



Tennessee Criminal Justice Reform

Issue

Over the past ten years, Tennessee's incarceration rate has risen to 10% above the national average and statistics indicate our communities are no safer for it. Despite incarcerating more people and spending over \$1 billion annually on corrections in the state budget, Tennessee has the fourth highest violent crime rate in the nation and a high recidivism rate, with nearly half of individuals rearrested within three years of their release from custody. These trends are especially noteworthy considering 34 states reduced both their imprisonment and crime rates during the same period from 2008 to 2017. Recidivism is the repeated or habitual relapse into crime and is measured by counting criminal acts that result in re-arrest, reconviction, or a return to prison of an individual with or without a new sentence for a period of three years.

Background

Starting in the early 1970s, many states began to use incarceration as their primary policy response to increasing crime rates. As states sentenced more individuals to prison and for longer periods, state prison populations drastically expanded. In the 1990s and 2000s, despite a dramatic decline in the nation's crime rate, state prison populations and corrections budgets continued to grow. By 2008, with the nation's crime rate at its lowest point since 1968, there were over 7 million individuals under correctional control with 2.3 million incarcerated and 5 million on community supervision.

Tennessee's justice-involved population largely mirrored these nationwide trends. From 1978 to 2008, the state's prison population grew 367% from just under 6,000 incarcerated individuals to over 27,000. Similarly, from 1994 to 2008, Tennessee's community supervision population grew by 49% or over 22,000 individuals. Although these populations increased significantly, the state's total population only grew 3.4% from 1978 to 2008.

Funded almost entirely by state revenues, the Tennessee Department of Correction (TDOC) is consistently among the state's six largest state revenue expenses. Incarceration costs make up over 80% of TDOC spending. Since Fiscal Year (FY) 1995, TDOC spending increased by an average of 4.1% per year-- the same as growth in overall state revenue spending. TDOC houses 27% of state prisoners in local jails to manage overcrowding in state facilities. This is a factor in slowing the growth of the department's budget.

In FY 2019, for example, the estimated average daily cost to house a prisoner in a TDOC facility is \$76.83 (ranging from \$54.77 to \$170.64 per day depending on the facility). Reliable data is unavailable, however TDOC estimated in 2016 that local jails' costs were likely around \$44.00 per prisoner per day. The 2017 Tennessee Advisory Commission on Intergovernmental Relations (TACIR) study found local jails typically offer fewer mental health, substance abuse, education, and reentry programs, and some do not meet minimum quality standards. TACIR also noted TDOC studies that show "recidivism is higher among state prisoners released from [county] jails rather than prisons."

Since the early 2000s, using the latest criminological research and their own criminal justice data, many states determined using incarceration as the primary response to criminal behavior did not improve public safety outcomes. Moreover, growing corrections budgets reduced available funding for effective treatment and supervision practices, leaving significant gaps in recidivism reduction services. These states instead developed policies focused on implementing evidence-based practices proven to change individuals' behavior and invested corrections dollars into resources designed to promote public safety.

Many states have adopted policies to reduce recidivism. Through legislative changes, these states have altered sentencing, corrections, and community supervision policies to focus state prison beds on violent and dangerous individuals. Meanwhile, these states have invested in more effective and less costly evidence-based strategies to reduce recidivism, address gaps in victims' services, and improve public safety.

From 2008 to 2017, 34 states reduced both their imprisonment and crime rates. Over this period, the United States prison population declined by over 118,000 individuals or 7%, while Tennessee's prison population increased by over 1,700 individuals or 6%. In 2017, Tennessee's imprisonment rate was 10% higher than the national state average, with Tennessee's rate hitting 429 per 100,000 residents, compared to a national state average of 390 per 100,000 residents incarcerated. Similar trends are evident for the female prison population. While the nation's female incarceration rate declined 9% over this period, Tennessee's female incarceration rate grew by 30%. The state's female prison population added nearly 1,000 individuals, pushing the state's female incarceration rate 53% above the national average.

As Tennessee's prison population has grown, so has the budget for TDOC. In FY2018, the state spent over \$1 billion on corrections, up \$250 million or 33% from FY2009. Despite this sizeable investment in an expanding prison population, there is little evidence indicating Tennessee has experienced improvements to public safety as a result. In the last decade, the property crime rate in Tennessee dropped by 25%, yet the violent crime rate fluctuated, declining 6% from 2009 to 2018 against several years of growth from 2013 to 2018. Despite this decline, Tennessee had the nation's fourth-highest violent crime rate and the seventh-highest homicide rate in 2018.

Similarly, Tennessee's increased reliance on incarceration has not improved the state's recidivism rate. Of all individuals released from TDOC custody in 2006, 51% were arrested within three years of release. For individuals released in 2014, 47% were arrested again within three years. This is consistent with research finding incarceration is not more effective than non-custodial sanctions at reducing recidivism.

In March 2019, Governor Lee issued Executive Order 6, establishing the Criminal Justice Investment Task Force (CJITF) to develop policies aimed at reducing recidivism and improving public safety through policy development. The CJITF, comprised of over 100 members, includes representatives from corrections, law enforcement, the legislature, the judiciary, the prosecutorial and defense bars, victim advocates, educators, behavioral health specialists, and formerly incarcerated individuals. Input from victims, survivors, and victims' representatives was also included in the form of three roundtable discussions in Jackson, Nashville, and Knoxville held to identify key priorities for policy and budgetary consideration from the victim perspective. The diversity of stakeholders aims to provide a comprehensive examination of Tennessee's system with a shared goal of improving outcomes for all Tennesseans.

In July 2019, state leaders from all three branches of government, including Governor Bill Lee, Chief Justice Jeffrey Bivins, Lieutenant Governor Randy McNally, and Speaker Cameron Sexton requested technical assistance. Through this effort, the CJITF was tasked with conducting a review of the state's criminal justice system using data and research to move towards a criminal justice system that focuses resources on recidivism reduction and crime prevention strategies.

From August through December 2019, with technical assistance from the Crime and Justice Institute (CJI), several subcommittees of the CJITF conducted a rigorous review of Tennessee's sentencing and corrections data, examined current policies, practices, and programs across the state, reviewed models from other states, and engaged in comprehensive policy discussions. This report focused on the work of four of those subcommittees: (1) the Sentencing and Criminal Code Subcommittee; (2) the Parole and Probation Subcommittee; (3) the Mental Health and Substance Use Subcommittee; and (4) the Education, Workforce Development and Re-entry Subcommittee. Each of these four subcommittees developed recommendations within their policy area to meet the Governor's charge to the CJITF.

Over a six-month period, subcommittees of the CJITF analyzed data from the state's criminal justice stakeholders, reviewed research on sentencing and corrections practices, and developed policy recommendations for submission to state leaders. The analysis concluded that:

- Tennessee's prison population grew 12% over the past decade, driven by a growth in time served due to increasing sentence lengths and decreasing parole releases.
- Despite a growing prison population and increasing corrections budget, Tennessee's recidivism rate remains high.
- While admissions decreased over the past decade, Tennessee sentences many individuals convicted of non-violent offenses to the state's prisons and jails with 74% of felony admissions in FY2018 being for offenses that did not result in physical harm to a victim.
- Tennessee's female incarceration rate ranks 11th-highest in the nation, with female felony admissions increasing 12% over the past decade.
- While the overall number of community supervision revocations has decreased in recent years, the share of revocations for non-criminal conduct is growing, and the state saw more than 4,200 revocations from community supervision in FY2018 for a non-criminal violation (often referred to as a "technical violation").
- Local county jails housed over 8,500 individuals sentenced for felony offenses at the end of FY2018, and at least half of these jail facilities are overcrowded.

Public safety and criminal justice reform is one of Governor Bill Lee's priorities. A public safety subcabinet was established across state agencies to reduce drug abuse and trafficking, to curb violent crime, and to cut the rate of repeat offenders in order to promote the safety and security of Tennesseans. Although this priority has been put on hold due to the COVID-19 crisis, it remains a relevant topic among the state's administration.

Governor Bill Lee's specific strategies for public safety and criminal justice reform can be found at <https://www.tn.gov/transparenttn/>.

Questions

1. Do you believe your local property taxes have been impacted due to the costs of maintaining the county jail?
2. Should the state focus on criminal justice reform so tax dollars are better spent?
3. Because of the impact to your tax dollars, should Farm Bureau engage in the issue of criminal justice reform?

TFBF Policy

Law and Order (Partial)

We support government by law, not by men. We must adhere to the law ourselves and have respect for properly constituted authority. In our search for solutions to social and economic problems we cannot flaunt laws, no matter how worthwhile our motives may be. Laws protecting private and public property rights must be strictly enforced.

We are more concerned about the welfare and safety of law-abiding citizens than the comfort and convenience of criminals. All persons convicted of crimes should be punished and pay restitution and the victim be given priority in the restitution process over other fees or costs.

We are concerned about the permissive attitude of our courts and their lenient handling of criminals. Legislators, juries, judges, and parole boards must recognize society must be protected first. Victims of crime have rights that must be preserved. Victims' rights are more important than the rights of criminals.

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