

Justice Reinvestment in Arkansas

Fifth Presentation to the Legislative Criminal Justice Oversight Task Force

June 22, 2016

Andy Barbee, Research Manager

Jessica Gonzales, Senior Research Associate

Mack Jenkins, Senior Policy Advisor

Ben Shelor, Policy Analyst

The Council of State Governments Justice Center

Corrections



Justice Reinvestment



Mental Health



Reentry



Substance Abuse



Youth



Courts



Law Enforcement



National nonprofit, nonpartisan membership association of state government officials that engage members of **all three branches** of state government.

JUSTICE ★ **CENTER**
THE COUNCIL OF STATE GOVERNMENTS

Justice Center provides **practical, nonpartisan advice** informed by the best available evidence.

What is Justice Reinvestment?



JUSTICE REINVESTMENT

A data-driven approach to reduce corrections spending and reinvest savings in strategies that can decrease recidivism and increase public safety

The Justice Reinvestment Initiative is supported by funding from the U.S. Department of Justice's **Bureau of Justice Assistance (BJA)** and **The Pew Charitable Trusts**.



Overview

01

Project Update

02

Comparing Probation and Prison

03

Sanctioning of Violators—Cost and Public Safety

04

Recidivism Reduction through Strengthening Supervision

05

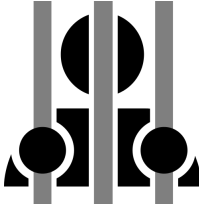
Next Steps

Stakeholder input informs the data analysis presented today



Legislative Criminal Justice Oversight Task Force

Individual meetings/calls with task force members and their staff



Corrections

Meetings with leadership and staff from the Board of Corrections, ADC, ACC, and the Arkansas Parole Board; observation and interviews with staff and offenders at three ACC Field Offices and three Community Corrections Centers; visit to Cummings and Varner Units



Arkansas General Assembly

Meetings with Senators and House Representatives, including legislative leadership and the Bureau of Legislative Research



Behavioral Health

DHS Division of Behavioral Health Services (DBHS), Mental Health Council of Arkansas, Decision Point Inc., Ozark Guidance, Western Arkansas Guidance, and leadership of the Behavioral Health Treatment Access Task Force



Courts

Meetings, calls, and presentations with individual judges, Judicial Council leadership; Administrative Office of the Courts; and court observations



Law Enforcement and Prosecuting Attorneys

Arkansas Prosecuting Attorneys Association, Arkansas Attorney General's Office, Arkansas Sheriffs Association, representatives of the Washington County Sheriff's Office, Pulaski County Sheriff's Office, Union County Sheriff's Office, and Sebastian County Sheriff's Office.



State Associations and Foundations

Association of Arkansas Counties, Arkansas Policy Foundation, Restore Hope

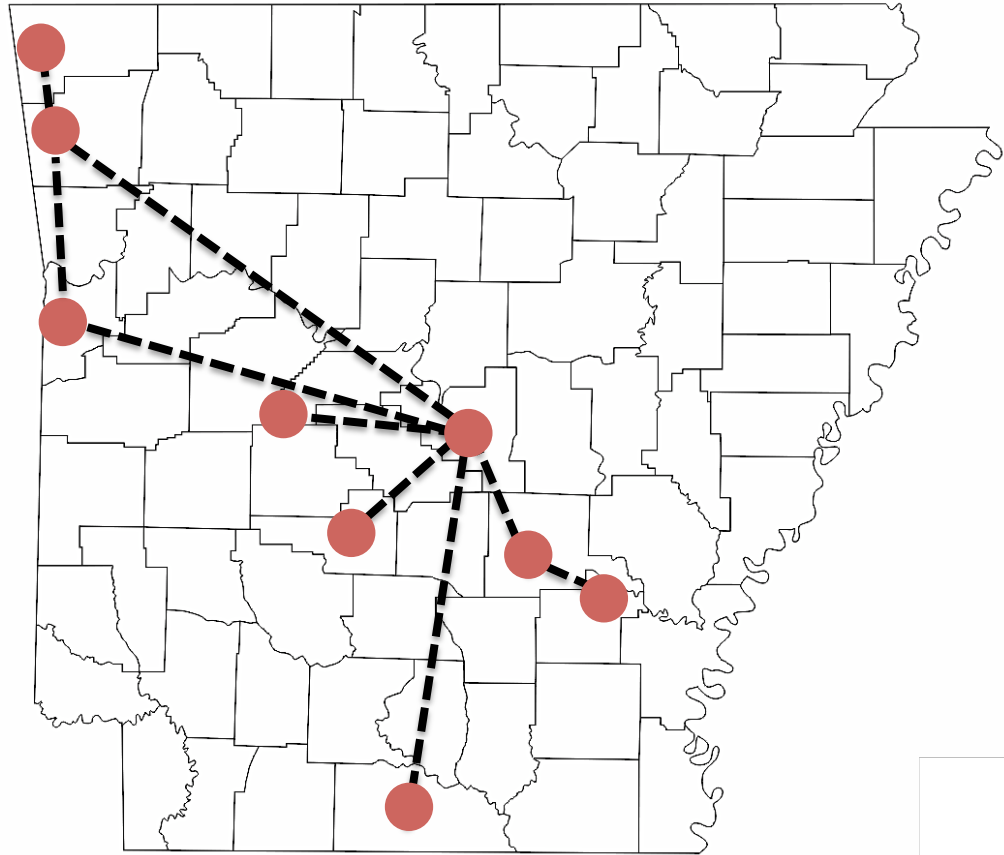
CSG Justice Center staff are pursuing regional perspectives in stakeholder engagement, reflecting the state's size and diversity

80+
CALLS & MEETINGS

12
ON-SITE VISITS

1,500+
MILES DRIVEN

SINCE FALL 2015



County Meetings

With the assistance of the Association of Arkansas Counties and the Arkansas Sheriffs Association, CSG Justice Center staff met with leaders and stakeholders from **Washington, Union, Pulaski, and Sebastian** Counties to learn about the criminal justice challenges at the local level.

Update on criminal justice system stakeholder engagement since February 2016 Task Force presentation

On-site Meetings with Stakeholders

Probation/Parole & Community Corrections

Site visits to Northwest and Central Arkansas including observation and meetings with staff and offenders at ACC Probation/Parole field offices and Community Corrections Centers.

Judges & Prosecutors

Calls and meetings in Little Rock, Fort Smith, and Fayetteville

County Officials

Meeting with 18 county-level representatives, including county judges, prosecuting attorneys, sheriffs, jail administrators, behavioral health treatment staff, and community corrections staff

Sebastian County Mental Health Summit

CSG staff participated in May 2016 summit in Fort Smith

Calls with Stakeholders & Review of Policy/Practice

- 40+ hours spent on calls with stakeholders
- 100+ hours reviewing sentencing & corrections law, probation & parole policies, and other relevant information

Statewide Surveys

- County jail populations

Data Analysis

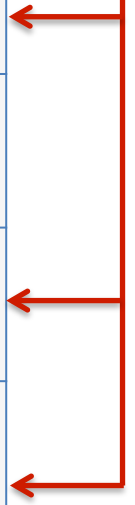
- Over 2.7 million data records analyzed across felony sentencing, ADC, ACC, and ACIC
- ADC population tracked on daily basis to include tracking of trends in the county jail backlog

Arkansas's criminal justice agencies have been excellent at providing data

Justice Reinvestment Data Request Update

Data Requested	Source	Status
Criminal History Information	Arkansas Crime Information Center	Received; Analyzed
Filing, Disposition, & Sentencing	Arkansas Sentencing Commission, Arkansas Administrative Office of the Courts	Received; Analyzed
Probation and Parole Supervision, Risk Assessment Data	Arkansas Community Correction	Received; Analyzed
Prison Population Snapshot, Admissions, & Releases	Arkansas Department of Correction	Received; Analyzed, more analyses pending
Parole Board decision data	Arkansas Parole Board	Received; Analyses pending
County Jail Population, Admissions, & Releases	Pulaski, Sebastian, Union, and Washington Counties	Received; Analyses pending

Today's
focus
on:



Recap of Key Findings to Date



Overcrowded prisons and jails



Costly status quo



Sentencing of low-level felons to prison



Overview

01 Project Update

02 Comparing Probation and Prison

03 Sanctioning of Violators—Cost and Public Safety

04 Recidivism Reduction through Strengthening Supervision

05 Next Steps

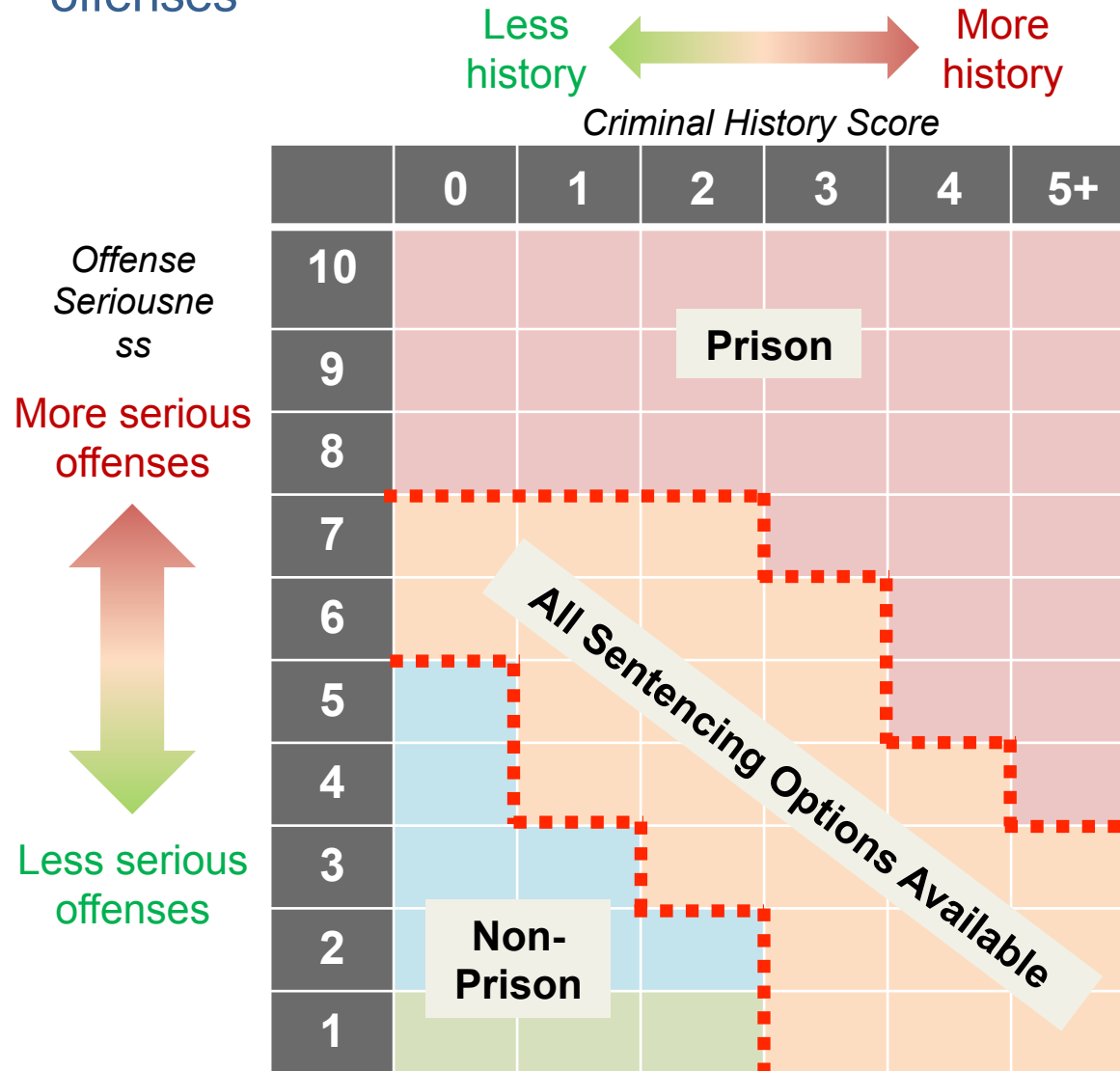
Section Preview

Importance of examining outcomes

Understanding recidivism

Probation more cost-effective than prison

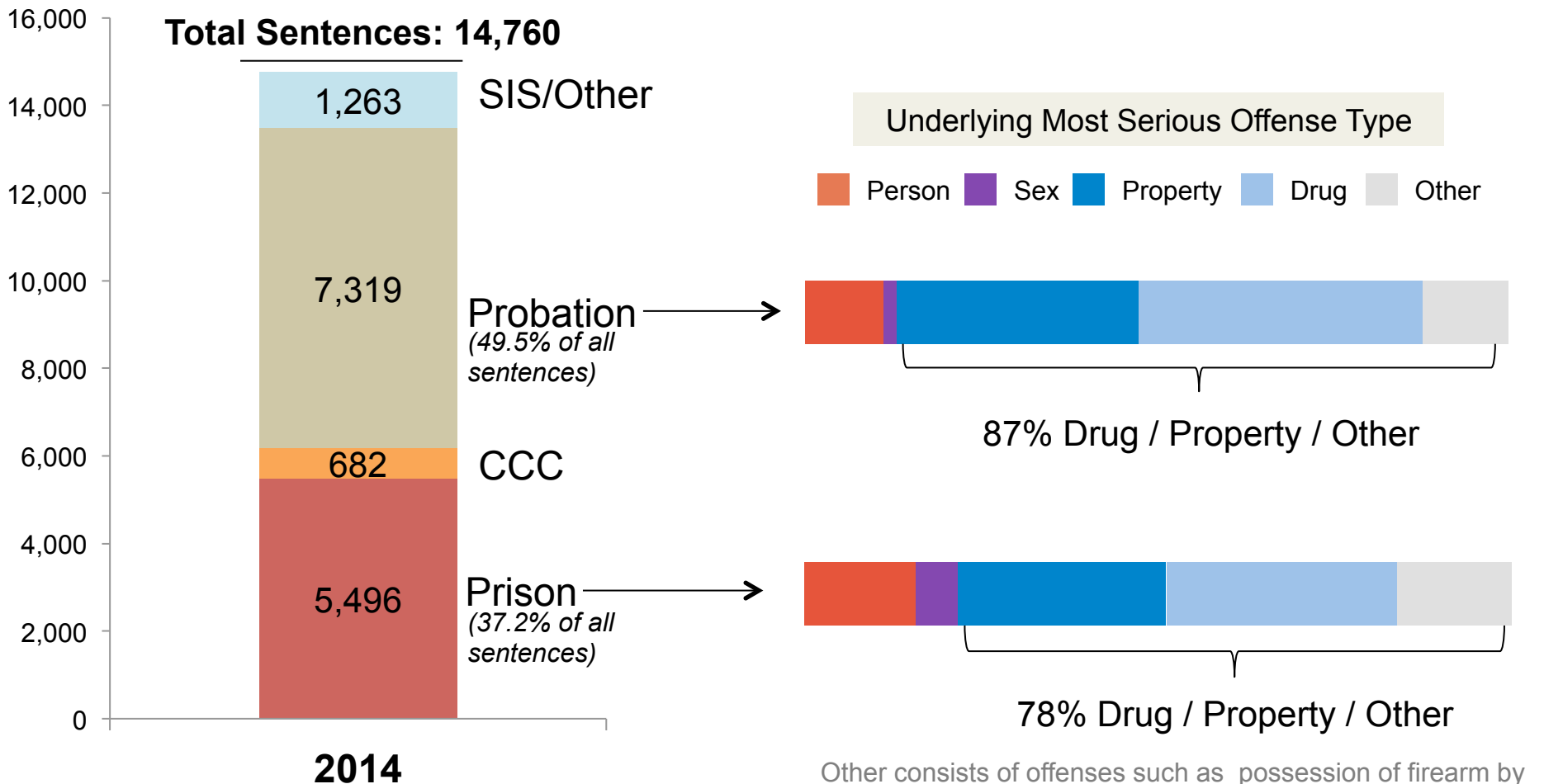
Prior discussions highlighted issue of prison vs. probation for lower-level offenses



Source: Arkansas Sentencing Commission, *Sentencing Standards Grid, Offense Seriousness Rankings and Related Material*, 2015

Sentences to both prison and probation are driven primarily by property and drug offenses

Felony Sentences by Disposition Type, 2014

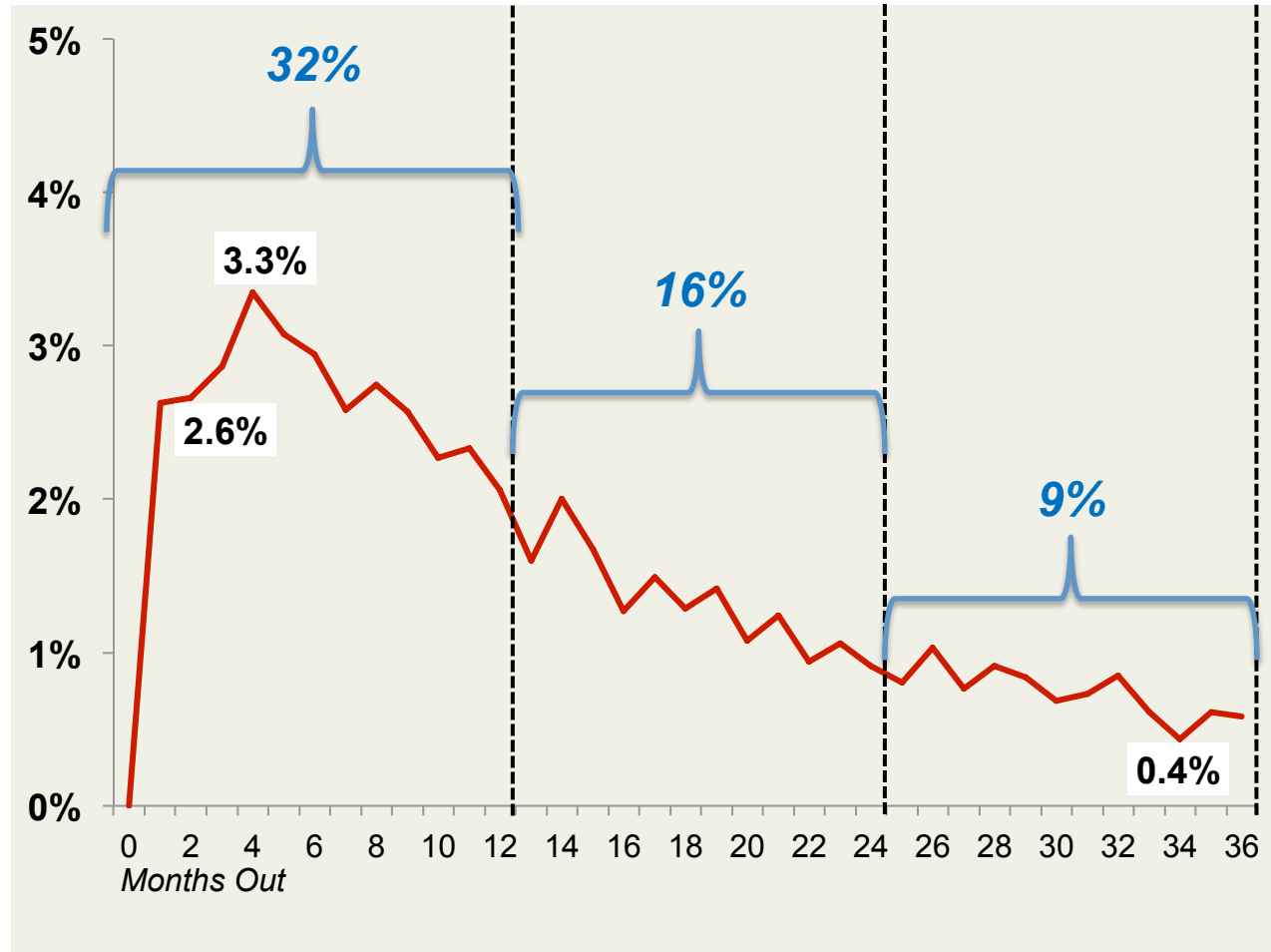


Source: Arkansas Sentencing Commission Data, 2014

Other consists of offenses such as possession of firearm by certain persons, failure to appear (FTA on a felony) furnishing prohibited articles, fleeing, and non-support.

Understanding what a recidivism rate means...

36-Month Re-arrest Rates for Individuals Released from ADC in FY2012

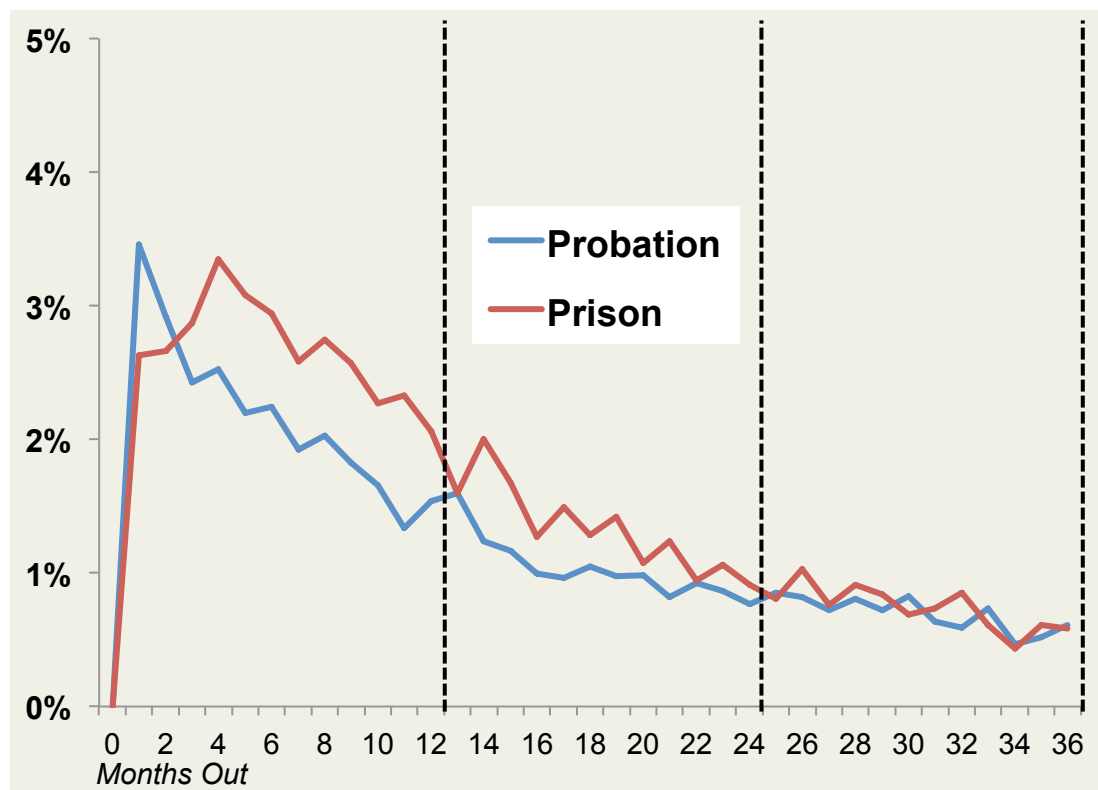


Overall 3-year re-arrest rate is 57% (cumulative across the 36 months in graph at left).

- Once “at risk” of being arrested (i.e., recidivating), 2–3% of the cohort are getting arrested each month early on, but that falls to less than 1% per month before month 24.

Overall, people placed on probation instead of released from prison are re-arrested at roughly 18–21 percent lower rates within three years

36-Month Re-arrest Rates for Individuals Released from Prison Compared to Individuals Beginning Felony Probation in FY2012



Arrest Rate	Prison	Prob.	Prob. % Diff.
1 Yr	32%	26%	- 19%
2 Yr	48%	38%	- 21%
3 Yr	57%	47%	- 18%

Source: ADC Release Data, ACC Intake Data, ACIC Arrest Data

Comparing apples to apples, probation yields as good or better recidivism rates as prison

Two-year Re-arrest Rates for Drug/Property Offenses, FY2013 Cohorts

Prior Felony Arrests	Prison Releases	Probation Starts
0 to 1	37%	37%
2–3	51%	49%
4 or more	60%	55%
Overall	50%	40%



Source: ADC Release Data, ACC Intake Data, ACIC Arrest Data



Overview

01 Project Update

02 Comparing Probation and Prison

03 Sanctioning of Violators—Cost and Public Safety

04 Recidivism Reduction through Strengthening Supervision

05 Next Steps

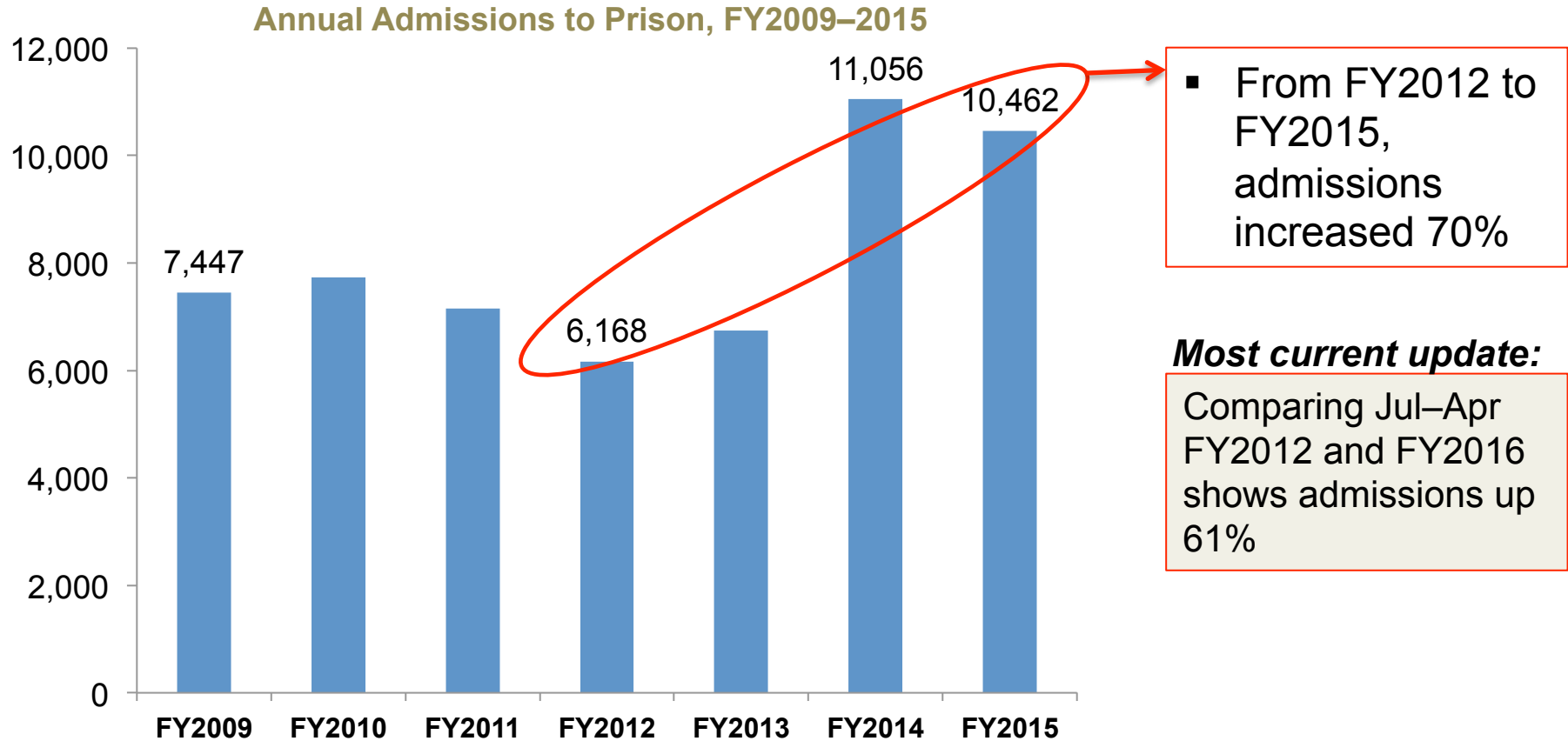
Section Preview

Violators of supervision driving prison growth

Almost a third of those violators are purely technical

Questionable cost-effectiveness of status quo

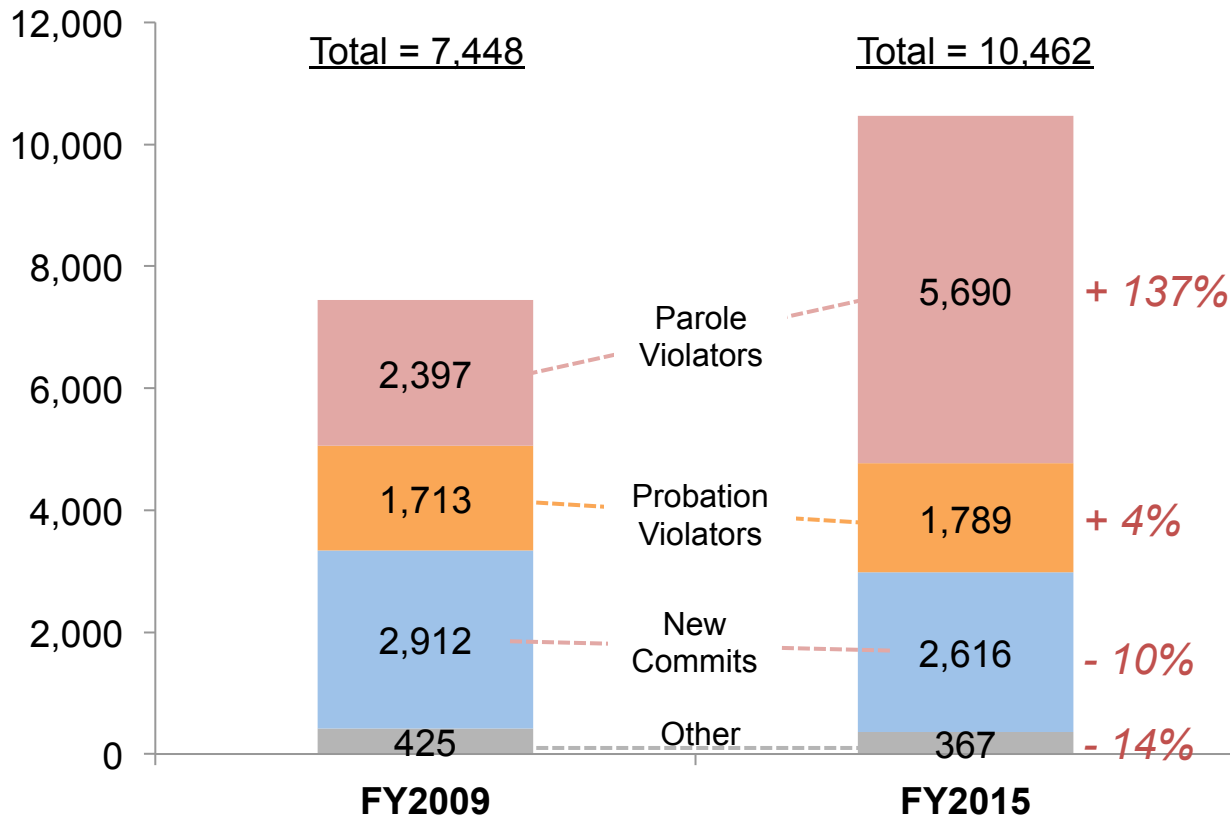
Admissions to prison increased 41 percent from FY2009 to FY2015



Source: ADC Admission Data

Parole violators went from being a third of all prion admissions to over half

**Admissions to Prison by Type of Admission,
FY2009 and 2015**



Parole violators accounted for 54% of all admissions to prison in FY2015

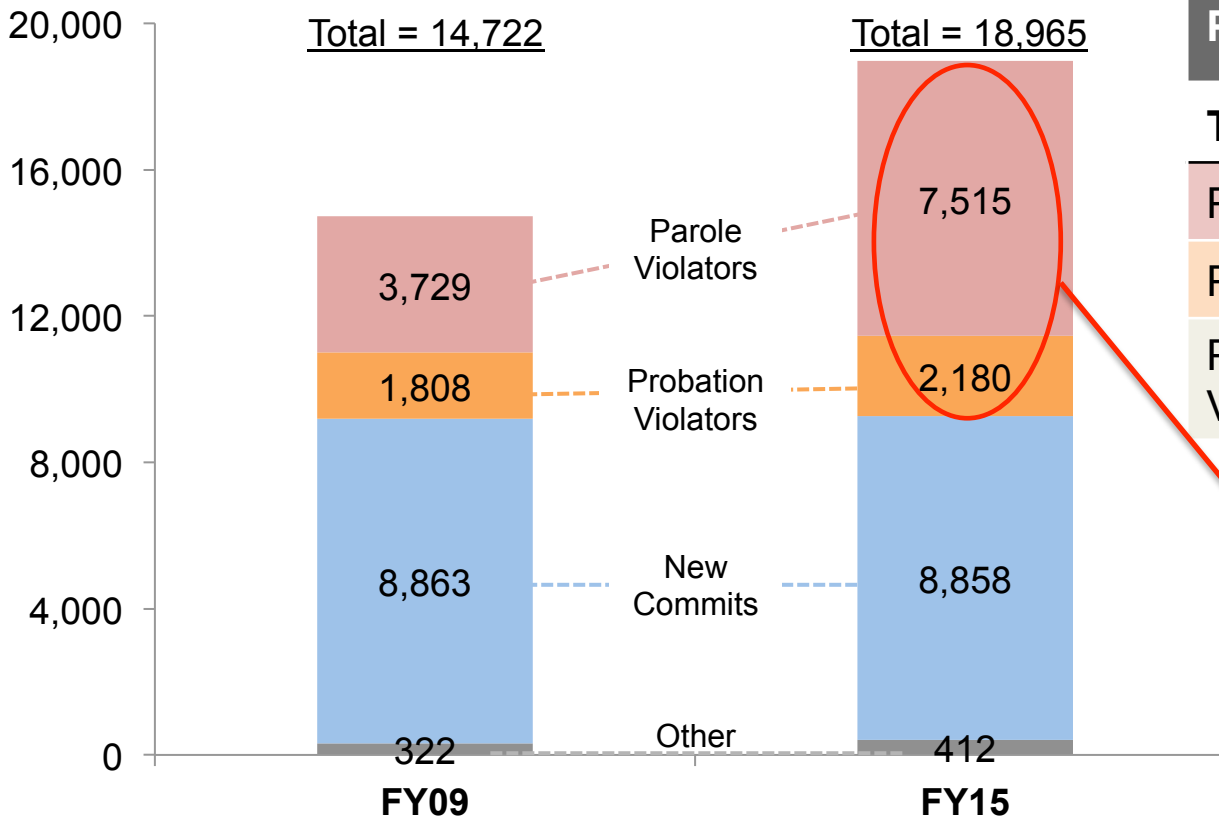
- Up from 32% in FY09

Most current update:

July–April FY2016 shows admissions for parole violators accounted for 51% of all ADC admissions.

Virtually all of the growth in Arkansas's prison population stems from sanctioning of supervision violators

Year-End Prison Population by Type of Admission, FY2009 and 2015



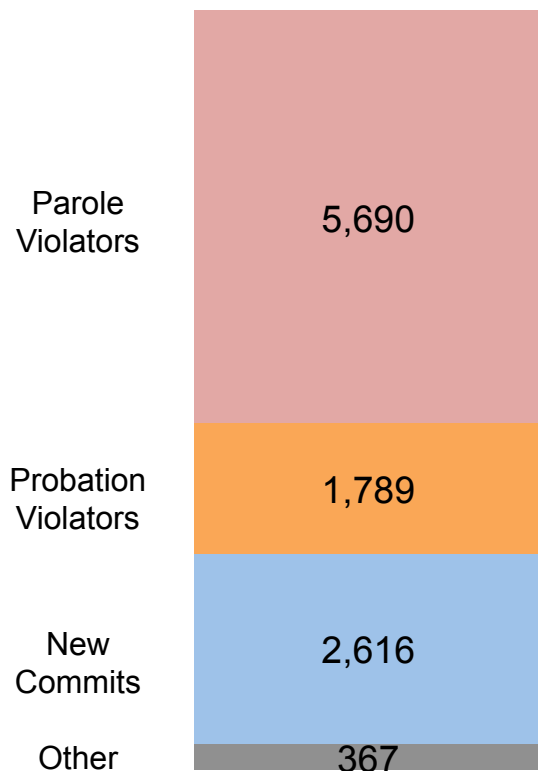
ADC Population Growth FY2009–2015

Population	Raw Growth
Total Prison	+ 4,243
Parole Violators	+ 3,786
Probation Violators	+ 372
Probation + Parole Violators Combined	+ 4,158

❑ 51% of prison population consists of supervision violators
– 48% as of 4/30/16

Almost a third of revoked probationers and parolees did not have an arrest while on supervision prior to revocation

FY2015 Prison Admissions by Type of Admission



Violators with Arrest During Supervision?

Felony Arrest	Misdemeanor Arrest	No Arrest
49%	22%	30%
48%	21%	31%

AVG # of Violations

Fewer than three

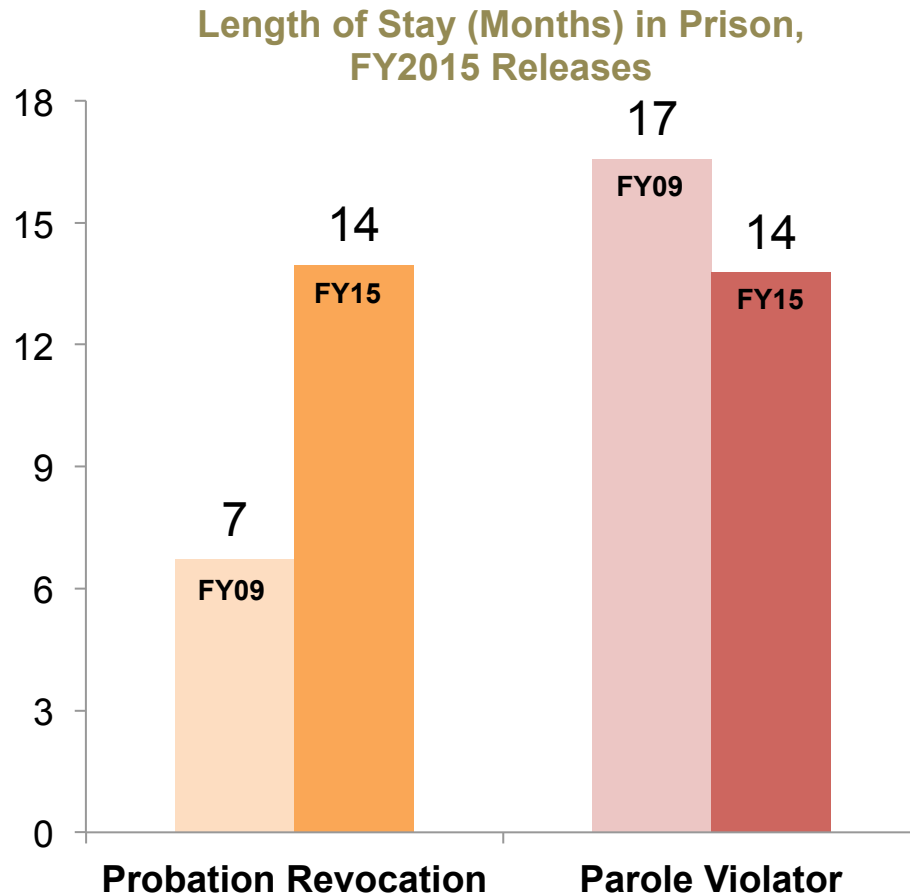
Almost 75% composed of:

- Failure to comply w/ conditions*
- Failed drug test*
- Failure to report*
- Failure to pay*

2,237 probationers and parolees revoked to prison despite not having an arrest while on supervision

Source: ADC Admission Data, ACC Termination Data

Probation violators released from prison in FY2015 spent more than twice as long in prison compared to FY2009



Of those released in FY2015:

- ☐ Technical probation revocations spent 12 months in prison
- ☐ Technical parole violators spent 15 months in prison

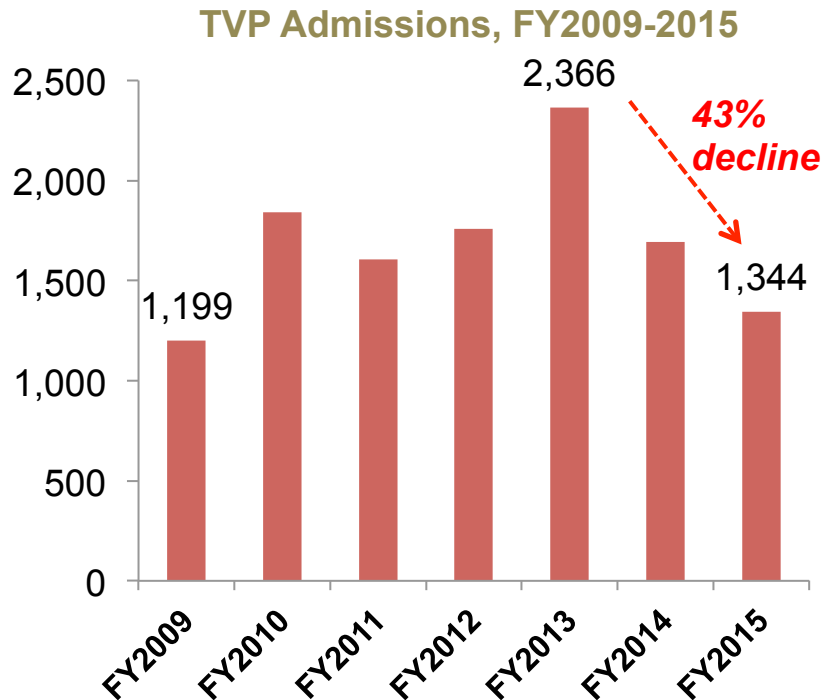
Note: The lengths of stay in prison do not account for time spent in local jails awaiting violation hearing.

Current cost to Arkansas for imprisoning technical probation and parole violators represents almost \$20 million annually



Source: ADC Release Data, ACC Termination Data, ADC County Jail Backlog Cost Per Day

Use of TVP sanctioning declined by more than 40 percent from FY2013 to FY2015



TVP centers are intermediate sanctioning facilities for parole violators.

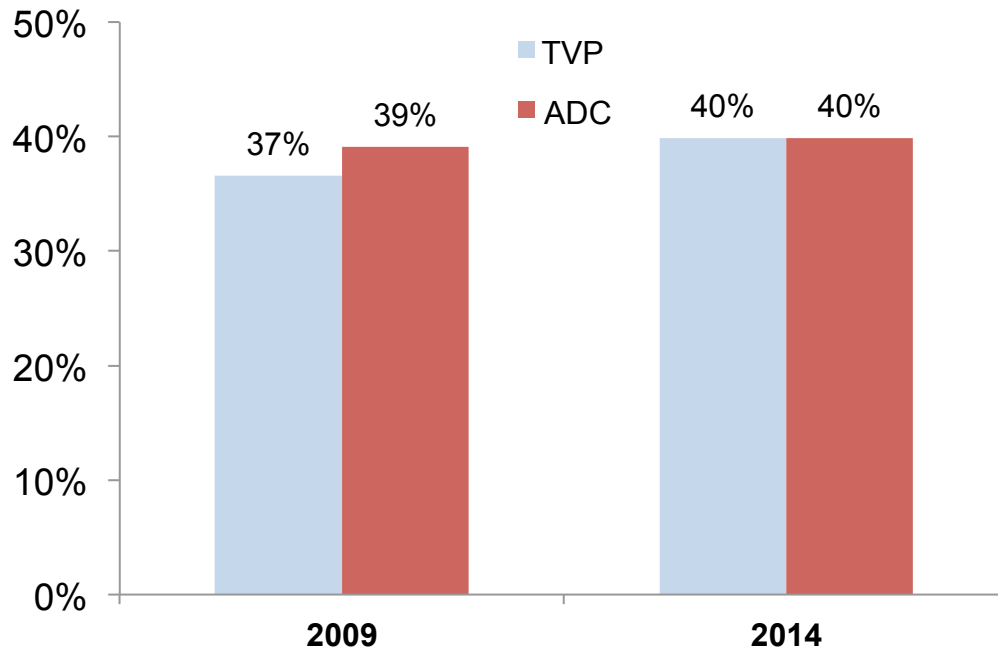
In addition to being an option for the Parole Board, parole officers can also directly petition to have their parole client placed into a TVP center when sanctioning a parole violator.

Decline in use of TVPs occurred at same time as increase in parole violators sent to prison.

- Policy change in 2013 excluded parole violators with a new felony charge and also limited to no more than two opportunities.

Arkansas's TVPs perform similarly to prison in terms of recidivism, but they're less costly and present better opportunity to reduce recidivism

One-Year Re-arrest Rates for Parole Violators Released from Prison Compared to Parole Violators Released from TVP Centers, FY2009 and FY2014



- ❑ Similar costs per day:
 - TVP ~ \$60
 - ADC ~ \$62
- ❑ Different lengths of stay:
 - TVP ~ 3–4 months
 - ADC ~ 12 months
- ❑ Different costs to state:
 - TVP ~ \$7,200/person
 - ADC ~ \$22,630/person

Source: TVP Release Data, ADC Release Data, ACIC Arrest Data, ACC Cost Per Day Estimate

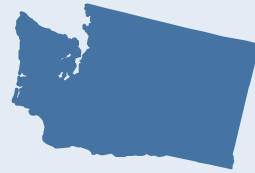
In recent years, many states have implemented short, swift, and certain sanctioning policies for technical violators

Louisiana



In 2007, Louisiana unanimously approved legislation that set a **90-day limit** on the incarceration of those whose probation or parole has been **revoked for the first time for violating the rules of their community supervision.**

Washington



In 2012, Washington implemented a swift and certain (SAC) policy that **uses short periods of incarceration for sanctioning violations of conditions.** The policy calls for “high level” supervision violations to be sanctioned with up to **30 days** of confinement.

North Carolina



North Carolina’s 2011 justice reinvestment legislation included policies **permitting swift and certain “quick dips” of 2–3 day jail sanctions and “dunks” of 90-day prison sanctions in response to violations of supervision conditions.**

Sources: “Evaluation of Washington State Department of Corrections (WADOC) Swift and Certain (SAC) Policy Process, Outcome and Cost-Benefit Evaluation”, Washington State University; “Reducing Incarceration for Technical Violations in Louisiana: Evaluation of Revocation Cap Shows Cost Savings, Less Crime”, Pew Charitable Trusts; “Justice Reinvestment in North Carolina: Three Years Later”, Council of State Governments Justice Center.

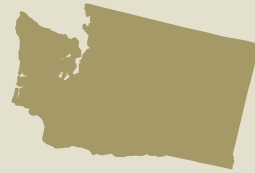
Those states are showing positive outcomes in terms of reductions in recidivism

Louisiana



- **Reduced length of stay for first-time technical revocations by 281 days, or 9.2 months.**
- Maintained public safety, **with returns to custody for new crimes declining from 8% to 6%, a 22 percent decrease.**
- Resulted in a net savings of approximately **2,034** jail and prison beds a year.

Washington



- SAC reduced the length of stay and encouraged more appropriate and proportionate responses to violations.
- SAC participants were less likely to recidivate—**20% less likely to receive any felony conviction, and 30% less likely to receive a violent felony conviction.**

North Carolina



- Probation revocations to prison fell by half
- Prison population declined 8%.
- Recent analysis indicates **violators with a “quick dip” were less likely to abscond or be revoked to prison** and more likely to be successful on supervision than those that did not receive a quick dip in response to supervision violations.

Sources: “Evaluation of Washington State Department of Corrections (WADOC) Swift and Certain (SAC) Policy Process, Outcome and Cost-Benefit Evaluation”, Washington State University; “Reducing Incarceration for Technical Violations in Louisiana: Evaluation of Revocation Cap Shows Cost Savings, Less Crime”, Pew Charitable Trusts; “Justice Reinvestment in North Carolina: Three Years Later”, Council of State Governments Justice Center.



Overview

01

Project Update

02

Comparing Probation and Prison

03

Sanctioning of Violators—Cost and Public Safety

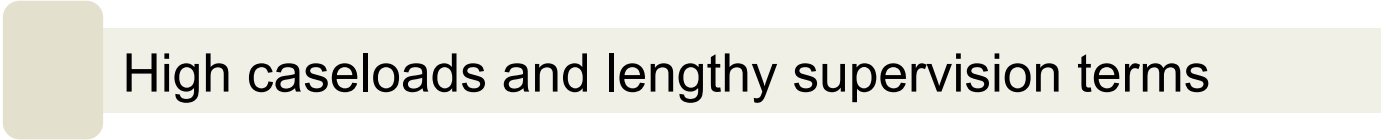
04

Recidivism Reduction through Strengthening Supervision

05

Next Steps

Section Preview



High caseloads and lengthy supervision terms



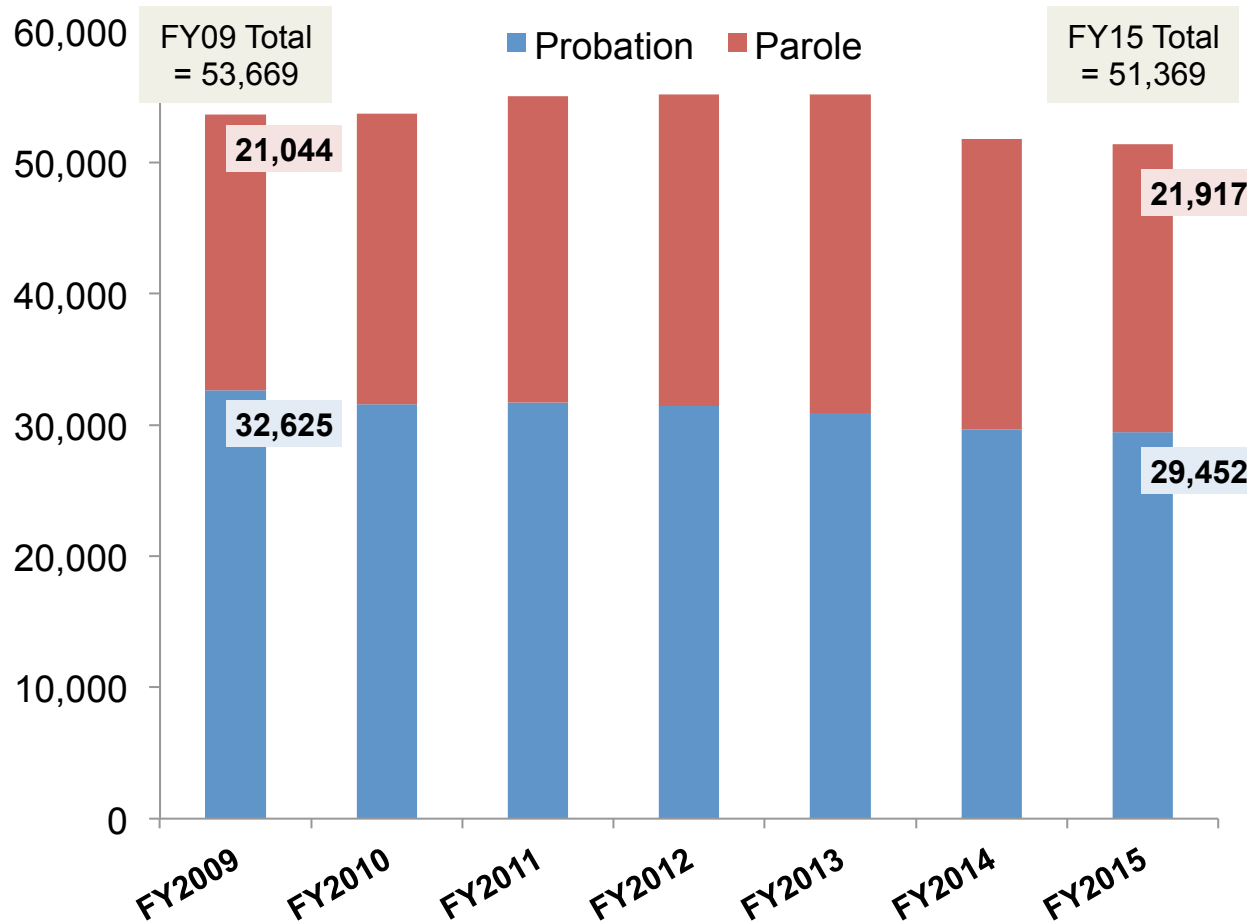
Field observations



Turning the corner

Between 2009 and 2015, the combined felony probation and parole supervision populations decreased 4 percent

Year-End Felony Probation and Parole Populations, FY2009–2015

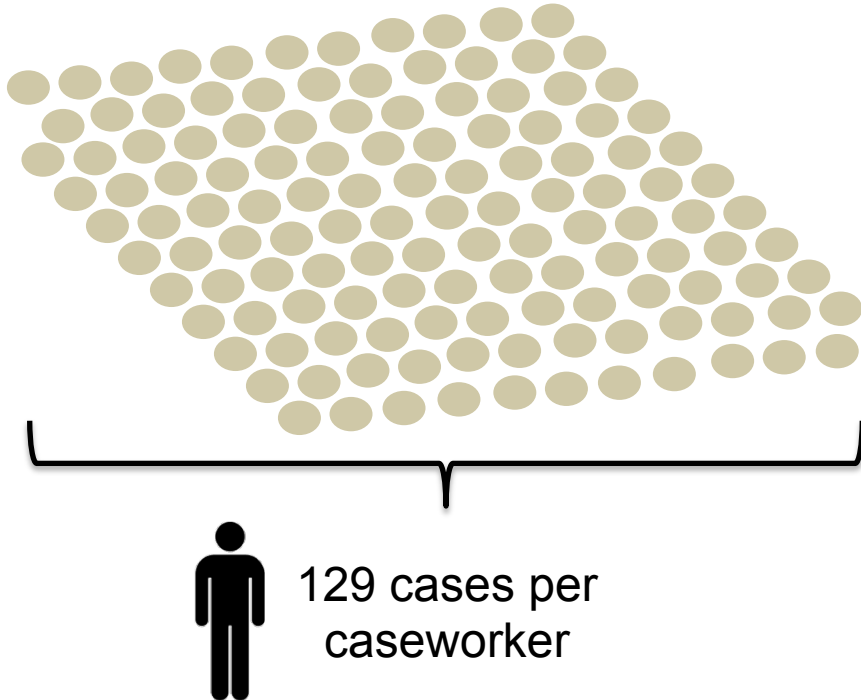


- ❑ Parole population increased 4%
- ❑ Probation population decreased 10%

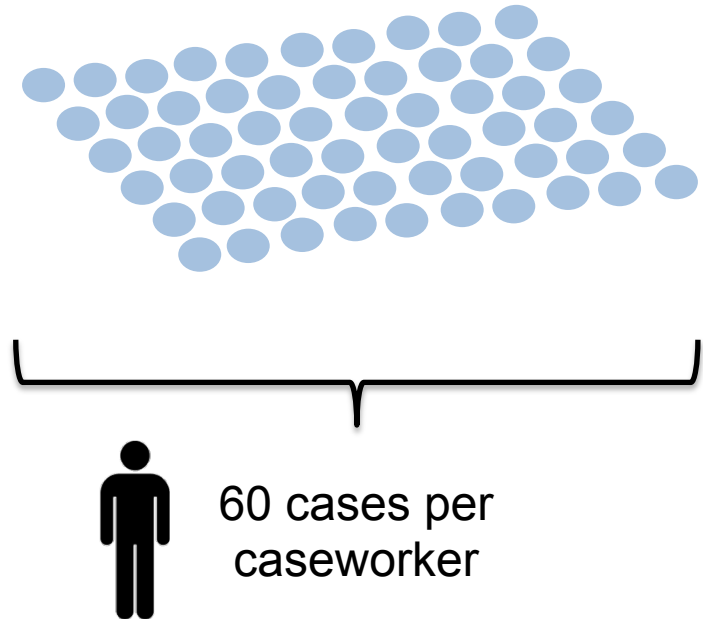
Source: ACC Snapshot Data

Arkansas's probation and parole officers have in excess of 120 cases per officer that require some level of supervision

Arkansas



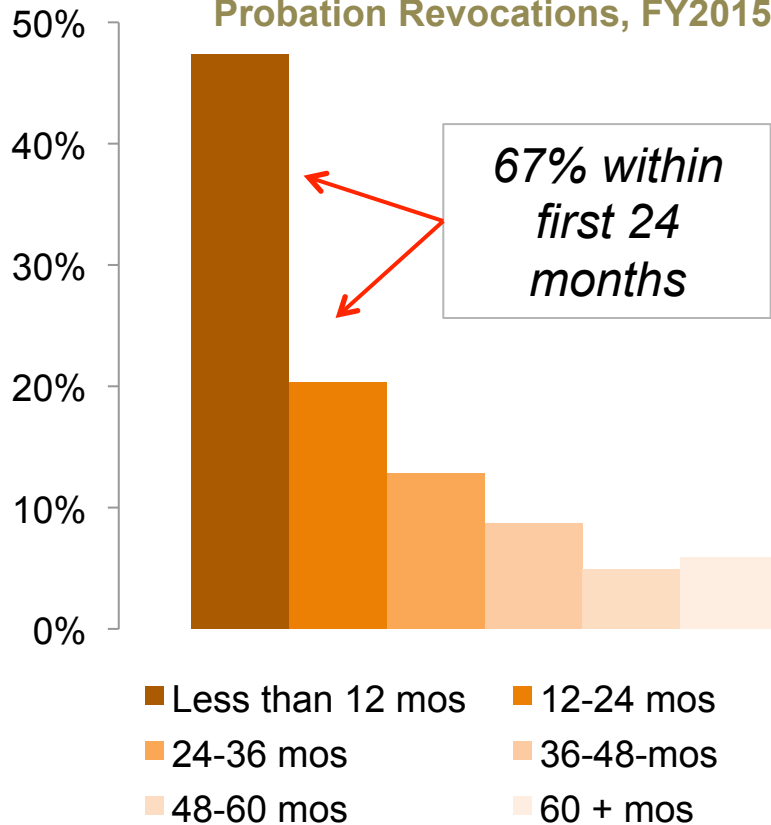
North Carolina



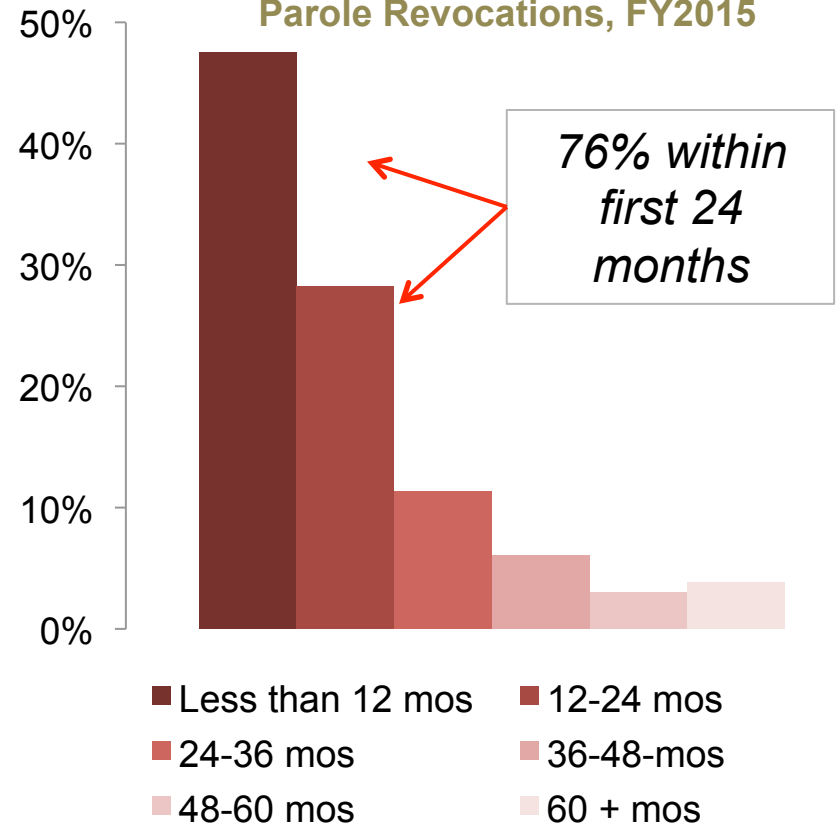
Source: ACC Annual Report FY2015; North Carolina DPS, Legislative Report on Probation and Parole Caseloads, March 2015

Two-thirds or more of supervision failures occur within the first two years of supervision

Months on Supervision for Probation Revocations, FY2015



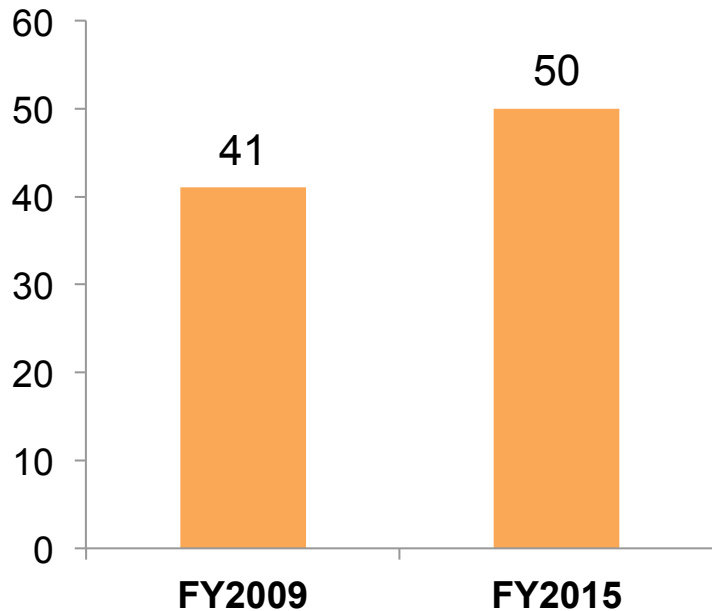
Months on Supervision for Parole Revocations, FY2015



Source: ACC Termination Data

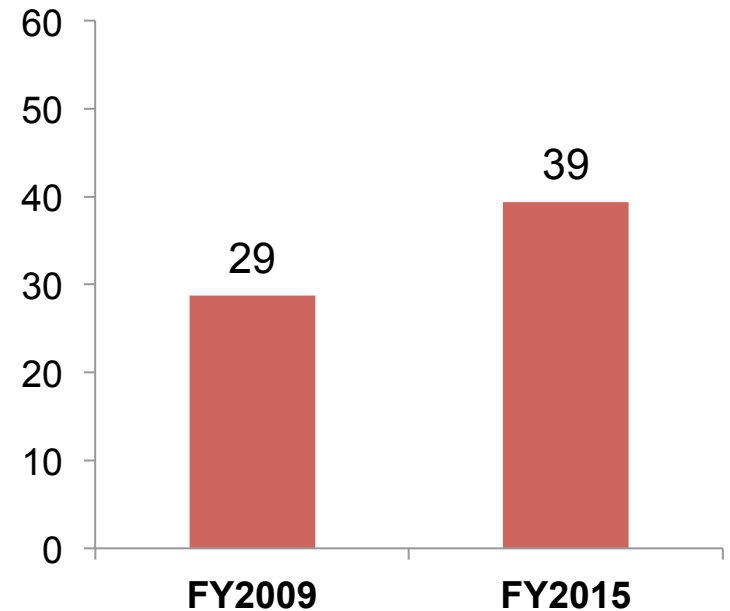
Probationers and parolees are staying on supervision longer and longer

Average Length of Supervision (Months)
for Successful Probation Terminations



- ❑ Average months on supervision for felony probationers terminating successfully **increased 22%** from FY2009 to FY2015

Average Length of Supervision (Months)
for Successful Parole Terminations



- ❑ Average months on supervision for felony probationers terminating successfully **increased 34%** from FY2009 to FY2015

Source: ACC Termination Data

Arkansas's history of incorporating risk assessment

Act 570 (2011) required creation and implementation of risk assessment and other evidence-based practices. Risk of recidivism should be used to guide allocation of programming and supervision resources

Risk Assessment in ACC

January 2011

ACC implements the Ohio Risk Assessment System (ORAS) on paper

August 2011

ORAS automated into eOMIS case management system

2013

ACC begins development of Arkansas specific risk tool

November 2014

Arkansas Offender Risk Assessment (ARORA) implemented by ACC

Source: Act 1190 Final Report, ACC Annual Reports, email correspondence

System Checklist:

Reducing recidivism and promoting recovery

- 1** Assess risk and need
- 2** Target the right people
- 3** Frontload supervision and treatment
- 4** Implement proven programs
- 5** Address criminal thinking
- 6** Hold individuals accountable
- 7** Measure and incentivize outcomes

Arkansas has adopted some best practices, but more work will be needed to reduce recidivism further

	States <u>without</u> Best Practices:	States <u>with</u> Best Practices	Arkansas is Roughly Halfway There
Assessment	<ul style="list-style-type: none"> - No risk/needs assessment - Supervision not directed at highest risk 	<ul style="list-style-type: none"> + Risk/needs tool used + Validation confirms accuracy of tool in practice + Supervision resources directed at highest risk 	<ul style="list-style-type: none"> • Risk & Needs assessment in place (ARORA) • Full validation in progress • Risk-based supervision policies
Programming	<ul style="list-style-type: none"> - No funded treatment for offenders in the community - Available programs are not evidence based and not high quality - Long waitlists to access treatment 	<ul style="list-style-type: none"> + Offenders connected to high quality programs to address criminal thinking, SUD and MH + Services are frontloaded 	<ul style="list-style-type: none"> • SUD treatment in field offices and centers in community • Inconsistent incorporation of programs that address criminal thinking • Community-based providers require self-pay
Supervision Quality	<ul style="list-style-type: none"> - High caseloads; time spent per high-risk case is insufficient. - Reactive, compliance monitoring model of probation - Lack of engagement of offender 	<ul style="list-style-type: none"> + Officers work proactively to change offender behavior + Low enough caseloads to ensure sufficient time is spent on each high-risk case + Each interaction is a “teaching moment” 	<ul style="list-style-type: none"> • Motivated workforce • High caseloads and time pressures make case planning difficult

Observations from the field

“I’ve been a PO
less than 6
months and I now
supervise 150 sex
offenders.”

Observation:
Missed opportunities
to engage with
offenders around
behavior change.

Observation:
Substance use
treatment groups
were as large as
35 participants to 1
facilitator. Ideal is
about 10:1.

“I spend about 75%
of my time doing
paperwork. That
means I have less
than a week each
month to *actually*
supervise my cases.”

Maximizing supervision outcomes

Reducing recidivism for individuals under community supervision involves a shift from focusing mostly on compliance monitoring to a focus on behavior change.

Supervision as a
“Behavioral Intervention”
for a justice involved
population

Achieving the full potential of supervision involves:

1. Properly resourcing the supervision entity so that caseloads are at manageable and productive levels
2. Training officers to task and incorporating an effective quality assurance component
3. Providing effective treatment that is based on the needs of population

Potential areas for the Task Force to specifically address

1.

Caseload sizes of ACC caseworkers too high for achieving greatest recidivism reduction potential

2.

Approach to sanctioning technical violators is expensive and is not getting better results. Are there better investments that Arkansas can make to both hold violators accountable and reduce recidivism?

3.

Access to treatment and intervention, training of staff, day-to-day work practices and performance measurement



Overview

01

Project Update

02

Comparing Probation and Prison

03

Sanctioning of Violators—Cost and Public Safety

04

Recidivism Reduction through Strengthening Supervision

05

Next Steps

➤ **Parole decision-making practices**

- Use of risk assessment, programming requirements, reentry preparation resources

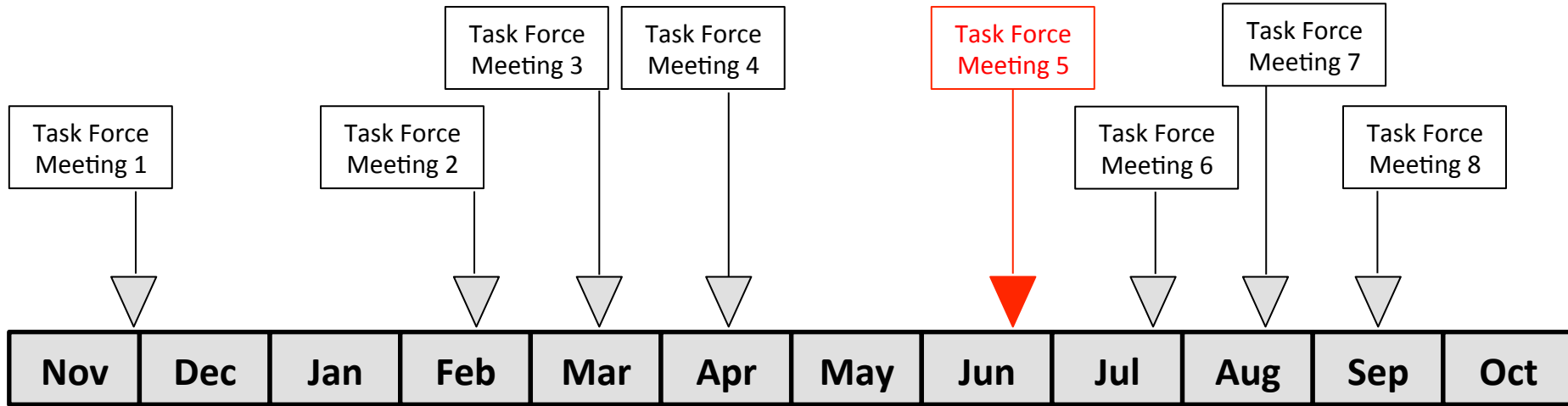
➤ **Jail pressures**

- Pressures from ADC holds and challenges of handling individuals with mental illness

➤ **Connections to behavioral health services**

- Availability and access to programming and treatment for criminal justice involved populations

Project timeline



Data Analysis

Initial Analysis

Detailed Data Analysis

Impact Analysis

Policymaker and Stakeholder Engagement

Stakeholder Engagement and Policymaker Briefings

Policy Option Development

Thank You

Ben Shelor, Policy Analyst
bshelor@csg.org

Receive monthly updates about justice reinvestment states across the country as well as other CSG Justice Center Programs.

Sign up at:
CSGJUSTICECENTER.ORG/SUBSCRIBE

This material was prepared for the State of Arkansas. The presentation was developed by members of the Council of State Governments Justice Center staff. Because presentations are not subject to the same rigorous review process as other printed materials, the statements made reflect the views of the authors, and should not be considered the official position of the Justice Center, the members of the Council of State Governments, or the funding agency supporting the work.



This project was supported by Grant No. 2013-ZB-BX-K002 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Department of Justice's Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the SMART Office. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.