

LONE STAR JUSTICE ALLIANCE

Dear Members of the House Select Committee on Opioids and Substance Abuse:

Thank you for the opportunity to testify. The Lone Star Justice Alliance (LSJA) is a nonpartisan, nonprofit organization with a mission to redirect youth and young adults out of the Texas justice system and into community-based treatment programs, thus increasing public safety and saving tax payer dollars.

A BUDGET IS A MORAL DOCUMENT. IT IS WHERE COMMUNITIES DEFINE WHAT THEY BELIEVE IN.

Opioid and substance use disorder is a public health crisis affecting our social and economic welfare. "Opioid overdoses kill 115 Americans every day and cost the U.S. economy over \$504 billion a year. There are indicators that the opioid epidemic is accelerating here in Texas. Drug overdose deaths rose by over 7% in 2016, many due to opioids, and four rural Texas cities (Texarkana, Amarillo, Odessa, and Longview) are among the top 25 in the country for prescription opioid abuse rates. Health care costs related to opioids reached almost \$2 billion in Texas in 2014."¹

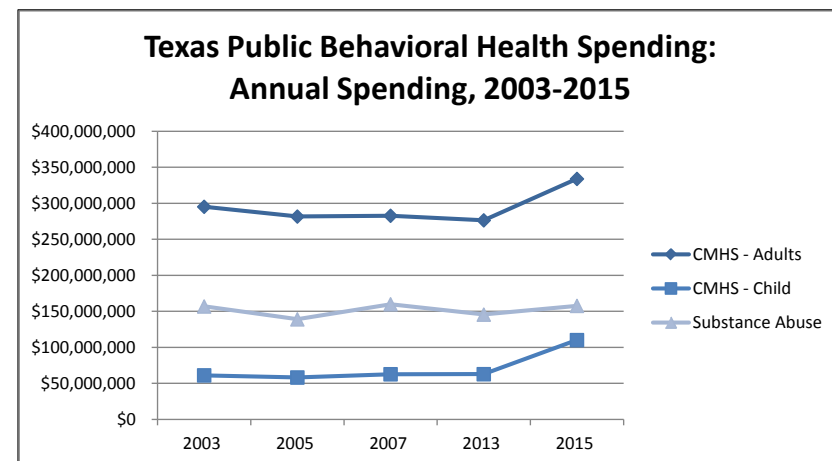
To address this crisis, experts "recommend a public health approach focused on both preventing and treating substance use disorders, as well as supporting efforts to reduce the supply chain. Increasing prevention measures, improving access to treatment, and ensuring appropriate recovery supports will benefit all Texans,"² but these services require an investment by the Texas legislature to succeed.

The State of Texas spends less per resident on public services than the U.S. average, and ranks 43rd in the nation on direct general spending per capita, for state and local government.³ **In Texas, less than \$1 out of every \$1,000 of general revenue spending goes to substance use agencies (the national average is over \$4 per \$1,000).**⁴ Both state and local governments provide public services, and, looking at the combined effort in **Figure 1**, Texas is a low-spending state. According to Episcopal Health Foundation,

increased spending on services like public health, fire and ambulance, housing and community development, and libraries would likely lead to improved health outcomes for Texas counties.⁵

An example of the relationship between public service spending and health outcomes is the historically flat funding level of community behavioral health services and the low utilization rate of these services.

As the chart below indicates,



between 2003 and 2013, the amount of funding spent on the state's public behavioral health system remained relatively similar per year.⁶ Over the same period, the state's population growth and economic decline contributed to an increase in the number of adults needing to access public mental health services. However, absent an attendant funding increase to meet the demand, the utilization rate of community

behavioral health services declined. **According to the state's Department of State Health Services, in 2015, only 31% of people with a mental health diagnosis who qualify for public mental health services received treatment from the public behavior health system.**⁷ This rate suggests a vast majority of Texans with mental health needs are not receiving community-based treatment.

Across all measurements of social and economic opportunities for health, Texas ranks worse than the national average, suggesting communities lack opportunities for individuals to achieve positive health outcomes:

- **22% of children live in poverty compared to 20% children across the country.**⁸ Poverty limits opportunities for quality housing, safe neighborhoods, healthy food, living wage jobs, and quality education. As poverty and related stress increases, health worsens.
- **19% of residents are uninsured, compared to the national average of 11% of residents.**⁹ Health insurance helps individuals and families access primary care, specialists, and emergency care. Individuals without insurance are often diagnosed at later, less treatable stages of disease and at higher costs.
- **The teen birth rate in Texas is almost twice the national rate, 41 and 27 births per 1,000 females, ages 15-19, respectively.**¹⁰ Teenage motherhood is more likely to occur in communities with fewer opportunities for education or jobs. Teen mothers are less likely to complete high school and face challenges to upward economic mobility and their children often have fewer social and economic supports and worse health outcomes.

Limited social and economic opportunities increase the risk of adverse health outcomes and the risk of justice system involvement. **Researchers predict that a 10% increase in per-capita spending on public services could improve a county's national health ranking by one to seven spots in just four years**¹¹ by increasing the capacity, and therefore the accessibility, of services.

EMERGING ADULTS ARE ESPECIALLY VULNERABLE

Emerging adults (ages 17-24) are at particularly high risk for the development of serious mental health conditions (SMHCs), which are commonly accompanied by co-morbid health conditions, such as attention-deficit/hyperactivity disorder (ADHD) and substance use disorders. Seventy-five percent of serious mental health conditions, such as schizophrenia, develop by the age of 24. Each year, roughly 20% of 18-25 year olds meet criteria for a current mental health diagnosis.

Emerging adults make up only 11% of Texans, yet they account for nearly 30% of arrests.

U.S. Department of Justice,
Bureau of Justice Statistics (2014)

Recent advances in neurobiology and psychology research demonstrate that adolescent brain development continues into the mid-twenties, making emerging adults cognitively and emotionally different than older adults in their capacity to regulate their behavior.¹² Like juveniles, emerging adults are also especially susceptible to behavior change, and individualized, community-based interventions structured to address their unique needs can set them on the right path.¹³

Without appropriate intervention, emerging adults are likely to deteriorate, resulting in a worsening of emotional and behavioral problems and an increased likelihood of making contact with law enforcement. Emerging adults, ages 17-24, are overrepresented population in the adult criminal justice system in Texas, posing challenges to appropriate service delivery for this age group. In 2012, emerging adults made up 10% of the U.S. population but comprised 29% of arrests,¹⁴ and 21% of people admitted into adult prisons across

the country.¹⁵ Emerging adults of color are disproportionately incarcerated compared to their white counterparts; in 2012, the rate of incarceration either in state or federal prison, was more than 9 times greater for black males ages 18-19 than for white males of the same age, and nearly 3 times the rate for Hispanic men of the same age.¹⁶ In the same year, black males ages 20-24 were incarcerated at a rate almost 7 times greater than for whites of the same age, and nearly 2.5 times the rate for Hispanic men of the same age.¹⁷

TEXAS SHOULD INVEST IN ALTERNATIVES TO INCARCERATION THAT TREAT UNDERLYING ADDICTIONS

Research has demonstrated that institutional confinement grounded in purely punitive principles has little effect on, and may even increase the likelihood of recidivism among emerging adults.¹⁸ Currently, over 75% of justice-involved emerging adults recidivate, the highest short-term recidivism rate of any age group;¹⁹ emerging adults sentenced to a term of probation are revoked at a rate three times higher than older adults.²⁰

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The punitive approach to the adult criminal justice system is not currently equipped to meet the needs of emerging adults and is exacerbating the problem. Justice involvement impedes the ability of emerging adults to complete their education, reducing their average lifetime earnings by nearly half of earnings of individuals who earned an associate degree and almost two-thirds less than those with a bachelor's degree.²¹ Compared to the general population, people who served time in prison will earn 10-30% less than their non-incarcerated counterparts, and will have a 30 percent reduction in wage growth.²² As a result they,

their families and their communities will have fewer resources over a period of decades.²³ Therefore, the needs of emerging adults are a result of the systemic depletion of resources needed to promote prosocial roles and resiliency that lead to desistance and improve public safety.

Moreover, the existing punitive approach of sanctioning individuals for an incident of misbehavior has not proven to increase public safety. **Research shows that increased criminal sanctions do not reduce recidivism, especially for emerging adults.**²⁴ A large longitudinal study of emerging adults convicted of a violent offense age 14–25 found no difference in recidivism rates among comparable youth from imprisonment instead of probation, or from longer terms of imprisonment.²⁵

The vast majority of emerging adults who make contact with the criminal justice system can be better served in their communities, where services are cheaper and lead to better outcomes.²⁶ For this reason, **the intervention model of choice for emerging adults is individualized treatment in the least restrictive community-based setting.**²⁷ Changes in a young person's social environment and community-based services following release both strongly correlated with drops in recidivism and improved health outcomes.^{28,29} For these reasons, diverting emerging adults away from the deeper ends of the criminal justice system and into community-based services and interventions should integrate the health and social service systems, relying upon a strong peer support model, that will interact with emerging adults before and after their involvement with the justice system to address the multitude of individual and systemic factors that increase criminogenic risk.

SUPPORT INNOVATION: EVIDENCE-BASED INVESTMENTS MAKE SOUND POLICY

Recognizing that the current punitive approach to addressing addiction is failing, some jurisdictions across the country have attempted to address this crisis with investments in promising, evidence-based policies. According to Pew Charitable Trust's evidence-based policymaking framework, governments should conduct a three-step process to assess existing programs to help determine the most effective method of appropriating resources in support of community health and safety:

(1) **Inventory existing programs.** Program inventories provide detailed lists of existing interventions provided by all or select government agencies in order to help officials/stakeholders better align resources with needs, avoid duplication, and ensure that services reach the right clients.

(2) **Evaluate programs based upon outcomes, not outputs.** Program evaluations reveal that some programs are much more likely than others to achieve desired outcomes. An evidence review categorizes programs by evidence of their effectiveness and enables government leaders to make more informed funding decisions and guide program monitoring and evaluation.

(3) **Conduct a cost-benefit analysis to determine which programs are worthy of investment and replication.** Cost-benefit analyses help policy makers identify, fund, and advocate for interventions likely to generate the highest returns on taxpayer investment.

The challenge for local and state governments in determining the most effective method of addressing substance abuse disorder is that existing interventions are either very new or have operated on a small scale, so there is no study reaching conclusions about their results or cost-effectiveness. Most of the existing programs were developed based on personal interactions and observations and knowledge of the population.

At this early stage in the creation of appropriate interventions, the first stage of Pew's framework, "program inventories," could provide the most robust analysis of best practices. Preliminary data tracking the outcomes of existing interventions demonstrate that the justice system can improve public safety by using the following intervention methods:

- (1) Specialty Courts:
- (2) Probation and parole programs:
- (3) District-attorney led programs
- (4) Community-based partnerships

While outcomes and cost-effectiveness are unavailable, there are common elements among existing interventions that can provide an understanding of key principles for intervening with individuals when they make contact with the adult criminal justice system. These elements align with evidence-based methods for reducing recidivism in community settings:

Intensive, individualized case management: individualized services include education or vocational training, mental health and/or substance use recovery services, and assistance with housing and employment. Intensive refers to the level of oversight provided by the lead case manager. Most existing programs required frequent check-ins with program participants to ensure they achieve program goals. However, the individual or entity providing case management is a critical variable toward promoting sustainable behavior change. Research shows that behavior change that is attached to one's own values and reasons to change will last longer than change that is externally imposed. Interpersonal interactions

with service providers trained in specialized cognitive behavior techniques, such as motivational interviewing, play a major role in implementing this principle. Consequently, programs that employ probation or community supervision departments, trained to emphasize compliance monitoring, to serve as case managers may impede participants' ability to achieve behavior change.

Risk-Needs-Responsivity structure: The programs most effective at reducing recidivism conform to the principles of risk, needs and responsivity. The risk principle advises services and supervision be applied in direct proportion to an individual's criminogenic risk, with lower-risk individuals receiving less-intensive interventions and higher-risk individuals receiving interventions of higher intensity. The need principle promotes the administration of treatment and programming according to individuals' assessed needs that are amenable to change, such as time spent with antisocial peers and truancy. The responsivity principle states that interventions should be tailored to an individual's learning style, level of motivation, abilities, and strengths so that services are delivered in a manner in which youth will be most receptive.

By contrast, most programs structure their eligibility requirements to include individuals charged with misdemeanor, non-violent offenses and exclude high-risk, high-need individuals, who are often seen as not "ready" or "motivated" to change their behavior. However, because low-risk individuals often engage positively in the community and demonstrate progress under their own power, programs should instead align with RNR principles by allocating more resources and treatment to those at higher risk and likely to reoffend without intervention. Moreover, some individuals living with mental illness or other unmet cognitive needs may not exhibit typical indicia of remorse or may not at the time of arrest appear to be motivated to change. To ensure fidelity to RNR principles, programs should use risk-needs assessment tools that are developmentally tailored to the relevant population; for instance, tools for emerging adults should be validated to work with that age group.

Specialized skill training with directed practice: This evidence-based principle suggests that cognitive-behavioral techniques (CBT) and "social learning" should become a central part of programming. Stakeholders involved in participants' criminal cases should receive specialized training in areas such as trauma, brain development, moral decision-making, and impulsivity among emerging adults. Training should include methods for employing these techniques beyond the boundaries of treatment to the everyday interaction between case managers, program administrators and participants, allowing staff to identify criminal thinking and antisocial behavior, redirect it, and promote prosocial behavior. All stakeholders should be provided with training in racial justice. "[A]dvancing racial equity is in itself a violence reduction strategy, as it has been widely documented that it is not simple poverty or lack of opportunity but inequity that drives crime and violence."

Engage ongoing support in natural communities through restorative justice: Research shows connecting individuals with prosocial activities in their own community promotes positive behavior. In jail, individuals are exposed to a social context characterized by isolation, violence, and shame. By contrast, restorative justice and harm reduction initiatives include support networks (i.e. family, friends, loved ones with a stake in the outcome) that bring individuals into moral community through accountability to bear the weight of their actions. These initiatives require participants to perform some type of reconciliation with individual victims or with the community. These initiatives should respond to individual's developmental capacity while holding them accountable for their behavior. Programs should draw on local services and resources to respond to the needs of participants, promoting a local jurisdiction's ability to sustain the program over time.

Incentive-based behavior response system: Positive reinforcement coupled with a set of clear boundaries are effective in supporting sustainable behavior change and developing consequential thinking. Existing programs may offer reduced sentencing or probation, expunging criminal records, or a reduction in charges as an incentive for achieving successful program completion. However, programs also need to employ a rewards response system throughout program participation in order to incentivize participants to achieve their goals and promote prosocial interactions. In addition to providing rewards for positive behavior, intervention programs need to apply consequences for non-compliance that are immediate, causal, proportionate, consistent, contextualized in community, and respectful.

Measure processes and practices and provide outcome feedback: Only those interventions that are consistently tracked and evaluated can truly be proven successful, emphasizing the need of programs to collect data on an ongoing basis, conduct rigorous analysis of procedures and outcomes, and regularly manage performance by providing feedback according to evaluation outcomes. Existing programs share the common goal of reducing the likelihood of future justice system involvement among program participants and accordingly rely on recidivism rates as the primary method of measuring the success of the intervention, requiring internal data tracking systems. However, programs should track additional measures that evaluate the multitude of factors that lead to justice system involvement, including health outcomes and the social determinants of health.

RECOMMENDATIONS

The Lone Star Justice Alliance (LSJA) supports the expansion alternatives to incarceration for those plagued by a substance abuse disorder. We recommend:

- (1) Texas adopt fair, humane, just, and effective ways to help people addicted to opioids or other substances stay out of the criminal justice system by focusing on public health principles of harm reduction and preventive interventions.** Texas should adopt alternatives to incarceration that redirect resources out of the criminal justice system and to public health social services that better address the needs of those with a substance abuse disorder.
- (2) Texas pay particular attention to emerging adults, who often fall between services offered to juvenile justice or adult justice arrestees.** This is a particularly vulnerable group that deserves developmentally appropriate services. For example, Texas should expand Medicaid peer support services as proposed by the Draft Texas Medicaid Peer Specialist Services Medical Policy currently under review. The draft policy only provides for peer support service expansions to those over 22, leaving 17 to 21 year olds without coverage. Texas should take care to implement policies within health and human services that address this vulnerable group.
- (3) Texas should create an Innovation Fund to promote promising evidence-based programs and interventions that already exist.** Texas should rely upon the Pew Charitable Trust's Evidence-based Policymaking: A Guide for Effective Government when choosing which programs to support. This comprehensive framework guides policymakers in the best approach to building a system of evidence-based governing. By leveraging the power of this approach, governments can reduce wasteful spending, expand innovative programs, and strengthen accountability.

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