

The logo for the Texas Sunset Advisory Commission is a semi-circle with a thick black border. Inside the semi-circle, the words "Texas", "Sunset", "Advisory", and "Commission" are stacked vertically in a bold, serif font.

**Texas
Sunset
Advisory
Commission**

STAFF EVALUATION

Texas Department of Corrections

**A Staff Report
to the
Sunset Advisory Commission**

1986

TEXAS DEPARTMENT OF CORRECTIONS

September 1986

TABLE OF CONTENTS

	<u>Page</u>
SUMMARY OF STAFF REPORT	1
AGENCY EVALUATION	19
Introduction	19
Agency Background	25
Creation and Powers	25
Board Structure	25
Funding and Organization	26
Programs and Functions	26
Other Information	42
Review of Operations	55
Policy-making Structure	59
Overall Administration	61
Evaluation of Programs	71
ACROSS-THE-BOARD RECOMMENDATIONS	121

SUMMARY OF STAFF REPORT

The first state prison was built in Huntsville in 1850. Today, the Texas Department of Corrections operates 26 individual prisons, located mainly in East Texas, which currently hold close to 38,000 convicted felons. The Texas prison system is the second largest system in the nation, exceeded only by the California prison system with its approximately 50,000 inmates.

The Board of Corrections oversees the operations of TDC. The governor appoints the nine part-time members of the board for staggered six-year terms. The board operates the agency with a budget of \$595.5 million in fiscal year 1986. As of April 1986 TDC had 12,810 employees, most of whom were security guards.

TDC is mandated by statute to confine and rehabilitate inmates. The agency is also directed to operate as self-sufficiently as possible. Inmates produce many of the goods and services needed in the prison system. Through the use of inmate labor, TDC produces more of its own food and industrial products than any other prison system. TDC provides extensive health care for inmates: general medical, dental, psychiatric, and surgical services are made available through a variety of methods. Alcohol and drug abuse counseling is provided, as are other counseling services. The agency also operates a large educational program for inmates. The Windham school system within TDC offers primary and secondary level education to inmates. Prisoners also have access to college-level education courses. Vocational training is provided through Windham as well as through junior college programs offered in the prison units.

The operations of TDC have changed dramatically in the last ten years. Many of the changes result from the court case of Ruiz v. McCotter. Through the Ruiz case, federal courts have taken action to ensure that the civil rights of inmates are not violated. Virtually all aspects of TDC's operation are either directly or indirectly affected by decisions resulting from Ruiz.

The review determined that there is a continuing need for incarceration of certain felons and, therefore, a continuing need for the Texas Department of Corrections. The agency should be continued for another 12-year period. If TDC is continued, a number of changes should be made to improve the efficiency and effectiveness of its operations. These changes are summarized as follows.

I.
RECOMMENDATIONS

THE AGENCY SHOULD BE CONTINUED FOR A 12-YEAR PERIOD WITH THE FOLLOWING CHANGES:

POLICY MAKING STRUCTURE

Board Operations

- 1. The governor should appoint the chair of the Board of Corrections. (p. 59)**

Currently, the board elects its chair from its membership. Having the governor appoint this position would improve the continuity of policy between the state's highest elected official and TDC.

- 2. The quorum for meetings of the board should be changed from six to five members. (p. 59)**

The TDC statute currently requires that six members of the nine-member board constitutes a quorum for meetings. Having five members constitute a quorum would bring the agency in line with the standard quorum requirement for a nine-member board used in other state agencies.

OVERALL ADMINISTRATION

Structure of the Audit Function

- 3. The audits function should be given a high degree of organizational independence within TDC. (p. 62)**

Although the existing organizational chart shows internal audits reporting to the TDC director, the division actually reports to the deputy director for finance. This arrangement dilutes the importance of audit reports and creates a potential conflict of interest for audits of other programs or divisions under the finance deputy's supervision. To assure that audits receive attention from top management and to guarantee independence from divisions that could be criticized in audit reports, the audits function should report to the TDC director, with the ability to report to the Board of Corrections under special circumstances. The chief of audits should be hired by the board on the recommendation of the TDC director and should be fired only with the approval of the board. The audits division should

periodically update the board on its activities and should report to the board on the department's response to audit recommendations.

4. The function of the audits division should be expanded to include the evaluation of program outcomes and alternatives. (p. 62)

The existing internal audit division primarily conducts recurring financial and special management audits. The expanded audits division should also evaluate TDC programs to determine how well and how efficiently they achieve their goals and objectives. Based on this information, the audits division should recommend program and management improvements.

Organizational Structure of the Agency

5. TDC should streamline its organizational structure to eliminate duplication and save or reallocate resources. (management improvement, non-statutory) (p. 63)

Because of TDC's response to Ruiz requirements for new and expanded activities, the department's organizational structure has become cumbersome, with unclear lines of authority and duplication of effort in some areas. Through reorganization, TDC should combine similar activities and functions for better coordination and effectiveness of existing programs. The department should also consolidate duplicative functions, either reallocating resources or achieving a cost savings. Specifically, TDC should: 1) consolidate all administrative functions under a deputy director for administrative services; 2) combine inmate work programs and all support activities for the units in a new institutions division under the deputy director for operations; and 3) eliminate administrative duplication within the Windham school system.

Improvement of Information Systems

6. TDC should pursue computerization of manual systems where cost effective. (management improvement, non-statutory) (p. 67)

TDC should determine where computerization is cost effective and use this information to develop a plan for automating its files, using, where possible, the resources available from other state agencies. Through automation, TDC can reduce or eliminate many of the manual functions now used to keep the department's files.

Issues Relating to Privatization

- 7. TDC should develop cost estimates and performance standards for activities that are also available in the private sector, compare these estimates with competitive bids, and contract for the activities whenever the cost of contracting would be less than the department's cost. (p. 68)**

By comparing its activities with those available privately, the department can improve the performance and lower the costs of its operations. Subjecting activities to this process would encourage the department to develop the most efficient operations possible because of competitive pressure from private providers. This process would also enable the department to better account for its costs and expenditures. Because the transfer of an activity within the department to a private firm would involve certain additional costs, private bids should reflect a cost of at least 10 percent less than the department's cost of performing the activity.

- 8. TDC should be granted clear statutory authority to contract for correctional services or facilities. (p. 70)**

Due to constitutional limitations placed on the state with regard to contracting, it is unclear whether the state has the necessary statutory authority to contract for correctional services. Providing statutory authorization to contract will increase the state's options for meeting the future demands for correctional services and facilities.

EVALUATION OF PROGRAMS

Planning an Inmate's Prison Time

- 9. TDC and the Board of Pardons and Paroles (BPP) should equally share the responsibility of inmate planning. (p. 72)**

In the initial sunset bill dealing with BPP, the primary responsibility for the tentative parole process, a process which more closely ties an inmate's release to behavior in prison, was assigned to BPP. TDC and BPP must cooperate and be committed to meeting the concepts set forth in the tentative parole process if it is to be successful. The two agencies should therefore be statutorily required to develop a memorandum of understanding (MOU) to outline their respective responsibilities in the tentative parole process.

10. TDC correctional counselors and BPP institutional parole officers should be used more effectively to develop, manage, and otherwise track the progress of the inmate's individual plan. (p. 73)

TDC correctional counselors are supposed to monitor each inmate's individual activity plan, checking to see how the inmate is progressing with his/her plan outlined at admission to prison. Currently, because of a shortage of correctional counselors, reviews of the individual activity plans are not being conducted; however, the agency has a plan to increase the number of correctional counselors through a reallocation of existing funds. Should enough correctional counselors be hired to allow them to begin tracking an inmate's progress, they could end up duplicating the efforts of BPP's institutional parole officers, who perform a similar function. In order to enhance coordination and reduce potential duplication, TDC and BPP should be required to develop an MOU which delineates each agency's responsibility in tracking an inmate's progress while in prison.

11. TDC and BPP should establish a process to ensure that inmate information is shared whenever possible to reduce duplication of effort. (p. 74)

Under the tentative parole concept, as the Board of Pardons and Paroles' involvement with the inmate moves to the front end of the inmate's prison stay, the potential for duplication in inmate information gathering increases. Through an MOU, TDC and BPP should be required to outline their respective responsibilities in obtaining inmate information. The MOU should establish an information committee, made up of representatives from each agency, which would meet regularly to assess information needs, solve any information flow problems, and reduce duplication in information gathering.

12. The statute should be amended to improve the flow of inmate information coming from counties to TDC. (p. 74)

The following changes to current law would improve the flow of information coming to TDC from counties: 1) require that the presiding judge of each district designate a person responsible for making sure that all the commitment information required by law gets to TDC; 2) set a date by which counties must begin using the standardized felony judgment forms required by law; 3) require that a checklist be included with the information being sent to TDC; 4) clarify that the standardized judgment forms are a prerequisite to TDC admission; and 5) make

presentence investigation and probation revocation reports, if they have been completed on the county level, a prerequisite for entry into TDC.

Inmate Work and Training Programs

- 13. The composition and purpose of the industrial advisory committee should be changed and clarified. (p. 76)**

The advisory committee created by the 69th Legislature has yet to be put into operation for a number of reasons. The following changes are needed to overcome the problems encountered: 1) reduce the size of the committee from nine to five members, with a member of the board serving as chair of the committee; 2) specify the qualifications of members; 3) specify the responsibilities of the committee to include oversight of industrial programs, expansion of programs and consideration of private industry involvement in the programs; and 4) require the committee to make periodic recommendations to the board.

- 14. Industrial programs should, where cost-effective, be relocated to prison units where more adequate inmate labor is available. (management improvement, non-statutory) (p. 77)**

For a number of reasons, adequate inmate labor is not available at all units where industrial programs are located. TDC should pursue relocations, where cost-effective, and use the industrial resolving fund, where warranted, for those relocations.

- 15. An annual review process for TDC agriculture programs should be established. (p. 78)**

TDC agricultural programs have traditionally operated to meet many of the food needs of TDC and to provide work for inmates even though meeting these goals has not always been the most efficient or economical way to operate agricultural programs. TDC has recently begun to review its programs and make changes to improve operations. TDC should continue to: 1) review all agricultural programs annually for cost-effectiveness; 2) purchase food and other products that cannot be produced cost-effectively; and 3) pursue mechanization where productivity can be increased, cost-effectiveness can be improved, and the security benefits of using manual labor in agriculture can be maintained.

- 16. A percentage of the annual profits from agricultural programs should be reinvested in the program to develop new areas of operations. (p. 79)**

With a few exceptions, the TDC agriculture program generates profits from its operations. The profits are used for continued operation of the program but funding is generally not provided for new or innovative programs. Ten percent of the annual profits, not to exceed \$500,000, should be set aside for this purpose.

- 17. An agricultural advisory committee should be established. (p. 79)**

The agriculture program is a major program within TDC that would benefit from the expertise of an advisory committee to assist with its operation. The committee should be established as follows: 1) membership should consist of five members knowledgeable in agriculture with a member of the board serving as chairman; 2) one member should be a faculty member from Texas A&M University with agricultural expertise; and 3) the committee's responsibilities should include periodic evaluation of programs, consideration of new areas of operation, review of the need for mechanization and the review of inmate labor needs.

- 18. The TDC and the Board of Pardons and Paroles should develop a system to evaluate the effectiveness of TDC training programs in improving the employability of inmates. (p. 80)**

The TDC has a number of training programs to improve an inmate's employability once released from prison. The TDC does not have the capability to determine whether skills learned actually help the inmate in finding a job. The BPP maintains information on the employment of TDC releasees and could set up a system with TDC so that the employment information could be used to measure the success of TDC training programs.

Incentives for Promoting Good Inmate Behavior

- 19. The TDC should identify useful incentives that are actually restricted by court action and take reasonable steps to eliminate those restrictions. (management improvement, non-statutory) (p. 82)**

Other than the granting of good conduct time, TDC is apparently restricted by court order from using many available incentives for good behavior. TDC should determine which incentives are actually prohibited by court order and, where reasonable, request that the courts modify the plans and stipulations agreed to in the court settlements so that the department could use the incentives needed.

- 20. The statute should be changed to allow the Board of Corrections to discontinue, under certain conditions, the backdating of good time credits and the reinstatement of good time previously forfeited for disciplinary reasons. (p. 82)**

Increasing pressures on the prison population have caused the implementation of generous good time policies which reduce its significance as an incentive for good behavior. While the current policies have helped keep the TDC population within legal limits, when population pressures ease in the future, the board should have the authority to suspend the backdating of good time and the reinstatement of time forfeited for disciplinary reasons.

Establishment of Pre-release Programs

- 21. TDC should be statutorily required to include a pre-release component in the unit program of any new units built near urban areas. (p. 85)**

Pre-release programs work best if located in urban areas, and pre-release programs may ultimately reduce the cost of incarceration by preventing recidivism. At least a portion of any new urban-located unit should be made up of inmates undergoing pre-release training. Although the actual cost of re-entry programs is unknown, if the program is developed, costly maximum security cells will not be required, community resources will be used and the program will be partially self-sustaining through work-release.

- 22. The statute should provide that at least one fourth of the inmates assigned to new urban units participate in a pre-release program. (p. 85)**

Requiring at least one-fourth of the inmates assigned to new units to be in pre-release programming will insure the operation of a viable pre-release program component, while simultaneously providing the agency with the flexibility it needs to design units that are self-supporting through industry.

- 23. The statute should require that employment counseling, drug and alcohol abuse counseling, and family counseling be a part of the pre-release programming. (p. 86)**

Unemployment, substance abuse, and lack of family support are the three most common elements contributing to recidivism rates. Requiring the programming to be directed at helping to resolve these problems will insure that the offender's needs will be addressed as fully as possible prior to release.

- 24. The statute should require that inmates participating in the pre-release program be within six months of release. (p. 87)**

Limiting participation in pre-release to those inmates recognized as being in a "pre-release stage" will ensure full use of pre-release resources and reduce any risk to public safety.

- 25. The statute should permit inmates to participate in a work-release program, with a part of the offender's earnings to be contributed to help pay the costs of the pre-release program. (p. 87)**

Establishing employment prior to release eases the inmate's transition back into society. Requiring the inmate to pay for the program establishes responsibility and defrays some of the cost of pre-release. Specific statutory authority is necessary to set up this work-release program. The program would be a new effort tailored to the concept of the urban pre-release centers and distinct from the current work furlough program.

- 26. The statute should require a memorandum of understanding between TDC, the Texas Employment Commission, and the Board of Pardons and Paroles defining each agency's role in the pre-release program. (p. 87)**

The requirement of an interagency agreement would establish guidelines and rules of responsibility for providing pre-release program services to inmates.

- 27. The statute should require TDC, BPP and TEC to evaluate the effectiveness of the pre-release programming on a yearly basis. (p. 88)**

Regular evaluation of the pre-release program will increase accountability of each agency involved and makes future program decisions more accurate.

Revision of Release Laws

- 28. Flat time, good time, parole and mandatory release laws should be restructured. (p. 90)**

Current release laws determine how and when inmates are released from TDC and allow control of the prison population through the continued incarceration of some inmates and the release of others. The release laws have caused several problems such as unequal application of sentencing laws, reduced incentives for good inmate behavior, increased disciplinary problems caused by certain inmates, reduced ability of TDC and BPP to make discretionary release decisions and the automatic

release of inmates convicted of violent crimes. These concerns have been addressed by a proposal of an interim group created by the governor--the Sentencing Task Force. Under the Sunset proposal, which is similar to that of the task force, several changes would be made. First, automatic release for inmates convicted of violent crimes would be eliminated and BPP would be given complete release discretion for this group. To accomplish this purpose, the statute would need to be changed so that the mandatory release law does not apply to offenders with violent crimes, and so that the flat time law is abolished. Second, good time credits would be reduced from a maximum of three days for each day served to a maximum of two for one. Inmates with non-violent crimes that are not paroled would thus be required to serve more calendar time in TDC before mandatory release (all other inmates would also receive a lesser amount of good time for parole consideration). Third, a safeguard would be provided to ensure that prison crowding is not aggravated by the sunset proposal. The changes suggested above lengthen time served in TDC, particularly for bad parole risks. The increased pressure on prison facilities can be offset by reducing parole eligibility from one-third of sentence length to one-fourth of sentence length. This change should maintain the number of parole eligible inmates at its current level. Fourth, TDC should be required to comment on the appropriateness of parole release for inmates. This change gives TDC an additional tool to promote good inmate behavior. This recommendation was developed in such a way that the population level set by court would not be exceeded. The changes should therefore be considered as a group.

Allocation of Release Money

- 29. Inmates released from TDC should receive \$100 at the gate and \$100 after reporting to the designated parole officer within a time period specified by the Board of Pardon and Paroles. (p. 95)**

Each inmate currently receives \$200 upon release from TDC. The purpose of the release money is to provide the released inmate with funds to purchase meals and transportation back to their approved destination; however, the individuals can spend the money any way they wish. Staggered distribution of the release money would provide a more efficient use of state funds and could serve as an incentive for releasees to report to parole supervision soon after their release from TDC.

Information Provided to Inmates

- 30. The TDC should update and simplify the inmate handbook.
(management improvement, non-statutory) (p. 96)**

Inmates should be aware of the rules and procedures governing their incarceration. The handbook currently provided to them is outdated and too complicated. A new and simplified handbook would be more useful for both inmates and TDC staff and would reduce the possibility for the inconsistent application of rules between the units.

Reduction of Inmate Litigation

- 31. The Texas Department of Corrections should seek and maintain certification of the inmate grievance procedure. (p. 97)**

In 1982, Congress enacted legislation authorizing federal district courts to require inmates to go through the correctional agency's grievance procedure before proceeding with inmate civil rights claims. The requirement to exhaust administrative remedies can only be applied in states that have a certified inmate grievance process. A certified TDC grievance procedure should reduce the burden on federal courts and the attorney general's staff charged to defend the state's interest in inmate cases. Certification of the inmate grievance procedure in Texas could also improve the present grievance system through meeting the requirements of certification, and could help alleviate tension between inmates and prison administrators by providing resolution to grievances in a more timely manner.

- 32. State courts should be authorized to require that inmates exhaust administrative remedies provided by the grievance procedure.
(p. 98)**

While judicial certification allows federal courts to require a prisoner to exhaust the remedies provided by the grievance procedure, state courts do not currently have that authority. Since many inmate claims are filed in state courts, legislation to allow state courts to hold a case for 90 days while the inmate exhausts administrative remedies could save the state time and money by reducing the potential for litigation.

- 33. The Texas Department of Corrections should be authorized to reimburse small claims for lost or damaged property under \$500.
(p. 98)**

Another factor that adds to the potential number of lawsuits filed in federal and state courts is TDC's inability, under current law, to pay small claims for inmate

property inadvertently lost or damaged as a result of action by agency personnel. Currently, claims must be processed through the comptroller, audited by the state auditor and verified by the attorney general before payment can be made to the inmate. The benefits of authorizing TDC to process these claims include a potential reduction in the number of claims filed in the court system, a reduction in the time it takes to reimburse inmates for their lost or damaged property, and a reduction in the number of claims being processed through the three state agencies involved in claims reimbursement.

Inmate Accountability for Damaged Property

- 34. TDC should be granted the authority to hold inmates liable for damaged state property pursuant to an administrative hearing. The agency would be authorized to seize the contents of the inmate's trust fund or require that the inmate make restitution as a condition of parole or mandatory release. (p. 99)**

Permitting TDC to hold inmates monetarily responsible for damages they cause to state property would increase the department's disciplinary options and help defray the cost of repairs. Provisions to minimize appeals to county court from the administrative process would lessen the burden on the counties.

Services to Mentally Ill and Mentally Retarded Inmates

- 35. The Texas Department of Corrections and the Board of Pardons and Paroles should be authorized to accept transfer or to contract for the use of available TDMHMR facilities. (p. 103)**

The deinstitutionalization of the mentally ill and mentally retarded in the TDMHMR system has resulted in decreased facility utilization at some of the state schools and hospitals. The underutilized TDMHMR facilities could potentially be used to care for the mentally ill/mentally retarded inmates of TDC or as a halfway house or halfway-back house for the mentally ill/mentally retarded releasee under supervision of the Board of Pardons and Paroles. TDC and BPP should be given the authority to receive transfer or to contract with TDMHMR for use of TDMHMR facilities if, in the future, such an arrangement becomes practicable.

- 36. The statute should be amended to provide for a psychiatric commitment process for seriously mentally ill inmates being discharged from TDC. (p. 104)**

Because the prison overcrowding situation necessitates more expedited release from prison, TDC personnel sometimes do not have enough advance notice of the

release of a seriously mentally ill prisoner to initiate proceedings for court ordered mental health treatment in the free world. Until the overcrowding and release process stabilizes, TDC needs a way to make sure that releasees determined to be dangerous to themselves or others, or releasees deteriorating due to mental illness, are provided appropriate treatment. The TDC should be required to set up a commitment process that includes: 1) timely notification of the upcoming release of a mentally ill inmate; 2) initiation of court commitment proceedings as the seriously mentally ill inmate's release approaches; and 3) commitment to a TDC psychiatric in-patient facility to be able to transfer the patient to a free world in-patient facility on notice of release. TDC should also be required to pay the court costs associated with the court commitment proceedings.

37. The TDC, the Board of Pardons and Paroles and the Texas Department of Mental Health and Mental Retardation should enter into a memorandum of understanding (MOU) which develops a continuity of care system for the mentally ill and mentally retarded offender released from TDC. (p. 106)

As the mentally ill/mentally retarded inmate is released from TDC, there should be some level of continuity of care as the person makes the transition back to the community. The Texas Department of Corrections, the Board of Pardons and Paroles and the Texas Department of Mental Health and Mental Retardation all play an important part in assuring that mentally ill offenders receive the services they need to cope with life outside of prison. The review indicated that while all three agencies are involved in continuity of care systems, they lack the coordination to take full advantage of potential services available for the offender in the community. The MOU required in the initial BPP sunset recommendation regarding community TDMHMR services should be expanded to require BPP and TDMHMR, as well as TDC, to work out a consistent system to ensure needed services are continued once an inmate returns to the community.

38. The BPP should be authorized to use parole supervision fee revenue for contract mental health/mental retardation services for TDC releasees in the community. (p. 108)

Currently, BPP does not receive an appropriation to purchase needed services for releasees under their jurisdiction in the community. The reviews of both BPP and TDC identified problems with the availability, in certain areas of the state, of services to releasees with mental health/mental retardation problems. These

problems will probably not improve substantially without a source of funds to purchase services from community mental health providers. To improve accessibility of community mental health/mental retardation services, and to aid in reducing the high recidivism rate for the mentally ill/mentally retarded offender, BPP should be authorized to retain revenue from the parole supervision fee for contract community services. Currently, the supervision fees are credited to the general revenue fund.

- 39. The TDC should be statutorily required to put out a request for proposal (RFP) on a pilot project for diagnostic and evaluation services for offenders at the local level before their transfer to TDC. (p. 109)**

Currently, the screening and diagnostic process set up to identify the mentally ill and mentally retarded inmate takes place during the first weeks of an inmate's stay at TDC. The recent increase of inmates being admitted to TDC has put stress on the entire TDC diagnostic system, which includes not only psychological and intelligence testing for each inmate entering TDC, but also comprehensive sociological and medical evaluations. The review indicated that having all or part of the diagnostic process done on the local level before an inmate's arrival at TDC could provide several benefits. To explore the potential for reducing costs, lowering the misdiagnosis rate, and speeding up the diagnostic process, TDC should be required to send out an RFP for diagnostic and evaluation services at the local level.

- 40. The Texas Department of Corrections should separately recruit security staff hired to work with the mentally ill and mentally retarded inmate. (management improvement, non-statutory) (p. 111)**

Currently, security staff working with mentally ill and mentally retarded inmates (called psychiatric and rehabilitation aides) are selected from the general pool of correction officers instead of from direct free world sources. The review indicated that often officers picked to work with the special populations after completion of general security officer training do not want to work with these groups. In addition, once the psychiatric and rehabilitation aides are assigned to the specialty units, they are supervised by security personnel instead of by treatment team personnel, a practice that is contrary to the Psychiatric Services Plan developed pursuant to the Ruiz litigation. To facilitate integration of all aspects of the

inmate treatment program and to satisfy the provisions of the Psychiatric Services Plan, psychiatric and rehabilitation aides should be hired directly as aides and should be supervised by treatment team personnel.

41. The Texas Department of Corrections should be authorized to hire psychiatrists at a competitive salary rate. (p. 112)

To help in their recruitment of psychiatrists required by the Psychiatric Services Plan, in the spring of 1986 TDC entered into an interagency contract with the Texas Department of Mental Health and Mental Retardation. The TDMHMR is currently authorized to hire psychiatrists at a higher, more competitive salary. Under terms of the contract, TDMHMR hires the psychiatrist for TDC and is then reimbursed. To avoid having to rely on another agency to hire their personnel, TDC should be statutorily authorized to hire psychiatrists at the same rate authorized for TDMHMR.

Improved Medical Services

42. Overnight housing facilities for inmates should be established at the TDC-Galveston Hospital. (p. 113)

Using some of the vacant space in the TDC-Galveston Hospital to create an overnight holding facility for inmate outpatients, as intended in the original hospital plans, would make delivery of out-patient medical services to inmates smoother and more cost-efficient. Overnight holding facilities would permit TDC to transfer patients to Galveston the night before their appointment, rather than on the day of appointment. The waste of resources, including TDC staff and UTMB physicians' time, caused by mechanical breakdowns would be minimized and some trips by inmates could be avoided. Inmates would not have to make daily trips to Galveston for outpatient services, and they would miss fewer appointments due to mechanical failures. Finally, if the Ruiz plaintiffs agree, it is possible that the cells used for overnight holding could be added to TDC's maximum capacity.

43. The TDC and The University of Texas Medical Branch should be required by statute to enter into a memorandum of understanding defining the relative duties and responsibilities of each agency. (p. 115)

Requiring a memorandum of understanding will ensure that the TDC-UTMB relationship continues to operate despite changes in leadership, and will help resolve any disputes between the two agencies concerning security, treatment, or maintenance of the hospital.

- 44. The TDC and UTMB should jointly review the quality of care and cost-effectiveness of treatment provided to inmates in the TDC hospital. (p. 116)**

The TDC is not currently a part of the UTMB processes for ensuring quality of care and cost-effectiveness of treatment to inmates in the TDC hospital. Requiring joint peer review of quality of care will help increase the quality of medical services provided to inmates, and will promote better communication between each agency of their separate constraints and problems in treating inmates. Requiring joint utilization review for cost-effective treatment will help UTMB identify cost savings methods that will be safe and effective for patients returning to a prison environment. These provisions should be included in the MOU mentioned previously.

- 45. The TDC should be authorized by statute to establish medical residencies and to expend funds for that purpose. The agency and state medical schools should be directed to work together and explore the alternatives for residencies. (p. 117)**

Granting TDC permission to establish and fund residency programs will provide the agency with a possible recruitment tool for areas of medical service where vacancies are high. Residency programs can also lower the cost of salaries for medical professionals. A directive for TDC and state medical schools to begin exploring alternatives will ensure that TDC takes the actions necessary to determine the feasibility of residency programs as soon as possible.

Non-Program Changes

- 46. The relevant across-the-board recommendations of the Sunset Commission should be applied to the agency. (p. 121)**

The Sunset Commission has developed a series of recommendations that address problems commonly found in state agencies. These "across-the-board" recommendations are applied to each agency. A description of the provisions and their application to the department are in the "Across-the-Board Recommendations" section of the report.

AGENCY EVALUATION

The review of the current operations of an agency is based on several criteria contained in the Sunset Act. The analysis made under these criteria is intended to give answers to the following basic questions:

1. Does the policy-making structure of the agency fairly reflect the interests served by the agency?
 2. Does the agency operate efficiently?
 3. Has the agency been effective in meeting its statutory requirements?
 4. Do the agency's programs overlap or duplicate programs of other agencies to a degree that presents serious problems?
 5. Is the agency carrying out only those programs authorized by the legislature?
 6. If the agency is abolished, could the state reasonably expect federal intervention or a substantial loss of federal funds?
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Introduction

THE ADULT CORRECTIONS SYSTEM IN TEXAS

The corrections system in Texas is managed through three agencies having primary responsibility for adult offenders, the Texas Adult Probation Commission (TAPC), Board of Pardons and Paroles, and Texas Department of Corrections (TDC). An offender becomes involved in adult corrections through the judicial system, which has a complex structure in Texas. This is due to the large variety and number of courts in the state, including district courts, county courts, county courts-at-law, probate courts and others. Judges bear the primary burden for hearing cases and sentencing offenders because over 90 percent of all cases result in guilty pleas with sentences assessed by a judge and not a jury.

Generally, when a defendant pleads guilty or no contest to an offense or is convicted, he/she can be sentenced to a term of imprisonment (prison time for felony offenses and jail time for misdemeanors), or he/she can be placed on probation. A judge may not grant probation if a person is found guilty of capital murder, aggravated kidnapping, aggravated sexual assault, aggravated robbery, or when a deadly weapon was used in the commission of or flight from an offense. In cases where a person pleads guilty or no contest, the court may also defer adjudication and place the person on probation. Because there is no conviction in deferred adjudication, the offense does not appear on a person's record. The court can defer adjudication in every type of offense, except involuntary manslaughter, driving while intoxicated and certain drug offenses.

For those placed on probation, the imposition of the sentence is actually suspended and the person must comply with certain terms of probation or risk going back to court for a revocation. The terms of probation are set by the court and may include but are not limited to any of the following: paying a probation supervision fee, court costs, fines associated with the offense, attorney fees, and victim restitution; performing community service work hours; attending a treatment program; being placed in a special probation program or facility and placement in a contract work program. Courts can add other reasonable conditions to the terms of probation and can modify terms at any time. The period of probation can be no longer than 10 years for felony offenses and no longer than the maximum period of confinement prescribed for misdemeanor offenses.

Probationers come under the supervision of the court and consequently become the responsibility of a probation department. Due to the local structure of adult probation services in Texas, nearly every court trying criminal cases in the state uses adult probation officers in overseeing the supervision of probationers. Currently, 110 judicial district adult probation departments have elected to participate in the state funded probation system, while seven departments have elected not to participate. These seven departments operate their own probation system and do not receive state funding assistance. The population of the non-participating counties represents less than two percent of the state's total population. Participating probation departments in compliance with TAPC guidelines receive state aid which funds probation services, residential facilities in some departments and probation officer salaries, fringe benefits, travel and other expenses. In 1985, approximately 1,800 probation officers statewide provided direct supervision to an average of 74,000 felony and 98,000 misdemeanor probationers and indirect supervision to an additional 73,500 probationers.

Probation departments may be involved with offenders before the court sentencing phase through pre-trial diversion programs and writing pre-sentence investigation reports used by courts in sentencing. However, the main involvement of the department comes after a person has been placed on probation by the court. Once an offender is received from court, the probation officer generally interviews the person to review conditions of probation that must be followed and to assess problem areas and level of supervision needed. Through the use of the case classification system, a probationer's needs and risks are assessed and a supervision plan is developed.

Probationers who successfully comply with probation conditions can be released early or upon completion of the full probation term. Violations of probation terms, however, can lead to revocation of probation. In such cases, the court holds a revocation hearing, after which probation may be revoked, modified or continued.

There are three main ways a felony offender can enter TDC: directly from court after sentencing; through probation revocation; and through parole revocation. See Exhibit I for percentage of admissions from each source. Once a person is sent to TDC, that person is under TDC's jurisdiction until his/her sentence is served out. TDC has two main responsibilities in dealing with inmates -- to confine the inmates in secure facilities during their incarceration and to provide them

programs and services to assist with their special needs and overall rehabilitation. Currently, there are over 38,000 inmates housed in the 26 units of TDC.

Exhibit I

Source of TDC Admissions for Selected Months - 1985

	January 1985	August 1985	September 1985	Average
Returned Parolees	28%	29%	27%	28%
Revoked Probationers	37%	33%	37%	36%
From the Courts	35%	38%	36%	36%
	100%	100%	100%	100%

An inmate can be released from TDC in one of four ways: shock probation, release on parole, mandatory release, and release after serving his/her complete sentence. "Shock probation" can be granted by the judge within 180 days of the time of sentencing. The offender is released after a short period of incarceration to the supervision of a local probation department. Most inmates are either paroled or released to mandatory supervision. Parole eligibility generally occurs when an inmate's flat time served and awarded good time equal one-third of his or her sentence. Mandatory release occurs when time served at TDC and good conduct time awarded to the inmate equal his/her sentence. Because of granting of good conduct time to inmates by TDC, very few inmates ever serve their entire sentence at TDC.

Parole decisions are made by the Board of Pardons and Paroles. The board, and nine parole commissioners employed by the board, form three-member panels to review all inmates for parole as they become eligible. Inmates approved for release on parole are then supervised by board staff. Currently, the board has 658 employees in parole supervision. Actual supervision is done by employees working out of 42 district offices located in eight geographical regions. Parolees remain under the board's supervision until they serve out the remainder of their sentence not served in TDC. In addition to parolees, all inmates receiving a mandatory release from TDC are also under the supervision of the board for the remainder of their sentences. Exhibit II shows the number of releasees under active supervision of the Board of Pardons and Paroles for the last five years.

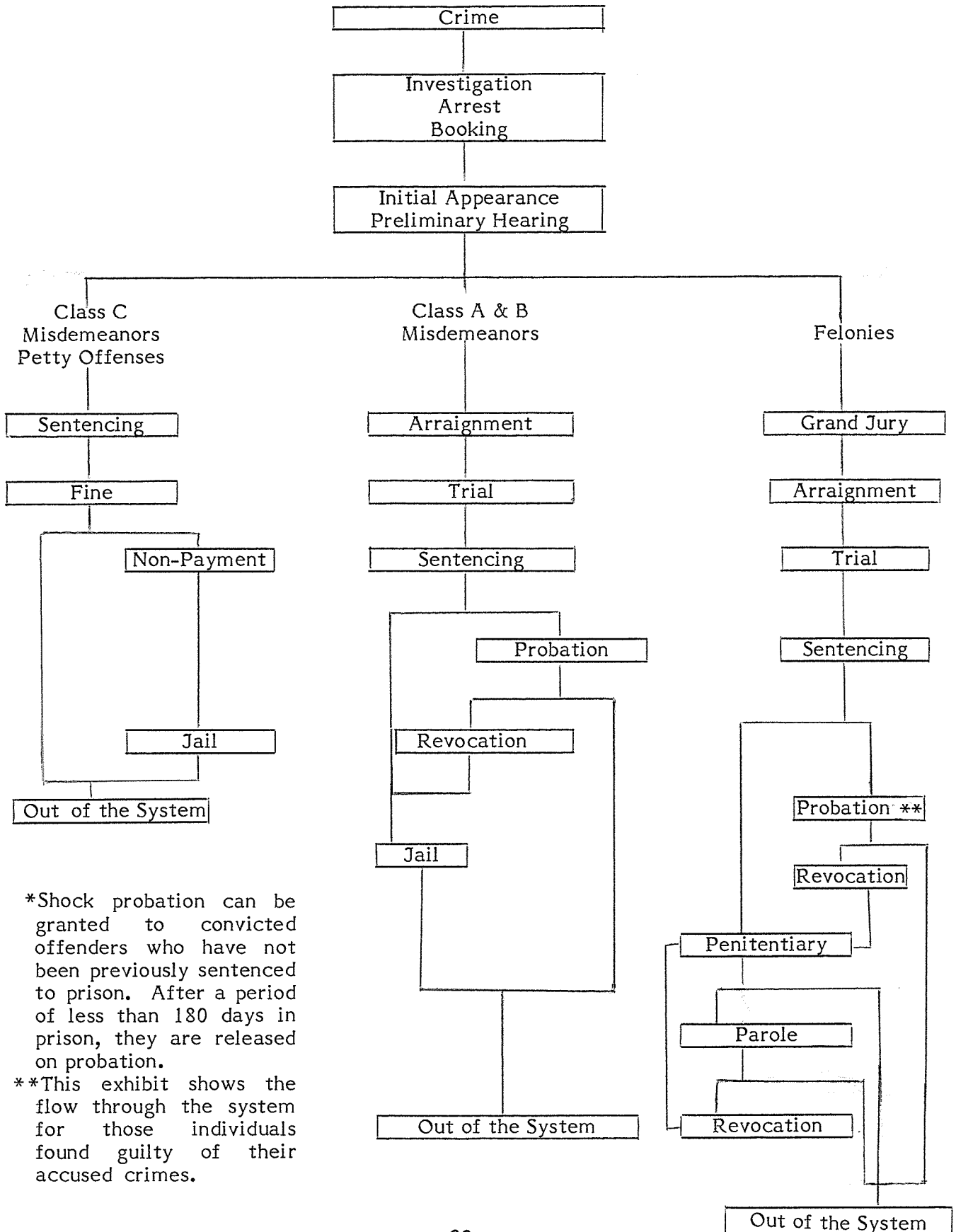
Exhibit II
Releasees Under Active Supervision

<u>Type of Release</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>
Parolees	10,929	12,945	14,415	17,279	17,820*
Mandatory Supervision Releasees	3,148	5,004	8,344	12,422	15,181
Parolees in Texas from other states	<u>1,389</u>	<u>1,635</u>	<u>1,613</u>	<u>1,761</u>	<u>1,812</u>
TOTALS	<u>15,466</u>	<u>19,584</u>	<u>24,372</u>	<u>31,462</u>	<u>34,813</u>

* This figure includes inmates participating in the agency's pre-parole transfer program.

At the end of fiscal year 1985, there were 17,820 parolees and 15,181 mandatory releasees under the active supervision of the board. Exhibit III, which follows, provides an overview of the adult criminal justice system.

**Exhibit III
ADULT CORRECTIONS SYSTEM ***



*Shock probation can be granted to convicted offenders who have not been previously sentenced to prison. After a period of less than 180 days in prison, they are released on probation.

**This exhibit shows the flow through the system for those individuals found guilty of their accused crimes.

BACKGROUND

Creation and Powers

The Texas Department of Corrections (TDC) is managed and controlled by the Texas Board of Corrections which was created in 1927. The Texas Department of Corrections is responsible for operating a prison system to confine inmates convicted of felonies and sentenced to state prison terms. The prison system is designed to be as self-sustaining as possible and also provide inmates with opportunities for education, training, and overall rehabilitation.

The first state prison was built in Huntsville in 1850. The prison system was formally established in 1927 with the creation of the Texas Prison Board. In 1957, the name of the prison system was changed to the Texas Department of Corrections and the prison board became the Texas Board of Corrections. Today, the state's prison system is the second largest in the nation, exceeded only by the California system with its 50,000 inmates.

In 1963, the Prison-Made Goods Act was passed which created an industrial program within TDC to provide products to support TDC and vocational training for inmates. In 1969, the Windham school system was established. The system was the first comprehensive educational system established as a public school district within a statewide prison system.

In 1972, a civil rights suit was filed against the director of TDC. The case, now entitled Ruiz v. McCottér, involved allegations that the civil rights of the inmates were being violated because of the living conditions in the prison units of TDC. The court case involved virtually every aspect of TDC operations. The findings in the case and the subsequent court orders and stipulations have completely altered the operations of TDC. A more detailed discussion of Ruiz can be found in a later section of this report.

Board Structure

The Board of Corrections is composed of nine part-time members appointed by the governor for staggered six-year terms. The board chairman and vice-chairman are elected by the board membership. Six members are required as a quorum to transact business. The board chairman appoints members to various committees and each member is appointed to a functional area of TDC operations to assist the board in its oversight of the agency. The Board of Corrections also serves as the Board of Trustees for the Windham school system which provides educational programs for inmates.

Funding and Organization

The Texas Department of Corrections has its administrative headquarters in Huntsville and operates 26 units located primarily in East Texas. Exhibit 1 sets out the organizational structure of the agency and Exhibit 2 shows the locations of the state's prison units. The department had 12,810 employees as of April 1986 with an operating budget of \$595.5 million. Exhibit 3 sets out the personnel and the budget for each of the department's major programs.

Programs and Functions

To fulfill its responsibilities of confining and rehabilitating inmates, TDC has established the following programs -- finance, health services, and operations. Included within operations is the Windham School System. Additional activities are included in executive administration. A description of the programs is provided in the following material.

Executive Administration. Certain activities, which report to the executive director, have been established to support the department or to assist the TDC director in overseeing its activities. The support activities include personnel, public information, and general counsel. The other activities include compliance, which monitors the department's progress in meeting Ruiz requirements; internal affairs, which conducts use of force and other internal investigations; and staff counsel for inmates, which provides legal assistance for indigent inmates. Though the TDC organization chart places internal audit under executive administration, this audit function actually reports to the finance director.

Finance. This program provides the traditional financial support for the department. Budgeting, accounting, data processing and purchasing are either provided or coordinated through this division. The two largest divisions of the program -- agriculture and industry -- are not usually part of a finance program. These two programs are included under finance within TDC because of the revenue generated and spent by the programs.

The agriculture program provides most of the food required to feed the inmates and employees of TDC in the prison units. Exhibit 4 shows the agricultural programs operated by TDC. Inmate labor is used in many areas of agriculture with approximately 7,500 assigned to the division daily.

Exhibit 1

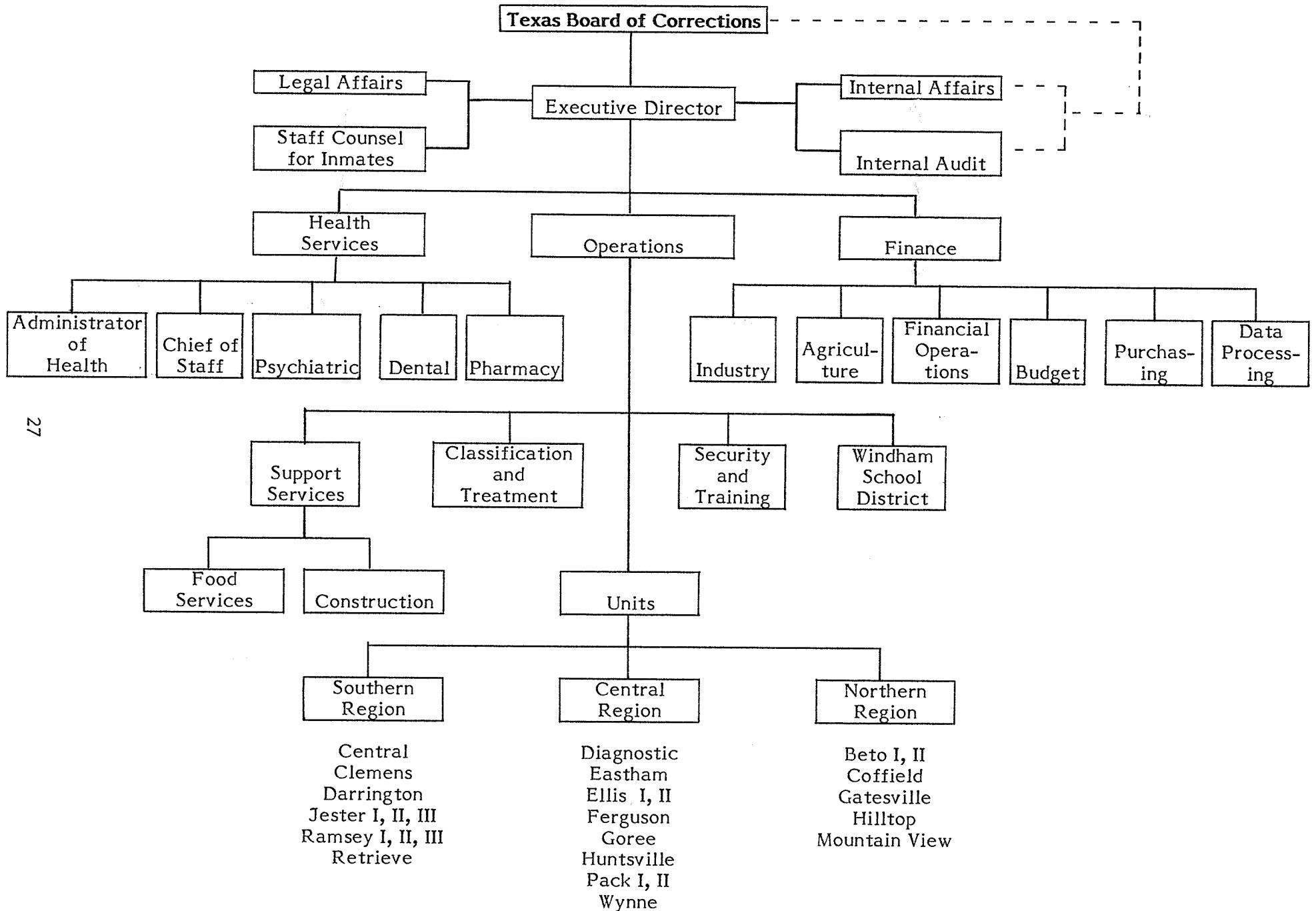


Exhibit 2

TDC Prison Units

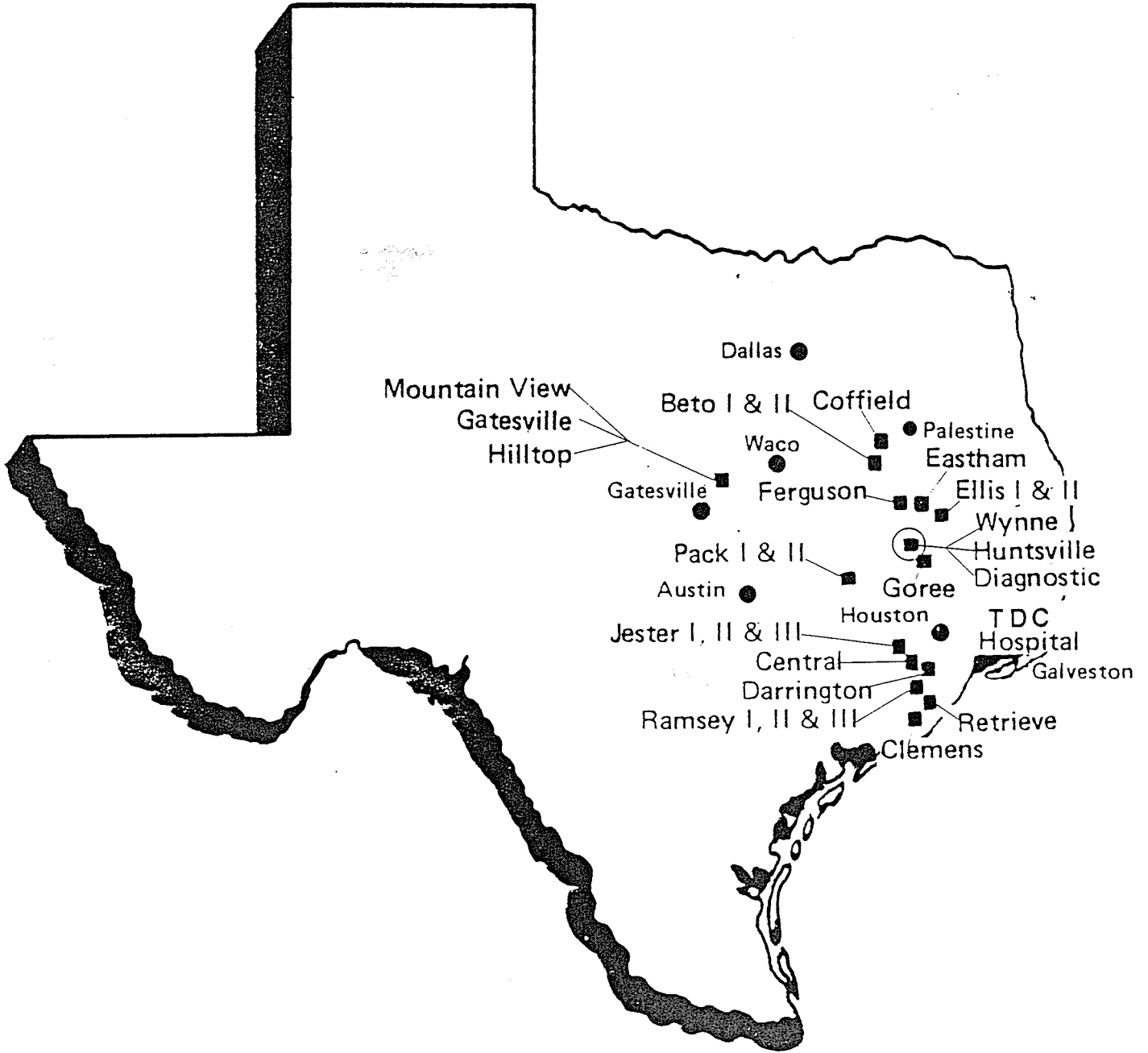


Exhibit 3
TDC Budget/Employees

<u>Agency Program or Activity</u>	<u>1986 Funding</u>	<u>Employees</u>
Executive Administration	\$ 3.5M	172
Finance	54.0M	533
Operations	237.0M	10,435
Health Services	54.0M	1,670
Other		
- Utilities	23.5M	--
- <u>Ruiz</u>	1.5M	--
- Construction	<u>222.0M</u>	--
TOTAL	\$ 595.5M	12,810

Exhibit 4
TDC Agricultural Programs

<p>Field crops cotton wheat soybeans corn grain sorghum feedmill</p>	<p>Grazing crops forage</p>
<p>Edible crops vegetables fruits rough rice</p>	<p>Livestock and Poultry beef poultry dairy eggs swine</p>
	<p>Packing Plant Canning Plant</p>

The industry division of TDC has two main responsibilities -- producing goods to meet the needs of TDC and providing a training ground for inmates. Exhibit 5 outlines the industrial programs operated within TDC. Inmate labor is also used in the industrial programs with 5,067 inmates assigned daily. Many of the inmates working in industry are also involved in related on-the-job and apprenticeship training programs. More information on the training programs is provided in the discussion of the Windham school system.

Exhibit 5
TDC Industries

Traffic Sign	Mattress
Bus Repair	Mechanical Shop
Record Conversion	Print Shop
Soap and Detergent	Prison Store
Dump Bed	Textile Mill
Metal Fabrication	Stainless Steel Products
Tire Recapping	Furniture Refinishing
Garment	Box Factory
Shoes	License Plate
Woodworking	Validation Sticker
Mop and Broom	

Health Services. This program provides for the mental and medical health needs of the inmates confined in TDC. Complete medical care, one of the main health care programs, psychiatric and psychological services, and dental care are available to inmates. Pharmacy services are also provided for the inmates. Medical care is provided in three ways: primary or basic care in the prison units; secondary care at designated regional care facilities when a greater level of care is needed; and tertiary care at the TDC hospital in Galveston when specialty care and extended treatment is required. The TDC hospital, located next to the John Sealy Hospital in Galveston, is operated and staffed by the University of Texas Medical Branch (UTMB).

Psychiatric services is another of the main programs within the health services division. Within psychiatric services there are two sub-programs: 1) program for the mentally ill and 2) program for the mentally retarded. Inmates identified with more serious mental illness and mental retardation problems are housed and treated separately from the general population in special in-patient facilities. Psychiatric out-patient services are available in the TDC units for inmates with less serious problems. In the in-patient facilities the clinical staff is

organized using treatment teams composed of a psychiatrist, a Ph.D. psychologist, master's level psychological clinicians, at least one case manager, a nurse, and a psychiatric or rehabilitation aide. Exhibit 6 provides some examples of health services available to inmates.

Exhibit 6
TDC Health Services

General Medical

Out-patient

some emergency services
sick call
routine medical
basic laboratory services
radiology
respiratory
physical therapy

In-patient

(TDC Hospital)
extensive emergency services
in-patient hospital services
surgery
neuro-surgery
out-patient specialty services
-- e.g. neurology
nephrology
ophthalmology
urology
burn unit services

Dental

extractions
fillings, crowns
oral surgery
root canals
prosthetics

Pharmacy

prescription drugs
over-the-counter medication
daily administering of
medication

Psychiatric

Mentally Ill/Mentally Retarded

testing/evaluation
diagnosis
therapy
acute care
special housing

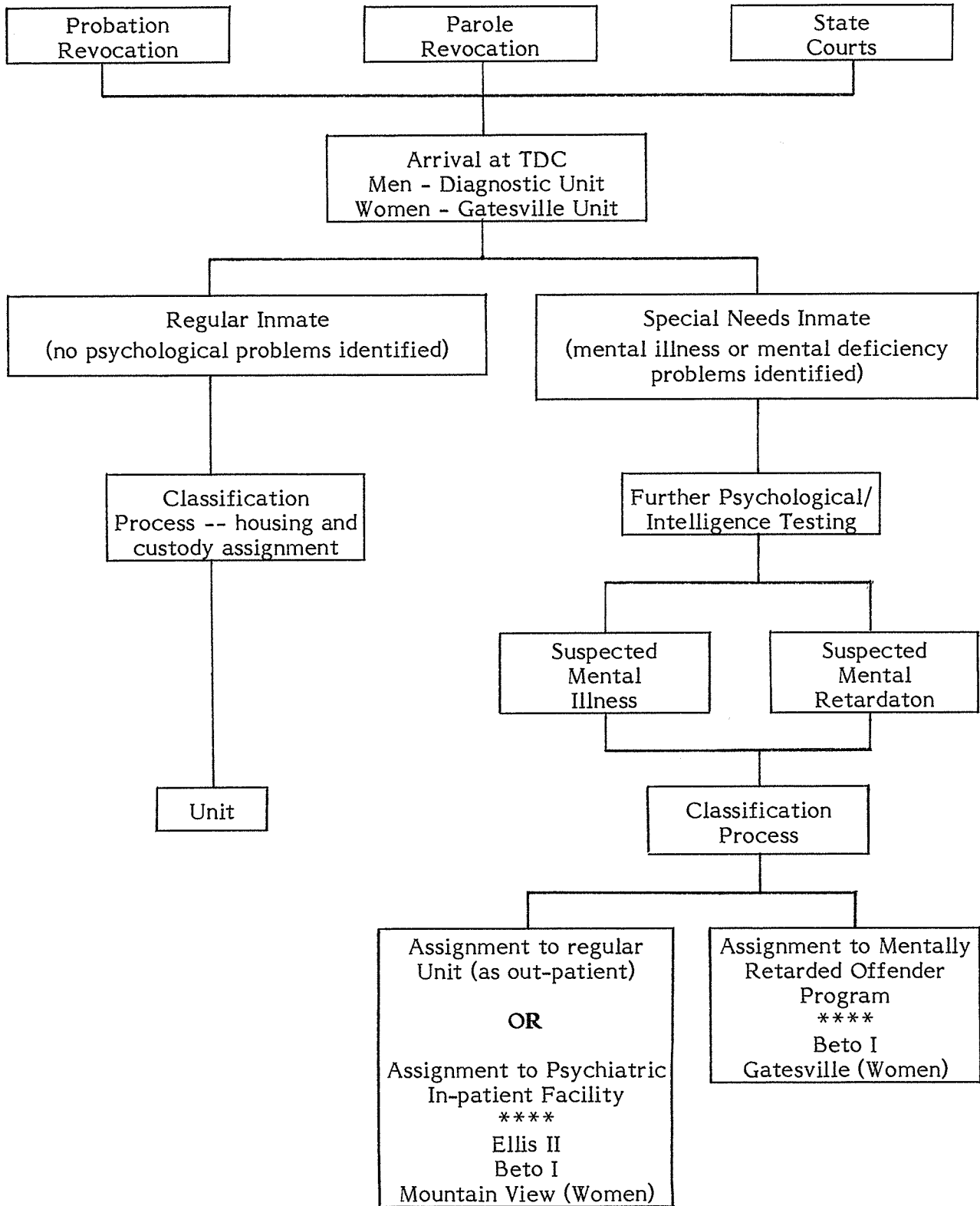
Operations. This program is responsible for the actual confinement of inmates. The department operates 26 prison units to confine approximately 38,000 inmates. Exhibit 7 describes the units. To assist with the oversight and coordination of the unit's operations, TDC has divided the units into three geographic regions, each of which is overseen by a regional supervisor. Several divisions provide staff support for the prison units and help manage the inmates. The classification and treatment division puts all incoming inmates through a diagnostic process to determine their mental and physical health and their classification and custody level. Exhibit 8 details the diagnostic intake process. The classification and custody level is used to assign the inmates to an appropriate prison unit. A further explanation of classification and custody levels is provided

**Exhibit 7
TDC UNIT PROFILES**

<u>Unit</u>	<u>Current Unit Capacity</u>	<u>Type of Inmates</u>	<u>Industries/Agriculture</u>
<u>Southern</u>			
Central	935	First offenders, minimum custody	Soap and detergent, industrial distribution warehouse, transportation; diversified agriculture operations
Clemens	1,001	Second offenders, all custody levels	Field, edible crops, livestock, grain drier and storage
Darrington	1,745	Younger second offenders, all custodies	Tire recapping; eggs, livestock, field, edible crops
Jester I	448	First offenders and recidivists; Pre-release; minimum custody	Extensive edible crops, swine, livestock, and poultry
Jester II	436	First offenders and young recidivists; minimum custody	Edible crops, swine, livestock and poultry
Jester III	1,102	Recidivists; minimum custody	Edible crops, swine, livestock and poultry
Ramsey I	1,619	Recidivists; mostly minimum custody	Furniture refinishing; extensive edible and field crops, stocker cow, dehydrator
Ramsey II	915	Recidivists; all custodies	Extensive edible and field crops grain storage, livestock
Ramsey III	1,295	Recidivists; minimum custody	Canning plant
Retrieve	772	Recidivists; all custodies	Edible crops, livestock
<u>Central</u>			
Eastham	2,496	Recidivists; all custodies	Garment; diversified agriculture, dairy; feed mill
Ellis I	2,315	Older recidivists; all custodies; death row	Woodworking, shoe shop, bus repair; swine, livestock, field and edible crops
Ellis II	1,823	First offenders and recidivists; adult medical and mental health patients	Textile, logging; field crops

<u>Unit</u>	<u>Current Unit Capacity</u>	<u>Type of Inmates</u>	<u>Industries/Agriculture</u>
Ferguson	2,691	First offenders; all custodies	Mop and broom, large vocational shop, field and edible crops, livestock and swine
Goree	1,017	Inmate reception; minimum security inmates maintain facilities	Breed horses for other units
Huntsville (Walls)	2,134	First offenders and recidivists; all custodies; all medical classes	Textile, print shop, mechanical department, construction headquarters
Pack I	1,066	First offenders and recidivists; minimum custody	Field and edible crops, stocker cattle
Pack II	1,334	First offenders and younger recidivists; minimum custody	Stainless steel products
Wynne	2,433	First offenders and recidivists; all custodies	License plates and stickers, microfilm, mattresses, box factory, plastic signs, prison store; field and edible crops, dairy breeding
Diagnostic	948	Inmate reception; minimum security inmates to maintain facilities	No industry or agriculture
<u>Northern</u>			
Beto I	3,416	First offenders; all custodies; mentally retarded offenders	Traffic signs; swine, stocker cow operations, edible crops
Beto II	1,073	Recidivists; minimum custody	School bus repair, microfilm
Coffield	3,791	First offenders and recidivists; all custodies	Microfilm, metal fabrication, dump bed, diversified agriculture, meat-packing plant
Gatesville	1,186	Female offenders; all classifications and custody levels (includes reception center)	Garment factory
Hilltop	1,308	Younger first and second offenders; minimum custody	Garment; horse breeding, edible crops
Mountain View	796	Female first offender; all custodies; all medical classes; women's psychiatric, death row	Braille reproduction

**Exhibit 8
TDC DIAGNOSTIC PROCESS**



on page 44. The division employs correctional counselors to work with the inmates in the units. The counselors assist the inmates with their activities while in prison. Alcoholism and drug abuse counseling is provided through this division. Also, religious services are provided for inmates.

Other divisions within the operations programs include those which support the units. Food Services is responsible for all the food requirements of the units, serving 146,000 meals each day. Laundry services employs 3,800 inmates in unit laundries to provide clean clothes and linens to the inmates. The construction division handles all the repair, maintenance and new construction projects needs of TDC. Inmate labor is used on most maintenance and repair and small construction with 1,766 assigned daily. Contracts with outside private engineering and construction firms are used on larger projects. Exhibit 9 lists TDC's current construction projects.

The final major division within the operations program, the Windham school system, provides educational programs for inmates. The Windham system is organized as a public school district and receives most of its funding through the Texas Education Agency with some funding through state and federal grants. Academic and vocational programs are offered on a non-graded basis and allow inmates to progress at their individual pace. Exhibit 10 shows a listing of the educational programs offered through Windham. Inmates with an education achievement score below the fifth grade level are required to attend school classes to raise their achievement level to at least a fifth grade level. Approximately 20 percent of all incoming inmates are required to attend classes. Exhibit 11 indicates the participation in the Windham school system for 1985. In general, all inmates who wish to attend academic classes are able to do so. For vocational programs, however, approximately 50 percent of inmates wishing to participate are required to wait for an opening before being able to enroll. Exhibit 12 indicates the waiting list by unit. An estimated 79 percent of all inmates participating in education (GED) programs actually complete those programs, however, vocational programs is around 22 percent. Common reasons for non-completion include disciplinary or medical problems, changes in job or unit assignments, or release from prison.

Exhibit 9
TDC Construction Projects (Budgeted 1986)

New Unit No. 1	\$ 60,000,000
Start-up Funds for New Unit No. 2	20,000,000
Trustee Facilities	18,000,000
Additions and Maintenance Required by <u>Ruiz</u> Overcrowding Stipulation	27,750,000
Additions/Renovations to Units	33,177,000
Inmate Recreation Facilities	14,034,000
Health Services Additions	10,905,000
Unit Kitchen Remodeling	8,335,000
TDC Administration Office Space	4,595,000
Central Regional Medical Facility	3,000,000
Agricultural Buildings and Facilities	2,756,000
Security Hardware	2,003,000
Vocational Building and Facilities	2,001,000
School Buildings and Facilities	1,666,000
Laundry Expansion	1,211,000
Employee Housing	706,000
Planning for Future Construction	225,000
Construction Equipment Replacement	300,000
Parole Interview Rooms	120,000
All Other Construction	<u>10,912,000</u>
TOTAL	<u>\$ 221,696,000</u>

Exhibit 10

Windham School Academic/Vocational Programs

<u>Academic</u>	<u>Vocational</u>
<u>Curriculum</u>	Auto Body Repair
Communications	Auto Mechanics
Mathematics	Auto Transmission Repair
Science	Baking
Social Science	Barbering
Music	Bricklaying
Art	Building Trades
Typing	*CVAE General Construction Trades
Bookkeeping	*CVAE Office Duplication
Physical Education	*CVAE Typing
Life Skills	Commercial Cooking
Pre-release	Diesel Mechanics
	Drafting
	Electrical Trades
	Floriculture
	Industrial Cooperative Training
	Industrial Equipment Repair
	Machine Shop
	Meat Cutting
	Mill and Cabinetmaking
	Ornamental Horticulture
	Plumbing
	Printing Trades
	Radiator Repair
	Refrigeration & Air Conditioning
	Sheet Metal Trades
	Small Engine Repair
	Truck Driving
	Upholstery
	Vocational Electronics
	Wall & Floor Trades
	Welding
	<u>Credentials</u>
	Vocational Achievement Certificate
<u>Types of Programs Offered</u>	
Basic Academic	
Special Education/Handicapped	
Bilingual Education	
English - Second Language	
College-Preparatory	
In-Cell Study	
Chapter I Federal Program for Young Offenders	
<u>Credential Options</u>	
GED	
High School Diploma	
*Coordinated Vocational/Academic Education	

Exhibit 11
Participation in Windham School Programs

	<u>FY 1985</u>
Number of inmates that received high school and high school equivalency diplomas:	3,080
Number of inmates enrolled in special education:	2,144
Number of inmates enrolled in vocational education:	5,137
Number of inmates that received vocational education certificates:	1,136
Average monthly academic enrollment for the school year:	13,023
Average monthly full-time vocational enrollment for the school year:	1,777
Average monthly special education enrollment for the school year:	1,202
Total average monthly enrollment for the school year:	16,002
<u>Historical data - number of diplomas and certificates awarded since 1970</u>	
High school and high school equivalency diplomas	30,645
Vocational certificates	11,183

Exhibit 12
Waiting List for Windham Vocational Programs

Beto I Unit	62
Beto I MROP Unit	85
Beto II Unit	13
Central Unit	25
Clemens Unit	86
Coffield Unit	24
Darrington Unit	143
Eastham Unit	91
Ellis I Unit	27
Ellis II Unit	3
Ferguson Unit	83
Gatesville Unit	129
Goree Unit	0
Hilltop Unit	150
Huntsville Unit	22
Jester I Unit	0
Jester II Unit	0
Jester III Unit	28
Mountain View Unit	59
Pack I Unit	29
Pack II Unit	70
Ramsey I Unit	46
Ramsey II Unit	34
Ramsey III Unit	5
Retrieve Unit	27
Wynne Unit	28
	1,269

In addition to the education offered through the Windham school, TDC offers a number of junior college academic and vocational programs and senior college academic programs. Associate and baccalaureate degrees are available through these programs. In addition, TDC operates an on-the-job training program in a number of vocational skills areas and has an apprenticeship program in skill areas approved by the U.S. Department of Labor. Exhibit 13 lists the apprenticeship programs available and some of the on-the-job training programs offered. Participation in these programs along with the junior and senior college programs is shown in Exhibit 14.

Exhibit 13

Apprenticeship Programs and Selected Industrial On-the-Job Training Programs*

Apprenticeship Programs

Microfilm	Auto Mechanics
Data Entry	Truck Mechanics
Welders	Machinist
Auto Body	Printers
Computer Operator	Metal Fabrication

On-the-Job Training Programs

Drafter	Receptionist	Dental Lab Technician
Computer Programmer	Cook	Furniture Upholsterer
Medical Laboratory Technician	Barber	Sheet Metal Worker
Clerk Typist	Janitor	Automobile Body Repairer
Keypunch Operator	Termite Exterminator	Welder
Terminal Operator	Farm Machine Operator	Electrician
File Clerk	Cannery Worker	Painter
Proofreader	Machinist	Carpenter
Accounting Clerk	Automobile Mechanic	Bricklayer
Stock Control Clerk	Phototypesetter Operator	Truck Driver
Shipping and Receiving Clerk		

*As of July 30, 1986, 325 on-the-job training programs had been approved in eight TDC divisions.

Exhibit 14

Participation in Post Secondary Education and Vocational Training

	<u>FY 1985</u>
Number of Inmates Enrolled in Junior College Academic Classes	10,239
Number of Associate Degrees Awarded	351
Number of Inmates Enrolled in Senior College Academic Classes	1,190
Number of Baccalaureate Degrees Awarded	30
Number of Inmates Enrolled in Junior College Vocational Classes	1,805
Number of Junior College Vocational Certificates Awarded	1,057
Number of Apprenticeship and Training Registrations	1,115
Number of Inmates Enrolled in Related Training	1,005
Number of Journeyman Apprenticeship Certificates Awarded	50
Number of Inmates Enrolled in Texas A&M University Extension Programs	127
Number of Texas A&M University Extension Program Certificates Awarded	105
Number of Inmates in OJT Programs	1,164

Historical Data — Number of Degrees and Certificates Awarded

Associate Degrees Since 1965	2,860
Baccalaureate Degrees Since 1974	243
Vocational Certificates Since 1967	9,977
Apprenticeship and Training Program Certificates Since 1977	375

Other Information

In addition to the information previously provided on the various programs and functions of TDC, other information is necessary to provide a better understanding of the agency and some of the constraints under which it operates. The following material briefly explains several state laws and court cases which directly affect the operation of TDC.

Texas Prison Management Act

The Texas Prison Management Act was passed by the 68th Legislature in 1983 as a result of TDC's agreement in Ruiz that prison populations would not exceed 95 percent of capacity. When the inmate population reaches 95 percent of capacity, the act requires the agency to notify the governor of that fact and to credit 30 days of good time to most inmates. If, after 30 days, the prison population remains at or above 95 percent of capacity, the governor must notify the Board of Pardons and Paroles that emergency overcrowding exists, requiring the board to advance parole eligibility for most inmates by 30 days. This procedure is repeated after 60 days if the emergency overcrowding still exists. If the population remains at or above 95 percent after 120 days, the governor must order TDC to award another 30 days of good time. Thereafter, if the emergency overcrowding still exists, the steps above would be repeated until the inmate population stabilizes below 95 percent of capacity. As of September 1986, the TDC population had never reached the level required to trigger the additional granting of good time called for in the act.

Flat Time

The Adult Parole and Mandatory Supervision Law requires that certain inmates must serve actual calendar time, or "flat time," before they may be considered for parole. Inmates serving "flat" time in TDC are those who have been convicted of capital murder, aggravated kidnapping, aggravated sexual assault, or aggravated robbery or a felony crime involving a deadly weapon (Sec. 3g, Article 42.12, C.C.P.). Though inmates serving flat time may earn good conduct time, they must serve the lesser of one-third of their sentence or 20 years before they become eligible for parole.

Good Time

The Texas Department of Corrections has the authority to award good-conduct time credits to inmates, reducing the amount of time they must actually

serve in prison. Good-conduct time is counted toward the time needed to become eligible for parole and/or mandatory release. The department uses good time to encourage good inmate conduct and participation in work programs. Inmates are classified and earn good-conduct time basically according to the degree of supervision they require, their level of assaultiveness or vulnerability, and their treatment and programming needs. Exhibit 15 shows the various custody levels and the good-time earning credits for each.

Exhibit 15
Custody Levels and Good-Time Credits

<u>Custody Level</u>	<u>Good Time Earned for 30 Days Served</u>	<u>Total Credit for 30 Days Served</u>	<u>With A-Time*</u>	<u>With B-Time**</u>	<u>With C-Time***</u>
SAT I, II, III	45	75	80	85	90
SAT IV	40	70	75	80	85
Line Class I	20	50	-	-	-
Line Class II	10	40	-	-	-
Line Class III	0	30	-	-	-

- *A-Time: 5 days for OJT certification or vocational training completion.
- **B-Time: 10 days for educational program completion; vocational and educational program completion; or OJT and vocational program completion.
- ***C-Time: 15 days for OJT and educational program completion; or OJT, educational and vocational program completion.

Upon admission to TDC, most inmates are placed in a custody level of State Approved Trusty (SAT) IV, which assumes good behavior by inmates and provides 70 days credit for every 30 days served. If they behave, they may be promoted to a lower custody level (SAT I, II, or III) earning 75 days for every 30 days served. Conversely, inmates convicted of a disciplinary offense, such as refusing to work, are subject to a loss of good time, a reduction in custody class, and punitive segregation. If these inmates maintain a clean conduct record for three to six months, they must be reviewed for promotion in class and/or restoration of good-time credits. By departmental policy, all previously-earned good-time credits forfeited as a result of a disciplinary action must be restored before the inmate may be eligible for promotion above Line Class I.

In addition to the good-time awards for conduct, TDC has the authority to award additional good time, up to 15 days, for inmates participating in educational

or vocational programs. These additional awards, which are only available for inmates in SAT status, could push the total credit for 30 days served to 90 days. The department may also award good-conduct time for time which the inmate spent in county jail. In addition, TDC can retroactively award or "backdate" SAT good-time earning credits for periods of time when less time credit was earned. Backdating may be full or partial, depending on the inmate's disciplinary record.

Custody and Housing Assignments

Through its classification process, TDC not only awards good-conduct time, but also determines custody levels and housing assignments for inmates. The department tries to classify and house inmates according to both inmate and institutional needs. TDC considers the inmate's behavior, prior criminal history and nature of current offense as well as his or her safety, medical, mental health, and intellectual needs. It also considers the inmate's job skills and the department's own labor needs and facility requirements before assigning an inmate to a unit. For example, units with only dormitory housing are suitable only for minimum custody inmates. Most procedures guiding inmate housing and custody assignments are specified in the Classification and Administrative Segregation Plans agreed to by TDC as part of the Ruiz settlement. Other factors complicating the housing of inmates result from Lamar v. Coffield, which is discussed in more detail on page 53 in this report.

Inmates are assigned to units from TDC's Reception and Diagnostic Center. Most inmates are assigned to either minimum, medium, close, or maximum custody. Minimum custody inmates are basically State Approved Trustees who have first priority for dormitory housing, but may be assigned to minimum security celled housing. Medium, close, and maximum custody inmates may only be assigned to celled housing. Exhibit 16 shows the housing assignments as well as good-time earning classes and supervision requirements for each custody level. In addition to these custody levels, the department may place inmates in special custody categories, including: death sentence, pre-release, transient, safekeeping, medical, mental health, and intellectual impairment status. Information showing the types of inmates housed in each unit was shown in Exhibit 7. Exhibit 17 shows current and court-ordered capacities and types of housing for each of the units. As a result of the Ruiz settlement, the department must reduce the number of inmates that can be housed in each unit. The department has agreed to achieve

Exhibit 16
Chart of Principal Custody Assignments

Custody Assignment	Good Conduct Time Class	Outside Perimeter	Inside Perimeter	Type of Housing	Housing Custody
Minimum (Out - SAT I)	SAT Class I	no direct supervision	no direct supervision	cell or dormitories	minimum only
Minimum (Out - SAT II)	SAT Class II	periodic, unarmed supervision	no direct supervision	cell or dormitories	minimum only
Minimum (Out - SAT II - Restricted)	SAT Class II	direct, unarmed supervision	no direct supervision	cell or dormitories	minimum only
Minimum (Out - Line Class 1*)	Line Class I	direct, unarmed supervision	no direct supervision	cell or dormitories	minimum only
Minimum (In - SAT III)	SAT Class III	direct, armed supervision	periodic supervision	cell or dormitories	minimum only
Minimum (In - SAT IV)	SAT Class IV	direct, armed supervision	periodic supervision	cell or dormitories	minimum only
Minimum (In - Line Class 1*)	Line Class I	direct, armed supervision	periodic supervision	cell or dormitories	minimum only
Medium	SAT Class IV	direct, armed supervision	periodic supervision	cell	medium only
Close	Line Class 1, 2, or 3	constant, armed supervision	periodic supervision	cell	close only
Maximum	Inmates in this custody assignment shall require the highest degree of custody supervision.				

*Minimum-Out Line Class 1 and Minimum-In Line Class 1 are custody assignments for inmates who cannot be awarded State Approved Trusty (SAT) good conduct time for a specified period of time because of statutory restrictions.

Exhibit 17
TDC Unit Capacities by Type of Housing

Unit	Celled Beds	Dorm Beds	Ad. Seg. Beds	Other Beds	Beds Not Useable Due to Single Celling Requirements	Total Capacity (Feb. 1986)	First De-population (9/1/87)	Second De-population (9/1/89)
Beto I	1,584	-	444	2,020	(632)	3,416	3,416	3,000
Beto II	-	1,056	11	6	-	1,073	1,073	888
Central	-	929	-	6	-	935	935	0
Clemens	338	428	162	190	(117)	1,001	851	851
Coffield	2,562	340	370	630	(111)	3,791	3,000	3,000
Darrington	744	474	565	120	(158)	1,745	1,612	1,612
Diagnostic	-	180	-	782	(14)	948	926	926
Eastham	888	1,018	527	204	(141)	2,496	2,050	2,050
Ellis I	1,160	685	79	416	(25)	2,315	1,900	1,900
97 Ellis II	1,008	-	44	771	-	1,823	1,823	2,200
Ferguson	1,248	558	460	442	(17)	2,691	2,100	2,100
Gatesville	-	1,106	42	38	-	1,186	1,079	1,079
Goree	68	249	29	680	(9)	1,017	1,058	1,058
Hilltop	-	1,296	4	8	-	1,308	1,308	1,049
Huntsville	1,730	75	88	304	(63)	2,134	1,900	1,900
Jester I	-	448	-	-	-	448	448	323
Jester II	-	300	-	136	-	436	436	378
Jester III	-	1,088	14	-	-	1,102	1,102	908
Mountain View	-	751	25	20	-	796	718	718
Pack I	-	1,048	12	6	-	1,066	864	864
Pack II	-	1,320	14	-	-	1,334	1,334	1,088
Ramsey I	976	431	130	172	(90)	1,619	1,400	1,400
Ramsey II	138	527	196	138	(84)	915	850	850
Ramsey III	-	1,280	15	-	-	1,295	1,295	1,000
Retrieve	270	417	198	6	(119)	772	770	770
Wynne	1,298	812	433	222	(332)	2,433	2,300	2,300
Total	14,012	16,816	3,862	7,317	(1,912)	40,095	36,548	34,212

this de-population in two stages, by reducing the capacities of some units by 1987 and the remaining units by 1989.

Regarding housing assignments, the Classification Plan specifies that no assaultive inmates or inmates recently convicted of a disciplinary offense involving a weapon or assaultive sexual misconduct may be housed in a dormitory. The plan also requires assaultive or vulnerable inmates not suitable for shared housing to be housed in a cell alone. Inmates of different custody levels may not be mixed within a cellblock. Inmates in administrative segregation are classified as maximum custody inmates and must be separated from the prison's general population because they pose a threat to staff or other inmates, they are escape risks, or their own safety is at risk. Though administrative segregation is not a punitive status, it may be used to house inmates whose repeated, serious disciplinary violations are determined to threaten the order and security of the institution.

Punitive segregation, or solitary confinement, is not a custody class, but is a disciplinary status for inmates convicted of major disciplinary violations. Inmates may be held in solitary for a maximum of 15 days and only after a finding of guilt in a disciplinary hearing.

Ruiz v. McCotter

The Ruiz v. McCotter litigation affects virtually every aspect of TDC operations. A class action civil rights lawsuit filed as Ruiz v. Estelle in 1972, Ruiz v. McCotter was tried by Federal Judge William Wayne Justice in 1978. The court, in 1980, ruled that conditions in TDC violated the constitution, and ordered the parties to develop remedial plans and suggest a special master to monitor compliance. The state chose to enter into a settlement with the plaintiffs on some points, and signed a consent decree in 1981. That year, the court entered its wide-ranging amended decree covering areas in which agreement had not been reached. Also, the court-appointed special master began to monitor TDC's compliance with Ruiz orders and stipulations.

In 1982, the Fifth Circuit Court of Appeals provided the state with some relief from the district court's extensive orders by vacating portions of the amended decree. In addition, the appeals court adopted a "wait and see" stance, giving TDC one year in which to comply by relieving overcrowding. After the appeals court's ruling, the parties entered into various stipulations, agreeing on plans to comply with the court's orders. At the end of the court's one year period, the plaintiff's filed their motion for further relief. Consequently, the parties

entered into several more stipulations regarding compliance between 1983 and 1985.

In 1985, the Ruiz court-ordered the state to pay the special master's office, \$745,000 and the plaintiff's attorney \$319,000, as costs of monitoring Ruiz compliance. From the beginning of fiscal year 1986 to July 1986, the state paid the special master's office \$676,000, and the plaintiff's attorney \$433,000.

Ruiz affects TDC's daily operation through the court's orders, the parties' settlement agreements and agency plans for compliance. These instruments directly influence TDC operations in the following major areas: crowding, classification, building tenders, staffing, use of force, health care, special needs inmates, administrative segregation and inmate disciplinary procedures. A complete discussion of the Ruiz requirements in each of these areas is beyond the scope of this report. The following is a general discussion of the most important facets of the case as they affect TDC and the State of Texas.

Crowding. The Ruiz decision found that the crowded conditions in the Texas prisons created an environment for prisoners that, in its totality, constituted cruel and unusual punishment. The state was prohibited from housing more than two prisoners in one cell and was limited as to the number of inmates that could be assigned to a dormitory. As part of the Ruiz settlement TDC agreed to an acceptable number of inmates that may be housed in each TDC prison unit. The numbers, which became the maximum capacity for the units, must be achieved in two scheduled depopulations as shown in Exhibit 17. A unit's capacity is also affected by another agreement to place certain assaultive and vulnerable inmates in single cells. Whether TDC is properly single celling inmates is a subject of the contempt hearing.

The TDC files quarterly reports with the special master relating to the number of prisoners housed in cells and dormitories, together with the square footage of all cells and dormitories in use. The state and the plaintiffs have agreed that certain units will be operating at or below maximum capacity by 1987, and the remaining units will reduce capacity by 1989. Since most units now operate above maximum capacity, TDC will be forced to either build additional prisons or other

types of detention facilities, depopulate the prison system, or a combination of both options, to comply with the settlement figures.

Classification. Before the Ruiz litigation, TDC had only a rudimentary system for classifying inmates. Ruiz required the agency to develop a classification plan that would minimize inmate violence, and ensure that only minimum custody inmates would be assigned to dormitories. A more detailed discussion of classification can be found on page 44. The goal of providing more vulnerable inmates with protection from more aggressive inmates is illustrated by the plan's prohibition of housing inmates with different custody levels on the same cell block. The crowded conditions still existing in TDC have forced the department to mix classifications on some cell blocks. Plaintiffs focused upon this issue in the recent contempt hearing, as well as the department's classification and housing of female prisoners.

Building Tenders. The practice of allowing selected inmates, known as building tenders, to supervise the activities of other inmates was prohibited by the Ruiz settlement. TDC has eliminated its use of building tenders. The parties have stipulated that certain inmates may be designated as "support service inmates" to perform specified tasks. Inmates may not occupy positions which give them access to sensitive information about other inmates. Further, inmates may not have any form of supervisory or administrative authority over other inmates. Currently, TDC is considered in compliance with the building tender stipulation.

Staffing. The elimination of building tenders, increased an inmate-to-guard staffing ratio that the court had already found deficient. The court ordered TDC to lower the staffing ratio to six to one. The parties entered into stipulations designed to phase-in complete staffing by January 1, 1985. The agreement determines a minimum number of security staff, and establishes a staffing pattern for deployment of security officers in each unit. TDC has hired the total number of officers required for each unit. However, the department's compliance with the stipulation is a contempt issue because the plaintiffs contend the deployment of these officers is contrary to the agreed staffing pattern.

Use of Force. The Ruiz decision concluded that the use of physical force by staff was "routine" in TDC. The court required that "only the minimum force reasonably believed to be necessary shall be used" and then only in specific circumstances to be reported to the court. Further, the court decision included provisions related to other uses of force such as chemical agents and required TDC to develop written standards for their use. The Use of Force Plan was developed pursuant to the courts order and now governs the use of force within the agency.

Health Care. Ruiz determined that health care provided to TDC inmates was far below medical standards of care. The court's consent decree required TDC to develop plans to "insure that prisoners receive necessary medical, dental, and psychiatric care from the moment of their arrival in TDC." Plans have been developed which deal with every aspect of health care, including staffing levels and have been accepted by the court. The recent contempt hearing dealt with issues related to staffing in the dental and psychiatric areas and the availability of appropriate space for psychiatric patients.

Special Needs Inmates. Treatment of inmates having "special needs" due to a mental or physical handicap was a subject of the Ruiz case. The parties agreed that TDC would develop a plan for dealing with mentally retarded defenders and with physically handicapped inmates. The mentally retarded offenders plan has been developed and implemented. Essentially, the plan requires TDC to identify, separate, and habilitate mentally retarded inmates. A physically handicapped plan has been prepared, but its adequacy and whether TDC must provide these inmates with all the services of the general population, are subjects of the plaintiff's contempt motion.

Administrative Segregation. Inmates, who are vulnerable or assaultive may require housing separate from the general population. These "administrative segregation" inmates are the subject of several different Ruiz stipulations and orders. The department has developed an Administrative Segregation Plan, approved by the plaintiffs, which provides the procedures and conditions of confinement for administrative segregation. Generally, an inmate may not be confined

in administrative segregation as punishment or without regular review hearings. Because administrative segregation is not punishment, these inmates are entitled to conditions of confinement practically identical to those of the regular population. Administrative segregation inmates are allowed regular recreation, single cells with the same fixtures as general population cells, the same meals as the general population, and essentially the same programs as general population inmates. Compliance with the administrative segregation plan has been very difficult since the population in administrative segregation has increased by about 2,500 inmates since 1982. Consequently, the department was forced to defend its record of compliance with the plan at the contempt hearing.

Inmate Disciplinary Procedures. The Ruiz case addressed fully TDC's use of disciplinary procedures. TDC is required to provide the due process protections outlined by the United States Supreme court in Wolff v. McDonnell 418 U.S. 539 (1974). All hearings must, in addition, be recorded and the recordings preserved. From September 1985 to June 1986, the department recorded over 95,000 disciplinary offenses against inmates.

Other areas touched by Ruiz include death row conditions, access to courts, prohibition of vague disciplinary rules, protection of inmate witnesses, and compliance with certain occupational health and safety regulations. Most observers estimate that the court will remain involved with the TDC until at least 1989, when the last depopulation is scheduled.

As a result of special monitor's reports indicating non-compliance in crucial matters, the plaintiffs filed a contempt motion in Judge Justice's court in 1985. The contempt motion dealt with eight areas of alleged non-compliance: single celling, classification, administrative segregation, medical staff, recreation yards and gyms, staffing, physically handicapped, and female cell housing. These major contempt issues are summarized in Exhibit 18. Attempts to enter into a settlement failed and the motion was brought before Judge Justice in June of 1986. The district court had not ruled on the motion as of the writing of this report.

Exhibit 18
MAJOR CONTEMPT ISSUES

1. **Single Celling** - Issues related to providing enough single cells to inmates in general population.
2. **Classification** - Issues related to mixing male inmates of different custody levels.
3. **Administrative Segregation** - Issues regarding violation of the administrative segregation plan, such as failing to provide recreation, showers, hot meals, and imposing blanket personal property restrictions.
4. **Medical Staff** - Issues related to TDC's inability to recruit and retain certain medical personnel at the levels specified by the health services plan (e.g., psychiatry and nursing).
5. **Recreation Yards and Gymnasiums** - Were not built according to time lines agreed upon by the parties.
6. **Staff Postings** - Correctional officers were not posted at stations in inmate living areas as required in the Ruiz settlement.
7. **Physically Handicapped** - Housing, activities, and health services were inadequate.
8. **Female Cell Housing** - TDC had not provided enough single cells for female inmates and was mixing females of various classification in dormitories.

Lamar v. Coffield

Another court case affecting TDC operations calls for the assignment of inmates to dormitories, cellblocks or other living quarters on the basis of rational, objective criteria and not on the basis of race, color, religion or national origin. To accomplish the racial and ethnic integration in each unit and system-wide, Lamar requires that the proportion of each racial and ethnic group of each prison unit be at least seventy (70) percent of that group's proportion of the total TDC inmate population (excluding inmates undergoing diagnostic and pre-release processing). The court further required that the racial and ethnic composition of each housing unit, excluding cells but including floors and tiers of cellblocks and dormitories, be at least seventy (70) percent of the group's proportion in each particular prison unit's inmate population.

The effect of Lamar is to require racial distribution within TDC and within each unit, and extends to job or work assignments. The seventy (70) percent rule applies to job assignments in which the racial composition of each job category is to reflect the racial composition of the unit and in no case be less than seventy (70) percent of that group's proportion in the unit's population. Specialized job skills are allowed variances; however, specific justification must be documented for each variance.

Lamar contains legal requirements and provisions which provide obstacles in changing inmates' unit, housing and work assignments. With the advent of the TDC Classification Plan, unit, housing and job assignments are dependent on custody designations and not on good conduct alone or on racial distribution. As a result, the plan does not complement the legal requirements of Lamar. In order to achieve a reconciliation between the provisions of Lamar and the classification plan, TDC has submitted a proposal to amend the requirement of racial distribution within the total inmate population in the units and the system. The department has proposed that the seventy (70) percent rule apply to certain custody designations and exempt special status categories as well as administrative segregation.

Guajardo v. Estelle

Guajardo v. Estelle affects TDC in its treatment of inmate correspondence. The parties in Guajardo developed a set of correspondence rules which TDC must observe in dealing with inmate mail. Generally, mail must be delivered within 48 hours of its arrival at TDC, or within 72 hours on holidays and weekends. The TDC is prohibited from limiting or restricting the amount or type of mail an inmate is to

receive. The rules also apply to administrative segregation inmates and punitive segregation inmates unless the agency can show that the inmate's mail constitutes a threat to the security of the institution. If a security threat exists, the department may temporarily limit these inmates' mail and property.

The right to send mail is as unlimited as the right to receive it. Also, TDC may not compromise the confidentiality of an inmate's correspondence in any way, especially by not allowing inmates to keep their attorney's communications in their cells.

REVIEW OF OPERATIONS

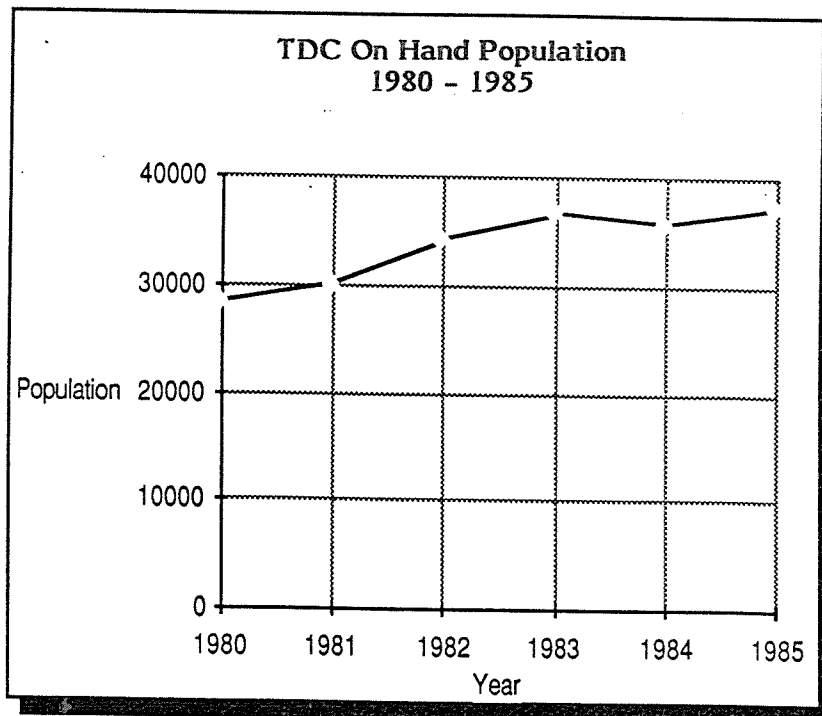
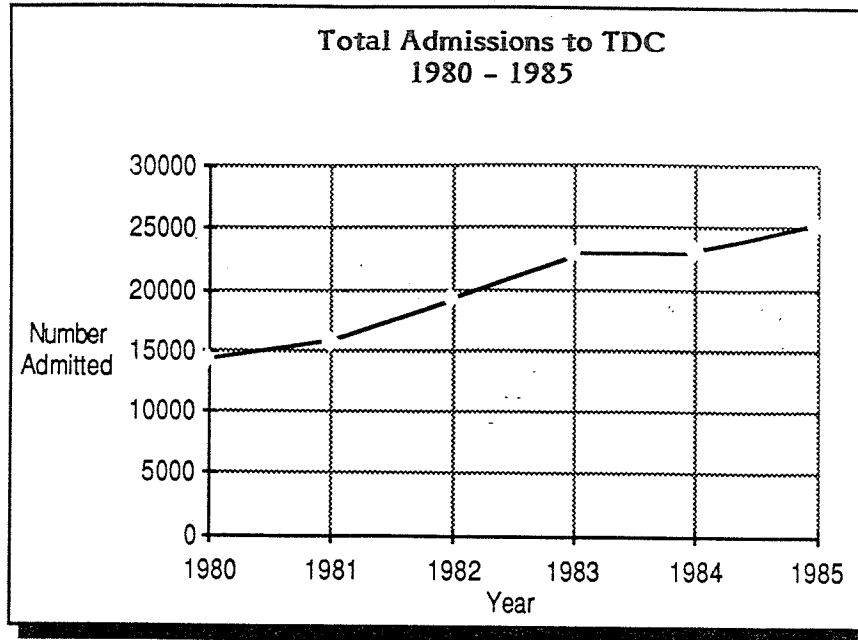
Focus of the Sunset Review

The Texas Department of Corrections is a large agency with a complicated mission. The legislature has appropriated the agency close to one billion dollars in the 1986-87 biennium. The large size of the agency and its appropriation dictates the need to carefully select areas for review. Staff undertook several activities to determine these areas. Overview discussions were conducted with TDC personnel. Site visits were made to a number of prison units. Discussions were held with many individuals particularly knowledgeable about TDC and its problems. Reports and studies dealing with the agency were also reviewed as well as various court cases, such as Ruiz, which affect almost every aspect of TDC operations.

These activities resulted in the identification of various problems or issues within the agency. The major issues divide into the following categories: administration, inmate management, health services, finance, and overcrowding. In the administrative area, rapid changes have taken place as a result of the court suit and have led to concern about the accountability of the agency and the efficiency of its organizational arrangement. Programs and incentives used to train and manage inmates have not been as effective as would be desired in maintaining good inmate behavior in prison and reducing recidivism. Health services was an area of primary concern in the Ruiz litigation. Improvements have been made in this area, but adjustments could be made to ensure better continuity of care for inmates and more efficient operation of the system. Other issues currently being discussed concern the most cost-effective way to run a prison operation -- whether through "privatization" or through the traditional method of state operations. Finally, prison crowding is an overriding issue which affects virtually every prison operation nationwide. Exhibit 19 on the next page, developed by the the Criminal Justice Policy Council, shows the increases in TDC admissions and on-hand population. The crowding issue, because of its size and complexity, is being dealt within a separate report that will be presented at a later date.

After identification of major issues came the more difficult problem of how to approach these areas. Several constraints had to be taken into account in structuring the review of TDC. First, recommendations were avoided that could have a significant impact on the requirements of Ruiz. This constraint was significant in that almost all aspects of the prison's operation are affected by the

Exhibit 19



detailed provisions of Ruiz. In the administrative area, various organizational changes could be made to increase efficiencies. Some of these could not be pursued because of the uncertainty of their impact on Ruiz.

Implementation of recommendations dealing with inmate management were likewise restricted by Ruiz. For example, it was unclear whether TDC could implement a more comprehensive system to promote inmate behavior because of Ruiz limitations on differential treatment of prisoners.

Another set of constraints was presented by the overcrowding problem at TDC. In essence, any recommendation which would require a procedure substantially different from those already in place had an impact on the population levels and thus could not be considered. For instance, full analysis of the agricultural and industrial operations were not undertaken because any major change in these programs would affect the operation of prison units and the populations within those units. Changes in good time were limited because it has been used as a tool to manage the overall prison population. Changes could only be made that would not violate the Ruiz court order by increasing the prison population and triggering the provisions of the prison management Act.

A final constraint to be considered was cost. Many improvements could be made if money were available. Additional money is already being required to meet Ruiz standards and to build new prisons. In most instances, recommendations involving additional expenditures of large sums of money were avoided unless considered essential.

While the range of possible recommendations was restricted various improvements of importance were identified. Many of these set the groundwork for improving operations after some of the constraints of Ruiz and overcrowding are mitigated in the future. These recommendations are presented in the material that follows.

POLICY MAKING STRUCTURE

The evaluation of the policy-making structure was designed to determine if the agency's statute promotes accountability for the actions of the policy-making body; a proper balance of interests within the body; an effective means of selecting and removing members; and an adequate framework for conducting business.

Changes Should be Made to Strengthen Board Operations

The Texas Board of Corrections was originally created as the State Prison Board in 1927. The board is composed of nine members appointed by the governor for staggered, six-year terms. The board currently elects its own chairman and vice-chairman. By statute, meetings must be held every two months, with six of the nine members constituting a quorum.

The review indicated that the board is functioning adequately. However, in looking at operations of other policy-making boards, changes were identified which would promote accountability between the Board of Corrections and the governor and improve the ability of the board to conduct business.

- **The governor should appoint the chair of the Board of Corrections.**

Currently, the board elects its chair from its membership. Having the governor appoint this position would improve the continuity of philosophy between the state's highest elected official and TDC. The person appointed as chair would continue in that position for the length of the original term of appointment.

- **The quorum for meetings of the board should be changed from six to five.**

The TDC statute currently requires that six of the nine-member board constitutes a quorum for board meetings. Having five members constitute a quorum would bring the agency in line with the standard quorum requirement used in other state agencies with a nine-member board.

OVERALL ADMINISTRATION

The evaluation of the overall agency administration was designed to determine whether management policies, procedures, and structures and the agency's monitoring of management practices were consistent with general practices for the management of time, personnel, and funds. The review indicated that the agency's internal controls and organizational structure could be modified to improve the administration of the agency. TDC's information systems could also be improved to strengthen the management of the agency. In addition, the department could investigate ways to increase efficiency through "privatization". Recommendations aimed at providing the state with the necessary authority to use this management option are also presented below.

Changing the Internal Audit Structure Could Improve TDC Control Over its Operations.

The Texas Department of Corrections employs 12,810 people in the operation of 26 units. In 1986, its budget was \$595.5 million. The department must provide for the needs of 38,000 inmates, including housing, food, clothing, employment, education, and health care, and do so under constant security requirements. To operate effectively and efficiently, the department must be able to objectively examine its activities and programs and manage them with the benefit of this objective analysis.

The responsibility for audits and investigations of TDC's operations rests with the internal audit division. The review showed that although it is located under the TDC director in the department's organizational chart, in fact, internal audit currently answers to the deputy director for finance. Its main responsibilities have been recurring financial audits and special projects. This arrangement causes two problems. First, it creates a potential conflict of interest if internal audit identifies a problem in another program or division under the finance deputy's supervision. Internal audits should be organizationally independent from any divisions that could be criticized in an audit report. These audits should also be structured so that reports go to the agency personnel in the best position to act upon the recommendations. The second problem with TDC's internal audit function is that it is too narrow in its scope to enable the agency to best manage its activities and programs.

The location and limited scope of the internal audit function have caused concern with the department's ability to manage itself effectively. The TDC Board has recognized the need for a better independent assessment of the department's operations and has set out to improve the internal audit function. The board's action is similar to efforts in other agencies and governor's office to upgrade the agencies' internal controls.

In the past, TDC encountered many problems because it lacked an independent internal assessment function. Problems such as construction cost overruns and the unregulated use of emoluments by TDC employees were identified by other state agencies such as the state auditor. For example, as a result of the state auditor's recommendations concerning TDC's construction programs, the department has established a tracking system to monitor the cost and progress of construction projects. With a strong internal audits function the department could have identified and solved problems such as with its construction program on its own. An expanded audits office would thus help TDC better manage its affairs because its audits would be ongoing and would reduce the severity of reviews by the state auditor and the legislative budget board.

- **The audits functions should be given a high degree of organizational independence within TDC.**

The chief of audits should be hired by the board on the recommendation of the TDC director and should be fired only with the approval of the board. The audits function should report to the TDC director, but should be able to report directly to the board under special circumstances. Also, it should periodically update the board on its activities. The audits division should be able to follow up on its recommendations and report to the board on the agency's response and progress. The audits director should develop and implement a work plan, with the approval of the board and TDC director.

- **The function of the audits division should be expanded to include the evaluation of program outcomes and alternatives.**

Expanding the scope of internal audits would give the department and the board better information on which to base management and policy decisions. In addition to financial and management audits now conducted by internal audits, the new audits division should conduct efficiency studies and evaluate TDC programs to determine how well

they achieve their goals and objectives are achieved. Based on this information, the audits division should recommend program and management improvements.

Continued Responses to Federal Mandates Have Caused Inefficiency and Duplication in TDC Organizational Structure.

The review of TDC operations identified a need to streamline the department's organizational structure. The existing structure has become cumbersome at least in part because of the department's response to Ruiz requirements for new and expanded activities. Because of strict, court-ordered time frames, the department has not always been able to develop these activities with the benefit of overall organizational planning. Through reorganization, TDC could improve its management structure by reducing duplication and clarifying lines of authority. It could also achieve either a cost savings or a reallocation of staff resources to other agency activities and programs. The department is currently determining the specific impact of this reorganization on staffing assignments or possible savings.

- o **TDC should streamline its organizational structure to eliminate duplication and save or reallocate resources.**

The review indicated that other areas of TDC operations should be reorganized to reduce duplication and save or reallocate resources. Reorganization would result in a more economical and responsive administrative structure. The specific organizational changes proposed are summarized in Exhibit 20, and a proposed organizational chart is shown in Exhibit 21. The new structure would provide a tighter span of control and clearer lines of authority. The specific areas where TDC should reorganize are set out below.

- Administrative functions should be consolidated under a deputy director for administrative services, replacing the deputy director for finance. Specifically, the management services division should be moved under administrative services from operations to make its research and planning activities available throughout TDC. Also, the personnel function should be moved from executive administration and combined with the training function

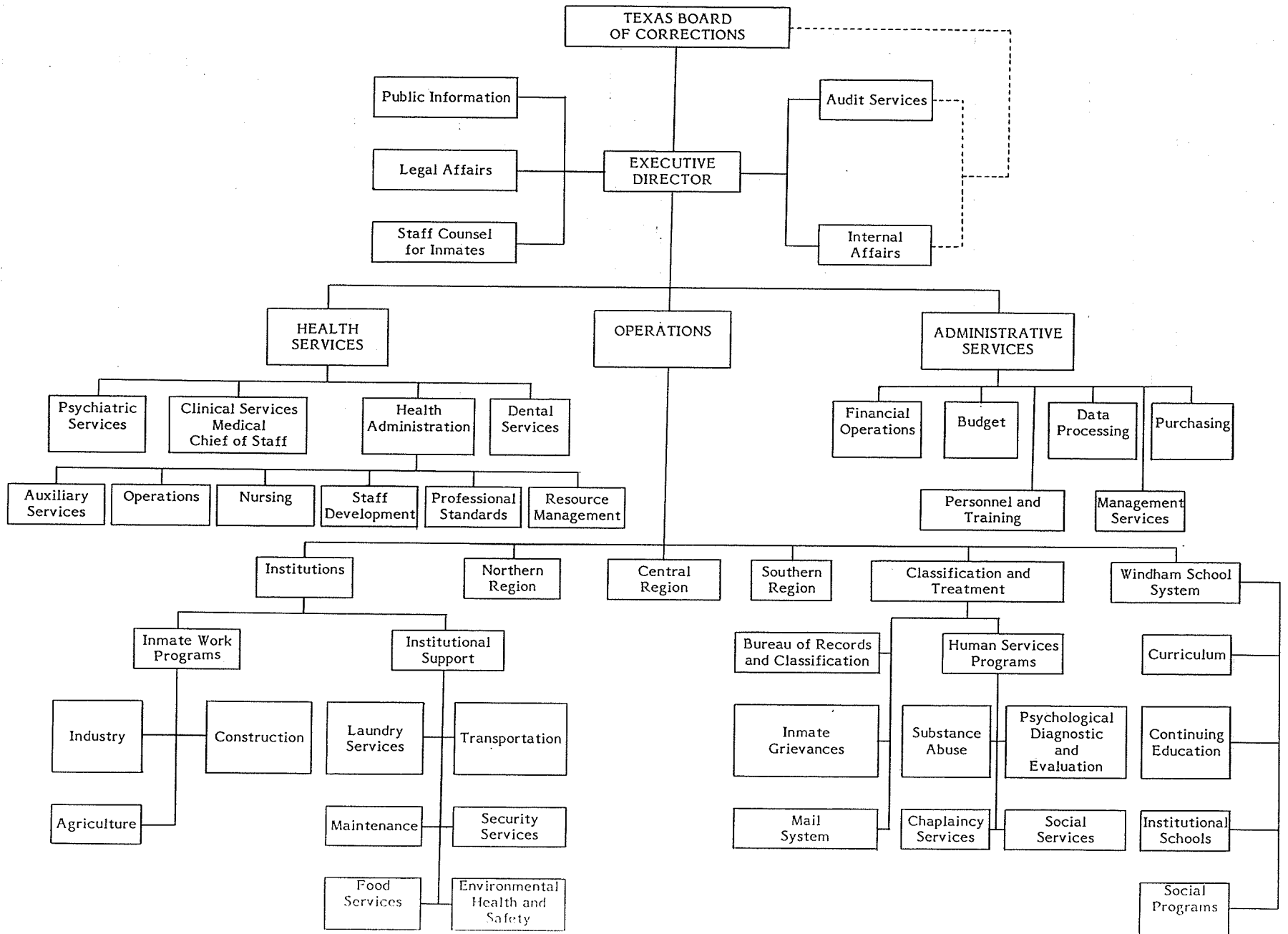
Exhibit 20
Proposed Organizational Changes

Part of Organization Being Moved	Number of Persons Involved in Move	Moved From	Moved To
Management Services	14	Support Services (OPERATIONS)	ADMINISTRATIVE SERVICES
Personnel	53	EXECUTIVE ADMINISTRATION	
Training	51	Security and Training (OPERATIONS)	
Construction	78	Support Services (OPERATIONS)	Inmate Work Programs (OPERATIONS)
Industry	23	FINANCE	
Agriculture	40	FINANCE	
Maintenance	12	Construction (OPERATIONS)	Institutional Support (OPERATIONS)
Environmental Health and Safety	11	Construction (OPERATIONS)	
Transportation	*	System-wide Consolidation	
Security Services	44	Security and Training (OPERATIONS)	
Windham School Administration	*	System-wide Consolidation	

64

* Number Not Available

Exhibit 21
Proposed TDC Reorganization



from operations. This combination would enable better coordination between recruitment and training and would emphasize the agency-wide role of training.

- Inmate work program and institutional support activities should be consolidated into a new institutions division under the deputy director of operations. Construction, industry, and agriculture would be combined under one section for inmate work programs. Support activities necessary for the day-to-day operations of the units would be consolidated under an institutional support section. This section would include laundry, food services, maintenance, environmental health and safety, transportation, and security services. These suggested combinations were based on the need to place similar functions together and to make all support services better available to the units.
- The Windham school system should be reorganized. The reorganization should consolidate the administration of schools located near each other, including:

- Beto I, Beto I (Special), Beto II
- Ellis I and II
- Jester I, II, and III
- Ramsey I, II, and III

Also, the reorganization should reduce the amount of administrative duplication between Windham and the rest of the department.

TDC Information Systems Could be Improved.

As a result of the Ruiz stipulation on building tenders, the department may no longer use inmates for many clerical and other support positions. Without this inmate labor, the department has been severely burdened with the paperwork involved in tracking information such as work assignments, lay-ins, and disciplinary actions. Additional paperwork requirements have resulted from Ruiz, including use of force, grievance, and fire and safety reports. The department has been unable to meet these paperwork requirements with existing clerical staff, and in many cases has had to use correctional officers to perform clerical functions. Much of this paperwork is currently being processed manually.

- **TDC should pursue computerization of manual systems where cost effective.**

Through automation, TDC can reduce or eliminate many of the manual functions now used to keep the agency's files. The department has established a pilot project at the Beto I unit to investigate potential computer applications and to identify possible manpower savings. The department should continue this pilot project and use the results to demonstrate where computerization is cost effective. Based on these findings, TDC should develop a plan for automating its files where cost-effective, using, where possible, the resources of other state agencies such as the Automated Information and Telecommunications Council.

Additional Efforts to Contract for Services Could Reduce Department Costs.

With the growth of the inmate population and the rising costs associated with housing and caring for that population, increased attention should be given to finding the most cost-effective manner of incarceration. One cost-effectiveness measure would require correctional agencies to develop complete costs analyses of the activities they perform and to compare these analyses to competitive bids offered by private firms. Many activities performed by the department are so closely related to the public interest that they are generally not entrusted to a private agency or firm. For example, the administration of the death penalty is considered to be a function which only the state should perform for obvious reasons. Nevertheless, products or services are often available in the private sector where the state's contracting for such services would not be contrary to public interest. The federal Office of Management and Budget (OMB) has required cost comparisons between federal agencies and private contractors for many years. The OMB has developed a policy statement, referred to as Circular A-76, which encourages the federal government to improve productivity by identifying and implementing the least costly method of performing activities, regardless of whether the activities were contracted or remained within the public sector.

In over 1,700 cost comparisons made since 1979, the federal government was shown to provide the activities more economically than the private bidders in 45 percent of the cases. Some reasons for this are the government's avoidance of contract administration costs, the availability of volume purchase discounts and the ability to avoid material or labor-related costs of transferring the activity to a contractor.

As a result of the cost comparison process, and implementation of cost saving procedures identified by the process, government agencies saved an average of 20 percent over previous costs, without eliminating agency activities. By subjecting activities to a competitive process which scrutinizes costs, government agencies develop more innovative and less costly methods of meeting objectives.

Several state governments are currently contracting for a variety of services through the private sector. For example, Minnesota and Kentucky contract with the private sector for the operation of medium and minimum security prisons. Several states, including Texas, use privately-operated halfway houses for parolees and releasees readjusting to life outside of prison. Also, TDC contracts with private providers for many of its construction projects.

The review identified a number of TDC activities available commercially which would be subject to the cost comparison process if Texas adopted a policy statement similar to Circular A-76. These activities include health care, food, and laundry services, library operations, and transportation. The review also determined that at least four other states are working with the Council on State Governments to develop contracting procedures modeled after the federal OMB policy.

- **TDC should develop cost estimates and performance standards for activities that are also available in the private sector, compare these estimates with competitive bids, and contract for the activities whenever the cost of contracting would be less than the department's cost.**

The internal process of developing cost estimates and performance standards should result in the establishment of the most efficient and effective operation possible. Because the cost estimates developed internally serve as a basis for comparison with commercial firms, department staff have a strong incentive to develop efficient ways to meet performance standards. The agency would also be better able to account for its costs and expenditures as a result of its analysis. The review and improvement of internal activities on a regular basis will complement the work of the expanded audits division discussed on page 61. The expanded audits division could work with management services and budget staffs to perform these functions at no additional cost to the department.

The transition of an activity within the agency to a private firm would involve additional costs of administering and monitoring the contract. To justify any disruption and temporary loss of productivity which could result from the contracting of an activity, private bids should reflect a cost of at least 10 percent less than the department's cost of performing the activity. Contracting would only be required when a savings of more than 10 percent could be demonstrated.

The TDC Should be Given Clear Statutory Authority to Contract for Correctional Services or Facilities.

The responsibility of operating prisons has traditionally been borne by government. Today, however, overcrowding, the high cost of post-Ruiz incarceration, and simultaneously declining state revenues have led to consideration of contracting with corporations to provide private correctional services. Underlying the push to "privatize" corrections is the economic presumption that the private sector can provide these services more cheaply and more efficiently than can government. Several states have entered the market with mixed results. The controversial nature of the contracting issue is reflected by the recent decision of the National Institute of Corrections not to take a position on the matter.

While the merits of privatization in prison management are unclear, the critical state of corrections in Texas makes exploration of all options necessary. If it were determined that privatization should be pursued, however, efforts of the TDC could be impeded because of a lack of clear statutory authority for contracting.

The Texas Constitution places limitations on the state with regard to contracting. Article III, Section 44 prohibits the legislature from appropriating money to pay for a contract if the state agency entering into the contract does not have preexisting legal authority for its execution. Although specific authority to contract for correctional services does not exist, the authority may be implied if the act of contracting were reasonably necessary to achieve the objectives of the statute. Bullock v. Calvert, 480 S.W. 2d 367 (Tex. 1972). However, a person executing a contract for the state is subject to a more complex set of principles than a person acting in the private sector. Most importantly, the person may not act beyond the scope of his delegated power. While having implied authority, an officer of the state is often found to have been granted something less than the full

power of the state. Therefore, the prudent approach to privatizing correctional services would require authorization by statute.

A survey of other states permitting privatization revealed that most adopt statutes permitting contracting in certain special circumstances. Most commonly, other states authorize contracting for community corrections and work release programs. Some states have, however, authorized contracting for building and operating any correctional facility. The majority of states permitting privatization by statute do not specify the details of the contract, such as liability for negligence or civil rights violations; rather, those issues remain a part of the contract negotiation process.

- **A statute should be adopted granting TDC clear authority to contract with private entities for the provision of correctional services and facilities.**

This authority would clear up legal questions regarding the state's authority to contract for private correctional services. The approach would allow TDC to contract for the construction and operation of any type of unit, whether minimum or maximum security. Specific direction as to the type of facility and other limitations would be governed through the General Appropriations Act. Any privatization arrangements would still be subject to constitutional limitations on incurring state department.

EVALUATION OF PROGRAMS

The review of the agency's substantive operations centered on major issues existing in the following categories: inmate management and provision of health services. In general, recommendations to address these issues do not affect Ruiz requirements, should not aggravate the overcrowding problem at TDC, and should avoid significant expenditure of additional funds.

INMATE MANAGEMENT

The Texas Department of Corrections has established a number of programs and procedures to manage its inmate population. The programs are designed to plan the inmate's time spent in prison, provide incentives to work and exhibit good behavior, and assist inmate with education, training and overall rehabilitation. The department must also manage the inmate planning, incentives for good behavior, inmate work programs, and pre-release efforts. Recommendations to make these and other needed improvements are set out below.

Better Planning Could Improve the Use of an Inmate's Time in Prison.

During the review of the Board of Pardons and Parole (BPP), the Sunset Commission initially adopted a recommendation regarding inmate planning. The recommendation requires the board to establish a program to develop preliminary parole plans and a tentative parole month for qualified inmates. The main goal of the tentative parole concept is to tie an inmate's behavior more closely to his/her eventual release. Under a tentative parole process, inmates would know from the beginning of their incarceration what factors are involved in a parole decision and specifically what they can do while in prison to improve their chances for parole. With the calculation of a tentative parole date, inmates would also have a more definite idea of when they might be released if they progress in accordance with their release plan. The tentative parole date is perhaps one of the most beneficial aspects of the tentative parole concept. The advance knowledge of an inmate's release date allows prison and parole officials to better plan for the inmate's eventual release.

The BPP has initiated a tentative parole date pilot project for a three month period from July to September, 1986. Institutional parole officers from BPP and TDC classification staff will coordinate a sample selection of 1,000 inmates. For these inmates, the initial parole evaluation will occur at the beginning of an

inmate's incarceration in TDC. The inmate will be required to participate in and/or complete certain prescribed programmatic activities. The inmate's progress in a program of measurable institutional adjustment will be a factor in determining whether parole is granted. At the conclusion of the three month trial period, TDC and BPP staff will meet to evaluate the pilot project.

With the initiation of the tentative parole concept, coordination and cooperation between BPP and TDC becomes increasingly important. Cooperative efforts will focus on developing mechanisms for effectively gathering and sharing information on inmate needs and inmate progress while in prison.

One important source of information for the agencies is the counties that send inmates to TDC. Information that TDC receives from counties is important for several reasons. By providing TDC and BPP with the nature of the individual's offense and some description of the individual's background, the county information help TDC classify the inmate in the appropriate custody category and allows BPP to better assess the person's potential for successful parole. The receipt of information from the counties also reduces the necessity for both agencies to gather and otherwise duplicate information generated at the county level.

In 1985, legislation was enacted to improve and standardize information coming from the counties to TDC. The Office of Court Administration was required to promulgate and distribute standardized felony judgment forms to courts hearing felony cases. The bill also mandated TDC to refuse admittance to an inmate if the county does not provide the required inmate information. Although the standard felony judgments forms were sent to the courts in late September of 1985, TDC and BPP personnel report that very few of the forms have been used so far and TDC has not denied admission of an inmate because adequate information was not provided.

The following recommendations could improve the inmate planning process and the gathering of inmate information important to that process.

- **The TDC and BPP should equally share the responsibility of inmate planning.**

As proposed in the initial sunset recommendations dealing with BPP, the primary responsibility for the tentative parole process was assigned to the Board of Pardons and Paroles. However, TDC's role in the process is crucial to its success. An equal sharing of responsibility does not mean that BPP will be responsible for inmate programming or

management within TDC, nor does it mean that TDC will make parole decisions. The intent of a statutory change would be to clarify that both agencies must cooperate and be committed to meeting the concepts set forth in the tentative parole process. TDC and BPP should develop the best possible tentative parole process for the inmate and the system as a whole within the framework of their unique and separate statutory mandates. The two agencies should be statutorily required to develop a memorandum of understanding (MOU) to outline their respective responsibilities in the tentative parole process.

- **The TDC correctional counselors and BPP institutional parole officers should be used more effectively to develop, manage, and otherwise track the progress of the inmate's individual plan.**

TDC's correctional counselors are supposed to serve as case managers or liaisons between the department and the inmate. Correctional counselors are employed to provide assistance to inmates throughout their incarceration in such matters as institutional adjustment, program participation, treatment referrals and job assignments. Correctional counselors are also assigned the responsibility of reviewing each inmate's individual activity plan at least annually to ascertain his/her level of participation and progress in institutional programs. The annual review of the activity plan is required by the TDC Classification Plan, a part of the Ruiz v. McCotter settlement.

Because of a shortage of correctional counselors at TDC (the correctional counselor to inmate ratio at TDC is currently 1:417), reviews of the inmates' individual activity plan are not now being conducted. The review indicated that the agency has a plan to reallocate existing funds, phasing in 62 additional correctional counselors and 26 classification clerks from September 1986 through June 1987. If approved through the budget process, this reallocation would reduce the correctional counselor to inmate ratio to a more workable 1:250. With lower caseloads, correctional counselors could review the individual plans and track an inmate's progress with that plan.

Institutional parole officers, employees of BPP, have similar duties and responsibilities in tracking an inmate's institutional progress for parole

purposes. Should the correctional counselor ratio be lowered enough to allow them to begin tracking an inmate's progress, correctional counselors could end up duplicating the efforts of the institutional parole officers. In order to avoid duplication of functions, ongoing coordination between TDC correctional counselors and BPP institutional parole officers will be needed. To enhance coordination and reduce duplication, the Texas Department of Corrections and BPP should be required to develop an MOU which delineates each agency's responsibility in tracking an inmate's progress while in prison.

- **TDC and BPP should establish a process to ensure that inmate information is provided whenever possible to reduce duplication of effort.**

Under the tentative parole concept, the Board of Pardons and Paroles becomes involved with inmates at the front end of the process, their incarceration, increasing the potential for duplication in inmate information gathering. The TDC and BPP currently obtain various types of information from the inmate and from other sources. Through a memorandum of understanding, both agencies should be required to outline their respective responsibilities in obtaining inmate information. The MOU should establish an information committee, made up of representatives from each agency, which would meet regularly to assess information needs, solve any information flow problems, and reduce duplication in information gathering. The information committee could address such issues as: 1) what information is currently being duplicated; 2) whether information forms could be combined; 3) what information should be shared and who will be responsible for making sure the other agency gets the information; and 4) how an inmate data base could be designed that meets the needs of both agencies.

- **The statute should be amended to improve the flow of inmate information coming from counties to TDC.**

The review identified several specific changes which could strengthen current law related to information coming to TDC from counties. The statute should be amended to:

- Require that the presiding judge of each district designate a person responsible for making sure that all the required commitment

- information gets to TDC. Current law simply states that the county shall send certain information to TDC. Designating a specific person as responsible for getting the inmate information together and making sure it gets to TDC could improve the information flow.
- Set a date by which counties must begin using the standardized felony judgment forms. Although current law set a date by which the standardized forms were to be sent to courts, it did not specify a date by which courts must begin using the forms.
 - Require that a checklist be included with the information being sent to TDC. A short checklist would serve as a check for both the court and TDC to ensure that all the necessary information on an inmate is included. The list should include a check on at least four items: summary judgment forms; any order revoking probation and imposing sentence; presentence investigation reports, when completed at the county level; and any other available sociological or psychological background information.
 - Clarify that the uniform judgment forms are a prerequisite to TDC admission. There is some question as to whether the forms themselves are a prerequisite to TDC admission under current law.
 - Make presentence investigations (PSI) and probation revocation reports, if they have been completed on the county level, a prerequisite for entry into TDC. Currently, TDC reports receiving a PSI on about 11 percent of the inmates coming into TDC. Although the detail contained in the PSI varies from county to county, the PSI usually serves as a valuable assessment tool for BPP and TDC personnel. If an information check list were provided from the courts as set forth in item three of this recommendation, TDC and BPP could tell if a PSI was completed at the county level. Currently, there is no method to know if a PSI exists for any given inmate.

Improvements are Needed in TDC Inmate Work and Training Programs.

The TDC has established a number of programs to support the department's prison units and uses inmate labor to operate these programs. In operating its inmate work programs, TDC must balance two statutory mandates - to operate self-sufficiently, and provide training opportunities for inmates. TDC attempts to

balance these two requirements in all its work programs. In all work assignments, both skilled and unskilled, TDC attempts to teach inmates a work ethic and the responsibility of a job assignment. TDC makes an effort to develop on-the-job training (OJT) opportunities, where possible, in all its work programs. The industry division operates many of these OJT and apprenticeship programs which include skill areas such as welding, painting, carpentry, computer programming and medical laboratory technician. A more complete listing of OJT programs can be found on page 40.

Industry also uses inmate labor in non-skill positions to produce goods for TDC. Agriculture, laundry, food services, and construction are other examples of programs requiring inmate labor in work assignments that do not usually provide an employable skill. When a job assignment cannot provide training for an inmate, TDC provides vocational training opportunities such as auto repair, drafting, electrical trades, plumbing, and printing. A complete listing is contained in Exhibit 10 on page 37. Training is provided through vocational courses offered through the Windham school system and junior colleges located near the prison units.

The review of the department's work programs indicated that improvements were needed in the industry, agriculture and training programs. Changes are needed to provide guidance to the programs and improve planning and accountability.

- **The composition and purpose of the industrial advisory committee should be changed and clarified.**

The 69th Legislature created an advisory committee to assist the industry program of TDC. The committee was to be composed of nine members appointed by the Board of Corrections; however, the committee has yet to be put into operation because of a number of impeding factors. These factors should be addressed through the following statutory changes:

- The size of the committee should be reduced from nine to five members. This change will make it easier to appoint members that are both qualified and actively interested in the TDC industry program.
- One board member shall be designated as a member of the advisory committee and shall serve as chairman of the committee. This change would provide guidance to the committee from the board and

give the committee a better way to provide the board with its recommendations.

- The qualifications of members should be specified. Advisory committee members should be qualified to provide needed expertise and guidance for the industry program.
 - The responsibilities of the committee should be set out in statute. This change would give the committee clear legislative direction as to its task. The responsibilities should include: oversight of industrial programs; identification of new areas for industrial expansion; and consideration of the involvement of private industry in the TDC industrial program.
 - The committee should be required to make periodic recommendations to the board in its areas of responsibility. This would ensure that the agency's policy making body has an opportunity to consider and, if necessary, act on the committee's recommendations.
- **Industrial programs should, where cost-effective, be relocated to prison units where more adequate inmate labor is available.**

For a number of reasons, adequate inmate labor is not available at all units where industrial programs are located. For example, requirements in the Ruiz case reduced the number of beds available for lower custody inmates and thus the number of inmates available for work. Also, more inmates are being placed in administrative segregation which removes them from the work force.

The shortage of inmate labor has been a particular problem at units with a large number of cells designated for administrative segregation. These units are the older ones where the most cell space is available. Many of the department's industries are also located at these units. TDC has begun to consider moving some industries to units where inmate labor is more plentiful. Exhibit 22 indicates units where industries are located that could be considered for relocation and a preliminary estimate of the cost of relocation. TDC should pursue relocations, where cost effective, and use the industrial revolving fund, where warranted, for those relocations.

Exhibit 22
INDUSTRIES FOR POSSIBLE RELOCATION

<u>Unit</u>	<u>Industry</u>	<u>Relocation Cost</u>
Ellis	Shoe Factory	\$ 2.3m
Hilltop	Garment Factory	\$ 1.9m
Central	Soap Factory	\$ 3.2m
	Industrial Warehouse	\$ 1.5m
Wynne	Mattress Factory	\$ 2.0m
	Records Conversion	\$ 3.2m
Beto/Coffield	Microfilm/Records Conversion	<u>\$ 1.8m</u>
Total		<u><u>\$ 15.9m</u></u>

- **An annual review process for TDC agriculture programs should be established.**

The TDC agricultural programs have traditionally served two main purposes--to produce food to meet the needs of TDC and to provide work to keep inmates busy. The TDC has attempted to meet all of its food needs through agriculture even though it has not always been economical to produce some of those food items. Also, inmate labor has been used in agriculture operations even though mechanization in many cases, might have made the operations more efficient. Recently, TDC has begun efforts to operate its agricultural programs more efficiently with less emphasis on inmate labor. Mechanization has been pursued in several areas where it could improve operations, eliminating some areas of production and relocating others. To ensure that such a review process continues, the following statutory changes are recommended.

- All agricultural programs should be reviewed for cost effectiveness. The recent review of programs undertaken by TDC resulted in several improvements. These benefits suggest that the agency should continue such evaluations at regular intervals.
- The TDC should purchase food and other products that can not be produced cost effectively. The recent evaluation of programs

indicated that several items can be bought more cheaply than they can be produced by TDC. Those products should be purchased.

- Mechanization should be pursued where productivity can be increased and cost effectiveness improved. The TDC has identified areas where mechanization is cost effective. This process should be continued as long as the mechanization does not jeopardize the security benefits of manual inmate labor used in agriculture.
- **A percentage of the annual profits from agricultural programs should be reinvested in the program to develop new areas of operations.**

With a few exceptions the TDC agriculture program generates profits from its operations. Sales to other state agencies and on the open livestock and commodities market constitute the largest portion of sales, with \$2 million in revenue generated from the program last year. The funds generated must be spent within the biennium or be refunded to the general revenue fund. The agriculture profits are typically used to purchase seed, fertilization, livestock, and equipment to continue agricultural programs. Funds have also been used to mechanize operations and replace machinery. The review indicated that funding is usually not provided for new or innovative programs. To ensure that funding is provided for the consideration of new programs, ten percent of the annual profits, not to exceed \$500,000, should be set aside for this purpose.

- **An agricultural advisory committee should be established.**

The agriculture and industry programs are major programs within TDC that involve significant expenditures of funds and generation of revenue. The industry program has an advisory committee to assist with its operations. With the changes suggested in this report, the industrial advisory committee will benefit the industry program. The agriculture program has received similar assistance from a board member with expertise in agriculture. To ensure that the agriculture program continues to benefit from outside expertise, an agricultural advisory committee should be established as follows:

- Membership of the committee should consist of five members knowledgeable in agriculture.

- One member should be a faculty member from Texas A&M University with appropriate agricultural expertise.
- One board member shall be designated as a member of the advisory committee and shall serve as chairman of the committee.
- The committee's responsibilities should include periodic evaluation of programs, consideration of new areas of operation, consideration of the need for mechanization of operations and the review of inmate labor needs.
- **The TDC and BPP should develop a system to evaluate the effectiveness of TDC training programs in improving the employability of inmates.**

The TDC has established a number of programs to provide training opportunities for inmates. The training provided is designed to improve an inmate's employability once released from prison. Currently, TDC is not able to track the employment of inmates after release to determine whether the skills learned through the department's training programs help the inmate in finding a job.

The Board of Pardons and Paroles, as part of its parole supervision program, has access to the employment information of releasees under supervision. Releasees must keep BPP informed of their employment status. TDC and BPP should develop a system where this employment information could be provided to TDC. One possible system would be to take a sample of inmates that participated in TDC training programs and conduct a follow-up on their employment success for a one year period.

The TDC would use the information as an indicator of the effectiveness of its training programs in providing employable skills to inmates. To ensure that such a system is developed and maintained, TDC and BPP should develop an interagency agreement. The information developed should also be useful in the employment pilot project which is currently underway between TDC, BPP and the Texas Employment Commission.

Incentives That Promote Good Inmate Behavior Should be Strengthened.

The use of incentives is important to TDC in its efforts to control the inmate population. Incentives are used to promote good behavior by prisoners and

encourage participation in work, training, and education programs. The main incentive currently available to TDC is the granting of good conduct time to inmates. Good time accumulated by inmates is used to reduce the time spent in prison before becoming eligible for parole or mandatory release. TDC determines, within statutory guidelines, the amount of good time that an inmate earns. The amount of time earned is generally based on the custody level of the inmate. A more detailed discussion of the state's good time law is contained in the background section of this report.

In addition to the authority to award good time to inmates, TDC also has the ability to reduce good time as a disciplinary action. The Texas Department of Corrections can take earned good time away and/or reduce the rate at which good time is earned through a change in the inmate's classification. Lost good time and/or a lost earning status can and often are restored as an inmate shows improved behavior.

Other incentives available for use by TDC include the authority to administratively award up to 15 days of additional good time per month to inmates participating in certain training and education programs. Also, TDC has the authority to grant furloughs to qualified inmates. Furloughs involve a temporary release to attend to a family emergency or for some other appropriate reason as determined by TDC. Although the furlough program has a successful history, it has been recently restricted due to local opposition and is currently under revision.

While good time is TDC's main incentive, the current crowding problem in TDC limits the effective use of this incentive. Inmates are generally given close to maximum levels of good time to allow them to reach parole eligibility or mandatory release as soon as possible. Also, good time taken away for disciplinary reasons is routinely reinstated. Finally, when inmates are promoted in good time earning status, the department retroactively awards or "back dates" the higher good time credit. The review indicated that, in the absence of a population problem, good time could be better used as an incentive if time credits were not "backdated" and good time lost for disciplinary reasons was not reinstated.

The review indicated that other positive incentives for motivating good behavior exist. As possible considerations, better unit and work assignments could be given to inmates exhibiting good behavior as could increased opportunities to participate in TDC programs. Also, other personal freedoms could be made available to reward good behavior. Conversely, inmates with behavior problems

such as major disciplinary problems or failure to perform in work assignments could be assigned to more restrictive housing with fewer programs available and personal freedoms restricted. Exhibit 23 on the next page sets out one possible system of incentives based on inmate behavior.

Court rulings against TDC constrain the department from fully implementing such as the one discussed previously. The Texas Department of Corrections has indicated that Ruiz v. McCotter and Lamar v. Coffield contain requirements which either prevent or restrict the ability of TDC to develop an incentive system which makes housing assignments, work assignments or personal freedoms dependent on behavior. (A more detailed discussion of the court decisions is contained in the background section of the report.) It is not clear how these cases actually limit TDC's ability to implement a more useful incentive system.

- **The TDC should identify useful incentives that are actually restricted by court action and take reasonable steps to eliminate those restrictions.**

The TDC should evaluate the range of inmate incentives to determine which incentives are actually prevented by court order. Where reasonable, TDC should request that the courts modify the plans and stipulations agreed to in the court settlements so that the department could use the incentives needed. A more comprehensive set of incentives would provide TDC with the ability to better control the inmate population.

- **The statute should be changed to allow the Board of Corrections to discontinue, under certain conditions, the "backdating" of good time credits and the reinstatement of good time previously forfeited for disciplinary reasons.**

Increasing pressures on the prison population have caused the implementation of generous good time policies. Laws have been changed to allow the department to "backdate" an inmate's good time to allow a higher level of good time earned. Also, under current population conditions good time taken from an inmate for disciplinary reasons is routinely restored later, reducing its significance as an incentive for good behavior.

Current good time procedures have helped keep the TDC population within legal limits. However, when population pressures ease in the future, these two policies should be eliminated. The Board of

Exhibit 23
System of Inmate Incentives

	Behavior of the Inmate			
	Excellent	Good	Fair	Poor
As Evidenced By:	Clear disciplinary record	No major disciplinary actions; no recent minor problems	No recent major disciplinary actions, few minor problems	Recent major disciplinary problems
	Excellent work and self-discipline	Good work performance-minimal supervision	Minor work-related problems-supervision required	Poor work, inability to function without constant supervision, disruptive
Incentive Item:				
Unit/Housing	Trusty Camp	Dormitory	Cell	Administrative Segregation Cells
Good-Time Status	SAT I-II	SAT III-IV	Line Class 1	Line Class 2-3
Freedom of Movement in Housing	Unrestricted in Camp Area	Minimal within dormitory	Moderately restricted (hourly ingress-egress to cells)	Very restricted, only under escort
Choice in Leisure Activities	Unrestricted in camp-room, recreation yards, library, etc.	Unrestricted in dorm, flexible scheduling out of dorm	Scheduled access to dayroom, recreation yards, yards, etc.	Limited choices for leisure, controlled access to minimal required recreation time
Program Participation (e.g., school, sports, movies, social events, etc.)	Unlimited eligibility for programs, special opportunities offered	Most programs available, but more limited	Minimal program eligibility	Not eligible for program participation
Furloughs	Generally eligible for two per year	Eligible for two/year after close scrutiny	Not eligible	Not eligible
Visits	Contact visits-two per month	Contact visits-one per month	Regular visits-two per month	Weekday only visits under strict security precautions
Telephone Calls	Eligible for two per month	Eligible for one per month	Not permitted	Not permitted

Corrections should be given the authority to suspend the "backdating" of good time awards and the reinstatement of good time forfeited by an inmate for disciplinary reasons. The board would be directed to take this action when the changes in good time would not drive the prison population beyond a critical level.

Requiring Pre-release Programs in All TDC Units Constructed Near Urban Areas Could Reduce Recidivism Rates.

The ex-offender faces significant obstacles to successful reintegration with the community. Employment is difficult to secure, even with marketable skills. Often, the inmate's family has disintegrated or is breaking down under the strain of losing a member to incarceration, leaving little or no support for the inmate once released. Also, the releasee may have to deal with issues surrounding substance abuse. Employment, family or community support, and control of drug or alcohol use are significant factors in preventing recidivism. Inmates whose re-entry into society is hampered by failure in one of the three areas discussed above are very likely to return to TDC, again costing the state about \$33 per day of incarceration. The high cost of incarceration could probably be avoided in large part if pre-release programming were available to help the ex-offender re-enter society and remain a member of the free world. The TDC has recognized the need for pre-release assistance by providing a course in life-coping skills, taught by Windham school system. The primary ingredient, actual contact with the community, is missing, however, due to the operation of the program in the rural units. Eighty percent of TDC inmates live in four urban areas of the state. It is unrealistic to expect families of these inmates to consistently travel long distances, which can be over 500 miles, to east Texas for family counseling. Furloughs are no longer used to allow inmates to search for employment because of public protest against them. Moreover, furloughs do not permit inmates to actually work for a time before release. Counseling for substance abuse is considered more effective if given while the offenders are in the community, where their support system lies. Therefore, an effective pre-release system should be located outside of a rural maximum security unit and near urban areas to provide access to its resources.

The prison depopulations coming in 1987 and 1989 as a result of the Ruiz settlement will make it necessary for the state to build some new prison facilities. The expense of prison construction and operation mandates that all resources be used as effectively as possible, not only to reduce present cost, but to prevent the

future cost of recidivism. These issues, involving the state's corrections policy now and in the future, require legislative involvement to resolve them. The TDC board has recently begun an attempt to build four multi-purpose, 500-bed units in urban areas. The legislature has an interest in seeing that the programming instituted in any new units is compatible with legislative policy and beneficial to the public interest in lowering the ultimate cost of corrections.

- **The TDC should be statutorily required to include a pre-release component in the unit program of any new units built near urban areas.**

The TDC must build new prison units just to accommodate the present trends in numbers of persons incarcerated. As mentioned in the above discussion, the TDC board has supported the building of smaller-than-usual units located close to large urban areas. Since a pre-release program works best if located in or near metropolitan areas and pre-release programs may ultimately reduce the cost of incarceration by preventing recidivism, at least a portion of any new urban-located unit should be made up of inmates undergoing pre-release training. Although the actual cost of re-entry programs is unknown, if the program is developed as specified below, costly maximum security cells will not be required, community resources and support will be used, and the pre-release program will be partially self-sustaining through work release. The pre-release component could possibly cost the same as or less than maximum security programs.

- **The statute should provide that at least one-fourth of the inmates assigned to new urban units participate in a pre-release program.**

Most TDC units contain some industry that helps make the prison self-supporting. These prison industries require inmate workers with enough time left on their sentences to learn the necessary skills. Unless enough of these laborers are present in the institution, the industry spends too much time training new workers and not enough time in producing the goods that sustain the unit. Pre-release inmates usually do not have the length of sentence to contribute to industry, and spend much of their time in pre-release activities. To provide the department with the flexibility it needs to design units that are self-supporting and simultaneously ensure the operation of a viable pre-release program

component, at least one-fourth of the total inmates assigned to the unit should be full-time participants in a re-entry program that is connected to an urban area.

- **The statute should require that employment counseling, drug and alcohol abuse counseling and family counseling be a part of the pre-release program.**

Unemployment, substance abuse and lack of family support are the three most common elements contributing to recidivism rates. Statistics collected by the Board of Pardons and Paroles in a one year study of parolees and mandatory releasees show the impact of unemployment on recidivism. Six percent of ex-offenders employed at the end of six months after initial release from TDC returned to prison, while 13 percent of those only sporadically employed returned to TDC and 29 percent of those unemployed at the end of six months returned. The ability to attain and maintain employment is clearly critical to the ex-offender's successful re-entry. Pre-release employment counseling should be provided through the Texas Employment Commission.

The family's role in reducing repeat crimes is also important. Many academic articles related to criminology and recidivism recognize the positive relationship between strength of family ties and success on parole. In one study by Daniel Glaser, parole success was 74 percent for those with active, sustained family ties. The family itself often needs counseling before the inmate member's return. The family undergoes tremendous stress related to losing a member and the attendant social stigma and economic hardship. Often family members lose their ability to maintain a positive or caring relationship with the imprisoned member. Family counseling can help an offender regain the family's acceptance after years in prison.

The role of drugs and alcohol in crime is also well known. The National Bureau of Justice Statistics reports that alcohol contributed to over half violent crimes and 48 percent of other crimes. The Board of Pardons and Paroles identified drug and alcohol dependency as two of the most common problems among parolees. Drug and alcohol counseling in a pre-release setting would emphasize connecting the inmate with community support systems, most importantly, with Alcoholics Anonymous or Narcotics Anonymous.

- **The statute should require that inmates participating in pre-release be within six months of release.**

Inmates within six months of release are generally recognized as being in a "pre-release stage". At this point in the prison sentence, release is in the foreseeable future and inmates can begin to make practical plans. Further, inmates who have served all but six months of their sentence are unlikely to attempt escape and can be released on their own recognizance for short periods of time with less risk to the public.

- **The statute should permit inmates to participate in work-release with part of the offender's earnings contributed to help pay the costs of the pre-release program.**

The transition from incarceration to the community could be more easily achieved if inmates were not only employed, but had maintained employment for a period of time before release. For many inmates, work-release may be the first time they have achieved job stability. A work-release program has the added benefit of income that can be used to support the cost of the work-release program. Because they are placed in units located near urban areas, work release programs involve daily travel to and from the job to the unit. Work release should be distinguished from work furloughs, authorized by Article 6166x-3, Tex. Civ. Stat. Annotated, which were aimed at inmates on rural units who had to travel to and stay in an urban area job site. These inmates were not able to return nightly to their units, so they were granted work furloughs. Work-release is designed for community-based corrections units, where the inmate can be accounted for daily.

- **The statute should require a memorandum of understanding (MOU) between TDC, the Texas Employment Commission, and the Board of Pardons and Paroles.**

The roles of TDC, TEC, and BPP in the pre-release program should be specified in an MOU between TDC and each of the other two agencies. The requirement of an MOU would establish guidelines and rules of responsibility for providing services to inmates.

- **The statute should require TDC, BPP, and TEC to evaluate the effectiveness of the pre-release programming on a yearly basis.**

Each agency involved in the pre-release program should participate in evaluating its success. The BPP's statistics on recidivism and offender characteristics will be critical to this effort. The effectiveness of substance abuse counseling could be measured by the individual's abstinence from chemicals for a specified period after release, or by participation in community-based alcohol and drug support groups. The success of the employment counseling could be measured by whether the inmate is able to find a suitable job and maintain employment for a specific period of time after release. Recidivism rates are indicators of the program's overall success, but should not be relied upon to assess individual portions of the program, since an inmate may be successful in one area but fail in another. Regular evaluation of the pre-release program increases accountability and makes future program decisions more accurate.

Changes in Release Laws Could Result in More Effective Inmate Management and Better Release Decisions.

The laws governing "flat" time, good time, parole, and mandatory release determine how and when inmates are released from TDC. The "flat" time law is designed to keep offenders of certain more serious crimes in prison for a longer period of time. Inmates convicted of an "aggravated" offense (Section 3g, Article 42.12, Code of Criminal Procedure) must serve the lesser of one-third or 20 years of their sentence as calendar or "flat" time before becoming eligible for parole.

While the flat time law requires some inmates to serve more time in prison, good time laws allow most inmates to reduce time spent in prison. With good conduct time, an inmate can earn up to 2.5 days of credit for each day served plus additional time for participation in education programs, for a total of three days credit toward his/her sentence for each day served. The awarding of good conduct drives parole eligibility and mandatory release. Inmates, except for those serving flat time sentences, become eligible for parole when good time earned plus calendar time served equals one-third of their sentence or 20 years, whichever is less. Actual release through parole is determined by the Board of Pardons and Paroles. However, inmates not receiving parole must be released on mandatory supervision when good time plus calendar time equals the length of their sentence.

Mandatory supervision involves supervision by the Board of Pardons and Paroles under the same conditions as parolees supervised by BPP. Mandatory releasees are under the jurisdiction of BPP for the portion of their sentences not served as calendar time in prison which is the amount of good time that was credited to their sentence.

The laws governing release have enabled TDC and BPP to control the prison population through a balance between the continued incarceration of some inmates and the release of others. The release laws have also caused several problems for the corrections system. First, the flat time law has created a growing group of inmates who cannot be released until they have served one-third of their sentence. During the time these inmates must serve, they represent a fixed component of the inmate population of TDC that cannot be paroled. At the end of fiscal year 1985 there were about 10,000 flat time offenders in TDC which represented about 26 percent of TDC's population. Their increasing percentage of the prison population reduces the number of inmates eligible for release and thus the ability of TDC and BPP to make discretionary release decisions. Inmates serving flat time can also cause security problems for TDC. These inmates have less incentive to behave during the flat part of their sentence because good behavior cannot result in release. As a result, they are responsible for a disproportionate share of the disciplinary problems in TDC.

A final problem with the flat time law results from its unequal application. The flat time law was designed to make offenders convicted of "aggravated" crimes serve longer prison sentences. Because of the possibility of sentencing disparity statewide, the flat time requirement is not always consistently applied. Such disparity is generally caused by differences in the philosophy among judges, prosecutors, and law enforcement officials statewide and differences in the use of sentencing options and plea bargaining. As a result, two offenders convicted of essentially the same offense may actually serve a very different amount of time in TDC because one may be convicted under the flat time law and the other may not.

A second problem area related to current release laws is caused by the awarding of good time. At the maximum rate of three days credit for one day served, Texas is a leader among states in awarding good time. In addition, when inmates are promoted in good time earning status, the department retroactively awards the higher good time credit. Good time was originally designed to be a reward for an inmate's good behavior by reducing the time an inmate spent in

prison. Changes in good time laws and the awarding of good time have resulted in the use of good time as a release mechanism. To accelerate parole eligibility or mandatory release, good time is awarded at close to maximize levels for most inmates and good time lost for disciplinary reasons is routinely reinstated. The use of good time to help control the prison population has reduced its effectiveness as an incentive for good behavior by inmates.

A final problem with the current system of release is the increasing number of inmates released to mandatory supervision. Because an inmate must be released when good time earned plus time served equals his/her sentence, release occurs without a determination that the inmate is ready for release. Unlike parole decisions, no weight is given to other release factors such as the inmate's crime, criminal history or public safety. In 1981, 26 percent of all inmates released were mandatory releasees. By 1985, this figure had reached 51 percent, indicating that a growing number of inmates are being automatically released without discretionary judgment. Currently, more inmates are released on mandatory supervision than on parole. Most inmates released on mandatory supervision have been eligible for parole but were not approved for release by the Board of Pardons and Paroles. Frequently, these inmates have committed more serious offenses, such as aggravated rape or murder and/or have an extensive criminal history which prevents their release on parole. Under current law, however, these inmates must be released when good time and calendar time served equals sentence length, which with current good time awards, amounts to about forty percent of the sentence received.

To address the problems with the current system of release from TDC, a number of changes are needed in the laws governing release.

- **Flat time, good time, parole, and mandatory release laws should be restructured.**

The 68th Legislature established the Commission on Sentencing Practices and Procedures to study the state's sentencing laws. One of the commission's recommendations was further study of the state's penal code including those laws affecting the population of TDC. Pursuant to the sentencing commission's recommendation, the governor created the Sentencing Task Force. As a product of its efforts, the task force has developed a five part plan which restructures the laws governing release. These changes essentially address the concerns with

current release laws and management of the TDC population that were identified during the review of TDC. Using those recommendations as a base, a set of proposals similar in many respects to those of the task force have been developed for consideration. Under the sunset proposal, the following changes would be made:

- Change the laws to eliminate automatic release for inmates convicted of violent crimes. These inmates could only be released by a discretionary parole decision of BPP or by discharge of their entire sentence. Currently, all prisoners, including those convicted of violent crimes, must be released automatically when their calendar time plus good time earned equals their sentence length. A discretionary release by BPP is not involved in these mandatory releases. Prisoners that do not earn parole and are automatically released to mandatory supervision typically serve 43 percent of their sentence. Criminals serving time for violent crimes represent the greatest danger to society. Release of these individuals may not be appropriate. The release should not occur automatically, but should be based on an informed judgment. If necessary, the BPP should have the flexibility to keep this offender in TDC until the sentence is completely discharged by serving calendar time. Crimes that are typically considered to be violent include: murder, kidnapping, robbery, sexual assault, assault and arson.

To give BPP complete release discretion with this violent group, the mandatory release law should be changed so that it does not apply to offenders with violent crimes. Also, the flat time law would have to be repealed since it allows for parole consideration only after serving one-third of the sentence. This change would also help eliminate the sentencing disparity that currently exists with the inmate group serving flat time. Discipline in the flat time group would be improved because good time would count toward parole eligibility, thus providing an incentive for good behavior.

- Change the law so that inmates with non-violent crimes that are not paroled by BPP are required to serve more calendar time in TDC before mandatory release. Under current law, prisoners can receive

a total of three days credit for each day served. These liberal good time laws and the way they are applied have expedited releases and helped control the prison population. However, as a result of good time, prisoners now serve smaller portions of their sentence before being released to mandatory supervision. Under this proposal, only prisoners with non-violent crimes would be eligible for automatic mandatory release. However, good time laws should not be applied to so quickly allow mandatory release. A reduction from three days credit to two days credit for each day served is generally considered a more reasonable level of good time and is more consistent with levels used in other states. This change would effectively require non-violent prisoners who are not paroled to serve more time before reaching their automatic mandatory release date. (Reducing good time for the non-violent group would also mean a reduction of time earning for all inmates with regard to parole because eligibility good time levels must be the same for the entire TDC population.)

- Provide a safeguard to ensure that the prison crowding problem is not aggravated by the recommended changes. The changes suggested previously lengthen the time spent in prison for inmates with both violent and non-violent crimes who are not qualified for parole in the judgment of BPP. While there is logic in this approach, it produces the practical problem of aggravating the crowding problem in TDC. Therefore, some way is needed to offset the increased length of stay of problem offenders. One reasonable way to provide this offset is to reduce the time that inmates have to spend before becoming parole eligible. The eligibility date should be fixed at a point which produces the same size and type group of parole eligible inmates as under the current system. Preliminary projections show that, with the change in good time laws described above, reducing the parole eligibility date from one-third to one-fourth of the sentence length (including good time) should produce the same number of inmates eligible for parole so as not to compound the current prison population problem. Persons judged worthy of parole would be released at that point. Greater risk candidates would face the prospect of serving more of their sentences in TDC.

-- The TDC should provide input into BPP release decisions. In implementing the plan changing release laws a great deal of coordination would be needed between TDC and BPP. For example, because good time will no longer determine mandatory release but only parole eligibility for inmates with violent crimes, the department's ability to use good time to control behavior of that group of inmates will be reduced by the new release plan. Therefore, TDC should have the ability to influence release decisions by BPP by making recommendations as to the appropriateness of release. This would provide TDC with a disciplinary tool to control inmate behavior. To work out this procedure and others needed to implement the new release plan, TDC and BPP should establish an interagency committee to coordinate the two agencies' efforts.

In summary, a number of statutory changes are necessary in order to improve release decisions, to lengthen the sentence of prisoners who are not ready for return to society, and to promote good institutional behavior of inmates. These changes are: 1) abolish mandatory release for inmates who committed violent crimes, 2) abolish the current flat time law; 3) reduce the amount of good time that can be earned to a maximum of two for one; and 4) reduce the minimum parole eligibility date to one-fourth of the sentence, and 5) specify that TDC should comment on the appropriateness of parole release decisions. Exhibit 24 compares these changes with current laws.

In considering the plan to change the release laws, it is important to understand that the proposed changes should be considered as a group. Because of the current population problem in TDC, the changes were developed to improve inmate management and release decisions without increasing the population of TDC which, by court order, cannot exceed 95 percent of the department's bed capacity.

Exhibit 24

Comparison of Current and Proposed Release Laws

CURRENT

1. Flat time -- An inmate convicted of aggravated offenses (Article 42.12, 3g.) must serve one-third of their sentence or 20 years whichever is less before becoming eligible for release.
2. Good time -- An inmate can receive 2.5 days for good conduct time for each day served plus additional time for education totaling a maximum of three for one.
3. Parole -- An inmate is eligible for parole consideration when calendar time served plus good time earned equal one-third of the sentence or 20 years whichever is less.
4. Mandatory release -- An inmate is automatically released on mandatory supervision when calendar time served plus good time earned equals the sentence.
5. Input into parole decisions -- The TDC does not have the ability to influence release decisions by BPP.

PROPOSED

1. Flat time would be abolished. All inmates would be eligible for release at the same time regardless of offense.
2. Good time credit would be reduced to a maximum of two for one.
3. Parole eligibility would be set at one-fourth of the sentence or 15 years whichever is less.
4. Mandatory release would be eliminated for inmates convicted of violent crimes. Unless paroled, an inmate would serve the entire sentence. For inmates convicted of non-violent crimes, mandatory release would be retained but time served would be increased because good time would be reduced to a maximum of two for one.
5. The TDC would have the responsibility to comment on the advisability of parole release decisions being considered by BPP.

Better Use of Release Money Could Increase Compliance with Parole Requirements.

Currently, each inmate receives \$200 upon release from TDC. Approximately \$5 million has been distributed to the 25,700 inmates released from TDC thus far in fiscal year 1986. Since 94 percent of the inmates released have \$100 or less in their individual accounts, the release money is needed to purchase meals and transportation back to their approved destination.

As a condition of release, the inmate must go directly to the destination approved by the Board of Pardons and Paroles and report immediately to the parole officer assigned in the inmate's certificate of release. Approximately 20 percent of TDC releasees do not immediately report to the parole officer. Many of these releasees eventually report for parole supervision, while a smaller percentage never report.

Parole officer contact is crucial for both the inmate and society as a whole. The parole officer not only monitors the releasee's activities for compliance with the law, but also helps link the releasee with needed services (e.g., employment, substance abuse counseling) which reduce the incidence of recidivism. Results of the review indicated that release money, if distributed differently, could serve as an incentive for the releasee to report for parole supervision.

- **Inmates released from TDC should receive \$100 at the gate and \$100 after reporting to the designated parole officer within a time period specified by the Board of Pardons and Paroles.**

Staggered distribution of the release money would provide a more efficient use of state funds. The \$100 given to the releasee at the gate is adequate to purchase meals and transportation to any destination in the state. While the \$100 received by the releasee from BPP after reporting to the parole officer would hopefully increase the number reporting to supervision, the state could recoup any money reserved for those who fail to report.

Information Provided to Inmates Needs to Be Improved.

With responsibility for approximately 38,000 inmates, the Texas Department of Corrections has the obligation to inform those inmates of the rules and procedures governing their stay in prison. The agency began sharing this information when it created a handbook for inmates in 1978. Also, as a result of the Ruiz settlement, the agency must give inmates information on legal changes affecting prison operations.

The inmate handbook has not been updated since 1978, despite the agency's own requirement that it be updated every two years. Much information in the handbook is now out of date. Legal documents required by the court cases are inserted into the handbook; however, no effort is made to simplify the language to enable inmates--many of whom have less than a sixth grade education--to understand them. The agency has assigned a committee to update the inmate handbook, but the committee has not yet started a revision.

- **The TDC should update and simplify the inmate handbook.**

Inmates should be aware of the rules and procedures governing their incarceration. The handbook currently provided to them is outdated and too complicated. A new and simplified handbook would be more useful for both inmates and TDC staff and would reduce the possibility for inconsistent application of rules between units.

Procedures Should be Initiated to Reduce Inmate Litigation in Federal and State Courts.

Currently, about 1,500 TDC inmate lawsuits are filed in federal and state courts. Inmate litigation covers almost every aspect of daily institutional life including claims regarding access to health care, TDC disciplinary actions, use of force by TDC personnel, and claims for lost or damaged property. Besides adding to the burden on federal and state court dockets, a significant amount of the attorney general's staff time is spent coordinating, processing and defending against the inmate lawsuits.

In 1982 Congress enacted legislation to reduce the number of civil rights actions brought by inmates in federal courts. This federal legislation allows federal district courts to grant a 90-day continuance before court consideration of civil rights actions. During this time, an inmate must exhaust available administrative remedies. Congress expected that by requiring the prisoner to go through an agency grievance process prior to initiating court action, many of the lesser claims could be resolved at the administrative level. The requirement to exhaust administrative remedies can only be applied in states that have inmate grievance procedures certified by the Department of Justice or district courts. Texas does not currently have a certified inmate grievance procedure.

Another factor that adds to the potential number of lawsuits filed in federal and state courts is TDC's inability, under current state law, to pay small claims for inmate property inadvertently lost or damaged as a result of action by agency

personnel. Under Article 4351b, V.T.C.S., TDC must process a miscellaneous claim for lost or destroyed inmate property. Each claim must be processed through the comptroller, audited by the state auditor and verified by the attorney general before payment can be made to the inmate. This process takes anywhere from six weeks to four months. In the meantime, inmates can file in court in an effort to get retribution for their lost or damaged articles. The following recommendations could improve the availability of non-judicial remedies to inmate grievances.

- **The Texas Department of Corrections should seek and maintain certification of the inmate grievance procedure.**

The department is in the process of revising the inmate grievance procedure to meet the Department of Justice standards for certification. To meet the standards, TDC would have to change the current grievance procedure to, among other things, provide for employee and inmate input on the formulation and implementation of the grievance procedure; provide both written and oral explanation of the procedure; allow for employee and inmate participation in the disposition of grievances; and impose fixed time limits for disposition of grievances. Once the procedure is revised, it will be put before the TDC board for approval and then an application can be made to the courts for grievance procedure certification.

A certified grievance procedure should reduce the burden on federal courts and on the attorney general's staff charged to defend the state's interest with inmate cases. A recent Iowa law review article reported that the states of Virginia, Wyoming and Iowa have had favorable results from receiving certification. Between January 1 and November 30, 1984, out of 241 cases initially filed in Virginia's federal court, requiring inmates to exhaust administrative remedies ended the review of 70 (29 percent) of these cases.

Besides potentially reducing federal court litigation, certification of the inmate grievance procedure in Texas could: 1) improve the present grievance system through meeting the requirements of certification; 2) provide some assurance that the process is administered fairly; and 3) help alleviate tension between inmates and prison administrators by providing resolution to grievances in a more timely manner.

- **State courts should be authorized to require that inmates exhaust administrative remedies provided by the grievance procedure.**

While judicial certification allows federal courts to require a prisoner to exhaust the remedies provided by the grievance procedure, state courts do not currently have that authority. A significant amount of inmate litigation is filed in state, as opposed to federal courts. The department's statistics indicate, for example, in the month of May, 44 lawsuits were filed in state courts as opposed to 20 filed in federal court. Legislation to allow state courts to hold a case for 90 days, if the court believes it to be appropriate and in the interest of justice, while the inmate exhausts administrative remedies would allow the state courts the same benefits allowed federal courts. Such legislation could save the state time and money by reducing the potential for litigation.

- **The Texas Department of Corrections should be authorized to reimburse inmate small claims for lost or damaged property under \$500.**

The department estimates that they process about ten small claims for lost or damaged property per month under Article 4351b, V.T.C.S. Since the most common inmate items lost or damaged by TDC are fans and radios, claims are almost always under \$100. The benefits of authorizing TDC to process these claims include a potential reduction in the number of claims filed in the court system and a reduction in the time it takes to reimburse inmates for their lost or damaged property, thereby helping alleviate inmate/prison administration tension. Such authorization would also relieve the comptroller, state auditor and attorney general from having to process these particular claims.

The TDC Should Have a Means for Making Inmates Financially Accountable for Damages They Cause to State Property.

The Department of Corrections spends approximately \$1.6 million each year to repair damages intentionally caused by inmates. Damages range from metal bunks torn from the walls, to broken windows and burned mattresses. The inmates who commit these acts of vandalism risk disciplinary action, but they know they will not have to pay the cost of repairs, however high or low.

Problems with inmate vandalism arises for a number of reasons. The department has no authority to administratively seize any inmate funds that might be available in the inmate trust fund, nor can the agency order restitution. These types of actions can only be pursued through an expensive and time consuming civil lawsuit. Granting the agency authority to hold inmates liable for destructive acts should help deter some of the inmate vandalism and assist in meeting the cost of repairs.

A bill which was introduced but failed to pass during the last session of the legislature would have provides this authority (H.B. 2476, 69th Legislature). The provisions of this legislation could be used to provide the necessary statutory authorization.

- **The TDC should be granted the authority to hold inmates liable for damaged state property pursuant to an administrative hearing. The agency would be authorized to seize the contents of the inmate's trust fund or require that the inmate make restitution as a condition of parole or mandatory release.**

According to the agency, 64 percent of its inmates are indigent, having less than five dollars in their inmate trust fund account. Therefore, the recovery of damages is expected to be small under this provision. In the past, concern has been expressed that granting TDC authority to hold inmates liable for damaged state property would result in inmate appeals to the courts and overcrowding of court dockets. This concern can be addressed by drafting a procedure that provides for appeal based on the substantial evidence standard rather than trial de novo. Additionally, TDC could be permitted to enter into agreements with inmates who have been held liable for damages under which TDC agrees to accept a lower amount as damages, in exchange for the inmate's agreement not to appeal from the hearing.

DELIVERY OF HEALTH SERVICES

The health services division was established to provide comprehensive health care to the total inmate population. Within the health services division, there are four basic program areas set up to identify and treat inmate's health needs: general medical services, pharmacy services, dental services and psychiatric services. These services include medical assessment of every inmate entering TDC, basic medical out-patient services in every TDC unit (e.g., physical exams, immunizations, diagnosis and treatment of simple illnesses and injuries), certain

dental services, in-patient and out-patient psychiatric services, and services for the mentally retarded. In addition to the health services provided within the TDC system, the agency sends inmates needing hospitalization for a more serious medical condition to the TDC hospital in Galveston, which is operated in conjunction with the University of Texas Medical Branch (UTMB) at Galveston.

The review of TDC's health services found that improvements could be made to clarify the agency's relationships with UTMB, improve recruitment of health services staff and improve the provision of services to the mentally ill and mentally retarded offender. Recommendations to improve these areas are set out below.

Services to the Mentally Ill and Mentally Retarded Inmate Should be Improved.

The Ruiz litigation had a decided impact on the provision of services to the mentally ill and mentally retarded offender incarcerated at TDC. The Psychiatric Services Plan and the Mentally Retarded Offender Plan, adopted pursuant to the Ruiz settlement, detailed a system of care which addressed not only the unique housing needs of the mentally ill and mentally retarded offender, but also specified staffing, assessment and treatment requirements. Currently, about 4,000 TDC inmates are receiving mental health and mental retardation services as set forth in the plans.

Care for this special population at TDC begins with a screening and diagnostic process. Screening for mental illness and mental retardation occurs during the first weeks of an inmate's stay at TDC. Inmates screened with possible mental health problems are referred for more indepth testing before they are assigned to permanent housing. After testing, inmates with more serious mental health needs are assigned to special units where they can receive appropriate care.

Mentally retarded inmates tested with an I.Q. of 73, measured deficits in adaptive behavior, and evidence of developmental delay that began in early childhood are automatically referred to the Mentally Retarded Offender Program (MROP). Approximately 1,000 male mentally retarded inmates are housed at the Beto I unit in Palestine. The program for 75 female mentally retarded inmates is located at the Valley Unit in Gatesville, Texas.

Many inmates who, after testing, are found to have psychiatric problems are assigned to an outpatient caseload on the general population units. The more seriously mentally ill inmates are referred to inpatient programs located at the Ellis II, Beto I and Mountain View (for females) units. The TDC currently has 131

acute care and 441 intermediate care beds for inpatient psychiatric treatment. Current bed capacity puts the agency at about 516 beds short of the 1,088 bed requirement set forth in the Ruiz agreement. A number of options are being considered to satisfy or reduce the requirement. A preliminary chart showing these options follows on the next page as Exhibit 25.

Mentally ill and mentally retarded inmates present special concerns that need to be dealt with by different elements of the criminal justice system before, during, and after incarceration. Before incarceration, mental health and mental retardation screening and identification should be provided at the local level before sentencing. Such a process could divert from prison many mentally ill and mentally retarded offenders who could be treated more appropriately in the community. To date, a system for screening, diagnosing and diverting the mentally ill and mentally retarded offender at the local level has not been initiated in Texas.

During incarceration, it is important that prison administrators do all they can to adequately protect and care for the special needs of the mentally ill and mentally retarded inmate, aiding him/her in preparation for eventual release to the community. Currently at TDC, both mentally ill and mentally retarded offenders are managed by professional treatment teams and a treatment plan is developed for each inmate. The individual treatment plan is coordinated by case managers. Specially-trained psychiatric and rehabilitation aides are assigned to work with the mentally ill/mentally retarded inmate after they have completed the regular security officer training.

As the mentally ill/mentally retarded inmate is released from TDC, some level of continuity of care should be provided as the person makes the transition back to the community. Continuity of care is important for both groups of special needs inmates, but is particularly crucial for the mentally ill who could be of danger to themselves or others if not followed up with mental health services in the community. A TDC survey indicated a 69 percent recidivism rate for those previously treated in a TDC in-patient psychiatric facility, as opposed to approximately a 30 percent recidivism rate for the general population inmate. The Texas Department of Corrections, the Board of Pardons and Paroles and the Texas Department of Mental Health and Mental Retardation (TDMHMR) all play an important part in assuring that mentally ill offenders receive services they need to cope with life outside of prison. The TDC estimates that about 70 of the inmates released per month need psychiatric aftercare in the community.

**Exhibit 25
Facility Options for Care of Psychiatric Inmates¹**

	<u>We Have</u>	<u>We Need*</u>
Acute Beds	131	200
Intermediate Beds	441	550
Extended Care Beds	<u>-0-</u>	<u>200</u>
TOTAL	<u><u>572</u></u>	<u><u>950</u></u>

*Based on the report of the Psychiatric Survey Team, 1986.

OPTIONS	No. of Beds	Estimated Construction Cost	Other Construction Costs	Other Beds Freed Up	Estimated Building Time (mos.)	Geographic Location
1. Transfer Rusk State Hospital to TDC (total campus).	950	\$5 million	\$7 million to transfer MHMR patients under least expensive transfer option.	Approximately 1,000 beds (from Ellis II)	18	Rural
2. Contract Rusk State Hospital to TDC (total campus).	950	\$5 million	\$7 million to transfer MHMR patients under least expensive transfer option.	Approximately 1,000 beds (from Ellis II)	18	Rural
3. Build 950 bed fast track facility at Jester III for all levels of psychiatric in-patients.	950	Over \$17.2 Million		Approximately 1,000 beds (from Ellis II)	At least 34	More Urban (near Houston)
4. Build a 350 bed facility at Jester III (Blue Ribbon Health Panel recommendation).	922	\$13.2 Million		-0-	34	Near Houston
5. Build a 350 bed facility at Jester III. Use existing beds at Jester III for intermediate and chronic beds.	950	\$13.2 Million		Approximately 100 beds	34	Near Houston
6. Build a 350 bed facility at Jester III. Use existing beds at Goree for intermediate and chronic beds.	950	\$13.2 Million		Approximately 100 beds	34	Near Houston
7. Build 300 additional psychiatric beds at Ellis II and continue using Ellis II as psychiatric facility.	872	\$10 Million		-0-	21	Rural
8. Purchase or contract an existing private or public psychiatric facility in an urban location.	Unknown	Unknown		Unknown (Would depend on how many and what type of beds available.)		Urban

¹ The estimates set out in this draft chart are preliminary in nature have not been verified. Additional refinement and verification are necessary before the information can be considered final.

Once the mentally ill/mentally retarded inmate is released to the community, the parole supervisor serves as the continuity of care worker, connecting the TDC releasee with needed services available locally. Mental health and mental retardation services available for the releasee in the community vary according to location and the individual's ability to pay. In some instances, even though continued mental health counseling is a condition of parole, the indigent releasee cannot find a service provider that offers the required counseling service.

Another block to continuity of care is the problem TDC has in making psychiatric commitments for those inmates being released with serious mental health problems. Because the prison overcrowding situation necessitates more expedited releases from prison, TDC psychiatric and social services personnel sometimes do not have enough advance notice that a prisoner will be leaving to initiate the court commitment process for a seriously mentally ill inmate. Also, because all inmates are released from the Huntsville "Walls" Unit in Walker County, that county ends up paying certain court costs associated with all the commitment proceedings.

Recommendations are outlined below which could improve the provision of services to the mentally ill and mentally retarded offender before, during and following incarceration.

- **The Texas Department of Corrections and the Board of Pardons and Paroles should be authorized to accept transfer or to contract for the use of available TDMHMR facilities.**

The deinstitutionalization of the mentally ill and mentally retarded in the TDMHMR system has resulted in decreased facility use of some of the 21 state schools and hospitals. Recently, the Rusk State Hospital campus has been considered for placement of mentally ill TDC inmates. Many variables should be considered in such a transfer. If the option to use Rusk for TDC inmates is not adopted, some of the underutilized facilities at Rusk might be appropriately used as contract halfway-house or halfway back house beds for the mentally ill/mentally retarded releasees under supervision of the Board of Pardons and Paroles. Board of Pardons and Paroles' personnel report a current shortage of halfway house beds for the special needs releasee. Perhaps the most beneficial use of any available TDMHMR facilities through a contractual relationship would be the establishment of a halfway back house for the

mentally ill/mentally retarded offender having problems adjusting under parole supervision. The existence of additional halfway house beds where the individual's needs are addressed could serve as an important alternative to re-incarceration in TDC.

At the present time, it is unclear whether TDC, BPP and TDMHMR have the necessary authority to transfer, receive transfer, or contract for the TDMHMR facilities. The TDC and BPP should be given the authority to receive transfer or to contract with TDMHMR for use of TDMHMR facilities if, in the future, such an arrangement becomes practicable. To ensure the smoothest transition, the agencies involved should be required to submit a plan for the governor's approval prior to transferring or contracting for property and/or services.

- **The statute should be amended to provide for a psychiatric commitment process for seriously mentally ill inmates being discharged from TDC.**

The main problem with mental health commitments for seriously mentally ill inmates is a reported lack of advance notice of an inmate's release so that TDC personnel can begin the court commitment proceedings. The TDC psychiatric personnel estimate that out of the 70 inmates released each month who need psychiatric aftercare in the community, approximately six or seven a month need to be committed to an in-patient psychiatric facility. Thus far, in 1986, only one commitment has been made.

The tentative parole date concept, initially adopted by the Sunset Commission for the Board of Pardons and Paroles, should help this problem by giving prison officials more advance notice of the release date. However, only a small group of inmates will be included in the tentative parole process at first and some inmates will be excluded from the process even when it becomes fully operational. Until the release process stabilizes and overcrowding is reduced, TDC needs a way to make sure that releasees determined to be dangerous to themselves or others or releasees deteriorating due to mental illness are provided appropriate treatment.

To ensure continuity of care for the seriously mentally ill, TDC should be required to set up a commitment process. The steps that should make up that process are as follows:

- Require timely notification of a mentally ill inmate's upcoming release. The TDC, working with BPP, should develop a system to give TDC's psychiatric services personnel notice that a mentally ill inmate will be released within a month.
- Initiate court commitment proceedings. Under the Texas Mental Health Code, all mental health commitments are processed through the courts. The Mental Health Code sets out the due process proceedings required for court ordered mental health treatment. The due process requirements include appointment of an attorney, a probable cause hearing on protective custody, medical or psychiatric testimony, and a set of criteria which must be met before a person can be committed. When TDC psychiatric services professional staff learns that a seriously mentally ill inmate is to be released within the month, they should initiate a court commitment if the person is dangerous to self or others, or if he/she is in a state of serious deterioration.
- Commit to a TDC psychiatric in-patient facility to be able to transfer the patient to another in-patient facility on notice of release. If court-ordered mental health treatment is required, the inmate should be committed to the designated TDC in-patient facility. Committing a person to be released within a month to the TDC psychiatric facility will provide TDC the mechanism to ensure appropriate treatment for the seriously mentally ill after release. Since TDC often has very short notice that an inmate will be released, those mentally ill inmates that have already received court commitments to the TDC psychiatric facility can be transferred to a facility in the free world. The transfer process for those who have previously received commitment as authorized under the Mental Health Code is a relatively simple and quick procedure in comparison to the court commitment process. Currently, TDC is not authorized to receive court commitments. To avoid the time problems currently facing TDC, the designated TDC in-patient

facility should be authorized to receive appropriate mental health commitments.

- Transfer to a free world in-patient facility. When the release date arrives for a seriously mentally ill inmate previously committed to the TDC psychiatric facility, if the patient still meets the criterion for commitment, TDC can transfer the patient with notice to the judge and to the receiving facility, like any other in-patient mental health facility. The inmate should be transferred to the in-patient facility in closest proximity to his/her approved Board of Pardons and Paroles destination.
- Specify that authority for treatment of the releasee be maintained by the receiving facility. Responsibility for care of the releasee would be transferred to the receiving institution. This procedure is typical of other patient transfer from one mental health institution to another.

Such a system providing for releasee commitment proceedings could protect the individual and society without disturbing the flow of inmates out of TDC.

In addition to the requirements outlined above, TDC should also be required to pay for the court costs associated with commitment. This payment is necessary because, if commitments were facilitated, the resulting court costs to Walker County or any county where inmate commitments were processed could become substantial. If all the people estimated to need commitments (about 80-85 per year) receive them under the proposed commitment process, commitments would cost TDC about \$57,000 per year (\$675 per commitment x 85 inmates committed per year). Requiring TDC to pay court costs would also discourage unnecessary commitments.

- **The TDC, the Board of Pardons and Paroles and the Texas Department of Mental Health and Mental Retardation should enter into a memorandum of understanding (MOU) which develops a continuity of care system for the mentally ill and mentally retarded offender released from TDC.**

A continuity of care system for the mentally ill and mentally retarded offender is a system that ensures a continuance of services for the

inmate from prison to the community where he/she will be living. Continuity of care is particularly important for the mentally ill offender on medication which stabilizes his/her psychiatric condition. All three agencies listed above are currently involved in some type of continuity of care system. The TDMHMR has a continuity of care system for those being released from state hospitals to the community. TDC has two continuity of care systems for inmates with mental health needs, currently being carried out by two different divisions of the agency. TDC procedures on connecting an inmate with mental health services in the community appear somewhat duplicative. Both of the TDC aftercare systems include travel needs, medication information, treatment and management information. Both of the TDC systems also involve sharing this information with BPP field supervision personnel. TDC will also make contact with the local MHMR authority where the releasee will be living if such a contact is recommended by the psychologist. While the different aftercare procedures seem to meet the needs of the individual agencies, continuity of care for the mentally ill and mentally retarded offender has not been coordinated in such a way as to maximize the service potential for each individual in need once he/she is released to the community.

The initial sunset proposals for BPP contain a recommendation for an MOU between BPP and TDMHMR to increase the availability of MHMR community services to releasees. The MOU should be expanded to require BPP and TDMHMR, as well as TDC, to work out a consistent system to ensure needed mental health services are continued once a person returns to the community. In developing the MOU, the agencies would need to determine such issues as how and when notification of a mentally ill or mentally retarded inmate's release from TDC will be given to BPP and local MHMR centers, what information is needed, which inmates should be included in the continuity of care system, and what the local MHMR centers can do with the information once they receive it. Representatives from local MHMR facilities should be included in the development of the MOU since they would be an integral part of a coordinated continuity of care system.

- **The BPP should be authorized to use parole supervision fee revenue for contract mental health/mental retardation services for TDC releasees in the community.**

During the reviews of both BPP and TDC, problems were identified with the availability, in certain areas of the state, of services to releasees with mental health/mental retardation problems. This population includes the mentally ill and mentally retarded offender, as well as those with substance abuse problems. Where problems with the availability of services for this population has occurred, three possible causes were identified:

1. the local orientation of MHMR centers may result in different levels of service for releasees in different parts of the state;
2. the restrictive requirements that define the populations that local MHMR centers may serve, and;
3. the lack of funding to provide needed services.

Because of the factors listed above, access to identification, case management, residential, and counseling other services will probably not improve substantially without a source of funds to purchase such services from the community mental health centers.

One potential source of funds for contract mental health services is revenue generated through the collection of parole supervision fee money. The current parole law requires a releasee under the board's supervision to pay \$10 to the board for each month he/she is required to meet personally with the parole officer. The agency began collecting supervision fees in September, 1985 and has so far collected a total of \$366,980 representing an average collection rate of about 25 percent. Releasees under supervision remit their fee to the agency's central office. The fees are then deposited to the credit of the general revenue fund.

Appropriation of funds for contract services is provided elsewhere in the criminal justice area. The Texas Youth Commission (TYC) currently receives funds to contract for services in the community. For fiscal year 1986, TYC was appropriated \$7.6 million for contract care

service grants. If BPP were authorized use of the parole supervision fee revenue, the agency would at the very least have some funds earmarked to purchase needed services. Improving accessibility of services in the community for the offenders with mental health and mental retardation problems could help reduce the high recidivism rate among these offenders. An additional benefit would be an increased incentive for parole officers to improve the collection in rate if they knew the money would be used to benefit the clients of the agency.

- **The TDC should be statutorily required to develop a request for proposal (RFP) on a pilot project for diagnostic and evaluation services for offenders at the local level prior to their transfer to TDC.**

Currently, the screening and diagnostic process set up to identify the mentally ill and mentally retarded inmate takes place during the first weeks of an inmate's stay at TDC. All male prisoners are first admitted to the Diagnostic Unit in Huntsville while female inmates are processed through the Gatesville Unit. During these first weeks, TDC personnel do a fairly comprehensive evaluation which includes not only psychological and intelligence screening and testing, but also a sociological and medical evaluation. Average length of time spent by an inmate in the diagnostic process is 15-20 days. The diagnostic process is essential to TDC's classification process because it provides information to assist TDC in making custody, housing, and job assignment decisions.

Recently, TDC has been receiving a record number of inmates at the Diagnostic Unit. Admissions for return violators and new offenders are up 21 percent thus far in 1986 compared to a similar time period last year. Increased admissions have significantly overburdened the diagnostic process, providing potential for increased misdiagnosis and misclassification of inmates by diagnostic personnel. The misdiagnosis rate for mentally retarded inmates referred to the Mentally Retarded Offenders Program (MROP) ranges from about 20-40 percent. One explanation for the relatively high misdiagnosis rate is that inmates screened for possible mental retardation are not given an important adaptive behavior test before being referred to the MROP. Apparently,

any additional testing at diagnostic could impair the crucial flow of inmates through the system. However, misdiagnosis causes problems for TDC later in the process when they must reclassify the individuals misdiagnosed and find different housing for these inmates.

Diagnostic and evaluation services could be carried out a number of ways at the local level. For example, screening and diagnostic could be done after an individual being processed through the courts has been found guilty of a felony but before sentencing, or the diagnostic process could be conducted after a person is sentenced to TDC while he/she is awaiting transfer to Huntsville.

Having all or part of the diagnostic process performed at the local level before an inmate's arrival at TDC could be beneficial for several reasons. Since much of the information TDC needs comes from the counties, information gathering could be facilitated because of better access to the source of information. Much of the psychological and intelligence testing, if done on the local level, would not need to be duplicated once the person got to TDC, thereby reducing the time an inmate would need to be at the diagnostic units. Also, if mental illness and mental retardation were identified before sentencing, the judge would have the option to place that person in some type of correctional community program (e.g., the Adult Probation Commission's special caseload for the mentally retarded) if that program would be more appropriate for the person than admission to TDC.

The Texas Department of Corrections should send out a RFP for bid on diagnostic and evaluation services at the local level. This should be done on a pilot project basis. Since most TDC admissions are from urban areas of the state, advance diagnostic services would have the most impact if done in a metropolitan area. At the end of the project, TDC could evaluate the project's success at meeting three criteria: reducing costs, lowering the misdiagnosis rate, and speeding up the diagnostic process. The TDC should fund the pilot project out of funds budgeted for the TDC diagnostic process. If the performance criteria are met, TDC should pursue this local contract approach on a wider basis in the future.

- **The Texas Department of Corrections should separately recruit security staff hired to work with the mentally ill and mentally retarded inmate.**

Because of the nature of the population with which they work, security officers at TDC working with the mentally ill and mentally retarded inmates are in a different situation from officers working with general population inmates. Security personnel working with the mentally ill and mentally retarded have special titles -- security personnel working with the mentally ill are called psychiatric aides, while security personnel working with the mentally retarded are called rehabilitation aides. As of July 1986, the agency had 117 rehabilitation aides and 256 psychiatric aides.

Currently psychiatric/rehabilitation aides are selected from the general pool of security officers trainees instead of from direct free world sources. In addition to the regular security officer training, the trainees selected to work with the mentally ill and mentally retarded receive two hours of mental health training at the TDC training academy and follow-up training once they arrive at their unit of assignment. As specified in the Psychiatric Services Plan, developed pursuant to the Ruiz case, the training focuses on developing skills and attitudes necessary to the maintenance of a supportive environment for these groups of offenders.

During the review, a problem was noted in selecting rehabilitation and psychiatric aides from among the pool of security officers. Officers picked to work with the psychiatric and mentally retarded inmates often do not want to work with those groups. This problem would be reduced if the psychiatric and rehabilitation aides were recruited directly as aides and not necessarily from the security officer candidates at the training academy. The aides should continue to get the same general security officer training in addition to special mental health/mental retardation training. In this way, the employees could still be recruited to work on general population units should there be additional security staffing needs. One additional concern is that psychiatric/rehabilitation aides are supervised by security personnel on

the unit of assignment. The Psychiatric Service Plan requires that aides report to treatment team supervisors. This requirement should be complied with in order to facilitate integration of all aspects of the inmate treatment program and to satisfy the provisions of the Psychiatric Service Plan.

- **The Texas Department of Corrections should be authorized to hire psychiatrists at a competitive salary rate.**

The Texas Department of Corrections has experienced difficulty in recruiting the psychiatrists needed to satisfy the staffing requirement adopted as part of the Ruiz settlement. TDC currently employs 31 psychiatrists on a full or part-time basis, making up about 13 full-time equivalent employees. The Psychiatric Services Plan requires a total of 32 full-time psychiatrists. The main difficulty in recruiting psychiatrists is that the salary TDC can offer is much less than what a psychiatrist could receive in the free world. The base salary authorized for TDC psychiatrists is \$58,856 with \$5,000 incentive pay and \$6,000 for housing if TDC housing is not available.

To help solve this problem, TDC, in the spring of 1986, entered into an interagency contract with the Texas Department of Mental Health and Mental Retardation. The TDMHMR is authorized to hire psychiatrists at a higher salary (from \$70,000 to up to \$92,000 per year for a highly qualified candidate). Under the terms of the contract TDMHMR hires the psychiatrist for TDC and is then reimbursed. The arrangement has been successful to date - six TDC psychiatrists have been hired through TDMHMR. To avoid having to rely on another agency to hire their personnel, TDC should be statutorily authorized to hire psychiatrists at the same rate authorized for TDMHMR.

Increased Use of Current Medical Resources and the Development of New Relationships Between TDC Medical Services and Texas Colleges and Universities Could Improve Services.

Medical services are offered to inmates through a unique, joint relationship between the TDC medical services department and the University of Texas Medical Branch at Galveston (UTMB). Essentially, TDC medical services treats inmates until additional treatment is needed by a specialist, surgery is required, or a major medical emergency develops. At that point, the inmate is treated in the

TDC-Galveston Hospital by doctors affiliated with UTMB at Galveston. The medical relationship between TDC and UTMB is not governed by a written document describing the responsibilities of each body. As a result, some points of interaction between agencies have not been as smooth as either would have wished. A memorandum of understanding would serve to clarify responsibilities and promote greater understanding among the professionals of each agency.

The cooperation between UTMB and TDC has benefited the state by making it possible for inmates to have quality medical care, while avoiding unnecessary duplication of services. The inmate population is also a good population for medical school teaching purposes, because inmates have a variety of health problems which may never have been treated. Given the relative success of the arrangement between UTMB and TDC it could be advantageous to explore the possibilities for medical care that may exist with other universities.

In order to treat common disorders, UTMB operates some specialty clinics that are held in the TDC units, however, the inmate must travel to Galveston to get treatment for other problems. A major problem with this joint relationship is that no overnight facilities exist in the TDC Galveston Hospital. Inmates make a 24-hour round trip to Galveston for treatment. With some units as far as 300 miles from Galveston, the lack of overnight capabilities should be remedied.

- **Overnight housing facilities for inmates should be established at the TDC-Galveston Hospital.**

About 110 inmates requiring medical care in an area of specialty medicine are sent to TDC-Galveston Hospital each day, at a transportation cost of approximately \$96,400 per month. Once there, they are treated by a doctor on the University of Texas Medical Branch faculty. Often, several visits are required for follow-up treatment. An inmate with multiple medical problems may need to return to the hospital for several different tests. Each one of these visits requires that the inmate make a trip from his unit, which may be up to six hours away, to the TDC hospital in Galveston. Even an inmate with tests scheduled on consecutive days must make the trip back to the unit every night, and return the next day. For out-patient inmates located in the northern region, the trip to Galveston begins at 3:00 a.m., when the hospital bus arrives at the unit, and may not end until after midnight on the same day.

Any mechanical breakdowns aggravate the travel schedule further. Because inmates are driven to Galveston on the morning of their appointment, when the bus is late or does not arrive, appointments must be rescheduled, TDC security staff scheduled to guard the out-patients at the hospital is left idle, and the time of medical personnel and costly hospital equipment can be underused. Thus, the current system of transporting out-patients to Galveston on the day of their scheduled appointment creates an ordeal for inmates and drivers, and sometimes results in loss of security staff and physician's time.

Originally, the problems caused by the distance between northern region units and the TDC-Galveston Hospital was foreseen. Money for an overnight holding facility was appropriated. The holding facility was never built and the money was returned to the state treasury. If, however, an overnight facility had been included in the hospital, northern region inmates would have been spared the difficult round-trip to Galveston. Multiple trips made by those having complicated conditions would be avoided. In addition, the waste caused by mechanical breakdowns would be minimized, because inmates could be transported the evening before their appointments.

Two floors in the TDC hospital are currently vacant. One, the fourth floor, was reserved for a predicted increase in patients that now is not expected to materialize. The eighth level was intended to hold trustees, but the expense of Ruiz requirements forced TDC to abandon plans for the floor.

Preliminary cost estimates done by TDC show that overnight housing would cost approximately \$79,000 per month for security and meals. Preliminary estimates show that renovations of the fourth floor to create a 108 bed holding facility would cost approximately \$586,000; to create 172 beds, the cost would be about \$879,000. A tentative estimate of the cost to transform the eighth floor is \$40,000. If the Ruiz plaintiffs agree, these beds could be used to increase total capacity for Ruiz purposes.

- **The TDC and UTMB should be required by statute to enter into a memorandum of understanding (MOU) defining the relative duties and responsibilities of each agency.**

Article 6203-c2, Tex. Civ. Stat. Ann. establishes the TDC-Galveston Hospital and states that UTMB will provide medical care to inmates at the same level of care it provides to free world patients. The statute requires TDC to provide security to guard the inmates. In 1977, prior to construction of the hospital, TDC and UTMB entered into an interagency agreement. The agreement provided for UTMB to build the hospital and provide medical care to inmates, the quality of which was to be determined only by UTMB. The TDC agreed to provide security under a similar provision as to adequacy of security. This interagency contract expired in 1979 and has not been replaced.

In fiscal year 1986, UTMB received an appropriation of \$15,798,878 to treat inmates and to operate and maintain the hospital. The TDC expends funds to transport inmates to and from Galveston and guard them while they are in the hospital. This arrangement between the two agencies has, for the most part, operated satisfactorily. However, some problems related to quality of care have arisen between physicians employed by TDC and those affiliated with UTMB. The TDC physicians often treat a patient before he/she is admitted to the TDC-Galveston Hospital. The UTMB makes all admissions, discharge and treatment decisions while the patient is in Galveston. Once returned to TDC, the inmate is again under the care of TDC physicians. This unusual division of professional responsibility can be the cause of disagreement between TDC and UTMB doctors. Often, conflicts occur because UTMB doctors are not familiar with the environment in which TDC doctors practice. Medical treatment decisions that are appropriate in the free world may not be appropriate in a prison unit. These difficulties could be remedied with better communication between agencies.

The relationship between TDC and UTMB involves too much money and responsibility to leave resolution of important matters to chance. Human lives, both in the civilian and inmate populations, depend on smooth operation between agencies.

The complexity and gravity of the responsibilities shared between TDC and UTMB require that it be controlled by a MOU. This agreement should specify the responsibilities of each agency as they currently exist. An MOU will ensure that the relationship will continue in the future, despite leadership changes in either agency. In addition, disputes which may arise concerning security, medical treatment, operation or maintenance of the hospital will be more likely to be settled if reference can be made to a governing document.

- **The MOU should include provisions for joint review of quality of care and cost-effective treatment.**

The care of TDC inmates at the TDC-Galveston Hospital is regularly reviewed as a part of the overall quality assurance program involving all patients hospitalized at UTMB. (The program used is the Medical Management Analysis developed by Dr. Joyce Craddick of California). All patients admitted are reviewed by trained individuals to identify adverse patient outcomes. Indications of adverse outcomes are reported to a physician peer for review. If there is a question as to the quality of care, the involved physician is consulted.

The cost effective use of resources is monitored in part by the Craddick program. In addition, UTMB has instituted a formal cost containment program. Possible cost reductions are identified. These reductions are used when physicians agree that the cheaper approach will not adversely affect patient care. UTMB reports that the operation of this program has been very successful.

At one time, TDC and UTMB attempted a process of joint peer review. The experiment was discontinued because of problems that developed. The difficulties were reportedly due to poor communications between the agencies rather than a problem with the concept. The two agencies agree that another joint peer review should be started. In addition, the joint process should be extended to utilization review. The differences in prison environment affect cost containment procedures. Those procedures may be appropriate for the free world patient, but not the incarcerated patient. A joint process would help ensure that

appropriate utilization review procedures would be put into effect between the two agencies.

- **The TDC should be authorized by statute to establish medical residencies and to expend funds for that purpose. The agency and state medical schools should be directed to work together and explore the alternatives for residencies.**

The TDC has chronic recruitment problems in the medical services department due to the poor image of correctional medicine among medical professionals, the rural locations of its units, and the lower salaries offered by the state compared to the free world. A number of ways to address the problem have been proposed, many involving in some form cooperative efforts between TDC and state medical schools. The development of medical residency programs at TDC could be an effective and long-term answer to the recruitment problem.

Medical residences are intended to give medical students practical experience with supervision by experienced physicians. In this state, residencies are created in community hospitals and paid for by the medical schools. To offer a residency program, a hospital must meet certain criteria, above accreditation, and one of its staff doctors must be a member of the medical school faculty. Residents are medical students who have graduated, but are not licensed. They get the benefit of practical experience, which is required for a license, and become acquainted with the geographical area where they are located. Many residents establish their practice in the area, taking advantage of the reputation they have created for themselves.

Areas where residencies could prove helpful are psychiatry and dentistry. In neither area has TDC been able to hire the number of professionals specified in the Ruiz settlement. For example, two possible approaches for a dental residency could be considered initially. In one approach, TDC could establish an internal residency program for two residents per year. This internal approach has the advantage of total control by TDC, and it could save the state approximately 50 percent of the salary of a licensed dentist. A disadvantage of the program is that an internal TDC program would not have the depth of clinical experience required of an actual residency program and could

not be accredited. Such a program may not have the desired recruitment results because of the lack of accreditation and the lesser credential that could be earned. A second, and perhaps more viable approach could involve a residency offered jointly by TDC and a hospital or dental college participating in an accredited residency program. As a joint activity, the residency would offer a rotation of residents at TDC. The department would contribute to the stipends of the enrollees, making payment directly to the cooperating institution. This approach has the advantage of offering an accredited residency while providing TDC with oversight as to the content and quality of the program. The TDC would not have the total control of the internal approach, nor would all the residents be available to TDC all the time.

To the extent that these hiring shortages are caused by misconceptions of the prison environment, residencies can help to dispel those fears. In addition to staying in the area themselves, residents could pass along to their peers accurate information about the practice of correctional medicine. Having residents to fill currently empty positions is a short-term benefit of offering residencies and also a possible long-term solution to chronic recruitment difficulties.

At this time, TDC's medical programs would not meet the standards required of institutions offering residencies. It has been estimated that it could take several years before TDC would be ready to offer a residency program. The TDC and state medical schools should be directed to proceed immediately to jointly explore the possibility of establishing residencies. The TDC should also be given statutory authority to create a residency program.

ACROSS-THE-BOARD RECOMMENDATIONS

From its inception, the Sunset Commission identified common agency problems. These problems have been addressed through standard statutory provisions incorporated into the legislation developed for agencies undergoing sunset review. Since these provisions are routinely applied to all agencies under review, the specific language is not repeated throughout the reports. The application to particular agencies are denoted in abbreviated chart form.

TEXAS DEPARTMENT OF CORRECTIONS

Applied	Modified	Not Applied	Across-the-Board Recommendations
			A. GENERAL
	X		1. Require public membership on boards and commissions.
	X		2. Require specific provisions relating to conflicts of interest.
X			3. Provide that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board.
X			4. Require that appointment to the board shall be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointee.
X			5. Specify grounds for removal of a board member.
X			6. Require the board to make annual written reports to the governor, the auditor, and the legislature accounting for all receipts and disbursements made under its statute.
X			7. Require the board to establish skill-oriented career ladders.
X			8. Require a system of merit pay based on documented employee performance.
X			9. Provide that the state auditor shall audit the financial transactions of the board at least once during each biennium.
	X		10. Provide for notification and information to the public concerning board activities.
		*	11. Place agency funds in the Treasury to ensure legislative review of agency expenditures through the appropriation process.
	X		12. Require files to be maintained on complaints.
	X		13. Require that all parties to formal complaints be periodically informed in writing as to the status of the complaint.
		X	14. (a) Authorize agencies to set fees. (b) Authorize agencies to set fees up to a certain limit.
X			15. Require development of an E.E.O. policy.
X			16. Require the agency to provide information on standards of conduct to board members and employees.
X			17. Provide for public testimony at agency meetings.
X			18. Require that the policy body of an agency develop and implement policies which clearly separate board and staff functions.

*Already in statute or required.

Texas Department of Corrections
(Continued)

Applied	Modified	Not Applied	Across-the-Board Recommendations
			B. LICENSING
		X	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
		X	2. Provide for notice to a person taking an examination of the results of the exam within a reasonable time of the testing date.
		X	3. Provide an analysis, on request, to individuals failing the examination.
		X	4. Require licensing disqualifications to be: 1) easily determined, and 2) currently existing conditions.
		X	5. (a) Provide for licensing by endorsement rather than reciprocity. (b) Provide for licensing by reciprocity rather than endorsement.
		X	6. Authorize the staggered renewal of licenses.
		X	7. Authorize agencies to use a full range of penalties.
		X	8. Specify board hearing requirements.
		X	9. Revise restrictive rules or statutes to allow advertising and competitive bidding practices which are not deceptive or misleading.
		X	10. Authorize the board to adopt a system of voluntary continuing education.

*Already in statute or required.