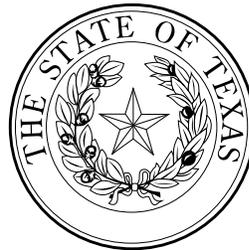


# **Council on Sex Offender Treatment**

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**Staff Report**



**Texas Sunset  
Advisory Commission**

**1996**

## TEXAS SUNSET ADVISORY COMMISSION

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

**COUNCIL ON SEX OFFENDER TREATMENT**

**SUNSET STAFF REPORT**

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# **REPORT SUMMARY**

# Report Summary



The Legislature first created an agency specifically to address sex offender treatment issues in 1983 with the establishment of the Interagency Council on Sex Offender Treatment. While the agency's early role was primarily to determine the need for a state-administered program for treating sex offenders, its mission has expanded over the years. Today, the Council on Sex Offender Treatment (Council), which succeeded the Interagency Council in 1993, is largely responsible for determining who may provide treatment to sex offenders and serving as a clearinghouse for information about treatment strategies. The Council is essentially a regulatory agency responsible for registering providers of sex offender treatment and providing training on the treatment and supervision of sex offenders. The Council does not actually provide treatment for sex offenders.

In developing the approach to the review, Sunset staff assessed the state's interest in regulating sex offender treatment providers. To be registered as a treatment provider, applicants must already have a license as a mental health or medical service practitioner and they must satisfy additional experience and continuing education requirements. The registration entitles providers to call themselves registered sex offender treatment providers, but it does not prevent non-registered individuals from providing the same treatment as long as they do not call themselves registered providers. In addition, the review examined the need for the Council as an independent agency to administer these regulations and it addressed the appropriateness of the Council as it is currently constituted in discharging its duties, including determining the need for a state-administered sex offender treatment program. Finally, the review also sought to improve the Council's ability to perform its duties and to do so in a cost-effective manner.

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*The Council determines who may provide treatment to sex offenders and serves as a clearinghouse on the subject.*

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## Review Activities

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In conducting this review, the Sunset staff:

- Worked extensively with the Council's staff;
- Met with or talked to individual members of the Council;
- Met with several members of the Interagency Advisory Committee;
- Reviewed minutes from Council meetings for the last five years;

- Attended two conferences sponsored by the Council, the Fourth Annual Texas Conference on the Treatment and Supervision of Sex Offenders in October 1995 and the Fourth Annual Conference on Working with the Juvenile Sex Offender in July 1996;
- Met with a registered sex offender treatment provider;
- Met with staff of the Legislative Budget Board;
- Met with or talked to staffs of other agencies that have functions similar to those of the Council, including the Attorney General's Office, the Texas Department of Health, and the Texas Department of Mental Health and Mental Retardation;
- Met with legislative staff having an interest in sex offender treatment issues; and
- Reviewed agency documents and reports, state statutes, legislative and state auditor reports, previous legislation, and other states information.

## Results

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*The state should continue to oversee sex offender treatment providers but does not need to do so through a separate agency.*

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The Sunset review of the Council on Sex Offender Treatment began by asking whether the functions performed by the agency are still needed. While the Sunset staff could reach no conclusions regarding the overall effectiveness of sex offender treatment in reducing rates of re-offenses or recidivism, the staff did identify evidence of the state's interest in the successful treatment of sex offenders. For example, sex offenders under community supervision are now required to receive counseling from individuals or organizations that provide sex offender treatment. The staff further concluded that, because of the unique role that treatment providers play with these offenders, continued state oversight is needed to assure that quality standards of treatment are being met.

Although Sunset staff recognized the state's interest in overseeing sex offender treatment providers, it found that the state does not need to do so through an independent agency. The Council's staff is too small to perform all of its assigned duties in addition to the administrative responsibilities common to all state agencies. Other agencies exist that can help the Council perform its duties relating to sex offender treatment providers and to do so more effectively. Consolidating the Council's regulatory functions within the Texas Department of Health (TDH) would improve administrative efficiency and allow the Council to focus more directly on sex offender treatment issues. Giving the Criminal Justice Policy Council the responsibility to evaluate the need for a state-administered sex offender treatment program would provide a more

impartial analysis for policymakers to make decisions about this program. Finally, Sunset staff identified additional changes that could improve the state's oversight of sex offender treatment providers. Each of these changes is listed below and discussed in greater detail in the issue section of this report.

## Recommendation

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1. **Continue the Council on Sex Offender Treatment, but consolidate its regulatory functions within the Texas Department of Health, and make the following changes:**
  - Increase the size of the Council from three to six part-time members;
  - Change the composition of the Council to require that one-third of its members represent the general public;
  - Authorize the Council to appoint additional members to the Interagency Committee as it deems necessary;
  - Transfer responsibility for evaluating the need for sex offender treatment from the Council to the Criminal Justice Policy Council; and
  - Require the Council to recover its costs through fees and grants to reduce the agency's reliance on General Revenue funding.

## Fiscal Impact Summary

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The recommendation would enable the Council to take advantage of administrative efficiency by consolidating the regulation of sex offender treatment providers in TDH. While this change would enable the staff to better focus on its regulatory responsibilities and allow other TDH staff to provide administrative support, no specific cost savings could be identified.

The recommendation would cause a gain to General Revenue by requiring the Council to cover the cost of administering these regulations. The exact revenue gain would depend on actual fee levels established by the Council and actual grants received. Based on fiscal year 1995 expenditures, the agency would need to generate an additional \$70,000 in fees and grants to cover its total costs.

The recommendation to increase the size of the Council from three to six part-time members would result in additional costs for members' travel and expenses to Council meetings; however, these additional costs should be offset by higher fee collections.



**ISSUE**

# Issue 1



## Consolidate the Regulatory Functions of the Council on Sex Offender Treatment with the Texas Department of Health and Make Other Improvements in the State's Approach to the Regulation of Sex Offender Treatment Providers.

### Background

The Legislature first established an agency specifically to address the treatment of sex offenders in 1983 with the creation of the Interagency Council on Sex Offender Treatment. This Interagency Council was composed of representatives of nine state criminal justice and health and human service agencies and three public members with expertise in the treatment of sex offenders. Its primary duty was to determine the need for a state-administered sex offender treatment program and to make recommendations about the nature of any such program and its funding requirements. For six years, the Interagency Council received no appropriation and had no staff other than that provided by the member agencies. The Interagency Council was originally scheduled to be abolished on September 1, 1989.

Over time, the state's approach to sex offender treatment has changed to reflect more of a regulatory model to determine who may provide treatment to sex offenders. In 1989, the Legislature authorized the Interagency Council to establish and publish a registry of providers of mental health or medical services for the rehabilitation of sex offenders and to develop procedures and eligibility requirements for registration. For the first time, the Legislature provided funding for the Interagency Council through a rider in the appropriation for the Texas Department of Corrections. In addition, the Legislature changed the Interagency Council's abolishment date to September 1, 1995.

In 1993, the Legislature created the current Council on Sex Offender Treatment (Council) as a three-member body, appointed by the Governor, to succeed the Interagency Council. The Interagency Council was recast to reflect changes in the organization of the state's criminal justice and health and human service agencies, and it was

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*Over time, the state's approach to treatment has changed to more of a regulatory model to determine who may provide treatment.*

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renamed the Interagency Advisory Committee to advise the Council on administering its duties. In addition, the Legislature expanded the Council's authority to regulate the use of the title, "sex offender treatment provider," by licensed mental health and medical practitioners who also meet the Council's eligibility requirements. Persons already listed in the existing provider registry were "grandfathered" under the new requirements. The Council was also required to set treatment standards that providers must meet to be included in the registry. Finally, the Council was placed under Sunset review for 1997.

Currently, the Council is responsible for developing eligibility requirements for registration as a sex offender treatment provider. A provider must be one of following licensed mental health or medical services practitioners:

- physician,
- psychiatrist,
- psychologist,
- licensed professional counselor,
- licensed marriage and family therapist,
- licensed master social worker-advanced clinical practitioner, or
- advanced nurse practitioner recognized as a psychiatric clinical nurse specialist or a psychiatric mental health nurse practitioner.

In addition to licensure in one of the foregoing health professions, registered providers must have at least 1,000 hours of clinical experience in the area of assessment and treatment of sex offenders and they must have at least 40 hours of documented continuing education training in sex offender treatment and evaluation. Providers must also pay a \$100 nonrefundable application fee to the Council. To maintain their registration, providers must earn at least 24 hours of continuing education every two years and they must pay an annual renewal fee of \$50. An additional fee of \$5 is charged every three years to pay for a criminal history background check. At the end of fiscal year 1995, the Council had 286 registered providers.

The Council is also responsible for designing and conducting continuing education programs for these providers and serving as a clearinghouse of information about available sex offender treatment programs.

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

## Findings

- ▼ **The state has a continuing interest in the treatment of sex offenders.**
  - ▶ Although the overall effectiveness of sex offender treatment in reducing rates of re-offenses or recidivism cannot be conclusively demonstrated, available evidence seems to suggest that some kinds of treatment can be effective for some offenders. The state's interest is in identifying offenders most likely to succeed in treatment and assuring that appropriate treatment is available.
  - ▶ TDCJ estimates that 18,000 sex offenders are currently housed in state prisons and jails, most of whom are awaiting eventual return to the community. Another 12,200 sex offenders are currently registered with the Texas Department of Public Safety under the state's sex offender registration law. Each of these sex offenders who benefits from treatment and does not re-offend is one less person who commits these crimes that endanger the public safety and one less person whom the state needs to prosecute and incarcerate.
  - ▶ Recent enactments by the Legislature reflect the state's interest in treating sex offenders. Since 1989, the Legislature has included a rider in TDCJ's appropriation setting aside funds for a treatment program to habilitate sex offenders in the state's prison system. In addition, last session, the Legislature enacted provisions for sex offenders under community supervision or on parole to attend psychological counseling

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*Recent action by the Legislature reflects the state's interest in treating sex offenders.*

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sessions with an individual or organization that provides sex offender treatment.

▼ **State oversight of sex offender treatment helps assure that quality standards of treatment are being met.**

- ▶ Because of the role that treatment providers play in helping sex offenders recognize and control their behavior, the state has an interest in assuring that minimum treatment standards are being met. Minimum qualifications assure that only appropriately trained professionals may call themselves treatment providers. In addition, standards of practice and information about techniques assure that sex offenders receive treatment that is appropriate and effective. Concerns have been raised that improperly administered treatment may have a negative impact on the offender, actually contributing to further offenses. Some state oversight of treatment providers can help prevent this kind of perverse outcome and ensure instead that protection of the community is enhanced.
- ▶ The standards for treating sex offenders differ from standards for other mental health and medical services clients. Sex offender treatment providers must operate under a different set of assumptions than used in traditional psychotherapy. The text box, *Differences Between Traditional Therapy and Sex Offender Treatment*, describes these different assumptions in greater detail. These differences highlight the need for a secondary registration for sex offender treatment providers in addition to the primary licensure as a mental health or medical service professional.

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*Standards for treating sex offenders differ from those for other mental health clients.*

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Despite these differences in treatment approaches, however, the standards for sex offender treatment are meant to supplement the standards of the primary licensing board, not supplant them. Having a separate state registration for sex offender treatment providers allows the state to account for the differences from other therapies while staying within the established regulatory framework of these licensing boards.

▼ **An independent agency is not necessary to address issues related to sex offender treatment.**

- ▶ The Council on Sex Offender Treatment does not have the resources to perform all of the necessary tasks of a regulatory agency. The Council has a staff of two — an Executive

## DIFFERENCES BETWEEN TRADITIONAL THERAPY AND SEX OFFENDER TREATMENT

The treatment of sex offenders involves approaches that are fundamentally different from techniques used in traditional psychotherapy. These differences relate to the special needs of sex offenders that may directly contradict the needs of other clients. The significant differences in these treatment techniques are described below.

Treatment Concept	Traditional Therapy	Sex Offender Treatment
Mandated Treatment	Clients generally recognize the need for treatment and seek it voluntarily. As a result, they are motivated to benefit from this treatment.	Sex offenders are typically required to receive treatment as a condition of parole or probation, and the failure to attend sessions may result in revocation and subsequent incarceration. Because the treatment is required, offenders generally may not be motivated to change their behavior or even to admit any wrongdoing.
Setting Treatment Goals	Goal setting is a joint responsibility between the therapist and client with the client having the final say.	Sex offenders are generally not allowed to set goals of treatment because they lack the motivation to make real changes and may in fact be more afraid of losing their addiction than they are of keeping it. The therapist must set the goal for the offender, which is to learn to control their behavior to stop the offending—not to understand why offenders behave as they do.
Imposing Values	Therapists are trained in how to be neutral with clients and not impose their own values on other people.	Providers cannot be neutral about the sex offender's behavior. To do so runs the risk of colluding with the addiction and contributing to the offender's denial.
Setting Limits	Clients must set their own limits. The therapists' role is to help decide what limits to set and how to set them but not attempt to take over that function.	Sex offenders must have limits imposed on them, and treatment providers must be able to set those limits based on information from probation and parole officers and other sources.
Limited Confidentiality	Confidentiality is the cornerstone of traditional therapy. Free and open information about the client is seen as invasive and destructive of the therapeutic process.	Because secrecy is the lifeblood of sexual offending, treatment providers cannot guarantee confidentiality to offenders. To do so would leave the provider totally dependent on the offender for information with no way to verify that information. To receive treatment, sex offenders must sign a waiver of confidentiality.
Withholding Trust	Trust is seen as essential for clients to be honest with therapists and to relax enough to make progress.	Because trust is seen as abusable by sex offenders, treatment providers generally try not to operate on a trust basis and try not to feel confident about these offenders.

Source: U.S. Department of Justice, National Institute of Corrections, "Sex Offender Treatment Skills for Professionals," 93-S3302.

Director and an administrative secretary — to screen and process all of the applications and renewals for registration as a provider and to take enforcement action as necessary against a registered provider. In addition, the agency is responsible for designing and conducting continuing education programs for treatment providers and serving as a clearinghouse for information about sex offender treatment methods and programs. The agency is also charged with determining if the state should administer its own program for sex offender treatment and reporting to the Governor and Legislature about treatment services needed and the funding requirements of those services. Although the agency has used interns and temporary employees to assist with some of these tasks, it has not been able to fully carry out its assigned duties.

- ▶ The Council, with its small staff, has difficulty performing the basic functions required of all state agencies. In addition to its responsibilities regarding sex offender treatment providers, the agency must also perform functions such as human resource management, budgeting and accounting, and business management. A recent audit by the State Auditor has found that the Council had not developed policies and procedures for key agency processes, such as recording and matching fee revenue with expenditures. The State Auditor also found that the agency was not aware of pertinent human resource management rules and regulations, such as Fair Labor Standards Act minimum wage and overtime provisions. According to the Auditor, the failure of agencies to meet these standard requirements could cause problems for the agency's operations.<sup>1</sup>

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*The Council, with its small staff of two, has difficulty performing the basic functions of a state agency.*

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- ▼ **Other state agencies could help the Council carry out its charges.**

  - ▶ The Texas Department of Health (TDH) has all of the mechanisms in place to carry out the regulation of sex offender treatment providers. Through its professional licensing and certification division, TDH administers the regulatory programs for at least 14 health professions, including three of the professions that are prerequisite to the Council's registration as a treatment provider.
  - ▶ The Criminal Justice Policy Council has the expertise and ability to evaluate the need for a state-administered treatment

program for sex offenders and to assess the effectiveness of that program. The Policy Council has already begun an evaluation of TDCJ's sex offender treatment program as part of its responsibility to study that agency's new tier of rehabilitation facilities. The Policy Council's evaluation will focus on monitoring the implementation of this program and assessing the impact of the program on recidivism.

- ▼ **Consolidation and transfer of the Council's functions to other state agencies could improve the state's approach to regulating sex offender treatment providers.**
  - ▶ Consolidating the Council's regulatory functions within the Department of Health would greatly improve administrative efficiency, allowing the Council's staff to concentrate more directly on regulating treatment providers. Freed from many administrative responsibilities, such as budgeting and human resource management, the Council would be able to focus on its mission of protecting the public safety by assuring quality standards for persons providing treatment for sex offenders. In addition, the Council could benefit from TDH's expertise in administering regulatory programs, including the screening and processing of registration applications and renewals and the enforcement of the terms of registration.
  - ▶ Transferring responsibility to the Criminal Justice Policy Council for evaluating the need for a state-administered sex offender treatment program would provide a more impartial analysis for policymakers to make decisions about this program. The Policy Council is the state's criminal justice research agency which policymakers rely on for the objective evaluation of many criminal justice issues, including the effectiveness of programs in reducing recidivism. Transferring this responsibility would not only provide expertise for studying the need for this program, it would also remove the appearance of a conflict of interest in having the Council assess the need for the activity it regulates.
- ▼ **Additional changes to the Council's statute could improve the state's ability to regulate sex offender treatment providers.**
  - ▶ Increasing the size of the Council from three to six part-time members would provide a broader perspective in overseeing this program. This change would also improve the Council's

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*Consolidation with the Health Department would allow the Council to concentrate on regulating treatment providers.*

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*The Council would benefit from the addition of public members.*

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ability to operate without violating the state's Open Meetings Act. Currently, two members of the Council cannot discuss sex offender treatment issues without constituting a quorum of the Council and thus being subject to open meetings requirements. Most other part-time boards and commissions in the state have six or nine members.

- ▶ Changing the composition of the Council would help improve the oversight of the agency by preventing it from being dominated by the profession it regulates and providing an even broader perspective in developing policies for sex offender treatment. Currently, all three Council members must meet the requirements of registration as a sex offender treatment provider. As a result, representatives of the regulated profession alone determine such things as experience requirements and qualifications of others who may enter the profession and enforcement actions that may be taken against these providers or even the Council members themselves.

Generally, the Legislature structures boards overseeing regulatory agencies to eliminate or greatly reduce the influence of the regulated profession in setting the policies for those regulations. For example, of the boards overseeing the licensed professions required for registration as a treatment provider, each has at least one-third public membership.

- ▶ Improving the Council's ability to recover its costs would help the agency fulfill its mandate regarding sex offender treatment by assuring that a source of revenue is available for performing the agency's tasks. The Council's statute authorizes it to collect fees in an amount to cover its administrative and reproduction costs. In fiscal year 1995, however, the Council collected just 39.8 percent of its revenue from various fee collections. General Revenue appropriations accounted for 51.7 percent of the Council's revenue. The remaining 8.5 percent of the agency's revenues came from grants.

Licensing agencies generally pay their own way through fee collections without imposing an additional burden on General Revenue. Requiring the Council to recover its costs through fee collections would ensure that resources are available for performing the agency's duties without requiring additional General Revenue.

## Conclusion

Although the overall effectiveness of sex offender treatment cannot be conclusively shown, the state has an interest in assuring that sex offenders who return to the community do not endanger the public safety. To the extent that treatment can help these offenders recognize and control their behavior, the state also has an interest in assuring that treatment providers meet minimum standards. While differences in sex offender treatment require a separate registration from licensure as a mental health or medical service practitioner, an independent agency is not needed to administer this regulation. The Council on Sex Offender Treatment simply does not have the staff or resources to perform all of the duties to properly regulate this activity in addition to performing all of the other administrative requirements of a state agency. By transferring the Council's functions to other state agencies, the state can be assured of more effective regulation of sex offender treatment and more objective evaluation of need for sex offender treatment programs. Additional changes could result in other improvements in the state's ability to regulate treatment providers.

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*The Council should be continued with changes to its composition and status as an independent agency.*

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## Recommendation

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### Change in Statute

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- Continue the Council on Sex Offender Treatment, but consolidate its regulatory functions within the Texas Department of Health.
- Increase the size of the Council from three to six part-time members.
- Change the composition of the Council to require that one-third of its members represent the general public.
- Authorize the Council to appoint additional members to the Interagency Committee as it deems necessary.
- Transfer the responsibility for evaluating the need for sex offender treatment from the Council to the Criminal Justice Policy Council.
- Require the Council to recover its costs through fees and grants to reduce the agency's reliance on General Revenue funding.

This recommendation would continue the Council on Sex Offender Treatment with its existing authority to regulate sex offender treatment providers, but would consolidate the administration of this regulatory function within the Texas Department of Health. Under this consolidation, the existing staff and resources of the Council, including its appropriation, would transfer to TDH, and the separate Sunset date for the Council would

be removed. The Council would be reviewed as part of the regular Sunset review of TDH.

This change would allow the Council's staff to be solely responsible for programs related to sex offender treatment providers, including registering qualified providers and maintaining the provider registry, taking enforcement against registered or unregistered providers as necessary, providing continuing education programs for these providers, and serving as a clearinghouse for information and public education about sex offender treatment programs.

TDH would be able to provide the administrative functions, such as budgeting, purchasing, and business management, as it already does for the 14 licensing programs it currently administers. Enabling the Council to take advantage of this administrative efficiency in performing tasks common to all state agencies would free its staff to better focus on sex offender treatment issues and thereby improve the state's regulation of these providers.

The recommendation would continue the Council, but would increase its size from three to six part-time members and change its composition to require one-third of the members to represent the general public and not be a registered treatment provider. Currently, all three Council members must satisfy the qualifications for registration as a provider. Increasing the Council's size and requiring public membership would help assure that the agency responds to broad public interests and not just those of the regulated community.

In addition, the recommendation would allow the Council to appoint additional members of the Interagency Committee. This change would not affect the membership of this Committee as it is currently specified in statute, but it would simply give the Council the authority to appoint additional members. This will help ensure that the Council receives the input it needs to formulate policies.

The Criminal Justice Policy Council would be given responsibility for evaluating the need for a state program for sex offender treatment, removing this responsibility from the Treatment Council. As an objective researcher of facts relating to the state's criminal justice system, the Policy Council is better positioned to provide an impartial analysis of this issue. Because the Policy Council already evaluates the effectiveness of other programs within the prison system, including TDCJ's sex offender treatment program, it can assume this responsibility under its existing research authority without adding a separate reporting requirement. This recommendation would simply clarify that the Policy Council and not the Treatment Council is to provide this evaluation.

Finally, the recommendation would require the Council to set fees and seek grants to recover the cost of regulating treatment providers. Generally, licensing agencies are able to pay their own way through fees on licensees. Requiring the Council to set fees at a level to cover total costs would reduce its reliance on General Revenue.

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## Fiscal Impact

This recommendation would enable the Council to take advantage of administrative efficiency by consolidating the regulation of sex offender treatment providers in the Texas Department of Health. While this change would enable the staff to better focus on its regulatory responsibilities and allow other TDH staff to provide administrative support, no cost savings could be identified.

In addition, this recommendation would cause a gain to General Revenue by requiring the Council to cover the cost of administering these regulations. The exact revenue gain would depend on actual fee levels established by the Council and actual grants received. Based on its fiscal year 1995 expenditures, the agency would need to generate an additional \$70,000 in fees and grants to cover its total costs.

The recommendation to increase the size of the Council from three to six part-time members would result in additional costs to pay for members' travel and expenses to Council meetings. Based on the eight meetings the Council held in fiscal year 1995, these costs are estimated at \$7,200 annually, but would be offset by the Council's higher fee collections.

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<sup>1</sup>Office of the State Auditor, *Small Agency Management Control Audits*, Report No. 95-020, October 1994.



## **ACROSS-THE-BOARD RECOMMENDATIONS**

<b>Council on Sex Offender Treatment</b>	
<b>Recommendations</b>	<b>Across-the-Board Provisions</b>
	<b>A. GENERAL</b>
Apply	1. Require at least one-third public membership on state agency policymaking bodies.
Apply	2. Require specific provisions relating to conflicts of interest.
Apply	3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
Apply	4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body.
Apply	5. Specify grounds for removal of a member of the policymaking body.
Apply	6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.
Apply	7. Require training for members of policymaking bodies.
Apply	8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.
Apply	9. Provide for public testimony at meetings of the policymaking body.
Apply	10. Provide for notification and information to the public concerning agency activities.
Apply	11. Require the agency to comply with the state's open meetings law and administrative procedures law.
Apply	12. Require development of an accessibility plan and compliance with state and federal accessibility laws.
Apply	13. Require that all agency funds be placed in the treasury to ensure legislative review of agency expenditures through the appropriations process.
Update	14. Require information to be maintained on complaints.
Apply	15. Require agencies to prepare an annual financial report that meets the reporting requirements in the appropriations act.
Not Applicable	16. Require development of an equal employment opportunity policy.
Not Applicable	17. Require the agency to establish career ladders.
Not Applicable	18. Require a system of merit pay based on documented employee performance.

<b>Council on Sex Offender Treatment</b>	
<b>Recommendations</b>	<b>Across-the-Board Provisions</b>
	<b>B. LICENSING</b>
Apply	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
Not Applicable	2. Provide for timely notice to a person taking an examination of the results of the examination and an analysis, on request, to individuals failing the examination.
Apply	3. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
Not Applicable	4. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Apply	5. Authorize the staggered renewal of licenses.
Apply	6. Authorize agencies to use a full range of penalties.
Apply	7. Specify disciplinary hearing requirements.
Not Applicable	8. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Already in Statute	9. Require the policymaking body to adopt a system of continuing education.

# **BACKGROUND**

# Background

## Agency History

The state first established an agency specifically to address sex offender treatment in 1983 when the Legislature established an Interagency Council on Sex Offender Treatment. This agency was responsible for determining the need for a state-administered program for treating sex offenders and disseminating information about treatment programs and strategies to change the behavior of sex offenders. As a result, the Interagency Council encouraged the development of sex offender programs administered by the state at both the Texas Department of Criminal Justice (TDCJ) and the Texas Youth Commission.

Since this beginning, the state's approach to sex offender treatment has changed to reflect more of a regulatory model to determine who may provide treatment to sex offenders. See the text box, *Legislative Changes to the Council on Sex Offender Treatment*, for specific descriptions of the changes in the state's approach since 1983.

The Legislature created the current Council on Sex Offender Treatment (Council) in 1993 to succeed the Interagency Council and to establish eligibility requirements for persons who wish to call themselves "sex offender treatment providers." This registration basically serves as a secondary certification for licensed mental health and medical practitioners who also provide sex offender treatment services.

In addition to this responsibility to establish eligibility requirements for sex offender treatment providers, the Council is also charged with:

### Legislative Changes to the Council on Sex Offender Treatment

- 1983** - The Legislature created the Interagency Council on Sex Offender Treatment (Interagency Council) composed of representatives of the state's criminal justice and health and human service agencies and three public members with expertise in the treatment of sex offenders. The Interagency Council's primary responsibility was to determine the need for a state-administered sex offender treatment program and to make recommendations about the nature of the program and its funding requirements. It was also responsible for evaluating treatment programs and recommending improvements and collecting and disseminating information about available sex offender treatment programs.
- 1989** - The Legislature authorized the Interagency Council to establish and publish a registry of providers of mental health or medical services for the rehabilitation of sex offenders. These providers were persons already licensed to practice in the state, including physicians, psychiatrists, psychologists, counselors, therapists, or certified social workers. The Interagency Council was to develop procedures and eligibility requirements for registration and to establish a fee to cover the costs of administering the registry. For the first time, the Legislature also provided funding to support the Interagency Council through a rider in the appropriation for the Texas Department of Corrections. In July 1990, the Interagency Council first hired staff.
- 1993** - The Legislature created the current Council on Sex Offender Treatment (Council) as a three-member body, appointed by the Governor, to succeed the Interagency Council. The agency members of the Interagency Council were recast to reflect state agency organizational changes and renamed the Interagency Advisory Committee to advise the Council on administering its duties. The Legislature also expanded the Council's authority to regulate the use of the title, "sex offender treatment provider," by licensed mental health and medical practitioners who also meet the Council's eligibility requirements for inclusion in the registry.

- maintaining a registry of sex offender treatment providers;
- designing and conducting continuing education programs for these providers and others in the criminal justice system;
- collecting and disseminating information about available sex offender treatment programs; and
- developing treatment strategies for sex offenders and establishing standards of practice for treatment providers.

## Policymaking Structure

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The Council consists of three public members, appointed by the Governor and confirmed by the Senate, who serve for six-year, staggered terms. Members of the Council must meet the requirements for registration as a sex offender treatment provider. The members elect the Council's chair annually from among the membership.

The Interagency Advisory Committee is composed of 11 members and includes the Executive Directors or designees from the state's criminal justice and health and human services agencies. The text box, *Interagency Advisory Committee to the Council on Sex Offender Treatment*, shows the membership of the Interagency Advisory Committee.

<b>Interagency Advisory Committee to the Council on Sex Offender Treatment</b>
<ul style="list-style-type: none"> <li>● Texas Department of Criminal Justice*               <ul style="list-style-type: none"> <li>- Pardons and Paroles Division</li> <li>- Institutional Division</li> <li>- Community Justice Assistance Division</li> </ul> </li> <li>● Texas Juvenile Probation Commission</li> <li>● Texas Department of Mental Health and Mental Retardation</li> <li>● Texas Youth Commission</li> <li>● Sam Houston State University</li> <li>● Department of Protective and Regulatory Services</li> <li>● Texas Council of Community Mental Health and Mental Retardation Centers</li> <li>● Office of the Attorney General - Sexual Assault Prevention and Crisis Services Division</li> <li>● Criminal Justice Division of the Governor's Office</li> </ul>
<i>*one member from each division</i>

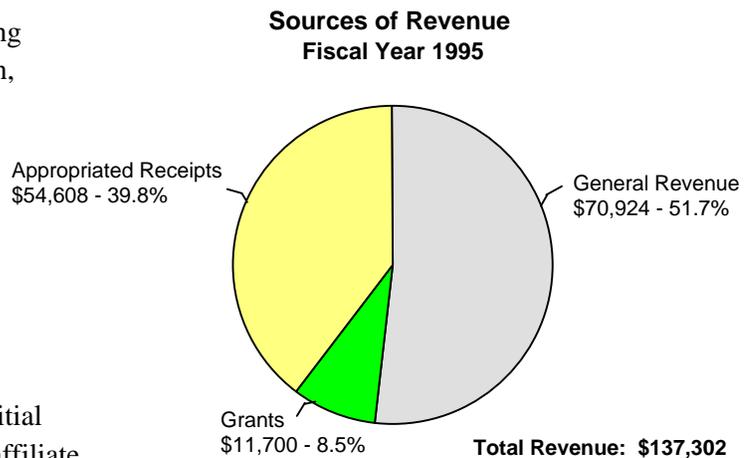
## Funding and Organization

### FUNDING

The Council on Sex Offender Treatment receives its funding from General Revenue, appropriated receipts from fee collections, and from grants. In fiscal year 1995, the Council received total funding of \$137,302.

The chart, *Sources of Revenue - Fiscal Year 1995*, provides a breakdown of the Council's funding sources.

The Council receives over half of its funding directly from General Revenue. In addition, the Council receives appropriated receipts from fees collected for registration as a sex offender treatment provider, participation in Council training conferences, and sales of the registry of treatment providers. The statute authorizes the Council to collect fees in an amount to cover its administrative and reproduction costs. The application and initial registration fee for treatment providers or affiliate providers is \$100 and is nonrefundable. To remain registered, these providers must submit an annual renewal fee of \$50 plus \$5 every third year to cover the cost of a criminal background check. The Council also collects \$6 for each copy of the registry of treatment providers. In addition to these fees, the Council collects fees ranging from \$35 to \$60 per day for participants in its two annual conferences on the treatment and supervision of sex offenders.



In 1995, the Council also received one grant in the amount of \$11,700 from the Criminal Justice Division of the Governor's Office, which was used to conduct two round table discussions on juvenile sex offender issues in Corpus Christi and Abilene. These discussions brought together professionals and agencies concerned with juvenile sex offenders to promote public service announcements and training seminars aimed at preventing adolescent sexual abuse.

The Council has only one budgeted strategy, to establish a resource center for the rehabilitation of sex offenders. The Council does not provide direct services to sex offenders, but rather technical assistance through separate activities of maintaining the treatment provider registry, providing education and training, disseminating information, and

conducting research on treatment issues. Expenditure information on these individual activities is not available from the Council.

<b>Purchases from HUBs Fiscal Year 1995</b>	
Total Purchases of goods and services	\$24,432
Total Spent with Certified HUBs (Est.)	\$787
Percent Spent with Certified HUBs	3.2%
Statewide Average	15.9%
State Goal	30%

The Legislature has established a statewide goal of 30 percent of all agency contracts to be made with Historically Underutilized Businesses (HUBs). The Legislature also requires the Sunset Commission, in its reviews, to consider agencies' compliance with laws and rules regarding HUB use. The chart, *Purchases from HUBs, Fiscal Year 1995*, shows the Council's HUB participation for 1995.

### **ORGANIZATION**

The Council employed a staff of two in fiscal year 1995, both located in Austin. These positions were for an Executive Director and an administrative secretary. The Council receives additional staff assistance from the member agencies of the Interagency Advisory Committee. It also relies on student interns and contract workers to perform many of the agency's administrative responsibilities.

### **Agency Operations**

The mission and goal of the Council on Sex Offender Treatment is to develop policies and recommendations on effective strategies to manage sex offenders. To achieve this goal, the Council has just one budgeted strategy to serve as a resource center for the public and treatment providers regarding the rehabilitation of sex offenders. Under this strategy, the Council pursues separate activities to register providers of sex offender treatment, to provide training on the treatment and supervision of sex offenders, to disseminate information, and to conduct research on treatment issues. The following material describes each of these activities in greater detail.

#### **REGISTRATION OF SEX OFFENDER TREATMENT PROVIDERS**

The Council regulates the use of the title "sex offender treatment provider." This regulation means that only persons registered with the Council may call themselves "sex offender treatment providers," but it does not prevent persons from providing sex offender treatment as long as they do not use the title.

The Council is responsible for developing eligibility requirements for registration. By law, a registered sex offender treatment provider must be a licensed mental health or medical services practitioner, including:

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*The Council regulates the use of the title "sex offender treatment provider", not the actual providing of treatment.*

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- physicians;
- psychiatrists;
- psychologists;
- licensed professional counselors;
- licensed marriage and family therapists; or
- licensed master's level social workers — advanced clinical practitioners.

The Council, in its rules, has expanded this list of licensed practitioners who are eligible to become registered sex offender treatment providers to include advanced nurse practitioners recognized as psychiatric clinical nurse specialists or psychiatric mental health nurse practitioners.

In addition to the requirements for licensure in these health professions, applicants must have at least 1,000 hours of clinical experience in the area of assessment and treatment of sex offenders to become a registered provider. Applicants must also have at least 40 hours of documented continuing education training in sex offender treatment and evaluation, of which 30 hours must be in sex offender rehabilitation training and ten hours must be in victim training.

The Council has also established a separate level for affiliate sex offender treatment providers who may provide treatment under the supervision of a registered sex offender treatment provider. Affiliate providers must meet the same licensure requirements as registered providers, but must have at least 250 hours of clinical experience treating sex offenders. Affiliates must also meet the same requirements for continuing education training as registered providers.

Registered and affiliate providers must also undergo a criminal history background check at the time of initial application and every third year thereafter and must not have been convicted of nor received deferred adjudication for a sex offense. They must also satisfactorily maintain licensure with the appropriate licensing body and must not engage in any unprofessional or unethical conduct in the practice of their profession. Finally, they must also pay the \$100 nonrefundable application fee to the Council. At the end of fiscal year 1995, the state had 286 registered providers, 27 of whom were affiliate providers.

To maintain their registration with the Council, providers must earn at least 24 hours of continuing education every two years. Of these hours, six must be in victim-related training. Providers may earn continuing

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*To be registered, applicants must already be a licensed mental health or medical services practitioner and meet other experience and education requirements.*

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education credits by attending Council-sponsored conferences or by attending conferences organized by other agencies or private entities sanctioned by the Council. To renew their registration, providers must also pay an annual renewal fee of \$50.

Providers satisfying the terms of registration are listed in the Council's Registry. The Registry is the database of persons in the state who have satisfied the criteria for treating sex offenders and who may call themselves sex offender treatment providers. Listing in the Registry is a useful but not mandatory method for criminal justice officials throughout the state to link sex offenders with providers who are specifically trained in sex offender treatment. However, because unregistered persons may still provide treatment services as long as they do not use the title, the Registry is not the only source for persons who may perform these services.

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*Listing in the Registry is not mandatory but is used as a way to link sex offenders with providers.*

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### ***EDUCATION AND TRAINING***

The Council sponsors two annual conferences addressing specific sex offender treatment and supervision issues, one dealing with juvenile and one dealing with adult sex offenders. Subjects covered in these conferences include recent trends in sex offender treatment, community supervision methods, law enforcement techniques, and victim and family issues. Conference attendees include sex offender treatment providers, victims services providers, law enforcement personnel, attorneys, judges, community supervision and parole officers, and educators.

The Council establishes planning committees for each conference. These committees identify areas of interest in the sex offender treatment and supervision field and issue a call for papers for each conference. Conference presenters are selected from the submitted proposals.

Attendees may receive continuing education credits which may be used to maintain registration as a sex offender treatment provider or to meet continuing education requirements in other disciplines. The average number of attendees at each conference in fiscal year 1995 was 263. Registration fees for these conferences ranged from \$35 to \$60 per participant per day. According to the Council, these fees cover most of the costs of administering these conferences. Much of the preparation for these conferences is provided by interns, volunteers, temporary employees, and staff from Sam Houston State University, Texas Youth Commission, and Texas Juvenile Probation Commission.

### ***INFORMATION AND REFERRAL***

The Council provides information about sex offender treatment to the public, professionals other than treatment providers, victim services groups, associations, and state agencies. The Council also provides assistance and information to the public and to the treatment community through the publication of the Registry and *Texas Resource*, the agency's newsletter on sex offender treatment issues. This newsletter is distributed to registered providers, conference attendees, and members of the public. The newsletter mailing list consists of approximately 1,500 persons or organizations.

### ***RESEARCH AND EVALUATION***

The Council is required by statute to develop strategies and standards for treatment of sex offenders and to recommend methods of improving treatment programs to meet Council standards. The Council, by rule, has adopted standards of practice for sex offender treatment providers which are taken largely from the *Practitioner's Handbook* of the Association for the Treatment of Sexual Abusers, the research and treatment organization in this field. These standards present professional expectations for treatment and list specific treatment methods that are generally accepted as most important to the effective treatment of sexual deviancy.

The Council has also collaborated with the Texas Polygraph Examiners Board to develop and jointly approve guidelines for clinical polygraph examination of sex offenders. These guidelines provide a standard for treatment providers and community supervision professionals to evaluate polygraph testing. Almost half of all treatment providers use polygraph examinations in treating sex offenders.

Regarding specific research into treatment programs, the Council does not have the staff to conduct this evaluation, but generally relies on the efforts of its members or members of the Interagency Advisory Committee. Typically, these members submit their analysis of different treatment methods to the Council for its consideration. The Council may reject, or it may endorse such a study. If the Council chooses to endorse a study, it issues the study under its name. In fiscal year 1995, no research projects were produced or considered by the Council.

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*The Council has not had staff to research specific treatment programs but relies on the efforts of others in the field.*

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**COUNCIL ON SEX OFFENDER TREATMENT**

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