

# justice reform

Achieving a safer, more just, and fiscally responsible justice system in Florida



## “Smart Justice”

### Findings and Recommendations for Florida Criminal Justice Reform

February 2010



**COLLINS CENTER**  
FOR PUBLIC POLICY

# “Smart Justice” Findings and Recommendations for Florida Criminal Justice Reform

Collins Center for Public Policy  
February 2010

## Executive Summary

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With Florida’s prison population now surpassing the 100,000 mark, powerful voices, a growing number from the business community, are speaking out about the alarming rate of prison growth and the unsustainable spending necessary to maintain it. They are striking a chord of urgency, saying we cannot continue on this path. We must find better ways to achieve a safer, more rational and more cost-effective criminal justice system.

Over the past year, in response to this growing crisis, the Collins Center for Public Policy worked

closely with the state’s business community as it became a new and vital voice for justice reform. Together, we issued an “Open Letter to the Legislature, Governor and People of Florida,” outlining the urgent need for change, and we convened the November 2009 Justice Summit, which brought together major players throughout the state to form a consensus on how to make that change.

The Smart Justice report reflects the work undertaken to analyze the growth of Florida’s corrections system and the policies driving that growth. Based on that analysis, the following reform recommendations are made to chart a course for a sustainable criminal justice system that costs less, in some cases immediately and in others, after the passage of a short period of time, and achieves better outcomes:

1. Tallahassee must ensure that the Correctional Policy Advisory Council and its Justice Reinvestment Subcommittee are up and running and receive the support they need. The people attending the Justice Summit were unanimous on this point.

justice reform



We must assess Florida’s criminal justice system as other states have done, and we must open our doors to the Council of State Governments and the Pew Public Safety Performance Project to steer us toward successful evidence-based solutions and models.

2. The Legislature should build on the kind of cost-saving sentencing reforms it enacted in 2008 and 2009.

This includes diverting nonviolent offenders from prison and requiring courts to show justification for imprisoning defendants with 22 or fewer points under the Criminal Punishment Code.<sup>1</sup> These measures have already had a significant impact and should be expanded.

The Legislature should also revise prison penalties for low-level drug offenses and theft offenses. Those in place now trigger state incarceration for relatively small quantities of drugs and low dollar amounts. Lawmakers should also revisit mandatory minimums and gain time, through which prisoners can earn up to 10 days per month off their sentences. Under current law, a prisoner must serve no less than 85 percent of his sentence, no matter how much gain time he would have earned.

3. Address the significant county-by-county sentencing disparities reported by the Legislature’s Office of Economic and Demographic Research, especially those involving people convicted of low-level offenses. The Legislature should consider shifting the financial incentives currently in place for state incarceration toward local supervision and treatment. (*Immediate cost-savings*)
4. The Legislature should support the expansion of drug courts and split sentencing, in which drug treatment commences in prison and continues upon release under drug court supervision. (*Intermediate cost-savings*)
5. The Legislature should increase the number of work release and other less costly non-institutional prison beds and decrease the number of more costly institutional beds. It should also overrule the DOC policies of holding one prison bed in reserve for every work release bed and capping work release at 4 percent of the inmate population. (*Immediate cost-savings*)
6. Faith and character-based prisons, proven to reduce recidivism at no greater cost, should be expanded to accommodate the 10,000 inmates on the waiting list. (*Intermediate cost-savings*)
7. The Legislature should enact legislation that will divert mentally ill and addicted individuals from the criminal justice system to community-based treatment. (*Intermediate cost-savings*)
8. The Legislature should require the Department of Corrections and the Department of Management Services, as appropriate, to provide essential information on each prison and prison facility (both private and public) that is planned or under construction.

It is time for our state to rethink thirty-year-old policies that may have served the state well in their time. But their time has passed. We know more now. We must be evidence-driven and fiscally conservative. Continuing to pour money into a bloated prison system in a time of fiscal austerity is not only unsustainable, it confounds common sense.

# “Smart Justice”

## Findings and Recommendations for Florida Criminal Justice Reform

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With Florida’s prison population now surpassing the 100,000 mark, powerful voices, a growing number from the business community, are speaking out about the alarming rate of prison growth and the unsustainable spending necessary to maintain it. They are striking a chord of urgency, saying we cannot continue on this path. We must find better ways to achieve a safer, more rational and more cost-effective criminal justice system.

Over the past year, with financial support from the Annie E. Casey Foundation and the Florida Bar Foundation, the Collins Center for Public Policy has spearheaded an effort that has fashioned an unprecedented coalition of voices.

### The call for reform

Last summer, these new voices issued an “Open Letter to the Legislature, Governor and People of Florida.” In it they called for action to “quickly and comprehensively reform the state prison system and corrections policies.”

Organized by the Collins Center and the Steering Committee of the “Coalition for Smart Justice,” the letter was signed by leaders of Florida TaxWatch, Associated Industries of Florida, the Florida Chamber Foundation, the Police Benevolent Association, the Florida Association of Counties, social services and prisoner re-entry groups, three former attorneys general, former legislative leaders, a former governor and other government officials. The letter expressed their consternation over the policy choice to continually expand the prison system at the expense of other state priorities.

“At a time when Florida is in serious recession,” they wrote, “and facing a deep state budget crisis, the \$2+ billion budget of the Florida Department of Corrections has grown larger; and without reform, that budget will continue to grow at a pace that crowds out other mission-critical state services such as education, human service needs, and environmental protection.”

### Course Correction

Florida's politicians have remained wary of reform efforts, equating reform with being soft on crime. But a new voice is calling for an overhaul of the system over the next few years: the state's business community.

Leaders at the Florida Chamber of Commerce and Associated Industries [say] the idea is to focus not solely on today, but on developing policies that will allow Florida to prosper in the future.

They imagine a future of lower spending on prisons; a single-digit recidivism rate; and job-training for inmates targeted at the needs of Florida businesses in 2020, 2030 and beyond.

"In the heyday, if we had \$100 million, it was easier to build a new prison than it was to work on this problem," says Tony Carvajal, executive vice president of the Florida Chamber Foundation, the research arm of the Chamber of Commerce.

"We don't have that option anymore. But at the end of this, we don't just want to balance the budget. We want to build a better state."

*Florida Trend, May 2009*

The press took note. Across the state, editorials and columnists noted the uniqueness of this new coalition and lent their own endorsements of fundamental criminal justice reform.

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## Justice Summit 2009

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Seeing the need for a statewide conversation about reform, the Collins Center hosted a two-day Justice Summit in Tampa in November that brought together nearly 300 public officials and private professionals. In attendance were leaders from the state’s most powerful business organizations, state and national criminal justice experts, prosecutors, judges, legislators and officials from corrections, juvenile justice and human services.

### Less crime is better than more prisons

Howard Troxler of the *St. Petersburg Times* epitomized the response by the press to the letter. He looked at what the letter was calling for and wrote, “Old stuff, really. Corrections experts have been saying this for years. But this was signed by three former Florida attorney generals, the directors of Florida TaxWatch, the Florida Police Benevolent Association, the Florida Chamber Foundation, Associated Industries of Florida, the Florida Association of Counties. Not a bunch of bleeding-heart egghead academics, but conservative leaders who can't stand frittering away billions on bad prison policy.”

Howard Troxler, *Less crime is better than more prisons*, *St. Petersburg Times*, 7/15/09

Summit participants discussed the progress being made in and out of Florida, ideas to save money and achieve better outcomes. They also recognized the miles to go before we reverse present trends and restrict spending to what is necessary and wise to protect and improve public safety.

They agreed on the following core recommendations:

- **Establish a council to analyze all of the criminal justice and corrections policies and make recommendations for reforms.** Fully implement Senate Bill 2000, passed in 2008, establishing the Correctional Policy Advisory Council.
- **Focus on securely locking up the most dangerous criminals rather than nonviolent offenders** who can be turned around with treatment and services.
- **Beef up existing drug, alcohol and mental health services, both in and out of prisons, and create solid education and job training programs, especially for young offenders.**
- **Enact other reforms that slow prison growth.** Find opportunities for concrete changes that can reduce the numbers we lock up and how often they return to prison.

### Parker Thomson, President of the Collins Center for Public Policy Speaking at the Summit

In the past legislative session, in an effort to bring the business community into this effort, the Collins Center worked with Associated Industries of Florida, with Florida TaxWatch and with the Chamber of Commerce in an attempt to stop the building of prisons, which, at least in that session registered. With a cost of a hundred million dollars for each new prison and \$25-45 million a year to operate them, it would seem we could come up with better solutions than to build new prisons, which I think most everyone can see are the most expensive and the least effective way of dealing with offenders.

This report reflects those core reform recommendations, the work undertaken over the past year to analyze the growth of Florida’s corrections system, the policies driving that growth, and the specific reforms we believe can reverse course.

Generally reflecting the insights, perspectives and objectives of those who attended the Summit, it provides a snapshot of the criminal justice and corrections systems as they are today in Florida and of how we got where we are. It takes note of the reforms made thus far and sets forth its findings and reform recommendations. It seeks to chart a course for a sustainable criminal justice system that costs less and does more.

Tony Carvajal, Executive Vice President of the Florida Chamber Foundation, summed up the sentiments of the conference and particularly the business community this way, “**Tough on crime is one thing – irrational is another.** There’s a lot of waste in this system. When one in ten dollars is going into corrections out of our general fund, that’s a problem -- when we could be making those investments in something else like education. And imagine the loss from over 100,000 people not participating in our economy!”

“Corrections remains one of Florida’s few ‘growth industries,’ but it is ultimately an unsustainable one. The fact that the state has now given itself the option of exporting surplus prisoners elsewhere is a damning admission that the state’s ‘lock-em-up-and-throw-away-the key’ mind-set toward criminal justice is doomed to failure.

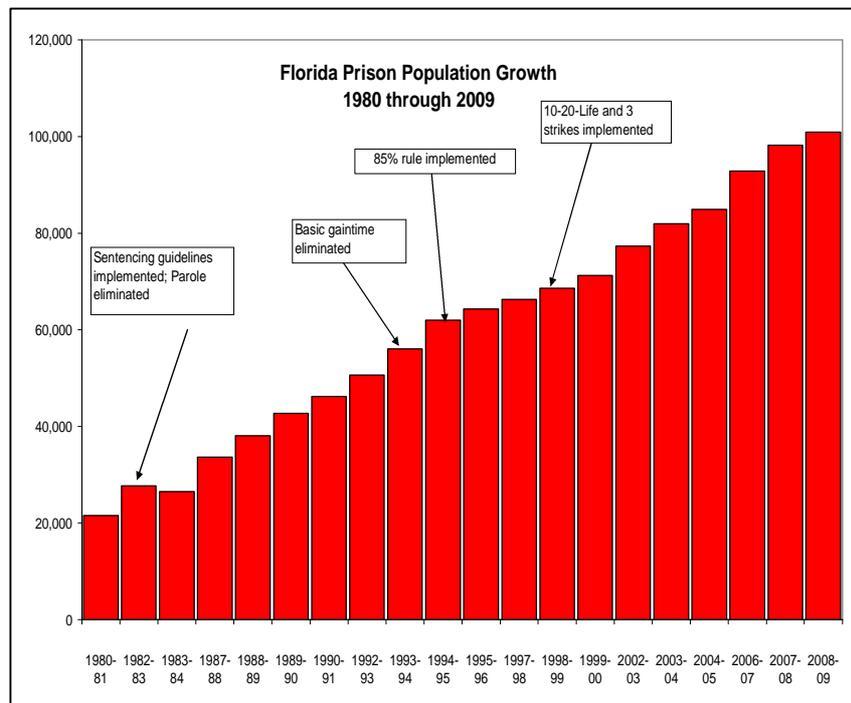
“The Coalition for Smart Justice has challenged Gov. Crist and the Florida Legislature to find another way. Will Tallahassee accept that challenge?”

Editorial: For Smart Justice, *Gainesville Sun*, 6/26/09

## Florida’s ever-growing prisons

In 1980, there were 21,579 people in our state prisons.<sup>2</sup> By October 2009, the number had reached 101,497.<sup>3</sup>

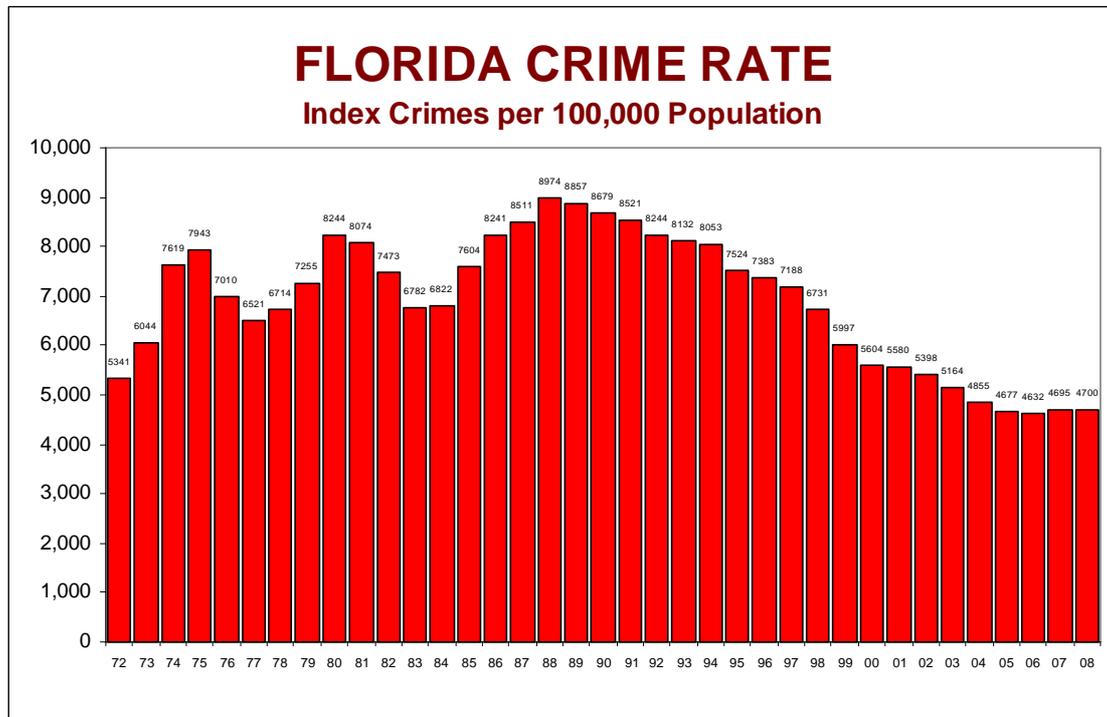
The growth in the state’s population does not nearly account for the prison growth. While Florida’s general population is not quite double what it was in 1980, the prison population is five times larger<sup>4</sup>



CRIMINAL JUSTICE TRENDS, Criminal Justice Estimating Conference, 9/29/09, Office of Economic and Demographic Research, The Florida Legislature

Yet the *crime* rate is down. In 1980, the number of reported serious crimes, also called index crimes, (murder, rape, robbery and aggravated assault, and the property crimes of burglary, larceny, and

motor vehicle theft) per 100,000 residents was 8,074; today it is 4,700.<sup>5</sup> That is a drop of 42 percent over the past thirty years.



CRIMINAL JUSTICE TRENDS, Criminal Justice Estimating Conference, 9/29/09, Office of Economic and Demographic Research, The Florida Legislature

It is tempting to credit the increase in prison population with the reduction in the crime rate, but that cause-and-effect scenario goes just so far.

Research shows that while some decrease in crime is attributable to incapacitating dangerous criminals, after a point, increased rates of incarceration offer diminishing returns and a negative benefit-to-cost ratio. This is especially true when we increasingly incarcerate people for nonviolent drug offenses and other low-level crimes.<sup>6</sup>

The Vera Institute for Justice examined the key studies on this issue and found that **“Analysts are nearly unanimous in their conclusion that continued growth in incarceration will prevent considerably fewer, if any, crimes — and at substantially greater cost to taxpayers.”**<sup>7</sup>

Yet, instead of focusing our resources on dangerous people who need to be locked up, where the cost is well worth the public safety benefits, we are more and more filling Florida’s prisons with nonviolent offenders.

Over the past thirteen years, the share of violent offenses accounting for prison admissions *decreased* by 28 percent. During that same period, the share of admissions for “other” offenses, i.e., offenses that are nonviolent, are not property crimes, and are not drug crimes *increased* by 189 percent.<sup>8</sup> One of those offenses was driving with a suspended license -- the very charge that recently landed a 78-year-old grandmother in the Broward County jail for 15 days.<sup>9</sup>

"We really needed to do a much better job of taking away the symptom of locking 'em up and throwing away the key," Dominic Calabro, CEO of Florida TaxWatch, said this week during the conference, sponsored by the Collins Center.

"Because it became unsustainably expensive and increasingly a training ground for prisoners to become better convicts, better perpetrators of harm and evil against the people of Florida."

The News Service of Florida, 11/18/09

Florida is not alone in grappling with an explosion of prison growth corresponding with neither increases in population nor crime. In the 1970s the nation incarcerated about 250,000 people; the figure is now 2.4 million.

In response to this disturbing trend, Senator Jim Webb of Virginia introduced the National Criminal Justice Commission Act last spring to address, as he puts it the "situation that has evolved over time where we are putting far too many

of the wrong people into prison and we are still not feeling safer in our neighborhoods, we're still not putting in prison or bringing to justice those people who are perpetrating

violence and criminality as a way of life."

Senator Webb's analysis of the problem starts with this basic premise, "We have 5% of the world's population; yet we have 25% of the world's known prison population. We have an incarceration rate in the United States, the world's greatest democracy, that is five times as high as the average incarceration rate of the rest of the world. There are only two possibilities here: either we have the most evil people on earth living in the United States; or we are doing something dramatically wrong in terms of how we approach the issue of criminal justice."<sup>10</sup>

Of course we don't have the most evil people in the world, but we have made policy choices that have led to skyrocketing incarceration rates. As the Pew Public Safety Project has noted, "The remarkable rise in corrections spending wasn't fate or even the natural consequence of spikes in crime. It was the result of state policy choices that sent more people to prison and kept them there longer."<sup>11</sup>

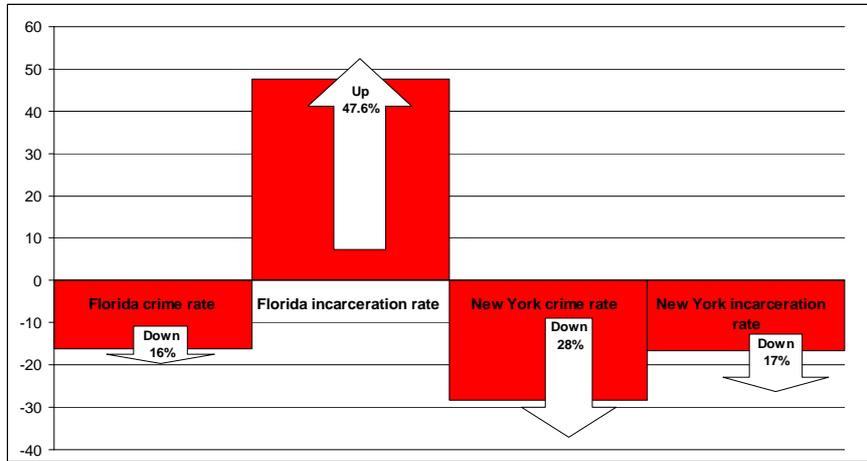
Pat Nolan, once the minority leader of the California Assembly and a former prison inmate, echoes this sentiment. "One of the mistakes I made as a legislator was that I thought we could put them in prison and forget about them. But I forgot that 95 percent come back. What kind of neighbors will they be?"

Increasingly, states are changing their policies to reverse this trend. New York has been a national leader in reducing its crime rate, *but as it did so, it cut its incarceration rate, too*, and has been closing prisons. Florida has not been nearly as aggressive in examining and revising former policy choices. While many states have responded to explosions in prison growth and prison spending by changing policies and practices to reverse the tide, in recent years Florida has *added* more prisoners than any state in the nation.

*Some of the policymakers who enacted laws that caused the exploding growth are revising their opinions. Mark Earley, the president of Prison Fellowship, served in the Virginia Legislature in the late eighties and early nineties. He says, "I spent most of my time in the Legislature working on how to put more people in jail and keeping them there longer." But now he says, "I was wrong. I repent!"*

Suellentrop, Chris, "The Right Has a Jailhouse Conversion," *NY Times Magazine*, December 24, 2006.

### Crime Rates and Incarceration Rates -- Florida and New York



The states reversing their prison growth are looking at whom they incarcerate, for how long and for what offenses. And they are looking at ways to reduce the number of people who are released from prison and then continue to commit crimes. Now Floridians have come together to urge the state’s lawmakers to do the same.

### At what cost? \$2.6 billion and growing

To maintain our spending on prisons, we must either increase revenue (taxes) or spend less on other priorities. In 2008, we *slashed* education funding by \$332 million and *added* \$308 million to the Corrections budget.

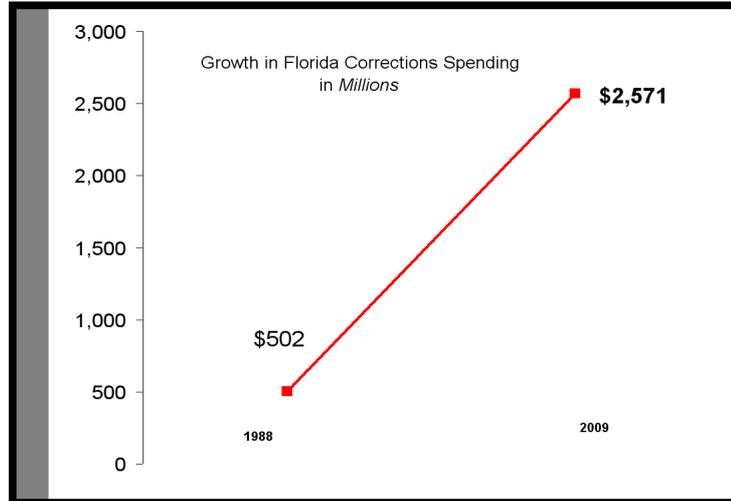
The increased spending built two state prisons and one private prison for a total of 10,200 new beds.<sup>12</sup>

But it is not just the state’s school system that absorbs cuts in favor of prison construction. Within the

Corrections budget, funds for education, treatment and job training are cut as well, reducing efforts to shut down the revolving door that leads many back to their prison cells.

Florida is third in the nation in the share of state general funds (10 percent) spent on corrections. And while the national average of state employees in the correctional workforce is 11 percent, in Florida it is 15.1 percent.<sup>13</sup>

If we were making a good return on the amount spent on Corrections (and focused that spending on confining and rehabilitating serious offenders), it would be money well spent. But the return is not



good. Within three years, 40.5 percent of the men released from prison will offend again, and 26.7 percent will be re-imprisoned for a new offense.

Dominic Calabro, President and CEO of Florida TaxWatch, says that instead of accepting prison growth and recidivism as a given, we should “find those prisoners who can be rehabilitated, particularly nonviolent offenders, those that are not sexual predators, and find ways to help them re-entering from the system or even preventing them from going in.”

We are spending our taxpayers’ money to lock up an increasing percentage of non-violent offenders, but we are doing little to rehabilitate them. Meanwhile, our violent prisoners are seeing even less effort at rehabilitation, but most of those, too, will be released. Last year a quarter of the inmates leaving our prisons had been convicted of violent offenses.<sup>14</sup>

Without changes in the laws and policies driving prison growth, the \$2.6 billion we spend on Corrections will only go up. AIF’s Barney Bishop is concerned that business will have to furnish the money. At the Smart Justice Summit, he explained: “We don’t have an income tax in Florida, so the business community is going to have to pay for this investment.”

Bishop says, “In addition to the extraordinary costs, the business community knows this is an important issue because we’re going to need these kids and adults coming out of the juvenile justice system and adult prison system in order to create a thriving economy in this state. To the extent that we change the way that we’re doing business, spend less money with a better outcome, that’s in the business community’s interest.” (For a full list of presenters and their topics please visit our website at [www.collinscenter.org/?page=CSJSummit](http://www.collinscenter.org/?page=CSJSummit).)

Bob Butterworth, a former Broward sheriff, prosecutor and 20-year attorney general, said his two-year stint as secretary of the Department of Children & Families reinforced his belief in the value of prevention dollars – which are typically the first to be cut during lean years.

**“Sometimes the worst dollar we spend,” Butterworth said, “pays for bricks and mortar.”**

Florida still will need prisons for violent felons, Butterworth said. But spending \$1 billion over the next decade to build new prisons for drug addicts and people with mental illness, he added, is “nuts.”

“There’s just got to be a better way.”

*Miami Herald*, Jun. 24, 2009

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## The emerging reform agenda

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**F**lorida must look at *whom* we incarcerate, for *how long* and for what *offenses*; and we must address what we are doing to reduce the number of people who return to prison after release.

The costs are too great and the consequences are too dear to take off the table any sound idea that can reduce costs and increase public safety.

Such reforms are not unknown to the Florida Legislature, which has made some progress in improving the justice system. In 2008, for example, it responded to data showing an increase in incarceration for low-level crimes by changing the law.

Consider the following example:

### The case of the unexpected prisoners

It was a mystery. Not the Sherlock Holmes sort of mystery that ends, after careful, insightful deduction, with the culprit’s unveiling and swift incarceration. This mystery began after the bad guy was sentenced and the heavy, barred door had clanged shut behind him.

We just didn’t know who he was. Or why there were so many just like him.

He cropped up in 2003, and again in 2004. For a while he had the state of Florida stumped.

The state’s prison population had been relatively stable, but started zooming upward, and the numbers made no sense. The increase in 2001 had been really small – 1.1 percent – and 2002 had been similar – 2.1 percent. Now the number was 10.8 percent, 3,700 more criminals than last year.<sup>15</sup> Where did they come from?

The researchers first checked the crime rate, but it had gone down 2.1 percent.<sup>16</sup> Fewer crimes and more criminals? It made no sense. But wait. Crime rates are calculated by counting “index crimes”: murder, sexual offenses, robbery, aggravated assault, burglary, larceny and motor vehicle theft.

It is commonly thought that prison time – “hard time” – is reserved for people who have committed that sort of crime, the kind that gets the headlines. While it’s true that only a felony conviction buys a ticket to state prison, what’s less well known is the wide range of activities the Legislature has made into felonies.

The researchers who count the state’s prison inmates for the Legislature suddenly realized why the numbers were going up.

The steep increases fell in a category that had been so insignificant in the past that it had been called “other.” The people filling the prisons – the mystery man and his cohorts – were in prison for having committed “other.”

“Other” offenses as a percent of all offenses increased from 10 percent in 2002 to 11.3 percent in 2004. In 1996, only 7.6 percent of the people sent off to prison had committed these “other” offenses.

The new criminals, it turned out, didn’t rape, murder or steal. The team drilled down further. What offenses in this category called “other” were driving the growth? They discovered that a significant increase was due to the “other” offense of driving with a suspended license. Mystery solved.

As one of these researchers, Kathleen McCharen, explained at the Justice Summit, the Legislature had made changes in the law that made the failure to meet various financial obligations (for instance, court fines and child support) cause to suspend a driver’s license. With more such failures punishable by license suspension, there were more felony convictions for driving a third time with a suspended license. In 2003 the increase was 10.8 percent; in 2004, it was another 10.4 percent.

The Legislature quickly responded, passing a law<sup>17</sup> that changed what had been a felony for repeated convictions for driving with a suspended license to a misdemeanor for many whose convictions resulted from the inability to make payments on obligations.

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## We know more about what works: Building on success

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**T**he Legislature’s thoughtful probing of data underlying the “other” spike in incarceration and its taking action to address the problem are precisely what is needed across the board. A policy choice that seems wise at the time sometimes produces unintended consequences and unanticipated costs emerge.

The choice to make “driving with a suspended license” a felony was probably intended to deter and punish such driving, but when lawmakers realized the cost to taxpayers and to drivers who could not afford the obligations they had incurred, they took a second look. Upon assessing the costs, they realized state prison time was not the best answer to the problem. They then set out to make a needed course correction and accomplished it quickly.

The importance of this kind of analysis is clear; it is not an analysis that is limited to sentencing.

In 2008 and 2009, the Florida Legislature passed laws designed to slow the rate of admissions for low-level offenders such as offenders driving on suspended driver’s licenses. If Florida wants to continue to reduce prison admissions by reducing recidivism and diverting non-violent offenders from prison, then more systemic policy changes are needed.

Senate Committee on Criminal Justice, Interim Report 2010-312, September 2009, “Simple Purchase or Possession of Cocaine and Cannabis: Other States’ Sentencing Alternatives to Incarceration”

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## Progress thus far

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What follows are other examples of reforms that have had an impact and that were illuminated at the Justice Summit. Some were legislative changes, some were policy changes and some may have been simply the result of changes in the political winds.

Over the past few years Florida has started to re-examine its correctional policies, and more broadly, its criminal justice policies. At the urging of Governor Jeb Bush’s Ex-Offender Task Force, which was appointed in 2005 to facilitate effective re-entry from prison and thus reduce recidivism, the Department of Corrections revised its mission from one of exclusively “custody and control” to address re-entry as well, with strategies that we hope will help to reduce recidivism.

The Legislature, DOC and local courts have made adjustments in sentencing laws, policies and practices in addition to the one noted in the case study above. Florida, the first state to create a drug court, has expanded its use and developed other specialized courts as well.

### **New Florida Corrections Mission**

To protect the public safety, to ensure the safety of Department personnel, and to provide proper care and supervision of all offenders under our jurisdiction **while assisting, as appropriate, their re-entry into society.**

Last session, the Legislature addressed the problem of nonviolent offenders being sent to prison even though they scored only half the Criminal Punishment Code’s recommended score for state incarceration. It also created more diversion options for the courts.

At the county level, without any change in the law, there has been a decline in the use of year-and-a-day sentences that shift corrections costs from the counties to the state. (A one-year sentence or less is served in a county jail; those with longer sentences are sent to state prisons.) Last year, year-and-a-day sentencing was down by 29.5 percent, but one county’s decline was largely due to its having switched from a year and a day to a year and a month.<sup>18</sup> And over the past two years, we saw a *reduction* in prison admissions for technical probation violations – down last year by 19.4 percent.<sup>19</sup>

Faith- and character-based prisons have been developed and expanded.

Bush’s Ex-Offender Task Force found that more than 40 percent of the jobs in the Florida economy carried state-created employment restrictions based on criminal histories. For example, the state had required people with felony convictions to first get their civil rights restored to work at a number of jobs and places of employment. The Legislature and state agencies have revised some of these policies. But many other types of restrictions persist.

Florida has not gone as far in making changes as states like Texas, which averted the construction of prison beds by investing in treatment and diversion programs. By partnering with the Pew Public Safety Performance Project and the Council of State Government’s Justice Reinvestment Initiative, Texas found a way to avoid \$523 million in prison construction costs with a \$241 million investment in diversion strategies.

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## FINDINGS AND RECOMMENDATIONS

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**FINDING:** *Florida has not done a comprehensive review of the laws and policies driving prison growth and leading to poor outcomes such as high rates of recidivism, probation violations, and juveniles graduating to the adult system.* States like Texas, Alabama, Mississippi, Nevada and Nebraska are performing top-to-bottom analyses of the policies and practices that have driven prison growth. They are designing policies to manage that growth, improve accountability, and reinvest a portion of the resultant savings.

1. **Recommendation (intermediate and long-term cost-savings):** *Ensure that the Correctional Policy Advisory Council and its Justice Reinvestment Subcommittee are up and running and receive the support they need.* The people attending the Justice Summit were unanimous on this point.

### Correctional Policy Advisory Council

The Correctional Policy Advisory Council is created within the Legislature for the purpose of evaluating correctional policies, justice reinvestment initiatives, and laws affecting or applicable to corrections, and for the purpose of making findings and recommendations on changes to such policy, reinvestment initiatives, and laws.

921.0019, F.S.; SB 2000 (2008)

We must assess Florida’s criminal justice system as other states have done, and we must open our doors to the Council of State Governments and the Pew Public Safety Performance Project to steer us toward successful evidence-based solutions and models.



**FINDING:** *Florida has met with success in making sentencing and diversion reforms that have had an impact on reducing the prison population.* But states such as Colorado, Iowa, Arkansas, Alabama, Ohio, Kansas, Pennsylvania, Washington and Massachusetts have redefined and reclassified criminal offenses and changed sentence lengths in a manner that has not undermined public safety and has reduced correctional spending. The National Conference of State Legislatures recently reported that, “In 2009, at least 12 states eliminated or decreased prison sentences for theft or drug offenses.”<sup>20</sup> Florida was not among them. Both the Legislature’s Office of Program Policy Analysis

and Government Accountability and the Senate staff have developed reform recommendations over the last few years that align with this approach.

**2. Recommendation (immediate cost-savings):  
The Legislature should build on the kind of  
immediate cost-saving sentencing reforms it  
enacted in 2008 and 2009.**

This includes diverting nonviolent offenders from prison and requiring courts to justify imprisonment of defendants with 22 points or fewer under the Criminal Punishment Code. These measures have already had a significant impact and should be expanded.

The Legislature should also revise prison penalties for low-level drug offenses and theft offenses. Those in place now trigger state incarceration for relatively small quantities of drugs and low dollar amounts. Lawmakers should also revisit mandatory minimums and gain time, through which prisoners can earn up to 10 days per month off their sentences for good behavior. Under current law, a prisoner must serve no less than 85 percent of his sentence, no matter how much gain time he would have earned.

Last month, a coalition of business leaders and law enforcement professionals called on the Legislature to find ways to avoid adding still more prison beds to Florida's \$2.2 billion and growing correctional system.

**Certainly sentencing reform and parole restoration must be high up on the agenda if lawmakers want to get a handle on runaway correctional costs.**

Otherwise, the day will come when Florida taxpayers will find themselves footing the bill for a system of geriatric prisons to support aging inmates who pose little or no danger to society.

Editorial: Geriatric jails  
*Gainesville Sun, 7/29/09*



***FINDING: Drug courts and other specialized non-adversarial courts for people with addictions, mental illness and other disorders, along with other diversion strategies, reduce correctional costs in the near term and, through reduced recidivism, in the long term.***

Such strategies, however, must rely largely on local funding and federal grants. Counties have a financial incentive to avoid local costs by steering low-level offenders to the state prison system. To correct this, states such as Pennsylvania, California, Wisconsin, Ohio, and Illinois have reversed this trend by providing financial incentives to local governments that handle these offenders locally, thus reducing prison admissions.

**3. Recommendation (immediate cost-savings: Address the significant county-by-county sentencing disparities reported by the Legislature's Office of Economic and Demographic Research<sup>21</sup>, especially those involving people convicted of low-level offenses. Consider shifting the financial incentives currently in place for state incarceration toward local supervision and treatment.**

**The Legislature needs to consider alternatives to building prison after prison. It might save money. It might save some of us from being future victims of crime. It might even salvage some lives.**

Howard Troxler, Less crime is better than more prisons, *St. Petersburg Times, 7/15/09*

**4. Recommendation (intermediate cost-savings): The Legislature should support the expansion of drug courts and split sentencing, in which drug treatment commences in prison and continues upon release under drug court supervision.**



**FINDING: Work release costs far less than institutional incarceration, but its use is far too limited.** It costs just \$26.16 per day to house an inmate at a state work release center and \$20.13 per day at a contracted center. By contrast, the average cost of “hard beds” in prison facilities is \$52 per day. The 50 percent savings of work release is enhanced by a DOC policy requiring that 45 percent of the inmate’s earnings go to reimbursing the center.

Despite the cost savings and recommendations to expand work release, the Department of Corrections, by policy, requires a “hard” prison bed for every work release bed. It also has a policy that no more than 4 percent of the prison population can be in work release. Corrections officials are concerned that if a major incident occurs, the Legislature will order all work release inmates back to prison. They also argue that if more than 4 percent of inmates are in work release centers, the risk to public safety increases.<sup>22</sup>

Florida needs better rehabilitation programs for offenders before they leave prison, and support afterwards. Too many inmates are discharged abruptly, lacking the education and life skills to lead successful, crime-free lives.

The state's criminal-justice policy has become too costly, in ruined lives and strained budgets alike. Reform should focus attention on incarcerating truly dangerous criminals, providing meaningful rehabilitation for the 90 percent of inmates who will eventually be released and diverting people who don't belong in prison.

A rising voice for change  
Daytona Beach News-Journal, 6/28/09

In FY 07-08, 64.5 percent of inmates were released upon the expiration of their sentences and received no supervision in the community.<sup>23</sup> By contrast, all inmates on work release in the final months of their sentences are supervised.

The risk to the community during the few months of supervised work release is actually less than it would be upon release with no supervision.

**5. Recommendation (immediate Cost savings): The Legislature should increase the number of work release and other less costly non-institutional prison beds and decrease the number of more costly institutional beds. It should also overrule the DOC policies of holding one prison bed in reserve for every work release beds and capping work release at 4 percent of the inmate population.**



**FINDING: OPPAGA has found that faith and character-based prisons improve institutional safety, achieve lower recidivism rates and attract more volunteers.** Wakulla’s rate, for example, is 15 percent lower. Yet these more effective prisons have a waiting list of 8,890 inmates for the institution-based programs and 1,600 for the dorm-based programs.<sup>24</sup>

**6. Recommendation (intermediate cost-savings): Faith and character-based prisons, proven to reduce recidivism at no greater cost, should be expanded to accommodate more of the 10,000 inmates on the waiting list.**



**FINDING: Corrections does not have the ability to provide sufficient substance abuse or mental health treatment to meet the needs of inmates.**

In 2008, of the 160,000 drug arrests made, 69,000 were for felony drug crimes. 58,045 of those defendants were found guilty and 10,735 of those found guilty were sent to state prison.<sup>25</sup> Drug crime convictions accounted for 30 percent of the 41,054 sent to prison in FY07-08. But the percent of the prison population needing drug treatment is much higher because many needing treatment were convicted of other types of offenses. **Over two-thirds of Florida’s inmates need substance abuse treatment<sup>26</sup> but there are drug treatment slots for only 2 percent of the inmates.<sup>27</sup>**

In Florida, about 18.1 percent of the inmates receive ongoing mental health care.<sup>28</sup> As Judge Steven Leifman (Chair of the Eleventh Judicial Circuit of Florida’s Mental Health Committee) has pointed out, “We have 125,000 people who are arrested every year in this state who have such a severe mental illness that at the time of their arrest they need acute mental health treatment.

The Legislature should “put more dollars on the front end of the system in diverting people. If we can divert some of the people on the front end that don’t really need to be going to prison but need mental health, substance abuse, or other services, we could save money and produce better results. Unlike several decades ago, we actually know now what works, and if we implement programs that the research proves are effective, we can spend fewer dollars to get a better result. The people that we ought to be putting into prison are those that are the most dangerous to society. For those that are not a danger and their crime is not significant, we ought to divert them and address the issues that they have.”

-- Barney Bishop, President of Associated Industries of Florida

“The fastest growing mental health dollar is not in our community mental health system, it’s in our forensic state hospital, which has seen a dollar growth of 72 percent over the last eight years while our community and we spend a quarter billion dollars a year on forensic hospitals for the purpose of restoring competency so they can take a plea.”

**7. Recommendation (intermediate cost-savings): Enact legislation that will divert mentally ill and addicted individuals from the criminal justice system to community-based treatment.**



**FINDING: We are not clear about what prisons are being built right now – which are underway? Under what contracts?** With enactment and implementation of the reforms suggested in this report and recommended by the Correctional Policy Advisory Council that will be made later, we can reverse the course of prison growth while improving public safety. Slowing prison growth may result in mothballing prisons or not completing the construction of prisons in the pipeline. However, current reporting does not provide the information the Legislature needs to take appropriate action.

**8. Recommendation: The Legislature should require the Department of Corrections and the Department of Management Services, as appropriate, to report on each prison and prison facility (both private and public) that is in the pipeline.**

The reports should include such meaningful information as the total cost, whether it will be paid for by general funds or bonds, the stage of construction (e.g., site selection, architectural drawings, water and sewage plans, groundbreaking, construction, staffing), contracts let and anticipated, and the expected dates of completion and operation.

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## The time for change is now

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**T**he Justice Summit taught us that we must move beyond the simplistic descriptions of “hard on crime” and “soft on crime.” It is time to be **smart** about crime:

- Smart by being cost-efficient.
- Smart by adopting policies and practices that are supported by sound evidence.
- Smart by putting our resources into protecting public safety by focusing on those who have done us real harm and those at great risk of harming again.
- Smart by recognizing that the great majority of ex-offenders return to their communities; we must support and fund the key programs that lead to success upon release from prison.

This discussion is fundamentally about public safety, about the wise use of limited taxpayer dollars and about the long-term sustainability of Florida and our communities. **This is not an entirely new set of ideas. Many reading this document have toiled in the fields of justice for decades and it is upon their shoulders we stand. What is different is that the cast of those calling for reform has broadened significantly, including many from the business community and more politically conservative ranks. What has also changed is the urgency – now magnified by Florida’s severe fiscal challenges.**

Kevin Hassett of the American Enterprise Institute recently said “that Florida is one of the states facing difficulty going forward following a 20-month national recession that wreaked ‘an astonishing period of economic misery.’”

**Adam Gelb**

**Project Director of the Pew Public Safety and Performance Project  
Speaking at the Justice Summit**

“It used to be that the only issue for state policymakers was, ‘How do I demonstrate that I’m tough on crime?’” Gelb said. “They’re starting to ask a very different question, which is, ‘How do I get taxpayers a better return on their investment in public safety?’”

He said state leaders across the country are recognizing that prisons are a government spending program. As such, they should be subject to a cost-benefit test.

“When you can put together a package of policy options that’s a win/win; less crime and lower costs. It’s not a slam dunk,” Gelb said, but “it’s very hard to ignore, especially when the economy is in such trouble.”

The News Service of Florida, 11/18/09

We can no longer rely on gathering revenue from people moving to the state or the resulting construction booms. An aging population will put greater demands on state services.<sup>29</sup> The point? There are no funds in the coffers to build \$100 million prisons, and citizen priorities are shifting.

Public opinion polling reflects this shift. In a late 2008 Quinnipiac poll of Florida voters, only 2 percent of the people queried named crime as the most important issue facing Florida. And that was a 60 percent drop from two years before. Nationally, the picture is the same.

That is why getting “smart” on crime and using criminal justice resources more judiciously is gaining such traction, particularly among Republicans, who provided significant leadership support for the passage of the Second Chance Act in Congress.

More than three years ago, the New York Times Magazine wrote about this shift in public opinion and the new leadership emerging on criminal justice reform, in a piece called, “The Right Has a Jailhouse Conversion.”

“Increasingly,” the author noted, “Republicans are talking about helping ex-prisoners find housing, drug treatment, mental-health counseling, job training and education.

“They’re also reconsidering some of the more punitive sentencing laws for drug possession. The members of this nascent movement include a number of politicians not previously known for their attention to prisoners’ rights ... Referring to mandatory-minimum sentences, Representative Bob Inglis of South Carolina, whose district is home to Bob Jones University, declared on the floor of the House: “I voted for them in the past. I will not do it again.”<sup>30</sup>



For Florida, it is time to rethink thirty-year-old policies that may have served the state well in their time. But their time has passed. We know more now. We must be evidence-driven and fiscally conservative. Adding prisons in a time of fiscal austerity is not only unsustainable, it confounds common sense.

**Pat Nolan,  
Vice President of Prison Fellowship  
Speaking at the Justice Summit**

I’m a conservative Republican, I work with Prison Fellowship. Chuck Colson, our founder, is a conservative republican. Mark Earley, our president, was a former attorney general of Virginia. All of us have great law and order credentials.

We’re trying to change the whole political ballgame. You haven’t seen it yet, but Richard Viguerie, the godfather of the conservative movement and direct mail; David Keene, of the American Conservative Union, Gene Meyer of the Federalist Society; Tony Blankley former editorial page editor of the *Washington Times*, are all working with me to mobilize conservative support for these types of reforms and basically saying ‘we’ve made a mistake, we’ve fed this iron triangle of building prisons that is eating our budgets alive and frankly is not conservative.

**Prisons are for people we’re afraid of, and it is a waste to fill them with people we’re merely mad at.**

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## Looking to the future

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America has always been the refuge of people seeking second chances. Whether they were fleeing discrimination and abuse, were victims of dictators or were simply idealists, people coming to America have shared the vision of John Winthrop as he expressed it in his 1630 sermon to fellow dreamers sailing toward Massachusetts – “We shall be as a city upon a hill,” he said. “The eyes of all people are upon us.”

He called on his fellow passengers to realize this vision with a simple injunction: “There are two rules whereby we are to walk one towards another: Justice and Mercy.”

Because of the fiscal crisis facing the state, the focus of this Report is on short-term, pragmatic, common sense solutions that can immediately save the state money and improve public safety. We do not discuss justice or mercy in this report. Not directly.

But just as they guided Winthrop’s passengers, the two rules of justice and mercy have guided this work – not just here in Florida, but across the nation.

Once the nation’s prisons and jails filled up with about two million people, once we started seeing more than 650,000 Americans coming home unprepared from prison each year, and once we noticed that almost a quarter of the U.S. population has a criminal record, Winthrop’s two rules began to get some attention. Justice, yes. Mercy, yes. That’s what the second chance is all about.

Such ambitious reforms won't be easy to accomplish, but today's fragmented system is not doing the job, and its costs are incalculable as the revolving door never stops.

Switching the emphasis from incarceration to rehabilitation of nonviolent offenders makes financial and humane good sense. That is what smart public policy is all about.

Our Opinion: Try again  
Mental health, prison reforms are a must;  
*Tallahassee Democrat*, 7/12/09

Among our recommendations, none is more important than the first, which calls for the Correctional Policy Advisory Council and its Justice Reinvestment Subcommittee to be established, as set forth in Senate Bill 2000, passed in 2008. This Council will provide a forum for the larger, broader discussion of the policies driving growth and the policies that advance or deter successful reintegration after prison. And we will ask, do our policies adhere to Winthrop’s two rules?

And as we urge the convening of that Council, we will also work to expand further the coalition that will champion the recommendations contained in this report, which are aimed at these same objectives.

Going forward, we will address Florida’s myriad challenges. We are still struggling with adult corrections and the reintegration of people coming home from prison, which was much-discussed at the Summit.

We will address the barriers to re-entry examined by Bush’s Ex-Offender Task Force and later, the Department of Corrections’ Re-entry Advisory Council. We will especially address the employment barriers that would be lifted through the law and policy changes these groups have recommended.

We will look at juvenile justice policies and practices that often lead to the evisceration of youthful promise and then later, to adult crime, to incarceration and to further cost to taxpayers.

We recognize that strategic planning and reform are seldom coordinated across this “corrections arc” — the continuum from juvenile issues in schools and communities to adult re-entry issues. We must address the entire continuum if transformative change is to occur.

We are impressed and encouraged by the fact of business assuming leadership in making the case for justice reform. Business leadership has made the case more compelling. We will work to deepen and broaden its engagement. We will also continue to convene the Coalition for Smart Justice Steering Committee and host its website.

This year, we have made much progress. From engaging the business community in this work to the issuance of the Letter to the Legislature, Governor and People of Florida, to the Justice Summit, and now this report, we have hit our stride. But there is much yet to be done.

There is no issue being debated in Congress or statehouses across the country that has bridged partisan and ideological divides the way criminal justice reform has over the past six years. This presents an unprecedented opportunity for us. We can rethink failed criminal justice policies and correct them and enact reforms that will not only make our communities safer by finally becoming smart on crime, but we can work to make the ideal of the second chance real. And we can create a system that reflects the justice and mercy that John Winthrop promised almost five hundred years ago.

### Two Conservatives Converse on Criminal Justice Reform 12/14/09

**Ross Douthat:** The violent crime rate has been cut by nearly 40 percent since its early-1990s peak. The murder rate is at its lowest point since Lyndon Johnson was president.

Yet the costs of this success have been significant: 2.3 million Americans are behind bars. Our prison system tolerates gross abuses, including rape on a disgraceful scale. Poor communities are warped by the absence of so many fathers and brothers. And every American community is burdened by the expense of building and staffing enough prisons to keep up with our swelling convict population.

Mass incarceration was a successful public-policy tourniquet. But now that we’ve stopped the bleeding, it can’t be a permanent solution.

Above all, it requires conservatives to take ownership of prison reform, and correct the system they helped build. Any successful reform requires the support of the law-and-order party.

**Eli Lehrer:** We can't go back to the "bad old days" of sky-high crime rates and short sentences for heinous crimes, but the country would be equally wrong to believe that the current policies of locking 2.3 million people in poorly run prisons is copacetic. **In fact, most people who have given serious thought to the problems of America's current prison system agree on roughly the same new set of policies: work to monitor some offenders more closely in the community rather than locking them up, fund drug treatment, keep prisons themselves safe, and encourage prisoners to work and get educated.**

The problem is that politicians across the political spectrum just want to be seen as "tough on crime" and are unwilling to bend at all even when they know that other policies might be better for the public.

Ross Douthat, writing for the New York Times, is the columnist who recently replaced Bill Kristol as the paper's resident conservative. Ross also writes for, among others, the *National Review*, the *Wall Street Journal* and the *Weekly Standard*. His comments are followed by a response by Lehrer published in the *National Review*. Lehrer is a fellow at the Competitive Enterprise Institute. He has been with the Heritage Foundation and was Bill Frist's speechwriter.

## Acknowledgements

**The Collins Center for Public Policy’s Board of Trustees**, in particular its **Chairman, Parker Thomson**, and our **President, Rod Petrey** have sustained Collins’ commitment to justice reform, backed by a history of more than twenty years of leadership on this issue.

To each of our additional Trustees, we extend tremendous appreciation and gratitude:

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We thank Board Vice Chairman, **Allison DeFoor**, and member **Barney T. Bishop III** for their vision and their success in bringing the voice of business to this work and for providing unwavering support and leadership in advocating for justice reform.

**Steve Seibert**, Senior Vice President and Director of Statewide Policy at the Collins Center, has been leading the work at Collins and the Coalition for Smart Justice and organized the 2009 Justice Summit. Our Vice President for Justice Initiatives, **April Young, PhD** has deepened Collins’ vision for reform and leads all the Collins Center’s initiatives dealing with justice reform. **Esther Widener**, executive assistant to Mr. Seibert, added her graphics work and organizational abilities to the summit. **Mark Fontaine**, the Executive Director of the Florida Alcohol and Drug Abuse Association, and his excellent staff, provided superb meeting management for the Justice Summit. **Florence Snyder**, attorney and counselor at law provided strategic guidance.

**The Annie E. Casey Foundation** and Senior Associate **Ira Barbell** have been supporting prisoner reentry and criminal justice reform work in Florida since 2005 when Casey first funded Governor Bush’s Ex-Offender Task Force. Barbell’s faith in the possibilities of reform in Florida has been remarkable.

**The Smart Justice Coalition Steering Committee**, formed in early 2009, was a loosely-knit but highly committed group of advocates for rational justice reform. This Committee proposed and helped write the Open Letter, the Strategic Objectives document and helped plan and implement the Justice Summit. We thank them for the gifts of their time and talents. Its members include:

- **Barney T. Bishop III**, President and CEO, Associated Industries of Florida
- **Tony Carvajal**, Executive Vice President, Florida Chamber Foundation
- **Gail D. Cordial**, Executive Director, Florida Partners in Crisis, Inc.
- **Allison DeFoor, II**, Prison chaplain
- **Mark P. Fontaine**, Executive Director, Florida Alcohol and Drug Abuse Association
- **Vicki Lopez Lukis**, Vice Chair, Florida Department of Corrections Reentry Advisory Council and former Chairman of the Governor's Ex-Offender Task Force
- **James R. McDonough**, former Secretary, Florida Department of Corrections
- **Ellen Piekalkiewicz**, Executive Director, Florida Substance Abuse and Mental Health Corporation
- **Steven M. Seibert**, Senior VP and Director of Policy, Collins Center for Public Policy
- **Florence Snyder**, Attorney and Counselor at Law
- **April Young, PhD**, Vice President, Justice Initiatives, Collins Center for Public Policy

**The Open Letter to the Governor, Legislature and People of Florida** set the stage for rethinking Florida’s criminal justice system, stating, “At a time when Florida is in serious recession and facing a deep state budget crisis, the \$2+ billion budget of the Florida Department of Corrections has grown larger; and without reform, that budget will continue to grow at a pace that crowds out other mission-critical state services such as education, human service needs, and environmental protection...” In addition to the members of Smart Justice Coalition Steering Committee signing it, we want to thank the other leaders who signed it for their support:

- **S. Curtis Kiser**, Chairman, LeRoy Collins Institute
- **Chris Holley**, Executive Director, Florida Association of Counties
- **D. Michael McCarron**, Executive Director, Florida Catholic Conference
- **David Murrell**, Executive Director, Florida Police Benevolent Association
- **Richard Doran**, Former Florida Attorney General, 2002-2003
- **Bernie DeCastro**, CEO, Florida Ex-Offender Reentry Coalition
- **Nathaniel P. Reed**, Founder, 1000 Friends of Florida
- **Tom Lee**, Former President, Florida Senate, 2004-2006
- **Judith A. Evans**, Executive Director, National Alliance on Mental Illness, Inc. (NAMI Florida, Inc.)
- **Jim Smith**, Former Florida Attorney General, 1979-1987
- **Tom Slade**, Past Chairman, Republican Party of Florida, 1993-1999
- **Allan G. Bense**, Former Speaker, Florida House of Representatives, 2004-2006
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- **Robert Butterworth**, Former Florida Attorney General, 1987-2002
- **Martha W. Barnett**, Partner, Holland & Knight
- **John M. McKay**, Former President, Florida Senate, 2000-2002

The 2009 Justice Summit’s success is largely due to the incredible roster of presenters we were able to bring together in Tampa. **Parker Thomson** and **Steve Seibert** set out the context of the event – exploding costs and a new set of players seeking to rein in those costs.

Former Secretary of Corrections **Jim McDonough** introduced, the Vice President of Prison Fellowship, **Pat Nolan**, who came to Tampa from his home in Virginia to provide an overview of the reform efforts across the country. We not only appreciate the great sacrifice Pat made to come but his sustained passion for justice reform. We also want to thank Secretary McDonough for continuing his commitment to a just and humane corrections system that he worked so hard to achieve during his tenure as Secretary.

Our thanks go out to **Representative Nick Thompson** (R-Fort Myers) for introducing fellow member of the Board of Directors of the Council of State Government’s Justice Center, Texas’ **Representative Jerry Madden** (R-Plano), who shared how Texas was able to dramatically slow prison growth, save money and improve outcomes. Thanks, Jerry, for showing us both how essential reform is and how to get it done.

The author of this report, **Linda Mills**, told the story of Florida’s prison growth and successful efforts to tame that growth, along with **Allison DeFoor** and **Kathleen O. McCharen**, Criminal Justice Estimating Conference, Office of Economic and Demographic Research. Kathleen’s research proved invaluable to this report. The author deeply appreciates her cooperative and collaborative spirit and the time she spent providing data and analysis prior to and after the summit.

We thank **Gail Cordial** for her introduction of **Adam Gelb**, Director of Public Safety Performance Project at the Pew Center on the States, who presented a revealing picture of how Florida’s justice system was performing compared to other states. Thank you Adam for your powerful work and we wish you continued success in transforming justice systems across the nation. We also thank **Brian Elderbroom**, Senior Associate at the Center on the States, with whom we collaborated on Summit presentations.

Thank you to **Philip Bacon**, Collins’ Vice President for Neighborhood & Regional Initiatives, who has brought neighborhood rebuilding perspective to our justice work. Phil introduced **April Young, PhD**, who put the current justice reform agenda into the larger context of the continuum from childhood poverty, to the juvenile justice system, to the adult corrections system to reentry.

We thank **Hon. Irene Sullivan**, Circuit Judge, 6th Judicial Circuit (Juvenile Judge, United Family Court) for her introduction of Department of Juvenile Justice Secretary **Frank Peterman**, who we thank for sharing his department’s initiatives with the summit participants.

We thank long-time prison volunteer, **Henree Martin**, Owner, Developers Realty & Investment Properties, Inc., and member of the Florida Department of Corrections’ Re-Entry Advisory Council, for her introduction of Department of Corrections **Secretary Walt McNeil** and Department of Children and Families Secretary **George Sheldon**. Thanks you Secretary McNeil and Secretary Sheldon for your informative presentations.

The business panel was a highlight of the Summit. With **Allison DeFoor** moderating, **Barney Bishop**, President and CEO, Associated Industries of Florida, **Tony Carvajal**, Executive Vice President, Florida Chamber Foundation; **Dominic Calabro**, President and CEO, Florida TaxWatch; **John McKibbon**, CEO and Chairman, McKibbon Hotel Group, Inc.; and **Joseph Capitano**, President, Radiant Oil Company of

Tampa, Inc. delighted Summit participants with a candid conversation about why business wants to reform the justice system. Thanks so much to each of you.

Thank you to **Ellen Piekalkiewicz** for introducing and to **Hon. Janet Ferris** for moderating the panel on the view of the justice system from the courts. To **Hon. Melanie May**, Judge, 4th District Court of Appeal, **Hon. Bernie McCabe**, State Attorney, 6th Judicial Circuit; **Hon. Nancy Daniels**, Public Defender, 2nd Judicial Circuit; and **Hon. Steve Leifman**, Judge, Special Advisor on Criminal Justice and Mental Health, we extend our sincere appreciation for your own reform efforts over the years and for illuminating the challenges we still face.

**Ralph Martin**, JD, drew a standing ovation after his luncheon speech. Ralph has been working on surmounting the many barriers to success that people with criminal records face even before he was appointed to Governor Bush’s Ex-Offender Task Force. Thank you, Ralph, for your determination and for sharing your deeply personal and inspirational story.

Thanks go to **Emery Gainey**, Director, Law Enforcement Relations, Victim Services, and Criminal Justice Programs, Florida Office of the Attorney General, and moderator **Mark Fontaine** for your panel of people working in the field to improve the system and achieve better reentry outcomes. Thank you to **Chet Bell**, CEO, Stewart-Marchman-Act Behavioral Healthcare; **Hon. R. J. Larizza**, State Attorney, 7th Judicial Circuit; **Donna Wyche**, Orlando Central Receiving Facility; Captain Miguel Pagan, Orange County Sheriff’s Office; and **Gordon Bass**, Director, Jacksonville Sheriff’s Office Department of Corrections, for your work and for sharing your achievements at the Summit.

Thank you, **Kevin Gay**, President, Operation New Hope, Inc., for your spirited introduction of your friend, **Vicki Lopez Lukis**, Vice Chairman of DOC Reentry Advisory Council and former Chairman of Governor Bush’s Ex-Offender Task Force, who gave the last presentation of the Summit – a rousing call for everyone to move together in unison to support our new allies and partners in the business community in leading our new effort in securing meaningful justice reform. Thank you, Vicki, for your passion, zeal and commitment to reform.

Special thanks go out to **Senator Paula Dockery** (R-Lakeland), Senator **Arthenia Joyner (D-Tampa)**, **Representative Audrey Gibson** (D-Jacksonville), **Representative Perry Thurston** (D-Plantation) and **Trina Kramer**, Staff Director, House Committee on Homeland and Public Safety for attending the Summit and sharing their insights.

We also thank **The Florida Channel** for filming and streaming the summit, allowing many more Floridians to see the proceedings.

This report would look nothing like it does without the help of all the people who provided and discussed their data and research with the author. Among them are **Amanda Cannon**, Staff Director, Senate Committee on Criminal Justice; **Scott Clodfelter**, Staff, Senate Committee on Criminal Justice; **Tim Sadberry**, Staff Director Senate Committee on Criminal and Civil Justice Appropriations; **Rashada Houston**, staff at Legislature’s Office of Program Policy Analysis and Government Accountability (OPPAGA). Thanks so much to each of you.

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## ENDNOTES

<sup>1</sup> CS for SB 1722 (2009)

<sup>2</sup> Criminal Justice Estimating Conference, 9/29/09, Office of Economic and Demographic Research, The Florida Legislature; Spreadsheets provided to the author from Criminal Justice Trends.

<sup>3</sup> Florida Dept. of Corrections, End-of-Month Florida Prison Populations by Facility, October 2009.

<sup>4</sup> Florida Demographic Estimating Conference, February 2009 and the Florida Demographic Database, August 2009; Florida Census Day Population: 1970-2030; Office of Economic and Demographic Research, The Florida Legislature.

<sup>5</sup> Supra at fn 1.

<sup>6</sup> Pew Center on the States, *One in 31: The Long Reach of American Corrections*, March 2009, at 17-21.

<sup>7</sup> Stemen, Don, *Reconsidering Incarceration, New Directions for Reducing Crime*, Vera Institute of Justice, January 2007.

<sup>8</sup> Florida Dept. of Corrections Annual Reports, 1995-96 and 2007-08.

<sup>9</sup> Christensen, Dan, “Hallandale Beach grandma sent to jail -- and forgotten,” *Miami Herald*, January 12, 2010.

<sup>10</sup> Senator Jim Webb’s Floor Speech to Introduce “The National Criminal Justice Commission Act of 2009,” March 26, 2009.

<sup>11</sup> Pew Center on the States, *One in 31: The Long Reach of American Corrections*, March 2009, at 1.

<sup>12</sup> *Florida Times Union*, 5/1/08; DOC Press Release, 6/11/08.

<sup>13</sup> Pew Center on the States, *One in 100: Behind Bars in America 2008*, February 2008, at 8.

<sup>14</sup> Florida Dept. of Corrections Annual Report, 2007-2008.

<sup>15</sup> Criminal Justice Estimating Conference, 9/29/09, Office of Economic and Demographic Research, The Florida Legislature; Spreadsheets provided to the author from Criminal Justice Trends. In 2001, prisons had grown by fewer than 800 inmates in 2001 (1.1%), and by just over 1,500 inmates in 2002 (2.1%).

<sup>16</sup> *Id.* From 2002, the crime rate fell from nearly 5,400 index crimes per 100,000 Floridians in 2002 to 4,855 in 2004.

<sup>17</sup> CS/SB 1988.

<sup>18</sup> Hillsborough County started sending a significant number of people to prison with year and a month sentences in November 2007; by January 2008, the County had more than halved its year and day sentences,

but quadrupled its year and a month sentences. Criminal Justice Estimating Conference, 9/29/09, Office of Economic and Demographic Research, The Florida Legislature.

<sup>19</sup> *Id.*

<sup>20</sup> National Conference of State Legislatures, "Top 10 issues of 2010: Third year that fiscal conditions will dominate legislative sessions," December 17, 2009.

<sup>21</sup> Criminal Justice Estimating Conference, 9/29/09, Office of Economic and Demographic Research, The Florida Legislature; Spreadsheets provided to the author from Criminal Justice Trends.

<sup>22</sup> OPPAGA, Higher Priority Should Be Given to Transition Services to Reduce Inmate Recidivism, February 2007.

<sup>23</sup> Florida Dept. of Corrections Annual Report, 2007-2008.

<sup>24</sup> OPPAGA, Faith- and Character-Based Prison Initiative Yields Institutional Benefits; Effect on Recidivism Modest, Report No. 09-38, October 2009.

<sup>25</sup> Criminal Justice Estimating Conference, 9/29/09, Office of Economic and Demographic Research, The Florida Legislature; Spreadsheets provided to the author from Criminal Justice Trends.

<sup>26</sup> Florida Dept. of Corrections Annual Report, 2007-2008.

<sup>27</sup> Remarks of Pam Denmark, Deputy Assistance Secretary of Reentry, Florida Dept. of Corrections, CMCJ / Pew Advanced Journalism Seminar, 10/31/09.

<sup>28</sup> *Id.*

<sup>29</sup> Kallestad, Brent, "Recession over, but not to some Florida lawmakers," The Associated Press, January 15, 2010.

<sup>30</sup> Suellentrop, Chris, "The Right Has a Jailhouse Conversion, *NY Times Magazine*, December 24, 2006.

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