



Washington State Justice Reinvestment Taskforce

Second Meeting

September 4, 2014

Council of State Governments Justice Center

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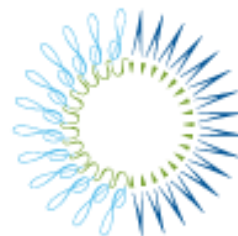
Council of State Governments Justice Center

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

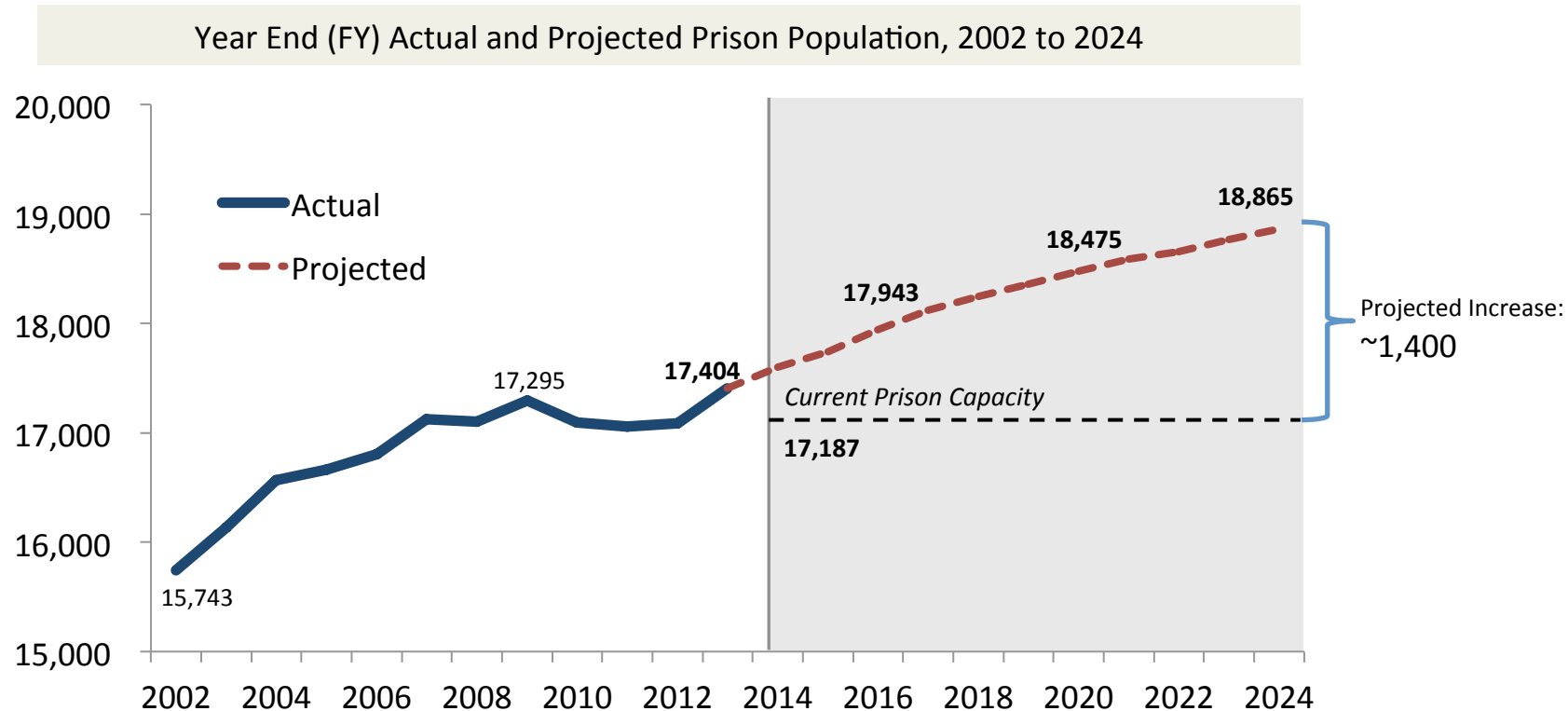


Justice Reinvestment

*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



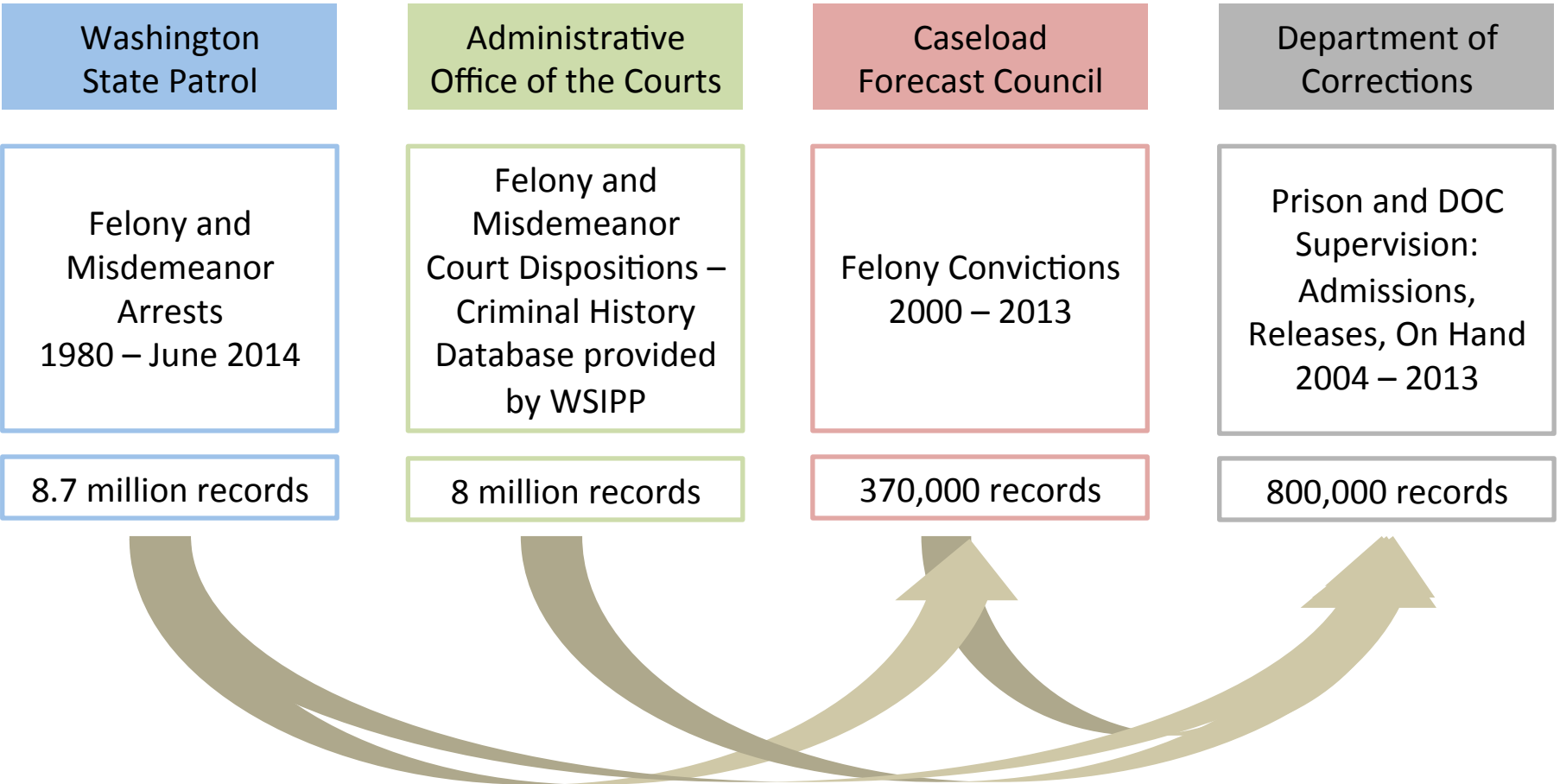
*Expanding capacity to address projected growth will cost the state
\$387 M to \$481 M in capital outlay and operational costs over 10 years*

Source: Caseload Forecast Council, June 2014 Forecast

Criminal Justice Planning Services, "Cost-Effective Incarceration of Washington State Adult Offenders," 2012

Council of State Governments Justice Center

Data from Washington State agencies is enabling an extraordinary degree of matching and analysis



Linking of files on State ID (SID) Number

Key stakeholders in the criminal justice system are being engaged in reviewing analysis and providing input and ideas

June – August Stakeholder Engagement

Caseload Forecast Council ✓
Counties ✓
Department of Corrections ✓
Law Enforcement ✓
Legislative Staff ✓

Prosecutors ✓
Public Defenders ✓
Superior Court Judges ✓
Victim Advocates ✓
Washington Institute of Public Policy ✓

Upcoming Stakeholder Engagement

9/2014	Distribute survey to jail administrators
9/6	Meeting with Superior Court Judges' Association
9/9	Meeting with DOC's Victims' Council
9/12	Present to Sentencing Guidelines Commission
9/12	Meeting with Council on Public Defense
10/1-2	Present at Washington Association of Prosecuting Attorneys Membership Meeting
10/10	Present to Sentencing Guidelines Commission
10/27	Meeting with Washington Federation of State Employees and Teamsters 117
11/18-20	Present at Washington State Association of Counties Conference

Overview of detailed analysis

Sentencing Guidelines

- **Comparison with other guideline states**
- **Utility of offender score**

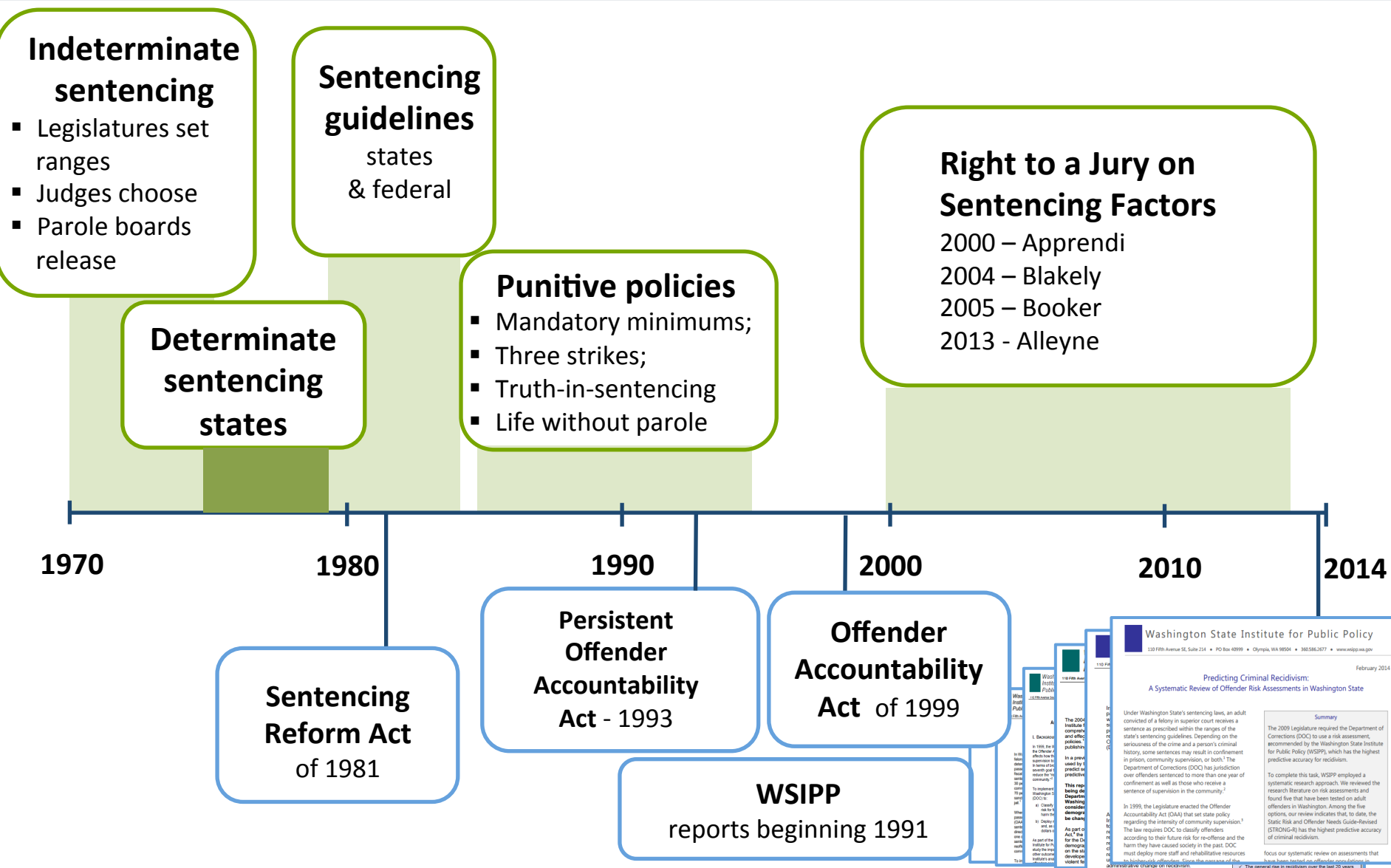
Prison Growth

- **Prison population characteristics**
- **Trends impacting growth**

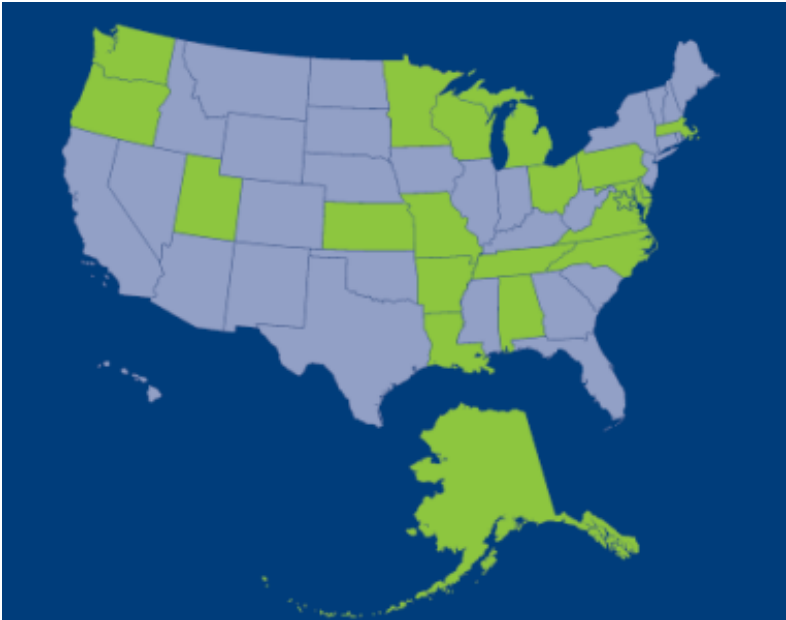
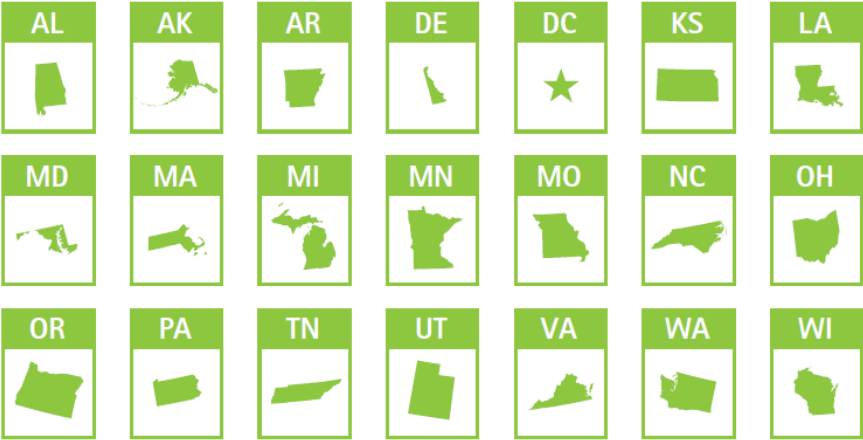
Public Safety

- **Recidivism analysis**
- **Impact of supervision**

A brief history of U.S. and Washington sentencing



Washington is 1 of 21 sentencing guidelines states and 13 non-parole (determinate) sentencing states



States with Sentencing Guidelines	States Without Parole Release
Alabama	
Alaska	
Arkansas	
	Arizona
	California
Delaware	
DC	
	Illinois
	Indiana
Kansas	Kansas
Louisiana	
Maryland	
Massachusetts	
	Maine
Michigan	
Minnesota	Minnesota
Missouri	
North Carolina	North Carolina
Ohio	Ohio
Oregon	Oregon
Pennsylvania	
Tennessee	
Utah	
Virginia	Virginia
Washington	Washington
Wisconsin	Wisconsin

Washington's grids have 169 total cells, with more columns and rows than other systems



258 cells: 9 grids with 3-6 rows and 6 columns

169 cells (16 x 10) + (3 x 3) (drug)

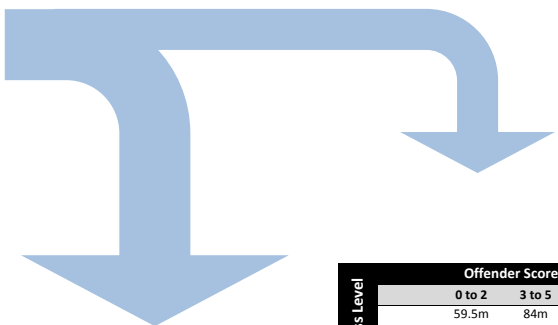
135 cells (10 x 9) + (5 x 9) (drug)

133 cells (11 x 7) + (8 x 7) (sex off.)

112 cells (14 x 8)

99 cells (11 x 9)

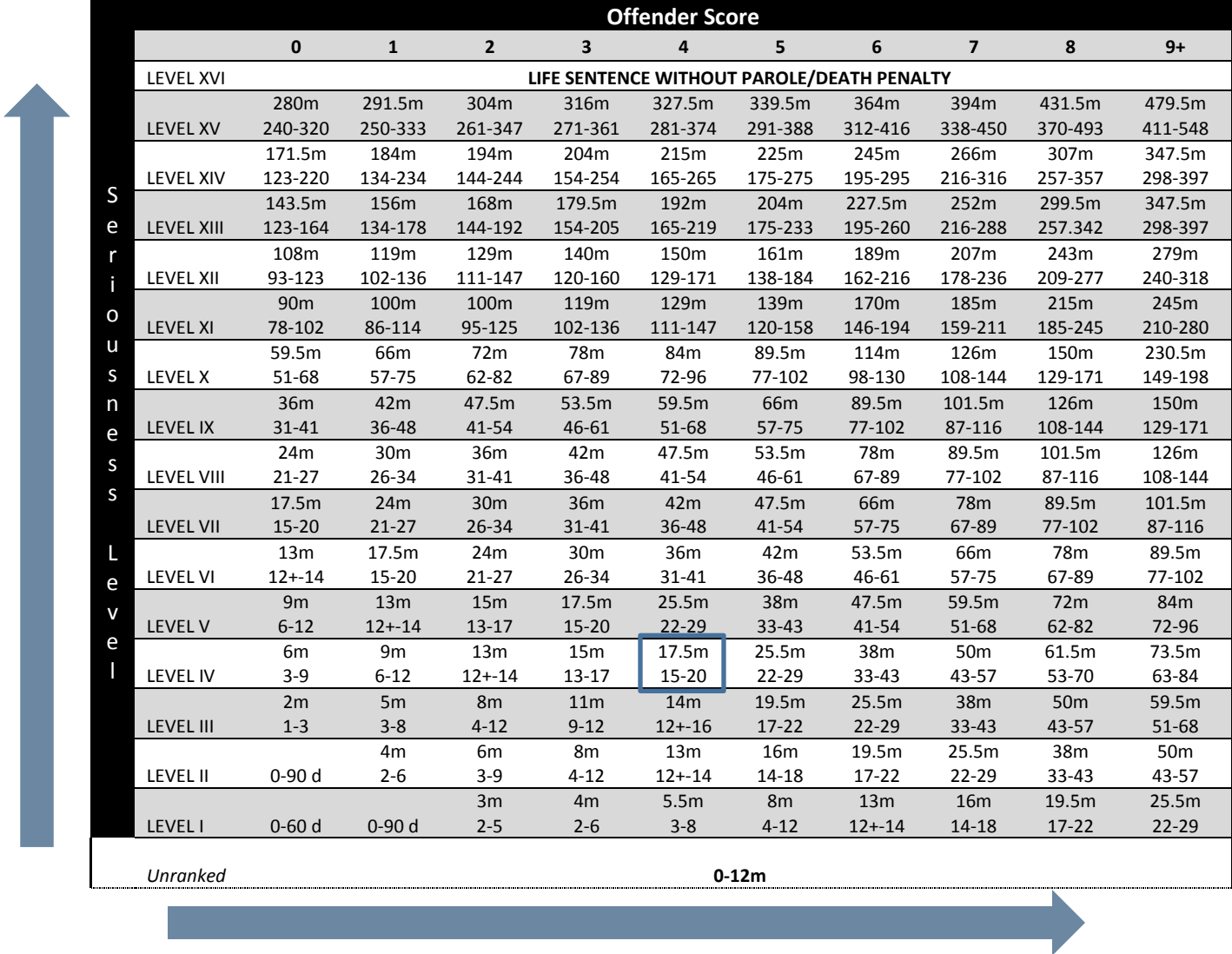
60 cells (10 x 6)



Seriousness Level	Offender Score		
	0 to 2	3 to 5	6 to 9+
LEVEL III	59.5m	84m	110m
	51-68	68+100	100+120
LEVEL II	16m	40m	90m
	12+20	20+60	60+120
LEVEL I	3m	12m	18m
	0-6	6+18	12+24

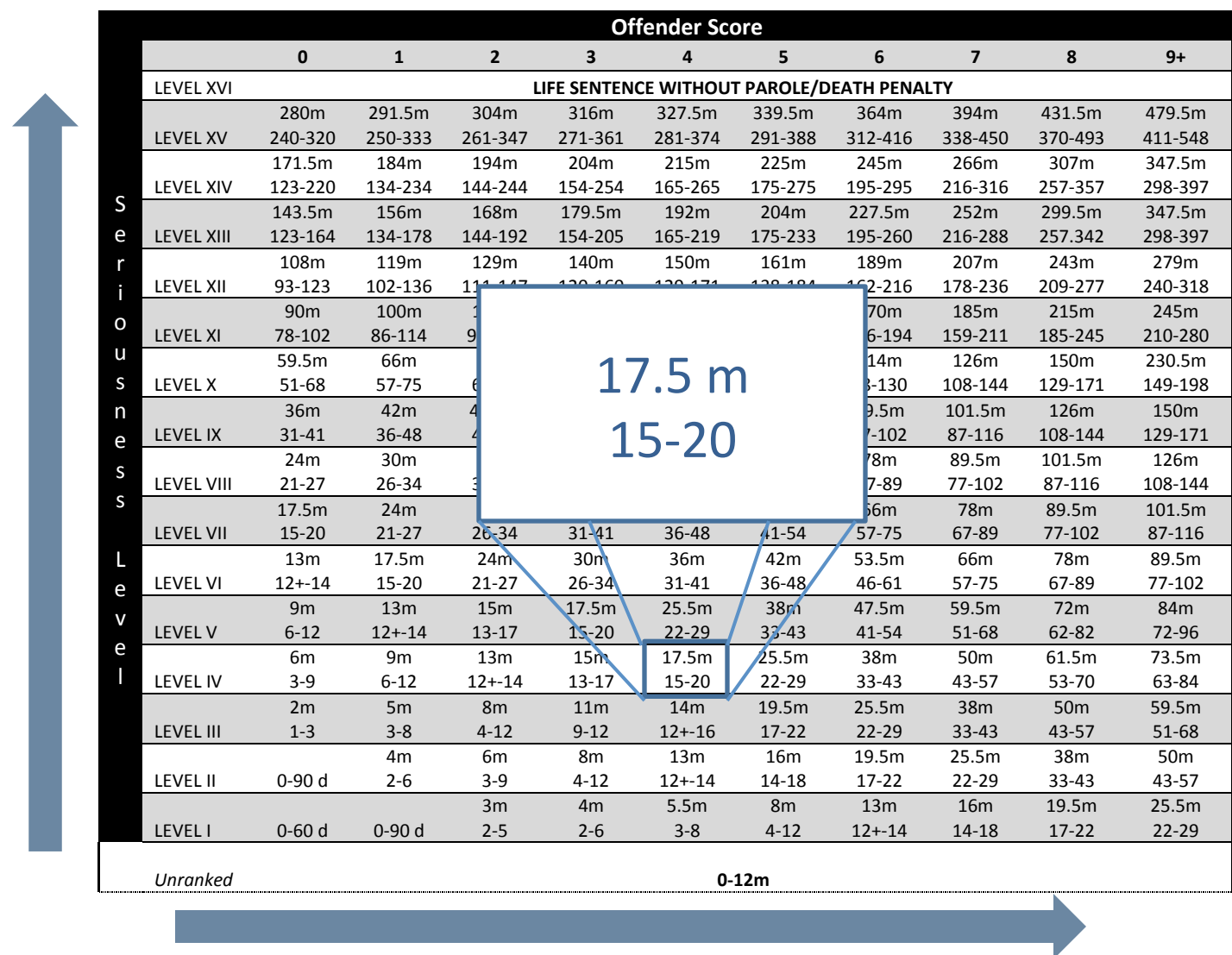
	Offender Score									
	0	1	2	3	4	5	6	7	8	9+
Seriousness Level	LIFE SENTENCE WITHOUT PAROLE/DEATH PENALTY									
	LEVEL XVI	280m	291.5m	304m	316m	327.5m	339.5m	364m	394m	431.5m
		240-320	250-333	261-347	271-361	281-374	291-388	312-416	338-450	370-493
	LEVEL XV	171.5m	184m	194m	204m	215m	225m	245m	266m	307m
		123-220	134-234	144-244	154-254	165-265	175-275	195-295	216-316	257-357
	LEVEL XIV	143.5m	156m	168m	179.5m	192m	204m	227.5m	252m	299.5m
		123-164	134-178	144-192	154-205	165-219	175-233	195-260	216-288	257-342
	LEVEL XIII	108m	119m	129m	140m	150m	161m	189m	207m	243m
		93-123	102-136	111-147	120-160	129-171	138-184	162-216	178-236	209-277
	LEVEL XII	90m	100m	100m	119m	129m	139m	170m	185m	215m
		78-102	86-114	95-125	102-136	111-147	120-158	146-194	159-211	185-245
	LEVEL XI	59.5m	66m	72m	78m	84m	89.5m	114m	126m	150m
		51-68	57-75	62-82	67-89	72-96	77-102	98-130	108-144	129-171
	LEVEL X	36m	42m	47.5m	53.5m	59.5m	66m	89.5m	101.5m	126m
		31-41	36-48	41-54	46-61	51-68	57-75	77-102	87-116	108-144
	LEVEL IX	24m	30m	36m	42m	47.5m	53.5m	78m	89.5m	101.5m
		21-27	26-34	31-41	36-48	41-54	46-61	67-89	77-102	87-116
	LEVEL VIII	17.5m	24m	30m	36m	42m	47.5m	66m	78m	89.5m
		15-20	21-27	26-34	31-41	36-48	41-54	57-75	67-89	77-102
	LEVEL VII	13m	17.5m	24m	30m	36m	42m	53.5m	66m	78m
		12+14	15-20	21-27	26-34	31-41	36-48	46-61	57-75	67-89
	LEVEL VI	9m	13m	15m	17.5m	25.5m	38m	47.5m	59.5m	72m
		6-12	12+14	13-17	15-20	22-29	33-43	41-54	51-68	62-82
	LEVEL V	6m	9m	13m	15m	17.5m	25.5m	38m	50m	61.5m
		3-9	6-12	12+14	13-17	15-20	22-29	33-43	43-57	53-70
	LEVEL IV	2m	5m	8m	11m	14m	19.5m	25.5m	38m	50m
		1-3	3-8	4-12	9-12	12+16	17-22	22-29	33-43	43-57
	LEVEL III	4m	6m	8m	13m	16m	19.5m	25.5m	38m	50m
		0-90 d	2-6	3-9	4-12	12+14	14-18	17-22	22-29	33-43
	LEVEL II	3m	4m	5.5m	8m	13m	16m	19.5m	25.5m	38m
		0-60 d	0-90 d	2-5	2-6	3-8	4-12	12+14	14-18	17-22
	LEVEL I	0-60 d	0-90 d	2-5	2-6	3-8	4-12	12+14	14-18	17-22
		Unranked					0-12m			

Washington sentencing grids increase in offense and criminal history severity from lower left to upper right



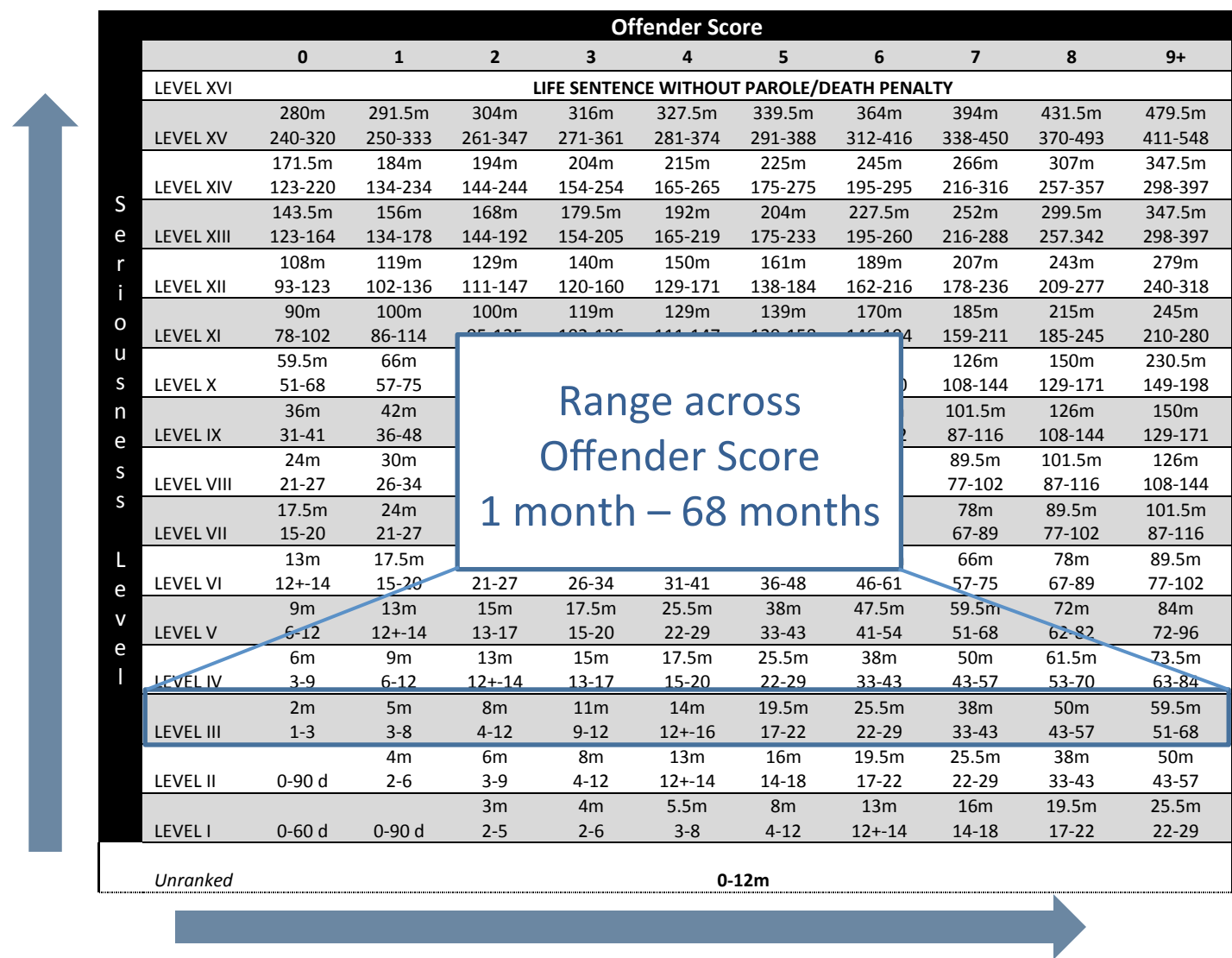
Source: Washington State Sentencing Guidelines Manual, 2012, Caseload Forecast Council

Each grid cell contains a midpoint and a range in months



Source: Washington State Sentencing Guidelines Manual, 2012, Caseload Forecast Council

Sentences within a seriousness level or offense type vary widely depending on offender score



Source: Washington State Sentencing Guidelines Manual, 2012, Caseload Forecast Council

Unlike other states that sentence to probation in lower sections of the grid, Washington uses mostly confinement

Washington Sentencing Grid

		Offender Score									
		0	1	2	3	4	5	6	7	8	9+
S e r i o u s n e s s L e v e l	LEVEL XVI	LIFE SENTENCE WITHOUT PAROLE/DEATH PENALTY									
		280m	291.5m	304m	316m	327.5m	339.5m	364m	394m	431.5m	479.5m
	LEVEL XV	240-320	250-333	261-347	271-361	281-374	291-388	312-416	338-450	370-493	411-548
		171.5m	184m	194m	204m	215m	225m	245m	266m	307m	347.5m
	LEVEL XIV	123-220	134-234	144-244	154-254	165-265	175-275	195-295	216-316	257-357	298-397
		143.5m	156m	168m	179.5m	192m	204m	227.5m	252m	299.5m	347.5m
	LEVEL XIII	123-164	134-178	144-192	154-205	165-219	175-233	195-260	216-288	257-342	298-397
		108m	119m	129m	140m	150m	161m	189m	207m	243m	279m
	LEVEL XII	93-123	102-136	111-147	120-160	129-171	138-184	162-216	178-236	209-277	240-318
		90m	100m	100m	119m	129m	139m	170m	185m	215m	245m
	LEVEL XI	78-102	86-114	95-125	102-136	111-147	120-158	146-194	159-211	185-245	210-280
		59.5m	66m	72m	78m	84m	89.5m	114m	126m	150m	230.5m
	LEVEL X	51-68	57-75	62-82	67-89	72-96	77-102	98-130	108-144	129-171	149-198
		36m	42m	47.5m	53.5m	59.5m	66m	89.5m	101.5m	126m	150m
	LEVEL IX	31-41	36-48	41-54	46-61	51-68	57-75	77-102	87-116	108-144	129-171
		24m	30m	36m	42m	47.5m	53.5m	66m	89.5m	101.5m	126m
	LEVEL VIII	21-27	26-34	31-41	36-48	41-54	46-61	57-75	67-89	87-116	108-144
		17.5m	24m	30m	36m	42m	47.5m	53.5m	66m	89.5m	101.5m
	LEVEL VII	15-20	21-27	26-34	31-41	36-48	41-54	46-61	57-75	67-89	87-116
	13m	17.5m	24m	30m	36m	42m	47.5m	53.5m	66m	89.5m	
LEVEL VI	12+14	15-20	21-27	26-34	31-41	36-48	41-54	46-61	57-75	67-89	
	9m	13m	15m	17.5m	25.5m	38m	47.5m	59.5m	72m	84m	
LEVEL V	6-12	12+14	13-17	15-20	22-29	33-43	41-54	51-68	62-82	72-96	
	6m	9m	13m	15m	17.5m	25.5m	38m	50m	61.5m	73.5m	
LEVEL IV	3-9	6-12	12+14	13-17	15-20	22-29	33-43	43-57	53-70	63-84	
	2m	5m	8m	11m	14m	19.5m	25.5m	38m	50m	59.5m	
LEVEL III	1-3	3-8	4-12	9-12	12+16	17-22	22-29	33-43	43-57	51-68	
		4m	6m	8m	13m	16m	19.5m	25.5m	38m	50m	
LEVEL II	0-90 d	2-6	3-9	4-12	12+14	14-18	17-22	22-29	33-43	43-57	
			3m	4m	5.5m	8m	13m	16m	19.5m	25.5m	
LEVEL I	0-60 d	0-90 d	2-5	2-6	3-8	4-12	12+14	14-18	17-22	22-29	
	Unranked					0-12m					



Minnesota Sentencing Grid

4.A. Sentencing Guidelines Grid

Presumptive sentence lengths are in months. Italicized numbers within the grid denote the discretionary range within which a court may sentence without the sentence being deemed a departure. Offenders with stayed felony sentences may be subject to local confinement.

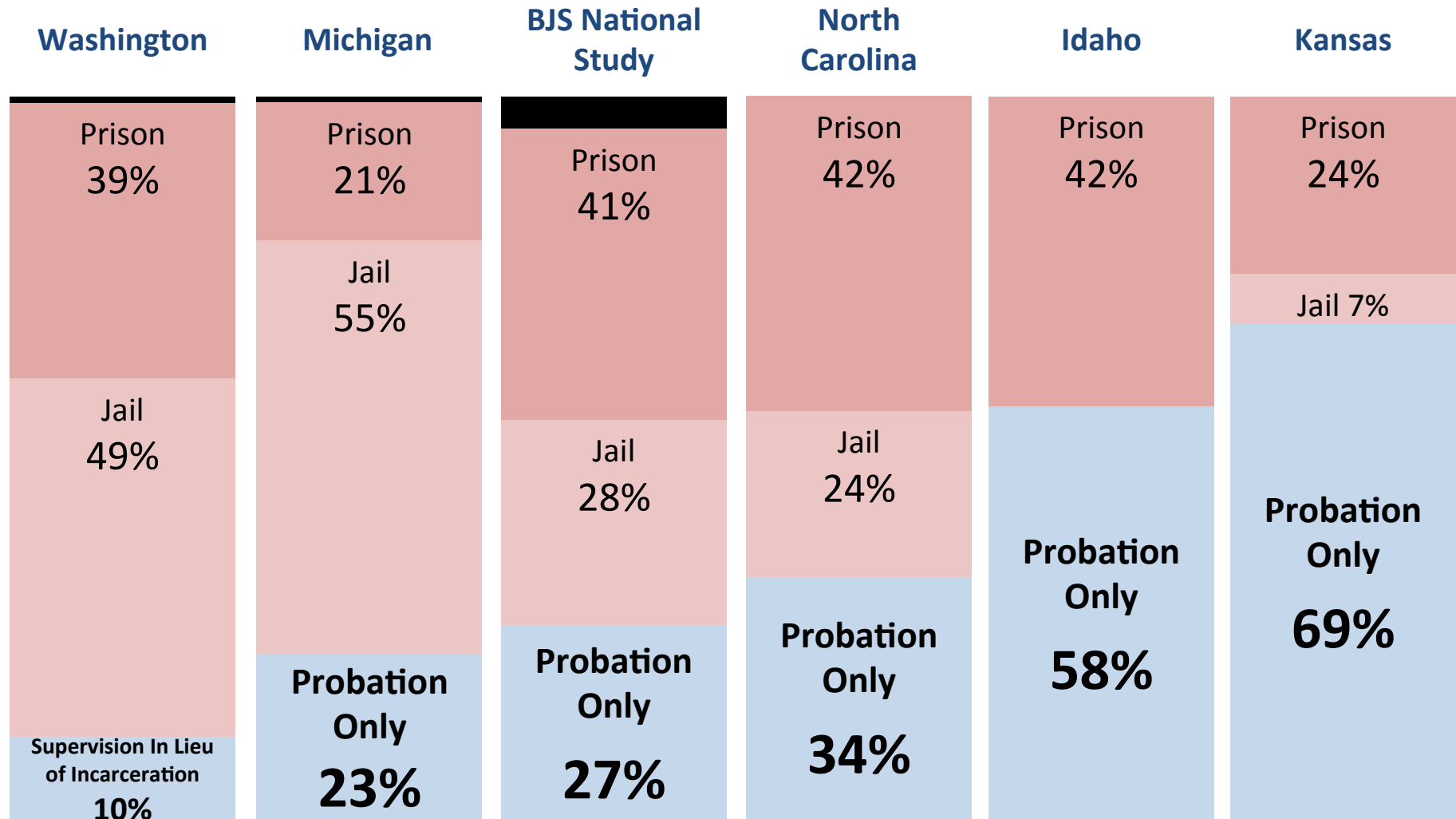
SEVERITY LEVEL OF CONVICTION OFFENSE (Example offenses listed in <i>italics</i>)		0	1	2	3	4	5	6 or more
Murder, 2nd Degree (intentional murder; drive-by-shootings)	11	306 261-367	326 278-391	346 295-415	366 312-439	386 329-463	406 346-480 ²	426 363-480 ²
Murder, 3rd Degree Murder, 2nd Degree (unintentional murder)	10	150 128-180	165 141-198	180 153-216	195 166-222			
Assault, 1st Degree Controlled Substance Crime, 1 st Degree	9	86 74-103	98 84-117	110 94-132	122 104-140			
Aggravated Robbery, 1st Degree Controlled Substance Crime, 2 nd Degree	8	48 41-57	58 50-69	68 58-81	78 67-90			
Felony DWI	7	36	42	48	54 46-66			
Controlled Substance Crime, 3 rd Degree	6	21	27	33	39 34-45	45 39-54	51 44-61	57 49-68
Residential Burglary Simple Robbery	5	18	23	28	33 29-39	38 33-45	43 37-51	48 41-57
Nonresidential Burglary	4	12 ¹	15	18	21	24 21-28	27 23-32	30 26-36
Theft Crimes (Over \$5,000)	3	12 ¹	13	15	17	19 17-22	21 18-25	23 20-27
Theft Crimes (\$5,000 or less) Check Forgery (\$251-\$2,500)	2	12 ¹	12 ¹	13	15	17	19	21 18-25
Sale of Simulated Controlled Substance	1	12 ¹	12 ¹	12 ¹	13	15	17	19 17-22

Presumptive
probation with
up to a year of
confinement

-  Presumptive commitment to state imprisonment. First-degree murder has a mandatory life sentence and is excluded from the Guidelines under Minn. Stat. § 609.185. See Guidelines section 2.E, Mandatory Sentences, for policies regarding those sentences controlled by law.
-  Presumptive stayed sentence; at the discretion of the court, up to one year of confinement and other non-jail sanctions can be imposed as conditions of probation. However, certain offenses in the shaded area of the Grid always carry a presumptive commitment to state prison. Guidelines sections 2.C, Presumptive Sentence and 2.E, Mandatory Sentences.

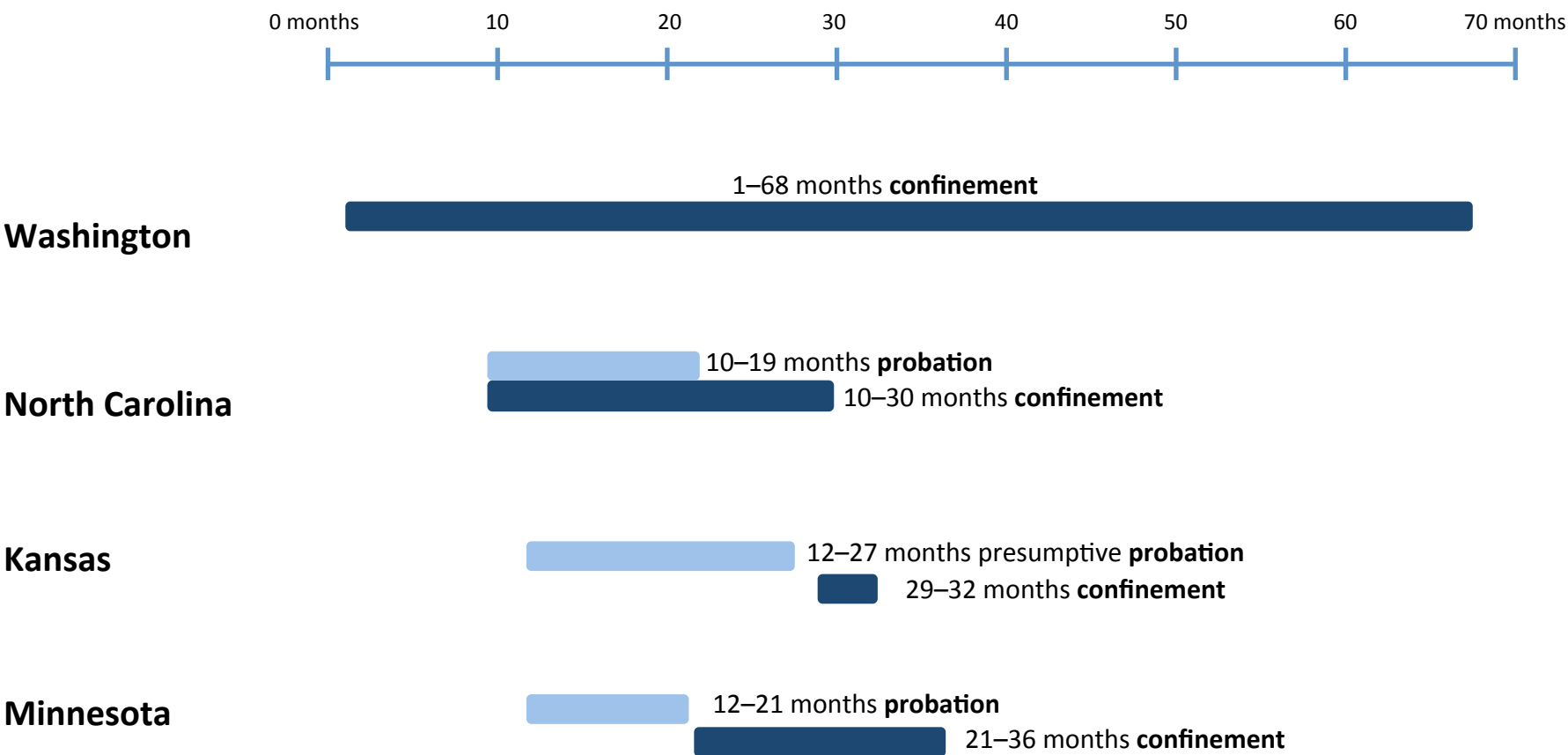
¹ 12¹=One year and one day

Washington utilizes supervision as a felony sentence less than the national average and other recent JR states

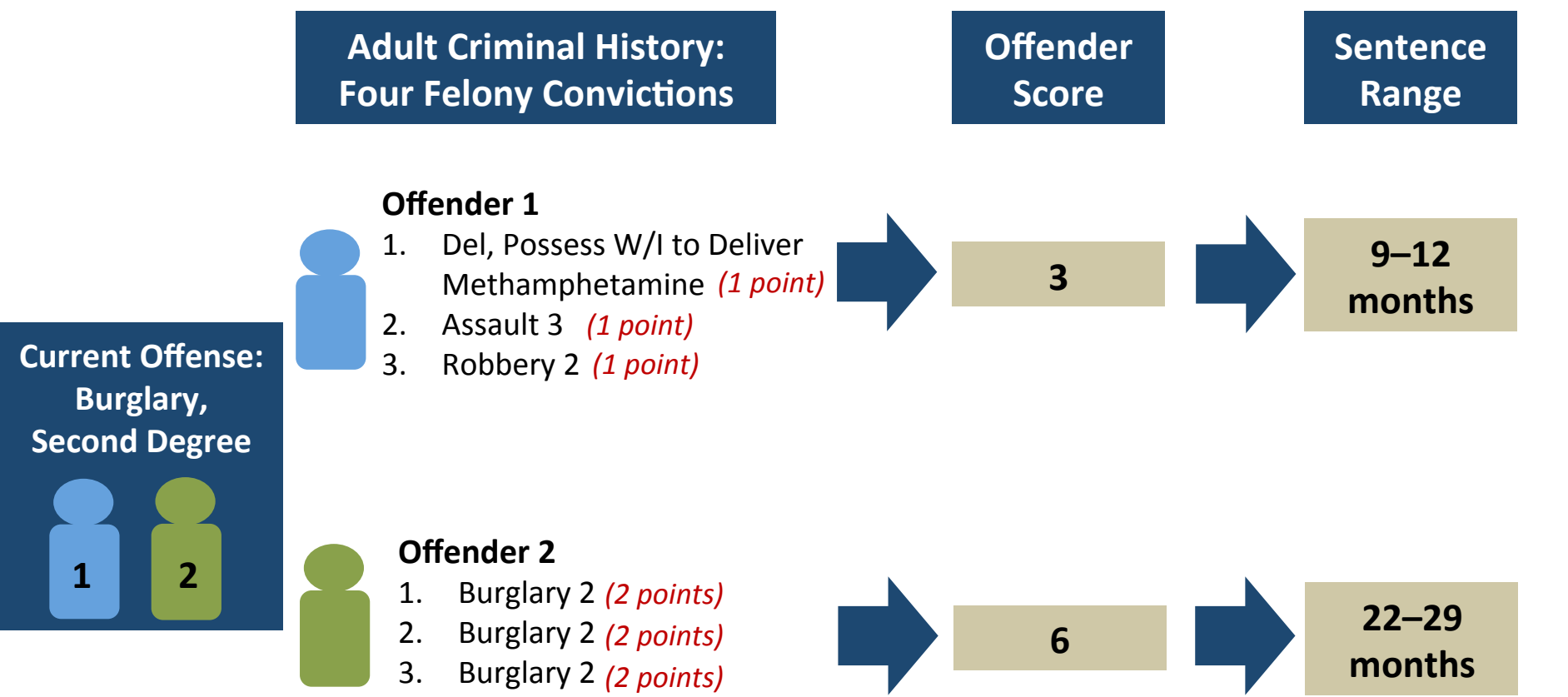


Source: *Statewide Dispositions – Fiscal Year 2012*, Office of Community Alternatives, MI Dept. of Corrections, November 2012; KS Felony Sentencing Data; *Structured Sentencing Statistical Report FY 2011/12*, NC Sentencing and Policy Advisory Commission; BJS Felony Sentences in State Courts, 2006 –Statistical Tables; WA Caseload Forecast Council sentencing data

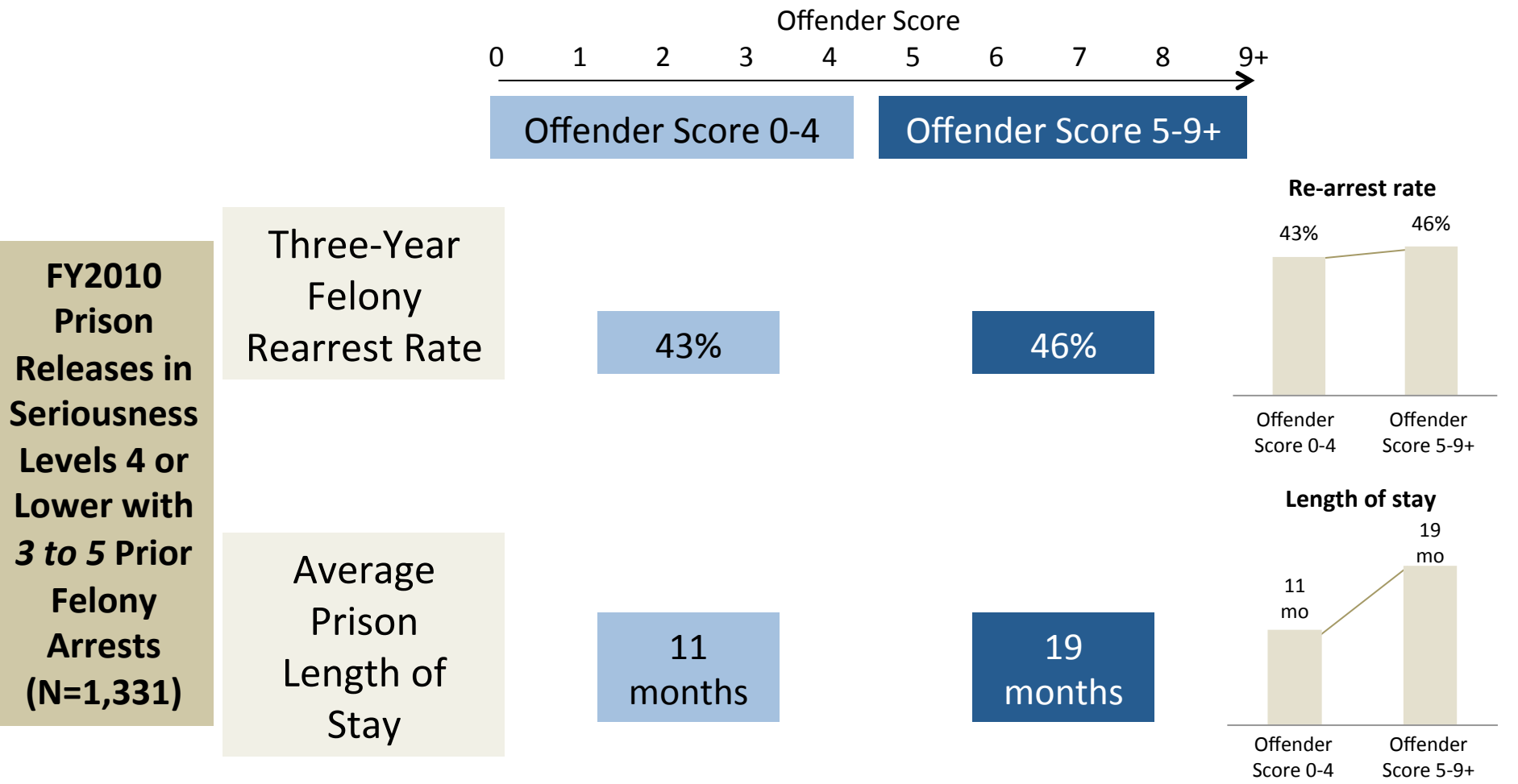
Washington has a wider sentence range and fewer sentencing options for second degree burglary compared to other states



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

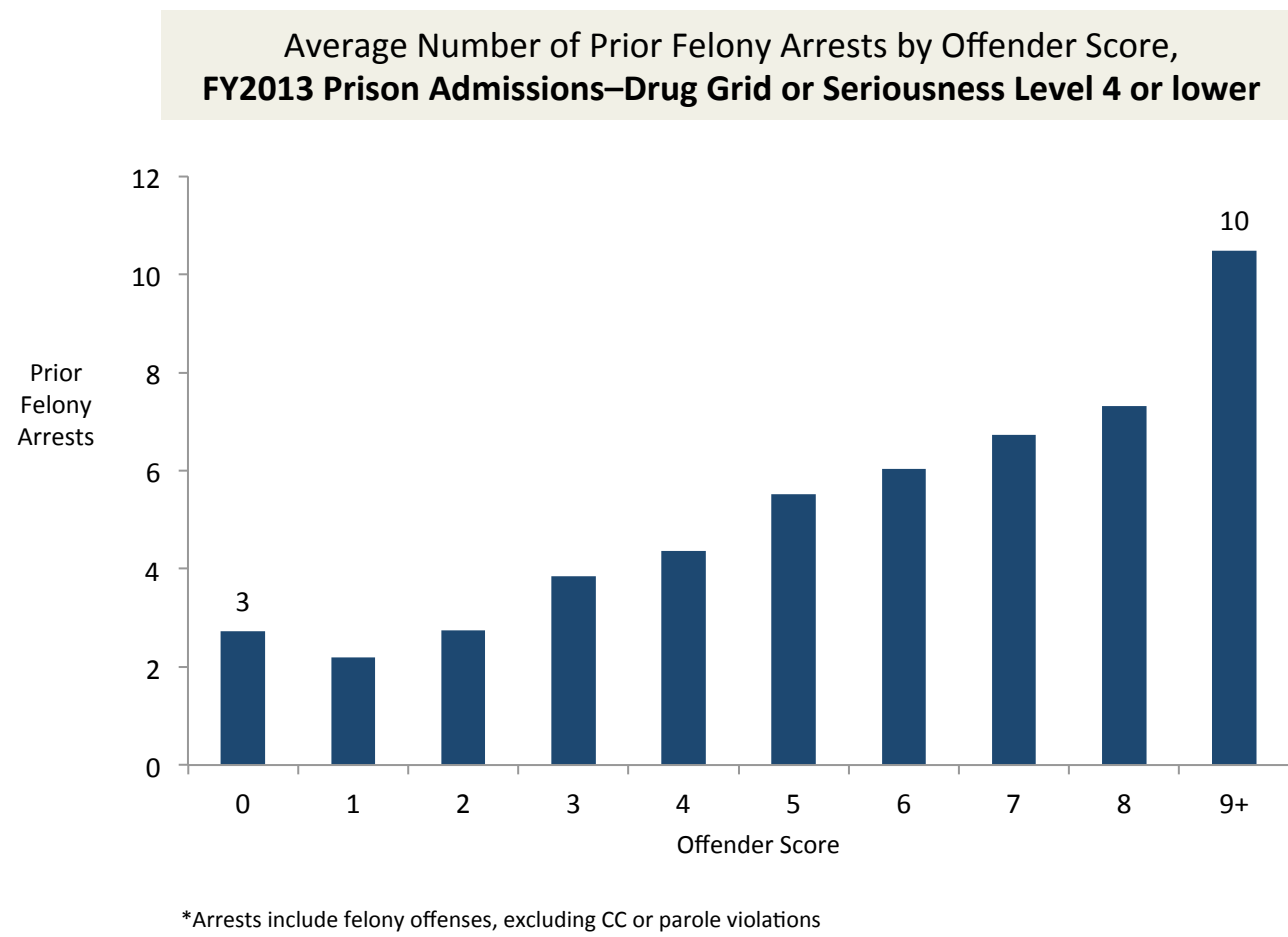


Offender score increases prison time for offenders with similar criminal history and rearrest rate



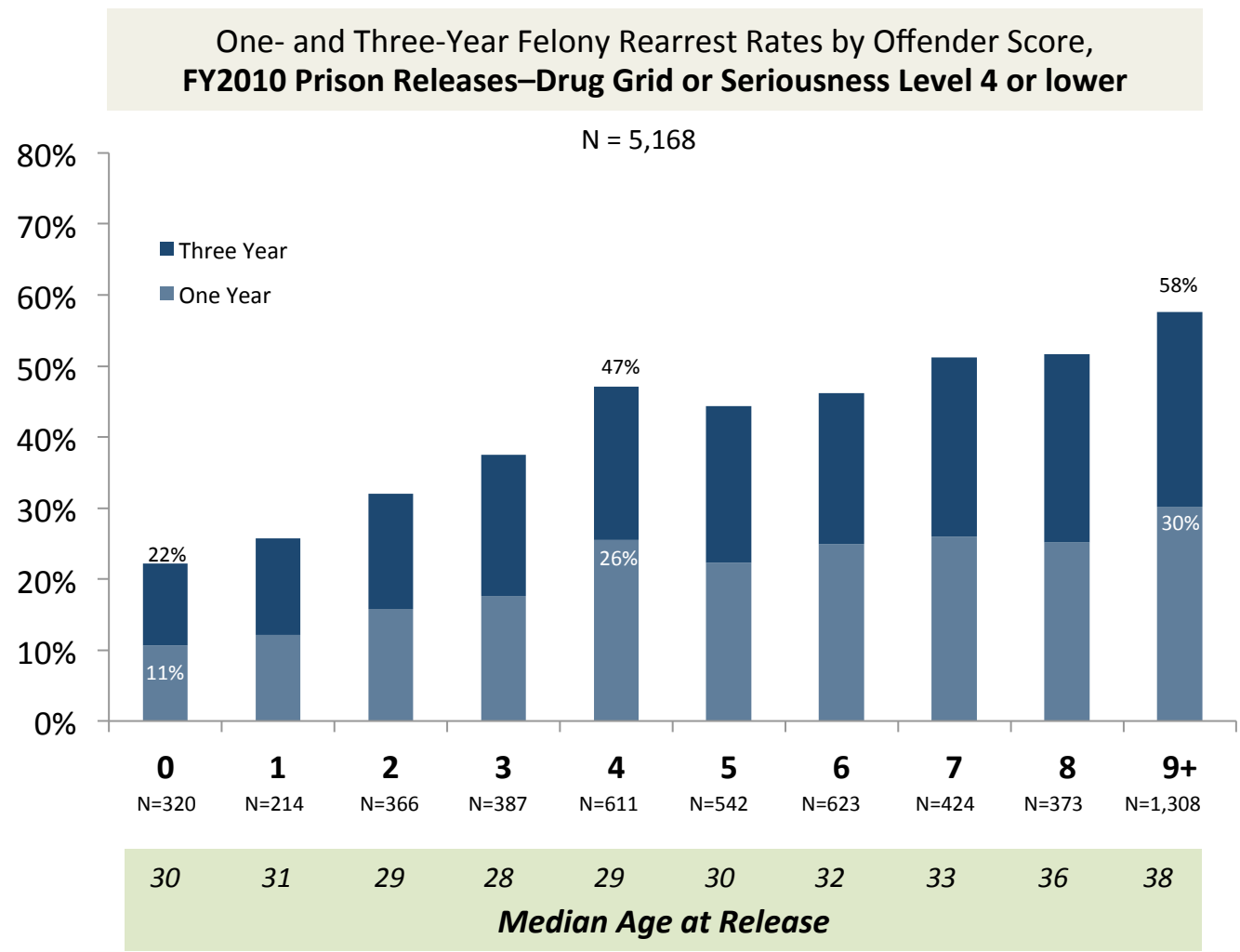
Source: Justice Center analysis of DOC and WSP data

Offender score correlates strongly with number of prior felony arrests



Source: Justice Center analysis of CFC and WSP data

Relationship between offender score and rearrest rate diminishes for offender scores 4 through 8



Source: Justice Center analysis of DOC and WSP data

Key findings regarding sentencing policies

- In Washington, the sentencing range, based on criminal history, is significantly wider than other guidelines states
- Other states utilize community supervision as a sentence in lieu of confinement for a greater proportion of felony sentences
- Prison sentences are longer for repeat offenders in Washington than other guidelines states
- Recidivism does not vary significantly based on offender score for those scoring 4, 5, 6, 7, or 8; but sentence length does

Overview of detailed analysis

Sentencing Guidelines

- **Comparison with other guidelines states**
- **Utility of offender scores**

Prison Growth

- **Prison population characteristics**
- **Trends impacting growth**

Public Safety

- **Recidivism analysis**
- **Impact of supervision**

The on-hand prison population is concentrated in the upper left and lower right sections of the grid

FY2013 **End-of-Year** Prison Population

		Standard Grid									
		Offender Score									
		0	1	2	3	4	5	6	7	8	9+
S e r i o u s n e s s L e v e l	LEVEL XVI	LIFE SENTENCE WITHOUT PAROLE/DEATH PENALTY									
	LEVEL XV	158									808
	LEVEL XIV	204									250
	LEVEL XIII										
	LEVEL XII	303		108	235			124			597
	LEVEL XI	164			118						180
	LEVEL X	164			126			101			160
	LEVEL IX	143		137				100			272
	LEVEL VIII										
	LEVEL VII							125			349
	LEVEL VI										
	LEVEL V					108	106				204
	LEVEL IV	106		137	146	128	180	214	195	134	817
	LEVEL III					177	151	170	181	174	733
	LEVEL II								103	149	712
	LEVEL I										341

		Drug Grid		
		Offender Score		
		0 to 2	3 to 5	6 to 9+
S e r i o u s n e s s L e v e l	LEVEL III			
	LEVEL II	212	347	568
	LEVEL I		129	384

Shaded grid cells represent a population over 100

*Excludes approx. 2% of population with unknown Seriousness Level
Source: Justice Center analysis of DOC data

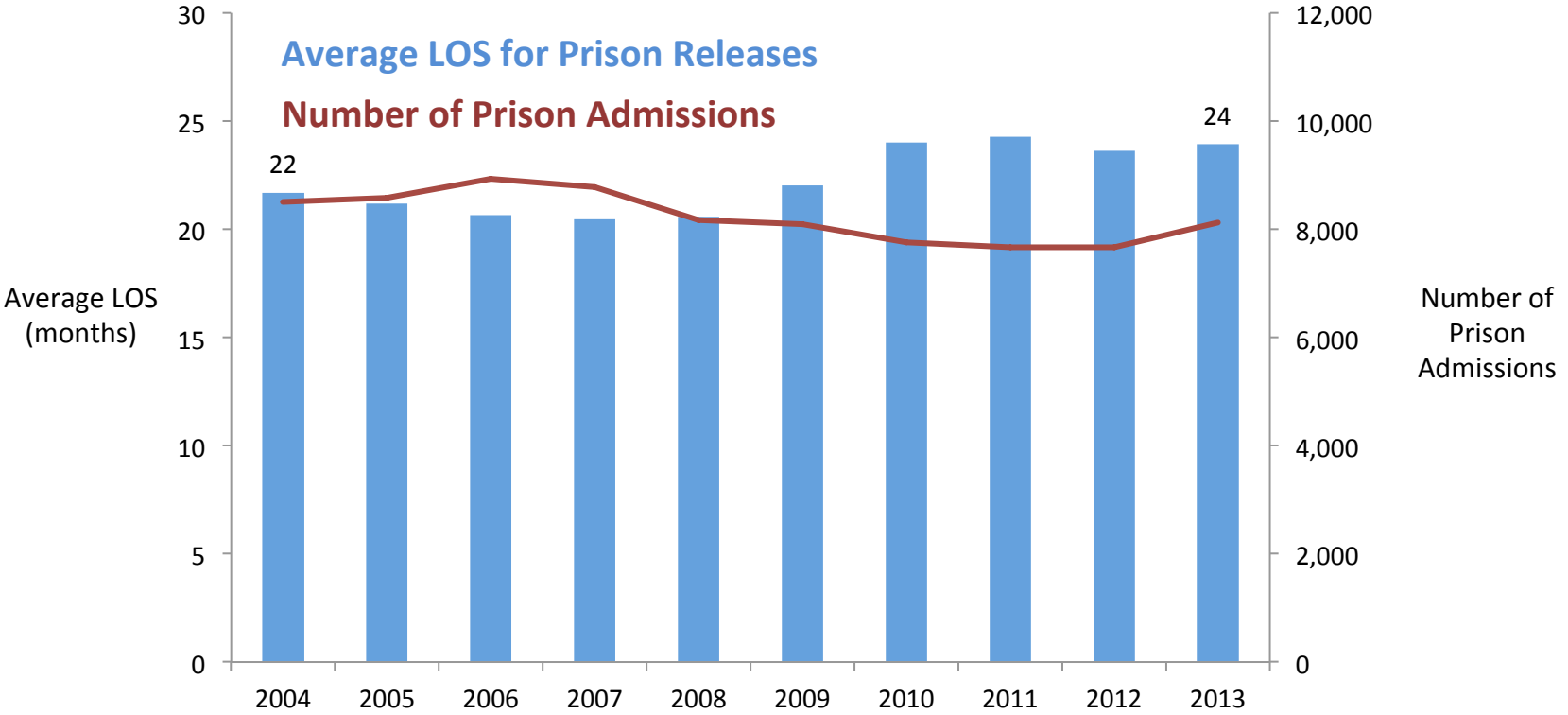
Detail of drug grid and level 1 – 4 standard grid felony sentences in FY2013

Drug (4,976)		Property (7,784)				Violent/Crimes Against Person/Sex (3,170)	
Jail 3,002	Possession of a Controlled Substance, Schedules III, IV, or V: 63%	Jail 4,746	Theft 1 + 2: 22%	Prison 3,038	MV Theft + Possession of a Stolen Vehicle: 22%	Jail 1,888	Assault 3: 48%
	Possession of a Controlled Substance, Schedule I or II: 26%		Poss. + Traf 1 + Traf 2 of Stolen Property: 18%		Residential Burglary: 18%		Assault 2: 16%
	Man, Del, or Poss Marijuana: 5%		Burglary 2: 16%		Burglary 2: 16%		Unlawful Poss. Of Firearm 2: 12%
	Forged Prescrip CS: 3%		Forgery + ID Theft: 2: 15%		ID Theft + Forgery: 15%		Robbery 2: 7%
	Other: 2%		MV Theft + Possession of a Stolen Vehicle2: 13%		Theft 1 + 2: 10%		Vehicular Assault Under Influence: 4%
Prison 1,974	Possession of a Controlled Substance, III, IV, or V: 37%		Residential Burglary: 9%		Traf. 1 + Poss 2 of Stolen Property: 10%	Prison 1,282	Other: 13%
	Man, Del, or Poss Cocaine: 18%		Malicious Mischief 2: 4%		Other: 9%		Assault 2: 35%
	Del or Poss Meth : 17%		Other: 7%				Assault 3: 23%
	Poss CS Sch I, II: 14%						Robbery 2: 15%
	Man/Del/Poss Sch I/II: 6%						Unlawful Poss. Of Firearm 2: 13%
	Other: 8%						Other: 14%

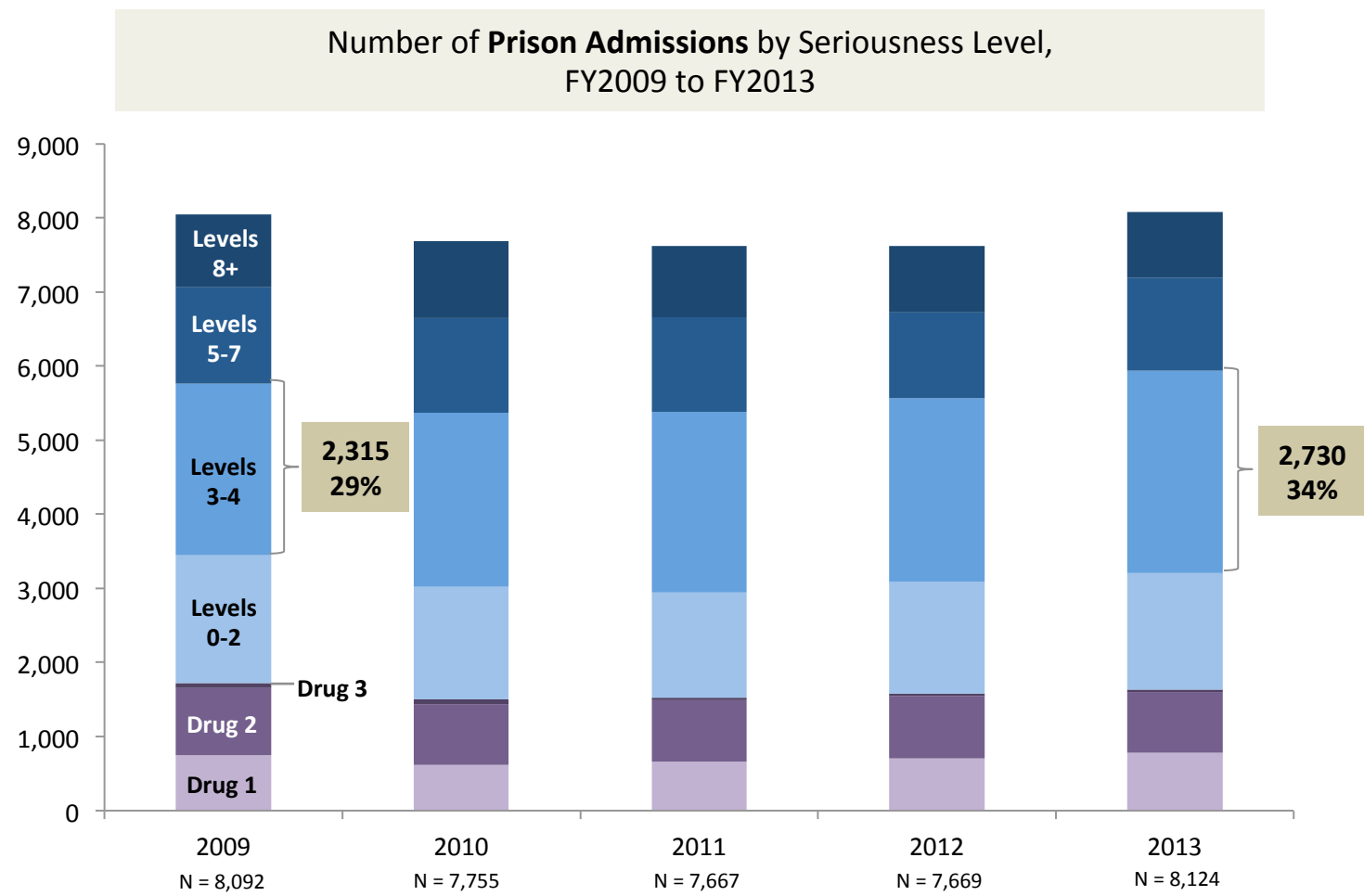
Source: Justice Center Analysis of CFC’s sentencing data

Admissions to prison have remained steady while the average length of stay has increased since 2004

Number of Prison Admissions and Average Length of Stay for Prison Releases, FY2004 and FY2013

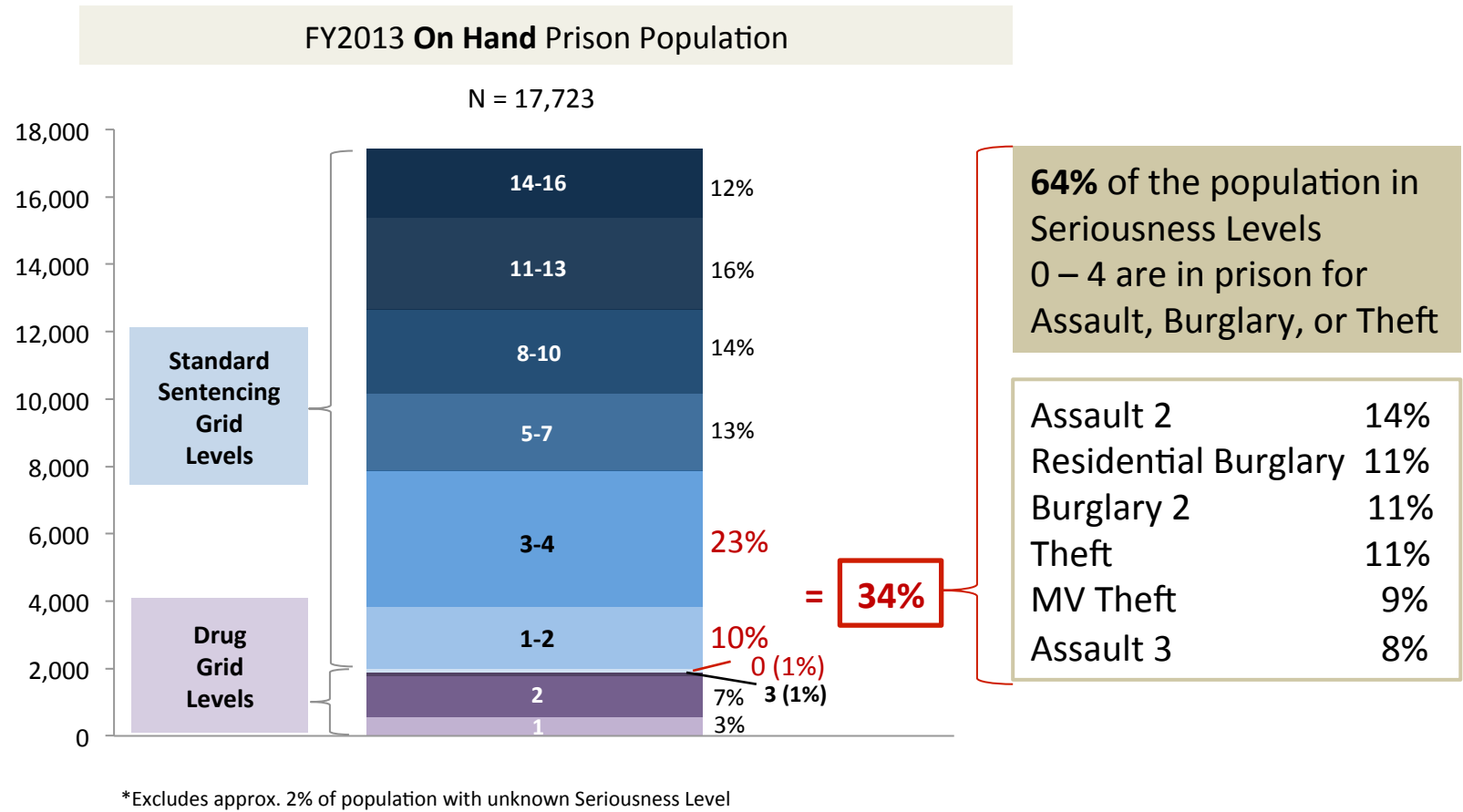


Prison admissions for seriousness level 3 & 4 offenses have increased in number and proportion since FY2009



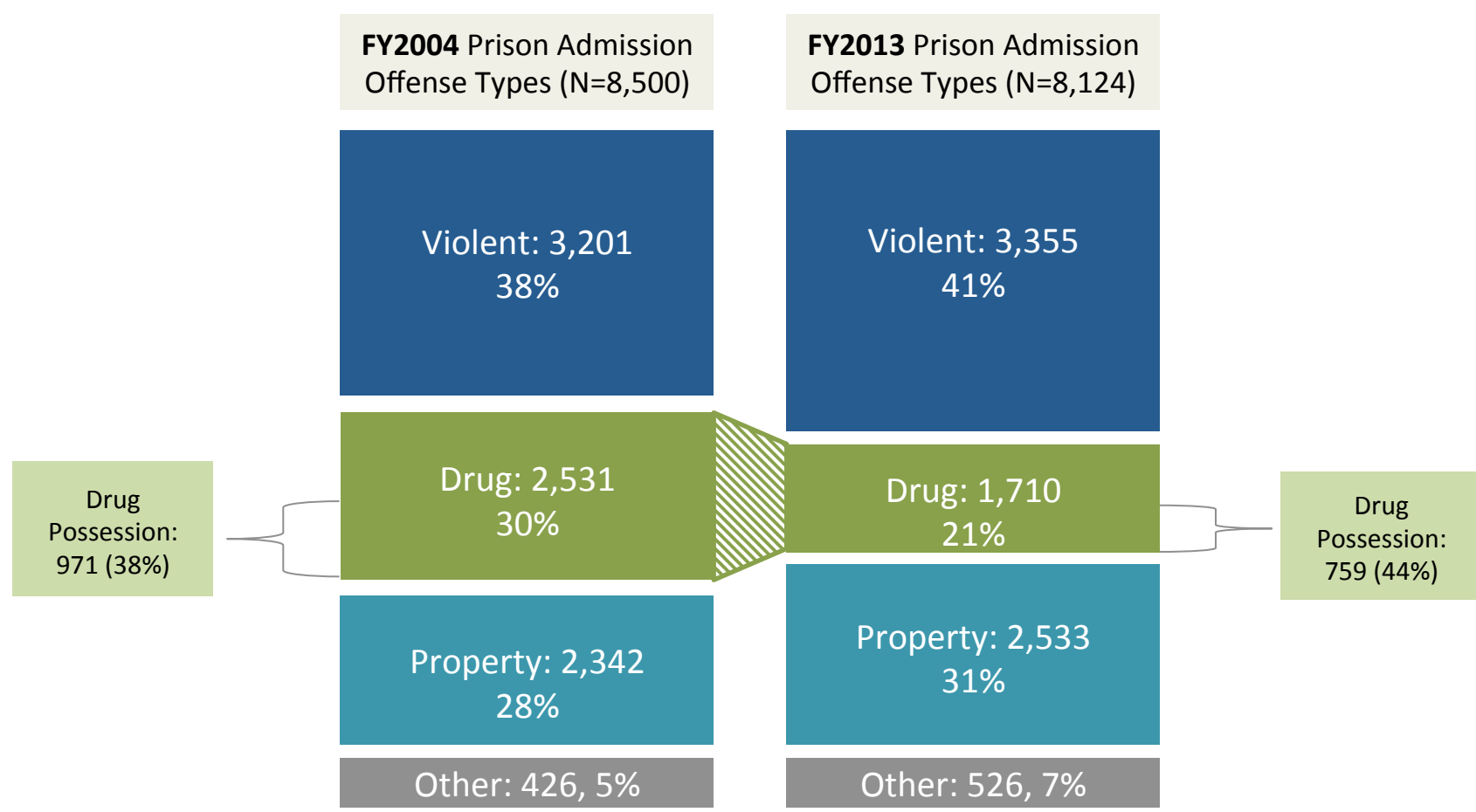
*Excludes approx. 1% of admissions with unknown Seriousness Level

One-Third of the FY2013 on-hand prison population was sentenced for offenses in seriousness levels 0 - 4



Source: Justice Center analysis of DOC data

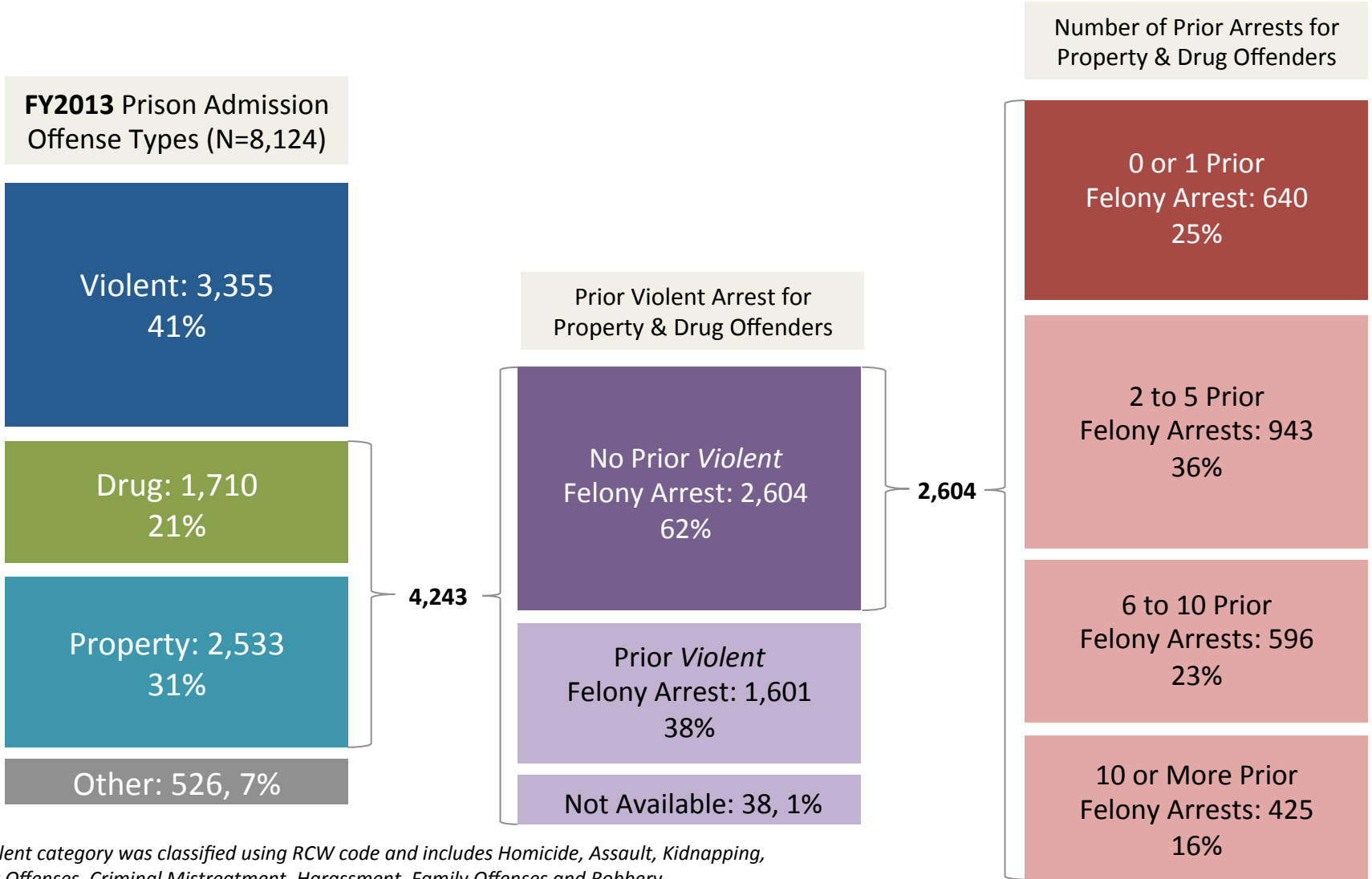
Drug offenders composed a smaller proportion of prison admissions in FY2013 compared to earlier years



Violent category was classified using RCW code and includes Homicide, Assault, Kidnapping, Sex Offenses, Criminal Mistreatment, Harassment, Family Offenses and Robbery

Source: Justice Center analysis of DOC data

Over half of drug and property offenders admitted to prison in FY2013 did not have a prior violent felony arrest

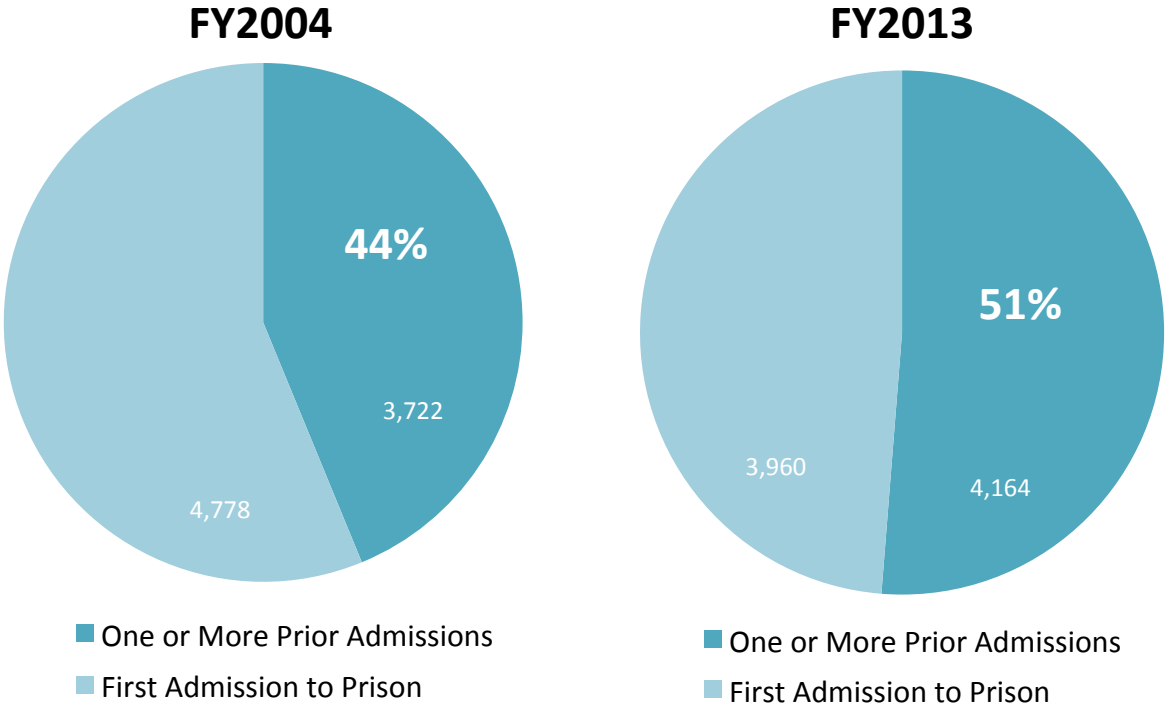


Violent category was classified using RCW code and includes Homicide, Assault, Kidnapping, Sex Offenses, Criminal Mistreatment, Harassment, Family Offenses and Robbery

Source: Justice Center analysis of DOC and WSP data

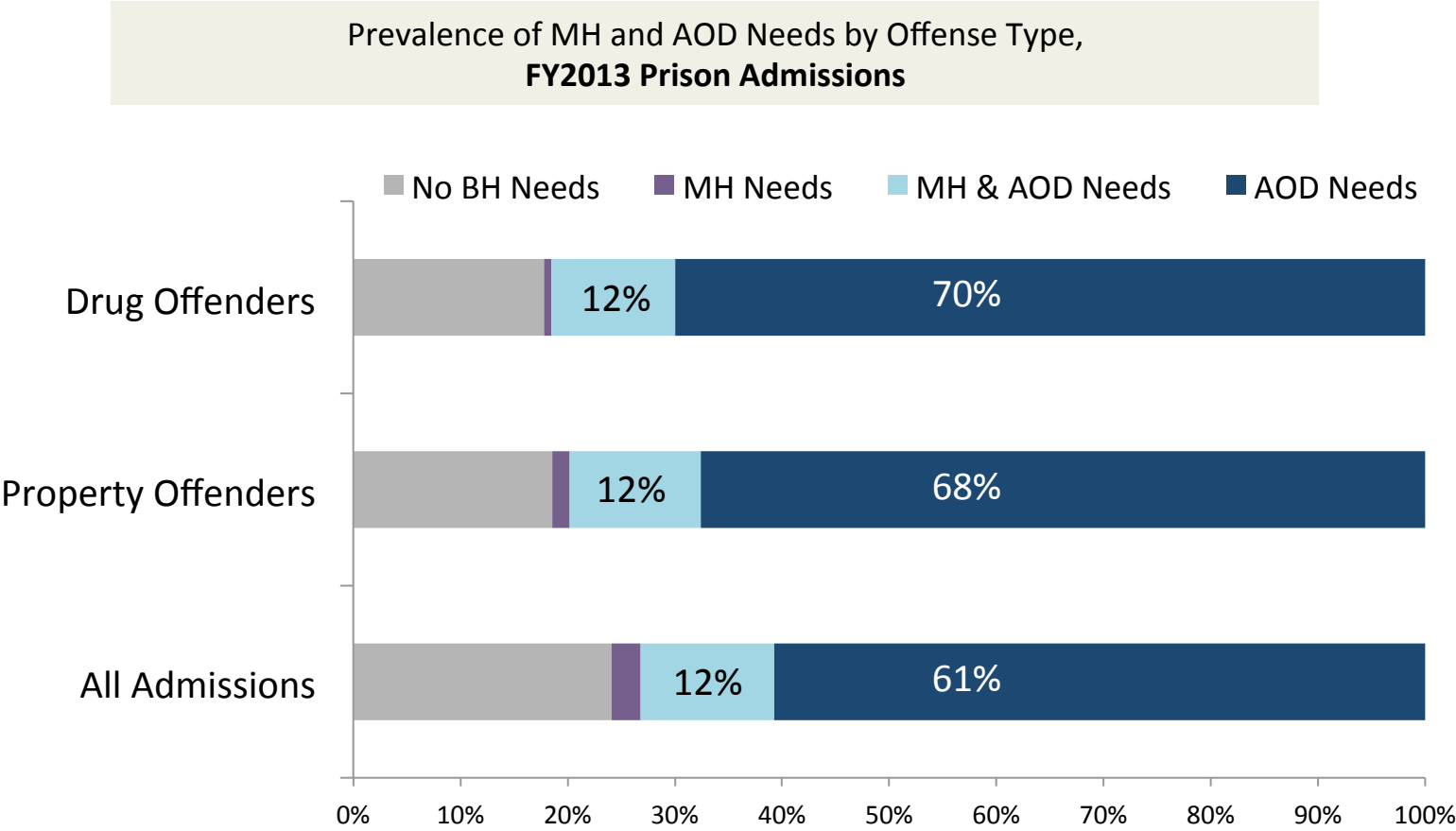
The number of prison admissions that have one or more prior admissions has increased

Prison Admissions, FY2004 and FY2013



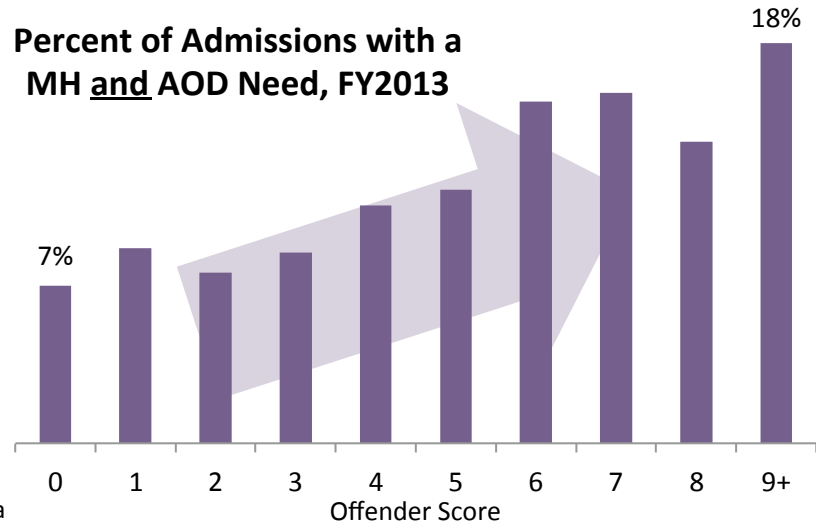
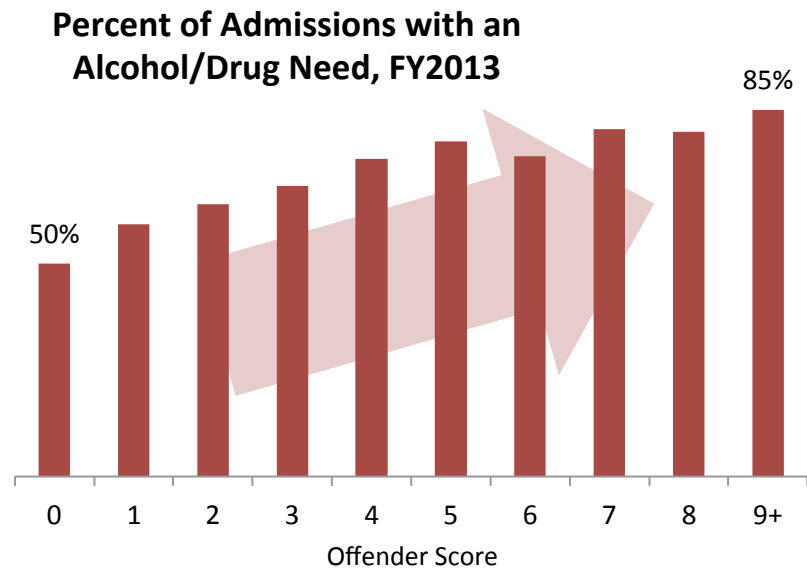
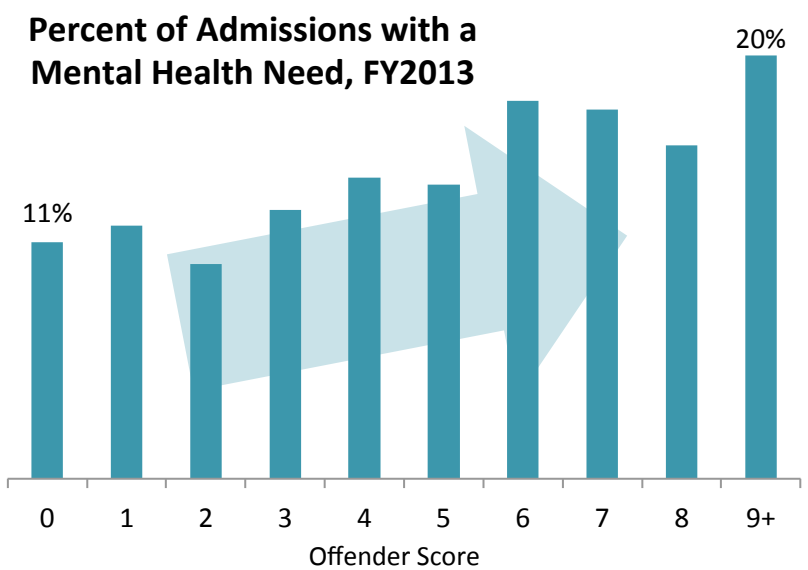
Source: Justice Center analysis of DOC data

Property and drug offenders have similar rates of alcohol and other drug (AOD) needs



**Need defined as “Moderate” or “High” on the DOC Offender Needs Assessment*

People with higher offender scores have higher prevalence rates of mental health and alcohol/drug needs

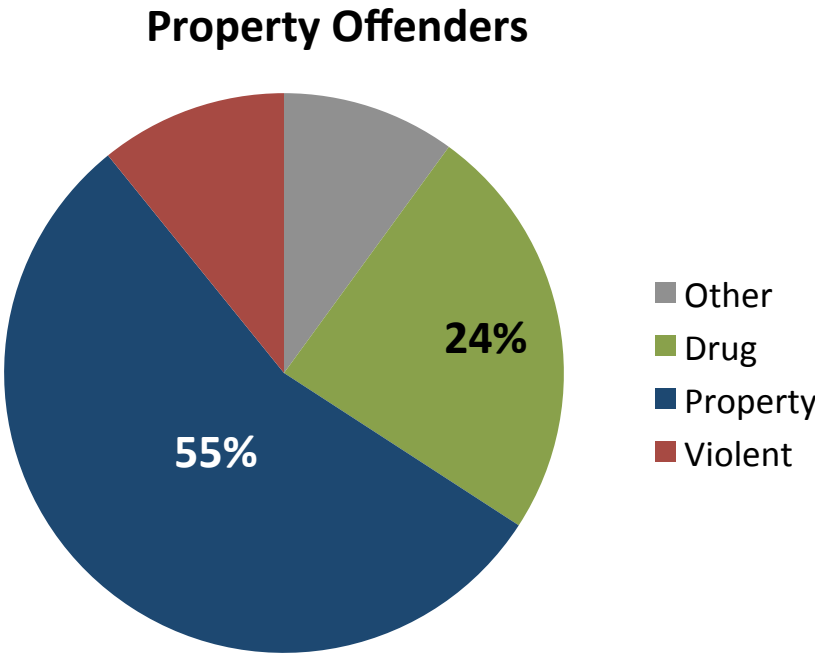
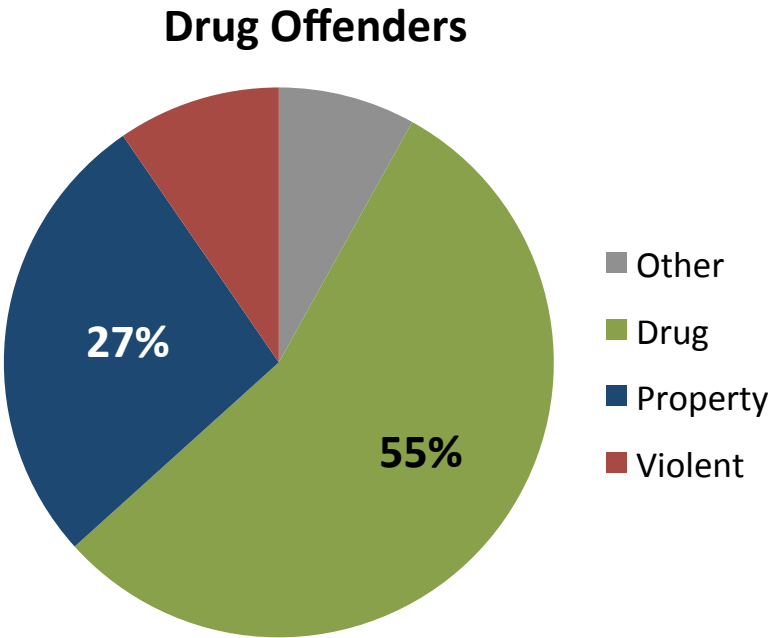


**Need defined as "Moderate" or "High" on the DOC Offender Needs Assessment*

Source: Justice Center analysis of DOC data

Approximately 80% of drug and property offenders who recidivate commit a drug or property offense as their first rearrest

First Rearrest Offense Type for 3-Year Recidivists
FY2010 Prison Releases



Key findings regarding prison growth

- A sizeable portion of the prison population are offenders convicted for lower severity offenses, but most have multiple prior arrests
- Prison admissions have been fairly stable, but average length of stay has increased
- Property and drug offenders often share similar criminal history backgrounds, consisting of mostly property and drug arrests, and have higher rates of behavioral health needs

Overview of detailed analysis

Sentencing Guidelines

- **Comparison with other guidelines states**
- **Utility of offender scores**

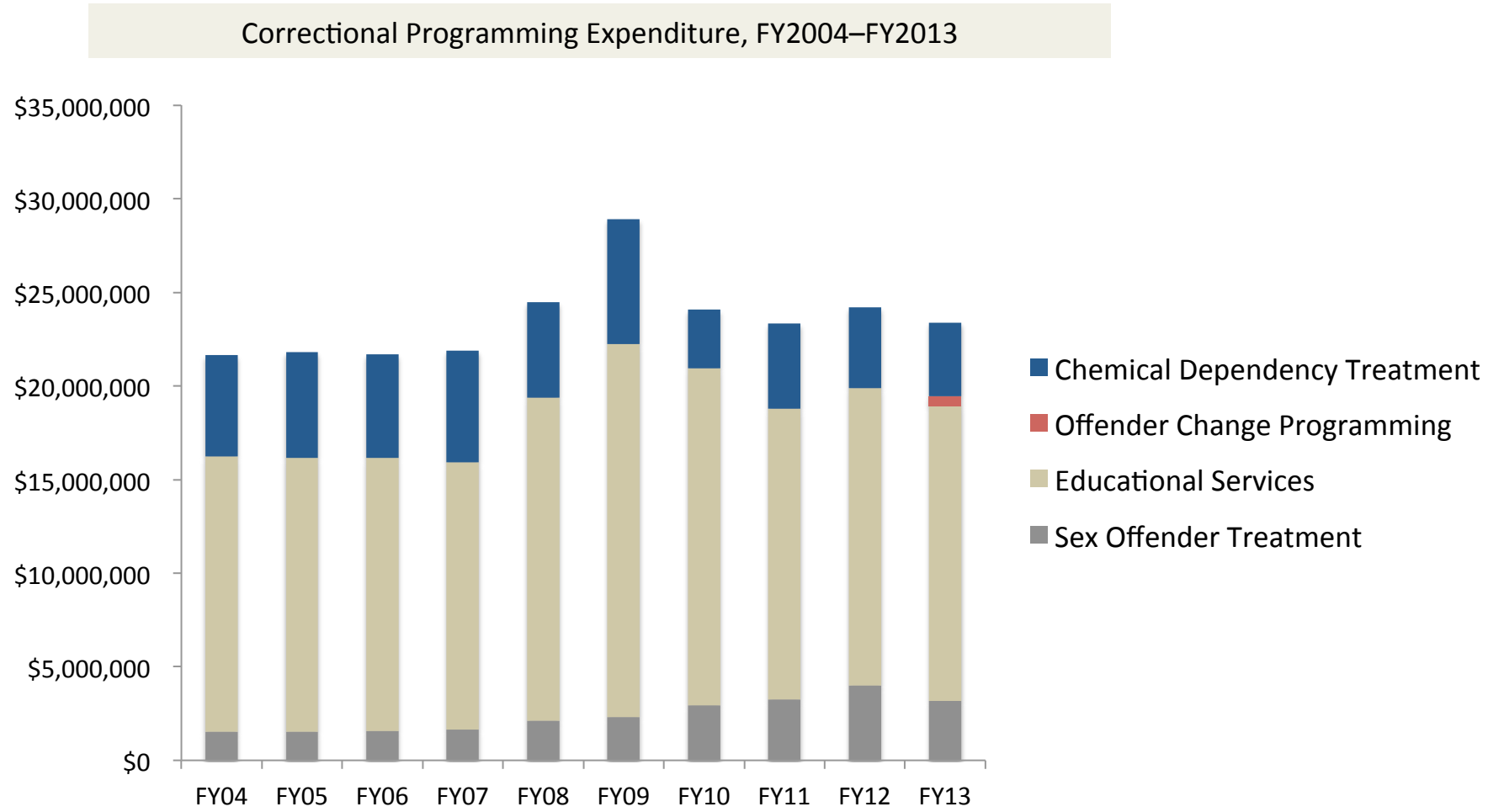
Prison Growth

- **Prison population characteristics**
- **Trends impacting growth**

Public Safety

- **Recidivism analysis**
- **Impact of supervision and programming**

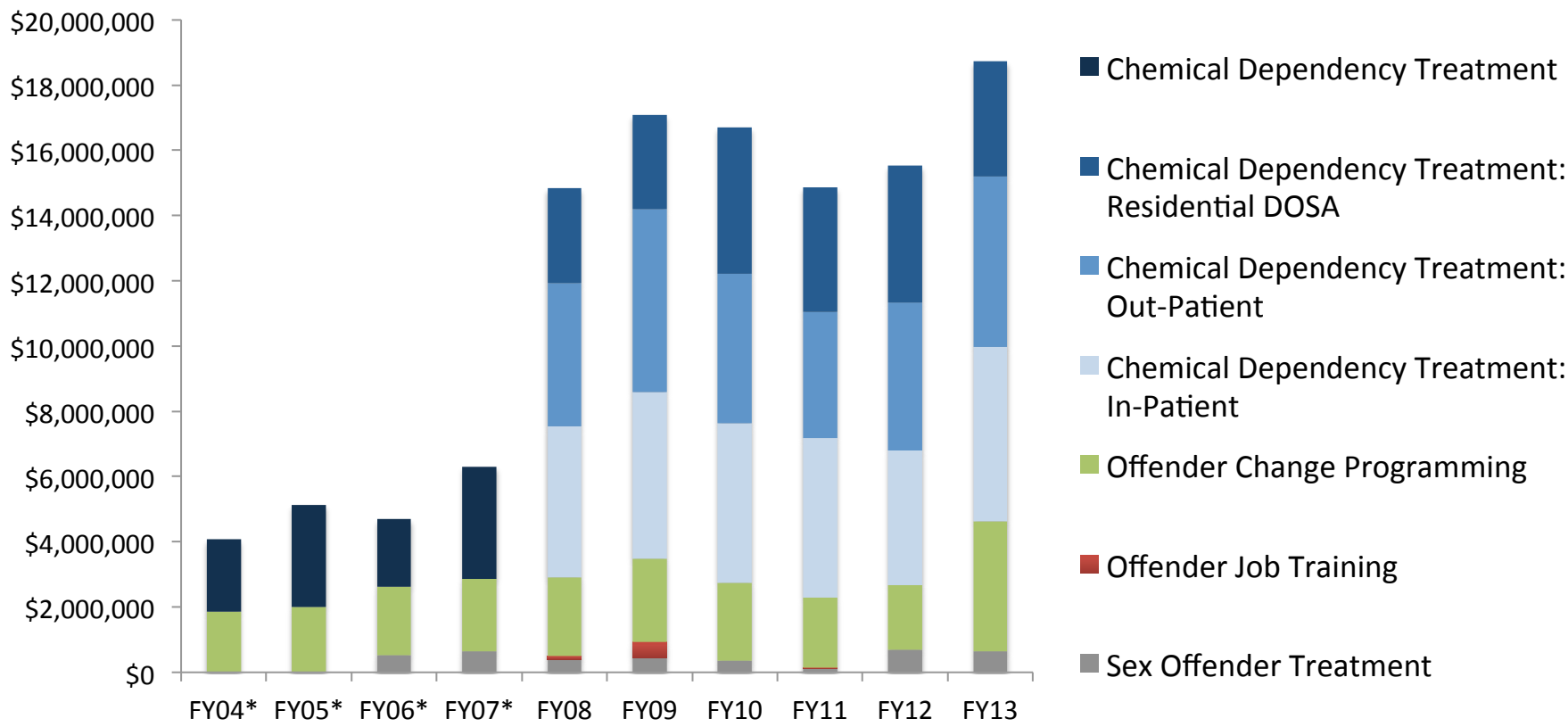
Spending on prison-based programs has remained steady over the years



Source: DOC Budget Office data

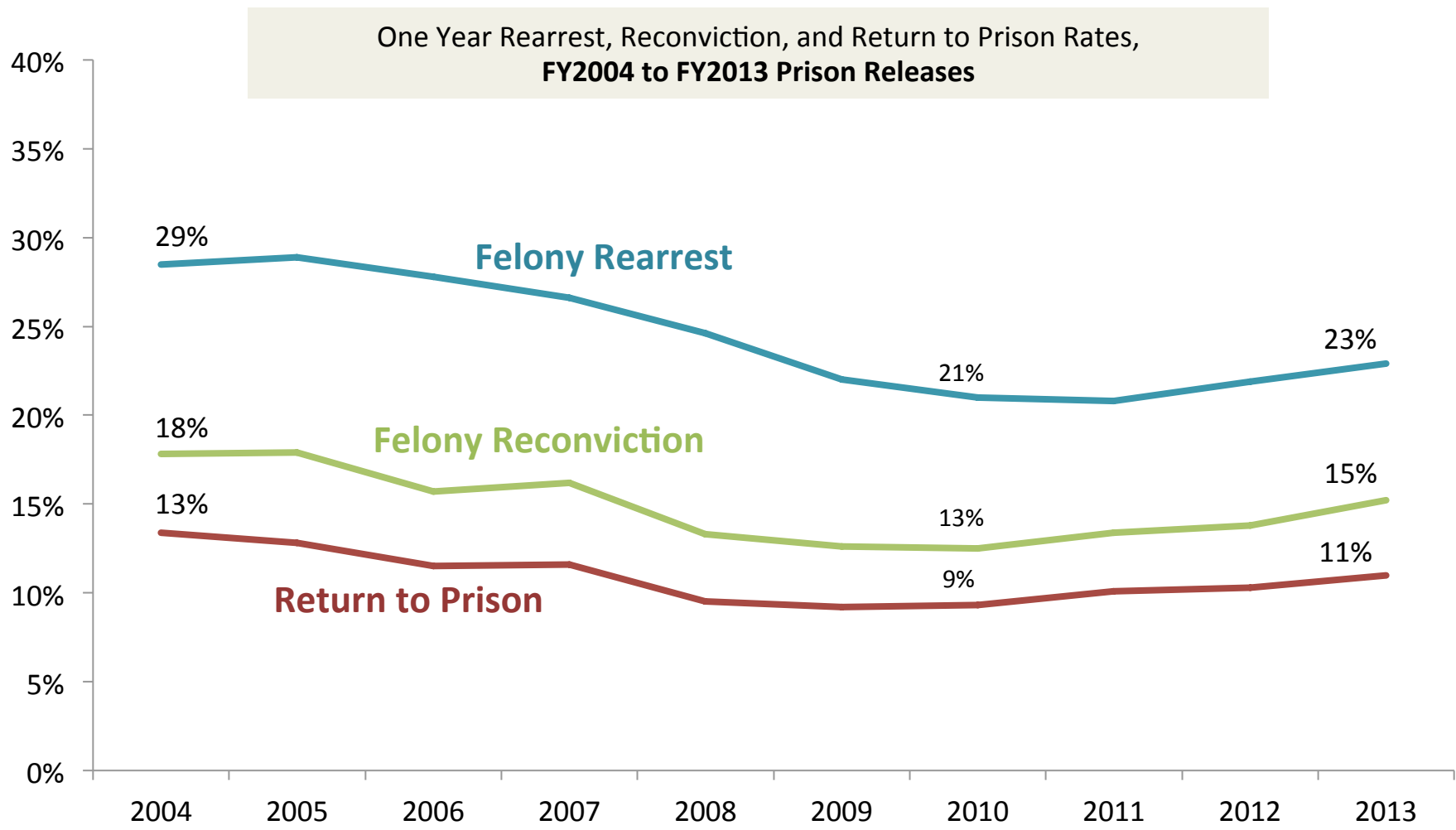
Spending on community-based programs has increased significantly

Community Supervision Programming Expenditures, FY2004–FY2013



*Sex Offender Treatment funding for FY04 and FY05 was not separated or tracked financially and chemical dependency treatment funding for FY04, FY05, FY06, and FY07 was not separated financially.
Source: DOC Budget Office data

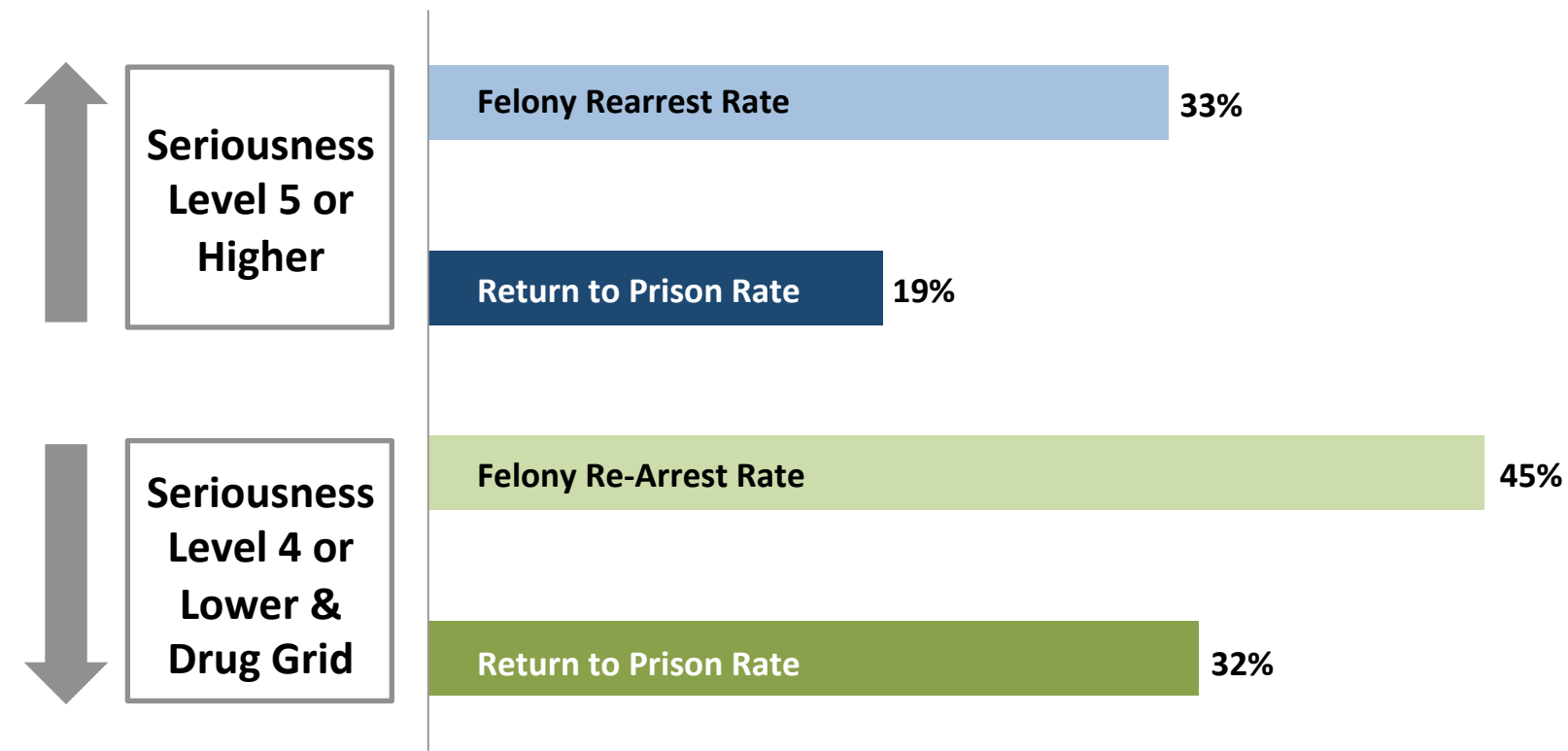
One-year recidivism rates for offenders released from prison have remained stable or declined slightly since FY2004



Source: Justice Center analysis of DOC, WSP, and AOC data

Lower seriousness level offenders have much higher recidivism rates than higher seriousness level offenders

Three Year Felony Rearrest and Return to Prison Rates by Seriousness Level,
FY2010 Prison Releases



Source: Justice Center analysis of DOC and WSP data

Percent of prison releases going to supervision has declined, especially among lower severity offenders (drug & levels 0-4)

Percent of Prison Releases on Supervision Upon Release by Seriousness Level, FY2004 to FY2013



Source: Justice Center analysis of DOC data

Policy changes over 30 years have greatly altered who receives post-release supervision

	Post-Jail/As a Sentence						Post-Prison					
	Property		Drug		Violent*		Property		Drug		Violent*	
Pre-1984	L,M	H	L,M	H	L,M	H	L,M	H	L,M	H	L,M	H
Post-1984	L,M	H	L,M	H	L,M	H						
1999	L,M	H	L,M	H	L,M	H			L,M	H	L,M	H
2003			H		H				H		H	
Today			H		H				H		H	

L,M

Low- and Moderate-Risk

H

High-Risk

Supervision has been maintained for serious violent offenses, sex offenses, and those with alternative sentences regardless of risk.

*Violent includes violent offenses and crime against a person offenses.

Source: Communications with Washington Department of Corrections staff
 Washington State Legislature, 56th Legislative Session, [SB 5421] *Enhancing supervision of offenders*
 Washington State Legislature, 58th Legislative Session, [SB 5990] *Changing times and supervision standards for release of offenders*
 Washington State Legislature, 61st Legislative Session.,[SB 6162] *Providing for the supervision of offenders sentenced to community*

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Current policy regarding who receives supervision

Supervision

All individuals convicted of a:

- **Serious Violent Offense**
 - **Sex Offense**

High-Risk individuals convicted of a:

- **Drug Offense**
- **Violent Offense**
- **Crime Against a Person Offense**

Individuals who receive the following sentencing alternatives:

- **Prison-Based DOSA**
 - **Residential DOSA**
- **First Time Offender Waiver**
- **Family and Offender Sentencing Alternative**

No Supervision

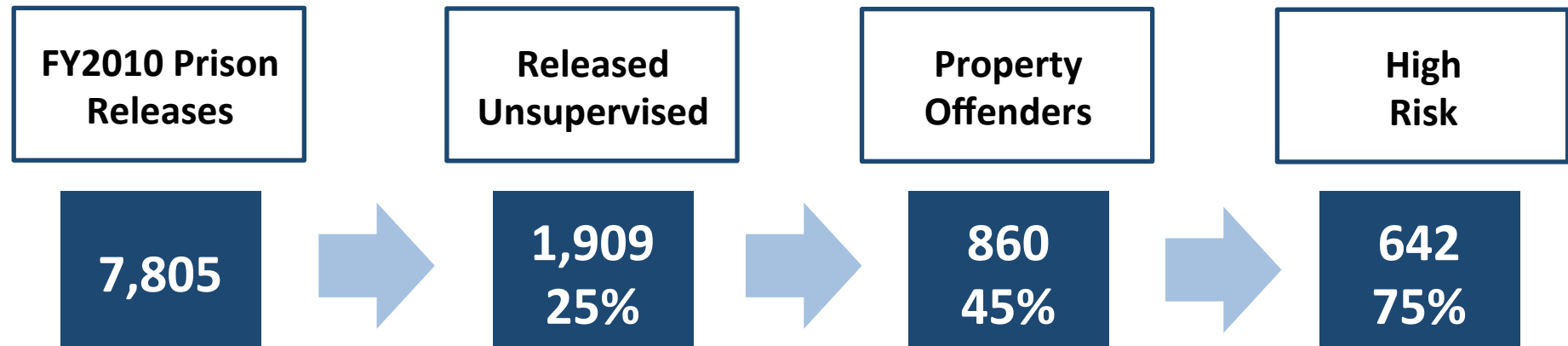
All individuals convicted of a:

- **Property Offense**
(non-DOSA)

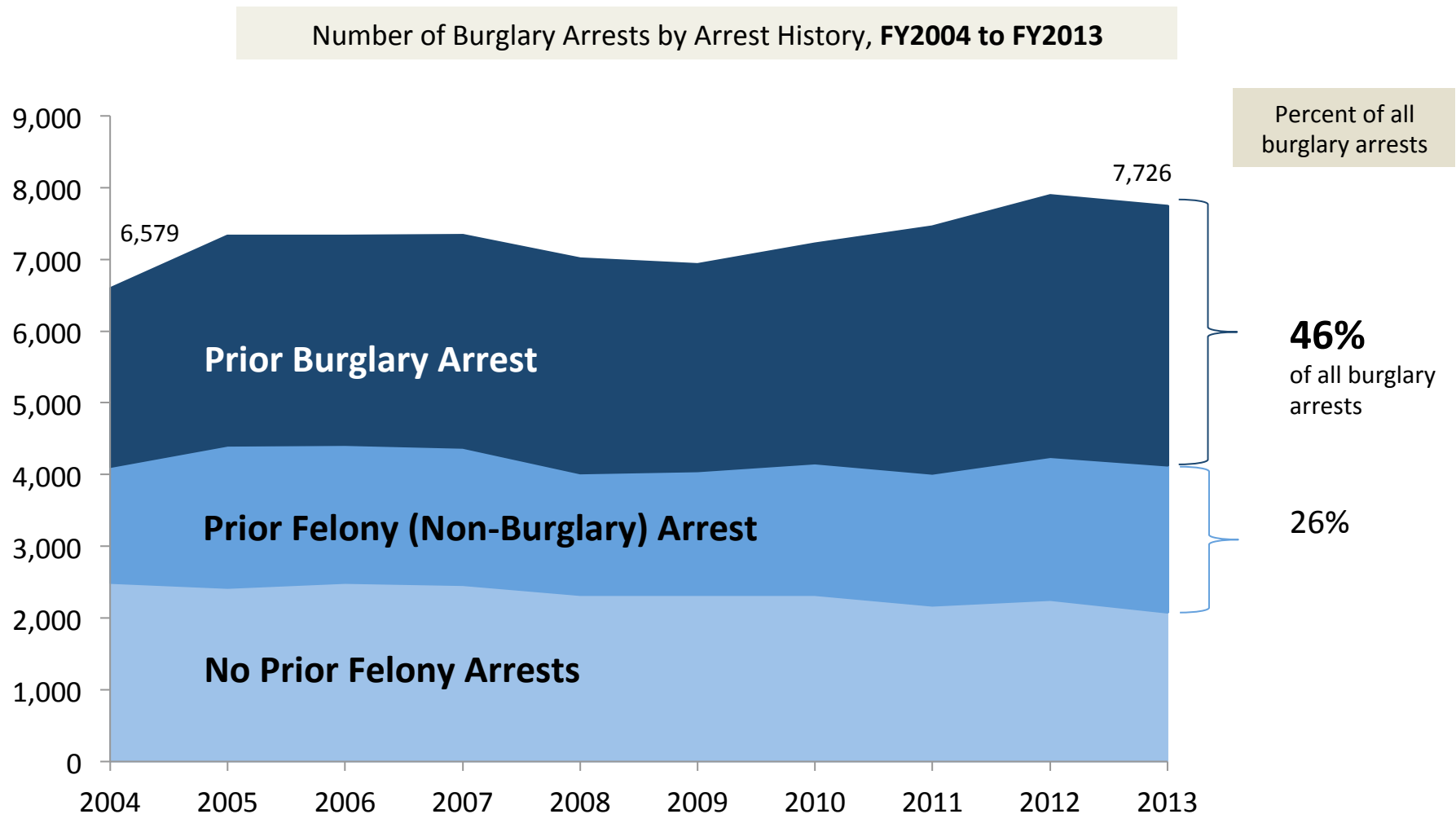
Low- and Moderate-Risk individuals convicted of a:

- **Drug Offense**
- **Violent Offense**
- **Crime Against a Person Offense**

Three out of four property offenders released unsupervised are classified as high risk



Burglary arrests have increased since 2004, driven by the increase in repeat burglary arrests



Key findings regarding public safety

- Resources to reduce recidivism through community-based programs have increased, and overall recidivism rates have declined
- Lower-severity offenders released from prison are more likely to be rearrested, but are less likely to be supervised
- A growing share of individuals arrested for burglary had a prior burglary arrest

Key takeaways

1.

Washington's sentencing guidelines dictate less use of supervision in lieu of incarceration and longer sentences for repeat property offenders than other states.

2.

A growing number of prison admissions are lower-severity offenders and today they account for one out of three people in prison.

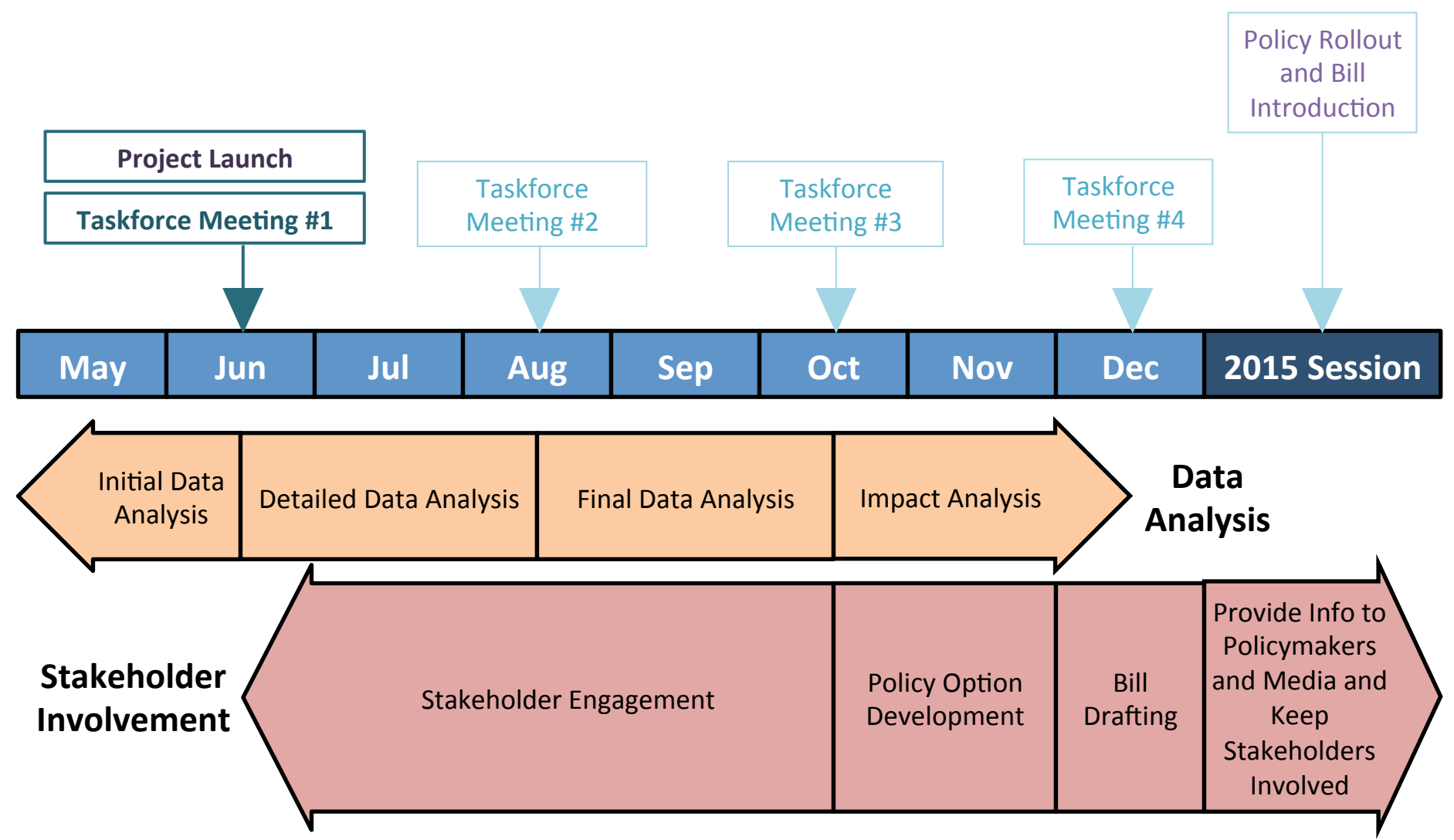
3.

Lower-severity offenders are more likely to be rearrested, and less likely to be supervised after release from prison or jail.

4.

Washington still has the third-highest property crime rate in the country.

Proposed timeline





Thank You

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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.