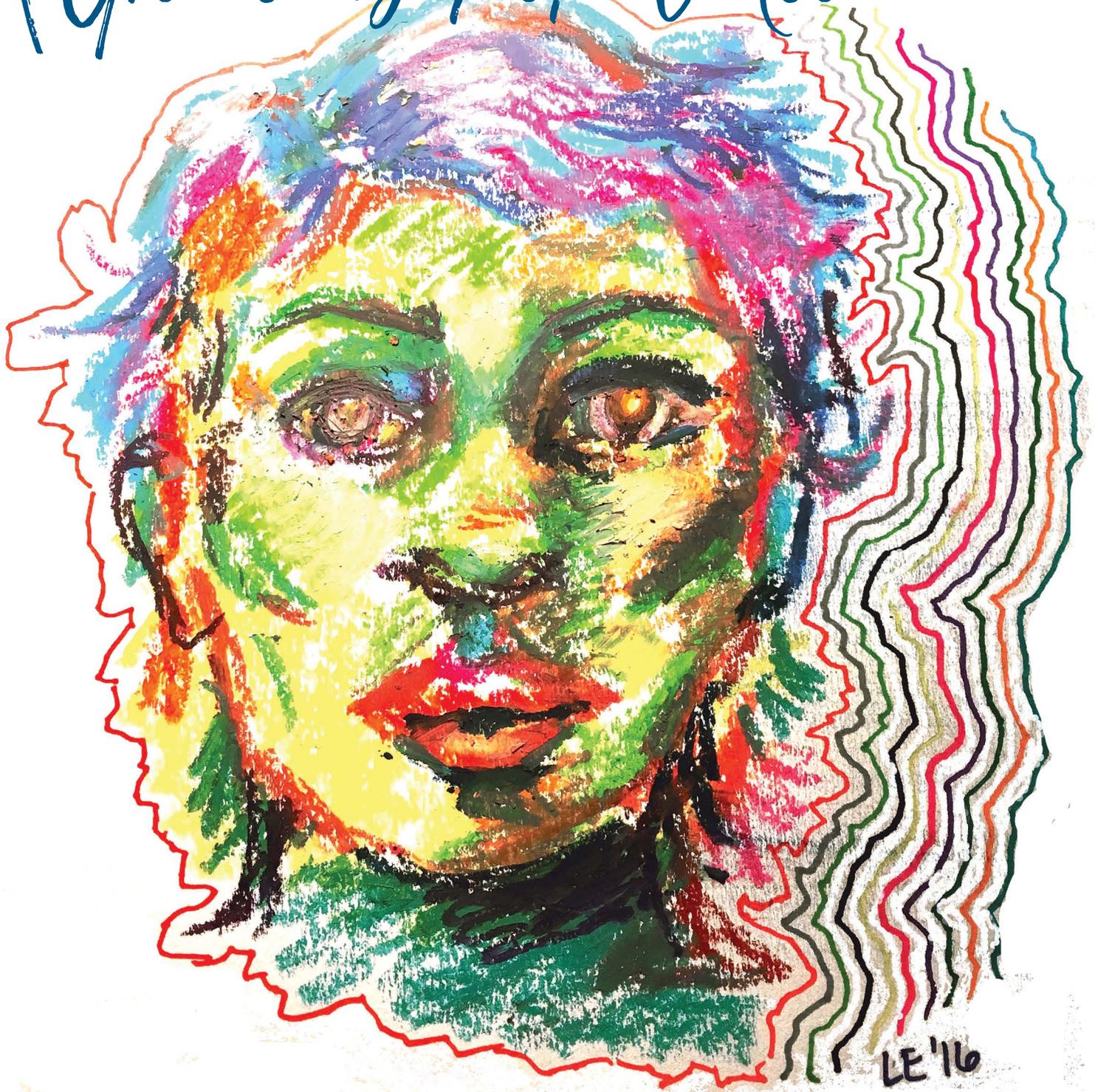


# A Growing Population:



TEXAS CRIMINAL  
JUSTICE COALITION

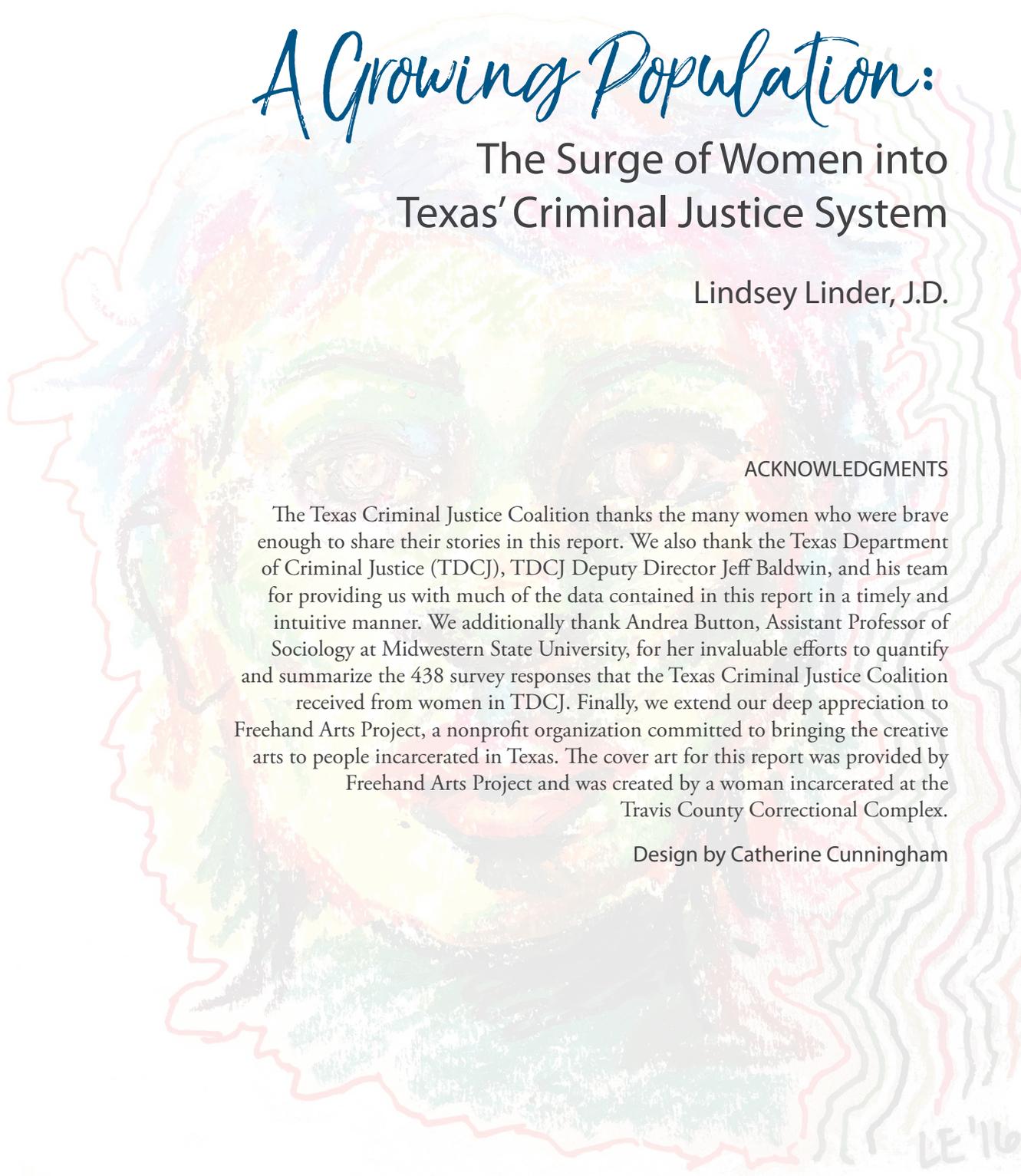
## The Surge of Women into Texas' Criminal Justice System

MARCH 2018



The Texas Criminal Justice Coalition advances solutions that transform the adult and youth justice systems to support families and foster safe communities.

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# *A Growing Population:*

## The Surge of Women into Texas' Criminal Justice System

Lindsey Linder, J.D.

### ACKNOWLEDGMENTS

The Texas Criminal Justice Coalition thanks the many women who were brave enough to share their stories in this report. We also thank the Texas Department of Criminal Justice (TDCJ), TDCJ Deputy Director Jeff Baldwin, and his team for providing us with much of the data contained in this report in a timely and intuitive manner. We additionally thank Andrea Button, Assistant Professor of Sociology at Midwestern State University, for her invaluable efforts to quantify and summarize the 438 survey responses that the Texas Criminal Justice Coalition received from women in TDCJ. Finally, we extend our deep appreciation to Freehand Arts Project, a nonprofit organization committed to bringing the creative arts to people incarcerated in Texas. The cover art for this report was provided by Freehand Arts Project and was created by a woman incarcerated at the Travis County Correctional Complex.

Design by Catherine Cunningham

LE '16

## Letter from the Executive Director

For the past 30 years, the number of women incarcerated in America has grown exponentially, increasing at nearly twice the rate of men's incarceration. With only five percent of the world's female population, the U.S. accounts for nearly 30 percent of the world's incarcerated women.

In Texas, the number of women in prison has grown by more than 1,000 percent since 1980. According to the most recent U.S. Census Bureau data, Texas now incarcerates more women by sheer number than any other state in the country. A shocking 81 percent of women incarcerated in Texas prisons are mothers. Texas jails, too, have seen an explosion in the number of women awaiting trial, even as arrests of females have declined.

The issues facing incarcerated women are complex, as are the underlying causes of their incarceration. However, because women comprise only a small portion of the overall incarcerated population, their needs are largely disregarded in larger criminal justice reform conversations. Most of the programs that exist within and outside the criminal justice system are geared toward men. With little data on who these women are or how they became entangled in the system, it is not surprising that recent reforms in Texas and across the country have failed to reverse, or even slow, the rate of women's incarceration.

Before we can broaden the scope of our criminal justice reform efforts in Texas to address the needs of justice system-involved women, we must first understand who they are. The information in this report aims to provide an answer to this question, and we urge readers to use it to build on existing reforms and push for community-based programs and services that can safely reverse the trend of women cycling through Texas' criminal justice system.



Leah Pinney, Executive Director

# Table of Contents

Executive Summary	1
Growth in Female Incarceration	1
Female vs. Male Criminality	2
Impact on Family and Community	2
Introduction	4
Population Analysis	5
Women on Probation	5
Women in Jail	6
Women in Prison	8
Women on Parole	10
Survey of Incarcerated Women	12
General Demographics	12
Education	12
Housing	12
Employment & Income	13
Mental Health	13
Drug or Alcohol Use	14
Sexual Abuse	15
Physical Abuse	16
Domestic Violence	18
Trafficking	18
Pretrial & Counsel	18
Recommendations	19
Community-Level Supports	19
Pretrial Diversion	20
Specialized Probation	21
Bail Reform	22
Drug Reform	23
Conclusion	25

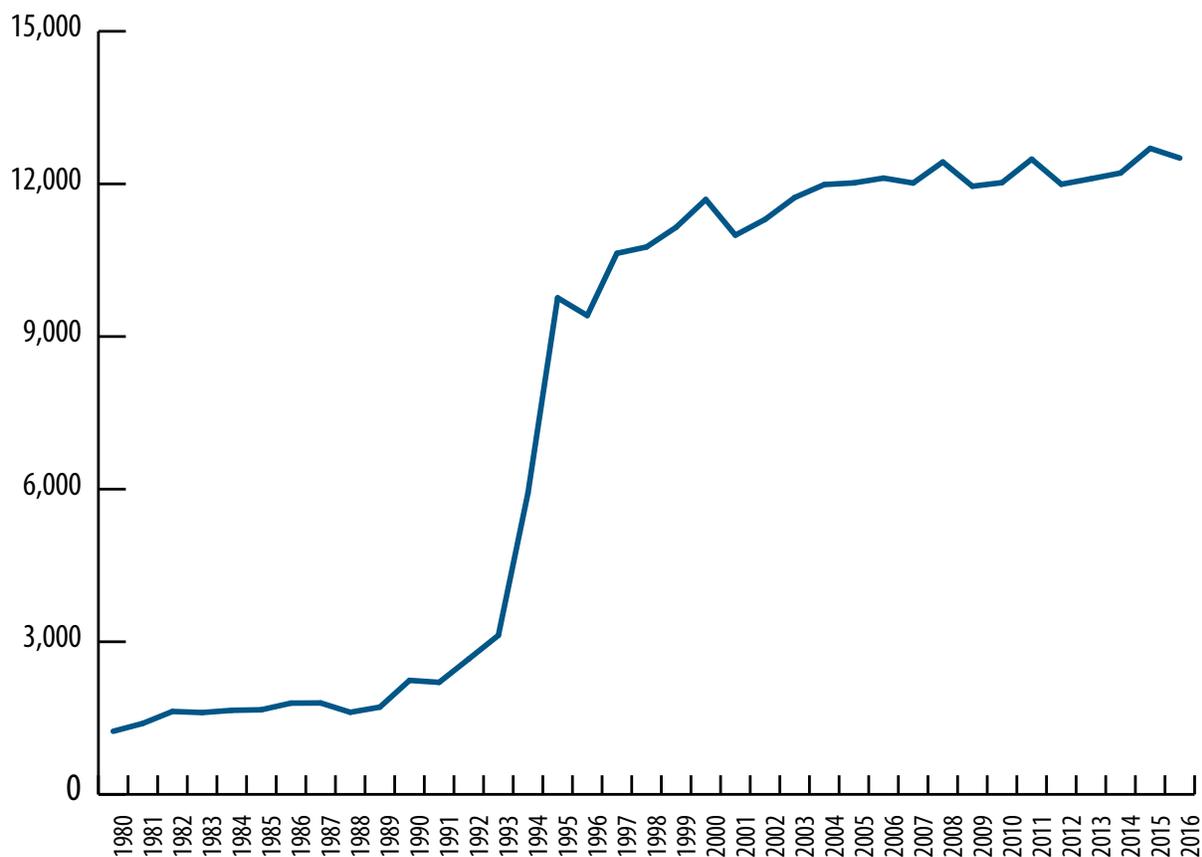
# Executive Summary

## Data Shows Significant Growth in Female Incarceration

Mass incarceration is both a racial and economic issue, but it is also a women's issue. The number of women in the U.S. prison system has grown by over 700% since 1980.<sup>1</sup> This is significantly higher than the growth rate of the overall prison population, which has risen by around 500%.<sup>2</sup>

Texas has contributed greatly to this surge in incarcerated women, **with one of the top 10 highest female incarceration rates in the country.**<sup>3</sup> Regarding growth over time, **female incarceration in the Texas Department of Criminal Justice (TDCJ, the state's corrections system) has increased 908% from 1980-2016, compared to an increase in the male population of 396%.<sup>4</sup>** In other words, female incarceration in Texas has increased at more than twice the rate of male incarceration over the past 40 years.

### Texas Female Prison Population Growth, 1980-2016



Alarming, a more recent spike in system-involved women has occurred as Texas has lowered its population in TDCJ, and **Texas now incarcerates more women by sheer number than any other state.**<sup>5</sup> **From 2009-2016, Texas reduced its men's prison population by 8,577 while backfilling its prisons with 554 women.**<sup>6</sup> As of 2016, women incarcerated in TDCJ numbered 12,508, representing 8.5% of the

incarcerated population, up from 7.7% in 2009.<sup>7</sup> Additionally, the number of women serving 10 years or more in Texas increased over 50% from 2005 to 2014.<sup>8</sup>

The rise in female incarceration is not exclusive to prisons. The number of women in Texas jails awaiting trial — totaling around 6,300 — has grown 48% since 2011, even as the number of female arrests in Texas has decreased 20% over that time period.<sup>9</sup>

## Female vs. Male Criminality

The significant differences between justice system-involved women and men point to the need for gender-based programs and services to address women's underlying causes of criminality. **Women are more likely than men to commit property and drug offenses, and less likely than men to commit violent offenses.**<sup>10</sup> When women do commit violent offenses, it is often in self-defense, rather than in a calculated manner.<sup>11</sup>

**Women in the criminal justice system are far more likely to have been sexually abused as children<sup>12</sup> and adults<sup>13</sup> than men.** Per a survey by the Texas Criminal Justice Coalition of over 400 incarcerated women in Texas, more than half report experiencing some kind of physical or sexual trauma prior to their incarceration.<sup>14</sup> Some studies have found that as many as 98% of justice system-involved women have trauma histories.<sup>15</sup> Sadly, for some women, this victimization can continue during their incarceration,<sup>16</sup> where women can experience physical and sexual assaults.

**Along with, and perhaps as a result of, significant trauma histories, justice system-involved women also report high rates of mental health problems, substance abuse, and poverty.**<sup>17</sup>

Despite all this, the institution of criminal justice largely ignores the context of these women's lives and the reality of their needs.<sup>18</sup>

## Female Incarceration Impacts Families and Communities

A multitude of factors have contributed to the growing rate of female incarceration: poverty, lack of education, lack of treatment for mental illness, tough-on-crime prosecution of drug crimes, psychological and physical trauma, and overly broad conspiracy and accomplice laws, which women are more likely to be swept up by.<sup>19</sup> This holds true both nationally and in Texas, and these factors are devastating to women and those in their lives.

Although women comprise a small, albeit growing, portion of the prison population, their incarceration creates profound ripple effects in their families and within their communities.

Across the U.S., 2.6 million children have a parent in prison or jail.<sup>20</sup> In Texas, more than 10,000 women in TDCJ are mothers.<sup>21</sup> Yet despite the benefits of parent-child interaction,<sup>22</sup> incarcerated women are likely

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**“During one of my mom’s incarcerations, I was molested. Had she been there, I wouldn’t have been in that situation and she could’ve protected me. Locking her up, when she was no threat to public safety, put me and my siblings at risk.”**

*– Destiny, child of an incarcerated mother*

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“Put simply, we know that when we incarcerate a woman we often are truly incarcerating a family, in terms of the far-reaching effect on her children, her community, and her entire family network.”

– U.S. Attorney General Loretta Lynch

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to be isolated from their children due to limitations on visitation, costly prison phone fees, and great distances (often hundreds of miles) between children and the prison units.<sup>23</sup>

Black women are especially impacted by punitive policies and practices — with Black individuals comprising only 12% of Texas’ overall population<sup>24</sup> but Black women comprising 26% of the incarcerated female population.

The entire community benefits when we are able to properly serve and rehabilitate those who come into contact with the criminal justice system. And **crime survivors<sup>25</sup> and voters<sup>26</sup> on both sides of the political aisle agree that being smart on crime means addressing the root causes of a person’s criminality**, rather than simply warehousing them for lengthy periods of time and releasing them with virtually no supports. Adjusting our practices to respond appropriately to women’s needs is essential if we are to stop and reverse the growth of women in the system.

**The Texas Criminal Justice Coalition urges local and state officials to adopt the recommendations below, which will hold women accountable while helping them heal and allowing them to remain in their communities and with their families — critical steps to improving public safety and reducing costs associated with incarceration.** These recommendations are important for women at risk of entering the justice system, women already on probation who want to live successfully in the community, and women on parole who seek to avoid re-incarceration.

- 1. Utilize pretrial diversion to hold women accountable while preventing them from escalating deeper into the justice system.**
- 2. Invest in community-level supports that account for extensive trauma histories.**
- 3. Provide specialized treatment options for women on probation.**
- 4. Reform the bail system to stop punishing poverty.**
- 5. More effectively address the needs of women with drug offenses.**

## Introduction

In 2014, the Texas Criminal Justice Coalition sent surveys to 1,600 female inmates incarcerated in the Texas Department of Criminal Justice (TDCJ), and more than 430 women completed the survey, providing extensive and detailed information about themselves and their experiences prior to and during incarceration.

While we provided preliminary findings to legislators and the public, we are now excited to present a two-part report series that offers more insight from the brave system-involved women who shared their experiences with us.

Throughout these reports, we also provide information obtained from TDCJ, from formerly incarcerated women, and from people serving incarcerated or formerly incarcerated women. To effectively highlight women's specific needs and circumstances, we offer data related to men for comparison purposes.

While the issues facing system-impacted women are abundant and complex, two predominant themes developed in our research. First, the number of women in the Texas criminal justice system has been rapidly increasing for decades. Second, Texas is failing to adequately support these women and treat them with dignity.

In the first report in this series, *A Growing Population: The Surge of Women into Texas' Criminal Justice System*, the Texas Criminal Justice Coalition explores the concerning increase in the number of justice system-involved women in Texas, and we recommend programs and policies that can reverse this trend and effectively redirect women away from the criminal justice system.

In the second report in this series, *An Unsupported Population: The Treatment of Women in Texas' Criminal Justice System*, which will be released in April 2018, the Texas Criminal Justice Coalition will explore the unique issues facing system-impacted women, including the challenges they face within TDCJ facilities, and we will recommend programs and policies that treat women with dignity and increase the likelihood that they can successfully rejoin their families and communities.

# Population Analysis

The data contained in this report shines a light on an otherwise understudied and underserved population. As agencies and service providers capture more comprehensive data about justice system-impacted women, we will be better able to examine the practices and policies that drive women into the criminal justice system so as to more effectively stem and reverse the number of women under correctional control.

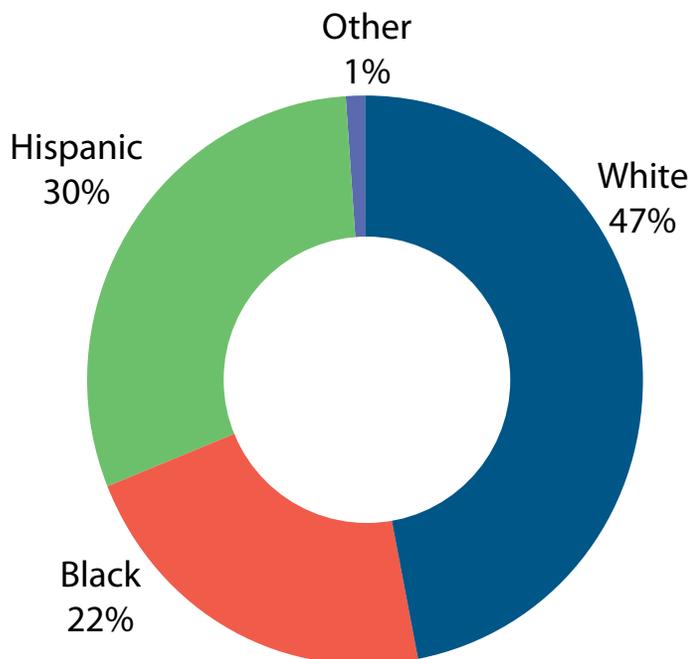
## Women on Probation

Of all women under control of the U.S. correctional system, 75% are on probation.<sup>27</sup>

The same percentage holds true for Texas. Of the 89,045 women under state supervision in FY 2016 — including those who are incarcerated, on probation, and on parole — women on probation totaled 75%, or 67,046 women.<sup>28</sup>

As you can see in the chart below, most women placed on probation are white.<sup>29</sup>

### Women on Probation in Texas by Race, FY 2016



Women on probation are largely between the ages of 26 and 50.

Women on Probation in Texas by Age, FY 2016					
Under 22	22–25	26–30	31–40	41–50	51+
5,422 (8%)	9,987 (15%)	12,751 (19%)	19,486 (29%)	11,844 (18%)	7,646 (11%)

While similar percentages of men and women are on probation for a controlled substance offense, men are otherwise more likely than women to be on probation for a violent offense, while **women are most likely to be on probation for a property offense.**

Individuals on Probation in Texas by Offense Category, FY 2016					
	Violent	Property	DWI	Controlled Substance	Other
Women	8,432 (13%)	21,019 (31%)	12,122 (18%)	16,331 (24%)	9,142 (14%)
Men	38,972 (22%)	28,880 (19%)	41,814 (24%)	39,769 (23%)	24,695 (12%)

Approximately 18% of women on probation in FY 2016 were served through a special needs caseload. These caseloads target high-need/high-risk felony probationers based on a validated risk assessment and supervision plan. The most prevalent specialized caseloads for women were substance abuse (6,079 women served), mental health (2,900), and high-risk (1,018) specialized caseloads.

Probationers may also be on one or more non-caseload programs. The most prevalent non-caseload programs for women were outpatient substance abuse treatment and pretrial services.

**The revocation rate for women on probation in FY 2016 was 17% (11,469 probationers), pointing to the need for more effective assistance to help them succeed in the community.**

**TDCJ does not track the number of probationers who have dependent children.**

### Women in Jail

Nearly half the women behind bars in America are held in jail, rather than in state or federal prisons,<sup>30</sup> compared to one-third of all incarcerated men being held in jail.<sup>31</sup> More specifically, approximately 99,000 women are incarcerated in state prisons while 96,000 women are confined in local jails.<sup>32</sup> **Of women in jails across the country, 60% have not been convicted of a crime — they are awaiting trial.**<sup>33</sup>

**In Texas, the number of women in jails awaiting trial — totaling around 6,300 — has grown 48% since 2011, compared to an increase of 11% for men over that time period.**<sup>34</sup> However, the number of female arrests in Texas has decreased 20% since 2011, suggesting the growth of women in Texas jails is not the result of rising crime.<sup>35</sup>

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*“I had a severe cocaine addiction for 15 years. Instead of offering some type of drug treatment, I was put on probation without services and then revoked. I cycled through the system because I had a drug problem and my root issues weren’t being addressed. Today, I am a nurse at a drug rehab center. God saved me out of that world, and then brought me back to help others.”*

*– Evelyn, incarcerated for 2 1/2 years*

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“It is not surprising that women have different needs than men. What is more important is understanding the value women contribute to families and communities and ensuring the criminal justice system provides encouragement and supports, rather than more challenges to overcome.”

– Travis County, Texas, Sheriff Sally Hernandez

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“I was shocked to find out I was pregnant. My first thought was, ‘what is going to happen to my baby?’ I had just been arrested and had no idea how I was going to be pregnant in jail.”

– Angelica, in and out of prison for 17 years

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Many bail systems do not take into account a person’s indigency and, as such, they force people who otherwise pose no threat to the public to remain incarcerated until trial; riskier but wealthier defendants can buy their way out of jail and will have limited oversight.<sup>36</sup> **Such resource-based bail systems are particularly problematic for women, as poverty is a particularly significant factor for justice system-involved women.** A higher percentage of women reported incomes of less than \$600 per month immediately prior to their incarceration than their male counterparts,<sup>37</sup> with two-thirds of these women earning minimum wage in entry-level positions.<sup>38</sup> The earning potential of this population is additionally stifled by low education levels, as 44% of incarcerated women across the U.S. have not graduated from high school or obtained a GED.<sup>39</sup> **For Black and Hispanic women, struggles relating to poverty are even more likely because they face the greatest wealth disadvantage.** According to a national study, around half of all single Black and Hispanic women have a zero or negative net worth, and **the average household median wealth for all single Black women was \$100, compared to \$41,500 for single white women.**<sup>40</sup>

**The combined result of this wealth disparity and Texas’ money-based bail system is that women like Sandra Bland — women with needs that should be addressed in other settings — are sitting in Texas jails, not because they are a threat to public safety, but because they simply cannot afford to post bail.** As stated in the *Houston Chronicle* shortly after Ms. Bland’s tragic death, she would probably still be alive today if the bail system was fair.<sup>41</sup>

Another concerning population of women held in jail are those who are pregnant. An average 367 pregnant females were booked into Texas county jails each month in 2017.<sup>42</sup>

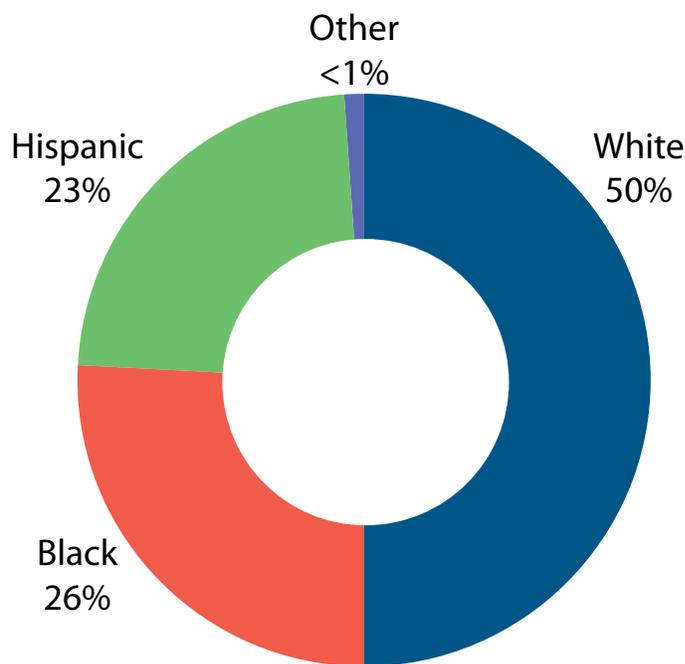
*Further analysis of women in Texas jails is limited due to the lack of consistent data collection and reporting across Texas’ 254 counties.*

## Women in Prison

As of 2016, there were 12,508 women incarcerated in TDCJ, or approximately 9% of the total incarcerated population.<sup>43</sup> **This is only slightly less than the total number of women in both state and federal prisons across the country in 1980.**<sup>44</sup> This emphasizes just how significantly women’s needs are failing to be met in the community.

Per the chart below, half of women in TDCJ are white. It should be noted that **while Black individuals make up only 12% of the overall Texas population,**<sup>45</sup> **Black women comprise 26% of the incarcerated female population.**

### Women in TDCJ by Race, FY 2016



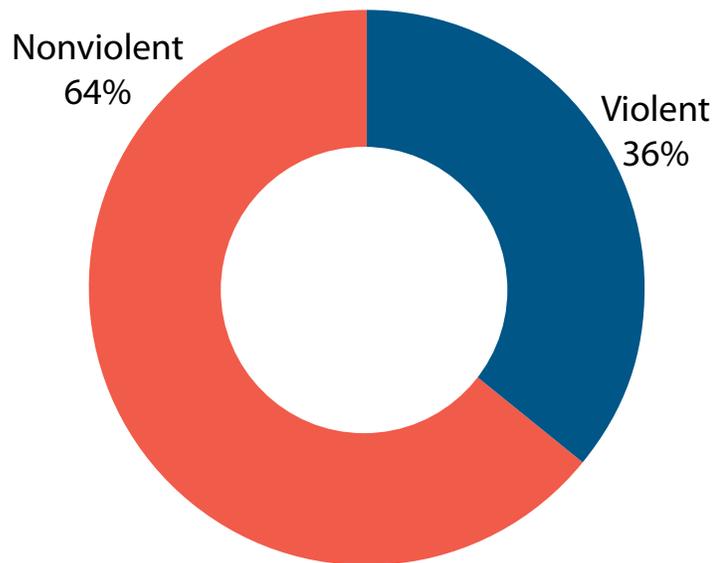
Women incarcerated in TDCJ are largely between the ages of 20 and 49.

Women in TDCJ by Age, FY 2016						
Under 18	18–19	20–29	30–39	40–49	50–59	60 or older
6 (<1%)	82 (<1%)	3,353 (27%)	4,486 (36%)	2,745 (22%)	1,491 (12%)	345 (3%)

**Women in TDCJ for nonviolent offenses far outpace men, with 64% of women compared to 42% of men incarcerated for a nonviolent offense.** The majority of those offenses are drug possession or delivery. And regarding property offenses, 22% of women incarcerated in TDCJ are there for a property offense, compared to 14% of men.

Individuals in TDCJ by Offense Category, FY 2016 <sup>46</sup>				
	Violent	Property	Drug	Other
Women	4,480 (36%)	2,765 (22%)	3,634 (29%)	1,629 (13%)
Men	77,402 (58%)	18,299 (14%)	19,924 (15%)	18,920 (14%)

**The Majority of Women in TDCJ are Incarcerated for Nonviolent Offenses**



The average sentence length for a woman incarcerated in a TDCJ prison is 9.6 years. For women whose offense of record is a property offense, the average length of sentence is 8.1 years, compared to 9 years for a drug offense and 4 years for a prostitution offense.

**Women in TDCJ also outpace their male counterparts when it comes to substance abuse disorders,** with 70% of women identified as suffering from a substance abuse disorder vs. 58% of men.

**Unfortunately, TDCJ does not track information relating to how many women have histories of trauma, such as sexual abuse and domestic violence.** However, the Texas Criminal Justice Coalition’s survey of hundreds of incarcerated women revealed that more than half of all respondents had previously

been sexually assaulted, while 82% had been victims of domestic violence.

**Women in TDCJ are far more likely than men to be parents**, with a staggering 81% of women in TDCJ having children vs. 68% of men.<sup>47</sup>

**81%**  
of women in Texas' state corrections system are mothers.



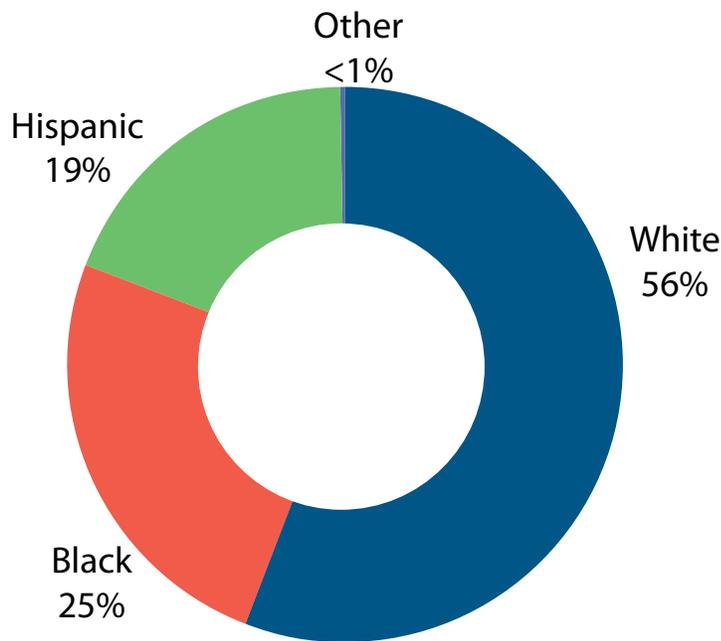
### Women on Parole

**While the basis for this report is to help women safely avoid incarceration, it is critical to ensure that women on parole have the tools they need to avoid re-offending and returning to confinement.**

As of June 2017, women on parole in Texas numbered 9,682, or 11% of the entire population of people on parole in Texas. Women spend an average of 2.8 years on parole.

Per the chart below, the majority of women on parole are white.

### Women on Parole in Texas by Race, 2017



Female parolees under the age of 40 comprise 49% of the total female parole population.

Women on Parole in Texas by Age, 2017					
Under 20	20–29	30–39	40–49	50–59	60 or older
13 (<1%)	1,482 (15%)	3,185 (33%)	2,429 (25%)	1,933 (20%)	640 (7%)

The most common offenses of record for women on parole are drug offenses, with 42% of women on parole for drug possession (24%) or drug delivery (18%).

Women on Parole in Texas by Offense Category, 2017	
Drug Possession	1,703 (24%)
Drug Delivery	2,289 (18%)
Burglary	785 (8%)
Assault/Terroristic Threat/Trafficking	805 (8%)
Larceny (Theft)	635 (7%)
DWI	707 (7%)
Obstruction/Public Order	633 (6%)
Robbery	516 (5%)
Other	1,609 (17%)

Approximately 7,500 female parolees had a special condition for a substance abuse evaluation and related conditions of parole as of June 2017. Following that evaluation, treatment staff determine the appropriate level of substance abuse treatment required.<sup>48</sup> As of June 2017, there were 3,283 women in an in-prison therapeutic community program or on a substance abuse caseload (44% of all parolees).

The majority of women on parole are on a regular (non-specialized) caseload. **The most prevalent specialized caseloads for women are mental illness and substance abuse caseloads**, with 14% of all female parolees on a mental illness caseload and 12% on a substance abuse caseload.

TDCJ’s Parole Division does not have gender-specific caseloads.

Female Parolee Caseloads in Texas, 2017	
Mentally Ill	1,391 (14%)
Substance Abuse	1,168 (12%)
Sex Offender	110 (1%)
Regular	6,283 (65%)
Other	730 (8%)

In FY 2016, the overall parole revocation rate was 7.2%.<sup>49</sup> Of female parole revocations, 21% were for a “technical” violation.<sup>50</sup> In other words, **nearly a quarter of female parole violations were for failure to comply with the terms of parole, not for a new offense. Like with probation revocations among women, this lack of success under supervision points to the need for more effective assistance to help female parolees live stable, productive lives in the community.**

TDCJ does not track the number of parolees who have dependent children.

# Survey of Incarcerated Women

In 2014, the Texas Criminal Justice Coalition sent surveys to 1,600 women incarcerated in the Texas Department of Criminal Justice (TDCJ). Over 430 women completed the survey, which included questions about prior victimization, substance abuse, poverty, motherhood, and more. **This likely constitutes the largest-ever survey of women incarcerated in Texas, and the results are illuminating.**

We partnered with Dr. Andrea Button of Midwestern State University to analyze the survey responses and identify themes among those responses. The most common pre-incarceration themes show that life for many of these women included poverty, substance abuse, domestic violence, and sexual assault — all drivers into incarceration.

## General Demographics

Nearly all women (95%) who completed the survey responded from a prison facility, while 3% were in a Substance Abuse Felony Punishment facility and 2% were in a state jail facility.<sup>51</sup>

The racial breakdown of respondents is as follows: 49% white, non-Hispanic; 22% Black; 20% Hispanic; 3% Native American; and 6% other.

The majority of respondents were between 35 and 50 years old. 13% were younger than 35 years old and 30% were older than 50 years old.

## Education

**65% of women had not graduated from high school or obtained a GED**, with 35% completing less than 12th grade before entering TDCJ, and 11% not completing higher than 8th grade.

## Housing

Immediately before entering TDCJ, 5% of women reported being homeless and living on the street, while 35% were living with family or friends, 36% were renting an apartment or house, and 22% were homeowners.

**12% of women reported having spent time in the foster care system at some point.**

## Highlights from the Texas Criminal Justice Coalition's Survey of Incarcerated Women

- **52%** reported that their total household income, before taxes, immediately before entering TDCJ was less than \$10,000 per year.
- **55%** reported having been diagnosed with a mental illness.
- **58%** reported having been sexually abused or assaulted as a child. 68% of these women were first abused when they were 10 years old or younger, with 31% being abused for the first time when they were 5 years old or younger.
- **82%** reported having experienced domestic violence or dating abuse.
- **25%** reported having been forced to exchange sex for money, food, or basic needs before entering TDCJ.
- **12%** reported having spent time in the foster care system.
- **81%** reported having children.

**52%**  
of women who responded to our survey had a total household income immediately before entering TDCJ of less than \$10,000 per year.

### Employment and Income

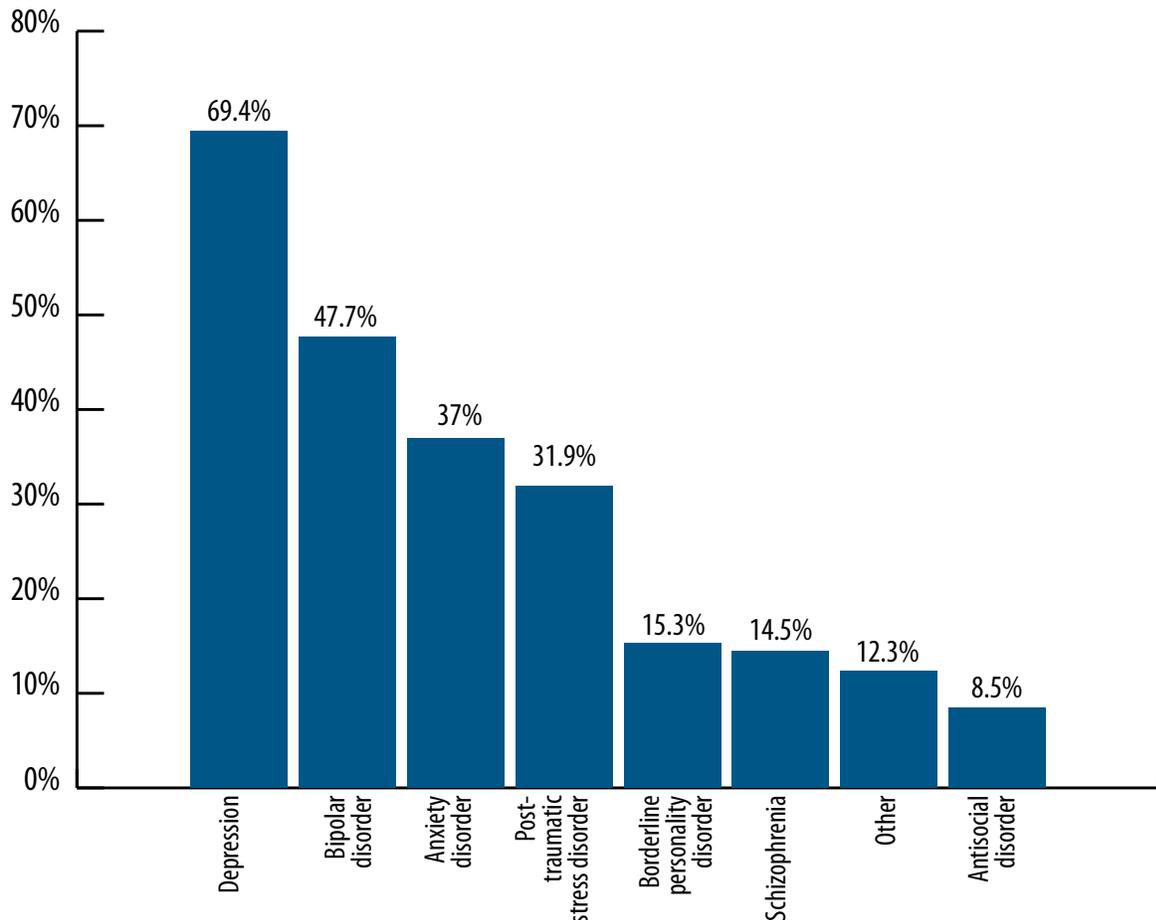
Immediately before entering TDCJ, 47% of women were unemployed. 8% of women had non-legal employment, and 16% were employed on a part-time basis. Only 29% of women were employed full time immediately prior to entering TDCJ.

52% of women reported that their total household income, before taxes, immediately before entering TDCJ was less than \$10,000 per year. 80% reported it was less than \$30,000 per year. Only 10% of women reported \$50,000 or more per year.

### Mental Health

55% of women reported that they had been diagnosed with a mental illness. The most common diagnoses for these women were depression (69%), bipolar disorder (48%), anxiety disorder (37%), and Post-Traumatic Stress Disorder (PTSD) (32%).<sup>52</sup>

#### What were you diagnosed with? (Check all that apply)



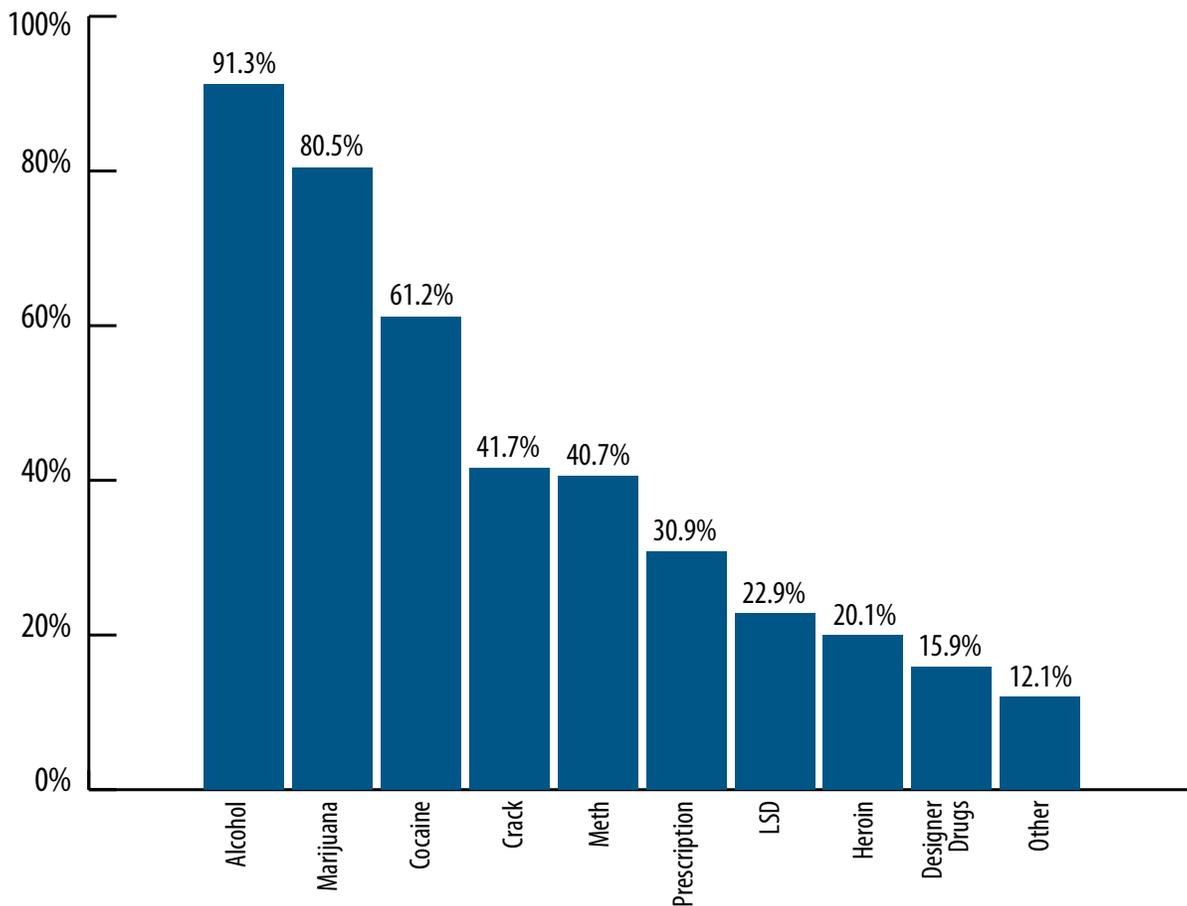
57% of women reported taking medication for mental health prescribed by a doctor while incarcerated in TDCJ, and 52% of women reported currently receiving medication for mental and/or physical health.

### Drug or Alcohol Use

91% of women reported having used alcohol or drugs at some point in their lives — with 37% using alcohol and 25% using drugs for the first time when they were younger than 14.

Per the chart below, women were most likely to use alcohol, marijuana, and cocaine at some previous point.

#### Which of the following have you used in your lifetime? (Check all that apply)



When asked about their main drug of choice before entering TDCJ, the most common response was alcohol (33%), followed by meth (15%) and marijuana (14%).

**53% of women said they had never received substance abuse treatment *before* entering TDCJ.** Only 21% reported receiving substance abuse treatment inside TDCJ (not including attending Alcoholics Anonymous or Narcotics Anonymous groups).

“Research shows the unique circumstances of women, including a history of physical or sexual abuse, mental health issues, and substance use disorders, that affect the increasing population rate and pose significant challenges to their post-release reintegration.”

– The Honorable Rebeca Martinez,  
Former Board Member of the  
National Association of Women Judges

When asked about family histories with drug and alcohol abuse, 50% of women reported that their father abused alcohol and 33% reported their mother abused alcohol. Half of women reported that their brother(s) abused alcohol and 42% reported that their sister(s) abused alcohol.

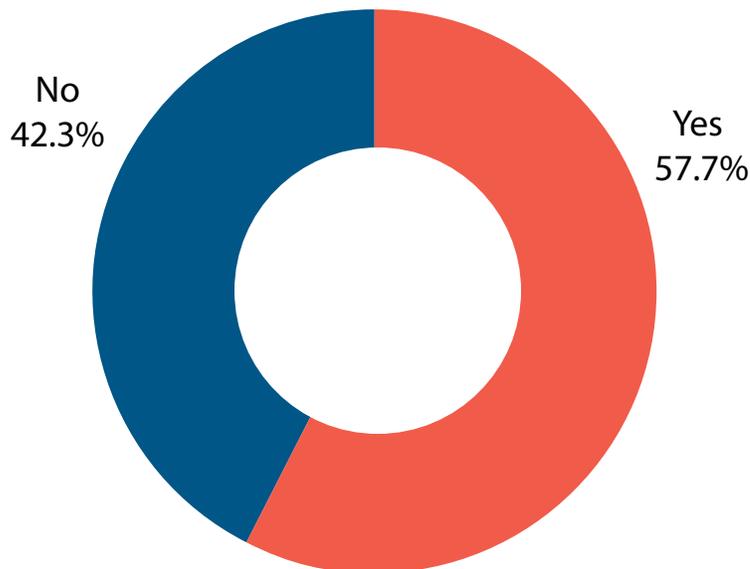
20% of women reported that their mother abused drugs, and 20% reported that their father abused drugs. 45% of women reported that their brother(s) abused drugs and 37% reported their sister(s) abused drugs.

**When asked if anyone had ever forced them to use drugs, 20% of women reported that their spouse or romantic partner had done so.** 10% of women reported that a family member had forced them to use drugs, and 2.5% reported being forced to use drugs by a pimp.

### Sexual Abuse

**58% of women reported being sexually abused or assaulted as a child.** Of those women, 83% reported being abused or assaulted by a family member, compared to 32% reporting abuse by a stranger. **68% of women who were sexually abused or assaulted as children were first abused when they were 10 years old or younger, with 31% being abused for the first time when they were 5 years old or younger.**

### Were you ever sexually abused or assaulted as a child?



Only 24% of women responded that their sexual abuse or assault was reported to police or a child protection agency. 47% of women said the abuse or assault was not reported because the abuser was a family member or friend. 34% said the abuse or assault was not reported because they were afraid of their abuser.

**47% of women reported being sexually abused or assaulted as an adult *before entering TDCJ*.** Of those women, 50% were sexually abused or assaulted by their spouse or romantic partner, followed by 48% by a stranger. Only 27% of women reported that their sexual abuse or assault was reported to police. 50% of women said the abuse or assault was not reported because they were afraid of their abuser. 21% said the abuse or assault was not reported because the abuser was a family member or friend.

**4% of women reported being sexually abused or assaulted *since entering TDCJ*.** Of those women, 78% reported being abused or assaulted by another inmate, compared to 17% reporting being abused or assaulted by a correctional officer. 58% of these women reported that their abuse or assault was never reported to TDCJ's Safe Prisons program or a unit official.

## Physical Abuse

**49% of women reported being physically abused as a *child*.** 52% of those women were abused by their mother or father. 60% of women were less than 10 years old the first time they were physically abused. Of the women who responded that they were physically abused as children, 76% reported that their abuse was never reported to police or a child protection agency. 45% responded that the abuse was not reported because the abuser was a family member or friend, and 38% responded that the abuse was not reported because of their fear of the abuser.

**62% of women reported being physically abused as an adult *before entering TDCJ*.** 82% of those women reported being abused by their spouse or romantic partner. 44% of women responded that their abuse was reported to the police. 38% of women responded that their abuse was never reported to the police out of fear of their abuser, and 22% responded that their abuse was never reported to police because the abuser was a family member or friend.

**20% of women reported that they had been physically abused *since entering TDCJ*.** Of those women, 92% responded that they had been physically abused by another inmate and 15% responded that they had been abused by a correctional officer. When asked if their physical abuse was ever reported, 81% responded that it was reported.

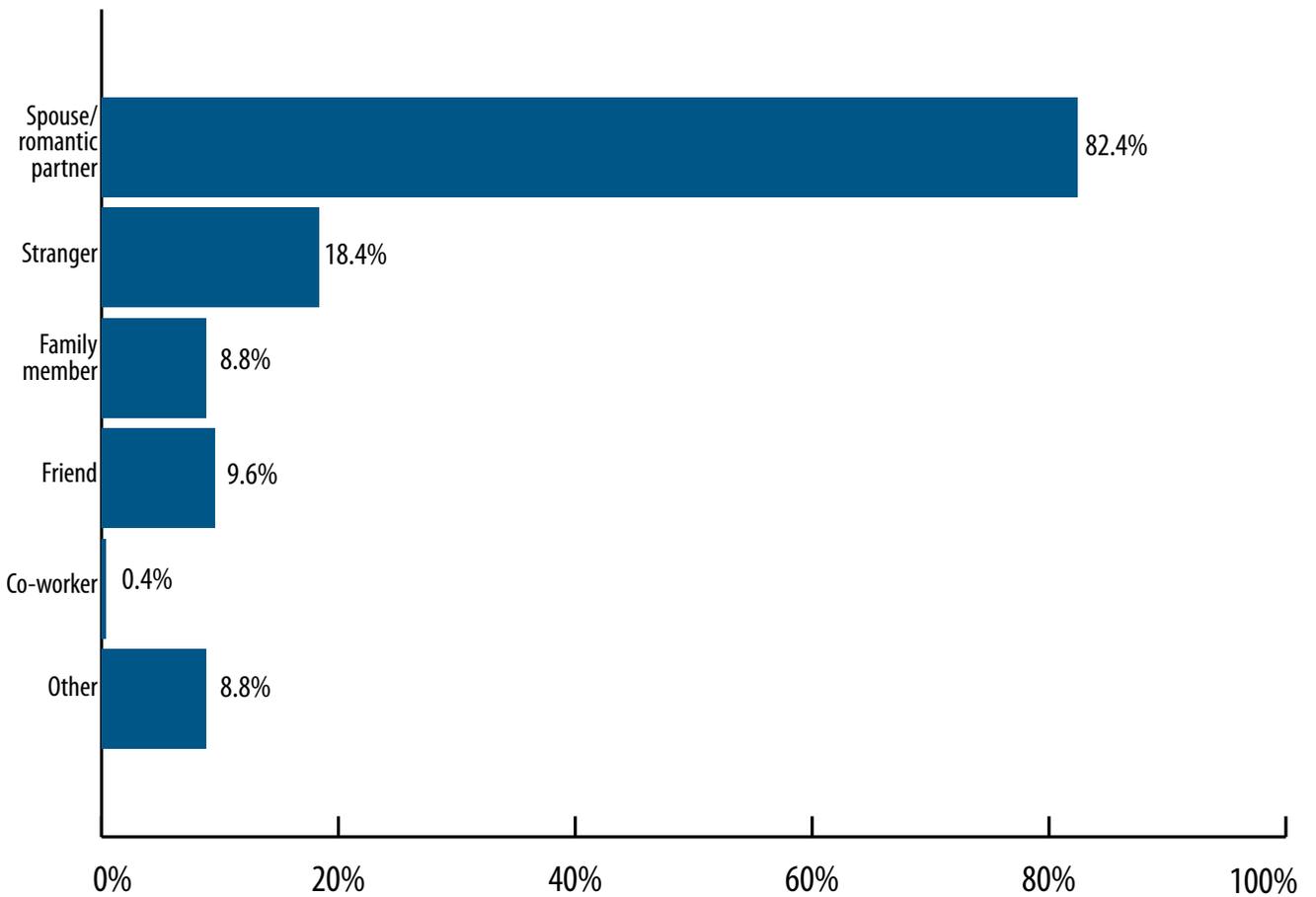
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“Every story [in prison] seems the same, just a different person. Drug convictions and prostitution, women with extensive trauma histories, women who don't value themselves or their bodies because of things that happened to them and messed with their self-esteem.”

– Angelica, in and out of prison for 17 years

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**If abused or assaulted as an adult, who abused or assaulted you? (Check all that apply)**



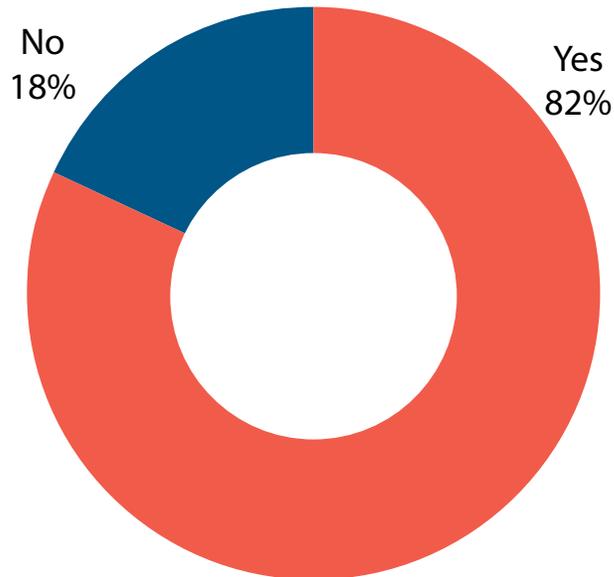
“If I could wave a magic wand and change the criminal justice system overnight, I would make it a system that more fully and meaningfully embraces the principles of restorative justice — meaning that the objective of putting people in jail or prison would be to immerse them in programs and services that empower them to stop harming themselves and others in society. If the focus of the correctional system is to punish, we are only traumatizing an already traumatized individual. This is exacerbating the issue, not correcting it.”

– Katie Ford, Executive Director of  
*Truth Be Told*

## Domestic Violence

**82% of women reported that they had experienced domestic violence or dating abuse** (either physical, emotional, or sexual harm by a husband, boyfriend, girlfriend, or romantic partner).

### Have you ever experienced domestic violence or dating abuse?



**48% of women reported that they, as a child, had witnessed their mother being abused by her romantic partner.** Of those women who had witnessed this abuse, 47% were 5 years old or younger the first time they witnessed it.

When asked if they believed the crime they were charged with or convicted of was related to any abuse or violence they had experienced, **48% of women responded that they did believe their crime or conviction was related to the abuse they had experienced.**

## Trafficking

When asked if they were ever forced to exchange sex for money, food, or basic needs before entering TDCJ, more than 25% of women responded that they had.

## Pretrial & Counsel

Only 24% of women reported being released on bail or bond before their trial, while the remaining 76% of women reported being held in jail until their trial. The vast majority (73%) of women reported being represented by a court-appointed attorney.

# Recommendations to Stem and Reverse the Flow of Women into the Texas Criminal Justice System

To reduce the number of women backfilling Texas prisons and jails as male populations decrease, policy-makers must support front-end investments in smart programs, especially for the large population of women struggling with substance abuse. An astonishing 92% of all voters and 88% of GOP primary voters agree that Texas' current system is not working for people with drug addiction who continually cycle in and out of jail, never recovering from addiction, and putting a strain on law enforcement.<sup>53</sup>

Further, a national survey of crime victims found that the majority of victims prefer more spending on prevention and rehabilitation over lengthy prison sentences.<sup>54</sup> **Crime survivors and voters on both sides of the political aisle agree that being smart on crime means addressing the root causes of a person's criminality, rather than simply warehousing them for lengthy periods of time and releasing them with virtually no supports.**

Programs and services that hold women accountable, while helping them heal and allowing them to remain in their communities and with their families, are critical to **long-term cost savings in reduced incarceration, as well as to increased public safety.** Such programs and services are important for women at risk of entering the justice system, women already on probation who want to live successfully in the community, and women on parole who seek to avoid re-incarceration.

## 1. Invest in Community-Level Supports that Account for Extensive Trauma Histories

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*"I wish they would look at me as a person and see why I'm doing what I'm doing and find a way to help me with alternatives to incarceration. I know I broke the law, but look at why and help me address the root causes of my criminality."*

*– Angelica, in and out of prison for 17 years*

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According to the Substance Abuse and Mental Health Services Administration, a program, organization, or system that is trauma-informed has specific components: (a) it realizes the widespread impact of trauma and understands the potential paths for recovery; (b) it recognizes the signs and symptoms of trauma in clients, families, staff, and others involved with the system; (c) it responds by fully integrating knowledge about trauma into policies, procedures, and practices; and (d) it seeks to actively resist re-traumatization.<sup>55</sup>

The Christi Center in Austin, Texas, is an example of a trauma-informed service; it offers "hope after the death of a loved one by providing support networks, community education, and therapeutic activities that are free, peer-based, and ongoing."<sup>56</sup> Another example of trauma-informed services are trauma recovery centers, developed at the University of California, San Francisco, and now extending across the country: "This breakthrough and evidence-based model is helping the hardest-to-reach survivors of violent crime heal and recover from the effects of trauma."<sup>57</sup>

Texas needs more programs like these to serve a broader range of women in need of trauma recovery and healing services. **By facilitating recovery within communities, women can remain with their families and support groups before challenges escalate to criminal justice system involvement.**

## 2. Utilize Pretrial Diversion to Hold Women Accountable While Preventing Them from Escalating Deeper into the Justice System

Diversion programs provide a safe, proven opportunity to address underlying trauma and behavioral issues through behavioral health, substance abuse, and other treatment programming, rather than through incarceration.

**A woman's diversion from incarceration is especially critical for her dependent children.** No matter how effective in-prison programming may be, no baby benefits from being born in a correctional facility, nor do children benefit from having an incarcerated mother. **Legislators should seek to minimize the number of pregnant women serving time in Texas prisons.** Alternatives to incarceration should especially be utilized to the greatest extent possible for pregnant women in the months leading up to and immediately after birth. According to the Institute on Women and Criminal Justice:

*Community-based residential parenting programs can prevent mother-child separation while allowing mothers to address the issues that contributed to their criminal justice involvement in a real-world setting. These programs allow mothers to practice positive responses to the challenges of parenting and the challenges of everyday life. **These programs also keep children out of foster care and provide children the stability of a consistent primary caregiver.***<sup>58</sup>

In 2015, Oregon began a **pilot diversion program aimed at prioritizing probation over incarceration for individuals with nonviolent offenses who have primary custody of a minor child**, in efforts to reduce the traumatic effects of parental incarceration on a child and other family members. The program, known as the Family Sentencing Alternative Program, provides wraparound treatment and services to address the underlying causes of the parent's criminality.<sup>59</sup> In 2017, Oregon extended the program to include pregnant women.<sup>60</sup> Supporters said this has allowed Oregon to avoid spending \$17 million to construct a new detention facility for women.<sup>61</sup> Although new, the program has seen

### Program Spotlight! Houston's Crisis Intervention Response Team (CIRT)

CIRT is Houston's co-responder program that partners a Houston Crisis Intervention Team Officer with a masters-level licensed professional clinician from the Harris Center for Mental Health and Intellectual or Developmental Disabilities.

The officer and clinician attend roll-call together and ride together in a patrol car. CIRT is Houston's highest-level response to individuals in serious mental health crisis and can help more people avoid incarceration and be served in more effective settings.

With 12 full-time CIRT units, Houston has potentially the largest co-responder program (with the officer and clinician riding together as partners) of any single police department in the nation.

This joint effort is one of the best examples of a collaborative effort between the Houston Police Department and other law enforcement/mental health organizations in Houston/Harris County.

For more information, visit [www.houstoncit.org/mental-health-division-2](http://www.houstoncit.org/mental-health-division-2)

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“I had a hard pregnancy. I had gestational diabetes, and the doctors just want you in and out. I couldn’t get my medical needs met like I could’ve if I had a regular doctor. When you go to medical appointments, you are shackled at your hands and your feet. My mental state was so messed up. Trying to find a place for my baby to go was so hard to do from in prison. You can only go to the doctor once a month. If something comes up you have to get on a waitlist. They don’t care. You’re a prisoner, a number, not a human, not a pregnant woman. What I was going through wasn’t important to them. The guards think you’re using your pregnancy as an excuse, there is no compassion. You don’t get milk, and my teeth started decaying. Sleeping is so much harder on those thin mats. Pregnancy is hard on your body, and they don’t take care of those needs.”

– Angelica, in and out of prison for 17 years

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impressively low recidivism among participants and, since it went into effect in January 2016, more than 75 individuals had participated in the program, accounting for 139 children who would otherwise have gone into the foster care system.<sup>62</sup>

**Another method for diverting women from the justice system involves pre-booking diversion programs**, like the LEAD (Law Enforcement Assisted Diversion) program based out of Seattle, Washington. LEAD allows officers to immediately redirect individuals with low-level drug or prostitution offenses into community-based services instead of jail and prosecution.<sup>63</sup>

Additionally, **restorative justice programs allow for healing alongside accountability**. These more individualized, nuanced criminal justice responses are centered around the root causes of a person’s criminality and can be incredibly transformative for the people who participate.<sup>64</sup>

Texas should reinvest dollars that would be spent on incarceration into programs and services that help women address their root causes of criminality, holding them accountable while preventing their further involvement in the justice system.

### **3. Provide Specialized Treatment Options for Women on Probation**

While prevention and diversion programs are preferable to justice system involvement, especially for low-level offenses, many women in Texas are placed on probation. **To best help women on probation live successfully and productively in the community, Texas should strengthen the ability of probation departments to provide specialized treatment options — especially for women diagnosed with drug addiction or mental health issues.** Additionally, women in community supervision programs should be provided a supportive environment created through site selection, staff selection, program development, and content that both reflects an understanding of the realities of women’s lives and addresses the issues of the women participants.

Women on probation should also have access to tools that help them address past trauma. According to the National GAINS Center for People with Co-Occurring Disorders in the Justice System, “Women with trauma histories are encouraged to develop skills needed to recover from traumatic experiences and build healthy lives. These may include cognitive, problem-solving, relaxation, stress coping, relapse prevention and short- or long-term safety planning skills.”<sup>65</sup> Legislators

should work with their probation leaders and local service providers to develop **programs similar to those for system-involved veterans, which are based on the notion that people suffering from post-traumatic stress should be processed through a system that is cognizant of and not counterproductive to their mental health and/or substance abuse needs.**<sup>66</sup> To a very real extent, battered and abused women who themselves commit crimes and become entangled in the justice system have special mental health needs (including post-traumatic stress); they seem particularly likely to benefit from stronger, evidence-based supervision methods.

**To ensure that the largest number of women possible can take advantage of appropriate, specialized programming, probation departments should administer a gender-specific assessment to identify women's particular needs.** Where necessary, women's programming should include education and job placement services, wrap-around services, and childcare. This is one of the least expensive options to support a growing population of system-involved women.

#### 4. Reform the Bail System to Stop Punishing Poverty

According to a 2016 study that examined the impact of cash bail on indigent and non-indigent defendants, "Texas' resource-based bail system keeps low-risk individuals unnecessarily detained before trial and allows risky defendants to buy their freedom with limited oversight. This practice undermines public safety, disproportionately harms low-income defendants, and costs counties millions of dollars every year. **By adopting bail reform in line with national standards, Texas can reduce its jail population while making communities safer.**"<sup>67</sup>

**Resource-based bail systems are particularly problematic for justice system-involved women, who frequently live in poverty.**<sup>68</sup> Without the use of a true risk assessment that measures non-monetary factors (e.g., risk of re-offending or failing to appear at trial), women can spend weeks or months behind bars before trial, simply because they cannot afford the high cost of their monetary bond.

As of December 2017, pretrial detainees — numbering nearly 41,000 — made up 64% of Texas' county jail population, with 5,637 people charged with a misdemeanor.<sup>69</sup> **At an average cost of \$58 per person per day,<sup>70</sup> this misdemeanant population costs taxpayers approximately \$327,000 per day — over \$119 million per year.**

Not only do cash-based bail systems pose constitutional concerns, potentially resulting in costly liability for Texas jurisdictions,<sup>71</sup> but high

### Program Spotlight!

## Healing from Trauma

Healing from Trauma is a 10-week program serving female probationers in West Bell County, Texas. The program, administered by Texas A&M—Central Texas, allows female probationers to earn community service credit for attending trauma-informed counseling sessions.

Bell County's probation department is also in the process of launching a program for women called C.A.R.E. (Community Awareness and Resource Empowerment for Women). The program will vary slightly according to each woman's needs assessment and will focus on parenting, anger management, relationships, and communication.

For more information, visit [www.bellcountytexas.com/departments/cscd\(adult\\_probation\)/index.php](http://www.bellcountytexas.com/departments/cscd(adult_probation)/index.php)

**"We must do a better job of diverting women into community programs that help them stay out of jails and prisons and connected with their children and families."**

*— The Honorable Beckie Palomo, Texas District Court Judge, member of the Texas Judicial Advisory Council, and member of the National Association of Women Judges*

rates of pretrial detention squander public resources that could be better used to address substance abuse, mental health, or other issues within the community.

**When mothers languish in jail on low-level and misdemeanor offenses, families and communities suffer.** The costs are devastating, as women often lose their jobs, housing, or even children. More alarming, “some women, like Sandra Bland, have lost their lives. And the cost to the children they nurture, the partners they love, and the communities they hold is incalculable.”<sup>72</sup>

Adopting risk assessment tools that more accurately measure a person’s risk to the community, as opposed to resource-based assessments that discriminate against low-income women, could alleviate the costly strain on county jails, along with an increased and safe use of personal bonds and a presumption of pretrial release for low-risk individuals.

## 5. More Effectively Address the Needs of Women with Drug Offenses

**Of all women incarcerated in TDCJ, nearly 30% (3,600 women) are incarcerated for a drug offense, and the average sentence length for women with a drug offense is 9 years<sup>73</sup> — which comes with the price tag of \$202,455 per woman.<sup>74</sup>** A quarter of women on probation (more than 16,000) were charged with a controlled substance offense,<sup>75</sup> while 42% of women on parole (nearly 4,000) are there for drug possession or delivery charges.<sup>76</sup> It is critical to ensure that women have the tools to safely manage addiction issues and live productive lives in the community.

Sadly, the rise in opioid use has contributed to women’s system involvement. Women are more likely than men to suffer from more than one chronic pain condition, and studies have shown that women experience more intense and frequent pain than their male counterparts.<sup>77</sup> Women are more likely than men to be treated with prescription pain medication, such as opioids, at higher doses and for longer periods than men.<sup>78</sup> As a result, women have become dependent on opioids at nearly twice the rate as men.<sup>79</sup>

Separately, many women have extensive trauma histories and may self-medicate through illegal drug use.

Furthermore, although designed to target members of illicit drug organizations, conspiracy and accomplice laws are some of the most egregious examples of the drug war’s harsh treatment of women<sup>80</sup>: “Activities such as living where drugs are sold, being present during a drug sale, or counting money are considered part of a drug trafficking conspiracy, and are therefore eligible for harsh mandatory minimums.”<sup>81</sup> But in reality, women’s choices are constrained as a result of familial and/or financial circumstances. According to a recent study, “Women will often remain in relationships with men involved with drugs because of the fear of assault, unequal power dynamic, relationship dependency, and a commitment to keeping the family together, even if it puts her at a heightened risk of prosecution and incarceration.”<sup>82</sup>

The Texas Legislature must acknowledge that traditional interventions to deal with illegal drug use are ineffective. **62% of people who are incarcerated for drug possession are rearrested within three years.**<sup>83</sup> And drug courts and probation — while better than incarceration — can be unrealistic options for many defendants because of homelessness, employment instability, poverty, mental health issues, and other challenges. As such, **funding from the state must be geared towards front-end interventions that are**

far more effective, such as the pre-booking LEAD (Law Enforcement Assisted Diversion) program mentioned above, or other pretrial interventions that link people with services following an arrest.

Lastly, because the vast majority of women who come into the contact with Texas' criminal justice system are mothers, it is especially important that Texas help these women address the underlying causes of their criminality through behavioral health, substance abuse, or other treatment programming, rather than through incarceration. The incarceration of a parent is destabilizing and traumatic. It is critical that women be able to remain in their communities where they can continue caring for their children while learning tools for personal responsibility.

## Conclusion

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“Many of these women have been victims of serious crimes themselves — they’ve been physically or sexually assaulted, or they’ve experienced domestic violence or stalking. Unfortunately, these victims often turn to illegal actions to cope, from drugs to self-medicate or petty theft to provide income — all actions that lead to our justice system.”

— Oklahoma Governor Mary Fallin

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According to U.S. Senator Kamala Harris, a champion of women’s justice: “The drastic increase in the women’s prison population has destroyed communities, torn families apart and done little to promote public safety.”<sup>84</sup> She is seeking reform to address the human beings at stake in policies that harm women.

Other reasons to address women’s incarceration issues include the significant fiscal costs to the state and to counties. Republican Governor of Oklahoma, Mary Fallin, has begun advocating for more reasonable sentencing for women with nonviolent offenses to provide relief to overcrowded prisons and lower costs for taxpayers.<sup>85</sup>

We know that “women often become involved with the justice system as a result of efforts to cope with life challenges such as poverty, unemployment, and significant physical or behavioral health struggles, including those related to past histories of trauma, mental illness, or substance use.”<sup>86</sup> Texas owes it to mothers, to their children, and to other women who become entangled in the justice system to implement policies and practices that address their unique challenges, hold them accountable while providing rehabilitative support, and put them on a safe, healthy, thriving path in the community.

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