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THE NATIONAL COUNCIL ON CRIME AND DELINQUENCY

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AUG 15 1991

JUNE 1991

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The Consequences of Escalating The Use of Imprisonment: The Case Study of Florida

By James Austin, Ph.D.
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INTRODUCTION

During the past few years, many states have embarked on a purposeful strategy to increase both the probability and duration of incarceration for convicted offenders and drug offenders in particular. The results of this strategy are being felt across the nation in many state prison systems. But more than any other state, Florida has dramatically followed this course of increasing the use of imprisonment for drug crimes. The purpose of this FOCUS is to use Florida as a case study to examine how a state strategy which relies heavily upon incarceration of drug offenders and the use of mandatory prison sentences can adversely impact a state's prison system and possibly endanger public safety.

The present Governor of Florida, Lawton Chiles, has raised serious questions about the public safety benefits of these policies and is actively examining alternative sentencing and programmatic options including expanded use of community corrections programs. Undoubtedly, a major reason for his concerns is the enormous rise in expenditures for correctional services.

This FOCUS takes on greater importance in light of a recent article by Patrick A. Langan, who argues that the current and

projected growth in the nation's prison population is not due to the "war on drugs," longer sentences or mandatory prison terms. Rather, he believes that most of the growth is related to increased chances that a person arrested will receive a prison term.¹ More significantly, he further argues that higher imprisonment rates have produced a significantly lower crime rate and should be considered as an effective policy for reducing crime.² Langan bases his conclusions on an analysis of national prisoner release data from 1973-1986, which reflect state sentencing policies that were in effect well before 1986.³ Observing that the median time served has not increased over the past two decades while prison admissions have grown dramatically, he also concludes that inmates are not serving longer terms and that increases in prison admissions are the principal reasons for prison population growth.

This FOCUS attempts to re-examine some of the issues raised by Langan using Florida as a case example. At the state level one can look at sentencing and release practices more closely, which cannot be done by using gross and dated national data bases. Contrary to the national trends reported above, this analysis shows that mandatory prison sentences, especially for drug crimes, have increased dramatically and will continue to have a significant impact

on prison population growth in the future unless adjustments are made to sentencing policies. Furthermore, increasing the use of imprisonment in Florida has not reduced the crime rate as promised by advocates of incapacitation and deterrence.

HISTORICAL TRENDS IN FLORIDA'S PRISON POPULATIONS

Of the states, Florida has most dramatically increased the use of imprisonment — especially for drug crimes. Table 1 summarizes trends in prison admissions, releases, populations, the estimated lengths-of-stay (LOS) and reported crime rates (based on the Uniform Crime Reports) for Florida from 1980 - 1989.⁴ The data show that Florida has increased the number of offenders sentenced to prison by over 330 percent. The largest period of growth was after 1984, during which prison admissions increased from 12,700 to nearly 44,000 — an increase of nearly 250 percent. Florida, which has always ranked near the top in the nation for incarceration rates, now has the highest rate of admissions to prison per capita than any other state (see Figure 1).

Despite the historic growth in prison admissions, the Florida prison system has increased the number of prison releases at an even greater rate during the same time period. This phenomenon was the result of a number of factors.

TABLE 1
TRENDS IN FLORIDA'S PRISON ADMISSIONS, RELEASES
STATUS POPULATION AND CRIME RATES FOR CALENDAR YEARS 1980 TO 1989

Calendar Year	Prison Admissions		Prison Releases		Prison Population		LOS In Years	Crime Rate Per 100,000
	Number	Percent Change	Number	Percent Change	Number	Percent Change		
1980	10,169	+14.2%	7,765	-17.1%	20,270	+5.6%	2.0	8,402.0
1981	12,097	+19.0%	8,224	+5.9%	23,277	+14.8%	1.9	8,032.5
1982	14,526	+20.1%	9,363	+13.8%	27,824	+19.5%	1.9	7,465.2
1983	13,507	-7.0%	14,508	+55.0%	26,260	-5.6%	1.9	7,218.1
1984	12,700	-6.0%	11,449	-21.1%	26,914	+2.5%	2.1	6,821.2
1985	15,873	+25.0%	13,666	+19.4%	28,606	+6.3%	1.8	7,574.2
1986	19,881	+25.3%	14,876	+8.9%	32,238	+12.7%	1.6	8,228.4
1987	26,512	+33.4%	25,939	+74.4%	32,466	+0.7%	1.2	8,503.2
1988	35,053	+32.2%	32,638	+25.8%	34,732	+7.0%	1.0	8,937.6
1989	43,940	+25.4%	38,771	+18.8%	39,999	+15.2%	0.9	8,804.5
% Change in 1980s	+332%		+399%		+108%		-55%	+5%

FIGURE 1
TEN HIGHEST RATES OF
ADMISSIONS TO PRISON

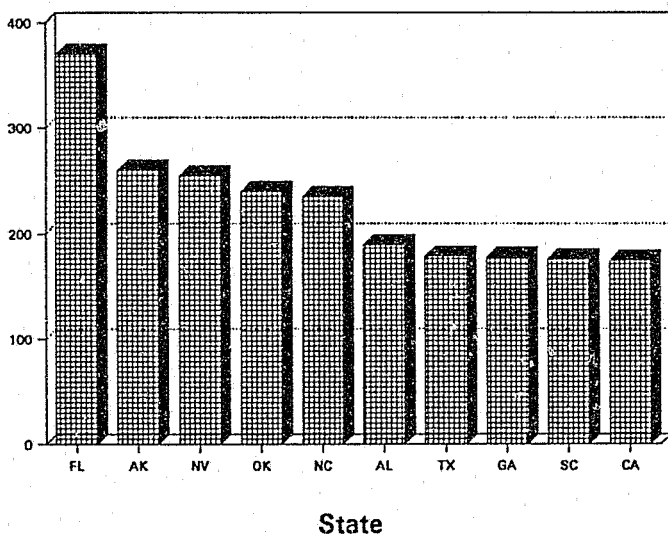


TABLE 2
FLORIDA'S PRISON BED CONSTRUCTION AND
OPERATING COSTS IN THE 1980s

Calendar Year	Prison Beds Appropriated	Construction Costs	Additional Operating Costs
1980	73	\$13,113,761	\$1,031,694
1981	332	\$9,451,700	\$4,692,090
1982	2,096	\$27,223,963	\$29,622,349
1983	1,747	\$30,419,000	\$24,690,002
1984	416	\$23,630,600	\$5,879,245
1985	20	\$1,100,000	\$282,656
1986	2,742	\$30,800,000	\$38,752,138
1987	4,158	\$77,431,900	\$58,764,182
1988	4,085	\$57,203,500	\$57,732,488
1989	9,368	\$118,781,079	\$132,396,070
Total	25,037	\$389,155,503	\$353,842,914

Most notably, the state has been under a federal court consent decree for many years that prohibits the crowding of its prison system. Specifically, the state's prison population cannot exceed its rated bed capacity. Although the state added over 25,000 prison beds at a cost of nearly \$400 million during the decade (see Table 2), this dramatic building program was insufficient to meet the crunching avalanche of new prison admissions. Consequently, in order to meet the court's mandate of not overcrowding its facilities, the state launched the nation's most ambitious early release program to date for purposes of lowering the inmates' LOS.

Specifically, Florida's early release program, operated by the Florida Department of Corrections (DOC), has the authority via the consent decree to award an unlimited amount of extra good-time credits to prisoners for the sole purpose of reducing an inmate's LOS. As a result, with the exception of prisoners sentenced to mandatory prison terms, the vast majority of Florida's inmates are now being released early. During FY 1989-1990, prison sentences were reduced by an average of 361 days through the early release program.

Obviously, the early release program has been very successful in terms of controlling Florida's prison population growth. Referring back to Table 1, one can see that the prison population increased by 108 percent, which is far below the rate of increase for prison admissions. Again this growth pattern was accomplished by awarding inmates substantial sums of early release credits which reduced the average length-of-stay from two years in 1980, to less than one year by 1989.

IMPACT ON CRIME RATES

Based on the tenets of incapacitation and deterrence, a doubling of the prison population and a quadrupling of prison admissions at a cost of nearly \$750 million should produce some relief in crime rates. But the Florida experience indi-

TABLE 3

TRENDS IN FLORIDA PRISON AND DRUG ADMISSIONS IN THE 1980s

Calendar Year	All Crimes	Drugs	Percent Drugs
1980	8,829	785	8.9%
1981	10,845	1,020	9.4%
1982	13,754	1,547	11.2%
1983	12,799	1,641	12.8%
1984	11,833	1,623	13.7%
1985	15,046	2,364	15.7%
1986	19,074	3,707	19.4%
1987	25,669	6,813	26.5%
1988	34,053	10,532	30.9%
1989	42,485	15,111	35.6%
% Change	+381%	+1,825%	

MALE OFFENDERS			
Calendar Year	All Crimes	Drugs	Percent Drugs
1980	8,377	724	8.6%
1981	10,261	943	9.2%
1982	12,937	1,459	11.3%
1983	11,998	1,526	12.7%
1984	11,105	1,532	13.8%
1985	13,991	2,140	15.3%
1986	17,731	3,397	19.2%
1987	23,687	6,164	26.0%
1988	31,105	9,328	30.0%
1989	38,499	13,157	34.2%
% Change	+360%	+1,717%	

FEMALE OFFENDERS			
Calendar	All Crimes	Drugs	Percent Drugs
1980	452	61	13.5%
1981	584	77	13.2%
1982	817	88	10.8%
1983	801	115	14.4%
1984	728	91	12.5%
1985	1,055	224	21.2%
1986	1,343	310	23.1%
1987	1,982	649	32.7%
1988	2,948	1,204	40.8%
1989	3,986	1,954	49.0%
% Change	+782%	+3,103%	

cates otherwise. At the beginning of the decade Florida's incarceration rate was 183 per 100,000 persons, which was well above the national average of 115 per 100,000.⁵ By 1989, the rate had increased to 311 per 100,000 persons compared to the national rate of 255.⁶ But despite this impressive and unprecedented increase in the use of imprisonment, the crime rate (reported serious crimes to the police, excluding

all drug crimes, per 100,000 population) has not been reduced. Reported crime declined from 1980 - 1984 as prison admissions and prison population grew moderately, and then began to increase steadily thereafter as the use of imprisonment accelerated. Over the course of the decade, the crime rate actually increased by 5 percent.

THE IMPACT OF THE WAR ON DRUGS ON PRISON ADMISSIONS

Drug offenses were among the major causes of growth in Florida's admission rates which ultimately strained the state's prison system. Table 3 shows that drug admissions increased by 1,825 percent over the decade compared to an overall prison admission increase of 381 percent. Here again, the largest gains were posted between 1985 and 1989. For female drug offenders the increase was even greater with a 3,103 percent increase. In total, over 35 percent of all prison admissions were for drug offenses while the national average in 1986 was approximately 16 percent.

What kinds of drug crimes are these offenders committing? Table 4 shows that in 1989 cocaine crimes represent 93.4 percent of drug crime admissions, with cocaine sale (45.5 percent) and cocaine possession (38.7 percent) accounting for 84.2 percent of drug admissions. Table 5 shows what types of sentence lengths (not lengths of stay) these inmates receive. For drug possession the average sentence is 26 months, while drug sale is 36 months, and drug trafficking 83 months. Despite these sentence lengths for drug offenders, the actual amount of time served has been reduced substantially due to early release. As shown in Table 6, prisoners are now serving only 32.5 percent of their prison terms.

It is interesting to note that both the Florida and other dated national data contradict Langan's conclusion. In both instances one can see that the "war on drugs" has had a clear impact on prison admissions. After 1974 the proportion of prison admissions for drug offenses averaged 8 percent. However, since 1984 the figure has doubled to 16 percent. Many states are reporting proportions well above the 20 percent range, and these statistics do not account for dramatic increases in parole and probation violations for detected drug use or drug arrests.

TABLE 4
SPECIFIC TYPE OF DRUG OFFENSE FOR FLORIDA PRISON ADMISSIONS
CALENDAR YEAR 1989

Drug Offense	Number of Admissions	Percent Total Drugs
Cocaine-Sale	6,843	45.5%
Cocaine-Possession	5,828	38.7%
Cocaine-Trafficking	1,386	9.2%
Marijuana-Sale	294	2.0%
Marijuana-Possession	196	1.3%
Obtain Substance by Fraud	64	.4%
Marijuana-Trafficking	53	.4%
Sell/Purchase Cocaine 1,000 ft. School	44	.3%
Drug Abuse Fraudulent Material	39	.3%
Opium-Trafficking	38	.3%
Constructive Possession	33	.2%
Heroin-Possession	28	.2%
Sell/Purchase Drugs 1,000 ft. School	22	.1%
Other Drug Offenses	175	1.2%
Total Drug Admissions	15,043	100.0%

TABLE 5
AVERAGE SENTENCE LENGTH (MONTHS)
FOR PRISON ADMISSIONS DURING CALENDAR YEAR 1989
DRUGS VERSUS NON-DRUGS AND TYPE OF DRUG

	Drugs	Non-Drugs	Drug Possession	Drug Sale	Drug Trafficking
January	33	56	23	28	79
February	32	58	25	33	62
March	35	62	25	34	75
April	34	62	25	34	84
May	36	63	26	33	84
June	34	64	26	34	75
July	38	66	26	38	92
August	37	66	27	36	92
September	37	64	28	37	86
October	39	62	27	41	89
November	39	64	28	42	80
December	42	66	28	42	96
Average for 1989	37	63	26	36	83
Number of Admissions	15,042	27,296	6,291	7,271	1,480

TABLE 6
AVERAGE PERCENT OF SENTENCE SERVED FOR ALL INMATES RELEASED

	Percent of Time Served
January 1987	52.8
January 1988	40.6
January 1989	34.1
January 1990	32.8
July 1990	32.5

THE GROWING USE OF MANDATORY PRISON TERMS

Along with the rise in prison admissions for drug crimes, there has been an equally dramatic increase in the application of mandatory prison sentences since 1980 (Bales and Dees, forthcoming). Since 1988, seven mandatory sentencing bills were enacted that were designed to increase the inmate's length of stay by requiring a specific period of imprisonment before release could be granted. These laws have provisions that prohibit

inmates from receiving good-time credits and require a specific period of imprisonment before release. As shown in Table 7, there has been a steady increase in the use of mandatory minimum sentences throughout the decade due to bills introduced prior to 1988. However, there was a very dramatic increase in 1989-90 largely due to a habitual felony law.

As these sentences are increasingly imposed, a greater proportion of the daily prison population will be serving longer mandatory prison terms. Their presence in the prison population will increase because inmates sentenced under non-mandatory terms are eligible for early release and will spend a very short period of incarceration.⁷ The FDOC now estimates that even if the number of persons sentenced to prison for mandatory prison terms levels off during the next ten years, the number of inmates serving such sentences will increase from 14,725 to 21,305.⁸ In effect these inmates will continue to "stack up" in the prison system over time.

Other possible implications of the widespread use of mandatory minimums cited by the FDOC researchers are the need for new management control mechanisms for handling a larger long-term inmate population, inequity in sentencing by demographic and geographical areas, inequity in the application of habitual offender sentencing laws, and a projected increase in judicial workloads as a result of the number of appeals from offenders sentenced under such laws.

THE RISK TO PUBLIC SAFETY

This early release policy has resulted in a number of unfortunate incidents. The most publicized was that of Charles Street, who had been convicted of a violent crime and also had a violent criminal history. However, due to the early release program, he was released from prison a year ahead of schedule and subsequently murdered two Miami police officers.

Another case involved two brothers, Robert and Harry Lebo, who were originally convicted of "molesting a crawfish trap" and who both subsequently violated

TABLE 7
FLORIDA PRISON ADMISSIONS WITH MANDATORY MINIMUM SENTENCES DURING FISCAL YEARS 1979-80 TO 1989-90⁸

	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

TABLE 8
INMATE CUSTODY LEVELS FOR FLORIDA PRISON ADMISSIONS
1988

NIC System		FBOP System	
Minimum Custody	60.4%	Level 1 (lowest)	65.0%
Medium Custody	33.6%	Level 2	9.7%
Close/Maximum Custody	5.9%	Level 3	17.1%

the terms of their probation. They later entered prison in 1990 for the 1988 offense of lobster theft. But to make room for the Lebo brothers, two other inmates were released early. Both of these examples illustrate how Florida's current correctional system has been seriously malfunctioning.

This situation is further exacerbated by the fact that until recently Florida had abolished parole and did not provide for any follow-up supervision or services upon release. This meant that Florida's prisoners, including the estimated 15,000 inmates sentenced for drug crimes, spent less than a year in prison and then received minimal post-release supervision or services.

It is the worst of both worlds when non-violent, petty property and drug offenders are sentenced inappropriately to prison while dangerous criminals are released early.

OPTIONS AVAILABLE TO THE STATE

Are there options available to the state that could have been implemented to prevent this situation from developing? A well reasoned and cost-effective correctional policy would seek to identify those inmates who could be safely placed in a growing number of intermediate sanctions at less cost to the taxpayer. Based on two U.S. Department of Justice

studies conducted in Florida, there is considerable evidence that a substantial number of prison admissions are not a risk to public safety and could be diverted into more cost-effective alternative programs at considerable savings to the state's taxpayers.

Table 8 shows the results of a National Institute of Corrections (NIC) funded study that sought to measure the custody levels of Florida's prison admissions. This study found that over 60 percent of all inmates sentenced to Florida's prisons qualified for minimum custody according to criteria established by the U.S. Department of Justice. The same study found that only 28 percent of these admissions were committed for violent crimes and fully 60 percent had never been previously convicted of a violent crime.

A second study funded by the National Institute of Justice (NIJ) to evaluate the impact of Florida's Community Control Program (FCCP) also found that a large proportion of the prison admissions could be handled safely by the FCCP program and at considerable savings to the state. The FCCP allows judges to divert offenders who otherwise would have been sentenced to prison or jail. Since 1983 over 60,000 offenders have been sentenced to the program by Florida's judges. NIJ's evaluation of the program found that FCCP participants had a lower recidivism rate (19.7 percent versus 24.3

percent) than those admitted to prison (Table 9). The program was especially effective with drug offenders, who had a far lower re-conviction rate compared to a matched group of drug offenders who went to prison — 11 percent re-offended versus 27 percent of the prison group.

FCCP also proved to be very cost-effective, saving the state an estimate of \$5,500 for every offender diverted from prison. More significantly, the research found that approximately 33 percent of all offenders now being sentenced to Florida's prisons fit the profile of offenders being placed in the FCCP. This finding shows that the program could be greatly expanded with dramatic savings to taxpayers and without jeopardizing public safety.

LESSONS TO BE LEARNED FROM THE FLORIDA EXPERIENCE

During the past five years, Florida has embarked on a policy of incarcerating massive numbers of drug offenders. This policy has accelerated an increase in usage of early release, not only for drug offenders, but also for inmates convicted of violent crimes and those with violent criminal histories. Despite nearly half a billion dollars spent for prison construction programs, Florida today has the highest rate of prison admissions and the shortest length of stay of any prison system in the country. Furthermore, its already high crime rate has not been reduced but has increased slightly.

TABLE 9
PRISON AND FCCP MATCH GROUP COMPARISON:
RECIDIVISM AT 18 MONTHS

Recidivism	Prisoners Match		FCCP Match	
	Cases	%	Cases	%
None	477	75.7%	445	70.6%
Technical Violation	N/A	N/A	61	9.7%
New Offense	153	24.3%	124	19.7%*
Total	630	100.0%	630	100.0%

Florida is unique in that 40,000 inmates are released each year and receive minimal post-release supervision or services. The legacy of Florida's drug wars and mandatory sentencing practices is a very chaotic and ineffective prison system where very little treatment, supervision or punishment is being administered.

State officials are now trying to change these practices. It will take major reforms over a number of years to restore credibility to the state's penal system.

Clearly, there are cost-effective alternatives that have been evaluated which the state can more fully utilize. In particular, significant numbers of prison admissions could be safely placed in less expensive and more effective community based programs. Such a change in direction would greatly lessen the state's reliance upon early release and would provide substantial savings to the taxpayer. Such a policy would also result in initiating necessary levels of supervision and services that many drug offenders and other inmates require, reduce costs to taxpayers, and increase public safety.

ENDNOTES

1 There is little debate among criminologists that prison disposition rates have increased significantly during the past decade. See James Austin, "America's Growing Correctional-Industrial Complex," *FOCUS*, National Council on Crime and Delinquency, San Francisco, 1990.

2 See "America's Soaring Prison Population," *Science*, 1991, Vol. 251:1568-1573.

3 A prison exit sample reflects the sentencing practices and laws that were in effect prior to the inmates' admission to prison. Given that the median length of stay in prison is 14-18 months, plus an average of three months spent in jail prior to sentencing, and that changes in sentencing laws are not felt for at least six months after implementation, a 1986 prison exit sample, at best, will reflect 1984 sentencing laws. Since a large number and the most severe mandatory prison laws were passed after 1984, an exit sample cannot be used to reach conclusions on whether future prison population growth is being effected by mandatory prison terms.

4 The FDOC does not have actual LOS data. These figures were estimated by dividing the average daily population by annual releases.

5 See U.S. Department of Justice, Bureau of Justice Statistics, *Historical Correctional Statistics in the United States, 1850-1984*, (1986), p. 30.

6 See U.S. Department of Justice, Bureau of Justice Statistics, *Prisoners in 1989*, (1990).

7 Eventually these inmates will be released and their longer lengths of stay will begin to show up in the national prison release statistics. This phenomenon illustrates why the 1986 release data are inappropriate for concluding that mandatory prison terms are not having a significant impact on prison population growth.

8 See William Bales and Linda Dees, "Mandatory Minimum Sentencing in Florida: Past Trends and Future Implications," *Crime and Delinquency* (Forthcoming, January 1992).

ABOUT THE AUTHOR

James Austin, Ph.D. is Executive Vice President of the National Council on Crime and Delinquency. Dr. Austin has authored and co-authored several articles including: "The NCCD Prison Population Forecast: The Impact of the War on Drugs," and "America's Growing Correctional-Industrial Complex."

**NATIONAL COUNCIL ON CRIME
AND DELINQUENCY**

Headquarters Office
685 Market Street, Suite 620
San Francisco, California 94105
(415) 896-6223

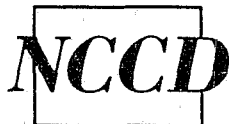
Midwest Office
6409 Odana Road
Madison, Wisconsin 53719
(608) 274-8882

East Coast Office
S.I. Newhouse Center at Rutgers
15 Washington Street, Fourth Floor
Newark, New Jersey 07102
(201) 643-5805

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