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House Committee on Corrections

Dear Chairman Murphy,

Thank you for this opportunity to testify on Interim Charge # 2: **“Study recidivism, its major causes, and existing programs designed to reduce recidivism, including a review of current programs utilized by the Texas Department of Criminal Justice (TDCJ) and the Windham School District for incarcerated persons. Examine re-entry programs and opportunities for offenders upon release. Identify successful programs in other jurisdictions and consider how they might be implemented in Texas.”**

THE TWO THINGS THAT RECIDIVISM RATES TELL US

When examining recidivism in Texas, there are two stories.

- **Steps in the Right Direction**

Recidivism in Texas appears to be fairly low. **Only about 21.4 percent of individuals released from prison are returned to prison within three years following release.**¹ It is difficult to compare recidivism rates with other states given the various ways in which recidivism is measured and defined, but Texas’ low reincarceration rate is significant nonetheless.

Yearly parole revocations have decreased 20 percent since 2010, and almost 50 percent over the past decade, saving the state millions while improving public safety.

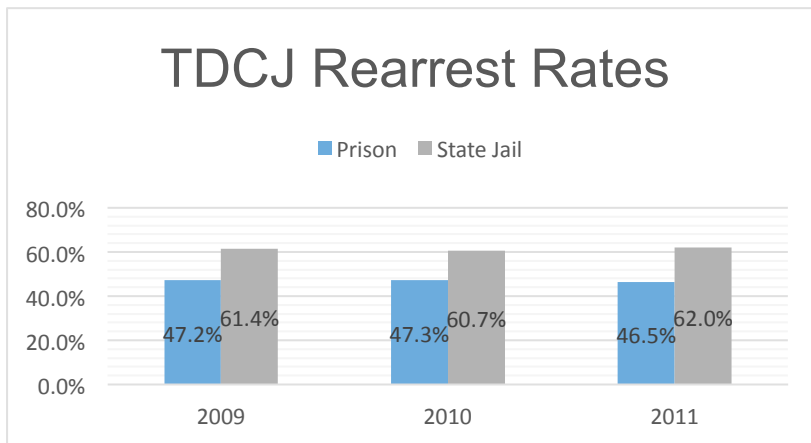
Furthermore, the rate indicates a concerted effort to prevent reincarceration for those released from prison, utilizing every diversion option available to the TDCJ Parole Division and Parole Board. These include treatment programming, intensive supervision, electronic monitoring, Substance Abuse Felony Punishment facilities, and Intermediate Sanction Facilities. In fact, yearly parole revocations have decreased 20 percent since 2010, and almost 50 percent over the past decade.²

There is evidence that some of the programming *within* TDCJ is helping to reduce reincarceration rates as well. The Department offers multiple levels of educational programming, from basic literacy to collegiate-level courses, as well as vocational training. These programs can help provide a strong foundation for many of the individuals leaving TDCJ, as education and employment are the factors most strongly associated with success post-release.³ Additionally, chaplaincy and volunteer programming are available on most TDCJ units, further providing people with the tools for personal responsibility and stability.

Over time, there have been significant improvements to Texas’ reentry system as well. The TDCJ Reentry and Integration Division have enhanced efforts to ensure that those leaving prison have proper identification, social security cards, and birth certificates. Last legislative session, **the Legislature provided funding for an additional 50 reentry case managers above the 139 already providing pre-release services.**⁴ Further, via HB 1908, the Legislature expanded the eligibility criteria for intensive reentry supports for people with mental illness. Also, **SB 578 ensures that county-specific reentry resource materials are provided to everyone leaving TDCJ.**

In addition, current evidence-based programming is effectively addressing the underlying causes of criminal justice involvement, such as substance abuse. Completion of a Substance Abuse Felony Punishment program or In-Prison Therapeutic Community, along with the aftercare components of these programs, has resulted in significant reductions in reincarceration compared to control groups with similar characteristics.⁵ However, not everyone who needs these programs receives them, and the positive results have only been achieved for the smaller portion of those assigned to the program who completed all phases of the program. **The fact that not everyone completed the portion of these programs post-release from in-prison treatment highlights the other story about recidivism in Texas.**

- **The Challenge Ahead**



Despite a relatively low reincarceration rate for people leaving prison, **those attempting to transition from prison struggle upon release.** More than 46 percent of those leaving prison in 2011 were rearrested within three years of release.⁶ The story for people involved in the state jail system is even more disturbing. **At 30.7 percent,**

the reincarceration rate for those leaving state jail is significantly higher than for those leaving prison, and the rearrest rate is above 62 percent.⁷

This is a struggle of reentry. The transition from prison back to the community remains a monumental challenge. **People leave prison and state jail with a \$100 check, a 10-day supply of medication, a list of community resources, the clothes they are wearing, and a bus voucher.** They arrive in their communities to find barriers to employment, long-term housing, and occupational opportunities. When they attempt to find help within their communities, they often encounter obstacles. The Reentry and Integration Division identified almost 140 counties of all sizes that lacked adequate resources with respect to housing, basic needs, education, employment, veterans services, medical care, mental health care, or substance abuse treatment.⁸ Further, many employers and landlords remain largely unwilling to give formerly incarcerated individuals a chance, regardless of everything people may have done to achieve rehabilitation.

THE LIMITATIONS OF THE CURRENT SYSTEM: OPPORTUNITIES AND OBSTACLES

In order to address the challenges to effective reentry, TDCJ and the Legislature must properly identify the limitations of the current system. There are a number of issues that make the necessary reforms exceedingly difficult to accomplish. Until these obstacles are removed, Texas will continue to miss opportunities to improve reentry.

- **Opportunity: Improve Access to Vocational Training | Obstacle: Limited Access to Vocational Services**

As stated, employment is one of the most important factors associated with success post-release. People convicted of either violent or nonviolent crimes are much more likely to re-offend if they are unemployed following release from prison.⁹ While **re-employment reduces the likelihood of re-arrest**,¹⁰ *rapid* re-employment following release is most critical.

Unfortunately, not everyone incarcerated in TDCJ is able to access vocational programming. Windham School District will make these opportunities available to those with less than a high school diploma, but people who do not meet this criteria will have to pay out of pocket for vocational classes. Further, there are often waiting lists for classes, and little effort is made to connect vocational graduates with second-chance employers. **Each person leaving prison should be equipped with the skills necessary to compete in a job market that is wary of hiring individuals with criminal records.**

- **Opportunity: Work Release Programming | Obstacle: Unpredictable Release on Parole**

Work release programming is a promising model with many benefits to the state.¹¹ Successful programs connect incarcerated individuals with actual employers, helping them develop relevant skills and earn income that will both improve their transition into the community and alleviate the demand on community resources. In short, these programs ease people back into the community instead of abruptly leaving them with little more than a resource guide. There is an additional benefit to these programs in that they can complement the rehabilitative work accomplished during the period incarceration; work-release programming can include evening programs to prepare people for release while also reinforcing the gains achieved during in-prison therapeutic community treatment.¹² Individuals placed in these programs will not yet be released onto parole supervision, so completion of all complementary programming can be made a condition prior to release.

Despite the promise of these programs, there are few work-release opportunities in TDCJ other than a select program in Lockhart available to a tiny fraction of individuals.¹³ **But the main obstacle is an unpredictable release system. People may be eligible for parole, but only 35 percent are approved. For those eligible for Mandatory Supervision, the Parole Board approves less than 48 percent.**¹⁴ **The average length of sentence is 19 years in Texas,**¹⁵ **so it is often difficult for TDCJ to accurately predict who is nearing release.** However, the Department also tracks average length of sentence served based on type of offense, so the unpredictability of release is not an unsurmountable obstacle.

- **Opportunity: Address Criminogenic Needs Prior to Parole Review | Obstacle: Evidence-Based Programming Only Available By Parole Board Vote**

All individuals received by TDCJ participate in a comprehensive assessment to identify needs that should be addressed during the course of incarceration. For the most part, identification of gaps in education results in program referrals to the Windham School District, and the individual is expected to participate in programming prior to Parole review. This allows the Parole Board to measure

The Parole Board denied parole to 53,415 people in 2015. The state spent nearly \$1 Billion to incarcerate these individuals for each year beyond parole eligibility.

Source: Board of Pardons and Paroles and Legislative Budget Board

progress toward educational goals compared to the intake assessment and, therefore, make better release decisions.

If the Department also referred individuals identified as having high substance abuse treatment needs to evidence-based treatment through the Rehabilitation Division of TDCJ prior to Parole review, it would likely increase the Parole approval rate and allow the Parole Board to make decisions about appropriate supervision levels instead of actual treatment decision.

With the exception of the DWI Treatment Program, **most incarcerated individuals can only access programs offered by the Rehabilitation Division of TDCJ after a favorable vote by the Parole Board.** Therefore, people often do not have access to the very programs that could address needs identified on the Texas Risk Assessment System, such as substance abuse, until they are being considered for release. The Parole Board is unable to measure progress toward addressing treatment goals, so they are forced to guess whether the individual will be a lower risk to the public following treatment. This should not be the role of a non-clinician. Further, many parole denials are for reasons such as “Drug or Alcohol Involvement,”¹⁶ a factor that should have been addressed through the Rehabilitation Division prior to parole consideration.

Citations

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