

# Washington State Justice Reinvestment Taskforce

## *Third Meeting*

October 15, 2014

Council of State Governments Justice Center

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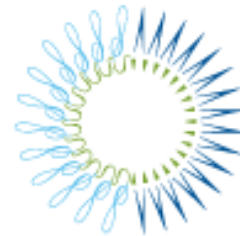
# Council of State Governments Justice Center

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

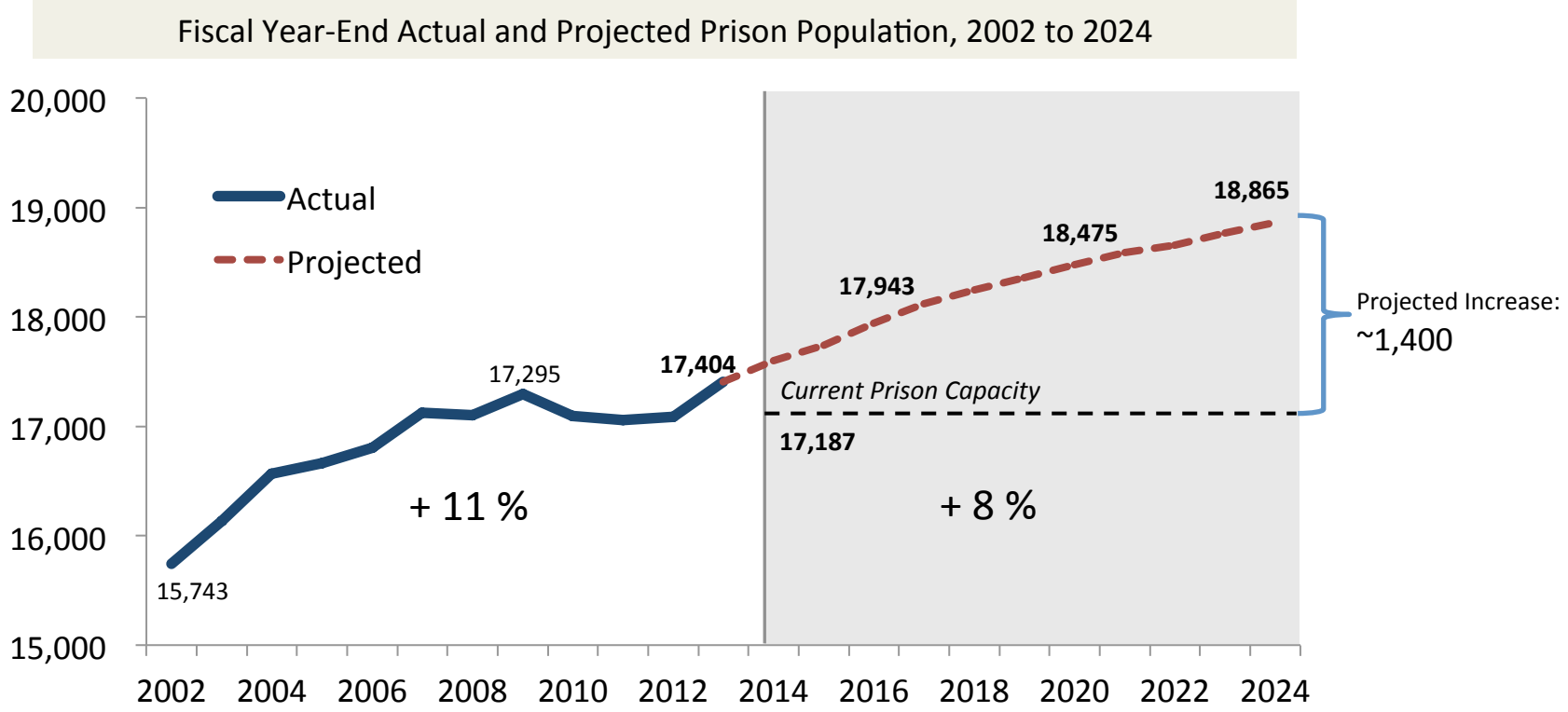


# Justice Reinvestment

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



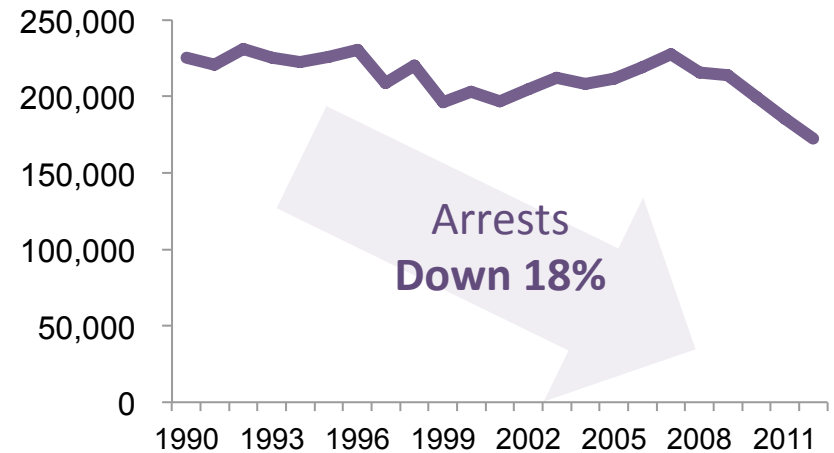
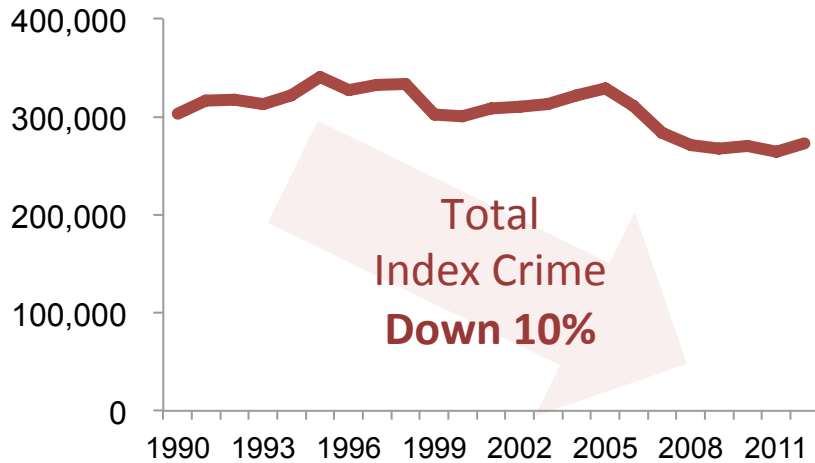
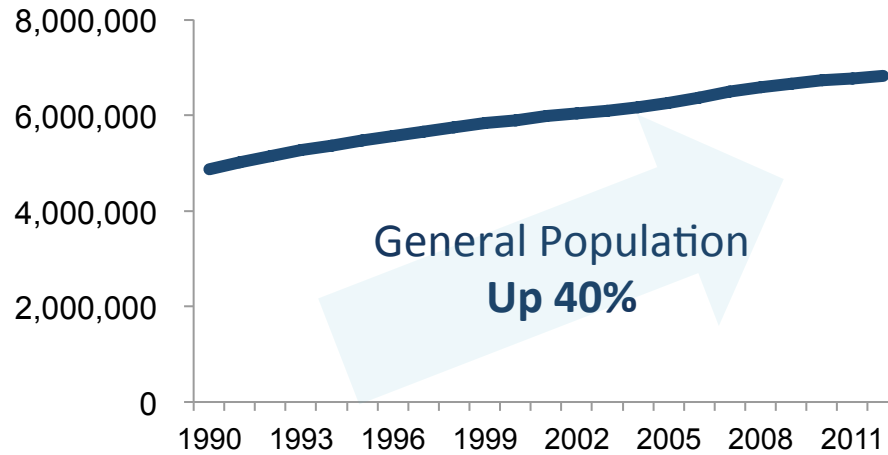
# Washington's prison population exceeds capacity and is projected to continue to increase.



*Expanding capacity to address projected growth will cost the state **\$387 to \$481 million** in capital outlay and operational costs over ten years.*

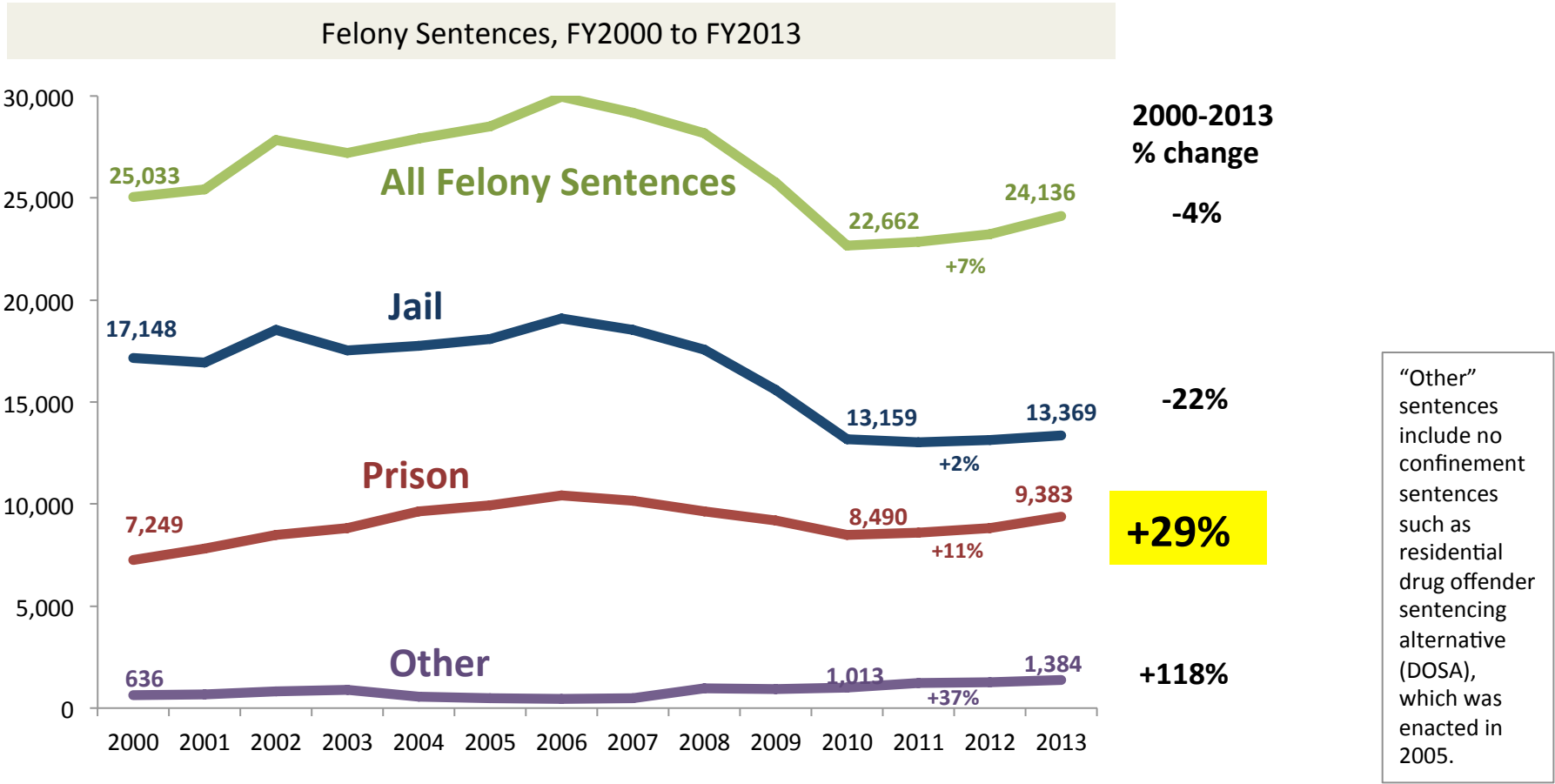
Source: Caseload Forecast Council, June 2014 Forecast; Criminal Justice Planning Services, "Cost-Effective Incarceration of Washington State Adult Offenders," 2012.

# Total crime and arrests have declined in Washington, despite a growing resident population.



Source: Washington State Criminal Justice Data Book, FBI UCR Online Data Tool, BJS Corrections Statistical Analysis Tool.

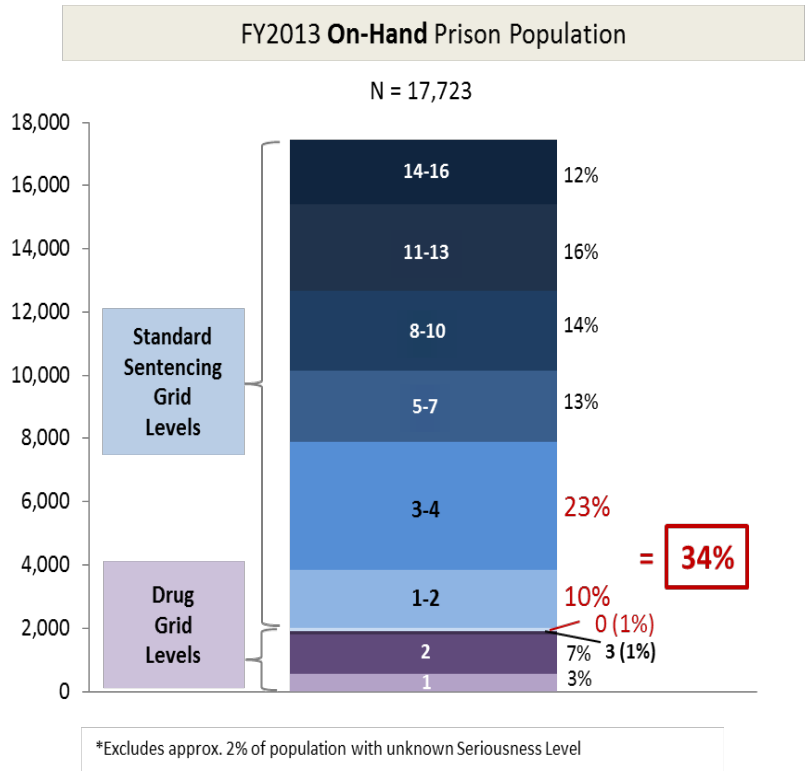
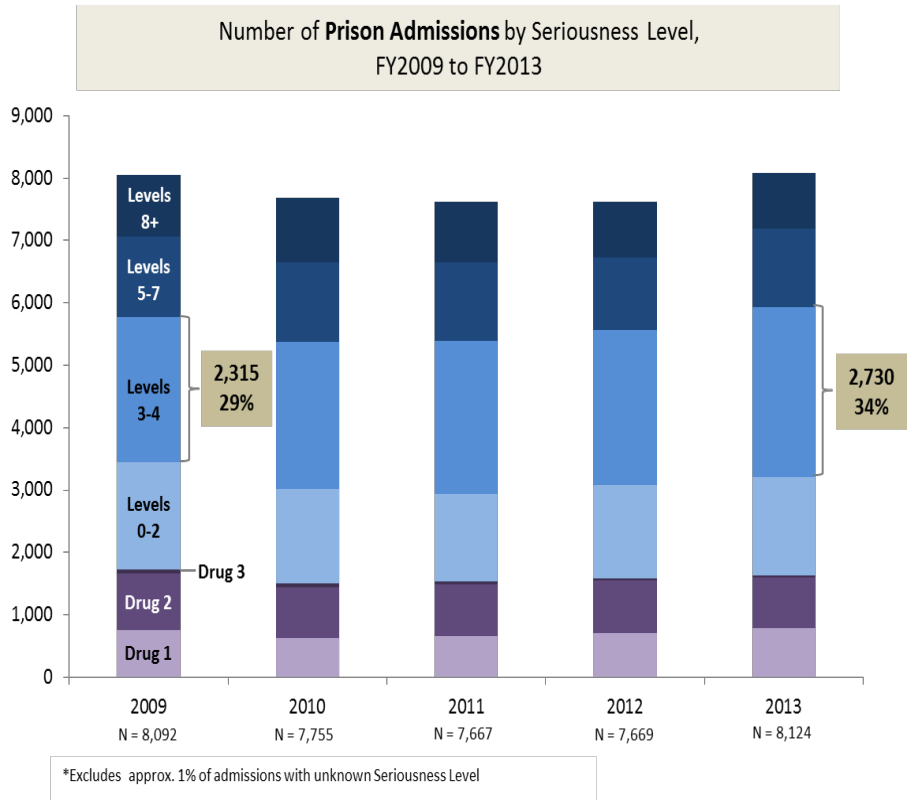
Overall, felony sentences have decreased since 2000, but prison sentences have increased by nearly 30 percent.



*Prison sentences made up 29% of all sentences in FY2000 compared to 39% in FY2013*

Source: CSG Justice Center data analysis of sentencing data provided by the Caseload Forecast Council.

# Level I-IV offenders make up a growing share of admissions and one-third of the prison population.



Source: CSG Justice Center analysis of DOC data.

# Summary of Level I-IV Property Offenses

## Levels I-IV Property Offenses

Burglary 2	Possession of a Stolen Vehicle
Forgery	Theft of Motor Vehicle
Identity Theft 1 & 2	Taking a Motor Vehicle Without Permission
Malicious Mischief 1 & 2	Theft 1 & 2
Organized Retail Theft	Trafficking Stolen Property
Possession of Stolen Property 1 & 2	Unlawful Issuance of Checks

Residential Burglary

### Does Not Include:

**Burglary 1:** With intent to commit a crime against a person or property therein, a person enters or remains unlawfully in a building and that actor or another participant in the crime is (a) **armed with a deadly weapon**, or (b) **assaults any person**.



# Washington's prison population is growing, due to an increase in property offenders returning to prison.

1. The prison population is increasing, and currently overcrowded. Expanding capacity would cost \$380 to \$480 million over ten years.
2. The rise in the prison population is not due to the state's growing population, nor an increase in crime or arrests. The volume of crimes reported to police and arrests have been declining.
3. Felony sentences to jail have declined sharply but sentences to prison have increased, particularly for individuals convicted of lower severity offenses with higher offender scores.
4. This group of offenders is an increasing share of admissions and Level I-IV now account for one-third of the prison population.

# Overview of Final Data Analysis

**What Works to Reduce Crime and Recidivism**

**How Sentencing Guidelines Structure Incapacitation & Supervision**

**Sentencing Alternatives Currently in Use**

**Policy Challenge & Opportunity**

# Property crime rates don't always correspond to incarceration rates.

Incarceration Rate	Violent Crime Rate	Property Crime Rate
N, Rank	N, Rank	N, Rank
South Carolina 458, 13 <sup>th</sup>	South Carolina 559, 5 <sup>th</sup>	South Carolina 3,822, 1 <sup>st</sup>
New York 276, 38 <sup>th</sup>	New York 407, 19 <sup>th</sup>	Washington 3,659, 3 <sup>rd</sup>
New Jersey 261, 40 <sup>th</sup>	Massachusetts 406, 20 <sup>th</sup>	Minnesota 2,568, 32 <sup>nd</sup>
Washington 253, 41 <sup>st</sup>	Washington 296, 30 <sup>th</sup>	Massachusetts 2,153, 44 <sup>th</sup>
Massachusetts 199, 47 <sup>th</sup>	New Jersey 290, 31 <sup>st</sup>	New Jersey 2,047, 47 <sup>th</sup>
Minnesota 184, 49 <sup>th</sup>	Minnesota 231, 42 <sup>nd</sup>	New York 1,922, 50 <sup>th</sup>

Source: Federal Bureau of Investigation, "Crime in the United States" 2012; Uniform Crime Reports, 2012.



# A comprehensive strategy is required to reduce property crime.

252,333 Reported property index crimes (2012)

31,311 Arrests for property index crimes (2012)

16,171 Individuals arrested for felony property offenses (FY2013)

32% No prior felony arrests

60% Prior felony arrests

8%

Released from prison within last 2 years

Deter crime

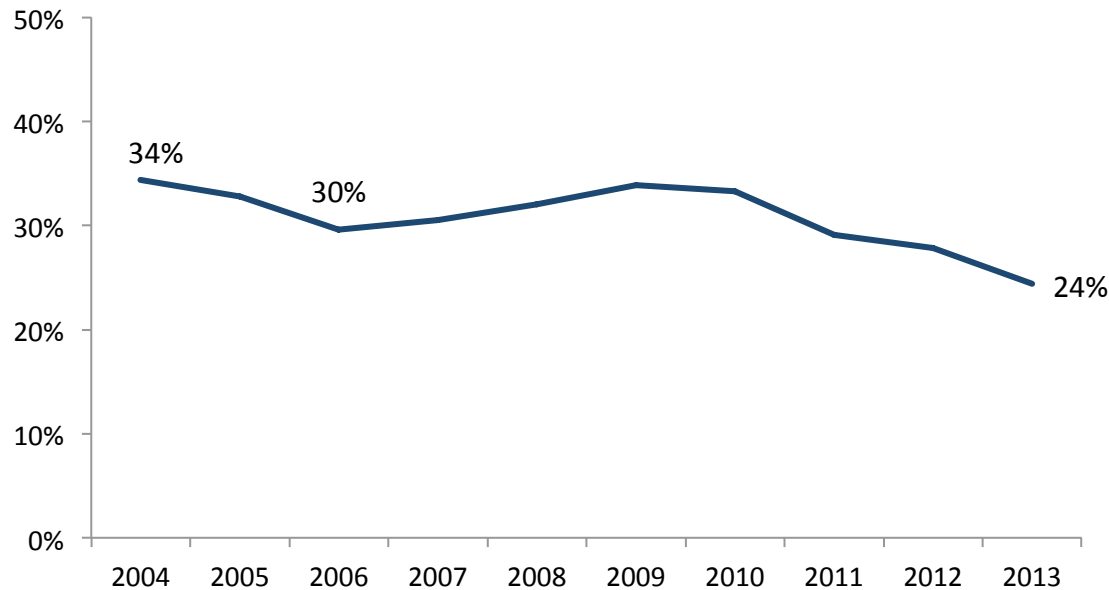
Reduce recidivism

Prolong incapacitation

Source: UCR data; CSG Justice Center analysis of DOC and WSP data.

# The percentage of individuals who started committing burglaries as juveniles has declined.

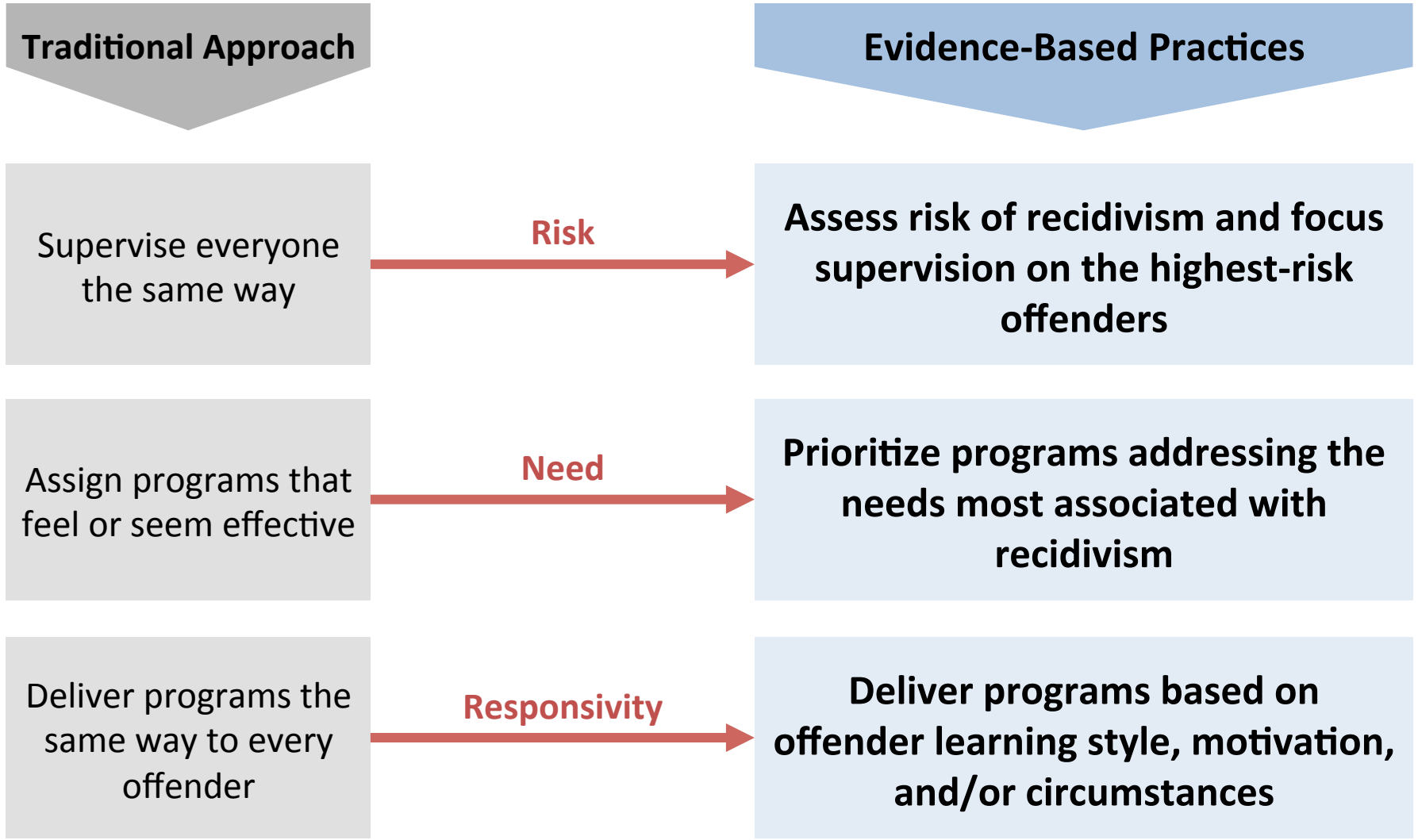
Percent of Individuals with Multiple Burglary Arrests Who Were First Arrested for Burglary as a Juvenile (17 or younger)



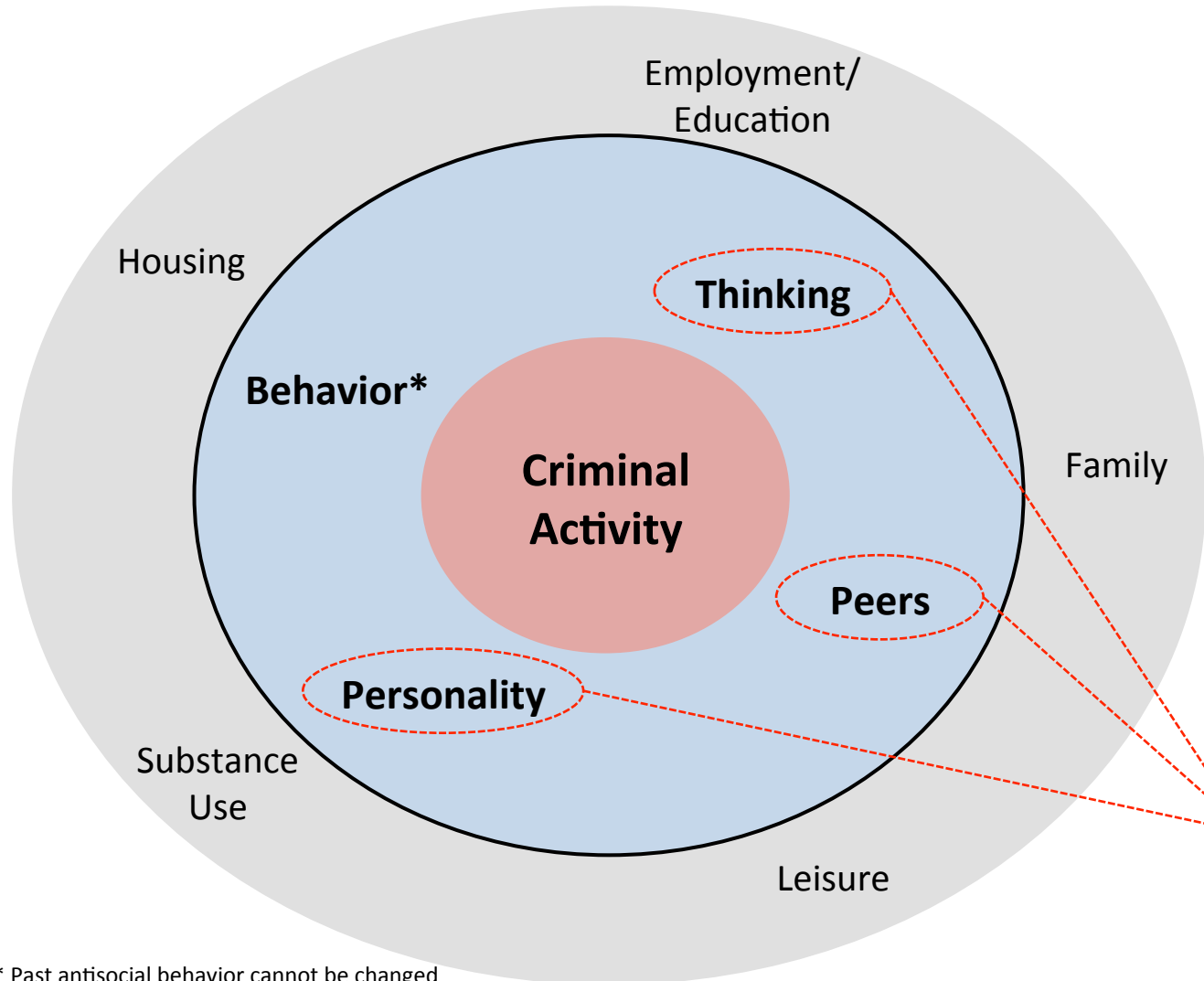
*Due to the increase in repeat burglary arrests, the raw number of individuals whose first burglary arrest was as a juvenile has increased, from 843 in FY2004 to 877 in FY2013.*

Average age at first burglary arrest in FY2013: 24

# Reducing criminal behavior requires focusing on risk, need, and responsiveness.



# Target the factors that evidence shows are most central to criminal behavior.



**Antisocial Risk Factors**

**The Big Four:** Major drivers in criminality

Higher-risk offenders are likely to have more of the Big Four

The most successful supervision and programming models address these dynamic risk factors

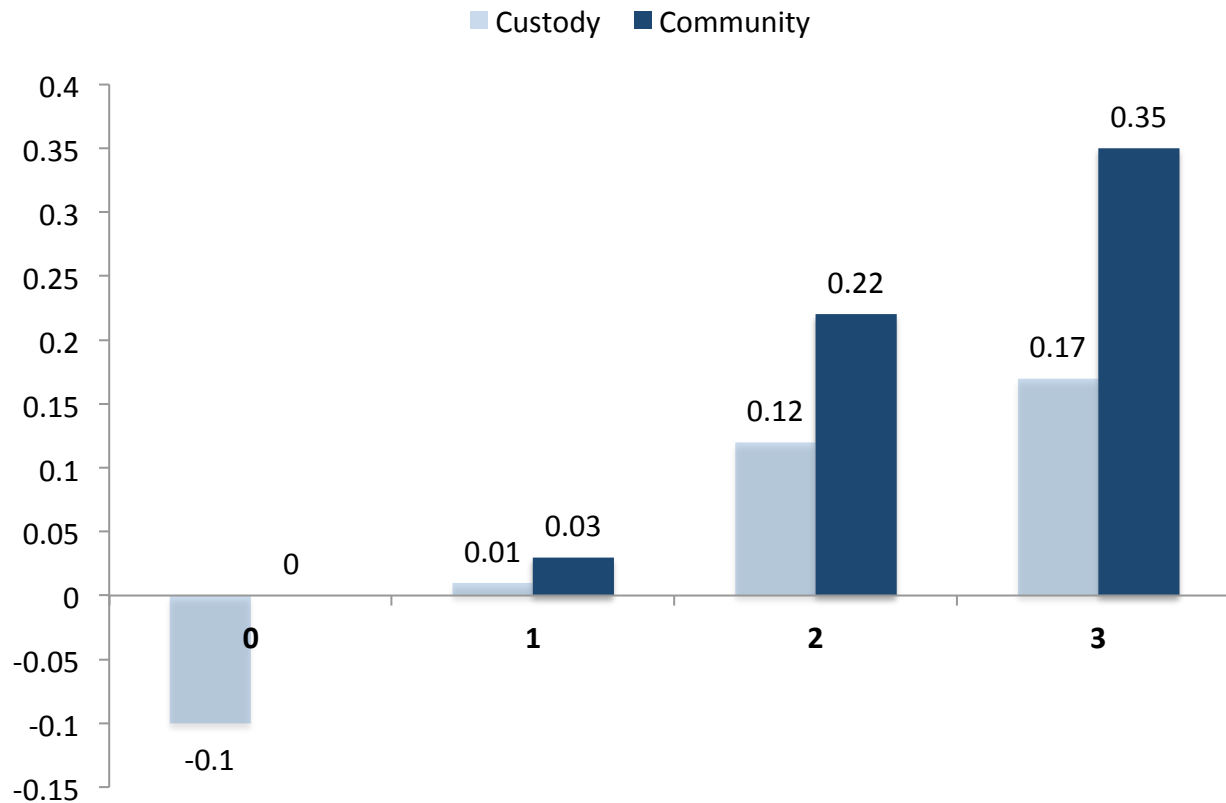
\* Past antisocial behavior cannot be changed

Source: Donald Arthur Andrews and James Bonta, *The Psychology of Criminal Conduct* (Cincinnati: Anderson), 2010.



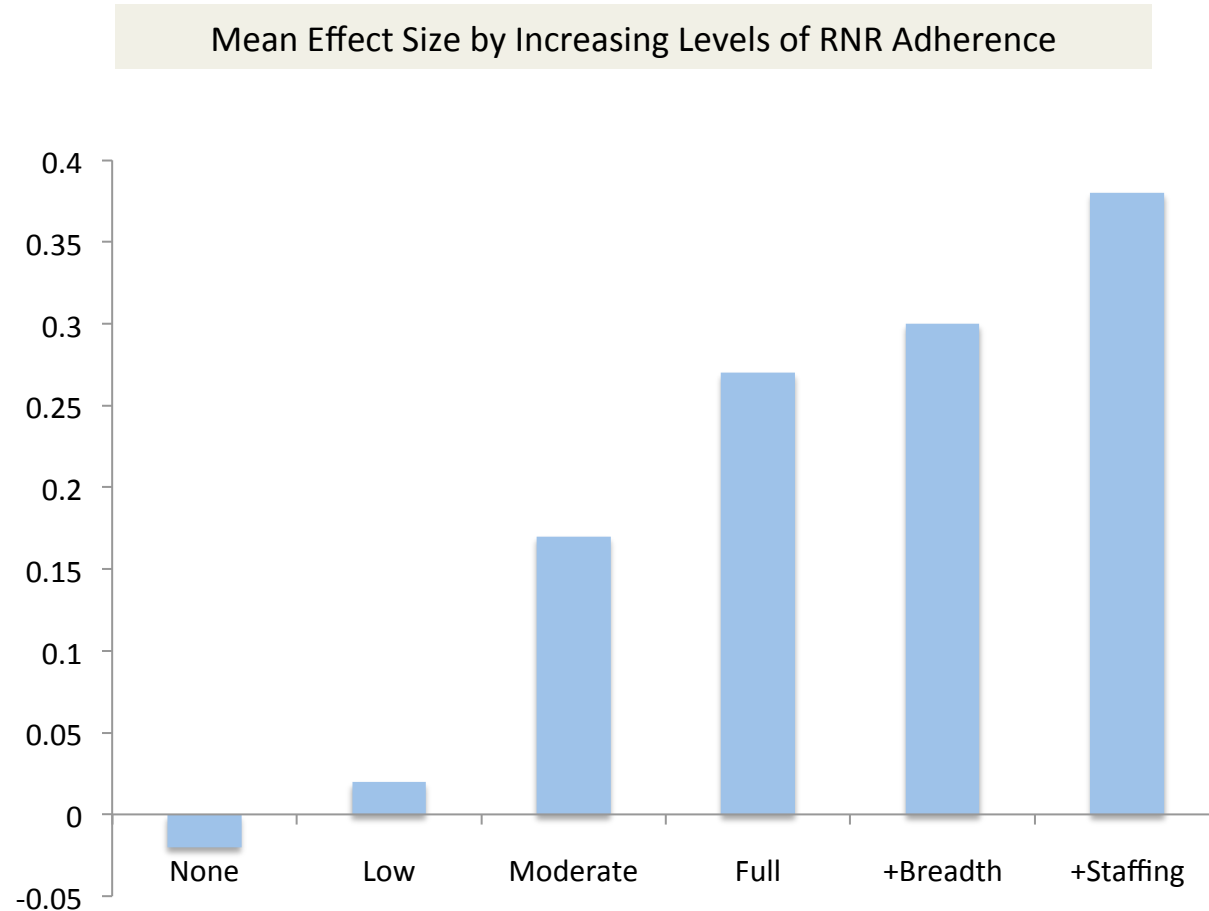
# Impact on recidivism varies by the number of RNR principles adhered to and where the principles are applied.

Mean Effect Size by RNR Adherence and Correctional Setting  
(Custody/Community)



Source: Donald Arthur Andrews and James Bonta, *The Psychology of Criminal Conduct* (Cincinnati: Anderson), 2010.

# Increasing levels of RNR adherence has a greater impact on recidivism reduction.



Source: Donald Arthur Andrews and James Bonta, *The Psychology of Criminal Conduct* (Cincinnati: Anderson), 2010.

## Section 1 Summary:

# What Works to Reduce Crime and Recidivism

1. Washington has the third highest property crime rate in the nation.
2. Three big levers to reduce crime:
  - Deter crime through increased law enforcement using data-driven strategies
  - Reduce recidivism among high-rate offenders through supervision and treatment
  - Prolong incapacitation of offenders with a very high probability of reoffending
3. Research by WSIPP suggests that increasing policing and supervision/treatment to be two to three times as cost-effective at reducing crime than increasing incapacitation.
4. Eight percent of individuals arrested for felony property crimes were released from prison in the last two years. Keeping individuals in prison longer would reduce crime, but to a relatively small degree.
  - Such an approach would come at a significant cost, since it would also affect the roughly 91 percent of those released from prison in that 2-year window that were not rearrested.

# Overview of Final Data Analysis

**What Works to Reduce Crime and Recidivism**

**How Sentencing Guidelines Structure Incapacitation & Supervision**

**Sentencing Alternatives Currently in Use**

**Policy Challenge & Opportunity**

# A substantial portion of property offenders released from prison have an average length of stay under 12 months.

Average Length of Stay (Months) by Grid Cell Location for Property Offenders Released from Jail or Prison, FY2013

Seriousness Level	Offender Score										
	0	1	2	3	4	5	6	7	8	9+	
LEVEL IV	2	4	5	7	8	11	14	17	26	33	
LEVEL III	< 1	3	4	8	6	8	11	18	23	28	
LEVEL II	< 1	2	3	5	7	11	10	13	16	22	
LEVEL I	< 1	< 1	2	2	3	5	6	8	11	15	

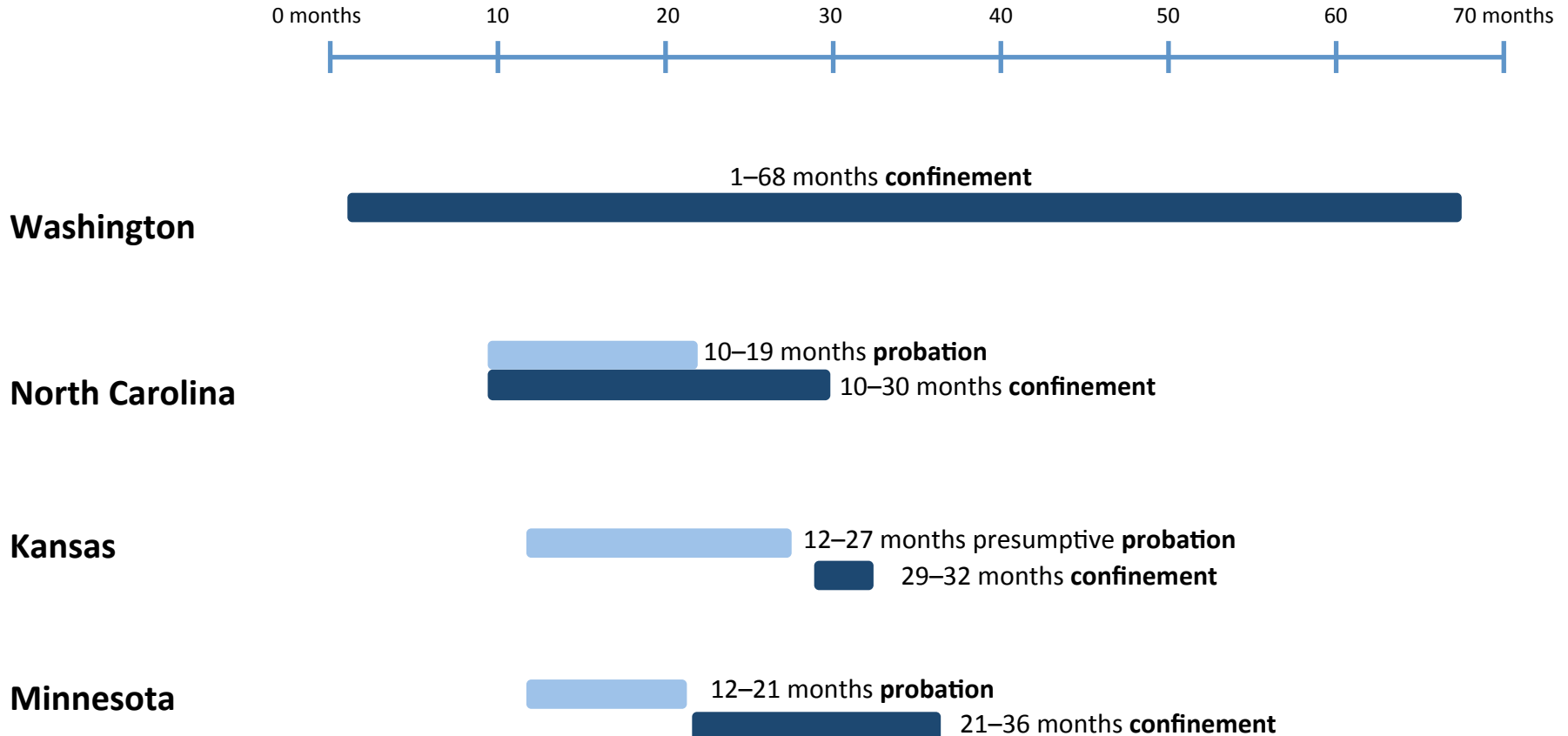
**Prison average LOS under 12 months**

\*LOS for property offenders with a score of 9+ is likely impacted by the prevalence of prison-based DOSA sentences, which shortens LOS.

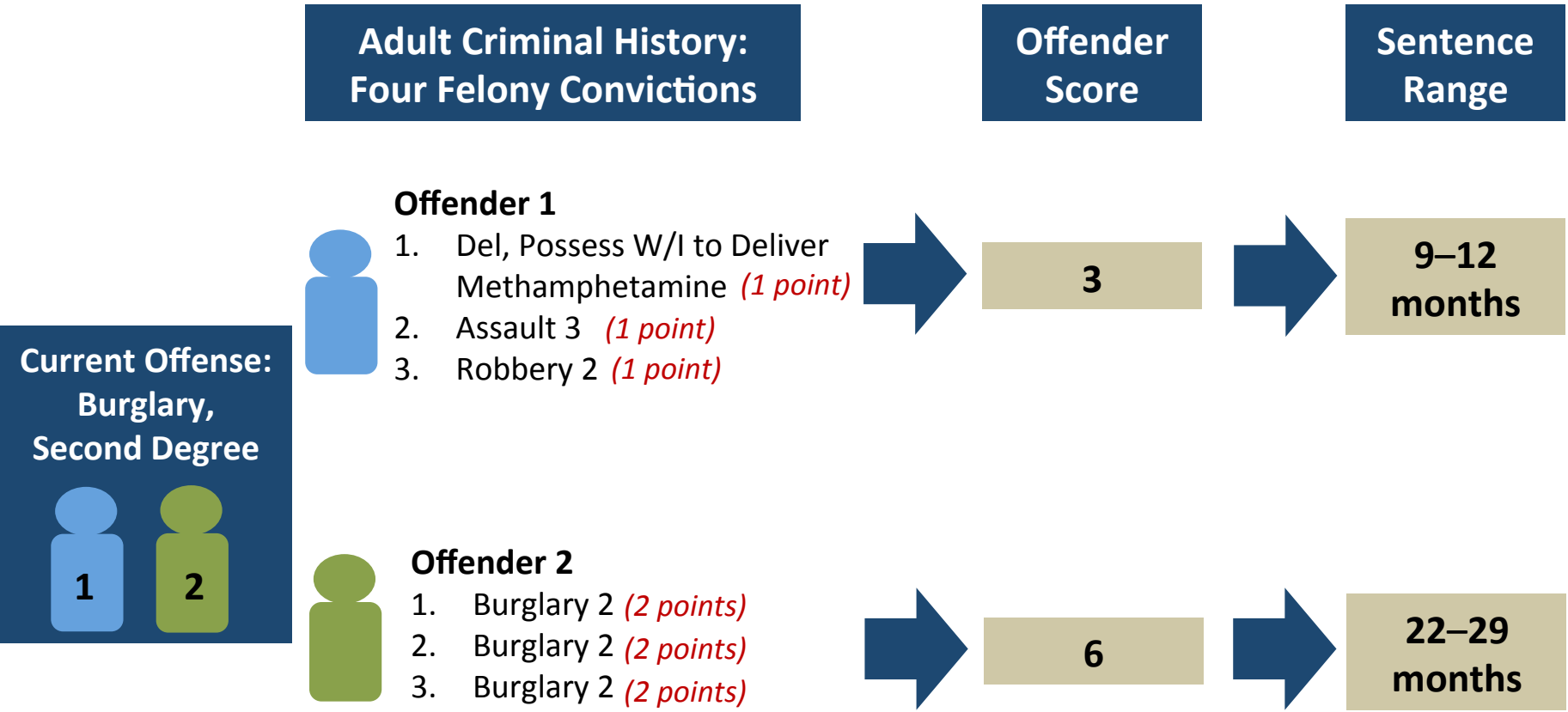
Shaded cells represent 715 prison releases, or approximately 40 percent of property offenders released from prison in FY2013.

Source: CSG Justice Center analysis of DOC and CFC data.

Washington has a wider sentence range and fewer sentencing options for second degree burglary compared to other states.



# Certain offenses trigger double- or triple-counting of similar prior convictions in the offender score.



As a result, offender score does not in some cases directly reflect felony conviction history.

Number of Felony Convictions by Offender Score, FY2013 Felony Sentences

**Offender Score of Property Offenders (Level I-IV)**

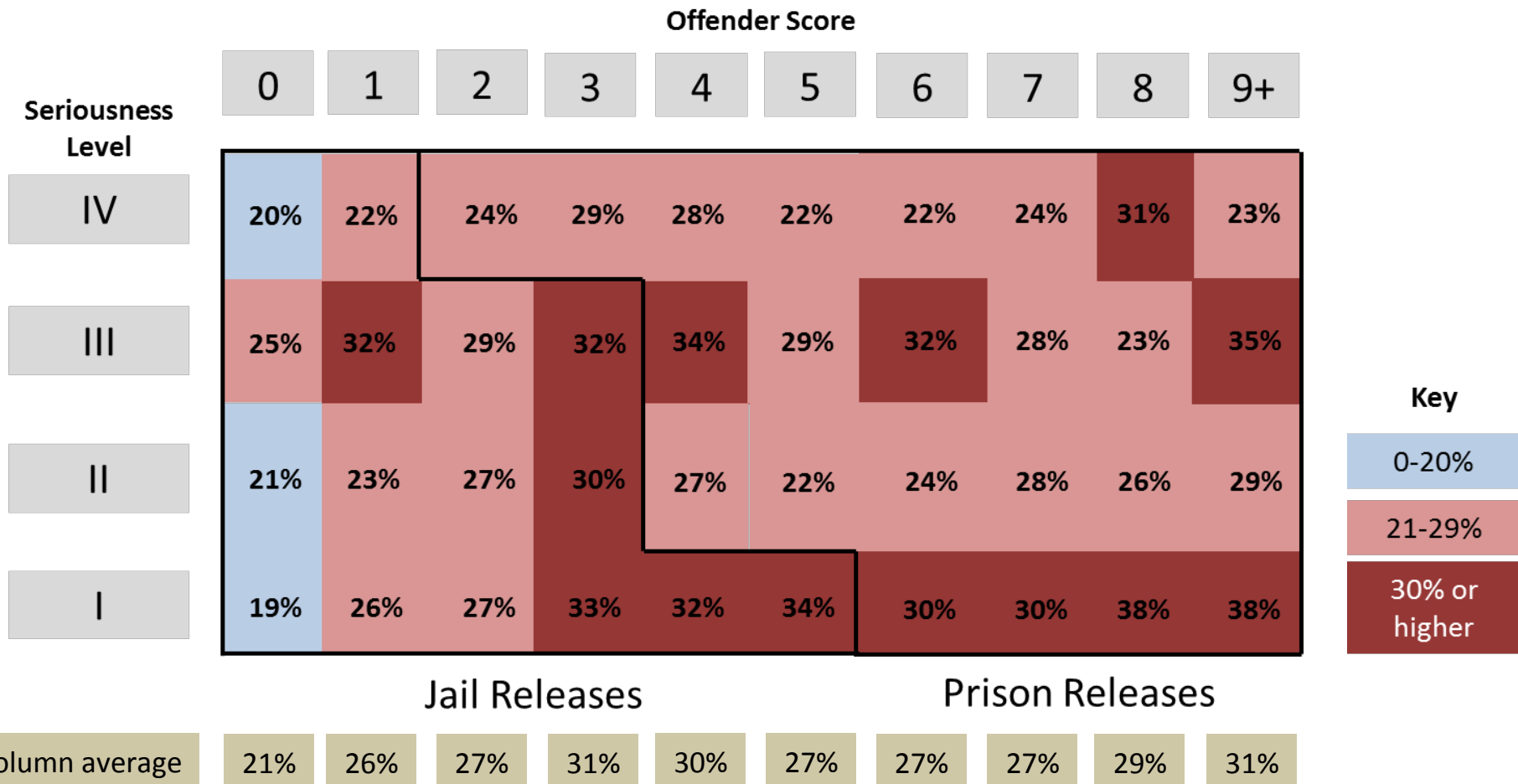
Total Number of Felony Convictions		0	1	2	3	4	5	6	7	8	9+
	11	2%	0%	0%	0%	1%	1%	1%	3%	10%	48%
	10	1%	0%	0%	0%	0%	1%	1%	3%	10%	10%
	9	1%	0%	0%	0%	0%	1%	5%	6%	16%	9%
	8	1%	0%	0%	1%	1%	2%	10%	22%	13%	7%
	7	1%	0%	1%	1%	4%	10%	19%	14%	12%	5%
	6	1%	0%	1%	4%	6%	22%	20%	14%	7%	4%
	5	1%	1%	3%	8%	27%	19%	14%	10%	6%	4%
	4	2%	3%	8%	32%	22%	15%	11%	10%	7%	3%
	3	3%	11%	38%	19%	14%	9%	5%	7%	6%	2%
	2	8%	45%	21%	13%	8%	4%	3%	3%	5%	3%
	1	80%	39%	27%	23%	18%	15%	12%	9%	9%	6%
		87%	84%	86%	86%	88%	85%	82%	82%	86%	82%
											Mode

Source: CSG Justice Center analysis of CFC data. Number of felony convictions are counted to multiple convictions that may have been imposed on a single day.



# There is little variation in recidivism rates across offender scores higher than 4.

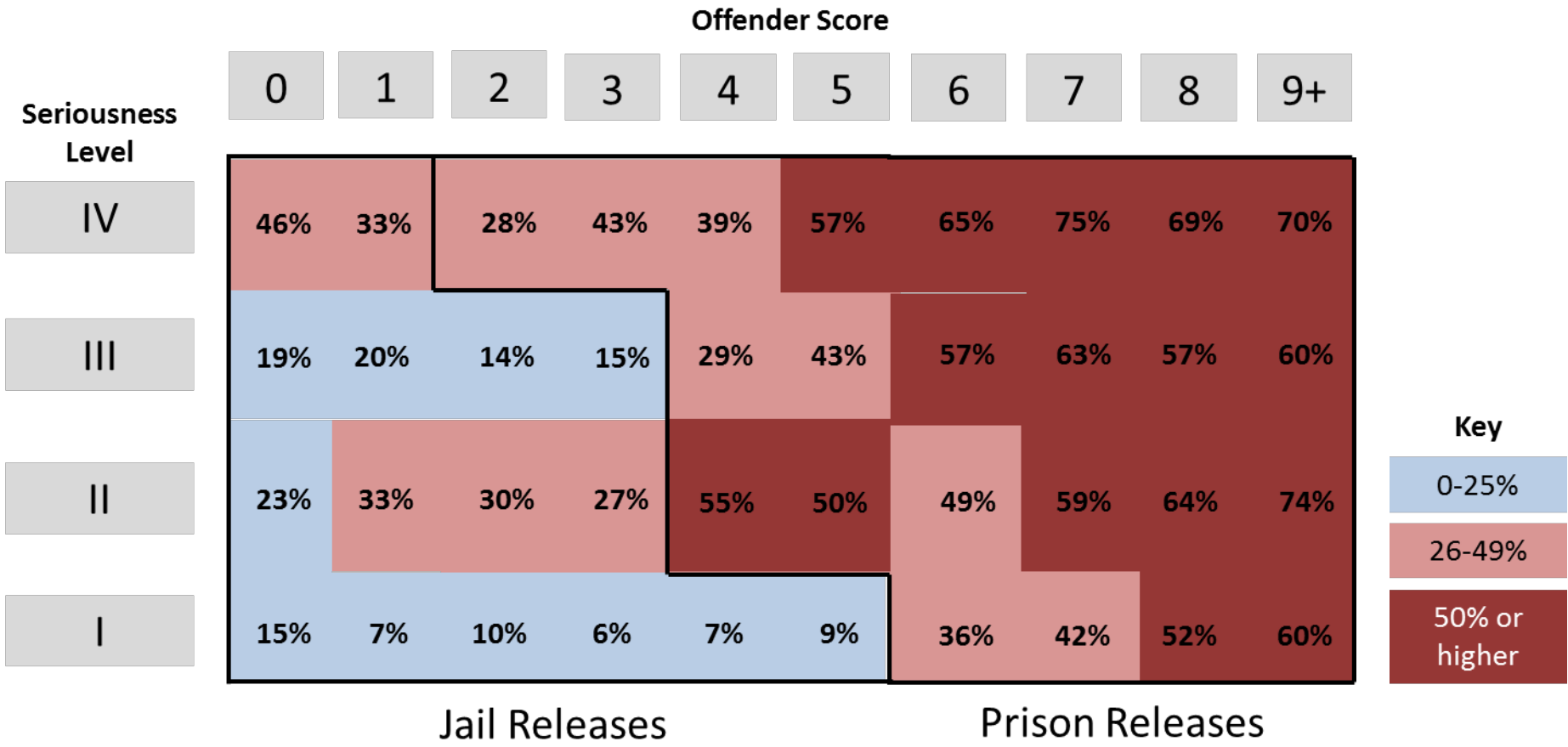
Two-Year Felony Reconviction Rates by Grid Cell Location for Property Offenders Released from Jail and Prison, FY2010–11



Source: CSG Justice Center analysis of DOC, CFC and WSP data.

# Property offenders released from jail have low rates of supervision.

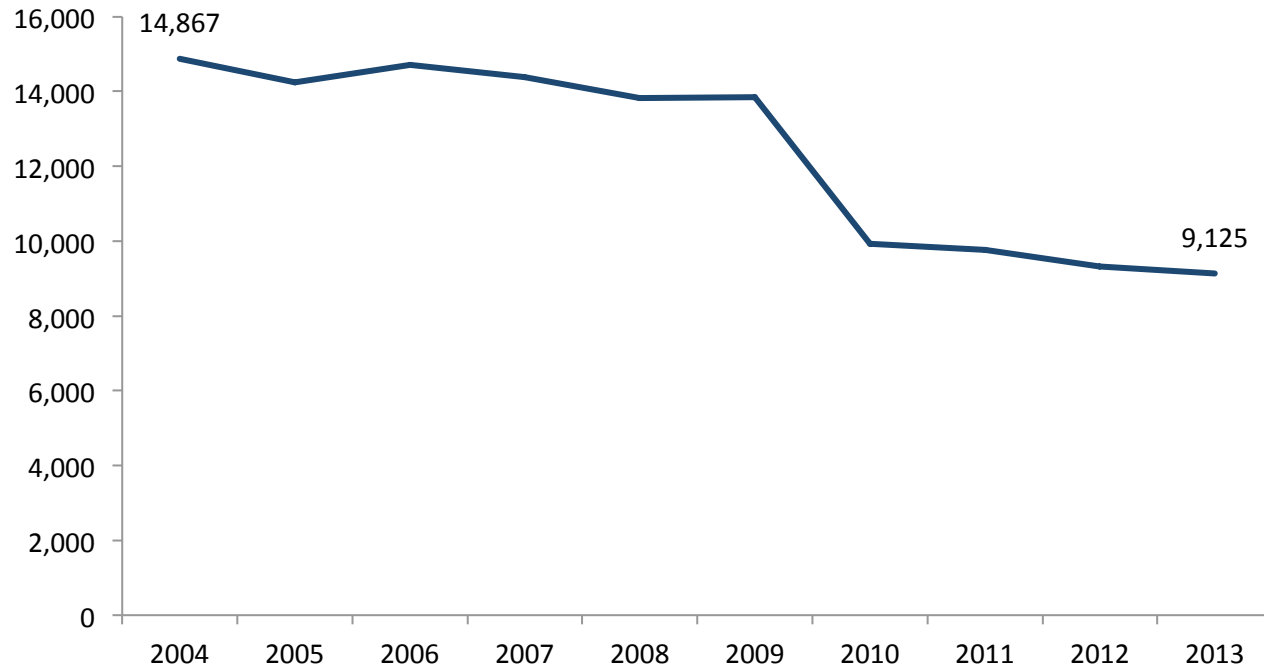
Percent of Property Offenders Released from Jail or Prison Under DOC Supervision by Grid Cell Location, FY2010–11



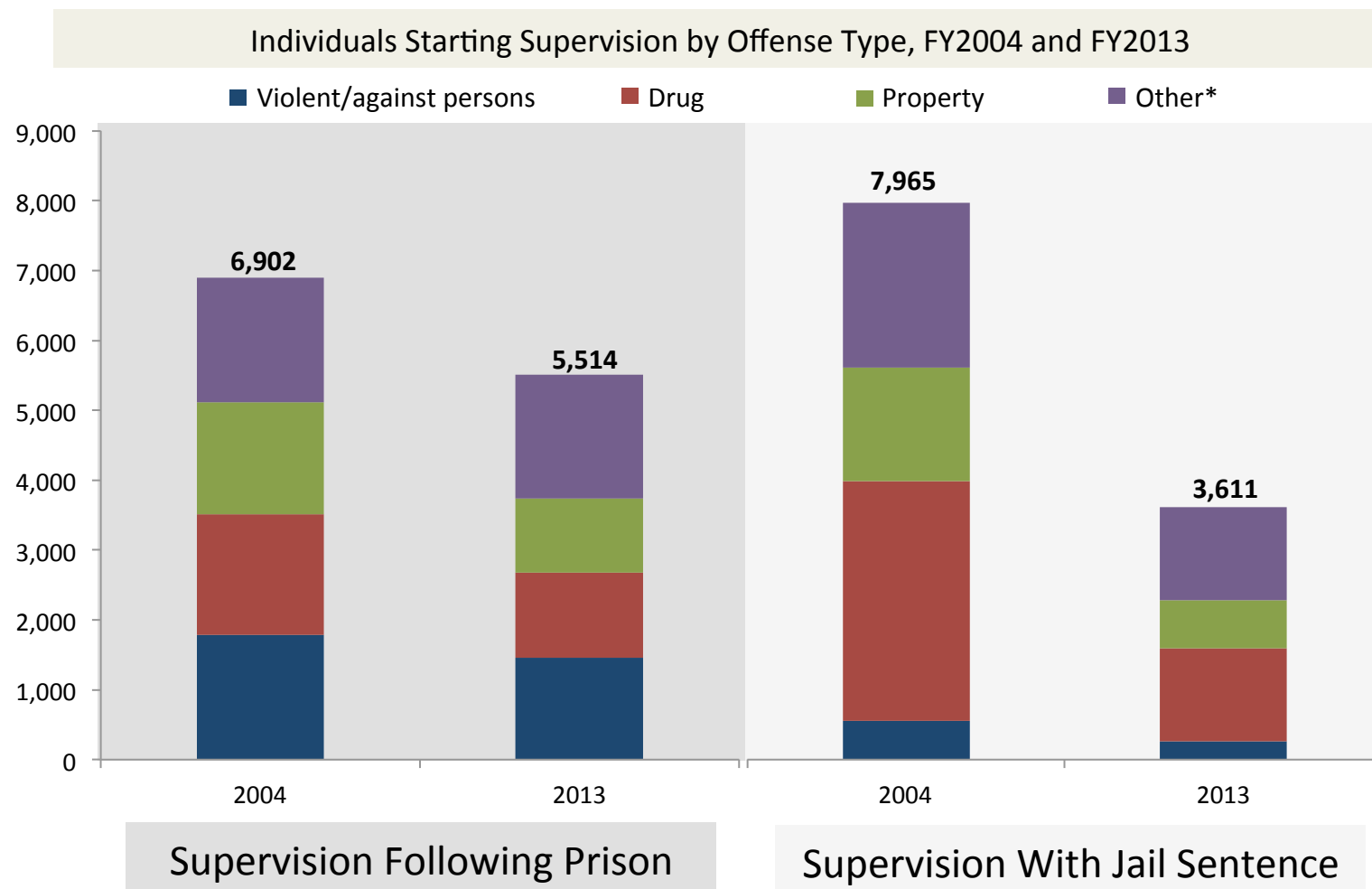
Source: CSG Justice Center analysis of DOC and CFC data.

# The number of prison and jail releases starting supervision has declined by nearly 40 percent since FY2004.

Number of Individuals Starting Supervision Following Release from Prison or Jail, FY2004 to FY2013



# The largest decline in the population starting supervision has been property and drug offenders sentenced to jail.



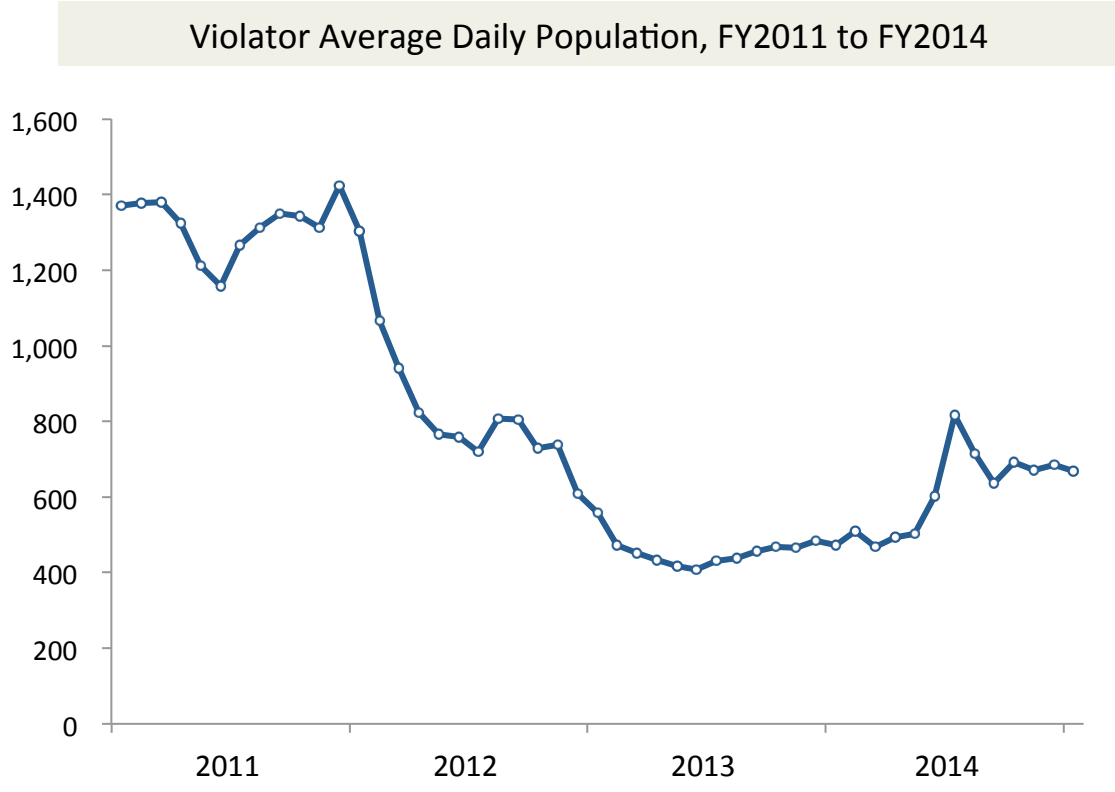
\*Other includes domestic violence court order violation, failure to register, vehicular assault, firearm possession, sex offenses not classified as violent, and Assault 3.

Source: CSG Justice Center analysis of DOC and CFC data.

# Supervision Practices and Quality in Washington

<p><b>Target high-risk offenders</b></p>	<ul style="list-style-type: none"> <li>✓ Target high-risk violent and drug offenders</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Target high-risk property offenders</li> <li><input type="checkbox"/> Adopt a dynamic risk/need assessment</li> <li><input type="checkbox"/> Adopt cutoff scores clarifying “high-risk”</li> </ul>	<ul style="list-style-type: none"> <li>✗ Ensure proper use and validation of new tool once adopted</li> </ul>
<p><b>Programs to address need</b></p>	<ul style="list-style-type: none"> <li>✓ Increased funding for evidence-based programs</li> <li>✓ Training on evidence-based practices</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Expand CBT programming</li> <li><input type="checkbox"/> Develop case plans based on new risk/need tool</li> </ul>	<ul style="list-style-type: none"> <li>✗ Improve participation/completion rates</li> <li>✗ Assess quality and effectiveness of programs</li> </ul>
<p><b>Supervision and sanctions</b></p>	<ul style="list-style-type: none"> <li>✓ Adopt swift and certain sanctions</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Adopt incentives for compliance</li> <li><input type="checkbox"/> Ensure “dosage” is sufficient to change behavior</li> </ul>	<ul style="list-style-type: none"> <li>✗ Develop metrics to assess quality of supervision, including engagement vs. absconding</li> </ul>

# Implementation of swift and certain supervision policies has resulted in a decline in average daily population of violators.

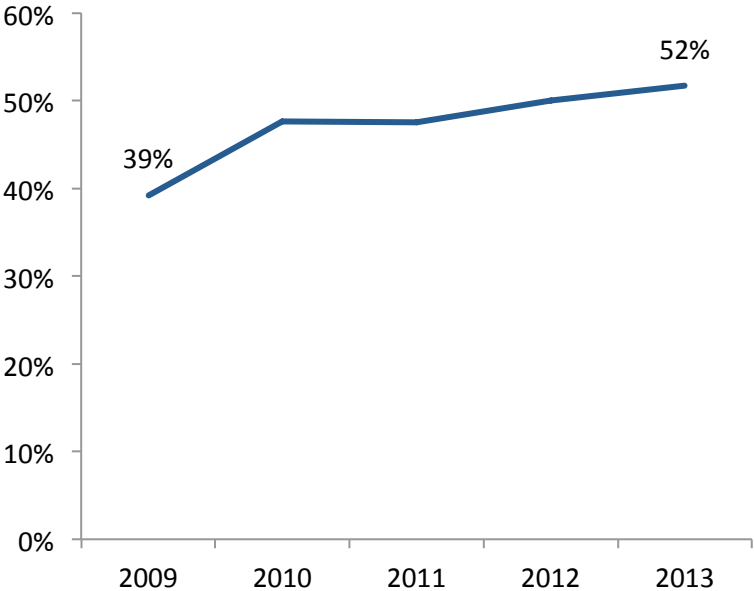


*The average number of days per violation decreased from 23 in 2010 to 8 in 2013.*

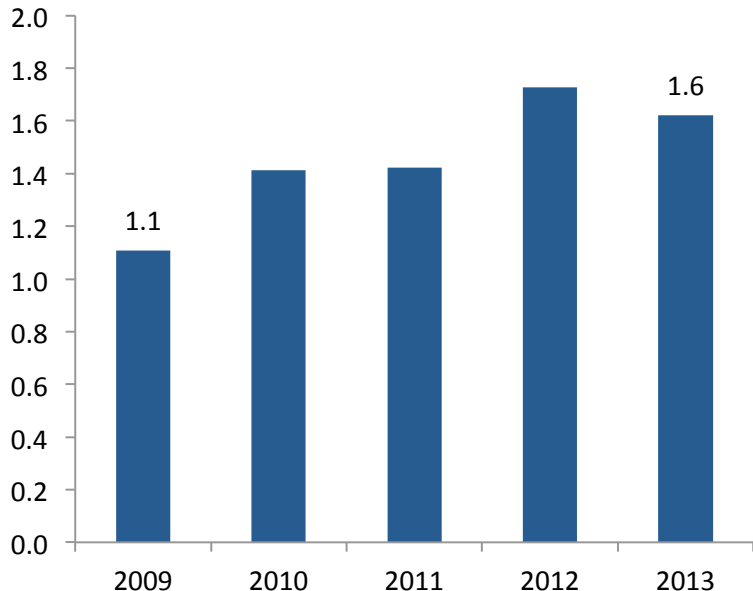
Source: Washington Department of Corrections.

However, the percent of the supervision population with a violation has increased as well as the average number of violations.

Percent of Supervision Population with a Violation, FY2009 to FY2013



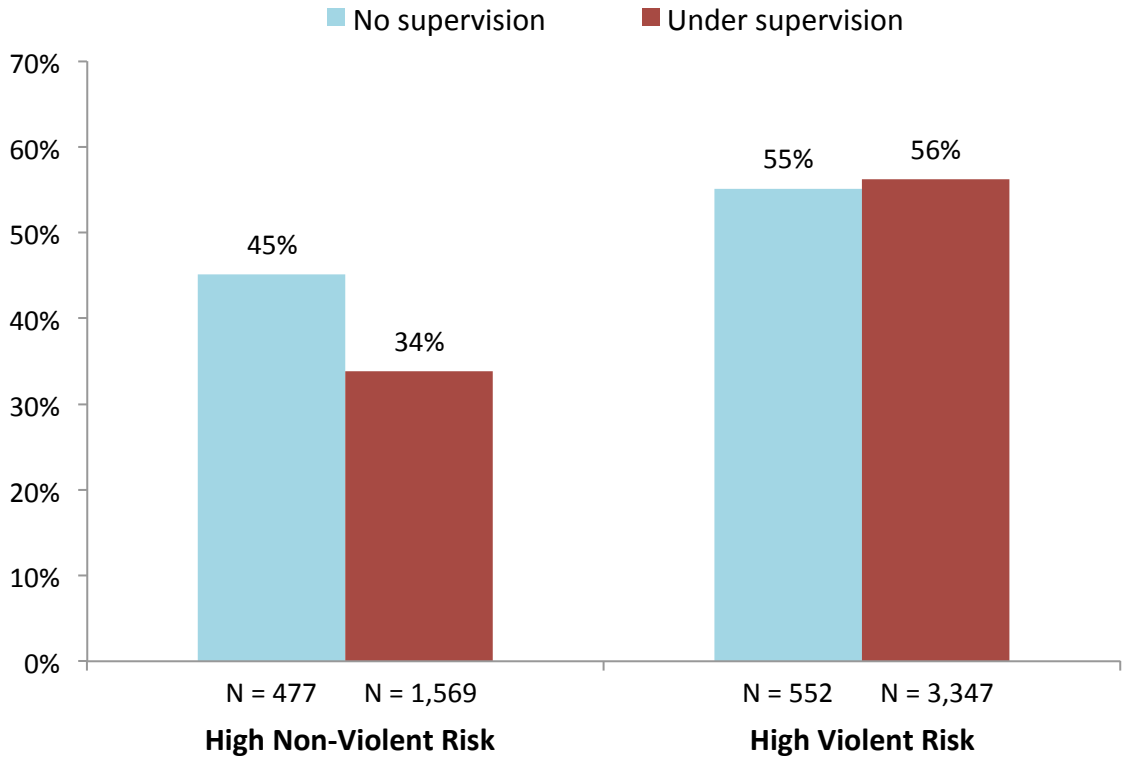
Average Number of Violations for Supervision Population, FY2009 to FY2013



Source: Justice Center analysis of DOC data.

# Individuals assessed as “high non-violent risk” who are supervised have lower recidivism rates than those who are not supervised.

Three Year Felony Rearrest Rates by DOC Risk Level and Supervision, FY2010 Prison Releases



Source: Justice Center analysis of DOC and WSP data.



## Section 2 Summary:

# How Sentencing Guidelines Structure Incapacitation and Supervision

1. Washington has focused supervision on violent and drug offenders who are most likely to reoffend.
2. Individuals convicted of property crime are not supervised even if they are known to be likely to reoffend (except under alternative sentences).
3. Sentences for property offenders (Level I-IV) are very short for low offender scores and very long for high offender scores.
4. Recidivism rates vary little for individuals with offender scores 4 and above.
5. Washington uses supervision less frequently than most other states to reduce recidivism and hold property and drug offenders accountable after release or in lieu of prison sentences.
6. Washington already sentences property offenders with high offender scores to much longer terms of imprisonment than other states with sentencing guidelines and lower property crime rates.
  - For example, in Minnesota, the sentence length for a persistent second degree burglar is half as long as in Washington. Minnesota's property crime rate is 30 percent lower than Washington.

# Overview of Final Data Analysis

**What Works to Reduce Crime and Recidivism**

**How Sentencing Guidelines Structure Incapacitation & Supervision**

**Sentencing Alternatives Currently in Use**

**Policy Challenge & Opportunity**

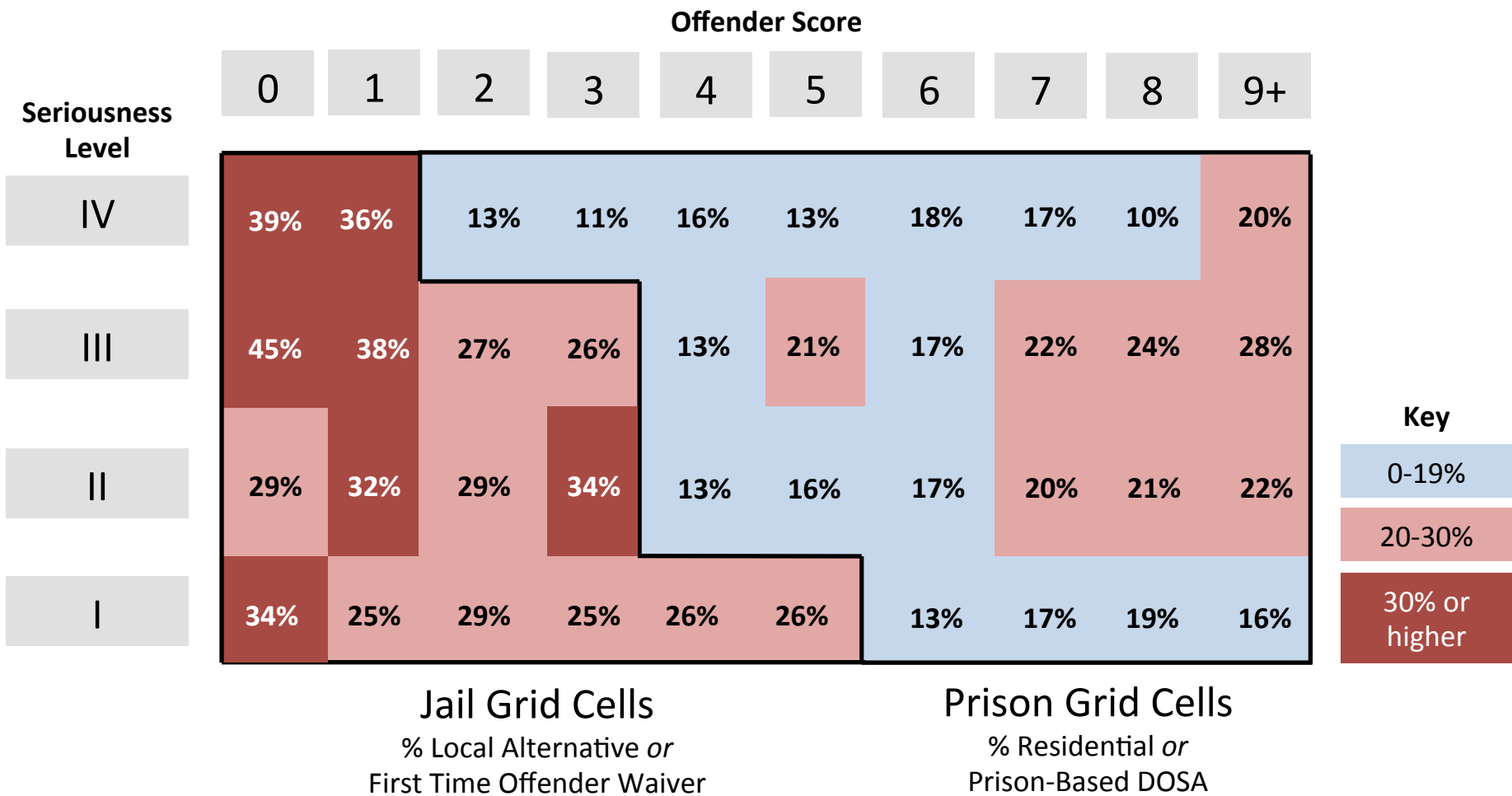
# Alternatives Available at the County and State Level

	Alternatives to Confinement (also called Diversions)	Sentencing Alternatives
<b>Examples include:</b>	Work release, home detention, work crew, Breaking the Cycle	FTOW, DOSA, Sex Offender, and Parenting Sentencing Alt
<b>Eligibility requirements:</b>	Eligibility includes any offender sentenced to jail	Eligibility is statutorily defined
<b>Programs involve:</b>	Program used as a substitute for confinement	Program generally involves shortened sentence and supervision time
<b>Operated by:</b>	County	State

Source: Washington State Sentencing Guidelines Manual, 2012, Caseload Forecast Council; Statistical Summary of Adult Felony Sentencing, FY2013, Caseload Forecast Council.

# A higher percentage of jail sentences receive a sentencing alternative compared to prison sentences.

Percent of FY2013 Felony Sentences with a Sentencing Alternative (Local or State) by Grid Cell Location

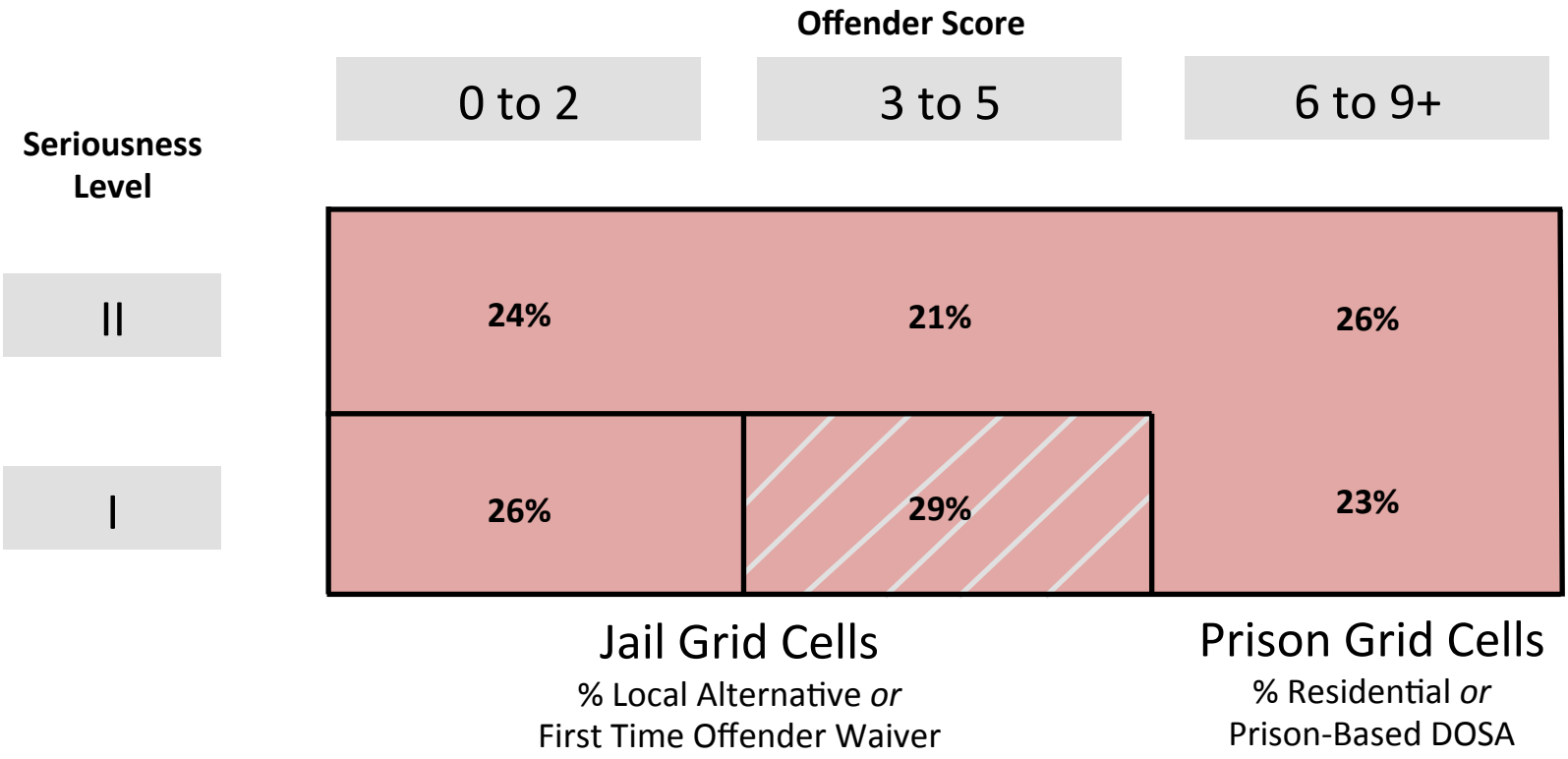


\*Local alternative to confinement includes work release, home detention, work crew, day reporting, and other partial detention (BTC).

Source: CSG Justice Center analysis of DOC and CFC data.

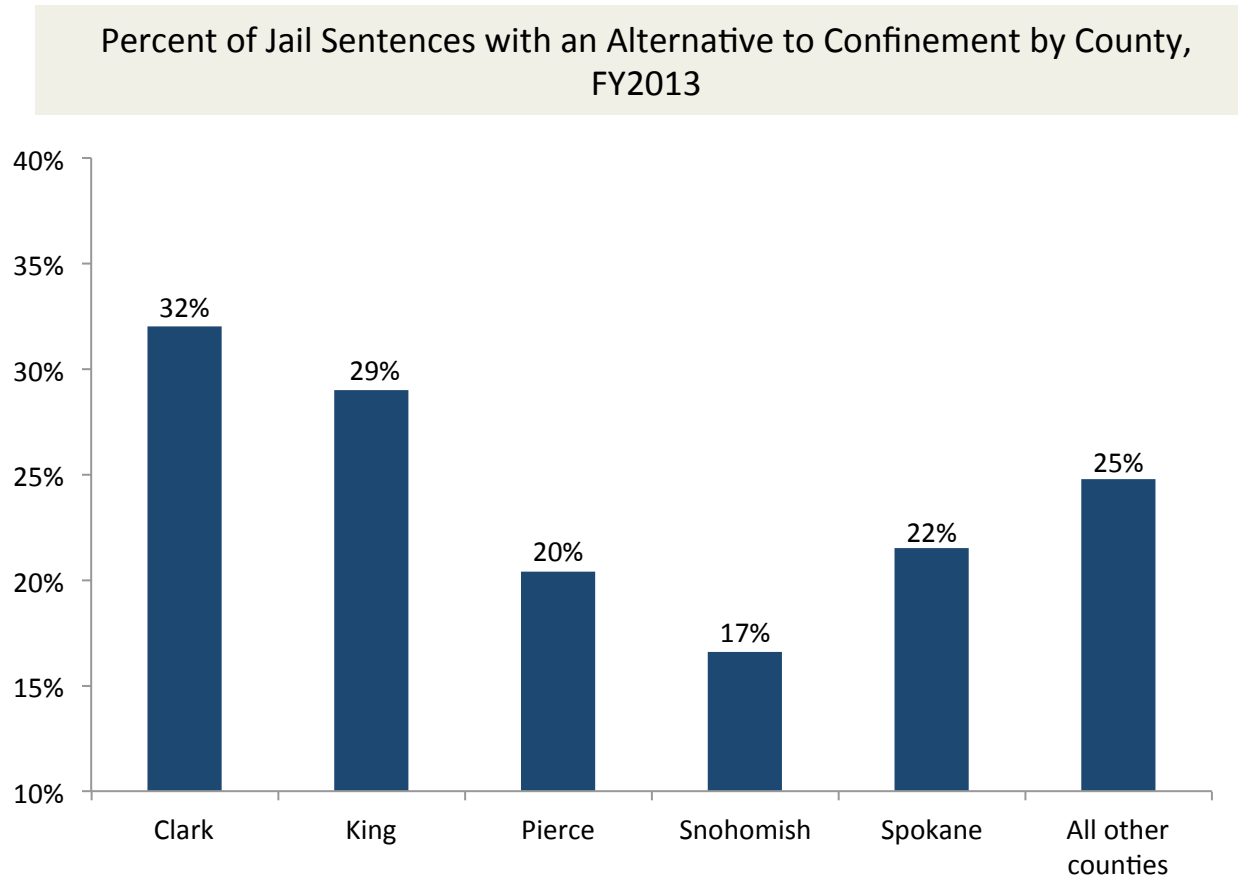
# Only a quarter of drug offenders receive a sentencing alternative regardless of grid location.

Percent of FY2013 Felony Sentences with a Sentencing Alternative (Local or State) by Drug Grid Cell Location



\*Seriousness Level 1, Offender Score 3 to 5, can be either jail or prison sentence

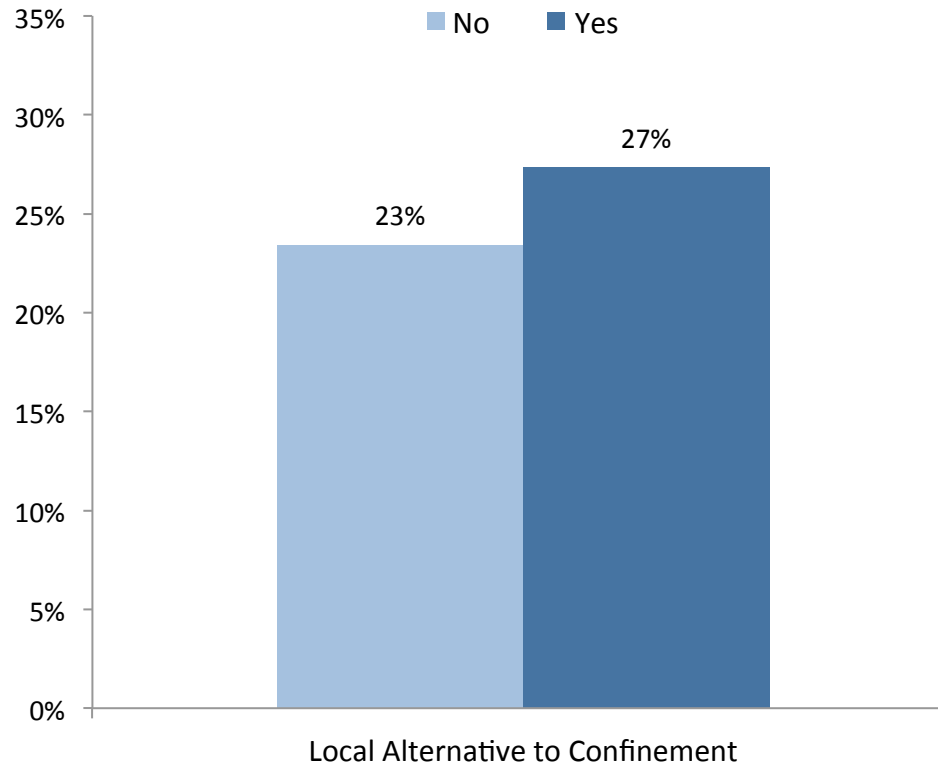
# The use of alternatives varies widely across counties.



Source: CSG Justice Center analysis of CFC data.

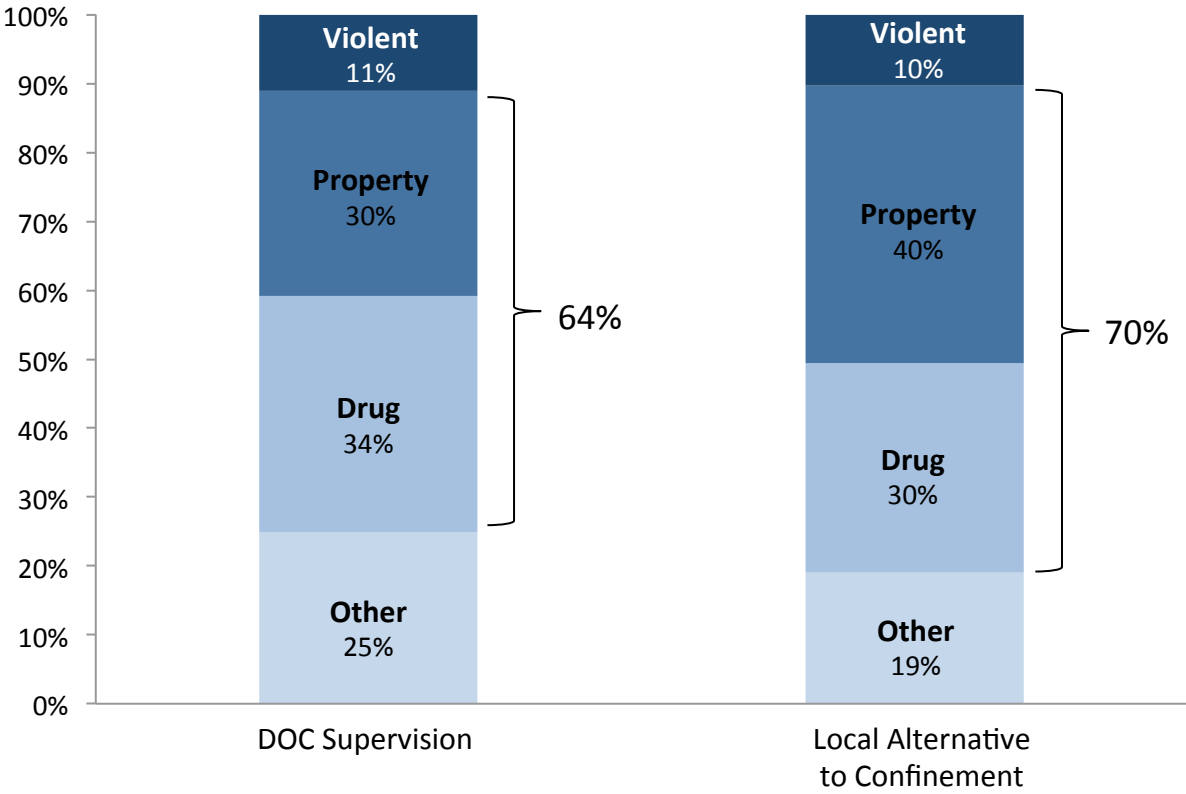
# Jail releases receiving a local alternative have higher recidivism rates than those not receiving an alternative.

One Year Felony Rearrest Rates, FY2011 Jail Releases



# Jail recidivists under supervision or local alternatives are rearrested most often for property or drug offenses.

First Felony Rearrest Offense Type,  
FY2011 Jail Releases Under Supervision or Receiving a Local Alternative



*\*\*"Violent" defined under RCW 9.94A.030(54)*

Source: CSG Justice Center analysis of DOC, WSP and CFC data.

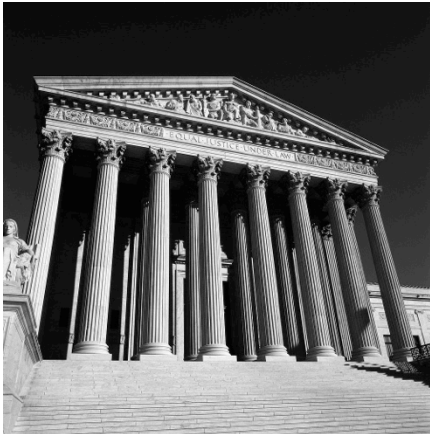


# Drug Courts in Washington State

The Washington State Court System website reports **23** counties operating an adult drug court.

Annual number served statewide: **1,451**  
*Compared with 5,521 felony drug sentences in FY2013*

Pierce and King counties were the first to operate a drug court, going back to 1994.



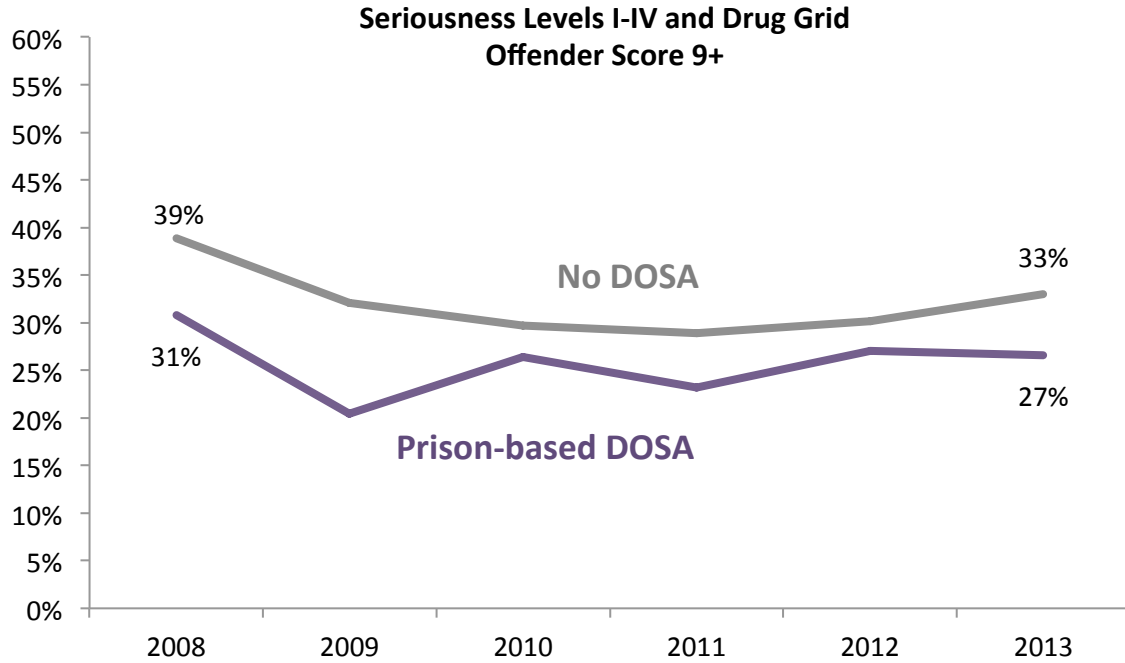
Annual enrollment for top six counties:  
*(Drug courts serving the most people per year)*

King County	275
Pierce County	162
Clark County	160
Thurston County	153
Kitsap County	115
Spokane County	110

Source: <http://www.courts.wa.gov>.

# Among those with an offender score of 9+, DOSA participants have lower rearrest rates.

One Year Felony Rearrest Rates by DOSA Participation, Prison Releases with **Offender Score 9+**, FY2008 to FY2013

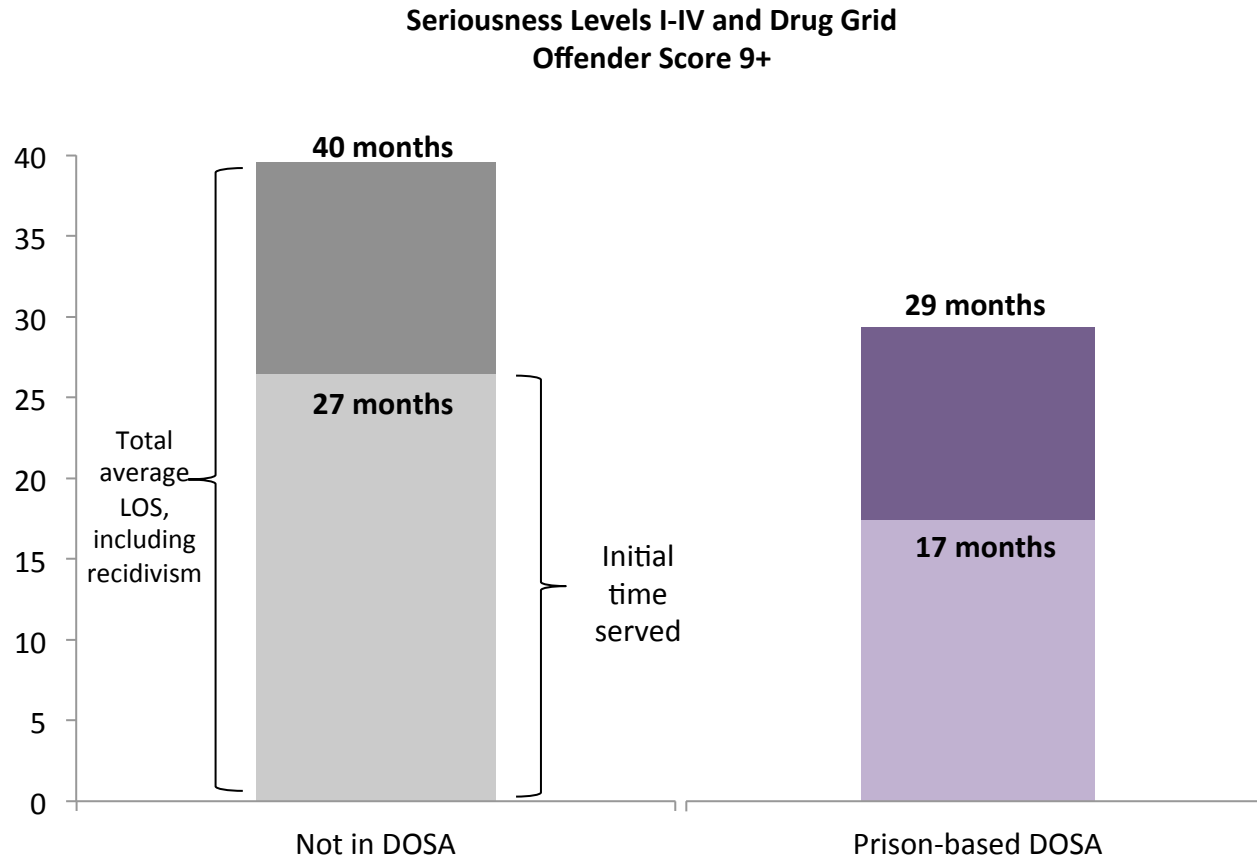


Prison-based DOSA participants are more likely to have a higher offender score on average compared with other prison admissions.

*\*Years selected based on sentencing data match rate (in order to obtain offender score), which reached 90% or higher each year starting in 2008 forward*

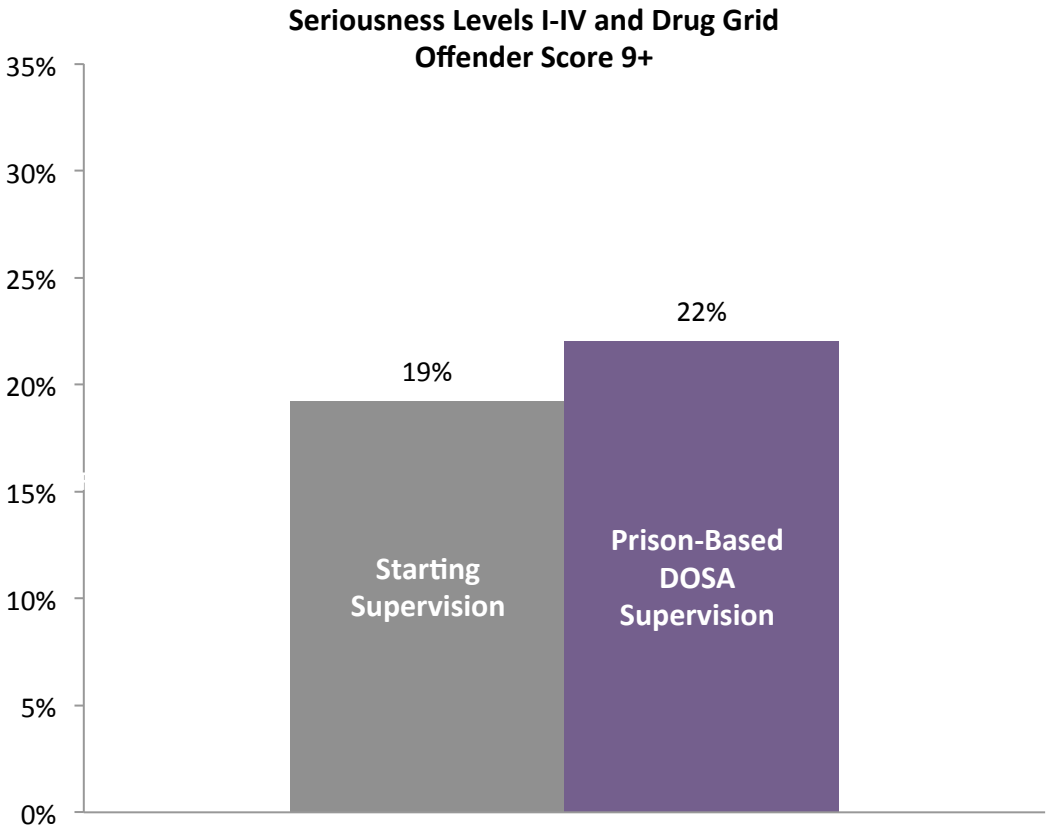
# Among those with an offender score of 9+, DOSA participants spend less time in prison.

Prison Length of Stay (LOS) by DOSA Participation, FY2013 Releases



# DOSA offenders are more likely to be returned to prison, primarily due to revocations.

One Year Incarceration Rates by DOSA Participation, FY2013



Source: CSG Justice Center analysis of DOC, WSP and CFC data.

## Section 3 Summary:

# Sentencing Alternatives Currently in Use

1. Washington has a patchwork of state and local sentencing alternatives.
2. Depending on the alternative, the goals are to shorten confinement, connect individuals to treatment, and reduce recidivism.
3. The use of local alternatives varies by county, is not structured by state policy, and currently does not appear to reduce recidivism.
4. Use of drug courts across the state is significant, but three quarters of drug offenders sentenced to jail or prison do not receive a sentencing alternative (local alternatives, FTOW, Residential DOSA, Prison DOSA).
5. Prison DOSA appears to be effective at reducing reoffending (as measured by rearrests) and reducing the cost of confinement, but participants are more likely to return to prison for a revocation.

# Overview of Final Data Analysis

**High Property Crime Rate & What Works**

**Prison Population Growth & Key Drivers**

**Sentencing Alternatives Currently in Use**

**Policy Challenge & Opportunity**

# Goals of the JR Policy Development Subcommittee

The Justice Reinvestment policy development subcommittee met on October 3, 2014. The subcommittee began discussing potential policy options and identified the following goals to guide further discussions.

Policy solutions should:

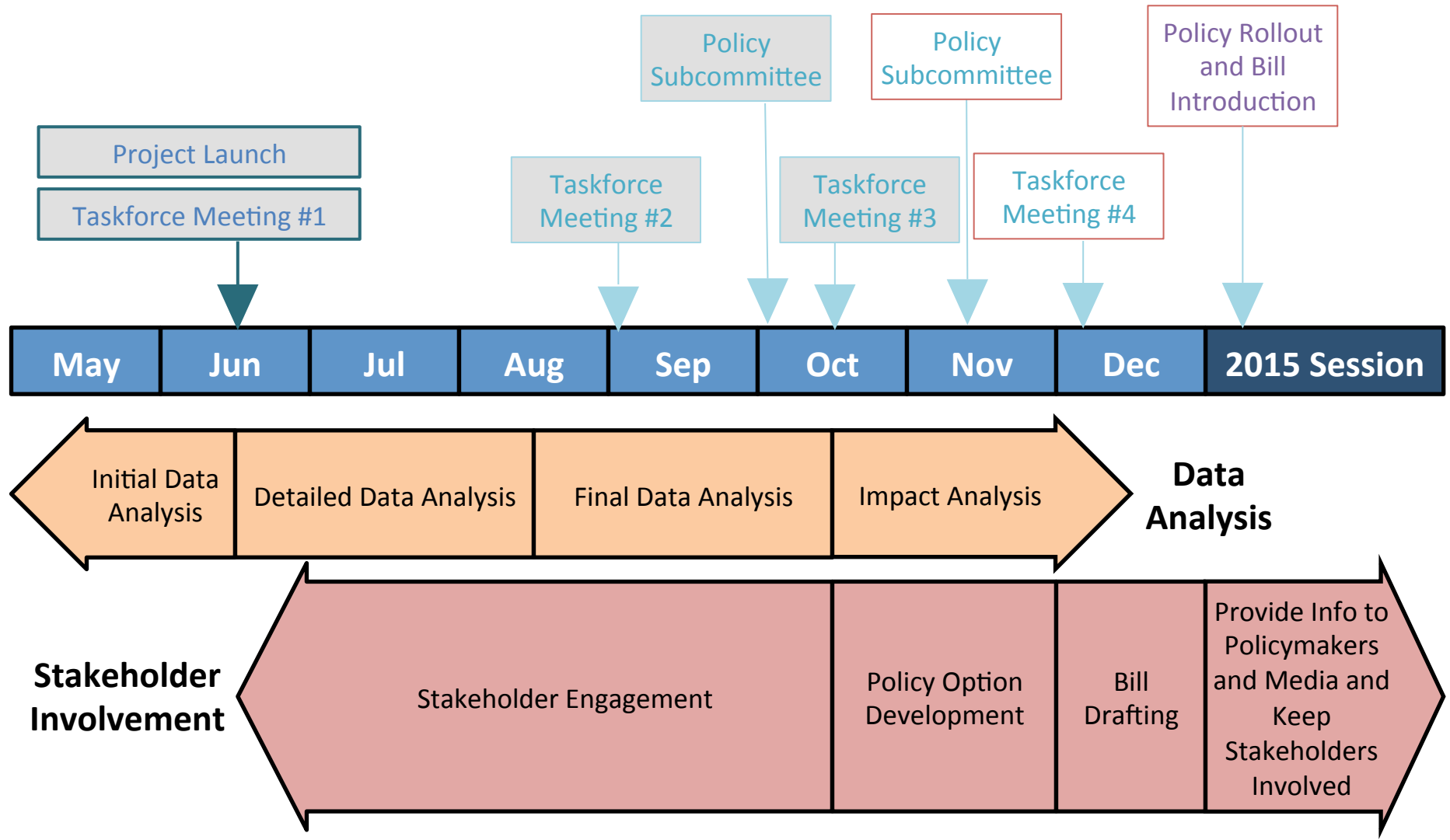
1. Increase public safety by addressing the state's high property crime rate
2. Reduce recidivism among the property offenders and drug offenders
3. Avert further growth in the state prison population
4. Ensure any solution is a win-win for counties and the state
5. Gain consensus among stakeholders and the legislature

# General Policy Options Under Discussion

1. Increase resources for law enforcement to deter property crime
2. Incentivize counties to use risk assessment and evidence-based programs to reduce recidivism while managing jail populations and costs
3. Make supervision and treatment a part of sentencing for property offenders, ensuring supervision for those with a high risk of reoffending
4. Develop a sentencing grid for level I-IV property offenders that would balance supervision and incapacitation
5. Make the quality of supervision more transparent and accountable to stakeholders
6. Create an incentive for offenders to engage and succeed on supervision
7. Make offender scores more reflective of the number of felony convictions



# Next Steps





# Thank You

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