

# CRIMINAL JUSTICE REFORM

Utah Sentencing Commission Update  
June 4, 2014



Sentencing, Admission, and Release  
Statistics  
*April 2, 2014*



Utah Data Analysis Part 1:  
Prison Drivers

Commission on Criminal and Juvenile Justice  
Salt Lake City, Utah  
May 15, 2014

**ARK™ of Successful  
Offender Management**

*Utah Summit  
on Justice Reform*





# Utilizing the Information

- Data is the driver to Justice Reinvestment Initiative anticipated next legislative session.
- DOC data is more comprehensive than many states.
- U of U CJC, AOC & CCJJ data and research is an additional advantage many states don't have.
- PEW will help obtain further detail of the data and help explain how our policies have affected the data.
- What do we want from the data?
  - Sufficient, Accurate & Reliable
  - Now is the time to ask questions
  - Next meeting is June 12

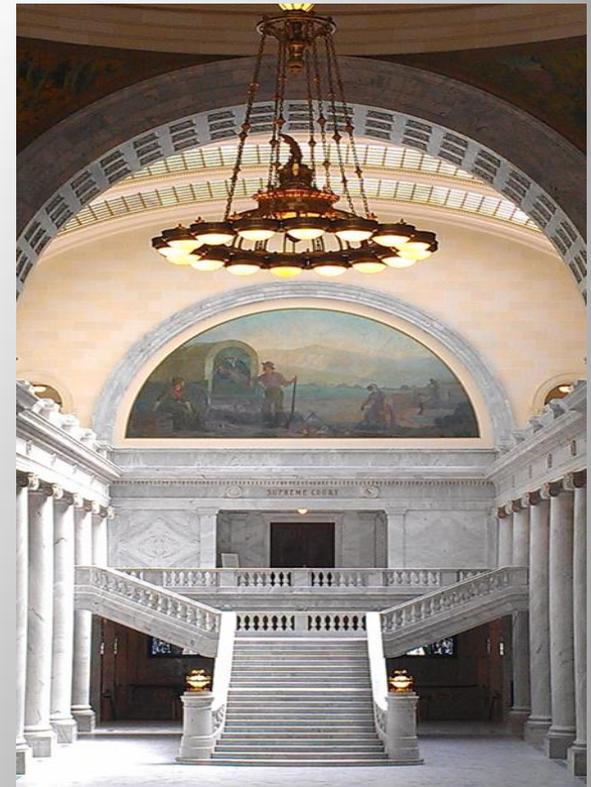
# How will the data be used?

## – At the policy level (top down)

- Categorization of offenses
- Degree of offenses
- Length of stay
- Guidelines preface
- Matrix modification

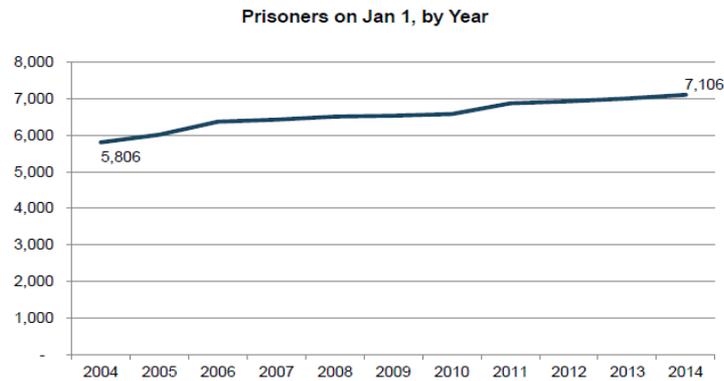
## – At the implementation level (bottom up)

- Are we effectively implementing our strategy?
- Does our strategy address our goals?
- What can we do to ensure effective implementation?



# Prison Population: Steadily Growing and Approaching Capacity

## Utah Prison Population Grew 22% in Last Decade



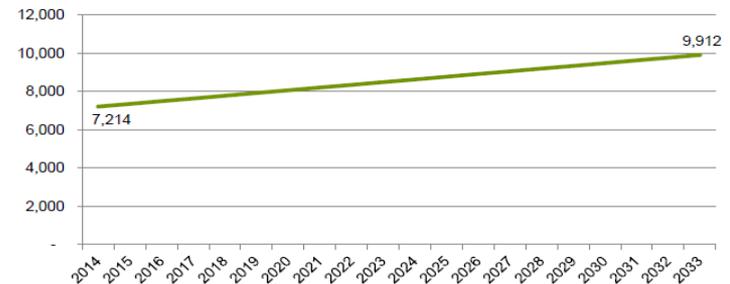
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Maximum Prison Capacity 7,431

## Prison Population Projected to Grow 37% in Next 20 Years

MGT Prison Population Forecast, 2014-2033  
(Average Daily Population)



May 15, 2014

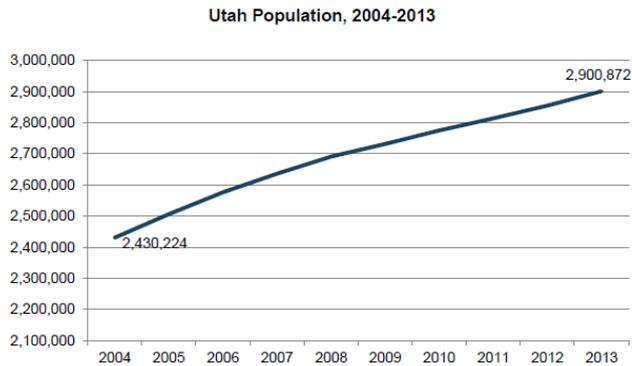
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## Average Yearly Incarcerated Population 1982 - 2013



# State Population Growth and Reported Crime Rates do not appear to correlate with Prison Population Growth Rates

Utah State Population Grew 19% Over Last Decade



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Source: 2004-2011 Data From UPEC, 2012 and 2013 Estimates from the US Census Bureau

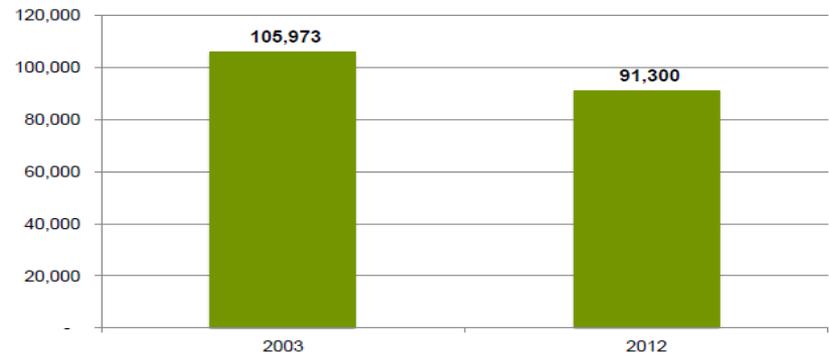
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INDEX CRIMES include violent crimes (murder, manslaughter, forcible rape, robbery and aggravated assault) and property crimes (burglary, larceny, motor vehicle theft and arson).



14% Fewer Crimes Reported in Utah Than a Decade Ago

Number of Reported Index Crimes in Utah (2003 and 2012)

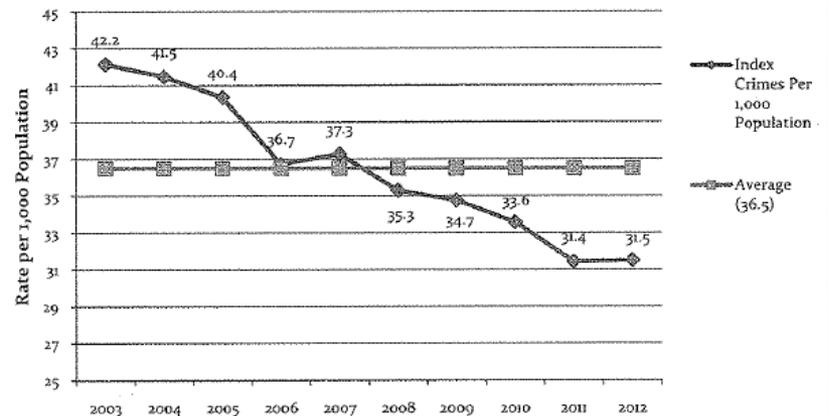


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Source: FBI Uniform Crime Reports

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Index Crimes per 1,000 Population



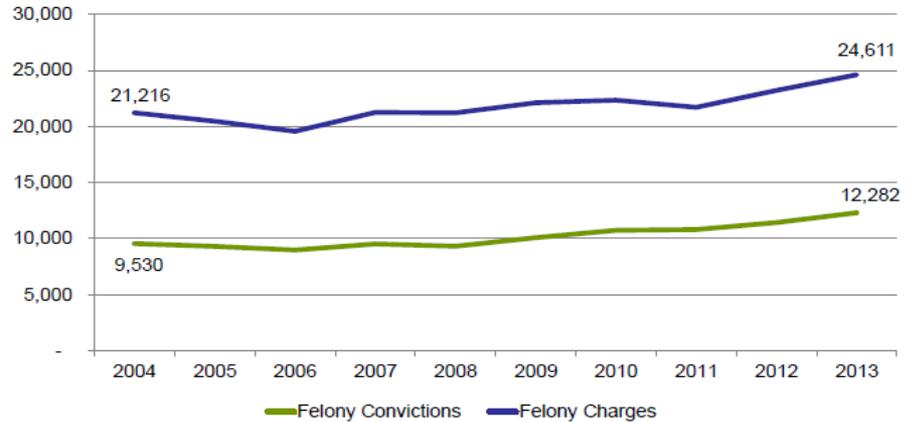
Felony Charges  
+16%

Felony Convictions  
+29%

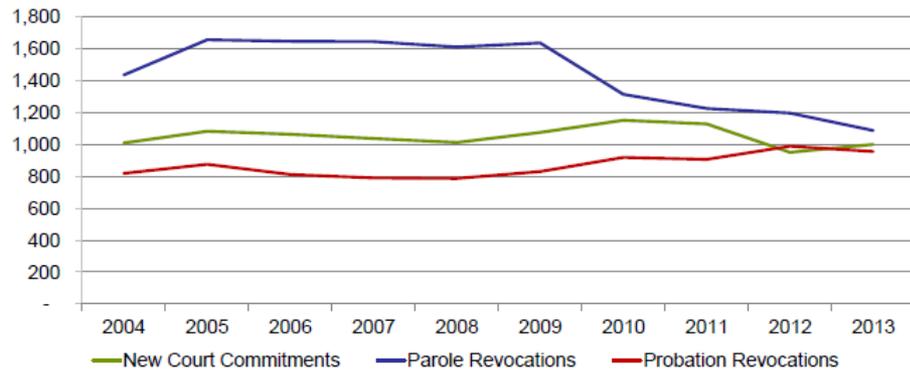
Probation  
Revocations +24%

### Felony Charges Up 16%, Convictions Up 29% Despite Falling Crime

Felony Charges and Convictions (2004-2013)

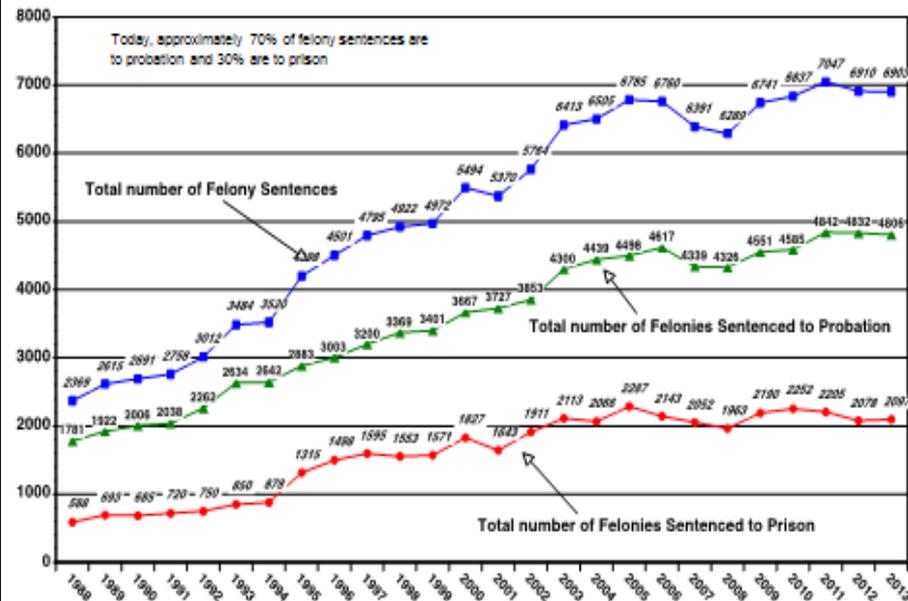


Admissions to Prison, by Admit Type, by Year (2004-2013)

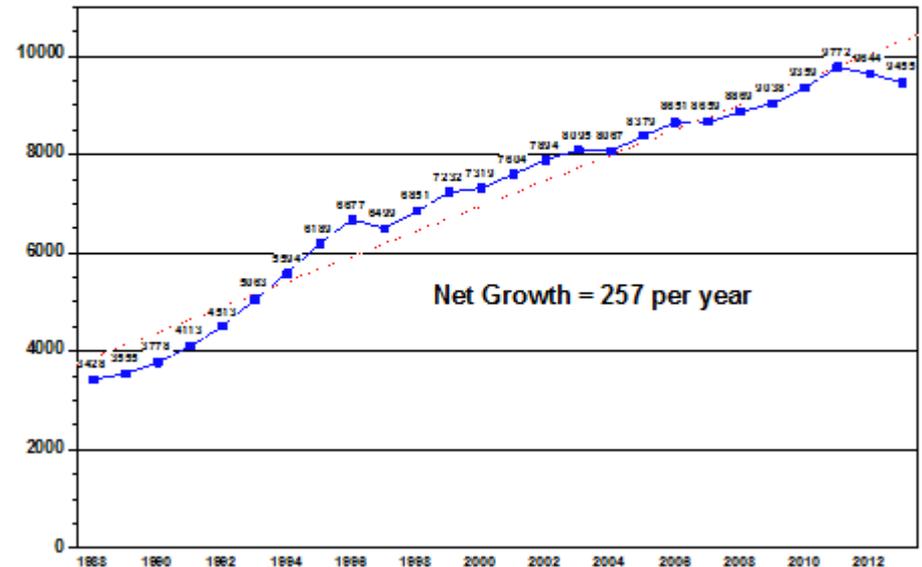


# If 70% of felony sentences are to probation and both felony convictions and probation revocations are increasing ...

## Felony Sentencing 1988 - 2013



## Felony Probation 1988 Through 2013



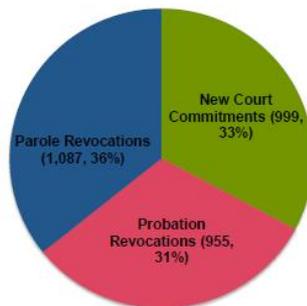
# There is an increase in offenders: at both AP&P and at the Prison.

67% of all admissions to Prison are AP&P Revocations  
Probation Revocation +62% since 2004

PRISON ADMISSIONS

## Parole and Probation Revocations Make Up Two-Thirds of Admissions

Prison Admissions by Type (2013)



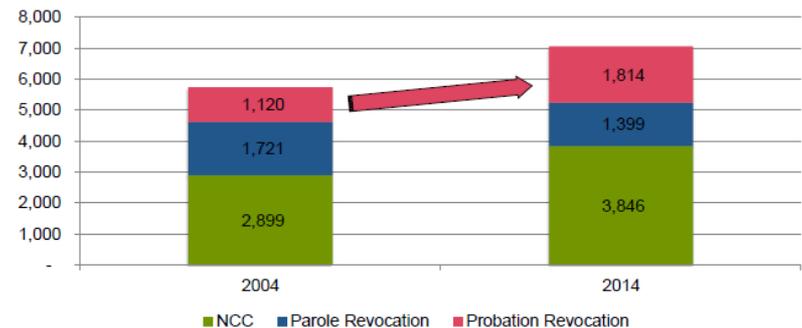
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PRISON POPULATION

## Number of Probation Revocations in Prison Grew 62% Over Last Decade

Prison Population on Jan 1 2004 and 2014, by Admission Type



May 15, 2014

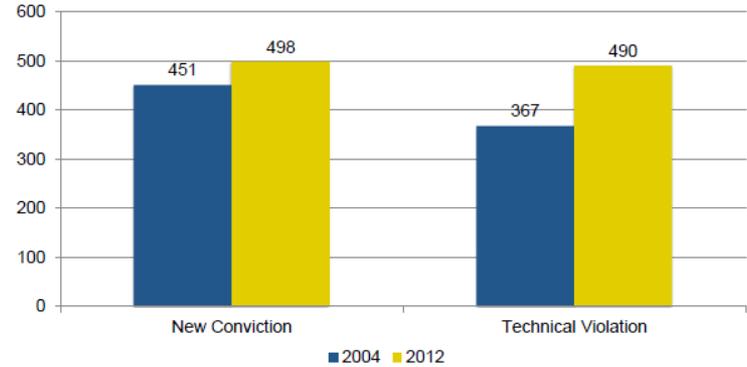
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# Are AP&P violators committing new crimes?

We need to differentiate between technical and criminal violations: both at AP&P level as well as court level.

## Probation Revocations with New Convictions Rose 10%, Technical Violations Up 34%

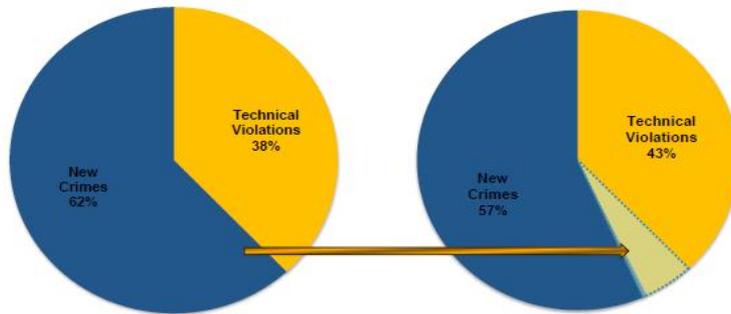
Probation Revocation Admissions (2004 and 2012)



## 43% of Offenders Admitted to Prison with No New Criminal Conviction, Up From 38% in 2004

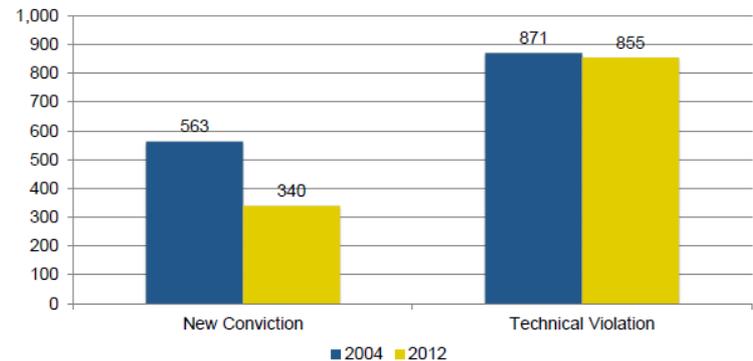
Prison Admissions, 2004

Prison Admissions, 2012



## Parole Revocations With New Convictions Dropped 40%, Technical Violations Only 2%

Parole Revocation Admissions (2004 and 2012)



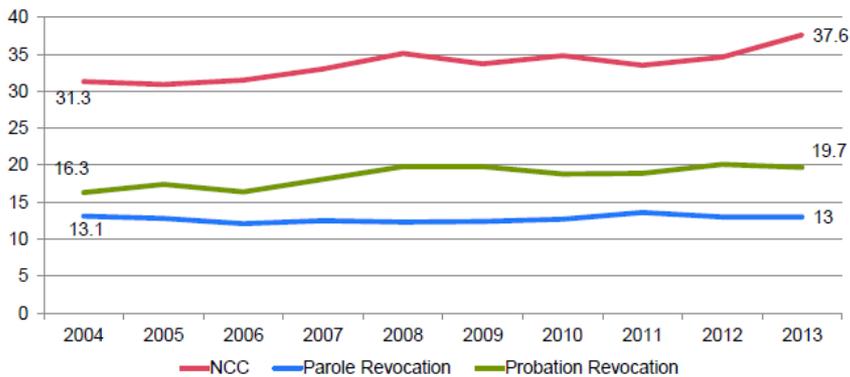
# Longer Sentences & an Aging Prison Population

Time served up 17%  
 (For New Commitments & Probation Revocations)  
 Prisoners over age 55 are up 57%  
 Prisoners between age 18-24 are down 25%

## TIME SERVED

20% Growth in Time Served for New Court Commitments and Probation Revocations

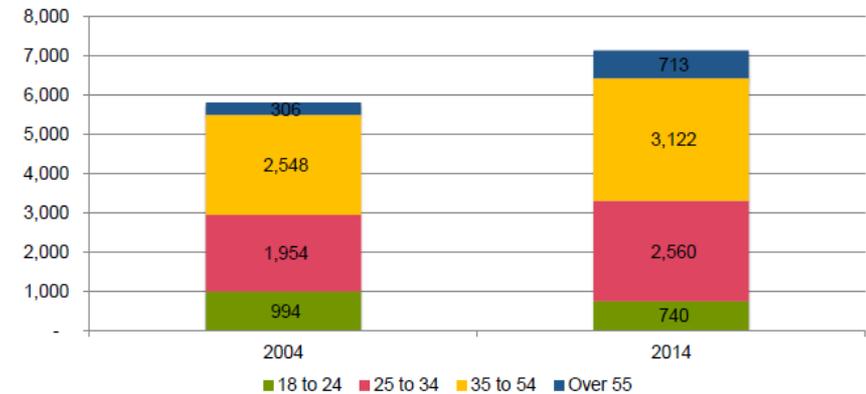
Mean Time Served by Admit Type (Months)



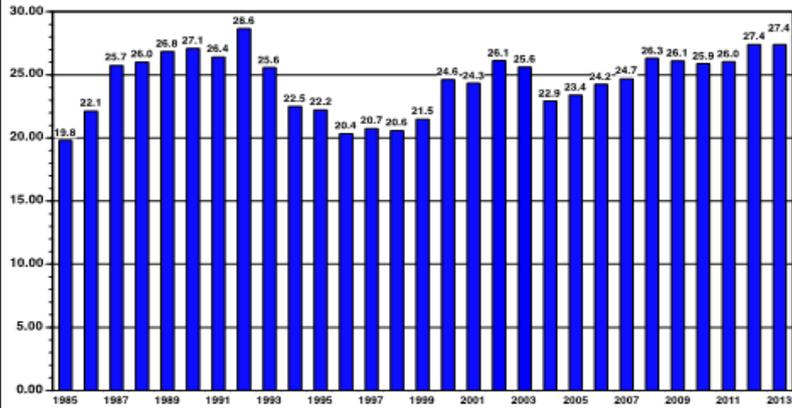
## PRISON POPULATION

The Number of Prisoners Over 55 More Than Doubled in Last Decade

Prisoners on Jan 1 2004 and 2014, by Age Group

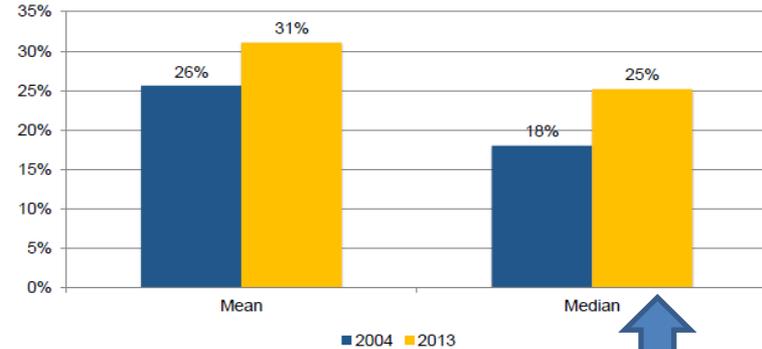


## Total LOS 1985 - 2013



## Offenders Serve Longer Portion of Their Sentence Behind Bars

Percent of Maximum Sentence Served  
(NCC Only, 2004 and 2013)



## Time Served Growing for Most Nonviolent Offenders

Change in Mean Time Served by Criminal Category  
(Offenders with a New Criminal Conviction, 2004-5 to 2012-13)

	I	J	K	L
	2 <sup>nd</sup> Degree Other	2 <sup>nd</sup> Degree Possession	3 <sup>rd</sup> Degree Other	3 <sup>rd</sup> Degree Possession
V	22%	8%	2%	7%
IV	46%	16%	27%	-3%
III	42%	43%	17%	1%
II	26%	21%	28%	32%
I	34%	-24%	2%	12%

Length of stay up for  
all crimes

Including most  
Nonviolent Crimes

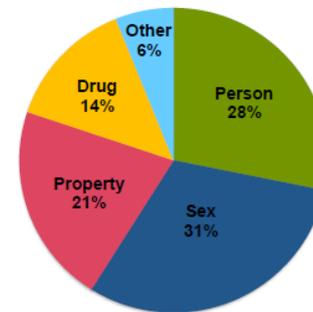
# Should we further differentiate between violent and non-violent offenders?

## Offense Type Distribution in Prison March 20, 2014

Offense Type	Count	Percent of Total
MURDER	709	10.15
SEX/NON-REGISTERABLE	12	
SEX/REGISTERABLE	2215	31.87
PERSON	1285	18.39
ALCOHOL & DRUG	577	
DRUG POSSESSION ONLY	357	13.37
PROPERTY	1411	20.19
WEAPONS	90	1.29
DRIVING	244	3.49
OTHER	88	1.26
<b>Total</b>	<b>6988</b>	<b>100.00</b>

## Nonviolent Offenders Make Up 41% of Current Prison Population

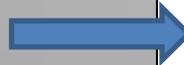
Prison Population on Jan 1, 2014, by Offense Type



## 4 of Top 10 Crimes in Prison Are Nonviolent

Top Offenses in Prison	Number of Prisoners, Jan 1, 2014	Change Since Jan 1, 2004
Aggravated Sexual Abuse Of A Child	502	87%
Sexual Abuse Of A Child	441	21%
Theft	387	17%
Poss/Use Of Controlled Substance	384	14%
Burglary	360	53%
Murder	327	36%
Poss w/ Intent To Dist Cont Substance	307	48%
Aggravated Assault	263	9%
Aggravated Robbery	259	1%
Robbery	250	8%

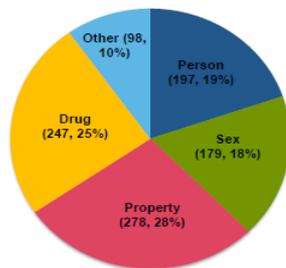
Burglary is considered a property crime – based on the nature of the dwelling, not contact with a person. But the matrix counts burglary of a dwelling as a person crime.



# At a cost of \$27,000/year to house a prisoner, is there a better use of resources for non-violent offenders?

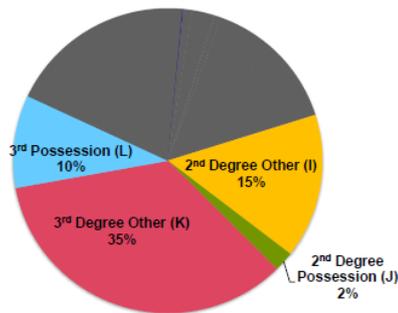
## 63% of New Court Commitments Admitted to Prison for Nonviolent Crimes

Prison Admissions by Offense Type (NCC Only, 2013)



## 2<sup>nd</sup> and 3<sup>rd</sup> Degree Nonviolent Crimes (Categories I, J, K, and L) Make Up 62% of Prison Admissions

Prison Admissions by Crime Category, NCC Only (2013)

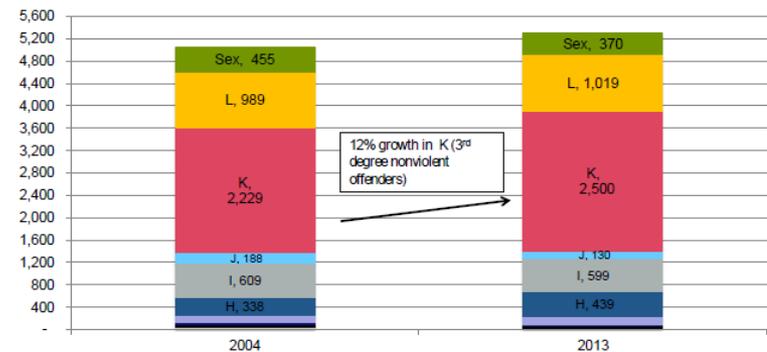


## 8 of Top 10 Offenses at Admission Nonviolent

Offense	NCC in 2004	NCC in 2013	% Change
Poss/Use Of Controlled Substance	151	120	-21%
Theft	62	71	15%
Poss W/ Intent To Dist Cont Substance	60	70	17%
Retail Theft (Shoplifting)	12	51	325%
Driving Under The Influence Of Alc/Drugs	52	47	-10%
Aggravated Sexual Abuse Of A Child	41	44	7%
Aggravated Assault	47	43	-9%
Burglary	38	43	13%
Distrib/Arrange Dist Cont Substance	36	41	14%
Theft By Receiving Stolen Property	27	39	44%

## Large Growth in K Felony Offenders Drives Growing Numbers to Prison

Felony Offenders by Crime Category (2004 and 2013)

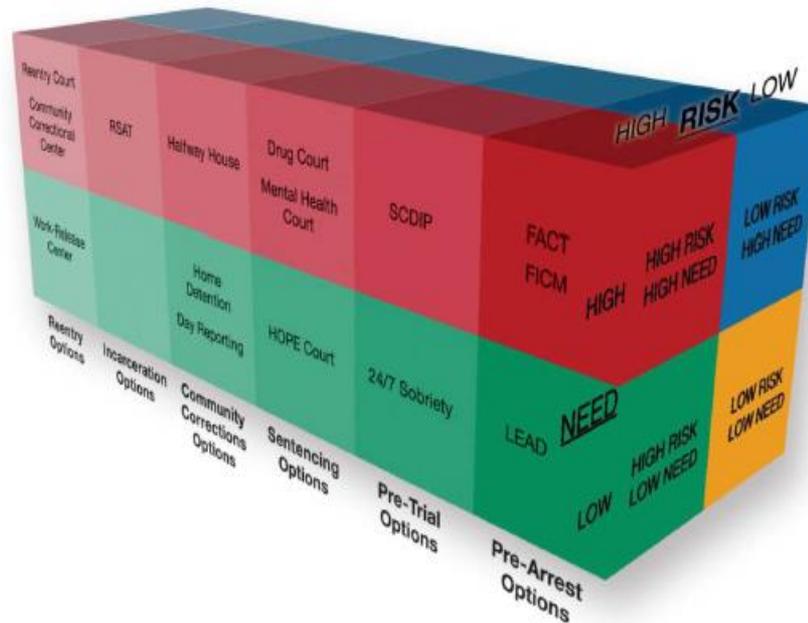


- Not an easy question to answer.
- One we have been struggling with for several years.
- Much research has developed over the past 20 years and continues to develop.
- The ARK attempts to bring that information together.

# Doing Justice

## Utah Summit on Justice Reform

Annals of Research and Knowledge on Successful Offender Management

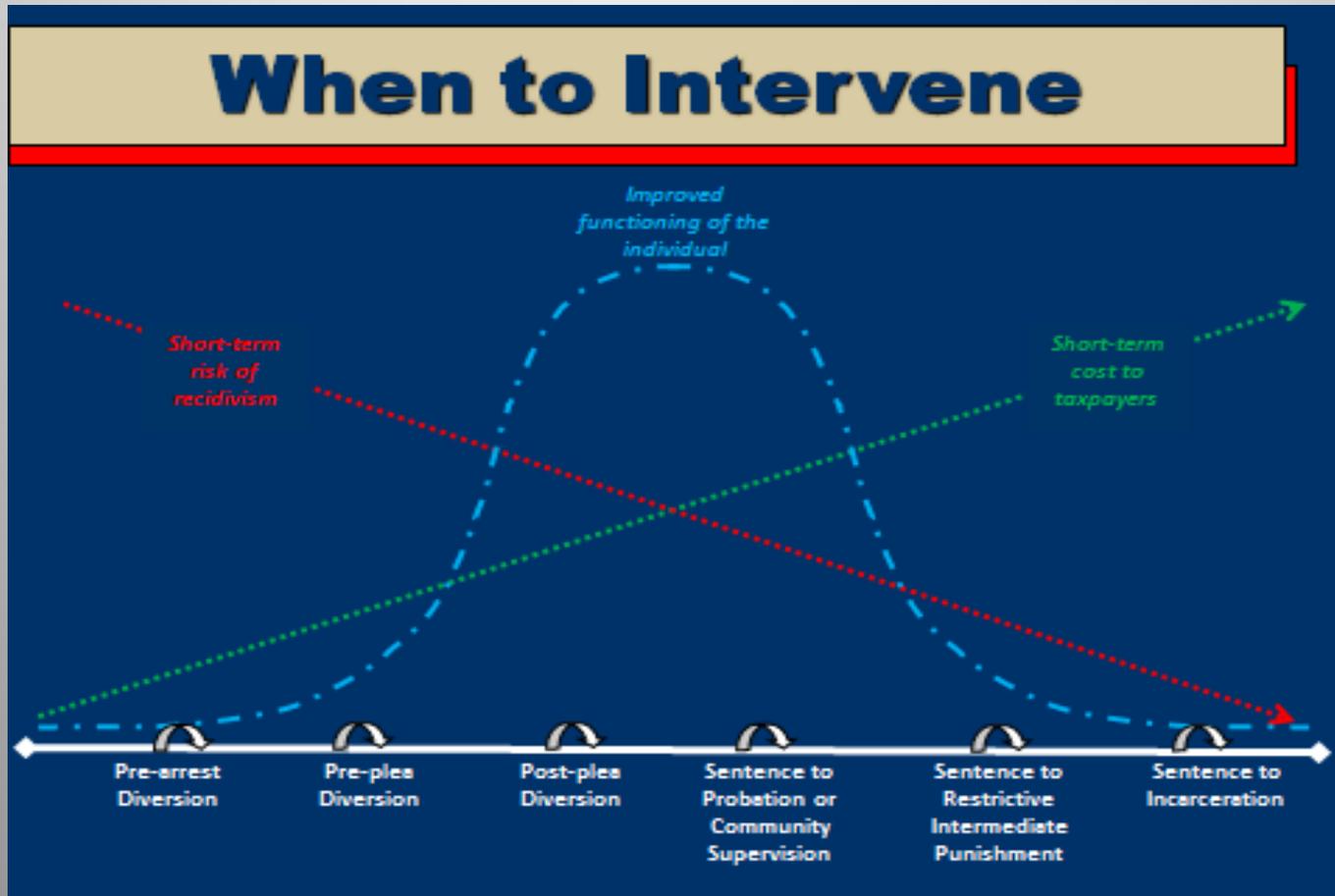


May 9, 2014

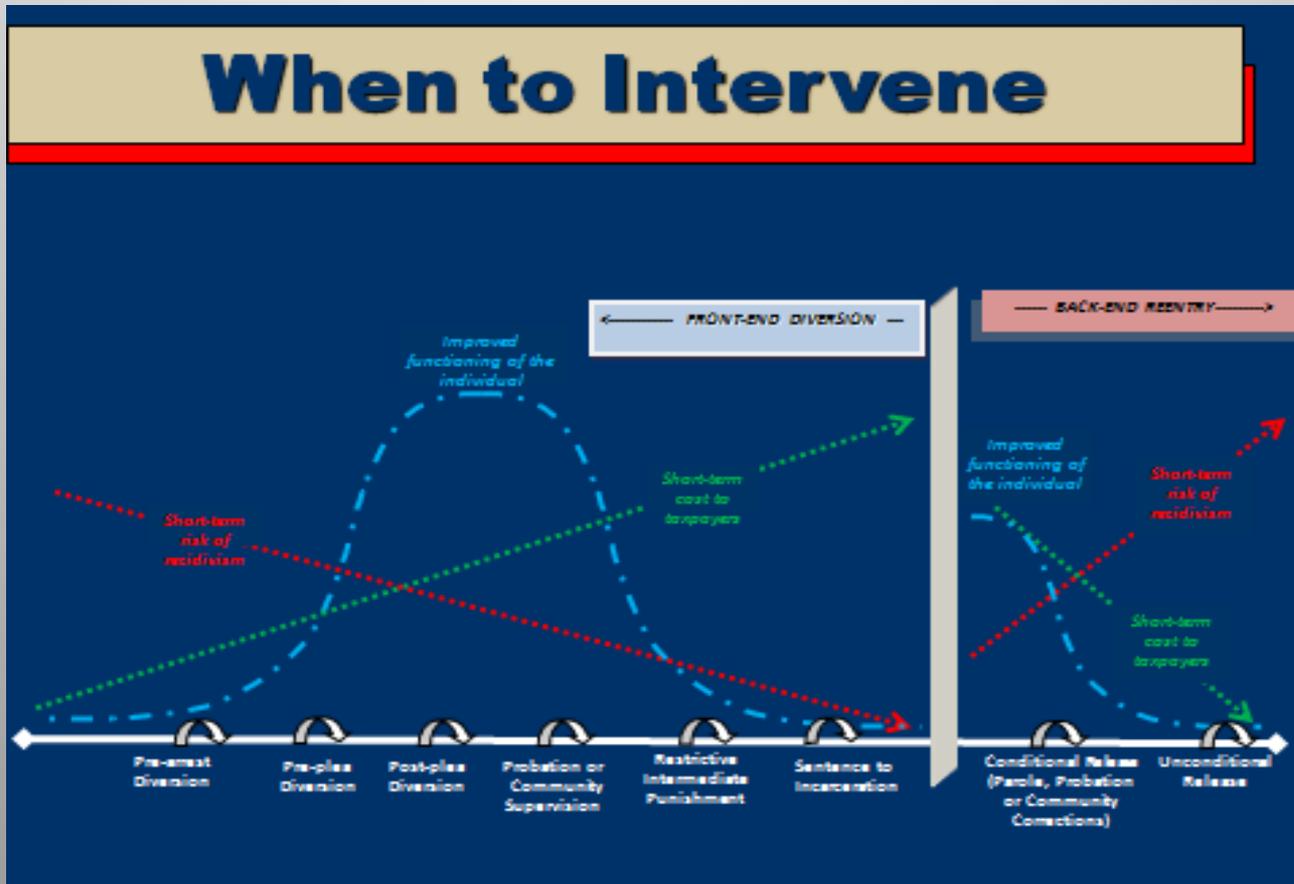
Utah State Capitol Auditorium  
350 North State Street, Salt Lake City, Utah 84114

# Three Competing Masters:

Cost to Taxpayers, Public Safety & Health of the Individual



# Opposite effect pre vs post incarceration period





- Behavioral psychology is not new.
- It is new and unfamiliar to sentencing.
- Working within a criminal treatment model is also new and unfamiliar for most treatment providers.
- Bottom line: sentencing and treatment working together is more effective at behavioral change.
- It is important to remember behavioral change is secondary to the prison/incarceration decision. We are not taking that decision away. Just providing a more structured approach if behavioral change is the goal.

# The Quadrant Model

Assess for Risk (Level of Monitoring/Supervision) – Then Need (Level of Treatment)  
Focus most on HR/HN – Screen out LR/LN

## Risk and Need as a Quadrant Model

		Prognostic Risk	
		High	Low
Criminogenic Need	High	Supervision Treatment Pro-social habilitation Adaptive habilitation	Treatment  (Pro-social habilitation)  Adaptive habilitation
	Low	Supervision  Pro-social habilitation  (Adaptive habilitation)	Secondary prevention  Diversion

## Risk Principle

- Not necessarily a risk for violence or dangerousness
- Risk essentially means a difficult prognosis or lesser amenability to treatment
- The higher the risk level, the more intensive the supervision and accountability should be; and vice versa
- Mixing risk levels is contraindicated

How likely is it that the offender will continue their criminal behavior?

**HIGHER RISK** means higher risk to re-offend, more likely to recidivate =  
**MONITOR/SUPERVISE CLOSER.**

Similar to the medical model.

Risk for cancer, heart disease, etc. is screened through a patient history (prognosis for cancer higher if ...)

Risk is specific to the offender, not the offense.

## Prognostic Risk Factors

- Current age < 25 years
- Delinquent onset < 16 years
- Substance abuse onset < 14 years
- Prior rehabilitation failures
- History of violence
- Antisocial Personality Disorder
- Psychopathy
- Familial history of crime or addiction
- Criminal or substance abuse associations



# Need Principle

- **Clinical syndromes or functional impairments (diagnosis)**
- **Target criminogenic & responsivity needs first**
- **The higher the need level, the more intensive the treatment or rehabilitation services should be; and vice versa**
- **Mixing need levels is contraindicated**

“To change a compulsive behavior, you must distinguish between proximal and distal goals.”

- Proximal = sanction high & reward low
- Distal = sanction low & reward high
- Avoid habituation (boiling the frog) and ceiling effect (next sanction is the one that changes behavior).

Need = diagnosis

How should needs be addressed to prevent re-offending?

- 1- Responsivity Needs
- 2- Criminogenic Needs
- 3- Non-Criminogenic Needs

## Criminogenic Needs

### Substance Dependence or Addiction

1. Triggered binge response
2. Cravings or compulsions
3. Withdrawal symptoms

Abstinence is a distal goal

### Substance Abuse

Abstinence is a proximal goal

### Responsivity needs

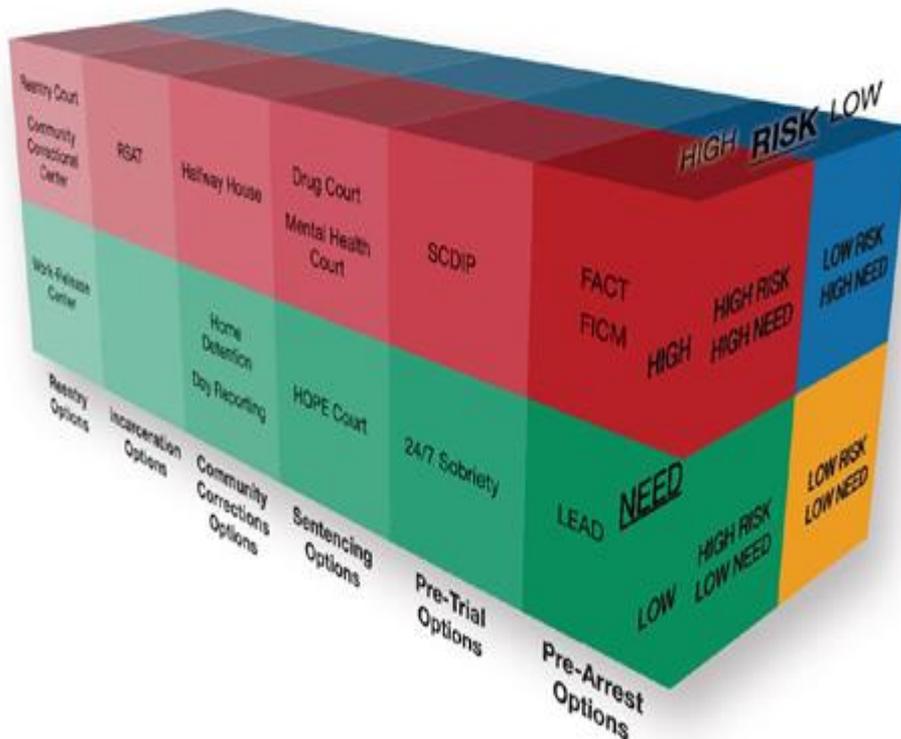
- Mental illness
- Serious functional impairments

Regimen compliance is proximal

# The ARK is a resource to identify programs, research, interventions, etc for each level of risk and need at each stage within the criminal justice system.

Easy to visually see where we are currently lacking in programs and why not all programs work as effectively for all offenders.

Quadrant Model Applied at each Intercept



Some assessments and programs use high, moderate and low.

Same concept, this just details even further the moderate category.

Average person = YELLOW

Average person with addiction = BLUE

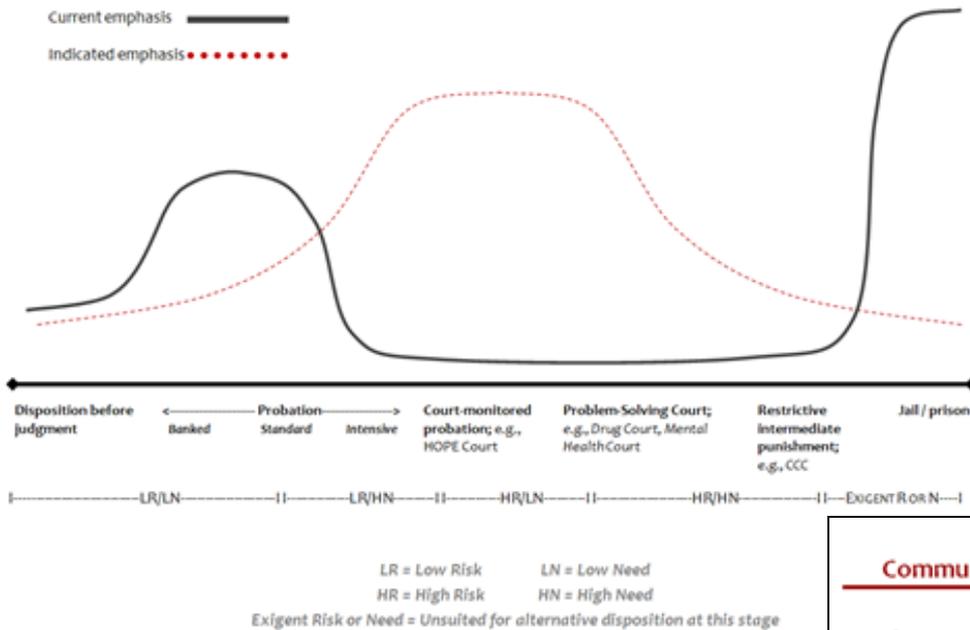
Criminal + Drug Abuse = GREEN

Criminal + Drug Addict = RED

Since criminal behavior with addiction is most likely to re-offend, most resources should be targeted there.

Helpful to separate those in moderate category to better utilize resources.

## Sentencing Options



Standard Probation most effective for low risk (less effective as need increases).

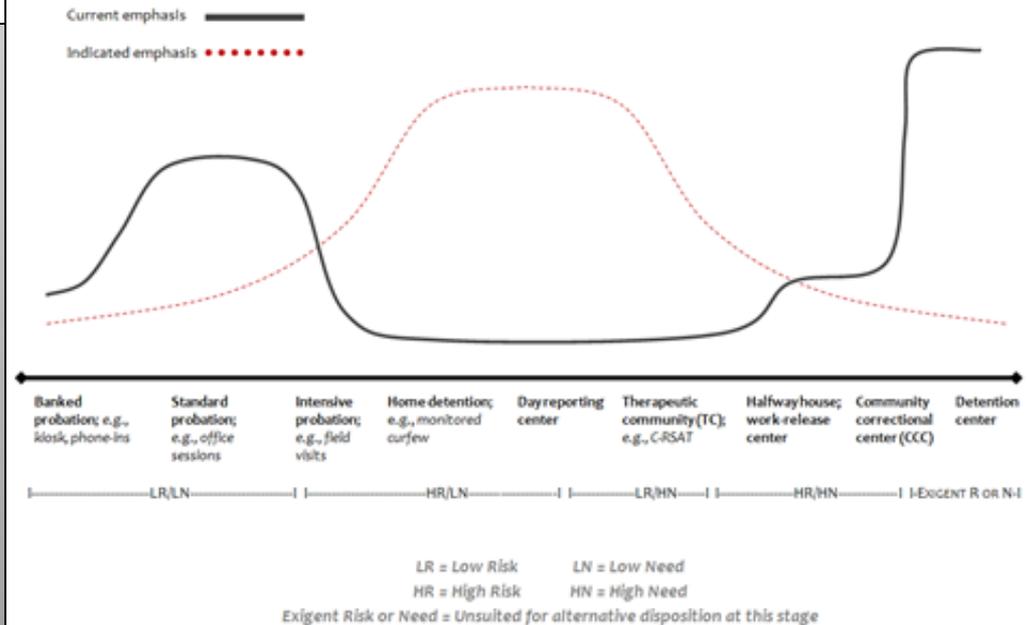
HOPE Courts – more effective for high risk/low need.

Problem Solving Courts – more effective for high risk/high need.

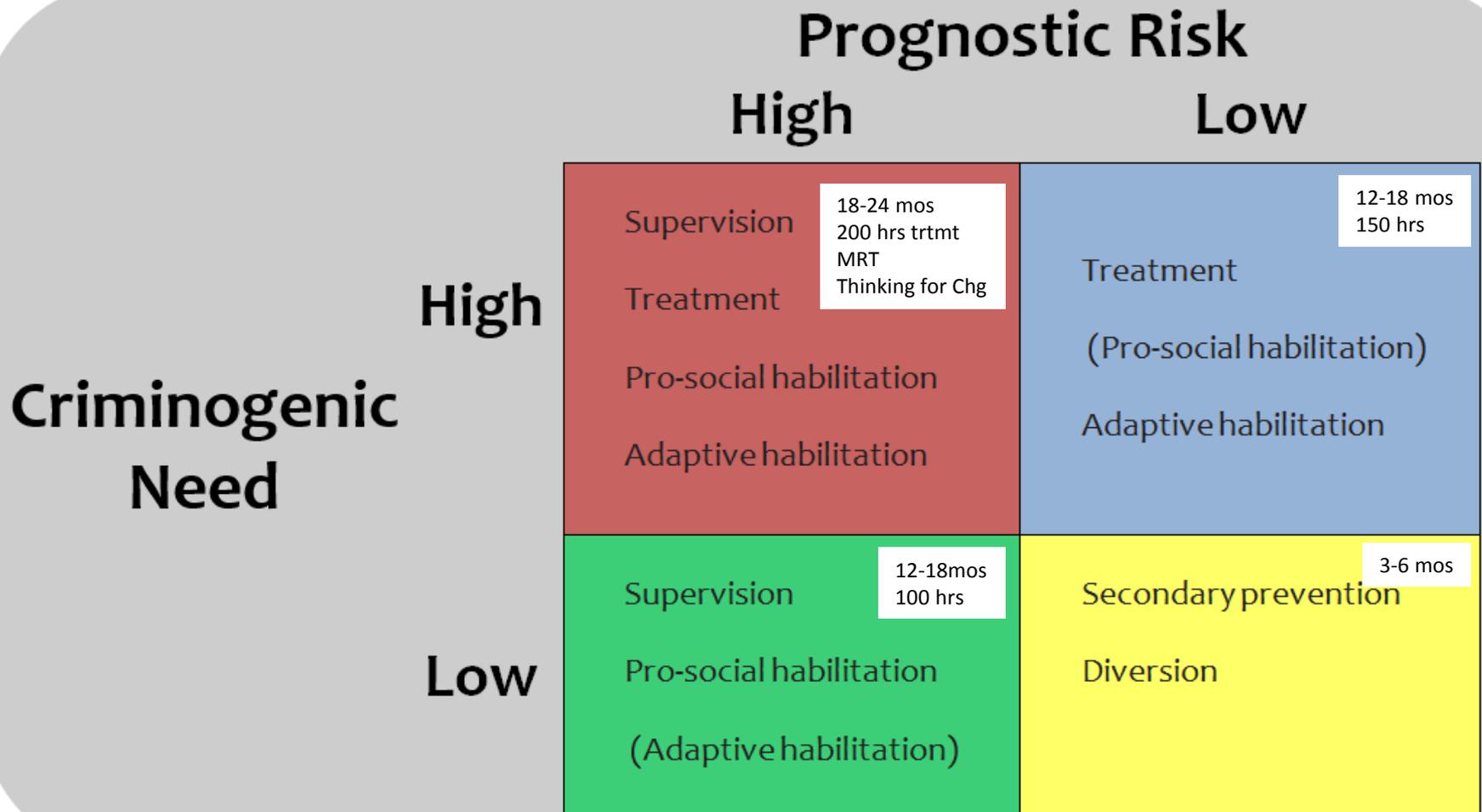
Intensive probation, home detention, day reporting, RSAT – more effective than standard probation in the moderate range.

Halfway house or CCC more effective for high risk/high need.

## Community Corrections Options



# Risk and Need as a Quadrant Model



## Takeaway Concerns:

- Adequacy of Assessment Tools
- LSI-R alone is insufficient
- Addition of the GAIN or different tool to address needs
- RANT, ORAS, COMPAS
- Need for AP&P Matrix
- Funding programs
- Re-structuring of offenses, guidelines, LOS
- Misdemeanor tool
- Licensing changes for treatment providers (approved providers, establish standard of care, performance built into contracts, not just ‘EBP’)

