



Justice Reinvestment State Brief: **Texas**



This brief is part of a series for state policymakers interested in learning how particular states across the country have employed a data-driven strategy called justice reinvestment to better manage corrections spending, increase public safety, and redirect some of the savings toward efforts that will improve conditions in the neighborhoods to which most people released from prison return. In 2007, Texas policymakers worked with the Council of State Governments Justice Center, and with the support of the Bureau of Justice Assistance, a component of the U.S. Department of Justice, and the Public Safety Performance Project of The Pew Charitable Trusts' Center on the States, to pursue a justice reinvestment strategy.

Highlights

- The prison population in Texas was projected in 2007 to grow by more than 14,000 people over a five-year period, costing taxpayers an additional \$523 million for the construction and operation of new facilities in the 2008 and 2009 fiscal biennium.
- An analysis of the prison population identified high rates of failure on community supervision, limited in-prison and community-based program capacity, and inefficient use of parole as key factors driving the projected growth.
- To reduce recidivism rates and avert further growth in the prison population, state lawmakers enacted a package of criminal justice policies to improve success rates for people on community supervision, expand the capacity of treatment and diversion programs, and enhance the use of parole for low-risk offenders.
- To fund the package, policymakers reinvested \$241 million (which would have otherwise been appropriated for the construction and operation of new prisons) for additional treatment and diversion programs.
- By enacting these policies, the state saved \$210.5 million for the 2008–2009 fiscal biennium. If new treatment and diversion programs are successful and no additional prisons are constructed, the state will save an additional \$233 million.
- Policymakers also reinvested in the expansion of the Nurse-Family Partnerships Program, a nationally recognized model for improving outcomes for low-income families and reducing crime, to reach 2,000 families/children.

Texas has long been regarded as a state with some of the “toughest” criminal justice policies in the nation. During the early 1990s, policymakers enacted laws increasing the time serious, violent offenders serve in prison. With those and other changes to state law, the incarceration rate in Texas increased significantly, and today, it has the second-highest incarceration rate in the United States.¹

Between 1985 and 2005, the prison population grew 300 percent, forcing the state to build tens of thousands of prison beds. From 1983 to 1997, the state spent \$2.3 billion in construction costs to add 108,000 beds to its system. Less than 10 years later, the prison population exceeded the capacity of the state’s prisons by 3,000 and was projected to continue growing. An official state projection released in January 2007 forecast that the prison population would increase by 14,000 people within five years.

Faced with an impending prison overcrowding crisis, policymakers had to decide whether spending \$523 million to build and operate additional prisons was the best way to increase public safety and reduce recidivism. With bipartisan leadership, policymakers in Texas identified and enacted strategies to expand the capacity of treatment programs and residential facilities that are projected to increase public safety and avert the projected growth in the prison population at a net savings to the state.

**“If we don’t change the course now, we will
be building prisons forever and ever—
prisons we can’t afford.”**

**— STATE SENATOR JOHN WHITMIRE, D-HOUSTON,
CHAIR, SENATE CRIMINAL JUSTICE COMMITTEE**

1. William J. Sabol, Todd D. Minton, and Paige M. Harrison, *Prison and Jail Inmates at Midyear 2006*, Bureau of Justice Statistics, June 2007.

STEP 1

Analyze the Prison Population and Spending in the Communities to Which People in Prison Often Return

In 2006, Texas state leaders requested intensive technical assistance from the Council of State Governments Justice Center. In response, the Justice Center provided state policymakers with an analysis that identified the factors contributing to the projected growth of the prison population:

- Between 1997 and 2006, the number of probation revocations to prison increased 18 percent, despite a three percent decline in the total number of persons under community supervision.²
- Reductions in funding for community-based substance abuse and mental health services led to a shortfall of treatment beds with over 2,000 persons awaiting space in various treatment programs or facilities.³

- The percentage of people approved for parole remained lower than suggested by the Parole Board's guidelines based on risk levels and crime severity. Had the guidelines been followed, an additional 2,252 persons might have been released in 2005.⁴

The Justice Center also provided geographic analyses of the state prison population which revealed that five counties accounted for more than half of the people sentenced to prison at a cost to taxpayers of over a half billion dollars. Of these localities, Harris County (Houston) received and contributed the most prisoners, with 10 of Houston's 88 neighborhoods accounting for almost \$100 million a year in incarceration costs.



2. Texas Department of Criminal Justice, Community Justice Assistance Division, Statistical Tables, December 2006.

3. Memorandum from Deanne Breckenridge, Texas Department of Criminal Justice, December 7, 2006. As of December 2006, there were

1,386 offenders awaiting space in a Transitional Treatment Center, 823 offenders were in county jails awaiting treatment space in a Substance Abuse Felony Punishment (SAFP) facility, 174 were in prison awaiting in-prison therapeutic treatment, and there were 1,206 fewer

therapeutic treatment beds in state jails as these were eliminated in prior budget cuts.

4. Sunset Advisory Commission: Texas Department of Criminal Justice, Board of Pardons and Paroles, Correctional Managed Health Care Committee Staff Report, October 2006.

**STEP
2**

Identify Options to Generate Savings and Increase Public Safety

In January 2007, House and Senate members, under the leadership of state Senator John Whitmire (D, Chair, Criminal Justice Committee) and state Representative Jerry Madden (R, Chair, Corrections Committee), convened a rare joint hearing to review all factors contributing to the increase in the prison population, respond to research findings by the state Sunset Commission, a legislative committee established to review the necessity of state agencies including the Texas Department of Criminal Justice (TDCJ), and consider policy options which would reduce recidivism and increase public safety. In addition to the analyses that identified the factors driving the growth of the prison population, the legislature requested that the Justice Center and its expert consultant present

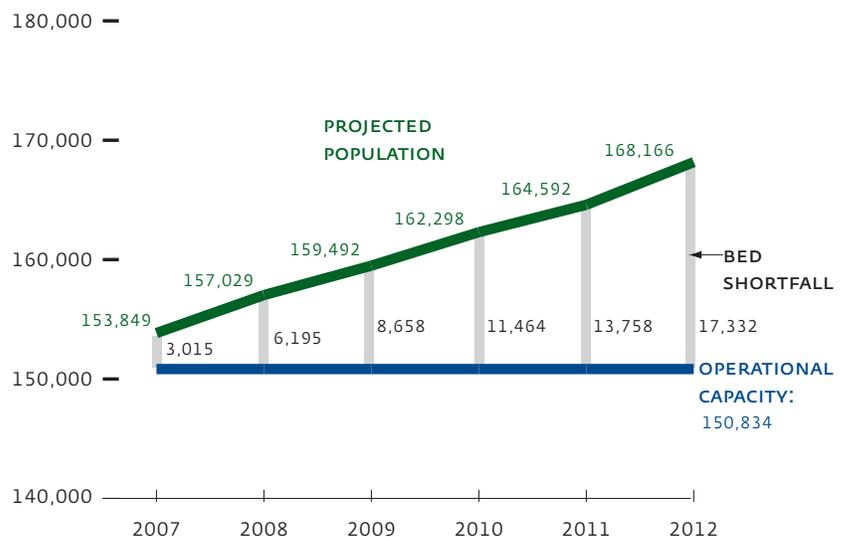
a set of policy options that included expanding residential and in-prison substance abuse and mental health treatment capacity, enhancing the use of parole and diversion programs, and transferring two Texas Youth Commission (TYC) facilities to TDCJ to quickly expand prison capacity.

Leaders in the House and Senate worked with the Texas Legislative Budget Board (LBB) and the Sunset Commission, to review several policy options and their estimated impact. According to these policy analyses, increasing the capacity of treatment and diversion programs would reduce prison admissions due to a reduction in revocations, while enhancing the use of parole would allow the TDCJ to operate at capacity—without a bed shortfall by 2012.⁵

“We’re in the process of sharply turning the ship—not an easy process—to focus more on treatment of peoples’ problems so they can do their time and return to society as productive citizens...In 10 years, we may look back on this as one of the most significant changes we’ve made.”

– STATE REPRESENTATIVE JERRY MADDEN, R-PLANO, CHAIR, HOUSE CORRECTIONS COMMITTEE

Texas Projected Prison Population, 2007-2012



Source: Legislative Budget Board, June 06 and January 07 (Adult and Juvenile Correctional Population Projections). The LBB report with the official projections for the 2007 session can be found at: http://www.lbb.state.tx.us/PubSafety_CrimJustice/3_Reports/Projections_Reports_2007.pdf.

5. Council of State Governments Justice Center, *Texas Justice Reinvestment Scenarios*, 2007.

In May 2007 the Texas Legislature enacted a package of criminal justice legislation which many policymakers consider to be the most substantial redirection in state corrections policy since the early 1990s. The new policies included an expansion of treatment and diversion programs with:

- 800 new beds in a residential program for people on probation supervision with substance abuse needs;
- 3,000 slots for outpatient substance abuse treatment for people on probation supervision;
- 1,400 new beds in intermediate sanction facilities to divert probation and parole technical violators from prison;
- 300 new beds in halfway house facilities for people under parole supervision;
- 500 new beds in a new facility for an in-prison treatment unit targeting people with DWI offenses;
- 1,500 new beds for an in-prison intensive substance abuse treatment program; and
- 1,200 slots for intensive substance abuse treatment programs in the state jail system.

The new policies enhance parole and probation policies and procedures by:

- establishing a maximum limit for parole caseloads to ensure adequate supervision;⁶
- reducing probation terms for drug and property offenders from a maximum of 10 years to a maximum of five years to ensure that they receive treatment and supervision during the years when research studies show that they are more likely to re-offend;⁷
- establishing incentives for counties that create progressive sanctioning models for probation officers to respond effectively to violations of supervision;⁸ and
- expanding drug courts and other specialty courts to place offenders who committed minor crimes in treatment programs that will reduce their likelihood to re-offend.

Policymakers also authorized bond funding for the construction of three new prisons—an addition of 3,990 beds. But construction for these institutions can proceed only if the new policies and programs are not implemented effectively and the LBB deems such construction necessary.⁹

“[W]e have embarked on a bold initiative to rehabilitate non-violent felons to leave room to incarcerate the violent.”
– STATE SENATOR STEVE OGDEN, R, CHAIR,
SENATE FINANCE COMMITTEE

6. Texas Legislature, House Bill 3736, “An Act Relating to Establishing Parole Officer Maximum Caseloads,” enacted 2007.

7. Texas Legislature, House Bill 1678, “An Act Relating to the Operation of a System of Community Supervision,” enacted 2007. Dr. Patrick

A. Langan and Dr. David J Levin, Bureau of Justice Statistics, *Recidivism of Prisoners Released in 1994*, NCJ193427, June 2002.

8. Texas Legislature, Senate Bill 166, “An Act Relating to a Prison Diversion Progressive Sanctions Program,” enacted 2007.

9. Texas Legislature, House Bill 530, “An Act Relating to the Operations and Funding of Drug Court Programs,” enacted 2007.

**STEP
3****Quantify Savings and Reinvest in Select High-Stakes Communities**

The state reinvested \$241 million, which would have otherwise been spent on prison construction and operation, to expand the capacity of in-prison and community-based treatment and diversion programs.¹⁰ The LBB projected that this reinvestment would eliminate the prison bed shortfall by 2012. Because the cost associated with increasing the capacity of treatment and residential facilities is significantly less than the TDCJ's original budget request for additional prison capacity, the state saved \$210.5 million for the 2008–2009 fiscal biennium.¹¹ Assuming that no additional prisons are constructed, the state will save an additional \$233.4 million over the 2008–2009 fiscal biennium.

Policymakers also reinvested some of the savings generated in strategies to improve outcomes for low-income children and families. For example, the legislature appropriated \$4.3 million for fiscal years 2008–2009 to the Nurse-Family Partnerships (NFP) program, a nationally recognized model that pairs nurses with first-time, low-income mothers during the child's first two years. The purpose of NFP is to increase self-sufficiency, improve the health and well-being of low-income families, and prevent violence. The program will provide services to 2,000 families in “high stakes” communities throughout the state.¹²

**STEP
4****Measure the Impact and Enhance Accountability**

Lawmakers enacted these policies in the 2007 session as overcrowding in Texas correctional facilities continued to intensify. Consequently, state officials are under significant pressure to make available the new treatment and diversion programs almost immediately. They must also ensure that these programs and services target the appropriate categories of people that are awaiting release or under community supervision.

At the same time, the Parole Board must review and update its parole guidelines to ensure that members consistently use and apply an objective risk assessment instrument to determine the likelihood of the person committing another crime. Parole Board members must also coordinate with the TDCJ to ensure that people eligible for parole are completing appropriate in-prison treatment, educational, and vocational programs.

To ensure that state agency officials and Parole Board members are meeting these challenges, the legislature established the Criminal Justice Legislative Oversight Committee (CJLOC) to monitor the implementation of the new policies and programs and to evaluate their impact on state prison populations. The CJLOC comprises the chairs of two legislative committees, two designees of the Senate and Lieutenant Governor, and two designees of the House of Representatives. This new committee will provide the state legislature with the nonpartisan research, analysis, and recommendations necessary to shape ongoing criminal justice policy.

10. Texas Legislative Budget Board, Conference Committee Projection Scenario, May 7, 2007. The original projection assumed that the parole rate will continue at the FY 2006 level of 26% while the final policy assumes that the rate will increase to 28% due to the additional in-prison treatment capacity and assumes that the new prison will not be constructed due to the impact of the diversion policies.

11. The savings represent the difference between the original request for appropriations by the administration and the final adopted plan and do not consider potential future savings or cost-avoidance due to the impact of the plan on the projected prison bed shortfall and reductions in recidivism.

12. The Colorado Blueprints for Violence Prevention, a national initiative to identify models that provide effective violence prevention and intervention strategies, conducted a rigorous evaluation of 600 model programs and identified the NFP program as one of 11 proven models to prevent violence. To learn more, please visit <http://www.colorado.edu/cspv/blueprints/>.

Comparison of Requested New Funding (Exceptional Items) in Texas Department of Criminal Justice Original Request for Appropriations and Final State Appropriation (HB 1, Fiscal Years 2008–2009)

	TDCJ REQUEST FOR APPROPRIATIONS	FINAL STATE APPROPRIATION, HB 1
Probation/Parole Program Capacity	\$28,135,448 650 beds	\$129,734,638 4,000 beds
In-Prison Substance Abuse Treatment	\$20,154,609 700 beds	\$43,951,050 1,500 beds/slots
Other Program Capacity	\$48,436,000	\$25,800,000
Other Plan Costs	(\$1,369,392)	\$15,891,698 1,200 TYC beds
SUB-TOTAL (Items related to Whitmire/Madden plan)	\$95,356,665	\$241,043,449
Prison Expansion & Contracted Capacity		
Temporary Contracted Capacity for Backlog Governor's Veto	\$184,485,360	\$66,089,360 -\$29,249,240
Debt Service for New Prisons*	\$55,840,099 4,080 beds	\$4,916,438 3,990 beds
Other Operational Cost Above Baseline Governor's Veto	\$187,359,311	\$184,907,557 -\$10,918,309
TOTAL FY 2008–2009 OPERATIONAL COSTS ABOVE BASELINE	\$523,041,435	\$456,789,255
Bonds for New Prisons	\$377,700,000	\$233,400,000 (if need arise, pending approval)
TOTAL INCLUDING NEW PRISONS	\$900,741,435	\$690,189,255
Averted Costs in Comparison to TDCJ Request for Appropriations	–	\$210,552,180 (if new prisons are approved) \$443,952,180 (if new prisons are not approved)
Projected Prison Bed Shortfall by 2012	8,399 beds	0

* During the 2007 legislative session, the Texas legislature provided \$4.9 million to the TDCJ in estimated expenses for debt services. If new prisons are constructed, the debt service may be higher than this amount. However, TDCJ is allowed to "spend forward" funds to cover correctional expenses and can do so to cover a higher debt service cost. During the next legislative session, legislators will then allocate the funds to the TDCJ so that the department does not experience a budget shortfall.

To learn more about the justice reinvestment strategy in Texas and other states, please visit:
www.justicereinvestment.org.

JUSTICE★CENTER
THE COUNCIL OF STATE GOVERNMENTS

The Council of State Governments Justice Center is a national nonprofit organization that serves policymakers at the local, state, and federal levels from all branches of government. The Justice Center provides practical, nonpartisan advice and consensus driven strategies, informed by available evidence, to increase public safety and strengthen communities.



BJA Bureau of Justice Assistance



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To learn more about the Bureau of Justice Assistance, please visit: <http://www.ojp.usdoj.gov/BJA/>.

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To learn more about the Public Safety Performance Project, please visit: <http://www.pewpublicsafety.org/>.

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