



WRITTEN TESTIMONY

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REGARDING SENATE BILL 1909

HOUSE OF REPRESENTATIVES COMMITTEE ON CORRECTIONS

MAY 7, 2007

Dear Members of the Committee,

My name is Ana Yáñez-Correa. I am the Executive Director of the Texas Criminal Justice Coalition. Thank you for allowing me this opportunity to present testimony regarding Senate Bill 1909.

In October of 2006, the Sunset Advisory Commission identified the two principal causes for the State's current capacity crisis: the admission of more offenders into our prison system, and the increase in lengths of sentences over those of the past. In fact, between 1988 and 2002, TDCJ admissions grew 78%, primarily due to changes in sentencing policies and rising conviction rates. During this period, more offenders – especially drug offenders – were arrested and successfully convicted than in previous years. Despite rising conviction rates, the overall crime rate did not decrease during this period.

Last year, 30,669 individuals were sent to Texas prisons for drug-related offenses according to statistics from the Texas Department of Criminal Justice (TDCJ).¹ Senate Bill 1909, as substituted by Rep. Madden, would rehabilitate substance abusers, save money, and alleviate prison overcrowding by giving judges the option to place non-dangerous, first-time drug possession offenders on probation and in a tailored substance abuse program. An accompanying state budget mechanism would allocate \$183 million for drug treatment programs and facilities, including drug courts, halfway houses, and community corrections facilities, and all savings created by these prison diversion efforts would be put back into drug courts, in- and out-patient treatment programs, treatment facility maintenance, etc.

THERE IS A LARGE GAP BETWEEN THE NEED FOR PUBLICLY FUNDED SUBSTANCE ABUSE TREATMENT AND ITS AVAILABILITY.

The Texas Commission on Alcohol and Drug Abuse (TCADA) estimated in 2000 that 1 in 20 Texas adults (5.2%) had a drug problem, and that half of this group was drug-dependent.² By contrast, TCADA figures show that 1 person was admitted to state-funded treatment in 2004 for every 500 adult state residents.³ TCADA also estimated that “medically indigent” substance abusers comprised slightly less than 1% of the state population.⁴ Just under a quarter of this group received treatment in fiscal year 2000.⁵

For offenders on probation, current treatment resources are scarce. In 2005, more than 50% of probationers on direct supervision were on probation for drug or alcohol related offenses. However, of offenders whose alcohol and/or substance abuse played a role in their crime, only 9% received residential substance abuse treatment, and only 16% received out-patient treatment.

S.B. 1909 WILL TACKLE THE PROBLEM OF DRUG ABUSE HEAD ON THROUGH MANDATED TREATMENT, BUT WILL STILL GIVE JUDGES THE DISCRETION TO DETERMINE WHO IS A THREAT TO PUBLIC SAFETY.

Drug offenders often receive little or no treatment to address substance abuse problems while incarcerated or under supervision. Texas' substance abuse treatment rate is the *second-lowest* in the U.S., at 184 adult treatment admissions per 100,000 adult residents.⁶ As a result, many frequently return to drug use upon release, contributing to the state's high recidivism rate and, in turn, prison overcrowding.

Senate Bill 1909 would require low-level drug possession offenders who have not committed any property, sex, or violent offense to be placed on probation with drug treatment, which in most cases would begin in a secure residential facility rather than prison. While the bill allows a judge to incarcerate an individual if s/he determines that the drug possession offender is a threat to public safety, a drug dealer, or not amenable to treatment, it could alone divert 10,000 offenders from prison.

Texas must halt the wasteful expenditure of millions of dollars each year on the incarceration and re-incarceration of non-violent drug users who would be better managed through rehabilitation programs. We must also promote medical and public health responses to drug abusers and reject the policy of incarceration for non-violent defendants charged with drug possession or drug use.

KEY FEATURES OF S.B. 1909 WOULD BE TOUGH ON OFFENDERS BY REQUIRING THEM TO PARTICIPATE IN NECESSARY TREATMENT AND PENALIZING NON-COMPLIANCE.

- Gives judges the discretion to place first-time drug possession offenders on probation and in a drug treatment program, which addresses recidivism problems posed by many offenders who choose incarceration over programs that will force them to deal with the illness of addiction.
- Allows courts to employ temporary incarceration punishments (including county jails, intermediate sanction facilities, and substance abuse felony punishment facilities) as sanctions for violators.
- Authorizes judges to revoke to prison those who pose a threat to public safety, who judges believe may be drug dealers, or who are not amenable to treatment.
- Encourages offenders to successfully complete their substance abuse program and term, which in turn increases their likelihood of obtaining and keeping a job and housing.

MINOR DRUG OFFENDERS ARE NOT A RISK TO PUBLIC SAFETY BUT OCCUPY SUBSTANTIAL PRISON SPACE.

People convicted of drug offenses account for 1 in 5 individuals serving time in Texas prisons and state jails,⁷ while 2 in 3 drug prisoners were sentenced for drug possession. A 2000 analysis of the state prison population found that half of prisoners serving time for drug possession were convicted of possessing 4 grams or less of a controlled substance.⁸

TREATMENT IS SIGNIFICANTLY MORE COST-EFFECTIVE THAN INCARCERATION.

Treatment programs cost on average nearly 10 times less than incarceration. However, Texas spends more on imprisoning drug offenders than on treatment, despite the fact that incarceration does not decrease offenders' risk of relapse and recidivism. On the other hand, the Sunset Advisory Commission cited numerous studies demonstrating that treatment programs targeting specific dynamic risk factors associated with criminal activity, such as drug or alcohol addiction, reduce offender recidivism. Investing in treatment expansion could help Texas avoid costly new prison construction, saving the State \$520 million.

OTHER STATES HAVE MADE SIGNIFICANT GAINS BY EXPANDING ACCESS TO SUBSTANCE ABUSE TREATMENT AND REDUCING THE IMPRISONMENT OF PEOPLE CONVICTED OF DRUG OFFENSES.

Maryland has invested heavily in substance abuse treatment since the year 2000 as part of a move from incarceration to treatment. Annual state funding for substance abuse treatment grew significantly at the beginning of the decade, rising by nearly \$50 million between fiscal years 2000 and 2003. The investments have paid off:

- The number of drug treatment admissions in Maryland referred by the criminal justice system grew by 28% between 2000 and 2004, while the number of people sentenced to prison for drug offenses fell by 7%.
- Jurisdictions that relied on drug treatment were more likely to achieve significant crime rate reductions than those that relied on drug imprisonment. Eight of the 12 jurisdictions that made greater use of treatment saw crime rates fall by 10% or more since 2000.⁹

I appreciate the opportunity to testify before this committee and to offer our organization's ideas about this important issue. S.B. 1909 corrects many of the current deficiencies in our criminal justice system and, if implemented properly, can eliminate the need for new prisons while saving money without sacrificing public safety. We hope that this committee will approve this bill.

¹ Executive Administrative Services, Texas Department of Criminal Justice. *Statistical Report: FY 2006*.

² Wallisch, Lynn S., "2000 Texas Survey of Substance Use Among Adults," Austin, TX: Texas Commission on Alcohol and Drug Abuse, July 2001.

³ Texas Commission on Alcohol and Drug Abuse Research Statistics- Texas Statewide Totals, available online at <http://www.tcada.state.tx.us/research/statistics/statetotals.shtml>.

⁴ Medically indigent includes individuals who have no medical insurance or a city/county health card; or receive Medicaid or public assistance; or have a household income under \$10,000 per year. The criteria for "medical indigence" is likely to significantly underestimate the need for publicly-funded substance abuse treatment since there is no guarantee that the cost of substance abuse treatment will be adequately covered by private insurance.

⁵ Ibid.

⁶ Harrison, Paige M. and Allen J. Beck, "Prison and Jail Inmates at Midyear 2005," Washington, DC: Bureau of Justice Statistics. May 2006. Available online at <http://www.ojp.usdoj.gov/bjs/pub/pdf/pjim05.pdf>.

⁷ "Fiscal Year 2005 Statistical Report," Austin, TX: Texas Department of Criminal Justice, March 2006.

⁸ A third (34 percent) of those serving time in state prisons for drug possession were convicted of possessing four grams or less of a controlled substance, while an overwhelming majority (96 percent) individuals serving time for drug possession in state jails were convicted of possessing a gram or less of a controlled substance. ("In-Depth Analysis of Correctional Populations in the Texas Department of Criminal Justice to Guide Policy Reviews," Austin, TX: Criminal Justice Policy Council. February 2003.)

⁹ Pranis, Kevin, "Progress and Challenges: An analysis of drug treatment and imprisonment in Maryland from 2000 to 2005," Washington, DC: Justice Policy Institute, September 19, 2006.