



## Justice Reinvestment in Arkansas

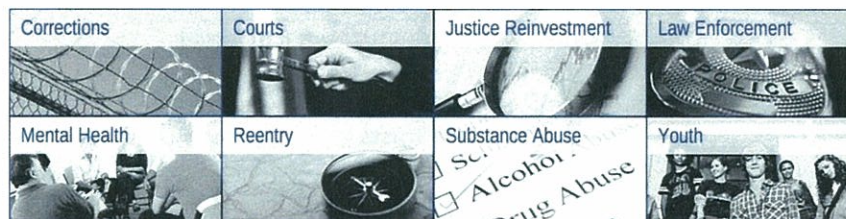
1st Presentation to the Legislative Criminal  
Justice Oversight Task Force

*November 30, 2015*

Andy Barbee, Research Manager  
Jessica Gonzales, Senior Research Associate  
Ben Shelor, Policy Analyst  
Dan Altman, Program Associate

### Council of State Governments Justice Center

- National non-profit, non-partisan membership association of state government officials
- Engages members of all three branches of state government
- Justice Center provides practical, nonpartisan advice informed by the best available evidence



## Presentation overview



Justice Reinvestment

Arkansas "At A Glance"

Moving Forward



## JUSTICE REINVESTMENT

*A data-driven approach to reduce corrections  
spending and reinvest savings in strategies that  
can decrease recidivism and increase public safety*

The Justice Reinvestment Initiative is supported  
by funding from the U.S. Department of Justice's  
**Bureau of Justice Assistance (BJA)**  
and **The Pew Charitable Trusts**

## State leadership requested assistance to address Arkansas's criminal justice challenges

July 16, 2015

STATE OF ARKANSAS  
July 16, 2015

Sincerely,  
Asa Hutchinson  
Governor of Arkansas

President Pro Tempore Jonathan Dismang  
Arkansas Senate

Senator Jeremy Hutchinson  
Arkansas Senate

Chief Justice Jim Hannah  
Arkansas Supreme Court

Speaker Jeremy Gillam  
Arkansas House of Representatives

Representative Matthew J. Shepherd  
Arkansas House of Representatives

Ms. Juliene James  
Senior Policy Advisor  
Bureau of Justice Assistance  
810 Seventh Street NW  
Washington, DC 20531

Mr. Adam Gelb  
Project Director  
Pew Center on the States  
901 E Street, NW, 10th Floor  
Washington, DC 20004-3409

Dear Ms. James and Mr. Gelb:

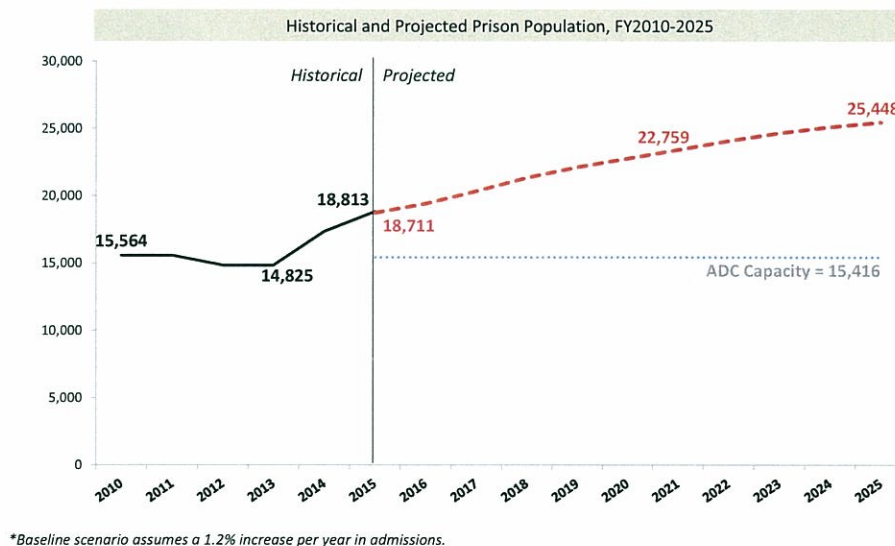
Art 895, the Criminal Code, requires the Arkansas Legislature on March 26 to implement wide-ranging reforms to improve public safety, address prison overcrowding, and enhance behavioral health. The legislature has created a Criminal Justice Advisory Council, which is currently reviewing the state's criminal justice system. The council is also reviewing the state's behavioral health system, which is currently reviewing the state's behavioral health system.

Because the Council is currently reviewing the state's criminal justice system, we are interested in analyzing...and developing policy options around...

- Reported crime and arrests
- Sentencing practices including the role of sentencing guidelines
- Underutilization of probation
- Parole and probation supervision policies and practices
- Alternatives to incarceration, including pretrial diversion and specialty courts
- Jail population trends
- Analysis of prison growth
- Prison admissions and length of stay
- Transition to community from prison
- Behavioral health treatment
- Offender program cost and effectiveness
- Recidivism rates

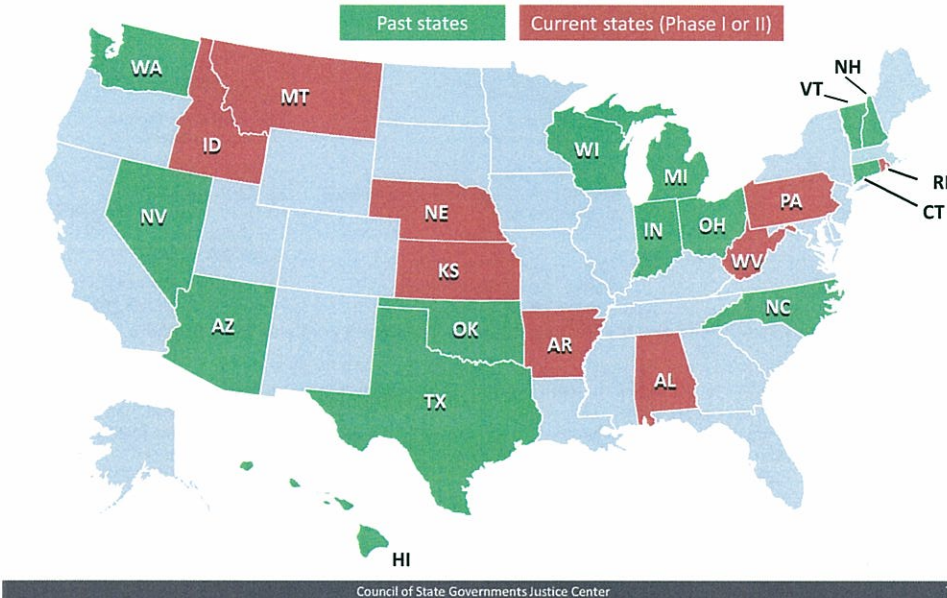
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## According to projections, Arkansas's prison population could climb an additional 35 percent by the end of FY2025

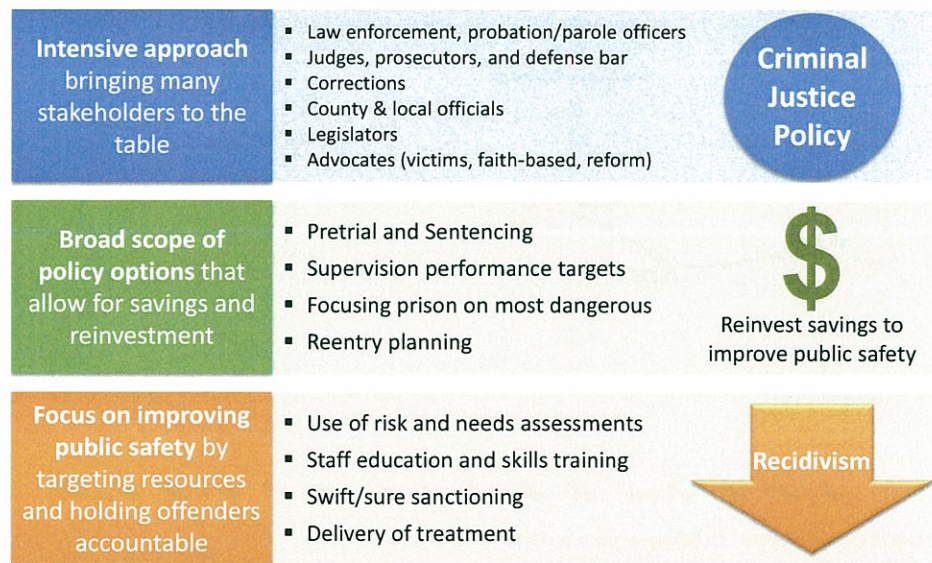




Arkansas will be the 23<sup>rd</sup> state CSG has worked in using the justice reinvestment approach



## Key characteristics about justice reinvestment process



## States using justice reinvestment have achieved gains across multiple criminal justice indicators



Key Criminal Justice Indicators	Texas (JR in 2007)	North Carolina (JR in 2011)	Arkansas
Crime Rate	↓	↓	↓
Recidivism Rate	↓	↓	↑
Prison Population	↓	↓	↑

Key Indicator	TX		NC		AR	
	2007	2014	2011	2014	2011	2014
Crime Rate	4,632	3,425	3,877	3,203	4,235	3,818
Incarceration Rate	669	584	362	358	544	599

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## Arkansas's prison population is up 41 percent since 2004

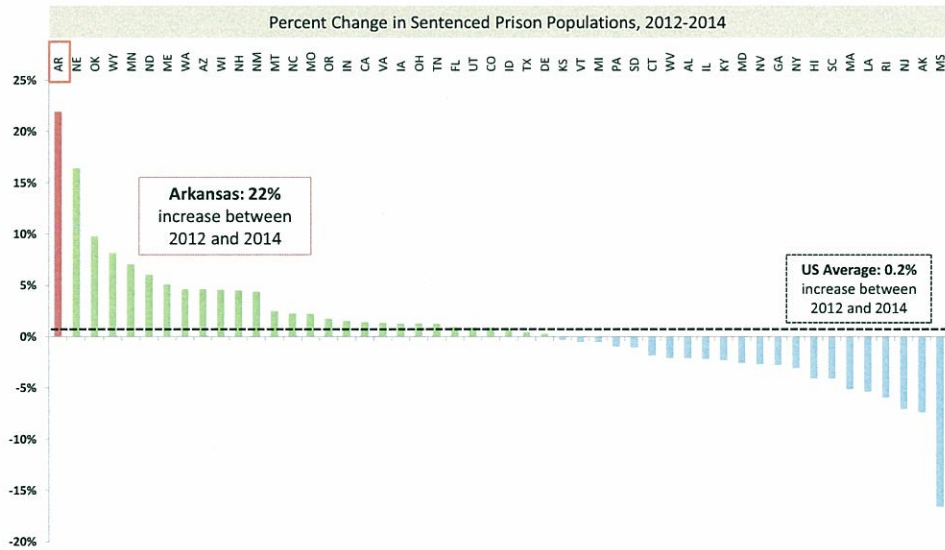


Source: Emails from ADC Staff, July and November 2015

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## Arkansas's prison population is the fastest growing in the country



Source: BJS Prisoners in the United States

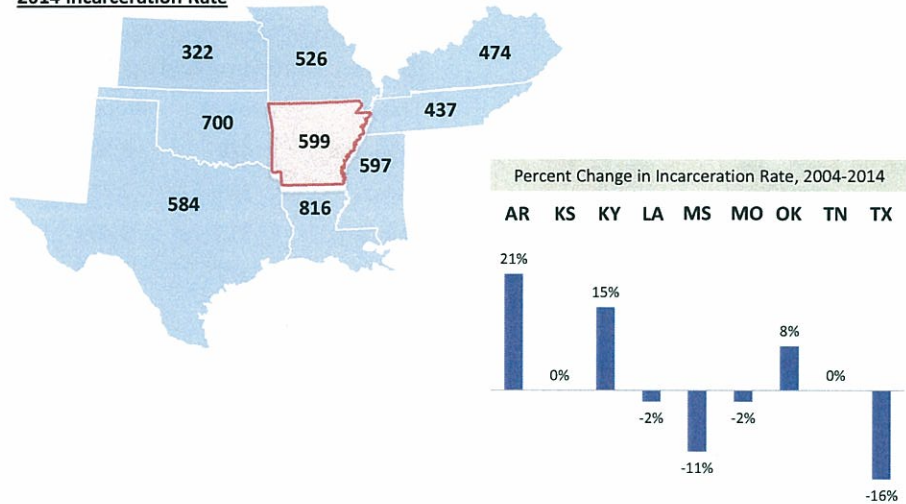
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Arkansas's incarceration rate is higher than all but two of its neighboring states, and its rate of growth is the fastest

#### 2014 Incarceration Rate



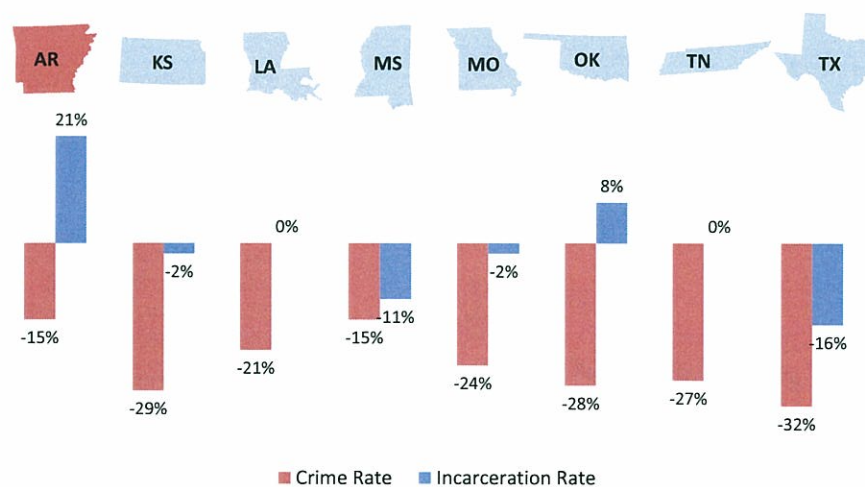
Source: BJS, Prisoners reports <http://www.bjs.gov/index.cfm?ty=pbs&sid=40>

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Despite Arkansas's rising incarceration rate, its crime rate has not dropped as fast as its neighbors

#### Change in Crime Rates and Incarceration Rates, 2004-2014

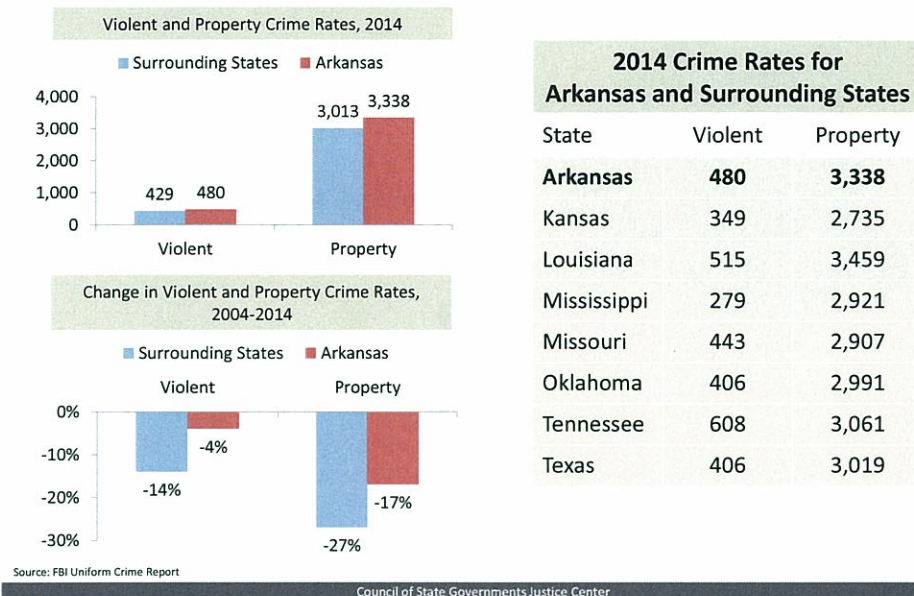


Source: FBI Uniform Crime Report, BJS, Prisoners reports <http://www.bjs.gov/index.cfm?ty=pbs&sid=40>

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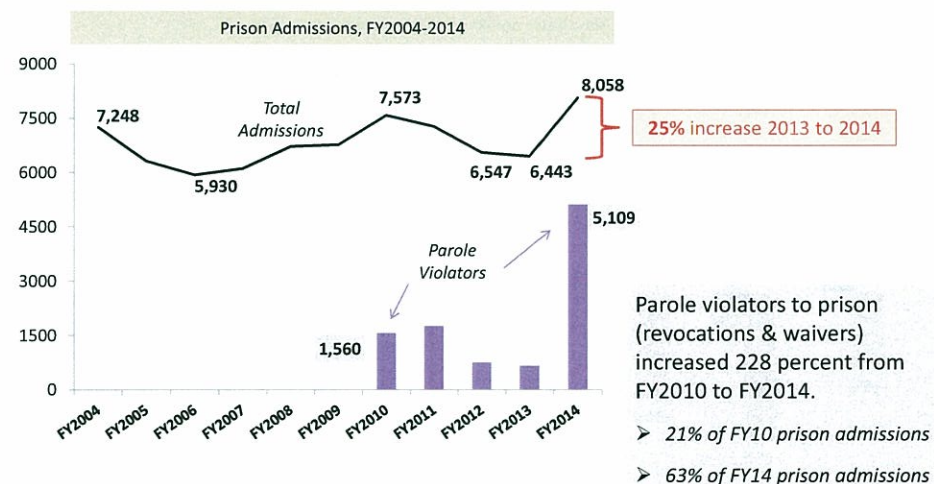
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Violent and property crime rates are higher than surrounding states and have not fallen nearly as fast in the past decade



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Admissions to Arkansas's prisons increased 25 percent in just one year from FY2013 to FY2014



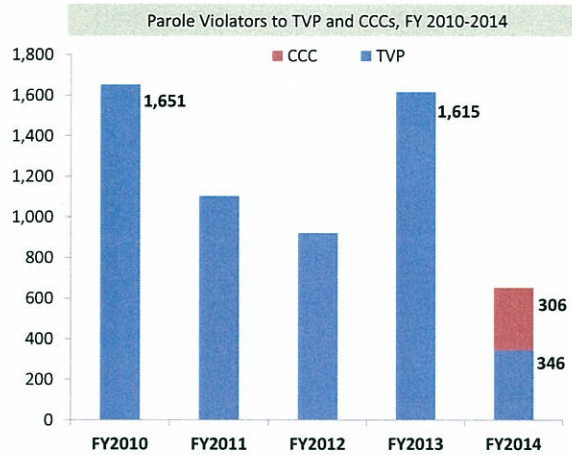
Source: JFA Associates, 2015 Arkansas Prison Projections and Historical Corrections Trends, June 2015

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## Parole violators sent to technical violator programs declined 79 percent from FY2010 to FY2014



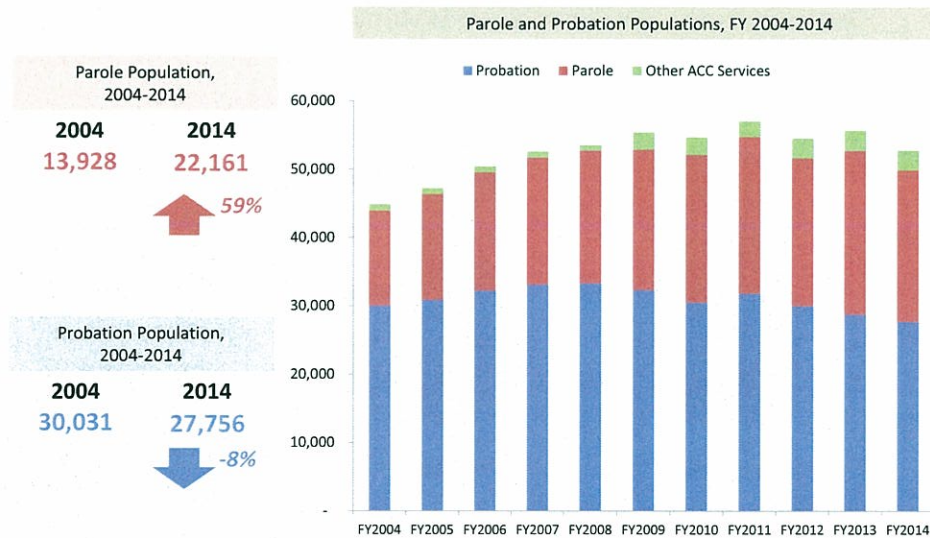
What factors help explain the significant decline in use of TVPs beginning in FY2014?

Source: Parole Board Annual Report

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## Arkansas's parole population has grown 59 percent since 2004, while the probation population has declined



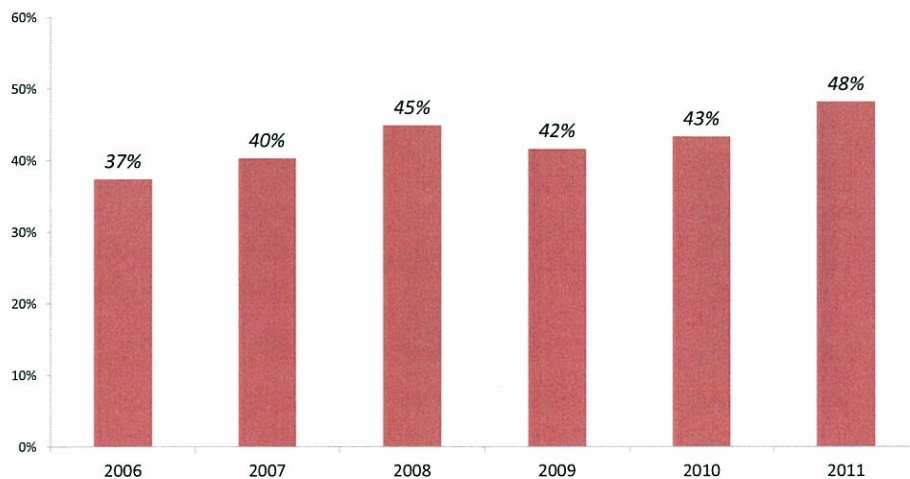
Source: Bureau of Justice Statistics, *Probation and Parole in the United States*, 2013; 2012-2014 ACC Annual Reports.

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## Recidivism rates have increased by 11 percentage points over the last five years

ADC "Return to Prison" Rates for Parole and Discharge Releases, CY 2006-2011



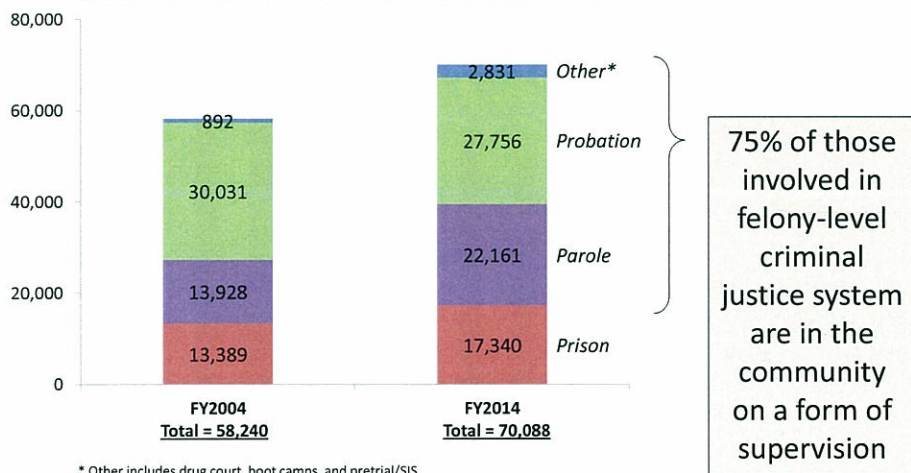
Source: 2011 Arkansas Recidivism Study

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## Greatest opportunity for increasing public safety is by improving supervision systems

Felony Criminal Justice Correctional Populations, FY2004 and FY2014



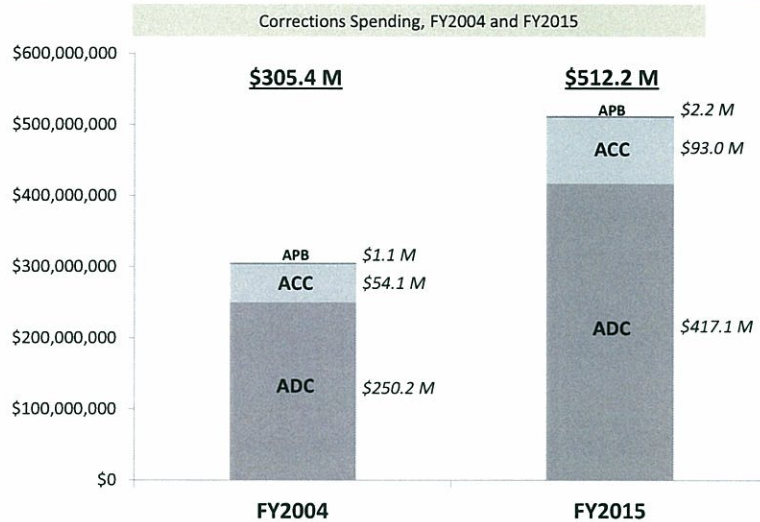
\* Other includes drug court, boot camps, and pretrial/SIS.

Source: Emails from ADC Staff, July and November 2015; 2012-2014 ACC Annual Reports.

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Arkansas now spends more than half a billion dollars on corrections, a 68 percent increase since 2004



Source: Arkansas State Budget 2004, 2015

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Maintaining status quo will cost Arkansas minimum of \$680 million in additional spending over the next decade

Ten year cost of relying on contracted capacity to accommodate projected prison growth (\$30/day):

FY15 jail backlog average ~ 2,500 carried forward

\$274 M

+

Additional population growth through 2025

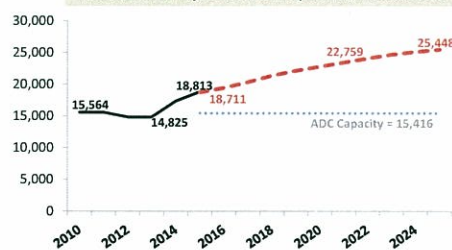
\$406 M

=

Total Estimated Contracting Cost

\$680 M

Historical and Projected Prison Population, FY2010-2025



Cost of building additional capacity (assuming a conservative construction cost of \$60K per prison bed).

Projected 2025 population	25,448
Current ADC capacity	15,416
Capacity shortfall	10,032

10,032 beds x \$60K each = \$602 M

On top of the \$680 M for contracting

Source: ADC email, JFA Associates, 2015 Arkansas Prison Projections and Historical Corrections Trends, June 2015

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## Observations based on preliminary review of criminal justice system trends in Arkansas

Crime rates in Arkansas are down, but not as much as in surrounding states

Arkansas's prison population is at a historic high, largely driven by a sharp increase in parole revocations in the last two years

Recidivism has been increasing over the past decade

State is spending millions to house individuals in county and out-of-state detention facilities

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Justice reinvestment provides two phases of technical assistance: helping states develop and then implement policies

## Phase I



## Phase II



JR process focuses on improving core correctional elements and involves intensive stakeholder engagement

### Justice Reinvestment Process

#### PHASE I

- ✓ Working group formation / presentations
- ✓ Data analysis
- ✓ Stakeholder engagement
- ✓ Sentencing policy analysis
- ✓ Policy development
- ✓ Modeling of policy impact

#### PHASE II

- ✓ Implementation oversight structure & planning
- ✓ Translating projections into metrics
- ✓ Training strategies
- ✓ Communication plan
- ✓ Sub-award plan development and tracking
- ✓ State monitoring of key metrics

### Analysis & Improvement of Core Correctional Elements

#### ① RISK ASSESSMENT

- ✓ System-wide assessment & analysis
- ✓ On-site observation of current practice

#### ② PROGRAMS

- ✓ Administrative policy review
- ✓ Charting of current vs. ideal practice

#### ③ SUPERVISION

- ✓ Rollout of options for improvement connected to policy framework

- ✓ Administrative policy redesign
- ✓ Retraining, revalidation, QA processes
- ✓ Troubleshooting the change process
- ✓ Supporting leaders and oversight of the process

### Enhanced Focus Areas

- |  |   |
|--|---|
| ○ Prosecutor engagement                | ○ Law enforcement                                 |
| ○ Victim advocates & service providers | ○ Sentencing policies & case law                  |
| ○ Parole board members                 | ○ Behavioral health state officials and providers |



## Detailed, case-level data sought from many sources

Data Type	Source	Status
– Crime and Arrests	Arkansas Crime Information Center	In process
– Sentencing	Arkansas Sentencing Commission	Received, analyzing
– Prison (Admissions, Releases, and Population snapshots)	Arkansas Department of Correction	Received, analyzing
– Probation Supervision	Arkansas Community Corrections	Received, analyzing
– Parole Supervision		
– Risk Assessment		
– Parole Decision-Making	Arkansas Parole Board	Received, analyzing
– Jail	Counties	Still scoping
– Behavioral Health Data	Department of Mental Health	Still scoping

### Roadblocks that sometimes arise

- ☐ Shortage of “data staff”
- ☐ Delays in delivery due to “data cleaning”
- ☐ Unavailable data instead collected through samples and surveys
- ☐ Agencies unaccustomed to sharing data with outside groups

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## Emerging questions and possible areas of analysis

### How does sentencing affect distribution of offenders across the system?

- ☐ How are pretrial, probation violator, and sentenced offender populations affecting county jail populations?
- ☐ What factors impact sentencing of offenders along various sentencing options?
- ☐ Do certain sentencing patterns drive prison pressures?

### Is prison prioritized for those who pose the greatest danger to the community?

- ☐ What is affecting inmate length of stay?
- ☐ Are prison and parole processes operationalized to prevent system delays?
- ☐ Are programs unnecessarily oriented behind prison wall instead of being delivered in the community where they can have greater impact?

### Does community supervision focus on people who pose the greatest risk of re-offense?

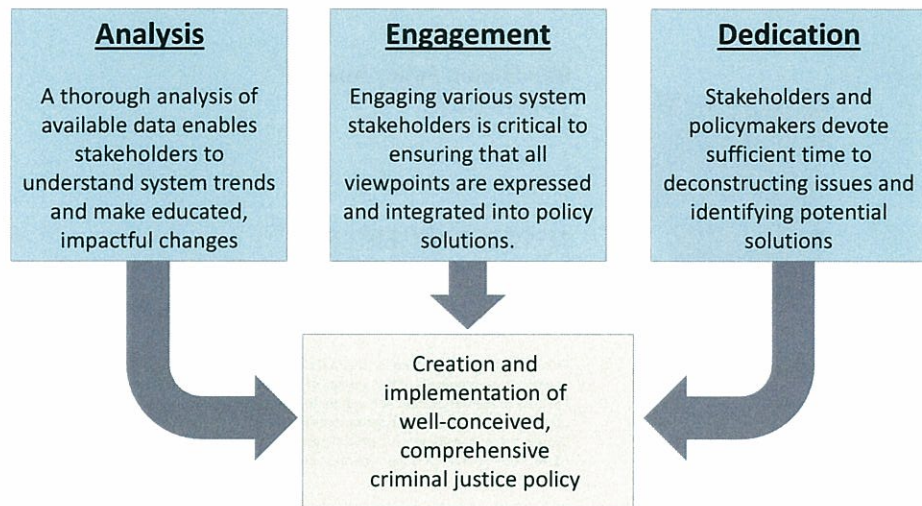
- ☐ Are admission criteria in place to ensure that programs focus on higher-risk offenders?
- ☐ How are supervision lengths determined and how do they affect officer resources?
- ☐ What quality-assurance assessments and outcome evaluations are used to determine recidivism impact?

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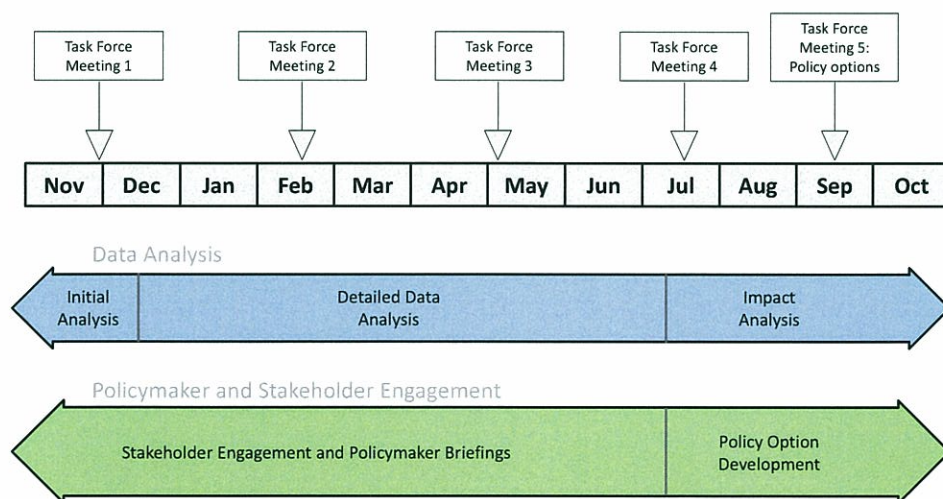
## Keys to a thorough, productive Justice Reinvestment process



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## Proposed project timeline



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## Thank You



**Ben Shelor, Policy Analyst**

[bshelor@csg.org](mailto:bshelor@csg.org)

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Racial Disparities in the Arkansas Criminal  
Justice System Research Project  
Adjoa A. Aiyetoro, Director and Professor of Law

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Philanthropy, Clinton School of Public Service  
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Rita Sklar Director, Arkansas ACLU  
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Robert Tellez , Attorney at Law  
The Honorable Jim Guy Tucker, Former Attorney General and Governor  
Julie Vandiver, Assistant Federal Defender  
Sherece West, President and CEO, The Winthrop Rockefeller Foundation  
Ray Williams, Community Ministry Pastor, Fellowship Bible Church  
Ronald Wilson, Attorney at Law  
Claudell Woods, Attorney at Law

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Racial Disparities in the Arkansas Criminal  
Justice System Research Project

WHAT CAN THE SENATE JUDICIARY COMMITTEE AND THE CRIME OVERSIGHT TASK  
FORCE?

1. Implicit or unconscious bias, generally, and unconscious racial bias specifically is a product of the history of the United States and we all are subject to its impact to a greater or lesser degree. The problem is that it often has harmful consequences, as in the disparities we see in punishments for homicide.
2. Pass the Racial Impact Statement Legislation introduced by Senator Joyce Elliott in the 2013 and 2015 Legislative Session that she plans to re-introduce in the 2017 Legislative Session AND encourage the full Senate to pass the bill and send to House Judiciary Committee and encourage the bill's passage by the House.
3. Recognize that the data clearly shows that unintended racial biases are affecting the decisions to charge and sentence people who have been accused of committing homicide. These unintended racial biases have been categorized in the social sciences as implicit or unconscious bias and protocols have been developed to aid policy makers and anyone else who is interested in recognizing the bias and developing strategies to counter it.
4. Use your good offices to encourage primary actors in the criminal justice system develop an understanding of implicit racial bias and its strong correlation to the racial disparities that exist in the punishments for homicide in Arkansas. Given this data, it is likely that racial bias is affecting the punishments for other crimes.
5. The significant findings of racial disparities in the Arkansas death penalty should be a major factor in your deliberations in the 2017 Legislative Session on abolishing this punishment, the most harmful consequence that this data indicates results from racial disparities.
6. Seriously consider training in implicit bias, perhaps along with the judicial branch or at least recommending the judicial branch such training.
7. Seriously consider legislation to monitor the racial disparities in the Arkansas criminal justice system from arrest through conviction and sentence.
8. Recognize that as long as unconscious bias affects the criminal justice system, Arkansas is seriously compromising equal justice for all.

