



**FLORIDA
DEPARTMENT OF CORRECTIONS**

**Research
Report**

138328

**Bureau of Planning,
Research & Statistics**

138328

138328

**U.S. Department of Justice
National Institute of Justice**

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this copyrighted material has been granted by

Florida Department of
Corrections

to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the copyright owner.

**MANDATORY MINIMUM SENTENCING
IN FLORIDA:**

**PAST TRENDS AND FUTURE
IMPLICATIONS**

NCJRS

AUG 31 1992

ACQUISITIONS

February 11, 1991

A major trend effecting Florida's correctional system over the past decade is the growing use of mandatory minimum sentences for specified types of offenders. Sentencing offenders to mandatory minimum terms of imprisonment is an effective method of preventing the use of early release mechanisms and therefore ensuring that offenders serve a major portion or the entirety of the court imposed sentence. Mandatory minimum sentencing options are made possible by legislative initiatives and executed at the discretion of the local judicial system to serve their agenda of longer terms of incarceration. However, they have the countervailing effects of guaranteeing long incarcerative stays for a portion of the inmate population while shrinking the pool of early release eligible inmates. This has the effect of further reducing the lengths of prison terms for most prison releases.

Changes in state punishment policy and local judicial practices in the 1980's will have ramifications to Florida's correctional system through the next decade and beyond. The long term effect of mandatory minimum sentencing laws is unknown and not fully planned for when the policy is put in place. Some argue that policy makers typically ignore the extended cumulative effects of legislation which enables the use of mandatory minimum sentencing (Petersilia and Greenwood 1978, p.612). The most obvious result of increases in the use of mandatory minimum sentencing is the accumulation of long term inmates requiring additional prison beds and the compounding expenditures necessary for imprisonment.

This paper will demonstrate the length of time various types of mandatory minimum inmates will serve, the consequential need for additional prison beds, and the composite cost of incarceration. Discussed are the historical use of various forms of mandatory minimum sentencing in Florida and the effect the use of these sentencing forms have had on the correctional system.

TYPES OF MANDATORY MINIMUM SENTENCES

Mandatory minimum sentences effect the earning or application of three types of gaintime, one form of early release credits (i.e., credits applied to the sentence to keep the prison population within the court imposed capacity), and early release through the Control Release Authority. Basic gaintime is applied on the day an inmate enters the prison system and reduces sentences by one third. Incentive gaintime is earned at a maximum rate of 20 days for each month served as a result of good behavior, engaging in self improvement programs, and prison employment. Meritorious gaintime awards up to 60 days can be made for performing outstanding deeds. Provisional Credits (PCs) are early release credits used to maintain the inmate population within legal limits. PCs were awarded at a rate of 60 days per month for the period January to June, 1990. The Control Release Authority can establish early release dates for those inmates statutorily eligible. Mandatory minimum sentences can make inmates statutorily ineligible for this form of early release during a portion or the entirety of their sentence.¹

There are three types of sentences available to Florida's judiciary which can be considered mandatory minimum sentences. First, sentences in which the offender is denied any type of gaintime, early release credits, or Control Release until the mandatory portion of a sentence has been satisfied. The second type of mandatory minimum sentence occurs when the offender is eligible for gaintime or credits but awards cannot reduce the mandatory minimum portion of the sentence. In these cases, gaintime and credits may be awarded during the mandatory period of the sentence, however, the prison release date cannot be set prior to the ending of the mandatory period. The third type occurs when a prison sentence is mandated by statute for a conviction of a specified crime, however, the earning of gaintime or early release credits is not prohibited nor is a specified portion of the sentence to be served mandated.² This paper will focus only on the first and second types of mandatory minimum sentences which increase the length of time served in prison relative to a non-mandatory minimum inmate with the same sentence length.

There were eleven different types of mandatory minimum sentences available to the Florida judiciary as of December 31, 1990. A brief description of these sentencing alternatives are presented here.

1. **Capital Offenses** - F.S. 775.082(1) - Enacted 1972: Life with a 25 year mandatory minimum term for capital crimes for which the death penalty was not meted out. Only Incentive gaintime can be earned, however, the length of sentence is not reduced as a result.
2. **Firearm in Commission of a Felony** - F.S. 775.087(2)(a)(1),(2) - Enacted 1975: Mandatory minimum term of imprisonment of 3 years for use of a firearm or destructive device in the commission or attempted commission of certain enumerated crimes (murder, sexual battery, robbery, burglary, arson, aggravated assault, aggravated battery, kidnapping, escape, breaking and entering with intent to commit a felony, aircraft piracy, battery on a law enforcement officer). No forms of gaintime, credits (PC), or Control Release is allowed during the mandatory period.³
3. **Drug Trafficking** - F.S. 893.135 - Enacted 1979: Mandatory minimum periods of 3,5,10,15, and 25 years for drug trafficking depending on the type and amount of drug involved. Basic and Incentive gaintime are allowed during the mandatory term, while credits or Control Release are available only after the service of the mandatory term.⁴
4. **Habitual Felony Offender** - F.S. 775.084(1)(a) - Enacted 1971, amended 1988: Sentence length of life for a first degree felony (normal maximum is 30 years), up to 30 years for a second degree felony (normal maximum is 15 years), and up to 10 years for a third degree felony (normal maximum is 5 years). While there is no mandatory period, Basic gaintime, credits, and Control Release are not allowed for the entire term of incarceration, while Incentive gaintime can be earned during the entire sentence.⁵
5. **Habitual Violent Felony Offender** - F.S. 775.084(1)(b) - Enacted 1988: These inmates are not eligible for release from prison for 15 years for a first degree felony, 10 years for a second degree felony, and 5 years for a 3rd degree felony. Only Incentive gaintime can be earned, however, it cannot reduce the mandatory term of incarceration.⁶
6. **Selling Drugs Within 1,000 Feet of a School** - F.S. 893.13(1)(e) - Enacted 1989: Mandatory minimum term of imprisonment of 3 years for the sale, purchase, manufacture, delivery, or possession with intent to sell heroin, opium, cocaine, and other specified drugs within 1,000 feet of any elementary, middle, or secondary school. No forms of gaintime, credits, or Control Release are allowed during the mandatory term.
7. **Drug Continuing Criminal Enterprise** - F.S. 893.20 - Enacted 1989: Mandatory minimum term of imprisonment for life or a term of no less than 25 years for engaging in a drug related continuing criminal enterprise. Non-life sentences under this statute are denied only credits during the mandatory term. Life sentences are

denied Basic gaintime, credits, or Control Release but can earn Incentive gaintime which does not reduce the mandatory term of incarceration.

8. **Semi-Automatic Firearm/Machine Gun** - F.S. 775.087(2)(a)(1),(2) - Enacted 1989: Mandatory minimum term of imprisonment of 8 years for the use or possession of a semiautomatic firearm with a high capacity detachable box magazine or a machine gun in the commission or attempted commission of certain enumerated crimes (crimes included in the Firearm in Commission of a Felony statute plus the sale, manufacture, delivery, purchase, or possession with intent to distribute any controlled substance). No forms of gaintime, credits, or Control Release are allowed during the mandatory period.
9. **Violence Against Criminal Justice Officers** - F.S. 775.0823 - Enacted 1989: Mandatory minimum terms of imprisonment of 1,3,10,15 or 25 years or life without parole if certain enumerated crimes are committed against a law enforcement or correctional officer, state attorney, assistant state attorney, judge or justice. The crimes include: first, second or third degree murder, manslaughter, kidnapping, aggravated battery, or aggravated assault. Gaintime can be earned, however, it cannot enable prison release prior to the expiration of the mandatory term. Credits and Control Release are disallowed for the entire term of imprisonment.⁸
10. **Taking Firearm From Law Enforcement Officer** - F.S. 775.0875 - Enacted 1989: Mandatory minimum term of imprisonment of 3 years for taking a firearm from a law enforcement officer. Gaintime and credits can be earned, however, the offender must serve the entire mandatory term before release.
11. **Selling Drugs Within 200 Feet of a Public Property or Colleges** - F.S. 893.13(1)(i) - Enacted 1990: Punishable up to 30 years in prison without eligibility for early release credits, Control Release or Basic gaintime for sale, purchase, manufacture, delivery, or possession with intent to sell heroin, opium, cocaine, and other specified drugs within 200 feet of a public housing facility, public or private college, university, or other postsecondary educational institution, or any public park.

The increasing popularity of making mandatory minimum sentencing options available to the local judiciary is evidenced by the fact that seven of the eleven types described here were enacted by the legislature during 1988, 1989, and 1990 and one of the existing laws (habitual offenders) was enhanced considerably in 1988 by eliminating eligibility for Basic gaintime earnings.

MANDATORY MINIMUM SENTENCING AND THE LENGTH AND COST OF IMPRISONMENT

Inmates released from Florida's prisons currently serve, on average, 33% of the sentence meted out by the judiciary based on releases during June, 1990 (CJEC August 1990, p.23). This is a result of the earning and awarding of gaintime and PCs at considerable levels.¹⁰ Restricting the use of any of these mechanisms necessary to accelerate prison release can substantially increase the length of imprisonment.

Table 1 summarizes the restrictions on sentence reduction methods resulting from mandatory minimum sentences. Basic gaintime, which reduces the prison term by one-third upon entering prison, is prohibited or cannot reduce the service of the mandatory period in nine of the ten types of mandatory sentences. Only Drug Traffickers earn Basic gaintime outright. Incentive gaintime, earned at a maximum rate of 20 days per month served, is less likely to be restricted by mandatory sentencing. However, the length of imprisonment relative to a given sentence is less effected by this form of gaintime or PCs. Assuming Basic gaintime is applied, PCs are awarded at a rate of 60 days per month, and no jail credit is earned, the maximum a sentence can be reduced via Incentive gaintime is 12.2%. On a 5 year sentence, this translates into earnings of 7.3 months of Incentive gaintime, 19.7 months of Basic gaintime and 21.9 of PCs, for a total sentence reduction of 48.9 months.

Mandatory minimum sentences have significant impact on lengthening time served in prison due to the universal restrictions they place on the awarding of PCs and early release through the Control Release Authority. All forms of mandatory sentences infringe on the availability of these types of early release mechanisms necessary to maintain the prison population within court imposed limits. Five of the ten types of mandatory terms make offenders ineligible for PCs or Control Release for the entire term of their incarceration.

The effect mandatory minimum sentences have on the length of imprisonment, the percentage of sentence served, and the cost of incarceration is illustrated in Table 2. There are important differences in the length of prison stays and the costs associated with longer terms of incarceration when

mandatory minimum sentences are meted out. The most dramatic illustration of this fact is evidenced in a comparison of offenders sentenced to 25 year sentences with and without mandatory terms. An offender sentenced to 25 years without a mandatory term would serve 7.7 years in prison (30.7% of the sentence) at a cost of \$162,920. In contrast, a 25 year sentence with a mandatory minimum provision handed out today will result in a total expenditure of \$1.26 million. Mandatory minimum sentences of 25 years comprise a minimal portion of all prison admissions (0.41% during FY 1989-90). However, the 179 such admissions during FY 1989-90 will ultimately cost the state \$227 million.

The more common sentence length of three years (60.0% of all admissions in FY 1989-90) without a mandatory minimum term will result in incarceration of less than one year at a cost of \$13,419. Five of the seven mandatory minimum sentence types which can receive three year sentences would serve the entire three year term at a cost of \$49,742. If the 1,551 inmates (see Table 3) who entered prison during FY 1989-90 with any of these five mandatory minimum sentences were given three year sentences, a total of \$77.1 million would be required for their incarceration. The same number of non-mandatory minimum three year sentences would cost \$20.8 million.

An inmate entering prison with a ten year sentence will typically serve a 3.1 year term at a cost of \$51,757. If the inmate is sentenced as an habitual offender (non-violent or violent), the length of incarceration increases to 7.5 years at a cost of \$157,142. If all habitual offenders received 10 year sentences, it would cost the state \$305.8 million to imprison the 1,946 inmates statutorily designated as habitual offenders in FY 1989-90 compared with a price tag of \$100 million if they had not been sentenced under a mandatory minimum term.

Table 1: Gaintime and Provisional Credit/Control Release Eligibility for Inmates Sentenced Under Mandatory Minimum Sentences

	<u>Basic Gaintime</u>	<u>Incentive Gaintime</u>	<u>Control Release/ Provisional Credits</u>	<u>Meritorious Gaintime</u>
Capital Offenses	No	Yes ^a	No ^b	Yes ^a
Firearm in Commission Felony	No ^b	No ^b	No ^b	No ^b
Drug Trafficking	Yes	Yes	No ^b	Yes
Habitual Offender ^e	No	Yes	No	No
Habitual Violent Offender	No	Yes ^c	No	No
Sell Drugs 1,000 Ft School	No ^b	No ^b	No ^b	No ^b
Drug Continuing Enterprise	Yes ^d	Yes ^d	No ^b	Yes ^d
Semi-Automatic Firearm	No ^b	No ^b	No ^b	No ^b
Violence C.J. Officer	Yes ^c	Yes ^c	No	Yes ^d
Firearm From Law Officer	Yes ^c	Yes ^c	Yes ^c	Yes ^c
Sell Drugs 200 Ft Public	No	Yes	No	Yes

If "No" is indicated, gaintime and/or Provisional Credits/Control Release cannot be earned during the entire term of imprisonment unless otherwise specified.

- a. While gaintime can be earned, it has no effect on life sentences.
- b. Ineligibility exists during the mandatory portion of the sentence only.
- c. Gaintime and/or Provisional Credits can be earned during the mandatory portion of the sentence, however, the inmate must serve the time specified by the mandatory term before release from prison.
- d. If a life sentence is imposed, Basic gaintime is not awarded and the earning of Incentive gaintime cannot reduce the term of imprisonment.
- e. This describes Habitual Offenders with offense dates on or after October 1, 1988. Habituals with offenses prior to this date are eligible for Basic gaintime earnings.

Table 2: The Effect of Mandatory Minimum Sentencing on the Length of Time Served in Prison, Percent of Sentence Served, and Cost of Incarceration Per Inmate

	3 Year Sentence			10 Year Sentence			25 Year Sentence		
	Years Served	% Sent Served	Cost of Prison	Years Served	% Sent Served	Cost of Prison	Years Served	% Sent Served	Cost of Prison
No Mandatory	0.9	30.7%	\$13,419	3.1	30.7%	\$51,757	7.7	30.7%	\$ 162,920
Capital Offenses	n/a	n/a	n/a	n/a	n/a	n/a	25.0	100.0	1,268,390
Firearm In Commission Felony	3.0	100.0	49,742	5.8	58.4	111,378	12.3	49.2	327,958
Drug Trafficking	1.4	46.0	21,528	4.6	46.0	83,152	11.5	46.0	294,643
Habitual Offender	2.3	75.3	36,942	7.5	75.3	157,142	18.8	75.3	694,690
Habitual Violent Offender	3.0	100.0	49,742	7.5	75.3	157,142	19.3	77.2	731,611
Sell Drugs 1,000 Ft School	3.0	100.0	49,742	5.2	51.5	96,843	9.8	39.0	230,429
Drug Continuing Enterprise	n/a	n/a	n/a	n/a	n/a	n/a	25.0	100.0	1,268,390
Semi-Automatic Firearm	n/a	n/a	n/a	8.6	86.2	190,463	13.2	52.9	368,090
Violence C.J. Officer	3.0	100.0	49,742	10.0	100.0	237,274	15.0	60.0	457,429
Firearm From Law Officer	3.0	100.0	49,742	3.1	30.7	51,757	7.7	30.7	162,920
Sell Drugs 200 Ft Public	2.3	77.2	36,942	7.7	77.2	162,920	19.3	77.2	731,611

NOTE: See note 9 for a detailed description of how the figures in this table were derived.

HISTORICAL TRENDS OF MANDATORY MINIMUM SENTENCING

Table 3 presents trend data reflecting the number of inmates entering prison in the 1980's who received mandatory minimum sentences. Over the entire period, there was a 552% increase in the number of inmates entering prison each year with a mandatory minimum sentence (699 to 4,556), with an average annual increase of 22.8%. Significant increases in total new inmates with mandatorics occurred from FY 1979-80 to FY 1982-83 (+888,+127.0%). This was followed by a leveling of mandatory admissions from FY 1982-83 to FY 1984-85 (-77,-4.9%), then a significant increase from FY 1984-85 to FY 1986-87 (+689,+45.6%). Another level period occurred between FY 1986-87 and FY 1987-88 (-28,-1.3%). In the final two year period of the decade, the correctional system experienced a dramatic influx of inmates with mandatory minimum sentences (+2,385,+109.9%). The highest one year change occurred between FY 1988-89 and FY 1989-90 when inmates with mandatory minimum sentences increased by 72.2%, to a level of 4,556 per year.

Table 3 depicts moderate growth in prison admissions for capital offenses with 25 year mandatory minimum terms. The average annual growth was 10.2% over the ten year period, however, the number has been relatively stable during the recent five years, ranging from a low of 156 in FY 1988-89 to a high of 189 in FY 1985-86. Changes in the number of inmates with mandatory minimum sentences for possessing a firearm in the commission of a felony follows a pattern similar to that described above. The peak year was FY 1989-90 when 1,260 firearm mandatory minimum sentenced inmates entered prison. Drug traffickers with mandatory minimum provisions increased dramatically from FY 1979-80 to FY 1986-87 (4 to 1,007). However, during the period FY 1986-87 to FY 1989-90, the number of drug offenders sentenced under mandatory minimum provisions has remained stable (ranging from 1,007 to 1,086).

The most dramatic change in mandatory minimum sentencing in Florida during the 1980's was the increase in felons sentenced as habitual offenders. Between FY 1979-80 and FY 1987-88, annual habitual offender admissions increased from 21 to 41. The number of habituals entering prison during FY 1988-89 reached 290 and then increased to 1,804 in FY 1989-90. In

addition, those inmates sentenced under the habitual violent offender statute increased from 28 during the first year of availability in FY 1988-89 to 142 during FY 1989-90.

Increases in the use of mandatory minimum sentences in the 1980's, especially during the past two years, coupled with the already demonstrated long terms of prison confinement, have resulted in significant increases in mandatory minimum offenders in the status population. Table 4 reveals that in just over two years, from March, 1988 to June, 1990, the number of existing inmates who entered prison under mandatory minimum sentences increased from 8,165 to 11,787, a 44.4% increase. This compares to a 24.7% increase in the non-mandatory minimum inmate population. On average, the mandatory minimum population increased by 405 inmates per quarter, a increase of 4.2%. During this relatively short period of time, the percent of the population under a mandatory minimum sentence steadily increased from 24.8% to 27.6%.

DISCUSSION AND CONCLUSIONS

The combination of court ordered capacity limits, dramatic increases in prison admissions, and moderate rises in prison construction has resulted in the early release of thousands of Florida prison inmates. The legislature, judiciary and the public at large have become dismayed with the decreasing percent of sentence served in prison and the rapid return of prisoners back to their communities. This situation has fueled legislation making mandatory minimum sentencing a more viable option for the courts to employ as a means of keeping felons in prison longer. Additionally, pressure by the public to keep offenders in prison longer has moved prosecutors and judges to use mandatory sentences at an ever-increasing rate.

While the mandatory sentencing practices serve the meaningful agendas of local officials, they have the effect of creating a significant subpopulation of long term prison inmates. The data presented in this paper suggests that the mandatory minimum population will continue to grow at a potentially significant rate during the 1990's. Expenditure data indicates that incarcerating mandatory minimum inmates will cost substantially more than their non-mandatory counterparts.

The negative aspect of this ever increasing mandatory minimum population is that the number of new inmates eligible for early release will decline, resulting in fewer of the incoming inmates being released early. However, the term of incarceration for those eligible inmates will be reduced further as their numbers decline. Such a situation can lead to even more public disapproval which has been a causal factor in the influx of mandatory minimum sentences over the past several years.

Table 3: Florida Prison Admissions With Mandatory Minimum Sentences During Fiscal Years 1979-80 to 1989-90

	1979-80	1980-81	1981-82	1982-83	1983-84	1984-85	1985-86	1986-87	1987-88	1988-89	1989-90
Capital Offenses	84	70	117	106	116	142	189	183	169	156	179
Firearm in Commission Felony	590	718	1,032	1,093	834	705	888	976	895	1,087	1,260
Drug Trafficking	4	25	179	333	548	597	679	1,007	1,066	1,086	1,022
Habitual Felony Offender	21	18	25	55	59	66	76	33	41	290	1,804
Habitual Violent Felony	0	0	0	0	0	0	0	0	0	28	142
Sell Drugs 1,000 Feet School	0	0	0	0	0	0	0	0	0	0	144
Violence C.J. Officer	0	0	0	0	0	0	0	0	0	0	5
Total Mandatories	699	831	1,353	1,587	1,557	1,510	1,832	2,199	2,171	2,647	4,556
Annual Change		+132	+522	+234	-30	-47	+322	+367	-28	+476	+1,909
Annual Percent Change		+18.9%	+62.8%	+17.3%	-1.9%	-3.0%	+21.3%	+20.0%	-1.3%	+21.9%	+72.1%
Total Admissions	8,067	9,296	12,341	13,313	11,550	13,513	16,360	22,218	29,616	38,975	43,159

NOTE: See note 11 for how sentences with multiple mandatory provisions were defined.

Table 4: Prison Populations Under Mandatory Minimum Sentences: March, 1988 to June, 1990

	<u>Mar</u> <u>1988</u>	<u>Jun</u> <u>1988</u>	<u>Sep</u> <u>1988</u>	<u>Dec</u> <u>1988</u>	<u>Mar</u> <u>1989</u>	<u>Jun</u> <u>1989</u>	<u>Sep</u> <u>1989</u>	<u>Dec</u> <u>1989</u>	<u>Mar</u> <u>1990</u>	<u>Jun</u> <u>1990</u>
Capital Offenses	1,483	1,523	1,559	1,589	1,621	1,664	1,699	1,734	1,784	1,836
Firearm in Commission Felony	4,473	4,503	4,752	4,743	4,778	4,912	4,930	4,999	5,078	5,160
Drug Trafficking	1,955	2,027	2,069	2,111	2,172	2,242	2,259	2,317	2,337	2,333
Habitual Felony Offender	254	261	297	313	353	534	842	1,225	1,719	2,177
Habitual Violent Felony	0	0	0	54	35	51	69	78	117	165
Sell Drugs 1,000 Feet School	0	0	0	0	0	0	0	40	73	111
Violence C.J. Officer	0	0	0	0	0	0	0	0	0	5
Total Mandatories	8,165	8,314	8,677	8,810	8,959	9,403	9,799	10,394	11,109	11,787
Quarterly Increase		+149	+363	+133	+149	+444	+396	+595	+715	+698
Quarterly Percent Increase		+1.8%	+4.4%	+1.5%	+1.7%	+5.0%	+4.2%	+6.1%	+6.9%	+6.1%
Total Prison Population	32,978	33,681	34,376	34,732	36,388	38,059	38,894	39,999	40,707	42,733
Percent Mandatories	24.8%	24.7%	25.2%	25.4	24.6%	24.7%	25.2%	26.0%	27.3%	27.6%

NOTES

1. The awarding of early release credits began with Administrative Gaintime (AGT) between February, 1987 and June, 1988 and was used to maintain the population within legal capacity. Provisional Credits replaced AGT in July, 1988. Except for very minor differences, these two early release mechanisms are identical. Beginning in November, 1990, a new method of early release began in the form of the Control Release Authority (CRA) (F.S. 947.146(2)). The PC and AGT programs statutorily defined inmates as eligible or ineligible to receive early release credits (see F.S. 944.277). While statutorily PC and CRA exclude virtually the same offender types, the CRA can establish unique release dates for eligible inmates.
2. F.S. 775.0825 - Attempted Murder of Law Enforcement Officer; F.S. 784.08 - Crimes Against the Elderly; F.S. 790.161 - Making, Possessing, Discharging, Throwing, etc. a Destructive Device; F.S. 790.165 - Hoax Bomb; 790.221 - Short-Barreled Rifle, Shot-Gun, or Machine Gun.
3. Although originally enacted in 1975, some forms of gaintime were allowed during the mandatory portion of the sentence. The statute was amended in 1983 to prohibit the award of any type of gaintime during the service of the mandatory portion of the term for offenses committed on or after 8-12-83.
4. See F.S. 893.135 for details on specific drugs, amounts and associated sentence lengths. The court has the discretion to reduce or suspend the sentence possible under this statute if the judge concurs with the state attorney's motion that the defendant provided "substantial assistance in the identification, arrest, or conviction of any of his accomplices, accessories, co-conspirators, or principals or any other person engaged in trafficking in controlled substances."
5. Habitual felony offender designation requires two or more previous felony convictions, and the present crime occurring less than 5 years from the date of the last such prior conviction, or less than 5 years from the defendant's release on parole or otherwise from a sentence imposed as a result of such prior conviction. The changes to the habitual offender statute made in 1988 were significant. Basic gaintime was eliminated for habituals with offenses on or after October 1, 1988. Prior to 1988, the law required a separate judicial hearing to determine if meting out an extended sentence was necessary for the protection of the public. A preponderance of evidence was required to habitualize the offender. These requirements were eliminated in the 1988 statute making all offenders who meet the requisite statutory requirements eligible for a habitual sentence.
6. Habitual Violent offender designation requires one or more prior convictions for a specified violent felony within the same time frame specified in the Habitual felony offender statute. The nature of the current convicted offense is irrelevant. The specified prior offenses include: arson, sexual battery, robbery, kidnapping, aggravated child abuse, aggravated assault, murder, manslaughter, unlawful throwing, placing, or discharging of a destructive device or bomb, armed burglary, or aggravated battery.

7. "Any person who commits three or more felonies under this chapter in concert with five or more other persons with respect to whom such person occupies a position of organizer, a supervisory position, or any other position of management and who obtains substantial assets or resources from these acts is guilty of engaging in a continuing criminal enterprise" (F.S. 893.20).
8. For first degree murder, if a death sentence is not imposed, a life sentence without the possibility of release. For second degree murder, a sentence of 25 years before eligibility for release. For third degree murder, a sentence of 15 years before eligibility for release. For manslaughter during the commission of a crime, a sentence of 10 years before release. For kidnapping, a sentence of 15 years before eligibility for release. For aggravated battery, a sentence of 3 years before eligibility for release. For aggravated assault, a sentence of 1 year before eligibility for release.
9. Time served in prison is based on a combination of assumptions and data. The prison population on October 31, 1990 was examined to measure the average monthly earnings of gaintime and PCs for the eleven offender groups in the table. An assumption of no jail credit for time served in local facilities was made. Expected lengths of stay in prison for each of the eleven groups was determined by applying the expected earnings of gaintime and awards of PCs.

Incarceration costs are based on daily per diem expenditures and the cost of constructing prison beds. The per diem during FY 1989-90 cost per inmate was \$39.73 per day and \$14,501 per year. Future per diem costs were calculated by computing the average annual percent change during the period FY 1979-80 to FY 1989-90 (8.47%). This annual increase was then applied over the next 25 years. Beginning with FY 1990-91, the daily per diem cost rises from \$43.91 to \$287.57 in FY 2014-15. The construction costs were based on the average per prison bed cost for FY 1989-90 of \$20,414. Over the projected 50 year life span of a prison bed, the annual cost is \$408.28. This annual construction cost is added to the projected annual per diem cost to determine the total cost of imprisonment per admission.
10. PCs cannot be taken away during the service of the prison term. Only when inmates are released to Provisional Release Supervision and return to prison are the credits retracted.
11. To avoid double counting, new admissions and inmates in the active prison population with multiple mandatory minimum sentences, the mandatories were ordered from most to least serious based upon the expected sentence served for a 10 year sentence. The order is as follows: capital offenses, violence against a criminal justice officer, habitual violent felony, habitual felony offender, firearm in the commission of a felony, selling drugs within 1,000 feet of a school, and drug trafficking.

REFERENCES

- Allen, H. E., Latessa, E. J. and Vito, G. F. 1987. "Corrections in the Year 2000." Corrections Today, April.
- Florida Criminal Justice Estimating Conference. December 1990. Workpapers of the Criminal Justice Estimating Conference, December 21, 1990.
- Florida Department of Corrections. 1979-80 to 1990-91. Annual Report.
- Florida House of Representative, House Corrections Committee, 1990. "Unpublished paper".
- Loftin, C. and McDowall, D. 1984. "The Deterrent Effects of the Florida Felony Firearm Law". Journal of Criminal Law and Criminology 75:1.
- Petersilia, J. and Greenwood, P. W. 1978. "Mandatory Prison Sentences: Their Projected Effects on Crime and Prison Populations." Journal of Criminal Law and Criminology 69:4.
- Wilson, D. G. and Vito, G. F. 1988. "Long-Term Inmates: Special Needs and Management Considerations." Federal Probation, September.