

Justice Reinvestment in Arkansas

3rd Presentation to the Legislative Criminal Justice
Oversight Task Force

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The Council of State Governments Justice Center and the Justice Reinvestment process



- National nonprofit, nonpartisan membership association of state government officials
- Engages members of all three branches of state government
- Justice Center provides practical, nonpartisan advice informed by the best available evidence



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**

Takeaways from previous presentation

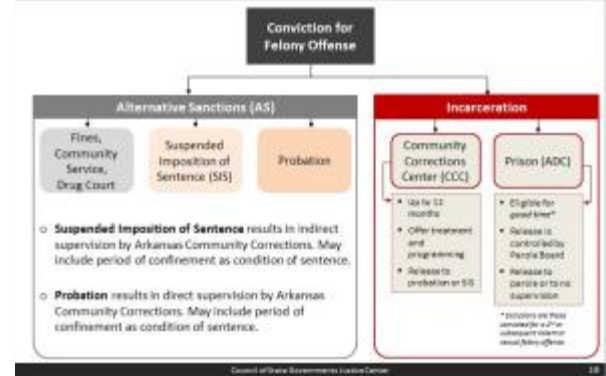
Arkansas established the Sentencing Standards and the Sentencing Commission in 1993 with passage of Act 532.

Among a variety of sentencing options available to the courts, the key provisions of Act 532 were to achieve proportionality in sentencing and reserve prison for the most serious offenses and repeat offenders.

Arkansas is one of 20 states with sentencing guidelines



Arkansas has a variety of sentencing options for those convicted of felony offenses

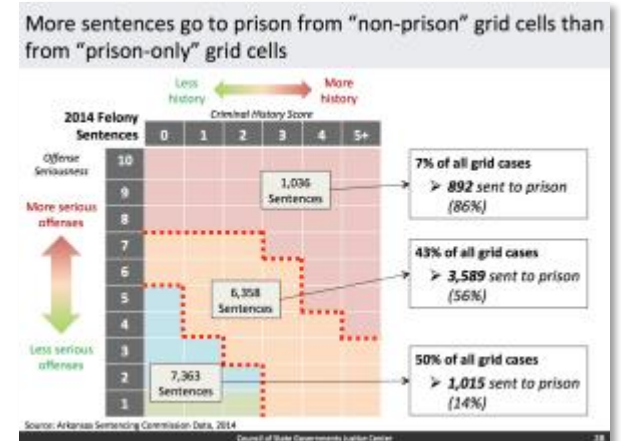
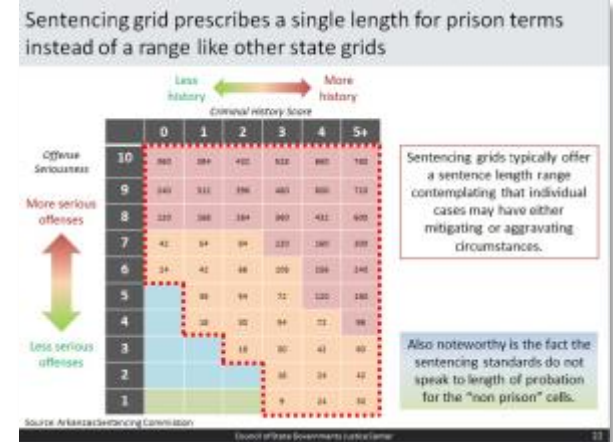


Takeaways from previous presentation

Arkansas's sentencing grid doesn't offer sentence length ranges for prison sentences and has a high share of cells that allow for all sentencing options.

In policy, the grid does less than other states to guide the type of sentence used. In practice, prison is used often for less serious offenses or offenders.

Despite the intent of the guidelines to reserve prison space for the most dangerous offenders, more than 1,000 people from non-prison cells were sent to ADC in 2014.



Questions for the Task Force

1.

What share of the grid should allow for **all sentencing options**?

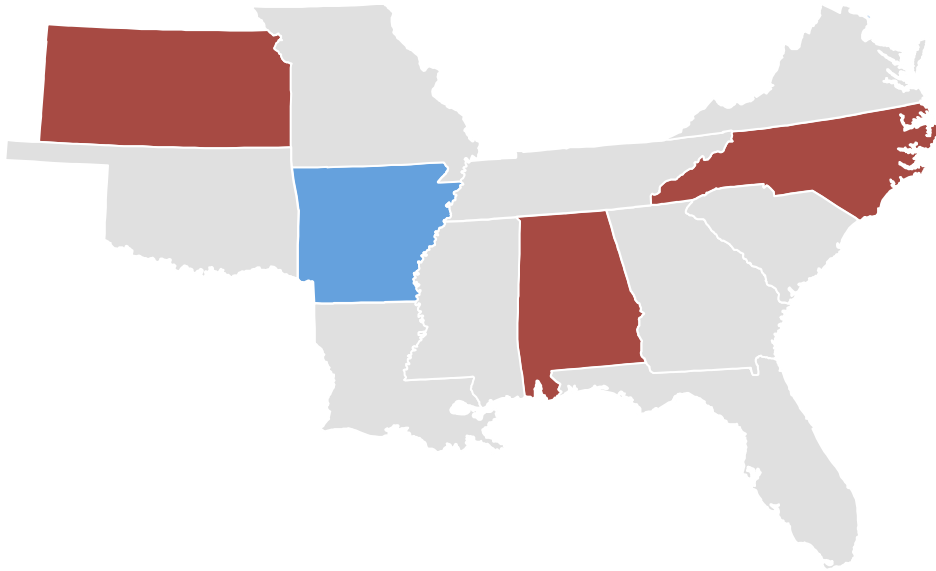
2.

Should the guidelines have prison sentence **ranges** instead of a specific term to allow for consideration of mitigating or aggravating factors?

3.

Should there be a process for **reviewing** sentences in relation to the guideline-recommended term?

Kansas, North Carolina, and Alabama illustrate approaches to operationalizing questions posed to Task Force



Kansas (1993) and North Carolina (1994) each adopted their sentencing guidelines framework at a similar time to Arkansas (1993).

Alabama did not adopt sentencing guidelines until 2006.

- ✓ Above states demonstrate different approaches to putting “teeth” into guidelines.

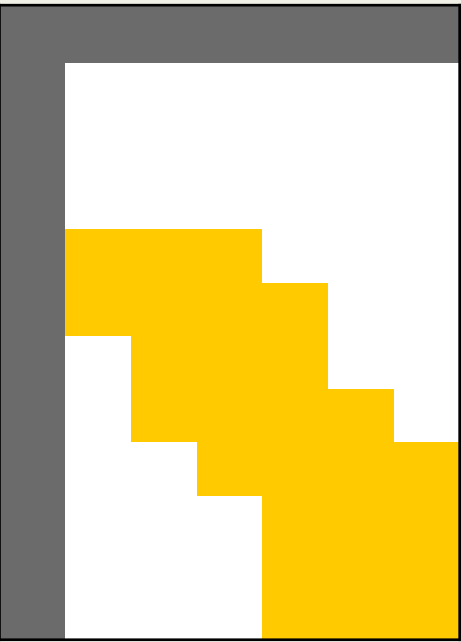
- ✓ Surrounding region

- ✓ Recent history of addressing criminal justice challenges

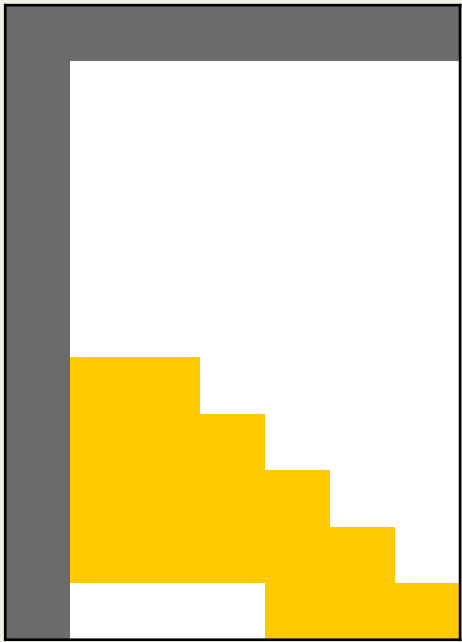
Arkansas has a high share of its grid that doesn't actually *guide* sentencing

Percent of total grid cells that allow for "all options" in sentencing:

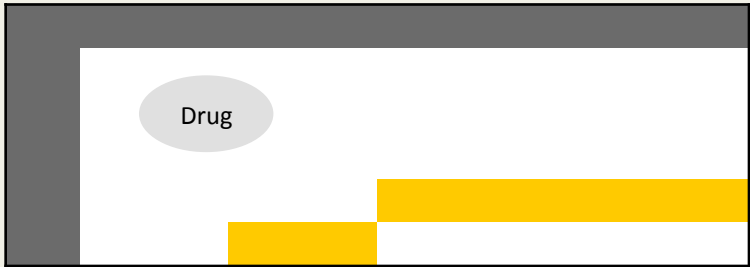
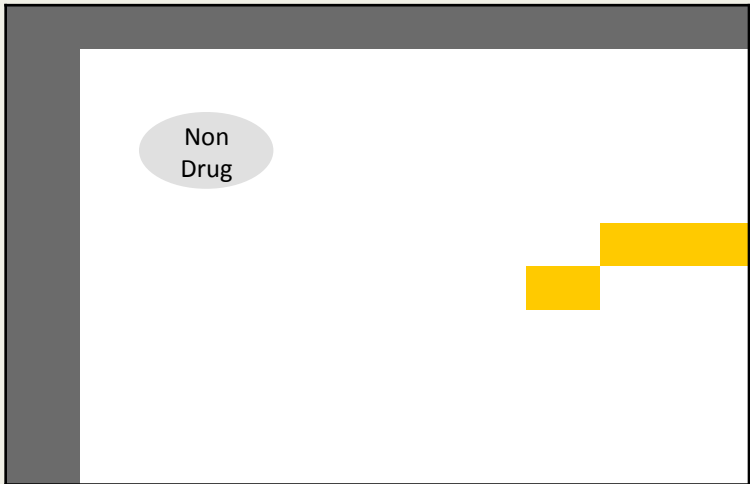
Arkansas: 40%



North Carolina: 28%



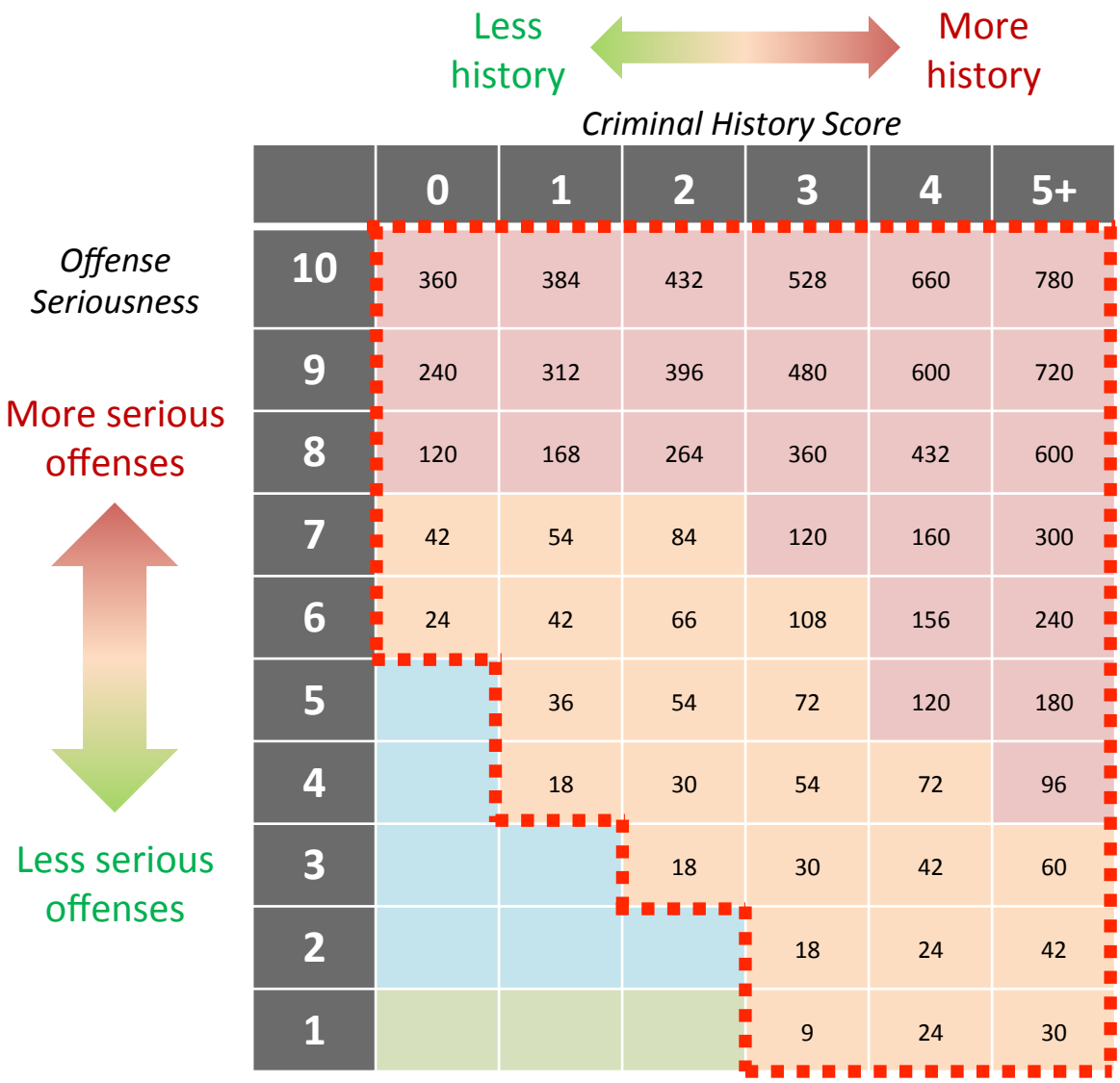
Kansas: 8%



These "all options" cells do not suggest any upper or lower boundary on the type of sentence imposed.

Source: Arkansas Sentencing Commission; Kansas Sentencing Commission; and North Carolina Sentencing and Policy Advisory Commission

Arkansas's sentencing grid prescribes a single length for prison terms instead of a range



Sentencing grids typically offer a sentence length range, taking into account that individual cases may have either mitigating or aggravating circumstances.

Source: Arkansas Sentencing Commission

Majority of states with guidelines use prison term ranges rather than singular recommended sentence length

Kansas

SENTENCING RANGE – NONDRUG OFFENSES										
Category ->	A	B	C	D	E	F	G	H	I	
Severity Level I	0-60 60-90	60-90 90-120	90-120 120-150	120-150 150-180	150-180 180-210	180-210 210-240	210-240 240-270	240-270 270-300	270-300 300-330	300-330 330-360
Severity Level II	40-80 80-120	40-80 80-120	40-80 80-120	40-80 80-120	40-80 80-120	40-80 80-120	40-80 80-120	40-80 80-120	40-80 80-120	40-80 80-120
Severity Level III	30-60 60-90	30-60 60-90	30-60 60-90	30-60 60-90	30-60 60-90	30-60 60-90	30-60 60-90	30-60 60-90	30-60 60-90	30-60 60-90
Severity Level IV	15-30 30-45	15-30 30-45	15-30 30-45	15-30 30-45	15-30 30-45	15-30 30-45	15-30 30-45	15-30 30-45	15-30 30-45	15-30 30-45
Severity Level V	10-20 20-30	10-20 20-30	10-20 20-30	10-20 20-30	10-20 20-30	10-20 20-30	10-20 20-30	10-20 20-30	10-20 20-30	10-20 20-30
Severity Level VI	5-10 10-15	5-10 10-15	5-10 10-15	5-10 10-15	5-10 10-15	5-10 10-15	5-10 10-15	5-10 10-15	5-10 10-15	5-10 10-15
Severity Level VII	3-5 5-7	3-5 5-7	3-5 5-7	3-5 5-7	3-5 5-7	3-5 5-7	3-5 5-7	3-5 5-7	3-5 5-7	3-5 5-7
Severity Level VIII	2-3 3-4	2-3 3-4	2-3 3-4	2-3 3-4	2-3 3-4	2-3 3-4	2-3 3-4	2-3 3-4	2-3 3-4	2-3 3-4
Severity Level IX	1-2 2-3	1-2 2-3	1-2 2-3	1-2 2-3	1-2 2-3	1-2 2-3	1-2 2-3	1-2 2-3	1-2 2-3	1-2 2-3
Severity Level X	0-1 1-2	0-1 1-2	0-1 1-2	0-1 1-2	0-1 1-2	0-1 1-2	0-1 1-2	0-1 1-2	0-1 1-2	0-1 1-2

Probation Terms are:
 30 months recommended for felonies classified in Severity Levels 1-6
 24 months recommended for felonies classified in Severity Levels 7-9
 18 months (up to) for felonies classified in Severity Level 8
 18 months (up to) for felonies classified in Severity Levels 9-10

Prisonless Reparation Terms are:
 36 months for felonies classified in Severity Levels 1-4
 24 months for felonies classified in Severity Levels 5-8
 18 months for felonies classified in Severity Levels 9-10

LEGEND
 Prospective Probation
 Border Box
 Prospective Imprisonment

KSGI Desk Reference Manual 2014
 Appendix E



North Carolina

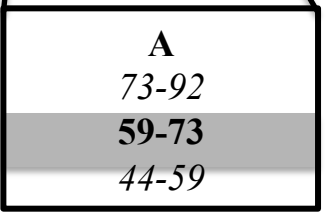
*** Effective for Offenses Committed on or after 10/1/13 ***

FELONY PUNISHMENT CHART										
PRIOR RECORD LEVEL										
	I	II	III	IV	V	VI				
	0-1 Pts	2-5 Pts	6-9 Pts	10-13 Pts	14-17 Pts	18+ Pts				
A	Defendant Under 18 at Time of Offense; Life With or Without Parole						DISPOSITION			
	A	A	A	A	A	A	Aggravated Range			
B1	Life Without Parole						PRESUMPTIVE RANGE			
	A	A	A	A	A	A	Mitigated Range			
B2	Life Without Parole									
	A	A	A	A	A	A				
C	Life Without Parole									
	A	A	A	A	A	A				
D	Life Without Parole									
	A	A	A	A	A	A				
E	Life Without Parole									
	A	A	A	A	A	A				
F	Life Without Parole									
	A	A	A	A	A	A				
G	Life Without Parole									
	A	A	A	A	A	A				
H	Life Without Parole									
	A	A	A	A	A	A				
I	Life Without Parole									
	A	A	A	A	A	A				

OFFENSE CLASS
 A - Active Punishment
 1 - Intermediate Punishment
 C - Community Punishment

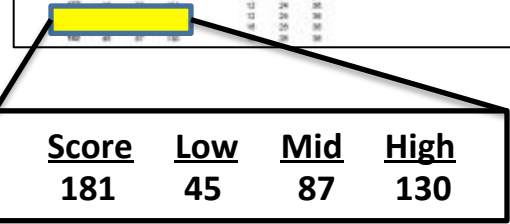
Numbers shown in months and represent the range of minimum sentences

Revised: 09/2013



Alabama

Total Sentence				Time to Serve (2x Right)			
Score	Low	Mid	High	Low	Mid	High	High
187	15	30	45	8	10	15	20
198	16	30	45	8	10	15	20
209	17	30	45	8	10	15	20
220	18	30	45	8	10	15	20
231	19	30	45	8	10	15	20
242	20	30	45	8	10	15	20
253	21	30	45	8	10	15	20
264	22	30	45	8	10	15	20
275	23	30	45	8	10	15	20
286	24	30	45	8	10	15	20
297	25	30	45	8	10	15	20
308	26	30	45	8	10	15	20
319	27	30	45	8	10	15	20
330	28	30	45	8	10	15	20
341	29	30	45	8	10	15	20
352	30	30	45	8	10	15	20
363	31	30	45	8	10	15	20
374	32	30	45	8	10	15	20
385	33	30	45	8	10	15	20
396	34	30	45	8	10	15	20
407	35	30	45	8	10	15	20
418	36	30	45	8	10	15	20
429	37	30	45	8	10	15	20
440	38	30	45	8	10	15	20
451	39	30	45	8	10	15	20
462	40	30	45	8	10	15	20
473	41	30	45	8	10	15	20
484	42	30	45	8	10	15	20
495	43	30	45	8	10	15	20
506	44	30	45	8	10	15	20
517	45	30	45	8	10	15	20
528	46	30	45	8	10	15	20
539	47	30	45	8	10	15	20
550	48	30	45	8	10	15	20
561	49	30	45	8	10	15	20
572	50	30	45	8	10	15	20
583	51	30	45	8	10	15	20
594	52	30	45	8	10	15	20
605	53	30	45	8	10	15	20
616	54	30	45	8	10	15	20
627	55	30	45	8	10	15	20
638	56	30	45	8	10	15	20
649	57	30	45	8	10	15	20
660	58	30	45	8	10	15	20
671	59	30	45	8	10	15	20
682	60	30	45	8	10	15	20
693	61	30	45	8	10	15	20
704	62	30	45	8	10	15	20
715	63	30	45	8	10	15	20
726	64	30	45	8	10	15	20
737	65	30	45	8	10	15	20
748	66	30	45	8	10	15	20
759	67	30	45	8	10	15	20
770	68	30	45	8	10	15	20
781	69	30	45	8	10	15	20
792	70	30	45	8	10	15	20
803	71	30	45	8	10	15	20
814	72	30	45	8	10	15	20
825	73	30	45	8	10	15	20
836	74	30	45	8	10	15	20
847	75	30	45	8	10	15	20
858	76	30	45	8	10	15	20
869	77	30	45	8	10	15	20
880	78	30	45	8	10	15	20
891	79	30	45	8	10	15	20
902	80	30	45	8	10	15	20
913	81	30	45	8	10	15	20
924	82	30	45	8	10	15	20
935	83	30	45	8	10	15	20
946	84	30	45	8	10	15	20
957	85	30	45	8	10	15	20
968	86	30	45	8	10	15	20
979	87	30	45	8	10	15	20
990	88	30	45	8	10	15	20
1001	89	30	45	8	10	15	20
1012	90	30	45	8	10	15	20
1023	91	30	45	8	10	15	20
1034	92	30	45	8	10	15	20
1045	93	30	45	8	10	15	20
1056	94	30	45	8	10	15	20
1067	95	30	45	8	10	15	20
1078	96	30	45	8	10	15	20
1089	97	30	45	8	10	15	20
1100	98	30	45	8	10	15	20
1111	99	30	45	8	10	15	20
1122	100	30	45	8	10	15	20



Use of prison sentence ranges allows for consideration of aggravating or mitigating factors in individual sentences while maintaining compliance with the guidelines.

Source: Kansas Sentencing Commission; North Carolina Sentencing and Policy Advisory Commission; and Alabama Sentencing Commission

States employ various means of limiting departures from the guidelines



Arkansas



Kansas



North Carolina



Alabama

Is there a framework for appellate review in relation to the guidelines?

No

Yes

Yes

Yes

What sort of mechanisms create framework for review?

Not Applicable

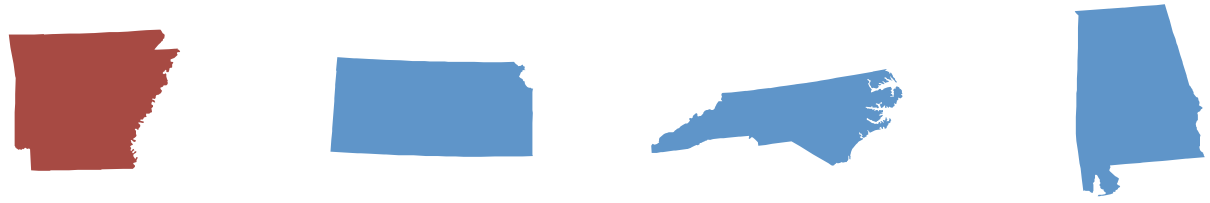
*Guidelines provide a **list of non-exclusive, case-specific factors** to determine if departure reasoning is **substantial and compelling**.*

*Statute provides available presumptive, aggravated, and mitigated ranges based on circumstances. **Effectively no departures allowed** outside those ranges.*

*Departures are allowed, but the **judge must make a finding of mitigation or aggravation** and state this reason **on the record** if departing from the presumptive sentence.*

Source: Sentencing Guidelines Resource Center, Robina Institute of Criminal Law and Criminal Justice, University of Minnesota: <http://sentencing.umn.edu/>

Even in states with guidelines, sentencing policy and practice differs significantly



Issue	Arkansas	Kansas	North Carolina	Alabama
Prison sentencing ranges?	No	Yes	Yes	Yes
Percentage of “all-options” cells	40%	8%	28%	N/A
Enforceable limits on departures?	No	Yes	Yes	Yes



Without a mechanism for reviewing sentences in relation to the sentencing standards grid, it will be very difficult to incorporate “teeth” into Arkansas’s guidelines.

Questions for the Task Force

1.

What share of the grid should allow for **all sentencing options**?

2.

Should the guidelines have prison sentence **ranges** instead of a specific term to allow for consideration of mitigating or aggravating factors?

3.

Should there be a process for **reviewing** sentences in relation to the guideline-recommended term?

Moving forward

➤ **Analysis of prison, probation, and parole data**

- Impact of supervision failures on prison pressures
- Ability of supervision system to maximize public safety outcomes through policies and practices that effectively promote recidivism reduction

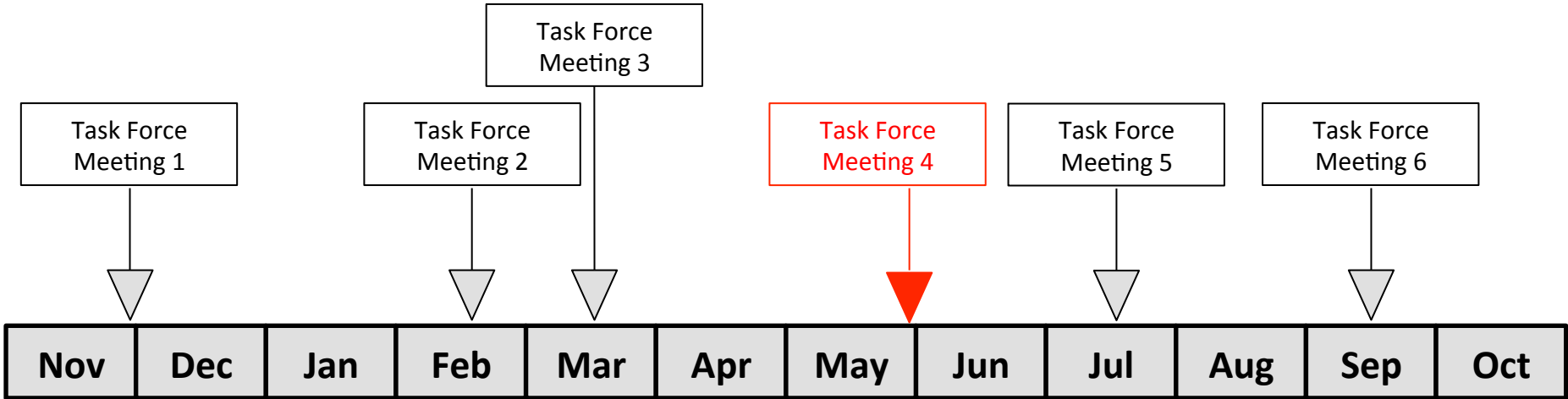
➤ **Analysis of local jail pressures**

- How does jail backlog impact ability to effectively sanction supervision violators in a swift and sure manner

➤ **Analysis of demographic trends**

- Gender, race, age

Proposed project timeline



Data Analysis



Policymaker and Stakeholder Engagement



Thank You



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