



SUPPLEMENTAL MATERIAL

**SUBMITTED BY ANA YÁÑEZ-CORREA, EXECUTIVE DIRECTOR
TEXAS CRIMINAL JUSTICE COALITION**

**REGARDING THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE
SUNSET STAFF REPORT OF OCTOBER, 2006**

SUNSET ADVISORY COMMISSION

OCTOBER 25, 2006

TEXAS CRIMINAL JUSTICE COALITION

With statistical research and public education, the Texas Criminal Justice Coalition promotes evidence-based criminal justice solutions that embody the principles of effective management, accountability, public safety, and human and civil rights.

The Coalition's partners and staff reflect many faces of Texas: civil rights groups, prestigious law firms, public safety and victims rights advocates, drug treatment and prevention organizations, restorative justice religious advocates, criminal justice practitioners, researchers, voter mobilization groups, and media & production firms. Together, the Coalition combines considerable experience with the fresh perspective necessary to improve Texas' criminal justice system now and in the future.

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COMPARATIVE CHART

The Sunset Commission Staff released a thorough and easy-to-understand report in October, 2006, that addresses the function of the Texas Department of Criminal Justice (TDCJ). In the chart below, we briefly address the majority of recommendations provided in the report, and we offer our suggestions for additional consideration. As an organization, our main focus is on treatment, community-based programming, improved efficiency of probation and parole, and fiscal responsibility.

ISSUE 1	
By not Adequately Addressing Offender Rehabilitation Needs, the State's Criminal Justice Efforts may Not Deter Recidivism, Increasing the Prison Population.	
REPORT RECOMMENDATIONS	ANALYSIS
<p><i>The Sunset Commission should recommend that the Legislature appropriate significant additional funds to TDCJ for offender treatment and rehabilitation programs proven to reduce recidivism.</i></p>	<p>AGREE: Texas must invest in what works. Strengthening proven offender treatment and rehabilitation programs by providing them with needed resources will yield substantial savings and improve public safety.</p> <p>Strengthening Treatment without Expanding Prison Capacity will:</p> <p>Decrease the Crime Rate:</p> <ul style="list-style-type: none"> ▪ Those who have received appropriate treatment are 4 times less likely to re-offend than those who haven't.¹ ▪ Since the early 1990's, Texas has tripled the size of its prisons, expanding its prison space and the number of prisoners faster than any other state. In fact, Texas' incarceration rate is 51% higher than the national average. In spite of prison expansion, the crime rate in Texas has not declined faster than in other states.² For example, in relation to populous, diverse, and growing states like California, New York, and Florida, Texas' crime rate is 24% higher than the national average. <p>Save Taxpayers Money: The approximate cost of incarcerating a drug offender is \$14,621.90 per year.³ Most non-violent drug offenders are sentenced to 2 to 4 years of incarceration time with an average of 3 years probation.⁴ The money used to incarcerate one offender can be used to treat several offenders, thereby resulting substantial savings to the state.</p>

In-Prison Treatment: \$8.4 million (treatment); \$62.9 million (construction)

(1) This funding would provide \$2.4 million annually to the IPTC program for support and would use 200 existing beds. The IPTC is a 6-month program that provides intensive substance abuse and reentry services for parole-eligible offenders. Offenders who complete IPTC and are released from prison and must go on to participate in 15 months of community-based after-care treatment. Based on rates of program completion in 2005, approximately 1.9 offenders completed programming per IPTC bed. With 200 extra beds, an additional 380 offenders could complete the IPTC program annually. By accommodating an additional 380 offenders in this program each year, TDCJ could potentially experience a reduction in the number of offenders re-incarcerated from 86 to 19, based on past recidivism studies. The cost avoided by not having to incarcerate the larger number of offenders could be approximately \$978,200 annually.

(2) This recommendation would also provide \$62.9 million to construct a 1,000 bed medium security facility, with 500 beds designated for offenders with Driving While Intoxicated (DWI) convictions. The treatment cost for these beds would be \$6 million annually. A facility of this size would cost approximately \$11 million per year in staffing and operating expenses; however, TDCJ anticipates using appropriations designated for temporary capacity beds to fund this expenditure. While this provision would add capacity to TDCJ, it would also expand treatment for offenders with DWI convictions, which would be expected to reduce recidivism rates along the same lines as for IPTC. Expanded treatment for DWI offenders would also increase the likelihood of parole for low-risk offenders, resulting in shorter sentences for these offenders. While TDCJ's specific approach to DWI programming is currently unknown, the DWI program could be structured similar to an IPTC. Assuming TDCJ created a 6-month program and completion rates were similar to the IPTC as noted above, 950 offenders could complete

(1) **AGREE:** We fully support additional treatment for funding.

(2) **DISAGREE:** We don't need to build the capacity of TDCJ. Instead of building a new facility that will cost \$62.9 million, the money should be used to fully strengthen existing outpatient treatment programs that focus on treating alcohol additions that lead to DWIs.

<p>programming annually. The number of re-incarcerations could potentially decline from 214 to 48, resulting in 166 fewer offenders in prison. The cost avoided by not incarcerating 166 offenders could be approximately \$2.4 million annually.</p>	
<p><i>Parole and Probation Treatment: \$31.5 million</i></p> <p>(1) This funding would provide an additional \$24.8 million annually to support probation services.</p> <ul style="list-style-type: none"> ➤ Specifically, \$5.6 million would go towards providing 250 additional residential treatment beds for inpatient substance abuse and mental health services. ➤ \$9.2 million would go towards outpatient substance abuse treatment through contracted community-based providers. <p>Ultimately, this would increase the total funding for CSCDs above the amount appropriated in 2005 to encourage departments to continue to implement progressive sanctions models, which have been shown to reduce the number of probation revocations. Funding provided to CSCDs in fiscal year 2005 has thus far resulted in 1,016 fewer probation revocations than during the same time period in the previous fiscal year. With 1,016 fewer offenders in prison, the State benefits from approximately \$14.8 million in annual cost avoidance.</p>	<p>(1) AGREE IN PART: Although we fully support funding what will yield real returns, we feel that the amount requested for parole, probation, and pre-trial diversion programs – and especially out-patient abuse substance treatment programs – does not reflect the actual amount needed to fully accomplish public safety goals.</p> <p>According to the Bureau of Justice Statistic, Texas’ probation population consists of 429,857 people. Approximately 45-50% of probationers have drug or alcohol problems.</p> <p>The determination of the amount allocated to each program should be based on the need of the person on parole, on probation, or currently in a community treatment facility. The equation should be as follows: $P \times T = \text{Funding}$, where P= number of people on probation who have been identified as having a drug or alcohol problem, and T= the cost of treatment.</p> <p>The majority of individuals revoked from probation have had drug or alcohol abuse problems.</p> <ul style="list-style-type: none"> ▪ In 2004 in Tarrant County, 44% of those revoked were unemployed. 37% revoked because of a substance abuse problem and 5% revoked because of DWIs. ▪ In Wichita Falls, 59% were unemployed. 42% revoked because of a substance abuse problem and 4% revoked because of DWIs. ▪ In El Paso County, 46% were unemployed. 29% revoked because of a substance abuse problem and 11% revoked because of DWIs.

<p>The remaining \$10 million would go to basic supervision for reducing probation officer caseloads.</p>	<p>The incarceration cost per offender is \$14,621.90 a year, with the average sentence being 2-4 years of incarceration. Focusing on treatment vs. facilities will result in substantial savings to the state and will yield positive outcomes: there is no treatment that costs near the amount of incarceration costs.</p> <p>NOTE: Both residential and outpatient treatment programs must be fully funded. At the same time, probation and parole must be fully funded to meet the needs of those who are in community, as well as those who should be released from prison but are not because the Parole Board does not feel the programs exist.</p> <p>This would eliminate the over-crowding problems and the need for new prisons, and it's a solution that the state can afford. What we cannot afford is three new prisons built with bonds that would cost taxpayers 711.5 million total to build and \$72 million more annually to operate, for a total of \$2.151 billion over 20 years.</p> <p>On probation officer caseloads: A probation officer's caseload should be dependant on the risk-level of his/her probationers; if a probation officer is supervising high-risk offenders, his/her caseload should be lower than the caseload of a probation officer supervising low-risk offenders. NOTE: though lowering caseloads is important, probation officers must in turn be more actively engaged in their probationers' lives, supervising them with programs that work.</p> <p>In addition to lowering caseloads and implementing programs, funding for basic supervision should be increased.</p>
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<p>(2) This recommendation also includes an additional \$6.7 million to increase SAFP capacity by 250 beds. Based on the number of SAFP beds and the total number of SAFP completers in 2005, TDCJ could expect approximately 1.5 offenders to complete the program per year, per bed. An additional 250 beds would enable approximately 375 more offenders to complete SAFP annually. Assuming the most recent recidivism rates for SAFP, the addition of 250 SAFP beds could result in 93 fewer re-incarcerations, with a possible avoided cost of incarceration of \$1.4 million</p>	<p>(2) AGREE: SAFP is badly in need of additional funding. Below are the backlog totals for the week of October 23, 2006:</p> <p>380 Regular Needs Males Time: 12-week wait list</p> <p>141 Special Needs Males Time: 15 weeks</p> <p>207 Regular Needs Females Time: 16 weeks</p> <p>124 Special Needs Females Time: 23 weeks</p> <p>Based on these waiting list lengths, it's clear that more money needs to be allocated to SAFP.</p> <p>NOTE: Successful drug court models should be duplicated throughout the state.</p>
<p><i>Pre-Trial Diversion: \$5 million</i></p> <p>This recommendation would provide \$5 million for additional pre-trial diversion treatment programs, allowing TDCJ to contract with various community-based providers to deliver treatment services to mentally ill offenders awaiting trial.</p> <p>Essentially, following arrest, offenders receive mental health screenings through the county jail intake process. If services are in place, mentally ill offenders could be released after intake instead of being incarcerated pending trial. TDCJ estimates that this funding would serve 1,500 offenders. Since this funding provides pre-trial treatment, and sentencing occurs at the presiding judge's discretion, TDCJ has had difficulty determining how many of these offenders might be diverted from prison or state jail. However, similar probation programs have reduced re-incarceration rates, indicating the success of this type of initiative in treating, stabilizing, and lowering recidivism for mentally ill offenders.</p>	<p>AGREE: More funding must be allocated to these programs.</p>

Literacy Education: \$6 million

This funding would provide \$6 million for additional literacy education programming within TDCJ prisons. Additional funding would be appropriated through TEA and the Windham School District. This money would allow Windham to provide literacy education to an additional 7,670 high-risk offenders annually, who are likely to experience the largest reduction in recidivism. Windham can provide literacy education to these offenders without adding to classroom capacity. According to the most recent data available, re-incarceration rates for these offenders could potentially drop from 30% to 19%, resulting in 844 fewer offenders in prison and \$12.3 million in annual cost avoidance.

AGREE

NOTE: we know that the inability to obtain a job because of a felony record increases the chances of returning to prison. As such, though education is a key contributor to an offender's success in re-integrating back into society, so is the person's ability to be employed.

We should allow non-violent, non-sexually based offenders who have successfully completed their time or rehabilitation programs to conceal their records for the purpose of employment, but allow the records to remain open for prosecutors and law enforcement. A similar law passed recently in Chicago and it has increased employment rates while drastically decreasing recidivism rates. There is only so much the probation departments and Workforce Commission can do to help a person obtain gainful employment. This solution costs no money.

TDCJ should conduct routine program evaluations of all rehabilitation programs designed to reduce re-incarcerations and revocations, and report the findings to the Legislature.

AGREE: We fully support this recommendation.

According to the United States Department of Justice, National Corrections Institute:

- Punishment produced a -0.07% change in an individual's inclination towards criminal activity (meaning it increased criminal behavior).
- Treatment produced a 15% positive change in an individual's inclination towards criminal activity (meaning it decreased criminal behavior).
- Cognitive skills programs produced a 29% improvement in an individual's inclination towards criminal activity (meaning they were best at decreasing criminal behavior).⁵

We want to ensure that the most effective treatment programs are being implemented and promoted.

ISSUE 2

Lawmakers do not have the Information Necessary to Effectively Manage the State's Criminal Justice System and Plan for its Future.

REPORT RECOMMENDATIONS

Establish a Criminal Justice Legislative Oversight Committee to provide objective research, analysis, and recommendations to help guide state criminal justice policies.

ANALYSIS

AGREE: The more sound the research is on this topic, the more sound the recommendations as (well as the implementation of the recommendations) will be.

Probation, Parole, prisons, and Health and Human Services divisions that deal with criminal justice clients, as well as treatment programs, should be able to (and encouraged to) collaborate with one another and share data to best track and allocate resources for those who enter and leave the criminal justice system. At this point, there seems to be little coordination among the groups, not because the groups don't want to communicate, but because they're too busy with their everyday functions. They would greatly benefit by sharing best practices with each other.

PROPOSED NEW AREA OF STUDY: An Assessment of Familial Impact

The Committee should engage in quantitative and qualitative research on the impact of parental incarceration on children and on other members of the immediate family.

ISSUE 3

The Board of Pardons and Paroles has not Adequately Updated and Used the Required Parole Guidelines to Help Ensure Consistent, Appropriate Release Decisions.

REPORT RECOMMENDATIONS

Require the Board of Pardons and Paroles to annually report and explain to the Legislature its efforts to meet the parole guidelines.

ANALYSIS

AGREE

NOTE: We would like the Board of Pardons and Paroles to adhere to its own established minimum guidelines and release low-risk, low-severity offenders on parole to make way for more dangerous ones.

Increasing the parole rates of low-risk, low-

	severity offenders will offset the need for new prison construction and will free up funding for community re-integration programs that will decrease the likelihood of re-offending.
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ISSUE 4

Supervising Low-Risk Probationers who could be Released from Probation Early Diverts Limited Resources from Probationers Needing More Intensive Supervision.

REPORT RECOMMENDATIONS	ANALYSIS
<i>Require CSCDs to identify and recommend probationers appropriate for early termination.</i>	AGREE
<i>Authorize TDCJ to adjust funding methods to minimize the loss of funds to CSCDs resulting from early termination of probationers.</i>	AGREE NOTE: We should also increase basic supervision funding so that probation departments will not have to depend so heavily on probationer fees as a means of income.
<i>The Sunset Commission should recommend that the Legislature change its method of funding CSCDs to maintain a constant funding level, even if the number of probationers declines because of early termination.</i>	AGREE: We fully support this recommendation. NOTE: In addition to maintaining constant funding levels for basic supervision, additional funding should be allocated to departments to meet the needs of high-risk probationers.

ISSUE 5

Keeping Low-Risk Offenders on Parole and Mandatory Supervision while They could be Released Early Can Divert Limited TDCJ Resources From Best Use.

REPORT RECOMMENDATIONS	ANALYSIS
<i>Require TDCJ's Parole Division to identify eligible, low-risk offenders, and establish a process for releasing these offenders from parole and mandatory supervision early.</i>	AGREE: The Sunset Staff did a wonderful job describing the problem with parole.

ISSUE 6

Current Law Limits the Use and Effectiveness of Medically Recommended Early Release of Offenders, Thereby Increasing State Medical Costs.

REPORT RECOMMENDATIONS	ANALYSIS
<i>Authorize judges to permit the early release of state jail confinees who pose no risk to public safety due to their medical conditions.</i>	AGREE: Prison space should be used for those who pose a threat to society.
<i>Require the Texas Correctional Office on Offenders with Medical or Mental Impairments to identify and recommend state jail confinees eligible for early medical release.</i>	AGREE

ISSUE 7

Current Law Does Not Hold All Parole Decision-Makers to the Same Standards of Objectivity and Independence.

REPORT RECOMMENDATIONS	ANALYSIS
<i>Expand conflict of interest provisions concerning financial and personal interests to include parole commissioners.</i>	AGREE
<i>Expand restrictions on previous employment with TDCJ to include parole commissioners.</i>	AGREE

ISSUE 8

Texas Has a Continuing Need for the Texas Department of Criminal Justice.

REPORT RECOMMENDATIONS	ANALYSIS
<i>Continue TDCJ for 12 years.</i>	AGREE: We support the continued existence of TDCJ, but do not feel there is a need to build new prisons when more efficient and fiscally responsible alternatives exist.

ISSUE 9

Due to Its Unusual Structure and Function, the Correctional Managed Health Care Committee Should Be Allowed to Continue, Removed from Sunset Review.

REPORT RECOMMENDATIONS	ANALYSIS
<i>Require the Chair of the Committee to be a public physician member.</i>	AGREE
<i>Remove limitations on TDCJ's ability to monitor the quality of health care provided to offenders.</i>	AGREE

ISSUE 10

Offenders and the Public Have Limited Access to Information About Correctional Health Care, Leading to a Lack of Transparency in the System.

REPORT RECOMMENDATIONS	ANALYSIS
<i>Require the Committee to make information about offender health care readily available to the public.</i>	AGREE: The majority of calls we receive from the family members of those who are currently incarcerated deal with lack of or problems with access to health care within the prison system.
<i>Require TDCJ to make information about healthcare services readily available to offenders.</i>	AGREE: The majority of mail we receive from prisoners deals with claims that they have received inadequate health care.
<i>TDCJ's Health Services Division and the university providers should provide more useful information in response to offender grievances.</i>	AGREE

We appreciate the opportunity to offer our comments on this report, and we look forward to sharing more recommendations with you during the Sunset Committee meeting scheduled for November 14-15. We would like to commend the staff for their hard work on this effort, as well as thank the members of the Committee for seeking out ways to unite families, increase public safety, and save taxpayers money.