

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

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Texas Public Policy Foundation

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Introduction to the Texas Public Policy Foundation

- TPPF Mission: Individual Responsibility, Free Enterprise, Limited Government, Private Property Rights.
- Center for Effective Justice founded in 2005.
- Right on Crime launched in 2010.
- Involved in wide variety of issues, including alternatives to incarceration for nonviolent offenders, ways to improve probation/parole monitoring, specialty courts like drug courts, community-based programs, restorative justice, overcriminalization.

Criminal Justice Reform Needs to be a Priority

- 1 out of every 100 American adults is in prison or jail.
- 1 out of every 33 adults is under correctional control (incarceration, parole, or probation).
- Florida spends \$20,000 per inmate every year.
- 90% of Florida prison inmates reenter the community.
- 64% are rearrested within 3 years. 28-30% return to state prison.

Sources: Pew Public Safety Performance Project, Florida Department of Corrections, Center for Smart Justice, Office of Economic and Demographic Research, 2012



Questions for Policy Makers

- Who are we incarcerating?
- Is incarceration the best option for that type of offender?
- What happens when offenders are released?
- What improves public safety?
- What saves money?
- What do the victims of crime want?
- What do voters want?
- What policies are successful in other states that we can use as models?



Texas' Trend: Lower Incarceration *and* Crime Rates

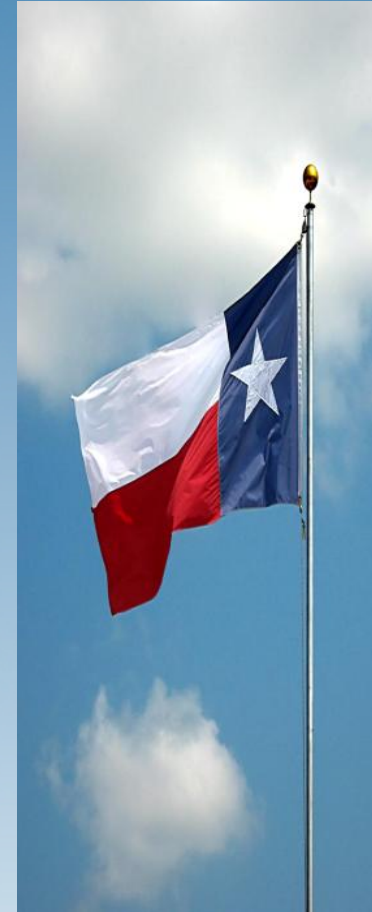
Year	FBI Index Crime Rate	Incarceration Rate Per 100k
2005	4,857.1	681
2011	3,880.8	620
Percent Change	-25.1%	-9.0%

Texas' crime rate has reached its lowest level since 1968.

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

The Texas Story

- In 2007, the Texas Legislature was told they would need to build 17,332 new prison beds.
 - Estimated cost: \$2 billion
- Instead, expanded successful alternatives to incarceration like drug courts, drug and mental treatment programs, and better probation monitoring.
 - Cost: \$241 million
- Goal: focus resources on nonviolent offenders who are most likely to benefit.



Success of Texas Reforms

- Didn't need to build the new prisons.
- Closed 3 prisons since 2007, selling the property.
- Crime rate down about 25%, lowest since 1968.
- Saved almost \$3 billion.
- Lower rates of recidivism and probation revocation.
- Governors Kasich (OH), Daniels (IN), Deal (GA), and Corbett (PA) launch reforms in their own states in 2011-2012.
- Other state and federal policy makers continue to find success adopting the "Texas model."

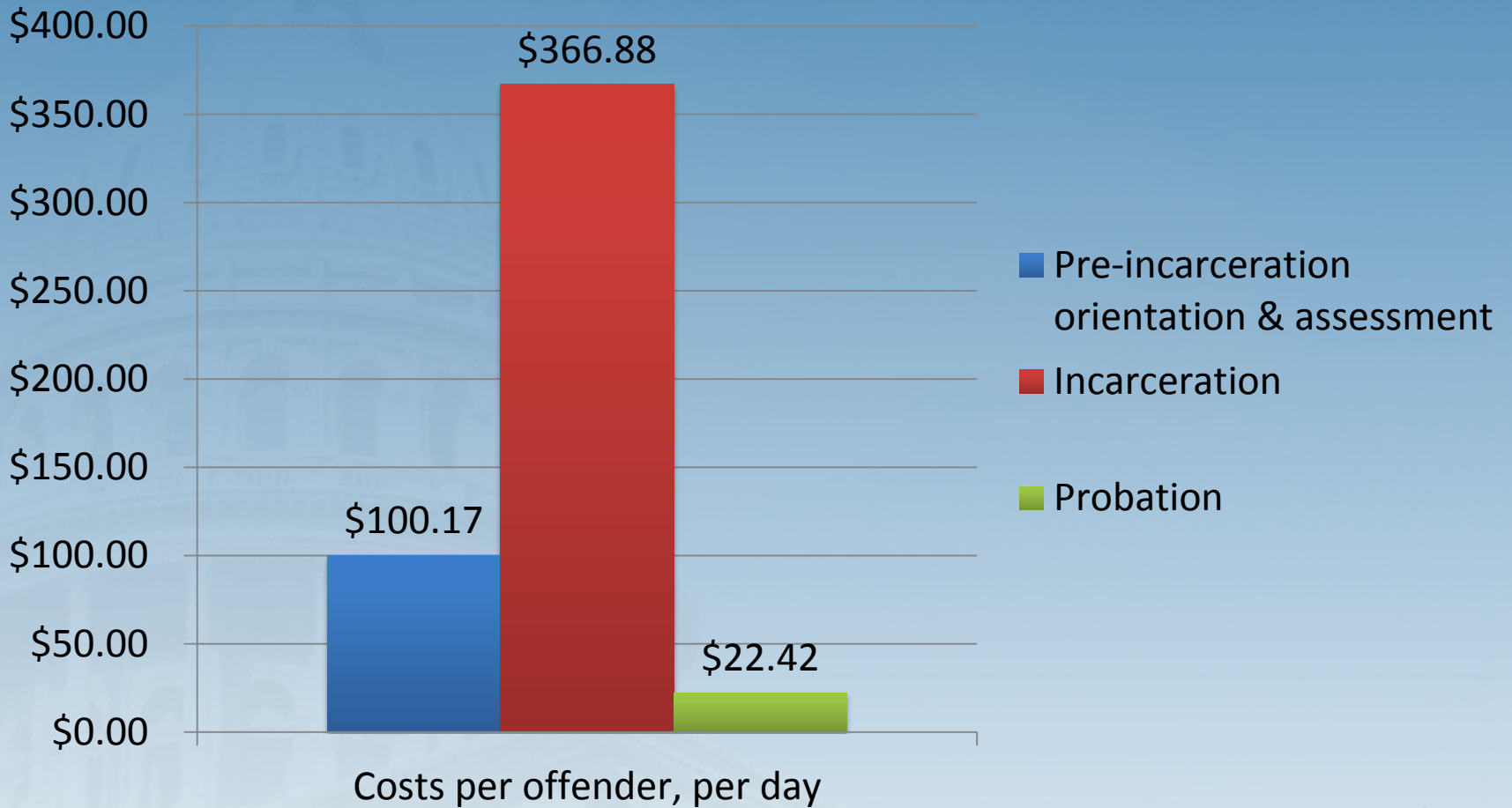


Cost Savings for Prison Alternatives



Texas adult costs (2012)

Cost Savings for Prison Alternatives



Texas juvenile costs (2012)

Still “Tough on Crime Texas”

- Legislators implemented reforms *without lowering the penalties or reducing sentences for any offense.*
- Sentences for sex offenses against children and repeat auto burglary were lengthened.
- Parole rules unchanged, except prohibiting serious violent offenders from being eligible for parole.
- 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.

Performance Based Incentives Work

- In 2005, allocated \$55 million more funding for local departments that adopted progressive sanctions, requiring 10% reduction in probation revocations for technical infractions.
- Implemented graduated sanctions matched to the violation, like increased reporting, extension of term, electronic monitoring, and weekends in jail.
- Participating probation departments reduced their technical revocations by 16%, while those that didn't increased technical revocations by 8%.
- Had all departments increased their revocations by 8%, that would have been another 2,640 revocations for an average of 2.5 years at a cost to taxpayers of \$119 million, not including prison construction.



Texas Successes Continue...


- Texas probation revocation rate declined from 16.4% in 2005 to 14.5% in 2012.
- Parole revocation rate declined from 11,311 in 2004 to 6,169 in 2012.
- New crimes committed by parolees down 8.5% from 2007 to 2010.



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.

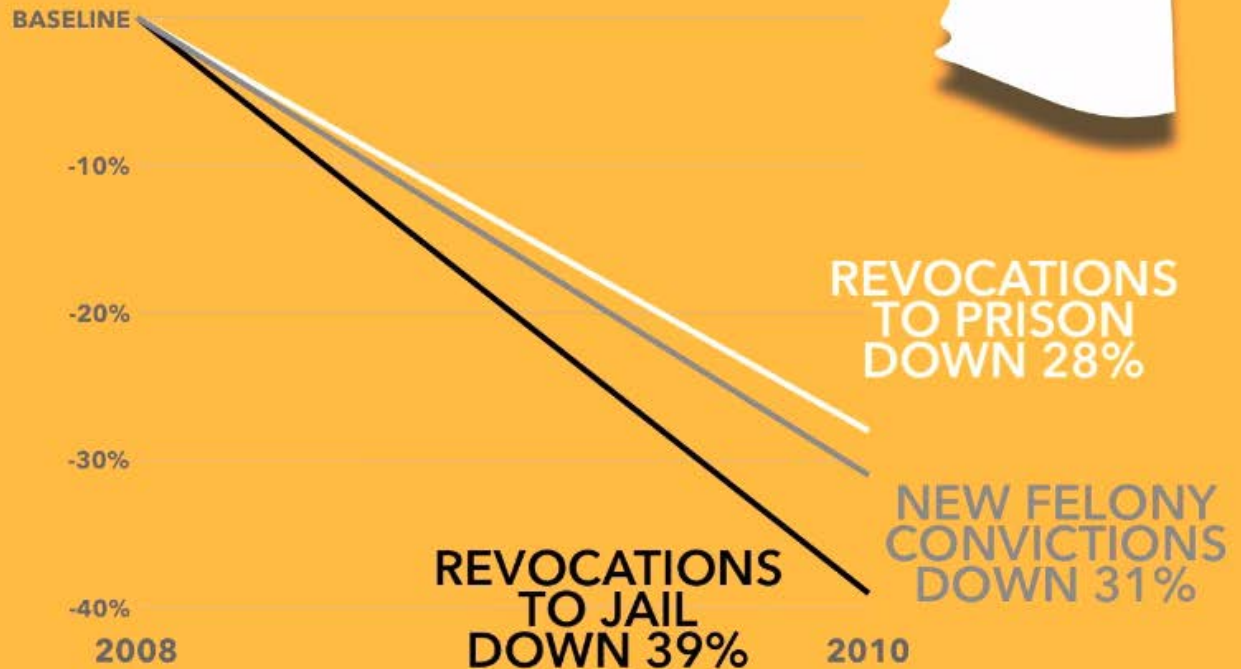


Benefits from Arizona's Safe Communities Act, 2008

ARIZONA



36
MILLION
DOLLARS
IN TAXPAYER
SAVINGS



Source: Pew Center on the States, *The Impact of Arizona's Probation Reforms* (Washington, DC: The Pew Charitable Trusts, March 2011).



Drug Courts: Saving Taxpayer Money, Reducing Crime



COST PER INDIVIDUAL



RE-ARREST RATE



RE-INCARCERATION RATE

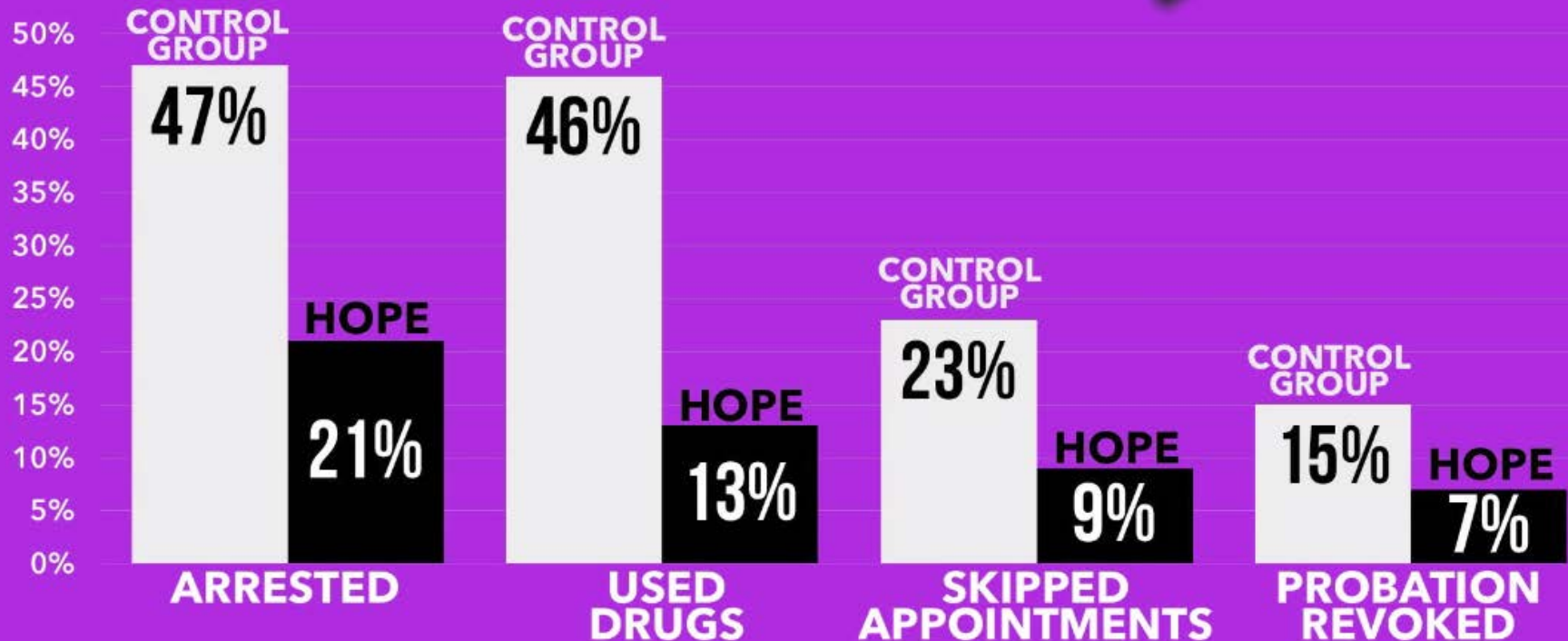


Source: Texas Public Policy Foundation, *Breaking Addiction without Breaking the Bank* (April 2011).



Hawaii's Opportunity Probation with Enforcement (HOPE) Program

HAWAII



Source: National Institute of Justice, "Swift and Certain" Sanctions in Probation Are Highly Effective: Evaluation of the HOPE Program (February 3, 2012).



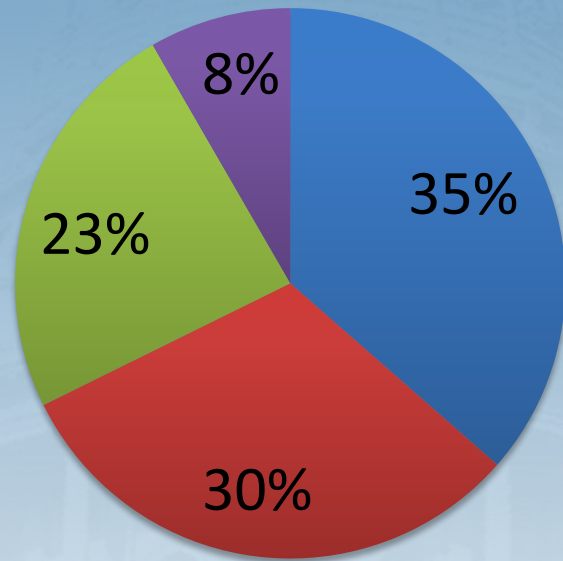
Voters Want Smart Criminal Justice Reform

- Poll commissioned by TPPF and conducted by Wilson Perkins Allen in November 2013
- Results from 1,001 likely voters in Texas.
- Full poll results, crosstabs, and analysis posted on our website.
- Supporting op-eds published by Sarah Rumpf, Austin American-Statesman, and by Center for Effective Justice Senior Policy Analyst Vikrant Reddy, Houston Chronicle.



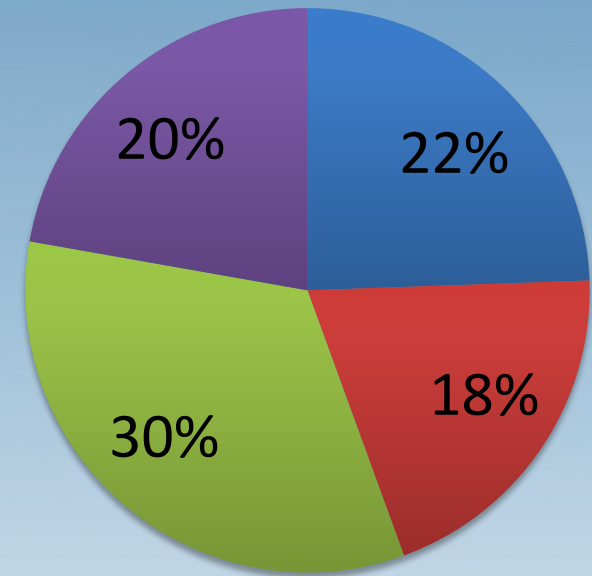
What is the most important factor for our criminal justice system to focus on when dealing with nonviolent offenders?

First Choice

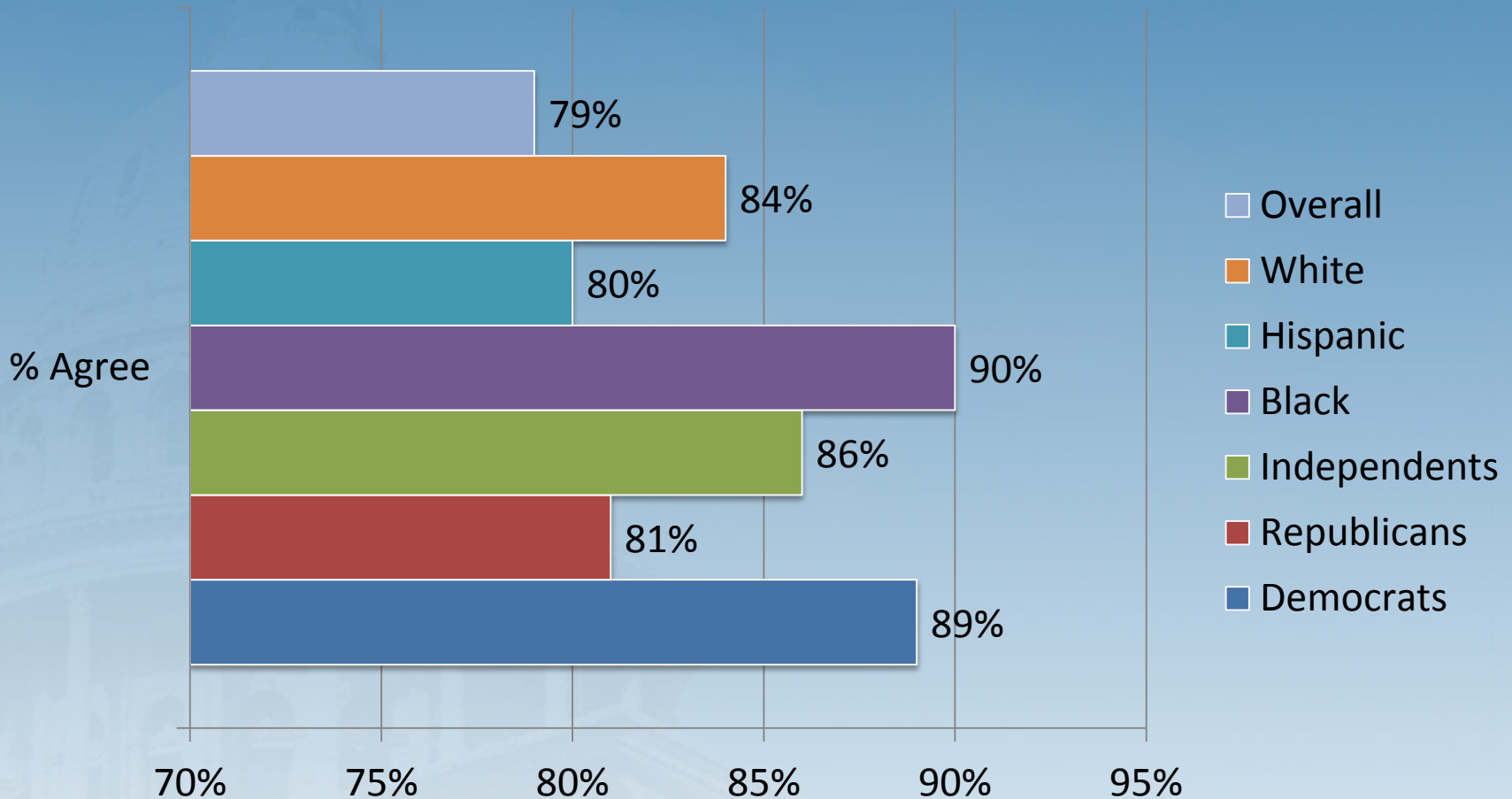


- Rehabilitation
- Punishment
- Restitution
- Send a message

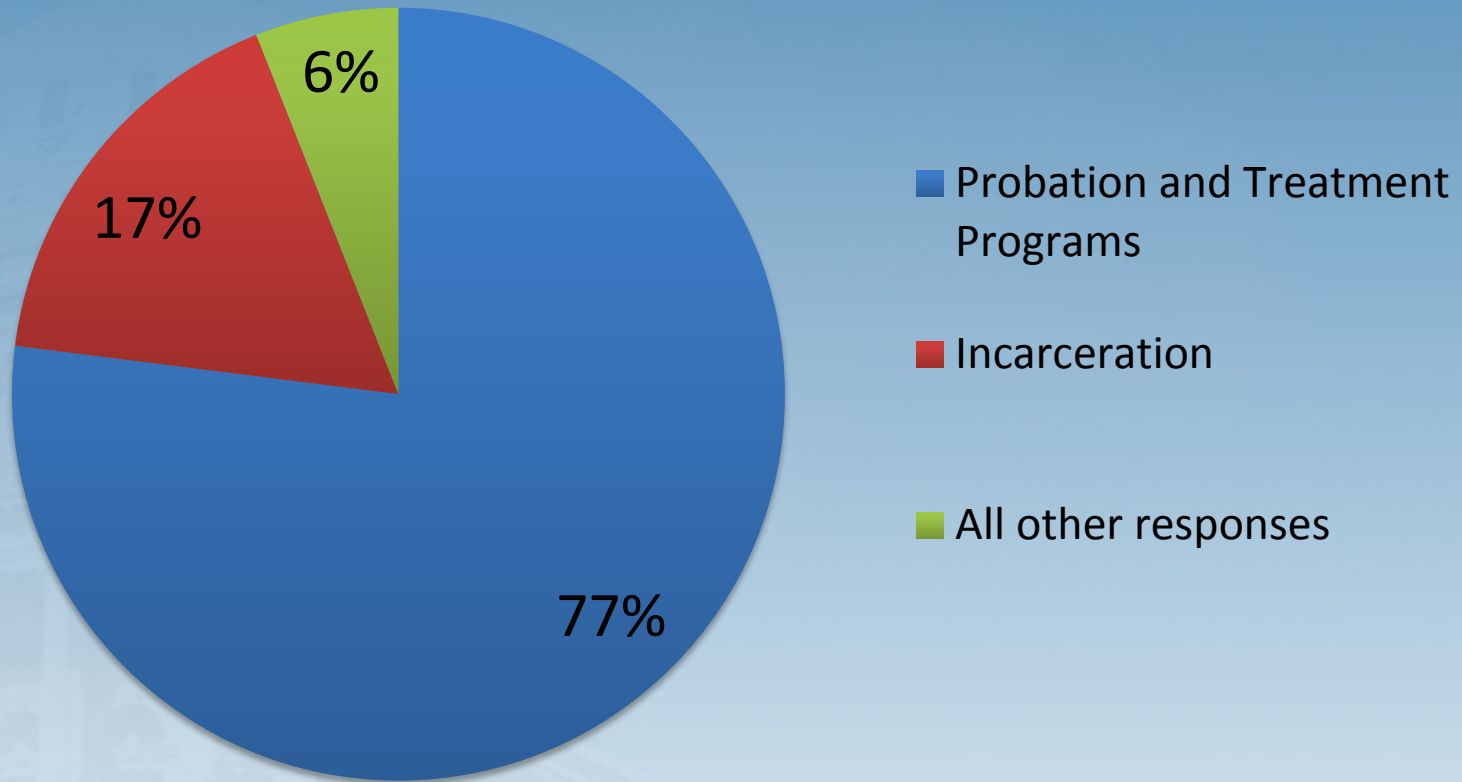
Second Choice



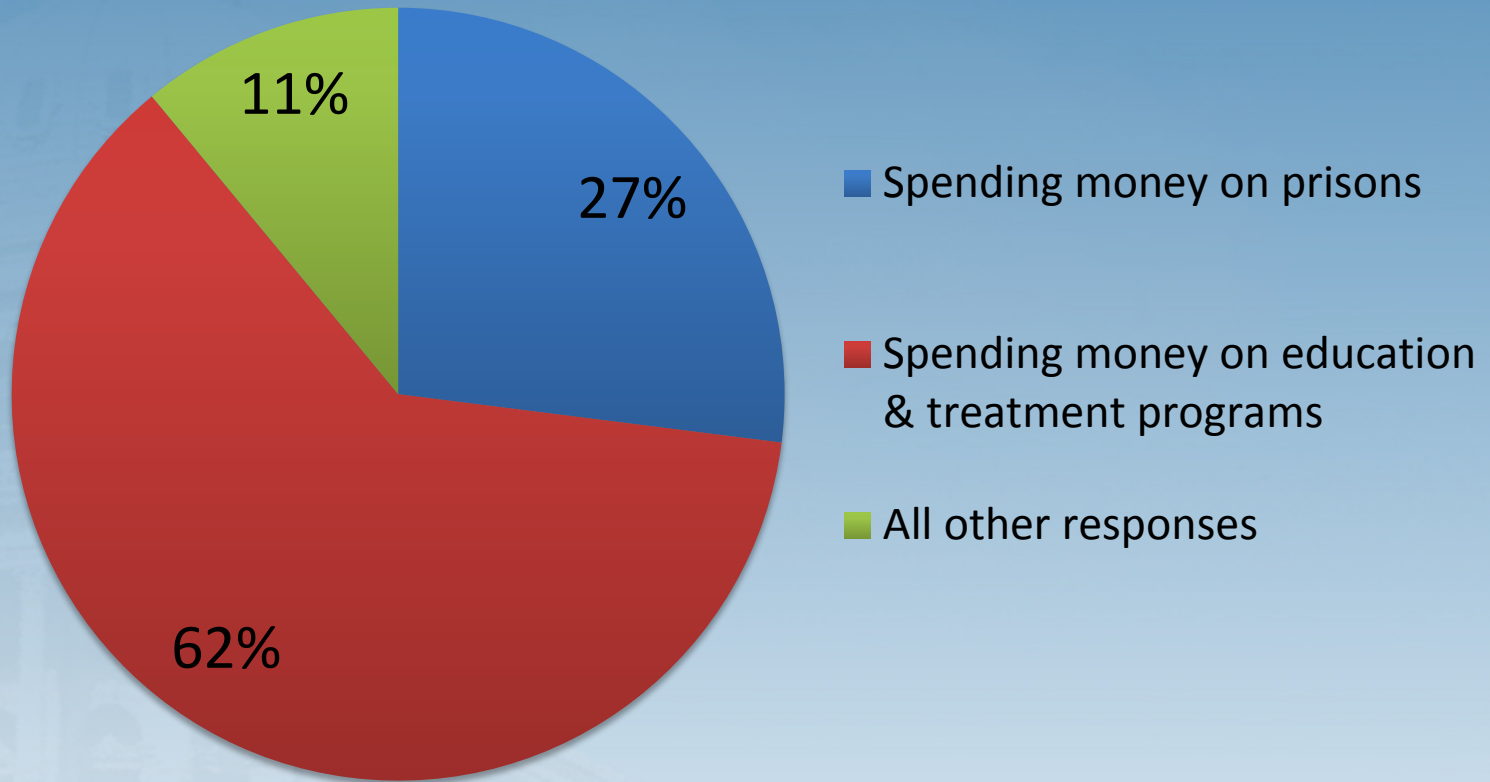
Should nonviolent drug offenders be sent to treatment and probation instead of prison?



What's more effective for first time, nonviolent offenders?



What's better at reducing repeat criminal behavior (recidivism)?





Positive Results Beyond Our Expectations

- Voters overwhelmingly support our criminal justice reforms, across all demographic, ethnic, gender, partisan, and ideological categories.
- Support strongest among conservatives who self-identified as affiliated with the tea party.
- Majority of respondents unaware crime rate had gone down (45% believe it had stayed the same, 18% believe it went up, 6% did not know), but these respondents still overwhelmingly supported the reforms.

Florida's Criminal Justice Challenges



Florida Prison Population Spiking

- 102,225 projected to spike to 106,793 by mid-2017, at an additional cost of \$58 million.
- 15% are drug offenders.
- Florida spends more than \$2.4 billion on corrections, with about 90% going to prisons.
- 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 of Florida nonviolent offenders released in 2004.
- Found that 14% could have served between 3 and 24 months less, *with no detriment to public safety.*
- Would have reduced prison population by 2,640.



Florida's Juvenile Justice System Has Achieved Notable Successes

- Lowest youth arrest rate in 30 years.
- 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 desistance in year after release.
- National pioneer in civil citation.



Florida's Juvenile Justice Challenges

- 47% of beds filled with low and moderate risk kids, such as misdemeanants and probation violators.
- About 300 unused beds.
- Residential recidivism rate 41% after 1 year.
- Last year, 1,535 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, and 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

- 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.
- GA telephone reporting for low-risk offenders allows officers to spend more time visiting high-risk offenders.



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



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.



Pending Legislation Would Create Fairer Sentencing

- One bill would make second-time possession of small amounts of marijuana a jailable misdemeanor instead of a felony and adjust property offense thresholds for inflation.
- Legislation by Rep. Joyner would create a safety valve, allowing judges to waive three-year prison term for first-time drug offense.
- A bill by Rep. Bradley increases from 4 to 14 grams the minimum weight threshold for trafficking in oxycodone and hydrocodone.



Expand Post-Release Supervision

- Only 20% of the 35,000 inmates released every year are placed on conditional release, parole, or addiction recovery.
- Pew 2013 New Jersey study found similar inmates put on parole had 36% fewer new offenses than max-outs. 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% drop in re-incarceration for those that do.
- Transition inmates nearing end of term to reentry settings closer to home. Halfway house study in Ohio found reduced re-offending for parolees and residents generate \$6.7 million in earnings. Cost is less than half of prison.

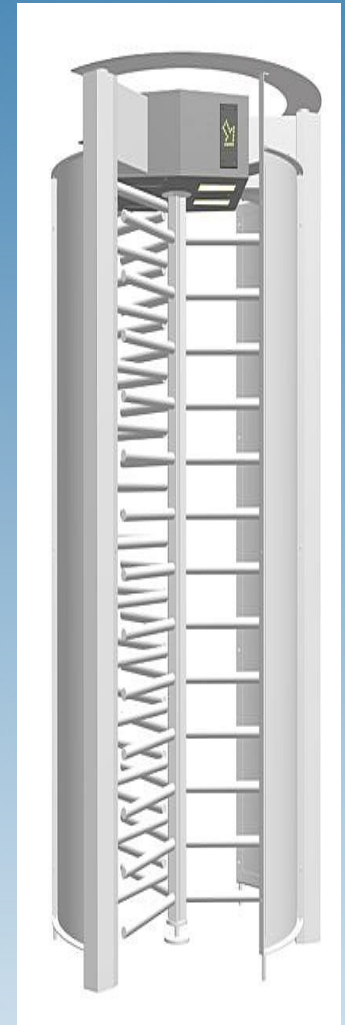


Norwich, CT
Halfway House



Stop the Revolving Door

- Employed offenders on supervision are twice as successful.
- In-prison vocational training = 9% less reoffending.
- Grant occupational licenses when offense is unrelated to the job. In some states, drug possession disqualifies a prospective barber. 2009 TX law and ALEC model bill allow 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

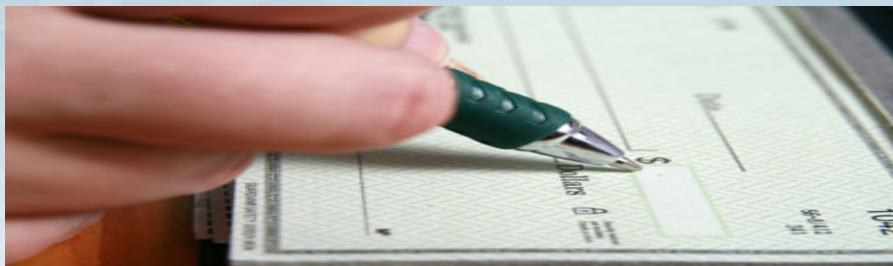


Nationally, restitution is ordered in only 26% of property cases, and collected in only one-third of those cases.



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.



Probation Pays, Prison Doesn't

- In 2008, Texas probationers paid \$45 million in victim restitution and did \$65 million worth of community service work.
- Probationers pay fees that cover more than half of their \$2.41 per day probation cost.
- Texas prisoners paid less than \$500,000 in total of restitution, fines, and fees.
- Texas probationers pay \$600 million in child support annually. Inmates owe billions and fall further behind while incarcerated.



What punishment do victims prefer?

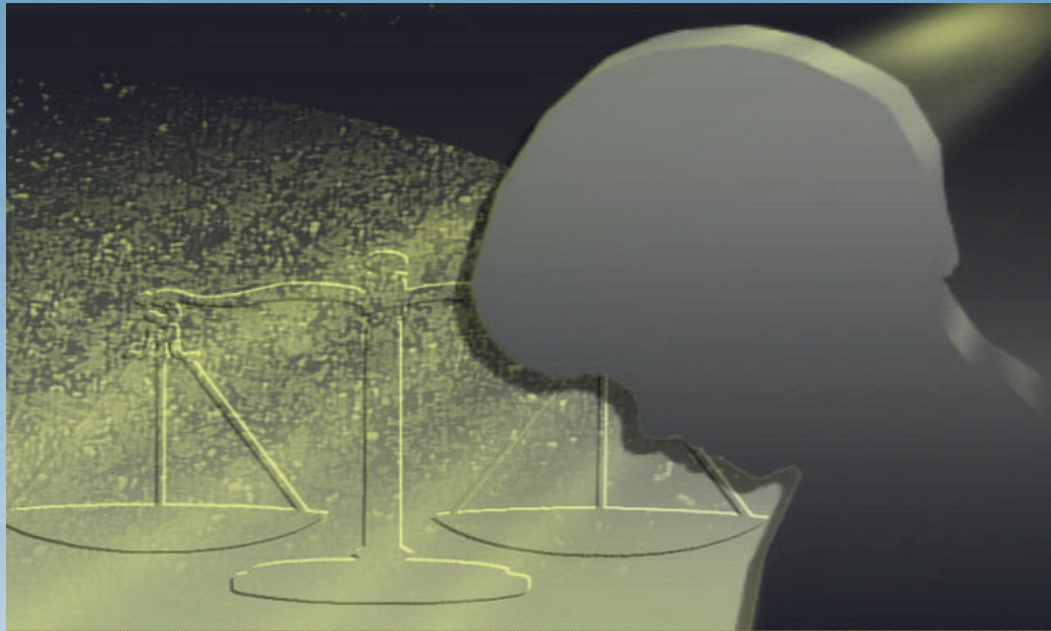
Survey of Iowa Burglary Victims

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%



Source: 1997 Iowa Crime Victimization Survey, University of Northern Iowa.

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. Juvenile code rewrite advances this goal, including by codifying evening reporting centers.
- Narrow grounds for transferring youths into adult system to most serious cases where offender has failed in juvenile system.
- Expand number of counties with diversion program and JDAI.



Overcoming Overcriminalization in Florida



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



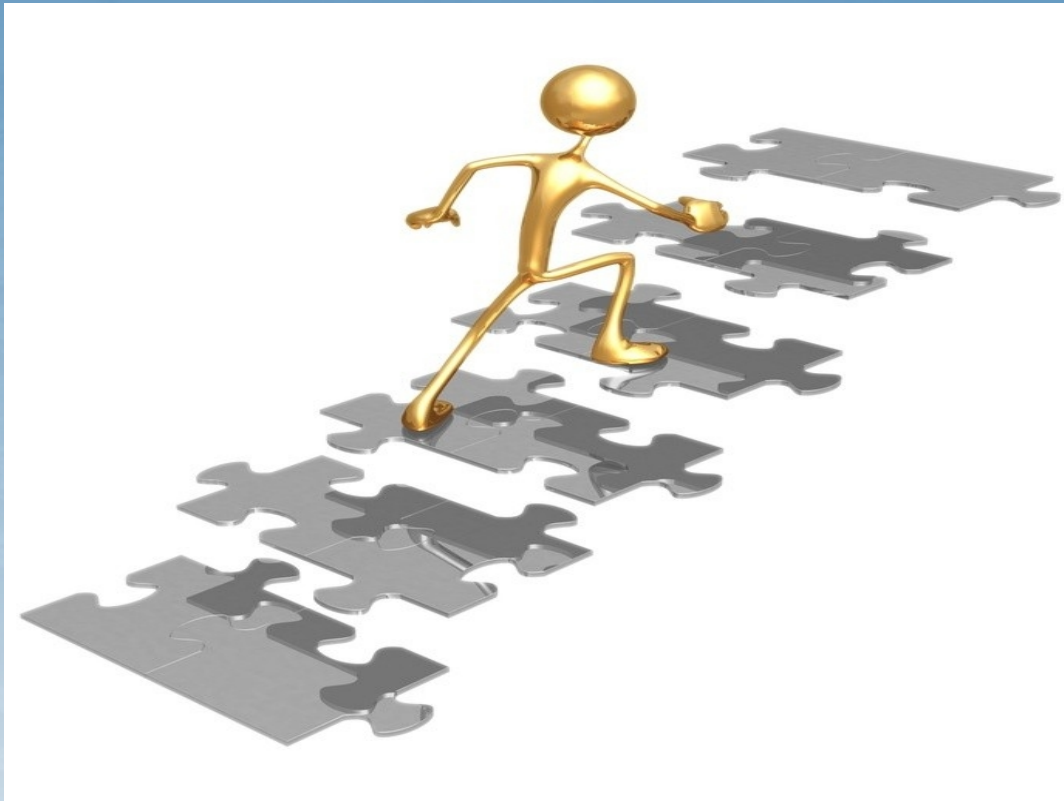


Reining in Florida's Criminal Laws

- 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
- Right on Crime: www.rightoncrime.com
- Justice Fellowship: www.justicefellowship.org
- Pew Center on the States, Public Safety Performance Project: www.pewcenteronthestates.org
- Council of State Governments, Justice Center: www.csgjusticecenter.org
- Heritage Foundation: www.overcriminalized.com