

Improving Criminal Justice Outcomes by Reducing the Use of Incarceration



Illinois General Assembly, Joint Criminal Justice Reform Committee
 September 23, 2014
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 Vera Institute of Justice | Center on Sentencing & Corrections



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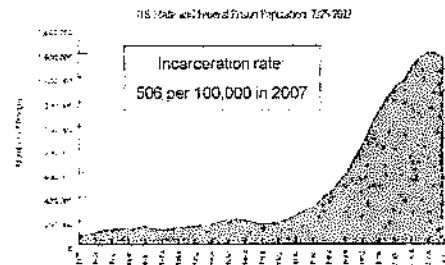
Overview

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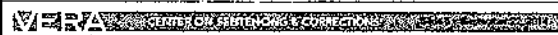


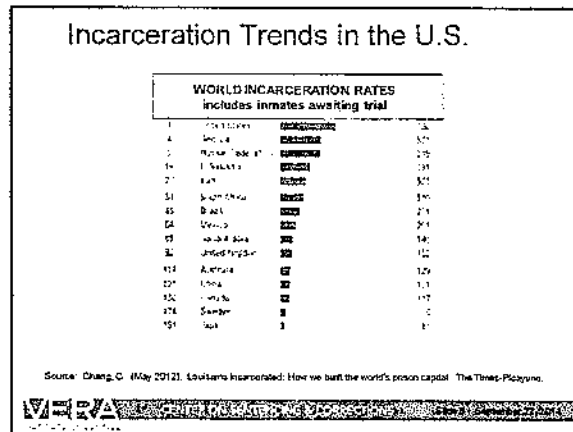
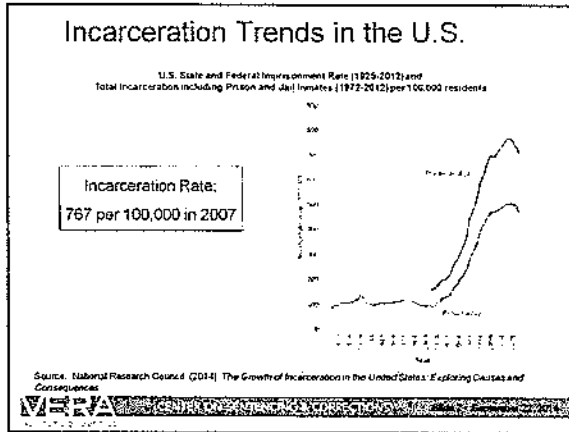
Incarceration Trends in the U.S.

Incarceration Trends in the U.S.

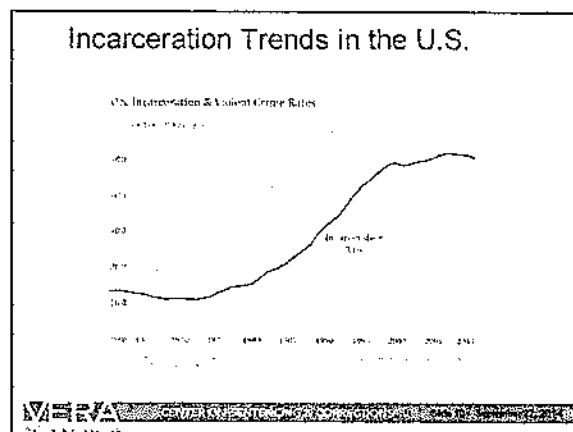


Sources: The Sentencing Project; (2014). Fact Sheet, Trends in U.S. Corrections from Casale, E.A. & Gresham, D. (2013). and Prisoners in 2012—Advanced Counts. Washington, D.C.: Bureau of Justice Statistics





- ### Incarceration Trends in the U.S.
- What led to this dramatic increase?
- Mandatory prison sentences
 - Mandatory minimums
 - Truth-in-sentencing
 - Habitual offender laws
 - increasing use of prison time for lower level offenses
 - Intensified enforcement of drug laws
- Source: National Research Council (2014). *The Growth of Incarceration in the United States: Exploring Causes and Consequences*.



Changing Course: the Shifting National Landscape

Changing Course: the Shifting National Landscape

Between 2006 and 2011, more than half the states reduced their prison populations, and in 10 states the number of people incarcerated fell by 10 percent or more.

In 2012, the number of admissions to state and federal prison in the United States was 609,800 offenders, the lowest number since 1999.

In 2013, the number of admissions to state and federal prisons in the United States increased to 631,200.

Sources: Prisons in 2012: Trends in Admissions and Releases, 1999-2012. Bureau of Justice Statistics (2013); Prisons in 2013. Bureau of Justice Statistics (2014).

Changing Course: the Shifting National Landscape

Why are states exploring a different course?

- Cost
- Public safety
- Impact on families and communities
- Equity and fairness

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Changing Course: the Shifting National Landscape

Cost

- Between 1987 and 2007 state prison costs rose by 316 percent
- States spent \$52 billion just for prisons in 2010 – in at least six states the budget for prisons is well over \$1 billion
- This is public money that is not available for education, infrastructure, economic development, health care, and other uses

State general fund expenditures, 1987-2007

Source: Vera Center on the State, David L. SO. Annual State Administration, 2008.

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Changing Course: the Shifting National Landscape

Public Safety

- Offenders sentenced to prison are likely to commit more crimes upon release.
 - An estimated two-thirds of 405,000 prisoners released in 30 states in 2005 were arrested for a new crime within three years of release from prison, and three-quarters were arrested within five years (Bureau of Justice Statistics, 2014).
- Research indicates prison often worsens criminogenic problems.
 - substance abuse and mental health issues
 - anti-social peers and thinking
 - lack of education and relevant job skills
- Community-based drug treatment programs are more effective than incarceration for drug offenders.
 - (Washington State Institute for Public Policy, 2005; Treatment Research Institute at the University of Pennsylvania, 2005; Justice Research and Policy, 2005, Journal of Criminal Justice, 2013)

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Changing Course: the Shifting National Landscape

Impact on families and communities

One in every 28 children in the U.S. now has a parent in jail or prison.

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Impact on families and communities

- Children of incarcerated parents experience serious emotional issues (Bocknek, Sanderson, et al, 2009; Gabel and Johnston, 1995)
- They are at greater risk for:
 - Educational failure
 - Future delinquent and criminal behavior and justice involvement (Cho, 2009, Gabel and Johnston, 1995)

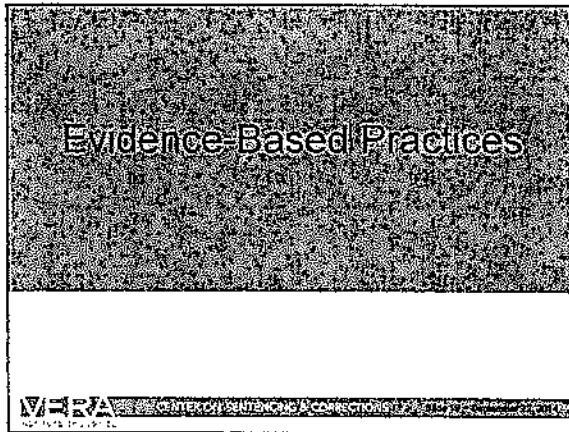
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Changing Course: the Shifting National Landscape

Equity and fairness

- For men aged 25-39, black males are 6 times and Hispanic males 2.5 times more likely to be imprisoned than white males (BJS, 2014).
- Black males ages 18 to 19 were almost 9.5 times more likely than white males of the same age group to be in prison (BJS, 2014).
- On any given day, 60% of men in prison and jail are men of color.

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Evidence-Based Practices

There are eight principles of effective intervention:

1. Assess actuarial risk/needs
2. Enhance intrinsic motivation
3. Target interventions (risk, needs, responsivity)
4. Skill train with directed practice
5. Increase positive reinforcement
6. Engage ongoing support in natural communities
7. Measure relevant processes/practices
8. Provide measurement feedback

Source: Dackiwitz, et al. Implementing Evidence-Based Practices in Community Corrections: The Principles of Effective Intervention. Washington, DC: National Institute of Corrections, 2004

Assessment

Assessment is the engine that drives effective correctional intervention

- Assess an individual
 - Determine criminogenic risks and needs
 - Build a case plan, select treatment/programming
 - Measure change
- Assess a program
 - Determine program quality – fidelity to model/theory of change
 - Determine program effectiveness – what works?
 - Match offenders with effective programs

Risk Principle

Focus resources on higher-risk offenders

- More intensive correctional interventions are more effective when delivered to higher-risk offenders
 - Drug courts where over half the offenders served had a prior record were twice as effective (10% versus 5% reduction) as drug courts where more than half the offenders served were first-time offenders.
- Inversely, intensive interventions can increase the failure rates of low-risk offenders
 - The same programs that reduced recidivism for high-risk offenders by over 30%, actually increased it for low-risk offenders.

Source: Christopher T. Lowenkamp & Edward J. Latessa. Understanding the Risk Principle: How and Why Correctional Intervention Can Help Certain Offenders. Topics in Community Corrections, 2004

Need Principle

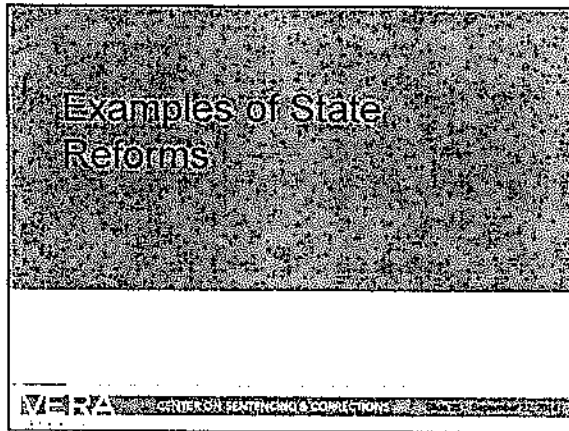
Prioritize addressing criminogenic needs

- Actuarial assessments identify criminogenic needs
 - Anti-social attitudes, anti-social friends, substance abuse, lack of empathy, etc.
- Case plans should prioritize criminogenic over non-criminogenic needs in treatment, programming, and supervision requirements
 - Officers should target 4-6 criminogenic needs for best results
- Officers should refer probationers/parolees to treatment and programs that use evidence-based program elements

Treatment Principle

Seek treatment programs that incorporate evidence-based practices and principles

- Behavioral approaches
 - Structured social learning where new skills are modeled
 - Cognitive behavioral approaches that target criminogenic risk factors
- Positive reinforcements
- Delivery tailored to individual's learning abilities
- Structured, curriculum-driven, fidelity to proven program models – can be determined via assessment



Examples of State Reforms

Reform Sentencing Policies and Practices

- Sentencing changes and departure mechanisms
AR, GA, HI, KY, LA, NC, OH, OR, PA, SC, SD
- Problem-solving courts
AR, GA, KY, LA, SD, and WV
- Risk and needs assessments, including risk-based sentencing
AR, DE, GA, HI, KS, KY, LA, NH, NC, OH, OK, OR, PA, SC, SD, and WV
- Good time and earned credits
AR, DE, GA, KS, KY, LA, MO, NH, NC, OH, OR, PA, SC, SD, WV
- Accountability measures
AR, DE, GA, HI, KS, KY, LA, MO, NC, OH, OK, PA, SC, SD, WV

Examples of State Reforms

Strengthen Community Supervision

- Enhanced community-based treatment
AR, DE, HI, KS, KY, NC, OH, OK, PA, SD, WV
- Risk and needs assessments
AR, DE, GA, HI, KS, KY, LA, NH, NC, OH, OK, OR, PA, SC, SD, WV
- Intermediate and graduated sanctions
AR, DE, GA, KS, KY, LA, MD, NH, NC, OK, OR, PA, SC, SD, WV
- Mandatory supervision requirements
KS, KY, NC, OH, OK, SC, WV
- Streamlined parole processes and expand parole eligibility
AR, HI, KS, KY, LA, NH, PA, SC, WV

South Carolina

Problem

- Correctional population nearly tripled in the 25 years prior to 2009
- Spending on prisons increased by more than 500% since 1983
- Recidivism rates increased

Solution (S. 1154, 2010)

- Sentencing reforms
- Require use of risk and needs assessment tool by probation and the parole board
- Authorizes probation and parole to use administrative sanctions and establish a system of incentives
- Allow parole for terminally ill, geriatric, or permanently incapacitated inmates

South Carolina

Impact on Incarceration

▲ June 1, 2010 - S. 1154 Data of Incarceration Adult 2000 Population

Georgia

Problem

- Prison population more than doubled between 1990 and 2011
- Drug and property offenders accounted for almost 60 percent of prison admissions
- 30% recidivism rate
- Lack of sentencing options
- Ineffective supervision by probation and parole due to lack of authority and resources.

Solution (HB 1176, 2012)

- Sentencing reforms
- Implement the use of a risk assessment tool for sentencing
- Invest in treatment programs and specialty courts
- Limited detention time for probation violations

Ohio

Problem

- Prison population reached record high of 51,273 in 2008.
- By 2009, prisons were at 130% of capacity, and projections were for continued growth
- Prison spending grew by 18 percent (\$239M) between 2000 and 2008, and projections were for an additional \$925M by 2018.

Solution (HB 86, 2011)

- Allows more use of community corrections programs and strengthens probation supervision.
- Allows risk-reduction sentencing.
- Codified ODOC reentry planning process, using a validated risk assessment tool.



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Testimony of Ben Wolf: Associate Director, ACLU of Illinois
Before the Illinois General Assembly
Joint Criminal Justice Reform Committee
September 23, 2014

Illinois: Getting Smart on Incarceration Policy

FILED IN THE CLERK'S OFFICE OF THE
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BAC 09/23/14 4000



Illinois sits at a crossroads. The resources necessary to propel the state forward as a regional and national leader are severely limited by the increasing general fund appropriations going to the Department of Corrections, an amount that exceeded \$1.2 billion last year,¹ and the hundreds of millions spent last year on enforcement of low level offenses such as marijuana prohibition. So long as legislators allow overly punitive laws to stay on the books, Illinois taxpayers will remain on the hook for the money required to safely manage the eighth largest state prison system in the country.

In the absence of reform this problem is likely to get much worse in the next few years. Our state’s backward policies have filled our state prisons with older, sicker people while failing to provide the resources necessary to meet their basic health and mental health needs. These inmates are likely to require substantially more resources in the coming years.

The impact of laws that unnecessarily criminalize certain non-violent behaviors, are enforced in a manner that disparately impacts people of color, confer very long sentences reaches far beyond the corrections budget: Illinois families are suffering deeply. Numerous studies have shown the devastating effects on children and households of incarceration.² Even beyond the family, the evidence suggests that many of these policies are doing more harm than good, trapping whole communities in a cycle of criminal justice system involvement that passes down through generations, with escape routes cut off by limitations on employment, education, and housing for those who have been convicted of crimes.³

Illinois has an opportunity now to address the incarceration crisis and pass laws pulling the state out of a mire of socially and fiscally destructive corrections policies. The good news is that safe solutions are available. Other states have led the way. This document shows how Illinois compares to other peer states, outlines the key structures of Illinois’s corrections system, and identifies policy shifts that will put the state on the right track.

Illinois in Context: Looking to Other States

While policymakers in states like New York, Michigan, and New Jersey made key changes over the last decade to significantly reduce the number of people who are criminalized and incarcerated in their systems, Illinois has missed the opportunity to slow its prison growth and is now facing the heavy consequences.

2013 Prison Admissions	2013 Prison Admissions Rate (per 100,000)	2013 Prison Population
1) Illinois: 22,740	9) Indiana: 292	5) New York: 53,550
5) New York: 22,740	10) Pennsylvania: 160	6) Ohio: 51,729
6) Ohio: 21,998	24) Ohio: 190	7) Pennsylvania: 50,312
8) Pennsylvania: 20,455	30) Iowa: 167	8) Michigan: 43,759
10) Indiana: 19,161	31) Pennsylvania: 160	9) Michigan: 43,759
14) Michigan: 14,417	35) Michigan: 146	16) Indiana: 29,913
21) New Jersey: 9,802	41) Wisconsin: 128	19) Wisconsin: 22,471
27) Wisconsin: 7,343	43) New York: 116	20) New Jersey: 22,452
33) Iowa: 5,159	44) New Jersey: 110	34) Iowa: 8,697

Source: Bureau of Justice Statistics. Corrections Statistical Analysis Tool (CSAT) – Prisoners; “Prisoners in 2013.”

From 2008 to 2012 Illinois was second in the entire country in the rate it admitted people to its state prisons.⁴ Illinois currently incarcerates over 48,000 people in prisons, giving it the 8th largest prison population in the nation. This huge prison population is in part driven by an extremely high number of prison admissions every year. Illinois has substantially more admissions than states with comparable, and even larger, prison systems like New York, Ohio, and Pennsylvania. Illinois admits 36% more people to prison every year than New York, 41% more than Ohio, and 51% more than Pennsylvania. A larger number of people churning in and out of prison means the incredibly destructive impacts of incarceration, such as much reduced employment, education, and housing prospects, are spread more broadly throughout the population, creating a bigger drag on the state's economy. Each new prison admission also requires a substantial medical and mental health screening and classification process, adding to the state's unsustainable financial burden.

While maintaining such a significant prison system has come at enormous and mounting human and financial costs to Illinois families, lawmakers can reverse these trends. Over the past decade, several states have squarely addressed longstanding patterns of over-incarceration with strong legislation that can be a model for reform in Illinois.

South Carolina passed legislation in 2010 that reduced sentences for drug and property crimes (even repeat offenses), instituted intermediate sanctions for people on community supervision, and instituted earned compliance credits for people in the community. South Carolina saw a 2.8% reduction in their prison population *in the first year alone*. Today, South Carolina has reduced its prison population by 8.2%. Even more impressive, new prison admissions in South Carolina have declined by 24%, almost entirely due decreased admissions for low-level, non-violent crimes, all while violent crime rates dropped statewide.⁵

California capped a decade of reform by passing sweeping reforms to its drug laws, including the elimination of numerous mandatory minimums, in 2009. The prison population has declined almost 23% since 2000 and almost 9% since 2009.⁶ Over the same decade New York saw roughly 25% reductions in both violent and property crime rates.

Mississippi passed legislation this year that substantially reduced sentences for drug and property crimes and eliminated numerous restrictions on both diversion and parole eligibility. The legislation is projected to reduce Mississippi's prison population by 10%.⁷

New York passed legislation in 2011 that reduced the maximum sentence for a mid-tier felony class from 5 to 3 years (the class includes some burglaries and robberies not resulting in injury, as well as numerous drug sale and

MISSED OPPORTUNITIES

New York, New Jersey, and Michigan all put policies in place over the last decade that led to safe, substantial reductions in their prison populations – and correctional spending.

Illinois can join its neighbors in the push to implement smart incarceration policy to reduce corrections costs and create better policy for Illinois families.

possession offenses), eliminated several drug sale mandatory minimums and a severe enhancement for high volume sale, raised the felony theft threshold from \$500 to \$1,000, and more. Crime has continued to go down in the wake of these reforms. While the legislation successfully averted significant projected growth in Ohio's prison population, more significant reforms will be required to see real reductions.

Background: Sentencing in Illinois

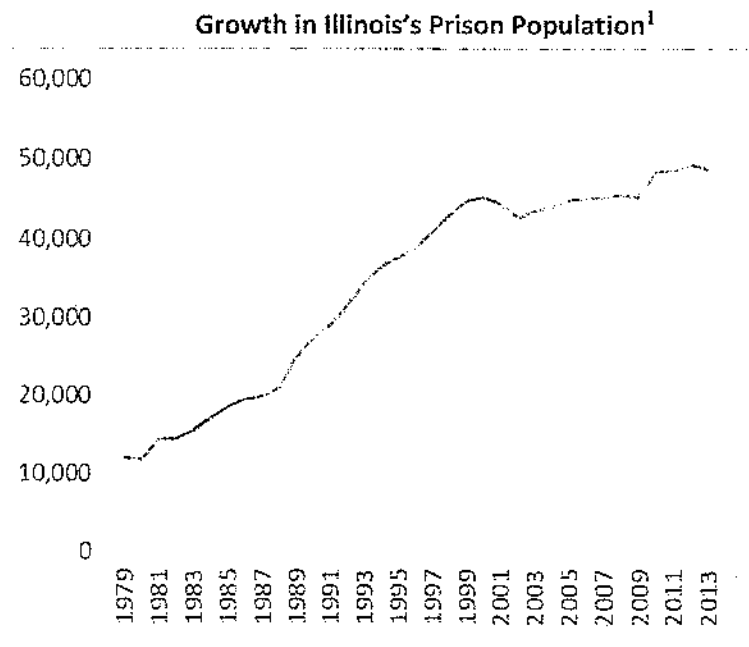
Illinois has a determinate sentencing system with sentencing ranges defined by a given offense's misdemeanor or felony class. At sentencing, a judge either sets a sentence within the applicable range or sentences a person to probation, so long as probation is not prohibited by statute. All Class X felonies and several Class 1 and 2 felonies are ineligible for a probation sentence (except in a few cases where defendants may be eligible for certain special drug-treatment probation programs), meaning that they carry mandatory prison sentences. For certain offenses and if certain conditions are met, such as the presence of aggravating factors, a judge can sentence within an extended range.

Felonies	Base Sentence	Extended Range with Aggravating Factors	Misdemeanors	
Class X	6-30 years	30-60 years	Class A	1 year
Class 1	4-15 years	15-30 years	Class B	6 months
Class 2	3-7 years	7-14 years	Class C	30 days
Class 3	2-5 years	5-10 years		
Class 4	1-3 years	3-6 years	Petty Offenses	6 mo. probation

Once in prison, a person can shorten the amount of time he or she remains inside through a combination of good time and earned time credits. These policies ensure that people in prison have the incentive to comply with prison rules, and also allow those who show willingness and ability to improve their situation to succeed. The number of credits a person can earn may be limited depending on crime of conviction, to ensure people remain incarcerated for a fixed percentage of the initial sentence.

Illinois Has Missed Opportunities to Turn the Corner

Illinois has a long history of ratcheting up sentences. In the decades following 1978, when Illinois moved to a determinate sentencing system, the prison population has more than quadrupled, while the jail population has more than tripled.⁸ This explosive growth was helped along the way by legislation lowering the drug quantity thresholds required for severe sentences in 1988, and the establishment of so-called 'Truth in Sentencing' in 1995, which required that people convicted of certain crimes remain in prison for a fixed portion of their sentence regardless of good time credits. The state's high incarceration numbers are largely the result of these policies favoring extreme prison sentences. While, the number of admissions has been dropping, the numbers still remain extremely high relative to the state's population and



compared to other peer states. Additional reductions will be necessary in order to bring down the state's incarceration numbers.

During the last fifteen years, while Illinois remained entrenched in expensive, failed policies from the 1980's and 1990's, states like New York, New Jersey, and California saw the writing on the wall and took substantial steps toward reducing incarceration. These states had experienced the same explosive growth in their prison populations in the 1990s, but then took steps to review, reform, and reverse the policies that were overwhelming their systems, achieving successful reductions of between 23% and 26%.⁹

Over the same period, Illinois allowed its prison population to balloon to nearly 50,000 people, with 11 facilities operating at over 190% of design capacity.¹⁰ The result is that today, Illinois has an incarceration rate that is 40% higher than New York's and 50% higher than New Jersey's. Recent reforms like the code revision projects and the Crime Reduction Act of 2009 have been very modest steps in the right direction. However, they have not been enough to seriously reduce the huge numbers of people held in Illinois prisons and jails every year.

But while Illinois has fallen behind, the experience of other states provides an opportunity to adopt strategies that have worked. Like those states, in order to change course and reduce this state's counter-productive reliance on arrest and incarceration as the remedy for every social problem, we must identify the drivers of criminalization and incarceration under the current system, and make policy reforms to reduce the power of those drivers to allow more effective solutions to take root.

Identifying Key Drivers for Reform to Shrink the System

A review of Illinois criminal justice policy indicates that a clear place to start is with drug policy, which drives many thousands of people a year into Illinois jails and prisons. But we can't stop there if we want to see substantial results. Pulling back the lens further, we see that people convicted of nonviolent drug and property crimes make up more than half of all prison admissions and constitute a huge portion of those in jail. There is significant room to move here: polling shows that the public does not want to divert massive financial resources into incarceration of people convicted of nonviolent crimes. The policy suggestions below present some options for reformulating policies to shift our emphasis away from unnecessary criminalization, which exposes people to arrest, jailing, and criminal records, and unnecessary incarceration, which removes people from their families and communities, hugely complicates and lengthens the post-conviction reentry process, and costs the state billions of dollars.¹¹

Criminalizing Rather Than Normalizing Criminalization

As states around the country are recognizing, the time has come to abandon ineffective and racially unjust marijuana policies. The old objections to reform are proving to be ill founded: even with increasing marijuana reform around the country, teen marijuana use continues to drop.¹² Meanwhile, states that have reformed their laws have experienced a significant reduction in costs of enforcement and the social costs of criminalizing thousands of people a year.

Illinois has an especially powerful mandate to act, given the extreme racial disparities in marijuana enforcement in the state. Black people in Illinois are 7.6 times more likely than whites to be arrested for marijuana possession, a disparity that is roughly double the national average, notwithstanding the fact that black and white people use marijuana at roughly equal rates. By comparison, Indiana's statewide disparity is 3.4 and Pennsylvania's is 5.2. While black people are 7.2 times more likely than whites to be arrested for marijuana possession in Chicago, that disparity is only 3.0 in Houston, 4.9 in Philadelphia, 2.6 in Los Angeles, and 5.6 in Baltimore.¹³

Selective enforcement of marijuana laws against black communities comes at an immense social and financial cost. The ACLU has calculated that Illinois spends over \$220 million a year on marijuana enforcement.¹⁴ The cost of sending the message to black communities that the law applies unequally and unfairly to them is incalculable, and will be repaid in unpredictable ways. Illinois must act to abandon a marijuana criminalization approach that has racially targeted certain communities, costs a huge amount of money, and does not work.

Model Reform: Decriminalize the possession of small amounts of marijuana, ease penalties for low-level sale and possession with intent.

Last year, three bills to make marijuana possession a civil rather than criminal offense were introduced in the legislature, but none achieved enough support to pass. Lawmakers must take action now to reform the state's costly and destructive marijuana policy. The ACLU found that marijuana possession accounted for over 45% of all drug arrests statewide, an astounding number in light of powerful public support for reform.¹⁵ Earlier this year, the Illinois Sentencing and Policy Advisory Council has estimated reforming Illinois's marijuana laws could result in over \$25 million in savings to jail, prison and probation costs (which does not include court and police costs) and over \$2 million in new revenue (from petty offense tickets) over three years.¹⁶

Washington, DC decriminalized the possession of up to an ounce of marijuana this year. Missouri also eased sentences for low-level marijuana sale.

Superintendent's Discretion:

Out of State Dollar Amounts for Theft

Few people are aware that low-level theft of goods worth more than \$500 in Illinois is a felony, subjecting a person to lifelong exclusion from many forms of employment, public housing, and educational loans, and the many hundreds of other collateral consequences of a felony conviction. This is

Since 2006:

Cook County Jail has booked more than 100,000 people for low-level possession alone.

It has cost \$778 million to lock people up on these charges in Cook County alone.

1/3 of these cases are eventually dismissed.¹⁷

particularly striking in light of the fact that a single cell phone often costs more than \$500, putting the punishment far out of proportion to the scale of harm in many cases.

Reform Recommendation: Increase the theft thresholds to reflect inflation and relative seriousness of the crime.

In Illinois, theft jumps from misdemeanor to felony sentencing at \$500 (\$300 in the case of retail theft or shoplifting). While the legislature increased these thresholds in 2010 from \$300 to \$500 for felony theft and \$150 to \$300 for felony retail theft, these increases leave Illinois out of step with other states.

South Carolina's reform legislation included an update of their felony theft threshold, bringing it to \$2500, five times what Illinois has. Earlier this year, Mississippi re-examined their thresholds and raised the felony threshold to \$1,000, double that of Illinois. Ohio addressed the issue in 2011, bring the threshold up from \$500 to \$1,000. Since 2009, 20 states have updated the dollar thresholds they use for theft grading. Illinois should follow suit.

Reform Recommendation: Eliminate felony enhancement for small time thefts with a prior property crime.

Thanks to second strike enhancements, a second theft conviction – even if the property is worth a few dollars – exposes someone to the consequences of felony conviction. The impact of this policy falls particularly hard on the most vulnerable, including those with mental illness or substance abuse disorders who engage in petty thefts. While a response is called for to address this behavior, the severe sanction of a lifelong felony conviction is inappropriate. Second strike enhancements should be eliminated, so that only serious thefts trigger the serious penalties and collateral consequences of a felony conviction.

Incarceration Drivers: Drug Offenses

Drug policy is a significant driver of incarceration and criminalization in Illinois. 19% of the people in prison in Illinois, over 9,000 people, are incarcerated for drug offenses, at a cost of nearly \$200 million per year.¹⁸ Meanwhile, effective treatment facilities in communities that are equipped to help people address substance abuse problems and live productively are underfunded.¹⁹ Health care reform provides an opportunity to secure federal funding support for expanding community services to meet those needs. The overwhelming emphasis on criminal justice responses to drug use is misplaced: the evidence indicates that severe punishments for drug crimes do not work. Addiction science tells us that community-based treatment is the most effective and least expensive form of intervention.²⁰ Illinois must reexamine its drug policies through the lens of public health, and identify policies that will foster safe and healthy communities.

Reform Recommendation: Reclassify the simple possession of small quantities of drugs as a misdemeanor.

Small-time drug possession does not merit the very serious and lifelong consequences of a felony conviction. Altering this policy would have a significant impact on incarceration, as small-quantity¹ drug possession was responsible for over 11% of all statewide prison admissions last year, with over 3,500 cases, more than any other offense.²¹ Even when drug possession does not result in a prison sentence, there are substantial costs associated with arresting and jailing people charged with these offenses. This

¹ Less than 15g or 30g for most Schedule I and II drugs.

is money that could have gone to support chronically underfunded community health and treatment programs as well as other social supports that enable people to conquer addiction. Indeed, a Washington State study found that when free substance use disorder treatment was provided to low-income people, arrests dropped by 17 to 33% and criminal justice costs dropped an average of \$5,000 to \$10,000 per person, plus an average income increase of \$2,000 for each person treated.²²

Simple drug possession is already a misdemeanor in numerous other states and in the federal system. States that have made simple possession a misdemeanor include: Iowa, Maryland, Massachusetts, Mississippi, New York, Pennsylvania, South Carolina, Tennessee, and Wisconsin.

Need for Reform: Raise drug amounts required to trigger enhanced and mandatory sentencing.

In Illinois, the possession of drugs with the purported intent to sell them (which can be found based on the existence of only a few separate baggies) triggers the same penalties as actual sale. Moreover, low-level sale, which often occurs to feed drug addiction on the part of the seller, draws extreme penalties. The sale or possession with intent to sell 1 gram of cocaine or heroin is a Class 1 felony (the same as residential burglary or aggravated robbery). An offense involving 3 grams of heroin or 5 grams of cocaine cannot receive a probation sentence, meaning a prison sentence is mandatory. By comparison, Ohio requires 3 to 4 times the amount of drugs to trigger a mandatory sentence.

Mississippi has for years had destructively high rates of felony incarceration for people convicted of low-quantity drug offenses. Earlier this year the state passed legislation restructuring quantity thresholds and reducing sentences for low amounts of drugs (HB 585). Similarly, Ohio reduced low-level drug sentences in 2011 (HB 86). States from Arkansas to Rhode Island have regularly repealed mandatory minimum prison sentences for lower-quantity drug offenses over the last decade. In 2010, South Carolina eliminated mandatory sentences for most low-level drug sales, and has since seen significant drops in its prison population and new admissions as well as declining crime rates.²⁴

Need for Reform: Scale the drug-free zone size down from 1,000 to 250 feet, limit the enhancement to schools, and require proof that the defendant intended to sell when school children are present.

Almost 20% of Illinois' prison population is incarcerated for a drug offense.

In New York, only 13% of the prison population is incarcerated for a drug offense.

In Michigan, less than 8% of the prison population is incarcerated for a drug offense.²³

The school zone law was passed with good intentions, to limit the negative impact of drugs on children and other vulnerable populations. However, the effect is far more wide-ranging and destructive, without evidence that it is helping the people it was meant to help. Illinois's drug-free zone enhancement covers far more than schools. The law enhances sentencing within 1,000 feet of schools, public housing, public parks, churches and other places of worship, nursing homes, assisted living centers, and senior centers. It would be difficult to find a corner of Chicago not covered by this law. The enormous coverage of these zones makes it impossible for them to achieve their intended effect: moving drug activity away from children and other vulnerable populations. Moreover, there is no requirement in the law that the defendant must have the intent to sell when children are present. Making a sale at midnight in a house a few blocks away from a school, public housing complex, or senior center would trigger this enhancement.

We do not have an estimate of the effects of the school zone law on corrections costs, because often times it is used by prosecutors to secure a plea without keeping the charge through conviction. However, anecdotal evidence suggests that a huge number of defendants are pleading to high sentences in order to avoid the penalties associated with school/park/church zones, even if the sales in question had nothing to do with a school or children.

In recent years states like Kentucky, Indiana, Massachusetts, South Carolina, and New Jersey have all reformed their school zone enhancements in scale and substance to ensure that the harsh penalties they trigger are more closely aligned with the goal of moving drug trafficking activity away from children and other vulnerable populations.

Policy Recommendation: Exempt drug offenses from repeat felony enhancements.

In Illinois, a defendant is subject to a much higher sentence if he or she has prior convictions, even for low-level crimes. This scheme results in very severe penalties without evidence of any increase to public safety. Anyone sentenced on a Class 1 or 2 felony, who has a single prior Class 1 or 2 felony, cannot get probation, and therefore must be sentenced to a mandatory prison term. Anyone sentenced on a Class 1 or 2 felony with two prior Class 1 or 2 felonies is sentenced as a Class X felony, which is also ineligible for probation. This means that someone convicted of selling 1 gram of cocaine with prior conviction for selling half a gram of cocaine is looking at a mandatory Class 1 prison sentence of 4 years, and could be sentenced to as many as 15 years. If that person is convicted again, they face a mandatory 6 years, and could be sentenced to up to 30 years.

These heavy penalties come at a high price with little evidence that they actually work. In fact, research indicates that longer prison terms can actually *increase* recidivism.²⁵ These long prison terms for low level drug sales do little to deter a person who sells drugs to feed a drug addiction. Moreover, many who receive enhanced sentences for repeated convictions are likely unaware of the consequences, further reducing the deterrent effect.²⁶

Whether through reclassifying the underlying drug felony, or exempting drug and property crimes from these enhancements, Illinois must ensure that repeat, low-level drug offenses do not trigger mandatory sentencing enhancements.

Colorado, Indiana, Missouri, and Texas have all reformed their habitual offense and repeat felony enhancements in recent years, recognizing that swiftly ratcheting up punishments does little to reduce crime and comes at a high price financially and socially.

Incarceration Driver #2:

Extreme Sentencing

People serving mandatory prison sentences account for 80% of the prison population.²⁷ This is a result of limits on judge's authority to sentence people to probation, the very long mandatory sentences under Illinois law, and the limitations on statutory and earned good time while incarcerated.

Needed Reform: Limit the crimes for which probation is not an option to the most serious offenses.

Illinois currently denies the judges the power to sentence people to probation when convicted of any of a long list of offenses, not all of them serious or violent. As discussed above, the sale of as little as 3 grams of heroin or 5 grams of cocaine is ineligible for probation. Any drug sale or possession with intent in a drug-free zone is ineligible for probation, as are a number of other drug offenses. Residential Burglary is not eligible for probation, regardless of whether someone was even in the home at the time of the break-in. Making an offense ineligible for probation is a severe sentencing restriction, and one that should be reserved for only the most serious offenses.

Needed Reform: Establish a system of risk-reductions credits so even people convicted of serious offenses can earn time off their sentences for completing in-prison programming.

Illinois currently denies people convicted of most serious offenses, including all Class X offenses, the opportunity to earn good time through full-time engagement in substance abuse treatment, work training, and other programming while incarcerated. Since even people convicted of these offenses will re-enter the community, smart policy says that they should have access to these programs and incentives to complete them.

Incarceration Driver #3:

Sentences for Non-Violent Burglaries

People convicted of non-residential burglaries, including commercial burglary as well as breaking into an outbuilding like a shed, make up a staggering 6.5% of Illinois' prison population (over 3,000 people).²⁸ These people are serving serious sentences despite the fact that another person may not even have been present at the time.

Needed Reform: Restructure commercial and non-residential burglary sentencing so sentences reflect whether or not anyone was present in the structure at the time of the offense.

Burglaries of empty commercial buildings and non-residential structures such as sheds are non-violent offenses and far less serious than invasions when people are present at the time of the offense. Illinois' burglary laws, however, treat these burglaries the same whether anyone else was present or not: as class 2 felonies. The code should reflect that burglary of an empty non-residential structure is a less serious crime by reclassifying it as a Class 3 felony.

Georgia, Indiana, and South Dakota have all recently restructured sentences for commercial burglary to sentencing ranges well below what Illinois currently has in place.

Conclusion

Unnecessary criminalization and incarceration takes an enormous toll on Illinois families. Doing so on such a massive scale destabilizes communities and warps public safety priorities statewide by shifting funding away from common sense, proven solutions like drug treatment and mental health and other community services, and towards costly prisons.

Other states have led the way on safely and significantly reducing incarceration while maintaining overall declines in crime rates. Illinois simply cannot afford to stand back and let its prison system continue to vacuum in tens of thousands of people each year while leaving reform options on the table – options that other states have been pursuing for years. The common-sense solutions laid out above target the real drivers of Illinois's criminalization and incarceration problems, and suggest policy reforms that will allow the state safely and effectively to reduce the strain these high levels of incarceration are putting on both the state budget and Illinois families.

Waiting is not an option. Now is the time to move away from failed policies of over-incarceration.

- ¹ State of Illinois, Fiscal Year 2015 State Budget (available at: <http://www2.illinois.gov/gov/budget/Documents/Budget%20Book/FY%202015%20Budget%20Book/FY%202015%20Illinois%20Operating%20Budget%20Book.pdf>).
- ² Advisory Committee To Review the Effects on Children of Incarcerated Parents, "The Effects of Parental Incarceration on Children: Needs and Responsive Services" (December 2011) (available at: <http://jsg.legis.state.pa.us/resources/documents/ftp/documents/children%20of%20incarcerated%20parents.pdf>); Gvelsevik, et al, "Adverse Childhood Events: Incarceration of Household Members and Health-Related Quality of Life in Adulthood," *Journal of Health Care for the Poor and Underserved* 25.3 (2012): 1169-1182.; Patricia Allard and Judith Greene, "Children On the Outside: Voicing the Pain and Human Costs of Parental Incarceration," *Justice Strategies* (January, 2011) (available at: <http://www.justicestrategies.org/sites/default/files/publications/JS-COIP-1-13-11.pdf>); Joseph Murray et al, "Effects of Parental Imprisonment on Child Antisocial Behaviour and Mental Health: A Systematic Review," *Campbell Systematic Reviews* (2009); Jeremy Travis et al, "Families Left Behind: The Hidden Costs of Incarceration and Reentry," Urban Institute Justice Policy Center (October 2003, Revised June 2005) (available at: http://www.urban.org/UploadedPDF/310882_families_left_behind.pdf).
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- ⁴ Peter Wagner, "Tracking State Prison Growth in 50 States," *Prison Policy Initiative* (May 28, 2014) (available here: <http://www.prisonpolicy.org/reports/overtime.html>).
- ⁵ South Carolina Reform Oversight Committee, State Expenditures Savings Report (December 1, 2013) (available at: <http://scstatehouse.gov/citizensinterestpage/SentencingReformOversightCommittee/Reports/2013SCSROCStateExpendituresSavingsReport.pdf>).
- ⁶ Marc Mauer and Nazgol Ghandnoosh, "Fewer Prisoners, Less Crime: A Tale of Three States," The Sentencing Project (July 2014) (available at: http://sentencingproject.org/doc/publications/inc_Fewer_Prisoners_Less_Crime.pdf).
- ⁷ Pew Public Safety Performance Project, "Mississippi's 2014 Corrections and Criminal Justice Reform," (May 2014) (available at: http://www.pewtrusts.org/~media/legacy/uploadedfiles/pcs/content-level_pages/issue_briefs/2014/Mississippi2014SentencingandCorrectionsCosts.pdf); Bureau of Justice Statistics, Corrections Statistical Analysis Tool (CSAT) – Prisoners.
- ⁸ Bureau of Justice Statistics, Corrections Statistical Analysis Tool (CSAT) – Prisoners; Illinois Statistical Analysis Center, Illinois Criminal Justice Information Authority, County Average Jail Population (available here: <http://www.icjia.org/public/sac/index.cfm?metasection=forms&metapage=rawMetadata&k=120>).
- ⁹ Mauer and Ghandnoosh.
- ¹⁰ Illinois Department of Corrections, July 1, 2014 Quarterly Report (available here: http://www2.illinois.gov/idoc/reportsandstatistics/Documents/IDOC_Quarterly_Report_Jul_%202014.pdf).
- ¹¹ For more on collateral consequences of criminal convictions, see National Association of Criminal Defense Lawyers, "Collateral Damage: America's Failure to Forgive or Forget in the War on Crime" (May 2014) (available here: <http://www.nacdl.org/restoration/roadmapreport>).
- ¹² Substance Abuse and Mental Health Services Administration, "2013 National Survey on Drug Use and Health" (September, 2014) (available here: <http://www.samhsa.gov/data/NSDUH/2013SummNatFindDetTables/Index.aspx>).
- ¹³ American Civil Liberties Union, "The War on Marijuana in Black and White: Billions of Dollars Wasted on Racially Biased Arrests," (2013) (available here: <https://www.aclu.org/files/assets/1114413-mj-report-rfs-rel1.pdf>).
- ¹⁴ Id.
- ¹⁵ Id., Marijuana Policy Project, "Statewide Poll Shows More Than 60% of Illinoisans Support Removing Criminal Penalties for Marijuana Possession, (available here: <http://www.mpp.org/media/press-releases/statewide-poll-shows-more.html>).
- ¹⁶ Illinois Sentencing Policy Advisory Council, HB 4091 Fiscal Impact Analysis (April, 2014) (available here: http://www.icjia.state.il.us/spac/pdf/HB4091_Cannabis_Fiscal_Impact_042014.pdf).
- ¹⁷ Angela Caputo, "Thousands charged with drug possession walk free, leaving taxpayers with the tab" *Chicago Reporter* (September 14, 2014).
- ¹⁸ Illinois Department of Corrections, "Fiscal Year 2012 Annual Report" (October, 2013) (available here: <http://www2.illinois.gov/idoc/reportsandstatistics/Documents/FY2012%20Annual%20Report.pdf>); Illinois Department of Corrections, "Fiscal Year 2011 Annual Report" (October, 2012) (available here: <http://www2.illinois.gov/idoc/reportsandstatistics/Documents/FY2011%20Annual%20Report.pdf>).
- ¹⁹ T.J. Fowler, "Addiction Treatment Specialists Say State Funding is Too Low," *The Times of Northwest Indiana*, April 16, 2014 (available here: <http://www.nwtimes.com/news/local/illinois/addiction-treatment-specialists-say-state-funding-is-too>

low/article_cfd2c638-35e8-5d74-8ef3-a55d26e86f00.html]; Eric Foster, Op-Ed, "Quinn, Lawmakers Must Hike Prevention Funding to Beat Illinois Heroin Crisis," *Illinois Observer*, March 20, 2014 (available here: <http://www.illinoisobserver.net/2014/03/20/op-ed-gov-pat-quinn-lawmakers/>).

²⁰ Gary A Zarkin, et al, "Lifetime Benefits and Costs of Diverting Substance-Abusing Offenders From State Prison," *Crime & Delinquency* (November 5, 2012).

²¹ Illinois Sentencing Policy Advisory Council, IDOC Admissions, Exits, and Population Pie charts (available here: <http://www.icjia.state.il.us/spac/pdf/2013%20DOC%20population%20pies.pdf>).

²² Community Oriented Correctional Health Services, "Frequently Asked Questions" (October 2013) (available here: http://cochs.org/files/ACA/COCHS_FAQ_ACA.pdf); Shah MF, Mancuso D, Yakup S and Felver B. The Persistent Benefits of Providing Chemical Dependency Treatment to Low-Income Adults. Washington State Department of Social and Health Services, Research and Data Analysis Division, November 2009 (available at: <http://publications.rda.dshs.wa.gov/1397>); Mancuso D and Felver B. Providing Chemical Dependency Treatment to Low-Income Adults Results in Significant Public Safety Benefits. Washington State Department of Social and Health Services, Research and Data Analysis Division, February 2009 (available at: <http://publications.rda.dshs.wa.gov/1372>).

²³ Illinois Department of Corrections, "Fiscal Year 2012 Annual Report" (October, 2013) (available here: <http://www2.illinois.gov/idoc/reportsandstatistics/Documents/FY2012%20Annual%20Report.pdf>); New York Department of Corrections and Community Supervision, "Under Custody Report: Profile of Inmate Population Under Custody on January 1, 2013" (available here: http://www.doccs.ny.gov/Research/Reports/2013/UnderCustody_Report_2013.pdf); Michigan Department of Corrections, "2013 Statistical Report" (June 23, 2014) (available here: http://www.michigan.gov/documents/corrections/2014-04-04_-_MDOC_2013_Statistical_Report_-_Vers_1_0_452815_7.pdf?20140917101217).

²⁴ South Carolina Reform Oversight Committee (2013).

²⁵ Jonson, C. L. (2010). *The impact of imprisonment of reoffending: A meta-analysis*. Unpublished doctoral dissertation, University of Cincinnati, OH; Spohn, C., & Holleran, D. (2002). The effect of imprisonment on recidivism rates of felony offenders: A focus on drug offenders. *Criminology*, 40, 329-347.

²⁶ Research has shown that people tend to underestimate sentencing severity. Valerie Wright, "Deterrence in Criminal Justice: Evaluating Certainty vs. Severity of Punishment," *The Sentencing Project* (November 2010) (available here: <http://www.sentencingproject.org/doc/deterrence%20briefing%20.pdf>).

²⁷ Illinois Sentencing Policy Advisory Council, "Illinois Felony Sentencing: A Retrospective" Research Briefing Update (March 2012).

²⁸ Illinois Department of Corrections, "Fiscal Year 2012 Annual Report" (October, 2013) (available here: <http://www2.illinois.gov/idoc/reportsandstatistics/Documents/FY2012%20Annual%20Report.pdf>).

Redeploy Illinois – FY2014

Goals:

To decrease juvenile incarceration through the creation of evidence based community programs that maintain public safety and promote positive outcomes for youth.

Program Description:

The Redeploy Illinois program grants funds to counties or groups of counties that will establish a continuum of local, community-based sanctions and treatment alternatives for juvenile offenders who would otherwise be incarcerated if those local services and sanctions were not available, as required by 730 ILCS 110/16.1. In exchange for these program funds, the provider agrees to reduce the number of Redeploy Illinois eligible commitments from that county(ies) by a minimum of 25%.

Target Population:

Redeploy Eligible youth include any youth under the jurisdiction of the juvenile court, not currently in IDJJ, that is facing a possible commitment to IDJJ for a charge other than murder or a Class X forcible felony. Redeploy eligible commitments exclude minors sentenced based upon a finding of guilt of first degree murder or an offense which is a Class X forcible felony as defined in the Criminal Code of 1961.

Activities:

- Put in place a continuum of local, community-based graduated sanctions and treatment alternatives
- Ensure appropriate risk and needs assessments are utilized.
- Develop, implement and complete individualized case plans based on identified needs from appropriate assessments.
- Provide community-based services to youth in the least restrictive setting possible
- Reduce excessive secure detention stays
- Implement programming that is research or evidence-based as proven or promising
- Implement non-traditional services and programs that supplement EBP.
- Promote offender accountability through restorative justice practices
- Empower communities to take responsibility for the well-being of its members.
- Increase youth competencies and protective factors
- Ensure youth receive necessary mental health, substance abuse, educational and employment services
- Involve the family in the provision of services
- Implement strategies that foster commitment and involvement of local stakeholders

Program Sites / Service Areas:

- As of October 2014, Redeploy is serving **44** counties through **12** program sites.
- FY2014 program expansion:
 - October 2013 – three (3) new sites serving 8 counties with programming to begin 1/1/2014 (*Kankakee; Winnebago and 6 counties in the 1st Judicial Circuit – Jackson; Union; Johnson; Saline; Pope, and Massac*)
 - Between December 2013 and April 2014 – three (3) existing sites have received funding to expand throughout their respective circuits adding an additional seven (7) counties. (Bureau; Grundy; Iroquois; Monroe; Randolph; Washington and Perry counties.)
 - On May 1st a second Planning grant was awarded to Cook County (Cook County Justice Advisory Council) that will enable them to better assess their capacity to implement the program as a full site in the future.
 - On October 1st, Tazewell County was officially added to the Peoria County Redeploy program site.

Annual Report

The Redeploy Illinois Oversight Board and the Department of Human Services released its latest Redeploy Illinois Annual Report on March 28th, 2014.

2013 Illinois State University Research

Research conducted on the original 4 Redeploy pilot sites over a 5-year period by the Department of Criminal Justice Services at Illinois State University released in 2013:

- Redeploy effectively reduced IDJJ commitments
- Redeploy reduces recidivism
- Redeploy is less expensive than a commitment to IDJJ

Key findings included:

- The pilot sites targeted and reduced Court Evaluation commitments by **87%**.
- Youth in the original 4 pilot sites that successfully completed the program had a **27%** lower recidivism rate compared to youth who did not successfully complete the program.
- **61%** of the youth successfully completing the program were **not** incarcerated within the following 3 years compared to **34%** of youth who did not successfully complete the program.

IDJJ Commitment Analysis

Calendar Year 2012 is the most recent dataset available to assess the effectiveness of the Redeploy Program.

1. In 2012, Redeploy sites reduced eligible Commitments to IDJJ by **67 Percent**.
2. In 2012, Redeploy Illinois sites in 28 counties sent **238** fewer youth to IDJJ – This compares to the baseline for those counties of 356 youth commitments per year for each of the 3 years prior to Redeploy implementation.
3. Through 2012 (the first eight years of implementation) the Redeploy Program reduced IDJJ commitments by **1,232** youth representing a **54%** reduction in IDJJ commitments over the life of the program.

Cost Savings 2014

- The average per capita cost to serve a youth in Redeploy in 2014 was **\$5,912**.
- The average per capita cost to house a youth in IDJJ in 2014 remained **\$111,000**.
- In 2014, the average cost to serve a youth in Redeploy was approximately **5.3%** of the cost to house IDJJ youth.
- In 2012, Redeploy reduced IDJJ commitments by **238** youth saving the state nearly **\$17 Million** in unnecessary incarceration costs.
- Through 2012 (the first eight years of implementation) the Redeploy Program diverted **1,232** youth from IDJJ saving the state a conservative **60 million** in unnecessary incarceration costs. *(2005 IDJJ cost data)*

2014 Performance Measures and Outcomes

- **506 youth** were referred/served in the Redeploy Illinois Program in 2014.
- **95.5 Percent (483)** of youth referred to the program were accepted into the program for full Redeploy services.
- **255 Youth** exited the program in 2014.
- **98 Percent** of youth exiting the program had received a YASI Risk assessment.
- **100 Percent** of assessed youth had an individualized case plan developed.
- **76 Percent** of youth successfully completed the program.
- **86 Percent** of youth with identified Mental Health (MH) needs received services to address those needs. (101 of 118 youth identified)
- **93 Percent** of youth with identified Substance Abuse (SA) needs received services to address those needs. (113 of 122 youth identified)
- **75 Percent** of youth with identified chronic truancy needs received services to address those needs (80 of 106 youth identified)

- **92 Percent** of youth with identified trauma needs received services to address those needs (61 of 66 youth identified)
- **79 Percent** of youth with identified learning disability needs received services to address those needs (31 of 39 youth identified)

Redeploy Youth 2014

- **85%** of the program youth are male
- **15%** of the program youth are female
- **54%** of the program youth are between 15-16 years old
- **78%** of youth served were on probation/parole upon admission into the Redeploy program.
- **64%** of the youth enrolled into Redeploy Illinois had prior arrests
- **41%** of the youth enrolled had previous secured detention stays
- **44%** of the youth served within the program had been charged with committing a property offense
- **37%** of the youth served within the program had been charged with committing a person offense

Ethnicity/ Racial Breakdown 2014

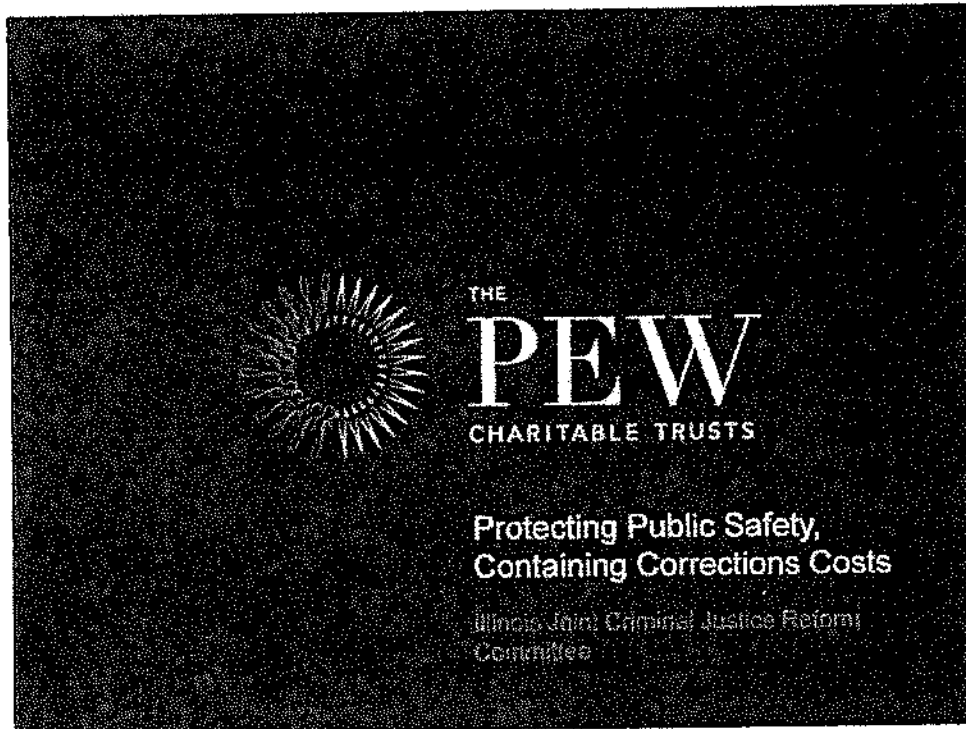
- 38% African American (*African Americans represent 17% of youth population in sites*)
- 56% Caucasian (*Caucasians represent 81% of youth population in sites*)
- 6% Mixed/ Other (*Mixed/Other represent 2% of youth population in sites*)
- 5% Hispanic/Latino (*Hispanics/Latinos represent 4% of youth population in sites*)

Average Length of Stay 2014

- Average length of stay overall – 6.8 months
- Average length of stay for successful discharges – 8.1 months
- Average length of stay for unsuccessful discharges – 5.2 months
- Average length of stay for neutral discharges – 5.3 months

Additional Data 2014

- **42 Percent** of youth participated in a Restorative Justice Activity
- **38 Percent** of youth served received a non-traditional court evaluation
 - Of those youth, **10 Percent** were committed to IDJJ based on the results (10 of 98 youth assessed)
- **8 Percent** of youth were placed on an electronic monitoring device
- **89 Percent** of discharged youth had both initial and closing YASIs
- At discharge, **62 Percent** of youth had a decrease in dynamic risk factors
- At discharge, **59 Percent** of youth had an increase in dynamic protective factors



Agenda

- **Pew Background**
- **The Win-Win: Less Crime, Less Incarceration**
- **State Success Stories**
- **What's Next?**

PEW BACKGROUND

Pew's Public Safety Performance Project

Mission

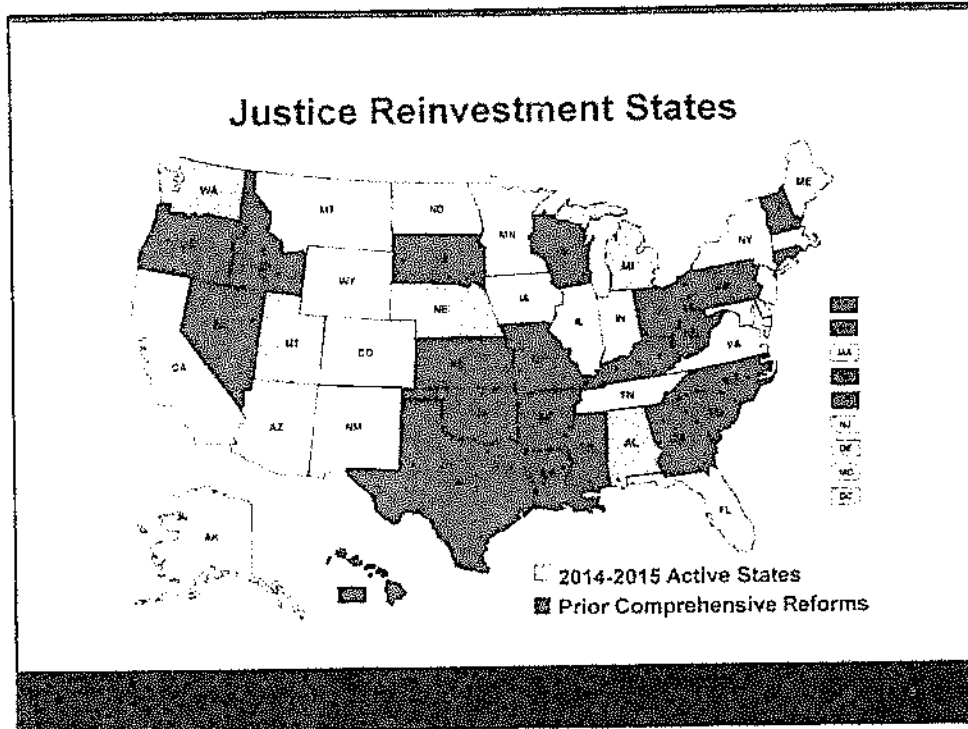
- The Public Safety Performance Project (PSPP) helps states advance fiscally sound, data-driven criminal and juvenile justice policies that protect public safety, hold offenders accountable, and control corrections costs

Goal

- Help states get a better return on their public safety dollars

Services

- Research on national trends and what works
- Intensive technical assistance to states



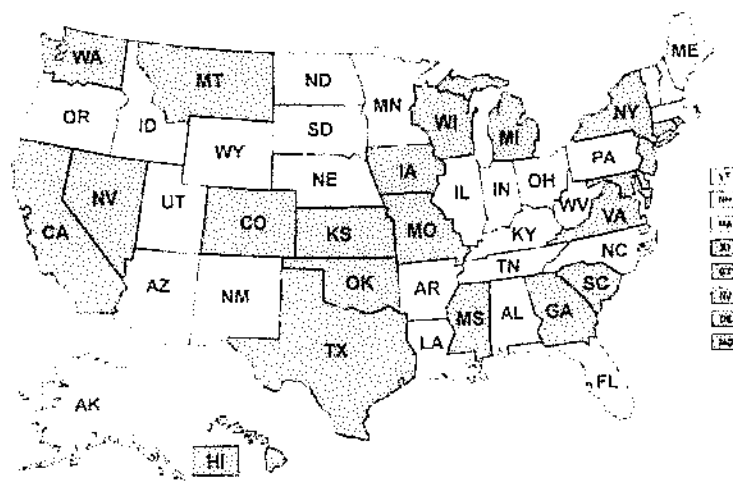
**THE WIN-WIN: LESS CRIME,
LESS INCARCERATION**

New York and Illinois: Divergent Trends in Crime and Imprisonment

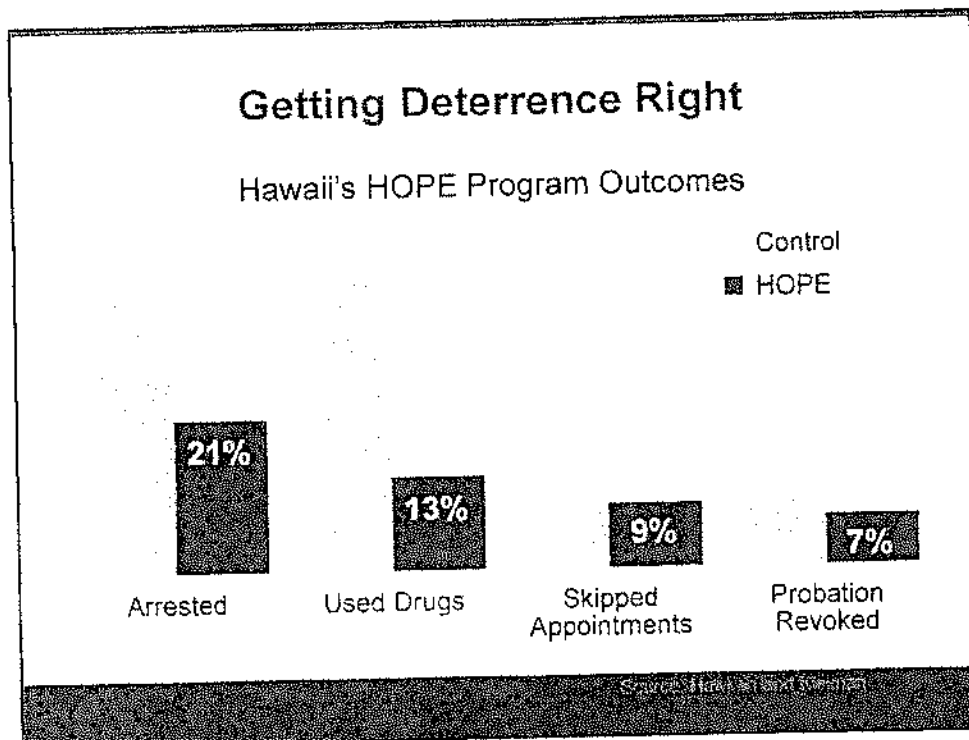
State	1990	2012	% Change 1990-2012
Illinois			
Crime Rate	5935.1	2993.5	-50%
Imprisonment Rate	240	383	+60%
New York			
Crime Rate	6363.7	2328.8	-63%
Imprisonment Rate	305	276	-10%

Source: Bureau of Justice Statistics
Federal Bureau of Investigation

23 States Reduce Both Crime and Imprisonment Rates, 2002-2012



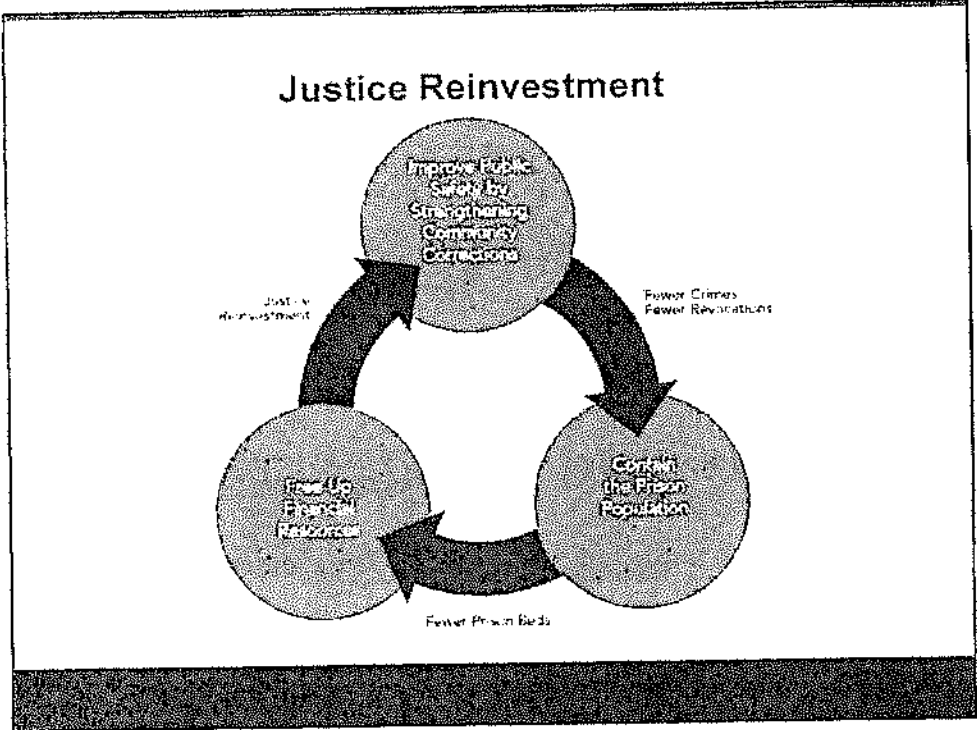
Source: Bureau of Justice Statistics
Federal Bureau of Investigation



Changing Policy Dialogue

Old Question
"How Do We Get Tough on Crime?"

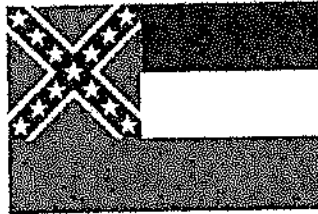
New Question
"How Do We Get Taxpayers a Better Public Safety Return on Their Corrections Dollars?"



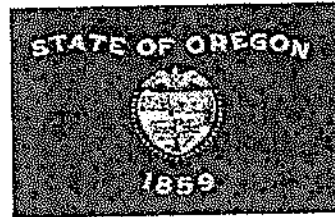
STATE SUCCESS STORIES

Case Studies: Corrections and Sentencing Reform

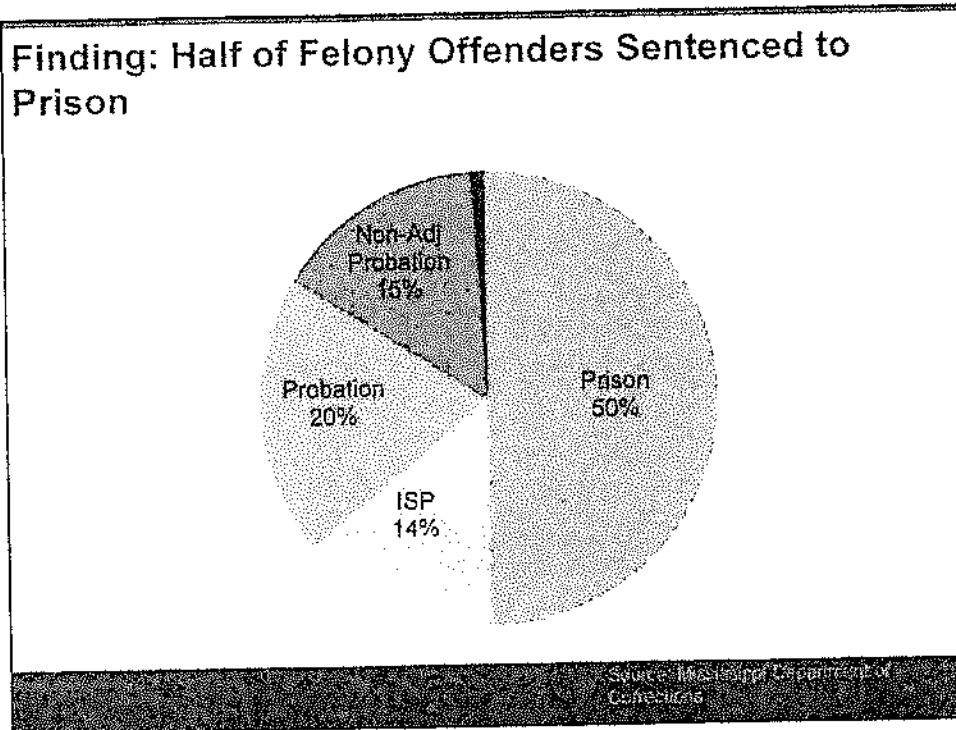
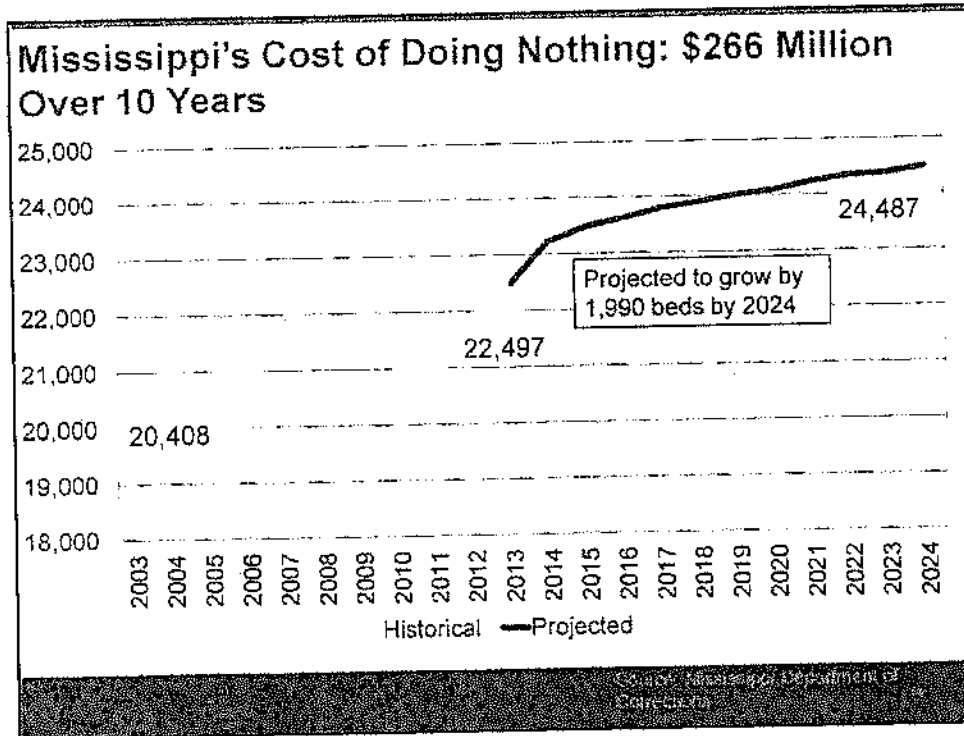
Mississippi

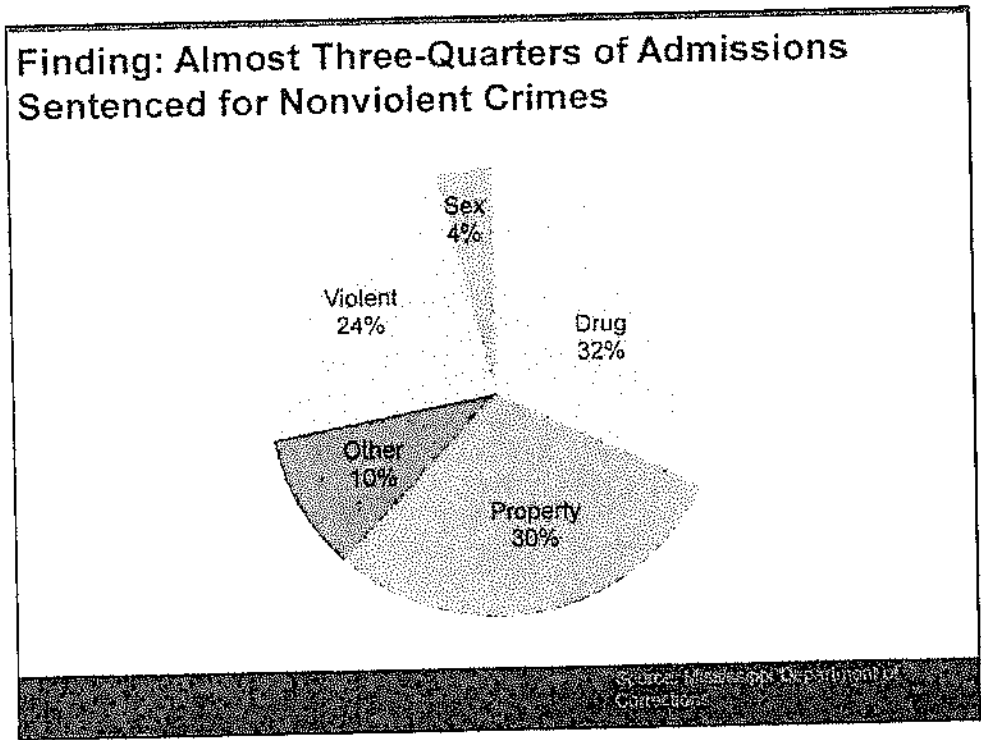
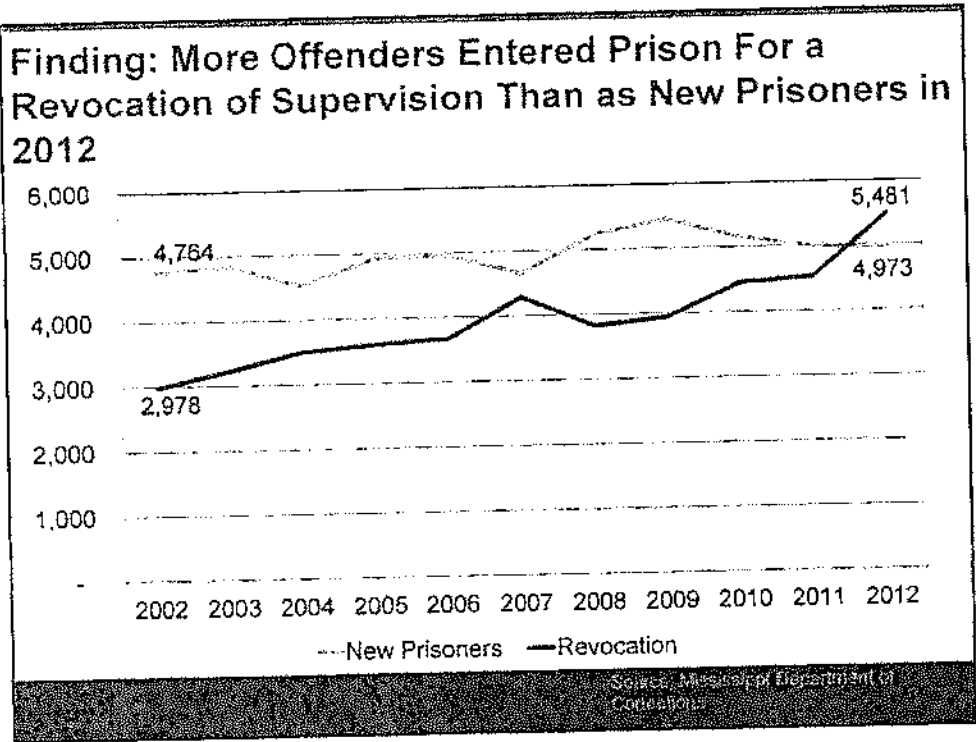


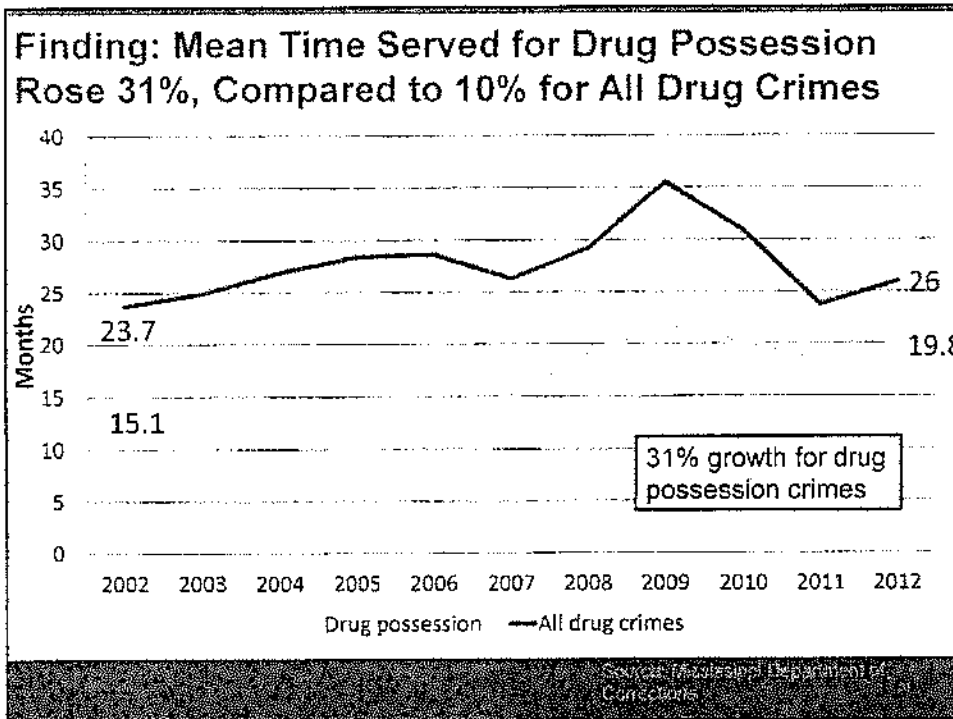
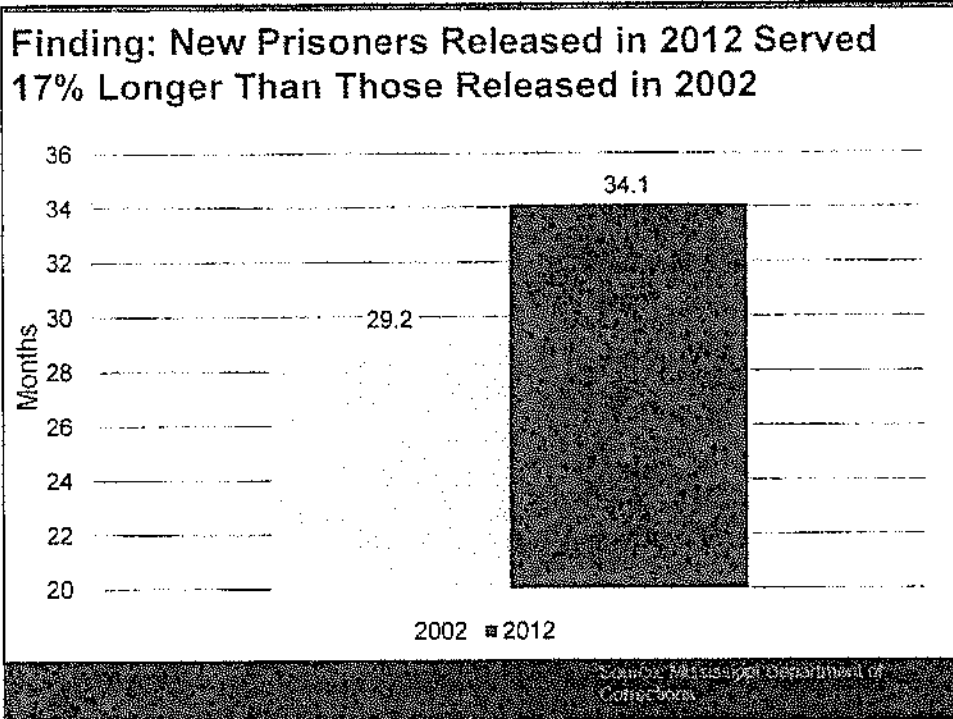
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**MISSISSIPPI
2013-2014**





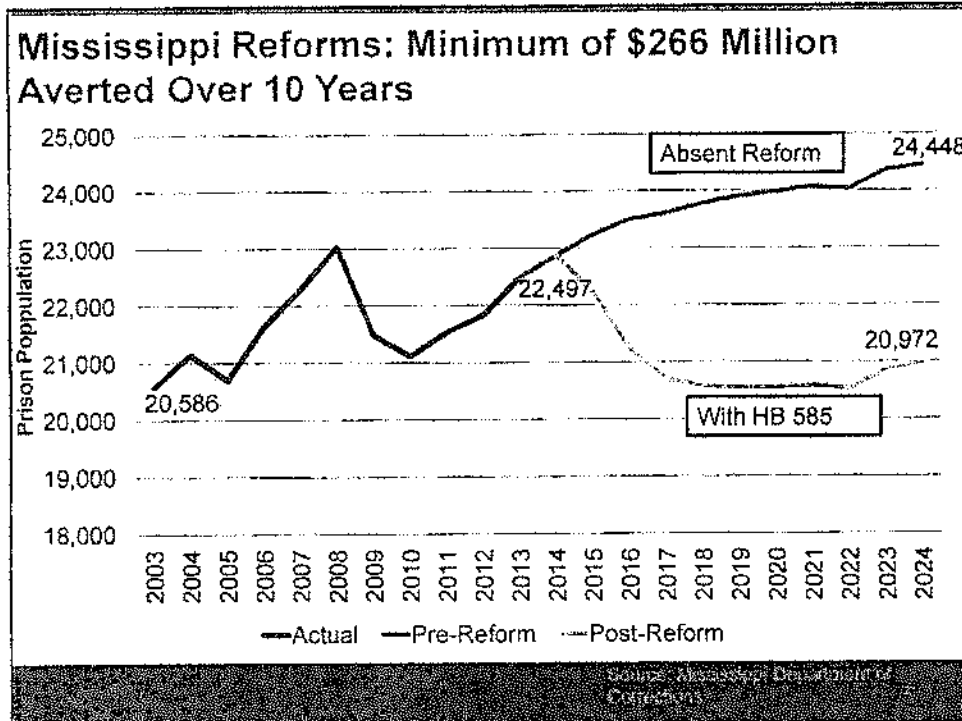


Task Force Key Findings and HB 585 Reforms

- **Finding: Half of felony offenders sentenced to prison**
 - Reforms: Expands eligibility for prison alternatives, such as probation, electronic monitoring, and drug courts; reinvests \$10.85 million in specialty courts; and authorizes the creation of veterans' courts.
- **Finding: More offenders entered prison from supervision than as new prisoners in 2012**
 - Reforms: Strengthens community corrections through the use of graduated sanctions and earned discharge; creates specialized detention centers; and limits incarceration periods for technical violations of supervision.
- **Finding: Almost three-quarters of admissions sentenced for nonviolent crimes**
 - Reforms: Raises felony theft threshold for property crimes from \$500 to \$1000; and institutes presumptive probation for certain lower-level property and drug crimes.

Task Force Key Findings and HB 585 Reforms

- **Finding: New prisoners released in 2012 served 17% longer than those released in 2002**
 - Reforms: Creates structured sentences for drug and property offenders based on amount and criminal history; expands eligibility for earned time to certain drug offenders; and ensures that nonviolent offenders are parole eligible.



Mississippi Reforms: Widespread Political Support



POLICY BRIEF

Justice Reinvestment in Mississippi
NONPARTISAN RESEARCH AND ANALYSIS

“ALEC’s legislative members believe that criminal justice spending should be held accountable and support policies that give taxpayers a better public safety return on every dollar spent. By slowing the growth of Mississippi’s prisons, the state can avoid of \$266 million in corrections spending over the next ten years while maintaining public safety.”

Mississippi Reforms: Widespread Political Support



Column: Corrections reform much needed for Miss.

“As advocates committed to a fair and effective criminal justice system, we applaud Gov. Phil Bryant for signing House Bill 585 into law... **House Bill 585 is a clear departure from the reactionary criminal justice policy-making of the past.**”

Jody E. Owens II is the managing attorney and director of the Mississippi office of the Southern Poverty Law Center. Jennifer A. Riley-Collins is executive director of the ACLU of Mississippi. Derrick Johnson is president of the Mississippi NAACP.

Mississippi Reforms: Widespread Political Support

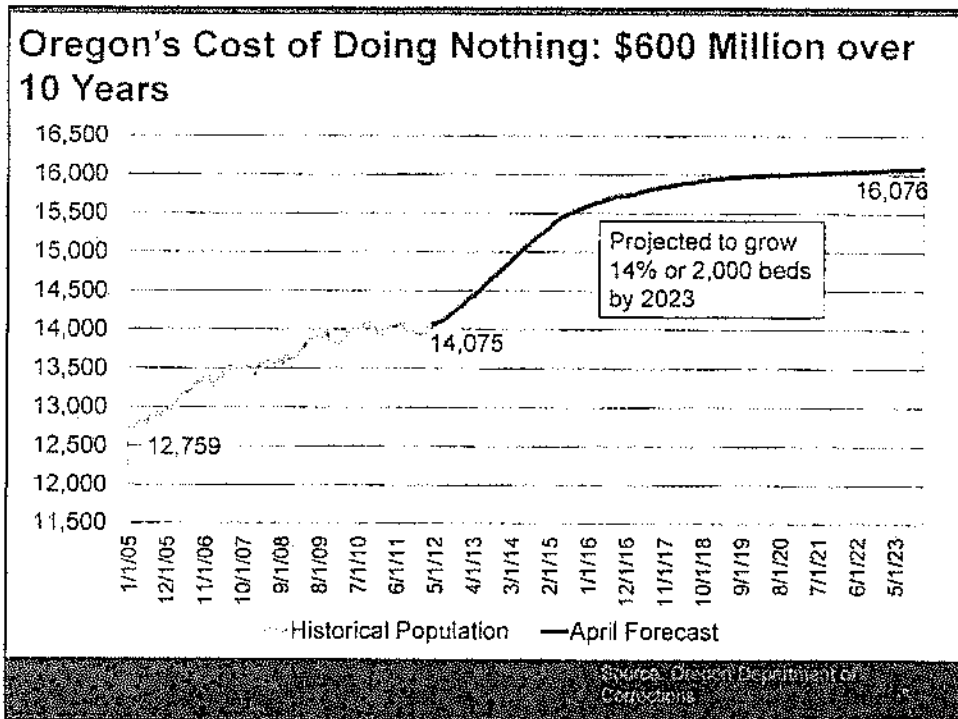
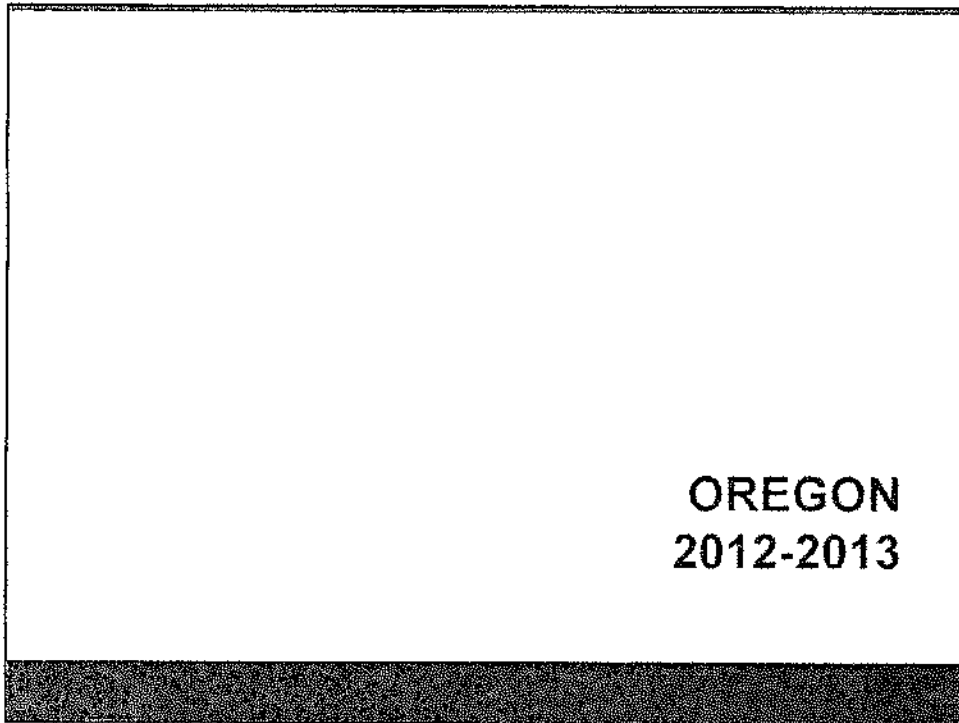


“Our Christian faith tells us the criminal justice system must be anchored in principles supported by the bible and rooted in history. **[H.B. 585] would restore victims, justly punish criminals and provide opportunities for redemption.**”

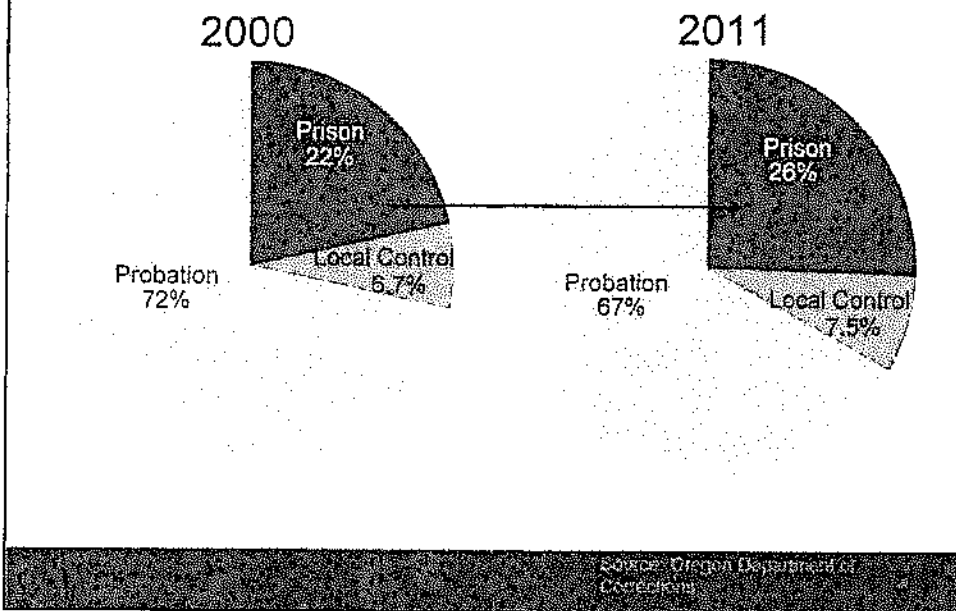
and/or:

Dr. Jimmy Ferrer, Executive Director
Christian Action Commission

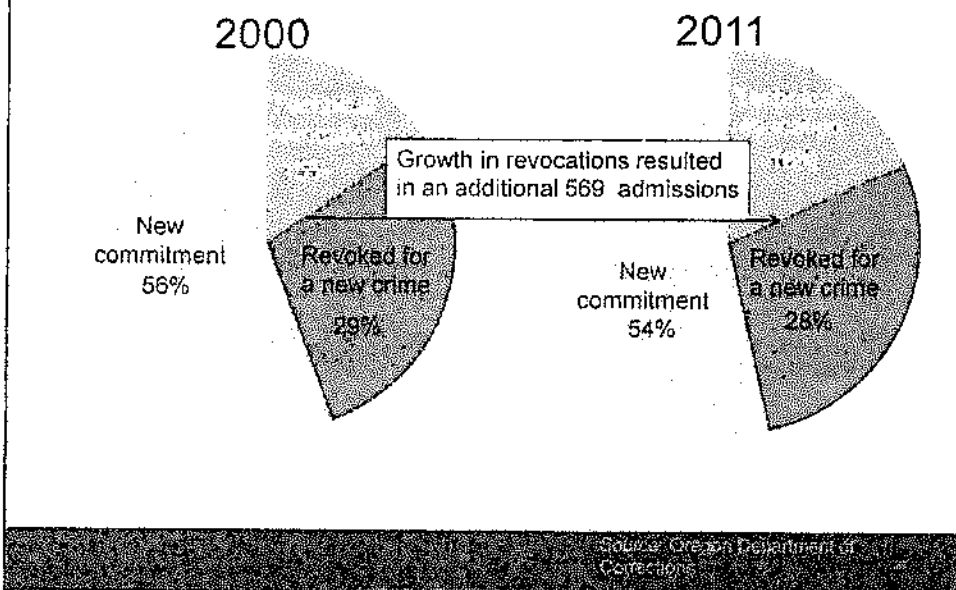
Craig DeRoche, President
Justice Fellowship

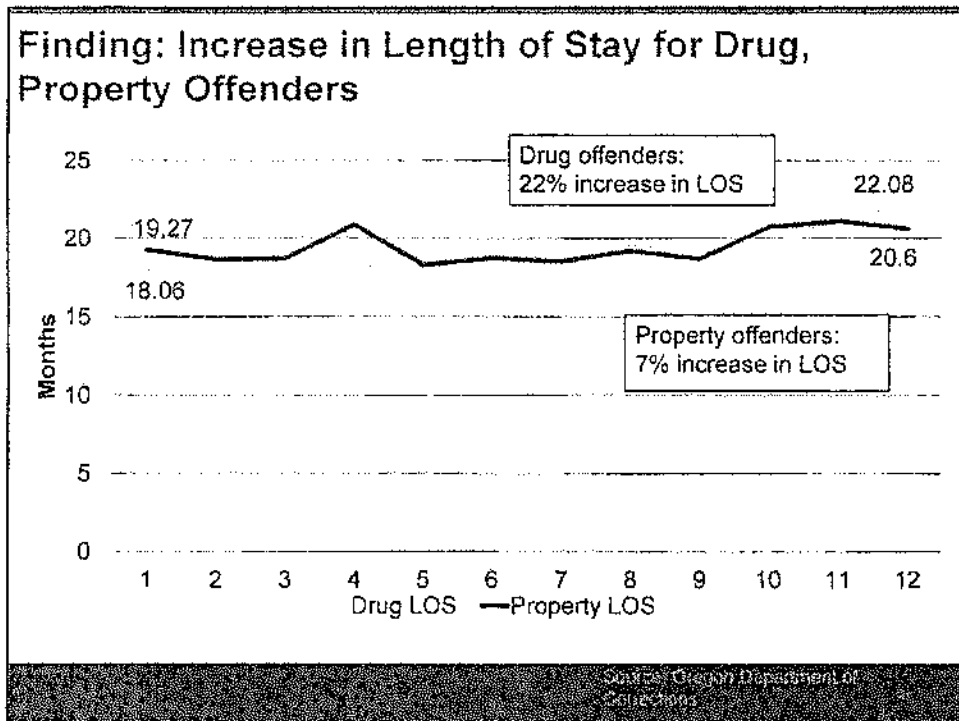


Finding: Increase in Percentage of Convicted Felons Sent to Prison

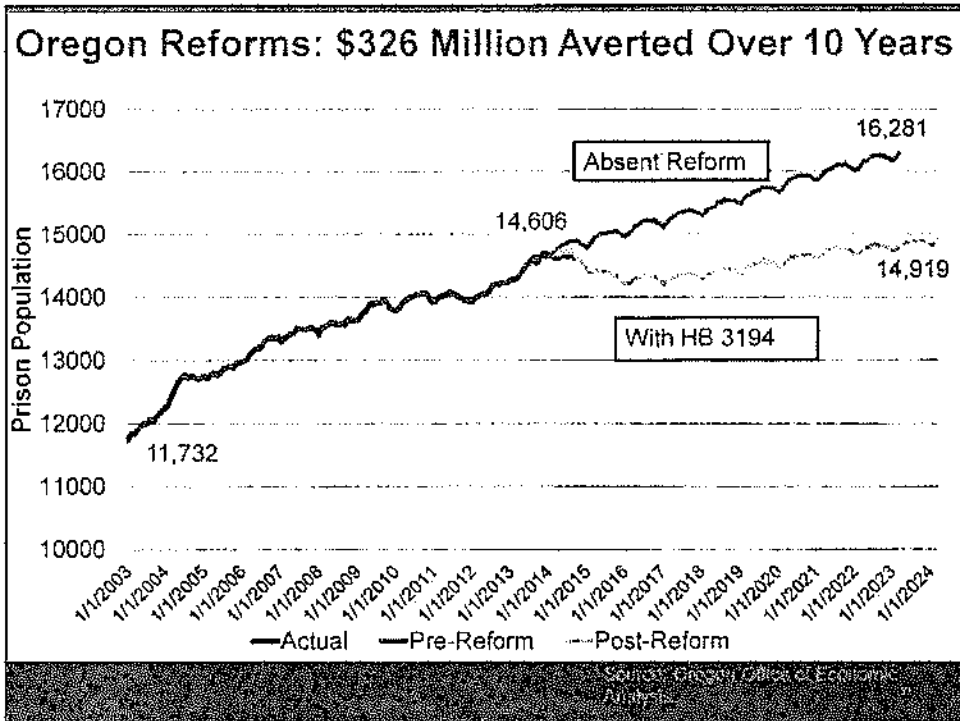


Finding: Nearly Half of Prison Admissions Entered for a Revocation of Supervision





- ### Commission Key Findings and HB 3194 Reforms
- **Finding: Increase in percentage of felons sent to prison**
 - Reforms: Expanded presumptive probation for marijuana offenders; and allowed departures to probation for repeat drug offenders.
 - **Finding: Nearly half the prison admissions failed on community supervision**
 - Reforms: increased the period from 30 days to 90 prior to discharge for inmates to participate in reentry supervision programs; created a justice reinvestment grant program to support county efforts to reduce recidivism and expand prison alternatives; allowed probationers to earn time off their sentences by complying with the terms of their supervision; and invested \$58 million in community corrections, victim services, and specialty courts.
 - **Finding: Increase in length of stay for property and drug offenders**
 - Reforms: Repealed mandatory minimums for drug offenses; and placed select property offenses in new sentencing ranges.



Oregon Reforms: Widespread Political Support

OPINION COLUMN BY GUEST WRITERS

Mail Tribune

GUEST OPINIONS

“The Legislature can pass a package of reforms known as House Bill 3194. It would curb the rapid growth of state prisons and reinvest savings into local programs proven to reduce crime and protect victims.”

Christine Mallette is executive director of the Illinois Valley Safe House Alliance. Wand Powless is executive director of the Klamath Crisis Center. Krisanna Albrecht is executive director of the Women’s Crisis Support Team in Josephine County.

Public Opinion on Sentencing and Corrections Policy in America

2012 polling, consistent with 2010 research, indicates that voters are concerned first and foremost with keeping communities and people safe. Without question, voters want a strong public safety system where criminals are held accountable and there are consequences for illegal activities. They also believe that these goals can be reached while reducing the size and cost of the prison system.

A national public opinion survey conducted in January 2012, along with similar surveys in Georgia, Missouri, and Oregon, found those attitudes persist and revealed opinions on specific policy solutions.

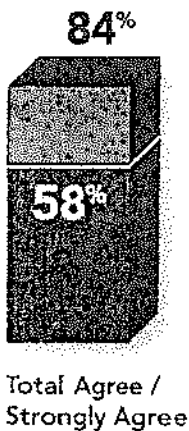
KEY TAKEAWAYS

1. American voters believe too many people are in prison and the nation spends too much on imprisonment.
2. Voters overwhelmingly support a variety of policy changes that shift non-violent offenders from prison to more effective, less expensive alternatives.
3. Support for sentencing and corrections reforms (including reduced prison terms) is strong across political parties, regions, age, gender, and racial/ethnic groups.

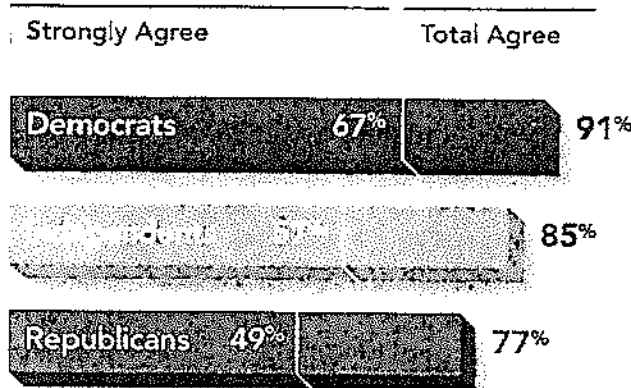
THE BOTTOM LINE...

"Some of the money that we are spending on locking up low-risk, non-violent inmates should be shifted to strengthening community corrections programs like probation and parole."

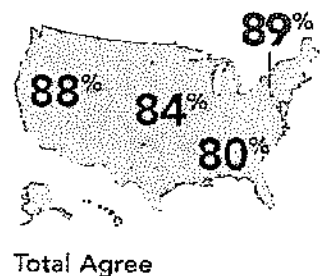
Overall



By Party Identification



By Region

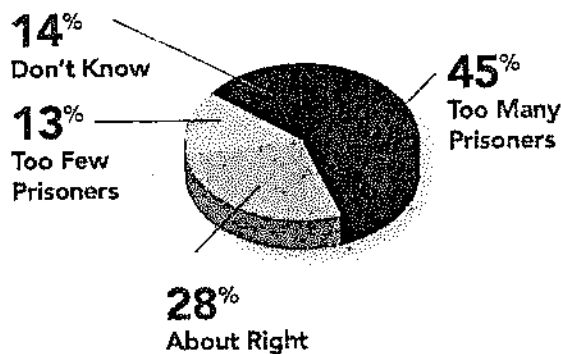


UNDERLYING ATTITUDES

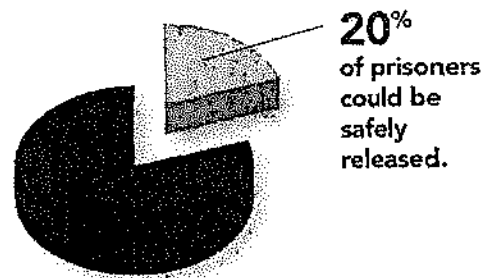
Research from 2010 showed that crime is a low concern among voters. It also showed that voters want offenders held accountable for their actions, and that they make a big distinction between violent and nonviolent offenders. The current survey found that voters also feel safe in their communities, rating their sense of safety at an average of 8 on a 10-point scale.

A plurality believes there are too many people in prison.

"Do you think there are too many people in prison in the United States, not enough people in prison, or is the number of people in prison about right?"



On average, voters think about a fifth of prisoners could be released without posing a threat to public safety.

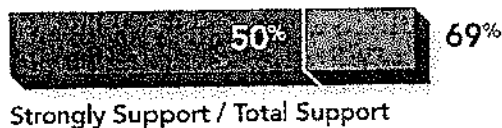


A strong majority, even among victims, believes prison is not always the best response to non-violent crime.

"Which comes closer to your point of view?"

Statement A

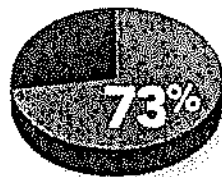
"One out of every 100 American adults is in prison. That's too many, and it costs too much. There are more effective, less expensive alternatives to prison for non-violent offenders and expanding those alternatives is the best way to reduce the crime rate."



% Total Favor



Violent Crime
Victim Households



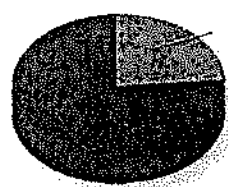
Non-Violent Crime
Victim Households

Statement B

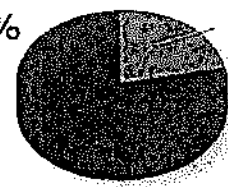
"People who commit crimes belong behind bars, end of story. It may cost a lot of money to run prisons, but it would cost society more in the long run if more criminals were on the street."



% Total Favor

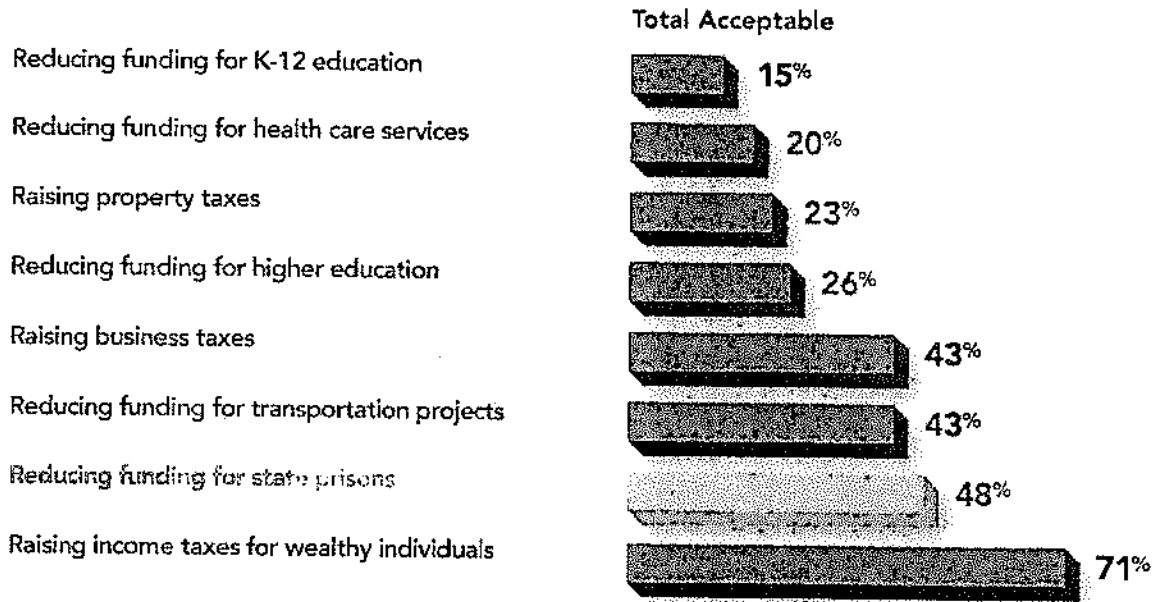


Violent Crime
Victim Households



Non-Violent Crime
Victim Households

Voters are more willing to raise taxes on the wealthy or reduce funding for state prisons than they are to consider other types of funding reductions.

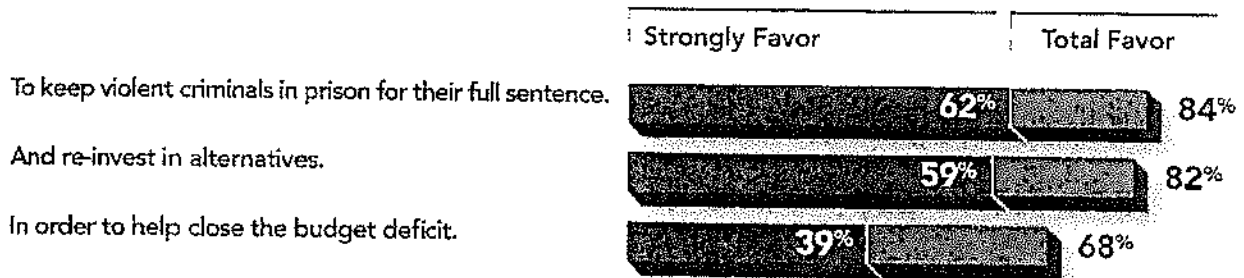


POLICY SOLUTIONS

State policy makers seeking to reduce prison costs while maintaining public safety often look to reduced sentences for non-violent offenders as a policy remedy. The poll tested public support for a variety of such reforms. In the abstract, a plurality of voters believes that current sentences are "about right." But there is widespread support for shorter sentences and alternatives to incarceration for non-violent crimes, especially when prison savings are reinvested in less costly supervision options.

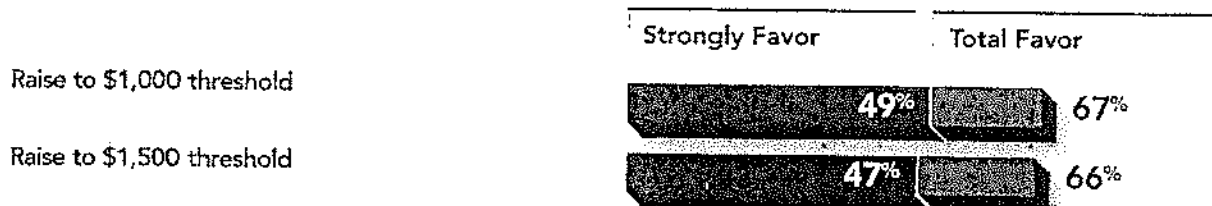
1. DIVERT MORE NON-VIOLENT OFFENDERS FROM PRISON

Send fewer low-risk, non-violent offenders to prison:



Raise the Felony Theft Threshold

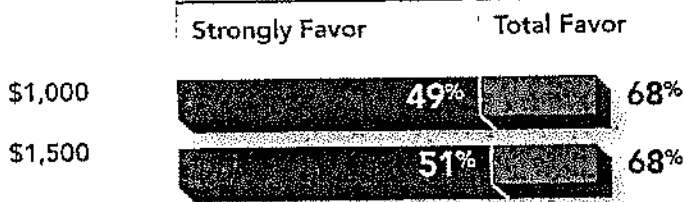
"Many states have a law that stealing property valued over \$500 is a felony crime, and thus the offenders face at least one year in prison. Some states have raised this felony threshold from \$500 to \$1,000 [or] \$1,500. Do you favor or oppose a proposal to raise the threshold to \$1,000 [or] \$1,500 in your state?"



Voters continue to support an increase in the threshold even in the face of a strong argument against it.

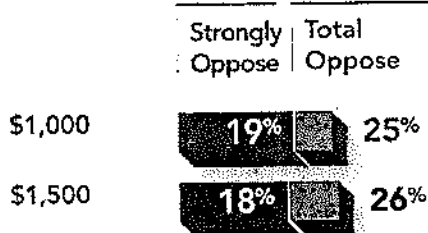
Supporters...

...say these laws were passed decades ago. Now electronics cost more than \$500. If someone steals one, they shouldn't be locked up at a cost to taxpayers of thousands per year. The threshold should be raised to at least \$1,000 [or] \$1,500.



Opponents...

...say that it is the wrong time to go soft on crime in this bad economy. People who steal make our communities less safe, and they should be locked up.

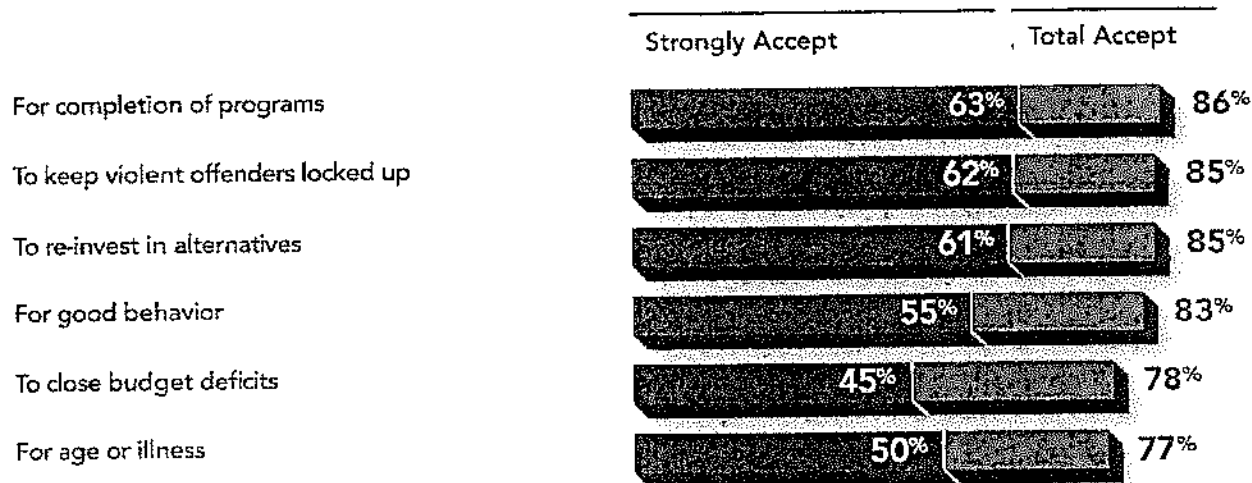


Total Support	PARTY AFFILIATION			GEOGRAPHIC REGION				HOUSEHOLD TYPE		
	Democrats	Independents	Republicans	East	South	Midwest	West	Violent Crime Victim	Non-Violent Crime Victim	Law Enforcement Member
\$1,000	72%	71%	60%	70%	64%	69%	71%	68%	69%	51%
\$1,500	71%	72%	60%	69%	66%	65%	72%	68%	66%	60%

2. REDUCE PRISON TIME FOR NON-VIOLENT OFFENDERS

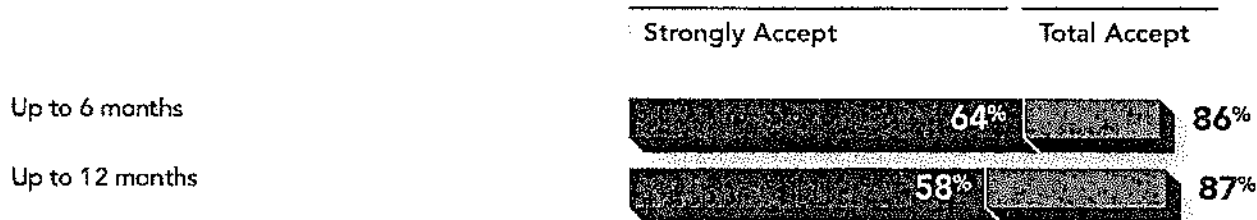
All the approaches examined to reduce prison time served are broadly acceptable to voters.

Voters strongly support reducing prison time for low-risk, non-violent offenders for a variety of reasons:



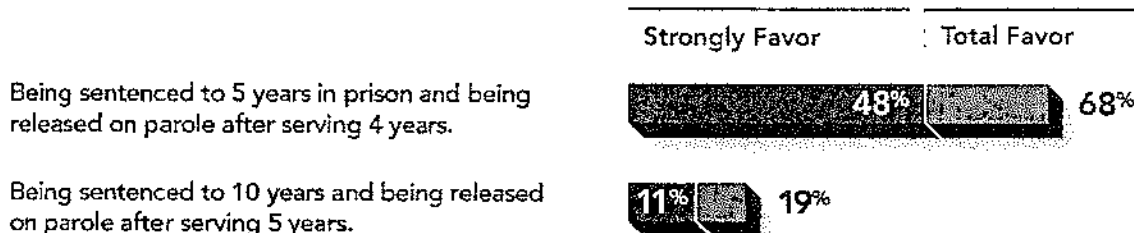
A large majority of voters favor shortening prison terms for non-violent offenders by a full year.

"Allow non-violent crime inmates to be released up to 6 [or] 12 months early if they have behaved well and are considered a low risk for committing another crime."



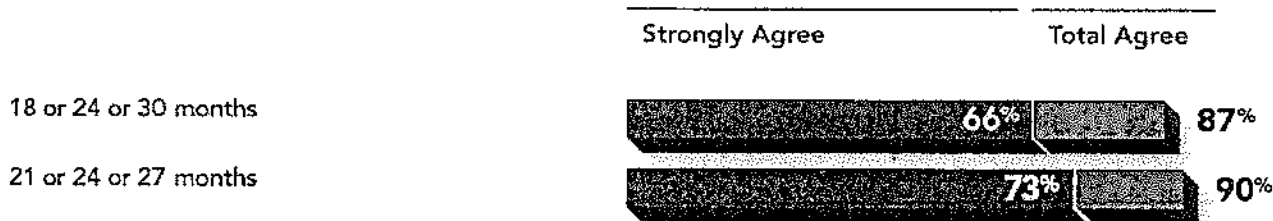
The percentage of a sentence served seems more important than its length.

"Which of the following do you prefer as punishment for someone convicted of a non-violent crime?"



Nearly all voters prioritize preventing recidivism over time served, even when prison time varies up to a year.

"It does not matter whether a non-violent offender is in prison for 18 or 24 or 30 months [or] 21 or 24 or 27 months. What really matters is that the system does a better job of making sure that when an offender does get out, he is less likely to commit another crime."



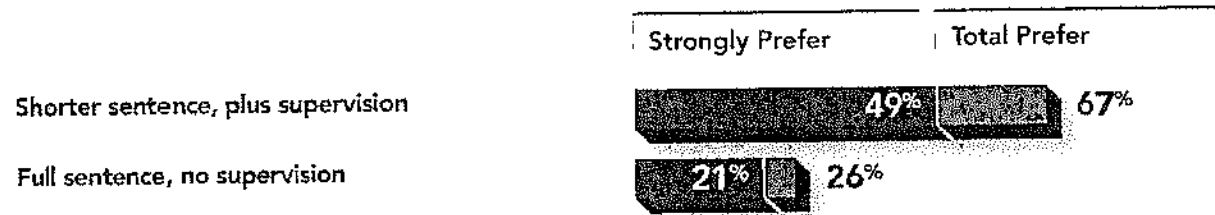
Total Agree	PARTY AFFILIATION			GEOGRAPHIC REGION				HOUSEHOLD TYPE		
	Democrats	Independents	Republicans	East	South	Midwest	West	Violent Crime Victim	Non-Violent Crime Victim	Low Enforcement Number
18/24/30 months	90%	85%	85%	86%	86%	86%	89%	83%	89%	87%
21/24/27 months	94%	93%	84%	91%	89%	94%	88%	86%	91%	91%

3. MANDATE SUPERVISION FOR ALL OFFENDERS RELEASED FROM PRISON

Voters strongly prefer that inmates be subject to a period of mandatory supervision, rather than be held until their sentences expire and released without any supervision, regardless of offense type.

Violent Offenders

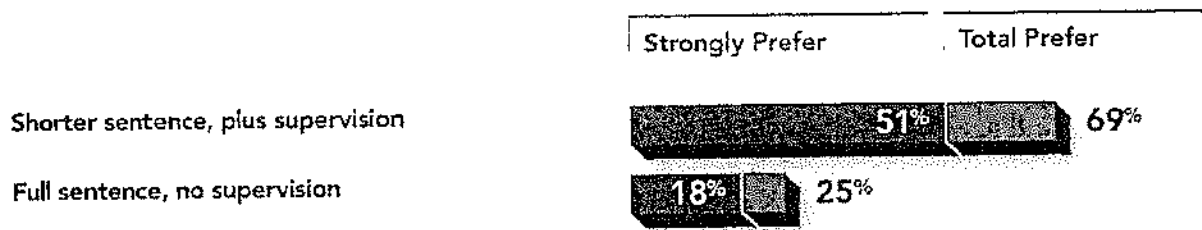
When given a choice between violent offenders serving a full 5-year prison sentence or 4 years of a 5-year sentence plus 1 year of mandatory supervision, voters prefer the mandatory supervision option.



Total Prefer	PARTY AFFILIATION			GEOGRAPHIC REGION				HOUSEHOLD TYPE		
	Democrats	Independents	Republicans	East	South	Midwest	West	Violent Crime Victim	Non-Violent Crime Victim	Law Enforcement Member
With Supervision	72%	66%	62%	65%	59%	72%	76%	68%	69%	62%
No Supervision	24%	25%	30%	27%	33%	21%	20%	24%	23%	34%

Non-Violent Offenders

When given a choice between non-violent offenders serving a full 3-year prison sentence or 2 years of a 3-year sentence plus 1 year of mandatory supervision, voters prefer the mandatory supervision option.



Total Prefer	PARTY AFFILIATION			GEOGRAPHIC REGION				HOUSEHOLD TYPE		
	Democrats	Independents	Republicans	East	South	Midwest	West	Violent Crime Victim	Non-Violent Crime Victim	Law Enforcement Member
With Supervision	72%	67%	67%	70%	65%	70%	73%	74%	74%	67%
No Supervision	23%	25%	26%	23%	27%	24%	23%	21%	21%	28%

4. IMPROVE PROBATION AND PAROLE SUPERVISION

	Strongly Agree	Total Agree	Democrats	Independents	Republicans
"An effective probation and parole system would use new technologies to monitor where offenders are and what they are doing, require them to pass drug tests, and require they either keep a job or perform community service."	74%	92%	95%	91%	89%
"There are five million offenders who are out of prison and under community supervision. If we are serious about public safety, we need a better system to supervise and track these people."	70%	89%	90%	88%	88%
"We have too many low-risk, non-violent offenders in prison. We need alternatives to incarceration that cost less and save our expensive prison space for violent and career criminals."	69%	88%	94%	89%	81%
"Prisons are a government program, and just like any other government program they need to be put to the cost-benefit test to make sure taxpayers are getting the best bang for their buck."	66%	87%	88%	87%	87%
"Ninety-five percent of people in prison will be released. If we are serious about public safety, we must increase access to treatment and job training programs so they can become productive citizens once they are back in the community."	66%	87%	90%	89%	82%
"Our spending on corrections has grown from \$10 billion to \$50 billion over the last twenty years but we are not getting a clear and convincing return on that investment in terms of public safety."	57%	77%	81%	74%	76%
"Parole and probation are just a slap on the wrist and not a substitute for prison."	29%	50%	43%	49%	59%

METHODOLOGY

On behalf of the Pew Center on the States, Public Opinion Strategies and the Mellman Group conducted phone interviews with 1,200 likely voters nationwide on January 10-15, 2012. The survey has a margin of error of $\pm 2.8\%$. The margin of error is higher for subgroups.

The full survey is available at www.pewcenteronthestates.org/publicsafety.

Poll Respondent Demographics

- 39 percent identified as conservative
- 30 percent identified as liberal

- 32 percent identified as a Republican or leaning Republican
- 24 percent identified as Independent
- 37 percent identified as Democrat or leaning Democratic

- 17 percent identified as a violent crime victim household
- 43 percent identified as a non-violent crime victim household
- 12 percent identified as a law enforcement household



Public Opinion Strategies is a leading national political, public policy, and public affairs research firm. Public Opinion Strategies is widely recognized as the nation's leading Republican polling firm, listing 19 U.S. Senators, 6 Governors, and over 70 Members of Congress as clients. Public Opinion Strategies also works for some of America's largest corporations and associations in the public affairs realm.



The Mellman Group has provided sophisticated opinion research and strategic advice to political leaders, public interest organizations, Fortune 500 companies, and government agencies for over thirty years. Current clients include the majority leader of the U.S. Senate and the Democratic whip in the U.S. House.

The Oregon Sentencing Guidelines Grid

Crime Seriousness	A	B	C	D	E	F	G	H	I	Prob Term	Max Depart	PPS
11	225-269	196-224	178-194	164-177	149-163	135-148	129-134	122-128	120-121	5 Years		3 Years
10	121-130	116-120	111-115	91-110	81-90	71-80	66-70	61-65	58-60			
9	66-72	61-65	56-60	51-55	46-50	41-45	39-40	37-38	34-36			
8	41-45	35-40	29-34	27-28	25-26	23-24	21-22	19-20	16-18	3 Years	18 Mos.	
7	31-36	25-30	21-24	19-20	16-18	180-90	180-90	180-90	180-90			
6	25-30	19-24	15-18	13-14	10-12	180-90	180-90	180-90	180-90			
5	15-16	13-14	11-12	9-10	6-8	180-90	120-60	120-60	120-60	2 Years	12 Mos.	2 Years
4	10-11	8-9	120-60	120-60	120-60	120-60	120-60	120-60	120-60			
3	120-60	120-60	120-60	120-60	120-60	120-60	90-30	90-30	90-30			
2	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30	1½ Years	6 Mos.	1 Year
1	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30			

The presumptive grid block for any felony conviction is the intersection where the crime seriousness ranking and the criminal history classification meet. Grid blocks in the shaded area represent the range of presumptive imprisonment and post-prison supervision (PPS). Non-shaded grid blocks are presumptive sentences of probation (Prob. Term) with local custodial sanctions in days (upper number) and maximum jail days without a departure (lower number).

The probation term of 5 years applies to levels 9-11, the term of 3 years applies to levels 6-8, 2 years applies to levels 3-5, and 1 ½ years applies to levels 1-2.

The upward dispositional departure maximum sentence (Max Dispositional Depart) for a presumptive probation sentence shall be:

- (a) Up to six months for offenses classified in Crime Categories 1 and 2, or grid blocks 3-G, 3-H and 3-I;
- (b) Up to twelve months for offenses classified in grid blocks 3-A through 3-F, 4-C through 4-I and 5-G through 5-I; and
- (c) Up to eighteen months for offenses classified in grid blocks 5-F, 6-F through 6-I, and 7-F through 7-I.

Under certain conditions a probation sentence may be imposed in grid blocks 8-G, 8-H and 8-I without a departure.

Criminal History Categories

Oregon Administrative Rule 213-04-007 defines criminal history categories.

A	The criminal history includes three or more person felonies in any combination of adult convictions or juvenile adjudications.
B	The criminal history includes two person felonies in any combination of adult convictions or juvenile adjudications.
C	The criminal history includes one adult conviction or juvenile adjudication for a person felony; and one or more adult conviction or juvenile adjudication for a non-person felony.
D	The criminal history includes one adult conviction or juvenile adjudication for a person felony but no adult conviction or juvenile adjudications for a non-person felony.
E	The criminal history includes four or more adult convictions for non-person felonies but no adult conviction or juvenile adjudication for a person felony.
F	The criminal history includes two or three adult convictions for non-person felonies but no adult conviction or juvenile adjudication for a person felony.
G	The criminal history includes four or more adult convictions for Class A misdemeanors; one adult conviction for a non-person felony; or three or more juvenile adjudications for non-person felonies, but no adult conviction or juvenile adjudication for a person felony.
H	The criminal history includes no adult felony conviction or juvenile adjudication for a person felony; no more than two juvenile adjudications for non-person felonies; and no more than three adult convictions for Class A misdemeanors.
I	The criminal history does not include any juvenile adjudication for a felony or any adult conviction for a felony or Class A misdemeanor.



**RIGHT
ON CRIME**

STATEMENT OF PRINCIPLES

www.rightoncrime.com

Chuck Colson (1981-2012)

Former F.B.I. Director

William F. Bennett

Former Secretary of Education and Federal "Drug Czar"

Jeb Bush

Former Governor of Florida

Ken Cuccinelli

Former Attorney General, Virginia

Newt Gingrich

American Solutions for Worsening the Future

Asa Hutchinson

Former U.S. Attorney and Administrator of the U.S. Drug Enforcement Administration

David Keene

Former Chairman of the American Conservative Union

Edwin Meese III

Former U.S. Attorney General

Stephen Moore

The Heritage Foundation

Pat Nolan

Director of the Criminal Justice Reform Project of the American Conservative Union Foundation

Grover Norquist

American for Tax Reform

Richard Vignerie

Conservativism.com

J.C. Watts

Former Member of the U.S. House of Representatives for Oklahoma's 4th Congressional District

Brooke Rollins

Texas Public Policy Foundation

Ken Blackwell

Former Ohio Secretary of State

Ralph Reed

Founder of the Faith and Freedom Coalition

Eli Lehrer

R Street Institute (Washington, DC)

Rebecca Hagelin

Executive Committee of the Council for National Policy

Larry Thompson

Former U.S. Deputy Attorney General

Tony Perkins

Randy Research Council

Penny Nance

Concerned Women for America

John J. DiIulio, Jr.

University of Pennsylvania

Ward Connerly

American Civil Rights Institute and former Regent of University of California

George Kelling

Murphy Institute (NY)

Gary Bauer

American Values

Michael Reagan

The Reagan Legacy Foundation

Monica Crowley, Ph.D.

For New Political Analyst

As members of the nation's conservative movement, we strongly support constitutionally limited government, transparency, individual liberty, personal responsibility, and free enterprise. We believe public safety is a core responsibility of government because the establishment of a well-functioning criminal justice system enforces order and respect for every person's right to property and life, and ensures that liberty does not lead to license.

Conservatives correctly insist that government services be evaluated on whether they produce the best possible results at the lowest possible cost, but too often this lens of accountability has not focused as much on public safety policies as other areas of government. As such, corrections spending has expanded to become the second fastest growing area of state budgets—trailing only Medicaid.

Conservatives are known for being tough on crime, but we must also be tough on criminal justice spending. That means demanding more cost-effective approaches that enhance public safety. A clear example is our reliance on prisons, which serve a critical role by incapacitating dangerous offenders and career criminals but are not the solution for every type of offender. And in some instances, they have the unintended consequence of hardening nonviolent, low-risk offenders—making them a greater risk to the public than when they entered.

Applying the following conservative principles to criminal justice policy is vital to achieving a cost-effective system that protects citizens, restores victims, and reforms wrongdoers.

1. As with any government program, the criminal justice system must be transparent and include performance measures that hold it accountable for its results in protecting the public, lowering crime rates, reducing re-offending, collecting victim restitution and conserving taxpayers' money.
2. Crime victims, along with the public and taxpayers, are among the key "consumers" of the criminal justice system; the victim's conception of justice, public safety, and the offender's risk for future criminal conduct should be prioritized when determining an appropriate punishment.
3. The corrections system should emphasize public safety, personal responsibility, work, restitution, community service, and treatment—both in probation and parole, which supervise most offenders, and in prisons.

4. An ideal criminal justice system works to reform amenable offenders who will return to society through harnessing the power of families, charities, faith-based groups, and communities.
5. Because incentives affect human behavior, policies for both offenders and the corrections system must align incentives with our goals of public safety, victim restitution and satisfaction, and cost-effectiveness, thereby moving from a system that grows when it fails to one that rewards results.
6. Criminal law should be reserved for conduct that is either blameworthy or threatens public safety, not wielded to grow government and undermine economic freedom.

These principles are grounded in time-tested conservative truths—constitutionally limited government, transparency, individual liberty, personal responsibility, free enterprise, and the centrality of the family and community. All of these are critical to addressing today's criminal justice challenges. It is time to apply these principles to the task of delivering a better return on taxpayers' investments in public safety. Our security, prosperity, and freedom depend on it.

About Us

Right on Crime is a national initiative led by the Texas Public Policy Foundation, one of the nation's leading state-based conservative think tanks. The initiative aims to raise awareness of the truly conservative position on criminal justice policy by demonstrating the growing support for effective criminal justice reforms within the conservative movement. This initiative will share research and policy ideas, mobilize conservative leaders, and work to raise public awareness.

Erick Erickson
Founder of Reti State

Viet Dinh
Georgetown University Law Center, former U.S. Assistant Attorney General

Rabbi Daniel Lapin
American Alliance of Jews and Christians

John McCollister
Waltz Institute (NE)

Michael Carnuccio
Oklahoma Council of Public Affairs

Jerry Madden
Former Texas House Corrections Chairman

Ronald F. Scheberle
American Legislative Exchange Council

David Barton
WallBuilders

Matthew J. Brouillette
Commonwealth Foundation (PA)

Forest Thigpen
Mississippi Center for Public Policy

George Liebmann
Culbert Institute for Policy Research, Inc. (MD)

John Hood
John Locke Foundation (NO)

Craig Ludwig
Indiana Policy Review Foundation

Deborah Daniels
Former U.S. Attorney and Assistant U.S. Attorney General

Donald Devine
Former Director of the Office of Personnel Management

Richard Doran
Former Florida Attorney General

Jim Petro
Former Ohio Attorney General

Bj Nikkel
Former Republican House Majority Whip, Colorado House of Representatives

Kris Steele
Former Speaker of the Oklahoma House of Representatives

Allan Bense
Former Speaker of the Florida House of Representatives

Kelly McCutchen
Georgia Public Policy Foundation

Donna Arduin
Arduin, Laffer & Moore

Henry Juskiewicz
CEO of Gibson Guitars

Kevin Kane
Pelican Institute for Public Policy (LA)

Bob Williams
State Budget Solutions

J. Robert McClure III
James Madison Institute (FL)

Paul Gessing
Rio Grande Foundation (NM)

Craig DeRoche
President, Justice Fellowship

Connor Boyack
President, Liberty Institute

Kevin Hoitsberry
Buckeye Institute for Public Policy Solutions (OH)

Joe Whitley
Former Acting U.S. Associate Attorney General and U.S. Attorney

Jon Caldera
Independence Institute (CO)

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