

Action Items for Oklahoma



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Criminal Justice

Increase Safety and Savings with
Smart on Crime Reforms

This is the second of a seven part series by Oklahoma Policy Institute to propose public policy action items for the state of Oklahoma. These recommendations are aimed at improving the shared prosperity of all Oklahomans while maintaining a fiscally responsible state budget. The first installment made recommendations for tax reform. Future installments will focus on education, energy, financial security, health care, and jobs.

Action Items for Oklahoma Criminal Justice

Increase Safety and Savings with Smart on Crime Reforms

Oklahoma's criminal justice system is in a crisis. The state ranks 1st in the nation for incarceration of women per capita and 4th for men. From FY 1996 to FY 2011, the number of inmates in Oklahoma prisons increased by 30 percent, going from 19,968 to 25,977.ⁱ This increase in prisoners was double the state's overall population growth over that same period (15 percent).

All of this incarceration is not paying off in public safety, either—in 2011, the violent crime rate in Oklahoma was 18 percent higher than the national average.ⁱⁱ At the same time, the corrections system has become overwhelmed with non-violent drug offenders serving long sentences. From FY 2005 to FY 2010, non-violent drug offenders made up 31 percent of new prison admissions, compared to just 29 percent who were violent offenders.ⁱⁱⁱ

State budgets have not kept pace

with inmate growth, and the corrections system has become severely understaffed. The Department of Corrections now employs 871 fewer full-time workers than it did in FY 2008 and has been operating at between 67 and 75 percent staffing capacity for several years.^{iv} This puts both inmates and corrections officers in serious danger.

There are signs of hope. The 2012 justice reinvestment bill showed a new willingness to make progress on this issue. New models of corrections like drug courts and the Women in Recovery program are gaining bipartisan support. Some in Oklahoma are taking a different mentality towards criminal justice—one that doesn't pursue punishment for its own sake, but instead looks for what works to protect public safety in the most cost-effective way.

However, we have more work to do. The implementation of already passed corrections reforms are faltering due to lack of funding and inad-

equated coordination and leadership. We continue to follow counterproductive policies that push Oklahomans who are trying to escape addiction and contribute to society into a downward spiral, and the problem is growing more costly to taxpayers every year.

This report details concrete steps Oklahoma can take to address the financial and moral crisis in our criminal justice system.

Action Items

- Eliminate barriers that make it harder for ex-felons to find and keep employment so they can re-integrate into society.
- Aggressively implement and fund already passed reforms to increase cost-effective alternatives to incarceration and expand post-release supervision.
- Reevaluate sentence length and felony status for non-violent drug offenses. 



Eliminate barriers to employment for ex-felons

After serving out their sentences and leaving prison, we expect ex-felons to reenter society as productive citizens. Yet Oklahoma has put up numerous barriers that make it extremely difficult for those with criminal records to get or keep a job. We should end these counter-productive practices that discourage rehabilitation and increase the likelihood of recidivism.

End suspension of Driver’s Licenses for misdemeanor possession. Oklahoma requires mandatory 1-year driver’s license suspension upon a misdemeanor conviction of possession of a controlled substance while operating a motor vehicle.^v Under the law, an Oklahoman can lose her drivers’ license simply for having a controlled substance in a vehicle, whether or not the person was intoxicated or otherwise posing any threat to public safety.

With public transportation very limited or unavailable in most of the

state, that is a serious penalty. Oklahomans could be prevented from getting to work on time and lose their job, and they would be unable to apply for many new jobs without transportation. If they decide to drive anyway, they risk additional fines and up to one year in prison. One mistake that puts no one at risk could effectively end a person’s ability to support herself or her family without breaking the law.

Remove restrictions that block ex-felons from joining professions unrelated to their crime. Oklahoma law puts up barriers to ex-felons pursuing a long list of professions, even when the job has no connection to their crime.

Professions requiring a state license in Oklahoma include cosmetologists, funeral directors, athletic trainers, pawnbrokers, and marital and family therapists, among others. For all of these, a state-appointed board can deny a license to anyone with a felony conviction, regardless of what their crime was or how long ago it was committed.^{vi}

This blanket prohibition on holding a job is unnecessary and counter-productive. Oklahoma should

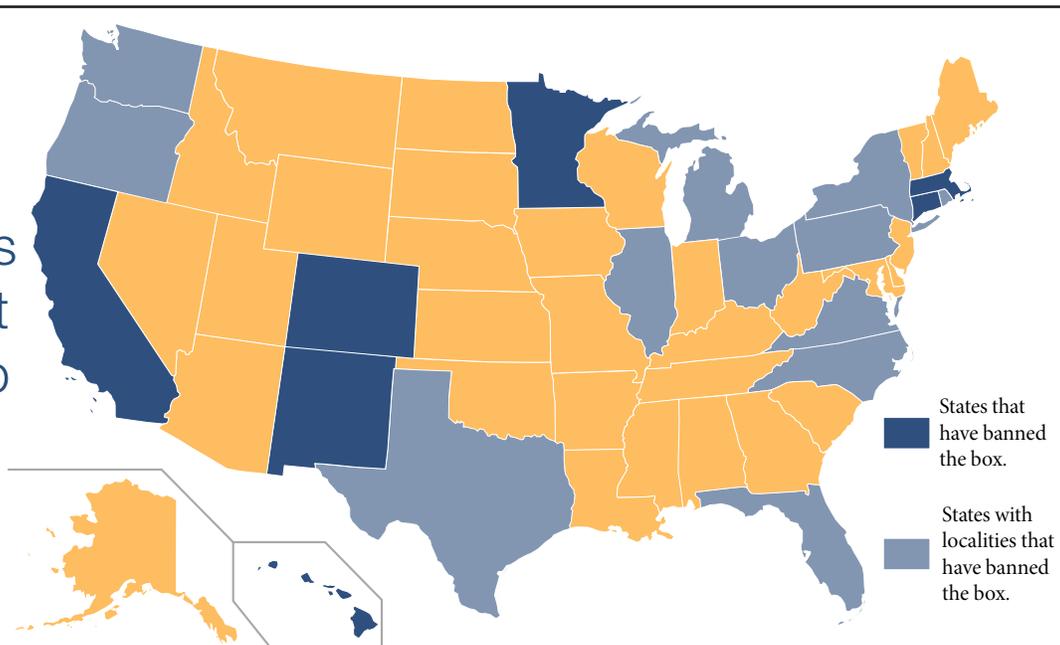
change these restrictions to only apply if a felon’s crime substantially relates to the practice of the profession or they pose a reasonable threat to public safety.

Forbid employers from asking about criminal records on job applications. For too many jobs, Oklahomans with a criminal record are not able to make it past the first stage of the application process. Employers frequently ask applicants about felony convictions or require a criminal background check for job applications. They then exclude anyone with a felony from even getting an interview.

With 8.5 percent of Oklahomans having a felony conviction in their past,^{vii} this practice has a devastating impact on a significant portion of the population. To stop this discrimination, seven states and more than 40 cities nationwide have passed a reform known as “ban the box,” which prohibits employers from asking about convictions on job applications unless the exclusion of all ex-felons is a business necessity. Neighboring Colorado, New Mexico, and Austin, Texas have already passed this reform.^{viii}

Seven states and forty-three local governments prohibit employers from asking about convictions on job applications

Data Source: National Employment Law Project



Fund and Implement Already Passed Reforms

The Oklahoma Justice Reinvestment Initiative brought together experts from the Council of State Governments Justice Center with Oklahoma stakeholders in many affected areas, including corrections, law enforcement, the judicial system, mental health and substance abuse treatment, and legislators.

The effort culminated with House Bill 3052, which was signed by Governor Fallin to great fanfare in May 2012. The new law called for expanded supervision of offenders released on probation, substance abuse and mental health screenings for anyone convicted of a felony, and a grant program for local law enforcement agencies that were applying new strategies to combat violent crime.

Passage of the law is a modest first

step, but it is not enough by itself to achieve the goals of improving public safety while reducing taxpayer dollars spent on incarceration. Success also requires cooperative participation throughout the criminal justice system. For example, the law creates new options for judges and district attorneys in Oklahoma, but it remains at their discretion whether to choose probation and treatment over incarceration.

Unfortunately, some of Oklahoma's district attorney have continued to put up roadblocks to reform. Their complaints about a previous reform to release more offenders on probation with GPS trackers led the Department of Corrections to significantly scale back the program in 2011. DAs campaigned against State Question 762,^{ix} which despite their opposition was approved by voters to streamline the parole process for some non-violent offenses.

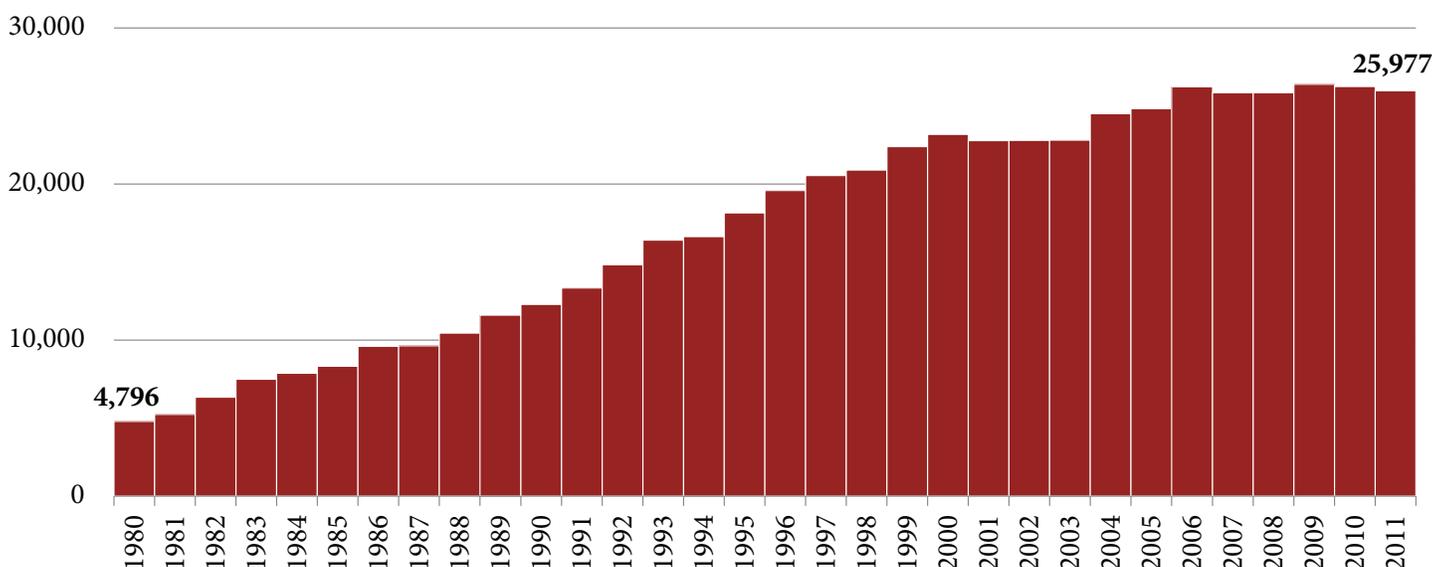
Another barrier is inadequate funding. Reducing Oklahoma's prison population could save taxpayers

millions of dollars over time, but an up-front investment is needed to create alternatives to incarceration. Unfortunately, Governor Fallin's proposed budget for FY 2014 included only \$1 million in new funding for the Department of Corrections, far below the agency's request of \$67 million; distribution of grants for law enforcement have been delayed by the state attorney general's office; and leaders of the working group charged with implementing reforms have resigned, claiming that the Governor's office is impeding reform behind the scenes.

The push for smart on crime and justice reinvestment policies demonstrates the beginning of a culture change in our approach to criminal justice, but voters and elected leaders must continue to speak out and push for acceptance of this approach by all stakeholders. Oklahoma has already identified research-based solutions. We must now find the political will to make them happen. 🏠

Oklahoma's prison population skyrocketed in the 80s and 90s and remains very high

Data Source: Bureau of Justice Statistics





Reevaluate Sentencing of Non-violent Drug Offenses

The “elephant in the room” in the discussion of criminal justice reform in Oklahoma is the state’s harsh sentences for non-violent crimes. From 2005 to 2010, non-violent drug offenders made up almost a third of new admissions to Oklahoma prisons. More than 80 percent of those offenders were incarcerated for possession or low-level drug dealing.^x

In one case that attracted national attention, an Oklahoma mother of four, Patricia Spottedcrow, was sentenced to 12 years in prison for selling \$31 worth of marijuana. She was released due to public pressure after serving two years, but her case is just one example of thousands of Oklahomans who are facing harsh pun-

ishments for minor crimes.

As of 1999, Oklahomans served prison terms for drug possession that were more than twice the national average. The Oklahoma Department of Corrections reports that the average sentence for distribution of a controlled substance in Oklahoma is 7.3 years, and the average sentence for possession is 5.2 years.^{xi} Over the past two decades, the length of time served by Oklahoma prisoners grew by 83 percent, the third highest increase in the nation. The Pew Charitable Trusts estimates that this increased sentence length cost Oklahoma taxpayers more than \$200 million in 2009.^{xii}

For many offenders, long sentences are both costly and counterproductive. Research shows that rather than deterring crime, harsh incarceration policies can actually make low risk offenders more likely to reoffend, because they are placed in a social environment surrounded by other crim-

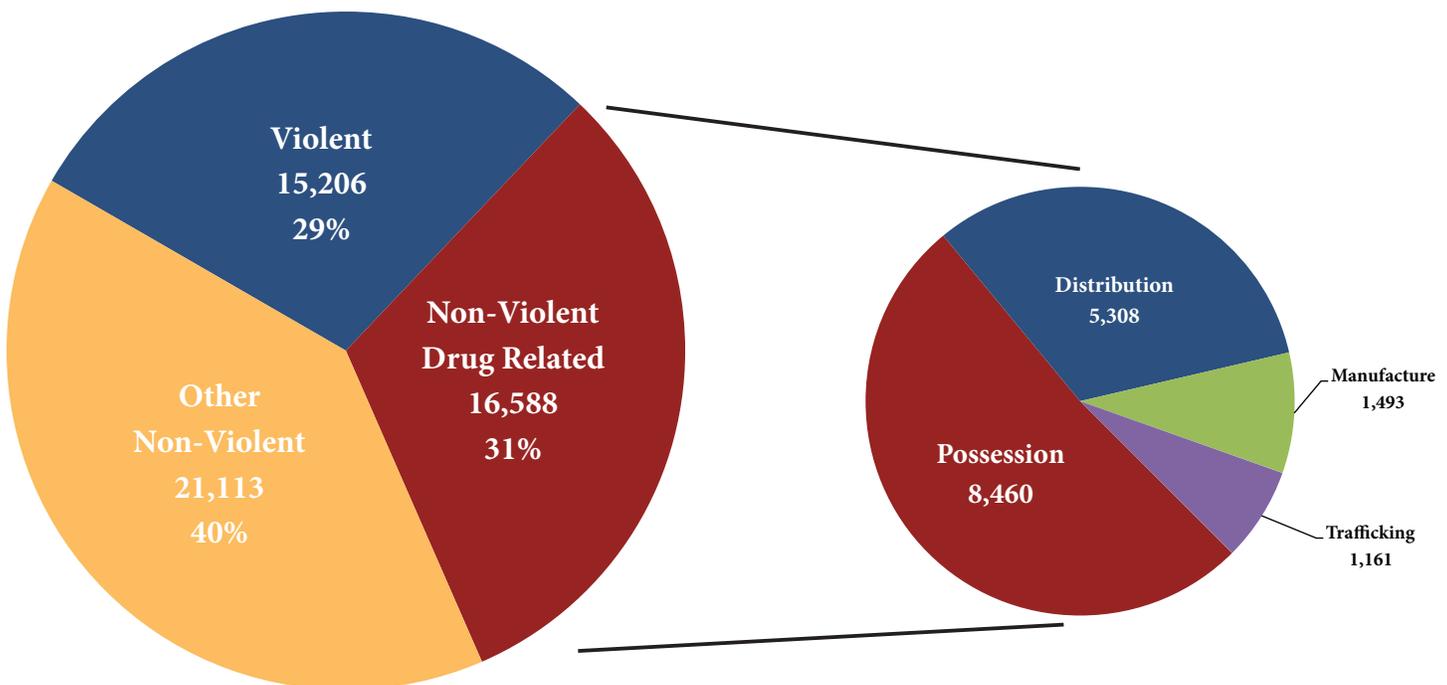
inals, bonds are severed with their families and communities outside of prison, and they face stigmatizing treatment as ex-felons.^{xiii} Incarceration of mothers also has been shown to have severe negative effects on children,^{xiv} which is especially concerning for Oklahoma as the state with the nation’s and world’s highest rate of incarceration of women.

Conversely, multiple studies show that earlier release paired with increased monitoring of parolees and probationers is more effective at reducing crime.^{xv} In recent years, many state leaders in Oklahoma have acknowledged the wisdom of this approach.

But we still have a long way to go. This year, a bill to reduce penalties for some cases of marijuana possession from ten years to a maximum of five years was approved unanimously by the House Public Safety Committee. It was not allowed a hearing on the House floor. 🏠

Low risk, non-violent drug offenders made up a large portion of new Oklahoma prison admissions from FY 2005-2010

Data Source: Oklahoma Department of Corrections



NOTES

- i. Bureau of Justice Statistics Prisoners series, 1996-2011
- ii. 455 incidents of violent crime per 100,000 people in Oklahoma, compared to 386 incidents per 100,000 people nationally, according to the Federal Bureau of Investigation and the Oklahoma State Bureau of Investigation
- iii. Oklahoma Department of Corrections 2012 Annual Report
- iv. Ibid
- v. Oklahoma Statutes Title 47, Section 6-205.6
- vi. Gene Perry. May 2011. "Get a job: Why restricting employment for ex-felons is counterproductive." OK Policy Blog. <http://okpolicy.org/get-a-job-why-restricting-employment-for-ex-felons-is-counterproductive>
- vii. Ginnie Graham. March 2011. "Women overcome felony convictions to get lives on track." Tulsa World. http://www.tulsaworld.com/news/article.aspx?subjectid=487&articleid=20110306_11_A9_CUTLIN530133
- viii. National Employment Law Project. November 2012. "Ban the Box: Major U.S. Cities and Counties Adopt Fair Hiring Policies to Remove Unfair Barriers to Employment of People with Criminal Records." <http://www.nelp.org/page/-/SCLP/2011/CityandCountyHiringInitiatives.pdf>

- ix. Gene Perry. September 2012. "SQ 762: Is Oklahoma ready to be smart on crime?" OK Policy Blog. <http://okpolicy.org/sq-762-is-oklahoma-ready-to-be-smart-on-crime>
- x. Oklahoma Department of Corrections 2012 Annual Report
- xi. Ibid
- xii. Francis T. Cullen, Cheryl Lero Jonson and Daniel S. Nagin. 2011. "Prisons Do Not Reduce Recidivism: The High Cost of Ignoring Science." The Prison Journal, 91 (3), pp. 48S-65S & The Sentencing Project. November 2011. "Oklahoma Sentencing and Punishment: Two Decades of Rising Imprisonment." http://sentencingproject.org/doc/inc_OK_Sentencing_and_Punishment__Briefing_11.11.pdf
- xiii. Pew Charitable Trusts. June 2012. "Time Served in Oklahoma." <http://www.pew-states.org/research/state-fact-sheets/time-served-in-oklahoma-85899396384>
- xiv. Oklahoma Commission on Children and Youth. January 2010. "Study of Incarcerated Women and Their Children." <http://www.okkids.org/documents/Study%20of%20Incarcerated%20Women%20and%20Their%20Children%20-%20Report%20-%202010%20%28Final%29.pdf>
- xv. Council of State Governments Justice Center. October 2012. "Justice Reinvestment in Oklahoma: Analysis and Policy Framework." http://justicereinvestment.org/files/JR_OK_Analysis_Policy_Framework.pdf

See these Oklahoma Policy Institute publications to learn more:

Eliminate barriers to employment for ex-felons

- The next criminal justice reforms: Escaping the downward spiral; July 2012; <http://okpolicy.org/the-next-criminal-justice-reforms-escaping-the-downward-spiral>
- Get a job: Why restricting employment for ex-felons is counterproductive; May 2011; <http://okpolicy.org/get-a-job-why-restricting-employment-for-ex-felons-is-counterproductive>

Fund and Implement Already Passed Reforms

- SQ 762: Is Oklahoma ready to be smart on crime?; September 2012; <http://okpolicy.org/sq-762-is-oklahoma-ready-to-be-smart-on-crime>
- Reforming Criminal Justice: What the latest bill does and what stands in the way; May 2012; <http://okpolicy.org/reforming-criminal-justice-what-the-latest-bill-does-and-what-stands-in-the-way>
- What's been done and what still needs doing on corrections reform; June 2011; <http://okpolicy.org/whats-been-done-and-what-still-needs-doing-on-corrections-reform>

Reevaluate Sentencing of Non-violent Drug Offenses

- The next criminal justice reforms: Escaping the downward spiral; July 2012; <http://okpolicy.org/the-next-criminal-justice-reforms-escaping-the-downward-spiral>
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