

*The JFA Institute*

*Conducting Justice and Corrections Research for Effective Policy Making*

# The Impact of Ohio's Recommended Criminal Justice Reforms on Public Safety

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## **About JFA**

The JFA Institute is a multi-disciplinary research center whose mission is to conduct theoretical and applied research on the causes of crime and the justice system's responses to crime and offenders. It receives diverse funding from federal, state, and local governmental agencies, as well as from foundations interested in developing and evaluating innovative crime prevention, law enforcement, sentencing and correctional policies and programs designed to reduce crime and to improve the quality of the adult and juvenile justice systems. We disseminate our studies and policy recommendations through research reports, criminal justice and criminology periodicals, books, and seminars.

Since 2003, we have become actively involved in conducting research and providing technical assistance to state and local agencies in numerous jurisdictions. Our major clients include the National Institute of Corrections, National Institute of Justice, Bureau of Justice Assistance, and over 20 states and local public correctional and law enforcement agencies.

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## Introduction

The Ohio legislature is considering several reforms that are intended to safely lower the current prison population. The reforms can be categorized into three major initiatives:

1. Diversion of people who have been sentenced for short-term, non-violent, non-sex, non-mandatory Felony 5 crimes and who have no prior history of felony violence or sex convictions (TCAP);
2. Restrict the amount of time a technical probation violator convicted of a Felony 5 crime would spend in prison at 90 days; and,
3. Increase the amount of earned credits an inmate would receive for completing an effective rehabilitative/education program.

These three reforms are projected to lower the current prison population of 50,000 inmates by about 2,000 inmates during FY18-19. The projected savings to taxpayers for FY18-19 is estimated at \$15 million. Since the third reform is designed to lower recidivism rates, there may also be reductions in the risk to public safety as fewer crimes would be committed by inmates who complete these risk reduction programs. Finally, there should also be further reductions in subsequent years as the full effects of the legislation take hold. JFA's estimate is that eventually the prison population may decline by as much as 3,000 in subsequent years.

The only potential negative impact of these reforms would be reductions in the incapacitation effects of the three reforms as prisoners targeted for all three reforms would be serving less time in prison. The objective of this report is to examine the risk to public safety of lowering the prison population by this modest amount.

This public safety assessment is first done by looking at national crime rate trend data over the past decades during which time crime rates significantly declined. The consensus of criminologists is that high rates of incarceration had some but a diminishing impact on lower crime rates. However, more recently higher incarceration rates are having no impact on current crime rates. Currently, there is no association between states that have higher or lower crime rates and their incarceration rates,

Next seven states that have reduced their prison populations are presented to see what happened to their crime rates after they lowered their prison populations. The key finding is that, as a group, their prison populations dropped by an average of 18% while the crime rates have dropped by an average of 30%.

Finally, an assessment of the Ohio reforms is made to determine if they may negatively impact the significant drop in Ohio's crime rate. Based on the current proposals, there would be a negligible impact in the risk to public safety if these reforms were implemented.

## National and Ohio Crime Rate Trends

In order to determine if a reform in criminal justice policies will impact public safety, it's important to understand how public safety is measured and the current measure of crime rates under current practices. To begin one needs to understand just what constitutes a "crime rate". Specifically, it begins with the number of certain crimes reported to police by the public or police for the following seven crimes;

1. Murder
2. Rape
3. Aggravated Assault
4. Robbery
5. Burglary
6. Larceny/Theft
7. Motor Vehicle Theft

Table 1 shows the number of these crimes reported by police agencies in Ohio to the FBI in 2015. In total, there were 334,423 such reports of which the vast majority were for the crime of larceny or theft (213,993 or 64%). These raw numbers are then converted into a rate per 100,000 population. Thus, the overall crime rate for Ohio is 2,880 per 100,000 population.

That number sounds high but that is only because it's expressed as a rate per 100,000 population. A more common calculation would be the percent of the Ohio population reporting a crime. Using that measure, one can see that only a very small percent (less than 3%) of Ohioans report a crime to police a year and the vast majority report of these crimes are for the least serious crime of larceny or theft.

In terms of trends, there has been a dramatic decline in Ohio's crime rate beginning in the mid-1990s and continuing to the present (Figure 1). The Ohio trend line is very similar to the national picture as shown in Figure 1. Indeed, one could take any state in the US and show that same trend regardless of their sentencing policies and use of incarceration and show no difference. There are three points worth noting:

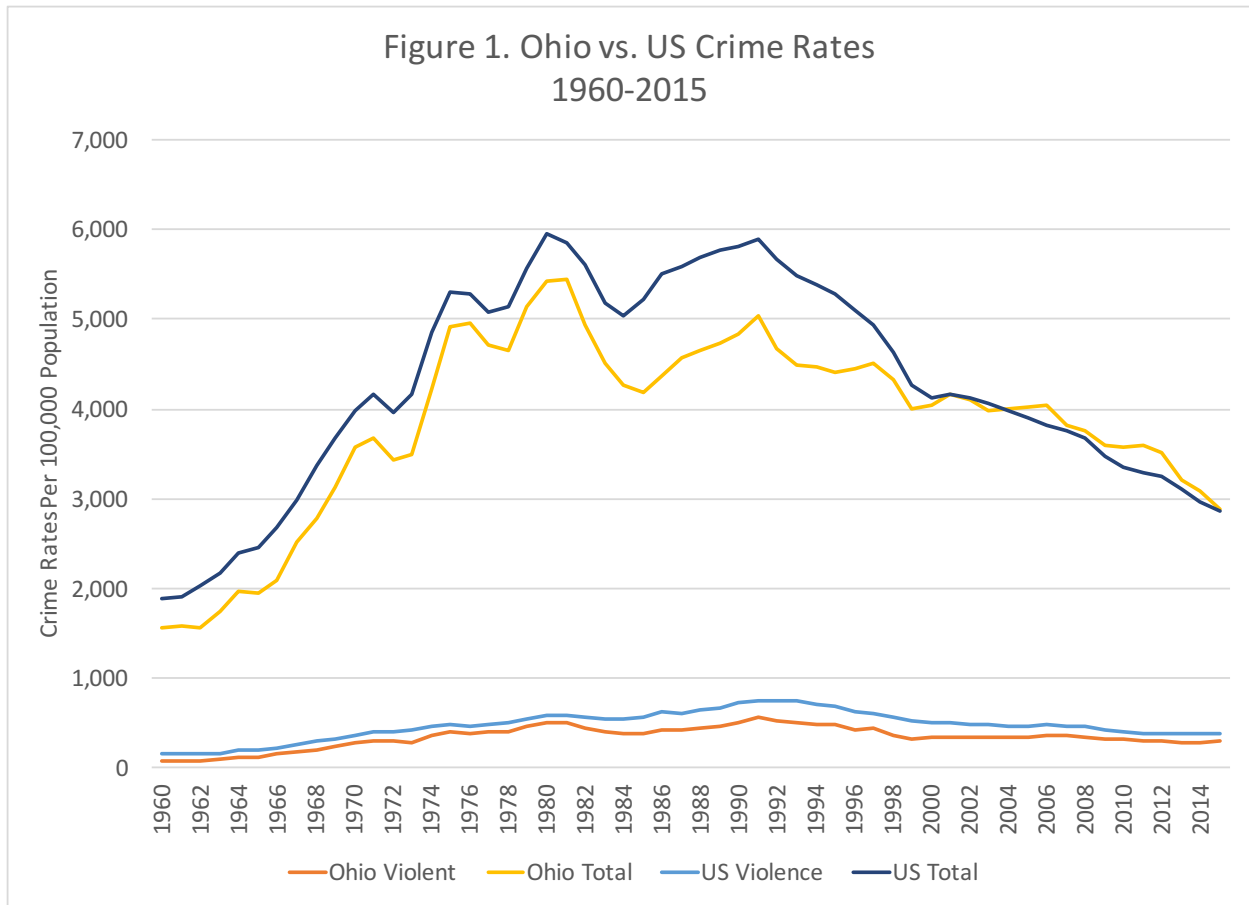
1. Both Ohio and the U.S. trends are remarkably similar in both the overall and violent crime rate trends.
2. The vast majority of reported crimes are non-violent with the violent crime rate being only 10% of the crimes reported to police.
3. Only a very small percent (less than 3 percent) of Ohioans report a crime to police each year.

## Why Have Crime Rates Declined in Ohio and Elsewhere?

There has been much discussion and debate about the causes of this decline in US and state crime rates. The early assessment by a host of leading criminologists reached the conclusion that a wide array of demographic (aging population), economic (reduced unemployment), gun availability, increased numbers of police and better patrol tactics (Compstat) and the end of the

**Table 1. Ohio Reported Crimes - 2015**

| <b>Attribute</b> | <b>Number</b> | <b>% of Total Crimes</b> | <b>Rate Per 100,000</b> | <b>% of Population</b> |
|------------------|---------------|--------------------------|-------------------------|------------------------|
| Ohio Population  | 11,613,423    |                          |                         |                        |
| Total UCR        | 334,423       | 100.0%                   | 2,880                   | 2.9%                   |
| Violent          | 33,898        | 10.1%                    | 292                     | 0.3%                   |
| Murder           | 500           | 0.1%                     | 4                       | 0.0%                   |
| Rape             | 4,154         | 1.2%                     | 36                      | 0.0%                   |
| Robbery          | 12,554        | 3.8%                     | 108                     | 0.1%                   |
| Assault          | 15,695        | 4.7%                     | 135                     | 0.1%                   |
| Property         | 300,525       | 89.9%                    | 2,588                   | 2.6%                   |
| Burglary         | 69,303        | 20.7%                    | 597                     | 0.6%                   |
| Theft            | 213,993       | 64.0%                    | 1843                    | 1.8%                   |
| Vehicle Theft    | 17,229        | 5.2%                     | 148                     | 0.1%                   |



Source: Uniform Crime Reports

crack cocaine epidemic.<sup>1</sup> The analysis also concluded that the dramatic increase in the prison population had also served to reduce the crime rate but was not the primary cause.

A subsequent but more detailed meta-analysis over a longer time period found that the most prevailing factors that were associated with crime drops both in the U.S. as a whole and in the states, were as follows:

1. Aging Population
2. Consumer Confidence
3. Decreased Alcohol Consumption
4. Decreased Unemployment
5. Growth in Income

<sup>1</sup> Blumstein, Alfred and Joel Wallman (editors). 2006. *The Crime Drop in America*. Cambridge, MA: Cambridge University Press.

6. Increased Police Numbers
7. Inflation
8. Introduction of CompStat±

Here again the increased use of incarceration was also tested. The researchers found that there was an impact between 1990 and 2000 but since then there has been no impact on crime rates.<sup>2</sup>

The introduction of inflation as a predictor of crime rates that had received short-shrift by criminologists. Prior studies have been limited to short term unemployment rates and household incomes. Two recent reports have found much more powerful associations between either long-term inflation or its twin brother, long-term interest rates.<sup>3</sup> As shown in Figure 2, there is a remarkable association between long-term interest rates and crime rates since 1953.

Nobody would suggest that interest rates or inflation directly *cause* crime. But there is a wealth of evidence on the causes of crime that demystifies this seemingly baffling relationship. The key word is “stress” – both on an individual and societal level. Criminologists have long known that when individuals find themselves in difficult circumstances they are more tempted to resort to unlawful activities than when their lives are more routine.

And when communities face crises, crime rates are more likely to rise. When interest rates rise, it is more difficult for businesses to borrow the money they need to expand their operations and, consequently, the number of jobs they can create.

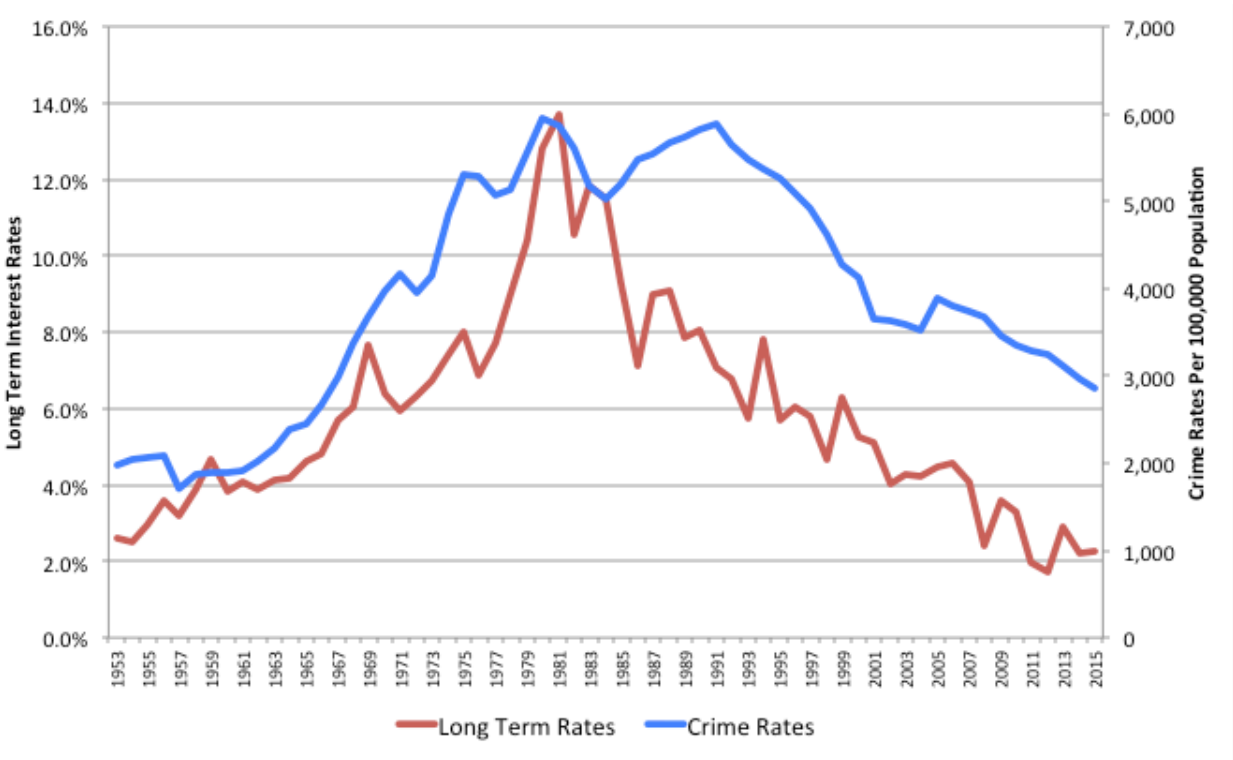
High interest rates can damper economic activity generally which reduces consumer spending and, in turn, business receipts. On the individual level, borrowing money becomes more expensive, credit card purchases are more difficult to repay, and life on a daily basis becomes more difficult. The result is often not simply a reduction in job growth but cutbacks as employers have to let workers go, increasing unemployment rates and the severe stress associated with job loss.

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<sup>2</sup> Roeder Oliver, Lauren-Brooke Eisen, and Julia Bowling. 2015. *What Caused The Crime Decline?* New York, NY: The Brennan Center for Justice.

<sup>3</sup> Rosenfeld, Richard and Aaron Levin. January 8, 2016. *Acquisitive Crime and Inflation in the United States: 1960–2012*. Journal of Quantitative Criminology. Published online: 2016 Springer Science Business Media New York. Austin, James and Gregory Squires. 2016. *The Startling Link Between Inflation and Crime Rates*. <https://thecrimereport.org/2016/12/06/the-startling-link-between-low-interest-rates-and-low-crime/>.

**Figure 2. U.S. Crime and Long-Term Interest Rates  
1953-2015**



Sources: Uniform Crime Reports and U.S. Department of Treasury.

Another way to look at the relationship between incarceration and crime rates is to compare each state on its use of incarceration and its current crime rate. If there was a strong effect one would expect to see states with higher incarceration rates to have lower crime rates. Figure 3 does this comparison for all the states as of 2015 and shows there is no correlation between crime and incarceration rates. In other words, states with higher incarceration rates, as a group, do not have lower crime rates. Similarly, states with lower incarceration rates, as a group, do not have higher incarceration rates.





Sources: Bureau of Justice Statistics and Uniform Crime Reports

Finally, we can examine states that have significantly reduced their prison populations to see what happened to their crime rates. Table 2 shows the results for seven states that have over a number of years reduced their prison populations. The largest reductions have occurred in New York, California and New Jersey where prison populations have declined by 25-35%. In all seven states, crimes rates have declined from 19% – 40%. As a group, these seven states have lowered their prison populations by an average of 18% while the crime rates have dropped by an average of 30%.

In summary, the research on the relationship between crime rates and incarceration rates is clear. While dramatically increasing rates of imprisonment since the 1970s did have some positive impact on crime rates, more powerful demographic, and socio-economic factors are the principle reasons crime rates increased and have since fallen. Further adjustments in incarceration rates will have insignificant effects on future crime rates.

**Table 2. Changes in Seven State Prison and Crime Rates Before and After Prison Reductions**

|                          | NY      | CA      | NJ      | NC     | TX      | RI    | MI     | Totals  |
|--------------------------|---------|---------|---------|--------|---------|-------|--------|---------|
| Reform Year              | 1999    | 2006    | 1999    | 2010   | 2006    | 2007  | 2006   |         |
| Prison Pop Before Reform | 72,899  | 175,512 | 31,493  | 40,382 | 172,116 | 4,018 | 51,577 | 547,997 |
| Current Prison Pop       | 51,727  | 129,593 | 20,489  | 36,617 | 163,909 | 3,248 | 42,628 | 448,211 |
| Prison Reduction         | -21,172 | -45,919 | -11,004 | -3,765 | -8,207  | -770  | -8,949 | -99,784 |
| % Reduction              | -29%    | -26%    | -35%    | -9%    | -5%     | -19%  | -17%   | -18%    |
| Crime Rate Before Reform | 3,279   | 3,743   | 3,400   | 3,806  | 4,598   | 2,850 | 3,775  | 3,181   |
| Current Crime Rate       | 1,984   | 3,045   | 1,882   | 3,097  | 3,425   | 2,140 | 2,301  | 2,234   |
| Crime Rate Reduction     | -1,296  | -698    | -1,518  | -709   | -1,173  | -710  | -1,474 | -947    |
| % Reduction              | -40%    | -19%    | -45%    | -19%   | -26%    | -25%  | -39%   | -30%    |

Sources: Bureau of Justice Statistics and Uniform Crime Reports

### **Estimating the Impacts of Ohio’s Reform on Public Safety**

Given these national trends and the experience of states that have lowered prison and crime rates, what is the possibility that the Ohio reforms would have a negative impact on crime rates?

Three reforms can be viewed as either diverting people from prison completely (TCAPS) or reducing the current length of stay (LOS). The former effect is directed at the diverting TCAPS and the latter is directed at capping the amount of time a technical Community Control Violator can spend in prison (no more than 90 days) or increasing program credits (by 90 days).

Table 3 shows the current and projected impacts of the three measures in terms of their numbers and LOS. An estimated 8,654 prison admissions would benefit from one of the three reforms. This number represents about 1/3<sup>rd</sup> of all prison admissions in 2016. These people, who will either be diverted from prison or will have their LOS reduced, will continue to be incarcerated for substantial periods of time. This is because, while not fully understood by policy-makers and by the public, virtually all people sentenced to prison have already been incarcerated in the county jails for many weeks since their arrest. This time in the county jails needs to be added to the state prison time to have a full and complete understanding of how much time these people are imprisoned.

The first measure would divert 1,860 TCAPS from the ten largest counties who currently are spending an average of 89 days in local jails and then another 204 days in state prison. Other counties can participate but it is not mandated under the current proposal. This reform would serve to reduce the current prison population by about 1,000 inmates.

**Table 3. Estimates of Number of Prison Admissions/Releases/LOS  
By Reform Measure – Long Term**

| Attribute                       | Prison Admissions | Prison LOS (days) | Jail LOS (days) | Current Total LOS (days) | New Total LOS (days) | Prison Bed Impact |
|---------------------------------|-------------------|-------------------|-----------------|--------------------------|----------------------|-------------------|
| Total Prison Admissions*        | 19,583            | 897               | 136             | 1,033                    |                      |                   |
| TCAPs – Top 10 Counties         | 1,860             | 199               | 96              | 295                      | 96                   | 1,014             |
|                                 | Prison Releases   |                   |                 |                          |                      |                   |
| F5 CC Probation Tech. Violators | 2,233             | 243               | 137             | 380                      | 227                  | 936               |
| Earned Credits                  |                   |                   |                 |                          |                      |                   |
| GED                             | 1,446             | 2,001             | 136             | 2,137                    | 2,047                | 357               |
| Vocational                      | 315               | 1,612             | 136             | 1,748                    | 1,658                | 78                |
| Other Programs                  | 2,744             | 914               | 136             | 1,050                    | 960                  | 677               |
| Totals                          | 8,598             |                   |                 |                          |                      | 3,061             |

\* Excludes life/death and parole recommission prison admissions.

The second reform would cap the amount of time an F5 Community Control Technical Violator could serve at 90 days. In 2016, there were 2,233 such admissions who will spend an average of 243 days in state prison on top of the 137 days in the local jails prior to admission to state prison. The jail time will remain the same but the prison LOS will be capped at 90 days or an average LOS reduction of 153 days. This initiative would eventually have an impact of reducing the prison population by 936 prisoners.

The third reform increases the amount of time a person who completes an education, vocational training, or rehabilitative program can earn from 90 to 180 days. In 2015, there were approximately 4,500 prison releases who receive these credits. Assuming the number of people receive the additional credits going forward, the bed savings would total 1,112. It may also be true that as the credit rewards are increased, an increasing number of people would be attracted to the programs as the incentives to do so have increased.

Collectively all three measures are projected to eventually reduce the prison population by 3,061. It should be noted that is some over-lap on the people that would be impacted by the three reforms. For that reason, the ORDC has computed a “net impact” that takes the expected over-lap interactions into account. At the time of this report, the overall expected impact is a reduction of the prison population by about 2,000 inmates in FY18-19 with a net savings of \$15 million. JFA believes there will be further reductions in the prison population as the full effects of the earned credits reform are applied to people with longer sentences. These reductions would occur more quickly if the program credits could be awarded retroactively.

## Impact on Public Safety

To assess the relative effects of this legislation on crime rates one can use national estimates of re-arrest rates by month after release to assess the number of arrests that would not have occurred if the reforms were not implemented. The key assumption is that the re-arrest trajectory of released prisoners will not change by either diverting them from prison and/or reducing their LOS. The absence of a relationship between LOS and recidivism rates, controlling for the level of risk, has been discovered in several studies including the U.S. Department of Justice's prison recidivism studies (Table 4). It was also found that people placed on probation versus people sentenced to prison have lower re-arrest rates.<sup>4</sup>

**Table 4. Three-Year Follow-Up Rate of Rearrests of State Prisoners  
by Time Served in Prison**

| <b>Time Served</b> | <b>3-Year Rearrest Rates</b> |
|--------------------|------------------------------|
| 6 Months or Less   | 66.0%                        |
| 7-12 months        | 64.8%                        |
| 13-18 months       | 64.2%                        |
| 19-24 months       | 65.4%                        |
| 25-30 months       | 68.3%                        |
| 31-36 months       | 62.6%                        |
| 37-60 months       | 63.2%                        |
| 61 months or more  | 54.0%                        |

Source. Bureau of Justice Statistics, June 2002. *Recidivism of Prisoners Released in 1994*.

Since Ohio was one of the states participating in these recidivism studies, one can apply these results, which have remained unchanged through 2005, to Ohio.

Simply put, one can assume that for each month an inmate is in the community there is a probability that he/she will be arrested. In the case of these reforms we are interested in the re-arrest rates for the time-period under 199 days which is the average LOS to be eliminated for the T-CAP people. The other two reforms would reduce LOS by 153 and 90 days respectively. By applying a monthly re-arrest rate of 4.5% based on the BJS recidivism study, one can calculate how many additional arrests would occur by reducing the LOS. The total is 1,837 additional arrests per year. In Ohio, the total number of arrests per year is 226,325 meaning

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<sup>4</sup> Petersilia, Joan and Susan Turner. (1986). *Prison versus probation in California: Implications for crime and offender recidivism*. Santa Monica, CA: RAND.

that the additional 1,837 arrests are less than one percent (0.8%). This small percentage is consistent with other studies that have shown released prisoners constitute a small percent of the total number of arrests occurring each year. The BJS recidivism study found the percent to be 5%. New York State reports that parolees who are arrested in each year only constitute 3% of the total number of misdemeanor and felony arrests occurring each year.<sup>5</sup> Further the vast majority (86%) of these 1,837 arrests would be for non-violent crimes.

In summary, the proposed legislation as described above would have a modest impact on the prison population without jeopardizing public safety.

### **Other Options to Consider**

Based on other state sentencing structures, there are other options that could be considered that would have a greater impact on the prison population without jeopardizing public safety. In particular, awarding earned credits for either *participating* in meaningful work or rehabilitative programs would serve to both lower the prison population and current recidivism rates

For many prisoners, it may not be possible to complete a risk-reduction program prior to release due to their short sentence length, availability of the programs, or restrictions due to prison security operations. But participation in risk reduction programs, which can be continued and completed in the community after release, would be desirable.

Further, inmates who are already “low risk” to offend should not be assigned to such programs as their participation in such programs would have little if any impact on their already low risk levels. But they should be allowed to advance their release dates by remaining disciplinary free and being employed in a meaningful work assignments.

Using a *participation* versus a *completion* standard for earned credits and allowing low risk inmates who are employed in meaningful work assignments to receive similar earned credits would produce a smaller, less expensive and safer prison system that would also enhance public safety.

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<sup>5</sup> <http://www.criminaljustice.ny.gov/crimnet/ojsa/parolee-and-probationer-arrest.pdf>