



## Miami-Style Smart Justice




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A prosecutor “has the responsibility of a **minister of justice** and not simply that of an advocate.”

---- Comments Regarding the Rules Regulating the Florida Bar, Rule 4-3.8



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## The Traditional Punitive System



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### Punitive Measures

- Traditionally, the courts have focused on punishing offenders through incarceration, rather than rehabilitating them
- Incarceration is the most effective tool we have for incapacitating offenders, but is not a complete solution



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### Low-Level Offenders

- Incarceration is contra-indicated for certain low-level offenders

Comparison of Two-Year Recidivism Rates for Offenders on Community Supervision and in State Prison<sup>1</sup>

	Felony Recidivism		Violent Felony Recidivism	
	Community Supervision	State Prison	Community Supervision	State Prison
Drugs	21.1%	25.1%	2.2%	2.8%
Burglary	22.9%	29.3%	3.7%	4.5%
Theft or Fraud	27.4%	33.7%	2.7%	3.4%
Weapons	22.8%	28.2%	4.4%	5.5%
Other	24.5%	30.2%	3.3%	4.0%

<sup>1</sup>Offenses in the "Other" category include third DUI convictions, obstruction of justice, witness tampering, escape, animal cruelty, and fishing/wildlife offenses.



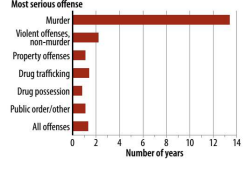
Source: *Diverting Low Risk Offenders from Florida Prisons*, Report No. 19-01 (Office of Program Policy Analysis and Government Accountability (OPPGA) January 2019)

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### Release

- The vast majority of incarcerated offenders are released

Median time served in state prison before initial release, by most serious offense, 2016



Source: Kaehle, D., *Time Served in State Prison, 2016*, NCJ 252205 (BJS November 2018)



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### Most Prisoners Re-offend After Release

- In 2018, BJS reviewed data for almost 70,000 state prisoners released in 2005 from 30 states
  - 44% of the prisoners were re-arrested at least once within the first year of their release
  - 68% were re-arrested at least once within the first three years after their release
  - 83% were re-arrested at least once within the nine years after their release
- The released prisoners averaged **five arrests** during the nine years after their release

Source: Alper, M. et al, 2018 Update on Prisoner Recidivism: A 9-Year Follow-up Period (2005-2014) (BJS May 2018)



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### Costs

- Incarceration is the most expensive intervention we employ
- In fact, it's about 10 times more expensive than traditional probation
- We simply cannot incarcerate our way out of crime, even if we wanted to; we need to use our resources strategically

	<b>Prison</b> • \$55.80/day or \$20,367/year • 1,500 inmates cost \$30.5 million/year
	<b>Probation</b> • \$5.60/day or \$2,015/year • 1,500 supervisees cost \$3 million/year • \$27.5 million saved

Source: Diverting Low Risk Offenders from Florida Prisons, Report No. 19-01 (OPPGA January 2019)



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### Our Vision



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### Our Vision

- Smart, effective, and responsible justice
- In other words, a criminal justice system where:
  - Public safety is the most important priority
  - We strive to prevent and deter crime
  - We work with and prosecute people as individuals
  - We stay abreast of the research, including the emerging literature on neuroscience, and employ **evidence-based practices**
  - We systematically assess and address offenders' criminogenic needs, rather than just their actions
  - We maximize limited public resources

.....and we do so simultaneously



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### Added Benefit

By employing Smart Justice we can quickly resolve cases involving people we're angry at while focusing our resources on and seeking maximum sanctions for those we're really afraid of



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### Smart Justice Works!



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### SAO Review of Florida Department of Law Enforcement (FDLE) Crime Rate Data

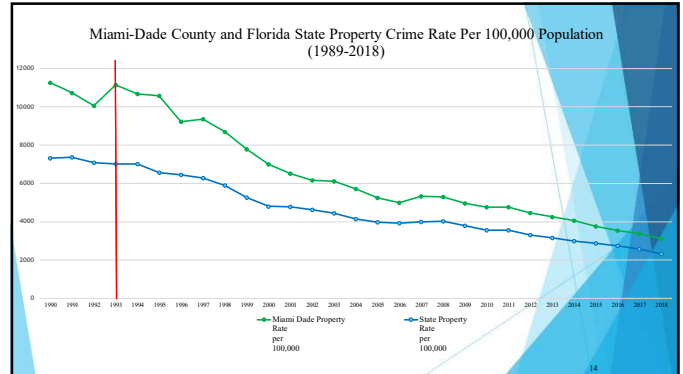
- The Florida Department of Law Enforcement (FDLE) collects data regarding crimes and crime rates in Florida
- The following slides summarize the crime rate data and show that we **successfully reduced our reliance on incarceration and the crime rate at the same time**



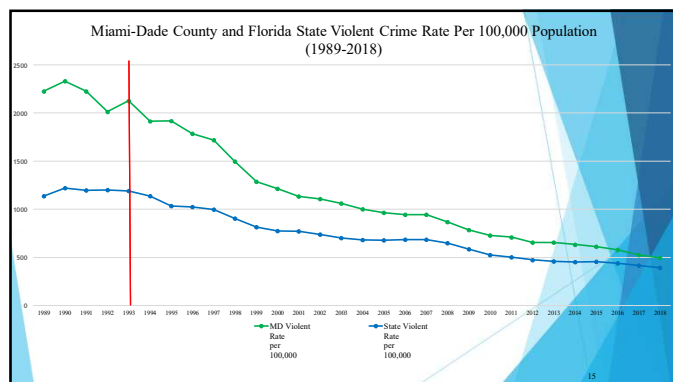
Source: Florida Department of Law Enforcement (FDLE), <http://www.fdle.state.fl.us/FSAC/FSACHome.aspx> (Accessed January 24, 2020)

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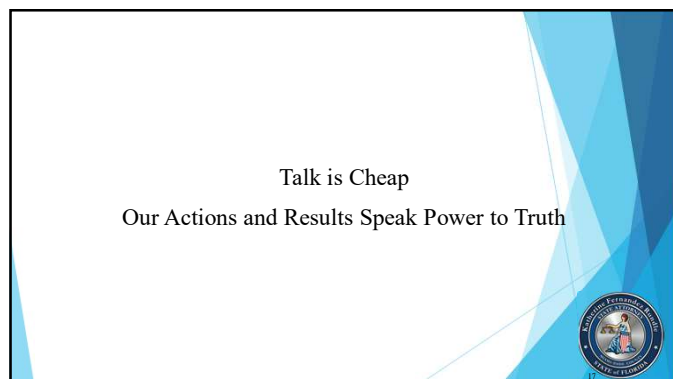
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### Child Support

- We are the only prosecutor's office in Florida that helps children obtain the financial backing they deserve, need, and are entitled to from non-custodial parents
- We support these children as part of our crime prevention efforts
- The financial support we obtain on these children's behalf provides them with additional opportunities to succeed



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### Child Support

- Last year, the Miami-Dade County Child Support Program (CSP) assisted almost 80,000 children
- The CSP leads the state in the highest percentage of cases where:
  - child support is obtained; and
  - arrears are collected
- Miami-Dade County collected over **\$182 million** in 2019
- In the last seven (7) years alone, we have collected over **\$1 billion**



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### Examples of Our Criminal Justice Initiatives



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### Juveniles



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### Treating Juveniles As Juveniles

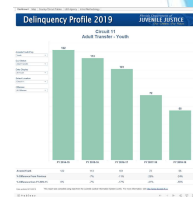
- Barring exceptional circumstances, we treat juveniles as juveniles
- In 2019, officers arrested **3,064** juvenile offenders
  - **1,794** for felonies
  - **921** for misdemeanors
- We have implemented a number of juvenile justice programs that allow us to effectively address their needs
  - As a result, we are sending fewer and fewer juveniles to adult court



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### Treating Juveniles As Juveniles

- In FY 2018-2019, we charged only **55** juveniles as adults for felony offenses
- The law required us to direct file most of these cases



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### Civil Citation

- We helped start Florida's civil citation program in 2007 and supported the legislation implementing it statewide
- Civil citation programs provide officers the option of issuing a civil citation instead of arresting them or otherwise filing criminal charges for some low-level offense the use of civil citations for certain offenses
- We currently support programs for juveniles and adults

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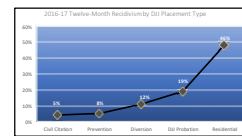
### Civil Citation for Juveniles

- We're particularly proud of our civil citation program for juveniles, which is the largest in the state
- Over **21,000** juveniles have been cited instead of arrested since the program's inception, **758** in FY 2018-2019 alone
- Approximately **83%** of program participants complete the program

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### Civil Citation for Juveniles

- An analysis conducted by the DJJ of data obtained from 2016-2017 demonstrated a **5%** 12-month recidivism rate (the lowest rate for any juvenile program)



Source: Civil Citation and Similar Diversion Programs Best Practice Guide (Florida Department of Juvenile Justice 2019)

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### Bail and Bonds for Low-Level Offenders

- Bail is appropriate for many, but not all, offenders
- With proper screening, we can easily identify people who are appropriate for pretrial release

Exhibit A-1  
Pretrial Release Programs' Budgets and Numbers of Defendants Who Failed to Appear or Committed New Crimes Varied

County Pretrial Release Program	Calendar Year 2018 Total Budget	Total Accepted In 2018	Total Served In 2018	Issued a Warrant for Failing to Appear In 2018	Arrested for Any Crimes While in the Program
Miami-Dade	\$4,727,894	7,980	10,492	717 (7%)	749 (7%)

Source: County Pretrial Release Programs: Calendar Year 2018, Report No. 19-17 (OPPGA December 2019)

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### Bail and Bonds for Low-Level Offenders

- Research suggests that pretrial detention can have adverse consequences
  - Offenders detained pre-trial recidivate at a higher rate than those who are released (**12.1% versus 35.3%**)
  - Pretrial release increases employment even three to four years after the bail hearing by **24.9%**

Source: Dobble, W., et al. The Effects of Pretrial Detention on Conviction, Future Crime, and Employment: Evidence from Randomly Assigned Judges, 108(2) American Economic Review 202 (2018)



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### Bail and Bonds for Low-Level Offenders

- We recommend that the court release defendants charged with a variety of crimes, including misdemeanor possession of marijuana, on their own recognizance absent significant aggravators or other extenuating circumstances
- We currently are receiving training in the use of the Public Safety Assessment (PSA) tool in the hopes of expanding pre-trial release in a safe and efficient manner



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### Post-Arrest Diversion



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### Post-Arrest Diversion

- We have created and implemented a multitude of diversion programs for people charged with misdemeanor and low-level felony offenses, including:
  - Theft
  - Non-violent Weapons Possession
  - Driving with License Suspended
  - Driving Under the Influence (DUI)
  - Domestic Violence
- Our programs provide meaningful interventions and services for various conditions



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### Juvenile Diversion

- Research suggests that juvenile participation reduces recidivism
- In 2018, nearly **1,000** juveniles successfully completed one of our diversion programs
- Approximately **77%** of participants completed the program
- Only **8%** of participants were convicted (or given a withhold) of a new offense during the 12 months after they completed the program

Source for first point: Wilson, H., and Hoge, R., The Effect of Youth Diversion Programs on Recidivism - A Meta-Analytic Review, 40 Criminal Justice and Behavior 497 (May 2003)



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### Adult Diversion

- In 2019, **over 6,000** misdemeanor offenders and **1,500** felony offenders successfully completed one of our diversion programs
- Research suggests that participation results in less incarceration and improved substance abuse and mental health outcomes
- There is little research on how participation effects adult recidivism, but at least one county in Minnesota reported that people who completed diversion recidivated at a far lower rate than those who did not (**6% versus 40%**)

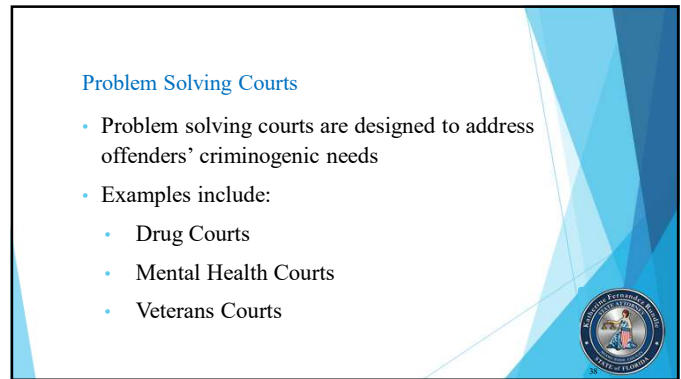
Source for research: A National Survey of Criminal Justice Diversion Programs and Initiatives (Center for Health & Justice at TASC December 2019)



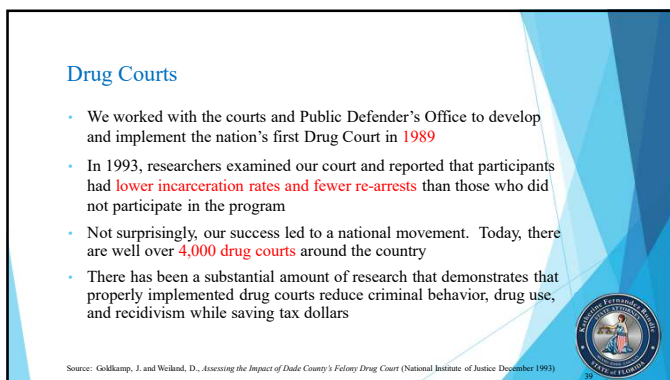
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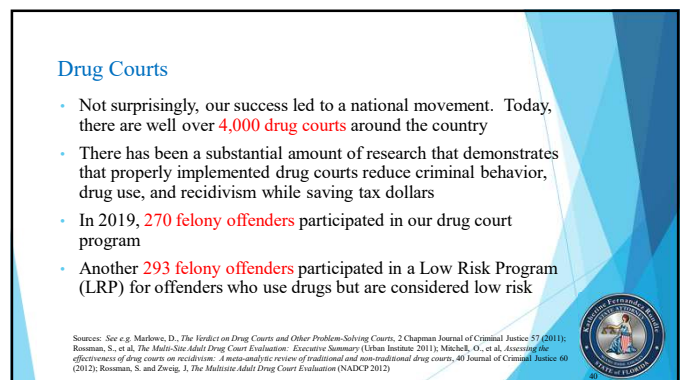
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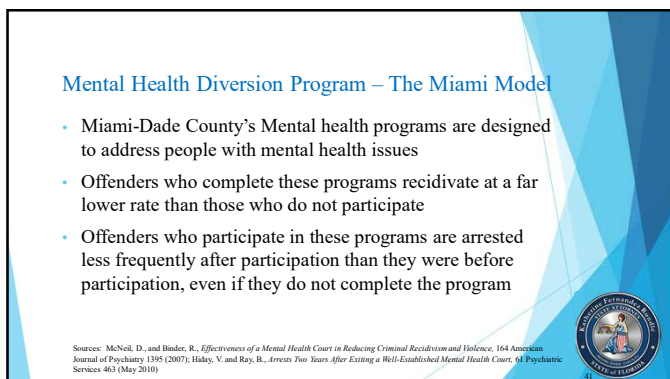
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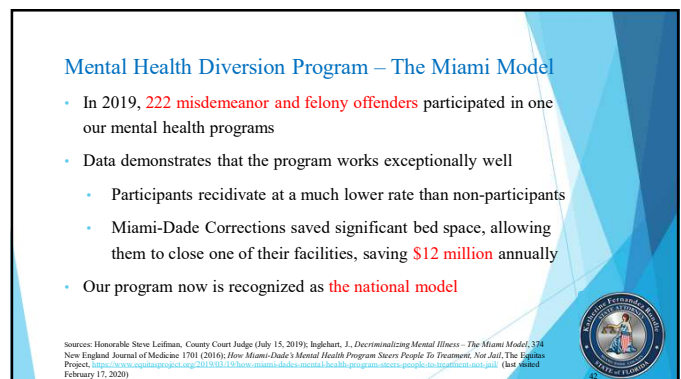
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### Veterans Court

- Veterans courts address the special needs of those who served in our armed forces
- In 2019, **53 felony offenders** participated in our veterans court program



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### Offender Services



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### Sealing and Expunging Program

- Over a decade ago, we started the "Second Chance" Program that helps people overcome the stigma that often accompanies an arrest or conviction by sealing and expunging their records according to law
- We've hosted **approximately 90 events** since 2011 (an average of almost 10 per year), the year we began keeping records. During that time, **over 13,000 people** requested our assistance. Of that number, we identified **over 7,000 eligible** people and helped them with their applications
- As word has gotten out, our program has become increasingly popular. In 2019 alone, **over 1,900 people** requested our assistance, including over **1,200** who were eligible for relief
- Research shows that programs like ours can reduce recidivism and improve participants' earning capacity

Source: Prescott, J. and Starr, S., Expungement of Criminal Convictions: An Empirical Study (March 16, 2019), Harvard Law Review, Forthcoming; University of Michigan Law & Econ Research Paper No. 19-001. Available at SSRN: <https://ssrn.com/abstract=3423623> or <http://dx.doi.org/10.2139/ssrn.3423623>



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### The Data – Jail and Prison



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### Reduced Reliance on Incarceration

- Our programming has allowed us to reduce our reliance on arrest and incarceration



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### The Data

- The available data shows we're incarcerating people at a much lower rate than ever before (and below state and national averages)
- And that we're incarcerating the right people



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### October 2019 Snapshot for Miami-Dade County

- In October 2019, the **average daily population** for all Miami-Dade County jails was **4,166**
- Miami-Dade County's jail incarceration rate **per 1,000 population** was **1.5%** (ie. 0.15% of the total population), the second lowest in the state
- The state incarceration rate was **2.6%**, while the county rates ranged from **1.2% to 17.4%** (the latter number is an outlier)

Source: Florida County Detention Facilities Average Inmate Population October 2019 (Florida Department of Corrections)(Accessed January 23, 2020)



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### Crime and Justice Institute NSPS Study (2019)

- In Florida, as in most other states, defendants' cases are "scored" using legislatively mandated scoresheets to determine a sentencing range
- The Crime and Justice Institute (CJI) reviewed 10 years of data from the Florida Department of Corrections (FDOC) for fiscal year 2009-2010 through 2017-2018 to determine what percentage of people who score discretionary state prison were sent to state prison from each county



Source: Margulies, L., Packard, S., and Engel, L., *An Analysis of Florida's Criminal Punishment Code* (CJI June 2019)



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### CJI NSPS Study (2019)

- They found that **only two percent (2%)** of the people who score within this range were sent to prison from Miami-Dade County
- To put this in perspective, no other county sent less than **five percent (5%)** of the people who scored within this range to prison
- Statewide, **11%** of the people within this range were sentenced to state prison

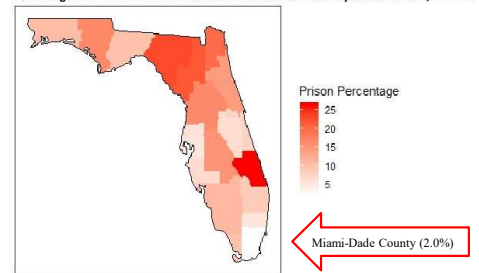
Source: Margulies, L., Packard, S., and Engel, L., *An Analysis of Florida's Criminal Punishment Code* (CJI June 2019)



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Figure 8. Wide Variation in Prison Sentencing Among Judicial Circuits

Percentage of 22 to 44 Point Scoresheets Sentenced to Prison by Judicial Circuit, FY 2018



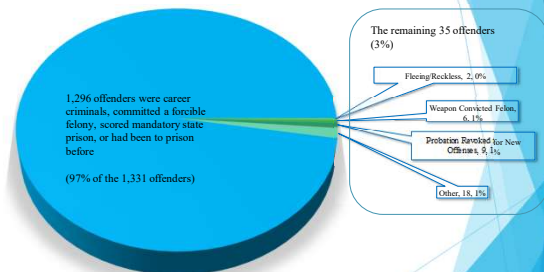
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### SAO Review of FDOC Data

- In 2020, FDOC provided us with data for every offender sent to state prison in FY 2018-2019
- During that year, **1,331** offenders were admitted to state prison from Miami-Dade County
- The following slides summarize the data



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### Admissions for Drug Possession Only

- At our request, FDOC reviewed their data and determined that only **six (6) offenders** were sent to state prison for drug possession only from Miami-Dade County in FY 2018-2019
- We reviewed the scoresheets for the six (6) offenders and found that **five (5)** scored mandatory state prison



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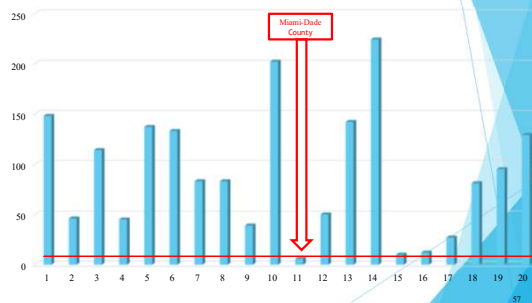
### Admissions for Drug Possession Only

- The sixth offender was charged with possession with intent to sell heroin within 1,000 feet of a school, which carries a three-year minimum mandatory sentence after he was caught with 28 baggies of heroin
- The prosecutor waived the minimum mandatory and allowed the defendant to plead to simple possession of heroin
- The defendant violated his probation when he was arrested for an armed robbery in Broward County and was sentenced to 366 days in prison in our case



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Offenders Admitted for Drug Possession Only by Circuit  
(FY 2018-19)



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### CONCLUSION

Being tough on crime makes for a great sound bite, but it is far better to be smart, strategic, responsible, and compassionate when addressing it



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### Contact Information

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