



Thinking Outside the Cell: A Road Map to More Cost-Effective Corrections

Presentation to Texas Federation of Republican Women Conference
November 19, 2011

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Introduction to the Texas Public Policy Foundation

- TPPF Mission: Individual Responsibility, Free Enterprise, Limited Government, Private Property Rights
- We apply these foundational principles to criminal justice, bringing together stakeholders and working with policymakers and allies.
- TPPF publishes research, regularly testifies before the Legislature, and holds events.



Unlocking Free Market Principles in Criminal Justice

- **Accountability for Offenders and the System;
Incentives Matter**
- **Fiscal Responsibility**
- **Victims and the Public Are the Customers:
Emphasize Restitution and Public Safety**
- **Don't Use Criminal Law to Grow Government,
Confine to Traditional Scope of Conduct that is
Inherently Wrong and/or Harms Others**

Books and Bars: Learning the Lessons of Education Reform

- Criminal justice system behind K-12 system in technology and research. Many Google hits on “teacher quality” but none on “probation officer quality.”
- Less accountability and transparency—school ratings are commonplace but no ratings of prisons, probation departments.
- Public and private prisons, and probation departments, paid solely on number of offenders, not results.



Do only the “worst of the worst” go to prison?

Incarceration: Sometimes It's Clearly Necessary, Though It's Always Costly

- ▣ Nearly two-thirds in Texas' 156,000 inmates enter for nonviolent offense, including tens of thousands for low-level drug possession, hot checks, shoplifting, and prostitution. Some have long rap sheets and failed other options; others are first-time offenders.
- ▣ Prison costs \$18,000 per inmate per year, not including capital costs, and juvenile incarceration at Texas lockups costs about \$125,000 per youth per year.

Is it always necessary to increase incarceration in order to reduce crime?



Incarceration & Crime

State	Incarceration Rate Change 2000-2007	Crime Rate Change 2000-2007
California	0%	-16%
Florida	+16%	-11%
New York	-16%	-25%
Texas	-8%	-6%

- ▣ Violent crime in New York City down 64% from 2000 to 2007 while 42% fewer inmates

The Texas Model:

Since 2005, TPPF has partnered with allies across the spectrum and legislative champions to enact initiatives that avoided more than \$2 billion in costs and contributed to the state's lowest crime rate since 1973.

Texas' Juvenile Justice Reform

- ▣ Went from over 5,000 youths in state lockups in 2005 to 1,700 today while juvenile crime has declined.
- ▣ Redirected misdemeanants to more cost-effective community-based programs with half of state's savings flowing to counties and voluntary incentive funding program for counties to divert additional youths to evidence-based programs.

Texas Trend: Lower Incarceration *and* Crime Rates

Year	FBI Index Crime Rate	Incarceration Rate Per 100k
2005	4,857.1	681
2010	4,236.4	620
% Change	-12.8%	-9.0%

- ▣ In 2011, Texas was able to close its first medium or high-security prison in history.

Sources: Bureau of Justice Statistics and Texas Law Enforcement Agency Uniform Crime Reports

Did Texas avoid building 17,332 prison beds by letting inmates out early?



No! The 2005 and 2007 Reforms Were Primarily Budgetary

- ▣ **Capacity in programs that offer less costly alternatives to incarceration was expanded and then maintained in 2009 and in the 2011 budget crisis session.**
- ▣ **Texas did not shorten prison sentence lengths, though parole rate has increased slightly from 27 to 31%, as Board finds that as more inmates are receiving treatment, more are safe to be released with supervision.**



Texas Probation Reform Proves the Right Incentives Work

- ▣ In 2005, additional \$55 million in funding for stronger probation supervision to probation departments that adopted progressive sanctions.
- ▣ Participating probation departments reduced their technical revocations by 16% while those that didn't increased technical revocations 8%.
- ▣ Had all departments increased their revocations by 8%, another 2,640 revocations for an average of 2.5 years at a cost to taxpayers of \$119 million, not including prison construction.
- ▣ Texas probation revocation rate declined from 16.4% in 2005 to 14.7% in 2010.

Bolstering Texas Parole Supervision: Less Crime, Less Total Spending

- ▣ From 2007 to 2010, 1,306 fewer parolees allegedly committed an offense and 825 fewer were revoked for rule violations, saving \$30.1 million.
- ▣ Parole supervision has added instant drug testing, more substance abuse treatment, more job placement resources, enhanced use of graduated sanctions; restored parole chaplains, and increased officers' emphasis on helping parolees succeed instead of "trail'em, nail'em, and jail'em."

**Do Conservatives Support a
Prison for Every Problem?**

Getting Criminal Justice Right

- Gov. Reagan in 1971: “Our rehabilitation policies and improved parole system are attracting nationwide attention. Fewer parolees are being returned to prison than at any time in our history, and our prison population is lower than at any time since 1963.”



Leadership of Governors

- LA.: Gov. Jindal: “hammer away at dubious distinction of highest incarceration rate in the world” with day reporting, jail reentry & work release
- CT.: Gov. Rell: Divert non-violent offenders, closed prison in 2009
- TX.: Gov. Perry: “rehabilitate nonviolent offenders, spend less locking them up again”
- Govs. Daniels, Deal & Kasich launch reforms in 2011



Gov. Bobby Jindal

“Right on Crime” Enters the Field

- Former Governor Jeb Bush, Speaker Newt Gingrich, Former Drug Czar Bill Bennett, Former A.G. Ed Meese, Grover Norquist, and Other Conservative Leaders Endorse Right on Crime Statement of Principles
- Statement Supports Reining in Growth of Non-Traditional Criminal Laws, Cost-Effective Alternatives for Nonviolent Offenders, Emphasis on Restitution and Treatment, and Performance Measures.





Los Angeles Times

**Conservatives
Latch on to Prison
Reform**

January 28, 2011



**Right on Crime Noted
in “Budget Crunch
Forces New Approach
to Prisons”**

February 15, 2011

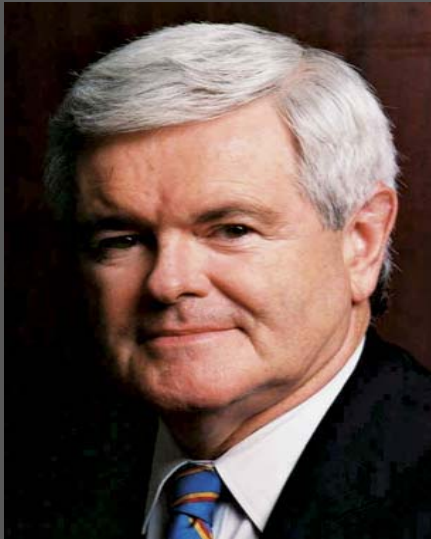


***National Review*
Praises Right on
Crime**

February 21, 2011

Speaker Gingrich Speaks Out

Op-ed by Newt Gingrich & Mark Earley, Atlanta Journal-Constitution, March 23, 2010



“If two-thirds of public school students dropped out, or two-thirds of all bridges built collapsed within three years, would citizens tolerate it? The people of Georgia would never stand for that kind of failure. But that is exactly what is happening all across the U.S. in our prison systems.

Last year, some 20,000 people were released from Georgia's prisons to re-enter our communities. If trends of the past decade continue, two-thirds of them will be rearrested within three years. That failure rate is a clear and present threat to public safety. Not only is this revolving door a threat to public safety, but it results in an increasing burden on each and every taxpayer.”

**Do Victims Think Prison is
Always the Best Solution?**

What Do Victims Want?

Survey of Iowa Burglary Victims

Sanction	Percent Requesting
Restitution	81.4%
Community Service	75.7%
Pay Fine	74.3%
Regular Probation	68.6%
Treatment/Rehabilitation	53.5%
Intensive Probation	43.7%
Short Jail Term	41.4%
Boot Camp	40.0%
Work Release Facility	34.3%
Prison Sentence \geq Year	7.1%

1997 Iowa Crime Victimization Survey, University of Northern Iowa.

When an Offender Can Be Safely Supervised & Treated in the Community, Restitution is More Likely

- ▣ 39% of property offenders were on drugs at time of offense so reducing substance abuse may impact property crime.
- ▣ In 2008, Texas probationers paid \$45 million in victim restitution and did \$65 million worth of community service work. And they pay more than half of the \$2.41 per day probation cost.
- ▣ Texas prisoners paid less than \$500,000 in total of restitution, fines, and fees.

Prison is Sometimes Needed for Public Safety, But When It's Not One Benefit of Alternatives is Family Preservation

- Inmates owe billions in child support – can't pay
- Probationers pay \$600 million in child support
- 85% of female inmates nonviolent – average 2.2 children
- 20% of women entering prison are pregnant or have babies six weeks or younger

Challenges & Solutions

Many Alternatives Work

- MD. evidence-based probation program: 22% less recidivism for low-level nonviolent offenders than prison.
- Hawaii HOPE Court with swift and sure testing and sanctions: 2/3 less re-offending.
- FL. Study: GPS monitored probationers were 89% less likely to be revoked

Strengthening Supervision

- ▣ Probation and parole revocations for new offense or rule violations account for 2/3 of prison intakes.
- ▣ Use sanctions and incentives.
- ▣ Enhance use of risk/needs assessments to match offenders with programs.
- ▣ Enhancing confidence in probation & parole may increase use. Probation placements are up and crime by probationers is down after Texas departments began receiving state incentive funding and using graduated sanctions.

Public Safety & Reforming Offenders

- ▣ Alternatives with accountability
- ▣ Probation has teeth, not just an office visit: work, treatment, drug tests, GPS, but use risk/needs assessment to avoid over-supervising.
- ▣ Since probation costs 15 to 20 times less than prison, when appropriate it pays to invest in doing it right with evidence-based practices.

Sentencing Reform

- Require probation, treatment, and drug court in low-level possession cases in lieu of prison unless prior non-drug felony record and judge makes written, appealable finding that offender is a danger to public safety.
- In last two years, S.C., KY., OH., and AR. have reduced low-level drug possession penalties as part of omnibus, consensus reform bills which also strengthened probation and appropriately toughened penalties on some violent crimes.

Restitution Revolution: Victims as Customers

- Victim-offender mediation proven to reduce re-offending and increase victim satisfaction and restitution while being far cheaper and quicker than traditional court process.
- In Vermont. 91% support reparative boards. 70% plus support use for repeated shoplifting and bad checks. Re-offending 12 to 23% less than regular probation.
- 75% of U.S.: restitution & community service an effective approach.
- Restitution ordered in only 26% of property cases – a third collected.

The Incentive Funding Model: Aligning Goals & Funding

- ▣ Gives counties the option to receive some state funds now spent incarcerating non-violent offenders in exchange for setting a prison commitment target.
- ▣ Funds could be used for treatment, stronger probation, electronic monitoring, prevention, problem-solving policing, and victim mediation and services.

Strengthen Probation: Demand Results

- 2008-09: CA., IL. & AZ. pass performance-based probation funding measures providing departments with incentive funding for fewer commitments, fewer new crimes, and more restitution. AZ. measure led to 31% decline in new crimes and 28% drop in revocations.
- IL. bill requires system-wide use of assessment instruments that match risk and needs to supervision strategies, tracking an offender from entry to reentry.

Problem-Solving Courts

- Drug courts: 34% lower recidivism: should focus on high-risk offenders who would have gone to prison.
- Hawaii HOPE Court with regular testing, treatment as needed, and weekend jail in few cases of non-compliance: 2/3 less re-offending, costs a third of drug court.
- Mental health courts: *Amer. Journal of Psychiatry*: less total & violent re-offending

Veterans Courts: The Newest Problem-Solving Court



Buffalo, N.Y. Veterans' Court

- Key elements include accountability, treatment, V.A. liaison, and mentoring by volunteer veterans
- Authorizing legislation passed in TX., NV., and IL.

- First in nation Buffalo, N.Y. Veterans Treatment Court launched in 2008. As of Sept. 2009, only 5 of 120 participants removed and none of 18 graduates re-arrested.



Buffalo, N.Y. Veterans' Court

Day Reporting Centers

- For probationers who need more structure as alternative to initial incarceration or used as parole condition. Costs \$15 a day in N.C.
- Union County, PA. center has 10.2% recidivism rate, Orange County, FL. has 82% success rate.
- Elements may include work, treatment as needed, literacy and other instruction, job placement, meeting restitution obligations, contribution to daily cost as able, drug testing.



Day Reporting Center, Dover, DE

Athens, GA. Day Reporting Center



Rick Thomas installs hardwood floors in an Athens apartment complex as part of his construction job. Thomas graduated from the Day Reporting Center opened in 2008 by the Department of Corrections. Newly released offenders with a history of a substance abuse and cognitive challenges receive counseling and supervision. To graduate, participants must hold and maintain a job for 90 days. Georgia has 11 day reporting centers.

Stop the Revolving Door

- Employed offenders on supervision are twice as likely to succeed
- In-prison vocational training = 90% less re-offending
- Protect employers from lawsuits for hiring ex-offenders
- Grant occupational licenses when offense is unrelated to the job. In some states, drug possession disqualifies a prospective barber. 2009 TX. law allows ex-offenders to obtain a provisional license.

Promote Successful Reentry

- ▣ Half of homeless are ex-offenders.
- ▣ Texas often releases inmates without photo identification and without supervision.
- ▣ OH.: Halfway house study found reduced re-offending for parolees safe enough for release but posing a substantial risk without housing. OH. residents generate \$6.7 million in earnings. Cost is less than half of prison.



Norwich, CT.
Halfway House

Overcriminalization: From Little Kids to Big Businesses



The Growth of Criminal Law and
Erosion of Traditional Intent
Requirement

Criminalizing Capitalism

- ▣ More than 4,500 federal criminal statutory offenses.
- ▣ Many states have thousands of criminal laws, including some 1,700 statutory offenses in Texas, 90% of which not in Penal Code.
- ▣ Texas has 11 felonies relating to harvesting oysters.
- ▣ Recent examples include Arthur Andersen and Gibson Guitar raid.

The Passing of the Paddle

- ▣ Students issued hundreds of thousands of criminal citations for minor misbehavior such as chewing gum and talking too loud.
- ▣ 60% of Texas elementary students suspended.
- ▣ Research shows that, adjusting for all other factors, suspension or referral to juvenile justice system increases long-term involvement in juvenile and adult corrections systems.

Key Resources

- ▣ Texas Public Policy Foundation
www.texaspolicy.com
 - ▣ Justice Fellowship
www.justicefellowship.org
 - ▣ Right on Crime
www.rightoncrime.com
 - ▣ Pew Center on the States:
 - ▣ Public Safety Performance Project
www.pewcenteronthestates.org
- ▣ Council of State Governments: Justice Center
www.justicecenter.csg.org

**Conclusion: There Are Powerful
Solutions to Enhance Public Safety
and Control Costs.**

Let's Join Together and Light the Way.



The presenter is pleased to provide supporting data and additional information upon request