

Enhancing Public Safety & Right-Sizing Florida's Criminal Justice System



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Introduction to the Texas Public Policy Foundation

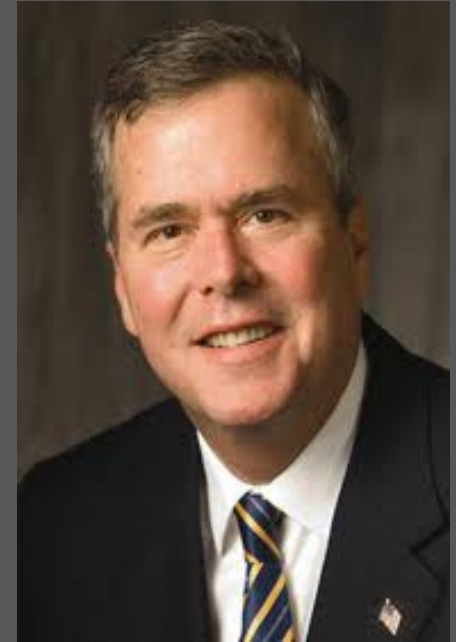
- **TPPF Mission: Individual Responsibility, Free Enterprise, Limited Government, Private Property Rights**
- **We apply these foundational principles to criminal justice, bringing together stakeholders and working with policymakers and allies across the spectrum.**

The TPPF Portfolio

- Fiscal and tax restraint
- Civil justice reform (worked to enact loser pays in 2011)
- Center for Tenth Amendment Studies
- Deregulation of (over)regulated industries like insurance and utilities.
- Center for Effective Justice launched in March 2005, Right on Crime in Dec. 2010

Right on Crime Enters the Field

- Former Governor Jeb Bush, Speaker Newt Gingrich, Former Drug Czar Bill Bennett, 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.





**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

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.
- TX: Gov. Perry: “rehabilitate nonviolent offenders, spend less locking them up again.”
- Govs. Kasich, Daniels, Deal & Corbett launch reforms in 2011 and 2012.



Gov. Bobby Jindal

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

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
Percent Change	-12.8%	-9.0%

- ▣ Texas' crime rate has reached its lowest level since 1973.

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

How did Texas avoid building 17,332 prison beds?



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."

Texas Juvenile Justice Reform: Prioritizing Local Solutions

- ▣ In 2007, lawmakers gave counties \$57.8 million to handle youth misdemeanants on probation who previously would have been sent to state lockups at twice the cost.
- ▣ A 2009 budget provision allows counties that agree to reduce commitments to state lockups to receive a share of the state's savings for local, research-based programs with performance measures.

Texas Juvenile Justice Reform: Less Incarceration & Less Crime

- ▣ The number of youths incarcerated at state lockups is about a third of the total in 2006 and the number of youths in county lockups has remained steady.
- ▣ Juvenile crime in Texas has continually declined, falling 10.3% in the 2009 fiscal year and dropping further in major metro areas in 2010.

Florida's Criminal Justice Challenges



Over 100,000 Adult Inmates

- ▣ Some 100,272 inmates as of August 2012
- ▣ 15% are drug offenders
- ▣ Adult appropriations fell for this fiscal year, but still over \$2 billion
- ▣ Florida 's average time served grew 166% from 1990 to 2009, adding \$1.4 billion in annual costs. Average time for drug offenders up 193%.

Some of the Sharp Increase in Time Served Has Been Unnecessary

- ▣ Pew conducted dynamic risk analysis and found 14% of Florida nonviolent offenders released in 2004 could have served between 3 and 24 months less with no detriment to public safety.
- ▣ Would have reduced prison population by 2,640.

The Positive Side of Florida's Juvenile Justice System

- ▣ Florida Redirection has been a national model, achieving a recidivism rate 46% less than commitment to youth lockup.
- ▣ 2009 state review found Redirection had saved or avoided some \$41 million in costs.
- ▣ Florida's Community-Based Intervention Services Model for reentry achieves rate of 76 to 92% of youths being free of crime a year after release.
- ▣ National pioneer in civil citation

Florida's Top Juvenile Justice Challenges

- ▣ Some 445 beds were empty last year, and 47% that were filled were filled with low and moderate risk kids – misdemeanants and probation violators.
- ▣ Residential recidivism rate is 41% after one year.
- ▣ Last year, 2,700 youths sent into adult system, yet national research shows comparable youths entering adult system 33% more than those kept in juvenile system and much higher rates of abuse.

Policy Options for Florida



Strengthening Alternatives to Incarceration



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 and reducing recidivism.
- ▣ 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

Strengthening Supervision & Electronic Monitoring

- ▣ Use graduated sanctions and incentives
- ▣ Enhance use of risk/needs assessments to match offenders with programs
- FL Study: GPS monitored probationers were 89% less likely to be revoked

Day Reporting Centers

- Often targeted at probationers who need more structure as alternative to initial incarceration or used as parole condition.
- 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.
- NC: Day reporting centers cost \$15 a day



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.

Drug Sentencing Reform

- Under Florida's sentencing laws, a person convicted of trafficking a weight of oxycodone that amounts to about 44 pills faces a mandatory minimum sentence of 25 years in prison, the same as a child rapist.
- Require probation, treatment, and drug court in low-level possession cases in lieu of prison unless the offender has a prior substantial record and judge finds danger to public safety.
- SC, KY, OH, GA, and AR have reduced low-level drug possession penalties.

Florida Could Better Transition Inmates Into Community

- ▣ Florida released 35,549 inmates in the last fiscal year with only about 7,500 placed on conditional release, parole, or addiction recovery.
- ▣ Research shows that for many types of offenders post-release supervision reduces recidivism holding offenders accountable for not returning to old ways and helping them with reentry. Promotes continuity of care for mentally ill.
- ▣ Use some savings from reduced time served to expand post-release supervision

Promote Successful Reentry

- ▣ Florida Dept. of Corrections data shows 72% of returning inmates need substance abuse treatment in three years, 22% of them ever receive it, and 7% reduction in re-incarceration rate for those that do.
- ▣ 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

Stop the Revolving Door

- Employed offenders on supervision are twice as likely to succeed.
- In-prison vocational training = 9% less re-offending.
- Grant occupational licenses when offense is unrelated to the job. In some states, drug possession disqualifies a prospective barber. 2009 TX law allows many ex-offenders to obtain a provisional license for most trades, which becomes permanent if they comply with law and rules.

Remove Barriers to Reentry

- ▣ Ensure discharged inmates have photo ID
- ▣ Provide protection to employers hiring ex-offenders from negligent hiring lawsuits – model Minnesota language says if no additional risk from job than simply being in society, no liability.
- ▣ Enable nonviolent, non-chronic ex-offenders after time of compliance to obtain non-disclosure of record.



The Earned Time Revolution

- ▣ States such as Georgia, Texas, and Ohio have recently adopted or expanded earned time for lower -level offenders.
- ▣ ALEC model legislation establishes earned time for community supervision.
- ▣ Studies of policies in New York, Wisconsin, and Washington find reduced recidivism as offenders have positive incentive to complete rehabilitative programs.

Prioritizing Victims



- Nationally, restitution ordered in only 26% of property cases – a third collected.

Making Victims Whole

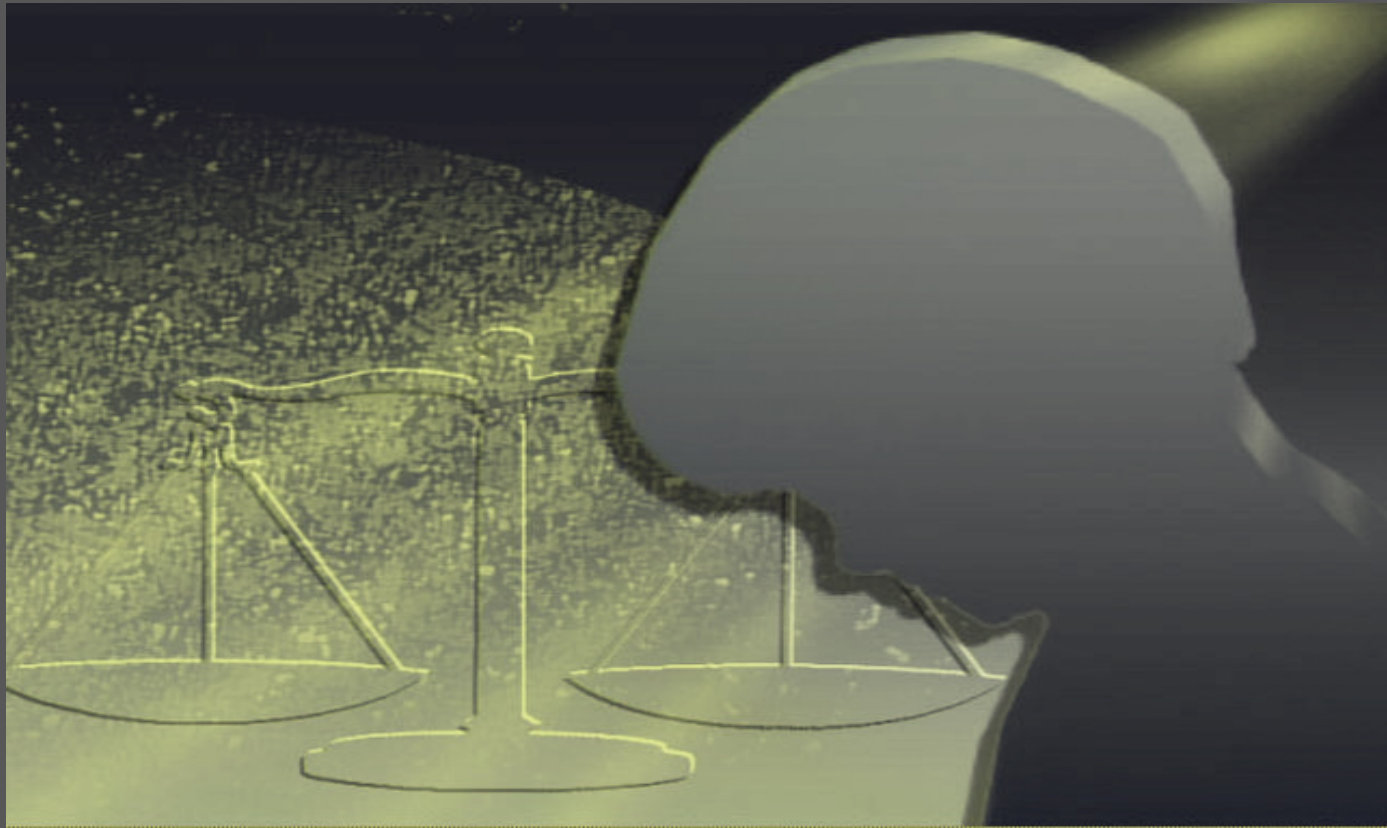
- ▣ Probationers pay \$391 million in restitution (at least 34 times more per offender than inmates) and do 135 million service hours.
- ▣ Victim mediation: 14 states with statutes. Must be chosen by victim & offender. Proven to increase victim satisfaction as a result of apology and completion of restitution in 89% of cases. Most studies find less re-offending as well.

The Victims' Perspective

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%

The Path Forward for Florida Juvenile Justice



Aligning Policies with Research

- ▣ Shift more youths and funds into community-based programs and close unused secure beds.
- ▣ Narrow grounds for transferring youths into adult system to most serious cases where offender has already failed in juvenile system.
- ▣ Expand number of counties using proven alternatives to unnecessary detention (JDAI)

Overcoming Overcriminalization in Florida



Of the 83 environmental criminal offenses in Florida, 52 are strict criminal liability offenses.

Reining in Florida's Criminal Laws

- ▣ More than 5,000 different offenses scattered throughout Florida's codes.
- ▣ Offenses include mislabeling an artifact, using more than one net device from a bridge, and detaching a seed label.
- ▣ Identify unnecessary criminal laws and establish a default *mens rea* provision. 20 states have such a provision and ALEC model legislation offers blueprint.

Taking the Next Steps to Turn Ideas into Action



Asking the Right Questions: Demand Facts & Measure Results

- Which criminal laws are overlapping, obsolete, overbroad or vague, or lacking a *mens rea* provision?
- What percent of offenders in community corrections and prison are paying the restitution they owe?
- Which treatment, education, and work programs most reduce re-offending for each type of offender?

Asking the Right Questions: Demand Facts & Measure Results

- How many low-risk offenders are going to prison?
- How many probationers and parolees are revoked for rule violations who could be safely supervised and treated given sufficient resources?

Key Resources

- ▣ Texas Public Policy Foundation

www.texaspolicy.com

- ▣ Heritage Foundation

www.overcriminalized.com

- ▣ Right on Crime

www.rightoncrime.com

- ▣ Pew Center on the States

www.pewcenteronthestates.org

- ▣ Council of State Governments Justice Center

www.justicecenter.csg.org

- ▣ Justice Fellowship

www.justicefellowship.org