TABLE OF CONTENTS

Letter from Our Executive Director-printable start of file
Our Mission ........................................................................ 3
2023 Impact at a Glance ...................................................... 4
Restoring Humanity ............................................................. 5
Why We Believe in Second Chances .................................. 5
The Lives We’ve Saved .......................................................... 6
Steven’s Story ........................................................................ 6
Our 2022 Light of Justice Luncheon .................................... 7
Our History ............................................................................ 8
Our Board of Directors ......................................................... 14
Our Team ............................................................................. 15
Our Generous Donors ........................................................... 16

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COVER: AIDAN KOCH
Dear Friends,

On the evening of July 17, 2023, our client Ronald Burgos-Aviles faced the prospect of the death penalty. Our team had poured thousands of hours into Ronald’s case to tell the story of his life and why it was unjust for the State of Texas to kill him.

The jury deliberated until midnight. In the end, all twelve jurors decided that the “mitigating factors”—uncovered and presented by Texas Defender Service’s team—warranted a sentence of life rather than death.

We at Texas Defender Service are privileged to investigate and share stories that help prosecutors, judges and juries see the full picture of our clients’ lives—not just their worst acts, but everything they have lived through and what makes them human. Ronald’s is the 41st life Texas Defender Service has saved from execution or a death sentence since 2018, and the sixth this year.

Texas is the epicenter of excessive punishment and mass incarceration in the United States. Texas has the largest prison population in the country and wields incredible influence nationally when it comes to criminal justice. The death penalty and other harsh sentences do not make us safer; instead, research shows that long sentences can increase people’s chances of reoffending by destabilizing their lives. Beyond harming public safety, harsh sentences hurt marginalized Texas communities and families. Eighty percent of incarcerated Texans have minor children at home, and half a million Texas children have been separated from a parent serving time in prison.

At the heart of our society’s crisis of excessive punishment is a system that fundamentally dehumanizes people and their families. One antidote to harsh punishment is storytelling: showing decision-makers that people facing excessive punishments are complex human beings.

At TDS, we know that transformative change is possible in the State of Texas. Texas Defender Service has an unmatched legacy of driving down new death sentences and executions in Texas—our country’s most voracious user of the death penalty. And we have reformed laws for people facing the death penalty, including by winning five precedent-setting cases before the U.S. Supreme Court and successfully lobbying to pass groundbreaking legislation protecting the rights of people facing serious sentences.
Transformative change in Texas is not only possible; it is vital if we are to end mass incarceration in our country and develop more humane approaches to dealing with violence. We firmly believe that Texas is the most influential state for criminal-justice reform in the United States. When criminal-justice reforms happen here, they sweep across the nation to all states, not just those with a progressive orientation.

That’s why Texas Defender Service has expanded its impact to serve people facing excessive punishments beyond the death penalty. In 2023, we advocated for people serving life sentences for crimes they had little or no involvement in under Texas’s incredibly harsh “law of the parties.” We represented people convicted as children and unconstitutionally sentenced to life without parole. We launched a new project to seek second chances for people who are legally eligible for parole and are eager to go home and become breadwinners, taxpayers, and community leaders. We poured hundreds of hours into researching the causes of excessive incarceration and racially disproportionate sentencing in Texas—and what policymakers can do to transform them.

We do this work because we believe in humanity and justice. We do this work because we know that it is safer to release people to their communities when they are ready to go home, and have access to the services they need, rather than wait months or years beyond their parole-eligibility date only to send them home with no community support at all. We do this work because we know that addressing the historic injustices in our criminal-legal system is essential to building a humane society for all.

Obtaining justice requires our highest intellect and our boldest imagination. It also requires heart. At Texas Defender Service, we lead with love, with creativity, and with passion for justice and for people. Thank you for being a part of this journey with us.

With gratitude,

Burke Butler
Executive Director
Our Mission

We fight for the end of mass incarceration and excessive punishment in Texas through direct representation, policy reform, and public education.

We champion the dignity and humanity of people harmed by mass incarceration and advocate for a reimagined legal system that is just, humane, and free from racism and cruelty.
2023 Impact At A Glance

1 client with an intellectual disability whose sentence was modified from capital punishment to life by the Texas Court of Criminal Appeals

1 client who received a life sentence after 12 jurors decided that a life rather than a death sentence was warranted based on the mitigating circumstances uncovered by our team and presented to the jury

11,196 hours investigating the life histories of our clients facing serious punishments through in-depth interviews, records collection, and records review

613 hours providing intensive legal consultation and support to trial and post-conviction capital teams across the State of Texas

962 hours researching and analyzing the drivers of excessive punishment, mass incarceration, and racial inequity in Texas

400 hours training trial teams and mitigation specialists about how to protect their clients from the death penalty and other harsh punishments

2 days presenting evidence that our client was intellectually disabled at a state-court hearing

54 new pretrial motions written for capital trial teams across the State of Texas to help them effectively advocate for their clients

4 clients we are newly representing who are serving unconstitutional sentences of juvenile life without parole

9,896 new followers hearing about our work and our message on our email listserv and social media
Restoring Humanity

At Texas Defender Service, we restore humanity to our justice system. We investigate our clients’ uniquely human stories and, in the words of Senior Mitigation Specialist Nayeli Moreno, “present them as whole.” Time and again, our work has led decision-makers to choose more humane sentencing options.

Of our 28 pre-trial clients whose cases were settled with district attorneys from 2018-2023, 18 of our clients’ cases have been finally resolved (the remaining clients no longer face the death penalty but have pending criminal charges).

Of those 18 clients whose cases were finally resolved from 2018-2023:
9 clients had their charges dismissed altogether or received sentences ranging from 14 to 50 years rather than a death or life sentence.
1 client received a sentence of life with the possibility of parole.
8 clients received a sentence of life without parole.

Why We Believe in Second Chances

There are so many reasons we believe in second chances. One of them is Thomas Miller-El. Thomas Miller-El was TDS’s longtime client. In 2005, the United States Supreme Court overturned Thomas’s death sentence because of racial bias in the selection of his jury.

Thomas is a remarkable human and has led an exemplary life in prison. After he was released from death row to general population, Thomas became one of the first people in the Texas Department of Criminal Justice (TDCJ) selected and trained to be a Life Coach—a peer-to-peer counselor. Thomas now travels to units across TDCJ to train others to be Life Coaches.

Thomas is now in his early 70s and serving a life sentence. He came up for parole in fall 2021, and the Parole Board voted 4-3 in favor of parole. Because of his capital sentence, Thomas needed one more vote to go home. Thomas is up for parole again in 2024. Thomas’s adult children and wife are hoping the parole board will vote to let Thomas go home.
Steven’s Story

TDS saved Steven from the death penalty in June 2023 when the Texas Court of Criminal Appeals agreed that Steven should be exempt from the death penalty because of his intellectual disability.

In June 2023, after years of vigorous advocacy by Texas Defender Service and a pro bono team from O’Melveny & Myers LLP, the Texas Court of Criminal Appeals ruled that our client Steven Long is constitutionally exempt from the death penalty because of his intellectual disability. Steven Long is one of the 41 lives Texas Defender Service has saved from execution or a death sentence since just 2018.

In 2002, the United States Supreme Court ruled that the Eighth Amendment’s ban on cruel and unusual punishment prohibits the execution of people with intellectual disability. But experts universally agree that people with intellectual disability remain on America’s death rows despite the constitutional ban.

Steven has a severe intellectual disability. Although Steven's IQ has been tested eight separate times, the highest IQ score he has ever received is a 64, placing him in the bottom 0.8% of all people and within the range of severe intellectual impairment. As a child, Steven failed most of his classes, was socially promoted to the next grade four separate times, and had to repeat first, fourth, fifth, and seventh grade. Although he was very old for his grade, Steven scored in the lowest percentile on state academic testing. Steven could not meet any academic requirements beyond the fourth grade.

Steven was exposed prenatally to alcohol and has both Fetal Alcohol Spectrum Disorder and Static Encephalopathy, or "permanent brain damage." Steven's mother, who had grown up in an orphanage and had herself received an IQ score of 59, did not seek any prenatal care until she was seven months pregnant with Steven.

As an adult, Steven was not able to live independently and depended on his mother his entire life.

Steven’s disability is irrefutable, but it took years of hard-fought work to obtain this relief for him. This is, unfortunately, common. Steven is our sixth client with intellectual disability who has been relieved of his death sentence because of our advocacy since 2018. Our clients should not have faced the death penalty in the first place. But their disabilities made it difficult for them to protect themselves against the death penalty, especially in Texas, which prioritizes excessive punishment over fairness and truth.

We will continue the fight to ensure that our Constitution’s promises are enforced in Texas, Ground Zero for mass incarceration on the planet.
Thank you to everyone who joined us at our inspiring and energizing Light of Justice Luncheon on October 13th, 2022. Those of us in the room were from many walks of life: business leaders and community organizers, public defenders and seasoned law-firm partners, doctors and law professors, people directly impacted by incarceration and people who seek to ally and support. But we were united in our passion to fight for the end of excessive punishment and mass incarceration in Texas, and our commitment to upholding the dignity and humanity of people impacted by the criminal-legal system.
2003
- TDS won its first case before the U.S. Supreme Court. The U.S. Supreme Court held that Thomas Miller-El of Texas should be given the opportunity to appeal the rejection of his claim that the State’s jury selection process was racially biased.

1996
- The U.S. Congress passed the Antiterrorism and Effective Death Penalty Act, which made it far more difficult for death-sentenced individuals to have constitutional flaws in their cases reviewed in federal court.
- Congress also eliminated federal funding for death penalty resource centers, which previously provided representation to people on our country’s death rows.

2002
- TDS published a study of the habeas corpus process in Texas and found that condemned prisoners had a one-in-three chance of being executed without their case being adequately investigated or argued by a competent appellate attorney.

2005
- On June 17, Governor Rick Perry signed a bill giving the option to sentence defendants to life without parole (LWOP) as an alternative to the death penalty. The law led to a massive drop in new death sentences in Texas, but at the cost of replacing the death penalty with another extremely harsh sentence.

1995
- Texas Defender Service was founded by Mandy Welch, Jim Marcus, Greg Wiercioch, and Dick Burr to represent people on death row in their death penalty appeals.
Texas Defender Service has been one of the nation’s leaders on the death penalty. Since 1995, TDS has stopped countless new executions and death sentences, reshaped state laws for people facing the death penalty, and argued -- and won -- five cases before the U.S. Supreme Court. In 2022, we expanded our mission. This timeline provides just a few highlights.

1999
- Governor George W. Bush oversaw his 100th execution.

2000
- TDS created the Capital Trial Project to provide consultation and training for private defense lawyers and created its first of many reports, State of Denial, in response to George W. Bush’s record on the death penalty.

2001
- TDS worked to pioneer mitigation investigation in the State of Texas. Along with other organizations like the Gulf Region Advocacy Center, TDS trained quality mitigation specialists to investigate their clients’ life histories for presentation to juries and taught defense lawyers about the importance of mitigation investigation.

2007
- Texas executed the 100th person sentenced to death in Harris County since 1982.
- The U.S. Supreme Court blocked the execution of TDS client Scott Panetti, ruling that Texas’s standard for mental incompetence was too restrictive.
2010

- TDS championed Texas House Bill 2058 on indigent defense. The bill was ultimately signed into law. Texas House Bill 2058 created specific standards for attorneys representing indigent defendants in the appeals process in capital cases.

- In coalition with other partners, TDS championed Texas Senate Bill 1091, which established the Office of Capital and Forensic Writs (OCFW) to assist indigent people on Texas death row in their habeas cases. The legislation was ultimately passed and the OCFW opened the following year.

2011

- New death sentences in Texas reached a historic low, dropping more than 70% since 2003. TDS was actively involved in consulting efforts with capital defense attorneys across the state, working with trial lawyers to settle cases early and often.

2014

- TDS client Scott Panetti was granted a stay of execution by the 5th Circuit based on competency to be executed. Mr. Panetti believed that Satan, working through the State, was trying to kill him for preaching the gospel. Many advocacy groups joined the call for clemency for Mr. Panetti, including NAMI, Mental Health America, and faith leaders.

2015

- Texas prosecutors obtained just three new death sentences in Texas, the lowest number since 1976, when the U.S. Supreme Court upheld Texas’s revised capital punishment statute.

2016

- There were only three new death sentences in Texas.
The U.S. Supreme Court stayed the scheduled execution of TDS client Duane Buck because an expert had testified that he was more dangerous to society because he was Black. After the stay of execution, the NAACP Legal Defense Fund joined TDS in the case as co-counsel to continue efforts to overturn his death sentence.

Texas carried out its 500th execution since 1982.

The 5th Circuit ruled that TDS client Scott Panetti was competent to be executed despite a documented history of paranoid schizophrenia.

Texas’s highest criminal court dismissed Duane Buck’s appeal for a new, fair sentencing hearing. Three judges joined in a dissent, noting a record of inadequate representation.

The U.S. Supreme Court reversed TDS client Duane Buck’s sentence and remanded the case to the lower court. TDS represented Mr. Buck with the NAACP Legal Defense Fund. Duane Buck was ultimately resentenced to life in prison with two additional 60-year sentences to run consecutively.

TDS created the Mitigation Unit, a new division tasked with training mitigation specialists across the state to help capital trial teams investigate and share their clients’ stories.

The U.S. Supreme Court held that the 5th Circuit applied too onerous of a standard when it denied TDS client Carlos Ayestas’s request for adequate representation in a federal habeas corpus proceeding.

The Mitigation Unit obtained death waivers in four separate pre-trial cases and expanded from two specialists to six. The team continued to grow and went on to achieve more humane sentencing outcomes for dozens of people facing capital sentences.

TDS’s Trial Project helped obtain a plea for a life sentence for Brian Flores in Bexar County.
**2019**
- TDS secured a stay of execution for its client Blaine Milam based on the assertion he is intellectually disabled and that junk science had been presented at his 2010 trial.
- TDS secured a life without parole sentence at trial for its client Arturo Garza. Jurors decided that the mitigating circumstances, researched and collected by TDS’s team, warranted a sentence of life rather than death. Prior to the case, the district attorney for Nueces County, Mark Gonzalez, had publicly stated he was using Mr. Garza’s case as a test to take the “temperature” of Nueces County regarding future use of the death penalty. After the verdict, Gonzales announced he was against the death penalty and would not seek it again, saying that his constituents had spoken.

**2021**
- TDS began a strategic plan to explore how to expand its impact.
- TDS saved four pretrial clients from the death penalty.
- TDS client Blaine Milam received a stay of execution from the Texas Court of Criminal Appeals because of evidence that he had intellectual disability.
- TDS helped overturn the death sentence of Carnell Petetan. The Texas Court of Criminal Appeals set aside Petetan’s death sentence because he had an intellectual disability.
- One TDS client, who was medically vulnerable, died of Covid-19. TDS’s Mitigation Unit was instrumental in securing treatment for him and connecting his family with the medical team responsible for his end-of-life care.
- TDS announced plans to expand its impact to end mass incarceration and excessive punishment in the State of Texas.

**2022**
- TDS obtained the release of two people who were incarcerated solely because they had severe mental illness, securing their relocation to community treatment facilities that could better care for their medical needs.
- TDS client Ramiro Gonzales received a stay of execution from the Court of Criminal Appeals. TDS’s Mitigation Unit collected evidence of Ramiro’s traumatic childhood and the extremely painful circumstances of his life that the jury never heard.
- TDS obtained a life sentence for its client Ronald Burgos-Aviles, who faced the prospect of the death penalty. All twelve members of the Laredo, Texas, jury decided that the “mitigating factors”—uncovered by TDS’s Mitigation Unit—warranted a sentence of life rather than death.
- TDS undertook the representation of four people who were convicted as children and are serving unconstitutional sentences of juvenile life without parole.
- After years of advocacy by TDS and O'Melveny & Myers LLP, TDS client Steven Long was relieved of his death sentence because he has an intellectual disability.
The Texas Court of Criminal Appeals overturned the death sentence of TDS client Juan Segundo because he has an intellectual disability.

TDS inspired prosecutors to waive the death penalty for seven clients and achieved a plea deal in a federal death penalty case.

2020

- TDS obtained waivers of the death penalty in five pretrial cases.
- TDS client Charles Brownlow’s death sentence was overturned by the Texas Court of Criminal Appeals because he has an intellectual disability.

The Texas Court of Criminal Appeals overturned the death sentence of TDS client Juan Segundo because he has an intellectual disability.

- TDS saved two pretrial clients from the death penalty.

2023
Thank You to Our Generous Donors Who Made our 2023 Light of Justice Luncheon a Success

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Back cover photograph: The mother of our client Thomas Miller-El, holding a childhood picture of her son. The U.S. Supreme Court overturned Thomas's death sentence because prosecutors used racial discrimination in selecting his jury.