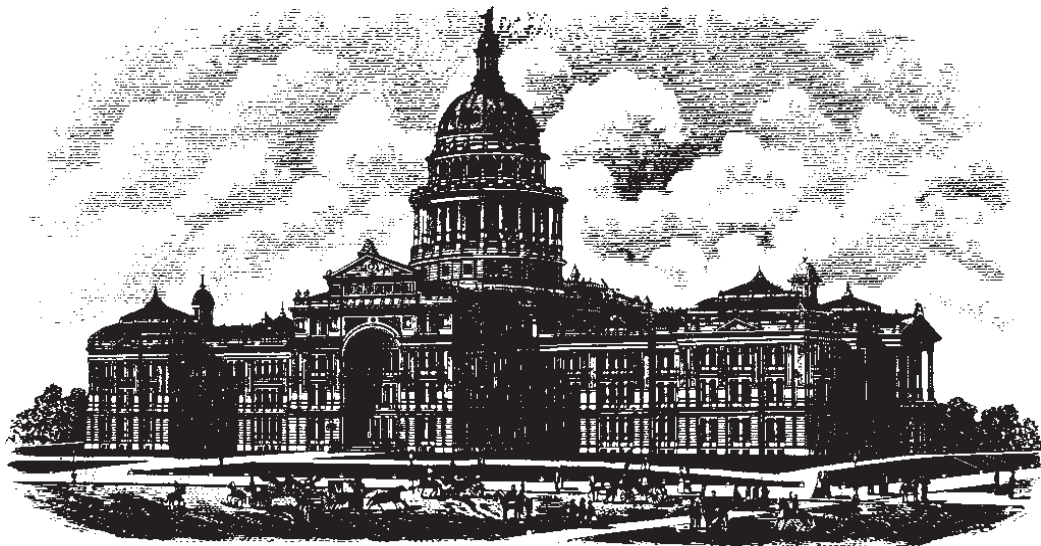


Sunset Advisory Commission



TEXAS STATE CAPITOL BUILDING

E.E. Davis architect

Texas Department of Criminal Justice
Board of Pardons and Paroles
Correctional Managed Health Care
Advisory Committee



Staff Report

1998

SUNSET ADVISORY COMMISSION

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In 1977, the Texas Legislature created the Sunset Advisory Commission to identify and eliminate waste, duplication, and inefficiency in government agencies. The 10-member Commission is a legislative body that reviews the policies and programs of more than 150 government agencies every 12 years. The Commission questions the need for each agency, looks for potential duplication of other public services or programs, and considers new and innovative changes to improve each agency's operations and activities. The Commission seeks public input through hearings on every agency under Sunset review and recommends actions on each agency to the full Legislature. In most cases, agencies under Sunset review are automatically abolished unless legislation is enacted to continue them.

**TEXAS DEPARTMENT OF
CRIMINAL JUSTICE
BOARD OF PARDONS AND PAROLES
CORRECTIONAL MANAGED HEALTH CARE
ADVISORY COMMITTEE**

SUNSET STAFF REPORT

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EXECUTIVE SUMMARY

Executive Summary

The scope of Texas' criminal justice system is vast: 431,000 Texans are serving sentences on community supervision, 143,000 offenders are incarcerated by the State in 107 prisons and state jails, and 80,000 former inmates are supervised on parole. Managing this system is the Texas Department of Criminal Justice (TDCJ) — the state's largest agency — with an annual budget of more than \$2 billion and some 39,000 employees. While the State formerly had separate agencies that operated each part of this system, in 1989, the Legislature consolidated all state criminal justice functions into TDCJ. The Department runs this system by funding and overseeing local Community Supervision and Corrections Departments; building and operating prisons, state jails, substance abuse centers, and other facilities; and directly supervising offenders released on parole and mandatory supervision. TDCJ is overseen by the nine-member Texas Board of Criminal Justice.

The Board of Pardons and Paroles makes decisions to release offenders from prison on parole and to revoke parolees and send them back to prison. It also makes recommendations to the Governor on matters of executive clemency. The Parole Board has 18 members located near prison units to perform these duties. It currently oversees a staff of 205, most of whom are revocation hearing officers.

The Correctional Managed Health Care Advisory Committee oversees the contracts for prison health care services. The Advisory Committee contracts with the University of Texas Medical Branch in Galveston (UTMB) and Texas Tech University Health Sciences Center, who actually provide health care to TDCJ inmates. The six-member Advisory Committee is comprised of two members each from TDCJ, UTMB, and Texas Tech.

Sunset staff reviewed these three entities concurrently. The review primarily focused on the degree of unification that exists in the criminal justice system and on better coordinating the agency's primary functions in community supervision, incarceration, and parole. In addition, the review looked at structural improvements to TDCJ programs including community supervision, inmate work programs, agriculture, victim services, and inmate grievances, as well as oversight of correctional health care.

1. Remove the Restrictions on TDCJ's Ability to Respond to Change by Allowing it to Reorganize its Divisions.

Statutory restrictions mandating divisions and division functions prevent TDCJ from organizing to meet its needs. TDCJ must rely on legislative action to make structural modifications within the agency to adapt to internal and external changes. Granting

TDCJ the authority to manage its organization would improve the agency's effectiveness in responding to change.

Recommendation: Remove statutory provisions mandating agency divisions and functions, and grant authority to TDCJ's Executive Director, with Board approval, to establish and reorganize divisions.

2. Redirect the Parole Process to Produce More Consistent and Cohesive Parole Policies.

Through several reorganizations, the parole system has achieved a balance between Parole Board independence and the integration of parole into the larger criminal justice picture. This balanced system has resulted in a division of responsibilities that forces the Parole Board and TDCJ to work in an interdependent relationship, but problems have resulted from a lack of coordination. Providing increased accountability and coordination would result in a more consistent and effective parole system.

Recommendation: Change the composition of the Board of Criminal Justice to include the Chair of the Board of Pardons and Paroles serving as an ex officio, non-voting member. In addition, require the Parole Policy Board and the Texas Board of Criminal Justice to conduct a joint review of all parole rules, policies, and procedures to identify and reconcile areas of inconsistency.

3. Revise Funding Sources for Community Supervision and Corrections Departments to Balance Programming Flexibility with Performance Accountability.

TDCJ's Community Justice Assistance Division (CJAD) distributes state funding to local departments for supervision, programs, and services for offenders on community supervision. The current funding sources do not ensure that state funds are used for effective programs to divert offenders from the prison system. Statutory requirements also prevent many local departments from using state funds for the most benefit.

Recommendation: Provide flexibility for CJAD to redirect unspent community corrections funds for the benefit of local departments. In addition, eliminate the statutory requirement to complete a presentence investigation report and use the money from these

reports on CJAD grant programs. Finally, revise State funding sources to give local departments the flexibility to provide probationers with needed programming, while ensuring that state funds are used on effective programs.

4. Reduce Recidivism by Improving the Placement of Inmates in Prison Work Programs.

Recidivism is the tendency of released inmates to commit new crimes and return to prison. In recent years, the number of inmates returning to prison has increased dramatically, resulting in higher costs to the State and stress on the prison system. While vocational education is a recognized means of decreasing recidivism, TDCJ has not maximized the job training potential of its inmate work system. Because most prison support service jobs are assigned to inmates regardless of training needs and are not considered part of TDCJ's on-the-job training system, TDCJ is not gaining the full rehabilitative benefit of inmate work programs.

Recommendation: As a management action, TDCJ should create a centralized inmate job placement office. This office would create a master list of all inmate jobs and a tiered job structure where vocational training offered by one job will prepare an inmate for other positions. The office would also track each inmate's vocational training and job performance to provide inmates with work records upon release.

5. Expand the Role of the Private Sector Prison Industries Oversight Authority to Oversee the Texas Correctional Industries Program.

TDCJ's Texas Correctional Industries (TCI) is a unique program within state government, because it operates as a business enterprise to produce goods and services for use in the prison system and for sale to other governmental entities. TCI is overseen by

the Board of Criminal Justice. A number of recent audits have uncovered management problems within TCI resulting from the lack of the oversight required for such a unique business program. TCI is also hampered by trying to meet seven conflicting goals.

Recommendation: Transfer oversight of TCI to the Private Sector Prison Industries Oversight Authority, which the Legislature established in 1997 to oversee privatized prison industries. To ensure that TDCJ's needs are met, the Board of Criminal Justice would be able to review and disapprove any of the Authority's decisions that affect TDCJ's operations. To ensure that the Authority focuses on the most important functions of TCI, clarify the program's statutory goals as providing marketable job skills to inmates, being financially self-sufficient, and considering the needs of TDCJ for institutional goods and services.

6. Improve Integration Between Food Services and Agriculture to Promote Better Decision Making and to More Economically Feed the Inmate Population.

TDCJ has split the responsibility for feeding inmates between the Food Services Department, which prepares the food, and the Agriculture Division, which produces about 20 percent of the total food consumed by inmates. Although Food Services is Agriculture's main customer, TDCJ's current organizational structure impedes integration of food purchases, production, and delivery. Poor integration has resulted in wasted food and misplaced investments in enterprises that do not support the needs of the prison system.

Recommendation: Establish in statute that the mission of the Agriculture program is supporting Food Services' operations and cost-effectively meeting TDCJ's food needs. As a management action, TDCJ should consolidate all agriculture and food services functions into one division and establish criteria for determining which agriculture enterprises

cost-effectively meet the food requirements of the prison system.

7. Evaluate the Cost Effectiveness of TDCJ's Centralized Intake and Release Processes.

TDCJ's intake and release processes require the transportation of offenders to Huntsville or Gatesville when entering and leaving the prison system. Although in the past decade, TDCJ has grown from a regional to a statewide system, the agency has not analyzed the cost effectiveness of these intake and release processes. The State Auditor has the expertise to perform a cost analysis of the intake and release systems, which may show TDCJ how to improve these processes.

Recommendation: The State Auditor should examine the cost effectiveness of TDCJ's intake and release systems as part of its next scheduled audit of the agency. The Sunset Commission would follow up on the implementation of the State Auditor's recommendations in a subsequent compliance check.

8. Focus TDCJ's Ability to Resolve Inmate Grievances and Respond to Public Inquiries by Consolidating Inmate Grievance and Ombudsman Functions.

TDCJ has two separate procedures to handle inmate complaints and provide information to inmate families: a grievance procedure for inmates and an ombudsman function for families. A lack of coordination between the two functions may result in duplication of effort and inconsistent information. In addition, the current inmate grievance process does not promote objectivity in solving problems due to a lack of autonomy from prison unit administration.

Recommendation: As a management action, TDCJ should consolidate the inmate grievance and ombudsman processes into a single function and elevate its status within the organization. This change would provide a more objective process for resolving

grievances. It would also allow TDCJ to eliminate duplication in responding to these grievances and other inquiries, and improve the agency's ability to use information from these processes as an effective management tool.

9. Improve Coordination of Victim Services by Creating an Interagency Council.

The Crime Victims' Bill of Rights requires each Texas law enforcement agency and prosecutor's office to provide services to crime victims. In addition, TDCJ, the Department of Public Safety, and the Office of the Attorney General each provide services to crime victims and play separate roles in coordinating the efforts of the local agencies. Despite this array of agencies, much fragmentation and duplication exists because no central point of contact ensures adequate coordination. This lack of coordination increases the risk of victims falling through cracks or being revictimized by the system in their pursuit of assistance. Coordination of agencies would improve the quality of services and minimize unnecessary duplication.

Recommendation: Create the Texas Council on Victim Services as a multi-agency council, composed of representatives of six state agencies and nine members appointed by the Governor, representing local agencies, advocacy groups, and the public. The Council would develop a statewide plan for victim services, operate a central referral office for victims, and represent the interests of the agencies and advocacy groups that address victim issues.

10. Maximize the Collection of Fees from Probationers in State Substance Abuse Aftercare Programs.

TDCJ's Substance Abuse Felony Punishment Facility (SAFP) program is an intensive substance abuse program for offenders serving on community supervision (probationers) and parolees with a crime-related substance abuse problem. After completing

the nine-to-twelve month treatment program, offenders are sent to community residential facilities for aftercare treatment. Although parolees are required to pay a portion of their wages earned while at the aftercare facility to offset their treatment costs, probationers are generally not required by judges to pay this fee.

Recommendation: Require probationers sentenced to a SAFP facility to pay a residential aftercare fee as determined by a judge. The facility would collect the fee and the State's funding to the facility would be reduced by the same amount.

11. Continue the Texas Department of Criminal Justice for 12 Years.

TDCJ's functions in assisting in community corrections, incarcerating felons, and supervising parolees continues to be needed. TDCJ has been generally effective in managing the State's criminal justice system and no other entity exists that can provide these services. The Board of Pardons and Paroles is subject to Sunset review concurrently with TDCJ. As a constitutional agency, however, the Parole Board is not subject to abolishment under the Sunset Act.

Recommendation: Continue the Texas Department of Criminal Justice for 12 Years. The Parole Board would also be subject to review in 12 years.

12. Expand the Role and Structure of the Correctional Managed Health Care Advisory Committee to Better Manage and Provide More Accountability for TDCJ's Health Care System.

In 1993, the Legislature established a managed health care system for TDCJ to control increasing costs and use the expertise of state-funded medical schools. To oversee this system, the Legislature created the Correctional Managed Health Care Advisory Committee. However, because the Universities make up a majority of its membership, the Advisory

Committee is not appropriately structured as an impartial intermediary between the consumer of services, TDCJ, and the provider of services, the Universities. The system is also hindered because the responsibilities for monitoring are not adequately assigned and insufficient financial planning has occurred to determine the true costs of correctional health care.

Recommendation: Expand the Advisory Committee's membership by adding the Chair of the Board of Criminal Justice and three Governor appointees who are not affiliated with the health care

providers. These new members will provide additional expertise and help the Advisory Committee achieve a broader perspective. In addition, the statute should clearly reflect the Advisory Committee's increased duties to oversee the correctional health care contracts and to resolve differences between TDCJ and the health care providers. The statute should also clearly define TDCJ's duties to monitor the correctional health care contracts. Finally, the Advisory Committee would be continued for six years to see if TDCJ is better able to assume full responsibility for these health care contracts at that time.

Fiscal Impact Summary

The recommendations of this report are intended to enable the Texas Department of Criminal Justice, the Board of Pardons and Paroles, and the Correctional Managed Health Care Advisory Committee to better serve their functions within existing resources. Recommendations such as the establishment of the interagency council for crime victims and the increased responsibilities of the Advisory Committee's staff may cause a fiscal impact to the State, but the amount should not be significant. The recommendation to redirect funding for community corrections would provide more flexibility for local governments to spend money currently allocated for this purpose and would not cause a fiscal impact to the State. Other recommendations, such as expanding the roles of the Private Sector Prison Industries Oversight Authority and the Correctional Managed Health Care Advisory Committee, would improve the oversight of these activities, providing the opportunity for greater savings. However, these potential savings cannot be estimated for this report. Finally, the recommendation to collect residential aftercare fees from probationers would result in annual savings to the General Revenue Fund of \$1.4 million.

APPROACH AND RESULTS

Approach and Results

Approach

The goals of the State’s criminal justice system are to protect the public by locking up certain offenders, promoting positive change in offender behavior, and helping offenders reintegrate into society. The Texas Department of Criminal Justice (TDCJ) administers much of this system. It operates the nation’s second largest state prison system, directly supervises 80,000 former inmates released on parole, and assists local governments in providing community supervision and corrections programs for offenders not sent to prison.

Texas’ prison system currently has more than 143,000 inmates — the size of a mid-sized city. For this population, TDCJ must provide almost every need, from housing, clothing, and feeding to providing education and job training. To accomplish these tasks, TDCJ operates 107 units, employs about 25,000 correctional officers to maintain order and discipline, and uses the labor of 70,000 inmates. The Windham School District conducts classes at the prison units for inmates who have not achieved a high school or general equivalency diploma. Texas Correctional Industries operates 42 industrial facilities to produce goods and services for the prison system and for state agencies. Finally, TDCJ farms and ranches more than 140,000 acres to help provide food for the prison system.

While TDCJ supervises parolees released from prison, the decision to release offenders before the end of their terms is made by the Board of Pardons and Paroles, independently from TDCJ. The Parole Board sets the conditions that these parolees must meet, under the supervision of TDCJ’s parole officers. The Parole Board also makes decisions whether to revoke parole and send parolees back to prison for violating these conditions of parole.

TDCJ is ultimately responsible for the well-being of inmates; however, through an arrangement with the Correctional Managed Health Care Advisory Committee, it relies on two of the State’s medical schools, the University of Texas Medical Branch at Galveston (UTMB) and Texas Tech University Health Sciences Center, to provide the actual health care to its inmates.

In recent years, a series of events have dramatically changed the character of the criminal justice system. The *Ruiz* lawsuit, alleging unconstitutional

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conditions in the State's prisons, has led to changes in almost every aspect of an inmate's incarceration. Dissatisfied with the division of responsibility between separate agencies for probation, corrections, and parole, in 1989 the Legislature combined the State's criminal justice functions into a single unified system. At about this same time, the State embarked on an ambitious building program that has more than tripled the size of the prison system in the last 10 years and has expanded it from a regional to a statewide system.

Along the way, the State developed facilities to take the pressure off of counties to house offenders awaiting transfer to prison. The State has also developed a system of state jails and substance abuse treatment facilities to promote community corrections as an alternative to traditional incarceration in prison. More recently, the State has established a tier of rehabilitation facilities within TDCJ units to better focus efforts to prepare offenders for life after prison and to break the cycle of reincarceration.

Sunset staff reviewed TDCJ, the Parole Board, and the Health Care Advisory Committee concurrently, examining their functions as they relate to the overall criminal justice system.

Guiding the agency through these changes has been a challenge for the agency's management and its staff. At times, the pressure of these changes may have contributed to an atmosphere of expediency in which proper oversight of some processes was lacking.

Sunset staff considered these recent events and the evolution of the State's criminal justice system in developing its approach to the review. The staff reviewed TDCJ, the Board of Pardons and Paroles, and the Correctional Managed Health Care Advisory Committee concurrently, examining their functions in the context of this overall system. The Sunset staff received direct staff assistance from the State Auditor's Office in its review of TDCJ.

The review of TDCJ focused on its ability to function as a unified criminal justice agency and how to better coordinate its basic functions of community supervision, incarceration, and parole. The review also examined ways to make the system's current functions more effective with existing resources.

The Parole Board was previously reviewed by the Sunset Commission in 1997. As a result of that review, the Legislature made changes to improve the Parole Board's ability to make policy and to improve the training of revocation hearing officers. However, this previous Sunset review of the Parole Board deferred making recommendations regarding the structural relationship between the Parole Board and TDCJ until a more comprehensive review of the entire parole process could be conducted. This issue provided the focus for the current review regarding better coordination to produce a seamless parole system.

The Sunset review evaluated the need for the Correctional Managed Health Care Advisory Committee and the appropriateness of its structure in overseeing the correctional health care contracts which cost the State nearly \$300 million a year.

By focusing on TDCJ's basic functions, Sunset staff did not examine other issues that the Legislature may some day wish to consider. While the recent decline in the crime rate has been attributed to the tremendous build-up of the State's prison system, the State may question whether it is getting the best return on its investment. According to the latest analysis provided by the Criminal Justice Policy Council, between 1989 and 1995, Texas' rate of incarceration more than doubled and the crime rate declined by 28.3 percent, the largest decrease of any state. However, other states with considerably less incarceration experienced declines in their crime rates. For example, New York's crime rate declined by 27.5 percent while its incarceration rate went up by just one-third. In addition, despite Texas' increased rate of incarceration, the rate of violent crime during this same period remained virtually unchanged, with a 0.8 percent increase.

In 1995, Texas led the nation in the rate of incarceration with 653 prisoners per 100,000 people. Including the parole and probation populations, almost 700,000 people, or about 5 percent of Texas' adult population, are under the control of the State's criminal justice system. Obviously, these people committed crimes for which they must be held responsible. However, the State could question why so many of its people are tangled in its criminal justice system and what it might do to keep these numbers from growing still higher.

As a percentage of the State's budget, TDCJ now consumes about 5 percent, compared with less than 2 percent in 1980. The State could question whether this increase in funding for criminal justice has been in the best interest of its people or if some other uses of this money may have had a more significant effect on crime rates and on the well-being of Texans.

Finally, the review did not examine sentencing practices. Despite recent revisions in the Penal Code, sentencing laws have not significantly changed since the days when parole approval rates were at 80 percent and offenders could expect to be released from prison after serving as little as one-tenth of their sentences. Now, however, with changes in the way TDCJ awards good time to inmates and with parole rates near all-time lows, offenders are serving larger portions of their sentences before they are being released. The State may not be fully aware of these changes and the effects of its actions on both the offender and the prison system.

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Review Activities

In conducting the review of TDCJ, the Parole Board, and the Advisory Committee, the Sunset staff:

- Worked extensively with agency staff at TDCJ, the Parole Board, and the Advisory Committee;
- Worked with staff of the State Auditor's Office, Legislative Budget Board, Criminal Justice Policy Council, Governor's Office, legislative committees, and key legislators' offices;
- Met with members of each of the three Boards;
- Attended public meetings of the Board of Criminal Justice and its subcommittees, Board of Pardons and Paroles, Correctional Managed Health Care Advisory Committee, Judicial Advisory Committee, Texas Council on Offenders with Mental Illness, and Private Sector Prison Industries Oversight Authority;
- Reviewed state statutes, legislative committee reports and previous legislation, reports by the State Auditor's Office, State Comptroller, Legislative Budget Board, Department of Public Safety, and Criminal Justice Policy Council, and reports by federal criminal justice agencies;
- Met with officials of UTMB and Texas Tech and toured their facilities in Galveston and Lubbock;
- Reviewed agency documents, reports, and internal audits;
- Conducted interviews with and solicited written comments from state and national advocacy and interest groups about their concerns regarding the criminal justice system including Justice for All, Texas Inmate Family Association, Texas Criminal Defense Lawyers Association, Texas Probation Association, and the Catholic Diocese of Austin;
- Interviewed officials from the Office of the Attorney General, Department of Public Safety, Texas Youth Commission, General Services Commission, Department of Information Resources, Texas Commission on Law Enforcement Officer Standards and Education, and local police departments;
- Conducted extensive field work, including visits to TDCJ facilities such as prisons, state jails, substance abuse facilities, private prisons contracting with TDCJ, industrial and agricultural facilities, food processing plants, and medical and psychiatric facilities;
- Interviewed and received correspondence from crime victims and their relatives;

- Received correspondence from inmates and their families;
- Examined the structure of criminal justice agencies in other states;
- Researched the structure of other state agencies with similar functions;
- Met with and conducted telephone interviews with state judges and officials from the State's Community Supervision and Corrections Departments (CSCDs);
- Visited community corrections facilities, including county jails, boot camps, and residential facilities;
- Attended criminal court to observe judges revoking probation and sentencing offenders to prison;
- Attended new CSCD Chief orientation and a Rural Chief's meeting as conducted by TDCJ;
- Attended a parole revocation hearing;
- Observed a panel of Parole Board members making revocation decisions and approving changes in parole conditions brought by TDCJ parole officers;
- Attended Parole Hearing Officer training;
- Accompanied parole officers on supervision surveillance;
- Observed Institutional Parole Officer interviews;
- Attended the annual National Conference of Correctional Health Care; and
- Attended classes of the Windham School District.

Results

The Sunset review of TDCJ started with answering the basic question of whether the functions of the Department continue to be needed. As long as public safety continues to be linked with a system of community corrections as an alternative to incarceration, incarcerating felons, and supervising offenders released on parole, a continuing need exists to have a state agency operate this criminal justice system.

Once the determination was made to recommend continuing TDCJ's functions, the review focused on:

- TDCJ's role as a unified criminal justice agency to address statewide criminal justice needs, and

- how to make the system’s current functions more effective with existing resources.

The Sunset review found that TDCJ does not need separating, just more time to unify its functions.

Addressing the State’s Criminal Justice Needs — The creation of TDCJ in 1989 consolidated the State’s efforts in coordinating community corrections, incarcerating felons, and supervising parolees into a single agency. The Sunset review assessed whether TDCJ is appropriately structured to meet the State’s needs of a unified criminal justice system. The review found that after the tumultuous events of the last 10 years, the agency most needs time to more fully absorb and implement the various directives entrusted to it.

The review also found that as TDCJ continues its efforts to unify the elements of the State’s criminal justice system, it must contend with other efforts to divest its functions relating to community corrections and parole. A persistent view of TDCJ is that it diverts resources and attention from these activities, focusing instead on its larger task of incarcerating inmates. While the Sunset staff could not refute this view, it could not conclude that either of these activities have been damaged under the current organizational structure or that they would be better served through stand-alone agencies as they had existed previously. Instead, Sunset staff examined ways to help the agency function better as the unified criminal justice system envisioned by the Legislature.

Because TDCJ has done a generally good job of implementing *Ruiz* reforms, expanding the prison system, developing new correctional facilities, and dealing with recent management upheavals, it now appears ready to have a larger voice in how it approaches its job. In particular, Sunset staff looked for ways to foster greater unification of the criminal justice system as a whole. **Issue 1** addresses TDCJ’s ability to reorganize its divisional structure to meet future change. As TDCJ’s structure is specified in statute, requiring most changes to be made by the Legislature, the agency is unable to make organizational changes as it determines necessary without legislative approval.

Through many reorganizations, the parole process has achieved a balance between becoming part of the criminal justice system and independence in parole decision making.

A major consideration for the consolidation of the criminal justice system that led to the creation of TDCJ is the need for the State’s parole and corrections systems to function in harmony. The staff review found that through many recent reorganizations, the parole process has achieved an appropriate balance between integration within the larger criminal justice system and independence in making parole decisions. However, the interrelationship between TDCJ and the Parole Board in preparing inmates for release on parole, selecting the best candidates for parole, and keeping an eye on parolees after they have been released from prison will require greater coordination between the two entities. **Issue 2** provides a means for improving the coordination between TDCJ and

the Parole Board and promoting a more consistent approach to parole policymaking.

Through its Community Justice Assistance Division, TDCJ distributes funding to local governments for community corrections activities, such as probation. Before the consolidation of functions into TDCJ, the Texas Adult Probation Commission had performed this activity as a judicially-appointed agency. During its review, the staff heard from several local officials interested in returning the State's oversight of community corrections to a separate agency similar to the Texas Adult Probation Commission. Sunset staff, however, could not identify significant problems that would justify such a dramatic shift in the oversight of community corrections. The review instead sought to address concerns by giving local governments greater flexibility to spend State funds to divert offenders from prison, while ensuring the State's interest that those funds are best spent. **Issue 3** provides strategies for redirecting funds for the benefit of community corrections and for ensuring that money earmarked for community corrections is ultimately used for that purpose.

Improving the State's Criminal Justice Functions — The Sunset staff looked at ways to make criminal justice programs more effective within existing resources. Several aspects of the system were examined by Sunset staff including inmate work programs, programs to feed inmates economically, TDCJ's intake and release processes, inmate grievances, victim services, and the provision of inmate health care.

A major driver of the need to continue building prison units and the cost of maintaining Texas' prison population is the number of offenders who return to prison a short time after release. This cycle of incarceration is referred to as recidivism. Currently, one out of every two TDCJ inmates will return to prison within three years of release. Staff examined strategies for decreasing TDCJ's recidivism. Recognized methods of increasing the rehabilitative potential of prison systems include education, substance abuse treatment, and vocational training. TDCJ's educational system is operated by the Windham School District. After reviewing potential statutory changes to Windham, staff found that the School District is meeting its statutory objectives and that it is effective in educating inmates. Similarly, the staff review of TDCJ's substance abuse treatment programs found that the program is highly effective in reducing recidivism and that few changes, short of increasing funding, were available for enhancing its effectiveness.

The staff review of TDCJ's inmate work programs, operated separately from Windham vocational training programs, revealed an area that could do more to help reduce recidivism. While TDCJ provides jobs to every capable inmate, it

Sunset staff did not find a compelling reason to pull community corrections back out of TDCJ.

As a business enterprise, TCI requires a different type of oversight than a typical state agency.

does not maximize the training experience of these jobs — even though many of these jobs could help inmates get free-world jobs after release. **Issue 4** discusses the benefits of altering TDCJ’s approach to inmate work and makes recommendations for improvement. A similar, but smaller area of TDCJ’s work program is found in the Texas Correctional Industries program. This program operates much like a business enterprise in that it uses inmate labor to produce goods and services for sale to state agencies and political subdivisions. Recent audits by the State Auditor’s Office and TDCJ’s Internal Auditor, however, found that the business affairs of the program are disorganized and poorly overseen. Because a business enterprise requires a fundamentally different type of oversight than does a state agency, the staff recommendation in **Issue 5** discusses a different approach to oversight for the industries program.

A dual objective of prison management is to feed inmates economically and well. The quality of inmate food is important for both security and nutritional concerns. TDCJ attempts to provide high quality food at a low cost by splitting responsibility for growing food from responsibility for feeding inmates. Based on staff assistance from the State Auditor’s Office, the review found that TDCJ has done a good job of feeding inmates well and economically. However, the goals of TDCJ’s agriculture function were not adequately linked with the goals of feeding inmates. **Issue 6** provides guidance to the Department on how to achieve an appropriate balance between these areas for its food services.

Despite the expansion of the prison system that has taken it from a regional to a statewide operation, TDCJ still administers a centralized intake and release process for offenders through Huntsville or Gatesville. Staff sought to understand the need for this centralized intake and release process in light of the growth that has made TDCJ a statewide prison system. However, this analysis was beyond the scope of the Sunset review. **Issue 7** recognizes the need for further study of this system and recommends that the State Auditor undertake the study.

A central concern of many inmates and their families is the ability to get the prison system to respond to their complaints and inquiries. To address this concern, TDCJ has created two systems, an inmate grievance process and an ombudsman for families and interested members of the public. Sunset staff sought to assess the level of autonomy and objectivity of TDCJ employees in conducting investigations regarding inmate grievances. Staff also focused on the structure of the agency’s ombudsman to determine if it allows the agency to effectively respond to inquiries. The review found that because of the nature of these complaints and inquiries, the potential for considerable duplication occurs in developing responses. **Issue 8** provides guidance to the Department to improve these procedures to allow for greater objectivity and coordination.

Sunset staff examined the effectiveness of the State's efforts to provide services to victims of crime. Texas crime victims are promised a number of rights in the Constitution by the Crime Victims' Bill of Rights. Although this document envisions a rather expansive system of service providers, staff found that no central unifying force exists to coordinate these services. **Issue 9** would bring the state agencies and local entities that provide victim services together in a multi-agency coordinating council. This approach would improve coordination while drawing on the expertise of each participating entity.

In addition to using existing resources to improve the criminal justice system, staff examined ways to increase revenues available from existing sources. Staff found that, although both probationers and parolees are sentenced to residential aftercare programs upon completion of substance abuse treatment, parolees are paying fees for room and board while probationers do not. **Issue 10** discusses how this disparity can be resolved and the fiscal impact of its resolution.

TDCJ does not provide health care to offenders, but relies on the Correctional Managed Health Care Advisory Committee to contract for health services. Through this arrangement, the Advisory Committee contracts with the University of Texas Medical Branch at Galveston and the Texas Tech University Health Sciences Center to actually provide the health care to TDCJ inmates. In reviewing the Advisory Committee, Sunset staff evaluated the need for a separate entity to contract for inmate health care. The staff also evaluated the structure of the Advisory Committee to determine its appropriateness in overseeing correctional health care contracts. **Issue 12** would continue the Advisory Committee for six years and suggests several changes to improve accountability in the prison health care system.

The staff review examined the need for a separate entity to contract for TDCJ's health care and the appropriateness of the Advisory Committee's structure in performing that task.

Recommendations

1. Remove the Restrictions on TDCJ's Ability to Respond to Change by Allowing it to Reorganize its Divisions.
2. Redirect the Parole Process to Produce More Consistent and Cohesive Parole Policies.
3. Revise Funding Sources for Community Supervision and Corrections Departments to Balance Programming Flexibility with Performance Accountability.
4. Reduce Recidivism by Improving the Placement of Inmates in Prison Work Programs.
5. Expand the Role of the Private Sector Prison Industries Oversight Authority to Oversee the Texas Correctional Industries Program.

6. Improve Integration Between Food Services and Agriculture to Promote Better Decision Making and to More Economically Feed the Inmate Population.
7. Evaluate the Cost Effectiveness of TDCJ's Centralized Intake and Release Processes.
8. Focus TDCJ's Ability to Resolve Inmate Grievances and Respond to Public Inquiries by Consolidating Inmate Grievance and Ombudsman Functions.
9. Improve Coordination of Victim Services by Creating an Interagency Council.
10. Maximize the Collection of Fees from Probationers in State Substance Abuse Aftercare Programs.
11. Continue the Texas Department of Criminal Justice for 12 Years.
12. Expand the Role and Structure of the Correctional Managed Health Care Advisory Committee to Better Manage and Provide More Accountability for TDCJ's Health Care System.

Fiscal Impact

Although precise savings or revenue gains cannot be estimated, the recommendations in the report relating to TDCJ, the Board of Pardons and Paroles, and the Correctional Managed Health Care Advisory Committee will improve each agency's ability to serve public safety and criminal justice needs with existing resources.

Revising the funding sources for Community Supervision and Corrections Departments (CSCDs) would not have a direct fiscal impact to the State, but would change how money is spent on community corrections. This recommendation would allow greater flexibility to TDCJ and the CSCDs in the use of state funds on programming to divert offenders from prison.

Both the recommendations to improve the placement of inmates in prison work programs and to consolidate TDCJ's inmate grievance and ombudsman processes are management actions which should have minimal fiscal impact. TDCJ should implement these changes in such a way as to minimize their cost. Creating an inmate job placement office would allow TDCJ to place inmates in jobs according to their individual needs and skills, to keep records on inmate job performance, and ultimately to reduce recidivism through vocational skills training. Consolidating TDCJ's inmate grievance and ombudsman processes into a single office would improve the agency's ability to respond to inquiries and resolve complaints in a timely and informative manner.

Expanding the role of the Private Sector Prison Industries Oversight Authority to oversee the prison industries program should not have a negative fiscal impact. Allowing the Authority to use its business expertise in overseeing the industries program would result in improved efficiency and greater focus on the goals of profitability and vocational training. However, any long-term savings or revenue gains cannot be estimated.

Creating the Council on Victim Services could result in additional cost to the State, but these costs should be mitigated by the agencies participating on the Council. Many of the duties of the Council are already being performed by TDCJ staff or the other participating agencies. Also, the Council could receive additional support, both in-kind and financial, from agencies that currently provide victim services.

Requiring probationers to pay residential aftercare fees for substance abuse programs at the same rate as parolees would result in an annual savings to the General Revenue Fund of \$1.4 million.

The recommendation to continue TDCJ would require its annual appropriations of approximately \$2.1 billion to continue.

Expanding the role of the Correctional Managed Health Care Advisory Committee by requiring it to conduct studies to determine an appropriate capitation rate and identify health trends in the inmate population would likely result in an additional expense to the State. The Advisory Committee would need to hire a consultant for these studies that would provide a better understanding of the current and future costs of providing correctional health care. By providing a more sound basis for making financial decisions regarding correctional health care, these studies would presumably allow the State to benefit from increased savings in the future.

| Fiscal Year | Savings to General Revenue Fund | Change in Number of FTEs from Fiscal Year 1997 |
|--------------------|--|---|
| 2000 | \$1,408,000 | 0 |
| 2001 | \$1,408,000 | 0 |
| 2002 | \$1,408,000 | 0 |
| 2003 | \$1,408,000 | 0 |
| 2004 | \$1,408,000 | 0 |

ISSUES

Issue 1

Remove the Restrictions on TDCJ's Ability to Respond to Change by Allowing it to Reorganize its Divisions.



Background

The Texas Department of Criminal Justice (TDCJ) is the state's largest agency with over 39,000 employees and an annual budget of more than \$2 billion. TDCJ's functions include coordinating the state's community supervision departments, incarcerating almost 143,000 offenders, providing rehabilitation programs and services, supervising parolees, and serving crime victims and their families.

The Legislature created TDCJ in 1989 by merging three separate criminal justice agencies. At that time, the former agencies became statutory divisions within TDCJ: the Texas Department of Corrections became the Institutional Division (ID), the Texas Adult Probation Commission became the Community Justice Assistance Division (CJAD), and parole supervision functions of the Board of Pardons and Paroles became the Board of Pardons and Paroles Division (later changed to the Parole Division). The Legislature established a single board, the Texas Board of Criminal Justice, to oversee the new integrated agency.

In the years following TDCJ's merger, major changes demanded the agency's immediate attention. TDCJ's offender population has more than tripled in size in the last decade, growing from 39,664 in 1988 to 138,600 in 1997. To house this growing offender population, the voters authorized the building of new facilities with \$3 billion in state-financed bonds. Through this time, TDCJ has faced problems related to overcrowding, including county lawsuits against the state for causing local jail backlogs, and the *Ruiz* lawsuit concerning prison conditions, such as capacity and programming.

In 1993, the Legislature created the state jail system to offer rehabilitation programs to nonviolent offenders in community-based facilities, in turn allowing confinement of violent offenders for longer time periods in state prisons and reducing the backlog of county jail inmates awaiting transfer to state prisons. The Legislature created a statutory State Jail Division to manage the new system and separate nonviolent state jail confinees from ID inmates. Today, as state jails house both state jail confinees and transfer inmates, TDCJ operationally separates the two types of offenders.

The three agencies that merged to form TDCJ became three separate statutory divisions.

The Legislature refined TDCJ’s mission in 1997 to focus the agency on the goal of reducing recidivism with a continuum of offender rehabilitation programs. Since the accomplishment of this objective requires coordination of rehabilitation programs between different agency divisions, the Legislature established in statute the Programs and Services Division to bring together the various rehabilitation programs. Also in 1997, the Legislature created the Internal Audit Division, bringing the number of statutorily designated divisions to six.

TDCJ now has six different agency divisions specified by law.

The chart, *TDCJ Statutory Divisions*, shows the various statutory divisions within TDCJ. Each Division reports to the Executive Director, with the exception of Internal Audit, which reports to the Board. The chart also provides information about division functions and the number of employees within each division.

| TDCJ Statutory Divisions | | |
|-------------------------------------|--|----------------------------|
| Division | Functions | Number of Employees |
| Internal Audit | Conducts internal financial, management, and contract audits | 30 |
| Community Justice Assistance | Establishes standards for and funds programs, facilities, and services provided by Community Supervision and Corrections Departments | 114 |
| Programs and Services | Administers rehabilitation and reintegration programs and services | 1,752 |
| Parole | Supervises and oversees reintegration of felons into society after release from confinement | 2,726 |
| State Jail | Operates and manages state jails to confine offenders convicted of state jail felonies | 3,317 |
| Institutional | Provides for confinement, supervision, rehabilitation, and reintegration of felons | 29,154 |

In its review of TDCJ’s organizational structure, the staff focused on the ability of the Board of Criminal Justice and the Executive Director to effectively manage such an enormous agency with a wide range of functions. The analysis included examining other agencies’ ability to organize their structures to ensure effective and efficient operations.

Findings

▼ **The circumstances under which the Legislature established TDCJ's divisions in statute have changed.**

- ▶ When the Legislature merged three separate agencies into TDCJ in 1989, the Legislature needed to ensure that the new consolidated agency would continue the activities of each entity. Thus, the Legislature assigned the responsibilities of each former agency to specified divisions in TDCJ's enabling statute.
- ▶ The functions of the formerly separate agencies have survived and TDCJ now confronts the pressures of meeting its new goals as a unified criminal justice agency. During the years following the merger, the agency experienced numerous internal and external changes including an overcrowding crisis, major lawsuits, creation of a state jail system, and an increased focus on recidivism. These pressures resulted in an increase of TDCJ's statutory divisions from three to six. As TDCJ increasingly focuses on recidivism, the agency faces the need to coordinate rehabilitation programs.
- ▶ In 1991, the Legislature modified the state's appropriations process to incorporate a strategic planning and performance budgeting system. This system allows the Legislature to fund specific strategies and hold agencies accountable for their performance, and reduces the need to detail an agency's structure in statute.

▼ **The statute restricts TDCJ's ability to respond to change and impairs its ability to function as a consolidated criminal justice agency.**

- ▶ TDCJ's enabling statute explicitly limits the Executive Director's and the Board's powers to manage the agency by specifying agency divisions and their functions. The Board may establish additional divisions, but may not reorganize or eliminate divisions that are specified in statute. These acts would require legislative action, but passing management structure changes for a single state agency is not an efficient use of a biennial Legislature's time.
- ▶ The statutory restrictions leave the Executive Director and the Board powerless to correct problems with necessary administrative changes. While the statutory requirements

TDCJ leadership cannot reorganize statutory divisions without legislative action.

Current reengineering efforts may be hampered by the inability to make changes in the agency's structure.

TDCJ's Executive Director does not have hiring authority available to most agency directors.

originally ensured that newly created divisions would carry out the activities of the former agencies, these requirements have prevented TDCJ from fully implementing the goals of the merger. To truly integrate the agency, TDCJ needs the ability to structure the agency in accordance with its changing needs and goals.

For example, before the Legislature established the Programs and Services Division in statute, TDCJ's rehabilitation efforts remained fragmented among four separate statutory divisions. To assist the agency in coordinating its rehabilitation efforts into one division, the Legislature gave the Board the limited flexibility to designate rehabilitation programs from among the other divisions as part of the Programs and Services Division.

- ▶ Without the flexibility to manage the agency, TDCJ cannot adequately respond to future changes. For example, TDCJ is currently in the second phase of a major effort to reengineer its offender information management systems. TDCJ employees in various divisions repeatedly told Sunset staff that numerous agency shortcomings would be solved as part of this reengineering effort. However, many reengineering efforts fail because organizations cannot respond with necessary structural changes.¹ Agency staff pointed out that the aim of this effort is not to “pave cowpaths” or simply to computerize inefficient processes, but to streamline the agency’s operations. Permitting the Board to reorganize the agency’s divisions as needed would facilitate the reengineering process. Without such authority, TDCJ may not fully realize its reengineering goals.
- ▶ The statute also limits the Executive Director’s ability to administer the agency by reducing the accountability of personnel to the Executive Director. For example, the statute only gives the Executive Director the authority to hire division directors. One division, the Institutional Division, has almost 30,000 employees, yet the Executive Director may not hire any of ID’s key personnel such as the Security Director or other employees who play integral roles in carrying out the Department’s mission. TDCJ’s statute differs from standard state agency statutes, which do not restrict a Director’s hiring authority.

▼ **Other controls are in place to ensure that agencies, including TDCJ, properly organize themselves to carry out their missions.**

- ▶ The Legislature has also created a variety of controls that serve to hold state agencies accountable. Statutes other than an agency's enabling statute require state agencies to carry out certain functions. For example, because the Internal Auditing Act requires TDCJ to establish an internal auditing function, TDCJ's statute does not need to duplicate this requirement.
- ▶ The Legislature's primary means of ensuring the accountability of agencies is the State's appropriations process. The appropriations process incorporates the strategic planning and performance budgeting system, allowing the Legislature to fund specific strategies that support agencies' goals. By funding only the strategies it chooses, the Legislature ensures that agencies provide specific functions, regardless of statutory organization.

▼ **Other large agencies have the ability to organize and manage themselves to meet their changing needs.**

- ▶ The leaders of other large agencies have the authority to reorganize their agencies' structures to achieve efficiency and effectiveness. These agencies include the Texas Natural Resource Conservation Commission (TNRCC) and the Texas Workers' Compensation Commission (TWCC). Comparable to TDCJ in size, these agencies recently underwent legislative scrutiny, but the Legislature preserved the statutory provisions granting organizational authority to the Executive Director. Because of this flexibility, these agencies were able to respond to external changes and improve their functioning.
- ▶ With approval of the Texas Natural Resource Conservation Commission, the Executive Director may organize the administrative sections and divisions, which are not specified in statute, to achieve efficiency and effectiveness.² In recent years TNRCC has used this authority at least twice in response to its administrative needs. In 1995, TNRCC brought together several previously decentralized enforcement functions by creating a consolidated Enforcement Division, enabling the agency to improve communication, coordination of air, water, and waste enforcement activities, and responsiveness to the regulated community. TNRCC was also able to reduce its enforcement backlog by creating a Litigation Support Division to represent the agency in enforcement litigation and to coordinate the agency's criminal enforcement program. This Division was a result of the merger of enforcement responsibilities and

The Legislature can hold TDCJ accountable through other controls such as the appropriations process.

enforcement policies previously delegated to two separate divisions.³

- ▶ Like the TDCJ statute, the statute governing the Texas Workers' Compensation Commission specifies agency divisions. However, TWCC's statute allows its Executive Director, upon approval of the Commission, to establish additional divisions and to allocate division functions for effective administration and performance of TWCC functions.⁴ Before the Legislature established the State Office of Risk Management, TWCC was able to respond to an increasing number of federal health and safety laws by creating the Risk Management Division to coordinate the efforts of state agencies through consultations and data collection.⁵
- ▶ The Legislature has provided many other agency leaders with the authority to organize their structures for efficiency and effectiveness. These agencies include the Department of Human Services, the Department of Mental Health and Mental Retardation, and the Department of Economic Development.

Conclusion

Granting TDCJ authority to organize the agency would allow it to meet its changing needs.

TDCJ has undergone numerous changes since the 1989 merger of three separate entities. Under the existing statute, TDCJ lacks the flexibility to respond to both internal and external changes through organizational modification, instead depending upon legislative action. This lack of authority to manage the agency has prevented TDCJ from fully integrating the functions of the former agencies into a unified criminal justice agency. The Legislature has granted comparable agencies the flexibility to organize their structures to meet efficiency and effectiveness goals, and has also allowed TDCJ's Board to allocate rehabilitation functions to the Programs and Services Division. Granting the authority to TDCJ's Board and Executive Director to establish, reorganize, and allocate functions among all its divisions would enable TDCJ to fully integrate its functions and to adapt to future changes.

Recommendation

Change in Statute

- **Remove statutory provisions mandating the establishment of divisions within TDCJ and grant TDCJ's Executive Director, subject to Board approval, the authority to establish and reorganize divisions within the Department.**

This recommendation would allow TDCJ leadership to organize the agency's divisions and employ personnel for effective administration and performance of agency functions. Instead of relying on the Legislature for structural changes, this more responsive approach would allow the Board and Executive Director to make such changes, with accountability to the Legislature for the results. The Board members, appointed by the Governor to oversee TDCJ, hire an Executive Director to carry out management and administration of the agency. Granting the Board and the Executive Director the flexibility to organize the agency structure as needed would allow them to best fulfill their public duties.

Other controls exist to ensure that the management of TDCJ operates in an effective manner. These include the appropriations process and other general statutes. Because these safeguards exist, the removal of statutory division designations will not cause the elimination of important TDCJ functions.

With the Programs and Services legislation in 1995, the Legislature vested some authority in the Board to designate rehabilitation programs to advance the agency's goal of reducing recidivism. The Legislature can further this effort by providing additional authorization to the Board and the Executive Director to organize the agency, allowing TDCJ to solve problems in a more timely and more efficient manner.

Granting flexibility to the Board and the Executive Director would also empower the Department to react swiftly to unforeseeable future events, such as the end of the *Ruiz* lawsuit, the rise of future lawsuits, future population management and capacity issues, state jail conflicts, funding changes, and state policy shifts.

Fiscal Impact

This recommendation would not have a fiscal impact to the State.

¹ Michael Hammer and James Champy, *Reengineering the Corporation: A Manifesto for Business Revolution* (New York: HarperCollins Publishers, Inc., 1993), p. 202.

² Tex. Water Code Ann. ch. 5, sec. 5.223 (Vernon Supplement 1997).

³ Texas Natural Resource Conservation Commission, *Strategic Plan for Fiscal Years 1997-2001* (June 1996), p. 22.

⁴ Tex. Labor Code Ann. ch. 402, sec. 402.021 (Vernon Supplement 1997).

⁵ Texas Workers' Compensation Commission, *Agency Strategic Plan for the 1992-1998 Period* (June 1992), p. 15.

Issue 2

Redirect the Parole Process to Produce More Consistent and Cohesive Parole Policies.



Background

Parole is the power of the executive branch of government to decide which offenders may be released from prison before the end of their sentences to complete their terms under supervision in the community. They must abide by conditions intended to ease their transition into society or they are subject to having their paroles revoked and being sent back to prison.

Through the years, parole has served many purposes in Texas. Originally intended to provide an incentive for prisoners to behave and participate in rehabilitation programs in prison, parole is instrumental in maintaining order and safety inside prison. Through supervision, parole protects society by keeping an eye on released offenders and helping offenders readjust to life after prison. Finally, parole is sometimes seen as a safety valve to release the lowest risk offenders from prison when crowding occurs.

Texas established the Board of Pardons and Paroles by constitutional amendment in 1936 as a citizen's Board to recommend acts of executive clemency and paroles to the Governor, who had exclusive decision-making authority in these areas. A 1983 amendment to the Texas Constitution removed the Governor from the parole process and established the Parole Board in statute, with six full-time Board members. This change gave the Parole Board authority for parole selection, supervision, and revocation. The Governor retained authority to grant executive clemency, but only on the recommendation of the Parole Board. From 1983 until 1989, the Parole Board was run by the six full-time Board members who managed all aspects of parole. At this time, the Parole Board hired 12 parole commissioners who decided parole releases. The Board members only voted if necessary to break a tie.

In 1989, the Legislature consolidated the functions of probation, prisons, and parole into the Texas Department of Criminal Justice. The Parole Board was expanded to 18 members to function as a quasi-judicial body responsible for parole selection decisions and clemency recommendations. However, it had essentially no staff and no administrative duties, ceasing to be a separate

Parole is the power to allow offenders to complete their sentences under supervision in the community.

agency. The Parole Board members were stationed throughout the State near major prison units to give them better access to offenders. The Board was administratively tied to TDCJ, receiving financial appropriation and office support through the new agency. All other aspects of parole, including supervision, revocation, and policymaking were given to the newly formed Parole Division of TDCJ. In 1993, the Parole Board regained responsibility for revoking parole violators and returning them to prison. In 1997, a Parole Policy Board was created, consisting of the Parole Board Chair and five other Parole Board members selected by the Governor. The Policy Board members, in addition to their regular Board duties, establish the policies and rules for all parole matters, freeing the remaining Board members to concentrate on making parole decisions and revocations.

Today, the Parole Division of TDCJ has about 2,500 full-time employees, the majority of which are parole officers who supervise the parolees after release from prison. The Parole Board sets the conditions parolees must meet on the outside and makes decisions to revoke and return to prison parolees who violate these conditions. In fiscal year 1997, the 18 members of the Parole Board decided more than 59,000 parole considerations and 29,000 parole revocations. The Parole Board also makes clemency recommendations to the Governor, considering about 400 applications for clemency in 1997. In addition to its primary parole and clemency responsibilities, the Board oversees about 200 employees, most of whom are revocation hearings officers. These officers conduct hearings and make recommendations to the Parole Board whether to revoke offenders' parole.

The review looked at the effect of constant changes in the organization of the parole process.

In its review of parole, the staff focused on the adequacy of organizational structures in place for the Parole Board and Parole Division to effectively operate together. The staff examined the recent changes in the organization of parole to see if it had been better integrated within the overall criminal justice system. The staff also evaluated the balance between bringing parole into the criminal justice system while keeping parole decision making independent from the pressures of the system.

Findings

▼ **The parole process has been repeatedly reorganized in recent years in an effort to achieve a balance between a unified criminal justice system and an independent, accountable parole process.**

- ▶ As shown in the chart, *Recent Changes in the Parole Process*, Texas' parole entities have undergone numerous organizational changes in the last decade. Before the criminal justice

| Recent Changes in the Parole Process | | | |
|---|---|---|---|
| Pre Consolidation (Pre - 1989) | Consolidation (1989) | Partial De-merger (1993) | Today |
| TDC | BPP | BPP | BPP |
| Parole Board | TDCJ | TDCJ | TDCJ |
| Prepare Parole Files (Institutional Parole Officers) | Prepare Parole Files (Institutional Parole Officers) | Prepare Parole Files (Institutional Parole Officers) | Prepare Parole Files (Institutional Parole Officers) |
| Make Parole Decisions (Board) | Make Parole Decisions (Board) | Make Parole Decisions (Board) | Make Parole Decisions (Board) |
| Set/Change Parole Conditions (Board) | Set/Change Parole Conditions (Board) | Set/Change Parole Conditions (Board) | Set/Change Parole Conditions (Board) |
| Supervise Parolees (Parole Officers) | Supervise Parolees (Parole Officers) | Supervise Parolees (Parole Officers) | Supervise Parolees (Parole Officers) |
| Issue Revocation Warrants (Board) | Issue Revocation Warrants (Division) | Issue Revocation Warrants (Division) | Issue Revocation Warrants (Division) |
| Conduct Revocation Hearings (Hearing Officers) | Conduct Revocation Hearings (Hearing Officers) | Conduct Revocation Hearings (Hearing Officers) | Conduct Revocation Hearings (Hearing Officers) |
| Revoke Parole (Board) | Revoke Parole (Board) | Revoke Parole (Board) | Revoke Parole (Board) |
| Make Clemency Recommendations (Board) | Make Clemency Recommendations (Board) | Make Clemency Recommendations (Board) | Make Clemency Recommendations (Board) |
| Set Parole Policy (Board) | Set Parole Policy (Board of Criminal Justice) | Set Parole Policy (Board of Criminal Justice) | Set Parole Policy (Policy Board) |
| Contract with Vendors for Parole Services (Halfway Houses, ISF) | Contract with Vendors for Parole Services (Halfway Houses, ISF) | Contract with Vendors for Parole Services (Halfway Houses, ISF) | Contract with Vendors for Parole Services (Halfway Houses, ISF) |

When conducted by a separate state agency, parole was not coordinated with the prison system to promote offender rehabilitation.

consolidation in 1989, the parole process was completely independent and accountable to the Governor for its actions. However, as a separate agency, it lacked a system-wide criminal justice focus, causing it to lose sight of broader goals of offender rehabilitation. The Parole Board made decisions in isolation, with little understanding of programming provided in prison, such as education and vocational training. In addition, the parole process had no connection between rehabilitative programming for parolees and programming offered in prison.

- In 1989, the Legislature consolidated probation, prisons, and parole into a single agency — TDCJ — to better unify the state’s criminal justice efforts. In the new unified agency, parole was in a better position to work with the Institutional Division of TDCJ to provide a continuum of programming that prepared offenders for life on the outside of prison. Rehabilitative programs started in prison could be considered and coordinated in the parole process. The consolidation was also intended to allow a flow of information and expertise which would follow offenders through the criminal justice system from probation, through prison, to parole.
- However, in this consolidation, some independence and accountability were lost. The Parole Board no longer established rules and policy for the parole system, but relied on the Board of Criminal Justice for this purpose. This arrangement jeopardized the independence of the Parole Board by making it dependant on a Board focused on prison capacity for parole release policy. Because Parole Division staff, not Parole Board members, made parole revocation decisions, the accountability of having the Governor’s appointees making these important decisions was lost.
- To maintain a unified system but also to restore more independence and accountability, the Legislature, in 1993, returned two significant functions to the Parole Board. It restored the Parole Board’s authority to independently set rules and policies for the parole process. The Legislature also returned accountability in the revocation process by giving the responsibility for conducting revocation hearings back to the Governor-appointed Parole Board. It also returned the staff of hearings officers to the Parole Board. This change insulated the parole revocation process from parole supervision — helping to reduce the appearance of *ex parte*

communication between the hearings officer, who acts as a judge, and the parole officer, who acts as a prosecutor, in the revocation hearings.

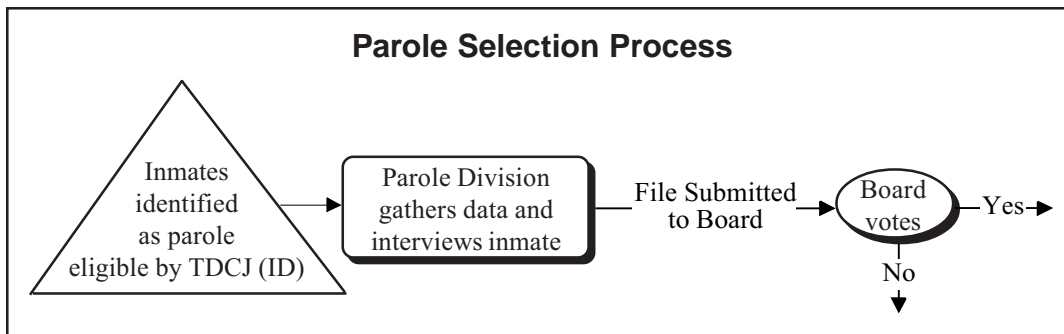
- The current parole system attempts to achieve a balance between a unified criminal justice system and an independent Parole Board. The parole system consists of an independent Parole Board, appointed by the Governor, that sets policy and acts in a quasi-judicial capacity to make decisions on paroles and parole revocations. TDCJ's Parole Division gathers information for the Parole Board, taking advantage of its close relationship to the prison system to report offenders' efforts to rehabilitate themselves in prison. The Division also supervises parolees, contracts for halfway houses and drug treatment programs, and issues warrants when parolees break the terms of their parole. In effect, the Board makes parole decisions and sets parole policy, while the Division runs the daily operation of the parole system.

The current parole system attempts to balance independent parole decision making and the desire to coordinate criminal justice efforts.

▼ **While the current structure of the parole system reflects the goal of a unified criminal justice agency, the Parole Board and Parole Division function as two divided but interdependent systems.**

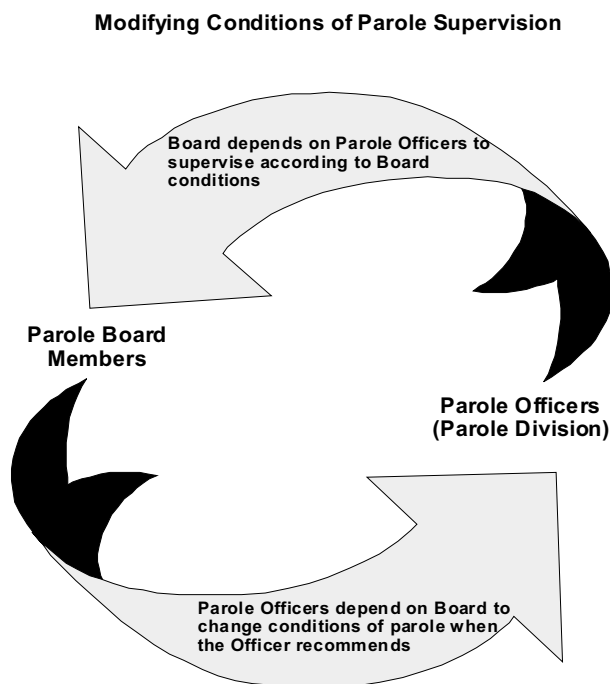
- The parole process is an interdependent system in which one part frequently depends on the other for action. However, neither part has control over the other or can require action as needed. Each part has its own management and rules, making coordination between the two difficult.

The chart, *Parole Selection Process*, provides an example of these interconnecting responsibilities. In the beginning of the parole process, the Parole Division relies on the Institutional Division of TDCJ to identify offenders who are nearing parole eligibility. Parole Board members, in turn, rely on Parole



Division employees to gather information on rehabilitation efforts inside prison, notify trial officials and victims, verify release plans, interview offenders, and create an extensive file on each prospective parolee. This file, prepared by Parole Division staff, is generally the only material the Parole Board members review in making parole decisions.

- ▶ The chart, *Modifying Conditions of Parole Supervision*, illustrates another example of coordination challenges resulting from the interdependence of the Parole Board and the Parole Division. Parole Board members rely on the Division's parole officers to supervise parolees in the field according to conditions set by the Parole Board. Parole officers have a range of sanctions that they can apply to parolees who start to show problems in meeting these conditions. However, for a parole officer to change or impose new parole conditions on a parolee, they must receive approval from the Parole Board.



▼ **Recent efforts of TDCJ and the Parole Board reflect improved coordination, but point to the need for greater coordination in the future.**

- ▶ After some early problems, TDCJ and the Parole Board have shown improved coordination in implementing a tier of rehabilitation programs within TDCJ. This rehabilitation tier was required by the Legislature in 1995 to provide pre-release programming for offenders within six to 18 months of release. These programs include substance abuse treatment, pre-release therapeutic community, faith-based programming, and sex offender treatment.

Early on, the lack of coordination between TDCJ and the Parole Board resulted in many participants of these programs being paroled before they could complete the required elements. The Criminal Justice Policy Council has concluded that the inability to coordinate parole selection and release with program completion had negatively affected the implementation of the rehabilitation tier.¹ In addition, for more than two years after this rehabilitation tier had been established within TDCJ, no provision was made to include the Parole Board to relate these programs to parole decisions.

New Parole Board rules, effective in May 1998, specify new voting options to release offenders on parole, contingent on completion of these programs.

- ▶ The implementation of this rehabilitation tier of programs will require additional coordination between the Parole Board and TDCJ in two ways. First, under its current procedures, the Parole Board may vote to parole an offender upon program completion. However, TDCJ must determine the program in which to place the offender. Second, as parole decision making becomes more linked to rehabilitation programming, the Parole Board will need to play a larger role in the development and implementation of additional programs within prison.
- ▶ The implementation of other initiatives also reflects a high level of coordination between TDCJ and the Parole Board that will need to continue in the future. For example the Super Intensive Supervision Program (SISP) was designed to keep the tightest rein on offenders determined to present the greatest risk to public safety after release from prison. Under SISP, the Parole Board imposes the most strict supervision requirements on releasees, but TDCJ employees ensure that these rigorous requirements are actually met. In addition, TDCJ may actually change these conditions in the field as they determine necessary.

Another new policy that has required, and will continue to require, close coordination between TDCJ and the Parole Board is the recent implementation of legislation establishing shorter time frames for conducting parole revocation hearings. In this effort the Department and the Parole Board had to work out the arrangements for shortening the time between the time Parole Division staff issues an arrest warrant and the Parole Board holds a parole revocation hearing.

Developing new
rehabilitation
programs will require
more coordination
between TDCJ and the
Parole Board.

▼ **When two or more state agencies share responsibility, they generally use methods that promote and ensure coordinated and consistent operations.**

- ▶ Many agency directors and representatives fill ex officio positions on boards of other agencies who have similar areas of responsibility. For example, the Director of the Department of Public Safety sits on the governing board of the Texas Commission on Law Enforcement Standards and Education.

This provides a consistent link at the highest level between two agencies that share similar policy areas.

- ▶ The State Office of Administrative Hearings (SOAH) was established by the Legislature to conduct contested case hearings for state agencies under the Administrative Procedure Act. When SOAH conducts hearings for other state agencies, its judges must consider the agencies' applicable rules and policies. These rules and policies, according to statute, must be provided by the agency to SOAH in a written statement. Using the agency's rules and procedures minimizes conflict over what rules SOAH will use when conducting hearings. More importantly, this requirement ensures accountability between SOAH's administrative law judges, who hear and make recommendations on contested cases, and the leadership of the agency.
- ▶ When two or more agencies share responsibility for taking action, they usually draft a memorandum of understanding (MOU) that defines the relationship. After the MOU has been drafted, both agencies often adopt it jointly in rule to clarify their respective responsibilities. The joint adoption of the MOU in rule also serves to inform the constituents of each agency of these responsibilities and to permit public notice and comment.

Conclusion

Improving coordination and accountability can improve the parole system without another reorganization.

The parole system has undergone several major reorganizations in the last ten years. The structure of the current system reflects the Legislature's goals of establishing a criminal justice agency and maintaining independence for the Parole Board, but lacks coordination and formal policy guidance. Because of its division of responsibilities, the current system dictates that the Parole Board and the Parole Division depend on each other for the system to work. Problems have resulted from the lack of coordination between the Parole Board and Parole Division and between the parole process and the rest of TDCJ. Providing mechanisms to increase accountability and coordination within the parole system, without more major reorganization, would result in a smoother operating, more consistent system.

Recommendation

Change in Statute

- **Change the composition of the Board of Criminal Justice to include the Chair of the Board of Pardons and Paroles serving as an ex officio, non-voting member.**
- **Require the Parole Policy Board and Texas Board of Criminal Justice to conduct a joint review of all parole rules, policies, and procedures to identify and reconcile gaps and areas of inconsistency.**

This recommendation would establish a high-level connection between the Parole Board and TDCJ, promoting greater coordination in the parole process. Improved communication at the policy level would lead to the earlier identification of problems and better, more comprehensive development of solutions. The presence of the Parole Board Chair on the Board of Criminal Justice would also underscore the importance of parole as part of a unified criminal justice system and provide assurance that policies will not be implemented without considering the role of parole in the new policies.

In serving ex officio, the Parole Board Chair would not vote, but would still provide parole expertise to the Board of Criminal Justice, as necessary. The Parole Board Chair would also serve as a connection between the Board of Criminal Justice and the other members of the Parole Board. As a non-voting member of the Board of Criminal Justice, the Parole Board Chair would be removed from making decisions that could affect his or her objectivity in making parole policies and parole decisions.

As an ex officio member, the Parole Board Chair would be a new position on the Board of Criminal Justice, bringing its size up to 10 members. The recommendation would not affect the other nine members, who would continue to be appointed by the Governor for staggered, six-year terms.

Requiring a joint review by the Parole Board and TDCJ of all parole rules, policies, and procedures will reveal areas which are conflicting or lacking, and ensure that the Parole Board and Parole Division work together under the same rules.

Fiscal Impact

The recommendation to have the Chair of the Board of Pardons and Paroles serve on the Texas Board of Criminal Justice will have a negligible fiscal impact to the State resulting from travel costs to attend meetings of the Board. The recommendation to review and adopt rules has no fiscal impact to the State.

¹ Criminal Justice Policy Council, *Implementation of the TDCJ Rehabilitation Tier Treatment Programs: Progress Report*, April 1998, p. 10.

Issue 3

Revise Funding Sources for Community Supervision and Corrections Departments to Balance Programming Flexibility with Performance Accountability.



Background

In 1977, the Legislature created the Texas Adult Probation Commission to distribute state funding to local probation departments and to establish uniform standards for the use of these funds. When the Legislature consolidated criminal justice agencies in 1989, it transformed the Adult Probation Commission into the Community Justice Assistance Division (CJAD) of TDCJ. The Legislature also created the Judicial Advisory Council (JAC) to advise CJAD and the Board of Criminal Justice on matters relating to probation and the judiciary. To reflect local involvement in the criminal justice system, probation departments became known as Community Supervision and Corrections Departments (CSCDs). In 1993, the Legislature replaced the term probation with community supervision.

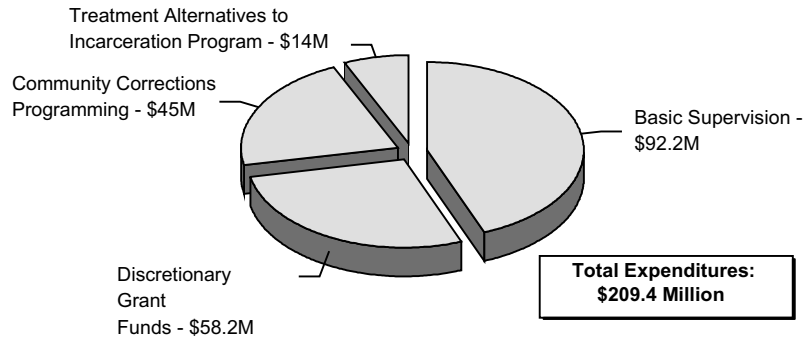
One of six legislatively-mandated divisions within TDCJ, the Community Justice Assistance Division distributes state aid to CSCDs to carry out adult community supervision in Texas, and it provides oversight to ensure that local services are delivered uniformly across the State. The table, *CJAD Funding Programs*, describes the four state funding methods that support community corrections. In fiscal year 1997, the State contributed approximately 66 percent of the total funding for community corrections, with the local entities providing the remaining 34 percent through supervision fees and other local support.¹ The chart, *Local Expenditures of State Funds by Funding Category — Fiscal Year 1997*, shows how local departments spent state money. The other charts on page 39 show how the CSCDs spent their community corrections programming funds and discretionary grant funds.

CJAD distributes four types of state aid to Community Supervision and Corrections Departments.

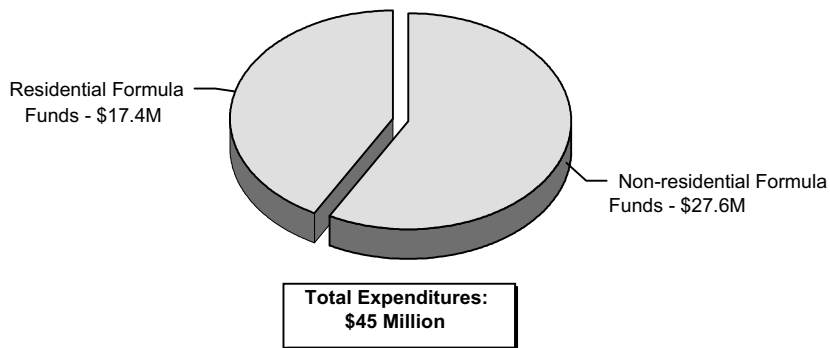
Since the creation of TDCJ in 1989, the State has done a number of things to improve community corrections, including almost tripling the amount of state appropriations for CSCDs.² Through TDCJ, the State has also added a system of state jails and Substance Abuse Felony Punishment Facilities

| CJAD Funding Programs | | | | |
|--|--|--|--|-----------------------------|
| Funding Method | Distribution Method | | Purpose | FY 1997 Expenditures |
| Basic Supervision | Per capita allocation based on the previous full calendar year. Felony supervision funding based on each CSCD's percentage of the State's total number of offenders on supervision, which results in a rate of about \$1.35 for each day an offender is on community supervision. Misdemeanor supervision funded at \$.67 per day, per offender, for up to 182 days. | | Available only to CSCDs for felony and misdemeanor supervision. Examples: Community Supervision Officer salaries, offender services such as medical examinations and psychological testing, professional fees, supplies, operating expenditures, internal audits | \$92,157,287 |
| Community Corrections Programming | Allocated based on two equally weighted elements: - percentage of the State's population residing in the counties served by the CSCD - percentage of all felony defendants in the State under supervision by the CSCD | | Available only to CSCDs to pay supervision costs and provide programming. Formula balances Basic Supervision formula and ensures that smaller jurisdictions receive a proportional share of the community corrections programming funding. Examples: same as Basic Supervision, plus offender programs and services | \$44,960,066 |
| Treatment Alternatives to Incarceration Program (TAIP) | CJAD distributes funds for this substance abuse grant program based on proposals including elements such as program implementation, outputs, outcomes, monitoring, and evaluation | | Provides funding to CSCDs to develop programs for substance abuse screening, evaluation, and treatment | \$14,044,353 |
| Discretionary Grant Funds | Grant-funded programs | Discretionary grants awarded on a competitive basis according to CJAD distribution priorities | Available to CSCDs and other local entities to pay for locally-established programs that divert offenders from prison. Examples: residential programs and services - intermediate sanction facilities, boot camps, and substance abuse treatment facilities; and non-residential programs and services - community service restitution, education programs, intensive supervision caseloads, and substance abuse treatment programs | \$50,811,890 |
| | Presentence Investigation (PSI) Reimbursement | CJAD projects need at beginning of biennium, sets aside funds, and distributes based on monthly reports at rate of \$50 for each completed PSI | Reimburse CSCDs for PSIs completed | \$4,614,600 |
| | Substance Abuse Felony Punishment Facility (SAFP) Aftercare caseloads | CJAD projects need at beginning of biennium, sets aside funds, and distributes based on quarterly reports on number of SAFP aftercare participants | Reimburse CSCDs for money spent on SAFP aftercare caseloads | \$2,239,029 |
| | Battering Intervention and Prevention Program (BIPP) | Distributed in conjunction with the Texas Council on Family Violence | Provides funding to local governments for counseling of batterers under community supervision | \$522,364 |
| Discretionary Grant Funds Subtotal: | | | | \$58,187,883 |
| Total Community Corrections Expenditures: | | | | \$209,349,589 |

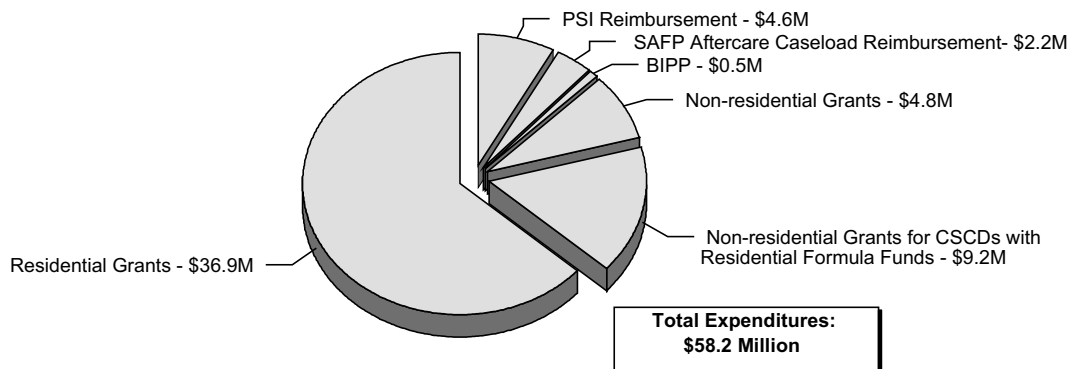
**Local Expenditures of State Funds
 by Funding Category
 Fiscal Year 1997**



**Community Corrections Programming
 Fiscal Year 1997**



**Discretionary Grant Funds
 Fiscal Year 1997**



(SAFP) to promote local incarceration alternatives. In addition, CJAD has provided CSCDs with a variety of services, including training of new and rural chiefs, and enhanced computer support for reporting community corrections information. The Division also conducts programs for CSCDs such as risk management assessment, sexual harassment training, and the absconders program provided in connection with the TDCJ Internal Affairs Division. Finally, CJAD assesses the training needs of community supervision officers and develops training programs to address the evolving requirements of community corrections.

CSCDs provide supervision, programs, and services to offenders to help reintegrate them into society.

Under the guidance of CJAD, CSCDs administer community supervision by providing assistance to the courts and supervising offenders to help reintegrate them into society. Each department comes under the direct authority of the judicial district judge or judges. These judges hire a CSCD chief, who employs staff to supervise offenders and enforce the conditions of community supervision. CSCDs also contract with private vendors for offender programs and services. In addition to state funding, local departments support their operations through supervision fees collected from offenders and through local government funding. Counties provide facilities, utilities, and equipment to the CSCDs.

Each department must submit a Community Justice Plan biennially to CJAD to receive state funding. The plans, which are intended to coordinate community criminal justice resources, must specify all the programs that the CSCD intends to offer and show how each one will be funded.

By statute, CSCDs must prepare a presentence investigation report (PSI) for every offender convicted of a felony. CJAD pays \$50 to local departments for each completed six-page form, and gathers information about the crime, the offender's social, educational, and work history, and victim restitution. Traditionally, judges have used PSIs as a sentencing tool. Over time, TDCJ has tried to use information from the PSI for diagnostic, classification, and community supervision purposes, and the Parole Board is supposed to use them in making parole decisions.

CSCDs carry forward all funds, except TAIP funds, from the first year to the second year of the biennium. During that time, grant fund recipients periodically review their programs to determine if they have more funds than they need to operate their grant programs. CSCDs may then return excess funds to the State for redistribution to other local departments.

An appropriations bill rider requires CSCDs to return unexpended community corrections programming and grant funding at the end of each biennium.

CSCDs must also return the State’s portion of unexpended Basic Supervision money. At the end of each biennium, CJAD calculates the amount of Basic Supervision money allocated by the State, and the amount the CSCD generated. CSCDs must return the State’s proportion and may keep the local proportion.

In its review of CJAD, the staff focused on the use of state funds allocated to community corrections. This focus entailed an examination of various community corrections funding mechanisms. Specifically, the staff focused on the balance between providing CSCDs with the necessary flexibility to spend state funds on programming to divert offenders from prison, and on the ability of CJAD to ensure that local departments spend State funds on effective programs.

The review looked at balancing flexibility for CSCDs with effective use of State funds.

Findings

▼ **Community corrections provide the State with alternatives to incarceration.**

- ▶ One goal of the 1989 TDCJ merger was greater interaction between community corrections and the State prison system. Community corrections, the local component of the criminal justice system, encompasses a continuum of diversionary programs and services for offenders who might otherwise be sentenced to prison. CSCDs also offer judges local alternatives for community supervision violators instead of revoking and sending them to prison. Finally, CSCDs attempt to rehabilitate misdemeanor offenders to prevent them from becoming felons and entering the state system.

CSCDs provide benefits to offenders, communities, and the State. Departments provide offenders with supervision and treatment programs designed to meet local needs. Local involvement also promotes public safety with the confinement and monitoring of offenders, and aids offenders in their reintegration into the community.

Community corrections alternatives also keep offenders from returning to the prison system. The Criminal Justice Policy Council defines recidivism as entering the prison system within three years of placement on community supervision or release from prison on parole. For offenders placed on community supervision in 1991, the last year for which comparable data was available, the three-year recidivism rate was 37 percent.³

By comparison, offenders released from prison in 1991 had a three-year recidivism rate of 48.7 percent.⁴

Finally, housing and treating offenders at the local level costs less than sending offenders to prison. A 1998 CJAD study determined that placing a felon under community supervision for three years with residential treatment as an initial condition of supervision costs \$17,030, as compared to \$43,263 to house the same offender in prison.⁵

- ▶ Although not directly connected to CJAD, Substance Abuse Felony Punishment Facilities (SAFPs) comprise an important part of community corrections. SAFPs are administered by TDCJ, but CSCDs perform the screening, assessment, and referrals for chemical dependency problems. Judges use this information to place felony offenders into a SAFP either as an original condition or as a modification of community supervision. SAFPs confine offenders in secure facilities and follow a therapeutic community model.

Evaluation of the SAFP program demonstrates the success of community programs in diverting offenders from prison, reducing recidivism, and reducing state costs. The Criminal Justice Policy Council estimates that 70 percent of SAFP offenders could be considered diversions from prison. The Policy Council further found that offenders who completed the program had a 5 percent recidivism rate within one year of release, as compared to an 18 percent rate for a comparison group. By keeping offenders from returning to prison, SAFPs return \$1.85 to the State for each dollar spent on the program.⁶ As a diversion program keeping offenders from going to prison in the first place, they return an additional \$1.50 to the State for each dollar spent.⁷

▼ **The current discretionary grant funding program does not ensure CSCDs' accountability for performance.**

CJAD's discretionary grant funding priorities do not take program performance into consideration.

- ▶ In addition to formula funding, which is based on state and county population variables, CJAD also awards grants to CSCDs to fund local programs, and can do so using performance as one of its criteria. CJAD distributes grants through the Treatment Alternatives to Incarceration Program (TAIP) and the discretionary grant funding program.

CJAD awards TAIP grants using a point system that ensures that these funds help provide effective programs. CJAD does

not distribute discretionary grants in the same manner, but instead uses a list of funding priorities which do not include performance requirements. The table, *Discretionary Grant Funding Priorities — Fiscal Years 1998 - 1999*, lists the 13 funding priorities and shows how much money CJAD awarded to each priority. For example, CJAD places a high priority on programs previously funded with discretionary grants, regardless of program performance. Although CJAD now bases some of its decisions on how efficiently CSCDs have used their discretionary grant money in the past, CJAD has not revised the list of funding criteria.

| Discretionary Grant Funding Priorities Fiscal Years 1998 - 1999 (\$ in millions) | | | |
|--|------------------|--------------|-----------------|
| Priority | Requested Amount | Award Amount | Unfunded Amount |
| 1. Battering Intervention and Prevention Program (BIPP) | 1.1 | 0.7 | 0.4 |
| 2. Residential facilities funded by discretionary grants in FY 1996-97 | 36.6 | 33.6 | 3.0 |
| 3. Contract residential services funded by discretionary grants in FY 1996-97 | 2.8 | 1.9 | 0.9 |
| 4a. CSCD “priority programs” approved and funded by discretionary grants in FY 1996-97 (e.g., community service restitution, job skills) | 18.5 | 14.1 | 4.4 |
| 4b. CSCD electronic monitoring strategies funded by discretionary grants in FY 1996-97 | 1.2 | 1.1 | 0.1 |
| 5. CSCD victim services programs funded by discretionary grants in FY 1996-97 | 0.3 | 0.05 | .25 |
| 6. CSCD non-residential “priority programs” not funded by discretionary grants in FY 1996-97 | 6.1 | -0- | 6.1 |
| 7. CSCD "non-priority programs" funded by discretionary grants in FY 1996-97 | | | |
| 8. Currently operated CSCD residential facilities funded by community corrections programming in FY 1996-97 or in prior years | | | |
| 9. New or pilot CSCD programs | | | |
| 10. Non-CSCD “priority programs” funded by discretionary grants in FY 1996-97 | 0.3 | 0.2 | 0.1 |
| 11. New residential facilities | 6.7 | -0- | 6.7 |
| 12. Non-CSCD “non-priority programs” funded in FY 1996-97 | unknown | unknown | unknown |
| 13. Non-CSCD programs not funded in FY 1996-97 | unknown | unknown | unknown |

- ▶ Another barrier preventing CJAD from holding CSCDs accountable for performance is that residential programs are funded through both discretionary grants and community corrections programming funds. Community corrections programming funds are allocated by formula and are intended to provide CSCDs flexibility to implement additional non-residential programming. While most CSCDs fund residential programs with discretionary grants, nine CSCDs fund residential programs with a total of about \$17.4 million that was intended for community corrections programming.⁸ Because these residential programs are supported by formula funds, once a CSCD meets the formula requirements the department has greater flexibility for determining how to spend the funds. However, CJAD is less able to evaluate the effectiveness of these residential programs than if the CSCDs had to meet specified grant requirements.

▼ **The current funding process actually creates an incentive for CSCDs not to spend state funds allocated for supervision purposes.**

- ▶ At the end of each biennium, a CSCD must return to the State any unspent state funds for Basic Supervision. For example, if the State contributed 60 percent of a CSCD's Basic Supervision revenue, and the CSCD has \$10,000 in unexpended funds at the end of the biennium, the CSCD must send \$6,000 back to the State. The CSCD may use the remaining \$4,000 as it wishes, and the \$4,000 will remain exempt from the refund amount in subsequent years. This funding scheme actually creates an incentive for CSCDs to return Basic Supervision money to the State, rather than spending it on supervision.
- ▶ Some CSCDs use this mechanism to accumulate reserve funds for emergency costs, capital costs, workforce costs, or the development of new programs that did not receive grant funding. CSCDs simply calculate the total amount of unexpended funds necessary for them to keep a desired amount of local funding. No cap exists to prevent CSCDs from accumulating larger reserves than they need. Currently, 62 CSCDs have at least two months of operational reserves.

Local departments actually withhold spending state funds to help them build up local reserves.

▼ **Funding priorities do not allow CSCDs flexibility in using increasingly limited community corrections funds.**

▶ As explained above, CJAD distributes discretionary grant money using a list of 13 priorities. While CJAD may fund existing programs regardless of performance, CSCDs often cannot fund new programs that may prove successful because CJAD runs out of discretionary grant money long before reaching the ninth funding priority for new or pilot programs (see the table, *Discretionary Grant Funding Priorities – Fiscal Years 1998 - 1999*). This problem arises because of a need to revise the priority list and because of other constraints that reduce the total amount of discretionary grant money available for distribution.

▶ The competition for these grant funds will soon grow worse as the demand for community corrections funding increases. One reason for the increased competition is that Harris County will need to seek a much larger portion of discretionary grant funding than it has since 1992.

Between 1993 and 1996, Harris County had been compensated by the State under the *Alberti* lawsuit for the State’s responsibility for crowding in the Harris County Jail. As a result of *Alberti*, Harris County received about \$109.6 million in those four years, which was a large proportion of the State’s total community residential funding.⁹ During the years Harris County received *Alberti* funds, it received some discretionary grants, but now, without *Alberti* funds, the county must apply for larger grants to keep its residential facilities open. With the largest proportion of the State’s felony community supervision placements, Harris County will significantly tighten the competition for the limited amount of discretionary grant funds.

▶ Some CSCDs have lost funding flexibility in establishing community corrections programming and residential programs. As mentioned previously, nine CSCDs use formula-based community corrections programming funds for residential programs. This method of funding causes problems because these residential program costs absorb the funding that would be available for non-residential community corrections programming. Overall, community corrections programming funds have decreased by \$3.2 million over the last five years for these CSCDs.¹⁰ In addition, because the formula-based

CSCDs that fund residential facilities with programming money have had to cut back on non-residential programs and reduce residential beds.

funds do not reflect actual residential facility costs, these CSCDs have had to eliminate other programming and reduce the number of beds in their residential facilities. Furthermore, the CSCDs are generally not eligible for additional discretionary grant money because these grants are primarily intended for residential programs, which these CSCDs have already paid for with formula funds.

▼ **Limits on unexpended funds restrict their redistribution for community corrections purposes.**

- ▶ An appropriations bill rider requires CSCDs to return unexpended funds. As mentioned, CSCDs may not spend money as projected because of incentives for them to build reserve funds. This situation is aggravated by the typical uncertainties of the budget process, such as late program starts. In addition, formula funding for community corrections is based on the number of offenders in the previous calendar year. A significantly lower number of offenders in subsequent years may cause a CSCD to have excess formula funds, while a higher number of offenders may cause a shortage of money. As a result, some CSCDs return large amounts of money to the State, while others face shortfalls in funding their existing programs or lack funds to initiate new diversionary programs.
- ▶ CSCDs may return unexpended grant money to CJAD before the end of a biennium, enabling CJAD to redistribute the money to CSCDs with shortfalls. This process maximizes the limited amount of money allocated for grant programs and ensures that grant funds are spent on community corrections programs.

On the other hand, excess formula funding from Basic Supervision and community corrections programming funds cannot be returned to CJAD for redistribution during a biennium. Thus, even though CSCDs can sometimes predict excesses or shortfalls during a biennium, CJAD may not be able to use excess money during a biennium to ensure that programming needs of all CSCDs are met.

▼ **Money paid to CSCDs for presentence investigations could be better spent on diversions.**

- ▶ Another aspect of CSCD funding affects their ability to use grant money on diversionary programs. Money that has been

Although CSCDs can predict excesses and shortfalls, CJAD cannot adequately redistribute funds to meet the needs of all CSCDs.

allocated for discretionary grant programs is set aside for CSCDs to complete presentence investigation reports. In fiscal year 1997, \$4.6 million was earmarked for these PSIs that are intended to provide information for judges to use in sentencing and for use by CJAD, the Institutional Division, and the Parole Division.¹¹ However, judges typically prefer, and routinely require, a more detailed narrative in addition to the six-page checklist format developed by CJAD. While this more detailed, narrative format may provide information to help judges make decisions that may divert offenders from prison, the CSCD is generally not reimbursed for the longer form.

CSCDs get paid to complete PSI reports that the criminal justice system does not use.

- Preliminary findings of a TDCJ study have shown that the parties within TDCJ and the Parole Board simply do not use the PSI as intended. The PSI is not used because other documents contain the same information and because TDCJ staff do not readily accept the information unless it can be independently verified. In sum, CJAD pays CSCDs for completing forms that are not extensively used, instead of using those funds for needed diversionary programs.

▼ **Revising the funding structure for community corrections would provide greater financial accountability and programming flexibility.**

- Awarding grants based on program performance ensures that departments spend the State's money appropriately and that CJAD receives the highest quality services for the funds awarded. The Legislature has become increasingly interested in tying funding to performance measures, as seen in the move to performance-based budgeting and in the recent work of the Joint General Investigating Committee of the 75th Legislature to ensure service delivery by state contractors. The Legislature has also directed the Criminal Justice Policy Council to evaluate the effectiveness of criminal justice policy and funding decisions. The Policy Council has performed studies on various aspects of community corrections, which CJAD could use to make funding decisions. Finally, after a State Auditor's Office report criticized the way CJAD distributed TAIP funds, CJAD now distributes TAIP grants based on factors such as program outcomes.
- CJAD may redistribute discretionary grant and TAIP funds for program needs during a biennium, but excess Basic Supervision and CCP funds cannot be redistributed during a

The Legislature has shown increased interest in holding agencies accountable for performance.

biennium. By allowing CJAD to redistribute excess funds from Basic Supervision and community corrections programming, the State could help save residential programs from elimination or help start new diversionary programs.

Conclusion

The funding sources CJAD uses to distribute money to the CSCDs do not ensure that the State is spending its money on appropriate diversion programming and facilities. First, incentives in the funding process may cause CSCDs not to spend Basic Supervision money because they want to accumulate a local reserve fund to pay for new programs or services. This money cannot be redistributed by CJAD during a biennium, even though many CSCDs have under funded or unfunded programs.

In addition, various factors strain the limited amount of grant funds available for diversionary programming. The elimination of *Alberti* funding for Harris County means that CSCDs will be vying for fewer dollars. Also, reimbursements for presentence investigation reports further reduce discretionary grant funds, with little beneficial effect. CJAD does not base discretionary grant decisions on program results, instead using an outdated list of funding priorities. Finally, some residential programs are being paid for by formula-driven community corrections programming funds, impeding the evaluation of their effectiveness and reducing the flexibility of some CSCDs to run programs effectively or to try new diversionary programs.

Revising the funding structure for community corrections would assure the Legislature that the money it allocates for CSCDs continues to serve community corrections by tying funding decisions to performance measures and by ensuring that money allocated to community corrections is used for diversionary purposes.

Funding for community corrections should be more closely tied to programs that divert offenders.

Recommendation

Change in Statute

- Establish a cap on the amount of reserves that a CSCD may keep and reduce the amount of Basic Supervision formula funding to a CSCD by the amount exceeding the cap.
- Eliminate the requirement for a prescribed presentence investigation report.

Change in Agency Appropriations

- **Allow CSCDs to return excess Basic Supervision and community corrections programming funds to CJAD for redistribution during a biennium.**
- **Maintain the amount previously allocated to presentence investigation reimbursements within the discretionary grant fund.**

Management Action

- **Transfer funding amounts between the community corrections programming and discretionary grant funds to support residential programs through grants.**
- **CJAD should revise funding priorities used to make discretionary grants.**
- **CJAD should not allow CSCDs to fund residential programs with community corrections programming funds. CJAD should also devise a plan to ensure that a transfer between funding sources will not harm any CSCDs.**

This recommendation would allow CSCDs to continue to accumulate reserve funds in the same manner as they currently do, except that the amount of these reserves would be capped at an amount equal to two months' operating costs. The Legislature could impose this cap either by statute or with a rider to the appropriations bill. Placing a cap on CSCD reserves would reduce the incentive not to spend money for supervision purposes. After CSCDs reach this cap, CJAD would be able to reduce the amount of formula funding through Basic Supervision and community corrections programming to keep CSCDs within the cap. CJAD would be responsible for determining when CSCDs attain two months of operating reserves. CJAD should also be able to grant waivers to CSCDs so that they may accumulate more than two months of reserves under special circumstances. Two months of operating reserves is ample funding for routine fluctuations in funding for CSCDs and should provide an adequate buffer for most unforeseen events. About half of the CSCDs currently have at least two months of reserves. CJAD should devise standards or policies for waivers, such as to cover emergency costs or to start new programs that CJAD can monitor with performance measures.

Eliminating the requirement for CSCDs to send presentence investigation reports to TDCJ would simplify several processes. First, the State would not pay CSCDs for completing forms of questionable utility for both the local departments and TDCJ. Local judges would decide the form and content of these reports that they need to make sentencing decisions, as they currently do. The CSCDs, however, would not be required to perform this work by the State, and consequently would no longer be paid by the State for these reports. Eliminating

this requirement would free up money that can be used to increase the amount of discretionary grant money CJAD could distribute on the basis of program performance. This appropriations matter would require the Sunset Commission to request that the Legislative Budget Board (LBB) and the Legislature maintain the amount of funding that had been used to pay for presentence investigation reports within the discretionary grant fund.

Allowing CSCDs to return unexpended Basic Supervision and community corrections programming funds during a biennium would increase the amount of money available for diversionary programs. This change would enable CJAD to allocate these funds based on performance. It would also allow CJAD to distribute excess money to CSCDs to provide diversionary programs and facilities, much like CJAD does with discretionary grant funds and TAIP funds during a biennium. Both the reallocation of unexpended funds and the use of presentence investigation funding for discretionary grants would increase the pool of money CJAD can award to CSCDs to help deal with looming funding shortfalls when Harris County again competes for discretionary grant funding.

Revising funding priorities for discretionary grants would enable CJAD to tie funding to program performance. The Judicial Advisory Council would advise CJAD in the revision of these priorities. CJAD has the authority to decide whether to continue to fund discretionary grant programs according to performance measures, just as it does for its substance abuse treatment (TAIP) grants. CJAD already oversees CSCDs in financial and contract auditing and is best able to assess programs to ensure that CSCDs are accountable for the funds they receive from the State.

Requiring CSCDs to fund residential programs with discretionary grant funds would better enable CJAD to evaluate the effectiveness of these programs in providing effective alternatives to prison. This change would enable CSCDs to receive a more stable funding source for these programs based on residential costs. This change would also ensure that all CSCDs' residential programs are paid for with grant funds, making a comparison of performance easier throughout the State.

Funding residential programs with discretionary grants would also require the Sunset Commission to request that LBB and the Legislature transfer the appropriate amount of money from community corrections programming formula funds to the discretionary grants to cover these costs. To assure that community corrections programming funds are not shortchanged by this transfer, the Sunset Commission should also request that LBB and the Legislature transfer the amount of discretionary grant funds these CSCDs receive to pay for community corrections programming. CJAD should revise the discretionary grant funding priorities to ensure that these CSCDs will receive adequate funding for their residential facilities. In addition, CJAD should use discretionary grant funds or other measures to prevent an adverse financial impact on any CSCD resulting from this transfer of funds. While the transfer of diversionary funds is less than the community corrections funds, this transfer would still provide flexibility to spend money for programming that these CSCDs

currently lack. Overall, this change would reduce the strain on CSCDs that fund their residential programs with community corrections programming money.

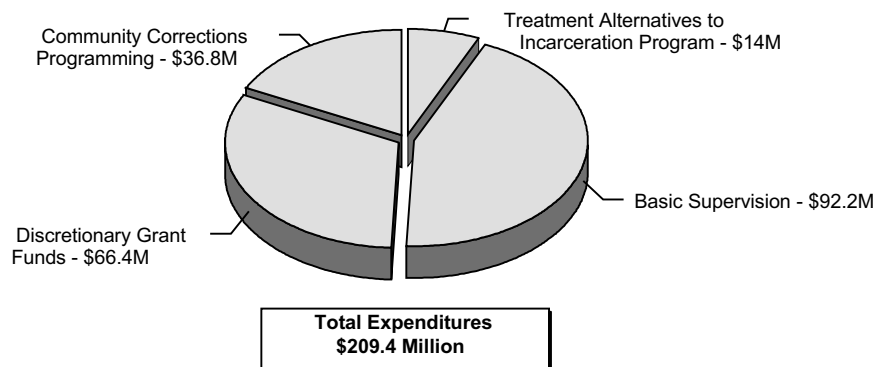
Fiscal Impact

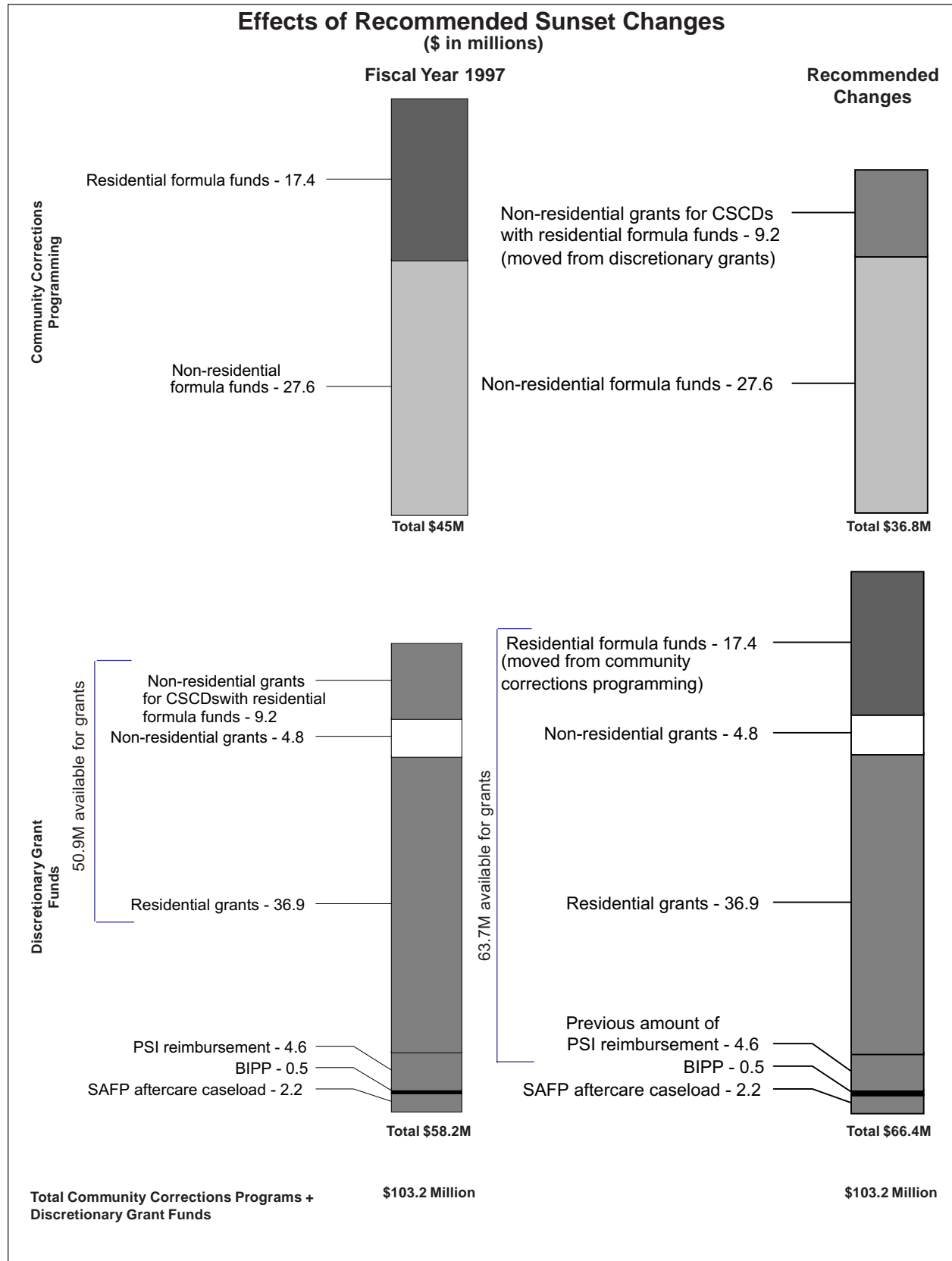
While this recommendation would not have a direct fiscal impact to the State, it would change how money is spent on community corrections. The overall expenditures for community corrections would remain the same at \$209.4 million.

This recommendation would remove the incentive for CSCDs not to spend money for community corrections. Eliminating this incentive would be expected to encourage CSCDs to spend the state funds received, causing a reduction in the amount of funds returned at the end of the biennium. This recommendation also would allow CJAD to redistribute unexpended funds to CSCDs during a biennium. These changes would potentially increase the amount of community corrections and potentially eliminate a source of revenue from these returned funds. For the 1996-97 biennium, CSCDs returned \$18.1 million to the State.

In addition, this recommendation would eliminate the requirement for CSCDs to complete presentence investigation reports and make adjustments in the way some CSCDs pay for residential programs. These changes would decrease the amount of community corrections programming expenditures from \$45 million to \$36.8 million, while increasing the amount of expenditures for diversion grants from \$58.2 million to \$66.4 million. Furthermore, the amount expended on grant programs would increase from \$50.9 million to \$63.7 million. The overall amount of money expended on community corrections programming and diversion grants remains constant at \$103.2 million, as illustrated in the graphs, *Local Expenditures of State Funds by Funding Category with Recommended Changes*, and *Effects of Recommended Sunset Changes*.

Local Expenditures of State Funds by Funding Category with Recommended Changes





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- ¹ Community Justice Assistance Division, *State Aid to All Funding Recipients, FY 97* (February 1998).
 - ² Community Justice Assistance Division, *Appropriation FY 90-FY 99 Allocated to the CSCDs*.
 - ³ Criminal Justice Policy Council, *Recidivism of Offenders in Community Corrections: The Record So Far* (May 1996).
 - ⁴ Texas Department of Criminal Justice, *Three-Year Recidivism Rates of Offenders Released from Texas Prisons in Fiscal Year 1992* (January 1997).
 - ⁵ Community Justice Assistance Division, *Cost Comparison of Diversion to County Jail vs. Diversion to Community Supervision with Residential Treatment* (January 1998).
 - ⁶ Criminal Justice Policy Council, *Monitoring Report: Implementation of the TDCJ Rehabilitation Tier of Treatment Programs*, Presentation to the Senate Criminal Justice Committee (April 16, 1998), p. 5.
 - ⁷ Ibid.
 - ⁸ Community Justice Assistance Division, *FY '97 Funded Amounts for Residential Facilities* (April 1998).
 - ⁹ Community Justice Assistance Division, *Funding for Residential Community Corrections* (March 1998).
 - ¹⁰ Community Justice Assistance Division, *Total CCP Funding FY'93-FY'99* (May 1998).
 - ¹¹ Community Justice Assistance Division, *State Aid to All Funding Recipients, FY 97* (February 1998).
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Issue 4

Reduce Recidivism by Improving the Placement of Inmates in Prison Work Programs.



Background

Recidivism is the tendency of released inmates to commit new crimes and to return to prison. A recidivism rate is the percentage of offenders who are re-arrested or re-incarcerated within a specified period. In Texas, the recidivism rate is generally calculated as the percent of inmates returning to prison within three years of their release. Increases in the recidivism rate indicate that more released offenders are committing crimes and returning to prison.

Part of TDCJ's mission is to promote positive change in offender behavior and reintegrate offenders into society. In addition, the mission of the Institutional Division (ID) includes rehabilitating offenders. In 1995, the Legislature directed TDCJ to track the recidivism rates for all incarcerated felons as a performance measure. By tracking the recidivism rate over time, the Legislature can determine how well the prison system is performing its function of rehabilitating offenders.

Reducing recidivism is important to the Legislature and to all Texans for two reasons. First, a lower recidivism rate means fewer ex-felons are committing crimes thus reducing its impact on the citizens of Texas. Second, recidivism is a major factor driving TDCJ's current prison capacity problem. In the past decade, Texas tripled its prison capacity — going from 39,664 in 1988 to 138,600 in 1997. Despite this expensive building boom, TDCJ has recently begun construction on three new units and is also contracting with counties for additional bed space. Much of this new demand for prison capacity is due to the number of inmates returning to the system.

In its review of TDCJ, Sunset staff focused on how well the Department is meeting its rehabilitation goal and how vocational rehabilitation could be used to more effectively reduce recidivism.

The recidivism rate is the number of inmates returning to prison within three years of release.

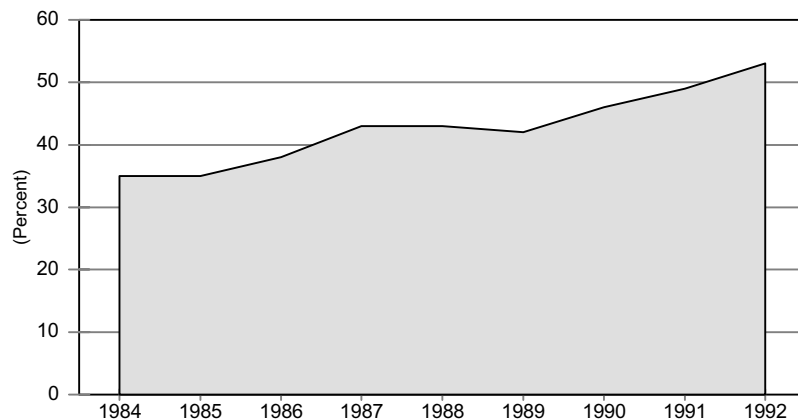
Findings

▼ Recidivism has increased dramatically in recent years.

- Over half of all offenders released in 1992 returned to prison within three years. This percentage of returning inmates increased from 35 percent in 1984 to 53 percent in 1992.¹ The graph, *TDCJ Recidivism Rates — Fiscal Years 1984 - 1992*, illustrates the rising recidivism rates of the state's prison system by year of release. Because these rates are calculated three years after release, this is the most recent information available. While system-wide recidivism rates are not appropriate to measure the effect of specific programs, this dramatic rate of increase indicates that the general ability of TDCJ to influence the return of inmates to the system has deteriorated in recent years.

Over half of released Texas inmates return to prison.

**TDCJ Recidivism Rates
Fiscal Years 1984- 1992**



Vocational training reduces the likelihood of former inmates committing new crimes.

▼ Vocational training is a recognized method of reducing recidivism.

- Many criminal justice professionals believe that vocational training programs improve former inmates' ability to become productive members of society after release. Not only can these programs increase an ex-offender's prospects for employment upon release, they can ultimately reduce the likelihood of that individual committing another crime.² A long-term study of the impact of prison work experience and vocational training on recidivism of more than 7,000 federal

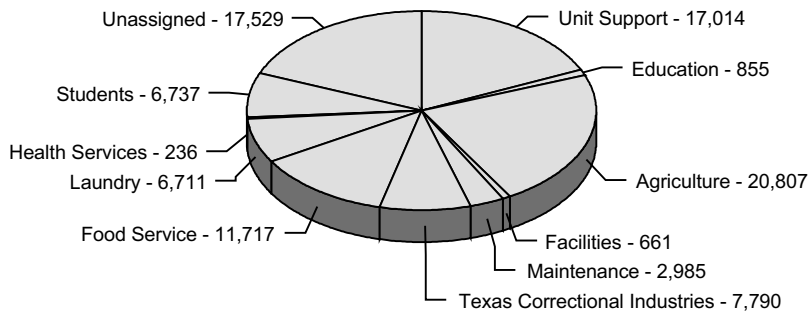
offenders released in the 1980s showed that male offenders who participated in the program stayed out of prison 28 percent longer than the control group.³

▼ **Although TDCJ provides many inmate jobs in its prisons, it does not focus these jobs on providing vocational training.**

- ▶ The Legislature has long required TDCJ to ensure that inmates who are able to work are assigned jobs while incarcerated. In response, TDCJ has created some 70,000 positions in ID alone.⁴ These jobs exist in over 400 job titles and include working in a unit’s laundry or kitchen facility, in the fields or with livestock for the Agricultural Division, or in one of the factories operated by Texas Correctional Industries. Inmates are not paid for their work, but many of the positions are similar to free-world jobs. The chart, *Inmate Work Assignments by Program*, illustrates the number of offenders assigned to each of TDCJ’s work programs.

TDCJ has 70,000 inmate jobs and over 400 job titles.

Inmate Work Assignments by Program



Unassigned includes inmates who do not work due to their security classification or medical exemption, or because they are in transit. All data as of January 28, 1998.

- ▶ Despite the fact that inmates learn skills while working, the majority of the jobs performed by inmates in the state’s prisons are not considered part of official vocational training programs by TDCJ’s management. While the Legislature has required TDCJ to implement job training programs, monitor the success of these programs, and collect information relating to the employment histories of inmates after release from the prison system, TDCJ has narrowly defined this requirement to apply

Texas inmates cannot document work experience gained while incarcerated.

Inmate job assignments are not based on how much time they have to serve or whether they can use the skills learned.

only to a few select vocational programs. As a result, only a few of TDCJ's 400 inmate job titles are considered to be part of the vocational training emphasis and most inmates miss out of the benefits of vocational rehabilitation.

The Legislature has also required ID to establish a permanent work record for each inmate who participates in an on-the-job training program. The record must describe the types of work performed by the inmate during his incarceration and contain evaluations of his job performance and attendance. Upon release, the inmate is entitled to receive a copy of his record. However, while TDCJ tracks which inmates show up for their work assignment on its Diligent Participation Record, these records are not given to released offenders. As a result, most inmates cannot document their work experience gained while incarcerated.

- ▶ Coordination problems with inmate assignment and classification systems also hamper TDCJ's ability to provide vocational training. The areas that use inmate labor have little influence on the transfer and assignment decisions made by TDCJ's classification committees. Inmates are often transferred without regard to their work experience resulting in a lost opportunity for the offender and the wasting of effort in the training programs. Furthermore, when assigning inmates to jobs, no weight is given to the lengths of their sentences. Inmates with 40-year sentences may be assigned to jobs that provide marketable job skills while inmates with short sentences may be assigned to jobs that provide few useable job skills.

For example supervisors at Texas Correctional Industries have said that frequently, an inmate who has been trained on the use of specialized equipment, or who has mastered an inventory control system, is not returned to the factory, but is arbitrarily assigned to another job duty.⁵ This not only negates the value of training, but also forces the factory to devote more resources to a training function. This situation occurs throughout the prison system.

- ▼ **Maximizing job training opportunities throughout the system would help improve TDCJ's vocational training and improve inmate behavior.**

- ▶ While all 400 of TDCJ’s job titles require a level of instruction, TDCJ is not gaining full benefit from this effort as it does not formally track this training. Defining all inmate jobs as on-the-job training programs would enable TDCJ to better use the investment it already makes in teaching inmates skills as needed to do specific jobs.
- ▶ When inmates see that their labor leads to improved opportunities, both within and outside of prison, they exhibit better behavior. For example, South Carolina structures its private sector prison industry program to hire inmates who have performed well in previous prison jobs. South Carolina has found that inmates are more likely to work hard and stay out of trouble to get better jobs.⁶ While TDCJ effectively uses inmate work to reduce idleness, it does not structure its work program in such a tiered fashion.

▼ **TDCJ has begun a limited effort to develop job training programs for some Texas Correctional Industries positions.**

- ▶ A 1997 audit of Texas Correctional Industries performed by the State Auditor’s Office recommended that job training programs be developed for specific jobs within the factories.⁷ These programs were to include application procedures and acceptance criteria for each job, and records were to be kept for later evaluation. Inmates accepted into this program would be allowed to stay in these jobs unless specific security concerns required that they be removed from the program. TCI has begun to implement this recommendation. For six of its factories, TCI has analyzed the jobs performed by inmates according to the standards of the Texas Workforce Commission to determine which of these in-prison jobs currently translate to similar jobs in the free-world communities of Texas.

Inmate work
programs need a
better connection to
the training needs
and skills of inmates.

Conclusion

In recent years, TDCJ’s recidivism rate has increased so sharply that today more than half of the inmates will return to incarceration after three years of freedom. Because the Texas prison system is operating near its capacity, this return of released inmates to the system has major implications on prison capacity and TDCJ’s operating costs. While vocational education is a recognized means of decreasing recidivism, TDCJ fails to maximize the job training potential of its inmate work system. Although the majority of inmates

work in prison jobs such as food service, maintenance, agriculture, and industrial production, TDCJ does not consider most of these jobs as a part of its on-the-job training system. Because most of the prison service jobs are assigned to inmates without regard to their training needs or skills, TDCJ is not gaining the full rehabilitative benefit of inmate work programs.

Recommendation

Change in Statute

- **Require TDCJ to create or formalize on-the-job training programs for each inmate work program.**
- **Expand the requirement to keep records on inmate job training and performance evaluations to include all inmate work programs.**

Management Action

- **TDCJ should create a centralized inmate job placement office and charge the office with the responsibility to:**
 - **create a master list of all inmates job titles,**
 - **classify each job title according to skill, knowledge, and security level required, and vocational training offered,**
 - **create a tiered job structure where vocational training offered by one job on one tier will prepare the inmate for other positions,**
 - **establish guidelines for inmate supervisors to use when approving inmates for specific jobs and writing job performance reports,**
 - **track each inmate's vocational training and job performance, and**
 - **coordinate with TDCJ's Classification and Security personnel to ensure that job program participants may remain assigned to job duties unless security concerns override the placement.**
- **TDCJ should modify its inmate classification procedures to accept input from the inmate job placement office. This input should include consideration of the office's recommendations that inmates enrolled in job-training programs be allowed to complete the program without required transfers to other units.**

This recommendation expands existing statutory provisions requiring TDCJ to implement job training programs in the Institutional Division and to keep records on inmate training.

Because TDCJ has applied this provision to only a few job classifications, this change will ensure that TDCJ considers all work programs — both within ID and in other Divisions — as a part of its vocational rehabilitation program. TDCJ may decide to use the existing Diligent Participation Record as the vehicle to capture the vocational training records, or may create a new tracking form to provide the inmates with an employment record. The value of providing inmates with these records would be to ease their transition into free-world jobs and to reduce the rate of recidivism from lack of employment.

The recommendation would move TDCJ's inmate work programs from a set of disconnected work programs into a system-wide job training program. A central inmate job placement office would look at each existing inmate job to determine the skills needed for the job as well as the vocational training offered by the job. TDCJ may either create a permanent inmate job placement office or may accomplish this goal with an ad hoc committee. The office would create job admission criteria, a screening process to identify inmates most likely to benefit from training, and regular job performance evaluations for each inmate job program. The admission criteria might include an interview process and a review of the inmate's past job progress.

This recommendation would direct TDCJ to create a tiered structure of job assignments. This structure might begin with simple work ethic positions, advance to more skilled jobs such as kitchen help or barber positions, and culminate with positions in Texas Correctional Industries. This effort would enhance the rehabilitation of inmates as well as their institutional behavior.

This program would need Classification Committee to make an effort to permit program participants to remain in assigned jobs unless they are found to be a security concern. The recommendation would also permit the inmate job placement office to give direct input to Classification on issues of coordination. By coordinating these two functions, TDCJ could prevent the interruption of vocational training due to transfers. The inmate placement office should also work with the Classification Committee to place long-term inmates in positions with fewer marketable job skills and short-term inmates in positions with greater potential for valuable employment opportunities.

Fiscal Impact

Requiring TDCJ to formalize its on-the-job training programs and to keep records on inmate training would have a minimal fiscal impact on TDCJ. The Legislature has already assigned TDCJ the task of implementing and tracking the success of vocational training programs. TDCJ does job training for all of its 400 inmate job titles, but does not do so on a formal basis. The statute similarly requires the Department to keep and provide work records to inmates. While TDCJ keeps these records, it does not actually provide them to inmates. Revising the Diligent Participation Record to capture job performance and providing the record to inmates should have minimal cost.

Because the recommendation to create a centralized inmate job placement office is a management action, TDCJ should implement the change in such a way as to minimize its costs. For example the start-up costs of the office could be limited by using personnel who perform similar functions in TDCJ's Classification and Records office and by phasing the program in over time. The management recommendation to coordinate inmate classification procedures with the job placement office should have no fiscal impact.

These recommendations are intended to reduce the return of inmates into the system by improving the ability of inmates to gain employment upon release. To the extent this reduction in recidivism occurs, these recommendations would have long-term positive effects on the state's General Revenue Fund through reduced need for future expansion. The amount of savings from this potential reduction cannot be estimated.

¹ Texas Department of Criminal Justice, Financial Services Division - Austin Budget Office, *Three-year Recidivism Rates of Offenders Released from Texas Prisons in Fiscal Year 1992* (Austin, Tex., January 1997), p. 9.

² Federal Prison Industries, Inc., *Factories with Fences: The History of Federal Prison Industries* (Sandstone, Minn., May 1996), p. 11.

³ William G. Saylor and Gerald G. Gaes, US Bureau of Prisons, *The Effect of Prison Employment and Vocational/Apprenticeship Training on Long-Term Recidivism*, January 1996, p. 3.

⁴ Interview with Mike Countz, TDCJ Assistant Director Classification and Records, April 22, 1998.

⁵ Office of the State Auditor, State of Texas, *An Audit Report on Management Controls at Texas Correctional Industries*, Report No. 98-004 (Austin, Tex., November 1997), p. 8.

⁶ National Institute of Justice, *Work in America Prisons: Joint Ventures with the Private Sector*, November 1995, p. 4.

⁷ Office of the State Auditor, *Management Controls at Texas Correctional Industries*, November 1997, p. 7.

Issue 5

Expand the Role of the Private Sector Prison Industries Oversight Authority to Oversee the Texas Correctional Industries Program.



Background

In 1963, the Legislature directed the Texas Department of Corrections to develop a prison industry program using inmate labor to produce goods. Inmate-made goods were intended to be used within the prison system and sold to other tax-supported entities, but not to be allowed onto the open market.

The Texas Department of Criminal Justice's current organization assigns the responsibility for the operation of the prison system's production facilities to its Texas Correctional Industries (TCI) division. TCI's seven statutory objectives are detailed in the textbox, *Statutory Goals of TCI*.

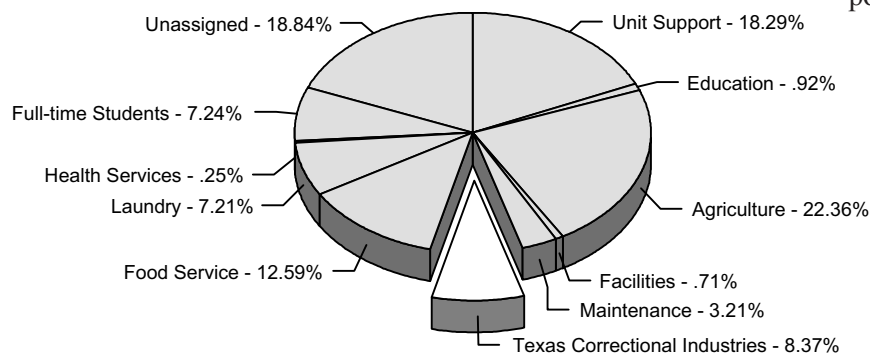
| Statutory Goals of TCI |
|---|
| <ul style="list-style-type: none">● Provide employment for vocational training and rehabilitation of offenders● Use offender labor for self-maintenance● Reimburse the state for expenses caused by the crimes of offenders and the cost of their confinement● Provide for the distribution of prison-made goods in a way that prevents illegal private profits● Provide products for sale to the public, to private enterprises, or to the state or political subdivisions of the state● Develop and expand public and private prison industries● Maximize the use of inmate labor |

TCI operates 42 businesses that produce clothing, furniture, soap, and steel products.

TCI currently operates 42 production facilities and three warehouses. Major products produced by the industry program include: garments such as correctional officer and inmate uniforms; bedding materials; all of the state's license plates and inspection and registration stickers; cleaning supplies; furniture; and fabricated steel for jails and prisons. TCI is also involved in a number of non-industrial businesses such as records conversion, geographic information systems, computer repair, and microfilming. As of January 1998,

nearly 8,000 offenders, or approximately 8 percent of the Institutional Division (ID) population, were assigned to work in TCI facilities. The chart, *Inmate Employment Distribution*, compares the number of ID inmates assigned to TCI, to other TDCJ support jobs, and the number who are not assigned to jobs or are full-time students. Inmates confined in state jails and transfer facilities do not work in industry and are not counted as part of the ID total population.

Inmate Employment Distribution



Unassigned includes inmates who do not work due to their security classification or medical exemption, or because they are in transit. All data as of January 28, 1998.

TCI's customers include ID; the State Jail Division; other state agencies; and political subdivisions such as cities, counties, and school districts. State law requires state agencies and political subdivisions to purchase from the prison industries program unless they can buy the item for less from a private vendor. The General Services Commission reviews the sales prices and quality of products to ensure that they meet the needs of TCI's customers.

Funding for TCI comes from two sources: general revenue funds appropriated by the Legislature and the Industrial Revolving Fund. Appropriated funds are used to manufacture goods used by TDCJ. In fiscal year 1997, TCI received \$20.5 million in appropriated funds. The Industrial Revolving Fund is used for expenditures related to the manufacture of goods for sale to other state agencies, counties, cities, and school districts. Revenue from outside sales goes into the fund and money is taken out of the fund to pay for the cost of producing the items sold to outside entities.

TCI's customers include TDCJ, state agencies, counties, and school districts.

In 1985, the Legislature created the Prison Industries Advisory Committee (Committee) to assist the Board of Criminal Justice (Board) in overseeing TCI. In 1996, the Board transferred the responsibility of the Committee to a Board subcommittee. The next year, the Legislature re-established the Committee and charged it with advising the Board on all aspects of TCI's operations. The Committee is also supposed to make recommendations to the Board on the effective use of prison industry programs to assist inmates in the development of job skills necessary for successful reintegration into the community after release. The Committee consists of nine members

appointed by the Board who represent business, industry, and the local workforce.

TDCJ also participates in the federal Prison Industry Enhancement (PIE) Program. This program encourages private businesses to establish industries at prison units and employ inmates. To participate, businesses must certify that inmate labor will not displace local workers and must pay offenders the prevailing wage for that industry. Deductions from offenders' wages provide for victim restitution and cover the cost of incarceration. TDCJ's PIE program is overseen by the Private Sector Prison Industries Oversight Authority (Authority) which also oversees PIE programs at the Texas Youth Commission and local county jails. The Authority consists of nine members appointed by the Governor and includes representatives of organized labor, employers, victims' and inmates' rights, the field of vocational rehabilitation, and the public as well as an employer participating in an established PIE program. Ex officio members of the Authority include two legislators and the Executive Directors of TDCJ, the Texas Youth Commission, and the Texas Workforce Commission.

TCI is the fourth largest prison industry program in the country.

In its review of Texas Correctional Industries, the Sunset staff focused on the efficiency and effectiveness of its operations and on the adequacy of oversight in place for the prison industry program.

Findings

▼ **Vast in scope and size, Texas Correctional Industries performs a unique function in state government.**

- ▶ In 1997, on the basis of its annual gross sales, TCI was the fourth largest correctional industry program in the country. The table, *Major Prison Industry Programs in 1997*, compares the size of TCI's inmate workforce and its annual gross sales to programs in the federal prison system, California, and Florida.

| Major Prison Industry Programs in 1997¹ | | | |
|---|-------------------------------------|--|---------------------------------------|
| Prison System | Inmates Employed in Industry | Percentage of Prison Population | Annual Gross Sales in Millions |
| Federal Bureau of Prisons | 17,912 | 18.8 | \$495.5 |
| California ² | 6,229 | 4.3 | 147.0 |
| Florida | 2,424 | 3.7 | 83.2 |
| Texas | 6,700 | 8.37 | 82.0 |

TCI is a unique program for a state government — no large business program exists in any other state agency.

- The table, *Texas Correctional Industries*, summarizes the major activities of TCI and shows the number of offenders and TDCJ staff employed in each area, primary customers, and the amount of sales in fiscal year 1997. Aside from TDCJ, the Texas Department of Transportation and the Texas Department of Mental Health and Mental Retardation are TCI's largest state agency customers. Of the \$82 million in sales that TCI reported in fiscal year 1997, \$38 million were to TDCJ and \$44 million were to outside buyers.³

| Texas Correctional Industries ⁴ Fiscal Year 1997 | | | | | | |
|--|-----------|---|-------------------------------|------------------|---------------------|---------------------|
| Division | Factories | Products | Primary Customer | Inmates Employed | TDCJ Staff Employed | Sales (in millions) |
| Garment | 11 | Yarn, inmate clothing, towels, officer uniforms | TDCJ | 2,510 | 121 | \$25.1 |
| Graphics | 8 | License plates, validation stickers, plastics, cardboard boxes, printing, digital mapping | TXDOT, TDCJ, Cities, Schools | 1,000 | 73 | 18.1 |
| Manufacturing | 9 | Soap, shoes, school bus repair, mattresses, pillows, recapped tires, brooms | TDCJ, MHMR, Schools | 1,033 | 71 | 16.6 |
| Metal | 7 | Highway signs, security and jail steel, dump truck beds | TDCJ, TXDOT, Counties | 995 | 78 | 12.6 |
| Wood | 7 | Furniture, custom furniture, refinished furniture | TDCJ, State, Cities, Counties | 1,162 | 72 | 9.6 |
| Total | 42 | | | 6,700 | 415 | \$82.0 |

TCI is unable to tell if its industries are making or losing money.

- Due to TCI's mandate to produce goods using inmate labor for sale to TDCJ and other subdivisions of the state, the prison industries program is a unique entity among state government. No other large institutional industry program exists in any other state agency.
- Despite its scope, TCI is unable to effectively manage its finances and lacks a long-term vision.**
- TCI is unable to tell if its industries are generating revenue or losing money. According to the November 1997 State Auditor's report, *Management Controls at Texas Correctional*

Industries, TCI's cost accounting system does not allow the industry program to accurately assess the cost of its production processes, the efficiency of its factories, or the profits or losses of its operations.⁵ Two separate TDCJ Internal Audit reports reached similar conclusions.⁶

Due to TCI's inadequate cost accounting systems, the prices for the goods and services it sells to TDCJ and other tax-supported entities do not reflect the actual costs of production. Consequently, TCI may price its goods higher than the cost of production causing other state agencies to subsidize its operations or may sell items for less than cost, causing TDCJ to subsidize other agencies.

Both the State Auditor and TDCJ's Internal Audit Division also found that TCI suffers from a lack of adequate inventory control resulting in the loss and possible theft of raw materials and other resources.

- ▶ TCI's ability to make good financial decisions for long-term planning is hindered by two important factors. First, TCI's poor cost accounting limits its ability to make good decisions because it simply has no way to track its successes or failures. Second, planning for new industries is impaired because TCI generally enters into new industries without obtaining enough information to analyze the soundness of these business decisions. According to the State Auditor, while TCI is required to present plans for new industries to the Board of Criminal Justice, its business plans were found to be inconsistent and inaccurate.⁷ TDCJ's Internal Auditor has also found that business plans contain inaccurate and overly optimistic information.⁸
- ▶ TCI also cannot make long-term decisions about its product lines based on its customers' needs. The needs of its customers are not known because TCI does not keep accurate information about who its customers are. TCI is unable to track customers according to: the products they purchase; the type of organization they are, such as school district, state agency, or county; or any other useful groupings.⁹

TCI suffers from poor inventory control resulting in the loss and possible theft of raw materials.

New businesses are entered into without proper information and planning.

Inmates are often transferred without regard to their job training or experience.

▼ **Inmate classification and security decisions result in lost job training opportunities for inmates and lost productivity for TCI.**

- ▶ The Legislature has emphasized the importance of job training for inmates by appropriating TCI's revolving fund to the strategy, On-the-Job Training. Correctional experts agree that providing inmates with opportunities to learn marketable job skills can better prepare them to find work upon release and thus reduce their chances of committing another crime.¹⁰
- ▶ TCI has little influence on the transfer and assignment decisions made by TDCJ's classification committees. Inmates are often transferred without regard to their job training or experience resulting in a lost opportunity for the offender and the wasting of effort in the training programs. Furthermore, when assigning inmates to work for TCI, no weight is given to the lengths of their sentences. Inmates with 40-year sentences may be assigned to industries that provide marketable job skills while inmates with short sentences may be assigned to industries that provide few job skills.
- ▶ While security concerns in the prison environment will always outweigh industries' need for productive labor, a lack of coordination with regular security functions disrupts TCI's operations. The periodic counting of inmates and strip searches are poorly-timed and are not coordinated to meet the needs of both security and industrial productivity. As a result, the length of time inmates are able to work on a daily basis is reduced and productivity is lost.

▼ **TCI's conflicting statutory goals also result in inadequate job training for inmates.**

TCI tries to give equal weight to its seven, often conflicting, statutory goals.

- ▶ TCI's seven statutory goals are inherently conflicting. Because the statute gives no priority to any one goal, TCI tries to give equal weight to all. An especially troubling area for TCI is trying to balance the concepts of self-sufficiency, rehabilitation, and maximizing the use of inmate labor.
- ▶ For the prison system to be as self-sufficient as possible, TCI produces many items for TDCJ such as sheets, mattresses, uniforms, and shoes. This places emphasis on out-dated, labor-intensive, low-technology processes. Although inmates learn

fundamental work ethics, the resulting job skills lead to few job opportunities for released felons.

If TCI were to use more modern technology, inmates would be better prepared for private sector jobs. This would also allow TCI to increase its productivity and thus its profitability.

- Only about half of TCI's job categories offer inmate workers useful vocational training. TCI is unable to determine whether the work experience it offers is meeting the goal of rehabilitating inmates because it does not track information on the recidivism or employment rates of inmates who have worked in its factories.¹¹

▼ **TCI continues to suffer from a lack of adequate oversight.**

- Despite its numerous problems and identified needs, TCI does not receive adequate oversight — either from the Board of Criminal Justice or from outside entities. Because the business nature of TCI dictates more direct control than other state programs and requires knowledge of commerce and industry, the Legislature has long sought to provide the Board of Criminal Justice with the tools it needs to oversee the program. In 1985, the Legislature created the Prison Industries Advisory Committee to assist the Board with decisions on the industries program. However, the existence of this Advisory Committee did not prevent TCI from involvement in past problems.

In 1996, the Board took over the responsibilities of the Advisory Committee. A year later, the Legislature re-established the Committee and instructed the Board to make appointments as soon as possible after the effective date of the Act, September 1, 1997. However, as of April 1, 1998, the Board has not made these appointments. The Board is hampered in its ability to appoint the Advisory Committee because it does not have the authority to reimburse the members for their travel expenses.

- The Support Operations Subcommittee of the Board of Criminal Justice is currently acting as TCI's advisory committee. This subcommittee has many other obligations, such as oversight of agriculture, food services, and transportation, and cannot give its full, undivided attention to the prison industries program.

The business nature of TCI requires a different type of oversight than state agency boards usually provide.

The recently-created Private Industries Oversight Authority has the business expertise to oversee privatized prison industries.

▼ **Other states and the federal government operate their prison industries through autonomous boards.**

- ▶ All of Florida’s correctional industries are operated by the non-profit, self-funded corporation known as Prison Rehabilitative Industries and Diversified Enterprises, Inc. or PRIDE. This corporation, created in 1981, is an independent, financially self-sufficient entity that provides inmates with meaningful work experience resulting in high employment and low recidivism rates after release. PRIDE annually contributes money to the state to cover the cost of incarceration, to pay for victim restitution, to invest in assets for the Department of Corrections, and to pay rent on industrial facilities.¹²
- ▶ California’s Prison Industry Authority was established in 1983, as a semi-autonomous authority within the Department of Corrections, to operate all of the state’s prison industries. The Authority’s governing body includes the directors of the Departments of Corrections and General Services, the Secretary of the Trade and Commerce Agency as well as representatives of labor, business, and the public. The governing body of the Authority hires the General Manager of the prison industries.¹³
- ▶ The prison industries program of the Federal Bureau of Prisons operates under the corporate name UNICOR. This corporation was formed in 1934 and is now governed by a six-member board of directors. UNICOR’s primary mission is the productive employment of inmates with an emphasis on producing high-quality products at competitive prices. UNICOR is able to sustain itself, without the help of congressional appropriations, through the sale of its products.¹⁴

▼ **The Legislature has recently created an autonomous board to manage a similar prison industries program.**

- ▶ During the last session, the Legislature created the Private Sector Prison Industries Oversight Authority to oversee the prison industries programs in TDCJ, the Texas Youth Commission, and counties that are operated by private businesses. The members of this autonomous Authority have first-hand knowledge of the business and labor communities. Autonomy for this body is vital because it could not meet the needs of the three agencies it represents, the private businesses

that employ inmates, or the inmates themselves if it were to operate solely at the will of one state agency.

▼ **Improving the oversight of correctional industries and clarifying TCI's statutory goals would bring the necessary focus to and promote the effectiveness of the prison industries program.**

- ▶ Providing an oversight body to focus on correctional industries programs would help steer TCI toward long-term goals such as providing more meaningful work experiences and useful training for inmates and placing more emphasis on customer needs. Drawing on people who are knowledgeable of private business would facilitate faster decision-making, helping TCI respond to changes in the market place. Such a body could also ensure the rapid development and implementation of adequate cost accounting systems.
- ▶ The autonomy of TCI's oversight authority is vital to ensure that the needs of all of its stakeholders are met. As a Division within TDCJ, TCI is naturally more concerned with the needs of the prison system for products than it is with the vocational training of inmates or the needs of its other customers. However, as a business enterprise, TCI needs a more expansive view of its mission to efficiently produce goods for tax-supported entities and to provide job training to inmates. Recognizing the benefits of autonomy, in 1997 the Legislature established the Private Sector Prison Industries Oversight Authority to oversee private prison industries. TCI could benefit from this same autonomy.
- ▶ Clarifying TCI's goals would allow it to focus more effectively. By having just three objectives in statute, the program would have a better chance of meeting the highest needs of the state. First, providing greater opportunities for vocational training and rehabilitation of offenders would give real tools to offenders to break the cycle of crime and reduce recidivism. Second, achieving financial self-sufficiency of TCI would enable the program to focus on producing goods more competitively with the open market so that customers would prefer to buy TCI's products. Third, establishing TDCJ as TCI's primary customer would ensure that TDCJ's needs for goods and services continue to be met by TCI.

TCI's management problems point to a need for a change in oversight.

Conclusion

A number of audits have uncovered serious management problems affecting TDCJ's industries program. Most serious are TCI's inadequate cost accounting and inventory control systems. Furthermore, TCI's lack of knowledge about its customers results in the program's inability to take full advantage of the business of its customers and provide real service to state agencies. TCI also fails to provide inmates with marketable job skills and uses its labor inefficiently due to its continued reliance on out-dated, labor-intensive production processes.

TCI needs
autonomous oversight
to help it focus on
long-term goals of
profitability and
vocational training.

The ultimate cause of TCI's problems is a lack of proper oversight. As a business program, TCI's needs are unique from those of other state agencies. The Board of Criminal Justice is focused on running the state's criminal justice system — not an industrial program. TCI's inadequate oversight is compounded by conflicting statutory goals and an inability to see beyond the current management difficulties. With seven goals, including the mandate to maximize inmate labor, TCI is torn in many directions at once. The program's attempt to satisfy all of its objectives at once has been complicated by the rapid growth of the prison system over the past 10 years. This rapid growth has resulted in the need to employ more inmates, produce more goods, and thus open more factories without adequate information on the costs and benefits of the business decisions they are making.

While several other states as well as the federal government have created autonomous boards to govern their correctional industries, TCI remains a division within TDCJ with oversight from the Board of Criminal Justice. Although the Board is the optimal body to manage the criminal justice system, as a large industrial business, TCI needs a focused business attention to operate as an efficient and effective correctional industries program. With improved oversight, the prison industries program would be better able to provide inmates with marketable job skills and to support itself through the sale of its products.

Recommendation

Change in Statute

- **Expand the role of the Private Sector Prison Industries Oversight Authority by transferring oversight of the Texas Correctional Industries Program from the Board of Criminal Justice to the Authority.**

- **Rename the Authority as the Prison Business Oversight Authority to reflect its added responsibility.**
- **Charge the Authority with responsibility for:**
 - making decisions on new industries and changes in product lines and on contracts for goods and services;
 - approving the General Manager hired by TDCJ's Executive Director to oversee all operations, budget, and personnel of the prison industries program;
 - negotiating memoranda of understanding with TDCJ covering administrative issues related to use of inmate workforce and payment for administrative support, security, and industries personnel;
 - promulgating rules and policies governing the prison business program; and
 - regularly assessing the needs of its customers for products and services.
- **Require the Authority to forward its decisions that affect TDCJ operations to the Board of Criminal Justice for its review. These decisions would become effective unless disapproved by the Board.**
- **Remove TCI's existing statutory goals and clarify, in statute, that the primary goals are to:**
 - provide inmates with marketable job skills;
 - be financially self-sufficient while providing needed goods and services to state agencies and political subdivisions; and
 - consider the needs of TDCJ for institutional goods and services.
- **Require TDCJ to modify its inmate classification procedures to accept input from the Authority. This input should include:**
 - consideration of the Authority's recommendation that inmates enrolled in job-training programs should be afforded the opportunity to complete the program without required transfers to other units; and
 - consideration of the Authority's recommendation that inmates with short sentences should be assigned to units with industries that provide marketable job skills.
- **Require TDCJ to consider the Authority's recommendations for changes in security procedures that could improve business operations.**

■ **Provide for a Sunset review of the Prison Business Oversight Authority in 2005.**

Expanding the role of the Private Sector Prison Industries Oversight Authority to include oversight of the Texas Correctional Industries would ensure that this large, unique state program would receive the oversight that it needs without creating a new oversight body. The current make-up of the Oversight Authority — which includes representatives of labor, employers, crime victims, inmate rights advocates, vocational rehabilitation providers, and the public, as well as the executive directors of TDCJ, the Texas Youth Commission, and the Texas Workforce Commission serving as voting, ex officio members — ensures that all important perspectives for an inmate work program are represented. Renaming the Authority as the Prison Business Oversight Authority (PBOA) would reflect its new responsibilities.

PBOA's oversight of TCI would include making decisions on new industries, changes in current industries, and contracts and purchases of goods and services. To ensure that the industrial program coordinates with TDCJ, the Executive Director would continue to hire the industries program's General Manager, with the approval of the Authority. All TCI employees would remain TDCJ employees. PBOA should account for all TCI revenues and expenditures without separating outside sales and TDCJ sales. This would simplify TCI's accounting systems and allow the Authority to institute better management controls over the industries program's spending. To ensure that PBOA takes the needs of its customers into consideration when planning new products and new plants, PBOA should regularly assess the needs of its customers. To keep policymakers informed, PBOA should make regular reports to the Board of Criminal Justice and biennial reports to the Legislature on the status of the TCI program. PBOA would develop memoranda of understanding with TDCJ to clarify administrative issues, such as use of inmate labor and contracts for TDCJ security, personnel, and administrative services. Through these contracts PBOA would cover all of TDCJ's costs of providing security to industries and any administrative services that PBOA would need.

To ensure that decisions regarding TCI industries do not negatively affect TDCJ's operations, the Authority must forward these decisions to the Board of Criminal Justice for its review. The Board would be able to consider PBOA's decisions for 90 days or until the Board's next regularly scheduled meeting, whichever is longer. The Board would be able to accept a PBOA decision or veto a decision it determines would adversely affect TDCJ's operations. The Board would not be able to modify a PBOA decision. PBOA decisions take effect in the absence of action by the Board within the established time frame. Only decisions concerning TCI that have an impact on TDCJ are required to be sent to the Board for its review.

Removing TCI's statutory goals, except for job training, financial self-sufficiency, and meeting the needs of TDCJ, should clarify the program's most important functions. Removing the current goal that TCI maximize its use of inmate labor opens the door for

wider use of cost-effective modern technology in place of labor-intensive methods. Inmates trained in modern production techniques are likely to be more employable and less likely to recidivate after release. Removal of this goal would allow TDCJ to shift excess inmate jobs to less capital-intensive assignments such as support services or community service programs.

By working closely with TDCJ's classification and security divisions, PBOA could prevent the loss of experienced workers due to transfers and the loss of productivity due to necessary security protocols. These changes may include recommendations on the timing of inmate counts and recommendations on permitting inmates to eat lunches in industry facilities. PBOA should also work with the classification committees to place long-term inmates in plants providing few marketable job skills and short-term inmates in businesses with greater potential for valuable employment opportunities. To ease the coordination of PBOA and TDCJ, PBOA should actively advise TDCJ of its needs and TDCJ's classification committees and security officers should consider the recommendations of PBOA. This coordination should be further improved by TDCJ's Executive Director serving as a voting, ex officio member of PBOA.

Providing for a Sunset review of PBOA in 2005 would allow the Legislature to evaluate the effectiveness of the correctional industries oversight body. PBOA would have four years in which to operate with its new responsibilities.

Fiscal Impact

Expanding the role of the Private Sector Prison Industries Oversight Authority will not have a negative fiscal impact on the General Revenue Fund. However, this recommendation could result in a positive, long-term fiscal impact to the State. The amount of increased savings cannot be determined for this report because the amount of increased efficiency and productivity of the prison businesses, due to improved oversight, cannot be estimated. The Authority would negotiate memoranda of understanding with TDCJ for administrative support and personnel. These contracts would be paid for out of the industries program's budget.

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- ¹ Federal Bureau of Prisons and California data from: Criminal Justice Institute, *The 1997 Corrections Yearbook* (South Salem, NY, August 1997), pp. 80, 84. Florida data from: Prison Rehabilitative Industries and Diversified Enterprises, Inc. (cited March 6, 1998); available from <http://www.dc.state.fl.us/executive/research/annual/9697/pride.html> and <http://www.pridefl.com/chairman.htm>. Texas data reported by Texas Correctional Industries.
- ² California includes agriculture production in its correctional industries program whereas Texas, Florida, and the federal prison system do not.
- ³ Texas Department of Criminal Justice, *Overview of Texas Correctional Industries* (Huntsville, Tex., 1997), pp. 3-4.
- ⁴ Information provided by TCI, March 1998.
- ⁵ Office of the State Auditor, State of Texas, *An Audit Report on Management Controls at Texas Correctional Industries*, Report No. 98-004 (Austin, Tex., November 1997), pg. 1.
- ⁶ Texas Department of Criminal Justice, Internal Audit Division, *Report on TCI Revolving Fund - Improvement to Cash Management and Cost System*, Audit #9707 (Huntsville, Tex., May 1997), pg. 4; and Texas Department of Criminal Justice, Internal Audit Division, *Executive Summary: Darrington Tire Recapping*. Audit #9626 (Huntsville, Tex., March 1996), Attachment 1, pg. 2.
- ⁷ Office of the State Auditor, pp. 10-11.
- ⁸ Texas Department of Criminal Justice, Internal Audit Division, *Report on Developing TCI Business Plans*, Report No. 9815 (Huntsville, Tex., April 27, 1998), pp. 1-1, 1-2.
- ⁹ Office of the State Auditor, pg. 35.
- ¹⁰ Ira J. Silverman and Manuel Vega, *Corrections: A Comprehensive View* (Minneapolis/Saint Paul: West Publishing, 1997), pg. 385.
- ¹¹ Office of the State Auditor, pg. 8.
- ¹² Prison Rehabilitative Industries and Diversified Enterprises, Inc. (cited March 7, 1998); available from <http://www.dc.state.fl.us/executive/research/annual/9697/pride.html> and <http://www.pridefl.com/itsmore.htm>.
- ¹³ Legislative Analyst's Office, State of California, *Reforming the Prison Industry Authority* (April 30, 1996, cited March 5, 1998); available from <http://www.lao.ca.gov/pb042996.html>.
- ¹⁴ Federal Prison Industries, Inc., *Factories with Fences: The History of Federal Prison Industries* (Sandstone, Minn., May 1996), pg. 8.

Issue 6

Improve Integration Between Food Services and Agriculture to Promote Better Decision Making and to More Economically Feed the Inmate Population.



Background

Feeding inmates is a central function of prison administration. More than just meeting offenders’ nutritional needs, prison food can greatly influence prison security, inmate lawsuits, and overall operational costs. To feed its inmate population, TDCJ has established an elaborate means of producing, processing, and cooking food that extends across two separate Divisions with a combined annual budget of \$129 million.

The Food Services Department is responsible for all food preparation for all inmates in TDCJ-managed institutions. Administratively, Food Services is located in TDCJ’s Institutional Division. Because correctional staff are eligible to receive two free meals per shift, Food Services feeds both offenders and employees. Food Services prepares some 180 million meals annually. These meals are prepared in 126 kitchens by 900 employees with the assistance of about 20,000 inmates. TDCJ food costs about \$2 per inmate, per day. While Food Services purchases most of its foodstuffs from outside vendors, TDCJ’s Agriculture Division produces about 20 percent of the total food consumed in prisons.¹

The Agriculture Division manages one of Texas’ largest farming and ranching operations on more than 138,000 acres located in 33 counties. With 300 employees and 5,800 inmates, Agriculture produces up to 36 varieties of vegetables, eggs, livestock, and field crops which are used to feed the livestock. Agriculture maintains a large swine operation that accounts for more than 5 percent of Texas’ annual hog production.² Agriculture’s various crops and annual production are detailed in the table, *Agriculture Division’s Enterprises*.

| Agriculture Division's Enterprises | | | |
|------------------------------------|---|---|---------------------------------------|
| Enterprise | | Annual Production | Customer |
| Edible Crops | 36 varieties including Turnips, Cabbage, Squash, Carrots, and Peppers | 30 million pounds | Food Services Local Food Banks |
| | Cotton | 7,000 bales | Texas Correctional Industries |
| Field Crops | Corn/Milo | 48 million pounds | Agriculture Division - Livestock Feed |
| | Hay | 35,000 round bales 65,000 square bales | Agriculture Division - Livestock Feed |
| Livestock | Beef Cattle | 15,722 head | Private Companies |
| | Swine | 26,113 head | Food Services |
| | Poultry | 66.4 million eggs | Food Services |
| | Horses | 1,644 head | TDCJ Security |
| | Dogs | 1,777 | TDCJ Security |

Agriculture also operates a number of processing plants that preserve raw foodstuffs. These plants include feed mills, a cannery, a beef processing plant, and a pork packing plant, as well as cotton gins to produce cotton fiber. The plants and their major products are detailed in the table, *Agriculture Division’s Processing Plants*.

While the Agriculture Division’s primary customer is Food Services, its other customers include Texas Correctional Industries (TCI), the Security

| Agriculture Division’s Processing Plants | | | |
|---|--|----------------------|--|
| Plant | Products | Production | Customer |
| Cannery | Canned Carrots, Beets Green Beans, Turnip Greens, Squash, Hominy, Sweet Potatoes, and Sauerkraut | 487,018 cases | Food Services |
| Clements Meat Processing Plant (Beef) | Ground Beef, Bologna, Salami, Franks | 11 million pounds | Food Services |
| Michael Meat Packing Plant (Pork) | Ham, Pork Loin, Pork Shoulder, Spare Ribs, Pork Roll, Polish Links, Ground Pork | 10 million pounds | Food Services |
| Feed Mills | Livestock Feeds | 72 million pounds | Agriculture Division - Livestock Feed |
| Cotton Gins | Cotton Fiber | 7,000 bales | Texas Correctional Industries |

Department, and local food banks. TCI purchases cotton grown by Agriculture for use in its textile factories. Agriculture provides all of the horses and dogs used by Security. Local food banks have recently been receiving large shipments of produce from Agriculture.

Food Services receives eggs, fresh and canned vegetables, and pork and beef products from Agriculture. Agriculture sends some of its produce to its cannery at the Ramsey III Unit and some to

unit kitchens. The cannery also purchases produce from outside vendors. In addition, Agriculture raises swine and cattle. Swine are shipped to the Michael Meat Packing Plant in Tennessee Colony, where the animals are processed into pork products for prison consumption. While Agriculture maintains a large cattle operation, none of the beef is fed to inmates. Agriculture sells all of its beef cattle on the open market and purchases low-cost beef trim which it processes into ground beef.

Until 1991, TDCJ had a mandate to be as self-sufficient as possible.

Agriculture has long been a major part of the Texas prison system. TDCJ once operated under a legislative mandate to be as self-sufficient as possible. As part of the effort to achieve that mandate, TDCJ made its own peanut butter, roasted its own coffee, and produced its own pancake syrup and cheese. In 1991, the Legislature removed this mandate. Experience has shown that purchasing certain products from outside producers is more cost-effective than producing the products in-house. Agriculture’s mission statement — which is not defined in statute — is shown in the text box, *Mission of TDCJ’s Agriculture Division*.

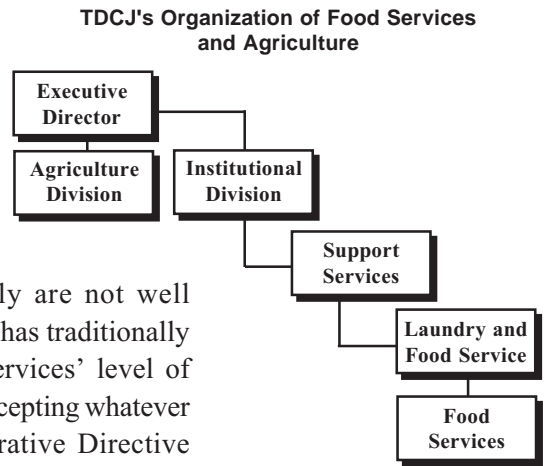
The Sunset review of TDCJ’s provision of food to inmates focused on the degree of integration of Food Services and Agriculture, how well the mission of cost-effectively producing food for TDCJ is performed, and the potential benefits of achieving a greater degree of integration.

| Mission of TDCJ’s Agriculture Division |
|---|
| <ul style="list-style-type: none"> ● Produce as much as possible of TDCJ’s total food and fiber requirements at economical levels through the efficient use and management of land and manpower resources. ● Provide revenue from sales of surplus agricultural production to offset costs of those items purchased or not produced economically. ● Use available inmate labor to provide inmates with an opportunity to learn job skills and work ethics. |

Findings

▼ **Although the main purpose of both Food Services and Agriculture is to provide TDCJ with food, these two divisions are not well integrated.**

▶ TDCJ’s organizational structure complicates coordination between Food Services and Agriculture because these functions are split into different agency divisions. The Food Services Department is a support service within the Institutional Division. The Agriculture Division reports directly to TDCJ’s Executive Director. The chart, *TDCJ’s Organization of Food Services and Agriculture*, displays this organization. Disputes between Food Services and Agriculture must be resolved by TDCJ’s executive administration.



▶ TDCJ’s processes for producing, purchasing, and delivering food internally are not well integrated. Agriculture’s level of production has traditionally been determined independently of Food Services’ level of demand. Food Services is in the position of accepting whatever Agriculture produces. A TDCJ Administrative Directive requires Food Services to use Agriculture’s vegetable products to the fullest extent possible.

Fresh produce provides an example of the lack of coordination between Agriculture and Food Services. A TDCJ internal audit found that fresh produce shipments were being made directly from fields to kitchens without advance warning and without adjustments to the monthly canned vegetable orders.³ Food Services management also pointed out that much of this produce is delivered spoiled and in larger quantities than requested, requiring higher disposal costs. TDCJ’s Internal Auditor also found that the cannery, in some cases, purchased fresh produce from outside producers to replace the produce delivered to unit kitchens.⁴ While this audit has resulted in

closer coordination between Food Services and Agriculture, more coordination is still needed.

▼ **Agriculture lacks a customer focus.**

- ▶ Although Agriculture’s mission is to economically produce as much of TDCJ’s food and fiber requirements as possible, some of its goals are more appropriate for a commercial producer than for a support service. One of Agriculture’s long-range goals is to be a leader in the cattle industry. While this goal may build Agriculture’s morale, it may be at odds with the needs of Agriculture’s main customer, Food Services. In fact, none of Agriculture’s beef is consumed by TDCJ — all of it is sold on the open market to raise funds to buy beef trim.
- ▶ Agriculture also does not examine alternative means of acquiring food that may be more economical for Food Services. For example, a recent audit by TDCJ’s Internal Audit Division of the Michael Meat Packing Plant determined that the plant produced pork products significantly cheaper than the cost of purchasing the same products on the open market. However, the analysis also showed that Food Services could feed inmates substitute turkey products, such as turkey ham or turkey bacon, at a possible savings of \$3.9 million per year.⁵ Food Services has indicated that turkey products would be an acceptable substitute for pork products.⁶ Agriculture is not considering turkey purchases, but instead is considering, among its options, \$2 million to \$4 million in renovations to its Michael Meat Packing Plant, which produces pork products only.

TDCJ does not fully explore alternatives to growing its own food.

▼ **Other states have integrated their food services and agriculture functions.**

- ▶ Several states have combined agriculture and food services. For example, the Georgia Department of Corrections has combined its agriculture and food services under the Facilities Division’s Food and Farms section. The Director of Food and Farms has stated that this organization promotes better cooperation.⁷
- ▶ Mississippi has also consolidated its inmate feeding functions into a single division. The Mississippi Director of Agricultural Enterprises and Food Services has indicated that his organization has achieved greater efficiency and has more control over decisions since integrating its agriculture and food services functions.⁸

▼ **Better integration of Food Services and Agriculture would result in better decision making, improved cost-effectiveness, and a clearer mission to feed the inmate population.**

- ▶ Coordination between Food Services and Agriculture would improve Agriculture’s decision making by focusing Agriculture on its most important goal — the feeding of TDCJ’s inmate population. Agriculture could improve its decision making by establishing criteria for continuing enterprises and exploring alternatives in a way that takes into account the needs of its customers.
- ▶ An improved customer focus would also improve planning for capital improvements and ensure that funds are invested wisely. For example, by focusing on economically feeding inmates, Agriculture may choose to not make renovations at the Michael Meat Packing plant because purchasing ready-to-serve meat products for Food Services may be less expensive.⁹

Consolidating
Agriculture and Food
Services would reduce
the cost of feeding
inmates.

Conclusion

TDCJ’s current organizational structure dividing Agriculture and Food Services impedes integration of food purchases, production, and delivery. Poor integration has resulted in wasted food and misplaced investments in enterprises that do not support the needs of the prison system. Integrating food production and food services would allow Agriculture to better focus on the needs of its primary customer, Food Services, and lead to better decision making and improved cost-effectiveness.

Recommendation

Change in Statute

- **Establish the mission of TDCJ’s agriculture program as supporting TDCJ’s Food Services operations and cost-effectively meeting TDCJ’s food and fiber needs.**

Declaring the mission of the agriculture program in statute will clarify its responsibilities and focus its resources to better support TDCJ. This recommendation will also require TDCJ to amend its Administrative Directive on the Agriculture Division to grant Food Services a greater voice in determining which food products to produce. This

recommendation would not preclude TDCJ from supporting food banks and other public-service activities.

Management Action

■ **TDCJ should consolidate all agriculture and food services functions in one division.**

Consolidating the Agriculture program and Food Services Department would ensure that the Agriculture program focuses on meeting the needs of its primary customer. The consolidated division should put the needs of Food Services first when determining which crops or livestock to produce. As Food Services will no longer have to accept whatever the Agriculture Division produces, this change will reduce wasted foodstuffs and the costs associated with disposal.

Issue 1 in this Sunset Staff Report concerning the removal of TDCJ's statutorily required Divisions would permit the Board of Criminal Justice to place the consolidated agriculture and food services division within TDCJ's administrative structure as appropriate.

■ **Require the consolidated agriculture and food services division to establish criteria for determining which agriculture enterprises to continue. The criteria should be:**

- **consistent with the agriculture program's statutory mission and goals, and**
- **developed with input from other customers of the agriculture program.**

■ **Require the consolidated agriculture and food services division to periodically examine all existing agricultural enterprises using the established criteria and to cease operations of the enterprises that cannot be justified by the criteria.**

Because the Agriculture Division has customers other than Food Services, such as the Texas Correctional Industries program, all of Agriculture's customers should be consulted when developing plans for future production. To do this, the consolidated division should establish criteria to compare competing projects. These criteria should be used to examine all of Agriculture's current enterprises to identify which operations should be continued and those that should cease because they are no longer justified. The text box, *How a Customer Focus Could Affect Agriculture's Beef Cattle Program*, illustrates one area that could be changed by a shift in Agriculture's decision making.

| How a Customer Focus Could Affect Agriculture's Beef Cattle Program |
|--|
|--|

| |
|---|
| <p>Agriculture needs to develop criteria to base decisions on whether to continue its current crops and products. These criteria should include Food Service's needs, profitability, provision of inmate jobs, and quality of vocational education for inmates. These criteria could impact Agriculture's cattle operations through the following analysis.</p> |
|---|

- | |
|--|
| <ul style="list-style-type: none">• Cattle are not raised for internal consumption. Agriculture sells its cattle to buy beef trim which it processes into ground beef.• Agriculture's cost reports for cattle have not shown a profit for three out of the past four years.• TDCJ's beef cattle program does not employ many inmates.• Most inmates who work in the beef cattle program do not learn useful vocational skills because of the lack of free-world jobs for offenders with cattle ranching skills. |
|--|

Fiscal Impact

The recommendation to establish the Agriculture program's goal in statute and to integrate the functions of Agriculture and Food Services will have a long-term positive fiscal impact. Savings in waste disposal costs will result from not producing unneeded products. Further savings will result by reducing the amount of produce that the cannery is currently purchasing and by redirecting fresh produce to it that is not being used by unit kitchens. A full examination of alternative food products will cause further reductions in the daily cost of feeding inmates. For example, purchasing turkey products in place of the Agriculture Division's pork products has been shown to potentially decrease annual food costs by \$3.9 million. A further \$2 million to \$4 million in renovation costs to the pork processing plant could also be avoided.

Requiring the consolidated agriculture and food services division to examine all current agriculture operations and to cease those operations that are not economically justified will increase this recommendation's long-term fiscal impact. An example of an operation that may be ceased under this recommendation is the beef cattle operation. However, the amount of savings cannot be estimated.

¹ Interview with Janie Thomas, Assistant Director, TDCJ Institutional Division, Food Service Administration, October 14, 1997.

² Information from Texas Agricultural Statistics Service and TDCJ Agriculture Division, analysis by Sunset staff.

³ TDCJ Internal Audit Division, *Report on Improving Coordination Between Agriculture and Food Services*, Audit Number 9717, (Huntsville, January 20, 1998), p. 1-3.

⁴ Ibid.

⁵ TDCJ Internal Audit Division, *Audit of the Michael Meat Packing Plant*, Audit Number 9803, (Huntsville, April 28, 1998), p. 1-2.

⁶ Interview with Janie Thomas, Assistant Director, TDCJ Institutional Division, Food Service Administration, March 25, 1998.

⁷ Interview with Jerry Watson, State Director of Food and Farms, Georgia Department of Corrections, Facilities Division, April 1998.

⁸ Interview with John Maples, Director of Agricultural Enterprises and Food Services, Mississippi Department of Corrections, Facilities Division, April 16, 1998.

⁹ TDCJ Internal Audit Division, *Audit of the Michael Meat Packing Plant*, p. 1-2.

Issue 7

Evaluate the Effectiveness of Continuing TDCJ's Centralized Inmate Intake and Release.



Background

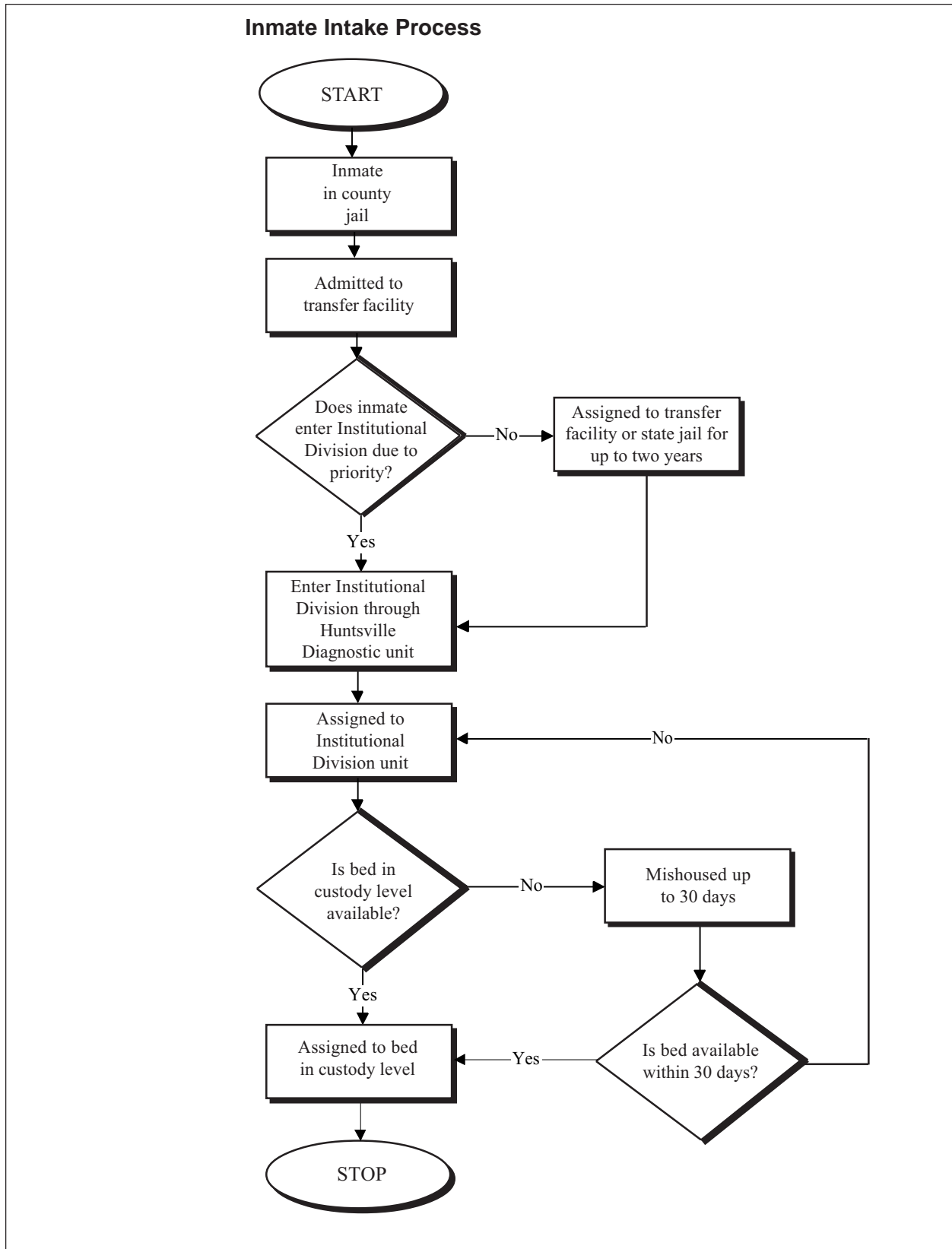
The Texas Department of Criminal Justice (TDCJ) accepts about 800 offenders and releases about 500 offenders each week. The agency's intake and release systems are centralized, meaning male offenders generally travel to Huntsville upon entering or exiting the prison system, while female offenders enter and exit through Gatesville.

To ease overcrowding and facilitate offender placement, the Department may send an offender to one of 14 transfer facilities, located throughout the state, before permanently assigning them to an Institutional Division (ID) unit. TDCJ may house offenders in transfer facilities or state jails for up to two years before assignment to a permanent unit. TDCJ releases some inmates directly from transfer facilities as they become eligible for parole or mandatory supervision before entering an ID facility. While the transfer facilities perform diagnostic functions such as medical examinations and psychological testing, inmates must travel to either the Huntsville or Gatesville diagnostic unit for further screening and assignment to permanent housing. TDCJ's classification committee makes housing assignments according to custody level, work and programming needs, and bed availability. The flowchart, *Inmate Intake Process*, illustrates the intake system.

TDCJ transports all inmates to Huntsville or Gatesville when they enter and leave the prison system.

The Department releases most male inmates from Huntsville and most females from Gatesville regardless of where the offender's sentence was served. A small number of offenders are released from the Kyle and Lockhart facilities after completing pre-release programming. At the time of release, offenders receive a bus ticket to their county of residence, a set of street clothes, and gate money. Gate money for parolees is \$50 at the unit and an additional \$50 upon arrival at their parole office. Inmates who discharge their sentence and are not released on parole or mandatory supervision receive \$100 at the unit.

Because of centralization, an inmate may travel hundreds of miles during the intake and release processes. For example, a male offender convicted in Amarillo may enter a transfer facility in Tulia, stay up to two years, travel to



the Huntsville Diagnostic unit, receive an assignment for the Clements unit in Amarillo, travel back to Huntsville for release processing, and then return home to Amarillo where he serves his parole sentence.

The Sunset review looked at the agency’s centralized processes for the intake and release of inmates. The staff considered the recent growth in the prison system, focusing on the need to assess the appropriateness of these centralized processes for a system that has changed from regional to statewide.

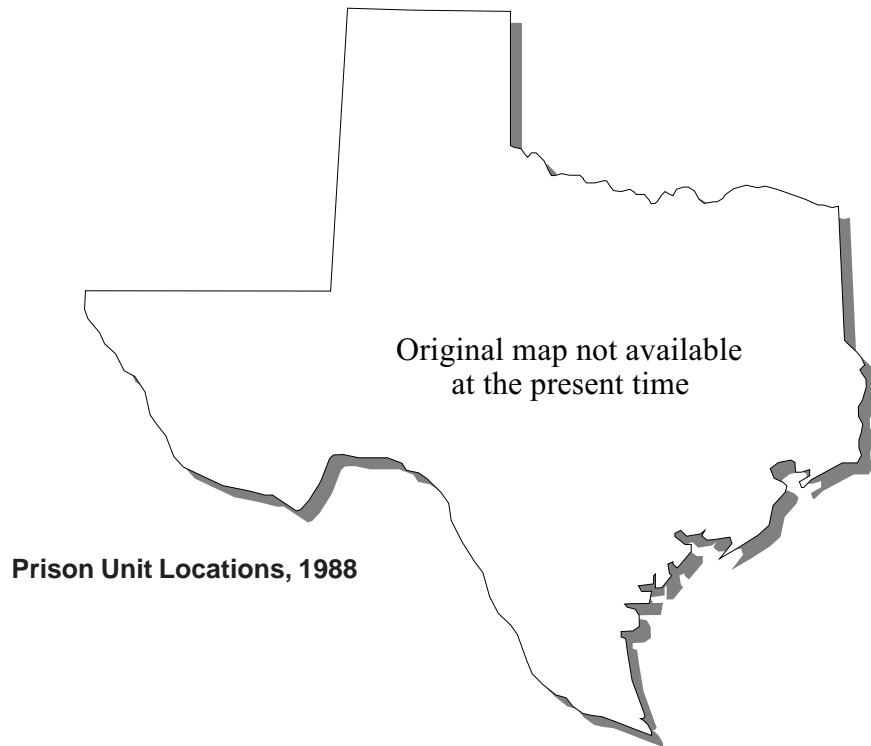
Findings

▼ The circumstances under which TDCJ established its intake and release processes have changed.

- ▶ Before 1989, all of the State’s prison units were located in East Texas, primarily near Huntsville and Palestine and south of Houston, and the agency did not operate any transfer facilities. The map, *Prison Unit Locations, 1988*, shows the locations of the 29 prison units in the system at that time. In 1988, these units housed about 40,000 offenders. When the agency performed diagnostic and classification processes in Huntsville before transporting inmates to their permanent units, the inmates did not have to travel long distances.
- ▶ To accommodate capacity concerns, TDCJ embarked upon a building program in the 1990s. TDCJ’s offender population has more than tripled in size in the last decade, growing from 39,664 in 1988 to 138,600 in 1997. As communities competed for prison units, the Board of Criminal Justice approved locations across the state, including Abilene, Amarillo, and Lamesa. The map, *Prison Unit Locations, 1997*, shows the 107 prison unit locations throughout the state today.
- ▶ Legislative implementation of court judgments has affected the flow of the intake process in the past decade. As a result of the *Nueces County* lawsuit, the Legislature in 1995 required TDCJ to accept felons from county jails within 45 days of sentencing. This “duty-to-accept” law requires the Department to diagnose, classify, and transfer inmates much faster than when TDCJ originally established the intake process.

TDCJ now operates 14 transfer facilities that also affect the intake process. Although transfer facilities contain diagnostic centers, offenders travel to Huntsville for further screening before classification and unit assignment. Because transfer

As the inmate population tripled in the last decade, TDCJ expanded its prison system from regionally-based to locations statewide.



Prison Unit Locations, 1997

facilities do not have to meet *Ruiz* final judgment standards, TDCJ may house offenders in transfer facilities for up to two years before permanent unit assignment. Transfer facilities do not provide offenders with the same programming and work opportunities as offered in Institutional Division units.

▼ **Although TDCJ recognizes some inefficiency in the current intake and release processes, it has not evaluated these processes since the expansion of the prison system.**

- ▶ TDCJ generally releases offenders from Huntsville even though statute requires inmates to return to their counties of conviction. TDCJ has indicated that it continues to release inmates from Huntsville primarily because of opposition from communities with prison units to releasing offenders in their areas. On the other hand, TDCJ has not encountered this problem when releasing offenders from pre-release facilities in Kyle and Lockhart.
- ▶ Unlike a hotel computer system, which allows an agent to find available rooms by keying in necessary characteristics, TDCJ's bed assignment system is not automated. Agency officials told Sunset staff that consequently, only one centralized committee can assign offenders to beds, and offenders must travel to Huntsville or Gatesville for permanent unit assignment.¹ However, this committee uses offender files to assign beds, and does not meet with offenders. TDCJ's system is comparable to requiring a person to travel to a hotel chain's headquarters to reserve a room, instead of reserving a room over the telephone.
- ▶ Reengineering of offender information management is supposed to improve many intake processes. However, the original scope of the current reengineering effort centered on the automation of offender information, not on offender management processes, such as the effect of bed availability on classification. While TDCJ's reengineering team has expanded the scope of the reengineering project to include classification and housing, the agency has not yet prioritized its list of possible areas to reengineer. Other processes that might take precedence over classification and housing include discipline and victim services.

TDCJ has not examined the cost effectiveness of its centralized intake and release processes.

- ▶ TDCJ has been busy expanding the prison system and focusing on the daily needs of housing, feeding, and caring for over 140,000 offenders under its charge. The agency has not examined the cost effectiveness of centralized intake and release, and the agency's Internal Audit Division has not planned any review.

- ▼ **The State Auditor's Office has the expertise to evaluate the cost effectiveness of TDCJ's intake and release processes.**
 - ▶ The State Auditor's Office (SAO) audits state agencies to improve accountability and ensure efficient, effective operation. SAO has the capability to examine systems for cost effectiveness, and could provide additional information for TDCJ to consider in changing its intake and release processes before engaging in reengineering.

 - ▶ The State Auditor's Office has specific experience with TDCJ, having recently performed other analyses of TDCJ operations, including Texas Correctional Industries and Correctional Managed Health Care.

Conclusion

TDCJ has grown tremendously in the past decade, in terms of population and facility expansion throughout the state. Since the agency has expanded, it has not evaluated its centralized intake and release systems for cost effectiveness or efficiency. The State Auditor's Office has the expertise to evaluate TDCJ's intake and release processes before TDCJ takes steps to reengineer the systems.

Recommendation

Management Action

- **The State Auditor's Office should review TDCJ's intake and release systems as part of its next scheduled audit of the agency.**

This recommendation would provide for a thorough analysis of TDCJ's intake and release systems by a qualified, objective third party. The State Auditor's Office would take a comprehensive look at the costs and efficiencies of the current intake and release systems in light of the recent development of transfer facilities and expansion of unit locations

throughout the state. The study would build off past experiences of the SAO, and would provide TDCJ with complete information to make reengineering decisions.

The Sunset Commission would be able to follow up on this issue in its compliance review of TDCJ. This compliance review would occur in the Fall of 2000, when the Commission routinely checks the progress made by agencies in implementing changes resulting from Sunset review.

Fiscal Impact

This recommendation would not have a fiscal impact to the state. The State Auditor's Office would use existing staff resources as necessary. Any cost associated with conducting the study would come from current appropriations. Changes in the intake and release processes should reduce TDCJ's transportation costs, which were more than \$23 million in fiscal year 1997.

¹ Telephone interview with Michael Countz, Assistant Director of Classification and Records, Texas Department of Criminal Justice, April 15, 1998.

Issue 8

Focus TDCJ's Ability to Resolve Inmate Grievances and Respond to Public Inquiries by Consolidating Inmate Grievance and Ombudsman Functions.



Background

Incarceration removes offenders' ability to meet their own needs. Offenders rely on the prison system for the daily requirements of housing, food, and health care. Offenders also rely on prison officials for information about their incarceration status and for resolving legitimate problems with the prison. Inmate families and interested citizens also have legitimate concerns that can only be answered by the prison system. With about 143,000 offenders — the population of a mid-size city — complaints, information requests, and inquiries can become too numerous to handle in a timely and direct fashion. TDCJ has developed separate inmate grievance and ombudsman processes to address its increasing constituency's needs while still accomplishing the agency's other tasks.

Offenders and their families rely on the prison system for information on and resolution of legitimate problems.

TDCJ's offender grievance process is a two-step procedure. First, an inmate files a grievance with an investigator located at the unit level regarding treatment by institutional officials and other problems affecting their incarceration. Generally, inmate grievances must relate to an issue that can be resolved and must affect the inmate filing the grievance. The investigator conducts a preliminary investigation and reports the results to the warden and to the offender. An inmate not satisfied with the warden's ruling may appeal the grievance to a second-level review by an investigator at TDCJ's headquarters. Grievance investigators conduct detailed investigations and refer complaints to the appropriate TDCJ Regional Directors for final decisions. Successful grievances may result in offenders receiving consideration for the loss of personal property or redress of an improper disciplinary action. Inmate grievances may also end in lawsuits against the State, but offenders are required to exhaust remedies available through the grievance process before taking legal action. The TDCJ's offender grievance process was certified by the Eastern and Southern District Courts of Texas in 1989.

TDCJ has established an ombudsman function to assist interested citizens and offender families in gaining information, resolving concerns, and providing input into agency operations and policies. This effort has been established decentrally, with an Ombudsman Coordinator directing inquiries to one of six divisional ombudsmen, with one each in the Community Justice Assistance Division, the Parole Division, and the State Jail Division, and three ombudsmen in the Institutional Division. Among the issues an ombudsman might address are general information requests, inquiries into allegations of inmate abuse, and challenges of institutional policies. Inquiries may come from offender families, victims, legislators, and other interested citizens. Inquiries may be sent directly to the Ombudsman Coordinator, to one of the divisional ombudsmen, or be forwarded from other parts of the agency.

TDCJ also has separate processes governing employee grievances and media inquiries which are directed to TDCJ's Public Information Office. These processes are not part of the subject of this issue.

Officials who investigate inmate grievances are supervised by the units' wardens, who may be the subject of the grievance.

During the review of TDCJ, Sunset staff assessed the structure of the agency's inmate grievance process and the Ombudsman Office to determine if offenders and their families have reasonable opportunity to have their complaints resolved and their inquiries answered. The review also sought to determine if these efforts were structured in a way that allows TDCJ to effectively respond to these complaints and inquiries.

Findings

▼ **The inmate grievance process lacks autonomy, potentially threatening its independence and objectivity.**

- ▶ The investigators who prepare the preliminary investigation of inmate grievances at the unit level are under the warden's chain of command for employment matters such as hiring and performance. They answer to the director of the inmate grievance office at the Huntsville headquarters for technical advice only. This direct supervisory relationship with the warden puts these investigators in the awkward position of having to investigate their peers and potentially their bosses. This relationship raises questions about whether these investigations maintain a degree of independence from institutional influence.

▼ **The inmate grievance and ombudsman offices are not adequately centralized in their operations to ensure effective responses to complaints and inquiries.**

- ▶ The inmate grievance system and the Ombudsman Office work independently of each other. No apparent coordination of efforts exists between the two in sharing information on duplicate or related complaints from offenders, offender families, or the public. Offenders frequently lodge complaints by scatter-shot method trying to notify as many persons as necessary to get a response and often have their families submit inquiries on the same issue as filed grievances. This tactic of offenders coupled with the lack of coordination of grievance and ombudsman processes can result in considerable duplication of effort. Staff in different divisions of the agency may be researching and answering the same grievances or inquiries, sometimes reaching conflicting conclusions.
- ▶ The Ombudsman Office does not have a central organizational structure. The divisional ombudsmen who prepare answers to offender family inquiries report to Division Directors rather than the Ombudsman Coordinator. With each divisional ombudsman reporting to the Division Directors, policies and operational procedures may differ significantly and no mechanism exists to ensure adequate quality. The Ombudsman Coordinator lacks true coordinating authority to guarantee consistency within the agency.

Despite the fact that offenders and their families often lodge the same complaint, no coordination exists between grievance and ombudsman processes.

▼ **Other processes for responding to complaints and inquiries point to the need for autonomy and better coordination.**

- ▶ Responsibility for offender grievances requiring a special level of attention has been placed outside the supervisory control of the wardens. Grievances involving the excessive use of force, the use of chemical agents, and those claiming harassment or retaliation for filing grievances are automatically referred to the Internal Affairs Division. Similarly, medical grievances are automatically referred to the agency's Health Services Division. In these cases, employees responsible for conducting the investigation are not under the supervisory control of the unit administration being investigated.
- ▶ The minimum standards for an offender grievance process specified in federal law call for an independent review function

A coordinated grievance and ombudsman process would improve the agency's response and reduce duplication of effort.

separate from the direct supervision or control of the institution. While TDCJ's inmate grievance process has been certified by the federal courts and does not violate this provision in federal law, it appears to fall short of the fully independent process envisioned.

- Other states' correctional agencies have improved the coordination of efforts to respond to the needs of offenders and their families. For example, Florida's corrections agency has placed investigatory functions — including the inmate grievance appeals, inspections and intelligence, internal audit, and state investigations functions — within the Inspector General's Office which reports directly to the Secretary who heads the agency.

The Missouri Department of Corrections created the Constituent Services Office to better focus efforts to respond to offenders and their families. This office communicates with the agency's grievance program to track previously filed complaints and it investigates the causes of inmate grievances. The Constituent Services Office strives to create equity and consistency in departmental practices.

▼ **Improving autonomy and coordination in responding to inquiries would provide better quality information to offenders and their families and benefit the agency as well.**

- A coordinated approach to grievances and family inquiries would permit the agency to become more unified in its efforts to address issues raised through these offices. In addition, offenders, families, and other persons would receive better service and more conclusive responses while also reducing duplication of effort in responding to the same inquiry.
- An improved grievance process could also help improve TDCJ's management. Upon receipt of a complaint, the investigating officer could address not only the actual grievance but also the underlying issue. For example, while an inmate grievance might be dismissed because it challenged an existing policy that was properly applied, the nature of the policy itself might be reviewed for consistency and appropriateness to the agency's operations.
- This effort would have potential for reducing inmate lawsuits. The Missouri Department of Corrections has seen a 70 percent

reduction in inmate lawsuits since 1994 when its Constituent Services Office was established. In working with the established grievance procedure, this office investigates issues that extend beyond the actual grievance for organizational issues underlying the complaints.

Conclusion

TDCJ has the responsibility to provide almost all of the needs of offenders within the prison system. Because this population has little ability to serve its own needs, it must rely on the prison system to resolve its grievances and to provide needed information. TDCJ has established an offender grievance process and an ombudsman to serve these needs, however, these efforts lack required autonomy to objectively perform these tasks. In addition, a lack of coordination of these efforts may cause unnecessary duplication within the agency in responding to these inquiries. Efforts to respond to the concerns of offenders and their families can be provided in a more independent and unified approach, which benefits not just the offenders but also the organization and the State.

After combining its complaint processes, Missouri experienced a 70 percent reduction in inmate lawsuits.

Recommendation

Management Action

- **Consolidate inmate grievance and Ombudsman processes into a single office for resolving complaints and elevate its status within the organization.**

This recommendation would require TDCJ to merge these two activities to provide a consolidated, more independent, and comprehensive approach to resolving offender grievances and inquiries. As a management action, TDCJ would be responsible for determining the specifics regarding the organization of this new office. This organization should reflect the need for autonomy and independence in providing these functions. In addition, a consolidated approach to resolving grievances and inquiries will improve the agency's ability to deal with the large volume of these inquiries received.

Fiscal Impact

This management action would not cause additional fiscal impact to the State.

Issue 9

Improve Coordination of Victim Services by Creating an Interagency Council.



Background

At one time, victims of crime were forgotten once the criminal was sentenced to prison. The offender became the focus of rehabilitation and reform, while the victim was left to address the trauma alone. Many states, including Texas, now recognize the historic lack of services available to victims and are working better to address the needs of these previously ignored victims of crime. The text box, *Definition of Crime Victim*, explains how Texas law determines who is generally eligible for victim services.

With an estimated 696,000 victims of violent crimes per year, Texas has a large population of crime victims with needs to address.¹ In the past few years, the state has increased its efforts and developed many programs to address victims' needs. The chart, *Agencies Providing Victim Services in Texas*, summarizes the victim services provided by state and local agencies in Texas.

The interests of crime victims have also been placed in the Texas Constitution and codified in state law. The Crime Victim's Bill of Rights, adopted by Texas voters in 1989, guarantees victims a number of rights. Greater detail about these rights is given in the text box, *Major Rights of Crime Victims*.

The Crime Victims' Bill of Rights establishes that victim services are to be provided at three stages in the criminal justice process. Local law enforcement, such as police and sheriffs, provide the initial stage of service. Prosecuting attorneys are the second stage, while state agencies such as Texas Department of Criminal Justice (TDCJ) and the Office of the Attorney General (OAG) make up the third stage.

Definition of Crime Victim

Texas law defines a crime victim as:

- a person who has been subjected to sexual assault, kidnaping, or aggravated robbery or who has suffered bodily injury or death because of the criminal conduct of another,
- the close relative (spouse, parent, adult brother or sister, or child) of a deceased victim, or
- the guardian of a victim.

Major Rights of Crime Victims

The Crime Victims' Bill of Rights guarantees victims the right to:

- protection and fair treatment during the criminal justice process, which includes investigation, adjudication, incarceration, and supervision;
- be involved in court proceedings;
- restitution from the criminal;
- notification regarding the criminal throughout incarceration and after; and
- assistance from victim services coordinators and liaisons during the process.

| Agencies Providing Victim Services in Texas | | |
|---|--------------------------------|--|
| Agency | Program/Division | Function |
| Texas Department of Criminal Justice | Victim Services Division | Notifies victims of status of incarcerated offenders, provides training in victim services, victim-inmate mediation |
| | Victim Services Division | Assures that victims receive notification of status of offenders on community supervision through Community Supervision and Corrections Departments |
| | Victim Services Division | Provides information on victim rights and issues, maintains database of victim services providers, coordinates annual conferences on victim services |
| Office of the Attorney General | Crime Victim Compensation Fund | Provides compensation to crime victims, provides training in victim services, maintains database of providers |
| | Grants and Contracts | Provides funding from the Crime Victim Compensation Fund to state and local providers |
| | Crime Victim Institute | Researches the effect of crime on victims, maintains database of providers |
| | Sexual Assault Training | Trains nurses as responders in sexual assault cases |
| | Victim Assistance | Provides guidance and information for victims of offenders on appeals in the courts |
| Texas Youth Commission | Victim Assistance Coordinator | Provides victim notification, medication, victim empathy training for offenders |
| Department of Public Safety | Victim Assistance | Provides assistance to victims in DPS jurisdiction, currently developing database of providers, provides training to officers in victims services |
| Department of Human Services | Family Violence Program | Funds shelters for domestic abuse victims |
| Local law enforcement | Crime Victim Liaison | Provides victim assistance through police departments and sheriff's offices, communicates with prosecuting attorney's coordinator |
| Prosecution | Victim Assistance Coordinator | Provides victim assistance through district or county attorney's offices, communicates with law enforcement liaison |
| Texas Commission on Law Enforcement Officer Standards and Education | Basic Peace Officer Course | Establishes curriculum for peace officers through law enforcement training academies, includes segments on victim services |

State law directs law enforcement agencies to provide the first stage of services to victims, through a specifically designated person — the crime victim liaison. These liaisons are intended to ensure that victims, guardians, or close relatives receive their rights to information about the investigation, protection from the accused, and the return of property taken during the investigation. Additionally, liaisons provide information to victims about available medical and mental health services and work with prosecuting attorneys' offices upon indictment of the accused offender.

The Crime Victims' Bill of Rights also directs district and county attorneys' offices to designate a victim assistance coordinator to provide the second stage of victim services. These coordinators are supposed to see that rights are granted to crime victims from the investigation of the crime to the sentencing of the offender. A primary responsibility of the coordinator is to issue and collect the Victim Impact Statement (Statement), make it available to judges during sentencing, and forward it to either TDCJ or a local community supervision office as appropriate. The Statement includes information regarding economic loss, physical injuries, and psychological impact related to the crime. In addition to its use in sentencing, the Statement also is made available to the Board of Pardons and Paroles for use in parole consideration.

TDCJ's efforts in
victim services were
elevated to division
status in 1997.

The third stage of services available to victims is provided by a number of state agencies. TDCJ began its victim services efforts in 1990 and elevated Victim Services to a separate division in 1997. TDCJ notifies victims of the status of incarcerated offenders and provides victim services training and victim-inmate mediation. TDCJ received the Crime Victim Clearinghouse from the Office of the Governor in 1996, and assumed its duties of organizing an annual statewide conference on victim services and revising the Statement every two years.

The Office of the Attorney General also serves an important function in the provision of victim services. OAG administers the Crime Victim Compensation Fund, created in 1980 by the Legislature as a division of the Texas Worker's Compensation Commission and transferred to OAG in 1991. The Fund provides financial assistance to crime victims for crime-related expenses such as medical costs, lost wages, and property damaged or taken as part of the investigation. OAG also administers the Crime Victim Institute, created by the Legislature in 1995 to research victim issues. The Institute's first project is a baseline study of existing services and providers as well as victim impressions of the process.

Nothing links victim services provided at each stage of the criminal justice process.

A number of other state agencies are also active in the victim services area. The Department of Public Safety (DPS) provides victim services, within the scope of its original law enforcement jurisdiction, and also coordinates victim services activities of police and sheriffs' investigations statewide. The Texas Youth Commission and Juvenile Probation Commission perform many of the same services for victims of juvenile offenders that TDCJ does for adults. Additional victim services are available to the clients of such state agencies as the Department of Health, Department of Mental Health and Mental Retardation, Rehabilitation Commission, and Department of Protective and Regulatory Services.

In addition to governmental agencies, non-profit, community-based agencies also serve crime victims, such as rape and domestic violence crisis shelters. Advocacy groups, including People Against Violent Crime, Parents of Murdered Children, and Justice for All, confront issues regarding victims and the criminal justice process. These organizations may influence any of the three stages of the victim services structure. Besides serving as advocates for victims, they also provide information about available victim services.

The review of TDCJ's victim services examined its place in the range of services to victims. The staff focused on the effectiveness of existing governmental efforts of providing information and guidance to victims of crime by TDCJ and other providers at both the state and local levels. The review also looked at how other services provided by different agencies and different levels of government are coordinated.

Findings

▼ **Although a number of entities assist victims in Texas, services are duplicated and not well coordinated.**

- ▶ Services to victims of crime in Texas are provided by dozens of entities, ranging from local law enforcement and prosecuting attorneys to TDCJ, OAG, and several other state agencies. In addition, several advocacy groups provide direct assistance to victims or help them find needed services. Despite this seemingly vast array of services available to victims from the occurrence of the crime to the incarceration and ultimate release of the offender, nothing links the services that are provided at each step in the process.

For example, one pamphlet provided to victims contains some 15 toll-free telephone numbers to call for legal advice, criminal justice information, or referrals for child or domestic abuse

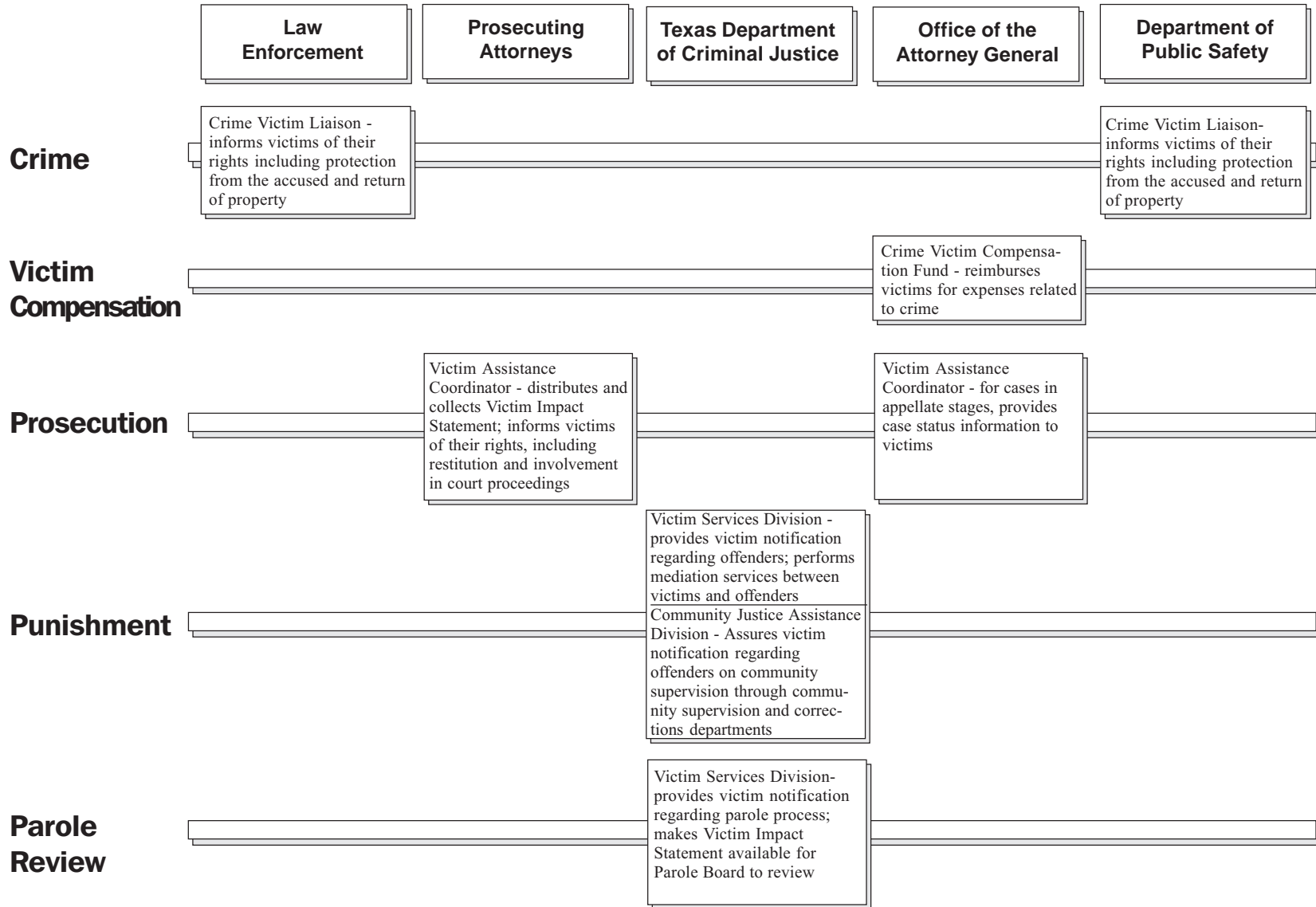
services.² The chart, *Services Provided to Victims at Each Level of the Criminal Justice Process*, displays the lack of connection among the many government entities to which victims must turn for assistance in victim services.

This disconnect is only made worse by the variable nature of victim services statewide, which depends largely on the size and expertise of local law enforcement and prosecution for its success. As a result, victims typically do not see a seamless network but rather a disjointed assortment of agencies, through which they frequently must find their own ways if they are to receive services. The effort typically requires a measure of persistence that may be difficult for someone recently traumatized by crime. With no continuous guidance through the system, many victims become confused and frustrated, especially in cases where one or more services are not made available.

- ▶ Agencies currently providing victim services fail to coordinate existing resources and instead create and maintain independent systems, resulting in unnecessary duplication. For example, three state agencies, DPS, TDCJ's Crime Victim Clearinghouse, and OAG's Crime Victim Institute, currently are developing separate databases to catalog the similar information about providers of victim services such as medical treatment, psychological help, and crisis intervention. In addition, OAG and TDCJ have established separate interagency efforts to coordinate victim services statewide. However, neither of the groups is established as the official source of information regarding victims.
- ▶ Training for law enforcement officers regarding victim services is also not coordinated or consistent. In developing its training curriculum for peace officers, Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) receives input only from OAG, even though TDCJ provides many of the direct services to victims. Further, local training academies providing continuing education for law enforcement do not undergo review by TCLEOSE for statewide consistency in content or approach, nor do they coordinate efforts to prevent duplication of programs or conflicting curriculum. Because each group has an individualized focus and the groups do not coordinate, TCLEOSE cannot ensure that training is sufficiently broad-based to adequately educate officers on victim issues.

To receive assistance,
victims must find
their way through a
disjointed assortment
of agencies.

Services Provided to Victims at Each Level of the Criminal Justice Process



▼ **A lack of coordination in victim services has negative results for victims.**

- ▶ A lack of coordination among the various victim services offices means the victims must go through the same process numerous times, describing their victimization to each victim services provider. When the established channels prove fruitless, victims seek out other means of assistance, including contacting agencies in other jurisdictions. Until they find the appropriate venue for needed assistance, victims are often required to provide duplicate information and must relive the incident several times. Victims describe this experience as their revictimization by the criminal justice system.³
- ▶ When the process for providing services to victims breaks down, victims may lose their voice in the criminal justice process. If, for example, the victim does not receive a Victim Impact Statement or is unable to complete this six-page form without assistance, the victim may not be granted a role in the sentencing phase of the trial or in the subsequent parole process. This is because the Statement provides information to the judge during sentencing and supplements information considered by the Parole Board. Although many reasons exist for why Statements are not completed and returned by victims, a recent survey by the Clearinghouse found that less than 3 percent of all Statements given to crime victims were ultimately received by TDCJ's Institutional Division to become available for the Parole Board's deliberations.⁴ Clearly many victims are losing their voice in the criminal justice process.
- ▶ Faced with a maze of toll-free hotlines, state agencies providing referrals, and persons providing victim assistance, victims often become confused, misdirected, or frustrated. Although the number can not be quantified, victim service providers believe that many victims become so frustrated with navigating through the process that they eventually abandon the search for help.

The search for help often leaves victims feeling revictimized.

Frustration with the process leads many victims to abandon their search for help.

▼ **Coordination of functions among agencies through interagency councils is proving successful and victim services could benefit from this approach.**

- ▶ Interagency councils are a common means by which the Legislature addresses problems that require input from a variety of state agencies and other parties. One example is

the HIV/AIDS Interagency Coordinating Council, which brings together such agencies as TDCJ, Commission on Alcohol and Drug Abuse, Department of Human Services, and Texas Education Agency. This Council develops a plan to coordinate agency programs for prevention of HIV/AIDS infection and reports to the Legislature and the Governor regarding coordinated activities in this area.

- ▶ Another example of an interagency council is the Texas Council for Offenders with Mental Impairments, which coordinates a continuity of care program for offenders. This Council has participants from criminal justice, mental health and mental retardation, juvenile, law enforcement, and health and human services agencies and organizations. Victim services providers could benefit from this same kind of comprehensive approach that serves the special needs of offenders.
- ▶ Improved coordination among agencies currently providing victim services would maintain the expertise that has been developed while improving the victim services network. A multi-agency focus is necessary to coordinate victim services issues because victim services actually extend beyond the criminal justice system. The physical and mental health of victims, the prosecution of accused, the role of law enforcement, the community services available, and the financial hardships that result from crime are among the issues inherent to victim services. Coordination of existing victim services would better direct victims toward needed services since each agency's role would be more clearly defined. Consolidation of these activities into any one state agency would dilute the expertise that each of the participants have developed and would result in less comprehensive services.

Improved coordination of victim services would better direct victims to needed services while reducing duplication.

Conclusion

With more than a dozen agencies, programs, and countless advocacy groups providing victim services across the state, the victim services “network” is not achieving its potential for effectively serving crime victims because there is no mechanism to ensure coordination. This failure to coordinate providers results in victim frustration with the system and duplication of services among agencies. Victims risk falling through holes in the system or being revictimized in their pursuit of assistance. Coordination of the agencies with advocacy groups and other interested parties would improve the quality

of services for victims and minimize unnecessary duplication of programs and services from participating agencies. This move toward coordination is proving successful in such councils as the Texas Council on Offenders with Mental Impairments, which benefits from a multi-agency focus in attempts to improve the quality of services available statewide for special needs offenders.

Recommendation

Change in Statute

- **Create the Texas Council on Victim Services, composed of:**
 - **representatives of six state agencies:**
 - the Office of the Attorney General,
 - the Texas Department of Criminal Justice,
 - the Department of Public Safety,
 - the Texas Youth Commission,
 - the Health and Human Services Commission, and
 - the Texas Commission on Law Enforcement Officer Standards and Education; and
 - **nine members appointed by the Governor to represent the following interests:**
 - district and county attorneys,
 - police department victim liaisons,
 - sheriff's office victim liaisons,
 - three to represent victim advocacy groups, and
 - three public members.
- **Charge the Council with the following responsibilities:**
 - **Develop a statewide plan for the effective provision of victim services and report to the Legislature biennially. This plan should include specific recommendations on reducing problems in aiding victims through the system.**
 - **Operate a central referral office for victim information, distinct from TDCJ's Victim Services hotline and the Crime Victim Compensation Fund toll-free number.**

- **Maintain the state database of victim services providers.**
- **Update the Victim Impact Statement; write rules regarding the Statement's implementation; maintain statistics on its distribution, collection, and dissemination.**
- **Advise TCLEOSE on curriculum in victim services for law enforcement.**

This recommendation would improve coordination of agency efforts within victim services, by relying on the expertise that already exists within state and local governments. The recommendation would not consolidate victim services into a new agency, but would establish a multi-agency structure to serve as a forum for all views relating to victim services.

The ex-officio membership of Council represents each of the state agencies that have a major role in the provision of victim services. The director of each agency shall either attend the meeting or designate the agency's representative. The members of the Council appointed by the Governor would serve staggered, six-year terms. These appointed members represent either the public or the other, non-state agency groups that also have a major interest or role in victim services. The Council should meet regularly, on at least a quarterly basis.

Planning for victim services would improve because this single group would have representatives from each of the major victim services providers. The Council's statewide strategic plan would keep the Legislature knowledgeable about progress in victim services as well as areas for improvement.

The Council's responsibility to serve as the central referral office for victim information would alleviate much of the frustration of victims who are trying to navigate the system. This is because a single toll-free number would be provided for victims' inquiries, replacing the existing dozen numbers. The referral office would determine which services best meet the needs of callers and would direct victims to appropriate resources. A central database of victim service providers, maintained by the Council through the Clearinghouse, would establish a definitive reference point. This information would be more comprehensive than currently available because all of the necessary parties would be working together to contact providers and compile data through a single effort.

Greater coordination among victim services providers would also reduce the risk of revictimization. For example, coordination between law enforcement liaisons and prosecuting attorney's coordinators would permit coordinators to be more familiar with the victim's case lessening the need for victims to repeat the details of the crime.

The Council's responsibility to biennially revise the Victim Impact Statement would keep this important document consistent with changes in the criminal justice system. The Council is best suited to this task since the Statement contains diverse information on the effects of crime on victims which fall into the areas of expertise of the Council's member agencies. The Council should collect and interpret statistics on the use of Statements. This effort would provide information that would help improve the distribution and retrieval of Statements.

The Council would also act to improve the training of peace officers in victim services. TCLEOSE, which determines the curriculum of basic peace officer training, would have a single source of information regarding victim services. The Council should also act to coordinate annual training conferences and other sources of continuing peace officer training in victim services.

TDCJ should provide administrative support for the Council with each agency serving on the Council providing additional staff assistance as necessary. TDCJ would continue to administer the Clearinghouse, as it has since 1996. The activities of the Clearinghouse, such as conducting the annual conference on victim issues, could also serve the needs of this interagency Council.

Fiscal Impact

The creation of the Council on Victim Services could result in additional cost to the State, but these should be mitigated by the agencies participating on the Council. Administrative support for the Council would be provided by the existing staff of TDCJ's Victim Services Division and the Crime Victim Clearinghouse. Many of the duties specified for this Council are already being provided by the staff of the Victim Services Division or the Clearinghouse. Any additional costs related to the operation of this Council should be shared by the member agencies.

TDCJ already has mechanisms in place for conducting interagency meetings on victim services and for compiling a database of victim service providers. These efforts can be expanded to serve the needs of the Council with existing agency resources. In addition, TDCJ already has the responsibility for updating the Victim Impact Statement. Working through the Council, TDCJ would continue to perform this duty with existing staff.

The participation of the members of the Council would minimize the impact on TDCJ in developing a plan for victim services and advising TCLEOSE on victim-oriented curriculum changes. Because member agencies would maintain their assigned responsibilities regarding victim services, the central referral office would connect inquirers to the appropriate source of information largely without the need for additional personnel.

The creation of the Council would have a small fiscal impact to the State related to travel and reimbursement of the public members to attend Council meetings. These costs should not be significant. Finally, some savings could result from a reduction in the number of toll-free telephone numbers and other duplicated activities of agencies on the Council. These potential savings cannot be estimated.

¹ Based on 1990 crime survey data from Sam Houston State University, *Crime and Justice in Texas*, p. 22, updated to 1996 census and violent crime trend data from Department of Public Safety, *Crime In Texas 1996*, p.14. Analysis by Sunset staff.

² Office of the Attorney General, *Useful Hotline Numbers*, September 1, 1997.

³ Interview with Raven Kazen, TDCJ Victim Services Director, February 13, 1998.

⁴ Ibid.

Issue 10

Maximize the Collection of Fees from Probationers in State Substance Abuse Aftercare Programs.



Background

TDCJ's Substance Abuse Felony Punishment Facility (SAFP) program is an intensive, residential treatment program generally for people on community supervision, or probationers, but also for parolees. Judges may sentence a probationer with a crime-related substance abuse problem to serve a nine-to-twelve month term in a SAFP facility. While SAFPs are a tool for community supervision, they are funded by TDCJ and treat probationers at no cost to local Community Supervision and Corrections Departments (CSCDs). The State currently provides 4,080 SAFP beds at 11 facilities throughout the state.

An important extension of the SAFP program is three months of aftercare in a residential facility. These residential facilities are community-based treatment centers which require participants to work outside of the center during the day. After completing the aftercare program, these participants may return home and continue under the remaining conditions of their community supervision. To help pay for the aftercare treatment, participants may be assessed fees. Participants pay these fees out of their earnings while in the aftercare program. These fees must be ordered by either the sentencing judge when setting the terms of community supervision or by the Board of Pardons and Paroles when setting conditions of parole. In fiscal year 1997, these aftercare facilities had 5,748 probationers and 1,770 parolees.

Most aftercare residential facilities are operated by private companies. TDCJ's Parole Division contracts with residential facilities to provide substance abuse aftercare for both probationers who have completed treatment at a SAFP facility and parolees who may have been sent to a SAFP in lieu of parole revocation or who are following up treatment they received in prison.

The Sunset review of the collection of fees for SAFP aftercare residential facilities focused on how requirements are placed on probationers to pay fees, how similar programs collect fees, and the effect of fees on treatment. The staff sought to determine if the state was missing an opportunity to

Participants in aftercare programs may be assessed fees to offset costs.

reduce the costs for these programs by improving the collection of these fees.

Findings

▼ Probationers have not been ordered to pay residential fees for SAFF aftercare facilities.

- ▶ Residential fees must be ordered by the state judge who sets the conditions of probation. However, none of the 5,748 probationers residing in SAFF aftercare facilities in fiscal year 1997 were required to pay residential fees.¹ Judges did order the payment of about \$3,000 in residential fees in fiscal year 1996.²

Judges have not been requiring these fees because of a lack of awareness of their authority to order the fees and because of a hesitance to require probationers to pay fees that would not be kept locally.³ Because the state funds the SAFF aftercare programs in community residential facilities, fees collected at these facilities are returned to the state to help offset treatment costs.

Parolees are ordered to pay fees by the Parole Board, whereas probationers must be ordered by the sentencing judge.

▼ Other residents of community-based programs pay residential fees.

- ▶ Unlike probationers residing in SAFF aftercare facilities, almost all parolees sent to residential facilities are paying residential fees. The Board of Pardons and Paroles requires most parolees, as a condition of parole, to pay 25 percent of their income in residential fees while staying at a residential facility. The operator of the facility collects these fees. In fact, most residential facility operators receive the parolee's paycheck directly from employers, deduct the fees, and then place the remainder in the parolee's savings account. Ultimately, the Parole Division deducts the fees collected by operators from the facility's contract payments.

In many cases, probationers and parolees are receiving substance abuse treatment in the same residential facility. Many of these facilities have probationers and parolees working at the same jobs and receiving the same treatment. However, the parolees are paying 25 percent of their income to the facility and the probationers are not.

- Other types of residential facilities are successfully charging residential fees to probationers. For example, restitution centers, which are funded by TDCJ and operated by local CSCDs, are facilities in which probationers are sent to live, work, and save money to make victim restitution payments. Probationers in these restitution centers to pay fees for room and board, with collections retained by the CSCD.

▼ **Requiring probationers to pay residential fees could have positive effects on rehabilitation.**

- Some substance abuse treatment professionals agree that requiring clients to pay a portion of their treatment costs is beneficial. Treatment professionals refer to this effect as buying-in to treatment. These treatment professionals believe that when a client must give up something to receive treatment, that client has a stake in the treatment and the treatment is more likely to have positive results.
- Many operators of residential facilities also believe that charging residential fees helps in the rehabilitation of offenders. Operators, as part of their programming, often want to teach offenders how to take responsibility for their own lives.⁴ Paying a portion of the cost of room, board, and treatment is one way these programs do this. Operators also believe that treating probationers and parolees equitably is helpful in their rehabilitation efforts.

Parolees are paying fees while probationers in the same facility are not.

▼ **The Legislature typically places requirements on probationers sentenced to community supervision.**

- The statute requires probationers to pay a community supervision fee, and it specifies the range for this fee, which is actually set by the judge.
- In addition to the supervision fee, the statute requires sex offenders placed on community supervision to pay a fee of \$5 per month in addition to court costs. This fee supports the statewide sexual assault program administered by the Office of the Attorney General.

▼ **Other state funded programs require probationers to meet conditions before admission.**

- ▶ The statute requires other conditions to be met before offenders can be placed in SAFF. For example, the statute requires the sentencing judge to find that substance abuse was a contributing factor in the crime, and it requires the judge to determine suitability for treatment according to guidelines developed by TDCJ. The statute also requires judges to order these offenders to participate in substance abuse aftercare upon completion of SAFF programming.
- ▶ Another example of a program requiring conditions for admission is the state boot camp program. For example, the statute requires an offender to be between the ages of 17 and 26 years old to be sent to a boot camp.

Conclusion

TDCJ funds over 4,000 Substance Abuse Felony Punishment beds for probationers and parolees who are sentenced to SAFF. Probationers, however, have not been required to pay residential fees for aftercare treatment. By comparison, parolees who use the same residential aftercare system as probationers are being required to pay residential fees. Requiring clients to buy-in to treatment can enhance the effect of the treatment. In addition, the Legislature places other conditions on probationers and requires conditions to be met for acceptance into other state funded programs.

Recommendation

Change in Statute

- **Require probationers to pay a residential aftercare fee as a condition of being sentenced to a Substance Abuse Felony Punishment facility.**

This recommendation would require probationers to pay residential fees for SAFF aftercare, just as parolees currently do. The requirement to pay the fee would simply be added to the existing statutory requirements that must be met for an offender to be placed in a SAFF. The sentencing judge would actually impose the order for these probationers to pay the fee to the community residential aftercare facility just as the Parole Board currently does for parolees. The fee could be up to 25 percent of gross income, as determined by the judge, taking into account other court-imposed fines and sanctions on the probationer. The Parole Division, which administers these aftercare facilities, would reduce the contract payments to the facility operators by the amount of residential fees collected. Because the Parole Division already has a collection system in place, the collection of these fees from probationers would not require implementation costs. The facility operators currently collect

residential fees from parolees, and the Parole Division merely deducts these fees from its contract payments to the operator.

This recommendation would further demonstrate that community corrections is a partnership between the State and the local communities. Probationers would not have great difficulty paying the residential fee because they generally find jobs faster and find better paying jobs than parolees. By limiting the amount of the fee, and allowing judges to use discretion in setting the exact amount to be charged, this change would not impose an undue burden on the probationer.

Fiscal Impact

This recommendation would result in an annual savings of \$1.4 million to General Revenue Fund. Based on information from TDCJ's Parole Division, the total population in these aftercare facilities in fiscal year 1997 was 7,518. Of these, 5,748 were probationers and 1,770 were parolees. While probationers paid no residential fees in 1997, parolees paid \$433,065, or an average residential fee payment of \$244 per parolee. If probationers paid this fee at the same rate as parolees, they would pay approximately \$1,408,000 annually.

| Fiscal Year | Savings to General Revenue Fund | Change in Number of FTEs from Fiscal Year 1997 |
|-------------|---------------------------------|--|
| 2000 | \$1,408,000 | 0 |
| 2001 | \$1,408,000 | 0 |
| 2002 | \$1,408,000 | 0 |
| 2003 | \$1,408,000 | 0 |
| 2004 | \$1,408,000 | 0 |

¹ TDCJ Interoffice Memo from Cathy Drake, Assistant Director, Specialized Supervision, to Patricia Loving, Contract Monitor, October 14, 1997.

² Criminal Justice Policy Council, *Implementation and Cost-Effectiveness of the Correctional Substance Abuse Treatment Initiative: Report to the 75th Texas Legislature*, March 1997, p. 11.

³ Interview with Marsha McLane, TDCJ Parole Division, February, 1998.

⁴ Interview with John Bonner, President Texson Management Inc., December 1997.

Issue 11

Continue the Texas Department of Criminal Justice for 12 Years.



Background

The earliest predecessor to the Texas Department of Criminal Justice (TDCJ) was established by the first Texas Legislature 150 years ago to run the state's first prison — the Huntsville Unit that came to be known as the Walls. Over the years, the agency broadened its mission from simply operating prisons to becoming the Texas Department of Corrections, with an interest in providing opportunities for rehabilitation, education, job training and rehabilitation for offenders.

In time, additional tools were developed for dealing with offenders outside the prison setting. In 1913, probation was introduced as a judicially-controlled process for diverting persons convicted of less serious offenses from the prison system to serve their terms under supervision in the community. As this system grew, the Legislature created the Texas Adult Probation Commission in 1977 to coordinate probation statewide and to oversee the distribution of state funds to local probation departments.

The Legislature established parole, or the early release of offenders from prison to complete their sentences under supervision, with the creation of the Board of Pardons and Paroles in 1936. Both the pardons and paroles processes were executive functions in which the Governor made final decisions based on the Parole Board's recommendation. The Parole Board assumed responsibility for parole matters in 1983 with the passage of a constitutional amendment that removed the Governor from the parole process, but kept the Governor's authority to grant pardons.

In 1989, the Legislature combined the major elements of these three agencies to form the Texas Department of Criminal Justice with responsibility for operating the state's prisons, overseeing state funding for community corrections, and supervising offenders after their release from prison. In 1993, the Legislature broadened the agency's criminal justice responsibilities by establishing a system of state jails to incarcerate non-violent property and drug felons closer to their homes and away from the harder prison population.

Although TDCJ is just 10 years old, its roots go back into the separate corrections, probation, and parole agencies from which it was formed.

The review of TDCJ included a separate review of the Board of Pardons and Paroles, which is not subject to abolishment under the Sunset Act.

Currently, TDCJ incarcerates approximately 144,000 offenders in its 107 prison and other facilities. Through its Parole Division and its 1,216 parole officers, TDCJ directly supervises another 80,000 offenders after they have been released from prison. In addition, TDCJ supports community corrections in Texas by distributing over \$200 million annually in state funding to Community Supervision and Corrections Departments (CSCDs) to help provide for the supervision of about 431,000 offenders on what was once known as probation. TDCJ performs these duties with an annual budget of over \$2 billion and a staff of 38,940 employees.

The review of TDCJ included a separate review of the Board of Pardons and Paroles. While the Parole Board is established in the State Constitution and is not subject to abolishment under the Sunset Act, it is scheduled for review in the same time frame as TDCJ.

In a Sunset review, continuation of an agency and its functions depends on certain conditions being met, as required by the Sunset Act. First, a current and continuing need should exist for the state to provide the functions or services. In addition, the functions should not duplicate those currently provided by any other agency. Finally, the potential benefits of maintaining a separate agency must outweigh any advantages of transferring the agency's functions or services to another agency. The evaluation of the need to continue TDCJ and its functions led to the following findings.

Findings

▼ Texas has a continuing interest in the incarceration of offenders.

- A central mission of government is to protect the public safety and welfare of its people. When criminal activity has threatened the public safety, the State has a clear interest in preventing or deterring further criminal activity. Through a comprehensive system of criminal jurisprudence, Texas provides sanctions against those found guilty of criminal wrongdoing. While these sanctions also includes monetary penalties and community supervision under the watchful eye of local officials, the system ultimately hinges on the confinement in prison of those judged to pose the greatest threat to public safety.
- The Legislature recently reaffirmed its belief in this system of criminal jurisprudence, with its reliance on the incarceration of more serious offenders, when it revised the Penal Code in

Protecting the safety of its citizens is a central mission of state government.

1993. The Penal Code defines specific actions as criminal conduct and provides sanctions for those criminal activities.

- The people of Texas and the Legislature have solidly endorsed the need to control and incarcerate offenders. Since 1987, voters have authorized \$3 billion in general obligation bonds to expand the prison system. Based on this bond authority, the Legislature has approved the investment of approximately \$2.5 billion to be used directly for adding capacity, increasing the size of the system from 49,203 to 142,926. The value of the physical plant maintained by TDCJ is estimated at \$3.5 billion.

The people of Texas have supported the build-up of the prison system, authorizing \$3 billion in bonds since 1987.

▼ **Texas has also expressed its strong interest in promoting community corrections and parole.**

- In the past eight years, state funding for CSCDs has almost tripled, increasing from \$73.3 million in 1990 to \$209.3 million in 1997. State funding covers about two-thirds of the total funding for these CSCDs, including community supervision and residential programs which serve as alternatives to incarceration in state prison.
- The State has recently established additional tools for judges to use to promote community corrections. In 1993, the state added a new class of felonies for non-violent and drug offenders, and it provided funding to build state jail facilities throughout the state for confining these state jail felons closer to their county of residence. Since the establishment of the state jails system, the state has invested \$449 million in building 17 units, with a total capacity of 22,506. The state has also established a facilities to provide intensive substance abuse treatment for offenders as an alternative to incarceration in prison. The state has invested \$90 million to build 11 of these substance abuse felony punishment facilities, with a capacity of 4,500 beds.
- Through the parole process, the state has expressed its interest in addressing the rehabilitation of offenders in prison, providing the opportunity for their early release to complete their sentences under supervision on the outside. In recent times, parole has also been used to control the flow of offenders out of prison to maintain space in prison for offenders deemed to pose a greater risk to public safety.

State support for community corrections has increased both in terms of funding and development of new correctional facilities.

Despite recent changes in penal laws requiring offenders to serve longer sentences before becoming eligible for parole and current low parole approval rates by the Parole Board, most offenders will be released from prison to complete their terms under the supervision of a TDCJ parole officer. In 1997, 27,071 offenders were released to supervision. The Legislature showed its continuing interest in parole supervision in 1997, when it established a super-intensive supervision program for closely monitoring the most dangerous offenders released from prison.

The Legislature re-affirmed its interest in parole by establishing a new supervision program for the most dangerous offenders released from prison.

▼ **No other state, local, or private entity exists that can perform the activities of TDCJ.**

- ▶ No other entity has the expertise or the capacity to assume responsibility for incarcerating Texas' 138,641 inmates, as of the end of fiscal year 1997. By comparison, county jails and private correctional facilities had a capacity of 66,242, according to the Jail Standards Commission. Furthermore, these county jails and private facilities were full to 86.6 percent of this capacity, mostly with offenders awaiting trial or serving time locally for their crimes.
- ▶ Many of these county and private facilities are not built to standards for holding offenders for long sentences. These facilities are generally built to house offenders either awaiting trial or ultimate transfer to TDCJ, or serving time for misdemeanors. Because of the shorter incarceration period, these facilities generally do not provide the extensive rehabilitative programming that TDCJ does to help offenders break the cycle of crime. To help deal with its looming capacity crisis in early 1998, TDCJ has entered into contracts with several counties for to serve as transfer facilities for incoming offenders — but not for the long-term housing of these offenders.
- ▶ TDCJ has entered into contracts with private prisons for correctional services. However, the Legislature allows these private prisons to house only lower risk offenders, relying on TDCJ to handle the high security offenders who are increasingly reflected in the prison population. While these private prisons are required to operate at a 10 percent savings over TDCJ facilities, they do not provide an accurate comparison of incarceration costs with TDCJ.

- ▶ Texas' 122 CSCDs operate under the authority of the judiciary and are ill-suited to assume responsibility for parole supervision, which is an executive function. CSCDs work with local judges to carry out the terms of community supervision, while the Parole Board administers its parole functions as an extension of the Governor's clemency discretion. In addition, CSCDs would be hard-pressed to assume responsibility for the 80,000 offenders under direct parole supervision at the State's current level of funding.
- ▶ No other agency has the expertise to oversee the distribution of funds to CSCDs to protect and promote the State's interest in community corrections. While other agencies may be able to disburse funds to local governments, they do not have the focus to assure that the State's criminal justice needs are best served by its investment.

Combining
community
supervision with
parole supervision
would be an unseemly
marriage of judicial
and executive
functions.

▼ **While organizational structures may vary, all other states use statewide agencies to provide for their criminal justice needs.**

- ▶ Every other state assumes responsibility for incarcerating offenders at the state level.
- ▶ Of the ten most populous states and the four that border Texas, eight have consolidated the responsibilities of incarcerating offenders and overseeing probation and parole in a single agency at the state level, as Texas has done with its consolidated criminal justice agency. Two states have a corrections agency with a separate agency responsible for both probation and parole. The remaining four states have corrections agencies combined with either probation or parole. None of the states surveyed have separate agencies for corrections, probation, and parole.

Of the 10 most
populous states and
four border states,
eight have
consolidated criminal
justice agencies,
similar to TDCJ.

▼ **TDCJ has been generally effective in doing its job.**

- ▶ TDCJ has successfully increased its prison capacity by almost 100,000 beds between 1990 and 1997. At the same time, TDCJ built the State Jail System and constructed other facilities to promote community corrections in Texas. In early 1998, TDCJ had laid the groundwork for increasing capacity by 5,440 beds by contracting for the construction of prison beds and contracting with counties for additional capacity. As a result of this expansion in prison capacity, TDCJ has been able to

assure that the state meets its statutory requirement to accept state-ready offenders from county jails within 45 days of their commitment by the county.

- ▶ By a number of measures, TDCJ has demonstrated the ability to do its job well. TDCJ provides the food, clothing, and shelter for 138,641 offenders, larger than the population of the City of Laredo. In 1996, TDCJ was able to incarcerate these offenders at an average cost of \$39.51 per day, well below the national average of \$54.25 per day. From 1995 to 1997, the number of deaths from natural causes has dropped and the number of offenders escaping from prison has declined, even as the prison population has increased.
- ▶ The rate of recidivism among persons released from prison indicates that while TDCJ has done a good job of incarcerating offenders, more needs to be done to assure their successful transition into society after they leave prison. The recidivism rate, reported for 1991 to 1996, has increased from 37.5 percent to 52.7 percent. A recent effort to implement a new rehabilitation tier of facilities is intended to address the needs of offenders in reducing recidivism. The effectiveness of these efforts are being evaluated by the Criminal Justice Policy Council and are not available as of this writing.

Conclusion

TDCJ has done a good job of incarcerating offenders and should be continued.

The state has expressed its interest in promoting public safety through a comprehensive criminal justice agency that assists local governments with community corrections, incarcerates felons who have been convicted by the courts, and supervises offenders once they have been released from prison. The recent expansion of the state's prison system has had an effect on reducing the rate of crime committed against Texans. While TDCJ has some flexibility to contract with counties and private companies for incarcerating offenders, it has been generally effective in performing its criminal justice responsibilities.

Recommendation

Change in Statute

- **Continue the Texas Department of Criminal Justice for 12 years.**

This recommendation would continue the Department for the usual 12 years with a new Sunset date of September 1, 2011. Because the Board of Pardons and Paroles is not subject to abolishment, but is instead subject to review at the same time as TDCJ, it would also come under review in 2011.

Fiscal Impact

If the Legislature continues the current functions of TDCJ, using the existing organizational structure, the Department's annual appropriation of approximately \$2.1 billion in fiscal year 1998 would continue to be required for the operation of the agency.

Issue 12

Expand the Role and Structure of the Correctional Managed Health Care Advisory Committee to Better Manage and Provide More Accountability for TDCJ's Health Care System.



Background

Health care services for inmates in prisons operated by the Texas Department of Criminal Justice (TDCJ) are provided through contractual relationships with the University of Texas Medical Branch at Galveston (UTMB) and the Texas Tech University Health Science Center.¹ These contracts are managed for TDCJ by the Correctional Managed Health Care Advisory Committee. Inmates receive medical, dental, and psychiatric services that range from basic care in prison unit clinics to surgery and other high-level treatments at specialized prison facilities and hospitals. TDCJ's Health Services Division monitors the providers to ensure that all inmates are receiving adequate and timely health care services.

The Correctional Managed Health Care Advisory Committee consists of six members who serve at the pleasure of their appointing official or until termination of their employment. The Presidents of UTMB and Texas Tech each appoint two members and the Executive Director of TDCJ also appoints two members. At least one member from each organization must be a licensed physician.

The Correctional Managed Health Care Advisory Committee has a staff of five including an Executive Director, a Chief Financial Officer, an Assistant Director of Administrative Services, and two administrative assistants. The Advisory Committee's headquarters and staff are located in Huntsville.

The Legislature created the Correctional Managed Health Care Advisory Committee in 1993 based on a recommendation by the State Comptroller's Texas Performance Review. At the time, concern about the rising cost of offender health care was compounded by significant growth in the prison population. The Legislature created the Advisory Committee to institute a managed health care system, which attempts to control costs by negotiating contracts with an established network of physicians, hospitals, and other health care providers. The text box, *Comparisons Between TDCJ's Health*

The Advisory Committee oversees the contracts for inmate health care that is provided by UTMB and Texas Tech.

Care System and Private HMOs, compares the resulting correctional managed care system to health maintenance organizations (HMOs) in the free world. Before this time, TDCJ had employed its own medical staff and maintained its own medical equipment at the prison units to provide services to the inmate population.

The correctional managed health care system is different from typical HMOs in that inmates have a constitutional right to health care that cannot be denied.

Comparisons Between TDCJ's Health Care System and Private HMOs

The prison system's managed health care system has many similarities to free-world health maintenance organizations (HMOs). The similarities include: an established network of health care providers; a specified membership base, which in this case is the inmate population; and payment according to an established capitation rate. A capitation rate is the cost of providing health care on a per-patient basis where payment is made in advance on a specified schedule. Service providers receive the same amount of money per inmate, per month regardless of the services provided. This payment method differs from a fee-for-service arrangement where services are paid for as provided.

The differences between the correctional managed health care system and a private HMO are also significant. These differences include the inability of inmates to receive services outside the system if they wish and a constitutional requirement that inmates receive adequate health care. Because inmates are wards of the State, the State cannot abdicate its responsibility by contract.

Correctional health care is also unique since the health care providers are state-run universities. In the free-world, competition is supposed to ensure that the purchaser receives the desired level of health care at the lowest cost. A private HMO may go out of business if it cannot cover its expenses with the money it receives from its contracts. However, the State enjoys no similar benefit from competition in the current arrangement with the medical schools for correctional health care. The State is obligated to support the public medical schools and therefore must cover the costs of all its expenses. The burden of covering the costs of inmate care falls to TDCJ and the Legislature because both Universities have riders in their appropriations that prohibit them from using their own money to pay for correctional health care.

The Correctional Managed Health Care Advisory Committee's primary duty is to improve the quality and accessibility of correctional health care while containing the State's spending. The Advisory Committee is responsible for developing a statewide network of health care providers and implementing the use of other managed care tools. The Advisory Committee fulfills its mission through its contracts with UTMB and Texas Tech. These contracts specify each organization's responsibilities, funding allocations, and performance measures.

The Advisory Committee's day-to-day functions, as performed by its staff, include: negotiating and approving the contracts for correctional health care; determining funding allocations to UTMB and Texas Tech; monitoring the growth of the prison system to anticipate staffing needs; and monitoring legislative activity related to correctional health care, managed care in general, and the appropriations process.

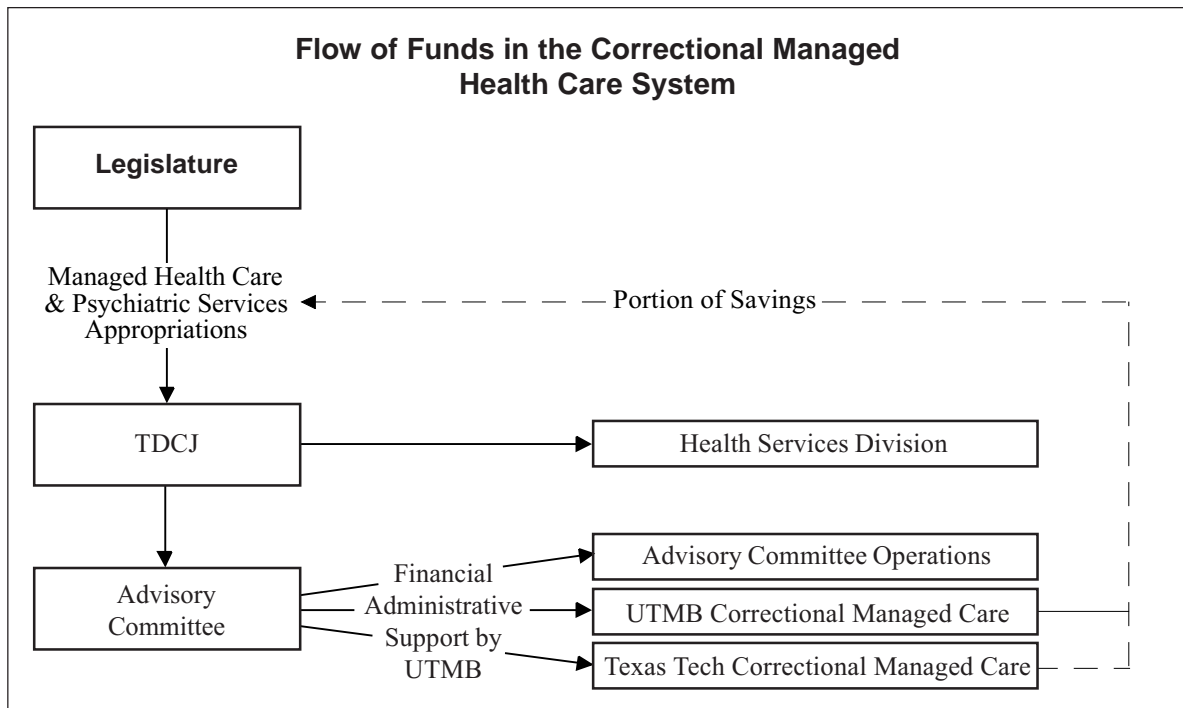
The Advisory Committee has defined each University's service area by dividing the state roughly in half: UTMB provides care to units in the eastern half of the state while Texas Tech provides care in the western half. In 1997, UTMB's service area included 70 facilities covering about 80 percent of the total prison population, while Texas Tech's service area included 28 facilities covering about 20 percent of the prison population. Generally, UTMB provides health care services with its own staff in the prisons, while Texas Tech contracts with local providers for about 70 percent of the health care services in its service area.

The managed health care and psychiatric care strategies of TDCJ's appropriation fund the contracts between the Correctional Managed Health Care Advisory Committee and UTMB and Texas Tech. The Advisory Committee allocates funding to the Universities based on a specified capitation rate. For fiscal year 1997, UTMB received \$5.47 per offender per day and Texas Tech received \$5.09 per offender per day. UTMB's capitation rate is higher because it provides more statewide services, such as specialty care for AIDS patients and obstetrics for female inmates. The Universities receive additional funding to provide psychiatric services. The Advisory Committee also holds a contract with TDCJ to define the flow of funds between the two entities and the respective roles and responsibilities of each. In all, the State spent close to \$300 million in fiscal year 1997 for inmate health care, of which \$12 million was returned to the State as savings that were realized by the managed care system. The chart, *Flow of Funds in the Correctional Managed Health Care System*, illustrates the existing financial relationships of the parties involved in providing health care to inmates.

The Sunset staff, in its review of the Advisory Committee, evaluated the need for an entity separate from TDCJ to contract for inmate health care services. The review also examined the Advisory Committee's structure to determine its appropriateness in overseeing these correctional health care contracts. The staff sought to balance the need for expertise in health care issues with the Department's responsibility to provide care for the offenders behind its walls. Finally, the staff considered the State's interest in promoting sound health care for inmates while also managing costs.

The Advisory Committee's staff prepares the health care contracts, allocates funding to UTMB and Texas Tech, and represents the interests of the correctional health care system before the Legislature.

The cost of correctional health care is computed on a per-head basis, and the Universities returned \$12 million in savings to the State in 1997.



Findings

▼ **The Legislature established the Correctional Managed Health Care Advisory Committee to draw on correctional and medical expertise in establishing a managed care system for the state’s prisons.**

► Since its creation in August 1993, the Advisory Committee has accomplished two objectives that were integral to the establishment of the correctional managed care system. The Advisory Committee’s first significant accomplishment involved the creation and implementation of a managed health care plan for the state’s prison system. This plan includes:

- defining the service areas of each University;
- determining the scope of services provided by each University; and
- developing the contracts between the Advisory Committee and the Universities.

The Advisory Committee’s second major accomplishment was overseeing the transition of TDCJ’s medical personnel to either

UTMB or Texas Tech. This human resources transition, including salary and retirement issues, was necessary to ensure fairness for employees in each University's service area.

- ▶ With the implementation of the managed care system, the Advisory Committee has focused on the operation of the system. The members of the Advisory Committee provide medical expertise on clinical issues related to health care in the prison environment. These issues include the implementation of policies for dealing with HIV-positive inmates, the testing of correctional employees for tuberculosis, and the surveillance of new diseases and infections in coordination with TDCJ's Health Services Division's Office of Preventative Medicine.

The Advisory Committee provides statewide coordination of correctional health care in TDCJ-operated prisons through the sharing of information and medical knowledge between the two schools. Coordination between UTMB, Texas Tech, and TDCJ ensures that clinical policies and procedures are implemented uniformly at all TDCJ facilities. Furthermore, this cooperation allows certain specialty services, such as AIDS patient care and obstetrics, to be provided more efficiently by one University in one area of the state rather than by both Universities.

The Advisory Committee also serves as a forum for addressing issues regarding the contracts for health care services. For example, the Advisory Committee coordinated the responses by UTMB, Texas Tech, and TDCJ to a recent report by the State Auditor's Office that raised a number of issues regarding the managed care system. The Advisory Committee also devised an action plan for addressing many of the State Auditor's concerns.

- ▶ In creating the Advisory Committee, the Legislature responded not only to concerns about the increasing cost of health care in prison. It was also responding to TDCJ's historic difficulty in providing needed health care in the prison system. Inadequate pay had contributed to a high vacancy rate among TDCJ's medical personnel serving as a key issue in a contempt order against the State under the *Ruiz* lawsuit.

In addition, the sheer size and complexity of the correctional health care system provided some basis for the creation of a special oversight body. The table, *The Correctional Managed*

The Advisory Committee members provide clinical oversight of prison health care.

The Advisory Committee also serves as a forum for addressing issues regarding the contracts for health care services.

Health Care System — Fiscal Year 1997, shows the size of the system in terms of the number of inmates and units served, the number of personnel employed, and the money involved in the contracts. If the correctional health care system were a separate state agency, it would be one of the ten largest, with more than 4,500 employees and almost \$300 million in appropriations.

| The Correctional Managed Health Care System Fiscal Year 1997² | | | | | |
|---|---------------|-----------------------|--------------------------|------------------|--|
| Entity | | Inmates Served | Facilities Served | Employees | Expenditures per Year (in millions) |
| TDCJ - Health Services Division | | | | 57 | \$2.5 |
| Correctional Managed Health Care Advisory Committee | | | | 5 | \$0.5 |
| UTMB | Direct | 97,433 | 63 | 3,351 | \$207.0 |
| | Subcontracted | 7,922 | 7 | 122 | |
| Texas Tech | Direct | 10,912 | 10 | 724 | \$59.6 |
| | Subcontracted | 18,910 | 18 | 332 | |
| Total | | 135,177 | 98 | 4,591 | \$269.6 |

If it were a separate agency, correctional health care would be one of the State's 10 largest.

In creating the Advisory Committee, the Legislature separated direct responsibility for medical care from the purview of TDCJ so that the Department could focus better on its primary job of managing the state's criminal justice system. This allows the Board of Criminal Justice to concentrate more directly on its responsibilities encompassing community corrections, incarceration and security, rehabilitation programs, and parole.

The establishment of the Advisory Committee also frees TDCJ from the day-to-day management of such large contracts. In comparison to the contracts for correctional health care, the three largest contracts for services approved by the Board of Criminal Justice for fiscal year 1998 are to operate private prison facilities. These contracts are:

- \$18.5 million for the pre-parole transfer facility at Mineral Wells;
- \$16.2 million for the Bradshaw State Jail; and

- \$10.7 million for the private prison at Venus.

▼ **The Advisory Committee is not structured to appropriately manage such large contracts.**

- ▮ The Advisory Committee’s enabling statute gives it authority to develop the managed care system but does not give it direction regarding the operation of the system. The statute does not specify objectives or an on-going mission, nor does it give the Advisory Committee the authority to resolve conflict, allocate resources, or assess the capitation rate and financial need of each contracting entity. Instead, the Advisory Committee derives direction for these functions from the contracts among the three parties, as negotiated and approved by the Advisory Committee.
- ▮ The existing composition of the Advisory Committee raises inherent questions about the impartial administration of the contract. Because of the way the Legislature structured the Advisory Committee, the contractors who provide health care comprise the majority of the body charged with developing and administering the contracts. This arrangement gives the contractors the authority to oversee their own contracts, raising legitimate questions about their objectivity in making decisions regarding the contracts.
- ▮ The Advisory Committee’s independence is further complicated by the fact that UTMB performs the financial administration of the contracts, distributing funds for the capitation payments to both Universities. UTMB also pays the salaries for the staff of the Advisory Committee through this same administrative arrangement, making them employees under UTMB’s human resources system. UTMB provides this financial administration function because the Advisory Committee does not have the resources to perform it itself.

The Advisory Committee is not structured to serve as an impartial overseer of health services for TDCJ's inmates.

▼ **The current structure of the correctional health care system does not allow for the monitoring functions that are necessary under such large contracts.**

- ▮ TDCJ’s Health Services Division has only limited ability to monitor the quality of health care its inmates receive under the managed care contracts with the Universities. Because TDCJ is ultimately responsible for ensuring that its inmates receive quality care in a timely manner, its Health Services

TDCJ has not been able to adequately monitor the overall performance of the prison health care system.

Division must be able to monitor the way these services are provided. However, according to the recent State Auditor report, *Managed Health Care at The Texas Department of Criminal Justice*, TDCJ does not have a comprehensive monitoring system that clearly evaluates overall performance.³ TDCJ's Internal Audit Division has also reached the same conclusion.⁴ TDCJ's Health Services Division is currently in the process of contracting with external monitors to expand its quality of care monitoring activities in response to the audit reports.

TDCJ's monitoring function is also limited by its inability to hire a Director for the Health Services Division. Despite its many attempts to recruit a Director, this position remains vacant because TDCJ is unable to offer a competitive salary for a licensed medical doctor with experience in health care administration. TDCJ is constrained in its ability to compensate personnel in exempt positions. To augment this salary so that it can fill the position, TDCJ has had to rely on UTMB, contributing further to the appearance that the contractor controls key aspects of the correctional health care system.

- ▶ The adequacy of the current quality of care monitoring is further hindered by the failure of the managed care contracts to specifically assign the roles and responsibilities of each party. Both the State Auditor and the Internal Auditor expressed concern that the language in the contracts does not adequately specify each parties' monitoring responsibilities. The contracts do not include provisions for monitoring results to determine overall performance or compliance and do not establish guidelines for monitoring the subcontractors employed by each University. As a result, TDCJ has little control over the quality of care its inmates receive from these subcontractors. In response to the State Auditor's report, TDCJ proposed an addendum to the contracts that requires each University to present to TDCJ a plan for monitoring its subcontractors. As of May 1, 1998, this addendum is in the process of being approved by the Universities so that it can be added to the contracts.
- ▶ No independent body is monitoring the financial aspects of the managed care contracts, in terms of how correctional health care funds are spent. The correctional managed care contracts do not require monitoring to assure that costs are reasonable

and necessary and neither TDCJ nor the Advisory Committee performs this function.⁵ Without independent financial monitoring, neither TDCJ nor the Legislature is assured of getting the best deal for its money under managed care.

In response to the Internal Audit, the Health Services Division is planning to contract with an accountant and coordinate with TDCJ's Financial Services Division to begin financial monitoring of the managed care contracts. The State Auditor also recommended that the Advisory Committee establish financial reporting requirements consistent with health care industry standards to ensure a common financial reporting system for all medical services provided.⁶

- ▶ While both quality of care and financial monitoring are vital to protect the inmates' and the States' interests, effective monitoring relies on a mechanism to enforce the terms of the contracts. If problems in the health care delivery system are found through TDCJ's monitoring activities, they need to be corrected by the University responsible for providing the care. However, TDCJ does not have direct recourse to address the performance of the University providers under the managed care contracts.⁷

In large part, TDCJ cannot enforce the terms of the contract because it does not contract directly with the Universities, but instead contracts with the Advisory Committee which, in turn, contracts with the Universities. In addition, TDCJ has only two seats on the Advisory Committee, while the University providers have four. Furthermore, the existing contracts do not include sanctions against the service provider for inadequate performance. Such sanctions are a standard part of most contracts.

▼ **The correctional health care system has not received the financial planning that is necessary for such large contracts.**

- ▶ Under the current structure of the correctional managed care system, the capitation rate is not set according to an assessment of the actual costs of providing health care. The capitation rate was originally based on TDCJ's expenditures for health care in the year before the implementation of the managed care system. Since that time, the capitation rate has been adjusted slightly through the biennial contract negotiation

The State has no way to tell if it is getting the best deal for its money in the correctional managed care system.

TDCJ does not have direct recourse to address issues with the University providers because it does not contract directly with them.

Despite returning \$24 million to the State in 1996-97, the Universities amassed a \$29 million profit over this same time.

No actuarial analysis has been conducted to identify the actual catastrophic reserves needed for the health care system.

process. However, no studies have been conducted to assess the actual cost of correctional managed care.

The purpose of a managed care system is to reduce the overall costs of providing health care services. While the State's cost of providing health care to inmates has gone down under the managed care system, the capitation rate is still not set at an appropriate level as evidenced by the Universities' excess revenues over the past two fiscal years. The Universities together returned \$12 million to the Legislature in both fiscal years 1996 and 1997. In addition, the Universities kept for themselves a total of \$25.3 million in fiscal year 1996 and \$3.7 million in fiscal year 1997 in revenue that was not needed to provide health care to inmates.⁸

Both the State Auditor and TDCJ's Internal Auditor have advocated the need to ensure that all costs associated with the correctional managed care system are reasonable and necessary. The State Auditor specifically recommended that the Advisory Committee annually evaluate the components and costs of providing health care to inmates and laid out a plan by which an appropriate capitation rate should be set.⁹

- ▶ The Advisory Committee also is not required to perform long-range planning relating to the cost of treating the inmate population. While the Universities are concerned about the rising costs of treating the growing numbers of inmates who are elderly or HIV-positive, for example, no studies have been conducted to determine specific trends in the health of the population. As a result, the Advisory Committee is unable to assess the potential costs over the long-term of treating the inmate population and is unable to communicate its true financial needs to the Legislature.
- ▶ To protect themselves against unexpected costs in the future, each University has set aside a portion of their capitation payments to serve as catastrophic reserves. The State Auditor, however, has questioned the need for these reserves and the methodology used to accumulate them. The State Auditor recommended that the Advisory Committee perform actuarial studies on the financial risk of providing care to determine what amount, if any, of reserves should reasonably be set aside.¹⁰ The Advisory Committee has agreed with this recommendation for receiving actuarial assistance.

▼ **Other comparable health care arrangements provide more objective oversight than is currently provided by the Advisory Committee.**

- ▶ The Texas Department of Health (TDH) is an example of another state agency that oversees large managed health care contracts. TDH administers the new Medicaid managed care program which serves about 270,000 people. The Department contracts directly with several managed care providers across the state to deliver health care to low-income families. TDH bases its capitation rates on traditional Medicaid fee-for-service cost experience and established risk factors for each different type of population served. To ensure contract compliance of the providers, TDH has hired private consulting firms to monitor the quality of care its Medicaid managed care members receive and the financial aspects of the contracts.
- ▶ The Employees Retirement System (ERS) is another state agency that manages large managed health care contracts. ERS administers contracts with HMOs to provide health insurance to employees of the State and their dependents. ERS serves approximately 106,000 people through its HMO contracts. To ensure contract compliance of the HMOs, ERS has an interagency agreement with the Texas Department of Insurance to perform the necessary quality of care and financial monitoring.
- ▶ While no clear model emerges from the way other states provide correctional health care, the review found that none of the ten most populous states rely on a structure like the Advisory Committee, except Texas. Many states use a combination of contracting with private vendors and providing health care services through their corrections agencies. When used, contracting is more typically provided at a specific location or for a specific service.¹¹ Some states use the services of their public medical schools, but only on a limited basis. Texas is the only state that works exclusively with its Universities and the only state that has a comprehensive contracting system that provides all levels and types of care, including mental health, dental, and pharmacy services, to inmates.

As with the provision of correctional health care, other states follow no common approach regarding the monitoring of the care its inmates receive. Some states employ a staff to perform

Health care systems for low-income families and state employees do not rely on providers to oversee their own contracts.

the necessary monitoring functions. For example, the California Department of Correction's Health Care Services Division has an extensive system to monitor the health care delivered by its own employees and by the private providers it contracts with.¹² Other states use third party review organizations to assess the quality and cost of the care their inmates are receiving from private providers.¹³

▼ **Standard contractual arrangements contain provisions that could benefit the correctional health care system.**

- ▶ In 1996, the Joint General Investigating Committee, following its work on the Texas Commission on Alcohol and Drug Abuse, recommended standard components of state agency contracts. Contracts should specify the responsibilities of the parties, including the requirement for the purchaser to be able to monitor the performance of the contractor.¹⁴ This arms-length relationship assures that agencies conduct business fairly and that the needs of the State are served.
- ▶ The Committee also recommended that state contracts include monitoring provisions to ensure all costs are reasonable and necessary and for verifying comparable costs are charged for comparable services.¹⁵ Financial monitoring is important for establishing a reasonable basis for managed care costs. This monitoring would be more important if additional providers enter the correctional health care arena in the future.

A key aspect of any contract is the need to maintain an arms-length relationship between the purchaser of services and the contractor.

Conclusion

The Legislature established a managed health care system for the state's prisons as a way to control increasing costs and to use the medical expertise of UTMB and Texas Tech. The system has succeeded in providing an enhanced focus on clinical issues, while freeing TDCJ and its Board to focus more directly on the job of managing the state's criminal justice system.

To oversee the development of this correctional health care system, the Advisory Committee was established with a majority of its membership coming from the Universities providing the care. However, the Advisory Committee is not appropriately structured to perform as an impartial intermediary between TDCJ, as the purchaser of health care services, and the Universities, as providers of those services. In addition, the current correctional health care system does not provide adequate performance or financial monitoring of the contracts. The system also has not received

adequate planning to accurately estimate the true cost of managed care in the prison environment, to analyze trends that can affect costs, or to determine an appropriate amount of catastrophic reserves.

Other managed care systems, such as managed Medicaid contracts by TDH and state employee health care contracts by ERS, provide more objective oversight. In addition, standard state contracts contain provisions for monitoring the performance and financial aspects of contractors. These same arrangements can benefit the correctional health care system.

Recommendation

Change in Statute

- **Expand the Advisory Committee's membership to provide additional expertise and achieve a broader perspective.**
- **Specify the duties of the Advisory Committee to oversee the correctional health care contracts.**
- **Change the name of the Advisory Committee to reflect its new responsibilities.**
- **Improve TDCJ's ability to monitor the correctional health care contracts.**
- **Continue the Advisory Committee for six years, providing for Sunset review in 2005.**

The following discussion provides detail on the recommendations listed above.

Advisory Committee Structure

Retain the existing Advisory Committee members specified in statute and expand the size of the Advisory Committee from six to 10, by adding members as follows:

- *one person licensed to practice medicine in Texas, who is not affiliated with the contracting entities;*
- *one person with experience in health care administration, who is not affiliated with the contracting entities;*
- *one person, representing the general public; and*
- *the Chair of the Board of Criminal Justice, or a Board member designated by the Chair, to serve as a voting ex officio member.*

The Governor would appoint the new doctor, health care administrator, and public member to serve staggered, six-year terms. The Governor would also appoint the Chair of the Advisory Committee.

Expanding the size of the Advisory Committee would provide additional expertise and a broader perspective regarding medical issues, health care administration, and matters of general interest. Specifying the Chair of the Board of Criminal Justice or a designee as a voting ex officio member would improve the link between the contractors providing health care and the agency that retains ultimate responsibility for inmate welfare – the Department.

Advisory Committee Responsibility

Specify in statute the responsibilities of the Advisory Committee, including:

- *determining a capitation rate reflecting the true cost of correctional health care;*
- *acting as an independent third party in the allocation of funds to providers for inmate health care;*
- *acting as an independent third party for the purpose of dispute resolution in the event that disagreements develop between TDCJ and the health care providers;*
- *developing the contracts for health care services in consultation with TDCJ and the providers; and*
- *enforcing compliance with contract provisions, including requiring corrective action if care does not meet expectations as discovered through TDCJ's quality of care monitoring activities.*

Modify the Advisory Committee by:

- *changing the name to the Correctional Managed Health Care Committee; and,*
- *administratively linking the Advisory Committee to TDCJ.*

By specifying the Advisory Committee's responsibilities in statute, this recommendation would ensure that important functions currently specified only in the contracts with the providers are clearly laid out in statute and required to occur. The Advisory Committee would serve largely as an impartial arbiter between TDCJ and the health care providers. It would be responsible for determining a capitation rate that more accurately reflects the costs of correctional health care, including catastrophic reserves. This rate would still need to be approved by the Legislature through the appropriations process. The Advisory Committee would need to be able to hire a consultant to assist it in determining this capitation rate. It would also need to make use of financial monitoring performed by TDCJ to make adjustments in the rate, based on historical performance.

The Advisory Committee would also need to be better aware of trends in the offender population that would have an impact on the cost of health care. To accomplish this, the Advisory Committee would be responsible for hiring a consultant to determine these trends and costs.

The Advisory Committee would also have the authority to resolve disputes and to require corrective action, as needed, under the contracts. For example, the Advisory Committee would be able to delay or withhold funding if the parties to the contract fail to take needed action.

The name of the entity should be changed to the Correctional Managed Health Care Committee to reflect its new responsibilities and to remove the impression that it is purely an advisory body.

Finally, the Advisory Committee would retain its authority to employ staff to perform its duties. However, the Advisory Committee should be linked to TDCJ for its administrative functions, including personnel, budgeting, and purchasing. The Advisory Committee staff would no longer be paid through UTMB's payroll system. The Advisory Committee would continue to receive legal counsel from the Office of the Attorney General as it has in the past.

Contract Monitoring

Improve TDCJ's ability to monitor the health care its inmates receive by:

- *authorizing an increase in the exempt salary for the Director of the Health Services Division;*
- *specifying TDCJ's responsibility to monitor the quality of care delivered by the health care providers;*
- *specifying TDCJ's responsibility to perform financial monitoring of the managed health care contracts; and*
- *ensuring that the results of TDCJ's monitoring activities are communicated to the Advisory Committee.*

TDCJ should be able to hire a Medical Director without having to rely on the support of UTMB or other medical schools in the state. For this to happen, TDCJ needs to be able to offer a salary that is competitive with the free-world medical community. This change would require the authorization to increase the exempt salary for this position in the Department's appropriation bill pattern. Although not a change in statute, this recommendation would involve the Sunset Commission suggesting to the Legislature that it include the exempt salary increase in TDCJ's budget for the next biennium.

The recommendation would also require TDCJ to monitor the quality of care its inmates receive. TDCJ would accomplish this through its existing mechanisms of receiving and investigating medical grievances, ensuring access to care, and conducting periodic operational reviews of health care at its units. TDCJ should also have specific responsibility to conduct special audits of units when it determines the necessity. The operational reviews and special audits would serve as the basis for feedback to the Advisory Committee regarding the quality of care at the units and the need for action by the providers. TDCJ would also continue to monitor quality assurance efforts at the units to ensure that the providers have mechanisms in place to monitor themselves and to take needed action of their own on a routine basis.

Finally, TDCJ would be responsible for conducting financial monitoring to assess the performance of the providers in delivering health care services. While TDCJ would not be responsible for determining which costs under the contract are allowable and which are unallowable, this monitoring should provide more accurate information for the Advisory Committee to use in determining the capitation rate.

Continuation

Continue the Advisory Committee for six years, instead of the standard 12-year Sunset renewal.

This recommendation would allow the Legislature to re-evaluate the need for this entity as a more impartial arbiter in the correctional health care system. The Advisory Committee would have four years in which to operate with its new responsibilities, and TDCJ would be able to develop additional expertise to adequately monitor the quality of care and the financial aspects of the health care contracts. The Legislature would have more information on which to decide if this kind of intermediary is necessary or if TDCJ is capable of administering such a contract on its own.

Fiscal Impact

This recommendation would specify the roles of the Correctional Managed Health Care Advisory Committee and TDCJ in statute. By expanding the responsibilities and the size, this recommendation would result in higher costs to the State, but the precise amount is expected to be small.

The recommendation to increase the size of the Advisory Committee by four members would require additional costs for travel and per diem. However, these costs should not be significant.

The recommendation would require the Advisory Committee to conduct studies to determine an appropriate capitation rate and identify health trends in the correctional population. The Advisory Committee would need to contract for these services which would likely result in an additional cost to the State. However, the cost cannot be estimated at this time. These studies are intended to give the Advisory Committee and the Legislature a better understanding of the current and future costs of providing correctional health care potentially resulting in increased long-term savings.

Administratively linking the Advisory Committee to TDCJ would not cause significant additional fiscal impact to the State. The Department already has the administrative processes in place to serve the needs of the Advisory Committee, and it can absorb the Advisory Committee's five employees with no additional costs.

Increasing the salary level of TDCJ's Health Services Division Director would cause additional costs to TDCJ. However, these costs would have to be determined through the appropriations process. In 1997, the Legislature set the salary level for this position at \$136,347. In September 1997, the Board of Criminal Justice exercised its authority to increase individual appropriation items by 4 percent to raise the medical director's salary to \$141,800.

Finally, the recommendation would specify requirements for TDCJ regarding improved monitoring of the health care contracts, but would not cause an additional fiscal impact to the State. While these requirements would be specified in statute for the first time, TDCJ has already indicated its intention to provide this monitoring. In response to the January 1998 report by the State Auditor's Office and the May 1997 report by TDCJ's Internal Auditor, the Department has moved to contract with external monitors to expand its quality of care and financial monitoring activities.

¹ Private prisons and privately-operated state jails do not participate in this arrangement but provide health care to offenders on their own.

² Data provided by the Correctional Managed Health Care Advisory Committee, April 1998.

³ Office of the State Auditor, State of Texas, *An Audit Report on Managed Health Care at the Texas Department of Criminal Justice*, Report No. 98-013 (Austin, Tex., January 1998), pg. 28.

⁴ Texas Department of Criminal Justice, Internal Audit Division, *Report on TDCJ Health Services Operational Review Process*, Audit #9705 (Huntsville, Tex., May 1997), pg. 1-4.

⁵ Ibid.

⁶ Office of the State Auditor, pg. 25.

⁷ Ibid., pg. 10.

⁸ Data provided by the Correctional Managed Health Care Advisory Committee, April 1998.

⁹ Office of the State Auditor, pg. 24.

¹⁰ Ibid., pp. 24-25.

¹¹ Douglas C. McDonald, *Managing Prison Health Care and Costs*, National Institute of Justice (Washington, D.C., May 1995), pp. 61-62.

¹² Information provided by the Contract Negotiations and Managed Care Section, Health Care Services Division, California Department of Corrections, April 1998.

¹³ Douglas C. McDonald, pp. 67-69.

¹⁴ Joint General Investigating Committee, *Report on State Contracting* (Austin, Tex., October 14, 1996), pp. 9-11.

¹⁵ Ibid.

ACROSS-THE-BOARD RECOMMENDATIONS

| Texas Board of Criminal Justice | |
|--|---|
| Recommendations | Across-the-Board Provisions |
| | A. GENERAL* |
| Already in Statute | 1. Require at least one-third public membership on state agency policymaking bodies. |
| Update | 2. Require specific provisions relating to conflicts of interest. |
| Already in Statute | 3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin. |
| Already in Statute | 4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body. |
| Already in Statute | 5. Specify grounds for removal of a member of the policymaking body. |
| Already in Statute | 6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees. |
| Apply | 7. Require training for members of policymaking bodies. |
| Already in Statute | 8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff. |
| Already in Statute | 9. Provide for public testimony at meetings of the policymaking body. |
| Update | 10. Require information to be maintained on complaints. |
| Update | 11. Require development of an equal employment opportunity policy. |

*Only the general across-the-board provisions apply to the Texas Board of Criminal Justice. Because this agency does not have a licensing function, the across-the-board provisions relating to licensing do not apply.

| Board of Pardons and Paroles | |
|-------------------------------------|---|
| Recommendations | Across-the-Board Provisions |
| | A. GENERAL* |
| Already in Statute | 1. Require at least one-third public membership on state agency policymaking bodies. |
| Update | 2. Require specific provisions relating to conflicts of interest. |
| Already in Statute | 3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin. |
| Already in Statute | 4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body. |
| Already in Statute | 5. Specify grounds for removal of a member of the policymaking body. |
| Already in Statute | 6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees. |
| Already in Statute | 7. Require training for members of policymaking bodies. |
| Already in Statute | 8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff. |
| Do Not Apply | 9. Provide for public testimony at meetings of the policymaking body. |
| Do Not Apply | 10. Require information to be maintained on complaints. |
| Already in Statute | 11. Require development of an equal employment opportunity policy. |

*Only the general across-the-board provisions apply to the Board of Pardons and Paroles. Because this agency does not have a licensing function, the across-the-board provisions relating to licensing do not apply.

| Correctional Managed Health Care Advisory Committee | |
|--|---|
| Recommendations | Across-the-Board Provisions |
| | A. GENERAL* |
| Modify | 1. Require at least one-third public membership on state agency policymaking bodies. |
| Modify | 2. Require specific provisions relating to conflicts of interest. |
| Update | 3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin. |
| Apply | 4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body. |
| Modify | 5. Specify grounds for removal of a member of the policymaking body. |
| Apply | 6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees. |
| Apply | 7. Require training for members of policymaking bodies. |
| Apply | 8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff. |
| Apply | 9. Provide for public testimony at meetings of the policymaking body. |
| Apply | 10. Require information to be maintained on complaints. |
| Apply | 11. Require development of an equal employment opportunity policy. |

*Only the general across-the-board provisions apply to the Correctional Managed Health Care Advisory Committee. Because this agency does not have a licensing function, the across-the-board provisions relating to licensing do not apply.

| Texas Council on Offenders with Mental Impairments | |
|---|---|
| Recommendations | Across-the-Board Provisions |
| | A. GENERAL* |
| Modify | 1. Require at least one-third public membership on state agency policymaking bodies. |
| Modify | 2. Require specific provisions relating to conflicts of interest. |
| Apply | 3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin. |
| Apply | 4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body. |
| Update | 5. Specify grounds for removal of a member of the policymaking body. |
| Apply | 6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees. |
| Apply | 7. Require training for members of policymaking bodies. |
| Apply | 8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff. |
| Apply | 9. Provide for public testimony at meetings of the policymaking body. |
| Apply | 10. Require information to be maintained on complaints. |
| Apply | 11. Require development of an equal employment opportunity policy. |

*Only the general across-the-board provisions apply to the Texas Council on Offenders with Mental Impairments. Because this agency does not have a licensing function, the across-the-board provisions relating to licensing do not apply.

| Private Sector Prison Industries Oversight Authority | |
|---|---|
| Recommendations | Across-the-Board Provisions |
| | A. GENERAL* |
| Apply | 1. Require at least one-third public membership on state agency policymaking bodies. |
| Modify | 2. Require specific provisions relating to conflicts of interest. |
| Apply | 3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin. |
| Already in Statute | 4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body. |
| Apply | 5. Specify grounds for removal of a member of the policymaking body. |
| Apply | 6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees. |
| Apply | 7. Require training for members of policymaking bodies. |
| Apply | 8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff. |
| Apply | 9. Provide for public testimony at meetings of the policymaking body. |
| Apply | 10. Require information to be maintained on complaints. |
| Apply | 11. Require development of an equal employment opportunity policy. |

*Only the general across-the-board provisions apply to the Private Sector Prison Industries Oversight Authority. Because this agency does not have a licensing function, the across-the-board provisions relating to licensing do not apply.

BACKGROUND

Background

AGENCY HISTORY

The first Texas Legislature funded the creation of Texas' prison system in 1846. While the administration of criminal justice in Texas has undergone many changes in philosophy and management in the following century and a half, the state's criminal justice system remains a centrally important function of state government. The Texas criminal justice system has evolved from its roots as a prison system, through the creation of independent state agencies to administer community supervision and early release, to today's consolidated criminal justice agency — the Texas Department of Criminal Justice.

A superintendent appointed by the Governor managed Texas' prison units from 1849, when the Walls unit in Huntsville accepted its first inmate, until 1927 when the Legislature responded to the growth in the number of state inmates and facilities by creating the Texas Prison Board. This Board oversaw prison operations until 1957 when the Legislature created the Texas Department of Corrections (TDC) to manage the continuing increase in offenders and correctional personnel.

The practice of diverting persons convicted of less serious offenses from the prison system to serve their terms in the community on probation began in 1913. Local judges and community officials controlled the process for many years. The Legislature created the Texas Adult Probation Commission in 1977 to ensure greater statewide coordination of probation offices and to oversee the distribution of state funds to local probation departments.

Parole, or the early release of inmates from prison to complete their sentences under supervision, started in 1936 when the Legislature created the Board of Pardons and Paroles. The Parole Board made recommendations to the Governor regarding paroles and pardons. Initially, local volunteer groups were responsible for ensuring the success of parolees in the communities, but in 1957 the Legislature created a division within the Parole Board to administer parole supervision on a statewide basis. The voters passed a constitutional amendment in 1983 that removed the Governor from the parole process, but kept the Governor's authority to grant pardons.

Texas' criminal justice system dates back to 1846, when the first Texas Legislature funded the construction of the first state prison.

The class action lawsuit *Ruiz v. Estelle* forever changed the prison system.

In 1972, a Texas inmate forever changed the penal system by filing a class-action lawsuit, *Ruiz v. Estelle*, against TDC. The lawsuit alleged the cruel and unusual treatment of inmates by TDC and named the Executive Director, James Estelle, as the main defendant on behalf of TDC. In 1980, U.S. District Judge William Wayne Justice ruled in favor of the plaintiff. After a number of appeals, in 1992, the State entered into a final judgment that put specific requirements on the operation of the prison system. For more information see the text box, *History of the Ruiz Lawsuit*.

| History of the <i>Ruiz</i> Lawsuit | |
|------------------------------------|--|
| 1972 | Inmate David Ruiz petitions the U.S. District Court claiming violations of the U.S. Constitution's 8th amendment prohibition on cruel and unusual punishment and 14th amendment guarantee of due process by the Texas Department of Corrections. |
| 1974 | Eight other petitions are combined with the original <i>Ruiz</i> petition to create a class action lawsuit against TDC. U.S. District Judge William Justice presides. |
| 1978 | Trial begins. |
| 1980 | Judge Justice rules for the plaintiffs, citing violations such as overcrowding, inadequate health care, and physical abuse. Judge Justice outlines specific policies regarding housing, staff, and inmate treatment. |
| 1983 | Second trial addressing overcrowding issues begins. |
| 1985 | The parties reach a settlement on capacity issues, agreeing to a 95 percent operational capacity rate established previously by the Legislature. |
| 1986 | State of Texas found to be in contempt of the 1985 agreement as it attempts to address overcrowding in the system. Judge Justice imposes punitive fines. |
| 1987 | Legislature passes SB 215 to grant TDC authority to accelerate the award of good conduct time credits once the system reaches 95 percent capacity. A \$500 million bond package is approved by voters to expand capacity. |
| 1991 | Attorney General Dan Morales petitions for termination of federal court jurisdiction. |
| 1992 | Judge Justice signs the Final Judgment in <i>Ruiz</i> , allowing more than 2,300 additional inmates to enter the system. |
| 1993 | Voters approve a \$1 billion bond package for additional prison construction. |
| 1996 | Attorney General Morales files a motion to vacate the Final Judgment and terminate federal jurisdiction over TDCJ. |

In 1989, in response to the *Ruiz* lawsuit and the overcrowding crisis in Texas prisons and as an effort to bring greater coordination among Texas' criminal justice agencies, the Legislature created the Texas Department of Criminal Justice (TDCJ) by consolidating the three formerly autonomous criminal justice agencies: TDC, the Board of Pardons and Paroles, and the Adult Probation Commission. In the new TDCJ, the former TDC became the Institutional Division (ID), the Adult Probation Commission became the Community Justice Assistance Division (CJAD), and the parole supervision division of the Parole Board became the Pardons and Paroles Division. As part of this change, the Legislature stripped the Board of Pardons and Paroles of its hearings, supervision, and administrative functions and left the Parole Board as a stand-alone deliberative body.

In 1989, the
Legislature
consolidated the
criminal justice
system by creating
the Texas Department
of Criminal Justice.

In 1993, the Legislature further refined the criminal justice system and expanded its capacity. At that time, the Legislature granted the Parole Board authority over parole hearing officers, created the Correctional Managed Health Care Advisory Committee to oversee the administration and contracting of inmate health care services, and created the state jail system to incarcerate non-violent property and drug felons apart from the prison system. In 1997, the Legislature created the Board of Pardons and Paroles Policy Board to oversee parole policy and created the Private Sector Prison Industries Oversight Authority to manage the private sector participation in correctional industries of TDCJ, the Texas Youth Commission, and Texas counties.

TDCJ defines its mission as providing public safety, promoting positive changes, and reintegrating offenders into society. At the close of fiscal year 1997, TDCJ incarcerated more than 138,000 offenders. An additional 80,000 Texans were under direct parole supervision and 431,000 were under community supervision. TDCJ accomplishes its mission through a variety of programs and services, as shown in the chart, *Major Rehabilitative Programs of the Texas Department of Criminal Justice*.

| Major Rehabilitative Programs of the Texas Department of Criminal Justice | |
|--|--|
| Program | Purpose |
| Windham School District | Helps offenders complete basic academic and vocational education |
| Project RIO (ReIntegration of Offenders) | Helps offenders attain employment upon release |
| Texas Correctional Industries | Teaches offenders job skills and provides low-cost products to the prison system |
| Sex Offender Treatment Program | Treats offenders who committed sexual crimes |
| Substance Abuse Felony Punishment Facilities and In-Prison Therapeutic Communities | Treats offenders' substance abuse problems |
| Chaplaincy | Supports offenders' religious needs |
| Community Service | Permits offenders to repay society through service projects |
| Pre-Release Facilities | Prepares offenders to return to their communities |

POLICYMAKING BODY

The Texas Department of Criminal Justice is governed by the Texas Board of Criminal Justice (TBCJ). Separate boards govern the Board of Pardons and Paroles, the Correctional Managed Health Care Advisory Committee, the Texas Council on Offenders with Mental Impairments, and the Private Sector Prison Industries Oversight Authority. The following material discusses the composition and purpose of each of these boards.

TBCJ is comprised of nine public members who are appointed by the Governor to serve six-year terms. The Board's major powers include establishing policies for the Department and for the Board, appointing TDCJ's Executive Director, applying for public and private grants, approving the agency's budget, and creating advisory panels. The Board also serves as the school board for the Windham School District.

The Board of Pardons and Paroles, composed of 18 public members appointed by the Governor to six-year terms, is governed by a six-member Policy Board. All Board members make decisions on the granting and revoking of paroles and recommending pardons to the Governor. The Policy Board assumes policymaking responsibility that previously had been exercised by the full Board, including updating parole guidelines and developing policies for ensuring their use, establishing caseloads, and improving the reporting of information on parole decisions. The Policy Board also hires a Board Administrator to carry out functions related to the management of day to day activities of the Parole Board. The Governor appoints Policy Board members from the membership of the whole Parole Board.

The Correctional Managed Health Care Advisory Committee consists of six appointed members. The Advisory Committee coordinates the contractual provision of inmate health services and monitors health care resource allocation throughout TDCJ's system, resolving issues regarding managed health care. The Presidents of the University of Texas Medical Branch and Texas Tech University Health Science Center each appoint two members and the Executive Director of TDCJ also appoints two members. At least one member from each organization must be a licensed physician.

The Texas Council on Offenders with Mental Impairments (TCOMI) is governed by a thirty-member governing body with the responsibility to identify needed services for special needs offenders and ensure that offenders receive continuity of care throughout the criminal justice system. TCOMI also evaluates existing service providers and makes recommendations for

improvement. Twenty-one members are ex officio representatives of interested organizations, while nine members represent the public and are appointed by the Governor to six-year terms. The represented agencies are listed in the text box, *Ex Officio Members of the Texas Council on Offenders with Mental Impairments*.

| Ex Officio Members of the Texas Council on Offenders with Mental Impairments | |
|---|--|
| <ul style="list-style-type: none"> ● TDCJ-Institutional Division ● TDCJ-State Jail Division ● TDCJ-Parole Division ● TDCJ-Community Justice Assistance Division ● Criminal Justice Policy Council ● Jail Standards Commission ● Texas Commission on Law Enforcement Officer Standards and Education ● Texas Juvenile Probation Commission ● Texas Youth Commission ● Texas Education Agency ● Texas Department of Mental Health and Mental Retardation | <ul style="list-style-type: none"> ● Texas Planning Council for Developmental Disabilities ● Texas Rehabilitation Commission ● Texas Commission on Alcohol and Drug Abuse ● Texas Department of Human Services ● Texas Department on Aging ● Texas Council of Community Mental Health and Mental Retardation Centers ● Mental Health Association in Texas ● Texas Alliance for the Mentally Ill ● Texas Association for Retarded Citizens ● Parent Association for the Retarded of Texas, Inc. |

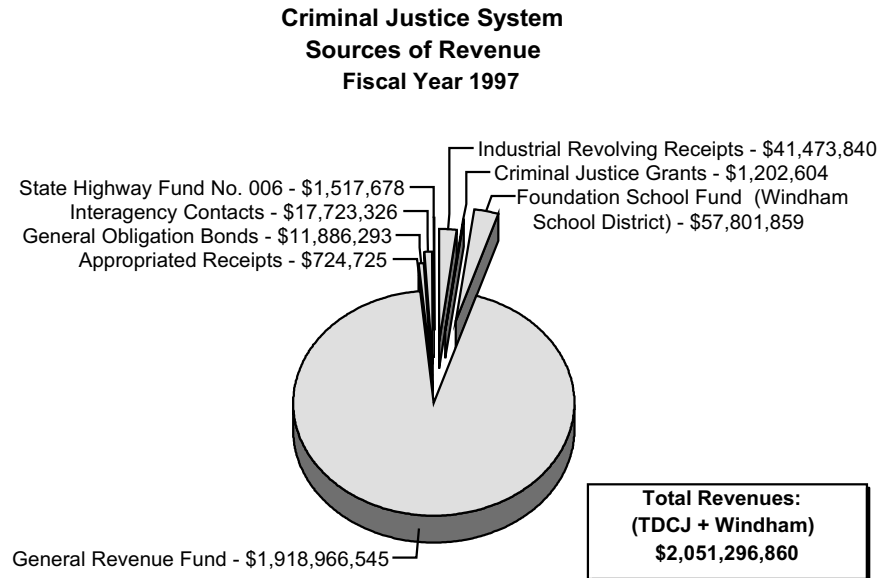
The Private Sector Prison Industries Oversight Authority consists of nine members appointed by the Governor to six-year terms. The major purpose of the Authority is to oversee the operation of private industries operating inside TDCJ, the Texas Youth Commission, and county correctional facilities. The Authority is composed of representatives of organized labor, employers, victims’ rights advocacy, inmates’ rights advocacy, vocational rehabilitation, certified private sector prison industries programs, and three public members. Ex officio members include a member of the House and the Senate, and the Executive Directors of TDCJ, the Texas Youth Commission, and the Texas Workforce Commission.

FUNDING

Revenues

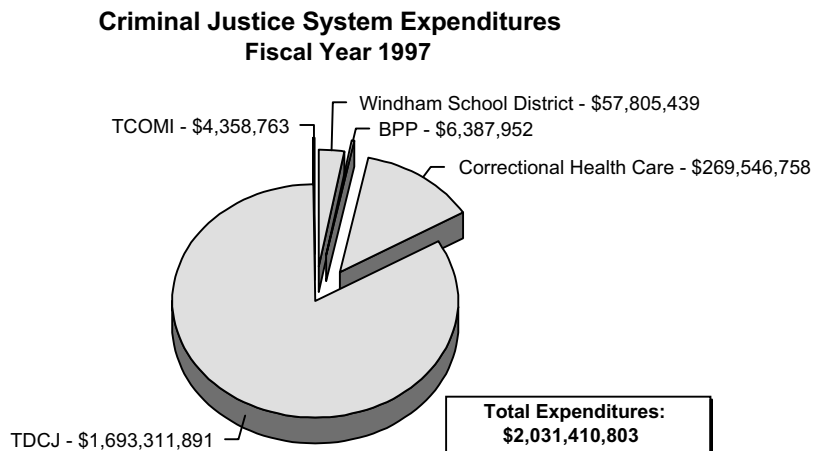
In 1997, the Texas Department of Criminal Justice received approximately \$2 billion, including funding for the Board of Pardons and Paroles, Correctional Managed Health Care Advisory Committee, and Texas Council on Offenders with Mental Impairments as separate strategies within TDCJ’s appropriation. Of this amount, 93.5 percent came from the General Revenue Fund. In addition, the Windham School District, which operates in the prison

system, receives its appropriation through the Texas Education Agency (TEA). The graph, *Criminal Justice System, Sources of Revenue — Fiscal Year 1997*, shows the funding information in more detail.



Expenditures

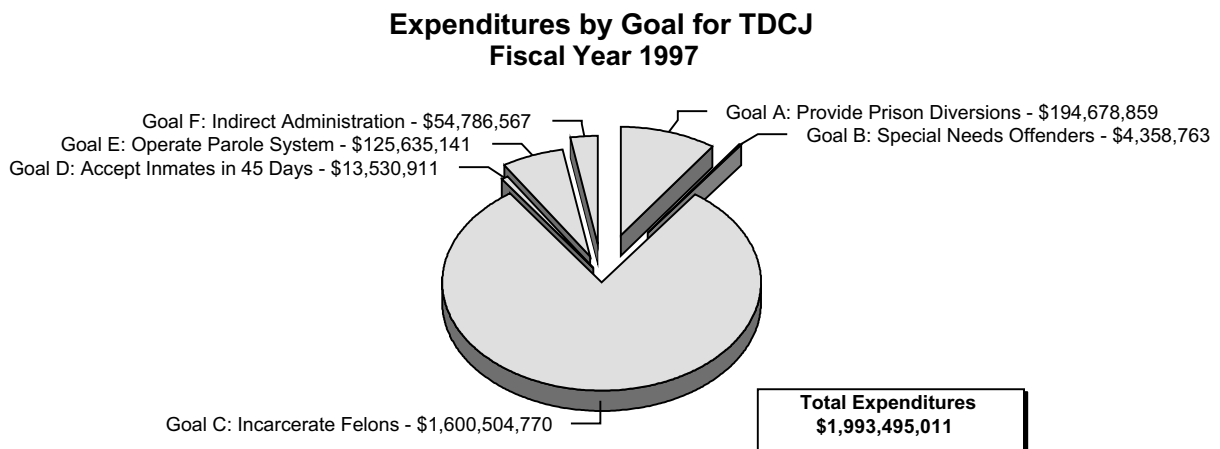
As with revenue information above, total expenditures for the entire criminal justice system include expenditures for TDCJ, the Parole Board, the Advisory Committee, TCOMI, and the Windham School District. In 1997, these expenditures were just over \$2 billion, with TDCJ accounting for 82.5 percent of this total. The Department receives funding for these entities through its appropriations, except for Windham, which, as mentioned, is funded by an appropriations to TEA. The chart, *Criminal Justice System Expenditures—Fiscal Year 1997*, shows the expenditures by each of these criminal justice entities.



The Department performs its duties through the following five goals and a goal for indirect administration:

- providing prison diversions;
- serving special needs offenders;
- incarcerating felons;
- accepting inmates within 45 days; and
- operating the parole system.

These goals for TDCJ, as mentioned, include appropriations not just for the Department, but also for other entities in the criminal justice system. The graph, *Expenditures by Goal for TDCJ—Fiscal Year 1997*, shows spending for each of these goals. The large majority of this spending, 80.3 percent in 1997, was for incarcerating offenders. The table, *TDCJ Expenditures by Strategy—Fiscal Year 1997*, provides detailed information on expenditures for each of these goals and the strategies to implement them.



The managed health care and psychiatric strategies are used to fund the medical and psychiatric care contracts between the Correctional Managed Health Care Advisory Committee and the University of Texas Medical Branch at Galveston (UTMB) and the Texas Tech University Health Sciences Center. The chart, *Expenditures by Function, Correctional Managed Health Care—Fiscal Year 1997*, details spending for health services in prison showing the division of funding between UTMB and Texas Tech.

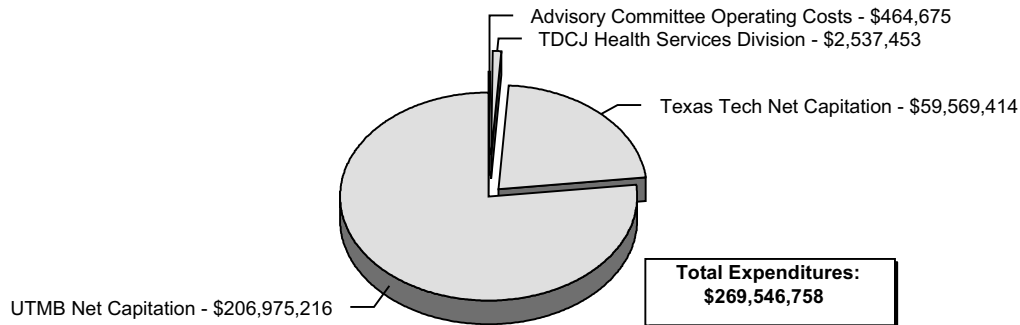
The Board of Pardons and Paroles receives funding from a single strategy within TDCJ's appropriation. In 1997, the Parole Board's expenditures were \$6.4 million. In 1998, however, this funding increased to \$8.3 million for

| TDCJ Expenditures by Strategy Fiscal Year 1997 | |
|---|--------------------------------------|
| Goal A: Provide Prison Diversions | Goal A: Total \$194,678,859 |
| Basic Supervision | 93,469,231 |
| Diversions Programs | 56,249,562 |
| Community Corrections | 44,960,066 |
| Goal B: Special Needs Offenders | Goal B: Total \$4,358,763 |
| Special Needs Projects (TCOMI) | 4,358,763 |
| Goal C: Incarcerate Felons | Goal C: Total \$1,600,504,770 |
| Security/Classification | 692,035,527 |
| Institution Goods/Services | 308,533,611 |
| Psychiatric Care | 41,455,942 |
| Managed Health Care | 247,980,463 |
| On-the-job Training | 41,473,840 |
| Academic/Vocational Skill | 3,182,951 |
| Inmate Treatment Services | 10,257,943 |
| Substance Abuse Treatment | 62,427,541 |
| Pre-release Programs | 49,925,606 |
| State Jail Facilities | 143,231,346 |
| Goal D: Accept Inmates in 45 Days | Goal D: Total \$13,530,911 |
| Facilities Construction | 13,530,911 |
| Goal E: Operate Parole System | Goal E: Total \$125,635,141 |
| Board of Pardons and Paroles | 6,387,952 |
| Parole Selection | 11,334,188 |
| Parole Supervision | 62,173,437 |
| Residential Parole | 28,407,728 |
| Parole Sanctions | 17,331,836 |
| Goal F: Indirect Administration | Goal F: Total \$54,786,567 |
| Central Administration | 31,659,843 |
| Information Resources | 19,784,830 |
| Other Support Services | 3,341,894 |
| GRAND TOTAL: | \$1,993,495,011 |

additional hearing officers to speed up the parole revocation process. The graph, *Expenditures by Function, Board of Pardons and Paroles — Fiscal Year 1997*, displays how the Parole Board funds its programs.

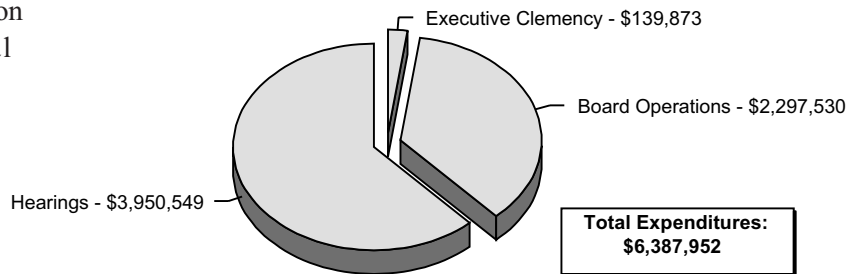
The Texas Council on Offenders with Mental Impairments (TCOMI) receives funding through a separate TDCJ goal for special needs offenders. Most of the Council’s expenditures are pass-throughs to local entities to provide

**Expenditures by Function
 Correctional Managed Health Care
 Fiscal Year 1997**



services for these offenders. In 1997, TCOMI had total expenditures of almost \$4.4 million, with approximately \$3.9 million spent on contract services with local entities.

**Expenditures by Function
 Board of Pardons and Paroles
 Fiscal Year 1997**



HUB Expenditures

The Legislature has encouraged agencies to increase their use of Historically Underutilized Businesses (HUBs) in purchasing goods and services. The Legislature also requires the Sunset Commission to consider agencies' compliance with laws and rules regarding HUB use in its reviews. In 1997, TDCJ purchased 7.8 percent of goods and services from HUBs, including purchases by the Parole Board, the Correctional Managed Health Care Advisory Committee, and TCOMI. The chart, *Purchases from HUBs — Fiscal Year 1997*, provides detail on HUB spending by type of contract and compares these purchases with the statewide goal for each spending category. The chart shows that TDCJ fell short of state goals in all but one

| Purchases From HUBs Fiscal Year 1997 | | | | |
|---|----------------------|---------------------|-------------|----------------|
| Category | Total \$ Spent | Total HUB \$ Spent | Percent | Statewide Goal |
| Heavy Construction | \$1,771,684 | \$691,971 | 39.1% | 11.9% |
| Building Construction | \$25,511,461 | \$291,972 | 1.1% | 26.1% |
| Special Trade | \$2,210,066 | \$40,103 | 1.8% | 57.2% |
| Professional Services | \$5,900,011 | \$865,556 | 14.7% | 20.0% |
| Other Services | \$27,294,307 | \$1,099,457 | 4.0% | 33.0% |
| Commodities | \$207,194,340 | \$18,135,872 | 8.8% | 12.6% |
| Total | \$269,881,869 | \$21,124,931 | 7.8% | |

spending category, heavy construction. In three areas, building construction, special trade, and other services, TDCJ fell significantly below state goals, while spending over \$35 million in these categories.

ORGANIZATION

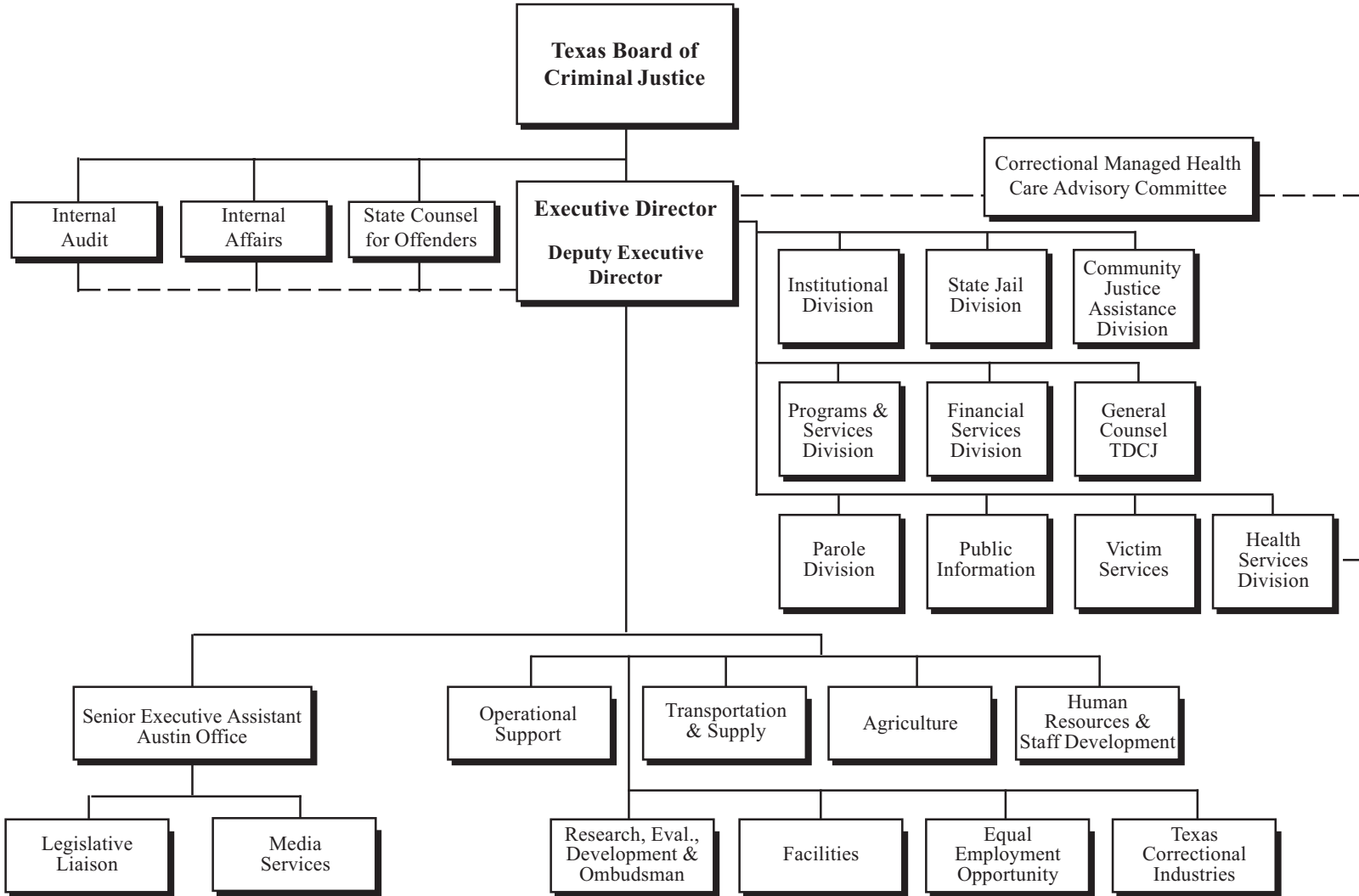
TDCJ had a staff of 38,940 employees in fiscal year 1997. The Department has its headquarters in Huntsville, and it maintains staff at 107 units located throughout the state. The location and description of these facilities is discussed in more detail in the Agency Operations section of the background. Additional information on the type, size, and programs of each facility can be found in Appendix A. The organizational structure of the agency's divisions is illustrated in the chart, *Texas Department of Criminal Justice Organizational Chart*.

A comparison of the criminal justice system's workforce composition to the minority Civilian Labor Force is shown in the chart, *Texas Department of Criminal Justice Equal Employment Opportunity Statistics — Fiscal Year 1997*. TDCJ has generally met Civilian Labor Force levels for many job

| Texas Department of Criminal Justice Equal Employment Opportunity Statistics Fiscal Year 1997 | | | | | | | |
|--|--------------------|--------------------------------|------------------------------|----------|------------------------------|--------|------------------------------|
| Job Category | Total Positions | Minority Workforce Percentages | | | | | |
| | | Black | | Hispanic | | Female | |
| | | Agency | Civilian Labor Force % | Agency | Civilian Labor Force % | Agency | Civilian Labor Force % |
| Officials/Administration | 484 | 13% | 5% | 8% | 8% | 19% | 26% |
| Professional | 5,455 | 20% | 7% | 10% | 7% | 43% | 44% |
| Technical | 705 | 8% | 13% | 10% | 14% | 44% | 41% |
| Protective Services | 25,841 | 25% | 13% | 17% | 18% | 31% | 15% |
| Para-Professionals | 632 | 17% | 25% | 11% | 30% | 79% | 55% |
| Administrative Support | 2,752 | 13% | 16% | 14% | 17% | 95% | 84% |
| Skilled Craft | 1,713 | 4% | 11% | 8% | 20% | 4% | 8% |
| Service/Maintenance | 1,358 | 23% | 19% | 12% | 32% | 29% | 27% |

categories. The most significant area of under-representation is for females in the officials/administration job category. In addition, some improvement is needed in job categories for Hispanics.

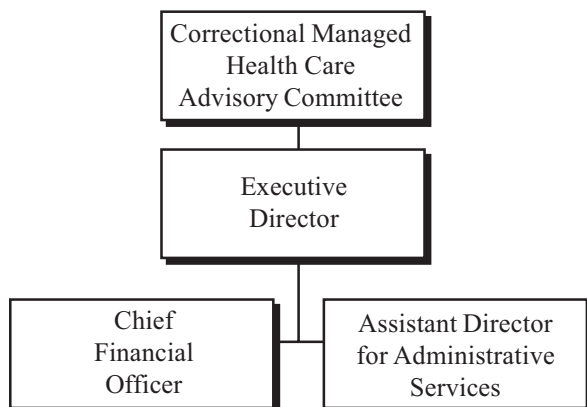
Texas Department of Criminal Justice Organizational Chart



The Board of Pardons and Paroles had a staff of 153 full-time equivalent employees (FTEs) in fiscal year 1997. However, in response to legislative changes to the parole revocation process in 1997, the Parole Board has had to employ additional staff, increasing its workforce to 205 FTEs in 1998. The Parole Board's headquarters is in Austin and 53 employees are housed there. The majority of the Parole Board's personnel perform revocation hearings. The Parole Board's organizational structure is illustrated in the chart, *Board of Pardons and Paroles Organizational Chart*. The Parole Board's workforce composition compared to the minority Civilian Labor Force is shown in the chart, *Board of Pardons and Paroles Equal Employment Opportunity Statistics — Fiscal Year 1997*. The Parole Board's workforce percentages generally exceed Civilian Labor Force levels of employment.

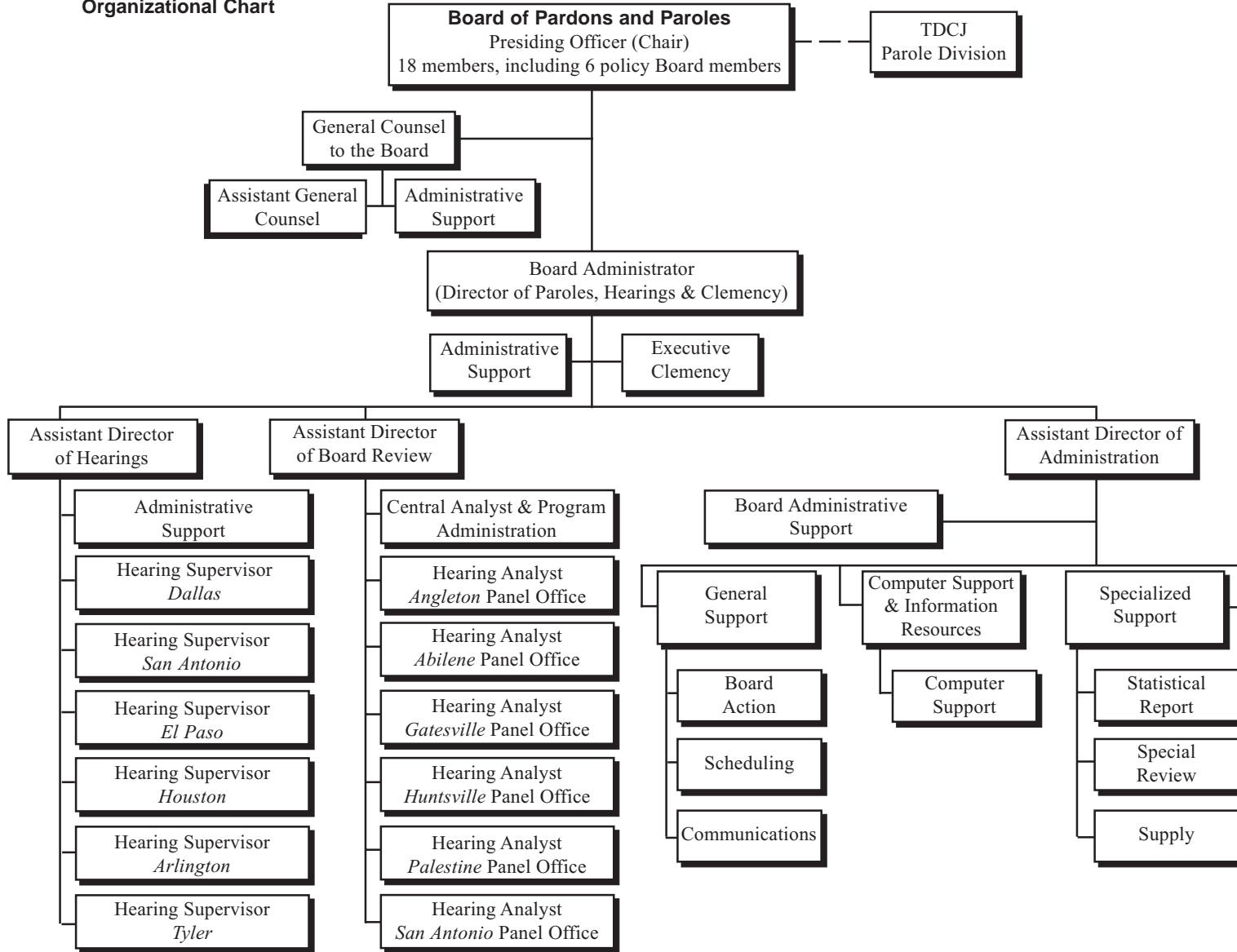
| Board of Pardons and Paroles Equal Employment Opportunity Statistics Fiscal Year 1997 | | | | | | | |
|---|-----------------|--------------------------------|------------------------|----------|------------------------|--------|------------------------|
| Job Category | Total Positions | Minority Workforce Percentages | | | | | |
| | | Black | | Hispanic | | Female | |
| | | Agency | Civilian Labor Force % | Agency | Civilian Labor Force % | Agency | Civilian Labor Force % |
| Officials/Administration | 21 | 24% | 5% | 14% | 8% | 38% | 26% |
| Professional | 82 | 16% | 7% | 16% | 7% | 55% | 44% |
| Technical | 1 | 0% | 13% | 0% | 14% | 0% | 41% |
| Protective Services | N/A | | | | | | |
| Para-Professionals | 1 | 0% | 25% | 0% | 30% | 100% | 55% |
| Administrative Support | 48 | 23% | 16% | 19% | 17% | 90% | 84% |
| Skilled Craft | N/A | | | | | | |
| Service/Maintenance | N/A | | | | | | |

**Correctional Managed Health Care
 Advisory Committee
 Organizational Chart**

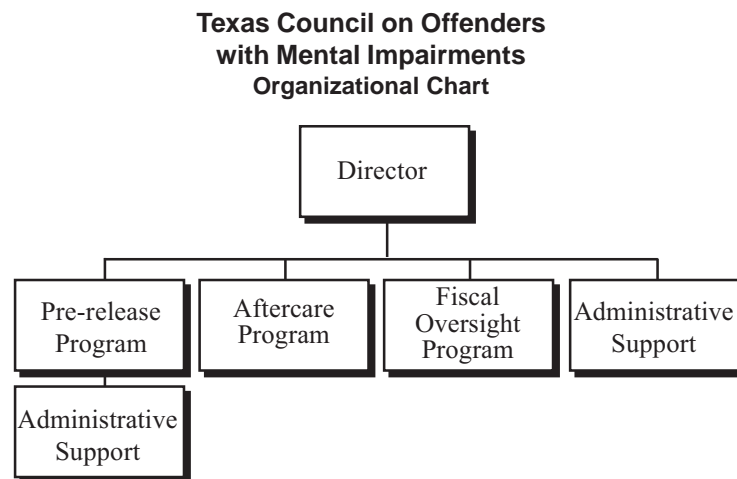


The Correctional Managed Health Care Advisory Committee had a staff of five FTEs in fiscal year 1997. The Advisory Committee's headquarters and its staff are in Huntsville. The organizational structure of the Advisory Committee's staff is illustrated in the chart, *Correctional Managed Health Care Advisory Committee Organizational Chart*.

Board of Pardons and Paroles Organizational Chart



The Texas Council on Offenders with Mental Impairments had a staff of nine FTEs in fiscal year 1997. The Council's headquarters and staff are in Austin, and its organizational structure is illustrated in the chart, *Texas Council on Offenders with Mental Impairments Organizational Chart*.



AGENCY OPERATIONS

The criminal justice system's operations all relate to offender incarceration and rehabilitation. The following material describes the criminal justice system's functions by following an offender's progress through the system: community supervision, State Jail Division, Institutional Division, rehabilitative programs, victim services, health services, and parole. Information concerning the system components dealing with parole, correctional health care, special needs offenders, and prison industries is included within the context of the overall criminal justice system discussed in this report.

Community Supervision

Formerly known as probation, community supervision encompasses a continuum of programs and services designed to provide diversions to traditional prison incarceration and expand sentencing options available to courts. Community supervision is the local component of the criminal justice system. In the last fifteen years, community supervision services have grown from basic supervision to more intensive supervision, residential programs, and specialized caseloads.

Probation in Texas began in 1913 as a locally-managed and locally-funded program. As the number of probationers increased, the state began to look at ways to provide the necessary funding and standardization of programs. In 1977, the Legislature first established state funding for local probation departments, creating the Texas Adult Probation Commission to distribute state funding and establish uniform standards for the use of these funds. In 1989, through the criminal justice consolidation that created TDCJ, the Legislature transformed the Adult Probation Commission into the Community Justice Assistance Division (CJAD) of TDCJ. Probation departments became known as Community Supervision and Corrections Departments (CSCDs), and probation officers became community supervision officers. In 1993, the Legislature replaced the term, probation, with the more descriptive term, community supervision.

Under the guidance of CJAD, CSCDs administer community supervision by providing court services, supervision services, administrative services, and programs to monitor offenders and help reintegrate them into society. The state is divided into 122 CSCDs which serve all of the state's 254 counties. Some CSCDs serve more than one county, as departments are set up according to judicial districts established by the Legislature. The map, *Community Supervision and Corrections Departments in Texas*, shows the boundaries of each of these departments.

Most CSCDs have a similar organizational structure. Each department falls under the direct authority of the judicial district judge or judges. The CSCD director, appointed by these judges, employs staff to supervise offenders and enforce the conditions of community supervision. The counties provide facilities, utilities, and equipment to the CSCDs. Each department must submit a Community Justice Plan biennially to TDCJ-CJAD to receive state funding.

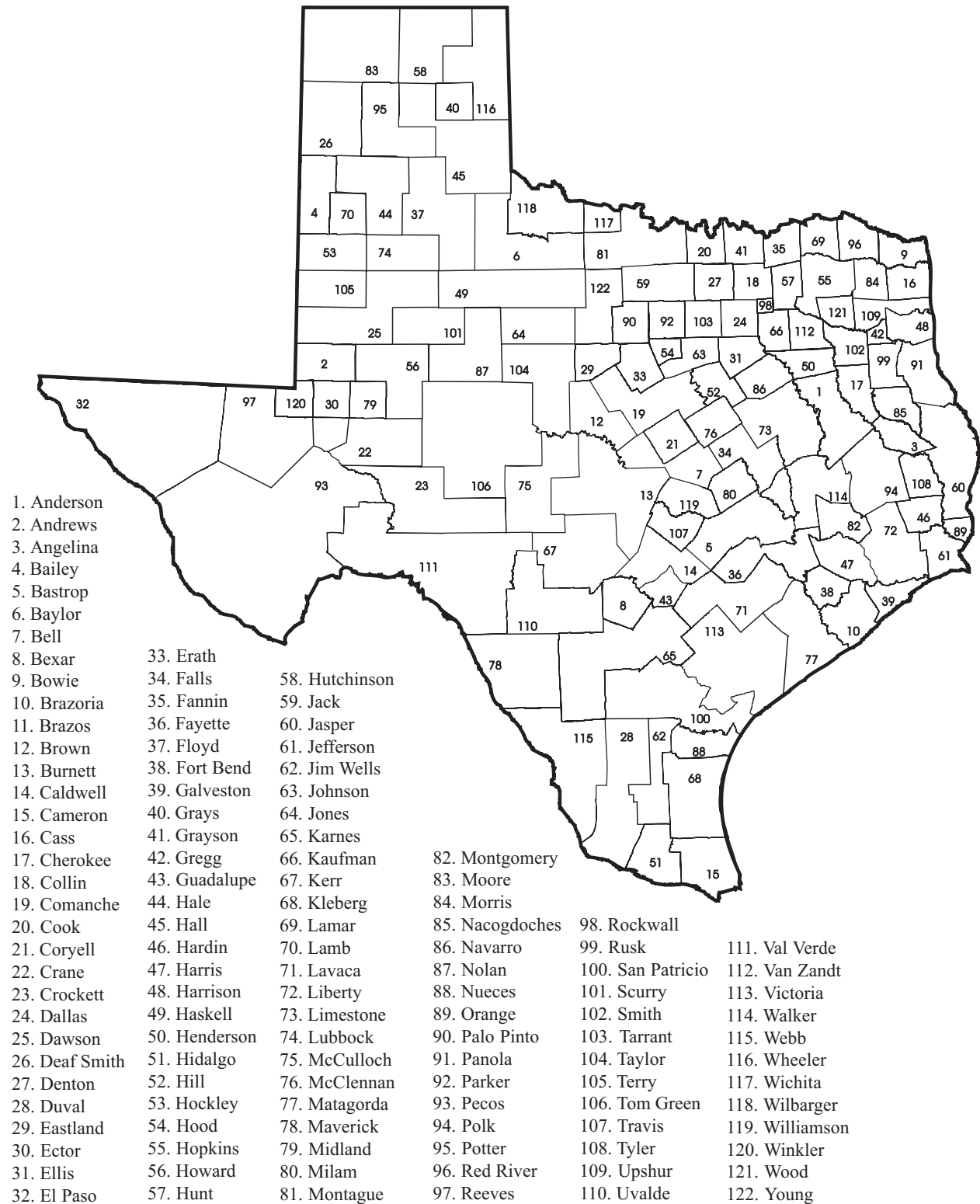
After a judge sentences an adult offender to a term of community supervision, the offender must periodically report to a community supervision officer. Among other responsibilities, these officers assess the offender's risk factors and needs, formulate a supervision plan, assist the offender in goal-setting, and enforce probation conditions.

COMMUNITY JUSTICE ASSISTANCE DIVISION

The Community Justice Assistance Division is one of six legislatively-mandated divisions within TDCJ, with its director reporting to the TDCJ Executive Director. CJAD distributes state aid to CSCDs that actually deliver adult community supervision in Texas, and it provides oversight to ensure that local services are delivered uniformly across the state. The text box,

Probation, now known as community supervision, is administered by local Community Supervision and Corrections Departments.

Community Supervision and Corrections Departments in Texas



CJAD Funding Programs, describes the four CJAD funding distribution mechanisms. All but two of Texas' 122 CSCDs receive state funding and oversight from CJAD. In fiscal year 1997, the State contributed approximately 66 percent of the total funding for community corrections, with the local entities providing the remaining 34 percent through supervision fees and other local support. The two CSCDs that do not receive state funding, in Crane and Andrews Counties, support their operations entirely through fees collected from offenders for supervision and through local government funding.

As required by statute, to receive state funding, a CSCD and its local community justice council must create a community justice plan. These councils are made up of local law enforcement, judicial, corrections officials and other local officials within each community. The plans, which are intended to coordinate community criminal justice resources, must specify all the programs that the CSCD intends to offer and show how each one will be funded. CSCDs may receive state funding upon CJAD approval of the plans.

To ensure that state funds are spent appropriately, CJAD develops and monitors minimum standards and evaluates the expenditures and performance of local departments. CJAD also develops contract monitoring and financial audit guidelines. CJAD may inspect and evaluate a CSCD or conduct audits of financial records, funding activities, and transactions at any time. CJAD staff works with CSCDs to correct any identified deficiencies and may delay funding to achieve compliance.

CJAD assesses the training needs of CSCD employees and develops training programs to address the evolving requirements of community corrections. Community supervision officers who work for CSCDs must meet certain qualifications and be certified by CJAD before they may perform their duties. To be certified, these officers must receive 80 hours of training each biennium, with 40 hours approved by CJAD and 40 hours approved by the CSCD, and they must pass an examination.

| CJAD Funding Programs |
|---|
| <p>Basic Supervision — The State provides funding to CSCDs for felony and misdemeanor supervision. Funding for felony supervision is calculated on a formula basis using each CSCD's percentage of the state's total number of offenders on supervision and comes to a rate of about \$1.35 for each day that an offender is on community supervision. Misdemeanor supervision is funded at \$.67 per day, per offender up to 182 days. In fiscal year 1997, CJAD distributed \$92,157,287 in basic supervision funds to CSCDs.</p> |
| <p>Community Corrections Programming — Like basic supervision, these funds are used to pay supervision costs and are only available to CSCDs, but the funding formula is based on the CSCD's share of the total felons within the state and the percentage of the state's total population. In fiscal year 1997, CJAD distributed \$44,960,066 under this program.</p> |
| <p>Discretionary Grant Funds — CJAD awards these to CSCDs and other local entities to pay for locally-established programs that would divert offenders away from prison. These funds are awarded competitively and distribution priorities are reviewed biennially by CJAD. In fiscal year 1997, CJAD awarded \$58,187,883 in discretionary grants. An example of a program receiving this type of grant funds is the residential treatment program, in which local CSCDs provide treatment and education in restitution centers and substance abuse treatment facilities.</p> |
| <p>Treatment Alternatives to Incarceration Program — This program is a discretionary grant program, similar to Diversion Target Programs, except that it is specifically targeted to substance abuse. The program was transferred to TDCJ from the Texas Commission on Alcohol and Drug Abuse in 1995 to provide funding for CSCDs to develop programs for substance abuse screening, evaluation, and treatment. In fiscal year 1997, CJAD awarded \$14,044,353 for this type of grant funding.</p> |

Additionally, CJAD provides technical assistance by establishing and maintaining databases. CJAD is in the process of including offender demographic information, offense history, and program participation through the Community Supervision Tracking System (CSTS), the community corrections part of the greater Criminal Justice Information System created by the Legislature in 1989. Under CSTS, local departments send data to CJAD, which updates the database. Because CSCDs operate under a variety of computer systems and are not directly connected to TDCJ's computer system, only about half of the CSCDs send information via CSTS, with CJAD receiving data on only about 20 percent of offenders.¹

JUDICIAL ADVISORY COUNCIL

To advise CJAD and the Board of Criminal Justice on local community supervision matters and on matters of interest to the judiciary, the Legislature created the Judicial Advisory Council (JAC) in 1989, taking the place of the separate Texas Adult Probation Commission. The JAC is composed of 12 members, with the Chief Justice of the Supreme Court and the Presiding Judge of the Court of Criminal Appeals each appointing six members to serve staggered, six-year terms. While statutory requirements for membership do not exist, the JAC is primarily composed of judges and attorneys. The JAC meets every other month or as needed.

The primary role of the JAC is to act as a liaison between TDCJ, the courts, and CSCDs and to provide expert advice to TBCJ on issues relating to community corrections. The JAC may also appoint committees of council members and non-members to study specific issues.

In 1993, the Legislature created the state jail system to incarcerate non-violent, fourth-degree felons.

State Jail Division

In 1993, the Legislature created the state jail system to provide an alternative form of incarceration for non-violent offenders to help reduce prison system overcrowding. This system consists of a new felony category, the state jail felony, and new low-security facilities, state jails, in which to house state jail felons apart from the main prison system. State jail felonies are fourth-degree felonies mainly consisting of non-violent drug and property offenses.

The state jail system exists to identify non-violent felons, divert them from expensive prison beds, and provide community based punishment and rehabilitation. The system permits judges to institute a range of sanctions from community supervision to incarceration in state jails. Judges may

sentence offenders directly to a state jail for up to two years. State jail confines serve their entire terms — parole is not available and TDCJ may not reduce sentences for good behavior.

TDCJ administers the state jail system through its separate State Jail Division. The state jail system consists of 17 units, with 11 being state-operated and six privately-operated as shown in the map, *State Jail Facilities in Texas*. The private facilities account for about 30 percent of the total state jail capacity. The State Jail Division also administers the Department’s Substance Abuse Felony Punishment Facilities (SAFPs), which are discussed in more detail under rehabilitative programs, later in this background. Appendix A contains a breakdown of the number, size, and type of each unit in both the State Jail Division and in TDCJ’s Institutional Division.

State Jail Facilities in Texas



Compared to the penal system at large, state jails are designed to be more focused on rehabilitation. State jails are located near metropolitan areas so that offenders serve sentences in their communities, allowing for easier rehabilitation. State jails also offer education, work, and substance abuse programs.

State jails are designed to be more rehabilitative than the prison system.

In addition to housing inmates convicted of state jail felonies, state jails may also house inmates convicted of more serious offenses who are awaiting transfer to a TDCJ Institutional Division prison. State jails do not, however, receive sex offenders or offenders with a history of assaultive or violent institutional behavior. Transfer inmates, who are considered under the *Ruiz* judgment to be in transit from county facilities to ID units, may be held in state jails for up to two years.

At the end of fiscal year 1997, the actual capacity of the State Jail System was 22,506, with state-operated facilities able to hold 14,720 and privately-operated facilities able to hold 7,786. In terms of actual offenders held, 6,919 were state jail confinees and 13,785 were transfer inmates. However, the number of state jail confinees has continued to grow and accounted for 8,183 by April 1, 1998. The text box, *Capacity within the Texas Department of Criminal Justice*, describes the overall capacity of TDCJ by type of prison facility.

At the end of their sentences, state jail confinees return to their communities without follow-up supervision. Unlike prison releasees, state jail releasees receive no release funds at the time of their discharge.

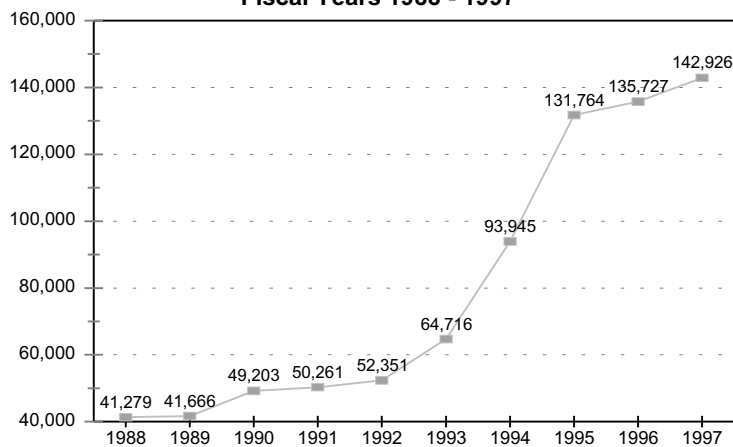
Institutional Division

At the time of the TDCJ consolidation in 1989, the former Texas Department of Corrections became the TDCJ Institutional Division (TDCJ-ID). Today, TDCJ-ID oversees the operations of the system's state prisons and medical facilities in accordance with the *Ruiz* final judgment. TDCJ-ID also oversees the operations of the state's transfer facilities, however, it does not have to meet *Ruiz* requirements for these. The text box, *Capacity within the Texas Department of Criminal Justice*, describes the overall capacity of TDCJ by each of these types of prison facilities. The following discussion of ID includes its organization, inmate confinement, housing and support of inmates, and inmate security.

Capacity Within the Texas Department of Criminal Justice

At the end of fiscal year 1997, TDCJ had a total system capacity of 142,962 up from a capacity of 41,279 just ten years earlier. The chart, *Growth in Prison Capacity—Fiscal Years 1988 - 1997*, shows the 250 percent growth rate over the last 10 years. Because of requirements placed on the Department under the *Ruiz* lawsuit and actions taken to implement *Ruiz* reforms, TDCJ determines capacity based density standards, support requirements, and classification limits. The total number of beds in the units does not determine capacity. Under the terms of the *Ruiz* Final Judgment, TDCJ has been able to segment its units into three systems, with each having unique capacity requirements:

**Growth in Prison Capacity
 Fiscal Years 1988 - 1997**



- **System I** - Older units built before the 1985 *Ruiz* Crowding Stipulation. They have smaller square footage requirements, but they also have a larger number of actual beds above their maximum allowable population.
- **System II** - Larger and newer units, built to *Ruiz* standards. These units provide more square footage per cell and per dormitory space, but they have few actual beds above their maximum allowable population.
- **System III** - Basically non-Institutional Division units, including State Jails, Transfer Facilities, and SAFPs, primarily built to the requirements of the Jail Standards Commission and not *Ruiz* standards. These are mostly dormitory facilities with no privacy partitions and much less square footage than required under *Ruiz*.

Based on these considerations, TDCJ's total capacity is summarized in the following table.

| Type Facility | Capacity |
|--|----------|
| State Prisons (System I and System II) | 91,849 |
| Medical Facilities | 3,027 |
| Private Prisons | 4,060 |
| Transfer Facilities | 16,348 |
| State Jails | 22,506 |
| Substance Abuse Felony Punishment Facilities | 4,858 |
| Boot Camps | 314 |

To deal with the overcrowding projected for 1998 and to avoid a backlog of state offenders in county jails, the Department was authorized to increase capacity by 5,440 by building four high-security additions to existing units and 19 trusty camp additions. These projects will be financed with \$130 million in existing bond authority. An additional high-security addition may also be added, depending on the continuing growth of the prison population. In addition, as of March 1998, TDCJ had entered into contracts with seven counties to provide space for 2,711 additional offenders until the new facilities are constructed.

ORGANIZATION

Four major sections make up the Institutional Division: Security, Security Operations and Budget, Support Services, and Management Support. The TDCJ Executive Director hires the Director of ID, who oversees the day-to-day operation and management of each section. Security, composed of five regional divisions, manages security of inmates and facilities within ID. Security Operations and Budget provides financial services for ID. Support Services includes classification, training, community liaison, public information, laundry, and food services.

The Institutional Division employs 30,000 employees. This total includes wardens, assistant wardens, majors, captains, lieutenants, sergeants, correctional officers, and administrative staff. As mentioned, the Institutional Division's facilities include 52 prisons and six medical facilities. The locations of these facilities are shown in the map, *TDCJ-ID Prisons*. Appendix A contains a breakdown of the number, size, and type of each of these ID units.

TDCJ - ID Prisons



INMATE CONFINEMENT

Intake — To avoid county jail overcrowding and backlog, the Legislature has required TDCJ to accept all felony offenders from county jails within 45 days of sentencing. TDCJ must pay for the cost of transporting offenders from the county of conviction, but County Sheriffs may provide the transportation if the Sheriff can do so as economically as TDCJ. Incoming inmates enter TDCJ either through a transfer facility or a diagnostic unit. While offenders who enter through a transfer facility may remain there for up to two years, offenders usually stay at a diagnostic unit only a few weeks.

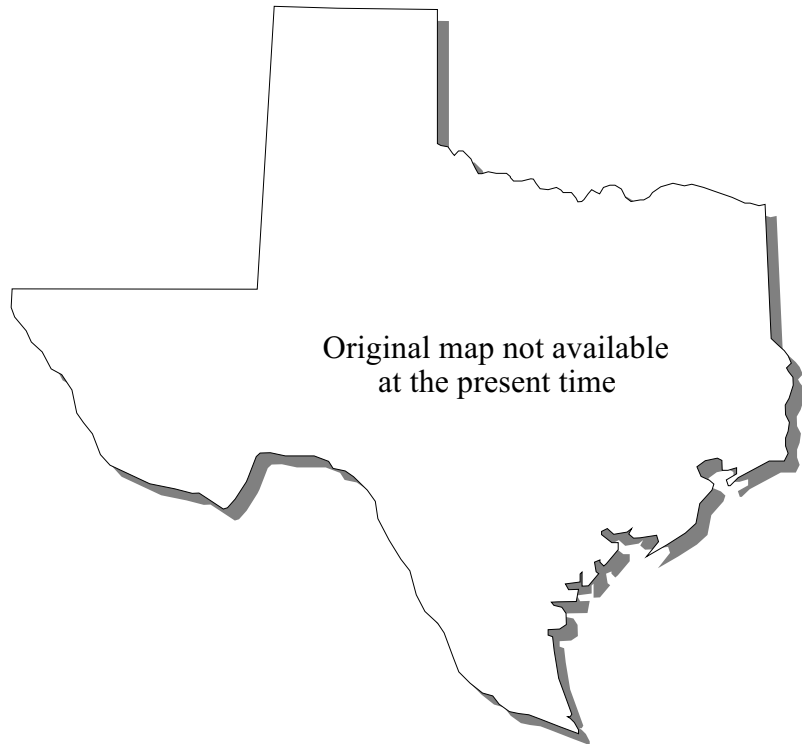
To avoid county jail
backlogs, TDCJ must
accept offenders
within 45 days of
sentencing.

Transfer Facilities — To ease overcrowding and facilitate offender placement, TDCJ may send an offender to one of 14 transfer facilities before permanently assigning them to an ID unit. TDCJ-ID actually operates these transfer facilities, but because it does so outside *Ruiz* requirements, it is able to maximize bed space. Inmates may remain in a transfer facility for a period of up to two years and earn good conduct time at the same rate as ID inmates, as explained in a later section. Transfer inmates participate in some education and substance abuse programs, and they work in support services to support each unit’s operations. They generally do not, however, have the opportunity for jobs in prison industries that offenders in other units do. Many inmates are eventually moved to a diagnostic unit where they are assigned permanent housing. TDCJ may, however, release some inmates from transfer facilities as they become eligible for parole or mandatory supervision before entering an ID facility. The location of these facilities is shown in the map, *TDCJ Transfer Facilities*. In addition, as mentioned previously, state jails are also used as transfer facilities.

Diagnostic Process — About 800 inmates enter a diagnostic unit each week. Most offenders come from a transfer facility, though the diagnostic unit may receive certain special needs or violent and assaultive offenders directly from the counties. The diagnostic unit for male offenders is located in Huntsville, and the diagnostic unit for females is located in Gatesville. The steps that TDCJ follows in the diagnostic process are detailed in the text box, *Diagnostic Process*.

| Diagnostic Process | |
|---------------------------------------|---|
| <i>Receiving and Screening</i> | Incoming offenders undergo a search and property inventory, receive urgent medical care, are interviewed to obtain basic information, and are assigned to housing based on security criteria. |
| <i>Identification</i> | Offenders are photographed, fingerprinted, and examined for identifying scars, marks, and tattoos. |
| <i>Health Examination</i> | Offenders undergo full medical, dental, and mental health examinations. TDCJ staff use this screening process to identify offenders with special needs, but offenders must self-declare disabilities that need to be accommodated in accordance with the Americans with Disabilities Act. |
| <i>Orientation</i> | Offenders learn about TDCJ policies, rules, and programs. |
| <i>Testing</i> | Windham School District staff administer educational tests to determine offender educational levels and needs. |
| <i>Sociological Interviews</i> | Offenders detail their criminal, social, employment, and family histories. |

TDCJ Transfer Facilities



Classification — After offenders complete the diagnostic process, a committee determines their long-term unit and cell assignment, custody level, job assignment, and good-time earning category. The classification process seeks to house similar offenders together. The classification committee at

| Classification Committee Responsibilities |
|---|
| <p><i>Reception and Diagnostic Center Classification Committee</i> — determines each offender’s first unit based on diagnostic information and the offender’s safety, security, and treatment needs. May also recommend a custody level, good-time earning category, permanent housing assignment, and job assignment.</p> <p><i>Unit Classification Committee</i> — assigns an offender to a custody level, cell, and job.</p> <p><i>Unit Administrative Segregation Committee</i> — reviews offenders for placement in administrative segregation and reviews offenders already placed in administrative segregation.</p> <p><i>State Classification Committee</i> — makes final decisions on agency-wide issues and unit or facility classification committee recommendations.</p> |

the diagnostic unit assigns each offender a segregation classification, which separates offenders by age and by their status as having been previously incarcerated. The classification committee also gives offenders a custody designation, which determines where they live and how much supervision they require. Once offenders arrive at the unit, a unit classification committee assigns them to a specific bed and job. Each decision is made by a committee composed of at least three people. The text box, *Classification Committee Responsibilities*, details the various committees and their responsibilities.

The classification committee determines an offender's custody level based on the amount of supervision the offender needs for the security of the institution, staff, and other offenders. While the key element in the custody level decision is an offender's behavior, other factors such as gang membership or a need for protection may be a consideration. The five custody levels include maximum, close, medium, minimum (in), and minimum (out), as explained in the text box, *Offender Custody Levels*.

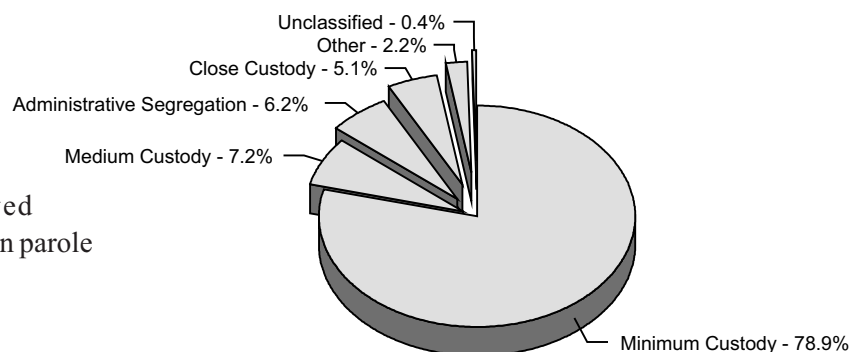
The graph, *Custody Level Population — Fiscal Year 1997*, shows the number and percentage of ID offenders at each custody level.

Death Row — Male offenders who receive the death penalty for capital murder serve their time on death row, located at the Ellis unit in Huntsville. The Mountain View unit in Gatesville unit houses female death row inmates. TDCJ classifies death row offenders into custody levels within the unit based on behavior, work eligibility, and other factors. Some offenders participate in work programs, while others remain in their cells for 23 hours per day. TDCJ also places additional restrictions on death row offenders concerning visits, security, and privileges. At the end of fiscal year 1997, the death row population consisted of 437 males and seven females. In 1997, the State executed 37 death row inmates.

Good Time — An offender's behavior affects not only custody level, but also time-earning status. Inmates receive good time credit for behaving well and participating in work and self-improvement programs while in prison. Good time credits added to the offender's actual calendar time served determine eligibility for release on parole and mandatory supervision.

| Offender Custody Levels |
|---|
| <p><i>Administrative Segregation (ad seg)</i> — the maximum level of security applied to offenders who pose a danger to other offenders or staff, or are in danger of harm from other offenders. The classification committee also routinely assigns gang members to ad seg. Offenders who violate discipline rules may serve in ad seg as temporary detention. Ad seg offenders are single-celled and may usually leave for one hour of recreation per day.</p> |
| <p><i>Close Custody</i> — offenders with serious disciplinary records who must be confined to cells instead of dormitories. Close custody inmates may be housed two per cell, are allowed two hours of recreation on most days, and require armed supervision to work outside the prison's security fence.</p> |
| <p><i>Medium Custody</i> — medium custody female offenders may live in dormitories, but medium custody male offenders must live in cells. These offenders may work outside the security fence with armed supervision and are allowed four hours of recreation on most days.</p> |
| <p><i>Minimum (In)</i> — offenders who can live in dorms and cells inside the security fence, and can work outside the security fence under armed supervision. These offenders are allowed five hours of recreation on most days.</p> |
| <p><i>Minimum (Out)</i> — offenders who may live in dorms outside the security fence and can also work outside the fence with little supervision. Sex offenders cannot qualify as minimum (out) inmates.</p> |

**Custody Level Population
Fiscal Year 1997**



TDCJ awards good time credit to inmates based on the offender’s security level and other work credits and bonuses. Inmates entering ID receive an assignment of Line Class I minimum (in) custody, earning 20 days of good time for every 30 calendar days served. After six months, offenders become eligible for promotion to higher time-earning classes, called State Approved Trusty (SAT) I, II, III, and IV. TDCJ may upgrade this assignment to minimum (out) or outside trusty custody at any time. Offenders who misbehave may

be demoted to Line Class II or Line Class III status, which means they earn less or no good time. Inmates in disciplinary status are not eligible for promotion for one year after their last major disciplinary case. The table, *Time Earning Categories — 75th Legislature*, shows the custody levels

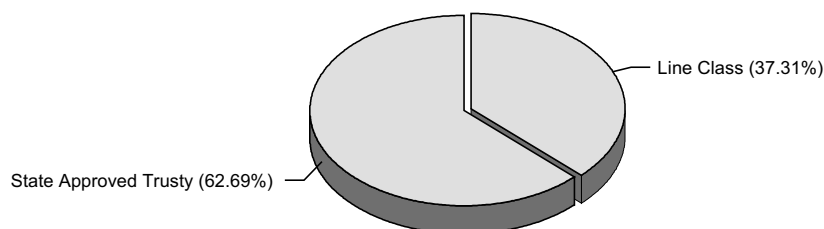
| Time Earning Categories 75th Legislature | | |
|---|---|---|
| Time Earning Category | Maximum Good Time Award Per 30-Days Served | Maximum Good Time Award with Work Credits for 30 Days Served |
| SAT I (minimum-out) SAT II (minimum-out) SAT III (minimum-in) | 30 | 45 |
| SAT IV (medium, minimum in) | 25 | 40 |
| Line Class I (close, medium, minimum-in or minimum-out) | 20 | 35 |
| Line Class II (close or medium custody) | 10 | 25 |
| Line Class III (close or medium custody) | 0 | 0 |

and how they correlate to the different time-earning classes currently in effect. The chart, *TDCJ Population by Time Earning Category*, shows that the majority of offenders are in the higher time-earning State Approved Trusty category.

Under current law, an offender may earn a maximum good time award of 30 days plus an additional 15 days of good time for participating in a work program. This maximum good time award is 45 days of additional credit for

each 30 days served. The actual amount of good-time credit is based on the statute that was in effect when the offender was convicted. Prison officials may take away all or part of an inmate’s good time for misbehavior. Once forfeited, good time cannot be restored.

**TDCJ Population by Time Earning Category
Fiscal Year 1997**



Offenders' Daily Routine — Most offenders begin their day around 3:30 a.m. During a typical day, inmates shower, participate in work and educational programs, recreate in day rooms and recreational yards, eat meals, and go to bed at 11:00 p.m. Inmates may also work in craft shops, participate in religious programs, and read in law libraries. TDCJ requires all offenders to work in the various prison industries and work programs, unless they are ill, in transit status, or are full-time students. An average weekday schedule appears in the text box, *Offenders' Daily Schedule*.

| Offenders' Daily Schedule | |
|----------------------------------|--|
| a.m. | |
| 3:30 | Inmate day starts, morning meal begins |
| 6:00 | First industry shift begins |
| 6:45 | School, college, and trade schools start |
| 8:00 | Morning count |
| 8:30 | Gym, outdoor recreation yard, and commissary open |
| 10:00 | Noon meal begins |
| p.m. | |
| 1:00 | Afternoon count |
| 2:00 | Law library, school library, craft shop, and barber shop open |
| 3:30 | Evening meal begins |
| 4:00 | Law library, school library, craft shop, commissary, and barber shop close |
| 6:00 | Evening meal ends |
| 6:30 | Gym, outdoor recreation yards, law library, craft shop, commissary, and barber shop reopen |
| 8:30 | Gym, outdoor recreation yards, law library, craft shop, commissary, and barber shop close |
| 10:40 | Dayrooms close |
| 11:00 | Inmates in cells, evening count begins |
| a.m. | |
| 1:00 | Count |
| 2:30 | Count |

HOUSING AND SUPPORT OF INMATES

In 1997, Institutional Division facilities operated at an estimated cost per day, per inmate of \$39.51. This cost per day estimate represents the average operational cost for all ID facilities and includes expenditures for administration, security, food, clothing, transportation, education, medical services, psychiatric services, and substance abuse treatment. The actual cost per day of each inmate varies according to the custody level, unit location, and services.

Agriculture — Agricultural operations are fundamental to TDCJ's housing and support systems. Some of the functions served by agriculture are to:

- economically meet TDCJ's food and fiber requirements;
- generate revenue from sales of surplus agricultural products; and
- use inmate labor to reduce housing costs, while providing an opportunity to learn job skills and work habits.

To accomplish these objectives, the Agriculture Division manages nearly 140,000 acres of farm land located in 33 counties and 43 units throughout the state. Approximately 21,000 offenders work in the Division's agricultural operations. The final products of TDCJ's agriculture programs account for 20 percent of the food consumed in facility kitchens. The agency purchases the remaining 80 percent of its food needs on the open market. The text box, *TDCJ Agricultural Products*, details the products TDCJ grows and lists the processing plants the agency operates to turn the raw products into food.

| TDCJ Agricultural Products |
|---|
| <i>TDCJ produces</i> |
| <ul style="list-style-type: none"> ● 36 varieties of edible crops ● field crops including corn, maize, alfalfa, cotton, and hay |
| <i>TDCJ maintains</i> |
| <ul style="list-style-type: none"> ● 9,570 head of cattle ● 28,000 head of swine ● 270,000 hens ● 1,600 horses ● 1,700 dogs |
| <i>TDCJ operates</i> |
| <ul style="list-style-type: none"> ● a pork packing plant ● a beef processing plant ● a vegetable canning plant ● two feedmills ● two cotton gins ● an alfalfa dehydrator |

The Board of Criminal Justice receives advice on agricultural issues from a statutorily-created board, the Advisory Committee on Agriculture. The Board appoints this five member committee which consists of one member of the Board, one faculty member of Texas A&M University, and three public citizens. While the Advisory Committee on Agriculture is required to periodically evaluate TDCJ's agricultural operations, it has only met once per year in practice. The Agriculture Division also receives guidance and advice from Texas A&M University and Sam Houston State University and from the private sources such as the King Ranch.

Food Service — The Food Service Division prepares meals for all inmates in ID prisons, substance abuse facilities, detention facilities, transfer facilities, and state jails. Food Services operates 126 kitchens and serves 180 million meals per year. TDCJ has assigned about 12,000 offenders to work in its kitchens to reduce the cost of incarceration.

Laundry — All facility laundry needs are met by ID's Laundry Services Division. Prison laundry consists mainly of inmate clothing and bedding materials, but also includes TDCJ employee clothing. Each year, Laundry Services cleans 142 million pounds of laundry, 6 percent of which is employee laundry. Correctional officer uniforms are cleaned free of charge and other employee laundry is cleaned for a nominal fee. All units provide laundry facilities. As with Food Services, to reduce its operating costs, TDCJ has assigned about 7,000 offenders to work in prison laundries.

Land and Mineral Holdings — TDCJ owns land at 61 sites throughout the state. These sites range in size from one-third of an acre to 23,540 acres. In total, TDCJ owns approximately 130,000 acres of land. In 1997, the Legislature required TDCJ to earn at least \$8.5 million from the sale or lease of its land in fiscal year 1998 or risk losing funding by the same amount for fiscal year 1999. TDCJ is working with the General Land Office (GLO) to identify departmental land that is not being used by the agency for correctional, agricultural, industrial, or other uses. Once this surplus land is identified, GLO will assist TDCJ in performing the necessary work to either sell or lease the property.

TDCJ owns 130,000
acres at 61 sites
throughout Texas.

TDCJ leases portions of its land to private interests for the exploration and development of oil, gas, and other minerals. Private drilling or mining companies pay royalties to TDCJ during periods of mineral production in exchange for the use of state land. Royalties are assessed on a percentage of gross mineral production. Five oil and gas producing units in operation on TDCJ land earned \$964,000 in royalties in fiscal year 1997. Private oil and gas interests have leased other sites from TDCJ, but will only pay royalties if they begin production.

In addition to royalties, TDCJ's land and mineral resources earned \$4.1 million in fiscal year 1997 for the agency. Bonus payments accounted for 90 percent of this income. TDCJ receives a bonus payment when a lease on a tract of land is signed. The remaining 10 percent of the income came from activities such as structure and lignite leases and easements.

Offender Information Management and Reengineering — Managing the records of Texas' 681,000 incarcerated felons, parolees, and probationers presents a challenge for TDCJ's Central Classification and Records, Intake Facilities, Parole Administration, and Data Services Areas. Information management includes gathering, storing, retrieving, using, and distributing offender information. Over the past few years, weaknesses in TDCJ's computer systems have created a need for TDCJ to redesign, or reengineer, its offender information management (OIM) processes. Several factors within TDCJ's information management systems make reengineering a necessity, including:

- tremendous growth in the number of offenders and the inability of TDCJ's paper-based OIM processes to keep pace;
- over reliance on the manual gathering, storing, and retrieving of most of TDCJ's offender information; and
- computer use for processes that are often duplicated manually.

Consequently, TDCJ's current information management system results in frequent duplication of effort, inaccurate and inconsistent data, difficulty in getting data from one source, and long delays in retrieving data.

To solve its offender information management problems, TDCJ formed a Reengineering Steering Committee made up of division directors that reports to the Executive Director. The Steering Committee's purpose is to provide direction, resources, and focus for the overall reengineering effort. TDCJ also formed employee teams to carry out the phases of the reengineering effort. The text box, *Phases of TDCJ's Reengineering Project*, explains the three phases.

TDCJ is trying to solve its offender information management problems by reengineering its computer processes.

| Phases of TDCJ's Reengineering Project | |
|---|---|
| <i>Phase I</i> | Completed in April 1997 and resulted in <ul style="list-style-type: none"> ● assessing current information environment ● developing a blueprint for process redesign ● identifying opportunities for immediate positive change |
| <i>Phase IIa</i> | January to June 1998 Objective is to reengineer business processes |
| <i>Phase IIb</i> | July to December 1998 Objective is to design the information technology needed to support the reengineered processes |
| <i>Phase III</i> | 1999 to 2001 Objective is to develop and implement systems to support the redesigned processes and to implement the redesigned systems. |

TDCJ's Security
Division is its largest
employer with 27,000
employees.

INMATE SECURITY

Security Personnel — The Institutional Division's Security Division is the largest employer of all TDCJ divisions with a payroll of about 27,000 employees. Security officers are assigned military-type ranks. These ranks, from lowest to highest, are correctional officer, sergeant, lieutenant, captain, major, assistant warden, and warden. Wardens and assistant wardens perform dual functions as a unit's top security officer and head administrator.

All security personnel must pass TDCJ's pre-service and in-service training requirements. Pre-service training, consisting of 160 hours of classroom instruction and a comprehensive exam, takes place at TDCJ's training center in Beeville or at a number of community colleges throughout the state. In-service training, consisting of 40 hours per year, is held at five sites throughout the state.

Internal Affairs — The Internal Affairs Division (IAD) is the primary investigative arm of TDCJ. Its purpose is to objectively investigate allegations of employee misconduct and criminal violations at TDCJ facilities. IAD also investigates suspected criminal violations by offenders at TDCJ facilities. One of IAD's top priorities is investigating reports of excessive or unnecessary uses of force by correctional officers as well as allegations of harassment and retaliation against inmates.

Internal Affairs receives reports of misconduct and possible criminal activity at state correctional facilities from sources both inside and outside TDCJ. Internal sources include the Board of Criminal Justice, TDCJ administration, offenders, and the use-of-force review team. Outside sources include state and federal law enforcement agencies, state officials, offender advocacy groups, and offender families and friends.

Internal Affairs officers separate cases into two categories, administrative and criminal. If IAD finds that a case involves only violations of TDCJ policy, it designates the case as an administrative case and routes it to the appropriate division director for disciplinary against the employee or offender at fault. If IAD finds that case involves violations of law, it designates the case as a criminal case and refers it to the Special Prison Prosecution Unit in the Walker County Criminal District Attorney's Office. With assistance from IAD investigators, the Special Prison Prosecutor tries criminal cases in the county in which the unit is located. IAD is also responsible for apprehending inmates who have escaped from TDCJ, and participates in the apprehension of fugitives who are parole violators.

| Use of Force Definitions |
|---|
| <p><i>Minor Use of Force</i> Any physical contact with an offender in a confrontational situation to control behavior or to enforce order.</p> <p><i>Major Use of Force</i> A minor use of force becomes major if an officer:</p> <ul style="list-style-type: none"> ● applies restraints ● uses chemical agents ● employs any offensive contact or defensive physical hold, or ● causes an injury. <p><i>Deadly Use of Force</i> A major use of force becomes a deadly use of force if a firearm is discharged.</p> |

Use of Force — TDCJ security officers may use force when necessary to control inmates. A use-of-force incident occurs any time a TDCJ employee physically contacts an inmate to control the inmate or enforce behavior. Use-of-force incidents range from minor through major to deadly. The text box, *Use of Force Definitions*, details the levels of force used by TDCJ officers.

To reduce unnecessary or excessive use of force by security officers, TDCJ has adopted a use-of-force plan. This plan defines the techniques that are acceptable to control an offender and the actions that can be taken to prevent the need to use force. The plan requires an officer to use only the minimum amount of force necessary and prohibits using force as a disciplinary action.

The use-of-force plan also defines how correctional officers must document and how TDCJ management personnel must report and investigate incidents. Following each major use-of-force incident, the correctional officer involved must submit a written report to the warden. The Regional Director reviews each report, and TDCJ’s Internal Affairs Division investigates all allegations of excessive or unnecessary use of force. If IAD determines the use of force to have been excessive or unnecessary, it may refer the case to the Special Prison Prosecutor’s Office in Walker County for criminal prosecution. The text box, *Use of Force Review Process*, details the steps that TDCJ follows to investigate use-of-force incidents.

| Use of Force Review Process |
|---|
| <ul style="list-style-type: none"> ● Within 24 hours of a use-of-force incident, the unit must report the incident to TDCJ’s Emergency Action Center (EAC). ● Within 10 working days of the report filing, the warden must review the use-of-force report and send it to the Regional Director or State Jail Director. ● Within 10 working days of receipt, the Regional Director or State Jail Director must review the report and send it to the Internal Affairs Division. ● Within 10 working days, the Internal Affairs Division must review the report and return it to the Use of Force Office. ● Within two working days, the Use of Force Office must recheck the report and send it to Legal Affairs. ● Within 10 working days, Legal Affairs must review the report and send it to the Internal Affairs central office for filing. |

Offender Disciplinary Procedure — TDCJ-ID employees verbally reprimand offenders when witnessing a rule violation. If an incident cannot be resolved informally, the officer may file a disciplinary report to formally charge the offender. Depending on the severity of the rule violation, a minor or major disciplinary hearing will be called to review the circumstances of the incident and assess possible punishment. The text box, *Offender Disciplinary Hearings*, describes each type of hearing.

| Offender Disciplinary Hearings |
|---|
| <p><i>Minor Disciplinary Hearing</i> — A minor disciplinary hearing is an administrative hearing, presided over by a security officer, to notify an offender that misbehavior will not be tolerated. Minor hearings may be held because the offender does not have a record of rule violations or is new to ID and did not understand the rules. Minor hearings can result in reprimand; extra work duty; loss of recreation, commissary, or contact visitation privileges; or cell restriction, but cannot result in punitive segregation; reduction in class; or loss of good conduct time.</p> <p><i>Major Disciplinary Hearing</i> — A major disciplinary hearing is an administrative hearing, presided over by a unit disciplinary hearing officer, to process serious rule violations. Examples of rule infractions that can result in a major disciplinary hearing include: possession of a weapon, trafficking in contraband, and creating a disturbance. If an inmate is found guilty in a major disciplinary hearing, his punishment can include punitive segregation, reduction in class, or loss of good conduct time.</p> |

Disciplinary Procedures for Employees — TDCJ supervisors counsel employees to correct unacceptable behavior before pursuing formal disciplinary procedures. If informal action fails to correct the behavior, an employee offense and pre-hearing investigation may be conducted and sent to the appropriate reprimanding authority for consideration of disciplinary action. A reprimanding authority appointed by the appropriate division director presides over the hearing. Disciplinary action can include a reprimand, disciplinary probation, suspension without pay, reduction in pay, demotion, or dismissal. Rule violations are categorized based on their level of severity and range from Level 4, which is the least serious, to Level 1, which is the most serious. The text box, *Examples of Employee Rule Violations*, gives some examples from each category.

| Examples of Employee Rule Violations | |
|---|---|
| <i>Level 4</i> | Tardiness, failure to follow proper safety procedures |
| <i>Level 3</i> | Unexcused absenteeism, insubordination, use of profane or abusive language |
| <i>Level 2</i> | Delivery or possession of contraband, use of excessive force if provoked and serious injuries resulted, use of racial slurs |
| <i>Level 1</i> | Use of unprovoked excessive force resulting in serious injuries, positive alcohol or drug test results |

Inmate Grievance Process — TDCJ has established a formal grievance procedure that offenders must complete before they may take legal action on a complaint against the Department. The procedure provides a mechanism for offenders to seek redress for almost any operational matter under TDCJ's purview, including physical abuse, harassment, retaliation, health and safety violations. Grievances must be about something that can be fixed, and they must affect the offender filing the grievance. An offender first fills out an official Step 1 grievance form which is readily available throughout prison units and places it in a locked box for grievances or mails the forms to the unit's grievance investigator.

Grievance investigators investigate complaints and direct the grievance to appropriate decision makers. Depending on the nature of the complaint, the decision maker may be the unit's warden, assistant warden, facility administrator, or health authority. The decision maker then has 40 days to respond in writing to the grievance.

If an offender is not satisfied with the response, he can file an appeal using the Step 2 grievance form. Departmental grievance investigators investigate appeals and direct the grievance to the appropriate decision maker. Step 2 appeals are decided at the Institutional Division regional director level or by an assistant director for the State Jail Division. This decision maker must then respond to the complaint within 40 days. The grievance process has run its course after the appropriate decision maker has responded to the offender's appeal. When found to have merit, inmate grievances may result in the repayment to the offender for the loss of personal property or the reconsideration of disciplinary action against an offender.

Pre-Release — When offenders approach their release from prison, they may be placed in a unit that is able to provide programming to ease their transition to the free world. Typically, these activities are reserved for offenders that are within six months of release from TDCJ and are held in minimum custody.

These pre-release programs operate as therapeutic communities in which participants reside together in an environment designed to promote positive change by emphasizing personal responsibility, proper social interaction, and mutual respect. Pre-release activities prepare offenders for life outside prison by offering programs such as life skills classes, substance abuse treatment, educational services, vocational training, and employment planning.

The inmate grievance process provides an official mechanism for offenders to seek redress before legal action.

TDCJ-ID provides some pre-release programming through its new rehabilitation tier of facilities. This tier of programs is designed to help reduce recidivism by combining a pre-release component with additional programming such as substance abuse and sex offender treatment and faith-based counseling. The following section discusses TDCJ's rehabilitative programs in more detail.

TDCJ Contracts for Correctional Services

In 1989, the Legislature authorized the Board of Criminal Justice to contract with private prison vendors to house certain offenders. These offenders housed in private facilities remain in the legal custody of ID, but vendors provide security, programs, and services to these offenders. The Legislature also placed restrictions on TDCJ's contracts with private facilities concerning construction, costs, insurance, population, and standards of confinement. For example, the Board must give priority to contracts that would help reintegrate offenders to society through pre-release or work-related programming. In addition, these private facilities may confine only minimum or medium security inmates, and they must offer comparable services as TDCJ and achieve a savings of at least 10 percent over state-operated facilities. Finally, the Legislature established a cap of 4,080 beds that the Board may have under contract.

The Board may also contract with counties and private vendors to augment the Department's capacity in times of prison crowding. In anticipation of the system running out of capacity in the Spring of 1998, the Board entered into contracts with seven counties and private facilities for a total of 2,711 additional beds. These contracts were expected to provide capacity until the Department is able to construct new facilities.

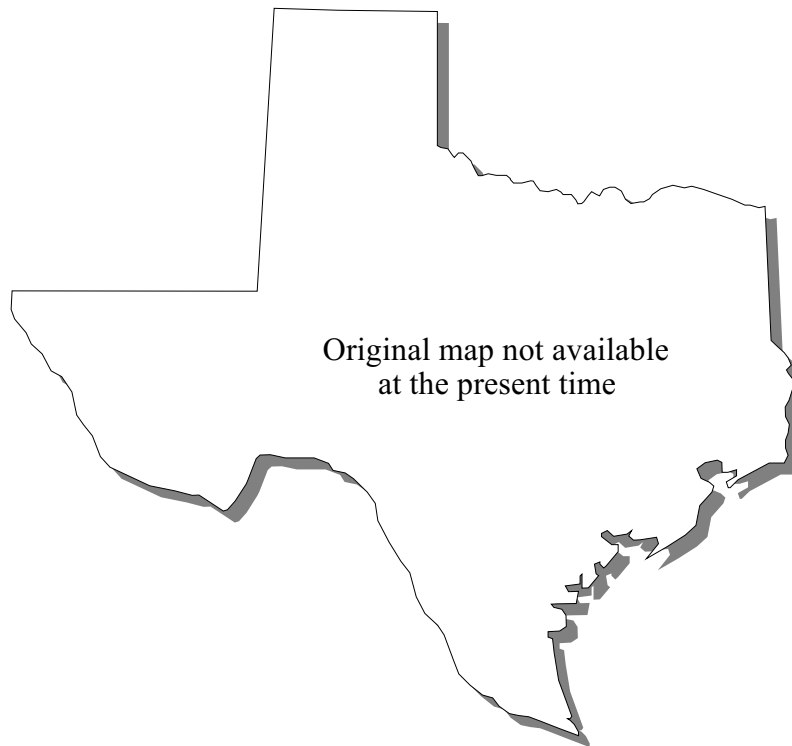
Private operators, however, provide most of the pre-release programming through contracts with the Department. Currently, private providers operate seven facilities throughout the state, with 4,060 beds available for pre-release programming. The text box, *TDCJ Contracts for Correctional Services*, describes this arrangement with private providers in greater detail. The map, *TDCJ Private Prison Facilities*, shows the locations of these seven units.

Release — TDCJ releases most male inmates from Huntsville regardless of where the offender served his sentence. A small number of offenders are released from the Kyle unit in Hays County, after completing pre-release programming as part of the parole approval process. TDCJ releases each female inmate from Gatesville. At the time of release, an offender receives a bus ticket to his or her county of residence. In addition, an inmate receives a set of clothes and gate money. Gate money for parolees is \$50 at the unit and an additional \$50 upon arrival at their parole office. Inmates who discharge their sentence and are not released on parole or mandatory supervision receive \$100 at the unit.

Rehabilitative Programs

TDCJ administers a number of programs designed to rehabilitate offenders. The following sections discuss TDCJ's major programs, Texas Correctional Industries, Windham School District, ReIntegration of Offenders (Project RIO), youthful offender program, sex offender treatment, substance abuse treatment, chaplaincy, and community service.

TDCJ Private Prison Facilities



TEXAS CORRECTIONAL INDUSTRIES

In 1963, the Legislature directed TDCJ to develop a prison industry program using inmate labor to produce goods. Inmate-made goods were intended to be used within the prison system and sold to other tax-supported entities, but not to be allowed onto the open market.

TDCJ has assigned the responsibility for the operation of the prison system's production facilities to its Texas Correctional Industries (TCI). TCI must meet seven statutory objectives, including providing employment training for offenders and using offender to produce goods to keep down the cost of confinement. TCI currently operates 44 production facilities that produce cloth, graphics, metal, and wood products. TCI's customers include ID, the State Jail Division, other state agencies, and political subdivisions such as cities, counties, and school districts. Some 8,000 offenders are assigned to work in TCI factories.

TDCJ also participates in the federal Prison Industry Enhancement (PIE) program that is overseen by the autonomous Private Sector Prison Industry Oversight Authority. This program encourages private businesses to establish industries at prison units and employ inmates. To participate, businesses must certify that inmate labor will not displace local workers and must pay offenders the prevailing wage for that industry. Deductions from offenders' wages provide for victim restitution and cover the cost of incarceration. The Legislature has limited the program's size to 1,500 offenders. Currently, two private businesses participate in the PIE program at the Lockhart pre-release facility producing computer circuit boards and valves for air conditioning units. In 1997, 150 offenders participated in this program, paying \$501,998 for victim restitution, supervision fees, and reimbursement for the cost of incarceration.

WINDHAM SCHOOL DISTRICT

The Legislature created the Windham School District in 1969 to educate offenders during their prison stays. Only inmates who have not earned a high school diploma may participate in Windham classes.

TDCJ's Windham School District operates like any other school district in the state.

Windham courses range in offerings from basic literacy and mathematics to GED preparation courses and vocational training, life skills, and career classes. Although Windham has campuses statewide, the system lacks the local property tax base available to Texas school districts. Instead, Windham receives its funding from the Texas Education Agency (TEA) based upon student attendance.

Except for its location within the prison system, Windham functions much the same as any other school district in the state. Windham must comply with state curriculum requirements established by TEA and its teachers must be certified under the same requirements as other public school teachers. One significant difference from other public schools is a Windham effort to assist offenders in securing gainful employment upon release. Through Project RIO (ReIntegration of Offenders), Windham works with the Texas Workforce Commission, to place offenders in gainful employment upon release.

In the 1996-97 school year, 70,829 offenders participated in at least one Windham program. Of 7,963 offenders taking the GED, 5,027 students passed. Another 8,125 offenders earned vocational certificates.

Windham provides post-secondary academic and vocational programs through contracts with local colleges and universities near the units. The Windham Division of Continuing Education oversees the post-secondary

contracts and ensures eligibility for participating offenders beyond the high school level. Post-secondary course work includes certificate and for-credit vocational work, along with select degree programs from the associate level through the master’s level. With the exception of master’s degree courses, the State pays for the first college-level course each semester, with the offender reimbursing the State upon release. Additional courses each term must be paid directly out of inmate accounts. In the 1997 fiscal year, 9,326 students enrolled in continuing education courses, with more than 1,700 junior college vocational credit certificates and 329 post-secondary degrees—including 20 master’s degrees—awarded.

PROJECT RIO

Project RIO aims to place releasees in steady employment, thereby reducing recidivism. The program works by providing job training to offenders through the Windham School District and finding employment through the Texas Workforce Commission for those offenders upon release from prison. In fiscal year 1997, Project RIO was instrumental in placing 14,077 offenders in jobs following incarceration. Since its inception, a total of 119,197 ex-offenders have found employment after contact with Project RIO.

YOUTHFUL OFFENDER PROGRAM

TDCJ’s youthful offender program is designed to help juveniles adjust to life in adult correctional facilities. A program participant must be an offender who is between 14 and 17, was tried as an adult, and sentenced to TDCJ-ID. The program has accepted offenders as young as 14, and currently, has about 100 offenders. TDCJ segregates youthful offenders from the adult prison population and houses them in the sheltered-housing area at the Clemens unit in Brazoria.

The youthful offender program provides structured programs to prepare juveniles either for life in an adult correctional facility or for successful reintegration into the community. The program involves a system of privileges and sanctions used as an offender management tool and as a therapeutic technique to reinforce acceptable behavior. Components of the program include individualized treatment programs, education, skills training, faith-based programs, and community service projects. The three phases of the program — orientation, delivery, and conclusion — are detailed in the text box, *Components of the Youthful Offender Program*.

| Components of the Youthful Offender Program |
|---|
| <p><i>Phase I - Orientation</i> Objective: youthful offender to achieve appropriate behavior to function in prison</p> <p><i>Phase II - Delivery of Program</i> Objective: youthful offender to become involved in the components of the program’s curriculum</p> <p><i>Phase III - Program Conclusion</i> Objective: to prevent relapse of inappropriate behavior and prepare for transition to an adult unit or release</p> |

SEX OFFENDER TREATMENT PROGRAM

The Sex Offender Treatment Program provides treatment designed to reduce the recidivism of offenders who committed sexual offenses. Treatment begins 18 to 24 months before release and is divided into three phases. The objective of the evaluation and treatment phase is to begin to break offenders' denial mechanisms and to initiate offenders' accepting responsibility for their deviant behavior. The therapeutic community phase uses a structured living environment with intense individual and group therapy to try to change offenders' deviant behaviors and thought processes. The third phase, relapse prevention, relies on continued group counseling to develop empathy for the victim and strategies to preventing relapses after release from prison. Relapse prevention also focuses on post-release responsibilities of these offenders under parole supervision, such as finding free-world treatment providers and registering with local law enforcement as required by law.

The number of sex offenders who have received treatment is just a fraction of the total number of sex offenders in TDCJ-ID. As of March 5, 1998, TDCJ-ID had identified 23,182 offenders incarcerated for sex offenses or sex-related offenses. However, because the Sex Offender Treatment Program is voluntary and because of the reluctance of many sex offenders to submit to treatment, the program has operated well below its capacity. Of a treatment capacity of 378, the program only had 220 participants as of February 28, 1998. For all of fiscal year 1997, only 70 sex offenders completed treatment. TDCJ has indicated that it plans to increase the capacity of its sex offender treatment program to approximately 800 beds and make treatment mandatory by September 1, 1998. While very few, if any, sex offenders are released on parole, many are released on mandatory supervision. In fiscal year 1997, TDCJ had to release 1,183 sex offenders on mandatory supervision.

SUBSTANCE ABUSE TREATMENT

TDCJ provides substance abuse counseling services at Institutional Division units for chemically-dependent offenders. The goal of the substance abuse programs is to prevent future crimes by removing the influence of alcohol, drugs, and other mind-altering substances on offenders. The need for substance abuse programs is highlighted by a recent study showing that substance abuse is implicated in the incarceration of 80 percent of inmates.²

In terms of dollar expenditures, substance abuse treatment is the largest of TDCJ's rehabilitative programs. About 5,300 beds are available for substance abuse programs mostly for probationers and parolees, but also for offenders in prison. TDCJ operates these beds at almost full capacity.

Substance abuse treatment is the largest of TDCJ's rehabilitation programs.

Based on tests taken at the beginning of incarceration, TDCJ may require offenders to participate in substance abuse treatment programs. All offenders attend a 24-hour substance abuse program and any inmate may request to take a longer program. These programs include group counseling sessions, individual counseling, and pre-release activities. TDCJ also provides two types of virtually identical intensive substance abuse programs called Substance Abuse Felony Punishment Facilities (SAFPs) and In-Prison Therapeutic Communities (IPTCs).

SAFPs and IPTCs confine offenders in secure facilities and provide continuous intensive treatment. The goal of these programs is to equip offenders with the tools needed to live in society after incarceration. To achieve this goal, SAFPs and IPTCs follow a modified therapeutic community model that consists of intense substance abuse treatment, highly structured therapy and work schedules, confrontational peer groups in a supportive community setting, and aftercare.

Most offenders progress through the therapeutic community by completing three phases within 9 to 12 months. Each phase lasts approximately three months. The text box, *Phases of the Therapeutic Community Treatment Program*, gives more detail on the treatment phases.

| Phases of the Therapeutic Community Treatment Program |
|---|
| <p><i>Orientation Phase</i> — Offenders learn about the concept of the therapeutic community, structure, rules, and expectations of the program. A therapeutic community is a highly-structured group process which relies heavily on peer input and feedback to teach lessons of personal responsibility, respect, and appropriate social interaction.</p> <p><i>Main Treatment Phase</i> — Professional counselors facilitate groups in which participants explore counseling issues. Participants focus on issues such as emotional issues, personal relapse triggers, interrelationships, and taking responsibility for one’s actions.</p> <p><i>Transitional Phase</i> — Offenders focus on relapse prevention, family relationships, and life outside the institution. With a team of treatment counselors, transition coordinators, Community Supervision Officers, and family members, offenders develop supervision plans for life outside the facility. Supervision plans include continued recovery treatment, living arrangements, educational programs, and employment plans.</p> |

Upon completion of the three treatment phases, offenders begin a two-phase Continuum of Care program designed to ease the offender’s transition from the SAFP or IPTC to the community. In the first phase, offenders stay at a residential Transitional Treatment Center for 30 to 90 days. Here the

offender's employment schedule is fit into his treatment regimen. Next, the offender moves out of the residential facility and receives outpatient treatment for nine to 12 months.

Substance Abuse Felony Punishment Facilities — SAFPs are operated much the same as State Jails. Currently, TDCJ operates 11 SAFP facilities, with three of them located on ID facilities. The map, *Substance Abuse Treatment Facilities at TDCJ*, shows the location of these SAFPs. Local Community Supervision and Corrections Departments perform the screening, assessment, and referrals for chemical dependency problems at SAFPs. Judges use this information to place felony offenders into a SAFP either as an original condition of community supervision or as a modification of community supervision. Eligible offenders must be identified as having drug or alcohol abuse problems that significantly contributed to the crime and must not have committed an aggravated violent offense.

**Substance Abuse Treatment
Facilities at TDCJ**



SAFPs also treat former In-Prison Therapeutic Community participants who have violated a condition of release. The Board of Pardons and Paroles may opt to send violators to a SAFP facility instead of sending them back to prison. Special needs SAFP also provide out-patient services to offenders with medical or psychological needs.

Offenders are confined to SAFP for unspecified amounts of time of not less than 90 days or more than one year. At least every 60 days, qualified treatment professionals complete and send to the sentencing court an evaluation of the resident's progress. If the treatment professionals determine the offender's conduct requires a revision of the tentative release date, they must notify the court immediately. A 1997 study of SAFP showed that offenders who participated in the program returned to prison at half the rate of comparable offenders who did not participate.³

In-Prison Therapeutic Communities — The Board of Pardons and Paroles determines which offenders will participate in an IPTC as a condition of release. Board members review inmate parole files and approve parole contingent upon successful completion of the IPTC program. IPTCs are located in the Kyle unit in Kyle for male offenders and in the Hackberry unit in Gatesville and Henley unit in Dayton for female offenders.

CHAPLAINCY PROGRAM

TDCJ's Chaplaincy Program aids in the rehabilitative process by serving the religious and spiritual needs of offenders. Most units employ both Catholic and non-Catholic Christian chaplains, with Islamic, Jewish, and other chaplains available regionally. In addition to leading organized religious services, chaplains provide individual counseling, assistance in grieving, and other services to interested parties.

The religious freedom of inmates is guarded carefully in accordance with federal law, which prevents government interference with the free exercise of religious beliefs. TDCJ's Religious Policy Statement explains how a religious preference is recognized and how it may be practiced within the prison setting, including how staff is to consider religious freedom when in conflict with safety issues.

The Chaplaincy Program operates three visitor centers for inmate families. The Chaplaincy Program also operates a religious volunteer program that annually organizes and trains more than 11,000 volunteers to staff visitor centers, assist with religious services and programs, or lead personal development programs in the units.

Offenders who participated in Substance Abuse Felony Punishment Facility programs returned to prison at half the rate of those who did not participate.

More than 11,000 Texans volunteer each year in TDCJ's Chaplaincy Program.

COMMUNITY SERVICE

Community service projects are a means for the offenders to provide low-cost services to communities. While TDCJ has little involvement with the large majority of community service ordered by judges as a condition of community supervision, the Department does oversee community service efforts by its confinees. The agricultural programs of TDCJ regularly donate food to area food banks, while a few units have established Habitat for Humanity chapters to build low-cost housing. Inmates who participate in community-based service projects are minimum (out) custody level. State agencies that benefit from inmate services include the Department of Transportation, Parks and Wildlife Department, and Department of Public Safety.

Victim Services

The victim services program, created in 1993, focuses on the needs of crime victims and their families. In 1997, TDCJ elevated the program to a separate Victim Services Division. The Division trains criminal justice professionals in sensitivity to crime victims, assists victims of offenders in TDCJ, and operates a victim notification system to keep victims informed of changes in an offender's status. The offender's victims can receive services from TDCJ upon conviction. Before conviction, victim services are the responsibility of local law enforcement agencies.

Programs provided by the Victims Services Division include mediation, execution witness, and victim notification. In the mediation program, the victim or the victim's family has the opportunity to meet the offender who committed the crime against him or her. Often, the victim seeks information about the crime and an expression of remorse. In the execution witness program, victims or their families may view the offender's execution in a room separate from the offender's family. Victim Services Division staff offer extensive counseling for the victim before and after these encounters.

The Victim Services Division also provides a process to notify crime victims on changes in offender status. Upon registration with Victim Services, a victim will receive letters that provide information about offender sentencing, parole hearings and decisions, deaths, revocation of parole, absconder warrant information, and escape. In the event of an inmate escape, registered victims are notified immediately by telephone. The toll-free system may be accessed only by registered victims and only for information regarding their specific offenders.

The Victim Services
Division notifies
crime victims of
changes in an
offender's status.

The Division also houses the Crime Victim Clearinghouse, which provides information and referral on victim issues to victims, victim service providers, and criminal justice professionals. The Clearinghouse also holds an annual conference on victim related topics, and it updates the Victim Impact Statement as required by law. The Division also serves as a liaison between victims and the Board of Pardons and Paroles, helping set up appointments with Parole Board members, and forwarding victim protest letters for parole review.

Provision of Inmate Health Services

Health care services for inmates in state-operated prisons and jails are provided through contractual relationships with the University of Texas Medical Branch at Galveston (UTMB) and the Texas Tech University Health Science Center.⁴ These contracts are managed for TDCJ by the Correctional Managed Health Care Advisory Committee. Inmates receive medical, dental, and psychiatric services on a continuum from basic care in prison unit clinics to surgery and other high-level treatments at specialized prison facilities and hospitals. TDCJ monitors the University care providers to ensure that all inmates are receiving adequate and timely health care services. The following material describes the responsibilities of each of the participants in providing correctional health care.

TDCJ HEALTH SERVICES DIVISION

The TDCJ Health Services Division monitors the delivery of health care services at the units and ensures that inmates receive adequate health care. Through its operational review process, the Division measures compliance of medical facilities with requirements and standards of the National Commission on Correctional Health Care, applicable federal and state laws, and the medical provisions of the *Ruiz* Final Judgment and established health services policies and procedures. Under this activity, the Division ensures that all offenders have full access to care, that offenders are not assigned to work that is unsuitable to a confirmed medical condition, and that non-medical personnel may not override a medical order regarding an offender's treatment. The Division may order special audits of medical facilities and recommend corrective action if circumstances warrant. The Division reviews the provider's quality improvement program to ensure that each medical facility has its own systems in place to identify problem-prone areas, take corrective action, and evaluate the effectiveness of those actions.

UTMB and Texas Tech provide health care services required by TDCJ's inmate population.

TDCJ's Health Services Division monitors the delivery of health care services to inmates.

The Division also provides clinical oversight to ensure that the special health care needs of the offender population are met. Because of the risk of infectious diseases in prison, the Division, in coordination with the Advisory Committee and the University providers, develops strategies for dealing with diseases such as HIV and AIDS, tuberculosis, and sexually-transmitted diseases and coordinates with the Texas Department of Health on these and other preventive medicine issues. The Division also investigates medical grievances by offenders and provides a patient liaison program to respond to correspondence and inquiries regarding health care issues from offenders and their families and other interested parties.

Because TDCJ provides transportation and security for offenders who need transfers for routine medical purposes, the Health Services Division serves as liaison with the Department's transportation office to ensure that transportation is consistent with health care needs. The University providers, however, cover the cost of transportation for medical emergencies. In a similar manner, the Division serves as liaison with TDCJ's Classification function to ensure that work and housing assignments are consistent with the health care needs of each offender.

CORRECTIONAL MANAGED HEALTH CARE ADVISORY COMMITTEE

Creation — The Legislature created the Correctional Managed Health Care Advisory Committee in 1993 based on a recommendation by the State Comptroller's Texas Performance Review. At the time, concern about the rapidly rising cost of offender health care was compounded by significant growth in the prison population. The Legislature created the Advisory Committee to institute a managed health care system, which attempts to control costs in much the same way as a health maintenance organization.

In 1993, the Legislature established the correctional managed care system to contain the rapidly rising costs of inmate health care.

Before managed care, TDCJ employed its own medical staff and used the prison hospital in Galveston. The agency directly paid local physicians and hospitals for specialized care. As the prison system grew in the early 1990s, the demand for health care services increased. In a typical fee-for-service arrangement that existed before managed care, many providers were paid on the basis of services provided, and had little incentive to contain costs. This fee-for-service arrangement, combined with the increasing health care needs of the offender population, contributed to a rapid escalation of correctional health care costs.

Managed health care, in contrast, controls costs by negotiating advance contracts with an established network of physicians, hospitals, and other health care providers based on the number of patients and the historic cost

of providing care. To provide a statewide network of health care providers, the Advisory Committee contracts with two of the state's medical schools, UTMB and Texas Tech.

Functions— The Correctional Managed Health Care Advisory Committee's primary duty is to improve the quality and accessibility of correctional health care while containing the State's spending. The Advisory Committee is responsible for developing a statewide network of health care providers and implementing the use of other managed care tools. The Advisory Committee fulfills its mission through its contracts with TDCJ, UTMB, and Texas Tech. These contracts specify each organization's responsibilities, funding allocations, and performance measures. Medical, psychiatric, and dental services are provided under the contracts.

The Advisory Committee receives funding from TDCJ's appropriation and compensates each University for services it provides based on a specified capitation rate. The capitation rate refers to the amount paid to the provider for health care services on a per-patient basis. For fiscal year 1997, UTMB received \$5.47 per offender per day and Texas Tech received \$5.09 per offender per day for the medical services they provided. UTMB's capitation rate is higher because it provides more statewide services than Texas Tech. The universities receive additional funding for providing psychiatric services and special programs for inmates with mental impairments.

UTMB's and Texas Tech's Role in Managed Care — The Advisory Committee contracts with UTMB and Texas Tech for all medical, psychiatric, and dental services in the prison system. The Advisory Committee has defined each University's service area by dividing the state roughly in half: UTMB provides care to units in the eastern half of the state while Texas Tech provides care in the western half of the state. In 1997, UTMB's service area included 70 facilities covering about 80 percent of the total prison population, while Texas Tech's service area included 28 facilities covering about 20 percent of the prison population.

The Universities operate under two models of managed health care delivery. UTMB uses a staff model of managed care under which it employs most prison health care providers in its half of the state. Texas Tech uses a mix of its own University-operated facilities and subcontracted private local health care providers to deliver services to inmates in the western half of the state. Basic ambulatory care clinics are operated at each facility, with infirmary care available at clustered facility locations throughout the state.

The Advisory Committee contracts with UTMB and Texas Tech and implements managed care tools to control spending.

UTMB serves 70 prison units in the eastern half of the state and Texas Tech serves 28 units in the western half.

Each University also operates regional medical facilities that provide higher levels of treatment to offenders when needed. UTMB maintains regional medical facilities in Huntsville and Texas City and provides advanced specialty care at the prison hospital in Galveston. Texas Tech operates a regional medical facility in Lubbock and contracts with local hospitals for advanced specialty care.

To meet inmate pharmaceutical needs, both universities subcontract with the University of Houston School of Pharmacy for the clinical and administrative oversight of its centralized pharmacy operations.

UTMB and Texas Tech each provide services on a statewide basis. For all TDCJ units in the state, Texas Tech provides a program for aggressive mentally ill offenders out of the Clements unit in Amarillo. UTMB's statewide services include specialized programs for mentally retarded, mobility impaired, and HIV-positive inmates, as well as obstetrics and delivery services. Routine medical care at private prisons is the responsibility of the operator of the unit, however, the Advisory Committee has contracted with UTMB to provide catastrophic health care services to private prison inmates, as well.

THE CHALLENGE OF CORRECTIONAL HEALTH CARE

In general, the health care needs of the offender population require more extensive services than the free-world population. Increased correctional health care needs stem from the lifestyles of most offenders that put them at a high risk of poor health. Offenders often suffer health problems as a result of years of medical and dental neglect, poor nutrition, and alcohol and substance abuse. Asthma, hypertension, psychosis, diabetes, substance abuse, intravenous (IV) drug use, venereal disease, AIDS, arthritis, and high blood pressure are generally thought to be more prevalent in the offender population than in the free-world population. Ultimately, poor offender health results in an increased demand for correctional health care services.

Offenders require more health care services because of their generally poor health.

The growing numbers of high-cost patients compound the expense of prison health care. Four groups of offenders require a disproportionate amount of costly health care services. These high-cost categories are: offenders with HIV/AIDS and other infectious diseases, the elderly, the mentally impaired, and female offenders. Each of these high-cost categories are discussed in the following material. The subsequent section discusses various strategies employed by the correctional health care system for dealing with high-cost health care groups.

HIV/AIDS and Other Infectious Diseases — HIV/AIDS presents a major challenge to correctional health care providers due to the nature of today's prison population. Many offenders entering TDCJ have engaged in behaviors, such as IV drug use or unsafe sexual activities, which put them at risk of contracting the AIDS virus. For the last few years, AIDS has been the leading cause of death in prison among offenders. As of October 1997, 587 Texas offenders have died from complications of AIDS. However, the availability and introduction of new drug therapies, while expensive, have dramatically reduced the number of AIDS deaths.

As of October 1997, TDCJ had identified 2,029 offenders as carrying the AIDS virus. Historically, TDCJ had relied largely on inmates to voluntarily declare their HIV status, encouraged and offered HIV testing and counseling to offenders in high-risk groups, and provided testing to any inmates who requested it. With the development of new multi-drug therapies, the Board of Criminal Justice and the Advisory Committee, in 1998, adopted policies to phase in routine testing of certain high-risk groups in prison and to study the incidence of HIV among incoming offenders and the transmission of the disease among offenders already in prison. According to national studies, the prevalence of HIV in correctional facilities is more than four times the rate of the total U.S. population. In March 1998, offenders classified as symptomatic or as having AIDS in Texas prisons totaled 811.

An HIV-positive offender can live many years without developing the acute medical and psychiatric problems that result from AIDS. However, the offender still needs regular medical screenings to monitor the advance of the virus. Once the offender does develop the symptoms of AIDS, nearly constant care is needed. Throughout the time spent in TDCJ, the HIV-positive offender will require significantly more medical supervision than a healthy offender, resulting in a higher expense to the State.

Another infectious disease plaguing the prison system is tuberculosis (TB). While TB is not as expensive to treat as AIDS, it spreads much more easily within the prison population. The rate of TB infection in Texas prisons is about four times that in the free community. TB may become harder to treat and contain with the recent evolution of drug-resistant strains and the common combination of TB and AIDS. In addition to HIV and TB, health officials warn that the Hepatitis C virus appears likely to present another challenge to the health care system.

The prevalence of HIV
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Elderly Offenders — The increasing number of elderly inmates causes additional upward pressure on health care costs. In the free world, senior citizens are high-volume users of health care and TDCJ's elderly offenders tend to exhibit age-related health problems at an earlier age than their free-world contemporaries. Often, a 50-year-old offender's medical condition compares to that of a 60-year-old person. Consequently, elderly offenders require higher levels of expensive health care at younger ages. Between 1991 and 1997, TDCJ's elderly population more than tripled, growing more than 10 percent faster each year than the rate of growth in the general prison population. This high growth rate is largely because offenders are serving longer sentences before they become eligible for parole. In fiscal year 1997, TDCJ's 60-and-over population numbered nearly 1,850 inmates.

Mentally Impaired Offenders — Offenders with mental illnesses require special programs and expensive medications to help them cope with life in the correctional setting. In 1997, TDCJ housed nearly 800 mentally-retarded offenders in specialized sheltered housing, treated about 1,800 mentally-ill offenders in the health care system's in-patient psychiatric units, and provided mental health services to more than 12,000 offenders on an out-patient basis.

Female Offenders — While women comprise only 7 percent of TDCJ's prison population, their health care costs often exceed those of males. These higher health care costs result from gynecological disorders, pregnancy, and higher likelihood of substance abuse problems among females. As a result, medical costs for female offenders are estimated to be 53 percent higher than for male offenders.⁵

TDCJ tries to control the effects of HIV through testing, treatment, and education.

STRATEGIES TO CONTAIN COSTS

As the general prison population and the numbers of high-cost patients continue to rise, TDCJ and the Correctional Managed Health Care Advisory Committee constantly devise new strategies to manage the State's correctional health care spending. The strategies discussed in the following material include infectious disease treatment and education, the creation of specialized units for offenders with high-cost medical problems, prison hospice programs, special needs parole, telemedicine, and the institution of a co-payment system.

Infectious Disease Treatment and Education — TDCJ's efforts to control AIDS and other infectious diseases encompass testing, treatment, and education. The correctional health care staff provides HIV testing to high-risk offenders and to others on request. TDCJ keeps all test results confidential and offers counseling to offenders. TDCJ has required TB testing for all offenders since 1993. All offenders are tested upon arrival in the TDCJ system and once a year thereafter.

Facility clinics provide HIV-positive offenders with current generally-accepted medical treatments, such as multiple-drug therapies, and viral load monitoring to track the progress of the disease. While these therapies are expensive, they help to slow the advance of the disease and prevent the onset of infections brought on by the disease, such as pneumonia, which are also expensive to treat. TDCJ segregates HIV-positive offenders from the general prison population when medical needs or offender behavior indicate that segregation is appropriate. Otherwise, an HIV-positive offender remains assigned to a general population housing unit until needing specialized medical attention or when the offender's behavior warrants a move. The only job restriction on HIV-positive offenders is a prohibition against work in medical clinics.

TDCJ's efforts to educate the general prison population about HIV/AIDS and how to prevent its transmission consist mainly of video tapes and printed material. Educational video tapes are presented to offenders both when they enter the prison system and when they leave. Printed educational materials are available to all offenders in various areas throughout TDCJ's facilities. Individual counseling on the subject of HIV/AIDS is also available to all offenders.

Specialized Units for Offenders with High Medical Costs — TDCJ attempts to curb the high costs of some medical conditions through the establishment of special treatment units. Treatment units exist for AIDS, pregnancy, geriatric problems, mental illnesses, and mobility impairments. Hospice units are not intended to treat illnesses, but do provide palliative care. They are discussed separately in this report.

Once a male HIV-positive offender's condition advances to full-blown AIDS, TDCJ transfers him to the Stiles unit in Beaumont. The Stiles unit offers HIV educational, psychiatric, and medical programs. Because of the close proximity to UTMB's prison hospital in Galveston, offenders can receive advanced medical attention without traveling long distances. In 1997, the Stiles unit housed about 950 HIV-positive offenders. A similar program at the Texas City Sheltered Housing facility housed about 50 HIV-positive female offenders. The Texas City facility also provides prenatal and obstetrical care for pregnant offenders.

The geriatric ward at the Estelle unit near Huntsville houses non-violent, elderly offenders most of whom cannot work. These offenders must be able to perform routine chores such as bathing themselves and cleaning their

TDCJ operates specialized units to care for AIDS-inflicted, elderly, pregnant, mentally ill, and mobility-impaired offenders.

Mentally ill offenders receive specialized treatment at four psychiatric in-patient facilities.

quarters. About 60 elderly inmates currently live in the geriatric ward. While the geriatric ward's housing costs are about the same as a typical unit, medical expenses for elderly offenders are about three times higher.

TDCJ treats mentally ill offenders in four psychiatric in-patient facilities. UTMB operates two psychiatric hospitals, one at the Jester IV unit near Sugar Land and one at the Skyview unit in Rusk. Texas Tech provides psychiatric in-patient care at the Montford unit in Lubbock and PAMIO services (program for the aggressive mentally ill offender) at the Clements unit in Amarillo. Texas Tech also provides a dual-treatment program for mentally ill offenders, who are substance abusers, at the Montford unit.

UTMB also operates a physically handicapped offender program to serve offenders with severe disabilities at the Jester III unit near Sugar Land. The Estelle unit in Huntsville houses about 270 disabled offenders and offers special programs for offenders with vision, hearing, and speech impairments. Services provided through this program include physical therapy, occupational therapy, speech therapy, interpreting services, and a brace and limb clinic for offenders with prosthetics.

Prison Hospice Program — Hospice programs are designed for terminally ill patients, providing palliative care, which means that patients receive medications to ease their pain and discomfort, but the medical staff no longer seeks to cure their diseases. The hospice environment intends to ease suffering and help patients deal with their imminent deaths. While hospice costs are much higher than the cost of caring for the general prison population, it is less expensive than acute hospital care. Because of the serious medical conditions of the offenders, hospices require fewer security personnel.

TDCJ's first hospice opened in January 1997 at the Michael unit in Tennessee Colony. This hospice currently has capacity for 21 offenders, and the most common ailments are AIDS and cancer. In addition to palliative care, an inter-disciplinary team of counselors, chaplains, social workers and health care professionals provide counseling and support services for offenders and their families. Volunteer inmate peer support groups also assist in the program.

Special Needs Parole — Special needs parole allows for early release of seriously ill offenders. Eligible offenders may not have committed an aggravated offense and are terminally ill, elderly with a serious medical condition, physically handicapped, mentally ill, or mentally retarded. The Board of Pardons and Paroles reviews all special needs parole cases to determine that the offender no longer constitutes a threat to public safety. In

fiscal year 1997, the Parole Board approved 129 cases out of the 241 cases presented. The staff of the Texas Council on Offenders with Mental Impairments screens cases for eligibility for special needs parole and coordinates offenders' care when they leave prison. Generally, offenders who have been convicted of aggravated offenses or sex offenses are not eligible for special needs parole.

Paroled offenders are eligible for Medicare and Medicaid benefits. This federal money frees the State from the financial burden of providing health care to offenders who need expensive medical treatment.

Telemedicine — Because the state's prison system is geographically spread out, offenders often face difficulty seeing medical specialists. This difficulty arises from the expense of transportation, the security risk of transporting offenders, the negative effect of travel on an offender's health, and the lack of specialists in rural areas where many prisons are located.

To overcome the difficulties of providing specialized care across geographic distances, UTMB and Texas Tech have established a telemedicine system that allows physicians to view offenders, inquire about symptoms, and make diagnoses from a remote location. Computer terminals at each facility transmit audio and video through fiber-optic telephone lines. Medical staff may also use the equipment for teleconferences. UTMB currently operates 12 telemedicine sites within its service area and Texas Tech operates 13 sites.

Co-Payment System — Another recent strategy for reducing correctional health care costs is the implementation of a co-payment system. The co-payments program is designed to reduce the number of unnecessary medical visits made by offenders and to require offenders to pay part of the cost of providing health care. On average, a TDCJ offender makes 28 health care visits each year. Offenders often visit their clinics unnecessarily out of boredom, mischief, or to avoid their work responsibilities.⁶

In 1997, the Legislature required offenders to pay a \$3 co-payment for each visit to a TDCJ facility clinic. Emergency visits and visits initiated by TDCJ or health care providers do not require a co-payment. Special arrangements are also made for indigent offenders. The co-payment system was implemented in all TDCJ facility clinics on January 1, 1998.

Out of 241 special needs parole cases presented to the Parole Board in 1997, 129 were approved.

As of January 1, 1998, inmates must pay \$3 to visit a TDCJ facility clinic.

TCOMI coordinates aftercare treatment for mentally ill offenders who are released into the community.

TEXAS COUNCIL ON OFFENDERS WITH MENTAL IMPAIRMENTS

The Legislature created the Texas Council on Offenders with Mental Impairments (TCOMI) in 1987 to address the needs of mentally impaired and mentally retarded offenders. The limitations of Texas welfare programs and the lack of health care services available to this group prompted the creation of this interagency council. Over time, the expanding populations of the aged, terminally ill, and other special needs offenders necessitated the broader continuity of care mission now encompassed by TCOMI.

A major focus of TCOMI is special needs parole, discussed in the previous section. Under this program, non-violent, non-sex offenders who are judged to be near death and no longer constitute a threat to society, may be removed from prison and placed in hospices or other programs in which they qualify to receive federal funding. To provide specialized housing for offenders like those released on special needs parole, in 1998, a nursing facility in Karnes County was selected to provide 60 beds that are maintained outside the correctional setting.

TCOMI also coordinates all aftercare treatment for released offenders in the community. TCOMI contracts for programs across the state to address the mental health needs of offenders as part of an attempt to reduce recidivism. These programs also benefit from federal entitlement programs and reduce the burden upon local and state health care providers.

In 1994, the continuity of care effort began with memoranda of understanding being issued among TCOMI agencies, outlining an effort to monitor and provide care to qualifying offenders through pre-and post-release planning. Identification and referral of offenders with special needs to community health care providers during the release process has proven to be more successful in maintaining the level of care after release as was being received during incarceration. For follow-up purposes, TCOMI requires progress reports on each participating offender to monitor release planning success.

Parole

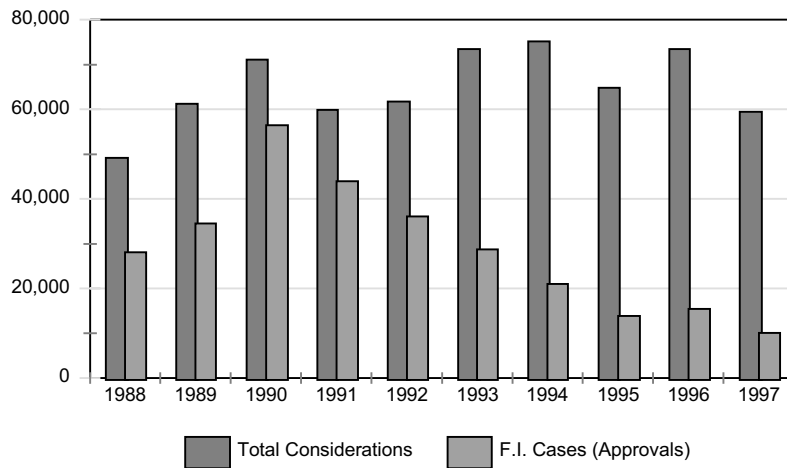
Parole is the release of an offender from prison before the end of a sentence.

THE PAROLE CONCEPT

Parole has traditionally served as a valve to control the flow of inmates out of prison to serve out their sentences under supervision in the community. While parole means releasing an inmate from prison before the end of a sentence, it is not a reduction of sentence or pardon. To be eligible for parole, inmates must serve a designated portion of their sentence in jail or

prison, at which time the Board of Pardons and Paroles decides which inmates to release on parole to complete their terms under Board-imposed conditions. The chart, *Parole Considerations and Approvals Per Year — Fiscal Years 1988 - 1997*, shows the trend in parole approvals over the last 10 years, from a high of about 80 percent in 1990 to a low of about 15 percent in 1997.

**Parole Considerations and Approvals Per Year
Fiscal Years 1988 - 1997**



| Percent Approved | |
|------------------|-------|
| 1988 | 57.2% |
| 1989 | 56.4% |
| 1990 | 79.4% |
| 1991 | 73.3% |
| 1992 | 58.5% |
| 1993 | 39.2% |
| 1994 | 28.0% |
| 1995 | 22.0% |
| 1996 | 21.0% |
| 1997 | 17.0% |

LEGISLATIVE HISTORY

The Board of Pardons and Paroles was established by Constitutional amendment in 1936 as a citizen’s board to recommend acts of executive clemency and paroles to the Governor, who had exclusive decision-making authority in these areas. A 1983 amendment to the Constitution removed the Governor from the parole process and established the Parole Board in statute with six full-time board members. This change gave the Parole Board authority for parole selection, supervision, and revocations, but kept the Governor’s authority to grant executive clemency, although only on the recommendation of the Parole Board. The Governor retained the constitutional authority to grant a single 30-day reprieve from an execution without a recommendation by the Parole Board.

The Legislature
expanded the Parole
Board to 18 members
in 1989.

With the creation of TDCJ in 1989, the Legislature expanded the Parole Board to 18 members and transferred its staff functions to the new criminal justice agency. The Parole Board, with its small clerical staff, made parole release and revocation decisions and recommended executive clemency to the Governor with field work provided by the new TDCJ Pardons and Paroles Division. In 1993, the Legislature returned administrative responsibilities to the Parole Board for revocation hearings and executive clemency, and it

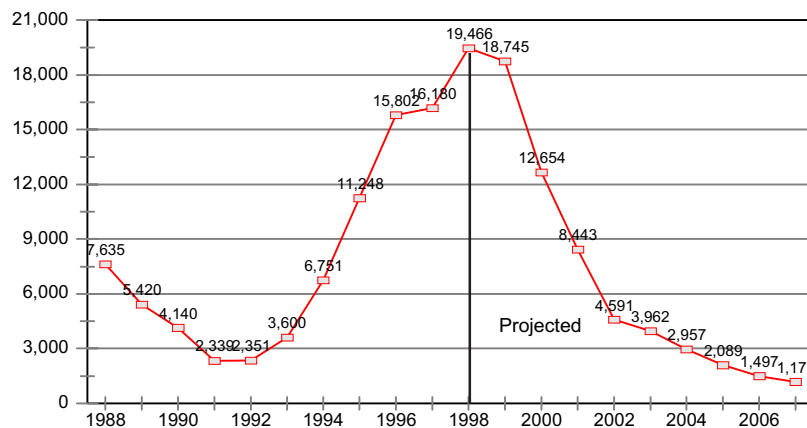
specified staffing, including a General Counsel, Hearings Director, and hearings officers. The Parole Division continues to supervise parolees under terms and conditions established by the Parole Board.

MANDATORY SUPERVISION RELEASE

Unlike parole decisions, release from prison on mandatory supervision does not require approval from the Parole Board. Initiated in 1977, mandatory supervision requires TDCJ to release inmates when calendar time served and good-conduct time earned equals sentence length. Parolees and mandatory supervision releasees are subject to the same requirements of supervision and possible revocation. Since 1987, inmates convicted of certain aggravated or violent offenses have not been eligible for mandatory release. These offenses are similar to the offenses listed in Section 3g of Article 42.12 of the Code of Criminal Procedure and include crimes of murder, sexual assault, and aggravated sexual assault.

The chart, *Mandatory Supervision Releases — Fiscal Years 1988 - 2007*, shows the number of inmates actually released to mandatory supervision over the last ten years and projected for the next ten years. The number of

**Mandatory Supervision Releases
 Fiscal Years 1988 - 2007**



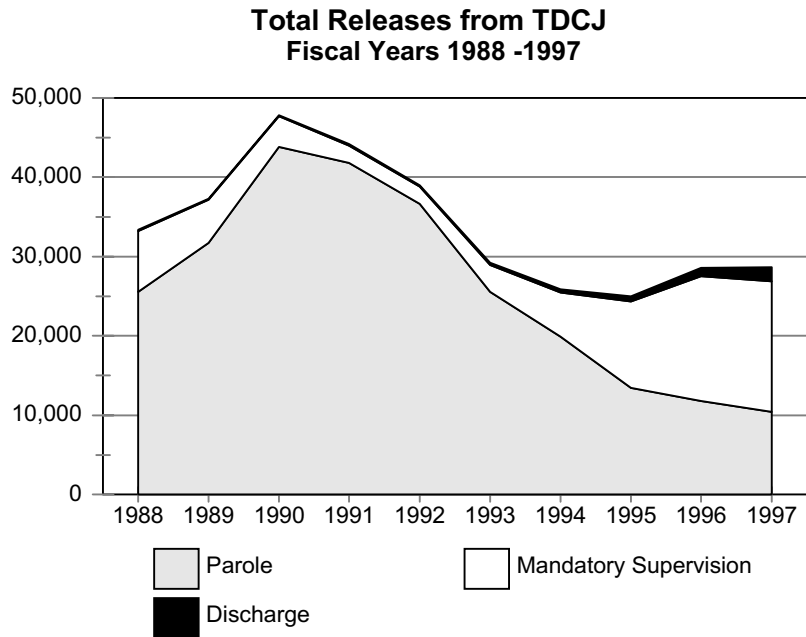
offenders released to mandatory supervision will peak in fiscal year 1998 at 19,466 releases and will decline over the next several years as the number of offenders eligible for mandatory release diminishes. In 1995, the Legislature eliminated the automatic release to mandatory supervision for any offender who committed a crime on or after September 1, 1996. Instead, the Parole Board has the discretion to deny mandatory release of these offenders. Offenders first became eligible for this discretionary review in the middle of 1997, and

as of March, 1998, the Parole Board had denied mandatory release to 240 of 725 offenders reviewed, for a 33.1 percent denial rate.

Related to the trend of lower parole approval rates and recent legislative efforts to eliminate mandatory release, increasing numbers of offenders are beginning to serve their entire sentences in prison. These offenders are not

subject to any supervision upon their release. In 1988, for example, 146 offenders were discharged after serving their entire sentence, compared with 1,765 offenders who discharged their sentences in 1997.

The chart, *Total Releases from TDCJ — Fiscal Years 1988 - 1997* shows the total number of releases each year by type of release. In 1988, for example, parole accounted for 76.7 percent of the releases, while mandatory release was 22.9 percent. By 1997, these rates had reversed, with 36.8 percent released on parole and 57.1 percent released to mandatory supervision (6.1 percent of those released discharged their entire sentence).



Another aspect of low parole approval rates and higher flat time requirements is that offenders are serving increasing percentages of their sentences before they are being released. Violent offenders released in 1997 on average had served half of their entire sentence before their release, and this percentage of time served for these offenders is expected to continue to climb as the effects of tougher sentencing and parole eligibility laws are seen.

STRUCTURE OF THE PAROLE SYSTEM

The Parole Board is organized decentrally, with members serving in seven Board offices at or near prison sites around the state. The Parole Board conducts most of its routine business of deciding paroles or parole revocations in panels comprised of three members assigned by the Chair. To facilitate the work of the Parole Board, the Governor designates the Chair and five members to serve as the Policy Board. The Policy Board is responsible for developing rules to govern the parole process, coordinating Board activities, fairly and efficiently distributing caseloads among the panels, and administering other Parole Board matters.

The Parole Board approves or denies parole, while the Parole Division supervises offenders who have been released.

The Government Code provides for the release of inmates on parole and designates the Parole Board as the exclusive authority to determine paroles. Specifically, the statute requires the Parole Board to determine which offenders are released on parole, the conditions of parole and mandatory supervision, and the revocation of parole and mandatory supervision.

Parole supervision serves public safety by monitoring released inmates and providing services to help releasees reintegrate into society. While the Board of Pardons and Paroles approves or denies parole, releasing inmates into the community, TDCJ's Parole Division supervises inmates once they are released. In addition, the Parole Division supervises inmates released without Board action under mandatory supervision. Whether released on parole or mandatory supervision, inmates are in the legal custody of the Parole Division subject to rules and conditions of release imposed by the Parole Board. Appendix B illustrates the parole process and shows the responsibilities of the Parole Board and the Parole Division.

PAROLE OPERATIONS

The Texas Constitution requires the Legislature to establish a Board of Pardons and Paroles and specifies procedures for Board action in recommending pardons and other forms of clemency. The Constitution does not so specifically address the parole process, though it does authorize the Legislature to enact parole laws and laws for informing juries about the effect of parole on time served for criminal offenses. The following material describes the parole process chronologically, encompassing parole decision making, the supervision of releasees, and parole revocation. To fully describe the parole process, this material lays out the responsibilities of both the Parole Board and TDCJ. A final section of this material describes the Parole Board's activities relating to executive clemency.

Parole Review Dates — As detailed earlier, inmates earn good time while serving their prison sentences. Prison officials calculate when inmates will first be eligible for parole, though the date may change depending on the amount of good time earned or lost. How much time an inmate must serve to be eligible for parole and whether good time counts toward an initial parole eligibility date is determined by the law in effect at the time the offense was committed.

Currently, non-aggravated offenders become eligible for parole when time served and good time earned equals one-fourth of their sentence. Offenders convicted of aggravated offenses do not become eligible for parole until they have served up to half of their sentence. Persons convicted of capital

murder must serve 40 years before they become eligible for parole, while persons convicted of a sex offense for a second time must serve 35 years flat before becoming eligible for parole.

Role of the Institutional Parole Officer — Several months before the Parole Board reviews a parole case, a TDCJ institutional parole officer (IPO) interviews the inmate to develop a release plan, including living arrangements, prospective employment, and any plans for self-improvement, such as treatment for substance abuse. A parole officer in the field verifies this information before the release. The IPO also prepares a parole summary for the Parole Board including information about the inmate’s offense, the inmate’s criminal and social history, such as prior assaultive behavior or abuse of narcotics, and the inmate’s prison record, including disciplinary sanctions.

Institutional parole officers interview offenders and provide the Parole Board with information for parole decisions.

Board Voting Procedure — Generally, panels of three Parole Board members make parole decisions. For capital felonies and more serious sexual offenses, the Parole Board may grant parole only on a two-thirds vote of the entire membership. Parole Board members are not required to meet as a body to perform these duties. In 1997, the parole approval rate for sex offenders was less than 1 percent.

Parole Board members, whether acting as a whole or as a panel, do not meet together when reviewing parole cases. Rather, TDCJ delivers inmates’ files to Parole Board members who review them and decide individually. The files include the release plan, the parole summary, a presentence investigation report, victim impact statements, and other pertinent information. The parole panels usually complete a review in seven to ten days and return the file to the Parole Division for necessary action. A review by the full Parole Board usually takes one and a half to two months. Board members may personally interview inmates eligible for parole, but are not required to do so.

Parole Board members individually review offender files to make release decisions.

Parole Guidelines — The Legislature has required the Parole Board to use parole guidelines to help make decisions granting or denying paroles. The guidelines are intended only as a guide and do not replace the Parole Board’s discretion in making parole decisions. TDCJ’s Parole Division computes a score for each inmate based on several factors including severity of the offense, risk of repeat offenses upon release, and amount of sentence served in prison. The Parole Board is responsible for periodically reviewing and updating the guidelines.

Parole Decisions — When inmates become eligible for parole, the Parole Board, generally through a panel of three members as mentioned earlier, votes either to deny or approve the parole release. Parole Board members have two voting options in denying parole. An inmate denied parole is given either a Set-Off date or a Serve All. A Set-Off, or Next Review, vote means the Parole Board has decided the inmate is not ready for parole but that another review will be conducted on a designated date within three years of

the initial parole eligibility date or any subsequent review dates. A Serve-All means the Parole Board does not believe the inmate will be ready for parole, given the length of sentence, and will not schedule any future reviews. The Parole Board may give a Serve-All only to inmates who have less than three years until their discharge or scheduled mandatory release.

| Votes to Approve Parole Pending Further Investigation | |
|--|---|
| FI 1 | Offender released at first eligible date. |
| FI 2 | Offender released on a date specified by the Parole Board. Release date must be within three years of first eligible parole date. |
| FI 3 | Offender transferred to a three-month TDCJ rehabilitation tier program, including pre-release substance abuse programming. Release to parole contingent upon program completion. |
| FI 4 | Offender transferred on a date specified by the Parole Board to a pre-release facility. Transfer to a facility must be within three years of first eligible parole date. TDCJ decides how long inmate remains in the facility. |
| FI 5 | Offender placed in a substance abuse treatment program as space becomes available. Successful completion of the program is a condition of release on parole. While on parole, the offender must comply with aftercare programs. |
| FI 6 | Offender transferred to a six-month TDCJ rehabilitation tier program, including pre-release therapeutic community programming. Release to parole contingent upon program completion. |
| FI 9 | Offender transferred to nine-month TDCJ rehabilitation tier program, including in-prison therapeutic community programming. Release to parole contingent upon program completion. |
| FI 18 | Offender transferred to 18-month TDCJ rehabilitation tier program, including sex offender treatment programming. Release to parole contingent upon program completion. |

A vote to approve parole is known as an FI vote, which stands for further investigation. Under the FI vote, the approval of parole is tentative and awaits an update on the inmate’s criminal history and prison disciplinary record as well as a consideration of protests lodged against a proposed release. Tentative parole approval may be withdrawn and parole denied if further investigation uncovers any reasons against releasing the inmate. The text box, *Votes to Approve Parole Pending Further Investigation*, shows the different FI voting options available to the Parole Board.

The Parole Board may also release, on special needs parole, inmates who have physical disabilities or are elderly, terminally ill, mentally ill, or mentally retarded. Additionally, the Parole Board may review parole in absentia (PIA)

inmates who become eligible for parole on Texas sentences while incarcerated in non-TDCJ facilities. The Parole Division’s review and release processing section helps the Parole Board track PIA reviews and prepare the appropriate paperwork.

Parole Supervision — Upon release on parole or mandatory supervision, an offender comes under the supervision of a parole officer employed by TDCJ’s Parole Division. In 1997, the Parole Division supervised about 80,000 offenders, with about 65 percent on parole and 35 percent on mandatory supervision. The Parole Division supervised these offenders with about 1,200 parole officers for an average caseload of about 69 per officer. Over time, the number of offenders under supervision has remained relatively constant.

An offender must contact a local parole office within 24 hours, which is extended if the release is on a weekend. The assigned parole officer interviews the releasee and, within 30 days, completes a risk and needs assessment.

The parole officer explains the release conditions to the offender. The text box, *Rules and Special Conditions of Parole and Mandatory Supervision*, summarizes the general rules imposed on all releasees and the special requirements the Parole Board may impose as circumstances dictate. Generally, the Parole Board imposes these rules and special conditions on releasees, and the Parole Division assures compliance through supervision. However, the Parole Division may impose additional requirements such as intensified supervision as part of its graduated sanctions. This process is designed to encourage compliance with conditions of release without resorting to revocation.

The parole officer also sets up an initial home visit and establishes a regular reporting time. How often the releasee and the parole officer must be in contact varies from one to four times per month depending on whether the releasee has been placed on minimum, medium, or maximum level of supervision. For example, persons on intensive and super-intensive supervision parole may have as many as 10 visits per month.

The statute requires offenders to pay monthly supervision and administrative fees. Offenders pay a base monthly fee of \$10 and any additional fees tied to their particular offense. For example, sex offenders pay an additional fee to reimburse local law enforcement authorities for publishing notice of their release in the newspaper. Releasees who are unemployed can seek permission from the Parole Board through their parole officers to defer payment of fees until they find a job.

Releasees must also make payments toward any outstanding fines, court costs, victim restitution, or fees assessed against them at the time of sentencing if ordered to do so by the Parole Board. The Parole Division, however, does not collect or monitor payment of court costs or fines.

The sentencing judge and the Parole Board may order releasees to pay supervision fees, court costs, and victim restitution.

Rules and Special Conditions of Parole and Mandatory Supervision

Inmates released on parole and mandatory supervision must abide by certain rules and conditions while in the community and are subject to revocation for violations of the conditions or rules. Rules of release may include, but are not limited to the following:

- reporting to parole officer;
- obeying all municipal, county, state, and federal laws;
- obtaining parole officer's permission before changing residence;
- obtaining parole officer's permission before leaving state;
- not carrying gun or other dangerous weapon;
- avoiding other criminals;
- not acting as an informer without permission from the Parole Division; and
- abiding by any special conditions of release imposed by the Parole Board or the Parole Division.

Releasees also agree to abide by all rules and laws relating to the revocation of parole or mandatory supervision, including appearing at any required hearings or proceedings.

In addition to the rules of release, the Parole Board may add special release conditions for any inmate, whether released on parole or mandatory supervision. The most common special conditions include the following provisions:

Halfway house placement is typically made for releasees who need special services, such as substance abuse counseling or shelter. While the Parole Board places offenders in halfway houses, TDCJ contracts with private vendors to provide halfway house services.

Intensive supervision provides a higher level of supervision for high-risk offenders and those who have problems adjusting to regular supervision.

Electronic monitoring augments a parole officer's supervision by maintaining surveillance over releasees on a more or less 24-hour basis. Again, while the Parole Board places offenders on electronic monitoring, TDCJ pays for the devices.

Super-intensive supervision provides the highest level of supervision and offender accountability. These highest-risk releasees have ten face-to-face contacts with parole officers each month, and wear electronic monitoring devices.

Drug monitoring subjects releasees to random drug testing or urinalysis or routine testing whenever releasees show signs of current use.

Treatment, educational programs, and psychological counseling are designed to improve the releasee's ability to cope with substance abuse, or to address other special needs of releasees.

The Parole Division has developed a system of graduated sanctions designed to bring offenders back into compliance with the terms of release. These sanctions begin by intensifying the level of supervision or required treatment and become progressively tougher, ending with revocation of release by the Parole Board.

Other special conditions which may be required for some offenders, but not ordered by the Parole Board, include payment of court-ordered restitution to victims and establishment of child-safety zones into which sex offenders may not trespass.

Parole Revocation— Releasees who violate the rules or conditions of release face a range of sanctions, including having their parole revoked and being sent back to prison to serve the remainder of their sentences. TDCJ’s Parole Division may impose less severe sanctions for parole violations, such as requiring more frequent reporting by releasees. The Parole Board imposes more severe sanctions, such as adding special conditions of release, sending the releasee to an alternative sanction facility, or revoking parole.

When the Parole Division discovers that a releasee has violated the terms of release either by a technical violation or by allegedly committing a new offense, the Parole Division may issue an arrest warrant if the offender has not already been arrested on the new offense. The Parole Division, not the Parole Board, makes the decision to issue these warrants, known as blue warrants, and local law enforcement authorities execute the warrants. Typically, the Parole Division will issue a blue warrant when it has probable cause that a violation has occurred that justifies consideration by the Parole Board to revoke the release and return the person to prison. By policy, the Parole Division may refrain from issuing a warrant if the alleged new offense is a nonviolent misdemeanor and the releasee is not thought to constitute a risk to the community. The Parole Division may also issue a warrant for technical violations, such as failure to report to the parole officer.

Upon arrest for a parole violation, a releasee is placed in county jail to await a hearing. Because of concerns that releasees awaiting possible revocation could pose a burden on county jails where they are held, the Legislature in 1997 reduced the amount of time in which certain revocation hearings must be held from 120 to 60 days after the arrest on the blue warrant.

Once in custody, releasees must be given written notice of the alleged violation and advised of their right to a preliminary or revocation hearing, as appropriate. These hearings are civil administrative proceedings designed to afford the releasee due process of law before the Parole Board makes a decision. Both hearings are conducted by a hearing officer employed by the Parole Board’s Hearings Section and are generally conducted where the releasee is being held in custody on the blue warrant or detainer. The minimum requirements of these hearings are based mainly on U. S. Supreme Court opinions that set forth a releasee’s rights when the State seeks to revoke parole.

In these hearings, releasees have the right to be represented by retained counsel and the conditional right to an appointed attorney if they are indigent. In the preliminary hearing, the hearing officer seeks to determine whether probable cause exists to support an allegation of parole violation, pending a full revocation hearing. If the hearing officer determines that probable cause

The Parole Division
issues arrest warrants
for releasees who
violate parole
conditions.

exists, the case proceeds to a full revocation hearing. The Legislature clarified the requirement for conducting a preliminary hearing. The preliminary hearing is no longer required for technical violations of parole or for new conviction except a traffic offense.

Revocation hearings are designed to determine if a parole violation has occurred and to allow the releasee to present any extenuating reasons for the violation. The hearing is normally conducted in two parts, a fact-finding phase and, if at least one allegation has been determined to be supported by a preponderance of the evidence, a mitigation phase.

The hearing officer recommends whether or not the Parole Board should revoke parole or send an offender to an Intermediate Sanction Facility.

Following a revocation hearing, the hearing officer forwards to the Parole Board all documents and exhibits offered or admitted into evidence at the hearing, a summary report, and the tape recording of the hearing. The hearing officer's recommendations may be to:

- free the releasee from custody and continue supervision with the same or modified conditions;
- not revoke parole but place the releasee in an Intermediate Sanction Facility (ISF) (see the text box, *Intermediate Sanction Facilities*, for further information) or Substance Abuse Felony Punishment Facility (SAFP); or
- revoke parole.

| Intermediate Sanction Facilities |
|----------------------------------|
|----------------------------------|

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| TDCJ contracts with private vendors to provide this secure facility which the Parole Board may use as an alternative to revoking a persons' parole or mandatory supervision. Typically, the Parole Board sends releasees to an Intermediate Sanction Facility for a 90-day period. |
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| In fiscal year 1997, the state had five Intermediate Sanction Facilities with 2,126 beds. |
|---|

Board Action on Revocations — The record of the hearing and the hearing officer's summary report are delivered to the Parole Board's field office in the region where the hearing was held. A Parole Board panel analyst in the field office reviews the materials. The analyst either concurs with the hearing officer's findings and recommendations and presents the case to the three-member Board panel for final disposition, or refers the case back to the hearing officer to further develop factual or legal issues, with or without reopening the hearing.

After reviewing the hearing report, the parole panel makes the final disposition of the case. Decisions of the panel require a majority, or two votes, to take action. The panel may dispose of the case by taking one of the following actions:

- revoking the release and sending the offender back to prison;
- ordering the offender to serve time in an ISF or SAFF;
- continuing supervision with the same conditions or imposing special conditions or sanctions; or
- referring the case back to the hearing officer.

In revoking parole or mandatory supervision, a parole panel also issues a white warrant to transfer the offender to prison. Revoked releasees may be required to serve the portion remaining of the sentence on which they were released, without credit for the time spent under supervision. In addition, revocation results in the loss of good time credits previously earned while in prison, and this good time cannot be reinstated. Revoked releasees must serve at least 12 months in prison before becoming eligible for parole again.

EXECUTIVE CLEMENCY

In addition to its responsibilities regarding paroles and parole revocation, the Parole Board makes recommendations to the Governor regarding requests for clemency for persons convicted of criminal offenses. Acts of clemency include pardons, restoration of civil rights, commutation of sentence, and reprieves of execution.

Under the Texas Constitution, only the Governor may grant executive clemency but only upon the recommendation of the Board of Pardons and Paroles. The Governor may grant only one 30-day reprieve without the recommendation of the Parole Board. The Parole Board administers this process through its executive clemency unit, which distributes pardon applications, analyzes and researches clemency requests, prepares clemency files for consideration by the Parole Board and provides public information. Clemency recommendations to the Governor require a ten-vote majority in a vote of all 18 Board members. Other than a pardon based on innocence, a pardon does not declare the innocence of a person found guilty of the crime nor does it wipe the offense from the person's criminal record. In fact, the person's guilt is generally not at issue in these requests. People seek clemency for other reasons in addition to establishing their innocence. The text box, *Types of Clemency*, summarizes each type of clemency.

The Governor may grant only one 30-day reprieve without a Parole Board recommendation.

Types of Clemency

Full Pardon — restores certain citizenship rights forfeited by law as the result of a criminal conviction, such as the rights to vote, to serve on a jury, to bear arms, and to hold public office. Does not absolve an offender of the legal consequences of his or her crime.

Restoration of Civil Rights — restores all civil rights forfeited under Texas law as a result of a federal conviction.

Conditional Pardon — releases an inmate from prison, but does not discharge the sentence. This action is often used to release an inmate to another country or to immigration officials for deportation.

Full Pardon Based on Innocence — fully serves as the basis for expunging the offense from the person’s criminal record. Requires unanimous recommendation of trial officials.

Commutation of Sentence — reduces the penalty assessed by a court and is available for any conviction. Must be recommended by at least two of the three current trial officials in the county where the inmate was convicted.

Remission of a Fine or Forfeiture Resulting from a Criminal Conviction — remission, or forgiveness, of a fine or bond forfeiture. Requires the unanimous written consent of the current trial officials from the county of conviction.

Emergency Medical Reprieves — a delay or temporary suspension of punishment available to inmates who are terminally ill, have a total disability, or require medical treatment unavailable in prison, but are ineligible for Special Needs Parole.

Thirty Day Reprieve of Execution — in death penalty cases, the Texas Constitution allows the Governor to grant one reprieve of execution, of up to 30 days without the Parole Board’s recommendation. Upon the majority vote of all members, the Parole Board may recommend to the Governor one or more reprieves of any length.

Clemency for Victims of Domestic Violence — special consideration for clemency recommendations granted to certain homicide cases involving domestic violence.

¹ Presentation of Susan Cranford, Director, CIAD, before the Judicial Advisory Council, January 23, 1998.

² National Center on Addiction and Substance Abuse, *Behind Bars: Substance Abuse and America’s Prison Population*, Columbia University, January 1998.

³ Criminal Justice Policy Council, *Biennial Report to the 75th Legislature*, January 1997, p. 23.

⁴ In privately-contracted facilities, health care is the responsibility of the private vendor.

⁵ Comptroller of Public Accounts, “Health Care Behind Bars,” *Fiscal Notes*, January 1996, p. 12.

⁶ Texas Performance Review, *Disturbing the Peace*, November 1996.

APPENDICES

| Texas Department of Criminal Justice Unit Profiles | | | | | |
|---|---------------------|---------------------------------|--|----------|--------------------------|
| Unit | Location | Capacity | Custody Level Housed | Operator | Type |
| Allred | Iowa Park | Unit: 2,832 Work Camp: 200 | Maximum | ID | Prison |
| Bartlett | Bartlett | 1,001 | Medium | CCA | Privately Operated-SJ |
| Beto | Tennessee Colony | Unit: 3,150 Trusty Camp: 214 | All Levels | ID | Prison |
| Boyd | Teague | 1,323 | Medium | ID | Prison |
| Bradshaw | Henderson | 1,700 | Minimum, Medium | MTC | Privately Operated-SJ |
| Bridgeport | Bridgeport | 520 | Minimum | WCC | Private Prison |
| Briscoe | Dilley | 1,342 | Minimum-In/Out, Medium | ID | Prison |
| Central | Sugarland | Unit: 741 Trusty Camp: 200 | Minimum | ID | Prison |
| Clemens | Brazoria | Unit: 894 Trusty Camp: 214 | Close, Medium, Minimum | ID | Prison |
| Clements | Amarillo | 3,198 | Maximum, Close, Medium, Minimum-In/Out | ID | Prison |
| Cleveland | Cleveland | 520 | Minimum | CCA | Private Prison |
| Coffield | Tennessee Colony | Unit: 3,818 Trusty Camp: 214 | Close, Medium, Minimum-In/Out | ID | Prison |
| Cole | Bonham | 900 | Minimum-In/Out, Medium, Low/Med/Hi Risk | SJ | State Operated-SJ |
| Connally | Kenedy | 2,848 | Minimum-In/Out, Medium, Close | ID | Prison |
| Cotulla | Cotulla | 606 | Minimum and Medium | ID | Transfer |

APPENDIX A

| Texas Department of Criminal Justice Unit Profiles | | | | | |
|---|-----------------|---------------------------------|---|-----------------|--------------------------|
| Unit | Location | Capacity | Custody Level Housed | Operator | Type |
| Dalhart | Dalhart | 1,356 | Minimum-In/Out, Medium | ID | Prison |
| Daniel | Snyder | 1,342 | Minimum-In/Out, Safekeeping Minimum | ID | Prison |
| Darrington | Rosharon | Unit: 1,610 Trusty Camp: 214 | Maximum | ID | Prison |
| Dawson | Dallas | 2,000 | State Jail Confinees, Minimum-In/Out, Medium, Transfer | CCA | Privately Operated-SJ |
| Diagnostic | Huntsville | Unit: 1,321 Boot Camp: 44 | All Levels | ID | Prison |
| Diboll | Diboll | 500 | Minimum | USCC | Private Prison |
| Diboll | Diboll | 606 | Minimum-In/Out, Medium | ID | Transfer |
| Dominguez | San Antonio | 2,144 | Low Risk, Medium Risk, High Risk | SJ | State Operated-SJ |
| Eastham | Lovelady | Unit: 2,153 Trusty Camp: 214 | Maximum | ID | Prison |
| Ellis | Huntsville | Unit: 1,995 Trusty Camp: 192 | Maximum, Death Row | ID | Prison |
| Estelle | Huntsville | 2,910 SAFP: 175 | All Levels | ID | Prison |
| Ferguson | Midway | 2,100 | Maximum, Close, Minimum-In/Out, Safekeeping | ID | Prison |
| Formby | Plainview | 1,100 | State Jail Confinees/Transfers | SJ | State Operated-SJ |
| Fort Stockton | Fort Stockton | 606 | Minimum-In/Out, Medium, Close | ID | Transfer |

| Texas Department of Criminal Justice Unit Profiles | | | | | |
|---|---------------------|---|---|----------|----------------------|
| Unit | Location | Capacity | Custody Level Housed | Operator | Type |
| Garza East | Beeville | Unit: 1,850 Work Camp: 480 | Minimum-In/Out, Medium, Safekeeping, Transient | ID | Transfer |
| Garza West | Beeville | 2,150 | Minimum-In/Out, Medium, Safekeeping, Transient | ID | Transfer |
| Gatesville | Gatesville | Unit: 1,498 / Female Trusty Camp: 214 Boot Camp: 20 | Administrative Segregation, Close, Medium, Minimum, In/Out, Intellectually Impaired | ID | Prison |
| Gist | Beaumont | 2,144 | Medium | SJ | State Operated-SJ |
| Glossbrenner | San Diego | 504 | Substance Abuse Probationers | SJ | SAFP |
| Goodman | Jasper | 504 | Medium, Minimum-In/Out | ID | Transfer |
| Goree | Huntsville | Unit: 1,000 Trusty Camp: 214 | Multiple | ID | Prison |
| Gurney | Tennessee Colony | 2,000 | All Levels | ID | Transfer |
| Hackberry | Gatesville | 280 / Female | Substance Abuse Probationers | ID | SAFP |
| Halbert | Burnet | 504 / Female | Substance Abuse Probationers | SJ | SAFP |
| Havins | Brownwood | 524 | Substance Abuse Probationers | SJ | SAFP |
| Henley | Dayton | 504 / Female | Substance Abuse Probationers/In-Prison Therapeutic Community Clients | SJ | SAFP |
| Hightower | Dayton | 1,342 | Medium | ID | Prison |
| Hilltop | Gatesville | Unit: 465 / Female Trusty Camp: 200 | Minimum-In/Out, Medium | ID | Prison |
| Hobby | Marlin | 1,342 / Female | Minimum, Medium, Close | ID | Prison |

| Texas Department of Criminal Justice Unit Profiles | | | | | |
|---|-----------------|-------------------------------|---|-----------------|--------------------------|
| Unit | Location | Capacity | Custody Level Housed | Operator | Type |
| Hodge | Rusk | 989 | Minimum-In/Out, Intellectually Impaired | ID | MROP |
| Holliday | Huntsville | 2,000 | Minimum-In/Out, Transient | ID | Transfer |
| Hospital Galveston | Galveston | 255 / Co-gender | All Levels | ID | Medical |
| Hughes | Gatesville | 2,828 | Maximum | ID | Prison |
| Huntsville | Huntsville | 1,705 | Minimum-In/Out, Maximum, Transient | ID | Prison |
| Hutchins | Dallas | 2,144 | Minimum-In/Out, Medium, Low Risk High Risk | SJ | State Operated-SJ |
| Jester I | Richmond | 323 | Sustance Abuse Probationers | ID | SAFP |
| Jester II | Richmond | 378 | Minimum Out | ID | Prison |
| Jester III | Richmond | Unit: 802 Trusty Camp: 214 | Multiple | ID | Prison |
| Jester IV | Richmond | 550 | Mental Health | ID | Psychiatric |
| Johnston | Winnsboro | 504 | Substance Abuse Probationers | SJ | SAFP |
| Jordan | Pampa | 1,008 | Medium, Minimum-In/Out | ID | Prison |
| Kegans | Houston | 667 | Minimum | SJ | State Operated-SJ |
| Kyle | Kyle | 520 | Minimum | WCC | Private Prison |
| Leblanc | Beaumont | 1,008 | Minimum | ID | Prison |
| Lewis | Woodville | 1,342 | Minimum-In/Out, Medium | ID | Prison |
| Lindsey | Jacksboro | 1,031 | Medium | WCC | Privately Operated-SJ |
| Lockhart | Lockhart | 500 / Female | Minimum, Medium | WCC | Private Prison |

| Texas Department of Criminal Justice Unit Profiles | | | | | |
|---|--------------|--|---|----------|----------------------|
| Unit | Location | Capacity | Custody Level Housed | Operator | Type |
| Lopez | Edinburg | 1,100 / Co-gender | Minimum-In/Out, Low Risk, Medium, High Risk | SJ | State Operated-SJ |
| Luther | Navasota | Unit: 1,102 Trusty Camp: 214 | Minimum-In/Out | ID | Prison |
| Lychner | Humble | 2,144 | Minimum, Medium | SJ | State Operated-SJ |
| Lynaugh | Ft. Stockton | 1,374 | Minimum-In/Out, Medium | ID | Prison |
| McConnell | Beeville | 2,828 | Maximum | ID | Prison |
| Michael | Tennessee | Unit: 2,876 Trusty Camp: 214 | Maximum security unit housing general Close Custody to Minimum-Out with an Administrative Segregation population | ID | Prison |
| Middleton | Abilene | 2,000 | Multiple Levels | ID | Transfer |
| Montford | Lubbock | Unit: 550 Trusty Camp: 400 Western RMF: 78 | Psych Unit-Mental Health; Trusty Camp-Minimum-Out; Western RMF - All Levels | ID | Psychiatric |
| Moore, B. | Overton | 500 | Minimum | CCA | Private Prison |
| Moore, C. | Bonham | 1,008 | Minimum-In/Out, Medium | ID | Transfer |
| Mt. View | Gatesville | 645 / Female | Minimum, Medium, Close, Administrative Segregation | ID | Transfer |
| Murray | Gatesville | 1,313 / Female | Minimum, Medium, Close, Administrative Segregation | ID | Prison |
| Neal | Amarillo | 1,356 / Female | Minimum-In/Out, Medium | ID | Prison |
| Ney | Hondo | 504 | Parole Modification Offenders & Probationers | ID | SAFP |

| Texas Department of Criminal Justice | | | | | |
|---|-----------------|---------------------------------|--|-----------------|-------------------|
| Unit Profiles | | | | | |
| Unit | Location | Capacity | Custody Level Housed | Operator | Type |
| Pack | Navasota | Unit: 1,205 Trusty Camp: 214 | Minimum-In/Out, Administrative Segregation, Protective Custody | SJ | Prison |
| Plane | Dayton | 2,144 / Female | Minimum-In/Out, Low Risk, Medium I, Medium II, High Risk | ID | State Operated-SJ |
| Powledge | Palestine | Unit: 864 Trusty Camp: 214 | Minimum | ID | Prison |
| Ramsey I | Rosharon | Unit: 1,570 Trusty Camp: 214 | Minimum-In/Out, General Population, Safekeeping, Administrative Segregation (Protective Custody) | ID | Prison |
| Ramsey II | Rosharon | Unit: 893 Trusty Camp: 200 | Multiple | ID | Prison |
| Ramsey III | Rosharon | Unit: 1,389 Trusty Camp: 214 | Minimum | ID | Prison |
| Retrieve | Angleton | Unit: 809 Trusty Camp: 214 | Minimum-In/Out, Medium, Close | ID | Prison |
| Roach | Childress | Unit: 1,342 Trusty Camp: 250 | Minimum-In/Out, Medium | ID | Prison |
| Robertson | Abilene | 2,900 | Maximum, Close Custody, Medium, Minimum-In/Out | ID | Prison |
| Rudd | Brownfield | 504 | Minimum, Medium | ID | Transfer |
| Sanchez | El Paso | 1,100 / Co-gender | Minimum | SJ | State Operated-SJ |
| Sayle | Breckenridge | 524 | Substance Abuse Probationers | SJ | SAFP |
| Segovia | Edinburg | 1,008 | Minimum-In/Out | ID | Transfer |

| Texas Department of Criminal Justice Unit Profiles | | | | | |
|---|---------------|---------------------------------|---|----------|--------------------------|
| Unit | Location | Capacity | Custody Level Housed | Operator | Type |
| Skyview | Rusk | 528 / Co-gender | Medium | ID | Psychiatric |
| Smith | Lamesa | 1,342 | Minimum-In/Out, Medium | ID | Prison |
| Stevenson | Cuero | 1,342 | Minimum, Medium | ID | Prison |
| Stiles | Beaumont | 2,897 | Maximum | ID | Prison |
| Telford | New Boston | 2,832 | Minimum-In/Out, Medium, Close, Maximum | ID | Prison |
| Terrell | Livingston | 2,900 | Maximum | ID | Prison |
| Texas City | Dickenson | 349 / Female | Minimum | ID | Medical |
| Torres | Hondo | 1,342 | Minimum-In/Out, Medium | ID | Prison |
| Travis County | Austin | 1,033 | Minimum-In/Out, Low Risk | WCC | Privately Operated-SJ |
| Tulia | Tulia | 606 | Transfer Inmates, Medium, Minimum-In/Out | ID | Transfer |
| Venus | Venus | 1,000 | Minimum | CCA | Private Prison |
| Wallace | Colorado City | Unit: 1,342 Work Camps: 200 | Minimum, Medium | ID | Prison |
| Ware | Colorado City | 900 | Minimum-In/Out, Medium | ID | Transfer |
| Wheeler | Plainview | 504 | Substance Abuse Probationers | SJ | SAFPF |
| Willacy County | Raymondville | 1,021 | Minimum | WCC | Privately Operated-SJ |
| Woodman | Gatesville | 900 / Female | Transfers | SJ | State Operated-SJ |
| Wynne | Huntsville | Unit: 2,300 Trusty Camp: 214 | Minimum-In/Out, Medium, Close Administrative, Segregation, Safekeeping | ID | Prison |

Key

CCA - Corrections Corporation of America

ID - Institutional Division

MROP - Mentally Retarded Offender Program

MTC - Management and Training Corporation

RMF - Regional Medical Facility

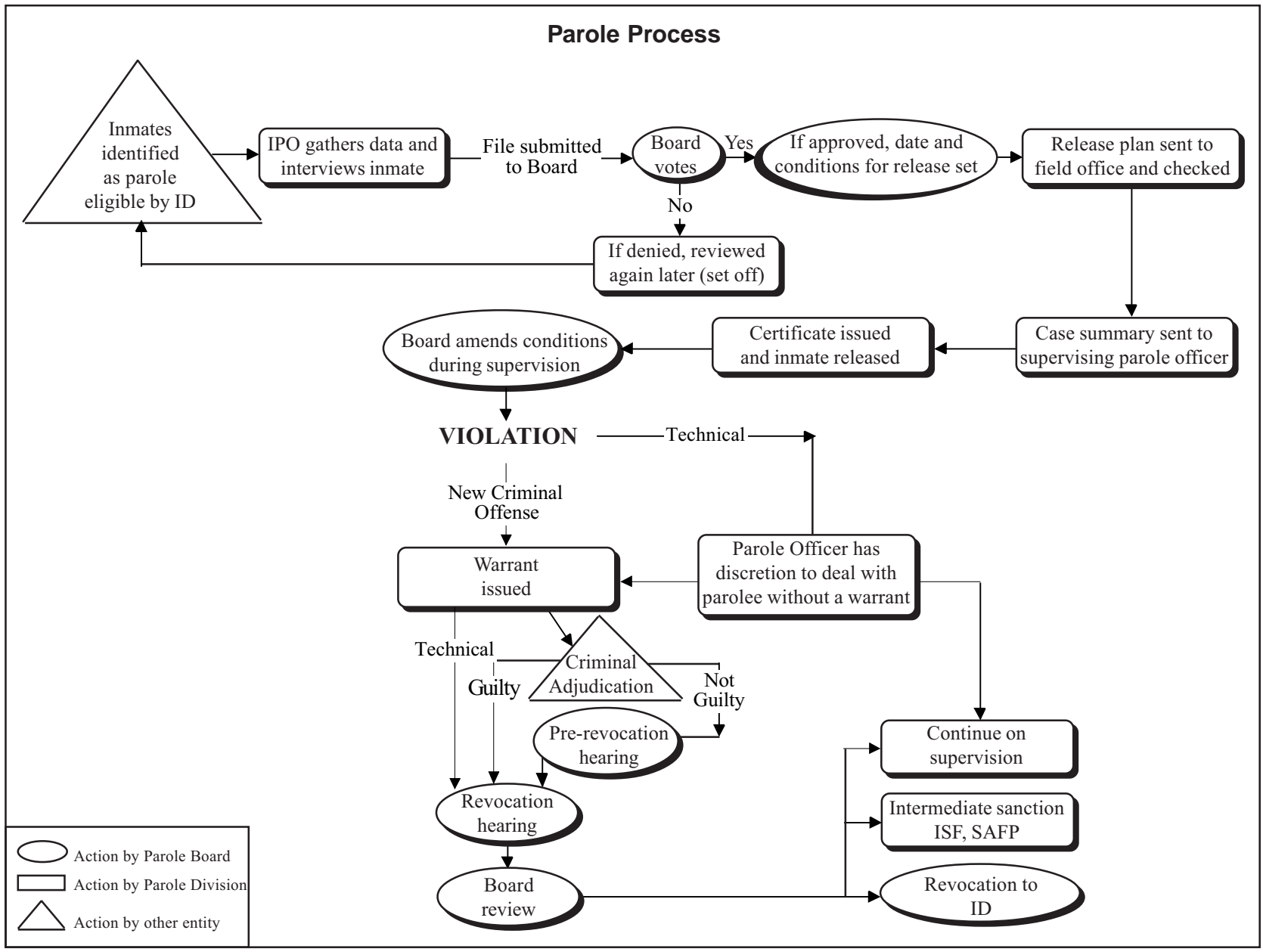
SAFP - Substance Abuse

SJ - State Jail

USCC - United States Correction Corporation

WCC - Wackenhut Corrections Corporation

Unless otherwise noted, all units house male offenders.



APPENDIX B

**TEXAS DEPARTMENT OF CRIMINAL JUSTICE
BOARD OF PARDONS AND PAROLES
CORRECTIONAL MANAGED HEALTH CARE
ADVISORY COMMITTEE**

Report prepared by:

Joe Walraven - Project Manager

Steve Hopson
Kris Heckmann
Karen Latta
Lisa Mogil
Diana Singer
Barbara Hunley
Rachel Cohen*
Laine Jennings*
Sandra Vice*

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**JOEY LONGLEY
DIRECTOR**

Sunset Advisory Commission
P.O. Box 13066
Room E2.002, Capitol Extension
Austin, Texas 78711
<http://www.sunset.state.tx.us>

(512) 463-1300
FAX (512) 463-0705