

# Arkansas's Justice Reinvestment Approach:

## Enhancing Local Mental Health Services for People in the Criminal Justice System



MAY 2017

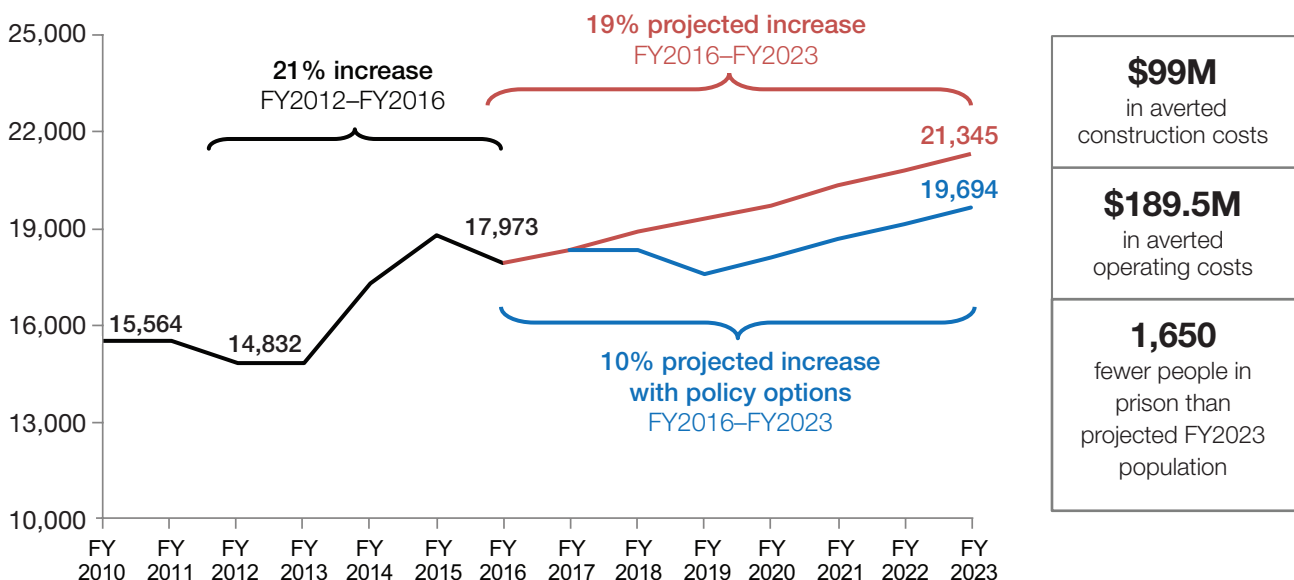
### Overview

Arkansas's criminal justice system faces serious challenges. As a result of a 21-percent growth in the state's prison population between 2012 and 2015—the highest increase in the nation during that period—Arkansas's prisons are now at capacity, and county resources are strained due to a backlog of people who are held in jail while awaiting transfer to prison after sentencing.<sup>1</sup> Without action, the state's prison population is projected to increase by nearly 20 percent by 2023.<sup>2</sup> [See Figure 1]

To address these issues, in March 2017, Arkansas policymakers passed Act 423, which contains policies designed to make better use of state and local resources in three key ways. First, it limits the period of incarceration for people sanctioned for low-level violations of the terms of their

supervision. Second, it requires training for law enforcement officers in how to respond to people experiencing a mental health crisis. Third, it creates local crisis stabilization units that enable law enforcement officers to divert people with mental illnesses who commit low-level offenses away from county jails to receive mental health treatment in the community. By implementing these policies, the state estimates it will avert hundreds of millions of dollars in prison construction and operating costs and will be able to reinvest savings in areas critical to improving outcomes for people on supervision and increasing public safety. Act 423 is expected to reduce the projected growth in the prison population by nearly 10 percent. This figure represents more than 1,650 fewer people in prison by FY2023, resulting in projected averted costs of more than \$288 million.

**FIGURE 1. PROJECTED IMPACT OF ACT 423 ON ARKANSAS'S PRISON POPULATION**



SUMMARY

# Summary of the Justice Reinvestment Process

## CHALLENGES

Arkansas's prisons are now at capacity, in large part due to a significant increase in the number of people revoked to prison from probation and parole supervision. Between 2012 and 2015, parole revocations increased 251 percent, from 1,668 to 5,862 revocations per year.<sup>3</sup> As a result of the growing number of revocations, the prison population is expected to increase by 19 percent between FY2016 and FY2023.<sup>4</sup> If nothing is done to address this growth, the state will be forced to spend an additional \$653 million in construction and operating costs by 2023 in order to accommodate anticipated prison population growth.

## FINDINGS

In April 2015, the Arkansas legislature enacted Act 895, which established the bipartisan Legislative Criminal Justice Oversight and Behavioral Health Treatment Task Forces comprising designees from all three branches of government and state and local criminal justice and behavioral health system stakeholders. At the request of state leaders in Arkansas, the U.S. Department of Justice's Bureau of Justice Assistance (BJA) and The Pew Charitable Trusts (Pew) asked The Council of State Governments (CSG) Justice Center to provide intensive technical assistance using a justice reinvestment approach. Under the direction of the task forces, CSG Justice Center staff conducted a comprehensive analysis of data collected from various state agencies and departments. Several key findings emerged as a result of this analysis:

- From 2012 to 2015, Arkansas had the fastest growing prison population in the nation, and it is projected to continue to rise. The state's incarceration rate also increased substantially over this time and is well above the national average.<sup>5</sup>
- Arkansas spends half a billion dollars on corrections annually, and prison is among the

costliest of the state's sentencing options at \$63 per person per day.<sup>6</sup>

- The number of people revoked to prison for technical violations of their supervision increased from 38 percent of admissions in 2012 to more than two-thirds of admissions in 2015, which cost the state close to \$16 million—nearly 5 percent of Arkansas Department of Correction's (ADC) total budget.
- Supervision officers are overwhelmed by large caseloads that prevent them from providing effective supervision.<sup>7</sup>

## SOLUTIONS

Sponsored by Senator Jeremy Hutchinson and Representatives Clarke Tucker and Matthew Shepherd, Act 423 codifies the justice reinvestment policy framework developed by the task forces. Act 423 passed the Arkansas Senate by a vote of 27 to 4 and passed the Arkansas House by a vote of 86 to 1. To support implementation of the justice reinvestment legislation, Governor Asa Hutchinson included in his proposed budget (1) \$5 million for the establishment and operation of crisis stabilization units, (2) funding for the Arkansas Law Enforcement Training Academy (ALETA) and related agencies to train officers in crisis intervention techniques for people with mental illnesses, and (3) permanent funding for additional supervision officers and treatment staff for Arkansas Community Correction (ACC).

Because the policies contained in Act 423 are not expected to alleviate all of the projected growth in the state's prison population, the Legislative Criminal Justice Oversight Task Force also urged the Sentencing Commission to revise the current sentencing standards to discourage the use of prison—one of the state's most expensive sanctions—for people convicted of low-level offenses.



*“We have neglected the mental health challenges in our nation for too long. Through the creation of these crisis stabilization units, this bill will provide much-needed assistance to those suffering from mental illnesses, and also provide relief to our law enforcement officers who so often have to deal with incidents involving those who need help rather than detention.”*

— GOVERNOR ASA HUTCHINSON

# Summary of Act 423

## Refine certain sanctioning protocols for people on probation and parole.

- Act 423 limits the period of incarceration for people sanctioned for violations of the terms of their supervision. Sanctions for people who commit technical violations may be up to 90 days of incarceration. Sanctions for serious violations, including nonviolent, non-sex misdemeanors, may include incarceration for 180 days. ACC has the authority to impose these sanctions administratively.<sup>8</sup>
- The act allows for a maximum of six periods of incarceration in either county jail or an ACC residential facility as an intermediate sanction prior to full revocation to prison. This includes a maximum of two sanctions of 90 or 180 days, depending on the seriousness of the violation.
- In cases where either ACC or the prosecuting attorney can prove to the court having jurisdiction that a person is a threat to the community, the person is subject to full revocation.<sup>9</sup>

## Create and provide crisis intervention team training for police officers and sheriffs' deputies to safely and effectively deal with people who are experiencing a mental health crisis.

- Law enforcement officer cadets will receive 16 hours of crisis intervention training (CIT) as part of academy training and certification.
- Eight-hour training courses will be available for current officers.
- In law enforcement agencies that employ 10 officers or more, one officer will be required to receive a more intensive 40-hour training to become a local/regional expert in CIT and to assist in training other officers and stakeholders.



*“Right now, law enforcement must take someone who’s experiencing a mental health crisis to jail. Crisis stabilization units will dramatically increase the chances of a person’s recovery by providing treatment and will free up county jail space for people who pose a threat to public safety.”*

—SEBASTIAN COUNTY SHERIFF BILL HOLLENBECK



*“This act is an important step toward responsibly managing the growth in our incarcerated population and will help Arkansas’s public safety system be more effective and efficient in the use of our resources while providing meaningful services to people in need and holding those who violate the law accountable.”*

—SENATOR JEREMY HUTCHINSON

## Establish a legal framework for the design, operation, and regulation of regional crisis stabilization units (CSUs).

- CIT-trained officers can take people who are experiencing a mental health crisis to these facilities to connect them to appropriate treatment. These facilities will serve people who are arrested for nonviolent offenses.

## Expand eligibility for placement in ACC’s residential facilities and increase flexibility related to releases.

- The list of so-called “target offenses” will be expanded.<sup>10</sup> Eligibility for ACC’s residential facilities will be expanded to include people sentenced to up to six years (previously four years) and will allow people with sentences of three years or less to be eligible for parole at 180 days (previously 270 days).

## Develop ACC staffing and caseload guidelines.

- Act 423 includes the requirement that ACC develop internal staffing and caseload guidelines that are based on supervisees’ assessed risk of reoffending, in accordance with evidence-based practices.

## Assist counties in the coordination and administration of criminal justice at the local level.

- Act 423 encourages counties to create local criminal justice coordinating committees to routinely discuss the administration of criminal justice services in the community and to adopt tools that screen for risk of reoffending, mental illnesses, and substance use disorders among people being booked into jail.

## Improve data collection.

- The Arkansas Crime Information Center (ACIC) will develop a database for county jails and state criminal justice agencies to share information related to people’s risk of reoffending and behavioral health needs, among other subjects.

## LOOKING AHEAD

Act 423 provides for the creation of an oversight body to monitor and direct the implementation of criminal justice initiatives for the next two years. This 17-member body, which includes legislators and criminal justice stakeholders, among others, will receive data and reports from the state's correctional agencies and other stakeholders to ensure that the legislation achieves intended outcomes.

Some policy recommendations included in the final report of the Legislative Criminal Justice Oversight Task Force are being implemented through administrative rule promulgated by the Arkansas Board of Correction, Arkansas Parole Board, and other agencies. Any delays in adopting administrative rules or revisions to the rules language will have an impact on the projected reductions of the prison population and may prevent Arkansas from realizing the full projected cost savings of \$288 million.

To enhance the state's ability to implement Act 423, CSG Justice Center staff are working closely



*“Act 423 is the result of a dedicated and thorough review of our criminal justice system and the challenges it faces.*

*With the input and assistance of legislators, stakeholders, and advocates throughout Arkansas, policies, programs, and services can be put in place that make better use of taxpayer dollars, provide treatment to those in need, and enhance public safety all at the same time.”*

— REPRESENTATIVE CLARKE TUCKER

with officials from across the state's criminal justice system to assist in developing administrative rules and implementing policy. The state has the opportunity to request funding from BJA to support additional capacity-building efforts, such as workforce training, IT support, and ongoing quality-assurance efforts.

## Endnotes

1. E. Ann Carson, “Prisoners in 2013,” Bureau of Justice Statistics, <https://www.bjs.gov/content/pub/pdf/p13.pdf>; “Prisoners in 2015,” <https://www.bjs.gov/index.cfm?ty=pbdetail&iid=5869>. Arkansas policy requires that if sufficient space is not available in state prison facilities, people sentenced to prison for felony offenses are held in county jails until a prison bed is available. Referred to as the “county jail backlog,” the number of people held in county jails awaiting placement in the Arkansas Department of Correction (ADC) has fluctuated in recent years. In FY2014, the county jail backlog averaged 2,164 people per day. That number grew to 2,396 in FY2015 before dropping to a daily average of 1,569 in FY2016.
2. 2016 Arkansas Prison Projections and Historical Corrections Trends—JFA Associates [http://adc.arkansas.gov/images/uploads/2016\\_Arkansas\\_Prison\\_Projections\\_and\\_Historical\\_Corrections\\_Trends.pdf](http://adc.arkansas.gov/images/uploads/2016_Arkansas_Prison_Projections_and_Historical_Corrections_Trends.pdf).
3. Arkansas Parole Board, “The Annual Report for Fiscal Year 2014–2015,” <http://paroleboard.arkansas.gov/Resources/Documents/Publications/2014ParoleBoardAnnualReport.pdf>.
4. “Justice Reinvestment in Arkansas: Policy Options and Projected Impacts” slide 9. August 25, 2016. The Council of State Governments Justice Center. <https://csjjusticecenter.org/jr/arkansas/publications/justice-reinvestment-in-arkansas-policy-options-and-projected-impacts/>.
5. E. Ann Carson, “Prisoners in 2013,” Bureau of Justice Statistics, <https://www.bjs.gov/content/pub/pdf/p13.pdf>; “Prisoners in 2015,” <https://www.bjs.gov/index.cfm?ty=pbdetail&iid=5869>.
6. Average cost for prison beds operated by the ADC was \$63 per day in 2015. Average cost for beds in residential treatment and sanctioning facilities operated by Arkansas Community Correction (ACC) was \$65 per day in 2015, but these facilities provide intensive treatment and services, hence the increased cost. Given the shorter term of detention in an ACC bed coupled with treatment and programming, placement into an ACC bed is much more cost-effective than a stay in prison.
7. ACC Annual Report FY2015; North Carolina DPS, Legislative Report on Probation and Parole Caseloads, March 2015.
8. Act 423 authorizes ACC to impose sanctions administratively, meaning that no court order or ruling is required for the sanctions to be imposed on a person under ACC's jurisdiction. However, a person facing such sanctions retains the right to elect to have the sanctions heard in court.
9. In order to revoke someone for a technical violation or a serious conditions violation who has not otherwise received at least two intermediate sanctions of either 90 or 180 days, Arkansas Community Correction or the prosecuting attorney must file a petition with the court that has jurisdiction and prove by preponderance of the evidence that the defendant is engaging in or has engaged in behavior that poses a threat to the community (Act 423, Section 18).
10. “Target offenses” are those offenses for which a person may be placed into a residential facility operated by ACC. These are typically nonviolent felony offenses.



This project was supported by Grant No. 2013-ZB-BX-K002 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the SMART Office. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice. To learn more about the Bureau of Justice Assistance, please visit [bja.gov](http://bja.gov).



Research and analysis described in this report has been funded in part by The Pew Charitable Trusts public safety performance project. Launched in 2006, Pew's public safety performance project seeks to help states advance fiscally sound, data-driven policies and practices in sentencing and corrections that protect public safety, hold offenders accountable, and control corrections costs. To learn more about the project, please visit [pewtrusts.org/publicsafety](http://pewtrusts.org/publicsafety).



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