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Testimony from:
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House Committee on Corrections

Thank you for the opportunity to testify today regarding criminal justice reform policies that we believe are critically important. My name is Josiah Neeley and I am the Texas Director for the R Street Institute. R Street is a nonprofit, nonpartisan, public-policy research organization with a mission to engage in policy research and outreach to promote free markets and limited, effective government.

Our Criminal Justice and Civil Liberties team produces research and commentary on public policy related to all stages of the justice system, working primarily on issues surrounding policing, pretrial policy, sentencing, incarceration, juvenile justice and re-entry. We work across the ideological spectrum to provide policymakers with reforms that prioritize public safety, due process, individual liberty and fiscal responsibility.

Texas is a leader on criminal justice reform initiatives, and R Street applauds the commitment of lawmakers like you in identifying and solving issues that prevent our criminal justice system from functioning at its highest level.

Today, I would like to discuss some of the major issues that we are working to address. These include **jail and pretrial reform, police diversion and re-entry.**

The ability to incarcerate people is among the greatest powers granted to government. Yet too often, individuals who are brought to jails are not promptly assessed, and instead are left to languish behind bars at taxpayer expense while awaiting trial — even when they pose little or no risk to the public. Likewise, many people who have committed a misdemeanor offense are sentenced to serve time in jail even though public safety might better be served through community-based alternatives to incarceration.



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Jail reform and pretrial reform are thus related and must be discussed simultaneously. We believe that the key to successfully implementing effective changes to these systems is to improve our enforcement of the law.

Improved policing tactics have played a key role in reducing crime over the past two decades. In fact, research has shown that jailing low-risk individuals unnecessarily can actually be detrimental to public safety. This is true even of jail stays as short as two to three days, which are nevertheless associated with higher rates of new crimes than jail stays of 24 hours or less.

One solution to this problem is to discontinue the detention of individuals for failure to pay fines and fees and who lack the means to do so. The way fines and fees are handled is pushing low-income Texans further into poverty. According to Texas Appleseed, about 1 in 8 fine-only misdemeanor cases are paid off in whole or in part with jail credit. What's more, over 230,000 Texans are unable to renew expired licenses until these fines and fees are paid off, impairing their ability to work and be productive members of society once they are released.

Increasing the ability and the willingness of police officers to employ police diversion is also critical to decreasing the jail population and ultimately ensuring that the criminal justice system is working effectively. Police diversion is a mechanism that provides an opportunity for officers to deal with certain offenses without going through formal court prosecution, which reduces taxpayer costs.

An important part of a successful police diversion strategy is making sure that officers and the communities they police have a productive relationship. We believe that police departments should incorporate training designed to ensure that officers are temperamentally and culturally fit to interact with the populations they serve. It would also be beneficial to make changes to performance measures so that officers are not encouraged to make as many arrests as possible, but instead to undertake crime-prevention activities.

Even though not directly in the purview of this committee, we also believe that reforming police practices can have a major impact on jail populations. As a guiding principle, police should be encouraged to adopt strategies that move away from the existing "warrior" model and toward a "guardian" one. In this vein, officers should be incentivized to allocate their time to working with citizens



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in collaborative ways that make communities safer. This likely will mean fewer arrests and jail admissions for conduct that does not endanger the public.

Additionally, while not directly under the purview of this committee, it is important that we address the pathways by which youth are referred to detention — including the connection between the educational and juvenile justice systems. We believe increased communication and an alignment of goals between agencies working with youth and families can be paramount in achieving positive outcomes for youth. Furthermore, diverting low-risk youth away from the juvenile justice system can better leverage the expertise of social service, education and community partners to prevent these children from committing crimes as adults. Keeping children who do not belong in the system out of detention can also help those who do need supervision by freeing up existing resources within juvenile facilities.

For those individuals who do enter the system — including both youths and adults — it is of utmost importance that we prepare them to successfully re-enter society once they are released. For most formerly incarcerated people, re-entry occurs between the ages of 25 and 54 — the very time in life when society expects a person to have obtained full-time employment. While more than 80 percent of the general population in this age range is employed, only 33 percent of all formerly incarcerated people find employment within their first year of being released.

Research has shown that the first months of post-release living are the most critical in determining how successful re-entry will be. In fact, a 2015 Manhattan Institute study found that formerly incarcerated people who quickly gained employment after release were 20 percent less likely to reoffend than those who remained unemployed.

One way to help those re-entering society is to provide them with greater access to correctional education programs — specifically postsecondary courses — while they are incarcerated. A 2014 study by the RAND Corporation found that earning a postsecondary degree while incarcerated reduces the chance of re-incarceration due to a new offense by 24 percent.

It costs Texas taxpayers more than \$20,000 per year to incarcerate an individual. The cost to educate and train individuals during their incarceration or community supervision so that they are better prepared to re-enter society is minuscule compared to the costs — to communities, victims and families



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— when they are not able to reintegrate successfully. As an example, investing \$985 in education per participant could save taxpayers \$17,636 and result in a 7- to 9-percent decrease in returns to incarceration. Taxpayers would gain even more from improved public safety.

Providing correctional education opportunities also encourages a positive, safer community behind bars. In the absence of educational programming, physical inactivity and social disconnect can lead to depression, and a person's tendency to seek out new sensations and sources of stimulation can sometimes lead them to engage in antisocial activities. Providing postsecondary education within prison offers inmates space for productive activity and therefore can aid correctional officers in maintaining prison safety.

The bottom line is that 95 percent of those who are incarcerated will eventually be released into our communities. Promoting postsecondary education and other correctional learning programs for prisoners will improve their chances of success when they re-enter society, and are therefore crucial to maintaining public safety. Not only that, they also have the potential to encourage a positive, safer community behind bars; to increase incarcerated individuals' economic potential; and to create healthier, stronger communities outside of prison walls.

The R Street Institute stands ready to work with the Corrections Committee to reform any aspect of the criminal justice system where ineffectiveness has taken hold and curtailed the ability of justice-involved individuals to successfully re-enter our communities.