



**TEXAS CRIMINAL
JUSTICE COALITION**

WRITTEN TESTIMONY

**SUBMITTED BY DOUGLAS SMITH, MSSW
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ON

THE TEXAS BOARD OF PARDONS AND PAROLES

AND

THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE

TO

THE SENATE COMMITTEE ON FINANCE

JANUARY 28, 2019

Dear Members of the Committee,

My name is Doug Smith. I am the Senior Analyst for the Texas Criminal Justice Coalition. Thank you for allowing me this opportunity to provide information on policies and investments that tackle the root causes of crime, safely decrease state jail and prison populations, save taxpayer dollars, and improve health in Texas communities. The Texas Criminal Justice Coalition supports pretrial interventions, successful probation and parole systems, reentry strategies, and other smart decarceration practices.

TEXAS BOARD OF PARDONS AND PAROLES (BPP)

We are highly supportive of the BPP’s baseline and exceptional item requests. The BPP requested many of the exceptional items during the prior biennium, but budget constraints prevented the Legislature from funding them. A pay increase for Institutional Parole Officers will allow the BPP to attract and retain qualified staff to perform reviews of incarcerated individuals who are eligible for release. The request for office relocation, consulting services to update parole guidelines, and victim liaison are reasonable and long overdue. All requests will help to improve BPP operations, which in turn improve public safety.

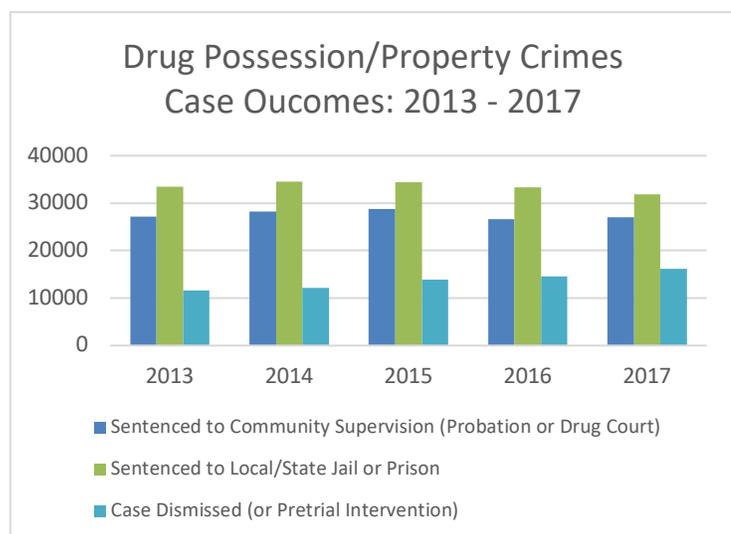
TEXAS DEPARTMENT OF CRIMINAL JUSTICE (TDCJ)

We are supportive of all exceptional item requests presented by TDCJ. We believe that the requests are justified, and that the funding will ensure that it can meet the goals of the agency to divert people from prison, address the health care needs of incarcerated individuals, and maintain safe, secure, and rehabilitative facilities. We are especially supportive of the request for pay increases for Correctional and Parole Officers, recognizing that attracting and retaining quality staff will produce lower recidivism, enhanced safety, and improved rehabilitation.

It is important to emphasize that TDCJ’s exceptional item requests were based on current needs and projections of future felony populations. We believe that supporting these requests – and, in some cases, allotting funding to cover additional services – will result in significant reductions in state jail and prison commitments, which will mean lower costs to the state.

Pretrial Diversion Funding

We are supportive of the request for \$8 million over the biennium to increase the number of people placed in pretrial intervention programs by 8,900; however, we would request that the Legislature increase this funding amount. Currently, more defendants are sentenced to time in jail or prison than placed into community supervision for low-level drug and property crimes,¹ which leads to higher recidivism rates for the lowest-level felony offenses

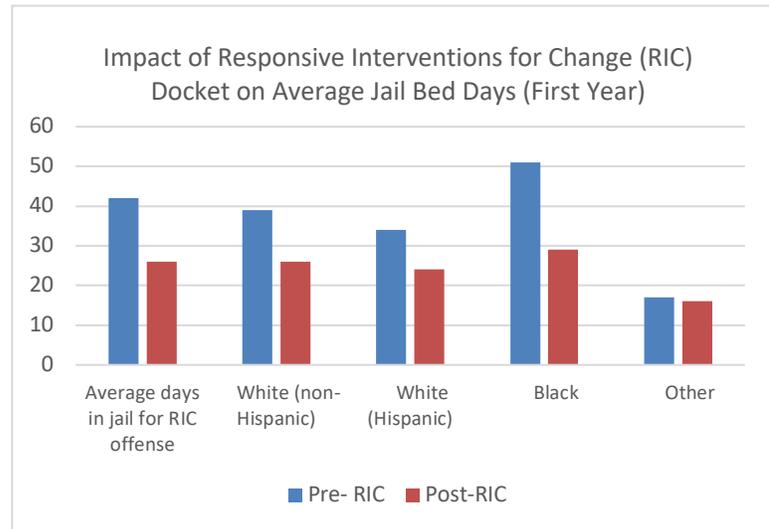


compared to more serious offenses, due to the lack of in-prison treatment and post-release supervision.²

A solution to promote safe diversion and lower recidivism is to expand the use of pretrial intervention programs, which, when operated according to certain best practices – like rapid release from jail into assessment-based treatment services, and dismissal of the charges upon successful completion – can reduce jail bed days, lower state jail and prison commitments, and reduce recidivism.

Harris County developed Responsive Interventions for Change (RIC), an innovative approach to state jail felony and 3rd degree felony drug possession offenses, as well as felony prostitutions. All individuals charged with these offenses are referred to a single docket and are seen by the court within one day of referral. Those charged with first-time offenses are offered pretrial diversion programming, and those with prior offenses are offered treatment and programming through deferred adjudication.

Before the end of the first year of the RIC's implementation, the average days spent in jail for a targeted offense dropped from 42 to 26. The effect for African American defendants was especially significant, dropping from 51 to 29, a 43.1 percent decrease. This was the largest decrease in jail bed days of any racial group.³



Moreover, the RIC program increased the number of people accepting treatment and community supervision by 25 percent within the first year.⁴

As a result, in its first year of implementation, **Harris County sent 424 fewer people to prison for drug possession, 600 fewer people to state jail, and 485 fewer people to county jail.**⁵ The County also dismissed 1,412 more drug possession cases in 2017 than in 2016, an astonishing figure that is likely due to the emphasis on pretrial diversion for first-time offenses.⁶

If other jurisdictions were to implement similar approaches with an emphasis on pretrial diversion, the state would experience a substantial decline in state jail and prison commitments. However, TDCJ's \$8 million exceptional item request may not fully fund pretrial diversion across the state, especially for state jail felonies. Between May 2017 and April 2018, 44,966 people arrested for state jail felonies had no prior felony arrests, and more than 17,000 of them were arrested for possession of less than one gram of a controlled substance;⁷ this population could strongly benefit from local pretrial interventions. **Funding above the \$8 million requested will allow a greater number of jurisdictions to implement pretrial programming.**

Further, we urge the Legislature to do the following:

- 1. Provide Basic Supervision funding for the supervision of defendants placed into pretrial intervention programs.** Jurisdictions are not reimbursed for supervision of these clients, despite these programs being shorter in duration than regular community supervision, producing better outcomes, and saving the state money on incarceration costs.

- 2. Require the Legislative Budget Board to count defendants in pretrial intervention programs when making projections of the overall community supervision population.** This will give the Legislature more accurate information when making funding allocations.

Consistent with the findings of the Sunset Advisory Commission in 2013, the Legislature should also create outcome expectations for the use of pretrial and diversion grant funds. We urge the Legislature to require grant recipients to achieve the following goals:

- Demonstrated reductions in the time of pretrial confinement;
- Reduced racial disparities in terms of the length of pretrial confinement and placement into treatment programming;
- Improved rates of placement into diversion programming for all defendants charged with targeted offenses; and
- Increased completion rates for those placed in diversion programming.

We ask that TDCJ provide technical assistance or discontinue grant funding to jurisdictions that fail to make progress in achieving these goals.

Additional Funding for the Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI)

According to TDCJ, more than 18,500 people with mental illness are incarcerated in TDCJ, a figure that has increased by 50 percent over the past decade.⁸ These numbers track significant increases in mental health bookings in county jail.⁹ It is clear that jail diversion efforts are lacking across the state, particularly in rural areas. Additional TCOOMMI funding would increase services to 1,250 people with serious mental illness annually, and to another 4,100 clients with high criminogenic risk and clinical care needs. Additional assessment, case management, and rehabilitative services will help keep people out of jail and prison, connecting them with community supports that improve public safety and long-term outcomes for people with mental illness.

Additional Vocational Training

We are supportive of TDCJ's modest request for an additional \$2 million over the next biennium to increase incarcerated individuals' access to vocational training in high-demand occupation such as welding, automotive technology, HVAC, truck driving, carpentry, and culinary arts. A strong correlation exists between improved employment opportunity and lower recidivism, and these additional funds will ensure that 2,500 more people are connected with decent jobs upon release from prison or state jail. We are also supportive of TDCJ's efforts to expand the number of occupations available to females.

Educational and Vocational Pilot Program Funding

During Texas' 2017 legislative session, policy-makers passed HB 3130, which created an innovative pilot program intended to reduce time spent in state jails and connect people released from state jails with vocational programming and community supervision. People sent to state jail have an average educational achievement score of 7.86, or a seventh-grade education – the lowest of any correctional population inside TDCJ.¹⁰ Furthermore, according to interviews conducted by the Texas Criminal Justice Coalition with people incarcerated in state jails, 32 percent of males and 25 percent of females reported

being unemployed at the time of arrest, while 13 percent of males and two percent of females reported being homeless at that time.

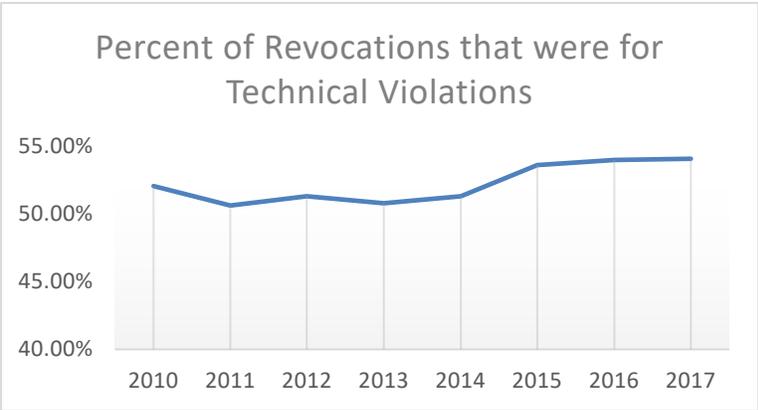
The state jail model itself prevents people from accessing training to overcome educational and vocational barriers. Following a term of confinement in county jail during the pretrial phase, people sent to state jail serve an average of 6.2 months in a state jail facility,¹¹ and many are simply not able to finish programming during that time. The additional \$2.26 million requested by TDCJ will fund the HB 3130 pilot program and allow people to take supervised vocational programming while in the community, saving the state on incarceration costs and decreasing recidivism.

Specialized Probation Programs – Treatment and Supervision

We are highly supportive of the request for an additional \$16 million for supervision and treatment for people placed on community supervision with substance use disorder and/or mental illness. This population has a critical need for additional treatment services, intensive supervision, and staff expertise, given that they are often at high risk of revocation without the additional support.

We urge the Legislature to require recipients of diversionary grant funds to achieve the following goals:

- Improved placement rates on community supervision;
- Decreased time of confinement in county jail;
- Decreased racial disparities in terms of community supervision placement and revocations; and
- Reduced revocation rates, especially for technical violations.



We are concerned that the overall rate of probation revocations has not declined significantly at any point in the past 8 years, and that the proportion of revocations for technical violations (vs. new offenses) has increased.¹²

We urge the Legislature to require grant recipients of diversion funds to demonstrate improved rates of diversion and reductions in

revocations as a condition of further receipt of state aid. The Community Justice Assistance Division should provide technical assistance or discontinue grant funding to probation departments that fail to make progress in achieving these goals, especially with the high-risk population for which this funding request is intended.

Citations

- ¹ Office of Court Administration, Court Activity Database, District Court Drug Possession Dispositions 2016 – 2017.
- ² Legislative Budget Board, *Criminal and Juvenile Justice Recidivism and Revocation Report*, January, 2017.
- ³ Brusman, et al., *Examination of Intervention to Address Jail Overcrowding*, American Criminological Association, April, 2018.
- ⁴ Brusman, et al., *Examination of Intervention to Address Jail Overcrowding*.
- ⁵ Office of Court Administration, Court Activity Database, District Court Drug Possession Dispositions 2016 – 2017.
- ⁶ Office of Court Administration, Court Activity Database, District Court Drug Possession Dispositions 2016 – 2017.
- ⁷ Data Request, Texas Department of Public Safety, received August 2018.
- ⁸ Blakinger, Keri, "Suicide Attempts Have More than Doubled in Texas Prisons," *Houston Chronicle*, February 5, 2018.
- ⁹ Personal communications, Roger Jeffries, Travis County Criminal Justice Planning.
- ¹⁰ Texas Department of Criminal Justice, *FY 2017 Statistical Report*, 2.
- ¹¹ Data Request, Texas Department of Criminal Justice, received August 2018.
- ¹² Texas Department of Criminal Justice, *Community Justice Assistance Division, Report to the Governor and the Legislative Budget Board on the Monitoring of Community Supervision Diversion Funds, 2010 – 2017*.