



Costly Confinement & Sensible Solutions: Jail Overcrowding in Texas

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TCJC's Mission

The Texas Criminal Justice Coalition is a non-profit, non-partisan organization dedicated to identifying and advancing effective criminal and juvenile justice system solutions in Texas.

- ★ We **conduct policy research and analysis** on Texas justice systems.
- ★ We **form effective partnerships** with a range of organizations, such as the Texas Commission on Jail Standards and the Task Force on Indigent Defense.
- ★ We **educate key stakeholders** to promote effective management, accountability, and best practices.

Indigent Defense Summit

- ★ Provide a Snapshot of Jail Overcrowding in Texas
- ★ Offer an Overview of the Importance of Indigent Defense
- ★ Share Cost-Effective Solutions to Ensure Indigent Right to Counsel

Jail Overcrowding in Texas

Offense Level or Type	Number of Violators
Felons	33,470
Misdemeanants	10,478
State Jail Felons	7,123
Parole Violators	5,073
Federal	7,956
Others	3,112
Bench Warrant	1,026
TOTAL	68,294

As of February 1, 2011

Jail Overcrowding in Texas

Jail Population: Three Significant Findings

- Over half (55%) of the jail inmates are pre-trial defendants.
- Of these pre-trial inmates, almost 20% are held for misdemeanor charges.
- Of the total reported population, 15% are held for a misdemeanor offense.

Jail Overcrowding in Texas

Impact on County Taxpayers

The total reported misdemeanor population of 10,478 individuals, calculated at an average rate of \$45 per day, cost taxpayers more than \$471,000 daily.

Jail Overcrowding in Texas

Impact on County Taxpayers

The continual push of low-risk, nonviolent individuals into local jails harms counties:

- Potential jail construction, expansion, or outsourcing.
- Greater management burden accompanies larger jail populations.
- Negative consequences for public safety and community health.
- Decline in contributions to county tax base.

Indigent Defense

Impact on County Taxpayers

- In addition to the costs associated with jail overcrowding, counties shoulder approximately 85% of the costs of providing indigent defense.
- Since passage of the Fair Defense Act in 2001, indigent defense costs have nearly doubled from approximately \$94.7 million to \$186.3 million.

Indigent Defense

The right to counsel is required by the
U.S. Constitution and the Texas Fair Defense Act.
It is **NOT** a luxury.

Indigent Defense

Cutting Indigent Defense is Expensive

Limited opportunities for meaningful defense may result in greater long-term costs related to:

- Delayed case processing
- Increased pre-trial jail expenses
- Poorly scrutinized plea deals
- Longer sentence lengths
- Increased recidivism
- Likely litigation
- Wrongful convictions

Why Indigent Defense?

Indigent defense is the last and most essential safeguard in a balanced system of justice.

Where counties struggle to provide adequate indigent defense:

- Individuals may **sit in jail for weeks** awaiting trial.
- Individuals may **waive important rights** that are intended to ensure a fair and proper process.
- Individuals who are **innocent may not have a zealous advocate** to prevent a wrongful conviction.
- Individuals may **incur collateral consequences** that last a lifetime and result in future criminal justice system involvement.

What Makes Sense?

Smart Solutions:

- ★ Strengthen the Task Force on Indigent Defense
- ★ Increase State Funding to Counties
- ★ Establish Funding Allocation Guidelines
- ★ Expand Use of Public/Private Defender Systems
- ★ Ensure Quality Defense

Smart Solutions

Strengthen Task Force on Indigent Defense

Creating an independent Task Force would:

- Strengthen the Task Force ability to collect and track indigent defense specific data.
- Ensure agency transparency through annual reporting on quality of indigent defense practices.
- Expand agency role to strongly advocate for improved indigent defense processes.

Smart Solutions

Strengthen Task Force on Indigent Defense

Diversify the Task Force Board composition to incorporate members who:

- Are knowledgeable about the day-to-day requirements and responsibilities of practicing indigent defense attorneys and public defenders.
- Reflect the geographic and demographic diversity of the State.

Smart Solutions

Increase State Funding to Counties

- According to recent data, Texas ranks 48th in per-capita indigent defense spending, placing tenth out of the ten most populated states.
- Texas generates indigent defense funding through court costs and other fees, but this is not enough to keep up with the growing demand for services.
- Increasing state funding would help fulfill Texas' constitutional duty to provide counsel, minimize the burden borne by counties, and increase confidence in Texas' justice system.

Smart Solutions

Establish Funding Allocation Guidelines

Approximately 90% of current grant funds issued by the Task Force are state formula grants, while approximately 10% are targeted grants for specialized programs and exceptional items. For a more effective distribution of funding:

- 1/3 allocated to counties to offset the regular costs of indigent defense.
- 1/3 designated for competitive discretionary grants.
- 1/3 provided to help counties sustain successful, cost-effective programs.

Smart Solutions

Expand Use of Public Defender Systems

- Public defender offices offer counties **budget predictability** and **cost savings** through lower expenses per case.
- Public defender offices can significantly **reduce the number of days between defendants' arrest and trial**, helping them more promptly return to their obligations in the community.
- Public defender offices have mechanisms to **increase the quality of indigent defense services**, improving confidence in the system.

State policy-makers must note that if defendants in felony cases fail to receive effective legal representation and end up in prison, the state pays for the costs of incarceration.

Smart Solutions

Specialized public defender offices increase efficiencies for large dockets based on population needs, such as:

- Individuals with low-level, nonviolent offenses.
- Individuals with drug or alcohol dependency problems.
- Individuals with mental health needs, including a growing population of veterans.

Smart Solutions

Regional public defender offices offer counties an affordable option to provide constitutionally required indigent defense.

Lubbock Capital Public Defender Office

- Serves 70 Texas counties, soon expanding to 140 counties.
- Saved member counties nearly \$650,000 since 2008.

Smart Solutions

Managed assigned counsel programs provide an alternative option for counties wishing to fully utilize the private defense bar, while providing independence and structure for quality defense programs.

Managed assigned counsel programs provide oversight through an independent organization that relieves judges of administrative burdens by:

- Managing the attorney appointment list.
- Reviewing and authorizing attorney payments for services.
- Ensuring payments for investigative and expert assistance.

Smart Solutions

Incorporate Recognized Guiding Principles

Policy-makers should encourage indigent defense programs to implement:

- The American Bar Association's Ten Principles of a Public Defense Delivery System
- A community-oriented, client-focused approach in public defense, such as outlined by the Brennan Center for Justice

Smart Solutions

Strengthen Professional Development

Attorneys and judges should receive additional training in areas such as:

- Trial and sentencing practices, including:
 - Sources and prevention of wrongful convictions
 - The range of sentencing alternatives in Texas
 - Evidence-based sentencing practices utilizing a nationally recommended curriculum.
- Mental health and substance abuse issues, to better serve a growing population of defendants.

Conclusion

We need to change Texas' criminal and juvenile justice culture to value quality indigent defense as a necessary partner in achieving justice. Only then can we fully-implement solutions that will relieve our overburdened court and jail systems and more appropriately address the health and public safety needs of our communities, while saving taxpayer dollars.

Contact Information

Please contact us if you would like to suggest an effective and cost-saving criminal justice practice used in your county.

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