JUSTICE CENTER
THE COUNCIL OF STATE GOVERNMENTS

Washington State Justice Reinvestment Taskforce

First Meeting

June 24, 2014

Council of State Governments Justice Center

Marshall Clement, Director, State Initiatives
Carl Reynolds, Senior Legal and Policy Advisor
Monica Peters, Senior Research Associate
Karen Chung, Policy Analyst

Council of State Governments Justice Center

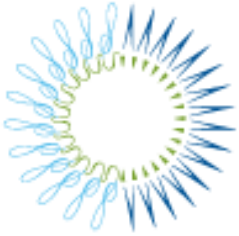
- National non-profit, non-partisan membership association of state government officials
- Engages members of all three branches of state government
- Justice Center provides practical, nonpartisan advice informed by the best available evidence

Funding and Partners

Justice Reinvestment

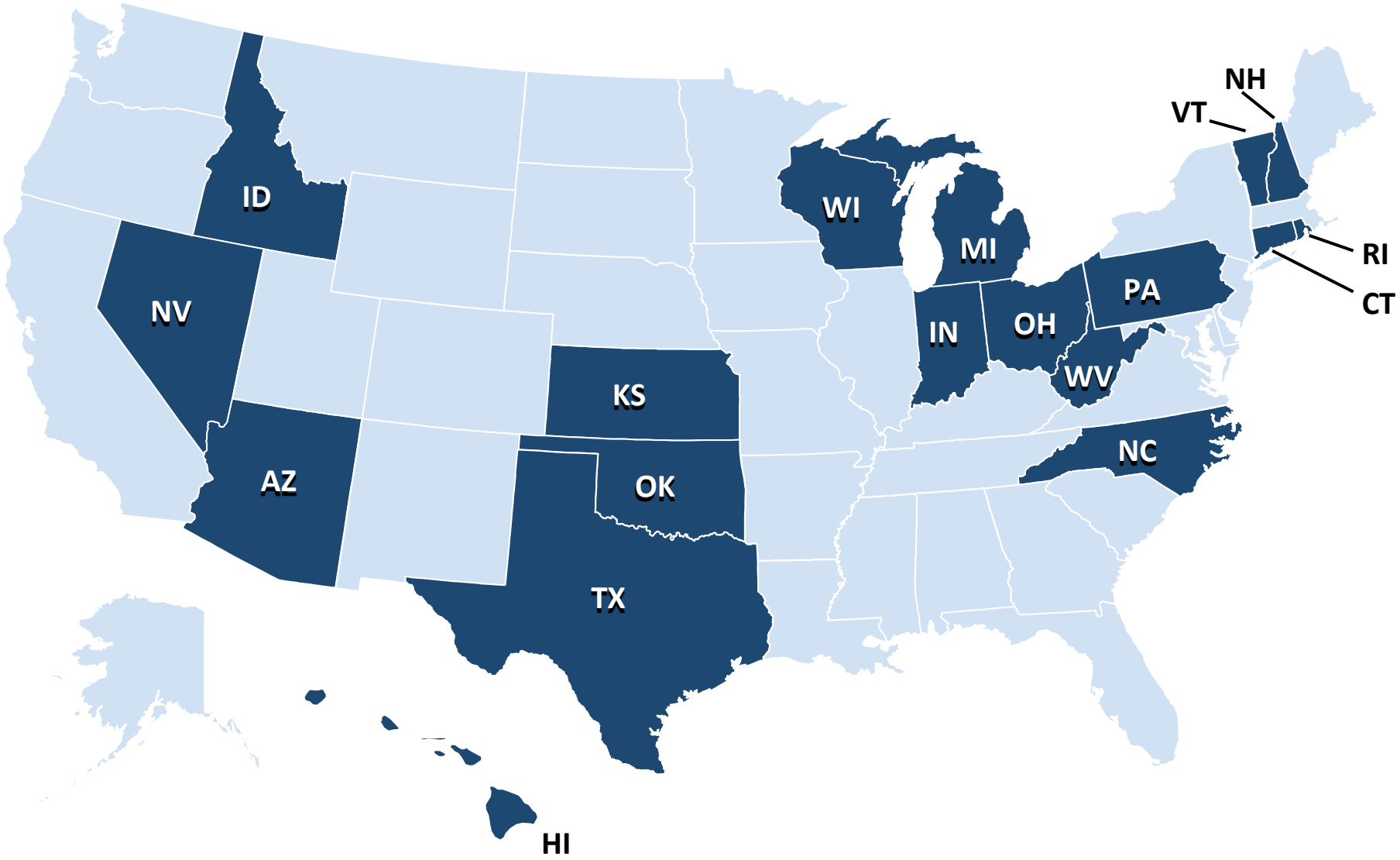
a data-driven approach to reduce corrections spending and reinvest savings in strategies that can decrease recidivism and increase public safety.

BJA
Bureau of Justice Assistance
U.S. Department of Justice

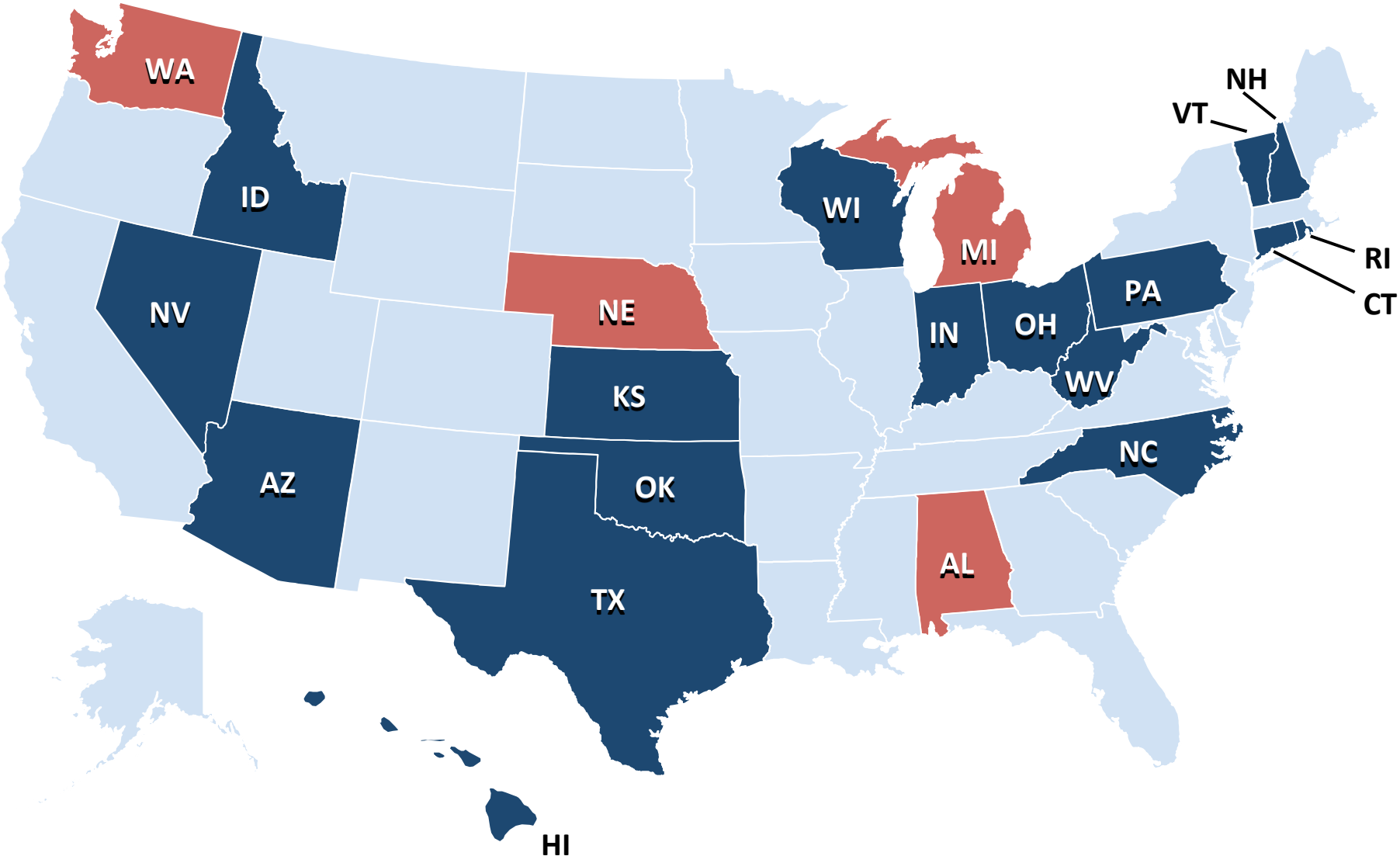


THE PEW CHARITABLE TRUSTS

CSG Justice Center Has Assisted 18 States Using the Justice Reinvestment Approach



In 2014, CSG Justice Center is Assisting Four States



Justice Reinvestment is a Bipartisan, Inter-Branch Process

"When I asked the Justice Reinvestment Working Group to come together to tackle the issue of prison overcrowding, I made it clear that any policies developed must directly address the criminal behavior that ends up putting more and more people behind bars."

***West Virginia Governor Tomblin,* D**

"Unless we made some important changes, the prison population would continue to grow significantly; that would mean spending much more without actually addressing the causes."

***Idaho Governor Otter,* R**

Justice Reinvestment Process – Phase I

Bipartisan , bicameral, inter-branch working group

Phase I

Analyze Data and Develop Policy Options

- **Analyze data: look at crime, courts, corrections, sentencing, & supervision trends**
- **Solicit input from stakeholders**
- **Assess behavioral health system & treatment capacity**
- **Develop policy options & estimate cost savings**

Phase 2

Implement New Policies

- **Identify assistance needed to implement policies effectively**
- **Deploy targeted reinvestment strategies to increase public safety**
- **Track the impact of enacted policies/programs**
- **Monitor recidivism rates and other key measures**

State Leaders Requested Assistance to Build on Washington's Success in Improving its Criminal Justice System

STATE OF WASHINGTON

December 23, 2013

Juliene James
Senior Policy Advisor
Bureau of Justice Assistance
810 Seventh Street NW
Washington, DC 20531

Adam Gelb
Project Director
Pew Center on the States
901 E Street, NW, 10th Floor
Washington, D.C. 20004

Dear Ms. James and Mr. Gelb:

Washington State is a national leader in innovative and effective crim
We have implemented many best practices, such as sentencing alterna
reduction, and evidence based programming, to reduce recidivism. Th
looking proposals have helped keep our state well under the national r
and slowed the growth of our prison population. We have closed olde
prison facilities and used risk assessment to target our resources in ke
research.

Despite this, Washington is forecasted to need an additional 1,000 pri
As a state committed to job creation, improving education, preservati
resources, as well as the health and safety of our citizens, it is imperat
in a thoughtful process to assess whether investing in prison beds is o
response to the forecasted need or if other options exist that are more
mission and tradition of this state.

As a state that has been in the forefront of implementing many of the national best practices in smart criminal justice policy, we recognize that we will experience a unique challenge. Most of the strategies realized in other states through this collaborative process have already been implemented in Washington. However, we are certain that through this process, Washington will continue in its long tradition of identifying responsive, innovative, and data-driven changes to wisely target our limited resources and improve public safety. We know that Washington can provide a roadmap for the rest of the nation to follow.

Sincerely

Jay Inslee
Governor

Barbara Madsen
Chief Justice, Supreme Court

Frank Chopp
Speaker of the House

Rodney Tom
Senate Majority Leader

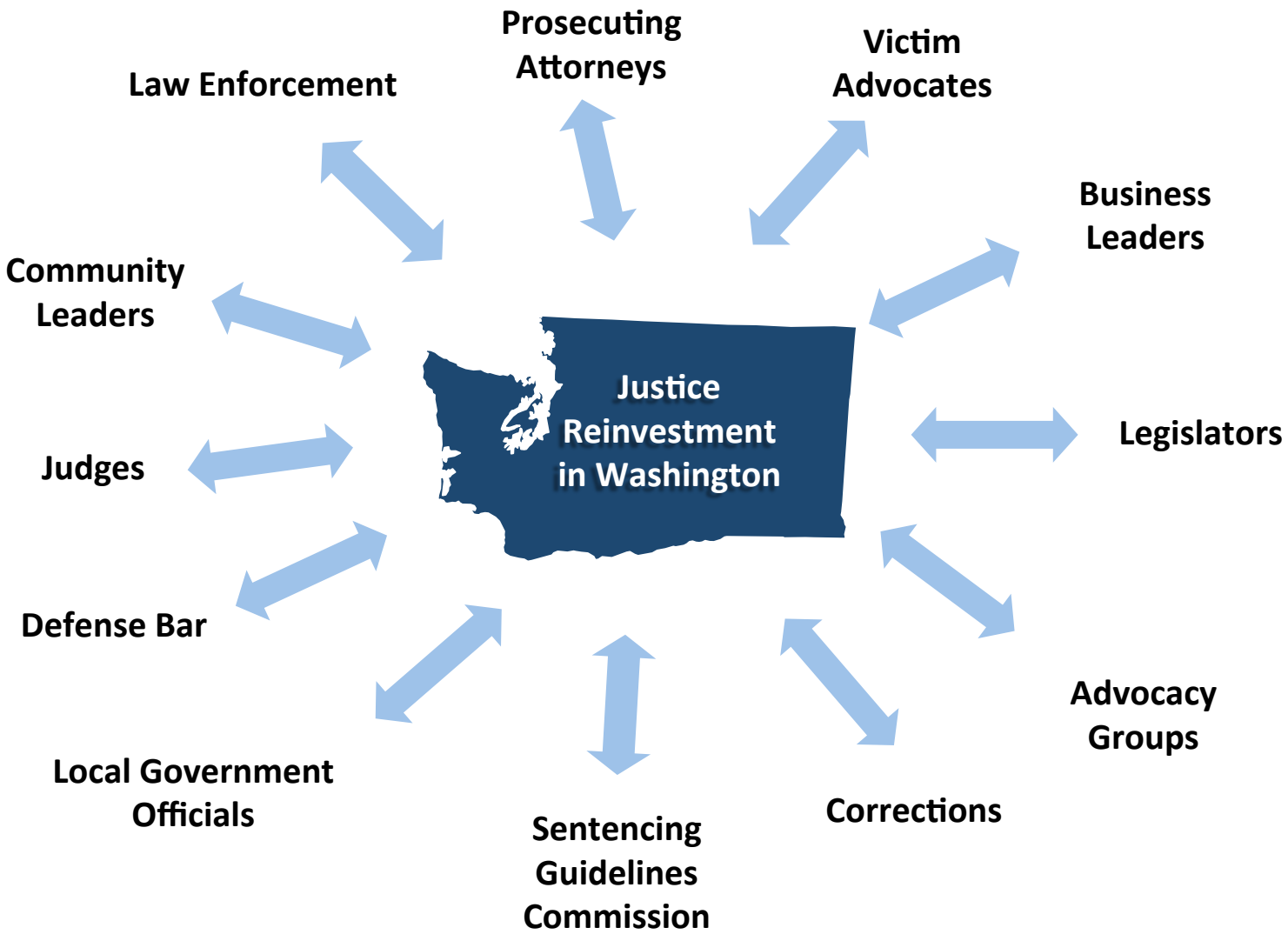
Bernie Warner
Secretary, Department of Corrections

Mark Schoesler
Senator

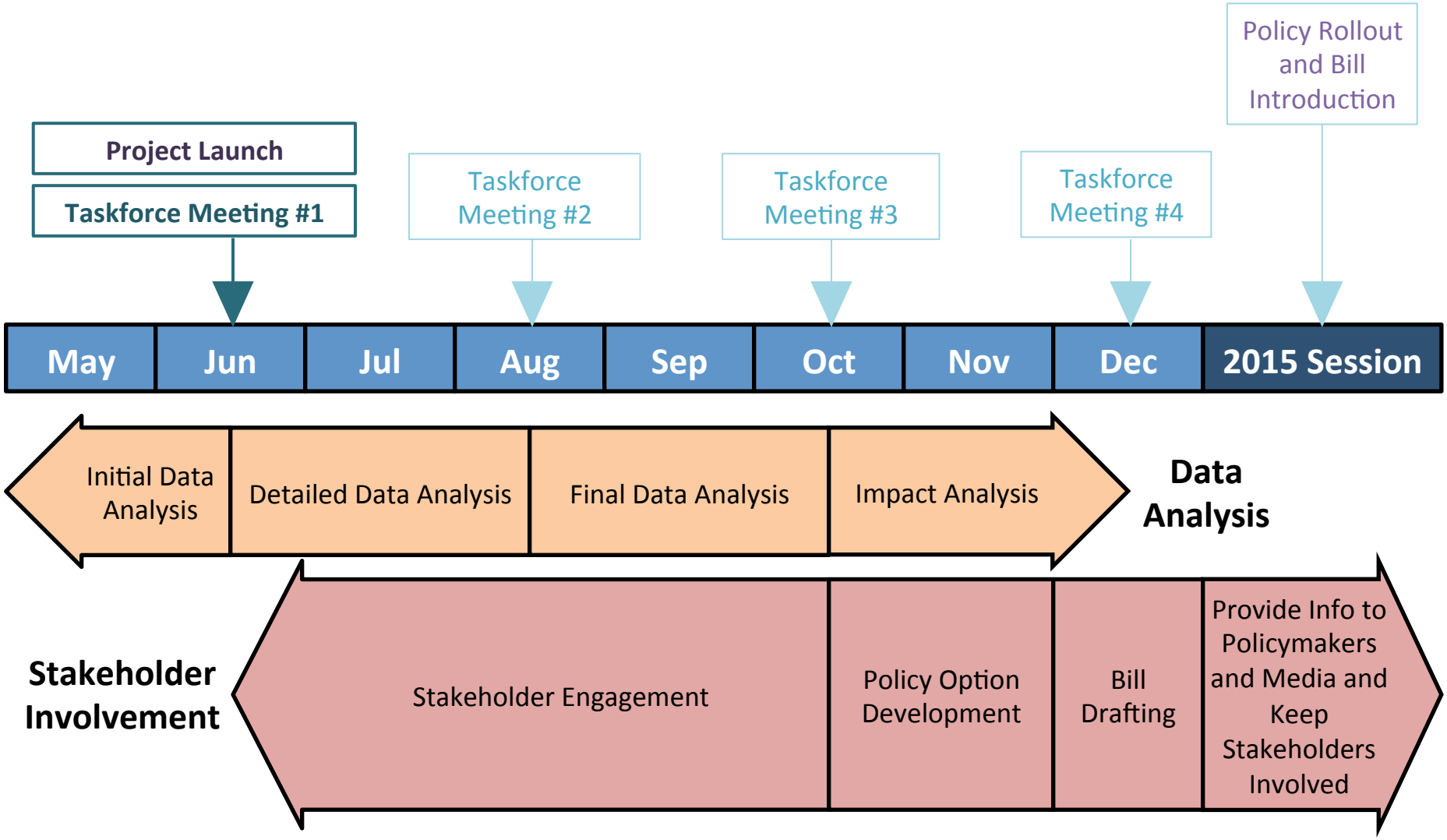
Data Will be Analyzed From Across the Criminal Justice System

Data	Source	Status
Criminal History Data	Washington State Patrol	Received
Felony Sentences	Caseload Forecast Council	Received
Jail Data	Statewide Data Not Available	King County Data Pending
Probation Data	Department of Corrections	Received
Prison Data	Department of Corrections	Received
Parole Data	Department of Corrections	Received
Behavioral Health Data	Department of Corrections	Received

Stakeholder Engagement Will Be Critical



Proposed Timeline



Washington is Viewed as a Leader in Employing Evidence-Based Criminal Justice Strategies

Washington Institute for Public Policy

Washington has been recognized nationally for supporting criminal justice research to inform decision-making; highlighting what works in programs to reduce recidivism and crime.

Evidence-Based Criminal Justice Policies

In 2012, Washington became the first state to implement "swift and certain" sanctions statewide to increase offender compliance on supervision.

Evidence-Based Juvenile Justice Policies

Washington has a rich history of investing in evidence-based and promising prevention and intervention services for juveniles.

Supervision Strategies

The Washington State Department of Corrections continues to refine its approach to community supervision, focusing its resources on higher-risk individuals and using tactics to change offender behavior.

Effective Changes to Drug Sentencing

In 2003, Washington began implementing a separate drug offense sentencing grid with the intent to reduce recidivism among drug offenders.

Overview of Initial Analysis

What is driving prison growth?

- **Role of population growth and crime rates**
- **Impact of sentencing policies**

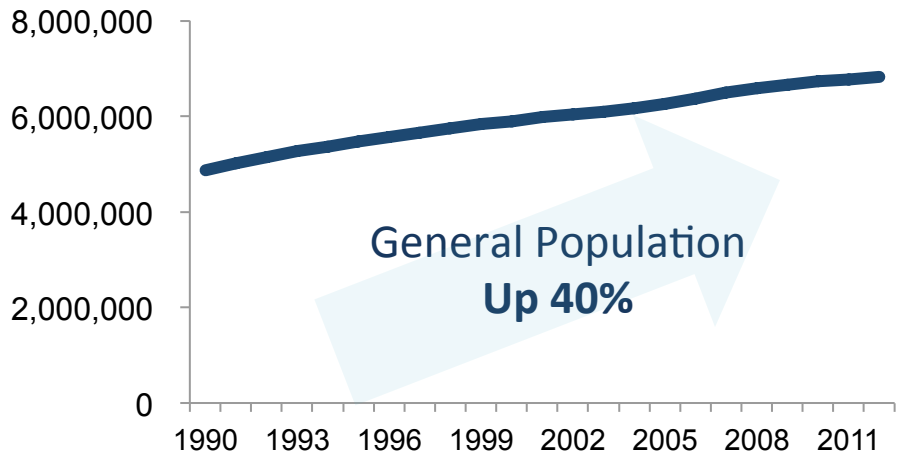
How to achieve greater public safety?

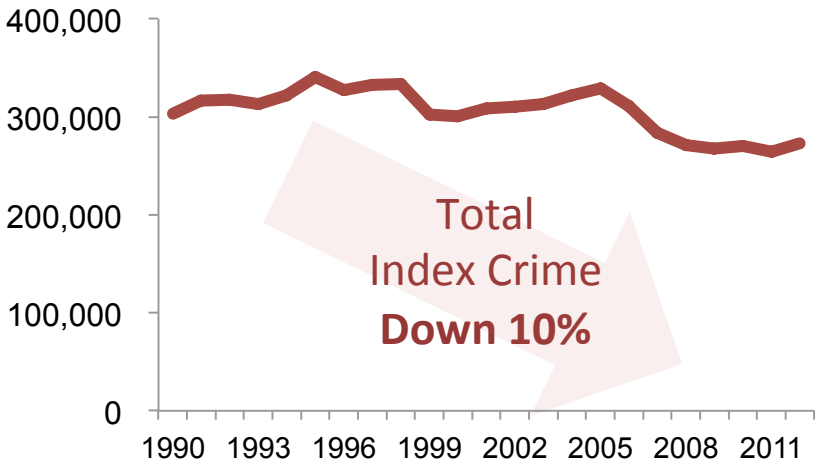
- **Responding to property crime**
- **Continuing to reduce recidivism**

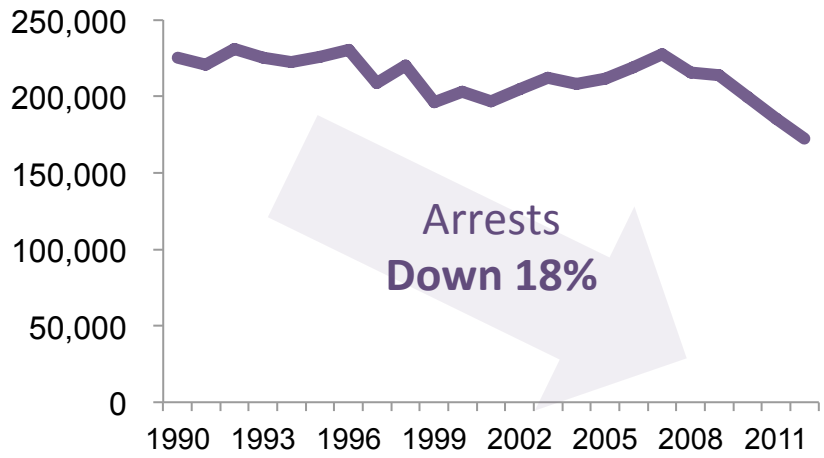
What is the local impact of state policies?

- **Jail population impacts**
- **Outcomes of alternatives to confinement**

Despite an Increasing State Population, Total Crime and Arrests are Down Especially Since 2005

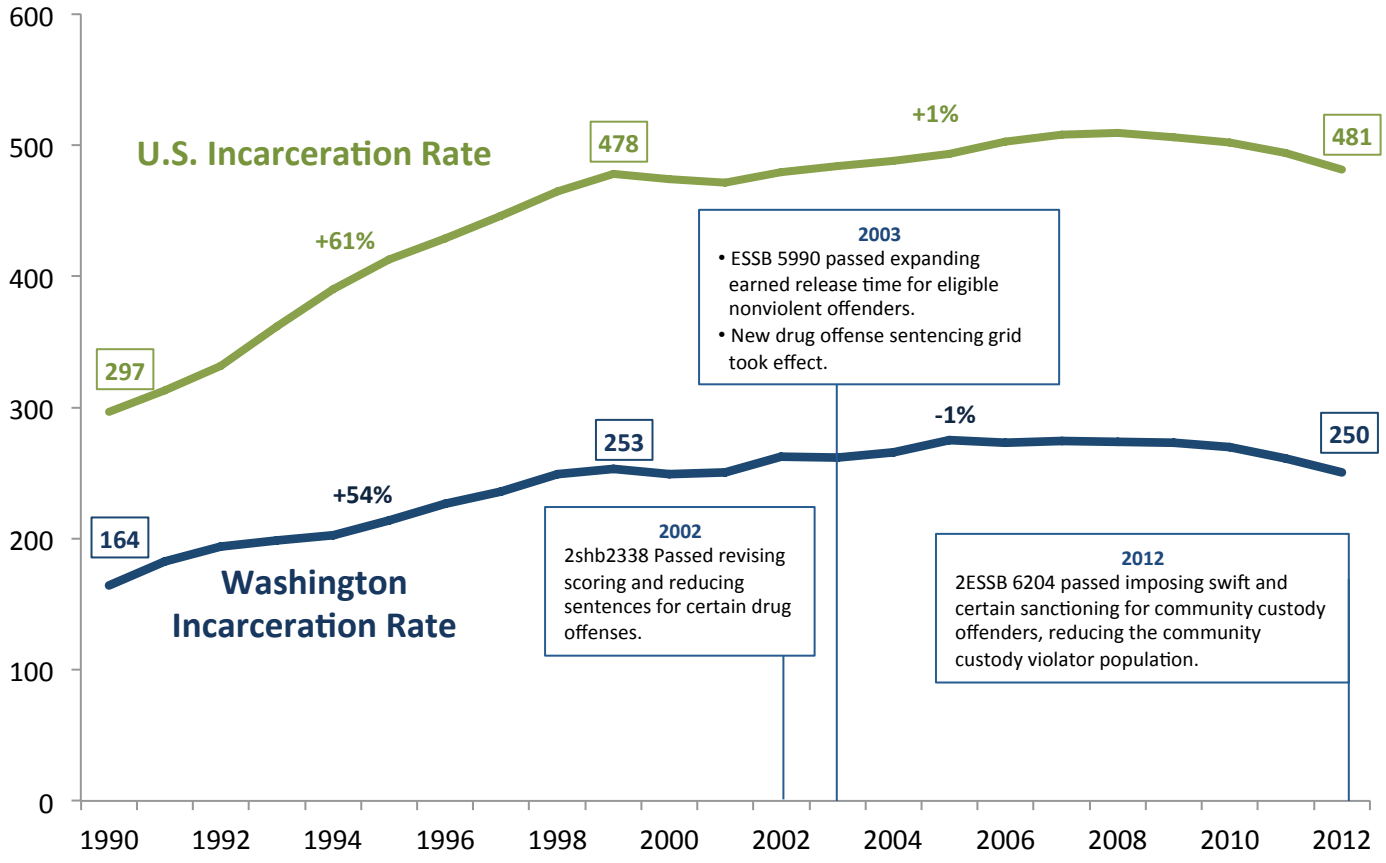






Source: Washington State Criminal Justice Data Book , FBI UCR Online Data Tool, BJS Corrections Statistical Analysis Tool.

Washington's Incarceration Rate Increased More Slowly Than Many States



The national incarceration rate includes a wide range.

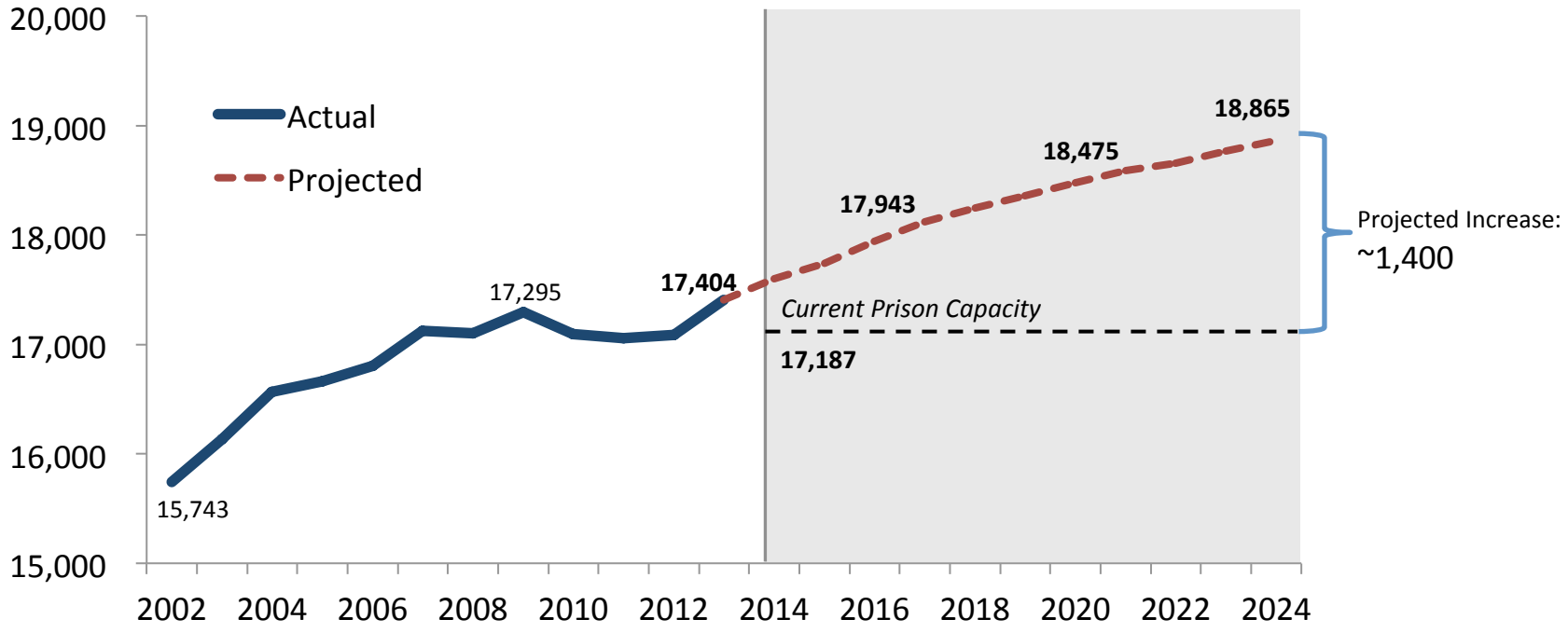
893 Louisiana

Washington

145 Maine

Source: Washington State Department of Corrections, "Major Sentencing Changes Impacting Community Supervision Caseloads and Prison Population."

Today, Washington's Prison Population Exceeds Capacity and is Projected to Continue to Increase

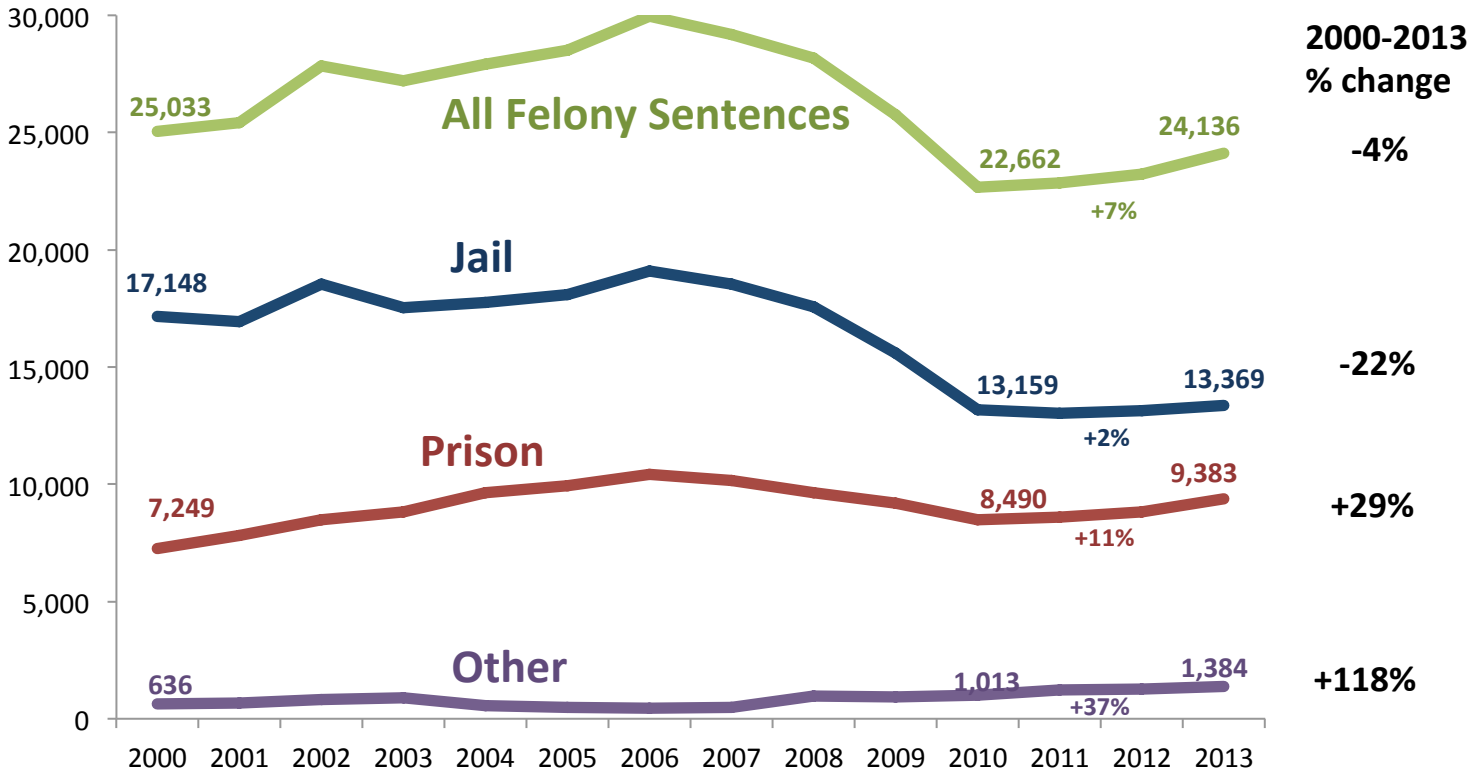


Expanding capacity to address projected growth will cost the state ***$387 to $481 million*** *in capital outlay and operational costs over ten years*

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

Since 2000 the Number of Felony Sentences has Decreased Overall, but Sentences to Prison have Increased Nearly 30 Percent

Felony Sentences, *FY2000 to FY2013*



All felony sentences have increased 7% since FY2010

"Other" sentences include no confinement sentences such as residential drug offender sentencing alternative (DOSA), which was enacted in 2005

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

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

Washington Sentencing Grids Increase in Offense and Criminal History Severity from Lower Left to Upper Right

Current Standard Sentencing Grid

Seriousness Level	Offender Score 0	1	2	3	4	5	6	7	8	9+
LEVEL XVI	LIFE SENTENCE WITHOUT PAROLE/DEATH PENALTY									
LEVEL XV	280m 240-320	291.5m 250-333	304m 261-347	316m 271-361	327.5m 281-374	339.5m 291-388	364m 312-416	394m 338-450	431.5m 370-493	479.5m 411-548
LEVEL XIV	171.5m 123-220	184m 134-234	194m 144-244	204m 154-254	215m 165-265	225m 175-275	245m 195-295	266m 216-316	307m 257-357	347.5m 298-397
LEVEL XIII	143.5m 123-164	156m 134-178	168m 144-192	179.5m 154-205	192m 165-219	204m 175-233	227.5m 195-260	252m 216-288	299.5m 257.342	347.5m 298-397
LEVEL XII	108m 93-123	119m 102-136	129m 111-147	140m 120-160	150m 129-171	161m 138-184	189m 162-216	207m 178-236	243m 209-277	279m 240-318
[illegible]	90m	100m	100m [illegible]5-125	119m 102-136	129m 111-147	139m 120-158	170m 146-194	185m 159-211	215m 185-245	245m 210-280
[illegible]	[illegible]	[illegible]	[illegible]72m [illegible]2-82	78m 67-89	84m 72-96	89.5m 77-102	114m 98-130	126m 108-144	150m 129-171	230.5m 149-198
[illegible]	[illegible]	[illegible]	[illegible]7.5m [illegible]1-54	53.5m 46-61	59.5m 51-68	66m 57-75	89.5m 77-102	101.5m 87-116	126m 108-144	150m 129-171
[illegible]	[illegible]	[illegible]	[illegible]36m [illegible]31-41	42m 36-48	47.5m 41-54	53.5m 46-61	78m 67-89	89.5m 77-102	101.5m 87-116	126m 108-144
LEVEL VII	17.5m 15-20	24m 21-27	30m 26-34	36m 31-41	42m 36-48	47.5m 41-54	66m 57-75	78m 67-89	89.5m 77-102	101.5m 87-116
LEVEL VI	13m 12+-14	17.5m 15-20	24m 21-27	30m 26-34	36m 31-41	42m 36-48	53.5m 46-61	66m 57-75	78m 67-89	89.5m 77-102
LEVEL V	9m 6-12	13m 12+-14	15m 13-17	[illegible]	[illegible]	[illegible]	[illegible]	59.5m 51-68	72m 62-82	84m 72-96
LEVEL IV	6m 3-9	9m 6-12	13m 12+-14	[illegible]	[illegible]	[illegible]	[illegible]	50m 43-57	61.5m 53-70	73.5m 63-84
LEVEL III	2m 1-3	5m 3-8	8m 4-12	[illegible]	[illegible]	[illegible]	[illegible]	38m 33-43	50m 43-57	59.5m 51-68
LEVEL II	0-90 d	4m 2-6	6m 3-9	[illegible]	[illegible]	[illegible]	[illegible]	25.5m 22-29	38m 33-43	50m 43-57
LEVEL I	0-60 d	0-90 d	3m 2-5	4m 2-6	5.5m 3-8	8m 4-12	13m 12+-14	16m 14-18	19.5m 17-22	25.5m 22-29
Unranked					0-12m					

Offense severity increases with Seriousness Level

Criminal history severity increases with Offender Score

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

Current Drug Grid

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

Standard Sentencing Grid

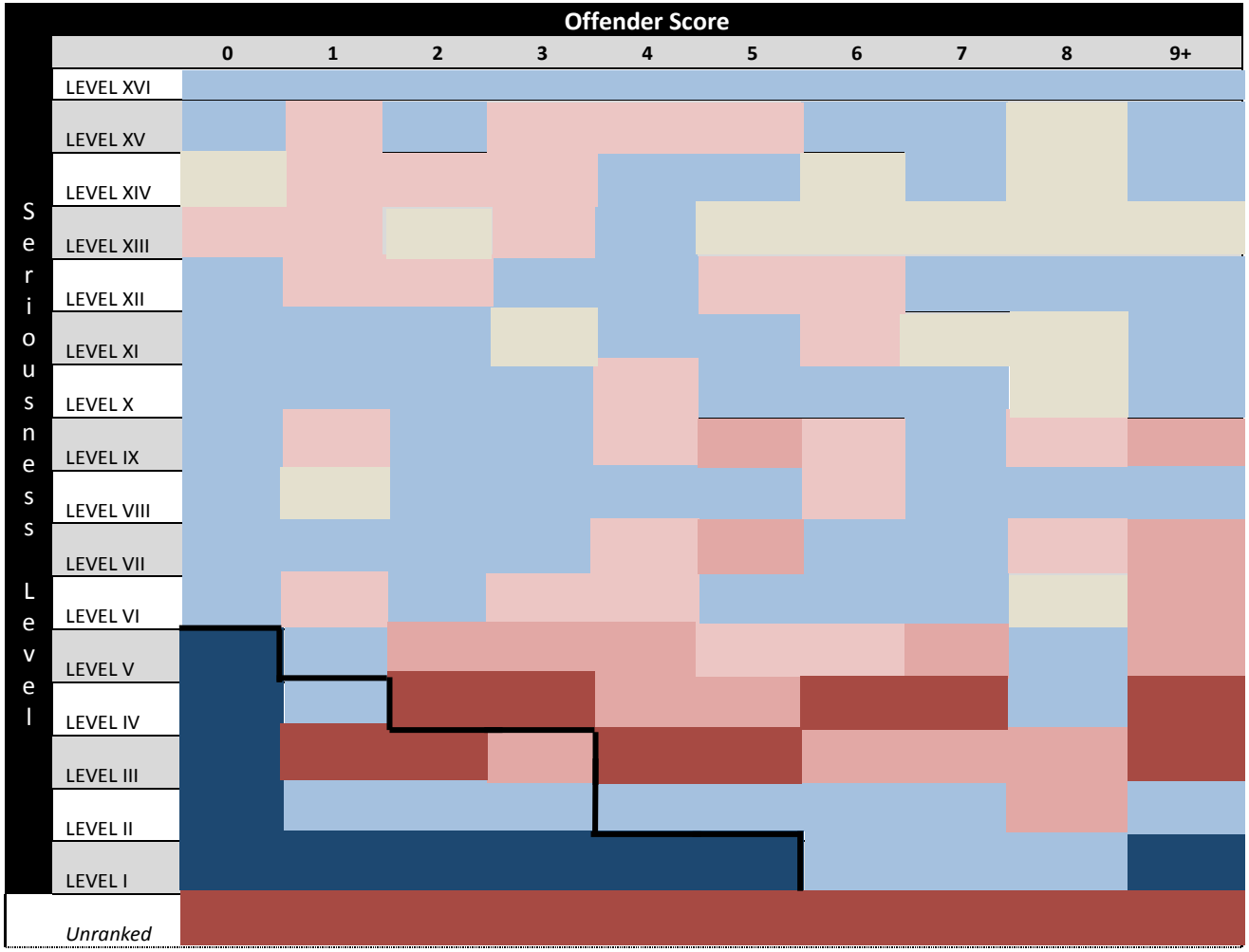
- Seriousness Levels 1-16
- Offender Scores 0-9+

Drug Grid (est. 2003)

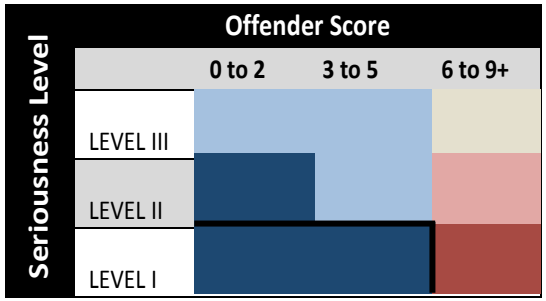
- Seriousness Levels 1-3
- Offender Scores 0-9+

“High Growth” Grid Cells are Concentrated in Levels III and IV of the Standard Grid and Level I of the Drug Grid

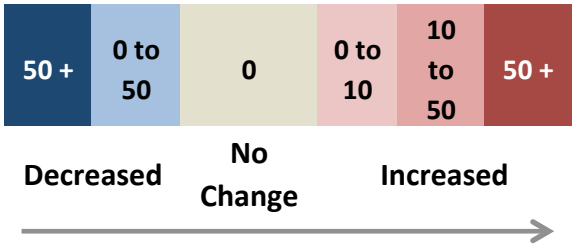
Current Standard Sentencing Grid



Current Drug Grid



Change in Felony Sentences, FY2009 to FY2013

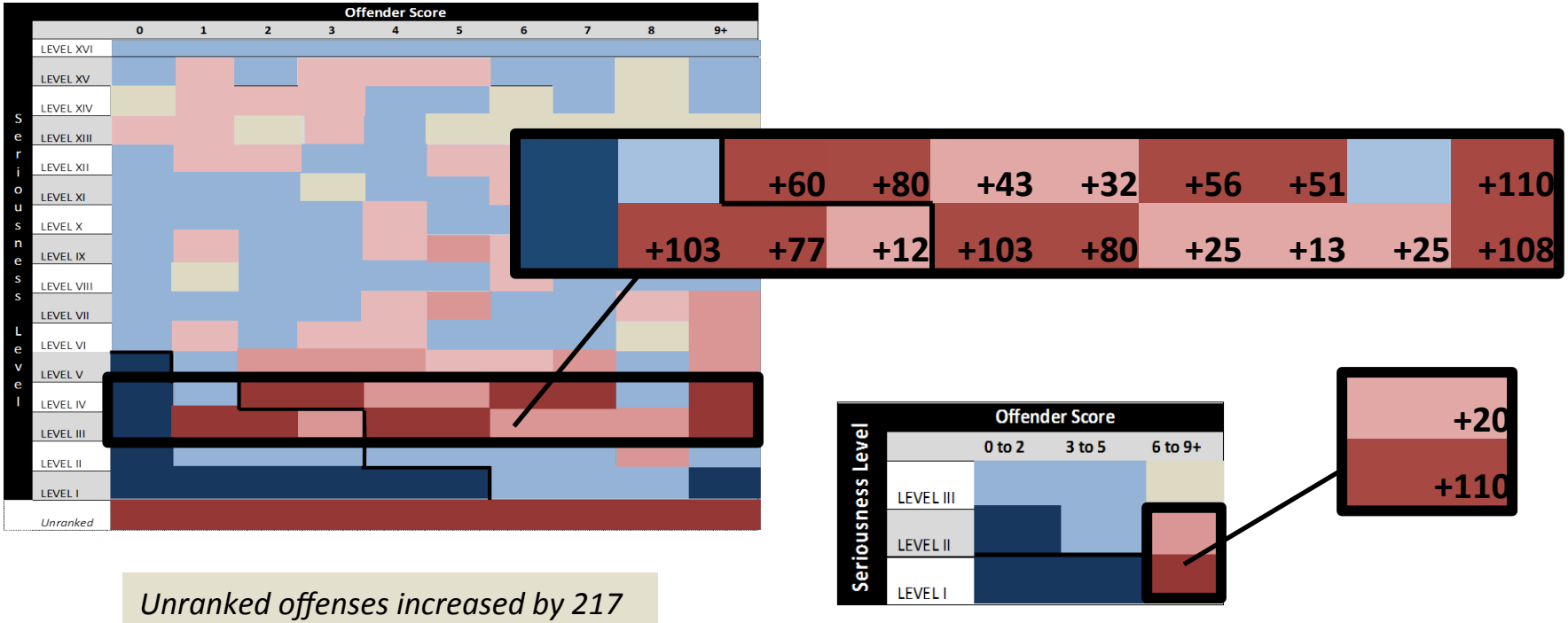


Jail sentence grid cell

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

"High Growth" Cells Accounted for an *Increase* of 1,108 Felony Sentences from FY2009 to FY2013

Change in Number of Sentences by Grid Cell, *FY2009 to FY 2013*



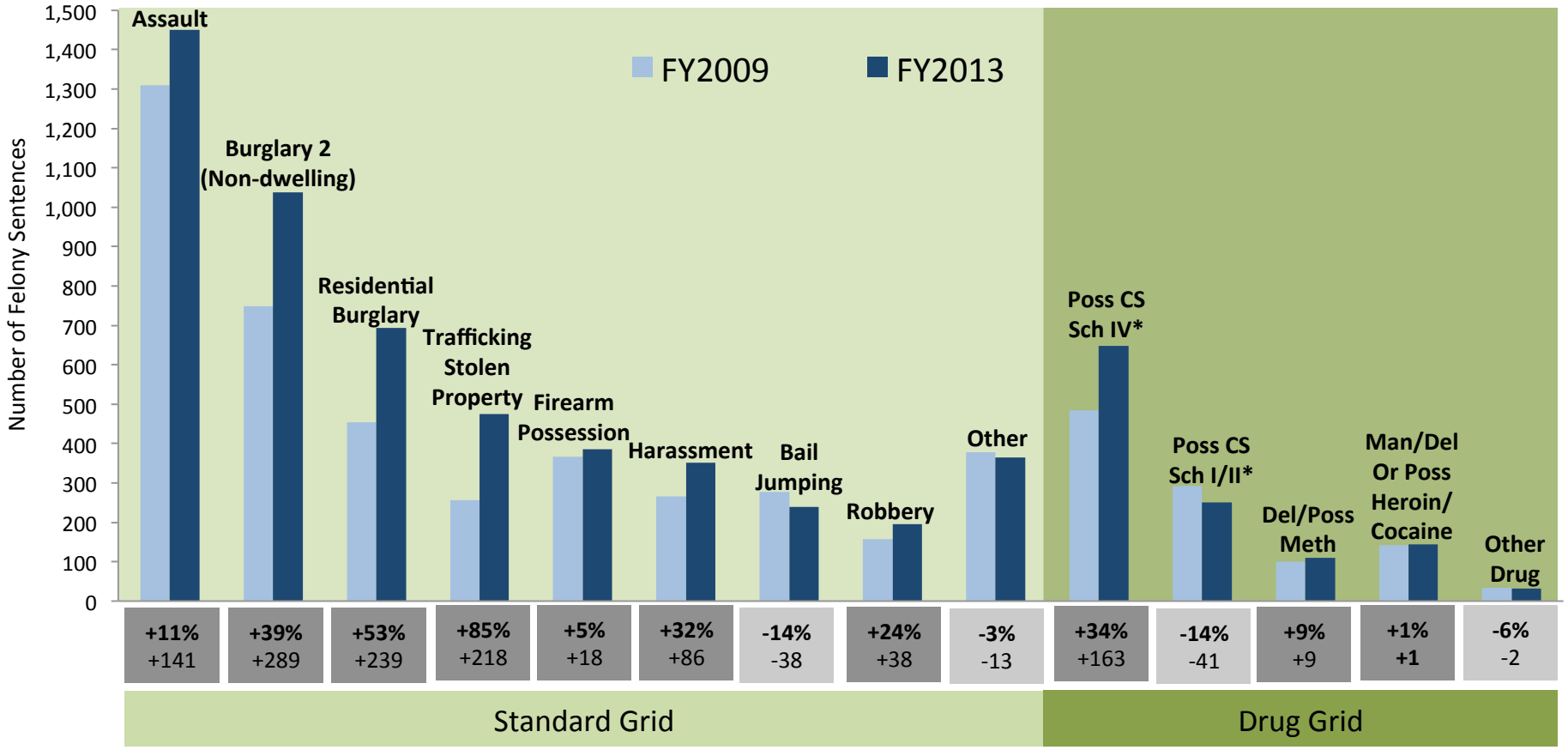
Unranked offenses increased by 217

Of the 1,108 additional sentences in FY2013, ***916*** *(83%) were in prison sentencing grid cells*

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

Certain Property and Drug Offenses are the Recent Drivers in "High Growth" Grid Cells

Offense Types in "High Growth" Cells With the Greatest Increase in Number of Sentences, *FY2009* and *FY2013*

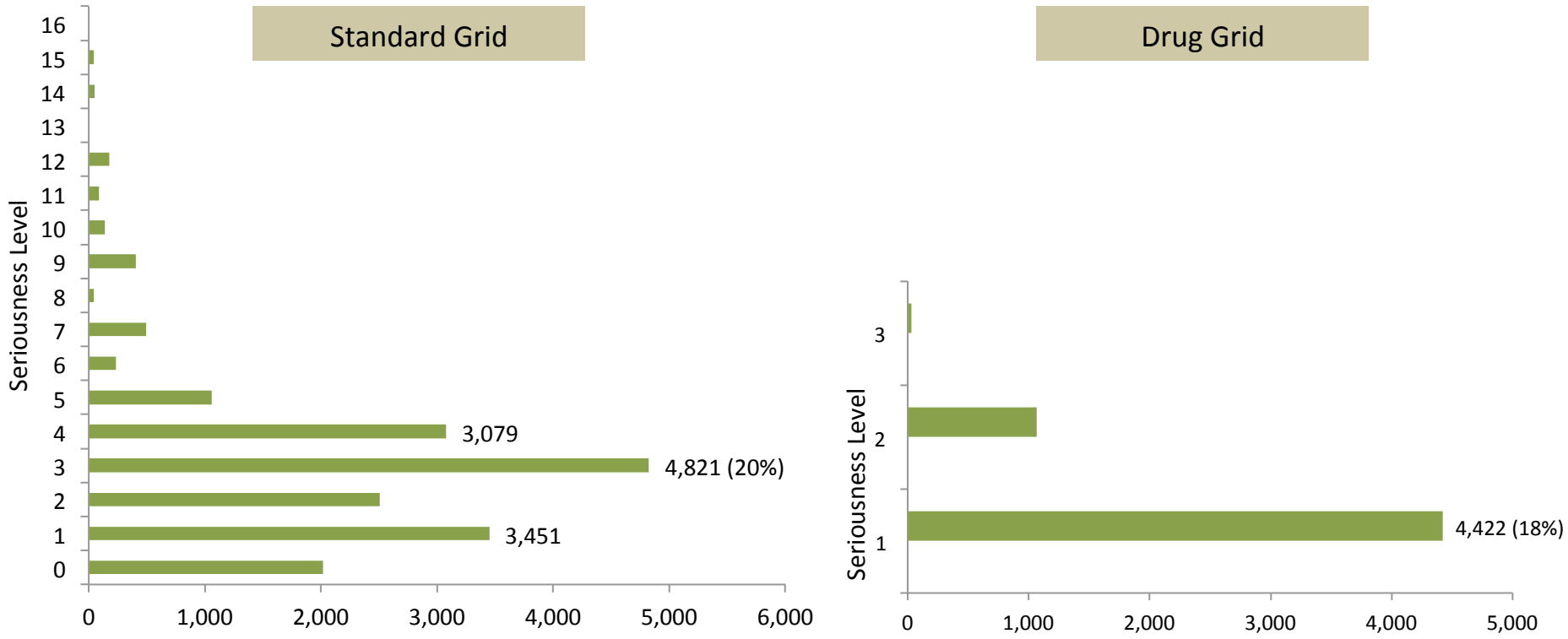


Schedule I drugs: no medical use, high potential for abuse (heroin, ecstasy, peyote, marijuana)
Schedule II drugs: high potential for abuse, but less than Schedule I (cocaine, meth, oxycodone [Oxycontin], Aderall)
Schedule IV drugs: low potential for abuse and low risk of dependence (alprazolam [Xanax], diazepam [Valium], zolpidem [Ambien])

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

Nearly 40 Percent of *All* Felony Sentences Were Seriousness Level 3 - Standard Grid, or Seriousness Level 1 - Drug Grid

All Felony Sentences by Seriousness Level, *FY2013*
(N = 24,136)

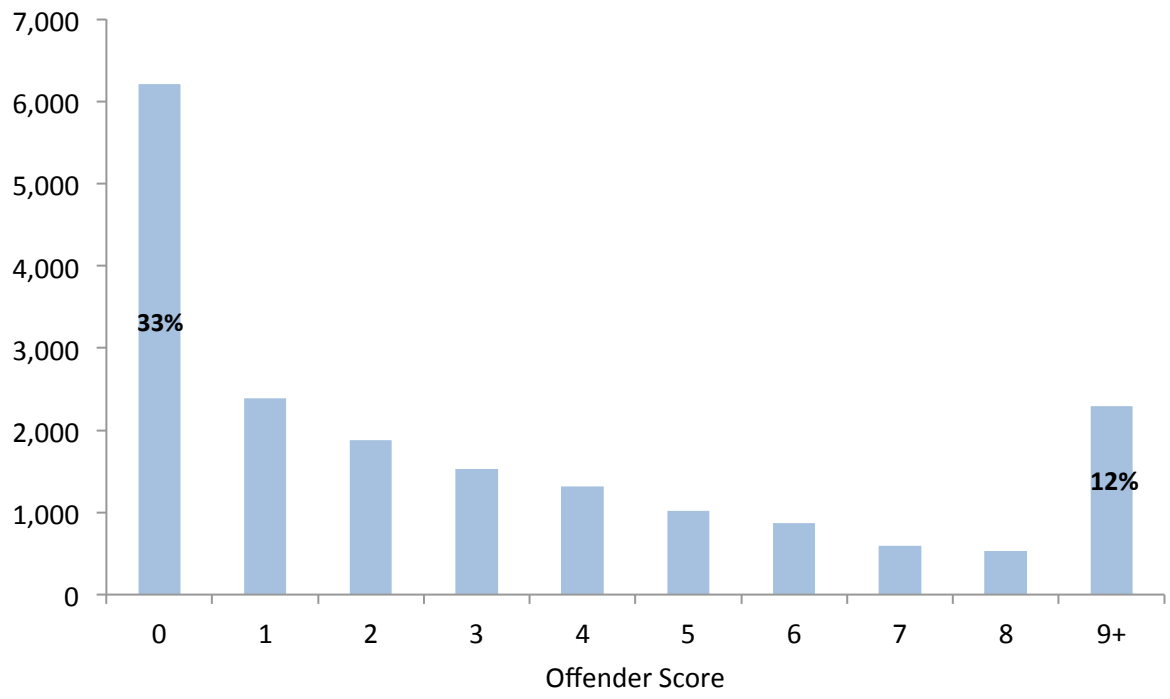


**Unranked offenses have a seriousness level of "0"*

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

One Third of Felony Sentences Had the Lowest Offender Score, While 12% Had the Highest Offender Score

Felony Sentences by Offender Score, *FY2013*
(N=24,136)



Average Offender Score, FY2013

All Felony Sentences	***2.98***
Sentences in High Growth Cells	***4.92***

The number of points an offender receives to determine **offender score** depends on the following factors:

- Number of prior felony convictions
- Relationship between prior offense(s) and current offense
- Presence of multiple prior or current convictions
- Community placement status at time of offense

Future analysis should enable examination of offender scoring and how predictive scores are of future re-arrest.

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

Issues to Analyze Prior to Next Meeting – Prison Growth

Questions About Prison Growth

- How are "high growth" grid cells impacting the prison population?
- How predictive is offender score of future criminal activity?
- How has length of time served in prison changed over time as the drug grid, earned time, and other policies have been altered?

Overview of Initial Analysis

What is driving prison growth?

- Role of population growth and crime rates
- Impact of sentencing policies

How to achieve greater public safety?

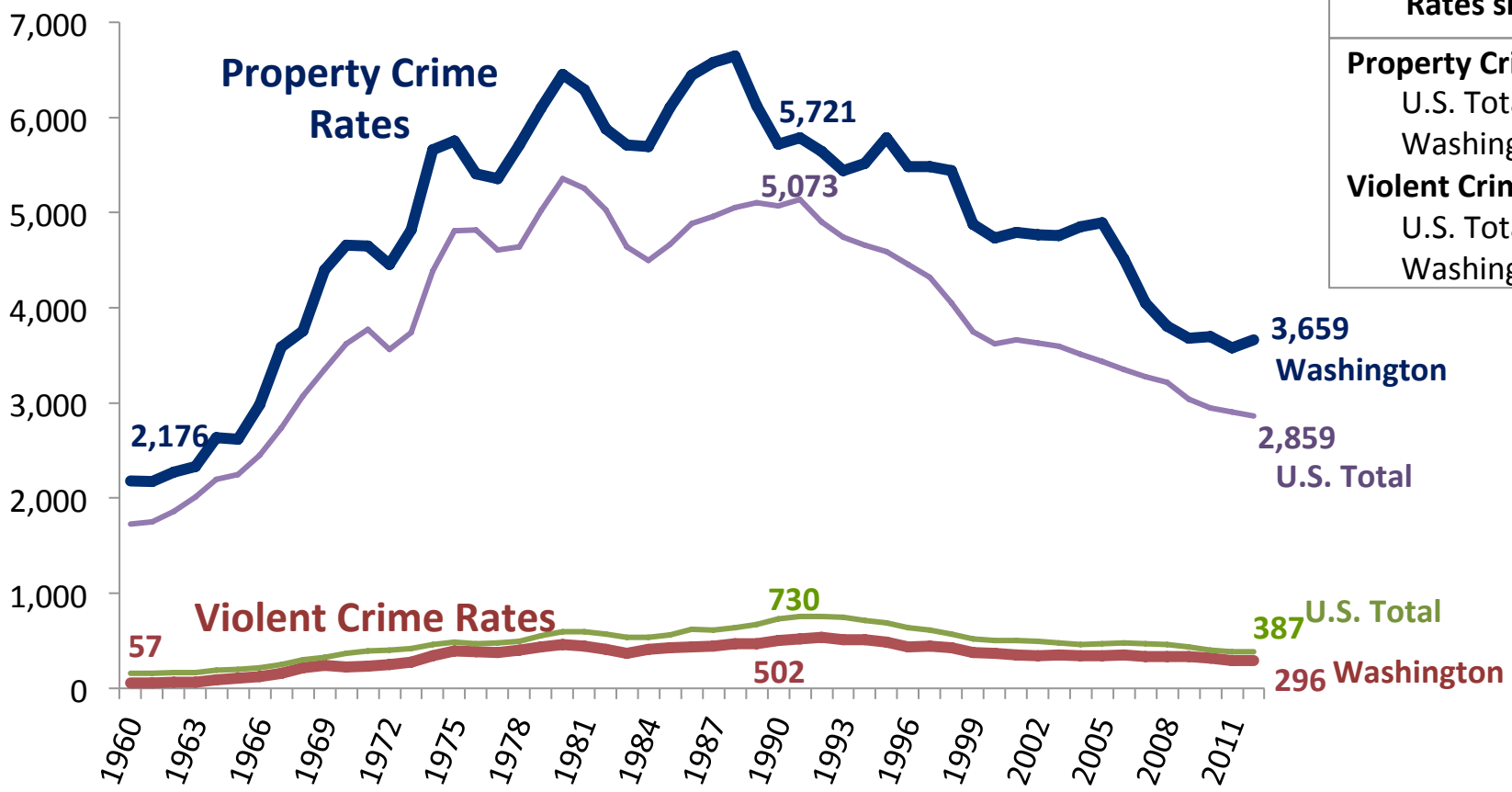
- Responding to property crime
- Continuing to reduce recidivism

What is the local impact of state policies?

- Jail population impacts
- Outcomes of alternatives to confinement

Washington's Property Crime Rate Declined 36 Percent Since 1990, but Remains the Third Highest Among the States

Index Crimes per 100,000 Population, 1960-2012



Change in Crime Rates since 1990	
Property Crime	
U.S. Total	-44%
Washington	-36%
Violent Crime	
U.S. Total	-47%
Washington	-41%

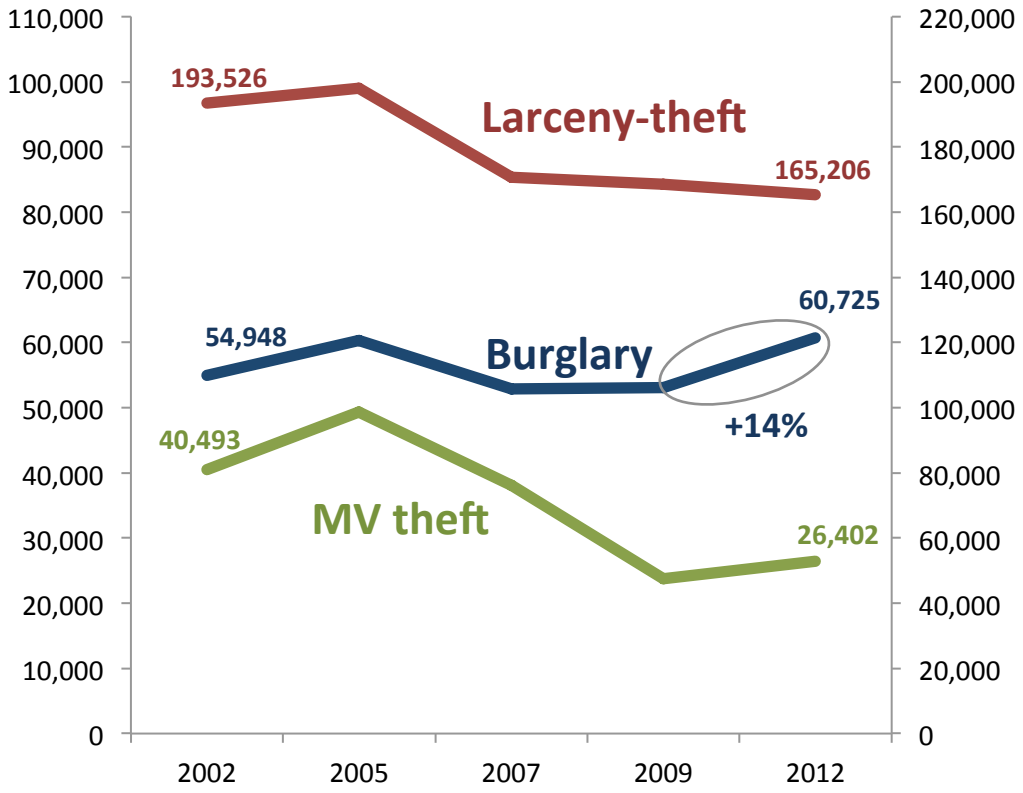
*Washington has the **3rd** highest property crime rate in the country, with only South Carolina and Arkansas ranked higher. Neighboring states Oregon and Idaho rank 16th and 49th, respectively.*

Source: Federal Bureau of Investigation, United Crime Reports Data Tool 2060-2012).

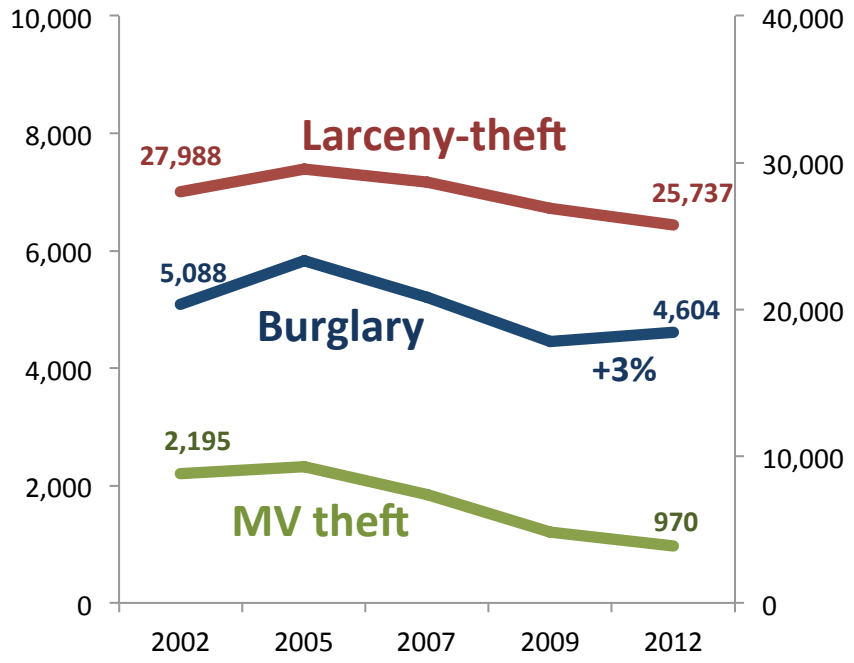
**Property crime rate rank excludes the District of Columbia*

Burglaries Reported to Police are Increasing, and the Number of Arrests in Comparison is Low

Property **Crimes** by Offense Type, 2002 to 2012



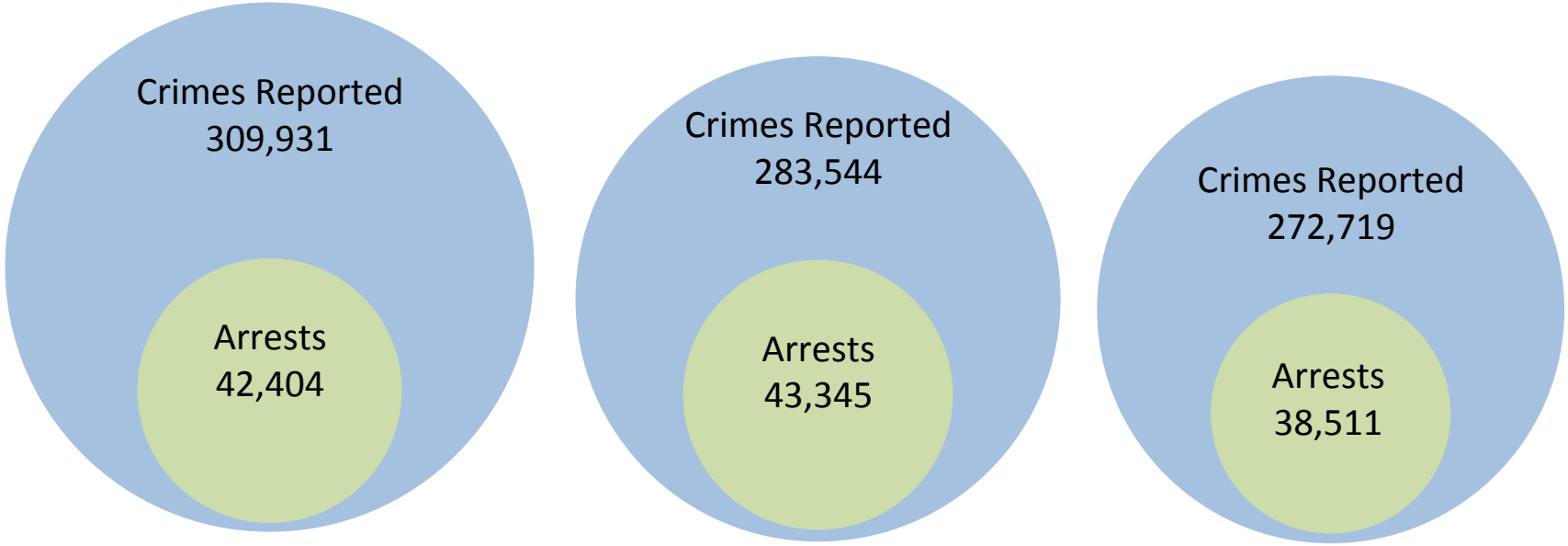
Property **Arrests** by Offense Type, 2002 to 2012



*In 2012 the number of burglary arrests accounted for **8%** of the burglary crimes reported. Nationally, burglary arrests accounted for **12%** of crimes reported.*

Source: Federal Bureau of Investigation, "Crime in the United States" (2002-2012); Uniform Crime Reports 2012.

Since 2002 Index Crimes Reported and Arrests Have Declined Together



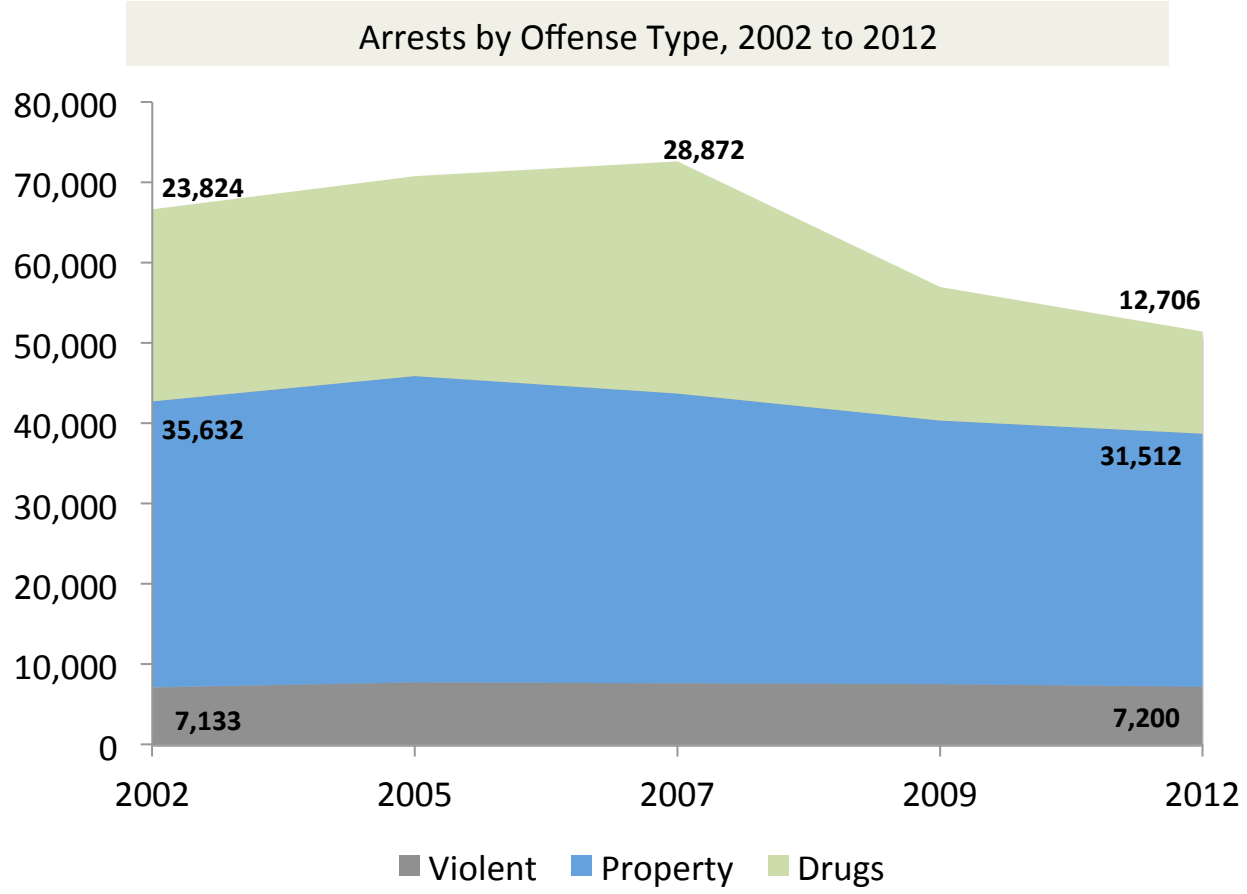
	2002	2007	2012
Clearance Rates	**13.7%**	**15.3%**	**14.1%**

2002-2012 % change	
Index Crimes	-12%
Arrests	-10%

**Arrests include only violent and property index crime categories*

Index crimes: aggravated assault, forcible rape, murder, robbery, arson, burglary, larceny-theft, and motor vehicle theft.
Source: Federal Bureau of Investigation, "Crime in the United States" (2002-2012)

Arrests Have Declined Overall Due in Large Part to the Decline in Drug Arrests



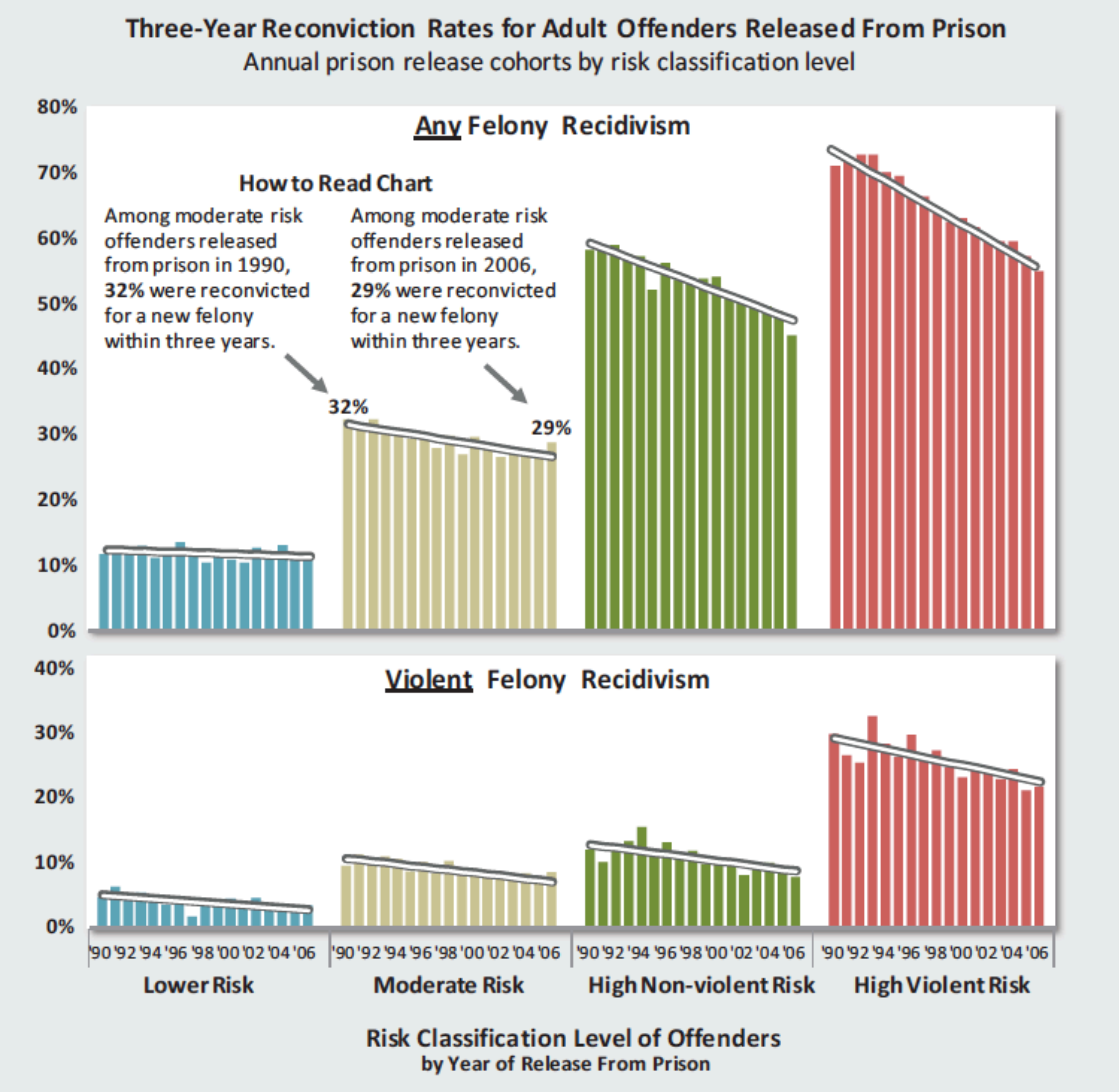
2002-2012 % change	
Overall	-23%
Drug	-47%
Property	-12%
Violent	+1%

Between 2002 and 2012, the resident population in Washington increased 13%

2007-2012 % change in Drug Arrests by County	
Clark	-42%
King	-72%
Pierce	-62%
Snohomish	-25%
Spokane	+4%

Source: Federal Bureau of Investigation, "Crime in the United States" (2002-2012).
Office of Financial Management, "CrimeStats Online."

Recidivism Rates Have Declined for Prison Releasees, Especially for High Risk Offenders



- Includes only offenders released from prison
- Felony reconviction rates
- Latest data is for prisoners released in 2006

Source: Washington Institute for Public Safety, "Washington State Recidivism Trends: Adult Offenders Released From Prison (1990 – 2006)".

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

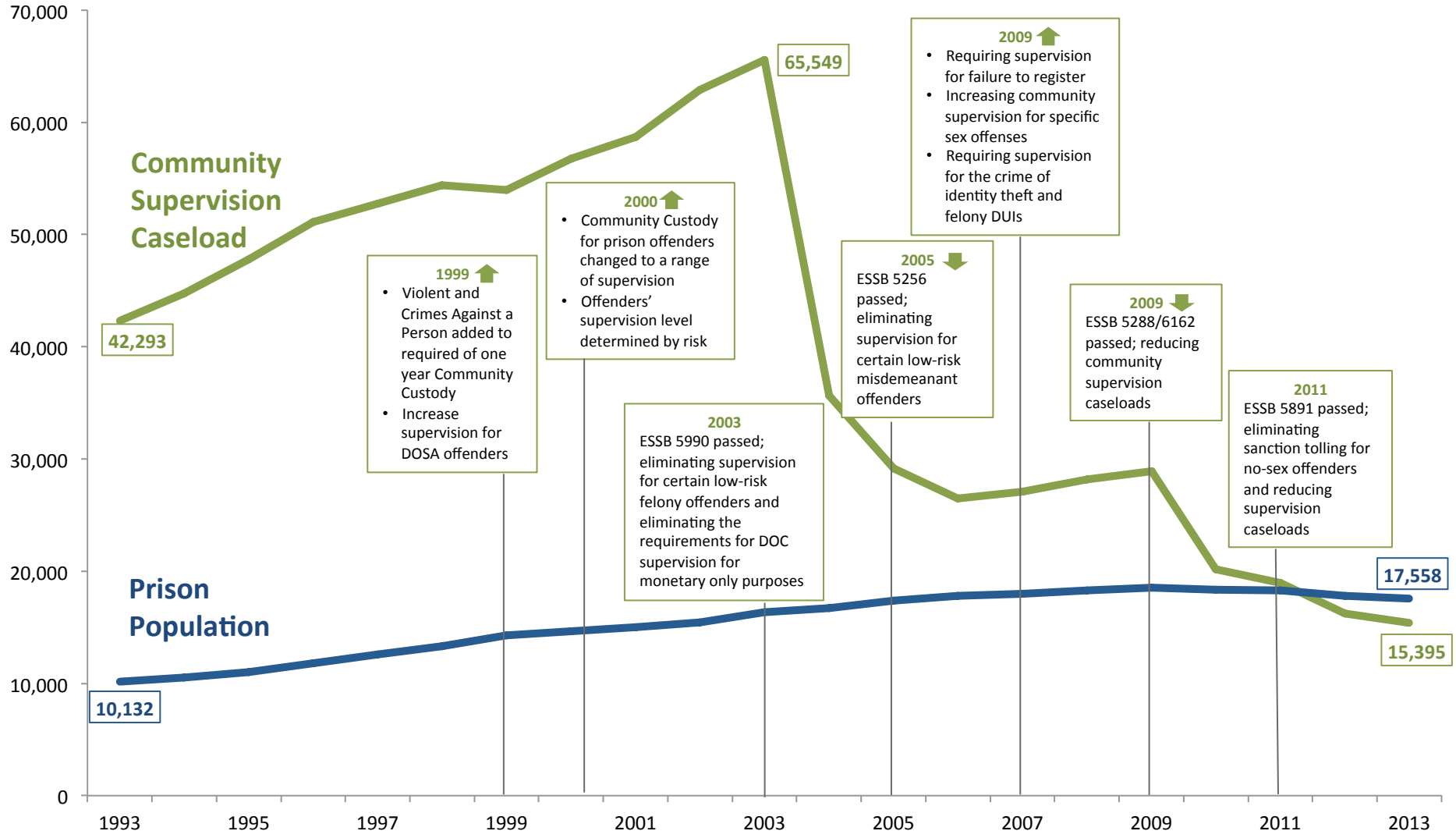
L,M Low- and Moderate-Risk **H** High-Risk

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.

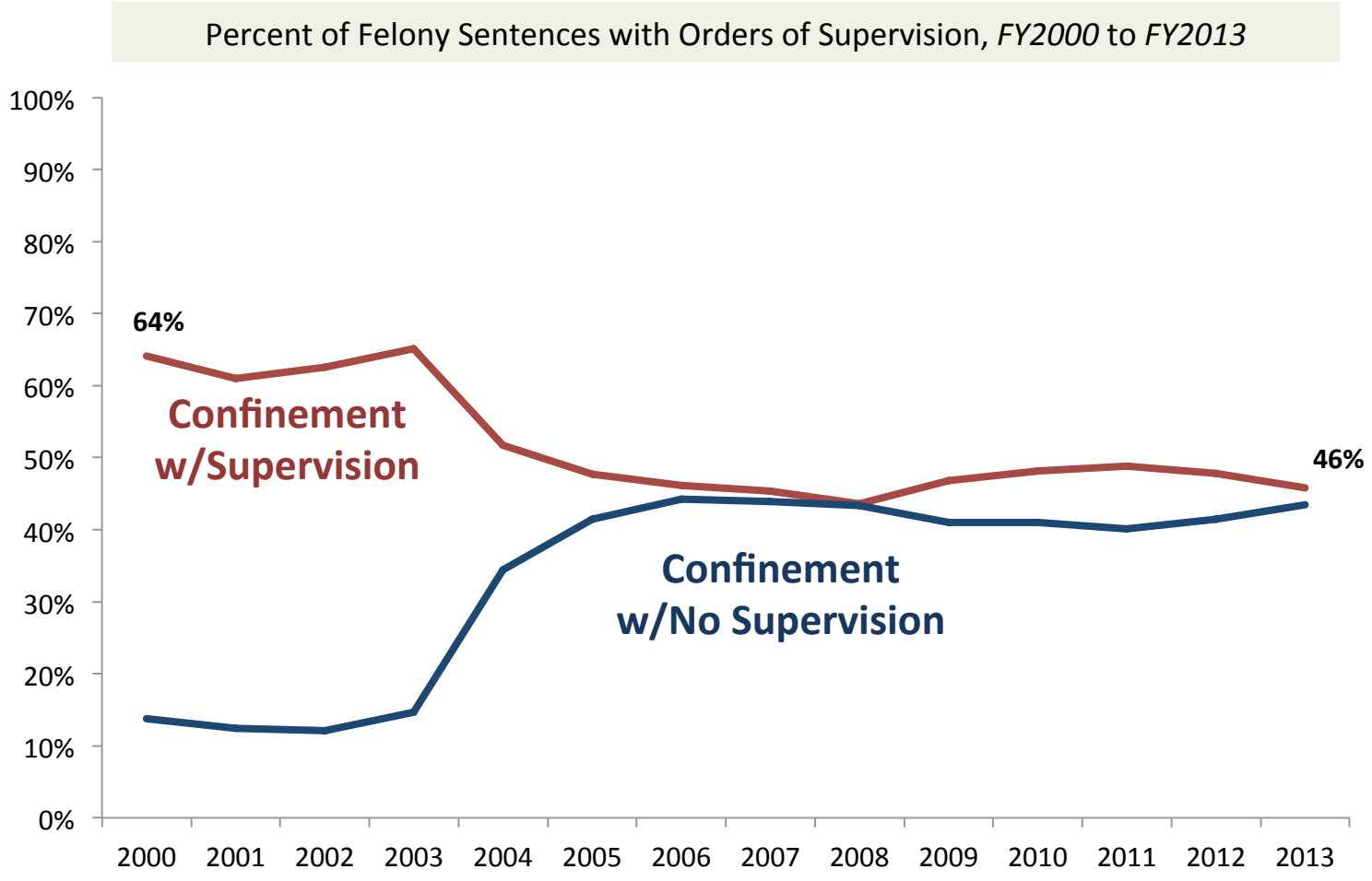
Source: Communications with Washington Department of Corrections staff.
Washington State Legislature. 56th Legislative Session. [SB 5421] *Enhancing supervision of offenders.*
Washington State Legislature. 58th Legislative Session. [SB 5990] *Changing times and supervision standards for release of offenders.*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

The Supervision Population Has Increased and Decreased as a Result of the Policy Changes



Source: Washington State Department of Corrections, "Major Sentencing Changes Impacting Community Supervision Caseloads and Prison Population."

The Percentage of Felony Sentences Including a Period of Supervision Following Confinement Has Decreased



Issues to Analyze Prior to Next Meeting – Public Safety

Questions About Public Safety

- What is the extent and effectiveness of current efforts to reduce recidivism, and what more could be done?
- Of those arrested for property crimes, what percentage of individuals had prior criminal history?
- How have re-arrest rates changed over time for different cohorts?
- To what extent have changes to supervision policy had an impact on public safety?

Overview of Initial Analysis

What is driving prison growth?

- Role of population growth and crime rates
- Impact of sentencing policies

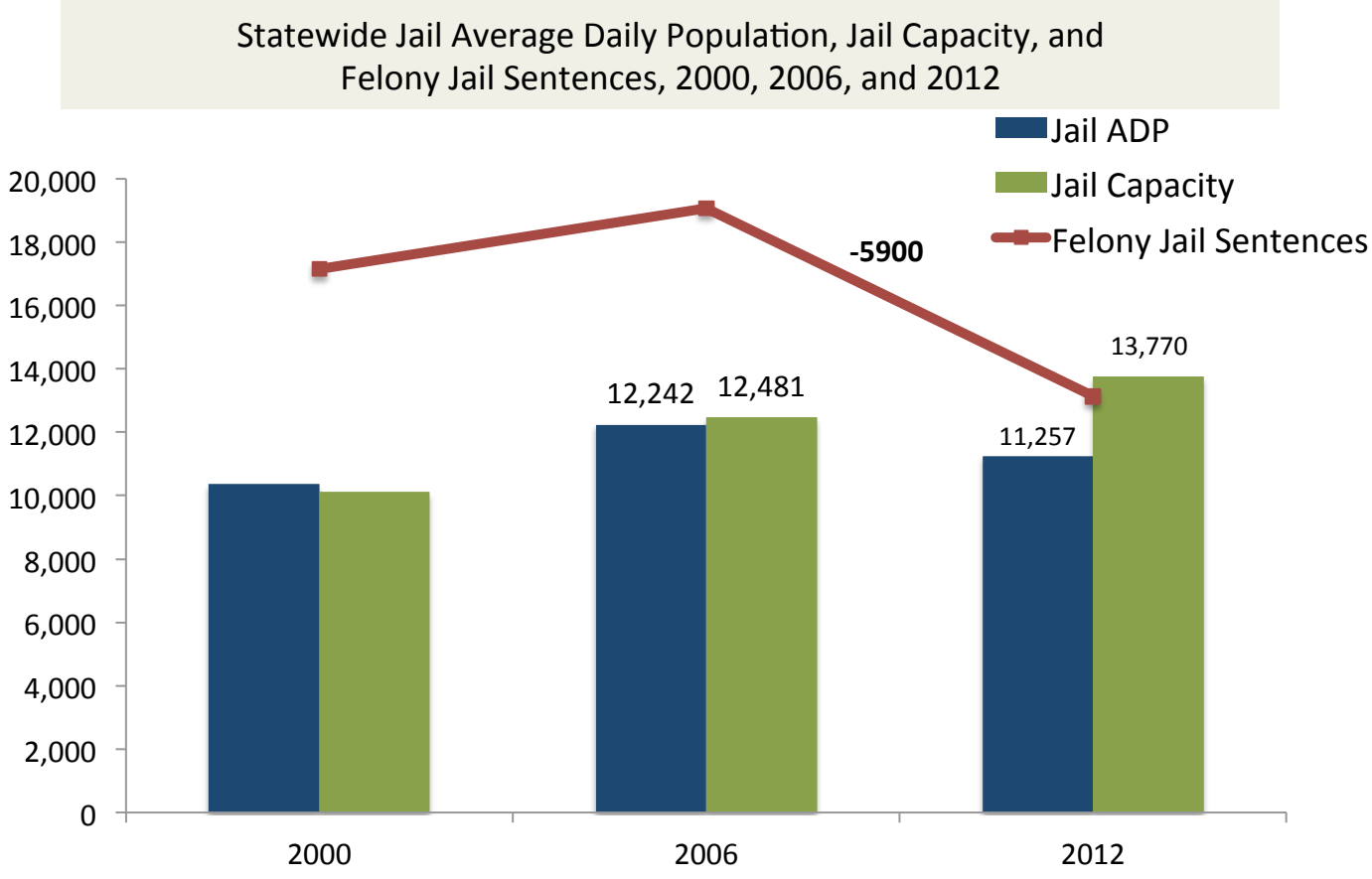
How to achieve greater public safety?

- Responding to property crime
- Continuing to reduce recidivism

What is the local impact of state policies?

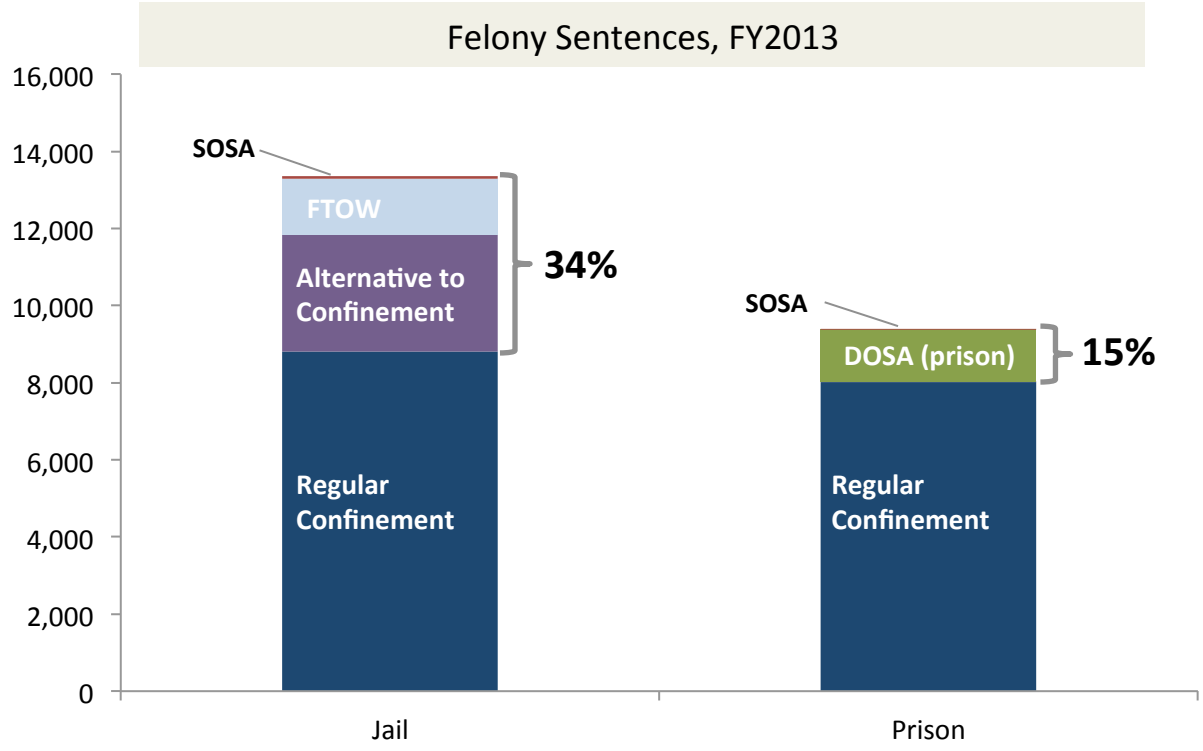
- Jail population impacts
- Outcomes of alternatives to confinement

Despite Decline in Felony Sentences to Jail, the Statewide Jail Average Daily Population has Remained Steady



Jail data are missing data from 2 counties in 2000 (San Juan and Stevens), 2 counties in 2006 (San Juan and Pend Oreille), and 1 county in 2012 (San Juan).
Source: Office of Financial Management, "Crimestats Online." Bureau of Justice Statistics, National Prisoner Statistics Program, 1978-2012.

Over One-Third of Jail Sentences Receive an Alternative to Confinement or a Sentencing Alternative



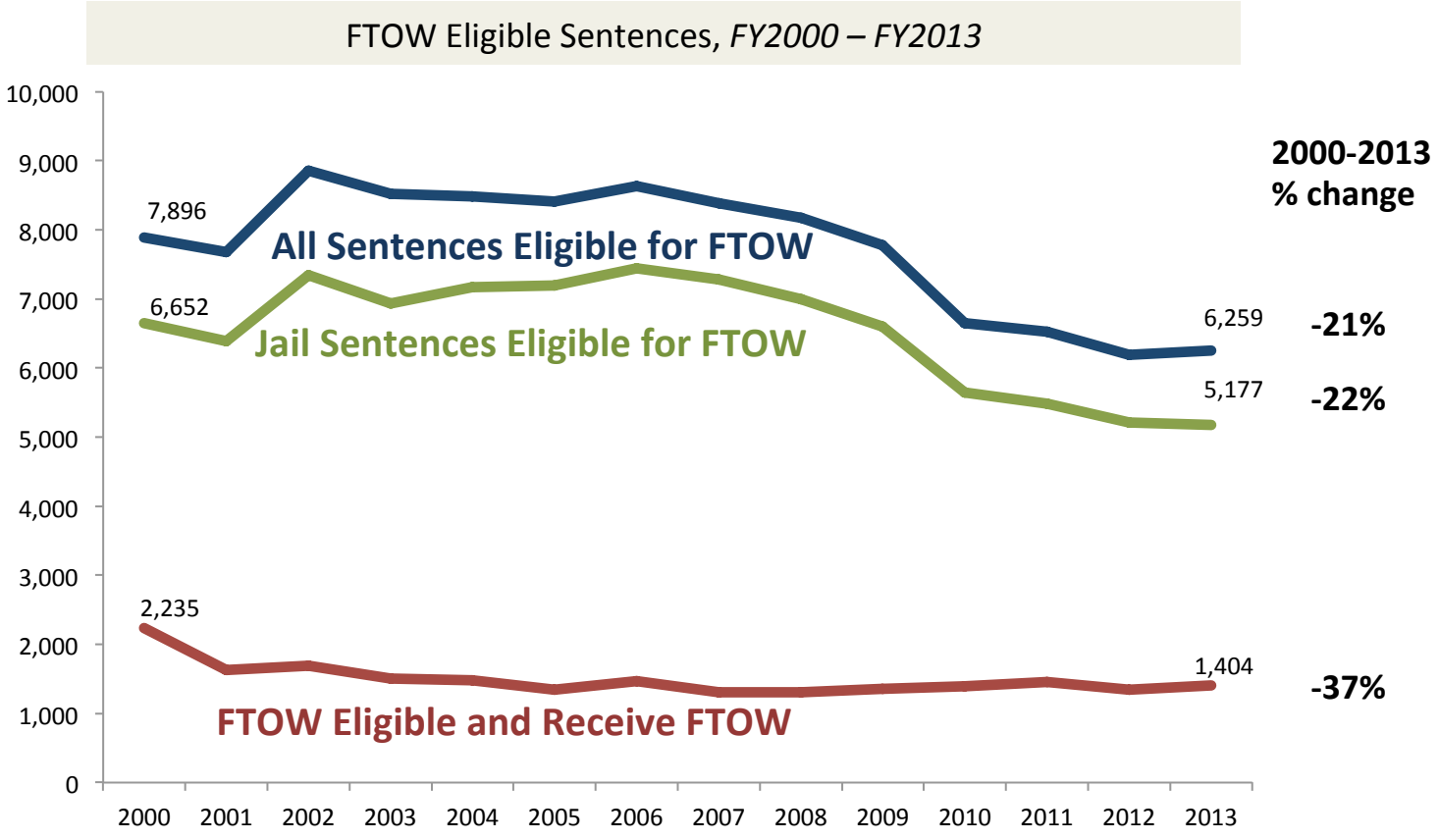
**First Time Offender Waiver (FTOW) sentences: standard sentence is waived with up to 90 days of confinement ordered in a county facility*

**DOSA (prison-based) sentences: confinement in a state facility for 1/2 the midpoint of the standard sentence range or 12 months, whichever is greater*

**Not included here are drug courts and other diversionary programs that occur prior to sentencing*

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

Use of First Time Offender Waiver for Those Eligible Appears Low and Declining

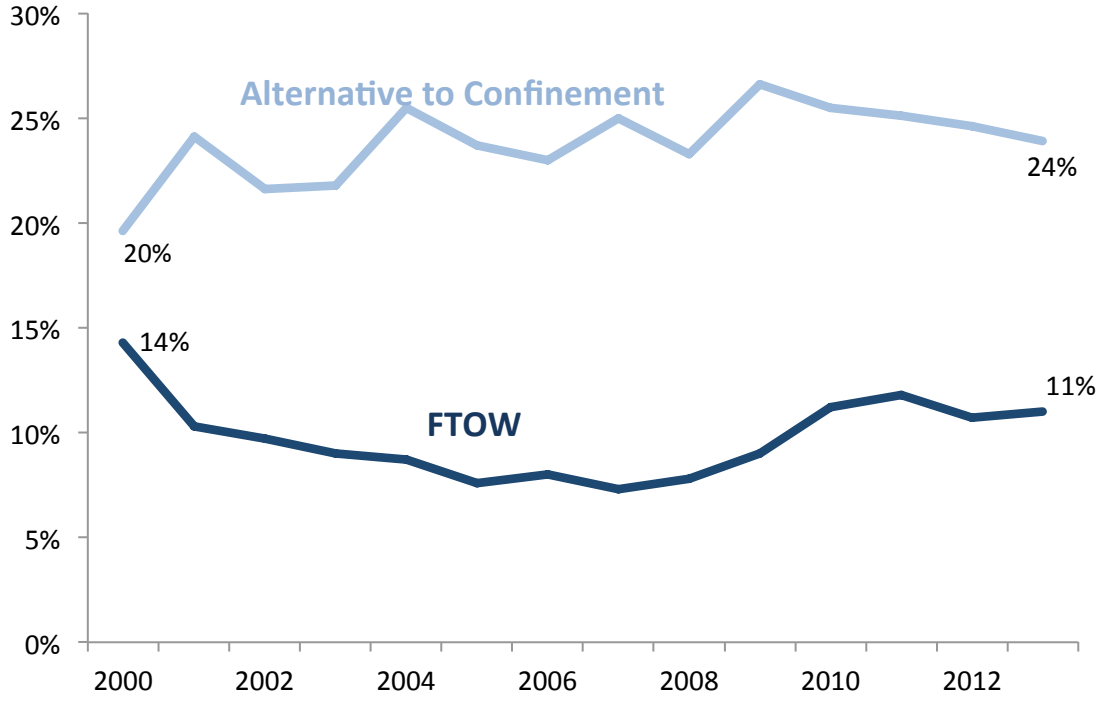


*In FY2013, **22%** of eligible sentences received the FTOW compared to **28%** in FY2000*

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

Alternatives to Confinement Have Increased in Proportion for the Sentenced Jail Population

Jail Sentences with First Time Offender Waiver (FTOW) or an Alternative to Confinement, *FY2000-FY2013*



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

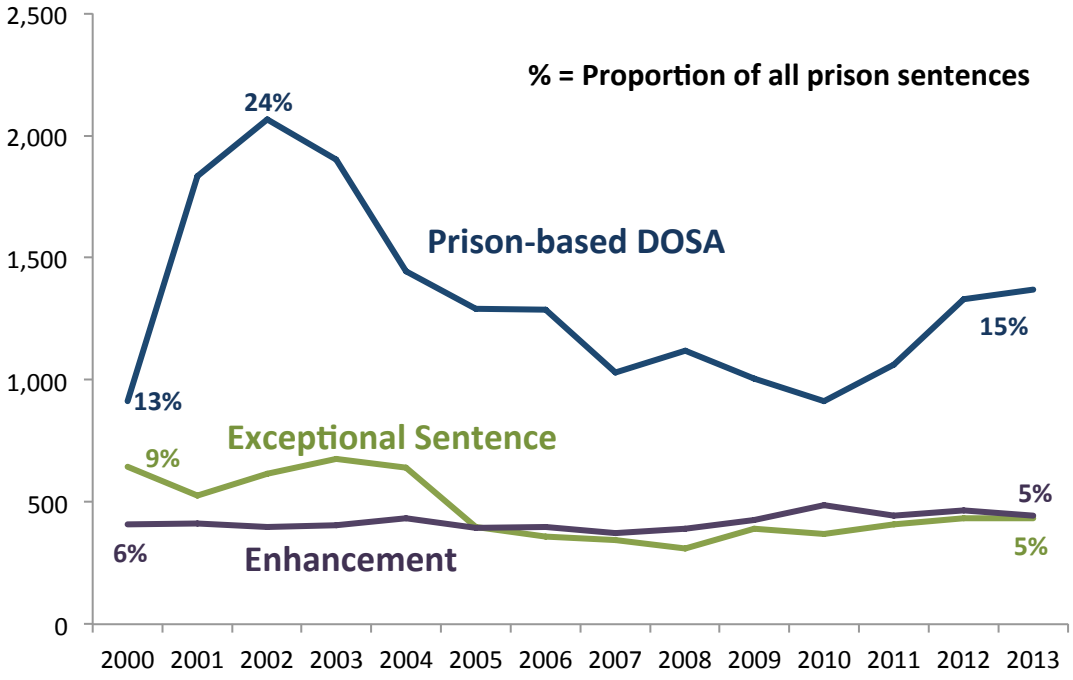
Options are Available at County and State Level as Alternatives to Strict Confinement

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

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

The Number of DOSA Sentences Has Increased in Recent Years

Prison Sentences with Enhancements, Exceptional Sentences or a Prison-based DOSA Alternative, *FY2000-FY2013*

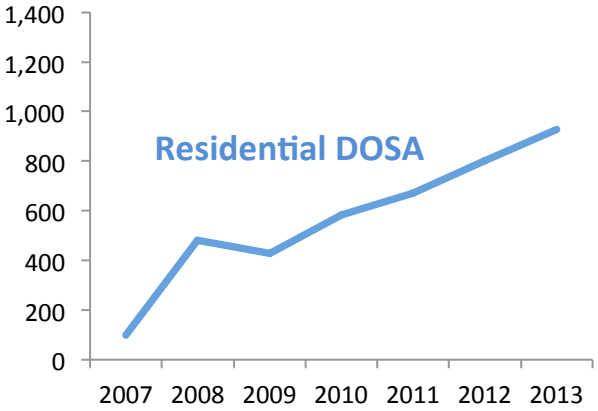


**Enhancements include Deadly Weapon/Firearm or Sexual Motivation*

Enhancements and exceptional sentences have remained flat

Eligibility for Residential DOSA includes prison-bound offenders, but the sentence is served in an inpatient treatment facility. Since being enacted in 2005, capacity and population have continued to expand.

Felony Sentences with a Residential DOSA Alternative, *FY2007-FY2013*



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

Issues to Analyze Prior to Next Meeting – Local Impact

Questions About Local Impact

- Are alternatives to jail confinement effective at reducing further criminal involvement?
- How do pretrial practices and misdemeanor jail sentences impact jail ADP?
- What is the impact of DOSA on prison and jail ADP, and how do re-arrest rates vary by type of participant? How is DOSA utilized in relation to drug courts?

Summary of Initial Analysis

Prison Growth

- Despite a growing state population, the number of reported crimes and arrests has declined.
- Washington's incarceration rate is below the national average and grew at a slower pace than most other states.
- The state prison population is above capacity and is projected to continue increasing by 1,461 by 2024.
- Sentences to prison have increased 11% since 2010, driven by sentences in just a handful of "high growth" cells for burglary and drug possession.
- Individuals sentenced in these "high growth" cells had higher than average offender scores.

Summary of Initial Analysis

Public Safety

- Washington has a persistently high property crime rate compared to the national average, with a recent spike in burglaries.
- Clearance rates for property crimes are low and in Washington appear below the national average.
- Policy changes ended supervision of property offenders and focused on higher risk drug and violent offenders.
- The percentage of felony sentences including a period of supervision has fallen from 64 to 46 percent.
- Individuals released from prison in 2006 had a much lower reconviction rate than those released in 1990, suggesting the state's efforts to reduce recidivism have been successful.

Summary of Initial Analysis

Local Impact

- Felony sentences to jail have declined by 22 percent since 2000.
- Jail populations statewide have not declined, but capacity has increased.
- Individuals sentenced to jail are twice as likely to receive a locally-administered alternative to confinement instead of FTOW.
- Only 22 percent of eligible individuals received FTOW.
- Use of prison-based DOSA has varied over the years, but use of residential DOSA has increased significantly.

Typical timeline for Justice Reinvestment processes

Phase I - Analyze Data & Develop Policy Options

Collect and Examine Quantitative Data

- Reported crime and arrests
- Jail data
- Court sentencing
- Community custody
- Prison admissions, population and releases

Engage Stakeholders

- Judges
- Prosecutors
- Defense Bar
- County Officials
- Behavioral Health Providers
- Victims/Advocates
- Faith-Based Leaders
- Law Enforcement

Develop and present a comprehensive analysis of the state's criminal justice system

Develop a framework of policy options that together would increase public safety and reduce/avert taxpayer spending

6 to 9 months

2 to 3 months

Thank You

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