

Justice Reinvestment in Arkansas

2nd Presentation to the Legislative Criminal Justice
Oversight Task Force

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The Council of State Governments Justice Center

- 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





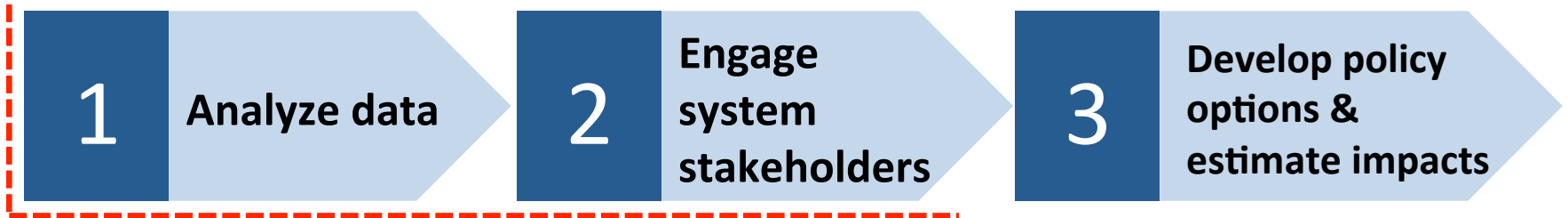
JUSTICE REINVESTMENT

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**

The JR approach involves two phases of assistance

Phase I



Phase II



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

Data Type	Source	Status
– Crime and Arrests	Arkansas Crime Information Center	Received, analyzing
– Sentencing	Arkansas Sentencing Commission	Received, analyzing
– Prison (Admissions, Releases, and Population snapshots)	Arkansas Department of Correction	In process
– Probation Supervision – Parole Supervision – Risk Assessment	Arkansas Community Corrections	Received, analyzing
– Parole Decision-Making	Arkansas Parole Board	Received, analyzing
– Jail	Counties	Still scoping

Roadblocks that sometimes arise

- ❑ Shortage of “data staff”
- ❑ Delays in delivery due to “data cleaning”
- ❑ Unavailable data instead collected through samples and surveys
- ❑ Agencies unaccustomed to sharing data with outside groups

Presentation overview

Summary of Analysis to Date

Sentencing Policy in Arkansas

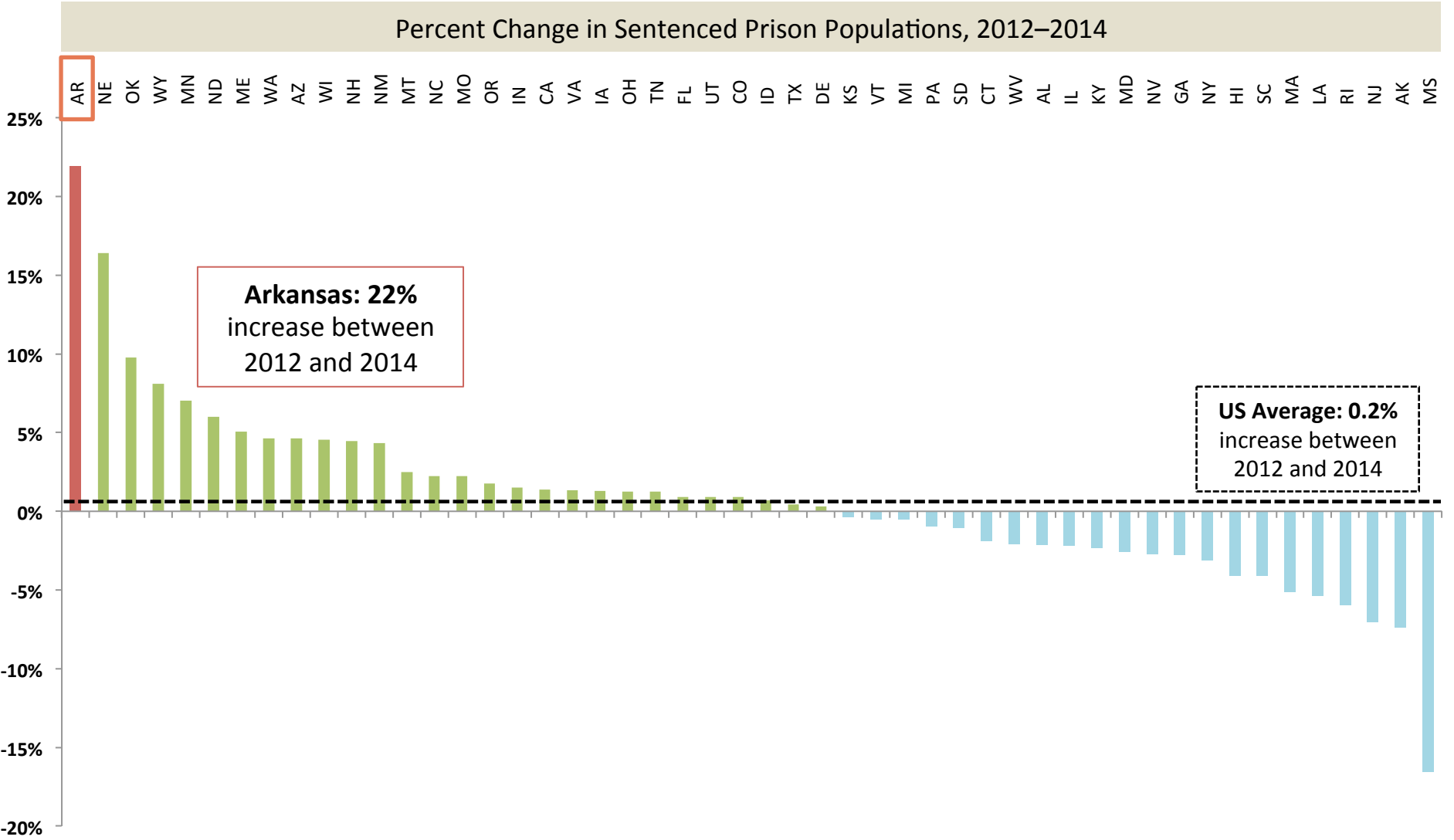
Analysis of Sentencing Practices



Summary of Analysis to Date

- ❑ Arkansas has the fastest growing prison population in the country
- ❑ Crime is falling faster in surrounding states
- ❑ Corrections costs the state half a billion dollars annually, and the projected growth will require an additional \$1.3 billion
- ❑ Experiences in other states demonstrate the ability to reduce crime, manage prison populations and costs, and reduce recidivism

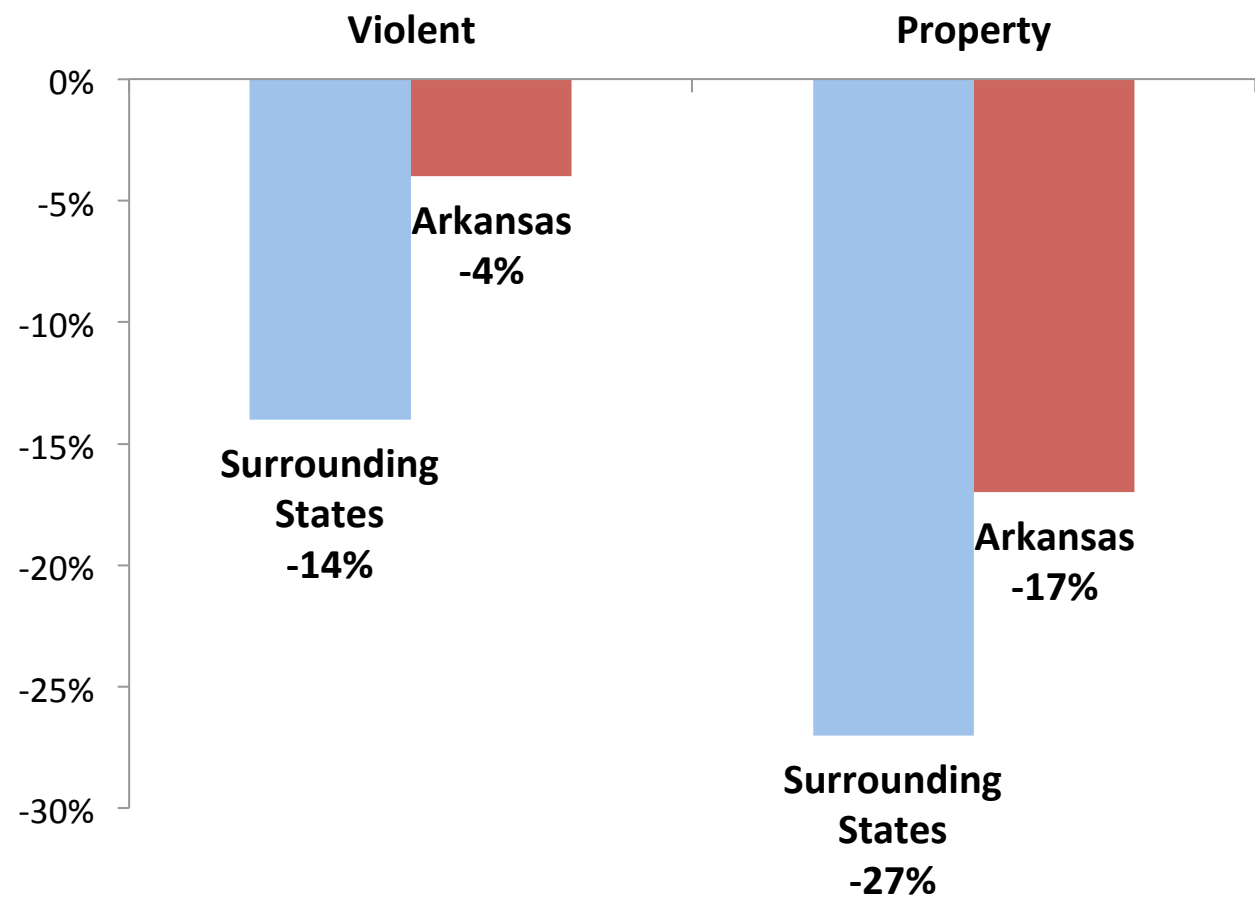
Arkansas has the fastest growing prison population



Source: BJS Prisoners in the United States

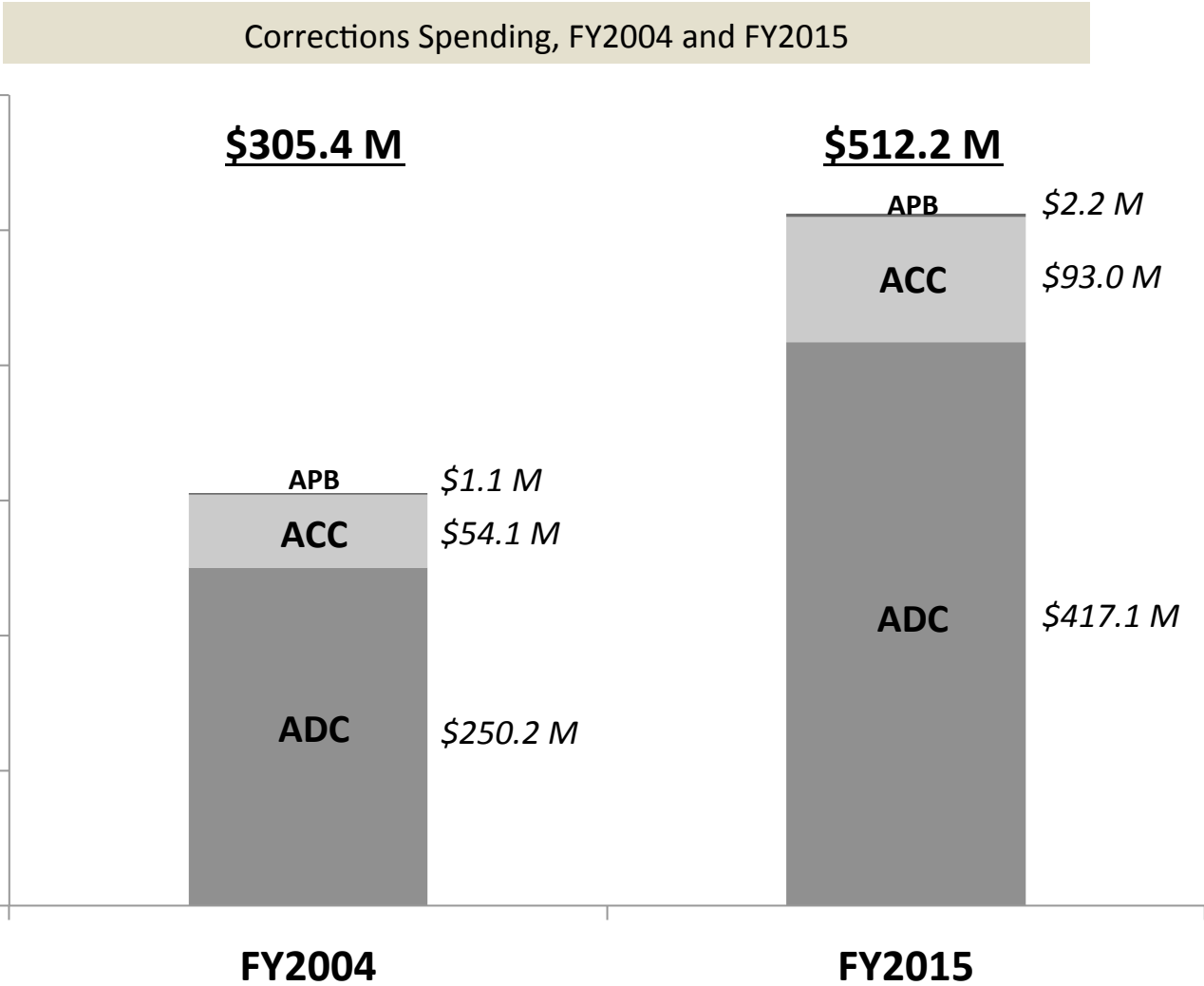
Crime is falling faster in surrounding states

Change in Violent and Property Crime Rates, 2004–2014



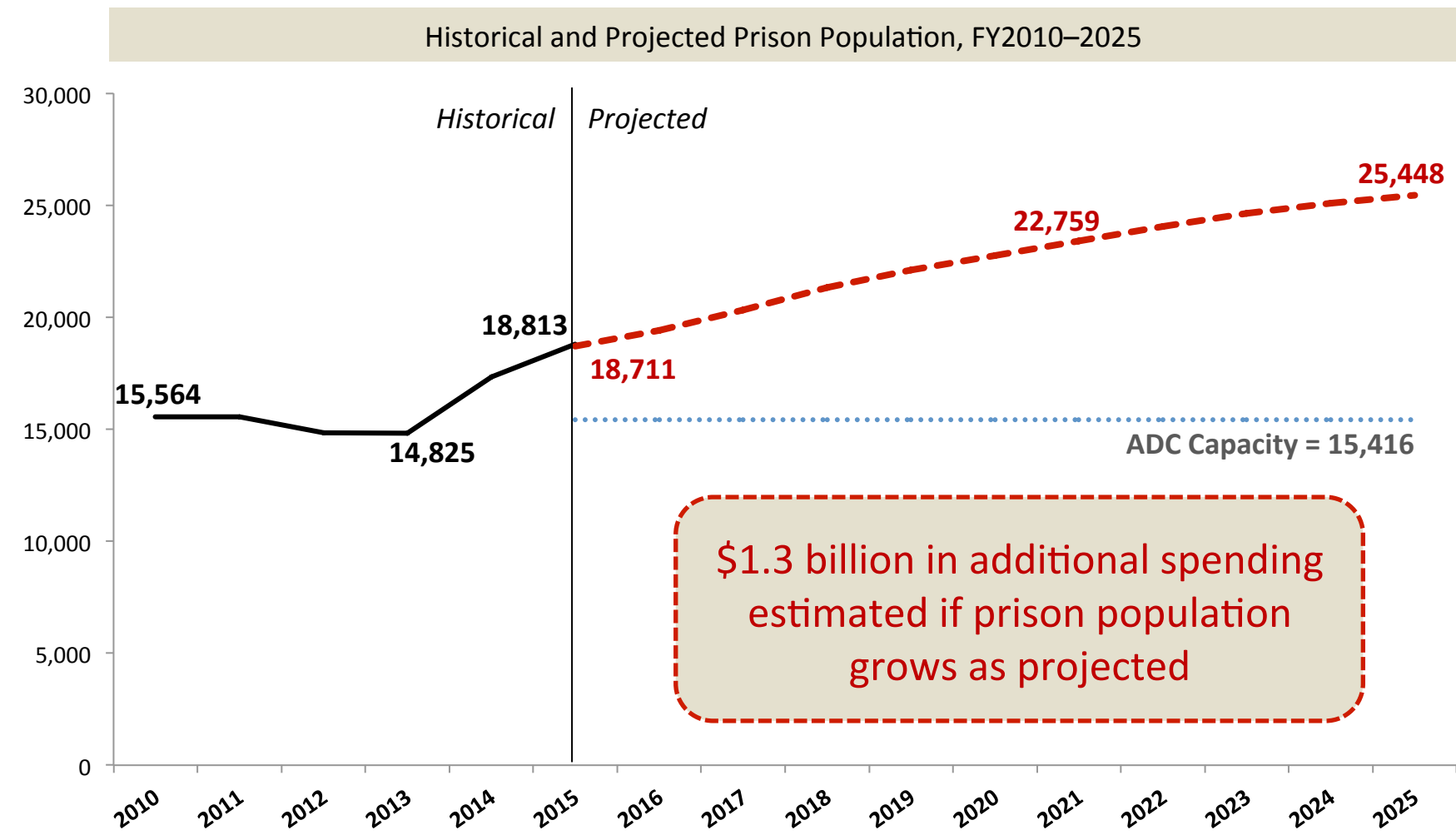
Source: FBI Uniform Crime Report

Corrections costs more than half a billion dollars, a 68 percent increase since 2004



Source: Arkansas State Budget 2004, 2015

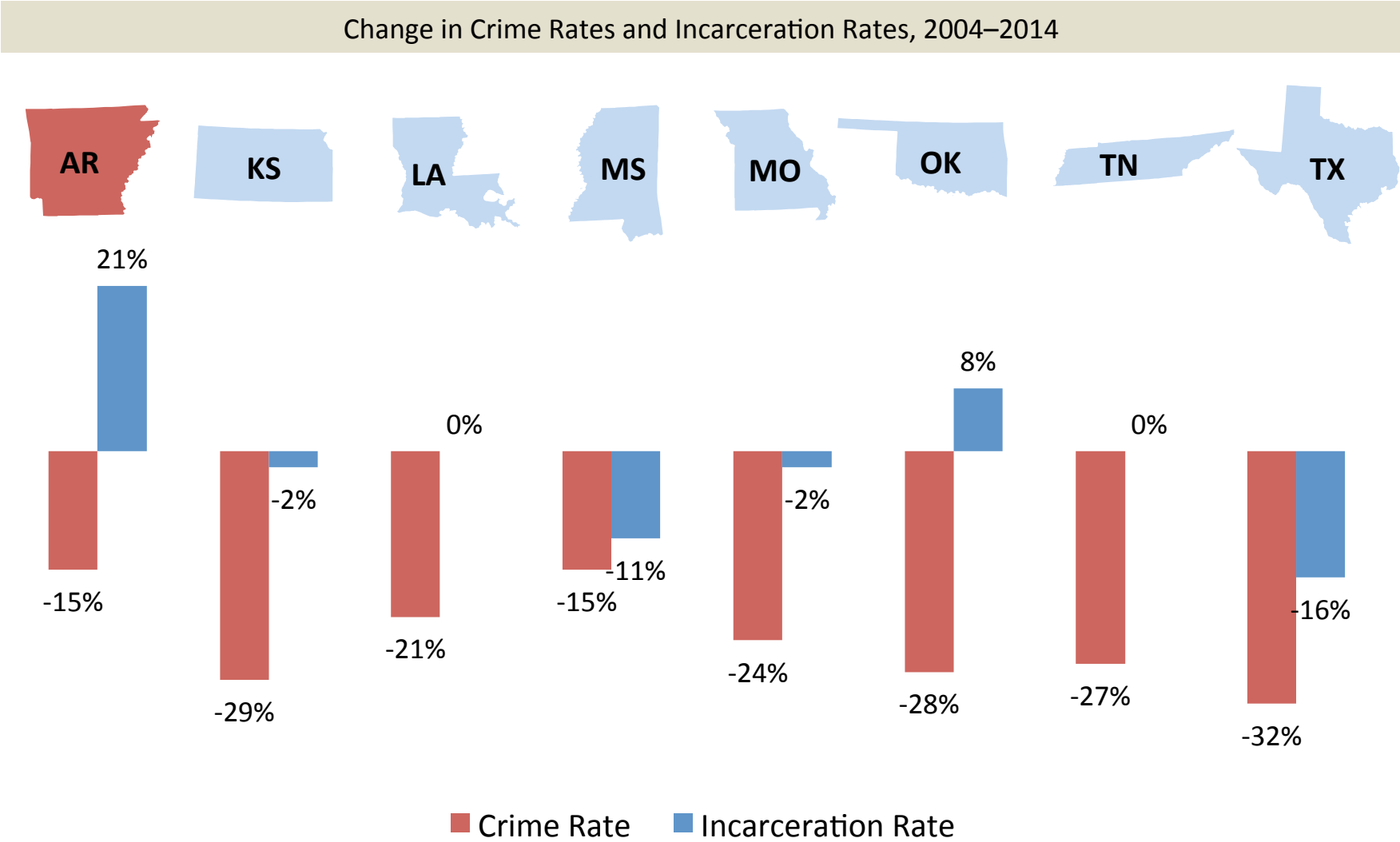
Without action, Arkansas's prison population could climb 35 percent, and costs could rise \$1.3 billion over 10 years



*Baseline scenario assumes a 1.2% increase per year in admissions.

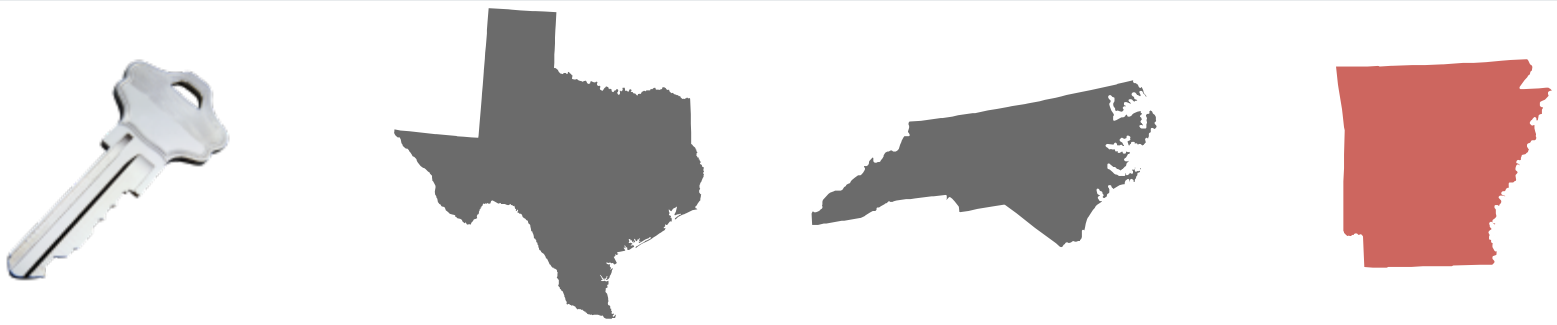
Source: ADC email, JFA Associates, 2015 Arkansas Prison Projections and Historical Corrections Trends, June 2015

Crime and incarceration rates are both declining in most surrounding states



Source: FBI Uniform Crime Report, BJS, Prisoners reports <http://www.bjs.gov/index.cfm?ty=pbse&sid=40>

States are using justice reinvestment to manage prison growth and costs, and reduce recidivism



Key Criminal Justice Indicators	Texas (JR in 2007)	North Carolina (JR in 2011)	Arkansas
Crime Rate	↓	↓	↓
Recidivism Rate	↓	↓	↑
Prison Population	↓	↓	↑

Key Indicator	TX		NC		AR	
	2007	2014	2011	2014	2011	2014
Crime Rate	4,632	3,425	3,877	3,203	4,235	3,818
Incarceration Rate	669	584	362	358	544	599

Research compares cost-effectiveness of the three big strategies states use to impact criminal behavior

[illegible]

Deter crime

Increase law enforcement's ability to use hot-spot strategies and deploy additional officers to increase the perceived certainty of apprehension.

Reduce recidivism

High-quality supervision (risk, need, responsivity), consistent sanctioning, and high-quality treatment programs tailored to needs.

Prolong incapacitation

Increase length of stay to hold moderate- to high-risk offenders in prison for an additional 3 months.

Benefit to Cost Ratio

Benefits
per
dollar
of cost.



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\$

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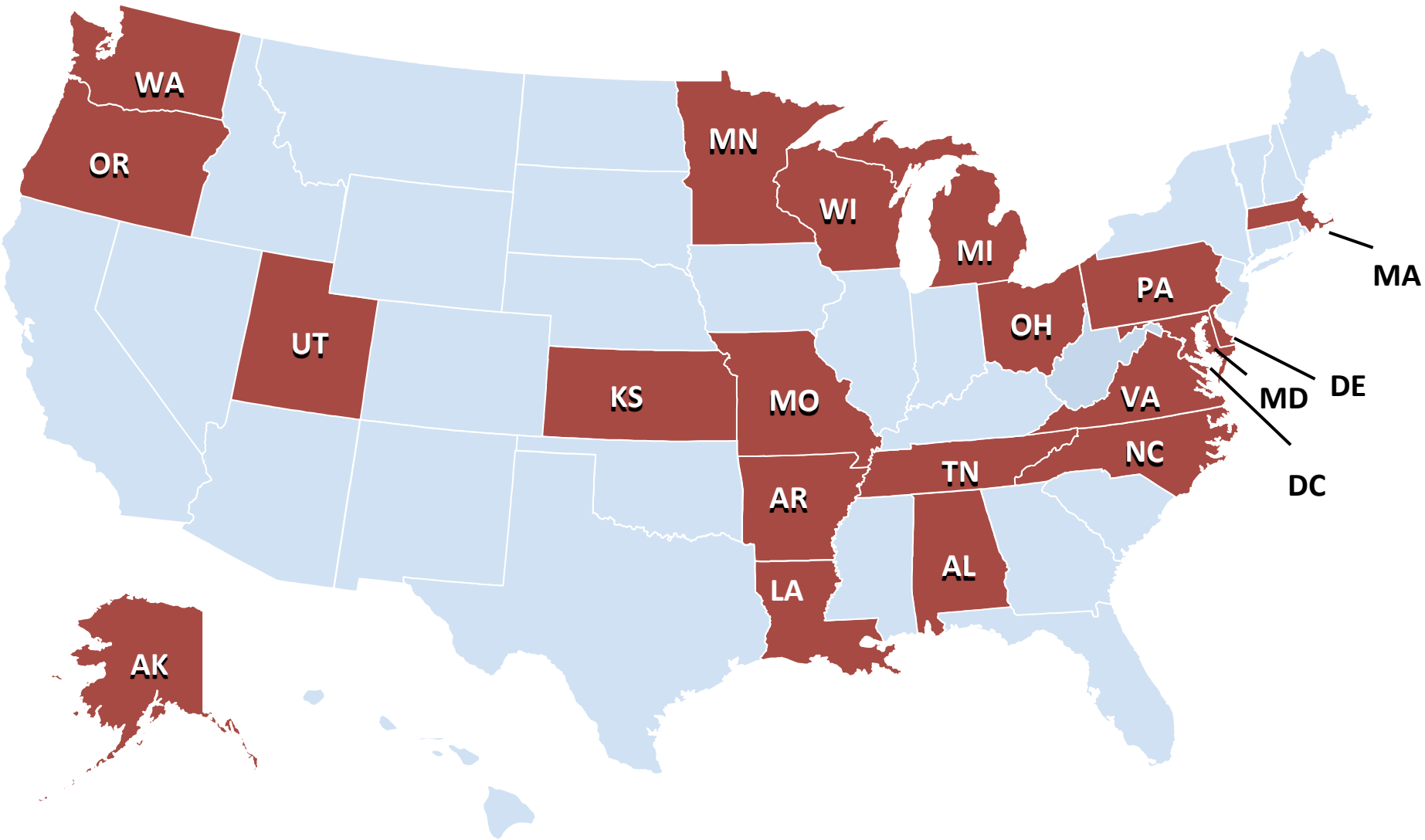
Source: Aos, S. and Drake, E. "Prison, Police, and Programs: Evidence-Based Options that Reduce Crime and Save Money." Olympia: Washington State Institute for Public Policy, 2013.



Sentencing Policy in Arkansas

- ❑ Arkansas policymakers adopted the Sentencing Standards Grid in 1993 to ensure sanctions are proportional to the severity of the offense and the individual's criminal history
- ❑ Sentences to prison “should be reserved” for the most serious offenses and offenders
- ❑ 40% of Arkansas's grid allows any type of sentence; more than other states with guidelines

Arkansas is one of 20 states with sentencing guidelines



Source: State Sentencing Guidelines, *Profiles and Continuum*, National Center for State Courts, 2008

History of Arkansas Sentencing Standards Policy

Act 532 of 1993 established both Arkansas's Sentencing Standards (sometimes referred to as the sentencing *guidelines*) and the Arkansas Sentencing Commission.

The **Sentencing Standards Grid** contains presumptive sentences based on (a) the seriousness of the offense and (b) the criminal history of the offender. Offense seriousness is listed on the vertical axis, while criminal history is listed on the horizontal axis.

The offender's **criminal history score** is calculated based on:

1. Prior felonies (*.5 point for seriousness levels 1–5, 1 point for seriousness levels 6–10*)
2. Prior misdemeanors (*Class A only, worth .25 points*)
3. Juvenile criminal record (*No points for status offenses, .25 for each adjudication. Certain serious offenses are worth 1 point*)
4. Custody status at the time of the offense (*1 point if the offense occurs while under supervision or pretrial release*)

Key provisions of the 1993 law

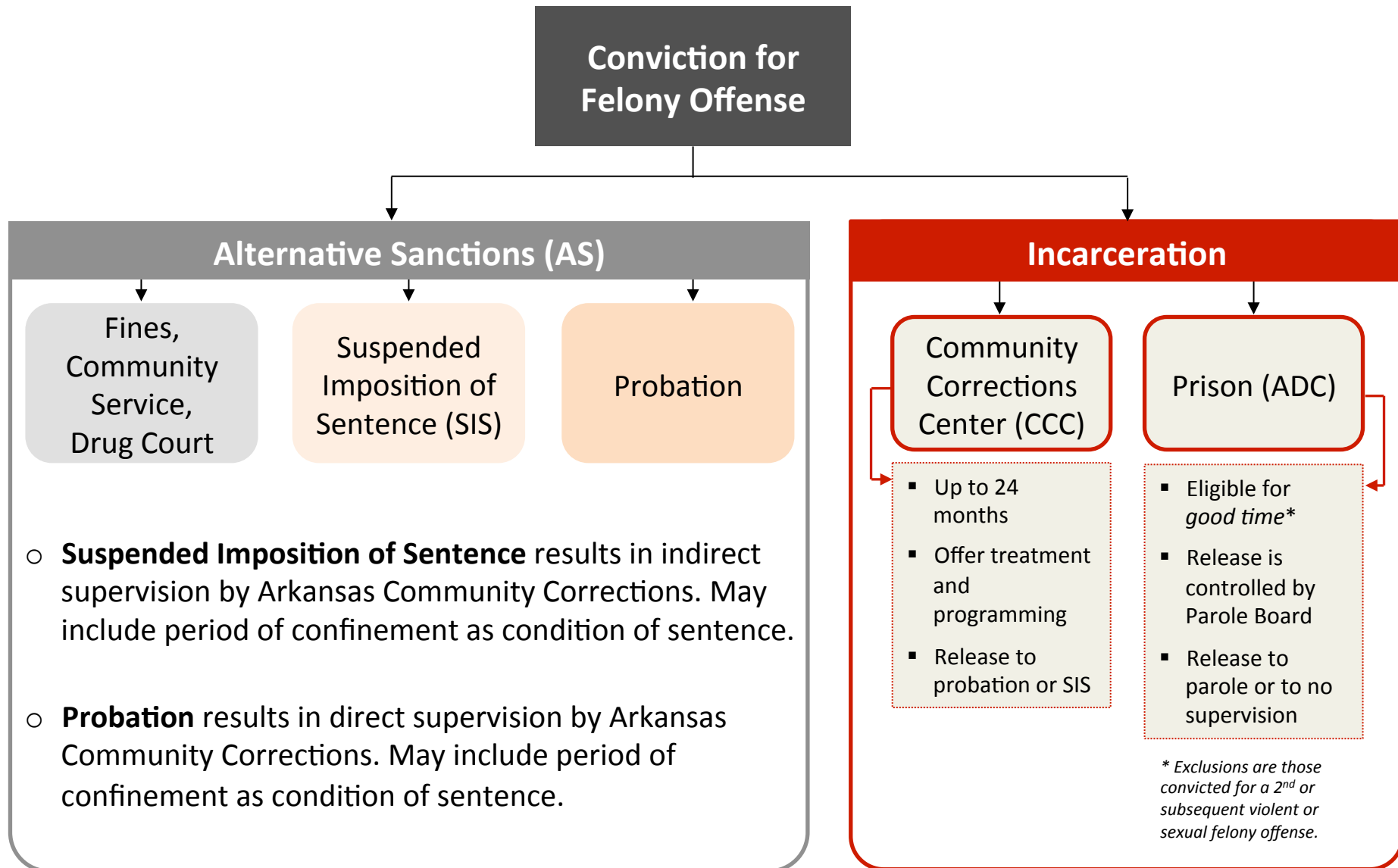
Proportionality

*B) Purpose of Sentencing Standards - Though voluntary, the purpose of establishing rational and consistent sentencing standards is to seek to ensure that sanctions imposed following conviction are **proportional to the seriousness of the offense of conviction and the extent of the offender's criminal history**. The standards seek to ensure equitable sanctions which provide that offenders similar with respect to relevant sentencing criteria will receive similar sanctions and offenders substantially different with respect to relevant sentencing criteria will receive different sanctions. Sentencing criteria should be neutral with respect to race, gender, social, and economic status.*

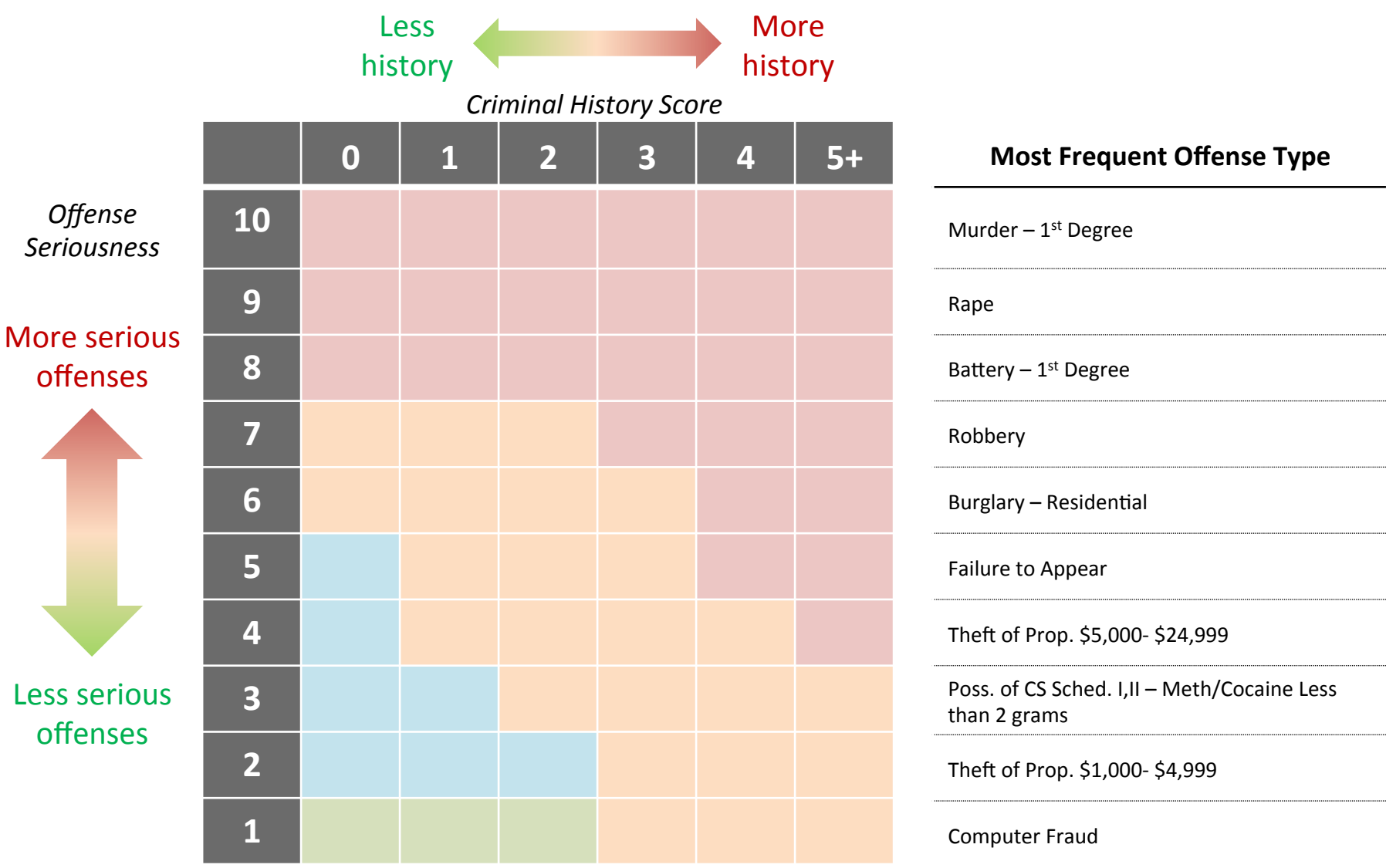
Prison reserved for most serious

*(C) Appropriate Use of Sentencing Sanctions - Rational and consistent sentencing policy requires a continuum of sanctions which increases in direct proportion to the seriousness of the offense and the extent of the offender's criminal history. **Commitment to the Arkansas Department of Correction is the most severe sanction and due to the finite capacity of the department's facilities, it should be reserved for those convicted of the most serious offenses, those who have longer criminal histories, and those who have repeatedly failed to comply with conditions imposed under less restrictive sanctions**. Arkansas law provides for significant intermediate penal sanctions in the community which should be utilized when appropriate. **Restrictions on an offender's liberty should only be as restrictive as necessary to fulfill the purposes of sentencing contained in this policy.***

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

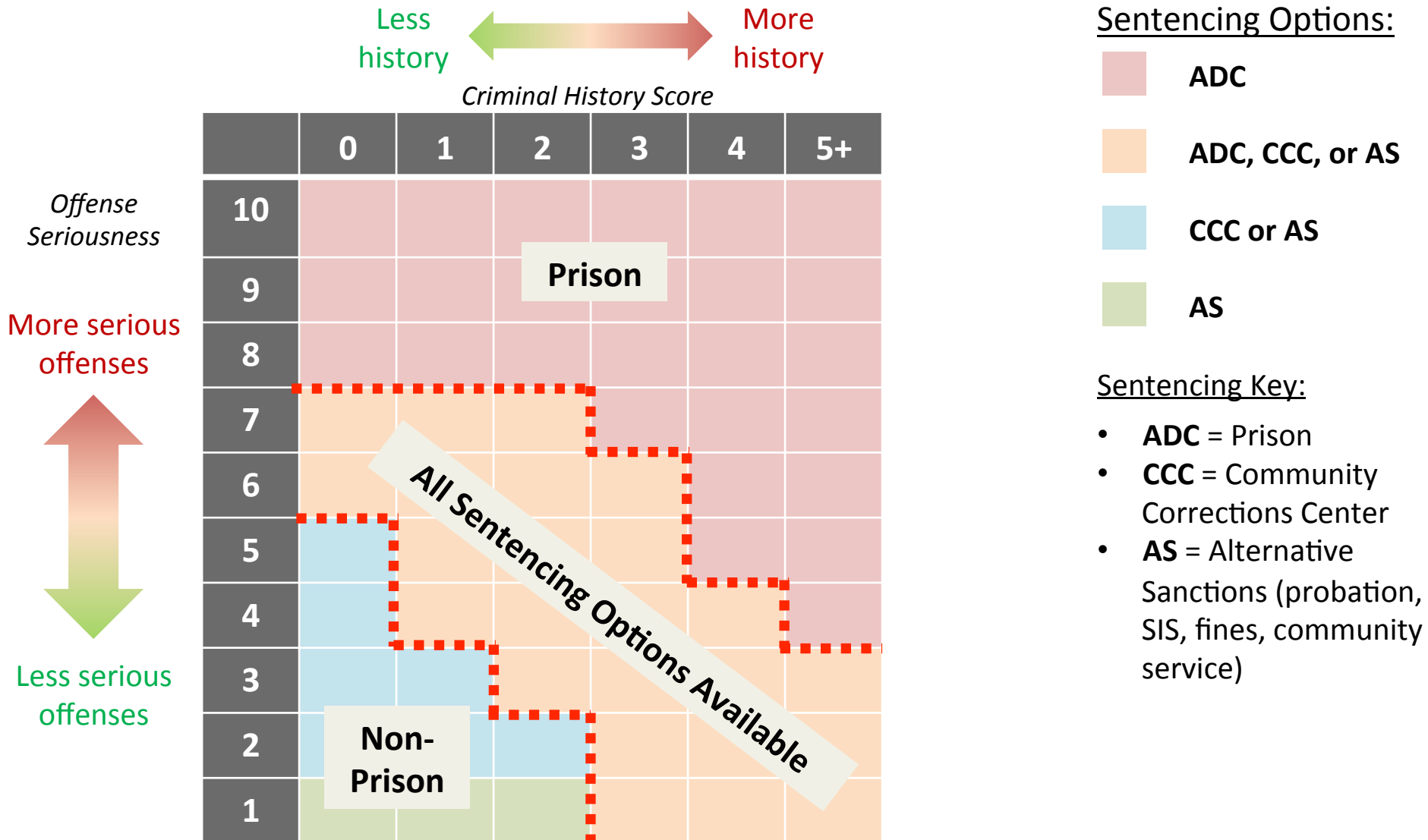


Arkansas's sentencing grid places defendants into 1 of 60 cells based on offense seriousness and prior criminal history



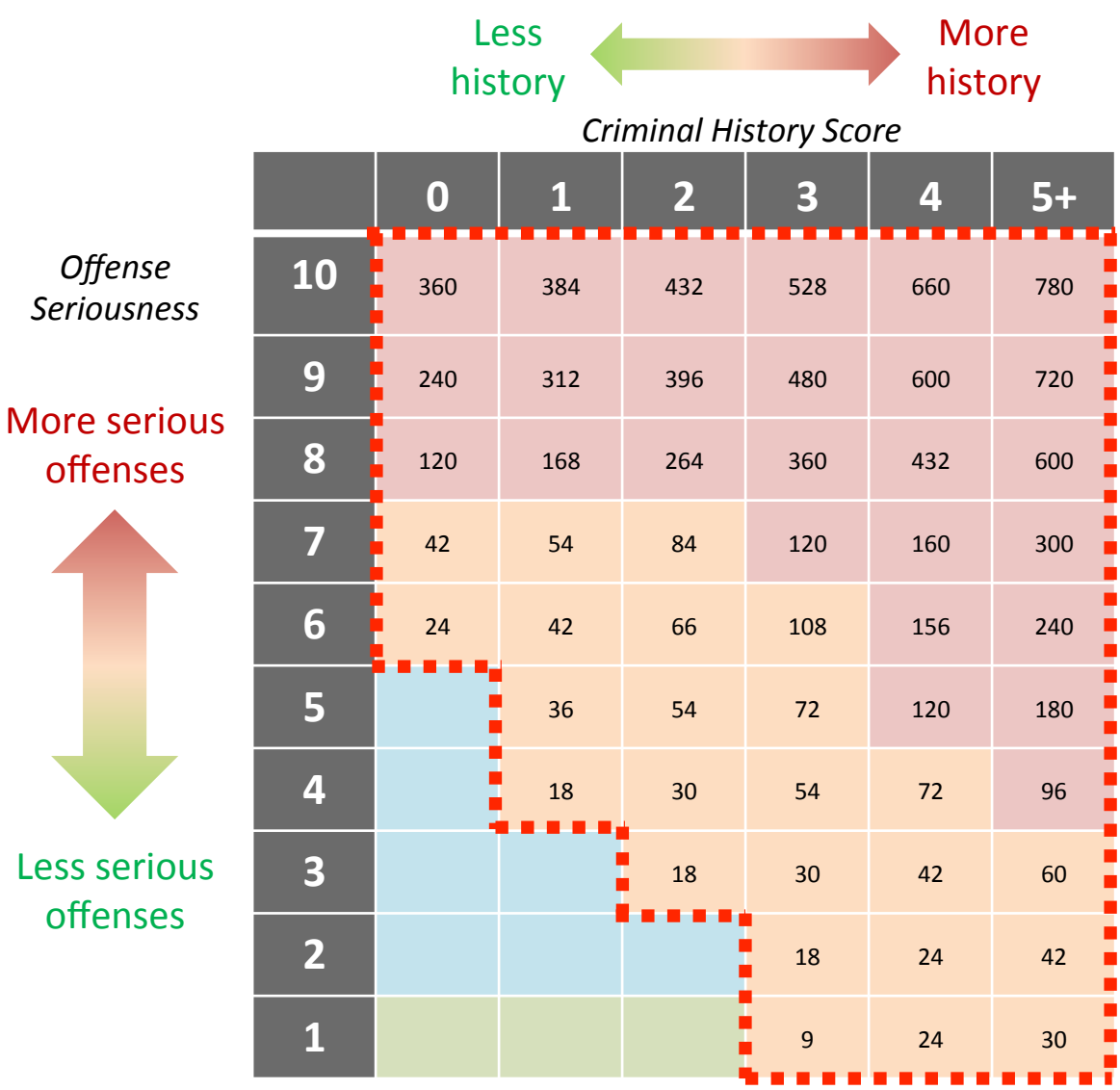
Source: Arkansas Sentencing Commission

There are three basic areas in Arkansas's sentencing grid in the context of "prison" sentences



Source: Arkansas Sentencing Commission Data, 2014

Sentencing grid prescribes a single length for prison terms instead of a range like other state grids

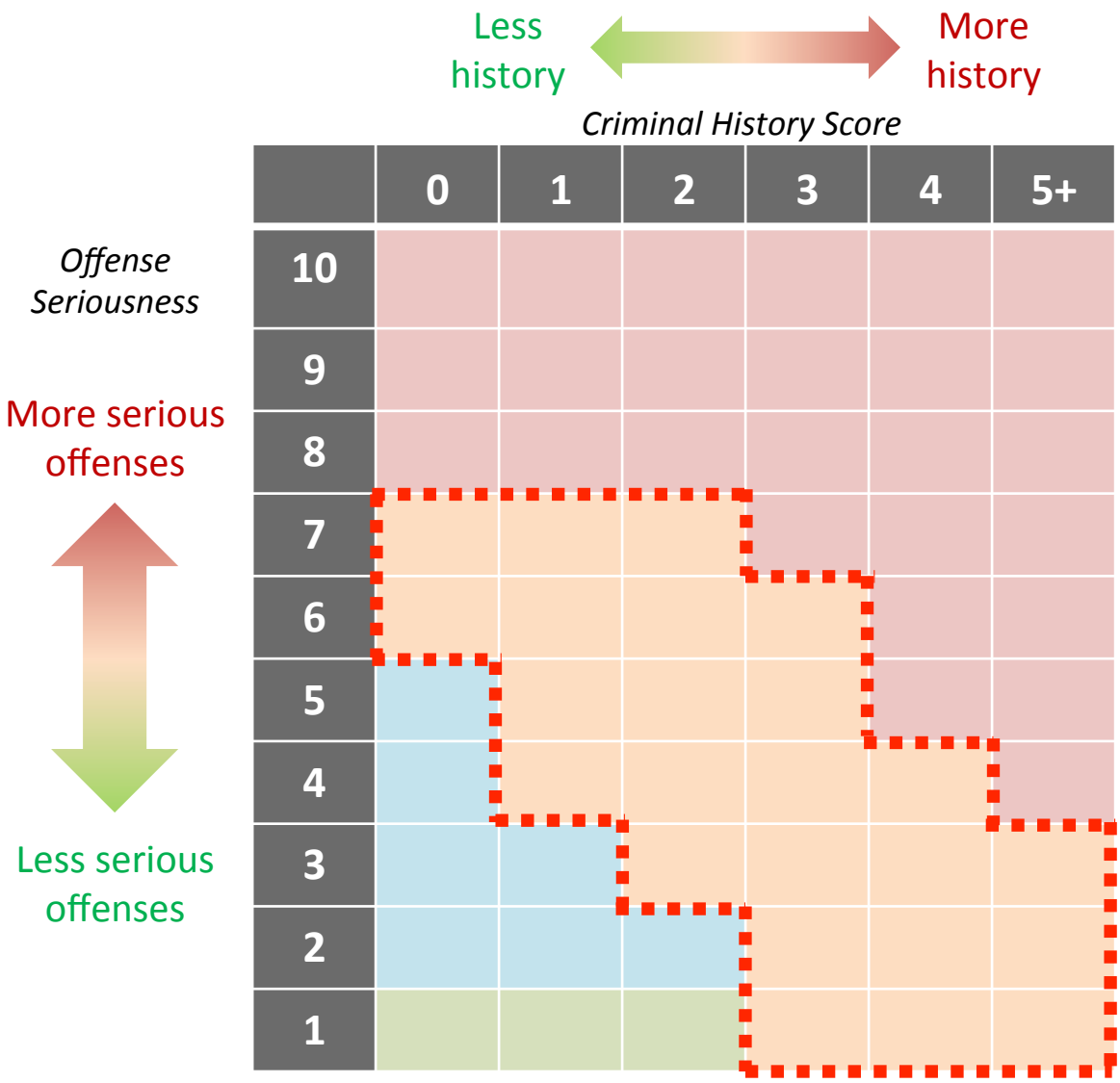


Sentencing grids typically offer a sentence length range that reflects mitigating or aggravating circumstances in individual cases.

Also noteworthy is the fact that the sentencing standards do not speak to length of probation for the “non-prison” cells.

Source: Arkansas Sentencing Commission

Sentencing grid is less prescriptive about the type of sentence



Most other state grids are more prescriptive about the type of sentence imposed.

State	Total # of Cells	# Cells w/ "All Options"	% of All Cells
AR	60	24	40%
KS	126	10	8%
NC	60	17	28%

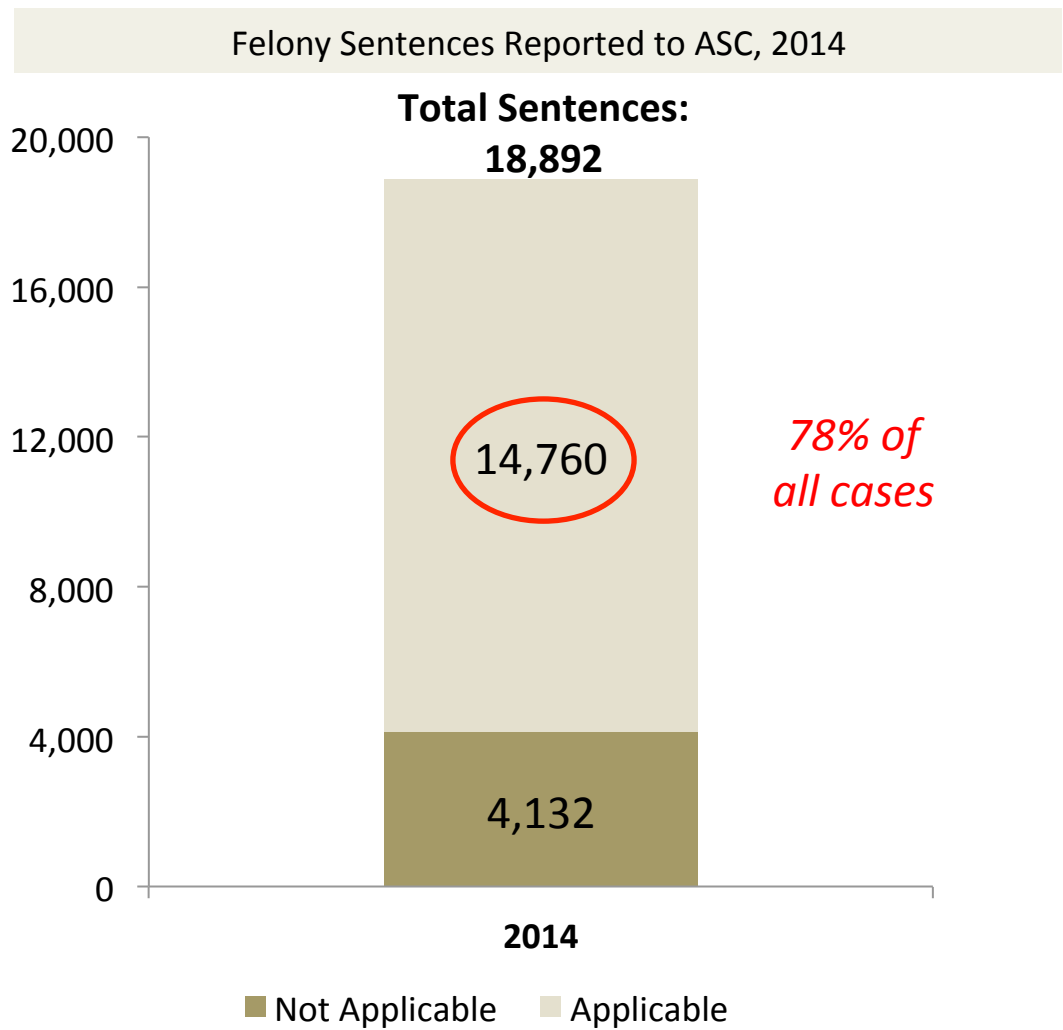


Analysis of Sentencing Practices

- ❑ 78 percent of prison sentences (and 87 percent of probation sentences) are for property, drug, or other offenses
- ❑ More than two-thirds of felony sentences involve individuals with limited criminal history (score of 0 or 1)
- ❑ More sentences go to prison from “non-prison” area (at a cost of \$7.2 million) than from “prison-only” area of sentencing standards grid

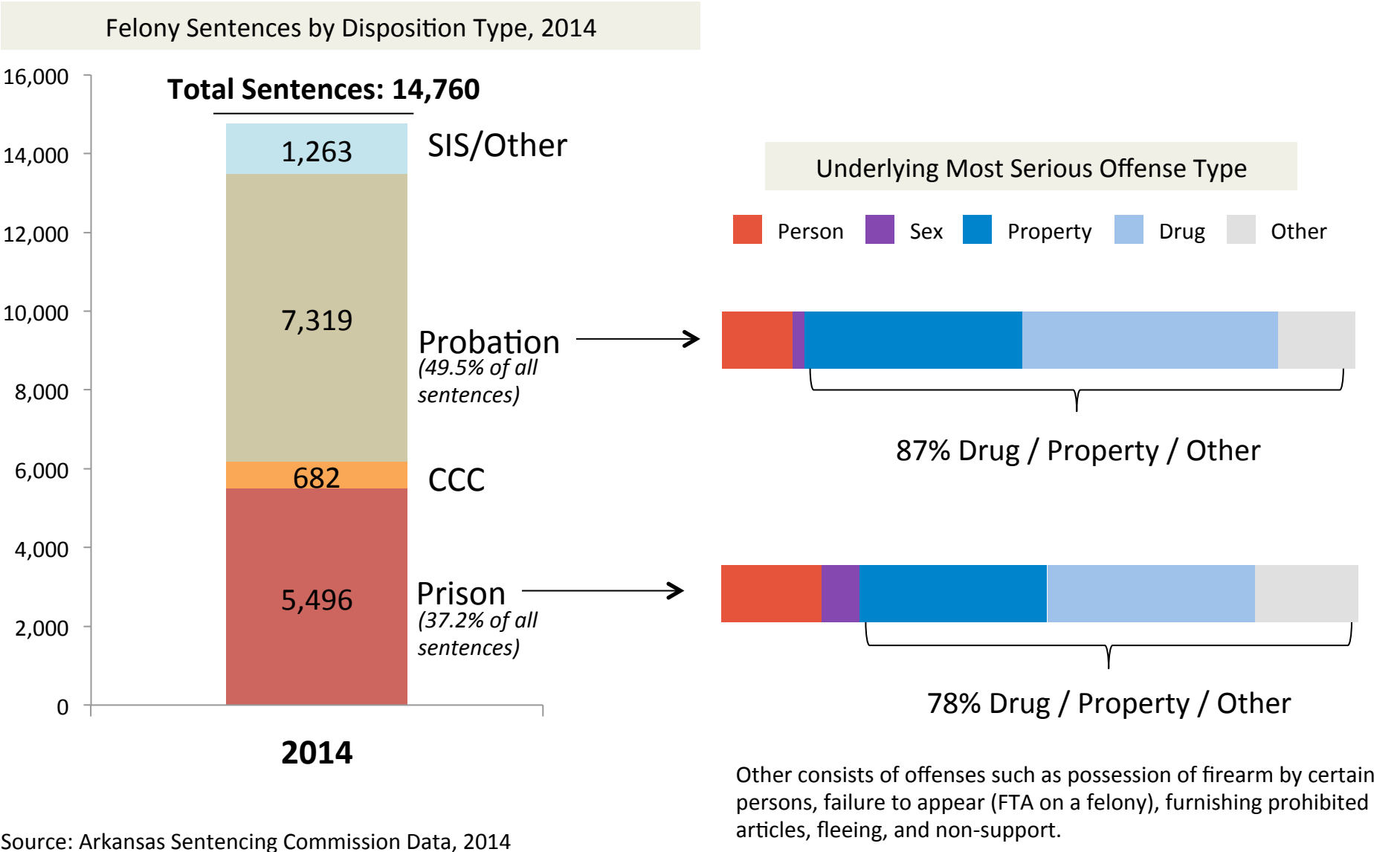
Arkansas's sentencing standards grid applies to about 78 percent of felony cases

- Standards do not apply to:
- Probation revocations
 - Jury sentences
 - Capital murder



Source: Arkansas Sentencing Commission Data, 2014

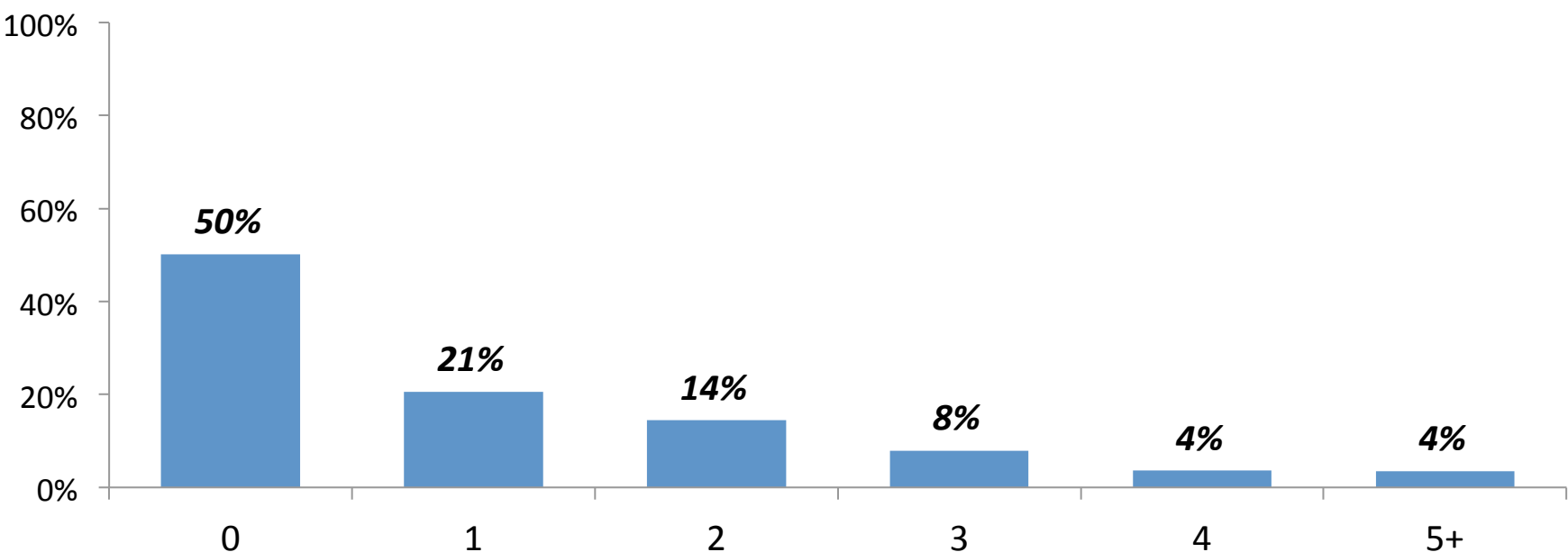
Prison and probation are most frequent sentences imposed, and both are driven by drug and property offenses



Source: Arkansas Sentencing Commission Data, 2014

More than two-thirds of those sentenced had limited criminal history (score of 0 or 1)

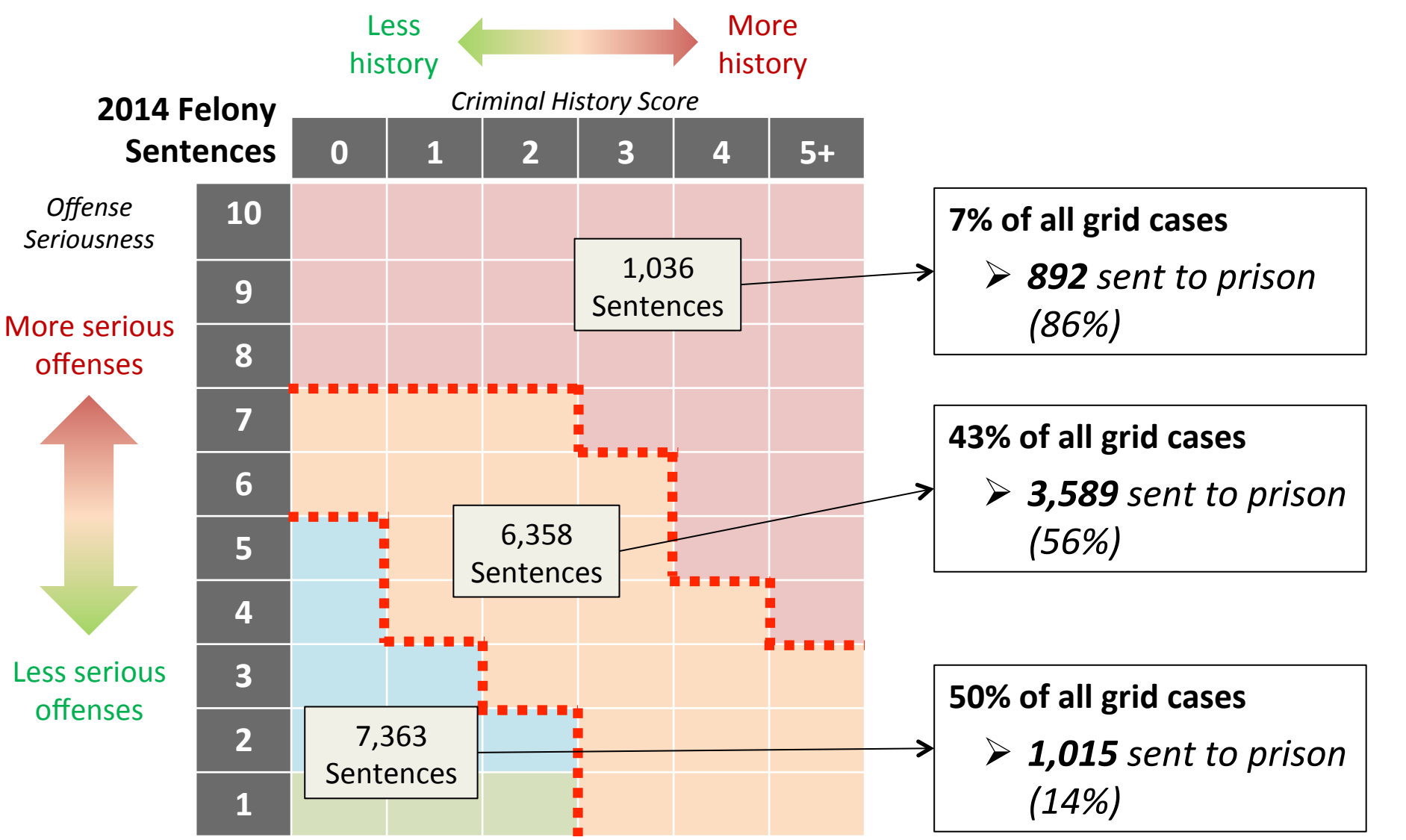
Felony Sentences by Criminal History Score, 2014



☐ Share of sentences with criminal history score of 0 or 1 was 71% in 2014.

Source: Arkansas Sentencing Commission Data, 2014

More sentences go to prison from “non-prison” grid cells than from “prison-only” grid cells



Source: Arkansas Sentencing Commission Data, 2014

Use of prison for those in the least serious area of grid is costing Arkansas more than \$7 million annually

Sentences to Prison for those in Non-Prison Area of Grid

1,015

sentenced in 2014

47.25 months

Average sentence length imposed

7.9 months

Estimated length of stay in prison (based on assumption of earning maximum good time credits)

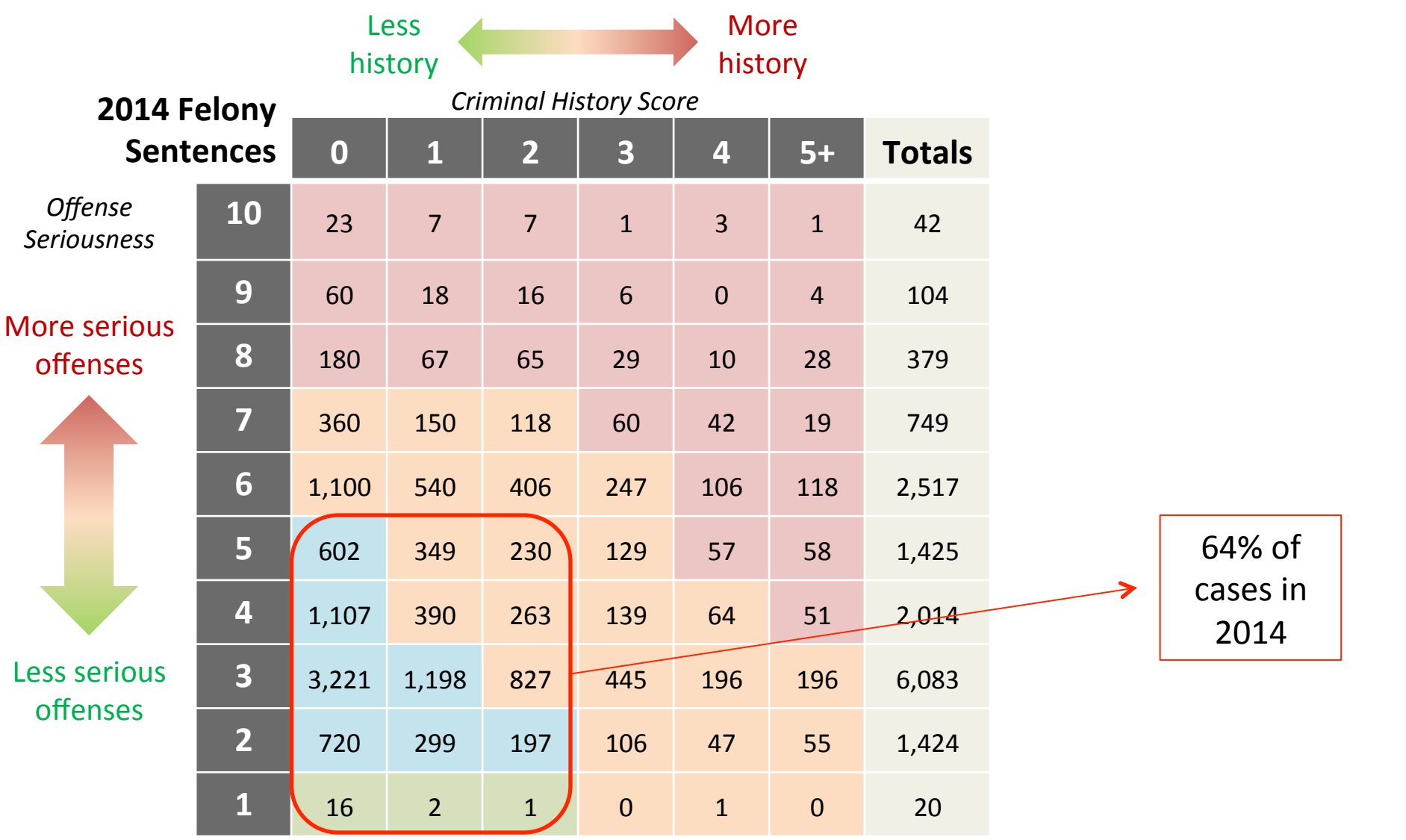
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Prison bed impact

\$7.2 Million

Annual cost of incarceration (based on \$30/day contract rate instead of current ADC operational cost/day of almost \$63/day)

Almost two-thirds of grid cases fall in area of grid with the least guidance



Questions for task force

- ❖ The sentencing standards intended to reserve prison space for the most serious offenses and offenders. 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.
 - Should prison sentences be more focused on violent offenses and people with more criminal history?
 - Should sentencing standards speak to length of supervision and revocation for those in non-prison area of grid?

Questions for task force

- ❖ Over 1,000 sentences in “non-prison” grid cells ended up being sent to prison. Why?
- ❖ The standards do not guide the type of sentence used in 40% of grid cells (accounting for 43% of grid sentences). Probation and prison sentences are used in roughly equal measure.
 - What determines whether probation, prison, or CCC is used and is appropriate?
 - Should the task force try to examine the rearrest rates for similar offenders receiving different sentences?

Moving forward

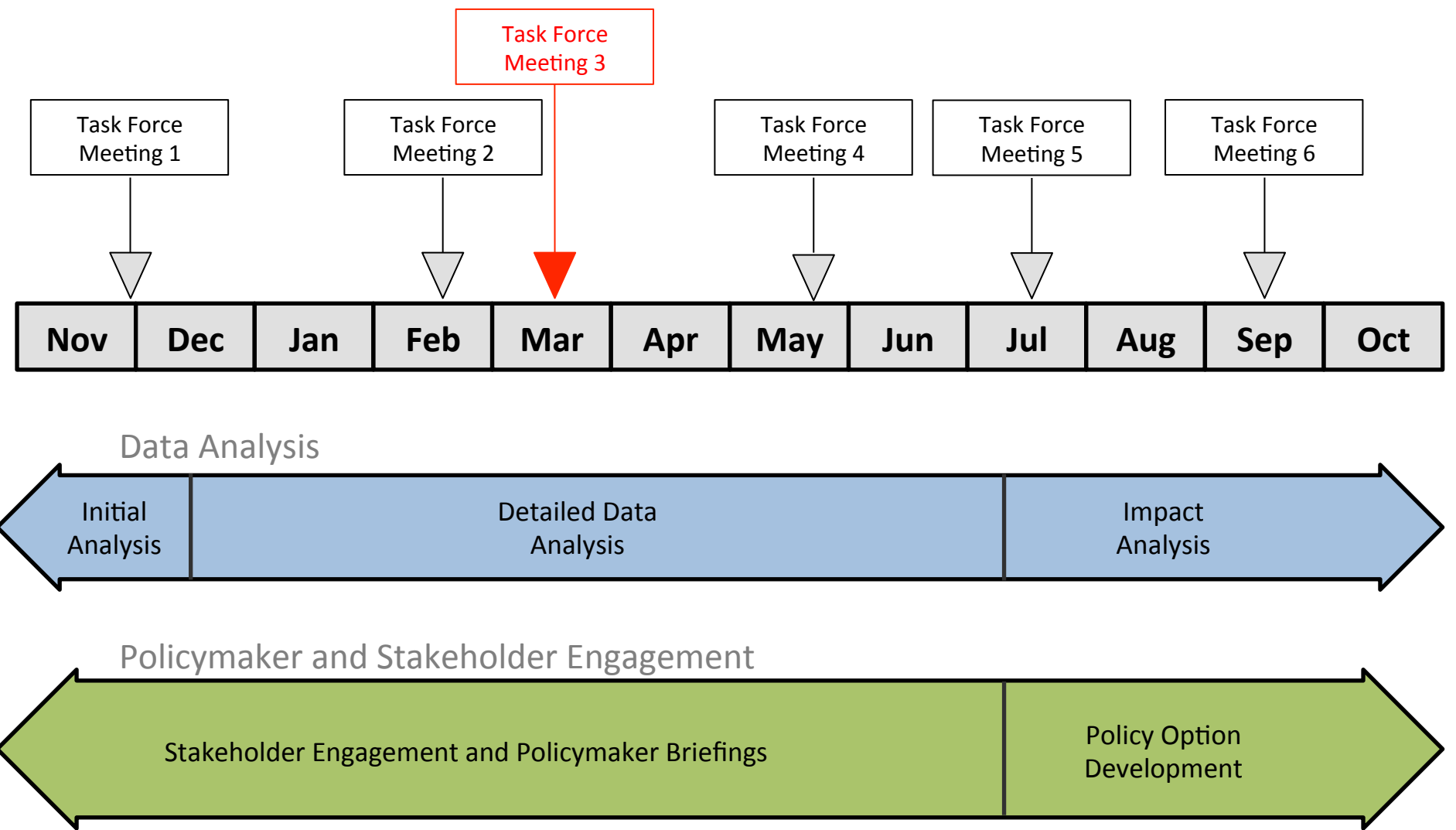
➤ **Analysis of prison, probation, and parole data**

- 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

Proposed project timeline



Thank You



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