

Keeping Texas Competitive

A Legislator's Guide to the Issues 2013-2014



Corrections Budget and Prison Operations

The Issue

Texas has the fourth highest incarceration rate in the nation and the most prisoners of any state. Today, Texas has approximately 154,000 prison inmates, about half of whom are non-violent offenders. Texas' non-violent prison population is larger than the total prison population of the United Kingdom. However, since 2005 when the state began strengthening probation and other alternatives to incarceration, the state's incarceration rate has fallen 9%. During this same period, Texas' crime rate has dropped 12.8%, reaching its lowest level since 1973.

Two key budgetary strategies adopted in 2005 and 2007 enabled Texas to avoid building more than 17,000 new prison beds, which the Legislative Budget Board (LBB) had projected would be needed by 2012. Most importantly, the state's crime rate has fallen over this time.

The first strategy involved appropriating \$55 million in 2005 for probation departments that agreed to target 10% fewer prison revocations and to implement graduated sanctions—issuing swift, sure, and commensurate sanctions (e.g. increased reporting, extended term, electronic monitoring, weekend in jail, etc.) for rules violations such as missing meetings rather than letting them pile up and then revoking that probationer to prison. Most of the funding went toward reducing caseloads from approximately 125 to 110 probationers per officer in major metropolitan areas and expanding specialized, much smaller caseloads for subgroups such as mentally ill probationers. This facilitated closer supervision and the consistent application of such sanctions. Participating probation departments have reduced revocations, allowing the state to avoid at least \$226 million in incarceration costs.

The second strategy was the appropriation of \$241 million for a package of prison alternatives enacted in 2007. This included more intermediate sanctions and substance abuse treatment beds, drug courts, and substance abuse and mental illness treatment slots. Some of the money was used to clear out the waiting lists of parolees not being released because of waiting lists for in-prison treatment programs that must be completed as a condition of release and halfway houses (paroled inmates are not actually released until they have a valid home plan). All told, the 2008-09 budget added 4,000 new probation and parole treatment beds, 500 in-prison treatment beds, 1,200 halfway house beds, 1,500 mental health pre-trial diversion beds, and 3,000 outpatient drug treatment slots.

Given that nearly all offenses in Texas can result in either probation or prison, sentencing trends may reflect the confidence that judges, juries, and prosecutors have in the effectiveness of probation. Although the LBB has traditionally assumed an annual 6% increase in the number of offenders sentenced to prison due to population growth and other factors, sentences to prison actually declined 6% in 2009 while more nonviolent offenders went on probation.

In addition to the impact of sentencing decisions, probation and parole revocations together account for approximately half of the annual prison intakes, and both have declined over the last several years as supervision has been strengthened. From 2005 to 2010, Texas' probation revocation rate fell from 16.4% to 14.7%.

Similarly, during the last several years, parole offices have improved supervision by expanding the use of graduated sanctions, implementing instant drug testing, and restoring the parole chaplaincy program. Thus, despite there being more parolees, the number of new crimes committed by parolees declined 8.5% from 2007 to 2010, contributing to a sharp reduction in parole revocations.

Capitalizing on Texas' recent success, the Legislature in 2011 followed the recommendation of both the Texas Public Policy Foundation and Governor Rick Perry in ordering the closure of the Sugar Land Central Unit, the first such prison closure in Texas history, which is saving taxpayers approximately \$20 million over the biennium in operating costs while yielding even more in one-time proceeds from the sale of the property.

The Facts

- Prisons cost Texas taxpayers \$50.79 per inmate per day, amounting to \$18,538 per year, which is below the national average.
- Each new state prison bed costs more than \$60,000 to build.
- Probation costs \$2.92 per day, of which the offenders pay \$1.62 of that in fees, resulting in a taxpayer cost of \$1.30 per day.
- TDCJ's budget increased from \$793 million in 1990 to more than \$3 billion in 2012.

Recommendations

- **Reinstitute mandatory supervision for most third degree drug possession offenders.** This would save \$26 million by automatically discharging third degree felony drug possession offenders on to parole supervision after completing half of their sentence with good behavior. Third degree drug possession involves between one and four grams of most controlled substances. Inmates serving time for drug dealing as well as those with prior violent, sexual, or felony property offenses would be ineligible. This policy change would give the Board of Pardons and Paroles more time to carefully scrutinize those parole candidates who have committed crimes against person and property while recognizing that the use of prison for long-term incapacitation should be prioritized for those who have harmed others.
- **Implement Senate Bill 1055, which was unanimously enacted in 2011 to incentivize lower costs and less recidivism.** This measure authorizes counties to voluntarily enter into an agreement with the state to reduce prison commitments of low-level offenders whereby the community receives a share of the state's savings on lower prison costs, partly based on the county's performance in reducing probationers' recidivism rate and increasing the share of probationers who are current on their victim restitution. A provision is needed in the next budget authorizing TDCJ to implement SB 1055 by reallocating to participating counties some of the savings from prison closures achieved through the implementation of the local commitment reduction plans described in the legislation. In 2010—the first fiscal year of Texas' Juvenile Commitment Reduction Program—juvenile commitments to state lockups fell 36%, saving taxpayers at least \$114 million, while juvenile crime continued to decline. SB 1055 provides that counties can use the share of the state's savings that they receive for community-based programs, which include drug courts, specialized probation caseloads, and residential programs, including short-term use of the county jail to promote compliance.
- **Cap maximum time nonviolent revoked probationers can serve for technical violations.** Although technical revocations have declined, there were still 12,094 technical revocations in fiscal year 2011. Such revocations account for more than half a billion dollars in annual prison costs. Given that research shows that the swiftness and sureness of punishment is more important than the length of stay and that there is less of a need to incapacitate nonviolent offenders, technical revocations of nonviolent offenders who have not previously been revoked should be capped at 18 months with eligibility for parole occurring no earlier than 6 months.
- **Incorporate virtual education into prison education.** The Windham School District, which serves Texas prisons, should implement blended learning approaches incorporating the state's existing virtual school network with appropriate firewalls. Evidence indicates this could better address the challenge of inmates who are at very different baseline levels and learn at very different paces than relying on traditional classroom instruction alone.

Resources

Unlocking the Adult Corrections Budget by Marc Levin, Texas Public Policy Foundation (May 2011).

The Role of Parole in Texas by Marc Levin & Vikrant Reddy (Apr. 2011).

Incentivizing Lower Crime, Lower Costs to Taxpayers, and Increased Victim Restitution by Marc Levin (Apr. 2011).

