



# Thinking Outside the Cell: Solutions for Public Safety, Victims & Taxpayers



*Presentation at University  
of Toledo School of Law  
Symposium on Ohio  
Sentencing Policies  
February 18, 2011  
Toledo, OH*

**Marc A. Levin, Esq.  
Director, Center for Effective Justice  
Texas Public Policy Foundation (TPPF)  
(512) 472-2700**

**mlevin@texaspolicy.com, [www.texaspolicy.com](http://www.texaspolicy.com)**

# Introduction

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



# Ohio's Corrections Challenge

- Since 1983, Ohio taxpayers' spending on corrections has grown five-fold, even after adjusting for inflation.
- With current policies, the state projects that the prison system will need another 5,330 beds by 2018, which would require \$424 million in construction costs and \$501 million in annual operating costs.



# Ohio at the Crossroads: It's Time to Make Corrections

- Even now, Ohio's prison population exceeds the system's rated capacity of 38,665 by 30 percent.
- CSG Justice Center has invested in gathering data and generated consensus recommendations similar to those of Senator Seitz, the Buckeye Institute, the ACLU, and other stakeholders.



# Ohio Must Better Prioritize Prison Space to Maximize Public Safety

- Violent offenses account for only 12.6% of Ohio prison admissions. Many nonviolent offenders are incarcerated for short periods, including 10,000 for an average of nine months.
- In 2008, almost half of those admitted were assessed as low risk and half received prison sentences of 12 months or less. Such offenders may leave worse than they came in.





# Ohio's Widening Net

- In 1982, 1 in 116 Ohio adults were under correctional control compared with 1 in 25 in 2008.
- Ohio's probation rate is 2,917 per 100,000 people compared to the national average of 1,863 per 100,000 people, indicating need to examine term length.



# Incarceration & Crime

State	Incarceration Rate Change 2000-2007	Crime Rate Change 2000-2007
California	0%	-16%
Florida	+16%	-11%
New York	-16%	-25%
Texas	-8%	-6%

- Violent crime in New York City down 64% while 42% fewer inmates

# The Texas Model for Reform







# Texas Probation Reform Proves the Right Incentives Work

- In 2005, additional \$55 million in funding for stronger probation supervision to probation departments that adopted progressive sanctions.
- Participating probation departments reduced their technical revocations 16% while they increased 8% in other departments.
- Had all departments increased their revocations by 8%, another 2,640 revocations for an average of 2.5 years at a cost to taxpayers of \$119 million, not including prison construction.
- Texas probation revocation rate declined from 16.4% in 2005 to 14.7% in 2010.

# Lowering Crime Cost-Effectively: The Texas Way

- Avoided \$2 billion in costs by not constructing 17,332 prison beds that a January 2007 projection stated were needed.
- Enacted instead a \$241 million package to strengthen community corrections, including lower caseloads and more treatment, and in-prison programs that reduce re-offending and re-incarceration.



# Texas Trend: Lower Incarceration *and* Crime Rates

Year	Incarceration Rate Per 100,000 Residents	Serious Crimes Per 100,000 Residents
2004	704	5,038.6
2008	639	4,492.5
% Change	-9.2%	-10.8%

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

# **Texas Juvenile Justice: Similar Policy Shift, Similar Results**

- In 2007, lawmakers gave counties \$57.8 million to handle youth misdemeanants on probation who previously would have been sent to state lockups at twice the cost.
- A 2009 budget provision allows counties that agree to reduce commitments to state lockups to receive a share of the state's savings for local, research-based programs with performance measures.
- Juveniles adjudicated for a crime in Texas declined 10.3% in the 2009 fiscal year.

# Momentum is Building Across the Political Spectrum for Criminal Justice Reform





# Getting Criminal Justice Right

- TPPF commended by Reagan.
- Gov. Reagan in 1971: "Our rehabilitation policies and improved parole system are attracting nationwide attention. Fewer parolees are being returned to prison than at any time in our history, and our prison population is lower than at any time since 1963."
- Cut parole re-offending from 40% to 25% with lower caseloads than in recent years.





# Conservative Leaders Speak Out

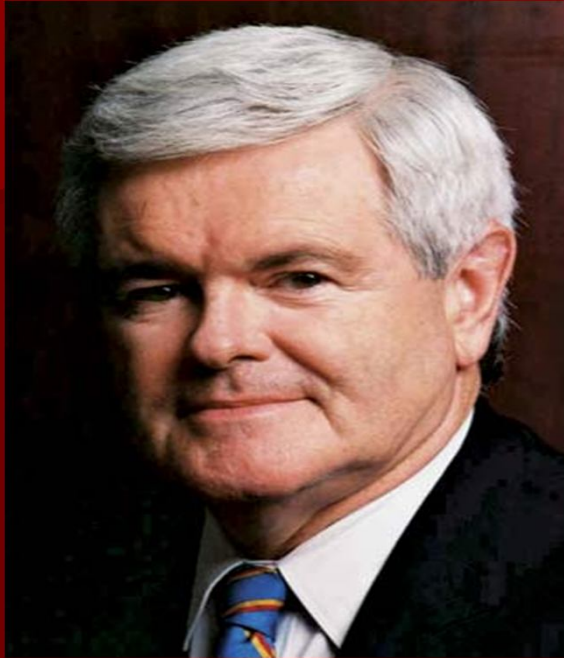
- Speaker Newt Gingrich, Drug Czar Bill Bennett, A.G. Ed Meese, Grover Norquist, and Other Conservative Leaders Endorse Right on Crime Statement of Principles
- Statement Supports Cost-Effective Alternatives for Nonviolent Offenders, Emphasis on Restitution and Treatment, and Performance Measures and Incentives to Move from a System That Grows When it Fails to One That Rewards Results



Grover Norquist,  
President, *Americans for  
Tax Reform*

# Speaker Gingrich Speaks Out

*Op-ed by Newt Gingrich & Mark Earley, Atlanta Journal-Constitution, March 23, 2010*



- **"If two-thirds of public school students dropped out, or two-thirds of all bridges built collapsed within three years, would citizens tolerate it? The people of Georgia would never stand for that kind of failure. But that is exactly what is happening all across the U.S. in our prison systems.**

**Last year, some 20,000 people were released from Georgia's prisons to re-enter our communities. If trends of the past decade continue, two-thirds of them will be rearrested within three years. That failure rate is a clear and present threat to public safety. Not only is this revolving door a threat to public safety, but it results in an increasing burden on each and every taxpayer."**

# Right & Left Unite on Justice Goals: More Than Just Savings

- Reduce Crime
- Empower and Restore Victims
- Prioritize Limited Resources: 88% of State Corrections Funds Go to Prisons: Harms Front End of System, Taxpayers



# Leadership of Governors

- LA.: Gov. Jindal press release: “hammer away at dubious distinction of highest incarceration rate in the world” with day reporting, jail reentry & work release.
- CT.: Gov. Rell: Divert non-violent offenders, closed prison in Dec. 2009
- TX.: Gov. Perry: “rehabilitate nonviolent offenders, spend less locking them up again”



*Gov. Bobby Jindal*



# Leadership of Governors

- MI.: Gov. Granholm's advisory: Reduce prisons 10% with nonviolent and geriatric release, invest in probation and parole staff and reentry. "Decide who we're afraid of and who we're mad at."
- VT.: Gov. Douglas codifies and expands centers with volunteer reparative board sentencing that emphasizes victim input and restitution.



*Gov. Jennifer Granholm*

# Business Leaders & Retirees Urge Reform

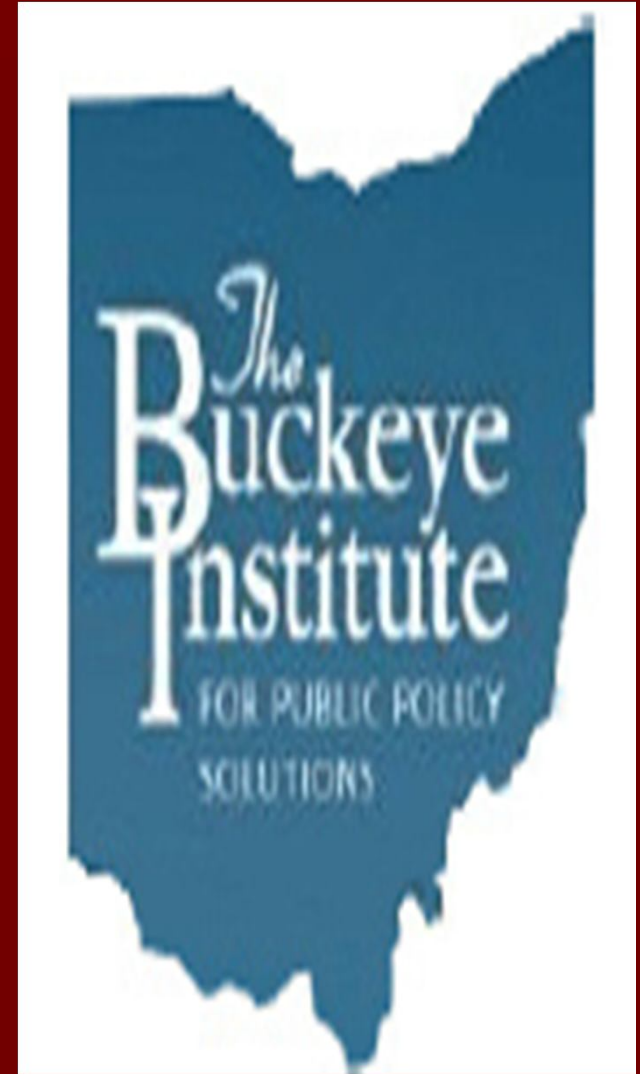
- Stakeholders : prisons draining resources from taxpayers, key priorities
- Michigan and Florida business coalitions calling for measures to control prison spending
- Florida AARP demands prison alternatives





# ALEC & State-Based Think Tanks Engage

- ALEC – leading group of conservative legislators – adopts model legislation.
- State-based free market think tanks are applying limited government principles to criminal justice.
- The Buckeye Institute held a corrections panel at a briefing for legislators in December 2010 .

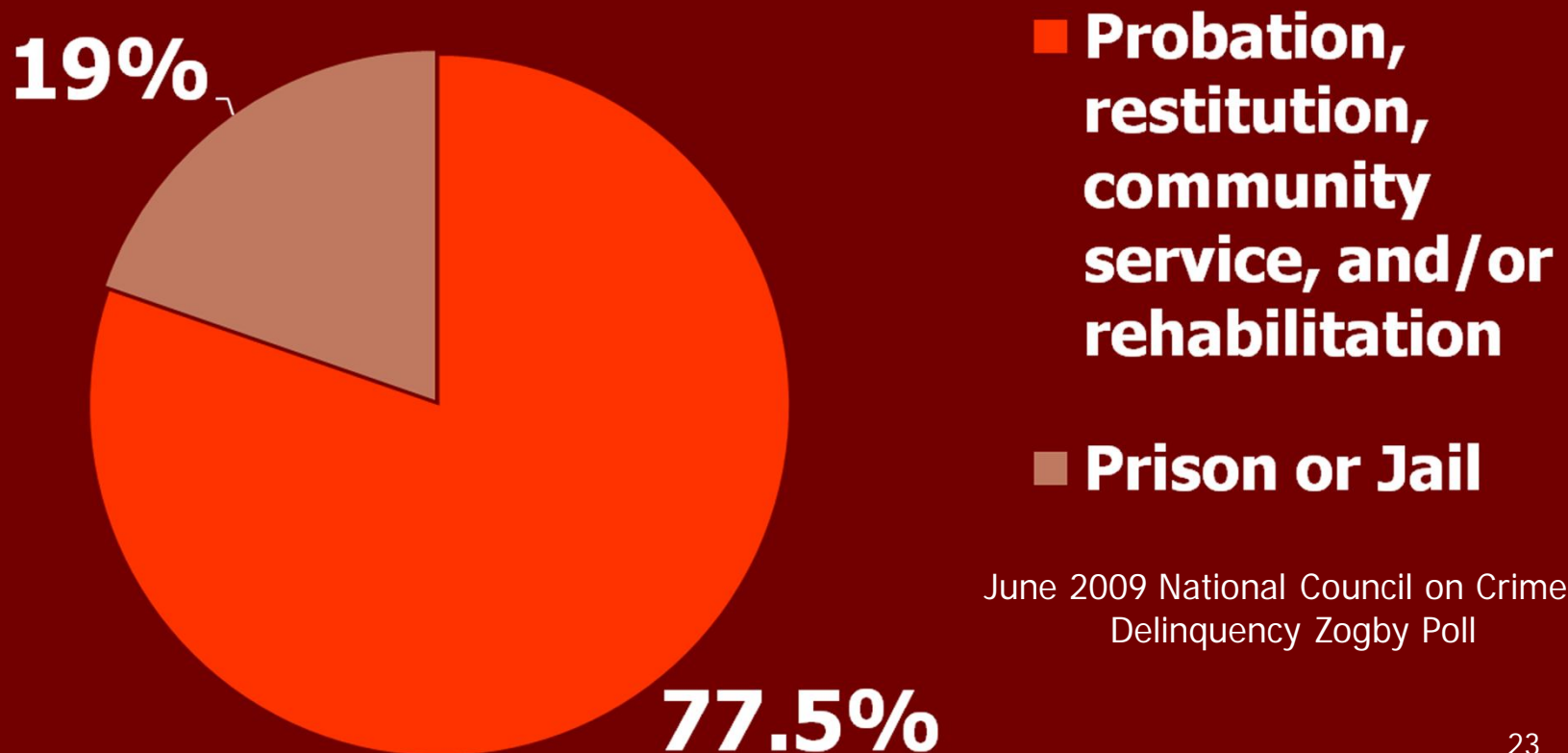


# Public Demands Balanced Approach That is Tough *and* Smart on Crime



# Use Prison Wisely

What do voters think is the most appropriate sentence for a nonviolent, nonsexual offender whose crime did not involve significant property loss (less than \$400)?



June 2009 National Council on Crime & Delinquency Zogby Poll

# Consensus is Building for Reform

- IL.: 62% for drug treatment vs. 25% for more prisons & penalties
- TX.: 83% for treatment vs. prison for low-level possession
- FL: Public and prison staff: re-offense more likely *after* prison
- GA: 81% for parole of nonviolent offenders
- MI: 78% oppose sending 14 to 16 year-olds to adult prisons



# Restitution Revolution: Victims as Consumers



- VT.: 91% support reparative boards. 70% plus support use for repeated shoplifting and bad checks. Re-offending 12 to 23% less than regular probation.
- 75% of U.S.: restitution & community service an effective approach.
- Restitution ordered in only 26% of property cases – a third collected.

# The Victims' Perspective

## *Survey of Iowa Burglary Victims*

Sanction	Percent Requesting
Restitution	81.4%
Community Service	75.7%
Pay Fine	74.3%
Regular Probation	68.6%
Treatment/Rehabilitation	53.5%
Intensive Probation	43.7%
Short Jail Term	41.4%
Boot Camp	40.0%
Work Release Facility	34.3%
Prison Sentence Year or More	7.1%



# Delivering the Justice System Victims and Taxpayers Demand: Principles of Reform



# Make Victims Whole

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



# Public Safety & Reforming Offenders

- Alternatives with accountability
- Probation has teeth, not just an office visit: work, treatment, drug tests, GPS, but use risk/needs assessment to avoid over-supervising.
- Since probation costs 15 to 20 times less than prison, it pays to invest in doing it right with evidence-based practices.



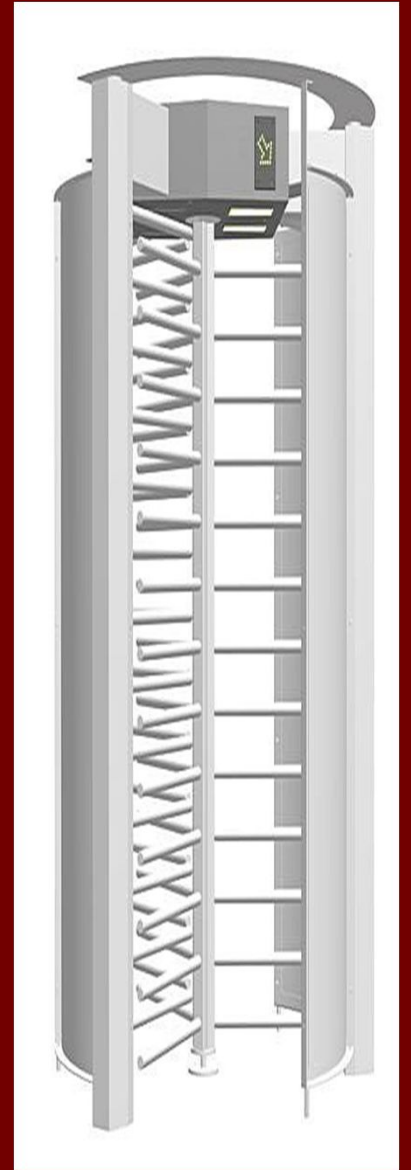
# Prioritize Tax Dollars

- Focus prison on dangerous offenders
- Cost/benefit analysis
- Performance measures
- Every dollar spent locking up offenders who aren't dangerous can't be spent on policing & prevention



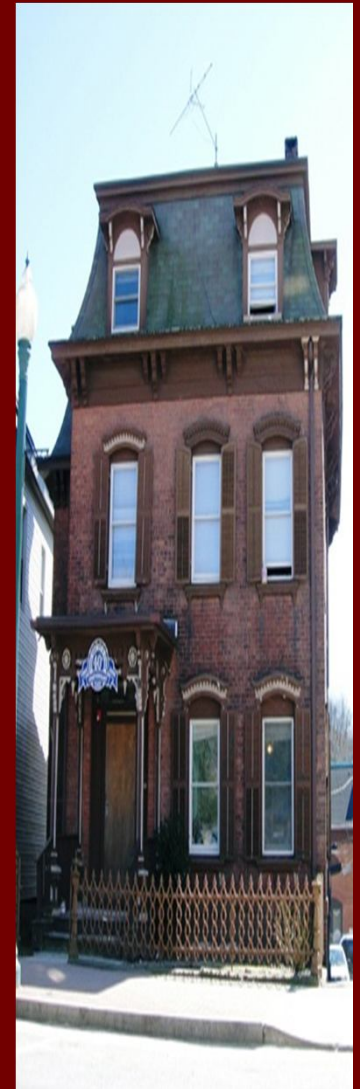
# Stop the Revolving Door

- 50% of inmates return in 3 years
- Employed offenders on supervision are twice as likely to succeed
- In-prison vocational training = 9% less re-offending
- Provide job placement
- Protect employers from lawsuits for hiring ex-offenders
- Grant occupational licenses when offense is unrelated to the job. In some states, drug possession disqualifies a prospective barber. 2009 TX. Law allows ex-offenders to obtain a provisional license.



# Promote Successful Reentry

- Half of homeless are ex-offenders
- Transitional living where parolees without resources or family home gradually pay more of their board through employment
- OH.: Halfway house study found reduced re-offending for parolees safe enough for release but posing a substantial risk without housing. OH. residents generate \$6.7 million in earnings. Cost is less than half of prison.



Norwich, CT.  
Halfway House



# What's Really Tough?

- Inmates ranked equivalent time in seven alternative sanctions such as day reporting, intensive supervision probation, and community service as tougher than prison



Peter B. Wood and Harold G. Grasmick, "Inmates Rank the Severity of Ten Alternative Sanctions Compared to Prison," Oklahoma Criminal Justice Research Consortium Journal, 1995. Available at: <http://www.doc.state.ok.us/offenders/ocjrc/95/950725J.HTM>

# Crime Hurts Families: Prison Often Makes it Worse

- Inmates owe tens of billions in child support – can't pay
- Probationers pay \$600 million in child support
- 85% of female inmates nonviolent – average 2.2 children
- 20% of women entering prison are pregnant or have babies six weeks or younger



# Challenges & Solutions



# Strengthening Supervision

- Nationally, revocations for new offense or rule violations account for over half of prison intakes
- Use sanctions and incentives
- Enhancing confidence in probation & parole may increase use. Probation placements up and crime by probationers down in TX. departments receiving state diversion funding and using graduated sanctions.
- Adopt earned time policy and increase early terminations for exemplary conduct.



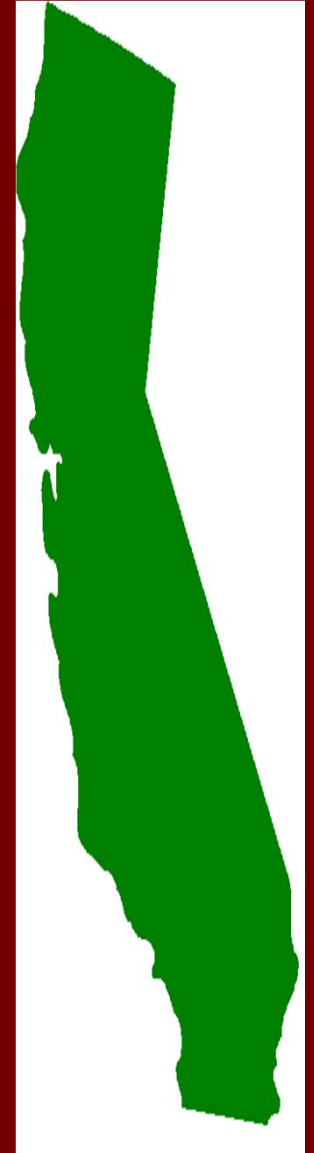
# **Bolstering Texas Parole Supervision: Less Crime, Less Total Spending**

- From 2007 to 2008, 1,016 fewer parolees allegedly committed an offense and 566 fewer were revoked for rule violations. Prison savings, including avoided construction, exceeded \$137 million.
- Officials credit more substance abuse treatment, more job placement resources, enhanced use of graduated sanctions, restoring parole chaplains, and officers' emphasis on helping parolees succeed instead of "trail'em, nail'em, and jail'em."



# Strengthen Probation: Demand Results

- 2008-09: CA., IL. & AZ. pass performance-based probation funding measures providing departments with incentive funding for fewer commitments, fewer new crimes, and more restitution.
- IL. bill requires system-wide use of assessment instruments that help achieve reduction in re-offending and efficiency by matching risk and needs to supervision strategies, tracking an offender from entry to reentry.



# Applying Ohio Juvenile RECLAIM Model to Adult System

- Give counties the option to receive some state funds now spent incarcerating non-violent offenders in exchange for setting a prison commitment target.
- Funds could be used for treatment, stronger probation, electronic monitoring, prevention, problem-solving policing, and victim mediation and services.



# **Sentencing That Fits the Crime and is Not Too Tough on Taxpayers**

- **Consider diversion to treatment for appropriate drug possession offenders. Treatment reduces drug use & crime 37 to 61% and cost is 5 to 10 times below prison. Saves tens of millions.**
- **CSG options save at least \$84 million.**
- **Geriatric parole modeled after 2010 California measure could save \$60 million.**
- **With similar success to RECLAIM, adult incentive funding could save \$75 million.**

# Problem-Solving Courts

- Drug courts: 34% lower recidivism: should focus on high-risk offenders who would have gone to prison. Ohio has 55 drug courts but still 3,759 possession inmates.
- Hawaii HOPE Court with regular testing, treatment as needed, and weekend jail in few cases of non-compliance: 2/3 less re-offending, costs a third of drug court.
- Mental health courts: *Amer. Journal of Psychiatry*: less total & violent re-offending



# Veterans Courts: The Newest Problem-Solving Court



*Buffalo, N.Y. Veterans' Court*

- First in nation Buffalo, N.Y. Veterans Treatment Court launched in 2008. As of Sept. 2009, only 5 of 120 participants removed and none of 18 graduates re-arrested.

- Key elements include accountability, treatment, V.A. liaison, and mentoring by volunteer veterans

- Authorizing legislation passed in TX., NV., and IL.



*Buffalo, N.Y. Veterans' Court*



# GPS: Compliance Without Bars

- Use instead of jail or prison along with other strategies in appropriate cases at 4 to 20 times less per day depending on type of monitoring. Should not focus on lowest-risk offenders.
- Active GPS can in real-time verify offender is at home, at work, or at treatment. May include crime scene correlation which offender knows can confirm or exonerate involvement in a new offense.
- FL. study found monitored offenders were 89% less likely to be revoked to prison for a new offense and it virtually eliminated absconding.



*Active GPS device is covered by pants so it is not visible to employer and others*

William D. Bales., et. al., "Under Surveillance: An Empirical Test of the Effectiveness and Consequences of Electronic Monitoring," *Criminology and Public Policy* 5.1 (2006) 61-69.

# Collecting Child Support Without Breaking the Bank

- Some 693 offenders entered Ohio prisons in 2008 for non-payment of child support.
- Community work accountability pilot program in several counties that state began funding in 2008 increased support payments by 71 percent.
- The cost of the pilot programs is \$500,000, but they have saved \$670,000 in prison costs and resulted in the collection of more than \$600,000 in support.

# Day Reporting Centers

- Often targeted at probationers who need more structure as alternative to initial incarceration or used as parole condition
- Elements may include work, treatment as needed, literacy and other instruction, job placement, meeting restitution obligations, contribution to daily cost as able, and enforced prohibition on substance abuse
- N.C.: Day reporting centers cost \$15 a day



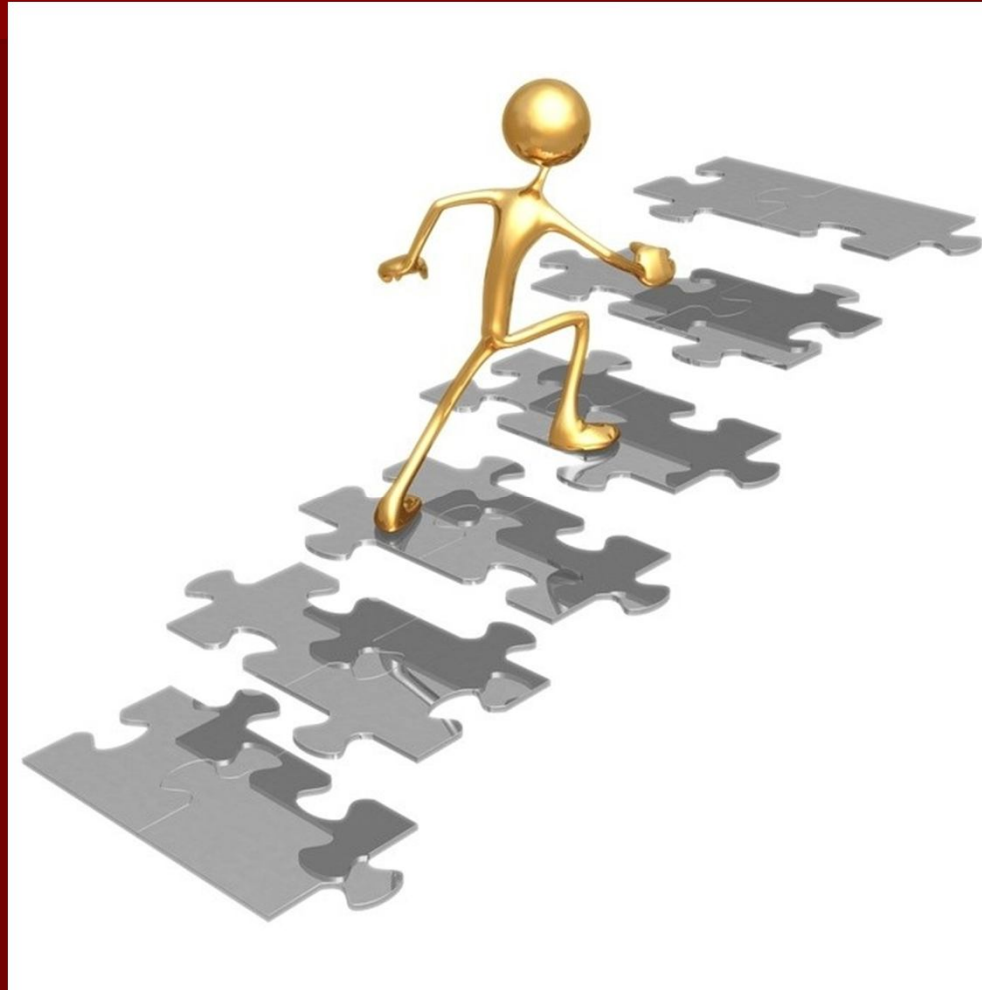
Day Reporting Center, Dover, DE

# Athens, GA. Day Reporting Center



*Rick Thomas installs hardwood floors in an Athens apartment complex as part of his construction job. Thomas graduated from the Day Reporting Center opened in 2008 by the Department of Corrections. Newly released offenders with a history of a substance abuse and cognitive challenges receive counseling and supervision. To graduate, participants must hold and maintain a job for 90 days. Georgia has 11 day reporting centers.*

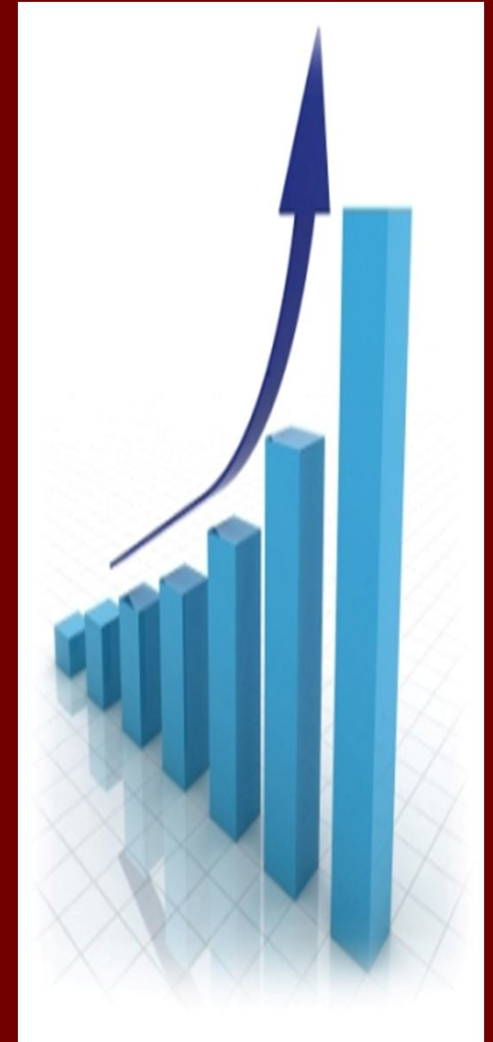
# Taking the Next Steps





# Asking the Right Questions: Demand Facts & Measure Results

- Criminal justice system must be held accountable just as any other government program
- How much crime reduction is achieved for each dollar spent on prison versus probation, parole, and prevention?
- Are victims satisfied?



# Asking the Right Questions: Demand Facts & Measure Results

- What percent of offenders in community corrections and prison are paying the restitution they owe?
- Which treatment, education, and work programs most reduce re-offending for each type of offender?
- What percent of offenders are paying child support?



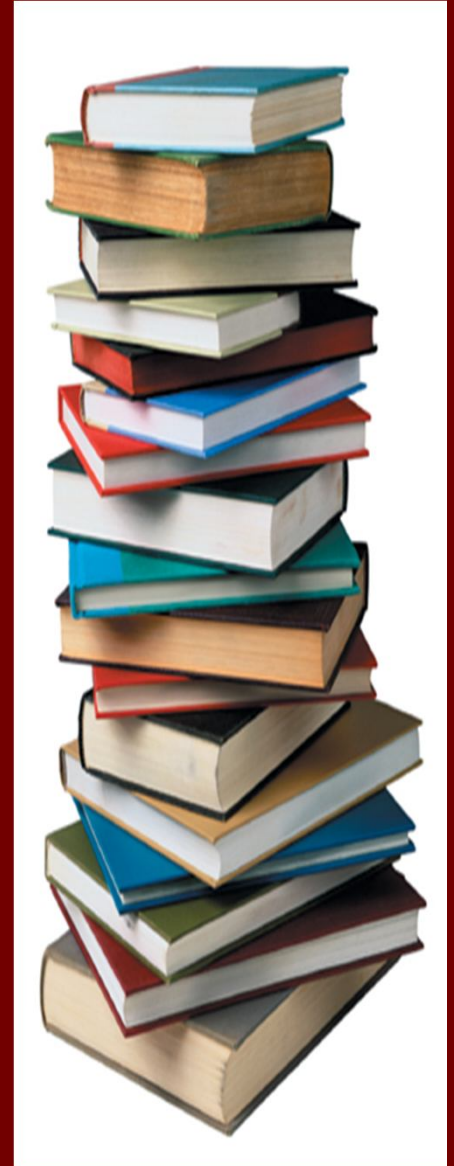
# Asking the Right Questions: Demand Facts & Measure Results

- How many non-violent first-time offenders go to prison?
- How many probationers and parolees are revoked for rule violations who could be safely supervised and treated given sufficient resources?



# Key Resources

- Texas Public Policy Foundation  
[www.texaspolicy.com](http://www.texaspolicy.com)
- Justice Fellowship  
[www.justicefellowship.org](http://www.justicefellowship.org)
- Texas Criminal Justice Coalition  
[www.criminaljusticecoalition.org](http://www.criminaljusticecoalition.org)
- Pew Center on the States  
Public Safety Performance Project  
[www.pewcenteronthestates.org](http://www.pewcenteronthestates.org)
- Council of State Governments  
Justice Center  
[www.justicecenter.csg.org](http://www.justicecenter.csg.org)



# Conclusion: Ohio is Ready for Proven, Data-Driven Solutions to Reduce Crime, Empower & Restore Victims, and Control Costs



*The presenter is pleased to provide supporting data and additional information upon request*