

# SPEND YOUR VALUES, CUT YOUR LOSSES

## 2021 DIVESTMENT PORTFOLIO:

Smart and Safe Justice System Solutions  
That Put Communities First



NOVEMBER 2020





The Texas Criminal Justice Coalition advances solutions and builds coalitions to end mass incarceration and foster safer communities.

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# INTRODUCTION

In July 2020, largely as a result of the COVID-19 pandemic, the Texas Comptroller announced that **Texas will face a projected budget shortfall of \$4.6 billion** at the end of Fiscal Year (FY) 2021.<sup>1</sup> In response, Texas' Health and Human Services Commission (HHSC) outlined **possible cuts to health services**, which were strongly criticized by legislators and advocates concerned about **making life even harder on Texans**.<sup>2</sup> Other agencies, too, are inevitably facing cuts that could have a lasting impact on Texas families and communities.

In the age of mass incarceration, taxpayer spending on criminal justice has escalated as social institutions and community-needed resources have been dramatically reduced by both state and local governments. **These divestments from community services have typically correlated with increased expenditures on policing and incarceration, which entangle hundreds of thousands of Texans each year and devastate communities of color**.<sup>3</sup>

Alarming, policing, arrests, and criminal punishments have become the default response to people with mental illness and substance use disorder, people experiencing poverty and homelessness, students struggling with social-emotional issues, and people facing a host of other hurdles.<sup>4</sup> **Instead of addressing the underlying causes of criminality that have allowed mass incarceration to run rampant, cities and counties continue to rely heavily on the reactive — and costly — responses of policing and incarceration, cutting short people's opportunities to find stability, support their families, continue their education, or join the workforce.**

## TEXAS JUSTICE QUICK FACTS

**251,000** kids and adults are locked up in various detention facilities in Texas.

**726,000** kids and adults are under some form of correctional control in Texas.

**\$6.9 BILLION** is spent on incarceration, probation, and parole of adults in Texas every biennium.

**#1:** Texas spends the most in the nation on prisons and jails; over the past three decades, it has grown 5x faster than the state's rate of spending on elementary and secondary education.

**F grade:** Texas' parole release process was ranked "failing" by the Prison Policy Initiative.<sup>5</sup>

**12,076** women are currently incarcerated in Texas prisons — more than any other state. **81%** are mothers and **64%** are incarcerated for nonviolent and low-level offenses, such as drug possession.<sup>6</sup>

**49<sup>th</sup>:** Texas is ranked second-to-last in the country in capacity of behavioral health care providers (barely 1 for every 1,000 Texas residents), beating only Alabama.<sup>7</sup>

**Texas already spends a smaller percentage on health and welfare than most other states,<sup>8</sup> yet its state investment in police increased 54 percent** from 2012 to 2018, during which time investments in education, public welfare, health, and parks and recreation each increased by 26 percent or less. Funding for corrections increased 12 percent and brought the state's corrections budget to a staggering \$3.4 billion per year.<sup>9</sup>

**Yet, an over-reliance on corrections does not make Texans safer.** Studies show that mass incarceration has marginal to zero impact on crime.<sup>10</sup> **What makes communities safer is education and employment, safe and stable housing, quality health care, restorative justice, and other community-based supports and services.**

We must stop wasting hard-earned taxpayer dollars and human potential on failed justice policies. Texans deserve better than a “penny wise, pound foolish” approach to public safety.

**This portfolio calls for a top-down realignment in how our money is spent — an evaluation of how our dollars could be stretched further on the road to a future where every Texan has access to real opportunity.** Together, we can move forward in a vision of public health and safety that is fiscally responsible and morally sound.

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# SMART & SAFE SOLUTION #1:

## LOWER PENALTIES FOR MINOR DRUG POSSESSION TO FREE UP FUNDING FOR STRATEGIES THAT GET TEXANS BACK ON THEIR FEET

Policymaking stemming from the 1980's War on Drugs has dramatically increased the number of people arrested and incarcerated in Texas for drug offenses. In 2019, nearly 700,000 people were arrested in Texas — 128,000 for drug violations alone.<sup>11</sup> **Low-income people with substance use disorders must wait weeks for intensive residential, outpatient, and medication-assisted treatment.**<sup>12</sup> People in need of co-occurring psychiatric and substance abuse treatment also must wait weeks for specialized services.<sup>13</sup>

**Texas' inadequate treatment infrastructure means people with drug use problems are far more likely to be arrested than to receive help.** Over the past five years, nearly all serious and violent offense cases have declined significantly in Texas, whereas drug possession cases have increased nearly 25 percent.<sup>14</sup> The cycle of substance use, arrest, and incarceration simply continues — ravaging families, perpetuating Texas' drug crisis, and **squandering resources that could be used to truly prevent crime.**

**Rather than restoring people to wellness, low-level drug enforcement worsens the conditions that perpetuate drug use, and it does so disproportionately according to race and socioeconomic status.** Of the more than 2.3 million Americans in prison or jail in 2019, nearly 60 percent were Black or Latinx,<sup>15</sup> who collectively comprise only 31.7 percent of the total U.S. population.<sup>16</sup> In addition, it is impossible to ignore the socioeconomic disparities among those impacted by the drug war and incarceration. Nearly two-thirds of those incarcerated had incomes of less than \$12,000 per year prior to entering prison.<sup>17</sup>

**It is critical to decrease reliance on harmful policing strategies and criminalization of illicit drug use and instead prioritize harm reduction-based strategies.** Punitive approaches have proven ineffective in reducing the availability of drugs, while actually causing harm, including increased incarceration and separation of families.<sup>18</sup>

Harm reduction comprises policies, programs, and practices that aim to minimize negative health, social, and legal impacts associated with drug use and drug policies. Its primary goal is to keep people alive and encourage positive change in their lives. Harm reduction is grounded in dignity, justice, and human rights — working with people without judgment, coercion, or discrimination and without requiring them to stop drug use as a condition of support. **Numerous studies confirm that harm reduction prevents overdose, lowers incidence of diseases including HIV, viral hepatitis, and tuberculosis, and supports recovery for those who seek it.**<sup>19</sup>

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***“This growth [in incarceration] has occurred at great public expense, despite the fact that research shows public health responses to drug use are more effective than criminal justice responses and incarcerating people for drug offenses has a questionable impact on public safety. In fact, a recent analysis of state corrections and public health data found no relationship between imprisonment rates and rates of drug use, overdose deaths, or arrests for drug law violations. In other words, evidence shows more punitive criminal justice responses such as felony convictions are not effective tools to deter drug use or mitigate the harm it can cause.”***<sup>20</sup>

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# WOMEN AND THE WAR ON DRUGS

The War on Drugs has contributed greatly to nonviolent female incarceration rates, especially given that women are more likely than men to be treated with prescription pain medication, like opioids, at higher doses and for longer periods. Also, because of women's physiology, they may also become dependent on opioids more quickly and with smaller amounts than men.<sup>22</sup>

In Texas, approximately 3,600 women are incarcerated for nonviolent drug offenses, serving an average sentence of nine years — with a price tag of \$202,455 per woman.<sup>23</sup>

Substance use disorder is inherently a public health issue. It can be managed in the community with treatment and support — not through costly and unnecessary policing and incarceration. **To reduce the number of people in Texas prisons and jails, it is critical to ensure that those struggling with substance use disorder have the tools to safely manage addiction issues and live productive lives in the community.**



## RECOMMENDATIONS

To more effectively and safely address substance use in communities, Texas leadership should:

1. **Lower penalties for minor drug possession offenses** from a felony to a misdemeanor, which will give more people the opportunity to take drug-related educational courses or engage in community service rather than be incarcerated.

**Also importantly, decreasing penalties for possession will allow the state to shift a portion of the savings from lowered incarceration into local communities, which can invest in needed services such as certified peer support, recovery housing, or virtual outpatient or inpatient treatment.**

2. **Intentionally invest in harm reduction- and other community-based strategies** that connect drug users with support services, reduce treatment waitlists, and, as necessary, improve probation outcomes — all of which act to reduce re-offending.

As of August 2020, approximately 2,200 people were serving time in state jail for possessing less than one gram of a controlled substance<sup>21</sup> (the equivalent of a sugar packet); that number is likely to rise as court activity increases after the COVID-19 pandemic subsides.

**The yearly taxpayer cost of incarcerating people for possessing small quantities of drugs is more than \$42 million.** This is a staggering sum considering that residents of most low-income communities must wait weeks or months to access affordable substance use treatment or recovery services. **Localities should be able to invest in strategies that best serve their communities and help people get back on their feet, not be forced to treat drug use as a felony warranting state-level incarceration.**

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## SMART & SAFE SOLUTION #2:

### REQUIRE PROBATION PRACTICES TO FOCUS ON PUBLIC SAFETY AND MORE PRUDENTLY USE TAXPAYER DOLLARS

Probation is commonly framed as an alternative to incarceration — and, currently, approximately 365,000 people are on probation in Texas, 218,000 of whom are on felony probation.<sup>24</sup> However, probation has also become a costly driver of mass incarceration. **Nearly one-third of people incarcerated in Texas each year (approximately 22,000 total) are there as a result of a probation revocation.**<sup>25</sup> High revocation rates land large numbers of people in jail and prison, creating a revolving door effect.<sup>26</sup> Put simply, the probation system is failing to help people live productively in the community, per its goal: to successfully rehabilitate and reorient individuals back into society.

Many Texas courts establish lengthy probation sentences (up to 10 years)<sup>27</sup> and, in addition to requiring law-abiding behavior, require adherence to a relentless number of financial and other conditions; failure to meet these demands can result in incarceration. “Technical” probation violations, not new crimes, include missing a scheduled meeting with a probation officer (despite a probationer’s lack of transportation or child care), lack of employment, inability to pay a fee (despite that lack of employment), being late to court, missing curfew, not attending a required class, or going outside of a strict set of geographical boundaries.

Because Texas does not have one centralized probation system, probation practices and outcomes vary widely among counties, with success rates ranging from 30 to 70 percent.<sup>28</sup> In 2019, a number of Texas counties saw probation failure rates (the percentage of felony probation cases closed each year that were revocations) of well over 50 percent;<sup>29</sup> in some of these counties, over 70 percent of revocations were due to technical violations.

**Counties with high revocation rates, which simply siphon individuals into jails and prisons, rely more on surveillance and offer probationers little personalized support. Across Texas, this comes at significant cost to taxpayers:** With active probation supervision totaling \$4.39 per person per day and prison totaling \$62.34 per day,<sup>30</sup> the above-mentioned 22,000 people revoked and sent to prison are collectively costing taxpayers **as much as \$1.27 million per day that could be invested in true community wellness.** On top of that, low probation success rates do not contribute to public safety.

On the other hand, **counties with low revocation rates are working to improve public safety and do so by following a case-management approach,**<sup>31</sup> with personalized therapeutic interventions such as collaboration, appropriate goal-setting, linkage of individuals to valuable community resources, and facilitation of a life outside of correctional surveillance and control.



## RECOMMENDATIONS

To help reduce the probation population in Texas and truly divert individuals away from the justice system, Texas leadership should:

1. **Reduce the length of probation to the time necessary to accomplish the collaborative goals set forth by the probationer and the probation officer.** Treatment planning and goal-setting are more important than a long, fixed sentence. Probation is a means of jail diversion that should tailor sentences to each individual probationer. The length of probation should be only as long as needed and never exceed two years; this time frame allows probationers to reach the goals outlined in their individual plans.

Over time, as probation populations continue to fall — and as fewer people are revoked to prison — the state can direct the savings towards communities, more effectively assisting them in facilitating the success of people on probation or recently completing probation.

2. **Require the Texas Department of Criminal Justice's Community Justice Assistance Division (TDCJ-CJAD) to inform probation departments and judges with a greater than 50 percent failure rate of the necessity for corrective action.** TDCJ-CJAD has the authority to conduct audits and impose sanctions for noncompliance with probation standards,<sup>32</sup> and it should be given the authority to require judicial education as a condition of a community supervision and corrections department (CSCD) receiving state-funded probation and treatment services. Further, the Legislature should authorize TDCJ-CJAD to issue diversion grant funds to high-performing CSCDs to provide training and technical assistance.
3. **Promote the use of early termination as a motivation to complete probation requirements.** Those CSCDs with exceptionally high probation success rates used early termination 7.5 times more frequently than those with very low success rates.<sup>33</sup>
4. **Limit probation conditions.** On average, a probationer is required to comply with 15 conditions on any given day; the more conditions a probationer must heed, the greater the likelihood that a condition will be violated<sup>34</sup> and they will be revoked to prison or jail at taxpayer expense.

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# SMART & SAFE SOLUTION #3:

## SAFELY ADJUST PAROLE PRACTICES TO REDUCE MASSIVE PRISON BUDGETS

From 1983 to 2013, **punishment in the United States became 165 percent harsher despite declining crime rates; as criminal penalties increased, opportunities for parole were reduced**, and other policies were put into place that effectively sent more people to prison and kept them there longer.<sup>35</sup> **Sentencing laws on mandatory minimums, three-strike laws, and life without parole have contributed to prison admissions and to drastic increases in incarcerated individuals' length of stay.**<sup>36</sup> Simultaneously, increasingly restrictive parole policies and longer setoff times have denied individuals early release — even though crime rates have fallen<sup>37</sup> and recidivism rates of individuals convicted of serious offenses are low.<sup>38</sup>

**Lengthier sentences coupled with low parole approval rates result in exploding prison costs.** In Texas specifically, the average sentence length for people committed to prison has increased by 35 percent since 2005.<sup>39</sup> Additionally, the state's parole approval rate sits at only 40 percent.<sup>40</sup>

Over time, the aging population in Texas' corrections system has surged, with those aged 55 and older increasing by 65 percent from 2012 to 2019. As a result — and despite recent *decreases* in Texas' prison population — publicly funded prison health care costs are escalating: **"The state spent over \$750 million on prison health care during the 2019 fiscal year, a 53 percent increase from seven years earlier, when that cost was less than \$500 million."** People aged 55 and older now account for one-eighth of Texas' total prison population but represent one-half of the system's hospitalization costs.<sup>42</sup>

**Substantially reducing the population of incarcerated individuals will meaningfully decrease prison budgets.** Parole laws that keep people behind bars for decades who no longer pose a risk to society create fiscal waste and provide little benefit to public safety.

Reducing the number of people in prison is also central to addressing racial inequities that devastate communities of color — especially Black communities — economically and socially. While Black people comprise 13 percent of Texas' population,<sup>43</sup> they make up 33 percent of the Texas prison population.<sup>44</sup>

Texas has an opportunity to be a leader through parole reforms that will return people safely to their communities and save millions of taxpayer dollars each year on indefensible incarceration. The yearly incarceration cost per person in Texas prisons is \$22,751. In 2018, there were more than 50,000 parole denials,<sup>45</sup> **which account for over \$1 billion in prison spending each year — money that could be shifted to Texas communities desperately in need of financial support.**



## RECOMMENDATIONS

Failings within Texas' parole system are contributing to high incarceration levels. To significantly reduce incarceration through a parole process that centers both safety and higher release rates, Texas leadership should:

1. **Shift the focus of parole reviews to factors an applicant can control.** Although parole applicants have already been sentenced and punished for their offense by incarceration, their offense is the leading factor in release decisions — effectively turning parole reviews into resentencing exercises.

Under Texas' parole guidelines, as set forth in statute, the Board of Pardons and Paroles is directed during the parole review process to contact the prosecuting attorney, review the person's criminal record, and evaluate prison disciplinary records. The Board is not able to evaluate an individual's progress in certain rehabilitative programs when determining parole because only the Board can place people in those programs — which, under current practice, comes *after* a person's parole review. Shifting toward a system of providing rehabilitative services prior to parole review and using intensive supervision, if needed, for those who are aging or medically vulnerable will have the **twofold effect of saving taxpayer dollars and improving public safety.**

2. **Allow for earlier access to effective pre-release programs, such as substance use treatment and cognitive intervention.** With little access to programs during incarceration, the years between parole reviews are wasted opportunities to rehabilitate individuals. Improving opportunities for substance use treatment and other interventions are critical to parole release and successful reentry into the community. Furthermore, ineffective or unnecessary pre-release programs, which keep individuals needlessly incarcerated, should be identified for elimination.
3. **Allow for earlier parole consideration for people serving lengthy sentences.** This can be achieved by (a) expanding the number of offenses for which individuals can earn time off their incarceration period through "good conduct time" credits (e.g., good behavior, diligence in prison work, and attempts at rehabilitation), and (b) ending de facto life sentences for people under 18 by ensuring that they are eligible for parole after, at most, 20 years served, rather than 40 (a policy change also referred to as "second look").
4. **Expand access to medical release.** Medical parole has overly stringent qualifications and limited approval rates, which shut out many individuals with serious medical conditions who do not present a public safety risk. This exacerbates taxpayer spending on correctional managed health care.

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## SMART & SAFE SOLUTION #4:

### SUPPORT REENTRY STRATEGIES THAT PRIORITIZE STABILITY AND WISE SPENDING

People approved for parole who have no other housing options **must wait in prison for months or even more than a year for an available bed in a residential reentry center (RRC)**. While Texas paroles approximately 28,000 people per year,<sup>46</sup> it has approximately 2,000 state-funded RRC beds in eight facilities throughout the state, all **operated by private prison corporations**, including the GEO Group, CoreCivic, and Correctional Solutions Group.<sup>47</sup>

The **annual cost to the state for these contracts is approximately \$35 million**,<sup>48</sup> over and above that is the amount that Texas must pay to incarcerate individuals who remain in prison beyond their parole release date while awaiting an RRC bed. The state's investment in these centers becomes more troubling when one considers that it **could provide monthly housing stipends during the reentry period to more than double the number of people housed within RRCs**.<sup>49</sup>

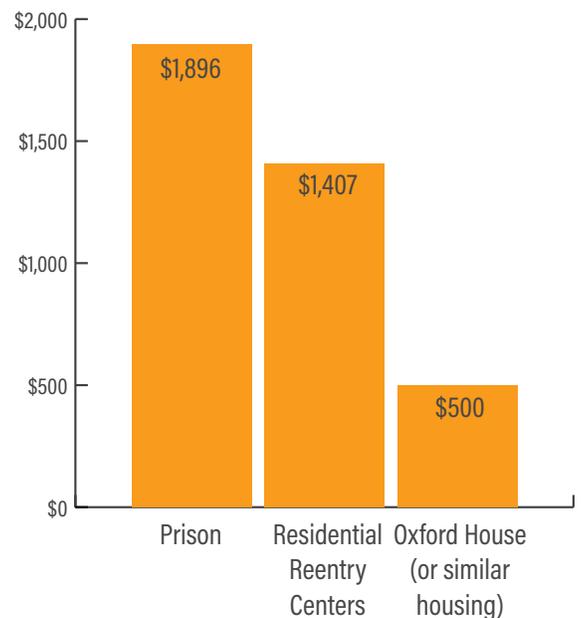
Not only do RRCs have long waiting periods, but they are **widely known not to provide an environment conducive to successful reentry**. For instance, because there are only eight facilities spread across seven Texas cities, it is unlikely that a person will be placed in a facility in or near their home community and support network.

**This presents challenges for returning individuals in finding employment:** employers are aware that most people living in an RRC are unlikely to remain in the community for more than a few months,<sup>50</sup> resulting in **extreme delays in finding a job and earning enough income to move back to their home communities**. When returning individuals are finally able to relocate to their home communities, they are then **forced to repeat the reentry process** a second time.

Other challenges with RRCs are as follows:

- Interviews with individuals previously residing in RRCs report a **prison-like environment, including strip searches, limited movement, and restrictions that inhibit the ability of residents to find steady employment**.<sup>51</sup>
- Many employers near the RRCs in Texas report **not wanting to hire individuals from the facilities** because residents are not allowed to leave the RRC for evening or weekend shifts.<sup>52</sup>
- Researchers evaluating the effectiveness of RRCs found **patterns of indifference, misconduct, and under-training among staff**. These factors resulted in **violence, drug use/abuse, and overall dangerous environments for residents**.<sup>53</sup>
- Private prison companies — such as the GEO Group and CoreCivic, the two major corporations in Texas — have lengthy track records of **neglecting the basic needs of returning individuals and ultimately failing to provide a positive environment conducive to rehabilitation**.<sup>54</sup>

AVERAGE MONTHLY COST PER PERSON





## RECOMMENDATIONS

Texas should rethink its investment in residential reentry centers. To achieve improved reentry outcomes at a lower cost to taxpayers, Texas leadership should:

1. **Shift to a model that expands the use of housing vouchers** at approved housing providers that meet standards established by the Legislature. **This could double the amount of available housing at lower cost to the state than relying on RRCs.**<sup>55</sup> Collateral benefits include a stronger candidate pool for employers in additional Texas communities, and greater opportunities for success on reentry through more stable housing environments.
2. **Allow people to move into recovery housing**, such as Oxford House or similar evidence-based accountability-driven models, which are well known to support long-term recovery. Again, this would both save taxpayer dollars and improve reentry outcomes.<sup>56</sup>

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46. Texas Board of Pardons and Paroles, *FY 2019 Annual Statistical Report*, [https://www.tdcj.texas.gov/bpp/publications/FY\\_2019\\_Annual\\_Statistical\\_Report.pdf](https://www.tdcj.texas.gov/bpp/publications/FY_2019_Annual_Statistical_Report.pdf).

47. *Directory - Residential Reentry Centers, Parole Division*, TDCJ, [https://www.tdcj.texas.gov/divisions/pd/halfway\\_houses.html](https://www.tdcj.texas.gov/divisions/pd/halfway_houses.html).

48. Data from the *Texas Department of Criminal Justice*, June 2020.

49. Costs were based on an estimated monthly housing voucher of \$500 multiplied by 4,000, then by 12 months. The number of people the state could house through housing vouchers may be much higher when considering the variance in monthly rental costs by city.

50. Texas Criminal Justice Coalition conducted interviews with individuals who had been placed in RRCs.

51. Kimberly Kras, Breanne Pleggenkuhle, and Beth Huebner, "A New Way of Doing Time on the Outside: Sex Offenders' Pathways In and Out of a Transitional Housing Facility," *International Journal of Offender Therapy and Comparative Criminology*, 60(5), 512-534 (2014).

52. Douglas Smith, personal interview with former resident of an RRC.

53. Derek Gilna, "When Halfway Houses Pose Full-Time Problems," *Prison Legal News*, January 10, 2015, <https://www.prisonlegalnews.org/news/2015/jan/10/when-halfway-houses-pose-full-time-problems/>. See also: Caroline Isaacs, "Denver Canceled Its For-Profit Reentry Contracts. Your City Should Be Next!" *American Friends Service Committee - Arizona*, August 8, 2019, <https://afscarizona.org/2019/08/08/denver-canceled-its-for-profit-reentry-center-contracts-your-city-should-be-next/>.

54. "How Private Prison Companies Increase Recidivism," *In the Public Interest*, June 2016, <https://www.inthepublicinterest.org/wp-content/uploads/ITPI-Recidivism-ResearchBrief-June2016.pdf>.

55. Cost calculations were determined as follows: Average monthly costs for prison incarceration were reported by the *LBB Uniform Cost Report*. [https://www.lbb.state.tx.us/Documents/Publications/Policy\\_Report/4911\\_Criminal\\_Juvenile\\_Uniform\\_Cost\\_Jan\\_2019.pdf](https://www.lbb.state.tx.us/Documents/Publications/Policy_Report/4911_Criminal_Juvenile_Uniform_Cost_Jan_2019.pdf). Monthly costs per person at RRCs were reported by TDCJ through a data request received in June 2020. Average monthly cost of \$500 for residency at Oxford House was reported in a 2015 *Texas Oxford House Survey*, [https://oxfordhouse.org/userfiles/file/doc/eval\\_tx2015.pdf](https://oxfordhouse.org/userfiles/file/doc/eval_tx2015.pdf).

56. Leonard Jason and Joseph Ferrari, "Oxford House Recovery Homes: Characteristics and Effectiveness," *Psychological Services*, 2010, Vol 7, No. 2, 92-102.



## SMART & SAFE SOLUTION #5:

### MAKE SMARTER USE OF TREATMENT PROGRAMS TO ENSURE PARTICIPANT SUCCESS

Texas spends \$50 million per year on the Substance Abuse Felony Punishment Facility (SAFPF) program,<sup>57</sup> created by the Legislature in the 1990s to provide an intensive in-prison therapeutic community for people at risk of probation or parole revocation due to repeated drug or alcohol use.<sup>58</sup>

**The program has not been thoroughly evaluated by the Texas Sunset Commission or any other independent entity in almost two decades.**<sup>59</sup> In the most recent evaluation by the Texas Department of Criminal Justice (TDCJ), which operates SAFPF programs, the only reductions in recidivism were experienced by those who completed the aftercare component — accounting for approximately one-third of overall participants.<sup>60</sup>

Per the findings of the two above-mentioned evaluations:

- The **curriculum for SAFPF programs is not published**; therefore, it is unclear if the program meets statutory requirements.
- SAFPF is the **“largest, most intensive, and most expensive” program that TDCJ offers** for substance abuse treatment.<sup>61</sup>
- As of 2001, only 44 percent of initial SAFPF participants had completed the program,<sup>62</sup> and that **completion rate dropped to 39 percent** by 2011.<sup>63</sup>

Other reports have found additional concerns:

- SAFPF has the **highest percentage of individuals who are re-incarcerated within three years of release** compared to the felony community supervision, prison, state jail, In-prison Therapeutic Community, Intermediate Sanction Facility, and parole supervision programs.<sup>64</sup>
- Despite these numbers, **in 2007, the 80th Texas Legislature added 1,500 beds to the SAFPF program.**<sup>65</sup>

The SAFPF model's limitations are not unique to Texas. Research on similar programs in other states has found problems with noncompletion and program mismatch.<sup>66</sup> To be effective, these programs must be aimed at those in the highest-risk classification, and every effort should be taken to ensure that program participants complete all phases of the program, including aftercare. In Texas, courts may place individuals in SAFPF as part of a plea agreement or when other treatment programs are not available. Unfortunately, this ensures that **people not appropriate for SAFPF are placed in the program anyway; and, TDCJ cannot reject anyone placed in these programs, even if participants do not meet the ideal criteria.**



## RECOMMENDATIONS

More than 6,000 people are sent to SAFPF programs every year.<sup>67</sup> To safely and significantly lower that number, correspondingly reduce taxpayer waste, and help people get effective rehabilitative support, Texas leadership should:

1. Require plea agreements to include that **participation in SAFPF programs must be the best fit for an individual based on a risk and needs assessment.**
2. **Allow the Texas Department of Criminal Justice to reject individuals who do not meet the program criteria** or who could be better served through alternative programs available to probation and parole departments.
3. **Reduce the number of SAFPF beds and shift the savings into additional treatment options in the community**, including dual-diagnosis programs at community correctional facilities, virtual outpatient programs for defendants in rural areas, or placement in Oxford Housing.

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57. *General Appropriations Act, FY 2020–2021*, Department of Criminal Justice, Strategy C.2.4.

58. Texas Government Code §493.009, 1991.

59. "The Substance Abuse Felony Punishment Program (SAFP): Evaluation and Recommendations," *Criminal Justice Policy Council (CJPC)*, 2001, i, <https://pdfs.semanticscholar.org/5168/be0c460f9abc84eb8cd2b4833d72fc9a095.pdf>.

60. "Evaluation of Offenders Released in Fiscal Year 2011 That Completed Rehabilitation Tier Programs," *TDCJ*, April 2015, 14.

61. "SAFP: Evaluation and Recommendations," 2001, i.

62. "SAFP: Evaluation and Recommendations," 2001, 2.

63. "Evaluation of Offenders," 14.

64. "Statewide Criminal and Juvenile Justice Recidivism and Revocation Rates," *LBB*, January 2019, 4, [https://www.lbb.state.tx.us/Documents/Publications/Policy\\_Report/4914\\_Recidivism\\_Revocation\\_Rates\\_Jan2019.pdf](https://www.lbb.state.tx.us/Documents/Publications/Policy_Report/4914_Recidivism_Revocation_Rates_Jan2019.pdf).

65. "Expanded Community Supervision Residential Alternatives," *TDCJ – Community Justice Assistance Division (TDCJ – CJAD)*, 2008, [https://www.tdcj.texas.gov/documents/cjad/CJAD\\_Expanded\\_Community\\_Supervision\\_Residential\\_Alternatives.pdf](https://www.tdcj.texas.gov/documents/cjad/CJAD_Expanded_Community_Supervision_Residential_Alternatives.pdf).

66. James Griffin et al., "A Cost Effectiveness Analysis of In-Prison Therapeutic Community Treatment and Risk Classification," *The Prison Journal*, Vol. 79, No. 3, 1999, 352–368, <https://nij.ojp.gov/library/publications/cost-effectiveness-analysis-prison-therapeutic-community-treatment-and-risk>.

67. "FY 2018 Statistical Report," *TDCJ*, [https://www.tdcj.texas.gov/documents/Statistical\\_Report\\_FY2018.pdf](https://www.tdcj.texas.gov/documents/Statistical_Report_FY2018.pdf).



# SMART & SAFE SOLUTION #6:

## ENSURE SUCCESS FOR TEXAS KIDS THROUGH COST-EFFECTIVE STRATEGIES THAT MEET THEIR NEEDS

In 2006, rampant abuse in Texas' juvenile corrections facilities was uncovered, leading to omnibus legislation<sup>68</sup> that removed kids with misdemeanors from state secure confinement and resulted in funding being **redirected toward localized rehabilitation programs**. Ultimately, seven state secure facilities closed, and the number of kids incarcerated in the five remaining facilities has dropped from 5,000 to under 1,000 today.<sup>69</sup> **Yet allegations of abuse, neglect, and staffing shortages in juvenile facilities continue to plague the youth justice system.**<sup>70</sup>

Despite youth arrests and incarceration rates declining for more than a decade, **Texas continues to spend \$175,000 each year per child in a state secure youth facility.**<sup>71</sup> But "every dollar spent on locking away children should be spent on making their communities safer and making their futures brighter."<sup>72</sup>

In large part, this requires changes in Texas schools. Students at every grade level face disciplinary methods that can land them behind bars. The **unintended consequences of punitive "zero tolerance" policies include increases in on-campus policing**, which push many students — particularly the most marginalized — out of the classroom and into the youth and adult justice systems.

**Traditional, punitive models of student discipline are ineffective and harmful to students and communities.** Students and administrators have been calling for changes to school discipline practices because they agree that current systems are not working. Costs include higher dropout rates, education expenditures from students repeating grades, youth and adult justice system expenses, and increased costs to health and social services. One study estimated that "if policymakers could remove the entire 14 percent increase in dropouts associated with school discipline, the total lifetime **savings for each student cohort would be between \$750 million and \$1.35 billion.**"<sup>73</sup>



## RECOMMENDATIONS

Approximately 40,000 kids (aged 10-16) are annually referred to juvenile probation in Texas,<sup>74</sup> the gateway to the youth justice system. The "school-to-prison" pipeline is a key driver to the system. To reduce the number of kids who become entangled with police and in the justice system, Texas leadership should:

## MISUNDERSTOOD KIDS

Of the kids remaining in Texas' secure juvenile detention facilities:

**65%** have an incarcerated family member.

**65%** have a history of abuse, neglect, or family violence.

**46%** have had four or more Adverse Childhood Experiences compared to 12.6% of the general public.

**53%** of girls have concerns about sex trafficking.

**44%** have significant mental health needs.

**Despite these statistics, some continue to misunderstand who these kids are and what brings them into the system.** But the reality is that, of the 607 kids in TJJJ secure detention, only 0.49% are there for capital murder, 5% for aggravated sexual assault, and 9% for a sex-related offense (not including prostitution).<sup>75</sup>

Moreover, the **age-crime curve** reflects that criminal conduct peaks during a person's late teenage years and steadily declines during a person's early 20s, and that many youth are "immediate desisters," meaning their first offense is also their last.

1. **Maintain progress on youth decarceration.** Texas must continue to regionalize its youth justice system by **expanding funding for smaller, local therapeutic facilities and community-based programs, 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 number of kids behind bars, send more kids down a path to success, lower staff-to-youth ratios in state secure facilities, free up resources for kids with higher-level needs, and clear the road for closure of Texas' youth prisons.
  - State Residential Facility cost per youth per day: \$479.56
  - Community-Based Commitment Diversion Program cost per youth per day: \$58.08
  - **Potential Savings from Diversion: \$153,840 each year per youth**
2. **Ensure justice in schools.** As the spotlight has shined more harshly on youth incarceration and the harm to children and their families — as well as shining on the need to create safe schools — measures to reverse the school-to-prison pipeline are being piloted and implemented throughout Texas to ensure that we have **safe students** who can reach their full potential.

**Texas leadership should prioritize funding for the placement of multi-year Restorative Justice Coordinators and mental health providers, like social workers, to promote Multi-Tiered Systems of Support (MTSS) and restorative justice measures in schools.** MTSS is a framework of evidence-based practices used to assess and support students' needs, while also helping to mitigate student behaviors that result in disciplinary action. Restorative justice is a proven disciplinary response that focuses on repairing harm by addressing the root cause of a student's conduct, ultimately reducing the likelihood of certain behaviors recurring. In addition to various supports within MTSS, using restorative justice methods, like group conferencing and healing circles, helps students consider the consequences of their actions and holds them accountable to the person they hurt — rather than merely sending them home via suspension or expulsion. Designated Restorative Justice Coordinators and social workers are better equipped than other personnel to handle behavioral issues stemming from trauma, academic or development challenges, or problems in a student's home life, and they can serve as a resource to school administrators and teachers in implementing successful strategies for safe and healthy schools.<sup>76</sup>

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68. SB 103, Texas Senate, 80th Regular Session, *Texas Legislature Online*, 2007, <https://capitol.texas.gov/BillLookup/History.aspx?LegSess=80R&Bill=SB103>.
  69. Legislative Budget Board (LBB), *Monthly Tracking of Adult Correctional Population Indicators*, September 2020.
  70. Keri Blakinger, "'The Place Is a Jungle': Texas Youth Prisons Still Beseet by Gangs, Violence, Abuse," *Beaumont Enterprise*, January 1, 2020, <https://www.beaumontenterprise.com/news/article/The-place-is-a-jungle-Texas-youth-prisons-14943696.php>.
  71. "Criminal and Juvenile Justice Uniform Cost Report, Fiscal Years 2018–2019," *LBB*, January 2019, [https://www.lbb.state.tx.us/Documents/Publications/Policy\\_Report/4911\\_Criminal\\_Juvenile\\_Uniform\\_Cost\\_Jan\\_2019.pdf](https://www.lbb.state.tx.us/Documents/Publications/Policy_Report/4911_Criminal_Juvenile_Uniform_Cost_Jan_2019.pdf).
  72. *No Kids in Prison*, 2019, <https://www.nokidsinprison.org/>.
  73. Russell W. Rumberger and Daniel J. Losen, "The High Cost of Harsh Discipline and Its Disparate Impact," *The Center for Civil Rights Remedies at UCLA*, June 1, 2016, [https://www.civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/the-high-cost-of-harsh-discipline-and-its-disparate-impact/UCLA\\_HighCost\\_6-2\\_948.pdf](https://www.civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/the-high-cost-of-harsh-discipline-and-its-disparate-impact/UCLA_HighCost_6-2_948.pdf).
  74. LBB, *Monthly Tracking*.
  75. Data provided by *TJJD* on September 16, 2020, in response to an open records request.
  76. "Reversing the Pipeline to Prison in Texas: How to Ensure Safe Schools AND Safe Students," *Texas Criminal Justice Coalition*, 2020, <http://www.texascjc.org/system/files/publications/Reversing%20the%20Pipeline%20Report%202020.pdf>; Megan C. Sherman, *The School Social Worker: A Marginalized Commodity within the School Ecosystem, Children & Schools*, Volume 38, Issue 3, July 2016, Pages 147–151, <https://doi.org/10.1093/cs/cdw016>; Lucy Sorensen, Yinzhi Shen, and Shawn D. Bushway, *Making Schools Safer and/or Escalating Disciplinary Response: A Study of Police Officers in North Carolina Schools*, *SSRN Electronic Journal*, 10.2139/ssrn.3577645, (2020), <https://onlinelibrary.wiley.com/doi/abs/10.1111/1745-9133.12512>; Karen Stoiber, and Maribeth Gettinger. "Multi-Tiered Systems of Support and Evidence-Based Practices," In: Jimerson S., Burns M., VanDerHeyden A. (eds) *Handbook of Response to Intervention*, Springer, Boston, MA (2016), [https://doi.org/10.1007/978-1-4899-7568-3\\_9](https://doi.org/10.1007/978-1-4899-7568-3_9).



## SMART & SAFE SOLUTION #7:

### CLOSE MORE PRISONS AND REALLOCATE DOLLARS TO COMMUNITY NEEDS AND CRIME PREVENTION

As of August 2020, there were 124,181 people incarcerated in Texas prisons,<sup>77</sup> following a **recent population drop of approximately 16,000 people** due to rapidly declining crime rates and decreased felony court activity due to the COVID-19 emergency declaration.<sup>78</sup> While this reduction seems promising — and is **saving taxpayer dollars<sup>79</sup> — it is likely the numbers will rise again once the pandemic subsides.**

We do not want to return to past numbers — where approximately 891 of every 100,000 Texans were incarcerated (even as recently as 2018). **This rate of incarceration eclipsed the national incarceration rate by 27 percent and dwarfed many other NATO-member countries.<sup>80</sup>**

One of the best ways for the state to ensure real public safety for all Texans — while reducing the overall prison population for good — is to **continue closing prison facilities and to invest the savings into crime prevention and community resources.** Crime prevention specifically includes items like substance use and mental health treatment, housing and employment assistance, and trauma recovery centers.

Facility closure is especially relevant for aging and under-staffed prison units still in operation in Texas. Unless the system is downsized, Texas will be forced to increase funding every year to maintain its 100+ units, many of which are more than a century old.<sup>81</sup>

Furthermore, closing outdated or under-staffed facilities in areas with high economic growth could create significant savings for the state. For instance, closing a unit built before the 1920s could save the state tens of millions of dollars.

Texas spent **\$5.3 billion on criminal justice** in 2018, including policing and corrections. This is an **increase of 85%** in state funding for criminal justice since 1998 and an increase of almost **20% since 2012.**

The 20% increase is almost **equal to the 22% TOTAL increase in funding for education, public welfare, hospitals, health, highways, AND parks and recreation** during the same time period.

## REIMAGINING PRISON FACILITIES

If done carefully and correctly, closed prisons can be an economic resource for counties and the state.

For example, Growing Change, a project aimed at developing methods for “flipping” vacant prisons, is preparing to transform Wagram Correctional Center (NC) into a series of aquaponic tanks that shunt fish waste through walls, facing the sun, into a greenhouse.

In Louisiana, a former detention center has been reopened as a transitional work facility.

**Similar opportunities can be found in Texas.** In 2013, the Dawson State Jail, a 2,200-bed facility in Dallas, closed due to concerns of inadequate medical care and unsafe staffing levels. Since the closure, the Trinity River Corridor Project has been hypothesizing a plan for urban development, including homes, condominiums, office buildings, shops, and restaurants.

# WOULD YOU RATHER?

**SPEND \$5.3 BILLION ON POLICING & CORRECTIONS?**

**OR**

**SPEND \$5.3 BILLION ON . . .**

<b>EDUCATION</b>	<b>VIOLENCE PREVENTION</b>	<b>RURAL HOSPITALS</b>	<b>HIGHWAYS/ INFRASTRUCTURE</b>
<b>EMS</b>	<b>FOOD ACCESS</b>	<b>BEHAVIORAL HEALTH ACCESS</b>	<b>EARLY CHILDHOOD PROGRAMS</b>
<b>CHILDCARE</b>	<b>VOCATIONAL TRAINING</b>	<b>HOUSING</b>	<b>PARKS &amp; RECREATION</b>



## RECOMMENDATIONS

Since 2007, Texas has **saved a total of three billion in taxpayer dollars** as a result of reforms that have decreased prison populations and led to prison closures.<sup>82</sup> To maintain this progress, Texas leadership should:

1. Continue **closing prisons**.
2. Use savings to stave off cuts to **critical public health services**.
3. Invest in crime **prevention and community resources**.

77. Legislative Budget Board, *Monthly Tracking of Adult Correctional Population Indicators*, August 2020.

78. Data obtained through the Office of Court Administration Court Activity Database. Monthly commitments to TDCJ declined by more than 16,000 during the period between March and August compared to the six-month period prior to the COVID-19 emergency declaration.

79. Legislative Budget Board, *Criminal and Juvenile Justice Uniform Cost Report: Fiscal Years 2017 and 2018*, January 2019, 4, [https://www.lbb.state.tx.us/Documents/Publications/Policy\\_Report/4911\\_Criminal\\_Juvenile\\_Uniform\\_Cost\\_Jan\\_2019.pdf](https://www.lbb.state.tx.us/Documents/Publications/Policy_Report/4911_Criminal_Juvenile_Uniform_Cost_Jan_2019.pdf). Calculated by multiplying 16,000 people by \$62.65 [Statewide Cost per day], for a total of \$996,000 per day. These savings do not account for ongoing overhead costs that TDCJ will continue to spend.

80. Prison Policy Initiative, *Texas Profile*, <https://www.prisonpolicy.org/profiles/TX.html>.

81. Century-old units include: Clemens (built in 1893), Darrington (1917), Eastham (1917), Goree (1907), Huntsville (1849), Ramsey (1908), Scott (1919), Stringfellow (1908), Vance (1885), and Wynne (1883).

82. Mark Holden and Brooke Rollins, "Commentary: Texas Saved \$3B Closing Prisons. Why Rehabilitation Works," *Statesman.com*, September 25, 2018, <https://www.statesman.com/news/20180209/commentary-texas-saved-3b-closing-prisons-why-rehabilitation-works>.



# SMART & SAFE SOLUTIONS

**DIVEST FROM THE ADULT AND YOUTH JUSTICE SYSTEMS WHERE HARM IS BEING COMPOUNDED — WITHOUT PUBLIC SAFETY BENEFIT — AND PROVIDE A MORE COST-EFFECTIVE AND SAFETY-DRIVEN INVESTMENT IN TEXAS COMMUNITIES.**

We call upon Texas leadership to **SPEND YOUR VALUES** on the health and welfare of your constituents, and embrace opportunities to **CUT YOUR LOSSES** in the costly, harmful, and ineffective justice system.

- 1. Lower Penalties for Minor Drug Possession to Free Up Funding for Strategies That Get Texans Back on Their Feet*
- 2. Require Probation Practices to Focus on Public Safety and More Prudently Use Taxpayer Dollars*
- 3. Safely Adjust Parole Practices to Reduce Massive Prison Budgets*
- 4. Support Reentry Strategies That Prioritize Stability and Wise Spending*
- 5. Make Smarter Use of Treatment Programs to Ensure Participant Success*
- 6. Ensure Success for Texas Kids Through Cost-Effective Strategies That Meet Their Needs*
- 7. Close More Prisons and Reallocate Dollars to Community Needs and Crime Prevention*

# SPEND YOUR VALUES, CUT YOUR LOSSES

## 2021 DIVESTMENT PORTFOLIO:

Smart and Safe Justice System Solutions  
That Put Communities First

NOVEMBER 2020

For more information please contact:

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### TCJC WOULD LIKE TO EXTEND A SPECIAL THANKS TO OUR 2020 SUMMER INTERNS WHO HELPED MAKE THIS PORTFOLIO POSSIBLE!

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Ashlyn Branscum

Hannah Carrasco

Victoria Donaho

Nirali Fumakiya

Madison Hendricks

Zuanny Ibarguen

Kayren Larrimore

Alex Luo

Katherine Mowrey

Zachary Nichols

Shruti Patil

Jennifer Rojas

Laura C. Taylor

Sam Teifke

