



A FAILURE IN THE FOURTH DEGREE

QUICK GUIDE

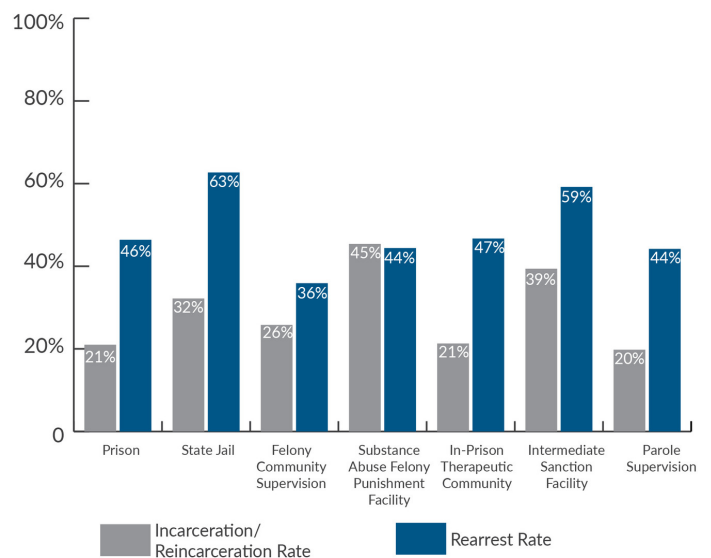
The Texas Criminal Justice Coalition's new report, *A Failure in the Fourth Degree: Reforming the State Jail Felony System in Texas*, demonstrates through data and personal interviews with 140 incarcerated individuals the defective nature of Texas' state jail system, and puts forth actionable policy recommendations for consideration by the 2019 Texas Legislature.

BACKGROUND: Texas' state jail system, which went into effect in 1994, was originally intended to serve as an alternative to the state's prison system – emphasizing rehabilitative programming for low-level felonies, including drug and nonviolent property offenses, rather than lengthy incarceration.

The vision was never realized, and instead Texas sends nearly 17,000 people to state jail facilities each year for offenses as minor as possession of less than a gram of a controlled substance (the equivalent of a sugar packet).

They receive little programming and are released to the exact same circumstance from which they came, resulting in the highest re-arrest rate of any population leaving Texas' correctional institutions.

Recidivism Rates Based on Type of Correctional Population
(Three-Year Follow-Up from Releases in FY 2013)



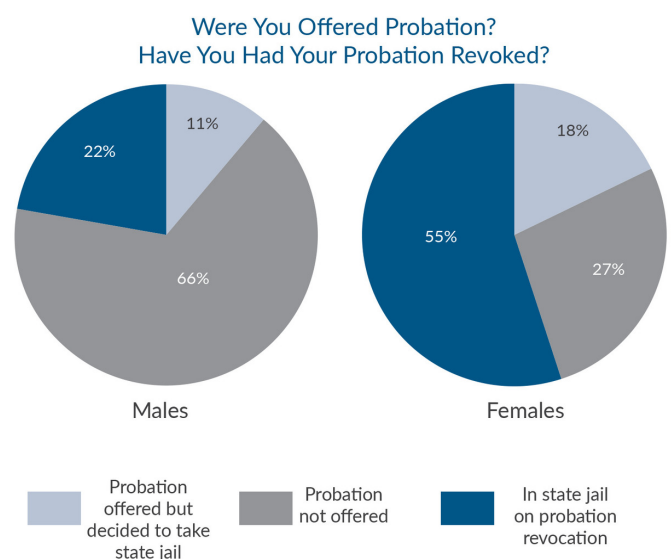
A HIGH-NEEDS POPULATION: The average state jail population has an educational achievement level of less than eighth grade, and, per our interviews, between 25 and 32 percent were unemployed at the time of arrest. Moreover, the population is likely to bring a host of complicated behavioral health issues, including substance use disorder and mental illness. The state jail model simply isn't designed to effectively address these issues while someone is incarcerated.

A substantial proportion of those who are arrested for state jail felonies serve their time in under-resourced county jails, while those who are sent to state jail can't access services or don't qualify due to the short length of their sentence.

INADEQUATE PRETRIAL AND PROBATION SYSTEMS: *A Failure in the Fourth Degree* addresses the low rate of diversion into community programming. Most people arrested for low-level drug and property crimes in Texas are incarcerated instead of diverted to services.

A common assertion by courts and probation professionals is that people are choosing time in state jail instead of community supervision (probation).

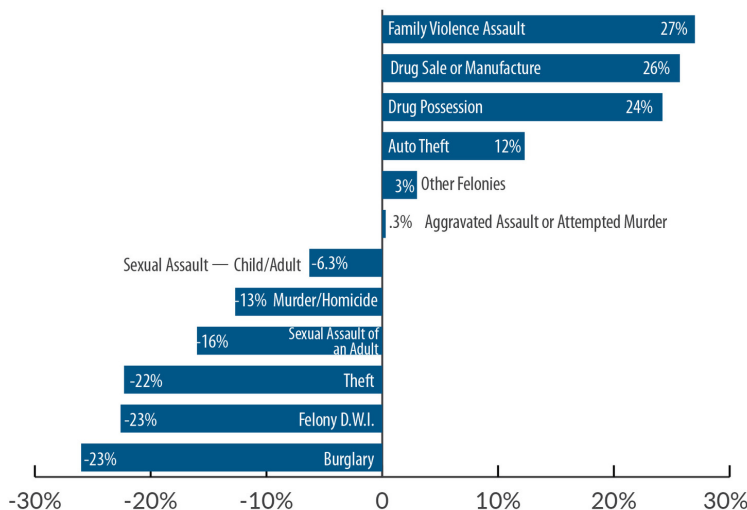
The report makes clear that the truth is far more complicated. Inadequate pretrial release policies at the county level decrease the rate of diversion, and many people who are offered community supervision either can't afford the high costs or can't manage the excessive conditions that make it difficult to maintain employment and parent children.



LACK OF TREATMENT OUTSIDE THE JUSTICE SYSTEM: Texas has the third-lowest ratio of substance use disorder providers in the country.

Low-income people must wait more than two weeks for intensive residential treatment, four weeks for outpatient treatment, and almost five weeks for Medication-Assisted Treatment. Not surprisingly, people with drug use problems are far more likely to be arrested than receive treatment in Texas. Over the past five years, nearly every category of serious and violent offense has declined significantly, whereas drug possession cases have increased nearly 25 percent.

Change in Felony Case Filings 2013 - 2017



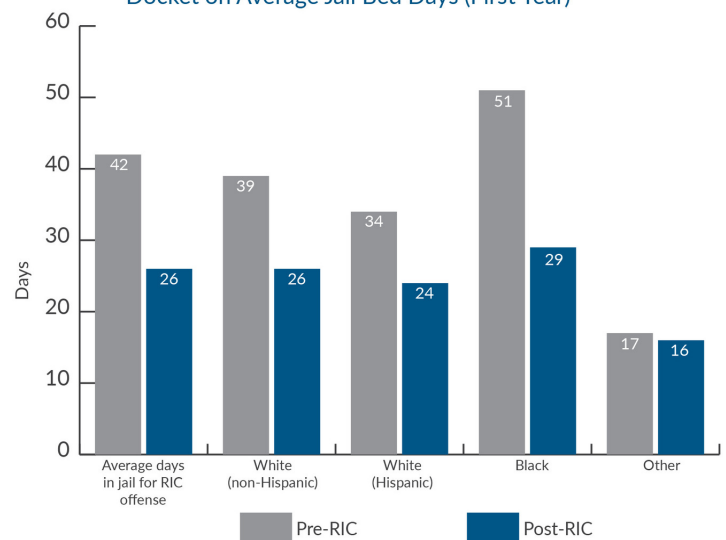
RECOMMENDATIONS: We urge legislators to support the following recommendations:

- **A public health response to behavioral health issues that are too often driving people into the justice system, specifically through pre-arrest diversion that helps people access treatment in the community;**
- **Changes in pretrial practices to prevent lengthy terms of detention that can lead to harsher terms, and to eliminate racial disparities in justice system involvement;**
- **Improvements in the state’s probation system that will reduce revocations and accommodate people with prior offenses;**
- **Funding for a legislatively approved pilot program intended to improve employment prospects among people leaving state jails; and**
- **Strengthened pre- and post-release reentry supports for people reentering the community.**

OTHER KEY FINDINGS from
A Failure in the Fourth Degree:

- There were 45,016 arrests in Texas for possession of a controlled substance (less than one gram, Penalty Groups 1 and 2) between May 2017 and April 2018.
- 63 percent of people released from state jail are rearrested within three years of release, compared to 46 percent of people released from prison.
- In TCJC’s interviews of people in state jails, 43 percent of males and 50 percent of females had been previously diagnosed with mental illness, and 43 percent of males and 53 percent of females had been previously diagnosed with a substance use disorder.
- Of the women interviewed by TCJC, 55 percent were incarcerated in state jail as a result of a probation violation, with many pointing to the burdensome costs and conditions of probation.

Impact of Responsive Interventions for Change (RIC) Docket on Average Jail Bed Days (First Year)



- After one year, Harris County’s Responsive Interventions for Change (RIC) court docket sent 600 fewer people to state jail and dismissed 1,412 more drug possession cases in 2017 than in 2016.

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