

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Evers, Chair
Senator Dean, Vice Chair

MEETING DATE: Wednesday, December 8, 2010
TIME: 1:30 —3:30 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

MEMBERS: Senator Evers, Chair; Senator Dean, Vice Chair; Senators Dockery, Margolis, and Smith

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	Introductions		
2	Overview of committee jurisdiction, interim projects, open government sunset reviews, and past legislation.		
	Drug Issues:		
3	Presentation by FDLE on statewide drug abuse trends.		
4	Presentation by the Office of Economic and Demographic Research on trends related to prison admissions for drug offenses and for prescription drug abuse.		
5	Presentation by OPPAGA on Report #10-54 entitled "Without Changes, Expansion of Drug Courts Unlikely to Realize Expected Cost Savings."		
	Corrections:		
6	Presentation on statewide trends: <ul style="list-style-type: none"> * the use of short sentences and cost shifting; * imprisoning felons for technical probation violations; * growth of prison population and projections for the future; * new prison commitments related to recent legislative policy changes; and * crime rates and incarceration rates. 		
7	Presentation on a historical overview of Chapter 2008-54, L.O.F., on the Correctional Policy Advisory Council.		
	Juvenile Justice:		
8	Presentation by OPPAGA on Report #10-55 entitled "Juvenile Justice Students Face Barriers to High School Graduation and Job Training."		

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Wednesday, December 8, 2010, 1:30 —3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9		Presentation(s) on legal and legislative options related to sentences of life-without-parole for juveniles convicted of non-homicide offenses (Graham v. Florida).	

Senate Criminal Justice Committee

Jurisdiction Areas

December 2010

State Agencies or Entities

Department of Law Enforcement
Department of Legal Affairs
(Division of Criminal Appeals)
Department of Corrections
Department of Juvenile Justice
Office of Executive Clemency
Parole Commission
State Attorneys and Criminal Defense
Counsel (Shared with Judiciary Committee)
Statewide Prosecutor

Subject Areas

Animal Cruelty
Bail Bonds
Clemency
Corrections
Computer Crimes
Contraband Forfeiture
Crimes Compensation Trust Fund
Criminal Appeals
Criminal Court Procedure
Criminal Penalties
Death Penalty
Discovery Depositions
DNA Analysis
Domestic Violence
Drugs
DUI/BUI
Elder Abuse and Exploitation
Evidence
Execution Methods
Fingerprinting
Firearms/Weapons
Grand Jury
Hate Crimes
HIV Testing/Inmates
Identity Theft
Insanity Defense

Other Areas of Emphasis

Capital Collateral Regional Counsel
Commission on Capital Cases
Correctional Medical Authority
Innocence Commission
Immigration Enforcement
Jails
Juvenile Justice
Law Enforcement
Money Laundering
Parole and Probation
Pornography
Pre-trial Release & Intervention
Prosecution and Criminal Defense
Prostitution
Restitution
RICO
Sealing & Expunction of Criminal History
Records
Search & Seizure
Sentencing
Sex Crimes/Sexual Predator/Notification
Laws
Sexually Violent Predators/Civil
Confinement (Jimmy Ryce)
Statute of Limitations
Theft and Fraud
Victims' Rights
White Collar Crime
Wiretapping
Wrongful Incarceration

**Senate Criminal Justice Committee
Interim Projects, Monitoring Projects, Briefs,
and Open Government Sunset Reviews
December 2010**

<p>2011-112 Interim Project <i>Evidence Preservation for Postsentencing DNA Testing - Reassessing Current Statutory Requirements in Section 925.11, F.S.</i> (Attorney: Connie Cellon)</p>
<p>2011-113 Interim Project <i>An Examination of the Need to Expunge Records of Successful Participants in Florida's Juvenile Civil Citation Programs</i> (Attorney: Donna Dugger)</p>
<p>2011-114 Interim Project <i>Youthful Offender Designation in the Department of Corrections</i> (Attorney: Scott Clodfelter)</p>
<p>2011-212 Interim Brief <i>Constitutional Prohibitions Affecting Criminal Laws</i> (Analyst: Mike Erickson)</p>
<p>2011-213 Interim Brief <i>Privatization of Prison Health Care Services</i> (Attorney: Scott Clodfelter)</p>
<p>2011 -329 Monitoring Project <i>Developments in the Federal Adam Walsh Act</i> (Analyst: Mike Erickson)</p>
<p>2011-330 Monitoring Project <i>Establishment of Innocence Commission by Supreme Court of Florida</i> (Attorney: Connie Cellon)</p>
<p>2011-331 Monitoring Project <i>Juvenile Justice Reforms and Blueprint Commission Recommendations</i> (Attorney: Donna Dugger)</p>
<p>2011-332 Monitoring Project <i>United States Supreme Court Cases Considering Constitutionality of Life Sentences for Juveniles</i> (Attorney: Scott Clodfelter)</p>
<p>Open Government Sunset Reviews: <i>Biometric Identification Information</i> <i>Concealed Weapons Permit Information</i> <i>DJJ Personnel Information</i></p>

CRIMINAL JUSTICE FIRST REFERENCE BILLS
PASSED SENATE NOT HOUSE
(2010 Session)

Bill #	Sponsor	Subject	Last Action SB	Date	House Companion	Last Action HB	Date
104	Rich	Sexual Activities Involving Animals	House, Died in Messages	4/30	Identical H 1611	House, Died in Committee on Agriculture and Natural Resources Policy	4/30
194	Joyner	Injunctions for Protection/Violations	House, Died in Messages	4/30	Identical H 309	House, Died on Calendar	4/30
212	Oelrich	Claims/Law Enforcement & Correctional Officers	House, Died in Messages	4/30	Similar H 123	House, Died on Calendar	4/30
290	Fasano	Florida Unborn Victims of Violence Act	House, Died in Messages	4/30	Compare H 141	House, Died in Committee on Public Safety and Domestic Security Policy	4/30
296	Wise	State Attorneys	House, Died in Messages	4/30	Compare H 761	House, Died in Committee on Criminal & Civil Justice Appropriations	4/30
796	Hill	Injunctions for Protection	House, Died in Messages	4/30	Compare H 1115	House, Died in Committee on Criminal & Civil Justice Appropriations	4/30
1006	Jones	Department of Juvenile Justice/Reports/Functions	House, Died in Messages	4/30	Identical H 833	House, Died in Criminal and Civil Justice Policy Council	4/30
1072	Wise	Juvenile Justice	House, Died in Returning Messages	4/30	Similar H 7181	House, Died in Returning Messages	4/30
2318	Storms	Forfeiture of Property/Racketeering	House, Died in Messages	4/30	Similar H 1289	House, Died in Committee on Criminal & Civil Justice Appropriations	4/30
2544	Joyner	Civil Citations/Minor's Nonjudicial Arrest Record	House, Died in Messages	4/30	Identical H 1497	House, Died in Criminal & Civil Justice Policy Council	4/30
2560	Aronberg	Offense of Sexting	House, Died in Messages	4/30	Similar H 1335	House, Died in Committee on Criminal & Civil Justice Appropriations	4/30
2584	Altman	Handbill Distribution	House, Died on Calendar	4/30	Similar H 7173	House, Died in Full Appropriations Council on Education and Economic Development	4/30

Statewide Drug Trend Overview

Presented by the
Florida Department of Law Enforcement
Office of Statewide Intelligence
Special Agent Supervisor Jeff Beasley



December 8, 2010

Major Drugs & Drug Trends





Marijuana



- Most commonly abused illicit drug
- Active ingredient-Tetrahydrocannabinol (THC)
- Over 80M Americans have used the drug at least once in their life, this is a significant increase from the 1970's
- 14.8M, age 12 & older use on a monthly basis
- Political attempts for legalization

Florida Marijuana Source Trends

Domestic Marijuana

Outdoor Grow – Generally small in size and produce relatively low grade material that will be consumed locally.

Indoor Grow – Generally more organized producing high grade material that can be sold to local markets or shipped to other areas for distribution.

Imported Marijuana

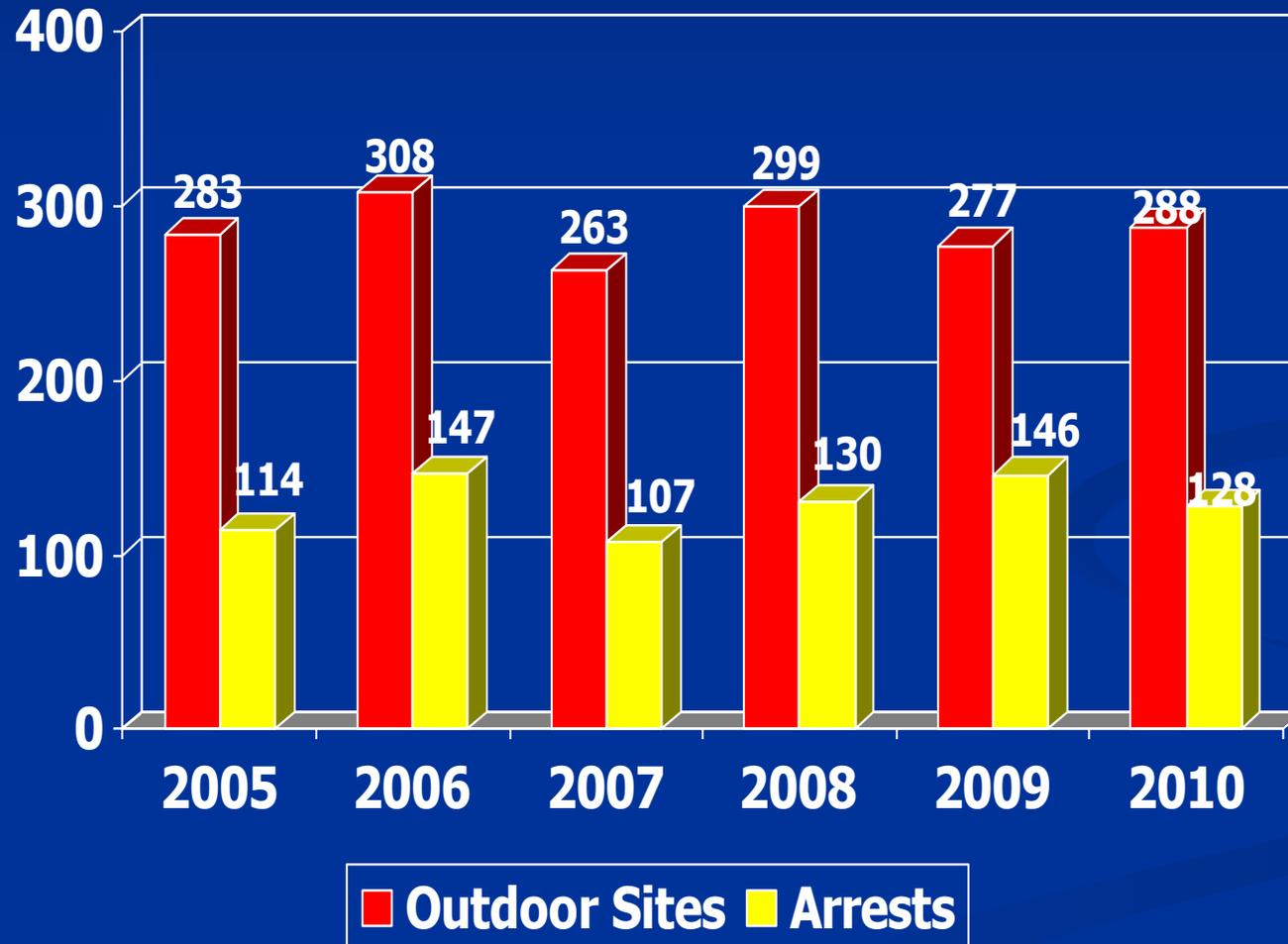
Mexican/ Caribbean outdoor grown marijuana generally similar in quality to domestic outdoor grown marijuana. Very competitive because of price. Widely available statewide.

Canadian indoor grown marijuana. Generally considered high quality but, is usually more expensive and availability varies statewide.

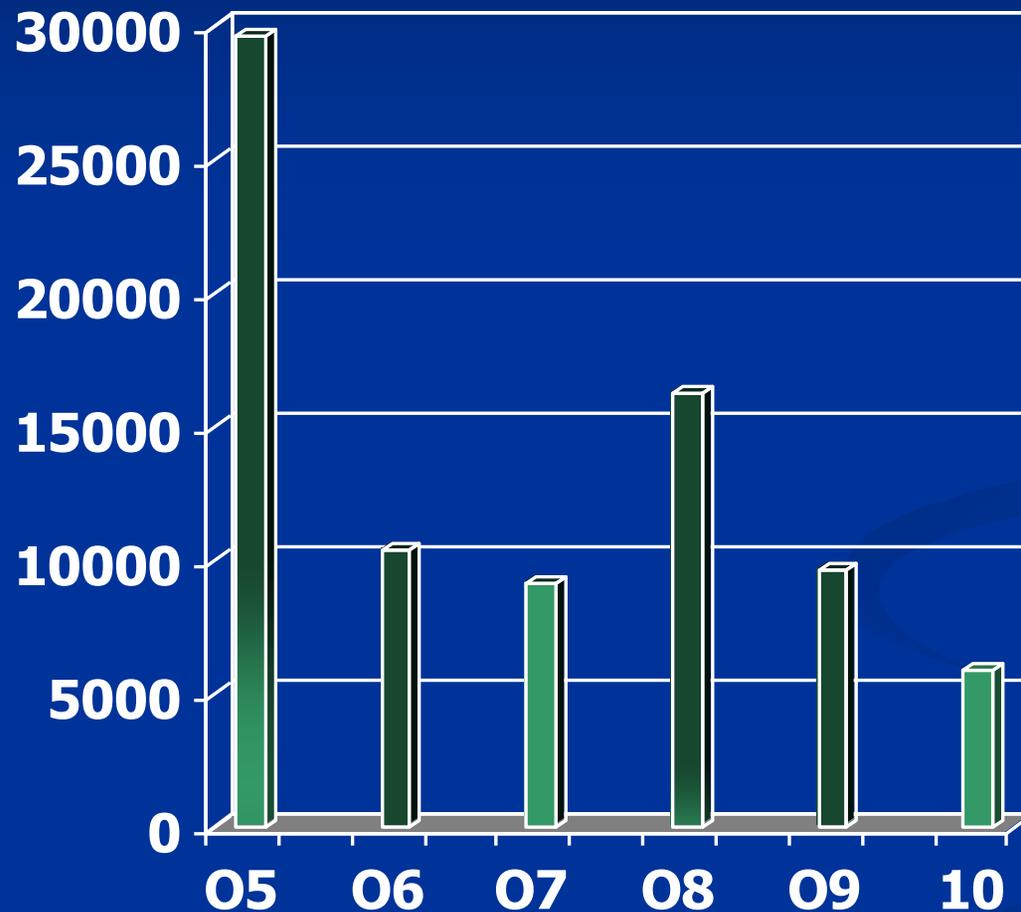
Outdoor Grow Operations



Domestic Marijuana Eradication Program / Outdoor Investigations



Domestic Marijuana Eradicated Outdoor Plants



Outdoor Marijuana Grow Trends

- Generally found in rural parts of the state.
- Outdoor grow sites continue to be clandestine in nature and involve few individuals.
- Outdoor grows are labor intensive and are not cash generators because of heavy competition from imported marijuana.

Indoor Marijuana Grow Houses





Indoor Marijuana Grow House Trends



- Continue to increase in sophistication.
- Predominately discovered in urban/metropolitan areas.
- Increase in public safety concerns because of increased electrical/fire hazards.
- Multiple grow house operations have been identified with Cuban Drug Trafficking Organizations (DTO)s.
- According to DEA (Miami), the price of high quality indoor domestic marijuana is 3 to 6 times that of outdoor marijuana.



Cocaine



- Cocaine continues to be imported into Florida by interstate transport, sea, and air. (Inter-agency estimates 1250-1450 MT for 2010)
- Demand is relatively stable, however, availability has been an issue and was recently reflected in pricing with purchases around \$22,000-\$30,000 per kilo in parts of the state.
- Noticeable increase in demand throughout Europe and Africa.

Coca Growing Regions

Despite negligible coca production, Ecuador has become an unwitting haven for drug smugglers and guerrillas



Colombia is the largest producer of coca and opium poppies in the Americas.

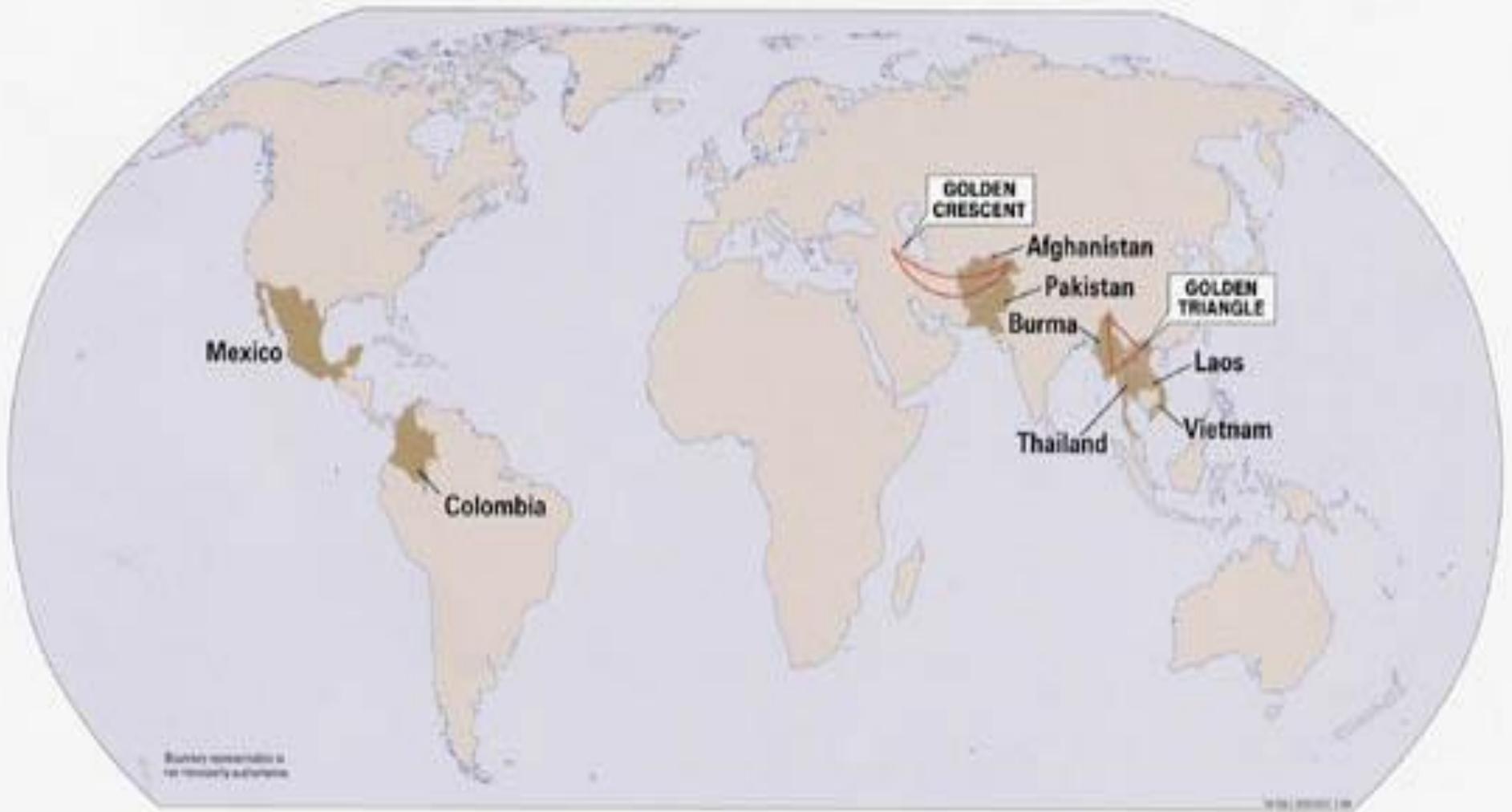


Heroin



- Continue to see a demand on the national level.
- The 2006 National Survey on Drug Use and Health reported there were 338,000 current users in 2006 as compared to 136,000 current users in 2005. The 2007 report indicated no statistical change in this trend.
- Heroin use appears to be increasing in Florida. While the availability is still limited to certain areas, agencies are reporting a resurgence in local demand.
- Primarily produced from poppy in Afghanistan but increasing competition from Columbian and Mexican heroin has added additional supplies of heroin to the market.

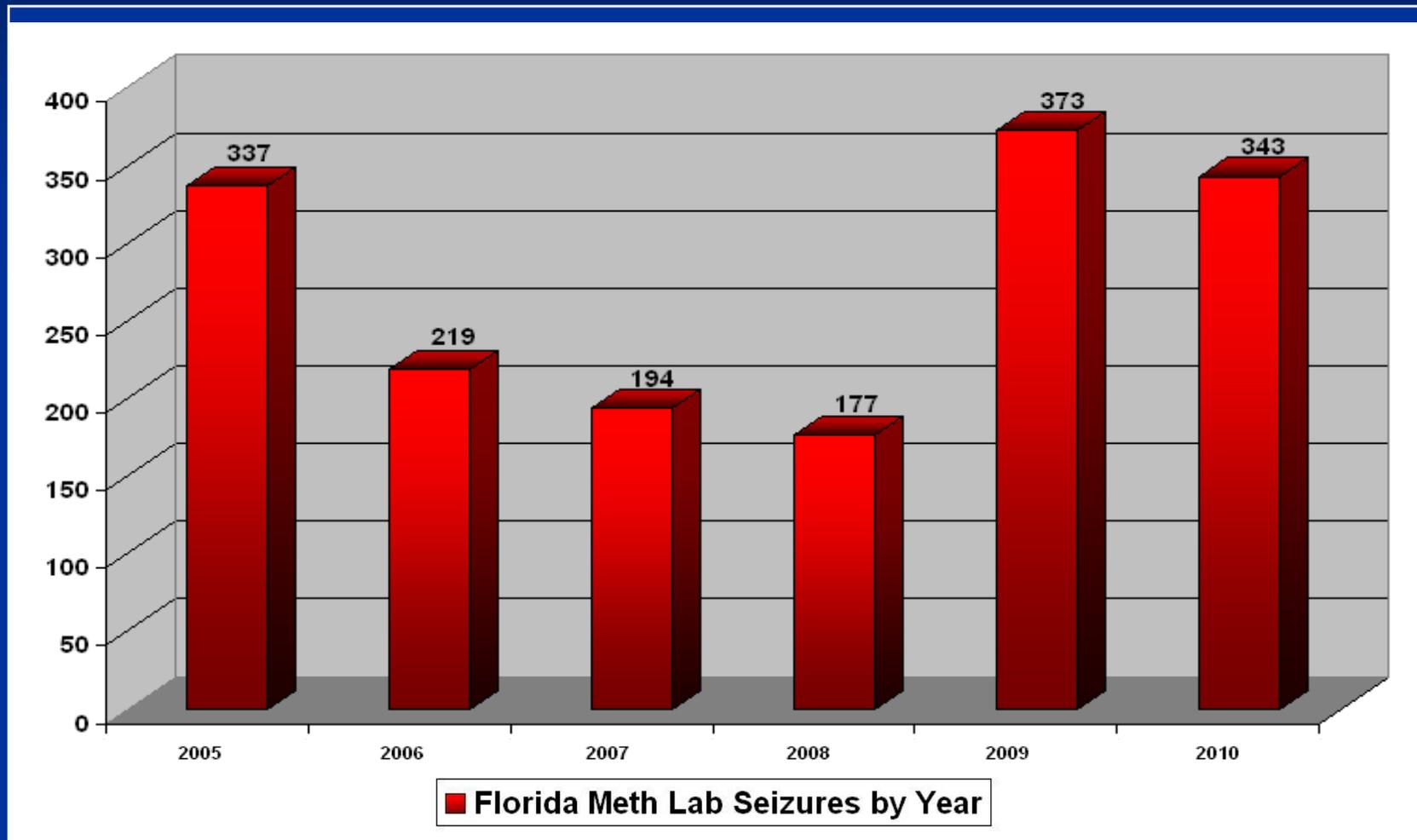
Poppy Growing Regions



Meth



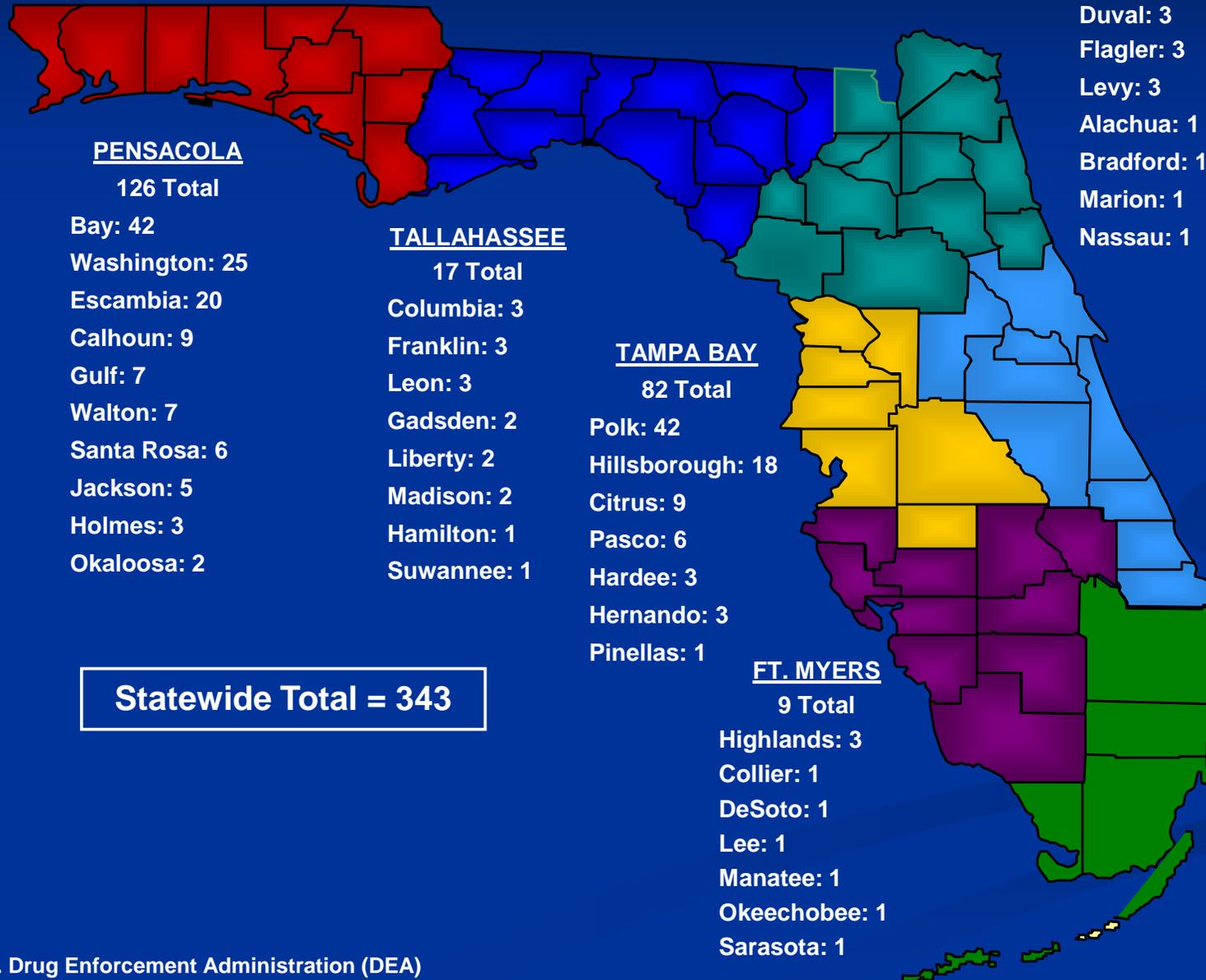
Meth Lab Seizure Trends



Source: Drug Enforcement Administration
2010 – Jan. 1 – Sept. 30

Clandestine Methamphetamine Laboratory Seizures

January 1, 2010 to September 30, 2010



PENSACOLA

126 Total

- Bay: 42
- Washington: 25
- Escambia: 20
- Calhoun: 9
- Gulf: 7
- Walton: 7
- Santa Rosa: 6
- Jackson: 5
- Holmes: 3
- Ocala: 2

TALLAHASSEE

17 Total

- Columbia: 3
- Franklin: 3
- Leon: 3
- Gadsden: 2
- Liberty: 2
- Madison: 2
- Hamilton: 1
- Suwannee: 1

TAMPA BAY

82 Total

- Polk: 42
- Hillsborough: 18
- Citrus: 9
- Pasco: 6
- Hardee: 3
- Hernando: 3
- Pinellas: 1

FT. MYERS

9 Total

- Highlands: 3
- Collier: 1
- DeSoto: 1
- Lee: 1
- Manatee: 1
- Okeechobee: 1
- Sarasota: 1

JACKSONVILLE

40 Total

- Clay: 12
- Putnam: 9
- St. Johns: 6
- Duval: 3
- Flagler: 3
- Levy: 3
- Alachua: 1
- Bradford: 1
- Marion: 1
- Nassau: 1

ORLANDO

67 Total

- Lake: 26
- Volusia: 13
- Orange: 9
- Brevard: 8
- Osceola: 8
- Seminole: 2
- St. Lucie: 1

MIAMI

2 Total

- Broward: 1
- Dade: 1

Statewide Total = 343

Clandestine Meth Lab Trends

- Increase in overall statewide numbers of seized labs. (Surge in “One Pot” method)
- Lab size has remained relatively the same. (Produce only a few ounces per cook)
- Continue to see mixture of anhydrous ammonia and Red P (Iodine lab) around the state.
- Meth cooks are forced to use multiple individuals to maintain supply of ephedrine.
- Concentration of meth labs in certain geographic portions of the state.

Pharmaceutical Drugs



Pharmaceutical Drug Issues

- Many users believe there is less risk for an overdose.
- Often easier to obtain than illicit drugs
- Can be cheaper than illicit drugs
- Less risk of detection and arrest
- Few agencies work long-term investigation nor do many have significant resources to deal with the problem.
- Difficult to deter pharmaceutical drug diversion.

Common Types of Diversion

- Manufacturer/Supply Chain
- Wholesaler/Grey Market
- Patient addicts
- Patient profit seekers
- Health care professional addicts
- Health care professional profit seekers
- Organized drug trafficking organizations

Patient Diversion

- Doctor “shopping”
- Intentional infliction of injury
- Fraudulent phone in prescriptions
- Stolen prescription pads
- Forged prescriptions
- Altered prescriptions
- Theft
- Robbery



2010 Medical Examiner's Interim Report



Florida Medical Examiners

- 24 ME Districts in Florida
- Responsible for unattended deaths
- Many cases require the use of toxicology screening
- ME Commission issues a mid and full year report on toxicology trends
- Report tracks numerous drugs
- Drug list has expanded as abuse has changed

Medical Examiners specifically collected information on these drugs:

- Ethyl Alcohol
- Methamphetamines
- MDA
- Alprazolam
- Flunitrazepam (Rohypnol)
- Cannabinoids
- Cocaine
- Inhalants
- Fentanyl
- Hydrocodone
- Meperidine
- Morphine
- Propoxyphene
- Phencyclidine (PCP)
- Amphetamines
- MDMA (Ecstasy)
- MDEA
- Diazepam
- other Benzodiazepines
- Carisoprodol/Meprobamate
- GHB
- Ketamine
- Heroin
- Hydromorphone
- Methadone
- Oxycodone
- Tramadol

2010 Medical Examiner's Interim Report

- The Office of Vital Statistics reported approximately 89,800 deaths during the first six months of 2010.
- The ME Report indicated 4,150 of the deaths were deemed drug-related.
- The majority of the deaths involved the use of more than one drug.
- Four most frequently occurring drugs found were:
 - Ethyl Alcohol (1,831)
 - All Benzodiazepines (1,700)
 - Cocaine (603)
 - Oxycodone (1,117)

2010 Medical Examiner's Interim Report Cont.

- **Drugs that were found to cause the most deaths.**
 - Cocaine (250)
 - Methadone (336)
 - All Benzodiazepines (597) - includes 439 deaths caused by Alprazolam).
 - Oxycodone (715)
 - Ethyl Alcohol (270)

2010 Medical Examiner's Interim Report Highlights

- Occurrences of Oxycodone and Hydrocodone increased during the first half of 2010 by 10.9% & 4.1% respectively when compared to the last half of 2009.
- Methadone occurrences decreased by 4.1% and deaths caused by Methadone decreased by 1.2% compared to 2009.
- Cocaine occurrences decreased by 15.8%.
- Heroin occurrences decreased by 40% and deaths decreased by 40.5% when compared to the last half of '09.

New Concerns

“Synthetic Marijuana”

- Brand names: Spice & K2 – Generally plant material which has been coated or sprayed with a variety of synthetic cannabinoids. (Not for human consumption)
- Substances of concern: JWH-018, JWH-073, HU-210 (Federally Scheduled), & CP 47,497. (Hundreds of synthetic Cannabinoids.)
- Available on the internet, in local smoke shops, and some convenience stores.
- Has been open source reporting about abuse and illness related to the use of the products.
- November 2010, the Drug Enforcement Administration concluded an emergency scheduling of synthetic of several cannabinoids as a schedule I substance.

“Cheese”

The New Face of Heroin



+



=



Black Tar Heroin

Tylenol PM or generic

“Cheese”

What is “Cheese”?



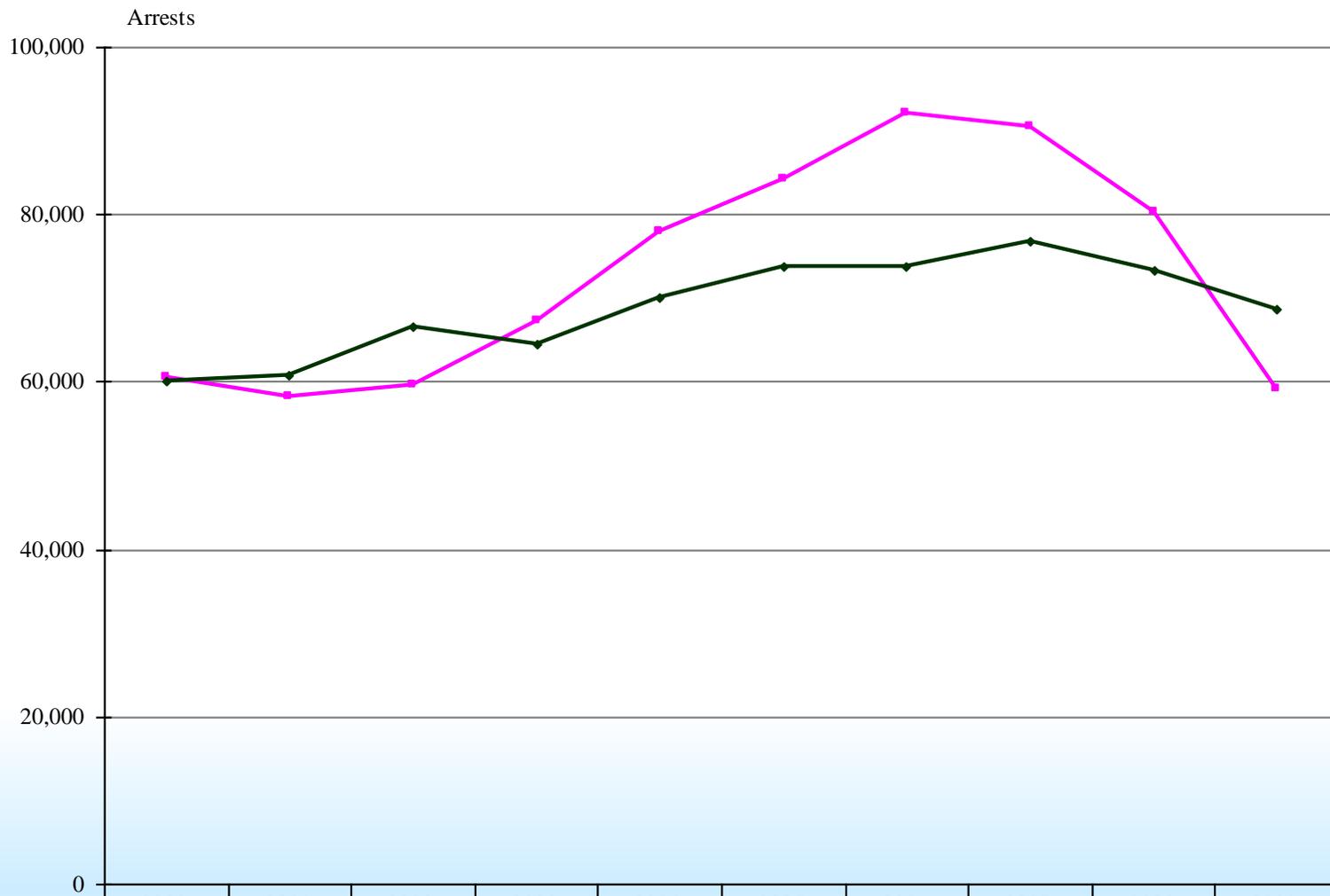
- Black tar heroin combined with crushed Tylenol PM tablets
- Highly Addictive and very dangerous
- Tan-colored powder usually snorted through the nose with a tube, straw, or small ballpoint pen
- Packaged in a small paper bindle or zip lock baggie
- Can be bought for as little as \$2
- Popular among Hispanic juveniles, both male & female
- Cheese, Chees, Cheez, Chez, Chz, Queso, Keso, Kso...(look for these in text messages on cell phones)



Statewide Drug Arrest Information



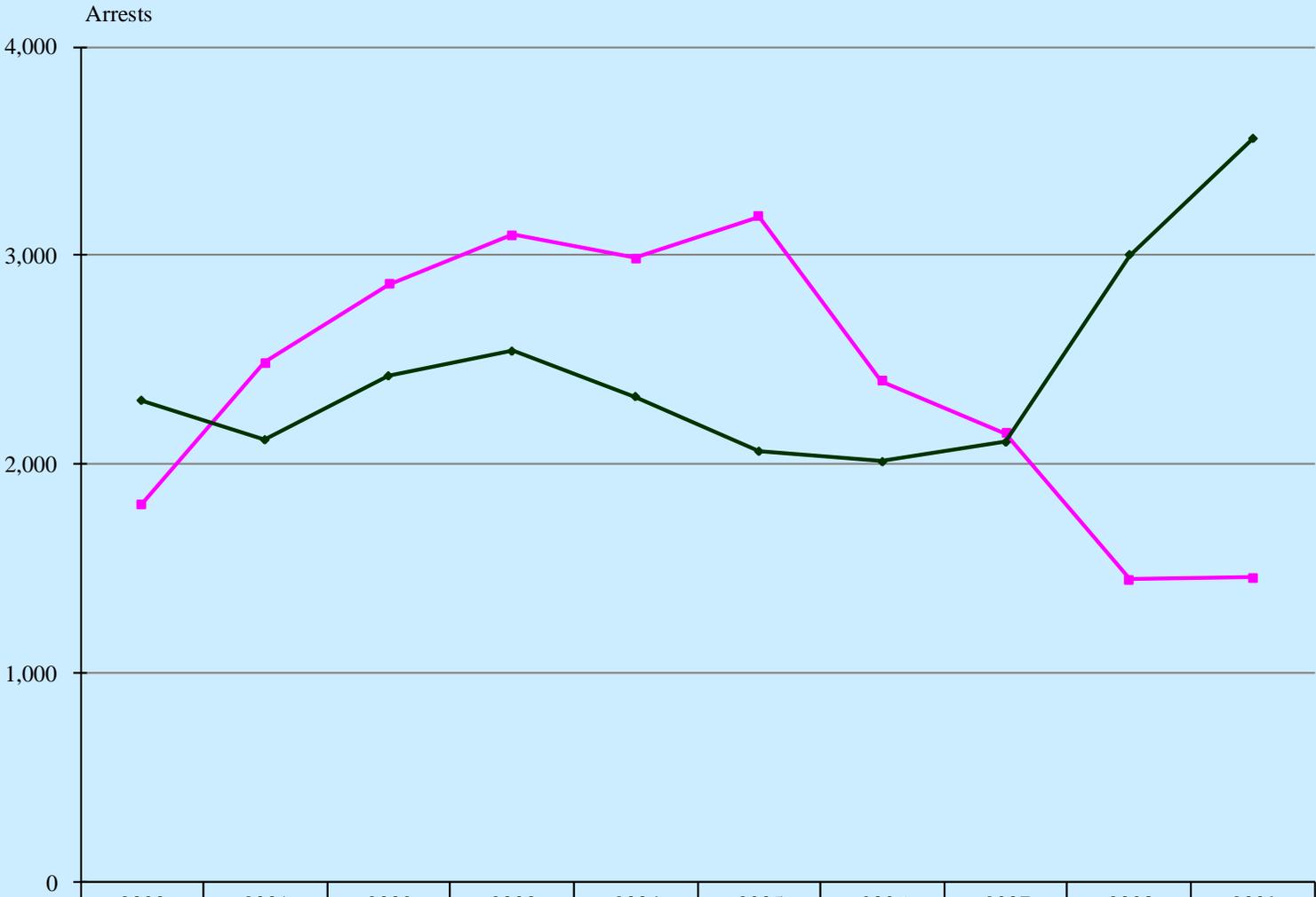
Total Florida Drug Arrests for Cocaine and Marijuana, 2000 - 2009



	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
— COCAINE	60,505	58,332	59,673	67,219	78,027	84,325	92,062	90,579	80,391	59,170
— MARIJUANA	60,148	60,831	66,702	64,524	70,036	73,709	73,687	76,828	73,316	68,644

Data Notes: Florida's Computerized Criminal History (CCH) files as of December 1, 2010 were used to compile this chart to illustrate trends by specific drug type.

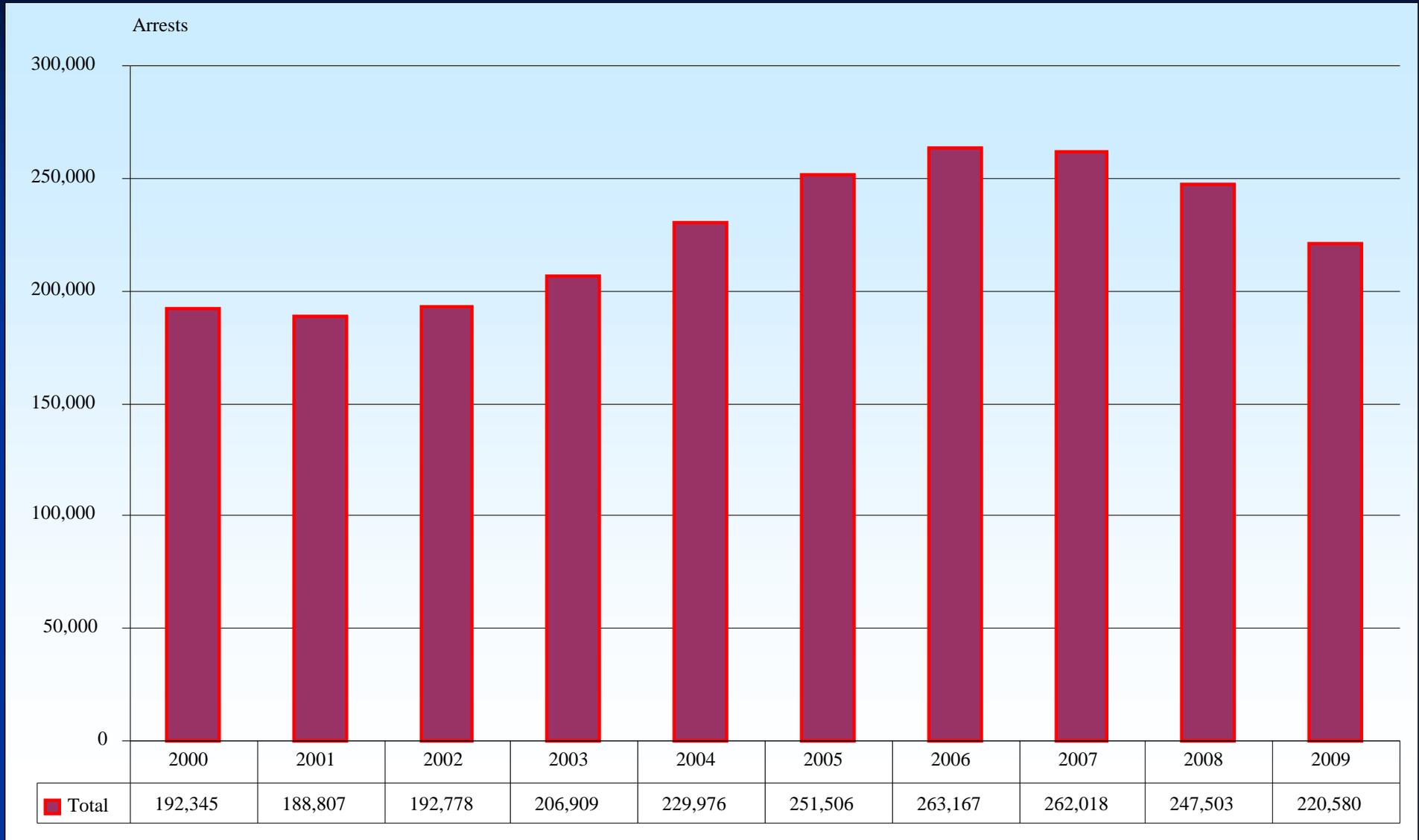
Total Florida Drug Arrests for Heroin and Amphetamines, 2000 - 2009



	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
AMPHETAMINE	1,807	2,484	2,860	3,097	2,988	3,187	2,398	2,149	1,446	1,455
HEROIN	2,306	2,117	2,423	2,541	2,324	2,062	2,012	2,106	3,003	3,559

Data Notes: Florida's Computerized Criminal History (CCH) files as of December 1, 2010 were used to compile this chart to illustrate trends by specific drug type.

Total Florida Drug Arrests, 2000 - 2009



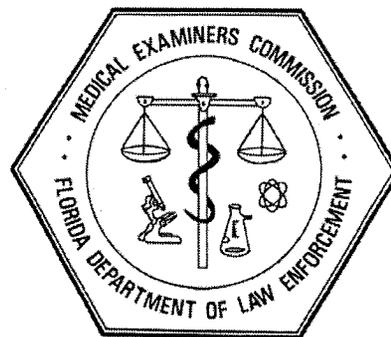
Data Notes: Florida's Computerized Criminal History (CCH) files as of December 1, 2010 were used to compile this chart depicting the total volume of drug arrests by year.

Questions?



Drugs Identified in Deceased Persons by Florida Medical Examiners

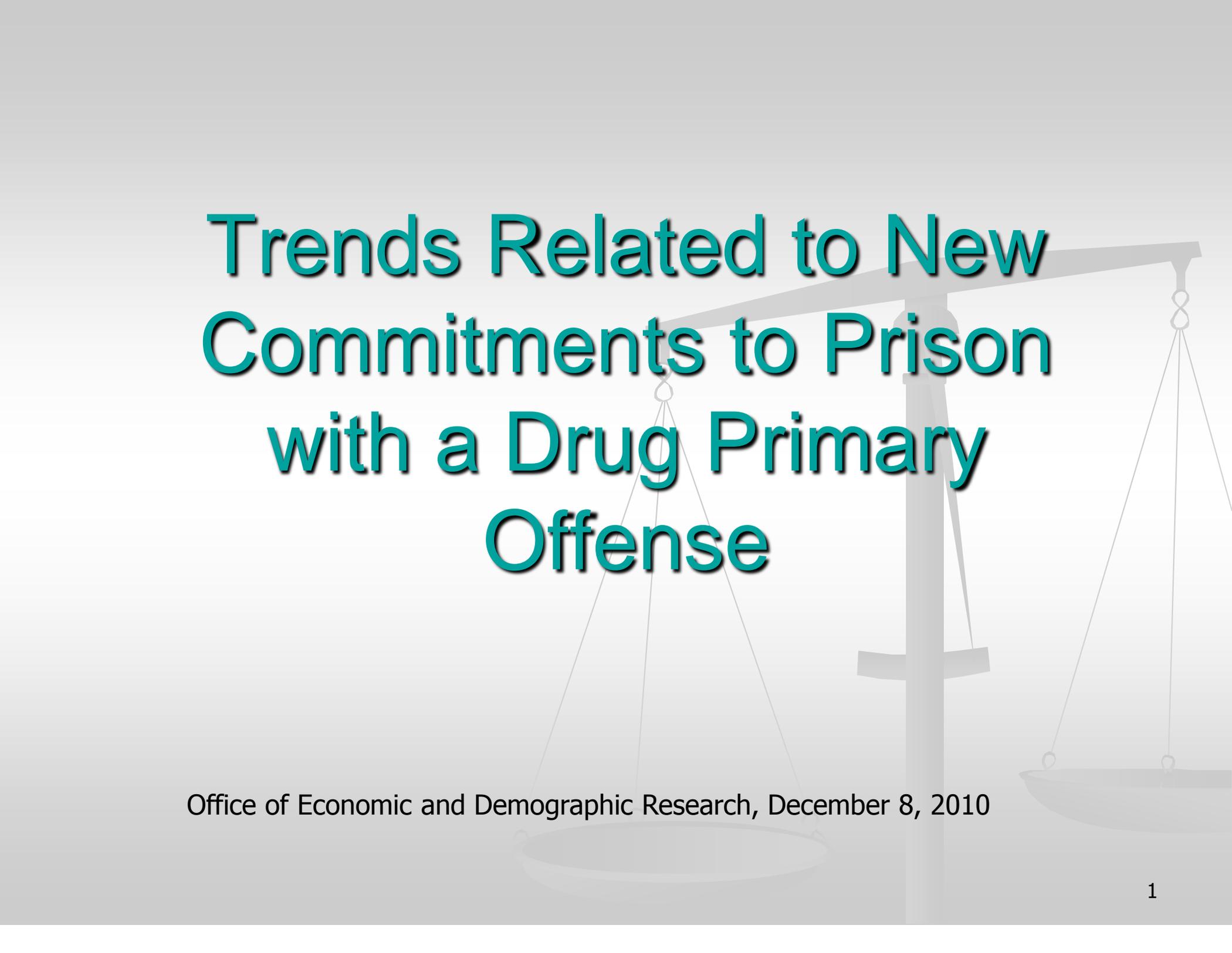
2010 Interim Report



Report Summary

Some general statewide trends for the first half of 2010 (January – June) are listed below.

- ✓ The four most frequently occurring drugs found in decedents were Ethyl Alcohol (1,831), all Benzodiazepines (1,700 including 986 Alprazolam occurrences), Oxycodone (1,117), and Cocaine (603).
- ✓ The drugs that caused the most deaths were Oxycodone (715), all Benzodiazepines (597 – includes 439 deaths caused by Alprazolam), Methadone (336), Ethyl Alcohol (270), and Cocaine (250).
- ✓ The four drugs where more than 50% of the deaths in which these drugs were found were caused by Heroin (83.3%), Methadone (75.5%), Oxycodone (64.0%) and Fentanyl (52.5%).
- ✓ The prescription drugs (Benzodiazepines, Carisoprodol/Meprobamate, Zolpidem, and all Opioids excluding Heroin) tracked through this report continued to be found more often than illicit drugs in both lethal (87%) and non-lethal (78%) levels. Prescription drugs account for 81% of all drug occurrences in this report when Ethyl Alcohol is excluded.
- ✓ Occurrences of Oxycodone (10.9%) and Hydrocodone (4.1%) increased when compared with the last six months of 2009. Also, deaths caused by Oxycodone (63 more than July-December 2009) and Hydrocodone (10 more than July-December 2009) increased.
- ✓ Heroin continues to be the most lethal drug named in this report. However, occurrences of Heroin have decreased by 40% and deaths caused by Heroin decreased by 40.5% when compared with the last six months of 2009.
- ✓ Methadone occurrences decreased by 4.1% and deaths caused by Methadone also decreased by 1.2%.
- ✓ Cocaine occurrences declined by 15.8% and deaths caused by Cocaine decreased by 11.3%.
- ✓ Alprazolam (Xanax) and Diazepam (Valium) dominate the Benzodiazepines category. Occurrences of Alprazolam increased by 1.0% and Diazepam decreased by 4.4% when compared with the last six months of 2009.
- ✓ Occurrences of Carisoprodol/Meprobamate (10.6%), all Methylated Amphetamine cases (11.0%), and Zolpidem (19.6%) increased when compared to July-December 2009.
- ✓ 2,579 individuals died with one or more prescription drugs in their system. The drugs were at both lethal and non-lethal levels. These drugs may have also been mixed with illicit drugs and alcohol.
- ✓ 1,268 individuals died with at least one prescription drug in their system that was, in the opinion of the medical examiner, the cause of death. These drugs may have been mixed with other prescription drugs, illicit drugs, and/or alcohol.



Trends Related to New Commitments to Prison with a Drug Primary Offense

Office of Economic and Demographic Research, December 8, 2010

New Commitments

Offenders sentenced by the court to

- **Prison**

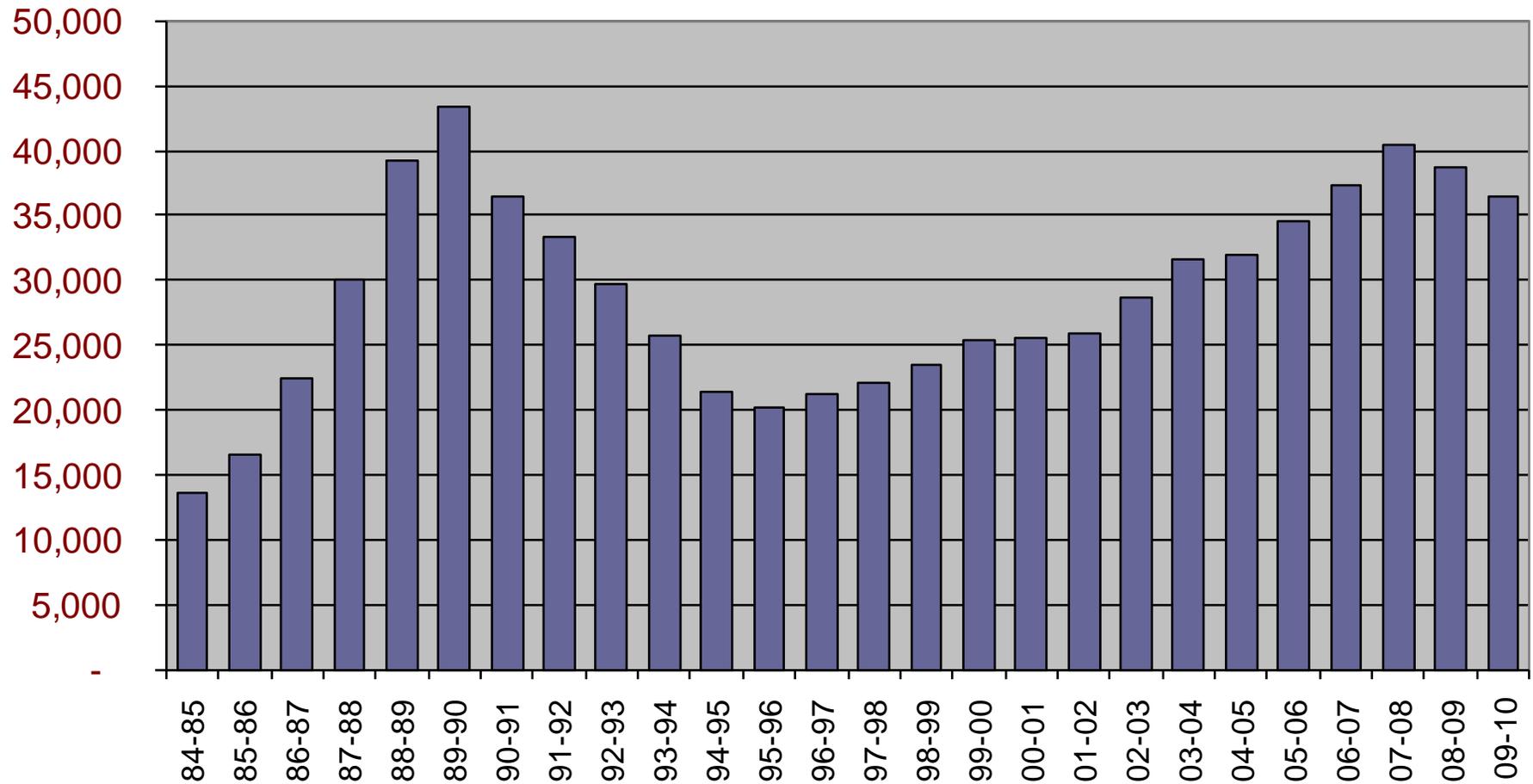
For—

- **Felony offense(s)**

- **366 days or more**

**Prison “admissions” include some offenders
in addition to new commitments**

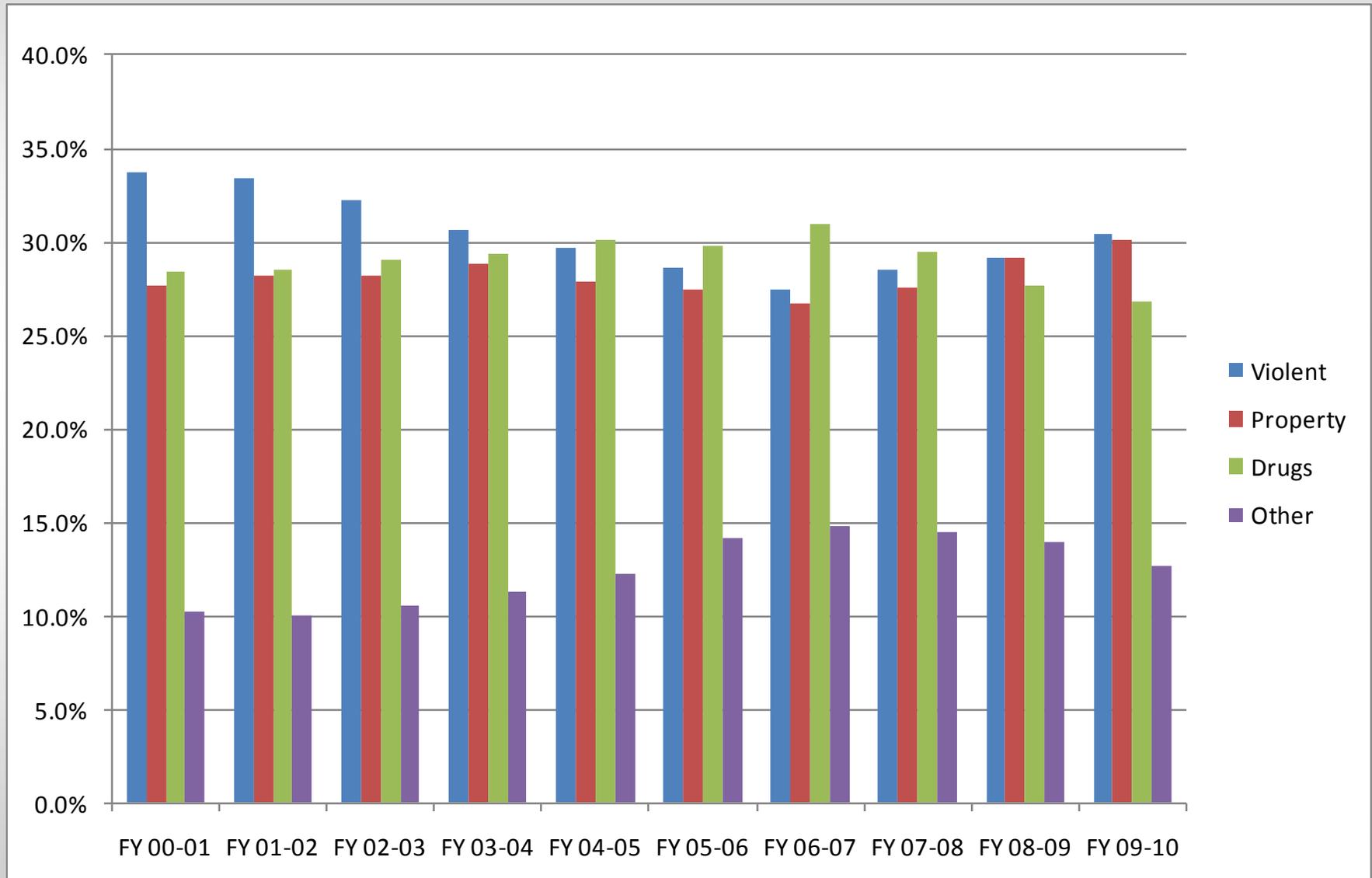
New Commitments



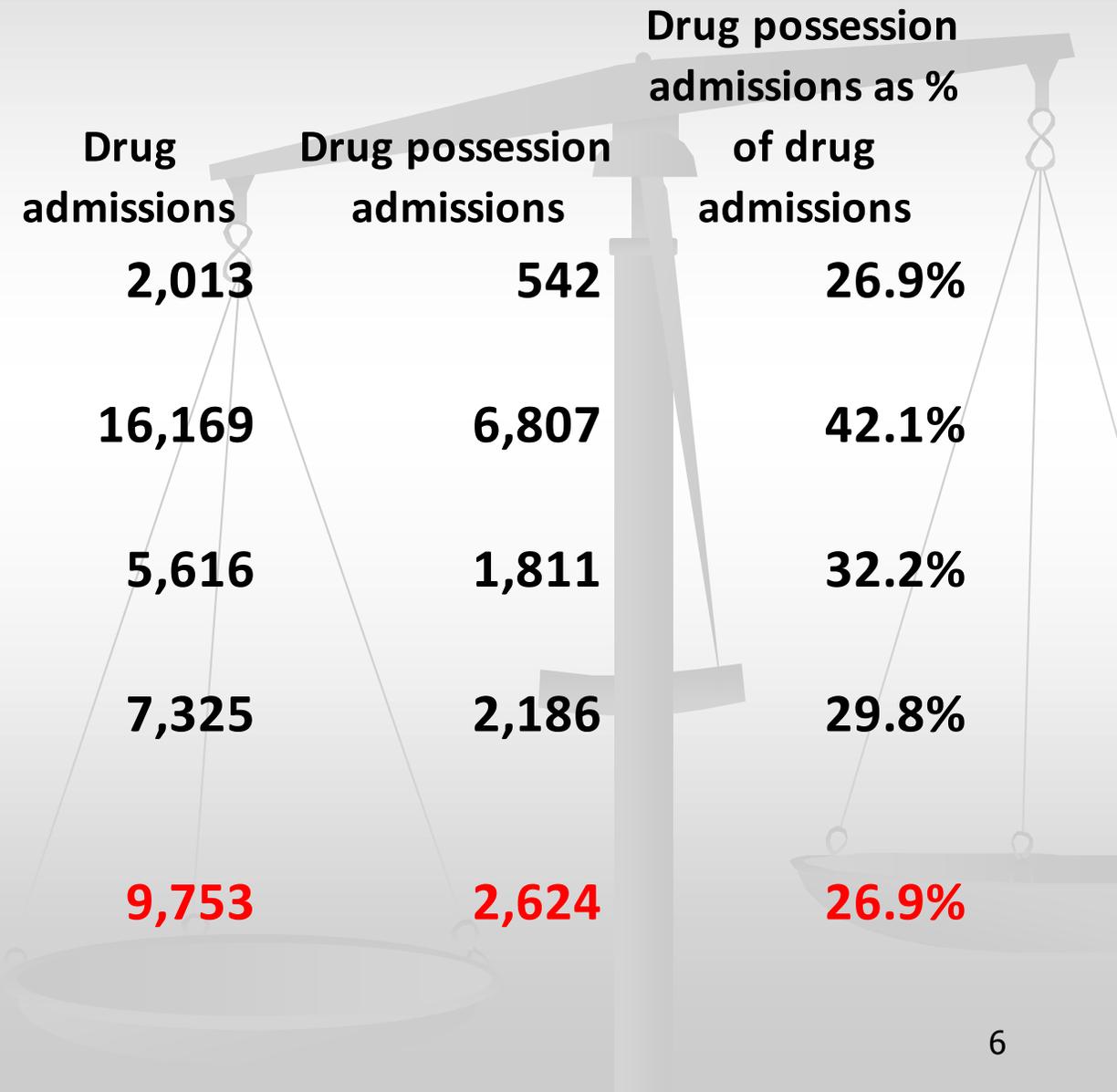
Recent new commitment trends

	Number	Percent
FY 99-00	25,379	8.3%
FY 00-01	25,525	0.6%
FY 01-02	25,854	1.3%
FY 02-03	28,658	10.8%
FY 03-04	31,638	10.4%
FY 04-05	31,964	1.0%
FY 05-06	34,546	8.1%
FY 06-07	37,299	8.0%
FY 07-08	40,491	8.6%
FY 08-09	38,735	-4.3%
FY 09-10	36,447	-5.9%

New Commitments to Prison by Primary Offense Type

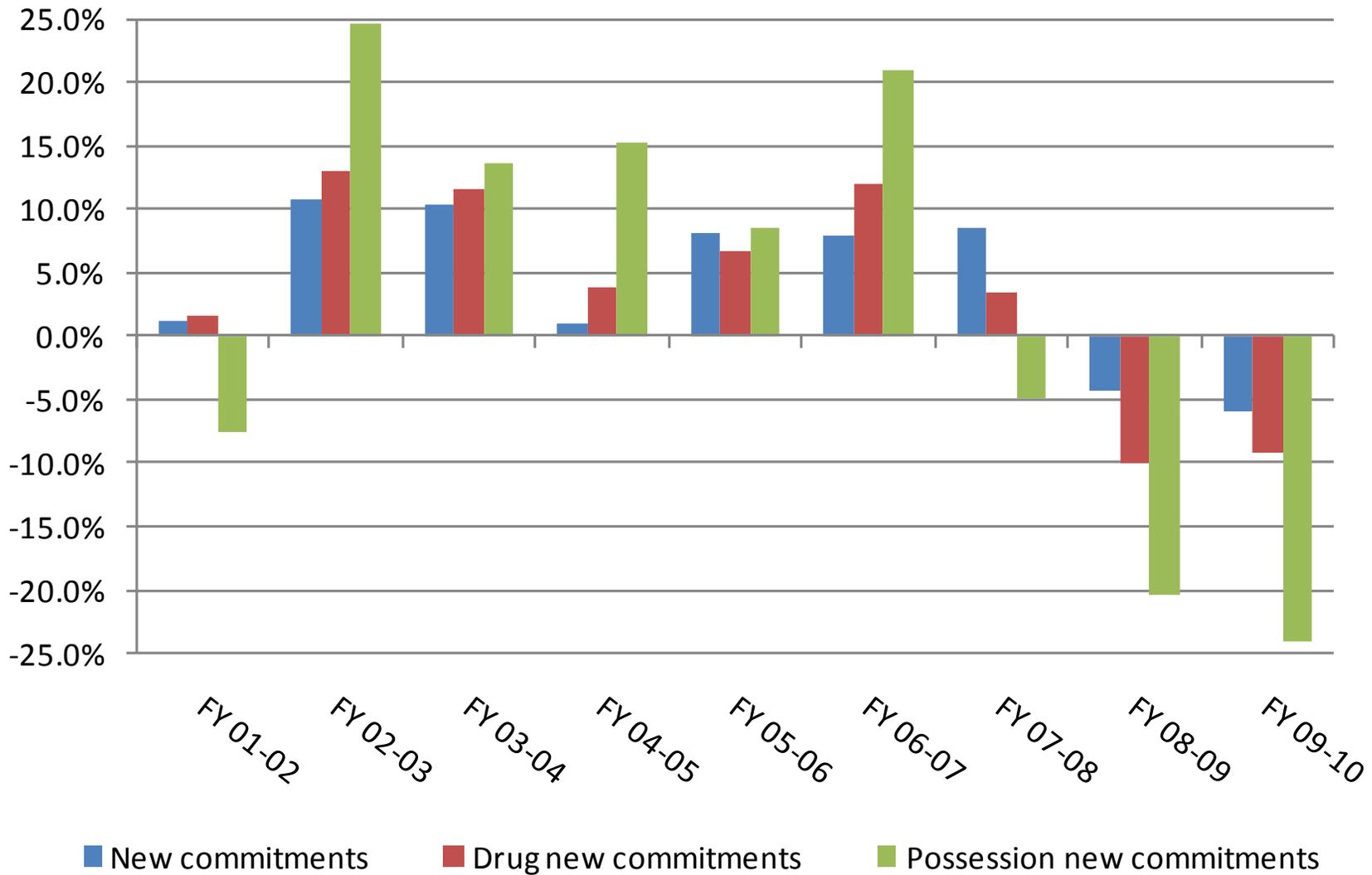


Prison Admissions

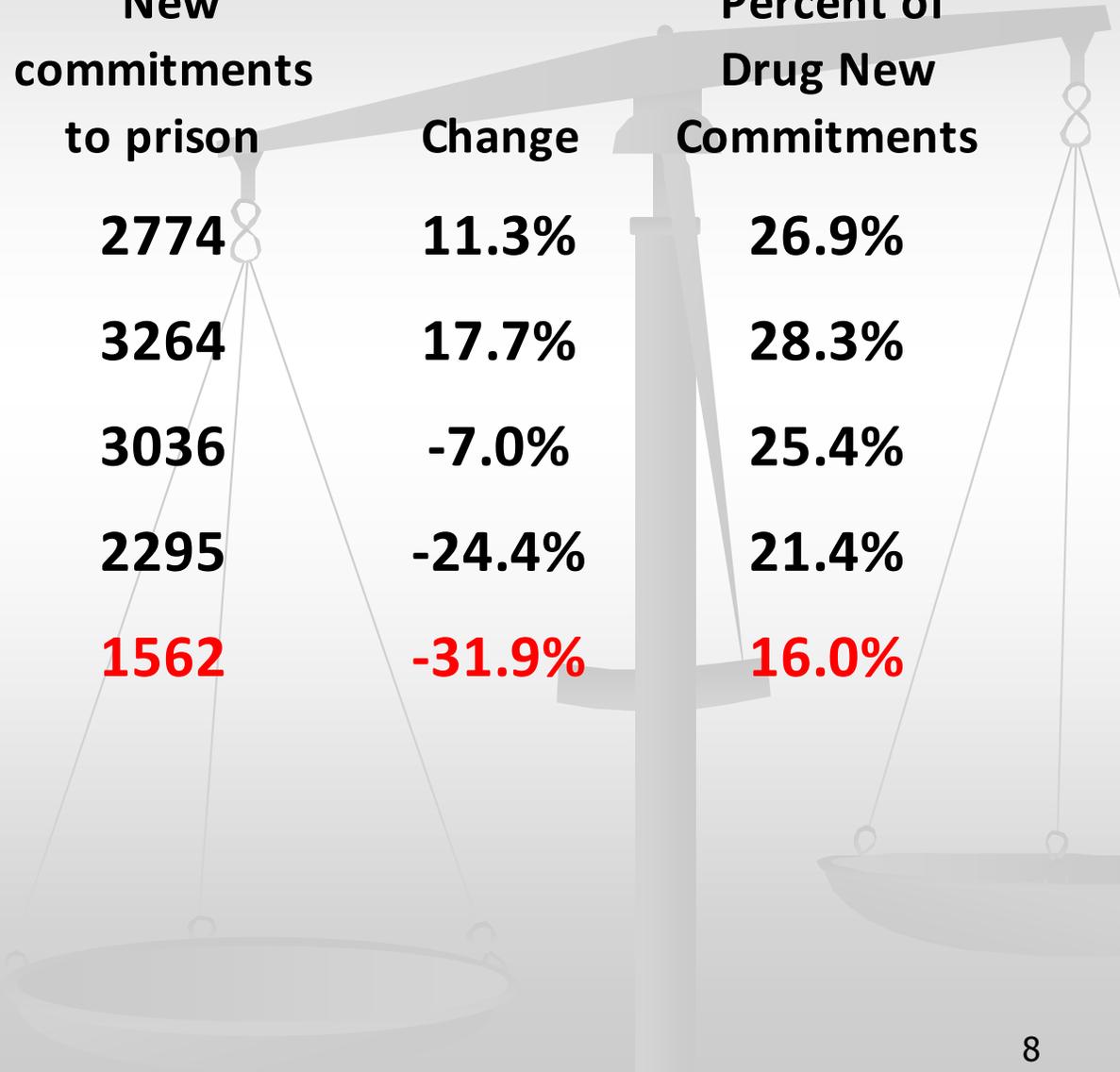


	Total admissions	Drug admissions	Drug possession admissions	Drug possession admissions as % of drug admissions
FY 84-85	14,393	2,013	542	26.9%
FY 89-90	44,701	16,169	6,807	42.1%
FY 94-95	22,247	5,616	1,811	32.2%
FY 99-00	25,743	7,325	2,186	29.8%
FY 09-10	36,444	9,753	2,624	26.9%

Change in Total and Drug New Commitments



Cocaine Possession



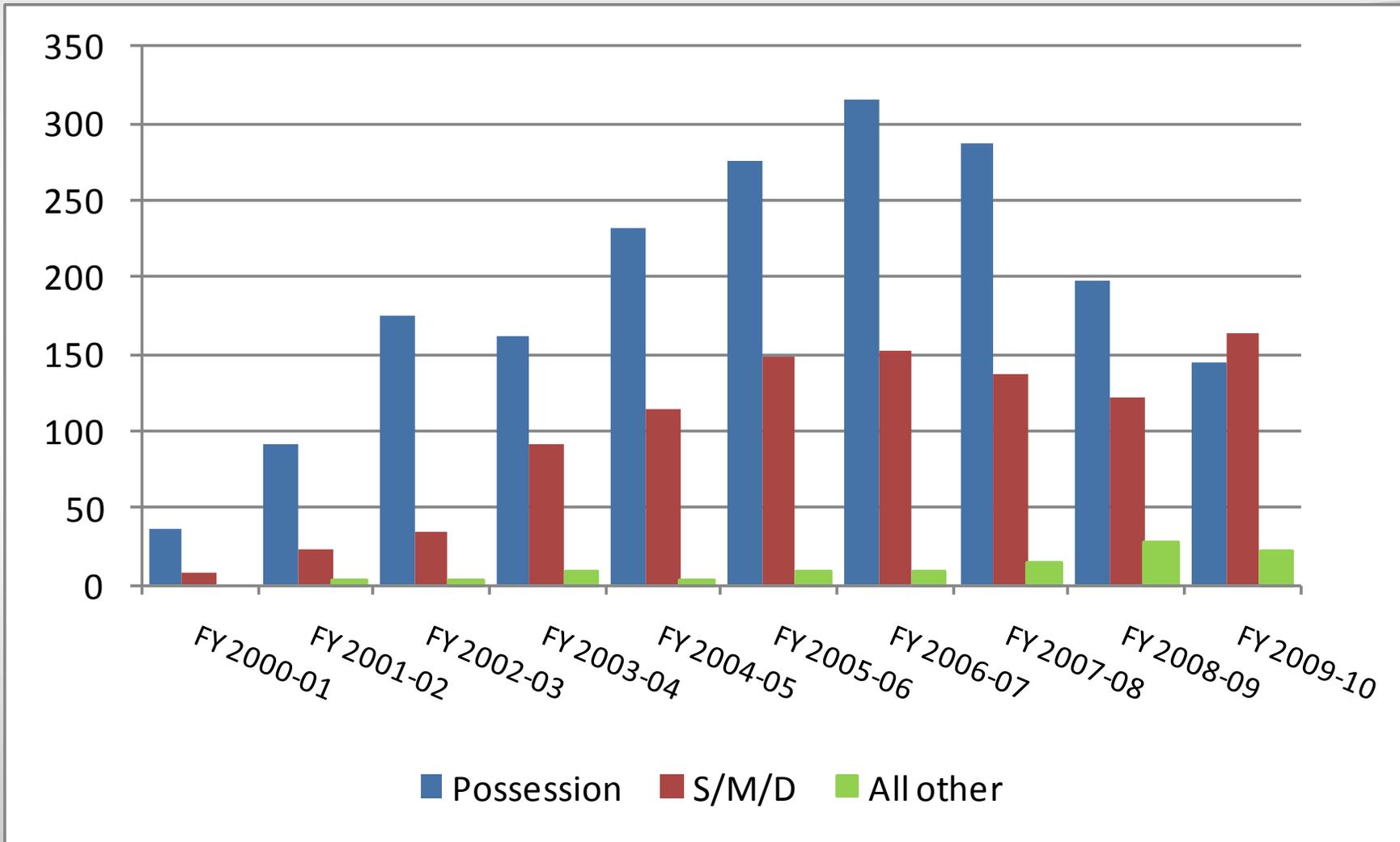
	Statewide Rank	New commitments to prison	Change	Percent of Drug New Commitments
FY 2005-06	2	2774	11.3%	26.9%
FY 2006-07	1	3264	17.7%	28.3%
FY 2007-08	2	3036	-7.0%	25.4%
FY 2008-09	3	2295	-24.4%	21.4%
FY 2009-10	4	1562	-31.9%	16.0%

Cocaine Possession

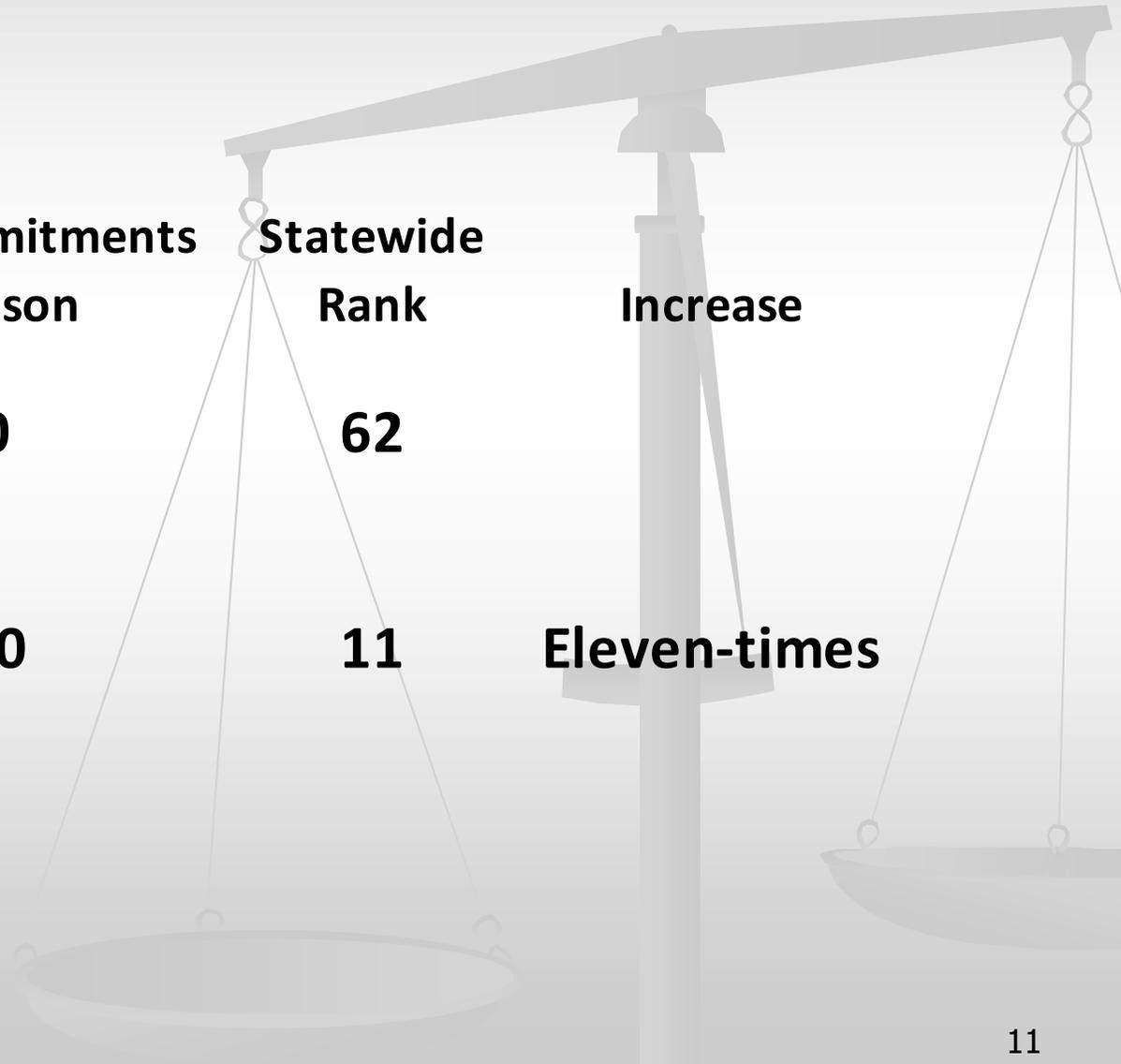
In FY 2009-10

- **12%** of all cocaine possession offenders were sentenced to prison
- **20%** of new commitments were sentenced for a year-and-a-day
- Mean sentence length: **22.6** months
- **51%** of new commitments were probation violators (technical and new offense violations)

Methamphetamine New Commitments



Trafficking in Heroin, Oxycodone, Hydrocodone, etc.— At least 4 grams but less than 14 grams



	New commitments to prison	Statewide Rank	Increase
FY 2000-01	60	62	
FY 2009-10	660	11	Eleven-times

Characteristics

Cocaine Possession

- 33% white
- 17% female
- 37% on first DOC commitment

Trafficking in heroin, oxycodone, hydrocodone, etc. (at least 4 but LT 14 grams)

- 78% white
- 23% female
- 68% on first DOC commitment

For additional information

Florida Legislature, Office of Economic and Demographic
Research

edr.state.fl.us

Without Changes, Expansion Drug Courts Are Unlikely to Realize Expected Cost Savings

**A presentation to the
Senate Criminal Justice Committee**

December 8, 2010

**Marti W. Harkness,
Criminal Justice Staff Director**



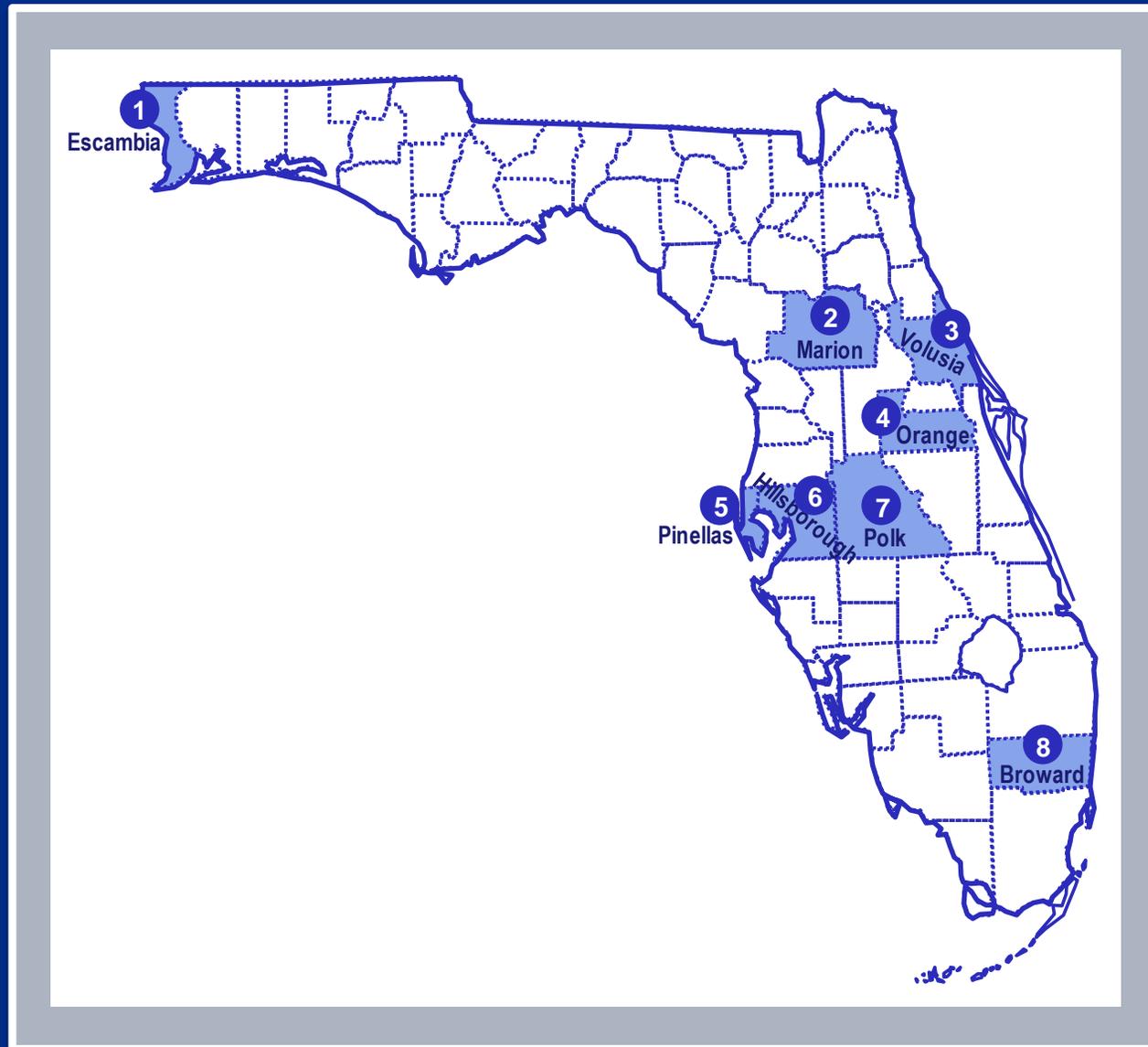
Project Scope

- Chapter 2009-64, *Laws of Florida*, directs OPPAGA to evaluate the effectiveness of post-adjudicatory treatment-based drug court programs
- Data are not yet available to evaluate participant recidivism
- This report examines program implementation and potential cost savings

What are Expansion Drug Courts?

- **Post-adjudicatory drug courts divert non-violent felony offenders from incarceration to supervised treatment**
- **Offenders are typically sentenced for 12 to 18 months as a condition of probation**
- **Intent is to target prison-bound offenders**

Expanded Drug Courts Have Been Implemented in Eight Counties



Drug Court Funding

- **2009 Legislature appropriated \$19 million in federal funds from the Edward Byrne Memorial Justice Assistance Grant to the expansion drug courts for:**
 - case management
 - treatment services
 - drug testing
 - data management
 - program administration

Expansion Drug Court Eligibility

- **Expansion drug courts serve drug addicted prison-bound offenders who:**
 - Have a sentencing score 52 points or fewer
 - Current offense is a non-violent 3rd degree felony
 - Have violation of probation for a failed drug test
 - Are amenable to treatment

Drug Courts Generally Meeting Florida Drug Court Standards

- **Expansion drug courts are generally meeting standards established in s. 397.334, *Florida Statutes*. For example, drug courts:**
 - provide a continuum of services
 - adopt a coordinated strategy to govern responses to participant compliance
 - monitor abstinence with frequent random alcohol and drug testing

Expansion Courts Unlikely to Achieve Expected Savings

- **Expansion courts were expected to divert 4,000 offenders and save \$95 million over 2 years**
- **Drug courts unlikely to reach this goal**
 - As of June 30, 2010, drug courts had admitted 324 offenders compared to the mid-year target of 900
 - Program utilization rates varied from 20% to 66%

Initial Estimates of Potential Population Were Overstated

- **Initial estimates followed statewide criteria, but included offenders that have not been traditionally served by drug courts**
 - Offenders with prior forcible felonies, drug trafficking and sales were included
 - Excluding these offenders reduces the potential population by 50%
- **Estimates resulted in fewer counties selected than needed to reach program admission goals**

Drug Court Eligibility Criteria

Restrict Admissions

- **Probation violators admitted if a failed substance abuse test is their only violation**
 - Technical violations include failure to timely pay fees, missed treatment sessions, or failure to report to a probation officer
- **Offenders with a history of violent offenses are not considered for expansion drug courts**
 - Some offenders without recent violent offenses may be appropriate

Most Expansion Drug Court Clients Have Low Sentencing Scores

- Two-thirds of drug court participants have sentencing scores below 44 points
- Few non-violent felons with similar scores were sent to prison

Sentencing Score Range	Number Sentenced	Percentage of Non-Violent Felony Offenders Receiving Each Sanction		
		State Supervision	Jail, Other	Prison
22 and below	14,004	69.9%	27.5%	2.6%
Over 22 to 44	12,786	57.6%	30.9%	11.5%
Over 44 to 52	1,007	24.8%	17.5%	57.7%

Recommendations

- **Expanding drug court criteria to include offenders with other technical violations, if substance abuse was the primary issue**
- **Including additional counties in the expanded drug courts, and**
- **Requiring existing programs to serve predominantly prison-bound offenders**
- **If these options are not feasible, funds can be shifted to other diversionary programs**

For More Information



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Without Changes, Expansion Drug Courts Unlikely to Realize Expected Cost Savings

at a glance

The 2009 Legislature appropriated \$19 million in federal funds to establish eight post-adjudicatory drug courts. The drug courts were expected to divert offenders from prison and thereby reduce corrections costs by an estimated \$95 million.

The drug courts are generally meeting standards for their operation. However, they are unlikely to generate the expected cost savings for several reasons. Initial admissions targets overestimated the potential population of offenders who would qualify for the programs and strict eligibility criteria limited admissions. Some programs also appear to be serving offenders who would be unlikely to be sentenced to prison in the absence of drug court.

The Legislature may wish to consider four options to address these problems. It could modify drug court criteria to serve more prison-bound offenders, include additional counties in the program, require the courts to serve predominantly prison-bound offenders, and/or shift federal funds to other prison diversion programs.

Scope

Chapter 2009-64, *Laws of Florida*, directs OPPAGA to evaluate the effectiveness of post-adjudicatory treatment-based drug court programs. This report examines how the programs are being implemented and the potential cost savings they may achieve for the state. Data are not yet available to evaluate participant recidivism.

Background

Post-adjudicatory drug courts divert persons who have been found guilty of certain crimes from incarceration to supervised treatment. Offenders, who typically have prior drug-related offenses, are sentenced to drug court for 12 to 18 months as a condition of probation.¹ Prior to 2009, the programs were operated by 21 counties.

In 2009, the Legislature sought to reduce prison costs by passing Ch. 2009-64, *Laws of Florida*, to create new expanded drug courts for more serious prison-bound, non-violent offenders.

¹In addition to post-adjudicatory programs, some counties operate pretrial diversion drug courts that divert first-time offenders from the criminal justice system.

The Legislature directed \$19 million in federal funds from the Edward Byrne Memorial Justice Assistance Grant to the expansion drug courts for case management, treatment services and drug testing, data management, and project administration.

The Office of the State Courts Administrator worked with local jurisdictions to establish expansion drug courts in eight counties: Broward, Escambia, Hillsborough, Marion, Orange, Pinellas, Polk, and Volusia.²

Findings

The eight expansion drug courts are generally meeting accepted standards for drug court operation. However, as currently implemented, the programs are unlikely to achieve the goal of diverting 4,000 offenders from prison over a two-year period, which was expected to reduce state corrections costs by an estimated \$95 million. Programs are not reaching their admission goals because initial admissions targets overestimated the potential population and strict eligibility criteria limit admissions. In addition, cost savings are reduced because some programs are serving offenders unlikely to be sentenced to prison in the absence of drug court. The Legislature could consider four options to increase correctional cost savings: expand eligibility criteria to serve more prison-bound offenders; increase the number of counties participating; require existing expansion courts to serve predominately prison-bound offenders; or shift federal funds to other prison diversion programs.

Expansion drug courts are generally meeting Florida drug court standards

The expansion drug courts are generally meeting six standards established in s. 397.334, *Florida Statutes*.³

- Drug courts provide access to a continuum of alcohol, drug, and related treatment and rehabilitation services. All eight programs require offenders to attend intensive outpatient treatment through a multi-phased approach; six programs also offer residential treatment.⁴ In addition, all provide referrals for ancillary services such as job training and employment assistance, transitional housing, and services for non-English language speakers.
- Drug courts ensure ongoing judicial interaction with each drug court participant. Seven of the eight programs require participants to appear before the judges at least once a month and five programs hold weekly drug court hearings. Judges base the required frequency of court attendance on each offender’s progress.
- Drug courts identify eligible participants early and promptly place them in the program. Eligible offenders are typically identified by drug court staff or are referred by attorneys, treatment providers, or felony division judges. For all eight programs the state attorney’s office screens cases to determine if the defendant meets the court’s eligibility criteria. Once a defendant is accepted into the program, the court orders a substance abuse evaluation to determine treatment needs, and the drug court team uses the evaluation results to design a supervision and treatment plan. Five programs use the American Society of Addiction Medicine’s validated risk assessment instrument.

most central to drug court operations and appropriate for the program’s implementation status. We did not evaluate the programs’ compliance with four standards due to difficulties in translating program activities into measurable results or the programs’ implementation status. These four standards were: promoting public safety while protecting participants’ due process rights; measuring attainment of program goals and gauging effectiveness; continuing interdisciplinary education for drug court personnel; and forging local, state and community-based partnerships and coalitions to enhance drug court effectiveness.

² Duval was originally selected to participate but withdrew on May 19, 2010.

³ These standards were adapted from the United States Department of Justice’s 10 Key Drug Court Components and are intended to promote effectiveness and improve performance. We focused on 6 of the 10 standards that were

⁴ Drug court programs consist of three to four phases that participants must complete in order to successfully graduate from the program.

- Drug courts integrate alcohol and other drug treatment services with justice system case processing. Six courts hold frequent status hearings in which judges, treatment providers, probation officers, attorneys, and case managers assess the offenders' progress in the program. They discuss an offender's compliance with supervision requirements as well as whether to increase or decrease treatment requirements, impose sanctions and incentives, and monitor the offender's movement through program phases.
- Drug courts adopt a coordinated strategy to govern drug court responses to participant compliance. When offenders with serious substance abuse problems relapse, judges may impose a range of sanctions while the offenders remain in the program. For example, judges often use sanctions such as mandatory community service, extended probation, or jail stays when offenders violate probation requirements by testing positive on drug tests, missing treatment sessions, or failing to report to court.
- Drug courts monitor abstinence with frequent random alcohol and drug testing. All eight programs use random drug testing to monitor program compliance. Participants are tested by drug court staff at least twice per week. In addition, offenders are required to maintain a minimum number of 'clean days' before they can progress through the program phases and are also required to be drug free for at least 90 days before graduating from drug court.

Expansion drug courts as currently implemented are unlikely to significantly reduce state prison costs

The 2009 Legislature expanded eligibility criteria for drug courts to divert suitable offenders from prison and thereby reduce corrections costs. Expanded drug courts were expected to divert 4,000 offenders, thereby reducing state corrections costs by an estimated \$95 million. However, cost savings of this magnitude are unlikely to be achieved unless changes are made. Programs are not reaching their admission goals because initial estimates of the potential population were overstated and restrictive eligibility criteria limit admissions. In addition, cost savings are reduced because programs appear to be serving many offenders unlikely to be sentenced to prison in the absence of drug court.

The expansion drug courts will not meet their goal of serving 2,000 offenders by December 2010. As of June 30, 2010, the expansion drug courts had admitted 324 offenders, substantially fewer than the mid-year target of 900 offenders. Program utilization rates varied from 20% to 66% (see Exhibit 1). Six of the eight programs report that they will not achieve the anticipated number of admissions this year. The expansion drug courts will not reach admissions goals for two main reasons: initial estimates overstated the potential population and restrictive eligibility requirements limited admissions.

**Exhibit 1
Expansion Drug Courts Have Low Admissions¹**

Circuit	County	Number of Offenders to Serve	2010 Admissions	Program Capacity Used
1 st	Escambia	38	21	56%
5 th	Marion	35	7	20%
6 th	Pinellas	150	48	32%
7 th	Volusia	30	16	53%
9 th	Orange	120	43	36%
10 th	Polk	100	66	66%
13 th	Hillsborough	252	77	31%
17 th	Broward ²	175	46	26%
Total		900	324	36%

¹ 2010 admissions are for the first six months of operation for most drug courts, from inception through June 30, 2010. Accordingly, the number of offenders to serve and program capacity used are based on half of the annual number projected.

² The expansion drug court in Broward County began operating in March 2010.

Source: OPPAGA analysis of county court data collected by the Office of the State Courts Administrator.

Initial estimates of the potential population for expansion drug courts were overstated. Original estimates of the number of offenders potentially eligible for expansion drug courts included offenders with prior forcible felonies and drug trafficking and sales offenses, which drug courts traditionally have not served.⁵ These estimates were used to determine how many counties to include in the expansion.⁶ As a result, fewer counties were selected than needed to reach admissions goals. When offenders with prior violent or drug trafficking offenses are excluded, the estimate of potential prison diversions from participating counties is reduced by half, from approximately 6,000 offenders to 3,000.⁷ In addition, Duval County

⁵ Prior to the current expansion, Florida law did not address eligibility criteria for post-adjudicatory drug courts and each drug court established slightly different eligibility criteria through local administrative orders. While the 2009 statutory changes did not specifically exclude prior forcible felonies, most drug courts serve offenders who have non-violent felony drug or drug-related offenses and no history of violence, drug trafficking, or drug sales.

⁶ The original estimates of the potential population were from the Office of Economic and Demographic Research and were based on the 2009 statutory criteria.

⁷ OPPAGA’s estimate is based on Fiscal Year 2007-08 prison admissions for drug offenses or non-violent property offenses, excluding prior or current forcible felonies and drug dealing, for offenders with drug treatment needs who have sentencing

withdrew from the expansion program in May 2010; it was expected to serve 200 offenders annually.

Drug court eligibility criteria restrict admissions. State law authorizes expansion drug courts to serve both offenders arrested for specified new crimes and for specific violations of probation. Probation violators are eligible if their offense occurred on or after July 1, 2009, and if the violation is solely for a failed substance abuse test. Consequently, programs cannot serve probation violators if the reason for the violation was anything other than a failed drug test. Department of Corrections data shows that statewide, 74% of all violations of probation for a failed drug test occurred with other technical violations.⁸ According to drug court and Department of Corrections staff, probation offenders rarely are cited for a single violation; for example, offenders often are cited for additional technical violations such as failing to timely pay court-ordered fees, missing a treatment session, or failing to report to the probation office. In addition, drug court staff reported that some technical violations other than a failed drug test are related to the offender’s substance abuse problem and are considered indicators that the offender has relapsed. Expanding the eligibility criteria to other technical violations of probation would increase the number of offenders eligible for the program.

In addition, some expansion drug court staff reported they could serve more prison-bound offenders if offenders with prior violent offenses could be considered for eligibility on a case-by-case basis. Although Florida law does not exclude offenders with a history of violent offenses, drug courts have traditionally excluded these offenders because federal grant requirements prohibited drug courts from serving these offenders. However, the Department of Justice has confirmed that

scores of 52 points or fewer.

⁸ This percentage is based on a Department of Corrections analysis of 1,653 non-violent offenders who had sentencing scores of 52 points or fewer and did not have a prior history of violent or forcible offenses committed on or after July 1, 2009.

expansion drug courts are not required to adhere to the federal violent offender exclusion.⁹ Although certain offenders with violent histories would not be suitable for the drug court model, drug court judges in general and state attorneys in three of the eight counties with expansion drug courts reported that some offenders with a previous violent offense may be appropriate for the program (e.g., a person who committed a violent offense years ago but has had no subsequent history of violence). Judges in these programs would like more discretion to serve offenders who are appropriate for treatment and do not present a risk to public safety.

Most expansion drug court clients have low sentencing scores. As directed by the Legislature, the expansion drug courts are serving non-violent felony offenders. As of June 30, 2010, offenders admitted into the programs had no prior or current violent felony offenses, had committed third degree non-violent felony offenses or received technical violations of probation, and had sentencing scores of 52 points or fewer, as required by statute.

The Legislature intended expansion drug courts to reduce state costs by diverting offenders from prison. However, most drug court participants have sentencing scores below 44 points, well below the maximum sentencing score of 52 points required to meet eligibility criteria.¹⁰ Judges in six of the eight expansion counties are certifying that the offenders admitted to drug court with

sentencing scores below 44 points would have been sentenced to prison in the absence of drug court. In contrast, some judges and state attorneys in Polk and Orange counties stated that most offenders placed in expansion drug court would not have been sent to prison on their current offense; approximately 92% of offenders in these counties scored below 44 points. As shown in Exhibit 2, most of the offenders served by the drug courts have sentencing scores between 23 and 44 points.

**Exhibit 2
Circuits Varied Widely in the Percentage of Participants Likely to be Diverted from Prison**

Circuit	County	Percentage in Each Sentencing Score Range			Number
		1-22	23-43	44-52	
9 th	Orange	65%	33%	2%	43
10 th	Polk	21%	67%	12%	66
13 th	Hillsborough	21%	64%	16%	77
7 th	Volusia	6%	63%	31%	16
1 st	Escambia	0%	65%	35%	20
5 th	Marion	14%	43%	44%	7
17 th	Broward	2%	33%	65%	46
6 th	Pinellas	0%	15%	85%	48
Total Number		61	155	107	323

Source: OPPAGA analysis of county court data collected by the Office of the State Courts Administrator.

The low sentencing scores of many participants raise questions about whether they would have been sentenced to prison in the absence of a drug court. Office of Economic and Demographic Research data for non-violent felony offenders sentenced in Fiscal Year 2009-10 shows that offenders with sentencing scores greater than 22 points but not more than 44 points were unlikely to be sentenced to prison (see Exhibit 3).

⁹ The expansion drug courts awards were authorized under the American Recovery and Reinvestment Act of 2009 through the Edward Byrne Justice Assistance Grant (JAG) program. Although drug courts funded under Bureau of Justice Assistance Drug Court Discretionary Grant provisions are prohibited from serving offenders with a prior violent felony conviction, drug courts funded under the Justice Assistance Grant program are not required to adhere to this exclusion.

¹⁰ Under the Florida Criminal Punishment Code, offenders are assigned points for their crime and any past crimes, and these scores are used in sentencing. If an offender's total points are equal to or less than 44, the lowest permissible sentence is a non-state prison sanction unless the court determines within its discretion that a prison sentence up to the statutory maximum can be imposed.

**Exhibit 3
Few Non-Violent Felony Offenders with Sentencing Scores of 44 Points or Fewer Were Sentenced to Prison¹**

Sentencing Score Range	Number Sentenced	Percentage of Non-Violent Felony Offenders Receiving Each Sanction		
		State Supervision	Jail, Other	Prison
22 and below	14,004	69.9%	27.5%	2.6%
Over 22 to 44	12,786	57.6%	30.9%	11.5%
Over 44 to 52	1,007	24.8%	17.5%	57.7%

¹ The total reflects offenders sentenced in Fiscal Year 2009-10 for non-violent felony offenses or community sanction violations committed on or after July 1, 2009, who had no prior forcible felonies. Data does not include cases where the sentencing score was not reported.

Source: Office of Economic and Demographic Research.

Focusing drug court resources on offenders who score below 44 points reduces the potential cost savings for the state. We estimate that the state could save approximately \$6,300 per year for each offender served in a drug court rather than incarcerated in prison.¹¹ However, the state will attain these savings only if the participating counties serve offenders who would be sentenced to prison in the absence of a drug court.¹²

Options for increasing correctional cost savings

The 2009 Legislature appropriated \$19 million in federal trust funds for drug court treatment services with the goal of reducing state correctional costs by \$95 million. According to the Office of the State Courts Administrator, the state has until September 30, 2012, to spend

¹¹ The average cost to serve a drug court participant is approximately \$5,100, which includes approximately \$3,500 in treatment costs and \$1,600 in Department of Corrections supervision costs compared to an average annual prison bed cost of approximately \$19,000. Since half of post-adjudicatory drug court participants fail to successfully complete the program and serve an average sentence of 1.5 years in prison, we estimate the expected cost savings per participant is approximately \$6,300.

¹² Broward and Pinellas counties, two of the largest counties in the expansion, primarily serve offenders who score above 44 points and will be in the best position to provide cost savings.

down these funds before they revert to the federal treasury. As of June 30, 2010, the state had not spent approximately \$18.1 million, or 96%, of the funds.¹³

To avoid reverting this money and to reduce state prison costs by diverting prison-bound offenders, the Legislature may wish to consider four options.

- Expand drug court criteria to serve more prison-bound offenders.
- Include additional counties to divert more prison-bound offenders.
- Require existing expansion courts to serve predominantly prison-bound offenders.
- Shift federal drug court funds to other prison diversion programs.

Expand drug court criteria. Most drug courts report that they could serve more prison-bound offenders if the eligibility criteria were expanded. The Legislature may wish to consider

- authorizing drug courts to serve offenders who are cited for technical violations of probation other than a failed substance abuse test, if substance abuse was the main factor at the time of their violation; and
- giving judges discretion to allow offenders with prior violent offenses who are appropriate for treatment and do not present a risk to public safety to participate in expansion drug court.

Include additional counties so as to divert more prison-bound offenders. Because program participation is low, the Legislature could afford to add new counties to the drug court expansion program if they agree to serve prison-bound offenders. For example, Bay, Brevard, and St. Lucie counties have high prison admission rates for drug court eligible offenders but were not previously selected for program participation.

¹³ The Office of the State Courts Administrator reports that \$852,325 has been expended as of July 2010, and that this amount does not include expenditures for Duval County or Hillsborough County.

Require existing expansion courts to serve predominantly prison-bound offenders. While the courts should have some flexibility to serve lower scoring offenders, the Legislature intended the expansion drug courts to serve offenders who would be sentenced to prison in the absence of the drug court.

- The Office of State Courts Administrator should work with counties serving few offenders with sentencing scores over 44 points to identify ways to target more serious offenders. For example, courts should target potential drug court clients by screening offenders in the felony division rather than limiting referrals to offenders who violate probation.
- The Legislature may wish to stop funding programs that are not predominately serving prison-bound offenders. Funding from these programs could be shifted to the existing expansion counties or allocated to new counties willing to serve prison-bound offenders.

Shift federal drug court funds to other prison diversion programs.

- In the absence of increased program admissions and to avoid reverting drug court funds to the federal government, the

Legislature may wish to shift some of the funding to serve prison-bound offenders in other diversionary programs (e.g., day-reporting centers and community-based substance abuse and mental health treatment).¹⁴ Federal Byrne-JAG grant requirements do not prohibit use of these funds for other programs and some other states are using these funds on other such diversion efforts. In addition, the Legislature may wish to expand problem solving courts, such as mental health courts, to serve prison-bound offenders with both mental health and substance abuse treatment needs.

Agency Response ---

In accordance with the provisions of s. 11.51(5), *Florida Statutes*, a draft of our report was submitted to the Office of State Clerks Administrator to review. Their responses have been reproduced in Appendices A.

¹⁴ See *Intermediate Sanctions for Non-Violent Offenders Could Produce Savings*, OPPAGA [Report No. 10-27](#), March 2010, which provides recommendations for community-based treatment options.

Appendix A

Charles T. Canady
Chief Justice



Elisabeth H. Goodner
State Courts Administrator

Office of the State Courts Administrator

Phone: (850) 922-5081 Fax: (850) 488-0156
e-mail: osca@flcourts.org

September 29, 2010

Gary R. VanLandingham, Ph.D.
Director, Office of Program Policy Analysis
and Government Accountability
Claude Pepper Building
111 West Madison Street, Room 312
Tallahassee, FL 32399-1475

Dear Dr. VanLandingham:

I appreciate the opportunity to comment on OPPAGA's draft report entitled "Without Changes, Expansion Drug Courts Unlikely to Realize Expected Cost Savings." Overall, I concur with the recommendations outlined in the report and my staff has been working diligently to develop a strategy for addressing the concerns raised. Additionally, I would like to offer a few observations.

The report includes two major findings, the first being that expansion drug courts are generally meeting Florida drug court standards. This finding is important because these standards are statistically linked to successful outcomes, including lower recidivism rates, in the national data. Programs that consistently meet the standards should ultimately produce positive outcomes, including a significant number of graduates who will not go to prison and in fact will go on to lead productive lives.

The avoidance of prison and the ability to lead productive lives are important to the next finding: that expansion drug courts as currently implemented are unlikely to significantly reduce state prison costs. We have two comments regarding this finding. First, it may be premature to use admissions data to predict the potential of cost savings, considering that the six months of data used includes the "ramp up" time necessary for local programs to fully develop their referral mechanisms. The actual number of offenders served during the first 12 months of operations will not be known for several more months. Certainly the programs have not served as many offenders as initially planned and we will not reach the original target. But we do anticipate that many more offenders will be served in the coming months. Second, cost effectiveness also should be measured against actual expenditures. Expenditures to date are significantly lower than initial projections. Expansion programs may ultimately show some cost savings while serving fewer offenders, even if less than expected.

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September 29, 2010
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The report indicates that the estimates of the number of qualified offenders who could be served by the programs were significantly overstated because they did not exclude prior violent offenses or drug trafficking and sales offenses. This led to target admissions numbers that have proven to be too high. Planning for this project relied on data provided by the Office of Economic and Demographic Research (EDR). EDR based their data on the new provisions passed in 2009. This methodology was sound considering the information we had at the time. However, in developing the implementation plan we did not contemplate that local programs, in consultation with the local state attorneys, public defenders and treatment providers, would exercise their discretion to exclude individuals with violent histories or drug trafficking and sales offenses. If indeed the initial estimates of potential prison diversions from participating counties could be reduced by half as OPPAGA suggests, from approximately 6,000 offenders to 3,000 offenders, targets should also be lowered and any evaluation of the expansion program should ultimately consider those lower targets. My office is in the process of doing an analysis of county specific data to determine reasonable estimates of future program admissions, which could serve as a basis for revising the estimated cost savings.

The report points to another issue that can impact potential prison cost savings: that there are non prison-bound offenders being placed into these programs. OPPAGA specifically identifies Orange and Polk Counties as serving a significant number of offenders who seemingly do not meet the prison-bound criteria. This conclusion is made based on low sentencing scores and the statements of some judges and state attorneys in those counties. In August, my staff met with the judges in Orange and Polk Counties to discuss this matter. Both counties have agreed to ensure that prison-bound offenders are targeted to participate in the program. In addition, Polk and Orange Counties have agreed to begin documenting that each offender is indeed prison-bound. My staff will continue to monitor admissions to ensure compliance. We are confident that the other six counties are serving prison-bound offenders in their respective expansion programs.

As recommended in the report, we agree that expanding the drug court criteria to serve more prison-bound offenders would increase the number of eligible offenders. Several programs have further suggested that the legislature consider raising the 52 point sentencing score threshold to 60 points as originally recommended in OPPAGA's March 2010 report entitled "State's Drug Courts Could Expand to Target Prison-Bound Adult Offenders." This would also allow more non-violent offenders in need of substance abuse treatment into the program. My office will be able to propose language for the legislature's consideration.

Finally, I would like to note that getting this program implemented has been exceedingly challenging, given the many requirements in the federal grant regulations. As reflected in the report, program census is low. Yet while this program will not meet the targeted number of offenders during its first year of operations, I remain confident that with time the expansion drug courts will begin producing more positive outcomes and may prove to be a cost effective approach to dealing

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with offenders whose criminal activity is fueled by their substance abuse and addiction. I welcome any further guidance from the legislature and other stakeholders on how this program can better serve prison-bound offenders and the citizens of Florida.

Thank you for the opportunity to respond to the report. Please do not hesitate to contact me if you require additional information.

Sincerely,



Elisabeth H. Goodner

LG:jg

The Florida Legislature

Office of Program Policy Analysis and Government Accountability



OPPAGA provides performance and accountability information about Florida government in several ways.

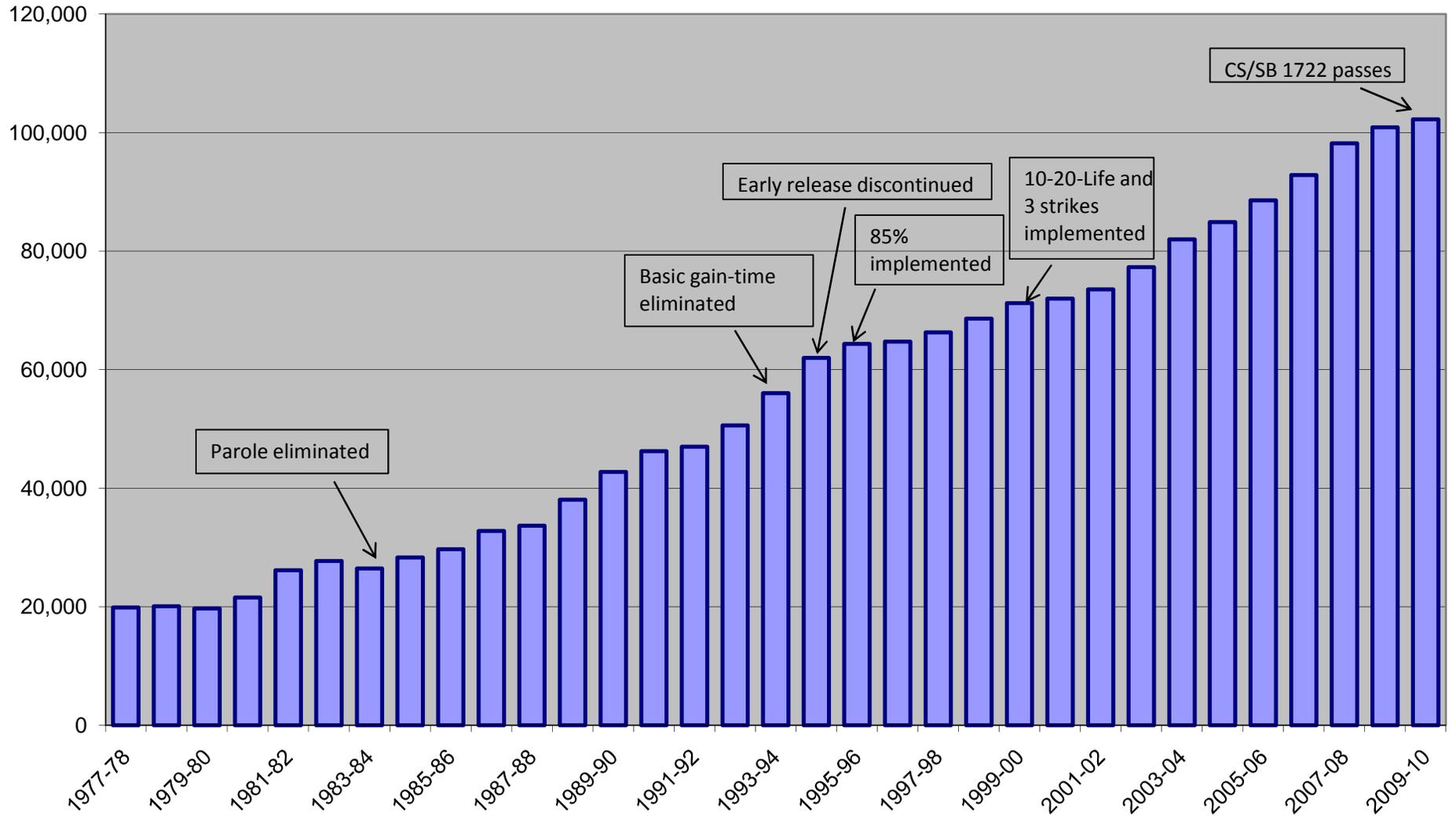
- Reports deliver program evaluation and policy analysis to assist the Legislature in overseeing government operations, developing policy choices, and making Florida government better, faster, and cheaper.
- PolicyCasts, short narrated slide presentations, provide bottom-line briefings of findings and recommendations for select reports.
- Government Program Summaries (GPS), an online encyclopedia, www.oppaga.state.fl.us/government, provides descriptive, evaluative, and performance information on more than 200 Florida state government programs.
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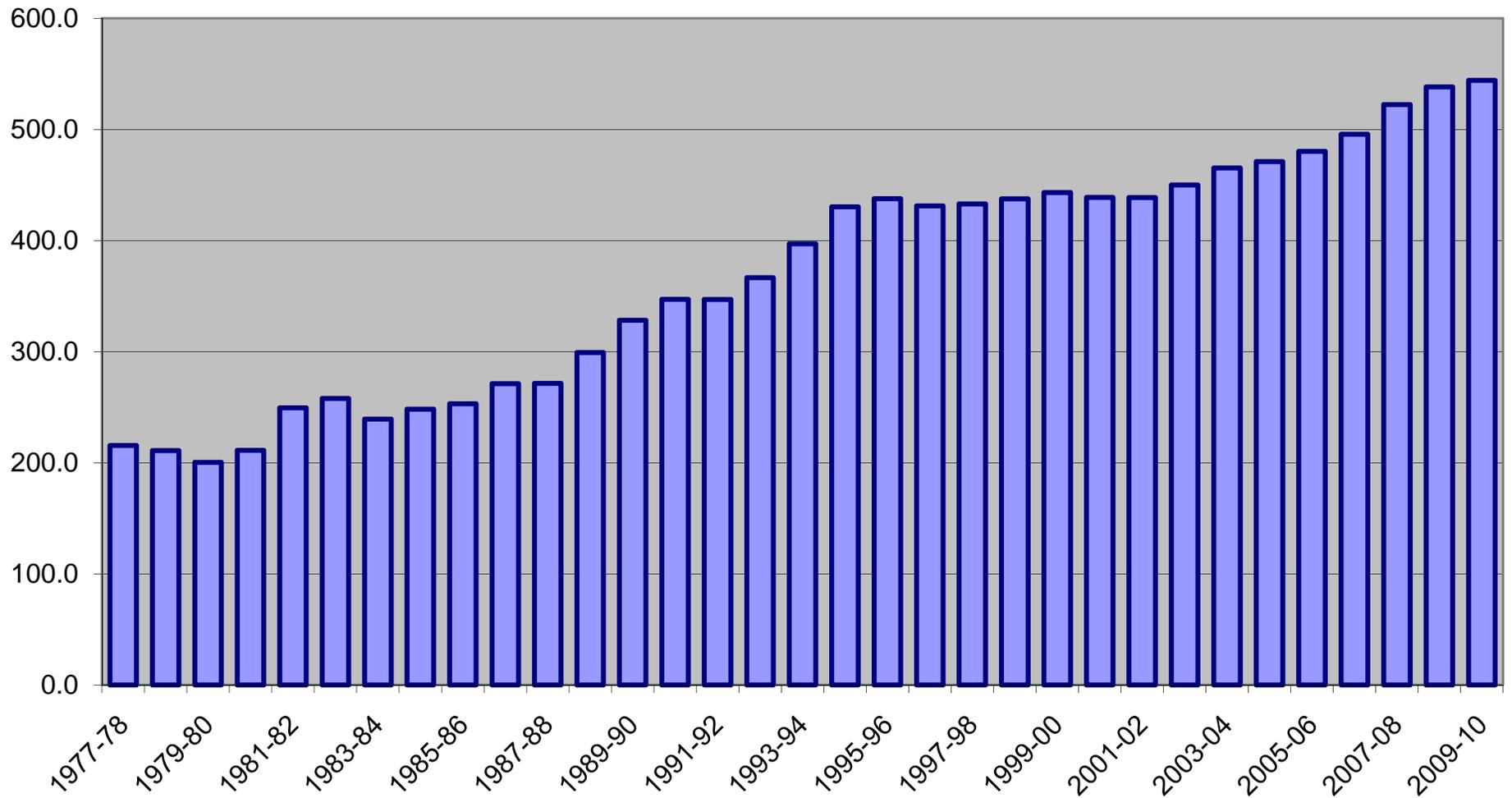
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Project conducted by Farah Khan, LucyAnn Walker-Fraser, and Drucilla Carpenter
Marti Harkness, Staff Director (850/487-9233)
Gary R. VanLandingham, Ph.D., OPPAGA Director

PRISON POPULATION ON JUNE 30

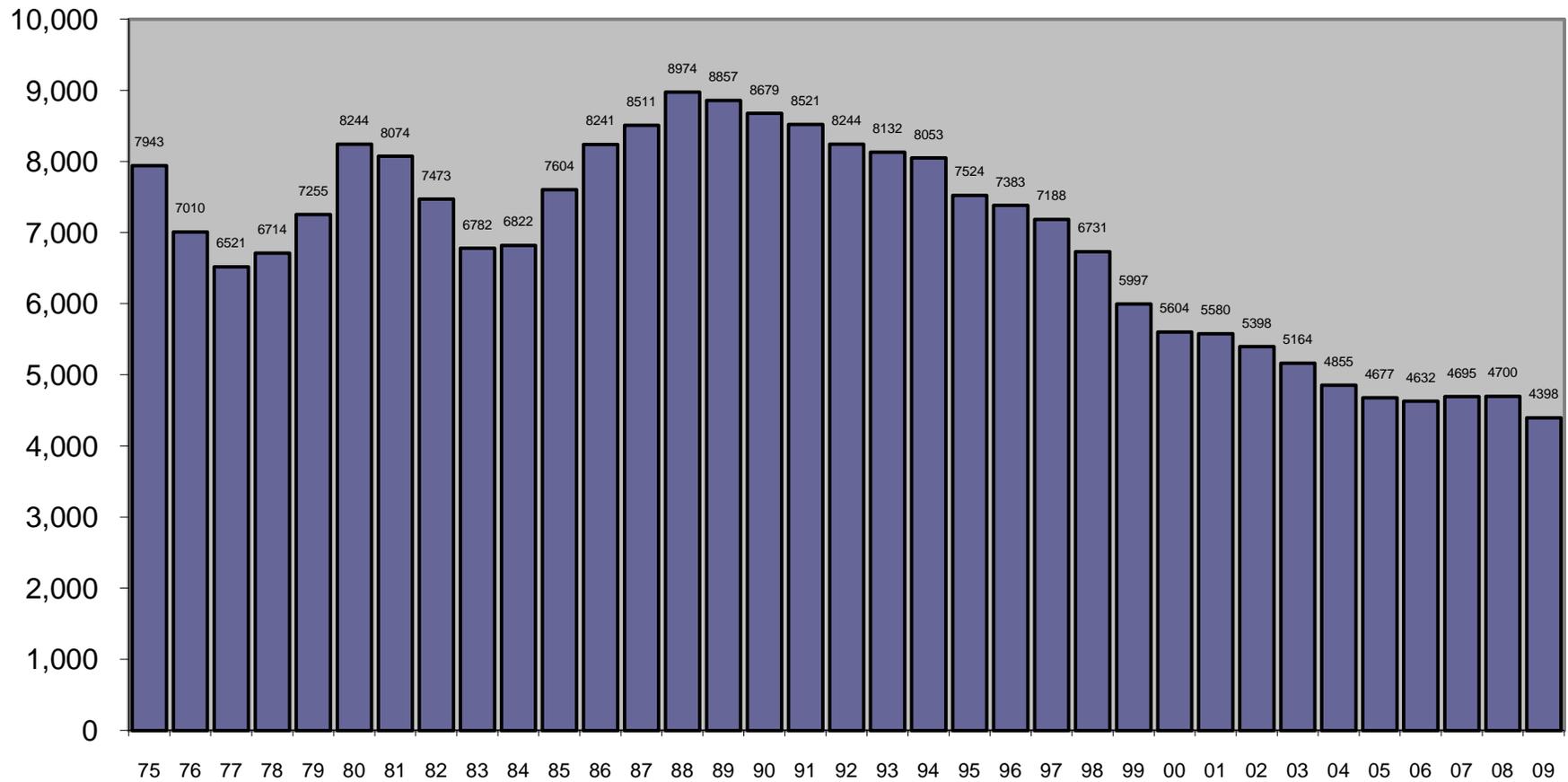


INMATES PER 100,000 FLORIDA RESIDENTS

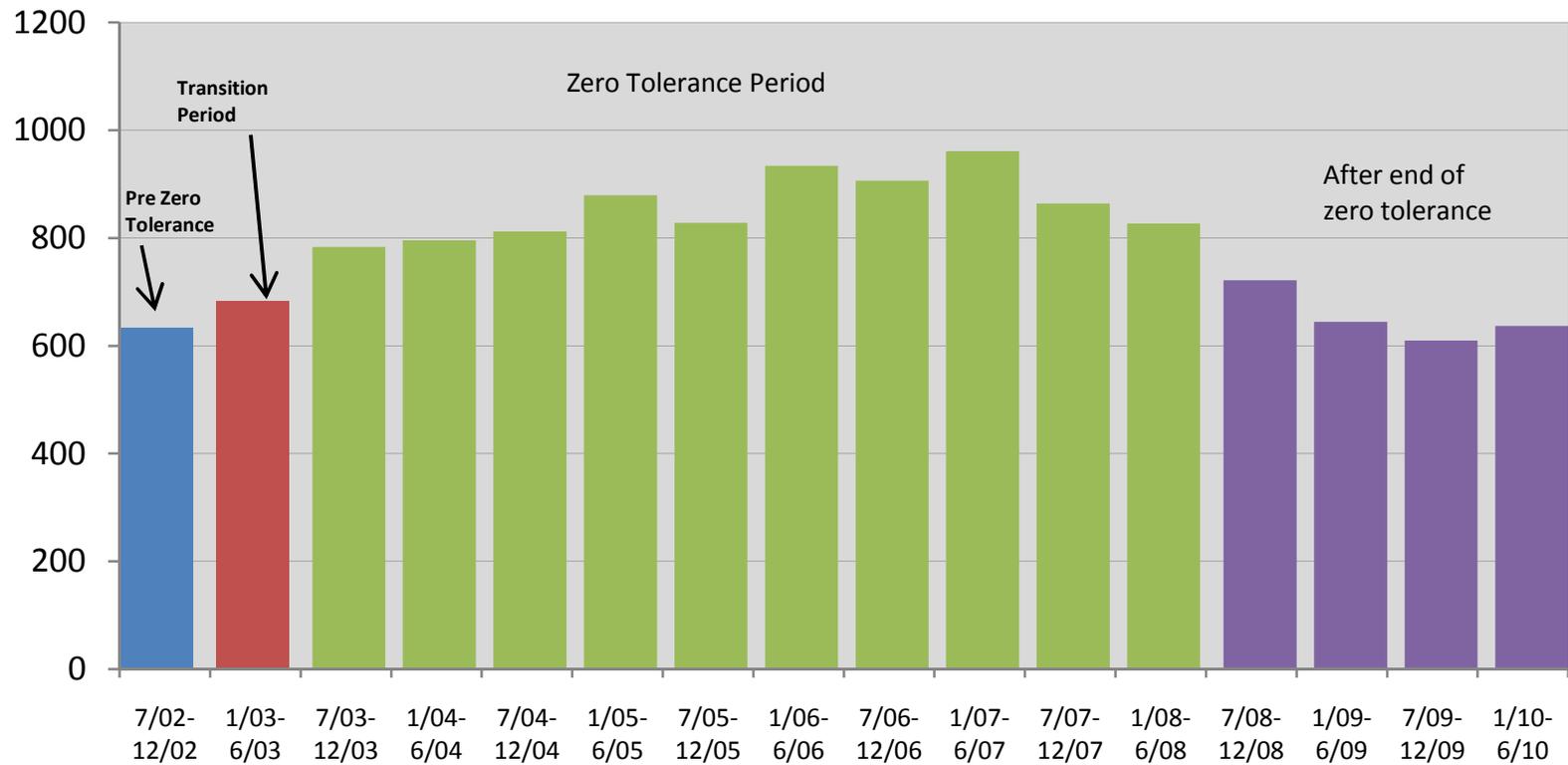


CRIME RATE

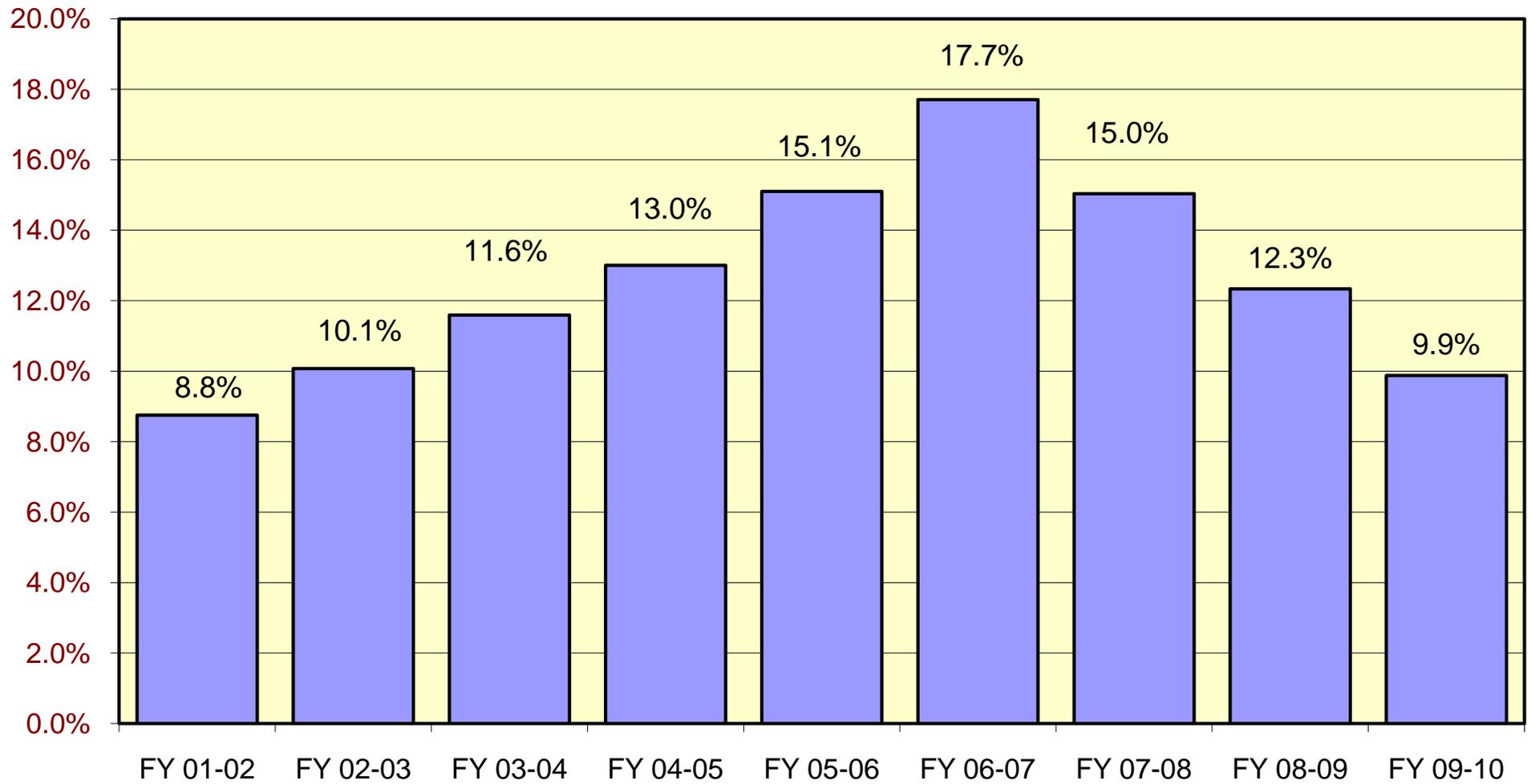
Index Crimes per 100,000 Population



Probation Violators with Technical Violations Sentenced to Prison

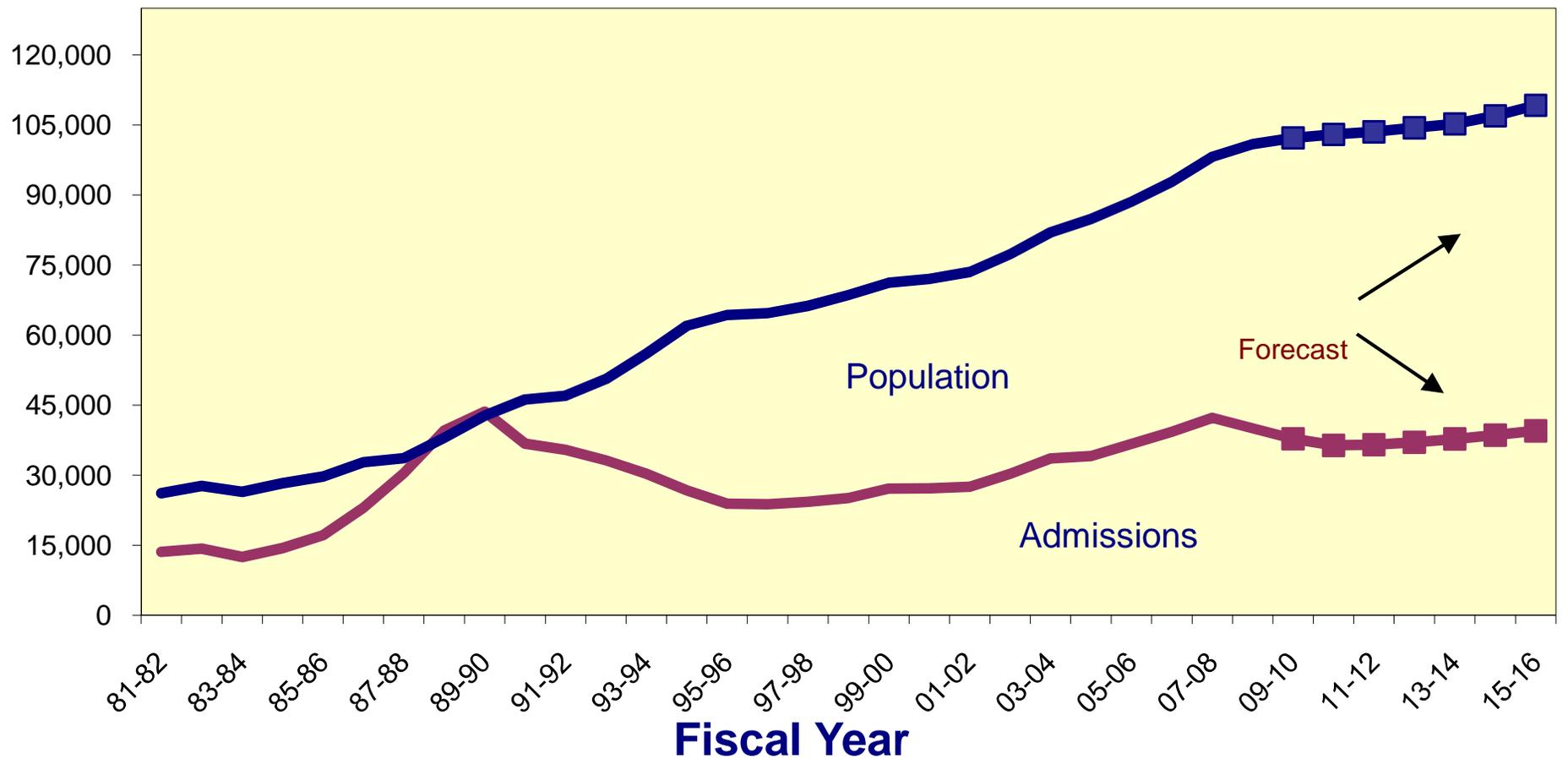


Year- and-a-Day Sentences as Percent of All Sentences



PRISON ADMISSIONS AND POPULATION

History & Forecast by Fiscal Year



NOTABLE CRIMINAL JUSTICE TRENDS¹

December 2010

Crime

- The number of **reported violent offenses** decreased by 10.0 percent in 2009.
- After eighteen years in which the **crime rate** (reported index crimes per 100,000 population) declined, and two (2007 and 2008) in which it increased, the crime rate fell from 4,699.8 in 2008 to 4,397.5 in 2009. This was a 6.4 percent decrease from the 2008 rate.
- After six years of increases, in 2009 **arrests** declined by 8.7 percent from 1,149,933 in 2008 to 1,049,919 in 2009.

Prison Admissions and Prison Population Growth

- There were 37,788 **admissions to prison** in FY 09-10, down 5.6 percent from FY 08-09. This was the second fiscal year in a row that prison admissions declined.
- Offenders sentenced to prison for **technical violations** in FY 09-10 decreased by 8.8 percent from the prior year bringing the number to below pre-zero tolerance levels.
- **Year-and-a-day sentences** declined by 24.6 percent in FY 09-10 over the previous year.
- The 5.9 percent decrease in new commitments in FY 09-10 was not evenly distributed by **offense group**. The largest decrease in terms of raw numbers was in the “Drugs” category, decreasing by 989 (-9.2%) between FY 08-09 and FY 09-10.
- Declines in “**Cocaine possession**” contributed most to the decline in the “**Drugs**” category, decreasing by 781 (-32.1%).
- In the “**Other**” offense category, “**Driving with a suspended/revoked license**” contributed the most to the decline falling by 542 (-41.3%).
- The number of offenders sentenced to prison under **10-20-Life** has increased each year since the legislation was passed. In FY 09-10, 1,495 offenders sentenced under these provisions received mandatory prison terms with 13.0 percent receiving a sentence at least 25 years in length.
- The incarceration rate (number of **prison inmates per 100,000 Florida population**) continues to increase. In the last 30 years, this rate has grown from 200.4 (in FY 79-80) to 544.1 (in FY 09-10). This rate had remained relatively flat between FY 94-95 and FY 01-02 but has risen each year since FY 02-03.

¹ Prepared by Senate Criminal Justice Staff. An abbreviated and modified version of an original document prepared by the Office of Economic and Demographic Research for the Criminal Justice Estimating Conference held October 19, 2010. <http://edr.state.fl.us>

Committee Substitute for
Committee Substitute for Senate Bill No. 2000

An act relating to correctional policies; creating s. 921.0019, F.S.; creating the Correctional Policy Advisory Council within the Legislature and a Justice Reinvestment Subcommittee within the Correctional Policy Advisory Council; requiring the council to evaluate correctional policies, justice reinvestment initiatives, and laws affecting or applicable to corrections; requiring the subcommittee to review the effectiveness of correctional policies, including sanctioning programs for low-level drug and property offenders, mental health and substance abuse interventions, and reinvestment strategies to enhance the long-term effectiveness of correctional policies by reducing cost without negatively impacting public safety; requiring that recommendations be consistent with specified goals; providing membership of the council; providing for selection of the chair of the council; providing for an executive director and additional staff for the council, subject to appropriations; providing that members of the council serve without compensation, but are entitled to be reimbursed for per diem and travel expenses; requiring meetings and reports of findings and recommendations to the Governor and the Legislature; requiring the council's abolition by a specific date; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 921.0019, Florida Statutes, is created to read:

921.0019 Correctional Policy Advisory Council.—

(1) The Correctional Policy Advisory Council is created within the Legislature for the purpose of evaluating correctional policies, justice reinvestment initiatives, and laws affecting or applicable to corrections, and for the purpose of making findings and recommendations on changes to such policy, reinvestment initiatives, and laws. The council shall serve in an advisory capacity to the Legislature and the Governor.

(2) A Justice Reinvestment Subcommittee within the Correctional Policy Advisory Council is created to review the availability of alternative sanctions for low-level drug and property offenders; the effectiveness of mental health and substance abuse diversion programs; the effectiveness of prison reentry practices; the feasibility of implementing a progressive sanctions system for probationers; the impact of jail overcrowding on the effectiveness of local alternative programs and sanctions; the effectiveness of supervision strategies; and the delivery of supervision and programs in neighborhoods that have a high proportion of supervised offenders.

(3) Any recommended change to correctional policies, justice reinvestment initiatives, or laws affecting or applicable to corrections must be consistent with the following goals:

(a) Protecting public safety, including, but not limited to, ensuring the incarceration of violent criminal offenders and nonviolent criminal offenders who commit repeated acts of criminal behavior and who have demonstrated an inability to comply with less restrictive penalties previously imposed for nonviolent criminal acts; and

(b) Providing for the most cost-effective and efficient use of correctional resources to the extent that such use is not in conflict with paragraph (a).

(4)(a) The council shall be composed of 10 members, consisting of two members of the Senate appointed by the President of the Senate; two members of the House of Representatives appointed by the Speaker of the House of Representatives; one representative of the victim advocacy profession, appointed by the Attorney General; the Attorney General or her or his designee; and the Secretary of Corrections or her or his designee. The following members shall be appointed by the Governor: one state attorney from a list of three nominees recommended by the Florida Prosecuting Attorneys Association; one public defender from a list of three nominees recommended by the Public Defenders Association; and one private attorney from a list of three nominees recommended by the President of The Florida Bar. The chair of the council shall be selected by the members for a term of 1 year.

(b) The chair of the council shall appoint members of the council to serve in a Justice Reinvestment Subcommittee to carry out the duties provided in subsection (2) and designate ex officio members from state or local agencies to serve as technical assistance advisors to the subcommittee.

(c) The council shall meet at least quarterly and other meetings may be called by the chair upon giving 7 days' notice to the public. The council may take public testimony.

(d) Members of the council shall serve without compensation, but are entitled to reimbursement for per diem and travel expenses, which shall be paid by the appointing entity.

(e) The Office of Legislative Services shall provide administrative staff support for the council. The Legislature's Office of Economic and Demographic Research shall provide technical and substantive staff support. The council staff members shall consist of an executive director and any other staff member determined to be necessary to the completion of the council's duties, subject to appropriations. Upon request of the chair of the council or the executive director, the Office of Program Policy Analysis and Government Accountability, the Department of Corrections and any other state agency or department, and the Office of the State Courts Administrator shall assist the council in providing necessary data collection, analysis, and research.

(f) The chair of the council shall develop a technical assistance agreement with the Justice Center of the Council of State Governments to work with the Justice Reinvestment Subcommittee to accomplish the review of the effectiveness of correctional policies as provided in subsection (2). The agreement shall include, but not be limited to, procedures for the Justice Center

of the Council of State Governments to access the data collection, analysis, and research capabilities of the agencies and offices listed in paragraph (e).

(5) On or before January 15 of each year, the council shall provide a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The council may provide the Legislature and the Governor with additional reports of findings and recommendations at any time it deems appropriate. The council may integrate the recommendations of the Justice Reinvestment Subcommittee in its report or may issue a separate report reflecting the findings of the subcommittee.

(6) The President of the Senate or the Speaker of the House may also direct the council to report by a certain date the council's findings and recommendations regarding an issue pertinent to correctional policies, justice reinvestment initiatives, or laws affecting or applicable to corrections.

Section 2. The Correctional Policy Advisory Council shall be abolished on July 1, 2011.

Section 3. This act shall take effect July 1, 2008.

Approved by the Governor May 28, 2008.

Filed in Office Secretary of State May 28, 2008.

Brief History of Legislation Creating the Correctional Policy Advisory Council

(Chapter 2008-54, L.O.F.)¹

12/4/2010

Background:

Senate Bill 2000 sponsored by Senator Dockery established the Correctional Policy Advisory Council to serve in an advisory capacity to the Legislature and the Governor. The members of the council have been appointed by former legislative leadership, the Governor, and the Attorney General. However, the 10 members have not met and the council is required to be abolished on July 1, 2011.

Disagreement with House Over Funding:

After passage of the bill there was dispute between the two chambers over the funding and staffing of the commission. The statute is ambiguous as to whether failure to appropriate funds for staff support relieves the council from performing its statutory obligations.

Connection with the National Justice Reinvestment Project through the Council of State Governments (CSG):

Approximately four years ago the CSG approached the leaders in Florida with the possibility of Florida receiving consulting services and technical assistance in managing its corrections expenditures. The CSG had provided similar assistance to several states. In 2008 the Speaker, President, and Governor sent letters of support to the Council of State Governments to invite them to assist Florida. Senate Bill 2000 and the creation of the Correctional Policy Advisory Council provided the framework for the CSG to begin their work. Consequently, their work in Florida has not occurred because of the inactivity of the Correctional Policy Advisory Council.

The CSG in their work in Connecticut, Texas, and Kansas analyzed correctional data to identify “hot spots” where large numbers of offenders were returning to specific neighborhoods and made recommendations on how to invest funds in target communities to make them safer and reduce recidivism. In Texas, for example, the CSG identified high rates of failure on community supervision, and inefficient use of parole as key factors driving the growth in prison admissions. To reduce recidivism rates and avert further growth in the prison population, state lawmakers enacted a package of criminal justice policies to improve success rates for people on community supervision, expand the capacity of treatment and diversion programs, and enhance the use of parole for low-risk offenders. By enacting these policies, the state reportedly saved \$210.5 million for the 2008–2009 fiscal biennium.

Recent Calls to Resurrect and Support Commission:

The Collins Center for Public Policy convened a Justice Summit in 2009 and unanimously recommended that the Correctional Policy Advisory Council and its Justice Reinvestment Subcommittee get up and running and receive the support it needs. In addition, it is anticipated that **Florida TaxWatch** will soon be making a similar recommendation to create a new commission to do a top-to-bottom review of the criminal justice system and corrections.

¹ Prepared by Senate Criminal Justice staff

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December 2010**

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justice reform

Achieving a safer, more just, and fiscally responsible justice system in Florida



“Smart Justice”

Findings and Recommendations for Florida Criminal Justice Reform

February 2010

“Smart Justice” Findings and Recommendations for Florida Criminal Justice Reform

Collins Center for Public Policy

February 2010

Executive Summary

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With Florida’s prison population now surpassing the 100,000 mark, powerful voices, a growing number from the business community, are speaking out about the alarming rate of prison growth and the unsustainable spending necessary to maintain it. They are striking a chord of urgency, saying we cannot continue on this path. We must find better ways to achieve a safer, more rational and more cost-effective criminal justice system.

Over the past year, in response to this growing crisis, the Collins Center for Public Policy worked

closely with the state’s business community as it became a new and vital voice for justice reform. Together, we issued an “Open Letter to the Legislature, Governor and People of Florida,” outlining the urgent need for change, and we convened the November 2009 Justice Summit, which brought together major players throughout the state to form a consensus on how to make that change.

The Smart Justice report reflects the work undertaken to analyze the growth of Florida’s corrections system and the policies driving that growth. Based on that analysis, the following reform recommendations are made to chart a course for a sustainable criminal justice system that costs less, in some cases immediately and in others, after the passage of a short period of time, and achieves better outcomes:

1. Tallahassee must ensure that the Correctional Policy Advisory Council and its Justice Reinvestment Subcommittee are up and running and receive the support they need. The people attending the Justice Summit were unanimous on this point.

justice reform



We must assess Florida’s criminal justice system as other states have done, and we must open our doors to the Council of State Governments and the Pew Public Safety Performance Project to steer us toward successful evidence-based solutions and models.

2. The Legislature should build on the kind of cost-saving sentencing reforms it enacted in 2008 and 2009.

This includes diverting nonviolent offenders from prison and requiring courts to show justification for imprisoning defendants with 22 or fewer points under the Criminal Punishment Code.¹ These measures have already had a significant impact and should be expanded.

The Legislature should also revise prison penalties for low-level drug offenses and theft offenses. Those in place now trigger state incarceration for relatively small quantities of drugs and low dollar amounts. Lawmakers should also revisit mandatory minimums and gain time, through which prisoners can earn up to 10 days per month off their sentences. Under current law, a prisoner must serve no less than 85 percent of his sentence, no matter how much gain time he would have earned.

3. Address the significant county-by-county sentencing disparities reported by the Legislature’s Office of Economic and Demographic Research, especially those involving people convicted of low-level offenses. The Legislature should consider shifting the financial incentives currently in place for state incarceration toward local supervision and treatment. (*Immediate cost-savings*)
4. The Legislature should support the expansion of drug courts and split sentencing, in which drug treatment commences in prison and continues upon release under drug court supervision. (*Intermediate cost-savings*)
5. The Legislature should increase the number of work release and other less costly non-institutional prison beds and decrease the number of more costly institutional beds. It should also overrule the DOC policies of holding one prison bed in reserve for every work release bed and capping work release at 4 percent of the inmate population. (*Immediate cost-savings*)
6. Faith and character-based prisons, proven to reduce recidivism at no greater cost, should be expanded to accommodate the 10,000 inmates on the waiting list. (*Intermediate cost-savings*)
7. The Legislature should enact legislation that will divert mentally ill and addicted individuals from the criminal justice system to community-based treatment. (*Intermediate cost-savings*)
8. The Legislature should require the Department of Corrections and the Department of Management Services, as appropriate, to provide essential information on each prison and prison facility (both private and public) that is planned or under construction.

It is time for our state to rethink thirty-year-old policies that may have served the state well in their time. But their time has passed. We know more now. We must be evidence-driven and fiscally conservative. Continuing to pour money into a bloated prison system in a time of fiscal austerity is not only unsustainable, it confounds common sense.

“Smart Justice”

Findings and Recommendations for Florida Criminal Justice Reform

Collins Center for Public Policy

February 2010

With Florida’s prison population now surpassing the 100,000 mark, powerful voices, a growing number from the business community, are speaking out about the alarming rate of prison growth and the unsustainable spending necessary to maintain it. They are striking a chord of urgency, saying we cannot continue on this path. We must find better ways to achieve a safer, more rational and more cost-effective criminal justice system.

Over the past year, with financial support from the Annie E. Casey Foundation and the Florida Bar Foundation, the Collins Center for Public Policy has spearheaded an effort that has fashioned an unprecedented coalition of voices.

The call for reform

Last summer, these new voices issued an “Open Letter to the Legislature, Governor and People of Florida.” In it they called for action to “quickly and comprehensively reform the state prison system and corrections policies.”

Organized by the Collins Center and the Steering Committee of the “Coalition for Smart Justice,” the letter was signed by leaders of Florida TaxWatch, Associated Industries of Florida, the Florida Chamber Foundation, the Police Benevolent Association, the Florida Association of Counties, social services and prisoner re-entry groups, three former attorneys general, former legislative leaders, a former governor and other government officials. The letter expressed their consternation over the policy choice to continually expand the prison system at the expense of other state priorities.

“At a time when Florida is in serious recession,” they wrote, “and facing a deep state budget crisis, the \$2+ billion budget of the Florida Department of Corrections has grown larger; and without reform, that budget will continue to grow at a pace that crowds out other mission-critical state services such as education, human service needs, and environmental protection.”

Course Correction

Florida's politicians have remained wary of reform efforts, equating reform with being soft on crime. But a new voice is calling for an overhaul of the system over the next few years: the state's business community.

Leaders at the Florida Chamber of Commerce and Associated Industries [say] the idea is to focus not solely on today, but on developing policies that will allow Florida to prosper in the future.

They imagine a future of lower spending on prisons; a single-digit recidivism rate; and job-training for inmates targeted at the needs of Florida businesses in 2020, 2030 and beyond.

"In the heyday, if we had \$100 million, it was easier to build a new prison than it was to work on this problem," says Tony Carvajal, executive vice president of the Florida Chamber Foundation, the research arm of the Chamber of Commerce.

"We don't have that option anymore. But at the end of this, we don't just want to balance the budget. We want to build a better state."

Florida Trend, May 2009

The press took note. Across the state, editorials and columnists noted the uniqueness of this new coalition and lent their own endorsements of fundamental criminal justice reform.

Justice Summit 2009

Seeing the need for a statewide conversation about reform, the Collins Center hosted a two-day Justice Summit in Tampa in November that brought together nearly 300 public officials and private professionals. In attendance were leaders from the state’s most powerful business organizations, state and national criminal justice experts, prosecutors, judges, legislators and officials from corrections, juvenile justice and human services.

Less crime is better than more prisons

Howard Troxler of the *St. Petersburg Times* epitomized the response by the press to the letter. He looked at what the letter was calling for and wrote, “Old stuff, really. Corrections experts have been saying this for years. But this was signed by three former Florida attorney generals, the directors of Florida TaxWatch, the Florida Police Benevolent Association, the Florida Chamber Foundation, Associated Industries of Florida, the Florida Association of Counties. Not a bunch of bleeding-heart egghead academics, but conservative leaders who can't stand frittering away billions on bad prison policy.”

Howard Troxler, *Less crime is better than more prisons*, *St. Petersburg Times*, 7/15/09

Summit participants discussed the progress being made in and out of Florida, ideas to save money and achieve better outcomes. They also recognized the miles to go before we reverse present trends and restrict spending to what is necessary and wise to protect and improve public safety.

They agreed on the following core recommendations:

- **Establish a council to analyze all of the criminal justice and corrections policies and make recommendations for reforms.** Fully implement Senate Bill 2000, passed in 2008, establishing the Correctional Policy Advisory Council.
- **Focus on securely locking up the most dangerous criminals rather than nonviolent offenders** who can be turned around with treatment and services.
- **Beef up existing drug, alcohol and mental health services, both in and out of prisons, and create solid education and job training programs, especially for young offenders.**
- **Enact other reforms that slow prison growth.** Find opportunities for concrete changes that can reduce the numbers we lock up and how often they return to prison.

**Parker Thomson,
President of the Collins Center for Public Policy
Speaking at the Summit**

In the past legislative session, in an effort to bring the business community into this effort, the Collins Center worked with Associated Industries of Florida, with Florida TaxWatch and with the Chamber of Commerce in an attempt to stop the building of prisons, which, at least in that session registered. With a cost of a hundred million dollars for each new prison and \$25-45 million a year to operate them, it would seem we could come up with better solutions than to build new prisons, which I think most everyone can see are the most expensive and the least effective way of dealing with offenders.

This report reflects those core reform recommendations, the work undertaken over the past year to analyze the growth of Florida’s corrections system, the policies driving that growth, and the specific reforms we believe can reverse course.

Generally reflecting the insights, perspectives and objectives of those who attended the Summit, it provides a snapshot of the criminal justice and corrections systems as they are today in Florida and of how we got where we are. It takes note of the reforms made thus far and sets forth its findings and reform recommendations. It seeks to chart a course for a sustainable criminal justice system that costs less and does more.

Tony Carvajal, Executive Vice President of the Florida Chamber Foundation, summed up the sentiments of the conference and particularly the business community this way, **“Tough on crime is one thing – irrational is another.** There’s a lot of waste in this system. When one in ten dollars is going into corrections out of our general fund, that’s a problem -- when we could be making those investments in something else like education. And imagine the loss from over 100,000 people not participating in our economy!”

“Corrections remains one of Florida’s few ‘growth industries,’ but it is ultimately an unsustainable one. The fact that the state has now given itself the option of exporting surplus prisoners elsewhere is a damning admission that the state’s ‘lock-em-up-and-throw-away-the key’ mind-set toward criminal justice is doomed to failure.

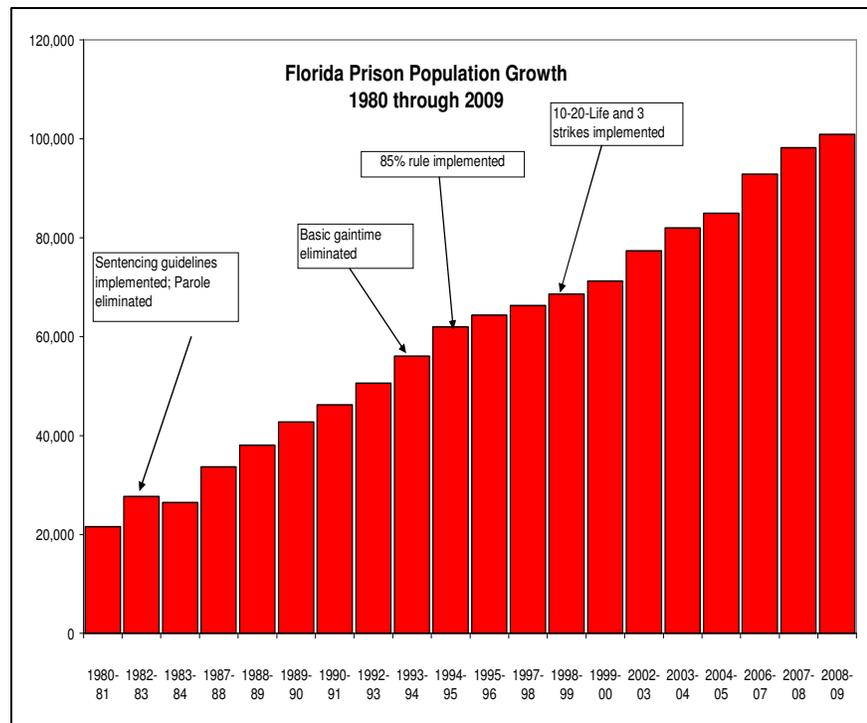
“The Coalition for Smart Justice has challenged Gov. Crist and the Florida Legislature to find another way. Will Tallahassee accept that challenge?”

Editorial: For Smart Justice, *Gainesville Sun*, 6/26/09

Florida’s ever-growing prisons

In 1980, there were 21,579 people in our state prisons.² By October 2009, the number had reached 101,497.³

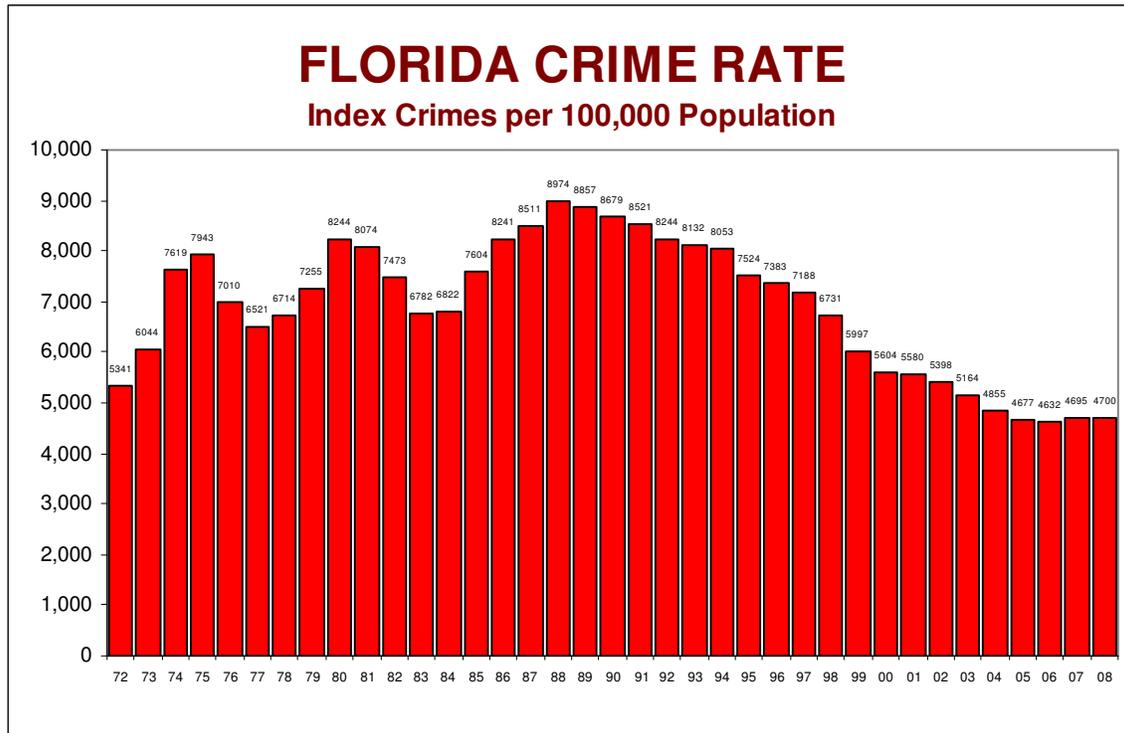
The growth in the state’s population does not nearly account for the prison growth. While Florida’s general population is not quite double what it was in 1980, the prison population is five times larger⁴



CRIMINAL JUSTICE TRENDS, Criminal Justice Estimating Conference, 9/29/09, Office of Economic and Demographic Research, The Florida Legislature

Yet the *crime rate* is down. In 1980, the number of reported serious crimes, also called index crimes, (murder, rape, robbery and aggravated assault, and the property crimes of burglary, larceny, and

motor vehicle theft) per 100,000 residents was 8,074; today it is 4,700.⁵ That is a drop of 42 percent over the past thirty years.



CRIMINAL JUSTICE TRENDS, Criminal Justice Estimating Conference, 9/29/09,
Office of Economic and Demographic Research, The Florida Legislature

It is tempting to credit the increase in prison population with the reduction in the crime rate, but that cause-and-effect scenario goes just so far.

Research shows that while some decrease in crime is attributable to incapacitating dangerous criminals, after a point, increased rates of incarceration offer diminishing returns and a negative benefit-to-cost ratio. This is especially true when we increasingly incarcerate people for nonviolent drug offenses and other low-level crimes.⁶

The Vera Institute for Justice examined the key studies on this issue and found that **“Analysts are nearly unanimous in their conclusion that continued growth in incarceration will prevent considerably fewer, if any, crimes — and at substantially greater cost to taxpayers.”**⁷

Yet, instead of focusing our resources on dangerous people who need to be locked up, where the cost is well worth the public safety benefits, we are more and more filling Florida’s prisons with nonviolent offenders.

Over the past thirteen years, the share of violent offenses accounting for prison admissions *decreased* by 28 percent. During that same period, the share of admissions for “other” offenses, i.e., offenses that are nonviolent, are not property crimes, and are not drug crimes *increased* by 189 percent.⁸ One of those offenses was driving with a suspended license -- the very charge that recently landed a 78-year-old grandmother in the Broward County jail for 15 days.⁹

"We really needed to do a much better job of taking away the symptom of locking 'em up and throwing away the key," Dominic Calabro, CEO of Florida TaxWatch, said this week during the conference, sponsored by the Collins Center.

"Because it became unsustainably expensive and increasingly a training ground for prisoners to become better convicts, better perpetrators of harm and evil against the people of Florida."

The News Service of Florida, 11/ 18/09

Florida is not alone in grappling with an explosion of prison growth corresponding with neither increases in population nor crime. In the 1970s the nation incarcerated about 250,000 people; the figure is now 2.4 million.

In response to this disturbing trend, Senator Jim Webb of Virginia introduced the National Criminal Justice Commission Act last spring to address, as he puts it the "situation that has evolved over time where we are putting far too many

of the wrong people into prison and we are still not feeling safer in our neighborhoods, we're still not putting in prison or bringing to justice those people who are perpetrating

violence and criminality as a way of life."

Senator Webb's analysis of the problem starts with this basic premise, "We have 5% of the world's population; yet we have 25% of the world's known prison population. We have an incarceration rate in the United States, the world's greatest democracy, that is five times as high as the average incarceration rate of the rest of the world. There are only two possibilities here: either we have the most evil people on earth living in the United States; or we are doing something dramatically wrong in terms of how we approach the issue of criminal justice."¹⁰

Of course we don't have the most evil people in the world, but we *have* made policy choices that have led to skyrocketing incarceration rates. As the Pew Public Safety Project has noted, "The remarkable rise in corrections spending wasn't fate or even the natural consequence of spikes in crime. It was the result of state policy choices that sent more people to prison and kept them there longer."¹¹

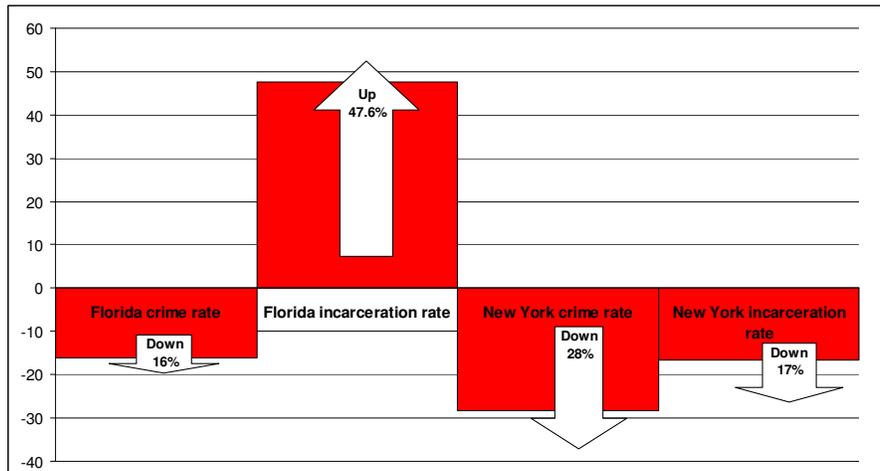
Some of the policymakers who enacted laws that caused the exploding growth are revising their opinions. Mark Earley, the president of Prison Fellowship, served in the Virginia Legislature in the late eighties and early nineties. He says, "I spent most of my time in the Legislature working on how to put more people in jail and keeping them there longer." But now he says, "I was wrong. I repent!"

Suellentrop, Chris, "The Right Has a Jailhouse Conversion," *NY Times Magazine*, December 24, 2006.

Pat Nolan, once the minority leader of the California Assembly and a former prison inmate, echoes this sentiment. "One of the mistakes I made as a legislator was that I thought we could put them in prison and forget about them. But I forgot that 95 percent come back. What kind of neighbors will they be?"

Increasingly, states are changing their policies to reverse this trend. New York has been a national leader in reducing its crime rate, *but as it did so, it cut its incarceration rate, too*, and has been closing prisons. Florida has not been nearly as aggressive in examining and revising former policy choices. While many states have responded to explosions in prison growth and prison spending by changing policies and practices to reverse the tide, in recent years Florida has *added* more prisoners than any state in the nation.

Crime Rates and Incarceration Rates -- Florida and New York



The states reversing their prison growth are looking at whom they incarcerate, for how long and for what offenses. And they are looking at ways to reduce the number of people who are released from prison and then continue to commit crimes. Now Floridians have come together to urge the state's lawmakers to do the same.

At what cost? \$2.6 billion and growing

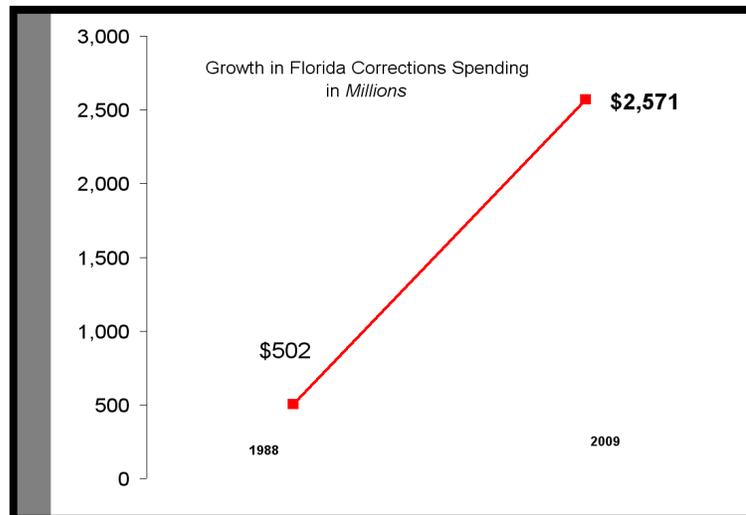
To maintain our spending on prisons, we must either increase revenue (taxes) or spend less on other priorities. In 2008, we *slashed* education funding by \$332 million and *added* \$308 million to the Corrections budget.

The increased spending built two state prisons and one private prison for a total of 10,200 new beds.¹²

But it is not just the state's school system that absorbs cuts in favor of prison construction. Within the Corrections budget, funds for education, treatment and job training are cut as well, reducing efforts to shut down the revolving door that leads many back to their prison cells.

Florida is third in the nation in the share of state general funds (10 percent) spent on corrections. And while the national average of state employees in the correctional workforce is 11 percent, in Florida it is 15.1 percent.¹³

If we were making a good return on the amount spent on Corrections (and focused that spending on confining and rehabilitating serious offenders), it would be money well spent. But the return is not



good. Within three years, 40.5 percent of the men released from prison will offend again, and 26.7 percent will be re-imprisoned for a new offense.

Dominic Calabro, President and CEO of Florida TaxWatch, says that instead of accepting prison growth and recidivism as a given, we should “find those prisoners who can be rehabilitated, particularly nonviolent offenders, those that are not sexual predators, and find ways to help them re-entering from the system or even preventing them from going in.”

We are spending our taxpayers’ money to lock up an increasing percentage of non-violent offenders, but we are doing little to rehabilitate them. Meanwhile, our violent prisoners are seeing even less effort at rehabilitation, but most of those, too, will be released. Last year a quarter of the inmates leaving our prisons had been convicted of violent offenses.¹⁴

Without changes in the laws and policies driving prison growth, the \$2.6 billion we spend on Corrections will only go up. AIF’s Barney Bishop is concerned that business will have to furnish the money. At the Smart Justice Summit, he explained: “We don’t have an income tax in Florida, so the business community is going to have to pay for this investment.”

Bishop says, “In addition to the extraordinary costs, the business community knows this is an important issue because we’re going to need these kids and adults coming out of the juvenile justice system and adult prison system in order to create a thriving economy in this state. To the extent that we change the way that we’re doing business, spend less money with a better outcome, that’s in the business community’s interest.” (For a full list of presenters and their topics please visit our website at www.collinscenter.org/?page=CSJSummit.)

Bob Butterworth, a former Broward sheriff, prosecutor and 20-year attorney general, said his two-year stint as secretary of the Department of Children & Families reinforced his belief in the value of prevention dollars – which are typically the first to be cut during lean years.

“Sometimes the worst dollar we spend,” Butterworth said, “pays for bricks and mortar.”

Florida still will need prisons for violent felons, Butterworth said. But spending \$1 billion over the next decade to build new prisons for drug addicts and people with mental illness, he added, is “nuts.”

“There’s just got to be a better way.”

Miami Herald, Jun. 24, 2009

The emerging reform agenda

Florida must look at *whom* we incarcerate, for *how long* and for *what offenses*; and we must address what we are doing to reduce the number of people who return to prison after release.

The costs are too great and the consequences are too dear to take off the table any sound idea that can reduce costs and increase public safety.

Such reforms are not unknown to the Florida Legislature, which has made some progress in improving the justice system. In 2008, for example, it responded to data showing an increase in incarceration for low-level crimes by changing the law.

Consider the following example:

The case of the unexpected prisoners

It was a mystery. Not the Sherlock Holmes sort of mystery that ends, after careful, insightful deduction, with the culprit’s unveiling and swift incarceration. This mystery began after the bad guy was sentenced and the heavy, barred door had clanged shut behind him.

We just didn’t know who he was. Or why there were so many just like him.

He cropped up in 2003, and again in 2004. For a while he had the state of Florida stumped.

The state’s prison population had been relatively stable, but started zooming upward, and the numbers made no sense. The increase in 2001 had been really small – 1.1 percent – and 2002 had been similar – 2.1 percent. Now the number was 10.8 percent, 3,700 more criminals than last year.¹⁵ Where did they come from?

The researchers first checked the crime rate, but it had gone down 2.1 percent.¹⁶ Fewer crimes and more criminals? It made no sense. But wait. Crime rates are calculated by counting “index crimes”: murder, sexual offenses, robbery, aggravated assault, burglary, larceny and motor vehicle theft.

It is commonly thought that prison time – “hard time” – is reserved for people who have committed that sort of crime, the kind that gets the headlines. While it’s true that only a felony conviction buys a ticket to state prison, what’s less well known is the wide range of activities the Legislature has made into felonies.

The researchers who count the state’s prison inmates for the Legislature suddenly realized why the numbers were going up.

The steep increases fell in a category that had been so insignificant in the past that it had been called “other.” The people filling the prisons – the mystery man and his cohorts – were in prison for having committed “other.”

“Other” offenses as a percent of all offenses increased from 10 percent in 2002 to 11.3 percent in 2004. In 1996, only 7.6 percent of the people sent off to prison had committed these “other” offenses.

The new criminals, it turned out, didn’t rape, murder or steal. The team drilled down further. What offenses in this category called “other” were driving the growth? They discovered that a significant increase was due to the “other” offense of driving with a suspended license. Mystery solved.

As one of these researchers, Kathleen McCharen, explained at the Justice Summit, the Legislature had made changes in the law that made the failure to meet various financial obligations (for instance, court fines and child support) cause to suspend a driver’s license. With more such failures punishable by license suspension, there were more felony convictions for driving a third time with a suspended license. In 2003 the increase was 10.8 percent; in 2004, it was another 10.4 percent.

The Legislature quickly responded, passing a law¹⁷ that changed what had been a felony for repeated convictions for driving with a suspended license to a misdemeanor for many whose convictions resulted from the inability to make payments on obligations.

We know more about what works: Building on success

The Legislature’s thoughtful probing of data underlying the “other” spike in incarceration and its taking action to address the problem are precisely what is needed across the board. A policy choice that seems wise at the time sometimes produces unintended consequences and unanticipated costs emerge.

The choice to make “driving with a suspended license” a felony was probably intended to deter and punish such driving, but when lawmakers realized the cost to taxpayers and to drivers who could not afford the obligations they had incurred, they took a second look. Upon assessing the costs, they realized state prison time was not the best answer to the problem. They then set out to make a needed course correction and accomplished it quickly.

The importance of this kind of analysis is clear; it is not an analysis that is limited to sentencing.

In 2008 and 2009, the Florida Legislature passed laws designed to slow the rate of admissions for low-level offenders such as offenders driving on suspended driver’s licenses. If Florida wants to continue to reduce prison admissions by reducing recidivism and diverting non-violent offenders from prison, then more systemic policy changes are needed.

Senate Committee on Criminal Justice, Interim Report 2010-312, September 2009, “Simple Purchase or Possession of Cocaine and Cannabis: Other States’ Sentencing Alternatives to Incarceration”

Progress thus far

What follows are other examples of reforms that have had an impact and that were illuminated at the Justice Summit. Some were legislative changes, some were policy changes and some may have been simply the result of changes in the political winds.

Over the past few years Florida has started to re-examine its correctional policies, and more broadly, its criminal justice policies. At the urging of Governor Jeb Bush’s Ex-Offender Task Force, which was appointed in 2005 to facilitate effective re-entry from prison and thus reduce recidivism, the Department of Corrections revised its mission from one of exclusively “custody and control” to address re-entry as well, with strategies that we hope will help to reduce recidivism.

The Legislature, DOC and local courts have made adjustments in sentencing laws, policies and practices in addition to the one noted in the case study above. Florida, the first state to create a drug court, has expanded its use and developed other specialized courts as well.

New Florida Corrections Mission
To protect the public safety, to ensure the safety of Department personnel, and to provide proper care and supervision of all offenders under our jurisdiction **while assisting, as appropriate, their re-entry into society.**

Last session, the Legislature addressed the problem of nonviolent offenders being sent to prison even though they scored only half the Criminal Punishment Code’s recommended score for state incarceration. It also created more diversion options for the courts.

At the county level, without any change in the law, there has been a decline in the use of year-and-a-day sentences that shift corrections costs from the counties to the state. (A one-year sentence or less is served in a county jail; those with longer sentences are sent to state prisons.) Last year, year-and-a-day sentencing was down by 29.5 percent, but one county’s decline was largely due to its having switched from a year and a day to a year and a month.¹⁸ And over the past two years, we saw a *reduction* in prison admissions for technical probation violations – down last year by 19.4 percent.¹⁹

Faith- and character-based prisons have been developed and expanded.

Bush’s Ex-Offender Task Force found that more than 40 percent of the jobs in the Florida economy carried state-created employment restrictions based on criminal histories. For example, the state had required people with felony convictions to first get their civil rights restored to work at a number of jobs and places of employment. The Legislature and state agencies have revised some of these policies. But many other types of restrictions persist.

Florida has not gone as far in making changes as states like Texas, which averted the construction of prison beds by investing in treatment and diversion programs. By partnering with the Pew Public Safety Performance Project and the Council of State Government’s Justice Reinvestment Initiative, Texas found a way to avoid \$523 million in prison construction costs with a \$241 million investment in diversion strategies.

FINDINGS AND RECOMMENDATIONS

FINDING: *Florida has not done a comprehensive review of the laws and policies driving prison growth and leading to poor outcomes such as high rates of recidivism, probation violations, and juveniles graduating to the adult system.* States like Texas, Alabama, Mississippi, Nevada and Nebraska are performing top-to-bottom analyses of the policies and practices that have driven prison growth. They are designing policies to manage that growth, improve accountability, and reinvest a portion of the resultant savings.

1. **Recommendation (intermediate and long-term cost-savings):** *Ensure that the Correctional Policy Advisory Council and its Justice Reinvestment Subcommittee are up and running and receive the support they need.* The people attending the Justice Summit were unanimous on this point.

Correctional Policy Advisory Council

The Correctional Policy Advisory Council is created within the Legislature for the purpose of evaluating correctional policies, justice reinvestment initiatives, and laws affecting or applicable to corrections, and for the purpose of making findings and recommendations on changes to such policy, reinvestment initiatives, and laws.

921.0019, F.S.; SB 2000 (2008)

We must assess Florida’s criminal justice system as other states have done, and we must open our doors to the Council of State Governments and the Pew Public Safety Performance Project to steer us toward successful evidence-based solutions and models.



FINDING: *Florida has met with success in making sentencing and diversion reforms that have had an impact on reducing the prison population.* But states such as Colorado, Iowa, Arkansas, Alabama, Ohio, Kansas, Pennsylvania, Washington and Massachusetts have redefined and reclassified criminal offenses and changed sentence lengths in a manner that has not undermined public safety and has reduced correctional spending. The National Conference of State Legislatures recently reported that, “In 2009, at least 12 states eliminated or decreased prison sentences for theft or drug offenses.”²⁰ Florida was not among them. Both the Legislature’s Office of Program Policy Analysis

and Government Accountability and the Senate staff have developed reform recommendations over the last few years that align with this approach.

**2. Recommendation (immediate cost-savings):
The Legislature should build on the kind of immediate cost-saving sentencing reforms it enacted in 2008 and 2009.**

This includes diverting nonviolent offenders from prison and requiring courts to justify imprisonment of defendants with 22 points or fewer under the Criminal Punishment Code. These measures have already had a significant impact and should be expanded.

The Legislature should also revise prison penalties for low-level drug offenses and theft offenses. Those in place now trigger state incarceration for relatively small quantities of drugs and low dollar amounts. Lawmakers should also revisit mandatory minimums and gain time, through which prisoners can earn up to 10 days per month off their sentences for good behavior. Under current law, a prisoner must serve no less than 85 percent of his sentence, no matter how much gain time he would have earned.

Last month, a coalition of business leaders and law enforcement professionals called on the Legislature to find ways to avoid adding still more prison beds to Florida's \$2.2 billion and growing correctional system.

Certainly sentencing reform and parole restoration must be high up on the agenda if lawmakers want to get a handle on runaway correctional costs.

Otherwise, the day will come when Florida taxpayers will find themselves footing the bill for a system of geriatric prisons to support aging inmates who pose little or no danger to society.

Editorial: Geriatric jails
Gainesville Sun, 7/29/09



FINDING: Drug courts and other specialized non-adversarial courts for people with addictions, mental illness and other disorders, along with other diversion strategies, reduce correctional costs in the near term and, through reduced recidivism, in the long term.

Such strategies, however, must rely largely on local funding and federal grants. Counties have a financial incentive to avoid local costs by steering low-level offenders to the state prison system. To correct this, states such as Pennsylvania, California, Wisconsin, Ohio, and Illinois have reversed this trend by providing financial incentives to local governments that handle these offenders locally, thus reducing prison admissions.

3. Recommendation (immediate cost-savings: Address the significant county-by-county sentencing disparities reported by the Legislature’s Office of Economic and Demographic Research²¹, especially those involving people convicted of low-level offenses. Consider shifting the financial incentives currently in place for state incarceration toward local supervision and treatment.

The Legislature needs to consider alternatives to building prison after prison. It might save money. It might save some of us from being future victims of crime. It might even salvage some lives.

Howard Troxler, Less crime is better than more prisons, *St. Petersburg Times*, 7/15/09

4. Recommendation (intermediate cost-savings): The Legislature should support the expansion of drug courts and split sentencing, in which drug treatment commences in prison and continues upon release under drug court supervision.



FINDING: Work release costs far less than institutional incarceration, but its use is far too limited. It costs just \$26.16 per day to house an inmate at a state work release center and \$20.13 per day at a contracted center. By contrast, the average cost of “hard beds” in prison facilities is \$52 per day. The 50 percent savings of work release is enhanced by a DOC policy requiring that 45 percent of the inmate’s earnings go to reimbursing the center.

Despite the cost savings and recommendations to expand work release, the Department of Corrections, by policy, requires a “hard” prison bed for every work release bed. It also has a policy that no more than 4 percent of the prison population can be in work release. Corrections officials are concerned that if a major incident occurs, the Legislature will order all work release inmates back to prison. They also argue that if more than 4 percent of inmates are in work release centers, the risk to public safety increases.²²

Florida needs better rehabilitation programs for offenders before they leave prison, and support afterwards. Too many inmates are discharged abruptly, lacking the education and life skills to lead successful, crime-free lives.

The state's criminal-justice policy has become too costly, in ruined lives and strained budgets alike. Reform should focus attention on incarcerating truly dangerous criminals, providing meaningful rehabilitation for the 90 percent of inmates who will eventually be released and diverting people who don't belong in prison.

A rising voice for change
Daytona Beach News-Journal, 6/28/09

In FY 07-08, 64.5 percent of inmates were released upon the expiration of their sentences and received no supervision in the community.²³ By contrast, all inmates on work release in the final months of their sentences are supervised.

The risk to the community during the few months of supervised work release is actually less than it would be upon release with no supervision.

5. Recommendation (immediate Cost savings): The Legislature should increase the number of work release and other less costly non-institutional prison beds and decrease the number of more costly institutional beds. It should also overrule the DOC policies of holding one prison bed in reserve for every work release beds and capping work release at 4 percent of the inmate population.



FINDING: OPPAGA has found that faith and character-based prisons improve institutional safety, achieve lower recidivism rates and attract more volunteers. Wakulla’s rate, for example, is 15 percent lower. Yet these more effective prisons have a waiting list of 8,890 inmates for the institution-based programs and 1,600 for the dorm-based programs.²⁴

6. Recommendation (intermediate cost-savings): Faith and character-based prisons, proven to reduce recidivism at no greater cost, should be expanded to accommodate more of the 10,000 inmates on the waiting list.



FINDING: Corrections does not have the ability to provide sufficient substance abuse or mental health treatment to meet the needs of inmates.

In 2008, of the 160,000 drug arrests made, 69,000 were for felony drug crimes. 58,045 of those defendants were found guilty and 10,735 of those found guilty were sent to state prison.²⁵ Drug crime convictions accounted for 30 percent of the 41,054 sent to prison in FY07-08. But the percent of the prison population needing drug treatment is much higher because many needing treatment were convicted of other types of offenses. **Over two-thirds of Florida’s inmates need substance abuse treatment²⁶ but there are drug treatment slots for only 2 percent of the inmates.²⁷**

In Florida, about 18.1 percent of the inmates receive ongoing mental health care.²⁸ As Judge Steven Leifman (Chair of the Eleventh Judicial Circuit of Florida’s Mental Health Committee) has pointed out, “We have 125,000 people who are arrested every year in this state who have such a severe mental illness that at the time of their arrest they need acute mental health treatment.

The Legislature should “put more dollars on the front end of the system in diverting people. If we can divert some of the people on the front end that don’t really need to be going to prison but need mental health, substance abuse, or other services, we could save money and produce better results. Unlike several decades ago, we actually know now what works, and if we implement programs that the research proves are effective, we can spend fewer dollars to get a better result. The people that we ought to be putting into prison are those that are the most dangerous to society. For those that are not a danger and their crime is not significant, we ought to divert them and address the issues that they have.”

– Barney Bishop, President of Associated Industries of Florida

“The fastest growing mental health dollar is not in our community mental health system, it’s in our forensic state hospital, which has seen a dollar growth of 72 percent over the last eight years while our community and we spend a quarter billion dollars a year on forensic hospitals for the purpose of restoring competency so they can take a plea.”

7. Recommendation (intermediate cost-savings): Enact legislation that will divert mentally ill and addicted individuals from the criminal justice system to community-based treatment.



FINDING: We are not clear about what prisons are being built right now – which are underway? Under what contracts? With enactment and implementation of the reforms suggested in this report and recommended by the Correctional Policy Advisory Council that will be made later, we can reverse the course of prison growth while improving public safety. Slowing prison growth may result in mothballing prisons or not completing the construction of prisons in the pipeline. However, current reporting does not provide the information the Legislature needs to take appropriate action.

8. Recommendation: The Legislature should require the Department of Corrections and the Department of Management Services, as appropriate, to report on each prison and prison facility (both private and public) that is in the pipeline.

The reports should include such meaningful information as the total cost, whether it will be paid for by general funds or bonds, the stage of construction (e.g., site selection, architectural drawings, water and sewage plans, groundbreaking, construction, staffing), contracts let and anticipated, and the expected dates of completion and operation.

The time for change is now

The Justice Summit taught us that we must move beyond the simplistic descriptions of “hard on crime” and “soft on crime.” It is time to be **smart** about crime:

- Smart by being cost-efficient.
- Smart by adopting policies and practices that are supported by sound evidence.
- Smart by putting our resources into protecting public safety by focusing on those who have done us real harm and those at great risk of harming again.
- Smart by recognizing that the great majority of ex-offenders return to their communities; we must support and fund the key programs that lead to success upon release from prison.

This discussion is fundamentally about public safety, about the wise use of limited taxpayer dollars and about the long-term sustainability of Florida and our communities. **This is not an entirely new set of ideas. Many reading this document have toiled in the fields of justice for decades and it is upon their shoulders we stand. What is different is that the cast of those calling for reform has broadened significantly, including many from the business community and more politically conservative ranks. What has also changed is the urgency – now magnified by Florida’s severe fiscal challenges.**

Kevin Hassett of the American Enterprise Institute recently said “that Florida is one of the states facing difficulty going forward following a 20-month national recession that wreaked ‘an astonishing period of economic misery.’”

Adam Gelb

**Project Director of the Pew Public Safety and Performance Project
Speaking at the Justice Summit**

“It used to be that the only issue for state policymakers was, ‘How do I demonstrate that I’m tough on crime?’” Gelb said. “They’re starting to ask a very different question, which is, ‘How do I get taxpayers a better return on their investment in public safety?’”

He said state leaders across the country are recognizing that prisons are a government spending program. As such, they should be subject to a cost-benefit test.

“When you can put together a package of policy options that’s a win/win; less crime and lower costs. It’s not a slam dunk,” Gelb said, but “it’s very hard to ignore, especially when the economy is in such trouble.”

The News Service of Florida, 11/ 18/09

We can no longer rely on gathering revenue from people moving to the state or the resulting construction booms. An aging population will put greater demands on state services.²⁹ The point? There are no funds in the coffers to build \$100 million prisons, and citizen priorities are shifting.

Public opinion polling reflects this shift. In a late 2008 Quinnipiac poll of Florida voters, only 2 percent of the people queried named crime as the most important issue facing Florida. And that was a 60 percent drop from two years before. Nationally, the picture is the same.

That is why getting “smart” on crime and using criminal justice resources more judiciously is gaining such traction, particularly among Republicans, who provided significant leadership support for the passage of the Second Chance Act in Congress.

More than three years ago, the New York Times Magazine wrote about this shift in public opinion and the new leadership emerging on criminal justice reform, in a piece called, “The Right Has a Jailhouse Conversion.”

“Increasingly,” the author noted, “Republicans are talking about helping ex-prisoners find housing, drug treatment, mental-health counseling, job training and education.

“They’re also reconsidering some of the more punitive sentencing laws for drug possession. The members of this nascent movement include a number of politicians not previously known for their attention to prisoners’ rights ... Referring to mandatory-minimum sentences, Representative Bob Inglis of South Carolina, whose district is home to Bob Jones University, declared on the floor of the House: “I voted for them in the past. I will not do it again.”³⁰



For Florida, it is time to rethink thirty-year-old policies that may have served the state well in their time. But their time has passed. We know more now. We must be evidence-driven and fiscally conservative. Adding prisons in a time of fiscal austerity is not only unsustainable, it confounds common sense.

**Pat Nolan,
Vice President of Prison Fellowship
Speaking at the Justice Summit**

I’m a conservative Republican, I work with Prison Fellowship. Chuck Colson, our founder, is a conservative republican. Mark Earley, our president, was a former attorney general of Virginia. All of us have great law and order credentials.

We’re trying to change the whole political ballgame. You haven’t seen it yet, but Richard Viguerie, the godfather of the conservative movement and direct mail; David Keene, of the American Conservative Union, Gene Meyer of the Federalist Society; Tony Blankley former editorial page editor of the *Washington Times*, are all working with me to mobilize conservative support for these types of reforms and basically saying ‘we’ve made a mistake, we’ve fed this iron triangle of building prisons that is eating our budgets alive and frankly is not conservative.

Prisons are for people we're afraid of, and it is a waste to fill them with people we're merely mad at.

Looking to the future

America has always been the refuge of people seeking second chances. Whether they were fleeing discrimination and abuse, were victims of dictators or were simply idealists, people coming to America have shared the vision of John Winthrop as he expressed it in his 1630 sermon to fellow dreamers sailing toward Massachusetts -- “We shall be as a city upon a hill,” he said. “The eyes of all people are upon us.”

He called on his fellow passengers to realize this vision with a simple injunction: “There are two rules whereby we are to walk one towards another: Justice and Mercy.”

Because of the fiscal crisis facing the state, the focus of this Report is on short-term, pragmatic, common sense solutions that can immediately save the state money and improve public safety. We do not discuss justice or mercy in this report. Not directly.

But just as they guided Winthrop’s passengers, the two rules of justice and mercy have guided this work – not just here in Florida, but across the nation.

Once the nation’s prisons and jails filled up with about two million people, once we started seeing more than 650,000 Americans coming home unprepared from prison each year, and once we noticed that almost a quarter of the U.S. population has a criminal record, Winthrop’s two rules began to get some attention. Justice, yes. Mercy, yes. That’s what the second chance is all about.

Such ambitious reforms won't be easy to accomplish, but today's fragmented system is not doing the job, and its costs are incalculable as the revolving door never stops.

Switching the emphasis from incarceration to rehabilitation of nonviolent offenders makes financial and humane good sense. That is what smart public policy is all about.

Our Opinion: Try again
Mental health, prison reforms are a must;
Tallahassee Democrat, 7/12/09

Among our recommendations, none is more important than the first, which calls for the Correctional Policy Advisory Council and its Justice Reinvestment Subcommittee to be established, as set forth in Senate Bill 2000, passed in 2008. This Council will provide a forum for the larger, broader discussion of the policies driving growth and the policies that advance or deter successful reintegration after prison. And we will ask, do our policies adhere to Winthrop’s two rules?

And as we urge the convening of that Council, we will also work to expand further the coalition that will champion the recommendations contained in this report, which are aimed at these same objectives.

Going forward, we will address Florida’s myriad challenges. We are still struggling with adult corrections and the reintegration of people coming home from prison, which was much-discussed at the Summit.

We will address the barriers to re-entry examined by Bush’s Ex-Offender Task Force and later, the Department of Corrections’ Re-entry Advisory Council. We will especially address the employment barriers that would be lifted through the law and policy changes these groups have recommended.

We will look at juvenile justice policies and practices that often lead to the evisceration of youthful promise and then later, to adult crime, to incarceration and to further cost to taxpayers.

We recognize that strategic planning and reform are seldom coordinated across this “corrections arc” — the continuum from juvenile issues in schools and communities to adult re-entry issues. We must address the entire continuum if transformative change is to occur.

We are impressed and encouraged by the fact of business assuming leadership in making the case for justice reform. Business leadership has made the case more compelling. We will work to deepen and broaden its engagement. We will also continue to convene the Coalition for Smart Justice Steering Committee and host its website.

This year, we have made much progress. From engaging the business community in this work to the issuance of the Letter to the Legislature, Governor and People of Florida, to the Justice Summit, and now this report, we have hit our stride. But there is much yet to be done.

There is no issue being debated in Congress or statehouses across the country that has bridged partisan and ideological divides the way criminal justice reform has over the past six years. This presents an unprecedented opportunity for us. We can rethink failed criminal justice policies and correct them and enact reforms that will not only make our communities safer by finally becoming smart on crime, but we can work to make the ideal of the second chance real. And we can create a system that reflects the justice and mercy that John Winthrop promised almost five hundred years ago.

Two Conservatives Converse on Criminal Justice Reform 12/14/09

Ross Douthat: The violent crime rate has been cut by nearly 40 percent since its early-1990s peak. The murder rate is at its lowest point since Lyndon Johnson was president.

Yet the costs of this success have been significant: 2.3 million Americans are behind bars. Our prison system tolerates gross abuses, including rape on a disgraceful scale. Poor communities are warped by the absence of so many fathers and brothers. And every American community is burdened by the expense of building and staffing enough prisons to keep up with our swelling convict population.

Mass incarceration was a successful public-policy tourniquet. But now that we’ve stopped the bleeding, it can’t be a permanent solution.

Above all, it requires conservatives to take ownership of prison reform, and correct the system they helped build. Any successful reform requires the support of the law-and-order party.

Eli Lehrer: We can't go back to the "bad old days" of sky-high crime rates and short sentences for heinous crimes, but the country would be equally wrong to believe that the current policies of locking 2.3 million people in poorly run prisons is copacetic. **In fact, most people who have given serious thought to the problems of America's current prison system agree on roughly the same new set of policies: work to monitor some offenders more closely in the community rather than locking them up, fund drug treatment, keep prisons themselves safe, and encourage prisoners to work and get educated.**

The problem is that politicians across the political spectrum just want to be seen as "tough on crime" and are unwilling to bend at all even when they know that other policies might be better for the public.

Ross Douthat, writing for the New York Times, is the columnist who recently replaced Bill Kristol as the paper's resident conservative. Ross also writes for, among others, the *National Review*, the *Wall Street Journal* and the *Weekly Standard*. His comments are followed by a response by Lehrer published in the *National Review*. Lehrer is a fellow at the Competitive Enterprise Institute. He has been with the Heritage Foundation and was Bill Frist's speechwriter.

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The Smart Justice Coalition Steering Committee, formed in early 2009, was a loosely-knit but highly committed group of advocates for rational justice reform. This Committee proposed and helped write the Open Letter, the Strategic Objectives document and helped plan and implement the Justice Summit. The gifts of their time and talents are greatly appreciated. Its members include:

- **Barney T. Bishop III**, President and CEO, Associated Industries of Florida
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- **Gail D. Cordial**, Executive Director, Florida Partners in Crisis, Inc.
- **Allison DeFoor, II**, Prison chaplain
- **Mark P. Fontaine**, Executive Director, Florida Alcohol and Drug Abuse Association
- **Vicki Lopez Lukis**, Vice Chair, Florida Department of Corrections Reentry Advisory Council and former Chairman of the Governor's Ex-Offender Task Force
- **James R. McDonough**, former Secretary, Florida Department of Corrections
- **Ellen Piekalkiewicz**, Executive Director, Florida Substance Abuse and Mental Health Corporation
- **Steven M. Seibert**, Senior VP and Director of Policy, Collins Center for Public Policy
- **Florence Snyder**, Attorney and Counselor at Law
- **April Young, PhD**, Vice President, Justice Initiatives, Collins Center for Public Policy

The Open Letter to the Governor, Legislature and People of Florida set the stage for rethinking Florida's criminal justice system, stating, “At a time when Florida is in serious recession and facing a deep state budget crisis, the \$2+ billion budget of the Florida Department of Corrections has grown larger; and without reform, that budget will continue to grow at a pace that crowds out other mission-critical state services such as education, human service needs, and environmental protection...” In addition to the members of Smart Justice Coalition Steering Committee signing it, the Collins Center wishes to thank the other leaders who signed it and for their support:

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- **Michael Sittig**, Executive Director, Florida League of Cities
- **Andrew J. Vissicchio, Jr. K.M.**, The Sovereign Military Order of Malta, American Association
- **Robert Butterworth**, Former Florida Attorney General, 1987-2002
- **Martha W. Barnett**, Partner, Holland & Knight
- **John M. McKay**, Former President, Florida Senate, 2000-2002

The 2009 Justice Summit’s success is largely due to the incredible roster of presenters we were able to bring together in Tampa. **Parker Thomson** and **Steve Seibert** set out the context of the event – exploding costs and a new set of players seeking to rein in those costs.

Former Secretary of Corrections **Jim McDonough** introduced, the Vice President of Prison Fellowship, **Pat Nolan**, who came to Tampa from his home in Virginia to provide an overview of the reform efforts across the country. We not only appreciate the great sacrifice Pat made to come but his sustained passion for justice reform. We also want to thank Secretary McDonough for continuing his commitment to a just and humane corrections system that he worked so hard to achieve during his tenure as Secretary.

Our thanks go out to **Representative Nick Thompson** (R-Fort Myers) for introducing fellow member of the Board of Directors of the Council of State Government’s Justice Center, Texas’ **Representative Jerry Madden** (R-Plano), who shared how Texas was able to dramatically slow prison growth, save money and improve outcomes. Thanks, Jerry, for showing us both how essential reform is and how to get it done.

The author of this report, **Linda Mills**, told the story of Florida’s prison growth and successful efforts to tame that growth, along with **Allison DeFoor** and **Kathleen O. McCharen**, Criminal Justice Estimating Conference, Office of Economic and Demographic Research. Kathleen’s research proved invaluable to this report. The author deeply appreciates her cooperative and collaborative spirit and the time she spent providing data and analysis prior to and after the summit.

We thank **Gail Cordial** for her introduction of **Adam Gelb**, Director of Public Safety Performance Project at the Pew Center on the States, who presented a revealing picture of how Florida’s justice system was performing compared to other states. Thank you Adam for your powerful work and we wish you continued success in transforming justice systems across the nation. We also thank **Brian Elderbroom**, Senior Associate at the Center on the States, with whom we collaborated on Summit presentations.

Thank you to **Philip Bacon**, Collins’ Vice President for Neighborhood & Regional Initiatives, who has brought neighborhood rebuilding perspective to our justice work. Phil introduced **April Young, PhD**, who put the current justice reform agenda into the larger context of the continuum from childhood poverty, to the juvenile justice system, to the adult corrections system to reentry.

We thank **Hon. Irene Sullivan**, Circuit Judge, 6th Judicial Circuit (Juvenile Judge, United Family Court) for her introduction of Department of Juvenile Justice Secretary **Frank Peterman**, who we thank for sharing his department’s initiatives with the summit participants.

We thank long-time prison volunteer, **Henree Martin**, Owner, Developers Realty & Investment Properties, Inc., and member of the Florida Department of Corrections’ Re-Entry Advisory Council, for her introduction of Department of Corrections **Secretary Walt McNeil** and Department of Children and Families Secretary **George Sheldon**. Thanks you Secretary McNeil and Secretary Sheldon for your informative presentations.

The business panel was a highlight of the Summit. With **Allison DeFoor** moderating, **Barney Bishop**, President and CEO, Associated Industries of Florida, **Tony Carvajal**, Executive Vice President, Florida Chamber Foundation; **Dominic Calabro**, President and CEO, Florida TaxWatch; **John McKibbon**, CEO and Chairman, McKibbon Hotel Group, Inc.; and **Joseph Capitano**, President, Radiant Oil Company of

Tampa, Inc. delighted Summit participants with a candid conversation about why business wants to reform the justice system. Thanks so much to each of you.

Thank you to **Ellen Piekalkiewicz** for introducing and to **Hon. Janet Ferris** for moderating the panel on the view of the justice system from the courts. To **Hon. Melanie May**, Judge, 4th District Court of Appeal, **Hon. Bernie McCabe**, State Attorney, 6th Judicial Circuit; **Hon. Nancy Daniels**, Public Defender, 2nd Judicial Circuit; and **Hon. Steve Leifman**, Judge, Special Advisor on Criminal Justice and Mental Health, we extend our sincere appreciation for your own reform efforts over the years and for illuminating the challenges we still face.

Ralph Martin, JD, drew a standing ovation after his luncheon speech. Ralph has been working on surmounting the many barriers to success that people with criminal records face even before he was appointed to Governor Bush’s Ex-Offender Task Force. Thank you, Ralph, for your determination and for sharing your deeply personal and inspirational story.

Thanks go to **Emery Gaaney**, Director, Law Enforcement Relations, Victim Services, and Criminal Justice Programs, Florida Office of the Attorney General, and moderator **Mark Fontaine** for your panel of people working in the field to improve the system and achieve better reentry outcomes. Thank you to **Chet Bell**, CEO, Stewart-Marchman-Act Behavioral Healthcare; **Hon. R. J. Larizza**, State Attorney, 7th Judicial Circuit; **Donna Wyche**, Orlando Central Receiving Facility; Captain Miguel Pagan, Orange County Sheriff’s Office; and **Gordon Bass**, Director, Jacksonville Sheriff’s Office Department of Corrections, for your work and for sharing your achievements at the Summit.

Thank you, **Kevin Gay**, President, Operation New Hope, Inc., for your spirited introduction of your friend, **Vicki Lopez Lukis**, Vice Chairman of DOC Reentry Advisory Council and former Chairman of Governor Bush’s Ex-Offender Task Force, who gave the last presentation of the Summit – a rousing call for everyone to move together in unison to support our new allies and partners in the business community in leading our new effort in securing meaningful justice reform. Thank you, Vicki, for your passion, zeal and commitment to reform.

Special thanks go out to **Senator Paula Dockery** (R-Lakeland), Senator **Arthenia Joyner** (D-Tampa), **Representative Audrey Gibson** (D-Jacksonville), **Representative Perry Thurston** (D-Plantation) and **Trina Kramer**, Staff Director, House Committee on Homeland and Public Safety for attending the Summit and sharing their insights.

We also thank **The Florida Channel** for filming and streaming the summit, allowing many more Floridians to see the proceedings.

This report would look nothing like it does without the help of all the people who provided and discussed their data and research with the author. Among them are **Amanda Cannon**, Staff Director, Senate Committee on Criminal Justice; **Scott Clodfelter**, Staff, Senate Committee on Criminal Justice; **Tim Sadberry**, Staff Director Senate Committee on Criminal and Civil Justice Appropriations; **Rashada Houston**, staff at Legislature’s Office of Program Policy Analysis and Government Accountability (OPPAGA). Thanks so much to each of you.

TaxWatch played a critical role as well. We thank President & CEO Dominic Calabro and his staff **Deborah Harris**, Chief of Staff, **Robert Weissert, JD**, Director of Communications & External Relations and Special Counsel to the President & CEO, and **Balazs Khor**, Research Analyst for the many lively hours of productive policy discussions that contributed to this report.

ENDNOTES

¹ CS for SB 1722 (2009)

² Criminal Justice Estimating Conference, 9/29/09, Office of Economic and Demographic Research, The Florida Legislature; Spreadsheets provided to the author from Criminal Justice Trends.

³ Florida Dept. of Corrections, End-of-Month Florida Prison Populations by Facility, October 2009.

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⁶ Pew Center on the States, *One in 31: The Long Reach of American Corrections*, March 2009, at 17-21.

⁷ Stemen, Don, *Reconsidering Incarceration, New Directions for Reducing Crime*, Vera Institute of Justice, January 2007.

⁸ Florida Dept. of Corrections Annual Reports, 1995-96 and 2007-08.

⁹ Christensen, Dan, “Hallandale Beach grandma sent to jail -- and forgotten,” *Miami Herald*, January 12, 2010.

¹⁰ Senator Jim Webb’s Floor Speech to Introduce “The National Criminal Justice Commission Act of 2009,” March 26, 2009.

¹¹ Pew Center on the States, *One in 31: The Long Reach of American Corrections*, March 2009, at 1.

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¹³ Pew Center on the States, *One in 100: Behind Bars in America 2008*, February 2008, at 8.

¹⁴ Florida Dept. of Corrections Annual Report, 2007-2008.

¹⁵ Criminal Justice Estimating Conference, 9/29/09, Office of Economic and Demographic Research, The Florida Legislature; Spreadsheets provided to the author from Criminal Justice Trends. In 2001, prisons had grown by fewer than 800 inmates in 2001 (1.1%), and by just over 1,500 inmates in 2002 (2.1%).

¹⁶ *Id.* From 2002, the crime rate fell from nearly 5,400 index crimes per 100,000 Floridians in 2002 to 4,855 in 2004.

¹⁷ CS/SB 1988.

¹⁸ Hillsborough County started sending a significant number of people to prison with year and a month sentences in November 2007; by January 2008, the County had more than halved its year and day sentences,

but quadrupled its year and a month sentences. Criminal Justice Estimating Conference, 9/29/09, Office of Economic and Demographic Research, The Florida Legislature.

¹⁹ *Id.*

²⁰ National Conference of State Legislatures, "Top 10 issues of 2010: Third year that fiscal conditions will dominate legislative sessions," December 17, 2009.

²¹ Criminal Justice Estimating Conference, 9/29/09, Office of Economic and Demographic Research, The Florida Legislature; Spreadsheets provided to the author from Criminal Justice Trends.

²² OPPAGA, Higher Priority Should Be Given to Transition Services to Reduce Inmate Recidivism, February 2007.

²³ Florida Dept. of Corrections Annual Report, 2007-2008.

²⁴ OPPAGA, Faith- and Character-Based Prison Initiative Yields Institutional Benefits; Effect on Recidivism Modest, Report No. 09-38, October 2009.

²⁵ Criminal Justice Estimating Conference, 9/29/09, Office of Economic and Demographic Research, The Florida Legislature; Spreadsheets provided to the author from Criminal Justice Trends.

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About the Collins Center for Public Policy

Former Florida Governor LeRoy Collins' legacy of uncompromising integrity in government and business continues at the Collins Center for Public Policy. Established in 1988 by distinguished Floridians who envisioned the need for an independent entity to find impartial solutions to controversial problems, the Collins Center is known as a *Think Tank with muddy boots*. With offices in Miami, Tallahassee and Sarasota, our mission is to find smart solutions to important issues facing the people of Florida and the nation. We are independent, nonpartisan, nonprofit and passionately committed to lasting results.

The Coalition for Smart Justice (www.smartjusticeflorida.org) is a partnership created by the Collins Center with key public and private organizations. In the interest of public safety, fiscal responsibility, and criminal justice effectiveness, the coalition has opened a public conversation to explore better ways to achieve a safer, more just, and more effective criminal justice system that will have the desired outcomes of less crime, less public costs, and greater rehabilitative effect on offenders. Learn more by visiting our web site or by contacting:

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Linda Mills, Esq., President of Policy Catalysts, LLC, is the author and designer of this report. She serves as the criminal justice consultant to the Collins Center for Public Policy and the Annie E. Casey Foundation, among others. She has been consulting on Florida justice reform issues since 2005, when she did the research and writing for the Casey-supported Governor's Ex-Offender Task Force. The report was written under the direction of Steve Seibert, Senior Vice President and Director of Statewide Policy at the Collins Center, with feedback provided by Roderick Petrey, President of the Center, and April Young, PhD, Vice President for Justice Initiatives. She can be reached at LMillsEsq@comcast.net. Editorial assistance was provided by **Jay Goley**, a recovering journalist who is retired after a lengthy career at the Sarasota Herald-Tribune.

Juvenile Justice Students Face Barriers to High School Graduation and Job Training

**A presentation to the
Senate Criminal Justice Committee**

December 8, 2010

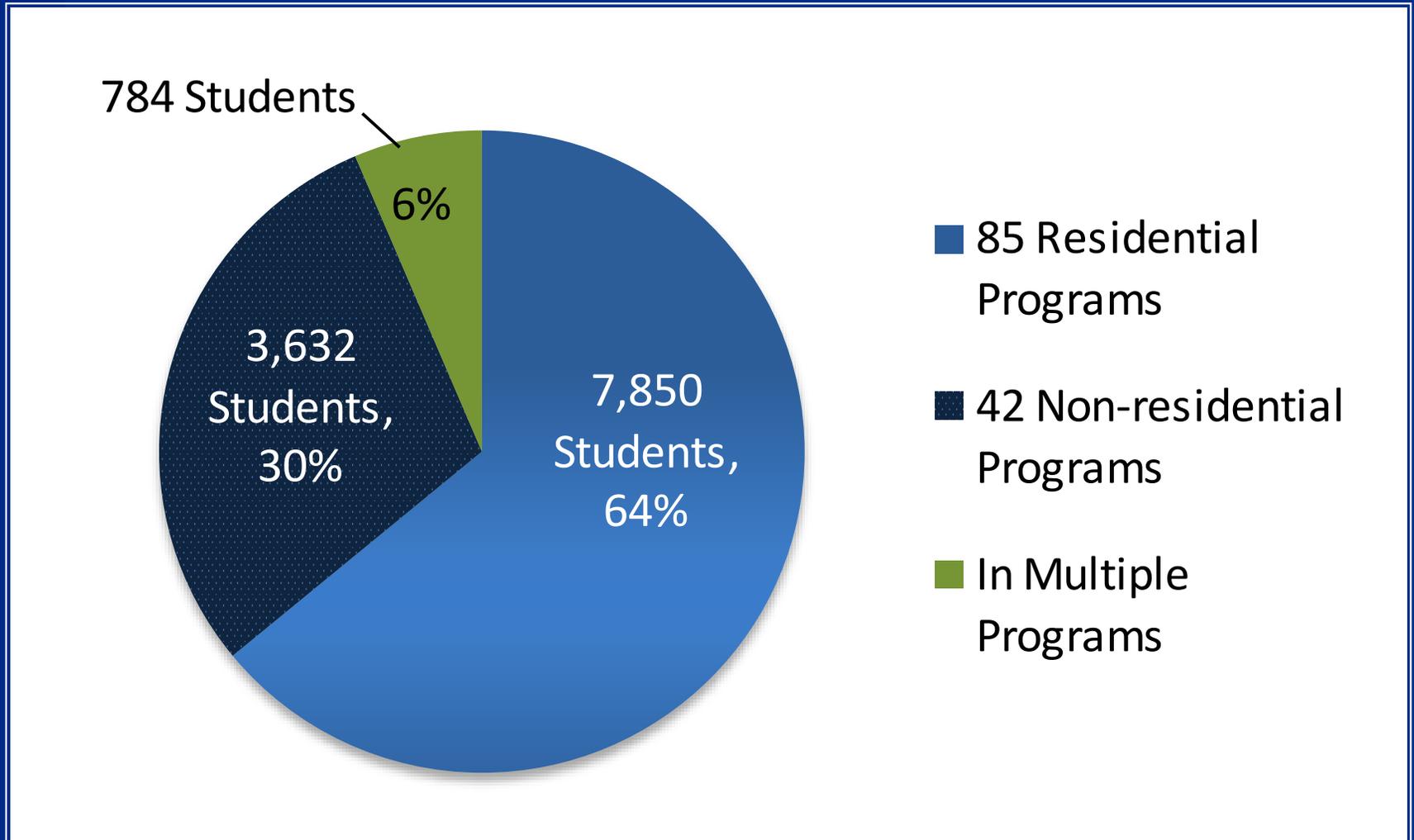
**LucyAnn Walker-Fraser
Senior Legislative Analyst**



While in Juvenile Justice Programs

- **Do high school students make reasonable academic progress?**
- **What percentage of older students receive GEDs and job skills training?**
- **What barriers do they face in obtaining these services?**

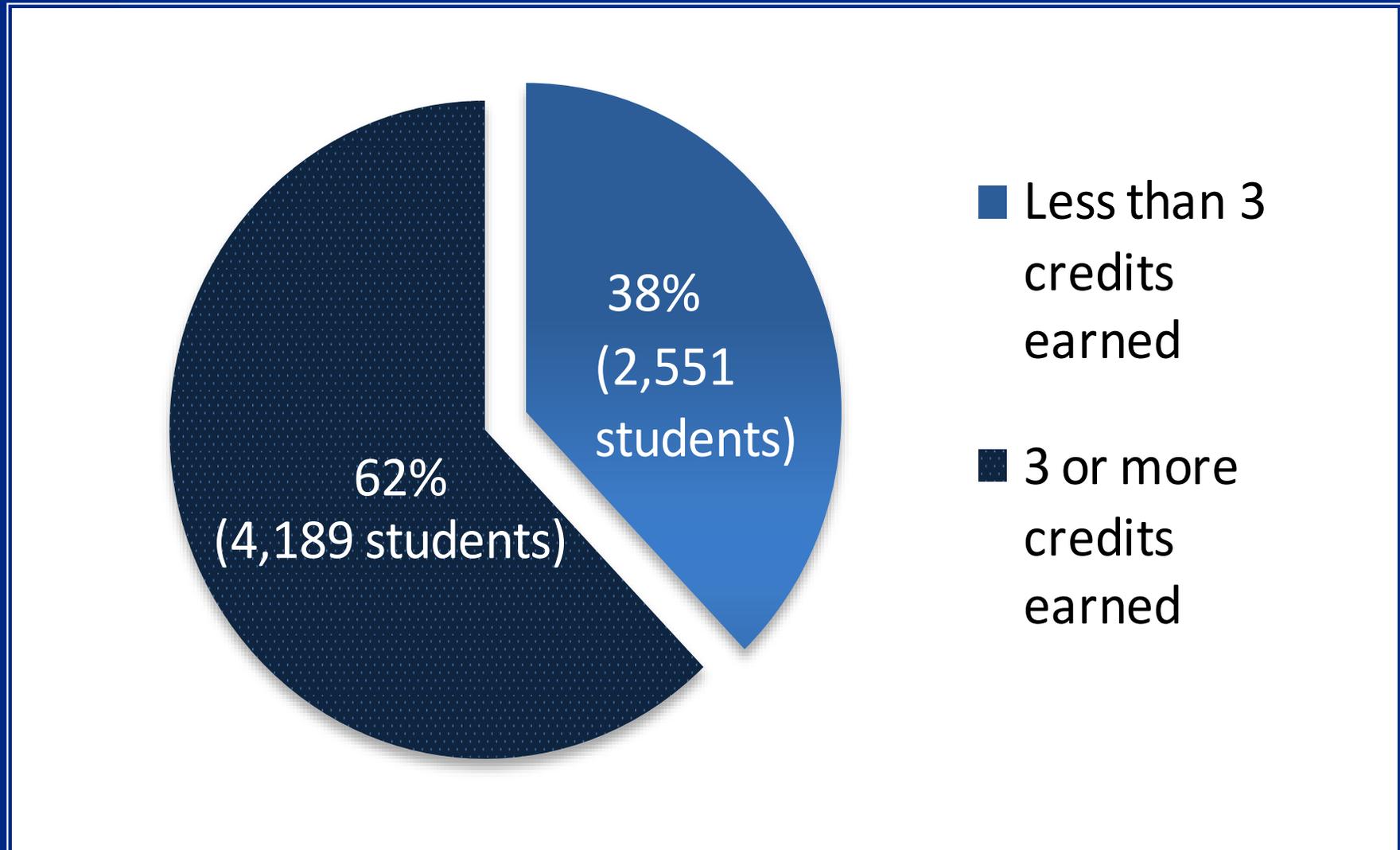
Students Receive Education in Residential and Non-Residential Juvenile Justice Programs



School Districts Must Provide Educational Services in Juvenile Justice Programs

- **Services that lead to completing a high school diploma or its equivalent and obtaining meaningful employment**
- **Access to courses and instruction to prepare them for the General Educational Development (GED) test**

Most High School Students in Juvenile Justice Programs Earn Credits at a Reasonable Rate



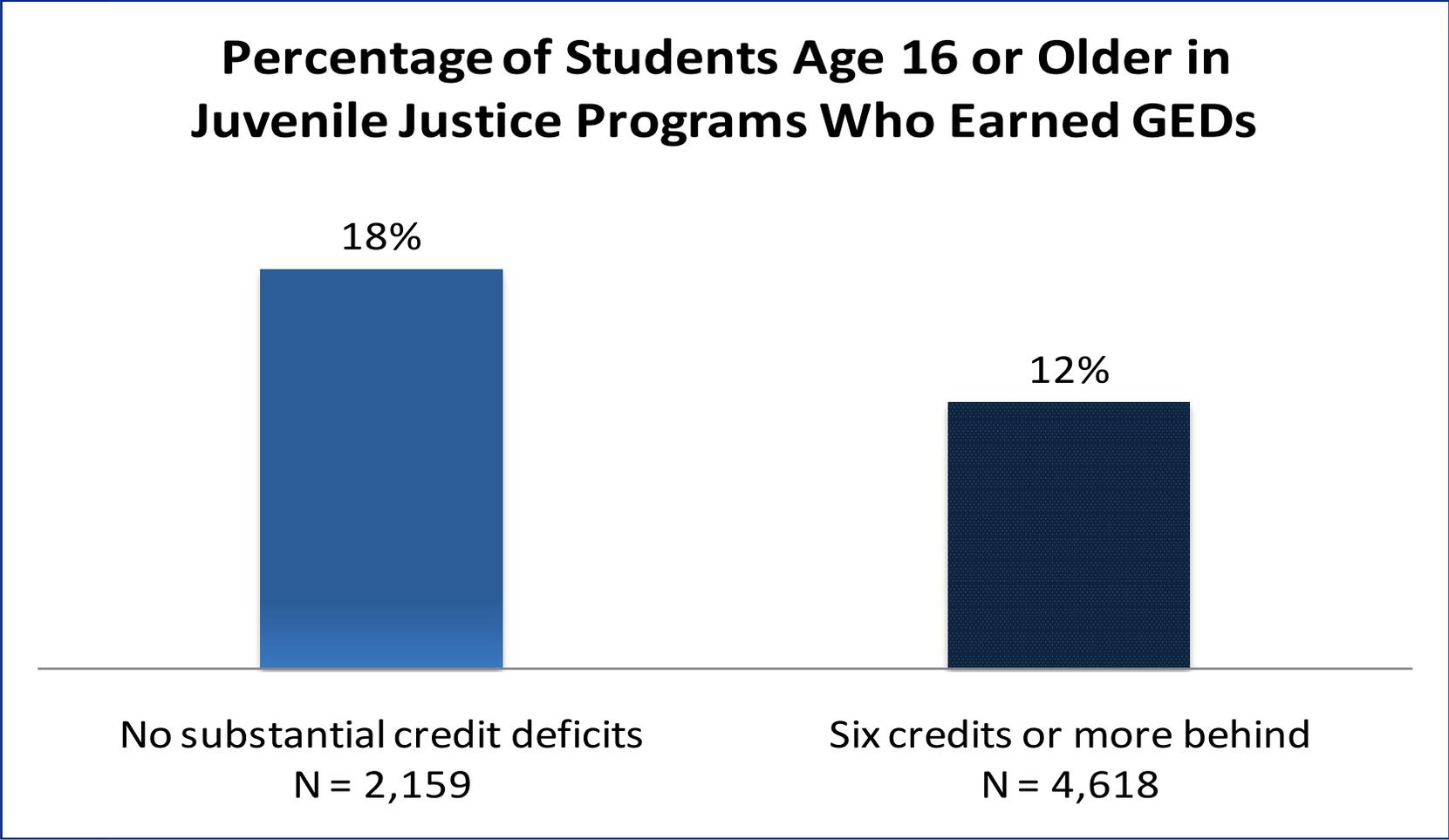
Students Enter With Large Academic Credit Deficits That Are Difficult To Overcome

- **58% of high school students were at least 6 credits, or a full year, behind when they entered a juvenile justice program**
- **Juvenile justice students who enter programs with substantial credits deficits are at high risk of not completing high school**

Many Juvenile Justice Students Would Benefit from GED Preparation and Job Training

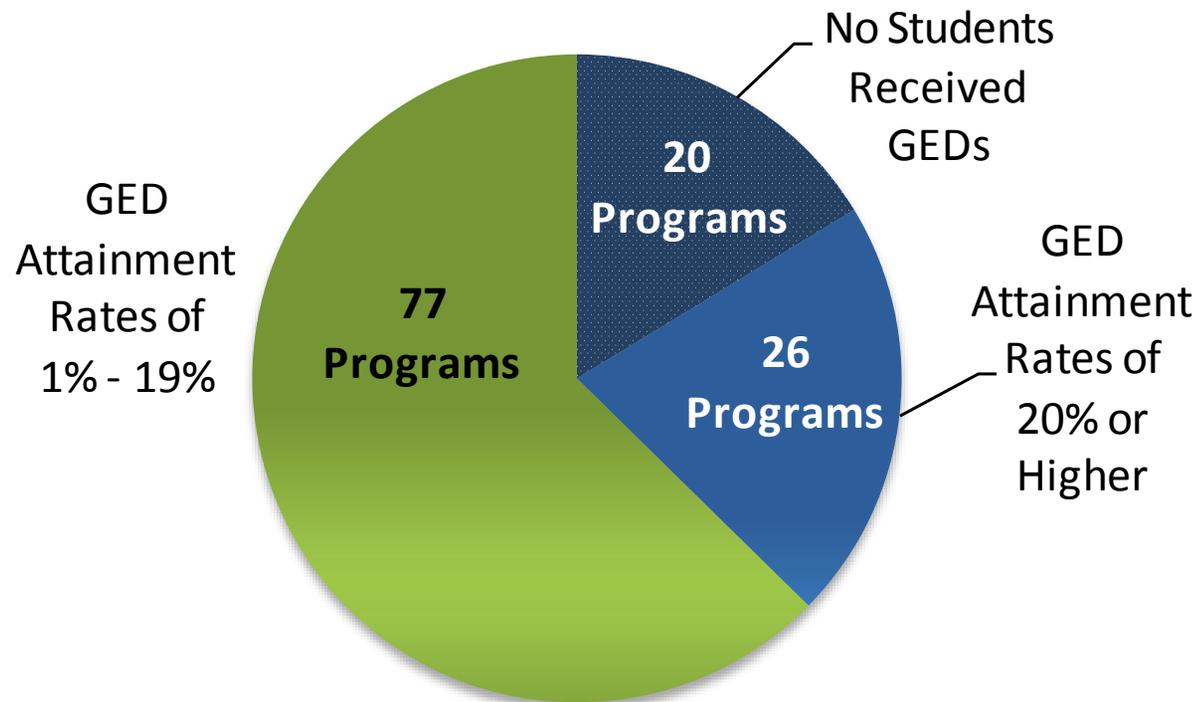
- **Very few juvenile justice students earn a regular high school diploma**
- **Most juvenile justice students who are behind and at least 16 at release do not return to school after completing a program**
- **These students would most benefit from obtaining a GED and job training**

Students with Substantial Credit Deficits Were Less Likely to Earn GEDs Than Other Students

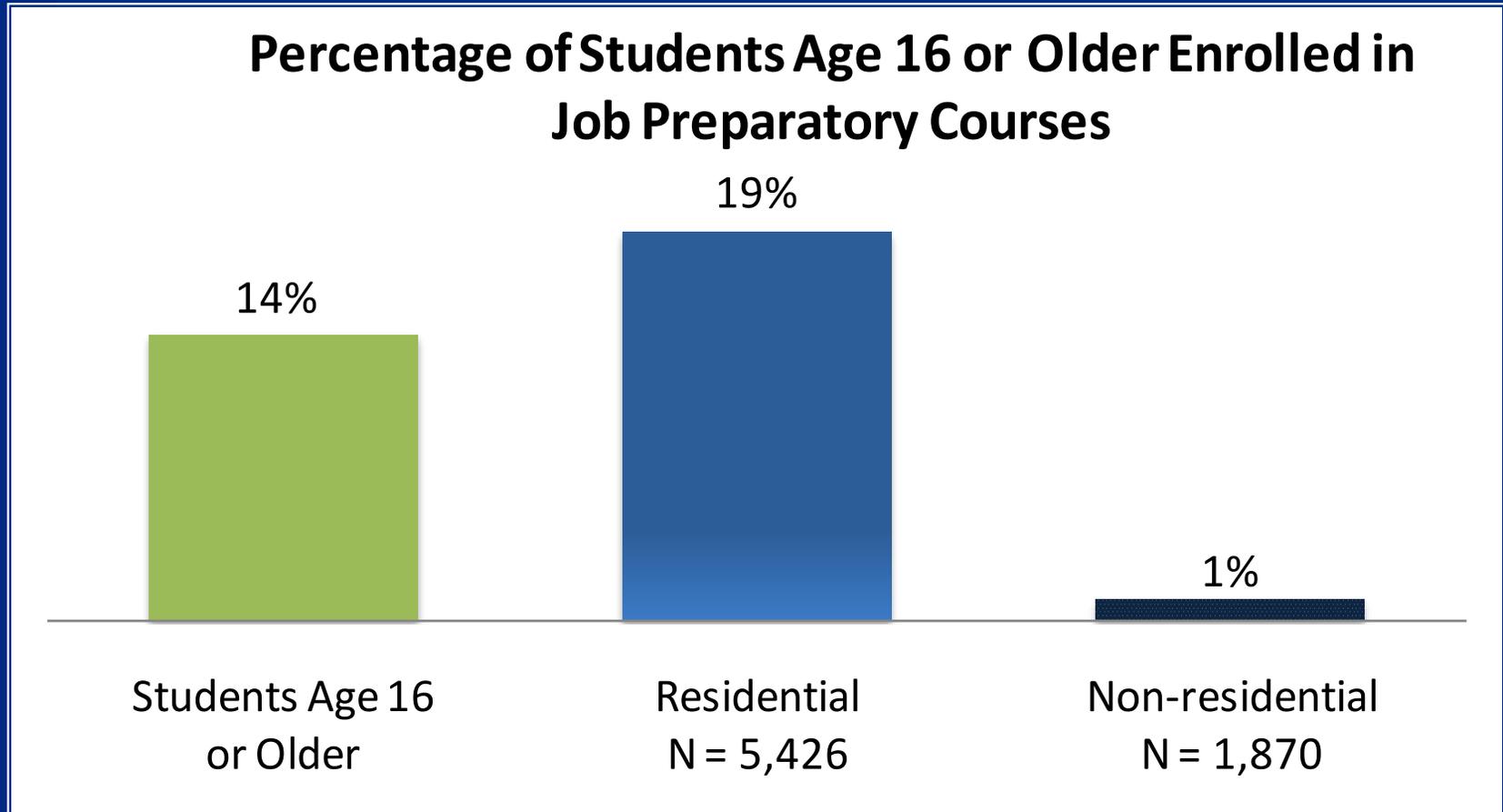


Programs Varied Widely in the Percentage of Students Attaining GEDS

**GED Attainment Rates for Students
Age 16 or Older Who Were Six
or More Academic Credits Behind**



Most Students in Juvenile Justice Programs Do Not Receive Substantial Job Training



Several Factors Limit the Ability of Students to Earn GEDs and Learn Job Skills

- **Short lengths of stay and security issues**
- **Lack of awareness of how to increase funding for GED preparation and job training**
- **Competing academic priorities and requirements**

The Legislature May Wish to Strengthen Requirements for the Statewide Multiagency Plan for Vocational Education

- **Require specific goals and strategies to increase GED preparation and job training for older at-risk students**
- **Include requirements for youth in non-residential day treatment programs**
- **Broaden stakeholder involvement in plan development**

Recommendations to the Departments

- **The Department of Education should inform school districts and juvenile justice programs on available funding and rule changes that increase curricular flexibility**
- **The Department of Education and the Department of Juvenile Justice should report to the Legislature on the effectiveness of efforts to increase GED attainment and job training**

Questions?

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October 2010

Report No. 10-55

Juvenile Justice Students Face Barriers to High School Graduation and Job Training

at a glance

Although most high school youth earn academic credits while in juvenile justice programs, those who enter the system with substantial academic deficits generally do not earn enough credits to resolve their deficits. Such students are at high risk of dropping out of school upon their release. While many of these youth could be prepared for employment after release by earning General Educational Development (GED) diplomas while in their programs, relatively few do so. Similarly, few programs provide job training needed to ensure these students have the skills and competencies for employment upon release.

There are wide variations among juvenile justice facilities in their practices of offering GED and job training services to the youth they serve. Barriers to these services include competing academic priorities, students' poor reading ability, short lengths of stay, security issues, and insufficient information and coordination among providers. Many of these barriers could be addressed by clarifying funding issues and improving interagency planning.

Scope

As directed by the Legislature, this is the second of two reports that examine educational services for students in Florida's Department of Juvenile Justice residential and non-residential programs.¹ This report answers two questions.

1. Do high school students make reasonable academic progress while in juvenile justice programs?
2. What percentage of juvenile justice students receive GEDs and job skills training, and what barriers do students face in receiving these services?

See Appendix A for a detailed description of the methodologies we used to assess these questions.

Background

Delinquent youth receive educational services while in residential and non-residential juvenile justice programs.² Residential programs are facilities that house delinquent youth and

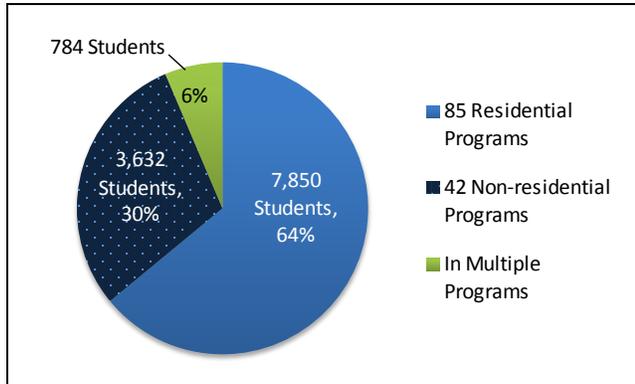
¹ *Youth Entering the State's Juvenile Justice Programs Have Substantial Educational Deficits; Available Data Is Insufficient to Assess Learning Gains of Students*, OPPAGA [Report No. 10-07](#), January 2010.

² In this report non-residential programs include day treatment programs for adjudicated youth and prevention programs for youth at risk of delinquency.

provide delinquency treatment and counseling services, and youth are typically incarcerated in these programs between 6 to 18 months. Non-residential programs provide delinquency prevention and intervention services, and youth typically stay in these programs between 3 to 12 months. The Department of Juvenile Justice contracts with private vendors to operate most residential and all non-residential programs, and operates some residential programs itself.

During the 2008-09 school year, juvenile justice programs served 12,266 youth. About two-thirds of these youth were served in residential programs, while non-residential programs served 30% and the remaining students were served by both types of programs (see Exhibit 1). While both types of programs typically serve youth ages 13 to 18, over half of the youth they served were in the 9th or 10th grades.

**Exhibit 1
In 2008-09, 127 Juvenile Justice Residential and Non-Residential Facilities Served Over 12,000 Students**



Source: OPPAGA analysis of Department of Education data for youth served and number of residential and non-residential programs in 2008-09.

State law requires that juvenile justice students receive educational services comparable to public schools. School districts are responsible for providing educational services to youth in residential and non-residential facilities. School districts may deliver educational services directly or through a contractor. The districts remain responsible for the quality of education provided in residential and non-residential juvenile justice

facilities regardless of whether they provide these services directly or through a contractor.

Florida law requires district school boards to provide basic, career education, and exceptional student programs to delinquent youth as appropriate. These educational programs must include appropriate curricula and related services that support treatment goals, aid reentry into the community, and may lead to completing a high school diploma or its equivalent. Juvenile justice students must also have access to the appropriate courses and instruction to prepare them for the General Educational Development (GED) test.^{3, 4}

According to data from Florida State University’s Juvenile Justice Educational Enhancement Program, approximately 79% of juvenile justice students in residential programs who were age 16 or older and significantly behind academically did not return to school upon release.⁵ Accordingly, the organization recommends that students most at risk for not returning to school upon completing juvenile justice programs obtain GEDs and job training to ensure that they have the basic skills needed to enter the workforce.⁶

Florida statutes also require juvenile justice programs to provide students with information and activities that can lead to meaningful employment after release.⁷ To achieve this goal, the Department of Juvenile Justice is to work

³ Section 1003.52(5), *F.S.*, provides that if the duration of a program is less than 40 days, the educational component may be limited to tutorial activities and career employability skills.

⁴ The American Council on Education’s General Educational Development Testing Service develops the GED test, delivery system, and standards.

⁵ The Juvenile Justice Educational Enhancement Program examined youth in residential programs in 2004-05. The analysis used enrolled grade level compared to the student’s age to determine the number of years students were ‘behind’. Each student’s grade level is determined by school districts; students with even a half credit deficit may be classified by their district as one year behind. Using this data, we defined ‘students who are significantly behind’ as students who are two or more grade levels behind, and thus, likely to be at least six credits behind students of the same age who are on grade level.

⁶ Juvenile Justice Educational Enhancement Program, *Executive Summary, 2006 Annual Report to the Florida Department of Education*, p. 3.

⁷ Section 985.622, *F.S.*

with local business and trade groups to develop and operate educational and career training programs which can help students obtain the basic skills needed to enter the job force.

The Florida Education Finance Program generally funds educational services. In 2009-10, the most current year for which data is available, the Florida Education Finance Program provided an estimated \$63.8 million to school districts for educational services for students in juvenile justice programs. State law requires that students participating in GED preparation programs be funded at the basic program cost factor for Department of Juvenile Justice programs in the Florida Education Finance Program.⁸

School districts also receive federal funds for serving neglected and delinquent youth and allocate a portion of these funds to Department of Juvenile Justice programs. The department provides supplemental vocational overlay funding for career education courses in juvenile justice programs, which it allocates to select juvenile justice programs. In 2010-11, this funding amounted to \$2.3 million.

Questions and Answers —

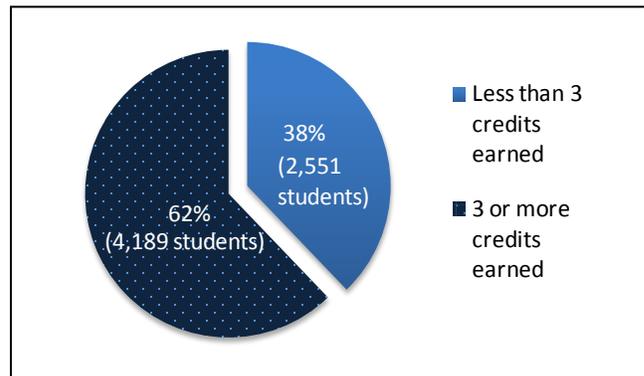
Do high school students make reasonable academic progress while in juvenile justice programs?

Most high school students in juvenile justice programs make reasonable academic progress, earning credits at the rate that typical students must achieve towards a standard high school diploma. However, about half of the high school youth are substantially academically behind when they enter the juvenile justice system. These students generally do not earn credits at a sufficient rate to reduce their academic deficit, increasing their risk of dropping out of school when they complete the delinquency program.

Most students in juvenile justice programs earn high school credits, with the amount earned varying by program type. A primary educational

focus of juvenile justice programs is to help students earn the credits needed to obtain a standard high school diploma after program completion. In 2008-09, most high school students (62%) who were enrolled in these programs earned at least three credits per semester, the number generally needed to stay on track for high school graduation (see Exhibit 2). Many students earned academic credits at a higher rate. Overall, high school students earned a median of 3.6 credits per semester, and a quarter of the students earned 5.5 or more credits per semester. These gains are considerable given that most students entering juvenile justice programs are older and academically behind their peers, and are likely to have had attendance problems at school.

Exhibit 2
Most High School Juvenile Justice Students Earned Credits at a Rate Needed to Stay on Track for a Standard Diploma



Note: This analysis includes 6,740 high school students enrolled in juvenile justice programs in 2008-09.

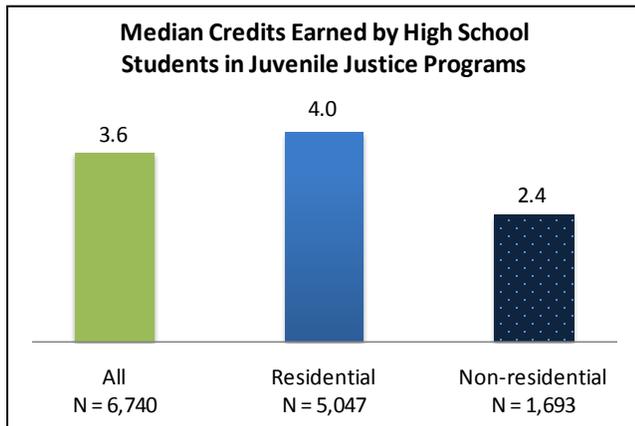
Source: OPPAGA analysis of Department of Education data for enrollments in residential and non-residential programs in 2008-09.

The median credits earned by high school students per semester varied substantially by the type of juvenile justice program they attended. High school students in non-residential programs earned 2.4 credits per semester, while students in residential programs earned a median of 4.0 credits per semester (see Exhibit 3). These differences may exist because residential programs are better able to enforce mandatory attendance policies than non-residential programs. These differences might also be due to the relatively short length of stay of students

⁸ Section 1003.52(3)(a), F.S.

in some non-residential programs. The median length of stay for adjudicated youth in non-residential (day treatment) programs was three months, which is shorter than an academic semester. Thus, the students in these programs are likely to have begun but not completed coursework requirements necessary to earn academic credits while in the program.⁹

**Exhibit 3
Academic Credits Earned Per Semester Varied Substantially by Juvenile Justice Program Type**



Note: This analysis includes 6,740 high school students enrolled in juvenile justice programs in 2008-09. The median length of stay for adjudicated youth in non-residential programs was three months. This likely contributes to the low number of academic credits earned per semester in non-residential programs.

Source: OPPAGA analysis of Department of Education data for youth enrolled in residential and non-residential programs in 2008-09.

Most juvenile justice high school students do not earn credits at a sufficient rate to significantly reduce their academic deficits. In 2008-09, approximately 58% of the high school students enrolled in juvenile justice programs in Florida were age 16 or older and at least six academic credits (a full school year) behind when they entered their program. While these students earned a median of 3.5 credits per semester, they typically did not earn credits at a sufficient rate to significantly reduce their academic deficit, putting them at high risk for not completing high school.

High school students with academic deficits made more progress in residential than non-

⁹ High school students in non-residential programs for adjudicated youth earned a median of 1.3 academic credits per semester. In contrast, high school students in non-residential prevention programs, which had a median length of stay of six months, earned a median of 3.0 academic credits per semester.

residential programs. Students in non-residential programs who had substantial credit deficits typically fell further behind; half of these students earned 2.0 or fewer credits per semester. In contrast, students in residential facilities who had substantial academic credit deficits earned a median of 3.75 credits per semester.

Older students with significant credit deficits are not likely to complete high school. For many of these students, GEDs and job training are critical to preparing them for self-sufficiency.

What percentage of juvenile justice students receive GEDs and job skills training, and what barriers do students face in receiving these services?

Relatively few students in juvenile justice facilities earn high school diplomas or GEDs, and there are wide variations among facilities in GED attainment rates. Similarly, relatively few juvenile justice students receive substantial job training services. Barriers to these services include competing academic priorities, students' poor reading ability, short lengths of stay, security issues, and insufficient information and coordination.

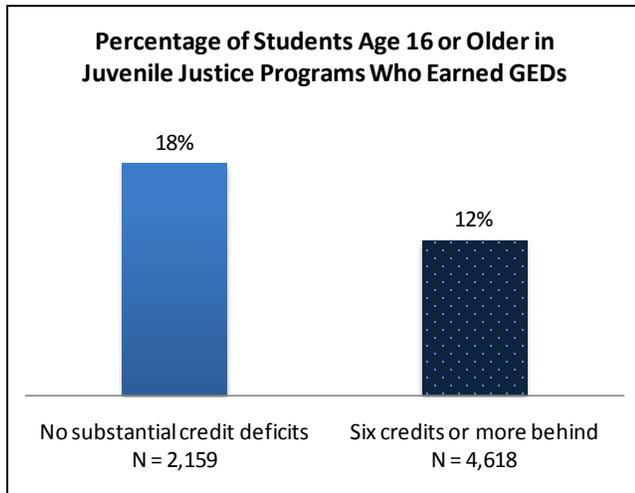
Few juvenile justice students receive high school diplomas or GEDs, with rates varying widely among programs. Very few students in juvenile justice programs earn high school diplomas and many will likely not return to school upon program completion.¹⁰ Therefore, we examined the percentage of youth who earned a GED while in juvenile justice programs. In 2008-09, approximately 14% of juvenile justice students age 16 or older obtained GEDs; students enrolled in residential treatment facilities were twice as likely to obtain GEDs as those in non-residential settings.¹¹

¹⁰ In 2008-09, only 4% of the youth age 17 or older earned enough credits and met other state requirements to receive a regular or special diploma. To evaluate the percentage of regular high school diplomas earned, we examined the population of 5,891 students who were age 17 or older during their stay in a juvenile justice program.

¹¹ Students must be at least 16 years old to take the GED examination. Sixteen percent of students enrolled in residential treatment facilities obtained GEDs compared to 8% of students served in non-residential programs.

However, as shown in Exhibit 4, those students who were most at risk for dropping out of school obtained GEDs at a lower rate than other high school students. Students who are age 16 or older and at least six academic credits – a full academic year – behind are particularly likely to not return to school after completing juvenile justice programs. Only 12% of such students earned GEDs during the 2008-09 school year, compared to 18% of similar age students who did not have such academic deficits.

**Exhibit 4
Juvenile Justice Students with Substantial Credit Deficits Were Less Likely than Other Students to Earn GEDs**



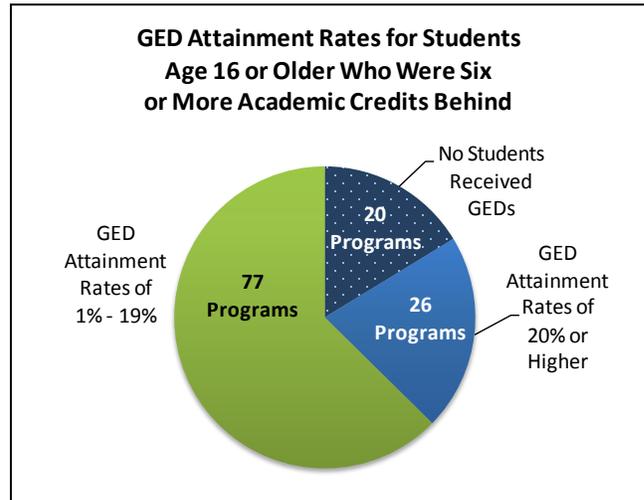
Note: This analysis includes 6,777 students age 16 or older who were enrolled in juvenile justice programs in 2008-09.

Source: OPPAGA analysis of Department of Education data for youth enrolled in juvenile justice programs in 2008-09.

As shown in Exhibit 5, GED attainment rates of juvenile justice students who were most at risk of dropping out varied widely among programs. In 20 programs, no such students obtained a GED. In contrast, over a fifth of such students

earned GEDs in 26 programs.¹² The remaining programs had GED attainment rates that ranged from 1% to 19%.

**Exhibit 5
GED Attainment Rates of Students Most At Risk of Dropping Out of School Varied Widely Among Programs**

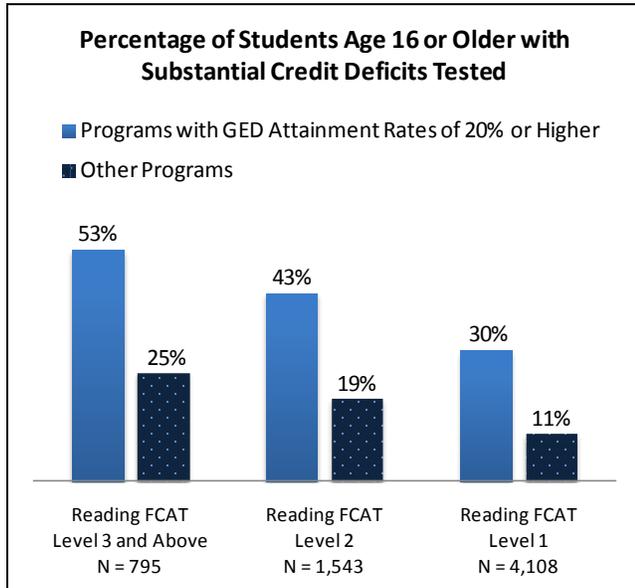


Source: OPPAGA analysis of Department of Education data for youth enrolled in juvenile justice programs in 2008-09.

The programs with the highest GED attainment rates allowed more of their students to take the test and their students were better prepared to pass the examination. The most significant difference between programs with high GED attainment rates and other programs appears to be the criteria they follow in deciding which students take the examination. As shown in Exhibit 6, the programs with the highest GED attainment levels tested more than twice as many students with substantial credit deficits than did other programs. These programs also tested a larger percentage of students with deficits at all reading levels.

¹² There were 123 juvenile justice programs that served students age 16 or older who had academic deficits of six credits or more during the 2008-09 school year. Four programs did not serve youth who were age 16 or older.

Exhibit 6
Juvenile Justice Programs with the Highest GED Attainment Rates Tested More Students with Credit Deficits at All Reading Levels



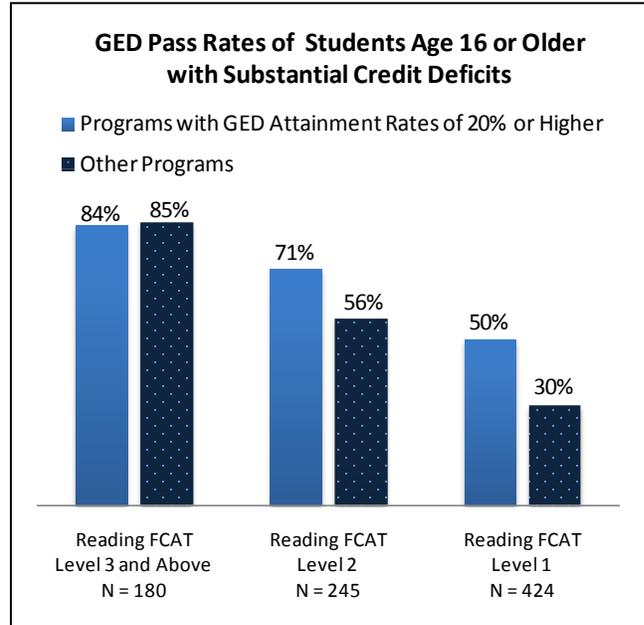
Note: This analysis includes 6,446 students age 16 or older who were enrolled in juvenile justice programs in 2008-09, had a recent FCAT score, and were at least six credits behind.

Source: OPPAGA analysis of Department of Education data for youth enrolled in juvenile justice programs in 2008-09.

Staff at the programs we visited asserted that students’ academic skills, such as reading and language ability, is a key indicator of success on the GED examination. These skills are important because the GED test requires students to read and understand short passages and make inferences to determine the correct answer. Programs typically tested students to determine their potential for success on the GED examination and, thus, their suitability for GED preparation.¹³ However, as shown in Exhibit 7, while students with reading deficits had lower pass rates than other students on the GED examination, many such students can pass the examination with proper preparation.

¹³ Programs we visited typically used the Tests of Adult Basic Education (TABE) or the GED pretest to screen students.

Exhibit 7
Students at All Reading Levels Successfully Passed the GED Exam at Programs that Stressed GED Attainment



Note: This analysis includes 849 students age 16 or older who were enrolled in juvenile justice programs in 2008-09, had a recent FCAT score, were at least six credits behind, and took the GED test.

Source: OPPAGA analysis of Department of Education data for youth enrolled in juvenile justice programs in 2008-09.

Most juvenile justice students do not receive substantial job training. It is important to provide job training to students in juvenile justice programs, particularly older students, as many do not return to traditional schools when they complete their programs. Florida statutes require juvenile justice programs to provide students with pre-employment job readiness training.¹⁴ This training covers topics such as career exploration, interviewing skills, time management, resume writing, and job searching.

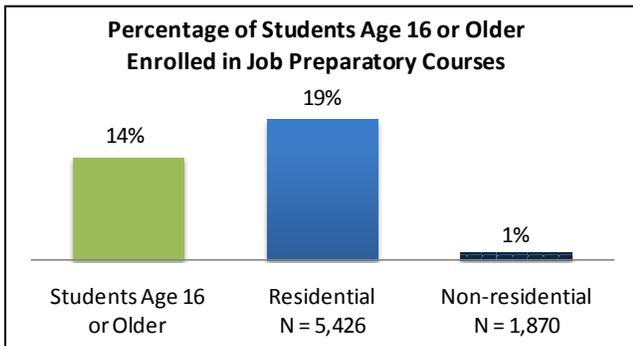
However, during the 2008-09 school year, only 14% of juvenile justice students age 16 or older were enrolled in job preparatory courses linked to specific occupational skills.¹⁵ These courses provide students with a wide variety of occupational competencies, including administrative assistance, concrete masonry,

¹⁴ Section 985.622(3), *F.S.*

¹⁵ ‘Job preparatory training’ refers to courses that provide career education competencies or prerequisites for entry into a specific occupation, according to the criteria in s. 985.62, *F.S.*

culinary arts, and web design. Students enrolled in these courses can earn occupational completion points, which signify that they have mastered the competencies needed for a specific job title. As shown in Exhibit 8, nearly a fifth of students served in residential treatment were enrolled in job training programs, compared to only 1% of students served in non-residential programs.

Exhibit 8
In 2008-09, 14% of Juvenile Justice Students Age 16 or Older Were Enrolled in Job Preparatory Courses

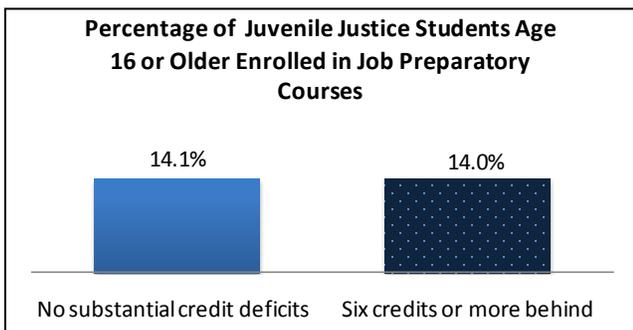


Note: This analysis includes 7,296 students age 16 or older enrolled in juvenile justice programs in 2008-09.

Source: OPPAGA analysis of Department of Education data for youth enrolled in juvenile justice programs in 2008-09.

Students who were most at risk for dropping out of school were not targeted for job training programs. As shown in Exhibit 9, students who were age 16 or older and at least six credits behind academically enrolled in these courses at the same rate as other similar age students.

Exhibit 9
Students Age 16 or Older with Substantial Credit Deficits Were No More Likely than Other Similar Age Students to be Enrolled in Job Preparatory Courses

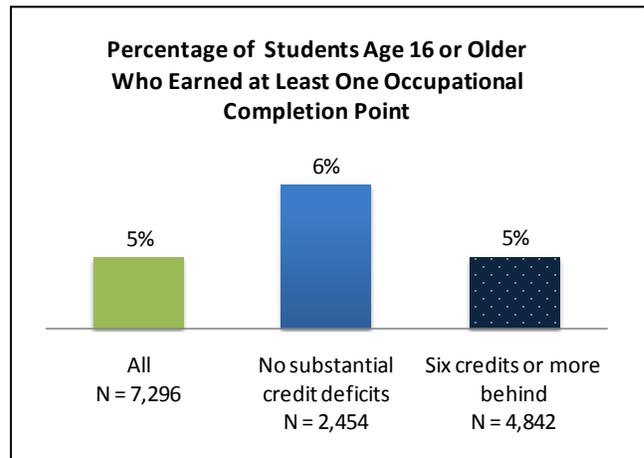


Note: This analysis includes 7,296 students age 16 or older enrolled in juvenile justice programs in 2008-09.

Source: OPPAGA analysis of Department of Education data for 2008-09.

Further, most of the students enrolled in job training courses did not complete the coursework necessary to obtain the skills and competencies needed for the job for which they were training. Attainment of these competencies is measured by occupational completion points. Only 35% of the students enrolled in one or more job preparatory courses in 2008-09 earned one or more occupational completion points; among students age 16 or older, only 5% earned at least one occupational completion point (see Exhibit 10). While the students enrolled in job preparatory courses likely benefit from the instruction they receive, most will leave juvenile justice programs lacking the skills needed for many occupations unless they receive additional training after their release.

Exhibit 10
Approximately 5% of All Juvenile Justice Students Age 16 or Older Earned At Least One Occupational Completion Point



Note: This analysis includes 7,296 students age 16 or older enrolled in juvenile justice programs in 2008-09.

Source: OPPAGA analysis of Department of Education data for youth enrolled in juvenile justice programs in 2008-09.

Few juvenile justice students receive job training through private trade organizations. Students who complete such programs receive industry-recognized certificates signifying that they have work-ready skills in areas including masonry, carpentry, landscaping, and plumbing. Statewide, two providers offered juvenile justice students an opportunity to earn industry-recognized certificates in seven programs in

2008-09. During this period, juvenile justice students received 227 such certificates.¹⁶

Program staff identified several barriers to providing GED preparation and job training services. Several factors can limit the ability of juvenile justice students to obtain GEDs and job skills while in the programs. Those identified by program staff included competing academic priorities, poor student reading ability, short lengths of stay, security issues, funding issues, and insufficient information and coordination among providers.

Many juvenile justice programs emphasize academic instruction rather than GED preparation and job training. While all 19 programs we visited provided GED preparation in some form as required by statute, it was not a primary focus of most programs. Instructional staff asserted that juvenile justice students benefitted most from broad-based instruction in core subjects to meet high school graduation requirements. They also believed programs should focus on credit recovery to diminish student credit deficits. As a result, students at these facilities usually were enrolled in academic programs for most of the day, with limited time to study for the GED or complete job training courses. The programs generally allowed students to work on GED preparation materials, primarily by integrating the skills into the regular curriculum, through computer instruction, after school hours, or when they finished their academic work early. In contrast, the program that we visited with the highest percentage of at-risk students obtaining GEDs used individualized computer instruction geared to the GED standards and provided preparation for these students during their instructional time in each subject.

In November 2009, the State Board of Education amended Rule 6A-6.05281, *Florida Administrative Code*, to provide greater

curricular flexibility to juvenile justice facilities. These changes are intended to allow programs to customize instruction based on individual student needs. According to Department of Education staff, the amendment will allow programs to tailor courses to address academic needs identified in a student's individual education plan, which could allow more students to have additional time during the school day for job training and GED preparation courses.

Poor reading ability may impede GED attainment for some students. Programs generally tested students for skills such as reading ability to determine whether they could successfully prepare for and pass the GED test. However, as noted above, the programs with relatively high GED attainment rates tested larger percentages of students at all reading levels and did a better job at preparing students with reading deficits to pass the GED examination compared to other programs (see page 5). Thus, programs could better prepare students at all reading levels who are most at risk for dropping out of school upon release to pass the GED examination.

Short lengths of stay and security issues may present challenges to job training at some programs. Instructional staff at some facilities we visited also reported that short treatment duration contributed to the low number of students who received job training. However, length of stay does not appear to be a significant factor for most students in juvenile justice programs whose length of stay is six months or more.

Staff at some programs also noted that safety and security issues can be a barrier to job training opportunities for some students. For example, high and maximum risk residential facilities serve many youth who have committed violent or other serious offenses. Staff at juvenile justice facilities offering job preparation conduct an assessment to identify students who might harm themselves, other students, or personnel and restrict these students from using certain tools and equipment. High and maximum risk programs in particular must take additional

¹⁶ In 2008-09, students earned industry-recognized certificates at the DOVE Vocational Academy, operated by Twin Oaks, Inc., and in six programs that operated training programs under contract with the Home Builder's Institute. The six programs are Avon Park Youth Academy, Bristol Youth Academy, CRAFT Orlando, CRAFT Tampa, Dozier School for Boys, and Pembroke Pines.

security precautions to ensure the safety of students and staff participating in job training activities. While these considerations can limit the training programs and other activities offered to youth, three of the four high and maximum risk programs we visited provided job training. Some of this training was offered on-line and did not involve handling tools, which diminishes safety concerns.

Programs have insufficient information on how to increase funding for GED preparation and job training programs. Program staff reported that they lacked information on available state and federal funding for GED preparation and career education as well as about the regional and community organizations that could help them to expand job training opportunities. This was a particular issue at smaller programs, which did not have the staff resources to identify grant opportunities, work with local businesses, or attend training and informational sessions.

Staff at some facilities we visited also erroneously believed that juvenile justice programs could not offer GED preparation courses because these courses would not be eligible for Florida Education Finance Program funding. However, state law expressly provides for such funding. Due to this misunderstanding, juvenile justice programs in only three school districts offered and received funding for GED preparation courses in the 2009-10 school year.

Administrators of programs with more career and technical education offerings developed partnerships to provide job training. Programs that provided students a wide variety of job training opportunities had developed strong partnerships with other entities. These partnerships included state colleges and regional workforce boards, community organizations, trade associations, and local businesses. Three residential commitment programs we visited in rural communities offered automotive repair and service programs onsite to enable students to learn these marketable skills. Because students were not permitted to leave the facility for training, the training programs allowed community members to bring their vehicles to the facility for service. Other facilities with

successful job training programs used similar creative strategies.

The statewide multiagency plan is dated and provides inadequate information for juvenile justice programs and school districts. In 2000, the Legislature directed the Department of Juvenile Justice and the Department of Education to work together to develop a statewide multiagency career plan that establishes the curriculum, goals, and outcome measures for vocational education for youth in juvenile justice facilities.¹⁷ This law directed the agencies to align their policies, practices, technical manuals, contracts, quality assurance standards, performance-based budgeting measures, and outcome measures with the multiagency plan. The plan is intended to help coordinate the state's career education expectations and activities for youth in juvenile justice facilities.

However, the plan has several shortcomings. The plan has not been updated since 2007, and it lacks goals and implementation strategies for increasing the percentage of youth receiving occupation-specific job training. Also, the plan addresses only career education issues in residential settings, although students in non-residential facilities would also benefit from inclusion in the plan. State law does not specifically require participation from key stakeholders such as representatives from the business community, industry trade groups, vocational-technical schools, and juvenile justice program providers with vocational programs.¹⁸ Finally, current law does not require the plan to address the barriers that juvenile justice students face in attaining GEDs. Many juvenile justice students need both job training and GEDs, and

¹⁷ Sections 985.622 and 1003.52, *F.S.*

¹⁸ Section 1003.52(22) *F.S.*, requires that the Department of Juvenile Justice and the Department of Education consult with community colleges, providers, and others on the multiagency plan. However, the statute does not specifically require the involvement of certain other stakeholder groups in the development of the plan. The most recent workgroup (2007) did not include representatives from school district vocational-technical schools, postsecondary institutions offering career education, and the business community, and included only one representative from an industry trade group.

the barriers to these two outcomes are often similar and interrelated.

To address these issues, the Legislature may wish to amend s. 985.622, *Florida Statutes*, to

- clarify that the multiagency plan must include curriculum, goals, and outcome measures for youth in non-residential facilities;
- require that the plan include specific goals and strategies for identifying and eliminating barriers to increasing occupation-specific job training and GED preparation opportunities particularly for older, higher risk students; and
- broaden required stakeholder involvement in plan development to specify participation of representatives from the business community, industry trade groups, district vocational-technical schools, state and school district postsecondary career education, and juvenile justice program providers with vocational programs.

In addition, we recommend that the Department of Education provide information to school

districts and juvenile justice programs regarding available Florida Education Finance Program funding for GED preparation courses and recent administrative rule changes that allow increased curricular flexibility for juvenile justice students.

We also recommend that the Department of Juvenile Justice and the Department of Education report to the Legislature on the effectiveness of their efforts to increase GED attainment and job training services for juvenile justice students. In addition, the agencies should report information on whether these students are employed, in school, in the military, or have re-entered the criminal justice system.

Agency Response ---

In accordance with the provisions of s. 11.51(5), *Florida Statutes*, a draft of our report was submitted to the Commissioner of the Florida Department of Education and the Secretary of the Florida Department of Juvenile Justice to review and respond.

Their written responses have been reprinted herein in Appendix B.

Appendix A

Study Population and Data Definitions

As part of our study, we assessed the educational outcomes for older students in juvenile justice system schools, including their high school credits earned, GED attainment, and participation in job training. We assessed slightly different subgroups of the juvenile justice population for each measure, as described below.

Academic Progression

Study Population. To examine the number of high school credits earned by students in juvenile justice programs, we focused our analysis on students in grades 9 through 12, since students in lower grades are not expected to earn high school credits. In addition, we limited our study to those students who were in the juvenile justice programs for at least three months in 2008-09, since a shorter stay likely would not have provided adequate time for students to earn high school credits. We identified 9,674 students who were enrolled in juvenile justice programs at a high school level during the 2008-09 school year; 6,740 of these youth were in these programs for at least three months. We reported credit hours earned in each program that students enrolled in during the period; some students were enrolled in multiple juvenile justice programs during the year. The unduplicated total number of students enrolled in high school grades was 8,830 students, of whom 6,492 were enrolled in the program for at least three months.

To evaluate outcomes of students who had substantial academic deficits when they entered a juvenile justice program, we identified those who were six credits or more behind their age level peers in terms of the academic credits needed for graduation. We counted students in the ninth grade as behind if they were one or more grade levels behind their age level peers when they entered ninth grade.

Outcome Measures. We defined academic progression as earning high school credits, and assessed whether high school students earned at least six credits per year, or three credits per semester, the minimum needed to be on track to earn the required 24 credits for graduation. Juvenile justice educational programs operate year-around since many students enter and exit facilities during any point in a semester and stay for varying lengths of time. We calculated the credits earned by students per semester by dividing the total credits they earned while in the program by the number of months the student was in the program, and multiplying that number by six. We reported these credits as earned at the facility the student was enrolled in at the time; if a student was in more than one juvenile justice program, we reported the credits for each program.

GED Attainment and Job Training

Study Population. To identify the percentage of students earning a GED, we examined the population of students who were age 16 or older during the 2008-09 school year regardless of grade level, did not earn a high school diploma, and stayed at least three months in the program. These criteria identified 6,777 youth enrolled in juvenile justice programs in 2008-09.

To evaluate outcomes of students who had substantial credit deficits when they entered their juvenile justice program, we identified the students who were six credits or more behind their age level peers. For students not in high school, we classified youth as having a substantial credit deficit if they were one or more grade levels behind the expected grade level for their age cohort when they entered their current grade. Of the 6,777 students who were age 16 and older in this population, 2,159 had no substantial credit deficits, and 4,618 were six credits or more behind.

To evaluate access to GED testing, we compared the percentage of students tested by reading ability at 26 programs where 20% or more of the students received a GED to programs with lower GED attainment rates. This analysis involved students age 16 or older with substantial credit deficits, including

- 543 students who scored at Level 3 on the reading FCAT, 152 at programs with high GED attainment rates, and 391 at other programs;
- 972 students who scored at Level 2 on the reading FCAT, 238 at programs with high GED attainment rates, and 734 at other programs; and
- 2,817 students who scored at Level 1 on the reading FCAT, 652 at programs with high GED attainment rates, and 2,165 at other programs.

To evaluate GED pass rates, we identified 849 students age 16 or older with substantial credit deficits who were tested for a GED, including

- 180 students who scored at Level 3 on the reading FCAT, 81 at programs with high GED attainment rates, and 99 at other programs;
- 245 students who scored at Level 2 on the reading FCAT, 103 at programs with high GED attainment rates, and 142 at other programs; and
- 424 students who scored at Level 1 on the reading FCAT, 194 at programs with high GED attainment rates, and 230 at other programs.

Measures for GED Attainment. We identified 956 GEDs earned by students in juvenile justice programs. We attributed these to the juvenile justice program if the GED test was taken during the student's stay in a juvenile justice program or within 90 days after. If the test date was missing, we attributed the GED award to the juvenile justice program if it was earned during the year the student was in the juvenile justice program or the year the student exited the juvenile justice program. Since Department of Education data uses end of year dates as withdrawal dates even if students continue in the program, we used a wide timeframe in calculating the number of GEDs earned by students in juvenile justice programs. If a student was enrolled in more than one juvenile justice program during the school year, we attributed the GED to the program where the students' test date fell between their entry and exit date.

Job Training

Study Population. To evaluate the percentage of students enrolled in job training and receiving occupational completion points, we identified the population of 7,296 juvenile justice students who were age 16 or older during the 2008-09 school year. We defined students with substantial credit deficits as those who were six credits or more behind the expected number of credits for their age cohort. For students who were enrolled in more than one juvenile justice program during the school year, we counted each enrollment in a juvenile justice program.

Measures for Job Training. We defined job training courses as those that provide career education competencies or prerequisites for entry into a specific occupation, according to the criteria in s. 985.622, *Florida Statutes*. This is a more restrictive category than 'job preparatory' courses as defined by the Department of Education, which includes courses that do not provide career education competencies for entry into a specific occupation. We identified the course enrollments and occupational completion points earned where a juvenile justice school was the school of instruction for students enrolled during the 2008-09 school year.

Appendix B

FLORIDA DEPARTMENT OF EDUCATION



Dr. Eric J. Smith
Commissioner of Education

STATE BOARD OF EDUCATION

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SUSAN STORY



October 19, 2010

Dr. Gary VanLandingham
Director
Office of Program Policy Analysis
and Government Accountability
111 West Madison Street, Room 312
Tallahassee, Florida 32399-1475

Dear Dr. VanLandingham:

Thank you for sharing with our office a copy of the draft Office of Program Policy and Government Accountability (OPPAGA) Report, *Juvenile Justice Students Face Access Barriers to High School Graduation and Job Training*. The OPPAGA report includes three recommendations. The recommendations and our response are listed below.

Recommendation 1: The Legislature may wish to amend s. 985.622, Florida Statutes, to

- Clarify that the multiagency plan must include curriculum, goals, and outcome measures for youth in non-residential facilities;
- Require that the plan include specific goals and strategies for identifying and eliminating barriers to increasing occupation specific job training and GED preparation opportunities particularly for older, higher risk students; and
- Broaden required stakeholder involvement in plan development to specify participation of representatives from the business community, industry trade groups, district vocational-technical schools, state and school district postsecondary education, and juvenile justice providers with vocational programs.

Although s. 985.622, Florida Statutes, does not include non-residential facilities in the multiagency plan, the multiagency plan workgroup and plan included non-residential

Dr. VanLandingham
October 19, 2010
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(day treatment) facilities along with commitment facilities in the development of curriculum, goals, and outcome measures for youth.

When the multiagency plan is reviewed in November 2010, the workgroup will address specific goals and strategies for identifying and eliminating barriers to increasing occupation-specific job training and GED preparation opportunities, particularly for older, higher risk students. In addition, the Department published in August 2010 the technical assistance paper *Offering Career Education Courses in Department of Juvenile Justice Education Programs*, which includes information on offering career education programs that provide industry certification to students.

When the plan is reviewed in November 2010, the Department will expand stakeholder involvement to include representatives from the business community, industry trade groups, vocational-technical schools, and department of juvenile justice providers with vocational programs.

Recommendation 2: We recommend that the Department of Education provide information to school districts and juvenile justice programs regarding available Florida Education Finance Program funding for GED preparation courses and recent administrative rule changes that allow increased curricular flexibility for juvenile justice students.

Information on GED preparation funding and increased curricular flexibility was shared with participants at the annual Juvenile Justice Education Institute in August 2010. A technical assistance paper that focuses on curricular flexibility as defined in State Board of Education Rule 6A-6.05281 is currently in draft status. A new technical assistance paper is under development to address GED preparation course enrollment and funding as well as requirements for taking the GED test.

Recommendation 3: We also recommend that the Department of Juvenile Justice and Department of Education report to the Legislature on the effectiveness of their efforts to increase GED attainment and job training services for juvenile justice students. In addition, the agencies should report information on whether these students are employed, in school, in the military, or have re-entered the criminal justice system.

The Department of Education currently submits an annual Juvenile Justice Education report to the Legislature. The contents of this report can be expanded to include more detail about implementation of strategies to increase the number of older, higher risk students who received training and obtain a GED while in DJJ custody. Their post DJJ placement status can also be included in the report.

Dr. VanLandingham
October 19, 2010
Page Three

The Department is committed to continuing its collaborative efforts with the Department of Juvenile Justice to ensure that students in Department of Juvenile Justice programs are provided a quality education.

Sincerely,



Dr. Eric J. Smith
Commissioner

EJS/lr

cc: Secretary Frank Peterman, Jr.
Terri Eggers
Dr. Frances Haithcock
Mary Jane Tappen
Bambi Lockman
Karen Denbroeder
Lisa Robinson



FLORIDA DEPARTMENT OF JUVENILE JUSTICE

Charlie Crist, Governor

Frank Peterman, Jr., Secretary

October 5, 2010

Gary R. VanLandingham, Director
 Office of Program Policy Analysis & Government Accountability
 111 West Madison St., Room 312, Claude Pepper Building
 Tallahassee, FL 32399-1475

Dear Director VanLandingham,

Thank you for the opportunity to review the OPPAGA's draft report entitled "*Juvenile Justice Students Face Barriers to High School Graduation and Job Training*." The report identifies areas requiring additional attention for the Florida Legislature, the Florida Department of Education, and the Florida Department of Juvenile Justice. The following are the Department's response to the recommendations contained in the draft report:

Recommendation: *The Legislature may wish to amend s. 985.622, F.S., to clarify that the multiagency plan must include curriculum, goals, and outcome measures for youth in non-residential facilities; require that the plan include specific goals and strategies for identifying and eliminating barriers to increasing occupation specific job training and GED preparation opportunities particularly for older, higher risk students; broaden required stakeholder involvement in plan development to specify participation of representatives from the business community, industry trade groups, district vocational-technical schools, state and school district postsecondary career education, and juvenile justice program providers with vocational programs.*

Department Response: We concur with this recommendation.

Recommendation: *The Department of Education should provide information to school districts and juvenile justice programs regarding available Florida Education Finance Program funding for GED preparation courses and recent administrative rule changes that allow increased curricular flexibility for juvenile justice students.*

Department Response: We concur with this recommendation.

Recommendation: *The Department of Juvenile Justice and Department of Education report to the Legislature on the effectiveness of their efforts in increase GED attainment and job training services for juvenile justice students. Specifically, the agencies should report information on whether these students are employed, in school, in the military, or have re-entered the criminal justice system.*

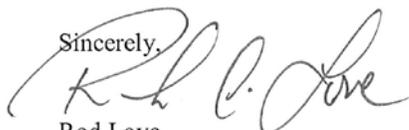
2737 Centerview Drive • Tallahassee, Florida 32399-3100 • (850) 488-1850
<http://www.djj.state.fl.us>

The mission of the Department of Juvenile Justice is to increase public safety by reducing juvenile delinquency through effective prevention, intervention, and treatment services that strengthen families and turn around the lives of troubled youth.

Department Response: The Department recognizes the importance of reporting this information to the legislature. However, the data required for this report is currently not available within the Department's existing Management Information System. With the current fiscal constraints, it is difficult for the Department to support this recommendation.

The Department is committed to effective partnerships in meeting the educational needs of the students in the juvenile justice system. The ongoing interest and support of the Florida legislature in working to improve educational performance and reduce recidivism of these students continue to be greatly appreciated.

Sincerely,



Rod Love
Deputy Secretary

RL/jw

cc: Frank Peterman, Jr., Secretary
Christy Daly, Interim Chief of Staff
Terri Eggers, Director of Education
Ms. Mary Eubanks, Inspector General
Ms. Kim Mills, Director Auditing, Executive Office of the Governor
Dr. Eric J. Smith, Commissioner of Education

The Florida Legislature

Office of Program Policy Analysis and Government Accountability



OPPAGA provides performance and accountability information about Florida government in several ways.

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OPPAGA website: www.oppaga.state.fl.us

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Jane Fletcher (850/487-9255), Staff Director, Education Policy Area

Gary R. VanLandingham, Ph.D., OPPAGA Director

Parole Consideration for Juveniles

Situation:

The United States Supreme Court recently held that a minor who does not commit homicide cannot be sentenced to life imprisonment without the possibility of parole. The case was *Graham v. Florida*, --- U.S. ---, 130 S.Ct. 2011, 176 L.Ed.2d 825 (2010), which originated from crimes committed in Jacksonville. The Court's opinion stated:

“A State is not required to guarantee eventual freedom to a juvenile offender convicted of a nonhomicide crime. What the State must do, however, is give defendants like Graham some meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation. It is for the State, in the first instance, to explore the means and mechanisms for compliance.”

Any recent sentence to life imprisonment is a sentence to life without parole. Florida began abolishing parole in 1983, and completely eliminated it for any crime committed after September 1995. Because the Court referred to release by executive clemency as a “remote possibility,” provisions for executive clemency apparently do not satisfy the requirement that there be a “realistic opportunity to obtain release.”

The Graham decision clearly applies to approximately 77 Florida inmates who are serving a life sentence without the possibility of parole for a non-homicide offense that was committed when he or she was under 18 years old. A state intermediate appellate court has held that it also applies to 39 other life inmates who were convicted of attempted homicide.

Possible Solutions:

Judicial Action:

Resentencing and future original sentencing to a term of years - Some current inmates affected by the decision are being resentenced to a term of years. In future cases, the court could sentence a juvenile offender to a term of years rather than life imprisonment unless the crime is a capital offense for which a sentence of either death or life imprisonment is mandated by statute.

Executive Action:

Commuting life sentences of juvenile offenders to a term of years by executive clemency - This remedy could be applied to current inmates affected by the decision including those who were convicted of a capital offense.

Legislative Action:

Amending Florida Statutes to create a right to parole consideration for juvenile offenders sentenced to life imprisonment, or to preclude life sentences for juvenile offenders: Senator Joyner has filed Senate Bill 160 to require parole consideration for these inmates after they serve 25 years. Other bills filed in recent years would have provided for parole consideration after a designated time of imprisonment regardless of whether the juvenile offender was serving a life sentence. Graham does not require the possibility of parole for juvenile offenders who are not sentenced to life imprisonment. However, it is almost certain that there will be future appeals contending that a sentence to a lengthy term of years without the possibility of parole is also unconstitutional.