



# Recent and Projected Growth of the Texas Prison Population

## I. Bipartisan Leadership to Increase Public Safety and to Manage State Spending on Corrections

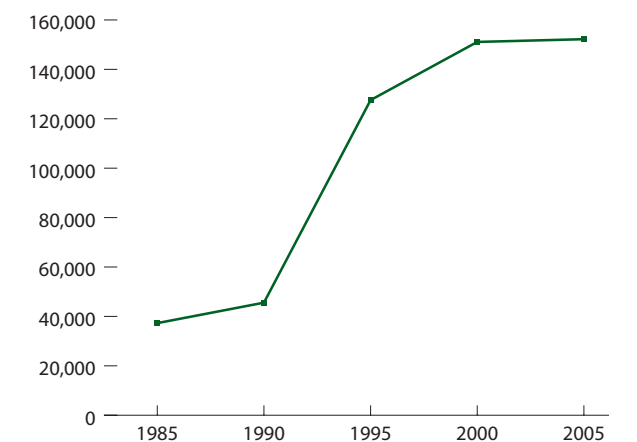
Under the leadership of three key lawmakers, policymakers in Texas are reviewing policies in the state to find ways to increase public safety and to manage corrections spending and growth in the prison population. In 2006, Senator John Whitmire (D, Chair, Criminal Justice Committee), Representative Jerry Madden (R, Chair, Corrections Committee), and Senator Kim Brimer (R, Chair, Sunset Advisory Commission) each convened hearings and commissioned reviews to improve their understanding of why the prison population continues to grow and what is contributing to high rates of failure among people released from prison to the community and people sentenced to probation.

This policy brief, prepared at the request of Senator Whitmire and Representative Madden, summarizes increases in the prison population (and corresponding increases in spending on the corrections system) over the past several years, reviews the most recent prison population projections for the state, and explains factors that have contributed to recent and projected growth of the prison population.

## II. Texas Corrections System: Under Stress

Between 1983 and 1997, Texas expanded its prison capacity by over 108,000 prison beds, at a cost of \$2.3 billion.<sup>1</sup> According to the U.S. Department of Justice Bureau of Justice Statistics, in 2005, Texas had the second highest incarceration rate in the country: 691 per 100,000 population.<sup>2</sup>

**FIGURE 1: Texas Department of Criminal Justice (TDCJ) Population, 1985, 1990, 1995, 2000 and 2005**



1. TDCJ, "Closing of a Millennium, Reviewing the Past Decade", Financial Services Division, 2000.
2. US Department of Justice, Bureau of Justice Statistics (BJS). Prisoners in 2005, November 2006. BJS counts in its report "sentenced prisoners under jurisdiction" and this count is higher than the population considered in Texas as the TDCJ population in prison, state jails or substance abuse treatment facilities. BJS counts prisoners in county jails on a bench warrant, prisoners in county jail awaiting transfer to prison, persons in parole intermediate sanction, pre-parole and halfway houses as offenders "under jurisdiction of the state". In Texas, state offenders in county jails are considered under the jurisdiction of jail authorities. Offenders in parole facilities are considered as parolees and not prisoners even if the offenders are housed in a parole intermediate sanction facility, pre-parole or halfway house facility operated by TDCJ. These facilities and their population are not part of the TDCJ institutional capacity that counts towards defining the statutory operational capacity of the prison system in Texas. The BJS "sentenced under jurisdiction" count for December 2005 was 159,255 compared to the TDCJ population count of 151,925.
3. Legislative Budget Board, Historical Statistical tables for TDCJ Population and Capacity.
4. LBB, "Adult and Juvenile Correctional Population Projections, FY 07-12." January 2007.

5. Ibid, endnotes 2 and 3.
6. Texas Department of Criminal Justice, "Fiscal Year 2007 Operating Budget and FY 08-09 Legislative Appropriations Request," August 18, 2007.
7. Ibid, endnote 2.
8. Texas Department of Public Safety, Crime in Texas, 2005.
9. Population figures from the US Census and convictions figures from the Texas Office of Court Administration.
10. This has been documented by the TDCJ, Community Justice Assistance Division (CJAD), in a recent report to the Governor and Legislature entitled "Monitoring of Community Supervision Diversion Funds," December 1, 2006.
11. Texas Department of Criminal Justice, Community Justice Assistance Division, Statistical Tables, December 2006.
12. Memorandum from Deanne Breckenridge, Texas Department of Criminal Justice, December 7, 2006.
13. Sunset Advisory Commission: Texas Department of Criminal Justice, Board of Pardons and Paroles, Correctional Managed Health Care Committee Staff Report, October 2006.

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 Center provides practical, nonpartisan advice and consensus-driven strategies, informed by available evidence, to increase public safety and strengthen communities. The board of directors for the center includes, as its vice chairperson, the Honorable Sharon Keller, Presiding Judge of the Texas Court of Criminal Appeals. Representative Jerry Madden, Chair of the Texas House Corrections Committee, also serves on this board. Dr. Tony Fabelo, working with designated agency and legislative staff in Texas, coordinates the project in Texas for the Justice Center.

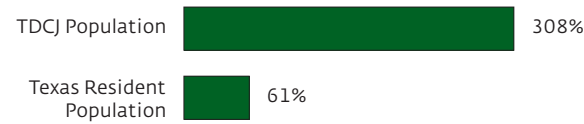
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The exponential growth in the state's prison population has significantly outpaced the increase in the state's resident population. From 1985 to 2005, the correctional population increased 308 percent (37,281 to 152,217), a rate that vastly exceeds the 61 percent growth rate of the resident population between 1980 and 2005.<sup>3</sup>

**FIGURE 2: Percentage Change in Texas Resident Population 1980–2005 and Percent Change in TDCJ Population 1985–2005**



Approximately one year ago, the state once again found itself with its prison beds full and the prison population continuing to grow. Accordingly, the Texas Department of Criminal Justice (TDCJ) contracted with county jails to house 2,000 people sentenced to prison, at a cost of \$27.5 annually.

This most recent contract with the county jails, and the construction and use of private facilities in preceding years, has enabled, at least until recently, the TDCJ to operate under its maximum statutory capacity of 97.5 percent. As of December 2006 the TDCJ population was 152,671, which exceeds its statutory operational capacity of 150,834, in addition to the contracted capacity with counties of almost 2,000 beds.

### III. Official State Projection: Prison Population Will Continue to Grow

The most recent prison population projection for the state, which the Legislative Budget Board (LBB) generated in January, 2007, reflects that if existing policies remain unchanged, the state's prison population will continue to grow: 14,317 prisoners will be added to the system by 2012, an increase of 9.3 percent.<sup>4</sup>

By fiscal year 2009, the annual cost to operate the prison system in Texas will be \$2.8 billion. This represents a 257 percent increase in the TDCJ operational budget since 1990 and a 26 percent increase since 1999.<sup>5</sup>

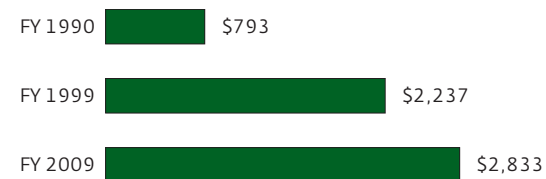
**FIGURE 3: Legislative Budget Board Projections of Total Incarcerated Population in TDCJ FY 06-12**

FY	Population	Capacity at 97.5%*	Number of Prisoners Above Capacity
2007	153,849	150,834	3,015
2008	157,029	150,834	6,195
2009	159,492	150,834	8,658
2010	162,298	150,834	11,464
2011	164,592	150,834	13,758
2012	168,166	150,834	17,332

\* Statutory operational capacity

**FIGURE 4: Operating Budget of Texas Department of Criminal Justice, FY 90, FY99 and Requested FY 09**

IN MILLIONS OF DOLLARS



TDCJ's overall annual operating budget for the most recent fiscal year is over \$2.5 billion. For the upcoming 2008-2009 biennium, TDCJ has requested an additional \$899 million (additional operational funds plus the new construction dollars).<sup>6</sup> The budget request includes new funding for the following expansions to the state system's capacity:

- \$440.6 million for three prison units totaling 5,080 beds
- \$173.9 million for 7,328 beds in temporary contracted facilities
- \$284.8 million for additional operations and carry over construction projects.<sup>7</sup>

The above requests may soon need to be revisited, however, because they were based upon the prison population projection that the LBB conducted in June, 2006 for 2007 through 2011. That June, 2006 projection showed a bed shortfall by 2011 that is 2,602 beds lower than the most recent projection conducted in January, 2007.

TDCJ's budget request also includes increased funding to expand treatment and probation alternative sanction facilities. This request attempts to address the backlog that has accumulated since 2003 among people in prison or on probation who need community-based substance abuse and/or mental health treatment to comply with conditions of release.

### IV. Factors Driving the Increase in the Prison Population

#### Population Growth and Higher Conviction Rates

The state's resident population has increased, but, as explained earlier, this growth nowhere near matches the growth in the prison population. No portion of the increase in the Texas prison population can be attributed to an increase in crime: according to the most recent figures available, the crime rate in Texas declined by 1.9 percent between 2000 and 2005.<sup>8</sup> Coinciding with this drop in crime was a 29 percent increase in the number of felony convictions in the state. That these two trends occurred at the same time is puzzling. No data exists that fully explains the increase in felony convictions, although one reason could be a judicial system that has become more efficient in processing criminal cases.<sup>9</sup>

#### Increased probation revocations

Probation revocations to prison have become a significant factor driving the prison population growth. Between 1997 and 2006 the number of probation revocations to prison increased 18 percent, while the total number of felons under community supervision decreased three percent. There were 24,609 probation revocations to prison in 2004, the year with the highest number of revocations during the five-year period. This number decreased to 23,202 in 2006, in part due to

the impact of new funding that the Texas legislature appropriated to the probation system in 2005.<sup>10</sup>

Despite the recent reduction in probation revocations, there still were 12,440 probationers revoked to prison in 2006 for reasons other than a subsequent arrest and/or conviction ("technical violations").<sup>11</sup>

#### Lack of treatment services and alternative sanctions

The growth in the prison population has coincided with reductions in funding for community-based substance abuse and mental health services. Waiting lists for people in prison or sentenced to probation who need drug treatment have lengthened considerably.

As of December 2006, the Transitional Treatment Centers (TTCs are used to reintegrate offenders in the community after in-prison substance abuse treatment) were short 500 beds to support the Substance Abuse Felony Punishment (SAFP) program. In addition, there were 823 offenders in county jails awaiting treatment space in an SAFP facility, and another 174 were in prison awaiting in-prison therapeutic treatment (a list potentially shorter than demand since the parole board is no longer referring offenders to this program due to the waiting list). Further, 1,206 therapeutic treatment beds in State Jails were previously eliminated, placing even more pressure on the system.<sup>12</sup>

#### Low parole grant rates

The parole grant rate is especially low—lower than the rates suggested by the Parole Guidelines—and that contributes to the increase in the prison population. For example, had the parole board adhered to its minimum approval rates for offenders with scores of 6 or 7, an additional 2,252 offenders would have been released from prison in 2005.<sup>13</sup>

Projections by the Legislative Budget Board show that Texas will be short **more than 17,000 beds by 2012** unless changes in policies are adopted.