

## Seizing the Opportunity: How Florida Can Leverage ARPA Funds Toward Criminal Justice Reform

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### Executive Summary

Florida's prison system stands as the third largest in the country.<sup>1</sup> In the past decade it has experienced a host of challenges, ranging from staff shortages, overcrowding, multi-million dollar lawsuits, escalating violence, budget deficits, inadequate physical and mental health care services, and lack of educational programs.<sup>2</sup> With the Department of Corrections (DOC) budget constraints and the Legislature's passive approach to long-overdue reforms that would safely reduce the prison population and save money to reinvest in other meaningful programs, prison conditions have continued to deteriorate. The state must do more to provide relief to DOC and expand programming options for incarcerated individuals. The funds from the American Rescue Plan Act (ARPA) can assist with this goal.

### ARPA Funds: Uses and Restrictions

On March 11, 2021, President Biden signed into law the American Rescue Plan Act (ARPA), which grants financial relief to states and local governments to recover from the sustained effects of the COVID-19 pandemic.<sup>3</sup> There was \$8.8 billion allocated to Florida; additionally, \$4.2 billion went to counties, \$1.5 billion to metropolitan cities, and \$1.4 billion to other local governments.<sup>4</sup> This nonrecurring funding can be used to confront some of the economic shortfalls caused by the pandemic, such as by providing direct assistance to small businesses and households and increased pay for essential employees.<sup>5</sup>

Federal guidelines restrict states from using ARPA funds to offset the costs of rising pensions and tax cuts.<sup>6</sup> Thus far, Florida has received roughly \$4.41 billion, and those dollars have been invested in infrastructure, education, workforce development, and environmental projects.<sup>7</sup>

A few examples of how ARPA funds have been used in Florida:

- **\$208.4 million** went to the Department of Economic Opportunity to distribute a one-time bonus payment to first responders.
- **\$401.2 million** went to the Department of Education for facility constructions and college projects.

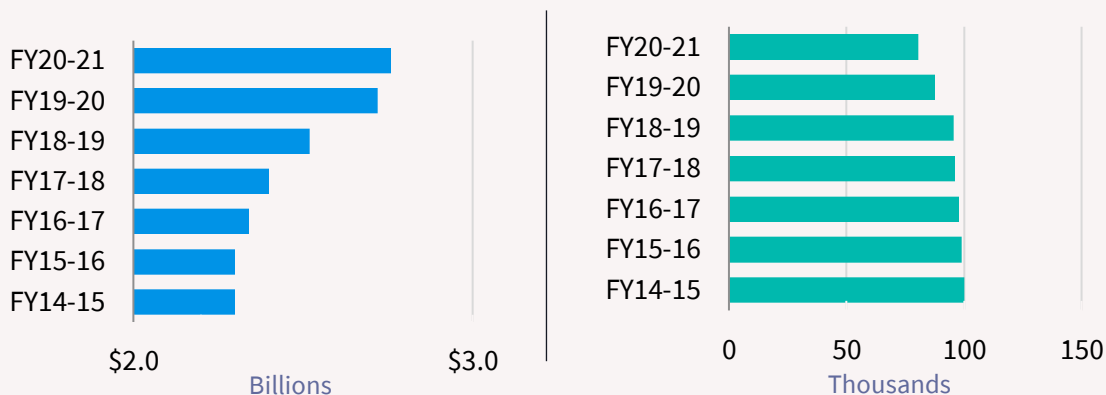
Source: National Conference of State Legislatures, "ARPA State Fiscal Recovery Fund Allocations," 2021, <https://bit.ly/3HnOF6c>.

## DOC's Needs and Challenges

From FY 2014-2015 to FY 2020-21, DOC's budget increased by 26 percent, while the prison population declined by 25 percent. (See *Fig. 1.*) Despite this decrease in the population and increase in funding, the department continued to struggle to meet some of its statutory responsibilities, which include providing proper health care and complying with federal Americans with Disabilities Act standards for incarcerated people with disabilities.<sup>8</sup> In fact, various court rulings have mandated that the department provide necessary health treatment for those who have been diagnosed with Hepatitis C and invest in hearing aids, sign language interpreters, and more for those with disabilities.<sup>9</sup>

**Figure 1. Florida's DOC Budget Has Increased as the State Prison Population Declined**

DOC budget and total population of Florida's prison system, FY 2014-15 to FY 2020-21



Sources: Florida Department of Corrections Annual Reports, FY 2014-15 through FY 2020-21.

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Furthermore, in terms of offering significant programming for incarcerated individuals, the department has carried out the bare minimum. In 2020, on average, 66 percent of incarcerated individuals were in need of general education, but only 4 percent were enrolled in a class.<sup>10</sup> A solid example of that is Dade Correctional Institution's teacher-to-student ratio in 2019, an appalling 1:1,500 — only one teacher for roughly 1,500 incarcerated people.<sup>11</sup>

In early 2021, DOC's secretary warned the Legislature that the department is in "crisis" despite having recorded the lowest incarcerated population (80,000) in 15 years.<sup>12</sup> That is primarily due to the court backlog of criminal cases as a result of COVID-19; however, as the courts sift through the delayed criminal cases, the incarcerated population is due to increase significantly. According to a report from the state Criminal Justice Estimating Conference, Florida's prison population is projected to rise to

86,223 by the end of Fiscal Year (FY) 2021-22 and gradually reach 93,414 by the end of FY 2026-27.<sup>13</sup> Consequently, the challenges DOC is grappling with will undoubtedly intensify, unless the Legislature enacts the appropriate measures to provide relief. Drawing from ARPA funds, the state can financially support policies and programs that would help pave a better future for the department.

## Other States' Uses of ARPA Funds for Criminal Justice Projects

Several other states have deployed their ARPA funds towards criminal justice projects via legislative actions or executive requests.<sup>14</sup> (See *Fig. 2.*) Throughout the nation, states are having to reckon with backlogs in court cases due to the pandemic. As a result, this is an area that many states have heavily funded through ARPA.

**Figure 2. How are Other States Using ARPA Funds for Criminal Justice?**



Source: National Conference of State Legislatures, "ARPA State Fiscal Recovery Fund Allocations," 2021, <https://bit.ly/3HnOF6c>.

## ARPA Funds for Criminal Justice in Florida

The following are examples of how the state Legislature could use ARPA to effect criminal justice reform and enhance public safety:

- **Repair DOC's deteriorating building, transportation, and internet infrastructure.** Several of the state's institutions were built more than five decades ago and are in dire need of renovations.<sup>15</sup> For instance, Cross City Correctional Institution was ordered shut<sup>16</sup> in 2021 due to flooding.<sup>17</sup> Additionally, out of DOC's 623 housing units, only 150 of them have air conditioning, which creates unbearable living conditions during Florida's summers.<sup>18</sup> Most of the vehicles that DOC relies on for transportation are old and overdue for replacement. According to the department, out of 3,019 cars, 65 percent, or 1,962 of them, have reached the standard age for replacement.<sup>19</sup> Furthermore, DOC's internet system is archaic and unable to host innovative programs that would be beneficial to the rehabilitation of those who are incarcerated.<sup>20</sup> DOC has estimated that more than \$313 million would be needed to materialize these critical improvements. The Legislature should prioritize these operational needs and withdraw \$313 million from the state's ARPA funds.<sup>21</sup>
- **Bolster DOC's dearth of educational and vocational programs.** One of the strongest contributors to violence in Florida's prisons is the lack of useful educational activities for incarcerated individuals.<sup>22</sup> Insufficient programming not only breeds violence — it also greatly hinders opportunities for rehabilitation. The decreasing availability of constructive initiatives is the culmination of years of budget cuts to DOC's education and programs by the Legislature.<sup>23</sup> Although DOC's budget has consistently grown over the years, funding for education has been diminished. Between FY 2015-16 to FY 2019-20, \$24 million had been slashed from educational programs. This has translated to a massive gap in educational access for those who are in prison and in need of general education. As mentioned earlier, only 4 percent out of 66 percent of people have been able to receive an adequate education.<sup>24</sup> The Legislature can rectify some of the harms it has caused by using ARPA dollars to replenish the funds for educational programs to 2016 funding levels, adjusted for inflation, which would total \$31.3 million.<sup>25</sup> This increase in funding would change the educational landscape of the state's prison system.
- **Address the backlog of court cases caused by COVID-19.** Florida's clerks are experiencing an unprecedented lag in processing court cases as a result of the pandemic. There were an estimated 1 million pending court cases by July 2021.<sup>26</sup> This struggle has further burdened the clerks' limited resources and over-stretched budget that has relied heavily on the collection of fines and fees derived from traffic citations (civil and criminal) and filing fees.<sup>27</sup> At the height of the pandemic in 2020, the clerks' budgets were in shambles due to declining revenues from traffic citations due to stay-at-home orders and a drop in filing fees as a result of the moratorium on evictions and foreclosures.<sup>28</sup> The Clerks of Court Operations Corporation (CCOC) was forced to administer cuts to the tune of \$59 million.<sup>29</sup> In addition to cases piling up, clerks'

daily operations were severely reduced, with office branches shutting down and staff being laid off and furloughed.<sup>30</sup> Although the Legislature bolstered the clerks' budgets with a \$6.25 million appropriation in the summer 2021,<sup>31</sup> the delay clerks had been experiencing in processing court cases still persists. The clerks are perfectly positioned to receive ARPA money given that these funds are inherently for COVID-19 recovery. Accounting for the budget increase clerks have received from the state and the rise in revenues from collections, the Legislature should ensure the continuity of clerks' operations by granting \$28 million<sup>32</sup> from ARPA dollars.

## Conclusion

Given that 95 percent of incarcerated individuals are due to return to their communities,<sup>33</sup> it is a smart policy decision for Florida's Legislature to invest in rehabilitative services for those who are in prison. Doing so would be promoting public safety and good stewardship of taxpayers' dollars. Studies have been consistent in demonstrating that substantial investments in basic education, work training, and substance use disorder treatment are some of the most powerful predictors of successful re-entry and lower likelihood of returning back to prison.<sup>34</sup> The latter would yield considerable financial savings for the state because a decrease in the incarceration rate would free up dollars that can be used in other services.

ARPA funds offer a special window of opportunity for the Legislature to funnel sufficient funding into programs and services that have been chronically underfunded. Although allocations made from ARPA dollars would be a one-time distribution, they would still help to initiate much-needed change and mitigate the detrimental effects of decades of budgetary neglect.

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<sup>1</sup> Florida Department of Corrections, "2020-21 Annual Report," 2021, <http://www.dc.state.fl.us/pub/annual/1819/2020-2021-Strategic-Plan.pdf>.

<sup>2</sup> Florida DOC 2021-21 Annual Report

<sup>3</sup> Department of The Treasury, "Corona Virus State and Local Fiscal Recovery Funds," 2022, <https://home.treasury.gov/system/files/136/SLFRF-Final-Rule.pdf>.

<sup>4</sup> U.S. Department of the Treasury, "Coronavirus State and Local Fiscal Recovery Funds," 2021, <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds>.

<sup>5</sup> Department of The Treasury, 2022

<sup>6</sup> Department of The Treasury, 2022

<sup>7</sup> Pandemic Oversight, "State and local governments spent \$150B. Then got \$350B more. Follow the money," 2020, <https://www.pandemicoversight.gov/data-interactive-tools/data-stories/state-and-local-governments-spent-150b-then-got-350b-more-follow-money>.

<sup>8</sup> Florida DOC 2021-21 Annual Report

<sup>9</sup> Florida DOC 2021-21 Annual Report

<sup>10</sup> Florida DOC 2021-21 Annual Report

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<sup>11</sup> Ryan McKinnon and Josh Salman, “Wasted Minds: Prisoners Languish in Florida Prisons with Little Access to Education,” *Sarasota Herald-Tribune*, 2019, <https://www.prisonlegalnews.org/news/2019/dec/6/wasted-minds-prisoners-languish-florida-prisons-little-access-education/>.

<sup>12</sup> Florida DOC 2021-21 Annual Report

<sup>13</sup> Office of Economic and Demographic Research, Criminal Justice Estimating Conference, 2021, <http://edr.state.fl.us/content/conferences/criminaljustice/executivesummary.pdf>.

<sup>14</sup> National Conference of State Legislatures, “ARPA State Fiscal Recovery Fund Allocations,” 2021, <https://bit.ly/3HnOF6c>.

<sup>15</sup> Florida DOC 2021-21 Annual Report

<sup>16</sup> Grace Toohey, “Facility closures continue as Florida prisons face ‘unprecedented’ staff shortage,” *Orlando Sentinel* 2021, <https://www.orlandosentinel.com/news/crime/os-ne-florida-prisons-struggle-staffing-20210913-x34d5cfefnhetfu5zrdp74qum-story.html>.

<sup>17</sup> Florida Department of Corrections, “Cross City CI Evacuated,” 2021, <http://www.dc.state.fl.us/comm/press/main/PR08062101.html>.

<sup>18</sup> Florida DOC 2021-21 Annual Report

<sup>19</sup> Florida DOC 2021-21 Annual Report

<sup>20</sup> Florida DOC 2021-21 Annual Report

<sup>21</sup> Florida DOC 2021-21 Annual Report

<sup>22</sup> Florida DOC 2021-21 Annual Report

<sup>23</sup> Florida DOC 2021-21 Annual Report

<sup>24</sup> Florida DOC 2021-21 Annual Report

<sup>25</sup> To find the amount of dollars that would bring FY 2020-21 level (\$83.3 million) funding to FY 2015-16 (\$57.4 million), we calculated the difference in dollars during a 5-year term which was \$24.9 million. Adjusting FY 2015-16 for inflation, that budgeted amount is \$88,758,007.82. We subtracted FY 2020-21 number (\$57.4 million) from the inflation adjusted number (\$88 million) and got \$31.3 million.

<sup>26</sup> Florida State Courts, “2019-2020 Annual Report,” 2021, [https://www.flcourts.org/content/download/725464/file/annual\\_report1920.pdf](https://www.flcourts.org/content/download/725464/file/annual_report1920.pdf).

<sup>27</sup> Florida Clerks of Court Operations Corporation, County Fiscal Year 2016-17 Annual Report, <https://flccoc.org/wpcontent/uploads/2018/01/CCOCCFY16-17ANNUALREPORT.pdf>.

<sup>28</sup> Dave Bohman and Erik Altmann, “COVID-19 Causes Record Drop in Revenue for Clerks of court Throughout Florida,” WPTV, 2020, <https://www.wptv.com/news/local-news/investigations/covid-19-causes-record-drop-in-revenue-for-clerks-ofcourt-throughout-florida>.

<sup>29</sup> Bohman

<sup>30</sup> Click Orlando, “Polk Clerk Laying Off, Furloughing Workers Due to COVID-19 Financial Impact,” 2020, <https://www.clickorlando.com/news/local/2020/07/10/polk-clerk-laying-off-furloughing-workers-due-to-covid-19-financial-impact/>.

<sup>31</sup> Florida Clerks of Courts Operations, 2020-21 Annual Report, 2021, <https://flccoc.org/wp-content/uploads/2021/12/CCOC-Annual-Report-CFY-2020-21.pdf>.

<sup>32</sup> Clerks’ budgets were cut by \$59 million in FY 2019- 20, but revenues were up by \$24 million FY 2020-21. Subtracting these two numbers gave us the amount that would fill in the budget gap.

<sup>33</sup> Nathan James, “Offender Reentry: Correctional Statistics, Reintegration into the Community, and Recidivism,” Congressional Research Service, 2015, <https://sgp.fas.org/crs/misc/RL34287.pdf>.

<sup>34</sup> The Harvard University Institute of Politics, “Successful Reentry: A Community-Level Analysis,” 2019, [https://iop.harvard.edu/sites/default/files/sources/program/IOP\\_Policy\\_Program\\_2019\\_Reentry\\_Policy.pdf](https://iop.harvard.edu/sites/default/files/sources/program/IOP_Policy_Program_2019_Reentry_Policy.pdf).