



## Research Report

# A Report on Legislative Hearings Associated With Prison Overcrowding in Arkansas

November 24, 2014

## Deliberations of the House and Senate Interim Committees on State Agencies and Governmental Affairs

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**THE SENATE  
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MEMBER:  
LEGISLATIVE COUNCIL  
JOINT BUDGET  
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JUDICIARY

November 24, 2014

To: Members of the Arkansas General Assembly

I am pleased to present to you the Report on Legislative Hearings Associated with Prison Overcrowding in Arkansas. This report provides a summary of all presentations before the Senate Committee on State Agencies and Governmental Affairs and the House Committee on State Agencies and Governmental Affairs in meetings held during the summer and fall of 2014.

This report provides, for your consideration, options to mitigate the problem of prison overcrowding in Arkansas. The committee members provided diligence and I thank them for their attention and attendance in this series of meetings. In addition, I would like to thank the people that provided presentations to the committee for their time, assistance and their knowledge.

I believe you will find the collection of information within the report to be helpful to you during the decision process.

Sincerely,

Handwritten signature of Eddie Joe Williams in blue ink.

Senator Eddie Joe Williams, Chairman  
Senate Committee on State Agencies and Governmental Affairs

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## THE PURPOSE OF THIS REPORT

During the four month period of July through October 2014 the Senate Committee on State Agencies and Governmental Affairs and the House Committee on State Agencies and Governmental Affairs (the committee) met monthly to discuss the prison overcrowding situation in Arkansas and the options available to remedy or mitigate the associated problems and costs including building a new prison and/or expanding or creating new programs. These issues were presented to the committee by persons within the state that are responsible for and knowledgeable about these issues and options.

All presentations and documents given to the State Agencies and Governmental Affairs (SAGA) committee, beginning with July 2014 and ending with October 2014 are assembled by month in the accompanying binder. This brief report summarizes those presentations and documents. Also, the final inclusion for the month of November 2014 provides the Corrections System's budgets presented for consideration of approval in the ALC/JBC Legislative Budget Hearings during that month.

### **July 17, 2014**

#### **Discussion of Prison Overcrowding in Ark.**

Ray Hobbs, Director, ADC  
Sheila Sharp, Director, ACC

### **August 19, 2014**

#### **Pathway to Freedom**

Nick Robbins, Correctional Interventions  
Dr. Brent Benda, Senior Analyst, BLR

#### **Prison Finance**

Richard Wilson, Assistant Director, BLR

### **September 24, 2014**

#### **The Willis Sargent Training Academy**

Fred Campbell, ADC

#### **Black Rock School Campus**

Dale Freeman, Lawrence County Judge  
Representative James Ratliff

#### **Vacant School Buildings around the State**

Tony Wood, Commissioner, ADE

#### **Drug Courts Prison Issues**

Richard Wilson, Assistant Director, BLR

### **October 20, 2014**

#### **LaSalle Corrections**

Billy McConnell, Managing Director, LaSalle

#### **Smarter Sentencing**

Honorable Robin Carroll, Judge, 13th  
Judicial Circuit

#### **Bed Availability at County Jails**

Ronnie Baldwin, Director, Arkansas Sheriff's  
Association

#### **Building Space and Capacity Report of Correctional Facilities**

Ray Hobbs, Director, ADC

#### **Transitional Beds, Additional Parole Officers, and Reentry Programs**

Sheila Sharp, Director, ACC  
Dr. Brent Benda, BLR

#### **Prison Funding History**

#### **Diminishing Returns**

Richard Wilson, Assistant Director, BLR

### **November 13, 2014**

#### **ALC/JBC Legislative Budget Requests of ADC and ACC**

## EXECUTIVE SUMMARY

Given the issue of prison overcrowding in Arkansas, the committee examined and discussed various options to remedy or mitigate the problem. In addition to the construction of a new prison, the committee met over four consecutive months for the purpose of a thorough review of all options available to the General Assembly before the 2015 Regular Session begins in January. The committee invited persons knowledgeable about and responsible for these issues to make presentations and contribute to discussions.

The bullet points below reflect the options reviewed by the committee and provided to the General Assembly:

- Construct a 1,000 bed maximum-security prison using a 30-year "wrap-around" bond issue at an estimated total cost of \$231 million, excluding annual maintenance and operations expense. The debt service would be funded by an additional \$2 increase on car tag decals;
- Mitigate longer sentences utilizing correctional interventions such as Pathway to Freedom and other reentry programs;
- Consider using abandoned school buildings and other available structures across the state rather than new construction when looking to expand programs;
- Enlarge and expand the existing drug court program;
- Consider a private corrections management service provider with a lower per-inmate cost such as LaSalle Corrections;
- Expand the Smarter Sentencing program in order to mitigate longer sentences;
- Consider funding the increase in the Arkansas Community Correction (ACC) transitional beds program as requested in the upcoming biennial budget;
- Review the successes and failures of Act 570 to improve future policy decisions.

## THE COMMITTEE MEETING OF JULY 17, 2014

The committee invited Mr. Ray Hobbs, Director of the Arkansas Department of Correction (ADC) and Ms. Sheila Sharp, Director of Arkansas Community Correction (ACC) and conducted a general discussion of prison overcrowding in Arkansas.

### ARKANSAS DEPARTMENT OF CORRECTION (ADC)

Mr. Hobbs provided the current inmate count of 17,374, which includes 2,330 inmates who are backed up in county jails. This number is only 311 inmates short of the record high inmate count of 17,685 that occurred in February 2014.

The reasons for the high inmate count include:

- Policy changes concerning parole violators and the 70% sentencing law mandating that inmates must serve 70% of their sentences.
- All factors combined have created a population wherein 30% of the inmates (5,000) will likely not leave or turn over beds for incoming inmates. In addition, the percentage of violent inmates is increasing, thus the trend for incoming inmates is described as younger, more violent, and serving longer sentences.
- Based on this information and the JFA Associates projection model, the ADC population is expected to reach a range of 20,000 to 22,000 during the year 2024. This projection reflects a 10-year increase in population of approximately 3,000 inmates.

### ARKANSAS COMMUNITY CORRECTION (ACC)

Ms. Sharp also provided the committee similar information associated with current ACC populations as follows:

- ACC Centers: 1,910 with 355 on the backup list;
- Regular Probation: 27,726;
- Drug Court: 2,268;
- Parole Supervision: 22,397.

The ACC populations' projection reflects that over the next ten years parole numbers should remain flat while the probation population will grow 2.9% per year.

## THE COMMITTEE MEETING OF AUGUST 19, 2014

In August, the committee heard from Mr. Nick Robbins, Reentry Specialist, regarding his "Pay for Performance" proposal, and Dr. Brent Benda, Senior Legislative Analyst with the Bureau of Legislative Research (BLR), who provided a cost/benefit study of correctional interventions. In addition, Mr. Richard Wilson, Assistant Director for Research (BLR) presented a summary of options to finance a new 1,000 bed maximum-security prison construction project.

### PAY FOR PERFORMANCE PROPOSAL

In his presentation, "Pay for Performance," Nick Robbins proposed a statewide reentry program comprised of pre-release and post-release services provided by agencies that are funded by a \$10,000,000 grant administered by an intermediary agency/person (Robbins, N., 2014). The intermediary would market the program, train all staff, monitor programming in prison and the community, and gather progress data and write reports. His "Pay for Performance" proposed program is modeled after the Pathway to Freedom program, where he works, except his pre-release phase and post-release phases would each be six months. The Missouri Reentry Process provides the statewide framework for his proposed reentry program. Both of these reentry programs are discussed in the following section titled, Summary – Reentry Programs (p.8).

According to Mr. Robbins, his one-year early release provision would save taxpayers the average inmate cost per year minus his estimate per offender for the "Pay for Performance" program. Subtracting \$3,600 per offender he estimates for his program from the \$22,969 average inmate cost reported by ADC in their 2013 final report (Arkansas Department of Correction, 2013) indicates a savings of \$19,369. This estimate assumes that all offenders would complete his program and do not recidivate.

## COST-BENEFIT ANALYSIS OF CORRECTIONAL INTERVENTIONS

Dr. Benda presented a report titled "Cost-Benefit Analysis of Correctional Interventions". In the ever-present attempt to reduce expenditures for corrections, interventions are presented in the format of a cost-benefit tool.

In the last two decades, research has advanced on what works and what does not to reduce crime. Now that information can be used to help policymakers direct resources toward programs that are cost effective and away from those that are not. Cost-benefit analysis provides an empirical tool for making comparisons between interventions and policies that involve differing strategies and goals. However, cost-benefit analysis should be considered "a" tool for decision-making, rather than the "tool." There are moral and ethical issues that must be considered in addition to empirical results. Moreover, decision-making must be tempered with knowledge that cost-benefit analysis entails estimates based on portfolio scenarios. While national studies have been done to provide accurate estimates, they are estimates and not observed values. National estimates may not provide the most accurate indicator for particular states.

## COST-BENEFIT ANALYSES CONDUCTED LEAD TO THE FOLLOWING CONCLUSIONS:

1. A 10% increase in the state incarceration rate leads to a 2% to 4% reduction in the crime rate.
2. Due to diminishing marginal returns, and as a result of significant increases in incarceration rates in recent years, an increase in the incarceration rate today avoids considerably fewer crimes than it did just a decade ago.
3. Incarcerating more violent and high-volume property offenders continues to generate more benefits than costs, although the net advantage of increasing incarceration rates for these offenders has diminished.
4. Since the early 1990s, however, incarcerating drug offenders has generated more costs than benefits. That is, today it costs taxpayers more to incarcerate additional drug-involved offenders than the average value of the crimes avoided.
5. Some research-based and well-implemented rehabilitation and prevention programs can produce better returns for the taxpayer's dollar than prison expansion for certain types of offenders. Several research-based interventions, particularly family-based approaches for juvenile offenders and drug treatment for drug-related adult offenders, have returns well in excess of their costs.

## PRISON CONSTRUCTION FINANCE – PART A

Mr. Wilson was asked to investigate the idea of financing a \$100 million prison construction project with the debt service funded by increasing the car tag decal by \$2 per year. Two scenarios were discussed:

- A 15-year "AA" tax exempt bond issue of \$100 million at a current rate of 2.65%, and,
- A 20-year "AA" tax exempt bond issue of \$100 million at a current rate of 3.00%.

A \$2 increase in car tag decals provides a cash flow of \$5.34 million per year and will not fund either of the debt options reflected above. It was later discovered that the ADC Board had received an analysis of financial options that involved an earlier debt issue to be combined with a new issue and, with the new additional cash flow, would fund the project. This idea of a "wrap-around" bond issue will be discussed in the September meeting summary.

## THE COMMITTEE MEETING OF SEPTEMBER 24, 2014

### UTILIZATION OF AVAILABLE STRUCTURES

The September meeting was held at the Willis Sargent Training Academy, which is a training center for prison guards. This training center was originally built as a middle school in the England school district and has been converted to a new use. Mr. Fred Campbell of ADC opened the meeting and provided a tour of the facility. The point was to see a new ADC facility that was converted from an abandoned building to be utilized for a new and proper function.

Following the tour and presentation, the next three speakers were Dale Freeman, Lawrence County Judge and Representative James Ratliff to discuss potential options and uses of the Black Rock School Campus and the various buildings therein, and Tony Wood, Commissioner, Arkansas Department of Education, to present the current inventory of vacant school buildings around the state.

The discussion focused on the possible option of the ADC or ACC purchasing vacated buildings for their additional needs rather than building new facilities at greater cost.

### THE COST OF DRUG COURTS

Pursuant to committee request, Mr. Wilson researched the current cost of the drug courts in Arkansas. The total annual cost of each drug court averaged approximately \$163,700. There are currently 43 such drug courts in the state and thus the annual cost of the entire program is slightly over \$7 million. The committee asked if resources were available to double the number of drug courts and if this would then double the cost. Mr. Wilson addressed this question by explaining that, currently, for each drug court, three officials (one Judicial Circuit Judge, one District Prosecuting Attorney, and one District Public Defender) volunteer their time working for the drug court; the time spent is approximately 20% to 25% of each individual official. The value of volunteer time for each drug court is estimated to be \$73,200 per year. If these officials were paid for their time, the total annual cost of state drug courts would increase to \$10.2 million. Therefore, if the number of drug courts were doubled, the total annual cost would be \$14.1 million with volunteers and \$20.4 million without volunteers.

### PRISON CONSTRUCTION FINANCE – PART B

Mr. Wilson again provided information on the options of financing a new prison construction project. As explained to the committee, the Arkansas Department of Correction (ADC) currently receives \$1.50 of the current \$2.50 decal fee and this generates about \$4 million a year in revenues for the Prison Construction Trust Fund (PCTF). The 2009 Series A Bond (previous bond issue) payments are funded out of those revenues and the payment (principal and interest) is about \$1.9 million a year. This leaves about \$2 million annually in the fund, which has been used to renovate the Ester Unit in Pine Bluff (Old Diagnostic Unit). Four million dollars is obligated to cover the Phase I renovations replacing the roof and HVAC systems. In Phase II, construction will need an additional \$6 million from this residual amount and funds should be available by July 2016.



There is also a "loan" from this fund to the Farm program of \$6.2 million to build chicken houses for layer hens to produce the eggs for inmate consumption. The Farm program will have to repay the loan at around \$490,000 per year. This was supposed to start in 2015, but due to unforeseen complications with some of the bids ADC had to redo the loan agreement and they (Farm program) requested and were approved for an extension on payments until July 2017. This will be an additional \$490,000 per year going back into the fund in excess of the current \$4 million in revenues.

When the 2009 series bond issue is combined with a new issue, the combined "wrap around" bond issue will consume the money after these projects are realized. Those funds will be added to the new revenue generated and the proceeds will pay the debt service on both issues. The additional \$2 decal fee will adequately fund the debt service but I note that the financing will be for a longer term (thirty years, ending 2045) and therefore more expensive due to interest paid over the longer term.

Two additional options of wrap-around financing were also provided to ADC, which suggested additional decal fees of \$1.50 or \$1.75. These lower fees would generate a lower amount of new construction funds but all issues were for 30 years at the same interest rates.

## THE COMMITTEE MEETING OF OCTOBER 20, 2014

### LASALLE CORRECTIONS

Mr. Billy McConnell, Managing Director, made a presentation to the committee to suggest a better decision for the prison overcrowding situation is to contract with LaSalle as a private provider of prison services rather than build a new state prison.

LaSalle currently operates 19 facilities in Texas, Louisiana and Georgia with over 1,250 employees and 20 contracts with local, state and federal government entities.

LaSalle suggests the benefits of their service are as follows:

- Excellent reputation for the treatment of offenders,
- Financially strong with adequate resources,
- Upper management experience in the corrections field,
- Low lawsuit rates, and,
- Support of local law enforcement.

LaSalle provides a variety of inmate programs including educational, physical, and interest-based programs, as well as faith-based programs. Categories include accountability training, cognitive behavior therapy, family reunification, victim awareness, and workforce development.

Mr. McConnell offered to provide private services for up to 1,000 Arkansas inmates for a cost less than the current amount of similar state-provided services. The suggested location is a facility in Northern Louisiana close to the Arkansas state line.

### SMARTER SENTENCING

The Honorable Judge Robin Carroll of the 13th Judicial District (South Arkansas) provided information to the committee dealing with the Smarter Sentencing Program and the recent results. The goal is to reduce recidivism (and thus increase cost savings) through a new set of sentencing guidelines to eligible offenders. Eligibility standards do not allow offenders with serious violent felonies or violence against children. Implementation began in January 2011 and Judge Carroll presented the results shown below:

- 477 graduates out of 531 participants -- a rate of 89%,
- 2.7% recidivism rate through the first 18 months,

- 43% reduction in criminogenic risk upon retesting,
- 76% employment rate for participants after 6 months,
- 23% increase in GED, work force certificates and career readiness certificates,
- Millions of dollars saved in correctional costs.

## BED AVAILABILITY AT COUNTY JAILS

Mr. Ronnie Baldwin, Executive Director of the Arkansas Sheriffs' Association, was present to present the current county jail backlog regarding bed space.

According to the most recent ASA survey with a response from 31 counties (41.33% response rate), 697 beds were currently occupied with inmates.

*Note: The report did not indicate whether these inmates were ADC inmates, however the committee previously discovered that the total ADC inmate count backed up in county jails is 2,330.*

## ADC BUILDING SPACE AND CAPACITY REPORT

Mr. Ray Hobbs presented the bed capacity report to the committee. Including temporary beds, the current total of operated ADC beds is 15,305. The number of beds planned to be opened during the FY14-16 period is 512.

## TRANSITIONAL BEDS – ARKANSAS COMMUNITY CORRECTION (ACC)

Ms. Sheila Sharp, Director ACC, presented the plan for transitional beds, called the Transitional Reentry Center Proposal. The proposal calls for 300 beds in year one and a total of 500 beds in year two, at an estimated cost of \$30.62 per day. This results in annual costs of \$3.35 million in year one and \$5.59 million in year two. The start-up time is expected to take three to six months.

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## PROBLEM STATEMENT

During 2013, there were 9,219 admissions to prison – a 49.6% increase over 2012. Of this number, 57.3% were new commitments and 42.7% were parole violators. Conversely, releases from prison during 2013 totaled 6,544 – which was only a 3.9% increase over 2013. Consequently, this resulted in a significant backlog in county jails.

ACC believes that Residential Reentry Centers, an evidence-based practice similar to centers operated by numerous states across the country and the Bureau of Prison (BOP), would provide programs and assistance that help medium and high risk offenders rebuild their ties to the community and reduce the likelihood that they will recidivate.

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## PROPOSED SOLUTION

ACC proposes to contract for the operation of 500 transitional reentry center beds located strategically around the state that would house inmates released from prison by the Parole Board in accordance with A.C.A. §16-93-211 (Act 679 of 2005). Under this statute, the Parole Board can consider for early release to transitional housing those offenders within one year of their transfer eligible/parole eligible (TE/PE) dates.

In addition, under A.C.A. §12-28-603(a)(3), the ADC may recommend for release consideration by the Parole Board inmates who are within one year of their TE/PE date if the backlog in county jails exceeds 500. For example, the Board of Corrections recently approved a list of 117 inmates certified by the ADC director as eligible for this consideration. However, there were an additional 833 eligible inmates who ADC decided not to recommend for consideration. The list of “also eligible” and those “recommended” but not approved by the Parole Board could be two

groups that ACC would pull from. Otherwise, these inmates would have to wait for release until they met requirements for the 90-day Emergency Powers Act (EPA), or reached their regular parole date or discharged their sentence. ACC proposes adding a new category for the one-year EPA, inmates certified for deferred consideration. The inmates on this list would be considered by the Parole Board only after they successfully completed ACC's Transitional Release Program, which would take at least six months to complete.

Another group to pull from would be those inmates already past their TE/PE date but still incarcerated because they lack an approved parole plan and are generally offenders having a higher risk of reoffending. ACC has targeted many of these offenders for placement in general transitional housing, but funding for this has been limited. ACC is also proposing substantive legislation for the upcoming session that would authorize administrative transfers from the Arkansas Department of Correction (ADC) to ACC for participation in transitional reentry programs.

A Request for Proposal would need to be released through the Office of State Procurement seeking private providers to operate each facility with applicable programming and reentry services. All costs associated with operating the program including facility, food service and medical care would be borne by the selected vendor. The focus would be on those inmates who have a moderate to high risk of reoffending and who do not have viable housing and/or employment options. These centers would be designed in a progressive step down/half way house format. The offender would be slowly reintegrated back into society through increased responsibility, privileges, and accountability. Those that find successful employment would be obligated to pay room and board in accordance with established ADC work release requirements.

Initially ACC would start with five 75 to 100 bed contract facilities in larger areas to include Little Rock (potentially using the available beds at the Pulaski County Jail), Jonesboro, Texarkana, Fort Smith, and Fayetteville. ACC would also consider contracting with existing transitional housing facilities in smaller communities that would adopt their program requirements. Where communities have other reentry programs available, e.g., City of Little Rock, ACC will leverage these services to the greatest extent possible. The Faith Based community would be invited to participate in all reentry efforts by offering mentoring programs similar to the ADC Pathways to Freedom program.

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## COST/BENEFIT

The ADC cost per day for FY 2014 was \$63.26, making the annual cost of 1,000 beds approximately \$22 million. The ACC proposal assumes that 500 Transitional Reentry Center beds at a daily cost of \$30.62 **“potentially”** could be turned over twice during a year producing an annual cost savings of approximately \$17 million. However, ADC foresees that the Parole Board may not release everyone at the 6 month mark (and not every inmate will be successful), but even if the inmate spent the entire year in a Transitional Reentry Center, the savings could still be approximately \$6.4 million. More importantly, ADC believes recidivism for this target group could be substantially reduced which would produce untold future savings in prison costs.

## SUMMARY OF REENTRY PROGRAMS

Dr. Brent Benda provided a brief summary of a statewide reentry program in Missouri and an existing reentry program in Arkansas as examples of the emerging trend in corrections of providing intensive community supervision aimed at helping offenders with the transition from prison to the community. The recent economic downturn and high recidivism rates have generated a nationwide conversation about options to constructing costly prisons to incarcerate more offenders (Petersilia & Cullen, 2014). This conversation has centered on benefits to offenders,

to potential victims, and to society of providing inmates entering the community with tools and support needed to find and maintain housing, employment, and a social support network that sustains a law-abiding lifestyle (Burke & Tonry, 2006).

In 2002, Missouri was one of the eight states chosen by the National Institute of Corrections as a demonstration site for the Transition from Prison to Community Model, which was later renamed the Missouri Reentry Process (MRP). In 2013, MRP made awards of up to \$50,000 to 39 local intervention teams across the state totaling \$1.8 million. These inter-agency teams provide coordinated, evidence-based services needed to successfully transition into community, including substance abuse treatment, mental health treatment, housing, transportation, education, life skills, family counseling, and employment. In 2013, awardees averaged about 10 full-time and five part-time employees in their organization. Volunteers were used by all of the organizations. Awardees provided 169,699 units of services to 4,250 participants.

A comparison of reentry program participants and non-participants on probation or parole indicated that high-risk participants had lower recidivism rates (19.8% versus 25.9%) than their high-risk counterparts over a 1-year follow-up. Moreover, new crimes accounted for 28% of the recidivism among the parole and probation population, but only 10% of the MRP participants (Missouri Department of Corrections, 2014).

The Pathway to Freedom reentry program operating at the 200-bed J. A. Hawkins Unit in Wrightsville, Arkansas seeks to address the transformation of offenders' lives through an 18-month residential program. The program consists of mentoring, counseling, job preparation and training, education, and other skills and character development classes. Graduates of the in-prison aspect of the program are released to a reentry/aftercare phase of the program in the community for 12 months. This program is modeled after the InnerChange Freedom Initiative started in Texas, which has reported a recidivism rate of 17.3% in a 2-year follow-up study (Johnson & Larson, 2003).

Local churches and other trained volunteers provide mentoring and assistance with housing, employment, and social services needed to make a successful transition to responsible, crime-free living. Scott McLean, Executive Director, reported that they have six full-time staff, whereas they need at least nine staff. He estimated the cost of the program to be \$2,400 per offender. The Pathway to Freedom program is funded by donations, and ADC provides the residential facility.

## ALTERNATIVES TO PRISON CONSTRUCTION

A confluence of factors, including a deep financial recession and persistent high recidivism rates, have shifted policy arguments away from continuing to increase the inmate population and building new prisons to designing alternative community programs (Petersilia & Cullen, 2014). The most comprehensive recidivism study to date indicates 75% of offenders are rearrested within 5 years after release from prison, and 60% are reconvicted (Durose et al., 2014). This high recidivism rate, in tandem with balancing tight budgets, required many governors and elected officials to explore alternatives to prison construction.

In 2009, for the first time in 38 years, state prison populations in the United States declined - a trend that has since continued (Pew Charitable Trusts, 2013; Glaze and Herberman, 2013).

Policies and practices implemented recently in several states to reduce incarceration and recidivism rates have received empirical support in recent research (American Probation and Parole Association, 2013). The Council of State Governments Justice Center (2014) presents evidence from 15 states showing that recidivism can be reduced by sentence restructuring and various reentry processes.

## SOUTH CAROLINA AS AN EXAMPLE OF REDUCING INCARCERATIONS AND RECIDIVISM

Taking South Carolina as one example, the legislature established the Sentencing Reform Commission in 2008 to review sentencing and corrections policies. Based on data from several agencies, the commission recommended significant changes enacted in the Omnibus Crime Reduction and Sentencing Reform Act of 2010 (refer to binder). The legislation created alternatives to incarceration for technical violations and ensured that more people receive supervision and support upon release from prison. The bill also designated a committee to produce annual reports on reductions in revocations and new felony convictions for people under probation or parole supervision. In 2013, the state attributed a savings of more than \$5 million to the new practices created from this reform.

South Carolina implemented many of the policies and practices identified in the research literature as effective in reducing incarceration and recidivism, and these are discussed after presenting the following recidivism data from South Carolina regarding changes following reforms.

**TABLE 1. SOUTH CAROLINA PRISON POPULATION, ADMISSIONS, AND RELEASES**

3-Year Recidivism Rate for 2007 Prison	<b>33.5%</b>
3-Year Recidivism Rate for 2010 Prison Releases	<b>27.5%</b>
Percent Decline in Recidivism Rate	<b>17.9%</b>

	2007	2008	2009	2010	2011	2012	2013
Prison Population	23,430	24,598	24,460	24,400	23,306	22,160	22,167
Admission to Prison	13,906	13,950	13,199	12,586	10,888	10,170	9,569
Releases from Prison	13,499	12,807	13,454	12,744	12,024	11,409	9,623

**TABLE 2. SOUTH CAROLINA CHANGES IN RECIDIVISM RATES**

Admissions	2007	2008	2009	2010	2011	2012	2013	% Chg
Probation Revocations	1,869	1,884	1,856	1,766	1,497	1,213	1,008	<b>-46.1%</b>
Parole Revocations	1,185	1,175	1,064	999	835	746	638	<b>-46.2%</b>
Community Supervision Revocations	325	336	285	269	215	192	109	<b>-66.5%</b>
<b>Revocation as a % of Admissions</b>	<b>24.3%</b>	<b>24.3%</b>	<b>24.3%</b>	<b>24.1%</b>	<b>23.4%</b>	<b>21.2%</b>	<b>18.3%</b>	<b>-24.5%</b>

Note: Percent change =  $24.3\% - 18.3\% = 6$ ; then this difference is divided by the 2007 percentage ( $6/24.3\% = -24.5\%$ ).

## CHANGE IN RECIDIVISM RATES IN OTHER STATES

Changes in recidivism in other states studied by The Council of State Governments Justice Center (2014) are shown in Tables 3 and 4. Descriptions of the sentencing and reentry reforms leading to the reductions in recidivism are summarized in that Center's report (see binder).

**TABLE 3. CHANGE IN RECIDIVISM RATES OVER 3 YEARS**

Three-Year Returns to Prison	Release Cohort	Recidivism Rate	Release Cohort	Recidivism Rate	Percent Point Change	Percent Change
Colorado	2007	52.0%	2010	49.0%	-3.0%	-5.8%
Connecticut	2007	43.9%	2010	40.0%	-3.9%	-8.9%
Georgia	2007	28.9%	2010	26.0%	-2.9%	-10.0%
North Carolina	2006	35.8%	2010	28.9%	-6.9%	-19.3%
Pennsylvania	2007	43.9%	2010	40.8%	-3.1%	-7.1%
Rhode Island	2004	54.0%	2010	48.9%	-5.1%	-9.4%
South Carolina	2007	33.5%	2010	27.5%	-6.0%	-17.9%
Wisconsin	2007	56.2%	2010	51.1%	-5.1%	-9.1%

Source: *The Council of State Governments Justice Center (2014)*

TABLE 4. CHANGE IN 3-YEAR RECIDIVISM RATES

State	Change in 3-Year Recidivism Rates		2010 Inmates Released	Returned to Prison for the 2010 Released
	Percentage-Point	Percentage		
Colorado	-3.0%	-5.8%	11,033	331
Connecticut	-3.9%	-8.9%	15,536	606
Georgia	-2.9%	-10.0%	21,874	634
North Carolina	-6.9%	-19.3%	25,467	1,757
Pennsylvania	-3.1%	-7.1%	18,417	571
Rhode Island	-5.1%	-9.4%	2,596	132
South Carolina	-6.0%	-17.9%	12,744	765
Wisconsin	-5.1%	-9.1%	15,237	777

Source: *The Council of State Governments Justice Center (2014)*

## KEY ELEMENTS OF EFFECTIVE CORRECTION POLICY AND PRACTICES

Existing research indicates that effective correctional intervention relies on valid and reliable risk assessments to design individualized intervention plans, systematic evaluations of progress, and accurate measures of outcomes. Fidelity of implementation and quality of staff and programming are essential (Council of State Governments Justice Center, 2014). Studies show well-implemented interventions can reduce recidivism rates by 10% to 20% (Drake et al. 2009).

## EFFECTIVE AND COST-EFFECTIVE CORRECTION INTERVENTIONS TO REDUCE INCARCERATION AND RECIDIVISM

Recently, the legislature in the state of Washington directed the Washington State Institute for Public Policy to search for “evidence-based” options that can reduce the future need for prison construction, save money for state and local taxpayers, and contribute to lower recidivism. Using rigorous selection criteria, researchers did a systematic review of all existing studies of these issues. Then, they conducted cost-benefit analyses and meta-analyses on comparison-group evaluations of evidence-based options to prison (Drake et al. 2009).

Table 5 shows the impact of each intervention on reducing recidivism (minus sign indicates % reduction in recidivism), and the cost-benefit analyses of these interventions. For example, a meta-analysis of 25 methodologically sound studies of cognitive-behavioral intervention reduced recidivism rates by 6.9%. Table 5 only summarizes interventions that had noteworthy effects and complete data. Further details are found in Drake et al. (2009). Other effective programs in the Washington study included vocational education, drug treatment, correctional industries, job training, and treatment for sex offenders and the mentally ill. Drake et al., (2009) report that intensive supervision was only effective when it was accompanied by other interventions, such as job training.

**TABLE 5. REDUCING CRIME WITH EVIDENCE-BASED OPTIONS: BENEFITS & COSTS (PER PARTICIPANT, 2007 DOLLARS)**

	% Change in Crime	Benefit to Victims	Benefit to Taxpayers	Cost Per Participant	Benefit–Cost Per Participant
Vocation Ed.	-9.8%	\$14,504	\$7,419	\$1,210	\$20,714
Intense Super	-17.9%	\$16,239	\$10,235	\$7,356	\$19,118
Mentally Ill Tx.	-20.7%	\$30,732	\$15,720	\$27,617	\$18,836
Education	-8.3%	\$12,319	\$6,302	\$985	\$17,636
Cognitive-beh.	-6.9%	\$10,234	\$5,235	\$107	\$15,361
Drug Tx.	-8.3%	\$7,471	\$4,972	\$588	\$11,856
Drug court	-8.7%	\$7,789	\$5,190	\$4,474	\$8,514 \$8,505
Job Training	-4.6%	\$4,147	\$2,614	\$409	\$6,351
Sex Off. Tx.	-9.6%	\$12,901	\$4,044	\$12,881	\$4,064
Work release	-1.3%	\$1,835	\$1,069	\$615	\$2,288

Source: Drake et al. (2009). Note: % change is the reduction in usual recidivism rate. Benefits to victims and taxpayers are based on cost-benefit analyses of the reduction in recidivism. Costs per participant for each intervention are shown, and the final column shows the net benefits of recidivism reduction minus the net up-front costs of the intervention.

## PEW CENTER REPORT ON PROBLEM WITH RECIDIVISM AND PRISON POPULATION GROWTH IN ARKANSAS

### **The Pew Center (2011, p. 1) identified the following problems in Arkansas:**

“Arkansas’s prison population doubled during the past 20 years, driving corrections costs up more than 800 percent. At the same time, recidivism and crime rates remained stubbornly high. Without action, the prison population would have grown by as much as 43 percent and cost Arkansas taxpayers an additional \$1.1 billion over the next decade.”

### **In their report, they found (p. 1):**

“An extensive review of data revealed that the state was underutilizing probation, increasing sentence lengths for non-violent offenses, departing substantially from the voluntary sentencing guidelines and delaying transfer of inmates to parole.”

### **The Pew Center describes the reforms as (p. 1):**

“A bipartisan, inter-branch working group, with technical assistance from the Pew Center on the States and its partners, issued recommendations to protect public safety and reduce recidivism by strengthening community supervision; improve government efficiency through data collection and performance measurement; and contain corrections costs by concentrating prison space on violent and career criminals. The Public Safety Improvement Act passed both chambers of the General Assembly with overwhelming bipartisan majorities and was signed into law by Governor Beebe in March 2011.”

### **They also project the impact to be (p. 1):**

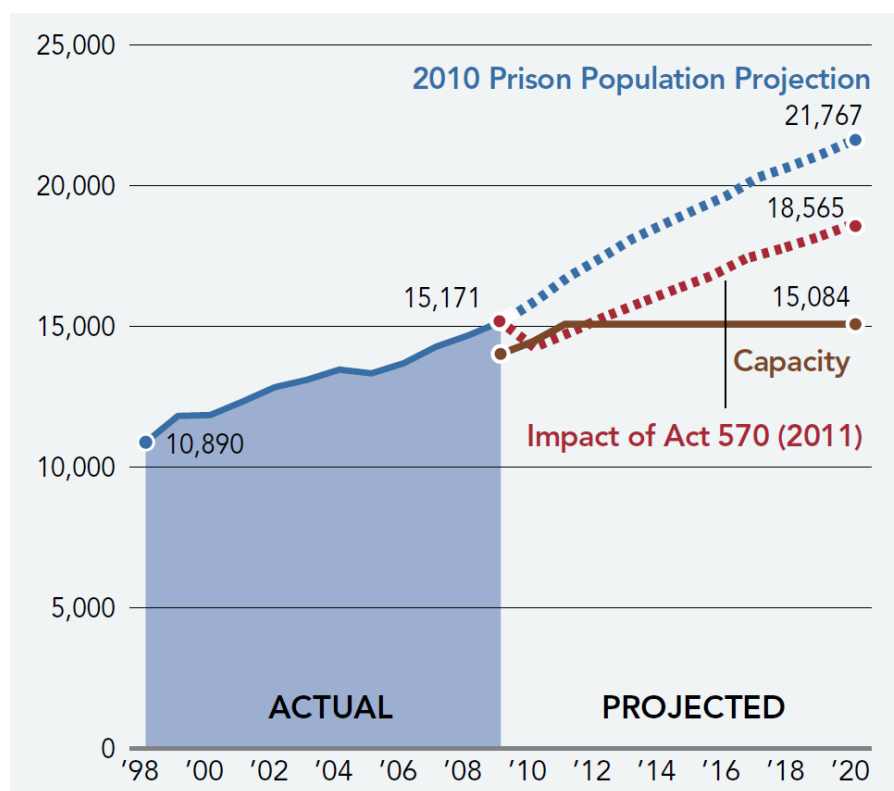
“The new law is projected to save Arkansas \$875 million in averted prison construction and operation costs through 2020. It will improve public safety by investing a portion of the savings in community-based supervision, sanctions and services as well as other practices proven to reduce recidivism.”

## ARKANSAS RESPONSE TO PEW REPORT

Based on the Pew Center report (2011), Arkansas legislators, with input from the executive and judicial branches, produced a comprehensive reform bill, which became the Public Safety Improvement Act (Act 570 of 2011). The primary aim of Act 570 was to save the state money (ideally \$875 million by 2021) by lowering the prison population and keeping it low. Specifically, the Act sought to diminish the prison population through four primary mechanisms:

1. redefining some nonviolent felonies as misdemeanors, which would subject fewer offenders to prison,
2. make violations of parole more efficient and less likely to lead to prison,
3. new standards for parole hearings and greater adherence to state guidelines so more prisoners receive early release, and
4. rewarding communities for implementing evidence-based programs that reduce recidivism.

FIGURE 1. PEW CENTER PRISON POPULATION PROJECTION FOR ARKANSAS



Source: Projections calculated by the JFA Associates

The Pew Center (2011) projected that Act 570 will reduce Arkansas's prison growth by more than 3,200 inmates over the next 10 years and averts an estimated \$875 million in prison costs (Figure 1).

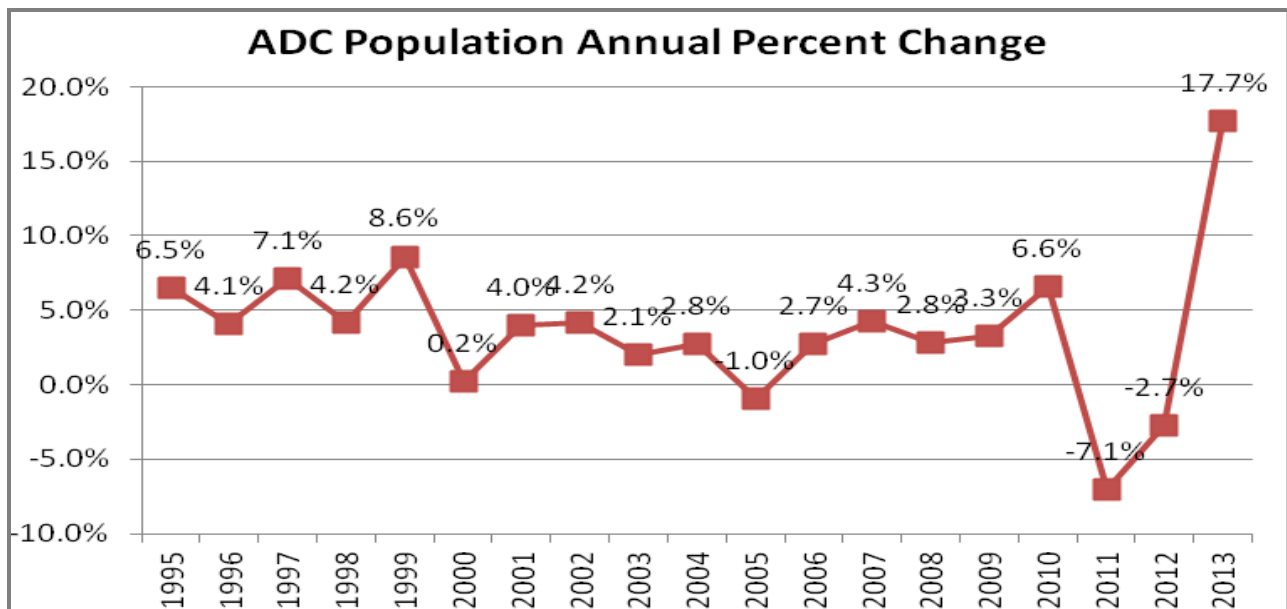
Act 570 took effect July 27, 2011, although many of its provisions did not become law until January 1, 2012. It was intended to reduce recidivism, hold offenders accountable, and contain correctional costs. No formal study of the impact of Act 570 could be found on the internet. A recent article in the *Arkansas Law Review* (Boling, 2014. P. 1121) states, "...reports on the Act [570]—either from state officials or private journalists—took a backseat to more controversial election-year issues in 2012, as most news concerning the Act's effects disappeared entirely....from both newspapers and websites."



## ARKANSAS COMMUNITY CORRECTION JULY 2014 FACT SHEET

Meanwhile, the Arkansas Community Correction (ACC, 2014, p. 1) reported in July 2014, “Arkansas had a 17.7% jump in the number of state inmates in 2013, the highest single-year increase in its history (Figure 2). In contrast, the nation as a whole experienced a decrease of 2.2% in the number of inmates. Over the past decade, while the United States’ overall prison population grew 5.9%, Arkansas’s growth rate was more than five times faster.” The ACC also reported releases in 2013 totaled 6,544 for a growth of 2,675 in the prison population, with an average sentence length of 98.7 months for non-lifers.

FIGURE 2. ARKANSAS DEPARTMENT OF CORRECTION (ADC) ANNUAL PERCENT CHANGE



Source: Arkansas Community Correction Fact Sheet (July 2014)

In the same report, the ACC (2014, p. 2) indicated that parole admissions decreased 1.9% in 2013, and “the total active parole population fell 5.3%, primarily due to the large increase in the number of parolees returned to prison.” “Probation admission fell 3.5% in 2013, the second consecutive year of decline and the lowest level since 2010. The probation population fell by 2.7% as a whole during the year.” “Parole revocation increased 76.8% (5,186 [offenders]), the highest rate in Arkansas history. The higher parole revocation rate accounted for 27.2% (3,051 cases) of all releases from community supervision, which is more than four times the 2012 percentage.”

While no formal studies of the impact of Act 570 were located, these ACC figures do not augur well for the intent of the Act to lower the prison population and streamlining the revocation procedures and providing effective alternatives to imprisonment to attempt to keep the incarceration numbers down. There are also anecdotal accounts of increases in district court dockets and county jails because thefts that were felonies are now misdemeanors. The law also changed the weight amounts on marijuana possession, so having quantities of four ounces or less is now a misdemeanor, which is handled in county jails. According to anecdotal information, these increases in misdemeanors have become a problem for county jail populations (Boling, 2014).

## PRISON ECONOMICS

Mr. Wilson prepared a presentation on the history of Arkansas prison funding and the concept of diminishing returns applied to incarceration. Due to time constraints, the presentation was cancelled and the information is reflected below.

The BLR maintains annual Arkansas revenue reports beginning in 1956. Selected years are shown in the next chart in order to present interesting facts:

Before 1971, the "penitentiary fund" received no general revenue; prison operations were self-sustaining. In FY1971, the first general revenue injection of \$500,000 was provided by the General Assembly. At that time, the portion of total general revenue provided to ADC was 0.19%. Even with special revenue continuing to be generated by the farm operations, general revenue provisions quickly increased to approximately \$31.5 million (2.76% of total general revenue) by 1984.

Before 1994, the ACC was created and also began to receive general revenue. During the two decades since that time, the combined needs of ADC and ACC now requires 7.76% of total general revenue, about \$390 million, in addition to the \$24.4 million special revenue generated internally.

## CORRECTIONS FUNDING HISTORY

Fiscal Year	Special Revenue	Special Distribution		General Distribution	% of Total General Revenue
1956	\$ 946,755				0
1958	772,488	758,192			0
1960	1,105,555	1,088,972			0
1962	1,293,637	1,273,216			0
1967	1,370,015	1,349,465			0
1970	1,137,566	1,115,778			0
1971	1,076,778	1,060,626		500,000	0.19
1973	1,597,561	1,573,598		2,749,081	0.74
1977	2,161,746	2,129,320		5,981,803	0.98
1984	908,854	895,221		31,455,730	2.76
1994	8,010,584	PFDSF	DOC	90,011,115	3.97
		197,000	DCC	13,405,953	0.59
2004	12,660,625	6,613,913	DOC	201,830,355	5.61
		6,749,045	DCC	43,873,760	1.22
2014	15,751,006	15,491,114	DOC	312,998,229	6.23
		8,938,303	DCC	76,885,772	1.53

Mr. Wilson also submitted information regarding the concept of diminishing marginal returns when applied to prison operations. In this case, the fixed input is the prison and the variable input is the labor. The product is the avoided cost of crime.

## MARGINAL PRODUCT AND THE LAW OF DIMINISHING RETURNS

As you add workers, specialization tends to increase the marginal product. Think about how an assembly line works with one worker and then two, and then three, and so on. What happens after the each additional worker is added?

The third worker will produce an additional 10 units of production, the fourth gives five, and the fifth will produce two additional units. Therefore, the *benefits of specialization are exhausted*.

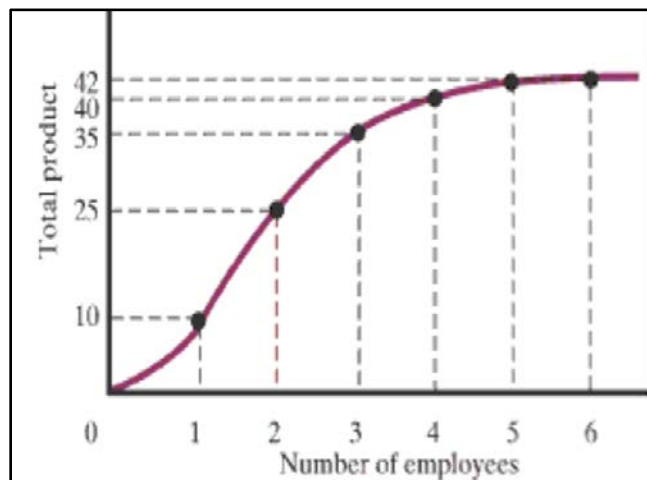
This phenomenon is called *law of diminishing returns* and can be seen clearly when the production function and the marginal product of labor are graphed.

The law of diminishing returns says that, in the short run, as you continue to add a variable input to a fixed input, the additional output from the variable input will eventually decline.

When you have some fixed input, then adding more workers does not allow for additional production.

In fact, it is possible that the marginal output would become negative as the workplace becomes cluttered with too many workers.

**Product Function**  
**Total Product**



**Marginal Product**  
**of Labor**



In addition, when viewed in the long run, the fixed input is the State of Arkansas and the variable input is the number of prisons; the same principle applies and the result is always diminishing returns. This concept originated with economist Robert Malthus around the year 1790 and continues to be a principle taught today in all textbooks associated with microeconomic theory.

## THE BOTTOM LINE THE COSTS AND BENEFITS OF STATE INCARCERATION

When incarceration (or any effective rehabilitative or prevention program) lowers the crime rate, benefits accrue to taxpayers and crime victims in the form of avoided costs.

That is, when crime is reduced, taxpayers do not have to spend as much money on the criminal justice system, and there are also fewer crime victims.

As we have seen, however, it costs taxpayers money to incarcerate people. We quantified these opposing factors to estimate the *net* economics of state incarceration.

A study from Steve Aos of the Washington State Institute provides an interesting calculation of the cost/benefit ratios of the different types of offenders. As long as the ratio has a value greater than 1.0, the benefit is said to be greater than the cost. As reflected below, since 1980, the benefit of incarcerating violent offenders and property offenders is still much greater than 1.0 in 2001; however, the cost of incarcerating drug offenders is no longer of benefit.

When using these ratio calculations and the law of diminishing returns, the main conclusions of the Washington study is that the net advantage of incarceration has been significantly reduced and that the use of well-implemented rehabilitation and prevention programs can produce better returns for the taxpayer's dollar than prison expansion. Therefore, drug treatment programs give taxpayers a better return than increasing incarceration for drug offenders.

Incarceration Rates: Benefit to Cost (B/C) Ratios (Dollar of Benefit Received per Dollar Invested) for Various Types of Offenders in Washington State

The key to understanding the costs and benefits of prison as a crime-control strategy is the economic concept of *diminishing marginal returns*.

Type of Offender	Benefit/Cost Ratio		
	1980	1990	2001
Violent	\$10.70	\$6.60	\$2.74
Property	\$4.19	\$5.03	\$2.84
Drug	\$9.22	\$0.98	\$0.37

## WASHINGTON STATE DIMINISHING MARGINAL RETURNS

When applied to prison policy, this fundamental axiom of economics means that, as *Washington* increased the incarceration rate significantly in the last two decades, the ability of the additional prison beds to reduce crime has declined.

In 1980, the state had about two people per 1,000 behind ADC bars; today the rate is over five people per 1,000. Diminishing returns means locking up the fifth person per 1,000 did not, on average, reduce as many crimes as did incarcerating the second, third, or fourth person per 1,000.

When the state incarceration rate first began to expand in the early 1980s, there were, on average, 50 to 60 crimes avoided per year by imprisoning one more offender. As the prison system continued to expand, however, the number of crimes avoided per average new prisoner declined.

By 2001, Washington State estimates about 18 crimes were avoided per year by adding a new prison bed. Therefore, an increase in the incarceration rate today avoids considerably fewer crimes than it did just a decade or two ago.

Diminishing marginal returns affects the effectiveness of prison in the same manner that diminishing returns affect any other industry. That is why it is one of the so-called "iron laws" of economics.

## WASHINGTON STATE CONCLUSION

1. Looking back to 1980, there was a substantial net benefit to taxpayers and crime victims to expand the prison system, especially for violent offenders. As incarceration rates were increased over the ensuing two decades, however, diminishing returns began to erode the benefits of continued prison expansion.
2. Today, incarcerating more violent and high-volume property offenders continues to generate more benefits than costs, although diminishing returns has reduced significantly the net advantage of increasing incarceration rates for these offenders.
3. During the 1990s, the economic bottom line for increasing the incarceration rate for drug offenders turned negative. That is, it now costs taxpayers more to incarcerate additional drug-involved offenders than the average value of the crimes avoided.
4. Some researched-based and well-implemented rehabilitation and prevention programs can produce better returns for the taxpayer's dollar than prison expansion. For example, some drug treatment programs give taxpayers a better return than increasing the incarceration rate for drug-involved offenders.

## THE BUDGET PRESENTATIONS OF NOVEMBER 13, 2014

During the fall budget hearings, ADC and ACC made budget presentation to the legislative budget committee. Summary budgets for each agency request over the next biennium are reflected below. The dollar amounts requested are additional to existing funds:

<b>ADC Summary Request</b>		Positions	FY 2016	FY 2017
<b>General Revenue Funding Request</b>				
Medical Contract Incremental Increases			1,939,834	3,661,786
<b>Unfunded Mandatory Salary Requirements</b>				
Holiday Pay			7,011,562	4,504,228
Straight Time Pay			3,116,250	3,116,250
<b>New Bed Operations</b>				
Ester Unit (356 beds)		124	9,235,465	8,728,296
Tucker Bootcamp (24 additional beds)		11	522,334	525,124
Classification Upgrade Internal Affairs			1,916	1,916
<b>Maintenance &amp; Operations</b>				
Warehouse Stock			4,100,000	4,100,000
Maintenance Budget Increases			490,000	490,000
IT Upgrades and Off-site Recovery			400,000	400,000
Unit Maintenance & Operations (Utilities/Fuel)			1,113,768	1,113,768
<b>Capital Equipment</b>				
Capital Equipment systemwide			\$2,226,705	\$1,834,428
<b>Total General Revenue Funding Request</b>		<b>135</b>	<b>\$30,157,834</b>	<b>\$28,475,796</b>
<b>General Revenue Unfunded</b>		<b>Appropriation Only</b>		
Flex -Restore	48 Flex positions	48	2,137,872	2,137,872
McPherson-Restore	10 Correctional Officers	10	381,109	381,109
Ouachita-Restore	18 Correctional Officers, 1 Licensed Master Social Worker	19	737,570	737,570
Wrightsville-New Position	25 Correctional Officers, 1 Sergeant	26	994,274	994,274
Max Security-New Position	1 LT, 5 Sgt's and 5 Correctional Officers	9	342,998	342,998
<b>Total General Revenue Unfunded</b>		<b>112</b>	<b>4,593,823</b>	<b>4,593,823</b>

<b>ACC Summary Request</b>		Positions	FY 2016	FY 2017
Medical Contract Incremental Increases			\$199,477	\$385,874
Transitional Reentry Centers (300 Y1 / 500 Y2)			\$3,344,130	\$5,588,150
Field Services				
Priority Supervision and Treatment Staff		71      110	\$4,111,180	\$5,616,165
Total General Agency Operations		3      3	\$873,477	\$708,225
Total Center Operations		3      3	\$1,150,691	\$1,132,281
Omega 200 Bed Expansion				
Construction (July 1, 2016)			\$8,250,000	
Omega Expanded Operation		24		\$2,698,220

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