The significant and costly overcrowding of Florida's prisons is largely the result of policy decisions made over the past few decades. In this brief, we summarize the current criminal justice landscape and describe major trends that have increased the Florida prison population, including admissions for less serious crimes; growing sentence length and time served behind bars; and insufficient treatment, rehabilitation, and reentry services.

We then discuss the growing national trend of broad and bipartisan state criminal justice policy reform, detailing several key successes. By joining these states that have passed large-scale criminal justice reform, Florida can improve public safety, use its limited resources more efficiently, and more effectively help all Floridians succeed.

**BOX 1**

**Key Findings**

- Florida has the third-largest state prison population in the United States: almost 100,000 people.
- Florida spends more than $2 billion from the general fund annually on corrections.
- Severe overcrowding and chronic corrections worker understaffing are reducing both prison and public safety.
- More than half all admissions to Florida prisons are for a drug or property primary offense.
- The average length of time people spend incarcerated in Florida prisons has risen dramatically—166 percent between 1990 and 2009—in connection with restrictive release policies.
- More than half of all US states have enacted broad bipartisan criminal justice reform that is reaping significant cost savings, but Florida is not yet among them.
Introduction and Background

Florida relies on incarceration more than most states in the country (Kaeble et al. 2014). Several decades of tough-on-crime policy, including mandatory sentencing and the abolition of parole, have created an unsustainably large prison population. Florida’s prison population grew 12 percent between 2006 and 2016 (figure 1). This increase is attributable to policy decisions, not crime rates, which dropped for both violent (-33 percent) and property (-28 percent) offenses between 2005 and 2015.²

FIGURE 1
Florida Prison Population

Today, Florida has the third-largest state prison population in the United States, and the Florida Department of Corrections (FDC) imprisons roughly 100,000 people—more than the populations of such cities as Boca Raton, Miami Beach, or Deltona.³ Florida has the 10th-highest incarceration rate of any US state: 1 in 104 adults in Florida is in prison or jail (Kaeble et al. 2015). While many states are safely reducing their prison populations, after a slight drop the number of people imprisoned in Florida is projected to increase over the next six years if no reforms are enacted to change course (Office of Economic and Demographic Research n.d.).
Florida is paying a steep price for its oversized prison population. According to a recent National Institute of Corrections audit, FDC facilities regularly suffer from dangerous conditions for both incarcerated people and corrections workers (Savage and Savage 2015). Indeed, the FDC has been in state and national news headlines for a spate of violent incidents in its prisons associated with dangerously overcrowded conditions.4

Understaffing is a chronic problem in the FDC, and employee turnover is high throughout the staffing ranks. The National Institute of Corrections audit found that prison staffing levels routinely fall below minimum “critical” requirements as defined by the Florida Department of Corrections, creating emergency situations that undermine safety both inside and outside prison walls (Savage and Savage 2015, 15–16). Seven different secretaries have headed the FDC in the past decade. Because of low salaries and frequent turnover among corrections workers, new employees or trainees make up more than 16 percent of all state corrections officers (Savage and Savage 2015, 22).

Florida’s crowded prisons create a significant burden for taxpayers, resulting in sharply diminishing returns on investment. Between 2004 and 2014, the state’s general fund spending on corrections rose 9 percent (adjusted for inflation to 2014 dollars) to its current $2.4 billion a year (figure 3). In 2014, 9.3 percent of the state’s general fund spending was dedicated to corrections (NASBO 2015, table 34).
Despite Florida's significant investment in its corrections budget, the FDC struggles chronically to maintain its large and growing imprisoned population. Of every dollar spent on prisons in fiscal year 2015, 77 cents covered security expenses, and only 2 cents supported education and programming. Floridians pay nearly $19,000 a year on average for each person in state prison, a substantially lower amount than the roughly $30,000 national average (Henrichson and Delaney 2012, figure 4). Lawsuits sparked by the abuses and deaths of incarcerated people that are related to overcrowded prisons further stress the state's financial resources.

In addition to generating financial concerns, Florida's heavy use of incarceration has created a large population of Floridians who are prevented from fully participating in social and civic matters because of their criminal convictions. Florida law bans people with prior felony convictions from voting and from participating in a wide variety of programs, including educational grants, housing finance assistance, and certain occupational licenses.5 These bans fall unevenly across the state's population. Florida's extensive incarceration disproportionately affects black people, who made up nearly 50 percent of the state prison population but only 17 percent of the state population in 2015.6 As a result, more than one in five black people in Florida are disenfranchised (Uggen and Shannon 2012).

To identify practical approaches to making Florida's criminal justice system more effective and efficient, we must first examine the specific major trends that shape Florida's prison population: admissions for less serious offenses; increased length of stay; and insufficient treatment, rehabilitation programs, and reentry support.
Prison Population Overview

Admissions

A large proportion of the roughly 30,000 people who are newly committed to Florida prisons every year has been convicted of nonviolent offenses. Fifty-four percent of the people who entered prison in fiscal year 2016 were sentenced for a drug or property crime, and roughly 7 percent were admitted to prison for drug possession. Only 31 percent were convicted of a violent offense (figure 4). Most people entering prison have no prior history with the Florida Department of Corrections, and most are convicted of new crimes rather than returning to prison after a community supervision revocation.

FIGURE 4
Admissions to Florida Prison for New Crimes by Offense
Fiscal year 2016

Florida’s practice of admitting thousands of people convicted of nonviolent offenses each year has directly influenced the FDC’s standing prison population. As of 2016, nearly half (45 percent) of all people in Florida prisons have been convicted of a nonviolent offense, including 22 percent for property offenses and 15 percent for drug offenses. Drug sale/purchase/manufacturing, the fourth most common primary offense in the standing population, is the controlling offense for 7 percent of all people incarcerated in Florida prisons.

In addition to the people imprisoned under the jurisdiction of the Florida Department of Corrections—the primary focus of this brief—about one in three people behind bars in Florida are incarcerated locally. At any given time, more than 50,000 people are held in Florida county detention
facilities. Nearly three of every five people in Florida jails are being held before trial and therefore have not been convicted (Florida Department of Corrections Bureau of Research and Analysis 2016).

**Increased Length of Stay**

The amount of time that incarcerated people spend in prison, or length of stay, is central in determining the size of a given prison population. In Florida, “tough on crime” policy changes enacted over the past several decades have kept people behind bars longer by increasing sentence length and by requiring people to serve a larger portion of their sentences in prison. The average sentencing length for people entering Florida prisons increased 14 percent to 5.2 years in the past decade alone. A recent analysis of 34 states finds that Florida has had the most substantial increase in average length of stay, which rose 166 percent between 1990 and 2009. Time served for drug offenses grew more sharply (194 percent) during that period than length of stay for violent offenses (137 percent). The analysis finds that most of the growth stemmed from an increase in the proportion of sentence served, rather than sentence length (Pew Center on the States 2012).

Three policy choices—parole abolition, “Truth in Sentencing,” and the 10-20-life law—have substantially increased the amount of time people spend in Florida prisons:

- Many states use parole to reduce the length of time an incarcerated person spends behind bars. Florida took that option off the table when its legislature abolished parole completely in 1983. Sentencing credits are now the only way to reduce the amount of time a person spends in prison after sentencing.

- Florida’s 1995 “Truth in Sentencing” law requires that every person serve at least 85 percent of his or her sentence regardless of the primary conviction offense. As a result, opportunities for people to earn “incentive gain time” by having a satisfactory behavior record or participating in programming are capped when the credits would bring someone within 85 percent of his or her anticipated release date. Severely limiting allowable gain-time credits, especially in concert with the Florida’s ban on parole, increases the length of time people serve in prison.

- The “10-20-life” law in Florida, modified in 2016 to allow some judicial discretion in certain situations, imposes lengthy mandatory minimum sentences for the possession or use of a firearm during particular violent or drug trafficking offenses. Because the mandatory sentences are so long, people sentenced under the 10-20-life law are building up in Florida prisons—and they remain imprisoned because the reform legislation is not retroactive. The number of people serving 10-20-life sentences in Florida has more than tripled in the past decade; today one in 10 people in Florida prisons is serving a 10-20-life sentence.

Florida law includes several other severe and inflexible mandatory sentencing policies that influence length of stay. These policies include habitual and violent habitual offender laws that can be triggered even by a current nonviolent offense, mandatory minimum drug sentencing tied to weight thresholds, and three-strikes laws.
Insufficient Treatment, Rehabilitation Programs, and Reentry Support

Limited access to mental health and medical treatment, rehabilitative programming, and reentry support is a widespread issue in the FDC system that is exacerbated by the severe overcrowding. A reported 18 percent of people in Florida prisons require ongoing mental health treatment, though the numerous reports of negligence that have emerged in the past several years suggest that this figure likely understates the full prevalence of mental illness among imprisoned people. Adequate access to medical treatment is also an ongoing challenge for the FDC. Over the past decade the number of deaths of incarcerated people rose faster than the overall growth in the prison population; recent reports indicate that over half of all deaths in 2014 were not immediately explainable. 7

In addition, the Truth in Sentencing requirement that people convicted of felonies serve at least 85 percent of their sentences may reduce participation in rehabilitative treatment or programming. The hard cap on allowed gain-time credits tied to programming limits the potential incentives for incarcerated people to participate in such programs. Some recent bills (such as SB 7006 introduced in the Florida Senate in 2016) proposed to offer an incentive gain-time credit for participating in programming, but the incentivizing power of such approaches, too, is limited by the hard cap on allowable gain time.

Finally, the combination of limited resources and long sentence requirements leaves many people who are exiting prison with little to no reentry support. Florida has the highest proportion in the nation of people who “max out” after serving their entire prison sentences and are released directly to the community with no reentry support or supervision (Pew Charitable Trusts 2014). In fiscal year 2016, three in five people who were released from Florida prisons—nearly 20,000 individuals—had maxed out their sentences.

National Momentum Building for State Criminal Justice Reform

More than half of all US states have recently undertaken bipartisan action to improve their justice systems. These states are making their justice systems more fair and effective, and saving taxpayer resources, by safely reducing their prison populations. Many of these reforms address multiple pieces of state sentencing and corrections systems, and states are already reaping rewards for using a comprehensive reform approach. Examples of recent state accomplishments include the following:

- Alabama
  - Established new felony classes for low-level drug and property offenses, developed intermediate sanctions for people on community supervision, and created structured parole guidelines to improve efficiency of decisionmaking.
  - Estimated to avert $380 million in spending over six years.
Alaska
» Reduced penalties for certain controlled substance offenses, including making possession a misdemeanor. Also increased the felony theft threshold from $750 to $1,000 and set it to be adjusted to inflation every five years.
» Expected to save $380 million over 10 years.

Georgia
» Changed the sentencing structure, creating different degrees of theft, burglary, and certain drug offenses. Also established graduated sanctions for people on probation.
» Expected to avert prison growth of 5,000 people over five years.

Maryland
» Eliminated mandatory minimums for certain drug offenses. Also increased the felony theft threshold from $1,000 to $2,000.
» Forecast to save $81 million over 10 years.

Mississippi
» Modified felony theft threshold, adjusted penalties associated with drug weights, and expanded parole eligibility.
» Projected to avert $250 million in spending over 10 years.

South Carolina
» Modified the felony theft threshold, expanded good time and earned time eligibility, and established administrative sanctions for people on community supervision.
» Projected to avert over $200 million in spending over five years.

Utah
» Reduced first- and second-time drug possession from a felony to a misdemeanor. Also established earned-time provisions intended to reduce length of stay in prison.
» Projected to save more than $500 million over 20 years.

As Florida faces prison overcrowding, budget strains, and insufficient access to rehabilitation and reentry services for justice-involved populations, these states and others provide a blueprint for opportunities for reform. By joining the growing list of states that have passed broad and bipartisan criminal justice reform, Florida can improve public safety, use limited state resources more efficiently, and help all Floridians succeed.

Notes
1. Unless otherwise specified, all numbers in this brief are drawn from public data released by the Florida Department of Corrections.
3. From US Census Bureau 2015 population estimates.

4. For example, see Mary Ellen Klass, “Audit Details ‘Dangerous’ Understaffing at Florida prisons,” Miami Herald, September 22, 2015.


References


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