



## HANDOUT 2

# Justice Reinvestment in Arkansas



3<sup>rd</sup> Presentation to the Legislative Criminal  
Justice Oversight Task Force

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# Council of State Governments Justice Center and the Justice Reinvestment process



- 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



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

The Justice Reinvestment Initiative is supported by funding from the U.S. Department of Justice's **Bureau of Justice Assistance (BJA)** and **The Pew Charitable Trusts**

# Takeaways from previous presentation

Arkansas established the Sentencing Standards and the Sentencing Commission in 1993 with passage of Act 532.

Among a variety of sentencing options available to the courts, the key provisions of Act 532 were to achieve proportionality in sentencing and reserve prison for the most serious offenses and repeat offenders.

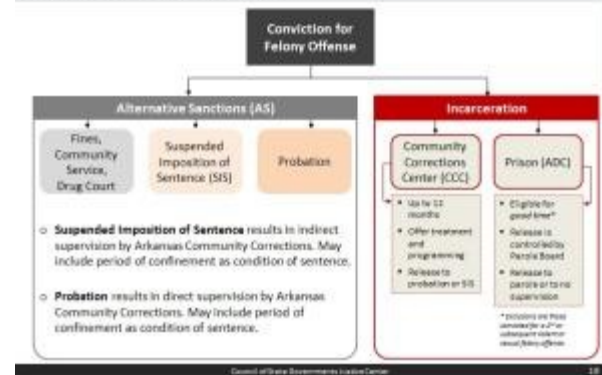
Arkansas is one of 20 states with sentencing guidelines



Source: State Sentencing Guidelines, Profiles and Continuum, National Center for State Courts, 2008  
Council of State Governments Justice Center

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



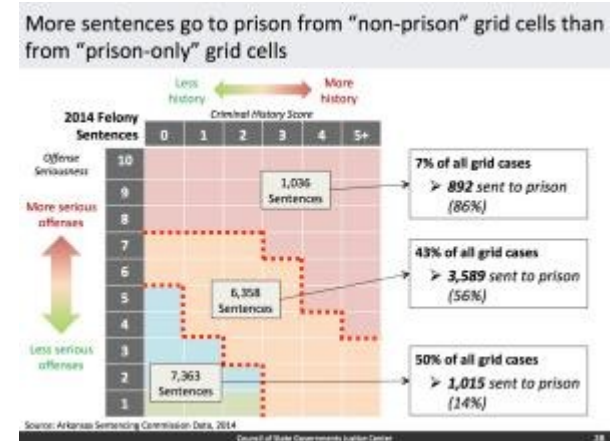
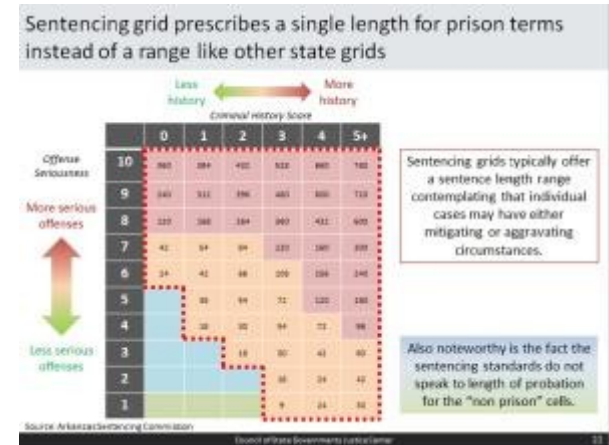
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# Takeaways from previous presentation

Arkansas's sentencing grid doesn't offer sentence length ranges for prison sentences and has a high share of cells that allow for all sentencing options.

In policy, the grid does less than other states to guide the type of sentence used. In practice, prison is used often for less serious offenses or offenders.

Despite the intent of the guidelines to reserve prison space for the most dangerous offenders, more than 1,000 people from non-prison cells were sent to ADC in 2014.



# Questions for the Task Force

1.

What share of the grid should allow for **all sentencing options**?

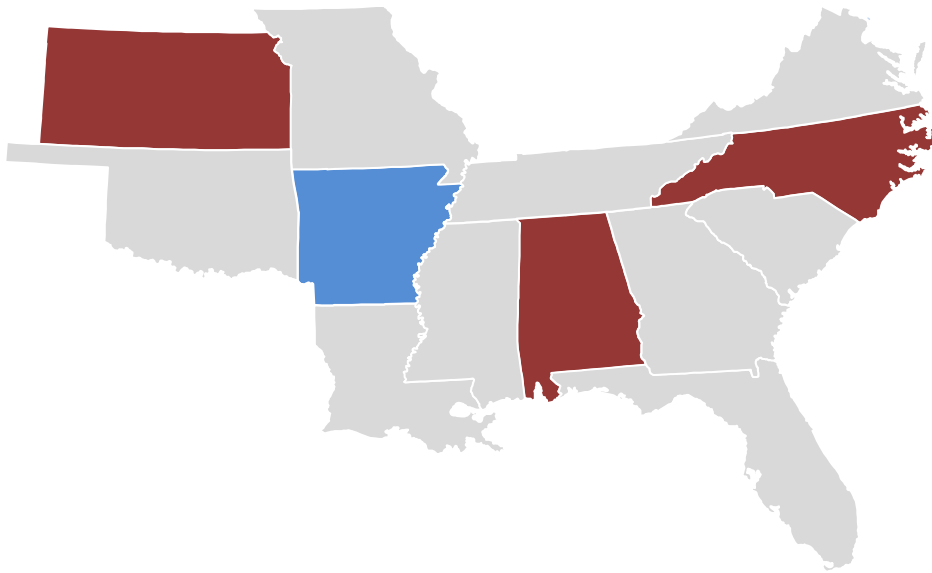
2.

Should the guidelines have prison sentence **ranges** instead of a specific term to allow for consideration of mitigating or aggravating factors?

3.

Should there be a process for **reviewing** sentences in relation to the guideline-recommended term?

# Kansas, North Carolina and Alabama illustrate approaches to operationalizing questions posed to Task Force



Kansas (1993) and North Carolina (1994) each adopted their sentencing guidelines framework at a similar time to Arkansas (1993).

Alabama did not adopt sentencing guidelines until 2006.

✓ Above states demonstrate different approaches to putting “teeth” into guidelines.

✓ Surrounding region

✓ Recent history of addressing criminal justice challenges

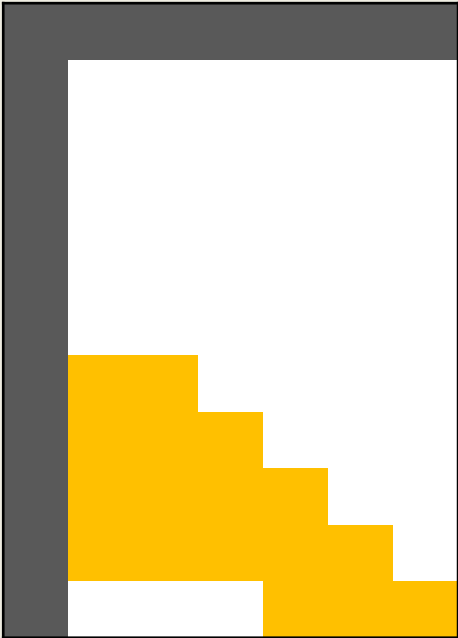
# Arkansas has a high share of its grid that doesn't actually *guide* sentencing

Percent of total grid cells that allow for “all options” in sentencing:

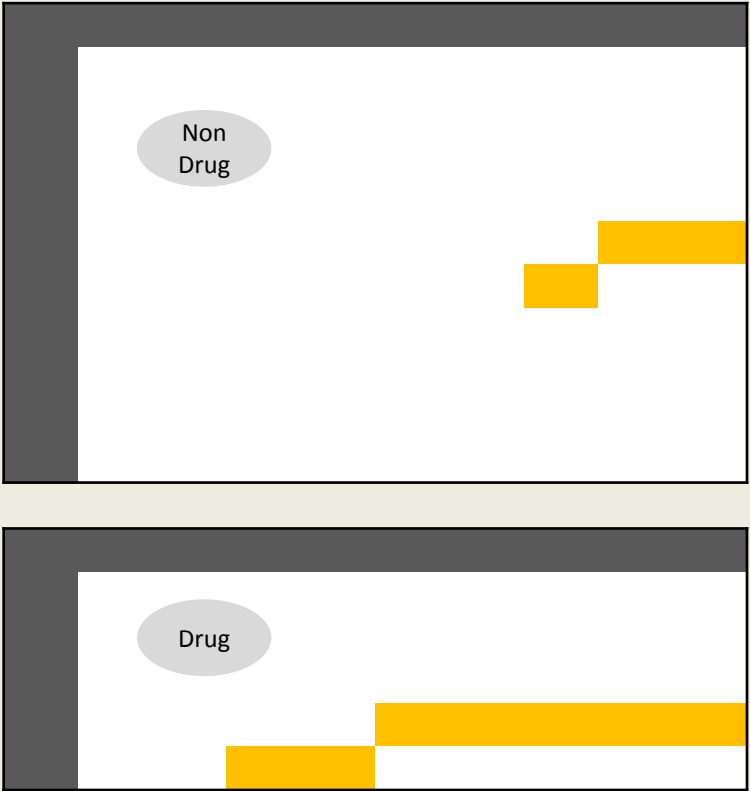
**Arkansas: 40%**



**North Carolina: 28%**



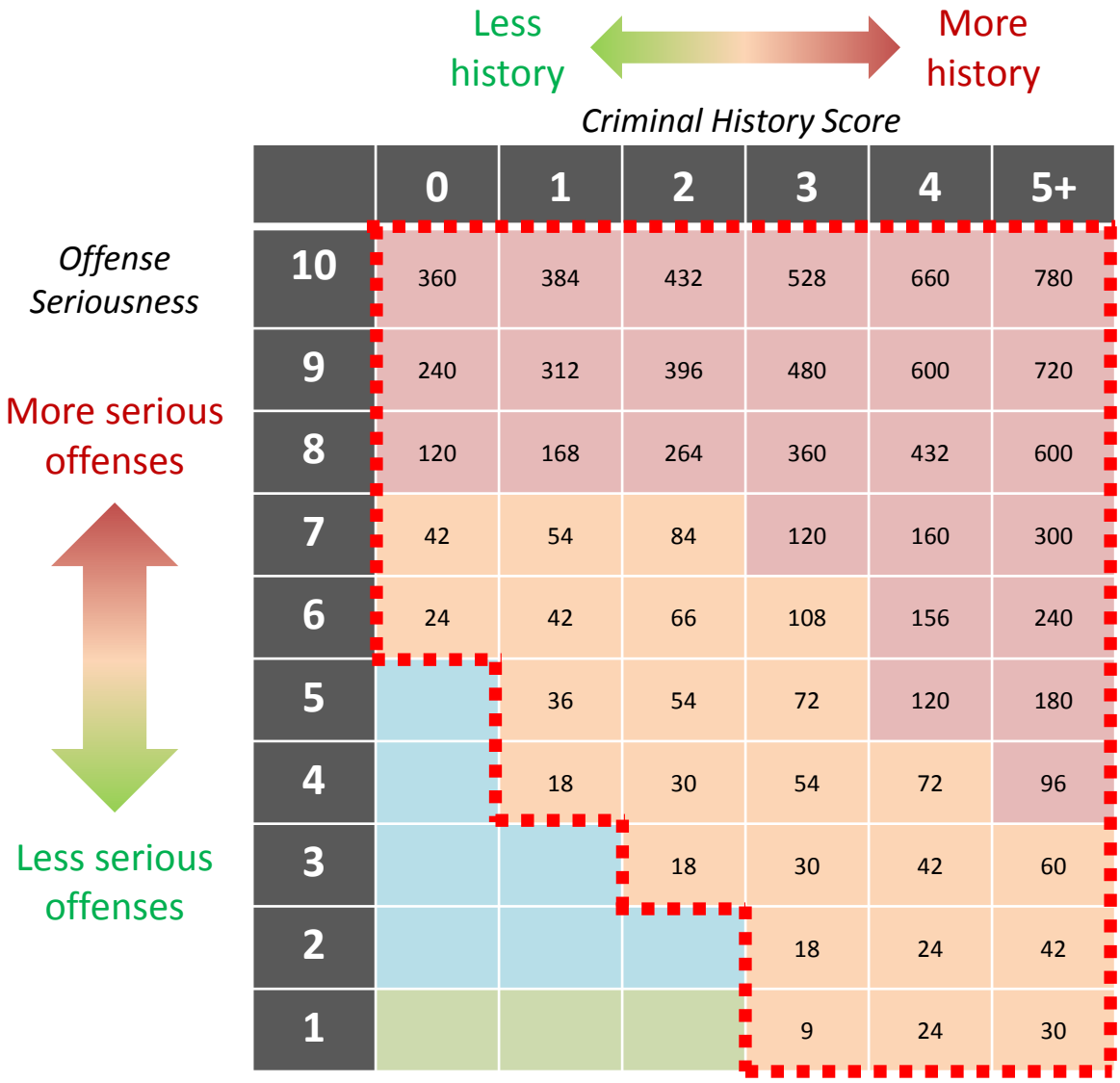
**Kansas: 8%**



These “all options” cells do not suggest any upper or lower boundary on the type of sentence imposed.

Source: Arkansas Sentencing Commission; Kansas Sentencing Commission; and North Carolina Sentencing and Policy Advisory Commission

# Arkansas's sentencing grid prescribes a single length for prison terms instead of a range



Sentencing grids typically offer a sentence length range contemplating that individual cases may have either mitigating or aggravating circumstances.

Source: Arkansas Sentencing Commission



# Majority of states with guidelines use prison term ranges rather than singular recommended sentence length

## Kansas

SENTENCING RANGE – NONDRUG OFFENSES									
Category ->	A	B	C	D	E	F	G	H	I
Severity Level	0 + Felony	2 Felony	1 Person & 1 Nonperson Felony	1 Nonperson Felony	3 + Nonperson Felony	2 Nonperson Felony	1 Nonperson Felony	2 + Misdemeanor No Record	1 Misdemeanor No Record
I	603	618	285	272	267	253	246	234	165
II	488	467	408	438	203	180	184	158	123
III	247	233	226	216	107	94	88	77	61
IV	172	163	163	154	75	66	64	58	41
V	138	130	128	114	60	57	53	48	34
VI	48	43	41	37	38	36	34	31	19
VII	34	32	31	29	29	27	26	24	13
VIII	30	21	19	18	19	18	17	16	9
IX	17	16	15	14	13	12	11	10	7
X	13	12	11	10	9	8	7	6	5

Probation Terms are:  
36 months recommended for felonies classified in Severity Levels 1-8  
36 months recommended for felonies classified in Severity Levels 9-10  
18 months (up to) for felonies classified in Severity Level 8  
12 months (up to) for felonies classified in Severity Levels 9-10

Outpatient Supervision Terms are:  
36 months for felinies classified in Severity Levels 1-4  
36 months for felinies classified in Severity Levels 5-8  
12 months for felinies classified in Severity Levels 9-10

69  
66  
62

## North Carolina

\*\*\* Following the 2018-2019 Commission on the Judiciary, 10/1/19 \*\*\*

2019-2020 Commission on the Judiciary

	I	II	III	IV	V	VI	
	0-1 Prs	2-5 Prs	6-9 Prs	10-13 Prs	14-17 Prs	18+ Prs	
A							100% 2019-2020
	100% 2019-2020 1						

A  
73-92  
59-73  
44-59

## Alabama

Total Sentence				Time to Service On Sight			
Score	Low	Mid	High	Score	Low	Mid	High
117	15	50	87	8	10	27	
118	16	54	91	9	10	27	
119	17	58	95	10	10	27	
120	18	62	99	11	10	27	
121	19	66	103	12	10	27	
122	20	70	107	13	10	27	
123	21	74	111	14	10	27	
124	22	78	115	15	10	27	
125	23	82	119	16	10	27	
126	24	86	123	17	10	27	
127	25	90	127	18	10	27	
128	26	94	131	19	10	27	
129	27	98	135	20	10	27	
130	28	102	139	21	10	27	
131	29	106	143	22	10	27	
132	30	110	147	23	10	27	
133	31	114	151	24	10	27	
134	32	118	155	25	10	27	
135	33	122	159	26	10	27	
136	34	126	163	27	10	27	
137	35	130	167	28	10	27	
138	36	134	171	29	10	27	
139	37	138	175	30	10	27	
140	38	142	179	31	10	27	
141	39	146	183	32	10	27	
142	40	150	187	33	10	27	
143	41	154	191	34	10	27	
144	42	158	195	35	10	27	
145	43	162	199	36	10	27	
146	44	166	203	37	10	27	
147	45	170	207	38	10	27	
148	46	174	211	39	10	27	
149	47	178	215	40	10	27	
150	48	182	219	41	10	27	
151	49	186	223	42	10	27	
152	50	190	227	43	10	27	
153	51	194	231	44	10	27	
154	52	198	235	45	10	27	
155	53	202	239	46	10	27	
156	54	206	243	47	10	27	
157	55	210	247	48	10	27	
158	56	214	251	49	10	27	
159	57	218	255	50	10	27	
160	58	222	259	51	10	27	
161	59	226	263	52	10	27	
162	60	230	267	53	10	27	
163	61	234	271	54	10	27	
164	62	238	275	55	10	27	
165	63	242	279	56	10	27	
166	64	246	283	57	10	27	
167	65	250	287	58	10	27	
168	66	254	291	59	10	27	
169	67	258	295	60	10	27	
170	68	262	299	61	10	27	
171	69	266	303	62	10	27	
172	70	270	307	63	10	27	
173	71	274	311	64	10	27	
174	72	278	315	65	10	27	
175	73	282	319	66	10	27	
176	74	286	323	67	10	27	
177	75	290	327	68	10	27	
178	76	294	331	69	10	27	
179	77	298	335	70	10	27	
180	78	302	339	71	10	27	
181	79	306	343	72	10	27	
182	80	310	347	73	10	27	
183	81	314	351	74	10	27	
184	82	318	355	75	10	27	
185	83	322	359	76	10	27	
186	84	326	363	77	10	27	
187	85	330	367	78	10	27	
188	86	334	371	79	10	27	
189	87	338	375	80	10	27	
190	88	342	379	81	10	27	
191	89	346	383	82	10	27	
192	90	350	387	83	10	27	
193	91	354	391	84	10	27	
194	92	358	395	85	10	27	
195	93	362	399	86	10	27	
196	94	366	403	87	10	27	
197	95	370	407	88	10	27	
198	96	374	411	89	10	27	
199	97	378	415	90	10	27	
200	98	382	419	91	10	27	
201	99	386	423	92	10	27	
202	100	390	427	93	10	27	
203	101	394	431	94	10	27	
204	102	398	435	95	10	27	
205	103	402	439	96	10	27	
206	104	406	443	97	10	27	
207	105	410	447	98	10	27	
208	106	414	451	99	10	27	
209	107	418	455	100	10	27	
210	108	422	459				
211	109	426	463				
212	110	430	467				
213	111	434	471				
214	112	438	475				
215	113	442	479				
216	114	446	483				
217	115	450	487				
218	116	454	491				
219	117	458	495				
220	118	462	499				
221	119	466	503				
222	120	470	507				
223	121	474	511				
224	122	478	515				
225	123	482	519				
226	124	486	523				
227	125	490	527				
228	126	494	531				
229	127	498	535				
230	128	502	539				
231	129	506	543				
232	130	510	547				
233	131	514	551				
234	132	518	555				
235	133	522	559				
236	134	526	563				
237	135	530	567				
238	136	534	571				
239	137	538	575				
240	138	542	579				
241	139	546	583				
242	140	550	587				
243	141	554	591				
244	142	558	595				
245	143	562	599				
246	144	566	603				
247	145	570	607				
248	146	574	611				
249	147	578	615				
250	148	582	619				
251	149	586	623				
252	150	590	627				
253	151	594	631				
254	152	598	635				
255	153	602	639				
256	154	606	643				
257	155	610	647				
258	156	614	651				
259	157	618	655				
260	158	622	659				
261	159	626	663				
262	160	630	667				
263	161	634	671				
264	162	638	675				
265	163	642	679				
266	164	646	683				
267	165	650	687				
268	166	654	691				
269	167	658	695				
270	168	662	699				
271	169	666	703				
272	170	670	707				
273	171	674	711				
274	172	678	715				
275	173	682	719				
276	174	686	723				
277	175	690	727				
278	176	694	731				
279	177	698	735				
280	178	702	739				
281	179	706	743				
282	180	710	747				
283	181	714	751				
284	182	718	755				
285	183	722	759				
286	184	726	763				
287	185	730	767				
288	186	734	771				
289	187	738	775				
290	188	742	779				
291	189	746	783				
292	190	750	787				
293	191	754	791				
294	192	758	795				
295	193	762	799				
296	194	766	803				
297	195	770	807				
298	196	774	811				
299	197	778	815				
300	198	782	819				
301	199	786	823				
302	200	790	827				
303	201	794	831				
304	202	798	835				
305	203	802	839				
306	204	806	843				
307	205	810	847				
308	206	814	851				
309	207	818	855				
310	208	822	859				
311	209	826	863				
312	210	830	867				
313	211	834	871				
314	212	838	875				
315	213	842	879				
316	214	846	883				
317	215	850	887				
318	216	854	891				
319	217	858	895				
320	218	862	899				
321	219	866	903				
322	220	870	907				
323	221	874	911				
324	222	878	915				
325	223	882	919				
326	224	886	923				
327	225	890	927				
328	226	894	931				
329	227	898	935				
330	228	902	939				
331	229	906	943				
332	230	910	947				
333	231	914	951				
334	232	918	955				
335	233	922	959				
336	234	926	963				
337	235	930	967				
338	236	934	971				
339	237	938					

# States employ various means of limiting departures from the guidelines



Arkansas



Kansas



North Carolina



Alabama

Is there a framework for appellate review in relation to the guidelines?

No

Yes

Yes

Yes

What sort of mechanisms create framework for review?

Not Applicable

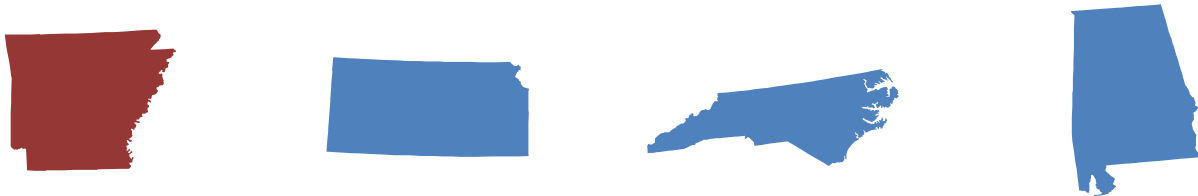
Guidelines provide a **list of non-exclusive, case-specific factors** to determine if departure reasoning is **substantial and compelling**.

Statute provides available presumptive, aggravated, and mitigated ranges based on circumstances. **Effectively no departures allowed** outside those ranges.

Departures are allowed, but the **judge must make a finding** of mitigation or aggravation and state this reason **on the record** if departing from the presumptive sentence.

Source: Sentencing Guidelines Resource Center, Robina Institute of Criminal Law and Criminal Justice, University of Minnesota: <http://sentencing.umn.edu/>

# Even in states with guidelines, sentencing policy and practice differs significantly



Issue	Arkansas	Kansas	North Carolina	Alabama
Prison sentencing ranges?	No	Yes	Yes	Yes
Percentage of “all-options” cells	40%	8%	28%	N/A
Enforceable limits on departures?	No	Yes	Yes	Yes



Without a mechanism for reviewing sentences in relation to the sentencing standards grid, it will be very difficult to incorporate “teeth” into Arkansas’s guidelines.

# Questions for the Task Force

1.

What share of the grid should allow for **all sentencing options**?

2.

Should the guidelines have prison sentence **ranges** instead of a specific term to allow for consideration of mitigating or aggravating factors?

3.

Should there be a process for **reviewing** sentences in relation to the guideline-recommended term?

# Moving forward

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

- Impact of supervision failures on prison pressures
- Ability of supervision system to maximize public safety outcomes through policies and practices that effectively promote recidivism reduction

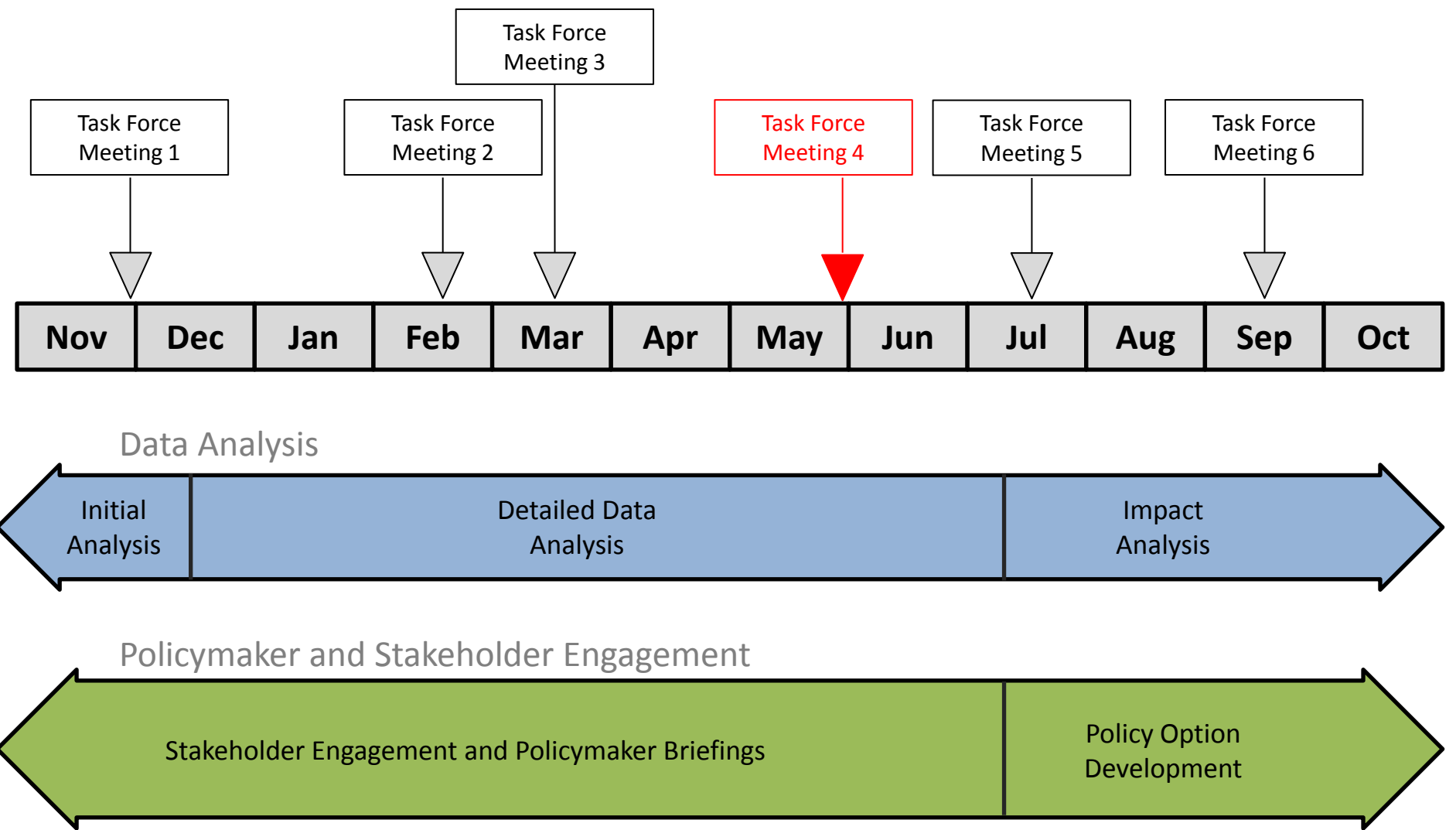
## ➤ **Analysis of local jail pressures**

- How does jail backlog impact ability to effectively sanction supervision violators in a swift and sure manner

## ➤ **Analysis of demographic trends**

- Gender, race, age

# Proposed project timeline



# Thank You



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