

Amend Property Offense Thresholds

Updating Long-Outdated Thresholds Will Improve Efficiency and Fairness in the Justice System

BACKGROUND

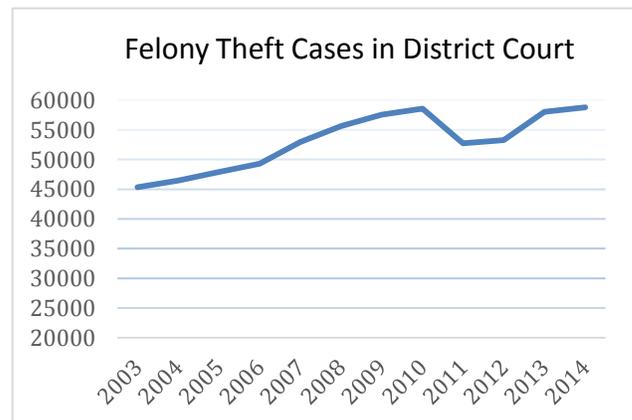
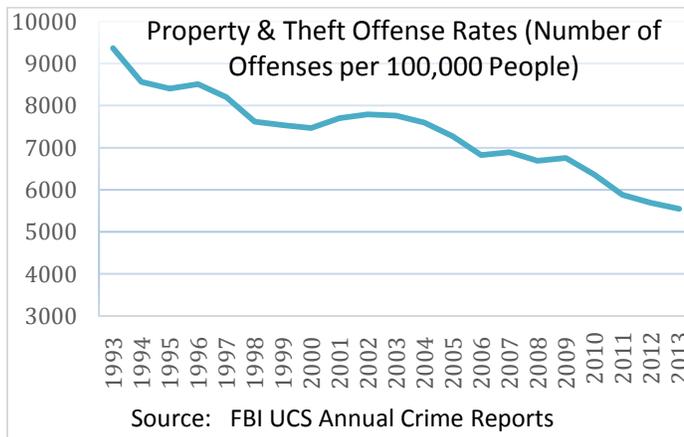
Property-related offenses include criminal mischief, graffiti, and theft.¹ The penalty for committing a property offense corresponds to the dollar amount lost or damaged. For instance, a Class A misdemeanor involves property worth \$500 or more but less than \$1,500; if the property value is \$1,500, the offense becomes a state jail felony.

These monetary “thresholds” (ranges of dollar amounts) have not been changed since 1993 and therefore fail to reflect more than two decades of inflation. Consumer goods with a value of \$1,500 today were worth less than \$1,000 in 1993.² In other words, **what amounted to a Class A misdemeanor 20 years ago may now constitute a state jail felony—a de facto “criminal inflation” that was not intended by the authors of the 1993 legislation.**

FAILURE TO ADJUST PENALTY THRESHOLDS GRADUALLY SHIFTS THE FINANCIAL BURDEN TO THE STATE

Property crime rates in Texas have steadily fallen for the past 20 years.³ Not only have these rates fallen in relation to the growing population, the actual number of property crimes reported between 1993 and 2013 has dropped more than 13 percent.⁴

One would expect that this decline in property crimes would translate into fewer felony convictions and fewer placements in state jails or prison. In fact, the opposite is true, especially as it pertains to theft cases. As inflation increases each year, more and more theft cases are being shifted to district courts, resulting in a steady increase in felony theft incarcerations. Despite the steady decline in thefts statewide, felony theft cases referred to district courts have increased nearly 30 percent.⁵



AMENDING PROPERTY OFFENSES WILL DECREASE COSTS AND IMPROVE EQUITY IN THE JUSTICE SYSTEM

This outdated scheme creates excessive costs for Texas taxpayers. Convictions based on these disproportionate offense thresholds can result in incarceration in county jail or state-level correctional facilities, all at a cost that can exceed \$50 per person per day.⁶ Additionally, at counties' expense, individuals may be detained in a county jail while awaiting indictment or trial. Furthermore, offenses over and including Class B misdemeanors (e.g., theft of \$50 in goods) may require appointment of counsel for indigent defendants, again at taxpayer expense. **Incarcerating these individuals is costly to taxpayers, depletes resources that can be directed toward individuals who pose a high risk to public safety, and further burdens jails and prisons.** In addition to these costs, **convictions for even low-level crimes can burden individuals with lifelong collateral consequences**, including limited access to housing and employment—often worsening their situation and decreasing the likelihood that they can maintain a legitimate and productive life in the community.

KEY FINDINGS

- In 2013, larceny theft⁷ alone accounted for slightly more than 10% of the 936,358 arrests made in Texas that year.⁸
- Property-related crimes comprise over 50% of the population in state jail facilities.⁹ As of August 2013, there were nearly 11,000 individuals on hand in a state jail facility; over 35% were serving time for larceny or burglary, two of the most prevalent offenses in a state jail.¹⁰ Those individuals alone cost taxpayers nearly \$170,000 per day to incarcerate and almost \$62 million annually.¹¹
- As of August 2013, nearly 15,000 individuals were incarcerated in prison for a larceny or burglary offense.¹² Those individuals cost the state approximately \$717,000 each day.¹³
- The most recent numbers indicate that there are currently 265 people serving time for a criminal mischief offense and 12 individuals serving time for a graffiti offense in a state-level corrections facility.¹⁴ These individuals are housed in various facilities run by TDCJ, but even if all were confined in the least expensive institution—state jails—this population still would cost taxpayers nearly \$12,000 per day.¹⁵
- As of August 2013, over 60,000 individuals were on direct community supervision (probation) for either a misdemeanor or felony property offense.¹⁶

COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTIONS: SUPPORT SB 393 BY SENATORS BURTON AND RODRIGUEZ

SB 393 will save taxpayer dollars and increase fairness in the judicial system by updating the antiquated value thresholds upon which property offenses are based. This will make penalties more proportional to the offenses committed and avoid wasting valuable resources on prosecution and incarceration for petty crimes. It will also more closely conform punishments to what was intended by the authors of the 1993 legislation.

Citations

¹ Criminal mischief, graffiti, and theft can be found in TEX. PENAL CODE §§ 28.03, 28.08, and 31.03 respectively.

² Based on the United States Department of Labor's Consumer Price Index (CPI), goods that were valued at \$50 in 1993 are worth \$80.33 today, and goods valued at \$20,000 in 1993 are now worth \$32,133.70. See United States Department of Labor: Bureau of Labor Statistics, "Databases, Tables & Calculators by Subject," CPI Inflation Calculator, website last accessed 6 April 2013, available at http://www.bls.gov/data/inflation_calculator.htm.

³ DisasterCenter.com, Texas Crime Rates 1960 - 2013, From the FBI UCS Annual Crime Reports, <http://www.disastercenter.com/crime/txcrime.htm>

⁴ Ibid.

⁵ Office of Court Administration, Annual Statistical Reports, 2003 – 2014, <http://www.txcourts.gov/statistics/annual-statistical-reports.aspx>

⁶ According to the Legislative Budget Board (LBB), per-day prison costs are as much as \$48.84 per person, while per-day state jail costs average \$42.90 per person; from LBB, "Criminal Justice Uniform Cost Report Fiscal Years 2010-2012," January 2013, p. 8. Also note: According to Brandon Wood, Director of the Texas Commission on Jail Standards (TCJS), per-day county jail costs average \$59 per bed; TCJS presentation at American Bar Association, Criminal Justice Section, Roundtable on Pretrial Detention in Texas, held in Austin, Texas, March 30, 2012.

⁷ Larceny theft is distinguishable (i.e., it is a separate offense) from burglary, robbery, and motor vehicle theft.

⁸ Texas Department of Public Safety, "Texas Arrest Data: 2013," available at <http://www.txdps.state.tx.us/crimereports/13/citCh9.pdf>

⁹ Texas Department of Criminal Justice (TDCJ), "Fiscal Year 2013: Statistical Report," p. 1, available at http://tdcj.state.tx.us/documents/Statistical_Report_FY2013.pdf

¹⁰ Ibid, p. 11.

¹¹ Based on LBB, *Uniform Cost Report*, *supra* note 3, at 8.

¹² TDCJ, *Statistical Report*, *supra* note 6, at 10.

¹³ Based on LBB, *Uniform Cost Report*, *supra* note 3, at 8. This figure does not include costs of investigation, arrest, detention, or trial.

¹⁴ TDCJ, information received via Freedom of Information Request, January 10, 2013. Information available upon request.

¹⁵ LBB, *Uniform Cost Report*, January 2011, p. 6. This figure does not include costs of investigation, arrest, detention, or trial.

¹⁶ TDCJ, *Statistical Report*, *supra* note 6, at 6. The cost is significantly less to place a person on probation; community supervision amounts to a fraction of the costs of incarceration.