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House Committee on Corrections

Study and review the correctional facilities and processes within Texas Department of Criminal Justice, Texas Board of Pardons and Paroles, and Texas Juvenile Justice Department with emphasis on efficiencies, effectiveness, and recidivism. Examine the existing programmatic approach per facility in the areas of the vocation, education, visitation, rehabilitation, health and mental health services, parole supervision, and reentry initiatives. Evaluate opportunities for partnerships between facilities and private industries to offer education, job training, and potential employment for offenders during incarceration, parole, and final release.

Dear Members of the Committee,

Our names are Sarah Pahl and Jorge Renaud. We are policy advocates for Texas Criminal Justice Coalition. Thank you for allowing us this opportunity to present testimony on strategies to strengthen the processes and effectiveness of the Texas Department of Criminal Justice (TDCJ) in the areas of visitation, health and rehabilitation, and reentry.

OVERVIEW

The mission of TDCJ is “to provide public safety, promote positive change in offender behavior, reintegrate offenders into society, and assist victims of crime.”¹ In order to effectively accomplish this mission, TDCJ must improve services in the areas of visitation, health and rehabilitation, and reentry.

- **Supportive visitation policies** are not only critical in promoting positive behavior in individuals who are incarcerated, but have also been found to reduce recidivism.
- **Reduced expenditures associated with long-term medical and mental health care** can be realized by diverting individuals with mental health or chemical dependency issues from state confinement, ensuring women and youth receive adequate health care to prevent long-term complications and recidivism, and balancing the minimal risks to public safety posed by elderly prisoners with the significant medical costs of keeping them incarcerated.
- **Stable housing and employment** are essential to reduce recidivism and increase public safety. Helping formerly incarcerated individuals find jobs and secure permanent housing enables them to live successfully and productively in the community, supporting their families and remaining law-abiding.

VISITATION

NEED FOR STRONG VISITATION POLICIES

Hundreds of thousands of Texans have a loved one incarcerated in TDCJ facilities. Consequently, visitation policies and practices impact many Texans and directly affect the ability of families to stay connected during incarceration. Visitation plays an important role in maintaining positive connections between incarcerated individuals and their families and friends.² A recent robust study on the effects of prison visitation on

recidivism found that visitation can help reduce recidivism by up to 25 percent.³ Furthermore, the study found that “visitor friendly” policies “could yield public safety benefits by helping offenders establish a continuum of social support from prison to the community.”⁴

It is critical to ensure that visitation policies facilitate the following: safe contact between adults, child-friendly areas, an atmosphere that is conducive to maintaining family relationships, and environments that reduce noise and allow for adequate space.

Key Findings

- Visitation during incarceration has been shown to **reduce recidivism** by up to 25 percent.⁵
- Denying the parent-child connection can lead to behaviors by youth that can spur involvement with the juvenile justice system.⁶ As of 2011, **nearly 95,000 individuals incarcerated in Texas prisons self-reported as having children.**⁷
- Appropriate play with children in a developmentally appropriate setting positively impacts attachment, increasing the probability of establishing stable, healthy relationships and in turn **contributing to the safety and security of the unit.**⁸

VISITATION STUDY MANDATED BY BUDGET RIDER 61

The 83rd Legislative Session mandated TDCJ to perform or commission a study examining the system’s visitation policies, with an eye toward “expanding areas that are child-friendly.”⁹ The Texas Criminal Justice Coalition invited individuals incarcerated in TDCJ, as well as those who visit individuals incarcerated in TDCJ, to respond to surveys designed to elicit their concerns and feedback about visitation. Below we have summarized various preliminary findings from our survey of visitors.

Key Findings

- Eight hundred twenty-three (823) visitors to Texas prisons responded to our survey. Of those, 84 percent were women, and 35 percent **traveled more than four hours** to visit their loved ones.
- At least one-fourth (25 percent) of all respondents reported having been turned away and denied visitation for one reason or another **after** having arrived at the TDCJ unit for their visit.
- At least 60 percent of respondents brought children to visit incarcerated individuals; 30 percent of those children were under three years old.
- However, 88 percent of respondents said the facility they visited made no effort to provide children with any type of activity, and 85 percent said there was no separate area for smaller children so they could interact with their incarcerated parent.

SERVICES FOR HEALTH AND REHABILITATION

WOMEN

Compared to their male counterparts, women in prison face higher rates of medical, psychiatric, and substance dependency disorders.¹⁰ According to the Bureau of Justice Statistics, 56.7 percent of female prisoners in the U.S. report having some type of medical problem as compared to 42.9 percent of male prisoners.¹¹ The prevalence of medical, mental health, and substance abuse issues present in the female population, combined with their specific health care needs, demands greater attention from prison health care providers.

In early 2014, the Texas Criminal Justice Coalition conducted a survey of 421 women currently housed within TDCJ. A portion of this survey focused specifically on medical and mental health treatment, as well as treatment for substance abuse. Key findings from this survey are below.

Key Findings

- **Women often enter the system with some type of medical, mental health, or substance abuse issue.**¹² Approximately 82 percent of women who responded to our survey indicated that they received treatment from a psychiatrist or a doctor prior to entering TDCJ; 75 percent indicated that they had taken prescription medication for their condition; and 48 percent confirmed receiving substance abuse treatment prior to their incarceration.
- **Meeting the physiological and reproductive needs of incarcerated women varies greatly by institution.**¹³ The chart below illustrates how TDCJ is meeting these needs.

Physiology and Reproductive Health Needs	% of Respondents who Qualify	% of Respondents Receiving Care
Mammogram	72.2% ¹⁴	52.20%
Pap Smear	97% ¹⁵	72.9%
Pelvic Exam	97% ¹⁶	32.6%
Feminine Hygiene Products	100% ¹⁷	36.50% ⁱ

- **Women in prison frequently suffer from mental health problems (e.g., depression, post-traumatic stress disorder, and self-harm), which commonly co-occur with substance abuse.**¹⁸ Unfortunately, less than half (44.8%) of the women who responded to our survey felt that TDCJ met their substance abuse needs.
- **Women preparing to exit prison, like their male counterparts, have serious concerns about receiving medical, mental health, and substance abuse services upon reentering society.**¹⁹ Approximately 57 percent of women who responded to our survey ranked physical health services as a matter of high priority; 33.9 percent indicated mental health services were also a high priority; and 40.8 percent expressed concerns about not receiving substance abuse treatment.

ⁱ Only 36.5 percent of women indicated that they were provided with the necessary feminine hygiene products at all times. Approximately 54 percent indicated that they were sometimes given the necessary products.

YOUTHFUL INMATES

Though inmates aged 18 years or younger comprise only a small portion (less than 1%)²⁰ of TDCJ's overall population, the specific health care needs of these individuals must not be overlooked – especially given that the majority of youthful inmates will eventually return to our communities.

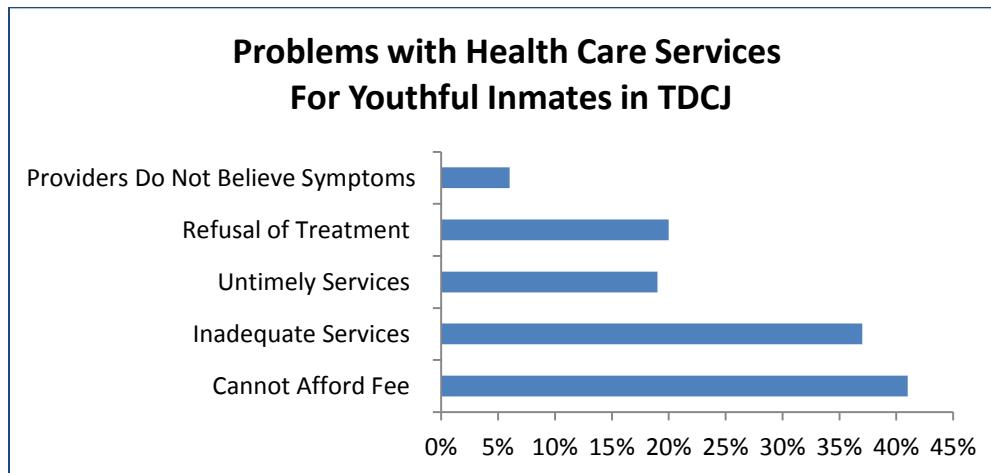
In early 2013, the Texas Criminal Justice Coalition conducted a survey of youthful inmates who had been certified or transferred to TDCJ.²¹ Though not all individuals fell into the "youthful" category at the time of their response, they were asked to answer questions about TDCJ's service provision compared to the services or treatment they received within the juvenile justice system. These responses were compared to the findings from a similar survey we issued at Giddings State School, a state secure facility under the purview of the Texas Juvenile Justice Department. Key findings from these surveys are below.

Key Findings

- **Youth who are kept in the juvenile justice system feel they are provided with more adequate health care than their counterparts who serve time in the adult criminal justice system.** Approximately 52 percent of youthful inmates who responded to our survey indicated having problems receiving health care services while in TDCJ; this is notably higher than their counterparts in the juvenile justice system (27%).

Given that the majority of youth in adult facilities will ultimately be released back into society, and that TDCJ prisons face high rates of infectious diseases (e.g., HIV/AIDS and Hepatitis C),²² it is imperative that correctional health care services ensure this population receives adequate treatment.

The chart below highlights concerns regarding health care provision among youthful inmates in TDCJ.



PRISONERS WITH MENTAL HEALTH AND SUBSTANCE ABUSE ISSUES

Mental health and substance abuse issues have long plagued incarcerated individuals,²³ and Texas' incarcerated population is no exception. According to TDCJ Executive Director Brad Livingston, approximately 83 percent of individuals housed in TDCJ have been diagnosed with a mental illness, while 62 percent have chemical dependency issues.²⁴

Researchers have found a higher risk of recidivism among individuals with co-occurring disorders; they emphasize **assessment prior to incarceration as instrumental in diverting individuals to appropriate placements** (e.g., residential treatment centers).²⁵ This is also an enormous expense saver as the cost of health care services required to treat prisoners with these issues,²⁶ on top of typical incarceration costs, set taxpayers back millions. These individuals should be treated in their communities, in appropriate settings, that will support their rehabilitative processes and eliminate unnecessary incarceration expenses.

ELDERLY PRISONERS

In 2012, geriatric prisoners comprised 4.3 percent of TDCJ's overall population.²⁷ Though this number may seem nominal, the costs associated with providing health care to these individuals are not, given conditions such as diabetes, heart failure, cognitive impairment, and end-stage liver disease.²⁸ Overall costs for the disabilities that correspond with old age and the chronic illnesses that can ensue are approximately **three times higher** than that of a younger prisoner.²⁹ As Texas' Legislature examines the costs associated with providing health care to incarcerated individuals, we encourage them to consider the minimal risks to public safety that these elderly prisoners pose and weigh them against the significant costs associated with keeping them incarcerated.

REENTRY CHALLENGES

HOUSING

Not only is there a general shortage of affordable housing for individuals with a criminal record, but many are at a general financial disadvantage due to limited employment opportunities and, in the case of those recently released from incarceration, no funding with which to pay the typical start-up costs of renting a residence (*i.e.*, application fees, security deposits for a residence and utilities, or even purchasing furniture and basic household items). Additionally, individuals with a criminal record may be banned from public housing programs, fall victim to incomplete or inaccurate criminal record searches, and experience groundless discrimination based on an offense that does not threaten public safety.

Inability to access stable and affordable housing causes those with a criminal record to be more susceptible to recidivism, to probation or parole violations, and to treatment failure (especially for substance abuse and mental illness).³⁰ While many public housing providers are prohibited by law from renting to people with certain convictions,³¹ private landlords retain discretion as to when and to whom to rent their properties. That leaves more individuals struggling to find stable and affordable housing. In turn, **Texas communities see a decrease in public safety, as individuals are forced to find less legitimate means to survive, and an increase in state spending, as individuals are re-incarcerated.**

It is critical to ensure that reentering individuals have every opportunity to access safe, stable housing.

Key Findings

- **The likelihood of recidivism increases when individuals with a criminal record are denied housing.**³² Texas taxpayers pay for the costly reincarceration of these individuals at the price of over \$50 per person per day in state facilities³³ and almost \$60 per person per day in the county jails.³⁴
- Men with histories of incarceration were found to be twice as likely to experience housing instability and four times more likely to experience homelessness than those without a criminal record, and those most recently incarcerated were 69 percent more likely to have insecure housing than those without histories of incarceration.³⁵

- Limiting access to housing among individuals with a criminal record ultimately hurts their children and threatens family security. One out of every 28 children in the United States has at least one parent who is incarcerated; one out of every nine African American children grows up with an incarcerated parent.³⁶ **Denying individuals with a criminal record opportunities to access stable and affordable housing punishes entire families—preventing children from reunifying with their parents and increasing the likelihood of homelessness among children.**

EMPLOYMENT

In addition to difficulties finding safe, secure housing, men and women leaving incarceration face difficulties finding stable employment. However, “Ban the Box” policies that currently exist in many jurisdictions provide relief from bias during the hiring process.³⁷ Specifically, these policies remove questions about a person’s criminal history from initial job applications and delay background checks until later in the hiring process.³⁸ This gives individuals with a criminal history a chance to emphasize “current qualifications rather than past mistakes” when applying for a job.³⁹

A statewide Ban the Box policy is a necessary element of comprehensive fair hiring legislation. The City of Austin passed the Austin Ban the Box Resolution on October 16, 2008, removing criminal background investigation questions from the online employment application, and the Travis County Commissioner’s Court voted in April 2008 to remove the criminal history question from county job applications.⁴⁰ In 2012, the U.S. Equal Employment Opportunity Commission endorsed removing the conviction question from job applications.⁴¹ Currently, 12 states in nearly every region of the country have adopted statewide Ban the Box policies.⁴²

IMPLEMENTATION OF PREVIOUS REENTRY EFFORTS

Texas’ 83rd Legislature did a commendable job mandating that TDCJ, and the Windham School District (WSD), review and revise certain policies that could have a tremendous impact on in-prison education and visitation. However, it is essential that the Legislature, and this Committee, ensure that these bills and budget riders are fully implemented in the way their authors intended. The relevant budget riders and bills are below:

- **HB 797** (Thompson, Senfronia; Miles) [Sponsor: Garcia]: This bill requires WSD to provide potential vocational trade students with information about post-release licensing restrictions, rates of licensing among past WSD students, and the licensing and appeals process. This will allow incarcerated individuals to make better decisions about enrolling in vocations courses, thus enabling the best possible opportunities to find meaningful, post-release employment and contribute as a taxpayer in the community. It will also help WSD identify students who will most benefit from limited vocational course slots, while reducing long waitlists for courses.
- **HB 799** (Thompson, Senfronia; Miles) [Sponsor: Whitmire]: This bill requires the Windham School District to continually assess the Texas job market and provide vocational programs that will build relevant skill sets. Doing so will create a larger qualified workforce and ensure that more returning individuals are matched with available trades in Texas communities, while reducing the likelihood that such individuals will become unemployed and return to crime.
- **SB 345** (Whitmire) [Sponsor: Burnam]: Under this bill, each prison warden in TDCJ will issue a brief yearly report detailing his or her efforts to identify and actively encourage volunteer organizations (like veterans groups, faith-based organizations, local government agencies, and non-profit organizations) to provide programming in that warden’s unit. This will save the corrections system money by leveraging existing resources, while ultimately expanding inmates’ access to critical programming that will ease the

reentry transition and lower rates of re-offending (e.g., programs to build literacy and education, life skills, and job skills, or parent-training programs).

- **Budget Rider 59: Improve TDCJ's Parole and Reentry Reporting:** This rider requires TDCJ's Reentry and Integration Division and Parole Division to submit an annual joint report to the Governor and legislators on various items. These include: outcomes from parole officers and reentry coordinators, including their program/placement referrals and outcomes (in housing, medical care, treatment for substance abuse or mental illness, veterans services, basic needs, etc.); available and unavailable programs, services, resources, and benefits; common reentry barriers; and practitioner training opportunities. This report, which must be made publicly available, shall be submitted no later than December 1st of each fiscal year for the preceding fiscal year's activity.
- **Budget Rider 61: Study TDCJ Visitation Procedures:** This rider requires TDCJ to perform or commission a study on ways to improve its visitation policies, with the end goal being policies that strengthen family ties, including by expanding areas that are child-friendly during visitation periods, and notifying individuals who are eligible to visit incarcerated persons that visitation has been cancelled or rescheduled. TDCJ must report the findings of the study to the Legislative Budget Board and the Governor no later than September 1, 2014.
- **Budget Rider 63: Provide Incarcerated Individuals with Useful Incarceration- or Reentry-Related Information:** This rider requires TDCJ to make information continually available to inmates on various topics, including but not limited to innocence and wrongful convictions, inmate transfers, the health care services fee, prisoners' civil rights, filing a grievance, requesting medical care, veterans services (pre- and post-release), child support, and reentry-related services, including information on community-based programs and services available in the areas in which an individual plans to be released. TDCJ must utilize available resources to accomplish these objectives, and may work with faith-based, nonprofit, and civil rights organizations, among others, to compile and provide this type of information to individuals, which should be available in TDCJ unit libraries and any other TDCJ areas that may increase individuals' knowledge of this information. Additionally, TDCJ must establish and provide programs to educate employees and incarcerated individuals about hepatitis, including issues related to hepatitis that are relevant to incarcerated individuals both while confined and on release.

COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTIONS

- **Invite representatives of groups composed of family members and friends of incarcerated individuals to provide input on proposed changes to visitation policies, and ensure those changes are system-wide.** While security concerns or space limitations may prevent TDCJ from implementing many of the suggestions made by families and friends of incarcerated individuals, it is essential to solicit their input. In addition, unit wardens should not have unlimited discretion in this area and should not be allowed to alter policies affecting child-friendly areas, visitation length, or any other substantive visitation policy without documenting a clear and present danger to unit security or threat to inmate and staff safety.
- **Ensure that women and youth are receiving adequate health care to prevent recidivism and prolonged physical and mental health complications.** By emphasizing the needs of these populations, TDCJ can greatly support their rehabilitative processes and cut long-term costs.

- **Right-size the current prison population** by guaranteeing that individuals who have been diagnosed with mental health and substance abuse issues are assessed, identified, and diverted to appropriate, cost-effective, community-based placements. TDCJ should also conduct an extensive cost-benefit analysis of all geriatric prisoners to determine if the risks they pose to society outweigh the costs of their health care.
- **Limit liability for landlords who choose to lease or rent to individuals with a criminal record.** As House Bill 1188 (83R) provided protection to employers who choose to hire individuals with certain criminal records, similar protection should be extended to landlords to limit their liability solely for renting or leasing to someone with a criminal record. Ultimately, this will help individuals with a criminal record stabilize their living situation, better support their families, and live law-abiding lives in our communities.
- **Strengthen funding for reentry programs and case managers.** The Texas Department of Criminal Justice's Reentry and Integration Division (TDCJ-RID) recently added 13 reentry case managers to focus on helping reentering individuals secure employment.⁴³ Similarly, TDCJ-RID should be appropriated adequate funds to strengthen case management resources focused on finding housing solutions for those released from incarceration. Funds should also be designated for local public and private entities to provide housing case management services.
- **Require state agency employment applications to limit the use of the box that indicates whether an applicant has been convicted of a felony.** Agencies should only be allowed to request information about whether a job applicant has been convicted of a felony (a) at a point later in the consideration process when an applicant has had an opportunity to be more fully considered, or (b) when a conviction would exclude an applicant from consideration for a particular job (e.g., a felony conviction for theft that would exclude a person from consideration for a job as a cashier).
- **Prohibit the sale of mug shots and criminal records.** Certain state and federal entities make criminal histories public, while other entities profit from the sale and posting of mug shots and other criminal history information online. Open access to criminal records through government repositories and commercial vendors – combined with the rise of the Internet and the emergence of electronic databases – has enabled more than 40 million criminal background checks to be performed annually for non-criminal justice purposes. Once their criminal records are released and incorporated into online databases, individuals are severely hampered in their ability to find housing, gain lawful employment, advance up the employment ladder, and access other assistance or services.

Citations begin on following page.

Citations

¹ Texas Department of Criminal Justice, accessed May 28, 2014, available at www.tdcj.state.tx.us.

² Texas Department of Criminal Justice, *General Information Guide for Families of Offenders*, December 2012.

³ Minnesota Department of Corrections, *The Effects of Prison Visitation on Offender Recidivism*, November 2011.

⁴ Ibid.

⁵ Ibid.

⁶ Charlene Wear Simmons, Ph.D., *Children of Incarcerated Parents*, Prepared at the request of Assemblymember Kerry Mazzoni, California Research Bureau (CRB) Note Vol. 7, No. 2, March 2000, p. 1; with regards to “children whose parents have been arrested and incarcerated [...] the behavioral consequences can be severe, absent positive intervention – emotional withdrawal, failure in school, delinquency and risk of intergenerational incarceration.”

⁷ Data gleaned from a TDCJ information request, 2011; actual number: 94,635. Note additionally: 8,150 inmates in state jails self-reported children, while 2,160 individuals in Substance Abuse Felony Punishment Facilities self-reported children; *information available upon request*.

⁸ S. Pollack, “Parent-child connections: The essential component for positive youth development and mental health, safe communities and academic achievement,” *New Directions for Youth Development*, vol. 2004 (103), 2004, pp. 17-30; information also taken from: Perry, B.D. (n.d.) Bonding and Attachment in Maltreated Children: Consequences of emotional neglect in childhood.

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¹⁴ National Cancer Institute at the National Institute of Health. “National Cancer Institute Fact Sheet: Mammograms,” <http://www.cancer.gov/cancertopics/factsheet/detection/mammograms>. According to the National Cancer Institute mammograms are used to help “reduce the number of deaths from breast cancer among women ages 40 to 74.” 72.2% of the women who responded to our survey fall within that age range.

¹⁵ U.S. Department of Health and Human Services, Women’s Health.gov. Publications, “Pap Test,” last modified on October 13, 2013, <http://www.womenshealth.gov/publications/our-publications/fact-sheet/pap-test.html>. According to the U.S. Department of Health and Human Services, women should begin receiving pap smears when they are 21. 97% of the women who responded to our survey are 21 and over.

¹⁶ Planned Parenthood. Health Info & Services, “Pelvic Exam,” <http://www.plannedparenthood.org/health-topics/womens-health/pelvic-exam-4306.htm>. According to Planned Parenthood, women should receive pelvic exams on an annual basis and should receive their first when they are 21 years of age. 97% of the women who responded to our survey are 21 or older.

¹⁷ U.S. Department of Health and Human Services, girlshealth.gov. “Getting your period,” <http://www.girlshealth.gov/body/period/index.html>. According to the U.S. Department of Health and Human Services, the average age at which a girl begins to menstruate is around 11 or 12 and typically no later than 16. All of the women who responded to our survey are above the age of 16.

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¹⁹ Nancy G. Vigne, Lisa E. Brooks, and Tracy Shollenberger. “Women on the outside: Understanding the experiences of female prisoners returning to Houston, Texas.” *Urban Institute Policy Center*, Research Report June 2009.

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