

Reducing Florida's Incarceration Rate

Dwight A. Floyd

Abstract

Since the 1980s, Florida has seen a significant increase in persons incarcerated in Florida's jails and prisons. Prior research has shown that the majority of the increase is among persons with mental illness, blacks, and women. Various researchers have identified policy changes they believe will reduce the incarceration rate by as much as 50%. After examining these recommended policy changes and conducting an analysis of survey responses from individuals serving mental health and criminal justice capacities, it is concluded that a more comprehensive approach specific to Florida's needs is required. Central to this approach is the reduction in the length of stay and number of persons under corrections supervision coupled with maintaining related resources that are necessary to ensure success.

Introduction

Since the mid-1980s the incarceration rate for America has become extensive and costly. In 1980 there were 1,840,400 people under correctional supervision nationwide. In 2009, this total had risen to 7,225,800 (Bureau of Justice Statistics, 2009). In counting state and federal prisons alone, China, which has a population that exceeds 1.3 billion, is second to the U.S in total prison population with 1.5 million. In rates of incarceration only Russia compares; with a ratio of 581 people incarcerated per 100,000 persons to 737 people incarcerated per 100,000 persons in the U.S. (Austin et al., 2007; "Too Many," 2002).

In the last 30 years, Florida has seen a significant increase in the number of persons under correctional supervision. The majority of the increase is among persons with mental illness, blacks, and women. As the incarceration rate increases, more than three billion dollars is spent each year in Florida's correctional system (The Sentencing Project, 2010). The increasing cost to house inmates is incentive enough to reduce their numbers. Most studies cite policy decisions as a primary cause and recommend global policy changes directed at cost cutting. Given the massive increase occurring predominantly among persons with mental illness, blacks, and women, it becomes a question of how these global policy changes will affect incarceration rates and whether changes more specific to the groups most affected are in order. In this study I examine recommendations made in prior research and assess their applicability to Florida.

Literature Review

Most authors point to a period beginning in the 1980s as a time when incarceration rates began accelerating. Some literature actually points to a period as early as the 1960s. What Honberg and Gruttadaro (2005) describe as the “criminalization” or “transinstitutionalization” of people with mental illness had its start as early as the 1960s. Throughout the history of America, determining how to treat persons with mental illness has always been a dilemma. In 1848, 19th century advocate Dorothea Dix petitioned the United States Congress to set aside land to be used for the “Relief and Support of the Indigent Curable and Incurable Insane” (Bloom, 2010). Her request was approved by Congress, but vetoed by then President Franklin Pierce. In response to treatment of World War II veterans with mental illness, advocacy again began to pick up steam with the signing of the National Mental Health Act of 1946 (Bloom, 2010). This act created grant funding for authorized state mental health agencies as well as psychiatric education and research. The funding encouraged the growth of state mental health institutions (Holmes, 2007; Minnesota Psychiatric Society, 2004). By the 1960s these institutions had lost favor.

In a Presidential address, Kennedy described mental health treatment services as antiquated and unpleasant:

There are now about 800,000 (such) patients in this Nation’s institutions—600,000 for mental illness and over 200,000 for mental retardation. Every year nearly 1,500,000 people receive treatment in institutions for the mentally ill and mentally retarded. Most of them are confined and compressed within an antiquated, vastly overcrowded, chain of custodial State institutions.... The Federal Government, despite the nationwide impact of the problem, has largely left the solutions up to the States. The States have depended on custodial hospitals and homes. Many such hospitals and homes have been shamefully understaffed, overcrowded, unpleasant institutions for which death too often provided the only firm hope of release. (Bloom, 2010)

After Kennedy’s death, President Lyndon Johnson signed into law the 1963 Mental Retardation Facilities and Community Mental Health Centers Construction Act, intended to treat persons with mental illness through community-based health programs rather than the crowded state institutions (Aufderheide & Brown, 2005). In 1965 Medicaid and Medicare were enacted and would become a primary source of funding for the care of persons with mental illness. Bloom (2010) records that by the time of Jimmy Carter’s tenure as president in 1976, it was clear the mental health center movement was not a success. It required both federal and state funding. Federal funding was limited and many states did not contribute. Some funded institutions were accused of not providing sufficient resources. With this understanding of the then current situation, President Carter, from the beginning of his term, pushed for change (Bloom, 2010).

In 1980, President Carter signed into law the Mental Health Systems Act. It targeted the expansion of services for the severely mentally ill and emotionally disturbed. Moreover, it was to be a source of greater coordination between the federal, state and local governments. Consumer input and involvement in services and treatment were core elements along with the expansion of education and consulting needs (Minnesota Psychiatric Society, 2004). This congressional act was short-lived as President Reagan led action to repeal it. Since then, the only remaining federal support has been Medicaid and Medicare, a means of providing support directly to the individual rather than through any formal organization or services (Bloom, 2010).

Though incarcerated juveniles with mental illness are not counted in the adult jail and prison population, their numbers should not be overlooked. In a 1999 report Demeranville and Ginsburg state that over one million juveniles across the country come in contact with the juvenile justice system each year. The authors further state that the Department of Justice estimates 60% of these juveniles have a recognizable mental disorder and as many as 200,000 are seriously mentally ill. According to 1998 estimates 283,800 persons with mental illness were reported incarcerated. For that period, 16% of state inmates, seven percent of federal inmates, and 16% of prisoners in local jails had a mental illness. There was also a 16% representation among an estimated 547,800 probationers. By 2005 more than half of all prison and jail inmates had a mental health problem, including 705,600 in state prisons, 78,800 in Federal prisons, and 479,900 in local jails. From these numbers it is estimated that 56% of state prisoners, 45% of federal prisoners, and 64% of jail prisoners have a mental illness (James & Glaze, 2006).

For the rest of the population the massive incarceration rate increase began decisively in the 1980s. Various authors give reasons, sometimes conflicting, for the substantial increase that took place from the mid-1980s to 2000. What they all agree on is that the increase in crime does not coincide with the increase in the incarceration rate. Kevin Reitz (2006) describes the severity of the problem by showing that approximately 60% of U.S. prisoners are black or Hispanic with blacks accounting for a larger part of the growth. According to Reitz's study the black-white racial disparity in prison counts has grown from a ratio of 2.8 to 1 in 1980 to 7.7 to 1 in 2000. Austin and Clear (2005) give this illustration: Currently there are 731,200 whites and 899,200 blacks in prisons. If blacks were to experience the same incarceration rate as whites then the numbers would be 731,200 whites and 125,733 blacks imprisoned.

Austin and Clear (2005), who have both studied crime and its impact on communities extensively, point out that today's crime rate is roughly what it was in the early 1970s when the incarceration rate was one-sixth of what it is now. They conclude this part of their discussion by saying: "A consensus has emerged among criminologists that the impact of imprisonment on crime is modest compared to other factors." Regardless of the circumstance, in good or bad economic times, with rising or falling crime, or during wartime or peace, the incarceration rate continued to rise nationally from the 1980s through 2008

(Austin et al., 2007; Bureau of Justice Statistics, 2009). If the crime rate is not increasing, however, what drives the incarceration rate to increase?

The most common explanations given for the increase in incarceration rates are changes in policy to increase mandatory sentences, particularly for drug offenses, and laws that limit the discretion of judges and parole boards. For example, acts such as the 1994 crime bill, which offered states billions of dollars for new prison construction in exchange for adopting get-tough measures helped to increase the average term in federal prisons from 39 to 54 months (*Economist*, 2002; Gottschalk, 2009).

Reitz (2006) offers a more detailed denial that counters the argument that strict policies and lack of discretion by judges and parole boards play a major part in increased incarceration rates. In a comparison study he attempts to show that states with non-determinate sentencing structures are more likely to have higher incarceration rates than those with determinate structures. Though his results indicate that this is not always the case, Reitz states, "There is evidence that presumptive sentencing guidelines are more strongly associated with low rates of prison growth than are advisory guidelines. There is also reason to think that the combination of sentencing guidelines and parole-release abolition can be an especially potent recipe for the inhibition of prison growth."

Austin et al. (2007) illustrate why there is strong support behind the argument that mandatory sentencing has been a catalyst for the increase in incarceration rates. The study points out that in 1970 there were fewer than 200,000 people in prison. By 2006, there were approximately 1.6 million state and federal prisoners and in 2007 more than 2.2 million.

The average sentence in 1993 was 66 months; in 2002, this number went down slightly to 65 months. By contrast, the average time served in 1970 was 21 months and rose to a full thirty months in 2002. In 1970, the average parole supervision was 19 months; it went up to 26 months in 2002. The average total time spent under correctional supervision was 40 months in 1970; this average time increased to 56 months by 2002. Austin concludes that what has been affected most is the increase in the length of time served for persons under correctional supervision (Austin et al., 2007).

To show the impact that mass incarceration is having in urban communities and how this affects incarceration rates we begin by looking at a special research project at Columbia University (2004). By mapping the migration of inmates from places where they originally resided to the prison and back, the researchers have identified neighborhoods in the nation's largest cities where a disproportionate number of people have been incarcerated. The numbers are so large that the researchers labeled each of these communities "Million Dollar Blocks" to represent what the study calls the "mass disappearance and reappearance" of people in the city and the cost to imprison them. This study suggests that of the 600,000 plus prisoners that are released each year, roughly 40% will return to prison within three years (Spatial Design Lab, 2004).

The Brennan Center for Justice at the New York University School of Law extended Columbia's research by demonstrating the economic impact of the migration of people to prisons and back. The predominantly black Henrico

County, Virginia lost \$292,900 in federal funds designated for primary and secondary education in 2003 due to the outmigration of its citizens to prison in other communities like Sussex County. In Sussex County, prisoners from Henrico County were counted by the Bureau of the Census as part of the Sussex population and thus Sussex received approximately \$120,700 in additional funds for education. In 2000, blacks accounted for 20% of Virginia's total population and 62% of incarcerated persons. Between 1995 and 2000, the state of Virginia built seven new prisons comprising more than 8,000 cells. For a similar period, 1990 to 2000, the number of people incarcerated in Virginia's state or federal prisons rose 70%. In making other comparisons, the authors surmise that the Bureau of the Census' counting method allows for the inflation of rural populations while decreasing those same numbers in urban communities. The result is that federal and state funds targeted for education and social programs are siphoned from the communities where people are arrested and sentenced and redistributed to the places where they are incarcerated. These funds generally do not go into funding the prison system or the "Million Dollar Blocks" where the prisoners originate, but instead benefit those in the communities just outside the prison walls (Allard & Muller, 2005). (Aufderhiede and Brown, 2005).

Using a study conducted by Todd Clear in Tallahassee, Florida, Lotke and Ziendenberg (2005) show the impact of high levels of incarceration concentrated in impoverished communities. "Clear used data from three related studies in Tallahassee, Florida to examine how high levels of incarceration affected the lives of people who remained free. He found that high levels of incarceration were associated with reduced safety in communities. Geographically focused statistical analysis revealed that neighborhoods with the highest levels of incarceration in one year had higher-than-expected crime rates the following year (compared to other Tallahassee neighborhoods, and controlling for factors such as poverty, racial composition, and voluntary mobility (Lotke and Ziendenberg, 2005).” These authors do not argue that high levels of incarceration concentrated in impoverished communities cause crime, but they do expose two salient points: (1) In addition to being a financial drain, concentrated incarceration destabilizes the community and undermines social controls that would discourage crime; and (2) even when crime lowers in adjacent communities the rate of crime in these impoverished areas tends to rise (Lotke and Ziendenberg, 2005).

Women are another group affected by the prison population increase. In the last three decades they have become one of the fastest growing groups increasing from 11 per 100,000 persons imprisoned in 1980 to 69 per 100,000 persons imprisoned in 2008 (Kruttschnitt, 2010). Researchers attribute this growth to the war on drugs and the increased penalties for felons convicted of charges related to their association with illegal drug users and sellers. Their offenses are likely not to be violent crimes, but they nonetheless receive lengthy sentences. These same researchers target the political climate as a primary driving force behind the longer sentencing. The promotion of crime, particularly illegal substance abuse, and the pledge to get tough on crime has produced national campaigns to ramp up enforcement and require longer sentences.

Through “truth in sentencing” laws and other similar policies women are now facing longer sentences that may not fit the crime (Kruttschnitt, 2010).

Though the growth of the Hispanic prison population appears to be overlooked in most studies, they too are experiencing incarceration growth disproportionate to the general population. The Sentencing Project (2003) reports that from 1985 to 1995, the Hispanic federal, state and local incarceration rate increased by 219%. By 2005, Hispanics made up more than 20% of the inmate population (King & Mauer, 2007).

Florida’s incarceration rate is 25% higher than the national average (“Incarceration Trends,” 2009). Persons with mental illness in Florida’s jails and prisons outnumber those in state mental hospitals by nearly five to one. It is estimated that in 2007 there were 16,617 persons with mental illness in Florida’s state prison system alone (Campaign for Effective Crime Policy, 2000; Fairbanks, 2008). The Florida Department of Children and Families maintains the state funded program for treatment of persons with mental illness. The program is divided into two areas, civil institutions and forensic hospitals. Civil institutions provide treatment to enable clients to manage their symptoms and return to the community. Forensic hospitals are designed to restore the legal competency of adults who have been charged with a felony so they can continue through the criminal justice system. The Office of Program Policy Analysis and Government Accountability (OPPAGA) reports that during the 1998–99 fiscal year, these mental health programs served a mere 4,305 clients. OPPAGA (2000) also reports that in spite of a declining bed capacity from 3,876 to 2,775 between 1990 and 1999, program appropriations rose from \$227.6 million (\$58,731 per client) to \$284.2 million (\$102,413 per client) for the same period.

Blacks make up 14% of Florida’s census and over 48% of the prison and jail population. Native Americans make up three percent of the Florida census and seven percent of the prison and jail population (Wagner, 2004). The incarceration rate for Hispanics is 382 for every 100,000 persons compared to 2,615 per 100,000 for blacks and 588 per 100,000 for whites (“Florida: Total Corrections Population,” 2010). Women represent a smaller percentage of the prison population in Florida, but the rate of growth is still a major concern. Since 1980 Florida’s female inmate population has risen from 870 to 6,903 in 2010, over a 700% increase (“Inmate Population,” 2010; “Imprisonment at a Glance,” 2004).

What solutions do researchers offer and can their recommendations have a positive impact on Florida? Austin et al. (2007) recommend three reforms: (1) Retroactive to the current prison population, increase the amount of “good time” awarded to prisoners for good conduct and program completion; (2) Do not require technical parole and probation violators to serve time in prisons for the offense; for second time violators, require a shorter re-confinement period equal to the violation; and (3) Do not sentence people convicted of “victimless” crimes to prison. Currently, people convicted of crimes such as drug possession, public intoxication, gambling, and motor vehicle violations are being placed on probation even when they are sometimes prone to violating their probation, thus lengthening their time under correctional supervision. Austin et al. (2007) argue

that these reforms have the potential to decrease the prison population by 50% and lower the incarceration rate per 100,000 people without additional funding. Gottschalk (2009) and Austin and Clear (2005) also argue for policy reforms that will reduce the number of people imprisoned and shorten the length of time inmates and offenders are under correctional supervision.

To address the issues faced by blacks and women, Allard and Muller (2005) recommend additional changes: (1) Have the Bureau of the Census identify prisoners' home communities as their residences rather than the prisons in which they are incarcerated; (2) Adopt a uniform standard for Census enumeration methods nationwide. Current methods differ from state to state and sometimes from facility to facility. With regard to persons with mental illness, Gruttarado and Honberg (2005) argue for a complete transformation of the mental health system. They state that the "continuing use of jails and prisons as de-facto psychiatric hospitals is neither humane nor cost-effective or good public policy." Bloom (2010) argues the same, but concludes that we do not have the political will to revitalize public mental health programs.

Method

To evaluate these recommendations and determine their relevance to Florida, I conducted two surveys. I distributed one survey to the 20 Florida Circuit Court Chief Judges. Through a personal letter, I asked them to provide an Internet link to the judges in the various circuits for completion by a given date. Their participation was strictly voluntary.

Demographic and personal data were not collected except to document each judge's amount of criminal court experience. Using the Likert scale, the judges were asked to answer whether they strongly agree, agree, neither agree nor disagree, disagree, or strongly disagree to recommended global policy changes, including:

1. Do you feel current sentencing guidelines require judges to sentence persons convicted of criminal offenses to prison in cases where they otherwise would not?
2. Do you feel current sentencing guidelines require judges to sentence convicted persons to longer terms than they would otherwise?

The judges were also asked how the following changes to the criminal justice system would affect time served for convicted persons sentenced to Florida's jails and prisons. The options for response to these questions were: significantly reduce, moderately reduce, not affect, moderately increase, or significantly increase.

1. Not sentencing people convicted of victimless crimes (e.g., drug possession, public intoxication, gambling, and motor vehicle violations) to prison

2. Not requiring technical parole and probation violators to serve time
3. Requiring a shorter re-confinement period for second-time parole and probation violators
4. Increasing good time credits (reduces a prisoner's sentence) to prisoners for good behavior

They were also asked to answer yes or no to the following questions:

1. Do you believe the sentencing guidelines should be changed to allow for shorter sentences for convicted persons?
2. Do you believe penalties for drug use violations or association with drug felons should be changed to lessen the impact on blacks and women?

As a final question the judges were given the option to state any other strategies they would recommend to reduce the number of persons with mental illness who are incarcerated in Florida's jails and prisons.

Through the Florida Partners in Crisis, an independent education and advocacy organization made up of judges, law enforcement and corrections officials, state agencies, providers, advocates and consumers, I conducted a second survey focused on mental health. Participants were selected for their first-hand knowledge of existing programs and the treatment of the mentally ill. A mental health professional assisted in developing the survey.

Personal data including name and email addresses were optional and collected solely for the purpose of asking additional questions where responses required clarification. Other data was collected to determine years of experience, role in the criminal justice or social service system, and type of organization with which each respondent was associated.

Using the Likert Scale, they were asked how the following policy changes would affect the number of persons with mental illness who are incarcerated in Florida's jails and prisons, with the options to answer each as significantly reduce, moderately reduce, not affect, moderately increase, or significantly increase.:

1. Increasing good time credits (reduces prisoner's sentence) to prisoners for good behavior
2. Not requiring technical parole and probation violators to serve time
3. Requiring a shorter re-confinement period for second-time parole and probation violators
4. Not sentencing convicted people of victimless crimes (e.g., drug possession, public intoxication, gambling, and motor vehicle violations) to prison
5. Mandating statewide the Crisis Intervention Team Program

The respondents were also asked whether there existed in Florida any other programs that, if implemented statewide, would significantly reduce the

number of persons with mental illness incarcerated in Florida's jails and prisons. Those answering yes were asked to describe the programs they had in mind. As a final question, which was optional, respondents were asked to state any other strategies they would recommend to reduce the number of persons with mental illness incarcerated in Florida's jails and prisons.

Results

Fifty-four of the 599 circuit court judges completed the survey. Sixty-one percent had five or more years of experience hearing criminal court cases, 26% had two to four years of experience, and 13% had fewer than two years of experience. Six percent had experience hearing Federal criminal court cases.

Sixty-nine percent of the judges surveyed indicated that sentencing guidelines restrict judges' ability to impose proper sentencing. Eighteen percent disagreed and 13% neither agreed nor disagreed. They were almost evenly divided over whether sentencing guidelines should be changed to allow for shorter sentences, with 52% believing they should be changed and 48% believing they should not. Fifty-seven percent indicated that sentencing guidelines require judges to sentence persons convicted of criminal offenses to prison in cases where they otherwise would not. Thirty percent disagreed and again, 13% neither agreed nor disagreed. Just as significant, 53% of the judges responding to the survey believe that sentencing guidelines require judges to sentence convicted persons to longer terms than they would otherwise. Thirty-four percent disagreed while 13% neither agreed nor disagreed.

When asked whether penalties for drug use violations or association with drug felons should be changed to lessen the impact on blacks and women, 67% responded no and 33% responded yes.

Responses to how the four suggested policy changes to the criminal justice system would affect time served for convicted persons sentenced to Florida's jails and prisons were favorable:

- Eighty-five percent believe that not sentencing people convicted of victimless crimes to prison would significantly or moderately reduce time served for persons sentenced to Florida's jails and prisons. The other 15% believe it would neither reduce nor increase time served.
- Seventy-six percent believe that not requiring technical parole and probation violators to serve time will significantly or moderately reduce time served. Twenty-four percent believe it will not affect it.
- Seventy-four percent believe requiring a shorter re-confinement period for second-time parole and probation violators will significantly or moderately reduce time served. Eleven percent believes it will not affect time served while four percent believe it will increase time served.

Though the response to the fourth policy change is favorable, the results are slightly more divergent.

- Eighty-five percent believe that to increase good time credits for good behavior will significantly or moderately reduce time served. Similar to responses to the previous questions, 11% believe it will not affect time served. Unlike the previous responses, four percent believe it will significantly increase time served.

Judges were asked to provide other strategies they would recommend to reduce the number of persons incarcerated. Twenty-four respondents provided strategies that can be categorized by topic from the highest to the lowest number of responses. Some provided multiple responses as follows:

1. increase funding for services to the mentally ill including mental health hospitals (7);
2. give judges more options on where to place or treat the mentally ill (7);
3. lessen restrictions on mandatory sentencing and amend reasons for downward departures to allow judges discretion based on the facts (6);
4. make mental health courts available in all counties (3);
5. allow officers and prosecutors to divert known or apparently mentally challenged persons to health services instead of arrest or prosecution (1);
6. decriminalize minor drug possession charges (1); and
7. mandate community control for sentenced mentally ill defendants (1).

For the second survey, which specifically addresses the mentally ill, 94 of the 400 mental health and criminal justice professionals responded, of which:

- 17% were clinicians,
- 32% were administrators,
- 19% were advocates,
- 8% were counselors,
- 2% were consultants, and
- 21% other, including educators, forensic specialists, a jail administrator, and a civil court judge.

Sixty-nine percent of the respondents served eight or more years as mental health professionals, 17% served four to seven years, five percent served one to three years, and eight percent served in some other capacity. Twenty-two percent of survey respondents provide mental health services for state agencies, 12% for county agencies, 46% for private non-profit organizations, 10% for

private for-profit organizations, and 11% serve through some other form of organization.

Responding to the effect the five policy changes would have on reducing the number of persons with mental illness who are incarcerated in Florida jails and prisons:

- Sixty-nine percent indicated that increasing good time credits to prisoners for good behavior will significantly or moderately reduce the number. Twenty-four percent believe it will not affect the number incarcerated while seven percent believe it will moderately increase the number of mentally ill persons incarcerated.
- Eighty percent of respondents believe that not requiring technical parole and probation violators to serve time will significantly or moderately reduce the number of mentally ill persons incarcerated. Eight percent believe it will not affect the number. Eleven percent believes it will moderately increase the number of persons with mental illness who are incarcerated and one percent believes it will significantly increase the number of mentally ill persons incarcerated.
- Not as favorable, 59% believe that requiring a shorter re-confinement period for second time parole and probation violators will significantly or moderately reduce the number of mentally ill persons incarcerated. Twenty-nine percent believe it will have no effect. Still, eleven percent believes it will moderately increase the number of mentally ill persons incarcerated and three percent believe it will significantly increase the number of mentally ill persons incarcerated.
- More favorably, 88% believe not sentencing people convicted of victimless crimes to prison will moderately or significantly reduce the number of persons with mental illness who are incarcerated. Seven percent believe it will have no effect, three percent believe it will moderately increase the number, and one percent believes it will significantly increase the number of mentally ill persons incarcerated.

Ninety-one percent believe mandating the Crisis Intervention Team (CIT) program statewide would moderately or significantly reduce the number of mentally ill persons incarcerated, two percent said it would have no effect, and another two percent believe it will moderately increase the number of persons with mental illness who are incarcerated. Four percent believe it will significantly increase the number of mentally ill persons incarcerated.

Survey respondents were given the opportunity to identify existing programs that, implemented statewide, would significantly reduce the number of persons with mental illness who are incarcerated in Florida's jails and prisons. Eighty-one percent believe that there are existing programs that could be implemented. Nineteen percent believe that there are no existing programs to implement. Seventy-seven respondents identified programs they would like to see implemented. These recommendations were categorized by strategy from

highest to lowest number of responses. Many provided multiple programs, which are as follows:

1. Specialty and Mental Health Courts/Jail Diversion Programs (40)
2. Rehabilitation and Re-entry Programs (15)
3. Mental Health and Substance Abuse Treatment Programs (12)
4. Case Management (10)
5. Housing Assistance (9)
6. Increased Funding for Services, Counseling and Medicine (6)
7. CIT Training/Teams (5)
8. Outpatient Treatment (3)
9. Judicial Education (2)
10. Club Houses (2)
11. Guardian Advocacy (2)
12. Transfer Role of Enforcement of Court Mandate to Take Medication to Mental Health Facility (Currently it is the privilege of the courts) (1)
13. Program to End Homelessness (1)

In the final question, respondents recommended the following strategies in addition to the programs above:

1. Sentence Sex Offenders directly to Civil Commitment Centers rather than to prison and then Civil Commitment Centers;
2. Provide better access to medicine;
3. Provide assistance with transportation;
4. Assist with consumer education;
5. Provide better access to medications, counseling, and psychological services to inmates while incarcerated;
6. Compare daily jail census to local health service provider client lists to identify those receiving psychotropic medications for serious mental illness;
7. To better track client community success hire probation officers who are mental health professionals;
8. Limit identification of "mental illness" to clearly described and treatable conditions rather than an assortment of low intelligence, head injuries and other impairments;
9. Differentiate between those with a history of mental illness and those whose attorneys use a claim of mental illness as a strategy to avoid jail;
10. Provide a more comprehensive approach that better coordinates resources and participants; and
11. Reduce the number of charges for battery on a law enforcement officer in execution of the Baker Act. According to one of the respondents, the Florida Department of Children and Families has documented this as one of the most common charges against

persons with mental illness by law enforcement officers in the execution of the Baker Act.

Discussion

In this analysis the foregoing conclusion is that policy change when combined with needed resources sufficient to support it would provide the opportunity for a sizeable reduction in the incarceration rate as long as the primary goal is to reduce both the number of persons imprisoned and the length of stay for those under corrections supervision. For example, 86% of respondents from both surveys believe that not sentencing people convicted of victimless crimes to prison will reduce the number of persons incarcerated in Florida's jails and prisons. Similarly, 76% of respondents from both surveys believe that not requiring technical parole and probation violators to serve time can reduce the number of persons incarcerated. It is clear, though, from the qualitative responses that these and other strategies like these will not work unless there are additional resources in place to ensure that upon release there is not a repeat offense. Not having these resources firmly in place at the present time may account for the respondents who believe such strategies would actually cause an increase in the number of persons incarcerated.

Nearly three-quarters of the judges surveyed share a belief that requiring a shorter re-confinement period for second time parole and probation violators will significantly or moderately reduce incarceration. A little more than half of those responding to the mental health survey express that same belief, with 14% believing instead that it will cause an increase. Thus, the pattern remains the same. There is the potential to reduce the number of persons incarcerated provided this strategy is accompanied by added resources to help ensure success. Based on the qualitative responses, examples of other resources are viable rehabilitation and re-entry programs, job training, outpatient treatment, access to medicine, and assistance with housing for the mentally ill.

Respondents from both surveys see the potential of reducing the number of persons incarcerated by increasing good time credits for good behavior. At the same time, there is the concern by some that implementing this strategy could lead to an increase in the number of persons incarcerated. A policy change to normalize re-entry by lessening restrictions and penalties such as PRR (Prison Release Re-offender) and driving while license is suspended, and ensuring the necessary support through added resources such as intensive case management, drug rehabilitation programs, and access to mental health treatment, may alleviate some of the concerns and allow for a reasonable reduction.

One of the continuing debates with strong political implications is the impact of mandatory sentencing and sentencing guidelines on length of prison terms for convicted felons. Sentencing guidelines and mandatory sentencing policies do not necessarily lengthen sentencing imposed by judges, but mandatory sentencing does appear to have increased the minimum amount of

time an individual must serve. Reitz uses a rigid empirical analysis to make the case for sentencing guidelines. It appears that while he may be accurate in his assessment of sentencing guidelines, he underestimates the impact that mandatory sentencing may have on time served. There is not a clear divide among judges as to the impact of either. Though the majority of judges surveyed agree that sentencing guidelines restrict the decision of judges to some degree, fewer agree that sentencing guidelines require judges to sentence convicted persons to longer terms than they would otherwise. Almost as many as believe sentencing guidelines should be adjusted to allow for shorter sentences believe they should not. Not measured quantitatively in the survey is the impact of mandatory sentencing on length of stay. Nonetheless, it is clear from the qualitative responses that mandatory sentencing is a greater concern than sentencing guidelines. Most judges who commented feel that the basic structure is appropriate with the exception of one respondent who said "mandatory sentencing guidelines are an unconstitutional interference with the core judicial function." Still, there is the sentiment that the structure should at least allow for downward departure based on the facts.

There is strong support among those surveyed for the implementation of specialty courts, such as mental health and drug courts as an effective means of removing the mentally ill and substance abusers from the corrections system and placing them where they can get help. This was the most prevalent strategy mentioned at least 40 times in the qualitative responses as an answer to substance abuse and mental illness.

A fifth policy recommendation to mandate the Crisis Intervention Team Program (CIT) statewide was added to the mental health survey from feedback provided by mental health professionals. The Crisis Intervention Team Program creates partnerships in the local community for the intervention and pre-booking diversion of mental health clients to resources where they may get professional assistance. Ninety-one percent of respondents in this survey believe that mandating the Crisis Intervention Team Program statewide will reduce the number of persons with mental illness who are incarcerated in Florida's jails and prisons.

Recommendations

Given the ratio of blacks and persons with mental illness to the total jail and prison population, and the rate of increase in the last thirty years among persons with mental illness, blacks, Hispanics and women, it is practical to think that any strategies to reduce incarceration rates must be focused primarily on them. Yet, the literature review and survey results both show that the majority of strategies that would help reduce the jail and prison population are not race or gender based. Further, the key to success does not lie with the policy changes alone, but with the implementation of the additional resources needed to support them. Thus, the following are recommendations for reducing the long and short term incarceration rate in Florida:

1. Remove mandatory sentencing laws or at least allow for downward departure in sentencing. Austin and Clear (2005) make their case that the number of persons under corrections supervision and the length of prison stay are two main factors behind the massive increase. Truth in sentencing laws and other get-tough policies have not reduced crime, especially violent crime, but have been a catalyst in increasing the incarceration rate. Though it may not be particularly popular, reversing the trend requires removing the catalyst. Not all judges surveyed agree with removing mandatory sentencing, but it is clear from their remarks that mandatory sentencing laws do not allow for discretion in sentencing based on the facts. Judicial discretion should not be overridden by legislation that decides sentencing in place of judge or jury.
2. Increase good time credits for good behavior.
3. Do not require first time technical parole and probation violators to serve time.
4. Require a shorter re-confinement period for second time parole and probation violators.
5. Do not sentence people convicted of victimless crimes to prison.
6. Conduct a cost analysis to verify the added value of specialty courts. If proven effective, implement them in every county. Mental health and drug courts will give judges the opportunity to redirect the mentally ill and substance abusers away from the prison system to other services for rehabilitation or treatment. Reports continuously show that housing and treating the mentally ill and substance abusers in the prison system are much more costly than treating them in other venues designated for that purpose. A cost analysis for transitioning people who do not belong there out of the criminal justice system and placing them where their needs can be met should produce a reduction in cost in addition to a reduction in the number of persons imprisoned.
7. Have the Federal Bureau of the Census identify home communities as residences rather than prisons in the same manner as is done with the military. The current Bureau of the Census policy encourages concentrated incarceration and sanctions the redistribution of federal funds away from communities that need them most. This further destabilizes communities already fraught with crime and undermines social controls that would discourage crime through a stable environment.
8. Have an independent body conduct a program evaluation to determine the effectiveness of the Crisis Intervention Teams in Florida. According to the University of Memphis, Florida has crisis intervention teams in 45 of its 67 counties (2011). This makes Florida ideal for conducting an evaluation to

determine the impact of the CIT programs and decide whether CIT should be mandated statewide.

9. Adequately fund the resources needed to support these policy changes. Implementing policy changes alone will not produce the desired outcomes. There must be enough resources in place to ensure success. A strategy that gradually transfers people and funds from the corrections system to other programs in support of these resources may not have an immediate financial impact, but a cost reduction should be expected in the long term. It makes little sense to continue maintaining substance abusers and persons with mental illness in Florida's jails and prisons when using those same dollars to support more effective resources would ultimately reduce the number of persons incarcerated and prove less burdensome to the state of Florida. Subject matter experts should be employed to assist in identifying and linking these resources, which are likely to include increased case management, rehabilitation programs, greater access to mental health treatment and medicines, stable housing, and more options for judges to redirect substance abusers and persons with mental illness for treatment.

Chief Dwight Floyd is the Bureau Chief of Training at the Florida Department of Law Enforcement where he has been a member for 26 years. Since 1989 he has served in various capacities as staff for the Criminal Justice Standards and Training Commission in Officer Discipline, Commission Support and as manager of the Curriculum Development Section. As Bureau Chief he is responsible for overseeing the development of criminal justice officer basic recruit and post basic training, and the administration of the State Officer Certification Examination. He authored the law enforcement basic recruit training program rewrite and text book development in 2008 and corrections rewrite in 2011. Chief Floyd has a Bachelor of Science Degree in Political Science with Concentration in Public Management from Florida A & M University.

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Appendix A
Survey of Circuit Court Judges

1. Within the past 12 years, how many years have you heard criminal court cases?

- 5 or more
- 2 to 4
- less than 2
- none

2. Do you have experience hearing criminal cases in Federal court within the last 12 years?

- yes
- no

3. Do you believe current sentencing guidelines restrict a judge's ability to impose proper sentencing?

- strongly agree
- agree
- neither agree or disagree
- disagree
- strongly disagree

4. Do you feel current sentencing guidelines require judges to sentence persons convicted of criminal offenses to prison in cases where they otherwise would not?

- strongly agree
- agree
- neither agree or disagree
- disagree
- strongly disagree

5. Do you feel current sentencing guidelines require judges to sentence convicted persons to longer terms than they would otherwise?

- strongly agree
- agree
- neither agree or disagree
- disagree
- strongly disagree

6. How would the following changes to the criminal justice system affect time served for convicted persons sentenced to Florida's prisons and jails?

	significantly reduce	moderately reduce	not affect	moderately increase	significantly increase
1. Not sentencing people convicted of victimless crimes (e.g., drug possession, public intoxication, gambling, and motor vehicle violations) to prison	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
2. Not requiring technical parole and probation violators to serve time	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
3. Requiring a shorter re-confinement period for second time parole and probation violators	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4. Increasing good time credits (reduces a prisoner's sentence) to prisoners for good behavior	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

7. Do you believe the sentencing guidelines should be changed to allow for shorter sentences for convicted persons?

- yes
- no

8. Do you believe penalties for drug use violations or association with drug felons should be changed to lessen the impact on blacks and women?

- yes
- no

9. Please state any other strategies you would recommend to reduce the number of persons with mental illness who are incarcerated in Florida's prisons and jails (optional).

Appendix B
Mental Health Services Survey

1. Name (optional):

2. Email address (optional)

3. Please select from the following the response that best describes your role in mental health services.

- clinician
- administrator
- advocate
- independent consultant
- Other (please specify)

4. Within the past 12 years, how many years have you served as a mental health professional?

- 8 or more
- 4 to 7
- 1-3
- None

5. Do you provide mental health services through a state or county government, or a private non-profit or for-profit organization?

- State
- County
- Private non-profit
- Private for-profit
- None of the above

6. How would the following affect the number of persons with mental illness who are incarcerated in Florida's prisons and jails?

	significantly reduce	moderately reduce	not affect	moderately increase	significantly increase
1. Increasing good time credits (reduces prisoner's sentence) to prisoners for good behavior	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
2. Not requiring technical parole and probation violators to serve time	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
3. Requiring a shorter re-confinement period for second time parole and probation violators	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4. Not sentencing convicted people of victimless crimes (e.g., drug possession, public intoxication, gambling, and motor vehicle violations) to prison	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
5. Mandating statewide the Crisis Intervention Team Program	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

7. Are there existing in Florida any other programs that if implemented statewide would significantly reduce the number of persons with mental illness who are incarcerated in Florida's prisons and jails?

- yes
- no

8. If yes, please describe the program(s).

9. Please state any other strategies you would recommend to reduce the number of persons with mental illness who are incarcerated in Florida's prisons and jails (optional).

