

SUNSET ADVISORY COMMISSION

FINAL REPORT

Texas Commission on Jail Standards

July 2009



Sunset Advisory Commission



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* Senator Kim Brimer served on the Commission from December 2005 through December 2008.

** Charles McMahan was appointed to fill the unexpired term of Michael Stevens.

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Director

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

TEXAS COMMISSION ON JAIL STANDARDS



SUNSET FINAL REPORT
JULY 2009



This document is intended to compile all recommendations and action taken by the Sunset Advisory Commission and the Legislature for an agency under Sunset review. The following explains how the document is expanded and reissued to include responses from agency staff and members of the public, as well as action taken by the Sunset Commission and the Legislature in each step of the Sunset process.

- ◆ *Sunset Staff Report* – Contains all Sunset staff recommendations on an agency, including both statutory and management changes, developed after extensive evaluation of the agency.
- ◆ *Hearing Material* – Summarizes all responses from agency staff and members of the public to Sunset staff recommendations, as well as new policy issues raised for consideration by the Sunset Commission.
- ◆ *Decision Material* – Includes additional responses, testimony, or new policy issues raised during the public hearing for consideration by the Sunset Commission in its decision meeting on an agency.
- ◆ *Commission Decisions* – Contains the decisions of the Sunset Commission on staff recommendations and new policy issues. Statutory changes adopted by the Commission are presented to the Legislature in the agency's Sunset bill.
- ◆ *Final Report* – Summarizes action taken by the Legislature on Sunset Commission recommendations and new provisions added by the Legislature to the agency's Sunset bill.



Staff Report – November 2008
Commission Decisions – January 2009
Final Report – July 2009

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SUMMARY



Summary


The Texas Commission on Jail Standards does not have an easy job. It basically has to tell elected county officials what they need to do to properly construct and operate their jails. Its actions can impose significant costs on counties to comply with standards, and yet it must try to achieve compliance without taking too heavy a hand in forcing action or shutting down jails, and without providing any funding to assist counties in making needed changes. In addition, the Commission has had to contend with the perception that its standards only protect the safety and welfare of county inmates, who may not always be held in the highest regard.

In the past, concerns about the Commission's role have led to serious questions about the need for a separate agency to tell counties how to build and operate their jails. Over time, however, the Commission has come to be recognized not just for its standards designed to help counties avoid inmate lawsuits and federal intervention, but also for its expertise in promoting the safe operation of jails and helping avoid expensive construction mistakes. Today, county officials and others interested in jail conditions generally support the Commission's role.

In its review of the Jail Standards Commission, Sunset staff found that the State has a continuing need to ensure that jails meet minimum standards for protecting the safety and welfare of county inmates – many of whom may not have been finally adjudicated – as well as the public and jail staff. No significant benefits would justify an alternative organization to the current independent agency structure.

Sunset staff also found that the improved stature of the Commission offers opportunities for enhancing how it interacts with counties to promote high standards and foster innovation. The Commission could take better advantage of its unique statewide position and frequent contact with stakeholders to identify and target high-risk areas for attention, and to provide clear leadership on critical issues facing jails. Regularly analyzing the risk level of all jails would help the agency focus its limited time and resources when scheduling annual inspections and technical assistance. Strengthening communication with county officials, jail staff, and other stakeholders, and providing a forum for sharing best practices information on a broad range of topics would ensure that the Commission directly addresses jails' most pressing challenges.

The following material provides a summary of the Sunset staff recommendations included in this report.



The Commission should take advantage of its improved stature to better target high-risk areas and provide leadership on critical issues facing jails.

Issues and Recommendations

Issue 1

Texas Has a Continuing Need for the Texas Commission on Jail Standards.

Key Recommendation

- ◆ Continue the Texas Commission on Jail Standards for 12 years.

Issue 2

The Commission Does Not Effectively Use Risk Factors to Target Attention to High-Risk Jails.

Key Recommendations

- ◆ Require the Commission to develop specific risk factors and a risk-assessment plan to guide the inspections process for all jails.
- ◆ The Commission should use risk analysis of jails to more effectively manage its inspection staff and resources.

Issue 3

The Commission Does Not Take Full Advantage of Its Position to Improve Jail Operations Through Information Sharing.

Key Recommendations

- ◆ Require the Commission to collect and disseminate best practices and other useful information about jail operations.
- ◆ The Commission should make better use of available technology to regularly share information and communicate with stakeholders.
- ◆ The Commission should develop and regularly update internal policies and procedures to guide its work.

Issue 4

The Commission's Complaints and Public Information Processes Do Not Conform to Commonly Applied Standards.

Key Recommendations

- ◆ Require the Commission to develop complaints procedures, track and analyze complaints, and provide better information about how to file a complaint.
- ◆ Require the Commission to make enforcement information more accessible to the public.

Fiscal Implication Summary

None of the recommendations in this report would have a significant fiscal impact to the State.

Summary of Legislative Action

S.B. 1009 Deuell (Harper-Brown)

Senate Bill 1009 continues the Commission on Jail Standards and contains all of the Sunset Commission's recommendations, including requiring a risk assessment plan to guide jail inspections and improving the Commission's complaints and public information procedures. The Legislature also added several other statutory modifications to S.B. 1009 regarding the treatment and reporting of pregnant or mentally ill inmates and guidance for jail commissary contracts. The list below summarizes the major provisions of S.B. 1009, and more detailed discussion is located in each issue.

Sunset Provisions

1. Continue the Texas Commission on Jail Standards as an independent agency for 12 years.
2. Require the Commission to more effectively target high-risk jails through its inspections process using specific risk factors, including a jail's compliance with standards for the treatment of inmates with mental illness.
3. Require the Commission to disseminate best practice information to jails.
4. Conform the Commission's complaints and public information procedures with commonly applied standards.

Provisions Added by the Legislature

1. Establish minimum requirements for identifying and serving the needs of pregnant inmates.
2. Require the Commission to provide guidelines for jail commissary contracts.

Fiscal Implication Summary

Senate Bill 1009 does not have a significant fiscal impact to the State.

ISSUES



Issue 1

Texas Has a Continuing Need for the Texas Commission on Jail Standards.

Summary

Key Recommendation

- ◆ Continue the Texas Commission on Jail Standards for 12 years.

Key Findings

- ◆ Texas has a continuing need for jail standards enforcement and other assistance services for county jails.
- ◆ Consolidating the Commission with a larger agency offers no significant benefits over the current independent structure.

Conclusion

County jails perform a critical role in the state's criminal justice system, and are often one of the most expensive and high-risk areas of a county government's operation. Counties often struggle to balance many competing needs with ensuring jails operate at a level that protects the public, jail staff, and inmates. For these reasons, setting and enforcing minimum standards for the construction and operation of county jails, and providing assistance services to counties to help meet the standards, is vital to the State. Sunset staff's evaluation of the Texas Commission on Jail Standards found that the Commission is uniquely positioned and effective in establishing and enforcing jail standards, and providing training and technical assistance to counties. The Commission should be continued for 12 years.

Support

The Commission seeks to limit the risk associated with operating county jails by developing and enforcing minimum jail standards.

- ◆ The Legislature created the Texas Commission on Jail Standards in 1975 to ensure that all county jails meet minimum standards of construction, maintenance, and operation. During the 1960s and 1970s, an increase in inmate lawsuits and federal intervention into jails across the country put greater emphasis on jail conditions. The Legislature initially required the State Department of Health to inspect sanitation conditions in county jails, but eventually created the Commission as an independent standards-setting and enforcing agency. Today, the Commission's core mission remains to limit the risk associated with operating jails by developing and enforcing minimum standards.

Minimum jail standards include both structural elements such as the number of square feet required per inmate, working toilets and showers, and adequate fire suppression systems; and operational elements such as staff-to-inmate ratios, medical services, grievance procedures, and proper classification of inmates into low, medium, or high security risk levels. At the end of fiscal year 2008, the Commission had jurisdiction over 248 jail facilities with 85,130 beds, including all facilities holding county or out-of-state inmates. The Commission does not regulate city jails or facilities holding only federal inmates.

- ◆ To accomplish its mission, the Commission sets minimum standards for jail construction and operation in rule, conducts annual jail inspections to ensure compliance, and issues remedial orders to limit jail occupancy when necessary. Commission staff review and approve new jail construction and renovation plans, issuing certificates of occupancy; provide training and technical assistance to jail staff; and compile monthly jail population reports. The agency also investigates inmate complaints and monitors adult jail compliance with the federal Juvenile Justice and Delinquency Prevention Act, allowing the State to receive federal juvenile justice funds.
- ◆ A nine-member, part-time Commission oversees the agency and its 17 staff. Commission members must include two sheriffs, a county commissioner, a county judge, a medical doctor, and four general public members. The Commission operated with a \$948,288 budget in fiscal year 2008, funded mostly from General Revenue. That year, the agency received a small amount in fees, \$25,035, mostly for repeat inspections and inspections of large facilities holding 30 percent or more out-of-state inmates. The agency also received a \$21,900 grant from the Governor's Office, Criminal Justice Division to support the juvenile justice survey.

The Commission has jurisdiction over 248 jails with 85,130 beds.

The agency's fiscal year 2008 budget of \$948,288 was funded mostly from General Revenue.

Texas has a continuing need for jail standards enforcement and other assistance services for county jails.

- ◆ The State has a continuing interest in a predictable and documented process for ensuring minimum standards in county jails. Standards promote the safety of the public and jail staff, and the welfare of county inmates, many of whom are awaiting trial and have not been convicted of a crime. These standards may also help reduce the number of successful inmate lawsuits and federal interventions into county jails which continue to occur in Texas and other states. Adequate standards may also help counties avoid expensive mistakes that could seriously affect jail facilities' safe operation.
- ◆ Enforcement of standards through annual inspections, construction plan review, technical assistance, and other services help limit the many risks associated with operating jails. Having the State oversee the enforcement of these standards can help counties make the sometimes difficult decisions relating to jail construction and operations. The State is able to provide an objective opinion on matters affecting cost and safety that can help sheriffs, who are responsible for jail facilities, find common ground with county commissioners courts that are responsible for paying for them.
- ◆ The State has an interest in providing other valuable services to assist county jails. Tracking statewide trends in county jail populations and producing a monthly population report serves as an indicator of impending overcrowding problems and keeps track of county inmates awaiting transfer to the Texas Department of Criminal Justice (TDCJ). Monitoring Texas' compliance with federal juvenile justice laws by conducting a yearly survey helps ensure that the State continues to receive federal juvenile justice funding, amounting to \$4.9 million in fiscal year 2008. Investigating complaints from county inmates, their families, and others helps monitor statewide jail conditions and anticipate problem areas.

Consolidating the Commission with a larger agency offers no significant benefits over the current independent structure.

- ◆ The Commission has been generally effective in enforcing jail standards. Since 2002, the number of non-compliant jails has decreased from 52 to 36. While no comprehensive statistics on lawsuits against county jails exist, anecdotal evidence suggests that meeting the Commission's standards significantly improves a county's ability to defend inmate lawsuits.

In fiscal year 2008, the Commission's four jail inspectors conducted 350 inspections, including annual, repeat, and special inspections. That year, agency staff also reviewed 46 jail construction plans, approved 19 new facilities for occupancy, and provided hundreds of hours of training

Jail standards promote the safety of the public and jail staff, and the welfare of county inmates.

and technical assistance consultation to jails. This assistance included conducting staffing analyses, reviewing operational plans, and training jail staff on how to properly classify inmates according to security risk.


*Merging the
Commission with
another agency
does not offer a
clear advantage
over the current
approach.*

- ◆ An examination of various organizational alternatives to the State's efforts to regulate county jails did not find clear opportunities for merging or transferring this function to another agency. While some administrative benefits could result from merging the Commission with another agency, none of these alternatives offers the clear advantage over the current regulatory approach that would justify such a change.
- ◆ In 2003, the Legislature considered consolidating the Commission with the Office of the Attorney General or TDCJ.¹ While either of these large agencies could provide improved administrative support and other resources, their core missions are not focused on assisting counties or enforcing correctional standards. The Attorney General enforces the Commission's orders and reviews inmate death investigations, while TDCJ policies have significant impact on county jail populations, presenting possible conflicts of interest with placing county jail regulation in either of these agencies. In addition, TDCJ's internal guidelines and processes for operating state prisons differ significantly from the Commission's current minimum standards and annual inspections of county jails. Either agency would need to recreate the expertise that currently resides with the agency and the Commission in developing and implementing standards for county jails.
- ◆ Consolidating the Commission's jail standards responsibilities with another standards-setting agency is feasible, but the most suitable agency lacks the expertise or capacity to absorb the Commission's functions. Such a change would not yield significant benefits to the state.

The Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) sets training and education standards for law enforcement personnel, county jailers, and 911 dispatchers. TCLEOSE ensures that individuals working within jails receive basic training and continuing education, while the Commission certifies that the overall construction and operation of jail facilities meet minimum requirements. The two agencies set and enforce standards in related but separate areas requiring distinct expertise, making the benefits of merging the two functions limited.

- ◆ The Texas Department of Licensing and Regulation serves as an umbrella licensing agency for 20 different regulatory programs. Moving the Commission's responsibilities to the Department would require a direct transfer of resources, yielding limited administrative savings, but not providing significant benefits to justify such a move.

Recommendation

Change in Statute

1.1 Continue the Texas Commission on Jail Standards for 12 years.

This recommendation would continue the Texas Commission on Jail Standards for the standard 12-year period.

Fiscal Implication

If the Legislature continues the Texas Commission on Jail Standards using the existing organizational structure, the Commission's annual appropriation of approximately \$934,000 would continue to be required for its operations.

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¹ Texas House Bills 1724 and 3001, 78th Legislature (2003).

Responses to Issue 1

Recommendation 1.1

Continue the Texas Commission on Jail Standards for 12 years.

Agency Response to 1.1

We concur with the findings and recommendation. Retaining our status as an independent organization allows the Commission on Jail Standards to focus on ensuring county jails remain safe and secure, as opposed to it being just one function of a larger agency. This further allows for the development of the expertise necessary to provide the most cost effective solutions to the challenges faced by local government. (Adan Muñoz, Jr., Executive Director – Texas Commission on Jail Standards)

For 1.1

Diana Claitor, Director – Texas Jail Project, Austin

Matt Simpson, Policy Strategist – American Civil Liberties Union of Texas, Austin

Dennis J. McKnight, Deputy Chief (retired) – Bexar County Sheriff's Office, San Antonio

Against 1.1

None received.

Modification

1. Increase the funding appropriated to the Commission to improve its functions. Specifically, increase funding for general operations, technical assistance and inspection staff, and training programs for jail staff, including training on mental and physical health issues. (Ana Yáñez-Correa, Executive Director – Texas Criminal Justice Coalition, Austin; Judge Ernie L. Glenn, Legislative Committee Chair – Bexar County Re-entry Roundtable, San Antonio)

Commission Decision

Adopted Recommendation 1.1.

Legislative Action

Senate Bill 1009 continues the Texas Commission on Jail Standards as an independent agency for 12 years, until 2021. (Recommendation 1.1)

Issue 2

The Commission Does Not Effectively Use Risk Factors to Target Attention to High-Risk Jails.

Summary

Key Recommendations

- ◆ Require the Commission to develop specific risk factors and a risk-assessment plan to guide the inspections process for all jails.
- ◆ The Commission should use risk analysis of jails to more effectively manage its inspection staff and resources.

Key Findings

- ◆ The Commission's risk-assessment process does not systematically assess risk factors affecting all jails.
- ◆ The Commission has access to information that would help develop a range of risk factors and target high-risk jails.

Conclusion

The Texas Commission on Jail Standards annually inspects the 248 jails under its jurisdiction using a standard process that evaluates compliance with life safety, structural, and management standards. The agency's staff focuses on monitoring the compliance status of each jail, working with counties to correct deficiencies revealed during annual inspections, and providing technical assistance on an as-needed basis.

The attention given to compliance status, however, does not satisfy previous Sunset Commission and State Auditor's Office recommendations that the Commission systematically use risk analysis to guide the inspections process. Basing its inspection process on true risk factors would enable the Commission to better target its resources on the problem jails where they are most needed. Risk analysis would also help the Commission keep track of emerging issues, without causing the Commission to change its current practice of inspecting each jail every year.

Support

Statute requires the Commission to annually determine each county jail's compliance with standards using regular risk-based inspections.

- ◆ In 1975, the Legislature created the Commission to develop and enforce minimum jail standards, requiring the agency to conduct regular inspections and determine each jail's compliance on an annual basis.¹ As a result of a Sunset recommendation, in 1997, the Legislature further required the agency to implement a risk-based inspections program, taking into account a jail's history of compliance and other risk factors identified by the Commission when scheduling inspections.² A State Auditor's Office audit in 1999 also recommended that the agency develop a formal risk-assessment methodology for conducting inspections.³
- ◆ The Commission evaluates the risk level of the 248 jails under its jurisdiction based on the results of annual jail inspections. The agency's four inspectors are each responsible for approximately 60 jails in evenly-divided regions of the state. Each year, inspectors determine the compliance status of jails through a standard inspection that checks life safety systems, structural components, and management practices. Inspections include a comprehensive review of jail records and a physical walk-through of each facility, and result in either a letter of compliance or a notice of non-compliance. In fiscal year 2008, the agency completed 250 annual inspections, 91 of which were unannounced, and 100 additional repeat and special inspections. At the end of that year, 36 jails were non-compliant, as shown on the map on page 39 of the Agency Information section of this report.

The agency's inspection staff gathers in Austin at the beginning of each month for a risk-assessment meeting to discuss inspection results and develop strategies for returning jails to compliance. At these meetings, inspectors work from the list of jails currently out of compliance and focus on each jail's progress towards correcting deficiencies.

The Commission's risk-assessment process does not systematically assess risk factors affecting all jails.

- ◆ The Commission does not regularly assess the risk level of all jails under its jurisdiction or use comprehensive risk information to plan the annual inspection schedule. Inspectors schedule inspections based on a 14-month maximum timeframe between annual inspections, and group inspections geographically to minimize travel costs. Jails appear on the agency's monthly risk-assessment list almost exclusively for failing an annual inspection. Other risk factors, such as elevated population numbers, complaints, escapes, or deaths, rarely cause the agency to add jails to the risk-assessment tracking list or trigger special inspections. In fiscal year 2008, the agency conducted only 15 special inspections out of the total

The Commission currently evaluates risk based on its annual jail inspections.

Factors such as population, complaints, or escapes rarely trigger special inspections.

350 inspections that year. The agency also does not use unannounced inspections to target high-risk jails. Instead, the Commission simply rotates unannounced visits among jails each year.

- ◆ Under a true risk-based inspections model, inspectors would still visit each jail every year, but would evaluate risk on the front-end to determine which jails need immediate assistance, and which jails may need more frequent attention. The agency would develop a range of risk factors, beyond a jail's current compliance status, to determine the risk level and develop a targeted inspections schedule for the year. This risk information would also help the agency manage its workforce and ensure the agency's limited resources and staff time are targeted to the most needy facilities.

For example, the agency could use a jail's five-year compliance history as one indication of risk. From fiscal years 2004 to 2008, 64 jail facilities failed at least three out of five annual jail inspections. The map, *Counties with Recent Compliance Problems*, depicts the facilities. Analyzing jails' five-year compliance history could help inspection staff plan their inspection and technical assistance calendar to focus attention on jails with a history of difficulty meeting minimum standards. Extra attention could include additional technical assistance and training, or more frequent, unannounced inspections.

The Commission has access to information that would help develop a range of risk factors and target high-risk jails.

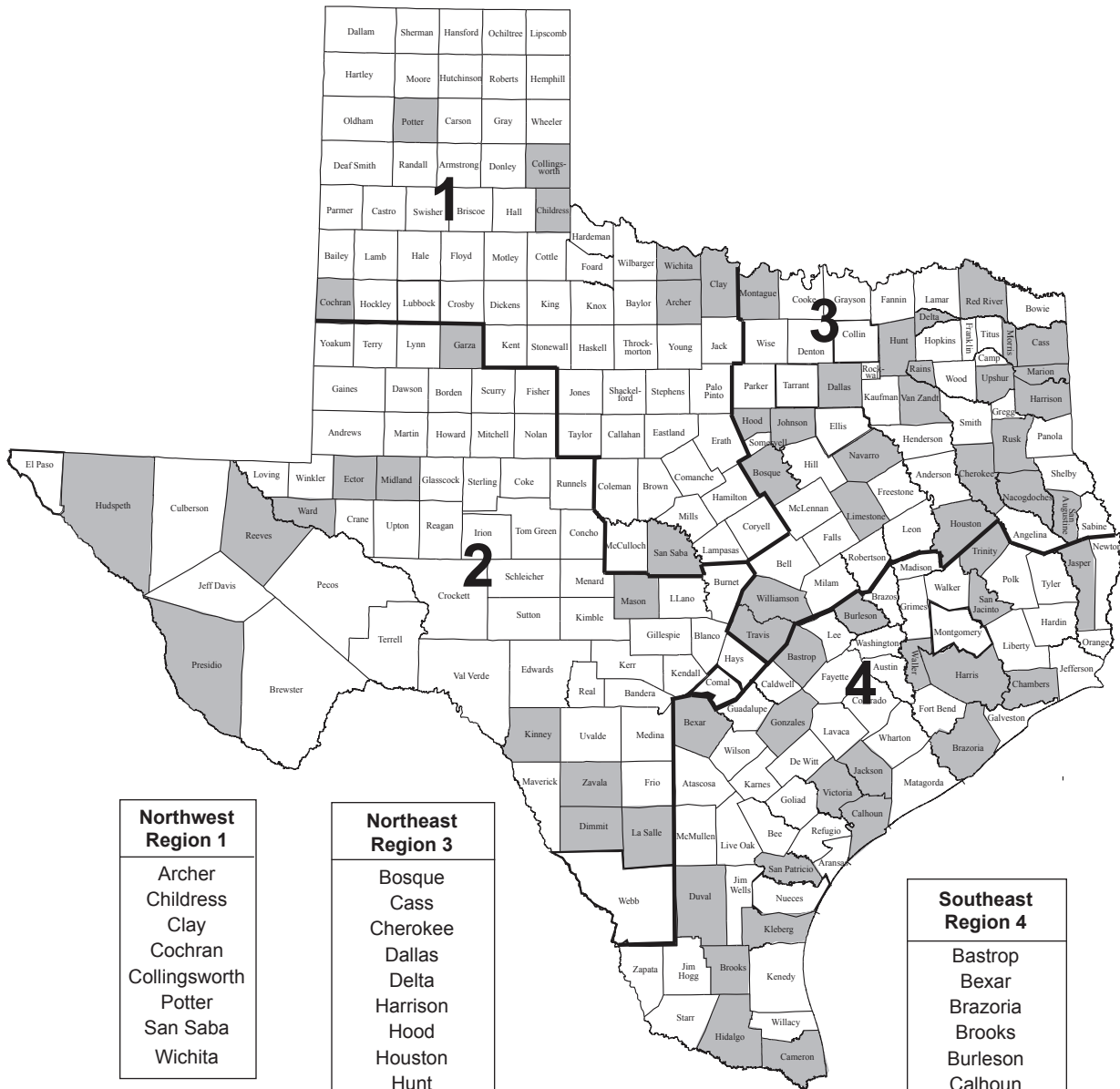
- ◆ The Commission's staff already receives valuable information from varied sources that could indicate impending problems in jails. For example, the agency receives monthly population reports from jails, and complaints from inmates and others regarding specific jail conditions. The agency regularly communicates with jail staff and county officials as jails develop operational plans and new construction projects. The agency's research specialist responds to specific information requests from jails about developments in case law and other issues. While in the field, the four jail inspectors receive information about jail staff turnover and other organizational changes within county governments.

The Commission could use these available sources of information to monitor various aspects of jail operation and regularly assess risk. Risk factors could include trends toward overpopulation, spikes in the number of complaints, and sheriff or jail administrator turnover. The Commission could prioritize certain risk factors over others, and adjust jail risk levels based on new information as the year progresses. This information would help the agency better manage the inspection process, including drawing inspector region boundaries and scheduling travel, to meet the most pressing needs first. Risk information would also help the agency distribute limited training and technical assistance time and funds to the most needy counties.

Risk analysis would help ensure the agency uses its limited resources and staff time effectively.

Risk information would help get training and technical assistance to the most needy counties.

Counties with Recent Compliance Problems



- Northwest Region 1**
- Archer
 - Childress
 - Clay
 - Cochran
 - Collingsworth
 - Potter
 - San Saba
 - Wichita

- Southwest Region 2**
- Dimmit
 - Ector
 - Garza
 - Kinney
 - La Salle (2)
 - Mason
 - Midland
 - Presidio
 - Reeves
 - Ward
 - Zavala

- Northeast Region 3**
- Bosque
 - Cass
 - Cherokee
 - Dallas
 - Delta
 - Harrison
 - Hood
 - Houston
 - Hunt
 - Johnson
 - Limestone
 - Marion
 - Montague
 - Morris
 - Nacogdoches
 - Navarro
 - Rains
 - Red River
 - Rusk
 - San Augustine
 - Travis
 - Upshur
 - Van Zandt
 - Williamson

- Southeast Region 4**
- Bastrop
 - Bexar
 - Brazoria
 - Brooks
 - Burleson
 - Calhoun
 - Cameron
 - Chambers
 - Duval
 - Gonzales
 - Harris
 - Hidalgo
 - Jackson
 - Jasper
 - Kleberg
 - San Jacinto
 - San Patricio
 - Trinity
 - Victoria
 - Waller

■ Jails failing at least three out of the last five annual inspections.

- ◆ The Commission does not regularly request results from inmate death investigations to determine if a jail standards violation occurred. The Commission requires counties to submit information about inmate escapes, but not inmate deaths. The Texas Rangers investigate most inmate deaths, and the Attorney General reviews the results of these investigations. While the Commission has de-certified jails based on inmate escape reports, the Commission does not use similar information from inmate death investigations. Keeping better track of inmate death investigations would provide additional information for the Commission to use when developing a risk-based inspections program.

Recommendations

Change in Statute

2.1 Require the Commission to develop specific risk factors and a risk-assessment plan to guide the inspections process for all jails.

This recommendation would require the Commission to develop a list of risk factors affecting jails, and use the factors to determine the overall risk level of each jail under its jurisdiction. Risk factors would include a jail's compliance history, population figures, complaints, escapes, recent turnover among sheriffs and jail staff, and other criteria as determined by the Commission. The Commission should also actively seek out the results of inmate death investigations to provide additional information about potential risk factors. The Commission would use this information when developing the annual inspection schedule and scheduling unannounced inspections, and would revisit any changes in key risk factors during the monthly risk-assessment meetings.

This recommendation would not require the Commission to change its current practice of inspecting each jail every year. The Commission would still conduct annual comprehensive inspections of all jails but would use risk analysis to schedule high-risk jails earlier, target unannounced and additional special inspections based on risk, and schedule proactive technical assistance earlier in the year. The recommendation would also ensure the Commission anticipates a range of risk factors affecting all jails, instead of focusing narrowly on a jail's current compliance status; more effectively manages its limited resources; and deals with the most pressing issues first.

Management Action

2.2 The Commission should use risk analysis of jails to more effectively manage its inspection staff and resources.

The Commission should use the risk factors and risk-assessment plan described in Recommendation 2.1 to guide inspector assignments, travel schedules, and use of technical assistance and training resources. As part of this recommendation, the Commission should consider balancing the number of jails assigned to each inspector based on the jails' risk level, instead of exclusively dividing the number of jail facilities evenly among the four inspectors. Using risk information to manage resources would focus inspector responsibilities, technical assistance, and other attention based on need.

Fiscal Implication

The Commission could implement a program to evaluate the risk level of jails within the constraints of the agency's four field inspector positions and other staff and resources. However, an additional inspector included in the agency's 2010-2011 Legislative Appropriations Request would provide more options for the agency to implement the risk-based program described in this issue.

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¹ Texas Government Code, sec. 511.009 (a)(13).

² Texas Government Code, sec. 511.009 (a)(15).

³ State Auditor's Office, *An Audit Report on the Inspection Process at the Commission on Jail Standards*, report no. 99-043 (Austin, Texas, July 28, 1999), p. 3.

Responses to Issue 2

Recommendation 2.1

Require the Commission to develop specific risk factors and a risk-assessment plan to guide the inspections process for all jails.

Recommendation 2.2

The Commission should use risk analysis of jails to more effectively manage its inspection staff and resources.

Agency Response to 2.1 and 2.2

We concur with the findings and recommendations. The inspection process of the Texas Commission on Jail Standards was the subject of an audit conducted by the State Auditor's Office in 1999. The audit recommended that the Commission should develop a formal risk assessment methodology and that the process should be continuous. Upon receipt of the findings, the Commission began conducting a monthly meeting entitled "Risk Assessment," and each facility that was in noncompliance was included on the agenda for that meeting. If the amount of time until the annual inspection was deemed to be excessive, then a special inspection would be scheduled for any facility failing to make significant progress towards achieving compliance.

The Texas Commission on Jail Standards is currently reviewing several different risk analysis/risk assessment models, which most closely reflects our mission. Due to the unique nature of the agency (the regulation of another governmental entity), and that most risk assessment/risk analysis models are created for the internal review of an organization, the agency is exploring the possibility of approaching this issue in a "reverse engineered" mode. (Adan Muñoz, Jr., Executive Director – Texas Commission on Jail Standards)

For 2.1 and 2.2

Diana Claitor, Director – Texas Jail Project, Austin

Matt Simpson, Policy Strategist – American Civil Liberties Union of Texas, Austin

Against 2.1 and 2.2

None received.

Modifications

1. Require the Commission to include the following specific risk factors in the risk assessment plan:
 - ◆ repeated/multiple complaints;
 - ◆ problems with internal jail grievance procedures;

Modifications (continued)

- ◆ mental and medical health reports, specifically those relating to infectious disease or pregnant inmates;
- ◆ the number and nature of inmate deaths; and
- ◆ input from advocates and service providers.

(Matt Simpson, Policy Strategist – American Civil Liberties Union of Texas, Austin)

2. Require the Commission to expand jail inspections to review not only compliance with basic standards, but also the content of complaints, grievances, anonymous feedback from prisoners and staff, and other sources of information on the daily conditions of the facility. (Matt Simpson, Policy Strategist – American Civil Liberties Union of Texas, Austin)
3. Provide the Commission an additional inspector position. (Diana Claitor, Director – Texas Jail Project, Austin)
4. Require the Commission to increase the number of surprise jail inspections for high-risk facilities. (Diana Claitor, Director – Texas Jail Project, Austin; Hector Garcia Delgado, Board Member – Deputy Sheriff’s Association of Bexar County, San Antonio)
5. Require the Commission to compile inmate death investigation reports. (Diana Claitor, Director – Texas Jail Project, Austin)

Commission Decision



Adopted Recommendations 2.1 and 2.2.

Adopted Modification 1 with a change to remove the specific reference to input from advocates and service providers, and add a risk factor for complaints regarding violations of the 1-to-48 corrections officer-to-inmate ratio.

Adopted Modification 3 with a change to clarify that the Sunset Commission recommends the agency receive funding for an additional jail inspector through the appropriations process.

Adopted Modification 4 with changes to clarify that, as a management action, the agency should increase the number of unannounced inspections, track its use of unannounced inspections, and tie the use of these inspections to its risk-assessment plan.

Legislative Action

Senate Bill 1009 requires the Commission to develop a list of risk factors affecting jails, and a risk-assessment plan to determine the overall risk level of each jail and to guide the jail inspections process. The bill requires risk factors to include a jail's compliance history; population figures; repeated or multiple complaints; problems with a jail's internal grievance procedures; escapes; recent turnover among sheriffs and jail staff; mental and medical health reports, specifically those relating to infectious disease or pregnant inmates; complaints regarding violations of any required corrections officer-to-inmate ratio; inmate deaths and the results of investigations of inmate deaths; and other criteria as determined by the Commission. (Recommendation 2.1 with Modification 1)

The Legislature modified the original Sunset recommendation to require the Commission to consider, as part of the risk factors and risk assessment plan, a jail's compliance with the Commission's rules, standards developed by the Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI), and requirements in the Code of Criminal Procedure regarding screening and assessment protocols for the early identification of and reports concerning persons with mental illness. The Legislature also added language to require the Commission to report to TCOOMMI on a jail's compliance with the mental illness screening, assessment, and reporting protocol requirements in the Code of Criminal Procedure. (Recommendation 2.1)

As recommended by the Sunset Commission, the Legislature, in the General Appropriations Act, provided a full-time equivalent position and associated funding for an additional jail inspector to assist the Commission in improving its jail inspections process. (Recommendation 2.1 with Modification 3)

Issue 3

The Commission Does Not Take Full Advantage of Its Position to Improve Jail Operations Through Information Sharing.

Summary

Key Recommendations

- ◆ Require the Commission to collect and disseminate best practices and other useful information about jail operations.
- ◆ The Commission should make better use of available technology to regularly share information and communicate with stakeholders.
- ◆ The Commission should develop and regularly update internal policies and procedures to guide its work.

Key Findings

- ◆ The Commission does not share the useful information it receives about trends in jail operation through a regular, coordinated effort.
- ◆ Without centralized best practice information, the Commission and counties do not work together productively to resolve common jail issues.
- ◆ By not providing best practices information, the Commission misses an opportunity to encourage compliance through supportive rather than enforcement activities.

Conclusion

The Texas Commission on Jail Standards encourages compliance with minimum standards in county jails through annual jail inspections and an enforcement process that includes letters of non-compliance, requiring county officials to appear before the Commission, and issuing remedial orders to limit jail populations when necessary. The Commission also provides training and technical assistance to jails to help solve problems identified through annual inspections.

The Sunset review found that the Commission misses an opportunity to more proactively encourage compliance by not coordinating information sharing between agency staff, jails, and stakeholders. As the only state agency responsible for and in regular contact with county jails, the Commission is uniquely positioned to gather and share information about common problems and best practices in jail operation. Filling this role would complement the Commission's enforcement role to ensure jails comply with minimum standards, and would help meet the widely expressed need for more technical assistance opportunities for jails beyond these minimum standards, without requiring additional resources.

Support

The Commission encourages compliance with jail standards through enforcement and technical assistance activities.

- ◆ State law directs the Commission to inspect jails holding county or out-of-state inmates to ensure they meet minimum standards.¹ To enforce compliance, the Commission inspects each of the 248 jails under its jurisdiction annually and issues letters of compliance and non-compliance. The Commission regularly requires county officials to appear at its quarterly meetings to discuss problems, and issues remedial orders to limit jail occupancy, as necessary, to enforce the standards. In fiscal year 2008, the agency completed 350 inspections, including annual, repeat, and special inspections. Thirty-six jails were out of compliance at the end of that year.
- ◆ To complement its enforcement role, the Commission provides support to help jails meet and maintain compliance. Through technical assistance activities, the Commission interacts with county officials and jail staff on a variety of issues, typically by having its jail inspectors provide training and advice during annual jail inspections. If possible, inspectors help jails address problems on-site to avoid formally taking a jail out of compliance for relatively minor issues, such as inadequate documentation. County officials and architects also meet with the Commission's staff when planning new jail construction or renovation projects to ensure the new facilities will meet minimum standards with the lowest cost possible. In fiscal year 2008, the Commission provided 457 consultations with jails regarding management and construction issues.

Other Commission staff have frequent contact with jails on a variety of issues, including investigating inmate complaints; gathering information on jail populations; helping counties develop jail operational plans; and answering specific research questions. The Commission also organizes training sessions for jail staff on topics such as jail basics and how to properly classify inmates according to security risk.

The Commission does not share the useful information it receives about trends in jail operation through a regular, coordinated effort.

- ◆ Commission staff receive useful information about trends, problems, and solutions in jails through varied interactions with counties and the public. Four inspectors visit each jail in their assigned regions at least once per year for inspections, and are in regular contact with county officials and jail staff as jails encounter problems and develop solutions. The agency's non-inspection staff involved in investigating complaints, approving jail operational plans, compiling monthly jail population reports, and answering research questions are not directly involved in the Commission's enforcement activities, but have daily interactions with counties and stakeholders about many other aspects of jail operations.

Inspectors help address problems on-site to avoid taking jails out of compliance.

Through all of these efforts, Commission staff are in an excellent position to see patterns of problems, common questions, and workable solutions, but have not compiled this information in any comprehensive collection of best practices for improving jail or agency operations.

- ◆ The Commission does not regularly communicate best practice information to counties, jail staff, or other stakeholders. This information could include notification about new developments in case law, spotlights on new or innovative programs that help solve common jail problems, or a list of frequently-asked questions. The agency does not publish a print or electronic newsletter, or use technology, such as an e-mail list-serve, to quickly communicate with key jail staff and county officials. Although a few counties do not have official access to the Internet, the Texas Association of Counties found that all but five sheriffs and three county judges in the state have an e-mail address. Most jail administrators also have e-mail addresses or access to the Internet. The Commission also has not fully developed relationships with groups such as the Texas Jail Association, Texas Sheriff's Association, or the Texas Association of Counties, to regularly share information through their contact lists and publications.
- ◆ The agency does not have comprehensive or regularly updated internal procedures to guide its work. Without clear internal policies, the Commission cannot ensure work is carried out consistently, and that institutional knowledge is not lost if key staff leave the agency. Regularly updated internal procedures would ensure the role of each staff member is clear, and that staff understand how they are expected to share information internally, and with counties and other stakeholders. Improved internal coordination among the staff would ensure the agency is aware of trends, targets its attention to the most pressing or widespread issues, and regularly shares useful information with its constituents.

Without centralized best practice information, the Commission and counties do not work together productively to resolve common jail issues.

- ◆ Counties and jail administrators face similar challenges in meeting minimum standards, including financial constraints, high employee turnover, managing changing inmate populations, and meeting new requirements. Commission staff often respond to the same questions and encounter similar problems repeatedly during inspections and while providing technical assistance to jails.

For example, in fiscal year 2008, most jail compliance issues involved under-staffing, inadequate Tuberculosis testing policies, overcrowding, or improper documentation of life safety training. The Commission typically provides assistance to jails on an individual basis to help overcome these common challenges. The Commission does not regularly provide more proactive information to all jails to highlight common problems and

Best practice information could spotlight programs that help solve common jail problems.

Commission staff encounter similar compliance issues repeatedly during inspections.

Being more involved in topics of pressing concern to counties and interest groups would raise the agency's visibility.

solutions and reduce duplication of its effort with jails' own efforts to resolve problems.

- ◆ County officials, jail administrators, and interest groups have expressed concern about broader issues that may not directly relate to jail standards, but have a major impact on every jail's operation. These issues include managing mentally ill inmates, reducing recidivism, providing adequate medical services, and cooperating with other government agencies. The Commission may not have the solutions to such broad issues but could help consolidate information in one location and provide a forum for information and idea sharing among interested parties. As these issues are often of pressing concern to counties, being more involved in these topics would help raise the agency's visibility and make better use of its unique position as the only state agency with expertise and experience in jail operations.

By not providing best practices information, the Commission misses an opportunity to encourage compliance through supportive rather than enforcement activities.

- ◆ Providing best practices information would complement the agency's focus on jail inspections and compliance activities. While the Commission's authority to close jails or strictly limit jail population through remedial orders is appropriate, these methods are not always immediately effective to solve longstanding, intractable problems. Unlike many other state licensing and regulatory agencies that govern individuals or private groups, the Commission essentially regulates other governmental entities. Many of the traditional enforcement tools used by regulatory agencies, such as levying fines or closing a facility, could actually do more harm than good to the ultimate goal of ensuring each jail meets minimum standards. The Commission has acknowledged these constraints to its regulatory authority and seeks to work with counties on solutions whenever possible as a better way to achieve compliance, instead of using regulatory hammers.
- ◆ Counties, jail staff, and interest groups have voiced support for more technical assistance opportunities for jails. In its Legislative Appropriations Request for fiscal years 2010-2011, the Commission has requested additional staff and travel funds to provide more of these support activities. Implementing a formal best practices program would contribute to these efforts to bolster the Commission's supportive activities for jails. Sharing examples of successful jail programs and practices would help foster an environment of peer assistance and communication between counties. Rewarding consistently compliant jails by highlighting their successful methods through a best-practices program would also provide an additional incentive for counties to meet standards.

Working with counties on solutions is a better way to achieve jail compliance than using enforcement sanctions.

- ◆ Providing easily accessible best practices and other useful information targeted to common issues and questions would improve the effectiveness of the Commission’s existing technical assistance programs. For example, a simple list of frequently asked questions posted on the Commission’s website would enable agency staff to refocus the time they spend answering repetitive questions to other efforts. Improving its communication strategies with jail staff, county officials, and stakeholders would increase the Commission’s visibility and help promote jail standards generally.

Having an easily available communication system would also enable the Commission to quickly share important information and help foster peer-exchange between counties. Providing links to useful information would help struggling counties find the resources they need and take action without direct involvement from Commission staff. This information could include best practices in Texas jails or in other states, or links to training, funding, pilot projects, and other opportunities provided through national organizations.

- ◆ National guidelines for state jail standards programs developed by the National Institute of Corrections (NIC) at the United States Department of Justice emphasize the need for a range of strategies to help jails achieve compliance. According to the guidelines, successful programs should focus on facilitation, education, and persuasion before using coercive strategies to compel compliance through enforcement actions.² The guidelines also state that an “inspection component alone is insufficient for local jails to achieve compliance.”³

While the Commission provides technical assistance and support to counties, these efforts are usually a reaction to identified problems. A best practices program would provide a more systematic way for the Commission to proactively share useful information and help prevent problems before they occur.

NIC has also developed an online forum called the “Corrections Community” to help practitioners in all aspects of corrections share information with each other, including on jail-specific topics.⁴ A similar effort to improve the Commission’s communication strategies with its stakeholders, and to provide a forum for information sharing among jail staff and county officials, would strengthen the Commission’s efforts to help jails meet standards and limit the need for coercive action.


*Sharing useful
information with
counties would
help prevent
problems before
they occur.*

Recommendations

Change in Statute

3.1 Require the Commission to collect and disseminate best practices and other useful information about jail operations.

This recommendation would require the Commission to develop a policy for collecting and distributing useful information about common issues facing jails, examples of successful strategies for maintaining compliance with minimum standards, and solutions to broader operational challenges facing jails such as caring for mentally ill inmates. The best practices program would capitalize on the Commission's unique position as a state agency focused on jails, ensure the agency makes the best use of the information it receives, and help counties support each other through peer-exchange of information.

This recommendation would complement the Commission's current requirement to provide consultation and technical assistance to counties, and ensure the effectiveness of the agency's efforts in this area. Providing best practices information would also aid the agency's enforcement goals by providing proactive information to help jails achieve and maintain jail standards.

Management Action

3.2 The Commission should make better use of available technology to regularly share information and communicate with stakeholders.

The Commission should develop an e-mail list of sheriffs, county officials, and jail staff, use this list to regularly communicate useful information, and improve the resources it provides on its website. The agency should identify counties without access to the Internet and develop alternative communication methods for this small group. The Commission should also provide a forum for county officials, jail staff, and stakeholders to directly communicate and share information with each other.

Regularly communicated information could include results of recent Commission meetings, examples of best practices, updates on case law, or a general agency newsletter. The agency should gather useful information from Commission staff, jails, and stakeholders, and develop a plan to distribute this information to interested parties using the agency's available technology resources.

3.3 The Commission should develop and regularly update internal policies and procedures to guide its work.

The Commission should develop comprehensive internal policies that include a description of key agency functions, the role of individual staff members in carrying out their job responsibilities, and standard procedures for conducting the agency's work, such as inspections, compliance, construction plan review, and technical assistance. The policies should also include a clear explanation of how agency staff should communicate useful information about jails with each other and with stakeholders through a best practice program. Clear and regularly updated internal policies would ensure Commission staff understand their unique job responsibilities, and carry out the agency's mission consistently.

Fiscal Implication

These recommendations would improve the Commission's effectiveness in helping jails meet minimum standards, but would not have a fiscal impact to the State. The agency's full-time research specialist could coordinate the best practices program within the position's current job duties. The agency could improve its internal policies and information sharing, develop an e-mail list for its stakeholders, and regularly update its website with best practices information using existing resources.

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¹ Texas Government Code, sec. 511.009.

² U.S. Department of Justice, National Institute of Corrections, *Jail Standards and Inspection Programs: Resource and Implementation Guide*, by Mark D. Martin (Washington, D.C., April 2007), pp. 28-29.

³ Ibid, p.20.

⁴ National Institute of Corrections, Corrections Community, community.nicic.org. Accessed: October 13, 2008.

Responses to Issue 3

Recommendation 3.1

Require the Commission to collect and disseminate best practices and other useful information about jail operations.

Recommendation 3.2

The Commission should make better use of available technology to regularly share information and communicate with stakeholders.

Recommendation 3.3

The Commission should develop and regularly update internal policies and procedures to guide its work.

Agency Response to 3.1 through 3.3

We concur with the findings and recommendations. In the past, the agency has submitted information to the three professional organizations that represent a majority of the stakeholders we interact with (Texas Jail Association, Sheriff's Association of Texas, and Texas Association of Counties) for either publication in their newsletters or posting to their electronic list-serve since there was no cost to the agency to do this.

The agency website will be expanded to include a "Frequently Asked Questions" page that will be updated on a monthly basis. Staff will be required to log questions that are received and from this log, the initial list of questions and answers will be developed and continually posted. A quarterly newsletter will be initiated and will include an overview of the commission meeting held that quarter, case law and court decisions recently issued, a best practices section, and other information that may be of assistance to our customer base. In addition, the commission will create its own list-serve to disseminate information while continuing to utilize the listserves of the SAT, TJA and TAC. A formal procedure for each of these actions will be developed and incorporated into the agency's policy and procedures manual to ensure continuity. (Adan Muñoz, Jr., Executive Director – Texas Commission on Jail Standards)

For 3.1 through 3.3

Diana Claitor, Director – Texas Jail Project, Austin

Matt Simpson, Policy Strategist – American Civil Liberties Union of Texas, Austin

Against 3.1 through 3.3

None received.

Modifications

1. Require the Commission to provide more leadership and training to jail staff regarding the treatment of mentally ill inmates, specifically those inmates labeled as “troublemaking” who are often mentally ill. (Diana Claitor, Director – Texas Jail Project, Austin)
2. Require the Commission to provide best practices information on the following specific topics:
 - ◆ Inmate access to medical treatment;
 - ◆ Mental health continuity of care;
 - ◆ Control of infectious disease;
 - ◆ Treatment of pregnant inmates; and
 - ◆ Emergency evacuation plans.

(Matt Simpson, Policy Strategist – American Civil Liberties Union of Texas, Austin)

3. Require the Commission to expand its educational role in the prevention of jail overcrowding, such as through the use of roundtables composed of key officials to concentrate on reducing growing jail populations through diversion techniques. (Ana Yáñez-Correa, Executive Director – Texas Criminal Justice Coalition, Austin; Judge Ernie L. Glenn, Legislative Committee Chair – Bexar County Re-entry Roundtable, San Antonio)
4. Require the Commission to expand its efforts to inform jail administrators and local officials about innovative reintegration models in Texas and other states to slow offender recidivism. Provide the Commission additional staff to focus solely on providing technical assistance for programs that provide rehabilitation, education, and re-integration for inmates. (Ana Yáñez-Correa, Executive Director – Texas Criminal Justice Coalition, Austin; Judge Ernie L. Glenn, Legislative Committee Chair – Bexar County Re-entry Roundtable, San Antonio)

Commission Decision

Adopted Recommendations 3.1 through 3.3.

Legislative Action

Senate Bill 1009 requires the Commission to develop a policy for collecting and distributing useful information about common issues facing jails, examples of successful strategies for maintaining compliance with minimum standards, and solutions to broader operational challenges facing jails. (Recommendation 3.1)

Issue 4

The Commission's Complaints and Public Information Processes Do Not Conform to Commonly Applied Standards.

Summary

Key Recommendations

- ◆ Require the Commission to develop complaints procedures, track and analyze complaints, and provide better information about how to file a complaint.
- ◆ Require the Commission to make enforcement information more accessible to the public.

Key Findings

- ◆ The Commission lacks clear procedures to guide complaint filing, investigation, tracking, and analysis.
- ◆ The Commission does not make enforcement information easily available to the public.

Conclusion

The Texas Commission on Jail Standards lacks complaints and public information procedures that are standard to other regulatory agencies in Texas and commonly applied during Sunset reviews. Without clear procedures, the Commission cannot ensure that it receives and uses complaint information in assessing the performance and condition of jails that it oversees. Inmates and their families do not have clear information on how to file a complaint or what to expect once a complaint is filed. The public does not have easy access to information about the results of the Commission's regulatory activities, which can serve to induce greater compliance with broader jail standards. Applying these standard practices to the Commission's statute would bring the agency in line with model standards for regulatory agencies and improve the Commission's relationship with the public and its stakeholders.

Support

Regulating jails requires common activities that the Sunset Commission has observed and documented over more than 31 years of reviews.

- ◆ The Texas Commission on Jail Standards is different from most state licensing and regulatory agencies in that it does not license individuals but essentially regulates governmental entities. The Commission sets minimum standards for jail construction and management of county jail facilities, focusing on areas of life safety, structural components, and inmate care. Agency staff conduct annual jail inspections to ensure compliance, and the Commission issues remedial orders to limit jail occupancy when necessary. Among its duties, the agency also investigates complaints from county jail inmates or their families if those complaints remain unresolved after going through the jails' own grievance processes.
- ◆ The Sunset Advisory Commission has a historic role in evaluating licensing and regulatory agencies, as the increase of occupational licensing programs served as an impetus behind the creation of the Commission in 1977. Since then, the Sunset Commission has developed standards, or best practices, for the operation of licensing and regulatory agencies. Though the Commission on Jail Standards does not license individuals, it performs some regulatory functions in its supervision of jails that relate to Sunset licensing standards, such as having a well-defined complaint process and providing public information about enforcement actions. The following material highlights areas where the Commission's statute and rules differ from applicable model standards and describes the potential benefits of conforming with standard practices.

The Commission lacks clear procedures to guide complaint filing, investigation, tracking, and analysis.

- ◆ Regulatory agencies should accept and investigate complaints against regulated individuals or entities following clear procedures describing all phases of the complaint process, including receipt, investigation, resolution, and disclosure to the public. Accepting and investigating complaints is typically the primary method regulatory agencies use to enforce their programs on licensed entities. Clear complaint procedures also help ensure that aggrieved parties can easily seek redress of their concerns.

Statute does not require the Commission to maintain information about the complaints it receives regarding conditions in jails.¹ In practice, however, the Commission accepts, investigates, and tracks hundreds of these types of complaints each year, after they have gone through the grievance procedures at the county jail. The Commission also receives many complaints about city jails, state prisons, and other entities it does not regulate, which it returns to the sender. The Commission has not developed clear rules or procedures to guide its complaints process and

The Commission regulates governmental entities and not individuals, unlike other regulatory agencies.

clarify how it handles complaints against itself and against the jails it regulates.

Clarifying the Commission's responsibility to accept and investigate complaints would ensure that the agency has, and effectively uses, an additional tool for judging the performance and condition of jails it oversees. It would also ensure that the Commission continues to see that counties' grievance systems appropriately address inmate concerns while it maintains its own objective process for inmates to redress their concerns. Clear rules and procedures differentiating complaints against the agency from complaints against jails would ensure that the public, inmates, and regulated entities know how to file a complaint and understand the Commission's role.

- ◆ Filing complaints should occur through a simple process that does not discourage people from participating. A simple, easy-to-use complaint form can help provide information needed to start an investigation.

The Commission accepts complaints against jails through the telephone, e-mail, its website, or regular mail, in whatever format the sender chooses to use. The Commission has not received a formal complaint against itself in many years. The agency has not developed a form to help ensure complainants provide complete information. Until recently, a page on the agency's website about how to file a complaint was difficult to find and did not provide any information about the Commission's jurisdiction or what to expect once a complaint is filed. Providing information on the agency's complaint procedure along with a simple form for filing complaints against the agency or against jails would facilitate complaint filing and would help streamline complaints investigations.

- ◆ Regulatory agencies should track and analyze the sources and types of complaints and the results of investigations. This information helps agencies better understand the regulatory environment and manage resources more effectively by identifying problem areas and trends. The information should include the reason and origin of each complaint received, the average time to respond or investigate, the outcome of the investigation or resolution, any disciplinary actions taken, and the number of open cases at the end of each fiscal year. Information about complaints should also include a separate breakdown of non-jurisdictional complaint topics to give the agency a full picture of problems in the regulatory area.

The Commission tracks all correspondence it receives from the public regarding jail conditions, but does not clearly differentiate between the comments or questions it receives and true complaints in the total numbers it reports each year. With the exception of life-threatening situations, the agency returns many complaints without investigation to the sender. Returned complaints include those that had not been submitted to the jail's internal grievance procedure first, or non-jurisdictional complaints

Complaint investigations are a tool for judging the performance and condition of jails.

Detailed analysis of complaint information would help the agency better understand problem areas and trends.

about city jails, state prisons, or other facilities not under the Commission's authority. The Commission does not keep track of the topics, location, or resolution of these returned complaints. More accurate classification of complaints, as opposed to inquiries, and better tracking and analysis of both jurisdictional and non-jurisdictional complaints, would provide additional, useful information to the Commission about the jails it regulates and the overall regulatory environment.

The Commission does not make enforcement information easily available to the public.

- ◆ Regulatory agencies should make information about enforcement actions available to the public to use in making decisions when obtaining services. This information can also serve to publicize wrongdoers as a way to induce compliance with broader regulatory requirements. Methods commonly used to disseminate this information include the agency website, agency newsletters, press releases, and responses to requests from the public.

The Commission generally provides information to the public by responding to individual Public Information Act requests and media inquiries, and providing summary information in an annual report. The agency does not post regularly updated information about the compliance status of the jails under its jurisdiction on its website. Posting and regularly updating this information on the website and distributing information in appropriate newsletters or email lists would greatly enhance public information about the status of county jails, and would provide motivation for counties to comply with jail standards.

Public awareness of enforcement actions would help motivate counties to comply with standards.

Recommendations

Change in Statute

4.1 Require the Commission to develop complaints procedures, track and analyze complaints, and provide better information about how to file a complaint.

Under this recommendation, the Commission would be required to adopt rules or procedures that clearly lay out policies for all phases of the complaint process, including complaint receipt, investigation, resolution, and disclosure to the public. The procedures would differentiate between complaints against jails versus complaints against the agency's policies or staff, and include a system for prioritizing complaints and a timeframe for responding to complaints.

The recommendation would repeal a statutory provision that exempts the Commission from keeping information about complaints on the jails it regulates. Instead, the Commission would be required to maintain documentation on complaints according to standard, across-the-board requirements generally placed on all agencies undergoing Sunset review. The Commission must develop a simple form for written complaints, and have processes in place to inform the public, inmates, and county officials about complaint procedures, including on the agency's website. The Commission would also be required to track and analyze all complaints according to clear criteria such as the reason or origin of each complaint received, the average time to respond or investigate, the outcome of the investigation or

resolution, any disciplinary actions taken, the number of open cases at the end of each fiscal year, and a separate breakdown of non-jurisdictional complaint topics.

Requiring clear and easy-to-find complaints procedures would ensure the Commission's stakeholders understand the Commission's role in accepting and investigating complaints, how to file a complaint, and what to expect after a complaint is filed. Improved tracking and analysis of complaints would help the Commission better understand issues of concern to its stakeholders.

4.2 Require the Commission to make enforcement information more accessible to the public.

This recommendation would require the agency to provide easily accessible information to the public about the compliance status of the jails under its jurisdiction, including on the agency's website, and through other formats such as newsletters or press releases as determined by the Commission. To enhance these new communication efforts, the information must be meaningful to the general public and free of technical jargon or terminology. Providing information in this manner would help the public understand the reasons for the compliance status of jails under the agency's oversight.

Fiscal Implication

The recommendations to improve the Commission's complaint process would improve the agency's efficiency but would not have a fiscal impact, as the agency already employs a full-time complaints investigator. The Commission could make jail compliance information more available to the public, including on its website, using its current technology resources.

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¹ Texas Government Code, sec. 511.0071(d).

Responses to Issue 4

Recommendation 4.1

Require the Commission to develop complaints procedures, track and analyze complaints, and provide better information about how to file a complaint.

Recommendation 4.2

Require the Commission to make enforcement information more accessible to the public.

Agency Response to 4.1 and 4.2

We concur with the findings and recommendations. The Commission on Jail Standards is undertaking an extensive review of its complaints process and database to conform to the recommendations made in the summary for this issue. The first step in this process was the establishment of a database for all complaints received, extending back three years. This database was completed in July 2008 and has been continuously updated since that time. The agency has already modified its website to assist the public in the filing of complaints against a facility under the agency's purview. This modification also includes a section about what the public may expect after a complaint has been filed. Internal changes that are being planned include revision of the complaints procedure to gather and properly classify complaints that will then be utilized in assessing the compliance status of jails across the state. In addition to the changes to the agency's complaint process, the publication of compliance status of the jails under our jurisdiction is being reviewed. It is anticipated that this information, including why the facility was found in non-compliance, may be published in several venues to include the agency website and proposed quarterly newsletter. (Adan Muñoz, Jr., Executive Director – Texas Commission on Jail Standards)

For 4.1 and 4.2

Diana Claitor, Director – Texas Jail Project, Austin

Matt Simpson, Policy Strategist – American Civil Liberties Union of Texas, Austin

Against 4.1 and 4.2

None received.

Modifications

1. Require the Commission to augment the regulatory language on grievances to direct each jail's grievance board or officer to create a file of inmate grievances available for the Commission and others who need to examine grievances. (Diana Claitor, Director – Texas Jail Project, Austin)

Modifications (continued)

2. Require the Commission to improve its public education efforts with regards to its complaint functions, such as a 1-800 hotline and a direct link to a complaint form from the agency's homepage. (Ana Yáñez-Correa, Executive Director – Texas Criminal Justice Coalition, Austin; Judge Ernie L. Glenn, Legislative Committee Chair – Bexar County Re-entry Roundtable, San Antonio)

Staff Comment: The Commission has updated its website to include a direct link to complaints information from the homepage.

Commission Decision

Adopted Recommendations 4.1 and 4.2.

Legislative Action

Senate Bill 1009 requires the Commission to adopt rules or procedures that clearly lay out policies for all phases of the complaint process, including complaint receipt, investigation, resolution, and disclosure to the public. The procedures must differentiate between complaints against jails versus complaints against the agency's policies or staff, and include a system for prioritizing complaints and a timeframe for responding to complaints.

Senate Bill 1009 repeals a statutory provision that exempts the Commission from keeping information about complaints on the jails it regulates. Instead, the bill requires the Commission to maintain documentation on complaints according to standard, across-the-board requirements generally placed on all agencies undergoing Sunset review. The Commission must develop a simple form for written complaints, and have processes in place to inform the public, inmates, and county officials about complaint procedures, including on the agency's website. The Commission also must track and analyze all complaints according to clear criteria such as the reason or origin of each complaint received, the average time to respond or investigate, the outcome of the investigation or resolution, any disciplinary actions taken, the number of open cases at the end of each fiscal year, and a separate breakdown of non-jurisdictional complaint topics. (Recommendation 4.1)

Senate Bill 1009 requires the Commission to provide easily accessible information to the public about the compliance status of the jails under its jurisdiction, including on the agency's website, and through other formats such as newsletters or press releases as determined by the Commission. (Recommendation 4.2)

ACROSS-THE-BOARD RECOMMENDATIONS



Texas Commission on Jail Standards

Recommendations	Across-the-Board Provisions
Update	1. Require public membership on the agency's policymaking body.
Update	2. Require provisions relating to conflicts of interest.
Already in Statute	3. Require unbiased appointments to the agency's policymaking body.
Already in Statute	4. Provide that the Governor designate the presiding officer of the policymaking body.
Update	5. Specify grounds for removal of a member of the policymaking body.
Update	6. Require training for members of the policymaking body.
Update	7. Require separation of policymaking and agency staff functions.
Already in Statute	8. Provide for public testimony at meetings of the policymaking body.
Modify*	9. Require information to be maintained on complaints.
Apply	10. Require the agency to use technology to increase public access.
Apply	11. Develop and use appropriate alternative rulemaking and dispute resolution procedures.

*See Issue 4.

Commission Decision



Adopted staff recommendations.

Legislative Action



Adopted Commission decision.

AGENCY INFORMATION

(NOVEMBER 2008)



Agency Information

Agency at a Glance


The Texas Commission on Jail Standards develops and enforces minimum standards for county jails and other facilities housing county or out-of-state inmates. The Commission's standards include minimum requirements for the construction, equipment, maintenance, and operation of jails; and the custody, care, and treatment of inmates.

The Legislature created the Commission in 1975, in response to years of lawsuits and federal intervention regarding overcrowding, poor sanitation, and other sub-standard conditions in Texas county jails. Today, the agency continues to carry out its mission to reduce the risk associated with operating jails by:

- ◆ regulating and supporting the management of county jails by developing jail standards, inspecting jails, investigating complaints, and providing training and technical assistance;
- ◆ reviewing and approving jail construction, renovation, and operational plans;
- ◆ compiling monthly county jail population reports; and
- ◆ monitoring Texas' compliance with federal law regarding the treatment of juveniles in adult jails and lockups.

Key Facts

- ◆ **Funding.** In fiscal year 2008, the agency operated with an annual budget of \$948,288, funded mostly from General Revenue.
- ◆ **Staffing.** The agency employs 17 staff, including four full-time jail inspectors. Two inspectors work from field locations, while the remaining staff are headquartered in Austin.
- ◆ **Jail Population.** The agency's authority extends to 248 jail facilities with 85,130 beds. On September 1, 2008, these jails were at 83 percent capacity.
- ◆ **Jail Standards Compliance.** In fiscal year 2008, the agency completed 350 inspections, including annual, repeat, and special inspections. As of August 31, 2008, 36 jails were non-compliant, and two jails, in Brazoria and Smith counties, were under a Commission remedial order.
- ◆ **Jail Construction.** As of August 2008, Texas counties had initiated 53 new jail construction or renovation projects. Over the next several years, the projected completion of these projects will result in a net gain of 11,784 jail beds.



The Commission's website, www.tcjs.state.tx.us, provides more information about the regulation of jails.

Major Events in Agency History

- 1957 The Legislature requires counties to ensure “safe and suitable conditions” in jails, but does not appropriate funds to support regular inspections.
- 1969 Class action lawsuits and federal court intervention occur in almost 20 county jails across Texas. The State Health Department begins inspecting jails, and finds all but six out of 254 county jails to be in violation of sanitation and health standards.
- 1975 The Legislature creates the Commission to establish minimum jail standards, review jail construction plans, and inspect county jails.
- 1984 The Commission begins monitoring Texas’ compliance with the federal Juvenile Justice and Delinquency Prevention Act, governing the treatment of juveniles in adult jails and lockups.
- 1987 The Legislature authorizes counties to contract with private companies to build and operate jails.
- 1991 Counties sue the State in a class-action lawsuit because of overcrowding in county jails. The Legislature requires the Texas Department of Corrections to pay counties for housing inmates awaiting transfer to the state prison system longer than 45 days. The Commission begins compiling monthly county jail population reports and distributing payments to counties.
- 1993 The Legislature requires Tuberculosis screening of inmates and staff in county jails.
- 1995 The Texas Department of Corrections meets its duty to accept felony backlogs from county jails, and ceases to make payments to counties.
- 2003 The Legislature exempts facilities that hold only federal inmates from the Commission’s jurisdiction. The Legislature also requires the Commission to study mental health screening, identification, and treatment practices in county jails.

*The nine-member
Commission
consists of sheriffs,
county officials,
a medical doctor,
and public
members.*

Organization

Policy Body

The Governor, with the consent of the Senate, appoints nine members to the Commission who serve staggered six-year terms. Members must include two sheriffs, one county judge, a county commissioner, a medical doctor licensed by the Texas Medical Board, and four public members. One public member and one sheriff must be from a county with a population of 35,000 or less. The Governor designates the Chair of the Commission and the Commission membership elects the Vice Chair. The Commission meets quarterly, usually

in Austin. The table, *Texas Commission on Jail Standards*, provides information on each member.

Texas Commission on Jail Standards

Member	City	Qualification	Term Expires
Sheriff David Gutierrez Chair	Lubbock	Sheriff of a county with a population more than 35,000	2009
Judge Donna S. Klaeger Vice Chair	Burnet	County Judge	2013
Irene A. Armendariz	El Paso	Public Member	2009
Albert Black	Austin	Public Member	2011
Stanley D. Egger	Abilene	County Commissioner	2011
Sheriff Mark Gilliam	Rockport	Sheriff of a county with a population less than 35,000	2009
Jerry W. Lowry	New Caney	Public Member	2013
Larry S. May	Sweetwater	Public member from a county with a population less than 35,000	2013
Michael M. Seale, M.D.	Houston	Medical Practitioner	2011

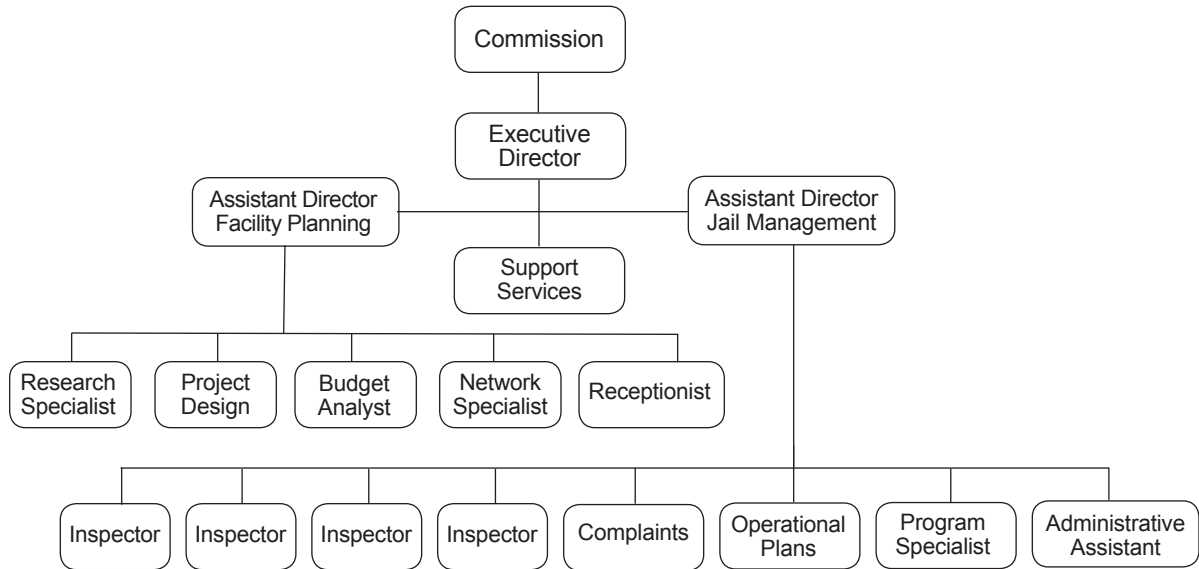
Staff

The agency currently employs 17 staff, most of whom work in Austin. Two of the four jail inspectors work from field locations in South and West Texas. The Commission hires the agency’s Executive Director, approves the agency’s strategic plan and budget, and adopts rules for the construction and operation of county jails and the treatment of inmates. The Commission also reviews county applications for variances from jail standards and issues remedial orders. The Executive Director, with the help of two Assistant Directors, manages the day-to-day operations of the agency, including approving jail construction plans, setting inspection schedules, and determining compliance. The *Texas Commission on Jail Standards Organizational Chart* shows the agency’s structure.

Appendix A compares the agency’s workforce composition to the minority civilian labor force. The agency has exceeded some of the civilian labor force percentages in some categories, but it has fallen below in others. However, the agency is small and has few positions in each job category, making the percentages difficult to meet.

The agency employs four jail inspectors who work from Austin and field locations in South and West Texas.

Texas Commission on Jail Standards Organizational Chart



Funding

Revenues

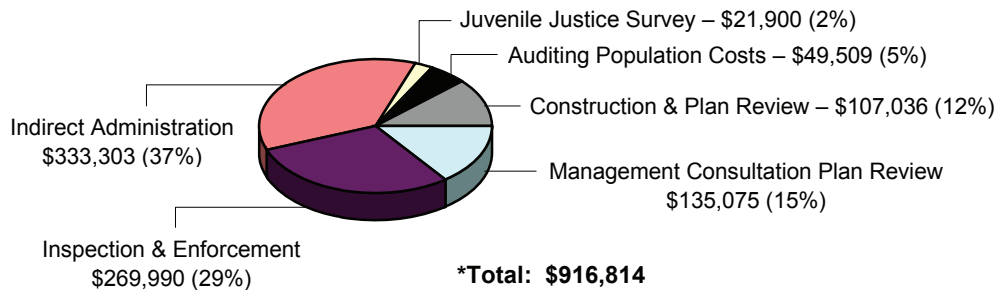
In fiscal year 2008, the Commission received \$948,288 in revenue. The majority of this funding, \$901,353, came from General Revenue. The agency also collected \$25,035 in fees, mostly for recovering the cost of inspecting facilities holding out-of-state inmates. It also received a \$21,900 grant from the Office of the Governor to monitor compliance with the federal Juvenile Justice and Delinquency Prevention Act in adult jails and lockups.

Most of the agency's funding comes from General Revenue.

Expenditures

The pie chart, *Expenditures by Strategy*, details the agency's \$916,814 fiscal year 2008 expenditures broken down by agency strategy. The largest expenditure was \$333,303 for indirect administration, which funded the agency's

**Expenditures by Strategy
FY 2008**



*The agency will return a total of \$31,474 in unexpended funds and fees to General Revenue.

purchases, leases, and executive and support staff salaries. The second largest expenditure was \$269,990 for jail inspection and enforcement. The agency's other expenditures were for management consultation, construction plan review, jail population reports, and the juvenile justice survey. The agency will return approximately \$24,228 of unexpended funds and \$7,246 in inspection fees to General Revenue. Statute authorizes the Commission to keep inspection fees only to cover the actual cost of conducting the inspections.

Appendix B describes the agency's use of Historically Underutilized Businesses (HUBs) in purchasing goods and services for fiscal years 2004 to 2007. The agency met or exceeded the statewide goals in the categories of professional services, other services, and commodities, with the exception of fiscal year 2005 when purchases in the commodities category fell below. The agency made no purchases in the heavy construction, building construction, or special trade categories.

*The agency's
expenditures
totaled \$916,814
in fiscal year
2008.*

Agency Operations

The Commission establishes minimum standards of construction, maintenance, and operation for county jails and other facilities housing county or out-of-state inmates. The Commission regularly inspects the jails under its jurisdiction, issuing certificates of compliance, notices of non-compliance, and remedial orders as necessary. Agency staff also investigate complaints against jails; approve jail construction and operational plans; provide training and technical assistance; monitor the statewide county jail population; and check compliance with federal juvenile justice laws.

Jail Inspection and Compliance

State law requires the Commission to determine annually whether each county jail is complying with minimum standards.¹ The textbox, *Key Jail Standards*, highlights some of the Commission's standards. The agency's authority extends to 248 individual jail facilities housing county or out-of-state inmates, including 19 privately operated facilities.² Appendix C provides a list of private jails under the Commission's jurisdiction.

The Commission considers jails in operation on December 23, 1976, to be grandfathered.³ These facilities, numbering 55 statewide, are still under the Commission's jurisdiction and subject to inspections, but do not have to meet the same structural standards as facilities built after that time. Seventeen counties do not operate jails and instead contract to house their inmates in other jails, as shown on the map on page 39.

Key Jail Standards

Structural standards:

- ◆ facility site and design
- ◆ construction materials
- ◆ minimum square footage per inmate
- ◆ fire detection and smoke removal systems
- ◆ holding, detoxification, and separation cells
- ◆ detention-grade doors and locks

Operational standards:

- ◆ staff training for fire response and use of fire equipment
- ◆ sanitation
- ◆ one-to-48 staff-to-inmate ratio
- ◆ proper inmate classification into low, medium, or high security risk
- ◆ operating plans for medical services, grievance procedures, recreation, and other topics

The Commission inspects each jail on an annual basis to determine compliance with standards. An inspection lasts between one day and a week or more, depending on the size of the facility. In fiscal year 2008, the agency completed 350 inspections, including 250 annual inspections, 85 repeat inspections, and 15 special inspections. Thirty-six percent, or 91, of the annual inspections were unannounced.

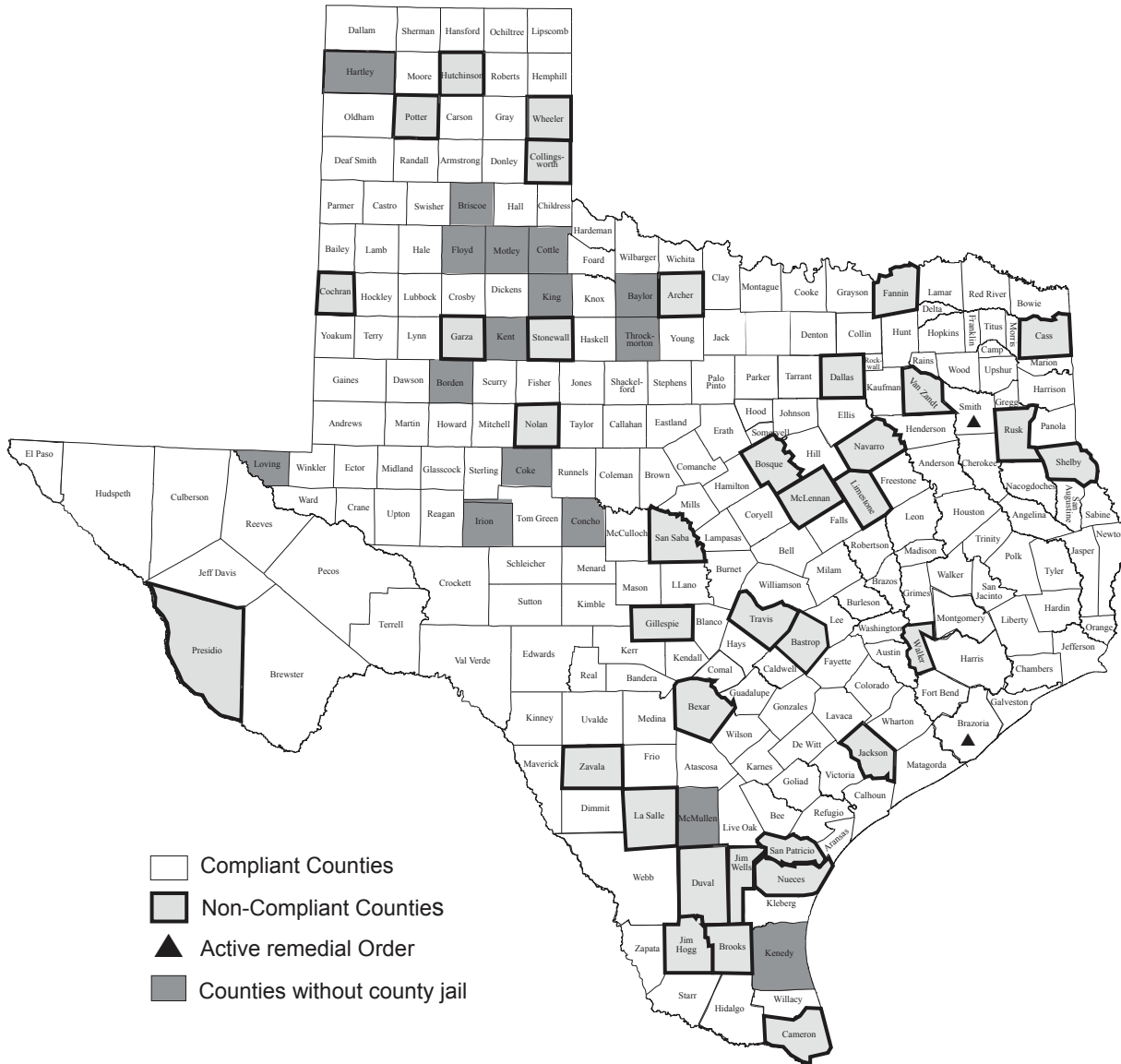
Inspectors spend about half of an inspection reviewing the jail's documentation of population figures, fire drills, staff training, and other procedures. Inspectors then perform a physical walk-through of the facility, interviewing inmates and staff, evaluating cleanliness, and verifying operation of fire alarms, locks, intercoms, and toilets. The textbox, *Jail Inspection Elements*, describes the steps of a jail inspection in more detail.

Jail Inspection Elements

- ◆ **Reports** – review the last 12 months of average daily population, fire, death, and escape reports
- ◆ **Life Safety** – verify documentation of fire marshal inspections, fire drills, training, and equipment checks. Conduct actual fire drill and generator test
- ◆ **Kitchen/Meals** – verify documentation of health department inspections, fire suppression system, and dietician-approved menus
- ◆ **Supervision/Staffing** – verify documentation of security checks, jailer certification and training, contraband searches, and adequate staffing to meet the one-to-48 staff-to-inmate ratio
- ◆ **Discipline** – review discipline reports and sanctions
- ◆ **Grievances** – review grievance process, files, and resolutions
- ◆ **Inmate classification** – ensure jail staff are receiving training on how to classify inmates as low, medium, or maximum security, and that the jail is regularly auditing and re-evaluating classification
- ◆ **Recreation** – ensure inmates are offered one hour of recreation, three times per week
- ◆ **Operational plans** – verify current operational plans in 17 topics, including health services, sanitation, recreation, grievance procedures, and library
- ◆ **Commissary** – verify annual audits of commissary services
- ◆ **ADA plan** – verify an Americans with Disabilities Act self-assessment and plan
- ◆ **Review of inmate files** – audit a sample of inmate files to verify proper documentation of Tuberculosis and health/mental health screening, inmate classification, property inventory, and other factors
- ◆ **Walk-through of facility** – evaluate cleanliness of facility, conduct staff and inmate interviews, and verify operation of door locks, control room panels, intercoms, toilets, sinks, showers, and lighting

If inspectors find a deficiency that jail staff cannot correct immediately, the agency sends a formal letter of non-compliance to the sheriff and county commissioners. The Commission requires that jails develop a corrective action plan within 30 days, and fix the problem within one year. As of August 31, 2008, 36 jails were in non-compliance. The most common issues include overcrowding, inadequate staffing levels, improper classification of inmates, and inadequate documentation of fire safety inspections and trainings. The map, *Jail Compliance Status*, shows the status of county jails at the end of fiscal year 2008.

Jail Compliance Status As of August 31, 2008



The Texas Commission on Jail Standards has jurisdiction over 248 jails, including 19 privately operated facilities. As of August 31, 2008, 36 jails were non-compliant, 212 were compliant, and two were under a Commission remedial order.

If a jail cannot develop a sufficient corrective action plan or make significant progress to address deficiencies within a year, the Commission may issue a remedial order that limits the jail’s ability to house inmates. Since 1998, the Commission has issued remedial orders to 14 counties, described in detail in Appendix D. Most of these orders concerned overcrowding or understaffing of jail facilities and limited the jail population to available space or staffing

levels. Brazoria and Smith Counties are currently operating jails under active Commission remedial orders, but are complying with the requirements of the orders.

State law allows the Commission to issue variances from minimum jail standards, as long as the variance does not permit unhealthy, unsanitary, or unsafe conditions.⁴ The Commission may revoke a variance at any time. The variance affecting the largest number of inmates, currently approved in 37 jails, allows a reduced amount of square feet per inmate.

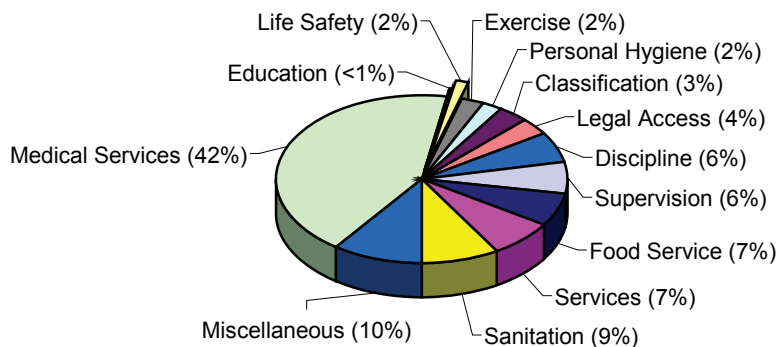
Complaint Investigation

In fiscal year 2008, the Commission received 1,129 complaints from inmates, family members, and others regarding jail conditions. The agency employs a full-time complaint investigator who receives complaints in writing, over the internet, by email, or by telephone, and conducts investigations as necessary. With the exception of life threatening situations, the Commission requires all complaints go through a jail’s internal grievance process before the agency will conduct a formal investigation. The Commission also returns non-jurisdictional complaints to the sender with information on where the complaint should be submitted.


The agency investigated 428 complaints against jails in fiscal year 2008.

In fiscal year 2008, the agency formally investigated 428 complaints, with an average resolution time of eight days. The pie chart, *Topics of Investigated Jail Complaints*, describes the types of complaints the agency investigated in fiscal year 2008. The most common complaint topic related to medical services, representing 42 percent of the total. The Commission’s inspectors monitor the number and types of complaints against the jails in their regions, and may schedule special inspections based on this information.

**Topics of Investigated Jail Complaints
FY 2008**



Jail Construction and Operational Planning

The Commission reviews and approves new jail construction and renovation projects, working closely with architects and county officials during the planning, design, and construction phases to ensure the facilities will meet

jail standards. The Commission advises counties on the appropriate scope of these projects by conducting needs analyses that take into account historical jail population data and future population projections. The Commission also provides information to the Office of the Attorney General, Public Finance Division about the need for projects seeking public bond financing.

All new jail construction and renovation projects must pass a Commission occupancy inspection before counties may house inmates in the new facility. In fiscal year 2008, the Commission reviewed 46 jail construction and renovation projects, conducted nine facility needs analyses, and approved 19 completed projects with 3,553 new beds for occupancy.

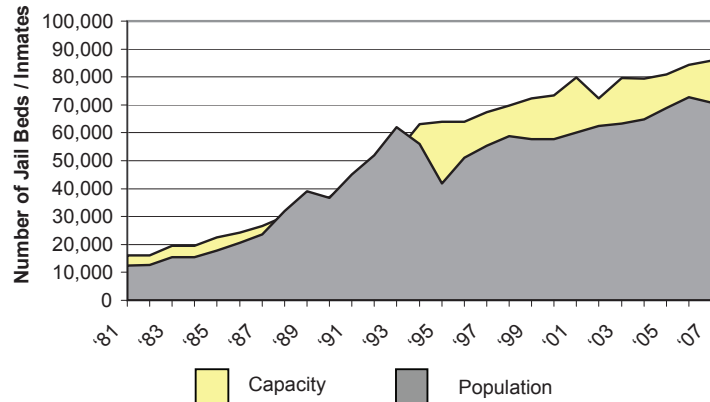
As of August 2008, counties are in the planning, design, or construction phases of 53 jail projects. Over the next several years, the completion of these projects will increase the number of jail beds by an estimated 11,784. The chart, *Jail Capacity and Population*, shows the historical increase in the number of beds under the Commission's jurisdiction since 1981.

The Commission also requires each jail to develop and regularly update 17 operational plans in various topic areas in order to remain in compliance with jail standards. The Commission employs a full-time staff member to review and approve these written procedures, described in the textbox, *Operational Plans*. The plans ensure that jails have procedures in place to meet minimum jail standards for fire prevention, provision of health services, inmate grievance procedures, and other topics. In fiscal year 2008, the Commission reviewed and approved 1,113 individual plans. The agency's inspectors check to ensure jails have current operational plans in place before issuing a certificate of compliance.

Training and Technical Assistance

Most of the Commission's training and technical assistance to jails occurs in conjunction with its regulatory activities to inspect jails, review jail construction projects, and approve jail operational plans. Inspectors often provide on-site technical assistance during a jail's annual inspection, and may return to provide more in-depth training on specific topics as needed. Common training topics include how to properly classify inmates as low, medium, or high security risk; and basic training

**Jail Capacity and Population
1981 – 2007***



* As of December 31 of each year.

Operational Plans

Jails must develop plans in each of the following categories to comply with minimum standards:

- ◆ Emergency
- ◆ Fire Prevention
- ◆ Inmate Classification and Separation
- ◆ Health Services
- ◆ Mental Disabilities/Suicide Prevention
- ◆ Sanitation
- ◆ Inmate Discipline
- ◆ Inmate Rules and Regulations
- ◆ Inmate Grievance Procedures
- ◆ Recreation and Exercise
- ◆ Education and Rehabilitation
- ◆ Library
- ◆ Inmate Telephone Use
- ◆ Inmate Correspondence
- ◆ Commissary
- ◆ Visitation
- ◆ Religious Practices

for new jail administrators conducted with the Texas Jail Association. In fiscal year 2008, agency staff conducted 457 on-site management and construction consultations and trained 191 participants at “jail basics” trainings.

Upon request, the Commission will perform a detailed staffing analysis to help calculate how many staff a jail must hire to meet minimum standards. These analyses take into account alternative supervision models and various shift combinations, and help jails achieve compliance with the minimum cost possible. In fiscal year 2008, agency staff provided this assistance to nine counties. Commission staff also regularly provide research services and information about developments in case law to jails, and make presentations to county commissioner courts and community organizations upon request.

*The Commission
conducts detailed
staffing analyses
for jails upon
request.*

Population Reports

In 1991, as a result of overcrowding in state prisons and county jails, the Legislature required the Commission to report on the statewide county jail population and the number of county inmates awaiting transfer to the state prison system.⁵ The Legislature also required the Commission to process payments from the State to counties for housing inmates ready for transfer to the state prison system longer than 45 days.⁶ The State met its duty to accept inmates from county jails in 1995 and has not made payments to counties since that time. Currently, the Texas Department of Criminal Justice accepts county inmates ready for transfer in an average of 25 days.

The Commission continues to gather and report statewide county jail population information to keep track of population trends and avoid future overcrowding problems. On a monthly basis, the Commission produces three reports based on snapshot information of each jail’s population on the first day of the month. These reports include a population summary, paper ready report, and 45-day report, described in the textbox, *Jail Population Reports*. The Commission provides these reports to the Texas Department of Criminal Justice and other interested parties, and posts the population summary on its website. As of September 1, 2008, the jails under the Commission’s jurisdiction housed 70,919 inmates, and were at a cumulative 83 percent capacity. The

*Each month,
the Commission
publishes a
county jail
population report
on its website.*

Jail Population Reports

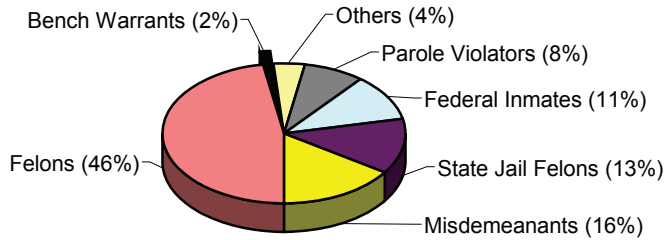
Population Summary – This report provides a snapshot view of the Texas county jail population based on each jail’s population on the first day of the month. The report provides information about the types of inmates held in county jails, such as the number of felons, misdemeanants, parole violators, and contract inmates.

Paper Ready Report – This report provides a list of all county jail inmates with complete documentation making them eligible for transfer to the Texas Department of Criminal Justice.

Forty-Five Day Report – This report provides a list of all county inmates that have been ready for transfer to the Texas Department of Criminal Justice for 45 days or longer.

pie chart, *Texas County Jail Population*, provides more information on the makeup of the county jail population.

Texas County Jail Population – September 1, 2008



Total reported county jail population on September 1, 2008 – 70,919

Juvenile Justice Survey

State law requires the Commission to survey city and county adult jails and lockups to determine if the treatment of juveniles in these facilities complies with state law and the federal Juvenile Justice and Delinquency Prevention Act.⁷ The laws require, for example, that juveniles be sight and sound separated from adults at all times and prohibit juveniles from being held for certain status offenses. In fiscal year 2008, the Commission used \$21,900 in grant funding from the Office of the Governor, Criminal Justice Division to contract for the survey of adult facilities. The contractor identifies all city and county adult secure holding facilities, including jails, courthouses, school districts, fire departments, and other locations; and analyzes juvenile log information, conducting follow-up calls and site visits as necessary. Each year, the Office of the Governor combines this information about adult facilities with a separate study of juvenile facilities and submits a report to the federal government certifying compliance with the Act. In fiscal year 2008, compliance with the Act allowed the State to receive \$4.9 million in federal juvenile justice funding.

Compliance with federal juvenile justice laws allowed the State to receive \$4.9 million in related federal funding in fiscal year 2008.

.....

¹ Texas Government Code, sec. 511.009(a)(13).

² In fiscal year 2008, four jails under the Commission's jurisdiction contracted to house out-of-state inmates from New Mexico and Idaho: Bailey, Dickens, and Parmer Counties, and the City of Littlefield.

³ Texas Administrative Code, Title 37, part 9, rule 253.1(11).

⁴ Texas Government Code, sec. 511.009(c).

⁵ Texas Government Code, sec. 511.0101 and sec. 499.122.

⁶ Texas Government Code, sec. 499.123.

⁷ Texas Government Code, secs. 511.009(a)(12) and 511.009(a)(14).

APPENDICES

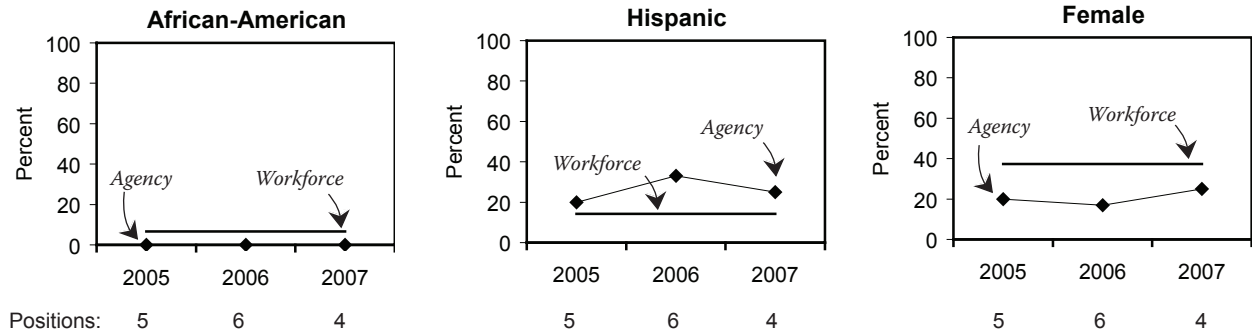


Appendix A

Equal Employment Opportunity Statistics 2005 to 2007

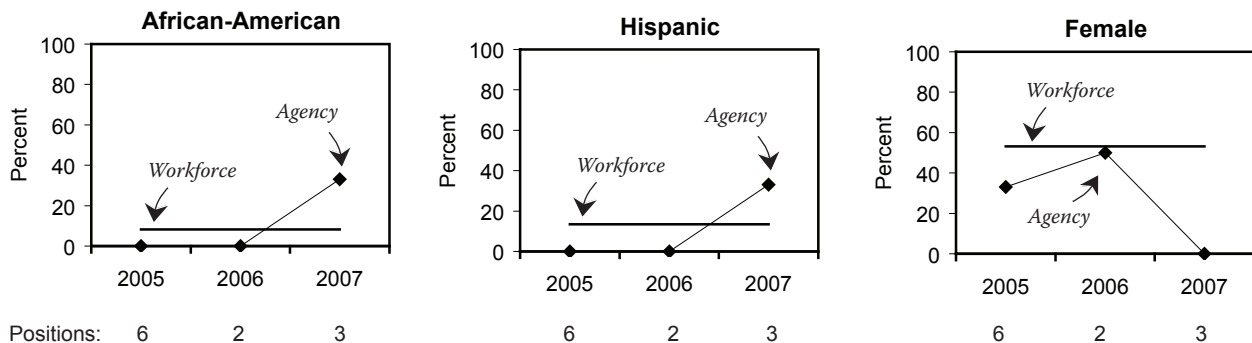
In accordance with the requirements of the Sunset Act, the following material shows trend information for the employment of minorities and females in all applicable categories by the Texas Commission on Jail Standards.¹ The agency maintains and reports this information under guidelines established by the Texas Workforce Commission.² In the charts, the flat lines represent the percentages of the statewide civilian workforce for African-Americans, Hispanics, and females in each job category. These percentages provide a yardstick for measuring agencies' performance in employing persons in each of these groups. The diamond lines represent the agency's actual employment percentages in each job category from 2005 to 2007. The agency has had difficulty meeting the statewide civilian workforce percentages in several categories due to its small staff size. The agency has an Equal Employment Opportunity Policy.

Administration



The agency exceeded the civilian workforce percentages for Hispanics, but did not meet the percentages for African-Americans and females.

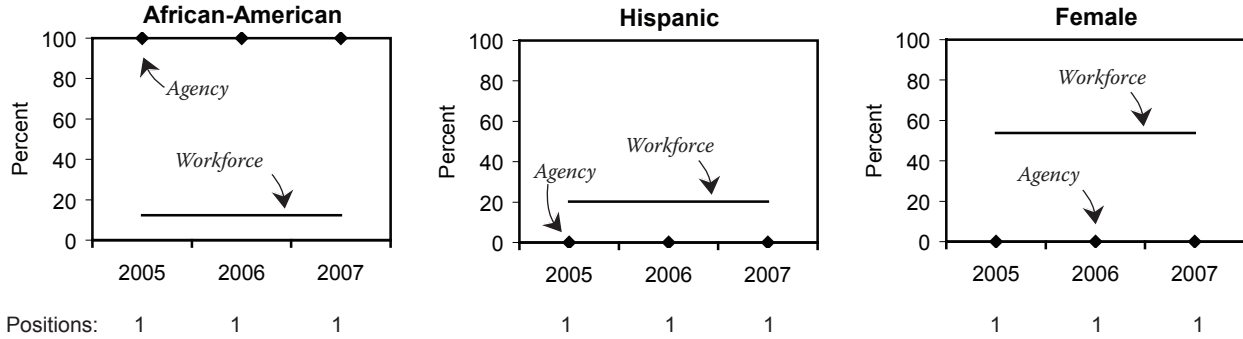
Professional



The agency exceeded the civilian workforce percentages for African-Americans and Hispanics in 2007, but did not meet percentages in any categories in other years.

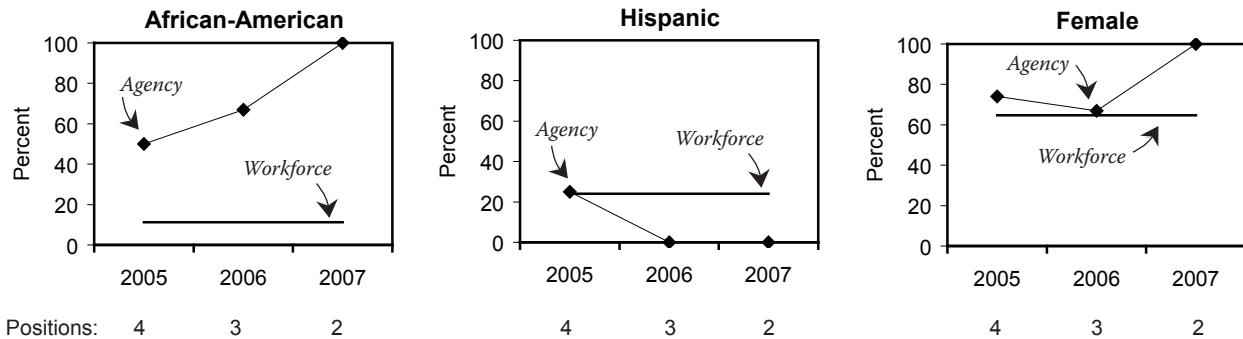
Appendix A

Technical



The agency only has one employee in this category, and exceeded the civilian workforce percentages for African-Americans, but did not meet the percentages for Hispanics or females.

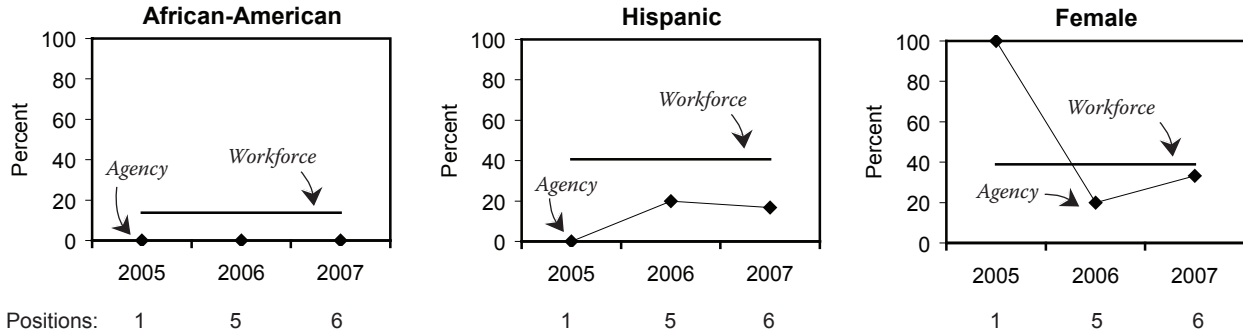
Administrative Support



The agency exceeded the civilian workforce percentages for African-Americans and females, but fell below the percentages for Hispanics.

Appendix A

Service/Maintenance³



The agency did not meet the civilian workforce percentages for African-Americans or Hispanics. With the exception of 2005, the agency also did not meet the percentage for females.

¹ Texas Government Code, sec. 325.011(9)(A).

² Texas Labor Code, sec. 21.501.

³ The Service/Maintenance category includes three distinct occupational categories: Service/Maintenance, Para-Professionals, and Protective Services. Protective Service Workers and Para-Professionals used to be reported as separate groups.

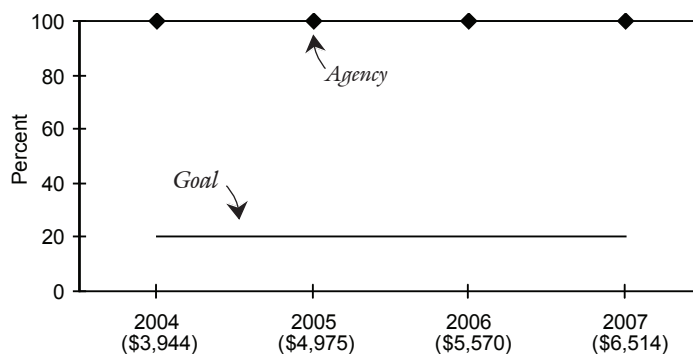
Appendix B

Historically Underutilized Businesses Statistics 2004 to 2007

The Legislature has encouraged state agencies to increase their use of Historically Underutilized Businesses (HUBs) to promote full and equal opportunities for all businesses in state procurement. The Legislature also requires the Sunset Commission to consider agencies' compliance with laws and rules regarding HUB use in its reviews.¹

The following material shows trend information for the Texas Commission on Jail Standards' use of HUBs in purchasing goods and services. The agency maintains and reports this information under guidelines in statute.² In the charts, the flat lines represent the goal for HUB purchasing in each category, as established by the Comptroller's Office. The diamond lines represent the percentage of agency spending with HUBs in each purchasing category from 2004 to 2007. Finally, the number in parentheses under each year shows the total amount the agency spent in each purchasing category. The agency exceeded the State's HUB purchasing goals in the professional services and other services categories. In the commodities category, the agency met or exceeded the goal, except in 2005, when the agency made a large, one-time computer purchase from a non-HUB vendor. The agency made no purchases in the heavy construction, building construction, or special trade categories. The agency has not adopted the Comptroller's HUB rules as required by state law, although the rules are reflected in the agency's practices.

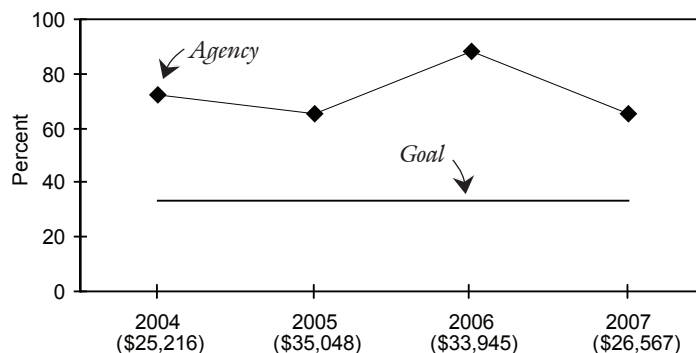
Professional Services



The agency exceeded the State's HUB purchasing goals in this category each fiscal year with one contract for accounting services with a HUB vendor.

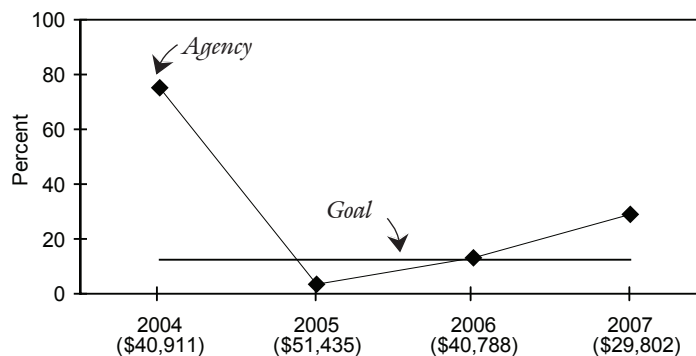
Appendix B

Other Services



The agency exceeded the State's HUB purchasing goals in this category each fiscal year. The main purchase in this category is a contract for the juvenile justice survey with a HUB vendor.

Commodities



The agency met or exceeded the State's HUB purchasing goals in this category in each fiscal year except 2005. That year, the agency made a one-time, large computer purchase from a Texas Department of Information Resources-approved vendor who was not HUB-certified.

¹ Texas Government Code, sec. 325.011(9)(B).

² Texas Government Code, ch. 2161.

Appendix C

Private Jail Facilities Under Texas Commission on Jail Standards Jurisdiction

County	City	Facility Name	Number of Beds	Operator	Compliance Status*
Angelina	Angelina	Lufkin Detention Center	111	Community Education Centers, Inc.	Compliant
Bowie	Texarkana	Bowie County Detention Center	921	Community Education Centers, Inc.	Compliant
Brooks	Falfurrias	Brooks County Detention Center	544	LCS Corrections, Inc.	Compliant
Dickens	Spur	Dickens County Detention Center	489	Community Education Centers, Inc.	Compliant
Falls	Marlin	Falls County Detention Center	107	Community Education Centers, Inc.	Compliant
Frio	Pearsall	Frio County Detention Center	390	The GEO Group, Inc.	Compliant
Haskell	Haskell	Rollings Plains Regional Jail and Detention Facility	555	Emerald Corrections, Inc.	Compliant
Hidalgo	LaVilla	East Hidalgo Detention Center	990	LCS Corrections, Inc.	Compliant
Jefferson	Beaumont	Jefferson County Detention Center	496	The GEO Group, Inc.	Compliant
Johnson	Cleburne	Johnson County Law Enforcement Center	774	Community Education Centers, Inc.	Compliant
Lamb	Littlefield	Bill Clayton Detention Center	383	The GEO Group, Inc.	Compliant
Liberty	Liberty	Liberty County Jail	372	Community Education Centers, Inc.	Compliant
Limestone	Groesbeck	Limestone County Detention Center	1,028	Community Education Centers, Inc.	Non-Compliant
McLennan	Waco	McLennan County Detention Center	329	Community Education Centers, Inc.	Compliant
Newton	Newton	Newton County Correctional Center	932	The GEO Group, Inc.	Compliant
Parker	Weatherford	Parker County Jail	437	Community Education Centers, Inc.	Compliant
Polk	Livingston	IAH Secure Adult Detention Center	1,054	Community Education Centers, Inc.	Compliant
Val Verde	Del Rio	Val Verde County Detention Center	182	The GEO Group, Inc.	Compliant
Zavala	Crystal City	Crystal City Detention Center	515	Southwest Corrections, Inc.	Compliant

Total of 19 facilities with 10,609 beds.

* As of August 31, 2008

Appendix D

Texas Commission on Jail Standards Remedial Orders 1998 – 2008¹

County	Date Issued	Reason	Date Cancelled/Notes
Bexar	October 10, 2002 ²	Overcrowding and understaffing	August 3, 2006
Brazoria	February 5, 2004 ³	Understaffing and inoperable intercoms	Remains in effect
Cameron	August 14, 2003	Overcrowding and understaffing	February 1, 2007
Calhoun	June 13, 2002	Health and life safety issues	Jail closed on August 15, 2002. New jail built in 2005.
Dimmit	November 2, 2006	Not testing for Tuberculosis	November 1, 2007
Grayson	October 11, 2001	Overcrowding	February 7, 2008
Harris	May 4, 2006	Overcrowding and understaffing	May 1, 2008
Howard	November 16, 2006	Inoperable smoke removal system	February 7, 2008
Hunt	November 4, 2004	Overcrowding and understaffing	February 7, 2008
Lubbock	April 10, 2002 ⁴	Overcrowding	November 1, 2007
McLennan	May 1, 2008	Understaffing	August 7, 2008
Parker	September 23, 1999 ⁵	Overcrowding	February 7, 2008
Reeves	July 30, 1998 ⁶	Overcrowding	February 7, 2008
Smith	May 13, 2004	Overcrowding and understaffing	Remains in effect

¹ As of the August 7, 2008 Texas Commission on Jail Standards meeting.

² Continued on December 12, 2002.

³ Amended on May 13, 2005.

⁴ Amended on August 2, 2007

⁵ Amended on December 2, 1999; continued on June 1, 2000; and amended on October 12, 2000 and April 5, 2001.

⁶ Amended on April 6, 2000; June 1, 2000; and October 12, 2000.

Appendix E

Staff Review Activities

During the review of the Texas Commission on Jail Standards, Sunset staff engaged in the following activities that are standard to all Sunset reviews. Sunset staff worked extensively with agency personnel; attended Commission meetings and met with Commission members; met with staff from legislative agencies; conducted interviews and solicited written comments from interest groups and the public; reviewed agency documents and reports, state statutes, legislative reports, previous legislation, and literature; researched the organization and functions of similar state agencies in other states; and performed background and comparative research using the Internet.

In addition, Sunset staff also performed the following activities unique to this review.

- ◆ Accompanied the Commission's jail inspectors on two annual jail inspections and an occupancy inspection of a new jail facility.
- ◆ Observed a population report training session led by the agency's staff.
- ◆ Attended two of the agency's monthly jail risk-assessment meetings.
- ◆ Attended the Texas Jail Association's Spring Conference and the Texas Association of Counties' Annual Conference.
- ◆ Interviewed staff from the Office of the Attorney General; the Texas Department of Criminal Justice, Texas Correctional Office on Offenders with Medical or Mental Impairments; and the Office of the Governor, Criminal Justice Division.
- ◆ Toured the medical facilities of a large county jail and interviewed the medical director.
- ◆ Met with county jail administrators, sheriffs, county judges, representatives of the private corrections industry, and an architectural firm specializing in jail construction.

NEW ISSUES



New Issues

The following issues were raised in addition to the issues in the staff report. These issues are numbered sequentially to follow the staff's recommendations.

General

5. Require county jails to maintain the one-to-48 staff-to-inmate ratio in statute, instead of in the Commission's rules. (Hector Garcia Delgado, Board Member – Deputy Sheriff's Association of Bexar County, San Antonio)
6. Require the Commission to set guidelines for implementation of rehabilitation and education programs in jails, and to monitor these programs per its mission statement. The Commission should develop protocols to allow inmates in protective custody to participate in educational and rehabilitation services. (Matt Simpson, Policy Strategist – American Civil Liberties Union of Texas, Austin)

Medical and Mental Health

7. Provide the Commission with a dedicated medical inspector position tasked with reviewing medical and mental health services in jails. (Matt Simpson, Policy Strategist – American Civil Liberties Union of Texas, Austin)
8. Require the Commission to ensure jails are providing adequate mental health screening and services. Inmates with mental health issues should at a minimum receive appropriate mental health services with specific outcome benchmarks monitored by the Commission. (Matt Simpson, Policy Strategist – American Civil Liberties Union of Texas, Austin)
9. Require the Commission to create specific guidelines with benchmarks for evaluating jail medical staff, and encourage jails to partner with area medical schools, nursing training programs, and mental health service provider training programs to expand jail medical staff capacity through the use of interns. Require the Commission to oversee a pilot program at one or a few jails to ensure that the use of interns is workable and standards of care are met and if workable, expand the program to jails with medical staff shortages. (Matt Simpson, Policy Strategist – American Civil Liberties Union of Texas, Austin)
10. Require the Commission to conduct more thorough investigations into actual jail medical operations: how quickly officers respond to sick calls, when medical staff is available, how staff deals with contagious inmates, and how they respond to families who say the inmate is not getting a necessary medication. (Diana Claitor, Director – Texas Jail Project, Austin)
11. Direct the Commission to develop specific sanitation standards to target eliminating the spread of infectious diseases such as staph and hepatitis C within jails. The standards should require regular and systematic infectious disease screening, including appropriate privacy protections, for all inmates. Jail guards and other employees of Texas jails should also be provided the opportunity for infectious disease screening. Jail staff should be fully trained in monitoring

inmates for symptoms of common infectious diseases, and inmates exhibiting symptoms should immediately receive appropriate medical care to minimize the spread of the disease. (Matt Simpson, Policy Strategist – American Civil Liberties Union of Texas, Austin)

12. Require the Commission to have a protocol for isolation and treatment of resistant staph as a requirement, just as the protocol for Tuberculosis is required. (Diana Claitor, Director – Texas Jail Project, Austin)
13. Require the Commission to oversee the treatment of pregnant inmates in county jails, and to develop and monitor specific statewide policies dictating nutritional and medical standards for pregnant inmates. Pregnant inmates should receive appropriate prenatal care including: medical examinations, diagnostic screenings (such as for HIV/AIDS), and advice on appropriate levels of activity, safety precautions, and diet. The Commission should require jails to provide and document appropriate mental health services following miscarriage, abortion, or birth. The Commission should monitor pregnant inmates in custody by collecting statistics on children born to inmates in custody, and pregnancy outcomes including complications, cesarean sections, and infant mortality rates. Female inmates should receive access to family planning services and pregnancy screening upon request, and jails should consider pregnancy when making security classification determinations. The Commission should require jails to provide timely transportation for pregnant inmates to appropriate facilities for labor and delivery, and expressly ban the use of shackles during child birth. (Matt Simpson, Policy Strategist – American Civil Liberties Union of Texas, Austin)
14. Require the Commission to adopt a regulation that would require jails to enumerate the number of pregnant women in custody and provide some medical care, specifically to:
 - ◆ identify pregnant inmates and report that number to the Commission so that the Commission includes the number in its reports on county jail populations;
 - ◆ provide pregnant inmates with a medical exam by a doctor and counseling when necessary; and
 - ◆ provide a pre-natal diet and nutritional supplements.(Diana Claitor, Director – Texas Jail Project, Austin)

Commission Decision

The Commission did not adopt any of the new issues.

Legislative Action

No action needed.

PROVISIONS ADDED BY LEGISLATURE



Provisions Added by Legislature

1. Establish minimum requirements for identifying and serving the needs of pregnant inmates.

Senate Bill 1009 requires the Commission to adopt reasonable rules and procedures establishing minimum requirements for jails to determine if a prisoner is pregnant and to ensure that jail health services plans address the medical, mental health, nutritional, housing, and work assignment needs of inmates known or determined to be pregnant. The bill requires county jails to report to the Commission each month the total number of prisoners who were known or had been determined to be pregnant during the preceding month.

2. Require the Commission to provide guidelines for jail commissary contracts.

Senate Bill 1009 requires the Commission to provide guidelines to sheriffs regarding contracts for jail commissary services, including specific provisions regarding conflicts of interest and avoiding the appearance of impropriety.

SUNSET STAFF REVIEW OF THE TEXAS COMMISSION ON JAIL STANDARDS



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