

ONE SIZE FAILS ALL  
REPORT SERIES

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# YOUNG ADULTS AND COMMUNITY SUPERVISION

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The Need for a  
Developmentally  
Appropriate Approach  
to Probation



AUGUST 2018



This is the first of four reports in TCJC's One Size Fails All report series. This series explores the failures of Texas' criminal justice system to adequately address the needs of vulnerable and marginalized populations, including teenagers and young adults, people with substance use and mental health issues, the LGBTQ community, and people without stable housing supports. Not only are these populations failed by the justice system, but Texas families and communities are harmed as more people are driven into incarceration, and taxpayers are left to foot the bill for unsuccessful policies and practices. We urge you to join us in calling for reforms that will create healthy, safe, thriving Texas communities.

The Texas Criminal Justice Coalition advances solutions that transform the adult and youth justice systems to support families and foster safer communities.

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# YOUNG ADULTS AND

# COMMUNITY SUPERVISION

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The Need for a Developmentally  
Appropriate Approach to Probation

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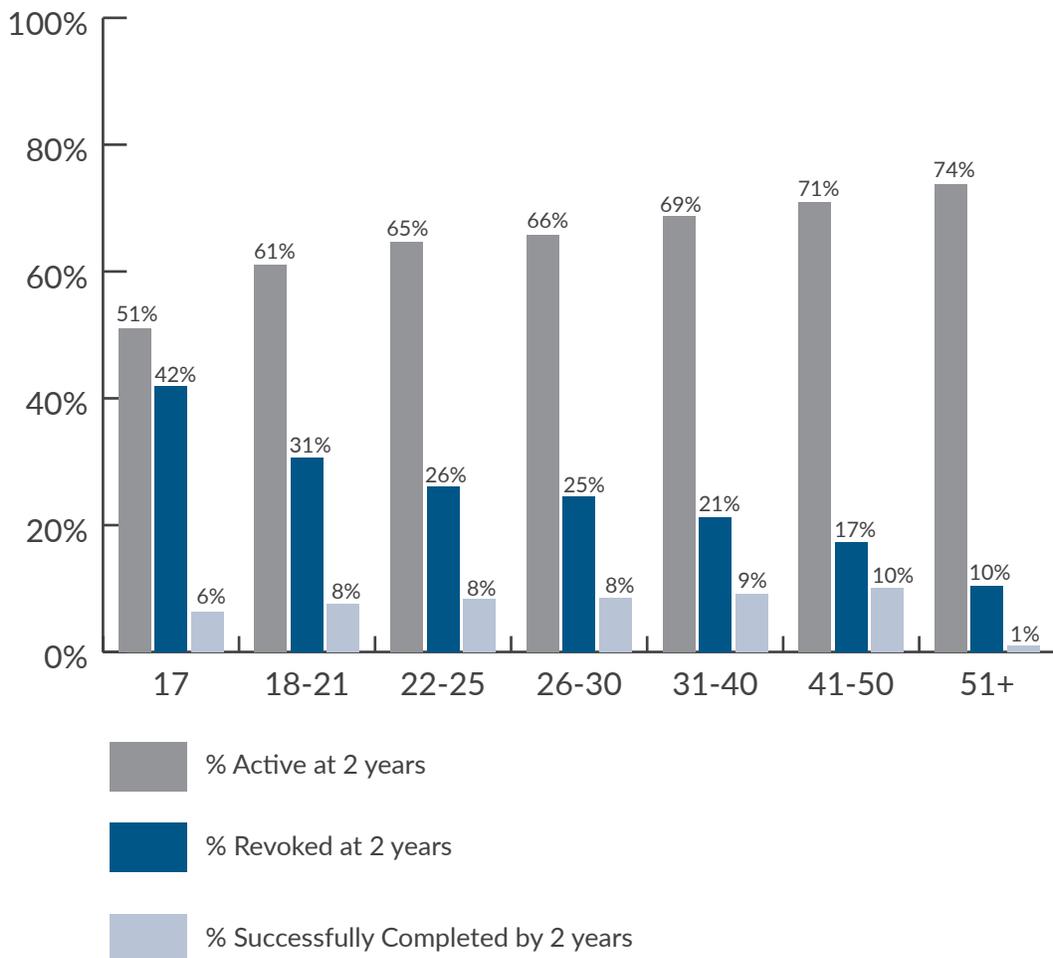
## Introduction:

# Current Approaches are Failing System-Involved Young Adults on Felony Probation

While community supervision (probation) is widely accepted to be an effective strategy for diverting people from prison and offering rehabilitative programming, the truth is that **young adults placed on adult probation for felony offenses are far more likely to be revoked and sent to prison than older adults.**<sup>1</sup>

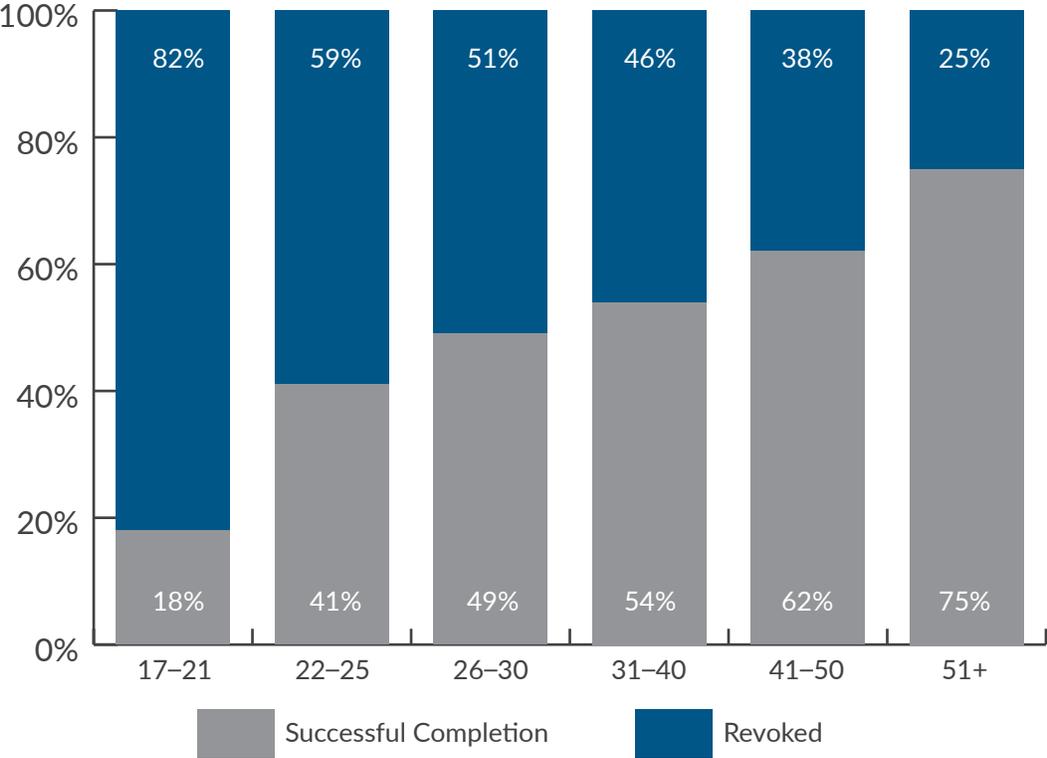
As illustrated by the chart below, young adults are less likely than older adults to have remained on probation for the full term by the two-year point, and the majority of cases terminated by the two-year point were due to revocation rather than successful completion.<sup>2</sup>

### FY 16 Felony Probation Outcomes by Age at Two Years of Supervision



In fact, only 18 percent of 17- to 21-year-olds successfully completed and were terminated from felony probation in FY 2017. The rate was slightly better for 22- to 25-year-olds, with 41 percent successfully completing and being terminated from probation, compared to 60 percent of felony probationers over age 25.<sup>3</sup> Sadly, nearly 7,400 young men and women had their probation revoked in FY 2017, with 7,000 young people committed to prison or jail.<sup>4</sup>

### FY 17 Texas Felony Probation Termination Outcomes by Age



It is clear: Traditional probation practices are not effective with 17- to 25-year-olds on felony probation. Courts continue to discount important developmental factors when setting probation conditions. This is heartbreaking when one considers the missed opportunities to alter the course for a generation of young adults who might otherwise have moved beyond criminal justice system involvement and led productive lives.

New approaches are critical, as people aged 17-25 are disproportionately represented in the criminal justice system overall, both in Texas and nationally. At a national level, young adults aged 18-25 make up less than 10 percent of the total population but represent approximately 29 percent of all arrests, 26 percent of people on probation, and 21 percent of all people admitted into adult prison.<sup>5</sup>

Young people of color, more so than any other age group, are disproportionately involved in the justice system. Nationally, for every white man sentenced to prison in 2012, there were six African American men and three Hispanic/Latino men imprisoned.<sup>6</sup> Similarly, for every white man aged 18 to 19 sent to prison, nine African American men and three Hispanic/Latino men of the same age were imprisoned.<sup>7</sup>

Upon release from prison, young adults are significantly more likely to be re-arrested and/or return to prison compared to other age groups,<sup>8</sup> a factor that underscores the essential role that community supervision can play in keeping young adults out of prison. Incarceration fundamentally derails a young adult's transition into adulthood, and it diminishes the likelihood of finishing school, establishing a career, and starting a family.

Probation *can* be an effective tool for rehabilitation, and it is the primary means by which felony defendants are diverted from prison in Texas. According to data from the Harris County Community Supervision & Corrections Department, adults who successfully completed a term of probation were less likely (regardless of risk level) to be re-arrested within 16 months of release than those with the same risk level who were sentenced to state jail.<sup>9</sup> The same results are seen at the juvenile level, where youth who successfully complete community supervision in the juvenile system are 21 percent less likely to be re-arrested within a year than those who are incarcerated.<sup>10</sup> Also importantly, community supervision is significantly less expensive than incarceration. At the adult level, community supervision costs the state \$1.78 per person per day as opposed to \$51.72 for incarceration in state jail. At the juvenile level, basic supervision cost \$5.93 per youth per day as opposed to \$37.62 for placement in a post-adjudication residential program or \$441.92 for placement in a state residential facility.<sup>11</sup>

**The benefits of community supervision — both in public safety and taxpayer savings — are only realized when the completion rates improve for all demographics, especially young adults on felony probation.** The purpose of this report is to highlight evidence-based practices that improve outcomes, strengthening public safety and changing the life trajectory of young adults who might otherwise spend years in prison.

Incarceration fundamentally derails a young adult's transition into adulthood, and it diminishes the likelihood of finishing school, establishing a career, and starting a family.

“Young adults on felony probation have higher rates of substance-use disorders, fetal alcohol syndrome, trauma, poverty, and victimization that make them ill-equipped for typical probation programs that monitor from a punitive angle.”

Alycia Welch,  
*Lone Star Justice Alliance*

## Probation Conditions, Revocations & Funding

The intended purpose of probation is to offer an alternative to incarceration that deters future criminal behavior and allows for rehabilitation in the community. For most young adults on felony probation, the current adult probation system is not meeting that intended purpose. The truth is that courts see more young adults on felony probation go to prison each year than successfully complete their terms of community supervision.<sup>12</sup> Their rate of revocation is significantly higher than any other age group, and it is a clear indicator that Texas’ adult probation system is not tailored toward young adults.

Individuals placed on probation are often required to adhere to numerous stipulations. Beyond rehabilitative conditions such as treatment, employment, and education, courts may impose dozens of additional conditions, including hundreds of hours of community service, a curfew, travel restrictions, and more. People on probation must meet regularly with a probation officer and submit to random drug screens, requiring them to leave work or school and find transportation. In Texas, probationers must also pay substantial fees and fines, including a monthly \$60 supervision fee and thousands of dollars in fines and restitution, court costs, aftercare fees, and drug screens.<sup>13</sup>

Failure to abide by these conditions may lead to revocation and incarceration. This can place enormous stress on anyone on probation, but the strain on young adults is especially hard, leading many to feel as though they have been set up for failure. The sometimes punitive and often arbitrary nature of community supervision conditions stems from a one-size-fits-all approach that simply does not work for young adults. Conditions often fail to account for developmental factors, risk level, and the specific needs of each individual. In 2016 alone, 12,207 probation revocations (approximately 54 percent of all adult probation revocations) were for failure to adhere to the conditions of probation, rather than for new offenses.<sup>14</sup>

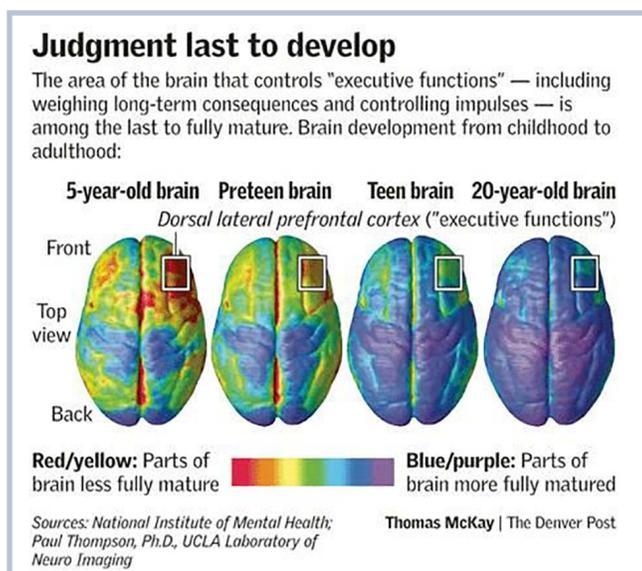
The length of probation,<sup>15</sup> coupled with high costs and lack of leniency for low-level administrative infractions (e.g., missed meetings or failed drug screens), make probation particularly challenging for young adults. Young men and women involved in the criminal justice system often face higher environmental exposure to criminal behavior than older adults, while simultaneously lacking the ability to process long-term consequences, and also lacking the supports to fully adhere to the stipulations of probation over an elongated period of time.<sup>16</sup> As a result, they experience, on average, higher probation violations and lower rates of adherence to community supervision stipulations than older adults, despite having the same stipulations.<sup>17</sup>

The Texas Department of Criminal Justice’s Community Justice Assistance Division (TDCJ-CJAD), which oversees and partially funds probation departments, granted over \$131.7 million for diversion programs in FY 2016, with \$2.95 million, or two percent of total grant funds, going toward specialized programming for young people on adult probation.<sup>18</sup> This is a step in the right direction, but probation directors indicate that there is very limited access to technical assistance to help prevent revocations among young adults. One director of a medium-sized probation department lamented, “We are in the dark when it comes to serving young adults.”<sup>19</sup>

## Young Adults & Brain Development

Recent neuroscience research helps explain why young adults require specialized, age-appropriate interventions. The brain — and, in particular, the prefrontal cortex — continues to develop well into an individual’s twenties.<sup>20</sup> The prefrontal cortex is the area most responsible for reasoning, self-control, and executive functioning. As a result, young adults struggle with issues around judgment, impulse control, and organized planning compared to older adults. They are simultaneously more susceptible to peer pressure than any other age group — factors that can lead to increased intersection with the criminal justice system.<sup>21</sup>

Young adults who find themselves in emotionally charged situations, especially when around their peers, often act impulsively and against their own better judgment.<sup>22</sup> As the brain develops, however, there are marked improvements in self-control. Even youth who impulsively commit more serious offenses are unlikely to repeat these actions as they mature into adulthood.<sup>23</sup> This trend, known as the “age-crime curve,” shows how **offending behavior peaks in adolescence and begins to steadily decline in early adulthood.**<sup>24</sup> This view aligns with recent research on brain development in young adults.



“The evidence suggests that the criminal justice system pushes an extraordinary number of young men of color into community supervision—and then sets them up to fail by requiring an exacting performance that is nearly impossible for young men in high-crime and heavily-policed neighborhoods with few resources to meet. At the same time, probation provides few supportive services to help young adults succeed and exit supervision successfully.”

Michelle Phelps,  
Assistant Professor  
of Sociology at the  
University of Minnesota

## Aging Out of Foster Care: Straight Into the Criminal Justice System

Nearly 70 percent of young males involved in the foster care system are arrested after leaving foster care, a rate that is 23 times higher than the general population; and 55.2 percent are convicted of a crime after leaving foster care.

In considering criminal behavior and rehabilitation in young adults, it is also important to understand the factors that make typical criminal justice interventions less effective. Justice system-involved young adults have higher rates of past emotional and physical trauma than any other age group,<sup>25</sup> and they are more likely to have experienced parental incarceration, foster care placement, poverty, substance abuse, mental health issues, and learning disabilities. All of these factors significantly impact progress toward psychosocial maturity.<sup>26</sup> In fact, adverse life experiences are often linked to offending behavior.<sup>27</sup> Past abuse and trauma impact a young adult's ability to form pro-social relationships, especially with people in authority. When held accountable for behavior, young adults with a history of trauma often react in ways that are seen as aggressive or stubborn.<sup>28</sup>

Young adults with a history of foster care placement are at particular risk of criminal justice system involvement. Nearly 70 percent of young males involved in the foster care system are arrested after leaving foster care, a rate that is 23 times higher than the general population; and 55.2 percent are convicted of a crime after leaving foster care.<sup>29</sup> The trauma associated with past abuse or neglect combined with developmental factors and the challenges of providing for oneself as a young adult all collide, driving vulnerable people into the criminal justice system.

Current adult probation strategies fail to address these various needs among young adults and, worse, incarceration only raises the prospect of future offending. Exposure to toxic environments such as adult jail and prison impact prefrontal cortex development and subsequently increase the likelihood of reoffending,<sup>30</sup> which further limits the ability of justice system-involved individuals to pursue education and employment, the very things that are most likely to decrease future criminal involvement.

## Young Adults in the Juvenile vs. Adult Justice Systems

Texas remains one of only four states that automatically sends 17-year-olds accused of a crime to the adult criminal justice system. In context with recent findings in both brain science and life-stage development, young adults aged 17-21 are developmentally closer to youth in the juvenile justice system than older adults.

Sixteen-year-olds who are placed on juvenile probation in Texas may serve out their probation in the juvenile system until they are 21 years old. Probation at the juvenile level is funded by the state at a much higher rate (\$5.93 per person per day) than at the adult level (\$1.78 per person per day).<sup>31</sup> Higher funding allows the juvenile justice system to focus more on rehabilitation through access to community-based, rehabilitative services (e.g., counseling, education, treatment, parental involvement, etc.). These rehabilitative services, along with sealed juvenile court records, are more likely to reduce recidivism than the adult system’s more punitive approach.

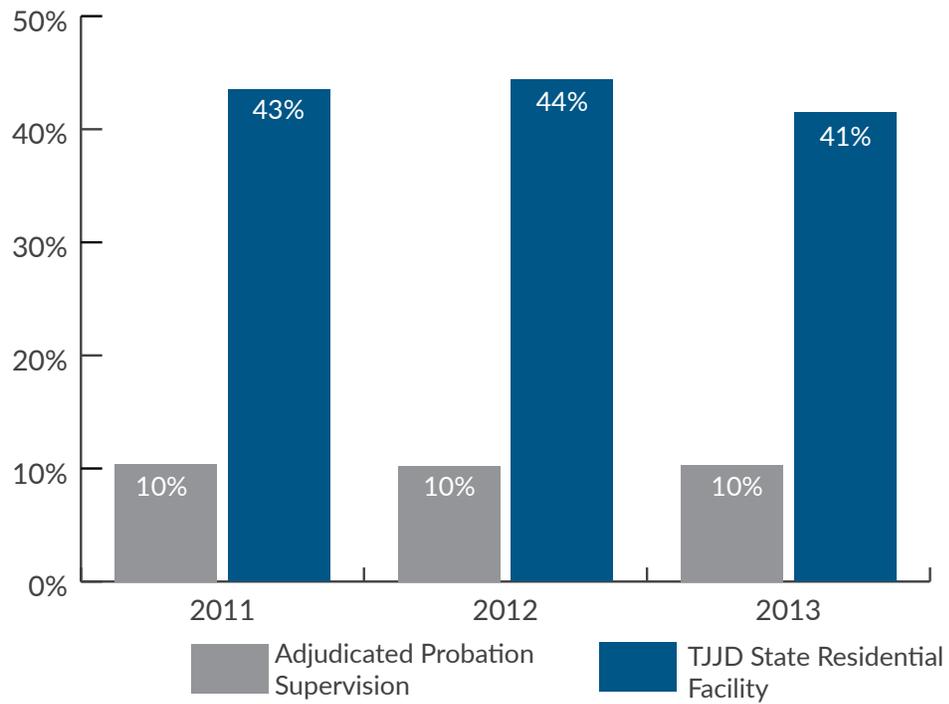
### Differences Between Juvenile and Adult Probation Systems

Juvenile	Adult
<ul style="list-style-type: none"> <li>• Probation will include community-based, rehabilitative services that can require the young person’s family to participate.</li> <li>• If a juvenile violates probation, the judge can require treatment or other rehabilitative services before sentencing him or her to a juvenile facility.</li> <li>• If a juvenile successfully completes probation, the court can seal his or her record. No one will have access besides law enforcement, who must petition the juvenile court.</li> </ul>	<ul style="list-style-type: none"> <li>• If placed on probation, a young adult will be offered limited rehabilitative services, and the young person’s parents are not included in the process. Parents with a child older than 16 do not even have the right to be notified of that child’s arrest.</li> <li>• If a young adult violates probation and is revoked, he or she will be sent straight to an adult jail or prison.</li> <li>• If the young adult completes probation, his or her record will still be viewable by military and law enforcement, even if the court has granted an order of non-disclosure. If non-disclosure is not granted, a criminal record will make it harder to find employment.</li> </ul>

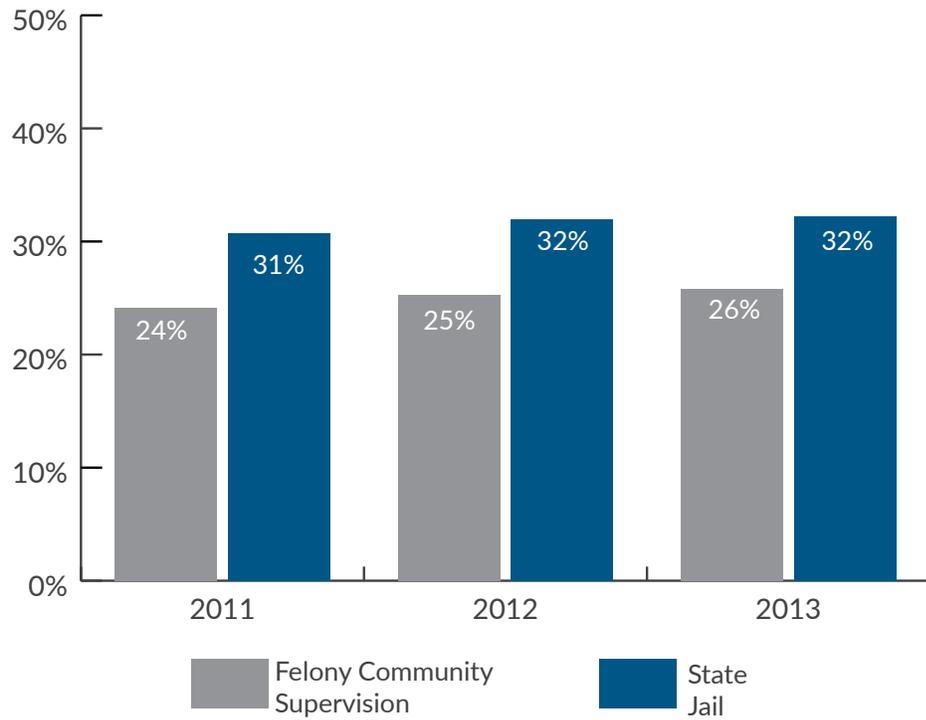
As illustrated in the table above, a young adult on probation in the juvenile system is much more likely to receive needed rehabilitative services than a young adult on felony probation in the adult system. Furthermore, the juvenile system’s ability to respond to probation violations by requiring community services, unlike the adult system, reduces a young adult’s likelihood of further intersection with the criminal justice system.

As illustrated in the graphs on the next page, youth placed on probation in the juvenile system were significantly less likely to recidivate than: youth sent to a state juvenile residential facility, adults on community supervision, or adults sent to state jail. In fact, youth sentenced to a state residential facility were 21 percent more likely to be re-arrested within a year, two times more likely to be re-incarcerated five years after release, and three times more likely to be re-arrested for a serious crime than a youth placed on juvenile probation.<sup>32</sup>

### Juvenile Incarceration or Reincarceration Rates By Fiscal Year of Release or Start of Supervision



### Adult Incarceration or Reincarceration Rates By Fiscal Year of Release or Start of Supervision



In the adult system, an adult criminal record creates lifelong barriers to an education, employment, and housing – subsequently increasing the likelihood of recidivating. The outcomes are significantly better for youth on juvenile probation.

Adult probation directors, courts, and policy-makers should take note of the differences between the juvenile and adult probation systems and apply the core principles of juvenile probation to the supervision of young people on adult felony probation. Recognizing that juvenile probation is more likely to produce better outcomes and keep greater numbers of young adults out of adult prison, it is imperative that the state reconsider the age at which it refers younger defendants to the adult system, so as to encourage more young adults to be placed on juvenile probation. However, as there will still be a significant number of young adults referred to the adult system, we must look to the evidence regarding effective supervision practices for people under age 25 on adult felony probation.

## Effective Community Supervision

The most effective approach for reducing criminal justice system involvement among young adults is one that integrates community-based strategies. This approach must be individually tailored and steeped in recent research on young adult development to successfully eliminate the negative collateral consequences that impede a young adult's ability to age out of delinquent behavior.

### Partnerships with Providers and Community Supports

The emerging best practice in community supervision for young adults is the use of community partnerships. Probation departments should integrate a community-based approach through collaboration with outside service providers and the young adult's existing community supports (e.g., their family, their faith-based community, etc.); the approach should also include educational, employment, mentoring, or life skills components, depending on the needs of each specific client. As evidenced by the following examples of community-based partnerships, a collaborative approach produces both better outcomes for young adults and cost savings for taxpayers. It is noteworthy that many of these approaches were developed by probation departments, which have become increasingly interested in improving success rates among young adults.

- Through collaboration with outside nonprofits, universities, and hospitals, **Bell/Lampasas County Community Supervision & Corrections Department (CSCD)** has developed an approach that provides life skills training and a more rehabilitative approach to community supervision. According to Director Todd Jermstad, the CSCD has partnered with the counseling departments at the University of Mary Hardin-Baylor and Texas A&M University – Central Texas to better integrate life skills training and mental health services, allowing CSCD staff to meet the individualized needs of probationers.<sup>33</sup>

- **Roca**, a Massachusetts-based nonprofit that specializes in reducing recidivism rates among young men aged 18–24, provides two years of case management, educational, vocational, and life skills support to help at-risk young men avoid intersection with the criminal justice system. While not a probation department, Roca focuses on partnerships with law enforcement, corrections, the individual’s existing support systems, and needed social service providers. Roca is data-driven and utilizes web-based data management tracking to provide a critical feedback loop for staff and clients around short-term and intermediate goals. **A study by the Harvard Social Impact Bond Lab of approximately 900 justice system-involved men served by Roca and a control group of men served by the traditional justice system shows that Roca-involved men had a 65 percent reduction in recidivism and a 100 percent increase in employment.**<sup>34</sup>
- The **Atlanta/Fulton County Pre-Arrest Diversion Initiative** relies on community-based, trauma-informed care systems to increase public safety. Prosecutors and police officers work closely with Care Navigators to take an individualized approach to law violations, diverting people from the justice system into social service systems that address unmet needs, including supportive/transitional housing, drug treatment, and mental health services; these services are less costly and more effective at creating behavioral health changes than incarceration, and the program has been successful in reducing further intersection with the criminal justice system.<sup>35</sup> The Pre-Arrest Diversion Initiative is modeled after a similar approach in Seattle, Washington, wherein participants were 58 percent less likely to be arrested than individuals who went through regular criminal justice processing.<sup>36</sup>

### Community-Based, Individually Tailored Probation Offers Large Cost Savings

Emerging best practices for young adults on probation provide Texas with a roadmap for creating a community supervision system that is both cost-effective and able to reduce intersection with the criminal justice system. To move in this direction, Texas must alter the felony probation funding mechanism to better assist young adults, as well as pass legislation to provide more technical assistance to and evaluation of relevant programs.

The current standards of community supervision are ineffective for young adults and costly to taxpayers. In 2017, almost 7,000 young people on adult felony probation were committed to prison or jail after a probation violation, costing the state over \$130 million.<sup>37</sup> **In comparison, if these young adults remained on standard probation, it would cost taxpayers approximately \$4.5 million — a savings of over \$126 million.**

Adult probation services must be more effectively suited to the needs of young people on felony probation, which will better ensure their success on probation

to prevent revocations. Although placing young adults on a specialized adult caseload (at \$5.33 per person per day) is more costly than the standard adult probation rate (\$1.78 per person per day),<sup>38</sup> it will allow for a community-based approach that, as seen with programs like Roca, can reduce recidivism rates by 65 percent compared to those on standard community supervision. Taking a more conservative estimate, if Texas were able to institute specialized supervision and achieve a 10 percent reduction in recidivism among this age group, the state would save approximately \$11.5 million annually in correctional costs.<sup>39</sup> These savings are only a reflection of the decrease in costs to incarcerate and do not reflect the impact of having these individuals as productive and working members of the community.

## Improving Results by Emphasizing Career Outcomes Over Probation Compliance

Young adults lag far behind older adults on probation with respect to educational and career progression. Balancing employment, probation requirements, and parenting can be especially daunting for young adults – making regularly scheduled meetings with a probation officer, as well as steep financial responsibilities, seem impossible. **Shifting the focus from probation compliance toward life skills and vocational training reduces the likelihood of re-offense while providing meaningful opportunities to help young adults develop maturity.**

During Texas' 2017 Legislative Session, the Legislature passed House Bill 3130, which establishes an educational and vocational training pilot program for state jail felony defendants.<sup>40</sup> The model limits incarceration periods to 90 days, followed by a 90-day vocational training program and another 90 days of community supervision. The legislation has yet to be funded, but it provides a framework for courts to divert young adults from the traditional probation process after certain periods of time.

## Model Probation Department Practice with Training & Job Placement

The Sacramento Probation Department, in partnership with the Northern California Construction Training program and Sacramento County Office of Education, developed a program for vocational training and job placement for moderate- to high-risk probationers. The evaluation of the program shows lower rates of recidivism and higher wage earnings among probation participants. Ironically, many program participants found that their involvement with the program was hampered by additional probation stipulations.

Source: Dionne Barnes-Proby, et al, *Bridge to Opportunities: How One Probation Agency Developed a Program Designed to Connect Probationers to High-Wage Jobs*. Santa Monica (CA: RAND Corporation, 2018).

## Model Probation Department Practice for Young Adults

San Francisco's Adult Probation Department operates a specific department that trains officers to work with 18- to 25-year-old defendants. Through developmentally and individually tailored case plans, along with community partnerships, the specialized department has reported a 73 percent successful community supervision completion rate. Given Texas' low rate of successful community supervision completions, state leadership should pursue all strategies to implement a community-based approach that integrates recent brain science and, in turn, significantly improves outcomes among young adults.

Source: Harvard Kennedy School, Malcolm Weiner Center for Social Policy, *Changing the Life Trajectory of Justice-Involved Young Adults in San Francisco*, 2018.

## The Critical Need for Technical Assistance for Adult Probation Departments

Community supervision programs that appropriately integrate recent brain science and life-stage research related to young adults can effectively address the barriers that hinder a young adult's ability to be successful on adult felony probation. **Technical assistance should provide direction to courts and probation departments to better ensure developmentally appropriate probation stipulations and effective supervision practices with the 17- to 25-year-old age group.** Given that young adults represent a significant proportion of the correctional population and are at highest risk of revocation, a higher proportion of probation grant funds should be dedicated to young-adults initiatives. Further, these funds should help departments partner with community-based resources that more effectively bolster existing systems in the young adult's life.

## Recommendations

**Most young people on adult felony probation in Texas will not succeed.** Considering the long-term impact that probation failure can have on young adults and their families and communities, the following recommendations should be implemented to dramatically reduce rates of re-arrest and revocation and improve outcomes for this important demographic.

### 1. Support Community-Based Collaborations with Partners Outside Traditional Probation

Best practices for young adults on adult probation integrate agencies and programs outside the criminal justice system. Young adults often face barriers related to educational attainment, health/mental health, substance use, housing, and family systems that no probation department can address without support from outside agencies that are specifically trained to address such issues. Probation departments that involve schools, behavioral health systems, and the youth's family are more likely to ensure that young probationers have the tools they need to succeed. Recognizing that most young adults on felony community supervision will likely be revoked and sent to prison or jail, increasing probation grant funding to support these collaborations is a reasonable investment that will lead to improved outcomes and lower costs related to further justice system involvement. **The Legislature should increase discretionary grant funding to support individualized, community-based rehabilitative programming for young adults on felony probation.**

## 2. Reduce the Monthly Supervision Fee

Monthly probation fees create a significant obstacle to both the successful completion of probation and the willingness to accept a term of probation (vs. a shorter term of incarceration). For young adults who face limited income and employment opportunities because of their criminal record, the financial burden is often too much. **The state should reduce the reliance on probation fees from young adults on felony probation by allowing for participation in rehabilitative programming to satisfy financial obligations. Reducing the financial barriers that probation creates for young adults will generate cost savings through a reduction in revocations and an increase in young adults accepting a term of probation over incarceration.**

## 3. Provide More Technical Assistance to Probation Departments to Ensure Best Practices in Programming

CJAD's grant funding for program diversion allows for specialized community supervision to better meet the needs of specific populations.<sup>41</sup> **CJAD should prioritize grant awards to assist young adults on felony probation, giving preference to models that incorporate community partnerships and implement developmentally appropriate practices, and it should utilize better evaluation methods and provide technical assistance to probation departments.**

## 4. Shorten Probation Terms for Low-Risk Probationers

For low-risk defendants, longer probation terms and tougher conditions are often counterproductive, leading to an increased likelihood of revocation for those who might otherwise have been successful with a shorter term.<sup>42</sup> Longer probation terms, which can last from one to ten years in some cases, squander limited resources on low-risk defendants that could be used for individuals who need more intensive community supports. **Courts should shorten probation terms for low-risk defendants and emphasize early termination from probation for higher-risk defendants who successfully complete rehabilitative programming.**

## 5. Prioritize Educational and Vocational Services for System-Involved Young Adults

Educational and vocational training are crucial to young adult life stage development and reduce the likelihood of recidivism. Yet job participation is lower among all young adults aged 17–25 than it is for older adults.<sup>43</sup> **The Legislature should promote greater participation in vocational programming by allowing it to satisfy financial and community supervision obligations. The Legislature should also provide funding for educational and vocational pilot programs for state jail felony defendants that were created by HB 3130 during the 2017 Legislative Session.**

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38. LBB, *Uniform Cost Report*.
39. Cost savings were calculated by taking the 95% of young adults sent to state jail or prison due probation revocation and projecting costs if they were placed on a specialized probation caseload at a rate of \$5.33 per day instead of regular probation caseload taxpayer cost of \$1.78 (See LBB, *Uniform Cost Report*). Taking a conservative estimate, we projected cost savings based off savings for a 10% reduction in yearly revocations.
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# YOUNG ADULTS AND COMMUNITY SUPERVISION

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The Need for a Developmentally  
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