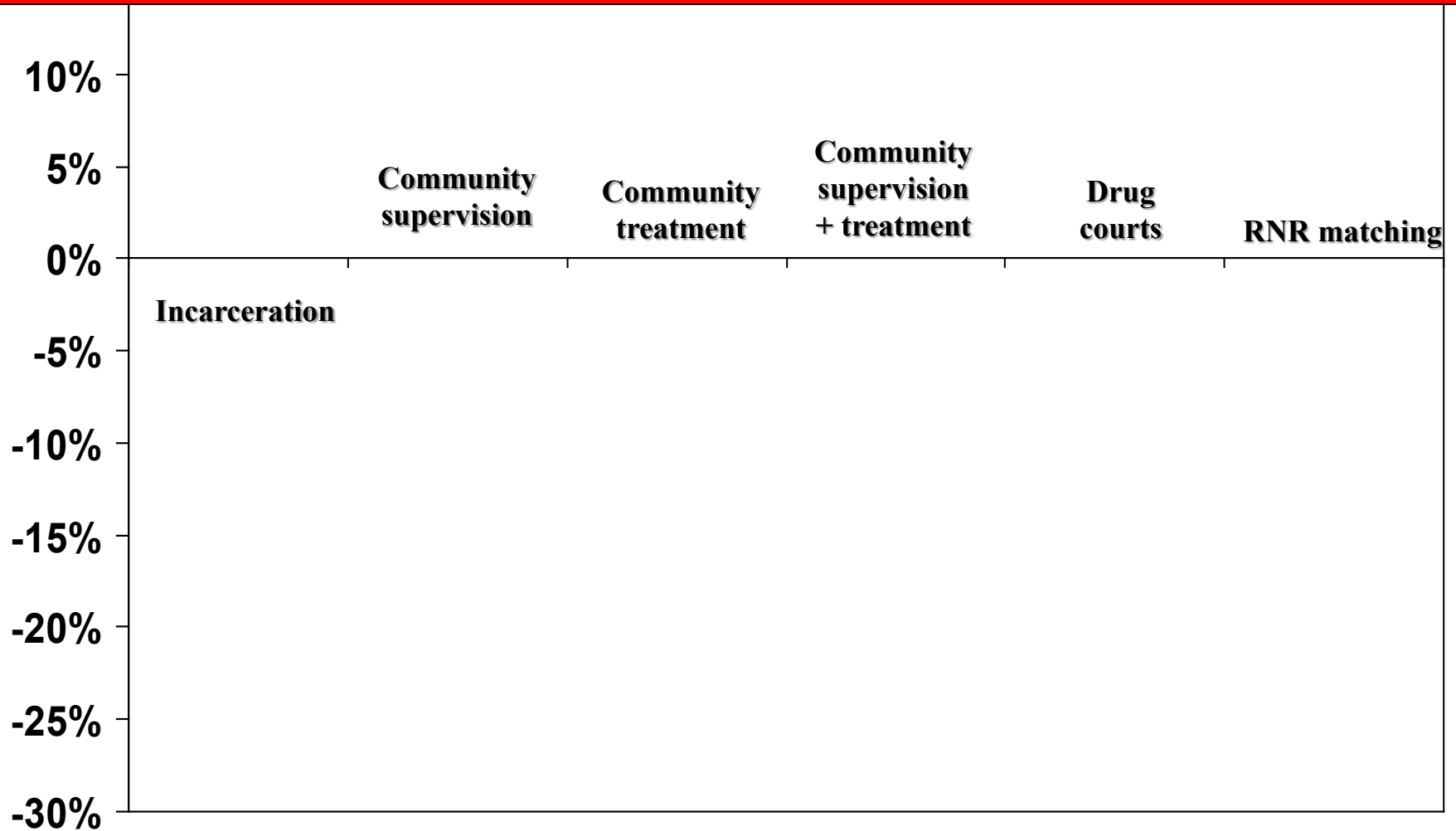


TAKING STOCK OF TREATMENT COURTS AFTER 30 YEARS

The Good, the Bad, the Misunderstood

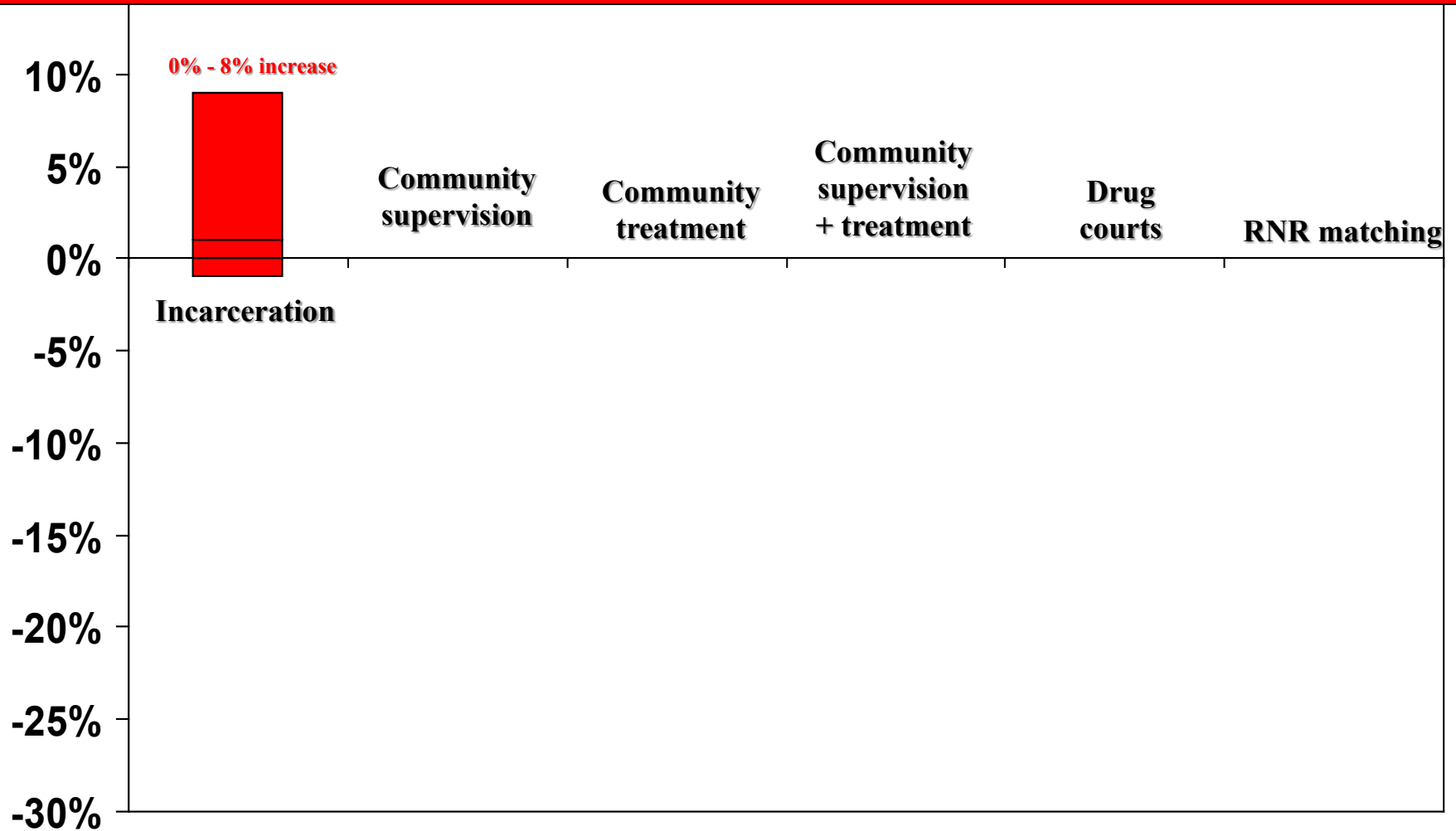
Douglas B. Marlowe, J.D., Ph.D.

Average Effects on Crime



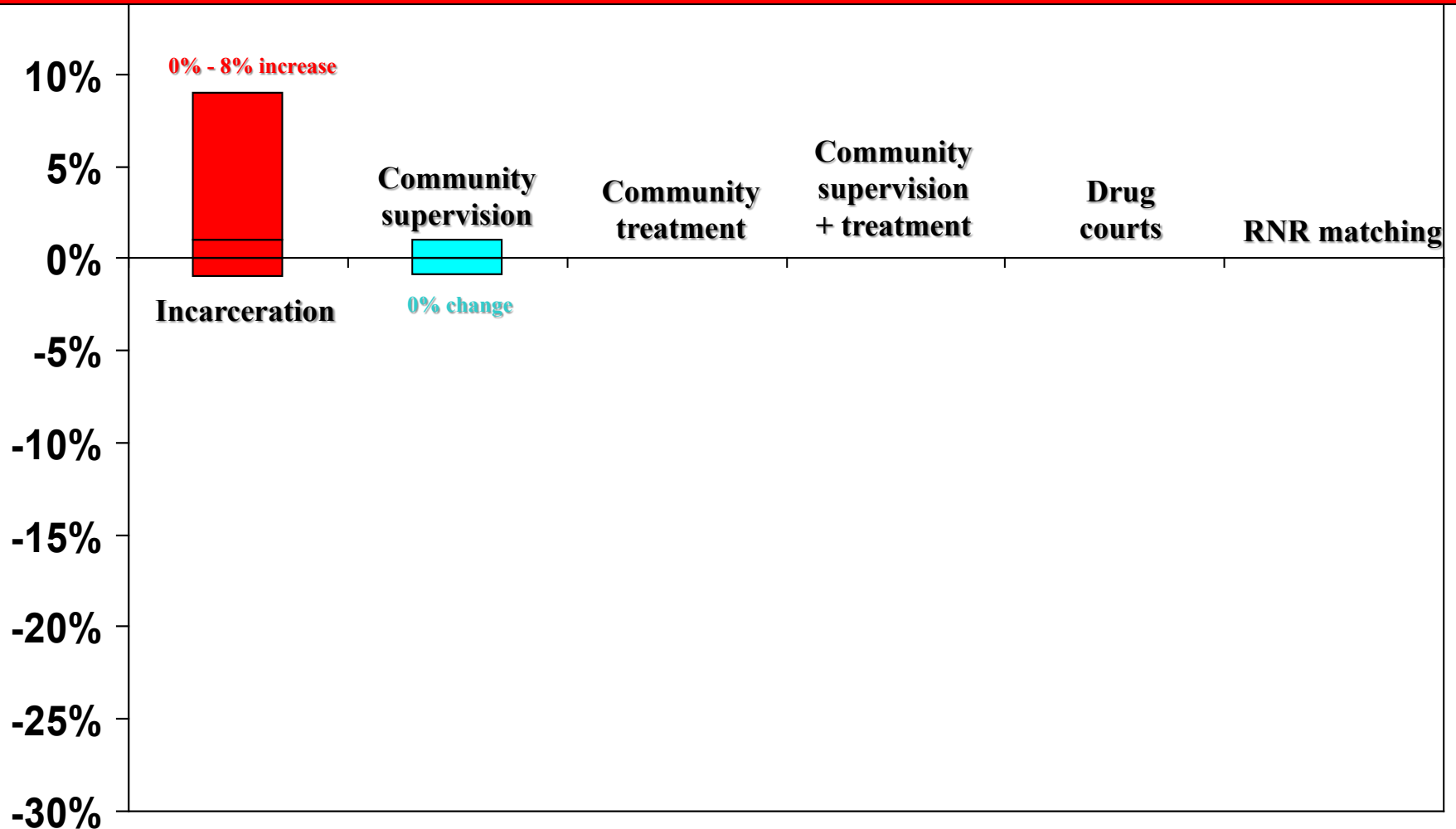
Sources: Aos et al. (2006); Cullen et al. (2011); Drake (2012); Drake (2011); Durlauf & Nagin (2011); Gendreau et al. (2000); Lipsey (2019); Mitchell et al. (2012); Rossman et al. (2011); Smith et al. (2002, 2009)

Average Effects on Crime



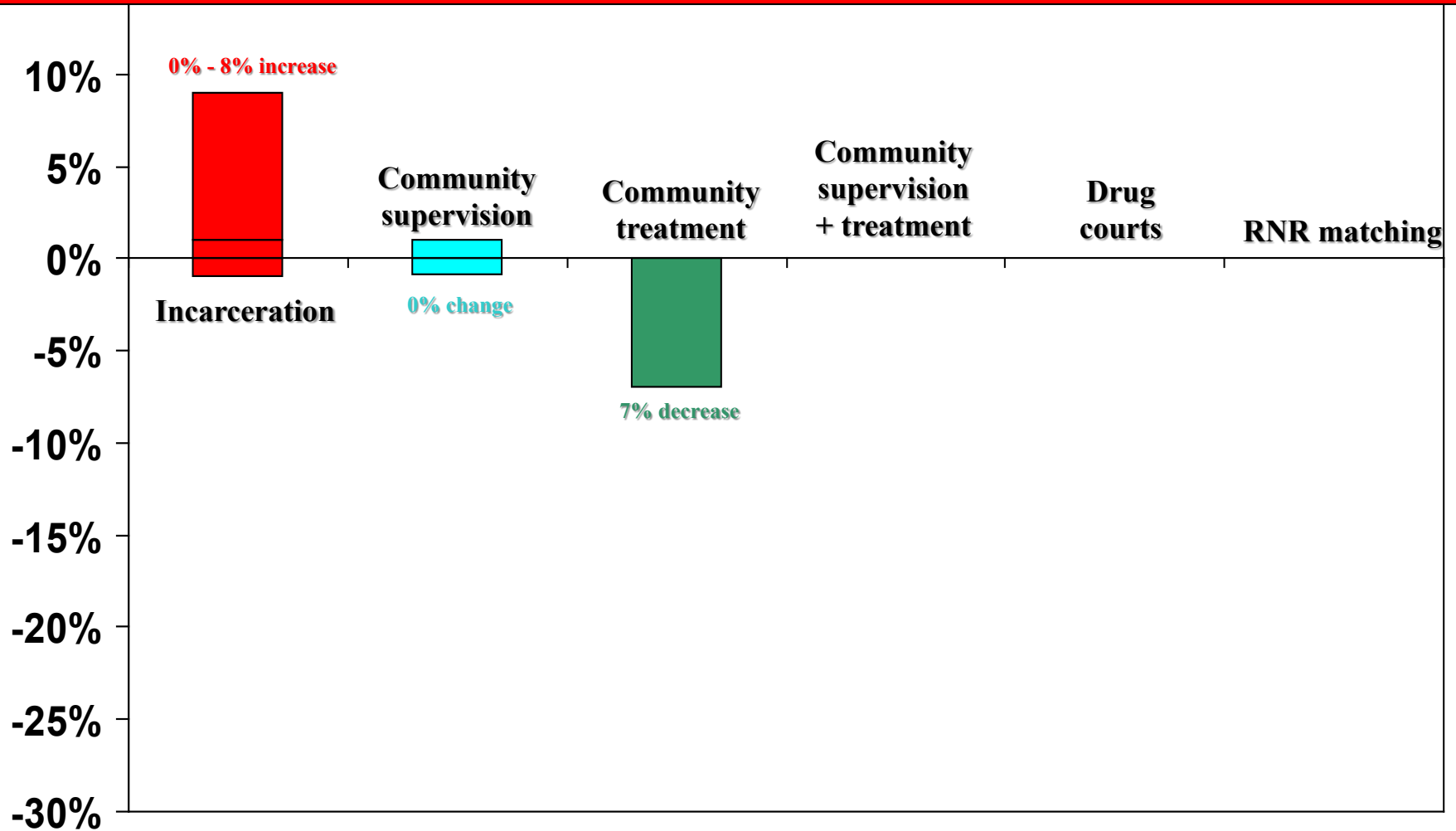
Sources: Aos et al. (2006); Cullen et al. (2011); Drake (2012); Drake (2011); Durlauf & Nagin (2011); Gendreau et al. (2000); Lipsey (2019); Mitchell et al. (2012); Rossman et al. (2011); Smith et al. (2002, 2009)

Average Effects on Crime



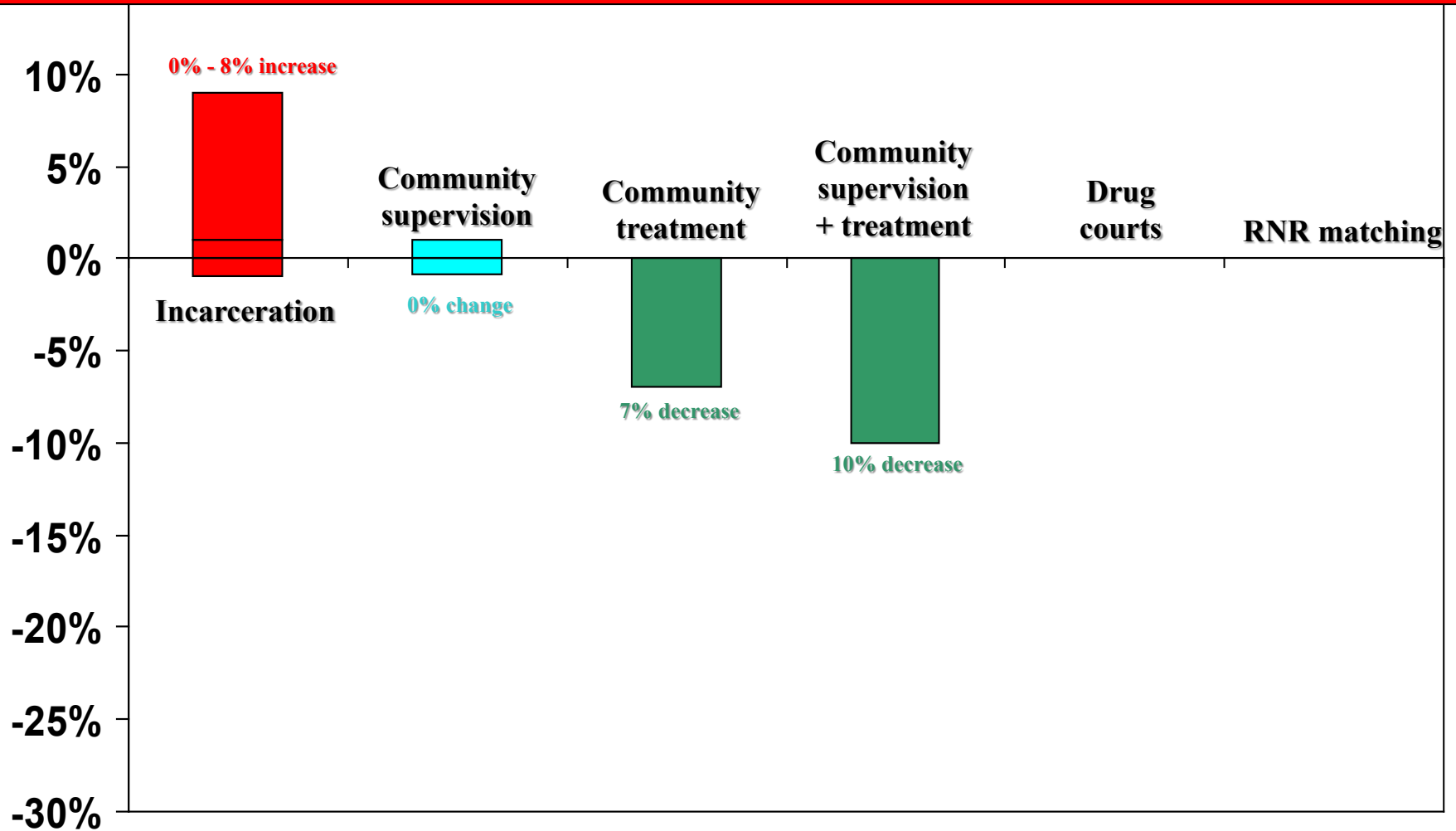
Sources: Aos et al. (2006); Cullen et al. (2011); Drake (2012); Drake (2011); Durlauf & Nagin (2011); Gendreau et al. (2000); Lipsey (2019); Mitchell et al. (2012); Rossman et al. (2011); Smith et al. (2002, 2009)

Average Effects on Crime



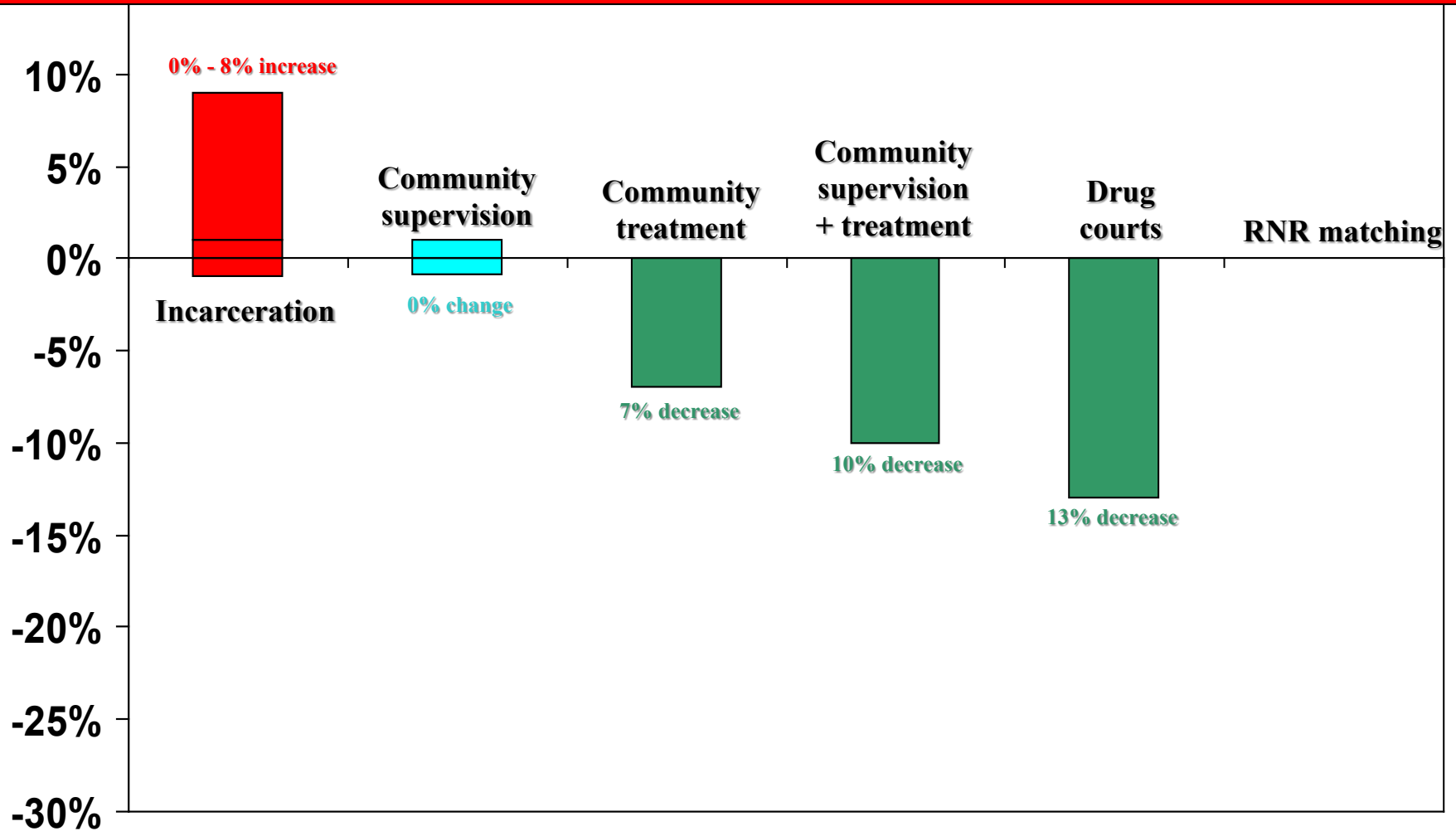
Sources: Aos et al. (2006); Cullen et al. (2011); Drake (2012); Drake (2011); Durlauf & Nagin (2011); Gendreau et al. (2000); Lipsey (2019); Mitchell et al. (2012); Rossman et al. (2011); Smith et al. (2002, 2009)

Average Effects on Crime



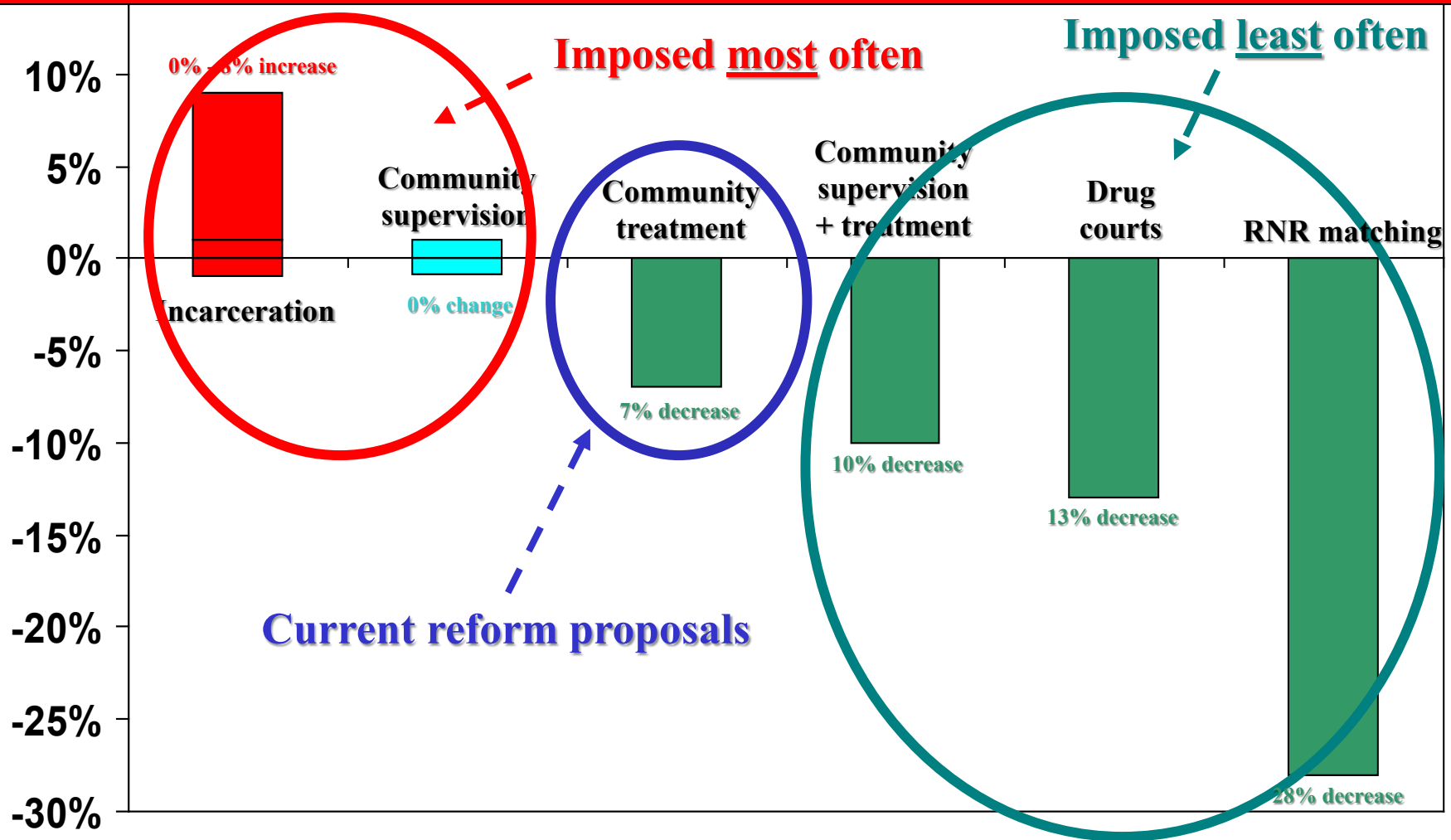
Sources: Aos et al. (2006); Cullen et al. (2011); Drake (2012); Drake (2011); Durlauf & Nagin (2011); Gendreau et al. (2000); Lipsey (2019); Mitchell et al. (2012); Rossman et al. (2011); Smith et al. (2002, 2009)

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Sources: Aos et al. (2006); Cullen et al. (2011); Drake (2012); Drake (2011); Durlauf & Nagin (2011); Gendreau et al. (2000); Lipsey (2019); Mitchell et al. (2012); Rossman et al. (2011); Smith et al. (2002, 2009)

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Sources: Aos et al. (2006); Cullen et al. (2011); Drake (2012); Drake (2011); Durlauf & Nagin (2011); Gendreau et al. (2000); Lipsey (2019); Mitchell et al. (2012); Rossman et al. (2011); Smith et al. (2002, 2009)

Adult Drug Courts

Study	Methodology	No. Drug Courts	Crime Reduction
Lipsey (2019)	Meta-analysis	53	12%
Mitchell et al. (2012)	Meta-analysis	92	13%
Carey et al. (2012)	Multisite study	69	32%
Rossman et al. (2011)	Multisite study	23	13%
U.S. Govt. Accountability Office (2011)	Systematic review	32	6% - 26%
Shaffer (2006)	Meta-analysis	76	9%
Wilson et al. (2006)	Meta-analysis	55	14%
Latimer et al. (2006)	Meta-analysis	66	9%
Aos et al. (2006)	Meta-analysis	57	8%
Lowenkamp et al. (2005)	Meta-analysis	22	8%

Duration of Effects

Study	Methodology	No. Drug Courts	Duration
Mitchell et al. (2012)	Meta-analysis	8	≥ 3 years
Finigan et al. (2007)	Program evaluation	1	≥ 14 years
Kearley & Gottfredson (2019)	Randomized trial	2	≥ 15 years
Weatherburn et al. (2020)	Program evaluation	1	≥ 5 years (violent offending only)

Average cost/benefit ratio: \$2 to \$4 for every \$1 invested

(Bhati et al. 2008; Downey & Roman, 2010; Drake, 2012; Drake et al., 2009; Lee et al., 2012; Mayfield et al., 2013; Rossman et al., 2011)

Other Treatment Courts

- DUI Courts (moderate effect)
 - 12 percentage-point recidivism reduction (Mitchell et al., 2012)
- Family Drug Courts (moderate effect)
 - 75% greater odds of reunification without increasing foster care reentry or new maltreatment report (Zhang et al., 2019)
- Mental Health Courts (high variance)
 - 20% to 43% reduced odds of recidivism (Arnold, 2019; Canada et al., 2019; Lowder et al., 2018)
- Juvenile Drug Courts (insignificant to moderate effect)
 - 0 to 28 percentage-point reduction in recidivism (Belenko et al., 2022; Latessa et al., 2013; Madell et al., 2012; Mitchell et al., 2012; Shaffer, 2006; Wilson et al., 2006)

Model Validation

- **50% to 100% better outcomes:**
 - High risk and high need participants (replicated for DUI, juvenile, and family drug courts)
 - Alternate tracks for low risk and/or low need participants
 - Court hearings at least every 2 weeks
 - 3 to 7-minute court interactions with procedural fairness
 - Multidisciplinary team staffings
 - Random drug & alcohol testing twice per week
 - 14 to 18-month curriculum

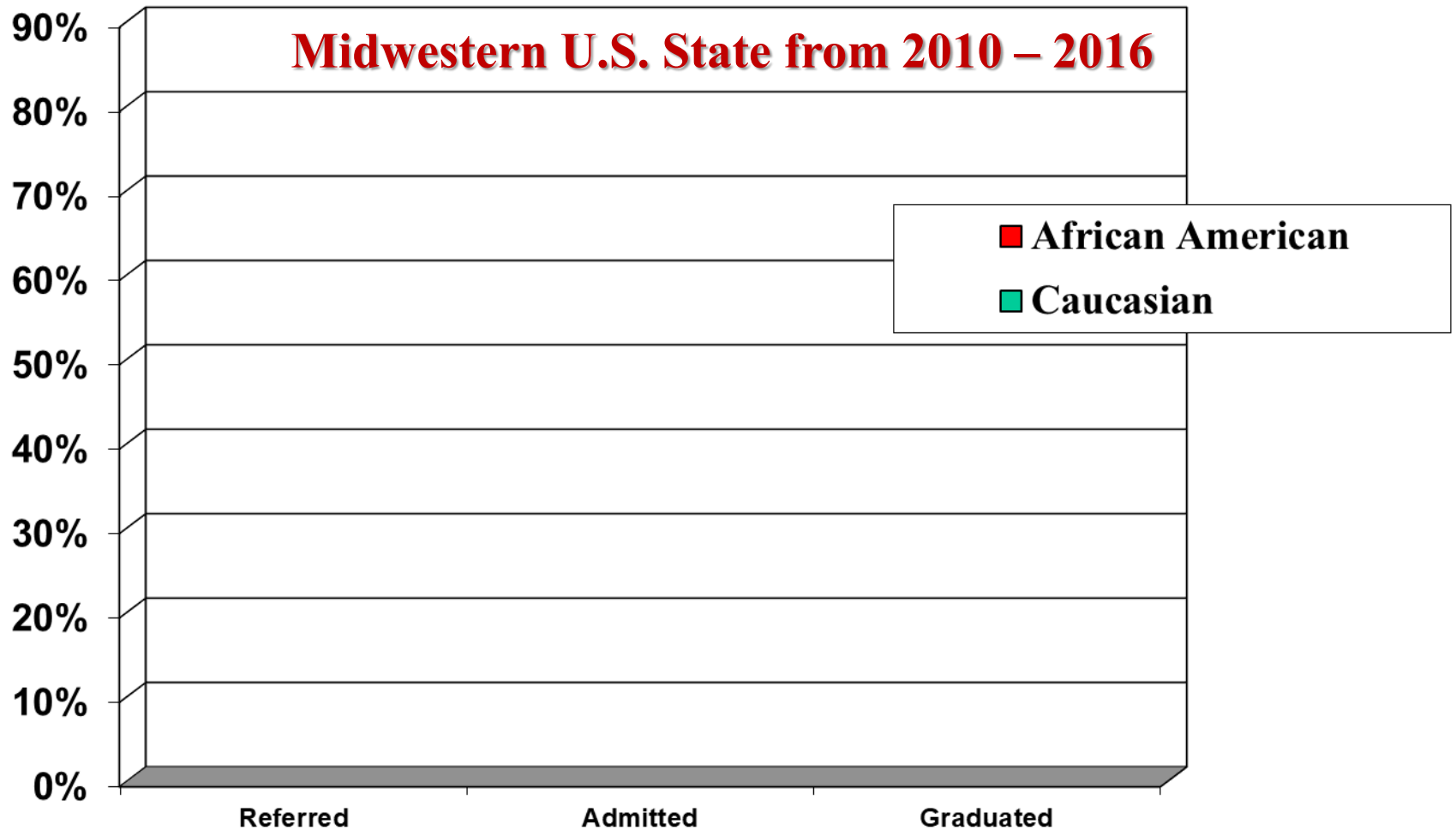
Model Validation (cont.)

- **50% to 100% better outcomes:**
 - Copious low-magnitude rewards (4:1 ratio to sanctions)
 - Treatment adjustments or low-magnitude sanctions for “distal” infractions (e.g., relapse prior to stabilization)
 - Higher magnitude sanctions for willful or “proximal” infractions (e.g., missed sessions, tampered drug tests)
 - Jail sanctions no more than 1 to 5 days
 - Legal leverage (avoided felony sentence)
 - Ongoing performance monitoring and CQI

Now, the Bad News . . .

- 1. Racial and ethnic disparities**
- 2. Errors in targeting criteria**
- 3. Prohibitions against MOUD**
- 4. Overuse or misuse of jail sanctions**

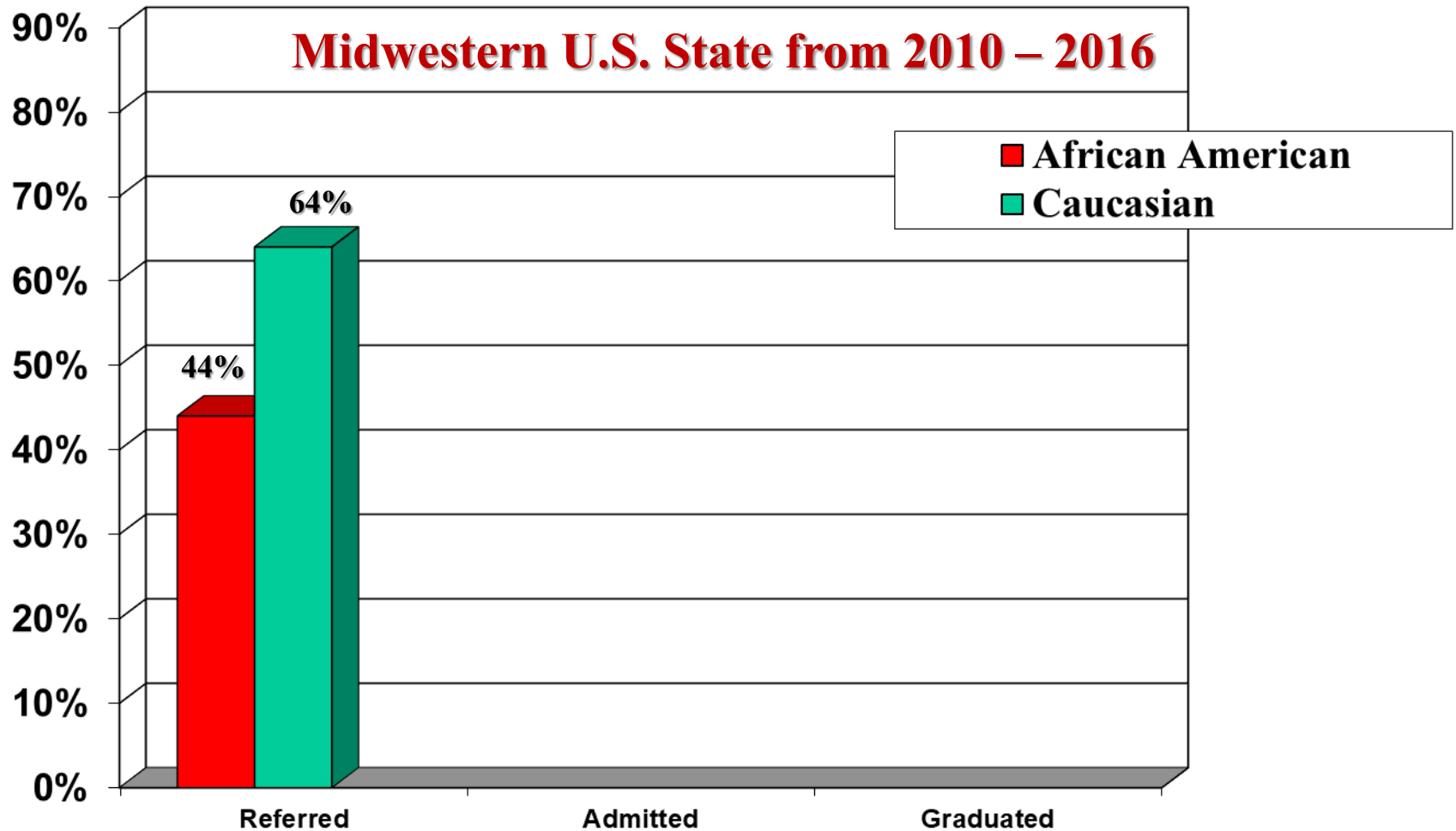
Pipeline Analysis



* $p < .05$. ** $p < .01$. *** $p < .001$.

Cheesman, Marlowe, & Genthon, submitted

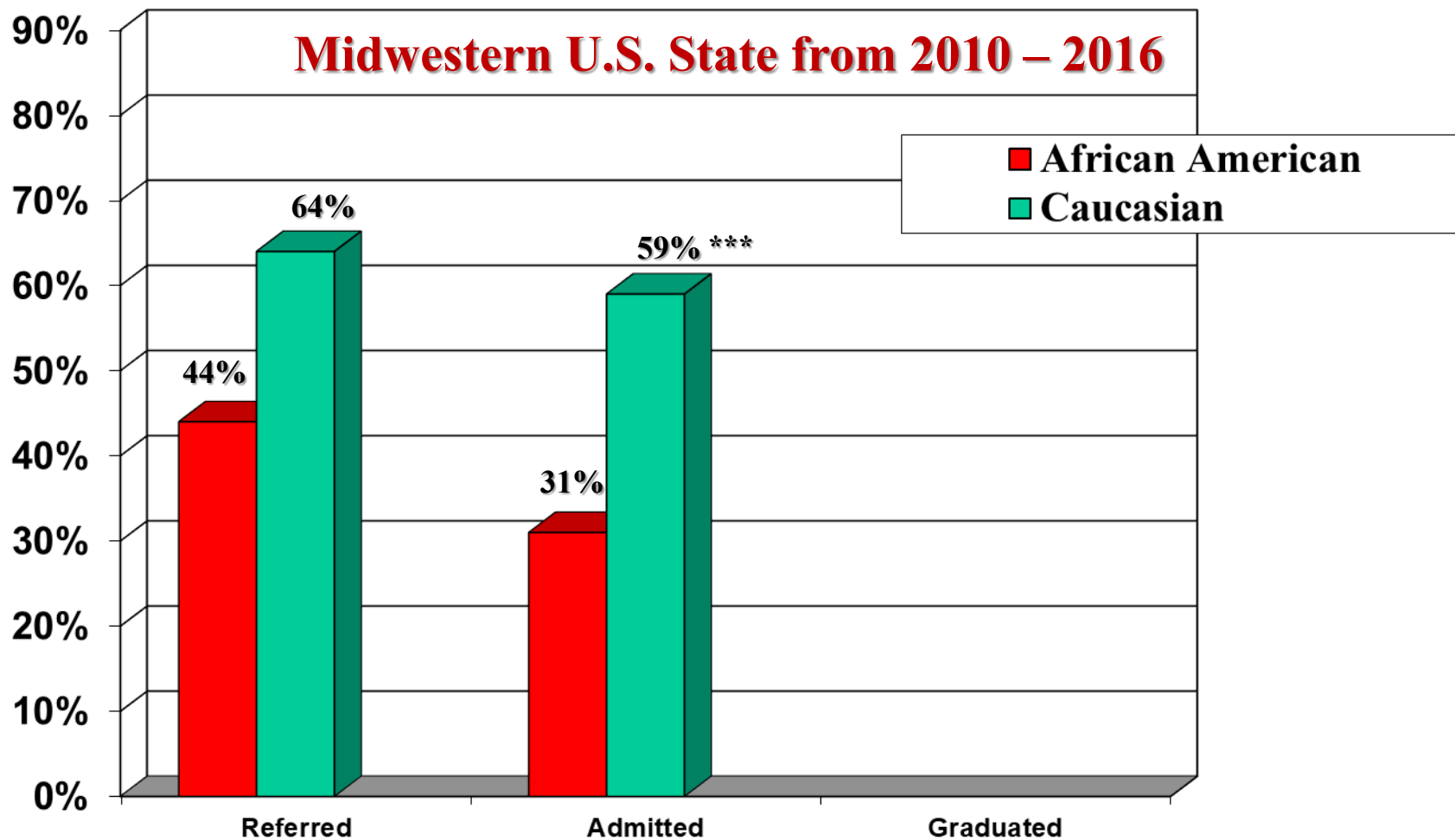
Pipeline Analysis



* $p < .05$. ** $p < .01$. *** $p < .001$.

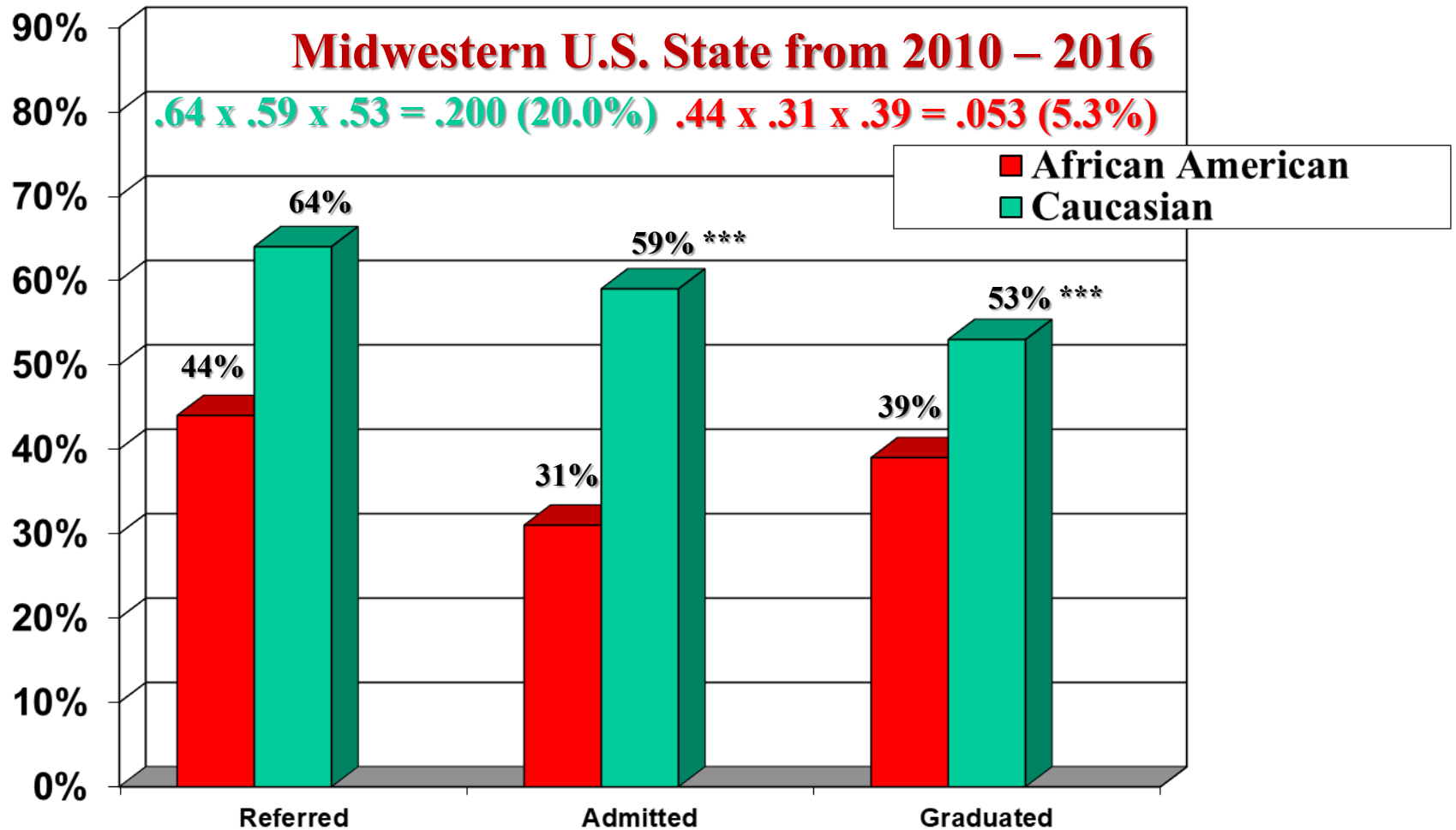
Cheesman, Marlowe, & Genthon, submitted

Pipeline Analysis



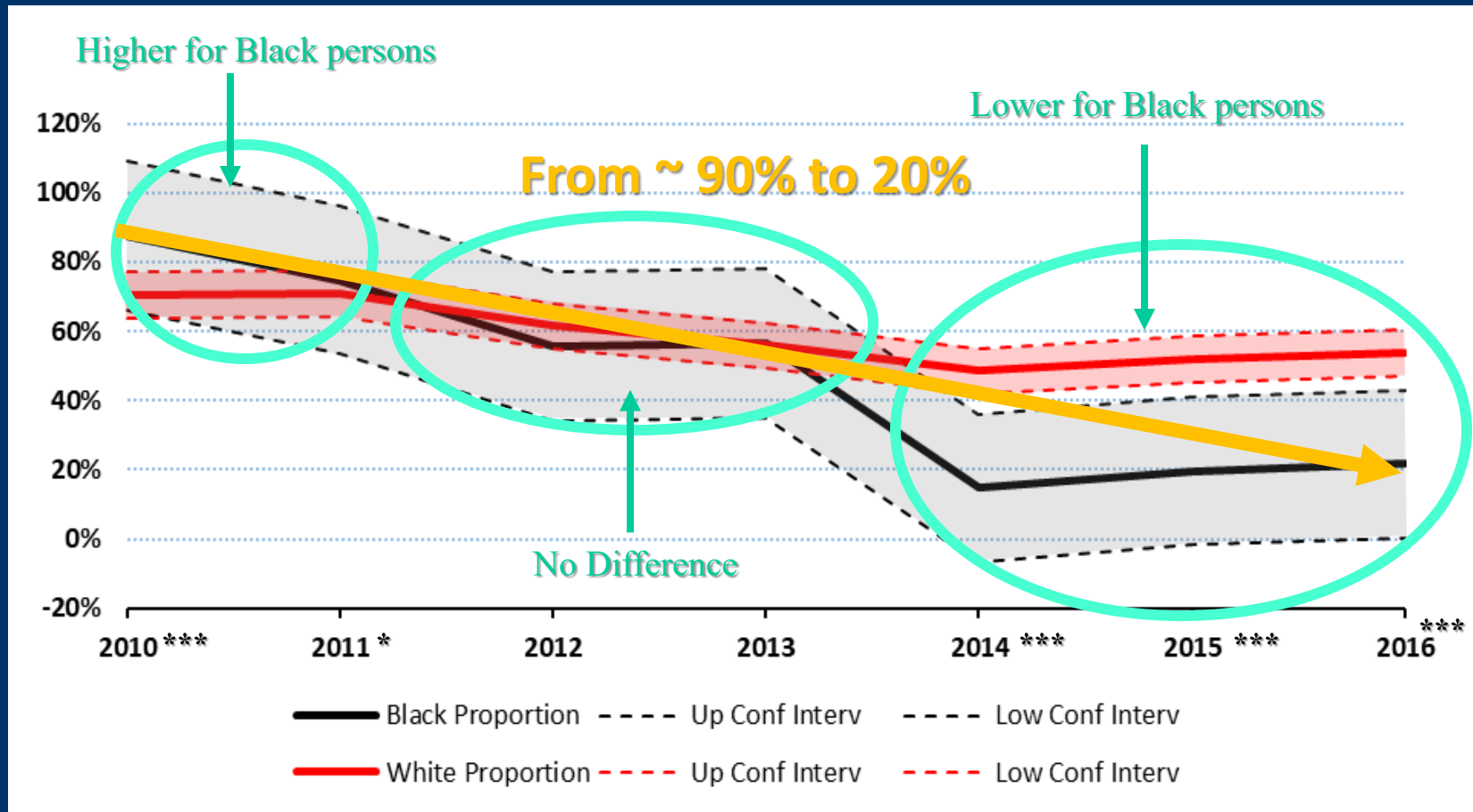
* $p < .05$. ** $p < .01$. *** $p < .001$.

Pipeline Analysis



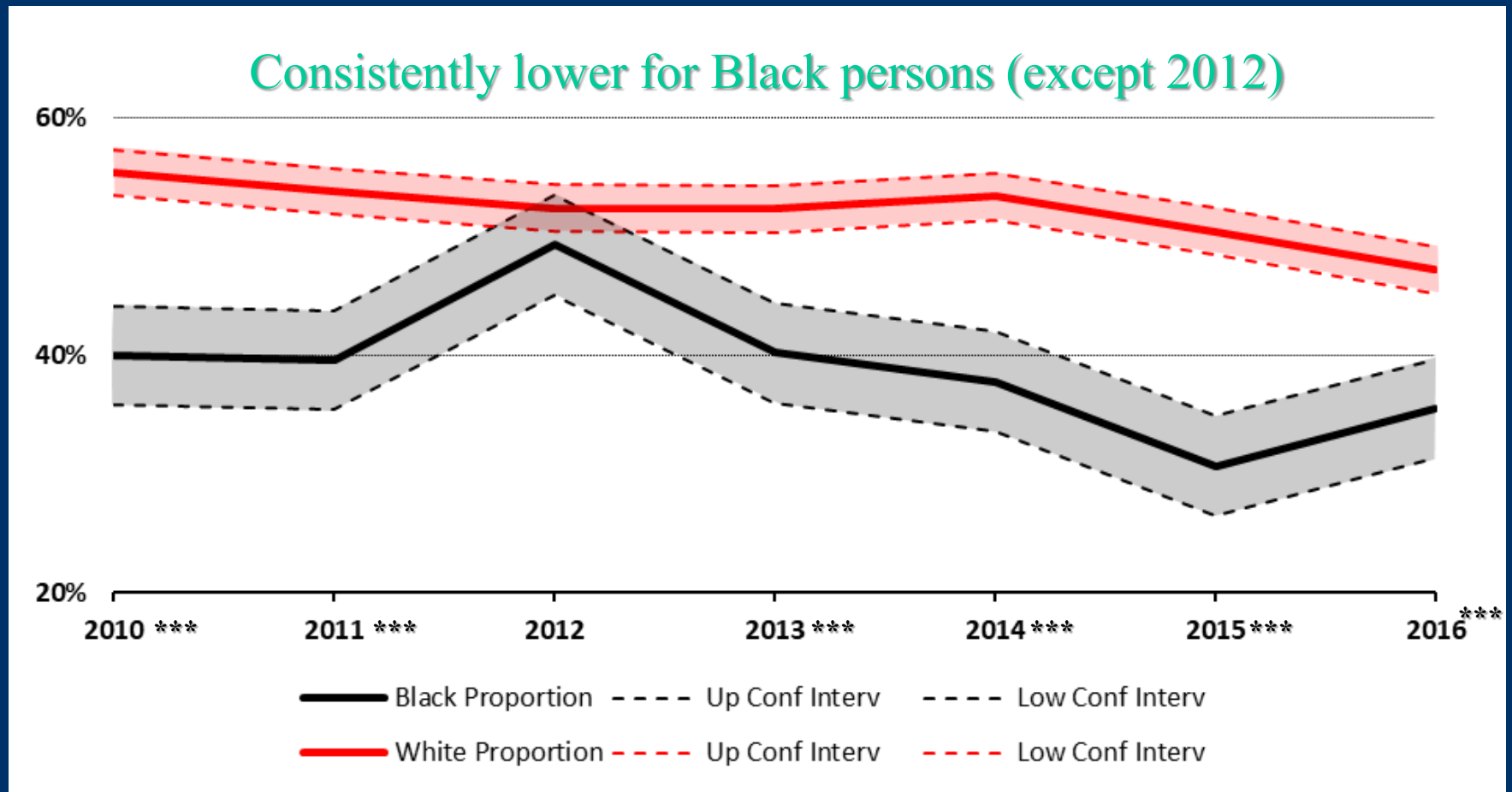
* $p < .05$. ** $p < .01$. *** $p < .001$.

Admission Rates in Midwestern State Over 7 Years



$*p < .05$. $**p < .01$. $***p < .001$.

Graduation Rates in Midwestern State Over 7 Years



* $p < .05$. ** $p < .01$. *** $p < .001$.

Cheesman, Marlowe, & Genthon, submitted

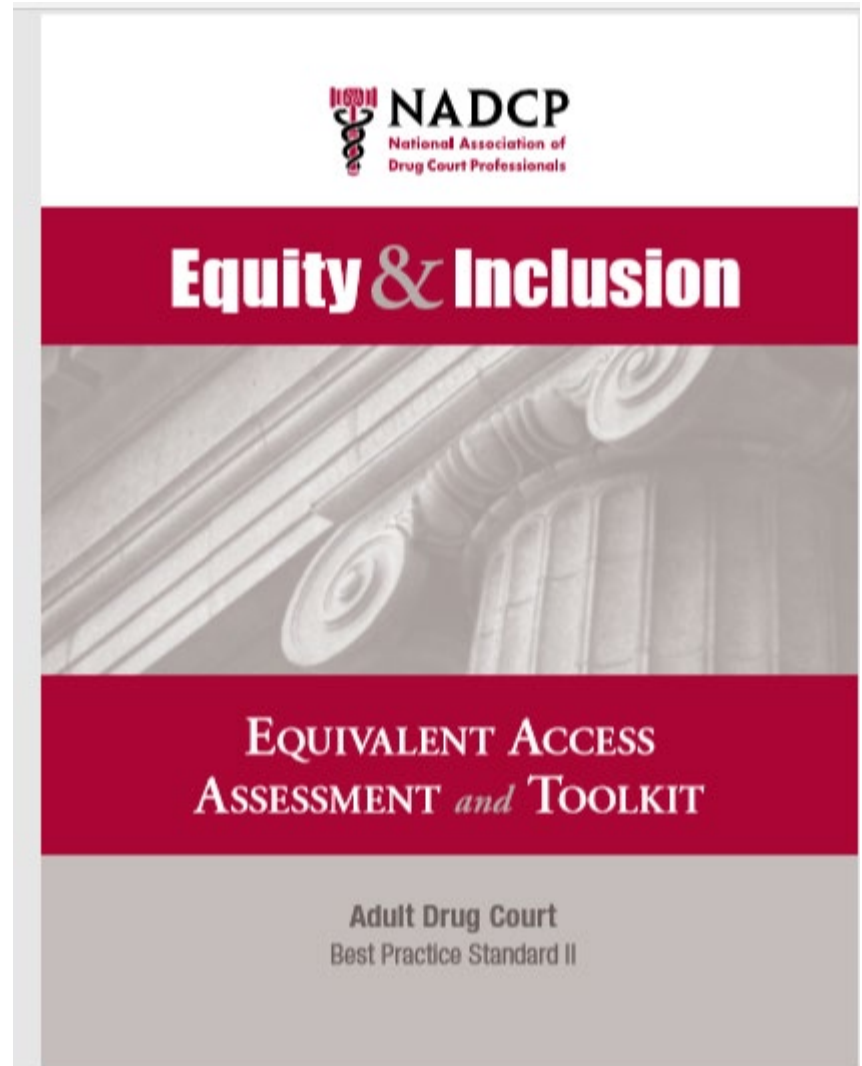
Pipeline Attrition

Cascading Impacts:

- Pretrial detention
 - Defense counsel philosophy and knowledge
 - Plea offer from prosecution
 - Eligibility criteria
 - Poor “social marketing”
 - Suitability determinations
 - Cultural incongruence
-
- Can be influenced
but not controlled
by the drug court
- Directly within
control of the
drug court

Equity and Inclusion Toolkit

- <https://www.ndci.org/wp-content/uploads/2019/02/Equity-and-Inclusion-Toolkit.pdf>



MOUD is the Standard of Care

- U.S. Dept. of Health & Human Services (1997)
- National Institute on Drug Abuse (2014, 2018)
- U.S. Surgeon General (2018)
- Substance Abuse & Mental Health Services Administration (2005, 2018)
- National Academy of Sciences, Engineering & Medicine (2019)
- World Health Organization (2004)
- Centers for Disease Control & Prevention (2002)
- American Medical Association (2017)
- American Psychiatric Association (2017)
- American Society of Addiction Medicine (2015)
- American Academy of Addiction Psychiatry
- American College of Obstetricians & Gynecologists (2016)
- National Association of Drug Court Professionals (2013, 2015)

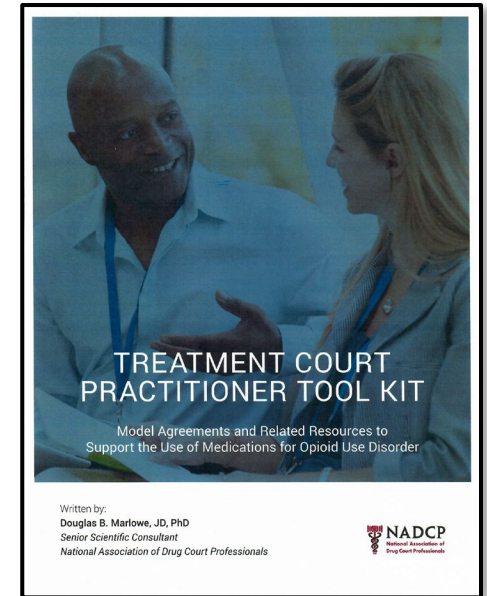
Etc. . .

MOUD in Drug Courts

- **Blanket prohibitions and arbitrary policy restrictions are uncommon (< 10%)**
- **But ... only about 1/4 of participants with OUDs receiving buprenorphine or naltrexone**
- **Participant refusal and non-availability in jail are primary barriers, followed by insufficient medical providers and funding**
- **Turned the public health community against us (“science denial”)**
- **Compared unfavorably to harm reduction and deflection programs**

MOUD Tool Kit

- A. Partner Agencies Agreement
- B. Medical Practitioner Agreement
- C. Participant Agreement
- D. Participant Brochure
- E. Recruitment Letter for Medical Practitioners
- F. Letter to Jail Officials



[NADCP MOUD toolkit Final.pdf](https://ndci.org/NADCP%20MOUD%20toolkit%20Final.pdf)
(ndci.org)

Jail Sanctions

- ***Treat sick behavior, punish bad behavior, & reward good behavior -- and don't confuse them!***
- **Sanctions imposed for substance use prior to clinical stabilization**
- **Jail sanctions measured in weeks, not days**
- **Jail used as detox, treatment, or housing**
- **Jail off the table for proximal infractions**
- **Participants must waive defense advocacy**
- **No due process hearing for jail or revocation**
- **Drug courts reduce incarceration rates but not necessarily use of jail or prison beds**

Lessons Learned

- One size does not fit all (risk and need)
- Treatment and accountability for high risk and high need persons
- Public health contributes to public safety and vice versa
- Harm reduction vs. criminalization is a false dichotomy
- Proximal vs. distal infractions & achievements
- Due process is therapeutic (“therapeutic jurisprudence”)
- Follow the science and data
- Are drug courts a criminal justice program or a model for criminal justice reform?