



**Texas Public Policy
Foundation**



**RIGHT
ON | CRIME**

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.



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.



Roots of Right on Crime

- Role for government should focus on addressing cases where one person harms another.
- Least restrictive alternative to liberty necessary to address that harm should be used.
- Individual victim's participation and goals such as restitution should be prioritized.
- Redemption, family preservation, workforce participation.

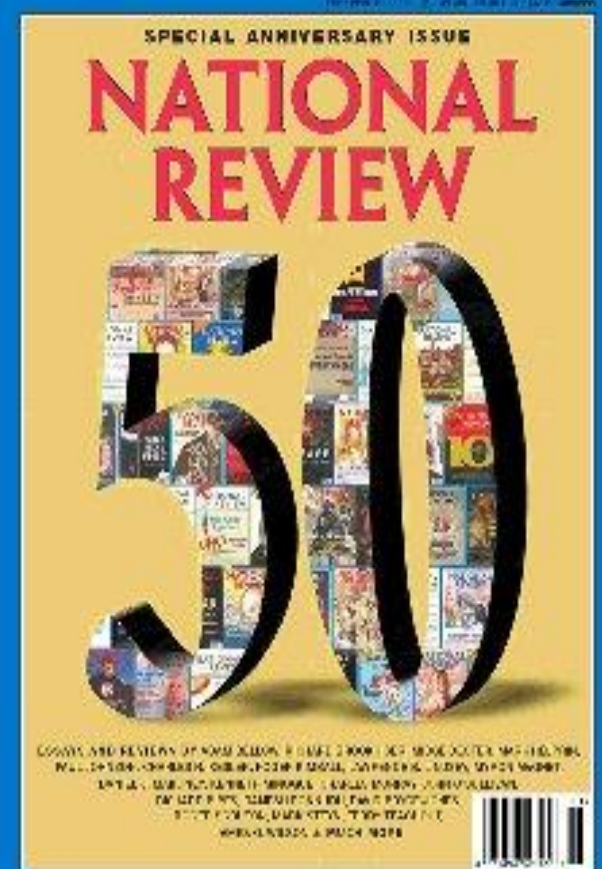




Favorably
covered in
numerous
outlets such as:

THE
WALL
STREET
JOURNAL.

kindle edition



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.”



How did Texas avoid building 17,332 prison beds?



Texas Justice Reinvestment: More Public Safety, Fewer Prisons

- Landmark 2007 justice reinvestment package rejected billions in new prison building, plowed \$243 million into treatment, including problem-solving courts, mental health diversion, and in-prison programs.
- Instead of adding 17,000 new prison beds as had been projected, Texas has closed eight prisons.
- Problem-solving courts have grown from 35 in 2007 to 143 today.



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.



The 2005 and 2007 Reforms Were Primarily Budgetary

- Capacity in programs that offer less costly alternatives to incarceration was expanded and then maintained in subsequent sessions, despite overall budget shortfalls in 2009 and 2011.
- Parole rate has increased, as board finds that as more inmates are receiving treatment, more are safe to be released with supervision and fewer parolees committing new crimes.





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

- Parole supervision has added instant drug testing, more substance abuse treatment, more job placement resources, enhanced use of graduated sanctions; restored parole chaplains, and emphasis on helping parolees succeed instead of “trail’em, nail’em, and jail’em.”
- After Texas reduced parole caseloads and expanded access to treatment, 1,306 fewer parolees allegedly committed an offense and 825 fewer were revoked for rule violations, saving \$30.1 million.

Texas Trend: Lower Incarceration *and* Crime Rates

Year	FBI Index Crime Rate	Incarceration Rate Per 100k
2005	4,857.1	681
2016	2,815.3	528
Percent Change	-34.2%	-22.7%

- Since 2008, crime has declined more in states that reduced incarceration.

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

Florida's Criminal Justice Challenges and Solutions



Sizing Up Florida Corrections

- 13% of current Florida inmates (nearly 13,000 individuals) are in prison with no current or prior violent or sexual history and have never served any prior prison sentence.
- Lower-level offenders sentenced to community supervision with nearly identical characteristics to those imprisoned had a lower rate of conviction for a new felony after two years; 23.4% compared to 28.8% for all felonies.



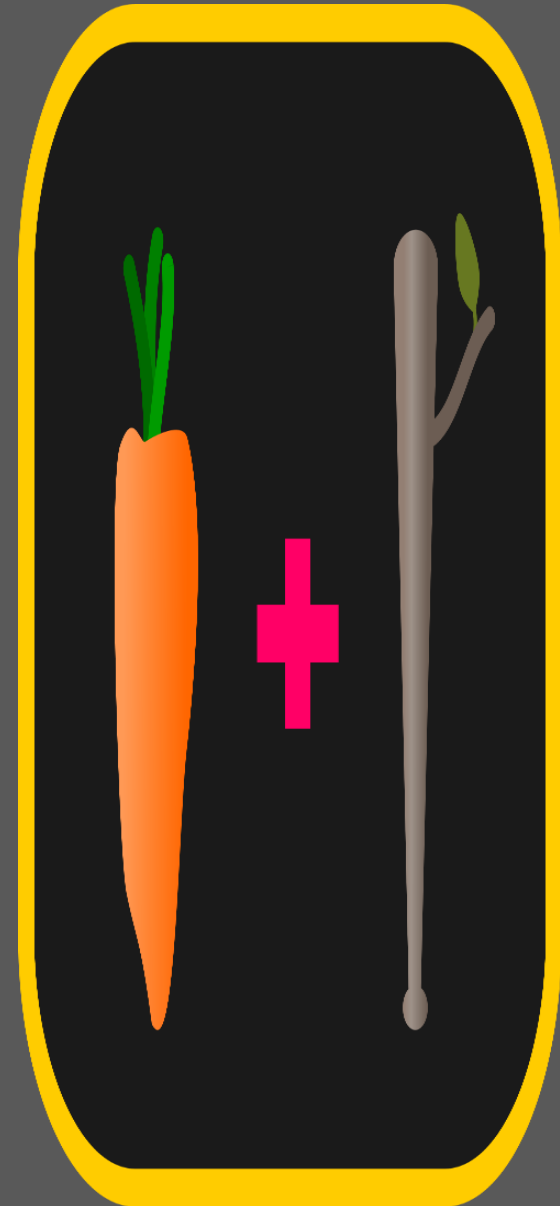
Examining Supervision Revocations

- 31,233 (out of 119,027) of Floridians had their probation revoked due to the technical violation (59%) or a new criminal offense (41%).
- Florida has recently reduced prison admissions for individuals revoked from probation (39% drop from 2007-2016) and post-release supervision (36% drop from 2007-2016).



Carrot & Stick Supervision

- Research shows swiftness and sureness of sanction more impactful than duration, and positive incentives work best.
- Sanctions can include curfew, extending probation term, and weekend in jail.
- Positive incentives include reduced reporting, reduced fines, and early discharge.



Florida First Step Act

- Raises felony offense threshold from \$300 to \$750.
- Enables people with a conviction to obtain an occupational license if their offense is unrelated to the duties of the occupation.
- Ends automatic transfers of children to adult court.
- Requires problem-solving courts to report outcomes.



First Step Act Drives Florida Forward

- Reduces driver's license suspension for a drug conviction from 1 year to 6 months.
- Third conviction for driving while license suspended no longer is a felony unless related to a DWI, though still carries ten-day jail sentence.
- Ends driver's license suspensions for theft convictions unless driver is under 18.
- Requires Reinstatement Days.



Key Provisions Left on the Table

- Create safety valve that allows judicial discretion for drug mandatory minimum offenses.
- Change “85% percent” law to minimum 65 percent, thereby incentivizing good behavior and participation in educational and rehabilitative programs.
- Retroactive re-sentencing for people who were convicted of aggravated assault under prior statute.



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.



Florida's Sentencing Challenges

- Wide variation as those in 22 to 44 point (discretionary prison) group are sent to prison 25% of the time in 19th judicial circuit and 2% of the time in 11th judicial circuit.
- Chance of prison in this group unrelated to severity of offense.
- No requirement for written findings when judge exceeds range or ability to appeal if maximum not exceeded.



Strengthening Supervision

- Bolster graduated sanctions and incentives.
- Enhance use of risk/needs assessments to match offenders with programs.
- Using phone or app/software as primary means of 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.



Day Reporting Center, Dover, DE

The Incentive Funding Model: Aligning Goals & Funding

- Gives counties the option to receive some state funds now spent incarcerating nonviolent 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.



The Earned Time Revolution

- Florida lacks earned time for people on probation, though early termination can be granted with consent from the prosecutor and the victim (if any). It is rarely used.
- ALEC has model legislation on earned time.
- Studies of policies in New York, Wisconsin, and Washington find reduced recidivism as offenders have positive incentive to complete rehabilitative programs.



Solutions for Pretrial Justice



Alternatives to Arrest: Police Diversion

- LEAD in Seattle that focuses on homeless drug and prostitution cases. Has reduced recidivism by 60% and saved millions on emergency room and jail costs.* Colorado is piloting LEAD in rural counties.
- Florida youth civil citation program has 90% success rate, now expanded to adults.**
- Other examples: detox/sobriety centers, 24-hour mental health crisis center, mediation.



The Case for Bail Reform

- Avoid lawsuits.
- Risk assessment better than wealth in predicting flight & re-arrest risk.
- In/out decision should be made without regard to a person's wealth and then conditions should be set, with any financial conditions being attainable.
- Bail should be denied to most dangerous defendants through limited preventive detention net.



Risk Assessment in Pretrial Decision-making Has Proven to Work

- Kentucky adopted a pretrial risk assessment instrument on a statewide basis in 2013, enabling more defendants to qualify for supervised release prior to trial regardless of ability to pay.
- No drop in appearance rates and new offenses by those released prior to trial have dropped nearly 15 percent.
- Utah state auditor found 26% failure to appear for bail vs. 17% for pretrial supervision.



Paving the Road to Reentry



Inside Out: A Seamless Transition

- Typically, there is little connection, let alone a warm hand-off, between in-prison programs and post-release supervision/services.
- Safe Streets & Second Chances pilot program is changing that with continuity in vocational, mentoring, treatment, etc.
- Texas passed a law requiring in-prison vocational programs be aligned with available jobs in workforce and licensing.



Promote Successful Reentry

- Florida DOC 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 who do.
- DOC overuses solitary with 10,000 people denied programming needed for reentry, now being litigated.
- Halfway house study in Ohio found reduced re-offending for parolees and residents generate \$6.7 million in earnings.



Norwich, CT.
Halfway House

Florida Prison Education Needs Upgrade

- More than a third of inmates read at below sixth grade level.
- Dade Correctional Institution employs one teacher for a population of 1,500 men – and just 16 inmates have earned GED diplomas there over the past four years.
- Union Correctional Institution, a North Florida prison with a capacity of nearly 2,200, graduated only 9 prisoners during that time.



Strengthening Reentry

- 65 percent of individuals leaving Florida prisons are not receiving any form of supervision post-release.
- 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.



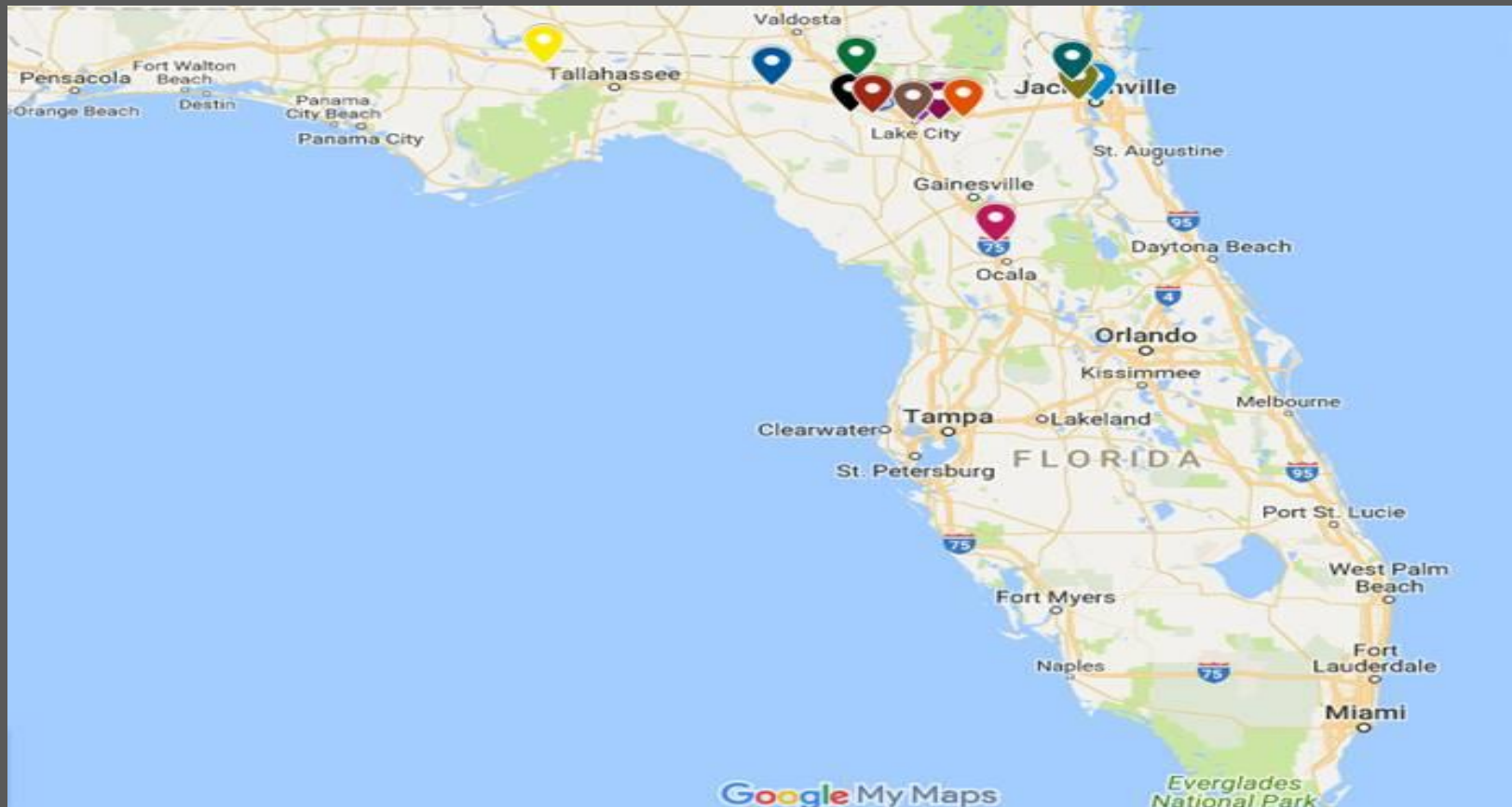
Remove Barriers to Reentry

- Ensure all people discharged from incarceration have valid photo identification and clear up old warrants.
- 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.



Safe Streets & Second Chances

- Some 414 Florida participants have been released. FSU is our academic partner.
- Reentry counties: Allegheny, Washington, Fayette, Duval, Columbia, Suwannee.



Fresh Start: Record Sealing

- Florida and most states have some procedure for record sealing in certain cases, but nationally only 5% of eligible people use.
- In 2018, Pennsylvania lawmakers passed Clean Slate law, which automatically clears records of some nonviolent offenses, eliminating need to hire a lawyer and file paperwork.



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.

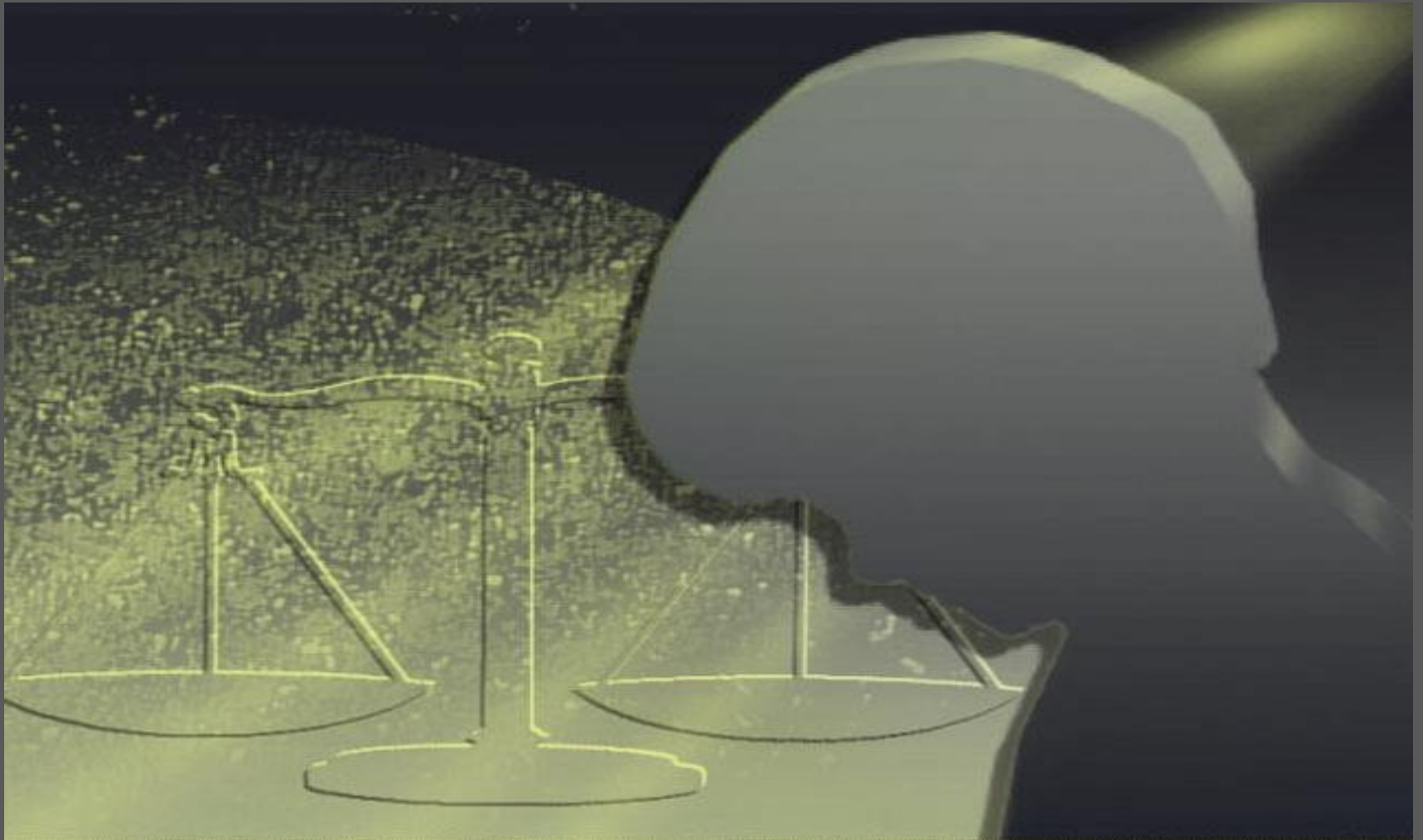


The Victims' Perspective

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



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.
- Redirection had saved or avoided tens of millions 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

- 75% of youth commitments for offenses not against the person.
- Residential recidivism rate 41% after 1 year.
- Florida is one of 14 states with direct file.
- Florida sends about 1,500 kids annually to adult system, but research shows comparable youths entering adult system have 33% higher recidivism rate.



Aligning Policies with Research

- Narrow grounds for transferring youths into adult system to most serious cases where offender has failed in juvenile system.
- Add JDAI to counties beyond Duval, Broward, Hillsborough, Pinellas & Palm Beach.
- Limit solitary confinement beyond 24 hours to emergencies determined by psychiatric evaluation showing imminent danger.



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.



Key Resources

- Washington State Inst. For Public Policy
www.wsipp.wa.gov
- Pew Public Safety Performance Project
www.pewcenteronthestates.org
- Council of State Governments
www.csgjusticecenter.org
- Prison Fellowship
www.prisonfellowship.org
- TPPF & Right on Crime
www.texaspolicy.com
www.rightoncrime.com

