropped below their 1995/6 levels only in 2010/11
 - Sentenced admissions dropped below 1995/6 levels in 2002/3 and decreased further thereafter

Number of sentenced and remand admissions, 1995-2011



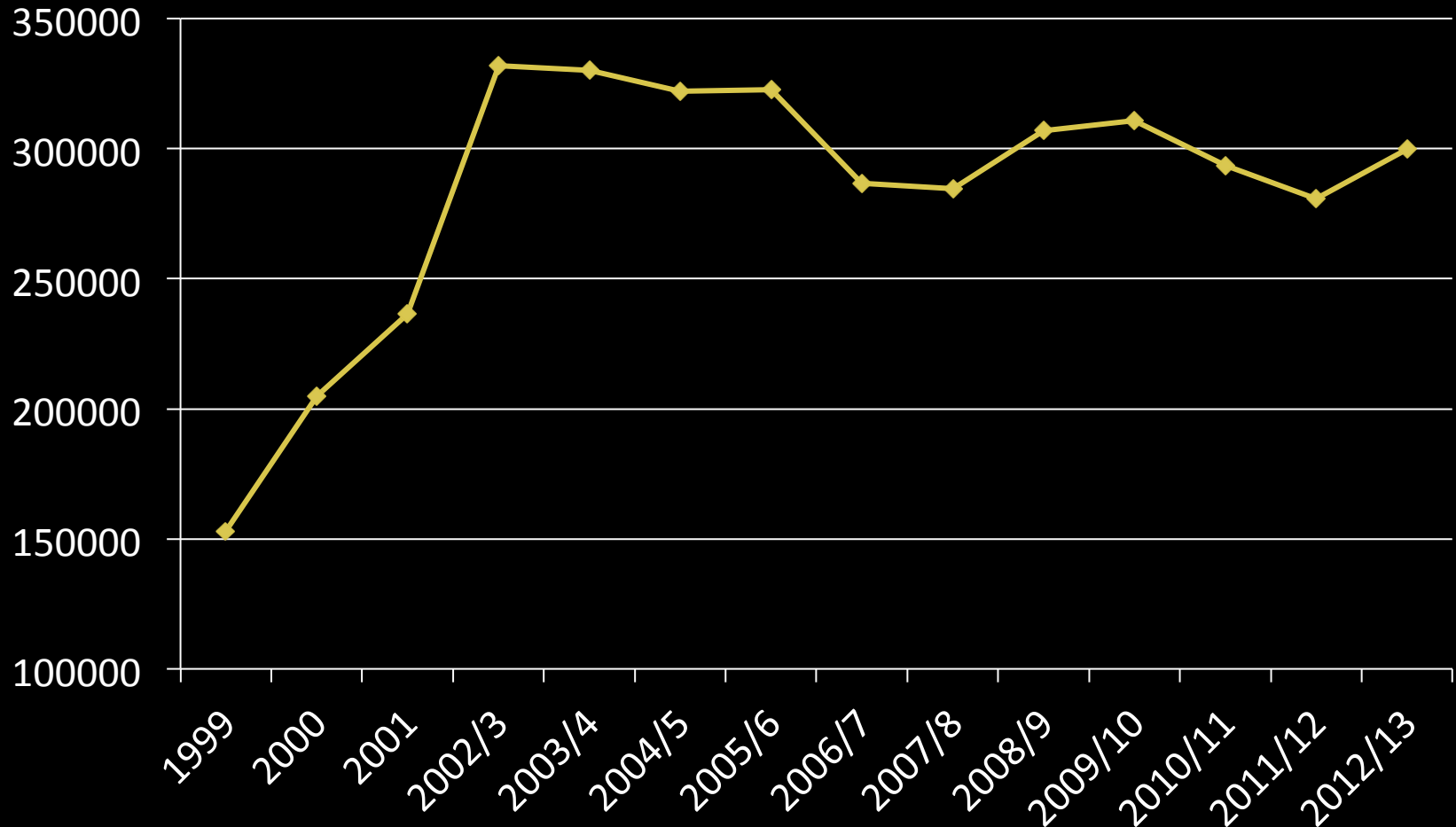
Percentage of remand admissions matched by sentenced admission



Sentenced admissions

- Have the number of convictions dropped?
- Or has the extent to which sentences include a term of imprisonment dropped?
- Or both?

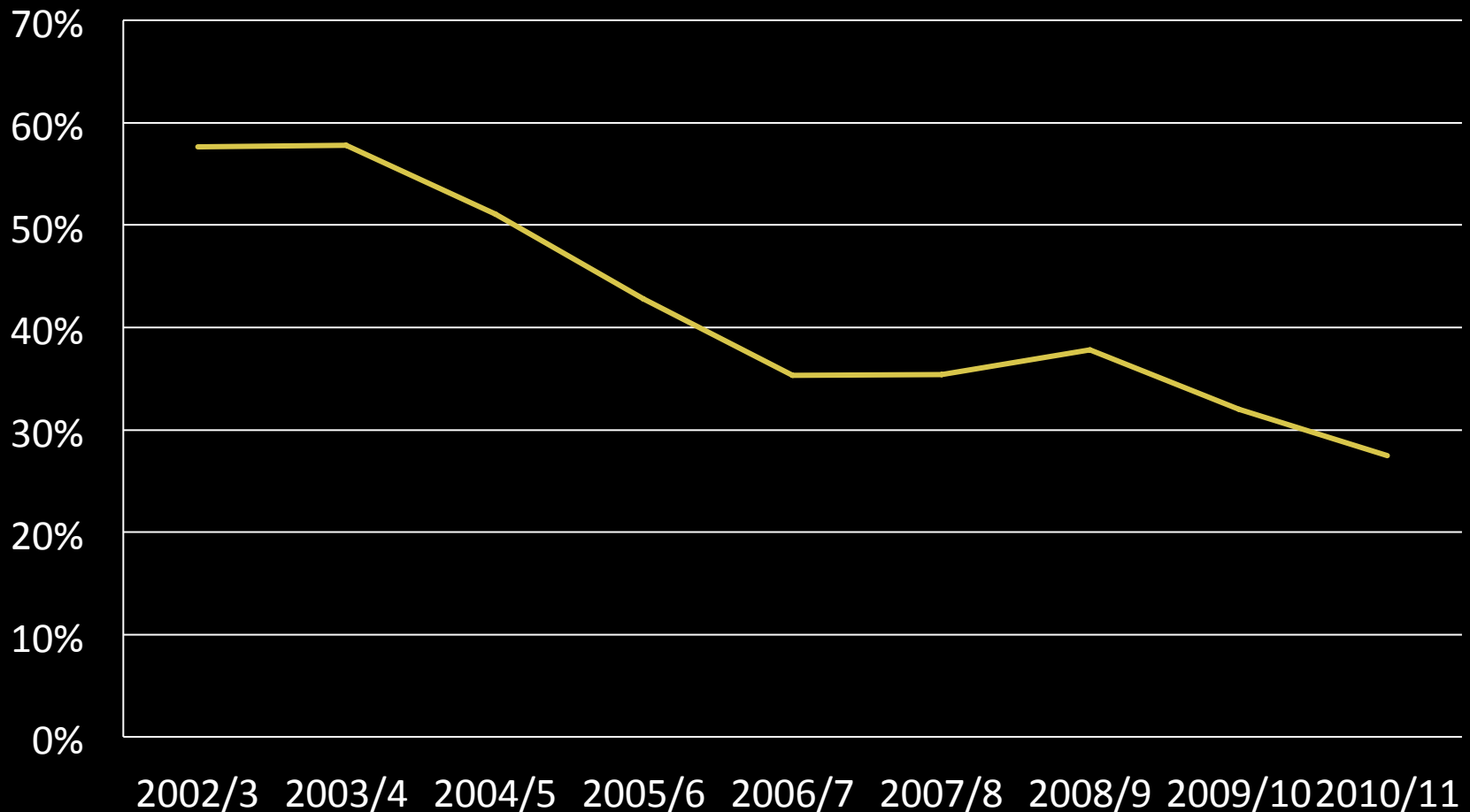
Number of convictions, 1999-2001 , 2002/3 to 2012/13



Number of convictions, 2002/3 – 2012/13



Sentenced admissions as percentage of total convictions, 2002/3 – 2010/11



Conclusion

- The number of people admitted on remand to prisons is decreasing.
- The time for which remandees are held on remand in prisons is increasing.
- The likelihood remandees will ever be sentenced to a term of imprisonment is decreasing.
- The “tough on crime” approach has in turned into “justice delayed and freedom denied”.

Conclusion

- The “tough on crime” policy approach lead to predicted and massive increases in the total prison population; stabilisation followed.
- Conditions of detention resulting due to overcrowding lead to approximately 8500 additional deaths from natural causes
- Subsequently the criminal justice system developed methods of coping
 - Some prisons refused to accept any more remand detainees and detainees were then held at police stations. It is unclear the full extent to which this occurred and continues to occur.
 - The system generally slowed down and cut-back, in terms of the number of people it eventually chooses to prosecute , the number it convicts, and the speed with which it does so, leading to a reduction in the number of people sentenced year-on-year.
- The sentenced prison population has an increasing proportion of long sentences, but most will be released on parole at the earliest possible parole date.
- The “tough on crime” approach has in practice turned into “justice delayed and freedom denied”.