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CRIME AND JUSTICE INSTITUTE

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# **Data-Driven Solutions to Improve Florida's Criminal Justice System**

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## EXECUTIVE SUMMARY

Florida's prison population and corrections spending, as with most states, increased exponentially over the past 40 years. The population grew from approximately 21,000 inmates to over 100,000 between 1978 and 2015 – a 373 percent increase. This increase was largely due to changes in sentencing laws, an unanticipated increase in admissions to prison for drug crimes and an overall increase in Florida's population. This growth leaves Florida with the third largest prison population in the nation, behind only Texas and California, and the 10<sup>th</sup> highest incarceration rate.

- In 2007, Florida's prison population began to plateau and, over the next 10 years, fluctuated between 98,000 and 104,000.
- The primary reason the population did not continue to grow is the decline in admissions to prison. However, the significant reduction in admissions to prison has been offset by an increase in the length of sentences and the amount of time served on these sentences.
- In most states, such a reduction in admissions would have led to a more substantial reduction in the prison population, but Florida's sentencing requirements and limited release options have counterbalanced any front end declines.
- These longer terms of incarceration are influenced by an increase in the use of mandatory minimum sentences and sentence enhancements, and the requirement that every inmate serve 85 percent of their sentence in prison.
- These policies have created growing costs to taxpayers, with the state spending \$2.3 billion dollars on the Department of Corrections in FY2016, a \$100 million dollar increase from FY2014.

Research over the past 20 years is now providing scientific evidence on recidivism reduction, the effectiveness of incarceration and the outcomes of people placed in the community under supervision compared to those sent to prison. This research was not available during the massive prison expansion of the 1980s and 1990s. These studies demonstrate that longer time spent in prison is not associated with lower recidivism and long sentences may be adding significant costs to the taxpayer with very little or no improvement to public safety.

However, state-driven, policy changes have reconfigured the criminal justice landscape. Many states recognized and seized the opportunity to alter the flow of people coming into their prisons and jails, while others were forced, by judicial intervention, to reduce the prison population. Other states have used the ballot box, through citizen petitions, referendums and the like, to force policy changes that reduce the use of incarceration. Since 2010, 31 states have reduced both their imprisonment and crime rates.

- Kentucky, South Carolina, Oregon, Texas, Utah, Louisiana and many others have implemented reforms to rein in the size and cost of their corrections systems and to focus resources and prison beds on violent and career offenders.
- In 2011, Georgia lawmakers amended drug and property sentences, enabling the state to avert an eight percent population increase, save \$264 million, and reduce their prison population by 5.9 percent. In the three years following the reforms, the state's crime rate fell 10 percent.
- Similarly in 2013, Mississippi legislators enacted sentencing reforms to avoid a projected prison growth of 2,000 inmates at a cost of \$266 million dollars. By 2015, the state had experienced a three percent drop in crime and a prison population reduction of 5,000 inmates.

Based on CJI's analysis of Florida's data and examination of other states' responses, CJI developed a comprehensive set of options that seek to hold offenders accountable, safely reduce the state's prison population and corrections spending, and prioritize public safety. These recommendations are designed to:

- focus prison and jail resources on serious and violent offenders;
- expand the use of alternatives to incarceration;
- improve community supervision practices and the availability of effective treatment; and
- ensure the sustainability of data-driven criminal justice policy.

# INTRODUCTION

During the 2016 legislative session, Florida adopted a measure as part of the General Appropriations Act calling for “a comprehensive review of Florida's criminal justice system.”<sup>1</sup> In November of 2016, the Florida Legislature released an *Invitation to Negotiate* seeking an independent consultant to conduct an assessment of Florida’s criminal justice data. After a competitive bid process, the Crime and Justice Institute (CJI) at CRJ was selected to conduct this assessment and entered into a contract with the Office of Program Policy Analysis and Government Accountability (OPPAGA). CJI initiated work on the assessment beginning in February 2017 with a final report published on May 1, 2017.<sup>2</sup>

As part of the assessment, CJI identified, collected and analyzed key data elements from a number of agencies, including the Florida Department of Corrections (FDC) and the Office of the State Court Administrator (OSCA). CJI also reviewed Florida statutes and agency policies and interviewed stakeholders from across the criminal justice system. On October 11, 2017, CJI presented the report findings to the Senate Appropriations Subcommittee on Civil and Criminal Justice.<sup>3</sup> The presentation identified trends over the past ten years that have contributed to Florida’s largely static prison population. These findings reveal a significant reduction in the number of people admitted to prison but an equally significant increase in the lengths of sentences and the amount of time served on these sentences.

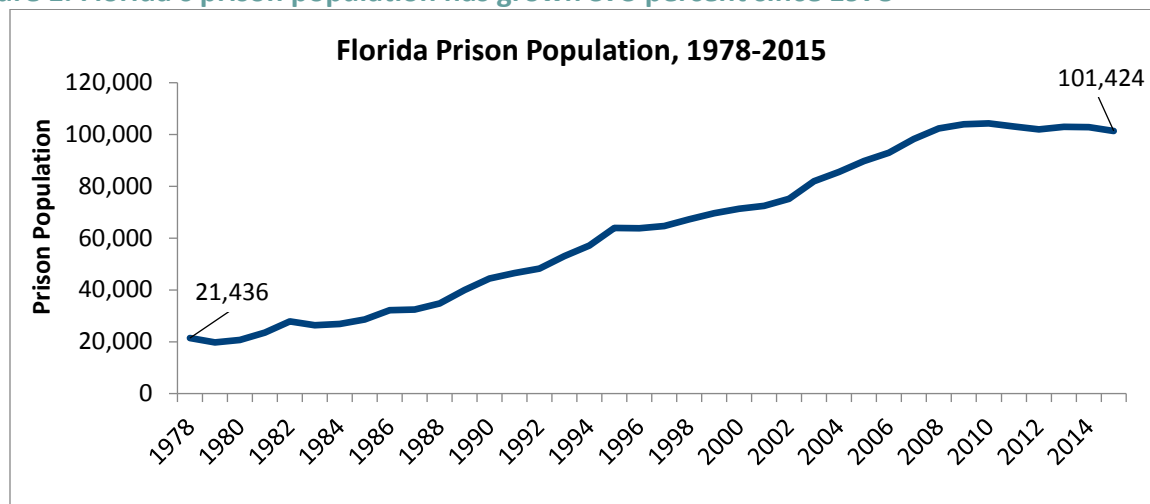
As a result of this analysis, the Florida Senate contracted with CJI to continue looking at their criminal justice system. Specifically, CJI was asked to prepare a subsequent report examining the policies that other states have adopted to address prison population growth and recommending responsive policies to alleviate burdens on Florida’s prison system. Throughout the process of developing these policy recommendations, CJI received input from a wide range of Florida stakeholders to gain a comprehensive understanding of the system and how it works. CJI has extensively reviewed the statutes, policies, rules and regulations that impact the many facets of Florida’s criminal justice system and examined how policy makers in other states facing similar population trends and drivers have responded.

Based on this analysis and the continued support of the Florida Senate, CJI has produced this report to identify the underlying policy decisions and practices impacting the current size of the prison population. The report examines the policies and practices adopted by other states in the face of challenges presented by a large and growing prison population. The report also reviews and incorporates the research on what works and does not work to effectively reduce recidivism. Lastly, the report includes recommendations Florida could make to more efficiently use its resources, improve public safety and safely reduce the prison population.

## REVIEW OF KEY FINDINGS

Across the country, starting in the early 1970's, state prison populations expanded rapidly and state officials expended increasing amounts of taxpayer dollars to keep pace with the rising prison costs. This growth is attributed to many factors; chief among them are sentencing laws in response to the nation's war on drugs. These include: (1) mandatory minimum sentences that require the judge to impose prison time; (2) "Truth in Sentencing" laws that require a person to serve nearly the full sentence even if the person participated in rehabilitative programs and behaved well in prison; and (3) restrictive release policies, such as the elimination of parole.<sup>4</sup> Florida's prison population has followed the national path, with a trajectory of rapid growth culminating in a 373 percent increase in the prison population between 1978 and 2015 (see Figure 1).

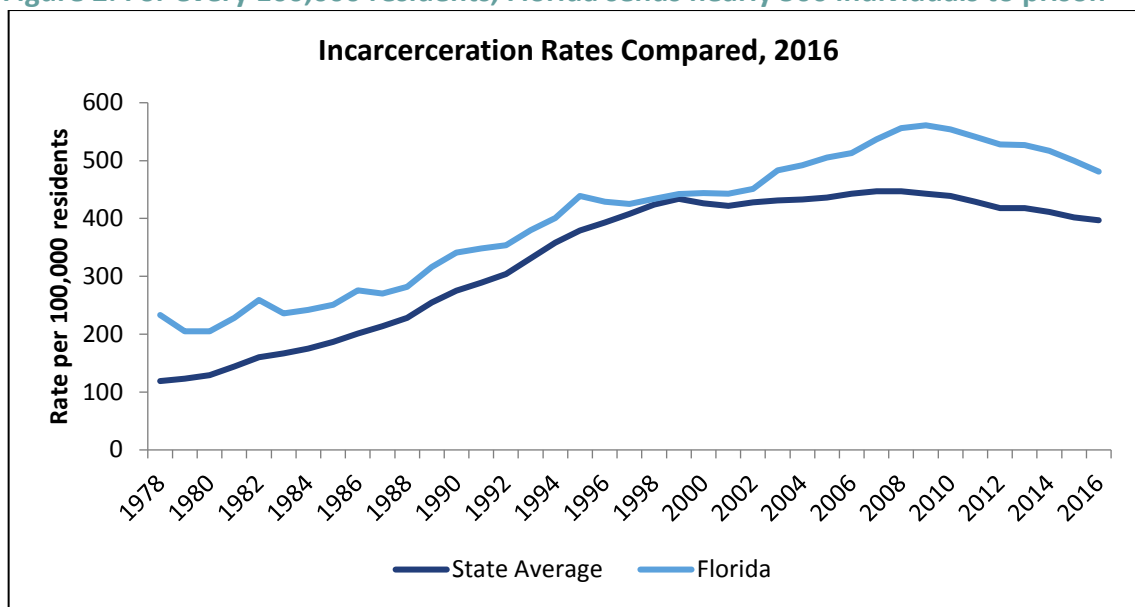
**Figure 1. Florida's prison population has grown 373 percent since 1978**



Source: Bureau of Justice Statistics, National Prisoner Series

Florida's prison population leveled between 2010 and 2015, largely driven by a 28 percent decline in admissions and a 39 percent reduction in revocations from supervision since 2007. However, despite these achievements, Florida's overall prison population has not seen a comparable reduction. While states with similar declines in admissions and revocations have seen reductions in their prison population, Florida's currently static population is projected to begin growing again in 2021.<sup>5</sup> This will come at an extraordinary cost to taxpayers, with the state spending \$2.3 billion dollars on the Department of Corrections in FY2016, a \$100 million dollar increase from FY2014.<sup>6</sup> With Florida's incarceration rate 21 percent higher than the national average, the 10<sup>th</sup> highest in the nation, an additional period of growth will further separate Florida from most other states moving in the opposite direction (Figure 2).

Figure 2: For every 100,000 residents, Florida sends nearly 500 individuals to prison



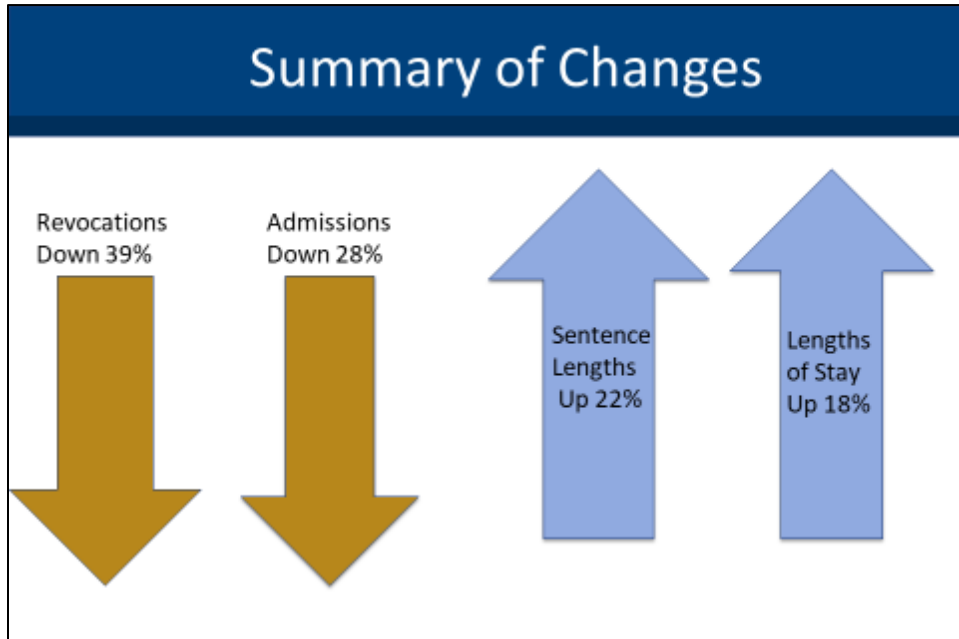
Source: Bureau of Justice Statistics, National Prisoner Series

Florida’s prison population trends are largely due to policy choices increasing sentences and length of stay in prison, counteracting the effect of the reduction in admissions and revocations to prison (see Figure 3). Within the last decade, the average sentence length has increased 22 percent, and the average amount of time an inmate will serve in custody has risen 18 percent<sup>a</sup>. Without changes that reduce length of incarceration or increase release options, Florida’s prison population will increase.

<sup>a</sup> Florida data findings that do not include endnotes are found in the above cited report to OPPAGA titled *An Examination of Florida’s Prison Population Trends*.



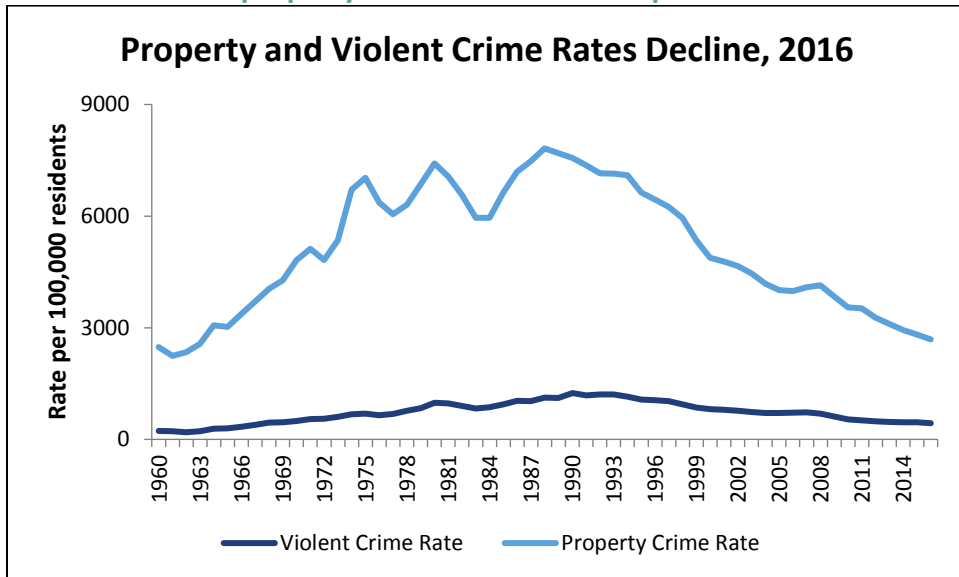
Figure 3: Florida’s decline in admissions countered by increases in sentence



Source: CJJ Presentation to Appropriations Subcommittee on Criminal and Civil Justice, December 2017

Experience has shown that changing the trajectory of the prison population can be accomplished without jeopardizing public safety. After 38 years of uninterrupted growth, a combination of state and federal sentencing reforms reduced the national prison population 5.5 percent between 2009 and 2015.<sup>7</sup> This drop is coupled with a fall in the national crime rate, which is now at its lowest level since 1968.<sup>8</sup> As with the rest of the country, Florida experienced a similar reversal in its crime rate since it peaked in 1988 (see Figure 4). Since 2006, the Florida violent crime rate fell 36 percent and the property crime rate fell 29 percent.

Figure 4: Florida violent and property crime rates at lowest point since mid-to-late-1960s



Source: Uniform Crime Rate Reports, Federal Bureau of Investigation

While some of the decline in the crime rate can be attributed to the use of incarceration, the strongest research credits incarceration with a relevant but limited influence in the crime drop since its peak.<sup>9</sup> Major factors behind the reduction in crime include new policing practices, improved personal security, theft prevention technologies, and improved economic conditions.<sup>10</sup> In short, the increased use of incarceration has had an important but minor role in improved public safety.

This is demonstrated by the 31 states that have reduced both their imprisonment rates and crime rates since 2010.<sup>11</sup> Alaska, Georgia, Kentucky, Mississippi, Oregon, Texas, Utah, Louisiana and many others have implemented reforms to rein in the size and cost of their corrections systems and to focus resources and state prison beds on violent and career offenders.

In 2011, policy makers in Georgia faced a projected eight percent increase in the prison population over the next five years, at a cost of \$264 million. Rather than spend additional taxpayer dollars on prisons, Georgia's leaders looked for more cost effective solutions. The state legislature unanimously passed changes to drug and sentencing policy and invested in drug and mental health courts.<sup>12</sup> Between 2012 and 2015, Georgia's crime rate fell 10 percent and the prison population declined 5.9 percent, giving taxpayers better public safety at a lower cost.<sup>13</sup>

In 2013, Mississippi was similarly pressed with the burden of a growing prison population. At the time, Mississippi had the second highest incarceration rate in the nation which was projected to add nearly 2,000 inmates at a cost of \$266 million over the next 10 years.<sup>14</sup> Legislators passed a reform package that increased access to alternatives to incarceration and changed the sentencing structure of drug and property offenses. By 2015, the state's crime rate had dropped three percent, and the prison population decreased by nearly 5,000 inmates.<sup>15</sup>

## Incarceration and recidivism

Over the past two decades, research has identified what interventions work to reduce recidivism and that incarceration has a limited effect on recidivism reduction.<sup>16</sup> The assembled knowledge balances the utility of prison and sentence length with community based options for certain types of individuals. Studies show that while prison serves an important purpose in taking dangerous people off the streets, incarceration is not as effective at changing behavior and encouraging prosocial interactions as other responses – especially for nonviolent offenders.<sup>17</sup>

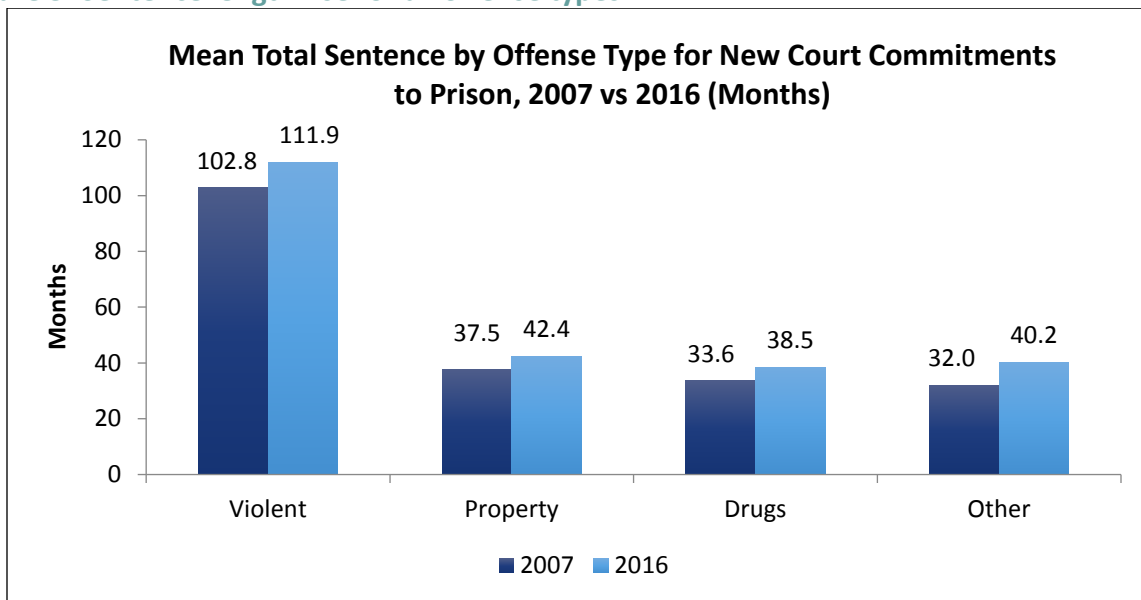
Experts have identified two methods by which length of stay in prison can benefit public safety: incapacitation (the reduction of criminal involvement because the individual is confined in prison) and deterrence (the reduction of future criminal involvement due to an individual's interest in avoiding incarceration). Incapacitation is very effective at preventing individual offenders from committing crimes against the public while locked up, but it comes at a substantial cost. In determining whether or not long sentences are effective, studies have evaluated whether similar offenders, when subjected to different terms of incarceration, recidivate at different rates. They found that, at best, longer sentences have no effect on recidivism and, at worst, they actually increase recidivism.<sup>18</sup>

Despite this body of research, sentence lengths (up 22 percent) and lengths of stay (up 18 percent) in Florida increased over the past decade. The increasing periods of incarceration are largely the result of:

- (1) Florida’s sentencing code,
- (2) sentence enhancements and mandatory minimum sentences, and
- (3) the requirement that all inmates serve no less than 85 percent of the sentence regardless of the type of offense.

Florida’s predominant sentencing system, the Criminal Punishment Code (CPC), was enacted in 1997 with the intent of providing greater judicial discretion. Under the CPC, it’s possible for any felony offender to receive a prison sentence and the sentence length may be up to the statutory maximum. This is a significant departure from previous guidelines as well as those in other states. The effect of this change is obvious in the data as sentence lengths have increased across the board for all offense types (see Figure 5).

**Figure 5: Sentence length rise for all offense types**



*Source: CJI Analysis of Admissions Data Provided by the Florida Department of Corrections*

In addition to the CPC, the increased use of mandatory minimum sentences and sentence enhancements are affecting the amount of time a person serves in prison. Florida has 108 offenses that require a mandatory minimum term, allowing for no judicial discretion; 47 of these are for drug offenses.<sup>19</sup> Thirty-seven percent of offenders in Florida’s prisons were sentenced under a mandatory minimum or enhancement in 2016, an increase of 19 percent since 2007. The average sentence for these offenders was 149.5 months, compared to 135.3 months in 2007, an increase of over one year.

The impact of the increase is compounded by the fact that Florida has limited release options for inmates. A person cannot be released until they have served at least 85 percent of the sentence. Florida abolished parole in 1983 and now most inmates – 63 percent – are released at the expiration of their sentence with no supervision to follow.

The combination of increasing sentence lengths with few release mechanisms creates a stacking effect where more people are coming in the prison door than are cycling out of prison. When more people come into prison than leave, the prison population grows.

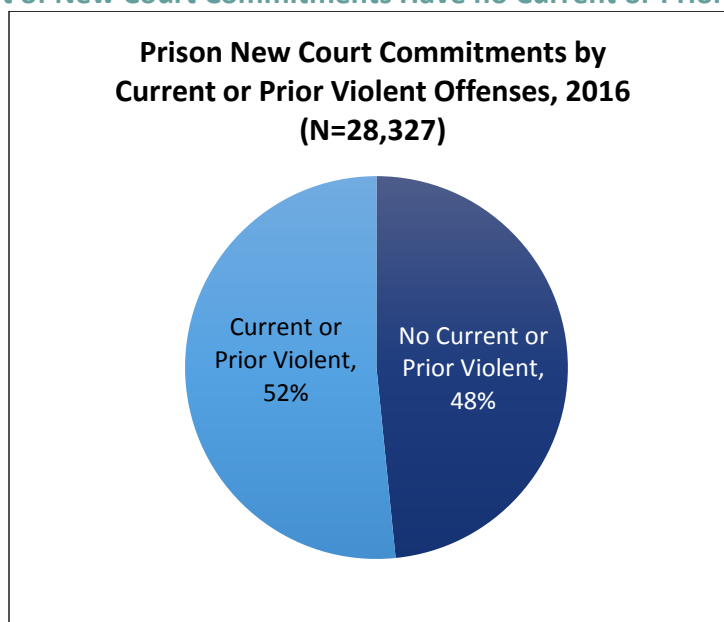
## Incarcerating low-level offenders

Aside from considering the utility of long sentences, researchers have also evaluated whether or not incarceration is an effective method of reducing recidivism of low-level offenders. Many studies have demonstrated that instead of deterring future criminal behavior, incarceration can have a crime-producing effect on this population.<sup>20</sup> This “schools of crime” theory suggests that for many types of nonviolent offenders, the negative impacts of incarceration outweigh the positive.<sup>21</sup> In other words, sending people to prison may cause them to commit more crimes upon release than they would have if they were not incarcerated. Studies of drug offenders, technical violators, and first-time offenders all show this negative impact.<sup>22</sup>

Additionally, experts have also examined what the best public safety response is for those offenders with significant substance abuse issues. They have found that drug offenders sentenced to prison were 5-6 times more likely than probationers to be rearrested and charged after release.<sup>23</sup>

Though overall admission numbers have declined, Florida is still sending a large number of individuals to prison each year for nonviolent offenses. In 2016, 63 percent of admissions to prison were for nonviolent offenses. When taking into account past criminal conduct, 48 percent of people sentenced to prison in 2015 had no current or prior violent convictions (see Figure 6).

**Figure 6. 48 Percent of New Court Commitments Have no Current or Prior Violent Offense**



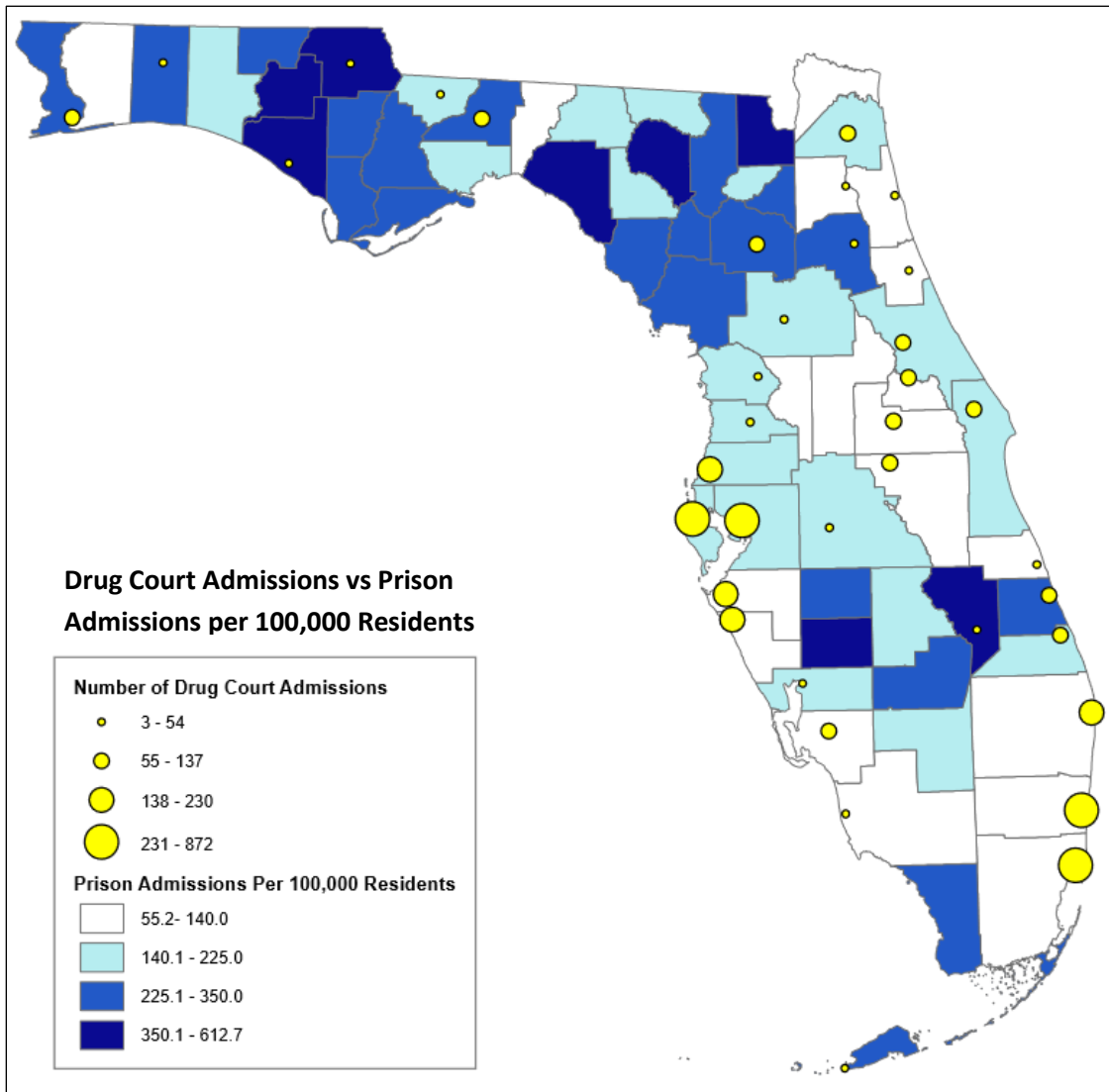
*Source: CJI Analysis of Prison Admissions Data Provided by the Florida Department of Corrections*

Many nonviolent admissions are for drug or property offenses. In 2016, third degree simple possession was the second most common offense admitted to prison, with offenders serving an average sentence

of 22 months. Property offenders comprised 31 percent of admissions serving an average of 42.4 months. According to the FDC, approximately 60 percent of inmates who enter prison have substance abuse needs requiring treatment.<sup>24</sup>

An examination of geographic trends indicates that access to treatment and services in the community impacts whether a person goes to prison. The twenty counties with an increase in admissions to prison over the past decade do not have drug courts, which have been shown to be an effective alternative to incarceration (see Figure 7).

**Figure 7. Counties with Higher Prison Admission Rates Have Less Adult Felony Drug Court Admissions**

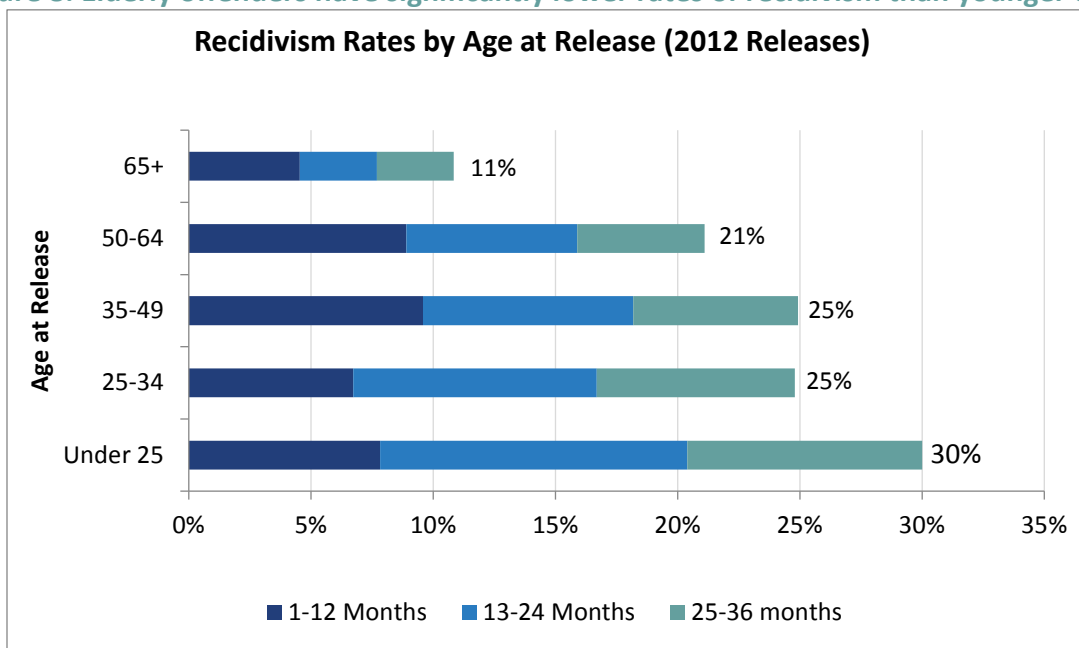


Source: CJI Analysis of Problem-Solving Court Data Provided the Office of the State Courts Administrator and Prison Admissions Data Provided by the Florida Department of Corrections

## Age, incarceration and recidivism

Research shows that age is one of the most significant predictors of criminality, with criminal activity peaking in late adolescence and decreasing as a person ages.<sup>25</sup> Many studies have demonstrated that recidivism rates decline relatively consistently as age increases (see Figure 8).<sup>26</sup> According to the U.S. Sentencing Commission, among all offenders under age 21, the recidivism rate is 35.5 percent, while offenders over age 50 have a recidivism rate of just 9.5 percent.<sup>27</sup>

**Figure 8: Elderly offenders have significantly lower rates of recidivism than younger offenders**

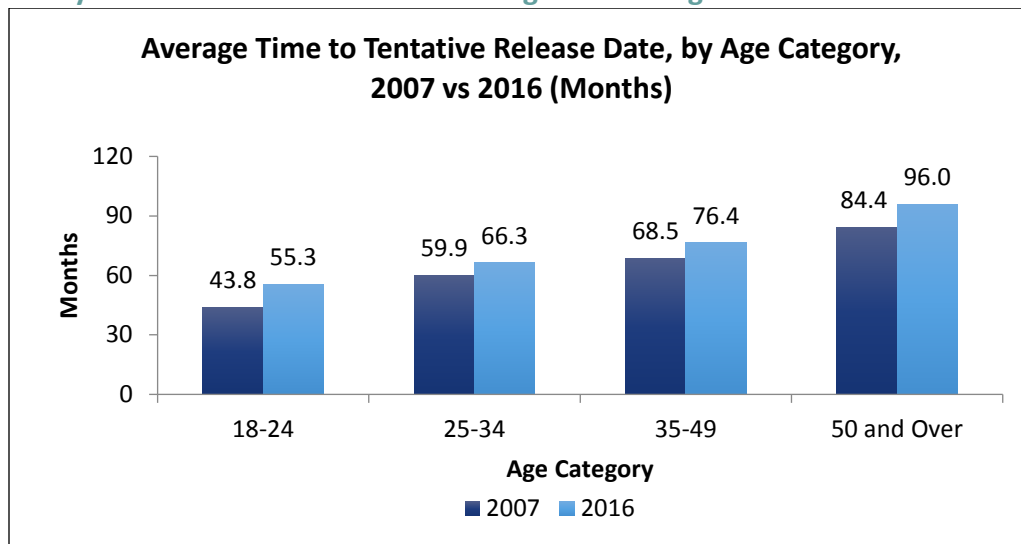


Source: Florida Department of Corrections, Florida Prison Recidivism Report: Releases from 2008 to 2014

One demographic of the Florida prison population that is noteworthy is the growth of prisoners age 50 and older, defined as ‘elderly’ in Fla. Stat. §944.02. In 2016, elderly prisoners made up 23 percent of the prison population, up from 14 percent in 2007. In raw numbers, this is more than 23,500 offenders aged 50 or older in Florida’s prisons. This number has grown 65 percent in the last decade. FDC estimates that the elderly inmate population will grow to 27,719 by 2023 and will be almost 29 percent of the population.<sup>28</sup>

The driving cause of growth in the elderly population is the same as that for the general population: the length of the sentence and the amount of time inmates are serving on these sentences. Overall, 13 percent of new court commitments to prison are age 50 and over at admission, thus the significant increase in the elderly population is not due to new admissions.

The average sentence being served for current prisoners age 50 and over is 313 months, compared to 184 months for prisoners under age 50. Elderly prisoners also have the longest period remaining until their tentative release date, which is a way of measuring the future impact of those currently in prison (see Figure 9). While the time remaining until release has grown for all age groups as sentences grew over the last decade, it has grown the most for older offenders.

**Figure 9: Elderly Prisoners Have 8 Years on Average Remaining Until Release**

Source: CJI Analysis of Prison Population Data Provided by the Florida Department of Corrections

This population is particularly costly for Florida taxpayers, as aging inmates require expensive medical care. In FY 2015, the elderly inmate population accounted for 53 percent of all episodes of care in the FDC despite being only 23 percent of the overall prison population.

## Community supervision as an effective alternative to incarceration

Over the last thirty years, a growing body of research supports several strategies for employing community supervision practices that reduce recidivism and increase public safety. These include: identifying and focusing resources on higher risk offenders; using swift, certain, and proportionate sanctions; incorporating rewards and incentives; and integrating treatment into supervision, rather than relying exclusively on surveillance by supervision officers or monitoring by law enforcement agencies.

FDC has made progress managing offenders on supervision resulting in a 39 percent reduction in probation revocations. Improvements in supervision include abolishing the zero tolerance policy that led to significant increases in technical probation violators going to prison, and implementing graduated sanctions in response to low-level violations. Most of the positive changes FDC has made over the past decade are administrative in nature, but many more improvements to the system could be made with statutory and systemic changes.

### Identify and focus supervision resources on high-risk offenders

Research has consistently shown that a person's likelihood to recidivate can be accurately predicted with the use of a validated risk and needs assessment tool, an actuarial tool shown to predict the likelihood of recidivism for a specific population.<sup>29</sup> Many states have adopted validated risk and needs assessment tools to ensure they are identifying those most likely to reoffend and allocating scarce resources accordingly. Using a risk assessment tool, probation officers can focus their supervision and resources on those who pose the highest risk of reoffending.

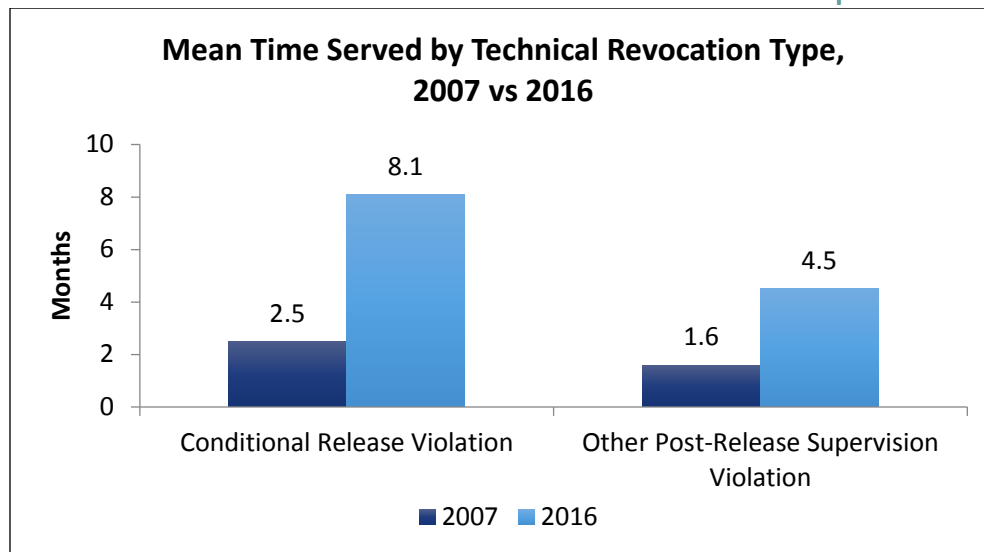
### **Use swift, certain, and proportionate sanctions**

Research suggests that violations that do not rise to the level of criminal conduct can be more effectively and safely handled with the use of swift, certain, and proportionate non-custodial sanctions in the community.<sup>30</sup> For instance, a probationer who fails a drug test might get more intensive supervision, frequent drug tests and a curfew as well as a requirement to complete drug counseling or an in-patient program rather than going to prison. Research shows that swift, proportionate responses that address the misconduct can be more effective at changing behavior.

Florida's 39 percent reduction in probation revocations is largely due to the elimination of the "zero tolerance" policy and the creation of graduated sanctions for technical violations such as the Alternative Sanctions Program. However Florida is still sending thousands of individuals to prison for technical violations, defined as a non-criminal violation of supervision conditions. In 2015, nearly 3,000 CPC scoresheets were filed for a technical violation of probation.

Moreover, these technical violators are incarcerated for extended periods of time. The average time served for technical violators of conditional release, a specific type of post-prison supervision that is required for serious offenders, has more than tripled since 2007, and the time served for technical violations of other types of supervision has doubled (Figure 10).



**Figure 10. Time Served for Conditional Release Violations More Than Tripled Since 2007**

Source: CJI Analysis of Prison Release and Intake Data Provided by the Florida Department of Corrections

### Incorporate rewards and incentives

Historically, probation and parole supervision was focused on surveillance in order to catch negative or criminal behavior. Many departments have shifted to a case management approach, where the officer works to help the probationer succeed rather than serving as merely an enforcer of conditions. The effectiveness of this relationship is supported by research showing that the use of incentives and rewards can have a greater effect on motivating and sustaining behavior change than using sanctions alone.<sup>31</sup> For example, one powerful incentive is offering earned discharge opportunities that encourage offenders to comply with their conditions of supervision and complete treatment and educational programs in exchange for a reduction in the period of time spent on supervision. At least 15 states have implemented earned discharge policies, resulting in reduced caseloads and better public safety outcomes.<sup>32</sup>

In Florida, individuals on community supervision are not eligible to earn credits to reduce their supervision term for completing programming, maintaining employment, and complying with the conditions of supervision.

### Integrate treatment into surveillance

Lastly, research shows that a combination of supervision and treatment focused on an individual's criminogenic needs, those personal characteristics such as antisocial attitudes and substance abuse that increase the likelihood of re-offense, is more effective at reducing recidivism than surveillance alone.<sup>33</sup>

In Florida, the availability of treatment resources in the community largely depends on where the person was arrested. Many of the counties that send people to prison at the highest rates have little or no access to drug courts (see Figure 7). Additionally, only eight counties have detoxification centers and less than 36 percent of the counties provide transitional housing, which is a vital component to gaining stability in the community.<sup>34</sup>

# POLICY RECOMMENDATIONS

CJI's analysis of Florida's criminal justice system revealed, not only is the prison population approximately 10,000 inmates above current staffing capacity but it will begin to grow again over the next few years. Although Florida has made substantial progress in decreasing the number of people it sends to prison, it has enacted policies that lengthen the time inmates are serving. This has produced a stacking effect where people are not leaving prison at the same rate that they are entering inevitably resulting in population growth. And as the Florida prison population grows, it ages and an aging prison population comes with significant medical needs and costs.

With research showing that longer prison sentences have little impact on crime reduction or recidivism, and with evidence from and momentum in other states that are passing laws and implementing policies to safely reduce their prison populations while investing in community-based alternatives, Florida is poised to alter its criminal justice landscape. In doing so, Florida can ensure its most expensive response to crime, a prison bed, is reserved for its dangerous and violent offenders and less expensive alternatives are available for nonviolent offenders, especially those with addiction and mental health needs. The following data-driven, evidence-based recommendations are submitted to help guide Florida's policy-making process toward a more fair, just and safe criminal justice system.

The following policy recommendations are designed to:

- Focus prison and jail resources on serious and violent offenders;
- Strengthen alternatives to incarceration;
- Improve community supervision practices; and
- Ensure the sustainability of criminal justice reforms.

## Focus prison and jail resources on serious and violent offenders

### Recommendation 1: Reclassify drug possession

Research demonstrates that for many low-level, nonviolent offenses incarceration is no more effective at reducing recidivism than non-custodial sanctions like probation, and that individuals sentenced to incarceration have the same or higher rates of future criminal behavior.<sup>35</sup> As important, chronic drug possession offenders often have significant treatment needs which, unless addressed effectively, will continue to drive criminal behavior. The research on substance abuse and mental health treatment is clear – the most effective treatment occurs in the environment in which the person lives rather than while incarcerated.<sup>36</sup>

In 2016, there were nearly 2,000 new court commitments to prison for third degree felony drug possession. New court commitments include both newly sentenced offenders as well as probation revocations. These individuals serve an average sentence of just under two years. While Florida has made significant reductions in both drug arrests and drug felony filings, the flow of possession offenders into prison continues to have a significant impact on the overall population. For instance, there are still

more people sentenced to prison for a possession offense than for a drug trafficking offense (929 compared to 892 for trafficking).

Other states' response to similar issues:

Tennessee, Utah, and Iowa have made the first and second convictions for simple possession of all substances including heroin, cocaine and methamphetamine a misdemeanor. Oklahoma and West Virginia have reclassified all simple possession offenses as misdemeanors irrespective of criminal history.<sup>37</sup>

*Recommendations:*

- a. Reclassifying drug possession from a third degree felony to a first degree misdemeanor for at least the first and second conviction.
  - i. Make pretrial diversion for the first offense a presumption and authorize the dismissal of the case with a successful outcome.
  - ii. Make the second and third misdemeanor convictions presumptive probation sentences with appropriate supervision and treatment based on a risk and needs assessment. Allow the presumption to be lifted if the individual has been convicted of a violent, sex, or domestic violence offense within five years preceding the current possession conviction.
  - iii. Make the fourth and subsequent convictions a felony offense with a sentence of no more than 24 months.

Drug Possession	Penalty
1 <sup>st</sup> offense	1 <sup>st</sup> Degree Misdemeanor, presumptive pretrial diversion
2 <sup>nd</sup> and 3 <sup>rd</sup> offense	1 <sup>st</sup> Degree Misdemeanor, presumptive probation
4 <sup>th</sup> or Subsequent Conviction	3 <sup>rd</sup> Degree felony with a sentence of no more than 24 months. 3 <sup>rd</sup> Degree possession offenders will not be sentenced under Fla. Stat. § 921.002.

### **Recommendation 2: Narrow drug-free zone statutes**

Drug-free zone policies typically seek to expand protections of a particular vulnerable population. These often involve increasing penalties when drug-related conduct involves children or occurs near a child-centered location such as a school or daycare center. However, piecemeal policy making in many states led to expansion of these zones well beyond their original intent. Locations were added to include places where children might be rather than those primarily children-centered and the perimeter around these protected locations expanded from 100 or 300 feet to 1,000 feet or more. The result has been far more people receiving more severe penalties for the same criminal conduct, and the impact is often far greater in urban areas where these locations are more prevalent.

In Florida, the sale/manufacture/delivery of a controlled substance is generally a second degree felony with a maximum sentence of 15 years. However, if the conduct occurred within a drug-free zone, the offense is elevated to a first degree felony (second degree for schedule III or IV substances). The sentence range increases to 30 years, and in some instances requires a mandatory minimum sentence. The quantity of drugs is irrelevant and there is no requirement that the individual be aware that he or she is in proximity to the particular location or that they are selling or intending to sell to the vulnerable population protected by the zone.

Florida's drug-free zones are significantly broader than in many other states. Florida includes eleven types of locations within this enhancement and extends the zone 1,000 feet around each location.<sup>38</sup> As of October 2017, 2,315 inmates were serving time for a violation of a drug-free zone offense. Forty-five percent of those inmates were convicted of being within 1,000 feet of either a convenience store or place of worship, both drug-free zones, neither of which appear to be targeted areas for children as the law initially intended.

Other states' response to similar issues:

Utah removed locations such as parks, shopping malls, sports facilities, arenas, and movie theatres from the list of drug-free zone locations and reduced the zone surrounding the location from 1,000 feet to 100 feet.<sup>39</sup> South Carolina, amended its drug-free zone statute to require an intent by the defendant to engage in commercial drug activity within the protected location.<sup>40</sup> In a bill signed by then Governor Mike Pence, Indiana reduced their perimeter from 1,000 feet to 500 feet and eliminated public housing complexes and youth program centers from the zone list.<sup>41</sup> In the same measure, it also added the requirement that a minor must be reasonably expected to be present when the underlying drug offense occurs.

*Recommendations:*

- a. Remove locations within the enumerated list that are not exclusively or primarily focused on a vulnerable population.
- b. Require an intent to commit the offense in the designated zone or that the conduct occurred within the presence of a minor.

**Recommendation 3: Increase the felony theft threshold**

At \$300, Florida has one of the lowest felony thresholds for property offenses in the country. Thus the threshold for becoming a felon is far lower in Florida than in most states in the country leading to a much larger group of people experiencing the collateral consequences of a felony conviction. Florida last raised its felony threshold in 1986, from \$100 to \$300 dollars. Nearly 1,000 individuals were admitted to prison in 2016 for a third degree felony theft conviction serving an average sentence of 25 months. Research has found that raising the felony theft threshold has no impact on overall property crime or larceny rates.<sup>42</sup>

Other states' response to similar issues:

Since 2000, over 37 states have raised their felony theft thresholds.<sup>43</sup>

State	Current Threshold	Raised From
Texas	\$2,500	\$1,500
South Carolina	\$2,000	\$1,000
Kansas	\$1,500	\$1,000
Alabama	\$1,500	\$500
Georgia	\$1,500	\$500
Louisiana	\$750	\$500

*Recommendations:*

- a. Adjusting the threshold for third degree felony theft offenses from \$300 to \$1,500.
- b. Remove repeat petit theft offenders from the felony offense.
- c. Remove theft from eligibility for habitual offender enhancements.
- d. Create a threshold amount for dealing in stolen property in the second degree.

**Recommendation 4: Expand access to alternatives to incarceration**

Despite recent progress, Florida continues to send a high number of people to prison for nonviolent offenses including those having no violent crime convictions in their past. In 2016, just under two-thirds (63 percent) of Florida prison admissions were for a nonviolent offense and just under half (48 percent) of new court commitments to prison had no current or prior violent offenses on their record. While a number of alternatives to incarceration exist for nonviolent offenders, many have strict limitations on eligibility. This leaves a large number of nonviolent offenders excluded from the type of alternative sentence that is most effective in protecting public safety and reducing recidivism. Several counties have implemented local diversion programs to more effectively address nonviolent offenders but these are target misdemeanor offenders.<sup>44</sup>

This effect is illustrated in the data showing that counties without specialty courts are sending more individuals to prison than those with these resources available (see Figure 7 above). As of 2015, there were 30 counties without a drug court. For the remaining counties with an adult drug court, there is wide variation in eligibility criteria with no state-wide requirements and no standardized tool to determine substance abuse needs and the appropriate treatment protocol.

*Recommendations:*

- a. Expand eligibility for pretrial intervention, prison diversion, drug court, and drug probation to expand access to more individuals. Eligibility should be based on the needs of the individual not solely on the classification of the offense.
  - a. Raise the point total for a non-state prison presumption sentence from 22 to 44 points and apply the presumption to all nonviolent felony offenses

- b. Expand availability of the Prison Diversion Program (Fla. Stat. §921.00241).
- c. Expand eligibility for drug probation and drug court (Fla. Stat. §948.20) by removing point value cap.
- b. Expand judicial discretion to include consideration of substance abuse as a mitigating factor for downward departure pursuant to Fla. Stat. §921.0026.
- c. Require those who score under 22 points be sentenced to probation rather than a non-state prison presumption.
- d. Require that every county have access a specialty court for eligible defendants
- e. Require the Office of the State Courts Administrator (OSCA) to establish standardized eligibility criteria, based on a risk and needs assessment, for each type of specialty court.

### **Recommendation 5: Revise the Criminal Punishment Code to focus on the severity of the primary offense and reduce the breadth and impact of other factors that increase the likelihood of a longer prison sentence**

In Florida, length of stay has increased 18 percent and sentence lengths for newly sentenced offenders have increased 22 percent over the past decade. This increase in length of stay and sentence lengths is partially driven by the Criminal Punishment Code (CPC). The CPC was established in 1997 and expanded the range of defendants who could receive a prison sentence. Under the CPC any felony conviction can result in an incarceration sentence and while there is a minimum sentence that must be imposed, there is no limit on the length of the sentence other than the statutory maximum.

The CPC scoresheet counts certain factors, such as failure to appear, that have little or no proven relationship to an individual's risk of reoffending and are not commonly used by other states. Additionally, the CPC scoresheet double-counts other factors such as supervision status and supervision violations. The effect of the accumulation and compounding of these factors results in higher scores and, consequently, longer lengths of stay in prison.

#### Other states' response to similar issues:

Most states using a similar sentencing guidelines formula focus on the offender's criminal history and the severity of the current offense, the combination of which results in a recommended sentencing range with a maximum sentence well below the maximum statutory sentence. Florida appears to be an outlier with a CPC range that includes the maximum authorized sentence.

In response to increasing lengths of stay, Utah reformed its sentencing guidelines by reducing sentence ranges in the guidelines grid, decreasing point values for criminal history elements, and eliminating double-counting of factors such as prior supervision, residential placement, and failure to report.<sup>45</sup> North Carolina reformed its sentencing grid by reducing the point ranges for prior record level and by changing the minimum sentence durations for certain felonies so that they grow by a standard 15 percent increment across the grid within a particular offense class.<sup>46</sup> Minnesota revised its sentencing guidelines by reducing the severity score for first and second degree drug offenses and creating a separate guidelines sheet for drug offense.<sup>47</sup>

*Recommendations:*

- a. Reconsider the CPC in its entirety and focus sentencing on factors relevant to the severity of the offense and the history of criminal conduct, or
- b. Adjust the existing CPC process and consider the following:
  - 1) Establish a recommended sentence range where the maximum sentence is a percentage of the maximum statutory sentence.
  - 2) Reduce offense severity level point values by 4 points so that a level 1 offense would add 0 points to the scoresheet.
  - 3) Raise mandatory prison threshold from 44 to 64.
  - 4) Raise presumptive non-state prison sanction to 44.
  - 5) Revise calculation that creates lowest permissible sentence by reducing the points deducted and the percentage multiplier.
  - 6) Eliminate redundant and irrelevant factors such as legal status points and community sanctions violations.
    - i. Remove failure to appear as a basis for legal status points.
    - ii. Reduce point values for technical violations from 6 to 3 and cap successive multiplications.
  - 7) Revise scoring to focus less on criminal history elements by:
    - i. Imposing a five year look back period instead of 10 for prior record offenses
    - ii. Only add points for violent prior offenses (forcible felonies pursuant to Fla. Stat §776.08)
    - iii. Prohibit any offense that received a non-state prison sanction from counting towards prior record score
    - iv. Allow points to be subtracted from the total for program completion, extended employment, more than five years without an arrest or conviction and other positive accomplishments.
  - 8) Restrict upward departure from the lowest permissible sentence to 25 percent unless certain aggravating factors are present.
  - 9) Create mechanism for which an upward departure is appealable.

### **Recommendation 6: Reduce the impact of mandatory minimum sentences on sentence lengths, enabling access to effective treatment**

In addition to the influence of the CPC on increasing sentence lengths, mandatory minimum sentences have increased sentences and the amount of time served while eliminating the discretion of a judge to determine the most appropriate sentence. Florida has approximately 108 mandatory minimum offenses, 47 of which are for drug offenses.<sup>48</sup> Almost 36,000 Florida prisoners were sentenced with an enhancement or mandatory minimum sentence, up 19 percent from 2007. Holding all else equal, having a primary offense that carries a mandatory minimum adds 11 months to an offender's sentence.

Research has demonstrated that longer time spent in prison is not associated with lower recidivism and long sentences may be adding significant costs to the taxpayer with very little or no improvement on public safety.

Other states' response to similar issues:

New York, Oregon, and Maryland have revised their mandatory minimum laws by providing judicial discretion to achieve such goal. New York reduced determinate sentence terms for certain repeat drug offenders and created a judicial diversion program for nearly all felony drug offenders.<sup>49</sup> In Oregon, mandatory minimum sentences for certain drug offenders with multiple convictions were eliminated. Maryland eliminated mandatory minimum sentences for all commercial drug offenses except high volume dealers and drug kingpins.<sup>50</sup> Additionally, Maryland made third and subsequent commercial drug offenders eligible for parole after serving 50 percent of their sentence.<sup>51</sup>

*Recommendations:*

- a. Eliminate mandatory minimum sentences for drug offenses, or
- b. Allow the mandatory minimum sentence be imposed only when the judge determines it is necessary for the protection of the public.
- c. Create a safety valve where the judge can impose a sentence of no less than 25 percent of the mandatory term if certain criteria such as no injury results, the defendant is not the leader of a criminal syndicate, etc., are met.

### **Recommendation 7: Revise habitual offender statutes to focus the most severe punishments on violent offenders**

Habitual offender statutes are intended to increase the punishment for individuals with prior, similar criminal convictions. Florida currently has five habitual offender statutes. Each increase penalties for a second or subsequent felony, often to a sentence of life in prison. While the current law distinguishes repeat felony offenders who have a prior violent conviction from those with a prior nonviolent conviction, it does not differentiate between those who have a current nonviolent conviction from a current violent conviction.

Property offenders are the most likely to be sentenced under the habitual felony offender enhancement. Property offenders admitted to prison under this enhancement in 2016 received a 90-month sentence, 131 percent higher, on average, than the 39-month sentence for non-habitual property offenders. This is the largest proportional difference in sentence length for any offense type.

Other states' response to similar issues:

Delaware modified its habitual offender laws by increasing the number of prior convictions for certain offenses before a defendant would be classified as a habitual offender.<sup>52</sup> Louisiana revised its habitual offender laws to focus on violent felony offenders by shortening the look-back period to five years for nonviolent previous offenses and 10 years for a violent crime.<sup>53</sup>



*Recommendations:*

- a. Revise habitual felony offender statutes so that penalties for nonviolent habitual conduct are not as severe as violent habitual conduct.
- b. Exclude specific nonviolent offenses from being enhanced under the habitual felony offender statute similar to the drug possession exception.
- c. Prohibit any offense that received a non-state prison sanction from counting towards the prior record score.

**Recommendation 8: Reserve 85 percent sentence requirements for violent offenses**

One of the major drivers of Florida's static prison population is the requirement that all felony offenders serve 85 percent of their sentence. Moreover, some of these individuals are required to serve 100 percent of their sentence. Research has demonstrated that longer time in prison is not correlated with reduced recidivism.<sup>54</sup> In fact, research indicates that more exposure to incarceration has a criminogenic effect on low-level offenders resulting in an increased likelihood of recidivism.<sup>55</sup> Additionally, an 85 percent requirement impacts the correctional administration's ability to use early release rewards as an incentive for good conduct and completion of programs and treatment.

Other states' response to similar issues:

Although many states have 85 percent laws, they typically require only those convicted of serious violent offenses to serve 85 percent of the sentence. In Oklahoma, there are 22 offenses for which an individual is required to serve 85 percent of his or her sentence.<sup>56</sup> In Kentucky, only specified violent offenders are required to serve 85 percent of their sentences. The list in Kentucky includes 13 offenses.<sup>57</sup> Tennessee requires offenses that result in death or significant bodily harm such as murder, aggravated robbery, and aggravated child neglect or endangerment to serve 85 percent of the sentence.<sup>58</sup>

*Recommendations:*

- a. Statutorily amend the 85 percent requirement to apply only to those offenders who are convicted of forcible felonies, as defined in Fla. Stat. §776.08, or enumerated in the habitual violent felony offender statute Fla. Stat. §775.084.
- b. Create a mechanism for current inmates who are serving a sentence for a nonviolent offense and who meet certain eligibility criteria, such as having a good disciplinary record, and engaging in rehabilitative programming, to petition the court to waive or reduce the 85 percent requirement.
  - 1) Allow sentences no longer required to serve 85 percent to receive good conduct credits that reduce the time served to 50 percent or less.
- c. Authorize the sentencing judge to waive or reduce 85 percent requirement if there is a minimal public safety benefit or it is in the interests of justice and allow the remainder of the sentence to be served under community supervision.

## Improve and enhance release and reentry practices

### Recommendation 9: Implement a specialty release option for long-term, geriatric inmates

In Florida, the population of inmates over age 50 increased 65 percent from 2007 to 2016 and this population is serving sentences far longer than younger inmates. The over-50 population are serving, on average, 313 month sentences while those under-50 age group are serving sentences of 184 months, on average.

Researchers have consistently found that age is one of the most significant predictors of criminality.<sup>59</sup> Studies on parolee recidivism have found that the probability of parole violations decreases with age, with older parolees the least likely to be re-incarcerated.<sup>60</sup> While their propensity to crime declines compared to their younger peers, older inmates have higher incidences of serious health conditions, leading to much greater medical costs. Due to these increased needs, prisons across the nation spend roughly two to three times more to incarcerate geriatric individuals than their younger counterparts.<sup>61</sup>

#### Other states' response to similar issues:

Many states with reactive and inflexible release policies are recognizing that elderly inmates, having served significant terms of incarceration and aged out of criminal behavior, should have an opportunity to be transferred to community supervision where their management and medical needs can be more efficiently addressed. Louisiana allows offenders who are over 45 and who have served 20 years of at least a 30-year sentence to be automatically eligible for parole.<sup>62</sup> Virginia offenders who are over age 60 and have served at least 10 years or offenders who are over age 65 years who have served at least 5 years of their sentence, are eligible for conditional geriatric release.<sup>63</sup>

#### *Recommendations:*

- a. Establish a geriatric release policy that allows inmates to become eligible for transfer to the community at age 60, after serving either 50 percent of their sentence or at least 10 years:
  - i. May exclude felony sex offenses or require a longer period of time served; and
  - ii. May exclude violent felony offenses or require a longer period of time served.
- b. Apply geriatric release retroactively to eligible, nonviolent inmates.

### Recommendation 10: Expand the current conditional medical release option for inmates physically incapable of being a danger to society

Under Florida law, the Florida Commission on Offender Review (FCOR) has authority to release an inmate who FDC doctors have determined is “terminally ill” or “permanently incapacitated” on conditional medical release supervision. These terms are defined as having a condition whereby “death is imminent” or physical impairment is “irreversible,” both to the extent that the inmate is not a danger to themselves or others.<sup>64</sup> The criteria are fairly restrictive and excludes those who have serious debilitating health conditions but may not be considered terminally ill or irreversibly impaired and only a small number of inmates are released under this policy. The security and medical needs of the remainder of this population is extremely costly to the prison system. In FY 2015, the FDC spent over \$366 million dollars on health care for inmates.<sup>65</sup>

Other states' responses to similar issues:

Mississippi modified its conditional medical release policy to consider not only the medical condition of the inmate, but also whether further incarceration would serve a rehabilitative purpose, and if the state would incur unreasonable expense as a result of the inmate's continued incarceration.<sup>66</sup> The Federal Sentencing Commission revised its compassionate release guidelines to include a new "non-terminal illness" category that encompasses individuals who are suffering from a serious condition, including a functional or cognitive impairment, or experiencing deteriorating health because of the aging process that "substantially diminishes their ability to provide self-care within a correctional facility." Previously it required a terminal illness.<sup>67</sup>

*Recommendations:*

- a. Expand eligibility criteria to allow inmates with serious medical issues to be considered for medical release as follows:
  - "Inmate with a debilitating illness," means an inmate who is determined to be suffering from a significant and permanent terminal or nonterminal condition, disease, or syndrome that has rendered the inmate so physically or cognitively debilitated or incapacitated as to create a reasonable probability that he or she does not present a danger to society.
- b. Alter the medical release process to:
  - i. Expand the list of individuals who may request an inmate to be considered for medical release.
  - ii. Once a written request for medical release including proof of debilitated medical condition and the appropriateness of release is received, the Commission shall make a final decision within 30 business days.
  - iii. Require the Commission, if medical release is denied, to make a finding as to the reason for the denial.

### **Recommendation 11: Expand availability of prison credit options to incentivize inmates to participate in programming from the start of their prison sentence**

Under current law, the only way for inmates to reduce the time they serve in prison is through "gain time."<sup>68</sup> Inmates are permitted to accrue gain time in an amount of 10 days per month. They may earn one-time allotments of gain time for educational achievements and meritorious deeds (up to 60 days) but are not permitted to apply gain time to the mandatory portion of a sentence. Many inmates convicted of certain offenses are ineligible to earn gain time and therefore must serve 100 percent of the sentence.

In no case can gain time reduce the sentence below the 85 percent threshold. This requirement creates little incentive for inmates to engage in programming or treatment services.

Other states' responses to similar issues:

In Louisiana, all inmates who are sentenced to a fixed number of years in prison can earn time off their prison term. Individuals serving nonviolent offenses can earn 13 days of good time credits for every seven spent in custody and those with violent offenses can earn one day for every three.<sup>69</sup> In Mississippi, individuals can earn 4.5 days for every month of good conduct as well as 30 days credit each for participating in rehabilitation programs.<sup>70</sup> Individuals in the federal system serving a term of imprisonment of more than one year and less than life in prison are eligible to earn good time credits.<sup>71</sup>

*Recommendations:*

- a. Permit individuals serving nonviolent offenses with mandatory terms to apply gain time to the mandatory portion of the sentence.
- b. Allow individuals not serving a life sentence or a death sentence to be eligible for gain time.
- c. Allow individuals serving nonviolent offenses to reduce prison time below 85 percent through earned gain time and serve the remainder of the sentence under community supervision or in a community release center.

## Strengthen community supervision

### **Recommendation 12: Establish policies and practices proven to reduce recidivism**

In the last several decades, the body of research on what works to reduce recidivism has grown significantly. States that have shifted resources to policies and practices adhering to this research have realized a greater public safety return on their criminal justice investments.<sup>72</sup> The foundational principle of this research is the use of risk and needs assessments and the use of assessment results to guide supervision and treatment decisions. Similarly, studies on behavior change have found that responding to violations with immediacy, certainty, and proportionality interrupts negative behavior more effectively than delayed, random, and severe sanctions.<sup>73</sup>

Over the last 10 years, FDC has made significant progress in how it supervises individuals in its custody and under its supervision. It uses risk assessments, has eliminated the “zero tolerance policy,” and has begun to incorporate graduated sanctions into supervision practice. However, opportunities exist to expand and improve upon these methods. For instance, graduated sanctions are only authorized in statute for drug offender probation, and the Alternative Sanctions Program is voluntary, with only 9 circuits participating in 2016.

*Recommendations:*

- a. Implement a system wide policy to assess the risk of recidivism and the criminogenic needs of individuals being supervised in the community to ensure that supervision decisions are based on the risk to reoffend and treatment decisions are based on the characteristics driving this risk.
- b. Establish officer training and supervision guidelines that incorporate practices proven to reduce recidivism.

- c. Develop a behavior response policy that swiftly, with certainty and proportionality reinforces positive conduct and interrupts negative behavior.

### **Recommendation 13: Establish the use of earned credits for those under community supervision**

Research has found that offender behavior is more effectively changed when rewards are utilized at a higher rate than sanctions.<sup>74</sup> Earned compliance credits have been established in many states to incentivize compliance with supervision conditions and participation in rehabilitation programs. These credits, which are used to reduce a probationer's period of supervision, can provide a powerful incentive to obtain and retain employment as well as remain drug- and alcohol-free.<sup>75</sup> As compliant individuals earn their way off of supervision, officers can focus their efforts on higher-risk individuals who require more intensive supervision.

Currently, Florida has no earned compliance system for supervision. FDC has the authority to terminate supervision at any time so long as the supervisee has performed satisfactorily, has not violated the terms of supervision, and has met all financial obligations imposed by the court.<sup>76</sup> However, the Administrative Code imposes further restrictions such as requiring the supervisee to serve half of their supervision period and obtain approval from the State's Attorney and the victim.<sup>77</sup>

#### Other states' response to similar issues:

In South Dakota, individuals on parole and probation can earn 30 days for each calendar month of compliance.<sup>78</sup> In Mississippi, all individuals on probation, parole, or post-release supervision are eligible to receive earned discharge credits equal to the number of days in the month of compliant behavior. No types of offenses are prohibited.<sup>79</sup> Under Kentucky law, individuals on parole may receive 30 days of compliance credits per month if he or she fulfills the terms of the case plan, has no new arrests, and makes required payment towards restitution.<sup>80</sup>

#### *Recommendations:*

- a. Establish a system of earned compliance credits for individuals on supervision who are complying with the conditions of their supervision and engaged in programming that addresses criminogenic needs.
- b. Apply earned compliance credits to all types of community supervision imposed as part of a felony sentence.

## Sustainability of criminal justice reforms

### **Recommendation 15: Establish an oversight body to monitor performance measures and implementation of reforms**

An oversight body is essential to ensuring the tracking and evaluation of any systemic effort to change the criminal justice system. States around the country have established oversight bodies to examine performance data, troubleshoot issues that arise during the implementation phase, and identify changes that might improve or strengthen the new policies.

#### Other states' response to similar issues:

The Georgia Council on Criminal Justice Reform was established as part of the criminal justice reforms enacted during the 2013 legislative session to conduct periodic comprehensive reviews of issues related to criminal justice and accountability.<sup>81</sup> South Carolina's reform initiative created the Sentencing Reform Oversight Committee, responsible for monitoring the performance of the reforms.<sup>82</sup> As part of its reform legislation, Mississippi charged a bipartisan, inter-branch oversight council with monitoring and evaluating implementation of its reforms. The law requires the Mississippi Department of Corrections, the Parole Board, and the Administrative Office of the Courts to collect key outcome measures and provide annual reports to the Oversight Council.<sup>83</sup>

#### *Recommendations:*

- a. Establish an oversight body to monitor performance measures and the implementation of policy changes to ensure objectives are being met and to evaluate the need for further reform efforts.
- b. Require key agencies to collect and report performance measurement data to track and evaluate the implementation of the reforms included in this report.

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- <sup>2</sup> The Crime and Justice Institute (2017). *An Examination of Florida's Prison Population Trends*. Retrieved from <http://www.crj.org/assets/2017/08/FL-state-report.pdf>.
- <sup>3</sup> <http://www.crj.org/assets/2017/08/FL-state-report.pdf>
- <sup>4</sup> The Florida Senate Interim Project Report 2006-112, *Review of the Criminal Punishment Code and Sentencing Judges' Assessment*, November 2005; The Sentencing Project. Trends in U.S. Corrections. June 2017. <https://sentencingproject.org/wp-content/uploads/2016/01/Trends-in-US-Corrections.pdf>.
- <sup>5</sup> Office of Economic and Demographic Research, Florida Criminal Justice Estimating Conference, February 2017.
- <sup>6</sup> Florida Department of Corrections, 2015-2016, Annual Report
- <sup>7</sup> Bureau of Justice Statistics (2016), "Prisoners in 2015", <http://www.bjs.gov/content/pub/pdf/p15.pdf>.
- <sup>8</sup> Federal Bureau of Investigation, Uniform Crime Reports, UCR Data Tool, accessed at <http://www.ucrdatatool.gov/Search/Crime/State/StateCrime.cfm>
- <sup>9</sup> William Spelman, "The Limited Importance of Prison Expansion," *The Crime Drop in America*, eds. Alfred Blumstein and Joel Wallman (Cambridge University Press, 2000), 97-129; Steven D. Levitt, "Understanding Why Crime Fell in the 1990s: Four Factors that Explain the Decline and Six That Do Not," *Journal of Economic Perspectives* 18, no. 1 (Winter 2004): 163-190, <http://pricetheory.uchicago.edu/levitt/Papers/LevittUnderstandingWhyCrime2004.pdf>
- <sup>10</sup> Pew Charitable Trusts (2014), "Factors Contributing to the Crime Decline," <http://www.pewtrusts.org/en/research-and-analysis/analysis/2014/09/11/factors-contributing-to-the-crime-decline>.
- <sup>11</sup> Pew Public Safety Performance Project (2016), "National Imprisonment and Crime Rates Continue to Fall," [http://www.pewtrusts.org/~media/assets/2017/03/pspp\\_national\\_imprisonment\\_and\\_crime\\_rates\\_fall.pdf](http://www.pewtrusts.org/~media/assets/2017/03/pspp_national_imprisonment_and_crime_rates_fall.pdf)
- <sup>12</sup> Pew Safety Performance Project (2012), "Georgia Public Safety Reform," [http://www.pewtrusts.org/~media/legacy/uploadedfiles/pes\\_assets/2012/pewgeorgiasafetyreformpdf.pdf](http://www.pewtrusts.org/~media/legacy/uploadedfiles/pes_assets/2012/pewgeorgiasafetyreformpdf.pdf).
- <sup>13</sup> Federal Bureau of Investigation, Uniform Crime Reports, UCR Data Tool, accessed at <https://www.ucrdatatool.gov/Search/Crime/State/RunCrimeStatebyState.cfm>.
- <sup>14</sup> Pew Public Safety Performance Project (2015), "Public Safety in Mississippi," <http://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2014/01/14/public-safety-in-mississippi>.
- <sup>15</sup> Ibid.
- <sup>16</sup> Villettaz, Patrice, Gwladys Gilleron, and Martin Killian (2015). "The Effects on Re-Offending of Custodial vs. Non-Custodial Sanctions: An Updated Systematic Review of the State of Knowledge", <http://www.campbellcollaboration.org/lib/project/22/>; Nagin D., and Snodgrass, W. (2013), "The Effect of Incarceration on Re-Offending: Evidence from a Natural Experiment in Pennsylvania", <http://repository.cmu.edu/cgi/viewcontent.cgi?article=1407&context=heinzworks>; Daniel S. Nagin, Francis T. Cullen, and Cheryl Lero Jonson (2009), "Imprisonment and Reoffending", [http://www.jstor.org/stable/10.1086/599202?seq=1#page\\_scan\\_tab\\_contents](http://www.jstor.org/stable/10.1086/599202?seq=1#page_scan_tab_contents); Meade, B., Steiner B., Makarios M., & Travis L. (2012), "Estimating a Dose-Response Relationship Between Time Served in Prison and Recidivism", <http://jrc.sagepub.com/content/50/4/525.abstract>.
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<sup>21</sup> Spohn & Holleran (2002), "The Effect of Imprisonment on Recidivism Rates of Felony Offenders: A Focus on Drug Offenders", <http://onlinelibrary.wiley.com/doi/10.1111/j.1745-9125.2002.tb00959.x/abstract>; Nieuwebeerta, Nagin, & Blokland (2009), "Assessing the Impact of First Time Imprisonment on Offender's Subsequent Criminal Career Development: A Matched Samples Comparison", <http://link.springer.com/article/10.1007%2Fs10940-009-9069-7>,

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<sup>23</sup> Spohn & Holleran (2002), "The Effect of Imprisonment on Recidivism Rates of Felony Offenders: A Focus on Drug Offenders", <http://onlinelibrary.wiley.com/doi/10.1111/j.1745-9125.2002.tb00959.x/abstract>.

<sup>24</sup> Conference call with Florida Department of Corrections Bureau of Research and Data Analysis Chief David Ensley.

<sup>25</sup> John H. Laub and Robert J. Sampson. *Shared Beginnings, Divergent Lives*. (Cambridge, MA: Harvard University Press, 2003).

<sup>26</sup> Darrell J. Steffensmeier et al., "Age and the distribution of crime," *American Journal of Sociology*, 94(4), 803-831 (1989);

<sup>27</sup> Kim Steven Hunt and Bill Easley II, (2016), "United States Sentencing Commission Report: The Effects of Aging on Recidivism Among Federal Offenders." [https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2017/20171207\\_Recidivism-Age.pdf](https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2017/20171207_Recidivism-Age.pdf).

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<sup>29</sup> Andrews (1999), "Recidivism Is Predictable and Can Be Influenced: Using Risk Assessments to Reduce Recidivism", [http://www.csc-scc.gc.ca/research/forum/e012/12j\\_e.pdf](http://www.csc-scc.gc.ca/research/forum/e012/12j_e.pdf).

<sup>30</sup> Wodahl, Garland, Culhane & McCarty (2011), Utilizing Behavioral Interventions to Improve Supervision Outcomes in Community-based Corrections, *Criminal Justice and Behavior*, vol. 38 no. 4, pp. 386-405.

<sup>31</sup> Ibid.

<sup>32</sup> States that have earned compliance credits: Alaska, Arizona, Arkansas, Kansas, Kentucky, Georgia, Maryland, Mississippi, Missouri, Nevada, New Hampshire, Oregon, South Carolina, South Dakota, Texas, and Utah.

<sup>33</sup> Washington State Institute for Public Policy, Adult Criminal Justice "Benefit-Cost Results,"

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<sup>34</sup> Florida Department Of Corrections, Reentry Directory, <http://www.dc.state.fl.us/resourcedirectory/Search.aspx>

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<sup>36</sup> Chandler, R. K., Fletcher, B. W., & Volkow, N. D. (2009). Treating Drug Abuse and Addiction in the Criminal Justice System: Improving Public Health and Safety. *JAMA : The Journal of the American Medical Association*, 301(2), 183–190. <http://doi.org/10.1001/jama.2008.976>; National Institute of Drug Abuse (NIDA). (2012,). *Principles of Drug Addiction Treatment: A Research-Based Guide (Third Edition)*.

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<sup>38</sup> Child Care Facility, Public or Private School (6am- 12am), Public Park, Community Center, Recreation Center, College or University, Place of Worship, Religious Organization, Convenience business, Public Housing Facility, Assisted Living Facility per Fla. Stat. §893.13.

<sup>39</sup> U.C.A. 1953 § 58-37-8(4)

<sup>40</sup> Code 1976 § 44-53-445

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- <sup>43</sup> *Ibid.*
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- <sup>51</sup> 2016 Md. Laws 515, enacted May 19, 2016.
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- <sup>53</sup> 2017 La. ACT 257, enacted June 15, 2017.
- <sup>54</sup> Mears and Cochran (2017); Meade, Steiner, Makarios, and Travis (2012).
- <sup>55</sup> Spohn & Holleran (2002); Nieuwbeerta, Nagin, & Blokland (2009).
- <sup>56</sup> 21 Okl. St. § 13.1
- <sup>57</sup> KRS § 439.3401
- <sup>58</sup> Tenn. Code Ann. § 40-35-501(a)(i)
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- <sup>63</sup> Va. Code Ann. § 53.1-40.01
- <sup>64</sup> Fla. Stat. §947.149
- <sup>65</sup> Florida Department of Corrections, 2014-2015 Annual Report.
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