

2018 FINAL REPORT

CORRECTIONS AND CRIMINAL JUSTICE OVERSIGHT TASK FORCE



Background

The 2013 Mississippi Legislature passed, and Governor Phil Bryant signed into law, House Bill 1231 to establish the bipartisan, inter-branch Corrections and Criminal Justice Task Force, which was charged with developing policies to improve public safety, ensure clarity in sentencing, and control corrections costs. The Corrections and Criminal Justice Task Force received technical assistance in analyzing sentencing and corrections data from the public safety performance project of the Pew Charitable Trusts (Pew) and its partner the Crime and Justice Institute (CJI) at Community Resources for Justice, in conjunction with the Justice Reinvestment Initiative of the U.S. Department of Justice. The findings and conclusions of the Corrections and Criminal Justice Oversight Task Force were submitted to the Legislature in a comprehensive package of policy recommendations.

Based primarily on the policy recommendations of the Corrections and Criminal Justice Task Force, the 2014 Mississippi Legislature passed, and Governor Phil Bryant signed into law, H.B. 585, which made sweeping changes to criminal sentencing and corrections laws in Mississippi.

Membership

Section 68, H.B. 585, Regular Session 2014, established a committee to be known as the Corrections and Criminal Justice Oversight Task Force, hereinafter referred to as “Oversight Task Force” and “task force,” to review and monitor the implementation of H.B. 585.

The Oversight Task Force is composed of the following members:

- Hon. Prentiss G. Harrell, Circuit Judge, 15th Circuit Court District, Chair;
- Hon. Paula Broome, SAAG, Director of Domestic Violence, Vice Chair;
- Hon. Michael Guest, District Attorney, 20th Circuit Court;
- Hon. Ted Booth, Joint Committee on Performance Evaluation and Expenditure Review;*
- Supervisor Mark Gardner, DeSoto County Board of Supervisors;
- Hon. André de Gruy, State Defender, Office of State Public Defender;
- Sheriff Troy Peterson, Harrison County;
- Steve Pickett, Chair, State Parole Board;
- Hon. Pelicia Hall, Commissioner, Mississippi Department of Corrections;
- Hon. John Herzog, Assistant District Attorney, 4th Judicial District;
- Hon. Brice Wiggins, Senator from Jackson County;
- Sheriff Martin Pace, Warren County; and
- Ken Winter, Executive Director, Mississippi Association of Chiefs of Police.

* The representative of PEER took no part in the adoption of findings and recommendations found in this report.

Authority

The Oversight Task Force is charged with the following responsibilities related to the implementation of H B. 585, Regular Session 2014 (MISS. CODE ANN. § 47-5-6):

- Track and assess outcomes from the recommendations in the Corrections and Criminal Justice Task Force Final Report of December 2013.
- Prepare and submit to the Legislature, Governor, and Chief Justice, no later than the first day of the second full week of each regular session of the Legislature, an annual report on outcome and performance measures and recommendations for improvements; recommendations on transfers of funding based on the success or failure of implementation of the recommendations and a summary of savings; and any additional recommendations to the Legislature on future legislation and policy options to enhance public safety and control corrections costs.
- Monitor compliance with sentencing standards, assess their impact on the correctional resources of the state, and determine if the standards advance the adopted sentencing policy goals of the state.
- Review the classifications of crimes and sentences and make recommendations for change when supported by information that change is advisable to further the adopted sentencing policy goals of the state.
- Develop a research and analysis system to determine the feasibility, impact on resources, and budget consequences of any proposed or existing legislation affecting sentence length.
- Request, review, and receive data and reports on performance outcome measures as related to this act.
- Undertake such additional studies or evaluations as the Oversight Task Force considers necessary to provide sentencing reform information and analysis.
- Prepare and conduct annual continuing legal education seminars regarding the sentencing guidelines to be presented to judges, prosecuting attorneys and their deputies, and public defenders and their deputies, as so required.
- Additionally, the Oversight Task Force is empowered to
 - use clerical and professional employees of the Department of Corrections for its staff;
 - employ or retain other professional staff upon the determination of the necessity for other staff;
 - employ consultants to assist in the evaluations and, when necessary, the implementation of the recommendations of the Corrections and Criminal Justice Oversight Task Force report of December 2013; and
 - apply for and expend grants, gifts, or federal funds it receives from other sources to carry out its duties and responsibilities.

Methods and Procedures

The Oversight Task Force met four times since the conclusion of the 2018 Legislative Session. In these meetings the task force was briefed on legislative actions related to Criminal Justice including HB 387. The task force also received data and a brief presentation from Pam Holmes who is the new director of Problem-Solving Courts at the Administrative Office of the Courts. Audrey McAfee, Deputy Commissioner of Technology and Program Information at the Department of Corrections presented corrections related data. The Task Force also received input from the Chairman of the House Corrections Committee.

The Corrections Commissioner presented an overview of increasing needs in institutional corrections including raising entry-level pay for correctional officers, hiring more officers and rebuilding Unit 29 at Parchman. The State Defender presented recommendations for further reductions in the custody population to fund reinvestment and control corrections costs.

Data sources for this report are Administrative Office of the Courts and Department of Corrections, including: presentation to task force; monthly Fact Sheet published on-line; and annual budget requests submitted by MDOC.

The consensus of the task force is that a focus on reentry preparation and community corrections services is necessary. This should follow the priorities and recommendations identified in 2013.

2013 Reinvestment Priorities & Recommendations

When Mississippi embarked on the historic reform efforts in 2013, it committed to justice reinvestment (JRI). Corrections and Criminal Justice Task Force, *Final Report* at pp. 20-21:

Reinvestment Priorities

The Task Force strongly recommends that savings from averted prison costs be reinvested into fully funding drug courts, strengthening community supervision, improving reentry services, and reducing burdens on local jurisdictions.

1. Invest in adult and juvenile drug courts

Mississippi's adult and juvenile drug courts are currently funded through a \$10 assessment on traffic fees. This funding scheme has not been adjusted since it was implemented in 2004, though the number of drug courts has increased over three-fold since that date. Growth in the number of courts has outstripped resources and funding for Mississippi's drug courts was cut by 42 percent for FY2014.

Recommendation: Fully fund Mississippi's juvenile and adult drug courts, including money to increase treatment options available to participants as well as develop other services including workforce training, life-skills training and GED classes. Additional monies would also be used to increase AOC infrastructure to ensure that drug courts are adhering to state standards and following best practices.

2. Invest in enhanced supervision practices, including funding for treatment and electronic monitoring

MMDOC currently allocates no funding for drug, alcohol, or mental health treatment for offenders on community supervision. Additionally, MMDOC only has enough electronic monitoring capacity for offenders on house arrest and not enough to use with probationers and parolees.

Recommendation: In order to improve public safety outcomes for offenders on supervision, direct savings to expand Mississippi's capacity for community sanctions and services, including mental health treatment, drug and alcohol treatment, and electronic monitoring. Additionally, in order to direct resources to the highest risk offenders, require MMDOC to use a risk and needs assessment tool to guide decisions about surveillance levels and treatment plans.

3. Improve reentry services by increasing the capacity of residential reentry centers and implementing mandatory reentry planning

More than 9,000 offenders leave Mississippi prisons each year, but the state has no system-wide reentry programming and just three transitional reentry centers, which together have fewer than 100 beds. Additionally, only certain offenders participate in the pre-release program and receive comprehensive reentry planning and preparation.

Recommendation: Improve reentry services for offenders entering the community by:

- a. Increasing the capacity of residential reentry services (also known as half-way houses); and
- b. Implementing mandatory reentry planning for all offenders returning to the community. Reentry planning will begin at least three months prior to an offender's presumptive release date and will include both (1) pre-release assessment, identifying whether an inmate is able to attend to basic needs upon release, and (2) a written discharge plan.

4. Reduce burdens on local jurisdictions

By statute, local jurisdictions are reimbursed for holding offenders in county jails who are awaiting revocation hearings if and only if the MMDOC has available funds. No funds were available in the preceding two fiscal years, creating a substantial burden on local jurisdictions.

Recommendation: The Task Force recommends striking the clause that makes reimbursements contingent upon available funds and reinvesting funds from averted prison costs towards reimbursing local jurisdictions for holding probationers and parolees awaiting revocation hearings.

2018 FINDINGS

Justice Re-Investment (JRI) Post-HB585

The Legislature took the first steps to implementing recommendation #1- increasing funding and infrastructure for the drug courts - in 2014 through HB 585 and the Court's appropriation authority where the funding was increased with general funds and have since transitioned to funding these programs with general funds. The Court is now asking for \$540,000 to fund a

technology upgrade. The upgrade will facilitate better data collection and assessment of the programs and in the long term will be more cost effective.

Recommendation #4 - reimbursing local jurisdictions - was part of HB 585. While the Oversight Task Force has heard reports in past years of delays in moving people from local to state facilities placing burdens on local governments, the Department of Corrections (MDOC) has advised that much of this problem resulted from intake at the technical violation centers (TVC) and poor communication between MDOC and locals. The opening of the consolidated TVC in April 2018 and better communication appear to have resolved these problems.

Recommendations #2&3 were targeted for Community Corrections. Under spending on Community Corrections was a major concern to the 2013 Corrections and Criminal Justice Task Force. *Final Report* at pp. 5 & 10 (finding MDOC spent only 7% of total expenditures on Community Corrections). Comparing 2014 to 2018 MDOC has increased spending as a portion of total spending from less than 9% in 2014 to approximately 10.5% in 2018. While this is a total dollar increase of less than \$2M (about 5%) the expenditure per person increased significantly - 35% from \$756/person in 2014 to \$1025/person in 2018.

FISCAL YEAR	TOTAL EXPENDITURES	CUSTODY COSTS	AVERAGE CUSTODY POPULATION	COMMUNITY COSTS	AVERAGE COMMUNITY POPULATION
2014	\$ 377,539,752	\$ 344,076,890	21,798	\$ 33,462,862	43,117
2015	\$ 359,712,213	\$ 333,520,116	19,380	\$ 26,192,097	45,607
2016	\$ 358,716,905	\$ 324,816,152	18,995	\$ 33,900,753	43,182
2017	\$ 337,336,537	\$ 304,099,813	19,102	\$ 33,236,724	35,137
2018	\$ 334,652,922	\$ 299,437,264	19,288	\$ 35,215,658	34,363

The increase investment per person under Community Corrections supervision can be attributed to the MDOC response to HB 585 - increasing transitional beds; establishing the TVC; hiring a Reentry Coordinator and launching that initiative as well as the collaboration with Hinds Behavioral Health and the Department of Mental Health on a pilot project for formerly incarcerated people in Hinds County. This represents over \$9M in reinvestment in 2018.

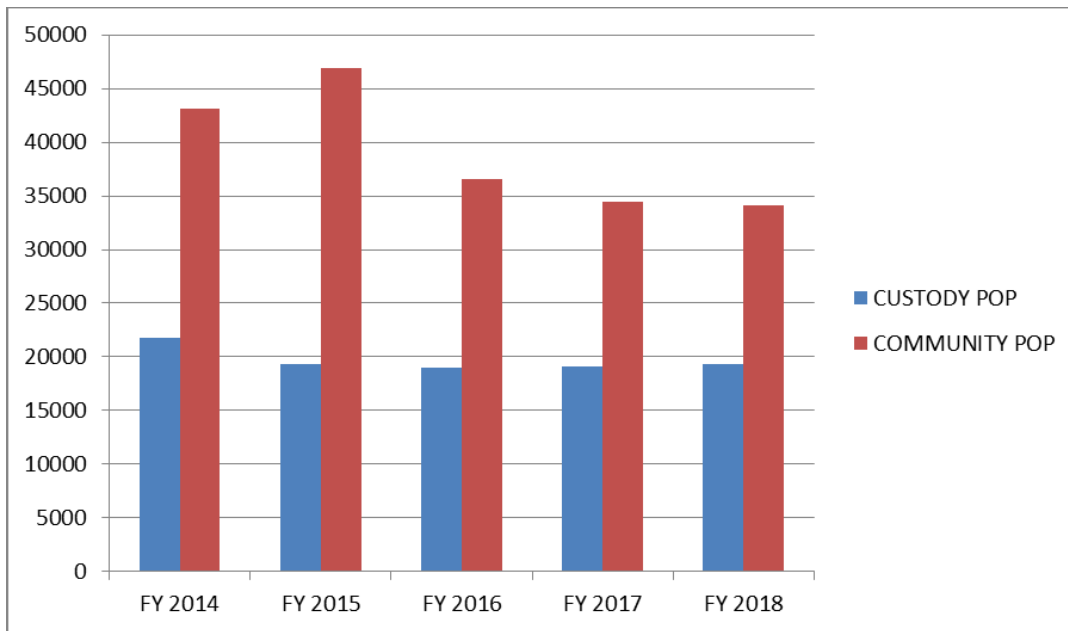
Community based mental health and substance abuse treatment, identified in recommendation #2 as a priority, fall primarily within the responsibility of the Department of Mental Health. Although not targeted to the criminal justice system involved community the Legislature has directed more funds to community care in DMH appropriations. More needs to be done in this area and should be the focus of future Oversight Task Force study.

More than 8,000 offenders leave Mississippi prisons each year, and re-entry programing as well as transitional housing is made available, as needed. MDOC has three transitional reentry centers, with more than 150 beds, and a fourth planned in the next year. Re-entry starts at the time of arrest, and MDOC provides a wide range of re-entry programing. Some reentry planning preparation programs are limited by lack of funding and staff shortages.

MDOC currently provides programing in the institutions directed at reentry preparation and recidivism reduction and partners with various organizations to provide community-based

programming. In order to improve public safety outcomes for individuals incarcerated and on supervision, MDOC needs to expand its capacity for community and institutional programs and services, including vocation training, mental health treatment, drug and alcohol treatment, and electronic monitoring.

MDOC has been able to accomplish these enhancements without significant increases in total Community Corrections expenditures because of the decreasing number of people under supervision.



Graduated Sanctions and Earned Discharge Credits played a significant part in the population reduction. The credits were a central part of the 2013 *Final Report*, Recommendation 13, Strengthening Supervision, at p. 16, and adopted in HB 585. This policy has been shown to improve public safety and reduce corrections cost. Missouri Public Policy Shortens Probation and Parole Terms, Protects Public Safety, Pew Charitable Trusts, August 2016. Proper use of these credits can further reduce the community population.

The MDOC FY 2020 budget request and Governor’s Executive Budget Recommendation (EBR) point to worthy further reinvestment initiatives. The MDOC budget request for Community Corrections is 5.17% above the estimated FY 2019 spending but below the FY 2018 actual expenditure. Overall the community corrections population should continue to decrease but use of the TVC, transitional beds and programing improvement costs should increase justifying the overall request which explicitly includes program staff dedicated to the TVC and more transitional beds.

The EBR is more explicit in support of a One-Million Dollar investment in work force training:

The best way to reduce recidivism in our prisons is to help men and women exiting the system find employment. Through specific job training in these facilities, we can reduce our prison population as well as prepare a workforce.

Utilization of the Technical Violation Center

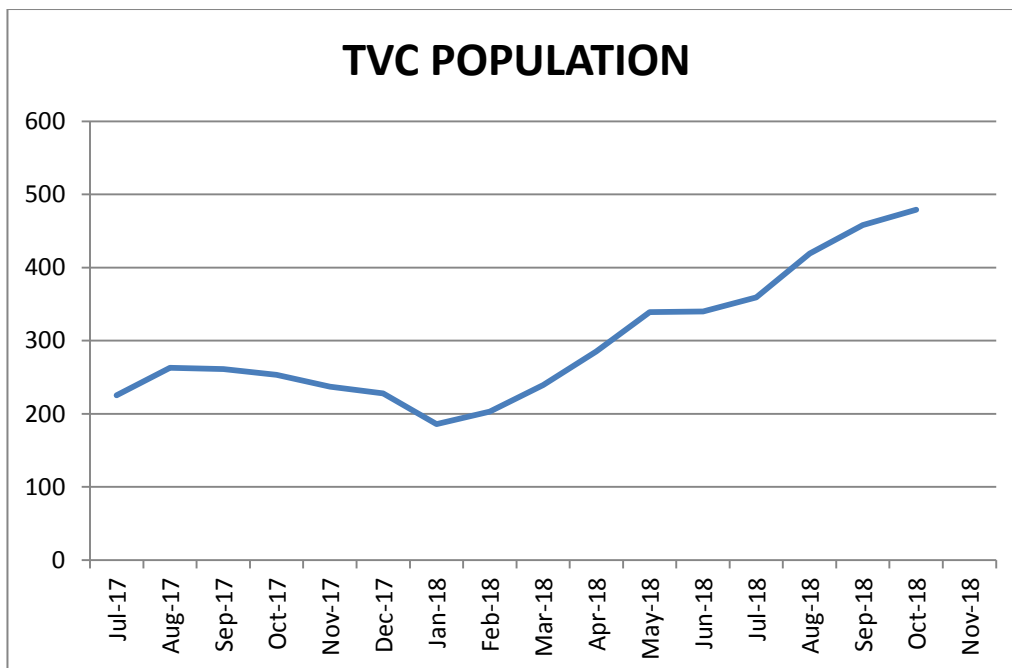
Recommendation #14 of the Corrections and Criminal Justice Task Force was to create Technical Violation Centers. (*Final Report*, December 2013, at 16-17). Data showed many offenders entering prison not because of new crimes but because of revocations. After years of revocation increase, by FY 2012 more offenders entered prison from a revocation than from a new crime. This practice contributed to a standing prison population that was more than one-third revocations. (*Final Report* at 9).

Moreover, the vast majority of offenders revoked to prison were not admitted for engaging in new criminal activity but rather for failing to comply with the terms of their supervision sentences. In FY 2012, 75% of offenders entering prison on a revocation of probation were revoked on a technical violation. (*Final Report* at 9).

This was obviously a major cause of the exceptionally high incarceration rate. H.B. 585 attempted to remedy this situation by amending §§ 47-7-27 and 47-7-37 and creating § 47-7-38.1. In response to concerns from judges, the law was tweaked in 2015 with H.B. 1267 that created § 47-7-37.1.

The prison population bottomed out in late 2015 and began to rise. The most significant category to rise was revocations to prison. As we found previously, these provisions failed to accomplish full potential and underutilization of the TVC persisted. *Final Report*, Oversight Task Force, 2017.

This problem appears to be improving. The consolidation of the TVC programs has increased capacity and streamlined the admissions process. The latter has reduced backlogs in the county jails. Early indications suggest that the clarification of §§ 47-7-27 and 47-7-37 in HB 387 (2018) and MDOC providing tours of the facility for circuit judges appear to also be contributing to increased utilization of the TVC.



MDOC has plans for further expansions of beds and programs to fully utilize the Delta facility and eliminate any potential back-log in the counties, but additional funding, program staff, and security staff will be needed for this expansion.

“Drug Court” Developments

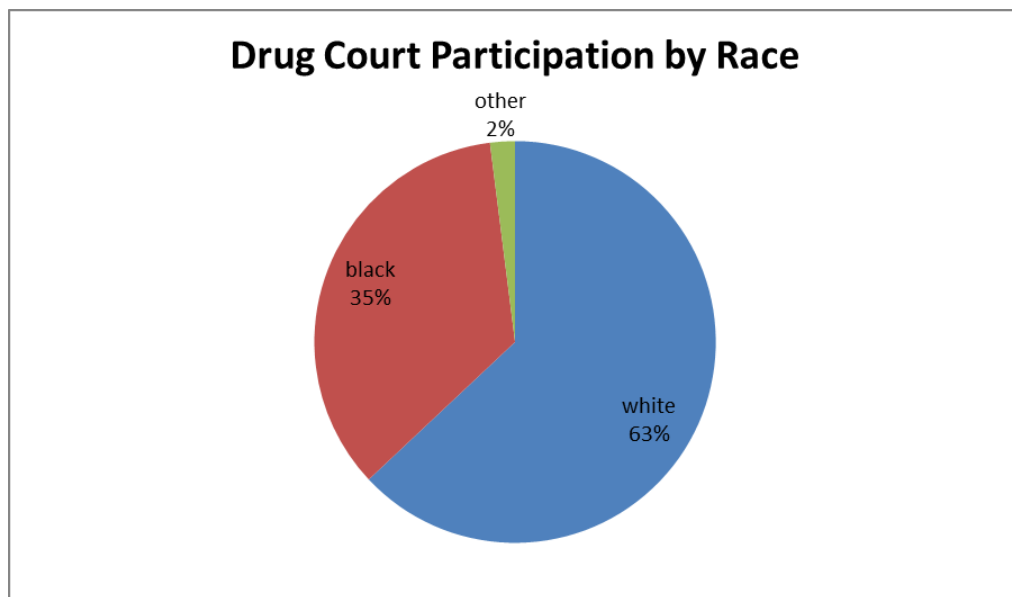
Well-implemented drug courts can significantly reduce recidivism and the incidence of substance abuse. Over the last decade, Mississippi has developed an expansive drug court system and now has a drug court in every circuit. However, current law restricts many nonviolent offenders whose criminal activity is driven by substance abuse/addiction and who would benefit from a highly-regimented drug program.

Recommendation: Broaden statutory criteria for drug court eligibility by eliminating the automatic disqualification for offenders convicted of a commercial drug offense or a driving under the influence offense, coupled with careful screening of all drug court eligible offenders prior to entering the drug court program.

The Corrections and Criminal Justice Task Force, *Final Report* at p. 14.

The Task Force also recommended implementing standards and reporting requirements, pp. 17-18, and prioritizing increased investments in drug courts. *Report* at pp. 20-21. HB585, 2014, also created Veteran’s Courts.

In 2017 the drug court coordinator reported to the HB585 Oversight Taskforce three areas of continuing concern with the drug courts: 1. admission criteria may be too limited to reach all potential beneficiaries; 2. many who meet the current admission criteria do not have access because they are never screened; and 3. the racial demographics of the programs seem out of sync with the criminal justice involved population – 63% of Drug Court participants are white and 35% black.



A PEER memo November 22, 2017, noted several other areas of concern including the ability of AOC to track and report compliance. The memo noted changes in oversight including the hiring of a new director. In addition to the new director of “Problem-Solving Courts” the revamped division has a fiscal analyst and a Drug Court Operations Analyst. There are plans to hire

compliance analyst for mental health and veterans programs. To be able to accurately track and report progress in the several local programs AOC needs to invest in a significant IT upgrade.

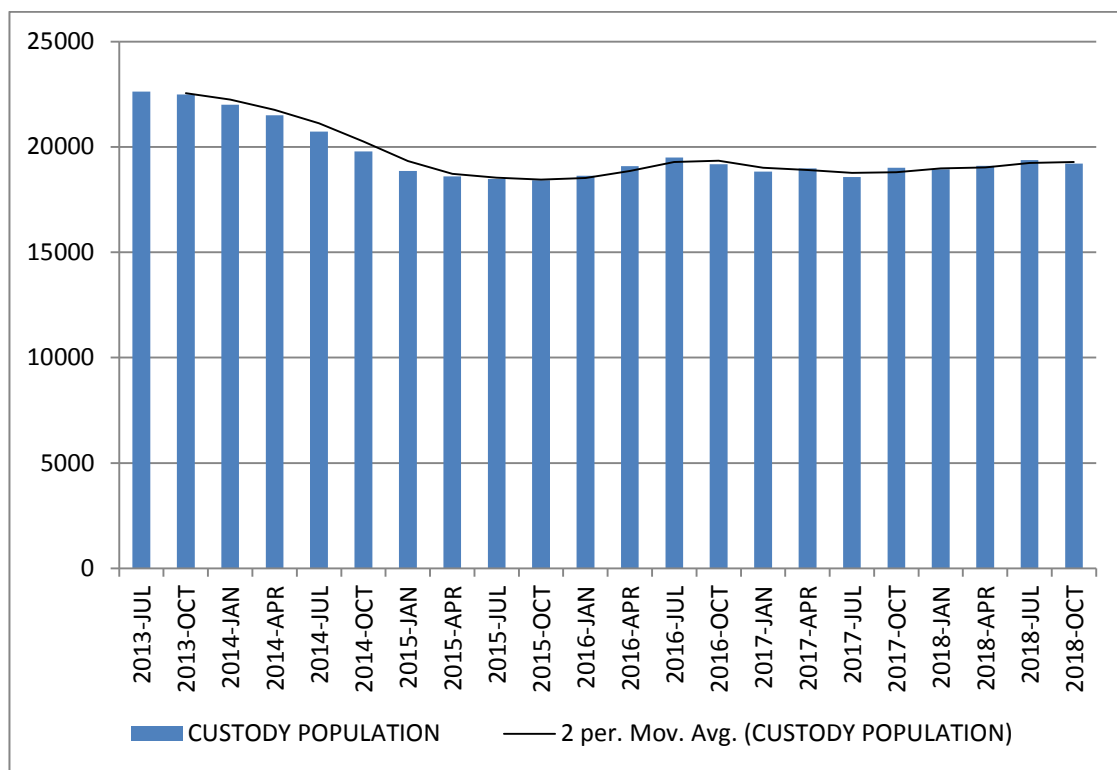
The significant developments in the area of “problem-solving courts,” creation of Veteran’s Courts and more recently the beginning of a foundation for Mental Health Courts, and the recognition by the 2017 Oversight Taskforce of the need to look at the feasibility of Reentry Courts are supported by the research based findings of the original task force:

Research makes clear that effective community supervision integrates treatment with surveillance. Evidence-based drug and alcohol treatment programs can successfully lower recidivism among participants involved in the criminal justice system, and drug treatment in the community has been shown to reduce crime more than drug treatment in prison.

Final Report, December 2013, Mississippi Corrections and Criminal Justice Task Force at p. 10.

More Reforms Needed

The custody population began a significant decline in 2014¹ and bottomed out in mid-2015. Following slight increases and tweaks discussed above the population is now steady.



Better utilization of the TVC and other reinvestment initiatives should keep the population stable but per capita costs of institutional corrections appear to be on the increase.

¹ However, the number of new inmates sentenced for simple possession of controlled substances since 2014 have steadily increased.

Reviewing the MDOC 2020 budget request and the Governor's Executive Budget Recommendation for 2020 (EBR) it is clear that more reforms aimed at safely reducing the custody population are needed to keep pace with the rising costs of institutional corrections.

The FY 2019 legislative appropriation increased MDOC budgets by nearly \$7 million. This was accomplished by reducing the general fund budget by \$3.3 million, while the state support special fund was increased \$2.1 million dollars and other special fund spending authority increased by 8.1 million.

In their FY 2020 request MDOC indicates a slight reduction in spending on community programs directing the entire increase to institutional and/or administrative spending. The MDOC further points out the need for a deficit appropriation for excessive medical costs to be sought for FY 2019. These costs fall disproportionately on inmates 60 years old and older. The requests for prison repairs and correctional officer pay raises point to a clear need for more reforms. This Task Force will continue to study ways to improve the corrections and criminal justice system in our state.

RECOMMENDATIONS FOR 2019

1. Investments in work force training and other reentry and recidivism reduction programs for those incarcerated as well as increases in funding for community corrections and community mental health should be funding priorities in the 2019 Legislature.
2. The data system upgrade, the immediate funding need of our problem-solving courts, should be included in the FY 2020 Supreme Court Appropriation. Further, in light of developments around "problem solving courts" PEER should look at the efficacy of such programs.

Adoption

After due consideration, the Oversight Task Force adopts this report on January 14, 2019, and directs its chair to sign and deliver copies of the report to the Legislature, the Governor, and the Chief Justice.


Prentiss G. Harrell, Circuit Judge, Chair

01/14/2019