



No Peace Dividend for Duval?

Posing Questions about Jacksonville's Punitive Civic Infrastructure

As Crime and Jail Costs Fall Across Florida, Duval County Jail Population is Skyrocketing.
The majority of prisoners are black, non-violent drug and property offenders.

No Peace Dividend for Duval? Posing Questions about Jacksonville's Punitive Civic Infrastructure

Michael Hallett & Daniel Pontzer/University of North Florida

Here in Florida and across the nation, legislators are discussing ways to be “smart on crime” rather than simply being “tough.” At great expense to taxpayers, warehouse prisons and high incarceration generate chronic recidivism, returning young men from broken homes and isolated ghettos back to the streets with nothing to show for their “time.” *Florida Tax Watch*, for example, is pushing a well-developed package of sentencing reforms tied to proven alternatives that lower incarceration and save taxpayer money.¹ But doing so requires changing business-as-usual attitudes in the criminal justice system. With signatories such as former Florida Governor Jeb Bush, the group *Right On Crime*, states: “Conservatives are known for being tough on crime, but we must also be tough on criminal justice spending” (<http://www.rightoncrime.com/the-conservative-case-for-reform/statement-of-principles/>). Key points of concern about criminal justice spending on both the political left and the right are over-use of incarceration and high recidivism. As *Right on Crime* puts it:

¹ <http://www.floridataxwatch.org/centers/CSJ/index.php>

Budget deficits are causing some states to reevaluate mandatory minimum sentencing policies. Over the past few decades, mandatory minimums were enacted in part for deterrence, but they have not necessarily deterred criminal behavior. Instead the policies appear to have produced many unintended consequences, one of which is a dramatic and unsustainable increase in criminal justice spending. At the federal level, partly due to mandatory minimums, the prison population has grown from 24,000 in 1980 to 209,000 today.²

In fact, there is growing evidence that just like the liberal welfare bureaucracies of the 1960s, criminal justice agencies have tended to create more of their own customers. And this is precisely the concern of a growing number of academics and public interest groups, such as *Right on Crime*.³ As imprisonment increased, so did recidivism. As criminologist Joan Petersilia's research on California demonstrates: *"The data shows unequivocally that get-tough-on-crime laws haven't worked. In fact, recidivism rates (as measured by new arrests) are actually higher a decade after 'getting tough' that they were in the 1980s when we were supposedly so 'lenient'"* (Butterfield, 2002).⁴

The good news is that in part because of economic necessity, jurisdictions large and small are being forced to rethink best practice and to change policies. And many are doing so. Unfortunately in Duval County, however, we're doing just the opposite: not only have we not decreased local incarceration, we have increased it.

Even as Florida's prison and jail populations are falling, including in high crime jurisdictions such as Hillsborough, Orange, and Miami-Dade counties, the Duval County Jail is bursting at the seams and has its highest population in five years. As shown below, both arrests and crime are substantially down in Duval, but the jail population is not. Unlike other large jurisdictions across the state, Duval county is spending more on the local jail. This is due to a confluence of factors including first and foremost a promised increasing filing rate by the Duval County State Attorney's Office.⁵

² <http://www.rightoncrime.com/2012/01/states-are-rethinking-mandatory-minimums/> Jan 31, 2012.

³ Ted Gest (2003). *Crime & Politics: Big Government's Erratic Campaign for Law & Order*. Oxford University Press.

⁴ Fox Butterfield (2002). "Study shows building prisons did not prevent repeat crimes." New York Times. June 3, 2002. p A 11.

⁵ Crime: Getting tough. July 15, 2010. FTU <http://jacksonville.com/opinion/editorials/2010-07-15/story/crime-getting-tough>

Crime in Florida and Duval County

Yes, crime is down in Florida and nationwide. In Jacksonville, we're enjoying the lowest crime rates in 20 years. There are lots of reasons for this, not least of which, in terms of urban violence, is that less money is flowing through urban drug markets.

Despite the downturn, however, old realities persist in Jacksonville: historically high-crime neighborhoods are still highest in crime and Jacksonville remains at or near the top in both homicide and violence rates across the state. Even amid the ubiquitous reductions, Jacksonville also has the highest rate of gun crime.⁶ In short, Jacksonville retains its standing across Florida as a leader in violence and crime.⁷ Below are corresponding data for Duval county, Florida and nationwide from FDLE⁸ and the FBI⁹.

⁶ "Guns permeating Jacksonville Violent Crime, UNF Researchers Say" FTU;
<http://jacksonville.com/news/crime/2011-11-29/story/guns-permeating-duvals-violent-crime-unf-researchers-say>

⁷ <http://jacksonville.com/opinion/editorials/2011-11-29/story/dont-abandon-crime-fighting-journey>

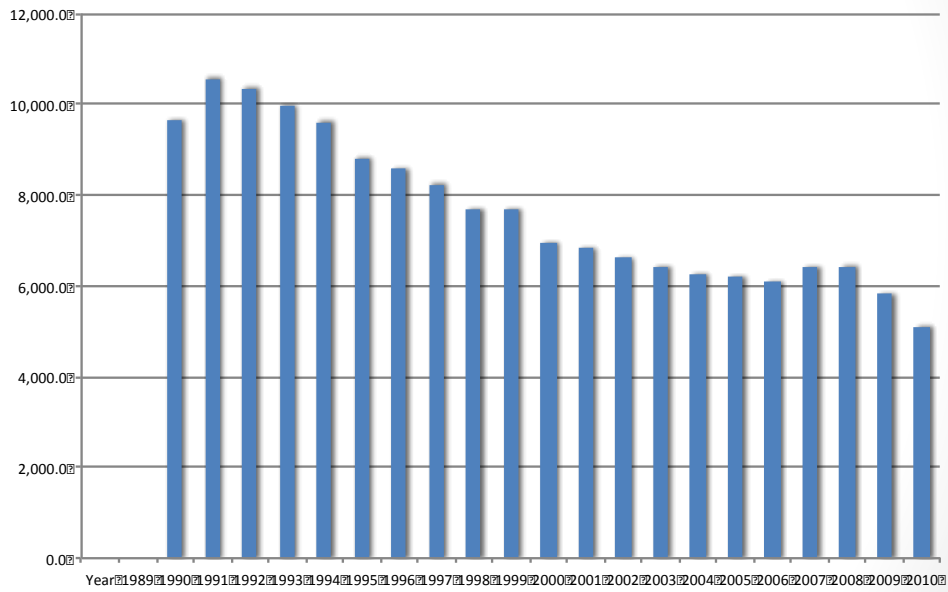
⁸ (<http://www.fdle.state.fl.us/Content/FSAC/UCR/UCR-Home.aspx>)

⁹ <http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2010/crime-in-the-u.s.-2010/tables/10tbl01.xls>

Duval Violent Index Crime, ?

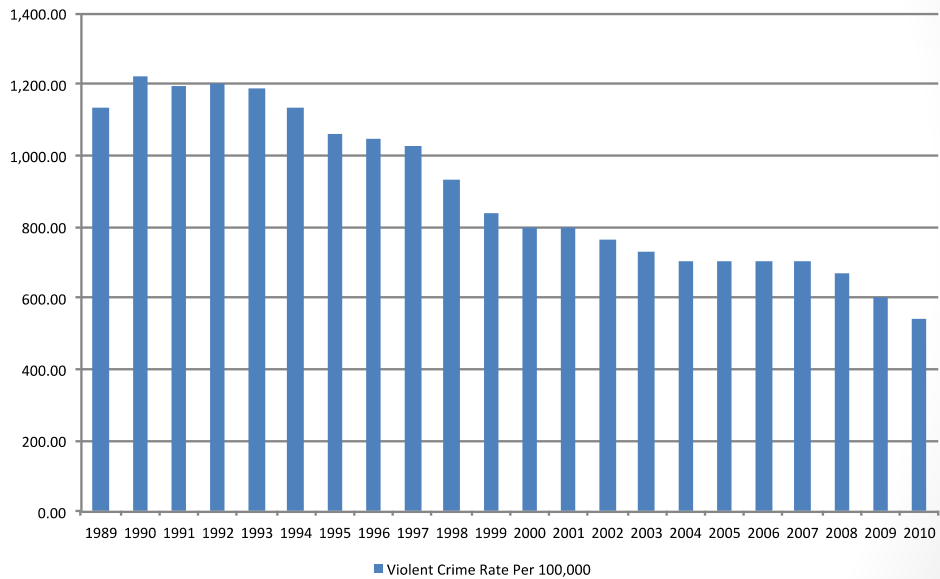
FDLE ?

<http://www.fdle.state.fl.us/Content/FSAC/UCR/UCR-Home.aspx>



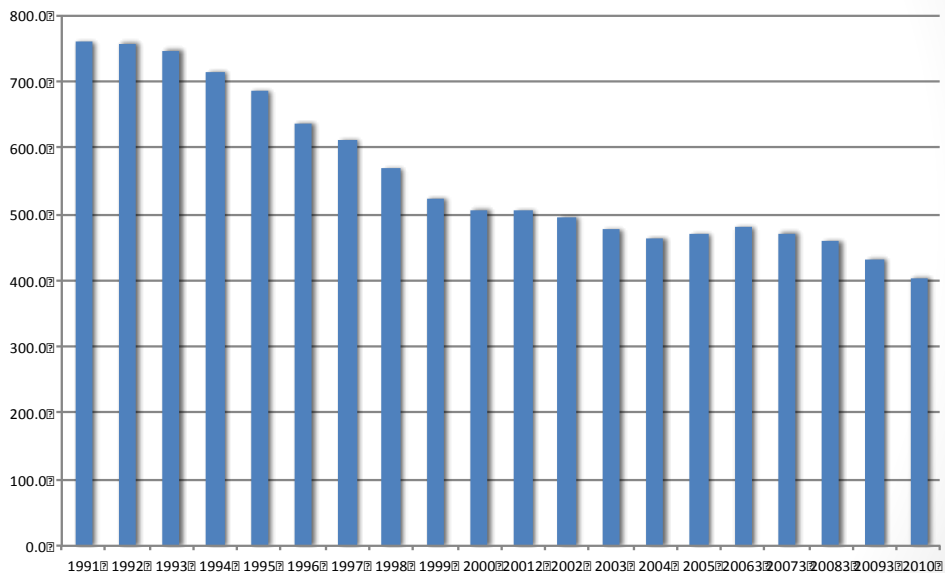
FL Violent Crime Rate Per 100,000, FDLE

(<http://www.fdle.state.fl.us/Content/FSAC/UCR/UCR-Home.aspx>)



US Violent Index Crime, Rate per 100,000 Population

FBI (<http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2010/crime-in-the-u.s.-2010/tables/10tbl01.xls>)



As shown above, a close examination of crime patterns across data from national, Florida and Duval county sources, demonstrates a remarkable similarity in the declining pattern in crime, with a dramatic decrease from the early 1990s to mid-2000s and then a slight uptick in 2006 – 2008, *across all three datasets*. Unfortunately, the over-riding forces driving crime downward arguably transcend those working within the city limits of Jacksonville.

Macro-level shifts on the order we've seen in Jacksonville are unlikely driven by the local efforts of either Jacksonville Sheriff's Office or the Jacksonville Journey. The local crime downturn follows too closely in sync with statewide and national trends to be the product of just local efforts. JSO has had nowhere near the increase in manpower, for example, to correspond with a downturn of this magnitude, nor have other factors in public or private sectors emerged to explain the trend. The same basic pattern can be seen in national data from the FBI.¹⁰ The good news is that obviously crime is down and in most places, so is incarceration.¹¹ Finally, given that arrests themselves are substantially down in Jacksonville, this means that the rising jail population is produced from a smaller number of offenders. Are these offenders all serious violent criminals? As we show below, no they are not. *Prosecutorial style is a primary driver of local incarceration, not crime*. That said, not everyone in the Duval County jail is a violent offender.

Ending Big Government Criminal Justice: When “consolidation” costs more

Despite a substantial downturn in both reported crime and arrests, the facilities comprising the Duval County Jail are bursting at the seams. As shown below, arrests for JSO are down 14,000 per year compared to 2005. The Duval County Jail Average Daily Population (“ADP”), however, is up to nearly 4,000 per day. Counties report their jail populations to Florida Department of Corrections monthly and all Florida jail data used here can be found on the “County Jail Populations” website at Florida Department of Corrections.¹²

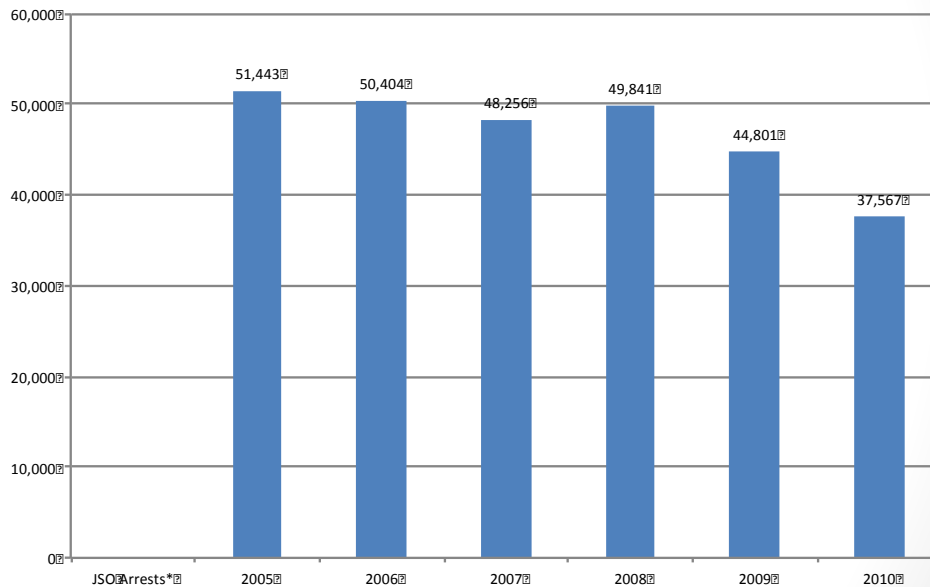
¹⁰ <http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2010/crime-in-the-u.s.-2010/tables/10tbl01.xls>

¹¹ There have been a few jurisdictional increases in crime in Florida, but these tend to be from jurisdictions already low in crime and that have small populations. As such, increases of only a few criminal incidents can dramatically raise rates. Overall, crime is down, particularly in large urban jurisdictions.

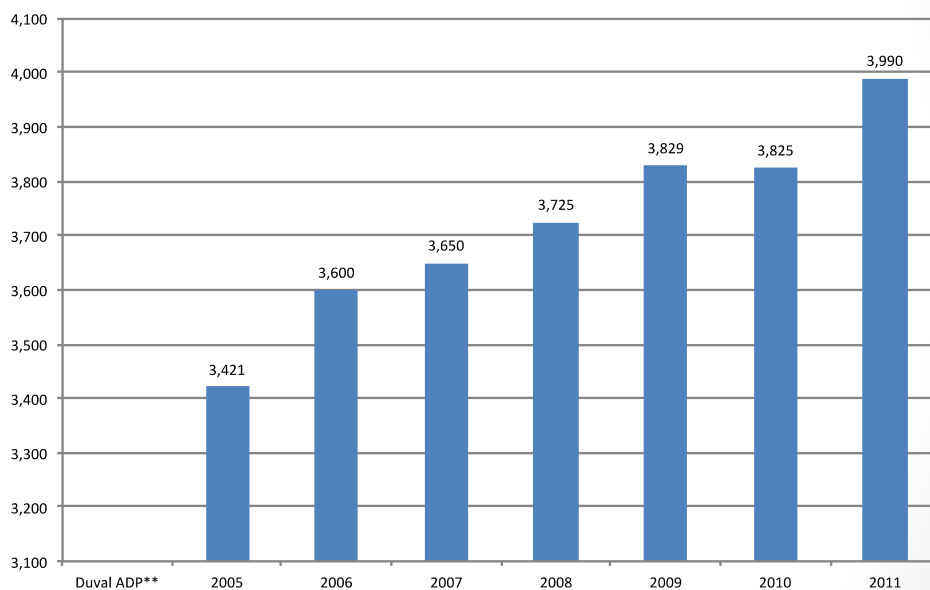
¹² See: FL DOC/ Florida County Detention Facilities Average Daily Population. <http://www.dc.state.fl.us/pub/jails/index.html>

Arrests ISO (FDLE)

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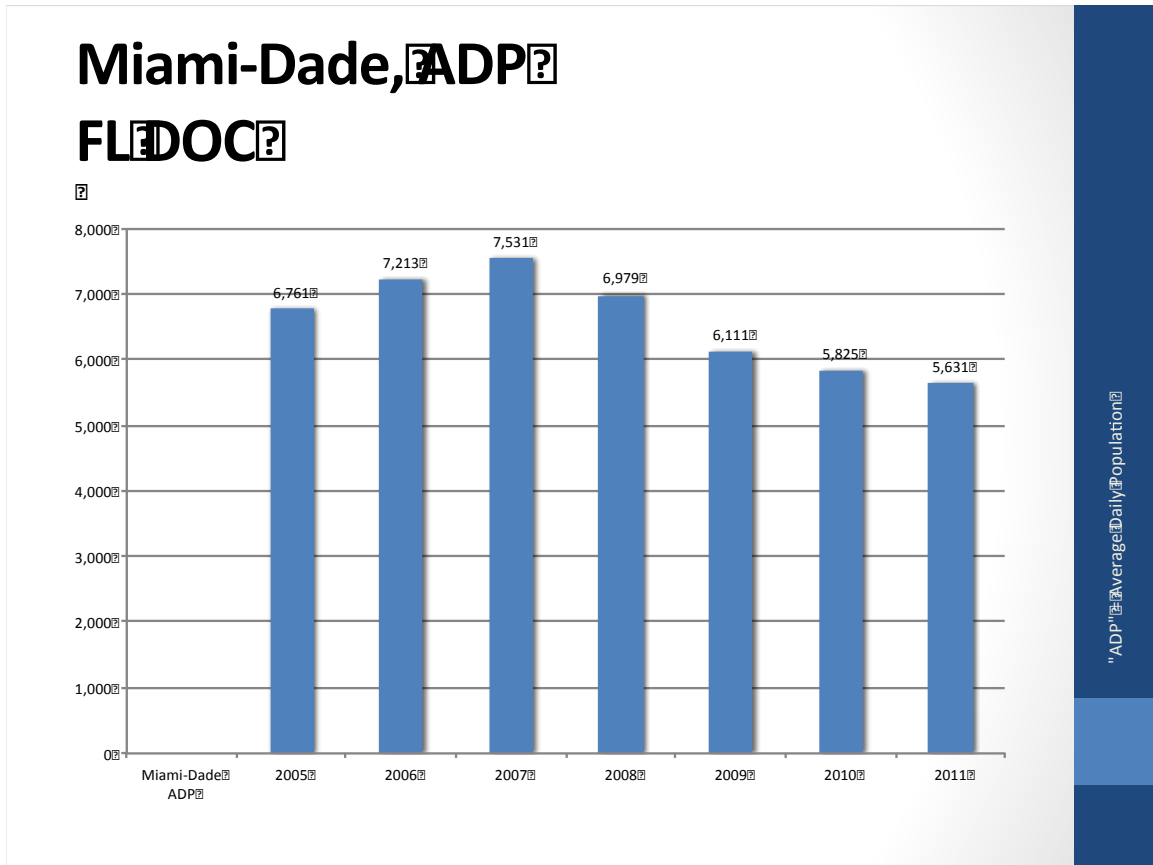
ADP, Duval County Jail, FL DOC



"ADP" = Average Daily Population

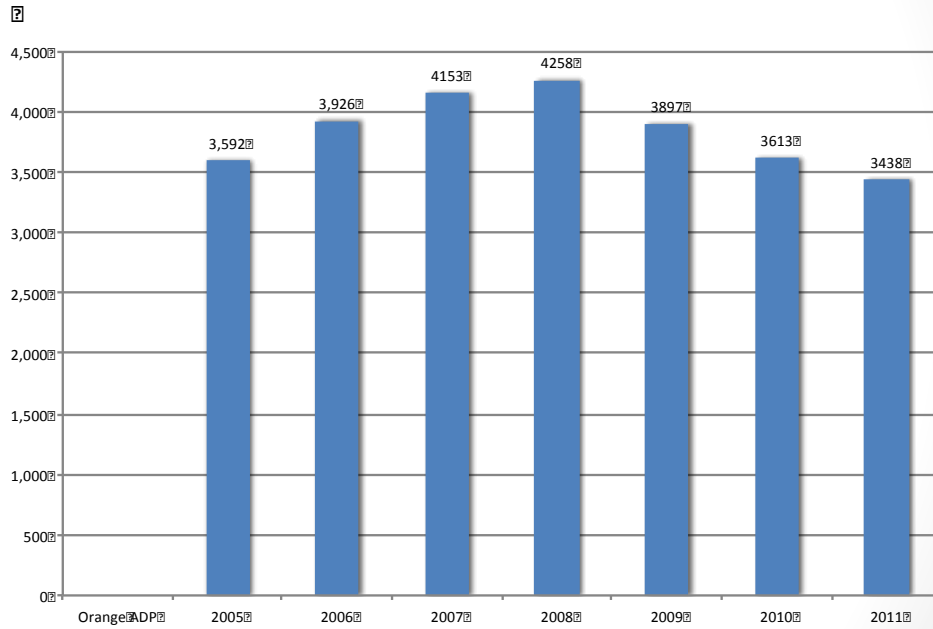
Peace Dividend for Orange, Hillsborough and Miami-Dade

Meanwhile, as shown below, downturns in local incarceration characterize the jail populations of other large Florida jurisdictions including Miami-Dade, Orange & Hillsborough counties.



Orange, FL ADP

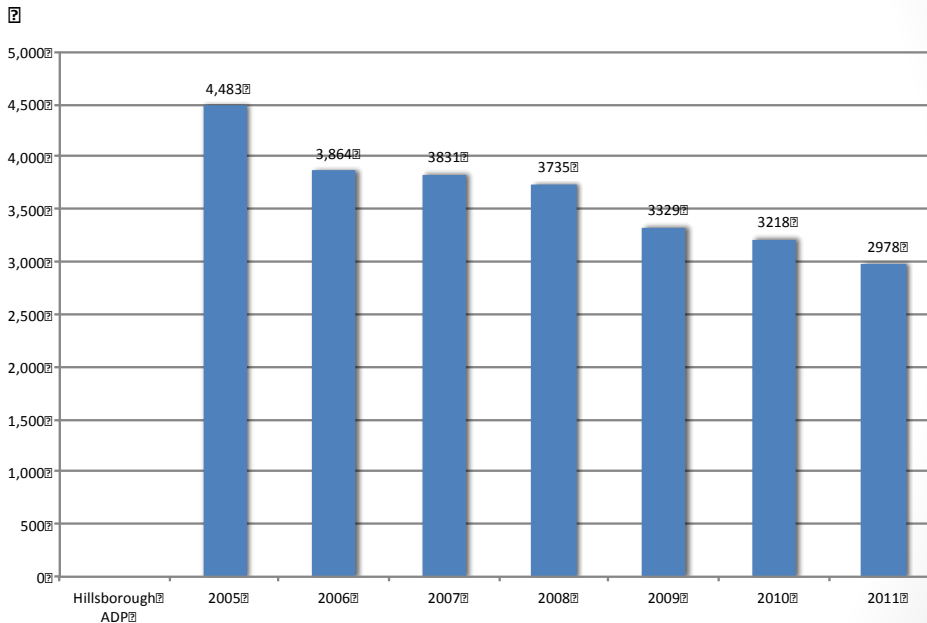
FL DOC



*ADP is Average Daily Population

Hillsborough, FL ADP

FL DOC

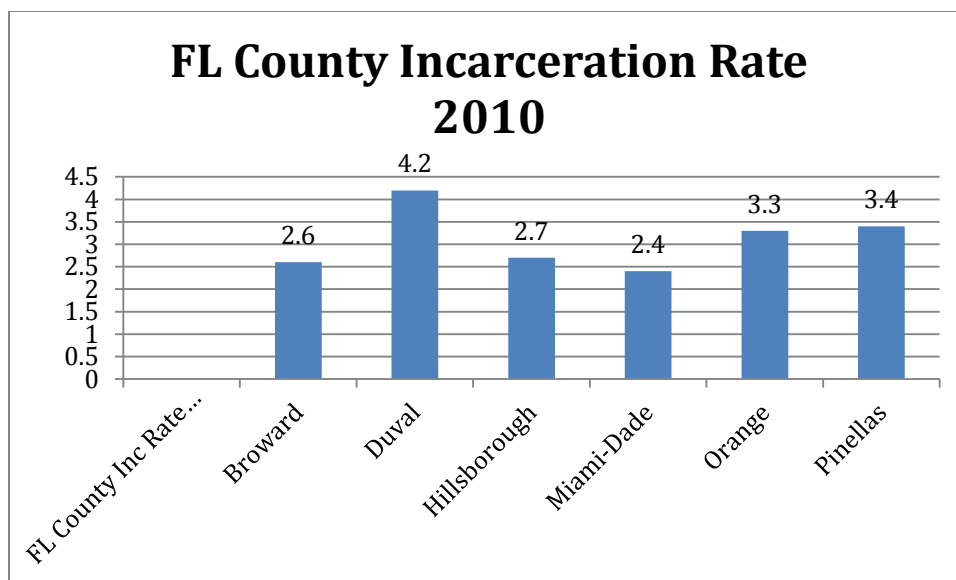


"ADP" is Average Daily Population

When "Tough on Crime" is a Political Platform

While state attorney Angela Corey certainly lives up to every prosecutor's mantra to be "tough on crime," is there a point where this becomes counter-productive? In 2010, Duval had the highest incarceration rate of any jurisdiction over 500,000 in Florida.¹³

¹³ Florida County Detention Facilities Average Daily Population Annual Report.
http://www.dc.state.fl.us/pub/jails/2010/AR_2010.pdf



Our evaluation of the State Attorney’s Office for the Jacksonville Journey found it to be a highly focused and hard-working office, driven by a sense of mission.¹⁴ The office had documented increases in filing rates, conviction rates and cases taken all the way to trial. In terms of research on prosecutors, we found that Angela Corey blends traits of both a “trial-sufficiency” style prosecutor—choosing cases for prosecution based on their prosecutability at trial, with those of a “charge sufficiency” prosecutor—filing on cases wherever charges seem warranted.¹⁵ Through the Jacksonville Journey evaluation and elsewhere, it has been well documented that Angela Corey’s office has done both. This, of course, poses great strain on the system and there has already been conflict between Ms Corey’s office and the sitting judges due to the increased caseload. Even sitting judges agree that it’s Ms Corey’s office driving the higher incarceration.¹⁶

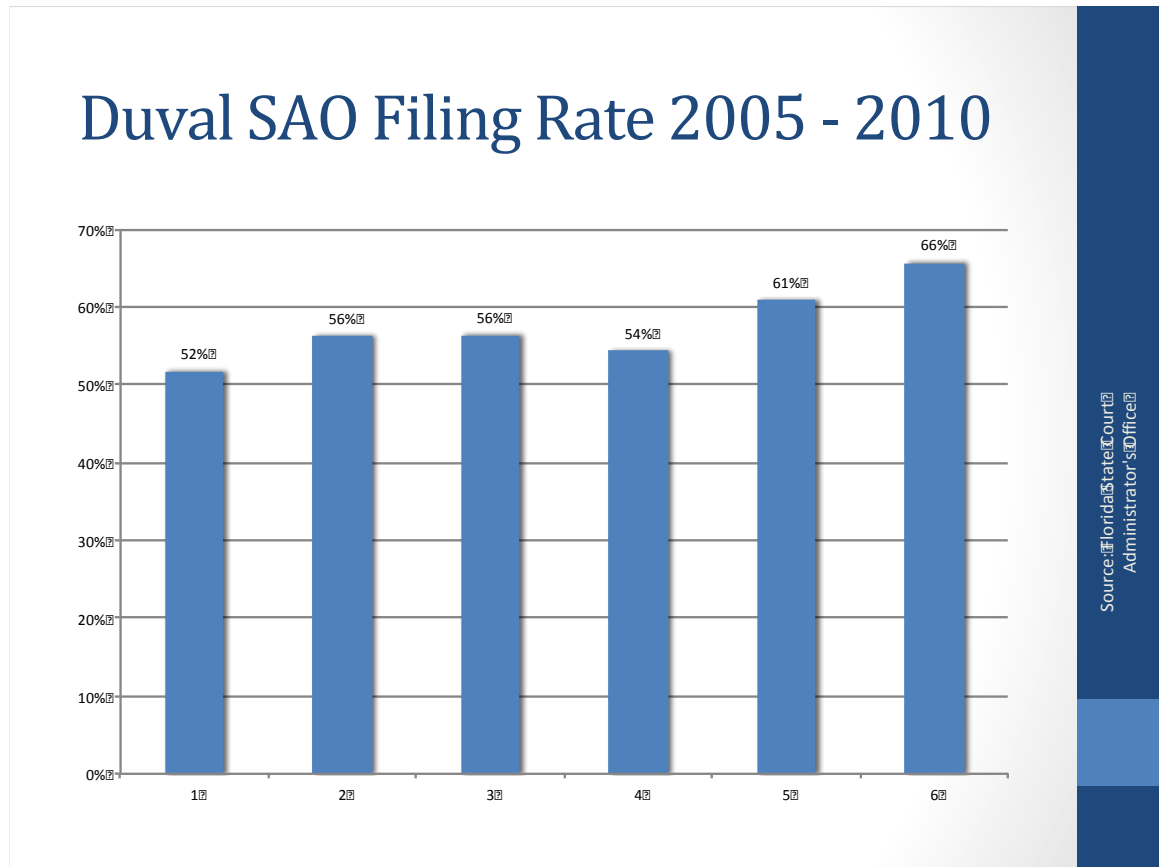
But Ms Corey makes no bones about her intention to both take more cases to trial and to file more charges in general. As a result, Duval is experiencing an increase in jail population and arguably higher costs associated with trials and filings, while the rest of the state experiences a downturn. Data from the Florida State Court Administrator’s Office further documents that the increased filing rate under Angela

¹⁴ “UNF: Jacksonville’s Anti-Crime Programs need a Higher Standard.” December 16, 2009. http://jacksonville.com/news/metro/2009-12-16/story/unf_jacksonville%E2%80%99s_anti_crime_programs_need_a_higher_standard

¹⁵ See: “Sentencing in Context: A Multilevel Analysis” (2004). *Criminology* Vol 42, No 1. Jeffery Ulmer & Brian Johnson. ; see also “Perceived Judicial Hostility to Criminal Trials” (1999) *Criminal Justice and Behavior*, Vol 26, No 2 David Lynch.

¹⁶ “Duval Jail Overcrowded Despite Fewer Arrests: Finger Pointing Begins.” FTU; Nov 15, 2009. http://jacksonville.com/news/metro/2009-11-15/story/duval_jail_overcrowded_despite_fewer_arrests_finger_pointing_begins

Corey is by no means all violent crimes. Below we present filing data since 2005, by type of crime.¹⁷



Cases Filed by Year

	2005	2006	2007	2008	2009	2010
Defendants Filed	8888	10410	10746	10261	10323	9498
No Files	8,285	8067	8291	8610	6621	4954
Num. Arrest Complaints	17,173	18,477	19,037	18,871	16,944	14,452
Filing Rate	52%	56%	56%	54%	61%	66%
Cases Reopened	24	49	75	676	1382	1033

¹⁷ All data are from the Florida State Court Administrator's Office: <http://trialstats.flcourts.org/>

Cases Filed by Year, Type

Counts	2005	2006	2007	2008	2009	2010	Avg
Cap Murder	25	32	16	25	20	25	24
Non-Cap Murder	68	120	151	109	125	125	116
Cap and Non-Cap Mur	93	152	167	134	145	150	140
Sex Off	193	264	210	254	245	220	231
Robbery	195	234	396	383	523	342	346
Crimes Against Per	919	1445	1296	879	921	1000	1077
Burglary	388	722	799	854	1033	1118	819
Theft, Fraud, Forgery	1484	2052	2391	3304	3122	2337	2448
Checks	2402	1185	1262	578	159	76	944
Crimes Against Prop	50	53	110	99	87	66	78
Drugs	2363	3108	2801	2770	2661	2471	2696
Other	801	1195	1314	1006	1427	1718	1244

Cases Filed by Year & Percentage of Total

Percent of Total Filed	2005	2006	2007	2008	2009	2010	Avg
Cap & Non-Cap Mur	1.0%	1.5%	1.6%	1.3%	1.4%	1.6%	1.4%
Sex Off	2.2%	2.5%	2.0%	2.5%	2.4%	2.3%	2.3%
Robbery	2.2%	2.2%	3.7%	3.7%	5.1%	3.6%	3.4%
Crimes Against Per	10.3%	13.9%	12.1%	8.6%	8.9%	10.5%	10.7%
Burglary	4.4%	6.9%	7.4%	8.3%	10.0%	11.8%	8.1%
Theft, Fraud, Forgery	16.7%	19.7%	22.3%	32.2%	30.2%	24.6%	24.3%
Checks	27.0%	11.4%	11.7%	5.6%	1.5%	0.8%	9.7%
Crimes Against Prop	0.6%	0.5%	1.0%	1.0%	0.8%	0.7%	0.8%
Drugs	26.6%	29.9%	26.1%	27.0%	25.8%	26.0%	26.9%
Other	9.0%	11.5%	12.2%	9.8%	13.8%	18.1%	12.4%

Some Questions for Duval: Building Civic Infrastructure Beyond Criminal Justice

Is the political pressure to get *tough on crime* so powerful in Jacksonville that it has become the only viable “brand” of Jacksonville criminal justice? Even worse, is it possible that a political machine has emerged around the system with the power to sustain itself indefinitely, regardless of the costs to the community? These are serious questions, particularly given the well-documented economic and racial disparities that characterize Jacksonville crime and victimization rates.¹⁸

The American criminal justice system is founded upon a structure of adversarial conflict. When the Sheriff and State Attorney host a political fund-raiser for the incumbent candidate for Public Defender, regardless of the identity of this candidate, perhaps this adversarial relationship has been compromised by “the machine”?

As officers of the court, Prosecutors represent the state’s interests and defense attorneys represent those of the accused. It is the prosecutor’s role to cooperate with police. It is the defense attorney’s role to be in conflict with both the state attorney and the police on behalf of the accused. When “tough on crime” becomes a carte-blanche political trademark or “brand,” to what extent does this commitment simply dictate the state’s position on even dramatic cases such as the Cristian Fernandez case? ¹⁹ Angela Corey campaigned on a promise to increase filing rates and she has delivered.

Ronald Reagan said “Government does not solve problems, it subsidizes them.” And that certainly proved true. The *social gospel welfare state* destroyed the poorest and politically weakest Americans by isolating them in remote “housing projects” and subsidizing self-destructive behavior.²⁰ Unfortunately, there is mounting evidence that the American criminal justice system is doing the same thing, by using costly incarceration strategies that are forcing a radical re-evaluation of criminal justice policy all over the country.²¹

¹⁸ Reducing Murder: A Community Response. JCCI. Summer 2006. <http://issuu.com/jcci/docs/06-reducing-murder-study/1>

¹⁹ This wrenching case has posed several challenges for all involved. <http://jacksonville.com/opinion/blog/400601/ron-littlepage/2011-12-07/ron-littlepage-angela-corey-plays-two-faced-game>

²⁰ Lawrence Mead (1986). *Beyond Entitlement: The Social Obligations of Citizenship*. Free Press: New York.

²¹ Loic Wacquant (2009). *Prisons of Poverty*. Minneapolis: University of Minnesota Press.

Conclusion/Recommendations: Jacksonville's New Government of Poverty

While Jacksonville prides itself on being a low tax city, even as it loses population (and tax base) to surrounding counties with higher taxes and better services, it continues to robustly fund its criminal justice system. Whether in floating its nearly \$2 billion public safety pension debt, its new \$400 million courthouse, or its still antiquated bond schedule, Duval County remains committed to big government criminal justice. But has this really been a sound investment?

Over-use of “big government” incarceration destroys families and weakens the economic viability of communities while costing taxpayers dearly. Combined with conditions of blight and social isolation, former inmates carrying the stigma of “ex-con” are released back into impoverished communities to find it even more difficult to obtain employment. Absent programs and a specific agenda to reverse this trend, Jacksonville is fast becoming a hollowed-out shell—burdened by a massive pension debt, a weak commitment to funding community building programs that lower crime, but seemingly endless commitment to funding criminal justice agencies and expanding the Duval County Jail.

We are now at the point where spending on the criminal justice system *endangers and compromises* efforts for community building. Take for example a recent program developed by the Jacksonville Journey, a community-building anti-crime summer sports program that kept kids off the streets and engaged while serving the most impoverished segment of the community. Through some mechanism it was decided that the program needed 4 part time Jacksonville Sheriff's officers to provide “security” for the program. As the Florida Times-Union reported, the program budgeted \$386,979 for full summer. Unfortunately, the cost of providing the 4 part-time JSO officers was \$246,979 out of the total budget. This needless-to-say caused an uproar on the Oversight Committee and JSO ultimately ended up “donating” the coverage, paying for it from “seized drug money.”²²

Are these really Jacksonville's “conservative” values?

Even a cursory examination of criminal justice operations in Duval County shows that the city devotes an extraordinary proportion of its revenue to the criminal justice system. The 2010 budget of Jacksonville Sheriff's Office alone was approximately \$350,387,000—over one-third of the total city budget.²³ Combined with decreasing property valuations associated with the worst economic recession since the Great Depression, the City of Jacksonville is faced with a continuous need

²² “Youth Sports: Out of Bounds.” FTU June 25, 2009. Read more at Jacksonville.com: http://jacksonville.com/opinion/editorials/2009-06-26/story/youth_sports_out_of_bounds#ixzz1mSWyBLA6

to cut spending or grow revenue.²⁴ Obviously, if there are places where local government can be more efficient, resources can be saved without either cuts to agencies or increased taxes.

The first and most immediate of the opportunities for savings in criminal justice lies in reform of the Police & Fire Pension Fund agreement and in revision of the Fraternal Order of Police contract with Jacksonville Sheriff's Office. While both Mayor John Peyton and current Mayor Alvin Brown proposed substantial modifications to the pension agreement, no substantive modifications have yet been made.²⁵ This failure to achieve modifications to the pension agreement is cutting significantly into the operations budgets of all city departments, as interest payment on the growing pension debt increases exponentially. Mayor Alvin Brown's *Pension Transition Committee Report* opens with the following statement dated August 8, 2011:

It is with a strong sense of urgency that we report to the mayor our findings and recommendations regarding the City of Jacksonville's defined benefit pension system. The combination of pension fund deficits (unfunded actuarial accrued liabilities, or UAAL) for the total of all city plans was last reported to be over \$1.6 billion. It is expected that Jacksonville's pension costs could skyrocket by more than 50% or more in the next 5 years if the current pension structure remains in place... Jacksonville faces a short term and a long term crisis as the escalating costs of pensions are projected to increase with significant volume and velocity over the next 20 years. ...Without a substantial increase in city revenues (greater than 35% in the next four years), which is possible without significant change in the current economic environment, the City of Jacksonville could be forced to reduce all other city services by 10% to 25% to compensate for the growing pension obligation problem.²⁶

Yet there are potentially three specific areas of criminal justice spending where disproportionate savings could be achieved. **First**, local judges could modify their practice at first appearance, when defendants have first opportunity to hear the charges against them. Current practice is to ask defendants how they plead right at first appearance. This tactic is arguably used by judges to coerce defendants into early pleas on threat of having to serve jail time, which helps judges manage their docket.²⁷ ***Combined with*** the State Attorney's tendency to charge defendants with every possible charge and/or the highest possible charge, this induces many to

²⁴ Jacksonville's Revenue's Worrying Council Auditors. FTU, Feb 17, 2012.

<http://jacksonville.com/news/metro/2012-02-17/story/jacksonvilles-revenues-worrying-council-auditors>

²⁵ Modification of the agreement is complicated by the fact that the City must negotiate separately with the Pension Board for modification of pension debt issues and the Fraternal Order of Police to negotiate the police contract.

²⁶ "Pension Transition Committee Report: Presented to Mayor Brown on August 8, 2011"

²⁷ "Duval Jail Overcrowded Despite Fewer Arrests: Finger Pointing Begins." FTU; Nov 15, 2009. http://jacksonville.com/news/metro/2009-11-15/story/duval_jail_overcrowded_despite_fewer_arrests_finger_pointing_begins

plead *not* guilty—and subsequently sit in jail while awaiting trial. In part as a result of that, Duval County in 2010 had the state’s highest incarceration rate. In short, forestalling the demand for a plea so early in the process, could save time and money later.

Second, while certainly Ms Corey has lived up to her promise to take more cases fully to trial—where defendants will presumably get harsher sentences than if they accept a plea for even a stiff charge—criminal trials in the system as a whole, are extremely rare, because they are expensive in terms of case backlog and jail costs.²⁸ Every court system negotiates what legal scholar Samuel Walker calls a “going rate” for penalties and charges, fixing a routinized division of labor between the judiciary, prosecution and defense. The conflict we’ve seen between the chief judge and state attorney, clearly have to do with Ms Corey’s renegotiation of the “going rate” in Duval County.²⁹ This happens routinely in the United States when a new state attorney is elected. The facts, for example, are that Jacksonville has the highest incarceration rate in the state, that Florida leads the nation in prosecuting children as adults—and Jacksonville leads Florida—making Jacksonville the nation’s capital for prosecuting children as adults. I think these are fair markers of punitiveness—and being so punitive costs a lot of money.

Finally, **third**, clearly savings could be achieved through a renegotiation of the FOP contract. Not only is the Jacksonville Journey summer camp program mentioned above a good indicator of costs, but the fact that both Duval County Public Schools and JIA recently declined opportunities to have JSO provide police service and start their own departments, is another indicator that JSO has priced itself out of the market. Renegotiating the contract and pension or starting a new municipal department with a new contract, is an option in this regard. This has been done in many “consolidated” jurisdictions.

²⁸ Siegel, *Criminology* (2010) Wadsworth. Pps 502 – 513.

²⁹ *Sense and Nonsense about Crime, Drugs, and Communities*, 7th Edition; see Chapter 3 – the Going Rate (pages 53 – 71); Samuel Walker; Wadsworth Cengage Learning

Savings Possibilities	Stakeholder	Issue	Recommendation
	Judges	Bail Bonds	Modify first appearance plea process; modify (lower) bond schedule
	SAO	Filing Rate	Lessen multiple filings on same case
		Trials	Push appropriate punishments wo/ need for trial
	JSO	Pension Debt	Increase payment to fund/lower debt
		CBA	Reform current agreement; create municipal department with entirely new contract
	Taxpayers		

Dr. Michael Hallett is Professor and Chairman of the Department of Criminology & Criminal Justice at the University of North Florida. His research interests are justice policy and the sociology of punishment. Dr. Hallett served on the Management Team of the JCCI Homicide Study and was appointed by Jacksonville Mayor John Peyton to the Jacksonville Journey Oversight Committee and directed the program evaluation of nine Jacksonville Journey programs for the City of Jacksonville.

Dr Dan Pontzer is Assistant Professor of Criminal Justice at the University of North Florida. His research interests include prosecutorial discretion and bullying behavior among juveniles. Dr. Pontzer led an evaluation of 6 Jacksonville Journey programs in 2009.

