



## A Message from the Executive Director

Dear TCJC Supporter,

Do you know what you helped us achieve?

Texas' 2015 Legislative Session came to a close, and TCJC is excited to report that **16 new smart-on-crime bills have become law.**

In these pages, we offer short analyses of the new bills, as well as areas for future reform. We have much work ahead and we can't wait to dig in!

**On behalf of the TCJC Team, I must thank the Representatives, Senators, legislative staffers, practitioners, advocates, and others** who continued to prove their commitment to smart justice policies that will positively impact our juvenile and criminal justice systems.

**I must also thank the TCJC staff** for their incredible work in furtherance of these new strategies. They worked tirelessly during the interim preceding legislative session to build support for various bills filed in 2015, and they continued to fight for important policies every single day of the 84th Session.

Please stay tuned for updates on TCJC's efforts during this legislative interim. And join us in the fight! Visit our site at [PublicPolicyCenter.TexasCJC.org](http://PublicPolicyCenter.TexasCJC.org) to learn more and make a tax-deductible donation to sustain our work!



With much gratitude,

Ana Yáñez-Correa, Ph.D.  
Executive Director

For more detailed analyses of Texas' 2015 juvenile and criminal justice policies, please visit our Public Policy Center at [PublicPolicyCenter.TexasCJC.org](http://PublicPolicyCenter.TexasCJC.org). You will find fact sheets, testimony, and other information about these policies.



### Table Of Contents

- Appreciation for the TCJC Team & Board . . . . . 2
- Successful 2015 Legislation: Policy Highlights . . . . . 3
- Launch of the Smart-On-Crime Coalition . . . . . 9
- TCJC Welcomed John Legend to the Capitol! . . . . . 10
- Work Ahead: Moving Forward on Critical Policy Issues . . . . . 11

## Appreciation For The TCJC Team & Board

*By Dr. Ana Yáñez-Correa*

*TCJC Executive Director*

I am incredibly proud to have had such a strong Policy Team and support staff during Texas' 2015 Legislative Session.

TCJC's Policy Team consisted of Jennifer Carreon, Elizabeth Henneke, Scott Henson, Carl Isett, John Kreager, Sarah Pahl, Chloe Sikes, and Douglas Smith; Jorge Renaud also engaged in tremendous work during the preceding legislative interim and in the first few weeks of session, before transitioning to a new role at the Center for Community Change. I am so thrilled at the efforts of this hardworking group, each of whom was critical in various policy victories that will positively impact Texas families and communities.

I am also delighted to have had the support of four interns from Senator Rodney Ellis' Texas Legislative Internship Program: Patrick Celestine, LaShondra Jones, Nondumiso Mbambo, and Lindsey Linder. Your assistance during the 84th Session was invaluable to our success, with bill analyses and tracking, testimony, web support, media outreach, and other important efforts. Senator Ellis, on behalf of my team, I must thank you for providing us this crucial support.



I must also extend my sincerest gratitude to Alexandra Chirico and Hensleigh Crowell, who further bolstered our 2015 legislative efforts through comprehensive policy research, testimony, and other policy support.

Lastly, I give gratitude for TCJC's Board of Directors, whose support of our staff and mission have helped sustain TCJC's work. My greatest thanks go to Gerardo Castillo, Eric Glenn, Will Harrell, Benjamin Jealous, Adan Muñoz, Jr., Jennifer Rogers, and Jason Wang.

## Successful 2015 Legislation: Policy Highlights

**TCJC WORKS TO ADVANCE SMART-ON-CRIME POLICIES IN YOUTH JUSTICE, DEFENSE AND INNOCENCE, SYSTEM** accountability, diversions from incarceration, conditions of confinement, and reentry. Our Policy Team took action on a wide range of policies in these areas in 2015.

We are thrilled about the passage of the bills below, as well as the commitment of all who played a part in making them a reality. These measures stand out as highlights of the 84th Legislative Session.

### YOUTH JUSTICE

#### □ **Truancy Decriminalization & Assistance for Families**

**HB 2398 (Authors: James White, Reynolds | Sponsor: Whitmire)**, *Relating to court jurisdiction and procedures relating to truancy; establishing judicial donation trust funds; providing criminal penalties; imposing a court cost.* The root causes of truancy often lie in family and community factors that are largely outside a student's control. Yet, since 1993, Texas has treated truancy as an adult Class C Misdemeanor that carries a fine of up to \$500. Ultimately, over 100,000 students have been sent to adult criminal courts each year. These overly punitive sanctions have been shown to be ineffective at addressing truancy and can actually further alienate youth from school. Also problematic, this system has disproportionately impacted low-income and minority families. HB 2398 decriminalizes truancy by repealing the Class C misdemeanor and instead creating a new civil truancy offense that will apply to youth. The bill also reduces the \$500 fine to a \$50 court cost, and requires schools to employ truancy intervention procedures that are designed to keep as many students as possible away from the court system. Furthermore, the bill provides that youth who have an existing Class C truancy conviction may have those records automatically expunged. Finally, the bill allows justice of the peace and municipal courts to establish judicial donation trust funds that judges can use to help families address challenges to students' attendance. – **Signed by the Governor; effective 9/1/15**

#### □ **Improved Training for School Law Enforcement**

**HB 2684 (Authors: Giddings, Walle | Sponsor: Whitmire)**, *Relating to the creation of a model training curriculum and to the required training for school district peace officers and school resource officers.* School district peace officers and school resource officers do not receive any specialized training on how to work effectively with students in an educational environment. This lack of specialized training likely contributes to the over-criminalization of children in schools, as officers—trained only in situations involving adults—are more likely to overreact to typical student misbehavior. HB 2684 requires the development of a training curriculum for school officers in areas such as youth development, special needs, conflict resolution, and de-escalation techniques. As amended, only school districts with an enrollment of at least 30,000 students will be required to have their officers complete this training. However, the curriculum developed through this legislation would be available to smaller school districts to use at their discretion. – **Signed by the Governor; effective immediately (6/20/15)**



□ **Regionalization of the Juvenile System, Validated Risk and Needs Assessments, Expansion of External Oversight & Improved Outcome Measurements**

**SB 1630 (Author: Whitmire | Sponsors: Sylvester Turner, Rose, Larson, Wu, Dutton),** *Relating to the commitment of juveniles in post-adjudication secure correctional facilities operated by the Texas Juvenile Justice Department and by local probation departments.* A 2015 report by the Council of State Governments Justice Center provides a compelling case that system-involved youth treated within their communities have better outcomes than youth sent to distant, state-run juvenile justice facilities. Based largely on this finding, SB 1630 moves the Texas Juvenile Justice Department to a regional model that will keep youth closer to home in lieu of commitment to state facilities; under the model, youth could be sent to state facilities only if community resources cannot meet their needs. To support this new approach, the bill ensures that local juvenile probation departments continue to effectively serve youth; as a youth is entering the system, the probation department will be required to use risk and needs assessments that have been statistically validated to be effective at establishing the factors that are contributing to a youth's delinquent behavior. To address the greater number of youth that will be held at the county level, SB 1630 also expands the jurisdiction of the Office of the Independent Ombudsman (OIO), an external advocate for the rights of youth in custody; the OIO now has jurisdiction over local post-adjudication facilities (including private/contract facilities), as well as any other facilities where youth adjudicated for "conduct indicating a need for supervision" or delinquent conduct are placed by court order (including Department of Family & Protective Services facilities). Furthermore, this bill prohibits the use of adult facilities to be repurposed as juvenile facilities, ensuring facilities are structurally age-appropriate and geared towards rehabilitation. Finally, SB 1630 requires the success of the juvenile justice system to be measured not only by the number of youth who reoffend but also by various factors indicative of youths' well-being, such as family and community engagement. – **Signed by the Governor; effective 9/1/15**

□ **Creation of Advisory Committee to Examine Juvenile Records**

**HB 431 (Authors: James White, Miles | Sponsor: Rodríguez),** *Relating to the creation of an advisory committee to examine and recommend revisions to any state laws pertaining to juvenile records.* Kids who make mistakes and commit low-level offenses may pay for them long after the fact, given the challenges that accompany a criminal record. HB 431 requires the creation of an advisory committee of experienced stakeholders to examine best practices surrounding the retention of juvenile records. Ideally, advisory committee members will recommend stronger confidentiality protections to reduce any unauthorized use or disclosure of records and the stigma that can result from their disclosure. – **Signed by the Governor; effective immediately (5/28/15)**

**DEFENSE, INNOCENCE & ACCOUNTABILITY**

□ **Creation of Commission to Examine Wrongful Convictions**

**HB 48 (Authors: McClendon, Leach, Herrero, Moody, Simpson | Sponsor: Ellis),** *Relating to the creation of a commission to review convictions after exoneration and to prevent wrongful convictions.* The justice system can do no greater injustice than convict an innocent person, an act that both deprives individuals of their liberty and damages the public's confidence in the system. Unfortunately, far too many Texans have been convicted wrongfully; in fact, Texas leads the nation with over 200 exonerations to date. HB 48 creates a commission to conduct detailed investigations of recent wrongful convictions, identify the systemic flaws that are contributing to those convictions, and produce a report of recommendations to improve the system to ensure that we learn from our mistakes so that the innocent are protected. – **Signed by the Governor; effective immediately (6/1/15)**

□ **Improved Ability to Challenge Convictions**

**HB 3724 (Author: Herrero | Sponsor: Whitmire),** *Relating to the consideration of certain scientific evidence constituting the basis for an application for a writ of habeas corpus.* Texas' 2013 Legislature created a process by which an individual could challenge his or her conviction by demonstrating that the scientific evidence upon which the conviction relied has



since come into doubt due to scientific advances. HB 3724 codifies a recent Criminal Court of Appeals decision about that process that held that individuals can also challenge their conviction when an expert witness who testified at the individual's trial later changes his or her opinion based on advances in science. – **Signed by the Governor; effective 9/1/15**

#### □ **Expansion of Body Cameras for Law Enforcement**

**SB 158 (Author: West | Sponsors: Fletcher, James White, Johnson, Koop, Reynolds)**, *Relating to a body worn camera program for certain law enforcement agencies in this state; creating a criminal offense; authorizing a fee.* Recent, high profile police shootings have demonstrated the tremendous difficulties of determining crucial facts relating to use of force by police against members of the public. In response, there has been a national call for the increased use of body worn cameras (BWCs) by police officers. SB 158 establishes a statewide grant program through which Texas law enforcement agencies may apply for funding in order to equip their frontline officers with BWCs. The bill conditions the funding on compliance with officer training and other requirements, and also mandates that law enforcement agencies that use body cameras develop guidelines for their use within certain statutory parameters. BWCs have proven to be a boon to both officers and the public alike, resulting in substantial decreases in citizen complaints against officers and use of force incidents. This legislation will help expand the use of this beneficial technology. – **Signed by the Governor; effective 9/1/15**

## DIVERSIONS FROM INCARCERATION

#### □ **Reduced Jail Time and Expense Prior to Parole Revocation Hearings**

**HB 710 (Authors: Sylvester Turner, Guillen, Deshotel, Miles, Peña | Sponsor: Rodríguez)**, *Relating to procedures for certain persons charged with a violation of a condition of release from the Texas Department of Criminal Justice on parole or to mandatory supervision.* Under current law, the Parole Division of the Texas Department of Criminal Justice may order an individual under mandatory supervision or parole who is charged with a new offense or with violating a condition of parole to be detained in county jail pending a revocation hearing. HB 710 allows certain individuals to be issued a summons, rather than serve jail time, while awaiting a revocation hearing for a Class C misdemeanor or a technical violation (other than absconding), provided the infraction occurred at least one year after they secured stable housing and employment. This will save counties significant funds that are needlessly spent to incarcerate people who are not a threat to public safety, while also preventing individuals from losing housing or employment while incarcerated. – **Signed by the Governor; effective 9/1/15**

#### □ **Updates to Long-Outdated Property Penalties, Penal Law Review & Codified Rule of Lenity**

**HB 1396 (Author: Workman | Sponsor: Burton)**, *Relating to certain criminal offenses, punishments, and procedures; the construction of certain statutes and rules that create or define criminal offenses and penalties; a review of certain penal laws of this state.* HB 1396 is intended to bring fairness into the criminal justice system. It includes provisions from other bills that were amended onto HB 1396, which are listed below. The bill, as introduced and in accordance with the 2008 Supreme Court majority opinion by Justice Scalia in *U.S. v. Santos*, codifies the Rule of Lenity to resolve questions of statutory ambiguity and ensure fair notice of a crime when an offense falls outside the Penal Code and Controlled Substances Act. – **Signed by the Governor; effective 9/1/15**

*HB 1396 amendment: **HB 2565 (Krause, Moody, Leach, Canales)**, Relating to the creation of a commission to review certain penal laws of this state.* This portion of HB 1396 creates a temporary volunteer commission to review offenses outside of the Penal Code and Controlled Substances Act to eliminate ambiguity and assure fair notice that certain actions constitute criminal violations.

*HB 1396 amendment: **SB 393 (Authors: Burton, Rodríguez | Sponsor: Peña)**, Relating to the punishment for certain offenses against property or against public administration.* The penalty for committing a property offense corresponds to the dollar amount lost or damaged (called a “monetary threshold”). This portion of HB 1396 updates Texas’ monetary thresholds, last set in 1993, to account for inflation and align with legislative intent. This addresses the problem caused by yearly inflationary increases in the monetary value of consumer goods that have consequently increased the number of people referred to district felony courts for property crimes that were previously considered to be misdemeanors.



## CONFINEMENT & REENTRY

### □ Streamlined Process for Awarding State Jail Programming Participation Credits

**HB 1546 (Author: Allen | Sponsor: Rodríguez)**, *Relating to the award of diligent participation credit to defendants confined in a state jail felony facility. Approximately 99% of people in Texas’ state jails are incarcerated for nonviolent offenses.* HB 1546 requires judges who sentence an individual to serve time in state jail to make a finding whether that individual is eligible to earn “early release” credit for participating in educational, vocational, treatment, or work programs. If the judge makes the affirmative finding, the individual will be automatically eligible to have up to 20 percent of the full sentence deducted for successful program participation. If the judge does not make the affirmative finding, the judge will receive a report of the individual’s program participation and make a decision at that time whether to grant early release. – **Signed by the Governor; effective 9/1/15**

### □ More Equitable Process for Determining Child Support Amounts While Incarcerated

**HB 943 (Author: Thompson, Senfronia | Sponsor: Rodríguez)**, *Relating to the applicability of a wage and salary presumption to an incarcerated person for purposes of determining child support obligations.* During judicial proceedings to establish child support amounts, parents are allowed to offer proof of income or financial hardship. When the parent is incarcerated and unable to appear during these hearings, judges often apply a presumption of earned income, even though incarcerated individuals may not be making *any* income; this presumption of income causes their child support debts to swell while they serve their sentence. HB 943 restores fairness to family court proceedings by removing the automatic presumption of earned income during incarceration. Doing so will keep child support arrears at a reasonable level, which will lessen a significant burden facing individuals released to the community, while also encouraging parents to reestablish relationships with children upon release. Additionally, this bill will reduce costs and increase efficiency within the Office of Attorney General, which must currently spend inordinate time on child support collections from people just leaving prison. – **Signed by the Governor; effective 9/1/15**

□ **Provision of Tailored Reentry Resources to Individuals Leaving Incarceration**

**SB 578 (Authors: Hinojosa, Rodríguez | Sponsor: Allen)**, *Relating to providing inmates of the Texas Department of Criminal Justice with information regarding reentry and reintegration resources.* Texas only has 139 caseworkers and 1,800 state-run halfway homes to serve the 75,000 people released from Texas prisons each year. SB 578 requires the Texas Department of Criminal Justice to provide comprehensive, county-specific reentry resources to individuals being released from prison. This will enable returning individuals to formulate a tailored reentry plan that will increase their chances of success in the community. – **Signed by the Governor; effective 9/1/15**

□ **Attempts to Address Face-to-Face Visitation in Most County Jails**

**HB 549 (Authors: Johnson, Romero, Jr., Stickland, Wu, Rose | Sponsor: Whitmire)**, *Relating to certain duties of the Commission on Jail Standards regarding visitation periods for county jail prisoners.* While most county jails provide an opportunity for incarcerated individuals to have at least two, 20-minute in-person visits per week, some jails have been moving towards video-only visitation, in which incarcerated individuals visit remotely with their loved ones or attorneys via a computer screen. HB 549 codifies the current jail standard, which requires county jails to provide the opportunity for at least two face-to-face visits per week, rather than video-only visits; however, the bill does not apply to those counties that have incurred significant costs toward construction of facilities that allow for video-only visitation. In all other counties, this bill protects in-person visitation, a strong contributor to family reunification and success after release, and it prevents sheriffs from constructing facilities that do not accommodate in-person visitation. – **Filed without the Governor's signature; effective 9/1/15**

□ **Legal Protection for Landlords Who Rent to Individuals with a Criminal Record**

**HB 1510 (Author: Thompson, Senfronia | Sponsor: Garcia)**, *Relating to liability of persons who lease dwellings to persons with criminal records.* Most landlords conduct criminal background checks of prospective renters, and most are

unlikely to lease a property to someone with negative items on that history. This is true even if the person can meet all other criteria, including stable employment. Landlords report that the risk of lawsuit is too great for them to take a chance on potential renters with questionable items on their criminal record. HB 1510 protects landlords from the risk of lawsuits when they lease a dwelling to a tenant with a record that includes conviction, arrest, or deferred adjudication. This bill ensures that individuals with criminal records have access to stable housing, which is a critical factor in living successful, law-abiding lives in the community. – **Filed without the Governor's signature; effective 1/1/16**

□ **Expansion of Food Stamps to Law-Abiding Individuals with Past Drug Convictions**

**SB 200 (Authors: Nelson, Birdwell, Campbell, Hinojosa, Schwertner | Sponsors: Price, Raymond, Dutton, Burkett, Larry Gonzales)**, *Relating to the continuation and functions of the Health and Human Services Commission and the provision of health and human services in this state.* SB 200 is the Sunset legislation for the Health and Human Services Commission, continuing the agency for 12 years and consolidating various agencies' functions. This bill also includes an important provision related to reentry that was amended onto the bill (*see below*). – **Signed by the Governor**

**SB 200 amendment: HB 1267 (Senfronia Thompson, Naishtat)**, *Relating to the eligibility of certain persons for the supplemental nutrition assistance program.* This amendment restores eligibility for the Supplemental Nutrition Assistance Program (SNAP), formerly called food stamps, to those who were barred from the program due to a drug felony conviction. Anyone who has eligibility restored under this bill will be locked out of the program for two years if he or she violates probation or parole terms, and the lifetime ban on SNAP will take hold if the person is convicted of a new offense. These provisions ensure that thousands of people trying to start new lives will have access to food assistance, as well the related employment and training programs, during or after criminal justice system involvement.

□ **Expansion of Eligibility for Orders of Nondisclosure to Certain Misdemeanants**

**SB 1902 (Author: Perry | Sponsors: Herrero, Senfronia Thompson, Murphy, Villalba, Leach),** *Relating to the eligibility of criminal defendants for an order of nondisclosure of criminal history record information; authorizing a fee.* An order of nondisclosure seals a criminal record from the public but makes it available to criminal justice agencies and other sensitive agencies and industries. Eligibility criteria to petition for an order of nondisclosure are very strict, and not many people even attempt to file a petition. SB 1902 extends the relief offered by orders of nondisclosure to those convicted of misdemeanors for the first time, and allows individuals who complete probation for a misdemeanor under deferred adjudication to receive an order of nondisclosure at the time the case is dismissed without paying the civil petition fee. This bill will ultimately expand individuals' access to employment and stable housing, as those with an order of nondisclosure can deny having a record when applying for a job or a place to live. – ***Signed by the Governor; effective 9/1/15***

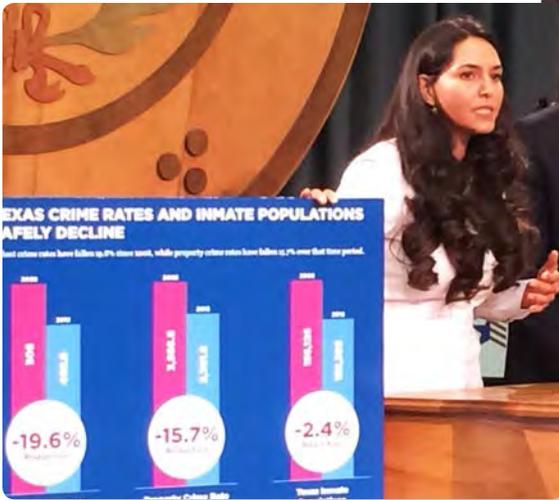


## Launch of the Smart-On-Crime Coalition

**IN SEPTEMBER 2014, TCJC PARTICIPATED IN THE LAUNCH OF THE NEW, BIPARTISAN “TEXAS SMART-ON-CRIME COALITION,”** together with the Texas Association of Business, the Center for Effective Justice at the Texas Public Policy Foundation, Goodwill Industries of Central Texas, and the ACLU of Texas.

We held a press conference at the Capitol Building, where we outlined our policy priorities in criminal and juvenile justice in advance of the 2015 state legislative session. Our collective goal is to make the system more just and, at the same time, improve public safety for all Texans.

More specifically, the Coalition supports reforms that will stop the over-criminalization of children, right-size the costly criminal justice system by ensuring the punishment better fits the crime, and improve reentry outcomes by enabling those convicted of nonviolent crimes to become productive members of society.



*TCJC is incredibly proud to serve as an Executive Committee member of the Texas Smart-On-Crime Coalition, and we thank each of our fellow Coalition partners for their outstanding work and collaboration during Texas' 2015 Legislative Session.*

For more information about the Smart-On-Crime Coalition, please visit our dedicated website at [SmartOnCrimeTexas.com](http://SmartOnCrimeTexas.com). The site includes the Coalition's legislative agenda and list of supporters, as well as a webform to complete to get involved in the Coalition.

At a Texas Association of Business (TAB) Board meeting in May 2015, TCJC Executive Director Ana Yáñez-Correa surprised Bill Hammond, TAB's Chief Executive Officer, with our 2015 Smart-on-Crime Champion Award.

*Thank you again, Mr. Hammond, for working so tirelessly to keep smart justice policies moving towards the Governor's desk in 2015!*

Watch Ana's surprise award presentation here: <http://tinyurl.com/HammondAward>.



## TCJC Welcomed John Legend To The Capitol

**DURING TEXAS' 2015 LEGISLATIVE SESSION, TCJC WAS THRILLED TO COLLABORATE WITH JOHN LEGEND** in support of our priority smart-on-crime policies.

After Mr. Legend launched his #FREEAMERICA campaign to end mass incarceration, he traveled to Texas as the first stop on a listening and learning tour.

Mr. Legend visited a local Austin jail facility and performed for inmates. He also spoke at a press conference at the Texas Capitol Building on the need for system reform, emphasizing three “prongs” based on TCJC’s legislative agenda:

- (1) End the over-criminalization of Texas youth, and reduce their exposure to confinement in both the adult and youth systems.
- (2) Right-size the Texas criminal justice system by changing overly punitive sentencing practices, incentivizing probation over incarceration, and strengthening treatment programs.
- (3) Improve transparency and accountability throughout Texas corrections systems, which will improve in-prison safety, the treatment of incarcerated individuals, and the likelihood of success upon reentry.



John Legend and Senator Rodney Ellis

*Mr. Legend, we are so grateful to you and your team for choosing Texas as the first state to visit in your fight against mass incarceration. Your support helped shed light on issues in need of real reform in Texas.*

**The Texas Criminal Justice Coalition is “one of the nation’s preeminent smart justice organizations” and “at the forefront of this fight for reform...”**

— John Legend



Ana Yáñez-Correa speaks at a press conference about smart-on-crime policies with John Legend.

## Work Ahead: Moving Forward On Critical Policy Issues

**WHILE WE SAW SEVERAL SMART-ON-CRIME POLICY SUCCESES IN 2015, VARIOUS BILLS FAILED TO PROGRESS** – so we must continue fighting for them and other complementary reforms during this legislative interim.

Below are key issue areas that TCJC will continue pursuing in support of policy change in 2017:

□ **Juvenile Age Of Jurisdiction: *Return Children Under the Age of 18 to the State’s Juvenile Justice System, and Limit the Use of Secure Confinement for Children Under the Age of 14***

In Texas, teens must be charged as adults for any criminal offense committed at age 17, exposing them to dangerous mental and physical conditions inside adult facilities, increasing their likelihood of recidivism, and removing parents from the court process.

During the 2015 Legislative Session, a broad coalition of allies came together to support a change in the age of juvenile jurisdiction, with supporters from the faith community, the Sheriffs’ Association of Texas, the business community, and others. In part, our support for “raise the age” can be tied to our concerns about Texas’ compliance with the Prison Rape Elimination Act (PREA), under which youth must be “sight and sound” separated from adult inmates; sheriffs especially are concerned with the high costs of implementing PREA in their local jails when they house 17-year-olds. Unfortunately, a legislative amendment that would have raised the age of jurisdiction was stripped from SB 1630 (*discussed on page 4 of this newsletter*) to ensure that bill’s passage; however, legislators have discussed interest in studying the issue during this interim.

TCJC will continue to push to extend the age of juvenile jurisdiction from 17 to 18 years. By keeping youth in the juvenile system, we can ensure that they have access to rehabilitative programming like education and substance abuse counseling that can help keep them on the right track.

Separately, TCJC will continue to support raising the age of confinement to secure juvenile facilities. Currently, children as young as 10 can be confined in both county and state secure juvenile facilities in Texas, a practice that runs counter to a child’s positive development and overall rehabilitation. Elementary and middle school youth should

be kept out of Texas facilities and served in the community, where they can have the support of their loved ones while receiving rehabilitative services.

□ **Status Offenses: *Reform Policies that Subject Children to Criminal Penalties for Engaging in Conduct that Would Not Be Deemed Criminal if Engaged in by Adults***

“Status offenses” criminalize certain conduct for youth that would be perfectly legal if engaged in by adults. For instance, youth are subject to criminal penalties for acts such as running away, being persistently absent from school, breaking curfew, and consuming or possessing alcohol or tobacco.

Status offense behaviors are often caused by factors outside of youth’s control, such as family dysfunction, problems in school, unmet mental health needs, or community problems. Research indicates that subjecting these youth to secure correctional settings—even for a brief periods of time—alongside youth being held for serious and violent behavior can be counterproductive and make it more difficult to address their underlying needs.

During the 2015 Legislative Session, allies such as the Texas Parent Teacher Association, the Texas Association of Goodwills, and impacted children and families responded to this research by calling for a ban on the detention or confinement of status offenders in a lockup for any period of time (*see HB 3852*). Legislators were extremely sympathetic to the issue, and opponents of the bill even acknowledged that Texas could do better than holding status offenders in secure custody. Instead, their opposition stemmed from the lack of adequate facilities and available resources to provide alternatives to confinement, such as emergency shelters or staff-secure facilities. While the legislation was scheduled for debate on the House floor, it was never heard as the Legislature simply ran out of time.

However, legislators have expressed continued interest in the issue and plan to study the possibility of expanding Texas' infrastructure of alternatives to confinement during this legislative interim in order to make this policy a reality. TCJC will continue to push for a full prohibition on the secure confinement of youth charged with a status offense, or charged with contempt of court for failing to adhere to conditions (e.g., tutoring, community service, etc.) related to a status offense.

□ **Juvenile Life With Parole: Reform Policies that Subject Children to Criminal Penalties for Engaging in Conduct that Would Not Be Deemed Criminal if Engaged in by Adults**

In 2009, Texas eliminated juvenile life without parole (JLWOP) as a sentencing option for individuals convicted of a capital felony committed under the age of 17. In 2013, following the U.S. Supreme Court's decision in *Miller v. Alabama*, Texas eliminated JLWOP for 17-year-olds convicted of a capital felony. Instead, these individuals are subject to life sentences with the possibility of parole after 40 years. This mandatory minimum, in addition to the lack of consideration of mitigating factors during sentencing (e.g., the defendant's maturity and background), prohibits Texas from giving a meaningful opportunity for review to those youth who demonstrate that they have been rehabilitated.

While efforts to change this practice stalled early during Texas' 2015 session (*see SB 1083*), TCJC will continue to support measures that give juries a range of sentencing options, require the incorporation of mitigating factors during sentencing, and make these changes retroactive to those currently serving JLWOP.

□ **Driver Protections: Protect the Rights of Texans at Traffic Stops**

Sandra Bland was a 28-year-old, African American woman who was pulled over by a state trooper in July 2015 for failing to signal a lane change; she was pulled from her car, arrested on the ground, and booked into jail in Waller County, Texas. She was put into a cell alone and found hanging there three days later on July 13, 2015.

In light of this tragedy, TCJC supports the following strategies to protect Texans at traffic stops:

■ **Prohibiting Arrests for Non-Jailable Offenses**

In 2001, the U.S. Supreme Court decided in *Atwater v. City of Lago Vista* that law enforcement can arrest someone for a crime whose only punishment is a fine (e.g., failure to wear a seatbelt). However, in its opinion, the Court conceded that, "It is in the interest of the police to limit petty-offense arrests, which carry costs that are simply too great to incur without good reason."

Arresting people for nonviolent, fine-only misdemeanor violations leads to negative consequences for communities. Incarcerating someone in county jail costs local Texas taxpayers an average of \$60 per person per day, and the adjudication process can take months. These individuals pose no threat to public safety, and their incarceration has the potential to threaten their stable employment and housing, hurting their ability to care for their families, and increasing the likelihood they will become a burden on their communities. Moreover, arresting people for minor offenses leads to damaged relationships between the police and members of the community.

During Texas' 2001 Legislative Session, the Legislature passed SB 730, a bill requiring mandatory issuance of a written notice to appear in court, except under certain circumstances. This bill, which would have prohibited arrests for fine-only, non-jailable offenses, was vetoed by then-Governor Perry, allowing police to continue handcuffing and arresting people for fine-only, non-jailable offenses.

TCJC will support legislative measures prohibiting arrests for nonviolent, non-jailable offenses, and, in the meantime, encourage law enforcement agencies to immediately exercise their discretion to implement this as policy. Local tax dollars currently spent on incarceration for these minor offenses would be better spent on drug treatment, probation, or other services that actually address the problems at the root of crime.

### ■ Requiring Written Consent Before Vehicle Searches

When police stop drivers and conduct warrantless searches based on unreasonable suspicion (instead of evidence), they impair relationships with the community. Because of a culture of aggressive policing practices, many people do not know that they have the right to refuse a “consent” search. Texas’ 2005 Legislature passed SB 1195 to require all jurisdictions to inform individuals of their right to refuse a consent search during a stop for an alleged violation of a traffic law, and to obtain written or oral consent *prior* to conducting such a consent search. The bill was vetoed by then-Governor Perry. In his veto statement, Governor Perry made it clear that counties and municipalities may implement this policy their own.

Given that many jurisdictions have not yet implemented their own consent search policies, TCJC will support measures requiring notice of the right to refuse a consent search, and requiring written or oral consent prior to searching a vehicle, unless there is probable cause or other legal basis to perform the search.

### □ **Right-Sizing The Adult System: *Promote Meaningful, Rehabilitation-Focused Strategies to Safety Reduce Incarceration***

Over the next two years, Texas will spend almost \$6.6 billion in General Revenue to operate our massive corrections system – while nearly half of incarcerated individuals are locked up for *nonviolent* offenses. Specifically, of the more than 150,000 people incarcerated in the Texas Department of Criminal Justice (TDCJ), approximately 44% committed nonviolent crimes, including drug and property offenses. Overly punitive sentences come with great human and fiscal costs while failing to address the root causes of criminalized behavior. Furthermore, probation and parole revocations are significant drivers into incarceration and similarly represent a failure to address behaviors that lead to incarceration.

TCJC will continue to support the following strategies to safely reduce incarceration:

### ■ Expanding Pre-Booking Diversion Programming to Ensure Effective Treatment

Pre-booking diversion programs address low-level violations through referrals to community services instead of arrests for crimes that do not threaten public safety. These programs require a shift away from the traditional concepts of policing and corrections that have dominated modern law enforcement practices. They are gaining in popularity because they have been shown to decrease crime rates while healing relationships between the police and the community.

The principles of pre-booking diversion can apply to a host of nonviolent offenses. For example, Harris County implemented its First Chance Intervention Program in late 2014, which diverts people with a first-time Class B misdemeanor marijuana possession offense from the system and into programming. In the first six months of the program’s implementation, nearly 800 people successfully completed program requirements. Along with the individuals spared the consequences of a criminal record, the county should save significant money associated with booking, incarcerating, and prosecuting these cases with no consequent harm to public safety. TCJC encourages other counties to work with law enforcement partners to implement similar policies.

TCJC will also continue to support pre-booking diversion for nonviolent individuals with mental illness and those with substance abuse issues. Early interactions with police that lead to service linkage instead of jail will reduce the likelihood of future arrest, leading to fewer victims and greater cost savings.

### ■ Incentivizing Cost-Effective Probation for Nonviolent State Jail Felony Offenses

Texas’ state jail system, created in 1993, was originally intended to divert individuals with nonviolent offenses from crowded prisons and provide them rehabilitative assistance. Often, people in state jails have committed property crimes, drug possession offenses, or crimes that can be linked to mental health or substance abuse factors. Despite the needs of this population, state jail facilities offer limited access to treatment and programming options, and typically do not utilize post-

release supervision. As a result, state jail releasees have the highest rates of re-arrest and re-incarceration among returning populations.

During the 2015 Legislative Session, TCJC strongly supported HB 333, which would have authorized a judge to reduce a person’s felony state jail offense to a Class A misdemeanor *after* he or she successfully completed all supervision and treatment requirements, provided the offense was not violent or sexually based.



Before modifying the record of conviction, the judge would have been required to provide written notice of the right to request a hearing to the district attorney and the defendant or his or her attorney; if a hearing was requested, the judge would have been required to make a determination that it is in the best interest of justice to modify the record of conviction. This bill would have more strongly incentivized the use of probation (which costs 29 times less per day than state jail while requiring rigorous supervision), for significant cost savings and longer-term recidivism reductions. While the bill was stuck in Calendars Committee, it was amended to HB 3579, which would have modified eligibility for expungement and nondisclosure in certain circumstances. Ultimately, that bill was vetoed by the Governor, who disagreed with the expungement provisions.

TCJC will continue to support measures that encourage people to accept a probation term over a term in state jail for certain offenses. It is critical that these individuals receive help for underlying problems so they do not continue to cycle in and out of confinement. Probation departments can either provide treatment-related services directly or require participation in such services within the community, getting to the root cause of criminal behavior.

■ [Allowing Judges to Create Tailored Treatment Programs, as Necessary, to Address Substance Abuse and Mental Health Issues](#)

Again, many conditions cannot be “treated” through incarceration, including chemical dependency and/or self-medication among individuals with mental illness or trauma. Diverting these people into treatment programming and other supportive services is not only a more effective approach to low-level drug use, it can save the immediate costs associated with typically high incarceration expenses, as well as trial and defense expenses. Additionally, valuable law enforcement and corrections resources can remain focused on higher-risk offenses and legitimate threats to public safety.

While efforts to encourage a public health response to drug offenses stalled early during Texas’ 2015 session (*see SB 82*), TCJC will continue to support reduced penalties for minor drug possession offenses and required diversion of individuals to community supervision and a treatment program, if needed.

■ [Creating Penalty Modifications for Certain Drug Possession Offenses](#)

As discussed, Texas spends billions of dollars every year incarcerating individuals for offenses that are punished more harshly than necessary, especially as it pertains to drugs.

In the 2013-2014 biennium, more than 16,000 individuals in Texas were sentenced to state jail for a drug conviction—of these, 88% were convicted of possessing less than a gram (which equates to less than a sugar packet) of a controlled substance, *without* the intent to deal or distribute.

During the 2015 Legislative Session, policy-makers advanced various bills that would have changed course on drug policy, including several penalty reduction bills (see *HB 253, HB 254, HB 325, HB 414, HB 507, HB 2165, and HB 3326*). While these bills ultimately failed, they advanced further than they had in any previous session.

TCJC will continue to support decriminalizing possession of .02 grams or less of a controlled substance. This change would relieve crowded felony court dockets and save Texas millions in state prison spending, a percentage of which could be reinvested in county programs to address substance abuse. For similar reasons, we will also continue to push for a reduction in the penalty for up to 1 gram of a controlled substance from a state jail felony to a Class A misdemeanor. Separately, TCJC will continue supporting a measure that would make marijuana possession a civil violation, as some other states have done, eliminating criminal penalties altogether for small amounts while still holding people accountable.

- [Limiting Penalties for Prostitution Offenses and Reducing Barriers to Rehabilitation](#)

Texas punishes repeat prostitution offenses with a felony conviction. Many of the individuals who resort to prostitution have been traumatized by sexual abuse and may have been victims of human trafficking; furthermore, many suffer from addiction, mental illness, and homelessness. An overly punitive approach to prostitution increases the costs for policing, prosecuting, and incarcerating those charged with prostitution; it also creates huge and lasting collateral consequences for individuals convicted of prostitution, driving them further into the shadows, and posing ongoing challenges for the communities where prostitution occurs.

During the 2015 Legislative Session, stakeholders worked closely to craft a bill that would have given individuals involved in prostitution additional chances to succeed in rehabilitation. Under HB 1363, services specific to human trafficking and commercial sexual exploitation would have been delivered as a part of prostitution diversion programs. The bill also would have prevented individuals being prostituted from being charged with a state jail felony until the seventh offense, rather than

the fourth offense as under current law. Unfortunately, this bill was vetoed by the Governor, who disagreed with penalty reductions for individuals with multiple prostitution convictions.

TCJC will continue to support a cap on prostitution penalties at the misdemeanor level, which will keep individuals from having felony records, reduce expenditures on felony prosecutions, and reduce state expenditures on state jails or prisons. More importantly, reducing the penalties for prostitution will limit the barriers that individuals face to entering an alternative workforce and finding sustainable housing.

- [Providing Property Owners Relief from Graffiti Through Cost-Effective Programming with Cleanup Services, and Reducing Graffiti Penalties to Lower Local Expenses](#)

Despite the belief that graffiti is typically associated with gangs, only a small portion of all graffiti is done by gang members. Most graffiti is caused by the common “tagger,” someone who marks easily accessible locations, sometimes repeatedly. Graffiti costs some Texas cities millions of dollars in cleanup costs each year. While the reaction to ongoing graffiti in the community may be to penalize graffiti artists more harshly, many Texas cities are seemingly seeing no decrease in graffiti from such an approach. What’s worse, punitive approaches to graffiti come with high price tags, draining city budgets and saddling graffiti artists with criminal convictions that pose lifelong obstacles, including limited employment and housing opportunities.

During the 2015 Legislative Session, TCJC strongly supported HB 883, which would have allowed graffiti artists to participate in a pretrial diversion program, where—with the consent of the district attorney—they would be required to complete community service, including graffiti removal where possible, and potentially engage in other community-based programming, including outreach education focused on graffiti prevention and eradication, mentoring in art programs, mural painting, or other available opportunities. Successful completion of the program would have resulted in dismissal of the charges. HB 883 also would have created a new, minor offense level (a Class C misdemeanor) for graffiti

that causes up to \$50 worth of damage; under current law, all graffiti up to \$500 worth of damage is a Class B misdemeanor, which brings with it potential public defense expenses, county jail time, and associated collateral consequences. Unfortunately, this bill was voted out of committee late and got stuck in the Calendars Committee.

TCJC will continue to support measures that allow diversion programming for graffitiists, require graffiti removal, and make the punishment fit the crime.

#### ■ Limiting Probation Revocations for Technical Violations That Do Not Threaten Public Safety

Texas pays a high price when individuals on probation have their terms revoked and are sent to prison for a *technical* violation of those terms, not conviction of a new crime. For instance, some counties initiate probation revocation hearings if a probationer missed a fee payment or a meeting. Other probationers may have tested positive during a drug screen – yet people with substance abuse problems are likely to struggle to remain sober in their first two years of sobriety, and relapse is likely during that period. Treating a relapse as a criminal violation rather than a normal part of the process of overcoming addiction is especially problematic and ends up costing the state millions without actually preventing future relapses.

- In 2014, there were 24,090 probation revocations in Texas, and more than 95% of these individuals were sentenced to prison or state jail.
- Technical violations of supervision conditions accounted for approximately 50% of adult felony probation revocations in Fiscal Year 2012. Assuming a similar proportion of technical violations year to year, nearly 12,500 people will be sent to prison each year for violations such as not paying probation fees or showing up late to an appointment.
- Revoking such a high number of probationers for technical violations costs Texas more than \$250 million per year.

TCJC will push for measures that ensure that only those who pose a threat to public safety have their

probation terms revoked. We will also support state budgetary allocations to probation departments so they have the resources to help individuals succeed on probation. It is critical to provide probationers with the tools that address the root causes of their criminal behavior, including treatment, education assistance, job training and placement, housing assistance, and other life skills training. Investments by the state to reduce technical violations will yield millions more in cost savings within the same biennium.

#### ■ Repealing Texas' Driver Responsibility Program to Reduce the Hardship on Low-Income Drivers and Families

The Texas Legislature created the Driver Responsibility Program (DRP) in 2003; under the program, the Texas Department of Public Safety levies annual, administrative surcharges on the drivers' licenses of people convicted of certain traffic offenses, in part to compensate Texas trauma hospitals. People who cannot afford to pay high DRP surcharges have their license suspended, impacting their ability to drive to work or school, or maintain insurance. Alarming, nearly 1.3 million drivers now have suspended licenses due to the DRP.

During the 2015 Legislative Session, TCJC recommended complete elimination of the DRP or, in the alternative, increased amnesty periods and eligibility for indigent status. We also helped organize a press conference with other advocates, the business community, practitioners, Texans impacted by the DRP, and legislators on both sides of the aisle, all of whom strongly encouraged a repeal of the program. However, without identifying alternative funding streams for trauma hospitals, the effort failed, although the Department of Public Safety committed to additional amnesty periods.

TCJC will continue to support a full repeal of the DRP to eliminate the substantial and disproportionate financial hardship on low-income drivers and families.

□ **Delay The Box: *Implement Policies that Would Facilitate Individual Consideration of a Potential Employee’s Application by Delaying Background Checks for People with Criminal Histories***

Men and women reentering the community from the criminal justice system face significant challenges finding steady, stable employment. Several jurisdictions and national employers, however, have adopted policies that remove questions about a person’s criminal history from initial job applications and delay background checks until later in the hiring process.

During the 2015 Legislative Session, TCJC strongly supported policies that would delay background questions for job applicants; the bill that progressed furthest, HB 548, would have limited the policy to state employment applicants and had bipartisan authorship. However, the bill was referred to the Senate in the final days of session, and it never had the opportunity to be debated in both houses.

TCJC will continue to support limits on the use of a pre-screening tool on *initial* employment applications that ask about criminal history, except when the law prohibits employers from hiring individuals with certain criminal offenses to specific positions. This will give work-ready individuals with a criminal history a chance to emphasize current qualifications rather than past mistakes when applying for a job, making it easier for them to find gainful employment, be economically successful, and remain crime-free. For employers, it will widen the available candidate pool.

*Note:* We do believe that agencies and private corporations should be permitted to request information about whether a job applicant has been convicted of a felony at a point later in the job consideration process, after an applicant has had an opportunity to be given individual consideration of his or her unique qualifications and background.

• **External Corrections Oversight: *Establish an Office of the Independent Ombudsman for the State Correctional System to Provide Oversight to the Grievance System and Ensure Compliance with the Prison Rape Elimination Act***

The Texas Department of Criminal Justice (TDCJ) has a variety of internal accountability mechanisms, but those mechanisms do not and cannot serve the same role or offer the same benefits as external oversight, which promotes transparency, accountability, and good government.

While efforts to expand independent oversight of Texas’ corrections system stalled early during Texas’ 2015 session (*see HB 3303*), TCJC will continue to support a new Office of the Independent Ombudsman for TDCJ. It could be modeled on the juvenile system’s Office of the Ombudsman, which was created in 2007, and it could help ensure that TDCJ is in compliance with the Prison Rape Elimination Act. Ombudsman staff could also examine grievances to provide insight on recurring problems within units and among regions.



## Partners & Support

TCJC partners with a broad group of stakeholders who support policies and practices that will improve key components of Texas' justice systems. Over time, these stakeholders have helped TCJC achieve our various successes.

We are honored to have received testimonials from individuals and organizations that partner with TCJC on an issue-by-issue basis.

*Please Note: The inclusion of testimonials below does not reflect any individual's or group's endorsement of all TCJC policy recommendations.*

*"A strong collaborator, TCJC works with key stakeholders and legislators to advocate for policies that will help save lives, assure greater public safety, strengthen our workforce and provide Texas taxpayers a higher return on their investment in the criminal justice system."*

***Bill Hammond, President/CEO, Texas Association of Business***

*"Virtually every significant measure to shape juvenile and adult criminal justice policies has been either initiated or supported by TCJC."*

***Alison Brock, Chief of Staff, Texas State Representative Sylvester Turner, House District 139***

*"TCJC has been instrumental in advancing sound public policies that reform offenders, empower victims, and strengthen families. Their relationships with policymakers and practitioners are invaluable to informing and implementing policies that will reduce over-incarceration and lower rates of re-offending."*

***Marc Levin, Director, Center for Effective Justice, Texas Public Policy Foundation***

*"I can't overstate how valuable TCJC has been to public defense and other criminal justice initiatives in Texas."*

***Jim Bethke, Executive Director, Texas Indigent Defense Commission***

*"The Texas Criminal Justice Coalition has moved Texas criminal justice reforms forward with their research and advocacy, making Texas a national model."*

***Lance Lowry, President AFSCME 3807, Texas Correctional Employees***

*"The Texas Criminal Justice Coalition has been a positive agent for change in Texas benefitting offenders, their families and even the Criminal Justice agencies in Texas."*

***Vickie Pinkston, Director, 286th Judicial District Community Supervision & Corrections Department (CSCD)***

*"TCJC has steadily been nudging the adult and juvenile deincarceration agenda forward in the second biggest state in the country, all while mapping out the next set of challenges that need to be scaled."*

***Jason Ziedenberg, Research and Policy Director, Justice Policy Institute***

### BE PART OF THE SOLUTION – DONATE TODAY!

TCJC's work to find and advocate in favor of juvenile and criminal justice solutions is made possible by the financial support of caring individuals like you.

Your tax-deductible donation will be well spent on our research, public education, outreach, and monitoring efforts that help us create stronger families, less taxpayer waste, and safer communities.

### GIVE TODAY!

Please visit our website at [PublicPolicyCenter.TexasCJC.org](http://PublicPolicyCenter.TexasCJC.org) and click on "Be a Sustainer" in the top right corner. You can make a secure online donation that will help sustain TCJC's work.

Or, you can send a check or money order to:



**Texas Criminal Justice Coalition**  
1714 Fortview Road, Suite 104  
Austin, Texas 78704