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Corrections' Contraband Effort Is Sound; Cell Phone Penalties and Warden Consistency Are Needed

at a glance

Florida compares favorably to other states in its efforts to control contraband in prisons, using narcotic canine teams, contraband sweeps, visitor and officer pat searches, and metal detectors at all prisons. While random drug tests show that Florida has a relatively low rate of inmate drug use, other types of contraband, notably cell phones, are a growing problem. Cell phones are considered to be contraband under Department of Corrections' policy due to their potential use by inmates to arrange escapes and orchestrate crime inside and outside prison. The Legislature may wish to revise the law so that persons that provide and use contraband cell phones can be prosecuted. The department's ability to control contraband also would be enhanced by improving its computer system that tracks contraband incidents, providing additional training to prison employees, and developing a statewide policy to guide wardens in sanctioning visitors who bring contraband on prison property.

Scope

As directed by the Legislature, OPPAGA reviewed the Department of Corrections' practices to prevent and detect contraband in state prisons.

Background

Contraband in prisons, which includes drugs, weapons, and other items, creates a dangerous environment for officers and inmates alike. For this reason, under Florida law it is a felony to introduce into or upon the grounds of any state correctional institution any

- written or recorded communication or any currency or coin given or transmitted, or intended to be given or transmitted, to any inmate of any state correctional institution;
- article of food or clothing given or transmitted, or intended to be given or transmitted, to any inmate of any state correctional institution;
- intoxicating beverage or beverage which causes or may cause an intoxicating effect;
- controlled substance as defined in s. 893.02(4), *Florida Statutes*, or any prescription or nonprescription drug having a hypnotic, stimulating, or depressing effect; or
- firearm or weapon of any kind or any explosive substance.¹

In addition to state law, department regulations prohibit cell phones, certain types of cigarette lighters, lotions with alcohol, unidentified pills and powders, and excess money and medications from being taken into prisons. These items, while not illegal, can be used for illegal purposes.

¹ Section 944.47, *F.S.*

Nationwide and in Florida, contraband is a long-standing problem in prisons. During Fiscal Year 2006-07, the department recovered from its prisons

- 222.7 oz. of marijuana;
- 9.8 oz. of cocaine;
- 1,805 unauthorized and/or unidentified pills;
- 140 inmate cell phones; and
- approximately 3,500 assorted makeshift weapons.

Contraband enters prisons through a variety of ways. For example, inmate work squads that leave the prisons to pick up litter and garbage on the side of the roads can return with contraband that was concealed in roadside trash by an accomplice. Contraband can also enter prisons through the mail or prison deliveries, and can be brought into prison by employees or visitors.

Findings

The Florida Department of Corrections compares favorably to other states' corrections agencies in employing a wide range of methods to prevent and detect contraband. However, the Legislature may wish to classify cell phones as illegal contraband to address the growing risk these phones pose to the correctional system and Florida's citizens. The department's ability to combat contraband would also be strengthened by improving its management information system that currently underreports contraband, and by providing better training for prison staff in resisting inmate manipulation for contraband. Also, the department's efforts would be improved by establishing uniform guidelines for sanctioning visitors who violate the department's contraband policies.

The department's contraband eradication efforts meet or exceed those of other states

The department engages in a variety of ongoing efforts to detect and control contraband in the state's prisons. As shown in Exhibit 1, these efforts range from routine pat searches to extensive sweeps of institutions during which correction officers search all cells for contraband items.

Exhibit 1

The Department Uses a Variety of Methods to Interdict Prison Contraband

Contraband Detection and Prevention Activity	Frequency
Narcotic canine teams - Certified drug detection dogs and their handlers check inmate cells, dormitories, and other hiding places for contraband.	Daily
Metal detectors - Approximately 70% of randomly selected staff and all inmate families and visitors must pass through metal detectors before entering a prison.	Daily
Pat searches - Randomly selected employees are pat searched daily and 25% of uniformed staff are searched quarterly; all inmate families and visitors are pat searched at each visit.	Daily
Security inspections - Security officers conduct daily inspections to detect contraband and prevent escapes.	Daily
Contraband sweeps - The DOC inspector general's Intelligence and Interdiction Unit conducts unannounced prison contraband sweeps at prisons, during which all visitors and employees entering and exiting the prison are pat searched, checked with a drug scanning machine, and have their vehicles checked by drug detection dogs.	Weekends
Institution shakedowns - The department's regional security offices and/or its Intelligence and Interdiction Unit conduct institution shakedowns, in which correctional officers and narcotic canine teams rapidly search all inmate cells and dorms in a prison, as well as the mail room, warehouse, delivery stations, kitchen, dining hall, infirmary, and medical offices.	Intermittently
Formal investigations - The inspector general's sworn investigators investigate allegations and may arrest employees and visitors and file criminal or administrative charges against inmates who engage in or conspire to bring contraband into Florida prisons.	Ongoing

Source: OPPAGA interviews of DOC staff and participation in contraband sweeps and institution shakedowns.

Many of these efforts exceed those used by other states and the U.S. Bureau of Prisons. As shown in Exhibit 2, Florida is the only state to pat search its uniformed staff and is one of only two states to pat search visitors for contraband. Florida is one of only a few states that have metal detectors at all its major institutions.

Random drug tests of inmates is one indicator of the success of contraband control efforts, as inmates who use drugs while in prison have obtained these substances illicitly. Exhibit 2 shows that, Florida has one of the lower rates of inmate illicit drug use, with 1.6% of randomly tested inmates testing positive.

Exhibit 2

Florida's Prison Contraband Detection Practices Meet or Exceed Those of Other States

Detection Practices and Statistics	Alabama	Arizona	California	Florida	Georgia	Illinois	New York	North Carolina	South Carolina	Texas	U.S. Board of Prisons
Metal detector search—Employee—All Prisons	Some Prisons	Some Prisons	No	Yes	Yes	Yes	No	Some Prisons	Yes	Some Prisons	No
Visitor metal detector search—All Prisons	Some Prisons	Some Prisons	Yes	Yes	Yes	Yes	Yes	Some Prisons	Yes	Some Prisons	Yes
Random pat search of officers?	No	No	No	Yes	No	No	No	No	No	No	No
Pat search all visitors?	No	No	No	Yes	No	Yes	No	No	No	No	No
Random monthly drug test of employees?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Quarterly	Yes
Random monthly drug test of inmates?	Yes	Yes	If Funded	Yes	Yes	Yes	Yes	Yes	Yes	Quarterly	Yes
Institution shake-downs? ¹	Yes	Yes	No	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
Statewide contraband interdiction team?	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No
Drug detection dogs?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No
Number of inmates	29,000	39,000	172,000	93,000	60,000	45,000	65,000	39,000	23,000	150,000	193,000
Number of prisons	29	10	73	58	37	27	69	78	29	106	114
Percentage of inmates testing positive on random drug tests?	1.3%	2.7%	3.0%	1.6%	4.0%	2.0%	3.0%	2.6%	3.5%	2.0%	1.0%

¹An "institution shakedown" occurs when correctional officers, drug detection dogs, and dog handlers simultaneously converge on a prison in sufficiently large numbers to conduct contraband searches of inmate cells and dorms, the prison mail room, warehouse, delivery stations, kitchen, dining hall, infirmary, and medical offices.

Source: OPPAGA survey of state contraband interdiction units and drug testing programs.

This rate compares favorably to states such as Georgia, which has a 4% inmate positive drug test rate and California and New York, which have 3% rates. One factor contributing to Florida's relatively low drug rate has been the re-instatement by the department of narcotic canine teams. The department reports that inmate illicit drug use dropped by 35% for the period March 2006 through February 2007 after narcotic canine teams began patrolling prisons.

Inmate possession of cell phones is not currently illegal but poses public safety hazards

Florida's contraband statutes have not been updated to reflect the widespread use of cell phones, which can pose a risk to public safety. Prison security policies require inmate calls to be monitored and recorded. The statewide prison telephone system automatically records all inmate

calls and is pre-programmed to allow inmates to make collect calls for up to 10 people approved by the department. This system is intended to prevent inmates from making threatening calls to citizens as well as to inhibit their ability to arrange contraband deliveries, plan escapes, or otherwise engage in criminal enterprise while in prison. Cell phones enable inmates to bypass the prison phone system and these safeguards.²

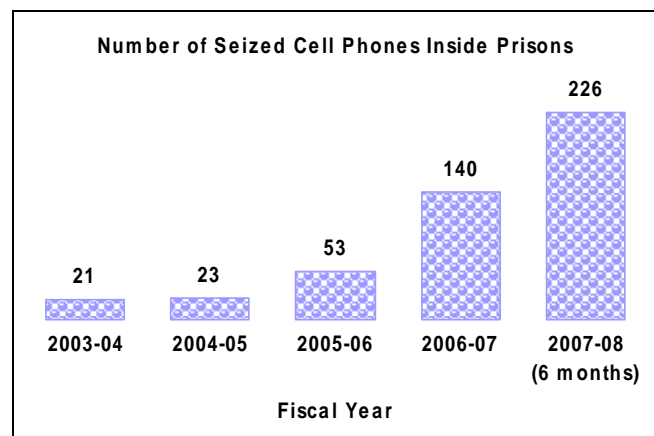
As shown in Exhibit 3, the number of cell phones confiscated from inmates has increased substantially in recent years. In the first six months of Fiscal Year 2007-08, the department confiscated

² Florida is a member of an advisory committee working with the U.S. Department of Justice and the National Institute of Justice to explore technology that can detect cell phones without violating Federal Communication Commission restrictions on blocking airwaves. No solution has yet been achieved. Member states comprising this advisory committee include Alaska, Florida, Texas, Virginia, Tennessee, Arkansas, Pennsylvania, South Carolina, and Minnesota.

226 cell phones, a 61% increase over the entire previous year. Wardens report that inmates have obtained cell phones from corrections officers, inmate work squads that pick up cell phones that are planted in areas where they work outside of prison, and from visitors who smuggle the phones.

Exhibit 3

The Department Has Confiscated a Growing Number of Cell Phones From Inmates



Source: Department of Corrections contraband reports, Fiscal Years 2003-04 through 2006-07.

While inmates are prohibited by department rules from possessing cell phones, conveying cell phones into prisons is not currently illegal. Inmates who are caught with contraband phones are given a disciplinary report, confined to a cell for no more than 60 days, and must attend a disciplinary hearing that can result in reducing their gain time (time off for good behavior) that otherwise would reduce their sentence.

According to state and federal corrections officials, prison staff may be paid between \$300 to \$3,000 by inmates and outside sources for smuggling cell phones. Corrections officers who are found introducing cell phones into the prison population are sanctioned by the department in the same manner as if they had introduced drugs, alcohol, and other contraband forbidden by statute. The officers are generally terminated and their cases are referred to the Florida Department of Law Enforcement, which generally revokes their law enforcement certification. Civilian employees who bring cell phones into prisons are generally terminated. Visitors who are found to

be smuggling cell phones into prison have their visitation privilege permanently revoked.

The Department of Corrections is proposing that the Legislature amend s. 944.47, *Florida Statutes*, to make the introduction of cell phones inside a prison a third degree felony, the same as for unauthorized conveyance or possession of drugs, alcohol, cash, non-regulation clothes, and unapproved correspondence. Department officials assert that classifying this offense as a felony that carries a sanction of up to five years imprisonment would serve as a deterrent to inmates, visitors, and prison staff.

Classifying cell phones as a felony offense would likely result in higher inmate populations and state prison costs. As an alternative, the Legislature could classify contraband cell phones a misdemeanor offense. However, the department notes that its inspector general's sworn officers, who typically detect cell phone smuggling, currently have authority only to make felony arrests. As a result, local law enforcement officers would need to come to prisons to make such arrests, which would be burdensome. The Legislature could address this issue by authorizing the inspector general's sworn officers to make misdemeanor arrests on prison property.

The department's contraband detection efforts are hampered by its outdated management information system

A key to controlling contraband is tracking and monitoring the source and types of contraband items discovered in prisons. The department maintains data on contraband in its Management Information Notification System, including the type of contraband detected, where it was found, and what inmate or staff person possessed the item.

However, the department's ability to analyze this data is limited because the system is outdated, difficult to use, and underreports contraband that is found. The system was developed in the early 1990s and is based on an outdated software platform. For example, to conduct the analyses used in this report, department staff had to review approximately 2,000 incident reports because the

information could not be reliably retrieved through the computer system.

The system also produces reports that tend to understate the amount of contraband that is detected. Although inmates typically possess several different types of contraband when they are apprehended, including weapons, alcohol, and drugs, the system allows staff to enter only one of these items into the database for each incident. As a result, inmates who are found with three different types of contraband are shown as only possessing one item, and the overall level of contraband found in prisons can be substantially understated by system reports.

The department should develop options for replacing its current system, including developing a new system in-house or purchasing a system from an outside vendor, and submit a business case for system replacement to the Legislature for its consideration.

Increased officer training is needed as part of a comprehensive contraband control effort

The department's contraband interdiction reports show that correctional officers are a primary source of prison contraband (see Appendix A). Often, they have been manipulated by inmates over time to initially grant favors for minor prohibited items such as over-the-counter pain relievers. Slowly over time, the favors escalate and the inmates can then threaten to report the officers for violating prison rules unless they next deliver other items such as cell phones and drugs.

Wardens and other leadership staff at 20 prisons told us that current correctional officer training does not adequately prepare officers for this type of manipulation. Contraband and inmate manipulation is covered in the training provided to new correctional officers by the Department of Law Enforcement. However, the Department of Corrections has not developed refresher in-service training on this subject. Creating a standardized program to be delivered as part of the 40-hour annual in-service training required for correction officers would help them avoid inmate manipulation and improve prison safety.

Wardens inconsistently sanction visitors who bring contraband on prison property

Visitors are another source of prison contraband and are inconsistently sanctioned by wardens for such contraband. During the past 30 months, the department detected 214 prison visitors bringing prohibited items onto prison property. Department policies specify that visitors who are found with contraband may be penalized through suspension or revocation of their visiting privileges; those found with items prohibited by law may also be criminally prosecuted. Wardens of individual prisons have discretion in responding to visitors who violate contraband policies.

Inspector general reports show that wardens are inconsistent in how they impose visitation penalties for contraband offenses. Wardens we interviewed from 20 prisons acknowledged that they may levy different sanctions for similar offenses due to their different sanctioning philosophies. For example, some wardens indicated that they tended to impose maximum penalties, while others considered individual circumstances and indicated that they would not impose sanctions if they thought that a visitor had made an honest mistake. As shown in Exhibit 4, wardens typically suspended visitation privileges when visitors were detected with firearms, drugs, or alcohol in vehicles entering prison property, although the length of these suspensions varied from one month to two years or more. Penalties imposed for refusals to allow officers to search vehicles also varied substantially, ranging from no sanction imposed to permanently revoking visitation privileges. While department rules set maximum penalties that wardens may impose for selected visitor offenses, the rules provide little guidance on criteria to be considered in imposing these sanctions. Inconsistent treatment of visitors has also been cited in OPPAGA and legislative reports.³

³ *Some Inmate Family Visitation Practices Are Not Meeting the Legislature's Intent*, OPPAGA [Report No. 07-16](#), February 2007, and "Maintaining Family Contact When a Family Member Goes to Prison," *Florida House of Representatives Justice Council*, November 1998.

Exhibit 4**Wardens Impose Different Penalties for the Same Contraband Offense**

Warden Penalty	Contraband Offense			
	Firearm/ Ammunition in Vehicle	Drugs/Drug Residue in Vehicle	Alcohol in Vehicle	Refused Vehicle Search
No Action	12%	3%	22%	19%
Warning	--	--	3%	5%
Warden undecided	--	6%	--	10%
Permanently Revoked	50%	45%	5%	57%
Suspension	38%	45%	70%	10%
Suspension period: 1 - 2 Months	--	2%	14%	--
3 - 5 Months	38%	5%	18%	--
6 - 7 Months	39%	19%	32%	--
1 Year	15%	31%	36%	50%
2 Years	--	19%	--	--
Until further notice	8%	24%	--	50%

Source: Department's Inspector General Visitation logs for 135 visitors from July 2006 to September 2007.

To address these variations, the department should develop penalty guidelines that specify a range of visitation suspensions and revocations that should be imposed for specified violations. This would also help the department ensure that it balanced the public safety risks posed by contraband with the positive benefits of inmate visitation, which the Legislature has determined can help improve inmate behavior and reduce recidivism.

Recommendations

Although the department employs contraband interdiction practices that meet or exceed those of other states, the smuggling of contraband is an ongoing problem in Florida prisons. To help reduce contraband and improve public safety, we recommend that the Legislature make conveyance of cell phones into Florida prisons a violation of law.

To enhance contraband interdiction, we recommend that the Department of Corrections

- determine options for replacing its outdated Management Information Notification System and submit a business case for system replacement to the Legislature for its consideration;
- develop a contraband manipulation training course for correctional officers; and
- develop and publicize standardized contraband infraction guidelines for visitors.

Agency Response

In accordance with the provisions of s. 11.51(5), *Florida Statutes*, a draft of our report was submitted to the Secretary of the Department of Corrections to review and respond. The department did not provide a written response to this report.

Appendix A

Overview of Contraband Found on Officers and Visitors During Prison Interdiction Operations

Table A-1 below shows that while visitors are more likely to have alcohol and drugs in their possession while on prison property, officers are more likely to be in possession of all other types of contraband. The data shown represent officer and visitor conveyance of contraband onto prison property during a sample of 450 days between July 2006 and October 2007 at 37 institutions. The table also explains why agency policies prohibit the types of contraband shown. These data were derived from reports of unannounced weekend contraband interdiction sweeps performed by narcotic canine teams, sworn officers, and other department uniformed staff.

Table A-1
Contraband Possessed by Officers and Visitors Seeking Entrance at 37 Prisons

Contraband	Reason for Prohibition	Number of	
		Officers	Visitors
Firearms	Can facilitate escape, injury, or death. (Generally found in vehicles with the weapon in plain view of inmates who might be cleaning the parking lots or otherwise working outside the secured perimeter.) ¹	54	15
Narcotic or controlled substance	Can cause behavior resulting in violence or death and be used as barter for illegal prison activities.	15	77
Alcohol	See narcotics above	18	27
Cell Phone	Can be used to facilitate escapes, intimidate and retaliate against victims and witnesses, arrange for contraband drops.	47	37
Unknown Pills and Powders	Can be used for barter by inmates.	23	1
Bic-brand Lighters	Metal on the front of the lighter can be used to make keys to unlock handcuffs.	109	29
Hand sanitizer and other lotions w/alcohol	Flammable. Can be used to set fire to items in prison or injure other inmates.	304	1
Excess money	Can signal a criminal third-party money exchange with an inmate, with the officer used as a go-between.	164	70
Excess medications	Can indicate an officer is providing medication to inmates, who in turn use it as barter illegal activities.	137	6

¹ We found no instances of officers' attempting to bring firearms inside the secure perimeter. Firearms were typically left in their vehicles in plain view of any inmates who might be working outside the secure perimeter.

Source: Department Inspector General Contraband Interdiction Reports for 37 institutions and 8,170 prison entrants (3,859 officers and 4,311 visitors); July 2006-October 2007.

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