



Arrowhead Regional Corrections

ARC Felony DWI Sentencing Report:

An overview of clients sentenced through March, 2006

Prepared April, 2006

Director: Tom Roy
Phone: (218) 726-2650
Email: royt@co.st-louis.mn.us

Research Analyst: Jared Hoy
Phone: (218) 725-5077
Email: hoyj@co.st-louis.mn.us

Table Of Contents

• Executive summary	SL - 3
• Definitions/Acronyms	SL - 4
• Sources of information	SL - 5
• Summary	SL - 6
• Demographics	SL - 7
• Age	SL - 7
• Region	SL - 8
• Gender	SL - 9
• Ethnicity	SL - 10
• Supervision level	SL - 11
• LSI-R risk levels	SL - 12
• Criminal history	SL - 12
• Criminal history scores	SL - 13
• Prior offenses	SL - 14
• Departure rates	SL - 16
• Presumptive commits	SL - 17
• Probation recommendations	SL - 18
• Sentences	SL - 19
• Prison sentence time periods	SL - 20
• Recidivism	SL - 21
• Definitions	SL - 21
• Offense levels	SL - 22
• Time periods	SL - 24
• General recidivism by LSI-R risk level	SL - 25
• NERCC recidivism	SL - 26
• Recommendations	SL - 27

Executive Summary

On August 1st, 2002, a new Minnesota Statute took effect that allowed for the crime of driving while impaired (DWI) to be charged as a felony for those offenders who had been convicted of the same offense three times in the previous 10 years. As of April 2006, there have been 179 offenders in the ARC region convicted of this offense. The purpose of this report is to summarize the sentencing practices for this specific population of offenders.

Recently there have been several publicized reports in the local media citing rates as high as 43% of Felony DWI offenders receiving local incarceration time as opposed to their presumed prison commits. These reports have alluded to such departures as not being in the spirit of the original statute which was designed to send the most serious and repeat DWI offenders to state prisons. This current Felony DWI report reveals statistics very similar to these statewide trends. Within the ARC region, 41% of offenders whose presumptive sentence was a commitment to prison received either local jail or NERCC placement instead of prison.

In addition to sentencing trends, this study analyzes such demographic statistics as age, region, gender, and ethnicity, while comparing them to statewide norms. It is evident that minorities (African American & Native American) are over-represented in this sample population. Risk and supervision levels are examined in addition to criminal histories. Subsequently, departures rates are reported in the context of probation recommendations.

Finally, a recidivism study is outlined that includes measures of offense levels as well as time periods. An overall recidivism rate of 32% is reported, prefaced by a same or similar conviction rate of 9%. This Felony DWI report by and large provides Arrowhead Regional Corrections with a comprehensive picture of the current state of the Felony DWI population in the region.

Definitions/Acronyms

- ARC – Arrowhead Regional Corrections
- BWR – Bethel Work Release
- COC – Commissioner of Corrections
- CSTS – Court Services Tracking System
- DAC – Driving After Cancellation
- DAR – Driving After Revocation
- DWI – Driving While Impaired
- F – Felony
- FOP – Female Offender Program
- GM – Gross Misdemeanor
- LSI-R – Level of Service Inventory-Revised
- MSGC – Minnesota Sentencing Guidelines Commission
- MSGW – Minnesota Sentencing Guidelines Worksheet
- M – Misdemeanor
- NERCC – Northeast Regional Corrections Center
- OFP – Order for Protection
- PSI – Pre-Sentence Investigation
- S³ – Statewide Supervision System
- VOP – Violation of Probation

Sources of Information

- CSTS
 - Sentencing Data
 - Offender Demographics
 - Recidivism Data
- MSGC
 - Criminal History Scores
 - Presumptive Sentences
 - Departure Information
- PSI
 - Offense Histories
 - Probation Recommendations
- S^3
 - LSI-R Scores

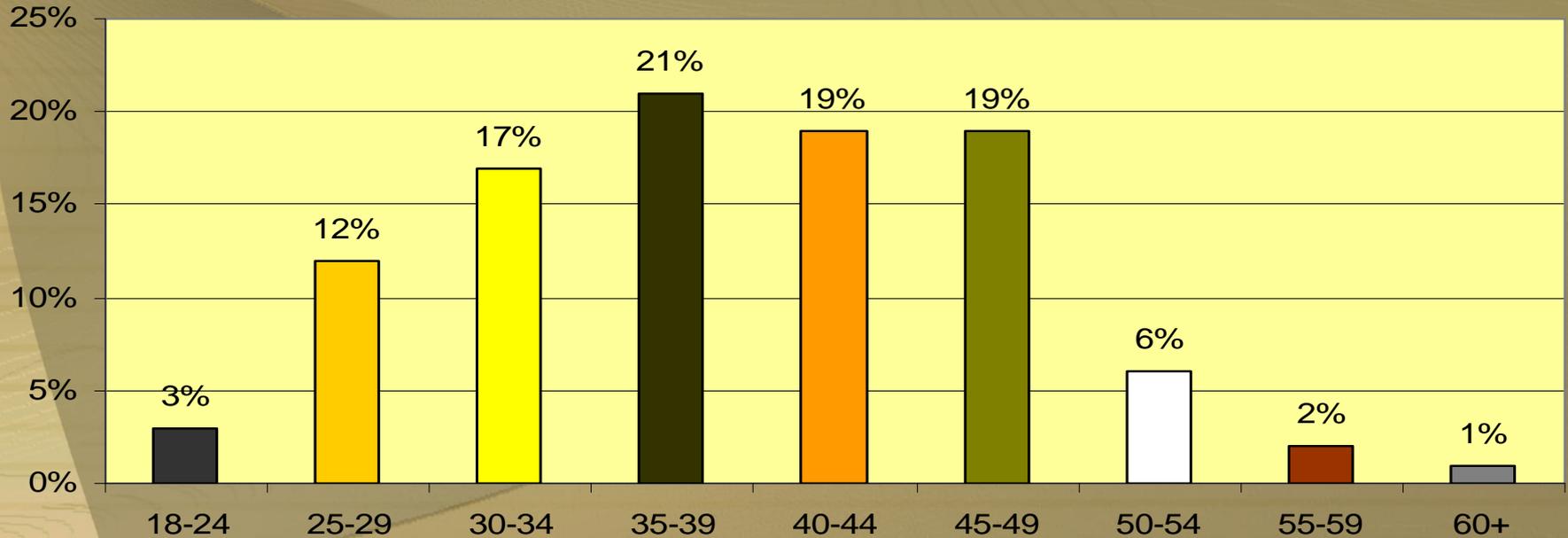
Summary of Findings

- Totals
 - Since inception of the new Felony DWI Statute on August 1st, 2002 there have been 179 Felony DWI offenders sentenced in the ARC region. This is the total sample for this study.
 - In addition, 32 convicted Felony DWI offenders were accepted for supervision within ARC due to transfers from other regions.
 - At the time of this report, there were 21 Felony DWI offenders awaiting sentencing in the ARC region.

Demographics

- Age

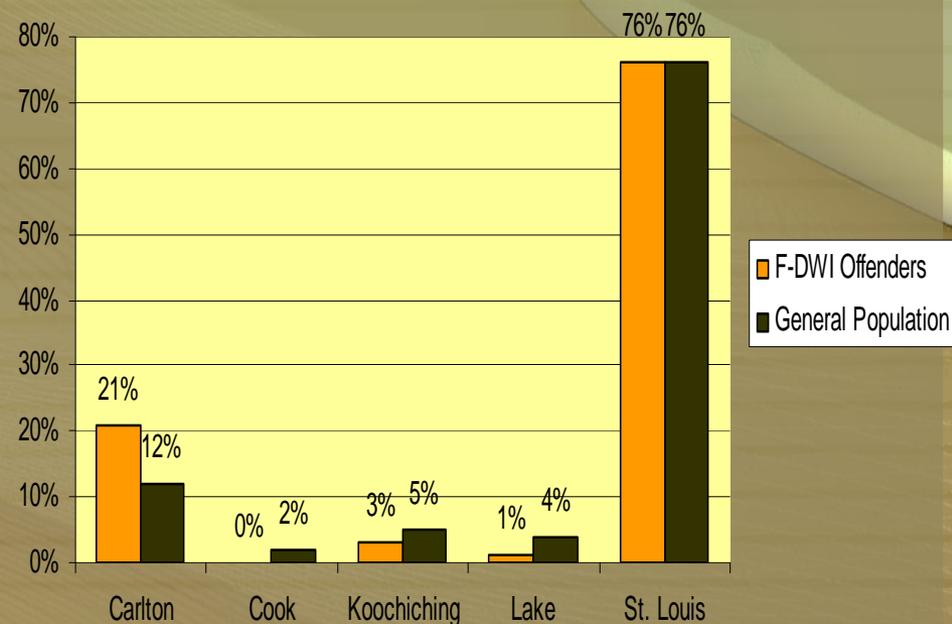
- The average age of the Felony DWI offender at the time of sentencing was 38 years old.
- In comparison, the average age statewide for this offense is 36 years old. (At time of offense.)



Demographics (cont.)

- Region

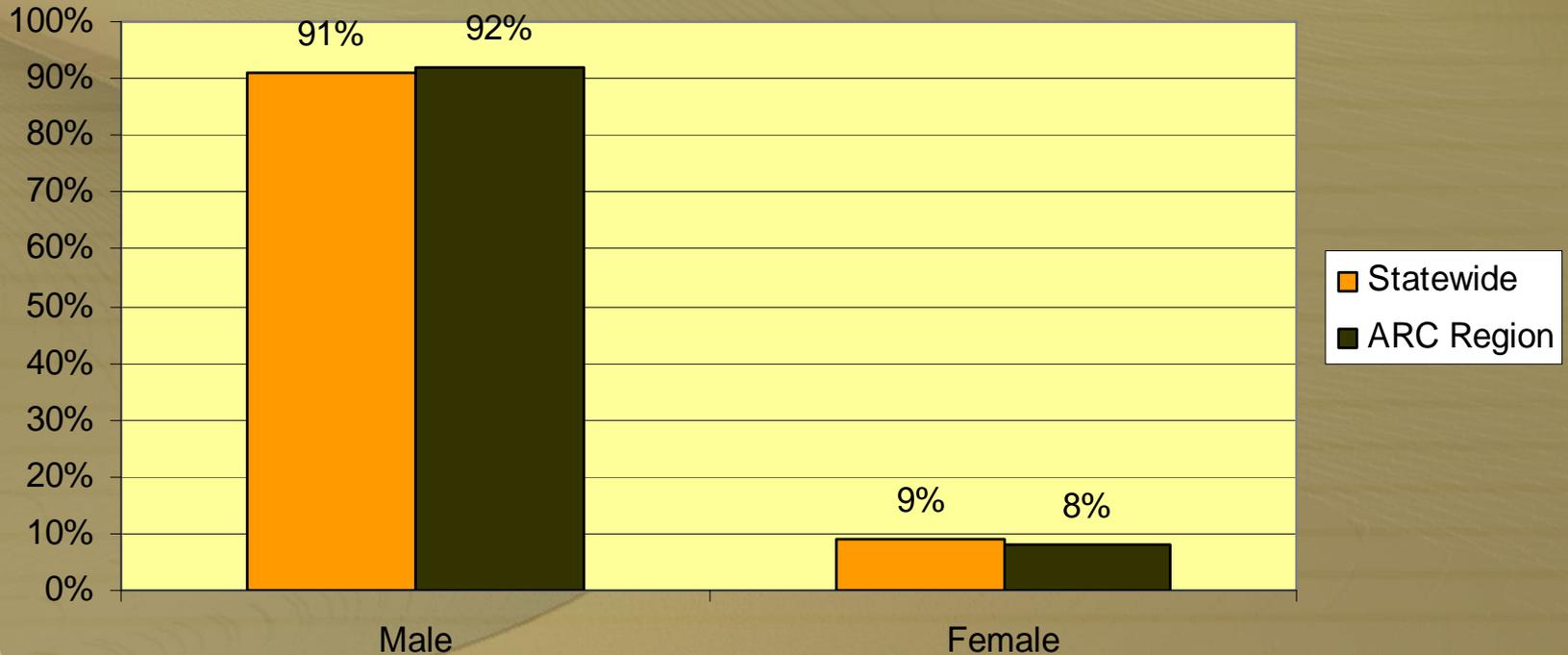
Region	F-DWI Offenders		General Population (Census 2000)	
	#	%	#	%
Carlton County	37	21%	31671	12%
Cook County	0		5168	2%
Koochiching County	5	3%	14355	5%
Lake County	2	1%	11058	4%
Duluth	78	44%		
Hibbing	28	16%	200528	76%
Virginia	29	16%		
Total	179	100%	262780	100%



- Felony DWI offenders in ARC's 5 counties (N=179) account for approximately 7% of the state's total sentenced Felony DWI population, which at the present time can be estimated at around 2,500.

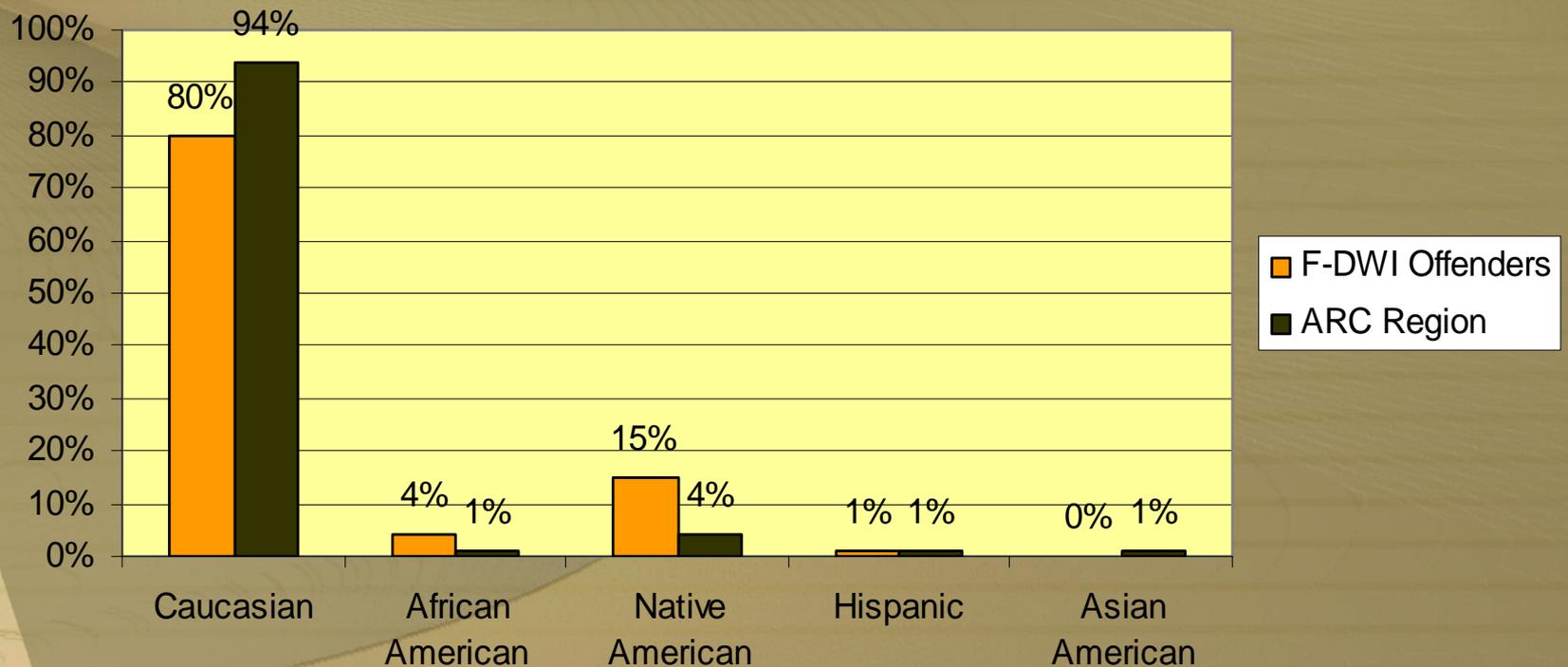
Demographics (cont.)

- Gender
 - Over 90% of the Felony DWI Offenders were male, both in ARC, and throughout the State of MN.



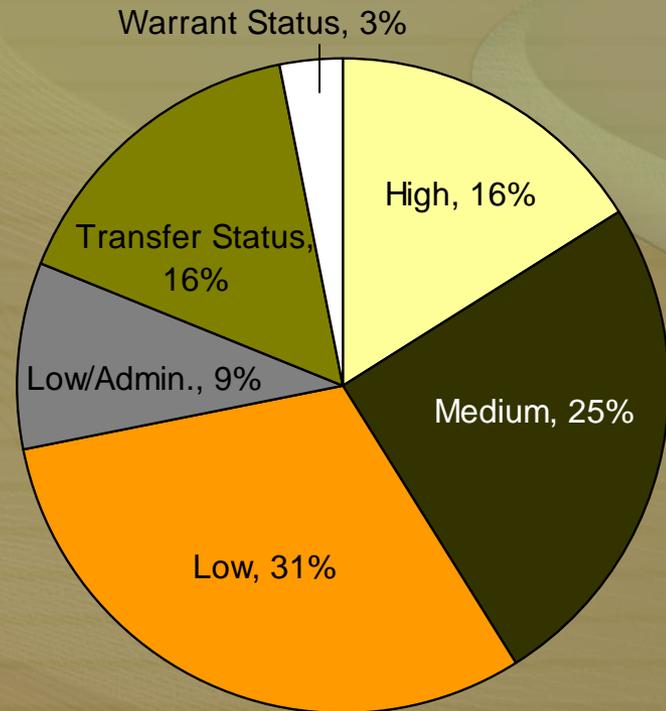
Demographics (cont.)

- Ethnicity
 - Minorities are over-represented for this Felony DWI sample when compared to the regional distribution.



Supervision Level

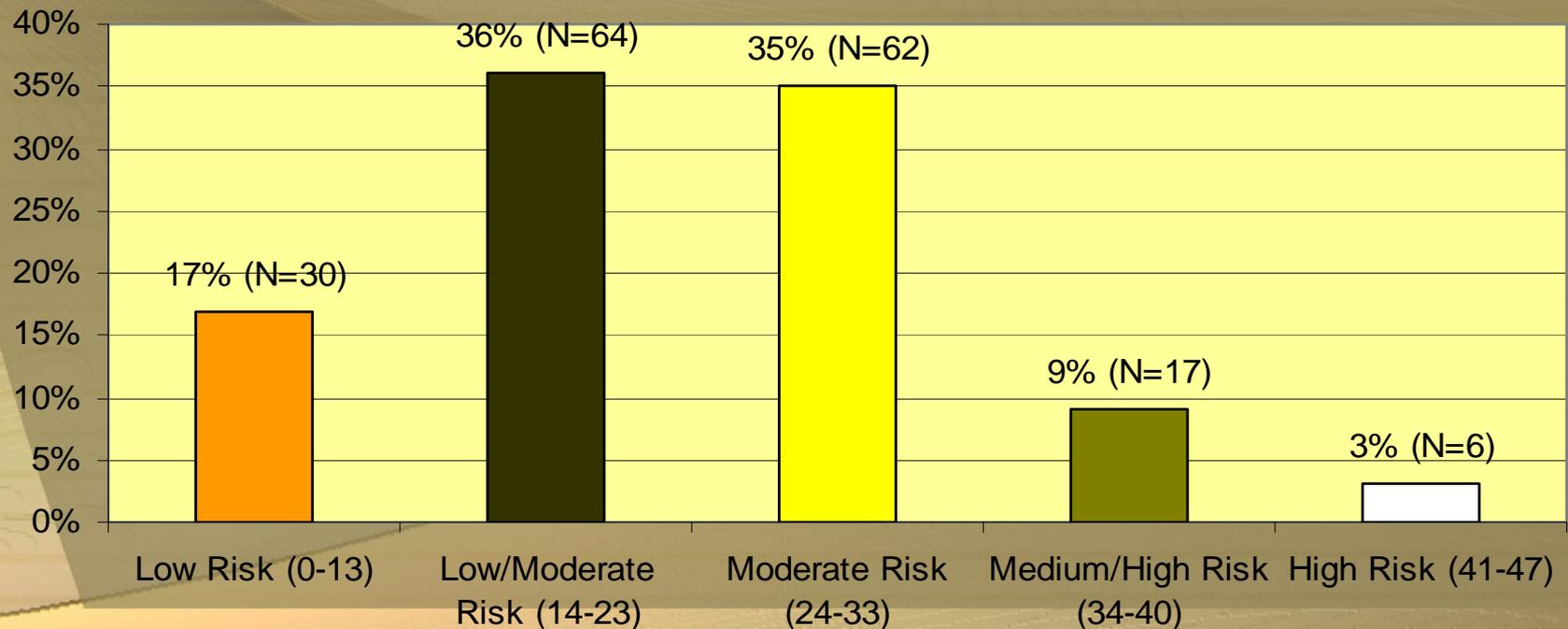
Supervision Level	#	%
High	22	16%
Medium	35	25%
Low	44	31%
Low Administrative	13	9%
Transfer Status	22	16%
Warrant Status	4	3%
Total	140	100%



- 140 of the 179 Felony DWI offenders are currently being supervised in the community.
- Of these 140, 40% are classified as low risk.

LSI-R Risk Levels

- The Level of Service Inventory-Revised (LSI-R) is the adult risk assessment tool used by ARC to assess criminogenic needs and risk of re-offense.
 - Felony DWI offenders had an average LSI-R score of 23. This falls on the high end of the low/moderate risk level, and suggests an approximate 40% chance of recidivism.

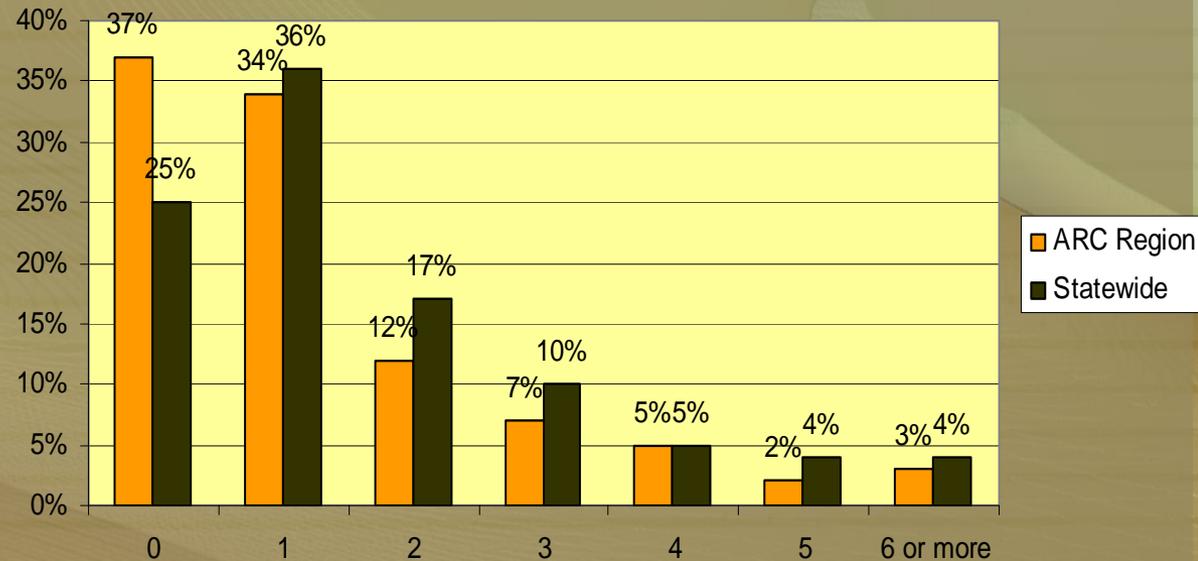


Criminal History

- Criminal History Scores

- Prior to sentencing, a Felony offender's criminal history is ranked using a matrix that takes into account the following variables:

1. Prior Felony, Gross Misdemeanor and Misdemeanor record. (Including frequency of offenses.)
2. Custody status.
3. Prior juvenile record for young adult felons.

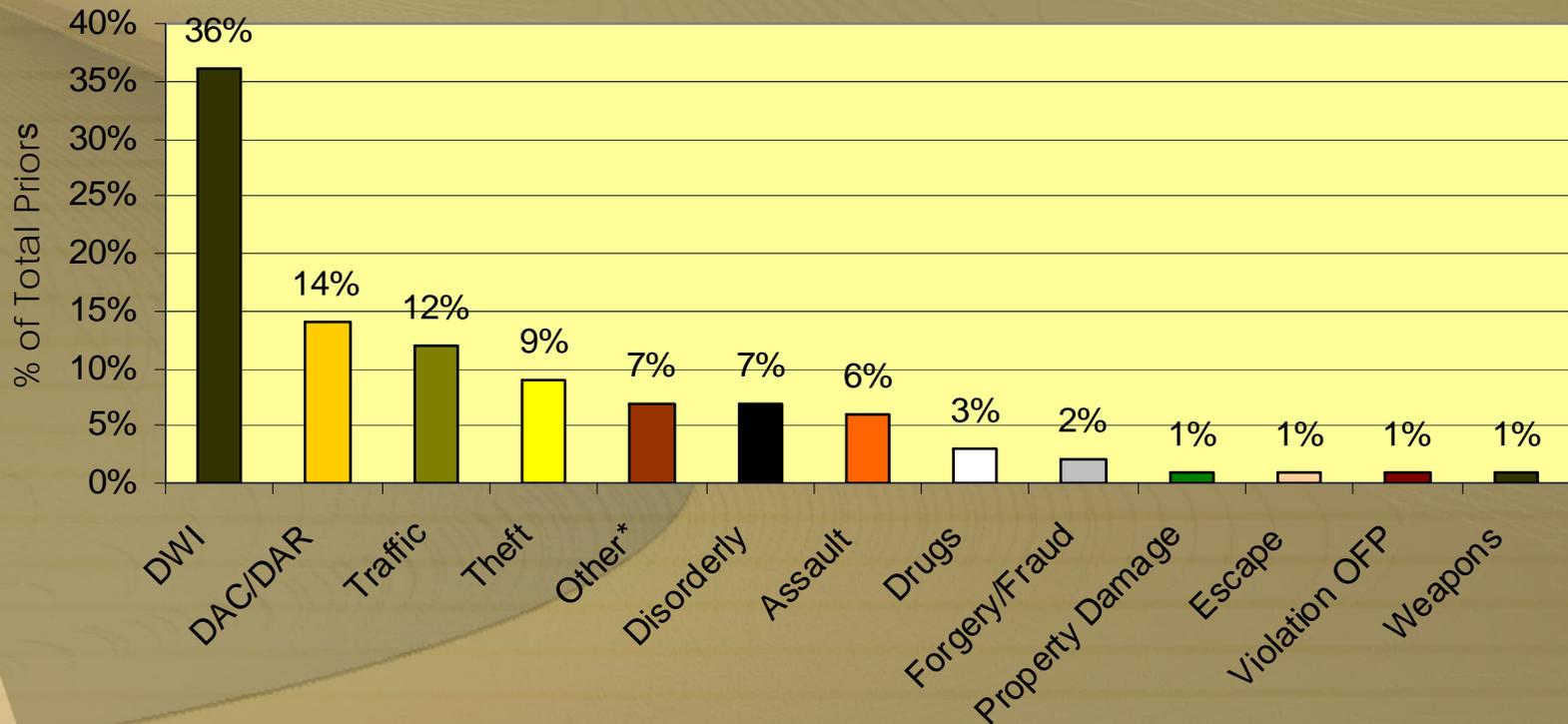


Criminal History Score	ARC Region	Statewide
0	37%	25%
1	34%	36%
2	12%	17%
3	7%	10%
4	5%	5%
5	2%	4%
6 or more	3%	4%

Criminal History (cont.)

- Prior Offenses

- The 179 Felony DWI offenders were convicted of a total of 2,232 prior offenses, which averages to be 12 priors per offender.
- The number of prior DWIs ranged anywhere from 3 to 14, with an average of between 4 and 5 per offender. (There must be a record of 3 or more to warrant a felony charge.)



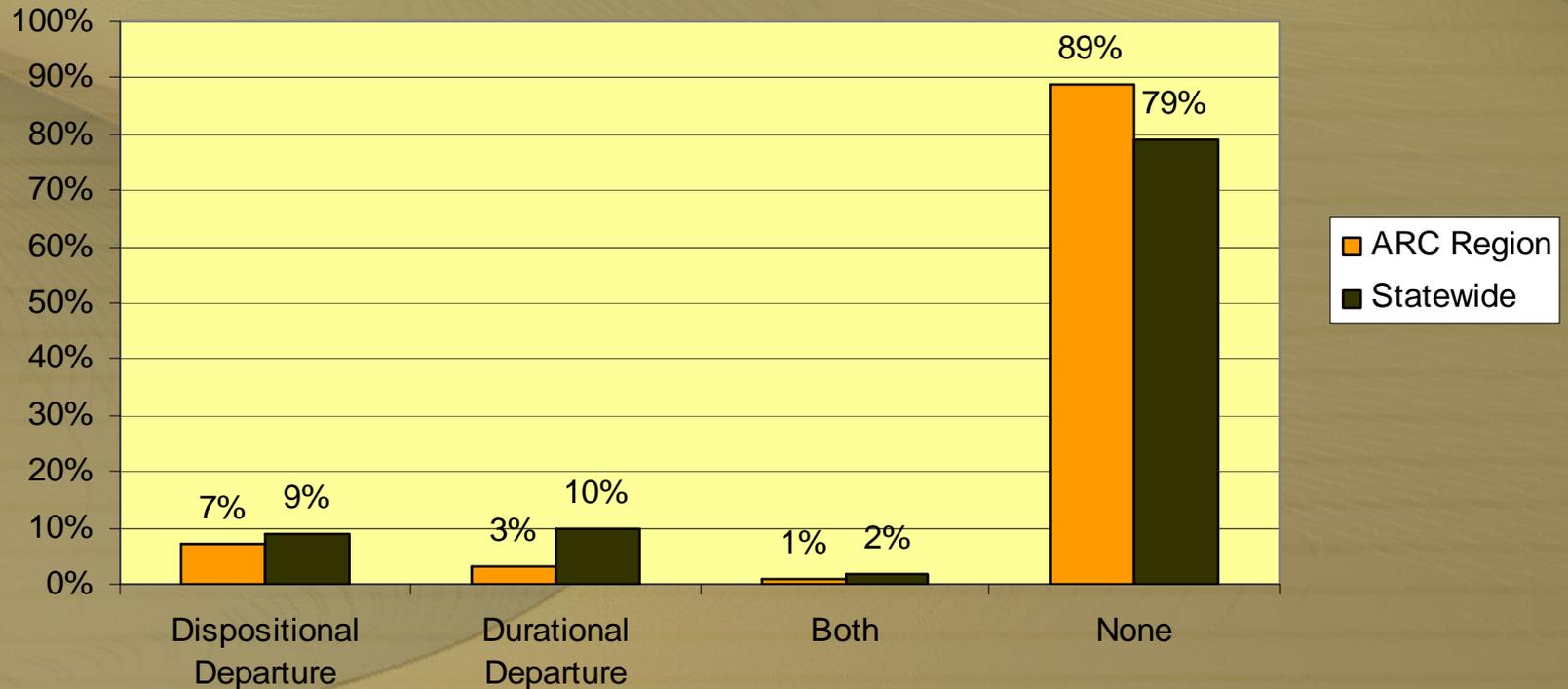
*See next page for list of offenses in "other" category.

Criminal History (cont.)

- Other Category (from previous page).
 1. Arson
 2. Contributing to delinquency of a minor
 3. Criminal Sexual Conduct
 4. False name to police
 5. Game law violations (fishing/hunting)
 6. Harassment
 7. Possession of fireworks
 8. Prostitution
 9. Tampering with a motor vehicle
 10. Tax evasion
 11. Terroristic threats
 12. Trespassing
 13. Resisting arrest

Departure Rates

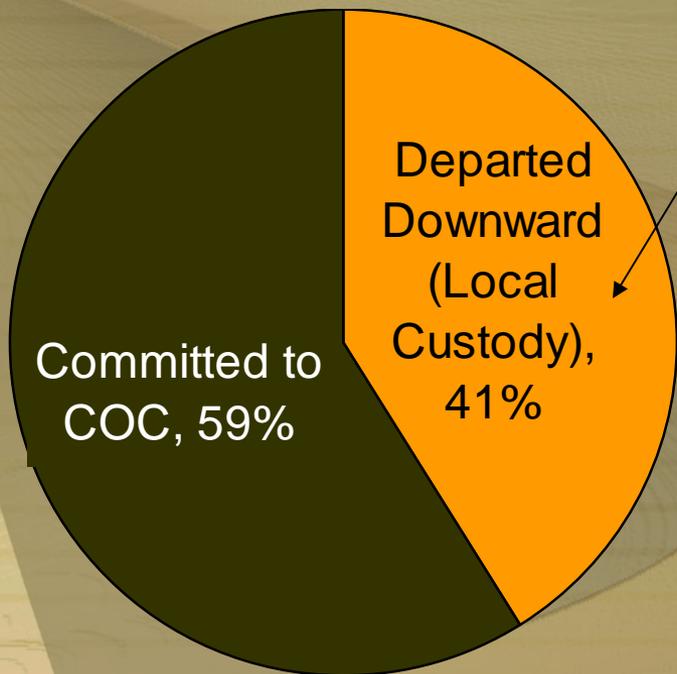
- A MN Sentencing Guidelines Worksheet (MSGW) is completed for every adult felony offense.
- This worksheet suggests a presumptive sentence based on offense severity and criminal history (See MSGW handout).
- Judges possess the discretion to depart (upward or downward) from the presumptive sentence on both disposition and duration. Departures occurred in 20 (11%) of the 179 Felony DWI cases in ARC.



- A chi square test reveals that there is a statistically significant difference between departure rates for the ARC region in comparison to those Statewide. ($p < .05$)

Departure Rates (cont.)

- Presumptive commits
 - 32 of the 179 Felony DWI offenders received a presumptive sentence of commitment to the Commissioner of Corrections.

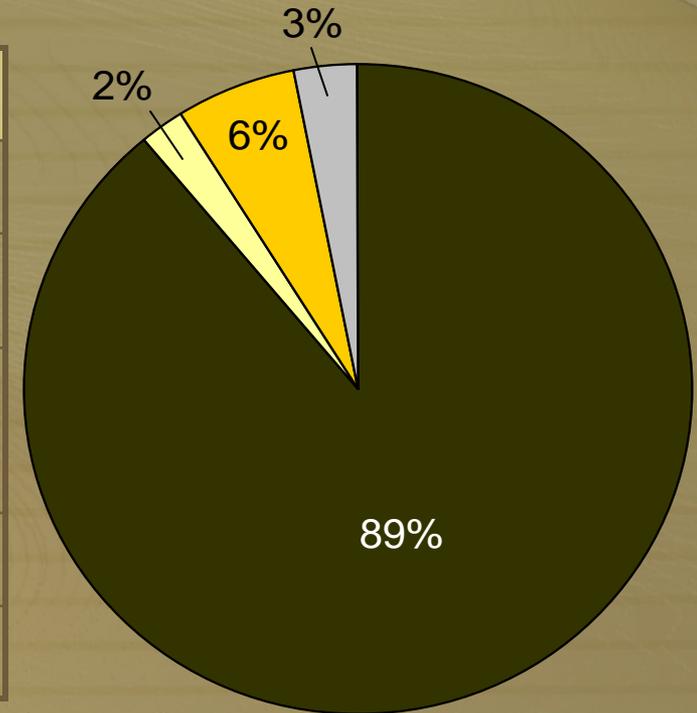


- Of these 32 presumptive commits, 41%, (13 offenders) were departed downward and instead received probation and local incarceration.
- In 10 of these 13 cases, ARC probation officers either recommended commitment or chose to abide by the plea bargain which agreed to local disposition.
- An examination of recidivism shows that 9 out of these 13 offenders recidivated within 2 years. (2 recidivated with a subsequent Felony DWI.)

Probation Recommendations

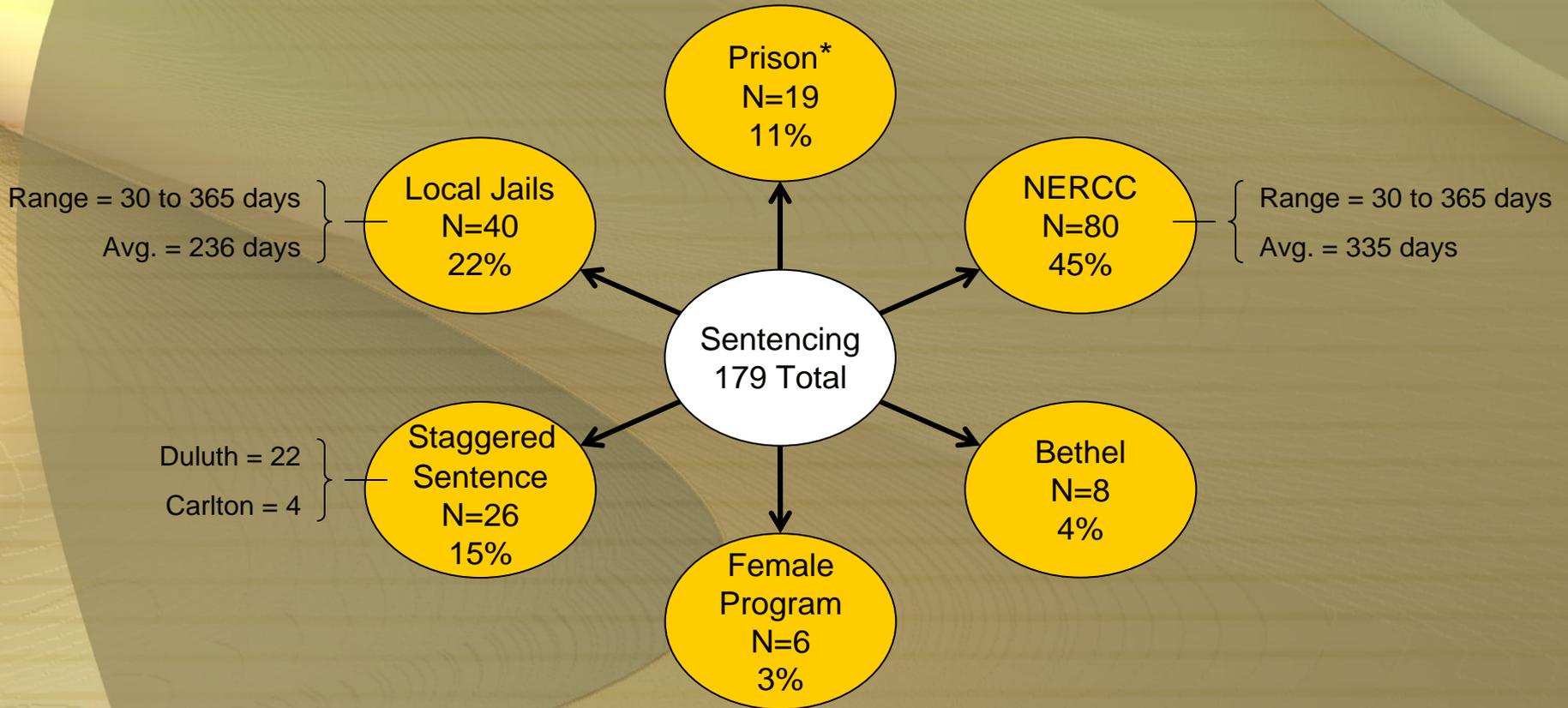
- In approximately 90% of the 179 cases, the actual sentence corresponded with what ARC PSI writers recommended.

End Result	#	%
Sentence equal to recommended	160	89%
Sentence more than recommended (PSI recommended less duration)	3	2%
Sentence less than recommended (PSI recommended greater duration in 5 cases) (PSI recommended greater disposition in 6 cases)	11	6%
Acceptance of plea agreement	5	3%
Total	179	100%



Sentences

- Felony DWI Offenders were sentenced to probationary time ranging anywhere from 2 to 10 years. The average length of probation was 4 years.

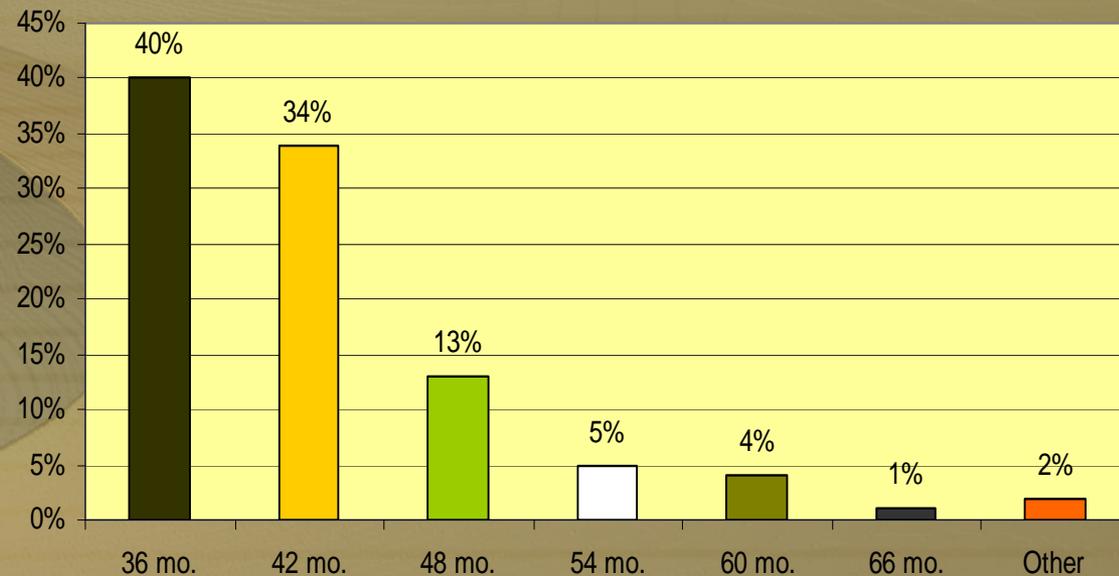


*See next slide for a breakdown of prison sentence time.

Sentences (cont.)

- Prison sentence time periods
 - Although only 19 offenders were committed to prison, all 179 were sentenced to a period of time ranging from 27 to 75 months. (160 clients, or 89%, received a stayed sentence.)
 - The average stayed sentence was 41 months.
 - In contrast, the average executed sentence was 51 months.

Duration	#	%
36 months	72	40%
42 months	60	34%
48 months	24	13%
54 months	9	5%
60 months	8	4%
66 months	2	1%
Other (27, 51, 63, 75)	4	2%
Total	179	100%

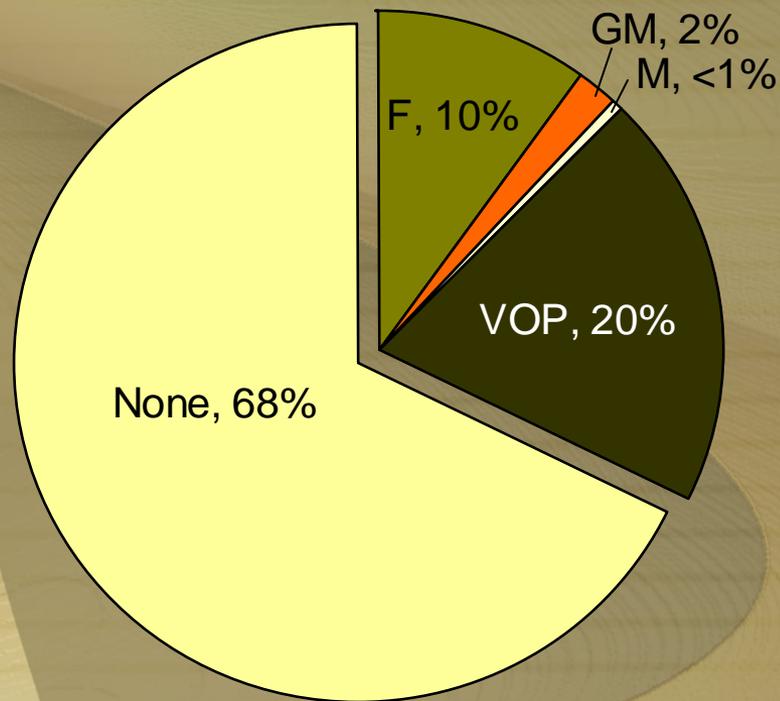


Recidivism

- Definitions:
 - Conviction, not arrest!
 - Time period
 - From date of sentencing to 4/18/06.
 - Offenders had different times post-sentence ranging anywhere from 1 year to 3 ½ years.
 - It should be noted that the vast majority of offenders spent a period of time in custody after sentencing, thus reducing their at-risk time.
 - Offense levels are broken out individually.

Recidivism (cont.)

- Recidivism by offense level
 - Overall recidivism rate = **32%**



Offense Level	#	%
Felony (17 of 18 = DWI)	18	10%
Gross Misdemeanor	3	2%
Misdemeanor	1	<1%
Violation of Probation*	36	20%
Total	58	32%
Same/Similar	17	9%

17 out of the 179 offenders committed a subsequent DWI.

*See next slide for a breakdown of VOP reasons

Recidivism (cont.)

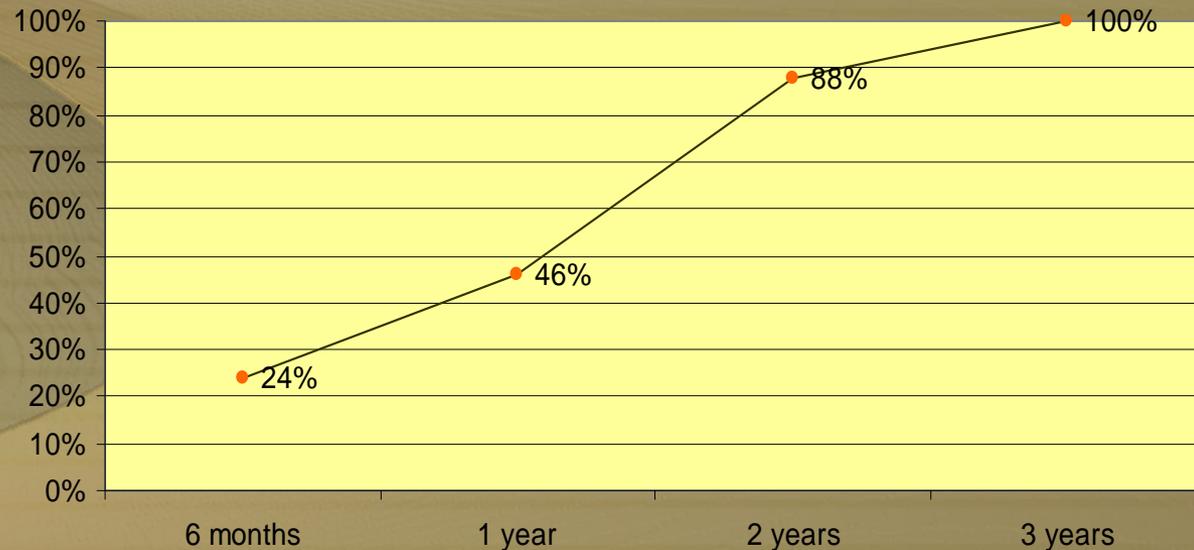
- Reasons for violations of probation (N=36)
 - Failure to abstain from alcohol or drugs (N=19)
 - Alcohol violations = 17
 - Drug violations = 2
 - Failure to report (N=9)
 - Failure to remain law abiding (N=5)
 - Failure to complete treatment (N=3)

Recidivism (cont.)

- Time period (post-sentence):
 - The statistics below pertain only to those offenders that recidivated. As such, they should read, "Of those that recidivated, 46% did so in the first year after conviction," for example.

Elapsed time-plot grid for recidivators

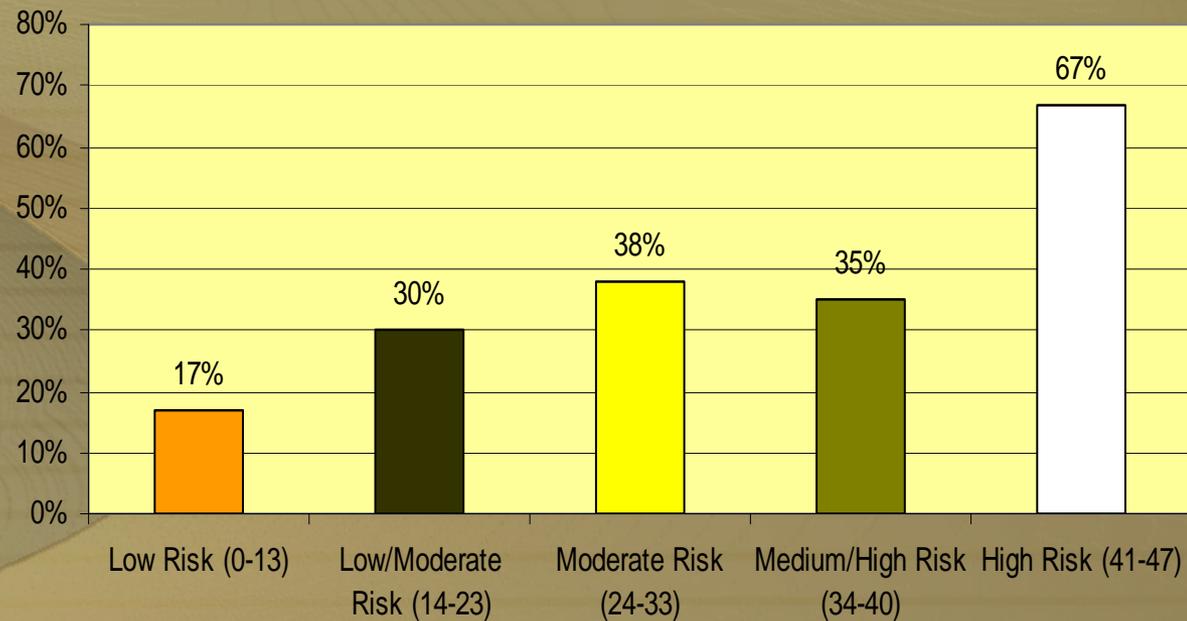
Duration	#	%
6 months	14	24%
1 year	27	46%
2 years	51	88%
3 years	58	100%



Recidivism (cont.)

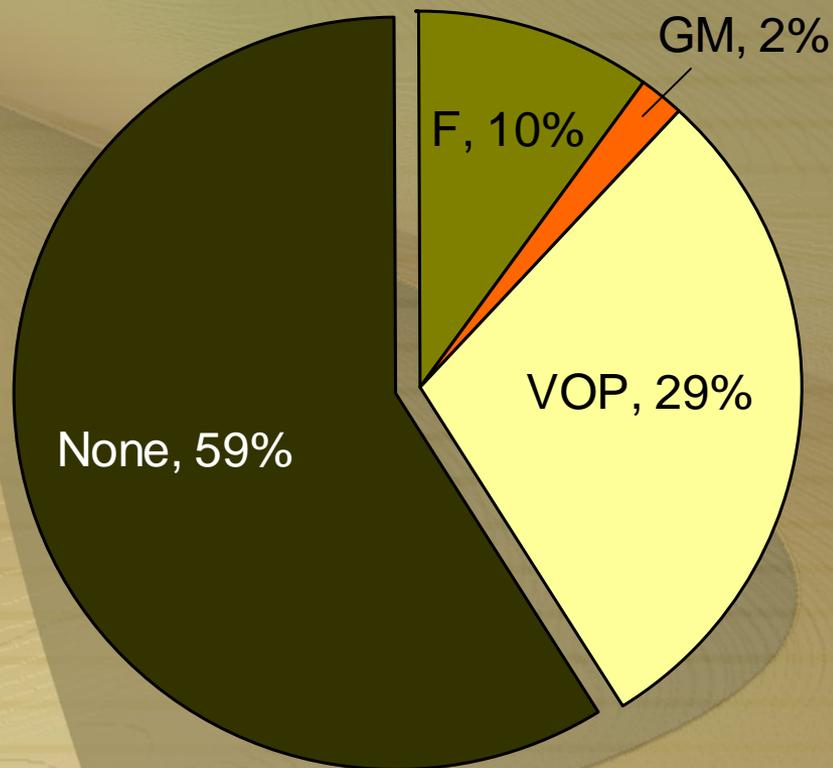
- General Recidivism by LSI-R Risk Level
 - With the exception of the medium/high risk classification, recidivism rates are positively correlated with risk level.

Risk Level	Recidivated	
	#	%
Low Risk (N=30)	5	17%
Low/Moderate Risk (N=64)	19	30%
Moderate Risk (N=62)	24	38%
Medium/High Risk (N=17)	6	35%
High Risk (N=6)	4	67%



Recidivism (cont.)

- Recidivism for NERCC Felony DWI offenders only (N=80)
 - Overall recidivism rate = **41%**



Offense Level	#	%
Felony (8 of 8 = DWI)	8	10%
Gross Misdemeanor	2	2%
Misdemeanor	0	
Violation of Probation*	23	29%
Total	33	41%
Same/Similar	8	10%

8 out of the 80 offenders committed a subsequent DWI.

Recommendations

- **Finding:** Carlton County accounts for 21% of the entire F-DWI sample but comprises only 12% of the entire ARC region. (SL-8)
 - Conduct a secondary analysis focusing on the 37 F-DWI offenders supervised in Carlton in an effort to determine why this region holds such an over-representation of clients.
- **Finding:** 40% of the F-DWI offenders currently being supervised in the ARC region are classified as low risk. (SL-11)
 - Investigate and possibly modify the policy/business practice that dictates the supervision level classification process for these types of offenders.
- **Finding:** 70% of the F-DWI offenders who received downward dispositional departures ultimately re-offended in 2 years. (SL-17)
 - Collaborate with local criminal justice partners to be determined and consistent in sending the highest risk presumptive commits to state prisons.
- **Finding:** While recidivism is calculated in this report, analyzing multiple years classes and thus varying times at-risk poses a statistical challenge. (SL-22)
 - Conduct a more in-depth recidivism analysis in future years using a sample of offenders who have all had at least 2 years of time post-conviction. This will allow for more realistic recidivism rates and more informative elapsed time analyses.