



COMMON-SENSE STRATEGIES TO ACCELERATE REDUCTIONS IN THE TEXAS PRISON POPULATION

It is Critical to Keep Incarcerated Populations and Staff Safe During the COVID-19 Crisis

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COVID-19 infection rates inside state and federal correctional facilities are on the rise. Already, as of April 6, three people in federal custody have died,¹ another incarcerated person died in a Michigan prison,² and there are dozens of positive cases among incarcerated individuals and staff inside of Texas Department of Criminal Justice (TDCJ) facilities. Public health experts have urged correctional facilities to implement measures to protect incarcerated individuals, but their **number one recommendation is to reduce the number of people in prison as soon as possible.**³

It is possible to accelerate release of individuals from Texas prisons to mitigate the strain on the correctional health care system, protect the elderly and medically vulnerable, and reduce the spread of viral infection. **Texas can do so safely, without risk to the public.** Over the past 10 years, we have seen that increases in parole releases, combined with strong parole supervision, have resulted in decreased recidivism.⁴

Below are strategies to quickly and safely reduce the number of people incarcerated in the Texas Department of Criminal Justice (TDCJ).

Importance of Accelerated Prison Releases

The COVID-19 crisis is especially dangerous within a prison facility for four reasons:

1. It is exceptionally difficult to quarantine or isolate large numbers of elderly or medically vulnerable people, as these groups represent a significant proportion of the overall TDCJ population, and most live in congregate settings such as dorms.
2. Texas' correctional healthcare system will be strained beyond capacity as new cases are identified inside prisons. More serious cases will require transfer to the university hospital or to rural local hospitals – resources that are already facing a crisis of capacity.
3. As the virus spreads to more counties, stay-at-home orders will create a staffing shortage within TDCJ. Officers and staff members with younger children will not be able to find child care. Further, officers and staff members will contract the illness, or their family members will become ill. An increasing number of people will not be able to work for and within TDCJ.
4. It is critical to do what can be done now to safely reduce the prison population before contagion results in a situation where neither the prison system nor local hospitals have the capacity to adequately treat people.

This underscores the importance of reducing TDCJ's population as quickly as possible.

Safe and Realistic Strategies for Reducing TDCJ's Incarcerated Population

Top Priority for Reducing the Population

1. **Release Elderly and Medically Vulnerable Individuals:** The Governor can issue a number of directives:
 - a. Require TDCJ to identify all elderly and medically vulnerable individuals, people with serious mental illness, and people with intellectual/developmental disabilities who are eligible for parole, and expedite review.
 - b. Identify people who are eligible for Medically Recommended Intensive Supervision, expedite review, and release them into appropriate community-based medical care.
 - c. Expand the criteria for Medically Recommended Intensive Supervision to include more categories of individuals (e.g., people with chronic medical conditions that place them at heightened risk from COVID-19).
 - d. Shift staff members with the relevant expertise into positions that allow them to offer transitional case management for people released into reentry programming provided by the Texas Correctional Office on Offenders with Mental and Medical Impairments (TCOOMMI).

Additional Strategies for Reducing the Incarcerated Population

1. **Mitigate Transfer Holds from County Jail to TDCJ Through Increased Release:** As COVID-19 cases arise within county jails, TDCJ will be unable to take custody of individuals in county jail awaiting transfer to state prison, despite TDCJ's statutory obligation to do so. The Governor can help mitigate the resulting strain on county jails by granting authority to sheriffs to release people from county jail.
2. **Recognize State Jail Diligent Participation Credits and Reduce Sentences:** People incarcerated in state jail are eligible for a 20% time credit for participation in education, work, or vocational programming,⁵ and are awaiting judicial approval for release. With courts closed, the Governor can commute the sentences of people identified by TDCJ as having served 80% of their state jail term.
3. **Release People Already Approved for Parole:** Many people are approved for parole but have not completed required programming, such as cognitive intervention programming or substance use treatment. However, most of these programs are currently on hold, so there is no way for people in custody to satisfy that requirement. With the direction of the Governor, the Parole Board can immediately authorize release and modify the conditions of parole to require programming in the community.
4. **Release People Who are Eligible for Parole or Within One Year of Mandatory Supervision:** The Governor can direct the Parole Board to identify all parole-eligible individuals who are lower risk and authorize release.
5. **Overcome Immediate Housing Barriers Through Vouchers:** Many people are approved for parole, but TDCJ cannot release them due to a lack of housing. Many of them typically wait months or years for a placement into a Transitional Living Facility. To overcome this hurdle now, the Governor can immediately authorize TDCJ to pay a housing voucher under the Temporary Housing Assistance Program.⁶

6. **Utilize Early Parole Termination:** With greater demand on Parole Division resources, the Governor can direct TDCJ to immediately release all people from parole supervision who qualify for early termination under Section 508.155(c), Texas Government Code. This will ensure that parole resources are utilized for people who are within the first or second year of parole release, when they are most in need of supervision and assistance.

Reentry Strategies to Help People Returning to Texas Communities

1. **Reinstate People’s Driver’s Licenses to Help Them Meet Basic Needs:** The Governor should immediately direct the Texas Department of Public Safety to reinstate drivers’ licenses suspended due to court debt. With public transportation curtailed or out of service, it is critical for people with court debt to be able to access personal transportation to meet their health and wellness needs.
2. **Provide Housing Assistance:** The Governor can authorize TDCJ to provide Transitional Housing Assistance to people already on parole who are experiencing unstable housing due to unemployment or other factors related to COVID-19.

¹ National Public Radio, “Third Federal Inmate Dies from COVID-19,” April 1, 2020, <https://www.npr.org/sections/coronavirus-live-updates/2020/04/01/825448006/second-federal-inmate-dies-from-covid-19>.

² Rahal, Sara, “Prisoner dies in cell, COVID-19 virus spreads to 200 inmates in Michigan,” *The Detroit News*, April 4, 2020, <https://www.detroitnews.com/story/news/local/michigan/2020/04/04/michigan-first-prisoner-death-coronavirus-covid-19-200-inmates/2947586001/>.

³ Williams, Brie, et. al., “Correctional Facilities in the Shadow of COVID-19: Unique Challenges and Proposed Solutions,” *Health Affairs*, March 26, 2020, <https://www.healthaffairs.org/doi/10.1377/hblog20200324.784502/full/>.

⁴ Findings derived by analyzing parole approval rates and recidivism rates since 2011. Sources: Texas Board of Pardons and Paroles, Statistical Reports, 2011 – 2019, <https://www.tdcj.texas.gov/bpp/publications/publications.html> & Legislative Budget Board, Statewide Criminal and Juvenile Justice Recidivism and Revocation Reports, 2011 – 2019, http://www.lbb.state.tx.us/documents/publications/policy_report/4914_recidivism_revocation_rates_jan2019.pdf.

⁵ Texas Code of Criminal Procedure, Art. 42A.559.

⁶ Texas Administrative Code, Section 195.81.