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**INTERIM TESTIMONY 2014**

## **Joint Charge: House Committee on Corrections & House Committee on Criminal Jurisprudence**

*Examine the association between co-occurring serious mental illness and substance use disorders and parole revocation among inmates from the Texas Department of Criminal Justice. Review current policies and procedures for incarcerating individuals with a dual mental health diagnosis in both state and county correctional facilities and examine potential remedies within the State's criminal justice system to ensure that the public is protected and that individuals with a mental health diagnosis receive a continuum of mental health services.*

Dear Members of the Committee,

My name is Sarah Pahl. I am a Policy Attorney for Texas Criminal Justice Coalition (TCJC). Thank you for allowing me this opportunity to present testimony on effective strategies for addressing mental illness and substance abuse.

### **SMARTER STRATEGIES WILL REDUCE CRIME, SAVE MONEY, AND TREAT CO-OCCURRING DISORDERS**

Many people prosecuted for low-level drug crimes face correlative obstacles such as mental illness, homelessness, joblessness, and poverty.<sup>1</sup> In fact, **55-69% of individuals with substance abuse disorders have a co-occurring mental health disorder and 60% of those who have been diagnosed with a mental health disorder have a co-occurring substance abuse disorder.**<sup>2</sup> The unique challenges presented by co-occurring disorders cannot be overlooked—individuals with mental disorders are at greater risk of drug abuse and addiction than the general population,<sup>3</sup> and individuals with co-occurring disorders are more likely to be arrested, incarcerated, and spend more time incarcerated than substance abusers without mental disorders.<sup>4</sup>

Texas wastes millions of taxpayer dollars every year imprisoning individuals who pose no legitimate risk to public safety. Chemical dependency and mental illness cannot be “treated” through incarceration. Properly assessing addiction and mental illness, and matching individuals with appropriate evidence-based treatment and community supervision, is far more effective and less expensive than simply locking them up.

**Failure to address chemical dependency and mental health as public health issues will produce the same predictable results Texas has witnessed for decades: a cycle of individuals with addiction and mental illness filling prison beds and running up a huge bill, payable by Texas taxpayers.**

### **KEY FINDINGS**

- **About 90% of all drug arrests in Texas are for possession, not manufacture, of a controlled substance.**<sup>5</sup> Many of those arrested struggle with addiction and, increasingly, research indicates that addiction is a brain disease that can be treated with proper resources and services.<sup>6</sup>
- Whereas state incarceration costs over \$50 per person per day,<sup>7</sup> community supervision costs the state \$1.38 per person per day,<sup>8</sup> and it is better equipped to address the underlying causes of drug crime through local programs and services. An emphasis on drug and mental health treatment, alongside effective supervision in the community, will continue to help vulnerable individuals become productive and healthy members of society while preventing the gross inefficiencies and significant costs of incarceration.

## KEY FINDINGS (CONTINUED)

- The results of a recent study suggest that specific assessments regarding the severity of the co-occurring disorder, as well as related issues (e.g., primary drug of choice, gender, and recent behavior), may help inform treatment decisions that will increase the probability of a person's success while reducing the likelihood that he or she will re-offend, at least within one year of the initial conviction.<sup>9</sup>
- Harris County's Rules of Court indicate that each detainee should be screened by a psychiatrist or other mental health professional as part of the booking process at the Harris County jail. Screening includes a search of available state and county agencies providing in- and out-patient treatment to the public.<sup>10</sup>
- A 2013 report submitted by the Texas Department of Criminal Justice to the Governor showed that, since 2005, **providing treatment resources to individuals as a diversion from prison has decreased technical revocations, decreased the average caseload size, and increased early terminations** (as an incentive for compliance with community supervision conditions).<sup>11</sup>
- Although the number of individuals on parole in Texas has steadily increased since 2007, the revocation rate has decreased each year. In FY 2012, the Texas Department of Criminal Justice reported a 7.4% revocation rate. **Of the 6, 169 individuals whose parole was revoked, admitting them to prison, 35.6% were revoked for drug-related offenses—these individuals comprise the largest share of revoked parolees.**<sup>12</sup>

## COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTIONS

- **Fully implement a criminal justice system-wide risk assessment instrument.** A consistent and properly-utilized tool used on system-impacted individuals from pretrial through parole, with modifications at each stage in the system to account for relevant factors that determine an individual's risk to public safety, will provide agency and department practitioners with easier access to shared information that can inform next steps, including further treatment and programming decisions. **It is critical that practitioners are adequately trained, monitored, and audited to ensure that individuals are accurately assessed and resources are properly utilized.** The correct use of assessment during the reentry process is especially crucial in helping to determine the level of wrap-around services needed for people returning to the community following incarceration, to keep them on a safe, healthy, law-abiding path.
- **Establish safe, effective, cost-efficient alternatives to incarceration.** Texas should implement a policy that will permit judges to place certain individuals, who do not pose public safety concerns, with a first-time drug possession offense on probation and, based on the findings of a risk/needs assessment, in tailored treatment or other programming. Upon the successful completion of probation, treatment, and all other terms, an individual should be permitted to petition for a dismissal of the charges and an order of nondisclosure.
- **Specifically encourage pretrial diversion programs to reduce the burden on the criminal justice system.** Programs such as the Law Enforcement Assisted Diversion (LEAD) program help local criminal justice leadership reduce the intake of nonviolent individuals with addiction into confinement. The LEAD program is a pre-booking strategy that stresses both immediate access to services *and* participant accountability, with the target being low-level drug users for whom probably cause exists for an arrest. Specially trained law enforcement officers immediately divert the individuals into community-based treatment with access to support services (housing, vocational and educational assistance, etc.). Diverting individuals from jail to effective treatment programming and other supportive services **saves immediate costs** associated with typically high incarceration expenses, as well as trial and defense expenses. Additionally, valuable law enforcement and corrections resources can instead be **concentrated on higher-risk offenses** and legitimate threats to public safety.

## COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTIONS (CONTINUED)

- **Provide adequate training and support to staff throughout the criminal justice system.** Probation and parole practitioners, as well as corrections staff, should have access to training on substance abuse and mental health issues to better meet the needs of those they supervise. With proper training and support, staff in the criminal justice system can recommend appropriate community-based or in-house programming that will best address the root causes of criminal behavior and ultimately reduce an individual’s likelihood of recidivism.
- **Equip the community to respond to the needs of those with co-occurring disorders.**
  - » **Promote prevention and early intervention** by training teachers and others to identify early warning signs of mental health issues among children, providing diversion programs for children entangled in the juvenile justice system, and increasing funding for community-based mental health services for children.
  - » **Integrate the continuum of care** by providing mental health services, substance abuse treatment, and other medical services in the same setting through co-location of services.
  - » **Increase and support the workforce that serves individuals with co-occurring disorders** by adding psychiatric residency positions, funding loan forgiveness programs for behavioral health professionals, and promoting behavioral health fields from adolescence through university.
  - » **Improve the reentry process for individuals with co-occurring disorders** by establishing “step-down” care that provides transitional rehabilitative housing for those most at risk for recidivism.

*Citations on following page.*

## Citations

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- <sup>1</sup> Dale E. McNiel, Ph.D., Renée L. Binder, M.D., and Jo C. Robinson, M.A., "Incarceration Associated with Homelessness, Mental Disorder, and Co-occurring Substance Abuse," *Psychiatric Services* 56 (2005): 840-846, accessed April 16, 2014, doi: 10.1176/appi.ps.56.7.840.
- <sup>2</sup> Adi Jaffe et al., "Drug-Abusing Offenders with Comorbid Mental Disorders: Problem Severity, Treatment Participation, and Recidivism," *Journal of Substance Abuse Treatment* 43(2012): 244.
- <sup>3</sup> National Institute of Health (NIDA), "Drugs, Brains, and Behavior: The Science of Addiction," (April 2007): 8, accessed April 16, 2014, available at <http://www.drugabuse.gov/sites/default/files/sciofaddiction.pdf>.
- <sup>4</sup> Adi, "Drug-Abusing Offenders," 244.
- <sup>5</sup> Texas Department of Public Safety, "Crime in Texas: 2012," (2013): 75, accessed April 16, 2014, available at <http://www.dps.texas.gov/crimereports/12/citCh9.pdf>. Total number of drug abuse arrests of adults in 2012 was 130,549 and the total number of possession arrests of adults in 2012 was 116,634, making the percentage of adults arrested for possession 89.34% of all drug-related arrests.
- <sup>6</sup> NIDA, "Drugs, Brains, and Behavior," 25-28.
- <sup>7</sup> Legislative Budget Board (LBB), "Criminal Justice Uniform Cost Report: Fiscal Years 2010 to 2012," Submitted to the 83rd Legislature (Jan. 2013): 8, accessed April 17, 2014, available at [http://www.lbb.state.tx.us/Public\\_Safety\\_Criminal\\_Justice/Uniform\\_Cost/Criminal%20Justice%20Uniform%20Cost%20Report%20Fiscal%20Years%202010%20to%202012.pdf](http://www.lbb.state.tx.us/Public_Safety_Criminal_Justice/Uniform_Cost/Criminal%20Justice%20Uniform%20Cost%20Report%20Fiscal%20Years%202010%20to%202012.pdf). FY 2012 system-wide cost per day for state-operated facilities was \$50.04.
- <sup>8</sup> *Ibid.* at 14. The average cost per day was calculated using the average number of those with felony and misdemeanor convictions under direct supervision and does not include those under electronic monitoring, within specialized caseloads, or under intensive supervision probation.
- <sup>9</sup> Adi, "Drug-Abusing Offenders," 250.
- <sup>10</sup> Rules of Court, Harris County Criminal Courts of Law (Sept. 6, 2012), accessed April 17, 2014, available at <http://www.ccl.co.harris.tx.us/criminal/Rules%20of%20Court.pdf>.
- <sup>11</sup> Texas Department of Criminal Justice, "Report to the Governor and Legislative Budget Board on the Monitoring of Community Supervision Diversion Funds," (December 1, 2013): 21, accessed April 17, 2014, available at [http://www.tdcj.state.tx.us/documents/cjad/CJAD\\_Monitoring\\_of\\_DP\\_Reports\\_2013\\_Report\\_To\\_Governor.pdf](http://www.tdcj.state.tx.us/documents/cjad/CJAD_Monitoring_of_DP_Reports_2013_Report_To_Governor.pdf).
- <sup>12</sup> Legislative Budget Board (LBB), "Statewide Criminal Justice Recidivism and Revocation Rates," Submitted to the 83rd Legislature (Jan. 2013): 63-64, accessed April 18, 2014, available at [http://www.lbb.state.tx.us/Public\\_Safety\\_Criminal\\_Justice/RecRev\\_Rates/Statewide%20Criminal%20Justice%20Recidivism%20and%20Revocation%20Rates2012.pdf](http://www.lbb.state.tx.us/Public_Safety_Criminal_Justice/RecRev_Rates/Statewide%20Criminal%20Justice%20Recidivism%20and%20Revocation%20Rates2012.pdf).