

2015 Utah Adult Sentencing Guidelines

Incorporating the Directives & Principles of the
Justice Reinvestment Initiative



Utah Sentencing Commission

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Sentencing Commission's Statutory Charge

Utah Code Ann. §63M-7-404 (2008)

- Respond to public comment
- Relate sentencing practices and correctional resources
- Increase equity in criminal sentencing
- Better define responsibility in criminal sentencing; and
- Enhance the discretion of sentencing judges while preserving the role of the Board of Pardons and Parole and Youth Parole Authority

Statutory Directives from House Bill 348 to the Sentencing Commission in 2015:



- **modify the guidelines** to implement the recommendations of the CCJJ for reducing recidivism for the purposes of protecting the public and ensuring efficient use of state funds;
- **modify criminal history scoring** in the guidelines, including eliminating double-counting and focusing on factors relevant to the accurate determination of risk to re-offend;
- **establish guidelines** for incarceration for probation and parole conditions violations and revocations, including: the seriousness of the violation, conduct while on probation or parole, and criminal history;
- **establish graduated sanctions** to facilitate the prompt and effective response to an offender's conduct while on probation or parole, including: sanctions in response to probation or parole conditions violations, when violations should be reported to the Court or Board of Pardons, and a range of sanctions not exceeding three consecutive days incarceration and a total of five days in a 30 day period;
- **establish graduated incentives** to facilitate a prompt and effective response to an offender's compliance with probation or parole conditions and positive conduct exceeding those terms.

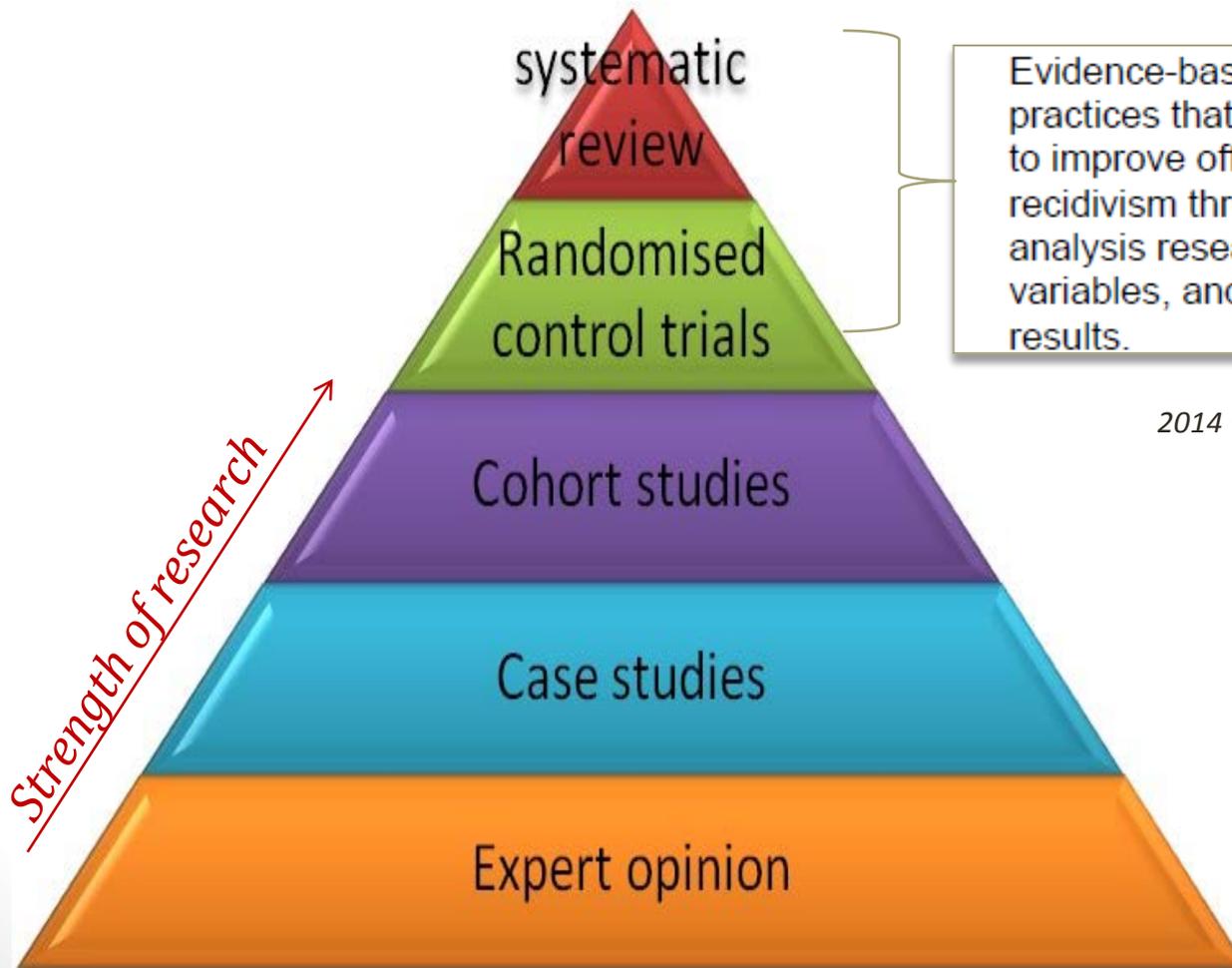
Brief Summary of 2015 Revisions:

- 2015 Utah Adult Sentencing & Release Guidelines were approved August 5, will be effective October 1, 2015.
- Prefatory language provides context to HB348; “evidence-based practices”; and the revisions.
- Includes a References Section with available digital links to the research and data.
- Current Forms 1 – 5a revised pursuant to HB348 with additional revisions consistent with intent of JRI.
- New Forms 6 – 10 and corresponding addenda developed through a collaborative system-wide process, including the Implementation Pilot of the “RIM” in 2nd District and public comment period.

Philosophical Approach

- The Sentencing Commission promotes **evidence-based** sentencing policies that effectively address the **three separate goals** of criminal sentencing:
 - Risk Management
 - Risk Reduction
 - Restitution

Not the Kind of “Evidence” We’re Accustomed to in Court...

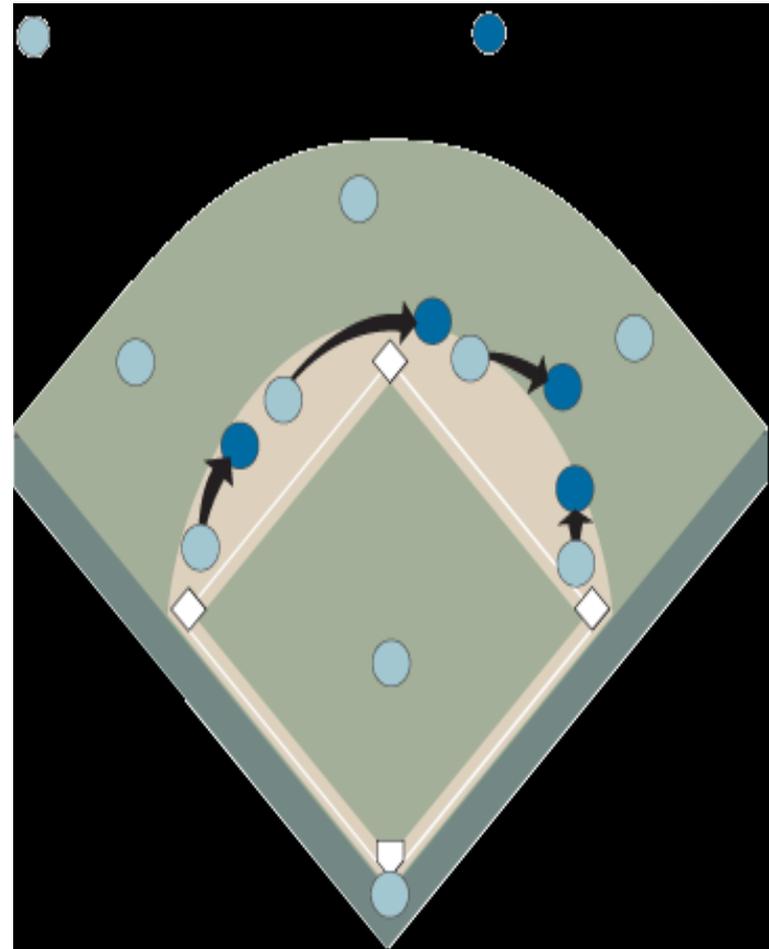
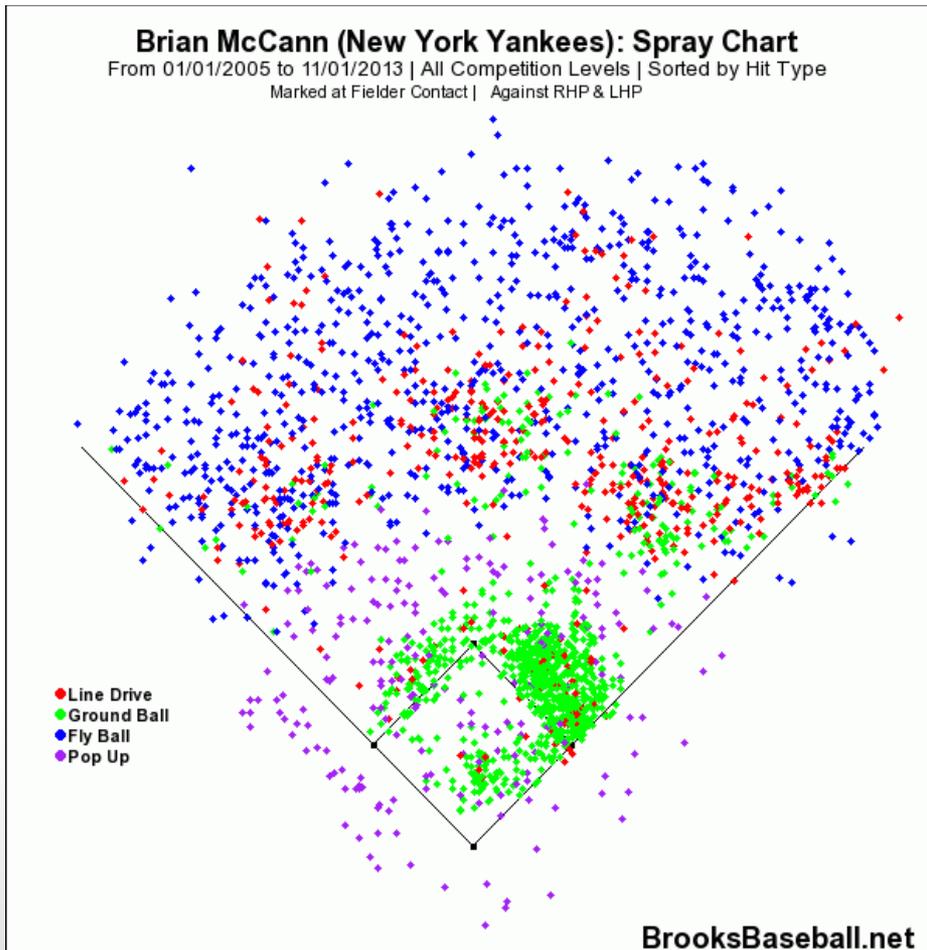


Evidence-based practices are those practices that have been empirically shown to improve offender outcomes and reduce recidivism through an emphasis on meta-analysis research, control of confounding variables, and cross-site replication of results.

2014 Utah Adult Sentencing Guidelines
p. 3

“Evidence-Based” Approaches in Other Fields:

Baseball – Defensive Shift



Medicine – High Blood Pressure

Other risk factors, asymptomatic organ damage or disease	Blood Pressure (mmHg)			
	High normal SBP 130–139 or DBP 85–89	Grade 1 HT SBP 140–159 or DBP 90–99	Grade 2 HT SBP 160–179 or DBP 100–109	Grade 3 HT SBP ≥180 or DBP ≥110
No other RF	• No BP intervention	• Lifestyle changes for several months • Then add BP drugs targeting <140/90	• Lifestyle changes for several weeks • Then add BP drugs targeting <140/90	• Lifestyle changes • Immediate BP drugs targeting <140/90
1–2 RF	• Lifestyle changes • No BP intervention	• Lifestyle changes for several weeks • Then add BP drugs targeting <140/90	• Lifestyle changes for several weeks • Then add BP drugs targeting <140/90	• Lifestyle changes • Immediate BP drugs targeting <140/90
≥3 RF	• Lifestyle changes • No BP intervention	• Lifestyle changes for several weeks • Then add BP drugs targeting <140/90	• Lifestyle changes • BP drugs targeting <140/90	• Lifestyle changes • Immediate BP drugs targeting <140/90
OD, CKD stage 3 or diabetes	• Lifestyle changes • No BP intervention	• Lifestyle changes • BP drugs targeting <140/90	• Lifestyle changes • BP drugs targeting <140/90	• Lifestyle changes • Immediate BP drugs targeting <140/90
Symptomatic CVD, CKD stage ≥4 or diabetes with OD/RFs	• Lifestyle changes • No BP intervention	• Lifestyle changes • BP drugs targeting <140/90	• Lifestyle changes • BP drugs targeting <140/90	• Lifestyle changes • Immediate BP drugs targeting <140/90

BP = blood pressure; CKD = chronic kidney disease; CV = cardiovascular; CVD = cardiovascular disease; DBP = diastolic blood pressure; HT = hypertension; OD = organ damage; RF = risk factor; SBP = systolic blood pressure.

What Elements Does “Evidence-Based” Sentencing Incorporate?



An “Evidence-Based” Approach IS the Dynamic Process

- All have developed somewhat independent of one another
- Where they meet is where rational, evidence-based decision-making occurs
- All three can and should change
- Need all to engage in a dynamic feedback loop for system-wide improvement of outcomes



Have We Incorporated the Best Research & Data?

*“What is done [today] in corrections
would be grounds for malpractice in
medicine.”*

(2002) Latessa, Cullen, and Gendreau,
“Beyond Correctional Quackery...”

Top Concerns of State Trial Judges:

1. High rates of recidivism
2. Ineffectiveness of traditional probation supervision in reducing recidivism
3. Absence of effective community corrections programs
4. Restrictions on judicial discretion

-Conference of Chief Justices
National Center for State Courts, 2008

Public Input / Concerns

KEY TAKEAWAYS

1. American voters believe too many people are in prison and the nation spends too much on imprisonment.
2. Voters overwhelmingly support a variety of policy changes that shift non-violent offenders from prison to more effective, less expensive alternatives.
3. Support for sentencing and corrections reforms (including reduced prison terms) is strong across political parties, regions, age, gender, and racial/ethnic groups.

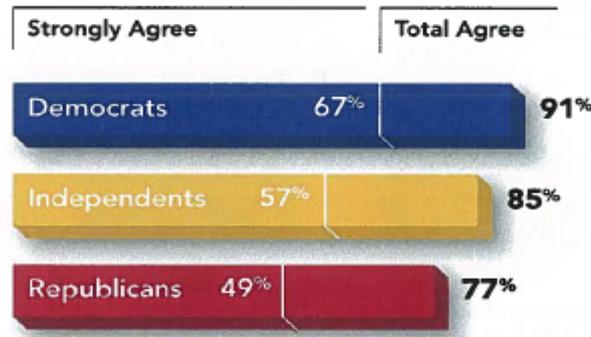
THE BOTTOM LINE...

"Some of the money that we are spending on locking up low-risk, non-violent inmates should be shifted to strengthening community corrections programs like probation and parole."

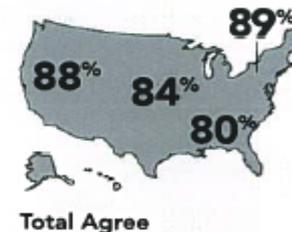
Overall



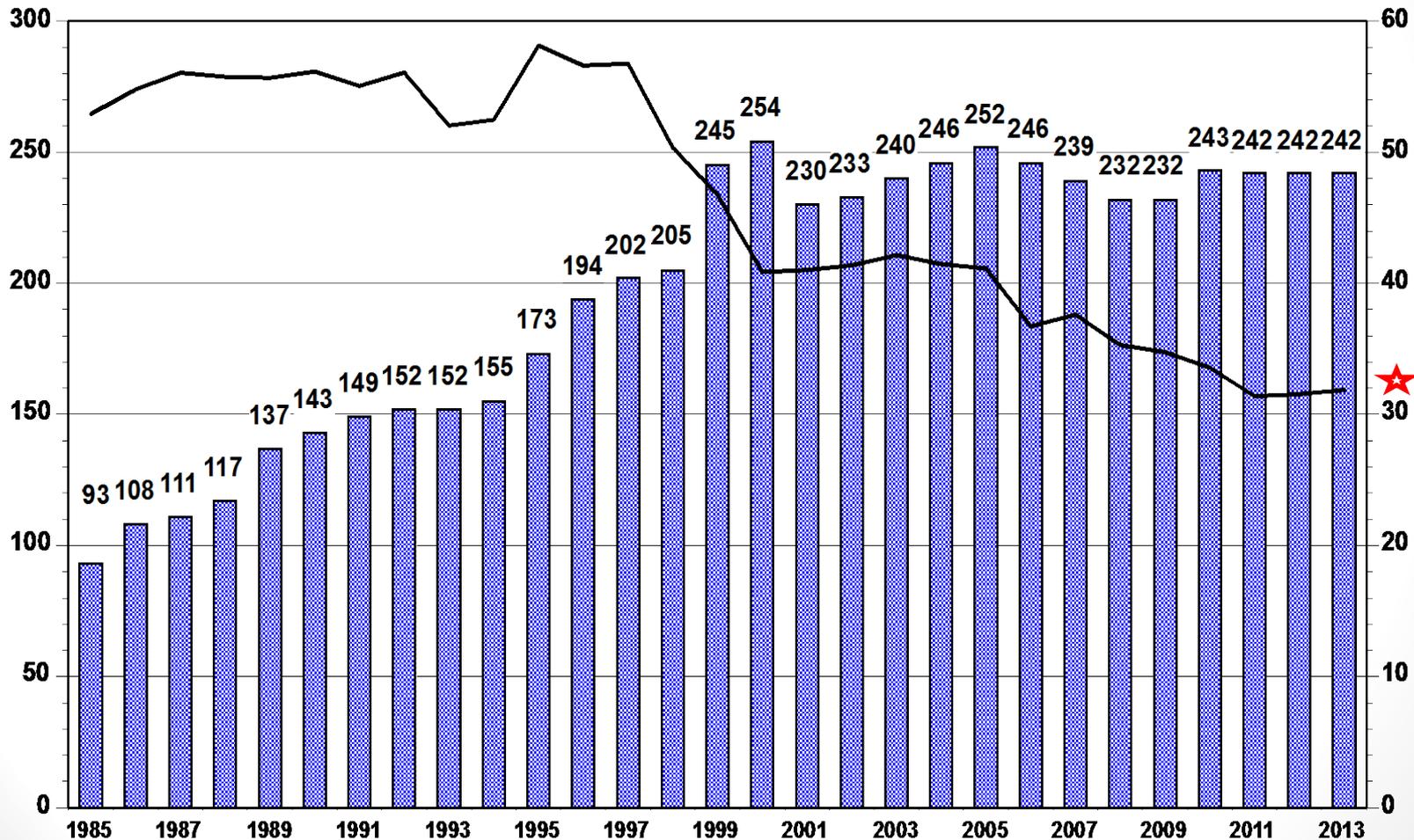
By Party Identification



By Region



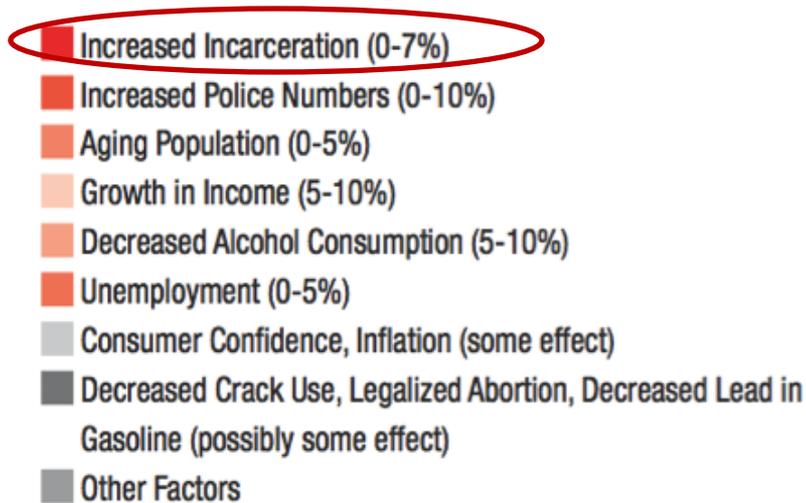
Index Crime Rate per 1,000 versus Utah Incarceration Rate per 100,000 1985 - 2013



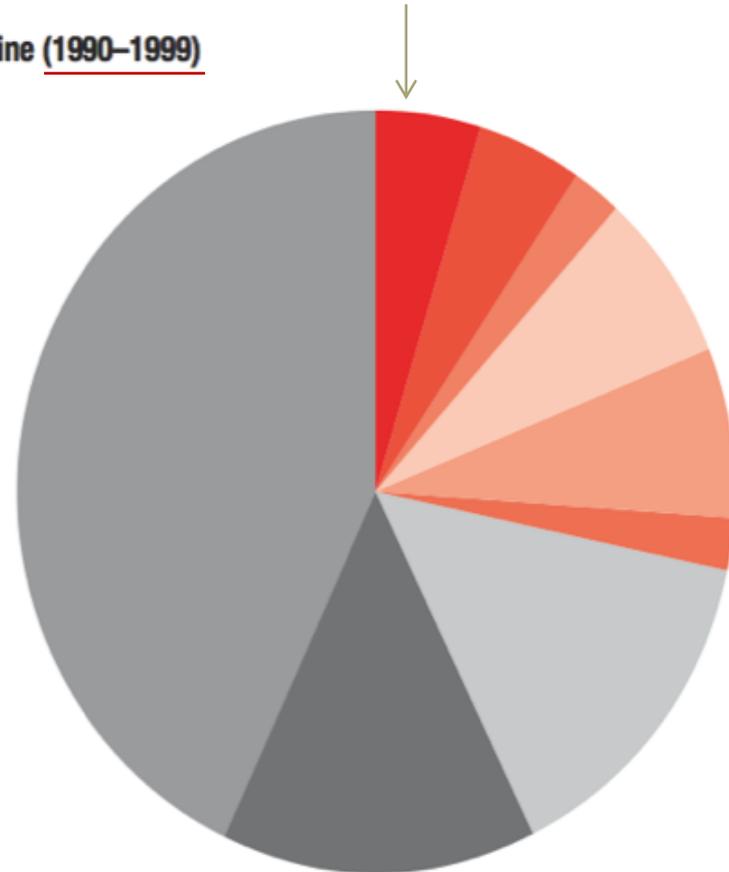
★ Similar crime rate trends nationwide (decreased crime rates) which do not correlate with incarceration rates.

Theories on Cause of Nationwide Crime Decline

Percent of Crime Decline (1990–1999)



*Use of Death Penalty, Enactment of Right-to-Carry Laws (no evidence of an effect)



Brennan Center for Justice, NYU Law School
'What Caused the Crime Decline?' February 2015

Percent of Crime Decline (2000–2013)



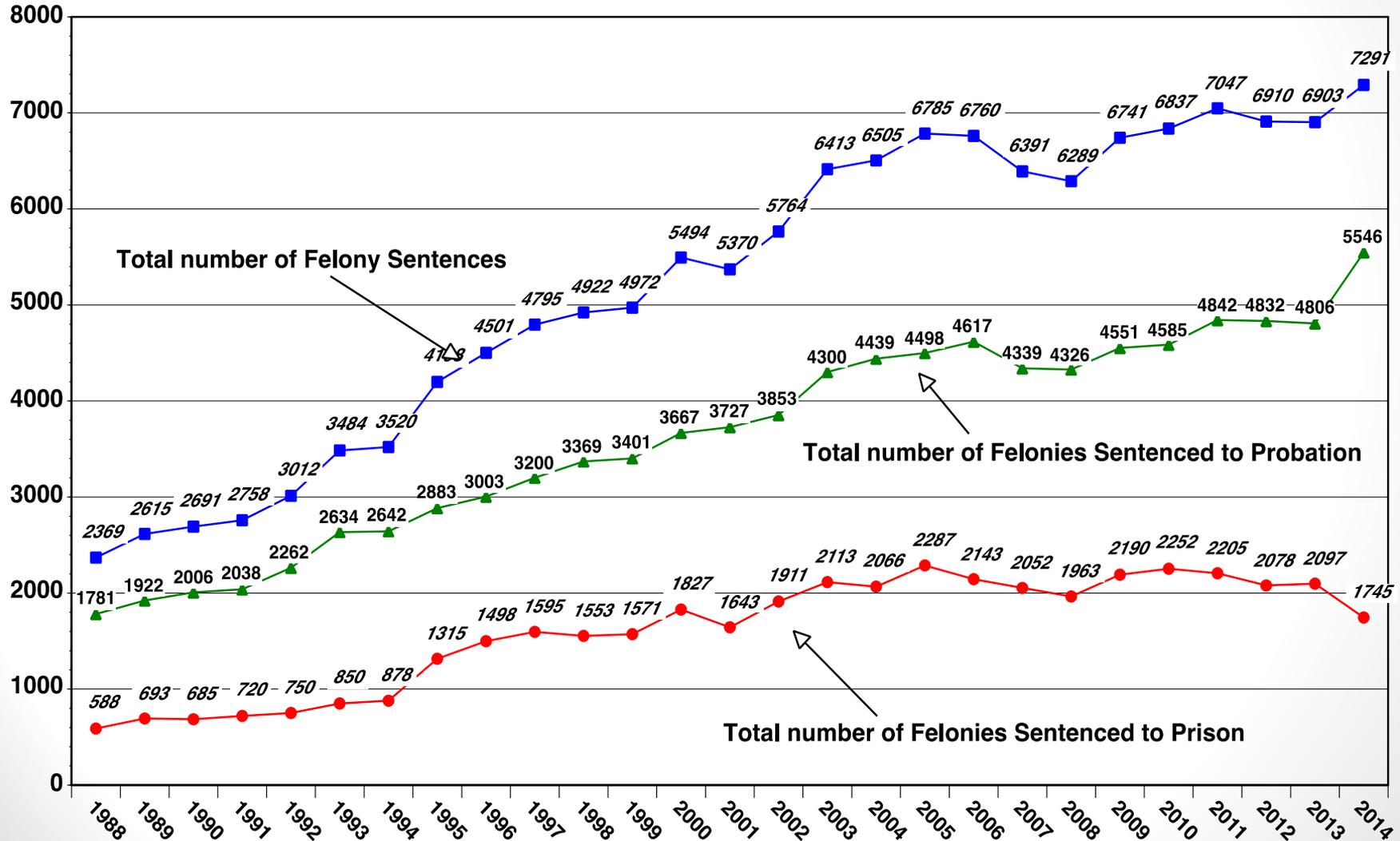
- Increased Incarceration (0-1%)
- Growth in Income (5-10%)
- Decreased Alcohol Consumption (5-10%)
- Introduction of CompStat (some effect)
- Consumer Confidence, Inflation (some effect)
- Other Factors

- * Decreased Crack Use, Legalized Abortion, Decreased Lead in Gasoline (likely no effect)
- * Use of Death Penalty, Enactment of Right-to-Carry Laws, Increased Police Numbers, Aging Population, Unemployment (no evidence of an effect)



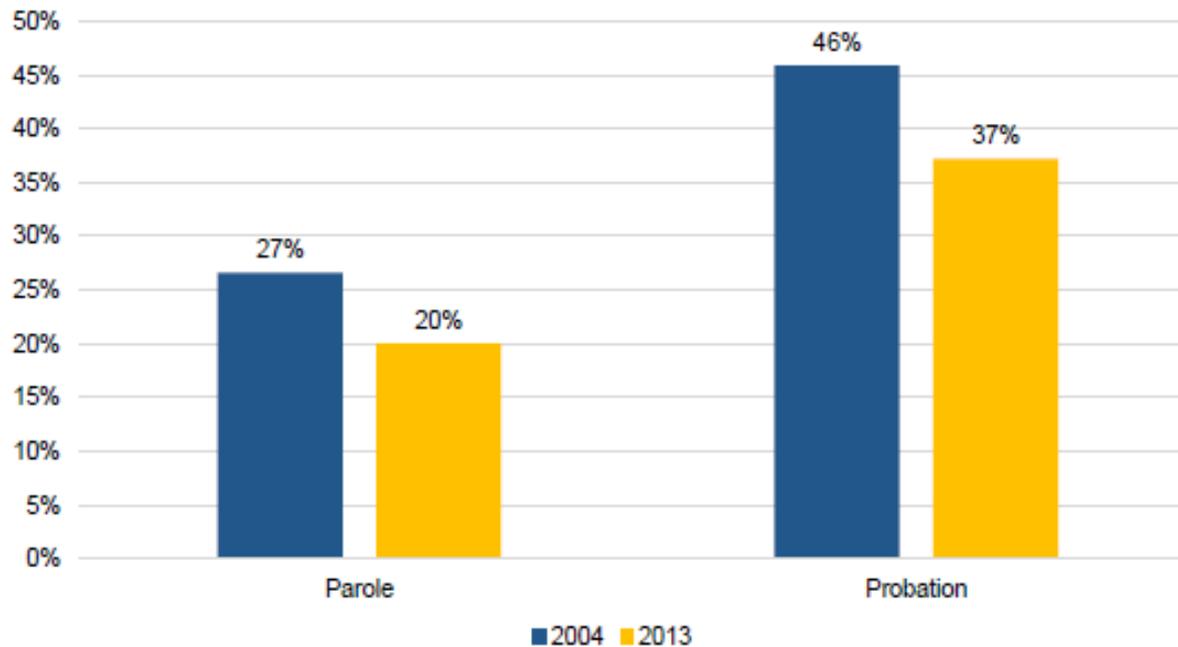
Felony Sentencing 1988 - 2014

(76% Sentenced to Probation;
95% Sentenced to Prison Eventually Released)

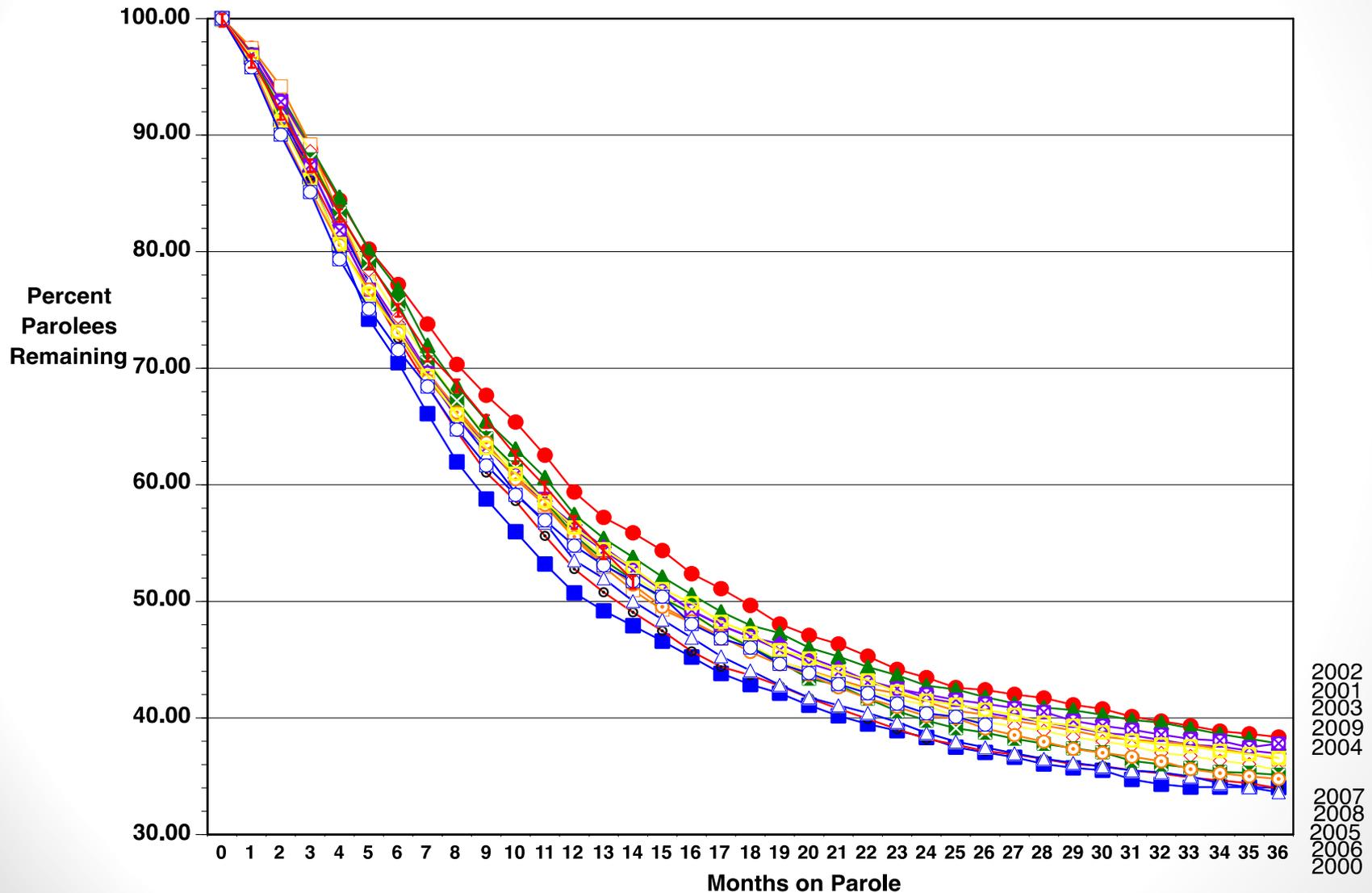


Declining Rates of Success for Probation & Parole

Parole and Probation Successful Discharge Rates, 2004 vs. 2013

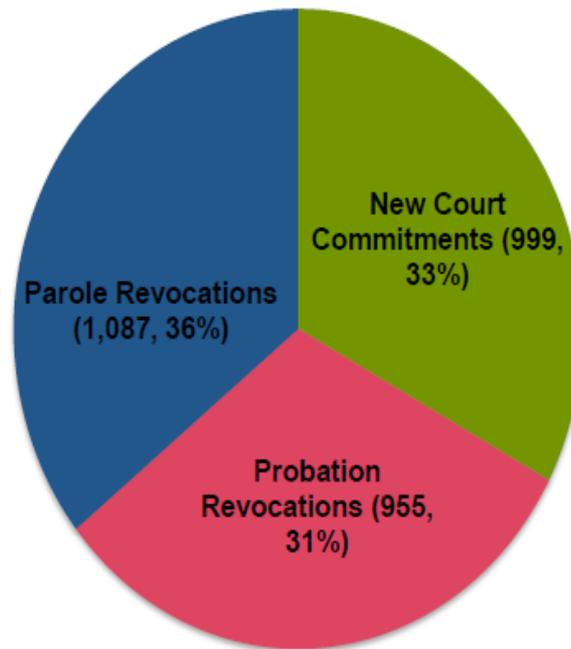


Parole Recidivism 2000 through 2013

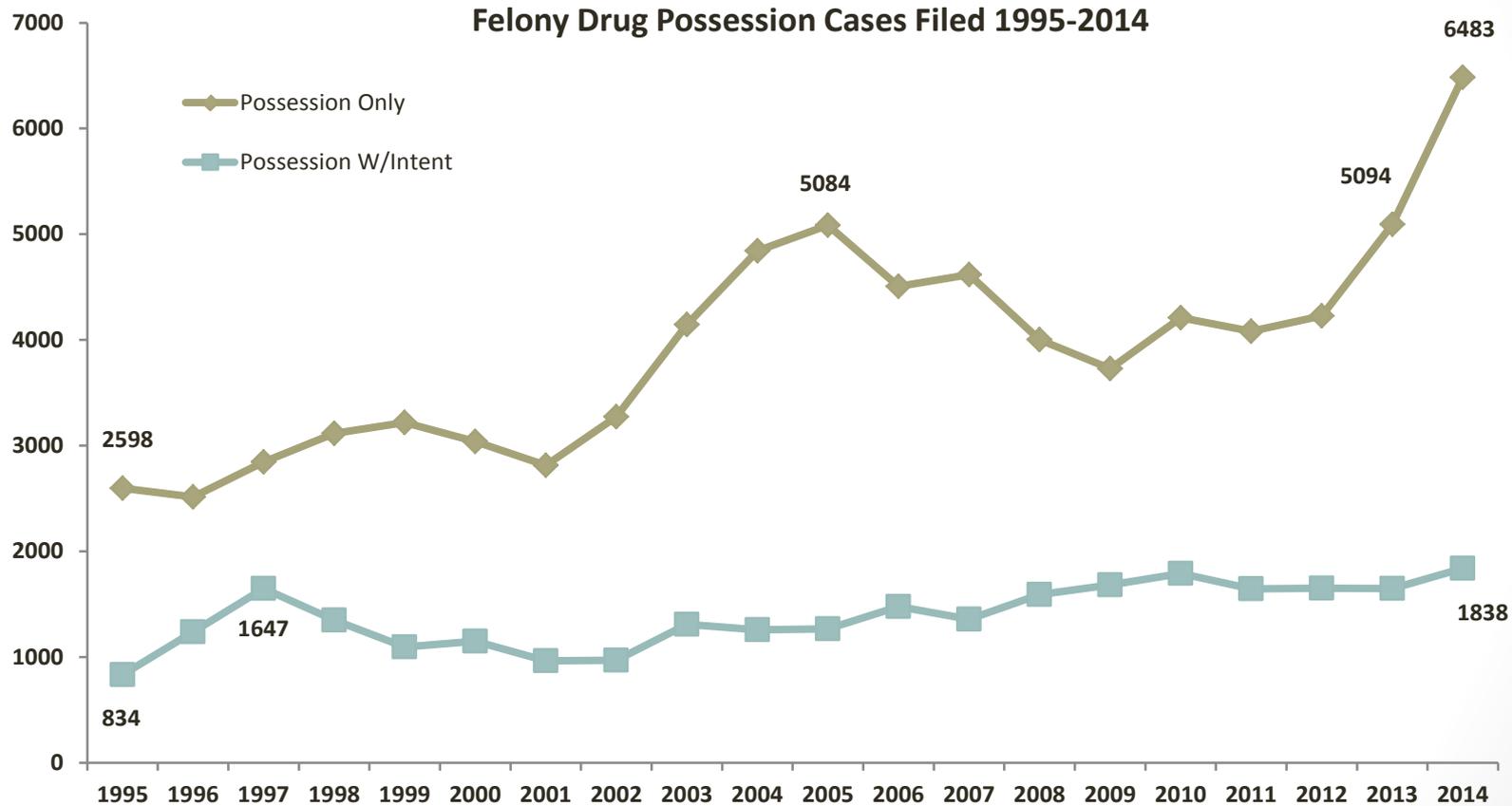


Two-Thirds of All Admissions to Prison are Probation/Parole Revocations

Prison Admissions by Type (2013)



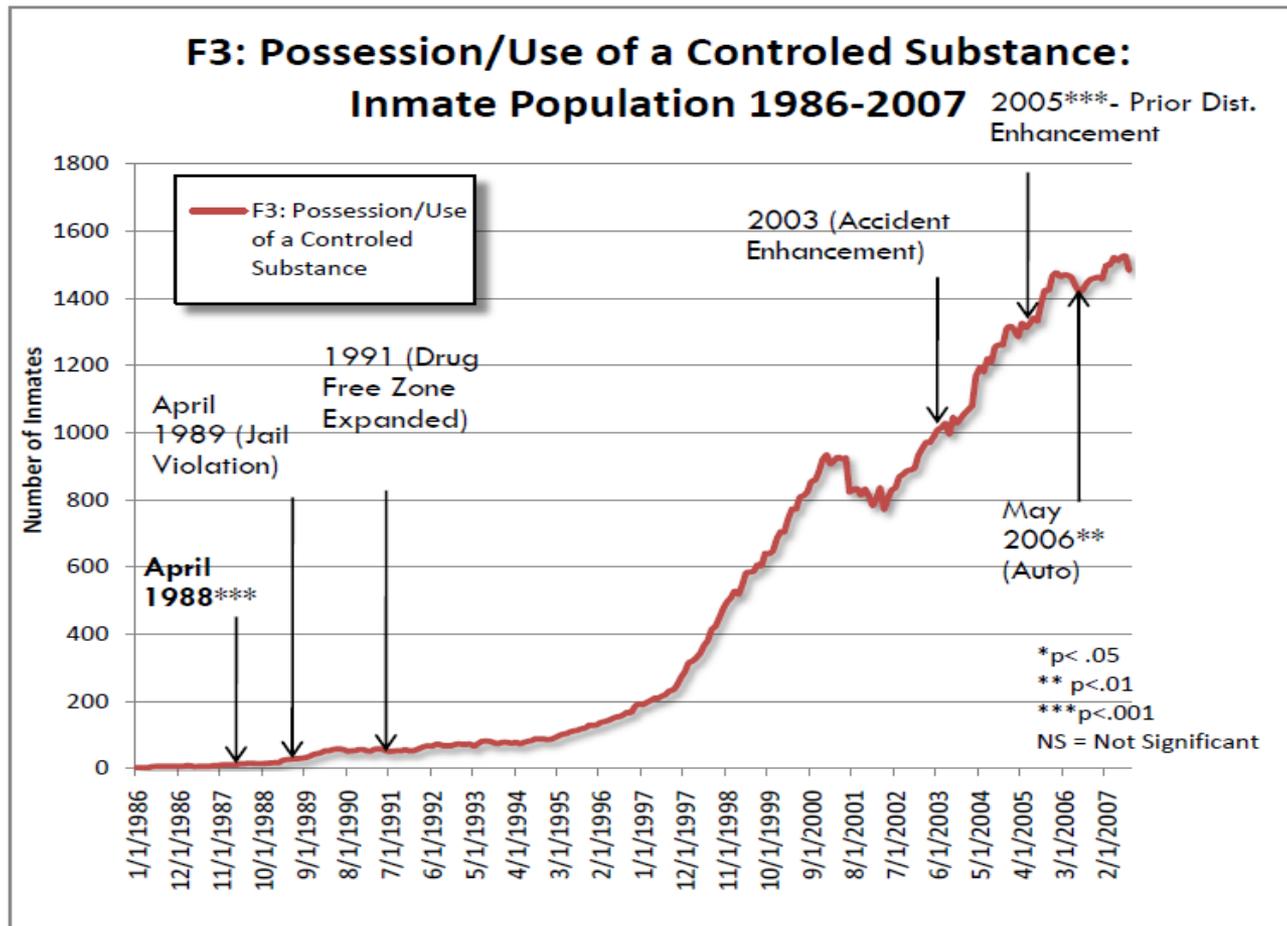
Felony Drug Possession Filings Up 150% Over Past 20 Years



*Utah Administrative Office of the Courts
November 2014*

Felony Drug Poss. Enhancements Added

(With No Statistically Significant Impact)



University of Utah Criminal Justice Center
Utah Sentence Inflation, July 2008, p. 17

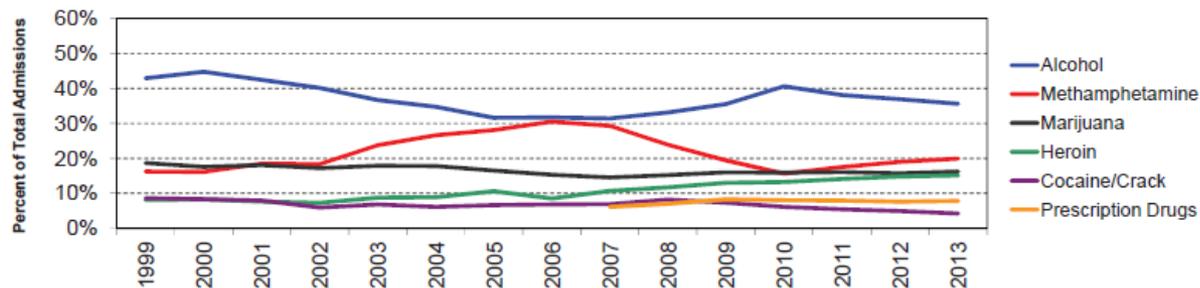
<http://ucjc.utah.edu/wp-content/uploads/961.pdf>

Crack Cocaine Use at All-Time Low, Heroin & Meth Use Increasing

Opioids are the second most abused drug at admission, accounting for just under 22% of all admissions. Methamphetamines and marijuana are the third and fourth most common drugs at admissions

with 19.9% and 16.2% of admissions respectively. For the fifth straight year, Cocaine/crack dropped again in 2013 to 4.2%, the lowest on record.

Top Drugs of Choice by Year
Fiscal Year 1999 to Fiscal Year 2013

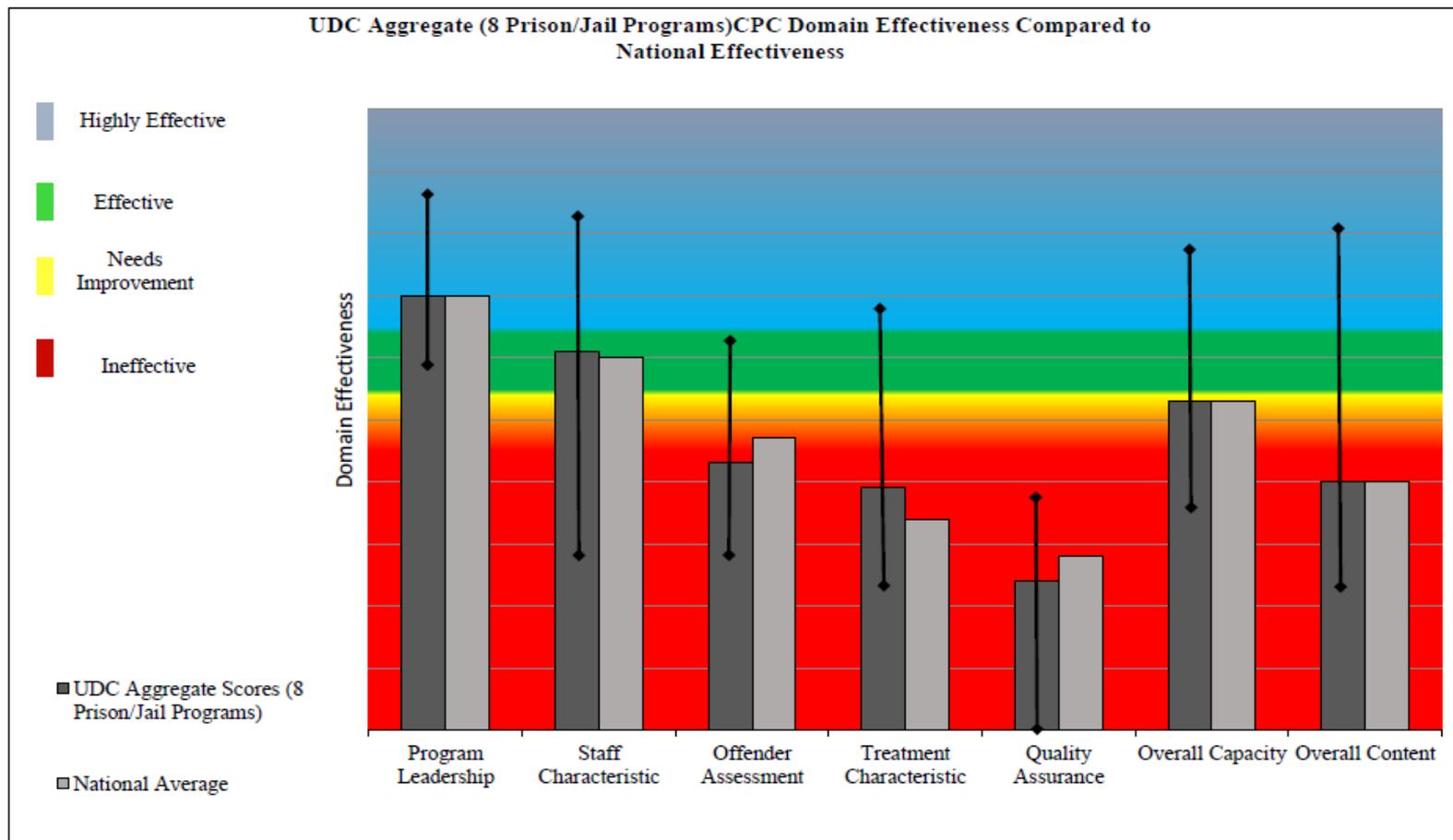


Correctional Program Checklist

University of Utah Assessment of UDC Programs

<http://ucjc.utah.edu/adult-offenders/utah-commission-on-criminal-and-juvenile-justice-and-utah-department-of-corrections-evidence-based-practice-adherence-summary-report>

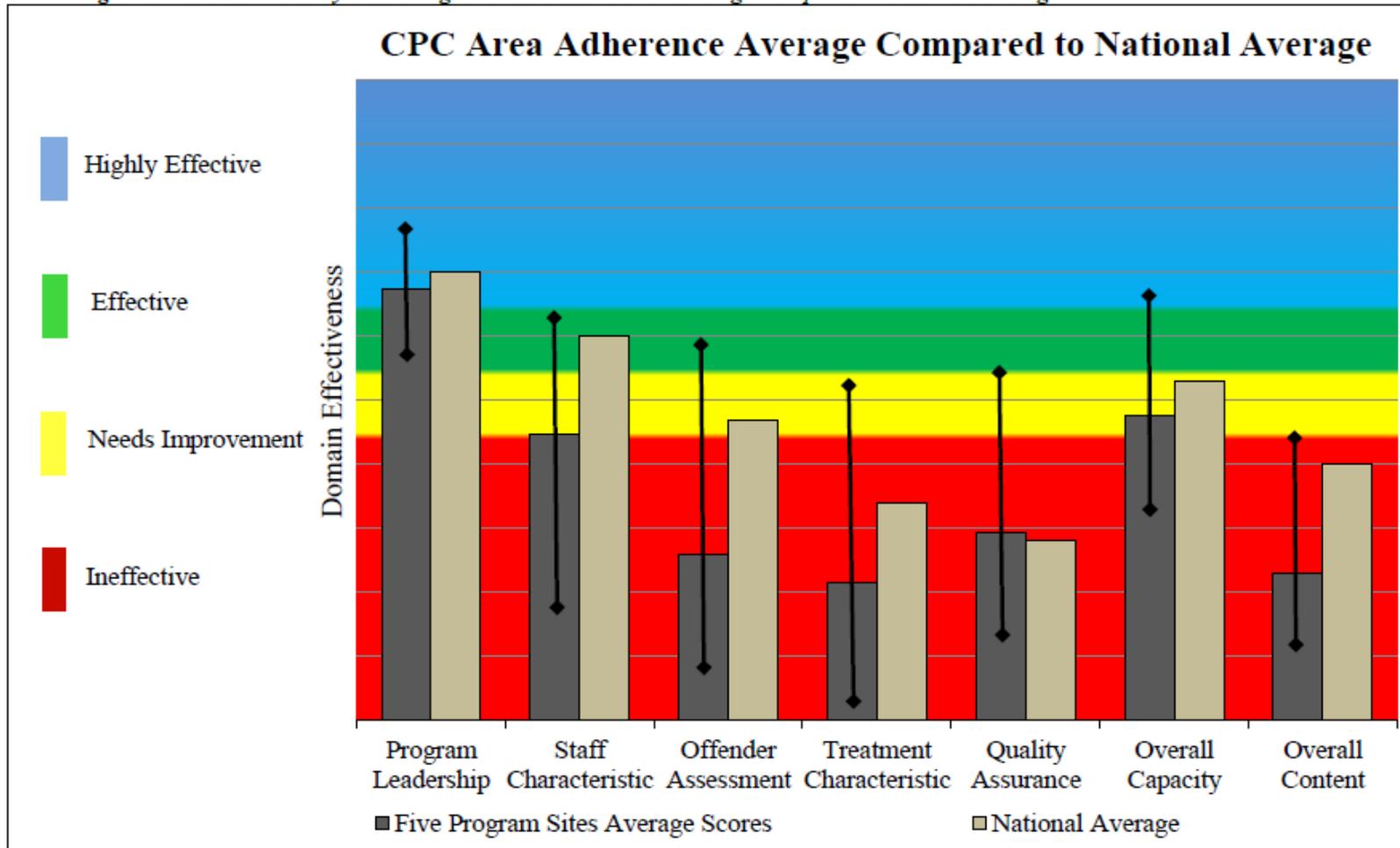
Figure 3. UDC 2014 Programs' Area Adherence Average Compared to National Average



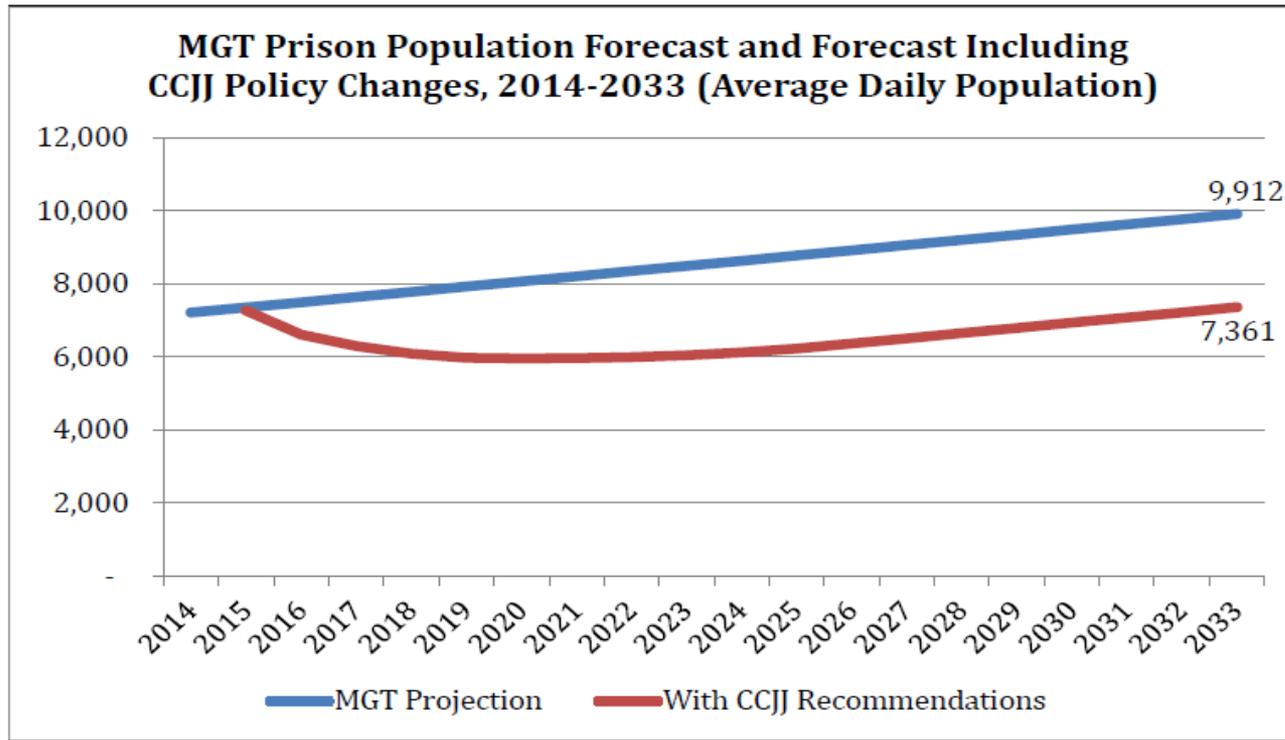
University of Utah Assessment of Salt Lake County Programs

http://ucjcutah.edu/wp-content/uploads/12_30_2013_Salt-Lake-County_CPC-Pilot_Report_Final-for-Distribution.pdf

Figure 2. Salt Lake County 2013 Programs' Area Adherence Average Compared to National Average



Cost of Doing Nothing = \$542 Million



CCJJ recommends that a portion of the savings from averted prison costs be reinvested into expanding treatment options, strengthening community supervision, improving reentry services, and reducing burdens on local jurisdictions.

Legislative Penalty & Fiscal Impact Tracking

Sentencing Commission Legislative Update **2015**

2015 Totals *									
1 st New Degree Felonies	2 nd New Degree Felonies	3 rd New Degree Felonies	New Class A Misdemeanors	New Class B Misdemeanors	New Class C Misdemeanors	New Infractions	New Fines or Fees	Anticipated Prison Admissions	Anticipated Fiscal Impact [‡]
1		5	11	16	38	257	9		\$15,051,000
2014 Totals									
		4	5	7	1		5		\$105,600
2013 Totals									
3	10	4	2	11	1			7.3	\$6,663,850
2012 Totals									
1	12	16	13	26	6	1	4		\$1,780,400
2011 Totals									
	10	4	2	11	1			7.3	\$6,663,850
2010 Totals									
1	3	4	6	14	4		4		\$918,000



* New Crime totals include penalties increased or decreased from a previously existing penalty.
 ‡ The anticipated fiscal impact predicts costs to state agencies in only the fiscal year indicated and does not include ongoing costs or the costs to county or local governments.
 † Information regarding new fines or fees to offenders was not tracked in these years.

★ JRI funding of approximately \$14 million dollars is the first investment not tied to anticipated prison admissions.

Evidence-Based Sentencing Framework

- GOALS:
 - Risk Management (Accountability, Incapacitation, Punishment)
[Forms 1-5a]
 - Risk Reduction (Recidivism)
[Forms 6-10]
 - Restitution
- PROCESS:
 - Swift, certain, consistent & proportionate
 - Fundamentally fair
- TOOLS:
 - Policies, grids & guidelines
 - Graduated continuum of rewards, incentives, services, sanctions

2015

Criminal History Assessment

FORM 1 – GENERAL MATRIX CRIMINAL HISTORY ASSESSMENT

These are guidelines only. They do not create any right or expectation on behalf of the offender. Matrix time frames refer to imprisonment only. Refer to the categorization of offenses. Capital offenses are not considered within the context of the sentencing guidelines.

PRIOR FELONY CONVICTIONS
(SEPARATE ADULT CONVICTIONS)

0 NONE
2 ONE
4 TWO
6 THREE
8 FOUR +

PRIOR PERSON CRIME CONVICTIONS
(PRIOR ADULT OR JUVENILE CONVICTION)

0 NONE
2 PERSON CRIME
4 PERSON CRIME
W/INJURY

PRIOR CLASS A MISDEMEANOR CONVICTIONS
(SEPARATE ADULT CONVICTIONS)

0 NONE
1 ONE OR TWO
2 THREE - FIVE
3 SIX +

PRIOR JUVENILE ADJUDICATIONS WITHIN
PAST 10 YEARS (OFFENSES THAT WOULD
HAVE BEEN FELONIES IF COMMITTED BY
AN ADULT) (THREE CLASS A MISDEMEANOR
ADJUDICATIONS EQUAL ONE FELONY)

0 NONE
1 ONE
2 TWO - FOUR
3 FIVE +

SUPERVISION HISTORY
(ADULT OR JUVENILE)(SUCCESSFUL INCLUDES
ALL FORMS OF PROBATION; OTHERWISE, DO
NOT COUNT PRETRIAL OR COURT SUPERV.)

-1 SUCCESSFUL COMPL.
0 NO PRIOR SUPERV.
2 PRIOR REVOCATION
3 CURRENT OFFENSE
ON SUPERV.

TOTAL SCORE: _____

OFFENDER'S NAME:	SCORER'S NAME:	DATE SCORED:	CRIMINAL HISTORY ROW	
ACTIVE CONVICTIONS (MOST SERIOUS FIRST):	CRIME CATEGORY:	TIME:	V	16+
			IV	12 - 15
			III	8 - 11
			II	4 - 7
		TOTAL:	I	0 - 3

2015 Criminal History Assessment

FORM 1 – GENERAL MATRIX CRIMINAL HISTORY ASSESSMENT

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<p>PRIOR FELONY CONVICTIONS (SEPARATE ADULT CONVICTIONS)</p>	<p>0 NONE 2 ONE 4 TWO 6 THREE 8 FOUR +</p>	<p>PRIOR PERSON CRIME CONVICTIONS (PRIOR ADULT OR JUVENILE CONVICTION)</p>	<p>0 NONE 2 PERSON CRIME 4 PERSON CRIME W/INJURY</p>
<p>PRIOR CLASS A MISDEMEANOR CONVICTIONS (SEPARATE ADULT CONVICTIONS)</p>	<p>0 NONE 1 ONE OR TWO 2 THREE - FIVE 3 SIX +</p>	<p>PRIOR JUVENILE ADJUDICATIONS WITHIN PAST 10 YEARS (OFFENSES THAT WOULD HAVE BEEN FELONIES IF COMMITTED BY AN ADULT) (THREE CLASS A MISDEMEANOR ADJUDICATIONS EQUAL ONE FELONY)</p>	<p>0 NONE 1 ONE 2 TWO - FOUR 3 FIVE +</p>
<p>SUPERVISION HISTORY (ADULT OR JUVENILE)(SUCCESSFUL INCLUDES ALL FORMS OF PROBATION; OTHERWISE, DO NOT COUNT PRETRIAL OR COURT SUPERV.)</p>	<p>-1 SUCCESSFUL COMPL. 0 NO PRIOR SUPERV. 2 PRIOR REVOCATION 3 CURRENT OFFENSE ON SUPERV.</p>	<p>*Weapons in Current Offense Removed</p>	
<p>TOTAL SCORE: _____</p>			

*Supervision History & Risk Combined

OFFENDER'S NAME:	SCORER'S NAME:	DATE SCORED:	CRIMINAL HISTORY ROW	
ACTIVE CONVICTIONS (MOST SERIOUS FIRST):	CRIME CATEGORY:	TIME:	V	16+
			IV	12 - 15
			III	8 - 11
			II	4 - 7
		TOTAL:	I	0 - 3

Highlights of Criminal History Assessment Revisions:

- More focused instructions on pages 13 – 15
 - Bullet points added to answer frequently asked questions
- Number of categories reduced from 7 to 5
 - Eliminated weapons use in current offense
 - Combined supervision risk with supervision history
- Points counting simplified:
 - 2014: 6 points for 3 convictions; 8 points for “more than 3”
 - 2015: 6 points for 3, 8 points for 4 (no such thing as 3.5)
- Misdemeanor scoring section narrowed to only Class A’s
- Violence History revised to Person Crimes with or without injury
 - Can include Class B Person Crimes in this category
 - Can include juvenile dispositions
 - See Addendum B for complete listing of person crimes

- Juvenile Adjudications revised
 - Limited to 10 years prior
 - Misdemeanors also limited to Class A's
 - Secure Care removed
- Supervision History revised
 - “Successful” includes all forms of supervision (consider separately from points counted negatively)
 - Intended to incentivize compliance with all court orders of probation
 - Prior revocation & offense on supervision are the only points counted negatively
 - Pre trial or court supervision not included in points counted negatively
 - No points counted negatively just for being placed on supervision
 - Maximum of 3 points possible; may be offset with -1 for cumulative total of 2 or 1
- Applies to both Misdemeanors & Felonies
- Form 2 may be used to account for other aggravating/mitigating factors relevant to the risk management goal of sentencing
- The LS-RNR contains a separate criminal history assessment which is more comprehensive and applicable to the risk reduction goal of sentencing

2015

Form 1 Matrix

CRIME CATEGORY

		1 st Degree Murder A	1 st Degree Death B	2 nd Degree Death C	1 st Degree Person D	3 rd Degree Death E	1 st Degree Other F	2 nd Degree Person G	3 rd Degree Person H	2 nd Degree Other I	2 nd Degree Poss. J	3 rd Degree Other K	3 rd Degree Poss. L
CRIMINAL HISTORY	V	24 YRS	10 YRS	*	10 YRS	48 MOS	84 MOS	54 MOS	32 MOS	26 MOS	16 MOS	16 MOS	14 MOS
	IV	22 YRS	9 YRS	*	9 YRS	42 MOS	78 MOS	42 MOS	26 MOS	20 MOS	14 MOS	14 MOS	12 MOS
	III	20 YRS	8 YRS	*	8 YRS	36 MOS	72 MOS	30 MOS	20 MOS	16 MOS	12 MOS	8 MOS	8 MOS
	II	20 YRS	7 YRS	*	7 YRS	24 MOS	66 MOS	24 MOS	16 MOS	14 MOS	10 MOS	6 MOS	6 MOS
	I	20 YRS	6 YRS	*	6 YRS	20 MOS	60 MOS	18 MOS	14 MOS	12 MOS	8 MOS	5 MOS	4 MOS

IMPRISONMENT

INTERMEDIATE SANCTIONS

PRESUMPTIVE PROBATION

2015 Form 1 Matrix

Down 6 months Down 4 months

CRIME CATEGORY

	1 st Degree Murder A	1 st Degree Death B	2 nd Degree Death C	1 st Degree Person D	3 rd Degree Death E	1 st Degree Other F	2 nd Degree Person G	3 rd Degree Person H	2 nd Degree Other I	2 nd Degree Poss. J	3 rd Degree Other K	3 rd Degree Poss. L	
CRIMINAL HISTORY	V	24 YRS	10 YRS	*	10 YRS	48 MOS	84 MOS	54 MOS	32 MOS	26 MOS	16 MOS	16 MOS	14 MOS
IV	MANDATORY IMPRISONMENT	22 YRS	9 YRS	*	9 YRS	42 MOS	78 MOS	42 MOS	26 MOS	20 MOS	14 MOS	14 MOS	12 MOS
III		20 YRS	8 YRS	*	8 YRS	36 MOS	72 MOS	30 MOS	20 MOS	16 MOS	12 MOS	8 MOS	8 MOS
II		20 YRS	7 YRS	*	7 YRS	24 MOS	66 MOS	24 MOS	16 MOS	14 MOS	10 MOS	6 MOS	6 MOS
I		20 YRS	6 YRS	*	6 YRS	20 MOS	60 MOS	18 MOS	14 MOS	12 MOS	8 MOS	5 MOS	4 MOS

IMPRISONMENT

INTERMEDIATE SANCTIONS

PRESUMPTIVE PROBATION

Half-shaded cells are now all Intermediate Sanctions

"Presumptive" added to emphasize white shading generally indicates probation .

CRIME CATEGORY

2015

CRIMINAL HISTORY

		1 st Degree Murder	1 st Degree Death	2 nd Degree Death	1 st Degree Person	3 rd Degree Death	1 st Degree Other	2 nd Degree Person	3 rd Degree Person	2 nd Degree Other	2 nd Degree Poss.	3 rd Degree Other	3 rd Degree Poss.
		A	B	C	D	E	F	G	H	I	J	K	L
CRIMINAL HISTORY	V	24 YRS	10 YRS	*	10 YRS	48 MOS	84 MOS	54 MOS	32 MOS	26 MOS	16 MOS	16 MOS	14 MOS
	IV	22 YRS	9 YRS	*	9 YRS	42 MOS	78 MOS	42 MOS	26 MOS	20 MOS	14 MOS	14 MOS	12 MOS
	III	20 YRS	8 YRS	*	8 YRS	36 MOS	72 MOS	30 MOS	20 MOS	16 MOS	12 MOS	8 MOS	8 MOS
	II	20 YRS	7 YRS	*	7 YRS	24 MOS	66 MOS	24 MOS	16 MOS	14 MOS	10 MOS	6 MOS	6 MOS
	I	20 YRS	6 YRS	*	6 YRS	20 MOS	60 MOS	18 MOS	14 MOS	12 MOS	8 MOS	5 MOS	4 MOS

CRIME CATEGORY

2014

CRIMINAL HISTORY

		A	B	C	D	E	F	G	H	I	J	K	L
		1st Degree Murder	1st Degree Death	2nd Degree Death	1st Degree Person	3rd Degree Death	1st Degree Other	2nd Degree Person	3rd Degree Person	2nd Degree Other	2nd Dgree Possession	3rd Degree Other	3rd Degree Possession
CRIMINAL HISTORY	V	24 YRS	10 YRS	*	10 YRS	48 MOS	84 MOS	60 MOS	36 MOS	30 MOS	20 MOS	20 MOS	18 MOS
	IV	22 YRS	9 YRS	*	9 YRS	42 MOS	78 MOS	48 MOS	30 MOS	24 MOS	18 MOS	18 MOS	16 MOS
	III	20 YRS	8 YRS	*	8 YRS	36 MOS	72 MOS	36 MOS	24 MOS	20 MOS	16 MOS	12 MOS	12 MOS
	II	20 YRS	7 YRS	*	7 YRS	24 MOS	66 MOS	30 MOS	20 MOS	18 MOS	14 MOS	10 MOS	10 MOS
	I	20 YRS	6 YRS	*	6 YRS	20 MOS	60 MOS	24 MOS	18 MOS	16 MOS	12 MOS	9 MOS	8 MOS

MISDEMEANORS

Form 2 Revisions:

Form 2 AGGRAVATING AND MITIGATING CIRCUMSTANCES

(Use Form 4 also for Sex Offenses with Three Alternative Minimum Lengths of Stay)

Note any aggravating or mitigating circumstances that may justify departure from the guidelines by entering the page number of the presentence report where the court can find supporting information.

This list of aggravating and mitigating factors is non-exhaustive and illustrative only. The weight given to each factor by the sentencing authority will vary in each case. Any one factor could outweigh some or all other factors.

Aggravating Circumstances

Only use aggravating circumstances if they are not an element of the offense.

PSI Page

- ___1. Established instances of repetitive criminal conduct. ← Removed (double counting)
- ___2. Multiple documented incidents of violence not resulting in conviction. (Requires court approved stipulation.)
- ___3. Offender presents a serious threat of violent behavior.
- ___4. Victim was particularly vulnerable.
- ___5. Injury to person or property loss was unusually extensive.
- ___6. Offense was characterized by extreme cruelty or depravity.
- ___7. There were multiple charges or victims.
- ___8. Offender's attitude is not conducive to supervision in a less restrictive setting.
- ___9. Offender continued criminal activity subsequent to arrest.
- ___10. Sex Offenses: Correction's formal assessment procedures classify as a high risk offender.
- ___11. Offender was in position of authority over victim(s).
- ___12. Financial crime or theft crime involved numerous victims, an exploitation of a position of trust, a substantial amount of money, or receipt of money from sources including, but not limited to, equity in a person's home or a person's retirement fund.
- ___13. Offender occupied "position of trust" in relation to murder/homicide victim(s) (U.C.A. 76-3-406.5(2))
- ___14. Offense constitutes a "hate crime" in that it is likely to incite community unrest; cause community to reasonably fear for physical safety or freely exercise constitutionally secured rights (U.C.A. 76-3-203.4)
- ___15. Violence committed in the presence of a child.
- ___16. Other (Specify) _____

Mitigating Circumstances

- ___1. Offender's criminal conduct neither caused nor threatened serious harm.
- ___2. Offender acted under strong provocation.
- ___3. There were substantial grounds to excuse or justify criminal behavior, though failing to establish a defense.
- ___4. Offender is young.
- ___5. Offender assisted law enforcement in the resolution of other crimes.
- ___6. Restitution would be severely compromised by incarceration.
- ___7. Offender's attitude suggests amenability to supervision.
- ___8. Offender has exceptionally good employment and/or family relationships.
- ___9. Imprisonment would entail excessive hardship on offender or dependents. ← Revised: low risk may now be considered a mitigating factor
- ___10. Offender has extended period of arrest-free street time.
- ___11. Offender was less active participant in the crime.
- ___12. All offenses were from a single criminal episode.
- ___13. Offense(s) was "possession only" drug offense. (see "possession only" offenses, Addendum B)
- ___14. Offender has completed or has nearly completed payment of restitution.
- ___15. Other (Specify) _____

Form 3

Criminal History Assessment

FORM 3 – SEX & KIDNAP OFFENDER MATRIX CRIMINAL HISTORY ASSESSMENT

These are guidelines only. They do not create any right or expectation on behalf of the offender. Matrix time frames refer to imprisonment only.

PRIOR FELONY CONVICTIONS (SEPARATE ADULT CONVICTIONS)	0 NONE 2 ONE 4 TWO 6 THREE 8 FOUR+	PRIOR PERSON CRIME CONVICTIONS (PRIOR ADULT OR JUVENILE CONVICTION)	0 NONE 2 PERSON CRIME 4 PERSON CRIME W/INJURY
PRIOR CLASS A MISDEMEANOR CONVICTIONS (SEPARATE ADULT CONVICIONS)	0 NONE 1 ONE OR TWO 2 THREE - FIVE 3 SIX +	PRIOR JUVENILE ADJUDICATIONS WITHIN PAST 10 YEARS (OFFENSES THAT WOULD HAVE BEEN FELONIES IF COMMITTED BY AN ADULT) (THREE CLASS A MISDEMEANOR ADJUDICATIONS EQUAL ONE FELONY)	0 NONE 1 ONE 2 TWO - FOUR 3 FIVE +
SUPRVISION HISTORY (ADULT OR JUVENILE)(SUCCESSFUL INCLUDES ALL FORMS OF PROBATION; OTHERWISE, DO NOT INCLUDE PRETRIAL OR COURT SUPERV.)	-1 SUCCESSFUL COMPL. 0 NO PRIOR SUPERV. 2 PRIOR REVOCATION 3 CURRENT OFFENSE ON SUPERV.	NUMBER OF PRIOR SEX/KIDNAP VICTIMS (EXCLUDING PRESENT VICTIM)	0 NO PRIOR VICTIMS 3 ONE PRIOR 4 TWO +

*Removed time range offending

TOTAL SCORE: _____

OFFENDER'S NAME:	SCORER'S NAME:	DATE SCORED:	CRIMINAL HISTORY ROW	
ACTIVE CONVICTIONS (MOST SERIOUS FIRST):	CRIME CATEGORY:	TIME:	III	7+
			II	4 - 6
			I	0 - 3
		TOTAL:		

Form 4 Revisions

Aggravating Circumstances

The following aggravating circumstances should only be considered if they are not an element of the offense.

PSI Page #

- ___ 1. The victim suffered substantial bodily injury or serious bodily injury.
- ___ 2. The offender has a prior history of such offenses. Prior history could be dependent on number of victims, length of involvement, number of incidents, or continued involvement subsequent to arrest.
- ___ 3. The offense was characterized by extreme cruelty or depravity.
- ___ 4. The victim was unusually vulnerable.
- ___ 5. There existed a relationship of special trust or offender was in position of authority over victim(s).
- ___ 6. Offender has previously failed to complete treatment or has completed treatment and re-offended.
- ___ 7. The suspect was not a member of the victim's immediate family.
- ___ 8. The defendant exhibited grooming, stalking or enticing behaviors.
- ___ 9. Other (Specify) _____

removed
(double counting)



Mitigating Circumstances

- ___ 1. The offense represents a single incident with the offender having no prior history of such offenses.
- ___ 2. The offender was exceptionally cooperative with law enforcement.
- ___ 3. Incest offender has strong, supportive family relationships.
- ___ 4. Offender is a good candidate for a recognized treatment program. Substance abuse treatment may be appropriate if the offense was specifically substance related.
- ___ 5. Developmental disabilities of the offender may be considered in mitigation if highly structured alternatives can be utilized to control the offender's criminal behavior.
- ___ 6. Other (Specify) _____



OFFENDER NAME: _____ DATE SCORED: _____
SCORER'S NAME: _____

Form 5 Revisions

FORM 5 – JAIL AS A CONDITION OF PROBATION MATRICES

Numbers in **unshaded cells** are presumptive probation sentences, meaning jail time should NOT necessarily be recommended to the court by the supervising agency. Alternative sanctions and/or non-incarceration sanctions are encouraged in these cells.

Lighter shaded cells are indicative of intermediate sanctions / intensive supervision, which may include increased monitoring or supervision, electronic monitoring, referral to treatment resource centers, participation in residential programming, special conditions of probation, etc.

The **upper number in each cell** is the maximum incarceration period of jail time which should be imposed by the court at the time of sentencing. The mid-point in each cell is generally recommended for the supervising agency to begin the analysis with aggravating/mitigating factors to be considered in addition to validated assessment scores and the impact of incarceration upon risk to reoffend.

These notations apply to both forms 5 and 5a.

GENERAL MATRIX

(To be used with Form 1)

	2 nd Death	1 st Person	3 rd Death	1 st Other	2 nd Person	3 rd Person	2 nd Other	2 nd Poss	3 rd Other	3 rd Poss
V	365	365	365	365	365	300	300	300	270	150
IV	365	365	320	320	320	300	300	270	210	120
III	365	300	270	270	270	180	180	180	150	0-90
II	365	270	240	240	240	150	0-120	0-120	0-90	0-60
I	365	240	210	210	210	120	0-90	0-60	0-60	0-30

JAIL DAYS

INTERMEDIATE SANCTIONS

PRESUMPTIVE PROBATION

Form 5 Revisions

FORM 5 – JAIL AS A CONDITION OF PROBATION MATRICES

Numbers in **unshaded cells** are presumptive probation sentences, meaning jail time should NOT necessarily be recommended to the court by the supervising agency. Alternative sanctions and/or non-incarceration sanctions are encouraged in these cells.

Lighter shaded cells are indicative of intermediate sanctions / intensive supervision, which may include increased monitoring or supervision, electronic monitoring, referral to treatment resource centers, participation in residential programming, special conditions of probation, etc.

The **upper number in each cell** is the maximum incarceration period of jail time which should be imposed by the court at the time of sentencing. The mid-point in each cell is generally recommended for the supervising agency to begin the analysis with aggravating/mitigating factors to be considered in addition to validated assessment scores and the impact of incarceration upon risk to reoffend.

These notations apply to both forms 5 and 5a.

Added explanation

GENERAL MATRIX

(To be used with Form 1)

	2 nd Death	1 st Person	3 rd Death	1 st Other	2 nd Person	3 rd Person	2 nd Other	2 nd Poss	3 rd Other	3 rd Poss
V	365	365	365	365	365	300	300	300	270	150
IV	365	365	320	320	320	300	300	270	210	120
III	365	300	270	270	270	180	180	180	150	0-90
II	365	270	240	240	240	150	0-120	0-120	0-90	0-60
I	365	240	210	210	210	120	0-90	0-60	0-60	0-30

JAIL DAYS

INTERMEDIATE SANCTIONS

PRESUMPTIVE PROBATION

Down 30 days

Rows I and II up 30 days

Added 0- x for presumptive probation cells consistent with explanations above

GENERAL MATRIX

(To be used with Form 1)

2015

	2 nd Death	1 st Person	3 rd Death	1 st Other	2 nd Person	3 rd Person	2 nd Other	2 nd Poss	3 rd Other	3 rd Poss
V	365	365	365	365	365	300	300	300	270	150
IV	365	365	320	320	320	300	300	270	210	120
III	365	300	270	270	270	180	180	180	150	0-90
II	365	270	240	240	240	150	0-120	0-120	0-90	0-60
I	365	240	210	210	210	120	0-90	0-60	0-60	0-30

JAIL DAYS

INTERMEDIATE SANCTIONS

PRESUMPTIVE PROBATION

2014

	2 nd Death	1 st Person	3 rd Death	1 st Other	2 nd Person	3 rd Person	2 nd Other	2 nd Poss	3 rd Other	3 rd Poss
V	365	365	365	365	365	300	300	300	270	180
IV	365	365	320	320	320	300	300	270	210	180
III	365	300	270	270	270	180	180	180	150	120
II	365	270	240	240	240	120	120	120	90	60
I	365	240	210	210	210	90	90	60	60	30

Addition of New Form 5A – Misdemeanor Matrix

FORM 5A - MISDEMEANOR MATRIX

	Class A Person Crime	Class B Person Crime*	Class A Other	Class B DV Other*	Class A POCS	Class B*	Class C and Below
V	0-210 JAIL DAYS	0-180	0-150	0-120	0-90	0-60	
IV	0-180	0-150 INTERMEDIATE	0-120	0-90	0-75	0-45	
III	0-150	0-120	0-90	0-75	0-45	0-30 PRESUMPTIVE PROBATION/ALT. SANCT.	
II	0-120	0-90	0-60	0-45	0-30	0-15	
I	0-90	0-60	0-30	0-30	0-15	0-15	

10/2015

* "Class B Person Crime" includes domestic violence offenses involving spouses and/or intimate partners; "Class B DV Other" includes domestic violence offenses involving other cohabitants, property offenses, and other non-person crimes. "Class B" does not include DUI offenses. See DUI Matrix.

FORM 5A – MISDEMEANOR MATRIX CRIMINAL HISTORY ASSESSMENT

These are guidelines only. They do not create any right or expectation on behalf of the offender. Numbers in unshaded cells are presumptive probation sentences, meaning jail time should NOT necessarily be recommended to the court. Alternative sanctions and/or non-incarceration sanctions are encouraged in these cells. Lighter shaded cells are indicative of intermediate sanctions / intensive supervision, which may include increased monitoring or supervision, electronic monitoring, referral to treatment resource centers, participation in residential programming, special conditions of probation, etc. The upper number in each cell is the maximum incarceration period of jail time which should be imposed by the court at the time of sentencing. The mid-point in each cell is generally recommended to begin the analysis with aggravating/mitigating factors to be considered in addition to validated assessment scores and the impact of incarceration upon risk to reoffend.

PRIOR FELONY CONVICTIONS (SEPARATE ADULT CONVICTIONS)	0 NONE 2 ONE 4 TWO 6 THREE 8 FOUR +	PRIOR PERSON CRIME CONVICTIONS (PRIOR ADULT OR JUVENILE CONVICTION)	0 NONE 2 PERSON CRIME 4 PERSON CRIME W/INJURY
PRIOR CLASS A MISDEMEANOR CONVICTIONS (SEPARATE ADULT CONVICTIONS)	0 NONE 1 ONE OR TWO 2 THREE - FIVE 3 SIX +	PRIOR JUVENILE ADJUDICATIONS WITHIN PAST 10 YEARS (OFFENSES THAT WOULD HAVE BEEN FELONIES IF COMMITTED BY AN ADULT) (THREE CLASS A MISDEMEANOR ADJUDICATIONS EQUAL ONE FELONY)	0 NONE 1 ONE 2 TWO - FOUR 3 FIVE +
SUPERVISION HISTORY (ADULT OR JUVENILE)(SUCCESSFUL INCLUDES ALL FORMS OF PROBATION; OTHERWISE, DO NOT COUNT PRETRIAL OR COURT SUPERV.)	-1 SUCCESSFUL COMPL. 0 NO PRIOR SUPERV. 2 PRIOR REVOCATION 3 CURRENT OFFENSE ON SUPERV.		TOTAL SCORE: _____

OFFENDER'S NAME:	SCORER'S NAME:	DATE SCORED:	CRIMINAL HISTORY ROW		
ACTIVE CONVICTIONS (MOST SERIOUS FIRST):	CRIME CATEGORY:	TIME:	V	16+	
			IV	12 – 15	
			III	8 – 11	
			II	4 – 7	
		TOTAL:	I	0 - 3	

		CRIME CATEGORY					
		Class A Person Crime	Class B Person Crime*	Class A Other	Class B DV Other*	Class A POCS	Class B* Class C and Below
CRIMINAL HISTORY	V	0-210	0-180	0-150	0-120	0-90	0-60
	IV	0-180	0-150	0-120	0-90	0-75	0-45
	III	0-150	0-120	0-90	0-75	0-45	0-30
	II	0-120	0-90	0-60	0-45	0-30	0-15
	I	0-90	0-60	0-30	0-30	0-15	0-15

10/2015

* Class B Person Crime* Includes domestic violence offenses involving spouses and/or intimate partners; Class B DV Other* Includes domestic violence offenses involving other cohabitants, property offenses, and other non-person crimes. Class B* does not include DUI offenses. See DUI Matrix.

Form 5A is available via email to sentencingcommission@utah.gov prior to operationalization of the link to the eforms at www.sentencing.utah.gov

Addition of New Forms 6 - 10

- See pages 32 – 34 for step by step explanation
- Forms all work together as a structured decision-making approach to supervision (violations & accomplishments)
- Stakeholders contributed various forms in a highly collaborative process:
 - Form 6: Treatment Providers & Researchers
 - Form 7: Board of Pardons & Parole
 - Form 8: Drug Court Concepts
 - Form 9: AP&P RIM Pilot
 - Form 10: AP&P RIM Pilot; Caps from CCJJ & HB348

**RESPONSE INCENTIVE MATRIX (RIM) PILOT STUDY
SURVEY RESULTS
July 20, 2015**

Survey Participants

Respondent	Invitations Sent (#)	Response Rate (%)	Familiarity with Matrix (%)
Agents	57	35	-
Judges	14	50	86
Offenders	83	17	64
Stakeholders	57	16	67

Is the Response Incentive Matrix (RIM) Fair to Offenders?

Respondent	Perception ^a	
	Fair (%)	Lenient (%)
Agents	29	71
Judges	83	17
Stakeholders	33	67

^a Lenient includes those rating RIM as both Lenient and Too Lenient

^b Average scores (scale 1-3, with 1=Too Lenient): Agents=1.7; Judges=2.8; Stakeholders=1.9.

Do AP&P Agents Believe RIM Facilitates Positive Behavioral Change?

Statement	% Agree
Issuing sanctions according to RIM will change antisocial behavior	17
Issuing incentives will reinforce positive behavior	35
Using RIM rather than professional judgment alone will improve offenders' outcomes	6

How Does RIM Impact Agent's Work?

Statement	% Agree
RIM increases time agent spends responding to offender behavior	47
RIM allows agent to respond more quickly to offender behavior	7
RIM increases agent's ability to respond appropriately to offender behavior	13
RIM increases agent's use of incentives	29
Agent sometimes skips parts of RIM	53

How Are AP&P Agents Responding to Offender Behavior?

Issuing Sanctions

Most Common Violation Type
1. Moderate Severity Technical Violation
2. Medium Severity Technical Violation
Least Common Violation Type
1. New Criminal Conduct
2. High Severity Technical Violation
Behaviors Most Commonly Sanctioned
1. Problems with Substance Use/Treatment
2. Problems with Reporting Requirements
Behaviors Least Commonly Sanctioned
1. Problems with Restitution, Fees, and Community Service
Most Common Sanctions
1. Treatment/Classes
2. Increased Supervision

Issuing Rewards

Accomplishments Most Commonly Rewarded
1. Compliance with Conditions of Supervision
2. Negative Results-Substance Use Testing
Accomplishments Least Commonly Rewarded
1. Risk Reduction
2. Time & Dosage Requirements
Most Common Incentives
1. Recognition
2. Other Tangible/Monetary Rewards

How do Offenders Value Incentives?

Reward	% Ranked Top Preference
Recognition	20
Reduction in Requirements, Time, etc.	60
Tangible/Monetary Rewards	10
Serve as Peer Mentor	10

^c All respondents were on probation and 83% had been rewarded for at least one accomplishment.

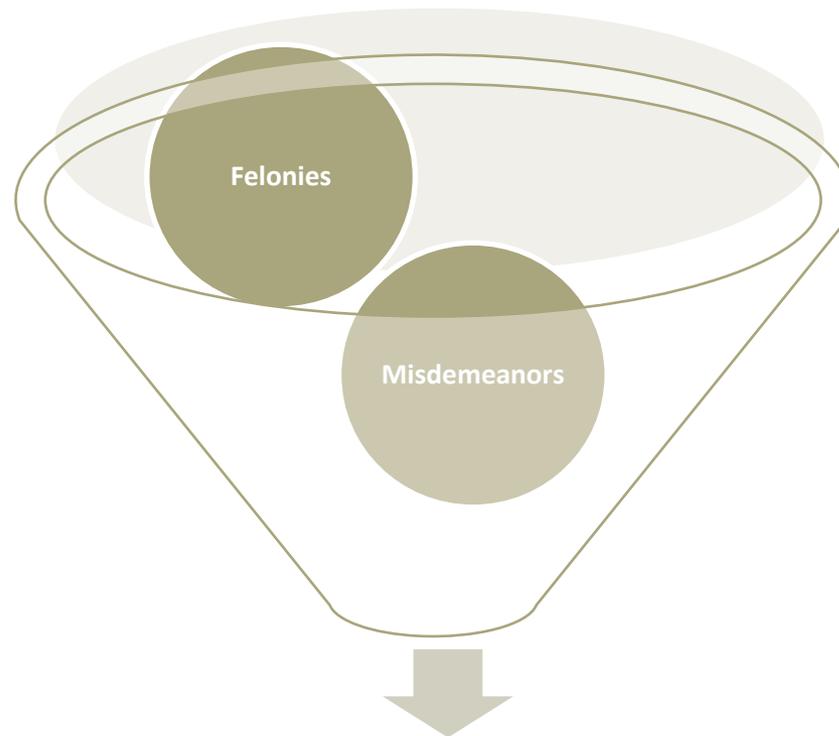
Summary of RIM Feedback/Concerns/Comments

- Number of violations too arbitrary, nature of violation and individual offender more important.
- No consensus on a specific number of violations to trigger hearing. Some violations should trigger a hearing or notice to court/BOPP on the 1st violation. Identification of those most important to Board/Judges.
- RIM delegates all decisions to AP&P.
- RIM may be an internal document if that level of detail necessary for AP&P, but it's too detailed, complex & unwieldy.
- Need a "stakeholder" level approach, "overview," or macro level as opposed to micro level approach for the guidelines.
- Proximal and distal goals not addressed sufficiently.
- Can't fit everyone into a box.
- Limit proximal goals to maximum of 3.
- Judge and County Attorney "buy in" issues – can't solve an adaptive issue with a technical solution.
- Treatment should not be part of the "sanctioning" process.
- The magnitude of the response is too formulaic.
- Nature of violations need to be distinguished better: technical / risk reduction / criminal
- Control conditions vs treatment conditions need to be distinguished better.
- Criminal behavior should not be addressed administratively.
- Building in "levels" appears to be building in additional violations based on the numbers, not the nature of the violation or the individual offender.
- Public safety should still be emphasized as primary concern.
- Need to distinguish who is making the decision based on the nature of the violation and the offender's risk level.
- How can judges and Board be assured a "response/sanction" will actually be imposed?
- Unclear what happens after each violation: restart or move up?
- Unclear how much contact PO will have with offender? If contact is limited to once a month, building in a number of violations will tie the length of probation and likelihood of notice to court/Board to just the number of contacts.
- LSI-R and RANT – is their cross-validity? Judges more comfortable with RANT and still in need of validation studies on the LSI-R.
- Needs to be more user-friendly. Too complex.
- Needs to be capable of adaptation state-wide, not just a Salt Lake County document.
- Due process concerns with "waiver" process at level 4.
- Programs should fit within the guidelines, not be referenced specifically (Drug Court, CATS, Carey, MRT)
- 4:1 necessary? Reward and sanction together?

Supervision & Treatment Forms

- Must begin with a **Validated Risk Need Assessment**
 - Risk is risk to reoffend, likelihood to fail (not necessarily threat or danger “risk”)
 - Need is the specific dynamic factors most likely to impact likelihood to re-offend (Addendum D)
 - Responsivity is how the programming is delivered - identifying specific barriers for the individual (Addendum E)

Supervision & Treatment Based on RNR, Not Degree of Offense



Screen Class B and Above in Jail with LSI-SV,
Substance Abuse & Mental Health Screener

```
graph LR; A[High or Moderate Risk on LSI-SV] --> B[Full LS/RNR]; B --> C[Pre-Sentence Report]; D[Low Risk on LSI-SV] --> E[Risk Reduction is No Longer a Goal of Sentencing]; E --> F[Pre-Sentence Reports & Other Resources Should Not Be Utilized to Reduce Risk];
```

High or Moderate Risk on LSI-SV

Full LS/RNR

Pre-Sentence Report

Low Risk on LSI-SV

Risk Reduction is No Longer a Goal of Sentencing

Pre-Sentence Reports & Other Resources Should Not Be Utilized to Reduce Risk

Central Eight Dynamic Factors

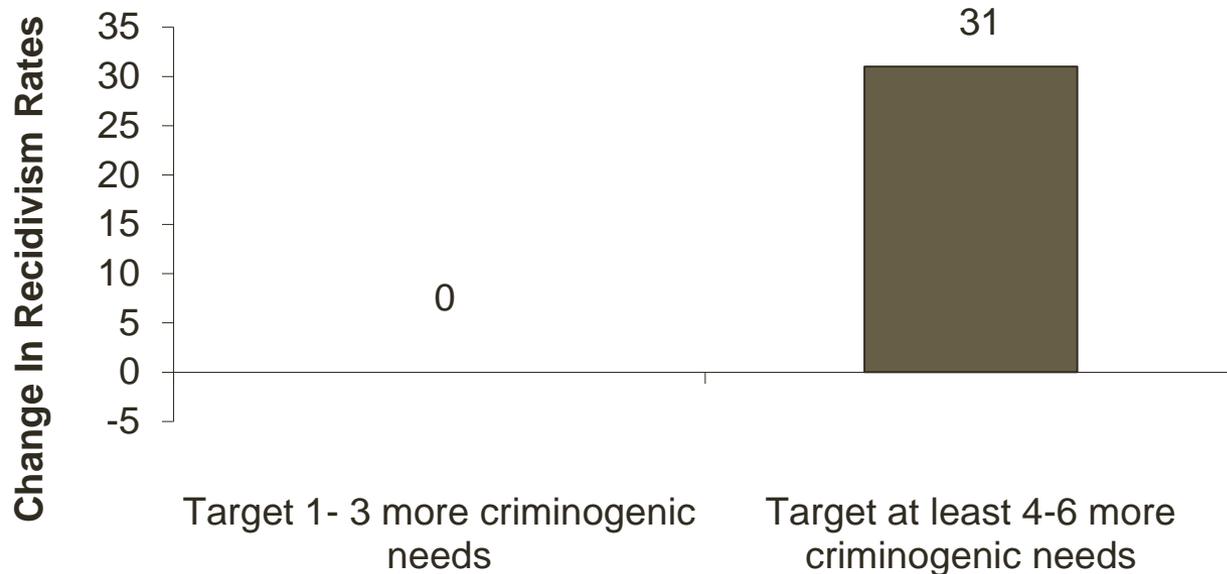
Addendum D

Criminogenic Need	Treatment Targets
Antisocial Behavior Exploitive, aggressive, or harmful behavior toward others	Increase pro-social behaviors, reinforce prosocial beliefs, support crime-free lifestyle. Develop clear, consistent, and proximate reward and consequences for behavior. Teach, model, and reinforce pro-social skills in high-risk situations.
Antisocial Personality Pattern Impulsive, sensation seeking, risk-taking, aggressive, manipulative and exploitive.	Treatment target: increase self-control and delayed gratification skills, anger and conflict management, problem solving. Reinforce prosocial interpersonal interactions.
Antisocial Cognition Values, beliefs, feelings, and cognitions (thinking) that contribute to personal identity that favors and reinforces criminal behavior.	Address cognitive distortions and rationalizations that maintain a criminal identity. Build, practice, and reinforce new cognitions and attributions through cognitive restructuring and cognitive-behaviors therapies.
Antisocial Peers Preferring to associate with pro-criminal peers and isolation from anti-criminal peers and social contexts.	Reduce and eliminate association with delinquent peers and increase opportunities for regular association with anti-criminal peers and institutions (school, church, clubs, sports teams, and other structured and supervised activities).
Family Chaotic and poor-quality family relationships that have minimal or no pro-social expectations regarding crime and substance abuse.	Increase pro-social communication, nurturance, structure, supervision, and monitoring in the family. Address dysfunctional boundaries and role confusion. Provides for consistent rewards for pro-social family interactions.
School/Work Poor performance and limited engagement with school or work resulting in dissatisfaction and avoidance of them.	Increase school and/ or work performance through education, vocational training, or alternative placement. Provide rewards and consequences to increase consistent attendance and progress at school and/or work.
Leisure & Recreation Limited involvement in anti-criminal leisure activities.	Expose to a variety of pro-social leisure and recreational activities. Increase opportunities for regular involvement in preferred activities and reward progress.
Substance Abuse Use and abuse of alcohol and/or drugs.	Reduce substance use through targeted treatment, supervision and access. Reduce exposure to substance abusing peers. Increase capacity to cope with stressors through lifestyle changes in exercise, sleep, and nutrition.

“Big Four”

“Mod Four”

How Many of the Central Eight Should We Target?



Lowenkamp, C.T., Pealer, J., Smith, P., & Latessa, E.J. (2006). Adhering to the risk and need principles: Does it matter for supervision-based programs? *Federal Probation*, 70 (3), 3-8.

*More than 40 meta-analyses of the correctional treatment literature have been published. Results have been replicated with remarkable consistency. Considerable support exists for the RNR Framework across qualitative reviews of the literature. Smith et al., 2009

Form 6

Supervision & Treatment Levels Framework (Risk/Need/Responsivity Conceptualization)

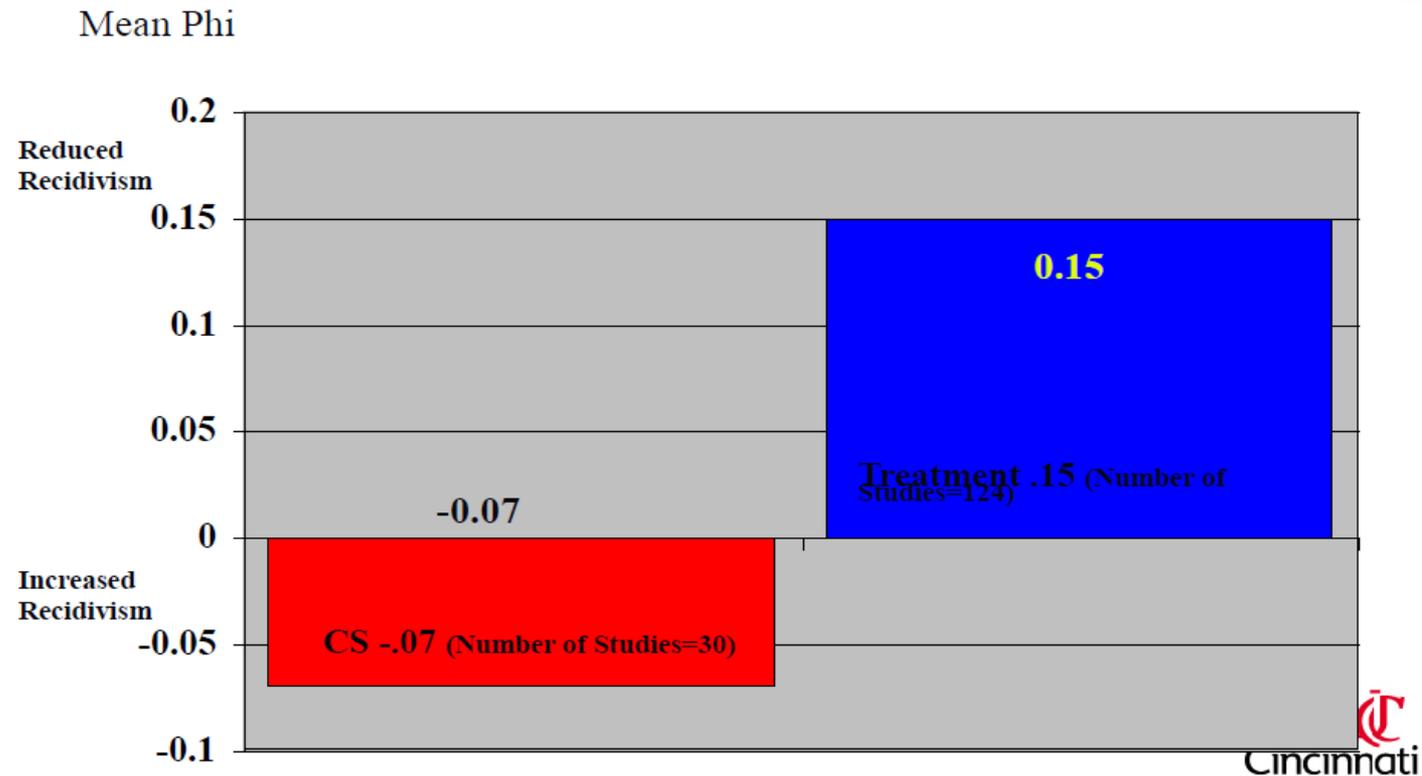
		Anti-Social Behaviors	Anti-Social Personality	Anti-Social Cognition	Anti-Social Peers	Family	School/Work	Leisure/Recreation	Substance Abuse			Functional Ability	Language	Motivation Level	Mental Health	Housing	Gender	Physical Health	Transportation	Minimization		
Risk Level	Need Level	Dynamic Factors							Supervision	Treatment	Responsivity Factors											
Low	Low									Court	None											
	Moderate									Court	Clinical											
	High									Court	Clinical											
Mod	Low									Supervised	Criminogenic											
	Moderate									Supervised	Criminogenic											
	High									Supervised	Criminogenic											
High	Low									Supervised	Criminogenic											
	Moderate									Supervised	Criminogenic											
	High									Supervised	Criminogenic											

Adapted from Comprehensive Framework to Reduce Recidivism developed by Darin Carver, Weber Human Services, 2015

Once an offender is on supervision:

- The goal is now **risk reduction** - behavior modification
- Separate from goal of imposing punishment for the original offense (*resources aren't for those who "deserve" them – they are to maximize future public safety and reduce ongoing victimization*).
- Can they be safely supervised in the community?
- If yes, probation or parole is the criminal justice system's "opportunity" to change their anticipated trajectory.
- The use of terms such as 'zero tolerance' and 'revoke and restart' generally are not helpful for behavior modification purposes (threat rarely enforced vs. pretend it never happened).

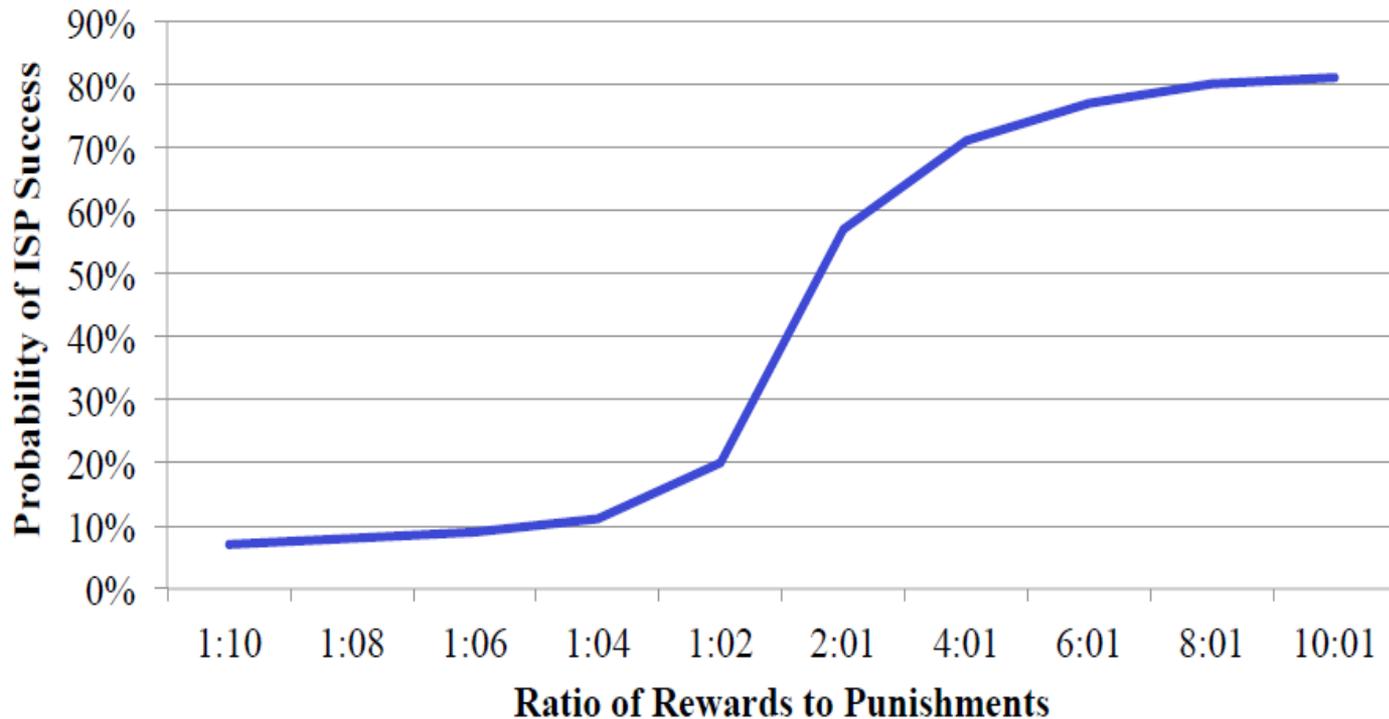
Intensive Supervision Alone Does Not Reduce Recidivism



***Not a single reviewer of studies of the effects of official punishment alone (custody, mandatory arrests, increased surveillance, etc.) has found consistent evidence of reduced recidivism.**

***40 - 60% of the studies of correctional treatment services reported reduced recidivism rates relative to various comparison conditions, in every published review.**

Ratio of Incentives to Sanctions Increases Probability of Success



Widahl, E. J., Garland, B. Culhane, S. E., and McCarty, W.P. (2011). Utilizing Behavioral Interventions to Improve Supervision Outcomes in Community-Based Corrections. *Criminal Justice and Behavior*, 38 (4).

Categorize the Nature of the Behavior

- See Addendum G for Violations Listing
- See Addendum H for Accomplishments Listing
- Low/Medium/High is NOT level of importance
- They ARE determinative of who is best situated to respond based on the nature of the behavior:
 - Standard OSC process is generally not swift, certain, or proportionate.
 - Jail time may not be the worst punishment you can give to an offender.
 - Jail time will usually set back any progress on the Central Eight that we're trying address.

Addendum G

Supervision Violation Severity Listing

Violation	Severity	Nature of Violation
Felony Person Crime Conduct (see Addendum B)	High	Public Safety Conditions Violations
Misdemeanor Person Crime or DUI Conduct	High	
Unauthorized Contact or Location	High	
Fail to Report for Commitment	High	
Absconding: Residence, Travel or Reporting – PO Contact Unsuccessful	High	
Special Conditions Violations: Sex, Gang, DV, DUI, ICE	High	
Possession of Dangerous Weapon – Firearm	High	
Damaging/Tampering/Removing GPS	High	
Public Safety Conduct: Substantial and Immediate Threat	High	
Felony Non-Person Crime Conduct	Medium	Risk Reduction Conditions Violations
Misdemeanor Conviction (Non-Person/Non-DUI)	Medium	
Tampering with Device or Testing (controlled substance/alcohol)	Medium	
Possession of Dangerous Weapon – Non Firearm	Medium	
Fail to Submit to Testing (controlled substance/alcohol)	Medium	
Unauthorized Electronic Access	Medium	
Fail to Enroll or Participate in Treatment	Medium	
Positive Test Result (controlled substance/alcohol)	Medium	
Fail to Comply with Employment Conditions	Medium	
Fail to Comply with Financial Conditions	Medium	
Fail to Comply with Residence, Travel or Reporting (with PO Contact)	Medium	
Fail to Comply with Structured Living	Medium	
Non-compliant with Medical Orders/Medication	Medium	
Infraction Conviction	Low	Accountability Conditions Violations
Fail to Comply during Field Visit	Low	
Fail to Comply with Curfew	Low	
Fail to Notify of Police Contact	Low	
Fail to Participate in CAB	Low	
Fail to Pay Restitution	Low	
Fail to Complete Community Service	Low	
Fail to Pay Fees	Low	

Addendum H

Supervision Accomplishment Level Listing

Accomplishment/Compliance	Level	Nature of Accomplishment
Platinum Success Plate (20% Improvement)	High	Reduction of Criminal Risk Factors
Gold Success Plate (15% Improvement)	High	
Silver Success Plate (10% Improvement)	High	
Bronze Success Plate (5% Improvement)	High	
Completion of All Special Conditions of Probation/Parole	High	
Completion of All Special and Standard Conditions of Probation/Parole	High	
Eamed Compliance Credits	High	
Active Participation in Programming/Aftercare for "big four" 90 days+	Medium	Evidence-Based Programming Targets
Active Participation in Programming/Aftercare for "big four" for 60 days	Medium	
Active Participation in Programming/Aftercare for "big four" for 30 days	Medium	
Active Participation in Programming/Aftercare for "mod four" for 90 days+	Medium	
Active Participation in Programming/Aftercare for "mod four" for 60 days	Medium	
Active Participation in Programming/Aftercare for "mod four" for 30 days	Medium	
Negative Test Result for 90+ days (controlled substance/alcohol)	Medium	
Negative Test Result for 60 days (controlled substance/alcohol)	Medium	
Negative Test Result for 30 days (controlled substance/alcohol)	Medium	
Enrollment in Programming/Aftercare for identified Criminal Risk Factors	Medium	
Progress on Dynamic Responsivity Factors	Medium	
Compliant with Medical Orders/Medication	Medium	
Compliant with Structured Living, Residence, Travel or Reporting	Medium	
Compliant with Testing Requirements	Medium	
Responsive to PO Contacts Despite Lack of Full Compliance	Medium	
Prioritization of short and long term goals (maximum of 3 short term goals)	Low	Accountability Targets
Development of Case Action Plan/Success Plan	Low	
No Violations/Compliant with standard conditions for 90+ days	Low	
No Violations/Compliant with standard conditions for 60 days	Low	
No Violations/Compliant with standard conditions for 30 days	Low	
Compliance with Community Service	Low	
Compliance with Financial Conditions	Low	

Form 7

Decision-Making Authority Matrix

	Accomplishment or Violation Level		
Offender Risk Level	High	Medium	Low
High/Intensive	Court/BOPP	P.O. w/Supervisor Approval	P.O. w/Supervisor Approval
Moderate	Court/BOPP	P.O. w/Supervisor Approval	Probation or Parole Officer
Low	Court/BOPP	Probation or Parole Officer	Probation or Parole Officer

Form 7

Decision-Making Authority Matrix

	Accomplishment or Violation Level  From Addendum G & H		
Offender Risk Level  From Validated Tool	High	Medium	Low
High/Intensive	Court/BOPP	P.O. w/Supervisor Approval	P.O. w/Supervisor Approval
Moderate	Court/BOPP	P.O. w/Supervisor Approval	Probation or Parole Officer
Low	Court/BOPP 	Probation or Parole Officer	Probation or Parole Officer

All "high" level accomplishments or violations = must notify Court/BOPP (regardless of risk level)

Form 8 is the Proportionality Analysis: Determines the Magnitude of Response

- Generally, consider a range of options from low to high.
- Default is to moderate/mid-point.
- Form 8 replaces the automatic “graduation” of responses in the RIM pilot based on the number of violations/accomplishments and allows discretion to select from a range of options.
- Incorporates the principles familiar to those in drug courts.
- A maximum of three short term goals should be identified as “proximal” goals.
- Short term goals are things the offender can be expected to do today, not the long term (“distal”) result we hope to achieve.

Form 8 Response Magnitude / Proportionality Form

<u>Behavior</u>	<u>Offender Risk</u>	<u>Offender Need</u>	<u>Relation to Risk/Need Goal</u>	<u>Response Magnitude/ Proportionality</u>
	High & Moderate = High Low = Low	High & Moderate = High Low = Low	Proximal = Short Term Distal = Long Term	See Forms 9 & 10 for Incentives & Sanctions
Accomplishment/ Compliance	High	High	Proximal	Lower Incentive
			Distal	Higher Incentive
		Low	No Distinction	Moderate
	Low	High	Proximal	Lower Incentive
			Distal	Higher Incentive
		Low	None	None*
Violation	High	High	Proximal	Higher Sanction
			Distal	Lower Sanction
		Low	No Distinction	Moderate
	Low	High	Proximal	Higher Sanction
			Distal	Lower Sanction
		Low	None	None*
↑ <i>What is the nature of the behavior?</i>	↑ <i>How likely were they to reoffend?</i>	↑ <i>How high are their criminogenic needs?</i>	↑ <i>Does the behavior relate to short or long term goals?</i>	↑ <i>What magnitude of response should be imposed?</i>

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Form 9

Graduated Incentives

Court/BOPP	<p>402 Reduction Early Termination Fine Reduction Transfer to Court/Lower Probation Any Lower Level Incentive</p>
P.O. with Supervisor Approval	<p>Up to 50% Community Service Reduction \$\$ Voucher Recommend Fine Reduction Approval to Serve as Peer Mentor Reduce Substance/Alc. Screening Any Lower Level Incentive</p>
Probation/Parole Officer Incentives	<p>Up to 30% Community Service Reduction Eliminate Curfew Accomplishment Certificate \$ Voucher \$ Awards Reduce Curfew Length Redeem 5 Success Chips Public Recognition Positive Reports 2 Success Chips 1 Success Chip Written Recognition Verbal Recognition</p>

Form 9

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- Ranking is “Graduated “ From Low to High
- Don’t Have to “Graduate” Up
- Use Form 8 to Determine Response Level Each Time

Form 10

Graduated Sanctions

		Probation	Parole
Graduated Incarceration Caps with Hearing Before Court/BOPP		0-90 (45)	0-180 (90)
		0-60 (30)	0-120 (60)
		0-30 (15)	0-60 (30)
P.O. with Superv. & BOPP Expedited Court / BOPP Approval	(Maximum of 5 Days/30 Days) 1-3 Days Jail Per Sanction		
P.O. with Superv. & BOPP Approval	Hearing Before Court/BOPP Community Correctional Center GPS Electronic Monitoring		
P.O. with Supervisor Approval	Request Court/BOPP Sanction Up to 90 day Curfew Up to 72 Hours Home Restriction Treatment Resource Center Up to 16 Hours Community Service		
Probation/Parole Officer Sanctions & Responses	Up to 60 Day Curfew Travel Restriction Structured Living Increased Supervision Require Change in Residence Revision of Case Action Plan Increased Reporting/Testing Community Accountability Board Workshops Assignments Family Meeting Problem Solving Report Mentoring Program Develop Risk Avoidance Plan Letter of Apology Thinking Report Payment Schedule Adjustment Verbal Warning		

Exception(s) exercised by Court or BOPP (circle appropriate responding entity if both Court/BOPP are listed):

- Court/BOPP increased or decreased magnitude using Form 8.
- Court finds that execution of sentence previously imposed is warranted pursuant to 77-18-1(12)(e)(iii)(B).
- Court /BOPP jurisdiction over new criminal conviction.
- Court/BOPP finding that conduct presents a substantial and immediate threat to public safety which cannot be addressed through behavior modification sanctions.
- BOPP revocation for lying or engaging in criminal conduct prior to parole pursuant to 77-27-10(1)(b).
- BOPP GMI compliance pursuant to 77-16a-205.
- BOPP Parole Violation Hearing continued pursuant to Administrative Rule.
- BOPP Rescission pursuant to Administrative Rule.

Form 10

Graduated Sanctions

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		0-60 (30)	0-120 (60)
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- Ranking is “graduated” low to high
- Don’t have to “graduate” up
- Use Form 8 to determine response level for each violation
- 3rd level requires written approval of Court/BOPP
- 4th level requires written approval of Court/BOPP through expedited process
- 5th level anticipates standard hearing process before Court/BOPP
- Court/BOPP still may select non-incarceration response.
- Court/BOPP may still deny request for hearing or request for 1-3 days jail.
- Incarceration days listed on 1st, 2nd and 3rd hearing are caps. They should not be viewed as the default response.

Exception(s) exercised by
Court or BOPP (circle
appropriate responding entity if
both Court/BOPP are listed):

- *Court/BOPP increased or decreased magnitude using Form 8.*

- *Court finds that execution of sentence previously imposed is warranted pursuant to 77-18-1(12)(e)(iii)(B).*

- *Court /BOPP jurisdiction over new criminal conviction.*

- *Court/BOPP finding that conduct presents a substantial and immediate threat to public safety which cannot be addressed through behavior modification sanctions.*

- *BOPP revocation for lying or engaging in criminal conduct prior to parole pursuant to 77-27-10(1)(b).*

- *BOPP GMI compliance pursuant to 77-16a-205.*

- *BOPP Parole Violation Hearing continued pursuant to Administrative Rule.*

- *BOPP Rescission pursuant to Administrative Rule.*

Violation/Revocation process is “shall” not “may” in the statute
Distinct from the advisory nature of Forms 1-5a

Limited list of exceptions:

- Taken from HB348
- Taken from other relevant statutes
- Still allows for independent review of Form 8
- Still allows for sentencing of new crimes
- Limited public safety exception also

Court/BOPP should initial when exercised (not P.O.)

Please include explanation on form or on record if exception exercised

Additional Issues:

- **New Sentencing Guidelines** apply to Sentencings; Original Hearings, Rehearings, or Redeterminations by BOPP Oct. 1, 2015.
- **Early Termination**
 - Applies to probation/parolees serving 3 year supervision term
 - Not §76-5- offenses or parolees with statutorily longer terms
- **Credit for Time Served**
 - Credits continue for jail time prior to conviction, awaiting sanction hearing, and GMI State Hospital post conviction
 - Credits added for jail time Pre-Trial; jail as a condition of probation; 1, 2, or 3 day jail sanctions; other probation violation sanction time; adult-convicted minor in JJS custody
 - Check to make sure the sentence has not expired
 - Check that there is sufficient time to complete programming and reentry before expiration (most need 18 months+)

Additional Issues (cont'd)

- **Ensure Accurate Recording of Judgments & Convictions**
 - “Aggravated Robbery” entered as 2nd or 3rd Degree?
 - 3rd Degree entered with 1-15?
 - Identify juvenile dispositions counted in criminal history (will not be assumed to be Class A unless identified)
 - “Successful” completions of probation need to be entered as such (adult and juvenile) for future criminal history scoring
- **Misdemeanors**
 - No separate criminal history scoring for misdemeanors
 - Counties applying for the CPIP grant will have LSI-SV for Class B+
 - Class A’s identified as High or Moderate Risk, AP&P may supervise
 - Class B’s identified as High or Moderate Risk, private or county