The Council of State Governments Justice Center

National nonprofit, nonpartisan membership association of state government officials that engage members of all three branches of state government.

Justice Center provides practical, nonpartisan advice informed by the best available evidence.
What is 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.
Stakeholder input informs the data analysis presented today

**Legislative Criminal Justice Oversight Task Force**
Individual meetings/calls with task force members and their staff

**Arkansas General Assembly**
Meetings with Senators and House Representatives, including legislative leadership and the Bureau of Legislative Research

**Courts**
Meetings, calls, and presentations with individual judges, Judicial Council leadership; Administrative Office of the Courts; and court observations

**State Associations and Foundations**
Association of Arkansas Counties, Arkansas Policy Foundation, Restore Hope

**Corrections**
Meetings with leadership and staff from the Board of Corrections, ADC, ACC, and the Arkansas Parole Board; observation and interviews with staff and offenders at three ACC Field Offices and three Community Corrections Centers; visit to Cummings and Varner Units

**Behavioral Health**
DHS Division of Behavioral Health Services (DBHS), Mental Health Council of Arkansas, Decision Point Inc., Ozark Guidance, Western Arkansas Guidance, and leadership of the Behavioral Health Treatment Access Task Force

**Law Enforcement and Prosecuting Attorneys**
Arkansas Prosecuting Attorneys Association, Arkansas Attorney General’s Office, Arkansas Sheriffs Association, representatives of the Washington County Sheriff’s Office, Pulaski County Sheriff’s Office, Union County Sheriff’s Office, and Sebastian County Sheriff’s Office.
CSG Justice Center staff are pursuing regional perspectives in stakeholder engagement, reflecting the state’s size and diversity.

With the assistance of the Association of Arkansas Counties and the Arkansas Sheriffs Association, CSG Justice Center staff met with leaders and stakeholders from Washington, Union, Pulaski, and Sebastian Counties to learn about the criminal justice challenges at the local level.
Update on criminal justice system stakeholder engagement since February 2016 Task Force presentation

### On-site Meetings with Stakeholders

**Probation/Parole & Community Corrections**
Site visits to Northwest and Central Arkansas including observation and meetings with staff and offenders at ACC Probation/Parole field offices and Community Corrections Centers.

**Judges & Prosecutors**
Calls and meetings in Little Rock, Fort Smith, and Fayetteville

**County Officials**
Meeting with 18 county-level representatives, including county judges, prosecuting attorneys, sheriffs, jail administrators, behavioral health treatment staff, and community corrections staff

**Sebastian County Mental Health Summit**
CSG staff participated in May 2016 summit in Fort Smith

### Calls with Stakeholders & Review of Policy/Practice

- 40+ hours spent on calls with stakeholders
- 100+ hours reviewing sentencing & corrections law, probation & parole policies, and other relevant information

### Statewide Surveys

- County jail populations

### Data Analysis

- Over 2.7 million data records analyzed across felony sentencing, ADC, ACC, and ACIC
- ADC population tracked on daily basis to include tracking of trends in the county jail backlog
Arkansas’s criminal justice agencies have been excellent at providing data.

<table>
<thead>
<tr>
<th>Data Requested</th>
<th>Source</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Criminal History Information</td>
<td>Arkansas Crime Information Center</td>
<td>Received; Analyzed</td>
</tr>
<tr>
<td>Filing, Disposition, &amp; Sentencing</td>
<td>Arkansas Sentencing Commission, Arkansas Administrative Office of the Courts</td>
<td>Received; Analyzed</td>
</tr>
<tr>
<td>Probation and Parole Supervision, Risk Assessment Data</td>
<td>Arkansas Community Correction</td>
<td>Received; Analyzed</td>
</tr>
<tr>
<td>Prison Population Snapshot, Admissions, &amp; Releases</td>
<td>Arkansas Department of Correction</td>
<td>Received; Analyzed, more analyses pending</td>
</tr>
<tr>
<td>Parole Board decision data</td>
<td>Arkansas Parole Board</td>
<td>Received; Analyses pending</td>
</tr>
<tr>
<td>County Jail Population, Admissions, &amp; Releases</td>
<td>Pulaski, Sebastian, Union, and Washington Counties</td>
<td>Received; Analyses pending</td>
</tr>
</tbody>
</table>

Today’s focus on:
Recap of Key Findings to Date

- Overcrowded prisons and jails
- Costly status quo
- Sentencing of low-level felons to prison
Overview

01 Project Update

02 Comparing Probation and Prison

03 Sanctioning of Violators—Cost and Public Safety

04 Recidivism Reduction through Strengthening Supervision

05 Next Steps
Importance of examining outcomes

Understanding recidivism

Probation more cost-effective than prison
Prior discussions highlighted issue of prison vs. probation for lower-level offenses

<table>
<thead>
<tr>
<th>Offense Seriousness</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5+</th>
</tr>
</thead>
<tbody>
<tr>
<td>More serious offenses</td>
<td>Prison</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Less serious offenses</td>
<td>Non-Prison</td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

**Criminal History Score**

Sentences to both prison and probation are driven primarily by property and drug offenses.

Felony Sentences by Disposition Type, 2014

Total Sentences: 14,760

- Prison: 5,496 (37.2% of all sentences)
- Probation: 7,319 (49.5% of all sentences)
- SIS/Other: 1,263

Underlying Most Serious Offense Type

87% Drug / Property / Other

Other consists of offenses such as possession of firearm by certain persons, failure to appear (FTA on a felony) furnishing prohibited articles, fleeing, and non-support.

Source: Arkansas Sentencing Commission Data, 2014

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Understanding what a recidivism rate means…

36-Month Re-arrest Rates for Individuals Released from ADC in FY2012

Overall 3-year re-arrest rate is 57% (cumulative across the 36 months in graph at left).

- Once “at risk” of being arrested (i.e., recidivating), 2–3% of the cohort are getting arrested each month early on, but that falls to less than 1% per month before month 24.

Source: ADC Release Data, ACIC Arrest Data
Overall, people placed on probation instead of released from prison are re-arrested at roughly 18–21 percent lower rates within three years.

36-Month Re-arrest Rates for Individuals Released from Prison Compared to Individuals Beginning Felony Probation in FY2012

<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>1 Yr</td>
<td>32%</td>
<td>26%</td>
<td>- 19%</td>
</tr>
<tr>
<td>2 Yr</td>
<td>48%</td>
<td>38%</td>
<td>- 21%</td>
</tr>
<tr>
<td>3 Yr</td>
<td>57%</td>
<td>47%</td>
<td>- 18%</td>
</tr>
</tbody>
</table>

Source: ADC Release Data, ACC Intake Data, ACIC Arrest Data
Comparing apples to apples, probation yields as good or better recidivism rates as prison

Two-year Re-arrest Rates for Drug/Property Offenses, FY2013 Cohorts

<table>
<thead>
<tr>
<th>Prior Felony Arrests</th>
<th>Prison Releases</th>
<th>Probation Starts</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 to 1</td>
<td>37%</td>
<td>37%</td>
</tr>
<tr>
<td>2–3</td>
<td>51%</td>
<td>49%</td>
</tr>
<tr>
<td>4 or more</td>
<td>60%</td>
<td>55%</td>
</tr>
<tr>
<td>Overall</td>
<td>50%</td>
<td>40%</td>
</tr>
</tbody>
</table>

Return on Investment

Probation

- 4 years supervision at $2.25/day
- $3,285 cost to state

Prison

- 2 years in prison at $62/day
- $45,260 cost to state

Source: ADC Release Data, ACC Intake Data, ACIC Arrest Data
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Section Preview

- Violators of supervision driving prison growth
- Almost a third of those violators are purely technical
- Questionable cost-effectiveness of status quo
Admissions to prison increased 41 percent from FY2009 to FY2015

Annual Admissions to Prison, FY2009–2015

- From FY2012 to FY2015, admissions increased 70%

Most current update:
Comparing Jul–Apr FY2012 and FY2016 shows admissions up 61%

Source: ADC Admission Data
Parole violators went from being a third of all prison admissions to over half.

Parole violators accounted for 54% of all admissions to prison in FY2015:
- Up from 32% in FY09

Most current update:
July–April FY2016 shows admissions for parole violators accounted for 51% of all ADC admissions.

Source: ADC Admission Data, ACC Termination Data
Virtually all of the growth in Arkansas’s prison population stems from sanctioning of supervision violators.

Year-End Prison Population by Type of Admission, FY2009 and 2015

<table>
<thead>
<tr>
<th>Type of Admission</th>
<th>FY09</th>
<th>FY15</th>
<th>Raw Growth</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Prison</td>
<td>8,863</td>
<td>8,858</td>
<td>+ 4,243</td>
</tr>
<tr>
<td>Parole Violators</td>
<td>1,808</td>
<td></td>
<td>+ 3,786</td>
</tr>
<tr>
<td>Probation Violators</td>
<td>3,729</td>
<td></td>
<td>+ 372</td>
</tr>
<tr>
<td>Probation + Parole Violators</td>
<td></td>
<td>2,180</td>
<td>+ 4,158</td>
</tr>
</tbody>
</table>

51% of prison population consists of supervision violators – 48% as of 4/30/16

ADC Snapshot Data, 2009 – April 2016
Almost a third of revoked probationers and parolees did not have an arrest while on supervision prior to revocation.

**FY2015 Prison Admissions by Type of Admission**

- Parole Violators: 5,690
- Probation Violators: 1,789
- New Commits: 2,616
- Other: 367

**Violators with Arrest During Supervision?**

<table>
<thead>
<tr>
<th>Type of Arrest</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Felony Arrest</td>
<td>49%</td>
</tr>
<tr>
<td>Misdemeanor Arrest</td>
<td>22%</td>
</tr>
<tr>
<td>No Arrest</td>
<td>30%</td>
</tr>
<tr>
<td>Felony Arrest</td>
<td>48%</td>
</tr>
<tr>
<td>Misdemeanor Arrest</td>
<td>21%</td>
</tr>
<tr>
<td>No Arrest</td>
<td>31%</td>
</tr>
</tbody>
</table>

**AVG # of Violations**

- Fewer than three

**Almost 75% composed of:**
- Failure to comply w/ conditions
- Failed drug test
- Failure to report
- Failure to pay

**Source:** ADC Admission Data, ACC Termination Data

2,237 probationers and parolees revoked to prison despite not having an arrest while on supervision.
Probation violators released from prison in FY2015 spent more than twice as long in prison compared to FY2009.

Of those released in FY2015:
- Technical probation revocations spent 12 months in prison.
- Technical parole violators spent 15 months in prison.

Note: The lengths of stay in prison do not account for time spent in local jails awaiting violation hearing.

Source: ADC Release Data, ACC Termination Data
Current cost to Arkansas for imprisoning technical probation and parole violators represents almost $20 million annually.

Technical Violators Revoked to Prison in FY2015

1,678

Excludes absconders

Average length of stay in prison of 12 months

Requires 1,678 prison beds on a daily basis

Contract Bed Cost per Day of $30

$18.4 Million Annually

Source: ADC Release Data, ACC Termination Data, ADC County Jail Backlog Cost Per Day
Use of TVP sanctioning declined by more than 40 percent from FY2013 to FY2015

TVP Admissions, FY2009-2015

Decline in use of TVPs occurred at same time as increase in parole violators sent to prison.

- Policy change in 2013 excluded parole violators with a new felony charge and also limited to no more than two opportunities.

**Source:** TVP Admission Data
Arkansas’s TVPs perform similarly to prison in terms of recidivism, but they’re less costly and present better opportunity to reduce recidivism.

One-Year Re-arrest Rates for Parole Violators Released from Prison Compared to Parole Violators Released from TVP Centers, FY2009 and FY2014

- **Similar costs per day:**
  - TVP ~ $60
  - ADC ~ $62

- **Different lengths of stay:**
  - TVP ~ 3–4 months
  - ADC ~ 12 months

- **Different costs to state:**
  - TVP ~ $7,200/person
  - ADC ~ $22,630/person

Source: TVP Release Data, ADC Release Data, ACIC Arrest Data, ACC Cost Per Day Estimate
In recent years, many states have implemented short, swift, and certain sanctioning policies for technical violators.

<table>
<thead>
<tr>
<th>Louisiana</th>
<th>Washington</th>
<th>North Carolina</th>
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<tbody>
<tr>
<td>In 2007, Louisiana unanimously approved legislation that set a <strong>90-day limit</strong> on the incarceration of those whose probation or parole has been <strong>revoked for the first time for violating the rules of their community supervision</strong>.</td>
<td>In 2012, Washington implemented a swift and certain (SAC) policy that uses short periods of incarceration for sanctioning violations of conditions. The policy calls for “high level” supervision violations to be sanctioned with up to <strong>30 days</strong> of confinement.</td>
<td>North Carolina’s 2011 justice reinvestment legislation included policies <strong>permitting swift and certain “quick dips” of 2–3 day jail sanctions</strong> and “dunks” of <strong>90-day prison sanctions</strong> in response to violations of supervision conditions.</td>
</tr>
</tbody>
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Those states are showing positive outcomes in terms of reductions in recidivism

<table>
<thead>
<tr>
<th>Louisiana</th>
<th>Washington</th>
<th>North Carolina</th>
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<tr>
<td>- Reduced length of stay for first-time technical revocations by 281 days, or 9.2 months.</td>
<td></td>
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<tr>
<td>- Maintained public safety, with returns to custody for new crimes declining from 8% to 6%, a 22 percent decrease.</td>
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<tr>
<td>- Resulted in a net savings of approximately 2,034 jail and prison beds a year.</td>
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<tr>
<td>- SAC reduced the length of stay and encouraged more appropriate and proportionate responses to violations.</td>
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<tr>
<td>- SAC participants were less likely to recidivate—20% less likely to receive any felony conviction, and 30% less likely to receive a violent felony conviction.</td>
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<tr>
<td>- Probation revocations to prison fell by half</td>
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<tr>
<td>- Prison population declined 8%.</td>
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<tr>
<td>- Recent analysis indicates violators with a “quick dip” were less likely to abscond or be revoked to prison and more likely to be successful on supervision than those that did not receive a quick dip in response to supervision violations.</td>
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High caseloads and lengthy supervision terms

Field observations

Turning the corner
Between 2009 and 2015, the combined felony probation and parole supervision populations decreased 4 percent.

**Year-End Felony Probation and Parole Populations, FY2009–2015**

- FY09 Total = 53,669
- FY15 Total = 51,369

- Parole population increased 4%
- Probation population decreased 10%

*Source: ACC Snapshot Data*
Arkansas’s probation and parole officers have in excess of 120 cases per officer that require some level of supervision.

**Arkansas**

- 129 cases per caseworker

**North Carolina**

- 60 cases per caseworker

Two-thirds or more of supervision failures occur within the first two years of supervision.

- **Months on Supervision for Probation Revocations, FY2015**
  - 67% within first 24 months

- **Months on Supervision for Parole Revocations, FY2015**
  - 76% within first 24 months

Source: ACC Termination Data
Probationers and parolees are staying on supervision longer and longer

Average Length of Supervision (Months) for Successful Probation Terminations

- FY2009: 41 months
- FY2015: 50 months

Average Length of Supervision (Months) for Successful Parole Terminations

- FY2009: 29 months
- FY2015: 39 months

- Average months on supervision for felony probationers terminating successfully increased 22% from FY2009 to FY2015
- Average months on supervision for felony probationers terminating successfully increased 34% from FY2009 to FY2015

Source: ACC Termination Data
Arkansas’s history of incorporating risk assessment

**Act 570 (2011)** required creation and implementation of risk assessment and other evidence-based practices. Risk of recidivism should be used to guide allocation of programming and supervision resources.

### Risk Assessment in ACC

**January 2011**
ACC implements the Ohio Risk Assessment System (ORAS) on paper

**August 2011**
ORAS automated into eOMIS case management system

**2013**
ACC begins development of Arkansas specific risk tool

**November 2014**
Arkansas Offender Risk Assessment (ARORA) implemented by ACC

*Source: Act 1190 Final Report, ACC Annual Reports, email correspondence*
**System Checklist:**
Reducing recidivism and promoting recovery

<p>| | |</p>
<table>
<thead>
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<tbody>
<tr>
<td>1</td>
<td>Assess risk and need</td>
</tr>
<tr>
<td>2</td>
<td>Target the right people</td>
</tr>
<tr>
<td>3</td>
<td>Frontload supervision and treatment</td>
</tr>
<tr>
<td>4</td>
<td>Implement proven programs</td>
</tr>
<tr>
<td>5</td>
<td>Address criminal thinking</td>
</tr>
<tr>
<td>6</td>
<td>Hold individuals accountable</td>
</tr>
<tr>
<td>7</td>
<td>Measure and incentivize outcomes</td>
</tr>
</tbody>
</table>
Arkansas has adopted some best practices, but more work will be needed to reduce recidivism further

<table>
<thead>
<tr>
<th></th>
<th>States <strong>without</strong> Best Practices:</th>
<th>States <strong>with</strong> Best Practices</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Assessment</strong></td>
<td>No risk/needs assessment</td>
<td>Risk/needs tool used</td>
</tr>
<tr>
<td></td>
<td>Supervision not directed at highest risk</td>
<td>Validation confirms accuracy of tool in practice</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Supervision resources directed at highest risk</td>
</tr>
<tr>
<td><strong>Programming</strong></td>
<td>No funded treatment for offenders in the community</td>
<td>Offenders connected to high quality programs to address criminal thinking, SUD and MH</td>
</tr>
<tr>
<td></td>
<td>Available programs are not evidence based and not high quality</td>
<td>Services are frontloaded</td>
</tr>
<tr>
<td></td>
<td>Long waitlists to access treatment</td>
<td></td>
</tr>
<tr>
<td><strong>Supervision Quality</strong></td>
<td>High caseloads; time spent per high-risk case is insufficient.</td>
<td>Officers work proactively to change offender behavior</td>
</tr>
<tr>
<td></td>
<td>Reactive, compliance monitoring model of probation</td>
<td>Low enough caseloads to ensure sufficient time is spent on each high-risk case</td>
</tr>
<tr>
<td></td>
<td>Lack of engagement of offender</td>
<td>Each interaction is a “teaching moment”</td>
</tr>
</tbody>
</table>

**Arkansas is Roughly Halfway There**

- Risk & Needs assessment in place (ARORA)
- Full validation in progress
- Risk-based supervision policies
- SUD treatment in field offices and centers in community
- Inconsistent incorporation of programs that address criminal thinking
- Community-based providers require self-pay
- Motivated workforce
- High caseloads and time pressures make case planning difficult

**States without Best Practices:**

- Arkansas

**States with Best Practices:**

- Arkansas
Observations from the field

“I’ve been a PO less than 6 months and I now supervise 150 sex offenders.”

Observation: Missed opportunities to engage with offenders around behavior change.

Observation: Substance use treatment groups were as large as 35 participants to 1 facilitator. Ideal is about 10:1.

“I spend about 75% of my time doing paperwork. That means I have less than a week each month to actually supervise my cases.”
Maximizing supervision outcomes

Reducing recidivism for individuals under community supervision involves a shift from focusing mostly on compliance monitoring to a focus on behavior change.

Supervision as a “Behavioral Intervention” for a justice involved population

Achieving the full potential of supervision involves:

1. Properly resourcing the supervision entity so that caseloads are at manageable and productive levels
2. Training officers to task and incorporating an effective quality assurance component
3. Providing effective treatment that is based on the needs of population
Potential areas for the Task Force to specifically address

1. Caseload sizes of ACC caseworkers too high for achieving greatest recidivism reduction potential

2. Approach to sanctioning technical violators is expensive and is not getting better results. Are there better investments that Arkansas can make to both hold violators accountable and reduce recidivism?

3. Access to treatment and intervention, training of staff, day-to-day work practices and performance measurement
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Moving forward

- **Parole decision-making practices**
  - Use of risk assessment, programming requirements, reentry preparation resources

- **Jail pressures**
  - Pressures from ADC holds and challenges of handling individuals with mental illness

- **Connections to behavioral health services**
  - Availability and access to programming and treatment for criminal justice involved populations
Project timeline

Data Analysis
- Initial Analysis
- Detailed Data Analysis
- Impact Analysis

Policymaker and Stakeholder Engagement
- Stakeholder Engagement and Policymaker Briefings
- Policy Option Development
Thank You

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bshelor@csg.org

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