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## Lessening the Economic Impact of Incarceration: Privatize, Reinvest, or Realign in Mississippi?

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Lessening the Economic Impact of Incarceration: Privatize, Reinvest, or Realign in  
Mississippi?

by

James Z. Foster

A thesis submitted to the faculty of The University of Mississippi in partial fulfillment of  
the requirements of the Sally McDonnell Barksdale Honors College.

Oxford, MS

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Approved by

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## Abstract

The purpose of this thesis is to examine how private prisons, justice reinvestment, and public safety realignment are currently being implemented in the United States to lessen the economic impact of incarceration and determine which, if any, would work best in Mississippi. Several methods were used in this study, including a comparison of operational costs between state and private prisons, regression analysis to test the effect of Drug Courts on drug-related admissions, and an investigation on capacity levels in county, state, and private prisons. The conclusions drawn from this study demonstrate the pros and cons of private prisons currently operating in Mississippi, the benefits of Drug Courts as a cost-saving mechanism, and how realigning state-level prisoners into county facilities is not a viable option in this state.

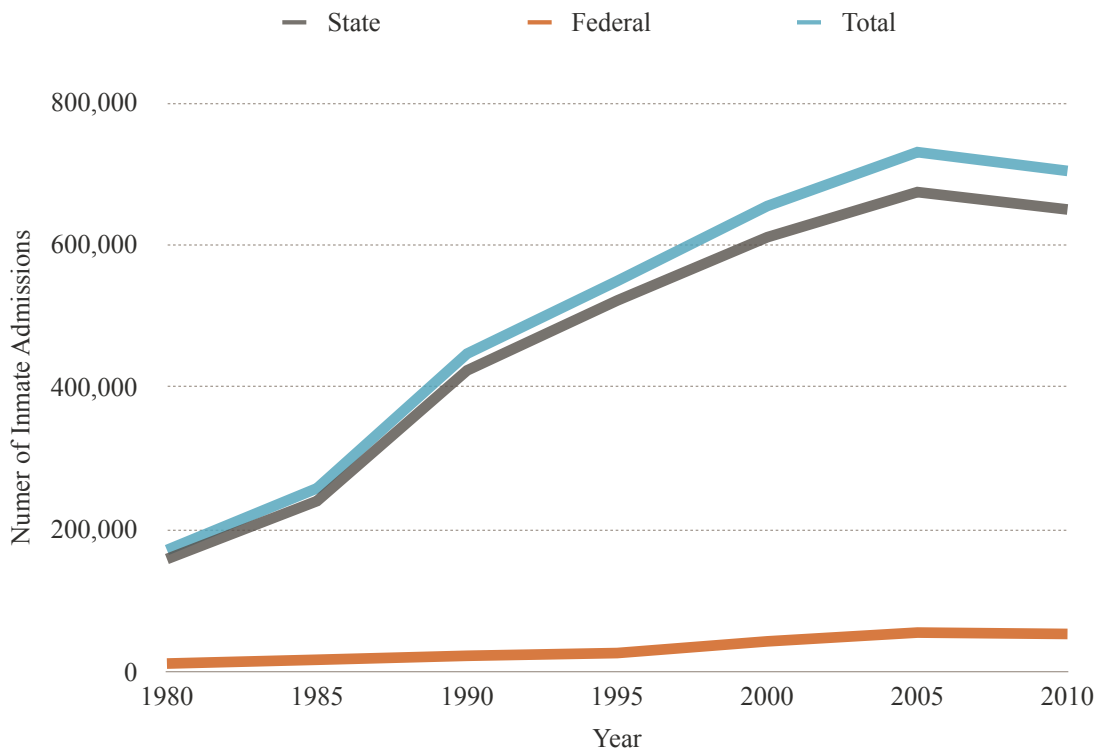
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## I. Introduction

The United States, while containing a mere 5% of the world's population, holds over a quarter of its prisoners<sup>1</sup>. With an inmate population far higher than any other country in the world, some have begun to question the functionality of the US imprisonment system. The high costs of incarceration and recent epidemic of overpopulated prisons has led many states to examine alternatives to correctional development.

State and Federal Prison Admissions in the United States (1980-2010)<sup>2</sup>



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<sup>1</sup> *For Immediate Release: How to Safely Reduce Prison Populations and Support People Returning to Their Communities* June 2010. Justice Policy Institute, 2010.

<sup>2</sup> Source: *Prisoners in 2012 - Advance Counts*. By E. Ann Carson and Daniela Golinelli. United States Department of Justice. Bureau of Justice Statistics, 2013.

According to a study performed by the Center for Economic and Policy Research on the budgetary cost of incarceration, the combined state-level corrections expenditure in the US went from an estimated \$8 billion to almost \$26 billion between 1982 and 1992<sup>3</sup>. In the early 1990s, some states began “outsourcing” inmates to private companies in order to deal with overpopulation and save on the staggering costs of incarceration. Those advocating the use of private prisons suggest several economic advantages over state and federal competition. First, private prison proponents argue that these corporations can build prisons quicker and cheaper than the government and can choose to locate their facilities in states where prisoners can be held at the least expense<sup>4</sup>. Those in favor of such development also argue that private prisons are subject to less bureaucracy than public prisons, and are thus not subject to strict hiring procedures<sup>5</sup>. Thus, some argue, private prisons can lower the cost of incarceration and save taxpayers money, making it an attractive solution to dealing with the troubling costs and limited capacity of federal and state imprisonment.

On the other side, those against private prisons claim such operations both violate the integrity of the justice system and provide no real cost savings. These individuals argue that the privatized correctional system has led to deteriorating facilities and neglected prisoners, while generating large profits for private prison companies and their

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<sup>3</sup> Schmitt, John, Kris Warner, and Sarika Gupta. *The High Budgetary Cost of Incarceration*. Rep. Center for Economic and Policy Research, June 2010.

<sup>4</sup> Antonuccio, Rachel. "Prisons for Profit: Do the Social and Political Problems Have a Legal Solution?" *The Journal of Corporation Law: University of Iowa College of Law* 33.2 (2008).

<sup>5</sup> Ibid.

executives. Studies from the American Civil Liberties Union (ACLU)<sup>6</sup> and the Justice Policy Institute (JPI)<sup>7</sup> address these issues and also question the actual cost savings of such practices. These reports also bring up the questionable incentives politicians may have to promote private prisons and how lobbying efforts along with campaign contributions from the largest private prison corporations such as Geo Group and Correctional Corporation of America (CCA) have been used to support the multibillion dollar industry driven by mass incarceration.

The recent backlash from advocacy groups such as the ACLU and JPI has led some states to abandon this strategy and take an alternative approach known as “justice reinvestment”. Led by a national non-profit organization known as the Council of State Governments Justice Center, this data-driven approach seeks to reduce corrections spending and reinvest savings in strategies that can decrease crime and strengthen neighborhoods<sup>8</sup>. Using this approach, states like Texas have funded treatment and diversion programs in order to lower recidivism rates and subsequently lower the population of prisoners in their states. For instance, in Texas, policymakers reinvested \$241 million on what would have been used on constructing new prisons, saving the state \$210.5 million in the 2008-2009 fiscal biennium<sup>9</sup>. Recent trends showing a decline in prisoner population in states that have chosen to implement a justice reinvestment

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<sup>6</sup> Shapiro, David. *Banking on Bondage: Private Prisons and Mass Incarceration*. Rep. New York: American Civil Liberties Union, 2011.

<sup>7</sup> Ashton, Paul. "Gaming the System: How the Political Strategies of Private Prison Companies Promote Ineffective Incarceration Policies." *Justice Policy Institute*. Justice Policy Institute, June 2011.

<sup>8</sup> "About the Justice Center." *CSG Justice Center*. N.p., n.d. Web.

<sup>9</sup> *Justice Reinvestment State Brief: Texas*. Rep. New York: Council of State Governments Justice Center, 2007.



approach make this a viable option for states looking to reduce their prison population and save taxpayers money, while also improving the lives of their citizens.

Alternatively, states like California have chosen what they call Public Safety Realignment in order to deal with rising inmate population and prison overcrowding. This approach is meant to limit the number of low-risk offenders being put in prison and increase community supervision in order to lower the California state prison population, while maintaining a high standard of public safety. However, in order for this approach to be possible there must be sufficient space in county-level facilities for the low-risk inmates to be housed, making this option not possible for many states. The recent success California has had using this strategy has led other states to consider Public Safety Realignment as an option for dealing with overcrowded state prisons.

The goal of this paper is to investigate the advantages and disadvantages of private prisons in the United States, while also considering the potential economic impact of taking a justice reinvestment and public safety realignment approach to dealing with overpopulated prisons in the this country. I will examine current justice and corrections policy in Mississippi and conduct an independent analysis of the economic impact incarceration has in this state, while also looking at how current and past budgets are used to fund this system. Next, I will look at the costs of private prisons and determine whether or not they can be used as a way to save money in Mississippi. After looking at private prisons, I will examine the positives and negatives of taking a justice reinvestment approach by looking specifically at Drug Courts as a place to reinvest correction funds. Lastly, I will explain why realignment will not work in Mississippi, and determine what

direction makes most sense for this state in order to increase the state's budget, save taxpayers money, and allocate resources to other important areas such as education and public health, while keeping public safety as a top priority.

## II. Economic Advantages of Private Prisons

### a. Cost Savings

As with any other corporation, those in the prison industry aim to maximize profits in order to satisfy the duty to their shareholders and like others, do this by minimizing costs. One advantage of private prisons is a lower initial cost of development. The prison industry requires large fixed costs, the majority of which come from the construction of the prison itself and the cost of land. Because of this, the prison industry generates a large economy of scale, resulting in rapidly declining fixed costs per unit of output. Also, while most state or federal governments take an average of two and a half years to build a prison, private prison corporations are often able to build a prison in less than eighteen months, saving firms an average of thirty percent on construction costs alone<sup>10</sup>. Private firms are also not subject to the heavily regulated construction contracts as are government funded prison operations, making this process faster and more cost-efficient.

Another major cost in the development process is the cost of land. While government funded and operated prisons are required to house inmates within state boundaries, private firms are not required to uphold this obligation. Thus, private prison firms construct facilities in states with low land costs. Currently, five states (Arizona, Kentucky, Colorado, Oklahoma, and Mississippi) allow private prison corporations to

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<sup>10</sup> Moore, Adrian T. *Private Prisons: Quality Corrections at a Lower Cost*. Rep. no. 240. Reason Public Policy Institute, n.d.

build prisons and house inmates from other states<sup>11</sup>. The private firms, despite increasing the cost of transportation to bus these prisoners across the country, are not burdened by the extremely high land prices in states such as California.

However, the main way private prison corporations save on costs is through operations, which account for an estimated 75-85% of the total cost of a prison<sup>12</sup>. Private prison companies, driven by cost-saving initiatives, design their facilities so that they can operate with fewer personnel. A cost comparison between public and private prisons in Wisconsin shows two prisons with a comparable number of inmates operating with noticeably different levels of correctional officers and staff. The private prison, operating with less staff, reduced the cost per prisoner by almost \$10/day, saving the company almost \$5 million in one year<sup>13</sup>. Private firms also reduce the misuse of overtime in order to reduce the cost of operations. In 2005, correctional officers made approximately \$280 million in overtime pay, with one guard in California taking in an estimated \$187,000 in salary<sup>14</sup>. Private firms can take away overtime pay given to their employees, allowing them to operate more efficiently and at a lower cost.

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<sup>11</sup> Eidelson, Josh. "Humans Shipped Across the Country: How America Exports Inmates to Private Prisons." *Salon* 22 Nov. 2013: n. pag. Web.

<sup>12</sup> Moore, Adrian T. *Private Prisons: Quality Corrections at a Lower Cost*.

<sup>13</sup> Ibid.

<sup>14</sup> Miller, David W. *The Drain of Public Prison Systems and the Role of Privatization: An Analysis of State Correctional Systems*. Rep. N.p.: ProQuest Discovery Guides, 2010.

## b. Higher Quality

With an incentive to cut costs, one might initially think the quality of private prisons would be lower than state or federal funded operations. However, some studies show that the quality of confinement based on security, safety, order, care, activity, justice, conditions, and management is actually higher in private prisons in comparison to both state and federally operated prisons<sup>15</sup>.

While private prison companies compete on lower costs, they also must uphold a solid reputation in order to be considered for both state and federal contracts. This generates some degree of competition, which then creates an incentive to increase quality while maintaining low costs. Also, private prison corporations are financially motivated to reduce the possibility of assaults, riots, etc. from happening under their supervision. Recent lawsuits<sup>16</sup> resulting from inmate assaults and disturbances give private prison corporations even more of an incentive to uphold safety standards in order to keep costs as low as possible. Private prison companies are carefully monitored and any bad publicity could jeopardize contracts, increase costs, and lower profits, further motivating these firms to provide a safe environment for both its staff and inmates.

Aside from competing among other private prison firms, these companies also compete with prisons operated by state and federal governments. Without private companies, one could argue that government operated prisons lack incentive to improve the standard in quality regulated under state law. Advocates of privatized corrections are

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<sup>15</sup> Logan, Charles H. "Well Kept: Comparing Quality of Confinement in Private and Public Prisons." *Journal of Criminal Law and Criminology* 4th ser. 83.3 Fall (1992): 590-91. - Reproduction of Logan's Graph.

<sup>16</sup> Geo Group Lawsuits. Private Corrections Working Group, n.d. Web.

adamant about the benefits that come from innovations in the prison industry. Proponents of the private prison industry claim that these qualities make private prisons a good option for states looking to lower the cost of incarceration and work within their budgets without having to cut back on funding in other areas.

### III. Common Criticisms of Private Prisons

#### a. Questionable Incentives

One major criticism of private prisons is that they are financially driven to operate at full capacity and thus are motivated to put more people behind bars. More so, many contracts between private prisons and state/federal governments contain occupancy requirements. A recent study conducted by In the Public Interest, a comprehensive resource center on privatization and contracting, found that 41 of the 63 contracts examined contained occupancy requirements ranging between 80-100%<sup>17</sup>. Also, some people argue that private prison firms have no incentive to keep those currently incarcerated out of prison, and therefore lack any incentive to lower the rate of recidivism. The former motto of the industry's largest corporation CCA boasted, "If you build it, they will come"<sup>18</sup>. Those against private prisons see this mentality as detrimental to the rehabilitative goals of incarceration and undermine the attempt to lower the incarceration rate in the United States.

Another heavily criticized aspect of the private prison industry is the amount of compensation received by its top executives. In 2010, CCA's President and CEO and GEO Group's Chairman and CEO were reported to have received more than \$3.2 million

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<sup>17</sup> Criminal: How Lockup Quotas and "Low-Crime Taxes" Guarantee Profits for Private Prison Corporations. Publication. Washington: In the Public Interest, 2013.

<sup>18</sup> Antonuccio, Rachel. "Prisons for Profit: Do the Social and Political Problems Have a Legal Solution?"

and \$3.5 million in executive compensation respectively<sup>19</sup>. Because government contracts provide the main source of revenue for these companies, those against private prisons argue that this is a misuse of taxpayer dollars<sup>20</sup>. These figures cause those against private prisons to further question the incentives of those operating in an already controversial industry.

#### b. Insufficient Evidence of Cost Savings

Those skeptical of private prisons are not hesitant to point out the numerous studies and reports that indicate private prisons sometimes do not save money and in some cases cost more than government operated prisons<sup>21</sup>. State audits from Arizona and Hawaii, along with a report from the Government Accountability Office (GAO) claim information on projected cost savings were “misleading,” “flawed,” and based on inadequate data<sup>22</sup>. If accurate, this information would discredit the financial incentives of state and federal governments to partner with private prison corporations in an effort to save money.

The idea that prisons promote economic development is another heavily debated issue. Those against private prisons claim that no meaningful number of jobs are created in areas where these prisons are being built, and play no major role in the cost-benefit analysis of a prison. An analysis of a private prison in Karnes County, Texas projected the 600-bed facility would create about 140 jobs and \$150,000 in tax revenue<sup>23</sup>. With this

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<sup>19</sup> Shapiro, David. *Banking on Bondage: Private Prisons and Mass Incarceration*.

<sup>20</sup> Shapiro, David. *Banking on Bondage: Private Prisons and Mass Incarceration*. (page 13)

<sup>21</sup> Ibid.

<sup>22</sup> Ibid.

<sup>23</sup> "Who Benefits When A Private Prison Comes To Town?" *National Public Radio* Nov. 2011. Web.



prison saving taxpayers of Karnes County such a small amount, one could argue that the cost saving and economic development are both trivial and not worth having a prison in your back yard.

### c. The Effect of Political Contributions

Another major criticism of private prisons is the industry's effort to lobby for stricter laws resulting in longer sentences. A report from the Justice Policy Institute labels this as "a three-pronged approach to influencing policy, creating more incarceration, and making more money"<sup>24</sup>. While perfectly legal, some argue the large campaign contributions these corporations make through Political Action Committees (PACs) drive policymakers to make decisions based on the preferences of campaign donors.

However, unlike other negatively viewed aspects of private prisons, many of these companies do not hide their attempt to promote stricter laws and harder punishment. In CCA's 2010 annual report, the company addresses this issue by stating, "The demand for our facilities and services could be adversely affected by the relaxation of enforcement efforts, leniency in conviction or parole standards and sentencing practices or through the decriminalization of certain activities that are currently proscribed by our criminal laws". While this may not have any legal implications, those against private prisons question the morality of this practice and view it as another example of influences, rather than purely economic considerations, driving public policy.

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<sup>24</sup> Ashton, Paul. "Gaming the System: How the Political Strategies of Private Prison Companies Promote Ineffective Incarceration Policies." (Page 15)

#### IV. Justice Reinvestment

##### a. Support and Evidence of Success

In stark contrast to the pro-enforcement, tough on crime approach many states have taken in the past, some states are beginning to take a preventative approach using a concept known as justice reinvestment. In order to prevent further growth in prison populations, these states are investing in community supervision, treatment and diversion programs, along with utilizing parole for low-risk offenders. Using this approach, state policymakers are working with the Council of State Governments Justice Center, the Bureau of Justice Assistance, a component of the U.S. Department of Justice, and the Public Safety Performance Project of The Pew Charitable Trusts' Center on the States with hopes of improving public safety while making better use of corrections spending.

In the past, many state policymakers have ignored the possibility of crime deterrent methods being useful to lower the prison populations. Perhaps afraid of how the public would react to lenient laws or going against a campaign promising to be tough on drugs, these policymakers have ignored the possibility of using rehabilitation and preventative care to lower prison populations. A study from the Bureau of Justice Statistics showed that within three years, an estimated 67.5% of inmates were rearrested<sup>25</sup>. While recidivism rates have steadily increased over the years, so have the number of inmates.

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<sup>25</sup> Langan, Patrick A., and David J. Levin. *Recidivism of Prisoners Released in 1994*. Bureau of Justice Statistics. 2002

Between the 1994 study and 2008, the population of inmates being released each year has more than doubled; meaning about 461,025 of the 683,000 inmates released in 2008 will be rearrested within three years of being released<sup>26</sup>. Studies further confirm the disconcerting reality of what is often called the “revolving door” by showing how time spent behind bars has little if any impact on the likelihood of someone returning to prison<sup>27</sup>. Perhaps because of these facts, many policymakers have chosen not to reinvest in correction spending and refuse to implement reform. However, the states that have chosen to take this route have had an incredible amount of short-term success.

b. Texas

Texas, a state notorious for being tough on crime, a leader in both immigration and drug reform, and consistently a frontrunner for having the highest incarceration of any state in the country, decided in 2007 to work with the CSG Justice Center in order to reduce corrections spending and increase public safety. Over a five-year period, the Texas prison population was estimated to grow by almost 14,000 prisoners, costing taxpayers an estimated \$523 million between 2008 and 2009<sup>28</sup>.

After an analysis of the current prison population, two key issues stood out to those contemplating policy reform. First, despite a 3% decrease in the number of parolees, there was an 18% increase in those returning to prison based on a violation of parole over

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<sup>26</sup> "Justice Reinvestment Facts & Trends." *Collaborative Approaches to Public Safety*. Justice Center: The Council of State Governments, n.d. Web.

<sup>27</sup> Laudano, Jennifer. *Prison Time Served and Recidivism*. Rep. N.p.: Public Safety Performance Project, 2013.

<sup>28</sup> *Justice Reinvestment State Brief: Texas*. Rep. New York: Council of State Governments Justice Center, 2007.

the past decade<sup>29</sup>. Second, over 2,000 people were awaiting placement for substance and mental health programs due to a lack of funding and insufficient number of facilities<sup>30</sup>. Using this information, state policymakers decided to reinvest correction spending to focus on these areas instead of simply building a new prison to house the increasing number of inmates. While working with the CSG Justice Center, the Texas legislature passed a series of bills geared toward helping reduce the number of inmates while reinvesting a large portion of the corrections budget. On the next page I have reproduced a table providing by the CSG Justice Center which shows the bills passed.

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<sup>29</sup> *Justice Reinvestment in Texas: Assessing the Impact of the 2007 Justice Reinvestment Initiative*. Rep. New York: Council of State Governments Justice Center, April 2009.

<sup>30</sup> *Ibid.*

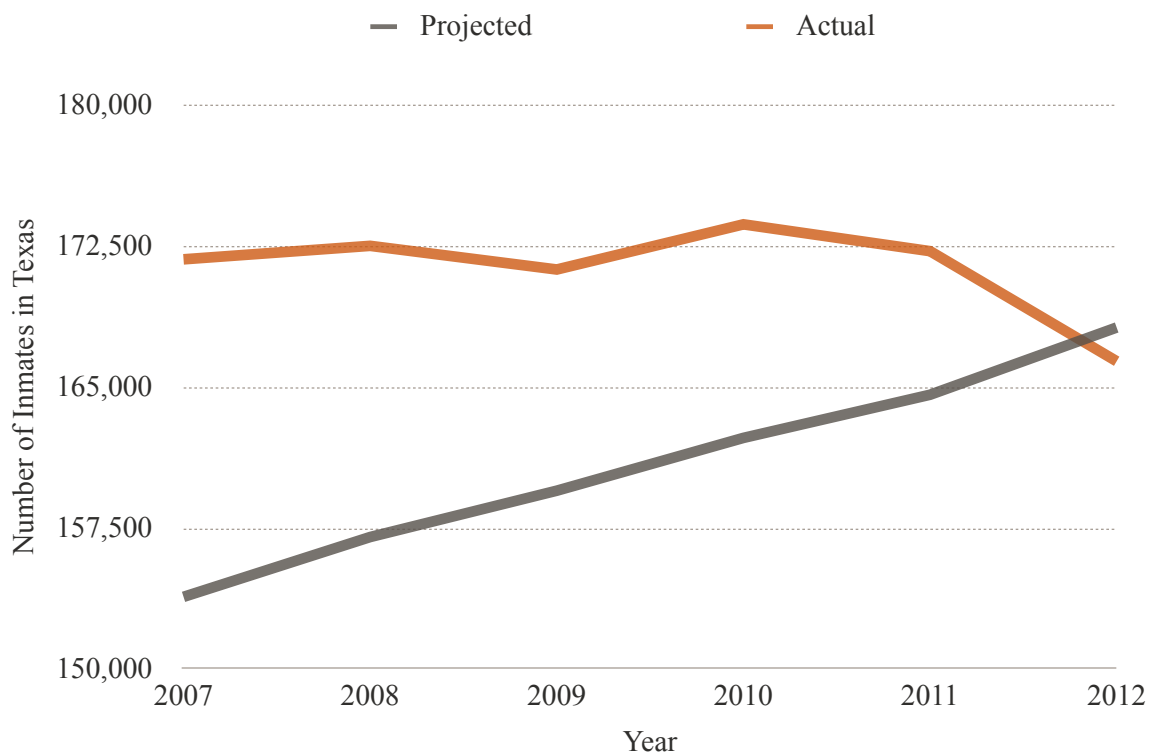
## Implementation of the Texas Reinvestment Initiative (2007)<sup>31</sup>

Program	Increase in Funding (\$)	Description
Probation Outpatient Treatment	\$10 million	Probation outpatient substance abuse treatment under contract or by probation department
Mental Health Pre-Trial Diversion	\$10 million	Mental health treatment funding dedicated to encouraging pre-trial release of mentally ill offenders
State Jail Treatment	\$5.8 million	Substance abuse treatment in state jail facilities housing low-level property and drug offenders
In-Prison Therapeutic Community (IPTC)	\$21.7 million	The program provides intensive substance abuse treatment services to offenders in prison and post-release. The 6-month in-prison phase is followed by 3 months in a TTC in the community, and 3 to 9 months of outpatient counseling. The parole board uses the program as a condition for the release of offenders who need substance abuse treatment.
DWI Prison Treatment	\$22.2 million	A prison facility dedicated to providing offenders convicted of DWI offenses with a 6-month substance abuse treatment program.
Probation Residential Treatment	\$32.2 million	Residential treatment facilities provide substance abuse treatment, counseling, and rehabilitation services. Programs range from 3 to 12 months.
Substance Abuse Felony Punishment (SAFP)	\$63.1 million	The program provides intensive residential substance abuse treatment services to offenders on probation who are violating the conditions of their supervision due to substance abuse problems. The program involves treatment in a secure facility for 6 months, followed by 3 months in a TTC in the community, and 3 to 9 months of outpatient counseling. This program is also available to parolees, but most of the capacity is used for probationers.
Intermediate Sanction Facilities (ISFs), Parole/Probation	\$28.7 million	ISFs are secure facilities that serve as detention centers for offenders violating the conditions of their supervision (“technical violations”). These facilities are used to sanction offenders in lieu of a revocation to prison. The average length of stay is 60 days.

<sup>31</sup> Source: Justice Reinvestment in Texas: Assessing the Impact of the 2007 Justice Reinvestment Initiative. Rep. New York: Council of State Governments Justice Center, April 2009.

With the average inmate in Texas costing taxpayers around \$49.50/day , or about \$18,067 annually, an estimated \$262.4 million was saved based on the projected prison population in 2012<sup>32</sup>. Those who support justice reinvestment see this saving as a major step in dealing with overcrowding and helping states make better use of their corrections spending. In a state like Texas, with an annual corrections budget of a little over \$3 billion, a \$260 million savings goes a long way in helping distribute funds to other areas such as education and public health<sup>33</sup>.

Texas Prison Population Projected<sup>34</sup> vs. Actual<sup>35</sup> (2007-2012)



<sup>32</sup> Levin, Marc A. *Corrections Budget and Prison Operations*. Rep. N.p.: Texas Public Policy Foundation, 2008.

<sup>33</sup> Texas Department of Criminal Justice. *Fiscal Years 2014-2015 Legislative Appropriations Request*.

<sup>34</sup> Source: *Adult and Juvenile Correctional Population Projections*. Rep. N.p.: State of Texas Legislative Budget Board, 2007.

<sup>35</sup> Source: *Prisoners in 2007 - 2012*. United States Department of Justice. Bureau of Justice Statistics. Raw Data

### c. Potential Failures

While advocates of justice reinvestment give credit to this nuanced approach in criminal justice for lowering the prison population, saving taxpayers money, and improving public safety, those against this strategy argue that no long-term evidence exists to support these trends. Although incarceration rates in the United States have continued to decline over the past five years, some opponents suggest that lenient laws for low-risk offenders will eventually increase the number of crimes in this area. This argument suggests that by lowering the “cost” of committing these crimes, more individuals will behave in low-risk criminal activity, therefore increasing the number of crimes and off-setting the short term benefits of justice reinvestment.

While this may be true, there is not enough long term data to indicate whether or not the hundreds of millions of dollars being invested in treatment and diversion programs will have any success in deterring this type of criminal activity. However, more and more states have begun to take a justice reinvestment approach, indicating that some feel that the long-term risks are worth taking in order to deal with the rapidly rising cost of incarceration and its impact on state taxpayers. This form of experimental policy, if shown to be ineffective, may not be worth the risk to states hoping for a more proven solution to overcrowding and the rising costs of incarceration.

## V. California's Public Safety Realignment

### a. About the Act

In 2011, the United States Supreme Court ruled that California must reduce its prison population by more than 30,000 offenders<sup>36</sup>. The Supreme Court's justification for its decision was that overcrowding had led to unconstitutionally poor health care delivery in California state prisons<sup>37</sup>. After this ruling, California implemented the Public Safety Realignment Act, transferring jurisdiction and funding for managing low-level criminal offenders from the State to the counties.

According to California Governor Edmund G. Brown, Jr. the purpose of the act is to eliminate the revolving door for lower-level offenders and parole violators, which "wastes money, aggravates crowded conditions, thwarts rehabilitation, and impedes local law enforcement supervision"<sup>38</sup>. It is also important to note that under the new laws, those currently in state prison will not be released early and will continue to serve their entire sentence. As part of this act, county-based probation departments began to take part in what is called post-release community supervision (PRCS) in order to supervise

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<sup>36</sup> Brown v. Plata. Supreme Court (2011)

<sup>37</sup> Grattet, Ryken, and Joseph Hayes. *California's Changing Prison Population*. Publication. N.p.: Public Policy Institute of California, 2013.

<sup>38</sup> *Governor Brown Signs Legislation to Improve Public Safety and Empower Local Law Enforcement*. Office of Governor Edmund G. Brown, 4 May 2011.



non-violent, non-serious, non-sex registrant offenders being released from prison<sup>39</sup>. Under this act, which became effective in October of 2011, these “non-non-non” offenders may now be sentenced to county jail and/or alternative custody programs instead of State prison<sup>40</sup>.

#### b. Short-Term Success

In a report demonstrating the effects of realignment, the California Department of Corrections and Rehabilitation found under previous state law 32.4% of prisoners returned for a new term in the year prior to the Realignment Act, while in the year following its implementation, a little over 7% of offenders returned to state prison within one year<sup>41</sup>. This drastic decrease is more than likely due to the large number of inmates who are re-incarcerated due to violations of parole, which no longer constitutes a return to state prison. This drop in prisoners not only saves taxpayers money by lowering the number of state funded prisoners, but also opens up beds for serious and/or violent offenders.

In the two years following the implementation of the Realignment Act, the California prison population had already met its 30,000 goal. In 2010 the estimated 164,213 inmates in California fell to 134,211 at the end of 2012<sup>42</sup>. California’s reduction of about 15,000

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<sup>39</sup> Realignment Report: An Examination of Offenders Released from State Prison in the First Year of Public Safety Realignment. Rep. N.p.: California Department of Corrections And Rehabilitation, 2013.

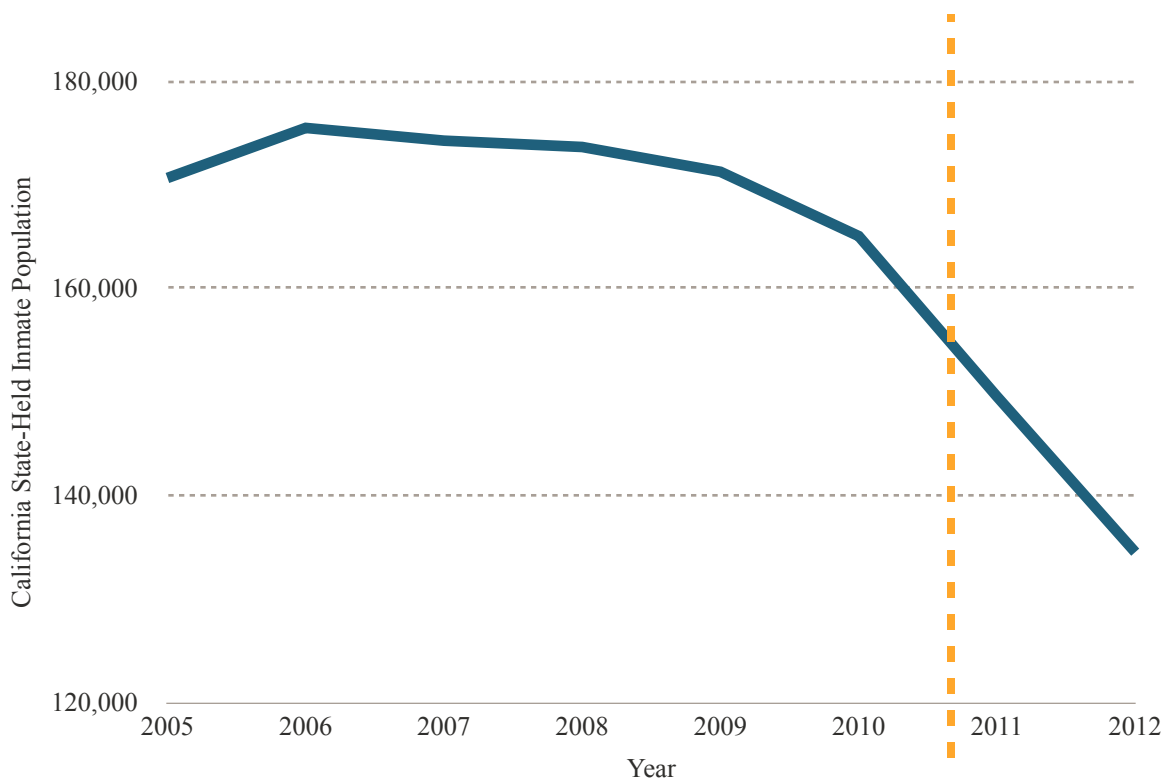
<sup>40</sup> Realignment Report: An Examination of Offenders Released from State Prison in the First Year of Public Safety Realignment.

<sup>41</sup> Ibid.

<sup>42</sup> *Prisoners in 2012 - Advance Counts*. By E. Ann Carson and Daniela Golinelli

inmates between 2011 and 2012 accounts for almost half of the entire reduction in the United States prison population. With an average annual cost of \$47,421 per inmate, this drop in state-held prisoners saved California an estimated \$702.5 million in 2012<sup>43</sup>. For many, these numbers demonstrate the effectiveness of the Realignment Act in reducing the inmate population, improving the medical attention and environment of inmates, while also helping eliminate wasteful corrections spending in order to save taxpayers money.

California State Prison Population Before and After Realignment (2005-2012)<sup>44</sup>



<sup>43</sup> The Price of Prisons California: What Incarceration Costs Taxpayers. Rep. N.p.: Vera Institute of Justice, 2012.

<sup>44</sup> Source: *Prisoners in 2012 - Advance Counts*. By E. Ann Carson and Daniela Golinelli. Note: dotted line indicates when realignment took effect in California.

### c. Criticisms and Long-Term Implications

In the recent years following the Realignment Act, those against the change in policy have argued that it has led to increasing crime in California. Using the FBI crime statistics released at the end of 2012, those against the Realignment Act argue that California has suffered an increase in violent and property crimes following its implementation. Data indicates that 40 of California's 69 largest cities suffered an increase in crime during the first six months of 2012, which some argue is a direct result of the Realignment Act<sup>45</sup>. On the other side, supporters argue that violent crime rates dropped in the five counties that received the majority of lower-level offenders who would have otherwise gone to state prison<sup>46</sup>.

However, with no long-term evidence available to support either side, it is impossible to make an accurate assessment of the policy's consequences in terms of public safety. This policy approach is somewhat of an experiment, and those against the act argue the risk is not worth the reward. Being that there are a limited number of alternatives for lowering the state prison population, some states may be willing to take on the long-term risks in order to see the immediate results. With only one example of a state taking this approach (California), others may be unwilling to realign their prison population in order to save on the increasing cost to state taxpayers.

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<sup>45</sup> Thompson, Don. "California Realignment Of Inmates Blamed For Increase In Crime." *Huffington Post* 12 May 2013: n. pag. Web.

<sup>46</sup> Ibid.

## V. Mississippi Justice Policy

### a. Mississippi vs. United States Facts

Before examining the justice policy in Mississippi, it is important to analyze the current economic and social condition of the state. Using information from the US Census and Mississippi State Expenditure Report, I have developed a list of statistical information that compares Mississippi to national averages in areas such as education, employment and public assistance.

Currently, an estimated 22.3% of the Mississippi population live below the poverty level, compared to a 14.9% national average<sup>47</sup>. In terms of education, while 81% of the population over the age of 25 has graduated from high school (only 5% below the national average), only 20% of the states' population has earned a bachelor's degree or higher, which is 8.5% below the national average<sup>48</sup>. The state also has an estimated unemployment rate of 8%, ranking Mississippi 44th among all US states<sup>49</sup>. Mississippi is also known for having the second highest incarceration rate in the country, with an estimated 22,319 of its 2.9 million people being held under state jurisdiction<sup>50</sup>. Collectively, these figures not only burden the national reputation of the state, but jeopardize the safety and well-being of the states' almost 3 million inhabitants.

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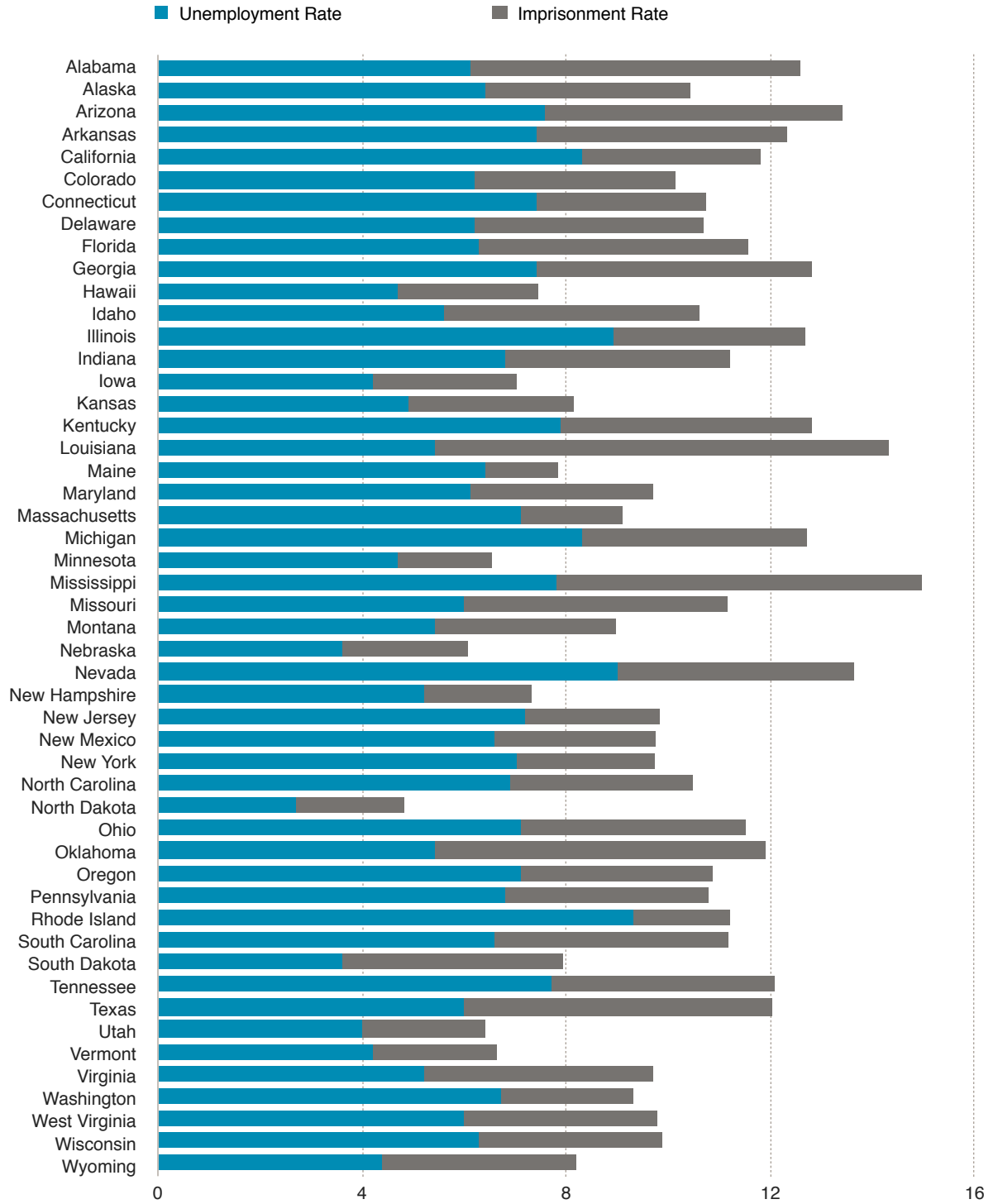
<sup>47</sup> "Mississippi QuickFacts." United States Census Bureau, 2013.

<sup>48</sup> Ibid.

<sup>49</sup> *Local Area Unemployment Statistics*. Bureau of Labor Statistics, Jan. 2014. Web.

<sup>50</sup> *Prisoners in 2012 - Advance Counts*. By E. Ann Carson and Daniela Golinelli

## Combined US State Unemployment<sup>51</sup> and Imprisonment<sup>52</sup> Rates



<sup>51</sup>Source: *Local Area Unemployment Statistics*. Bureau of Labor Statistics, Jan. 2014.

<sup>52</sup> Source: *Prisoners in 2012 - Advance Counts*. By E. Ann Carson and Daniela Golinelli

## b. Mississippi State Budget, Corrections Spending and Prison Conditions

Since 1990, the number of prisoners being held in Mississippi has almost tripled<sup>53</sup>. Because of this, those governing Mississippi have been faced with difficult decisions on how and where to increase spending on corrections. In the eight years between 2005 and 2013, Mississippi's appropriation towards corrections has increased by an estimated \$95 million, while the funds used toward education have fallen by almost 4%<sup>54</sup>. This large portion of state funds being used on corrections has continued to rise over the recent years, ranking Mississippi seventh in 2011 among all southern states in terms of percentage of budget spent on state corrections<sup>55</sup>.

Despite Mississippi's significant spending on corrections, most of this money goes toward constructing and operating prisons. A study released by the Pew Charitable Trusts shows that only 7% of the total corrections budget in Mississippi supports community supervision for the nearly 40,000 felony offenders on probation, parole, and house arrest<sup>56</sup>. Because of this, the majority of Mississippi state prisons lack important programs to help inmates with being reintroduced into society and/or stay out of prison. Only seven of Mississippi's prisons have English as a Second Language (ESL) program, while only three offer their inmates Special Education classes<sup>57</sup>. A mere 35% of prisons

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<sup>53</sup> Mississippi Department of Corrections Inmate Custody Population For Year's End 1990 - 2012.. Raw data.

<sup>54</sup> *General Fund Budget For Fiscal Year 2013*. State of Mississippi. Joint Legislative Budget Committee.

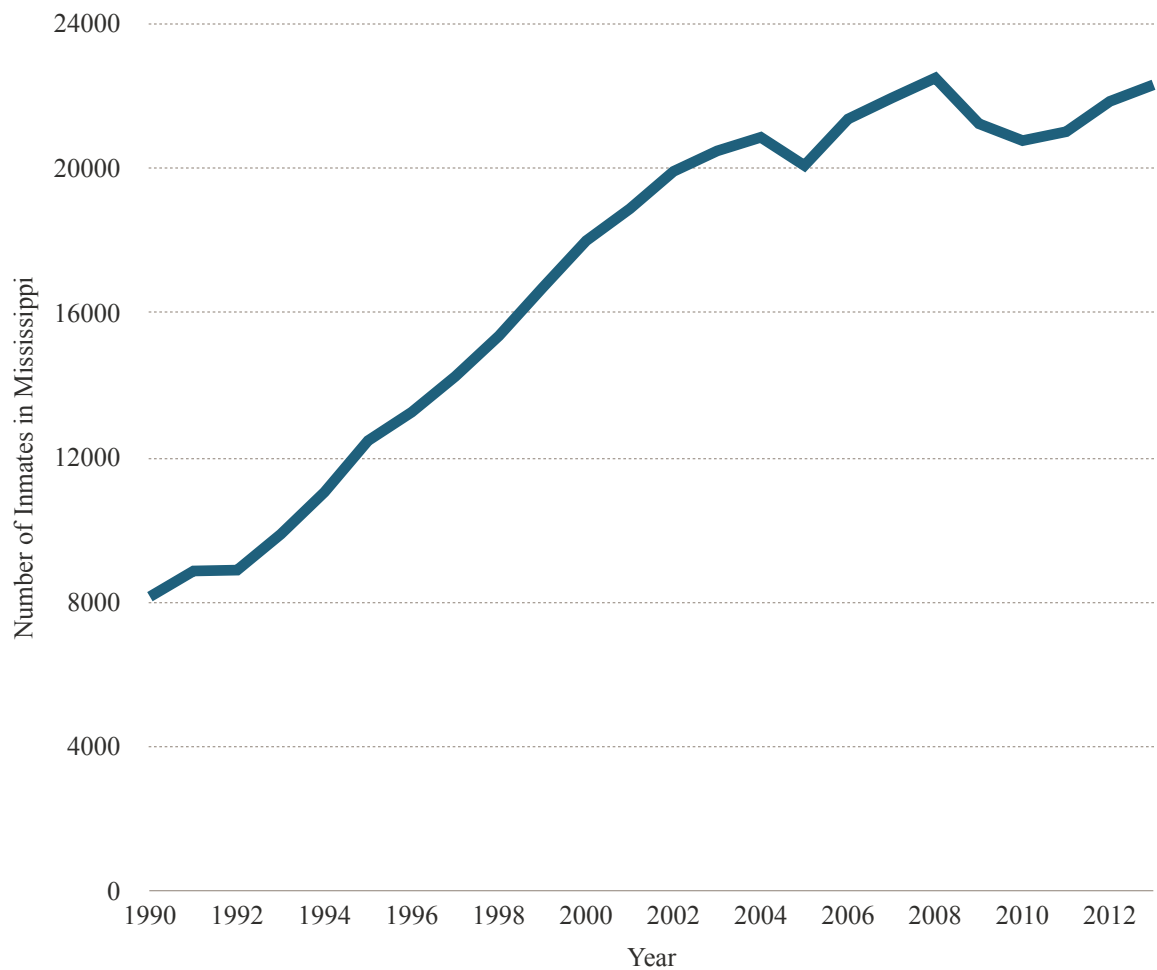
<sup>55</sup> "Distribution of State General Fund Expenditures." *State Health Facts*. The Henry J. Kaiser Family Foundation, 2011.

<sup>56</sup> *Improving Public Safety and Containing Corrections Costs in Mississippi*. Rep. The Pew Charitable Trusts, 2013. Web.

<sup>57</sup> Makarios, Matthew D., and Jeff Maahs. "Is Private Time Quality Time? A National Private-Public Comparison of Prison Quality." *Prison Journal* 92.3 (2012): 336-57. Sept. 2012.

offer job-seeking counseling compared to a 73% national average and only about 26% of these prisons have parenting and child rearing programs, which is almost half of the national average<sup>58</sup>. Perhaps because of this, the cost per prisoner in Mississippi is only \$41.74/day, and is considered to be the lowest in the United States<sup>59</sup>.

Mississippi Inmate Population (1990 - 2013)<sup>60</sup>



<sup>58</sup> Ibid.

<sup>59</sup> Gray, Steven. "Why Mississippi Is Reversing Its Prison Policy." *Time* 10 June 2011: n. pag. Web.

<sup>60</sup> Source: Mississippi Department of Corrections Inmate Custody Population For Year's End 1990 - 2012..

### c. Mandatory Minimums and Low-Risk Criminals

Some argue that one reason for Mississippi's high rate of incarceration stems from what are some of the country's most severe drug laws. While the average state prison sentence for drug sales in the United States is 5.7 years, Mississippi's is an average of 10.4 years<sup>61</sup>. Also, Mississippi's 7.2 year average sentence for drug possession is almost 3 years longer than the national average of only 4.5 years<sup>62</sup>. These alarming figures are in part due to Mandatory Minimum Laws, which give judges a limited amount of discretion when determining the length of a sentence. As a result of these laws, activist groups such as Families Against Mandatory Minimums (FAMM) have begun to speak out in an attempt to change the current laws for low-risk drug offenders.

The large number of property-type offenders incarcerated in Mississippi is also an area of concern. Currently, Mississippi's property offense statutes do not distinguish between large ranges of theft. This issue was addressed at the end of 2013 by Mississippi's Corrections and Criminal Justice Task Force, which recommended that the state differentiate levels of property crime<sup>63</sup>. This group pointed out that currently a theft of \$2,000 can result in the same sentence as a theft of \$50,000<sup>64</sup>. With the current threshold for felony property crimes at \$500, the large percentage of non-violent, low-risk, offenders currently incarcerated in Mississippi for property crimes is likely to stay as

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<sup>61</sup> Greene, Judith, and Patricia Allard. *Numbers Game: The Vicious Cycle of Incarceration in Mississippi's Criminal Justice System*. Rep. Justice Strategies, Mar. 2011

<sup>62</sup> *Ibid.*

<sup>63</sup> *Final Report December 2013*. Mississippi Corrections and Criminal Justice Task Force.

<sup>64</sup> *Ibid.*



is. Despite crime rates for property-type offenses continuing to fall, almost 30% of the current prison population is filled with property-type offenders.

## VI. Privatize, Reinvest, or Realign in Mississippi?

### a. Private Prisons in Mississippi

According to data provided by the Bureau of Justice Statistics (BJS), Mississippi prisons are currently operating at a mere 64% of their operational capacity<sup>65</sup>. In 2011, Mississippi held the second lowest occupancy rate among all states, having room for almost an additional 10,000 prisoners. With many states operating at full-capacity and some such as California and Delaware exceeding operational capacity, this small victory for Mississippi means that overcrowding in state-level correctional facilities is not likely to occur any time soon<sup>66</sup>. Thus, it is unlikely that more private prisons will need to be constructed in the state of Mississippi in the near future. However, with the prison population in Mississippi rising year after year and the switch to private prisons being one possible solution, it is important to look at the potential cost savings per prisoner experienced in this state.

Using data provided by the Mississippi Department of Corrections<sup>67</sup>, I have calculated the estimated differences in costs per prisoner that has resulted from the use of private facilities. In this analysis, I am assuming that private prisons have no impact on the prison population and also that capital costs are equal among private and public

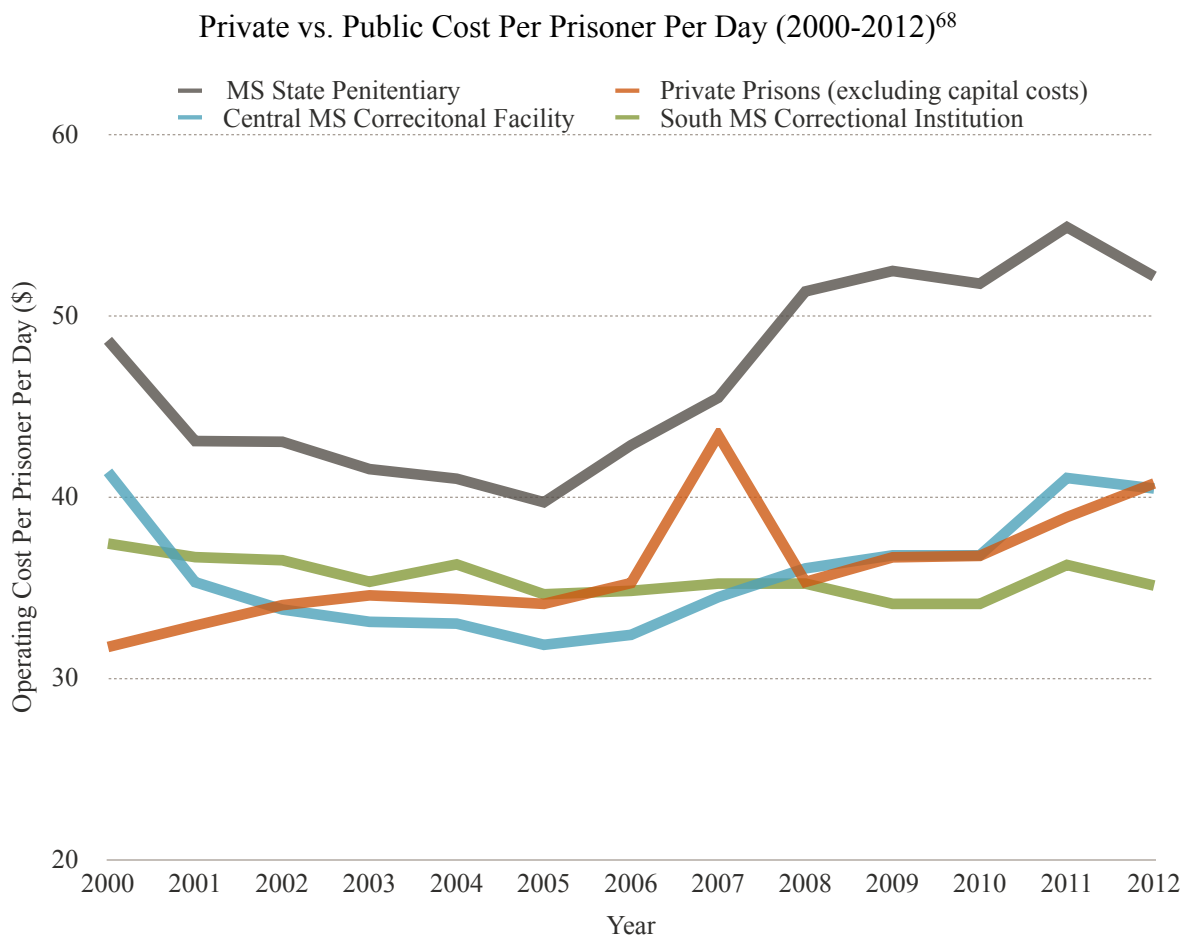
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<sup>65</sup> *Prisoners in 2012 - Advance Counts*. By E. Ann Carson and Daniela Golinelli. 2013.

<sup>66</sup> *Ibid.*

<sup>67</sup> Mississippi Department of Corrections Cost Per Inmate Day by Facility Type (FY 2000-2012) Raw data.

operations (although, as stated earlier, they are likely less for private companies). The purpose of this analysis is to see whether or not savings on operating costs are experienced in the private prison sector, thus justifying the “cost savings” argument made by those advocating for the use of private prisons. It is also important to note that inmate population has a significant effect on operating costs. While private prisons in Mississippi today hold about 4,600 prisoners, the three largest public prisons shown here only hold a little over 3,000.



<sup>68</sup> Source: Mississippi Department of Corrections Cost Per Inmate Day by Facility Type (FY 2000-2012). N.d.

As you can see from the graph, average operating costs for private prisons are significantly less than the operating costs experienced at the Mississippi State Penitentiary (MSP). However, between 2000 and 2004, a significant number of prisoners were taken out of the MSP, Central MS Correctional Facility (CMCF), and the South MS Correctional Institution (SMCI) and placed in private prisons, allowing all three of these prisons to operate below full-capacity and thus at a lower cost. However, the MSP's costs have continued to rise since 2005, as the inmate population continues to grow. On the other side, the privately operated prisons consist of multiple facilities housing over 1,000 inmates and are able to operate at a lower cost while housing a significant number of inmates. Looking at 2008, a year when the private prisons, CMCF and SMCI all had a comparable cost per prisoner, the private prisons held over 4,800 inmates while the CMCF had 3,558 and the SMCI housed only 2,980<sup>69</sup>. In the same year, the MSP housed 500 less prisoners than the private prisons, but spent about \$5,850 more per year (\$16/day) on each prisoner<sup>70</sup>.

Allowing the three largest public state prisons in Mississippi to operate below full-capacity in order to keep costs low seems to indicate that private prisons have provided a short-term solution to Mississippi's problem with overcrowding back in the mid 1990s. The ability of private prisons to house more inmates at a lower or equal cost, indicates that from a purely financial perspective, private prisons could potentially be used as a cost-saving mechanism in this state. However, as the prison population continues to rise, in the long run, the operating costs of both public and private facilities will inevitably rise

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<sup>69</sup> Mississippi Department of Corrections Cost Per Inmate Day by Facility Type (FY 2000-2012).

<sup>70</sup> Ibid.

and while private facilities may be able to operate at a lower cost to the taxpayers in the short run, they do not provide a permanent, cost-saving, solution.

More so, in the past few years, lawsuits against private prison companies in Mississippi have lowered the interest of some private companies. In 2012, Geo-Group, the nation's second largest private prison corporation, cancelled all three of its contracts in Mississippi. This decision came shortly after a lawsuit brought by the Southern Poverty Law Center and the ACLU, citing the poor conditions and lack of accountability for both civil and criminal wrongdoings at the Walnut Grove Youth Correctional Facility (WGYCF)<sup>71</sup>. The companies' CEO, George Zoley, claimed that the reason for terminating the contracts in Mississippi were because the prisons were "financially underperforming"<sup>72</sup>. However, the timing of the decision may lead some to believe that the lawsuit and large settlement that followed were at least part of Geo Group's decision to abandon its contracts in Mississippi. Although a new private contractor, Management and Training Corporation (MTC) quickly took over the contract from Geo Group, it will be interesting to see if they can continue to operate at a low cost, despite the negative publicity and impact of the lawsuit.

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<sup>71</sup> Reutter, David M. "GEO Group Pulls Out of Mississippi Prisons." Prison Legal News, 2013.

<sup>72</sup> Ibid.

## b. Reinvesting Corrections Budget to Fund Drug Courts

For the 2015 fiscal year, Mississippi Governor Phil Bryant recommended about \$366 million should be allocated to the MDOC in order to fund its current operations<sup>73</sup>. This is an 8.3% increase from the previous year and represents a little over 6% of the state's entire budget. While 6% may not initially seem like a large portion, when compared to areas such as Economic Development and Rehabilitation Services which receive 0.38% and 0.41% respectively, this figure stands out<sup>74</sup>.

The increase in funds being allocated to corrections is unquestionably due to the increase in the states' prison population, which increased from an estimated 13,000 prisoners in 1996 to almost 22,000 in 2012. Not only does this increase in prisoners cause operating costs to rise, but also means that more prisons (either private or public) must be built in order to keep current prisons operating below full-capacity. While costs and inmate admissions have continued to go up in Mississippi, it is important to note that crime rates have actually gone down. Since 1996, property, burglary, larceny, aggravated assault, robbery, and violent crimes have all fallen, while the murder and rape rates have remained roughly the same. The two graphs shown on page 35 demonstrate this surprising trend and bring up questions as to why the costs of incarceration have gone up rather than down.

This data offers two opposing explanations for why more prisoners are being held in Mississippi. On one side, more prisoners being locked up means less offenders are free to commit these crimes, thus explaining the fall in crime rates. This argument is further

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<sup>73</sup> *Executive Budget Recommendation Fiscal Year 2015*. Mississippi Governor Phil Bryant, 13 Nov. 2013.

<sup>74</sup> *Ibid.*

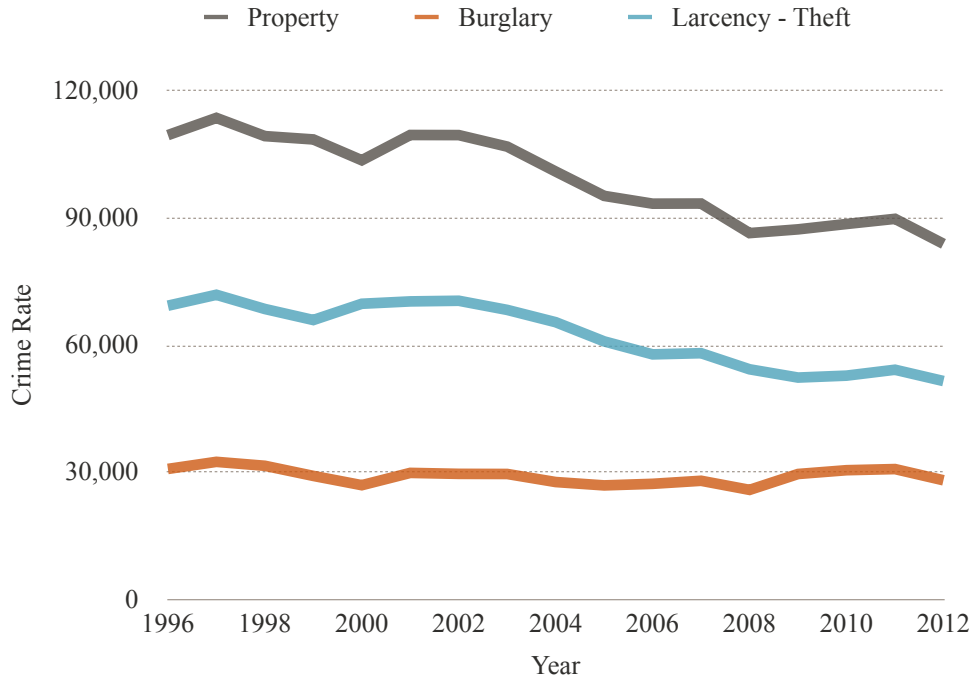
justified by the decrease in the overall percentage of inmate admissions coming from these specific categories. For instance, in 2001 6.35% of inmate admissions came from robbery, compared to only 5.36% in 2012. Another example that supports this theory is violent crime admissions, which fell from 5.89% in 2001 to 2.88% in 2012. With crime rates in all of these areas dropping, the increase in prison population could be at least partially due to the increased number of individuals being arrested for drug-related offenses, specifically possession. The graph on page 36 shows that despite arrests for drug sales being fairly static, possession arrests have increased by almost 37% in the past decade.

This theory is also supported by the fact that sentence lengths for drug-related offenses have increased significantly in the past decade. Longer sentences mean that drug-related offenders occupy more beds for an extended period of time, leaving less room for violent and/or serious offenders, while also increasing the long-term costs imposed on state taxpayers. The graph at the bottom of page 36 shows how the average sentencing length for drug-offenders has increased since 2003, adding support to this theory and helping explain why almost 1/3 of the prison population in Mississippi consists of drug-related offenders<sup>75</sup>.

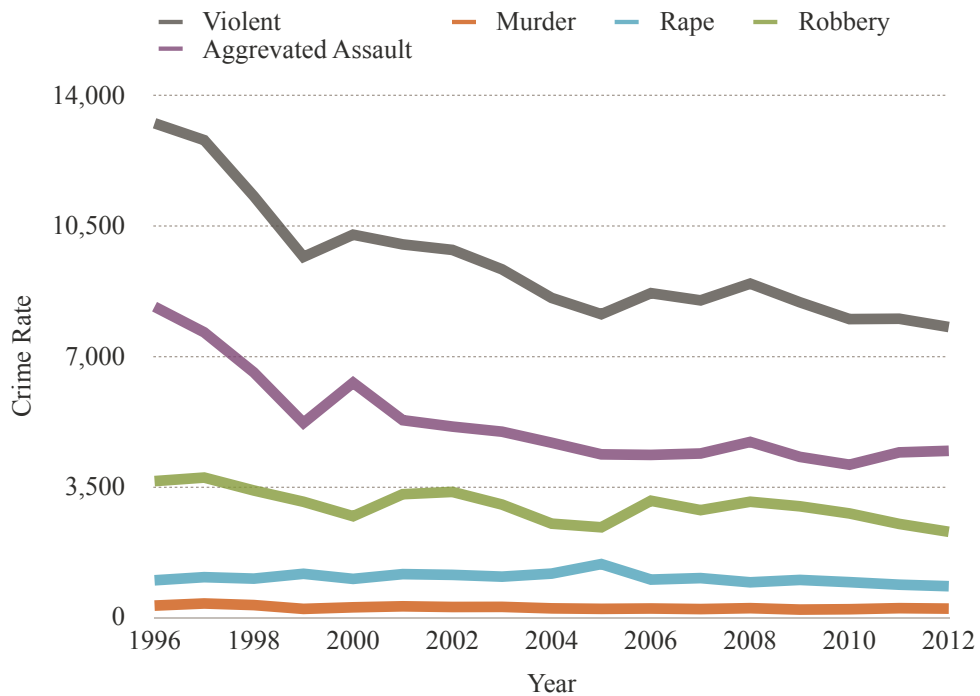
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<sup>75</sup> 2012 Annual Report. Rep. Mississippi Department of Corrections: Policy, Planning, Research & Evaluation Division, n.d. Web.

### Property Crime Rates in Mississippi (1996-2012)<sup>76</sup>



### Violent Crime Rates in Mississippi (1996-2012)<sup>77</sup>

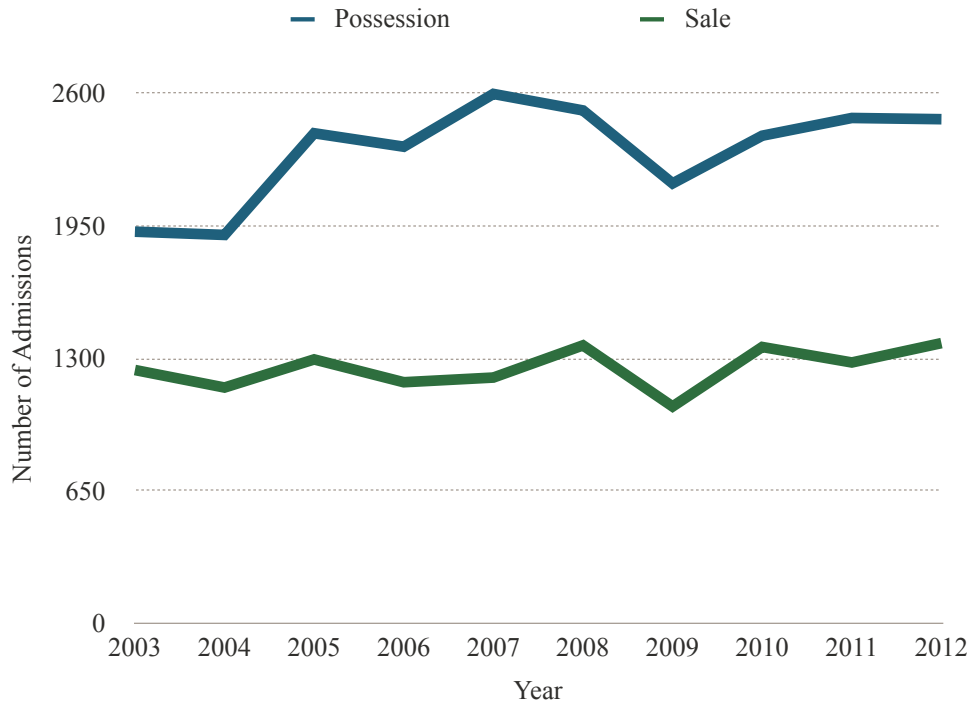


<sup>76</sup> Source: "Mississippi Crime Rates 1960 - 2012." The Disaster Center.

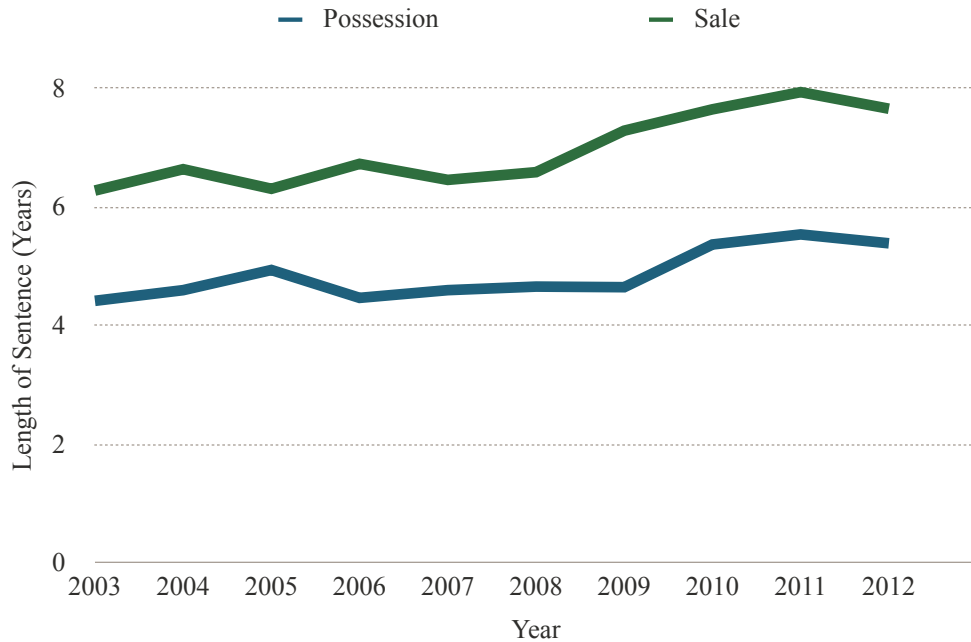
<sup>77</sup> Ibid.



Drug-Related Prison Admissions in Mississippi (2003-2012)<sup>78</sup>



Sentencing Lengths for Drug-Related Offenders in Mississippi (2003-2012)<sup>79</sup>



<sup>78</sup> Source: 2003 - 2012 Annual Reports. Rep. Mississippi Department of Corrections: Policy, Planning, Research & Evaluation Division

<sup>79</sup> Ibid.

While this explanation for the increase in Mississippi's state prison population is plausible, it is important to consider the potential flaws. The increased number of drug related offenders could have a casual relationship with the decline in other categories of crime admissions (violent, robbery, etc.). One could argue that the number of criminals committing theft, assault, etc. is lowered because individuals committing these crimes for the purpose of supporting a drug addiction are in prison for a drug-related offense. Thus, keeping more people locked up for drug-related crimes is important in order to ensure low crime rates in other areas. If the number of admissions and sentences was lowered, this could result in higher admissions in other categories, thus negating any cost benefit. The alternative theory for the rise in prison population is that the number of actual drug-related crimes has increased in this time, and that the number of admissions and longer sentences are merely the state dealing with a significant increase in drug-related criminal activity.

Drug Courts are one solution that Mississippi and other states across the country are using to deal with the large number of drug offenders. These courts provide an alternative method to incarceration for individuals convicted of drug-related charges and those who committed a crime as a direct result of substance abuse. The first felony adult Drug Court in Mississippi opened in 1999, but until recently growth had been relatively slow. Between 2004 and 2010, the number of Drug Court participants went from 637 to an estimated 2,800<sup>80</sup>. Drug courts provide education and training programs dealing with substance abuse, custom designed treatment programs, supervision of participants

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<sup>80</sup> *Progress Report on Mississippi Drug Courts*. Rep. Mississippi Drug Court Advisory Committee, Feb. 2011.

including drug tests, and other ways to deal with addiction. As policymakers in Mississippi look at alternatives to incarceration, Drug Courts stand out as a way to promote rehabilitation, while keeping public safety as a top priority.

In addition to the rehabilitative benefits of Drug Courts, there are also cost savings. Currently, thirty eight Drug Courts operate in Mississippi, and are estimated to save \$32 million annually in incarceration costs along with \$54 million annually on health care costs<sup>81</sup>. In 2010, the estimated annual cost per inmate in Mississippi was about \$15,235 per year, while it costs less than \$2,000 annually to intensely supervise a Drug Court participant<sup>82</sup>. Despite the savings from this system, only \$4 million of the current budget is being allocated to fund Drug Courts in Mississippi<sup>83</sup>. Those advocating for the use of Drug Courts claim that the recent growth of drug courts in Mississippi has outpaced their funding and without increased funding this system is in jeopardy of being less effective or potentially shut down.

In order to test the effectiveness of the Drug Court system in Mississippi, I examined the number of drug-related offenses in counties where drug courts are being used as an alternative method to incarceration. Economic theory tells us that a criminal will commit a crime where the marginal cost (potential of getting caught, fear of punishment, lost earnings, etc.) equals the marginal benefit (getting high, etc.). By providing an alternative method to incarceration, the “cost” of committing the drug-related crime is lower. Thus, the number of drug-related crimes being committed in these areas will increase. Under

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<sup>81</sup> *Progress Report on Mississippi Drug Courts*. Rep. Mississippi Drug Court Advisory Committee, Feb. 2011.

<sup>82</sup> *Ibid.*

<sup>83</sup> *Executive Budget Recommendation Fiscal Year 2015*. Mississippi Governor Phil Bryant, 13 Nov. 2013

this theory there are three basic assumptions. First, those committing drug-related offenses in these counties are aware of the implementation of Drug Courts, that they could be eligible, and that they are used as an alternative to incarceration. Second, that the majority of these criminals would prefer the Drug Court program instead of incarceration. Third, the benefit of committing drug-related crimes has not increased or decreased since the enactment of drug courts.

For this analysis, I tested three types of areas to see the impact of Drug Courts on the percentage of drug-related admissions relative to overall admissions. The different areas included areas with a large number of both overall and drug admissions, areas with a relatively small number of overall and drug admissions, and areas without Drug Courts operating in their jurisdiction. The area with a large number of admissions includes the 7th Circuit (Hinds County), the 14th Circuit (Lincoln, Pike, and Walthall Counties), and the 19th Circuit (George, Green, and Jackson Counties). The area with relatively low admissions includes the 4th Circuit (Leflore, Sunflower, and Washington Counties), the 9th Circuit (Issaquena, Sharkey, and Warren Counties), and the 21st Circuit (Holmes, Humphreys, and Yazoo Counties). For the last type, consisting of areas without Drug Court jurisdiction, I created three “Circuits,” naming them X Circuit (Jefferson, Claiborne, and Copiah Counties), Y Circuit (Smith, Jasper, and Jones Counties), and Z Circuit (Grenada, Carroll, and Montgomery Counties). With populations and admissions extremely low in jurisdictions lacking Drug Courts, I combined three counties in similar regions (West, South, and North, respectively) into circuits in order to make this data more accurate. To test the effect of Drug Courts, drug-related admissions as a percent of

total admissions was regressed on a constant and a linear time trend for the years 2003-2012. Because the MDOC only has county-specific information from 2003-2012, only this information was used in the test.

If the Drug Courts are effective as preventative policy, we might expect to see a decrease in drug-related admissions as a percentage of overall admissions. If drug-related admissions are relatively stable, the system could also be viewed as effective, as the additional criminals are being put through the Drug Court system at a lower cost, as opposed to being incarcerated. Alternatively, if the Drug Courts are lowering the cost of committing the drug-related crime and are thus ineffective in preventing drug-related crimes, we would expect to see an increase in drug-related admissions relative to overall admissions in areas with Drug Court jurisdiction. The three Circuits lacking Drug Court jurisdiction (X, Y, and Z) will be used as comparison, but are predicted to be relatively stable as they have presumably not been impacted by the Drug Court policy.

Change in Drug Admissions Relative to Total Admissions for Large, Small, and Non-Drug Court Circuits (2003-2012)<sup>84</sup>

Circuit	Average Annual Percentage Point Change in Drug Admissions as a Percentage of Total Admissions	T-Stat
4th (Small)	-0.6	-1.66
9th (Small)	-0.5	-1.05
21st (Small)	-0.3	-0.45
7th (Large)	-1.4*	-5.71
14th (Large)	0.07	0.22
19th (Large)	0.6*	2.46
X (Non-Drug Court)	-2*	-2.95
Y (Non-Drug Court)	-0.7	-1.30
Z (Non-Drug Court)	0.4	0.85

<sup>84</sup> Source: 2003 - 2012 Annual Reports. Rep. Mississippi Department of Corrections: Policy, Planning, Research & Evaluation Division, n.d. Web.

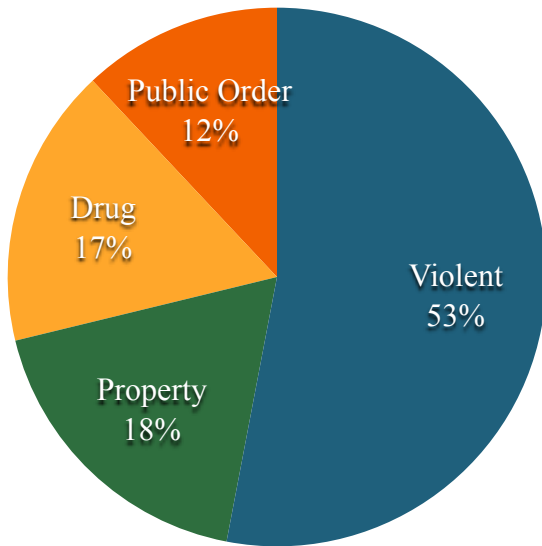
Note - For each circuit, drug-related admissions as a percent of total admissions was regressed on a constant and a linear time trend for the years 2003-2012. The coefficient on the time trend for each circuit court regression is shown above. \* represents statistically significant results.

Looking at the results, it appears that Drug Courts had little effect on decreasing the number of drug-related admissions as a percentage of total admissions in the large counties. While the 7th Circuit (Hinds County), saw an average annual decrease of 1.4 percentage points in drug-related admissions as a percent of total admissions, it was the only Circuit with two functioning Drug Courts. The “small” circuits were the only type of area in which all three showed a decline, despite being relatively minor. Information from the non-Drug Court circuits supports the view that Drug Courts had little if any impact on the number of drug-related admissions in most of the circuits tested. Overall, the Drug Courts did not seem to decrease the “cost” of committing drug related crimes, nor has it had a significant effect on lowering the number of drug-related admissions relative to overall admissions. However, with an estimated 2,800 active participants in the Drug Court system who would otherwise be admitted into prison, the use of Drug Courts as a cost saving mechanism has proven effective.

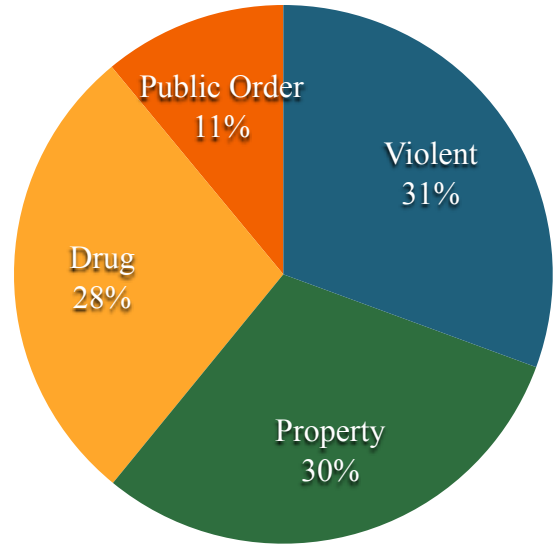
The average ratio of drug-related admissions to overall admissions in these counties, falling between 35-40%, also reflects the highly concentrated drug-related inmate population in Mississippi. While the percentage of drug-related inmates in all US state prisons is 16.8%, Mississippi’s prison population is filled with 28.2% drug-related offenders. The disparity in property crimes is also surprising, with the US state prison average at about 18.2% and Mississippi’s at an estimated 30.3%. The large number of drug and property inmates in Mississippi could perhaps be connected, with many burglary and larceny crimes possibly being committed to fund a drug addiction. Using Drug Courts as an alternative to incarceration provides addicts with a chance to

rehabilitate, while lowering the chance of recidivism. Reinvesting in Drug Courts will also save taxpayers money, costing an estimated \$5.48/day as opposed to \$41.74/day to incarcerate an individual in Mississippi<sup>85</sup>.

US State Prison Population<sup>86</sup>



Mississippi State Prison Population<sup>87</sup>



While examining MDOC's data on drug-related admissions for 2013, it became apparent that several counties occupy a large percentage of the total drug-related admissions in Mississippi. The graph on page 45 shows the uneven distribution of drug-related admissions across Mississippi and points out the areas where drug-related criminal activity (based on admissions) seems to be most prevalent in this state.

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<sup>85</sup> *Progress Report on Mississippi Drug Courts*. Rep. Mississippi Drug Court Advisory Committee, Feb. 2011.

<sup>86</sup> Source: *Prisoners in 2012 - Advance Counts*. By E. Ann Carson and Daniela Golinelli

<sup>87</sup> Source: *2012 Annual Report*. Rep. Mississippi Department of Corrections: Policy, Planning, Research & Evaluation Division, n.d. Web.



In 2013, four counties (Harrison, Jackson, Rankin, and DeSoto), were responsible for 26.8% of drug-related admissions in Mississippi. With such a large percentage of drug-related admissions coming from these counties, reinvesting in rehabilitation centers, substance and drug abuse education programs, and Drug Courts in these areas could go a long way toward reducing the overall number of drug-related inmates in Mississippi. By targeting the areas with the highest concentration of drug-related admissions, Mississippi could test the effectiveness of using rehabilitation, drug awareness/education programs, and heavily-funded Drug Courts to help address these problems. Making an effort to use corrections funds more efficiently is the first step Mississippi must take in order to limit the number of non-violent, low-risk, offenders being incarcerated in this state. The cost of imprisonment to house drug-related offenders is too high, and if the goal is to eliminate drug-use and/or drug distribution, a preventative approach might be more effective than the tough on drugs method that has failed in the past.



### c. Why Realignment Won't Work in Mississippi

The success of Public Safety Realignment in California, despite being a significant accomplishment for the state, relied on having a large number of county jails and also empty space in these facilities available to house additional inmates. With state-level facilities being overcrowded, California took low-risk offenders and placed them under county supervision. By realigning its inmates and taking advantage of the space available in county-level facilities, California seems to have made progress on its goal to improve the living conditions of its inmates, reduce the effect of the revolving door, and save on the high costs of incarceration.

However, in order for this approach to work in Mississippi or any other state there must be room in county-level facilities. As of March 3, 2014 county-level correctional facilities in Mississippi are operating at almost 98% capacity, with room for less than 100 inmates<sup>89</sup>. More so, Mississippi's state prisons are operating at just over 82% capacity and its private prisons at about 73% capacity<sup>90</sup>. Because of this information, it would not make sense for Mississippi to realign its inmates in order to save on costs and/or improve the living conditions of its inmates. If anything (assuming incarceration is the only option), Mississippi should take inmates out of regional facilities to reduce overcrowding in these facilities and place them in private or state-level prisons. This would reduce operating costs at the county-level and presumably improve the living conditions of inmates in these facilities. More so, based on data from the MDOC, it is actually cheaper

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<sup>89</sup> Mississippi Department of Corrections Monthly Fact Sheet. 3 Mar. 2014. Raw data.

<sup>90</sup> Ibid.

to house an inmate in a private prison than in a county facility, making realigning inmates from state to county facilities even less practical for Mississippi<sup>91</sup>.

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<sup>91</sup> Mississippi Department of Corrections Cost Per Inmate Day by Facility Type (FY 2011).

## VII. Conclusion

While considering the arguments for and against the use of private prisons there is no clear winner. Those opposed to private prisons rely primarily on attacking the incentives of those operating within the industry and their disincentive to address recidivism. At the same time, evidence exists that shows private prisons as cost-effective in some states, but not in others. Justice reinvestment, while perhaps the most risky of the three approaches, has proven in the short-term to be extremely rewarding. Looking at correction spending from a bipartisan, data-driven, perspective not only reduces inefficient spending, but lowers the opportunity cost that comes with having a significant number of potential workers and taxpaying citizens behind bars. Lastly, Public Safety Realignment, while successful in California, is not a viable option for states lacking room in county-level facilities and appears to serve as a temporary solution to overcrowded state facilities rather than helping reduce the actual number of low-risk offenders in the system.

Of the three approaches, justice reinvestment seems to be a good fit for Mississippi. In a state with a significant number of low-risk offenders, this route could help eliminate the revolving door for drug and property offenders, while focusing more on criminals who pose a significant threat to public safety. Investing more in Drug Courts, by either expanding existing courts or adding more in counties with the most drug-related crimes, could reduce the number of low-risk, non-violent, inmates being admitted for drug and property crimes by providing a cheaper and more effective form of discipline.

Reconsidering Mandatory Minimum Laws and redefining the levels of property offenses, while focusing on rehabilitation and lowering recidivism, would also increase capacity for violent offenders and allow the state to promote spending in underfunded areas such as economic development and education. Although this approach lacks long term empirical evidence of success, Mississippi can simply not afford to continue incarcerating such a high number of individuals whose primary threat is to themselves and not the safety of others.

While private prisons appear to be cost effective in Mississippi and allow state prisons to operate under capacity, they do not provide a solution to help lower the incarceration rate. More so, with GEO Group's recent decision to eliminate its contracts in Mississippi, it is uncertain whether or not others in this industry will want to operate in this state if the prisons are proven to be financially underperforming. With hardly any available beds at the county-level, realignment is not a viable option for the state of Mississippi. While understanding that none of these options will completely solve the financial and social burdens of imprisonment, I believe that looking at ways to lessen its effect is a major step Mississippi must take to deal with the rising cost of incarceration.

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