



TEXAS CRIMINAL
JUSTICE COALITION

PUBLIC GUIDE TO THE SUNSET REVIEW PROCESS¹

KEY INFORMATION ON THE SUNSET PROCESS AND HOW TO PARTICIPATE

To obtain more information on how to get involved in the Sunset process, please contact Travis Leete, J.D. by email at tleete@criminaljusticecoalition.org, or at (512) 441-8123, ext. 106; or contact Ana Yáñez-Correa, Ph.D. at acorrea@criminaljusticecoalition.org, or at (512) 441-8123, ext. 109; or mail us at the address below.

THE POWER OF PUBLIC OPINION: HOLDING GOVERNMENT AGENCIES ACCOUNTABLE THROUGH SUNSET REVIEW

The Texas Department of Criminal Justice (TDCJ) and other criminal justice-related agencies will undergo the Sunset review process in 2011 and 2012. **The following pages explain what the Sunset process is, including information on the Sunset Advisory Commission and how the public can provide input. We have also provided a resource list, with contact information, identifying organizations that may be helpful to people wanting to participate in the Sunset review process.**

WE WANT TO HEAR FROM YOU!

Please let us know if:

- You have interacted with the various divisions of TDCJ (such as Adult Probation [CJAD], Rehabilitation Programs Division, Correctional Institutions Division, Parole Division, Reentry and Integration Division, etc.), the Board of Pardons and Paroles, and/or the Windham School District – whether as a volunteer, a system-involved individual or family member, or a current or former staff person.
- You are a legislative aide who receives calls from constituents regarding concerns with these agencies.
- You have recommendations regarding how these entities can improve their operations, the implementation of their programs, or how they respond to members of the public with incarcerated loved ones.

WHAT IS SUNSET REVIEW?

Sunset is an assessment process used to determine whether a particular state agency is necessary and should continue its operations. The designated time period for each agency review is typically set forth in statute, and generally occurs every 12 years. Sunset review serves as mechanism to evaluate efficiency, avoid waste, and ensure that government agencies function properly with respect to the service(s) they provide. The Sunset Advisory Commission and the Commission staff members carefully examine an agency subject to review and recommend ways it can improve its operations. Distinguishable from other compliance or regulatory oversight, the Sunset process was established to answer the simple question, “Do the agency’s functions continue to be needed?”² The Commission evaluates the administrative functions of the agency, the policies and procedures of the agency, and the programs it provides. Unless otherwise expressed, agencies are subject to abolishment unless new legislation is enacted to continue the agency.³ Generally speaking, the Sunset process yields two outcomes: (1) an agency is abolished, likely on the date set forth in statute, and a year-long winding-down process will begin; or (2) the Commission makes a recommendation to continue the agency, provides potential changes or improvements that should be made, and files a bill with the Legislature to continue the agency.⁴

SUNSET LAW & CRITERIA

The Texas Legislature created the Sunset Advisory Commission in 1977. The Commission, as well as the process for which it is responsible, is codified in Chapter 325 of the Texas Government Code. The governing statute dictates the composition of the Commission, its method of operations, its function, and the procedures that must be adhered to during the review process. Importantly, section 325.011 of the Government Code describes the required criteria to be used by the Commission and its staff when reviewing an agency. These criteria are summarized in the Sunset Advisory Commission Guide,⁵ and are reprinted below. These considerations include:



- 1) How efficiently and effectively does the agency and its advisory committees operate?
- 2) How successful has the agency been in achieving its mission, goals, and objectives?
- 3) Does the agency perform any duties that are not statutorily authorized? If so, what is the authority for those activities and are they necessary?
- 4) What authority does the agency have related to fees, inspections, enforcement, and penalties?
- 5) In what ways could the agency's functions/operations be less burdensome or restrictive and still adequately protect and serve the public?
- 6) How much do the agency's programs and jurisdiction duplicate those of other agencies and how well does the agency coordinate with those agencies?
- 7) Does the agency promptly and effectively address complaints?
- 8) To what extent does the agency encourage and use public participation when making rules and decisions?
- 9) How has the agency complied with state and federal requirements regarding equal employment opportunity, the rights and privacy of individuals, and purchasing guidelines for historically underutilized businesses?
- 10) How effectively does the agency enforce rules on potential conflicts of interest of its employees?
- 11) How effectively and efficiently does the agency comply with the Public Information Act and the Open Meetings Act?
- 12) Would abolishing the agency cause federal government intervention or loss of federal funds?
- 13) Do the agency's statutory reporting requirements effectively fulfill a useful purpose?

COMPOSITION OF THE SUNSET ADVISORY COMMISSION

A 12-member body, called the Sunset Advisory Commission, leads the Sunset process. The Commission is composed of five Senators, five State Representatives, and two members of the public. The 12 members are appointed by the Lieutenant Governor and the Speaker of the House of Representatives. To conduct its evaluation, the Commission relies on staff members who work closely with the agency under review, special interest organizations, and members of the public. Staff members are assigned to teams that will review a specific agency or agencies.

- **NOTE:** The staff members will likely serve as an initial point of contact for those wishing to get involved in the Sunset review process.

SUNSET PROCESS

- **Schedule:** First, the Sunset review schedule is set and staff assignments are made. The time frame can be found on the Commission's Review Schedule, available on the Sunset Advisory Commission's website.⁶
- **Self-Evaluations:** Once the schedule is set and staff members have been assigned to review teams, the evaluation phase begins. During this phase, an agency under review submits a Self-Evaluation Report (SER) to the Sunset Commission. These SERs describe the operational functions of the agency and delineate problems, opportunities, issues, and information that the agency thinks should be considered in the review process. In response to the SER, Sunset staff develops a review plan and conducts interviews and meetings with agency staff to become more educated on the agency's policies, programs, and practices.
- **Public Input:** During its evaluation, Sunset staff will also seek advice and input from interest groups, affected agencies, professional organizations, and other interested members of the public. This is an opportunity for organizations and community members who are impacted by the agency to voice their concerns.
- **Evaluation:** Sunset staff will compile and analyze the data collected during the evaluation process, including public input, interviews with agency personnel, performance reports, operational data, statistical reports, etc.
- **Staff Report (recommendation):** Once the evaluation and analysis is complete, Sunset staff will publish a report containing the recommendations developed during the evaluation process. The report will be available on the Commission's website, and a hard copy can be requested.
- **Public Hearing:** Subsequent to the release of the staff report, the Commission conducts a public hearing during which staff can present its findings and recommendations. This provides an opportunity for the agency to respond, as well as an opportunity for public commentary on the SER and staff report. The public may also choose to raise additional concerns or comments regarding the agency's operations, policies, and practices. Information presented to the Commission during this hearing may be provided in writing or via oral testimony. This input and feedback will inform the Sunset Commission's final recommendations on potential changes.

- **Decision Meeting:** After the public hearing, the Sunset Commission will meet in a public session to make further considerations and decide on recommendations it will make to the Legislature. At that point, the Commission may ask for resource witnesses to provide additional information if necessary, although no additional public testimony will be taken.
- **Sunset Legislation:** If the agency is not abolished, the Commission will submit its recommendations (including any changes or alterations it deems necessary for the continuation of the agency) to the Legislature in the form of “Sunset Legislation” (discussed below).

SUNSET OUTCOME – “SUNSET LEGISLATION”

Ultimately, the Sunset Commission must determine whether an agency should be abolished or continue in existence. If the Commission determines that the agency should continue, “The Commission must provide draft legislation to the Legislature to continue the agency for up to 12 years, and correct other problems identified during the Sunset review.”⁷ As a result of the information provided during the review process, the Commission may develop recommendations targeting specific problems or policies and procedures that may be improved.

Additionally, the Sunset Commission may incorporate “Across-the-Board” (ATB) recommendations, which are a set of standardized recommendations that apply to agencies under review. These entail policy directives, such as increasing public representation on an agency’s policy board, that are derived from the Sunset Act and are “designed to ensure open, responsive, and effective government.”⁸

PUBLIC INVOLVEMENT – PARTICIPATION CHECKLIST

The Sunset process only functions properly if the Commission is provided the critical information it needs to make an accurate assessment of an agency. **It is imperative that the public is involved in the process, offers input, and raises concerns related to the agency.** Public input is a safeguard that ensures a government agency is held accountable to the people it serves. There are a number of ways to get involved:

▷ COMMUNICATE WITH SUNSET STAFF DURING THE EVALUATION PERIOD:

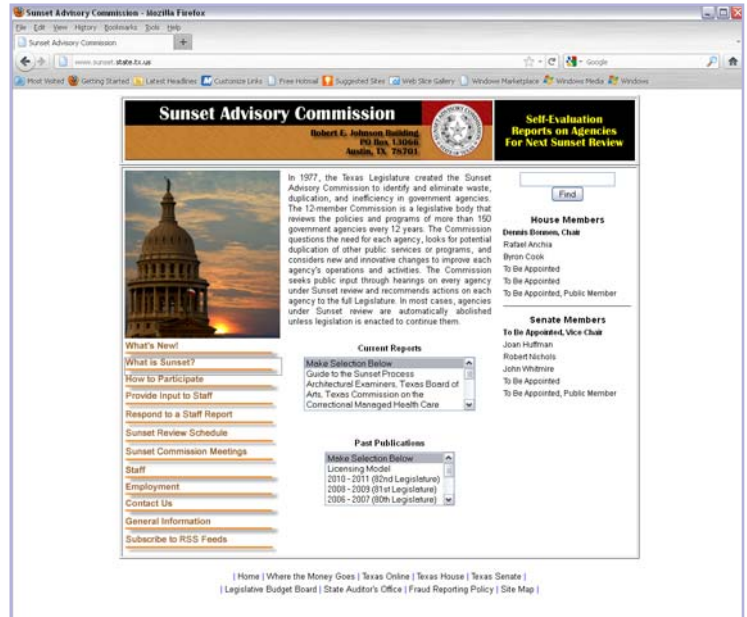
During the evaluation period, when Sunset staff solicits input, interested individuals may voice their concerns or raise issues that the Sunset Commission should consider during its review. Members of the community can communicate directly with Sunset staff, as well as public interest groups and organizations that are involved in the Sunset review process. Communicating concerns to organizations such as the Texas Criminal Justice Coalition (TCJC) or the American Civil Liberties Union (ACLU) is a good method of collaboration. Additionally, members of the community can contact their State Representatives and Senators to share their concerns regarding a particular agency.

▷ INPUT FORMS AND FEEDBACK FORMS:

The Sunset Commission website contains two forms, an “input form” and a “feedback form,” that interested persons may fill out if they wish to voice their concerns directly to staff. The input form, at

<http://www.sunset.state.tx.us/questionin.htm>, allows individuals to offer comments, concerns, and potential solutions. Input forms are collected and reviewed by staff members. The feedback form, at <http://www.sunset.state.tx.us/questionsr.htm>, differs in that it should be used by individuals wanting to respond directly to a published staff report (see below).

It is very important that individuals recognize the distinction between these forms and pay close attention to when they submit a comment. The feedback form is used exclusively to respond to a Sunset staff report, and responses to published Sunset staff reports are public information and will be posted on the Sunset website. **REGARDING CONFIDENTIALITY:** If a comment is received **after** the publication of the staff report on the agency, it is also considered public information, although it will not be posted on the Sunset website. If an input comment is submitted **before** the publication of the staff report on the agency, it is confidential and not subject to public disclosure.



▷ REVIEW & PROVIDE FEEDBACK RELATED TO REPORTS AND EVALUATIONS:

Members of the public can review Sunset material, including agencies' SERs and staff reports/recommendations. These are available online or in hard copy form upon request. After reviewing this material, interested persons can provide the staff and public interest organizations additional information, feedback, and comments regarding a specific agency's SER and corresponding staff report. Community members may also submit comments on the reports or raise additional issues and points of concern in the public hearing.

▷ PARTICIPATE IN PUBLIC HEARINGS:

In addition to raising issues with staff members directly, as well as with organizations involved in the Sunset process, the Commission will hold a hearing that is open to the public. Interested individuals and organizations may submit written and oral testimony to raise issues about the agency or comment on the SER or Sunset staff's recommendations.

▷ PARTICIPATE IN LEGISLATIVE SESSION:

If an agency is continued, a bill must be presented to the Legislature and passed. Therefore, individuals can participate in the legislative session when the bill is proposed and considered.

SUNSET RESOURCES

☐ Sunset Advisory Commission

Address	Mailing Address	Phone/Fax	Email/Web
Robert E. Johnson Building, 6th Floor 1501 N. Congress Avenue Austin, TX 78701	P.O. Box 13066 Austin, TX 78701	Phone: 512-463-1300 Fax: 512-463-0705	sunset@sunset.state.tx.us www.sunset.state.tx.us
To respond to a staff report, use the feedback form at www.sunset.state.tx.us/questionsr.htm . For suggestions or input on an agency, use the input form at www.sunset.state.tx.us/questionin.htm . Please see above comments regarding important confidentiality issues related to comments.			

The Sunset Commission is a legislative body responsible for reviewing the practices, policies, and programs of 130 government agencies. The Commission examines the need for each agency, looks to whether there is duplication with other public services or programs, and considers possible changes to improve each agency's operations and activities.

☐ Texas Senate

Address	Mailing Address	Email/Web
Texas Capitol N. Congress Avenue Between 11th and 15th Streets Austin, TX 78701	P.O. Box 12068 Austin, TX 78711-2068	www.senate.state.tx.us

The Texas Senate comprises 31 members, each representing 31 districts in Texas, who are generally elected for 4-year terms. The Regular Sessions of the Legislature begins on the second Tuesday in January of odd-numbered years, and typically ends during the last week of May or the first week of June. A Special Session may be called by the Governor, which can last up to 30 extra days. For phone numbers of Senators or Support Offices, visit the Senate website.

☐ Texas House of Representatives

Address	Mailing Address	Email/Web
Texas Capitol N. Congress Avenue Between 11th and 15th Streets Austin, TX 78701	P.O. Box 2910 Austin, TX 78768-2910	www.house.state.tx.us

The House of Representatives is composed of 150 members, elected from single-member districts for two-year terms. See "Senate" (above) for more detail on the Texas Legislature. For Representative's or Support Offices, visit the House website.

□ The Legislative Budget Board (LBB)

Address	Mailing Address	Phone/Fax	Email/Web
Robert E. Johnson Building, 5th Floor 1501 N. Congress Avenue Austin, TX 78701	P.O. Box 12666 Capital Station Austin, TX 78711	Receptionist: 512-463-1300 Public Information: 512-463-0705	Open Records: open.records@lbb.state.tx.us Human Resources: hr@lbb.state.tx.us www.lbb.state.tx.us

The LBB, a joint committee, was established to develop budget and policy recommendations for legislative appropriations for all state government agencies. It also provides fiscal analyses for proposed legislation. The LBB assists other committees and organizations, provides support to the Legislature, and conducts evaluations, reviews, and assessments in an effort to identify and recommend changes that will improve the efficiency and performance of state and local operations.

□ State Auditor’s Office (SAO)

Address	Mailing Address	Phone/Fax	Email/Web
Robert E. Johnson Building, 1501 N. Congress Avenue Austin, TX 78701	P.O. Box 12067 Austin, TX 78711-2067	(512) 936-9500	www.sao.state.tx.us

The SAO is a permanent six-member committee, chaired jointly by the Lieutenant Governor and the Speaker of the House of Representatives. It performs audits, reviews, and investigations of any entity receiving state funds, including state agencies. Audits for which the SAO is responsible include financial statement opinion audits, financial audits, compliance audits, economy and efficiency audits, effectiveness audits, and other special audits. The SAO also can perform a review, which involves a less rigorous process and does not need to adhere to strict auditing standards.

□ Texas Department of Criminal Justice (TDCJ)

Address	Mailing Address	Phone/Fax	Email/Web
Austin Address: 209 West 14th Street Austin, TX 78701 Huntsville Address: 861-B I.H. 45 N Huntsville, TX 77320	Austin: P. O. Box 13084 - Capitol Station Austin, Texas 78711-3084 Huntsville: P.O. Box 99 Huntsville, Texas 77342- 0099	Austin: (512) 463-9988 Huntsville: (936) 295-6371	www.tdcj.state.tx.us

Open Records Act requests may be directed to Executive Administrative Services located below at:

TDCJ – Executive Services		
Mailing Address	Phone/Fax	Email/Web
P.O. Box 99 Huntsville, TX 77342-0099	Phone: (936) 437-6391 Fax: (936) 437-2125	exec.services@tdcj.state.tx.us

Other Important TDCJ contacts include the following:

<u>Executive Director</u> Phone: Huntsville: (936) 437-2101 Phone: Austin: (512) 463-9988 Fax: Huntsville: (936) 437-2123 Fax: Austin: (512) 936-2169	<u>Correctional Institutions Division (Prisons)</u> Phone: (936) 437-2169 Fax: (936) 437-6325
<u>Deputy Executive Director</u> Phone: (936) 437-6251 Fax: (936) 437-8925	<u>Human Resources</u> Phone: (936) 437-4141 Fax: (936) 437-4068

TDCJ’s mission is “to provide public safety, promote positive change in offender behavior, reintegrate offenders into society, and assist victims of crime.” The chief responsibility of TDCJ is to manage individuals in state prisons, state jails, and private correctional facilities that contract with TDCJ. Its duties also include providing funding and oversight of Community Supervision (adult probation). TDCJ is also responsible for supervising individuals released from prison on parole or mandatory supervision.

□ Community Justice Assistance Division (CJAD)

Address	Phone/Fax	Email/Web
209 W. 14th Street Suite #400 Austin, TX 78701	Phone: (512) 305-9300 Fax: (512) 305-9368	www.tdcj.state.tx.us/divisions/cjad
Open Records Act Requests should be directed to the local probation department. To contact local department, visit CJAD’s website at: www.tdcj.state.tx.us/divisions/cjad/cjad_locations.html .		

CJAD is a division of TDCJ, charged with administering community supervision (adult probation) throughout Texas. CJAD’s mission is “to be accountable, responsive, and effective stewards of funding and other resources by assisting our collaborative partners to promote safer communities through rehabilitative services for offenders and protections of victims’ rights.” Individuals who are sentenced to community supervision by local courts, thereby avoiding incarceration, are supervised by community supervision corrections departments (CSCDs). CJAD does not directly work with individuals; rather, it works with these CSCDs. There are 121 CSCDs that service 254 counties.

□ Texas Board of Pardons and Paroles (BPP) [not to be confused with TDCJ's Parole Division]

Address	Phone/Fax	Email/Web
P.O. Box 13401, Capitol Station Austin, TX 78711	Phone: (512) 406-5452 Fax: (512) 406-5483	www.tdcj.state.tx.us/bpp bpp-pio@tdcj.state.tx.us

BPP’s mission is to “determine which prisoners are due to be released on parole or discretionary mandatory supervision; determine conditions of parole and mandatory supervision; determine revocation of parole and mandatory supervision; and recommend the resolution of clemency matters to the Governor.” BPP oversees parole, mandatory supervision, and discretionary mandatory releases. It also makes determinations on revocations, medical releases, and other types of releases from TDCJ facilities.

□ Windham School District (WSD)

Address	Mailing Address	Phone/Fax	Email/Web
Windham School District P.O. Box 40 804 Bldg. B, FM 2821 West Huntsville, TX 77320	Windham School District P.O. Box 40 Huntsville, TX 77342-0040	<u>General information:</u> Phone: (936) 291-5303 Fax: (936) 436-4031 <u>Human Resources:</u> Phone: (936) 291-5321 Fax: (936) 291-4622 <u>Open Records:</u> Phone: (936) 291-5304 Fax: (936) 436-4031	www.windhamschooldistrict.org Open Records: Open.records@wsdtx.org Human Resources: Personnel@wsdtx.org

WSD’s mission is “to provide appropriate educational programming and services to meet the needs of the eligible offender population in TDCJ and reduce recidivism by assisting offenders in becoming responsible, productive members of their communities.” WSD was established by the Legislature as separate and distinct from TDCJ. The Texas Board of Criminal Justice (TBCJ) serves as the Board of Trustees for WSD. WSD provides academic, as well as career and technology education, to eligible persons incarcerated within TDCJ.

□ Correctional Managed Health Care (CMHC)

Address	Phone/Fax	Email/Web
1300 11th Street, Suite 415 Huntsville, TX 77340	Phone: (936) 437-1972	www.cmhcc.state.tx.us email: cmhc@suddenlinkmail.com

The CMHC program is a legislatively established partnership that presently joins TDCJ, the Texas Tech University Health Sciences Center (TTUHSC), and the University of Texas Medical Branch at Galveston (UTMB). This is governed by the Correctional Managed Health Care Committee (CMHCC). The CMHC partnership is responsible for providing health care services to individuals in Texas state prisons and jails. CMHCC’s stated mission is “to develop a statewide managed health care network to address three key goals: providing TDCJ offenders with timely access to care consistent with correctional standards; maintaining a quality of care that meets accepted standards of care; and managing the costs of delivering comprehensive health care services to a growing and aging offender population.”

□ **Texas Legislature**

Web: www.legis.state.tx.us

This website provides general information on legislation.

□ **Texas Statutes**

Web: www.statutes.legis.state.tx.us

This is the resource for all statutes governing state laws in Texas.

PUBLIC ORGANIZATIONS

□ **Texas Criminal Justice Coalition (TCJC)**

Address	Phone/Fax	Email/Web
510 S. Congress Avenue, Suite 104 Austin, TX 78704	Phone: (512) 441-8123	www.criminaljusticecoalition.org

TCJC is committed to identifying and advancing real solutions to the problems facing Texas’ juvenile and criminal justice systems. We provide policy research and analysis, form effective partnerships, and educate key stakeholders to promote effective management, accountability, and best practices that increase public safety and preserve human and civil rights.

□ **American Civil Liberties Union (ACLU) of Texas**

Address	Phone/Fax	Email/Web
<u>State Headquarters:</u> P.O. Box 8306 Houston, TX 77288-8306 <u>Austin Regional Office:</u> P.O. Box 12905 Austin, TX 78711-2905 <u>Brownsville Regional Office:</u> P.O. Box 6087 Brownsville, TX 78523-6087	<u>State Headquarters:</u> Phone: (713) 942-8146 Fax: (713) 942-8966 Toll Free: 888-653-6498 <u>Austin Regional Office:</u> Phone: (512) 478-7300 Fax: (512) 478-7303 <u>Brownsville Regional Office:</u> Phone: (956) 465-1905	www.aclutx.org

The ACLU’s mission is as follows: the ACLU “is our nation’s guardian of liberty. We work daily in courts, legislatures and in the community to defend and preserve the individual rights and liberties guaranteed to every person in this country by the Constitution and laws of the United States. The American system of government is founded on two counterbalancing principles: that the majority of the people govern, through democratically elected representatives; and that the power even of a democratic majority must be limited, to ensure individual rights. The ACLU has maintained the position that civil liberties must be respected, even in times of national emergency.”

ENDNOTES

¹The following summary is a synthesis of the information found in the Sunset Advisory Commission's *Guide to the Texas Sunset Process*, available at <http://www.sunset.state.tx.us/guide.pdf>, and the Sunset Advisory Commission's General Information webpage, *Frequently Asked Questions*, available at <http://www.sunset.state.tx.us/faq.htm>.

²Sunset Advisory Commission, *Guide to the Texas Sunset Process*, Dec. 2009, <http://www.sunset.state.tx.us/guide.pdf>, pg. 1.

³Unlike some agencies, the Board of Pardons and Paroles is not subject to abolishment.

⁴During the 2011-2012 Sunset Review Process, 24 agencies will be undergoing review. Among the agencies under review, four are directly related to the adult criminal justice system, including: (1) the Texas Department of Criminal Justice, which includes the Community Justice Assistance Division (CJAD); (2) the Board of Pardons and Paroles (BPP); (3) Windham School District; and (4) the Correctional Managed Health Care Committee.

⁵Sunset Advisory Commission, *Guide to the Texas Sunset Process*, Dec. 2009, <http://www.sunset.state.tx.us/guide.pdf>, pg. 3.

⁶See *Sunset Review Schedule 2011-2012*, <http://www.sunset.state.tx.us/reviewsch2011.pdf>. *NOTE:* The schedule is subject to change.

⁷Sunset Advisory Commission, *Guide to the Texas Sunset Process*, Dec. 2009, <http://www.sunset.state.tx.us/guide.pdf>, pg. 4.

⁸*Id.* The ATB's are statutory administrative polices that are adopted by the Commission as standards for state agency operations. A list and description of these ATB's can be found in the Sunset Advisory Commission's *Guide to the Texas Sunset Process*, available at <http://www.sunset.state.tx.us/guide.pdf>, pgs. 7-8.



TCJC's work to find and advocate in favor of juvenile and criminal justice solutions is made possible by the financial support of caring individuals like you.

BE PART OF THE SOLUTION. DONATE TODAY!

**Texas Criminal Justice Coalition
510 S. Congress Avenue, Suite 104
Austin, TX 78704**

**Phone: 512-441-8123
Fax: 512-441-4884
acorrea@criminaljusticecoalition.org**

Name _____

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Your tax-deductible donation will be well spent on our public education, outreach, and research efforts. Give today by clicking on the DONATE NOW buttons found throughout www.criminaljusticecoalition.org, or by sending a check or money order to:



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Suite 104
Austin, TX 78704**