



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



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Introduction to the Texas Public Policy Foundation

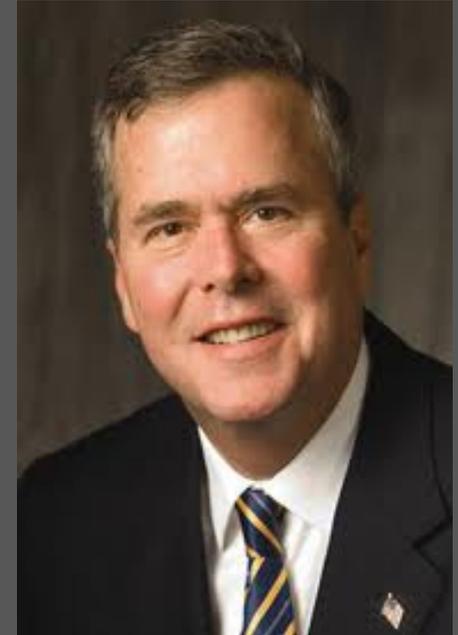
- **TPPF Mission: Liberty, Personal Responsibility & Free Enterprise**
- **We apply these foundational principles to criminal justice, bringing together stakeholders and working with policymakers and allies across the spectrum.**

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.

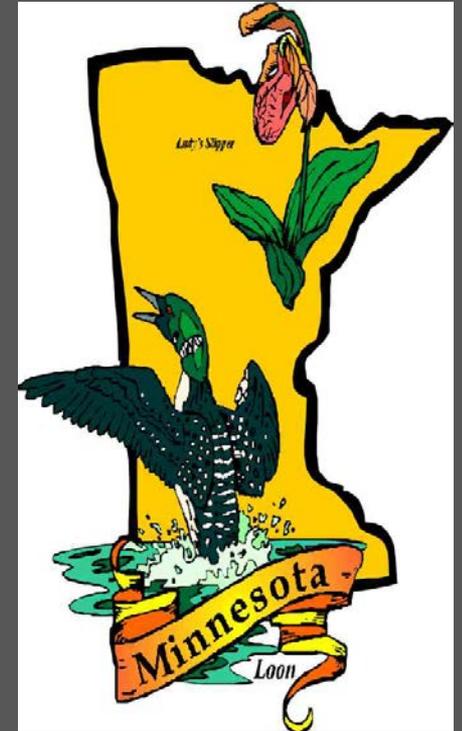
Minnesota's Corrections Challenges



- ▣ 1 out of every 26 Minnesota adults in prison or under community supervision. Higher than national 1 in 31 figure, mainly due to long probation terms, yet most re-offending in first two years of supervision.

Still a Leader, But Challenges Remain

- ▣ Crime rate 13% lower than national average and incarceration rate half average.
- ▣ Nearly twice as many probationers per capita as national average
- ▣ Average time served rose 38% from 1990 to 2009, including 99% increase for drug offenders.
- ▣ Pew study found time served for some nonviolent offenders could be reduced without harming public safety.



Drug Offenders Drive Growth in Minnesota's Prison Population

- ▣ In 1989, drug offenders were 6 percent of the state's prison population. Today, they constitute 18 percent of the population.
- ▣ Average sentence of 69 months.
- ▣ More than 48% were sentenced for possession.
- ▣ 56 percent from outside the MSP metro area with 66 percent of these rural drug offenders entering for a meth offense.

Minnesota's Correctional Costs are Mounting

- ▣ Total annual adult corrections cost is \$395.3 million, including capital costs and underfunded pensions, or \$41,364 per inmate per year.
- ▣ Minnesota could need another prison within several years based on population projections if current policies continue.

Minnesota's Juvenile Justice Challenges

- ▣ High rate of local placements in facilities with youths placed in pre-trial detention on about 10,000 occasions per year (though reductions in JDAI sites) and post-adjudication confinement on about 2,000 occasions (31% of cases).
- ▣ Out-of-home placement can cost more than \$300 per day and often not as effective as intensive in-home programs.

Policy Options for Minnesota



Strengthening Alternatives to Incarceration



- ▣ Each year, 15 percent of Minnesota probationers are revoked to prison for technical violations or a misdemeanor.

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.
- N.C.: 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 Minnesota's sentencing laws, first-degree drug offenses (the sale of 10 grams or possession of 25 grams of cocaine or methamphetamine) carry same penalty as third-degree murder. Second-degree drug offenses (the sale of 3-10 grams or possession of 6-25 grams of cocaine or methamphetamine) ranked on par with aggravated robbery.
- SC, KY, OH, GA, and AR recently reduced low-level drug possession penalties.

Promote Successful Reentry

- ▣ Minnesota should make it easier for juveniles to pursue educational, employment, and housing opportunities by allowing youths' records to be sealed.
- ▣ For adults, Minnesota should follow Texas in allowing for nondisclosure for those who have not committed serious or repeated offenses. Judges, prosecutors, and law enforcement can still see the record and use for enhancement.



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.

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 in New York, Wisconsin, and Washington find reduced recidivism as offenders have incentive to comply and complete programs and frees up resources to supervise higher-risk offenders.

Prioritizing Victims



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

Making Victims Whole

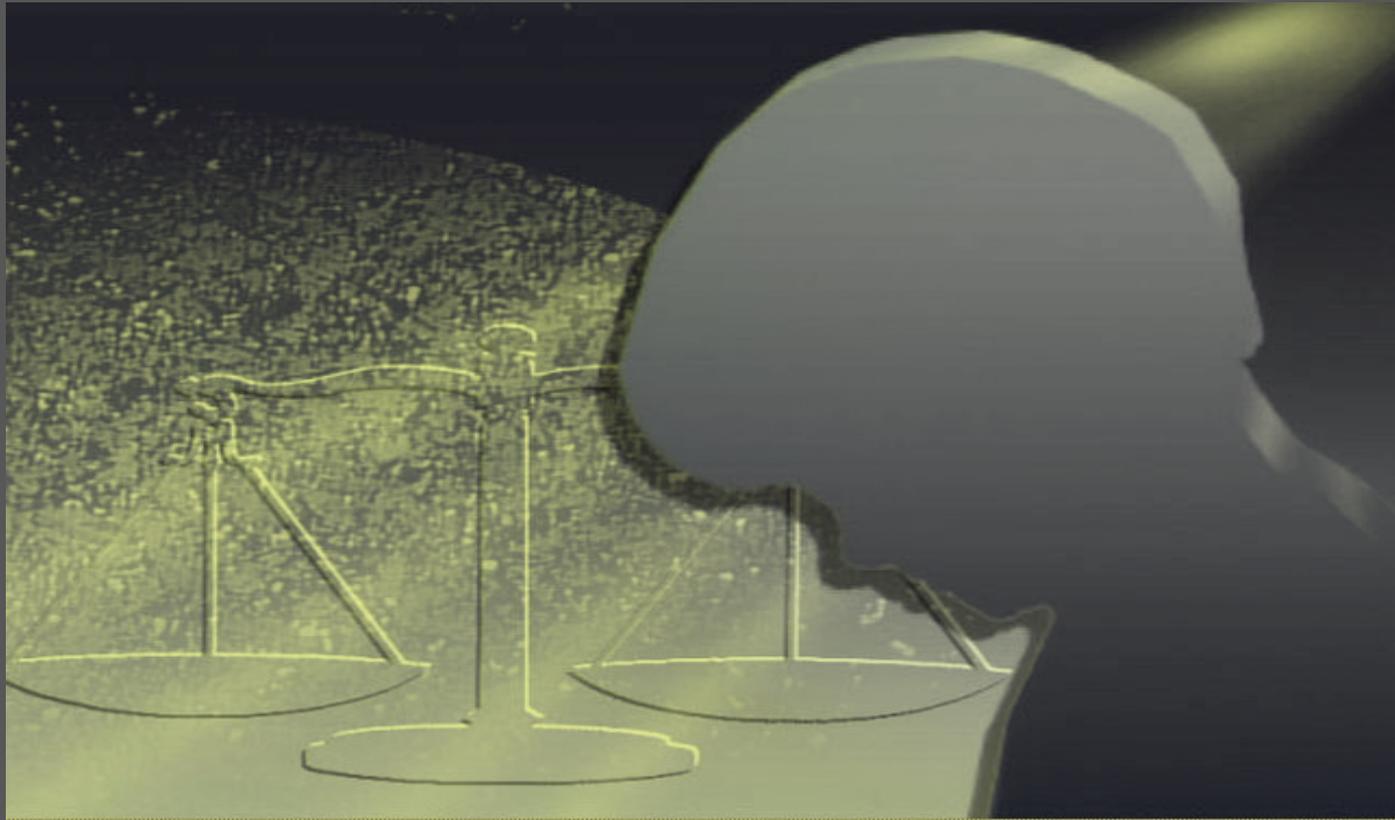
- ▣ Probationers pay \$391 million in restitution (at least 34 times more per offender than inmates) and do 135 million service hours.
- ▣ Victim mediation: Minnesota among 14 states with statutes. Must be chosen by victim & offender. Proven to increase victim satisfaction as a result of apology and 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 Minnesota Juvenile Justice



Aligning Policies with Research

- ▣ Shift more youths and funds into in-home programs, reducing overreliance on out-of-home placement.
- ▣ Narrow grounds for transferring youths into adult system to most serious cases where offender has already failed in juvenile system. Currently, youths as young as 14 can be certified for any felony.
- ▣ Expand number of counties using proven alternatives to unnecessary detention (JDAI).

Overcoming Overcriminalization in Minnesota



Minnesota's Overuse of Criminal Law

- ▣ About 500 different offenses scattered throughout Minnesota's codes, not including traffic offenses.
- ▣ Offenses include improperly disposing of a battery, interference with logging, ticket scalping, and failure to provide sufficient protection at acrobatic event.

Reining in Overcriminalization

- ▣ Identify unnecessary criminal laws and repeal, narrow, or convert to civil violations.
- ▣ Establish a default *mens rea* provision. 20 states have such a provision and ALEC model legislation offers blueprint.
- ▣ Establish the rule of lenity that provides, if conduct not clearly prohibited, benefit of doubt goes to the defendant.

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