

History of, current state of, and solutions for the Arkansas prison system

The criminal justice reform achievements of the 2023 legislative session are the foundation upon which a safer, stronger Arkansas can be built. The cornerstone of the foundation is Act 659,

known as the Protect Arkansas Act. The Act is a pragmatic, common sense approach to reforming and improving the state's criminal justice system.

"The Protect Arkansas Act couples much-needed reforms with right-sized penalties to maximize the opportunity for inmates to rebuild their lives before they leave incarceration," said state Sen. Ben Gilmore.

The Act restructured the parole system, enacting truth-in-sentencing reforms that mandate individuals convicted of certain crimes serve at least 85 percent of their sentence before becoming parole eligible. Individuals convicted of the most heinous crimes will serve 100 percent of their sentence without the possibility of parole.

The Act also includes pragmatic measures aimed at reducing Arkansas' recidivism rate. While incarcerated, inmates can earn release credits for participating in work opportunities, having job responsibilities, exhibiting good behavior, and being involved with rehabilitative activities. These earned release credits provide incentive for inmates to take ownership of their actions while reducing the potential of recidivating. Upon release, inmates are provided with work and training records, their birth certificate, and a social security card. These documents are provided to ease the process of re-entry and assist in securing employment.

The Act also provides for inmates who give birth to have 72 hours with their newborn, encourages weekly family visits between incarcerated parents and their minor children, and provides specialty training for Arkansas Department of Corrections (ADC) staff in how to care for the health of pregnant inmates.

With the Protect Arkansas Act enshrined in law, the foundation is set for the 2025 Legislature to continue the bold work of investing in and building a safer state.

"While the Protect Act addressed many issues, from mental health to programming opportunities, it is, without question, just the start of fixing our broken system," Sen. Gilmore said.

Gov. Sarah Huckabee Sanders has been consistent in her commitment to building a safer Arkansas. Gov. Sanders, along with Attorney General Tim Griffin, have been great advocates for no longer kicking the can down the road when it comes to crime in Arkansas. The Governor and Attorney General (AG) have routinely shed light on the failings of our justice system. In the State of the State address, Gov. Sanders reiterated her support for investment in the state's prison system.

capacity shortages was long overdue. The backup of state inmates being held in county jails is routinely over 2,000 on any given day. The construction of a new prison had been discussed for over a decade with little to show for the efforts. As explained by AG Griffin over a year ago: "Why hasn't this been done before? Political courage was lacking. Of course, people knew this was a problem. It's happening now because the Governor has the fortitude to do it."

The appropriation of funds to construct a 3,000-bed prison was a necessary and important step Gov. Sanders and AG Griffin spearheaded. Act 561 of 2023 appropriated \$330 million to be set-aside for additional state prison beds and capacity.

On the earliest of timelines, the new facility would not be operational for three years. During these years it is guaranteed that the backlog of state inmates in county jails will increase. As the number of state inmates held in county jails increases, the ability of our misdemeanor justice system to function as necessary diminishes. While it is the most heinous of crimes that garner headlines, it is misdemeanors that most voters are impacted by in their day-to-day life. When consequences are absent, the criminal justice system loses authority. When the criminal justice system loses authority, it loses deterrence. The paramount duty of government is to provide for the security of all individuals.

Investing in the prison system includes adding more bed capacity, adding more staff and increasing wages, building evidence-based recidivism programs, and clamping down on contraband in prisons.

A History of Arkansas' Prison System

In June 1969, Judge J. Smith Henley — a St. Joe and Searcy County native appointed to the federal judiciary by President Dwight D. Eisenhower — declared certain aspects of the Arkansas prison system unconstitutional in *Holt v. Sarver I*. The ruling was a first-of-its-kind judgment that found overcrowded, unsafe, and unsanitary conditions to combine to be violative of the 8th Amendment prohibition against cruel and unusual punishment.

"Without undertaking to state with specificity the exact point at which one of the isolation cells becomes 'overcrowded' rather than simply 'crowded,' . . . the Court finds that the



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cells have been chronically overcrowded, and that overcrowding to a greater or lesser extent will unavoidably continue until such time as more isolation cells are available,” Judge Henley opined.

He made it clear that the inmates in the cells were not “put there unnecessarily, unjustly, arbitrarily, or discriminatorily” and that “if confinement [in isolation cells] is to serve any useful purpose, it must be rigorous, uncomfortable, and unpleasant.”

However, Judge Henley also stated that the conditions in the Arkansas prison system exceeded the limits of that rigor and discomfort, finding that conditions that are “mentally and emotionally traumatic as well as physically uncomfortable” to the point of being degrading and offending modern sensibilities, and amounting to cruel and unusual punishment. He noted the planned creation of a new prison facility would inevitably help alleviate the unconstitutional conditions in the state prison system.

In February 1970 in *Holt v. Sarver II*, Judge Henley ruled the entirety of the Arkansas prison system to be unconstitutional — the first time in American history an entire prison system was determined to be unconstitutional. The trusty system, barracks system, inmate safety concerns, and overcrowded isolation cells coalesced to create a prison system that violated the 8th Amendment’s prohibition against cruel and unusual punishment. In other words, being sentenced to incarceration in the Arkansas prison system was itself a cruel and unusual punishment. Judge Henley declared that in evaluating a prison system the parts cannot be separated from the whole.

“All of those things exist in combination; each affects the other; and taken together they have a cumulative impact on the inmates regardless of their status,” he stated

Another consideration in declaring the prison system unconstitutional was the lack of rehabilitation services. Judge Henley determined that not having a rehabilitation program was itself not unconstitutional; however, having no rehabilitation program in a system that “actually militate[s] against reform and rehabilitation” has “constitutional significance.” Additionally, he stated that the Arkansas prison system is one where “few individuals come out of it better men for their experience; most come out as bad as they went in, or worse.”

Citing these deficiencies, Judge Henley ordered improvements be made to reform the prisons and remove the unconstitutional conditions by the time the new maximum-security unit opened in 1971.

In 1982, Judge G. Thomas Eisele declared the Arkansas prison system to be constitutional after 13 years of diligent and hard work by state leaders, law enforcement officers, and administrators investing, improving, and implementing sound policies to better the conditions of Arkansas prisons. The most significant change that allowed the prison system to transform was the campaign of building infrastructure and bed capacity. Between 1974 and 1981, six ADC facilities were built.

In his orders releasing the state from judicial oversight, Judge Eisele wrote, “The evidence presented in the August 1981 hearing shows both ... that the populations of the

Department of Correction are likely to increase greatly over the next few years and that plans are underway to meet the greater burdens placed on the Department by the increased population. To judge the plans as compared to the projected population increases at this time would be premature and based upon speculation.”

The 1983 Legislature, seemingly responding to the previous 13 years of court oversight and court concerns regarding overcrowding, passed the original Emergency Powers Act (EPA). The first version included a stipulation that state prisons were at capacity when they reached 95 percent capacity. While the court rulings in the *Holt* cases sparked unprecedented investment and infrastructure development, the origins and decades of non-investment and deprivation of the state prison system meant that even more capacity would be needed.

From 1983 to 2003, Arkansas established 11 prisons, capped with the opening of the Ouachita River Correctional Unit, adding 948 medium-security beds to the state system. The Ouachita River facility has become the diagnostic intake unit and second largest facility of the ADC. It also represents the last large-scale addition of bed capacity in Arkansas.

The same month the Ouachita River facility came online, the recently expanded EPA was used to alleviate overcrowding in county jails caused by holding state inmates. Act 1721 of 2003 expanded the EPA by including a triggering

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mechanism that allowed the Board of Corrections to release inmates when the county backlog of state inmates reached 500. At the end of FY2004, the Arkansas state prison capacity was 11,640 (Stat Info Report 2004). The average county jail backup in 2004 was 545 males and 152 females. Fittingly, the last year that substantial investments were made in Arkansas' prison capacity was also the first year that "county backlog" was statutorily defined.

The EPA was an important factor that kept the county jail backlog from boiling over into public consciousness. However, many dangerous individuals were released under the EPA. Since the expanded EPA was introduced in 2003, over 40,000 inmates were released early due to correctional facilities lacking capacity. The EPA ultimately became a tool that defanged and diminished Arkansas's criminal justice system. With the passage of the Protect Arkansas Act, the EPA has largely been rendered moot, which is a benefit to all Arkansans. The fact remains that without the EPA, it is even more certain that the county jail backlog will increase. It is time to right-size the state prison system.

According to the 2022 ADC Annual Report, since the Ouachita River Correctional Unit was established in 2003, only two other ADC facilities have been established: the J.A. Hawkins Unit with 400 beds and the Pine Bluff Reentry Center with 54 beds. In that time, the county jail backlog has varied from 504 at the end of 2004 to an average of 2,396 in 2015 to over 2,200 in May 2024.

Arkansas' Misdemeanor Justice System Conceptually — How Misdemeanor Justice is Supposed to Work

The theory of misdemeanor justice provides that if a person faces consequences for minor crimes and intervention can occur, that person is less likely to reoffend, therefore preventing more severe crimes and more harm to society.

"Misdemeanor justice is supposed to be the first step of deterrence, to get people's attention," said Sebastian County Sheriff Hobe Runion.

The responsibility for maintaining the misdemeanor justice system overwhelmingly falls on local law enforcement and district courts. To best understand the current reality of county sheriffs, deputies, jail administrators, and district court judges, it is important to first understand how the misdemeanor justice system is meant to work.

Theoretically, a county deputy makes an arrest and the person is either detained until an adjudicatory hearing or is released, often through posting bond. When a defendant works with a bondsman, that bondsman has incentive to ensure the defendant appears for their court date.

"Bail bonding is an important part of the judicial system, without it sheriffs lose a tool to manage their jails," according

to Arkansas Sheriffs' Association Director Scott Bradley.

If a person is determined to be a threat to their family or to society then they are detained. A person that is arrested for domestic battery is more likely to be held than a person that is alleged to have committed a non-violent crime.

"The guy that writes the hot check isn't as dangerous as the guy that batters his wife," said Sheriff Runion.

When county jails are not overcrowded there is no doubt that dangerous individuals will be detained. The person will appear before a district court judge and the judge will dispense the punishment. Generally, district court judges have discretion as to the proper punishment for the misdemeanor. The judge can sentence the defendant to serve time in jail, pay fines, attend anger management classes or other programs as diversion from incarceration, or a combination of these. After sentencing, if the misdemeanor is given jail time, the person will be held for their sentence in a county jail.

The threat that supports judicial sanctions is the possibility of serving time in jail. Incarceration serves as a deterrent to further anti-social behavior or as encouragement to abide by court orders. While the crimes committed by the defendants vary greatly, the district court judge has options for sanctions. This is how the misdemeanor justice system has been conceived and is supposed to function. Conceptually, it is assumed that county jails are not overcrowded, that the state prison system has adequate bed space and staffing to operate all available beds, and that judicial authority is respected.

One of the pillars of deterrence is the certainty of punishment. If a person knows a behavior is going to be punished, it is more likely they will not participate in that behavior. If a person knows a behavior will not be punished, the deterrent value of punishment is lost, which means the authority of the legal system is called a bluff. This type of behavior is directly facilitated by the overcrowding of county jails with state inmates.

In Reality — How Misdemeanor Justice is Working

In reality, only the most dangerous individuals will be detained in overcrowded county jails. Sheriff Runion recalled arresting an individual for driving under the influence, for the third time, several years ago.

"The third time he got a year in jail. Now, it would be a stretch to get 20 days," he said.

Sheriffs across Arkansas must prioritize which offenders to hold while district court judges across Arkansas are being faced with repeat criminal behavior without the capability to detain many offenders. In Washington County the jail operates around 130 percent capacity, leaving Sheriff Jay Cantrell

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and jail administrators with difficult decisions.

“We can only house a pre-trial domestic battery charge for a few hours and hopefully the victim is safe,” Sheriff Cantrell said.

The constant efforts and sacrifices made by sheriffs, deputies, and jail administrators have kept the county jail backlog issue largely a non-story with the general public. This is good from the point of view that it means these officers have done an impossible job to an improbable degree of excellence, doing their best to keep detainees, staff, and their communities safe. These efforts have saved lives, without a doubt.

Another prime yet largely undiscussed example of how the misdemeanor justice system has been hampered due to lack of prison capacity is the number of unserved warrants in Arkansas. As of May 2024, there were over 130,000 unserved warrants in the state. Of those 130,000 warrants, 22,200 were for felonies. There were over 43,300 warrants for failure to appear (FTA). There were almost 5,000 warrants for multiple FTAs, a clear indication that individuals have decided to spurn their responsibility and accountability to society. The decline of defendants posting bond and the increase of FTAs is not surprising to Director Bradley.

“Bondsmen have to get people to court. Bail bond is insurance for defendants to come to court and bondsmen help provide that assurance,” he said.

Currently, it has become routine for defendants to be cited for a misdemeanor and told to appear in court on a specific date only for the defendant to not show.

“Oftentimes individuals receive a citation to appear instead of being arrested and it becomes common knowledge that you won’t be arrested,” said Sheriff Runion.

This is a common refrain amongst law enforcement officials.

“Offenders know that district court judges don’t have jail as a sanction and that is particularly true with failures to appear,” said Sheriff Cantrell.

Sheriff Runion echoed these sentiments.

“When we can’t hold people like we should, it creates an extreme lack of respect for the system because it doesn’t have teeth,” he said.

A person could be forgiven if they don’t believe the gap between the criminal justice system in theory and how it really operates is as large as illustrated. Arkansans have experienced a gap between theory and reality before when confronted by these issues, as highlighted by Judge Henley: “Theoretically, each long line is under the supervision of a free world employee known as a field warden. Actually, the rankers are under the immediate and direct supervision of trustees known as ‘long line riders’ and inmate ‘pushers.’”

Whereas the free world society believed state inmates were under the protection and guard of professional corrections officers, in reality armed inmates were guarding other inmates.

It is this system, this deficit between theory and reality that led to decades of litigation questioning the constitutionality of Arkansas’ correctional facilities.

Duties and Roles of County Law Enforcement

Sheriffs and county law enforcement officers have many duties and obligations. The major duties of sheriffs are broken into three categories: chief enforcement officer of the courts, conservator of the peace in the county, and custodian of the county jail. These duties, each with their own tasks and roles, facilitate the primary objective of sheriffs and county law enforcement, which is to protect the communities they serve. This objective is labor and resource intensive, requiring officers to respond to emergency calls, serve warrants, make arrests, transport prisoners, and detain individuals in county jails. Through these duties and roles, county sheriffs and deputies facilitate the misdemeanor justice system.

Another important service that county law enforcement and jails provide is temporarily holding certain categories of individuals on behalf of the state. The specific circumstances in which state inmates are held in county jails are: holding state inmates for legal proceedings (A.C.A. 12-29-111), holding individuals with pending felony charges (pre-adjudicated felons), and holding post-adjudicated felons waiting for placement in a state facility. There is not any circumstance in which a state inmate is to be held for an indefinite amount of time in a county jail. This secondary role, however, can and has hindered the ability of county law enforcement to facilitate misdemeanor justice. Further, the overcrowding in county jails is a direct impediment to the objective and duties of sheriffs and deputies.

In order to alleviate the backlog of state inmates in county jails and the consequent repercussions, immediate, intermediate, and long-term solutions must be considered. It is imperative that misdemeanor justice be restored and that actions to restore it are taken before the completion of a new prison.

Three Phases for Building a Safer Arkansas *Immediate*

The immediate phase of building a Safer Arkansas has been essentially accomplished through the reopening of traditional beds and the refitting and creation of non-traditional beds at ADC and Division of Correction (DOC) facilities. It is important to recognize the efforts to reopen traditional beds and create non-traditional beds. The innovation and insistence to add 1,000 beds to existing capacity at state facilities is worthy of praise. These kinds of measures are the most immediate step to take in alleviating county jail overcrowding and have the quickest impact. The variability of opening beds and the immediacy with which it can be accomplished

means that this is a perpetual option and one that should be weighed with regularity, taking capacity, staffing, and safety concerns into account.

The U.S. Supreme Court case of *Brown v. Plata* is informative and instructional in this regard. The Court found that California was operating correctional facilities at double the design capacity. The design capacity of the California prison system was around 80,000 while the actual population was 156,000. The Court noted that California's system "operated at around 200 percent of design capacity for at least 11 years." Through court order, California was mandated to reduce the prison population to 137.5 percent of design capacity.

Ostensibly, it seems that the Court set 137.5 percent design capacity as a constitutional limit, however, the Court noted, "There is no requirement that every facility comply with the 137.5 percent limit. Assuming no constitutional violation results, some facilities may retain populations in excess of the limit provided other facilities fall sufficiently below it so the system as a whole remains in compliance with the order."

The practical impact the Court encouraged prison leaders and wardens to undertake was to innovate and communicate amongst themselves, to rotate inmates and employees from understaffed, overcrowded facilities to facilities with sufficient space and staffing.

Arkansas' state prison system has likely never operated at this level of capacity, even during the years it was ruled unconstitutional. At face value, the objections to running a prison system over capacity make sense. With data and context, however, the sensibility of the objections withers. Running a prison system at 95 percent, 98 percent, or 101 percent capacity while the number of state inmates continues to increase in county jails is not indicative of a common-sense, safety-oriented approach to operations. It is indicative of shifting costs and risks to such a degree as to reduce the effectiveness of county jails, district courts, and the misdemeanor justice system.

This is not a call to operate the Arkansas prison system at 137.5 percent capacity. This is a call to operate the prison system within the constitutional limits and capacities as guided by the courts, take into consideration the consequences of strict adherence to arbitrary capacity numbers as illustrated by the EPA thresholds, and invest in capac-

ity. According to the ADC FY2022 Statistical Report, the ADC operated on average at 98 percent capacity. Many other states operate at higher than 98 percent capacity while maintaining constitutional systems. According to the Bureau of Justice Statistics, Iowa operates at 109.5 percent of capacity; Montana at 138.4 percent; Nebraska at 114.7 percent; and Oklahoma at 105.7 percent. In short, allow the state prison system, its leaders, and operators to run the prison system at a higher capacity and alleviate the burden on county jails, sheriffs, deputies, and jailors.

Intermediate

The most effective intermediate proposal to alleviate county jails, to allow the misdemeanor justice system to function again, is to utilize out-of-state correctional facilities. In consideration with the substantial justice and safety costs created by Arkansas' underutilized and undeveloped capacity, there are also financial costs.

The cost of housing an inmate in an Arkansas state prison at the end of 2022 was \$66.37 a day (ADC Annual Report 2022). The reimbursement for the state to house a state inmate in a county jail is \$40 a day. These numbers cannot be ignored or discounted

when considering out-of-state contract beds for temporarily housing state inmates while capacity is added. Interest from the \$330 million set-aside appropriated in 2023 could also be used to fund this expenditure.

CoreCivic has available beds and facilities in nearby states such as Oklahoma, Mississippi, Tennessee, and Texas. The price of renting beds depends on several factors, mainly what level of security and whether the beds are for medical treatment. Oklahoma has maintained inmates at CoreCivic facilities for a range of \$55 to \$68 per day per bed. GEO Group has available beds and facilities in Oklahoma, Texas, Georgia, and Florida. Like CoreCivic, GEO Group costs range depending on kinds of beds, facilities, and services needed, but the typical cost per inmate per day is between \$45 and \$60 with more intensive requirements increasing the cost per day.

While these might be difficult financial choices, the state of Arkansas is currently paying the aforementioned \$66.37 a day per inmate in ADC facilities and \$40 per day for county

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jail reimbursement. The interest on the \$330 million set-aside for the new prison and the already assumed costs of housing inmates significantly narrows the ultimate financial costs of such an option. The sooner our misdemeanor justice system functions again and the sooner state capacity is increased means the final human and financial cost will be less.

Long-Term

The 400-acre site for the Ouachita River Correctional Unit was selected in 2000. The facility was opened in August 2003, a period of roughly 1,000 days. Going back to 2003, the lowest the county jail backup has been is 317, the highest is 3,076. The low of 317 grew to a high of 3,076 in 427 days. The county jail backup has, on average since 2021, been just under 1,800 each month. In May 2024, the county jail backup reached 2,299. With the EPA now correctly gutted, one of the primary tools the Legislature crafted in response to Judge Eisele's ruling has been removed from the table. From 1983 to 2003, Arkansas' leaders have taken a two-prong approach to managing a constitutional prison system: invest in capacity and utilize the EPA.

There is no doubt that the EPA was conceived with the best of intentions, but the fact remains, the EPA itself became a mechanism to stop investing in state prison capacity. Due to the Protect Act, the best prong of the post-*Holt* approach remains: invest in correctional facilities and capabilities. The common-sense, long-term approach to investing in a safer, stronger Arkansas is to increase bed capacity, invest in correctional workers, and reduce the recidivism rate.

The best way to increase bed capacity is a new prison. The current capacity is clearly inadequate.

"One of the first things I noticed upon arriving as the Secretary is the lack of prison bed space," said then-ADC Secretary Joe Profiri, now Special Advisor to the Governor, during his State of the Department presentation to the Arkansas Legislative Council on Nov. 17, 2023. As of June 2024, ADC capacity was 16,291. According to the April 2024 DOC Board Report, the ADC jurisdictional population is 18,820 and is increasing an average of 106 inmates per month. Gov. Sanders has made it clear that a 3,000-bed prison is the target. This ambitious plan would greatly benefit the state. Every additional state bed decreases the county jail backup and increases the capacity for the criminal justice system to work.

Nearly as important as increasing bed capacity is decreasing the staffing vacancy rate, especially for security-related positions. According to the ADC's FY2022 Statistical Report Human Resource Information section, the vacancy rate for security positions was 36.1 percent. The report lists the budgeted number of security personnel as 3,539. A vacancy rate

of 36.1 percent out of 3,539 positions means approximately 1,277 vacant security positions across 20 facilities for a system average of 64 vacant security positions per facility.

Using other staffing numbers from the 2022 Statistical Report, a similar but more dire picture emerges. During FY2022, ADC averaged 2,111 security employees, 1,428 security positions short of the budgeted 3,539. This is an average of 71 vacant security personnel per ADC facility. From FY2013 to FY2020 (the start of Covid) the vacancy rate for Correctional Officer I (CO-I) and Corporal positions averaged 15 percent. The vacancy rate for these positions has averaged 45 percent since Covid.

This is not a uniquely Arkansas problem; other states have confronted and addressed this as well. The average salary for a CO-I in Arkansas according to the ADC Salary Grids is \$37,715, an hourly rate of \$18.13 (based on a standard 40-hour work week). The starting salary for an Oklahoma CO-I is \$44,680, and in Utah a CO-I starts at \$48,672. These breakdown to hourly rates of \$21.48 and \$23.40 — differences of \$3.35 and \$5.27, respectively.

After 12 months of service as a CO-I in Arkansas you are eligible for a promotion to Corporal with an average salary of \$42,824 (ADC Salary Grids). This is a raise of \$5,109. The same status change in Mississippi would average a raise of \$14,527. Mississippi Corporals make \$54,891, an hourly rate of \$26.39 — \$5.80 more an hour than Arkansas Corporals.

There are many other tangibles and intangibles to attract and retain employees besides pay increases. But these other options should be considered alongside serious investment in DOC personnel. The most significant intangibles in workplaces are a sense of duty and of pride in your career as a peacekeeper. DOC leadership should continue to invest in the *esprit de corps* of the workforce. State officials should continue to provide the requisite leadership, guidance, and resources to improve the vacancy rate and staffing shortages.

The third long-term proposal is to tackle the recidivism rate. Each year the recidivism rate costs tens of millions of dollars to taxpayers through returning individuals to incarceration. A high recidivism rate also means more crime in the community. More crime means more victims.

The 2018 release cohort from ADC has a reincarceration rate of 45.4 percent. If this reincarceration rate is applied to the FY2022 ADC release number of 5,028, you can expect 2,282 individuals to return to ADC custody. The cost of holding one inmate per day at ADC is \$66.37. For 2,282 individuals to return to ADC for one day costs taxpayers \$151,503. For 2,282 individuals to return to ADC for a year costs taxpayers \$55.2 million. Investing in bed capacity at ADC has the additional benefit of bringing more inmates under the care of mental health and medical professionals.

The upcoming years are an opportunity to address a recidivism number that is better than only three other states. Reducing the recidivism rate means reducing financial and societal costs to taxpayers.

Evidence-based programs should be developed and implemented, building on the earned release credits authorized by the Protect Act. More state capacity should be used to treat inmates in these evidence-based programs. The connection between drugs and criminality is witnessed daily by county law enforcement.

“The vast majority of what we have in jails and prisons is a drug nexus. There’s always a drug nexus,” said Sheriff Runion. Many inmates often express their regret regarding drugs but as Sheriff Runion says, “They don’t feel they have the support system.”

In addition to increasing the utilization and effectiveness of recidivism programs, continuing to crackdown on contraband and drug-use in DOC facilities should be a top priority. The smuggling of contraband into prisons facilitates criminal activity inside DOC facilities and outside in society.

An understood concept of rehabilitation during incarceration is that the time under state custody provides for the criminal to address their addiction. If drug use continues while in prison, then the nexus of drug use and crime, as referenced by Sheriff Runion, is never interrupted, yet alone broken. Former Secretary Profiri framed this idea in the same November address: Prison must meet the needs of the inmates so they are “the best version of themselves upon release from prison, which is what I call the opportunity of incarceration. To take the time that they have removed from society to invest in them, to try to make them the best version of themselves in hope they don’t reoffend and have opportunities they may not have had prior to incarceration.”

Conclusion

With the accomplishments of the 2023 session, there is momentum for Gov. Sanders to continue leading on criminal

justice issues and executing her plan for a safer Arkansas. There is little doubt that the authors of the Protect Act — Rep. Jimmy Gazaway of Paragould and Sen. Ben Gilmore of Crossett — and other legislative leaders will take aim at more unprecedented bold reforms.

The 2023 legislative session began the process of remaking Arkansas’ criminal justice system. The Governor and Legislature have another opportunity in 2025 to continue their legacy of reforming and bettering the system. Building a safer, stronger Arkansas starts with allowing the misdemeanor justice system to function again. Every part of the system is related, every part is dependent on another part. For misdemeanor justice to function as necessary, county jails need to have capacity. For county jails to have capacity, the state prison system needs capacity and investment. Sen. Gilmore captured the importance of increased state capacity regarding the success of the Protect Act: “Without additional capacity, much of the Protect Act is wishful thinking.”

The immediate, intermediate, and long-term proposals above provide a roadmap to addressing systemic issues that impact the entirety of the criminal justice system.

Creating immediate beds is an ongoing and constant process. Taking advantage of available temporary beds while state capacity is built is crucial to Arkansas’ misdemeanor justice system. Long-term it is paramount that a new prison be constructed, allowing Arkansas’ criminal justice system to fully function, empowering law enforcement and judges to carry out their duties.

Before declaring the Arkansas prison system constitutional again, Judge Eisele took note of the progress and reform accomplished: “I attest to the vitality of our system of government that this prison system could be so transformed.”

The vitality of our system of government should not be in doubt and neither should the ability of state leaders and energetic, driven agency leadership to once again transform and better our correctional system.



Did an aspect of county government “make news” recently in your county? Did any of your county officials or staff get an award, appointment or pat on the back? Please let us know about it for the next edition of *County Lines* magazine. You can write up a couple of paragraphs about it, or if something ran in your local paper, call and ask them to forward the story to us. We encourage you or your newspaper to attach a good quality photo, too: e-mail csmith@arcounties.org.