Testimony for the Arkansas Joint Committee on the Judiciary on the Discussion of How to Reduce the Number of Prison Beds Needed in Arkansas

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Thank you, Chairs Darby and Clark and members of the House and Senate Committees on the Judiciary.

My name is Timothy Head and I serve as President and CEO of Unify.US. Our team works with federal and state legislators to find commonsense policy solutions to some of America's most complex challenges.

After graduating from law school in Texas in the late 2000's, I worked on the staff of members of the Texas House of Representatives. With explosive population growth in Texas at the time, its prison and jail populations were burgeoning. An industry analysis in 2007 projected that Texas would need to construct three new prison facilities to keep up with demand. But after a series of studies and hearings much like this one, Governor Perry and his team elected to explore a different direction. Governor Perry tasked the committees on Public Safety and on Corrections of the Texas House and Senate to bring creative solutions to him that would allow Texas to allocate the billions of dollars being proposed for prison expansion and construction toward alternative uses that would get at the overcrowding problem in a different way. Because I was the lead policy staff for a Republican member of the committee of jurisdiction in the Texas House, I became part of the team that embarked on a multi-year assessment and redesign process that eventually resulted in a recodification process for the Texas Penal Code, a significant move of judiciary practices toward diversion, and significant spending on educational and rehabilitative programming, staffing recruitment, training, and retention, and on technology as opposed to on construction of new facilities. The net result over the next several years under Governor Perry's vision and due to the diligent work of several Texas legislators was an approximately 3% spending cut on Texas prisons, a nearly 5% reduction in the state prison census, and a decrease in violent crime in Texas of nearly 8%. Not only did Texas not build the originally proposed three new prisons, but it eventually closed two existing prisons.

Over the last decade, our team members at Unify.US have worked mostly in conservative states to marshal smart strategies like those deployed in Texas to innovate in justice systems while improving public safety. We now have seen nearly 20 traditionally Republican states challenge some orthodoxies around our justice system and ultimately deliver even better safety outcomes, often while expending even fewer valuable resources. We are grateful for this opportunity to offer this portfolio of measured policies and best practices from other states that have proven to safely reduce prison populations, modernize justice system infrastructures, and pave the way to safer, stronger communities.

- **Curb Probation/Parole Revocations:** Over 60% of Arkansas prison admissions stem from technical or supervision revocations rather than new crimes. Arkansas should strengthen incentive grids and better tailor supervision conditions for low-risk individuals in order to divert non-violent offenders from prison. Additionally, in Arkansas, like in many states, people are often kept on probation long after they have demonstrated they are rehabilitated. This can be addressed by expanding eligibility for early termination of probation for those who routinely meet the conditions of their probation. In so doing, we help individuals who no longer need to be on probation move on with their lives and simultaneously right-size the caseloads of probation officers, allowing them to devote time and resources to those on probation who truly need close supervision.

- **Employ Compassionate and Geriatric Release:** Compassionate release involves transferring individuals from prison to home confinement with electronic monitoring who are terminally ill, incapacitated, or suffering from debilitating medical conditions. In other states that have enacted compassionate release, it has involved a terminal prognosis (such as a limited life expectancy of 6 to 24 months), debilitating illnesses, or a major decline in physical or mental function that has left the individual unable to care for themselves in a standard prison setting. Relatedly, geriatric release considers older individuals who have reached a designated age (often set between 55 and 65 years old) frequently combining requirements such as having served a minimum portion of the original sentence alongside proof of chronic aging-related infirmities, decreased physical capacity, and a low risk of future violence. Compassionate and geriatric release provide space savings within state facilities and cost savings for the state along with exceptionally low recidivism rates.

- **Strengthen Reentry and Workforce Programs:** Other states are already taking note of Arkansas' Future Fit Program. Not only are the program and its promising early returns garnering attention, but the collaborative process by which it took shape is also beginning to be examined by other states. Arkansas has a golden opportunity to scale the synergistic efforts of Governor Sanders' 10:33 Initiative, the Department of Corrections, businesses, and non-profits to create and fund community-based reentry programs, job training, and peer support to help formerly incarcerated individuals transition back into the workforce and the community successfully.

- **Expand Treatment for Mental Health and Substance Abuse:** Treating underlying mental health crises and addiction can prevent people from cycling into the prison system. After decades moving away from a psychiatric care system, some states are preparing to build new state psychiatric facilities. Georgia recently broke ground on a forensic facility, the first new state psychiatric facility in Georgia in over 50 years. State hospitals generally only serve patients who have a mental illness or disability and have been charged with or convicted of a crime. Patients come to state hospitals in two main ways. When a judge decides that a person charged with a crime isn't fit to stand trial because of a psychiatric condition or a disability, the judge orders the person into a state-run long-term hospital. Similarly, some individuals with a mental illness or disability are found not guilty because of

their mental state - courts also order these people into state care. But when state hospitals are at capacity, forensic patients who cannot be admitted usually are forced to remain in local law enforcement custody. The waiting list puts pressure on county jails. This practice is not ideal for public safety, nor is it best for the safety of local facilities which usually are not trained or equipped to treat forensic psychiatric cases.

- **Invest in Technology to Allow Records Sealing to be More Efficient:** Nearly 40% of adult Arkansans have some form of criminal record. Carrying such a record means almost one million Arkansans are not eligible for many jobs, housing, student loans, and other opportunities despite having completed all other court-ordered requirements and having remained crime free for many years. In recent years, nearly one-third of states have reexamined their record sealing and expungement practices and have employed new technologies to allow individuals to have part or all of their records sealed without overwhelming the states' court systems or requiring citizens to navigate tedious, costly bureaucratic processes. By sealing old records, Arkansas can empower individuals with a second chance at securing meaningful employment, finding stable housing, and fully reintegrating into their communities.

- **Fully Implement Rapid DNA Technology:** Thus far, implementation of the Liza Fletcher Act has taken longer than originally planned. The Act, which passed the Arkansas Legislature in 2023, expanded mandatory arrestee DNA collection from a short list of enumerated offenses to any felony offense, appropriated $1.4M to the Department of Public Safety for Rapid DNA Technology operating expenses of the State Crime Laboratory, and appropriated almost $400,000 for a Rapid ID Jump Start Package. Rapid DNA technology in other states has proven to be a beneficial innovation in speedy and accurate investigations.

As this committee continues to explore ways to lower the needed number of prison beds in Arkansas, we at Unify.US would welcome the opportunity to visit in more depth with you and the rest of the Legislature as well as with state agencies about proven interventions states are using to modernize and streamline justice-related infrastructures, prioritize preventing or prosecuting violent crime, and hold accountable those who commit crimes but then are able to be rehabilitated and safely reintegrated back into Arkansas communities.

Thank you for your service to the people of Arkansas and for your consideration of this important matter.

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