



TEXAS TECH UNIVERSITY  
Masters of Public Administration<sup>T</sup>



THE TEXAS LYCEUM

# POLICY BRIEF

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## THE INDUSTRY OF INCARCERATION IN TEXAS

### LEVERAGING PARTNERSHIPS TO SUPPORT OFFENDER REENTRY

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## Policy Recommendations



Developing Partnerships to Capitalize Privatization



Developing Partnerships to Promote Employment



Developing Partnerships to Increase Access to Mental Healthcare

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## 1 Introduction

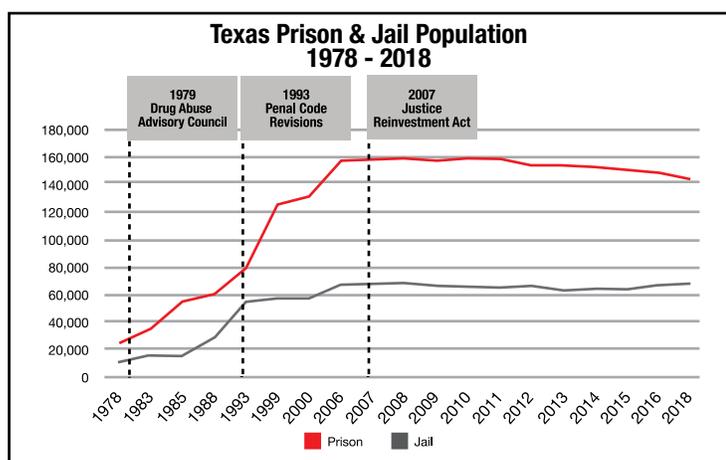
The Texas Prison System has undergone dramatic changes over the past 40 years, with significant shifts in incarceration rates and consequent changes in the infrastructure and complexity of prison operations. Rapid prison population growth in the late 1980s permanently expanded government partnerships with private corporations, nonprofits, and other public agencies, generating an industry of incarceration. As a result, administrators and legislators face challenges to ensure accountability, coordination, and efficiency among numerous organizations with conflicting goals. Private interests infiltrating the corrections sector sparks fierce debate among policymakers about the ethics of profiting from incarceration as well as challenges for offenders reentering society.

Rising prison costs associated with upward trends in service contracting expenditures, the economic repercussions of prison labor, and inefficiency of private prisons reflect critical aspects of the industry of incarceration to thoroughly analyze. This policy brief examines the fiscal and public policy implications of leveraging private partnerships within the Texas Prison System to improve service delivery and reduce recidivism. Finally, it provides recommendations for policymakers and advocates interested in the benefits and drawbacks of service provision through public-private partnerships.

## 2 Overview of Texas Prisons and Local Jails

From 1978 to 2010, the number of individuals incarcerated in Texas grew from 35,570 to 229,093, a staggering 541% increase.<sup>1</sup> With a tough-on-crime reputation, Texas was one of the first states to introduce three-strikes legislation in 1974 where an individual with a third felony conviction, violent or not, faced a minimum of 25 years to life in prison.<sup>2</sup> In 1979, Governor Bill Clements established the State Drug Abuse Advisory Council, which dramatically stiffened state's laws against drug crimes, reflecting one of the strictest drug possession sentencing requirements in the nation.<sup>3</sup> To reduce violent crime, Texas legislators in 1993 revised the Penal Code to support longer-term confinement and mandatory minimums for aggravated offenses, doubling the amount of time offenders must serve before becoming eligible for parole.<sup>4</sup>

In 2007, Research conducted by The Council of State Governments Justice Center projected the Texas prison population to increase 17,000 over five years, requiring \$2 billion for additional facility construction.<sup>5</sup>

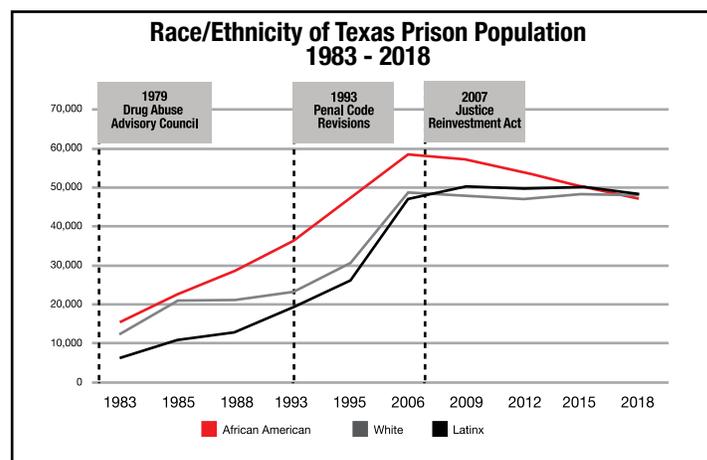


Their findings revealed high probation revocation rates, low parole grant rates, and a significant need for substance use and mental health treatment across the state. The Texas Justice Reinvestment Initiative increased funding for community-based treatment and diversion programs by \$241 million and saved \$443 million in prison capacity costs. Beginning in 2011, incarceration rates in Texas have steadily declined, where 2018 reflected the lowest rate in 30 years.<sup>6</sup> However, the state's incarceration budget approaches record highs at \$2.9 billion, representing 82% of the Texas Department of Criminal Justice (TDCJ) total expenditures.<sup>7</sup>

While the costs of correctional facilities reflect a predictable repercussion of incarceration, several unintended economic consequences with multifaceted and complex ramifications affect generations of Texas families and the broader community. Recent studies show severe effects on recidivism, employment, financial stability, housing, and ability adequately support to dependents for individuals incarcerated for as few as three days.<sup>8</sup> The total economic loss resulting from low wages, lack of upward mobility, reliance on government assistance, and minimal tax payments represents a financial figure exponentially multiplied for every dependent of the offender.<sup>9</sup> Additionally, the pervasive ramifications of racial disparities and inequities within the Texas Justice System highlight a significant and pressing concern impacting Texas residents and policymakers.<sup>10</sup>

## 3 The Industry of Incarceration in Texas

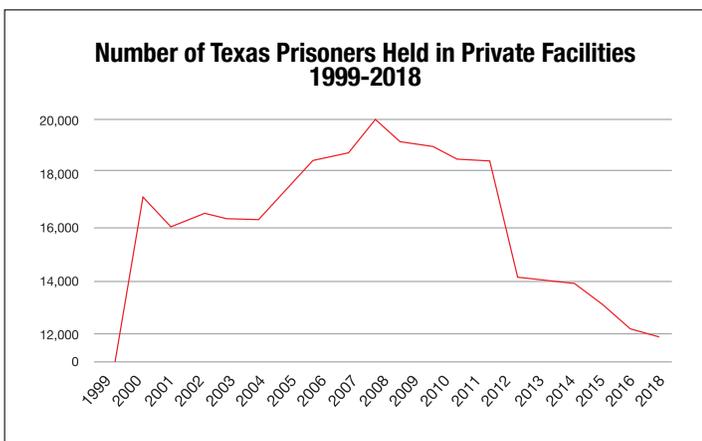
Texas legislators historically support privatization and contracting efforts to improve quality and cost-effectiveness through promoting competition, specialization, and flexibility available within the private sector. The cost of operating the Texas Prison System is becoming increasingly unsustainable. Expanding 300% in thirty years, the TDCJ incarceration budget for 2020 is approaching \$3 billion, not including the fiscal burden on local governments of housing nearly 70,000 county jail inmates.<sup>7,1</sup> Despite prison population decreases over the past decade, corrections spending has increased 17%, where contracted healthcare costs constituted 43% of the inflation.<sup>11</sup> Additionally, budget allocations for private prisons fail to reflect the significant decline of Texas prisoners held in privately-operated facilities. To encourage self-sufficiency and lower costs, the TDCJ controversially relies on unpaid, inmate labor for goods and services in addition to profiting nearly \$80 million from outside sales.<sup>12</sup>



## Private Prisons

In the 1990s, prison corporations gained momentum in response to the rapid growth of prison populations and the lack of inmate capacity. Proposed as an efficient and economical solution, private prisons held 12% of Texas prisoners in 2008 compared to 5% of all U.S. inmates.<sup>13</sup> Declining inmate populations over the past decade caused the state to send fewer individuals to private facilities. The number of offenders in private prisons decreased by 60%, but budget allocations to prison corporations only reduced by 13%.<sup>13,7</sup> Private interests embedded in the Texas corrections generate economic and ethical challenges as prison companies paid lobbyists nearly \$500,000 and Texas politicians over \$225,000 in 2017 to secure contracts amidst a shrinking market.<sup>14</sup>

Despite claims of significant cost-savings, recent studies fail to prove increased efficiency among private facilities where government contracts rarely include performance-based measures such as recidivism, vocational training, and educational opportunities.<sup>15,16</sup> Several states recently enacted legislative initiatives to ban or greatly diminish contracts for private prison operations due to the potentially perverse intentions of for-profit models cutting corners, impacting living standards and safety, and the lack of federal requirements for transparency of corporation records.<sup>17</sup>



## Texas Correctional Industries

Texas Correctional Industries (TCI) originated in 1963 following the Prison Made Goods Act, allowing Texas prisoners to manufacture goods and provide services for public organizations. The statutory objectives of TCI are to “provide work program participants with marketable job skills, help reduce recidivism, and reduce department cost by providing products and services to the TDCJ and other eligible entities.”<sup>18</sup> Operating 33 facilities, TCI produces a wide selection of items, ranging from textiles and shoes to janitorial supplies and license plates while



also supplying services such as furniture refinishing and school bus refurbishing. Processing over 12,000 outside customer orders in 2018, TCI sales generated \$76.7 million in profit in addition to the significant cost savings of utilizing prisoners to produce a growing number of products and services for prison operations.<sup>12</sup>

The national dialogue surrounding prison labor questions the ethics of TCI, where Texas is one of only five states refusing to compensate offenders for their work. The 13th Amendment abolished involuntary servitude in 1865, but the law included an exception for individuals convicted of crimes subject to forced, unpaid labor, allowing for convict leasing that targeted African American men. Despite legislation passed in 1910 to end the leasing of people to businesses for a profit, Texas continues to require prisoners to work without pay. With African Americans representing 33% of the Texas prison population but only 12% of the state’s population, the prominent racial disparities within prison populations reveal institutionalized inequities and discriminatory practices embedded within the criminal justice system.<sup>12,19</sup>

Recently proposed legislation advocated for paying inmates \$1 a day for their work, close to the national average, as an investment in reducing recidivism to provide inmates with a financial foundation upon release. Where TCI would continue to turn an annual profit of \$45 million, the bill failed to gain traction as legislators emphasized the prominent ramifications of the state losing \$31 million of revenue.<sup>20</sup>

TCI Jobs	Number of Jobs in Texas	Employment per 100,000 Jobs	Hourly Wage (Outside Prison)	Hourly Wage (In Prison)
Furniture Refinishing	1,160	0.01%	\$14.69	\$0
Shoe & Leather Works	1,390	0.01%	\$13.94	\$0
Textile Manufacturing	1,900	0.02%	\$13.08	\$0
Farm Workers & Laborers	4,500	0.04%	\$11.61	\$0

## Service Contracting

In addition to TCI, the Texas Prison System relies on numerous private vendors to supply the goods and services necessary for prison operations, including utilities, maintenance, transportation, surveillance, healthcare, and commissary. During 2018, the TDCJ Contracts and Procurement Department processed 46,400 purchase orders and facilitated 520 contract procurement actions, with 335 active contracts exceeding \$100,000.<sup>12,21</sup>

## HEALTHCARE

Texas Tech University Health Sciences Center (TTUHSC) and the University of Texas Medical Branch (UTMB) provide healthcare services for over 145,000 inmates in nearly 100 Texas prisons and state jails by subcontracting with additional private vendors across the state.<sup>12</sup> Representing nearly 25% of Texas's incarceration spending, correctional healthcare is estimated to exceed \$683 million in 2020.<sup>7</sup> Despite prison populations steadily declining, healthcare expenses have increased 41% since 2012.<sup>11</sup> One of the factors influencing medical expenditures is the dramatic rise of the aging population in Texas prisons, where the percentage of inmates over 50 has more than quadrupled since 1975.<sup>22,23</sup>

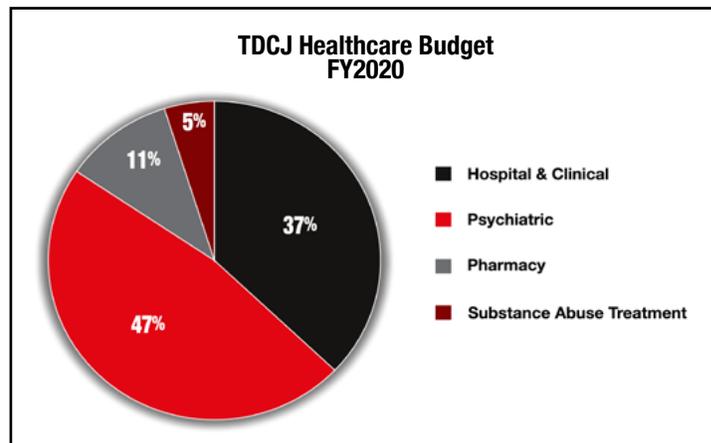
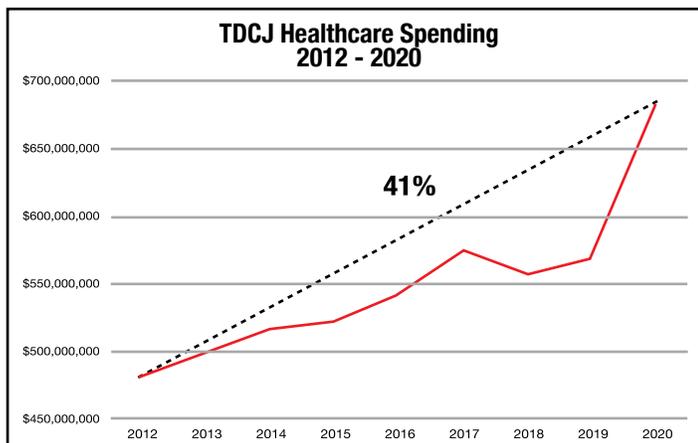
With 47% of correctional healthcare spending allocated to psychiatric services, the most significant contributor to budget growth is the prevalence of mental illness among inmates.<sup>7</sup> Over half of all adults incarcerated in the U.S. are diagnosed with at least one mental health condition, and 24% of inmates have a serious mental illness, establishing the prison system as the nation's number one mental health

provider.<sup>24</sup> In 2015, about 30% of Texas's local jail population reported a serious mental illness diagnosis. The TDCJ – Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI) served 42,325 offenders in 2018, constituting 29% percent of the total prison population.<sup>25</sup>

## COMMISSARY & TELECOMMUNICATION SUPPLIERS

Even though Texas has not fully privatized commissary operations, vendors generate significant profit, where Keefe, a large commissary company, made nearly \$19 million, and Citibank generated \$6 million in revenue from transaction fees and other digital services in 2017.<sup>26</sup> In 2018, a new Offender Telephone System contract with CenturyLink reduced the cost of a 15-minute phone call from \$3.90 to 90 cents after engaging in a competitive bidding process.<sup>27</sup> With an average of 1.5 million calls per month, CenturyLink receives 60% of the charge for each inmate phone call, with the remaining 40% allocated to the Texas Crime Victims Fund. Reducing costs provides inmates with invaluable opportunities to maintain connections with family and friends and support successful reentry into their community.

Despite significant reductions in prison phone prices, a 15-minute phone call from a Texas jail costs \$17.25, the sixth-highest rate in the nation.<sup>27</sup> With over 71% of Texans in jail awaiting sentencing, driving up costs for the legally innocent attempting to communicate with legal counsel and their families causes detrimental ramifications for posting bail, building their defense, sustaining employment, and maintaining custody of their children.<sup>29</sup>

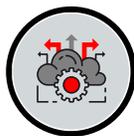


# 4 Policy Recommendations

Approaching the 87th legislative session, significant economic uncertainty prompted Governor Abbott to issue an immediate five percent budget reduction across all state agencies for the current biennium, with exceptions for critical government functions. Excluding correctional security and healthcare spending, the TDCJ successfully cut expenditures by \$129 million through prioritizing prison closures. Permanently reducing prison populations requires ensuring low recidivism rates, where 46% of individuals released from Texas prisons

and 63% released from state jails are rearrested.<sup>30</sup> Previously investing in robust reentry programs and support through criminal supervision, legislators now face unique budgetary restraints, limiting opportunities for program expansion to promote a successful transition following incarceration. The following policy recommendations involve leveraging partnerships within the industry of incarceration to enact cost-effective solutions for the successful reintegration of formerly incarcerated men and women into society.

## Developing Partnerships to Capitalize Privatization



Texas legislators frequently promote privatization and contracting to capitalize on the innovation, quality, and flexibility within the private sector. The recent reduction of prison phone call prices highlighted a primary benefit of privatization, where a competitive bidding process among several companies resulted in a significant opportunity to lower costs and improve services. While critics of privatization emphasize companies' previous failures to follow through with maintaining quality for the negotiated price, capitalizing on privatization through strategic contract negotiations ensures accountability and mutually beneficial partnerships.

### Expand Technology Access Through Contract Negotiations

Texas lawmakers should require prison administrators to negotiate the inclusion of high speed broadband services in all contracts with telecommunication companies and privately-operated prisons. Increasing technology access expands several online programs and services without requiring additional funding.<sup>31</sup> TTUHSC and UTMB recently partnered with GlobalMed to provide telehealth consultations without unnecessary and expensive transport of offenders and providers, saving an estimated \$3 million through 9,138 inmate telemedicine encounters.<sup>32</sup> Currently deployed in 30 facilities, TDCJ should expand this program to the remaining 70 facilities, especially in rural prisons lacking the technology required to facilitate video conferencing. This proposal will reduce inmate transfers, improve public safety, increase efficient utilization of prison medical staff, and provide inmates with a high standard of medical care.<sup>33</sup>

## Developing Partnerships to Promote Employment



Employment is one of the most critical and influential factors in reducing recidivism, where stable income directly impacts housing, access to healthcare, and the ability to support dependents.<sup>34</sup> As a stipulation of criminal supervision, failure to maintain employment may result in re-incarceration, preventing inmates from becoming employees, taxpayers, and consumers. In addition to economic challenges faced by individuals and their families, employment rate disparities of ex-offenders alone constituted an \$87 billion loss nationwide, with Texas's high incarceration intensifying the financial impact.<sup>35</sup>

### Expand Prison Industry Enhancement (PIE) Certification Program

Where 5,000 inmates participate in TCI without pay, only 80 inmates are selected for the Prison Industry Enhancement (PIE) Certification Program, allowing private companies to employ offenders for \$8.87 to \$9.89 an hour.<sup>36</sup> With only two private partnerships, state lawmakers should explore policies allowing the expansion of the PIE Certification Program to include additional businesses across Texas. Targeting employers that develop trade skills and provide vocational certifications for inmates advances their economic capacity and improves their likelihood of securing a livable wage after release. Developing additional partnerships with the private sector reflects an effective strategy for reducing recidivism, promoting economic vitality, and advancing Texas's workforce.

## Developing Partnerships to Increase Access to Mental Healthcare



Texas has the second-largest number of Mental Health Professional Shortage Areas (HSPSAs) in the nation, where 73% of Texas counties do not have a psychiatrist.<sup>37</sup> The limited access to mental healthcare in Texas presents multifaceted challenges for the criminal justice system as well as the millions of Texans residing in rural counties. Inmates are currently subject to long wait times for mental health evaluations after intake, delaying their placement on a psychiatric facility waiting list. After receiving treatment while incarcerated, offenders upon release are subject to additional delays in meeting with a psychiatrist at their Local Mental Health Authority (LMHA) to obtain a prescription refill, significantly impacting an individual's ability to function without severe behavioral and physical problems. Increasing immediacy of mental health treatment after intake and following release addresses the state's growing pretrial population and promotes permanent reentry.

### Increase Treatment Capacity Through Community Collaboration Model

The Mental Health Grant Program for Justice-Involved Individuals was introduced in 2017, which funds matching grants for county-based community collaboratives to reduce recidivism among individuals with mental illness and wait times for treatment to state hospitals. With increased arrests for possession of controlled substances and the high recidivism rate of drug offenses, Texas legislators should consider expanding this model across Texas to build capacity among local stakeholders, identify gaps in services, create strategic plans for expedited service delivery, and set jail reduction targets.<sup>30</sup>

### Partner with Universities to Expand Telehealth Care and Mental Health Workforce

Developing partnerships with Universities presents a cost-effective approach to coordinate additional mental health services for inmates, improve continuity of care after release, and promote the Texas Higher Education Coordinating Board (THECB) Loan Repayment Program to grow the state's mental health workforce. Universities are able to provide students in mental health programs with educational opportunities to complete licensure requirements by conducting telehealth sessions with inmates and continuing treatment three months after their release. Addressing the mental health workforce shortage increases access to mental healthcare across the state and ensures ex-offenders have immediate treatment options while navigating the difficult transition into society.

# 5 Conclusion

Focusing on collaboration and coordination among the numerous public and private organizations involved in the Texas Justice System to increase access to mental healthcare and stable employment continues the downward trend of prison populations, lessens the economic burden of incarceration, and provides critical support to populations that are most vulnerable to rearrest.

## REFERENCES

1. The U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. *National Corrections Reporting Program*, (1978 – 2018).
2. Tex. Penal Code § 12.42 (1974)
3. Tex. Exec. Order No. WPC-10, (Aug. 10, 1979)
4. Tex. Penal Code § 12.42 (1993)
5. Council of State Governments Justice Center (2007) *Mid Legislative Session Report: Funding Diversion and Correctional Treatment Initiatives in Texas*, New York, New York. Retrieved from: [https://csgjusticecenter.org/wp-content/uploads/2020/02/TX-mid-term-report\\_9-final.pdf](https://csgjusticecenter.org/wp-content/uploads/2020/02/TX-mid-term-report_9-final.pdf)
6. The U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. *National Corrections Reporting Program*, (2011-2018).
7. Texas Department of Criminal Justice (2020). *Agency Operating Budget 2020*. Huntsville, TX. [https://www.tdcj.texas.gov/documents/bfd/FY2020\\_Operating\\_Budget.pdf](https://www.tdcj.texas.gov/documents/bfd/FY2020_Operating_Budget.pdf)
8. Holsinger, A. (2016) *Analyzing Bond Supervision Survey Data: The Effects of Pretrial Detention on Self-Reported Outcomes*. Crime and Justice Institute.
9. Light, R., & Campbell, B. (2007). *Prisoners' families: still forgotten victims?* Journal of social welfare and family law, 28(3-4), 297-308.
10. DeFina, R., & Hannon, L. (2013). The impact of mass incarceration on poverty. *Crime & Delinquency*, 59(4), 562-586.
11. Texas Department of Criminal Justice (2011-2012). *Agency Operating Budget (2011-2020)*. Huntsville, TX. <https://www.tdcj.texas.gov/publications/index.html#Business>
12. Texas Department of Criminal Justice (2018). *Annual Review 2018*. Huntsville, TX. [https://www.tdcj.texas.gov/documents/Annual\\_Review\\_2018.pdf](https://www.tdcj.texas.gov/documents/Annual_Review_2018.pdf)
13. The U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. *National Prisoner Statistics Program*, (1999-2018)
14. U.S. House of Representatives, Office of the Clerk, Lobbying Disclosure. Retrieved from <https://lobbyingdisclosure.house.gov>
15. The U.S. Department of Justice, Office of Inspector General (August 2016) *Review of the Federal Bureau of Prisons' Monitoring of Contract Prisons*. Washington, DC. Retrieved from <https://oig.justice.gov/reports/2016/e1606.pdf>
16. Volokh, A. (2013). Prison accountability and performance measures. *Emory LJ*, 63, 339.
17. Kim, C. (2019, December 01). Private prisons face an uncertain future as states turn their backs on the industry. Retrieved from <https://www.vox.com/policy-and-politics/2019/12/1/20989336/private-prisons-states-bans-california-nevada-colorado>
18. Texas Correctional Industries. (n.d.). About Us. Retrieved, from <https://tci.tdcj.texas.gov/info/about/default.aspx>
19. U.S. Census Bureau (2018). QuickFacts Texas. Retrieved from <https://www.census.gov/quickfacts/TX>.
20. Relating to minimum compensation for inmates participating in certain work programs. *Introduced to Corrections H.B. 3720*, 87th Legislative Session. (2019).
21. TDCJ Business and Finance Division. (2020). Retrieved from [https://www.tdcj.texas.gov/divisions/bfd/contracts\\_contracts\\_current.html](https://www.tdcj.texas.gov/divisions/bfd/contracts_contracts_current.html)
22. Lamre, J. (1981) *Texas Politics: Economics, Power, and Policy*. St. Paul, MN: West Publishing.
23. Texas Department of Criminal Justice (2018). *F.Y. 2018 Statistical Report*. Huntsville, TX. [https://www.tdcj.texas.gov/documents/Statistical\\_Report\\_FY2018.pdf](https://www.tdcj.texas.gov/documents/Statistical_Report_FY2018.pdf)
24. The U.S. Department of Justice, Office of Justice Programs (September 2006) *Mental Health Problems of Prison and Jail Inmates*. Washington, DC. <https://www.bjs.gov/content/pub/pdf/mhppji.pdf>
25. Texas Department of Criminal Justice (2019). *Texas Correctional Office on Offenders with Medical or Mental Impairments Biennial Report Fiscal Year 2017 - 2018* Huntsville, TX. Retrieved from [https://www.tdcj.texas.gov/documents/rid/TCOOMMI\\_Biennial\\_Report\\_2019.pdf](https://www.tdcj.texas.gov/documents/rid/TCOOMMI_Biennial_Report_2019.pdf)
26. Raheer, S. (2018, July 26). Texas prisons, we've got some questions about your commissary vendors. Retrieved from <https://www.prisonpolicy.org/blog/2018/07/26/texas/>
27. McGaughy, L. (2019, August 24). Texas prisons slash inmate phone call rates from 26 to 6 cents per minute. Retrieved from <https://www.dallasnews.com/news/crime/2018/08/24/texas-prisons-slash-inmate-phone-call-rates-from-26-to-6-cents-per-minute/>
28. Wagner, P., & Jones, A. (2019, February). State of Phone Justice. Retrieved August 27, 2020, from [https://www.prisonpolicy.org/phones/state\\_of\\_phone\\_justice.html](https://www.prisonpolicy.org/phones/state_of_phone_justice.html)
29. Vera Institute of Justice (2017) *Incarceration Trends Dataset*. Retrieved from [https://github.com/vera-institute/incarceration\\_trends](https://github.com/vera-institute/incarceration_trends).
30. Texas Legislative Budget Board (January 2019). *Statewide Criminal and Juvenile Justice Recidivism and Revocation Rates*. Austin, TX Retrieved from [http://www.lbb.state.tx.us/documents/publications/policy\\_report/4914\\_recidivism\\_revocation\\_rates\\_jan2019.pdf](http://www.lbb.state.tx.us/documents/publications/policy_report/4914_recidivism_revocation_rates_jan2019.pdf)
31. U.S. Department of Education. (2020, April 24). Secretary DeVos Expands Second Chance Pell Experiment, More than Doubling Opportunities for Incarcerated Students to Gain Job Skills and Earn Postsecondary Credentials. Retrieved from <https://www.ed.gov/news/press-releases/secretary-devos-expands-second-chance-pell-experiment-more-doubling-opportunities-incarcerated-students-gain-job-skills-and-earn-postsecondary-credentials>
32. Schoenbach, N., & Sullivan, S. (2019) *A Complete Guide to Correctional Telemedicine. Providing Smarter Care and Controlling Costs*. Retrieved from [https://www.globalmed.com/wpcontent/uploads/2020/04/GlobalMed\\_CorrectionsGuide\\_FINAL.pdf](https://www.globalmed.com/wpcontent/uploads/2020/04/GlobalMed_CorrectionsGuide_FINAL.pdf)
33. Texas Tech University Health Sciences Center. (n.d.). Correctional Telemedicine. Retrieved August 27, 2020, from <https://www.ttuhscc.edu/telemedicine/tdcj.aspx>
34. Tripodi, S. J., Kim, J. S., & Bender, K. (2010). Is employment associated with reduced recidivism? The complex relationship between employment and crime. *International journal of offender therapy and comparative criminology*, 54(5), 706-720
35. Bucknor, C., & Barber, A. (2016). *The price we pay: Economic costs of barriers to employment for former prisoners and people convicted of felonies* (No. 2016-07). Center for Economic and Policy Research (CEPR).
36. Texas Correctional Industries. (n.d.). Programs - Prison Industry Enhancement (PIE) Certification Program. Retrieved from <https://tci.tdcj.texas.gov/programs/pie/default.aspx>
37. Texas Department of State Health Services (February 2014) *The Mental Health Workforce Shortage in Texas*. Austin, TX. Retrieved from [https://liberalarts.utexas.edu/iupra/\\_files/pdf/Mental%20Health%20Workforce%20Shortage%20Texas.pdf](https://liberalarts.utexas.edu/iupra/_files/pdf/Mental%20Health%20Workforce%20Shortage%20Texas.pdf)