



# Oklahoma's Ongoing Imprisonment Crisis

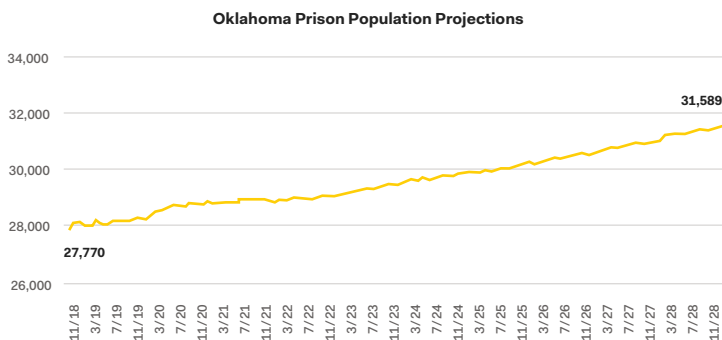
## *Despite Reforms, Oklahoma's Prison Population Projected to Keep Climbing*

Despite the passage of significant criminal justice reforms in recent years, today Oklahoma is the top imprisoning state in the nation with a prison population projected to keep growing. If no additional reforms are passed, the prison population will increase by another 14 percent by 2028, topping 31,000 people in prison and solidifying its status as the most incarceratory state in the nation.

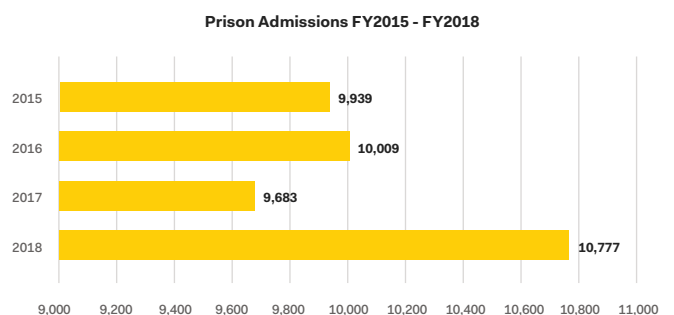
Oklahoma has made strides in recent years to reform its outdated criminal justice system. On July 1, 2017, Oklahoma implemented voter-approved State Question 780, ensuring that no one newly convicted of simple drug possession can receive an expensive and unnecessary prison sentence. On November 1, 2018, a package of reforms developed by the bipartisan Oklahoma Justice Reform Task Force went into effect, implementing a number of evidence-based corrections and sentencing practices.

However, the data shows that these reforms alone are not enough to turn the tide. This brief explores ongoing drivers of Oklahoma's high imprisonment rate, how this growth has come at a particular cost to women, and identifies key policy solutions to effectively bend the prison population safely downwards.

**FIGURE 1: WITHOUT REFORM, OKLAHOMA'S PRISON POPULATION PROJECTED TO GROW BY ANOTHER 14 PERCENT WITHIN THE DECADE.**



**FIGURE 2: LAST YEAR OKLAHOMA'S PRISON ADMISSIONS ROSE 11 PERCENT TO THEIR HIGHEST NUMBER EVER.**

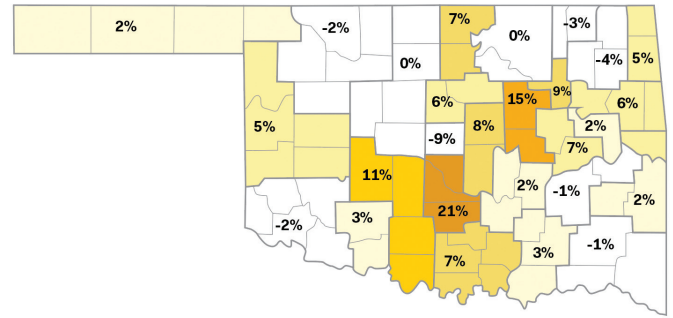


Much of this prison growth is due to continued increases in the number of people being sent to prison each year — as opposed to an alternative like probation or drug court. After a slight decline between 2016 and 2017, the number of people entering prison rose 11 percent in 2018. The 10,777 people admitted to the Oklahoma Department of Corrections (ODOC) is the highest single-year total of all time. Since 2008, prison admissions have grown 25 percent.

**FIGURE 3: 50 PERCENT OF THE ADMISSIONS GROWTH CAME FROM JUST FOUR OF THE STATE'S 27 DA DISTRICTS.**

All of this growth was not spread evenly across the state. Some counties sent fewer people to prison, including District 7, otherwise known as Oklahoma County. Other districts saw substantial increases. Half of the growth statewide came from just four of the state's 27 District Attorney districts — Districts 21 (Cleveland, Garvin, and McClain), 24 (Creek and Okfuskee), 6 (Caddo, Grady, Jefferson, and Stephens), and 14 (Tulsa), indicating that it was driven by individual charging and sentencing decisions.

For female admissions, almost 60 percent of the growth came from four of the state's 27 districts, led by District 14, as well as Districts 15 (Muskogee), 7 (Oklahoma), and 21.

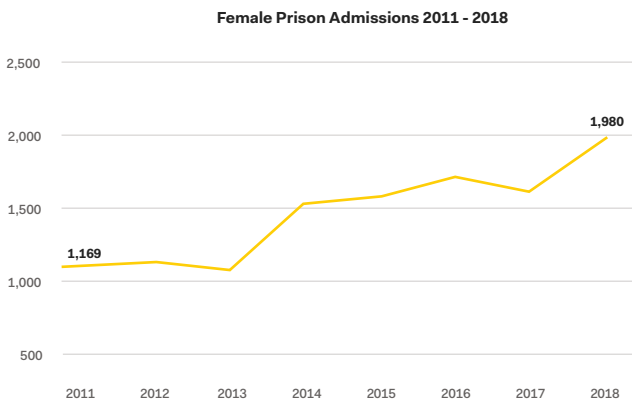


## The Outsized Impact on Women

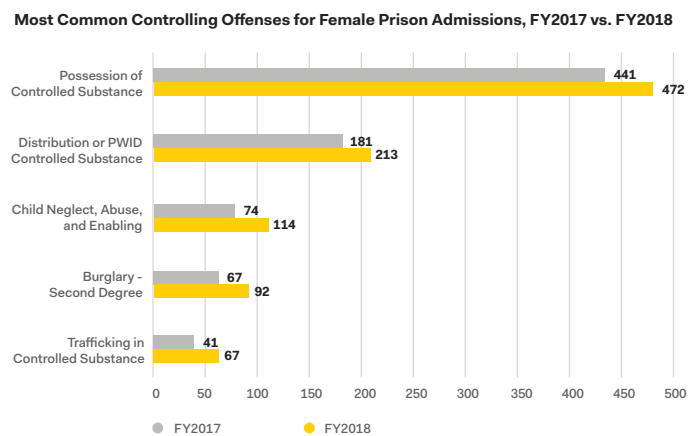
Oklahoma's imprisonment crisis has particularly impacted women. Oklahoma has had the highest female imprisonment rate in the country for almost thirty years. Starting in 2011, Oklahoma's female admissions to prison began climbing sharply even as the female prison population in the rest of the country steadied.

Between 2017 and 2018 alone, the number of women admitted to prison jumped 21 percent, more than doubling the overall growth rate. This increase has come from more women being sentenced directly to prison from court (up 20 percent), as well more women being sent to prison after failing the terms of supervision (up 19 percent).

**FIGURE 4: FEMALE ADMISSIONS JUMPED 21 PERCENT IN ONE YEAR.**



**FIGURE 5: MORE WOMEN BEING SENT TO PRISON ACROSS COMMON OFFENSES.**



This growth came from offenses across the board. All five of the most common offenses for which women are sent to prison saw increases in 2018, including distribution of a controlled substance, child abuse, and burglary. Despite State Question 780 being in effect, 472 women entered prison for simple possession in 2018 — the highest number ever. (More detail on how this is possible and why this is happening in the next section.)

# The Unfulfilled Impact of State Question 780

In any conversation about Oklahoma's prison population, possession offenses are key. For many years, the most common reason that people were sent to prison in Oklahoma has been simple drug possession. State Question 780, passed by popular vote, reclassified this crime as a misdemeanor, meaning that you could not go to prison for it. (The maximum sentence is a year in jail.) Proponents and opponents of State Question 780 alike believed that it would lead to a drastic decrease in the number of people behind prison bars in Oklahoma. Now, more than a year after it went into effect, the change has been limited, suggesting that further reforms are needed to achieve its full impact.

## FIGURE 6: IN YEAR AFTER SQ 780, POSSESSION ADMISSIONS ARE DOWN – BUT ONLY SLIGHTLY.

In the year since SQ 780 went into effect, the number of people entering prison for simple possession has dropped only slightly — down nine percent from the year before.

## FIGURE 7: ON-GOING ADMISSIONS TO PRISON FOR POSSESSION DRIVEN BY OLD CRIMES, REVOCATIONS.

How can people still be entering prison for possession when the crime is now classified as a misdemeanor? There are two ways:

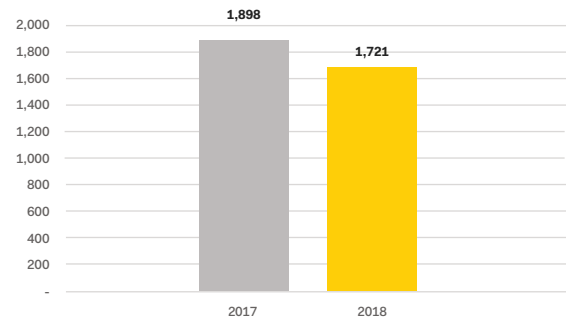
1. If people committed a possession offense prior to the day that State Question 780 went into effect, then they can be — and are being — directly sentenced to prison. In the year since implementation, 721 people were sentenced to prison for simple possession.
2. People are also being sent to prison for failing the terms of an alternative sentence, like probation, DA supervision, or drug court. (This is called a revocation or acceleration.) These are people who were convicted of simple possession and placed into a community-based alternative prior to the implementation of State Question 780, have failed to follow the rules of that sentence, and are now being sent to prison as punishment. In the year since implementation, 902 people were sent to prison this way (including specialty court revocations), up from 816 the year before.

## FIGURE 8: AS POSSESSION ADMISSIONS HAVE BEGUN TO DECLINE, ADMISSIONS FOR POSSESSION WITH INTENT TO DISTRIBUTE HAVE GROWN BY 20 PERCENT.

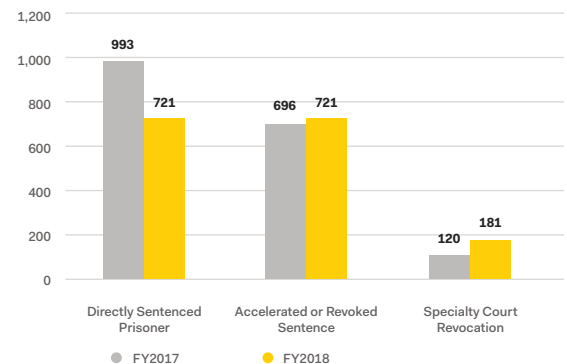
As admissions to prison for possession have begun to decline, however slightly, there has been nearly identical growth in the number of people going to prison for a related offense, possession with intent to distribute. In 2018, the number of people admitted for possession with intent to distribute, a crime which is loosely defined in Oklahoma statute, jumped from 808 to 968 or a 20 percent increase. In other words, 177 fewer people were admitted to prison for simple possession, but 160 more people were admitted for possession with intent to distribute.

This growth is concentrated even more strongly in a few areas of the state than the overall admissions growth. Twenty percent of the growth in possession with intent to distribute/distribution prison admissions has come from District 21 (Cleveland, Garvin, and McClain counties) alone, with another five DA districts adding an additional 50 percent of the growth (Districts 20, 1, 5, 9, and 24). Although it is too soon to see data on drug use after SQ780, arrests for drug crimes declined from 2016 to 2017, indicating there has not been a wave of related drug use.

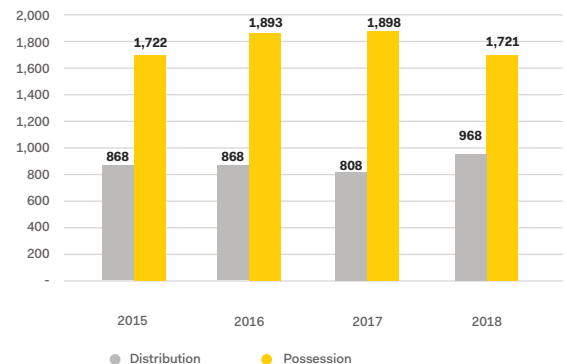
Prison Admissions with Controlling Drug Possession Offense, FY2017 vs. FY2018 (Before SQ780 and After)



Prison Admissions with Controlling Drug Possession Offense by Type, FY2017 vs. FY2018



Admissions with Controlling Drug Offenses FY 2015 - FY2018



## Policy Solutions

*Oklahoma is facing an ongoing — and mounting — imprisonment crisis. The following policies, endorsed by the bipartisan coalition Oklahomans for Criminal Justice Reform, will help turn the tide in 2019.*

**EXPAND UPON TASK FORCE REFORMS** — in 2018, Oklahoma implemented a package of evidence-based corrections reforms based on the recommendations of the bipartisan Justice Reform Task Force. Many critical elements of the original reform package were lost along the way, significantly limiting its impact, including the following:

- Ensure that no one is returned to prison just for violating the rules of probation or parole, for example, missing a meeting or failing a drug test, if a new crime has not been committed. Research shows that this practice is a poor and expensive way to change criminal behavior, which responds better to swift, certain, and proportionate community sanctions.
- Apply habitual offender enhancements only when a person's current offense is violent. Nearly anyone with a prior conviction can have their sentence lengthened through the "habitual offender" law. For those with a history of only non-violent crimes, these longer sentences do little to increase public safety, and cost millions.

**REDUCE THE NUMBER OF WOMEN BEHIND BARS** — for too many years, Oklahoma has put too many women behind bars, and Oklahoma is only pulling further away from other states. Last year, more women were sent to prison in Oklahoma than ever before.

- Reform Oklahoma's broken "failure to protect" laws to bring them in line other states. In Oklahoma, a woman who lives in a home where a child is being abused can receive as long or longer sentences than the abuser. This unique law unfairly punishes battered mothers while their abusers can go free, and has devastating consequences for Oklahoma's families.

**FULFILL THE GOAL OF STATE QUESTION 780** — Oklahoma voters overwhelmingly passed SQ 780 because they didn't want people to serve prison time for simple drug possession. To finally fulfill this goal, additional reforms are needed.

- Allow people convicted of simple drug possession in the past to be resentenced under the current law. There are still thousands of people in prison and on felony supervision for simple drug possession who — if sentenced today — would only be guilty of a misdemeanor and not subject to prison time.
- Better differentiate "possession with intent to distribute" (PWID) crimes from simple possession to ensure that low-level drug addicts do not receive long and expensive prison sentences. Oklahoma's current PWID statute is loosely defined, leading to instances where people with drug addiction issues are sentenced like serious drug dealers.