



# PolicyBrief

## Community Corrections in Florida

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### Key Points

- From 2012-2014, 65 percent of individuals leaving prison did not receive any post-release supervision, mainly due to Florida's "max-out" laws.
- In 2018, 59 percent of supervision revocations were due to technical revocations, not a new criminal offense.
- Nearly identically situated individuals sentenced to supervision had a lower recidivism rate than those first sent to prison.

### Overview

According to the Bureau of Justice Statistics, the state of Florida at the end of 2016 was supervising over 218,000 individuals in the community ([Kaeble, 11](#)). According to the Florida Department of Corrections (FDOC), as of June 2018, there were 166,157 individuals being supervised by state probation officers ([FDOC 2018a, 52](#)). The Florida Office of Program Policy Analysis and Government Accountability (OPPAGA) determined that by June 2018, roughly 119,027 individuals were on probation, not including pretrial intervention programs ([15](#)). The large discrepancy between the numbers likely is due to the fact that most misdemeanor probation is done by local law enforcement and private service providers (FL Title XLVII 948.1). Additionally, it is not clear whether FDOC considers those on administrative probation for this count or other pre- and post-adjudication supervision. See *Florida Statute Title § 948.013, Criminal Procedure and Corrections*.

Florida, similar to the federal corrections system, removed parole in 1983, which was coupled with the establishment of sentencing guidelines. However, individuals can still technically be granted parole if they were sentenced to prison prior to its abolishment or were convicted of certain higher-level offenses (although most of these must have been committed between 1983-1995). According to the Florida Commission on Offender Review (FCOR), as of June 30, 2017, there were 4,438 inmates eligible for parole and 486 individuals on parole supervision ([FCOR, 6](#)). FCOR retains jurisdiction for several types of discretionary and mandatory release systems, in particular conditional release and addiction recovery release, which are mandatory supervision for certain violent offenders and offenders, respectively ([6-8](#)). Oddly, those convicted of drug-trafficking offenses are not eligible for addiction recovery release (Florida Statute Title § 944.4731, [Criminal Procedure and Corrections](#)).

The majority of the population under FDOC control is made up of individuals on felony probation. In 2018, 63.4 percent of those under supervision are being supervised for third-degree felonies ([FDOC 2018a, 52](#)). Most higher-level offenses (particularly drug trafficking charges) are subject to mandatory minimum sentences, and those individuals rarely spend time on supervision post-release or as part of their original sentence. Nearly 65% of individuals on supervision are there for a property or drug offense ([54](#)).

The community corrections population has dropped considerably over the past decade. In 2008, 193,401 individuals were being supervised by FDOC officers; that number dropped to 166,157 in 2018, a 14 percent decrease ([FDOC 2018a, 51](#)). Admissions are down over 16 percent over the same time period ([54](#)).

Other common types of supervision are outlined below:

#### **Administrative Probation:**

Non-contact, non-reporting supervision for low-risk individuals who have completed at least half of their term of probation.

**Community Control:**

“Intensive” supervision which can include heightened surveillance, restricted movement, specified sanctions, and officers with “restricted caseloads.”

**Drug Offender Probation/Mental Health Probation:**

Two forms of “intensive” supervision that couples individualized case plans with officers that can only supervise a maximum of 50 individuals.

**Split Sentence:**

A sentence which combines prison with a term of supervision post-release.

**Pretrial Intervention:**

Supervision for first-time, nonviolent offenders (or if you have one nonviolent misdemeanor conviction) charged with any misdemeanor or third-degree felony that allows for charges to be dropped after successful completion of the program. Must have consent from victim, state’s attorney, and in some cases, the judge. A Drug Offender Pretrial Intervention Program allows for second-degree drug felonies for possession or purchase. (Florida Statute Title § 948.001, [Criminal Procedure and Corrections](#)).

**Issues with Current Community Supervision System****Lower-Level Offenses Often Result in Prison Time:**

In 1997, Florida created the Criminal Punishment Code (CPC). Prior to the CPC, only individuals with a certain offense point level could receive a prison sentence. Today, any felony is subject to prison time, and many are subject to mandatory minimum prison sentences. Additionally, the 1997 changes lowered the amount of points required (unless a departure was granted) from 52 to 44 ([OPPAGA, 4](#)). This helped contribute to the large increases in the prison population Florida has experienced. Although alternatives to prison and the use of pre-trial interventions have increased in recent years, admissions for lower-level offenses continue to remain high. According to data from 2015, compiled by the Crime and Justice Institute, the use of prison as a sanction for drug and property crimes has declined in recent years, being used in roughly one in five cases. In 2015, 929 individuals with a primary offense for simple drug possession were sent to prison. The use of jail for these offenses has also increased from 2011-2015 ([Rose, 31](#)).

**Most Individuals Do Not Receive Supervision Post-Prison Release:**

Between 2012 and 2014, approximately 65 percent of individuals leaving prison did not receive any form of

supervision post-release, mainly due to the requirement that all inmates must serve at least 85 percent of their sentence and “max out” their time ([FDOC 2018b, 22](#)).

**Unlike Many Other States, Individuals Cannot Receive “Earned Time” for Good Behavior or Program Completion While on Supervision:**

FDOC can request an individual be terminated early; however it requires consent from the prosecuting attorney and the victim (Florida Statute Title § 948.04, [Criminal Procedure and Corrections](#)). It is rarely used.

**Supervision Revocation Rates Remain High:**

According to OPPAGA, 31,233 (out of 119,027) individuals had their probation revoked due to the technical violation (59 percent) or a new criminal offense (41 percent). Florida has made good strides in reducing prison admissions for individuals revoked from probation (39 percent drop from 2007-2016) and post-release supervision (36 percent from 2007-2016) (Rose, 32-33), but the failure rate of supervision remains high, particularly for technical violations. In 2016, Florida allowed for judicial districts to implement an “Alternative Sanction Program” to respond with graduated sanctions for technical violations. Implementation was made mandatory in 2019. This may help bring down this revocation rate.

**Unnecessary Barriers Exist to Diversion from Prison That May Decrease Public Safety:**

As discussed above, many individuals who could be sentenced to alternatives to prison, such as specialty courts or probation, are rendered ineligible due to mandatory minimums (no “safety valve” exists for Florida, which allows a judge to depart from a mandatory minimum in certain cases) or barriers to entry, such as only granting eligibility for lower-level or first-time offenders. Due to these limitations, intensive supervision or specialty courts, generally designed for higher-risk individuals, may not be reaching their intended clients. According to OPPAGA, 13 percent of current Florida inmates (nearly 13,000 individuals) are in prison with no current or prior violent or sexual history and have never served any prior prison sentence. Additionally, OPPAGA found that lower-level offenders sentenced to community supervision with nearly identical characteristics to individuals that were sentenced to prison (controlling for type of offense, sentencing points, criminal history, probation violations, age, race, and sex) had a lower recidivism rate (conviction rate of a felony and/or violent felony) after two years; 23.4 percent compared to 28.8 percent for all felonies, and 2.9 percent compared to 3.9 percent for violent felonies ([20](#)). ★

## References

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## ABOUT THE AUTHOR



**Greg Glod** is the director of state initiatives for the Texas Public Policy Foundation's Right on Crime initiative. Glod is an attorney who began his legal career as a law clerk for the Honorable Judge Laura S. Kiessling on the Circuit Court for Anne Arundel County, Maryland. He subsequently practiced at a litigation firm in Annapolis before joining Right on Crime and the Foundation. He has B.A.s from Pennsylvania State University in Crime, Law, and Justice and in Political Science. He received his J.D. from the University of Maryland School of Law.

### About Right on Crime

Right on Crime is a national campaign of the Texas Public Policy Foundation, in partnership with the American Conservative Union Foundation and Prison Fellowship, which supports conservative solutions for reducing crime, restoring victims, reforming offenders, and lowering taxpayer costs. The movement was born in Texas in 2007, and in recent years, dozens of states such as Georgia, Ohio, Kentucky, Mississippi, Oklahoma, and Louisiana, have led the way in implementing conservative criminal justice reforms.

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