

**Recommendations to Advance Public Safety through
Increased Transparency, Accountability, and Oversight
of the Florida Department of Corrections**



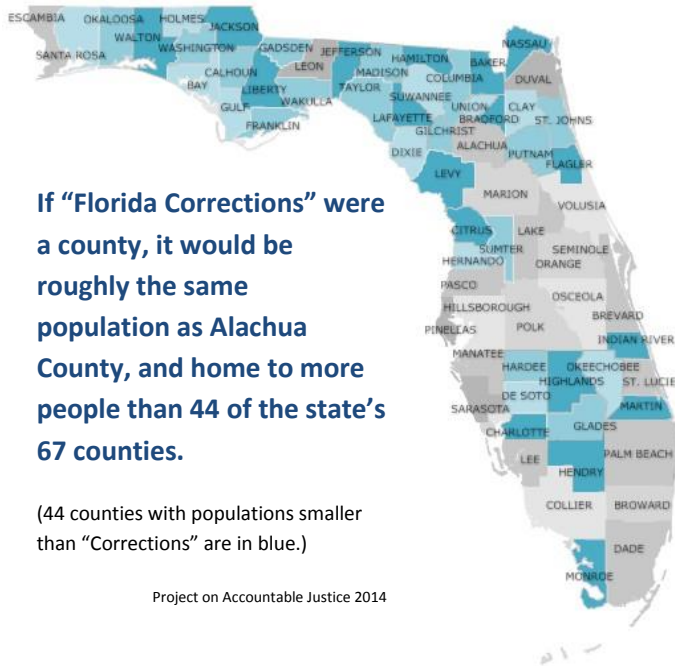
The Florida Department of Corrections (DOC) is the third largest corrections agency in the country, employing the most state employees (1 in 7 Florida state employees), at a cost of more than \$2.3 billion annually. The DOC is also an agency in crisis and has engaged daily for the past months in triage to respond to instances of failure to carry out the Department of Corrections' constitutional and statutory obligation to safely and effectively house inmates, currently numbered more than 100,000.

The investigative diligence of the *Miami Herald*, the *Palm Beach Post*, the *Tampa Bay Times*, and *The News Service of Florida* has brought necessary scrutiny to the agency for isolated acts, which have subsequently uncovered systemic failings.¹ These deficiencies have facilitated an environment that is dangerous, brutal and in some cases, deadly. The agency has responded in stages, by revising and clarifying policies, by the firing of several correctional officers, and efforts continue to identify system deficiencies.

Failure in corrections means less safety, more victims, more costs, and fewer reformed offenders. The question facing Florida now is whether we will collectively rise up to meet the challenges that have been festering for many years. Will Florida clean up this last area of performance unaccountability in government?

¹ See the *Miami Herald's* (and other publications) ongoing reporting on Florida Department of Corrections, at Appendix A.

- 1. Create a Public Safety Oversight Commission.**
- 2. Unlink the Department of Corrections Secretary's term from the Governor's term.**
- 3. Participate in Justice Reinvestment Initiative.**
- 4. "Right the ship" through a comprehensive strategic plan to support and advance the professionalism and culture of Florida correctional officers.**
- 5. Expedite the implementation of performance measurement and management.**



If “Florida Corrections” were a county, it would be roughly the same population as Alachua County, and home to more people than 44 of the state’s 67 counties.

(44 counties with populations smaller than “Corrections” are in blue.)

Project on Accountable Justice 2014

As taxpayers and citizens that bear the direct financial and societal costs of incarceration and recidivism, Floridians should expect more. To keep this in context, the population currently under the supervision—either in prison or under some other form of supervision like probation—of the Florida Department of Corrections is larger than that of 44 of Florida’s 67 counties.² This large population of men and women are removed from society and thus, out of sight and out of mind.

But, the impact of what occurs inside prisons has very real implications for Floridians. For every correctional officer, there is a family. For every inmate, there is a family. And for all of these families, there is a community where prisoners return as rehabilitated, law-abiding neighbors or as hardened criminals. The traffic between the inside and outside is dynamic, with more than 33,000 people admitted and an equal number of people released in 2012-2013.³ Thus, whether we wish to admit it or not the consequences of what happens inside of prisons has an impact felt broadly and deeply across the state. Prioritizing the Department of Corrections is an opportunity to make Florida a healthier, safer place.

The Department has acted with increasing urgency and has pledged a policy of zero tolerance for employees who act against the law and agency policies.

Florida Department of Corrections Secretary Michael Crews:

"I have made it clear that there is zero tolerance for corruption or abuse at the Department of Corrections, and we continue to root out any-and-all bad actors who do

² Florida DOC comments on its timeline: “Would it surprise you to know that the number of offenders under FDOC supervision and in FDOC’s custody is larger than the population of 48 of 67 Florida counties?” at <http://www.dc.state.fl.us/oth/timeline/index.html>. PAJ updated using 2013 county population information, University of Florida, Bureau of Economic and Business Research at: <http://www.bebr.ufl.edu/content/florida-county-population-projections-free-download>

³ Florida Department of Corrections, inmate admissions and releases, 2012-2013 at: <http://www.dc.state.fl.us/pub/index.html>

not live up to our expectations. Our standards are high and we will accept nothing less to ensure the safety of our staff and those in our custody, as well as Florida families.”⁴

The Secretary’s recent rounds of visits to all Department facilities around the state—and the resulting firing of dozens of DOC employees—are to be recognized as essential steps. Additional steps, including the release of data on inmate deaths, the announcement of the hiring of a Mental Health Ombudsmen and related training and certification specialization for the handling of mentally ill inmates are also potential improvements.⁵ But both the firings and the recommendations remain reactive steps, internally limited, and still do not address systemic weaknesses and failings of accountability.

For understandable reasons, including the potential impact on security and safety, correctional facilities are insular and relatively closed to public scrutiny. The continuing revelations point to where the historically closed world of Florida corrections can be dangerous and deadly in worst cases, but more commonly reflect missed opportunities. As agency responses continue, what happens tomorrow and in the short-term is anyone’s guess. But what happens over the long-term is in all Floridians’ interest and utterly changeable.

The purpose of this paper is to help set Florida down a path to a more responsive and accountable justice system—not to assign blame for recent developments. These recommendations focus on resolving systemic issues in order to prevent future abuses and deprivations. The problems emerging now have been developing over years and responsibility is widely shared. As a result, the recommendations that follow are necessarily expansive.

As a contribution toward righting the course that the Department of Corrections has long been on we present five recommendations to improve the transparency, accountability, oversight, and overall effectiveness of the Florida Department of Corrections.

⁴Florida DOC Secretary Crews’ remarks from July 2014 press conference as reported by the *Miami Herald* at: <http://www.miamiherald.com/news/state/article1976475.html>

⁵ Florida Department of Corrections, memo from Dr. Dean Aufderheide, Director of Mental Health Services, to Florida DOC Secretary Michael Crews, “Mental Health Recommendations,” dated October 2, 2014.

Framework for Recommendations

Three principles are fundamental to providing a framework for this preliminary list of recommendations and are also intended to provide guidance for continuing dialogue.

These principles are central to improving the overall operations and ultimate societal outcomes of reduced crime and victimization, rehabilitated individuals, and restored communities. All recommendations reflect these principles.

- 1) **External oversight enhances and advances public safety.** Oversight is a proactive and collaborative means by which the State of Florida can achieve improved transparency of and accountability for operating correctional facilities.
- 2) **Incarceration itself is punishment.** Deprivation of individual liberty through incarceration is one method by which individuals are penalized for crimes. It is further recognized that there are instances when correctional facility management and officer and public safety warrant additional sanctions. However, in all cases, punishment must be handled ethically, accountably, and in strict adherence to Florida Department of Corrections rules and policies, the law, and the Constitution.
- 3) **Rehabilitation is a central purpose of corrections.** The vast majority of prisoners, 87 percent according to the Department of Corrections,⁶ will return to Florida communities after fulfilling their prison term.

Prison environments that encourage pro-social behavior through positive and productive interaction with correctional professionals, who in turn model and encourage socially acceptable behaviors, can increase the likelihood that ex-offenders will reintegrate back into community as law-abiding neighbors. Bottom line: the overwhelming majority of prisoners are coming home, whether their rehabilitation is supported or discouraged.

"So I would hope that the general public would see that we are being proactive. Do I think it's enough? The results will prove that as we move down the path...What's incumbent upon us, as leaders in this agency, is to make sure that we continue to do and evaluate and look at all of our practices, protocols, policies, procedures and everything that we have to make sure that we're maximizing the safety of our staff, our inmates and the general public who comes into our institutions, that we're conducting ourselves properly and within the realm of what we say we expect and that we treat everyone fairly and respectfully. But I am confident that we're making some significant changes in this agency on things that for a long time perhaps weren't addressed. Maybe they should have been. I don't know. But this agency has been around a long time, a lot of history. And when we began, this agency, as most correctional systems were, was viewed as a warehouse for inmates."

*Florida DOC Secretary Michael Crews
News Service of Florida, October 20, 2014*

⁶ Florida Department of Corrections, 2013 Florida Prison Recidivism Study: Releases From 2005 to 2012, accessed on September 30, 2014, at <http://www.dc.state.fl.us/pub/recidivism/2013/index.html>

The following recommendations are in no way exhaustive, but present a point of departure for a long overdue, comprehensive state-level conversation that embraces the fundamental importance to public safety through housing prisoners humanely.

Recommendations

1 Create a Public Safety Oversight Commission—an independent advisory council responsible for external oversight of both the departments of Juvenile Justice and Corrections. Charged with monitoring the conditions of all Florida state correctional facilities, this body would be empowered to walk into any facility at any time—juvenile and adult—with access to every corner, inmate, employee and record.⁷

The forms of oversight currently in place have proved insufficient to ensure the safety of prisoners and correctional officers. Professor Michele Deitch, an internationally recognized expert in correctional oversight models, describes external oversight of correctional facilities as an “umbrella concept”, with seven essential, complementary functions. Deitch asserts, “These oversight functions are not in competition, nor mutually exclusive... The best way to ensure that oversight is effective is to ensure that each of these critical functions is being served effectively.”⁸ Effective and efficient oversight requires:

- 1) regulation
- 2) auditing
- 3) accreditation
- 4) investigations
- 5) reporting
- 6) legal action, as redress and corrective when wrongdoing and constitutional violations are found; and,
- 7) inspections and monitoring.⁹

⁷ See: Brodsky, D. (16, July 2014). Give prison facilities consistent, independent oversight. *Miami Herald*. Retrieved September 30, 2014, from <http://www.miamiherald.com/opinion/op-ed/article1975826.html>

⁸ Deitch, M. (2007). Distinguishing the Various Functions of Prison Oversight. In M. Deitch (Ed.), *Opening up a Closed World: What Constitutes effective Prison Oversight?L Conference Proceedings*. Austin: Lyndon B. Johnson School of Public Affairs, The University of Texas at Austin.

⁹ Mushlin and Deitch, *Opening Up a Closed World: What Constitutes Effective Prison Oversight?*, 30 Pace L. Rev. 1383 (2010)
Available at: <http://digitalcommons.pace.edu/plr/vol30/iss5/1>

Florida already has bodies that serve several of these functions. For instance, the Legislature uses its authority over funding to regulate prisons, and the Florida Auditor General and the Office and Program Policy Analysis and Government Accountability (OPPAGA) have the power to audit the Department of Corrections.¹⁰ Self-regulatory bodies, such as the American Correctional Association (ACA),¹¹ have their place in the spectrum of accountability mechanisms. Reporting by the media¹² and investigations by the Office of the Inspector General and the Florida Auditor General also serve key roles in the umbrella of accountability.¹³ And, legal action through the courts¹⁴ provides an expensive outlet of last resort.¹⁴

However, the final function identified by Deitch—inspections and monitoring—could be introduced. This function provides routine, external scrutiny—that is, regular monitoring performed by an entity outside of corrections. This missing function can be an integral component to righting the course for the Florida Department of Corrections. Florida should seek a proactive remedy to ensure safe and effective prisons by establishing an external oversight commission or board that has the power to monitor institutional conditions and policies across the state.

Across the country, mechanisms for oversight of correctional institutions are deployed in a variety of way and in different forms and levels of authority, including ombudsmen, state commissions, and fully external bodies with authority to walk into prisons.¹⁵ In reviewing

¹⁰ Additionally, the American Correctional Association provides optional accreditation for institutions, and, within the Department of Corrections, the Inspector General conducts investigations. As

¹¹ Florida Department of Corrections’ institutions and work release centers are accredited by the American Correctional Association (ACA). Described by ACA, “accreditation (is) intended to improve facility operations through adherence to clear standards relevant to all areas/operations of the facility, including safety, security, order, inmate care, programs, justice, and administration.” See Florida Department of Corrections: <http://www.dc.state.fl.us/pub/aca/index.html> and ACA: http://www.aca.org/ACA_Prod_IMIS/ACA_Member/Standards_Accreditation/ACA_Member/Standards_and_Accreditation/SAC_AboutUs.aspx?hkey=7f4cf7bf-2b27-4a6b-b124-36e5bd90b93d

¹² See Appendix A of this document

¹³ While this recommendation focuses on the need for an additional form of external oversight to complement the multi-faceted processes of regulation, oversight, review, and investigations already in place to ensure safe and humane prisons, there is room for improved processes of internal reviews. Among concerns, a 2013 Auditor General Report No. 2013-074, specific to the Department of Corrections’ oversight of security operations, observed several challenges in meeting the statutory obligations of a security review commission (as mandated in s. 944.151). Although obligated to convene this body by law, according to the Department of Corrections, the security review commission had not met since 2008 due to budgetary constraints. DOC had, instead, reassigned duties across the agency. The AG recommended resuming the commission as intended, or instead, changing the law. Additional recommendations suggest areas where a more formalized reporting process would bolster oversight functions as well as increase transparency of operations. See: http://www.myflorida.com/audgen/pages/pdf_files/2013-074.pdf.

¹⁴ The federal courts have, for the past 40 years, served a critical oversight function in protection of prisoners, notably: *Holt v. Sarver*, *Rhem v. Malcolm*, and *Ruiz v. Estelle*. See: Deitch, M. (April 2012). The need for Independent Oversight in a Post-PLRA World. *Federal Sentencing Reporter*, 24(4), 236-244.

¹⁵ See examples: Michele Deitch, *Independent Correctional Oversight Mechanisms Across the United States: A 50-State Inventory*, 30 Pace L. Rev. 1754 (2010) Available at: <http://digitalcommons.pace.edu/plr/vol30/iss5/21>

the models, it appears that (not surprisingly given the uniqueness of states more generally) each state's needs are very different, and any such newly established body should seek to complement the roles and authority of currently existing (and functioning) entities.

While there is no known perfect model, there are basic concepts of governance known to be successful (think of oversight bodies of community colleges and state universities), which are also ultimately transferable to Florida criminal justice planning and oversight.

Minimally, several states operate with some level of a formalized, state-level body convened to coordinate state-level strategy and improve the effectiveness of their criminal justice systems (see side box examples from Texas and Georgia).

It should be noted that Florida previously had an external body in place, the Florida Corrections Commission, which served to some extent an oversight function, but was never fully utilized and was eventually defunded.¹⁶

Given that there is no central body looking at criminal justice issues from a state vantage, rather than from the eyes of the agency, and that there is virtually no external, independent oversight, the following specifications are offered for consideration.

TEXAS: The nine member Texas Board of Criminal Justice is appointed by the governor to oversee the Texas Department of Criminal Justice (TDCJ). The Board members are appointed for staggered, six-year terms and are responsible for hiring the executive director of the department and setting rules and policies which guide the agency. Several other divisions of TDCJ report directly to the board, including the Inspector General, Internal Audit, State Counsel for Offenders, and PREA Ombudsman.

See: <http://www.tdcj.state.tx.us/tbcj/>

GEORGIA: The Criminal Justice Coordinating Council was created by the Georgia General Assembly in 1981 as an Executive Branch agency to effectively lead the coordination of all components and all levels of the state's criminal justice system. The Council is composed of 14 ex-officio members, representing the involved and related agencies (Corrections, Juvenile Justice, Public Defenders, Children and Families, etc.) and an additional ten Governor-appointed members.

See: <http://cjcc.georgia.gov/>

Recommended Structure/Authority/and Duties for the Public Safety Oversight Commission:

- Structure:
 - Independence from corrections/juvenile justice;

¹⁶ The Florida Corrections Commission was created by the 1994 Legislature in s. 20.315 (6), F.S., to provide oversight to the Department of Corrections and the criminal justice system more broadly. The Governor-appointed, Senate confirmed 9-member commission was charged with, among duties: providing recommendations on major criminal justice policies, reviewing the department's annual budget request and financial status and to, "evaluate, at least quarterly, the efficiency, productivity, and management of the Department of Corrections."

- Composed of appointed commissioners; and
 - Professionally staffed, with leadership appointed for a fixed term, subject to legislative confirmation, and subject to removal for just cause.
- Authority to:
 - inspect all correctional facilities, public or private, juvenile and adult, announced or unannounced;
 - obtain any and all records related to a facility's operation or condition;
 - conduct confidential interviews with all staff, inmates, citizens, and public officials related to operations and condition; and
 - convene public hearings, issue subpoenas, and take sworn testimony.
 - Duties to include:
 - Ongoing monitoring of all Florida correctional facilities;
 - Development and ongoing reporting of public safety performance measures;
 - Review of and comment on legislative budget proposals;
 - Review of and comment on proposed legislation;
 - Publication of an annual report;
 - Publication of annual surveys, benchmarking improvement from key stakeholder groups: victims, volunteers, correctional officers, correctional health care professionals, and inmates.
 - Development of recommendations for system improvement.¹⁷

2 Unlink the Secretary of the Florida Department of Corrections' term from the Governor's term of office.

Among many important duties, the Governor of the State of Florida has the authority to appoint executive agency heads. As is customary during gubernatorial transitions, the Governor sets the tone of administrative priorities by putting his or her own team in place in the executive agencies. This is completely within his or her prerogative and is often a highly political process.

¹⁷ These recommendations are adapted from and based upon a review of several documents, including then-Governor-Elect Rick Scott's *Law and Order Transition Team Report*, accessed at <https://www.scribd.com/doc/45759725/Segment-001-of-DOC-Transition-Report>; an ABA resolution American Bar Association, Criminal Justice Section, Report to House of Delegates, August 2008, accessed at http://www.americanbar.org/content/dam/aba/publishing/criminal_justice_section_newsletter/crimjust_policy_am08104b.authcheckdam.pdf; *Confronting Confinement: A Report of the Commission on Safety and Abuse in America's Prisons*, Vera Institute of Justice, accessed at http://www.vera.org/sites/default/files/resources/downloads/Confronting_Confinement.pdf; and the *Report and Recommendations of the 2011-2012 Florida Government Cost Saving Task Force* accessed at <http://www.floridataxwatch.org/resources/pdf/12082010GCTSF.pdf>.

However, public safety is a governmental imperative which rises above the fluctuations of politics and demands consistency and strong leadership. The Department of Corrections is an agency crying out for stability, consistent leadership and specialized, professional diligence.

The current crisis at the DOC has not occurred overnight, nor will it be remedied overnight. Even more, there have been six Secretaries appointed to the Department of Corrections over a period of eight years. It is a disservice to the public and to the people of Florida for the State not to consider putting in place a way to ensure more stability of leadership, insulated from politics.

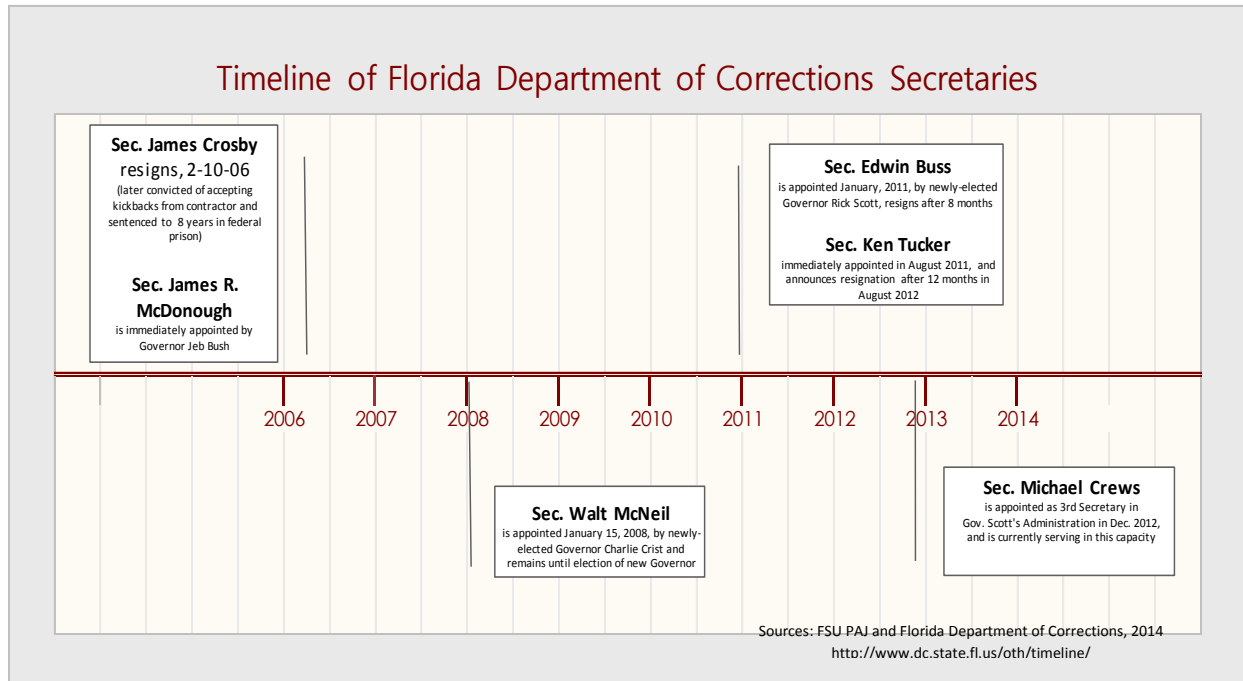
Florida should consider appointment of the Secretary of Corrections for a five-year term, a term long enough to weather the possibilities of transition disruptions, with reappointment subject to performance and merit and removal subject to performance and misconduct. One such option could have the above-mentioned Public Safety Oversight Commission (see Recommendation 1 of this paper) appoint and/or be integrally involved in the vetting, hiring and performance process. Another option would be to follow the model of the Florida Cabinet agencies, where the Governor has appointment authority with approval from the Cabinet and subject to Senate confirmation. Among these agencies are the Florida Department of Highway Safety and the Florida Department of Law Enforcement.

This longer-term process would assure appointment would be focused on long-term goals of agency performance while prioritizing the vitally important business of ensuring the safety of Floridians, both behind and outside of prison walls.

“No corporation, even in a hostile takeover situation, would ever handle transition the way we do in the states. It is as though you fired the president of a company, plus all the heads of operating divisions and the staff of the corporate central office all at once.”

—a former Governor, as quoted by the
National Governors Association in
Transition and the New Governor: A Planning Guide
<http://www.nga.org/files/live/sites/NGA/files/pdf/98OMCTTRANSITIONGUIDE.PDF>

It must be acknowledged that the soft concept of “culture”—which is the embodiment of the values, behaviors, and beliefs of an organization—is often cited as a major hurdle in organizational reform, but even more acutely so in prisons with their behind-locked-doors isolation. For Florida to seriously embrace agency improvement, it must strengthen and stabilize the leadership of the Department of Corrections. Strong, professional leadership are essential guiding organizational and cultural change



3 Participate in Justice Reinvestment Initiative—Policy makers in several states have worked across party lines and through broad stakeholder engagement to reform their correctional laws and practices through the formal consensus-driven process known as justice reinvestment (JRI).

Florida’s population of incarcerated state prison inmates is more than 100,000 (100,994 as of July 2014¹⁸) is projected to increase over the next five years.¹⁹ Currently, the price tag is more than \$2.3 billion.

¹⁸ Florida Department of Corrections, “Trends in Prison Admissions and Populations,” July 2014. Accessed on September 30, 2014, at: <http://www.dc.state.fl.us/pub/pop/monthly/index.html>

¹⁹ Florida Office of Economic and Demographic Research, “Results of Criminal Justice Estimating Conference,” July 23, 2014. Accessed on September 30, 2014 at: <http://edr.state.fl.us/Content/conferences/criminaljustice/index.cfm>

The problems and challenges of the size of Florida’s prison population is something that the State has heretofore failed to address in a systemic way. The Department of Corrections is an agency that has historically operated in response to mandated budget cuts and short-term budget fixes—and in so doing has struggled to embrace a more strategic and longer view tied to public safety outcomes. In one telling example, merely one year after closing several prisons, the Department of Corrections returned to the Florida Legislature and requested an additional \$59 million to re-open several facilities.²⁰

On the one hand, recent claims of budget cuts leading to chronic understaffing and high turnover at the Department may have contributed to the current agency-wide crisis, and should not to be ignored, particularly if they are directly impacting the agency’s ability to perform core functions. The Department has publicly cited, among challenges, difficulties in staffing, including an inability to offer comparative and competitive salaries; a failing and aging transportation fleet; severe facility maintenance issues; and less-than-state-of-the-art equipment, such as security cameras. On the other hand, simply throwing money at a problem is never a solution.

States pursuing Justice Reinvestment initiatives—and states embracing similar models of review—have been steadily improving key outcomes—like continuing crime declines and recidivism reduction through reinvestment strategies aimed to improve public safety—through a more deliberate and measured process.



<http://csgjusticecenter.org/jr/>

Technical assistance is provided by the Council of State Governments, Pew Public Safety Performance Project, Vera Institute, and other national experts. The technical assistance offers a data-driven examination of a state’s prison population and criminal justice systems, which in turn leads to informed policy and budget deliberations. Further, JRI provides a

²⁰ Bousquet, S. (2013, October 31). Florida wants to reopen prisons to house more inmates. *Tampa BayTimes*. Retrieved September 30, 2014, from <http://www.tampabay.com/news/publicsafety/crime/florida-wants-to-re-open-some-prisons-to-house-growing-inmate-population/2150125>

public platform that serves to raise public awareness of and accountability for public safety in states.

These deliberations belong in the public realm and must be driven by research and must fully account for all points in the system. The consensus process and any resulting recommendations provide solutions through a systemic and state-level lens.

Florida has considered this option before and once had in place a mechanism to bring such a body into the deliberative public policy process;²¹ however, seating of this body was stopped when the House of Representatives declined funding for staff and other needs. Anything larger than discrete policy fixes has been met with resistance—perhaps rightly so. At its worst this approach is potentially harmful as individual stakeholders' interests may supersede the public interest. It has been observed that this process must be consensus driven.

As Jeanette Moll, a researcher at the Pew Public Safety Performance Project and a former researcher at the Texas Public Policy Foundation's Right on Crime, offered at an event held in 2013 at St. Petersburg College, the need for consensus development and data review (such as exercised through JRI) for systemic overhauls cannot be understated:

"There is no state that has been successful in justice reforms without having every single entity, every single stakeholder, at the table....Everyone needs to be at the table and part of the discussion before the first line of text in a bill gets written."²²

While it is recognized that Florida is a state with its own priorities and unique challenges, Florida should not dismiss what has been learned as key to successes across state lines that result in measureable successes.

For example, Georgia—which in 2009 led the nation with 1 of every 13 adults under some form of correctional supervision²³—has undertaken a multi-year, multi-pronged process through the establishment of the Special Council for Criminal Justice Reform for Georgians.²⁴

²¹ Senate Bill 2000 was passed by the 2008 Legislature and created the Correctional Policy Advisory Council, which was never seated.

²² Jeannete Moll from March 23, 2013, joint Project on Accountable Justice/St. Petersburg College forum. See video archive of FSU Project on Accountable Justice and St. Petersburg College "Kids are Different" event at <http://iog.fsu.edu/paj/videos.html>

Early results are promising. Recently reported at a meeting of the Council:

- 7% reduction in prison population to 52,000 inmates (from 56,000, with a projection of 60,000 for 2016).
- 17% reduction of new prison commitments (from 21,600 in 2009 to 18,000 in 2013).
- 16% reduction in total state jail populations (from 44,000 to about 37,000 over the past four years.)²⁵

Commenting on the consensus process Georgia continues to employ, Governor Nathan Deal shared the following statement:

“The secret was creating the Special Council on Criminal Justice Reform. By allowing this group to bring together people from all different political leanings and all different points of view, we let them discuss recommendations before the actual introduction of legislation. So instead of waiting until a legislative session, when time gets very constrained, our council met over an entire year. And when recommendations were put forward, it took much of the pressure off the committee process and gave members of the General Assembly confidence that these ideas had been thoroughly discussed and vetted.”²⁶

Fortunately, there now exists a substantial body of research that can provide illuminating guidance in the reform of criminal justice policies and practices.²⁷ The experiences of other states show that a concerted and methodical approach to explore reinvestment strategies that work to address system shortcomings result in reductions of the prison population and to the better management of public resources. Moreover, these changes produce more successful outcomes for communities and enhance public safety. **A simple calculation using Georgia’s recent success provides some food for thought. A comparable seven-percent reduction in Florida’s prison population—or roughly 7,000 prisoners—could save the state more than \$120,000,000 annually.**²⁸

²³ Pew Center on the States. *One in 31: The Long Reach of American Corrections*, 2009. Accessed on September 30, 2014 at http://www.pewtrusts.org/~media/legacy/uploadedfiles/pcs_assets/2009/PSPP1in31reportFINALWEB32609pdf.pdf

²⁴ HB 265 was passed by the Georgia Assembly in 2011, creating a Special Joint Committee on Criminal Justice Reform, which was later extended by Governor Nathan Deal’s Executive Order. See: HB 265 at: <http://www.legis.ga.gov/legislation/en-US/display/32806> and Executive Order at: http://gov.georgia.gov/sites/gov.georgia.gov/files/imported/vgn/images/portal/cit_1210/42/0/18549517305_24_12_02.pdf

²⁵ Klein, M. Georgia Public Policy Foundation. “Getting Smart on Crime Puts Georgia Ahead.” September 12, 2014. Accessed on September 30, 2014, at: <http://www.georgiapolicy.org/getting-smart-on-crime-puts-georgia-ahead/#aVO4Q>

²⁶ Pew Public Safety Performance Project. *Leading on Public Safety: 4 Governors Share Lessons Learned from Sentencing and Corrections Reform*, 2013. Accessed on September 30, 2014 at http://www.pewtrusts.org/~media/legacy/uploadedfiles/pcs_assets/2013/PewPSPPGovernorsQA.pdf

²⁷ Likely the most comprehensive analysis of the research to date examining the explosive growth of incarceration in the U.S. was released in May 2014 by the National Research Council. Among the summary findings: the increase in incarceration may have caused a decrease in crime, but the magnitude of the reduction is highly uncertain; the incremental deterrent effect of increases in lengthy prison sentences is modest at best. See: National Research Council, *The Growth of Incarceration in the United States: Exploring Causes and Consequences*. Available at http://www.nap.edu/openbook.php?record_id=18613&page=R1

²⁸ Florida Department of Corrections 2012-2013 annual per inmate cost of \$17,388 x 7,000 (7 percent of total 100,000 inmate population)=\$121,366,000.

The Elephant in the Room: The Cost and Care of Housing Florida's Aging and Elderly Prisoners

Florida prisons are on a steady trajectory to become the world's largest nursing homes, holding thousands of aging and infirm prisoners—a destination never intended. Currently, the percentage of prisoners aged 50+ is roughly 20% of the total inmate population, with projections of this population growing.

Numerous requests for raw data were made by the authors and other research partners at the Claude Pepper Center at Florida State University for a period of more than a year to the DOC in order to examine Florida's state prison population more fully, including detailed historical demographic, medical, and offense information for a joint study. These data are still being sought. In the absence of this detailed information, it is difficult to estimate the potential effect, cost savings, and the efficacy of different policy and administrative recommendations with specificity. However, the partners have identified several acute challenges, including expense and safety, Florida faces in meeting the constitutional threshold of health care to this growing and aging segment of Florida's state prison population.

A fundamental question is whether Florida will opt into Affordable Care Act (ACA) participation, which answers to what extent the cost of care for a growing aging population of prisoners may be shifted away from the state budget, were Florida to begin a more concerted effort to examine and expand release mechanisms. Moreover, Florida must ensure first that any alternatives considered—including expanded supervision options—would keep Floridians safe. Florida must also continue to examine the state's movement to privatize medical services, which raises questions of system stability, service limitations, and quality of care, particularly highlighted through recent media attention. There are any number of potential changes Florida may wish to undergo—expanding compassionate/medical parole, intermediate sanctions such as house arrest and electronic monitoring, development of new models of care. But the state must first acknowledge the situation, and then look to build consensus going forward.

Rill, L., Polivka, L., Manguso, M., and Brodsky, D. (2014). *The Silver Tsunami: Florida's Rapidly Aging Inmate Population*. Manuscript Submitted for Publication.

4 **Begin a multi-year, measureable effort to "right the ship" through a comprehensive strategic plan to support and advance the professionalism and culture of Florida correctional officers.**

Throughout the past several months of scrutiny, the Department of Corrections has maintained that it is only the few—or dozens—of individuals who are directly responsible for instances of inappropriate and excessive force and abuse of inmates. In this observation the Department is right to voice a defense of the thousands of dedicated and responsible men

"When you are given the responsibility of guarding the public trust it is an awesome duty...there is no greater sin for a public official (of which we all are) than to violate the trust placed in us. There is no such thing as being 'a little corrupt.'"

Then-Assistant Secretary of Institutions George Sapp, 2007
<http://www.dc.state.fl.us/oth/timeline/2007.html>

and women against the infection of a “few bad apples.” The Department has also been right to take immediate actions to address identified problems.

There is no question that the Department of Corrections employs thousands of honorable and dedicated correctional professionals across the state. However, the infection of even a few results in a tyranny of the minority, casting a dark shadow over the entirety of the agency.

The system itself has become complacent to—and thereby complicit with—acts of dishonor, cruelty, and corruption. Continuing attempts to isolate and remove the acute problems identified in the system still fall short of addressing larger issues of organizational culture.

As such, there are opportunities to put in place mechanisms that underscore the value of and enormity of responsibility presented in the daily work of correctional officers in a difficult environment.

Even under the best of circumstances, the job of a correctional officer is personally and professionally difficult and potentially dangerous. The conditions that prisoners face are also the conditions that correctional officers face—the same institutions that have no air conditioning also house the men and women who show up to work every day as correctional officers. Correctional officers must manage large populations of criminally convicted individuals who have been placed under the care of the state against their control or will.

In much the same way that prisons more generally are insular, the window into the observable behaviors and characteristics of correctional officers is blurry. However, increasing the application of social science research and performance measurement within

**Florida Department of Corrections
Code of Conduct**

- I. I will never forget that I am a public official sworn to uphold the Constitutions of the United States and the State of Florida.
- II. I am a professional committed to the public safety, the support and protection of my fellow officers, and co-workers, and the supervision and care of those in my charge. I am prepared to go in harm's way in fulfillment of these missions.
- III. As a professional, I am skilled in the performance of my duties and governed by a code of ethics that demands integrity in word and deed, fidelity to the lawful orders of those appointed over me, and, above all, allegiance to my oath of office and the laws that govern our nation.
- IV. I will seek neither personal favor nor advantage in the performance of my duties. I will treat all with whom I come in contact with civility and respect. I will lead by example and conduct myself in a disciplined manner at all times.
- V. I am proud to selflessly serve my fellow citizens as a member of the Florida Department of Corrections.

<http://www.fldocjobs.com/index.html>

the Department of Corrections has the potential to improve overall system effectiveness. Broadly speaking, the literature in this area is slim in answer to the question, What makes a good correctional officer, beyond difficult to measure, but certainly observable features such as maturity, trustworthiness, and respect for the weight of the duty—the very qualities embraced in the Department of Corrections’ Code of Code of Conduct. But the reality is, the sheer number—more than 15,000—of institutional correctional officers needed to staff Florida’s prisons makes answering this task an immense challenge.

However, on one extreme end of the spectrum—recent research has begun to identify patterns in “deviant” behaviors from the field. Identification of the “bad apples” in a system as large as the Florida DOC is an imperative, and, as suggested in the research, there are mechanisms to reduce the likelihood of occurrence and reoccurrence.²⁹ Many of these protections and safeguards are already in place, and, at a minimum would benefit from external monitoring and refined data collection.

Perhaps a better framework to discuss organizational improvements through personnel begins instead with a more systemic question: Can we enhance the DOC’s processes to attract, hire, retain, and promote the highest caliber of correctional officers across Florida? As the Commission on Safety and Abuse in America’s Prisons reported as a key finding in 2006, “Better safety inside prisons and jails depends on changing the institutional culture, which cannot be accomplished without enhancing the corrections profession at all levels.”³⁰

The areas identified below are options to consider just as the Commission suggested: to underscore the critical importance of providing support for, encouragement to, and facilitating the success of Florida’s correctional officers.

- Minimum education requirement for correctional officers. Currently the minimal requirement for a correctional officer is high school degree, or its equivalent, while probation officers must hold a bachelor’s degree. A criminal justice incentive pay program is already in place to allow for up to \$130 per month for post-secondary education, career development and advanced

²⁹ See: Ross, J.I. (2013). Deconstructing Correctional Officer Deviance: Toward Typologies of Actions and Controls. *Criminal Justice Review*, 38(1), 110-126.

³⁰ Gibbons, J. and Katzenbach, N. Confronting Confinement: A Report of the Commission on Safety and Abuse in America’s Prisons. 2006. Vera Institute of Justice. Accessed at: http://www.vera.org/sites/default/files/resources/downloads/Confronting_Confinement.pdf

training.³¹ To what extent is this being encouraged and utilized, particularly for attaining post-secondary degrees? If not, why not? Are there degrees and educational paths that would encourage more pro-social interaction between inmates and correctional officers?

- Minimum age for hire. Currently in Florida, the minimum hiring age for correctional officers is 19. Looking at other states, this number varies greatly. Has Florida examined this hiring minimum? Does the state review patterns of misconduct in relation to age and experience?³²
- Selection process. Is there sufficient screening in place? Just as the science of actuarial risk assessment is strong and growing across criminal justice—and in hiring more generally—could Florida benefit from more employing additional screening tools?
- Voluntary early buyout program for correctional officers and leadership based upon age and/or length of service. Prison work life is stressful and a system that is undergoing change may add to this stress, and compound prison burnout. Would an option for employees looking for a change in a time of many changes be welcome?
- Centralized training academy for community supervision and correctional officers to ensure consistency and encourage a positive culture. Prisons are like cities unto themselves and, as mentioned throughout this paper, remain very isolated. Officer training presents opportunity more than merely covering a common curriculum. It is also an opportunity to reinforce a common understanding of core values and expectations. As the training has become increasingly fragmented, has the state diluted the potential to encourage a shared thread of culture and camaraderie across the agency?
- Regular transfers of all institutional staff at or above the Captain level as well as civilian staff in leadership positions. Increasing the interaction of leadership across the system may decrease the likelihood of inflexibility and isolation. Fresh leadership may help to build and bridge a more consistent positive culture statewide, bringing new ideas and fresh eyes to the historically isolated prison system. Would a process of regular rotation bring benefits?
- Step pay plan that contains benchmarks in order for each step to be awarded. Is there a sufficient plan in place to recognize the value of, and encourage and reward the stability of employees who reflect the ideals of the Department of Corrections' mission and goals?

5 Expedite the implementation of performance measurement and management.

Throughout this paper, recommendations underscore the need for accountability and measurement across the Florida Department of Corrections. It is difficult to evaluate the effectiveness of any system without a robust way of measuring performance. For the purpose of this paper, "performance measurement" refers to an ongoing method of

³¹ Florida Department of Corrections, State of Florida employment Benefits, at: <http://fldocjobs.com/benefits/occupations.html>

³² Cursory research found the following variances in minimum age requirements across the country: age 18—Georgia, Louisiana, Mississippi South Dakota; 19—Alabama and Florida; 20—North Carolina; 21—California, Kentucky, Maryland, New York City. The Federal Bureau of Prisons does not have a minimum age requirement, but its educational /and or experiential requirements of a four-year degree or 3 years supervisory experience raise the minimum standard.

monitoring/reporting on a program/agency's progress made toward achieving established goals.

Further, performance measurement provides an understanding of what an agency/program is trying to accomplish and a methodical way to benchmark progress. Performance measurement is fundamentally vital to advancing the health of organizations. Simply, without measuring results, success is indistinguishable from failure. Without understanding what success and failure looks like, it is impossible to learn from, to duplicate or eliminate, or, as appropriate, to reward.

This is not to say that the Florida Department of Corrections, or for that matter, the State of Florida, does not already collect and report on its data. That would be untrue.

The fact is that Florida already collects, and in a variety of capacities and forms, publicly reports on literally millions of pieces of data collected in the everyday operation of Florida corrections. However, the collection and sharing of such information may be refined and strengthened so as to support agency and state priorities as well as to ensure public engagement in and accountability of corrections. It is a constructive way to bridge the accountability gap between the agency, currently under strain and criticism, and the public.

A quick review, for instance, of the Department's Performance Dashboard³³ illustrates one place to review the level at which data is collected and reported. The implementation of such a measurement system is to be commended. However, it is not clear how the information gathered within the department, publicly reported in this capacity, is leveraged to achieve agency goals and inform public policy and budget policy decision making more broadly. The Dashboard itself is also incomplete and has remained so for a period of monitoring over the past year. Additionally, it is still not known to what extent were the measurements vetted and reviewed beyond the agency. These observations of this system are merely offered as examples of where, perhaps, more public engagement and oversight would benefit the DOC and the public more broadly.

³³ Florida Department of Corrections. Performance Dashboard accessed at: <http://www.dc.state.fl.us/pub/perfmeas/index.html>

This paper will not enumerate the places across the system where an injection of performance metrics could advance both more limited agency goals, but additionally advance public safety statewide.

Instead, the recommendation here is to use the opportunity of external oversight, particularly found through the creation of a Public Safety Oversight Commission, to advance the goals of the Florida Department of Corrections and public safety more broadly through the continued development of a robust, standardized system of regularly reported (suggest quarterly) performance measures.

Going Forward: Public Trust and Confidence in the Florida Department of Corrections

Recent research by Professors at Florida State University and Florida Atlantic University examined whether public scandal in corrections departments has an impact on the public's perception of agency effectiveness. This research leveraged the high profile 2006 Florida DOC scandal which led to former Florida DOC Sec. Jimmy Crosby's 8-year sentence to federal prison. This analysis found that public opinion was not affected by news of the scandal.

This finding in isolation could be discouraging to someone who has any interest in the effectiveness and societal expectations of prisons. However, the authors made several additional key observations that can inform next steps:

- 1) The public more generally (not specific to Florida and to this study) has little confidence in the effectiveness of prisons in meeting goals of punishment and rehabilitation.
- 2) The public's lack of responsiveness to this scandal suggests a gap in accountability; that is, if the public does not care what happens, then the agency may operate with impunity and with no expectations or consequences for performance and behaviors.
- 3) The public may know little about prisons, which also suggests a gap in accountability; that is, with little knowledge of what should be occurring in prisons, then how would the public know to demand anything else?

The researchers suggest the following as potential remedies going forward, which support the recommendations of this paper: increasing research that improves objective measurement and annual publication of performance trends and public opinion.

Mancini, C. and Mears, D. (2013). The Effect of Agency Scandal Toward Public Views of the Correctional System. *Criminal Justice Review*, 38(1), 5-28.

Conclusion

Prisons have multiple purposes: punishment, incapacitation, deterrence, and rehabilitation. Each of these enumerated goals must be met at some level by the State in meeting and sustaining a safe, effective, and balanced justice system. But the decisions on the extent to which these goals are met cannot be left to individual correctional officers, or even wardens.

As detailed in this report, increased attention to our Florida Department of Corrections, through external oversight, through public engagement, through enhancing the professionalism of correctional officers, and through robust performance measurement can bring with it multiple benefits.

Though culpability must be identified down to the individual level in instances of criminal misconduct and abuse, ultimately it is the State of Florida that is responsible for the care of prisoners.

For this to be accomplished, however, mechanisms must be implemented that not only enhance the environment for incarcerated individuals, but also for the men and women who are employed by the Department of Corrections and its contractors. Florida must do better and must act to promote a system that supports rehabilitation through more public accountability and is driven by professionalism of its correctional team. It is time for the State to develop a methodical, measureable and sustained plan to reverse a prison system in crisis

“What happens inside jails and prisons does not stay inside jails and prisons. It comes home with prisoners after they are released and with corrections officers at the end of each day’s shifts. We must create safe and productive conditions of confinement not only because it is the right thing to do, but because it influences the safety, health, and prosperity of us all.”

Vera Institute of Justice

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