



A COMPREHENSIVE  
PACKAGE TO REFORMING

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# CRIMINAL JUSTICE

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# POLICY INSIGHT

## RESTORING FAMILIES AND PROTECTING COMMUNITIES

Reforming the criminal justice system is a complicated and intimidating process at both the federal and state level. For many states, the costs associated with incarceration are the second largest item in their budgets, trailing only the ballooning Medicaid programs. And while the 1980s and 1990s saw a dramatic rise in the amount of incarcerations nationwide, states seemed to see little decline in crime rates and maintained high levels of recidivism. Today, more than one-third of Tennessee prisons are operating over capacity and another third are bordering on capacity. Yet our crime rate remains much higher than the national average. With taxpayers footing higher costs with little benefit, we must consider the unintended consequences that over-incarceration has on families, communities, and taxpayers.

Here are some startling facts about Tennessee's corrections system:

- More than 19,000 males and 1,500 females are currently incarcerated across the state.
- One in nine Tennessee children has or has had a parent in prison within the last year.
- It costs taxpayers almost \$2,500 monthly to house an inmate, twice the median mortgage payment and three times the median rent payment in the state.

With such high costs to families and taxpayers, it is inevitable that our communities are bearing the burdens of broken homes and persistent poverty. Indeed, Tennesseans are becoming increasingly aware and supportive of more thoughtful methods of deterring crime. In a Beacon Center-American Civil Liberties Union poll conducted in August 2016, "crime and public safety" was the second highest issue of concern amongst respondents—just behind "jobs and the economy". The vast majority also indicated support for rehabilitation programs as viable alternatives to incarceration when appropriate. In fact, over 70 percent believe that "people who have been to prison can turn their lives around and move away from a life of crime with the right kind of help."

If we want to rehabilitate offenders so they can confidently leave a life of crime behind and work towards becoming productive members of society, John Malcolm of the Heritage Foundation suggests we must first ask ourselves these questions:

*How do we define crimes, who do we send to prison, what do we do with them when they're there, what happens when they're released, and what are the collateral consequences that we impose upon them?*

In answering these critical questions, we must ensure that incentives are aligned with policies that reduce crime, make neighborhoods and communities safer, and lower the burden on taxpayers. We must encourage creativity and ingenuity aimed at having better transitional outcomes for those exiting the prison system,

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especially our young adults and the families they're returning to. In doing so, we must have measurables we can track that tell us we're reaching our goals.

## **SENSIBLE JUSTICE REFORM**

Moving forward, the Volunteer State should embrace meaningful reforms that return safety to our communities and foster hope for those looking to restore their dignity and the unity of their families. To do so, we must begin with the following measures that can allow us to pivot away from over-incarcerating and under-delivering and towards individualized intensive rehabilitation and greater results:

- Allow formerly incarcerated or convicted offenders to have their criminal history cleared after a preponderance of years maintaining a clean record so they have more opportunities for employment.
- Permit individuals whose crimes were nonviolent and non-vehicular related to maintain driver's licenses so they can commute to work, begin paying their restitution, build security, and start providing for their families again.
- Ensure that nonviolent juvenile offenders have appropriate, community based alternatives to incarceration, such as rehabilitation programs with monitoring and strongly enforced measurements, that deter young adults from turning to a life of crime and instead, lead them to become productive members of society.

# FAQ'S

“Over-incarceration for nonviolent, low-level offenses actually leads to higher recidivism rates, broken homes in which children are far more likely to follow in the footsteps of their incarcerated parent, and over-spending of taxpayer money.”

## **You advocate for reducing incarceration for nonviolent offenders, but won't that simply increase the amount of crime in our communities?**

No.

In fact, overwhelming research exists that shows over-incarceration for nonviolent, low-level offenses actually leads to higher recidivism rates, broken homes in which children are far more likely to follow in the footsteps of their incarcerated parent, and over-spending of taxpayer money. While Tennessee's incarceration rate remains higher than the national average, our crime rate remains even higher.

## **If we don't lock criminal offenders up, how can we hold them accountable?**

In lieu of incarceration for low-level drug offenders with no violent prior crimes or sex offenses, consider requiring probation with drug or psychiatric treatment.

Research and utilize evidence-based best practices, such as risk assessments, to determine which offenders are low-risk for recidivism and thus better served by conditional probation.

Enhance the use of problem-solving courts, such as drug courts, DWI courts, etc. These courts can provide specialized oversight and victim-offender mediation that present a low-cost alternative to incarceration.

## **How can we keep costs to the taxpayer under control?**

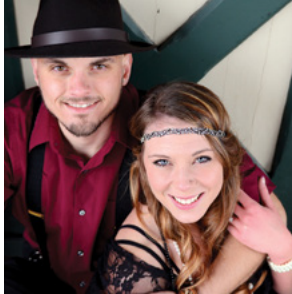
Institute performance-based funding for probation departments. Local probation departments that are successful should receive additional funds in order to further develop their methods. Other departments will adopt proven successful methods in order to qualify for enhanced funding. States like South Dakota, West Virginia, and Florida are examples of states that embraced nonviolent criminal rehabilitation alternatives and ultimately reduced the cost to taxpayers—while experiencing great success with their programs.

## **I like the idea of rehabilitation programs, but won't that cost taxpayers more money than sending those offenders to prison?**

No.

Tennesseans are paying \$30,000 per prisoner per year. We are also reaching a point where our prisons simply do not have the capacity for this level of incarceration. Currently over one-third of Tennessee prisons are operating over-capacity, with another one-third nearing full capacity.

# MEET LINDSAY



“Rather than treat the addiction as the problem, the state was treating Lindsay as the problem.”

## REHABILITATION, NOT JUST INCARCERATION

Lindsay Holloway was a cheerleader, vice president of her student government association in high school, and had a 4.0 GPA. Yet, Lindsay also struggled with an addiction that seemed all too common among the youth in her small town. She began using meth at the age of 16. By her senior year, she had dropped out of school.

Lindsay’s mother was relentlessly devoted to seeing her daughter receive her GED, but Lindsay couldn’t seem to kick her destructive habits. She was arrested countless times and was on probation from age 18-24. Every time she was arrested, Lindsay was sent to jail, but was never directed towards any treatment or rehabilitation programs. Rather than treat the addiction as the problem, the state was treating Lindsay as the problem.

By age 22, she was “on the needle,” which essentially consisted of “inserting anything you can with a needle” into her bloodstream. At 24, she was arrested and charged with a federal crime of stealing guns in order to buy drugs. Lindsay talks of the despair she felt during this time of her life and describes how she had planned to commit suicide the day of her arrest. “The arrest saved my life,” she recalls.

In fact, when Lindsay went to court, she asked the federal judge not to release her because she knew she would die if she were sent home. Instead, she faced a sentence of up to 10 years without parole. During this time, Lindsay made the decision to turn her life around. She began working in a ministry that was attached to the halfway house where she was placed. Braden Boucek, now the Beacon Center’s Director of Litigation, was the prosecutor assigned to Lindsay’s case at the time and recognized the progress Lindsay was making. He was able to arrange a two-year probation, and today, Lindsay celebrated her sixth year of abstinence from drugs.

Now happily married, Lindsay and her husband have even begun a prison ministry and, with the help of her devoted mother, she is opening her own halfway house for others looking for a second chance. “We need more rehabilitation programs that actually help people,” she says. “The way the system is currently does nothing to rehabilitate a person or address their specific issues.” Had she been initially directed to a treatment program, she explains, she may have avoided committing additional offenses and the years-long delay in her quest to become a productive, contributing member of society.

# POLICY ANALYSIS

“While incarceration is of utmost necessity for some, it has not been the catchall solution that many had hoped it would be.”

## RESTORING INDIVIDUALS AND COMMUNITIES THROUGH MEANINGFUL CRIMINAL JUSTICE REFORM

The Beacon Center’s mission is to empower Tennesseans to reclaim control of their lives, so that they can freely pursue their version of the American Dream. As equal proponents of small government and the rule of law, we have the unique responsibility to recognize when government begins to infringe upon personal liberty under the guise of public safety. We are also committed to ensuring that government spends taxpayer resources efficiently and wisely. Thus, we have seen tensions rise in the debate over the role of our criminal justice system. How can we enforce individual accountability, protect public safety, and save taxpayer dollars—all while ensuring that reformed offenders have the access and opportunity to recover from their misdeeds to become productive, contributing members of society?

## HOW THE CRIMINAL JUSTICE SYSTEM, AND OUR COMMUNITIES, BEGAN TO BREAK

As Right on Crime explains, “the United States experienced a notorious crime wave” in the 1960s that continued to balloon into the 1970s. Conservatives in Congress and lawmakers across the 50 states became fearful of this newfound crime wave. Rather than think critically about the impact of their reforms on the individual, communities, economy, and the future, they deemed wide ranges of nonviolent offenders to be unfit and unrecoverable, relying heavily on incarceration to solve the mounting public safety dilemma.<sup>1</sup> While incarceration is of utmost necessity for violent criminals, it has not been the catchall solution that many had hoped it would be.

Over the past 30 years, the prison population has boomed nationwide, with state and federal budgetary costs following suit. According to data released by the Coalition for Public Safety, comprised of partners ranging from right-leaning Americans for Tax Reform to the left-leaning American Civil Liberties Union, the number of those in federal prison has risen from 25,000 in the early 1980s to more than 209,000 today. What used to cost the taxpayers \$1 billion now costs us over \$6.8 billion. State prisons haven’t fared any better. Most are operating at over 100 percent capacity, with some like Alabama battling against a 190 percent capacity rate.<sup>2</sup>

What often gets ignored in the process of locking individuals up and throwing away the key are the consequences of housing nonviolent, low-level offenders with violent, hardened criminals. Not only does this foster more criminal activity, connecting amateurs with professionals, but it also destroys any semblance of family structure for the dependents of those needlessly incarcerated or consequently unable to find employment after exiting the system. Ken Blackwell, senior fellow for family empowerment at the Family Research Council (FRC), writes “encouraging violent criminal behavior through excessive punishment and long and close association of the non-

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violent with the violent is not only unjust but unwise.” Likewise, FRC President Tony Perkins also asserts that “violent and career criminals must be locked up to protect society, and we must also exclude offenders whose crimes endanger their own children...But for many nonviolent offenders, we should do all we can to keep families together while maintaining public safety.”<sup>3</sup> Both Perkins and Blackwell’s research has documented the destructive nature of over-incarceration on families and how that impacts the cyclical nature of crime and poverty.

## WHY THE BLANKET APPROACH OF “LOCK ‘EM UP” HURTS INDIVIDUALS AND IMPACTS THE FUTURE

Not only does the over-incarceration of nonviolent offenders with violent criminals serve to foster greater criminal activity, it also acts as a “ball and chain” for those exiting the system who hope to reform their lives and restore their families. As Right on Crime points out, “When offenders emerged from prison—with no job prospects, unresolved drug and mental health problems, and diminished connections to their families and communities—they were prone to return to crime.” Why is this the case?

Further research indicates that the harsh penalties associated with processing an individual’s exit from prison, such as court fees, fines, revocation of driver’s licenses, and other technicalities act as handcuffs for that individual, despite their reintroduction into society. In fact, while we may expect that individual to walk out of prison and immediately find gainful employment, start paying child support and other obligations, and never return to criminal activity, we simultaneously saddle them with so many financial and social burdens that they find themselves shackled. Consequently, after being unable to drive to job interviews, find an employer willing to hire an ex-offender, or pay the onerous penalties on top of the time they served, many turn back to their deviant ways. In fact, as over-incarceration has grown, the recidivism rates have also increased, resulting in over one million nonviolent offenders sitting in our nation’s prisons. Sadly, two-thirds of individuals now entering the prison system are previous offenders who violated parole or probation, with over half of those revocations due to technical violations rather than for new criminal activity.<sup>4</sup>

## LINDSAY HOLLOWAY’S STORY IS NOT UNIQUE

Lindsay Holloway’s journey from addiction, to prison, to prosperity with her family and her ministry is a testament to the potential of individuals to redeem their circumstances and give back to their communities. Indeed, this should be the goal of our criminal justice system. Yet, our energies and focus are spent in a more concentrated effort to incarcerate rather than reform.

Dave Miller is currently the Director of Development for Men of Valor, a nonprofit that equips men with the skills to re-enter society as men of integrity. He reached out to the Beacon Center to share his story of serving two years in a federal prison camp. As he describes, “This is where low-level and white collar criminals are sent, or those who have had good behavior while in prison.” They are work camps, and his worked on an air-force base. Prior to his conviction Dave was in real estate development. In the course of his work, he closed a transaction and erroneously signed a statement by the bank without looking. When the latest financial crash occurred, the federal agencies came after him. He pled not-guilty and still maintains his

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innocence. While three of the four the charges were dismissed, Dave was still sent to internment and is prohibited from holding a real-estate license.

Since Dave was unable to work in his practiced, professional capacity, a group of businessmen and friends in the Nashville area worked to setup an interview for Dave with Men of Valor. After a 30 minute phone interview from prison, he was immediately hired. While the organization’s board was cautious about his situation, they agreed to the arrangement with a three-month probationary period. Dave has now been there three years and is a permanent employee making a contribution to society.

Like Lindsay, Dave knows how difficult the walk out of prison and return to every-day life can be. He also knows how easily one could be judged for one’s biggest mistakes rather than one’s greatest potential. These stories illustrate how our largely one-size-fits all approach to criminal justice fails those looking for second chances, as well as our communities who could greatly benefit from their productivity.

## WE ALL BEAR THE COSTS OF A BROKEN SYSTEM: IMPACT ON CHILDREN AND ECONOMY

Lindsay and Dave’s accounts show how short-sighted we’ve been in our attempts to create an efficient and results-driven corrections system, failing to recognize the direct impact it has on the prevalence of poverty. The Pew Center on the States found that federal spending on corrections has grown 400 percent over the past two decades, making it among the fastest rising line items in state budgets. Despite this, societal outcomes have not matched our investment.<sup>5</sup> Not only are we failing to reduce recidivism, we’re *driving* it. Not only are we failing to restore families, we’re *dismantling* them. And because the criminal justice system disproportionately affects the African-American population, the impact it has on our children, especially minority children, has created a nearly inescapable, multi-generational cycle of poverty.

“Relative to other groups, blacks commit more crimes. To understand why is to tackle some very hard-to-talk-about realities of black family life,” explained Kay Hymowitz, senior fellow of the Manhattan Institute. In fact, Hymowitz contends that the problems are farther-reaching than many have been willing to consider. “The suffering of black children (accelerated by their) growing up in chaotic families... is itself highly correlated with the scourge of ghetto crime and incarceration,” Hymowitz explains. Sadly, these trends become much more bleak for those children raised in single-parent households or without a father, about 72 percent and nearly one-third of African-American children, respectively. She cites further research detailing the developmental harm that these circumstances have for the child’s future, including correlations between rising incarceration rates and the increased likelihood that these children will become criminal offenders themselves.<sup>6</sup>

Of course these disruptive consequences ring true for any child raised in a home that has been impacted by residual criminal activity, incarceration, and subsequent lack of adequate tools and socioeconomic opportunity. We owe Tennessee families, and especially our children, better solutions—reforms that protect them, restore our neighborhoods and communities, and spend taxpayer dollars most efficiently so we can finally see the face of poverty change in the Volunteer State.



“A just and fair criminal justice system will ensure that every Tennessean has the opportunity to become a productive member of society.”

## SENSIBLE SOLUTIONS FOR MEANINGFUL REFORM

A just and fair criminal justice system will ensure that every Tennessean has the opportunity to become a productive member of society. To that end, the Beacon Center has partnered with state and local organizations to launch the Tennessee Coalition for Sensible Justice. The coalition is led by the Beacon Center, the American Civil Liberties Union of Tennessee, the Tennessee Association of Goodwills, and the Nashville Area Chamber of Commerce. More and more organizations across the political spectrum are signing onto the coalition each week. Together, we will advocate for reforms based on the following principles that enhance public safety, promote rehabilitation and re-entry, and save taxpayers dollars:

- 1. Public Safety** – Public safety should be the paramount concern of any criminal justice system; however, criminal law should be reserved for conduct that threatens public safety, not wielded to grow government and undermine economic freedom.
- 2. Taxpayer Protection** – Criminal justice should be efficient and place as small a burden on taxpayers as possible, while maintaining strong protections for public safety.
- 3. Prevention** – Policies and evidence-based programs that address the root causes of crime and keep juveniles from entering the criminal justice system in the first place are critical to ensuring a better return on crime reduction dollars for Tennessee taxpayers.
- 4. Workforce Readiness** – Most prisoners will return to their communities and therefore, in preparation, they should receive educational opportunities, such as high school equivalent degrees, and also learn specific trades and skill sets. To promote re-entry and prevent recidivism, we should provide educational and workplace readiness opportunities to encourage their full re-integration into society.
- 5. Re-Entry Preparation** – A central goal should be to convert all released prisoners into taxpayers and productive members of society; to that end, the criminal justice system should emphasize public safety, personal responsibility, workforce readiness, restitution, community service, and treatment—while in prison and during probation and parole.
- 6. Transparency & Accountability** – As with any government program, the criminal justice system must be transparent and include performance measures that hold it accountable for its results in protecting the public, lowering crime rates, reducing re-offending, collecting victim restitution, and conserving taxpayers’ money.

Specifically, the Beacon Center and our coalition partners will advance reforms that expand opportunities for those exiting the prison system to clear their criminal history after years of maintaining a clean record. Additionally, we will move reforms that enable those with nonviolent, non-vehicular offenses to maintain their driver’s licenses so they can

pursue employment opportunities that can provide bridges to becoming productive members of society. Furthermore, we will seek to provide nonviolent juvenile offenders with alternatives to incarceration that seek to rehabilitate and rebuild broken lives, equipping these young people to leave behind lives of crime and become assets to their families and communities. By embracing these approaches, Tennessee lawmakers can take meaningful steps towards making the Volunteer State a beacon for restoring families, removing barriers to workforce entry, and the fostering of safer communities.

## ENDNOTES

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