



PUNISHMENT AND REHABILITATION

A BRIEF HISTORY OF THE TEXAS PRISON SYSTEM

BY GARY COHEN

The Texas Department of Criminal Justice (TDCJ) is a conceptual and structural labyrinth. The first Texas prison, the Walls Unit, opened in 1849 with three inmates. Today, approximately 156,500 incarcerated offenders are housed in the 111 units that comprise the Correctional Institutions Division of the Texas Department of Criminal Justice. This figure approaches the total residential population of Hays County. The number of Texas inmates exceeds the prison populations of every other state in the country, including California, which has a population nearly twice the size of the Lone Star State.

The TDCJ provides for the confinement, supervision, rehabilitation, and reintegration of offenders. This agency oversees 111 prison units, which consist of state prisons, pre-release facilities, state jails, psychiatric facilities, mentally disabled offender programs, medical facilities, transfer facilities, a geriatric facility, and substance abuse punishment facilities.

The organization employs approximately 37,000 individuals, excluding the Windham School District and contract facility employees. It has an annual operating budget of approximately

\$3 billion that does not take into consideration an additional \$783 million that the state spends on prison-related costs, such as employee benefits, pension contributions, capital costs, healthcare, judgments, and legal claims that are outside of TDCJ budget items. The annual cost per year to the taxpayers is in excess of \$18,000 per inmate.

The department's history is one of opposing ideologies: punishment and rehabilitation. Like a pendulum, these ideological positions are constantly in flux. "Policy has been swinging back

and forth for the past 60 years and, unfortunately, it hasn't settled in the middle," says Professor William R. Kelly, Ph.D., the director of the Center for Criminology and Criminal Justice Research at the University of Texas at Austin. As with most intellectual differences of opinion, there's validity to both sides of the argument.

In the late 1950s, O.B. Ellis, then manager of the Texas Prison System, implemented a rehabilitation program that included vocational training and religious programs. Then, in 1961, George Beto took over, bringing with him very different ideas about how the TDCJ should be run. He began his tenure by cutting programming and staff, relying on armed inmates, referred to as "building tenders," to oversee other inmates. Beto sacrificed medical care and facility upkeep and called for harsher disciplinary procedures.

When the Civil Rights Movement began, there was a national trend toward prison reform. Though President Lyndon B. Johnson championed preventative criminal justice, Beto resisted federal intervention, calling for continued autonomy in the TDCJ. Then, "Nixon launched 'Tough on Crime' in his 1968 presidential campaign," notes Kelly. "Starting in about 1970, all across the country, states shifted gears in terms of focusing on punishment as a way to change offender behavior through things like deterrence and incapacitation."

At this point, the Texas prison system was overcrowded, with inmates sleeping three to a cell.¹ Inmates were refused access to lawyers and legal materials. Then a 57-year-old lawyer named Frances Jalet moved to Texas and received a letter, surreptitiously written and mailed, from an inmate named Fred Arispe Cruz. In it, Cruz detailed the daily abuses and abject living conditions.

Jalet embarked on what would become a landmark class-action suit: *Estelle v. Ruiz*, that was presided over by Federal District Judge William Wayne Justice. The lawsuit was organized around five issues: prisoners' physical safety, living and working conditions, medical care, punishments, and access to the courts. Judge Justice ruled in favor of the plaintiff, ordering sweeping change to the Texas prison system.

In order to comply with Judge Justice's ruling and to control costs, the state reduced the prison population by essentially leaving the prisons' "backdoor" open. The result was a sharp increase in recidivism and public demand that convicts serve a greater portion of their sentences. When the Reagan administration launched the war on drugs, the backdoors of Texas prisons were, for the most part, slammed shut. However, because there were more prisoners entering the system than there were coming out, the state's prison population grew exponentially. By the end of the 1980s, the state had embarked on a massive prison construction program.²

"Between 1992 and 1997, we built 100,000 prison cells," says Kelly. In the same vein as "build it and they will come," as Texas prisons filled up, the parole approval rates sharply declined, resulting in more offenders serving a greater portion of their sentences than before. As prison populations increased, so did the corresponding strain on the state's budgets.

The TDCJ now comes with a high price tag. State budget shortfalls have mandated cost reductions in all state agencies. The debate over how to control costs reflects the two distinct and conflicting philosophies about the purpose of incarceration. Some argue that resources have been mismanaged and that more emphasis should be placed on rehabilitation programming. In fact, in 2007, when state officials were faced with estimations that an additional 17,000 prison beds would be needed by 2012, instead of spending \$2 billion dollars on building additional prison units, legislators decided to invest \$241 million in rehabilitation and diversion programs. As a result, recidivism rates fell from 31.9 percent of offenders released in 2004 who returned to prison within three years to 24.3 percent of offenders released in 2007 after Texas lawmakers initiated the reforms.

Others argue that the prevailing approach should be to cut costs to keep offenders incarcerated for as long as possible. This approach, while politically attractive, has its limitations. Starting salaries for corrections officers are approximately \$27,000 per year — 48th among the states. Health care costs exceed contract provisions with the University of Texas Medical Branch and Texas Tech University, which have threatened to pull out of correctional managed health care services. Rehabilitation services (the very same programs that led to a drop in recidivism), as well as educational and vocational programs have been slashed, as have food budgets.

When competitive wages for correctional officers (who are leaving in numbers for employment in the oil fields) aren't offered, Texas prisons end up with an unacceptable offender-guard ratio, thereby jeopardizing the safety of both staff and offenders. When inmates do not receive adequate medical care, the costs to taxpayers escalate due to chronic and terminal illness and the increased costs of geriatric care of long-term inmates. When the state cuts rehabilitation programs, offenders end up back on the streets with untreated alcohol and substance abuse issues that increase recidivism rates. When offenders who lack basic educational and vocational skills are returned to society, they are often unable to obtain even basic employment and soon return to criminal behavior in order to survive.

Prison beds in the state have become an increasingly scarce resource. The criminal justice system should make more discern-

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ing decisions about who to lock up, for how long, and what is to be done with them upon incarceration. In this author's opinion, we should limit prisons for those who are clearly habitual offenders, individuals who are not capable of rehabilitation, and those who have committed reprehensible or violent crimes and are considered a danger to society. Many offenders should be considered for diversion programs where the goal is a combination or balance of supervision and treatment and rehabilitation.

This view appears to be gaining strength among criminal justice professionals. A recent article in the *Houston Chronicle* (Aug. 15, 2012), "State Cheers Rise in Paroles," boasts that parole approval rates have risen to 31 percent overall, six percentage points higher than 10 years ago.

State Sen. John Whitmire is quoted in the same article as saying, "We lock up the dangerous offenders for longer periods while trying to change the behavior of the low-level offenders."

State Rep. Jerry Madden, corrections committee chair, is also quoted, saying, "We've saved the taxpayer at least \$2 billion that way. The treatment programs only cost us \$180 million and we still have room for the really bad guys."

Andy Kahan, Houston's ardent crime victim advocate, sees the sense in tightly controlled parole supervision combined with rehabilitative programming. "While releasing [sex offend-

ers] makes us uneasy, we'd rather see them paroled so they could be monitored electronically and have intensive supervision rather than just kicked out the door." (*Houston Chronicle*, Aug. 15, 2012)

The results are beginning to manifest themselves in the positive change in recidivism rates. While more offenders are being released to parole supervision, fewer are committing new crimes. The number of new crimes dropped 3 percent compared to the previous year. (*Houston Chronicle*, Aug. 15, 2012)

As previously noted, the pendulum has swung widely in criminal justice circles between punishment and rehabilitation. Texas, deservedly known for its "tough on crime" approach, seems to be cautiously creeping toward a model that seems to be working from both a fiscal and rehabilitative aspect — good things for the taxpayers of Texas and for offenders.

NOTES

1. Martin J. Steve, *Texas Prisons: The Walls Came Tumbling Down* (Texas Monthly Press, 1987), p. 15.
2. http://www.laits.utexas.edu/txp_media/html/just/features/0505_01/ruiz.html.

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