

2019 LEGISLATIVE AGENDA



TEXAS CRIMINAL JUSTICE COALITION

DEDICATED TO ENDING MASS
INCARCERATION IN TEXAS



WHO WE ARE



LEAH PINNEY
Executive Director

Since our founding in 2000, the Texas Criminal Justice Coalition (TCJC) has been fighting to safely reduce incarceration levels. We do so through comprehensive research, data analysis, and nonpartisan education with lawmakers, corrections system practitioners, the media, and the public.



JOSE FLORES
Youth Justice Policy Analyst

Over time, TCJC and our partners have seen Texas' incarcerated population drop, with over 11,000 fewer people in prison since 2011. At the same time, the state's crime rate has dropped to its lowest level since the late 1960's.

We are making progress.

But Texas still ranks first in the nation in the sheer number of people incarcerated. At massive taxpayer expense, Texas has instituted a justice system that has over-criminalized kids and adults, allowed root causes of crime to go untreated, denied communities a workforce, and denied individuals – who so often have been failed by other systems – the opportunity to fulfill their potential.



ALLISON FRANKLIN
Peer Policy Fellow

145,000 in state prisons
66,000 in local jails
3,000 in youth detention
20,000 in the federal system
475,000 on probation or parole



LINDSEY LINDER
Senior Policy Attorney

Recent polling has shown that Texans, by a large majority, are turning their backs on the discredited “tough on crime” policies of the past. It's time to make a real, Texas-sized change and end the policies and practices that send so many people behind bars.



DOUG SMITH
Senior Policy Analyst

The TCJC Policy Team is excited to advance reforms in 2019, and we invite you to join us in fighting for stronger families, safer communities, and a brighter future for Texas.



REGGIE SMITH
Policy Analyst

Leah Pinney
Executive Director

PRIORITY POLICIES

TCJC advances solutions and builds coalitions to reduce mass incarceration and foster safer Texas communities. In our vision, all Texans live in safe, thriving communities where incarceration is rare and every person has the opportunity to succeed.

To achieve our vision, TCJC is fighting every day to reorient the state's criminal justice system away from a total reliance on punishment and toward rehabilitation and accountability. This transformation will require Texas leaders to take the following action:

Prevent people who should not be incarcerated from being incarcerated. This means treatment rather than punishment for people with drug and mental health problems, so their needs are met outside of the justice system. It means diversion programs and successful community supervision rather than incarceration, especially for people who have continually been failed by other systems. It means lower penalties for certain offenses, as well as shorter sentences for people who are ultimately incarcerated, so the punishment fits the crime.

Protect the rights and well-being of people who are incarcerated, especially the most vulnerable, including children and women. This means regional therapeutic facilities for youth, rather than incarceration in large adult or juvenile prisons far from home. It means effective treatment for trauma, mental health, and substance use issues, as well as greater access to medical care and other needed services. It means strong oversight of youth and adult facilities to address and prevent incidents of abuse and neglect, and ensure humane living conditions.

Create a system of opportunities and supports to reduce the long-term consequences of a conviction, and improve second chances for people who are rehabilitated. This means fewer barriers to employment for people with criminal records who have put their past behind them, as well as the elimination of overly harsh consequences for a conviction. It also means an earlier parole review for people sentenced to extreme terms in adult facilities for crimes committed as children.

NOTE: While this document contains TCJC's priority policies for 2019, we anticipate supporting additional policies. Please contact TCJC if you have any questions about the policies listed on the following pages or about our larger work.



SAFELY REDUCE INCARCERATION

1. Divert People from the Justice System Altogether and Provide Them Treatment in the Community

Background: In 2017, more than 800,000 people were arrested in Texas – 147,000 for drug violations alone.¹ According to the Texas Health and Human Services Commission, low-income people with substance use disorder must wait weeks for intensive residential treatment, outpatient treatment, and Medication-Assisted Treatment.² People in need of co-occurring psychiatric and substance abuse treatment must similarly wait weeks for specialized services.³ Texas’ inadequate treatment infrastructure means people with drug use problems are far more likely to be arrested than receive help. Over the past five years, nearly all serious and violent offense cases have declined significantly in this state, whereas drug possession cases have increased nearly 25 percent.⁴ The cycle of substance use, arrest, and incarceration simply continues – ravaging families, perpetuating the drug crisis in Texas, and squandering resources that could be used to truly prevent crime.

In 2017, the Texas Legislature passed Senate Bill 292, which created a mental health matching grant program to reduce recidivism, arrests, and incarceration among people with mental illness. Grant applications were submitted by community collaboratives, which included a wide array of local stakeholders inside and outside the criminal justice system who identified specific community needs with respect to treatment capacity and local coordination. Texas can leverage the successes of that model in its efforts to address substance use and see declines in related crime.



Proposed Solution: Expand the community collaborative model to address the intersects between substance use and the justice system, and empower communities to develop a localized approach to public health and safety through regional grants. Require grant recipients to develop a strategic plan, identify treatment and coordination gaps, set state and county jail reduction targets, implement locally driven programming (like pre-arrest diversion initiatives or other programs), and achieve progress towards goals to continue receipt of funding. Capture and reinvest justice system savings to sustain funding for alternative interventions.

NOTE: Where pre-arrest diversion strategies have been implemented – promoting access to community-based services rather than arrest and jail – communities have seen a remarkable drop in re-arrest rates. Specifically, participants in these programs were 58 percent less likely to be arrested after enrollment than those who went through the traditional criminal justice process.⁵ Pre-arrest strategies ensure that people can access help while the justice system focuses on more serious cases.

2. Overhaul Texas' Failed State Jail System

Background: Texas' state jail system was originally intended to divert people with nonviolent drug and property offenses from crowded prisons and instead offer them rehabilitative services in localized facilities, followed by community supervision. However, because the state did not adequately fund rehabilitative



services, the 8,000 people in state jails today have extremely limited access to treatment and programming options, and typically have no post-release supervision. Despite taxpayers' annual investment of \$150 million in this population,⁶ people sent to state jails go on to have the highest re-arrest rate of any population released from a state correctional institution in Texas – nearly 63 percent, compared to 46 percent for prison releases⁷ – creating another cycle that wastes state resources and fails to meet Texas' public safety goals.

Pretrial programs offer an alternative: They allow counties to interrupt the cycle by more immediately connecting arrestees to community-based substance

use or mental health treatment, which address the underlying causes of criminal behavior; and through rigorous supervision, these programs create strict accountability. This helps mitigate the risk of releasing a person before trial who may have a history of criminal justice involvement due to untreated substance use or mental health issues. The results of such programs are significant: Diverting people from jail and into community-based services (\$7/day⁸) produces 30-50 percent lower recidivism rates, depending on whether the individual was to be sentenced to county jail (\$60/day⁹) or state jail (\$53/day¹⁰).¹¹

Proposed Solution: (1) Provide counties with pretrial and diversion grant funds through the Community Justice Assistance Division to improve their capacity to offer substance use and mental health treatment and recovery supports, with priority given to counties committed to utilizing pretrial interventions, speedy case processing, and strategies to encourage success while under supervision; and tie outcomes (meeting performance targets) to continued receipt of pretrial funding. (2) Reduce penalties for certain first and low-level offenses to prevent a lifelong felony record, and to provide people more opportunities and incentives to choose probation supervision and treatment over a jail term. (3) For people who are ultimately sentenced to state jails, encourage the Texas Department of Criminal Justice to partner with nonprofits and community providers to offer pre- and post-release case management and peer support to reduce people's likelihood of re-offending and returning to confinement.

3. Fix the Bail System: Stop Punishing Poverty and Allow Safe Pretrial Release for Eligible Individuals

Background: Bail is not intended to be a punishment; its intended purpose is to ensure that people appear for their court date. But in communities across Texas, people who are legally innocent are being held –

sometimes for months, risking job loss, eviction, and custody of their children – because they cannot afford to post bail; taxpayers foot the bill for their incarceration, their food, and their medical care. In fact, 63 percent of people in Texas county jails today are awaiting trial,¹² at a collective cost to taxpayers of \$2.6 million per day.¹³ Meanwhile, wealthy people can buy their freedom and are simply released. The Harris County and Dallas County money bail systems have been challenged in court and found unconstitutional precisely because of this unequal, wealth-based detention.

Kentucky shifted away from a money bail system and instead implemented a validated risk assessment – an evidence-based tool that helps judges throughout the state make pretrial release decisions, based on a person’s potential risk of flight or reoffending. Within the first six months, Kentucky saw a 15 percent statewide decrease in pretrial crime, stable court appearance rates, and significant reductions in the proportion of the county jail population detained while awaiting trial.¹⁴ Similarly, since money bail was almost entirely eliminated in New Jersey in January 2017, the pretrial population has decreased by nearly 40 percent, and both violent and nonviolent crime have fallen by double digits.¹⁵

Proposed Solution: (1) Implement a presumption of pretrial release on personal bond, but require all defendants to be assessed with a validated risk assessment to restore fairness, preserve judicial discretion, and keep high-risk individuals behind bars. (2) Require data collection on individuals released vs. detained pretrial, including data on the underlying offense and race/ethnicity. (3) Provide counties with adequate funding for pretrial supervision to promote accountability and ensure more people can access community-based treatment and services that address the real root causes of crime.



4. Consider Parenthood Status During Sentencing

Background: In FY 2016, nearly 103,000 people in Texas’ state corrections system had children. A staggering 81 percent of women incarcerated in the Texas Department of Criminal Justice (TDCJ) were mothers, while 69 percent of incarcerated men were fathers.¹⁶ Nearly 200 women gave birth in TDCJ in FY 2016, and as of December 2017, the most common offense of record among pregnant inmates was drug possession.¹⁷ Losing a parent to incarceration can result in serious mental, physical, and emotional health issues; furthermore, parents can permanently lose custody of their children, sending them into the foster care system. Many of the negative effects of parental incarceration – including generational imprisonment – can be nullified if children are considered and accounted for in policies and practices.¹⁸



Proposed Solution: During the sentencing phase of a person’s trial, require the judge to inquire whether the person is the primary caretaker of a minor child, and take that into consideration when determining the person’s punishment (e.g., a treatment program or probation vs. incarceration).

5. Reduce the Penalty for Low-Level Marijuana Possession to a Class C Misdemeanor or Civil Penalty

Background: Currently in Texas, possession of up to two ounces of marijuana is a Class B misdemeanor, punishable by up to six months in jail and a \$2,000 fine. In 2017, nearly 65,000 people in Texas were arrested for marijuana possession, accounting for the great majority of all drug arrests in Texas.¹⁹ Each of these people must be arrested and booked into jail by law enforcement – diverting police attention from



serious offenses and wasting resources on the punishment of otherwise law-abiding, productive people. Polls show that a majority of Texas' registered voters endorse legalizing marijuana.²⁰

Proposed Solution: Reduce the penalty for low-level marijuana possession from a Class B misdemeanor to a Class C, fine-only misdemeanor, or make low-level marijuana possession a civil violation, eliminating criminal penalties altogether for small amounts while still holding people accountable through a fine.

6. Reduce Harsh Penalties for Driving with an Invalid License

Background: Currently, “Driving While License Invalid” (DWLI – a suspended license) is a fine-only Class C misdemeanor unless it is a person’s subsequent offense, in which case it becomes a Class B misde-



memeanor, warranting up to six months in jail and a \$2,000 fine. Tens of thousands of Texans are arrested and jailed each year for driving with a suspended license, some because they could not afford expensive civil “surcharges.” In 2017, approximately 25,000 Class B misdemeanor DWLI cases were added to Texas court dockets, and during that year, nearly 11,000 people were sentenced to county jail on a DWLI offense, with taxpayers footing the bill.²¹

Proposed Solution: Reduce the penalty for a DWLI offense from a Class B to Class C misdemeanor, and reserve costly jail beds for those who pose a true threat to public safety.

7. Address the Root Causes of Commercial Sexual Exploitation Rather Than Punishing Vulnerable Populations

Background: Without the demand for purchased sex there would be no prostitution – and, in turn, there would be no sex trafficking. To take steps to reduce prostitution and trafficking, we must deter the

purchase of sexual services. Although some measures are currently in place to criminalize prostitution, there are glaring disparities in policing and criminal justice responses to buyers and sellers. Specifying that the offense of purchasing sex is a form of exploitation can be effective in reducing its demand.

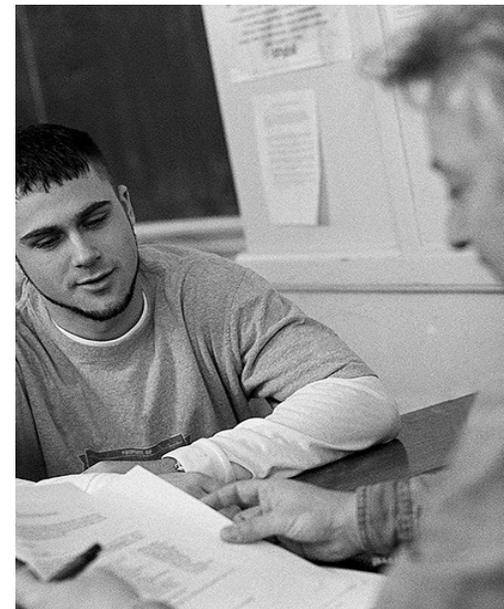
Proposed Solution: (1) Redefine prostitution for “buyers” as an offense of “Commercial Sexual Exploitation.” (2) Raise fees levied against “buyers” and use those funds to provide pre- and post-arrest services for victims of commercial sexual exploitation – including housing, case management, wrap-around supports, vocational training, and substance use treatment. (3) Remove the felony enhancement for multiple offenses of prostitution, which will provide commercially exploited individuals with more opportunities for probation supervision, treatment programs, and other services that can help them build healthy life skills.



8. “Raise the Age”: Hold 17-Year-Olds Accountable in the Juvenile Justice System

Background: In Texas, 17-year-olds who are arrested are automatically sent to the adult justice system. Texas is one of only four states left to treat these teens as adults for criminal justice purposes²² – removing their parents from the court process, and exposing kids to confinement in adult jails. Of the 20,000 17-year-olds arrested in Texas in 2017, more than 95 percent were arrested for nonviolent and misdemeanor offenses.²³ These kids could be processed through the juvenile system, where they would have more access to community-based rehabilitative services (e.g., counseling, education, and treatment), giving them positive and age-appropriate redirection. This is a common-sense approach, as kids are highly amenable to rehabilitation. Furthermore, keeping kids in the juvenile (vs. adult) system lowers their likelihood of re-offending by 34 percent,²⁴ and it prevents them from receiving an adult criminal record, which can create barriers to a college education, employment, housing, and the military.

NOTE: Only 33 kids aged 17 or younger were actually incarcerated in a Texas prison or state jail as of August 2017 – a small population that, again, could be absorbed by the juvenile system, especially given that the incarcerated juvenile population declined from 1,026 in December 2017 to 879 in June 2018 under the leadership of Executive Director Camille Cain.²⁵



Proposed Solution: Raise the automatic age of criminal jurisdiction from 17 to 18, which will start kids off in the juvenile system but give judges the discretion to transfer kids with the most serious offenses to the adult system on a case-by-case basis.

9. Eliminate Mandatory Minimum Terms for Determinate Sentences

Background: Determinate sentencing is a hybrid system that allows kids adjudicated of certain offenses to serve a portion of their sentence in the juvenile justice system, with the possibility of being transferred to the adult criminal justice system between the ages of 16 and 19. If a kid with a determinate sentence responds well to services and treatment and demonstrates rehabilitation while in the juvenile system, he or she can instead be released on parole and supervised by the Texas Juvenile Justice Department. However, kids cannot be paroled until they have served the mandatory minimum length of stay required for the adjudicated offense. These minimum lengths of stay range from 1 to 10 years.²⁶



Supreme Courts in Iowa and Washington have found mandatory minimum sentences unconstitutional as applied to youth – asserting that courts should have full discretion to depart from mandatory sentencing, and that they must take a defendant’s youthfulness into consideration during sentencing, as well as that mandatory minimum terms do not satisfy standards of decency and fairness.²⁷

Proposed Solution: Eliminate mandatory minimum terms for determinate sentences, allowing judges to have full discretion in determining the appropriate length of stay.

10. Help Counties Support Young Adults on Adult Probation

Background: Young adults aged 17 to 25 who are placed on adult probation in Texas for a felony offense are far more likely to be revoked and sent to prison than older adults.²⁸ In fact, only 18 percent of 17- to 21-



year-olds successfully completed felony probation in FY 2017. The rate was slightly better for 22- to 25-year-olds, with 41 percent successfully completing probation, compared to 60 percent of felony probationers over age 25. Sadly, nearly 7,400 young men and women had their probation revoked in FY 2017, with 7,000 young people committed to prison or jail.²⁹ It is clear that Texas’ adult probation system is not tailored toward young adults: It is failing to prevent their deeper escalation into the justice system.

Proposed Solution: Require the Community Justice Assistance Division (CJAD), which oversees and partially funds probation departments, to collect data and report on outcomes among 17- to 25-year-olds on adult felony probation (e.g., offense, supervision level, revocation and success rates, later recidivism, race), and provide technical assistance to low-performing probation departments where failure rates are highest.

Longer-term, CJAD can take this information into consideration in its grantmaking, and can prioritize grants that go towards closing gaps in local treatment and service capacity – like needed vocational training or multi-disciplinary teams that can address diverse contributors to system involvement – to lower the likelihood of revocation.

11. Eliminate False or Misleading Jury Instructions That Lead to Excessive and Disproportionate Sentences

Background: When someone is convicted of a felony offense by a jury in Texas, the jury receives a statutorily required statement regarding the possibility of parole and how “good time” credits (credits for good behavior and attempts at rehabilitation) might be applied to reduce the person’s length of incarceration.³⁰ These instructions contain false and misleading information for a significant proportion of people convicted of felonies. For instance, someone convicted of an aggravated offense must serve one-half of his or her sentence without consideration of good time before becoming eligible for parole review.³¹ Furthermore, good time credits cannot reduce the term of incarceration but merely impact the parole eligibility date. And importantly, the chances of being released on parole are less than 35 percent for people serving time in Texas prisons, so even those who *are* eligible for parole are unlikely to be granted parole on their first review.³² False and misleading jury instructions can influence jurors to impose a higher sentence to account for what they believe will be various opportunities for an early release from prison.

Proposed Solution: Revise Texas’ Code of Criminal Procedure to ensure that jury sentencing instructions conform to state parole and “good time” credit statutes.



Polling Data Indicates Support for Reform Proposals

TCJC is a founding member of the Texas Smart-On-Crime Coalition. In March 2018, the Coalition commissioned Baselice & Associates, Inc., to survey 600 GOP primary voters in Texas. Key findings from the poll demonstrate strong conservative support for important justice reforms. Here are a few of the highlights:

- ♦ **76% favor making possession of a small amount of drugs a misdemeanor instead of a felony** so that, instead of going to prison, judges may sentence people to community supervision programs or other alternatives where they can get treatment.
- ♦ **71% favor keeping 13 through 17-year-olds convicted of crimes in smaller, group homes** closer to their usual places of residence.
- ♦ **75% favor reducing regulations** so that former felons who have paid their debt to society can more readily apply for and receive licenses needed for gainful employment.
- ♦ **75% favor providing a path to redemption and allowing a second look** for parole for youth given a life sentence for certain, serious crimes who can prove they merit a second chance.

PROTECT PEOPLE'S WELL-BEING

1. Implement Holistic Reform Throughout the State's Juvenile Justice System

Background: In 2006, media and governmental scrutiny uncovered rampant sexual and physical abuse in the state's juvenile corrections facilities, leading to a federal investigation and omnibus legislation in 2007 that removed all kids with misdemeanors from state secure confinement. Over the course of subsequent



legislative sessions, the state has begun to redirect funding toward localized rehabilitation programs. Ultimately, seven state secure facilities have closed and the number of kids incarcerated in the five remaining facilities has dropped from 5,000 to under 1,000 today. Despite this progress, allegations of abuse, neglect, and staffing shortages in juvenile facilities resurfaced in late 2017.³³ Also problematic, the majority of the 800 kids annually entering Texas' state secure juvenile facilities have specialized mental health and substance use needs.³⁴

Proposed Solution: Continue the state's juvenile system regionalization by expanding funding for smaller, local therapeutic facilities and community-based programming, where kids' underlying needs (including mental health, substance use, trauma, and behavioral issues) can be addressed in the least restrictive setting – and closer to home. This will safely reduce the incarcerated juvenile population in the Texas Juvenile Justice Department (TJJD), setting more kids down a path to success, lowering staff-to-youth ratios in state secure facilities, and freeing up resources for kids with higher-level needs.

Also require TJJD facilities to implement trauma-informed care across programs, emphasize treatment over punishment, maintain strong monitoring of conditions and allegations of abuse or neglect, improve opportunities for family interaction, and implement earlier after-care and reentry strategies to help kids successfully transition back into Texas communities.

2. Provide Dignity for Incarcerated Women

Background: Too often, women’s trauma, mental health, and substance abuse needs are inadequately addressed under current policies and practices. As a result, they are failing to get the help they need to avoid involvement in the justice system, and Texas now incarcerates over 12,000 women – more than any other state in the country.³⁵ Nearly 65 percent are incarcerated for years on a nonviolent offense (e.g., drug or property crime), and 81 percent are mothers.³⁶



Many incarcerated women have reported lack of access to quality feminine hygiene products, leading to hygiene problems and health risks. They have also reported being denied medical exams or services, or being deterred from seeking health care due to the \$100 medical services fee. Others have reported rarely seeing their children while incarcerated, which negatively impacts reentry.³⁷

Proposed Solution: (1) Require the Texas Department of Criminal Justice (TDCJ) to provide additional and better-quality feminine hygiene projects, and expand access to medical care through less expensive co-pay fees. (2) Require TDCJ to conduct annual data collection and reporting on visitation-related policies and programs, which can help identify areas for improvement in family unity. (3) Require corrections staff to have trauma-informed training to equip them to refer incarcerated individuals to the proper healthcare professional(s) for treatment. (4) Require TDCJ to conduct a one-time screening of individuals upon intake to identify histories of significant trauma and similarly refer those individuals to treatment as needed.

3. Improve Safety, Conditions, and Efficiency in Adult Corrections Facilities by Establishing an Independent Ombudsman

Background: The Texas Department of Criminal Justice (TDCJ) has a variety of internal accountability mechanisms. However, those do not and cannot serve the same role or offer the same benefits as external oversight, which promotes transparency, accountability, and good government, and reduces the likelihood of expensive litigation against the agency.

In light of recent scandals, it is especially timely and important for TDCJ to implement independent oversight. Media reports have revealed a quota system for disciplinary measures, which led to four indictments; allegations that guards have ignored inmates’ claims of physical and sexual abuse; denial of medical care; and ongoing in-custody deaths and suicide attempts.³⁸ The state must take action to protect the 145,000 people in its facilities.³⁹



Proposed Solution: Create an independent, external oversight body that can: (1) review and analyze pertinent data from TDCJ, proactively assess the efficacy of existing programs and services, and determine long-range needs, providing preventive rather than reactive assistance; and (2) conduct routine monitoring of prisons, oversee and investigate complaints against TDCJ, and focus on how and where improvements can be made to secure the rights and safety of inmates and prison staff.



SUPPORT SUCCESSFUL REENTRY

1. Eliminate Occupational Licensing Barriers that Prevent Work-Ready Individuals from Finding Gainful Employment and Rebuilding Their Lives

Background: Nearly 70,000 men and women reenter Texas communities after prison each year,⁴⁰ and many face significant hurdles to employment, especially licensed professions. Texas requires occupational licenses for more than 25 percent of professions, but automatic exclusions and vague disqualifying criteria for people with criminal records pose barriers to licensure. More specifically, licensing boards may disqualify people from receiving a license if they have been convicted of *any* offense within the last five years – regardless of whether that offense is in any way pertinent to the occupation. Licensing authorities can additionally disqualify people for a license if a past offense does “directly relate” to the occupation (although that is a subjective standard), and they can point to vague and arbitrary standards like “moral character” when

denying a license. Also problematic, current policy makes it overly complicated for people to provide evidence of rehabilitation to show that they have put past mistakes behind them.⁴¹ Collectively, these factors can lead to an economic death sentence, creating more instability for returning individuals and their families – forcing them into social welfare programs or back into crime.

While it is critical to give people with a criminal history more opportunities to find employment and become economically stable, it is also important to provide employers with a growing candidate pool to keep Texas’ workforce and economy strong and vibrant.

Proposed Solution: (1) Prohibit licensing boards from disqualifying an applicant whose offense history does not “directly relate” to the occupation being considered; clearly and narrowly define how an offense does “directly relate” to an occupation; and eliminate vague “moral character” standards. (2) Allow applicants to dispute incorrect criminal records or provide evidence of mitigating factors prior to the denial of a license. (3) Require licensing boards to provide clear guidance to applicants who are denied a license about what they can do to improve their future chances of approval.

2. Expand the Use of Reentry Peer Support to Decrease the Likelihood of Re-Offending

Background: Peer support involves a trained Peer Support Specialist with histories of substance use, mental health conditions, and criminal justice involvement helping those with similar histories. These specialists have achieved a reasonable degree of stability in their own lives and are now employed by local government or nonprofit agencies to provide individualized support to others. Over the past two state legislative sessions, Texas legislators have funded peer support programming that focuses on mental health and substance use. However, recidivism rates are increasing among people transitioning back into the community, specifically from state jails and intermediate sanction facilities,⁴² who would benefit from peer support. The Texas Department of Criminal Justice (TDCJ) should increase the use of trained and certified Peer Support Specialists within institutional settings, residential reentry centers, intermediate sanction facilities, parole, in-prison treatment programs, and other correctional settings.



Proposed Solution: Require TDCJ to: (1) establish a policy allowing certified peers, many of whom have criminal backgrounds, to serve within TDCJ facilities; (2) establish relationships with community-based organizations that train and employ certified peers; and (3) establish a policy allowing incarcerated and justice system-involved individuals to seek training and certification as Peer Support Specialists and to serve in that role while still incarcerated – a model similar to the Southwestern Seminary program at the Darrington Unit.

3. Eliminate Automatic License Suspensions for Drug Offenses

Background: A person convicted of a misdemeanor or felony drug offense in Texas will automatically have his or her driver's license suspended for a period of six months – an overly punitive penalty that fails to relate to the offense, and which makes it more challenging to meet work, school, family, and, importantly, probation obligations. Enforcing this policy also diverts police attention and resources from actual public safety hazards on the roads, and it creates a heavy administrative burden to implement. To have the license reinstated, a person must pay a fee and successfully complete a 15-hour drug education program on the dangers of drug abuse.⁴³



Proposed Solution: Repeal sections in the Texas Transportation Code that automatically suspend a person's driver's license on final conviction of a drug offense or other offense under the Controlled Substances Act.

4. "Second Look": Provide an Earlier Parole Review for People Sent to Adult Facilities as Youth

Background: After a series of U.S. Supreme Court cases, states were required to eliminate mandatory life without parole sentences for youth under 18 years of age. Texas now requires people who would have received that sentence to instead serve 40 years before becoming eligible for parole, a de facto life sentence that provides no reasonable opportunity to build a life outside of prison. Yet tremendous growth and maturity often occur in a person's late teens through mid-20's, with certain areas of the brain – particularly those affecting judgment, impulse control, and decision-making – beginning to fully develop in one's early 20's.⁴⁴ The fact that young adults are still developing means they are uniquely situated for personal growth and rehabilitation, and should be given an earlier opportunity to demonstrate that they have successfully rehabilitated and matured.

Texas' extreme mandatory minimum sentence before parole eligibility is an outlier, with many states allowing a parole hearing at 20 years. That earlier hearing motivates young people to focus on rehabilitation, and it provides a path to redemption for those who can prove they merit a second chance. But Texas remains far more punitive, an approach that carries a huge price tag: It costs approximately \$2.5 million to incarcerate a person for life, whereas it costs approximately \$626,000 to incarcerate a person for 20 years.⁴⁵

Proposed Solution: Halve the mandatory minimum term before parole eligibility for all individuals sentenced to capital murder or a first degree felony while under the age of 18; and require the Parole Board to consider mitigating factors during the parole hearing (e.g., growth, maturity, rehabilitation, the hallmark features of youth, and youthfulness at the time of the offense).

Chon Dimas

75 year sentence at 17 years old

"My survival has largely been fueled by hope of a second chance at life, and I am living proof that youthful offenders are not beyond hope or rehabilitation."



END NOTES

1. Texas Department of Public Safety (DPS), *The Texas Crime Report for 2017 – Chapter 9: Texas Arrest Data*, http://www.dps.texas.gov/administration/crime_records/pages/crimestatistics.htm.
2. Texas Health and Human Services Commission, data request, September 2017.
3. Mary Ann Priester et al., “Treatment Access Barriers and Disparities Among Individuals with Co- Occurring Mental Health and Substance Use Disorders: An Integrative Literature Review,” *Journal of Substance Abuse Treatment* (2016), Vol. 61, 55.
4. Office of Court Administration, Court Activity Database, *District Criminal Court Dispositions*, 2013–2017.
5. Susan E. Collins et al., “Seattle’s Law Enforcement Assisted Diversion (LEAD): Program Effects on Recidivism Outcomes,” *Evaluation and Program Planning*, 64 (2017), 49–56, https://docs.wixstatic.com/ugd/6f124f_f4eed992eaff402f88ddb4a649a9f5e6.pdf.
6. Texas Department of Criminal Justice (TDCJ), *FY 2017 Statistical Report*, 1, http://www.tdcj.state.tx.us/documents/Statistical_Report_FY2017.pdf. See also: Legislative Budget Board (LBB), *Criminal and Juvenile Justice Uniform Cost Report: Fiscal Years 2015 and 2016*, January 2017, 4, http://www.lbb.state.tx.us/Documents/Publications/Policy_Report/3137_UniformCosts_2017.pdf [\$52.88 per person per day].
7. LBB, *Statewide Criminal and Juvenile Justice Recidivism and Revocations Rates*, January 2017, http://www.lbb.state.tx.us/Documents/Publications/Policy_Report/3138_Statewide_Crim_Just_Recid_Revoc.pdf.
8. LBB, *Criminal and Juvenile Justice Uniform Cost Report: Fiscal Years 2015 and 2016*, January 2017, 6 [see Intensive Supervision Probation – State Cost: \$6.95 per person per day].
9. Texas Commission on Jail Standards (TCJS), *Immigration Detainer Report*, 10/1/2018, <https://www.tcjs.state.tx.us/docs/ImmigrationDetainerReportCurrent.pdf>. Calculation = (Total Cost / # of Inmate Days) = \$59.80 per person per day.
10. LBB, *Criminal and Juvenile Justice Uniform Cost Report: Fiscal Years 2015 and 2016*, January 2017, 4 [\$52.88 per person per day].
11. Tony Fabelo, et al, *County Uniform Recidivism Measure Project: Third Year Results for Harris County*, April 21, 2017, 20.
12. TCJS, *Texas County Jail Population*, November 1, 2018, <https://www.tcjs.state.tx.us/docs/POPSUMCurrent.pdf>. The total pretrial population is 42,772 people (Felons, Misdemeanant, and State Jail Felon pretrial categories).
13. TCJS, *Immigration Detainer Report*, 10/1/2018, <https://www.tcjs.state.tx.us/docs/ImmigrationDetainerReportCurrent.pdf>. Calculation = (Total Cost / # of Inmate Days) x 42,772 total pretrial population.
14. Laura and John Arnold Foundation, *Results from the First Six Months of the Public Safety Assessment – Court™ in Kentucky*, July 2014, <https://www.arnoldfoundation.org/wp-content/uploads/2014/02/PSA-Court-Kentucky-6-Month-Report.pdf>.
15. Editorial: “Has bail reform been a success? Check the crime numbers, then decide,” *New Jersey Star-Ledger*, December 4, 2018, https://www.nj.com/opinion/index.ssf/2018/12/has_bail_reform_been_a_success_check_the_crime_num.html.
16. TDCJ, data request, September 2017. See also: TDCJ, *FY 2016 Statistical Report*, 1, http://www.tdcj.texas.gov/documents/Statistical_Report_FY2016.pdf.
17. TDCJ, data request, 2017.
18. Oliver Robertson, *The Impact of Parental Imprisonment on Children* (Geneva: Quakers United Nations Office, Women in Prison and Children of Imprisoned Mothers Series, April 2007), 9, https://quano.org/sites/default/files/resources/ENGLISH_The%20impact%20of%20parental%20imprisonment%20on%20children.pdf.
19. Texas DPS, *The Texas Crime Report for 2017 – Chapter 9: Texas Arrest Data*.
20. Ross Ramsey, “Led by Democrats and young adults, most Texas voters want to legalize marijuana, UT/TT Poll finds,” *Texas Tribune*, June 27, 2018, <https://www.texastribune.org/2018/06/27/marijuana-democrats-young-adults-texas-poll/>.
21. Office of Court Administration, Court Activity Database, *County-Level Courts: Misdemeanor Case Activity Detail*, January 1, 2017 to December 31, 2017, <https://bit.ly/2Rx3BZe>.

22. Other states that have not yet raised the age of criminal court jurisdiction to 18 include Georgia, Michigan, and Wisconsin.
23. Texas DPS, *The Texas Crime Report for 2017 – Chapter 9: Texas Arrest Data*.
24. Centers for Disease Control and Prevention, *Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System: A Report on Recommendations of the Task Force on Community Preventive Services*, MMWR 56, No. RR--9 (2007), <http://www.cdc.gov/mmwr/pdf/rr/rr5609.pdf>.
25. TDCJ, *FY 2017 Statistical Report*, 8. See also: Camille Cain, *Short-Term Solutions and Long-Term Goals: A Plan for TJJJ*, June 1, 2018, <http://www.tjjd.texas.gov/Docs/TJJJPlan.pdf> [see introduction letter].
26. Ryan J. Mitchell, *Determinate Sentencing*, February 22, 2016, <http://www.hba.org/wp-content/uploads/2016/09/MITCHELL-PAPER.pdf>.
27. Emily Steiner, *Mandatory Minimums, Maximum Consequences*, Juvenile Law Center, August 16, 2017, <https://jlc.org/news/mandatory-minimums-maximum-consequences>.
28. TDCJ, *2017 Offender Profile – Terminations*, data request, 2018.
29. TDCJ, *Report to the Governor and Legislative Budget Board on the Monitoring of Community Supervision Diversion Funds*, December 2016, 16-18, https://www.tdcj.state.tx.us/documents/cjad/CJAD_Monitoring_of_DP_Reports_2016_Report_To_Governor.pdf.
30. Texas Code of Criminal Procedure, Article 37.07, Section 4.
31. Texas Government Code, Section 508.145 (d)(1).
32. Texas Board of Pardons and Paroles, *Annual Statistical Report FY 2017*, 5, <http://www.tdcj.texas.gov/bpp/publications/FY%202017%20AnnualStatistical%20Report.pdf>.
33. Brandi Grissom and Sue Ambrose, “Fights, sex, drugs: Texas juvenile lockup on the verge of crisis, reports show,” *Dallas News*, November 16, 2017, <https://www.dallasnews.com/news/investigations/2017/11/16/fights-sex-drugs-texas-juvenile-lockup-verge-crisis-reports-show>.
34. Texas Juvenile Justice Department, *Youth Characteristics: New Admissions FY 2013 - FY 2017*, <http://www.tjjd.texas.gov/statistics/youth-characteristics1317.pdf>.
35. TDCJ, *FY 2017 Statistical Report*, 1.
36. TDCJ, data request, September 2017.
37. In 2014, the Texas Criminal Justice Coalition sent surveys to 1,600 women incarcerated in the Texas Department of Criminal Justice. Over 430 women completed the survey, which included questions about prior victimization, substance abuse, mental health issues, motherhood, and services and safety within TDCJ.
38. Hannah Wiley, “Advocates say the timing is right for independent oversight of Texas prisons,” *Texas Tribune*, November 26, 2018, <https://www.texastribune.org/2018/11/26/advocates-say-time-right-independent-oversight-texas-prisons/>.
39. TDCJ, *FY 2017 Statistical Report*, 1.
40. TDCJ, *FY 2017 Statistical Report*, 3.
41. Maurice Emsellem, *Fair Chance Hiring: Reducing Criminal Records Barriers to Employment Improves Public Safety and Builds Stronger Communities*, 2014, <https://law.utexas.edu/wp-content/uploads/sites/27/Fair-Chance-Hiring-Presentation-by-Maurice-Emsellem.pdf>. See also: Texas Occupations Code §53.021 – §53.023.
42. LBB, *Statewide Criminal and Juvenile Justice Recidivism and Revocation Rates*, January, 2017, 2.
43. Texas Transportation Code §521.372 – §521.374.
44. See generally, S. Johnson, R. Blum, and J. Giedd, *Adolescent Maturity and the Brain: The Promise and Pitfalls of Neuroscience Research in Health Policy*, *Journal of Adolescent Health*, Vol. 45(3), (Sept. 2009); Laurence, Steinberg, “A Social Neuroscience Perspective on Adolescent Risk Taking,” *Dev. Rev.*, Steinberg and Scott, 2008, 1, 009.
45. ACLU, *At America’s Expense: The Mass Incarceration of the Elderly*, June 2012, https://www.aclu.org/files/assets/elderlyprisonreport_20120613_1.pdf. Calculation = ((Average cost per year per inmate to incarcerate before age 50 x 34) + (National estimate for annual cost for the care of an inmate after age 50 x 21)).



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