Sentencing and Justice Reinvestment Initiative

Michigan Law Revision Commission
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Overview of Presentation

Stakeholder Perspectives

Reducing Criminal Behavior

Sentencing Analyses

Stakeholder Perspectives

Reducing Criminal Behavior

Sentencing Analyses

Stakeholder Engagement Has Been Substantial and Rewarding

Faith Based / Community Leaders

Advocacy Groups

Local Government Officials

Victim Advocates

Business Leaders

Law Enforcement

Corrections Administrators

Parole Board

Prosecutors

Probation & Parole Officers

Defense Attorneys

Behavioral Health Treatment Providers

Judges

Community Corrections

MLRC

7 visits to Michigan

5 cities

50+ meetings

40+ conference calls

so far...

Divergent Views of Michigan's Longer Lengths of Stay

Prosecutors see longer lengths of stay as the natural effect of a serious crime problem - a hardening population - and of the difficulty of getting to a prison sentence under the sentencing guidelines.

Defenders see an accumulation of increased penalties in amendments to the guidelines, increased maximums, harsh mandatory minimum terms, increased authority for consecutive sentencing, wide discretion for habitual and repeat drug offenders, and tough parole practices and policies.

Time Served
The High Cost, Low Return of Longer Prison Terms

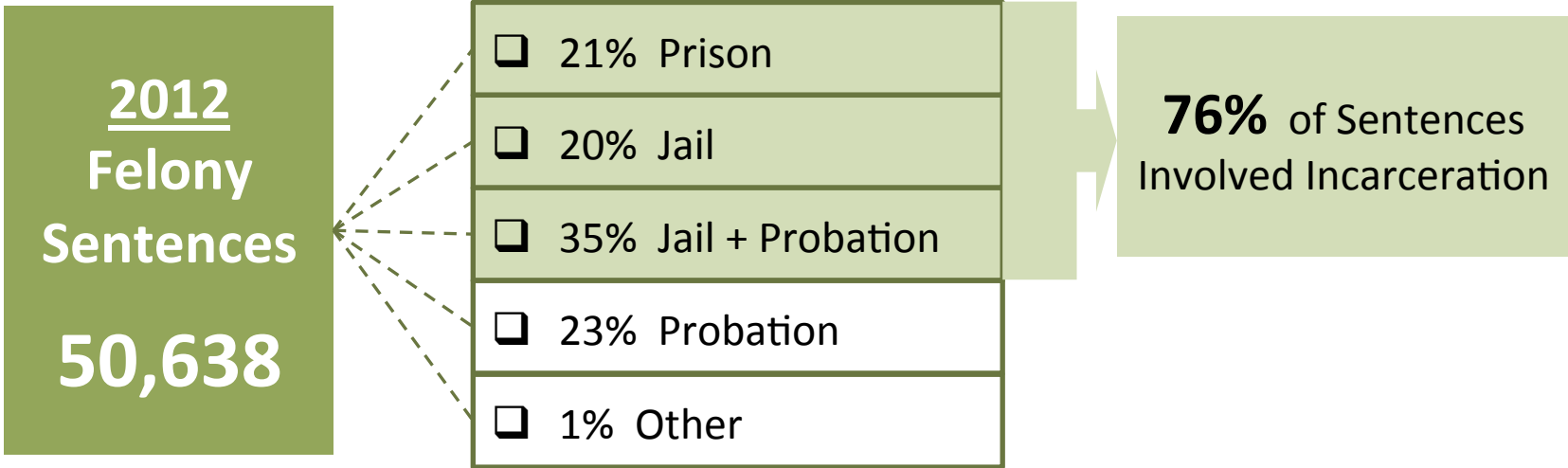Analyses: Reduce spending on corrections

Analysis of Difference in Time Served

Offense	Percent of convictions resulting in a prison sentence		Time served in prison (in months)		
	National (2004 court disposition data)	Michigan (2005 court disposition data)	National Average (2005 release)	Michigan Average (2007 release)	Michigan Minimum Sentence (2007 release)
Murder	89%	86%	147	142	139
Robbery	72%	77%	64	97	73
Sexual Assault	61%	63%	79	105	61
Aggravated Assault	43%	38%	42	64	49
Burglary	49%	38%	29	52	33

Source: BJS National Judicial Reporting Program, 2004 Court Disposition Data & 2005 Release Data; 2005 MDOC Annual Report; 2007 MDOC Release Data File
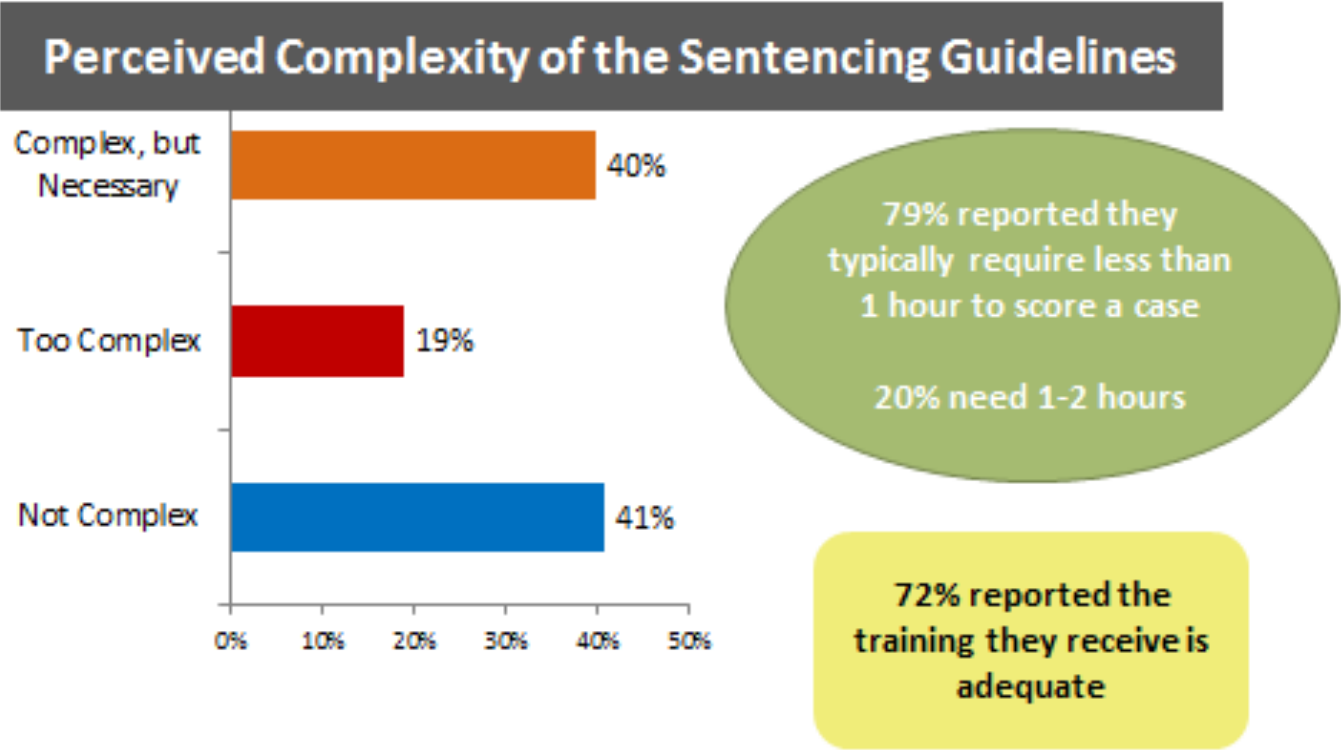
Divergent Views of the "Short Sentence" Problem

Counties feel burdened by existing sentences to jail and fear the "shift and shaft" where the guidelines are concerned.

DOC feels ineffective when short sentences defeat their ability to provide appropriate programming sufficiently before ERD.

2012 Felony Sentences

50,638

- ❑ 21% Prison
- ❑ 20% Jail
- ❑ 35% Jail + Probation
- ❑ 23% Probation
- ❑ 1% Other

76% of Sentences Involved Incarceration

Survey of Prosecutors Informs the Question of "Workability"

Almost 60% of Prosecutors Find the Guidelines Complex,
But Most Feel the Complexity Is Necessary

Perceived Complexity of the Sentencing Guidelines

Complex, but Necessary — 40%

Too Complex — 19%

Not Complex — 41%

0% 10% 20% 30% 40% 50%

79% reported they typically require less than 1 hour to score a case

20% need 1-2 hours

72% reported the training they receive is adequate

Council of State Governments Justice Center

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Divergent Views on Disparities in Sentencing and Charging

Probation Agents view PSIs as bench-driven, so practices differ from place to place.

Prosecutors and judges view sentencing recommendations in PSIs as driven by DOC policy.

Prosecutors perceive sentencing disparities and primarily attribute them to judicial philosophy.
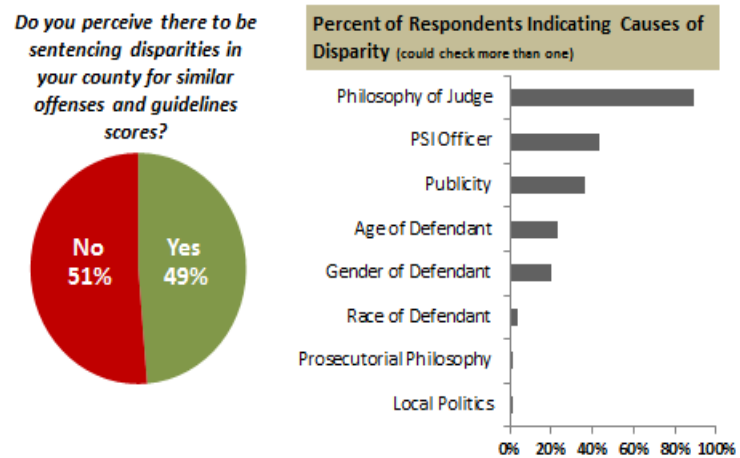
Defenders perceive disparity in prosecutor charging practices.

Rule 6.425 Sentencing; Appointment of Appellate Counsel

(A) Presentence Report; Contents.

(1) Prior to sentencing, the probation officer must investigate the defendant's background and character, . . .

Almost Half of Prosecutors Perceive Sentencing Disparities

Do you perceive there to be sentencing disparities in your county for similar offenses and guidelines scores?

No 51%
Yes 49%

Percent of Respondents Indicating Causes of Disparity (could check more than one)

- Philosophy of Judge
- PSI Officer
- Publicity
- Age of Defendant
- Gender of Defendant
- Race of Defendant
- Prosecutorial Philosophy
- Local Politics

0% 20% 40% 60% 80% 100%

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Legal Financial Obligations Are a Recurring Theme

Different perspectives:
- Reentry & Offender Impact
- Child Support Enforcement
- Court System Collections
- Crime Victim Compensation
- Crime Victim Restitution

Issues Emerging in Michigan:
- Victims: Courts not prioritizing restitution
- Defenders & Advocates: Courts using 'pay or stay' sentencing

Consensus? Many Stakeholders suggest Driver Responsibility Fees are excessive
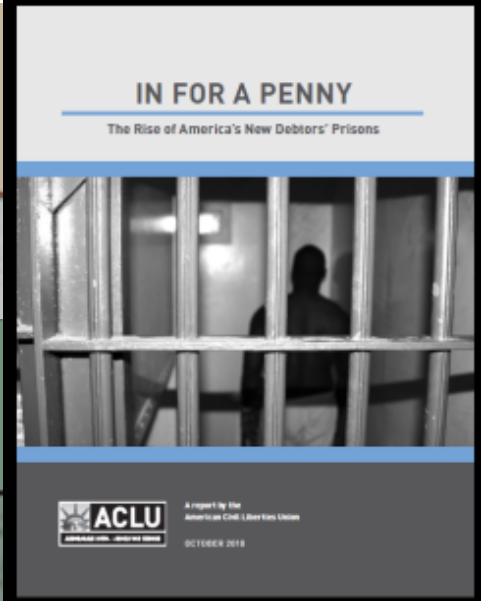
Stakeholder Perspectives

Reducing Criminal Behavior

Sentencing Analyses

Knowledge on Improving Criminal Justice Outcomes Has Increased Dramatically Over the Last 20 Years

Academics and practitioners have contributed to this growing body of research

Reducing Criminal Behavior Requires Focusing on Risk, Need, and Responsivity

Traditional Approach

Evidence-Based Practices

Traditional Approach		Evidence-Based Practices
Supervise everyone the same way	**Risk** →	**Assess risk of recidivism and focus supervision on the highest-risk offenders**
Assign programs that feel or seem effective	**Need** →	**Prioritize programs addressing the needs most associated with recidivism**
Deliver programs the same way to every offender	**Responsivity** →	**Deliver programs based on offender learning style, motivation, and/or circumstances**

Identify and Focus on Higher-Risk Offenders

Who?

Without Risk Assessment...
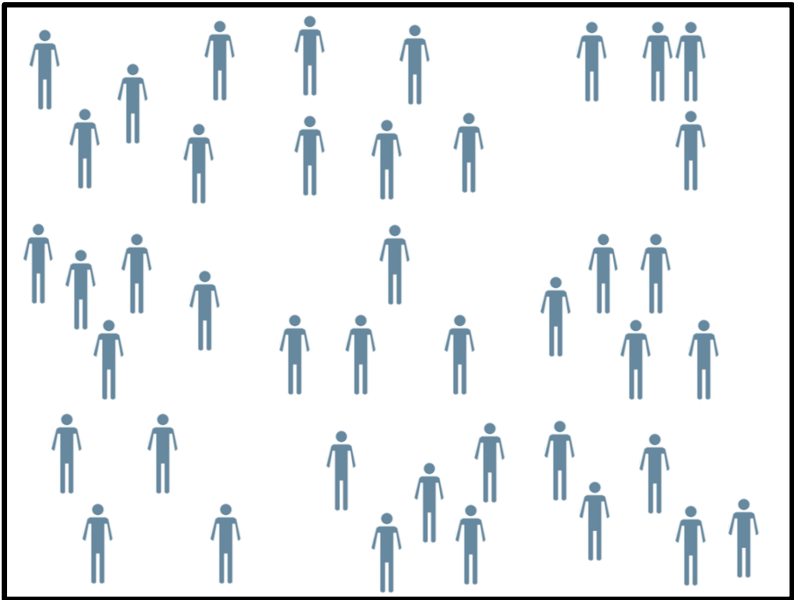
With Risk Assessment...
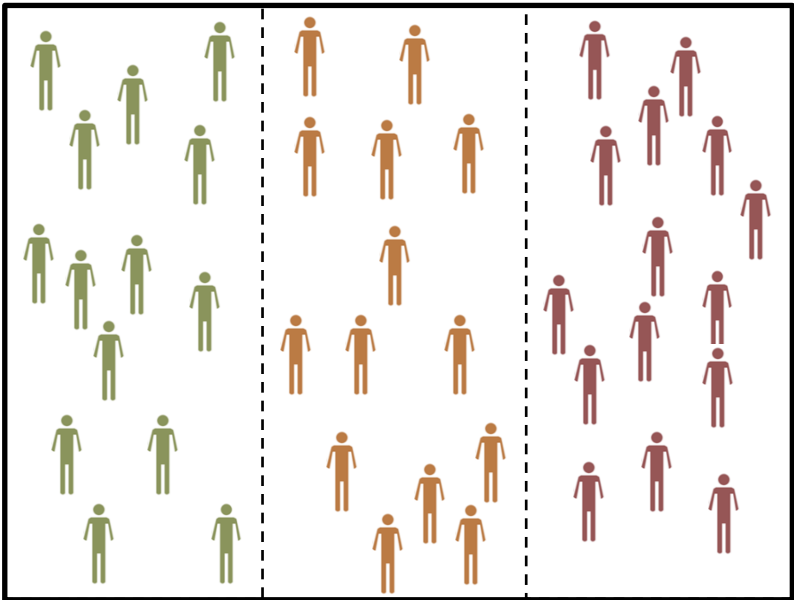
Risk of Re-offending

LOW 10% re-arrested	MODERATE 35% re-arrested	HIGH 70% re-arrested

Target the Factors that Evidence Shows Are Most Central to Criminal Behavior

What?

Employment/Education

Housing

Thinking

Past Criminality*

Criminal Behavior

Peers

Family

Substance Use

Personality

Leisure

* Past criminality cannot be changed.
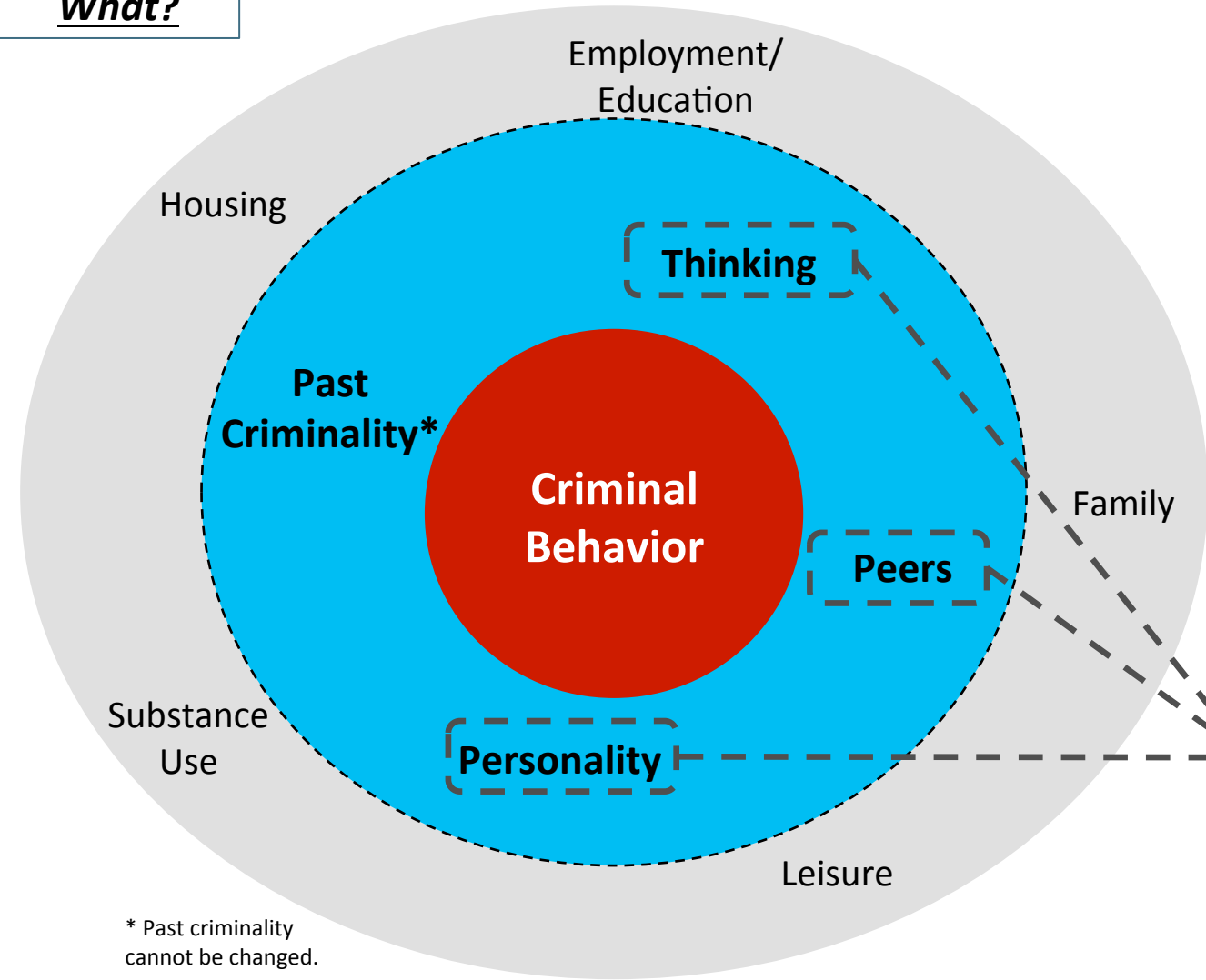
Antisocial

The Big Four
(impacting these are the major drivers to reducing criminal behavior)

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

Programs targeting these needs can significantly lower recidivism rates

After Getting the Who and the What, Supervision and Programming Should Be Well Targeted

	Risk of Re-offending		
	LOW **10% re-arrested**	**MODERATE** **35% re-arrested**	**HIGH** **70% re-arrested**
Low Supervision/ Program Intensity	(people icons)		
Moderate Supervision/ Program Intensity		(people icons)	
High Supervision/ Program Intensity			(people icons)
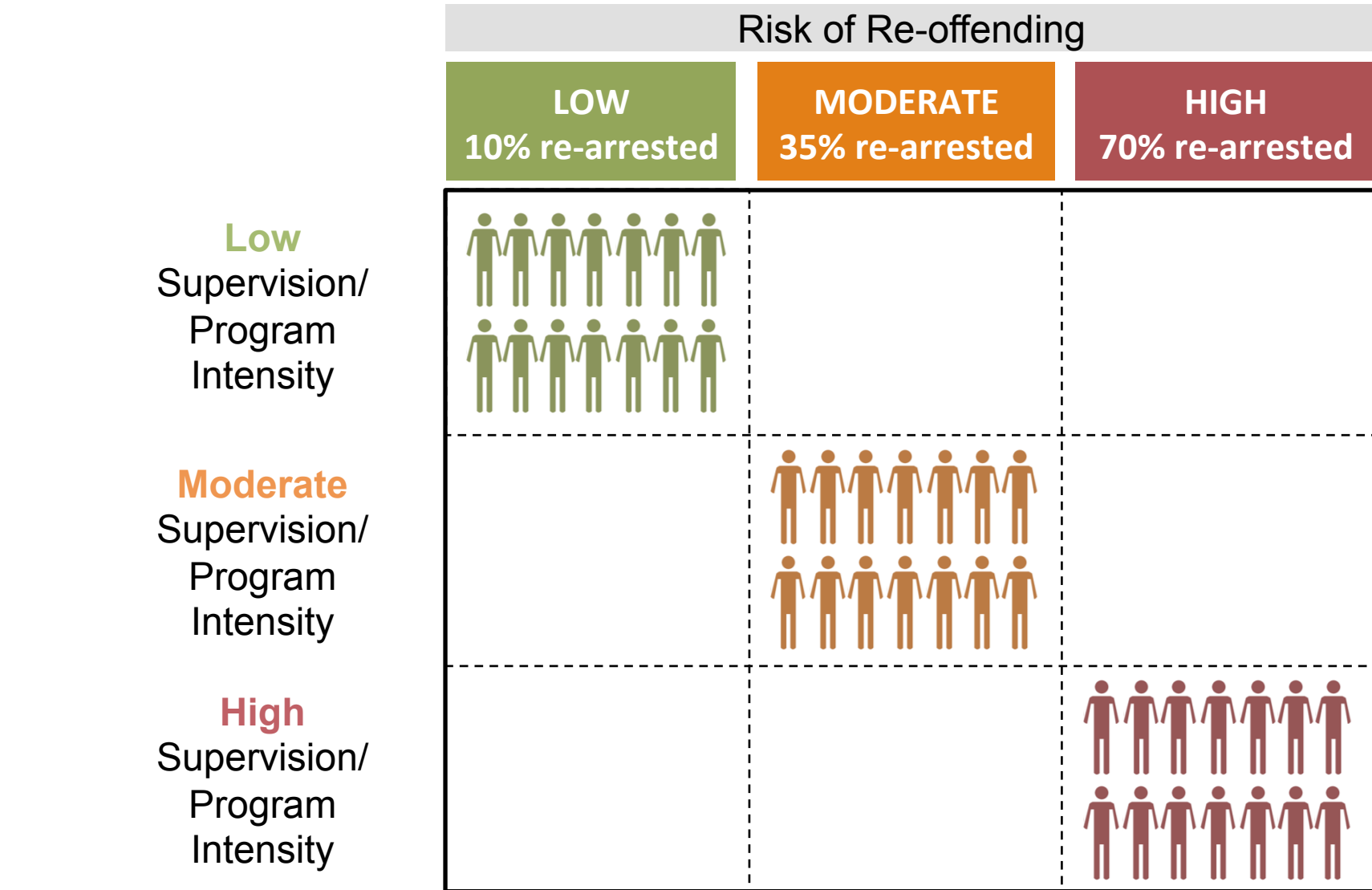
Ensure Programs Are High Quality and Properly Implemented

How Well?

Program Effectiveness
(reduced recidivism)

Is the program based on principles demonstrated to be effective?

Is program matched with appropriate client population?

Is program implemented as designed?

Are program staff properly trained?

Is performance tracked and measured against expectations?
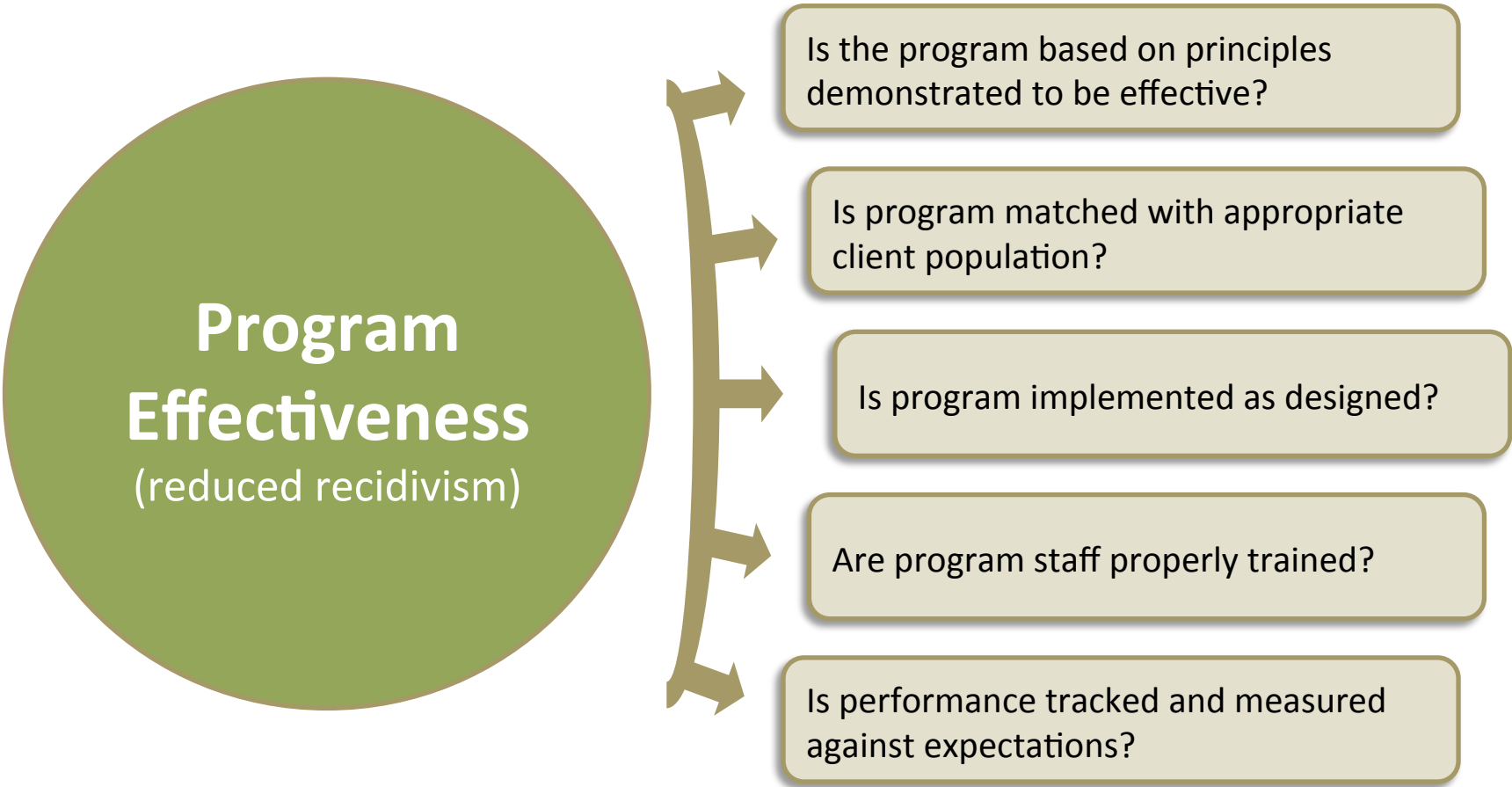
Elements of Effective Supervision

Dosage/Intensity → Focus supervision officer time and program resources on the highest-risk offenders.

Consistency → Use a graduated range of sanctions <u>and</u> incentives to guide specific type of response to violations and compliance.

Swiftness → Enable officers to respond meaningfully to violations without delay or time-consuming processes.

Cost-effectiveness → Prioritize the most expensive, restrictive sanctions for offenders committing the most serious violations.

Where and How Treatment Is Delivered Impacts the Degree of Recidivism Reduction

Impact of Treatment Intervention on Recidivism Rates

Drug Treatment in Prison	Drug Treatment in the Community	Supervision with Risk Need + Responsivity
-17%	-24%	-30%

Supervision, with effective "RNR" principles, yields the biggest recidivism reduction
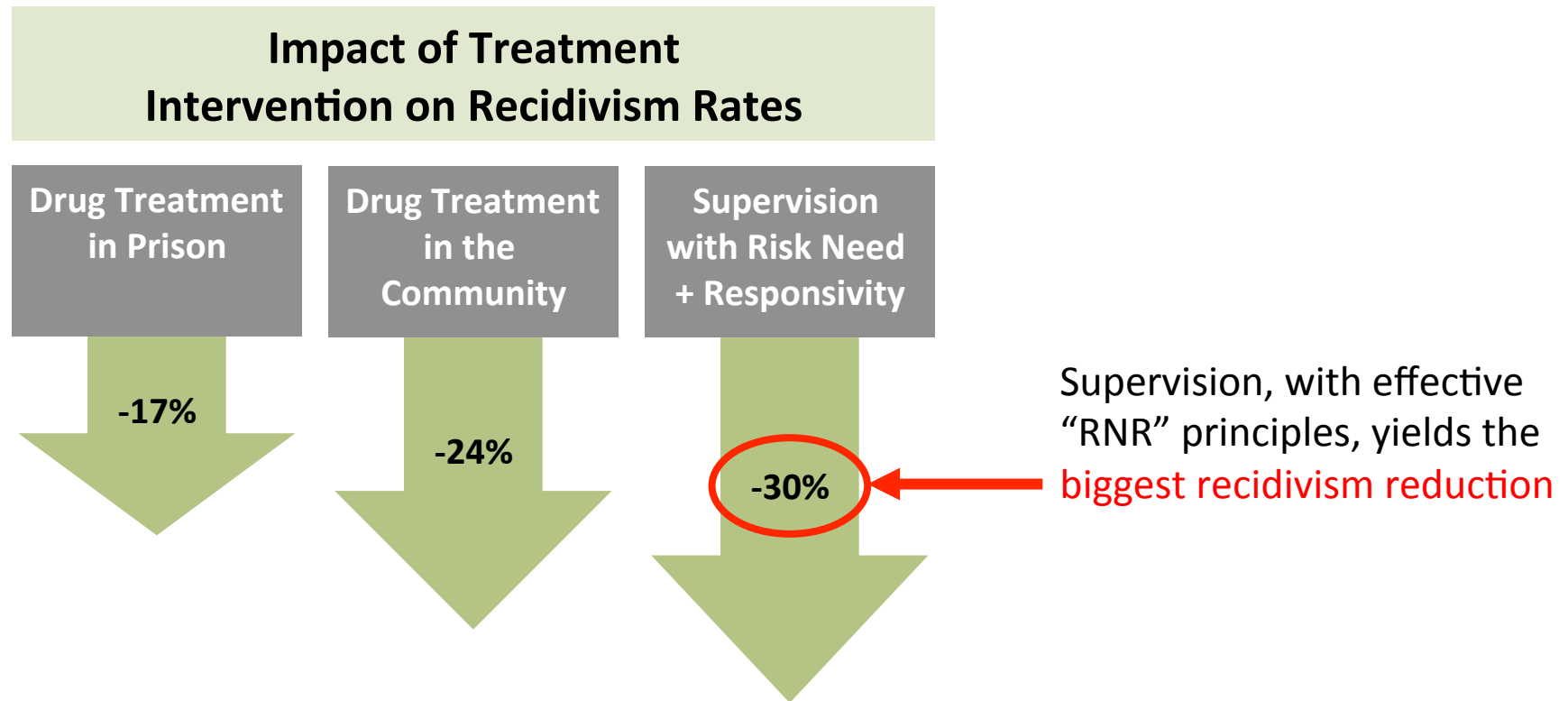
Source: Lee, S., Aos, S., Drake, E., Pennucci, A., Miller, M., & Anderson, L. (2012). Return on investment: Evidence-based options to improve statewide outcomes, April 2012 (Document No. 12-04-1201). Olympia: Washington State Institute for Public Policy.

Source: Latessa, Lovins, and Smith, " Follow-up Evaluation of Ohio's Community Based Correctional Facilities, Outcome Study, February 2010

Stakeholder Perspectives

Reducing Criminal Behavior

Sentencing Analyses

Addressing Risk of Recidivism and Severity of Offense Are Critical Components of Effective Sentencing (and Parole)

In Addition to the Explicit Goals of Sentencing and Parole, Project Will Focus on Implicit Goals

These features are central to the idea of all guidelines using severity and risk.

- ❏ **Public Safety**
- ❏ **Proportionality**
- ❏ Certainty
- ❏ Predictability
- ❏ Workability

Also fit within risk/severity framework

Risk of Reoffending
Low — High

Offense Severity
Low — High

	Low Risk	High Risk
Low Severity	Low Severity Low Risk	Low Severity High Risk
High Severity	High Severity Low Risk	High Severity High Risk
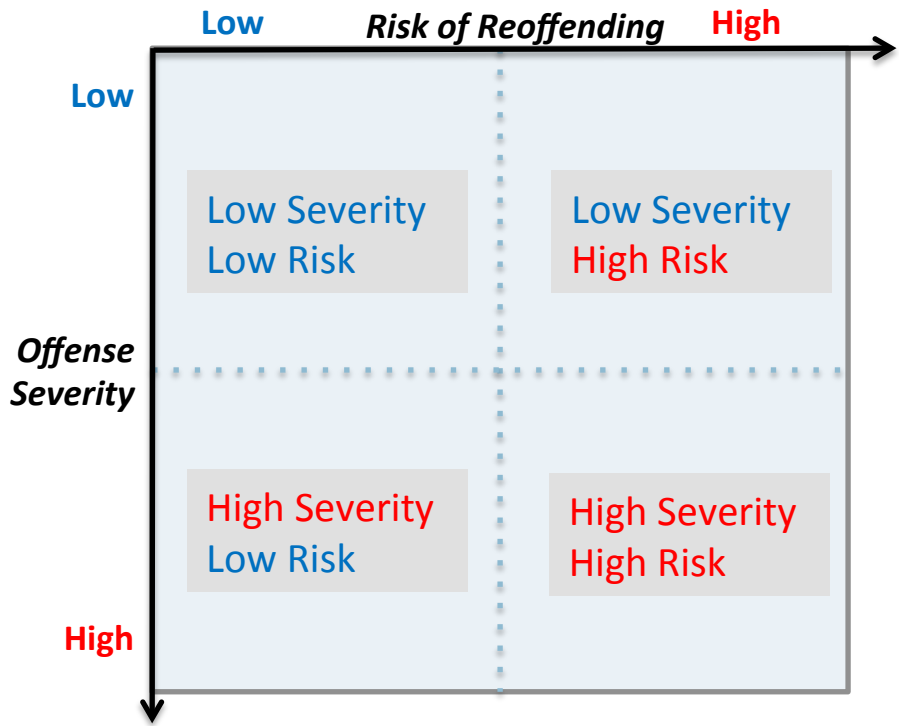
Michigan Sentencing Guidelines Attempt to Classify by Offense Severity and Risk of Recidivism

Risk of Reoffending   Low → High

Offense Severity (Low → High)

	Low Risk	High Risk
Low Severity	Low Severity Low Risk	Low Severity High Risk
High Severity	High Severity Low Risk	High Severity High Risk
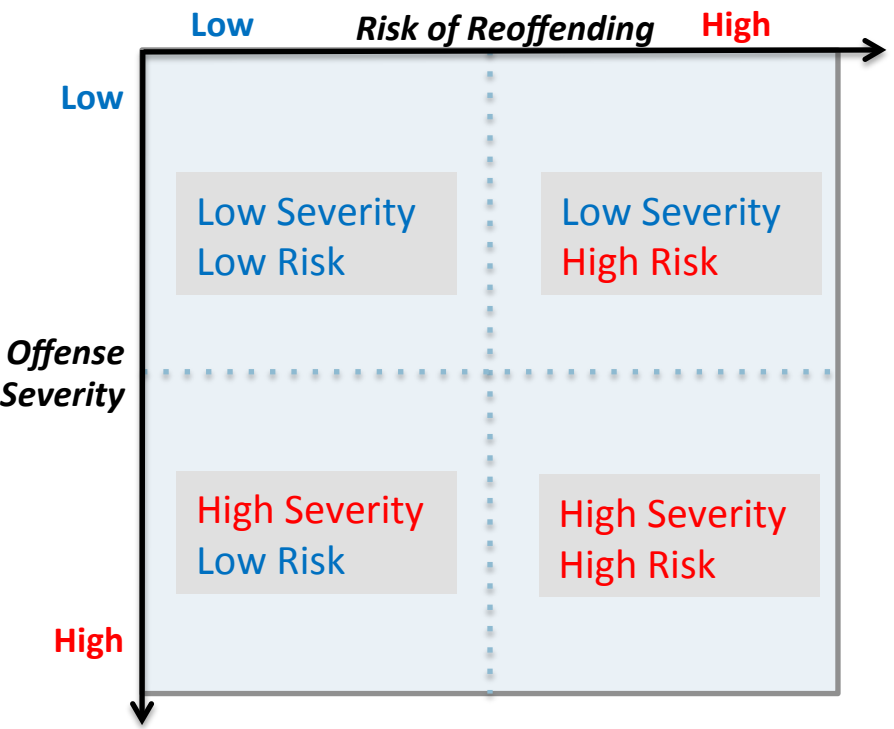
Sentencing Grid for Class F Offenses—MCL 777.67
Includes Ranges Calculated for Habitual Offenders (MCL 777.21(3)(a)–(c))

OV Level	PRV Level												Offender Status
	A 0 Points		**B** 1-9 Points		**C** 10-24 Points		**D** 25-49 Points		**E** 50-74 Points		**F** 75+ Points		
I 0-9 Points	0	3* 3* 4* 6*	0	6* 7* 9* 12*	0	9* 11* 13* 18*	2	17* 21 25 34	5	23 28 34 46	10	23 28 34 46	HO2 HO3 HO4
II 10-34 Points	0	6* 7* 9* 12*	0	9* 11* 13* 18*	0	17* 21 25 34	5	23 28 34 46	10	23 28 34 46	12	24 30 36 48	HO2 HO3 HO4
III 35-74 Points	0	9* 11* 13* 18*	0	17* 21 25 34	2	17* 21 25 34	10	23 28 34 46	12	24 30 36 48	14	29 36 43 58	HO2 HO3 HO4
IV 75+ Points	0	17* 21 25 34	2	17* 21 25 34	5	23 28 34 46	12	24 30 36 48	14	29 36 43 58	17	30 37 45 60	HO2 HO3 HO4

For all grids, defendants are:

❖ Moved along a 'left to right' scale based on prior criminal activity, AND

❖ Moved along a 'top to bottom' scale based on aggravating factors.

The intersection of the horizontal and vertical scores indicates a cell-type into which the defendant falls for sentencing. There are 3 cell-types (Intermediate, Straddle, and Prison).

Source: *Sentencing Guidelines Manual*, Michigan Judicial Institute, June 2012.

Sentencing Begins with Crime

Crime and Arrest Statistics are Down, but…

➢ 17% and 11% declines in crime and arrests since 2008, respectively

High Crime Remains a Problem

➢ Four of nation's 10 most violent cities
➢ Very low clearance rates in high crime areas

Resources Limited

➢ Loss of sworn officers
➢ Loss of entire police departments

Source: *Michigan Incident Crime Reporting, 2008-12*, Michigan State Police.

With Arrests Declining, Felony and Misdemeanor Case Dispositions Declined 7% and 17% from 2003 to 2011

Criminal Cases Disposed in Michigan, 2003 – 2011

Felony Dispositions

- 293,902
- 266,968
- 244,198
- Misdemeanor
- Felony
- 68,111
- 61,841
- 57,442

Misdemeanor Dispositions
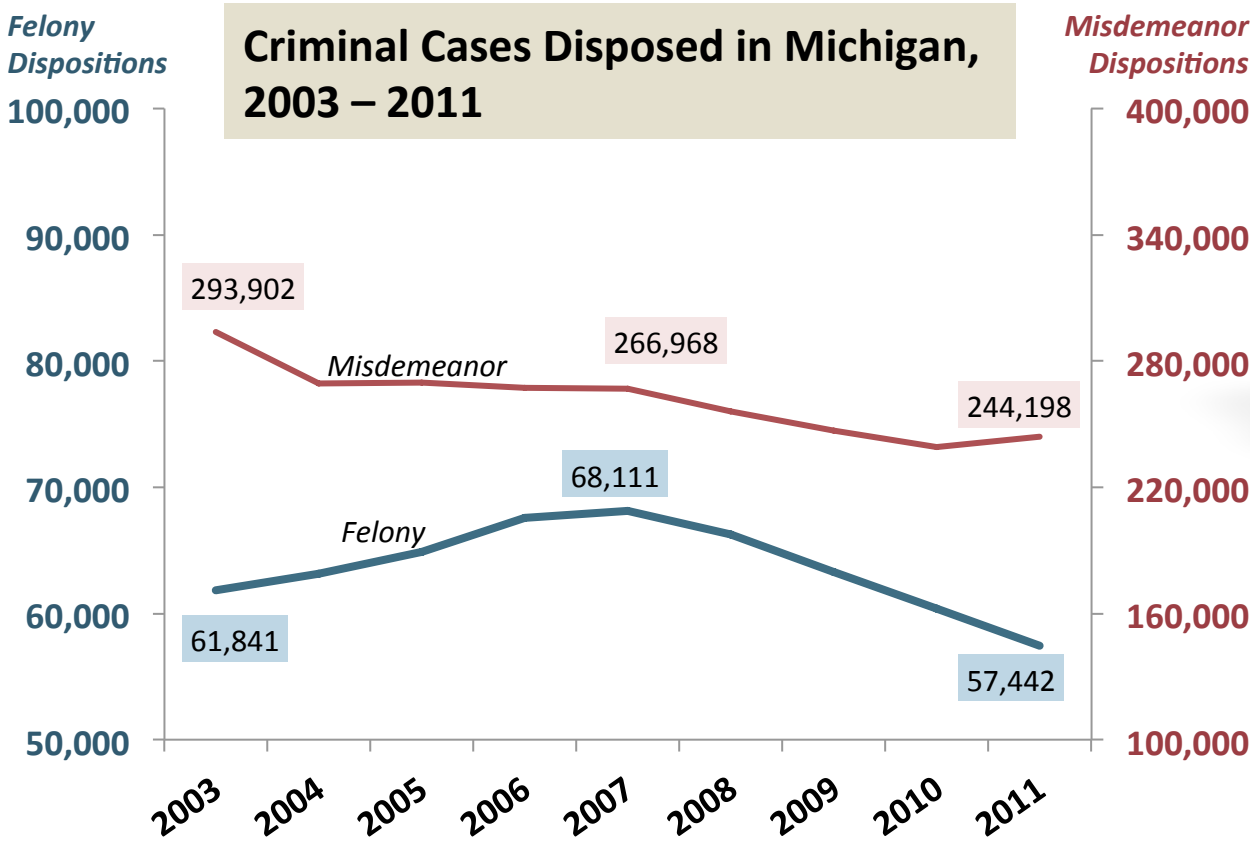
Arrests falling during this period.

Change in Arrests from 2008-2011

- ❑ Index Violent: - 11%
- ❑ Index Property: - 9%
- ❑ Simple Assault: - 2%
- ❑ Weapons: - 18%
- ❑ Drug: - 4%
- ❑ OUI: - 23%

Source: Annual Statistical Supplemental Reports on Statewide Filing and Disposition Trends, Michigan Supreme Court, State Court Administrator Office; *Michigan Incident Crime Reporting, 2008-11*, Michigan State Police.

Number of Felons Sentenced Declined 15% from 2007 to 2011, but the Decline Slowed Considerably in 2012

Felons Sentenced in Michigan, 2003 – 2012

- 54,482
- 60,177
- 50,862
- 50,641
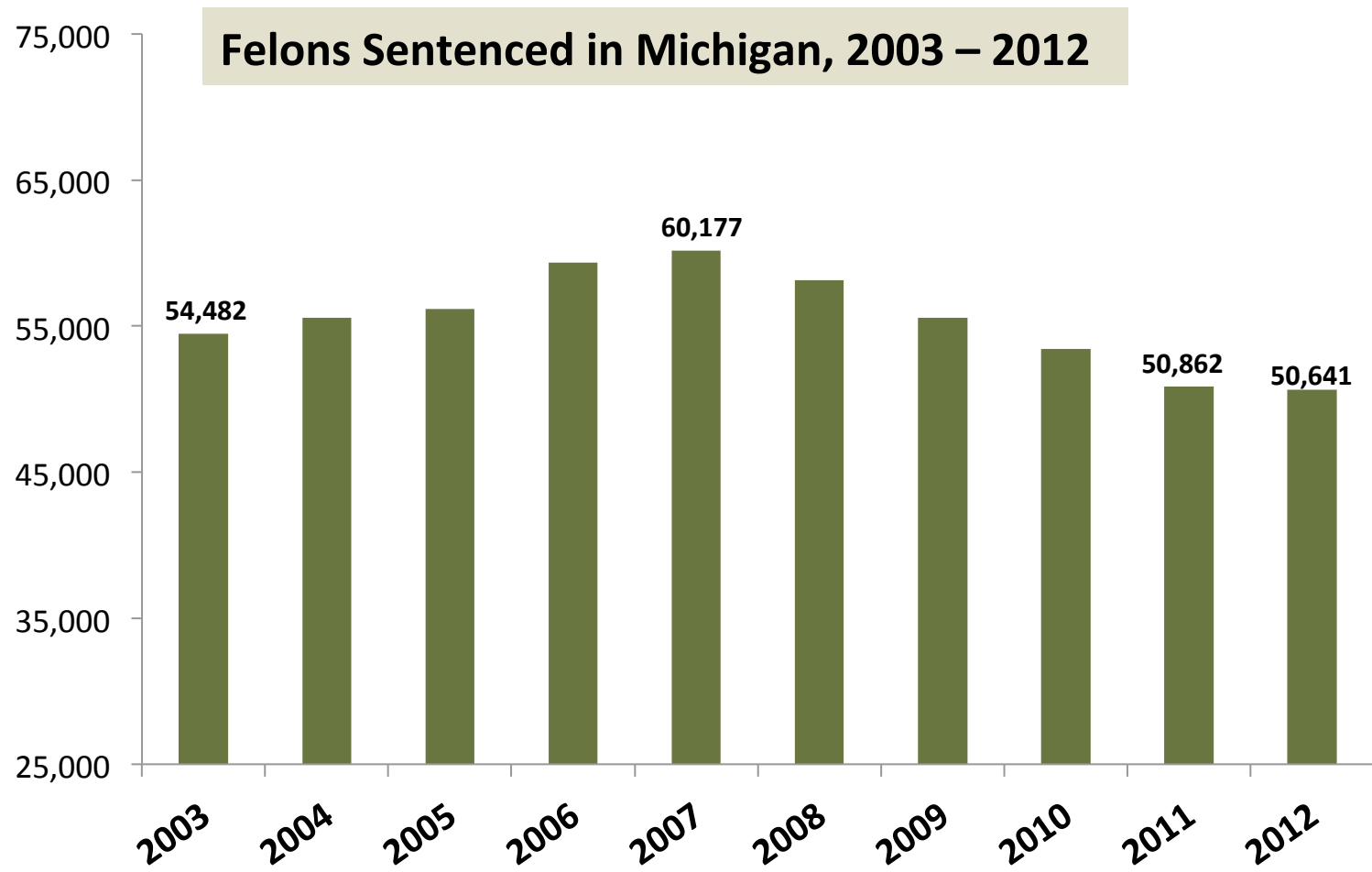
Source: *2012 Statistical Report*, Michigan Dept. of Corrections, August 2013.

Most Felony Sentences Include Jail/Prison Time

2012 Felony Sentences

50,638

Sentence Imposed

"In" **76%**

"Out" **24%**

10,473	10,438	17,859	11,486	382
Prison	**Jail Only**	**Jail + Probation**	**Probation Only**	**Other**
(21%)	(20%)	(35%)	(23%)	(1%)

❑ Sentences to jail may be for no more than 12 months, with up to 25% of sentence eligible to be credited by sheriff.

❑ Like those sentenced to prison, felony sentences to jail and probation result in a period of supervision upon completion of a period of confinement.

❑ Felony probation terms are typically set at 2 to 3 years.

❑ Other sentences are mainly fees, fines, and restitution.

10% Increase in Share of Sentences to Jail or Prison, and 21% Decrease in Share of Sentences to Probation, 2008-2012

2008 Felony Sentences

58,108

- 19% Prison
- 18% Jail
- 33% Jail + Probation
- 29% Probation
- 1% Other

70% of Sentences Involved Confinement

2012 Felony Sentences

50,638

- 21% Prison
- 20% Jail
- 35% Jail + Probation
- 23% Probation
- 1% Other

76% of Sentences Involved Confinement

55% of Sentences Involved Jail Confinement
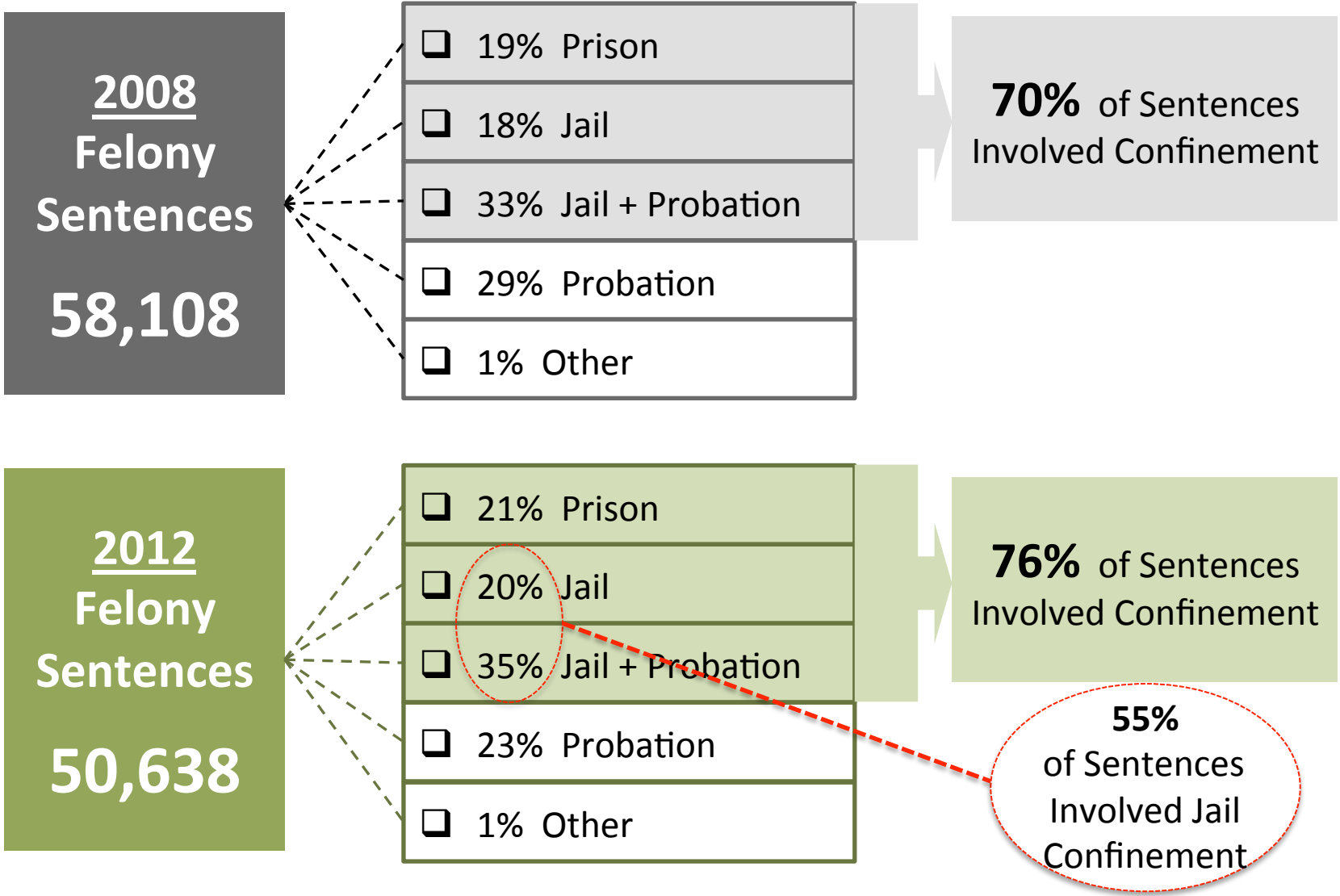
Source: *Felony Sentencing (BIR) Data 2008-2012*, Michigan Dept. of Corrections.

64% of Felons Sentenced in 2012 Were not Involved with the Criminal Justice System at the Time of Their Offense

2012 Felony Sentences

Relationship to CJ System at Time of New Offense
(Prior Record Variable #6)

In Jail/ Prison
2%

Parole, Probation, Bond

34%

Not Involved in CJ System

64%

14% of those not involved with the CJ system were sentenced to prison
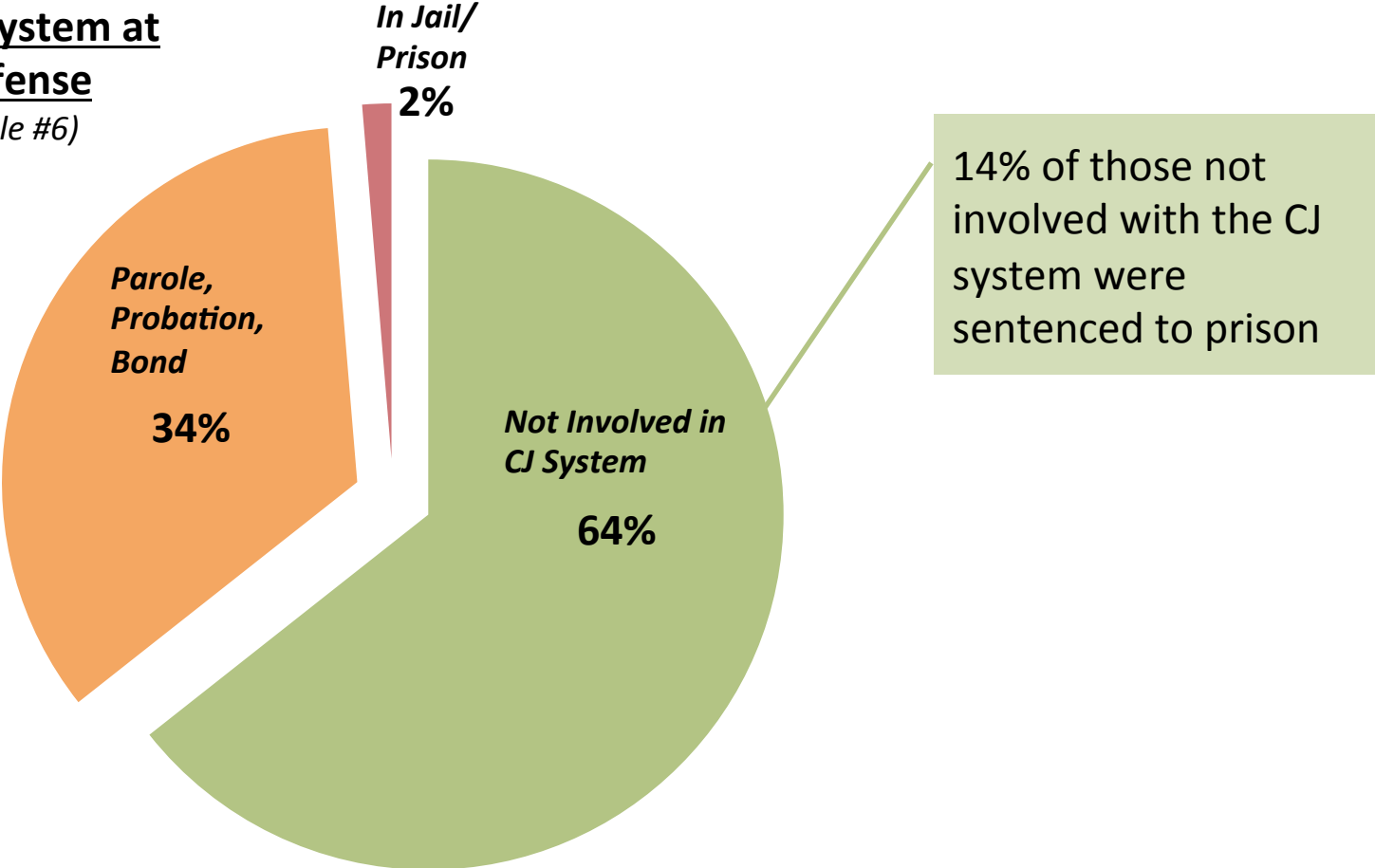
Source: *Felony Sentencing (BIR) Data 2008-2012*, Michigan Dept. of Corrections.

All Offense Grids Show Increase in Share of Sentences Involving Jail or Prison Incarceration

Offense Class	2008		2012	
	# Sent	% Incarc.	# Sent	% Incarc.
All Felony Sentences	**58,108**	**70%**	**50,638**	**76%**
Class H	2,217	61%	1,630	74%
Class G	13,316	66%	11,367	74%
Class F	7,571	63%	6,326	69%
Class E	15,661	72%	13,176	77%
Class D	7,060	72%	5,874	79%
Class C	2,844	81%	2,844	85%
Class B	1,828	84%	1,647	90%
Class A	1,103	97%	1,035	99%
2nd Deg. Murder	168	100%	150	100%
Subtotal SGL	**51,768**	**70%**	**44,049**	**77%**
Non SGL	6,340	72%	6,589	75%

The least serious offense grids have experienced the largest increase in sentences involving confinement.

Sentencing outside of the guidelines:
- Offenses of 1st Degree Murder or Felony Firearm
- Term of years sentences
- Filed as felony but reduced to misdemeanor
- Offense date preceding effective date of SGL.

Source: *Felony Sentencing (BIR) Data 2008-2012*, Michigan Dept. of Corrections.

Share of Felons Falling in *Prison* Cells Is Virtually Unchanged

Distribution of Felons Across the <u>Cell Types</u> on the Grids

2008 Felony Guidelines Sentences

2012 Felony Guidelines Sentences

Prison Cells
10%
24% *Straddle*
66%
Intermediate Sanction Cells

Prison Cells
11%
27% *Straddle Cells*
62%
Intermediate Sanction Cells

89% of all SGL sentences fall in 'Intermediate' or 'Straddle' cells.
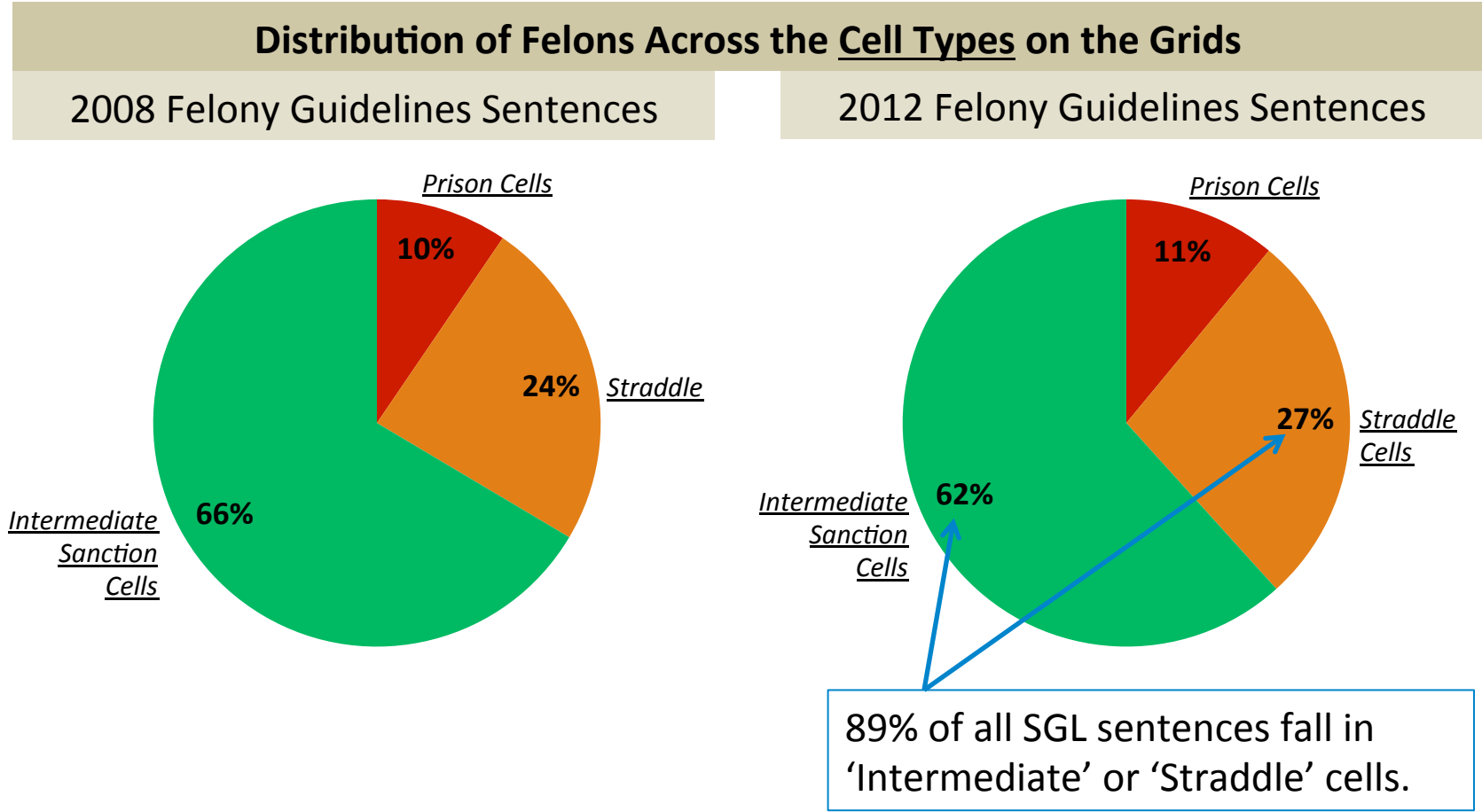
Jail Is the Most Common Sentence for Intermediate and Straddle Cell Felons

2012 Felony Guidelines Sentences

44,049

Cell Type Breakdown

Intermediate	Straddle	Prison
27,180 (62% of Total)	**12,032** (27% of Total)	**4,837** (11% of Total)

Intermediate — Sentence Disposition Breakdown
- 968 to prison (4%)
- 17,658 to jail (65%)
- 8,354 to probation (31%)
- 200 to other (< 1%)

Straddle — Sentence Disposition Breakdown
- 3,840 to prison (32%)
- 6,719 to jail (56%)
- 1,425 to probation (12%)
- 48 to other (< 1%)

Prison — Sentence Disposition Breakdown
- 4,073 to prison (84%)
- 562 to jail (12%)
- 185 to probation (4%)
- 17 to other (< 1%)

Source: *Felony Sentencing (BIR) Data 2008-2012*, Michigan Dept. of Corrections.

Intermediate Cell Felons Sentenced to Jail Confinement Account for 40% of all Guidelines Sentences
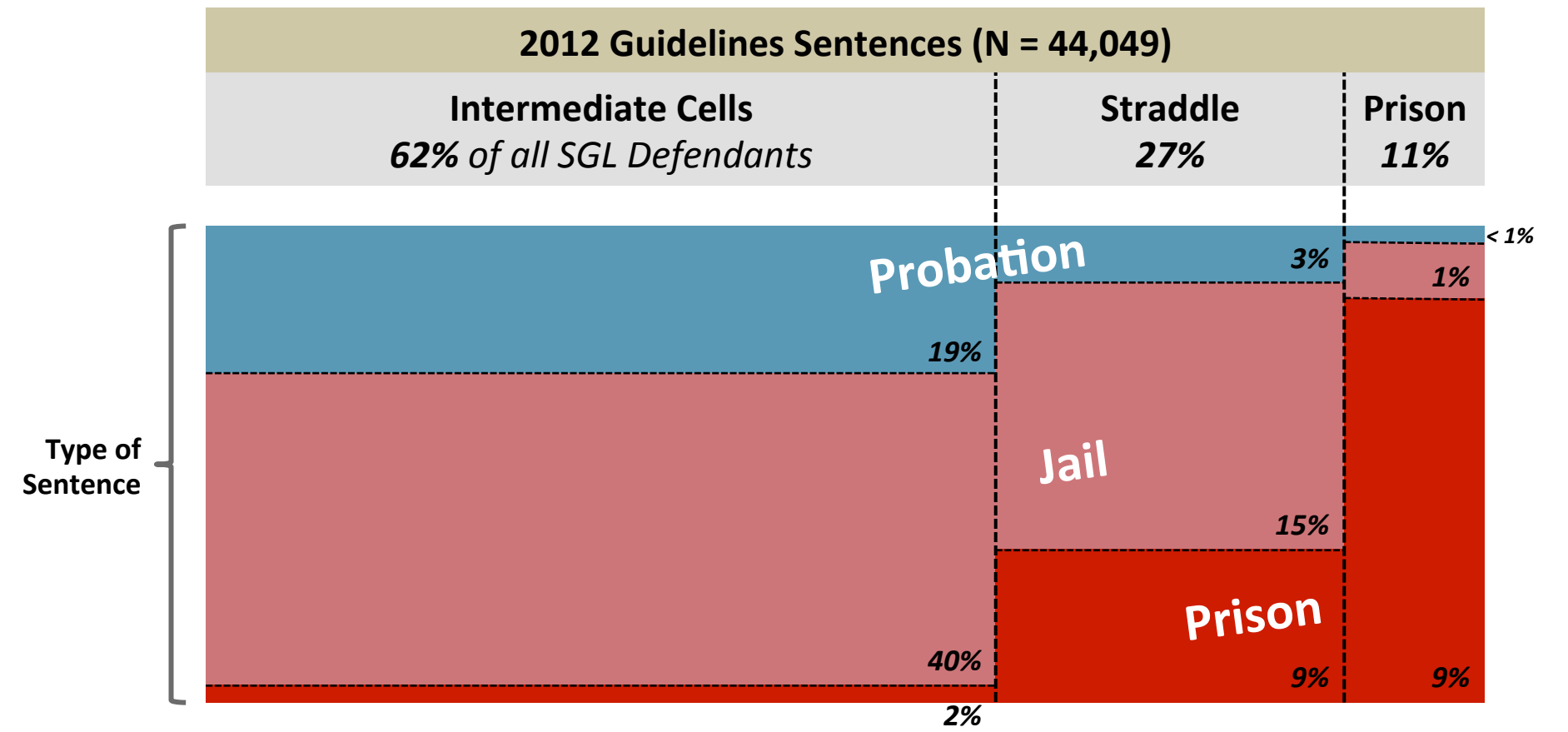
2012 Guidelines Sentences (N = 44,049)

| Intermediate Cells *62% of all SGL Defendants* | | Straddle 27% | Prison 11% |

Type of Sentence

Probation — 19% — 3% — < 1% — 1%

Jail — 40% — 15%

Prison — 2% — 9% — 9%

Almost 85% of All Guidelines Sentences Fall in Four Grids, D - G

2008 and 2012 Guidelines Sentences by Offense Class

Legend:
- 2008
- 2012

Data labels (2012 values):
- 150
- 1,035
- 1,647
- 2,844
- 5,874
- 13,176
- 6,326
- 11,367
- 1,630

Categories: 2nd Deg. Mur., Class A, Class B, Class C, Class D, Class E, Class F, Class G, Class H
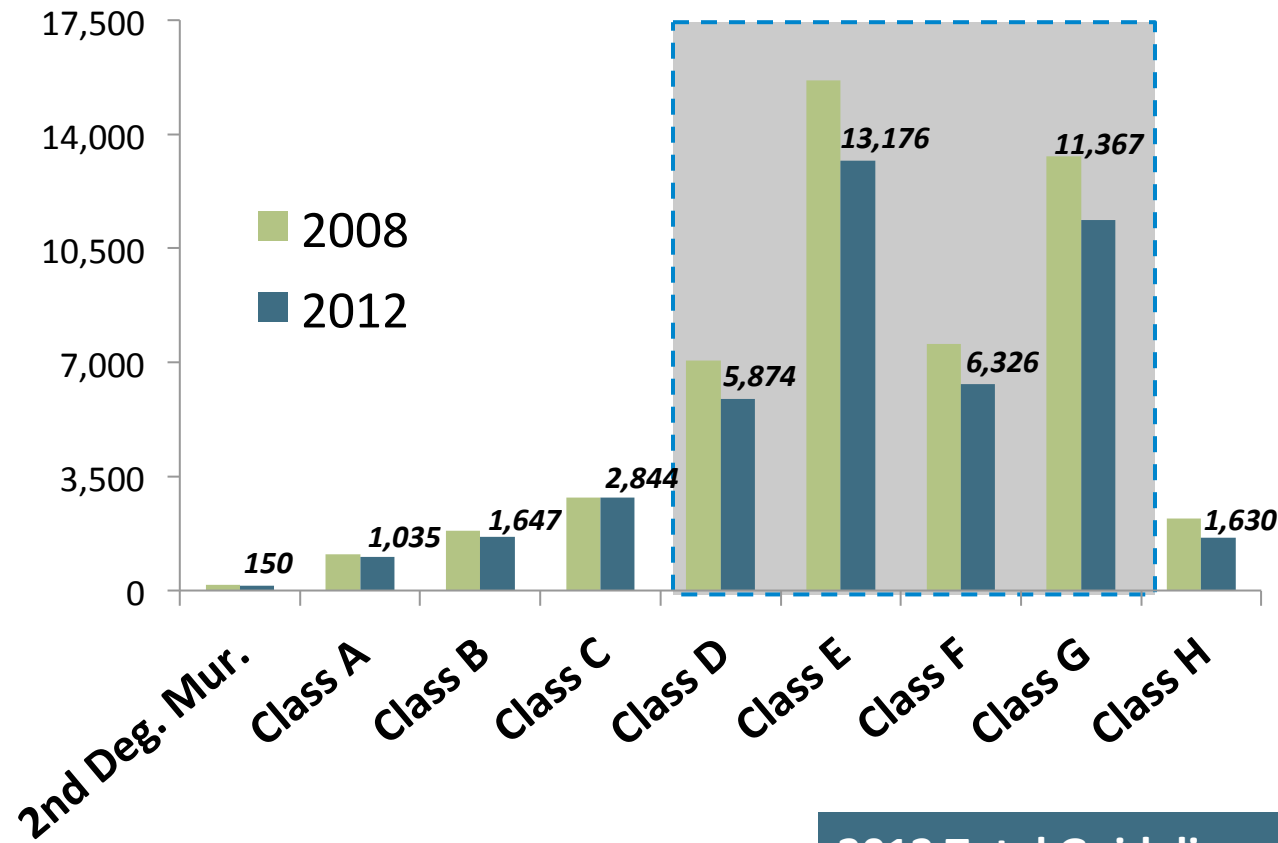
2012 Total Guidelines Sentences = 44,049

Classes D – G total sentences = 36,743

Source: *Felony Sentencing (BIR) Data 2008-2012*, Michigan Dept. of Corrections.

Workability: 84% of Class D-G Sentences
Only Utilize the First Two Rows of the Grids

2012 Sentences		A	B	C	D	E	F	
Class G 11,367	I	12.7%	10.1%	15.1%	12.0%	6.3%	5.1%	**82%**
	II	2.9%	2.3%	5.3%	4.8%	3.1%	2.2%	
	III	2.3%	2.0%	4.3%	4.5%	3.0%	2.0%	
Class F 6,326	I	11.7%	8.4%	13.4%	10.3%	4.7%	3.1%	**86%**
	II	6.8%	5.0%	7.9%	8.0%	4.2%	2.9%	
	III	2.4%	2.0%	2.9%	2.6%	1.2%	1.0%	
	IV	0.3%	0.1%	0.4%	0.3%	0.2%	0.2%	
Class E 13,176	I	9.6%	7.0%	10.2%	9.0%	4.3%	3.5%	**85%**
	II	5.6%	6.0%	10.5%	9.2%	5.7%	4.0%	
	III	1.1%	0.9%	2.1%	2.1%	1.5%	1.8%	
	IV	0.5%	0.4%	0.9%	1.0%	0.6%	0.6%	
	V	0.2%	0.1%	0.3%	0.3%	0.2%	0.3%	
	VI	0.1%	0.1%	0.1%	0.1%	0.0%	0.1%	
Class D 5,874	I	8.6%	6.4%	13.4%	11.6%	7.0%	7.6%	**84%**
	II	3.6%	3.0%	6.5%	7.3%	4.3%	4.6%	
	III	0.6%	0.7%	1.4%	1.4%	0.7%	0.7%	
	IV	0.8%	0.4%	1.0%	0.8%	0.7%	0.6%	
	V	0.6%	0.4%	1.1%	0.8%	0.4%	0.6%	
	VI	0.4%	0.1%	0.6%	0.4%	0.4%	0.3%	

How much value is added with the effort of scoring OVs, plus litigating and legislating over their interpretation?

Source: *Felony Sentencing (BIR) Data 2008-2012*, Michigan Dept. of Corrections.

Proportionality: Within Narrowly Defined Cell Types, Considerable Variation in Sentencing

Breakdown of most common offense for the 'G' grid, **Possession of less than 25g of Certain Controlled Substance Schedule I or II** (*MCL 333.7403(2)(a)(v)*).

2012 Sentences = 3,409

	A	B	C	D	E	F
I	14.3%	13.6%	20.4%	17.6%	10.2%	9.2%
II	1.1%	1.1%	2.5%	2.9%	2.2%	1.8%
III	0.4%	0.2%	0.5%	0.7%	0.6%	0.7%

Note: Shaded cells account for 66% of all sentences.

Regardless of Prior Record (PRV) score, similar odds for getting:

❑ Probation term in lieu of confinement, <u>or</u>

❑ Jail term of varying length which may/may not include supervision afterward

Prior A (489)

Pris: 2

Jail: 246
Range 1-365 days
Avg 52 days

Prob: 238
Range 1-60 mos
Avg 18 mos

Prior B (462)

Pris: 0

Jail: 283
Range 1-365 days
Avg 75 days

Prob: 177
Range 1-48 mos
Avg 19 mos

Prior C (696)

Pris: 5

Jail: 435
Range 1-365 days
Avg 116 days

Prob: 251
Range 1-60 mos
Avg 21 mos

Prior D (601)

Pris: 27

Jail: 399
Range 1-365 days
Avg 152 days

Prob: 172
Range 1-60 mos
Avg 23 mos

4 PRV Groups (2,248)

Pris: 34

Jail: 1,363
Range 1-365 days
Avg 106 days

Prob: 838
Range 1-60 mos
Avg 20 mos

Source: *Felony Sentencing (BIR) Data 2008-2012*, Michigan Dept. of Corrections.

Proportionality: Within a Single Cell Type, Considerable Variation in Sentencing

Breakdown of most common offense for the 'G' grid, **Possession of less than 25g of Certain Controlled Substance Schedule I or II** (*MCL 333.7403(2)(a)(v)*).

2012 Sentences = 3,409

	A	B	C	D	E	F
I	14.3%	13.6%	20.4%	17.6%	10.2%	9.2%
II	1.1%	1.1%	2.5%	2.9%	2.2%	1.8%
III	0.4%	0.2%	0.5%	0.7%	0.6%	0.7%

PRV Level A (489)

Pris:	2
Jail:	246
Prob:	238

58
Jail Only

– Jail terms ranging from **3 days to 365 days**

188
Jail & Probation

– Jail terms ranging from **1 day to 365 days**

– Probation terms ranging from **30 days to 3 years**

238
Probation Only

– Probation terms ranging from **30 days to 5 years**

Despite falling in the same cell on the same grid for the same offense, defendants faced a wide range of possible punishments:

o As little as 3 days in jail,

o As much as 5 years on probation, or

o A combination of the two, with widely ranging lengths of jail and probation time.

Source: *Felony Sentencing (BIR) Data 2008-2012*, Michigan Dept. of Corrections.

Proportionality: Top 10 Counties Show Wide Variance in *Intermediate* Cell Sentences

2012 Class D-G Intermediate Sentences in Top 10 Counties
Type of Punishment Imposed

Legend: Prison | Jail | Probation

Counties (top to bottom): Wayne, Oakland, Macomb, Kent, Genesee, Washtenaw, Ingham, Ottawa, Kalamazoo, Saginaw

X-axis: 0% 10% 20% 30% 40% 50% 60% 70% 80% 90% 100%
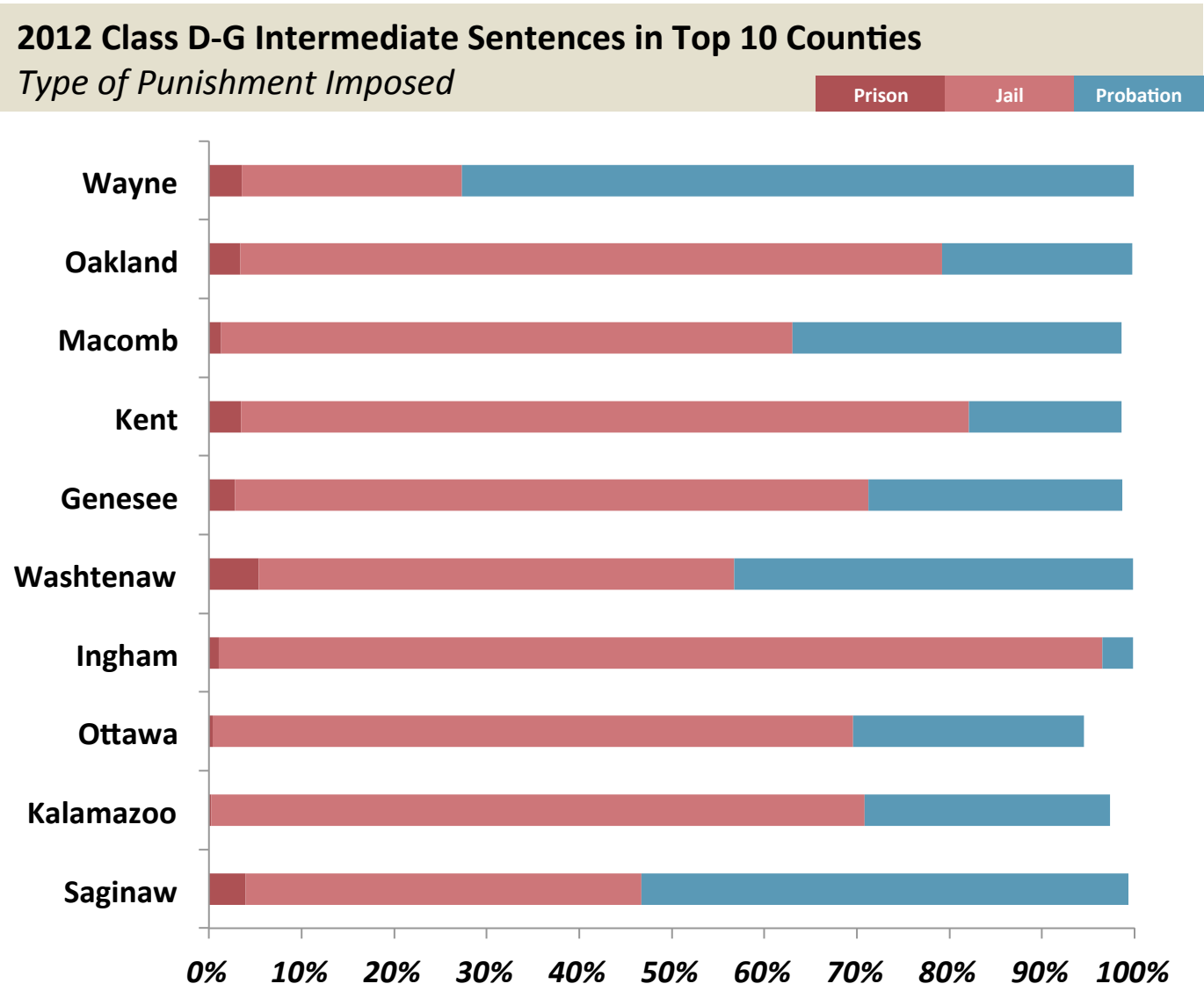
Type of Sentence Imposed

Jail
- ❑ *Lowest*: Wayne 24%
- ❑ *Highest*: Ingham 96%

Probation
- ❑ *Lowest*: Ingham 3%
- ❑ *Highest*: Wayne 73%

Source: *Felony Sentencing (BIR) Data 2008-2012*, Michigan Dept. of Corrections.

Proportionality: Top 10 Counties Show Wide Variance in *Straddle* Cell Sentences

2012 Class D-G Straddle Sentences in Top 10 Counties
Type of Punishment Imposed

Prison | Jail | Probation

Type of Sentence Imposed

Prison
- ☐ *Lowest*: Ingham 15%
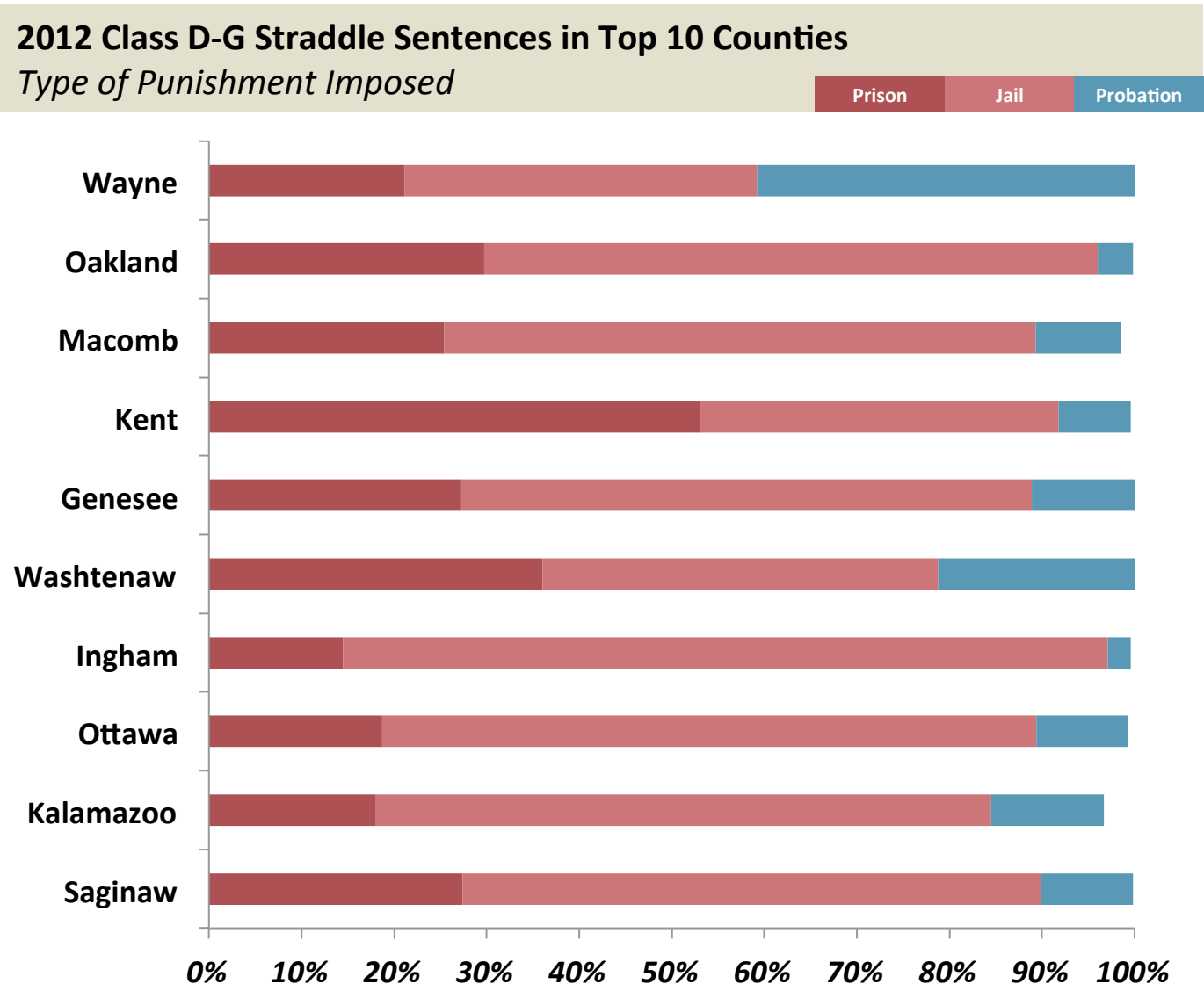- ☐ *Highest*: Kent 53%

Jail
- ☐ *Lowest*: Wayne 38%
- ☐ *Highest*: Ingham 83%

Probation
- ☐ *Lowest*: Ingham 3%
- ☐ *Highest*: Wayne 41%

Source: *Felony Sentencing (BIR) Data 2008-2012*, Michigan Dept. of Corrections.

Public Safety & Risk Reduction: Guidelines Do Not Effectively Direct Who Should Receive Jail

No prior criminal history

Significant criminal history

Class	A	B	C	D	E	F
Class H	345	217	406	347	176	139
Class G	2,039	1,626	2,814	2,421	1,411	1,056
Class F	1,334	983	1,555	1,343	658	453
Class E	2,264	1,909	3,169	2,847	1,634	1,353
Class D	860	648	1,411	1,313	800	842
Class C	609	405	797	529	257	247
Class B	363	201	390	315	197	181
Class A	140	111	319	209	148	108
Mur-2	31	10	43	36	21	9

55% received a jail sentence

> These felons should be the lowest risk of recidivism based on their lack of criminal history
> 3,556 sentenced to an average of 78 days at $45 per day =

$12.5M cost to counties

Source: *Felony Sentencing (BIR) Data 2008-2012*, Michigan Dept. of Corrections.

Public Safety & Risk Reduction: Guidelines Do Not Effectively Direct Who Should Receive Supervision

No prior criminal history

Significant criminal history

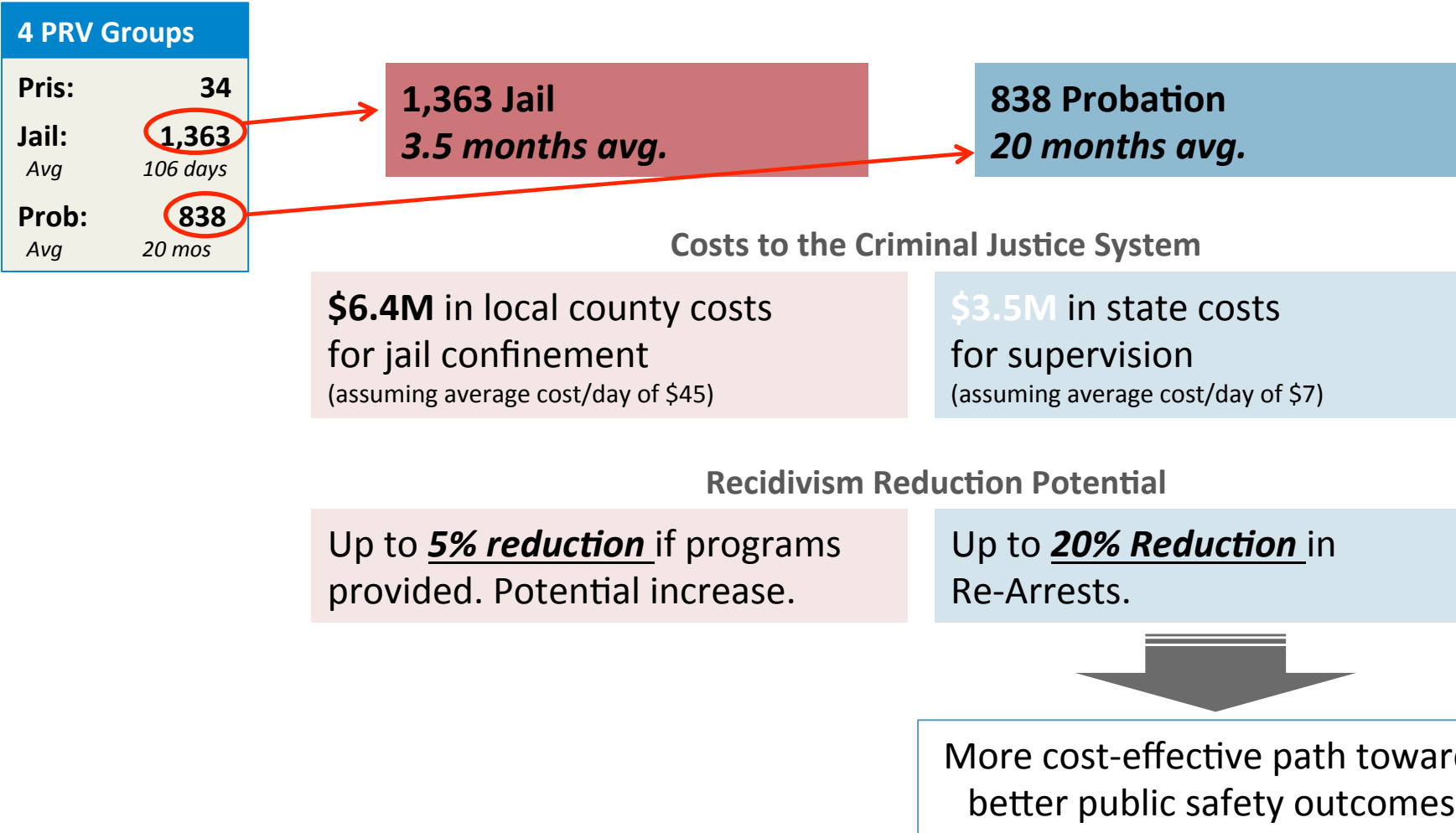| Class	A	B	C	D	E	F
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Class B	363	201	390	315	197	181
Class A	140	111	319	209	148	108
Mur-2	31	10	43	36	21	9

33% received a jail sentence without probation supervision

➢ These felons should be a higher recidivism risk by virtue of their criminal history (PRV) scores.

Source: *Felony Sentencing (BIR) Data 2008-2012*, Michigan Dept. of Corrections.

Public Safety: Indications Are that Guidelines Do Not Maximize Effectiveness of Scarce Resources

Breakdown of most common offense for the 'G' grid, **Possession of less than 25g of Certain Controlled Substance Schedule I or II** (*MCL 333.7403(2)(a)(v)*).

4 PRV Groups	
Pris:	**34**
Jail:	**1,363**
Avg	*106 days*
Prob:	**838**
Avg	*20 mos*

1,363 Jail
3.5 months avg.

838 Probation
20 months avg.

Costs to the Criminal Justice System

$6.4M in local county costs for jail confinement
(assuming average cost/day of $45)

$3.5M in state costs for supervision
(assuming average cost/day of $7)

Recidivism Reduction Potential

Up to **_5% reduction_** if programs provided. Potential increase.

Up to **_20% Reduction_** in Re-Arrests.

More cost-effective path towards better public safety outcomes.

Source: *Felony Sentencing (BIR) Data 2008-2012*, Michigan Dept. of Corrections.

Does System Achieve Goals?

Goal	Questions	Current Knowledge
Public Safety	Do the sentencing and parole decisions promote risk reduction?	Probation recidivism is increasing Guidelines do not effectively direct jail and supervision sentencing
Proportionality	Is there disparity in sentencing and time served for similar cases? If so, what are the causes?	Considerable variation within a narrowly defined cell type or individual cell; top 10 counties show wide variation
Certainty	Are victims satisfied or frustrated with the uncertain portion of a sentence?	Unknown but under study
Predictability	To what degree are sentencing and parole decisions driving population trends?	Sentencing contributes, but parole is major driver
Workability	Is the complexity of the sentencing system sufficiently advancing other goals to be worth the effort?	Lots of appellate activity but not much user dissatisfaction OV scoring adds low value

Summary of Sentencing Analyses

High Odds of Doing Time

- ✓ 88% of Straddle sentences involve confinement in jail or prison
- ✓ 69% of Intermediate sentences involve confinement in jail or prison

Illusory Precision of Guidelines

- ✓ OV scoring adds little precision
- ✓ Wide variance on type of sentence imposed within narrowly defined offense ranges

Sentencing Poorly Aligned with Goals of Public Safety

- ✓ Guidelines direct low risk to jail and high risk away from potentially effective supervision

Recap of Key Points For the Day

1.
- ✓ Distinct stakeholder perspectives make consensus difficult
- ✓ Divergent views reinforce the value of data analysis

2.
- ✓ Identify and focus on high-risk offenders
- ✓ Target the factors that most influence criminal behavior
- ✓ Ensure programs are high quality and properly implemented

3.
- ✓ Crime is a serious problem, particularly in four cities
- ✓ Felons typically, increasingly sentenced to do time, most often in jail
- ✓ Wide discretion in sentencing and observable disparity
- ✓ Sentencing is not well aligned with public safety objectives

Forthcoming Analyses and Engagement

More Sentencing

- ✓ Predictive validity of PRV scoring
- ✓ Sentence length imposed
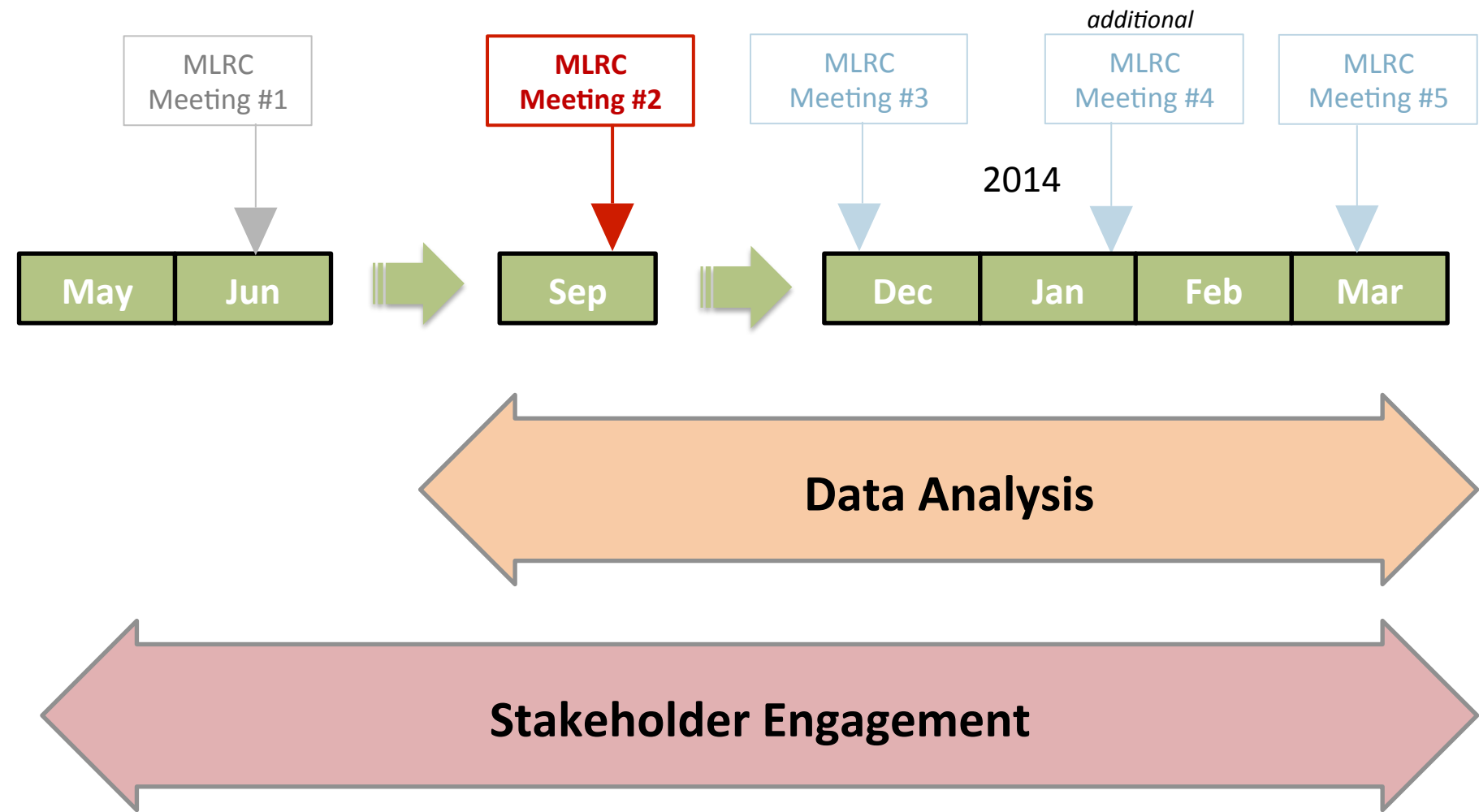- ✓ Use of jails at original sentencing and for detaining supervision violators

Effectiveness

- ✓ Re-arrest rates for jail, probation, community corrections and parole populations
- ✓ Qualitative analysis of programs and policy

Parole and LOS

- ✓ Interplay of recidivism risk and denial of parole
- ✓ Factors contributing to denial of parole

Stakeholder Perspectives

- ✓ Victim perceptions of certainty, restitution satisfaction, and realization of victims' rights
- ✓ Faith community and business community engagement
- ✓ Further surveys of practitioners

Project Timeline – We Need an Additional Meeting

MLRC Meeting #1 — May, Jun

MLRC Meeting #2 — Sep

MLRC Meeting #3 — Dec

additional

MLRC Meeting #4 — Jan

2014

MLRC Meeting #5 — Mar

Feb

Data Analysis

Stakeholder Engagement

Thank You

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