

GUEST PRESENTATIONS:

TEXAS CRIMINAL JUSTICE COALITION

TEXAS PUBLIC POLICY FOUNDATION

Legislative Budget Board

Criminal Justice Forum

April 4, 2014

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Outline of Today's Criminal Justice Forum

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- Criminal Justice Forum parameters
- Texas Criminal Justice Coalition
- Texas Public Policy Foundation
- Audience feedback and questions

Criminal Justice Forum Parameters

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- Diverse group of participants
- A learning opportunity for all
- Limited to the subject area
- Please hold all questions and feedback until the end of the presentation
- Please fill out the feedback form and turn in after the Forum (last page of handouts)
 - There is a section of the feedback form specifically for Agency/School Performance Review research suggestions

Feedback Form – Research Suggestions

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What did you like most about the forum?

What are your suggestions for improving the forum?

Other comments or suggestions:

Please provide us with any recommendations for future research or suggestions to improve current or planned research:

To help us better meet your needs, please check the category that best describes you:

☐ Legislative staff

☐ State agency staff

☐ Local government staff

☐ College/University Faculty

☐ College/University Student

☐ Advocacy group members

☐ Media/bloggers

☐ General Public

☐ Other, please specify: _____

Please provide us with any recommendations for future research or suggestions to improve current or planned research:

Criminal Justice Forum Parameters

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- Criminal Justice Forums are an opportunity for various groups to come together to learn about and discuss current issues in criminal/juvenile justice.
- If you have any questions that remain unanswered following the Criminal Justice Forum, please feel free to talk with any CJDA team member following the Forum
- Past Criminal Justice Forum presentations may be found here: <http://www.lbb.state.tx.us/CJDA.aspx?Team=CJDA>

Criminal Justice Forum Disclaimer

The information contained within this document was presented at the April 2014 Criminal Justice Forum on April 4, 2014. The April 2014 Criminal Justice Forum provided the Texas Criminal Justice Coalition and the Texas Public Policy Foundation an opportunity to share their current research and policy initiatives. The views and opinions expressed in this document are those of the authors and do not necessarily reflect the official policy or position of the Legislative Budget Board or Legislative Budget Board staff.



Legislative Budget Board Criminal Justice Forum

Priorities for 2015 Texas Legislative Session

April 4, 2014

Presented by Ana Yáñez-Correa, Ph.D.

Executive Director

Outline

Upcoming Interim Charge Issues:

School ticketing, youth in the adult system, graffiti reduction, state jails, Driver Responsibility Program, diversion options, access to post-release housing and employment, expunctions, county jails, criminal record sales

TCJC Priorities for 2015 Texas Legislative Session:

Solutions for Youth Justice ■ Solutions for Pretrial, Defense & Innocence
Solutions for Safely Reducing Incarceration ■ Solutions for Confinement & Reentry

Upcoming TCJC Policy Report Issues:

System-involved veterans, system-involved women, prison visitation, pre-booking diversion, consequences of system involvement, post-release housing, post-release employment

Solutions for Youth Justice

TCJC PROGRAMMATIC GOALS

- Safely remove children from system involvement whenever possible.
- For children already in the system, provide them rehabilitative help, and protect their rights and well-being in safe, age-appropriate facilities.
- Help system-involved children safely reenter the community.



Solutions for Youth Justice

TCJC LEGISLATIVE PRIORITIES

- Improve oversight of youth in all facilities in which they are held.
- Modify certain first-time marijuana possession penalties for younger defendants.
- Raise the overall age of commitment to secure facilities.
- Raise the age of juvenile jurisdiction from 17 to 18 years.
- Take every measures to ensure that children do not enter the adult system.
- Modify penalties for truancy offenses, from adult-level class C misdemeanors to juvenile offenses.

Solutions for Pretrial, Defense & Innocence

TCJC PROGRAMMATIC GOALS

- Protect and strengthen Texas' pretrial system to reduce the number of people unnecessarily awaiting trial in costly jails.
- Strengthen Texas' indigent defense infrastructure to help more people access attorneys.
- Reduce the number of people wrongfully convicted or incarcerated.



Solutions for Pretrial, Defense & Innocence

TCJC LEGISLATIVE PRIORITIES

- Expedite pretrial hearings.
- Continue to fund investments in a strong indigent defense infrastructure via the Texas Indigent Defense Commission.
- Take measures to reduce wrongful convictions and expedite exonerations.

Solutions for Safely Reducing Incarceration

TCJC PROGRAMMATIC GOALS

- Safely reduce prison, state jail, and local county jail populations through better alternatives.
- More effectively address drug crimes, mental health issues for specialized populations (including women and veterans), property offenses, and prostitution – without creating a criminal record.
- Counter efforts to create penalty enhancements or new crimes.



Solutions for Safely Reducing Incarceration

TCJC LEGISLATIVE PRIORITIES

- Repeal Texas' Driver Responsibility Program.
- Improve Texas' broken state jail system:
 - ✓ Allow judges to give credit for a probation term to individuals with certain nonviolent state jail offenses.
 - ✓ Shorten state jail sentences for certain offenses and require post-release supervision.
 - ✓ Require a probation term in lieu of a state jail term for certain offenses.
- Modify penalties for minor drug possession offenses:
 - ✓ Reduce penalties for the smallest drug possession offenses.
 - ✓ Allow judges to create tailored treatment programs, as necessary, to address first-time possession offenses.

Solutions for Safely Reducing Incarceration

TCJC LEGISLATIVE PRIORITIES (*continued*)

- More effectively reduce prostitution and help individuals safely, permanently exit the business through humane, rehabilitative assistance.
- More effectively address property offenses:
 - ✓ Update property penalties in light of inflation.
 - ✓ Reduce graffiti and provide property owner relief through cost-effective programming with cleanup services.
- Improve probation to reduce unnecessary, costly revocations:
 - ✓ Allow judges to make individual determinations about probation infractions and fashion alternative sanctioning or incentive mechanisms.
 - ✓ Help probation departments fully implement localized “commitment reduction plans” to safely reduce the number of individuals who fail their probation terms and who are sent to prison.

Solutions for Confinement & Reentry

TCJC PROGRAMMATIC GOALS

- Improve safety, transparency, efficiency, and access to rehabilitative services within and throughout correctional facilities.
- Improve Texas' parole system, including in regard to eligibility, release, sanctions, services, and standards.
- Reduce reentry barriers, especially in employment and housing, with the help of wrap-around services.



Solutions for Confinement & Reentry

TCJC LEGISLATIVE PRIORITIES

- Provide the timely award of credits for participation in self-improvement programming in state jails.
- Improve access to housing among individuals returning from confinement:
 - ✓ Protect landlords that rent or lease to individuals with a criminal history.
 - ✓ Identify ways in which landlords will be more likely to rent to cj involved populations.
- Allow record expunction following a term of deferred adjudication for certain nonviolent offenses.
- Implement “Ban the Box” policies at Texas state agencies.
- Prohibit the sale of mug shots and criminal records, which reduces access to housing and employment following incarceration.
- Continue to invest in the Texas Commission on Jail Standards.

Upcoming Policy Report Issues

Veterans in the Criminal Justice System

Women in the Criminal Justice System

Suggested Improvements to Current TDCJ Visitation Practices,
With Family and Inmate Perspectives

Pre-Brooking Strategies to Divert Special Populations

The Future of Pretrial in Texas

Lifelong Consequences of those With a Record

Housing Solutions for System-Involved Populations

“Ban the Box” to Encourage Second Chance Hiring

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Enhancing Public Safety & Right-Sizing the Texas Criminal Justice System



**Legislative Budget Board
April 4, 2014**

**Marc A. Levin, Esq. and Derek Cohen
Center for Effective Justice
Texas Public Policy Foundation (TPPF)
(512) 472-2700, mlevin@texaspolicy.com
www.texaspolicy.com, www.rightoncrime.com**

Introduction to the Texas Public Policy Foundation

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



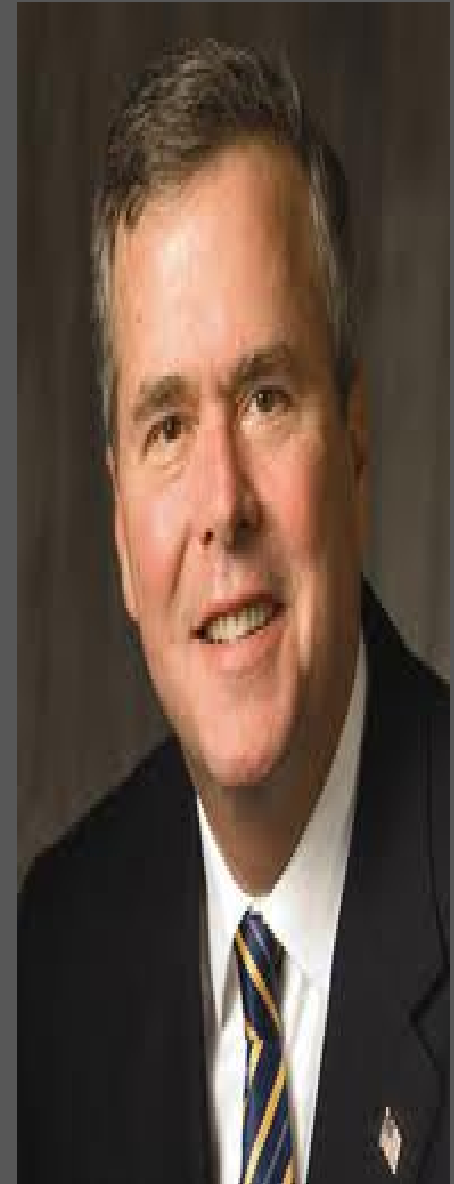
The TPPF Portfolio

- Fiscal and tax restraint
- Civil justice reform (worked to enact loser pays in 2011)
- Center for Tenth Amendment Studies
- Deregulation of (over)regulated industries like insurance and utilities.
- Center for Effective Justice launched in March 2005, Right on Crime in Dec. 2010



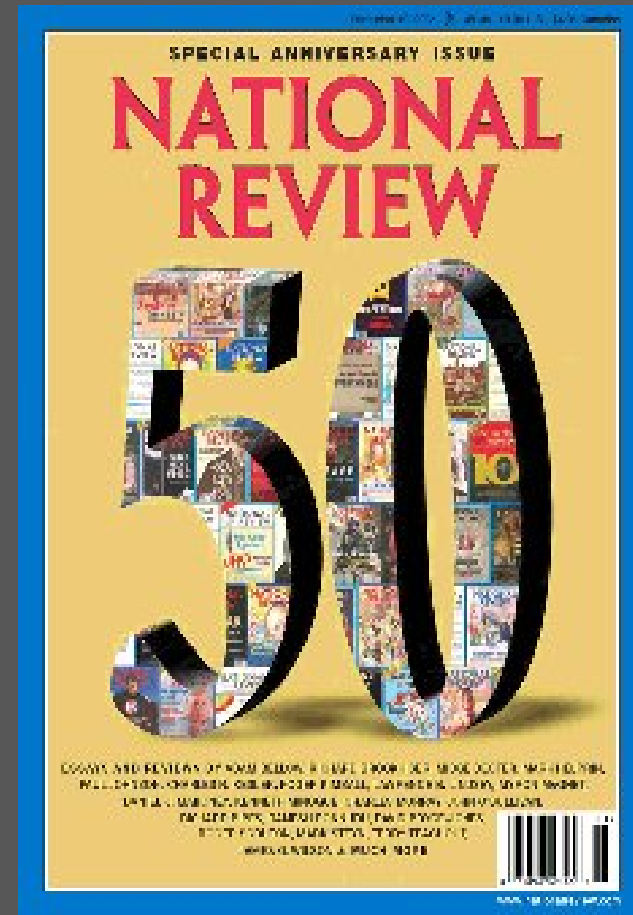
Right on Crime Enters the Field

- Former Governor Jeb Bush, Speaker Newt Gingrich, Former Drug Czar Bill Bennett, Grover Norquist, and Other Conservative Leaders Endorse Right on Crime Statement of Principles
- Statement Supports Reining in Growth of Non-Traditional Criminal Laws, Cost-Effective Alternatives for Nonviolent Offenders, Emphasis on Restitution and Treatment, and Performance Measures.





Favorably
covered in
numerous
outlets such as:



Do Conservatives Support a Prison for Every Problem?



Getting Criminal Justice Right

- Gov. Reagan in 1971: “Our rehabilitation policies and improved parole system are attracting nationwide attention. Fewer parolees are being returned to prison than at any time in our history, and our prison population is lower than at any time since 1963.”



Leadership of Governors

- LA.: Gov. Jindal: “hammer away at dubious distinction of highest incarceration rate in the world” with day reporting, jail reentry & work release
- TX.: Gov. Perry: “rehabilitate nonviolent offenders, spend less locking them up again”
- Govs. Kasich, Bryant, Daugaard, Deal & Corbett spearhead reforms.



Gov. Bobby Jindal

Is it always necessary to
increase incarceration in
order to reduce crime?



Incarceration & Crime

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

- ▣ Violent crime in New York City down 64% from 2000 to 2007 while 42% fewer inmates

How did Texas avoid building 17,332 prison beds?



The 2005 and 2007 Reforms Were Primarily Budgetary

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





Texas Probation Reform Proves the Right Incentives Work

- ▣ In 2005, additional \$55 million in funding for stronger probation supervision to probation departments that adopted progressive sanctions.
- ▣ Participating probation departments reduced their technical revocations by 16% while those that didn't increased technical revocations 8%.
- ▣ Had all departments increased their revocations by 8%, another 2,640 revocations for an average of 2.5 years at a cost to taxpayers of \$119 million, not including prison construction.
- ▣ Texas' felony probation revocation rate has declined 2.8% from 2005 to 2013.

Bolstering Texas Parole Supervision: Less Crime, Less Total Spending

- ▣ Since 2007, new crimes by parolees have declined by more than 30 percent even with there being more offenders on parole, saving at least \$30 million in avoided annual revocation costs..
- ▣ Improvements include instant drug testing, more substance abuse treatment, more job placement resources, enhanced use of graduated sanctions; restored parole chaplains, and increased officers' emphasis on helping parolees succeed instead of "trail'em, nail'em, and jail'em."

Texas Juvenile Justice Reform: Prioritizing Local Solutions

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



Texas Trend: Lower Incarceration and Crime Rates

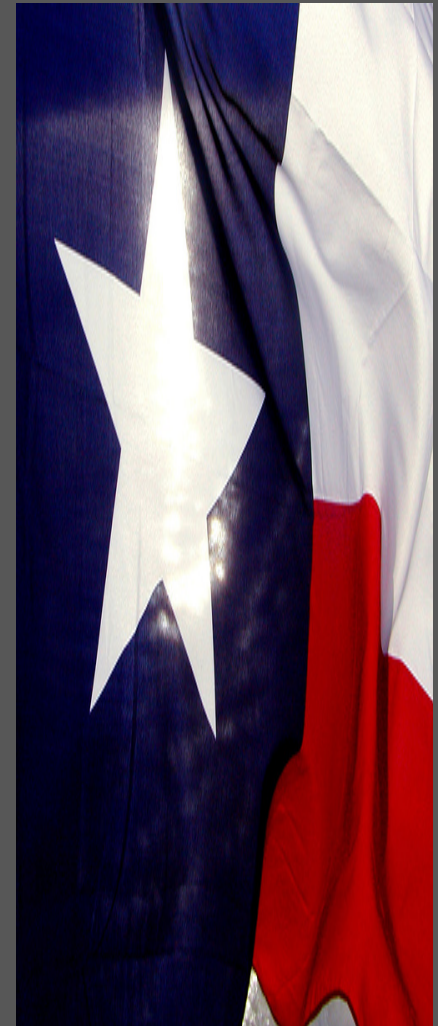
Year	FBI Index Crime Rate	Incarceration Rate Per 100k
2005	4,857.1	681
2012	3,770.4	601
Percent Change	-22.4%	-11.7%

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

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

Texas Juvenile Justice Reform: Less Incarceration & Less Crime

- ▣ The number of youths incarcerated at state lockups is about a third of the total in 2006 and the number of youths in county lockups has remained steady.
- ▣ Juvenile crime in Texas has continually declined, with arrests falling from 141,734 in 2005 to 92,164 in 2012.



Policy Options for Texas



Enhancing Alternatives to Incarceration



Implementing Incentive Funding: SB1055 from 2011

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



Strengthen Probation: Demand Results

- 2008-09: CA., IL. & AZ. pass performance-based probation funding measures providing departments with incentive funding for fewer commitments, fewer new crimes, and more restitution. AZ. measure led to 31% decline in new crimes and 28% drop in revocations.
- Illinois: electronic system-wide use of assessment instruments that match risk and needs to supervision strategies, tracking an offender from entry to reentry.



Problem-Solving Courts

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



Strengthening Supervision

- ▣ Require each judicial district to adopt matrix of graduated sanctions and incentives
- ▣ Enhance use of risk/needs assessments by prosecutors and judges with dashboard to match offenders with programs.
- ▣ Grant funding to reduce absconder technical revocations through monitoring. FL. Study: GPS monitored probationers were 89% less likely to be revoked.
- ▣ Georgia telephone reporting for low-risk offenders allows officers to spend more time visiting high-risk offenders.
- ▣ End direct release from solitary confinement

Drug Sentencing Reform

- Require probation, treatment, and drug court in low-level possession cases in lieu of prison unless the offender has a prior substantial record or judge finds danger to public safety.
- Reduce trace possession to a misdemeanor.
- S.C., KY., OH., GA., and AR. have reduced low-level drug possession penalties. Crime in South Carolina has declined since lowering drug penalties while using some savings to strengthen supervision and treatment.



State Jail Reform

- ▣ Return to original split sentencing model for most offenders whereby state jail term is a condition of probation.
- ▣ Pew 2013 New Jersey study found similar inmates put on parole had 36% fewer new offenses than max-outs. Promotes continuity of care for mentally ill.
- ▣ Use some savings from reduced time served to expand post-release supervision.



Adjust Property Offense Thresholds for Inflation

- ▣ No adjustment has been made since 1993
- ▣ Due to inflation, \$934 worth of goods in 1993 now costs \$1,500.
- ▣ The \$50 threshold between Class C and B leads to more arrests, costs for counties.



Revamp Probation Funding



- Funding should not be based solely on number of probationers, which discourages early terminations.
- Formula should be frontloaded, account for risk levels, and adjust for early terminations.
- Formula could incorporate number of felony referrals to probation and county's population, which are used in juvenile formula.

Remove Barriers to Reentry

- ▣ Ensure discharged inmates have photo ID
- ▣ Provide liability relief to landlords.
- ▣ Reduce waiting periods for nondisclosure for nonviolent offenses. Two years now for bigamy but none for burglarizing a vending machine.
- ▣ Expand nondisclosure to regular probation for low-level drug possession offenses after successful completion.



Prioritizing Victims



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

Making Victims Whole

- ▣ Probationers pay \$47 million in restitution (98 times more per offender than inmates) and do 9.7 million service hours.
- ▣ Victim mediation: Must be chosen by victim & offender. Proven to increase victim satisfaction as a result of apology and completion of restitution in 89% of cases. Most studies find less re-offending as well.



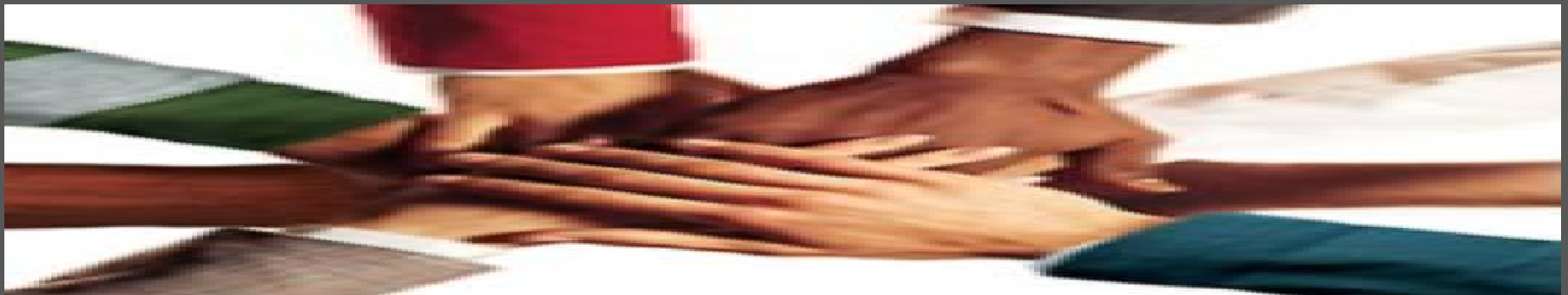
The Victims' Perspective

Survey of Iowa Burglary Victims

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

Raise the Age

- ▣ Raise the age of juvenile jurisdiction to 18 for misdemeanors with judicial discretion to transfer nonviolent 17 year-old felony offenders to juvenile court.
- ▣ National studies show 33.7% less recidivism in juvenile system, which is better situated to work with parents and schools.
- ▣ Helps county jails avoid PREA costs
- ▣ TX juvenile probation has 1/3 revocation rate of adult probation.



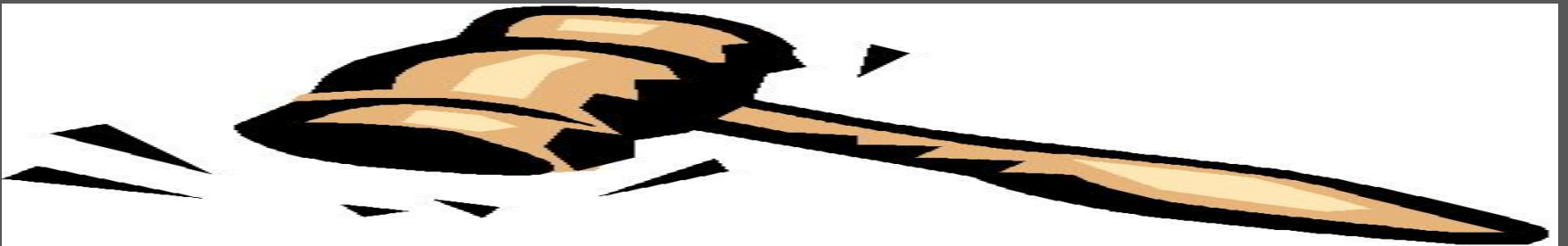
Abolish Truancy Misdemeanor, Leaving Status and Parental Offenses

- Keep status and parent contributing offenses
- In FY 2012, nearly 76,000 Failure to Attend School (FTAS) were filed, with 36k in Dallas.
- FTAS carry \$500 fine, warrant if unpaid
- Dallas truancy court is deemed successful as a cash cow, collecting nearly \$3 million in FY 2012 alone, but does it solve the problem?
- Ban out-of-school suspension for truancy



Reining in Overcriminalization

- ▣ More than 1,500 offenses scattered outside the Penal Code, including 11 oyster-related felonies.
- ▣ Create a commission to develop an omnibus proposal eliminating unnecessary and duplicative laws.
- ▣ Adopt rule of lenity.
- ▣ Require caption to indicate bill creates or enhances an offense and exclude such bills from Local & Consent Calendar.



Taking the Next Steps to Turn Ideas into Action



Recommendations for the LBB

- Bridge court and corrections data by county
- Track offense and risk level of participants in programs such as drug courts to differentiate diversion and net widening effects
- Work with counties to develop commitment reduction plans pursuant to SB1055
- Partner with Office of Court Administration to develop more outcome-oriented performance measures for courts, prosecutors to ensure successful diversions are not just “dismissals”



Recommendations for the LBB

- Strengthen fiscal notes, quantify local impact
- Publish simulations of various policy changes
- Examine whether length of incarceration, particularly for technical probation violations, is correlated with recidivism
- Estimate extra cost of solitary confinement
- Quantify benefits to workforce and tax collections when those diverted from prison hold jobs and possible reduced use of welfare and child welfare system



Key Resources

- ▣ Texas Public Policy Foundation
www.texaspolicy.com
- ▣ Heritage Foundation
www.overcriminalized.com
- ▣ Right on Crime
www.rightoncrime.com
- ▣ Pew Public Safety
- ▣ Performance Project
www.pewcenteronthestates.org
- ▣ Council of State Governments
www.csgjusticecenter.org
- ▣ Justice Fellowship
www.justicefellowship.org

