

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Evers, Chair
Senator Dean, Vice Chair

MEETING DATE: Tuesday, October 18, 2011
TIME: 10:45 a.m.—12:45 p.m.
PLACE: *Mallory Horne Committee Room, 37 Senate Office Building*

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

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1		Presentation by Florida TaxWatch and continued discussion on its Government Cost Savings Task Force Report for FY 2012-13 on criminal and juvenile justice reform.	Presented
2		Interim Project 2012-116 (Review Penalties for Drug-Free Zone Violations) Presentation	Presented
3		Presentation by the Florida Parole Commission on its operations and activities.	Presented
4		Presentation by the Department of Juvenile Justice on education and vocational programming.	Presented
5		Presentation on School District Zero Tolerance Policies by the Florida Association of District School Superintendents, the Department of Juvenile Justice, and the Southern Poverty Law Center.	Not Considered
Other Related Meeting Documents			

**Criminal and Juvenile Justice Recommendations
Increasing Public Safety, Reducing
Recidivism and Easing Taxpayer Burden**



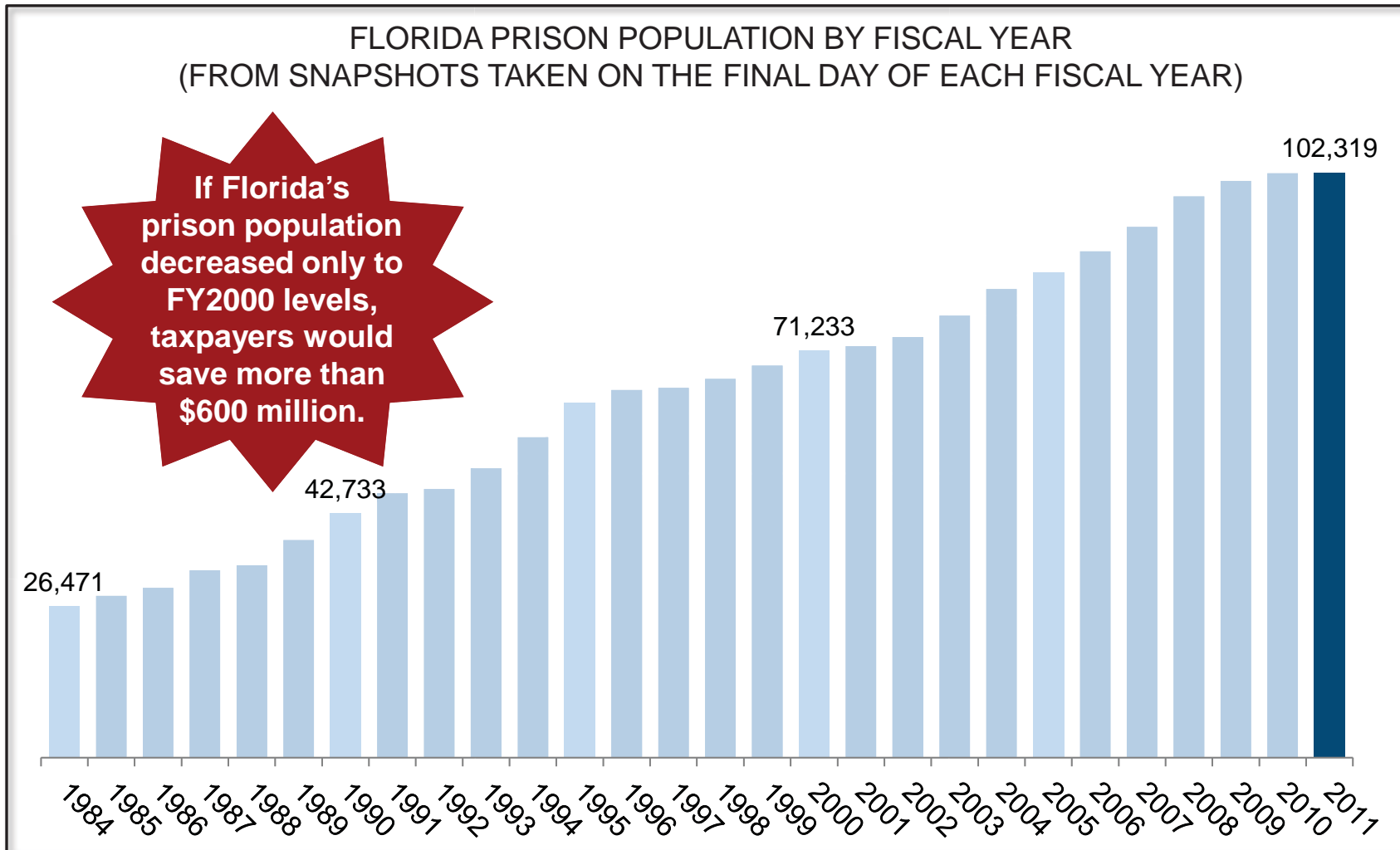
**Presentation to Senate Criminal Justice
Committee
October 18, 2011**

Florida's Prisons: Large and Expensive



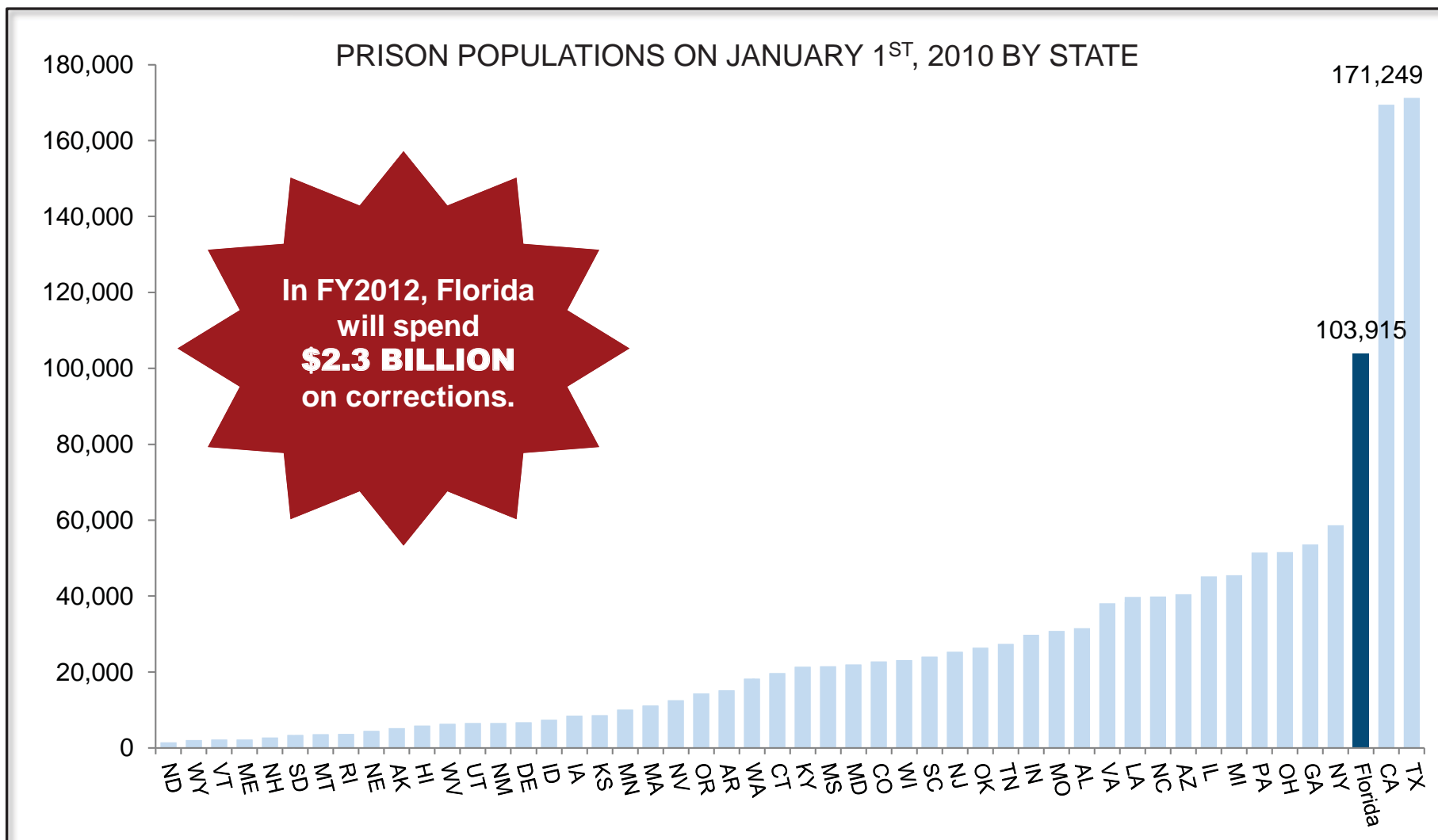
- Florida's prison system is large and expensive.
- In FY2010-11 Florida taxpayers spent \$2.4 billion to incarcerate over 102,000 people.
- Florida's prison population has more than doubled since 1990 and nearly quadrupled since 1984
- Growth is primarily due to a large increase in the use of incarceration for people serving sentences for non-violent and less serious crimes.

Florida's prison population has more than doubled since 1990 and nearly quadrupled since 1984 – and is now at more than 102,000 inmates.



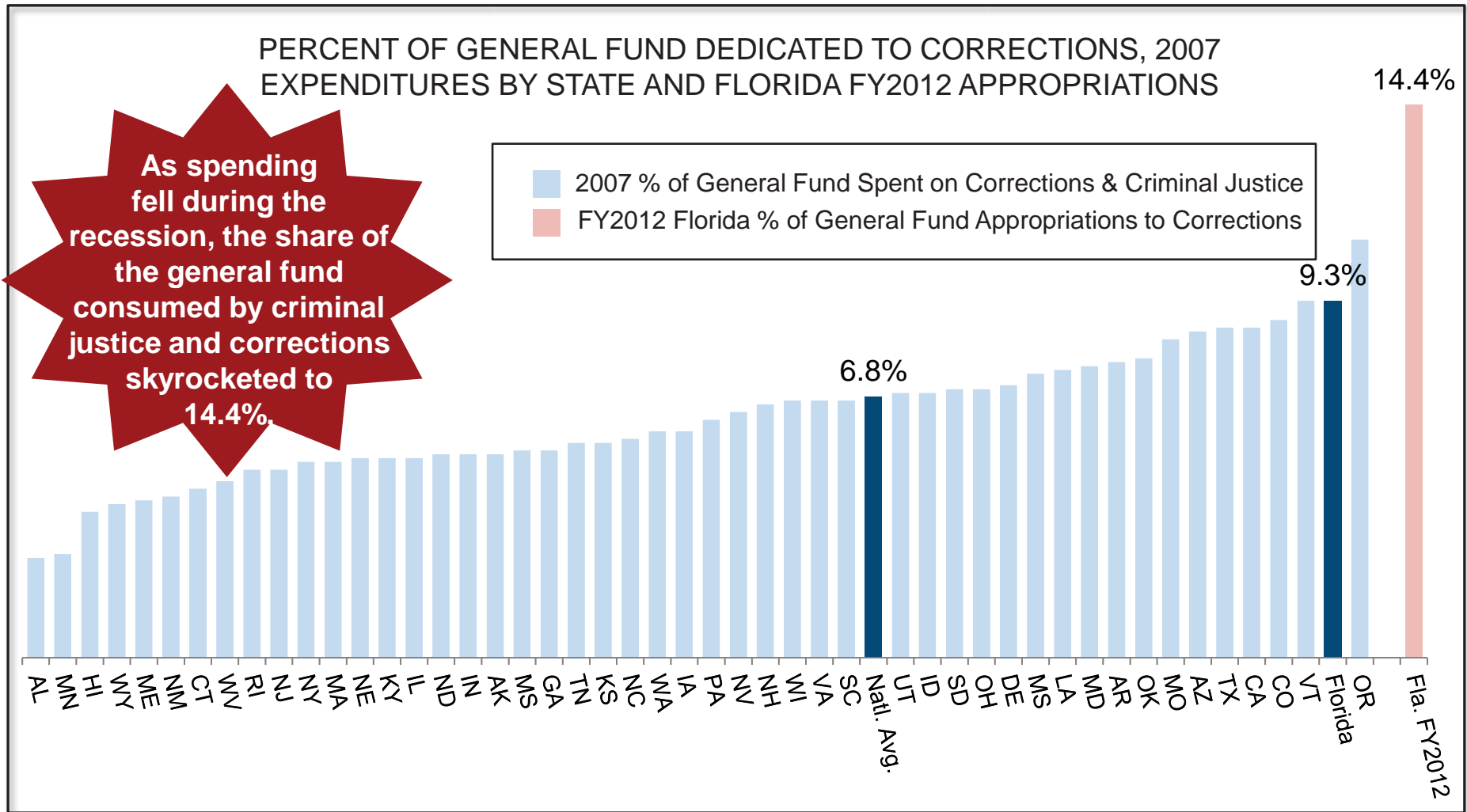
Source: Florida Office of Economic and Demographic research, *Criminal Justice Trends 1984-2010*, available at <http://edr.state.fl.us/Content/resource-demand/criminal-justice/reports/criminal-justice/index.cfm>. FY2011 data from FDOC *Inmate Population by Facility for Fiscal Year 2010-2011*, available at <http://dc.state.fl.us/pub/pop/facility/index.html>. Cost estimate based on FY2010 per diem of \$53.34, see Florida Dept. of Corrections, *FY2009-10 Annual Report*, available at <http://dc.state.fl.us/pub/index.html>.

Florida's prison system is one of the largest in the country – only California and Texas incarcerate more of their residents.



Source: Pew Center on the States, *Prison Count 2010* (April 2010), available at http://www.pewcenteronthestates.org/uploadedFiles/Prison_Count_2010.pdf; Florida Senate Bill 2000, available at <http://floridafiscalportal.state.fl.us/PDFDoc.aspx?ID=4480>.

In 2007, corrections and criminal justice accounted for 9.3% of Florida's General Fund expenditures – a larger share than in every state except Oregon.



Source: Pew Center on the States, *One in 100: Behind Bars in America* (February 2008), available at http://www.pewtrusts.org/our_work_report_detail.aspx?id=35900. The Florida Legislature Office of Economic and Demographic Research, *A Budget Overview* (August 2011), available at <http://edr.state.fl.us/Content/presentations/Budget/BudgetPictureSummer2011.pdf>. Note: \$1.2 billion in correctional spending comes from sources other than the general fund and, like local corrections expenditures, is not included in this calculation.

Good News



Florida's Recidivism Rate has Declined.

Despite the billions spent on corrections, nearly a third of people released from prison return within three years, and nearly two-thirds are re-arrested.

RECIDIVISM MEASURE	DEFINITION OF RECIDIVISM	RECIDIVISM RATE
Re-Arrest	The percent of releases who were re-arrested for any offense or violation within three years.	64% FY2008 Releases
Re-Arrest for a Felony	The percent of releases who were re-arrested for any felony within three years, regardless of whether charges were pressed or proved.	47% FY2008 Releases
Re-Arrest for a Violent Felony	The percent of releases who were re-arrested for any violent felony within three years, regardless of whether charges were pressed or proved.	11% FY2008 Releases
Return to Prison for Any Reason	The percent of releases who either receive a new sentence to prison within three years or return due to a violation of a form of conditional release.	31%* FY2007 Releases
New Sentence to Prison	The percent of releases who are <i>sentenced</i> to new prison terms within three years of release. This includes all people sentenced to prison, regardless of when they were actually admitted to a FDOC prison within the recidivism period. This category includes people serving a blended sentence who violate the terms of their probation.	28%* FY2007 Releases
New Sentence to Prison or Probation	The percent of releases who are <i>sentenced</i> to either a new prison term or a new term of probation within three years of release. All the conditions of “New Prison Sentence” apply.	39%* FY2007 Releases

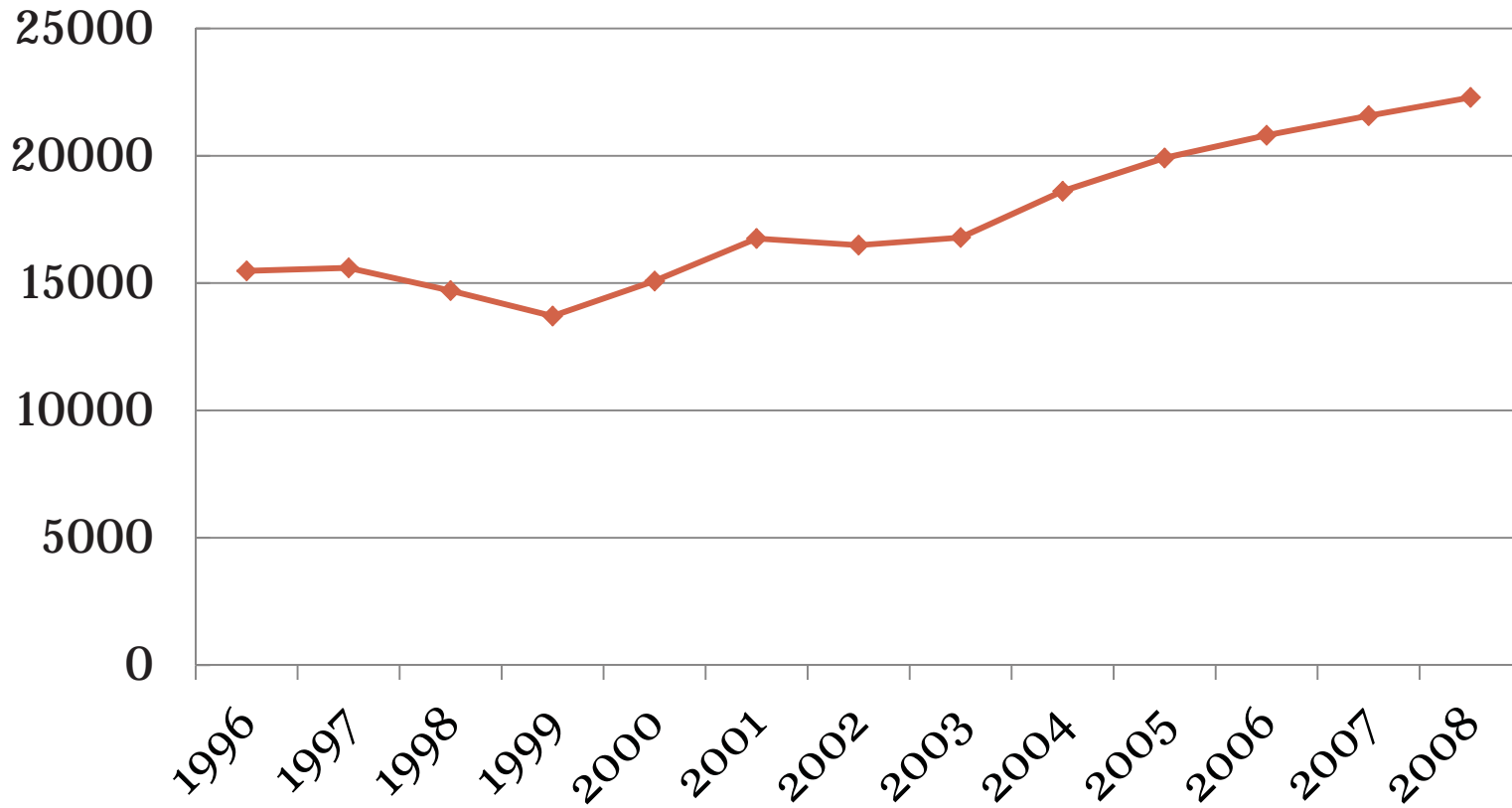
Source: FTW analysis of FDOC data and FDLE arrest data. The recidivism period was three years from an offender’s first release. The FDLE database was cleaned to more accurately identify the level and type of offense using FDLE’s Arrest Statute Table, available at <http://www.fdle.state.fl.us/Statutes/about.html>. Because of limitations in the data, returns to prison for technical violations are not tracked by re-admission, but by re-release, meaning that the Return to Prison for Any Reason figure is likely deflated slightly. For re-arrest, all releases with matching FDLE arrest records were tracked (more than 99.5% of releases). No exclusions were made due to out of state residency or death.

Recidivism Rates By Fiscal Year of Release (Percent)/ Any Arrest



Source: Florida TaxWatch Analysis of FDOC Releases and FDLE Arrest Data, October 2011.

Number of Recidivists By Fiscal Year/Any Arrest



Source: Florida TaxWatch Analysis of FDOC Releases and FDLE Arrest Data, October 2011.

So, what's happening with recidivism?



Decreasing rates of recidivism overall...

...but an increasing number of
recidivists has occurred because the
number of release cohorts is
growing larger.

Florida's Continued Focus on Reducing Recidivism is a Taxpayer Imperative



- Nearly 90% of ex-offenders will return to our communities.
- To be “successful,” in a quantifiable, accountable, measurable form, our Florida criminal justice system must continue to reduce recidivism and slow the growth of our incarcerated population.

Reducing the Rate of Recidivism means:

- Advancing Public Safety and the Rule of Law and
- Minimizing the Number of Future Victims
- Reducing Unnecessary Taxpayer Burden

Source: Florida TaxWatch and Right on Crime, 2011

Recommendations to Increase Public Safety

Expand the Eligibility for Pretrial Drug Courts

Research has shown that the use of pretrial drug courts is an effective and measurable means of reducing recidivism, addressing the core issue of many offenders. *The key to such expansion is to build on the knowledge base through diligence in recidivism data collection.*

Recommendations to Increase Public Safety

Expand Prison Work Release Programs by incorporating more eligible inmates

- **Housing pre-screened, eligible inmates at work release centers is less expensive and does not shorten their length of sentence.**
- **savings: average of almost \$26/day less per inmate**

Recommendations to Increase Public Safety

Target the Problem of Substance Abuse inside and outside the prison walls

65% of inmates in need of treatment, very few slots in prison

82% Prisoners leave without treatment

**Community based treatment post-release works:
93% completers do not recidivate within 3 years**

Recommendations to Increase Public Safety

Review and Revise State-Created Employment Restrictions

Gainful employment post-release is essential to further curbing recidivism.

Recommendations to Increase Public Safety

Continue Reforms in Juvenile Justice

- **Further expand the use of civil citation to specifically address school site arrests: 11,492**
- **Continue reductions in residential and reductions in length of stay based upon research**

Recommendations to Increase Public Safety

Continue Reforms in Juvenile Justice

Expand the use of proven community-based treatment, as appropriate:

Shifting from ineffective residential treatment to evidence-based, research supported treatment will reduce recidivism and slow the juvenile to adult prison pipeline.

Recommendations to Increase Public Safety

Education is Key to Juvenile Success

As it is for adults, the potential for gainful employment post-release is essential to further curbing recidivism.

The state needs to ensure performance outcomes are in place for this key population, vulnerable to drop-out and future criminal behavior.

Spoke
TCS 1

THE FLORIDA SENATE
COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

Oct 18, 2011

Date

Bill Number

Barcode

Name Robert Weissert

Phone 850-222-5052

Address 106 N. Bronough St

E-mail rob@floridatransparency.org

Street

Fallahassee

FL

32301

Job Title VP for Research
+ General Council

City

State

Zip

Speaking: For Against Information

Appearing at request of Chair

Subject Government cost savings Task Force Recommendations

Representing Florida TaxWatch

Lobbyist registered with Legislature: Yes

No

Pursuant to s. 11.061, Florida Statutes, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.

If designated employee: Time: from _____ .m. to _____ .m.

Spoke TAB 1

THE FLORIDA SENATE

COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

TAX WATCH
RECOMMENDATIONS

OCT 18th 2011
Date

Bill Number

Name Michael A ADKINSON *Representing FL Sheriff Association*
Address 252 Triple G RD
DFS, FL
City State Zip

Barcode
Phone 850 892-8186
E-mail _____
Job Title Sheriff

Speaking: For Against Information Appearing at request of Chair

Subject TAX WATCH RECOMMENDATIONS

Representing _____

Lobbyist registered with Legislature: Yes No

Pursuant to s. 11.061, Florida Statutes, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.
If designated employee: Time: from _____ .m. to _____ .m.

After Sheriff's

THE FLORIDA SENATE

Spoke

TAB 1

COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

18 Oct 2011

Date

Tax Under Report

Bill Number

Barcode

Name John Rogers

Phone 850 222-4082

Address 227 S. Adams St

E-mail John@FFA.org

Street TLL FL 32301

Job Title SR.V, P+

City State Zip

Gen'l Counsel

Speaking: For Against Information

Appearing at request of Chair

Subject TAX WATCH REPORT

Representing FL RETAIL FEDERATION

Lobbyist registered with Legislature: Yes No

Pursuant to s. 11.061, Florida Statutes, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes. If designated employee: Time: from _____ .m. to _____ .m.



The Florida Senate

Interim Report 2012-116

October 2012

Committee on Criminal Justice

REVIEW PENALTIES FOR DRUG-FREE ZONE VIOLATIONS

Issue Description

Florida law increases the gravity of certain drug offenses and the severity of the penalty when these offenses are committed within 1,000 feet of certain places and facilities, such as within 1,000 feet of the real property of a K-12 school.¹ These protected areas are sometimes referred to as “drug-free zones” or “DFZs.”² DFZ laws have been advocated to protect the users of these places and facilities and as valuable drug enforcement and prosecution tools, but also have been criticized as being unfair, indiscriminately punitive, and not accomplishing purposes for which they are typically intended.

This report provides information relevant to Florida’s DFZ provisions so that legislators can assess whether these provisions should be retained in their current form, modified, or repealed. Some options are provided for legislators to consider.

Background

Information for this report comes from staff’s review of Florida’s DFZ provisions and relevant case law, studies of DFZs in other states, sentencing and new commitment data prepared by the Legislature’s Office of Economic and Demographic Research (EDR), case data provided by the Office of the State Courts Administrator, and survey responses from the offices of some state attorneys,³ public defenders,⁴ sheriffs,⁵ and police agencies.⁶ Those responding to the survey did not always respond to every survey question. Consequently, unless otherwise indicated, information reported from this survey is represented as the majority response of those who responded to a survey question that provided relevant information for background information and findings of this report.

¹ *Thomas v. State*, 61 So. 3d 1157, 1159 (Fla. 1st DCA 2011).

² The DFZ provisions discussed in this report differ from similarly-named provisions enacted by local ordinance that punish with trespassing penalties those who engage in drug activity in designated zones.

³ Surveys were forward to all state attorneys through the Florida Prosecuting Attorneys Association. Fifteen state attorneys from the following judicial circuits responded to the survey: 2nd (Franklin, Gadsden, Jefferson, Leon, Liberty, and Wakulla counties); 3rd (Columbia, Dixie, Hamilton, Lafayette, Madison, Suwannee, and Taylor counties); 6th (Pasco and Pinellas counties); 7th (Flagler, Putnam, St. Johns, and Volusia counties); 8th (Alachua, Baker, Bradford, Gilchrist, Levy, and Union counties); 9th (Orange and Osceola counties); 11th (Dade County); 12th (DeSoto, Manatee, and Sarasota counties); 13th (Hillsborough County); 15th (Palm Beach County); 16th (Monroe County); 17th (Broward County); 18th (Brevard and Seminole counties); 19th (Indian River, Martin, Okeechobee, and St. Lucie counties); and 20th (Charlotte, Collier, Glades, Hendry, and Lee counties).

⁴ Surveys were forwarded to all public defenders through the Florida Public Defenders Association. Eight public defenders from the following judicial circuits responded to the survey: 5th (Citrus, Hernando, Lake, Marion, and Sumter counties); 7th (Flagler, Putnam, St. Johns, and Volusia counties); 8th (Alachua, Baker, Bradford, Gilchrist, Levy, and Union counties); 14th (Bay, Calhoun, Gulf, Holmes, Jackson, and Washington counties); 15th (Palm Beach County); 16th (Monroe County); 17th (Broward County); and 20th (Charlotte, Collier, Glades, Hendry, and Lee counties).

⁵ Surveys were forwarded to all sheriffs through the Florida Sheriffs Association. Twelve sheriffs from the following counties responded to the survey: Broward; Charlotte; Clay; Franklin; Hardee; Hillsborough; Manatee; Orange; Pasco; Pinellas; Sarasota; and Suwannee.

⁶ Twenty police agencies were chosen as a sampling of police agencies. Agencies were selected from different geographical regions and included agencies in large, mid-size, and small cities. Surveys were forwarded through the Florida Police Chiefs Association. Only four police agencies responded to the survey: the Ft. Myers Police Department; the St. Petersburg Police Department; the Tampa Police Department; and the Tallahassee Police Department.

Florida's Drug Free Zone Laws

Florida's DFZ provisions are found in s. 893.13(1)(c), (1)(d), (1)(e), (1)(f), and (1)(h), F.S. While not articulated in these provisions or in the chapter laws creating them, purposes that typically have been articulated for DFZs include, but are not limited to, enhancing public safety (e.g., reducing drug activity and drug-related crimes in the DFZs), reducing nuisance, and improving quality of life.

Florida's first DFZ provision was created in 1987⁷ and applied only to K-12 schools, but subsequent enactments created new types of DFZs. Florida created its K-12 school DFZ approximately three years after Congress enacted a school DFZ law, which the sponsor, former U.S. Senator Paula Hawkins, stated was intended to "deter drug distribution in and around schools" and help "eliminate outside negative influences" around schools.⁸

Section 893.13(1)(a), F.S., punishes the sale, manufacture, or delivery, or possession with intent to sell manufacture, or deliver, a controlled substance as a first degree misdemeanor, third degree felony, or second degree felony, depending upon the scheduling of the controlled substance relevant to the drug activity.⁹ Generally, this described drug activity (non-trafficking amounts) is punished under s. 893.13(1)(a), F.S.¹⁰ However, when this drug activity is committed in, on, or within 1,000 feet¹¹ of certain places and facilities, the degree of the offense is increased by one degree and the penalty is enhanced. For example, it is a first degree felony (punishable by up to 30 years in state prison) to sell cocaine within 1,000 feet of the real property of a K-12 school. In contrast, if this sale occurs outside of the K-12 school DFZ or another DFZ, the offense is a second degree felony (punishable by up to 15 years in state prison).

Florida's current DFZs are created in, on, or within 1,000 feet of:

- The real property comprising a child care facility, as defined in s. 402.302, F.S., between the hours of 6 a.m. and 12 midnight and where the owner or operator of the facility posts a sign according to the specifications set forth in the statute. [s. 893.13(1)(c), F.S.]
- The real property comprising a public or private elementary, middle, or secondary school between the hours of 6 a.m. and 12 midnight. [s. 893.13(1)(c), F.S.]
- The real property comprising a state, county, or municipal park, a community center, or a publicly owned recreational facility, at any time. [s. 893.13(1)(c), F.S.]
- The real property comprising a public housing facility at any time. [s. 893.13(1)(d), F.S.]
- A physical place of worship, church or religious organization, which regularly conducts religious services, at any time. [s. 893.13(1)(e), F.S.]
- A convenience business, as defined in s. 812.171, F.S., at any time. [s. 893.13(1)(e), F.S.]
- The real property comprising a public or private college at any time. [s. 893.13(1)(f), F.S.]
- The real property comprising an assisted living facility, as that term is used in ch. 429, F.S., at any time. [s. 893.13(1)(h), F.S.]

The DFZ provisions do not require either intent to commit a drug offense in a DFZ¹² or knowledge that the offense is being committed within a DFZ.¹³ Like the penalties for violations of s. 893.13(1)(a), F.S., the penalties

⁷ Section 4., ch. 87-243, L.O.F.

⁸ 130 Cong.Rec. S559 (daily ed. January 31, 1984).

⁹ Controlled substances appear in one of five schedules under s. 893.03, F.S. Penalties are generally greatest for drug activity (like drug sales) that involves Schedule 1 and 2 controlled substances. Scheduling is determined by specific criteria set forth in s. 893.03, F.S. For example, a Schedule 1 substance is a substance which has a high potential for abuse and has no currently accepted medical use in treatment in the United States and its use under medical supervision does not meet accepted safety standards.

¹⁰ However, s. 893.13(1)(b), F.S., provides that it is a first degree felony to unlawfully sell or deliver more than 10 grams of any Schedule (1)(a) or (1)(b) controlled substance.

¹¹ Distance is measured "as the crow flies, not as the car drives." *Howard v. State*, 591 So. 2d 1067, 1068 (Fla. 4th DCA 1991). For example, with the K-12 school DFZ, distance is measured in a straight line from the boundary of the school's real property.

¹² *Spry v. State*, 912 So. 2d 384, 386 (Fla. 2d DCA 2005).

¹³ *Dickerson v. State*, 783 So. 2d 1144, 1148 (Fla. 5th DCA 2001), *review denied*, 819 So. 2d 134 (Fla. 2002).

for DFZ violations depend on the scheduling of the controlled substance relevant to the drug activity, e.g., selling a Schedule (2)(a) controlled substance (e.g., cocaine) in a K-12 school DFZ is a first degree felony but selling a Schedule (1)(c) controlled substance (e.g., cannabis) in the same DFZ is a second degree felony.

Controlled substance acts committed in a DFZ are sometimes ranked higher in the offense severity ranking chart of the Criminal Punishment Code (Code)¹⁴ than these same acts when committed outside a DFZ. This impacts the scoring of the lowest permissible sentence under the Code.¹⁵ Further, with the exception of violations involving child care facilities, a first degree felony violation of s. 893.13(1)(c), F.S., requires the imposition of a three-year mandatory minimum term of imprisonment. Additionally, the increase in felony degree means that the maximum penalty under the law is greater.¹⁶ Repeat offender sanctions under other laws (e.g., habitual felony offender sanctions under s. 775.082, F.S.) are also escalated due to the higher felony degree of the drug offense which may qualify the offender for repeat offender sanctions if there are also qualifying prior offenses.

Drug-free Zone Laws and Studies of Drug-free Zones

There is no current and complete listing of states' DFZ laws. Uniform DFZ distance standards (i.e. a distance standard applied to all DFZs in a state's law) appear to range from 300 feet (e.g., Minnesota) to a 3-mile radius (Alabama).¹⁷ Because studies (*see supra*) indicate that the impact of DFZs is greatest in densely populated areas, staff reviewed the DFZ laws of the five states with the highest population density (2010 Census).¹⁸ Provided are the DFZs created by the laws of these states:

- New Jersey (within 1,000 feet of the property of a specified school, 1,000 feet of a school bus, and 500 feet of a public housing facility, public park, and public building).
- Rhode Island (within 300 yards of the property of a specified school and 300 yards of a public park and playground).
- Massachusetts (within 1,500 feet of the property of a specified school and 100 feet of a public park and playground).
- Connecticut (within 1,500 feet of the property of a specified school, public housing project, and licensed child day care center).
- Maryland (in a school vehicle and within 1,000 feet of the property of a specified school).¹⁹

Staff did not find any studies that mapped the number of DFZs in a Florida city or county. Few surveyed law enforcement agencies identified the number of DFZs (and the number of overlapping DFZs) in the largest city or the county in their area of primary jurisdiction,²⁰ and no reporting agency indicated how much of the city or

¹⁴ Sections 921.002-921.0027, F.S. With the exception of capital felonies, felony sentencing is determined by the felony degree of the applicable felony and the provisions of the Code, which, in combination with the maximum penalties established in s. 775.082, F.S., determines the permissible sentencing range.

¹⁵ The Legislature ranks many non-capital felony offenses in the Code offense severity ranking chart (s. 921.0022, F.S.). When not specifically ranked in the chart, felony offenses are ranked under s. 921.0023, F.S., based on their felony degree. Level 10 offenses are deemed the most serious offenses. Sentence points accrue based on ranking level; the higher the ranking level, the greater the number of points. These points, along with points for other factors, such as additional and prior offenses, are entered into a specified mathematical calculation to determine the lowest permissible sentence, which generally must be imposed absent a permissible ground for mitigation. However, for some lower scoring sentences for particular offenses, a non-prison sanction may be appropriate. *See* ss. 775.082(10) and 921.00241, F.S.

¹⁶ The maximum penalty for some DFZ violations (which may involve a small amount of a controlled substance) is the same as the maximum penalty for some drug trafficking offenses (which may involve a considerable amount of a controlled substance). For example, the maximum penalty for selling one gram of cocaine in a K-12 school DFZ or trafficking in 28 grams or more of cocaine is 30 years in state prison. However, mandatory minimum terms and sentence points accrued for drug trafficking may be greater. Courts have the discretion to apply a drug trafficking sentence point multiplier. *See* ss. 893.135 and 921.0024, F.S.

¹⁷ Minn. Stat. §§ 152.01, 152.021, 152.022, 152.023, and 152.024; and Ala. Code §§ 13A-12-250 and 13-12-270.

¹⁸ *Resident Population Data*, 2010 U.S. Census, U.S. Census Bureau, <http://2010.census.gov/2010census/data/apportionment-dens-text.php>. Florida is the eighth most densely populated state.

¹⁹ N.J. Rev. Stat. §§ 2C:35-7 and 2C:35-7.1; R.I. Gen. Laws § 21-28-4.07.1; Mass. Gen. Laws ch. 94C § 32J; Conn. Gen. Stat. §§ 21a-278a. and 21a-279; and Md. Criminal Law Code Ann. § 5-627.

²⁰ Agencies reporting DFZ information: Broward Sheriff (425 DFZs in Pompano Beach); Franklin Sheriff (number of DFZs

county was covered by DFZs. It is possible that in some areas identifying the number of DFZs would be a nearly impossible task. For example, in Miami-Dade-County, which has the fourth largest school district in the nation,²¹ there are 392 K-12 public schools reported.²² There are also 263 parks (more than 12,848 acres of land) in the Miami-Dade Parks system, the third largest county park system in the nation.²³ These are only two of the many types of DFZs. Other factors make identification of DFZs difficult. For example, to accurately identify the number of convenience business DFZs, an agency would have to contact every local business to ascertain if the business meets the statutory definition and continuously track information (if available) on new and closing businesses.

Studies of municipalities in other states suggest significant proliferation of DFZs in densely populated (primarily urban) areas. The Connecticut General Assembly found that, of twelve municipalities studied, a significant percentage of the total geographical areas of urban and “urban-like” suburban municipalities were in DFZs.²⁴ The Utah Sentencing Commission found that DFZs covered 75 to 85 percent of all livable space in the four cities it studied (Randolph, Richfield, Murray, and St. George).²⁵ The New Jersey Commission to Review Criminal Sentencing found that DFZs covered 51 percent of Newark (76 percent if the airport area was excluded), 54 percent of Jersey City, and 52 percent of Camden.²⁶ The New Jersey commission concluded from its findings that the density of school DFZs and, to a lesser extent, the density of other DFZs increased as population density increased. The percentage of urban areas falling in a DFZ was greater than in rural or suburban areas. The Pennsylvania Commission on Sentencing found that 29.5 percent of the major municipality in Philadelphia County and 22.8 percent of the major municipality in Allegheny County (Pennsylvania’s two most populous counties) were within 1,000 feet of a school. This estimate did not include actual property owned by schools, recreation centers, playgrounds, or school buses, which were also covered by the DFZ law.²⁷

Findings and/or Conclusions

Purpose of DFZs: Courts have found that DFZ laws appear to advance a rational purpose.²⁸ It is presumed that, if nothing else, Florida’s DFZs were intended to reduce drug activity in areas within the DFZs.²⁹ Whether Florida’s DFZs achieve that purpose cannot be confirmed based on available data. Offenders incarcerated as a result of the DFZ enhanced penalties will obviously not be committing DFZ violations during their period of incarceration, but it is unknown if the enhanced penalties deter these offenders from recidivating after release or if they deter others

for Apalachicola not provided but most DFZs would probably overlap due to the city’s small size); Orange Sheriff (estimated minimum of 200 DFZs in Orlando); Pinellas Sheriff (112 DFZs in Dunedin of which 110 overlap); Suwannee (approximately 56 DFZs in Live Oak of which approximately 18 overlap); and Ft. Myers Police Department (95 DFZs in Ft. Myers).

²¹ *Schools Assessment Area*, http://www.miamidade.gov/greenprint/planning/library/milestone_one/schools.pdf.

²² See <http://www.dadeschools.net/>.

²³ *About Parks*, Miami-Dade County Parks & Recreation Department, <http://www.miamidade.gov/parks/about-parks.asp>.

²⁴ *Mandatory Minimum Sentences*, December 2005, Legislative Program Review & Investigations Committee, Connecticut General Assembly. “Almost the total geographical areas of Bridgeport, Hartford, and New Haven are within ‘drug free’ zones.” *Id.* These municipalities were categorized by the committee as “urban.” *Id.*

²⁵ *Annual Report*, 2006, Utah Sentencing Commission (further cited as “Utah Comm. Report, 2006”).

²⁶ *Report on New Jersey’s Drug Free Zone Crimes & Proposal for Reform*, December 2005, New Jersey Commission to Review Criminal Sentencing (further cited as “N.J. Comm. Report, 2005”).

²⁷ Cynthia A. Kempinen, *A Multi-Method Study of Mandatory Minimum Sentences in Pennsylvania*, Research Bulletin, Volume 9, Issue 1, April 2010, Pennsylvania Commission on Sentencing (further cited as “Penn. Comm. Report, 2010”). Pennsylvania’s school DFZ is “within 1,000 feet of the real property on which is located a public, private or parochial school, or a college or university or within 250 feet of the real property on which is located a recreation center or playground or on a school bus.” 18 Pa. C.S. § 6317.

²⁸ See e.g., *State v. Burch*, 558 So. 2d 279, 284-85 (Fla. 4th DCA 1979) (finding that Florida’s K-12 school DFZ provision was not an unreasonable exercise of the state’s “police power” and adopting the reasoning of a New York federal district court that found the federal school DFZ statute to be a rational exercise of Congress’ authority), *approved*, 558 So. 2d 1 (Fla. 1990).

²⁹ In *Rice v. State*, 754 So. 2d 881, 883 (Fla. 5th DCA), *review denied*, 779 So. 2d 272 (Fla. 2000), the court reviewed the DFZ provision relevant to convenience businesses and places of worship and found that the “primary purpose and effect” of this provision was “deterrence of drug sales and drug use in proximity to places where people gather.”

from drug activity in DFZ-covered areas. The Pennsylvania Commission on Sentencing did not find that “length of sentence or imposition of a mandatory minimum term *per se* were predictors of recidivism.”³⁰

Size and proliferation of DFZs: It is unclear why 1,000 feet became the distance standard for Florida’s DFZs. In considering the federal school DFZ statute, the New Jersey Commission to Review Criminal Sentencing was unable to ascertain why 1,000 feet was selected as “the appropriate demarcation of the protective zone.”³¹ The commission noted that Congress did not cite to any empirical data and the commission did not find any “related evidence or research relied upon by Congress to inform its legislative determination.”³² Similarly, staff has not found anything that indicates an empirical basis for Florida’s 1,000-foot distance standard. This has not always been the distance standard for all of Florida’s DFZs; until 2003, the distance standard for DFZs pertaining to colleges, universities, postsecondary educational institutions, public parks, and public housing facilities was 200 feet.³³

The term “1,000-foot drug-free zone” fails to capture how large this zone really is. In testimony before the Sentencing Policy Study Committee, a committee created by the Indiana Legislature, one DePauw University DFZ researcher noted that the distance is “the equivalent of three football fields end-to-end, or three city blocks. You can barely see someone that far away. A circle with a radius of 1,000 feet around a single point encompasses 3,140,000 square feet –so large that you could fit the equivalent of 68 football fields inside of it.”³⁴ The researcher noted that even this description underestimated the size of most DFZs because of the considerable area covered by schools and parks. Citing the example of one high school, the researcher estimated that the zone would cover 14 million square feet³⁵ when the high school and playing fields were included.

Staff did not find any DFZ mapping studies of Florida’s densely populated areas that indicate the impact of DFZs on these areas but findings of the New Jersey Commission to Review Criminal Sentencing are noteworthy on the impact of DFZs on densely populated areas of New Jersey. The commission found that, due to the size of New Jersey’s school/park DFZs, DFZ overlapping, and DFZ proliferation in densely populated urban areas, these areas had “been literally transformed into massive, unsegmented ‘drug free’ zones.”³⁶ “Consequently, the protected areas demarcated by the statutes no longer exist, having merged with contiguous zones.”³⁷ While New Jersey’s population density was unequalled by other states, the Utah Sentencing Commission found it difficult to identify an urban area in Utah that was not covered by a 1,000-foot DFZ.³⁸ Utah is far less densely populated than New Jersey.

Florida’s 1,000-foot distance standard is not exceptional when compared with the DFZ distance standards of the five most densely populated states, though two of these states have different standards for different types of DFZs. Where Florida is exceptional is that it has significantly more types of DFZs than these states.

It is probable that DFZs proliferate in densely populated (primarily urban) areas of Florida due to the likelihood of there being more places and facilities covered by DFZs in these areas, the 1,000-foot distance standard, the number of types of DFZs, and DFZ overlapping. It is possible that in creating Florida’s DFZs legislators envisioned protected areas of limited size, not “superzones” created by DFZ proliferation and overlapping.

³⁰ Penn. Comm. Report, 2010.

³¹ N.J. Comm. Report, 2005.

³² *Id.*

³³ Section 1, ch. 2003-94, L.O.F.

³⁴ Testimony of Ryan Keeley before Indiana’s Sentencing Policy Study Committee, October 8, 2008, available at [http://dpuadweb.depauw.edu/\\$1~kkauffman/newdrugzoneprovisions/index.html](http://dpuadweb.depauw.edu/$1~kkauffman/newdrugzoneprovisions/index.html). This website details findings of *The Impact of Indiana’s Drug-Free Zones*, a DePauw University class project (based on 2007 mapping data).

³⁵ One square mile equals 27,878,400 square feet. Therefore, 14 million square feet is approximately 0.5 square miles.

³⁶ *Supplemental Report on New Jersey’s Drug Free Zone Crimes & Proposal for Reform*, April 2007, New Jersey Commission to Review Criminal Sentencing.

³⁷ *Id.*

³⁸ Utah Comm. Report, 2006. The DFZ statute reviewed by Utah’s sentencing commission was arguably more expansive than Florida’s DFZ provisions insofar as what was designated as a DFZ, but Florida’s DFZ provisions create a significant number of types of DFZs.

Superzones may dilute the special protection afforded places and facilities that are the subject of DFZs. The New Jersey Commission on Criminal Sentencing reached that conclusion regarding New Jersey's DFZs.³⁹

DFZ arrests: A full picture of the number of DFZ arrests cannot be obtained. Just short of half of law enforcement agencies⁴⁰ making drug arrests reported drug arrest information to the Florida Department of Law Enforcement that was detailed enough to indicate DFZ arrests. The number of DFZ arrests reported, though an incomplete accounting of DFZ arrests, was significant (e.g., 5,410 arrests in FY 2009-10). However, for FY 2007-08 through FY 2009-10, DFZ arrests declined.⁴¹

Sheriffs and police agencies provided the following responses or data (for FY 2007-08 through FY 2009-10 or calendar years 2007-10, unless otherwise noted):

- Most drug activity did not occur in a DFZ.
- The largest number of DFZ arrests were for violations of s. 893.13(1)(c), F.S. (K-12 schools, etc.) and s. 893.13(1)(e), F.S. (places of worship/convenience businesses).
- Most K-12 school DFZ violations did not occur on school property.
- Relative to arrests for other DFZ violations, arrests for DFZ violations involving an assisted living facility were negligible (two arrests).
- The majority of DFZ arrestees were black.⁴²
- Drug arrests were made in areas in which drug activity was most prevalent or best information was obtained, regardless of whether these areas were within a DFZ.
- For FY 2009-10 (or calendar years 2009 and 2010), DFZ arrests were five percent or less of arrests made for a violation of s. 893.13, F.S.

DFZ prosecutions: State attorneys provided the following responses or data (for FY 2007-08 through FY 2009-10, unless otherwise noted):

- A significant number of felony cases involved a plea of guilty or nolo contendere to a DFZ violation or, to a lesser extent, a plea to a non-DFZ violation in exchange for dropping the DFZ charge. There were few trials.⁴³
- Black defendants were the majority of defendants in felony cases in which a DFZ violation was charged.
- State attorneys looked at several factors in addition to meeting the burden of proof on the elements in determining whether to file a DFZ charge.
- State attorneys sometimes dropped a DFZ charge to a violation of s. 893.13(1)(c), F.S. (which may carry a mandatory minimum penalty), if the defendant agreed to a plea to another offense.

³⁹ N.J. Comm. Report, 2005.

⁴⁰ Forty-six to forty-eight percent or 212-222 agencies provided detailed DFZ arrest information. Florida Statistical Analysis Center, Florida Department of Law Enforcement (FDLE). "Florida Statute" is an optional field in the Florida Computerized Criminal History (CCH). Twenty percent of the arrest charges with a Drug Offense Code between FY 2007-08 and FY 2009-10 are missing. The CCH is fingerprint-based and, unless prints were taken at a later stage in the criminal process, does not include records involving a notice to appear, direct files, or sworn complaints where no physical arrest was made. The CCH data are current as of June 1, 2010, but the FDLE does not warrant that records provided are comprehensive or accurate as of the date provided.

⁴¹ *Id.* DFZ arrests: FY 2007-08: 6,167; FY 2008-09: 5,483; and FY 2009-10: 5,410.

⁴² Staff's survey questions pertinent to race include an "Other" category, not a "Hispanic" category (which reflects ethnicity, not race). Staff notes that racial data pertinent to arrests, cases, sentencing events, and new commitments likely will include some persons of Hispanic descent (as well as other descents, such as West Indian and Caribbean) under the "White" and "Black" racial categories.

⁴³ Data provided by the Office of the State Courts Administrator indicated that felony DFZ counts of cases disposed with a plea of guilty/nolo contendere overwhelming outnumbered felony DFZ counts of cases disposed of at trial. Data were not reported for the following counties: Duval; Nassau; Flagler; Putnam; Osceola; Desoto; Seminole; and St. Lucie.

DFZ sentencing events and new commitments: EDR reported information relevant to DFZ sentencing events and DFZ new commitments. The following data are pertinent to FY 2007-08 through FY 2009-10, unless otherwise noted:

- The number of DFZ sentencing events was significant (4,381 for the three fiscal years). Approximately 69 percent of these events (3,017) involved a prison sentence.⁴⁴ There was also a significant number of DFZ new commitments (3,003 for the three fiscal years).⁴⁵ However, DFZ prison sentencing events were a small percentage of all drug prison sentencing events (this includes possession, sale, and drug trafficking),⁴⁶ and DFZ new commitments were a small percentage of all drug new commitments.⁴⁷ Further, there was a declining number of DFZ sentencing events (prison or supervision) and DFZ new commitments.⁴⁸
- Most DFZ sentencing events and DFZ new commitments were for a violation of s. 893.13(1)(c), F.S., or s. 893.13(1)(e), F.S.,⁴⁹ and involved cocaine, heroin, and some other drugs (excluding GHB, methamphetamines, MDMA, and cannabis). In comparison to sentencing events and new commitments for other DFZ violations, sentencing events and new commitments for DFZ violations involving an assisted living facility were negligible.⁵⁰
- For offenders with a drug sentencing event or drug sales/manufacturing/delivery sentencing event (a subset of drug sentencing events), more offenders received supervision than a prison sentence and the percentage receiving supervision increased.⁵¹ In contrast, for offenders with a DFZ sentencing event, more received a prison sentence than supervision, though the percentage receiving supervision slightly increased.⁵²
- For FY 2009-10, 54.6 percent of all drug prison sentencing events involved black offenders, and black offenders were 55.9 percent of all drug new commitments. In contrast, 86.9 percent of DFZ prison

⁴⁴ FY 2007-08: 1,647 (prison: 1,159); FY 2008-09: 1,418 (prison: 971); and FY 2009-10: 1,316 (prison: 887). Sentencing event data were compiled by EDR. Criminal Code database was obtained from the Florida Department of Corrections on June 1, 2011. This database contains information on sentencing events. However, scoresheet compliance varies by circuit and by sanction. On a statewide basis, scoresheet compliance (state sanctions) has ranged between 69.4 % and 71.0 % in the last 3 fiscal years. Numbers obtained from the data file were adjusted by the statewide completion rates (separately for prison and state supervision) to obtain the numbers reported by EDR. DFZ sentencing event information reports data on sentencing events in which a DFZ violation is the primary offense.

⁴⁵ FY 2007-08: 1,130; FY 2008-09: 961; and FY 2009-10: 912. The three judicial circuits with the highest number of DFZ new commitments were: the 13th (Hillsborough County); the 15th (Palm Beach County); and the 5th (Citrus, Hernando, Lake, Marion, and Sumter counties). FY 2007-08 through FY 2009-10: 13th Circuit: 544; 15th Circuit: 265; and 5th Circuit: 230. New commitments include probation/community control technical violators and also include conditional and control release violators who have a new sentence. DFZ new commitment information reports data on new commitments whose primary offense was a DFZ violation. New commitment data were compiled by EDR from the monthly status file of prison population prepared by the Bureau of Research and Data Analysis, Florida Department of Corrections. This file contains between 97% and 98% of new commitments. Numbers obtained were adjusted to match new commitment totals for EDR's analysis.

⁴⁶ FY 2007-08: 8.7%; FY 2008-09: 8%; and FY 2009-10: 8%.

⁴⁷ FY 2007-08: 9.9 %; FY 2008-09: 9.3 %; and FY 2009-10: 9.6 %.

⁴⁸ Sentencing events (prison): FY 2007-08: 1,159; FY 2008-09: 971; and FY 2009-10: 887. Sentencing events (supervision): FY 2007-08: 488; FY 2008-09: 447; and FY 2009-10: 429. DFZ new commitment data is reported in footnote 45.

⁴⁹ For FY 2009-10, there were 887 DFZ prison sentencing events of which 318 involved a violation of s. 893.13(1)(c), F.S., and 513 involved a violation of s. 893.13(1)(e), F.S. There were 429 DFZ supervision sentencing events of which 158 involved a violation of s. 893.13(1)(c), F.S., and 219 involved a violation of s. 893.13(1)(e), F.S. There were 912 DFZ new commitments of which 354 involved a violation of s. 893.13(1)(c), F.S., and 486 involved a violation of s. 893.13(1)(e), F.S. Staff found a similar pattern for FYs 2007-08 and 2008-09.

⁵⁰ Four DFZ prison sentencing events and one DFZ new commitment for FY 2007-08 through FY 2009-10.

⁵¹ Drug Prison: FY 2007-08: 31.4%; FY 2008-09: 31.4%; and FY 2009-10: 30.1%. Drug Supervision: FY 2007-08: 68.6%; FY 2008-09: 68.6%; and FY 2009-10: 69.9%. Drug M/S/D Prison: FY 2007-08: 44.1%; FY 2008-09: 44.0%; and FY 2009-10: 41.4%. Drug M/S/D Supervision: FY 2007-08: 55.9%; FY 2008-09: 56.0%; and FY 2009-10: 58.6%.

⁵² DFZ Prison: FY 2007-08: 70.4%; FY 2008-09: 68.5%; and FY 2009-10: 67.4%. DFZ Supervision: FY 2007-08: 29.6%; FY 2008-09: 31.5%; and FY 2009-10: 32.6%.

sentencing events involved black offenders, and black offenders were 88.5 percent of all DFZ new commitments.⁵³ However, the percentage of black DFZ new commitments slightly decreased.⁵⁴

- The number of white offenders with a DFZ sentencing event who received a prison sentence was slightly less than the number who received supervision.⁵⁵ In contrast, the number of black offenders with a DFZ sentencing event who received a prison sentence was significantly greater than the number who received supervision.⁵⁶ Further, the average prison sentence for a DFZ violation (sentencing event and DFZ new commitment) was longer for black offenders than for white offenders.⁵⁷ However, for FY 2009-10, black offenders with a DFZ prison sentencing event had a higher average number of prior felonies and prior offense sentence points than white offenders.⁵⁸ White offenders had a higher average number of misdemeanors.⁵⁹
- For FY 2009-10, 147 DFZ new commitments with a violation of s. 893.13(1)(c), F.S. (three-year mandatory minimum term for some violations)⁶⁰ as their primary offense were matched with the Criminal Code database. Of the 147 new commitments, 52.4 percent had a sentence that exceeded 36 months (92 percent of this group scored a lowest permissible sentence greater than 36 months under the Code), 25.2 percent had a sentence shorter than to 36 months; and 22.4 percent had a sentence equal to 36 months.

Disproportionate impact of DFZs on black offenders: No conclusions are made as to why black offenders are so significantly impacted by Florida's DFZ provisions. The New Jersey Commission to Review Criminal Sentencing found that 96 percent of those convicted and incarcerated for a DFZ offense in New Jersey were either black or Hispanic, which it concluded was the "end result of the 'urban effect'" of DFZs.⁶¹ The commission found that DFZs proliferated in densely populated urban areas which were predominantly populated by minorities. In contrast, suburban and rural areas, predominantly populated by whites, had less densely concentrated DFZs.

⁵³ Overrepresentation of black DFZ new commitments can also be expressed as a ratio reflecting the percentage of DFZ new commitments of a particular race relative to the percentage of that race in the state population (2010 census count). If the ratio is above 1, the racial group (new commitments) is overrepresented; if the ratio is 1, the group is in proportion; and if the ratio is below 1, the group is underrepresented. According to EDR, for FY 2009-10, there were 95 white DFZ new commitments (10% of all DFZ new commitments). There were 14,109,162 persons identified as "White" in the 2010 census count (75% of the state population). For FY 2009-10, there were 807 black DFZ new commitments (88.5% of all DFZ new commitments). There were 2,999,862 persons identified as "Black" in the 2010 census count (16% of the state population). The ratio was 0.14 for white DFZ new commitments and 5.55 for black DFZ new commitments.

⁵⁴ FY 2007-08: 91.1%; FY 2008-09: 89.8%; and FY 2009-10: 88.5%.

⁵⁵ In FY 2009-10, 108 white offenders with a DFZ sentencing event received prison (12.1% of all DFZ prison sentencing events) and 126 received supervision (29.5% of all DFZ supervision sentencing events). Staff found a similar pattern for FYs 2007-08 and 2008-09.

⁵⁶ In FY 2009-10, 771 black offenders with a DFZ sentencing event received prison (86.9% of all DFZ prison sentencing events) and 294 received supervision (68.5% of all DFZ supervision sentencing events). Staff found a similar pattern for FYs 2007-08 and 2008-09.

⁵⁷ Average sentence length/DFZ sentencing events (FY 2009-10): Black: 4.3 years; White: 3.1 years; Other: 2.5 years. Average sentence length/DFZ new commitments (FY 2009-10): Black: 4.2 years; White: 3.4 years; Other: 2.2 years. Staff found a similar pattern for FYs 2007-08 and FY 2008-09. For new commitment data, some demographic details are missing. According to the Department of Corrections, offenders entering prison near the end of the month may not have this information available by the time the status file is run at the end of the month. It was assumed that missing data would not bias the race distribution. Therefore, the race distribution was adjusted by EDR to match the new commitment total.

⁵⁸ Prior felonies: Black: 2.50; White: 1.41. Prior offense points: Black: 20.46; White: 13.03.

⁵⁹ Prior misdemeanors: White: 1.92; Black: 1.66.

⁶⁰ As previously indicated, not all violations of s. 893.13(1)(c), F.S., are subject to the three-year mandatory minimum term; the term is only required for a first degree felony violation of this provision that does not involve a child care facility violation. Where the mandatory minimum term applies, courts are required to impose this term. *See e.g., State v. Mackey*, 964 So. 2d 772 (Fla. 2d DCA 2007) (error to impose three concurrent terms of three years probation for K-12 school DFZ violation). To staff's knowledge, in FY 2009-10, the only means provided by law to avoid the mandatory minimum term upon conviction was youthful offender sanctions. In 2010, the Legislature created s. 921.186, F.S., which authorizes the state attorney to move the sentencing court to reduce or suspend the sentence of any person who is convicted of violating any felony offense and who provides substantial assistance. *See ch. 2010-218, L.O.F.*

⁶¹ N.J. Comm. Report, 2005.

The Disproportionate Justice Impact Study Commission of the Illinois General Assembly noted that “[n]ational surveys consistently show that African Americans, whites, and Latinos are equally likely to use drugs relative to their representation in the general population, but the criminal justice consequences for drug involvement disproportionately affect minorities – particularly young, African-American men in poor, urban communities (The Sentencing Project, 1999).”⁶² The commission found that “race-based differences [in ‘legal processing of drug crimes’] are grounded partly in the way drugs are sold in urban neighborhoods, where drugs are more likely to be sold on the street and in other public places with high visibility, facilitating law enforcement’s ability to make arrests.”⁶³ Further, the commission found “the concentration of ... [DFZs] in [Illinois’] urban areas and particularly communities of color suggests that delivery crimes committed in urban areas are significantly more likely to be violations of ... [Illinois’ DFZ] provisions and subject to enhanced penalties[.]”⁶⁴

Opinions of law enforcement agencies, prosecutors, and public defenders regarding DFZs: Surveyed law enforcement agencies disfavored repeal of the DFZ provisions and the creation of new DFZs.⁶⁵ They supported the 1,000-foot distance standard. The most frequently cited reasons for retaining the DFZs were their use in obtaining information on drug activity and the increased likelihood of prison sentences. The Tallahassee Police Department had some concern that overlapping of DFZs was too prevalent due to the 1,000-foot distance standard but noted that not all cities are like Tallahassee.

Surveyed state attorneys’ offices similarly disfavored repeal of the DFZ provisions and creation of new DFZs.⁶⁶ They also supported the 1,000-foot distance standard, though one state attorney’s office indicated that perhaps the standard should be reviewed and another stated that there seldom appears to be a nexus between the drug activity and the users of the places and facilities that are the subject of the DFZs.⁶⁷ The most frequently cited reasons for retaining the DFZs were higher bonds and significant leverage in plea negotiations, which, in combination with enhanced penalties, help them obtain harsher sentences when they believe they are warranted. Several state attorneys’ offices cited their ability to provide stronger sanctions for repeat drug offenders, though one state attorney’s office stated that, even absent the DFZ laws, there are strong sanctions for repeat offenders.

Surveyed public defenders’ offices favored repeal of the DFZs and did not support the creation of new DFZs or the 1,000-foot distance standard.⁶⁸ In their opinion, the increased prosecutorial leverage often results in inequitable plea negotiations. When this leverage is combined with enhanced penalties, consideration of alternative sentencing, including drug treatment, is often foreclosed. They asserted that many of the drug offenders subject to the DFZ provisions are drug addicts who are dealing drugs to support their addictions. They also asserted that these drug offenders are generally not targeting the population using places and facilities that are the subject of the DFZ but rather are dealing in the neighborhoods in which they live, which happen to be covered by the long reach of the DFZs.

Insufficient indicators for creating new DFZs or increasing the 1,000-foot distance standard: There are insufficient indicators supporting the creation of new DFZs or an increase in the 1,000-foot distance standard. However, significant concerns that have been raised in some other states about the size and proliferation of DFZs

⁶² *Final Report*, December 2010, Disproportionate Justice Impact Study Commission, Illinois General Assembly.

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ One sheriff’s office suggested repealing the DFZs but enhancing penalties under s. 893.13(1)(a), F.S. Another sheriff’s office suggested creating a DFZ for fast food establishments and another suggested expanding the convenience business DFZ to include all retail establishments.

⁶⁶ One state attorney’s office suggested the Legislature may want to cover the real property of places of worship and convenience businesses (facilities covered by a DFZ), reasoning that other DFZs include real property and making this change would resolve any ambiguity as to measurement of these DFZs. This suggested change appears to be consistent with other DFZ provisions and presumably would resolve ambiguity (if any) regarding measurement, but the change would mean that more areas would be covered by a DFZ.

⁶⁷ In reviewing New Jersey’s school DFZ, the New Jersey Commission to Review Criminal Sentencing found that “a defendant’s fortuitous or happenstance presence within a school zone” was a typical fact pattern. N.J. Comm. Report, 2005.

⁶⁸ Alternatives to repeal were suggested: one public defender’s office suggested retaining the 1,000-foot standard for K-12 schools but reducing the standard for other DFZs; another suggested retaining the DFZs but reducing the 1,000-foot standard for all DFZs.

may indicate the need to reassess whether the 1,000-foot distance standard remains appropriate for some or all of Florida's DFZs.

Assisted living facility DFZ: The miniscule number of arrests, sentencing events, and new commitments involving a violation of s. 893.13(1)(h), F.S. (assisted living facilities) may indicate the need to reassess whether this DFZ remains appropriate.

Probable impact of partial repeal of DFZs and/or reduction of the 1,000-foot distance standard: Assuming there is not a total repeal of DFZs, it is probable that the result of repealing some DFZs and/or reducing the 1,000-foot distance standard would be fewer DFZ arrests and prosecutions, less DFZ proliferation and overlapping, some reduction in the disproportionate impact of the DFZ provisions on black drug offenders, fewer drug offenders sentenced to prison, more alternative sentencing, and reduction in sentence length for some drug offenders. If partial repeal of DFZs and/or reduction in the 1,000-foot distance standard were to occur, there would be a cost savings (reduction of prison beds). It is unknown whether these changes would result in increases in drug activity in areas currently covered by a DFZ or would impact the number of trials.

Options and/or Recommendations

Provided is a non-exhaustive list of options for consideration (some options could be combined):

- Retain the current DFZ provisions (no changes).
- Provide that DFZs for places of worship and convenience businesses include their "real property."
- Repeal all or some of the DFZ provisions (see findings regarding the assisted living facility DFZ).
- Modify the 1,000-foot distance standard for some or all of the DFZs (i.e., reduce the size of DFZs).
- Exclude possession with intent to sell, etc., or include this offense only if committed in a park or in a relevant DFZ facility and its real property (could require adding real property to the DFZs involving places of worship and convenience businesses to be more consistent).
- Repeal the mandatory minimum term in s. 893.13(1)(c), F.S., or consider alternatives that limit its scope, e.g., provide that the penalty only applies to second or subsequent violations and any violation that involves sale or delivery to a minor; provide that the penalty only applies to sale or delivery to a minor; or exclude possession with intent to sell, etc., from the penalty.
- Retain the enhanced felony degrees in the DFZ provisions but eliminate any enhanced ranking for a DFZ violation.
- Retain the enhanced felony degrees in the DFZ provisions but reduce the ranking of violations of s. 893.13(1)(c)1. and (e)1., F.S. (the only DFZ violations currently ranked in Level 7), to Level 6. Alternatively, only reduce the ranking of s. 893.13(1)(e)1., F.S., to Level 6.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver to Senator or Senate Professional Staff conducting the meeting)

10/18/2011

Meeting Date

Spoke

TAB 2, Project 2012-116
Bill Number (if applicable)

Topic Drug-free Zone

Amendment Barcode (if applicable)

Name BRIAN PITTS

Job Title TRUSTEE

Address 1119 NEWTON AVE SOUTH

Phone 727/897-9291

Street

Saint Petersburg

florida

33705

City

State

Zip

E-mail justice2jesus@yahoo.com

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

For officially noticed committee meetings, pursuant to s. 11.061, Florida Statutes, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.

If designated employee:

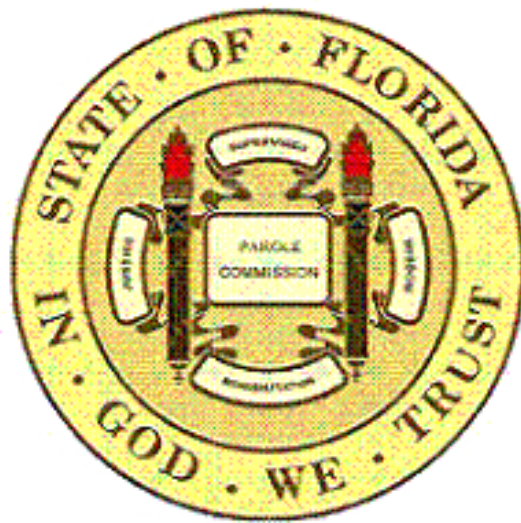
Time: from _____ to _____

This form is part of the public record for this meeting.

S-001 (04/19/11)

FLORIDA PAROLE COMMISSION

A Governor and Cabinet Agency Created in 1941



**70 YEARS
PRESERVING AUTONOMY IN
POST RELEASE DECISIONS AFFECTING VICTIMS,
INMATES, AND EX-OFFENDERS**

**PRESENTATION
TO THE
SENATE CRIMINAL JUSTICE COMMITTEE**

TUESDAY, OCTOBER 18, 2011

TENA M. PATE, CHAIR

FLORIDA PAROLE COMMISSION

- In the early 1800's, overcrowding, high cost of housing, and public pressure for better treatment of prisoners led to the creation of the pardon board.
- In 1941, the Florida Parole and Probation Commission was created as a constitutionally independent body, to take the place of the pardon board which became overburdened.
 - Key functions: acted as the release authority for sentenced inmates, provided recommendations to the Clemency Board, prepared sentencing recommendations to judges for probation, made releasing decisions for parole, and supervised all inmates placed on parole and probation.
- For 34 years, the Commission responsibly supervised all inmates on probation and parole.
- In 1975 supervision of offenders was transferred to the newly created Department of Offender Rehabilitation (now the Department of Corrections).
- In 1978, the Legislature enacted objective parole guidelines; rules were adopted and risk assessment instruments were developed which are still in use today.
- October 1, 1983, sentencing guidelines were adopted. Parole was abolished and retained only for certain crimes and for those offenses committed prior to the change.
- 1988 The Legislature enacted the victim's assistance law which brought many new responsibilities to the Commission.
- 1988 The Legislature also enacted the conditional release program that mandated post prison supervision for violent inmates posing the greatest threat to public safety.
- In 1989, the Legislature designated the commission as the Control Release Authority a tool utilized to manage the prison population. From 1990-1994, 75,000 inmates were released by the commission as the control release authority.

- In 1992, the Legislature enacted the Conditional Medical Release Program which required the commission to determine if terminally ill or incapacitated inmates could be released into the community.
- In 2001, the Legislature enacted the Addiction Recovery Supervision Program which mandated post prison supervision for non-violent inmates with substance abuse issues.
- Currently, for Fiscal Year 2010-11:
 - There are currently 5,360 inmates eligible for parole.
 - 92% of offenders placed on parole supervision completed their supervision within the first 2 years.
 - The Commission made 18,547 victim assists.
 - 80% of offenders on mandatory conditional release successfully completed their supervision.
 - The Commission placed 5,074 offenders on mandatory conditional supervision.
 - 30 inmates were recommended for conditional medical release with the Commission granting 16, or 53%.
 - 95% of offenders on mandatory addiction recovery supervision successfully completed their supervision.
 - The Commission placed 1,642 offenders on addiction recovery supervision.

TAB 3

Spoke

THE FLORIDA SENATE

COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

10-18-11

Date

N/A

Bill Number

Barcode

Name TENA M. PATE

Phone 850-487-1980

Address 4070 Esplanade Way

E-mail

Street

Tallahassee

Florida

32399

Job Title Chair,

City

State

Zip

Speaking: For Against Information

Appearing at request of Chair

Subject FDC Vision For Criminal Justice System

Representing

Lobbyist registered with Legislature: Yes

No

Pursuant to s. 11.061, Florida Statutes, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes. If designated employee: Time: from _____ .m. to _____ .m.

Educational and Vocational Programming in Juvenile Justice Commitment Programs



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

October 18, 2011

Rick Scott, Governor

Wansley Walters, Secretary

Juvenile Justice Education Statutes



- s.985.618 F.S., Educational and career-related programs (Rule 63B-1.001-1.007)
- §.1003.51 and 1003.52, F.S. Educational services in Department of Juvenile Justice Programs (Rule 6A-6.05281)

Vocational Programming Requirements



- Level 1: Pre-vocational includes counseling or instruction contributing to personal accountability skills that lead to good work habits.
- Level 2: Incorporates Level 1 competencies and provides an orientation to a broad scope of career choices, and the level of effort required to achieve them.
- Level 3: Incorporates the first and second levels and is able to provide recognized industry prerequisites for attaining recognized points of completion within particular trades or vocations.

Juvenile Justice Involved Youth



9,146 Student outcomes reported in 2009-2010 DOE Annual Report

- 100% of 203 students took and passed GED test
- These students no longer earn education funding
- 1009.25 FS provides for a tuition waiver for dependent youth

Today

- Approximately 3,078 in residential placement
- 4% receive DJJ-funded vocational training
- 95 juvenile justice students successfully completed a Florida Virtual High School course; 206 additional students enrolled in other distance learning programs
- 41 programs currently excluded by school district participation in the National School Breakfast & Lunch Program

Home Builders Institute



During 2010-11, DJJ contracted with Home Builders Institute to provide youth vocational training.

- 265 Participants earned Pre Apprentice Certificate Training (PACT) certificates
 - 186 participants were placed in a job, military or schools
 - 84% job placement rate
- 251 participants who earned a certificate did not reoffend during follow up
- \$8.21 average wage at placement

Vocational Training in Residential Commitment Programs



- 65 residential commitment programs statewide
- 5 Residential Program sites have contracted Home Builders Institute services
- 1 site receives a higher per diem rate to provide vocational services at the DOVE Academy for Girls
- 59 Residential Program sites Lack DJJ-funded Vocational Training Services

Vocational Certification Programs



Program	Type of Training
AMIkids Big Cypress	Culinary
AMIkids Space Coast	Florida Ready to Work and Safe Serve
AMIkids Youth Environmental Services	Florida Ready to Work
Avon Park Youth Development Center	Concrete masonry
Bristol Youth Academy	Carpentry & Facility/Building Maintenance
Columbus Residential Juvenile Facility	Culinary operations
Cypress Creek Juvenile Offender Correctional Center	Woodworking, culinary arts, horticulture and computer programming
Daytona Juvenile Residential Facility	Microsoft Professional Career Certification
DOVE Academy	Culinary operations, landscaping, info technology
Frances Walker Halfway House	Florida Ready to Work
Ft. Walton Residential Program	Masonry, digital design, carpentry, cabinet making
Gulf Coast Youth Academy	Masonry, Caprentry
Hastings Mental Health Treatment Program	Digital design, career exploration, agriculture
Juvenile Unit for Specialized Treatment	Welding and building construction
Leslie Peters Halfway House	Auto body and woodshop

Vocational Certification Programs



Marion Juvenile Correctional Facility	Masonry Project, Habitat for Humanity, Food Handlers, Florida Ready to Work
Okaloosa Sex Offender Treatment Program	Masonry Project, Habitat for Humanity, Food Handlers, Florida Ready to Work
Okaloosa Youth Development Center	Masonry, electronics, carpentry, and horticulture
Okeechobee Girls Academy	Construction
Okeechobee Intensive Halfway House	Facility maintenance, electrical, carpentry, plumbing, landscaping
Okeechobee Juvenile Offender Corrections Center	Culinary arts, building construction technology, book keeping
PACE Center for Girls, Jacksonville	Florida Ready to Work
Palmetto Youth Academy	Digital Publishing
Pensacola Boys' Base	Florida Ready to Work
Residential Alternative for the Mentally Challenged	Culinary arts and automotive skills
Santa Rosa Youth Academy	Carpentry, horticulture, food handling
Twin Oaks Vocational Academy	Welding, building construction, automotive servicing, culinary operations, irrigation
Union Juvenile Residential Facility	Construction
Walton Youth Development Center	Construction

Certification



60 juvenile justice students earned Certifications in Microsoft Office Suites in Volusia County Schools as a result of a technology grant

72 Youth Earned Basic Occupational Safety and Health Administration (OSHA) certificates (10 hour course With Banner Center Funding) – Approximately \$90 per youth

10 of the 30 youth earned the OSHA Certificate and a Ready to Work Credential in Okeechobee Juvenile Correctional Facility (also known as Tantie School) are now attending college!

JC	Edison State College
ME	Tallahassee Community College
MG	Miami Dade College
DJ	St. Paul College, Virginia
CK	Tallahassee Community College
RP	University of Central Florida, Orlando
JS	Palm Beach State College
ZS	Miami Dade College
JV	Florida Community College, Jacksonville
JW	Everest University – North Orlando Campus

Efforts to Date



- Rule 63B 1.001-1.007 incorporated into state department quality assurance standards

Youth exiting the program with Employment as a Transition Goal must have:

- A sample employment application
- A Resume
- An appointment with a One Stop Center
- Any documents essential to employment



- Multiagency Vocational Plan and Annual Reporting Requirements
- DOE Perkins Funding for approximately 7 DJJ Programs annually
- State and Regional Workforce Board services
 - DOVE Academy, Bristol Youth Academy, Project Connect and community-based pilots
 - Okaloosa Florida High School/Tech funded by Able Trust Fund
 - Federal Bonding Program and Work Opportunity Tax Credits information



- \$628,000 youth technology training grant submitted in March 2011 to the Department of Justice.
- Of 52 responding residential programs serving 2,522 students, 64 of the 270 instructors funded by the responsible school district provide vocational education.
- Of these, 847 vocational certificates were earned while in a juvenile justice program.
- 446 youth earned Ready to Work Credentials (Bronze -174, Silver - 225, Gold - 47) from the Florida Agency for Workforce Innovation; a 29% increase over the previous year.
- Able Trust funded Florida High School/High Tech served 70 DJJ youth in the First Circuit with 68 youth earning high school diplomas and/or industry-recognized certificates.
- Inclusion of all juvenile justice students in the National School Breakfast And Lunch Program

Senate Interim Report 2012-119



Of 6,041 youth* that left DJJ programs in FY 2007-2008 in the year following their release, only:

- 24% returned to high school
- 14% were employed
- 22% were employed with full time equivalent wages
- DOE/Florida Education and Training Placement Information Program

Education, Training, & Transitional Services



- Is essential to self-sufficiency.
- Mitigates the impact of a criminal record as a barrier to employment.
- Facilitates successful return to communities
- Provides youth the ability to make individual and community restitution.

THE FLORIDA SENATE

COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

TAB 4

Spoke

10-18-11

Date

Bill Number

Barcode

Name

Terri Eggers

Phone

922 5375

Address

2737 Centerview Drive

E-mail

Terri.Eggers@djj-state.fl.w

Street

Tallahassee

FL

32399

Job Title

Education Director

City

State

Zip

Speaking:

For

Against

Information

Appearing at request of Chair

Subject

Juvenile Justice Education & Vocational Programming

Representing

DJJ

Lobbyist registered with Legislature:

Yes

No

Pursuant to s. 11.061, Florida Statutes, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.

If designated employee:

Time:

from

_____ .m.

to

_____ .m.

Tab 4

Spoke

THE FLORIDA SENATE
COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

10/18/11
Date

Bill Number _____

Barcode _____

Name Tom Blomberg
Address 6334 Thomasville Rd.
Yallahasset FL 32312
City State Zip

Phone _____

E-mail _____

Job Title _____

Speaking: For Against Information

Appearing at request of Chair

Subject Juvenile Justice

Representing Myself

Lobbyist registered with Legislature: Yes No

Pursuant to s. 11.061, Florida Statutes, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.
If designated employee: Time: from _____ .m. to _____ .m.

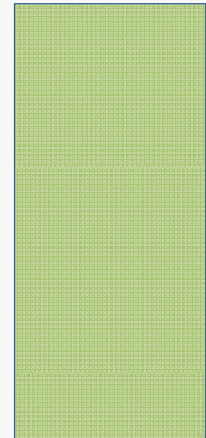
A Presentation to the Senate Criminal Justice
Committee

October 18, 2011



ZERO TOLERANCE UPDATE

FLORIDA DEPARTMENT OF JUVENILE JUSTICE



Rick Scott, Governor

Wansley Walters, Secretary

SB 1540 – ZERO TOLERANCE

- Provides legislative intent on the use of zero-tolerance policies;
- Requires district school boards to revise the requirements for zero-tolerance policies to define a petty act of misconduct and an act that poses a serious threat to school safety;
- Requires cooperative agreements to specify guidelines for addressing acts that pose a serious threat to school safety and reporting to law enforcement; and,
- Prohibits zero-tolerance policies from requiring the reporting of petty acts of misconduct and certain misdemeanors to a law enforcement agency
- Provides for an administrative hearing for a student who has been expelled from school.
- Requires any school board that has a policy allowing corporal punishment to review their policy once every 3 years during a school board meeting to get public input.
- Added the words “volunteers and staff” to the list covered under the districts zero tolerance policy as it relates to minimizing the victimization of this population.

WHAT IS A SCHOOL REFERRAL?

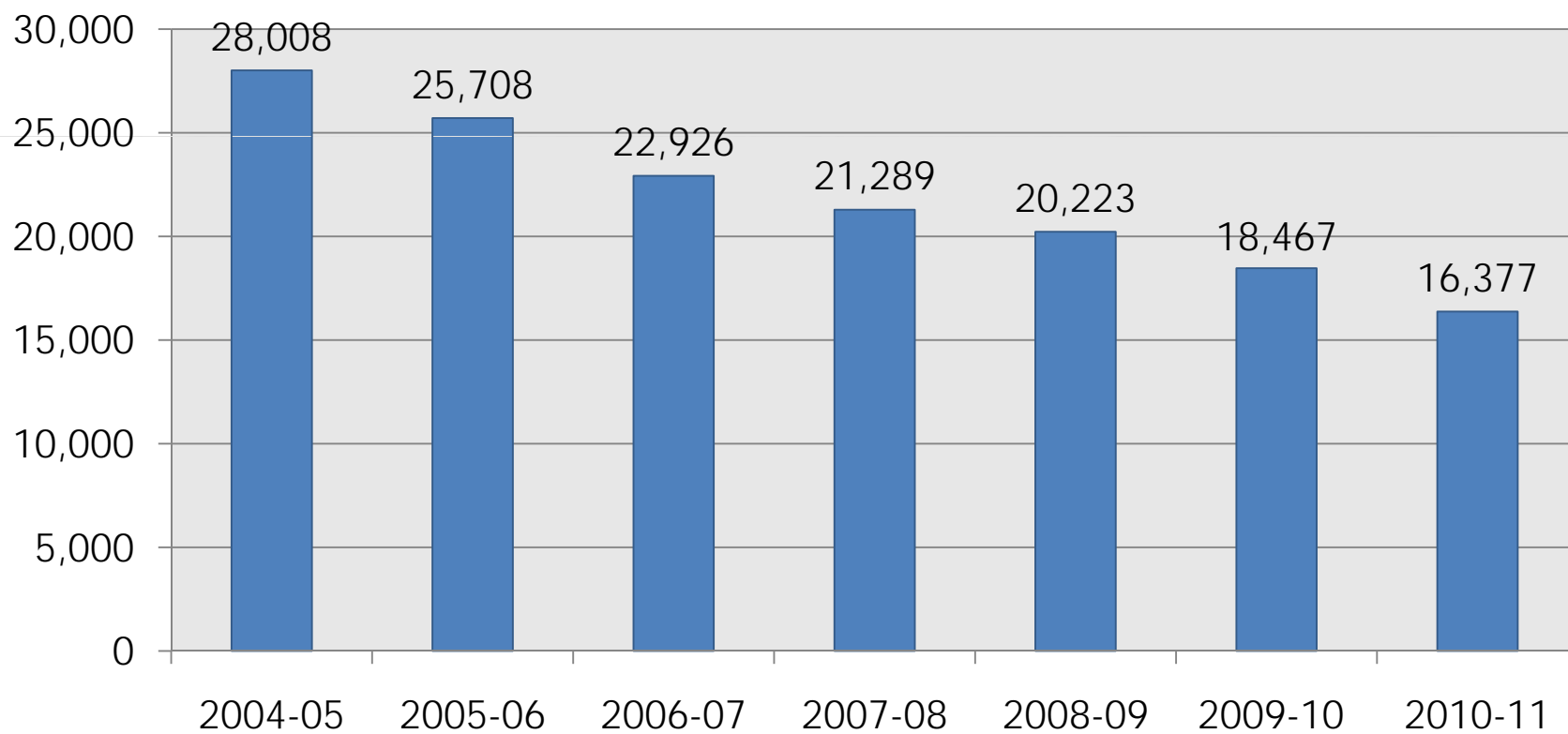
- An arrest is considered school-related if the offense occurred on school grounds, a school bus, a bus stop or at a school sanctioned event (e.g., football game).
- Being arrested at school for delinquency committed elsewhere does not count as "school-related"

WHO ARRESTS KIDS AT SCHOOL?

- Local law enforcement will respond to delinquency based on their individual department policy and that of the local school district.
- Many school districts in Florida have law enforcement entities devoted entirely to school safety.
- These are commonly referred to as “School Resource Officers” (SRO).

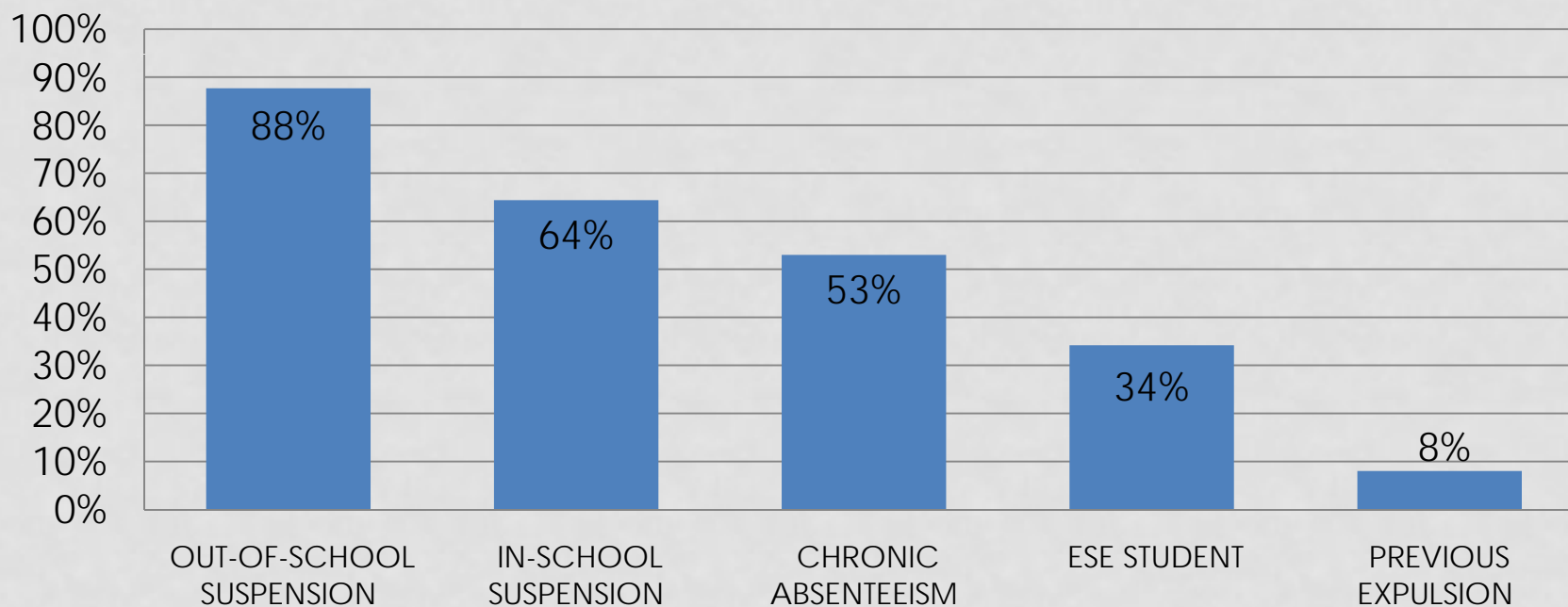
SCHOOL REFERRAL TRENDS

School-Related Referrals Received by DJJ



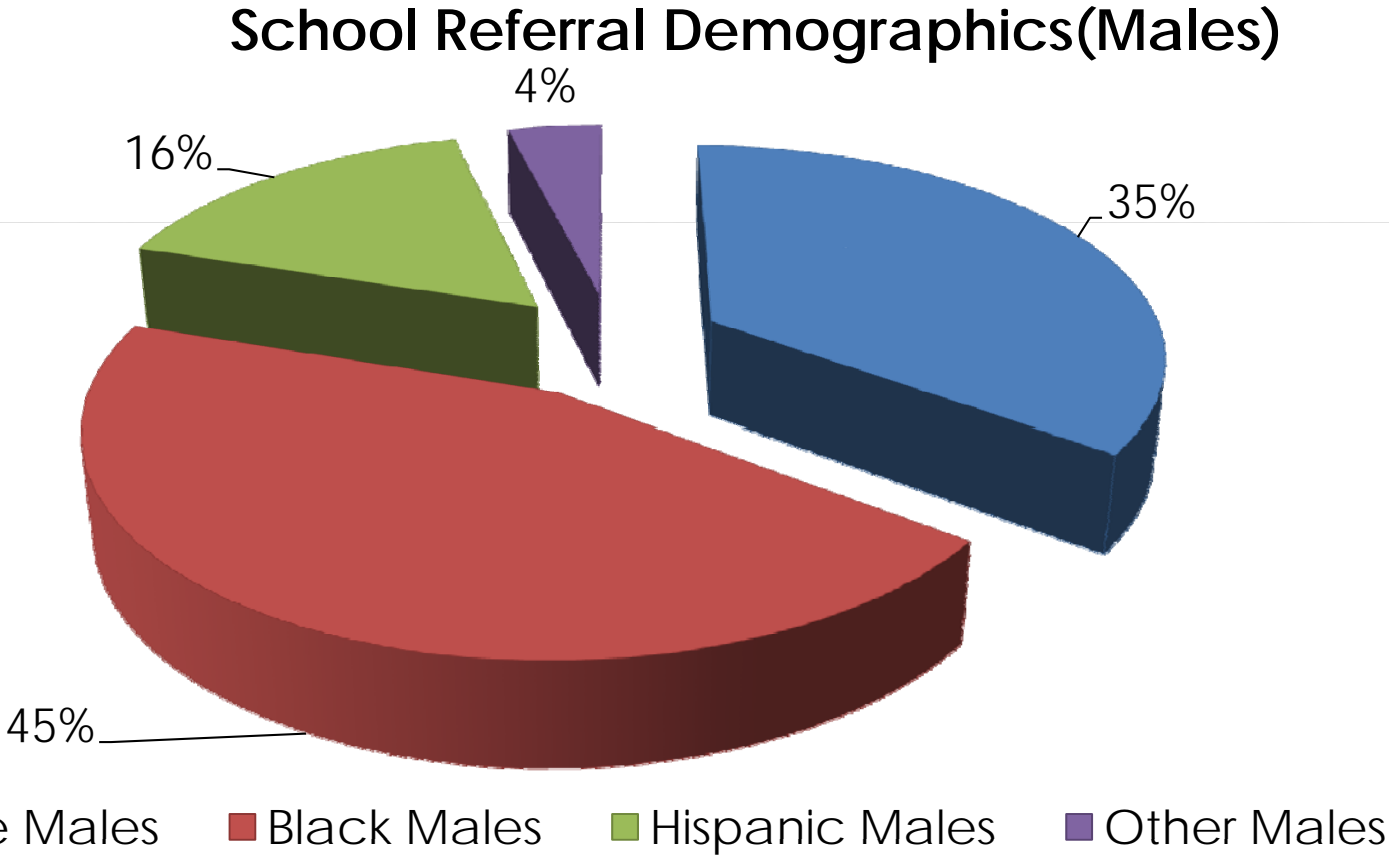
SCHOOL DISCIPLINE HISTORY

School Referral Students & School Status/History (FY 2009-10)



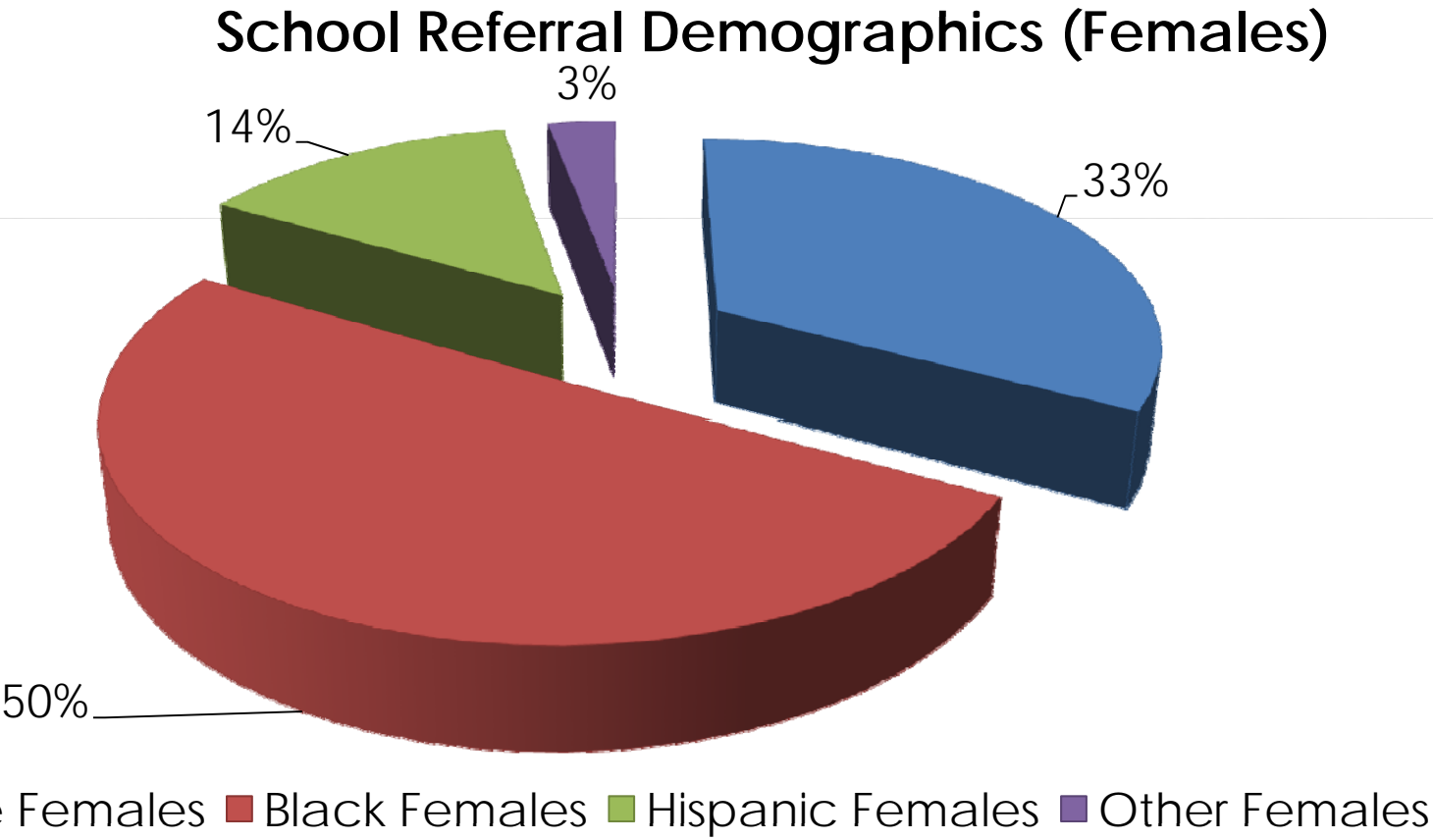
Source: Department of Education (DOE). Percentages reflect rates for only youth whose school discipline and status data were available (n=9,888 out of 16,784).

SCHOOL REFERRAL DEMOGRAPHICS (MALES)



Source: Florida Department of Juvenile Justice (DJJ), Juvenile Justice Information System (JJIS).

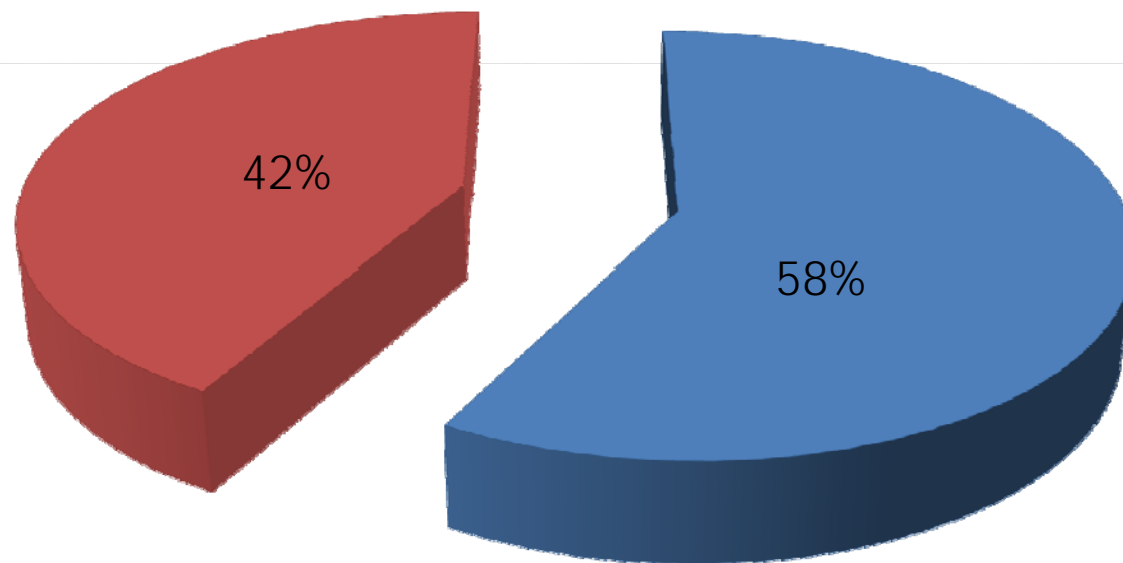
SCHOOL REFERRAL DEMOGRAPHICS (FEMALES)



Source: Florida Department of Juvenile Justice (DJJ), Juvenile Justice Information System (JJIS).

SCHOOLS AS A GATEWAY TO DJJ

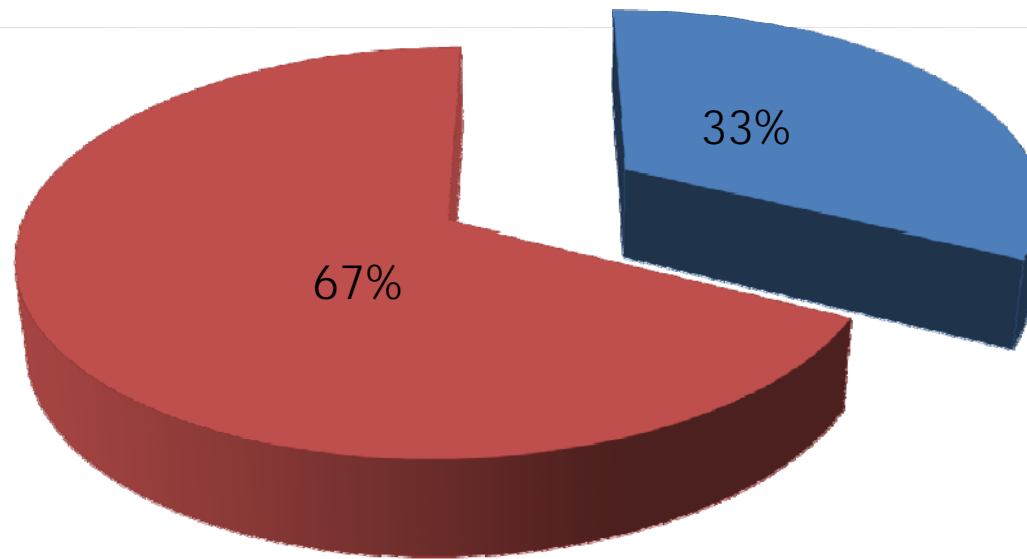
School-Related First Time Delinquency (FY 2010-11)



■ First-Time Delinquency ■ Repeat Offender

WHAT KIND OF OFFENSES ARE WE SEEING?

School Offense Categories
Fiscal Year 2010-11

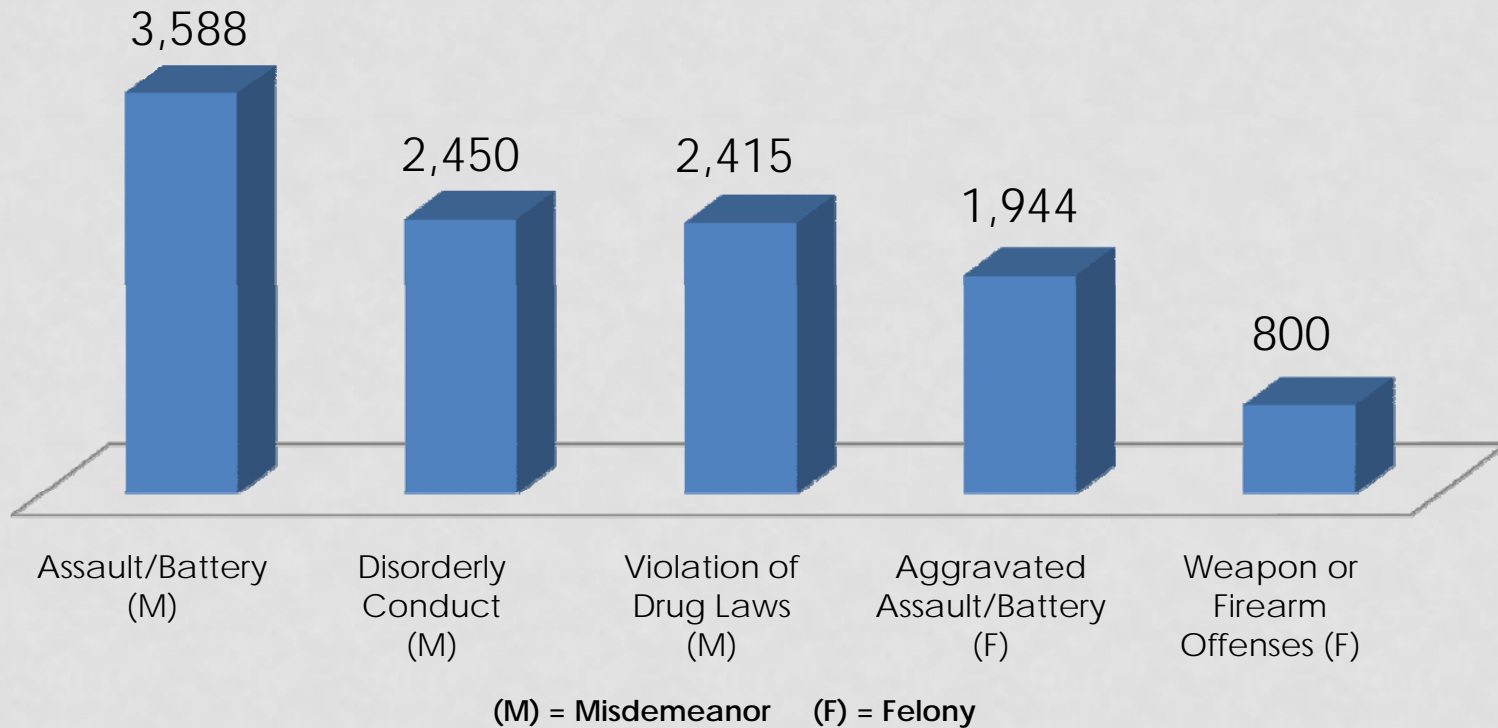


■ Felonies

■ Misdemeanors

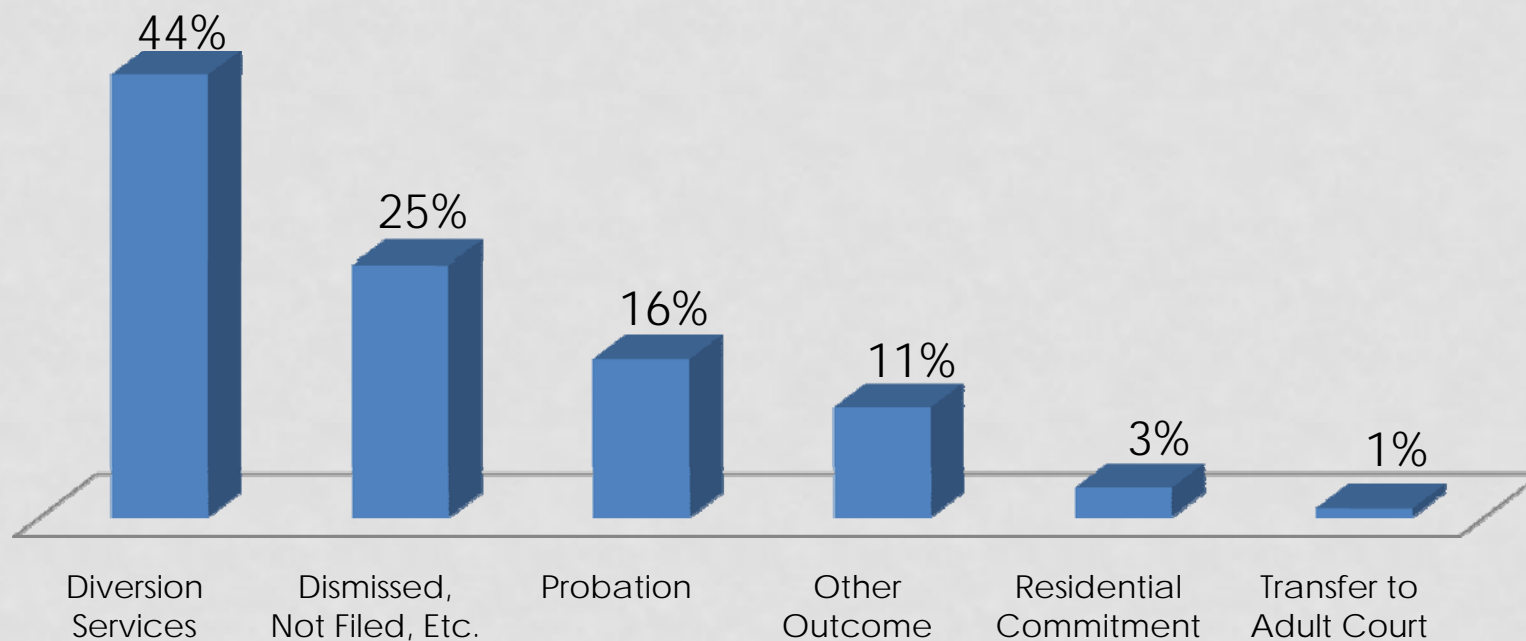
WHAT ARE THE MOST COMMON OFFENSES

Most Common School-Related Delinquency Referrals Fiscal Year 2010-11



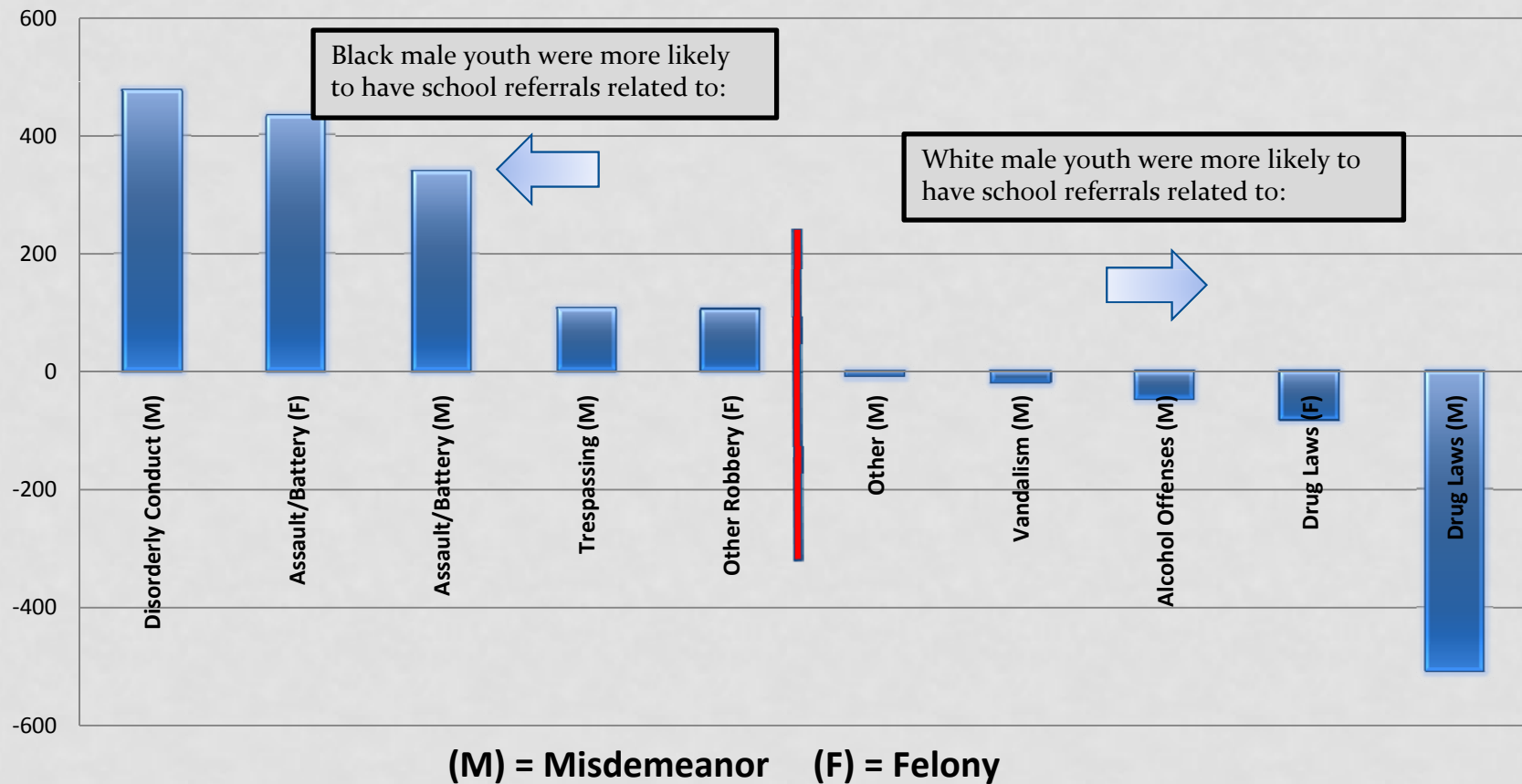
WHAT HAPPENS TO THESE KIDS?

School Referral Case Dispositions Fiscal Year 2010-11



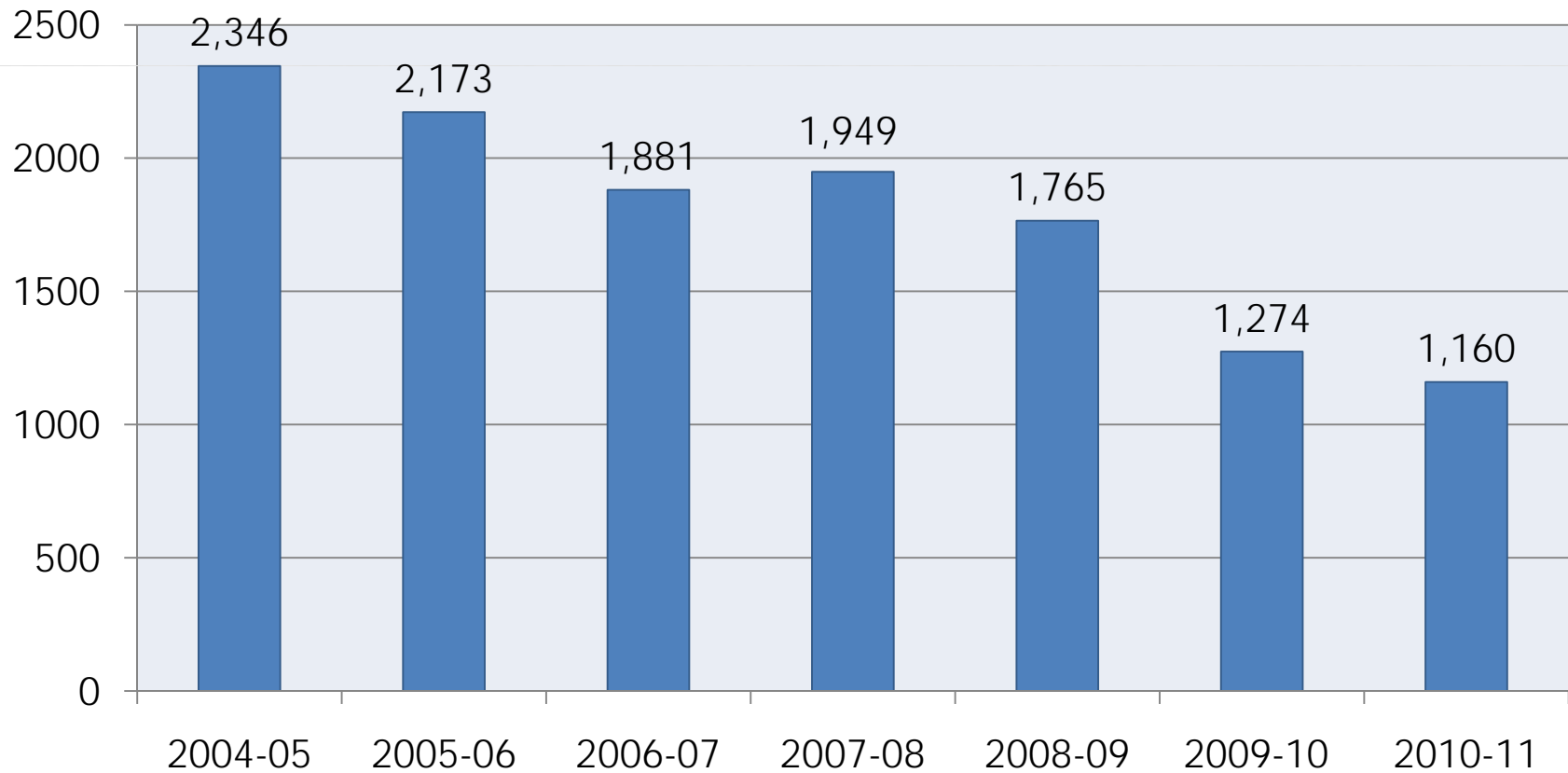
RACIAL DIFFERENCES IN OFFENSE PATTERNS

Black Male vs. White Male School Offense GAP Analysis Fiscal Year 2010-11



HILLSBOROUGH COUNTY - AN EXAMPLE OF IMPROVEMENT

School-Related Referrals from Hillsborough County




School Referral Rates Relative to Student Populations Fiscal Year 2010-11

Small School Districts ¹		Medium School Districts ²		Large School Districts ³	
<i>Referral Rate</i>		<i>Referral Rate</i>		<i>Referral Rate</i>	
Low - Average ⁴	High ⁵	Low - Average ⁴	High ⁵	Low - Average ⁴	High ⁵
LIBERTY	WALTON	SANTA ROSA	MARION	DADE	PINELLAS
FRANKLIN	CALHOUN	OKALOOSA	BAY	DUVAL	POLK
DIXIE	GILCHRIST	SARASOTA	OSCEOLA	TAYLOR	VOLUSIA
NASSAU	UNION	CLAY	LAKE	PALM BEACH	
HOLMES	GADSDEN	HERNANDO	LEON	LEE	
WASHINGTON	LEVY	COLLIER	ESCAMBIA	BROWARD	
HAMILTON	FLAGLER	ST. JOHNS	MANATEE	BREVARD	
GULF	INDIAN RIVER		ST. LUCIE	PASCO	
DESOTO	MARTIN		ALACHUA	SEMINOLE	
HARDEE	JACKSON			HILLSBOROUGH	
GLADES	HENDRY			ORANGE	
SUMTER	JEFFERSON	¹ Districts with 10,000 or less middle & high school students ² Districts with 10,001 - 29,999 middle & high school students ³ Districts with 30,000 or more middle & high school students ⁴ Districts whose referral rate was less than or equal to 12 for every 1,000 students ⁵ Districts whose referral rate was 13 or more for every 1,000 students <i>Sources:</i> Student Population Data are derived from Florida Department of Education (DOE), 2010-11 Survey 2 Data; Population of public school students (excludes lab) in grades 6-12 during the 2010-11 school year. School-related delinquency referral data are derived from the Florida Department of Juvenile Justice (DJJ), Juvenile Justice Information System (JJIS).			
CITRUS	BAKER				
BRADFORD	SUWANNEE				
CHARLOTTE	MADISON				
COLUMBIA	HIGHLANDS				
MONROE	OKEECHOBEE				
LAFAYETTE	PUTNAM				
WAKULLA					

OPPORTUNITIES FOR IMPROVEMENT

- Enhance alternatives to arrest.
- Review progressive response plans in each school district.



**Rethinking Zero Tolerance:
How to Create Positive Outcomes for
Children while Ensuring School Safety**

**Florida's
Zero Tolerance Law**

David Utter, Southern Poverty Law Center



The Good News

According to the DJJ, delinquency referrals for school-related offenses ***declined by 41%*** over the past six years:

28,008 referrals in FY 2004-05

16,377 referrals in FY 2010-11



The Bad News

During FY 2004-05, **63%** of school-related referrals were for misdemeanors

During FY 2010-11: **67%** of school-related referrals were for misdemeanors



The Ugly News

Even though African-Americans only make up approximately **22%** of the youth aged 10-17 in Florida,

During FY 2004-05: Black youth accounted for **47%** of all school-related referrals

And in FY 2009-10, Black youth still accounted for **47%** of all school-related referrals.

No Such Thing as Bad Publicity?

Orlando Sentinel

Zero tolerance went overboard



Oct 13, 2009

Lehigh student Tasered in school fight

The New York Times

October 11, 2009

**It's a Fork, It's a Spoon,
It's a ... Weapon?**

S SunSentinel.com

February 15, 2010

6-year-old handcuffed in Port St. Lucie

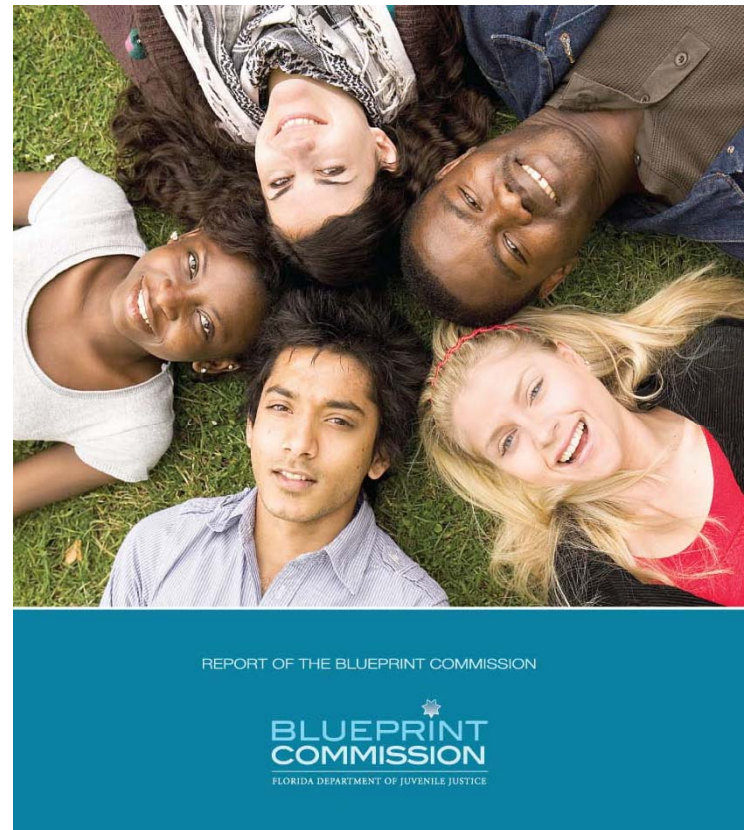
2008 DJJ Blueprint Commission

--16% of all delinquency referrals come from schools

--66% for misdemeanors

--Most common=disorderly conduct and misdemeanor assault (fighting)

Recommendation: Eliminate the referral of youth for misdemeanor offenses





2009 Amendments to the Zero Tolerance Statute

Section 1006.13, Florida Statutes, is amended to read: 1006.13 Policy of zero tolerance for crime and victimization.—

It is the intent of the Legislature to promote a safe and supportive learning environment in schools, to protect students and staff from conduct that poses a **serious threat to school safety**, and to **encourage schools to use alternatives** to expulsion or referral to law enforcement agencies by addressing disruptive behavior through restitution, civil citation, teen court, neighborhood restorative justice, or similar programs.

The Legislature finds that zero-tolerance policies are **not intended to be rigorously applied to petty acts of misconduct and misdemeanors**, including, but not limited to, minor fights or disturbances.

The Legislature finds that zero-tolerance policies **must apply equally** to all students regardless of their economic status, race, or disability.



Reducing Arrests and Expulsions

1006.13(2)(1) Each district school board shall adopt a policy of zero tolerance that:

- (a) Defines criteria for reporting to a law enforcement agency any act that occurs whenever or wherever students are within the jurisdiction of the district school board.
- (b) Defines acts that pose a **serious threat to school safety**.
- (c) Defines **petty acts of misconduct**.



Serious Threat to School Safety

(3) Zero-tolerance policies must require students found to have committed one of the following offenses to be expelled, with or without continuing educational services, from the student's regular school for a period of not less than 1 full year, and to be referred to the criminal justice or juvenile justice system.

(a) **Bringing a firearm or weapon**, as defined in chapter 790, **to school, to any school function, or onto any school-sponsored transportation or possessing a firearm at school.**

(b) **Making a threat or false report**, as defined by ss. 790.162 and 790.163, respectively, involving school or school personnel's property, school transportation, or a school-sponsored activity.



What is a Weapon?

According to Chapter 790 of the Fla. Statutes a “weapon means any dirk, knife, metallic knuckles, slingshot, billie, tear gas gun, chemical weapon or device, or other deadly weapon **except** a firearm or **a common pocketknife, plastic knife, or blunt-bladed table knife.**”



What is a Threat?

Ch. 790.162 Threat . . .


It is unlawful for any person to threaten to **throw, project, place, or discharge any destructive device with intent to do bodily harm** to any person or with intent to do damage to any property of any person, . . .



What is a False Report?

Chapter 790.163 False report about planting bomb, explosive, or weapon of mass destruction . . .

(1) It is unlawful for any person to make a false report, with intent to deceive, mislead, or otherwise misinform any person, concerning the placing or planting of any **bomb, dynamite, other deadly explosive, or weapon of mass destruction** . . .



Guaranteeing individualized consideration of circumstances for each incident

Section 1006.13

(7) Any disciplinary or prosecutorial action taken against a student who violates a zero-tolerance policy must be **based on the particular circumstances of the student's misconduct.**

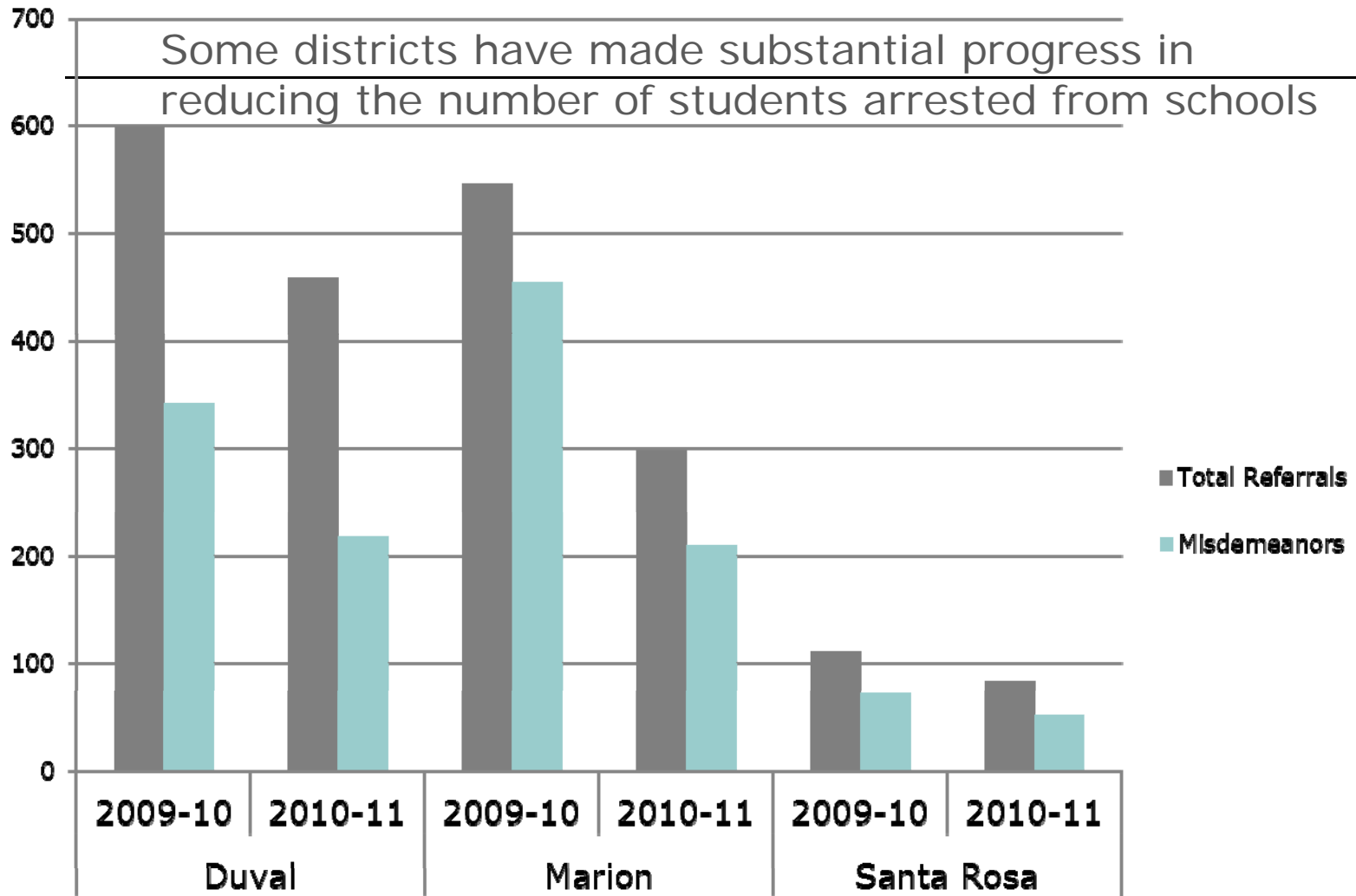


What Must Be Reported to Law Enforcement

Section 1006.13

- ❑ (4)(a) Each district school board shall enter into agreements with the county sheriff's office and local police department specifying guidelines for ensuring that **acts that pose a serious threat to school safety**, whether committed by a student or adult, are reported to **a law enforcement agency**.
- ❑ **(b) The** agreements **must** include the role of school resource officers, if applicable, in handling reported incidents, circumstances in which school officials may handle incidents without filing a report **with a law enforcement agency**, and a procedure for ensuring that school personnel properly report appropriate delinquent acts and crimes.
- ❑ **(c) Zero-tolerance policies do not require the reporting of petty acts of misconduct and misdemeanors to a law enforcement agency, including, but not limited to, disorderly conduct, disrupting a school function, simple assault or battery, affray, theft of less than \$300, trespassing, and vandalism of less than \$1,000.**

Tracking Implementation

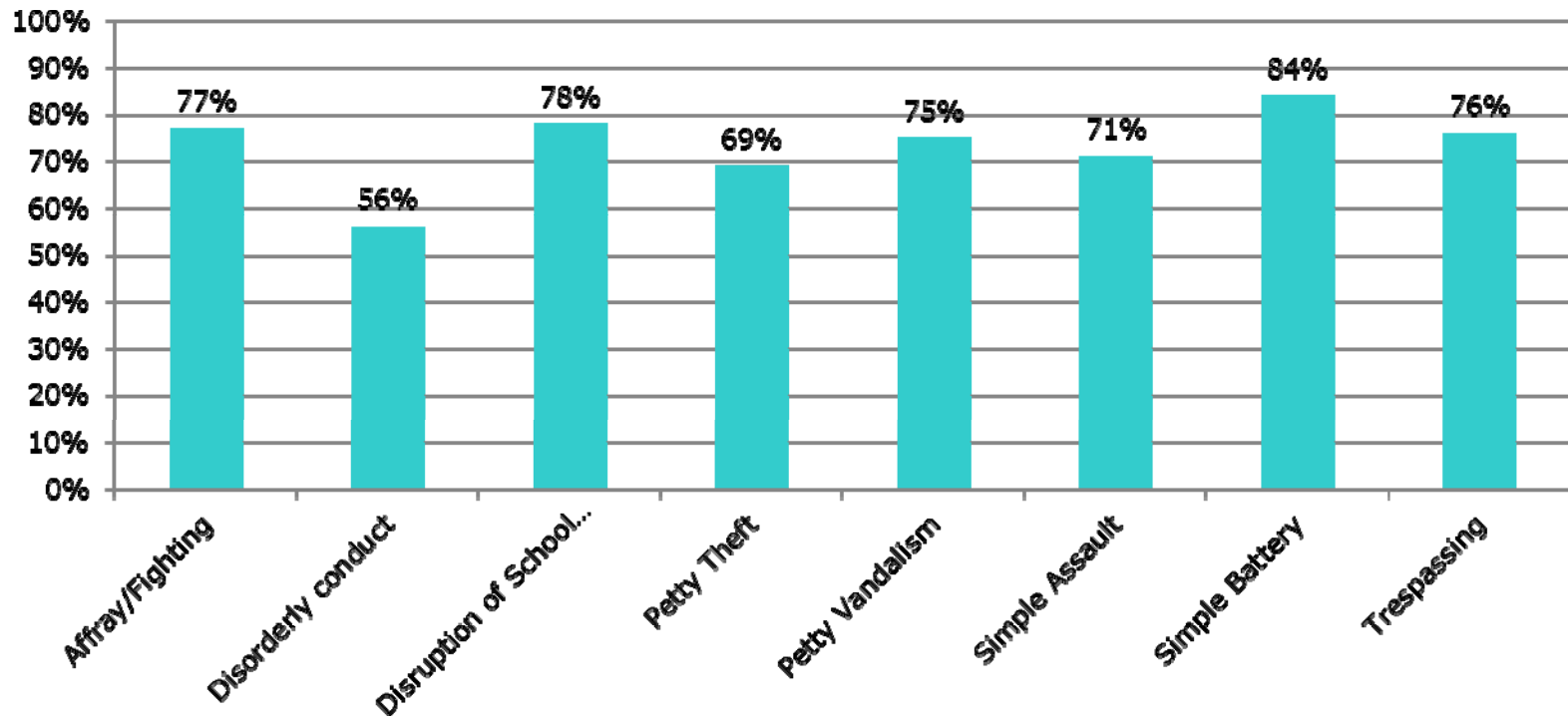




But some districts arrested more students, not less -

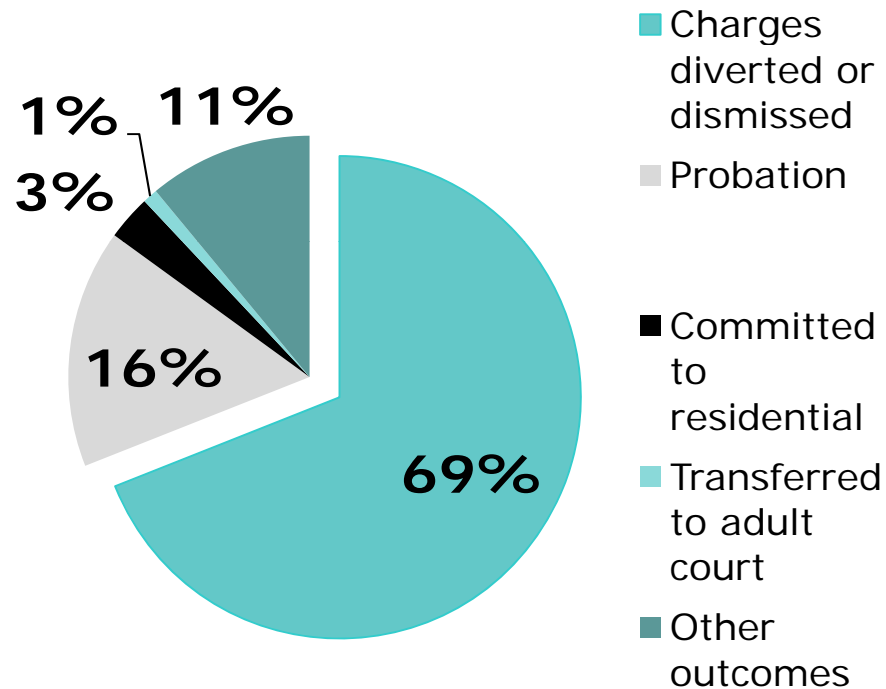
- In 23 of Florida's 67 school districts more students were arrested in 2010-11 than in the previous year.
- In over 40% of the districts, the number of students arrested at school for misdemeanors either increased or stayed the same as in 2009-10.

Percentage of Districts that Allow Students to be Referred to Law Enforcement for Minor Offenses 2009-10



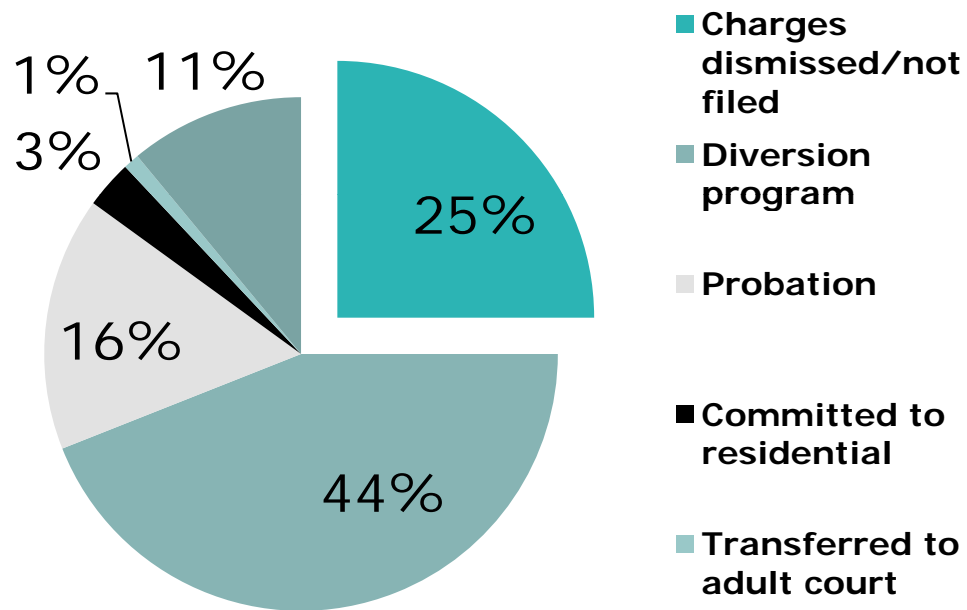
Source: ACLU of Florida, Advancement Project, Florida State Conference of the NAACP, "Still Haven't Shut Off the School-to-Prison Pipeline: Evaluating the Impact of Florida's New Zero-Tolerance Law," p. 9 (2011)

An Arrest Record – for what?



69% of all school referral cases were **DIVERTED** from the JJ system or **DISMISSED**

...for what?



25% of all school referral cases were **DISMISSED** or no charges were filed



...for what?

- So—11,300 young people last year were arrested from school only to have the case dismissed or diverted!
- 4,100 of those youngsters had their charges dismissed or not filed!



What happens to a child arrested at school?

Even if the student goes no deeper into the juvenile justice system, the impact of an arrest is severe and lasting:

- The child will be photographed and fingerprinted.
- The child may be suspended or expelled from school.
- Life long limitation for college and career, applying for college and jobs, even housing.



What is Needed to Keep Children and Schools Safe?

Incidents that do not pose a serious threat to school safety may not be referred to the juvenile justice system.



Zero Tolerance should be limited to:

- ❑ Capital felonies;
- ❑ Life felonies;
- ❑ 1st degree felonies;
- ❑ 2nd and 3rd degree felonies involving a firearm, weapon or use of fire or explosives;
- ❑ Bringing a firearm or other deadly weapon to school, any school function, or on school sponsored transportation;
- ❑ Possessing a firearm at school;



And...

- ❑ Making a false report or threat related to explosives or weapons of mass destruction and involving school or school personnel's property, school transportation, or a school sponsored activity;
- ❑ Aggravated battery;
- ❑ Aggravated battery against school personnel; and
- ❑ Dealing or delivering in controlled substances.



Schools Must Report to the DoE

Schools should be required to establish sensible policies to implement the law and report those policies and their impact annually to the Dept. of Education.



Florida's New Zero Tolerance Law

David Utter

david.utter@splcenter.org



Creating Model District Policies under Florida's New Zero Tolerance Law

Useful websites:

- Advancement Project, Stop the Schoolhouse to Jailhouse Track:
www.stopschoolstojails.org
- Dignity in Schools Campaign:
www.dignityinschools.org
- Southern Poverty Law Center and Teaching Tolerance:
www.splcenter.org

TAB 5 - ^{DID} Not Get to 55

THE FLORIDA SENATE

COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

10/18/11
Date

Bill Number

Barcode

Name Joy-Frank
Address 208 S. Monroe St
Street
Tallahassee FL 32301
City State Zip

Phone 850-577-5284
E-mail JFRANK@FLSOS.GOV
Job Title General Counsel

Speaking: For Against Information

Appearing at request of Chair

Subject Cyber Toluana
Representing FL. Association of District School Superintendents

Lobbyist registered with Legislature: Yes No

Pursuant to s. 11.061, Florida Statutes, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.
If designated employee: Time: from _____ .m. to _____ .m.

TAB 5
did not get
to tab 5

THE FLORIDA SENATE
COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

10-18-11

Date

Bill Number

Barcode

Name MARK A. GREENWALD

Phone 850-921-0706

Address 2737 CENTERVIEW DRIVE

E-mail MARK.GREENWALD@SOS

Street TALLAHASSEE State FL Zip 32399

Job Title CHIEF OF RESEARCH-DJJ

City State Zip

Speaking: For Against Information Appearing at request of Chair

Subject Zero Tolerance

Representing DJJ

Lobbyist registered with Legislature: Yes No

Pursuant to s. 11.061, Florida Statutes, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.
If designated employee: Time: from _____ .m. to _____ .m.

THE FLORIDA SENATE
COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

TAB 5
DID NOT GET
to TAB 5

Oct. 19, 2011
Date

Bill Number

Barcode

Name David Utter

Phone 334/296-0727

Address 4770 Biscayne Blvd
Street

E-mail david.utter@splcenter.org

Miami FL 33169
City State Zip

Job Title Director, Policy & Legislative Affairs

Speaking: For Against Information

Appearing at request of Chair

Subject zero tolerance

Representing Southern Poverty Law Center

Lobbyist registered with Legislature: Yes No

Pursuant to s. 11.061, *Florida Statutes*, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.
If designated employee: Time: from _____ .m. to _____ .m.

CourtSmart Tag Report

Room: LL 37

Case:

Type:

Caption: Senate Committee on Criminal Justice Judge:

Started: 10/18/2011 10:53:07 AM

Ends: 10/18/2011 12:44:34 PM Length: 01:51:28

10:53:09 AM Call to Order
10:53:12 AM Roll Call
10:53:39 AM Sen. Margolis is excused
10:54:49 AM Presentation by Florida TaxWatch - Governmental Cost Savings Task Force Report for FY 2012-13
10:55:03 AM Robert Weissert - VP
11:03:04 AM Question - Sen. Dean
11:08:01 AM Question - Sen. Hays
11:10:22 AM Question - Sen. Hays
11:11:16 AM Question - Sen. Dean
11:20:37 AM Question - Sen. Bennett
11:22:46 AM Question - Sen. Bennett
11:24:55 AM Michael Adkinson - Tax Watch
11:25:55 AM Representing FL. Sheriff Association
11:28:52 AM Question - Sen. Evers
11:31:05 AM Question - Sen. Hays
11:32:55 AM Question - Sen. Hays
11:34:24 AM Question - Sen. Bennett
11:37:38 AM Question - Sen. Dean
11:40:09 AM Comments - Sen. Hays
11:41:15 AM Comments - Sen. Smith
11:42:12 AM Comments - Sen. Hays
11:43:28 AM John Rogers - FL. Retail Federation
11:46:18 AM Interim Project 2012-116 by Mike Ericson - Review Penalties for Drug Free Zone Violations
11:59:21 AM Presentation by Tena Pate, Chair of the Florida Parole Commission
12:14:31 PM Question - Sen. Evers
12:21:43 PM Question - Sen. Smith
12:22:37 PM Question - Sen. Bennett
12:23:13 PM Comments - Sen. Smith
12:24:43 PM Brian Pitts - Justice 2 Jesus
12:24:59 PM Regarding Druff Free Zone Violations
12:26:15 PM Presentation by Terri Eggers, Dir. of Education of the Dept. of Juvenile Justice
12:39:03 PM Question - Sen. Hays
12:39:59 PM Question - Sen. Dean
12:41:03 PM Tom Blomberg - Comments on Juvenile Justice
12:42:52 PM Question - Sen. Smith
12:44:03 PM Move to rise



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Budget - Subcommittee on Transportation, Tourism,
and Economic Development Appropriations,
Vice Chair
Reapportionment, *Vice Chair*
Banking and Insurance
Budget
Budget - Subcommittee on Finance and Tax
Communications, Energy, and Public Utilities
Criminal Justice
Governmental Oversight and Accountability
Rules

SENATOR GWEN MARGOLIS

35th District

October 17, 2011

President Haridopolos,

On Monday, October 24, 2011, I am schedule to undergo surgery for a hip replacement. During this week, I will be having the necessary "pre-ops" that are require pre-surgery. At this time, I am requesting approval of my absence from the current committee week and the committee week of October 31st.

My Legislative staff will be in Tallahassee in my absence and should you need anything, please do not hesitate to contact them.

Thank you again for your continued support and understanding.

Sincerely,

A handwritten signature in cursive script that reads "Senator Gwen Margolis".

Gwen Margolis
State Senator

cc: Chair Alexander
cc: Chair Benacquisto
cc: Chair Gaetz
cc: Chair Richter
cc: Chair Bogdanoff
cc: Chair Gardiner
cc: Chair Evers
cc: Chair Ring
cc: Chair Thrasher

REPLY TO:

- 3050 Biscayne Boulevard, Suite 600, Miami, Florida 33137 (305) 571-5777
- 414 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5121

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore