

Guest Column: Probation a beneficial alternative to incarceration

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Opinion

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AUSTIN - Confronted with the staggering costs of the state prison system, the Legislature appears ready to replace the longstanding policy of "lock 'em up and throw away the key" with "don't build it and they won't come."

Although Texas prisons are at capacity, the Texas House and Gov. Perry have signaled their opposition to constructing new prisons. Prosecutors and judges now will be forced to rely more on alternatives to incarceration, particularly probation, for nonviolent offenders.

However, this change will succeed only in reducing crime and relieving the burden on taxpayers if the probation system is reformed. Currently, half of all probationers have their probation revoked, and these probationers serve an average of 4.5 years in prison. Probation must evolve from a revolving doorway to prison into a gateway to responsibility, restitution and rehabilitation.

The ultimate goal should not only be to prevent future crimes, but - using supervision, treatment and the threat of prison - to encourage probationers to put their own lives in order while working to heal the wounds they inflicted on their victims and community. Almost by definition, a reformed probationer is in a much better position to do this than a prison derelict.

The Legislature must solve several fundamental problems with the probation system.

First, multiple violations by a probationer, short of committing another crime, often result in no punishment at all and are followed by yet another violation that leads to a long prison term. The Texas Senate's Criminal Justice Committee passed legislation to create a progressive sanctions program. Examples of such sanctions include a night in a county jail, a curfew, a fine, and mandatory counseling.

Several Texas jurisdictions have demonstrated the effectiveness of progressive sanctions. Judge Bradley Smith founded a Special Sanctions Court in Fort Bend County that has reduced the number of probationers sent to prison for rule infractions by 63 percent. San Patricio County has achieved similar reductions in both revocations and recidivism.

Among the sanctions that must be available are commitment to residential drug or mental health facilities or work restitution centers. Unfortunately, these facilities have waiting lists of up to six months because the number of

beds has declined from 4,751 in 1995 to 2,800 today, due primarily to decreased legislative funding. Yet a 1999 study by the Texas Department of Criminal Justice found 70 percent of probationers who complete these programs do not have their probation revoked, realizing a 39 percent savings to the state compared to the cost of revocation and incarceration.

Second, probation officers often fail to provide adequate supervision. This is, in part, because each probation officer is currently asked to oversee 150 probationers. A study by the Manhattan Institute recommends the ratio be less than 100 to 1. Probation officers also should shift from a 9-5 weekday schedule to a flexible schedule that includes monitoring of probationers on nights and weekends, when they are most likely to step out of line. Also, rather than relying only on office appointments, probation officers should visit the probationer in his neighborhood and engage his family and neighbors.

Community supervision must be active rather than passive, with the goal of fostering compliance with probation conditions rather than waiting for a violation.

Success must be measured not by how many probationers are supervised or imprisoned, but by how many succeed in refraining from further crime, compensating their victims, and becoming productive members of society.

Finally, the stick that goes with this carrot must really be a stick. The San Antonio Express-News recently reported: "Convicted criminals themselves sometimes prefer a short state jail sentence to probation." The expansion of prison manual labor programs that produce goods and services could encourage offenders to accept probation and deter them from violating probation conditions, while also providing a funding source for compensating victims.

Legislators pressed for cash are ushering in a new era of Texas criminal justice in which it is the key to the prison bulldozer that is being discarded. To achieve the benefits of this change, we must also reform the probation system so it corrects the behaviors that lead to crime, rather than serving as a halfway house to the big house.

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