



DEAD MAN WAITING:

A brief profile of deaths in Texas prisons among people approved for parole release

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Introduction

There are more than 10,700 people in Texas prisons who have been approved for release on parole but remain in custody.¹ This number represents nearly one-tenth of the entire Texas prison population. Despite being approved for parole, some of these people will never walk out the prison gates because they die while waiting for release.

A substantial period of delay between parole approval and parole release is built into the current design of the Texas parole system. When the Texas Board of Pardons and Paroles (BPP) decides to approve someone for release on parole, it can do so pending completion of in-prison programming, which is intended to prepare someone for reentry. However, these programs are not available to parole-eligible people until they receive approval from the BPP.² The Texas Department of Criminal Justice (TDCJ) assigns parole-approved people to board-required programming only when there is a spot available for them. As a result, people can remain in prison post-parole approval for a year or more while waiting to begin or complete programming.³ This

Parole-eligible: the earliest someone can be considered for parole approval

Parole-approved: approved for release pending a date reached or requirement completed

Parole-released: serving the remainder of a sentence under supervision in the community

The COVID-19 pandemic in 2020-21 exacerbated those delays, due to suspension of in-person programs and restricted transfers between

facilities, including transfers to the facilities where certain pre-release programs are provided.⁴

In November 2020, we co-authored a report that found that nine individuals had died from COVID in the period between parole approval and their projected release date.⁵ This finding raised questions for us about whether this was a pandemic peculiarity or a broader phenomenon of people dying in Texas prisons while they await the completion of programming that enables their release on parole. This research brief answers those questions in a first-of-its-kind analysis.

Methodology

Using cross-referenced data from various publicly available sources, including parole approval decisions reported by [TDCJ](#) in their high value data sets from March 2020 to March 2021,⁶ deaths in custody reports compiled by the [Texas Justice Initiative](#), and data from Custodial Death Reports available on the [Office of the Texas Attorney General's](#) website, we identified all parole-approved individuals who died in prison while waiting for release between March 2020 and March 2021.

We also calculated the amount of time people remain in TDCJ custody after being parole-approved for every month in which data was available.⁷ While the data indicates individual parole approval dates, it does not provide specific release dates for each individual. Therefore, we used the first day of the first month that an individual no longer appeared in a data set as a proxy for their release date to calculate the length of time people remain in TDCJ custody after their approval date.⁸ This provides a conservative approximation of the "wait" people experience after approval for release; actual delays are likely somewhat longer.

To determine whether deaths following parole approval were solely related to COVID and to provide a basis for comparison, we duplicated our analysis for the full calendar year prior to the pandemic, January 2019-January 2020.⁹

Research Findings

(1) How long do parole-approved people typically wait for parole release?

In any given month before COVID, people remained in Texas prisons for an average of 3 to 4 months after their parole approval before they were released. During the COVID pandemic, the typical delay in release ranged from 5 to 11 months; the overall average was 6 months.

(2) How many parole-approved people died while awaiting parole release during the COVID pandemic?

Between March 2020, when TDCJ locked down its facilities due to COVID, and March 2021, at least

42 people who were approved for release on parole died in Texas prisons.

These are people who BPP determined are safe enough to be released by a certain date or pending the completion of a required program. They met some of the nation's most burdensome standards for parole approval and yet they still died behind bars while awaiting their release.¹⁰

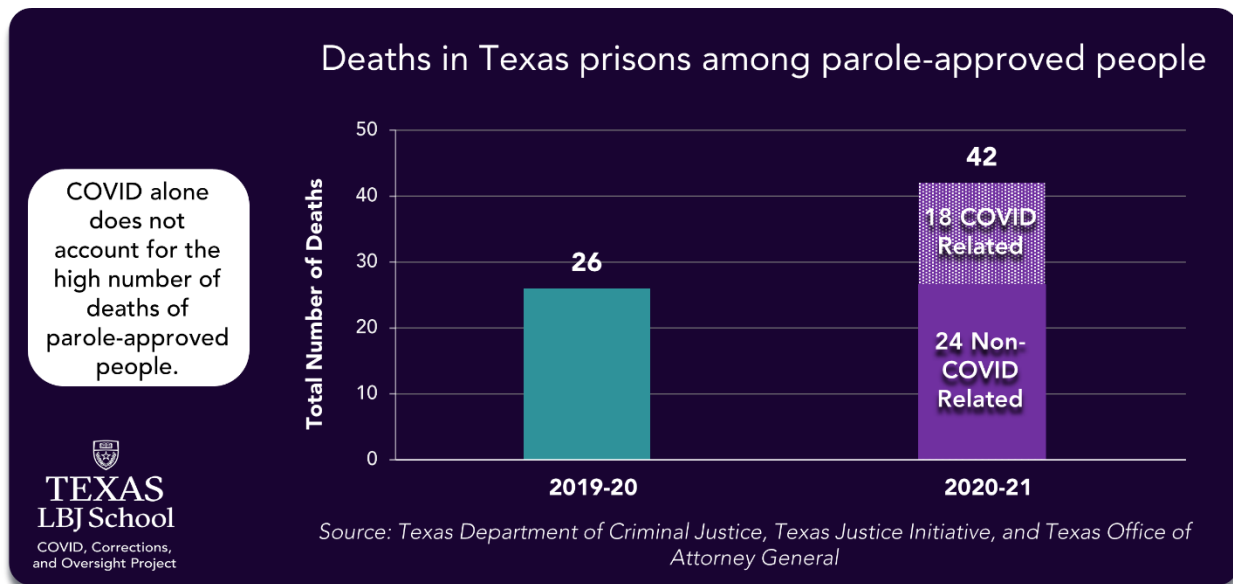
42 parole-approved people died in 2020-21 compared to **26** in 2019-20

(3) Are these deaths a recent phenomenon due to COVID?

We identified at least 26 parole-approved people who died while waiting for release between 2019 and 2020, confirming that deaths during the period between parole approval and parole release are not unique to the COVID era.¹¹ Figure 1 shows the deaths of parole-approved individuals in 2019-20 and in 2020-21, and distinguishes COVID-related deaths from other deaths.

Figure 1: Comparing Total Numbers of Deaths of Parole-Approved Individuals in Texas Before and During the COVID Pandemic

Jan 2019-Jan 2020 vs. Mar 2020-Mar 2021



As Figure 1 above indicates, COVID-19 contributed to a significantly higher number of deaths among parole-approved people in 2020-21 than in the previous calendar year. However, the number of non-COVID-related deaths in 2020-21 (24 in total) is consistent with the number of deaths in custody in 2019-20, before the pandemic (at least 26 in total). This means that the issue of parole-approved people dying while waiting to be released is not unique to the COVID crisis.

The problem of parole-approved people dying while waiting to be released is not simply a COVID-related phenomenon.

(4) What are the demographics of the people who died while awaiting parole release?

We discovered similar demographic trends among parole-approved people who died in custody before and during the pandemic.

The average age at time of death is nearly identical during the two time periods (60 years

old in 2019-20 compared to 61 in 2020-21). People who died during the COVID period ranged from 35 years old to 88, while in the prior year, they ranged from 42 to 87.

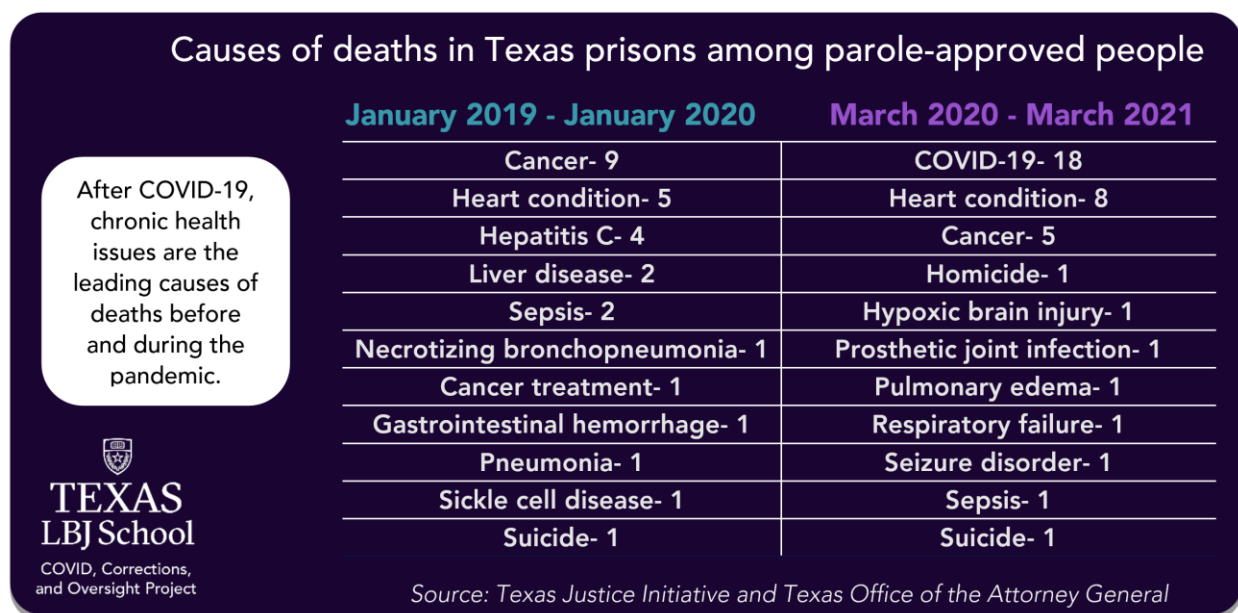
The vast majority of people who died were men. Only four women died over the two-year span, two per year.

Racial breakdowns in both periods also follow similar patterns. In 2019-20, 38% of people who died were Black, another 38% were White, and 23% were Hispanic. In 2020-21, 41% of people who died were White, 33% were Black, and 26% were Hispanic.¹²

(5) What were the causes of death?

COVID-19 was singularly responsible for the most deaths in 2020-21. But after COVID, the leading causes of deaths in Texas prisons among parole-approved people before and during the pandemic involved chronic health issues. The most common chronic conditions leading to death are cancer—often liver and lung—and heart conditions or other diseases. Notably, there was one known suicide each year. Figure 2 below lists all causes of death ranked by the frequency of occurrence, and the total number of people that died from each cause, as noted in their custodial death report.¹³

Figure 2: Causes of Death Among Parole-Approved Individuals in Texas Prisons
Jan 2019-Jan 2020 vs. Mar 2020- Mar 2021



As Figure 2 indicates, all but one person in 2019-20 died from illness or natural causes. One person died by suicide after hanging himself with a towel inside a shower stall. In 2020-21, most people died from illness or natural causes, including **18** from COVID-related complications. One man's death was ruled a homicide from blunt force trauma sustained during an altercation with another person in custody. Another man died by suicide after hanging himself with a shoelace.

(6) How much time had these individuals served on their sentences?

About 68% of parole-approved people who died in 2020-21 served at least half of their sentence, including 5 people who served their entire sentence or more.¹⁴ Similarly, in the year prior (2019-20), 54% of people served at least half of their sentence, with 2 people having served their entire sentence by the time of death.

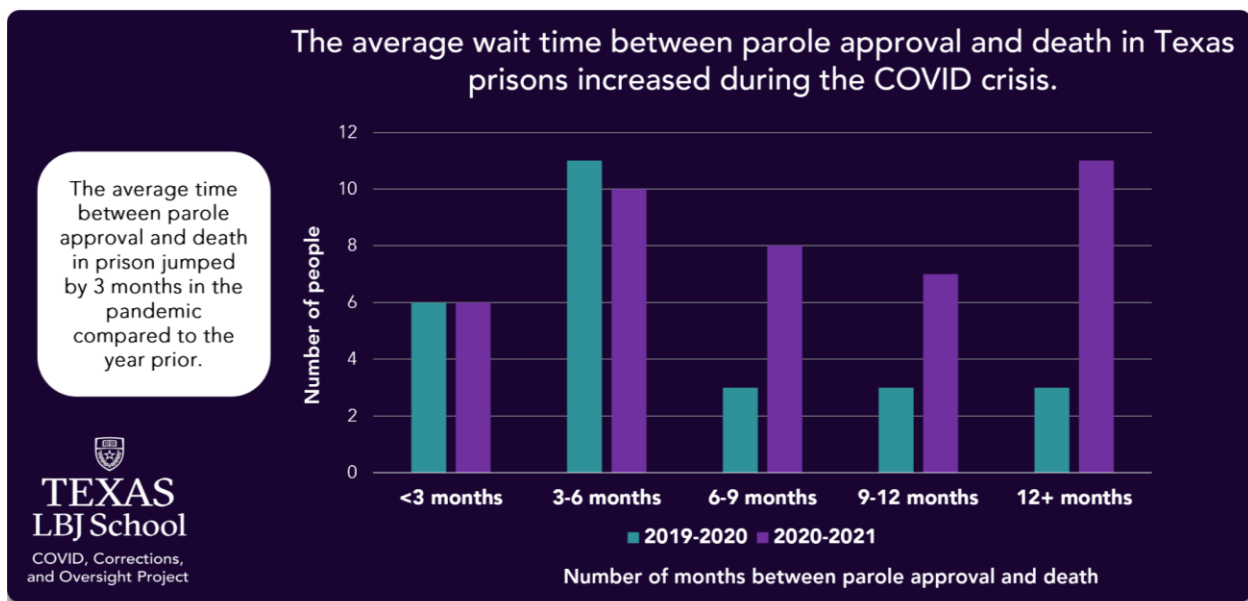
(7) How long had these individuals been waiting after they were approved for parole prior to their deaths?

The most striking difference between deaths in 2019-20 and deaths in 2020-21 is that the average time between parole approval and death in custody jumped during the pandemic. The average number of months between approval and death was 9 months during COVID, compared to 6 months the year prior. The COVID-related delays therefore accounted for a 50% increase in waiting time, making it ever more possible that a person could be exposed to COVID or have a chronic health condition worsen during that period.

Figure 3 below compares the wait times—the number of months people waited for release before dying in custody—for each year of our analysis.

Figure 3: Comparing Wait Times of Parole-Approved Individuals in Texas

Jan 2019-Jan 2020 vs. March 2020-March 2021



We found that more people are waiting longer during the COVID crisis. As shown in Figure 3, most people in both periods of our analysis were waiting for release on parole between three months and one year in prison before dying, but more people in 2020-21 are waiting longer.

(8) What accounts for the delays in release following parole approval?

According to the most recent statistical report from the Texas Board of Pardons and Paroles (BPP), more than half (60%) of people approved for release on parole must complete programming as

a condition for release.¹⁵ Programming often involves substance use treatment or sex offender education and can last anywhere from 3 to 18 months. TDCJ oversees the provision of programming at its facilities. Texas statute allows BPP to set these conditions but does not mandate their timely provision.¹⁶

During the COVID pandemic, participation in pre-release programs was delayed because many programs were suspended and transfers between prison units were not allowed. Eventually, TDCJ allowed people to complete pre-release programming through telephone, video-conference, and paper packets,¹⁷ which reduced the extent of the delays. Despite that policy shift, the lag time between parole approval and release continued to be substantial and the Texas parole system continues to impose significant—and even deadly—costs on its incarcerated population.

Discussion


The data reveals that a large number of people die in Texas prisons each year even though the Parole Board had already determined that these individuals were worthy of parole and no longer presented a risk to public safety. At least 68 people have died over the last two years. While COVID has dramatically exacerbated this problem, the data also tells us that this phenomenon is not unique to the pandemic era.

There is a structural problem with the design of the parole process in Texas that is a contributing factor in these deaths insofar as there is a lengthy delay between parole approval and parole release. That delay is due, in part, to offering pre-release programming only after a person has been approved for parole.

The data also revealed a large number of people with very serious and often fatal health conditions, such as cancer and heart disease, who die of these diseases in the period between parole approval and release. Rather than allowing these individuals the dignity to spend their remaining days in freedom or the ability to access medical care in the community, BPP and TDCJ force them to spend their final

days in prison awaiting programs they will likely never need.

Beyond this human toll is a financial one. Incarcerating people after they are approved for parole is an expensive practice—according to the state’s most recent calculations, incarcerating someone in Texas prisons costs \$69.27 per day.¹⁸ This means that, currently, Texans spend a total of \$744,722 per day waiting for 10,751 parole-approved individuals to be released.¹⁹ Given the average 3 to 4 months between parole approval and parole release in a non-COVID year, this quickly adds up to an average cost of \$6,234 - \$8,312 per person. Due to increased delays during the pandemic, which led to averages ranging from 5 to 11 months, those costs soared even higher, to an average of \$10,391-\$22,859 per person.



Texans spend almost **\$750,000** per day waiting for parole-approved people to be released

Providing medical care to people in custody is also expensive, especially for people with the kinds of chronic conditions that caused a high proportion of the deaths highlighted in this report. In 2015, the average cost of receiving medical care in Texas prisons was between \$96 and \$104 per person per day.²⁰ Those costs are substantially higher for TDCJ’s aging population, who disproportionately have conditions such as Hepatitis C and cancer.²¹ Keeping individuals with these chronic conditions incarcerated drives up the agency’s medical costs, and diverts funding from other correctional priorities.

Our findings lend support for modifying Texas’ parole process and offering all board-required programs at the front end of a person’s incarceration.²² By reducing the amount of time parole-approved people wait for release, Texas can substantially reduce its incarcerated population, save taxpayer money, and prevent future deaths in custody.

Moreover, people with chronic illnesses, including those living with mental health challenges, can benefit from treatment and services beyond what can be offered in prisons, and those with fatal conditions can spend their final days with their families. Prison is an especially difficult place to be when a person is facing physical and mental health challenges, and conditions inside the facilities,

compounded by frustration by the delay in release, can contribute to a person's stress and adverse health outcomes.

Recommendations

(1) Front-load rehabilitative programming in prison

TDCJ should offer rehabilitative programming at the front end of a person's stay in prison, rather than after their parole approval. Under current law, BPP has until the 180th day after an individual's admission into TDCJ custody to identify any programs that may be necessary for their release on parole.²³ TDCJ must make reasonable efforts to provide individuals an opportunity to complete these programs in a timely manner so that their release on parole is not delayed. However, the same timeliness requirement does not apply to the programs BPP requires parole-approved people complete before their release.²⁴ Making all programs available at an earlier stage in the incarceration process—specifically, before an individual's parole eligibility date, and possibly even at the start of their incarceration—would ensure that a person approved for parole can be released almost immediately, saving lives and saving taxpayer money.²⁵

Moreover, early access to rehabilitative programming can have a positive impact on a person's behavior while incarcerated, reducing the likelihood of misconduct and disciplinary violations. The Parole Board may also be more inclined to approve a person for release if the person can show that their needs have been addressed. Texas law requires the Board to consider individuals' progress in any kind of programming when deciding to grant parole.²⁶

During the 87th Legislative Session, Rep. Jarvis Johnson filed H.B. 2793 that would have required TDCJ to accelerate the availability of parole programming, consistent with this recommendation. Although the bill passed out of the House with strong support, the legislative clock ran out before it could be heard in the Senate. H.B. 2742, filed by Rep. Ron Reynolds, would have required reentry and reintegration programs to begin as soon as practicable once

someone is in TDCJ custody. This bill was also not heard in the Senate despite passing out of the House. Both of these bills offer a good starting place for future legislation.

(2) Offer community-based rehabilitative programming to people approved for parole

Individuals who have already been approved for parole subject to completion of programming should be offered the opportunity to access those programs in the community under parole supervision. These programs already exist for the benefit of probationers and can be expanded to cover parolees at a fraction of the cost of keeping these individuals in prison for additional months on end.

Especially given the fact that many in-prison pre-release programs were reduced to little more than pen-and-paper worksheets during the pandemic,²⁷ it is hard to see what benefit comes from requiring people to remain in prison to participate in such programming. Community-based programs, or even online programs that the person can participate in while remaining homebound, offer a range of better alternatives.

(3) Offer immediate release to parole-approved individuals with serious health conditions

For people faced with serious chronic health problems such as cancer and heart conditions, parole release should not be delayed for the sake of programming. These individuals should be prioritized for community-based programming upon release, if those programs are necessary at all. The objective should be to ensure that these individuals can spend their final days with families and loved ones and can access any necessary medical care in the community.

Conclusion

For far too many people, Texas's approach to rehabilitative programming in prison results in an unintended death sentence. People who have been determined by the Parole Board to be safe for release remain in prison to complete programs that could have been provided to them at a much earlier stage of their incarceration. While waiting to complete these programs, people die of chronic

medical conditions, COVID, suicide, and even homicide. But most of these deaths did not need to occur in prison, if at all.

Experts have long contended that re-entry starts on the day of admission to prison. But in Texas, the re-entry process starts once a person is approved for parole. That process needs to be changed, to promote more effective re-entry, to save money, and most of all, to save lives.

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¹ Texas Department of Criminal Justice (April 2021). "Inside TDCJ," High-Value Data Set, accessed (May 27, 2021), https://www.tdcj.texas.gov/kss_inside.html. TDCJ's April 2021 High-Value Data Set was the most recent data set available at the time of our analysis.

² Texas Criminal Justice Coalition (2021). "Safely Adjust Parole Practices to Reduce Massive Prison Budgets," <https://www.texascjc.org/spend-your-values/safely-adjust-parole-practices-reduce-massive-prison-budgets>.

³ Texas Board of Pardons and Paroles, "Parole / Mandatory Supervision Information," accessed (April 28, 2021), https://www.tdcj.texas.gov/bpp/what_is_parole/vote-options.html.

⁴ Jolie McCullough (July 23, 2020). "The coronavirus is keeping Texas prisoners who've been approved for parole behind bars," Texas Tribune, <https://www.texastribune.org/2020/07/23/texas-prisons-coronavirus-parole/>.

⁵ Michele Deitch, Alycia Welch, William Bucknall, and Destiny Moreno (November 2020). "COVID and Corrections: A Profile of COVID Deaths in Custody in Texas," Lyndon B. Johnson School of Public Affairs, University of Texas at Austin, <https://repositories.lib.utexas.edu/handle/2152/83635>.

⁶ TDCJ publishes high value data sets on a monthly basis but does not archive any of them on their website. Our team has been collecting these data sets on a semi-regular basis. We did not have access to TDCJ's April, May, and August 2020 High Value Data Sets (which may not have ever been published), so our analysis may overlook certain individuals, resulting in a likely undercount of total deaths in 2020-21.

⁷ We have data for the following months in this time period: March, June, July, September, October, November, and December 2020; January, February, and March 2021.

⁸ The data sets provide a snapshot of the TDCJ population on the last day of the month, so if the individual does not appear in the following month's data set, we made a calculation as if that person was released on the following day, although they could have been released at any point during that next month.

⁹ We have data for the following months for the 2019-2020 period: December 2018; January, June, July, August, and October 2019. We used the December 2018 data set to identify people who were not included in the January 2019 data set because they died in January 2019.

¹⁰ Jorge Renaud (2019). "Grading the parole release systems of all 50 states," Prison Policy Initiative, https://www.prisonpolicy.org/reports/grading_parole.html. In this national audit of parole systems, PPI gave Texas an "F" grade

for its stringent parole review process. Texas lost points due to its presumptive parole policies, subjective reasons for parole denial, lack of staff assistance for parole applicants, and lack of a vehicle for parole applicants to challenge incorrect information. Only 12 other states received fewer points than Texas.

¹¹ The 2019-20 death count is a more conservative count than the 2020-21 count as we had access only to TDCJ High Value Datasets from December 2018, January, June, July, August, and October 2019 to identify parole approval dates for people who died in 2019-20.

¹² As a basis for comparison, the racial breakdown among the general prison population in 2019-20 was 34% White, 33% Hispanic, and 33% Black. The parole-approved population's racial breakdown that year was 39% White, 32% Hispanic, and 28% Black. During 2020-21, the racial breakdown among the general prison population during the pandemic year was virtually the same as the prior year, with an equal distribution of White, Black, and Hispanic people at 33% each. The parole-approved population during this time frame was 36% White, 34% Hispanic, and 29% Black.

¹³ This table does not include three people who died in 2020-21 whose cause of death is still unknown.

¹⁴ Note that the time served on a sentence is based only on the offense of record, as recorded in the high value data sets. A person may also be serving a separate sentence on another charge, but we do not have access to that sentence to incorporate into our time-served calculation.

¹⁵ Texas Board of Pardons and Paroles, (2020). "Annual Statistical Report FY 2019," https://www.tdcj.texas.gov/bpp/publications/FY_2019_Annual_Statistical_Report.pdf.

¹⁶ Texas law does not mandate programming as a condition for release, but Sec. 508.152(c) of the Texas Government Code requires BPP to identify and provide information on any classes or programs the Board intends to require an individual to take before release on parole.

¹⁷ Texas Legislative Budget Board (January 2021). "Criminal and Juvenile Justice Uniform Cost Report FY 2019 and 2020," https://www.lbb.state.tx.us/Documents/Publications/Policy_Report/6292_CJDA_Uniform_Cost.pdf.

¹⁸ Texas Legislative Budget Board (January 2021). "Criminal and Juvenile Justice Uniform Cost Report," https://www.lbb.state.tx.us/Documents/Publications/Policy_Report/6292_CJDA_Uniform_Cost.pdf.

¹⁹ This figure was calculated using parole approvals from TDCJ's April 2021 High Value Data Set and the Texas Legislative Budget Board's formula for calculating costs per day per person.

²⁰ Hogg Foundation for Mental Health (2016). "Texas Department of Criminal Justice and Local Criminal Justice Agencies," The University of Texas at Austin, <https://hogg.utexas.edu/project/texas-department-of-criminal-justice-and-local-criminal-justice-agencies>.

²¹ Davis Rich (November 2019). "Prison health care costs are higher than ever in Texas. Many point to an aging prison population," Texas Tribune, <https://www.texastribune.org/2019/11/25/texas-prison-health-care-budget-parole/>.

²² Bipartisan support for reforms that address Texas' cumbersome parole process has grown in recent years. Grits for Breakfast (June 24, 2019). "Why revocations from probation and parole make up nearly half of Texas prison admissions and what to do about it," <https://gritsforbreakfast.blogspot.com/2019/06/why-revocations-from-probation-and.html>.

²³ Texas Government Code, Sec. 508.152 (c).

²⁴ Texas Government Code, Sec. 508.152 (b-2).

²⁵ It was beyond the scope of this project to examine other states' practices, but we note that at least some other states offer programming to people at an earlier point in their incarceration. In New York, programming for parole is available to individuals at the start of their prison term. In Washington, programming can be accessed at any point in the incarceration process, and in Pennsylvania, people can access programming at a point prior to parole approval.

²⁶ Texas Government Code, Sec. 508.144(a)(3).

²⁷ Advocates point to the move as evidence that pre-release programming can be completed outside both a strict timeline and a correctional facility. See Michael Barajas (June 9, 2020). "COVID-19 has delayed programs that Texas prisoners need to get out," Texas Observer, <https://www.texasobserver.org/parole-texas-prisons-covid-19/>.