



# Community Supervision and Corrections Department Funding Review and Recommendations



Texas Department of Criminal Justice  
Community Justice Assistance Division

August 2016

### Executive Summary

The 83<sup>rd</sup> Texas Legislature passed Senate Bill (SB) 213 which required the Texas Department of Criminal Justice-Community Justice Assistance Division (TDCJ-CJAD) to review the current funding formulas specified under Section 509.011, Government Code, and to study the feasibility of adopting performance based funding formulas for community supervision and corrections departments (CSCDs). Subsequently in the 84<sup>th</sup> Texas Legislative session, the House Committee on Corrections directed TDCJ to form a committee to provide recommendations pertaining to improved community supervision funding strategies to promote the best outcomes with regard to grantee performance, lowered recidivism rates and efficient use of state resources. Because SB 213 already required committee formation and stakeholder input, the House Committee on Corrections recommended additional membership and expanded the focus of the original funding review committee.

The funding review committee established the following objectives:

- Study the use of performance based funding formulas, including using an offender’s risk level or other appropriate factors
- Provide that funding allocations are equitable
- Incentivize best practices
- Reduce the number of revocations
- Meet the needs of historically underserved communities
- Promote successful probationer outcomes
- Reduce over-reliance on probation fees

Primary recommendations related to SB 213 include:

- Modify the current probation funding formula
  - Front load all felony offenses except those ineligible for early termination (ET)
  - Fully fund the first three years of supervision and reduce the next two years of supervision proportionately
- Retain current probation funding structure, if additional funding is not available to keep CSCDs “whole”

Additional recommendations related to directives outlined by the House Committee on Corrections include:

- Increase aftercare supervision and treatment funding following residential treatment in community corrections facilities
- Increase funding for resource intensive specialized populations
- Fund misdemeanors at the same level as felonies
- Fund felony and misdemeanor diversion at the same rate as traditional probation

### Introduction

In July 2013, the Texas Sunset Advisory Commission issued its final report for the Texas Department of Criminal Justice (TDCJ). The recommendation for Issue 3 stated: Community Supervision Funding Formulas and Grant Processes Need Strengthening to Keep Pace With a Changing Adult Probation System. As part of this issue, the Sunset Commission found that the state's current community supervision funding formula does not align with the Legislature's recent, outcome-based community supervision initiatives, but a lack of data precluded modifying the formulas at that particular time. The 83<sup>rd</sup> Texas Legislature passed SB 213, which related to the continuation and functions of TDCJ. As codified in Government Code Sec. 509.014, TDCJ-CJAD was required to review the community supervision funding formulas and study the feasibility of adopting performance-based funding formulas, including whether the formulas should take into consideration an offender's risk level or other appropriate factors in allocating funding. The statute also requires TDCJ-CJAD to consult with the Legislative Budget Board (LBB) to determine the impact of any recommendations to the allocation of the division's funds. Additionally, the division was directed to seek input from CSCDs, the Judicial Advisory Council, and other relevant interest groups, and to report its findings and recommendations to the Legislature.

Subsequently in the 84<sup>th</sup> Texas Legislative session, the House Committee on Corrections heard testimony on House Bill (HB) 2869, by Representative Alma Allen, relating to the creation of an advisory committee to study issues related to community supervision and corrections departments. Therefore, the House Committee on Corrections requested the TDCJ to expand the membership of the existing committee to include a wider diversity of perspectives and submit its report prior to November 1, 2016. (Reference Appendix A: House Committee on Corrections letter to Brad Livingston, Former Executive Director, TDCJ)

The House Committee on Corrections also requested an expansion of the committee scope to address questions related to the following:

- Whether current funding allocations are equitable, directed in proportion to the level of needs and caseload demands;
- Whether current funding allocations are incentivizing best practices and reduced number of revocations;
- Whether funding formulas meet the needs of historically underserved communities;
- Whether the funding formulas promote successful probationer outcomes, not just meet CJAD-defined performance criteria; or
- Whether formulas reduce the over-reliance on probation fees.

As such, the committee expanded its membership and identified additional objectives for review and study during the course of the project. (Reference Appendix B: CSCD Funding Committee Membership and Activities)

### Objectives

The CSCD Funding Committee established the following objectives:

- Study the use of performance based funding formulas, including using an offender's risk level or other appropriate factors
- Provide that funding allocations are equitable
- Incentivize best practices
- Reduce the number of revocations
- Meet the needs of historically underserved communities
- Promote successful probationer outcomes
- Reduce over-reliance on probation fees

### Background

To study and understand funding for CSCDs in Texas, it is imperative to review the historical perspective of funding for the departments. Before the original state funding agency (Texas Adult Probation Commission, or TAPC) was created in 1977 (SB 39, 65<sup>th</sup> Texas Legislature), probation services in the state were primarily funded through the counties and revenue from collection of probation supervision fees. In 1986, adult probation departments received state funding assistance provided by TAPC if they elected to participate in the state system and comply with state guidelines. At that time, 110 of 117 adult probation departments in the state chose to participate, representing more than 98% of the state's total probation population. Two primary sources of revenue paid for department probation services: misdemeanor/felony probation supervision fees, which accounted for about 40% of department funding on the average, and state aid distributed by TAPC, which accounted for approximately 60% of probation funding. TAPC distributed two basic forms of funding to participating departments— per capita state aid and grants for special programs, services and residential facilities. During FY1986, basic per capita aid was calculated at \$0.75 per day for felony probationers and \$0.40 per day for misdemeanor probationers. TAPC also funded two types of grant programs—restitution center grants and special/supplemental grants.

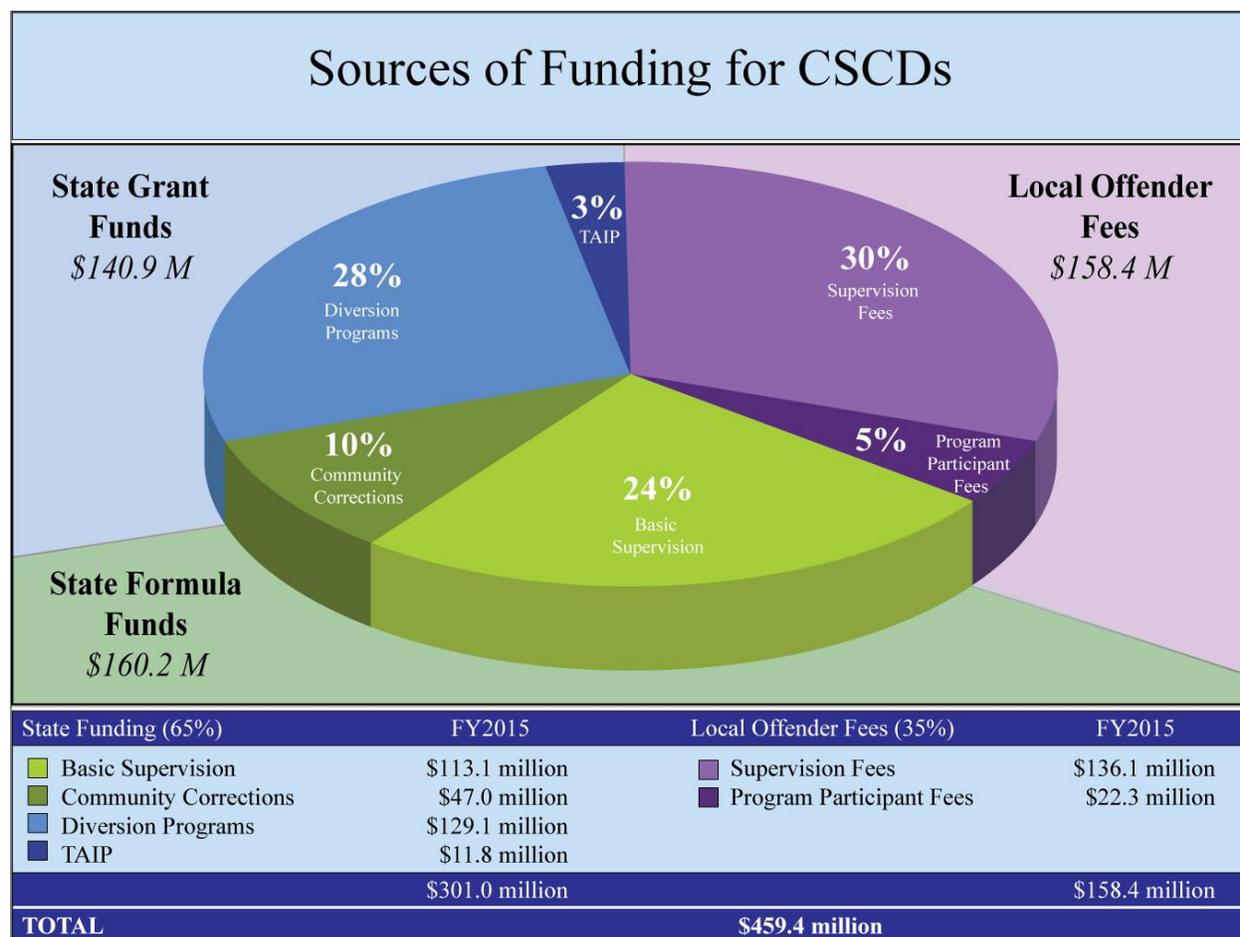
In the mid-1980's, approximately 1,800 probation officers statewide provided direct supervision to an average of 74,000 felons and 98,000 misdemeanants. From its inception, TAPC commissioners and employees considered their functions as a judicial branch agency. In 1986, the Texas Sunset Advisory Commission recommended that state executive interests should also be represented in TAPC operations because TAPC was responsible for managing a portion of the state's potential prison population and oversaw state funds passed through to local probation departments.

The question of judicial or executive branch function was clarified in 1989, when the Texas Department of Criminal Justice and the Texas Board of Criminal Justice were created (HB 2335, 71<sup>st</sup> Texas Legislature). This new agency absorbed the functions of three agencies: the Department

## CSCD Funding Review & Recommendations

of Corrections, the Board of Pardons and Paroles, and TAPC. TAPC became the Community Justice Assistance Division of TDCJ on January 1, 1990. The first full year after consolidation, the three state funding strategies for the adult probation departments included \$62M for Basic Supervision, \$50M for Community Corrections and \$27M for Diversion Program grants. 114 of 124 CSCDs were in compliance with state standards for CSCDs and received state funding to accomplish their mission of supervising offenders in the local community. Additionally, approximately 2,800 probation officers statewide provided direct supervision to an average of 115,000 felons and 101,000 misdemeanants in FY1991 at a cost per day of \$1.62.

As the Texas criminal justice system grew over time, various legislative bodies strengthened community supervision and infused targeted funding into the system. Such funding provided specialized resources for offenders with mental impairments, substance abuse issues, and high risk needs. Targeted funding also supported basic probation infrastructure and provided for pay increases for probation officers who were responsible for direct offender supervision and program delivery. See the chart below for FY2015 Sources of Funding for CSCDs. The amount of supervision fees collected by CSCDs is included, reflecting a percentage split of 65/35 of state to local offender fee funding.



## CSCD Funding Review & Recommendations

---

In FY2015, all 122 CSCDs received state funding and more than 3,200 certified community supervision officers statewide provided direct supervision to an average of 156,000 felons and 90,000 misdemeanants. CSCDs received \$1.05 per probationer for basic operational services (Basic Supervision only).

One funding committee objective was to identify funding strategies which reduced the probation departments' over-reliance on probation fees. As previously identified, even prior to the creation of a state oversight agency, probation departments collected offender fees as a method of finance for community supervision as a whole. Fee collection was first authorized in 1967, when the 60<sup>th</sup> Texas Legislature passed SB 145, which allowed a court granting probation to assess a fee not exceeding \$10 per month; the bill also states that the court may make payment of the fee a condition of granting or continuing probation. The General Appropriations Act for the 69<sup>th</sup> Texas Legislative session states, "It is the intent of the Legislature that in the distribution of per capita aid highest priority shall be given to judicial districts which meet caseload standards, or which are making reasonable efforts to reach caseload standards, as demonstrated by their staffing patterns, and which are matching the state's efforts to fund probation services through the collection of probation fees." Additionally, in its 1986 evaluation of TAPC, the Texas Sunset Advisory Commission recommended that the statute should require probation fees as a mandatory condition of probation, with a minimum monthly fee of \$25, while giving courts the ability to waive, reduce or suspend the fee in cases of financial hardship. The report specified that fees help defray some of the costs of supervision, but even with a maximum of \$40 per month at that time, variance existed in the fee amounts assessed by judges. This variance had the potential to create revenue issues for probation departments that depend on the fees, along with state funding, to pay for probation services. In 2001, the 77<sup>th</sup> Texas Legislature raised the \$40 maximum to \$60—still providing for judicial discretion. Even with this statutory provision, not all courts assess the maximum of \$60 per month. A survey of CSCD directors (Reference Appendix C: Funding Committee Survey of CSCD Directors) found the following regarding courts within their jurisdictions:

<b>Supervision Fee Amount</b>	<b>% of Courts</b>
\$00.00	0.00%
\$40.00	7.61%
\$50.00	14.62%
\$60.00	66.47%
Other amount	12.11%

Often probation supervision fees are categorized with court costs, fines and fees, and collectively called "probation fees." However, this use of terminology has created some misconceptions in community supervision about fee collections and the entities which benefit from offender payments. The 83<sup>rd</sup> Texas Legislature directed the Office of Court Administration (OCA) to examine existing fees and costs and determine whether they were necessary to accomplish its

## CSCD Funding Review & Recommendations

---

targeted statutory purpose. OCA published a report on September 1, 2014 titled “Study of the Necessity of Certain Court Costs and Fees in Texas.”

As stated in the report, “While OCA has regularly compiled court costs and filing fees, this is the first comprehensive effort to collect:

- A listing of all court fees and costs;
- The authorizing statute(s);
- When the fees or costs are assessed;
- The types of cases in which the fee or cost is assessed;
- The limitation on courts in which the fee or cost can be assessed;
- The amount of the fee or cost;
- Whether there is a mandatory or discretionary imposition of the fee or cost;
- Where the fee or cost is deposited; and
- The stated statutory purpose for the fee or cost.”

For clarification between true “probation fees” and court costs, fines and fees, the OCA publication is an excellent resource which can provide perspective regarding the complexity of a court fee and cost system which has evolved over the course of two centuries. An examination and discussion of probation supervision fees is integral when examining probation department funding. As a part of community retribution, supervision fees have been a method of finance for probation since community supervision was first used in Texas. Institutionalized as a method of finance for departments, CSCD supervision fee collection now surpasses \$315M per biennium.

### Recommendations

CSCD funding recommendations are outlined in relation to the charges made to the committee. The first set of recommendations are relevant to the requirements outlined by Government Code Section 509.014 and primarily address funding formulas for the CSCDs. The second set of recommendations are relevant to the requirements outlined by the Texas House Committee on Corrections. Since the funding committee identified and studied seven objectives to produce this report, for ease of the reader, reference Appendix D: Matrix of Funding Recommendations by Objective. The committee ensured each recommendation was relevant to the overall funding objectives outlined previously.

#### **Funding Recommendations Pursuant to Government Code Section 509.014:**

- *Modify the current probation funding formula*
  - *Front load all felony offenses except those ineligible for early termination (ET)*
  - *Fully fund the first three years of supervision and reduce the next two years of supervision proportionately*

As previously noted, the Legislature has increased funding appropriations to CSCDs, including the formula funding lines. Additionally, the Legislature has emphasized an evidence based approach, requiring data to support new initiatives which help divert offenders from prison. These initiatives include mandatory review of offenders' compliance for early termination, shorter probation sentences and time credits for court-ordered program completion while under supervision. Not only have these initiatives provided incentives to defendants to be successful but they have also allowed CSCDs to dedicate funding to offenders still under supervision—who are those with higher risk and needs in the community. Also, those remaining under supervision are the offenders who struggle to pay supervision fees—which are a method of finance for the CSCDs. CSCDs are not paid for offenders who terminate early. In the past, lower level offenders on supervision for longer periods of time essentially helped fund services provided to higher level offenders remaining on supervision. In addition to this conundrum, judicial confidence and additional placements on probation have contributed to a different population than departments have previously supervised.

While beneficial to the state and communities in terms of outcomes, the CSCDs have struggled because formula funding to CSCDs continues to be based on the number of offenders supervised and the level of crime for which the offender was adjudicated. Research supports the premise that if offenders are going to reoffend, it will occur within the first two years of placement on supervision. Based on this research and discussion of funding scenarios for several methodologies, the funding committee recommends that all felony offenses be “front loaded” except those ineligible for early termination (ET). Front loading essentially means that CSCDs would receive a higher level of funding for the first three years while an offender is under supervision and then the funding level would be proportionately reduced for the next two years of supervision. Therefore, most probation cases would be funded for a maximum of five years; the exception includes offenses such as sex offenders and Driving While Intoxicated (DWI) that are ineligible for ET by a court. These exception offenses would be funded throughout the course of probation supervision. This funding strategy could further enhance community supervision's ability to reduce revocations and incarceration.

- *Retain current probation funding structure, if additional funding is not available to keep CSCDs “whole”*

The funding committee also recommended retaining the current probation funding structure unless the state provides additional funding to CSCDs. Changing the current funding structure, including the formula lines, without an infusion of additional funds only creates “new winners and losers” because it would result in a redistribution of the same amount of funding. For example, utilizing the current funding amounts, the formula derived for risk based distribution of funds to CSCDs would result in funding cuts to 76 CSCDs (62%) upon implementation. In the first biennium, it is estimated that at least 3 departments would have such devastating shortages that they would not be able to function

at their current level of service. This affect is magnified each funding cycle, with more than 15% of departments experiencing significant funding shortfalls by the third biennium, resulting in an inability to operate at their current levels. If substantial reductions in state revenue occurred as a result of formula modification, probation departments would turn to their other primary method of finance to support the system—offender fees. State revenue losses for individual CSCDs creates more underserved communities and potential increases in prison admissions due to a lack of available services. The majority of funding committee objectives would not be met if the funding formulas were revised without an infusion of state funding to hold CSCDs “harmless”. The current funding formula structure has existed for over 25 years and, while not ideal in many respects, CSCDs have grown accustomed to this structure and adjusted budget/expenditure practices accordingly. As the Texas Sunset Advisory Commission stated in its July, 2013 report, “Any changes to the funding formulas would need to be carefully considered, since they could significantly affect CSCD funding, and community supervision success and revocation rates, posing a potential risk for subsequent increases in prison and state jail populations.” The Texas criminal justice system remains in a state of balance and altering the probation funding formulas without consideration for additional funding would create unintended consequences for the overall system.

### **Additional Funding Recommendations Pursuant to House Committee on Corrections Directive:**

- *Increase Aftercare Supervision And Treatment Following Residential Treatment in Community Corrections Facilities*  
TDCJ-CJAD funds 28 Community Corrections Facilities (CCFs) with more than 2,900 residential beds available to CSCDs for alternatives to incarceration. Depending on the facility, offenders receive substance abuse treatment, mental health services, and/or sanctions for probation violations. CCFs’ missions and objectives are tailored to the needs in the local jurisdiction and may include skills training, a work component or educational classes. As an intensive alternative to incarceration, research indicates that aftercare supervision and treatment are critical to continued success of offenders completing the programs. This recommendation would provide for additional aftercare supervision caseloads, group treatment and individual counseling following completion of a CCF program. In support of evidence based practices, reduced caseloads need to be accompanied by increased field visits and collateral contacts. Additionally, reentry issues such as housing, employment, family and transportation must be addressed because the offenders have been removed from their respective communities while attending their court ordered residential programs. To ensure funding is equitable across departments, funding for aftercare could be awarded to each jurisdiction that orders offenders into these programs; then the aftercare services would be administered within each of the offenders’ home communities. Additional funding for supervision and treatment services ensures appropriate dosage is delivered while providing for flexibility to move throughout a

continuum of treatment and monitoring technology. This recommendation supports the development of rapport and relationship between the offender and the supervision officer in their home community which, in turn, leads to better outcomes and lower recidivism rates.

Evaluation of CCFs revealed that certain types of facilities were not effective. These types of facilities, such as boot camps and restitution centers, were either closed or repurposed to ensure state funding supported successful outcomes. Since the CCFs are grant funded, other CSCDs which use these statewide residential treatment services do not have to pay for offenders placed within the program. As expansion of existing aftercare supervision and treatment would allow all jurisdictions to offer this important component of treatment, which contributes to positive statewide outcomes and reduced revocation rates. This recommendation is important to CSCDs and the state, as a whole, because in a treatment continuum of care, the more restrictive the treatment environment, the greater the need for structured transition back into the community through aftercare and differential supervision.

- *Increase Funding For Resource Intensive Specialized Populations*

Resource intensive specialized populations include offenders who were court ordered to an electronic monitoring device, such as global positioning satellites, or offenders under supervision for sex offenses or DWI offenses. By statute, sex offenders and DWI populations are ineligible for early termination of supervision and have additional state mandates such as ignition interlock, education classes and sex offender registration. Monitoring these additional state mandates for each probation case requires a significant amount of resource dedication. Additionally, electronic monitoring devices require daily extraction of data from non-uniform vendor systems and careful analysis by well-trained officers to detect tampering and attempts to bypass the devices. Increased funding, via a per diem rate, for these resource intensive specialized populations would make funding more equitable across the probation system because funding would not be based solely on grant availability. Additionally, a state provided per diem rate would reduce CSCDs' reliance on probationer fees for caseloads which need to be smaller in order to be truly monitored and effective; as noted, offenders on these caseloads have state mandates but they often have other court conditions and criminogenic needs requiring treatment, group/individual counseling, collateral contacts, polygraphs and substance monitoring. By identifying violations of probation conditions earlier under supervision and addressing those as quickly as possible, officers have the ability to change behavior before it escalates to the point of revocation. These particular cases are also generally supervised at a higher level because of judicial expectation and public perception. Overall successful outcomes are promoted through revocation reduction and sustainable supervision treatment which includes monitoring of resource intensive offenders.

- *Fund Misdemeanors At The Same Level As Felonies*

Funding for misdemeanor cases should be calculated the same as for felony cases—based on direct supervision and the term or length of probation. Government Code Sec. 509.011 and the General Appropriations Act require that TDCJ-CJAD distribute funds for misdemeanor offenses at the rate of \$.70 per day for 182 days. Misdemeanor terms of probation vary in jurisdictions from 6 months to 24 months. The total funding amount of \$127.40 per misdemeanor offender is provided at placement, therefore CSCDs do not have an incentive to accept misdemeanor transfer cases from another jurisdiction. Fully funding the term for direct supervision would ensure allocations are equitable from jurisdiction to jurisdiction and facilitate the transfer and acceptance of cases by the county of the defendant's residence where supervision officers can address the defendant's needs.

Current funding allowances are not adequate to address the criminogenic needs of this population, especially since individuals may be charged with a felony offense but plea down to misdemeanor probation. Additionally, all DWI 3<sup>rd</sup> offense defendants had two former misdemeanor convictions. Misdemeanor and felony cases are not supervised differently based on level of offense. Instead cases are supervised based on a validated criminogenic assessment process; therefore a high risk misdemeanor offender would be supervised at the same level as a high risk felony offender. Fully funding these cases would ensure resources for a population in need of evidence based programs, such as cognitive behavioral and offender education programs, while preventing an increased reliance on offender paid supervision fees.

Limiting funding to 6 months of supervision encourages CSCDs and county run collections departments to push defendants to pay all court ordered monies, including court costs, fines, fees and restitution, during that short time frame instead of the full term length of probation which may create a hardship on offenders under supervision. Furthermore, funding for this population intervenes earlier in the criminal cycle and provides supervision/resources for labor intensive cases. This recommendation reduces the number of revocations by incentivizing best practices and allows the CSCDs to focus on addressing the needs of the defendant to prevent recidivism and promote successful outcomes.

- *Fund Felony and Misdemeanor Diversion At The Same Rate As Traditional Probation*

Over time, while several categories of defendants have been added under the supervision auspices of adult probation, funding for community supervision has remained targeted and limited. A policy decision by TDCJ-CJAD allows state funding for pretrial diversion resulting from court placement on CSCD supervision. Misdemeanor diversion has not been included within this category. Pre-trial diversion cases have progressively increased, from 1,100 felons and 4,900 misdemeanants in 2005 to 3,000 felons and 10,300 misdemeanants in 2016. To include these categories to the current funding streams would dilute the overall funding needed for the main offender supervision categories: felons and misdemeanants.

Pretrial diversion offers an opportunity that is consistent with national and state initiatives to minimize the “criminalization” of lower level offenses, but some jurisdictions use it more than others. Those departments using pretrial diversion need resources to compensate for the cost of supervising these cases; implementation of this recommendation would equalize funding for departments with jurisdictions that take advantage of this sentencing alternative while meeting the needs of underserved communities. Diverting defendants from the criminal justice system motivates individuals to comply and maintain prosocial attributes without detrimental consequences of traditional supervision such as stigma, unemployment, licensing limitations and long-term costs. Pretrial diversion also allows defendants to qualify for expunction, which further avoids entry into the criminal justice system. Providing funding in the initial stages of the system for pretrial diversion supervision incentivizes best practices and provides for additional services for a population that can be diverted early in the criminal justice system.

### **Efforts to Improve Resource Allocation**

The community supervision field continually examines funding strategies within probation. Identified resource limitation, changing probation population and supervision/treatment needs have necessitated a periodic evaluation of methods of finance for adult probation. The TDCJ-CJAD and the CSCD directors have collaboratively worked on this endeavor for approximately 7 years. As such, the following initiatives have been instituted within adult probation to improve resource allocation while providing for offender supervision/rehabilitation and maintenance of public safety. This report does not represent an exhaustive list of initiatives, projects, pilots and research that have been undertaken by adult probation stakeholders to improve resource allocation in Texas.

### **Grant Process Improvement Committee**

Approximately 5 years ago, a specialized committee comprised of CSCD Directors and TDCJ-CJAD employees realigned the special grant conditions (SGCs) for Diversion Programs (DP) with current evidenced based practices. The critical elements of community supervision such as assessment, case planning, contact standards, and treatment are contained within the SGCs and are connected to research findings that provide guidance for program implementation. This major paradigm shift moved TDCJ-CJAD away from imposing theoretically sound but impracticable standards of community supervision, and toward assisting departments to use their resources in a manner that is best suited for their population.

Subsequently, the committee reviewed the current grant process to identify improvements on both sides of the process. For the first time TDCJ-CJAD provided full transparency of the grant process to ensure a full critical review of each component for which the departments were held accountable. Improvement to the SGCs, grant application and award process was embraced by the state and the local probation departments, which prompted CSCDs to apply for grant funding when they had been reluctant in the past.

### **Increased Scrutiny of CSCD Expenditure Utilization**

Although TDCJ-CJAD has historically monitored CSCD expenditures, the state instituted a process to more closely identify funding that could be deobligated from some CSCDs and reobligated to other CSCDs. This increased scrutiny of CSCD expenditure utilization allowed departments to return unused funds to the state for disbursement to departments with unfulfilled needs. As a result, some CSCDs began to monitor their programs at a higher level which ensured funding was fully used in a timely manner or voluntarily returned to the state for disbursement.

### **Organizational Development**

Through a specialized Summit designed especially for adult probation, over 200 CSCD staff members from 53 CSCDs worked with internal teams to either create, revise or hone departmental vision, mission and organizational goals. Additionally, evidence-based principles of organizational development and collaboration within local jurisdictions were emphasized.

### **Research-based Decision Making**

As a component of the Summit noted above, CSCDs were trained and encouraged to use their own data to educate stakeholders in their local communities. Some CSCDs were able to provide local judges and commissioners with statistics showing benefits gained in the community from CSCD based initiatives. By statute, county contributions to the adult probation departments include utilities, facilities and equipment, but several departments were able to clearly articulate how the CSCD could benefit the county, and therefore secure additional monetary or in-kind contributions to support the CSCD's operational budget.

### **Texas Risk Assessment System (TRAS)**

Adult probation began reviewing a process to improve its existing assessment system in 2007. Extensive committee work resulted in an assessment system that was adopted and validated on the adult probation population. Prison, parole, and re-entry adopted the system as well, thus establishing a criminogenic assessment that is utilized throughout TDCJ. This improvement in assessment processes provided an opportunity to better manage the offender population according to risk and need, which ultimately reduces recidivism and contributes to public safety.

### **Strategic Planning**

Strategic planning for community corrections replaced an outdated modality of community justice plans. TDCJ-CJAD began piloting strategic planning with the CSCDs prior to the passage of HB1930 during the 84<sup>th</sup> Texas Legislature. This legislation enabled TDCJ-CJAD to condense the requirements for program narratives and place more emphasis on assisting CSCDs to further use their own data to plan and move their departments forward. Additionally, the process established a planning tool that utilizes offender data so that jurisdictions can proactively identify resources for their specific population. The strategic planning process also requires internal audits, including caseload and fiscal reviews. Each department must include state goals of revocation reduction and technical revocation reduction in its plan. At this time, local goals are optional and defined by

each of the probation departments. Overall, the strategic plan is a living document which outlines achievement of effectiveness.

### **Specialized Pilots and Research Projects**

TDCJ-CJAD has targeted a limited amount of diversion program grant funding to support specialized pilots and research projects within the probation departments. Using results from these investments has enabled the state and local jurisdictions to improve supervision and programs offered to offenders under supervision. In some instances the CSCDs have been able to leverage state funding to secure federal or private funding for these initiatives.

### **Program Reviews and Audits**

For many years, TDCJ-CJAD audited the departments based on state statutes and standards established for the departments. Audits found that probation officers were performing well at meeting standards regarding the number of offender visits per month, and time frames for completing assessments, case plans, and entering/closing out cases. Although these elements are critical for process evaluation, they have not been found to correlate with reduced recidivism in outcome evaluations. Therefore, TDCJ-CJAD changed its program reviews and audit processes to include evaluation of how an officer uses an assessment, when a referral follow-up is conducted and whether a case plan targets criminogenic needs identified in the TRAS. Audit objectives for grant funded programs are tied directly to the aforementioned research-based SGCs, further ensuring that the TDCJ-CJAD auditors are focused on evaluating the quality of the officer's work. Movement toward evaluation of a case, in its totality, requires additional skill on the part of audit staff and more time for the audit itself. While process evaluation is still a valuable tool, more meaningful evaluations of quality casework are critical to directors of CSCDs so they can ultimately improve outcomes at the local level.

### **Summary**

The CSCD Funding Committee was tasked with reviewing state funding formulas for the probation departments while considering best practices, reduced revocations, needs of historically underserved communities, successful probationer outcomes, over-reliance on probation fees and the equitability of funding allocations. Culmination of more than two years worth of meetings, conference calls, webinars and stakeholder input resulted in the recommendations outlined in this report. The CSCD Funding Committee would like to acknowledge and express appreciation to the 83<sup>rd</sup> Texas Legislature and the 84<sup>th</sup> Texas Legislature's House Committee on Corrections for their interest in reviewing funding for the CSCDs. Based on the Texas Legislature's direction, the funding review committee established the seven objectives and made the following recommendations:

- Modify the current probation funding formula
  - Front load all felony offenses except those ineligible for early termination (ET)

## CSCD Funding Review & Recommendations

---

- Fully fund the first three years of supervision and reduce the next two years of supervision proportionately
- Retain current probation funding structure, if additional funding is not available to keep CSCDs “whole”
- Increase aftercare supervision and treatment funding following residential treatment in community corrections facilities
- Increase funding for resource intensive specialized populations
- Fund misdemeanors at the same level as felonies
- Fund felony and misdemeanor diversion at the same rate as traditional probation

Although this study was originally conceptualized in the Texas Sunset Advisory Commission’s report dated July 2013, the content contained within should be considered a starting point for discussion for system improvement regarding funding for community supervision—which continually maintains an underlying mission of public safety.

**Appendix A: House Committee on Corrections Letter to Brad Livingston,  
Former Executive Director, Texas Department of Criminal Justice**

JIM MURPHY  
CHAIRMAN

JAMES WHITE  
VICE-CHAIRMAN

## HOUSE COMMITTEE ON CORRECTIONS

P.O. BOX 2910 · AUSTIN, TEXAS 78768-2910

LAURIE MCANALLY  
COMMITTEE CLERK

ROOM E2.110

512-463-0796

May 4, 2015

Brad Livingston, Executive Director  
Texas Department of Criminal Justice  
209 West 14th Street  
Austin, TX 78701

Dear Mr. Livingston:

On April 16, the House Committee on Corrections heard testimony on HB 2869 by Representative Allen, relating to the creation of an advisory committee to study issues related to community supervisions and corrections departments. Several issues came to light, and it became clear that the existing efforts to study the funding allocation formulas may require additional direction. To that end, we respectfully request that you modify the existing committee structure, scope, and timeline in the following manner:

1. Pursuant to Section 509.014 of the Government Code, a committee was formed to "review the Community Justice Assistance Division (CJAD) funding formulas. A concern raised in the committee was that the scope of the existing committee may not be sufficiently broad to encompass the full complexity of interconnected issues. Specifically, stakeholders were concerned that several issues may be left unaddressed, including:
  - Whether current funding allocations are equitable, directed in proportion to the level of need and caseload demands;
  - Whether current funding allocations are incentivizing best practices and reduced number of revocations;
  - Whether funding formulas meet the needs of historically underserved communities;
  - Whether the funding formulas promote successful probationer outcomes, not just meet CJAD-defined performance criteria; or
  - Whether formulas reduce the over-reliance on probation fees.

We would respectfully request that you expand the scope of the existing committee to address these important questions. We ask that the committee include recommendations in its report that encompass the issues described above.

2. Additionally, the hearing raised concerns that certain stakeholders may have been inadvertently excluded from the process of studying community supervision funding. We respectfully request that you expand the membership of the existing committee to include a wider diversity of perspectives.

MEMBERS:

ALMA A. ALLEN, MARK J. KEOUGH, MATT KRAUSE, LEIGHTON SCHUBERT, TONY TINDERHOLT



## CSCD Funding Review & Recommendations

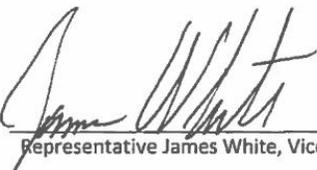
Rather than direct you to include someone from every group mentioned below, we offer the following list as suggested additions to the existing committee:

- Experts in mental health, substance abuse, or post-traumatic stress disorder.
  - A diverse range of community supervision and corrections department directors with knowledge of existing disparities in funding and grant awards;
  - Representatives from criminal justice advocacy and reform groups;
  - A wider diversity of representatives with knowledge of the criminal court system, such as judges, district attorneys, and defense attorneys with a deep understanding of evidence-based practices that lead to decreased revocations and lower levels of recidivism; and
  - Individuals who have successfully completed community supervision.
3. Finally, we request that you make every effort to submit recommendations prior November 1, 2016. This will give the Legislature ample time to consider potential solutions, and develop them into legislation. Perhaps with a larger array of stakeholders, this may be an opportunity to divide issues among sub-committees in order to meet a more ambitious deadline.

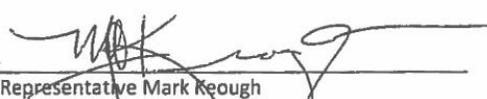
Thank you for your efforts to develop community supervision funding strategies to promote the best outcomes with regard to grantee performance, lowered recidivism rates, and efficient use of state resources. Please feel free to contact Chairman Murphy with questions or concerns about the expanded scope of the performance-based funding study.

Sincerely

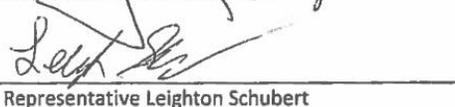
  
Representative Jim Murphy, Chairman

  
Representative James White, Vice Chair

  
Representative Alma Allen

  
Representative Mark Keough

  
Representative Matt Krause

  
Representative Leighton Schubert

  
Representative Tony Tinderholt

## **Appendix B: CSCD Funding Committee Membership and Activities**

### **Committee Membership**

Original members of the committee included:

- Arnold Patrick, Director, Hidalgo County CSCD (Committee Co-Chair)
- Carey A. Welebob, Director, TDCJ-CJAD (Committee Co-Chair)
- Terry Easterling, Director, Potter County CSCD
- Leighton Iles, Director, Tarrant County CSCD
- Teresa May, Director, Harris County CSCD
- Michael Wolfe, Director, Taylor County CSCD

In its letter to the TDCJ Executive Director, the House Committee on Corrections asked that the committee expand its membership to include a wider variety of perspectives, and the following committee members joined:

- Judge George D. “Jody” Gilles, 142nd District Court, Midland
- Judge Rose Guerra Reyna, 206th District Court, Edinburg
- Judge Angela Tucker, 199th District Court, McKinney
- Belinda Hill, First Assistant District Attorney, Harris County
- Scot Courtney, Defense Attorney, Hays County
- Roxane Marek, Director, Matagorda County CSCD
- Christopher Thomas, Director, Jasper County CSCD
- Rochelle Thomas, Director, Caldwell County CSCD
- Manny Rodriguez, Deputy Director, TDCJ-CJAD
- April Zamora, Director, TDCJ Reentry and Integration Division

### **Committee Activities**

From the September 1, 2013 effective date of Senate Bill 213 to the present, members of the CSCD funding committee have convened meetings or given presentations and updates about the committee’s activities in several different forums:

- Informational webinar about legislation passed by the 83rd Texas Legislature, including SB 213
- Funding 101 webinar for committee members
- Multiple in-person committee meetings and work sessions, including input from non-committee CSCD directors
- Solicitation for public input which resulted in testimony from the Texas Criminal Justice Coalition

## CSCD Funding Review & Recommendations

---

- Focus group discussions at the Chief Probation Officers Conference
- Judicial Advisory Council and Probation Advisory Committee quarterly meetings
- Briefing with Legislative Budget Board staff
- Two day workshop with judiciary from CSCDs that were represented on the funding committee
- “Coffee with Carey” informal webinars with CSCD directors
- Briefings with TDCJ Executive Administration
- Formal survey of 122 CSCD directors (Reference Appendix C: Funding Committee Survey of CSCD Directors)

### Appendix C: Funding Committee Survey of CSCD Directors

1. Please indicate how many courts within your jurisdiction initially charge each of the monthly supervision fee amounts below:

- \$00.00
- \$40.00
- \$50.00
- \$60.00
- Other

2. How much do you typically budget/expend per year for indirect cases, including salaries?

3. How many cases per year reported as indirect are actually supervised in your department as “direct” cases?

4. How much money do you expend on CSR each year?

5. Please complete the following information (if FY15 4<sup>th</sup> quarter costs are not available, please estimate to provide a FY amount); do NOT include any funding related to bonds, civil cases, or outside grants:

FY2014 Offender Paid:

- Supervision Fees
- Program Participant Fees

FY2015 Offender Paid:

- Supervision Fees
- Program Participant Fees

FY2014 CSCD Paid:

- Contract Services to Outside Vendors
- Services Provided In-House

FY2015 CSCD Paid:

- Contract Services to Outside Vendors
- Services Provided In-House

6. List services for which offenders pay vendors directly or reimburse the CSCD

7. During the FY2014-2015 biennium, how many direct offenders supervised by your CSCD (number of people served) had felony cases reduced to misdemeanors?

8. If you are having difficulty maintaining sufficient funding for referral sources for offenders, what do you do to meet the needs of your offender population?

**Appendix D: Matrix of Funding Recommendations by Objective**

The following table summarizes the relationship between the funding committee’s stated objectives and each recommendation outlined in the report:

<b>Recommendations</b>	<b>Objectives</b>						
	Study Funding Formulas	Equitable Funding Allocations	Incentivize Best Practices	Reduce Revocations	Historically Underserved Communities	Successful Probationer Outcomes	Over-Reliance on Fees
Modify current probation funding formula	X	X	X	X	X	X	X
Retain current funding structure if additional funding is not available to keep CSCDs “whole”	X						
Increase aftercare supervision and treatment funding following residential treatment in community corrections facilities		X	X	X	X	X	
Increase funding for resource intensive specialized populations		X	X	X	X	X	X
Fund misdemeanors at the same level as felonies		X	X	X	X	X	X
Fund felony and misdemeanor diversion at the same rate as traditional probation		X	X	X	X	X	X