

HANDOUT 3

Justice Reinvestment in Arkansas

Policy Options and Projected Impacts
for the Legislative Criminal Justice Oversight Task Force

August 25, 2016

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Council of State Governments Justice Center

Corrections



Justice Reinvestment



Mental Health



Reentry



Substance Abuse



Youth



Courts



Law Enforcement



National non-profit, non-partisan membership association of state government officials that engage members of **all three branches** of state government.

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THE COUNCIL OF STATE GOVERNMENTS

Justice Center provides **practical, nonpartisan advice** informed by the best available evidence.

What is Justice Reinvestment?



JUSTICE REINVESTMENT

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**.

The policy options presented today are the result of intensive data analysis and stakeholder engagement

Data Analysis

More than 3 million individual records have been collected and analyzed from the following agencies:

- Arkansas Department of Correction (ADC)
- Arkansas Community Correction (ACC)
- Arkansas Parole Board (APB)
- Arkansas Sentencing Commission (ASC)
- Arkansas Crime Information Center (ACIC)
- Administrative Office of the Courts (AOC)
- Pulaski, Washington, Union, and Sebastian Counties

Stakeholder Engagement

More than 100 meetings and calls have been conducted with Arkansas stakeholders, including:

- Legislative Criminal Justice Oversight Task Force and Behavioral Health Treatment Access Task Force
- Membership and staff of the Arkansas General Assembly
- Corrections and field staff and administrators from ADC, ACC, and APB
- Arkansas Judicial Council and Administrative Office of the Courts
- Arkansas Prosecuting Attorneys Association
- Association of Arkansas Counties and Arkansas Sheriffs' Association
- Behavioral health practitioners, funders, and administrators

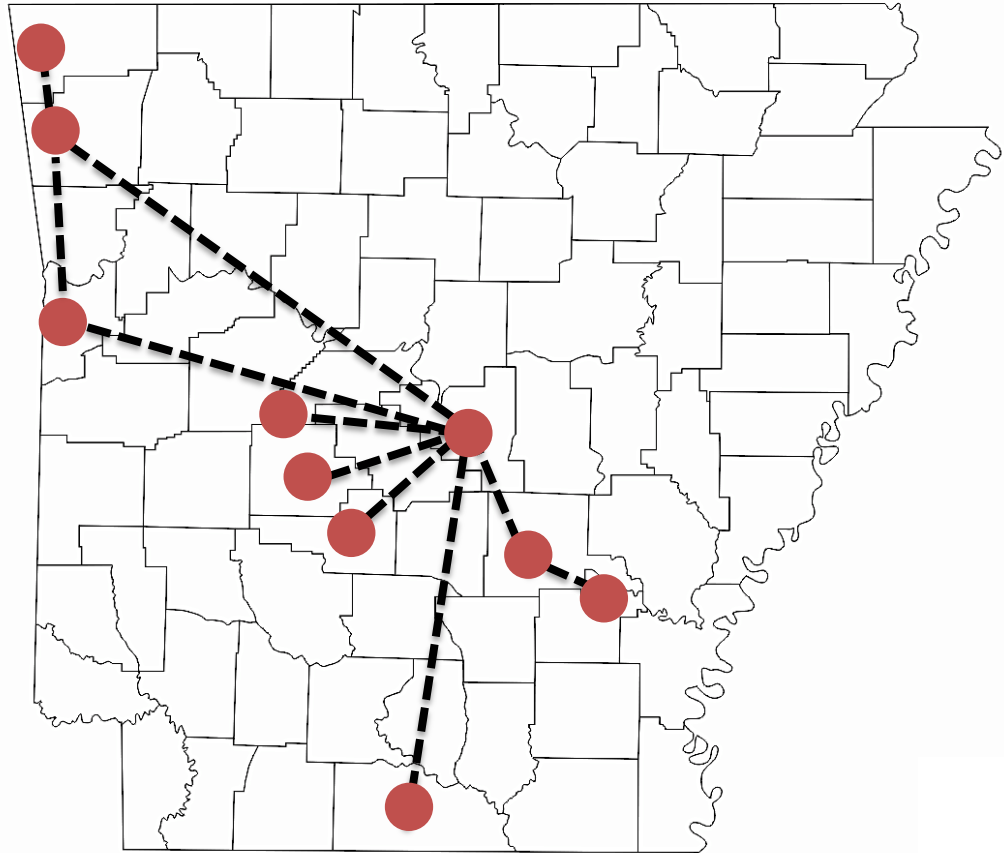
CSG Justice Center staff are pursuing regional perspectives in stakeholder engagement, reflecting the state's size and diversity

100+
CALLS & MEETINGS

17
SITE VISITS

2,400+
MILES DRIVEN

SINCE FALL 2015



Policy Option Discussions

Since early August, CSG Justice Center staff has conducted more than 20 meetings and/or calls with Arkansas stakeholders to discuss the proposed policy options. These discussions yielded helpful feedback that resulted in significant changes to the policy options presented today.

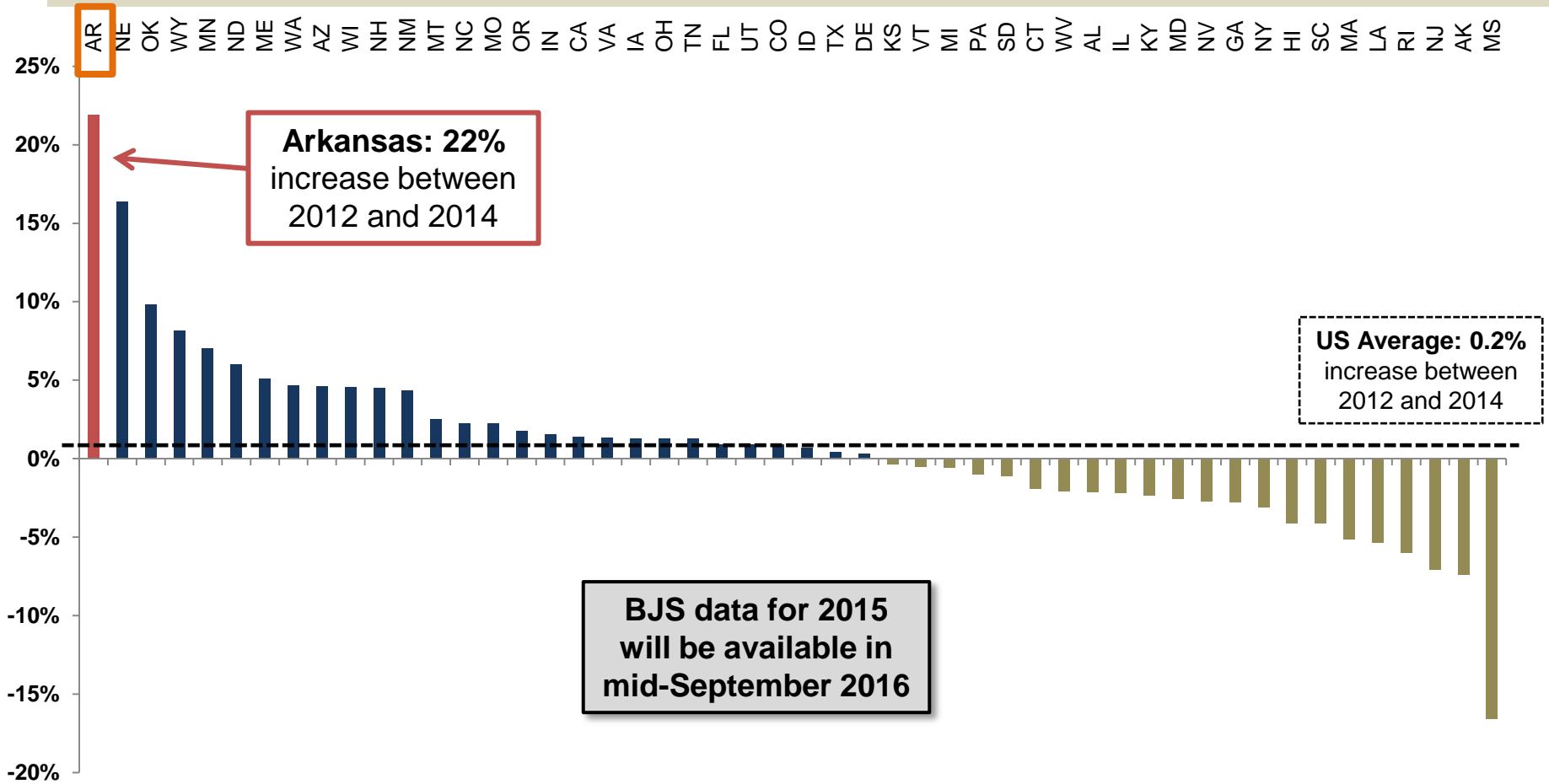
Overview



- 1 Recap of findings through Justice Reinvestment
- 2 Policy options for Arkansas
- 3 Estimated impacts

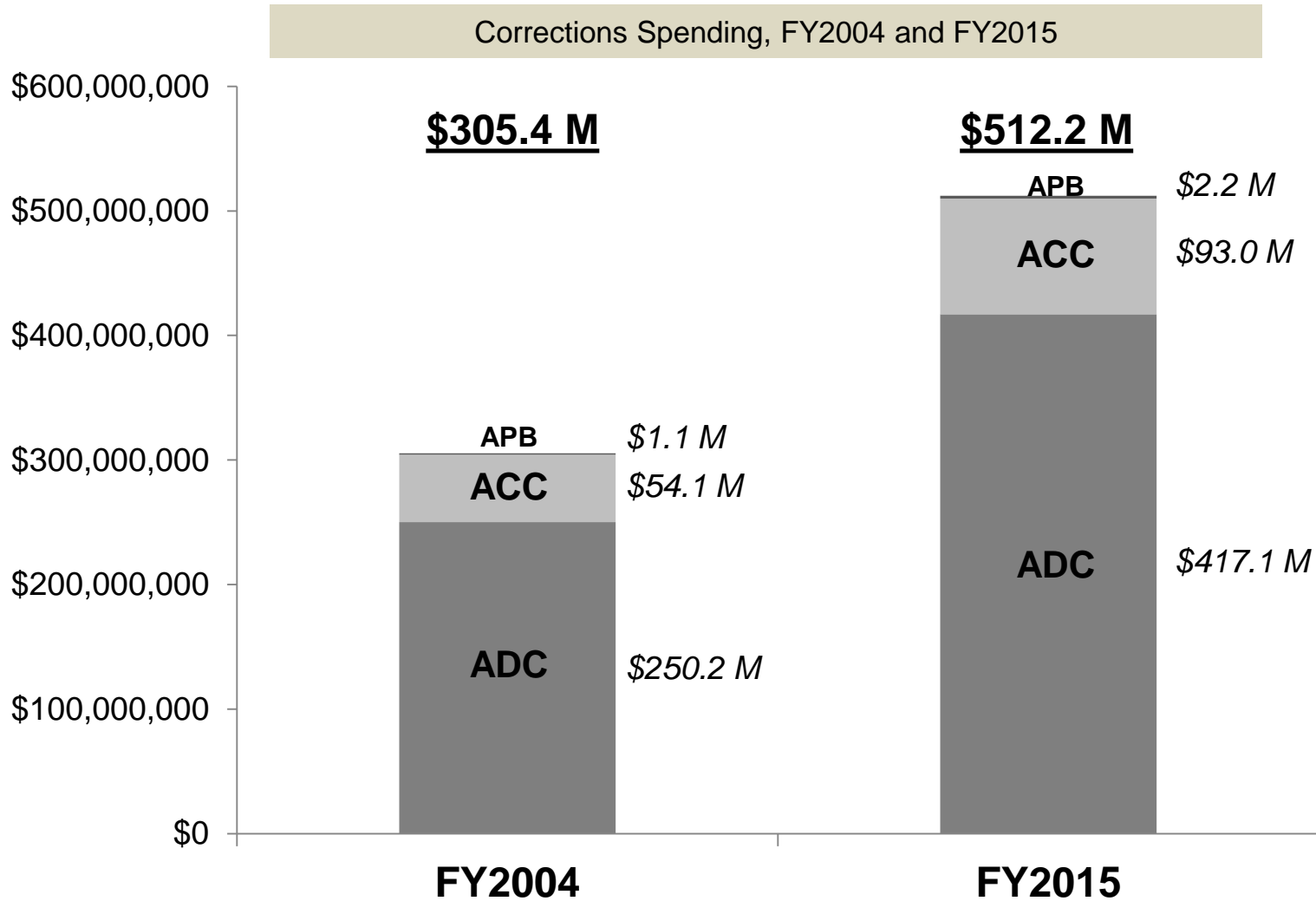
Arkansas's prison population is among the fastest growing in the country

Percent Change in Sentenced Prison Populations, 2012-2014



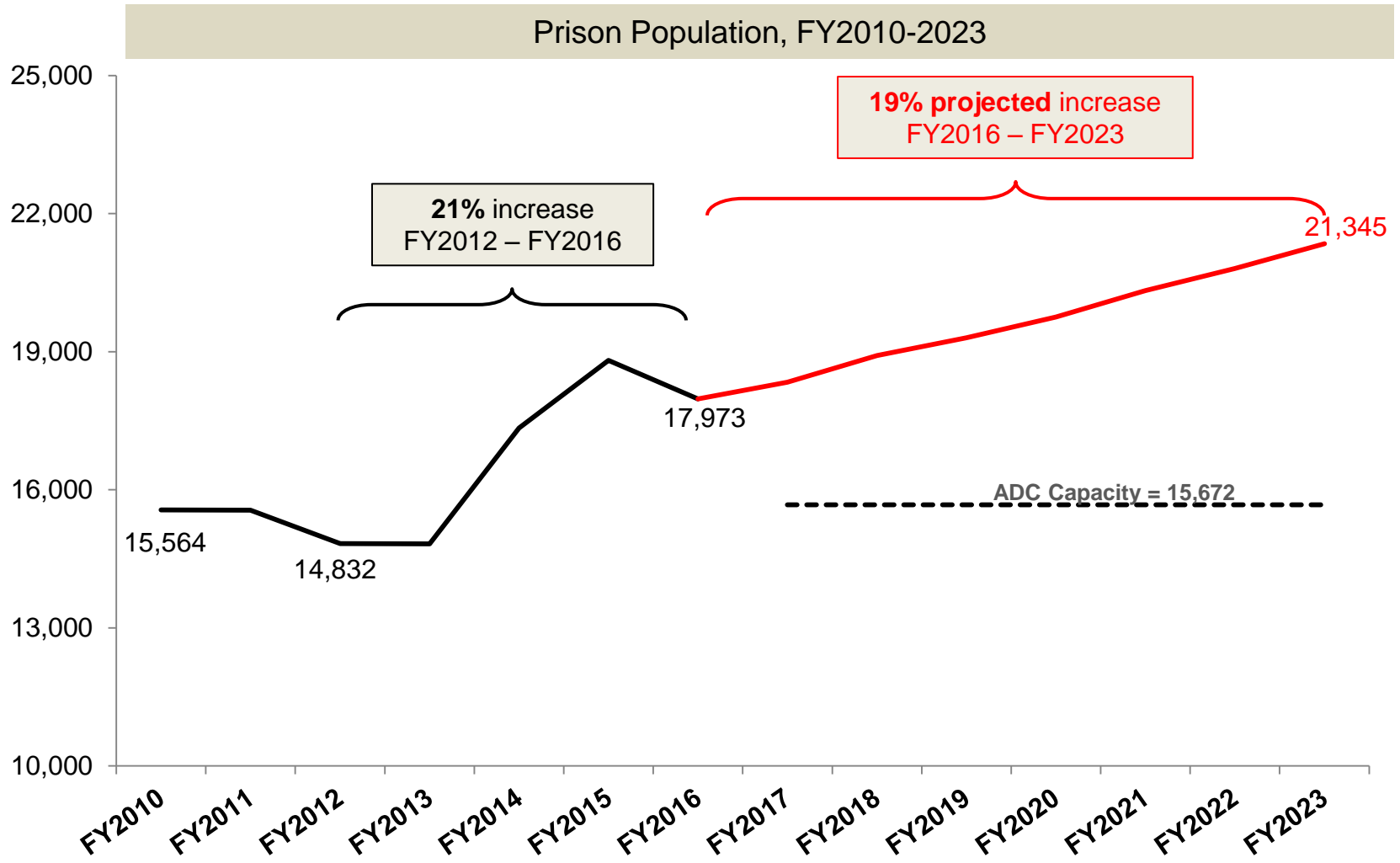
Source: Bureau of Justice Statistics (BJS), Prisoners in the United States

Arkansas now spends more than half a billion dollars on corrections, a 68 percent increase since 2004



Source: Arkansas State Budget 2004, 2015

Arkansas's prison population is projected to increase 19 percent by the end of FY2023



Source: ADC Population Data; JFA Associates, 2016 Arkansas Prison Projections and Historical Corrections Trends, June 2016

Building capacity to accommodate growth will cost Arkansas minimum of \$579 million in additional spending through FY2023

Ten year cost of relying on contracted capacity to accommodate projected prison growth (\$30/day):

FY16 jail backlog average ~ 1,500 carried forward

\$115 M

+

Additional population growth through 2023

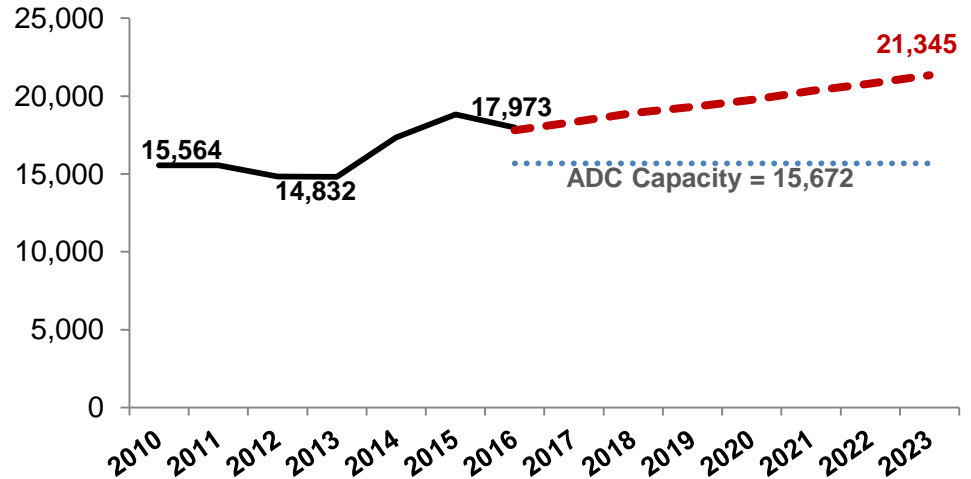
\$124 M

=

Total Estimated Contracting Cost

\$239 M

Historical and Projected Prison Population, FY2010-2023



Cost of building additional capacity (assuming a conservative construction cost of \$60K per prison bed).

Projected 2023 population	21,345
<u>Current ADC capacity</u>	<u>15,672</u>
Capacity shortfall	5,673

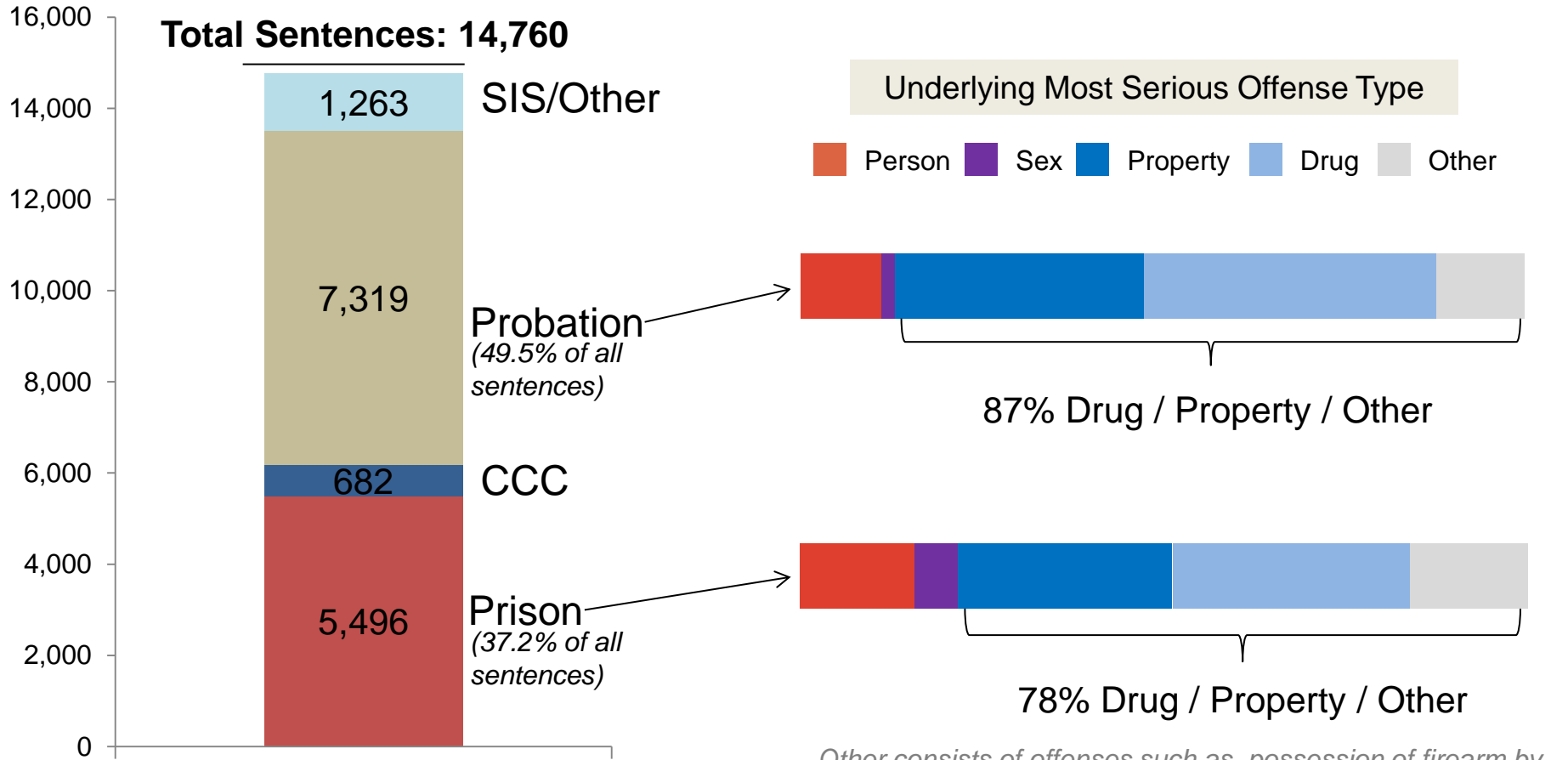
5,673 beds x \$60K each = **\$340 M**

On top of the \$239M for contracting

Source: ADC Capacity and Population Data; JFA Associates, 2016 Arkansas Prison Projections and Historical Corrections Trends, June 2016

Sentences to both prison and probation are driven primarily by property and drug offenses

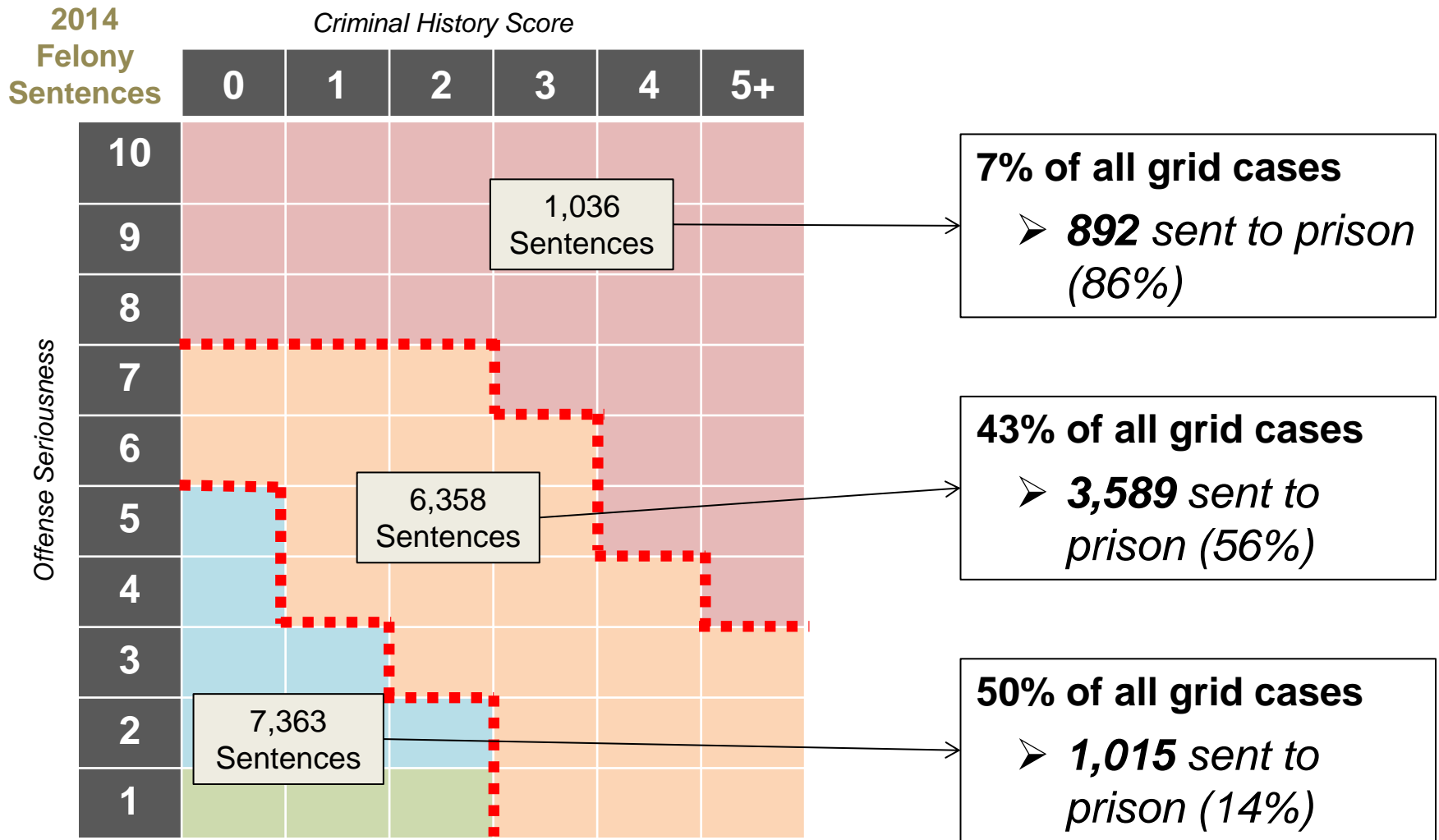
Felony Sentences by Disposition Type, 2014



Other consists of offenses such as possession of firearm by certain persons, failure to appear (FTA on a felony) furnishing prohibited articles, fleeing, and non support.

Source: Arkansas Sentencing Commission Data, 2014

More sentences go to prison from “non-prison” grid cells than from “prison-only” grid cells



Source: Arkansas Sentencing Commission Data, 2014

Use of prison for those in the least serious area of grid is costing Arkansas more than \$7 million annually

Sentences to Prison for those in Non-Prison Area of Grid

1,015

Number sentenced in 2014

47.25 months

Average sentence length imposed

7.9 months

Estimated length of stay in prison (based on assumption of earning maximum good time credits)

659

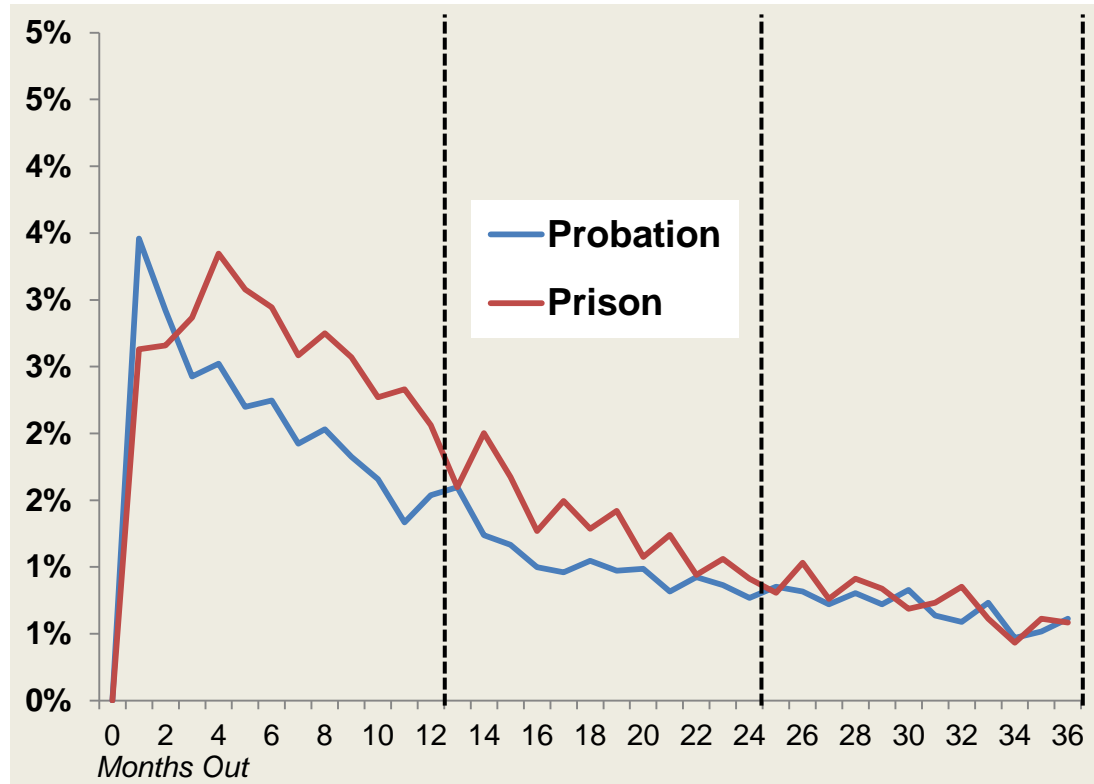
Prison bed impact

\$7.2 Million

Annual cost of incarceration (based on \$30/day contract rate instead of current ADC operational cost/day of almost \$63/day)

Overall, people placed on probation instead of released from prison are re-arrested at 18-21 percent lower rates within three years

36-Month Rearrest Rates for Individuals Released from Prison Compared to Individuals Beginning Felony Probation in FY2012



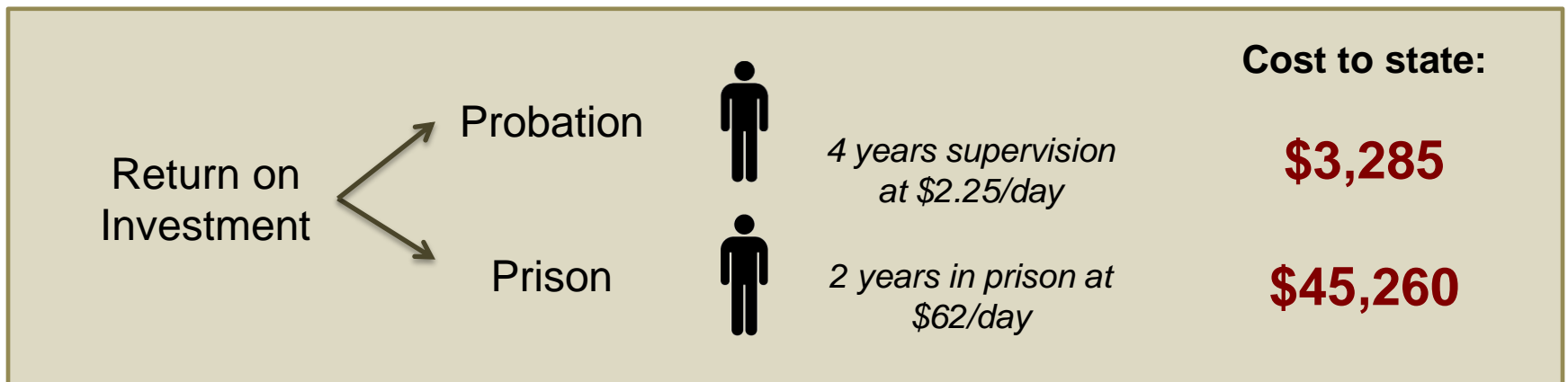
Arrest Rate	Prison	Prob.	Prob. % Diff.
1 Yr	32%	26%	- 19%
2 Yr	48%	38%	- 21%
3 Yr	57%	47%	- 18%

Source: ADC Release Data, ACC Intake Data, ACIC Arrest Data

Comparing apples to apples, probation yields as good or better recidivism rates as prison

Two Year Rearrest Rates for Drug/Property Offenses, FY2013 Cohorts

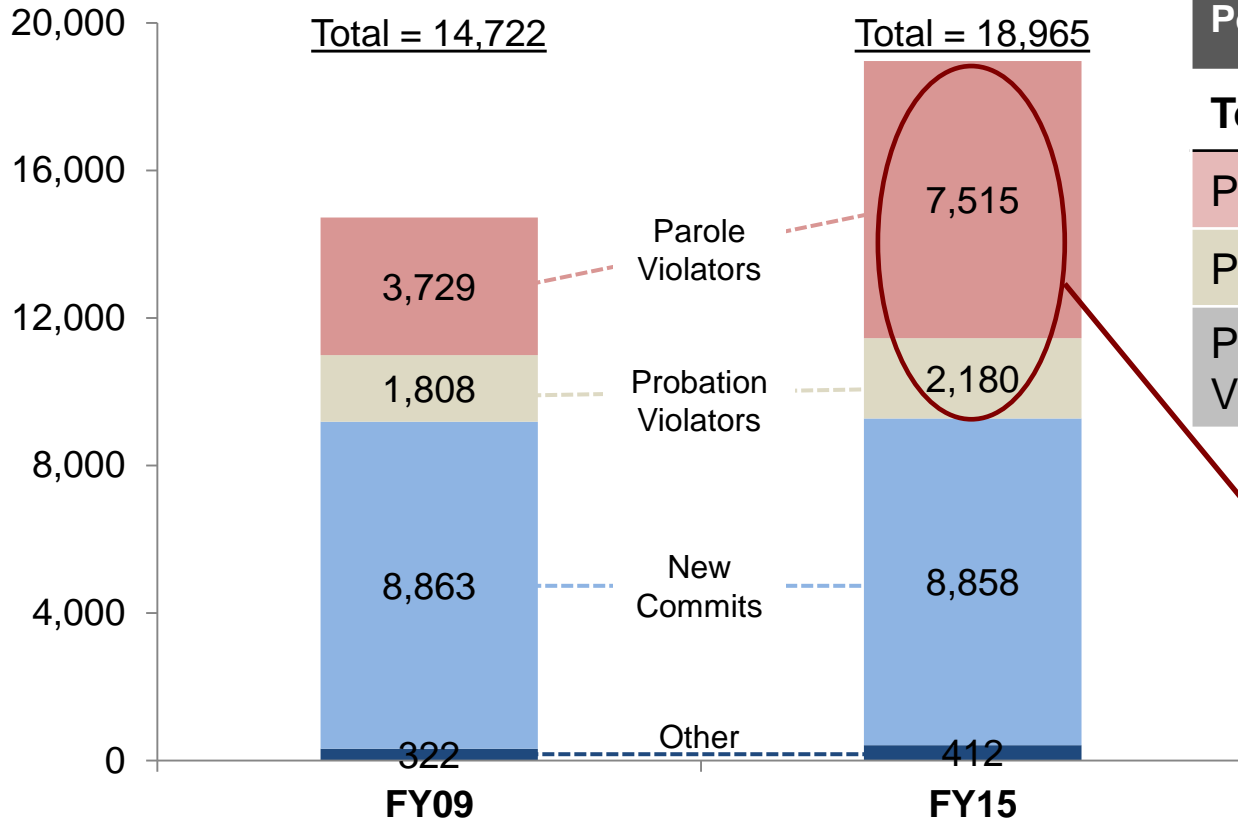
Prior Felony Arrests	Prison Releases	Probation Starts
0 to 1	37%	37%
2-3	51%	49%
4 or more	60%	55%
Overall	50%	40%



Source: ADC Release Data, ACC Intake Data, ACIC Arrest Data

Virtually all of the growth in Arkansas's prison population stems from sanctioning of supervision violators

Year-End Prison Population by Type of Admission, FY2009 and 2015



ADC Population Growth FY2009-2015

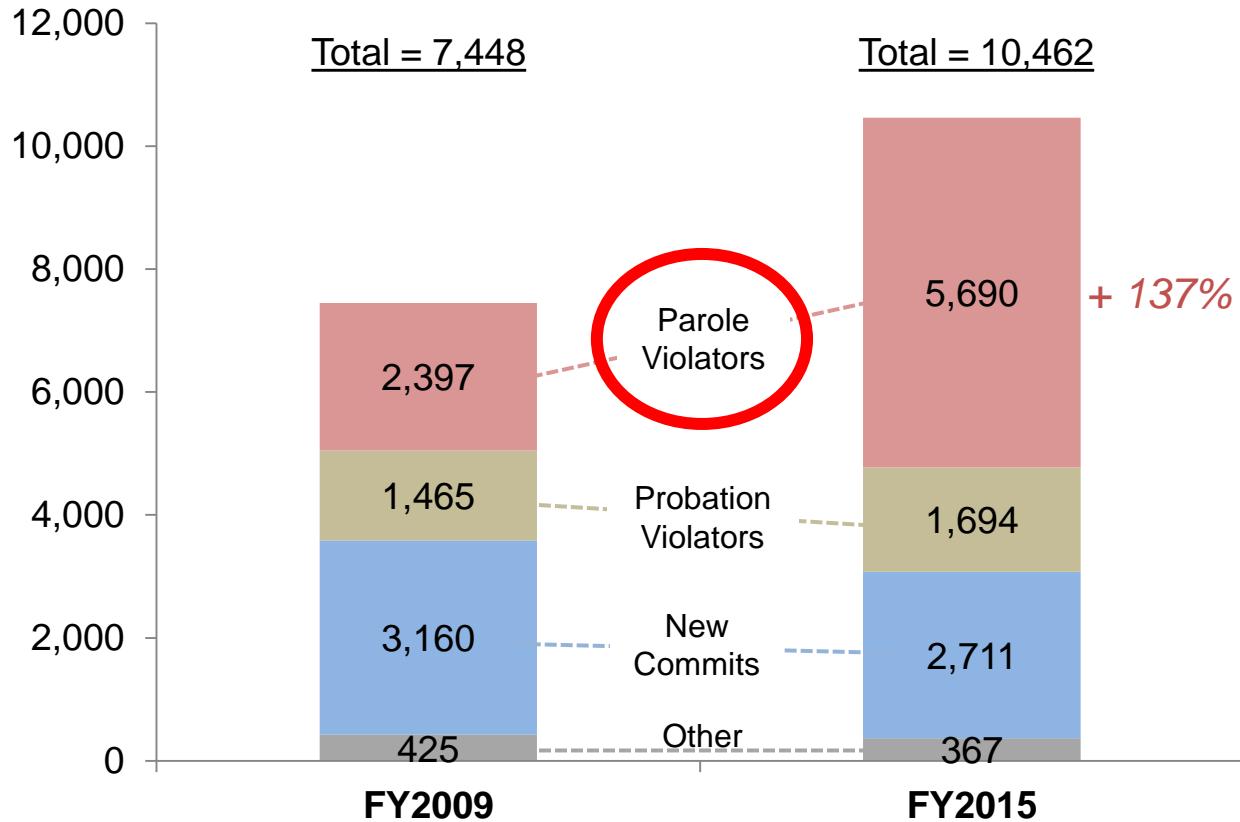
Population	Raw Growth
Total Prison	+ 4,243
Parole Violators	+ 3,786
Probation Violators	+ 372
Probation + Parole Violators Combined	+ 4,158

51% of prison population consists of supervision violators
 – 48% as of 4/30/16

Source: ADC Snapshot Data, 2009 – April 2016

Parole violators went from being a third of all prison admissions to over half

Admissions to Prison by Type of Admission, FY2009 and 2015



Parole violators accounted for 54% of all admissions to prison in FY2015

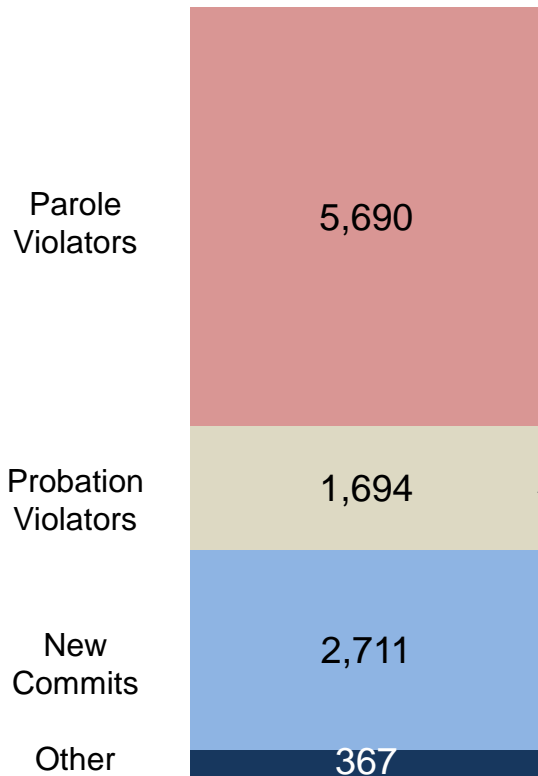
- Up from 32% in FY09

Most current update:
July-April FY2016 shows admissions for parole violators accounted for 51% of all ADC admissions.

*Other consists of "New Commitment SIS", "ISC Commitment", and "Returned from Boot Camp"

Almost a third of revoked probationers and parolees did not have an arrest while on supervision prior to revocation

FY2015 Prison Admissions by Type of Admission



Violators with Arrest During Supervision?

	Felony Arrest	Misdemeanor Arrest	No Arrest
Parole Violators	53%	19%	28%
Probation Violators	65%	14%	21%

AVG # of Violations

Fewer than three

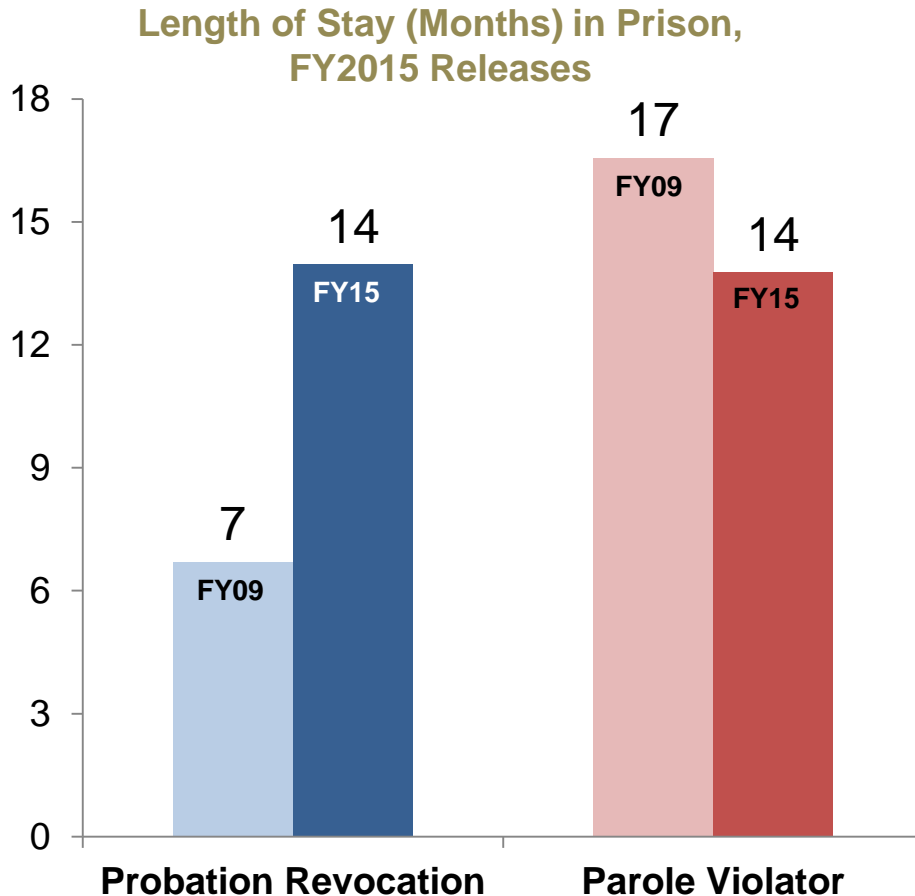
Almost 75% comprised of:

- *Failure to comply w/ conditions*
- *Failed drug test*
- *Failure to report*
- *Failure to pay*

1,912 probationers and parolees revoked to prison despite not having an arrest while on supervision

Source: ADC Admission Data, ACC Termination Data

Probation violators released from prison in FY2015 spent more than twice as long in prison compared to FY2009

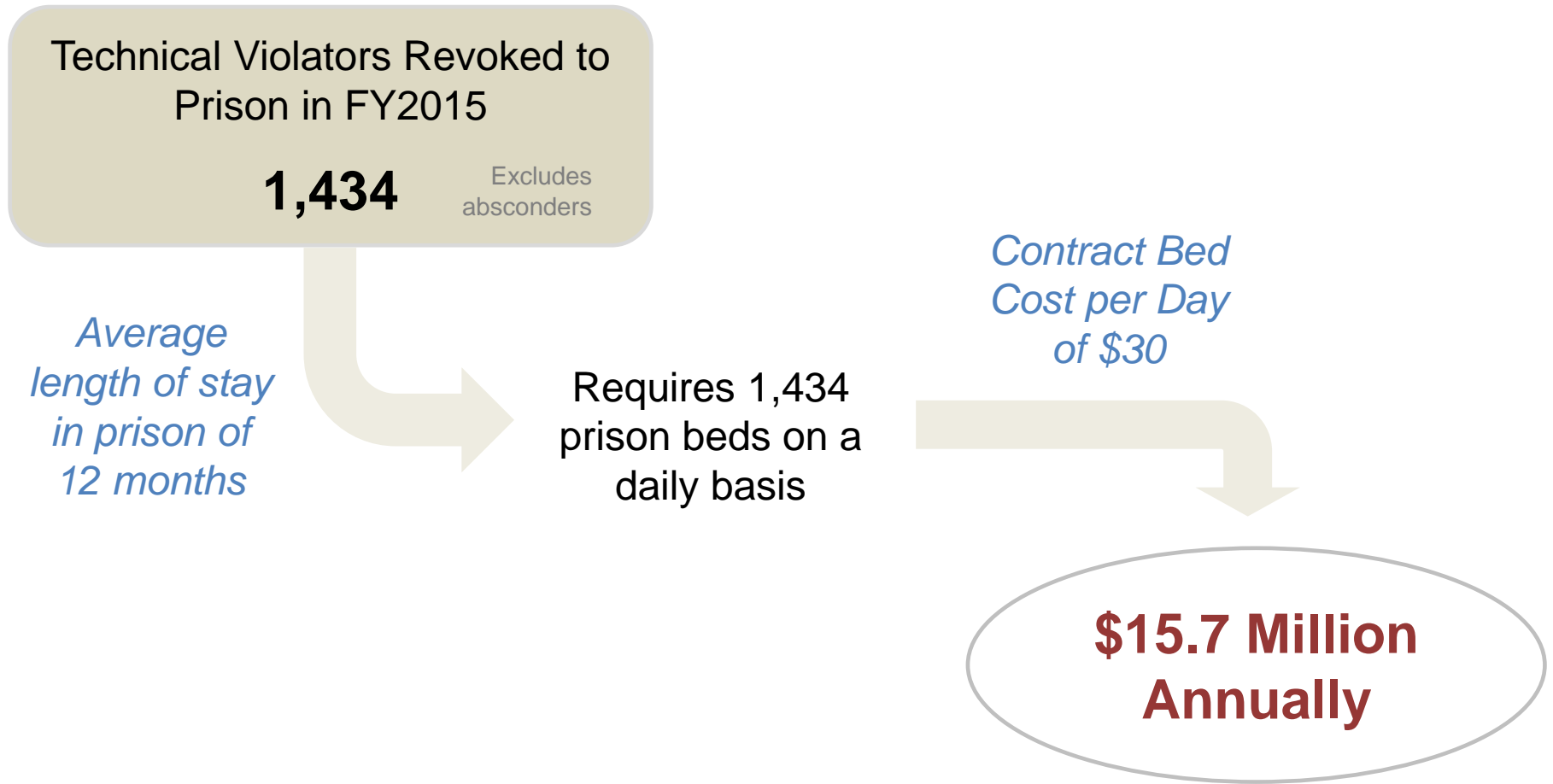


Of those released in FY2015:

- Technical probation revocations spent 12 months in prison
- Technical parole violators spent 15 months in prison

Note: The lengths of stay in prison do not account for time spent in local jails awaiting violation hearing.

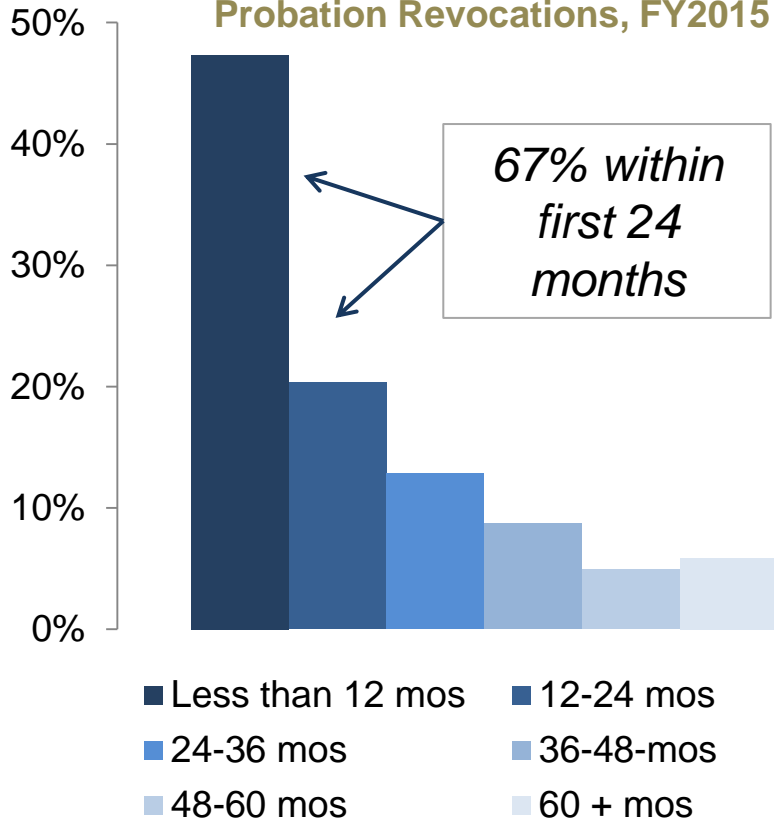
Current cost to Arkansas for imprisoning technical probation and parole violators represents almost \$16 million annually



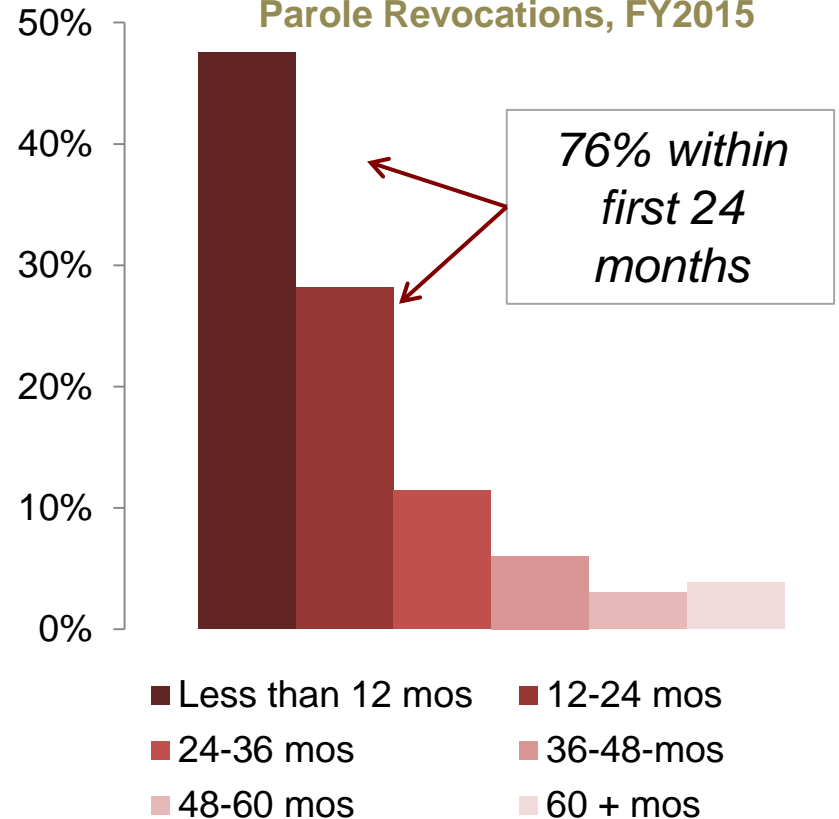
Source: ADC Release Data, ACC Termination Data, ADC County Jail Backlog Cost Per Day

Two-thirds or more of supervision failures occur within the first two years of supervision

Months on Supervision for Probation Revocations, FY2015



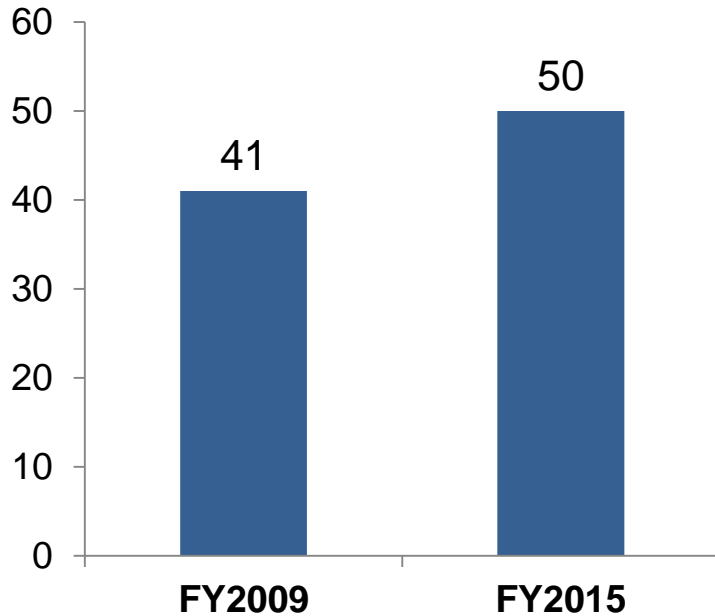
Months on Supervision for Parole Revocations, FY2015



Source: ACC Termination Data

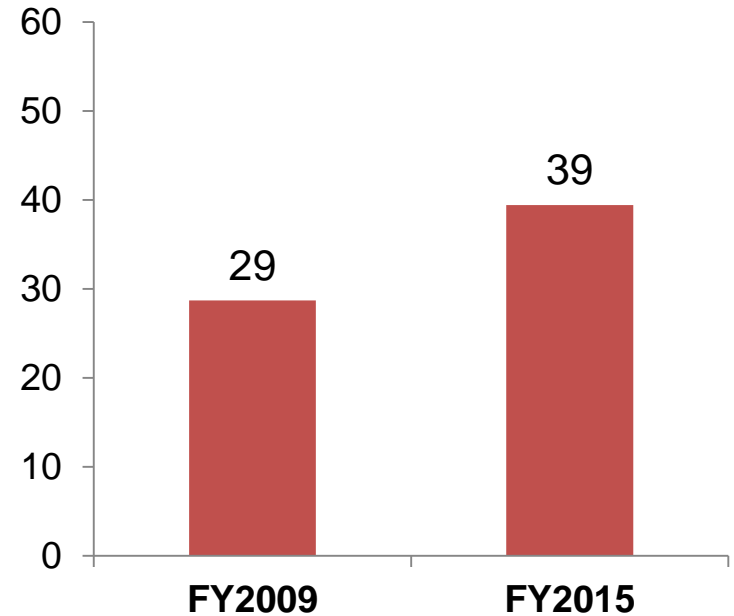
Probationers and parolees are staying on supervision longer and longer

Average Length of Supervision (Months) for Successful Probation Terminations



- ❑ Average months on supervision for felony probationers terminating successfully **increased 22%** from FY2009 to FY2015

Average Length of Supervision (Months) for Successful Parole Terminations

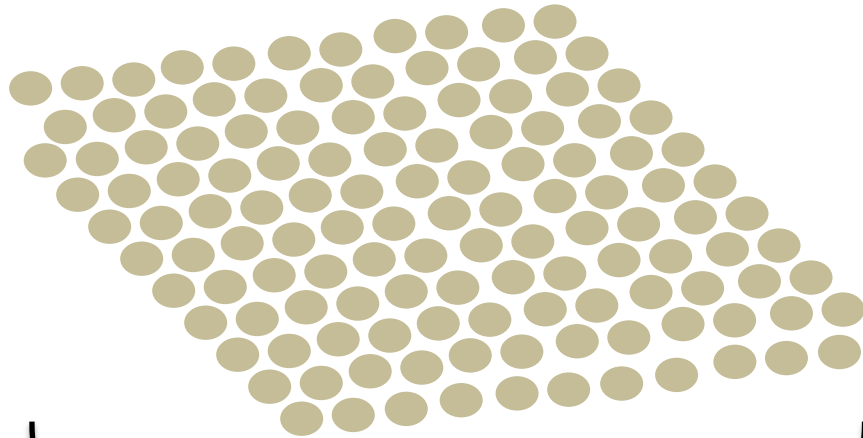


- ❑ Average months on supervision for felony probationers terminating successfully **increased 34%** from FY2009 to FY2015

Source: ACC Termination Data

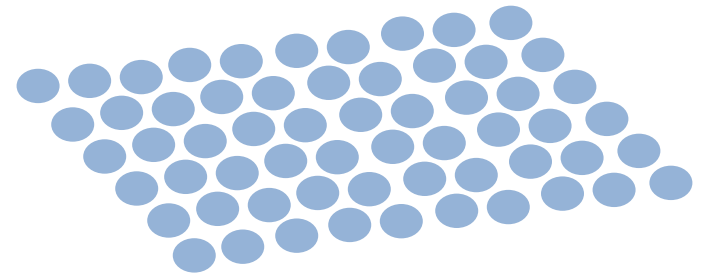
Arkansas's probation and parole officers have in excess of 120 cases per officer requiring some level of supervision

Arkansas



129 cases per caseworker

North Carolina



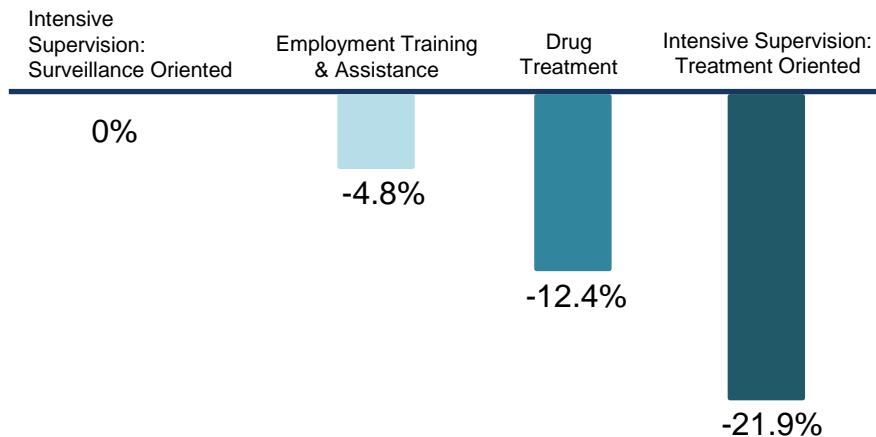
60 cases per caseworker

Source: ACC Annual Report FY2015; North Carolina DPS, Legislative Report on Probation and Parole Caseloads, March 2015

Arkansas needs more community-based supports for connecting those on supervision to needed substance abuse treatment

Challenge: For higher-risk probationers and parolees with substance abuse disorders, they can typically access treatment only if they have adequate insurance or can cover costs out-of-pocket

Changes in Recidivism Rates for Adult Offenders



Lack of access to treatment in the community hinders efforts to reduce recidivism

Source: Steve Aos, Marna Miller, and Elizabeth Drake (2006). *Evidence-Based Adult Corrections Programs: What Works and What Does Not*. Olympia: Washington State Institute for Public Policy

Arkansas's status as a Medicaid Expansion state presents opportunities to leverage funding for addressing unmet substance abuse needs

14,000 higher-risk probation/parole starts annually

- 5,936 estimated to have Substance Use Disorder (serious addiction)
 - 36% of 14K with SUD
 - 6.4% of 14K with SUD and SMI (co-occurring)
- Total cost of treatment = \$32,054,400
 - *Per person estimated cost of \$5,400*

Medicaid expansion states that have put forward new resources to address treatment gaps among criminal justice-involved populations are able to leverage up to 85% of the costs of care through federal match.

Arkansas should consider providing crisis stabilization beds for diverting people with mental illness away from jails

Challenge: Numerous individuals booked into county jails due to lack of better alternative for those with serious mental illness and relatively minor offenses

Individual in state of mental health crisis commits low-level crime and is engaged by local law enforcement

Status Quo



Booked into county jail

Jails not equipped to provide treatment and interventions necessary for reducing the “revolving door” meaning many of these individuals cycle in and out of the jails repeatedly

- Upon release from jail, these individuals typically not connected to any community-based supports

Alternative



Residential capacity designed to address mental health crises in a clinical setting with trained staff, and connect individuals to services in the community upon discharge

- Much of the cost associated with these stabilization centers can be offset with Medicaid.

Crisis stabilization centers can be designed according to Arkansas's needs

16 Beds



Medically monitored residential services

- 24 hour nursing coverage
- Staffing complement designed to accept complex admissions
- Linkages to continuum of care

Advantages over smaller configurations

- Broader clinical capacity for complex cases
- Leverages maximum reimbursable bed capacity through Medicaid
- Economy of scale

Estimated annual operational cost per 16-bed unit is between \$2 – \$3 million

- ✓ Opportunities to offset costs to Arkansas by leveraging Medicaid
-

4 Beds



High intensity community-based services

- 24 hour access to medical consultation
- 24 hour staffing
- Linkages to continuum of care

Advantages over larger configurations

- Less expensive
- Viable option in smaller communities
- Adds placement capacity options to existing infrastructure

Estimated annual operational cost per 4-bed unit is between \$400 – \$600 thousand

- ✓ Opportunities to offset costs to Arkansas by leveraging Medicaid

Overview



1 Recap of findings through Justice Reinvestment

2 Policy options for Arkansas

3 Estimated impacts

1: Strengthen supervision for people who are at high or moderate risk of violating conditions of supervision or reoffending.

- A. Hire additional supervision officers to reduce the number of cases per officer and improve initial and recurring training in effective recidivism-reduction strategies to increase the quality of supervision.
- B. Implement strategies to ensure that ACC resources are primarily targeted to those people who are in their first year of supervision, when failure rates are the highest.

2: Increase the intensity and effectiveness of behavioral health services available in the community for people who need treatment for substance abuse.

- A. Fund a system of community-based programming treatment intervention services that address substance abuse needs among higher-risk populations, specifically those on community supervision.
- B. These services will be reimbursable through enhanced rates funded by leveraging Medicaid. This option would also amend Arkansas's traditional Medicaid plan to include coverage for people whose primary diagnosis is a substance use disorder.

3: Reconfigure ACC's residential facilities to reach more people and respond more effectively to behaviors associated with substance abuse and other supervision violations by people on probation and parole.

- A. Ensure that placement into ACC's facilities are driven by assessments aimed at identifying criminogenic risk and need factors, as well as based on demonstrated violations of supervision and less on the nature of the underlying offense. This would mean revisiting "target offenses" to allow certain exceptions.
- B. Enhance the intensity and effectiveness of programming and interventions delivered at these facilities to increase the number of people that can be served within the existing capacity and also improve recidivism rates associated with these interventions.

4: Make responses to supervision violations more cost-effective and consistent.

- A. Limit the length of time served in prison for probation or parole violations at 45 days for condition violations and at 90 days for non-violent, non-sex misdemeanor offenses or absconding.
- B. Those charged with a new felony offense or a violent or sex related misdemeanor would not be subject to this cap. After serving three (3) such capped sanctions, technical or applicable misdemeanant violators would be subject to full revocation for the remainder of their original sentence.

5: Implement parole-related policies that improve consistency and efficiency in assessment, programming requirements, and release decision-making.

- A. Establish parole guidelines to aid members of the Arkansas Parole Board (APB) in release decision-making.
- B. Adopt standardized risk and needs assessment tool(s) for use across Arkansas's correctional agencies (ACC, ADC and APB) and develop validation protocols.
- C. Provide people entering ADC with stipulations from the Parole Board for required programming within 3-12 months of intake.
- D. Ensure that relevant information regarding a person's parole plan is transferred to the parole board 12 months prior to the person's transfer eligibility date when length of sentence allows.

6: Revise the Arkansas Sentencing Standards to ensure that prison space is reserved for people convicted of the most serious offenses and who have longer criminal histories.

- A. Reduce the number of “all-options” cells in the Arkansas Sentencing Standards to increase effective dispositional guidance.
- B. Revise the Arkansas Sentencing Standards to include ranges rather than single values for recommended prison sentence length.
- C. Develop a legal framework to allow for appellate review of departures on sentences that are subject to the Arkansas Sentencing Standards, but prohibit appellate review of departure sentences imposed by juries or that result from negotiated pleas.

7: Increase options for protecting or assisting victims of crime through improved access to compensation, restitution, and protection orders.

- A. Assist the Administrative Office of the Courts (AOC) and the Association of Arkansas Counties (AAC) in developing and maintaining a means for collecting information on court-imposed financial obligations to improve the monitoring and collection of fines/fees, court costs, restitution, and other such obligations.
- B. Increase funding and expand eligibility for the Arkansas Crime Victims Reparation Program to better serve victims of crime.
 - Consider revising eligibility requirements that disqualify people with criminal histories.
 - Allow for claims to be filed within two years of the date of the crime rather than the current one-year limit.

8: Develop and fund strategies to reduce pressures on county jails, including specialized law enforcement training, screening and assessment tools, and diversion for people with mental illness.

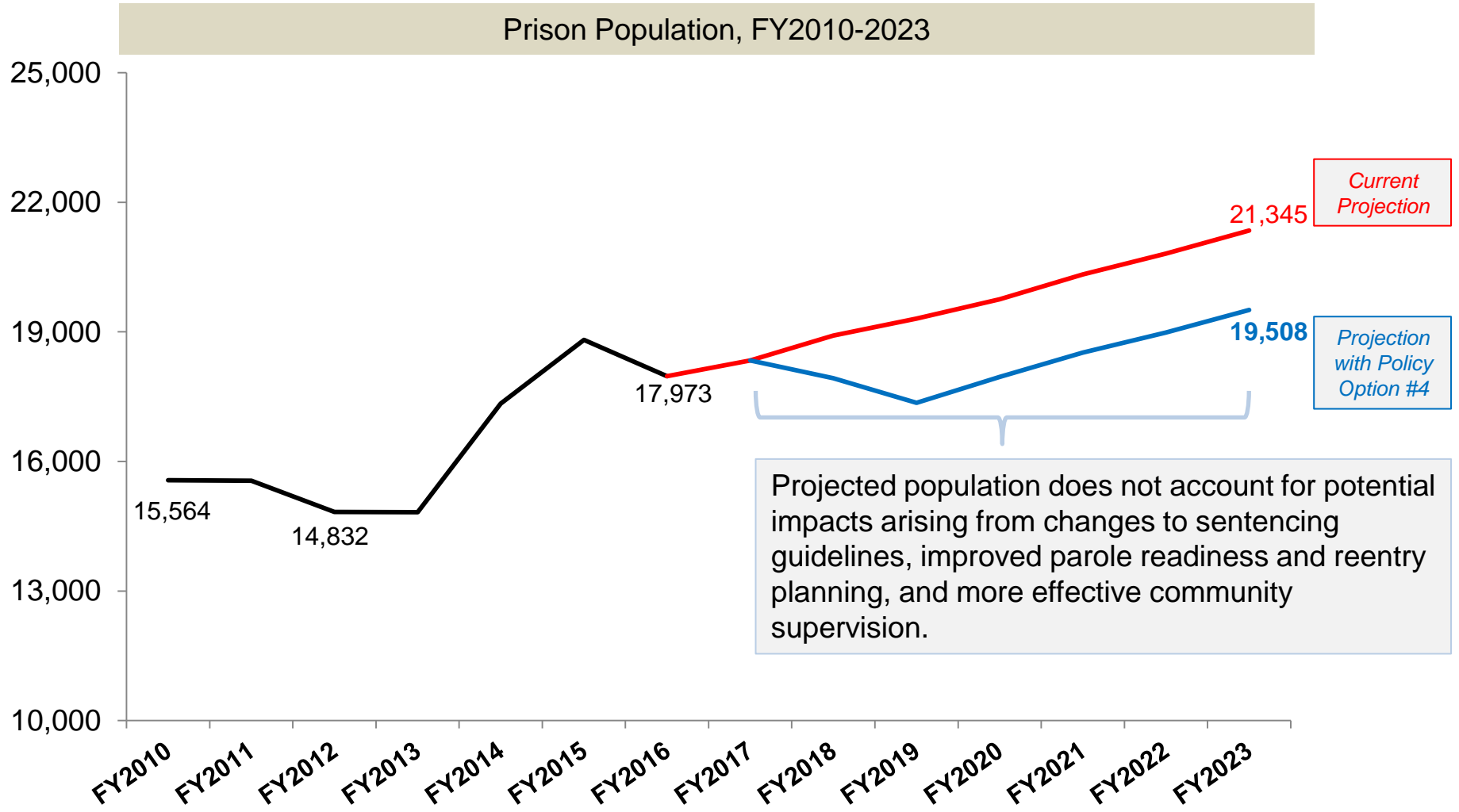
- A. Create a fund to reimburse Arkansas's local law enforcement agencies for expenses associated with training officers/deputies in crisis intervention/specialized response for people with mental illness.
- B. Develop options for diverting people with mental illness from jails, including funding to support crisis stabilization units as well as necessary programming and treatment for successful reintegration into the community.
- C. Assist the Association of Arkansas Counties and Arkansas Sheriffs' Association in the development of screening and assessment tools for use by local jails. Use of such tools by local jails will be voluntary.
- D. Develop a secure statewide database for maintaining information on jail intake screenings/assessments to enable this information to be readily accessible to jails in Arkansas.
- E. Create county/regional councils to coordinate administration of criminal justice at local level.

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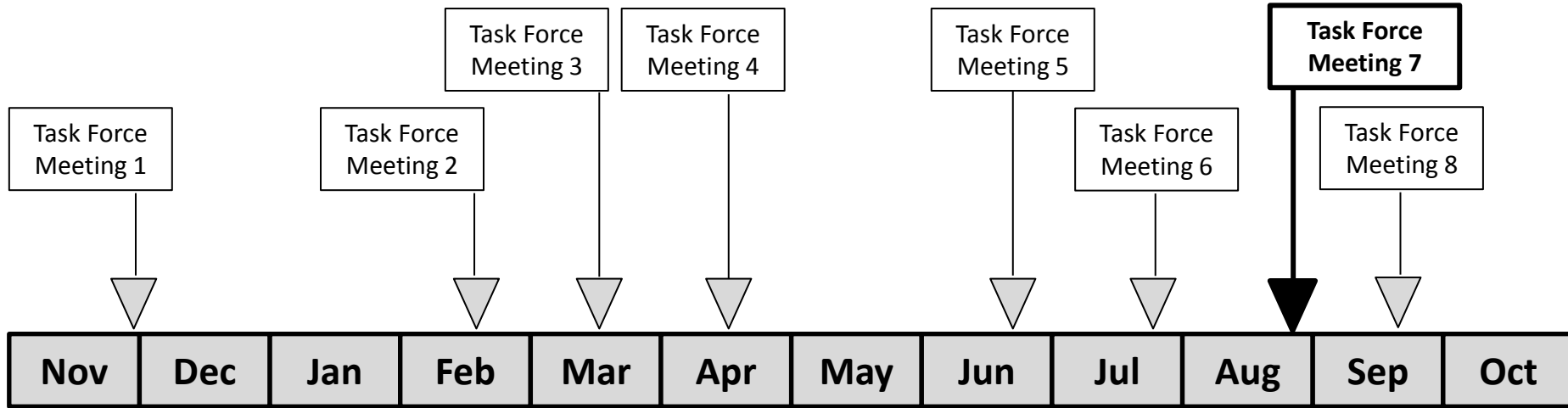
Policy option #4 could avert prison population growth by more than 1,800 beds; other options could avert additional growth



Policy option #4 can reduce Arkansas’s reliance on contracting for capacity and free up over \$100 million for reinvestment into recidivism reduction

	FY2017	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	6 Year Totals 
Baseline ADC Population Forecast	18,338	18,916	19,305	19,752	20,329	20,809	21,345	
Revised ADC Population Forecast (Policy Option 4)	18,338	17,925	17,356	17,957	18,520	18,986	19,508	
Difference in Population	0	-991	-1,949	-1,795	-1,809	-1,823	-1,837	
Averted Costs (assuming averted demand for daily contracting)	0	- \$2.1 M	- \$21.3 M	- \$19.7 M	- \$19.8 M	- \$20.0 M	- \$20.1 M	- \$103 M

Project timeline



Data Analysis

Initial Analysis

Detailed Data Analysis

Impact Analysis

Policymaker and Stakeholder Engagement

Stakeholder Engagement and Policymaker Briefings

Policy Option Development

Thank You

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